

**CITY OF MARATHON, FLORIDA  
RESOLUTION 2014-78**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, CONDITIONALLY APPROVING THE ALLOCATION OF NINE (9) MARKET RATE RESIDENTIAL UNITS AND FORTY-THREE (43) IN CONSIDERATION OF REQUEST BY MARATHON OCEAN HOUSING LLC (TARPON HARBOUR) PURSUANT TO CHAPTER 102, ARTICLE 4 AND CHAPTER 107, ARTICLE 1, SECTION 107.10 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (“THE LDRS”), “BORROWING AND BANKING OF ALLOCATIONS” AS PART OF THE BUILDING PERMIT ALLOCATION SYSTEM (BPAS) IN CONJUNCTION WITH A REQUEST FOR A CONDITIONAL USE PERMIT AND DEVELOPMENT AGREEMENT TO ALLOW 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; 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 5<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, the 10<sup>th</sup> day of June, 2014 and again on 8<sup>th</sup> 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 and Development Agreement, 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**, on the 8<sup>th</sup> day of July 2014 the City Council approved the Applicants request for a Conditional Use Permit and Development Agreement in Resolutions 2014-76 and 2014-77 respectively;

**WHEREAS**, the Applicant made a request for nineteen (19) market rate residential and forty-three (43) workforce housing (affordable) BPAS allocations Pursuant To Chapter 102, Article 4 And Chapter 107, Article 1, Section 107.10 Of The City Of Marathon Land Development Regulations (“the LDRs”), “Borrowing And Banking Of Allocations” As Part Of The Building Permit Allocation System (BPAS) In Conjunction With A Request For A Conditional Use Permit And Development Agreement; and

**WHEREAS**, and on the 8<sup>th</sup> day of July, 2014 the City Council (the “Council”) conducted a properly advertised public hearing (the “Public Hearing”) regarding the request for BPAS allocations submitted by the Applicant; and

**WHEREAS**, based on competent and substantial testimony by staff, public input, and in accordance with requirements to afford due process, agreed to allocate nine (9) market rate residential and forty-three (43) workforce housing (affordable) BPAS allocations to the Applicant with Conditions as outlined below,

**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 has determined that it has adequate work force housing allocations (affordable) BPAS allocation to accommodate the project, but must “borrow” market rate residential BPAS allocations in accordance with the provisions of Chapter 107, Article 2, Section 107.10, “Borrowing and Banking of Allocations.”

**Section 3.** Based upon the information, evidence and testimony presented by City Staff and members of the public, the City Council approves the award BPAS allocations to the project known as Tarpon Harbour owned by Marathon Ocean Housing, LLC with conditions as follows:


1. 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
2. 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).
3. 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.
4. The Applicant is 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.
5. The approval of the a conditional use permit and development agreement (Resolutions 2014-76 and 2014-77 respectively 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.
6. The award of BPAS allocations in consideration of the City's approval of Conditional Use Permit and Development Agreement to Marathon Ocean Housing LLC (Tarpon Harbour) is subject to the following specific conditions:
7. 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.

**Section 4.** This Resolution shall become effective immediately upon approval by the State Department of Economic Opportunity.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 22<sup>nd</sup> DAY OF JULY, 2014.**

**THE CITY OF MARATHON, FLORIDA**

  
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Dick Ramsay, Mayor

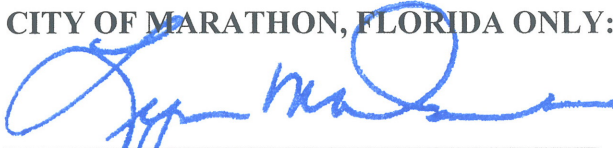
AYES: Bartus, Bull, Keating, Senmartin, Ramsay  
NOES: None  
ABSENT: None  
ABSTAIN: None

**ATTEST:**

  
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Diane Clavier, City Clerk

(City Seal)

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

  
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Lynn M. Dannheisser, City Attorney