

**CITY OF MARATHON, FLORIDA  
RESOLUTION 2019-60**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING THE REQUEST FOR A CONDITIONAL USE PERMIT FOR CORAL CONSTRUCTION COMPANY PURSUANT TO CHAPTER 102, ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (CODE) ENTITLED “CONDITIONAL USE PERMITS” FOR THE DEVELOPMENT OF A PROPERTY INTO AFFORDABLE HOUSING, OUTDOOR STORAGE YARD, AND COMMERCIAL OFFICE SPACE; LOCATED AT 347 AVIATION BOULEVARD; WHICH IS LEGALLY DESCRIBED AS A TRACT OF LAND IN A PART OF SECTIONS 1 AND 2, AND CONTAINING LOTS 11, 12, 13, 14, 15, AND A PORTION OF LOTS 10 AND 16, SCHMITT SUBDIVISION, TOWNSHIP 66 SOUTH, RANGE 32 EAST, KEY VACA, MONROE COUNTY, FLORIDA; HAVING REAL ESTATE NUMBERS 00101300-000000 & 00101360-000000, NEAREST MILE MARKER 51; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Coral Construction Company, (The “Applicant”) filed an Application on March 12<sup>th</sup>, 2019 for a Conditional Use Permit pursuant to Chapter 102, Article 13 of the City of Marathon Land Development Regulations (LDRs); and

**WHEREAS**; the Applicant proposes to develop fourteen (14) affordable residential units, commercial office space, and storage yard; and

**WHEREAS**, on the 20<sup>th</sup> day of May, 2019 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 11<sup>th</sup> day of June, 2019 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 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:**

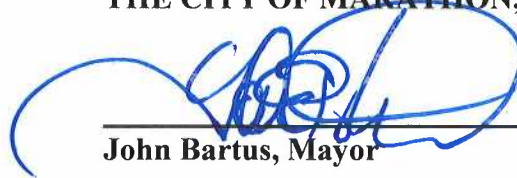
**Section 1.** The above recitals are true and correct and incorporated herein.

**Section 2.** The City Council hereby approves Development Order 2019-09, a copy of which is attached hereto as Exhibit "A", granting a Conditional Use Permit to Coral Construction Company to develop fourteen (14) affordable residential units, commercial office space, and storage yard. 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 11<sup>th</sup> DAY OF JUNE, 2019.**

**THE CITY OF MARATHON, FLORIDA**



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**John Bartus, Mayor**

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

**ATTEST:**



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Diane Clavier, City Clerk

(City Seal)

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



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David Migut, City Attorney



**CITY OF MARATHON, FLORIDA  
CONDITIONAL USE  
DEVELOPMENT ORDER # 2019-09**

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**FINDINGS OF FACT:**

1. The OWNER is proposing develop fourteen (14) affordable residential units, commercial office space, and storage yard in accordance with site plans provided in Attachment A.
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. Any special requirements set forth in the LDRs for the Proposed Use involved.

## **CONDITIONS IMPOSED:**

Granting approval of the Conditional Use Permit is subject to the following conditions:

- 1) A Final Site Plan must be submitted showing the existing (to be retained) and proposed buildings meeting the required setbacks, the specific setbacks for the old building footprint, parking locations, and access drives and all civil engineering features; and
- 2) City approval of the connection to the City Wastewater Utility is required, including:
  - o engineering drawings as needed,
  - o projected wastewater flows, and
  - o any easements, connections, and projected flows for Casa Cayo.
- 3) City approval is required for the stormwater management system prior to Building Permit Approval.
- 4) The applicant will provide fire protection plans in accordance with fire protection requirements as outlined by the City Fire Marshal (attached as Exhibit A)
- 5) A Final Landscape Plan must be submitted showing the proper treatments and buffers, including the appropriate treatment types and trees.
- 6) The final site plan must show that the dumpsters are screened.
- 7) All signs shall be reviewed and approved for compliance with the City of Marathon LDR's.
- 8) If the redevelopment is found to have any effect on the Eastern Indigo Snake Habitat, then the prescribed protection measures must be undertaken, and the information poster posted on site.
- 9) An avigation easement must be recorded in the Clerk of Courts prior to permit issuance.
- 10) Dwelling units shall contain less than or equal to 1,800 square feet of habitable space.
  - o Occupancy of affordable housing units is limited to those meeting the following income requirements:
    - 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;
    - 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;
    - 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;
    - 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;
    - 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;
  - o For the purposes of this section, "adjusted gross income" means all wages, income from assets, regular cash or non-cash contributions or gifts from persons outside the household (that will be used to offset the purchase price of the dwelling unit), and such other resources and benefits as may be determined to be income by the United

