

**CITY OF MARATHON, FLORIDA
RESOLUTION 2020-09**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA APPROVING A REQUEST BY MARATHON LAND HOLDINGS 3, LLC (SERENITY COVE) FOR A CONDITIONAL USE PERMIT PURSUANT TO CHAPTER 102, ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (LDRs) ENTITLED “CONDITIONAL USE PERMITS” PROPOSING THE DEVELOPMENT OF THREE UNDEVELOPED LOTS WITH THE DEVELOPMENT OF TOWNHOMES AND COMMERCIAL USES ON PROPERTY LOCATED AT 12550 OVERSEAS HIGHWAY, WHICH IS LEGALLY DESCRIBED AS TOWNSHIP 66, SECTION 5, RANGE 33; PT LOTS 3, FAT DEER KEY, MARATHON, FLORIDA; HAVING REAL ESTATE NUMBERS 00100280-000, 00100620-00000 AND 00100630-000000. NEAREST MILE MARKER 54.5.

WHEREAS, Marathon Land Holdings 3, LLC (Serenity Cove) (The “Applicant”) filed an Application on September 13th, 2018 for a Conditional Use Permit pursuant to Chapter 102, Article 13 of the City of Marathon Land Development Regulations (LDRs); and

WHEREAS, the applicant has proposed the redevelopment of forty two (42) affordable rate apartments and 4,374 square feet of low intensity commercial space (75% FAR) on a site previously known as Longhorn Lodge Resort; and

WHEREAS, the 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 28th day January, 2019, the City of Marathon Planning Commission (the “Commission”) conducted a properly advertised public hearing (the “Public Hearing”) 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 14th day of January, 2020 and again on the 11th day of February, 2020, 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, is consistent with its policy to encourage the development of residential 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 proper 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 2020-1, a copy of which is attached hereto as Exhibit "A", granting a Conditional Use Permit to Marathon Land Holdings 3, LLC (Serenity Cove), 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 execution.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 11th DAY OF FEBRUARY, 2020.

THE CITY OF MARATHON, FLORIDA



Steve Cook, Mayor

AYES: Gonzalez, Zieg, Bartus, Senmartin, Cook
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:



City Attorney

EXHIBIT "A"
CITY OF MARATHON, FLORIDA
DEVELOPMENT ORDER # 2020-01

A DEVELOPMENT ORDER OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA OF A REQUEST BY MARATHON LAND HOLDINGS 3, LLC (SERENITY COVE) FOR A CONDITIONAL USE PERMIT PURSUANT TO CHAPTER 102, ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (LDRs) ENTITLED "CONDITIONAL USE PERMITS" PROPOSING THE DEVELOPMENT OF THREE UNDEVELOPED LOTS WITH THE DEVELOPMENT OF TOWNHOMES AND COMMERCIAL USES ON PROPERTY LOCATED AT 12550 OVERSEAS HIGHWAY, WHICH IS LEGALLY DESCRIBED AS TOWNSHIP 66, SECTION 5, RANGE 33; PT LOTS 3, FAT DEER KEY, MARATHON, FLORIDA; HAVING REAL ESTATE NUMBERS 00100280-000, 00100620-00000 AND 00100630-000000. NEAREST MILE MARKER 54.5.

WHEREAS, Marathon Land Holdings 3, LLC (Serenity Cove) (The "Applicant") filed an Application on September 13th, 2018 for a Conditional Use Permit pursuant to Chapter 102, Article 13 of the City of Marathon Land Development Regulations (LDRs); and

WHEREAS, the applicant has proposed the redevelopment of forty two (42) affordable rate apartments and 4,374 square feet of low intensity commercial space (75% FAR) on a site previously known as Longhorn Lodge Resort; and

WHEREAS, the 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 28th day January, 2019, the City of Marathon Planning Commission (the "Commission") conducted a properly advertised public hearing (the "Public Hearing") 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 14th day of January, 2020 and again on the 11th day of February, 2020, 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, is consistent with its policy to encourage the development of residential 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 proper 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 has proposed the development of forty two (42) affordable rate apartments and 4,374 square feet of low intensity commercial square footage; and
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) The density and intensity proposed and approved for the project depend on the acquisition of a parcel from FDOT of approximately 6,600 square feet. Before permit approval, the acquisition of the additional property must have been completed.

