

**CITY OF MARATHON, FLORIDA  
RESOLUTION 2014-061**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING THE REQUEST BY HOLIDAY INN EXPRESS AND SUITES, INC. FOR A CONDITIONAL USE PERMIT, PURSUANT TO CHAPTER 102, ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (CODE) ENTITLED “CONDITIONAL USE PERMITS”, AUTHORIZING THE EXPANSION OF A HOLIDAY INN EXPRESS AND SUITES AT THE PROPERTY LOCATED AT 13201 OVERSEAS HIGHWAY, OCEAN, NEAREST MILE MARKER 54, WHICH IS LEGALLY DESCRIBED AS PART OF GOVERNMENT LOT 2, FAT DEER KEY, SECTION 5, TOWNSHIP 66, RANGE 33, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBERS 00100260-000100 AND 00100260-000200.**

**WHEREAS**, Holiday Inn Express and Suites, Inc., (The “Applicant”) filed an Application on December 23, 2013 for a Conditional Use Permit and Development Agreement pursuant to Chapter 102, Articles 13 and 8 respectively of the City of Marathon Land Development Regulations (LDRs); and

**WHEREAS**; the Applicant proposes to expand the existing Holiday Inn Express and Suites project site by twenty-seven (27) single-room hotel units; and

**WHEREAS**, City staff reviewed the Applicant’s request for a Conditional Use Permit and Development Agreement 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 19<sup>th</sup> day of May, 2014, the City of Marathon Planning Commission (the “Commission”) conducted a properly advertised public hearing (the “Public Hearings”) regarding the request submitted by the Applicant, for a Conditional Use Permit pursuant to Chapter 102, Article 13 of the LDRs; and

**WHEREAS**, and on the 27<sup>th</sup> day of May, 2014 and the 10<sup>th</sup> day of June, 2014, the City Council (the “Council”) conducted properly advertised public hearings (the “Public Hearings”) regarding the request submitted by the Applicant, for a Conditional Use Permit pursuant to Chapter 102, Article 13 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 and further, that the approval is in the public interest, is consistent with its policy to encourage the redevelopment of hotels and motels in Marathon, and will further the health, safety and welfare of the residents of Marathon; and

**WHEREAS,** the purpose of the Conditional Use Permit is to allow for the integration of certain land uses and structures within the City of Marathon, based on conditions imposed by the Council. Review is based primarily on compatibility of the use with its proposed location and with surrounding land uses and on the basis of all zoning, subdivision and other ordinances applicable to the proposed location and zoning district,

**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 2014-01, a copy of which is attached hereto as Exhibit "A", granting a Conditional Use Permit to Holiday Inn Express and Suites, Inc. 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 its adoption.

**PASSED AND APPROVED** by the City Council of the city of Marathon, Florida, this 24<sup>th</sup> day of June, 2014.

**THE CITY OF MARATHON, FLORIDA**

  
\_\_\_\_\_  
**Dick Ramsay, Mayor**

AYES: Bartus, Bull, Keating, Senmartin, Ramsay  
NOES: None  
ABSENT: None  
ABSTAIN: None


**ATTEST:**

  
\_\_\_\_\_

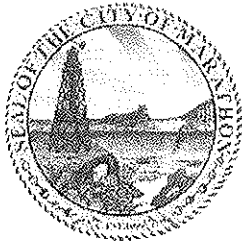
Diane Clavier, City Clerk

(City Seal)

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

  
\_\_\_\_\_

Lynn M. Dannheisser, City Attorney



CITY OF MARATHON, FLORIDA  
CONDITIONAL USE  
DEVELOPMENT ORDER # 2014-01

A DEVELOPMENT ORDER APPROVING THE CONDITIONAL USE APPLICATION SUBMITTED BY HOLIDAY INN EXPRESS AND SUITES, INC. FOR A CONDITIONAL USE PERMIT, PURSUANT TO CHAPTER 102, ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (CODE) ENTITLED "CONDITIONAL USE PERMITS", AUTHORIZING THE EXPANSION OF A HOLIDAY INN EXPRESS AND SUITES AT THE PROPERTY LOCATED AT 13201 OVERSEAS HIGHWAY, OCEAN, NEAREST MILE MARKER 54, WHICH IS LEGALLY DESCRIBED AS PART OF GOVERNMENT LOT 2, FAT DEER KEY, SECTION 5, TOWNSHIP 66, RANGE 33, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBERS 00100260-000100 AND 00100260-000200.

