

**CITY OF MARATHON, FLORIDA  
RESOLUTION 2015-55**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING A REQUEST BY ROSS D. ELWELL FOR A CONDITIONAL USE PERMIT PURSUANT TO CHAPTER 102, ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (LDRS) ENTITLED “CONDITIONAL USE PERMITS”, AUTHORIZING CONSTRUCTION OF A 14,920 SQUARE FOOT COMMERCIAL BUILDING ON UNDEVELOPED PARCELS LOCATED ON OVERSEAS HIGHWAY, WHICH IS LEGALLY DESCRIBED AS SECTION 11, TOWNSHIP 66, RANGE 32; KEY VACCAS, PT LOT 2, MARATHON, FLORIDA, HAVING REAL ESTATE NUMBERS 00103650-000000 & 00103650-000300. NEAREST MILE MARKER 50.5.**

**WHEREAS**, Ross D. Elwell, (The “Applicant”) filed an Application on March 12, 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 proposes to develop a 14,920 square feet commercial building; 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 18<sup>th</sup> 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 13 of the LDRs; and

**WHEREAS**, and on 26<sup>th</sup> day of May, 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**; 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 2015-03, a copy of which is attached hereto as Exhibit "A", granting a Conditional Use Permit to develop a 14,920 square foot commercial building. 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 9<sup>th</sup> 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:**



City Attorney



**CITY OF MARATHON, FLORIDA  
AMENDMENT TO AN APPROVED CONDITIONAL USE  
DEVELOPMENT ORDER # 2015-03**

**A DEVELOPMENT ORDER OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING A REQUEST BY ROSS D. ELWELL FOR A CONDITIONAL USE PERMIT PURSUANT TO CHAPTER 102, ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (LDRS) ENTITLED “CONDITIONAL USE PERMITS”, AUTHORIZING CONSTRUCTION OF A 14,920 SQUARE FOOT COMMERCIAL BUILDING ON UNDEVELOPED PARCELS LOCATED ON OVERSEAS HIGHWAY, WHICH IS LEGALLY DESCRIBED AS SECTION 11, TOWNSHIP 66, RANGE 32; KEY VACCAS, PT LOT 2, MARATHON, FLORIDA, HAVING REAL ESTATE NUMBERS 00103650-000000 & 00103650-000300. NEAREST MILE MARKER 50.5.**

**WHEREAS**, Ross D. Elwell, (The “Applicant”) filed an Application on March 12, 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 proposes to develop a 14,920 square feet commercial building; 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 18<sup>th</sup> 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 13 of the LDRs; and

**WHEREAS**, and on 26<sup>th</sup> day of May, 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**; 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,

**FINDINGS OF FACT:**

1. The OWNER is proposing to construct a 14,920 square commercial building on property under contract to Mr. Owner.
  
2. In accordance with Section 102.77 of the LDRs, the Commission and Council considered and determined that the OWNER 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. Obligations to provide adequate workforce housing.
    11. Any special requirements set forth in the LDRs for the Proposed Use involved.

### **CONDITIONS IMPOSED:**

Granting approval of the Amendment to the CUP is subject to the following conditions:

- 1) The applicant will obtain approval of final landscaping and mitigation plans (as needed) and lighting plans in coordination with the City Biologist prior to building permit issuance;
- 2) The applicant will submit and obtain approval of fire protection plans in accordance with fire protection requirements established by the City Fire Marshal prior to building permit issuance;
- 3) Approval of parking is approved with a reduction based upon trip generation analysis;
- 4) Any change in use that causes an increase in traffic must go through the conditional use approval per Code.
- 5) Clear sight triangles must be shown on the site plan at time of building permit issuance.
- 6) Final FDOT approval is required for the curb cut access before permits will be issued. Applicant will seek the largest curb cut feasible and permissible by FDOT in order to provide for the safest access.
- 7) The applicant will meet all floodplain related requirements as part of the Building Permit process;
- 8) The applicant will obtain City approval of the stormwater management system prior to Building Permit issuance;
- 9) The applicant will obtain City approval for wastewater management through the City's Wastewater Utility;
- 10) The applicant will connect to the City wastewater utility system prior to the issuance of a Certificate of Occupancy (CO).
- 11) The applicant will obtain any required permits from SFWMD and FDOT prior to building permit issuance;
- 12) The applicant will obtain sign permits for any signs erected on the property, as required under the Code;
- 13) The applicant will file the conservation easement documents in a form and detail acceptable with the City prior to building permit a being issued;
- 14) The applicant will file a unity of title before building permits being issued; and
- 15) 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 CUP 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 Amendment 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.

\_\_\_\_\_  
Date 6/10/2015

\_\_\_\_\_  
George Garrett  
Director of Planning

This Development Order was filed in the Office of the City Clerk of this 11 day of June 2015.

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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 1757 Overseas Hwy. Marathon, FL 33060 this 11 day of June, 2015.



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Diane Clavier City Clerk