

**CITY OF MARATHON, FLORIDA
RESOLUTION 2016-122**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING A REQUEST BY KEYS AFFORDABLE DEVELOPMENT III, LLC 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 THE DEVELOPMENT OF FIFTY-FIVE (55) MULTIFAMILY WORKFORCE HOUSING UNITS ON PROPERTIES LOCATED AT 4800 OVERSEAS HIGHWAY, WHICH ARE LEGALLY DESCRIBED AS PART OF LOT 1 FORMERLY OVERSEAS HIGHWAY, AS WELL AS PART OF LOT 1, PART OF LOT 2, PART OF LOT 3, PART OF LOT 4, PART OF LOT 4 (PARCEL A), & ADJACENT BAY BOTTOM OF THOMPSON & ADAMS SUBDIVISION, KEY VACA, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBERS 00102950-000000, 00327110-000000, 00327120-000000, 00327130-000000, 00327140-000000, & 00327140-000100. NEAREST MILE MARKER 50.

WHEREAS; Keys Affordable Development III, LLC (The "Applicant") filed an Application on October 19th, 2016 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 fifty-five (55) one, two and three bedroom affordable apartments on sites previously developed with four duplexes totaling eight units; and

WHEREAS; the Applicant must obtain fifty-five (55) affordable units, 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 AND DEVELOPMENT AGREEMENT AMENDMENTS DO NOT CONVEY OR GRANT A VESTED RIGHT OR ENTITLEMENT TO FUTURE ALLOCATIONS BY THE CITY OF ANY AFFORDABLE RESIDENTIAL UNITS NOT CURRENTLY IN POSSESSION BY THE APPLICANT AS REFERENCED IN THE PROPOSED CONDITIONAL USE PERMIT AND DEVELOPMENT AGREEMENT.

WHEREAS; the Applicant has sought the affordable allocations through an interlocal agreement between the County and City, accepted through Resolution 2016-113; 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 5th day of December 2016, 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 respectively of the LDRs; and

WHEREAS; and on the 13th day of December, 2016 the City Council (the “Council”) 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; 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 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 2016-12, a copy of which is attached hereto as Exhibit “A”, granting a Conditional Use Permit to Keys Affordable Development III, 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 approval by the State Department of Economic Opportunity.

PASSED AND APPROVED by the City Council of the city of Marathon, Florida, this 13th day of December 2016.

THE CITY OF MARATHON, FLORIDA



Daniel Zieg, Mayor

AYES: Cook, Coldiron, Bartus, Senmartin, Zieg
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:**



David Migut, City Attorney



**CITY OF MARATHON, FLORIDA
CONDITIONAL USE
DEVELOPMENT ORDER # 2016-12**

A DEVELOPMENT ORDER OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING A REQUEST BY KEYS AFFORDABLE DEVELOPMENT III, LLC 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 THE DEVELOPMENT OF FIFTY-FIVE (55) MULTIFAMILY WORKFORCE HOUSING UNITS ON PROPERTIES LOCATED AT 4800 OVERSEAS HIGHWAY, WHICH ARE LEGALLY DESCRIBED AS PART OF LOT 1 FORMERLY OVERSEAS HIGHWAY, AS WELL AS PART OF LOT 1, PART OF LOT 2, PART OF LOT 3, PART OF LOT 4, PART OF LOT 4 (PARCEL A), & ADJACENT BAY BOTTOM OF THOMPSON & ADAMS SUBDIVISION, KEY VACA, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBERS 00102950-000000, 00327110-000000, 00327120-000000, 00327130-000000, 00327140-000000, & 00327140-000100. NEAREST MILE MARKER 50.

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WHEREAS; and on the 13th day of December, 2016 the City Council (the “Council”) 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; 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 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 as set out in the project site plan allowing the Applicant to construct fifty-five (55) affordable units, to include an office, pool, and common areas (See Approved Site Plan – Exhibit A” and all Plans otherwise provided and approved, or approved as revised, as part of the Applicant’s submittal):
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. If the redevelopment is found to have any effect on the Eastern Indigo Snake, then the prescribed protection measures must be undertaken, and the information poster posted on site.
2. FDOT permit approval for the relocation of the curb cut is required prior to permit application approval.
3. As part of permit approval, the Applicant shall consider options for:
 - a. An additional point of access to 47th Street if feasible;
 - b. Additional internal vegetative buffers for views to and from 47th Street and the two properties to the north;
 - c. Additional greenspace and recreational amenities on-site;
 - d. Spreading the approved units and density over a greater area of the properties subject to the approval herein.
4. The applicant shall create safety features / structures between the road leading to the north and the canal / boat basin.
5. As part of the permit application, all conditions of the Fire Marshal must be met prior to permit issuance.
6. Final site plan must show bollards or other safety barrier for portion of paved easement along canal.

