

**CITY OF MARATHON, FLORIDA
RESOLUTION 2020-36**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING A REQUEST BY SEAVIEW COMMONS II 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 MIXED DEVELOPMENT OF SIX (6) MARKET RATE AND SIXTY (60) AFFORDABLE HOUSING RESIDENTIAL UNITS WITH AMENITIES; FOR PROPERTY LOCATED AT THE SOUTHEAST CORNER OF PESCAYO AVE., COCO PLUM, MARATHON, FLORIDA, WHICH IS LEGALLY DESCRIBED AS LYING WITHIN TOWNSHIP 66S, SECTION 5, RANGE 33E; KEY VACA, MARATHON, FLORIDA; HAVING REAL ESTATE NUMBERS 00363550-000000 AND 00363560-000000. NEAREST MILE MARKER 54.

WHEREAS; Seaview Commons II, LLC (The “Applicant”) filed an Application on April 14, 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 to the development of six (6) market rate residential units and sixty (60) two bedroom affordable residential to be constructed in eight (8) buildings; 6 eight-plexes and 2 six-plexes on two (2) parcels located on Pescayo Ave.; and

WHEREAS; the Applicant must obtain six (6) market rate residential allocations and sixty (60) affordable residential allocations 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 AFFORDABLE RESIDENTIAL UNITS NOT CURRENTLY IN POSSESSION BY THE APPLICANT AS REFERENCED IN THE PROPOSED CONDITIONAL USE PERMIT AND DEVELOPMENT AGREEMENT.

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 15th day of June 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 13 of the LDRs; and

WHEREAS; and on the 14th day of July, 2020 the City Council (the “Council”) 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; 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 redevelopment 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:

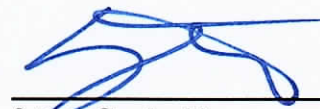
Section 1. The above recitals are true and correct and incorporated herein.

Section 2. The City Council hereby approves Development Order 2020-XXX, a copy of which is attached hereto as Exhibit “A”, granting a Conditional Use Permit to Seaview Commons II, 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 approval by the State Department of Economic Opportunity.

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


THE CITY OF MARATHON, FLORIDA



Steve Cook, Mayor

AYES: Bartus, Senmartin, Gonzalez, Zieg, 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**



Dirk Smits, City Attorney



**CITY OF MARATHON, FLORIDA
CONDITIONAL USE
DEVELOPMENT ORDER # 2020-05**

A DEVELOPMENT ORDER OF CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING A REQUEST BY SEAVIEW COMMONS II 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 MIXED DEVELOPMENT OF SIX (6) MARKET RATE AND SIXTY (60) AFFORDABLE HOUSING RESIDENTIAL UNITS WITH AMENITIES; FOR PROPERTY LOCATED AT THE SOUTHEAST CORNER OF PESCAYO AVE., COCO PLUM, MARATHON, FLORIDA, WHICH IS LEGALLY DESCRIBED AS LYING WITHIN TOWNSHIP 66S, SECTION 5, RANGE 33E; KEY VACA, MARATHON, FLORIDA; HAVING REAL ESTATE NUMBERS 00363550-000000 AND 00363560-000000. NEAREST MILE MARKER 54.

WHEREAS; Seaview Commons II, LLC (The “Applicant”) filed an Application on April 14, 2020 for a Conditional Use Permit pursuant to Chapter 102, Articles 13 of the City of Marathon Land Development Regulations (LDRs); and

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WHEREAS; the Applicant must obtain six (6) market rate residential allocations and sixty (60) affordable residential allocations 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 AFFORDABLE RESIDENTIAL UNITS NOT CURRENTLY IN POSSESSION BY THE APPLICANT AS REFERENCED IN THE PROPOSED CONDITIONAL USE PERMIT AND DEVELOPMENT AGREEMENT.

