

**CITY OF MARATHON, FLORIDA
RESOLUTION 2014-076**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING A CONDITIONAL USE PERMIT TO MARATHON OCEAN HOUSING, LLC. PURSUANT TO CHAPTER 102, ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (THE "LDRS") ENTITLED "CONDITIONAL USE PERMITS," FOR THE DEVELOPMENT OF 106 RESIDENTIAL UNITS (62 WORKFORCE & 44 MARKET RATE); FOR PROPERTY WHICH IS LEGALLY DESCRIBED AS PART OF EDMONDS ACRES TRACT W 1/2 OF TR 2, E ½ OF TRACT 2 , AND PORTIONS OF THREE GOVT. LOTS, KEY VACA, BLOCK 1, LOT 2, SECTION 11, TOWNSHIP 66, RANGE 32, MONROE COUNTY, FLORIDA; HAVING REAL ESTATE NUMBERS 00338710-000000, 00338690-000000, 003387000-000300, 00338700-000000, 00103560-000000, AND 00103560-000202. NEAREST MILE MARKER 51.

WHEREAS, Marathon Ocean Housing, LLC, (The "Applicant") filed an Application on December 13, 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 has proposed to redevelop a site previously known as Aloha Village into 106 residential units configured as 53 duplex units (62 workforce housing units and 44 market rate 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 5th 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 27th day of May, 2014, the 10th day of June, 2014 and again on 8th day of July, 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 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 2014-03, a copy of which is attached hereto as Exhibit "A", granting a Conditional Use Permit to Marathon Ocean Housing, 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 its adoption.

PASSED AND APPROVED by the City Council of the city of Marathon, Florida, this 22nd day of July, 2014.


THE CITY OF MARATHON, FLORIDA



Dick Ramsay, Mayor

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

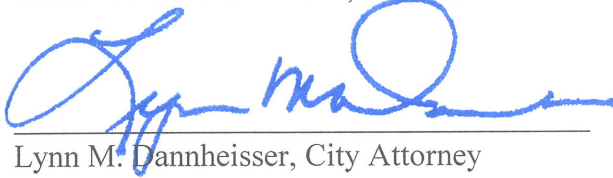
ATTEST:



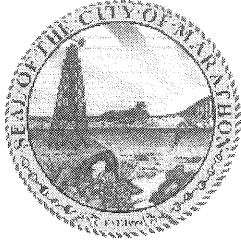
Diane Clavier
City Clerk

(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 # 2014-03**

A DEVELOPMENT ORDER APPROVING A CONDITIONAL USE PERMIT TO MARATHON OCEAN HOUSING, LLC. PURSUANT TO CHAPTER 102, ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (THE "LDRS") ENTITLED "CONDITIONAL USE PERMITS," FOR THE DEVELOPMENT OF 106 RESIDENTIAL UNITS (62 WORKFORCE & 44 MARKET RATE); FOR PROPERTY WHICH IS LEGALLY DESCRIBED AS PART OF EDMONDS ACRES TRACT W 1/2 OF TR 2, E 1/2 OF TRACT 2, AND PORTIONS OF THREE GOVT. LOTS, KEY VACA, BLOCK 1, LOT 2, SECTION 11, TOWNSHIP 66, RANGE 32, MONROE COUNTY, FLORIDA; HAVING REAL ESTATE NUMBERS 00338710-000000, 00338690-000000, 003387000-000300, 00338700-000000, 00103560-000000, AND 00103560-000202. NEAREST MILE MARKER 51.