States Department of Housing and Urban Development, adjusted for family size, less deductions allowable under Section 62 of the Internal Revenue Code. Income from assets is calculated at either the actual income from all assets or two (2%) percent of the value of all assets, whichever is greater. If total assets are less than \$5,000.00, no income is considered. Asset inclusions: Cash accounts (checking, savings, IRA, Money Market...), investments, retirement accounts, boats, RV's. Income exclusions: Personal property, automobiles;

- The maximum sales price shall not exceed 300 percent of that amount which represents 160 percent of the median adjusted gross annual income for households within the county;
  - 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; and
  - If the dwelling units utilize affordable housing BPAS allocations, the requirements of Subsection 107.06(c) shall also apply.
  - 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.
  - Two (2) side yards are required for stacked duplexes.
  - Townhouses are limited to ten (10) dwelling units per row, except for affordable housing.
  - The private yard area for rooftop balcony dwelling is provided by the roof or balconies of the structure.
  - 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.
  - 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.
  - 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.
- 11) The project is approved for a total of fourteen (14) affordable housing units. When affordable allocations are obtained and all units are constructed, they will be required to meet the following affordable housing rent criteria:
- Four (4) units at or below 140 percent of the median income level, adjusted annually; and
  - Ten (10) units at or below the 80 percent of the median income level, adjusted annually.
- 12) Outdoor storage shall be incidental and subordinate to the primary use located on the property.
- 13) Storage areas shall be located to the side or rear of the principal building and completely



screened from view.

- 14) A unity of title must be recorded with the Clerk of Courts, prior to permit issuance.
- 15) Affordable housing deed restrictions must be recorded with the Clerk of Courts, prior to permit issuance
- 16) The Conditional Use Development Order will constitute the Certificate of Concurrence for the project. The determination will be valid for one year.
- 17) The Applicant must obtain and transfer fourteen (14) affordable housing 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 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 AND DEVELOPMENT AGREEMENT.

### **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 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 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.

6/18/19  
Date

George Garrett  
George Garrett  
Director of Planning

This Development Order was filed in the Office of the City Clerk of this 18 day of June, 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 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 Coral Construction Company, PO Box 500582, Marathon, FL 33050, this 18 day of June, 2019.



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Diane Clavier City Clerk

**Attachments:**  
Attachment A: Proposed Site Plan



**Site Data**  
 R.E. NUMBER: 00101300-000000, 00101360-000000  
 FUTURE LAND USE: MIXED USE COMMERCIAL  
 ZONING DISTRICT: MIXED USE (MU)  
 PROPOSED USE: MULTIFAMILY AND OFFICE  
 MAX. DENSITY: 6 UNITS PER ACRE - MARKET RATE  
 15 UNITS PER ACRE - AFFORDABLE HOUSING  
 LOT AREA: 1.07 ACRES  
 F.A.R.: 0.15 - 0.75

**Building Type #1**  
 2 STORY 4PLEX OVER PARKING  
 1ST FLOOR LIVING = 2,000 SF  
 2ND FLOOR LIVING = 2,000 SF  
 GROUND FLOOR PARKING

**Building Type #2**  
 2 STORY 4 UNIT MIXED USE OVER PARKING  
 1ST FLOOR COMM./OFFICE = 1,000 SF  
 2ND FLOOR LIVING = 1,000 SF

**Proposed Land Use:**  
 14 MULTIFAMILY UNITS  
 2 COMMERCIAL/OFFICE UNITS  
 MIN. LOT AREA PER MULTIFAMILY = 7,260 SF  
 MIN. LOT AREA PER AFFORDABLE HOUSING = 2,904 SF  
 MIN. OPEN SPACE = 20%  
 TOTAL SITE = 46,667 SF

**Setbacks:**  
 MINIMUM REQUIRED:  
 FRONT = 0-30 FEET (PROP. 10 FEET)  
 SIDE (STREET) = 0-5 FEET  
 SIDE (INTERIOR) = 10 FEET  
 SHORELINE = 20 FEET  
 WETLAND = 50 FEET  
 REAR = 20 FEET  
 MAX. HEIGHT = 37 FEET

**SITE CONCEPT**  
 JANUARY 31, 2019  
 REVISED: MAY 14, 2019

**DDAI**  
 DAVID DOUGLAS ASSOCIATES, INC.  
 11400 Overseas Highway, Suite 208, Marathon, FL 33050 Ph: (305) 519-6469

**CORAL CONSTRUCTION**  
 347 AVIATION BLVD., MARATHON, FLORIDA