7. City approval is required for ADA compliant parking spaces prior to Building Permit Approval.
8. City approval is required for bike racks prior to Building Permit Approval.
9. City approval is required for the stormwater management system prior to Building Permit Approval.
10. Applicant must obtain all outside agency approvals, this includes but is not limited to SFWMD, FDOT, ACOE, DEP.
11. City approval of the connection to the City Wastewater Utility will be required.
12. The Conditional Use Development Order will constitute the Certificate of Concurrency for the project. The determination will be valid for one year.
13. A Unity of Title will be required for these parcels prior to Building Permit Approval.
14. A Final Landscape Plan must be submitted showing the proper treatments and buffers, including the appropriate treatment types and trees.
15. A Final Site Plan must be submitted showing the buildings meeting the required setbacks, parking locations, and access drives.
16. All signs will be reviewed and approved for compliance with the City of Marathon LDR's.
17. Two (2) side yards are required for stacked duplexes.
18. Townhouses are limited to ten (10) dwelling units per row, except for affordable housing.
19. The private yard area for rooftop balcony dwelling is provided by the roof or balconies of the structure.
20. 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.
21. 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.
22. 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.
23. Affordable Housing Deed restrictions must be filed prior to building permit issuance.
24. The Applicant must obtain and transfer the affordable housing units in excess of what the City has recognized as legally established on 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 AND DEVELOPMENT AGREEMENT AMENDMENTS DO NOT CONVEY OR GRANT A VESTED RIGHT OR ENTITLEMENT TO FUTURE ALLOCATIONS BY THE CITY OF ANY MARKET RATE RESIDENTIAL UNITS NOT CURRENTLY IN POSSESSION BY THE APPLICANT AS REFERENCED IN THE PROPOSED CONDITIONAL USE PERMIT.**

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.

12/23/2016
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 DEC, 2016.

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 P.O. Box 540337, Merritt Island, FL,
this 28 day of Dec, 2016. 32954

Diane Clavier

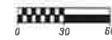
Diane Clavier City Clerk

EXHIBIT "A"