WHEREAS, Marathon Ocean Housing, LLC, (The "Applicant") filed an Application on December 13, 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 has proposed to redevelop a site previously known as Aloha Village into 106 residential units configured as 53 duplex units (62 workforce housing units and 44 market rate units); and

WHEREAS, the Applicant has entitlements on the project site for twenty-five (25) market rate residential units the result of the demolition of twenty-five (25) previously existing residential units in 2010 and again in 2012; and

WHEREAS, the Applicant will transfer nineteen (19) workforce housing (affordable) residential units to the project site from an area within Monroe County and outside of the City's jurisdiction in consideration of the Conditions of this Conditional Use Permit and Chapter 107, Article 2 of the LDRs; and

WHEREAS, the City of Marathon held a separate public hearing in accordance with Chapter 102, Article 4 and Chapter 107, Article 1, Section 107.10, "Borrowing and Banking Allocations," whose results are documented in Resolution 2014-78, during which the City Council agreed to allocate nine (9) market rate residential units and forty-three (43) workforce housing (affordable) residential units to the project; 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 5th 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 27th day of May, 2014, the 10th day of June, 2014 and again on 8th day of July, 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 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,

FINDINGS OF FACT:

1. The applicant will redevelop the project site subject to the site plan attached to construct fifty-three (53) duplex units, to include a clubhouse and two pools, repair of an existing boat ramp and construction of approximately 500 feet of marginal dock and fourteen (14) boat slips (See Exhibit "A"):
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 final 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 final 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 conditions referenced in the City of Marathon Fire Marshall's comments provided in the TRC comments of January 16, 2014.
4. The applicant must meet all applicable ADA standards for a project of this nature in accordance with the requirements of Florida Building Code.
5. The applicant must execute a Unity of Title combining all 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;
6. The City Council agreed in a public hearing held on July 8, 2014 to allocate nine (9) market rate residential units and forty-three (43) workforce housing (affordable) residential units through the BPAS process. The Applicant will be required to acquire by separate means ten (10) market rate residential units and transfer them by means established in Chapter 107,

Article 2, "Transfer of Building Rights" in order to provide the compliment of residential allocations and or entitlements necessary to construct the approved project (106 residential units – 64 workforce housing residential units and 44 market rate residential units). The City has agreed to waive transfer fees in consideration of the fact that the transfer will not result in the loss of any affordable housing in the City due to the fact that the market rate transfer is compensated by the transfer of the nineteen (19) workforce housing units from outside the City's jurisdiction. The Applicant will also be required to transfer the nineteen (19) workforce housing residential units from a site outside of the City's jurisdictional boundaries to the project site as established in this agreement and in accordance with the City's LDRs. THE APPROVAL OF THE REQUESTED CONDITIONAL USE PERMIT AND DEVELOPMENT AGREEMENT AMENDMENTS DO NOT CONVEY OR GRANT A VESTED RIGHT OR ENTITLEMENT TO ANY FUTURE ALLOCATIONS BY THE CITY OF ANY RESIDENTIAL UNITS NOT CURRENTLY IN POSSESSION BY THE APPLICANT OR OTHERWISE APPROVED BY THE CITY IN RESOLUTION 2014-078, THIS CONDITIONAL USE PERMIT, OR THE CORREESPONDING DEVELOPMENT AGREEMENT RESOLUTION 2014-077.

7. The award of BPAS allocations under this Conditional Use Permit is subject to the following specific conditions:
8. The City has authorized this Award in the following time frame:
 - a. The City will borrow two (2) market rate BPAS allocations per year at a rate of one (1) per semester for the next four and a half (4 ½) BPAS years or nine (9) allocation semesters. Nine (9) market rate allocations are thus awarded to the Applicant immediately;
 - b. IF, market rate allocations remain available for allocations within any BPAS year during the four and a half year (4 ½) period noted immediately above, then those allocations shall be utilized for fulfillment of the approved allocation of nine (market rate residential units, thus shortening the approved barrowing period.
 - c. That the project, with the market rate units thus approved, contain NO LESS THAN fifty percent (50 %) workforce housing units; and
 - d. That all workforce housing units, with the market rate units thus approved, shall be deed restricted in accordance with the City LDRs, Sections 104.03, "Affordable Housing," Chapter 107 Article 1, and Chapter 110, "Definitions" – *Affordable Housing* in perpetuity, recorded in the public record of Monroe County, Florida in a form acceptable to the City attorney; and
 - e. That all units, with the market rate units thus approved, in the Tarpon Harbour project be utilized for long term rental tenancies (minimum 180 days plus 1) so long as the project is in the ownership of Marathon Ocean Housing LLC; and
 - f. That NO units, with the market rate units thus approved, in the approved Tarpon Harbour project be utilized as Vacation Rental Units
 - g. The Applicant have a maximum of one year from the date of approval by the State Department of Economic Opportunity (DEO) to obtain ten (10) market rate transferable buildings rights; and the Applicant have a maximum of eighteen (18) months from the effective date of this approval to begin construction of all units or the market rate and workforce housing allocations thus awarded revert to the City.

