

**CITY OF MARATHON, FLORIDA  
RESOLUTION 2016-71**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, APPROVING A REQUEST BY HTG CRYSTAL COVE RESORT, LLLP FOR A CONDITIONAL USE PERMIT PURSUANT TO CHAPTER 102, ARTICLES 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (LDRS) ENTITLED “CONDITIONAL USE PERMITS,” AUTHORIZING THE DEVELOPMENT OF A TWENTY-EIGHT (28) UNIT RV PARK, FORTY-SIX AFFORDABLE HOUSING UNITS, AND 7,700 SQUARE FEET OF COMMERCIAL RETAIL ON PROPERTIES LOCATED AT AND ADJACENT TO 4900 OVERSEAS HIGHWAY; REAL ESTATE NUMBERS 00327150-000000, 00327910-000000, 00327920-000000, 00327990-000000, 00328000-000000, 00328010-000000, 00328020-000000, AND 00328030-000000. NEAREST MILE MARKER 50**

**WHEREAS**, HTG Crystal Cove, LLLP., (The “Applicant”) filed an Application on June 30, 2016 for a Conditional Use Permit and Development Agreement pursuant to Chapter 102, Articles 13 of the City of Marathon Land Development Regulations (LDRs); and

**WHEREAS**; the Applicant proposes to develop twenty-eight (28) RV, forty-six (46) workforce and affordable housing residential units, and 7,700 square feet of commercial space; 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 15<sup>th</sup> day of August, 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 the 23<sup>rd</sup> day of August, 2016 and the 13<sup>th</sup> day of September, 2016, 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 properties within the City of 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 2016-07, a copy of which is attached hereto as Exhibit "A", granting a Conditional Use Permit to HTG Crystal Cove Resort, LLLP. 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 by the City of Marathon and after review and approval by the Department of Economic Opportunity pursuant to Chapters 163 and 380, *Florida Statutes*.

**PASSED AND APPROVED** by the City Council of the city of Marathon, Florida, this 13<sup>th</sup> day of September, 2016.

**THE CITY OF MARATHON, FLORIDA**



**Mark Senmartin, Mayor**

AYES: Zieg, Bartus, Kelly, Coldiron, Senmartin  
NOES: None  
ABSENT: None  
ABSTAIN: None

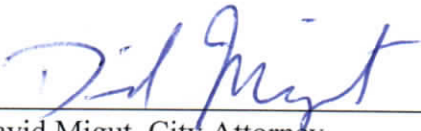
**ATTEST:**



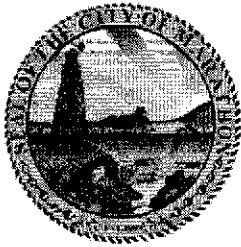
Diane Clavier, City Clerk

(City Seal)

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

A handwritten signature in blue ink, appearing to read "David Migut", written over a horizontal line.

David Migut, City Attorney



**CITY OF MARATHON, FLORIDA  
CONDITIONAL USE  
DEVELOPMENT ORDER # 2016-07**

**A DEVELOPMENT ORDER APPROVING A REQUEST BY HTG CRYSTAL COVE RESORT, LLLP FOR A CONDITIONAL USE PERMIT PURSUANT TO CHAPTER 102, ARTICLES 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (LDRS) ENTITLED "CONDITIONAL USE PERMITS," AUTHORIZING THE DEVELOPMENT OF A TWENTY-EIGHT (28) UNIT RV PARK, FORTY-SIX AFFORDABLE HOUSING UNITS, AND 7,700 SQUARE FEET OF COMMERCIAL RETAIL ON PROPERTIES LOCATED AT AND ADJACENT TO 4900 OVERSEAS HIGHWAY; REAL ESTATE NUMBERS 00327150-000000, 00327910-000000, 00327920-000000, 00327990-000000, 00328000-000000, 00328010-000000, 00328020-000000, AND 00328030-000000. NEAREST MILE MARKER 50**

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**WHEREAS**; the Applicant proposes to develop twenty-eight (28) RV, forty-six (46) workforce and affordable housing residential units, and 7,700 square feet of commercial space; 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 15<sup>th</sup> day of August, 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 the 23<sup>rd</sup> day of August, 2016 and the 13<sup>th</sup> day of September, 2016, 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 properties within the City of 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 develop twenty-eight (28) unit RV park, forty-six (46) workforce and affordable housing units, and 7,700 square feet of Commercial Floor Area, and accessory structures as may be appropriate (See Attached Site Plan as Attachment 1).
  
