

**CITY OF MARATHON, FLORIDA
RESOLUTION 2021-103**

A RESOLUTION OF THE CITY COUNCIL OF MARATHON, FLORIDA APPROVING OF A REQUEST FOR A CONDITIONAL USE PERMIT FOR A PLAT AND SITE PLAN APPROVAL AS SUBMITTED BY SEAVIEW COMMONS LLC. FOR 0 PESCAYO AVE, WHICH IS DESCRIBED AS LOT 1, BLOCK 6 OF COCO PLUM BEACH, FAT KEY DEER, MARATHON, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBER 00363510-000000. NEAREST MILE MARKER 54.

WHEREAS, Seaview Commons LLC (Applicant) filed an Application on September 2th, 2021 for a Conditional Use Permit for approval of a primary plat and site plan for the property into five (5) single family residential lots and one access drive lot pursuant to Chapter 177, Florida Statutes and Chapter 102, Article 10, of the City of Marathon Land Development Regulations (LDRs); and

WHEREAS, City staff reviewed the Applicant's request for a Conditional Use Permit and determined 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, the Council duly considered the Applicant's request and 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 the redevelopment of properties within the City of 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, on the 18th day of October 2021, 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 9th day of November 2021, 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 within the City of 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:

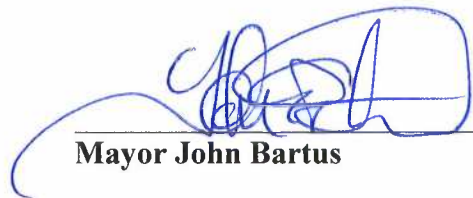
Section 1. The above recitals are true and correct and incorporated herein.

Section 2. The City Council hereby approves Development Order 2021-13 a copy of which is attached hereto as Exhibit “A”, granting a Conditional Use Permit to Seaview Commons LLC., 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 9TH DAY OF NOVEMBER, 2021.

THE CITY OF MARATHON, FLORIDA



Mayor John Bartus

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

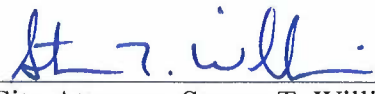
ATTEST:



Diane Clavier, City Clerk

(CITY SEAL)

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



City Attorney, Steven T. Williams

ATTACHMENT "A"
CITY OF MARATHON, FLORIDA
CONDITIONAL USE
DEVELOPMENT ORDER # 2021-13

APPROVAL OF A REQUEST FOR A CONDITIONAL USE PERMIT FOR A PLAT AND SITE PLAN APPROVAL AS SUBMITTED BY SEAVIEW COMMONS LLC. FOR 0 PESCAYO AVE, WHICH IS DESCRIBED AS LOT 1, BLOCK 6 OF COCO PLUM BEACH, FAT KEY DEER, MARATHON, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBER 00363510-000000. NEAREST MILE MARKER 54.

WHEREAS, Seaview Commons, LLC filed an Application on September 8, 2021 for a Conditional Use Permit and Plat pursuant to Chapter 102, Articles 10 and 13 of the Code of Ordinances for the City of Marathon ("City Code"); and

WHEREAS, City staff reviewed the Applicant's request for a Conditional Use Permit and determined 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, the Council duly considered the Applicant's request and 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 the redevelopment of properties within the City of 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, 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 18th day of October, 2021, 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 9th day of November 2021, 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 within the City of 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,

FINDINGS OF FACT:

1. The applicant will develop subdivide the parcel through the platting process into single family residence lots with the following determinations:
2. In accordance with Section 102.77 of the City 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 Satisfactory provisions and arrangements have been made concerning the following matters, where applicable:
3. 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;
4. Off-street parking and loading areas where required, with particular attention to item 1 above;
5. The noise, glare or odor effects of the conditional use on surrounding properties;
6. Refuse and service areas, with particular reference to location, screening and Items 1 and 2 above;
7. Utilities, with reference to location and availability;
8. Screening and buffering with reference to type, dimensions and character;
9. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety and compatibility with surrounding properties;
10. Required yards and other open space;
11. General compatibility with surrounding properties; and

CONDITIONS IMPOSED:

Granting approval of the Application is subject to the following conditions:

Conditions of Approval

1. Acquisition of any additional development rights, as authorized through this development approval are the responsibility of the developer.
2. The applicant shall comply with NFPA 1, NFPA101, and NFPA 303 by insulation of a wet standpipe system and the proposed turn around will meet a B40 templet for access of fire units;
3. The applicant will meet all floodplain-related requirements as part of the Building Permit process;
4. The applicant shall provide plans indicating connection point to the City of Marathon Wastewater Treatment Plant when provided by Utilities department and pay any assessments due resulting from change in use;
5. The applicant shall comply with the 25- year, 72-hour storm drainage requirements;
6. The Conditional Use Development Order will constitute the Certificate of Concurrence for the project. The determination will be valid for one year from the effective date;

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.