9. The applicant will obtain final site plan approval of the following from the Director and necessary City Departments prior to issuance of building permits:
 - a. Final landscaping, open space, buffering, setbacks, mitigation plans (native vegetation subject to mitigation) and lighting plans in coordination with the Director and City Biologist prior to building permit approval; and
 - b. 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
 - c. The applicant will meet all floodplain related requirements as set out in the LDRs; and
 - d. 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.
 - e. 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
 - f. The applicant will obtain all required permits for any signs erected on the property, as required under the Code;
 - g. The applicant will obtain any required permits and permissions from SFWMD, 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 Concurrency 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.

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.

7/24/14
Date

George Garrett
George Garrett
Director of Planning

This Development Order was filed in the Office of the City Clerk of this 24 day of July,
14
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 Tom Wright, 9705 Overseas Hwy.
this 24th day of July, 2014. Marathon, FL 33050

Diane Clavier

Diane Clavier City Clerk

SITE DATA

PROJECT: OVERALL CONCEPTUAL SITE LAYOUT FOR THE PROPOSED 120-UNIT APARTMENT COMPLEX, 11111 W. PALM BEACH BLVD., MONROE COUNTY, FLORIDA. PROJECT NO. 2023-001.

OWNER: TROPICAL HOMES, INC., 11111 W. PALM BEACH BLVD., MONROE COUNTY, FLORIDA 33508. PHONE: (813) 234-1234.

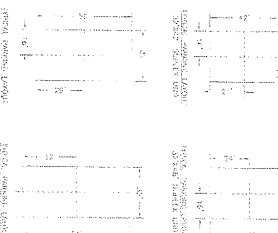
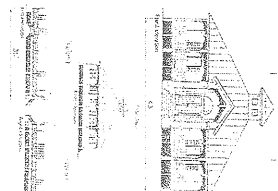
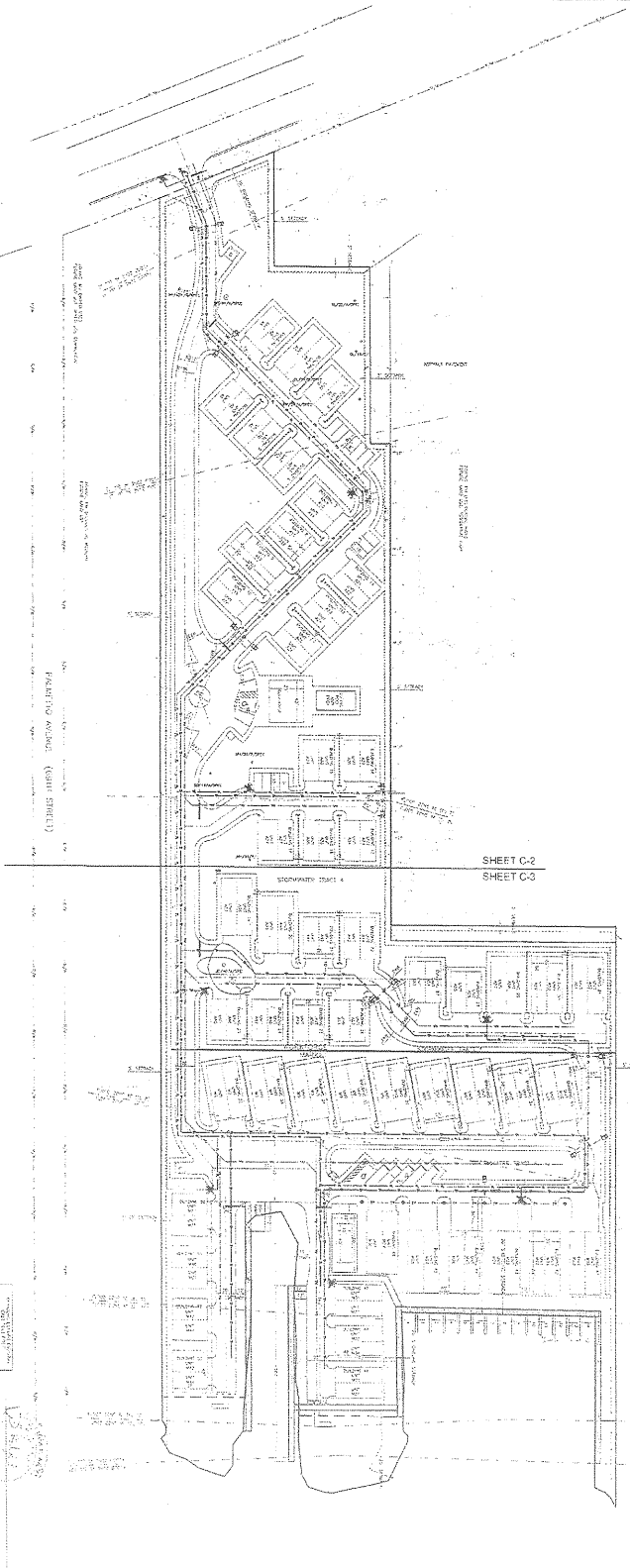
DESIGNER: W.F. McGINN & ASSOCIATES, INC., 11111 W. PALM BEACH BLVD., MONROE COUNTY, FLORIDA 33508. PHONE: (813) 234-1234.