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

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WHEREAS; and on the 14th day of July, 2020 the City Council (the “Council”) 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; 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 redevelopment 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,

FINDINGS OF FACT:

1. The applicant will redevelop the project site as set out in the project site plan allowing the Applicant to construct six (6) market rate residential units and sixty (60) affordable residential units, to include an office and common areas (See Approved Site Plan – Exhibit A” and all Plans otherwise provided and approved, or approved as revised, as part of the Applicant’s submittal):
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) Ingress and egress shall only occur from Pescayo Avenue and Avenue B.
- 2) As part of the permit application, all conditions of the Fire Marshal must be met prior to permit issuance, and hydrants must be operational prior to buildings going vertical.
- 3) City approval is required for ADA compliant parking spaces prior to Building Permit Approval.
- 4) Bike racks must be shown on the final site plan and approved prior to Building Permit Approval.
- 5) City approval is required for the stormwater management system prior to Building Permit Approval.
- 6) Applicant must obtain all outside agency approvals prior permit issuance and prior to project initiation.
- 7) City approval of the final engineering and connection to the City Wastewater Utility will be required.
- 8) A Unity of Title will be required for the two parcels subject to this review and approval prior to Building Permit Approval. If platting of the six (6) market rate residential sites is contemplated that can happen prior to the initiation of construction on those units
- 9) A Final Landscape Plan must be submitted showing the proper treatments and buffers, including the appropriate treatment types and trees. Since additional buffering was required and agreed to by the applicant, this additional buffering must also be reviewed and approved by the City prior to final project approval.
- 10) A Transplantation / Mitigation plan must be approved for any native trees destroyed as part of proposed construction. This Plan must be provided and approved prior to the initiation of site development.
- 11) If the redevelopment is found to have any effect on the Eastern Indigo Snake, then the prescribed protection measures must be undertaken, and the information poster posted on site.
- 12) A Final Site Plan must be submitted showing the buildings meeting the required setbacks, parking locations, and access drives.
- 13) Sufficient parking for two spaces per unit and additional visitor parking.
- 14) City approval is required for ADA compliant parking spaces prior to Building Permit Approval.
- 15) City approval is required for bike racks prior to Building Permit Approval.

- 16) Caution signs during left or right turns at the Coco Plum Drive intersection with Pescayo Avenue and Avenue B.
- 17) All signs will be reviewed and approved for compliance with the City of Marathon LDR's.
- 18) Applicant must obtain all outside agency approvals, this includes but is not limited to SFWMD, FDOT, ACOE, and DEP.
- 19) Affordable Housing Deed Restrictions must be filed prior to building permit issuance. Said deed restrictions shall be provided in a form acceptable to the City and shall be filed with the Monroe County Clerk of Court and shall run with the land for a period of ninety-nine (99) years.
- 20) The Applicant must obtain a minimum of six (6) market rate and sixty (60) affordable residential allocations 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 AFFORDABLE RESIDENTIAL UNITS NOT CURRENTLY IN POSSESSION BY THE APPLICANT AS REFERENCED IN THE PROPOSED CONDITIONAL USE PERMIT AND DEVELOPMENT AGREEMENT.
- 21) 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 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.

8/12/20
Date

George Garrett
George Garrett
Director of Planning

This Development Order was filed in the Office of the City Clerk of this 12th day of Aug, 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 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.