- 2) If the project 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 plan.
- 3) All native vegetation found on site must be protected in one of three ways:
 - Vegetation will be left in place;
 - Vegetation will be transplanted on site;
 - Vegetation will be mitigated for commensurate with the City of Marathon Land Development Regulations, Chapter 106 of the Code.
- 4) The applicant will obtain approval of final landscaping showing the proper treatments and buffers, including the appropriate treatment types and trees in coordination with the City Biologist before project is permitted. Said plan will indicate the location and required mitigation/transplantation of all native trees on the site. This will require a tree survey at time of building permit application;
- 5) As adjacent properties to the east and west are residential in character, the Technical Review Committee has recommended that a ten foot buffer on both east and west sides is appropriate as long as the amount of vegetation provided in each buffer meets the minimum requirements for either required District Boundary Buffer. An opaque fence on the east and west property line shall augment this requirement.
- 6) A detailed lighting plan must be submitted before permit issuance;
- 7) Clear sight triangles must be shown on the site plan at time of building permit issuance.
- 8) The applicant will obtain sign permits for any signs erected on the property, as required under the Code;
- 9) All Parking Requirements shall be met and spaces, including those for handicapped occupancy must be of the proper dimensions
- 10) Provision for minimum bicycle parking
- 11) All signs will be reviewed and approved for compliance with the City of Marathon LDRs.
- 12) A Final Site Plan must be submitted showing the buildings meeting the required setbacks;
- 13) The applicant will provide fire protection plans in accordance with fire protection requirements as outlined by the City Fire Marshal;
- 14) The applicant will meet all floodplain related requirements as part of the Building Permit process;
- 15) The Project is acknowledged to exceed the maximum height restrictions ONLY in its architectural features which will project above 37 feet. This is approved pursuant to Section 107.41, "Height – Exceptions to Limits."
- 16) 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.**
- 17) 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:
 - 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;
- 18) 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.
- 19) The applicant will obtain City approval of the stormwater management system prior to Building Permit issuance;
- 20) The applicant will obtain City approval for wastewater management through the City's Wastewater Utility;
- 21) The applicant will obtain the required permits to fully enclose and screen the dumpster in accordance with Section 107.39;
- 22) The applicant will obtain any required permits from SFWMD and FDOT prior to building permit issuance;
- 23) As a condition of development, the developer and the City shall enter into a Development Agreement, in addition to compliance with all other provisions of the Code.
- 24) The Conditional Use Development Order will constitute the Certificate of Concurrency for the project. The determination will be valid for one year.

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 permit 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.

2/20/2020
Date

George Garrett
George Garrett
Director of Planning

This Development Order was filed in the Office of the City Clerk of this 20 day of February, 2020.

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 4651 Sheridan St. Suite 480, Hollywood, FL 33021 this 20 day of February, 2020.

