

Sponsor: George Garrett
City Council Public Hearing Date: March 9, 2021
Enactment Date: March 9, 2021

CITY OF MARATHON, FLORIDA
RESOLUTION 2021-127

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA APPROVING OF A REQUEST FOR A CONDITIONAL USE PERMIT FOR A PLAT AND SITE PLAN APPROVAL AS SUBMITTED BY SEASON'S, INC. FOR A PORTION OF 50TH STREET GULF, WHICH IS DESCRIBED AS THOMPSON AND ADAMS SUBDIVISION PB2-24, GOV LOT 1 SECTION 10, TWP 66S, RANGE 32E; AND PT LOTS 5-6, PT OF LOT 1 OVERSEAS HWY AND BAY BOTTOM ADJ TO LOTS 5-6, CHANCERY AND BK 1, PT OF LOTS 1 AND 9, ALL OF LOTS 10-11-12 AND 13 VACA VILLAGE PB2-106, MARATHON, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBER 00327150-000100.

WHEREAS, HTG Crystal Cove, LLLP (2016 Applicant) filed an Application on June 30, 2016 for a Conditional Use Permit and Development Agreement pursuant to Chapter 102, Articles 8 and 13 of the Code of Ordinances for the City of Marathon ("City Code"); and

WHEREAS, City staff reviewed the 2016 Applicant's request for a Conditional Use Permit and determined that the 2016 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 2016 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, the City granted the Conditional Use Permit pursuant to Resolution 2016-71; and

WHEREAS, the City approved a Development Agreement (2016 Development Agreement) between the 2016 Applicant and the City pursuant to Resolution 2016-72 to allow the development of twenty-eight (28) RV Park RV sites, forty-six (46) workforce and affordable housing residential

units (commonly known as the Residences at Crystal Cove), 7,700 square feet of commercial floor area, including an access road and utilities easement to service the development and operation of the workforce and affordable housing residential units, commercial floor area, and RV Park RV sites;

WHEREAS, Crystal Cove Housing Partners, LP (2019 Applicant) made application to the City to revise the Conditional Use Permit to document a change in ownership and minor changes in conditions relating to the construction of the affordable housing units; and

WHEREAS, the City revised the Conditional Use Permit pursuant to Resolution 2019-55 which approved DEVELOPMENT ORDER #2016-07 REVISED (Revised Conditional Use Permit) pursuant to the 2019 Applicant's request; and

WHEREAS, due to the development of the twenty-eight (28) transient residential units (RV Park RV Sites) the City Code requires the development of six (6) workforce and affordable housing units which was satisfied by the approval the forty-six (46) workforce and affordable housing units by the Conditional Use Permit, the Revised Conditional Use Permit, and the 2016 Development Agreement.

WHEREAS, Seasons, Inc. (2020 Applicant) has acquired or shall acquire a portion of the property, along with certain allocable development entitlements previously owned by the 2016 Applicant and the 2019 Applicant. The 2020 Applicant proposes to construct twenty-six (26) transient residential units, eighteen hotel units, one thousand six hundred thirty-three (1,633) square feet of commercial floor area with associated storage area, twenty-eight (28) wet slips, swimming pool(s), a bath house, food truck service, and other accessory uses on the area designated by the 2016 Development Agreement for development as RV Park RV sites, as further identified by the site plan attached to the Revised Conditional Use Permit; and

WHEREAS, The 2019 Applicant will continue to pursue the development of the currently approved construction of the forty-six (46) workforce and affordable housing residential units (commonly known as the Residences at Crystal Cove) on the property described in the 2016 Development Agreement and Revised Conditional Use Permit as Elevated Affordable Housing; and

WHEREAS, the purpose of the previous Amended Revised Development Order (2020-04) was to document a change in ownership; the replacement of the RV development with twenty-six (26) transient residential units, eighteen (18) hotel units, one thousand six hundred thirty-three (1,633) square feet of commercial floor area with associated storage area, twenty-eight (28) wet slips, swimming pool(s), a bath house, food truck service, and other accessory uses; and

WHEREAS, the purpose of the current Development Order (2021-02) is to approve a conditional use for the platting of the property into seven single family lots; 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 16th day of February, 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 March, 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:

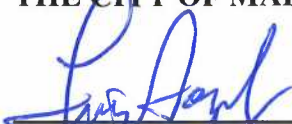
Section 1. The above recitals are true and correct and incorporated herein.

Section 2. The City Council hereby approves Development Order 2021-02, a copy of which is attached hereto as Exhibit "A", granting a Conditional Use Permit to Seasons 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 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 MARCH, 2021.

THE CITY OF MARATHON, FLORIDA



Luis Gonzalez, Mayor

AYES: Cook, Bartus, Senmartin, Zieg, 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:**



Steve Williams, City Attorney

ATTACHMENT "A"
CITY OF MARATHON, FLORIDA
CONDITIONAL USE
DEVELOPMENT ORDER # 2021-02

APPROVAL OF A REQUEST FOR A CONDITIONAL USE PERMIT FOR A PLAT AND SITE PLAN APPROVAL AS SUBMITTED BY SEASON'S, INC. FOR A PORTION OF 50TH STREET GULF, WHICH IS DESCRIBED AS THOMPSON AND ADAMS SUBDIVISION PB2-24, GOV LOT 1 SECTION 10, TWP 66S, RANGE 32E; AND PT LOTS 5-6, PT OF LOT 1 OVERSEAS HWY AND BAY BOTTOM ADJ TO LOTS 5-6, CHANCERY AND BK 1, PT OF LOTS 1 AND 9, ALL OF LOTS 10-11-12 AND 13 VACA VILLAGE PB2-106, MARATHON, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBER 00327150-000100.

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WHEREAS, the Council duly considered the 2016 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

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WHEREAS, the purpose of the current Development Order (2021-02) is to approve a conditional use for the platting of the property into seven single family lots; 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 16th day of February, 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 March, 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

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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 provide a fire hydrant on 50th St. in accordance with fire protection requirements as outlined by the City Fire Marshal;
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. Two (2) side yards are required for stacked duplexes.
7. Townhouses are limited to ten (10) dwelling units per row, except for affordable housing.
8. The private yard area for rooftop balcony dwelling is provided by the roof or balconies of the structure.
9. 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.
10. 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.
11. 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.
12. The Conditional Use Development Order will constitute the Certificate of Concurrency 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.

1/4/2022
Date


Brian Shea
Director of Planning

This Development Order was filed in the Office of the City Clerk of this 4 day of January,
202~~1~~.


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 SEASONS, INC. 1222 SE 47th St. this 4 day of January, 2022

#330

Cape Coral, FL 33904

Diane Clavier
Diane Clavier City Clerk

EXHIBIT 1.
APPROVED PRELIMINARY PLAT

