

**CITY OF MARATHON, FLORIDA  
RESOLUTION 2015-114**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING THE REQUEST FOR A CONDITIONAL USE PERMIT FOR ANCHORAGE HOMES, LLC PURSUANT TO CHAPTER 102, ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (CODE) ENTITLED "CONDITIONAL USE PERMITS" FOR THE DEVELOPMENT OF A PROPERTY INTO AFFORDABLE HOUSING; WITH PROPOSED DENSITIES OF APPROXIMATELY EIGHT (8) AFFORDABLE HOUSING UNITS PER ACRE; LOCATED AT THE END OF 64TH STREET; WHICH IS LEGALLY DESCRIBED AS PART OF TRACT 8 & BAY BOTTOM SOUTH OF & ADJACENT TO TRACT 8 & PART OF DON - ALLEN RD, SECTION 11, TOWNSHIP 66 SOUTH, RANGE 32, KEY VACA, MONROE COUNTY, FLORIDA; HAVING REAL ESTATE NUMBER 00338720-000000, NEAREST MILE MARKER 50.5.; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Anchorage Homes, LLC, (The "Applicant") filed an Application on July 31, 2015 for a Conditional Use Permit pursuant to Chapter 102, Articles 13 of the City of Marathon Land Development Regulations (LDRs); and

**WHEREAS**, the Applicant has proposed to develop thirty-two (32) affordable residential units on a disturbed area of approximately 1.44 acres; and

**WHEREAS**, City staff reviewed the Applicant's request for a Conditional Use Permit determining that the Applicant's project proposal was not in compliance with the City's Comprehensive Plan and Land Development Regulations (LDRs) at proposed densities and at thirty-two (32) residential units; and

**WHEREAS**, Section 107.26. - Bonus and Incentives, indicates that:

Eligible residential development projects shall be granted the following incentives:

*A. Density Bonus:* For projects providing dwelling units that meet the affordability classifications described in Article 1, "Affordable Housing" of Chapter 104 and as defined in Chapter 110 "Definitions", the City may grant a density bonus of up to 25 units per acre, subject to the limitations of the zoning district of the project.

**WHEREAS**, based on surrounding neighborhood densities, staff recommended a project density range of fifteen (15) to seventeen (17) affordable residential units per buildable acre; and

**WHEREAS**, on the 8th day of October, 2015, 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**, based on competent and substantial testimony, recommended approval to the City Council of eight (8) residential units per acre for a total of twelve (12) affordable residential units; and

**WHEREAS**, and on the 13th day of October, 2015 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**, based on the recommendation of the Planning Commission and other competent and substantial testimony the City Council approved the project at eight (8) residential units per acre for a total of twelve (12) affordable or market rate residential units; 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 development affordable residential units 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 2015-14, a copy of which is attached hereto as Exhibit “A”, granting a Conditional Use Permit to Anchorage Homes, LLC eight (8) market rate or affordable residential units. 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 13<sup>th</sup> DAY OF OCTOBER, 2015.**

**THE CITY OF MARATHON, FLORIDA**



**Chris Bull, Mayor**

AYES: Zieg, Kelly, Senmartin, Bull  
NOES: None  
ABSENT: Keating  
ABSTAIN: None

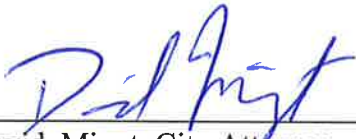
**ATTEST:**



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



**CITY OF MARATHON, FLORIDA  
CONDITIONAL USE  
DEVELOPMENT ORDER # 2015-14**

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**WHEREAS**, based on competent and substantial testimony, recommended approval to the City Council of eight (8) residential units per acre for a total of twelve (12) affordable residential units; and

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**WHEREAS**, based on the recommendation of the Planning Commission and other competent and substantial testimony the City Council approved the project at eight (8) residential units per acre for a total of twelve (12) affordable or market rate residential units; 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 development affordable residential units 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 is approved to develop a total of twelve (12) affordable or market rate residential units.
2. In accordance with Section 102.77 of the LDRs, the Commission and Council considered and determined that 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
10. The allocation and transfer of transient residential units (TRUs).
11. Obligations to provide adequate workforce housing.
12. Any special requirements set forth in the LDRs for the Proposed Use involved.