11/10/21
Date



Brian Shea
Director of Planning

This Development Order was filed in the Office of the City Clerk of this 16 day of November 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 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

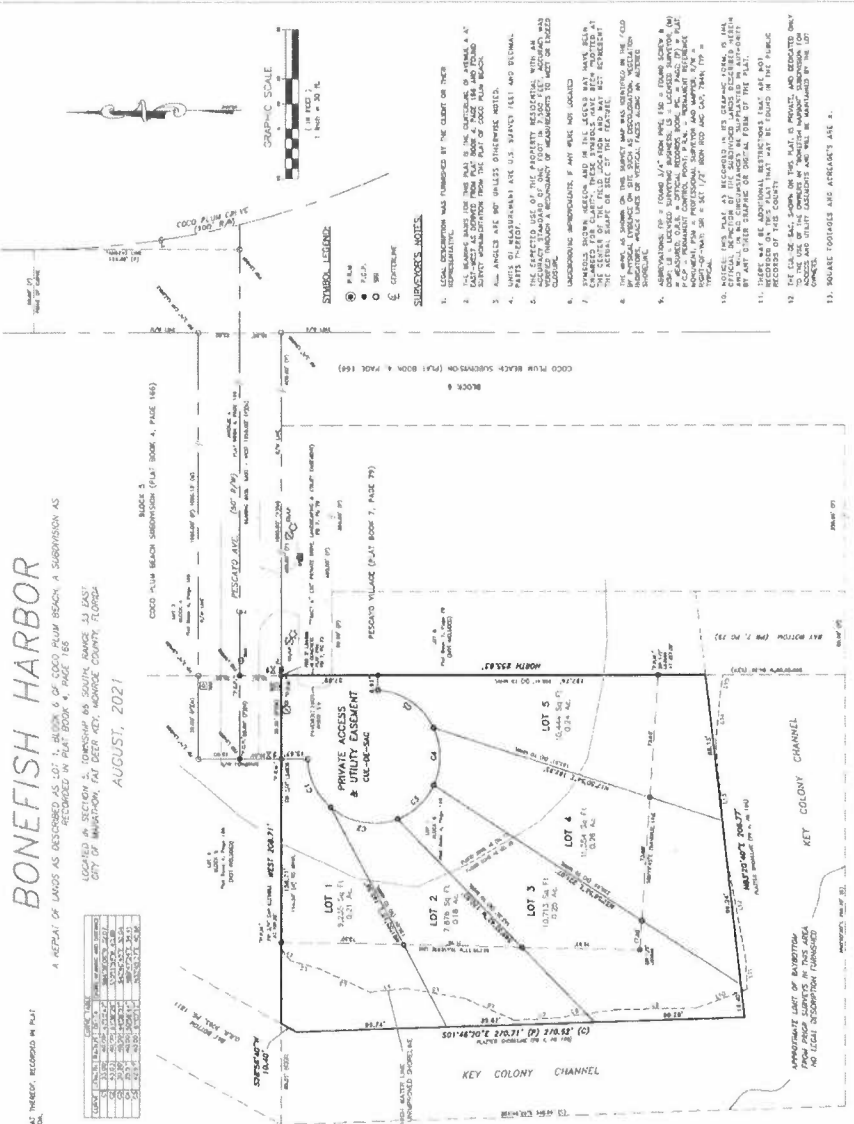
A true and correct copy of the above and foregoing Resolution was furnished, via U.S. certified mail, return receipt requested, addressed to Mr. Brian Schmitt, this 10 day of NOV., 2021.

11100 Overseas Hwy.
Marathon, FL 33050

Diane Clavier
Diane Clavier City Clerk

EXHIBIT 1. APPROVED PRELIMINARY PLAT

BONEFISH HARBOR



LEGAL DESCRIPTION:
LOT 1, BLOCK 4, COCO PALM BEACH SUBDIVISION, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 4, PAGE 185 OF THE PUBLIC RECORDS OF MANatee COUNTY, FLORIDA.

LOCATION MAP:
A REPLAY OF LOTS AS DESCRIBED AS LOT 1, LOTS 2, 3, 4 AND 5 OF BONEFISH HARBOR BEACH A SUBDIVISION AS RECORDED IN PLAT BOOK 4, PAGE 185.

OWNER'S ACKNOWLEDGMENT:
I, BOBIE N. WELLS, MANAGER, WAGER, HAS CAUSED THESE PRODUCTS TO BE SIGNED FOR AND IN WITNESS WHEREOF, I HAVE HEREON SET MY HAND AND SEAL OF SAID COUNTY OF MANatee, FLORIDA, THIS 20TH DAY OF AUGUST, 2021.

NOTARY ACKNOWLEDGMENT:
I, BOBIE N. WELLS, MANAGER, WAGER, MANAGER OF SAID COMPANY, COUNTY OF MANatee, FLORIDA, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF THE ORIGINAL INSTRUMENT AS PRESENTED TO ME AND THAT THE SIGNATURES AND CAPS THEREON ARE THE SIGNATURES AND CAPS OF THE PARTIES TO THE SAME AND THAT THE INSTRUMENT IS A TRUE AND CORRECT COPY OF THE ORIGINAL INSTRUMENT AS PRESENTED TO ME AND THAT THE SIGNATURES AND CAPS THEREON ARE THE SIGNATURES AND CAPS OF THE PARTIES TO THE SAME.

DEEDITION:
I, BOBIE N. WELLS, MANAGER, WAGER, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF THE ORIGINAL INSTRUMENT AS PRESENTED TO ME AND THAT THE SIGNATURES AND CAPS THEREON ARE THE SIGNATURES AND CAPS OF THE PARTIES TO THE SAME.

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APPROVAL BY CITY OF WASHINGTON OFFICIALS:

APPROVED: _____ CLERK OF THE CIRCUIT COURT
DATE: _____

APPROVED: _____ CITY CLERK
DATE: _____

APPROVED: _____ CITY ENGINEER
DATE: _____

APPROVED: _____ CITY PLANNING COMMISSION
DATE: _____

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PRELIMINARY

PLAT BOOK PAGE

RECE & ASSOCIATES

REGISTERED PROFESSIONAL SURVEYOR AND LAND SURVEYOR
13770 BAYVIEW BLVD., SUITE 200
DADE COUNTY, FLORIDA 33154
TEL: 305.444.1111 FAX: 305.444.1112

DATE: _____

BY: _____