Diane Clavier
Diane Clavier, City Clerk



SITE PLAN





WEST



EAST

ELEVATIONS





NORTH



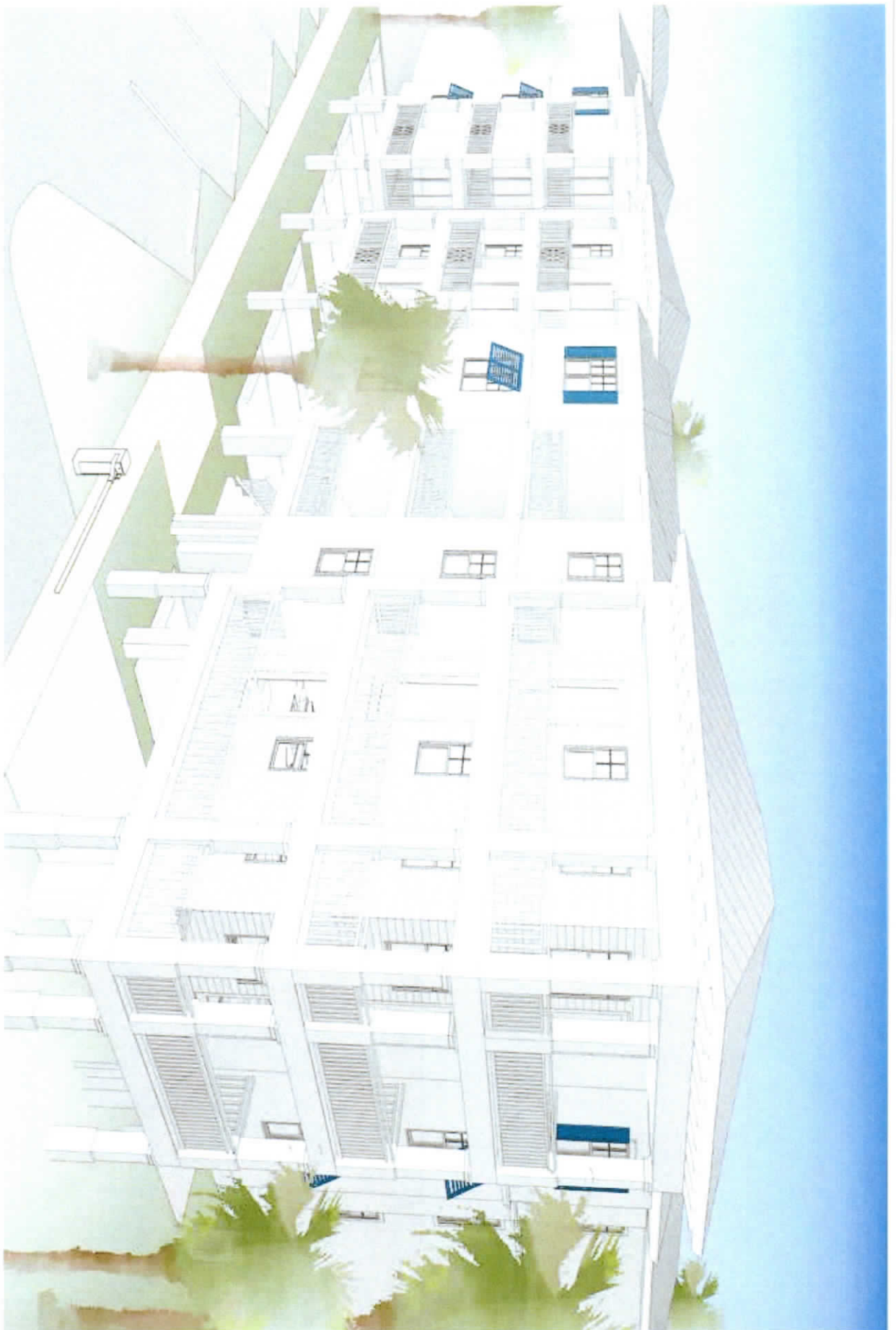
