

**CITY OF MARATHON, FLORIDA
RESOLUTION 2019-53**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, REVISING DEVELOPMENT ORDER 2016-12 TO INCLUDE ADMINISTRATIVE REVISIONS CONCERNING CHANGES IN OWNERSHIP AND MINOR CHANGES IN CONDITIONS THAT WILL MORE ACCURATELY REFLECT THE TRUE CONDITIONS OF UPCOMING CONSTRUCTION APPROVALS; FOR A PROJECT NOW OWNED BY MARATHON KEY HOUSING PARTNERS, LP 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 AFFORDABLE 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 “Original 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 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; City staff reviewed the original Applicant’s request for a Conditional Use Permit determining that the Original 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 Original 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 Original 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 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; and

WHEREAS, the Conditional Use Permit was granted pursuant to City Resolution 2016-122; and

WHEREAS; the City sought the affordable allocations for the project through an interlocal agreement between the County and City, accepted through Resolution 2016-113, as revised through Resolution 2017-55; and thereafter extended through Resolution 2019-27; and

WHEREAS; Marathon Key Housing Partners, LP (the “Applicant”) has acquired or shall acquire the subject property and the allocable development rights previously owned by Original Applicant and the Applicant has proposed to develop fifty-five (55) affordable apartments on sites previously developed with four duplexes totaling eight units; and

WHEREAS, the purpose of this Resolution is to document a change in ownership and minor changes in conditions relating to the construction of the affordable housing units,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THAT:

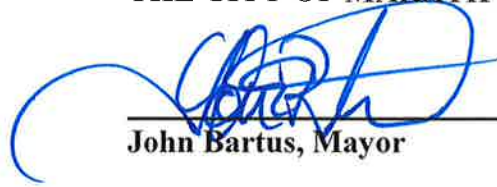
Section 1. The above recitals are true and correct and incorporated herein.

Section 2. The City Council hereby approves the revision to Development Order 2016-12, a copy of which is attached hereto as Exhibit “A”, granting a revised Conditional Use Permit to Marathon Housing Partners, LP 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 28TH DAY OF MAY, 2019.**

THE CITY OF MARATHON, FLORIDA



John Bartus, Mayor

AYES: Cook, Gonzalez, Senmartin, Zieg, Bartus
NOES: None
ABSENT: None
ABSTAIN: None

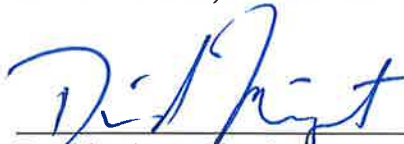
ATTEST:



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 REVISED**

A DEVELOPMENT ORDER OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING A REQUEST BY MARATHON KEY HOUSING PARTNERS, LP 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 AFFORDABLE 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 “Original 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 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; City staff reviewed the Original Applicant’s request for a Conditional Use Permit determining that the Original 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 Original 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 Original 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 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; and

WHEREAS, the Conditional Use Permit was granted pursuant to City Resolution 2016-122; and

WHEREAS; the City sought the affordable allocations for the project through an interlocal agreement between the County and City, accepted through Resolution 2016-113, as revised through Resolution 2017-55; and thereafter extended through Resolution 2019-27; and

WHEREAS; Marathon Key Housing Partners, LP (the “Applicant”) has acquired or shall acquire the subject property and the allocable development rights previously owned by Original Applicant and the Applicant has proposed to develop fifty-five (55) affordable apartments on sites previously developed with four duplexes totaling eight units; and

WHEREAS, the purpose of this revised Development Order is to document a change in ownership and minor changes in conditions relating to the construction of the affordable housing units,

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. Recreational and green space areas of approximately 70,000 s.f. shall be provided on site and additional recreational amenities shall be available to residents on adjacent Residences at Crystal Cove parcel, including approximately 2,900 s.f. of recreational pool area.
4. After permit issuance, 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, to be completed after permit issuance.
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.
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. If applicable, two (2) side yards are required for stacked duplexes.
18. If applicable, townhouses are limited to ten (10) dwelling units per row, except for affordable housing.
19. If applicable, the private yard area for rooftop balcony dwelling is provided by the roof or balconies of the structure.
20. If applicable, 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 that is separate from the access to the unit, provides adequate privacy and the size shall be approximately 55 square feet in size.
22. If applicable, the patio or balcony 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 upon issuance of Certificate of Occupancy.

