

**CITY OF MARATHON, FLORIDA
RESOLUTION 2009-163**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING THE REQUEST BY LANZO CONSTRUCTION COMPANY FOR A CONDITIONAL USE PERMIT, PURSUANT TO CHAPTER 102, ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (CODE) ENTITLED “CONDITIONAL USE PERMITS”, AUTHORIZING THE USE OF “OUTDOOR STORAGE” AND “UTILITIES – MAJOR,” AS ALLOWED IN THE MIXED USE (MU) ZONING DISTRICT PURSUANT TO TABLE 103.15.1 FOR THE PURPOSE OF TEMPORARY STORAGE OF DIRT RESULTING FROM CONSTRUCTION OF THE CITY’S WASTEWATER COLLECTION SYSTEM, FOR PROPERTY LOCATED AT 550 122ND STREET, OCEAN, NEAREST MILE MARKER 53.2, WHICH IS LEGALLY DESCRIBED AS SECTION 5, TOWNSHIP 66 S, RANGE 33 E, FAT DEER KEY, PART GOVT. LOT 3, OR139-583/584, OR820-325/326E, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBER 00100450-000000; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, on the 5th day of November, 2009, the City of Marathon (the “City”) Planning Commission (the “Commission”) and on the 10th day of November, 2009, the City Council (the “Council”) conducted properly advertised public hearings (the “Public Hearings”) regarding the request submitted by Lanzo Construction Company (the “Applicant”), for a conditional use permit pursuant to Chapter 102, Article 13 of the City Code (the “Code”); and

WHEREAS, the purpose of the conditional use permit is to allow the Applicant the right for temporary storage of fill and other equipment associated with the construction of the City’s wastewater collection system (the “Proposed Use”) at the properties described in the application (the “Property”).

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THAT:

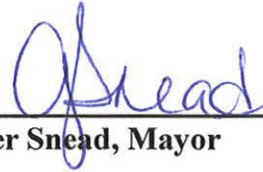
Section 1. The above recitals are true and correct and incorporated herein.

Section 2. The City Council hereby approves Development Order 2009-06, a copy of which is attached hereto as Exhibit “A”, granting a conditional use to Lanzo Construction Company for the Proposed Use. 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 24th day of November, 2009.

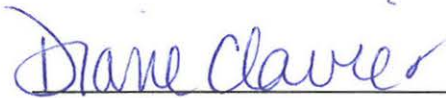
THE CITY OF MARATHON, FLORIDA



Ginger Snead, Mayor

AYES: Cinque, Keating, Ramsay, Worthington, Snead
NOES: None
ABSENT: None
ABSTAIN: None

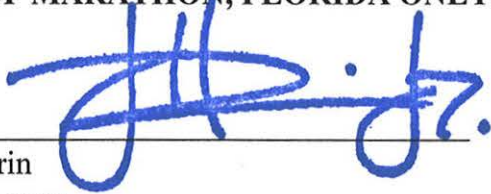
ATTEST:



Diane Clavier
City Clerk

(City Seal)

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



John Herin
City Attorney



**CITY OF MARATHON, FLORIDA
CONDITIONAL USE
DEVELOPMENT ORDER # 2009-06**

A DEVELOPMENT ORDER APPROVING THE CONDITIONAL USE APPLICATION SUBMITTED BY LANZO CONSTRUCTION COMPANY, FOR A CONDITIONAL USE PERMIT, PURSUANT TO CHAPTER 102, ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (CODE) ENTITLED "CONDITIONAL USE PERMITS", AUTHORIZING THE USE OF "OUTDOOR STORAGE" AND "UTILITIES – MAJOR," AS ALLOWED IN THE MIXED USE (MU) ZONING DISTRICT PURSUANT TO TABLE 103.15.1 FOR THE PURPOSE OF TEMPORARY STORAGE OF DIRT RESULTING FROM CONSTRUCTION OF THE CITY'S WASTEWATER COLLECTION SYSTEM, FOR PROPERTY LOCATED AT 550 122ND STREET, OCEAN, NEAREST MILE MARKER 53.2, WHICH IS LEGALLY DESCRIBED AS SECTION 5, TOWNSHIP 66 S, RANGE 33 E, FAT DEER KEY, PART GOVT. LOT 3, OR139-583/584, OR820-325/326E, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBER 00100450-000000; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Lanzo Construction Company, the applicant, has applied for a Conditional Use approval for temporary storage of fill and other equipment associated with construction of the City's wastewater collection system, on property located in the Mixed Use (MU) land use district (the "Application"); and

WHEREAS, the Planning Commission (Commission), in accordance with the provisions of Sections 101.02 and 102.75 of the City of Marathon Land Development Regulations, met to review the Application to determine its compliance with the applicable regulations on November 5th, 2009; and

WHEREAS, the Commission recommended approval of the Application to the City Council of the City of Marathon (the "Council"), subject to conditions; and

WHEREAS, the Council, in accordance with the provisions of Sections 101.01 and 102.76 of the City of Marathon Land Development Regulations, met to review the Application to determine its compliance with the applicable regulations on November 10th, 2009; and

WHEREAS, the Council has duly considered the recommendation of the Commission, and the information and documentary evidence submitted by Lanzo Construction Company and does hereby find and determine as provided below.

FINDINGS OF FACT:

1. The applicant is proposing temporary storage of fill and other equipment associated with the construction of the City's wastewater collection system;
2. In accordance with Section 102.77 of the Code, the Commission and Council considered and determined that 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. The noise, glare or other effects of the conditional use on surrounding properties;
 3. Refuse and service areas, with particular reference to location, screening and Items 1 and 2 above;
 4. Utilities,
 5. Screening and buffering with reference to type, dimensions and character;
 6. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety and compatibility with surrounding properties;
 7. Required yards and other open space;

CONDITIONS IMPOSED:

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

1. This Conditional Use approval will "sunset" one year after its effective date. This Conditional Use approval may be extended for an additional one year period as specified in Section 102.79D of the City of Marathon Land Development Regulations.

2. The Applicant must place and maintain an earthen berm, silt fence, and opaque construction fence around the perimeter of the project area as identified in the attached site plan. Said barriers must be maintained in place for the duration of project described under this Conditional Use approval.
3. The Applicant must place appropriate screening on the existing chain link fence adjacent to the daycare facility and playground. Said screening must be maintained in place for the duration of the project described under this Conditional Use approval.
4. The Applicant must maintain dust control on the site, subject to the review of the City on an as needed basis. At a minimum, the Applicant must sprinkle dirt areas once per day to retain dust.
5. The Applicant must install and maintain a maintain a fifty (50) foot by twelve (12) foot gravel pad at the point of ingress and egress to the site. The aggregate layer must be at least six (6) inches thick.
6. Temporary sanitation facilities provided for employees working onsite must be appropriately screened from view.
7. The Applicant shall maintain the following hours of operation in order to minimize noise and other disturbances to the surrounding neighborhoods. Hours: seven (7) AM until seven (7) PM.
8. The Applicant shall coordinate with the Monroe County School Board & Community Co-op Daycare to relocate the school bus stop on 122nd Street.

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.

12/01/09
Date

George Garrett
George Garrett
Director of Planning

This Development Order was filed in the Office of the City Clerk of this 2 day of December 2009.

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 within 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 Community Affairs 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 1 Stainless Plaza
_____, this 2 day of December, 2009.

125 S.E. 5th Court
Deerfield Beach, FL 33441
Attn: Lanzo Construction

Diane Clavier
Diane Clavier City Clerk