

**CITY OF MARATHON, FLORIDA
RESOLUTION 2017-31**

APPROVAL OF A REQUEST BY JOSHUA MOTHNER FOR A CONDITIONAL USE PERMIT, PURSUANT TO CHAPTER 102, ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (“THE CODE”) ENTITLED “CONDITIONAL USE PERMITS,” FOR THE DEVELOPMENT OF A PROPERTY WITH FOUR AFFORDABLE HOUSING UNITS; WITH PROPOSED DENSITIES OF APPROXIMATELY 10 AFFORDABLE HOUSING UNITS PER ACRE; LOCATED AT 818 51ST STREET GULF; WHICH IS LEGALLY DESCRIBED AS BLOCK B THE SOUTH 75 FEET OF LOT 8 AND THE NORTH 25 FEET OF LOT 8 AND THE SOUTH ½ OF LOT 9 WOODBURNS SUBDIVISION, KEY VACCA, MONROE COUNTY, FLORIDA; HAVING REAL ESTATE NUMBER 00325410-000000, NEAREST MILE MARKER 50.

WHEREAS, Josh Mothner (The “Applicant”) filed an Application on January 9, 2017 for a Conditional Use Permit and Development Agreement pursuant to Chapter 102, Articles 8 and 13 of the City of Marathon Land Development Regulations (LDRs); and

WHEREAS, the Applicant proposes to develop four (4) workforce housing residential unit located at 818 51st Street. Gulf; and

WHEREAS, the Applicant has acquired three (3) affordable allocations through the City’s latest BPAS allocation process; and

WHEREAS, the Applicant is requesting to “borrow forward one (1) affordable residential allocation through the BPAS process pursuant to Chapter 107, Article 1, “Building Permit Allocation System (BPAS),” Section 107.10, “Borrowing and Banking”; and

WHEREAS, City staff reviewed the Applicant’s request for a Conditional Use Permit Agreement 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 29th day of March, 2017, 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 Permit pursuant to Chapter 102, Article 13 of the LDRs; and

WHEREAS, and on the 25th day of April, 2017 and the 23rd day of May, 2017, the City Council (the "Council") conducted properly advertised public hearings (the "Public Hearings") regarding the request submitted by the Applicant, for a Development Agreement 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,

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 2017-03, a copy of which is attached hereto as Exhibit "A", granting a Conditional Use Permit to Joshua Mothner 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 25TH DAY OF APRIL, 2017.

THE CITY OF MARATHON, FLORIDA



Dr. Daniel Zieg, Mayor

AYES: Bartus, Senmartin, Cook, Coldiron, 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 # 2017-03**

DEVELOPMENT ORDER ISSUED TO JOSHUA MOTHNER FOR A CONDITIONAL USE PERMIT, PURSUANT TO CHAPTER 102, ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (“THE CODE”) ENTITLED “CONDITIONAL USE PERMITS,” FOR THE DEVELOPMENT OF A PROPERTY WITH FOUR AFFORDABLE HOUSING UNITS; WITH PROPOSED DENSITIES OF APPROXIMATELY 10 AFFORDABLE HOUSING UNITS PER ACRE; LOCATED AT 818 51ST STREET GULF; WHICH IS LEGALLY DESCRIBED AS BLOCK B THE SOUTH 75 FEET OF LOT 8 AND THE NORTH 25 FEET OF LOT 8 AND THE SOUTH ½ OF LOT 9 WOODBURNS SUBDIVISION, KEY VACCA, MONROE COUNTY, FLORIDA; HAVING REAL ESTATE NUMBER 00325410-000000, NEAREST MILE MARKER 50. THE APPROVED DEVELOPMENT AGREEMENT SHALL BE LOCATED AT THE CITY OF MARATHON, CITY CLERK, 9805 OVERSEAS HIGHWAY, MARATHON, FLORIDA 33050.

WHEREAS, Josh Mothner (The “Applicant”) filed an Application on January 9, 2017 for a Conditional Use Permit and Development Agreement pursuant to Chapter 102, Articles 8 and 13 of the City of Marathon Land Development Regulations (LDRs); and

WHEREAS, the Applicant proposes to develop four (4) workforce housing residential unit located at 818 51st Street. Gulf; and

WHEREAS, the Applicant has acquired three (3) affordable allocations through the City’s latest BPAS allocation process; and

WHEREAS, the Applicant is requesting to “borrow forward one (1) affordable residential allocation through the BPAS process pursuant to Chapter 107, Article 1, “Building Permit Allocation System (BPAS),” Section 107.10, “Borrowing and Banking”; and

WHEREAS, City staff reviewed the Applicant’s request for a Conditional Use Permit Agreement 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 29th day of March, 2017, 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 Permit pursuant to Chapter 102, Article 13 of the LDRs; and

WHEREAS, and on the 25th day of April, 2017 and the 23rd day of May, 2017, the City Council (the “Council”) conducted properly advertised public hearings (the “Public Hearings”) regarding the request submitted by the Applicant, for a Development Agreement 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,

FINDINGS OF FACT:

1. The applicant will construct four (4) affordable housing units on a single piece of property identified by RE No. 00325410-000000.
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. A dumpster or dumpsters are to be screened per code.
4. All conditions of the Fire Marshall must be met prior to permit issuance.
5. All signs will be reviewed and approved for compliance with the City of Marathon LDR's.
6. All utilities infrastructure must be engineered to meet the standards of the City and all requirements of the Florida Statutes and Administrative Code. Plans shall be coordinated with and approved by the City Utilities Department.
7. All Stormwater must be retained on site pursuant to the City's LDRs, Chapter 107, Article 11. Stormwater plans must be provided by a licensed engineer and be reviewed and approved by the City's engineer.
8. Affordable residential 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;
9. 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.
10. 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.
11. 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.
12. 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.
13. 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.
14. The developer and the City shall enter into a Development Agreement.

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.

Date 4/27/2017

George Garrett
George Garrett
Director of Planning

This Development Order was filed in the Office of the City Clerk of this 28 day of April 2017.

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 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 73C-44, 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 _____, this 1 day of May, 2017.

Joshua Mather
490 52nd St., Gulf
Marathon, FL 33050

Diane Clavier

Diane Clavier City Clerk