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 unless otherwise approved or allowed by the City. 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.

5/29/2019
Date

George Garrett
George Garrett, Director of Planning

This Development Order was filed in the Office of the City Clerk of this 29 day of May, 2019.

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, vis U.S. certified mail, return receipt r nested, addressed to Mark A. Gould Jr., this 29th day of May, 2019.

Small Golden Gregory LLP
171 Seventeenth St., suite 2100
Atlanta, GA 30363

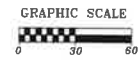
Diane Clavier

Diane Clavier, City Clerk

EXHIBIT "A"

[REPLACE WITH CURRENT APPROVED SITE PLAN]

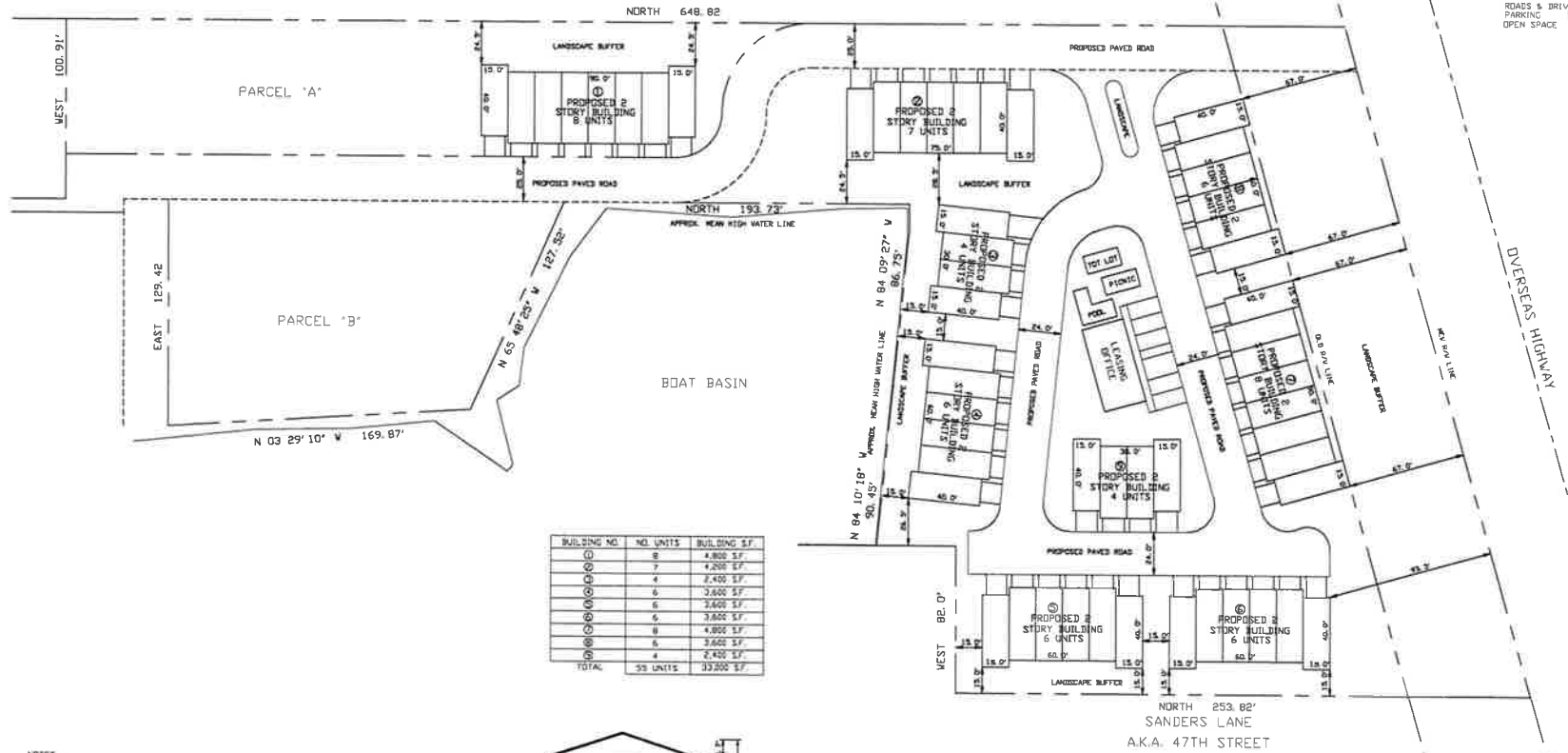
CASA DE PALMAS
PRELIMINARY SITE PLAN
MARATHON FLORIDA



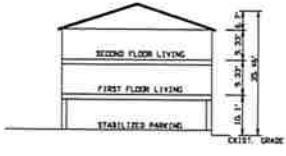
1 INCH = 30 FEET

SITE DATA:

TOTAL SITE AREA	3.72 AC	162,843.2 SF.
BUILDING AREA	34,500 SF	21.2%
ROADS & DRIVES	37,868 SF	23.4%
PARKING	1,116 SF	0.7%
OPEN SPACE	89,547.8 SF.	54.6%



BUILDING NO.	NO. UNITS	BUILDING SF.
①	2	4,800 SF.
②	7	4,200 SF.
③	4	2,400 SF.
④	6	3,600 SF.
⑤	6	3,600 SF.
⑥	6	3,600 SF.
⑦	6	4,800 SF.