DATE: 10/26/2023

SCALE: AS SHOWN

CONSTRUCTION: CONSTRUCTION PERMITS TO BE OBTAINED FROM THE MONROE COUNTY ENGINEERING DEPARTMENT.

NOTES: ALL DIMENSIONS ARE IN FEET AND INCHES. DIMENSIONS TO FACE UNLESS OTHERWISE NOTED. ALL FINISHES TO BE DETERMINED BY THE ARCHITECT. ALL UTILITIES TO BE LOCATED AND DEPTH NOTED. ALL EXISTING UTILITIES TO BE PROTECTED. ALL EXISTING TREES TO BE PRESERVED AND PROTECTED. ALL EXISTING STRUCTURES TO BE DEMOLISHED AND RELOCATED AS SHOWN. ALL EXISTING DRIVEWAYS TO BE RECONSTRUCTED AS SHOWN. ALL EXISTING DRIVEWAYS TO BE RECONSTRUCTED AS SHOWN.



RECEIVED
 11/16/2023
 TROPICAL HOMES, INC.
 11111 W. PALM BEACH BLVD.
 MONROE COUNTY, FLORIDA 33508
 PHONE: (813) 234-1234
 FAX: (813) 234-1235
 WWW.TROPICALHOMES.COM

<p>SHEET C1 OF 2</p>	<p>TARPON HARBOUR MONROE COUNTY, FLORIDA</p>	<p>OVERALL CONCEPTUAL SITE LAYOUT</p>	<p>W. F. MCGINN & ASSOCIATES, INC. 11111 W. PALM BEACH BLVD., MONROE COUNTY, FLORIDA 33508 PHONE: (813) 234-1234 FAX: (813) 234-1235 WWW.WFMCGINN.COM</p>	<p>DATE: 10/26/2023 DRAWN BY: J. SMITH CHECKED BY: M. JONES APPROVED BY: K. BROWN</p>	<p>RECEIVED 11/16/2023 TROPICAL HOMES, INC. 11111 W. PALM BEACH BLVD. MONROE COUNTY, FLORIDA 33508 PHONE: (813) 234-1234 FAX: (813) 234-1235 WWW.TROPICALHOMES.COM</p>
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