

**CITY OF MARATHON, FLORIDA
RESOLUTION 2015- 54**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING THE REQUEST BY COASTAL PROPERTIES-VACA CUT, LLC. 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 DEVELOPMENT OF NINE MULTI-FAMILY UNITS ON UNDEVELOPED LOT, SUBJECT TO CONDITIONS IMPOSED, FOR PROPERTY LOCATED AT 11500 OVERSEAS HIGHWAY, WHICH IS LEGALLY DESCRIBED AS SECTION 5, TOWNSHIP 66, RANGE 33, FAT DEER KEY, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBER 00100740-000100.

WHEREAS, Coastal Properties-Vaca Cut LLC (The “Applicant”) filed an Application on March 11, 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 development of nine market rate dwelling unit on undeveloped vacant land; and

WHEREAS, 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 18th day of May, 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 8 of the LDRs; and

WHEREAS, and on the 26th day of May, 2015, the City Council (the “Council”) 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 2015-01, a copy of which is attached hereto as Exhibit "A", granting a Conditional Use Permit to Coastal Properties-Vaca Cut 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 9TH DAY OF JUNE, 2015.

THE CITY OF MARATHON, FLORIDA



Chris Bull, Mayor

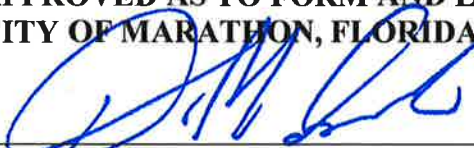
AYES: Keating, Kelly, Senmartin, Zieg, Bull
NOES: None
ABSENT: None
ABSTAIN: None

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:



Dirk Smits, City Attorney



**CITY OF MARATHON, FLORIDA
CONDITIONAL USE
DEVELOPMENT ORDER # 2015-01**

A DEVELOPMENT ORDER APPROVING THE REQUEST BY COASTAL PROPERTIES-VACA CUT, LLC. 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 DEVELOPMENT OF NINE MULTI-FAMILY UNITS ON UNDEVELOPED LOT, SUBJECT TO CONDITIONS IMPOSED, FOR PROPERTY LOCATED AT 11500 OVERSEAS HIGHWAY, WHICH IS LEGALLY DESCRIBED AS SECTION 5, TOWNSHIP 66, RANGE 33, FAT DEER KEY, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBER 00100740-000100.

WHEREAS, Coastal Properties-Vaca Cut, LLC., (The “Applicant”) filed an Application on March 10th, 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 development of nine market rate dwelling unit on undeveloped vacant land; and

WHEREAS, 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 27th day of April, 2015, the City of Marathon Technical Review Committee (the “TRC”) held 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 8 of the LDRs; and

WHEREAS, on the 18th day of May, 2015 and the 26th day of May, 2015, the Planning Commission (the “PC”) and 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 3 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 redevelopment of commercial properties in Marathon, and will further the health, safety and welfare of the residents of Marathon; and

WHEREAS, the Council has duly considered the recommendation of the PC, and the information and documentary evidence submitted by Coastal Properties-Vaca Cut, LLC, and does hereby find and determine as provided below.

FINDINGS OF FACT:

1. The Applicant has proposed development of nine market rate dwelling unit on undeveloped vacant land.
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

CONDITIONS IMPOSED:

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

Conditions of Approval

- 1) Staff requires that upon planning review, if the development 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 plan;
- 2) The applicant will obtain approval of final landscaping showing the proper treatments and buffers, including the appropriate treatment types and trees in coordination with the City Biologist before project is permitted;
- 3) A detailed lighting plan must be submitted before permit issuance;
- 4) Clear sight triangles must be shown on the site plan at time of building permit issuance;
- 5) All signs will be reviewed and approved for compliance with the City of Marathon LDRs;
- 6) The applicant will provide detailed plans for any docking along with copies of DEP and ACOE permits and shall meet all conditions for Multifamily docking facilities;
- 7) Applicant must shall meet all conditions to maintain navigational access of Vaca Cut;
- 8) The applicant will provide fire protection plans in accordance with fire protection requirements as outlined by the City Fire Marshal;
- 9) The applicant will meet all floodplain related requirements as part of the Building Permit process;
- 10) The applicant will obtain City approval of the stormwater management system prior to Building Permit issuance;
- 11) The applicant will obtain City approval for wastewater management through the City's Wastewater Utility;
- 12) The applicant will obtain the required permits to fully enclose and screen the dumpster in accordance with Section 107.39;
- 13) The applicant will obtain any required permits from SFWMD and FDOT prior to building permit issuance;
- 14) The applicant will obtain sign permits for any signs erected on the property, as required under the Code;
- 15) Applicant shall obtain and/or transfer nine (9) market rate units in excess of what the City has recognized legally established on the property, to be transferred via the Transfer of Building Rights (TBRs), BPAS process, or any other legally established process prior to building permit issuance and for each dwelling unit building right transferred as market rate, the applicant shall make a cash payment to the City's affordable housing program fund in an amount not less than 10 percent (e.g. one (1) building unit equals \$20,000 payment to affordable housing fund) ;
- 16) The applicant shall require an on-site direction of flow for traffic arriving and leaving the property as 120th Street is quite narrow.
- 17) Considering the narrowness of 120th Street, the Applicant shall make provisions for easy and efficient pick-up of solid waste for the project site;
- 18) The applicant shall acknowledge the area and uses surrounding the project (e.g. Rock and Sand on adjacent property);
- 19) With future approval of a community dock along Vaca Cut, the Applicant shall be

required to appropriate and make any necessary improvements to insure the safety of boaters passing through Vaca Cut, particularly dock lighting, reflective tape on pilings, etc.

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.

Date 6/10/2015

George Garrett
George Garrett
Director of Planning

This Development Order was filed in the Office of the City Clerk of this 11 day of June 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 11500 Overseas Hwy. Marathon, FL 33050 this 11 day of June, 2015.



Diane Clavier City Clerk