SOUTH

ELEVATIONS

Serenity Lane

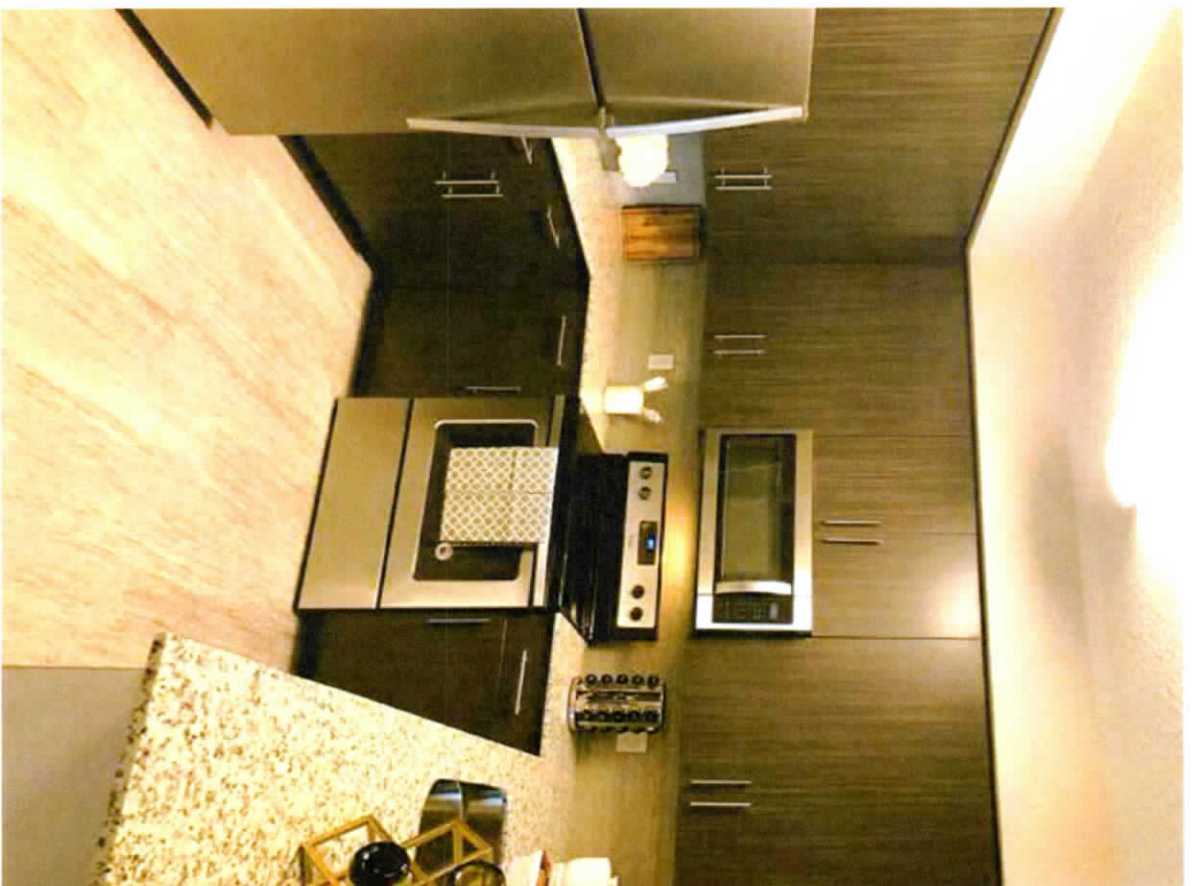
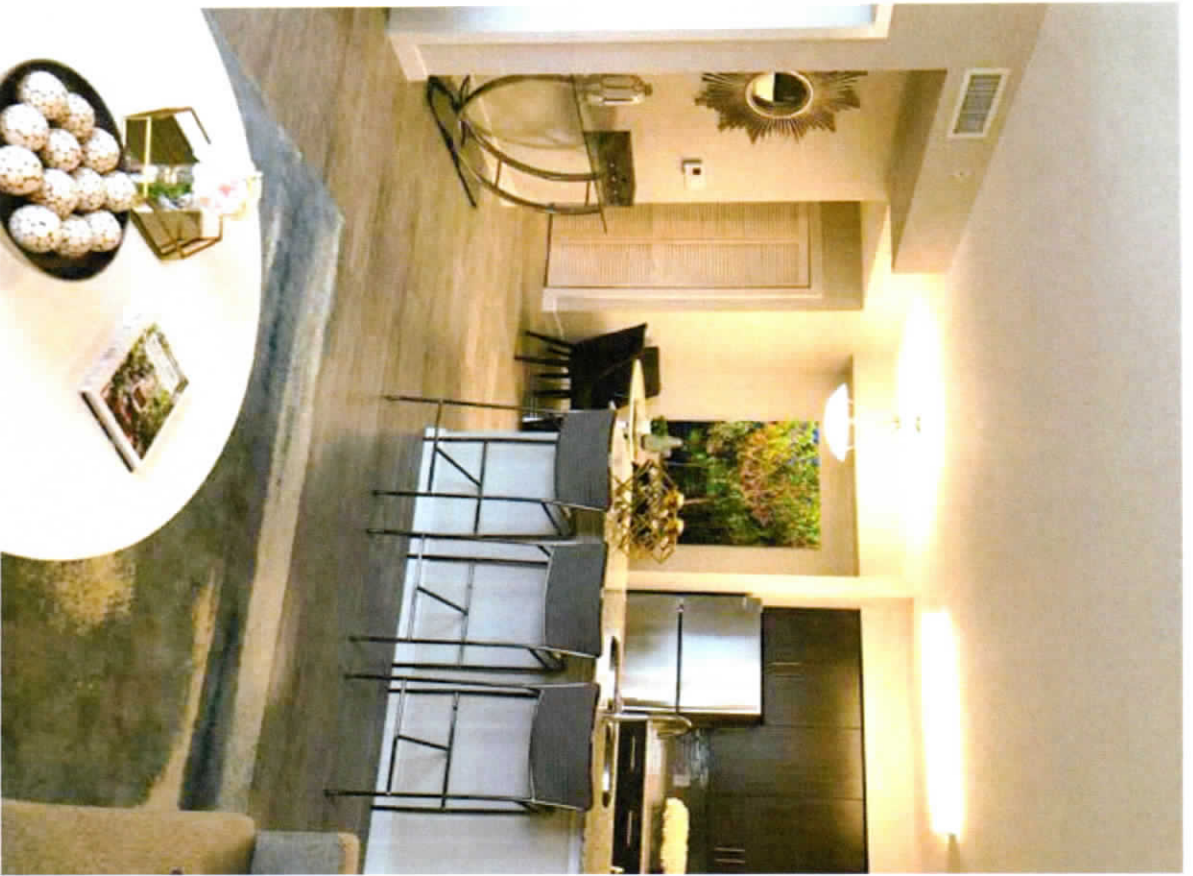