⑧	6	3,600 SF.
⑨	4	2,400 SF.
TOTAL:	53 UNITS	33,200 SF.



PROPOSED BUILDING HEIGHT
N.T.S.

- NOTES
1. DURING CONSTRUCTION, STABILIZED ROADS AND A SUITABLE WATER SUPPLY ACCEPTIBLE TO THE FIRE DEPT. SHALL BE PROVIDED AND MAINTAINED.
 2. ADDRESS NUMBERS SHALL BE PROVIDED IN ACCORDANCE WITH THE LAND DEVELOPMENT MARATHON CODE OF ORDINANCE 6-24F.
 3. CLEARANCE AROUND FIRE HYDRANTS SHALL BE 7.5 FEET.
 4. THE REQUIRED DISTANCE BETWEEN ALL HYDRANTS SHALL BE MEASURED ALONG THE ROAD R/W. APPROVED ACCESS EASEMENTS OR APPROVED ACCESS ROUTES, AS A FIRE APPARATUS WOULD TRAVEL. DISTANCES SHALL NOT BE MEASURED ACROSS PRIVATE PROPERTY NOT DESIGNED AND APPROVED FOR FIRE DEPARTMENT ACCESS. FIRE HYDRANTS SHALL NOT ACCESS ACROSS MEDIANS OR MAJOR ROADWAYS UNLESS SPECIFICALLY APPROVED BY THE FIRE MARSHAL.
 5. NO 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 KEYS AQUEDUCT AUTHORITY.

WANSKUS
ARCHITECTURE
4755 HANSARD AVE
NORTH FORT, FL.
PHONE (941) 564-6994

PRELIMINARY PLAN	
KEYS AFFORDABLE DEVELOPMENT III, LLC	
SCALE: 1" = 40'	APPROVED BY: [SIGNATURE]
DATE: 08/20/24	REVISED BY: [SIGNATURE]
THE CITY OF MARATHON MONROE COUNTY, FLORIDA	
SHEET 1 OF 1	DRAWING NAME: US 1 SITE