CASA DE PALMAS
PRELIMINARY SITE PLAN
MARATHON FLORIDA

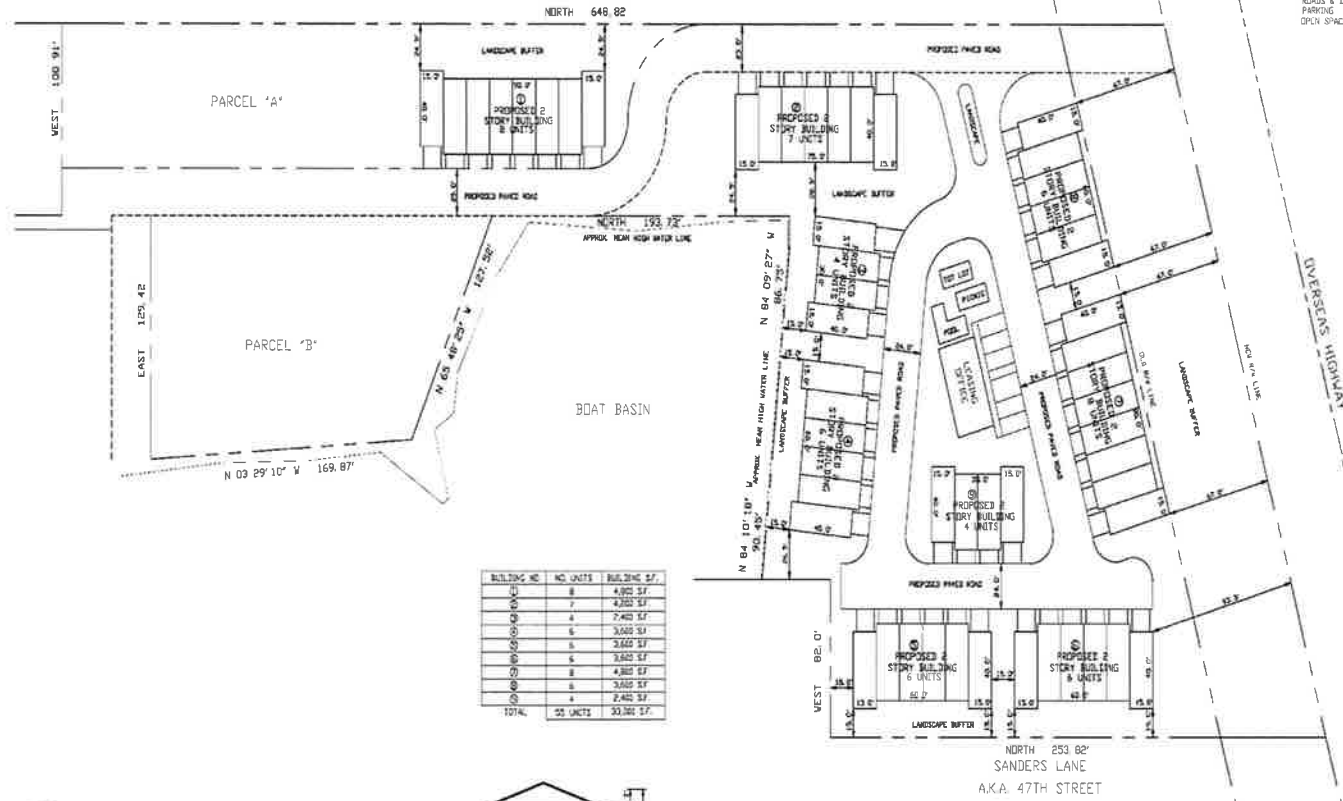


GRAPHIC SCALE



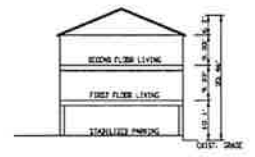
1 INCH = 30 FEET

SITE DATA
TOTAL SITE AREA 372 AC. 162,543.2 SF.
BUILDING AREA 34,200 SF. 23.0%
ROADS & DRIVES 37,886 SF. 23.4%
PARKING 1,116 SF. 0.7%
OPEN SPACE 68,247.2 SF. 34.6%



BUILDING NO.	NO. UNITS	BUILDING SF.
1	8	4,802 SF.
2	7	4,202 SF.
3	4	2,402 SF.
4	6	3,602 SF.
5	5	3,002 SF.
6	6	3,602 SF.
7	8	4,802 SF.
8	5	3,002 SF.
9	4	2,402 SF.
TOTAL	55 UNITS	33,002 SF.

- NOTES:
1. DURING CONSTRUCTION, STABILIZED ROADS AND A SUITABLE WATER SUPPLY ACCORDING TO THE FIRE DEPT. SHALL BE PROVIDED AND MAINTAINED.
 2. ADDRESS NUMBERS SHALL BE PROVIDED IN ACCORDANCE WITH THE LATEST DEVELOPMENT MINIMUM CODE OF ORDINANCE, IF ANY.
 3. CLEARANCE AROUND FIRE HYDRANTS SHALL BE 7.5 FEET.
 4. THE REQUIRED DISTANCE BETWEEN ALL HYDRANTS SHALL BE MEASURED ALONG THE MAIN R/W. APPROVED ACCESS FACILITIES OR APPROVED ACCESS ROUTES, AS A FIRE APPARATUS WOULD TRAVEL. DISTANCES SHALL NOT BE MEASURED ACROSS PRIVATE PROPERTY NOT DESIGNATED AND APPROVED FOR FIREFIGHTER ACCESS. FIRE HYDRANTS SHALL NOT BE ACCESSIBLE ACROSS MEDIANS OR MAJOR ROADWAYS UNLESS SPECIFICALLY APPROVED BY THE FIRE AGENCY.
 5. ALL WATER METERS OR FLOW MEASURING DEVICES SHALL BE INSTALLED ON ANY MAIN SERVING A FIRE HYDRANT, STANDPIPE SYSTEM OR FIRE SPRINKLER SYSTEM COORDINATE WITH THE FLORIDA STATE AGENCY AUTHORITY.



PROPOSED BUILDING HEIGHT
15.0

WANSKUS
ARCHITECTURE
4755 HANGART AVE.
NORTH PORT, FL.
PHONE (781) 354-6794

PRELIMINARY PLAN
KEYS AFFORDABLE DEVELOPMENT CO. LLC
DATE: 11-14-10 APPROVED BY: TAYLOR ST.
DATE: 11/18/10 REVIEWED BY: J.A.
THE CITY OF MARATHON
MONROE COUNTY, FLORIDA
SCALE: 1/8" = 1' DATE: 11/18/10