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**WHEREAS**, on the 19<sup>th</sup> day of May, 2014, the City of Marathon Planning Commission (the "Commission") conducted a properly advertised public hearing (the "Public Hearings") regarding the request submitted by the Applicant, for a Conditional Use Permit pursuant to Chapter 102, Article 13 of the LDRs; and

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**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 and further, that the approval is in the

public interest, is consistent with its policy to encourage the redevelopment of hotels and motels in Marathon, and will further the health, safety and welfare of the residents of Marathon; and

**WHEREAS**, the purpose of the Conditional Use Permit is to allow for the integration of certain land uses and structures within the City of Marathon, based on conditions imposed by the Council. Review is based primarily on compatibility of the use with its proposed location and with surrounding land uses and on the basis of all zoning, subdivision and other ordinances applicable to the proposed location and zoning district, and

**WHEREAS**, the Council has duly considered the recommendation of the Commission, and the information and documentary evidence submitted by Holiday Inn Express and Suites, Inc. and does hereby find and determine as provided below.

**FINDINGS OF FACT:**

1. The applicant will expand the Holiday Inn Express and Suites consisting of 134 transient units, 10,209 square feet of Commercial Floor Area, and accessory structures such as a swimming pool, to include an additional twenty-seven (27) single-room hotel units (161 total units when complete).
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) The applicant must provide plans for an approvable wastewater conveyance system to be connected to the City's Sewer prior to the issuance of any permits under the Conditional Use Permit
- 2) The applicant must provide plans for an approvable stormwater management plan prior to the issuance of any permits under the Conditional Use Permit
- 3) The applicant must comply with all comments & or conditions set out in the City TRC comment letter dated January 16, 2014; most already responded to.
- 4) The applicant must execute a Unity of Title combining the two parcels, which must be approved by the City Attorney and recorded in the Official Records of the Monroe County Clerk of Courts prior to building permit application;
- 5) Holiday Inn Express and Suites must obtain and transfer twenty-seven (27) transient residential units (TRUs) in excess of what the City has recognized as legally established on the property, to be transferred via the Transfer of Building Rights (TBR's), BPAS process, or any other legally established process prior to building permit issuance. THE APPROVAL OF THE REQUESTED CONDITIONAL USE PERMIT AND DEVELOPMENT AGREEMENT AMENDMENTS DO NOT CONVEY OR GRANT A VESTED RIGHT OR ENTITLEMENT TO FUTURE ALLOCATIONS BY THE CITY OF ANY TRANSIENT RESIDENTIAL UNITS NOT CURRENTLY IN POSSESSION BY THE APPLICANT AS REFERENCED IN THE PROPOSED CONDITIONAL USE PERMIT AND DEVELOPMENT AGREEMENT.
- 6) The applicant will obtain site plan approval of the following from the Director and necessary City Departments prior to issuance of building permits:
  - o Final landscaping, open space, buffering, setbacks, restoration/mitigation plans (native vegetation subject to restoration/mitigation) and lighting plans in coordination with the Director and City Biologist prior to building permit approval; and
  - o The applicant will provide fire protection plans in accordance with fire protection

- requirements as established by the City Fire Marshal and as otherwise identified in the TRC comments; and
- The applicant will meet all floodplain related requirements as set out in the LDRs; and
  - The applicant will obtain the City Engineer's approval of final stormwater plans subject to the requirements of the LDRs and as otherwise identified in the TRC comments prior to the issuance of building permits.
  - The applicant will be required to connect to the City of Marathon wastewater collection and treatment system prior to the issuance of a Certificate of Occupancy.; and
- 7) The Applicant will be required to meet all requirements concerning affordable housing as applicable and as identified in Section 104.25 A. of the LDRs
  - 8) The applicant will obtain all required permits for any signs erected on the property, as required under the Code;
  - 9) The applicant will obtain any required permits and permissions from SFWMD and FDOT, ACOE and any other applicable agency(s) prior to issuance of building permits;
  - 10) Final Technical Review / Site Plan approval will constitute the Certificate of Concurrence for the project. The determination will be valid for one year subject to an option for a one year extension - Conditional Use Permit only. The determination will be valid for a period of 7 years – Development Agreement only.
  - 11) The Conditional Use Development Order will constitute the Certificate of Concurrence 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 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.

July 1, 2014  
Date

George Garrett  
George Garrett  
Director of Planning

This Development Order was filed in the Office of the City Clerk of this 1 day of July,  
2014  
~~2008~~

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 Thomas E. Pope, Agent,  
this 2 day of July, 2014. 610 White St.  
Key West, FL 33040

Diane Clavier  
Diane Clavier City Clerk