PERSPECTIVE



PERSPECTIVE CLOSE UP

*Sancti
Sane*



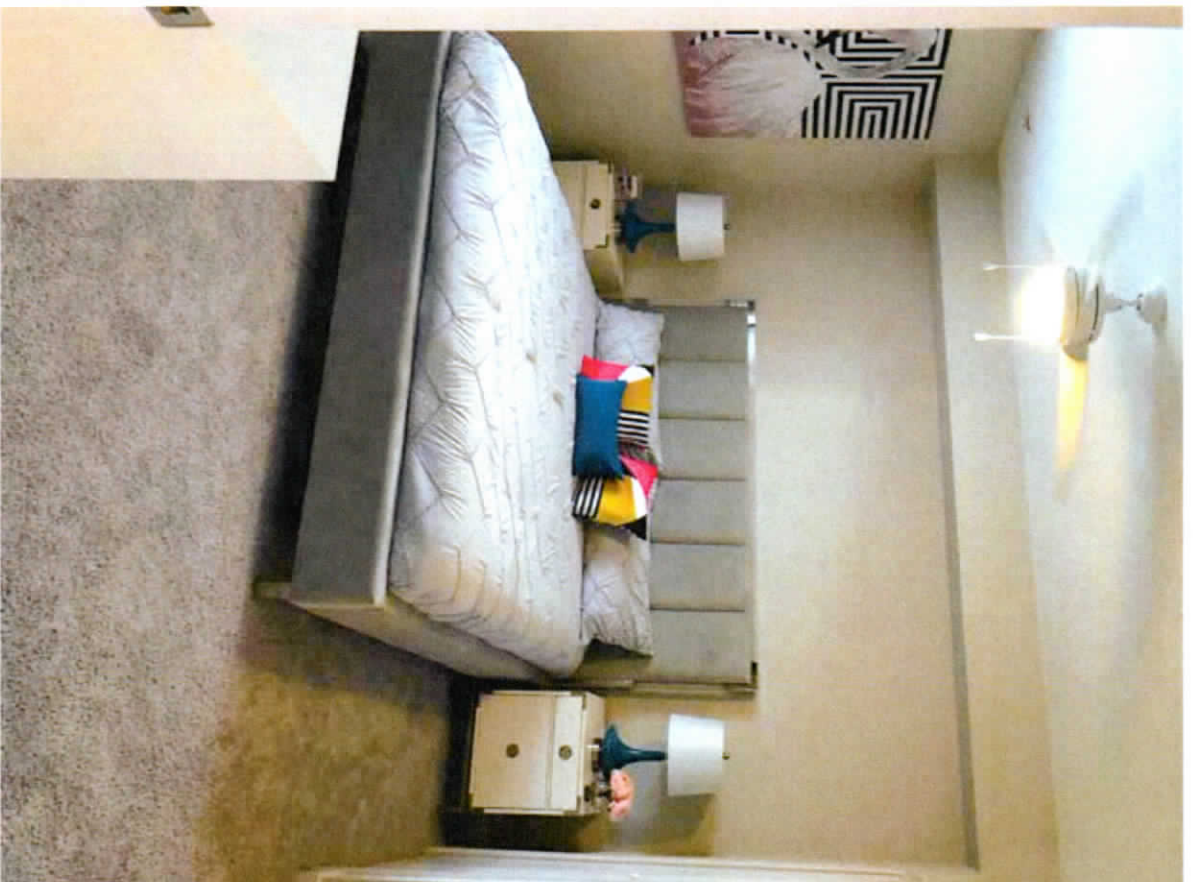
All renderings and photos are provided as property concepts depicting possible similar inspirational products, designs and amenities and may not reflect the actual, constructed product.