**CONDITIONS IMPOSED:**

Granting approval of the Conditional Use Permit is subject to the following conditions:

- 1) Twelve (12) residential units are hereby approved. A revised site plan is required prior to the submission of construction plans for permitting.
- 2) The applicant will provide fire protection plans in accordance with fire protection requirements as outlined by the City Fire Marshal;
- 3) The applicant will meet all floodplain related requirements as part of the Building Permit process;
- 4) The applicant will obtain City approval of the stormwater management system prior to Building Permit issuance;
- 5) The applicant will obtain City approval for wastewater management through the City's Wastewater Utility;
- 6) The applicant will obtain sign permits for any signs erected on the property, as required under the Code; and
- 7) Staff requires that upon planning review, if the redevelopment is found to have any effect on the Eastern Indigo Snake Habitat, then the prescribed protection measures must be undertaken, and the information poster posted on site.
- 8) A formal wetland determination letter will be required prior to permit issuance.
- 9) Final Mitigation/Restoration plan required prior to permit issuance.
- 10) The retaining wall separating the development from the wetlands should be 6' high measure from improved grade.
- 11) Should the proposed mitigation plans be denied by other agencies, the applicant must reapply as a new conditional use per Section 102.79.B.

- 12) Access to 64<sup>th</sup> Street may be provided for emergency access only and shall otherwise be locked and accessible with a Knox-Box.
- 13) Bicycle racks per Section 107.48 must be shown on the Final site plan prior to permit issuance.
- 14) Should it be found that inadequate on-site parking causes a recurring traffic hazard or a nuisance off-site, the owner shall be responsible for increasing the number of parking spaces or decreasing the need for parking spaces.
- 15) A Final Landscape Plan must be submitted showing the proper treatments and buffers, including the appropriate treatment types and trees.
- 16) A Final Site Plan must be submitted showing the buildings meeting the required setbacks, parking locations, and access drives.
- 17) All signs will be reviewed and approved for compliance with the City of Marathon LDR's.
- 18) A final lighting plan must be submitted prior to permit issuance.
- 19) The applicant will obtain any required permits from SFWMD and FDOT prior to building permit issuance;
- 20) The applicant will obtain and State or Federal approvals and permits prior to building permit issuance.
- 21) All affordable units must be deed restricted prior to issuance of certificate of occupancy.
- 22) The private yard area for rooftop balcony dwelling is provided by the roof or balconies of the structure.
- 23) 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.
- 24) 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.
- 25) 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.
- 26) The Applicant must obtain and transfer twelve (12) affordable or market rate units to 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 AMENDMENTS DO NOT CONVEY OR GRANT A VESTED RIGHT OR ENTITLEMENT TO FUTURE ALLOCATIONS BY THE CITY OF UNITS NOT CURRENTLY IN POSSESSION BY THE APPLICANT AS REFERENCED IN THE PROPOSED CONDITIONAL USE PERMIT. The City understands that the applicant has pursued a proposed ILA between the County and the City of Marathon for the affordable units in question to acquire the necessary units.
- 27) 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 OWNER 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 City Code and LDRs, the Council may revoke this approval upon a determination that the OWNER or its successor or designee is in non-compliance with this Resolution, City Code, or LDRs. Failure to adhere to the terms and conditions of approval contained herein is a violation of the City 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 LDRs, 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 Amendment 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 CUP granted herein shall be subject to appeal as provided in the LDRs. An appeal shall stay the effectiveness of this development order until said appeal is resolved.

10/28/2015  
Date

George Garrett  
George Garrett  
Director of Planning

This Development Order was filed in the Office of the City Clerk of this 28 day of October 2015.

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 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 Economic Opportunity 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 Economic Opportunity. 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 Mr. Gregory Oropeza, 138-142 Simonton St., Key West, FL 33040 this 3 day of Nov., 2015.



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Diane Clavier City Clerk

ATTACHMENT A  
Revised Project Plans