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. A final lighting plan must be submitted prior to permit issuance.
2. A final landscape plan must be submitted prior to permit issuance.
3. Dumpsters are to be screened per code.
4. All conditions of the Fire Marshall must be met prior to permit issuance.
5. Where the project boundary buffer is reduced, thicker landscaping and screening is required.
6. Additional screening is to be created along the canal facing RV lots. The criteria established in Section 107.66 F shall be applied to this area with the additional height needed to screen headlights.
7. All signs will be reviewed and approved for compliance with the City of Marathon LDR's.
8. Each RV site shall comply with all hurricane evacuation requirements set forth for City transient uses.
9. Existing entitlements include thirty (30) transient residential units (TRUs), one (1) market rate residential unit, and 1,633 square feet of commercial square footage. These entitlement shall be utilized to complete the project as approved. The approval of this Development Agreement does not convey or grant a vested right or entitlement to future allocations of affordable residential units by the City for the forty-six (46) affordable residential units referenced and approved in this Development Agreement. Such allocations shall be made at a future date consistent with the comprehensive plan amendments and LDR amendments. It is the intent of the applicant, with the support of the City, to seek the necessary affordable residential unit allocations through and Inter-local Agreement transferring the units from Monroe County to the City of Marathon.
10. Dwelling units shall contain less than or equal to 1,800 square feet of habitable space. Occupancy of affordable housing units is limited to those meeting the following income requirements:
  - a. Very-low-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 50 percent of the median adjusted gross annual income for households within the county;
  - b. Low-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 80 percent of the median adjusted gross annual income for households within the county;
  - c. Median-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 100 percent of the median adjusted gross annual income for households within the county;

- d. Moderate-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 120 percent of the median adjusted gross annual income for households within the county;
  - e. Middle-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 160 percent of the median adjusted gross annual income within the county;
11. The monthly rent shall not exceed 30 percent of that amount which represents the income bracket of the household, i.e., very low, low, median, moderate or middle, divided by 12. In no case shall the monthly rent exceed 160 percent of the median adjusted gross annual income for households within the county, divided by 12.
  12. Annual income qualification, lease or employment verification, as applicable, by the City, or its designee, shall be limited to rental and employee housing dwelling units. Income verification for owner occupied dwellings shall be performed and approved by the City or its designee prior to the sales closing and occupancy of the dwelling unit.
  13. For any community workforce units the following requirements shall be met:
    - a. Affordable housing criteria set forth in above and Chapter 110 "Definitions";
    - b. Shall be permanently deed-restricted as affordable;
    - c. Shall be restricted to occupancy to households that derive at least 70 percent of their household income from gainful employment in Monroe County;
    - d. Shall be restricted to occupancy for 28 consecutive days or longer;
    - e. Shall not be used for vacation rental use; and
    - f. Shall not be sold separately as a condominium.
  14. 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.
  15. 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.
  16. 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.
  17. The developer and the City shall enter into a Development Agreement which at a minimum promulgates a requirement that necessary workforce housing units, pursuant to Chapter 104 Article 1, Section 104.25 and the City's Zoning in Progress concerning affordable housing, be complete prior to the Certificate of Occupancy for all RV units. In the alternative, the will accept a bond for the value of the units or an irrevocable letter of credit which shall only be released upon completion of the required units.
  18. For RV lots 1-10: The owner has agreed to locate an opaque fence no less than 42" high, and buffered on the canal side by landscaping suitable to the City of Marathon. The location of

the fence sections will extend for twelve feet (12') on the canal front sides of the lot to be located in front of the RV parking to shield headlights from shining across the canal.

19. An emergency gate entry/exit gate is allowed for emergency vehicle access at the northeast corner of the project site for entry/exit to and from 50<sup>th</sup> Street. This gate shall be continuous secured except to allow emergency vehicle access. The use of the gate for general or routine access of owners or patrons of the RV or affordable housing project elements is prohibited.



**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.

11/7/2016  
Date

George Garrett  
George Garrett  
Director of Planning

This Development Order was filed in the Office of the City Clerk of this 7 day of NOV, 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 Jim Saunders, Agent, this 7 day of Nov., 2016.

99198 Overseas Hwy., Ste. 2  
Key Largo, FL 33037

Diane Clavier

Diane                      Clavier                      City                      Clerk

