

**CITY OF MARATHON, FLORIDA
RESOLUTION 2018-88**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA OF A REQUEST BY BOAT WORKS INVESTMENTS, LLC FOR A CONDITIONAL USE PERMIT, PURSUANT TO CHAPTER 102, ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (LDRS) ENTITLED “CONDITIONAL USE PERMITS”, SEEKING AUTHORIZATION FOR THE DEVELOPMENT OF FIFTY TWO (52) AFFORDABLE AND TWENTY (20) MARKET RATE APARTMENTS ON PROPERTIES LOCATED AT AND ADJACENT TO 39TH ST GULF AND 747 THROUGH 999 41ST ST GULF AND 3905 LOUISA STREET, WHICH ARE LEGALLY DESCRIBED AS PART OF BLOCK 2 & ALL OF BLOCK 5, LOTS 5, 6, 7, 8, 9, 10, 14, 15, 16, 17, 18 & 19 AND FILLED BAY BOTTOM NORTH OF AND ADJACENT TO MARATHON BEACH SUBDIVISION, BLOCK 1, LOT 1 OF LINCOLN MANOR SUBDIVISION, KEY VACCA, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBERS 00337270-000000, 00337280-000000, 00337290-000000, 00337300-000000, 00337310-000000, 00337330-000000, 00103480-000100, 00337380-000000, 00337390-000000, AND 00337470-000000. NEAREST MILE MARKER 49.

WHEREAS, Boat Works Investments, LLC and Tri-Star Affordable Development, LLC (The “Applicant”) filed an Application on July 26th, 2018 for a Conditional Use Permit pursuant to Chapter 102, Article 13 of the City of Marathon Land Development Regulations (LDRs); and

WHEREAS, the applicant has proposed the development of fifty two (52) affordable and twenty (20) market rate apartments; and

WHEREAS, the City staff reviewed the Applicant’s request for a Conditional Use Permit determining that the Applicant’s project proposal was in compliance with the City’s Comprehensive Plan and Land Development Regulations (LDRs) and further that there was no substantial impact on the City’s Level of Service (LOS); and

WHEREAS, on the 20th day August, 2018, the City of Marathon Planning Commission (the “Commission”) conducted a properly advertised public hearing (the “Public Hearing”) regarding the request submitted by the Applicant, for a Conditional Use Permit pursuant to Chapter 102, Article 8 of the LDRs; and

WHEREAS, the City Council made a determination that the Applicant’s request for a Conditional Use Permit, subject to the terms of the LDRs and with Conditions imposed, was in Compliance with the City’s Comprehensive Plan and LDRs, is consistent with its policy to encourage the development of residential properties in Marathon, and will further the health, safety and welfare of the residents of Marathon; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THAT:

Section 1. The above recitals are true and correct and incorporated herein.

Section 2. The City Council hereby approves Development Order 2018-11, a copy of which is attached hereto as Exhibit "A", granting a Conditional Use Permit to Boat Works Investments, LLC and Tri-Star Affordable Development, LLC, subject to the Conditions imposed. The Director of Planning is authorized to sign the Development Order on behalf of the City.

Section 3. This Resolution shall take effect immediately upon execution.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 11th DAY OF SEPTEMBER, 2018.

THE CITY OF MARATHON, FLORIDA



Michelle Coldiron, Mayor

AYES: Cook, Zieg, Senmartin, Bartus, Coldiron
NOES: None
ABSENT: None
ABSTAIN: None


ATTEST:



Diane Clavier, City Clerk

(City Seal)

APPROVED AS TO FORM AND LEGALITY FOR THE USE AND RELIANCE OF THE CITY OF MARATHON, FLORIDA ONLY:



David Migut, City Attorney

EXHIBIT "A"
CITY OF MARATHON, FLORIDA
CONDITIONAL USE
DEVELOPMENT ORDER # 2018-11

A DEVELOPMENT ORDER APPROVING A REQUEST BY BOAT WORKS INVESTMENTS, LLC FOR A CONDITIONAL USE PERMIT, PURSUANT TO CHAPTER 102, ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (LDRS) ENTITLED "CONDITIONAL USE PERMITS", SEEKING AUTHORIZATION FOR THE DEVELOPMENT OF FIFTY TWO (52) AFFORDABLE AND TWENTY (20) MARKET RATE APARTMENTS ON PROPERTIES LOCATED AT AND ADJACENT TO 39TH ST GULF AND 747 THROUGH 999 41ST ST GULF AND 3905 LOUISA STREET, WHICH ARE LEGALLY DESCRIBED AS PART OF BLOCK 2 & ALL OF BLOCK 5, LOTS 5, 6, 7, 8, 9, 10, 14, 15, 16, 17, 18 & 19 AND FILLED BAY BOTTOM NORTH OF AND ADJACENT TO MARATHON BEACH SUBDIVISION, BLOCK 1, LOT 1 OF LINCOLN MANOR SUBDIVISION, KEY VACCA, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBERS 00337270-000000, 00337280-000000, 00337290-000000, 00337300-000000, 00337310-000000, 00337330-000000, 00103480-000100, 00337380-000000, 00337390-000000, AND 00337470-000000. NEAREST MILE MARKER 49.

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WHEREAS, the applicant has proposed the development of fifty two (52) affordable and twenty (20) market rate apartments; and

WHEREAS, the City staff reviewed the Applicant's request for a Conditional Use Permit determining that the Applicant's project proposal was in compliance with the City's Comprehensive Plan and Land Development Regulations (LDRs) and further that there was no substantial impact on the City's Level of Service (LOS); and

WHEREAS, on the 20th day August, 2018, the City of Marathon Planning Commission (the "Commission") conducted a properly advertised public hearing (the "Public Hearing") regarding the request submitted by the Applicant, for a Conditional Use Permit pursuant to Chapter 102, Article 8 of the LDRs; and

WHEREAS, the City Council made a determination that the Applicant's request for a Conditional Use Permit, subject to the terms of the LDRs and with Conditions imposed, was in Compliance with the City's Comprehensive Plan and LDRs, is consistent with its policy to encourage the development of residential properties in Marathon, and will further the health, safety and welfare of the residents of Marathon;

FINDINGS OF FACT:

1. The Applicant has proposed the development of fifty two (52) affordable and twenty (20) market rate apartments; and
2. In accordance with Section 102.77 of the Code, the Commission and Council considered and determined the Applicant met the following criteria:
 - a. The proposed use is consistent with the Comprehensive Plan and LDRs;
 - b. The proposed use is compatible with the existing land use pattern and future uses designated by the Comprehensive Plan;
 - c. The proposed use shall not adversely affect the health, safety, and welfare of the public; and
 - d. The proposed conditional use minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment; and
 - e. Satisfactory provisions and arrangements have been made concerning the following matters, where applicable:
 1. Ingress and egress to the property and proposed structures thereon with particular reference to automotive, bicycle, and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe;
 2. Off-street parking and loading areas where required, with particular attention to item 1 above;
 3. The noise, glare or odor effects of the conditional use on surrounding properties;
 4. Refuse and service areas, with particular reference to location, screening and Items 1 and 2 above;
 5. Utilities, with reference to location and availability;
 6. Screening and buffering with reference to type, dimensions and character;
 7. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety and compatibility with surrounding properties;
 8. Required yards and other open space;
 9. General compatibility with surrounding properties; and

CONDITIONS IMPOSED:

Granting approval of the Application is subject to the following conditions:

Conditions of Approval

- 1) All conditions of the Fire Marshal must be met prior to permit issuance.
- 2) City approval is required for ADA compliant parking spaces prior to building permit approval.
- 3) All required parking spaces must be shown on the final site plan prior to permit issuance.
- 4) City approval is required for bike racks prior to building permit approval.
- 5) A final lighting plan must be submitted prior to permit issuance.
- 6) A final landscaping plan must be submitted prior to permit issuance.
- 7) Dumpsters are to be screened per code.
- 8) A unity of title is required for the properties.

