

**CITY OF MARATHON, FLORIDA
RESOLUTION 2021-01**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING THE REQUEST BY BRIAN THORTON OF RACETRAC PETROLEUM, INC. FOR A CONDITIONAL USE PERMIT PURSUANT TO CHAPTER 102 ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (LDRS) ENTITLED “CONDITIONAL USE PERMITS” FOR THE DEVELOPMENT OF A 5,411 SQ. FT. CONVENIENCE STORE WITH 16 SELF-SERVICE FUEL POSITIONS AND 3 HIGH CAPACITY DIESEL DELIVERY POSITIONS ON PROPERTY LOCATED AT 3896 OVERSEAS HIGHWAY, WHICH IS LEGALLY DESCRIBED AS LOT 1, THE SOUTH 200 FEET OF LOT 2, THE SOUTH 200 FEET OF LOT 3, SQUARE 3 AND PT OF GOVT LOT 3 MARATHON BEACH SUBDIVISION PB 2-16, MARATHON, FLORIDA; HAVING REAL ESTATE NUMBER 00336770-000000.

WHEREAS, Brian Thorton Of Racetrac Petroleum, Inc (The “Applicant”) filed an Application on November 2, 2020 for a Conditional Use Permit pursuant to Chapter 102, Articles 13 of the City of Marathon Land Development Regulations (LDRs); and

WHEREAS; the Applicant has proposed redevelopment of an existing convenience store and gas station; 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 14th day of December, 2020, 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 8 of the LDRs; and

WHEREAS, and on the 12th day of January, 2021, the City Council (the “Council”) 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 8 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

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 2021-01, a copy of which is attached hereto as Exhibit "A", granting a Conditional Use Permit to Brian Thorton Of Racetrac Petroleum, Inc, 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.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 12TH DAY OF JANUARY 2021.


THE CITY OF MARATHON, FLORIDA



Luis Gonzalez, Mayor


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



Steven T. Williams, City Attorney



**CITY OF MARATHON, FLORIDA
CONDITIONAL USE
DEVELOPMENT ORDER # 2020-01**

A DEVELOPMENT ORDER APPROVING THE BY BRIAN THORTON OF RACETRAC PETROLEUM, INC. FOR A CONDITIONAL USE PERMIT PURSUANT TO CHAPTER 102 ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (LDRS) ENTITLED “CONDITIONAL USE PERMITS” FOR THE DEVELOPMENT OF A 5,411 SQ. FT. CONVENIENCE STORE WITH 16 SELF-SERVICE FUEL POSITIONS AND 3 HIGH CAPACITY DIESEL DELIVERY POSITIONS ON PROPERTY LOCATED AT 3896 OVERSEAS HIGHWAY, WHICH IS LEGALLY DESCRIBED AS LOT 1, THE SOUTH 200 FEET OF LOT 2, THE SOUTH 200 FEET OF LOT 3, SQUARE 3 AND PT OF GOVT LOT 3 MARATHON BEACH SUBDIVISION PB 2-16, MARATHON, FLORIDA; HAVING REAL ESTATE NUMBER 00336770-000000.

WHEREAS, Brian Thorton Of Racetrac Petroleum, Inc (The “Applicant”) filed an Application on November 2, 2020 for a Conditional Use Permit pursuant to Chapter 102, Articles 13 of the City of Marathon Land Development Regulations (LDRs); and

WHEREAS; the Applicant has proposed redevelopment of an existing convenience store and gas station; 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 14th day of December, 2020, 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 8 of the LDRs; and

WHEREAS, and on the 12th day of January, 2021, the City Council (the “Council”) 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 8 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 Council has duly considered the recommendation of the PC, and the information and documentary evidence submitted by the applicant, and does hereby find and determine as provided below.

FINDINGS OF FACT:

1. The Applicant has proposed redevelopment of a convenience store and gas station on developed land as shown in Exhibit 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. All conditions of the Fire Marshal must be met prior to permit issuance.
2. A final landscaping plan must be approved prior to permit issuance.
3. A final stormwater plan must be submitted prior to permit issuance.
4. Clear sight triangles must be shown on the site plan at time of building permit issuance.
5. Applicant must overlay the existing street with a minimum 1" structural coarse. This may be done with a standalone right of way permit or may be included in the overall permit for improvements.
6. A detailed lighting plan must be submitted before the project is permitted.
7. Denser vegetation and screening will be required along the 39th street portion of the property across from the residential neighborhood. Vegetation along the remainder of 39th street and US1 shall be in excess of the minimum standards.
8. Prior to permit issuance the dumpster must be shown on site and must be screened.
9. City approval is required for the stormwater management system prior to Building Permit Approval.
10. City approval of the connection to the City Wastewater Utility will be required.
11. All signs will be reviewed and approved for compliance with the City of Marathon LDR's.
12. Additional Principal Uses: A convenience store may offer an additional principal use, such as a restaurant or fuel sales. A convenience store with two (2) or more principal uses shall comply with the standards for all of these uses.
13. Maximum Gross Floor Area: A convenience store, including additional principle uses, shall not exceed 8,000 square feet of total floor area.
14. Parking for Additional Principal Uses: Parking for additional principal uses shall be calculated separately to determine the total number of required parking spaces.
15. Location of Fuel Pump Islands: Pump islands shall be a minimum of 25 feet from any road right-of-way line, ten (10) feet from any other property line or 12 feet from any building line. Canopies over the pump islands may extend up to ten (10) feet from any property line.
16. Location of Fuel Tanks: Gasoline and fuel storage tanks shall be located a minimum of 20 feet from any property line or building.
17. Plans must show appropriate striping and signage to direct vehicle traffic access from 39th street. Larger vehicle turning radii must be shown on the site plan prior to permit issuance.
18. Per the Sustainability and Climate Plan, Land Use and Transportation (LUT) Strategy 4.0, the applicant is encouraged to provide alternative fuel sources. In doing so, the City shall provide incentives, the form of which shall be at the discretion of the City Manager and Planning Director.
19. The applicant will obtain any required permits from any and all outside agencies prior to building permit issuance. Copies of approvals, reports, and permits must be provided to the City. This includes but is not limited to DEP, SFWMD, FDOT, EPA approvals.
20. The Conditional Use Development Order will constitute the Certificate of Concurrence 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:

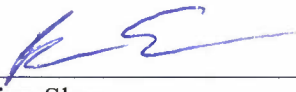
Based upon the above Findings of Fact, the Council does hereby make the following Conclusions of Law:

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.

1/19/2021
Date



Brian Shea
Director of Planning

This Development Order was filed in the Office of the City Clerk of this 19 day of January 2021.



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 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 L. Steven Hurley, 3706 N Roosevelt Blvd., Suite 208, Key West , FL 33040, this 19 day of January, 2021.



Diane Clavier, City Clerk

Exhibit 1