Sherry Love

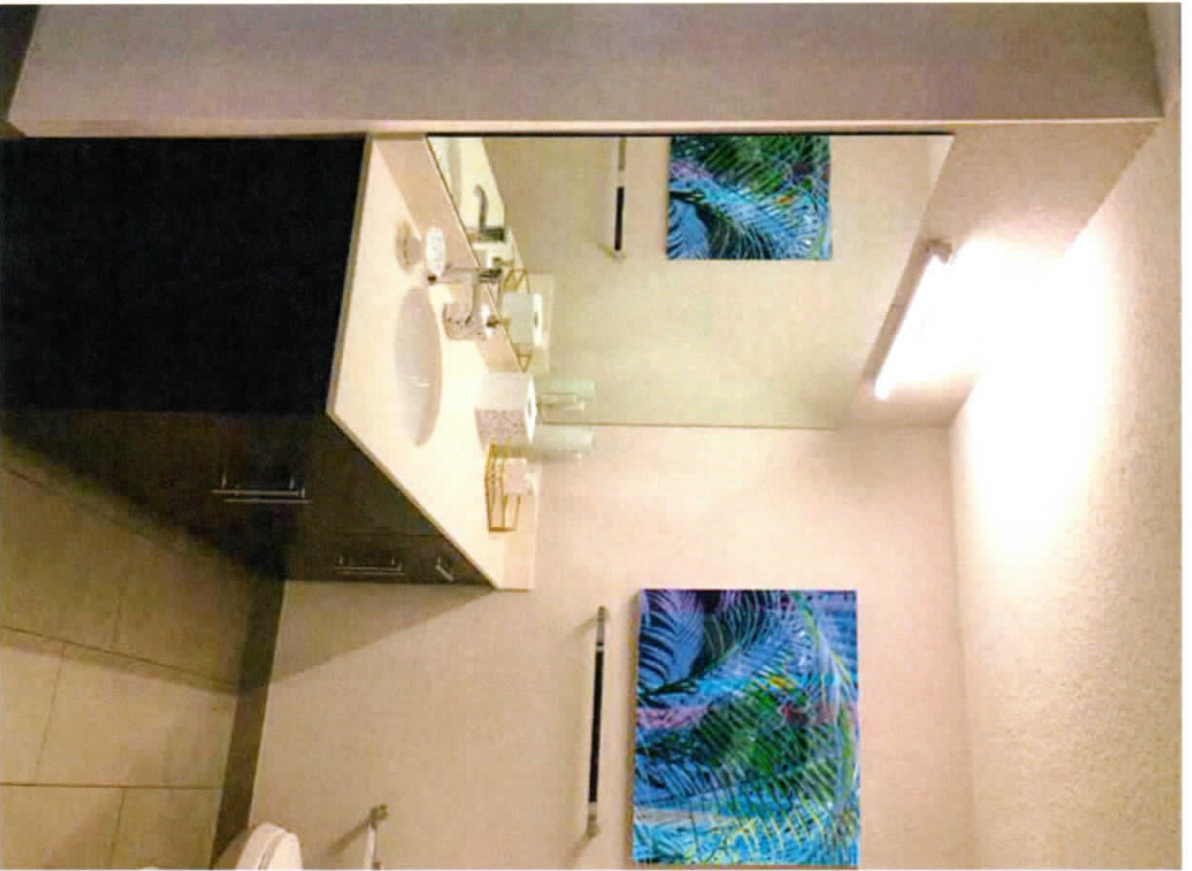


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*Quality
Love*



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Serenity Dove

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