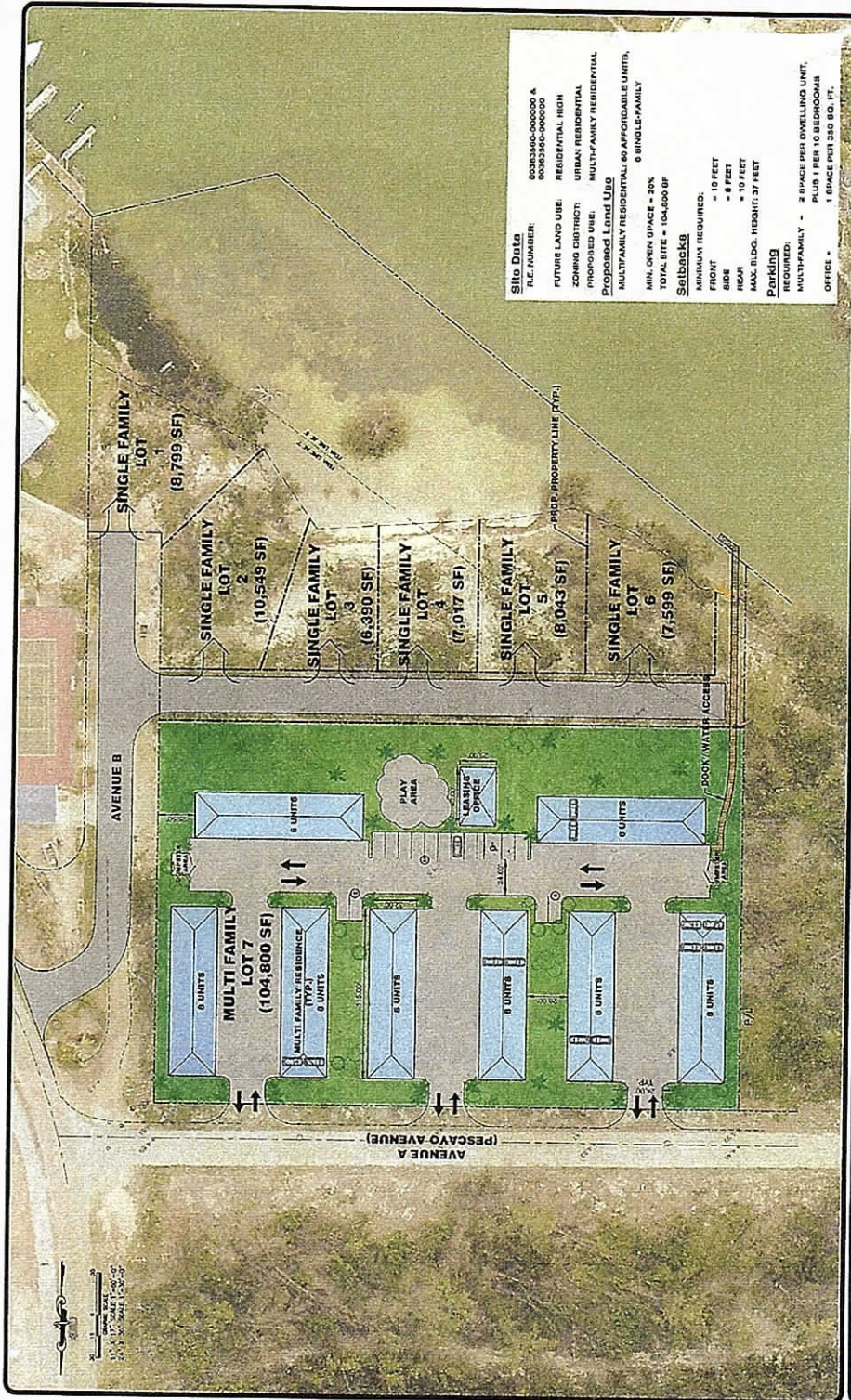
In addition, please be advised that pursuant to Chapter 9J-1, Florida Administrative Code, this instrument shall not take effect for forty-five (45) days following the rendition to the Florida Department of Economic Opportunity. During that forty-five days, the Florida Department of Economic Opportunity 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 Brian Schmitt, 11100 Overseas Highway, Marathon, FL 33050, this 12th day of Aug, 2020.

Diane Clavier
Diane Clavier, City Clerk

EXHIBIT "A"



CONDITIONAL USE PLAN SEAVIEW COMMONS II - AVE. A

JOB # 19-0095

DATE: 03-25-2020



11405 Derricks Highway, Suite 208, Mechanicsville, VA 23103 Ph: (800) 317-6099
A Subsidiary of Curtilo