- 9) All signs will be reviewed and approved for compliance with the City of Marathon LDR's.
- 10) Dwelling units shall contain less than or equal to 1,800 square feet of habitable space. Occupancy of affordable housing units is limited to those meeting the following income requirements:
 - Very-low-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 50 percent of the median adjusted gross annual income for households within the county;
 - Low-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 80 percent of the median adjusted gross annual income for households within the county;
 - Median-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 100 percent of the median adjusted gross annual income for households within the county;
 - Moderate-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 120 percent of the median adjusted gross annual income for households within the county;
 - Middle-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 160 percent of the median adjusted gross annual income for households within the county;
- 11) The monthly rent shall not exceed 30 percent of that amount which represents the income bracket of the household, i.e. very low, low, median, moderate or middle, divided by 12.
- 12) Annual income qualification, lease or employment verification, as applicable, by the City, or its designee, shall be limited to rental and employee housing dwelling units. Income verification for owner occupied dwellings shall be performed and approved by the City or its designee prior to the sales closing and occupancy of the dwelling unit.
- 13) The total area of the mixed-use or commercial apartments, including patios and access way shall not exceed the area covered by the ground floor and any covered walks or arcades.
- 14) Each unit shall have access to a balcony or patio that is separate from the access to the unit, provides adequate privacy and the size shall be two-tenths (2/10) of unit floor area or a minimum of 60 square feet in size.
- 15) The patio area may be wholly or partially replaced by the provision of a recreation yard provided on site. Recreational yards shall be a minimum one-tenth (1/10) of unit floor area.
- 16) The exterior of affordable units shall be visually indistinguishable from the market rate units in the development in terms of overall design, execution, and use of materials.
- 17) Affordable units may be smaller than the market rate units but shall be proportionally comparable in bedroom count to the market rate units in the development.
- 18) The affordable units approved herein shall be deed restricted for a period of ninety-nine (99) years, restricted in the public record in a form acceptable to the City and its attorney.
- 19) It is strongly encouraged that affordable dwelling units not be clustered, unless subject to the environmental clustering requirements of Chapter 106, "Natural and Historic Resource Protection", but shall be interspersed within the upland portion of the development.
- 20) The Conditional Use Development Order will constitute the Certificate of Concurrency for the project. The determination will be valid for one year.

VIOLATION OF CONDITIONS:

The applicant understands and acknowledges that it must comply with all of the terms and conditions herein, and all other applicable requirements of the City or other governmental agencies applicable to the use of the Property. In accordance with the Code, the Council may revoke this approval upon a determination that the Applicant or its successor or designee is in non-compliance with this Resolution or Code. Failure to adhere to the terms and

conditions of approval contained herein is a violation of the Code and persons found violating the conditions shall be subject to the penalties prescribed therein.

CONCLUSIONS OF LAW:

Based upon the above Findings of Fact, the Council does hereby make the following Conclusions of Law:

1. The Application has been processed in accordance with the applicable provisions of the City Code, and will not be detrimental to the community as a whole; and
2. In rendering its decision, as reflected in this Resolution, the Council has:
 - (a) Accorded procedural due process;
 - (b) Observed the essential requirements of the law;
 - (c) Supported its decision by substantial competent evidence of record; and
3. The Application for a conditional use permit is hereby GRANTED subject to the conditions specified herein.

EFFECTIVE DATE:

This development order shall not take effect for thirty (30) days following the date it is filed with the City Clerk, and during that time, the conditional use approval granted herein shall be subject to appeal as provided in the City Code. An appeal shall stay the effectiveness of this development order until said appeal is resolved.

10/29/2018
Date _____

George Garrett
George Garrett, Director of Planning

This Development Order was filed in the Office of the City Clerk of this 29 day of OCT, 2018.

Diane Clavier
Diane Clavier, City Clerk

NOTICE

Under the authority of Section 102.79(c) of the City of Marathon Land Development Regulations, this development order shall become null and void with no further notice required by the City, unless a business license has been issued for the use or a complete building permit application for site preparation and building construction with revised plans as required herein is submitted to the City of Marathon Building Official within one (1) year from the date of conditional use approval, or the date when the Department of Community Affairs waives its appeal and all required certificates of occupancy are procured with three (3) years of the date of this development order is approved by the City Council. In addition, please be advised that pursuant to Chapter 9J-1, Florida Administrative Code, this instrument shall not take effect for forty-five (45) days following the rendition to the Florida Department of Community Affairs. During that forty-five days, the Florida Department of Economic Opportunity may

appeal this instrument to the Florida Land and Water Adjudicatory Commission, and that such an appeal stays the effectiveness of this instrument until the appeal is resolved by agreement or order.

CERTIFICATE OF SERVICE

A true and correct copy of the above and foregoing Resolution was furnished, via U.S. certified mail, return receipt requested, addressed to Martin Flynn-PO Box 540337-Merritt Island, FL 32954 this 29 day of OCT, 2018.



Diane Clavier, City Clerk