

Sponsored by: Hernstadt  
Introduction Date: November 21, 2011  
Public Hearing Dates: March 27, 2012  
Enactment date: April 10, 2012

**CITY OF MARATHON, FLORIDA  
RESOLUTION 2012-35**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING WITH CONDITIONS THE REQUEST BY J&L ACQUISITIONS INC. FOR A CONDITIONAL USE PERMIT, PURSUANT TO CHAPTER 102, ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS ENTITLED “CONDITIONAL USE PERMITS”, AUTHORIZING THE DEVELOPMENT OF A SIXTY-SIX (66) UNIT DRY BOAT STORAGE FACILITY AT THE PROPERTY LOCATED AT 66 COCO PLUM DRIVE, NEAREST MILE MARKER 54, WHICH IS LEGALLY DESCRIBED AS COCO PLUM BEACH SUBDIVISION, FAT DEER KEY, LOT 21, BLOCK 1, SECTION 4, TOWNSHIP 66, RANGE 33, AND LOT 19, LOT 20, AND LOT 21, BLOCK 2, SECTION 4, TOWNSHIP 66, RANGE 33, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBERS 00363000-000000, 00363220-000000, 00363230-000000, & 00363240-000000.; AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, the purpose of the conditional use process is to provide the general public and the neighboring community with the opportunity to review and comment on proposed development which may have potential impacts beyond the limits of the project boundaries; and

**WHEREAS**, on the 21<sup>st</sup> day of November 2011 and again on the 21<sup>st</sup> day of February, 2012, the City of Marathon Planning Commission, and on the 27<sup>th</sup> day of March, 2012, the City Council conducted properly advertised public hearings regarding the request submitted by J&L Acquisitions Inc. (the “Applicant”), for a conditional use permit pursuant to Chapter 102, of the Marathon Land Development Regulations (the “LDRs”); and

**WHEREAS**, approval of the proposed project with conditions imposed is consistent with the City of Marathon Comprehensive Plan and LDRs,

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

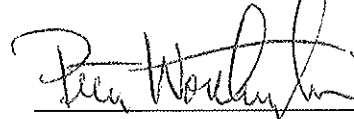
**Section 1.** The above recitals are true and correct and incorporated herein.

**Section 2.** Development Order 2012-002 granting a Conditional Use Permit to the Applicant, a copy of which is attached as Exhibit “A,” is hereby approved

**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 10<sup>th</sup> DAY OF APRIL, 2012.**

**THE CITY OF MARATHON, FLORIDA**



**Pete Worthington, Mayor**

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

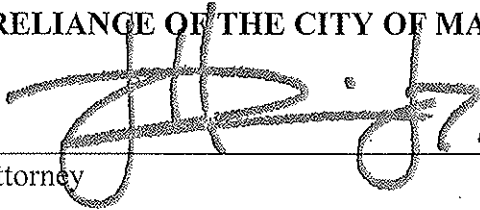
**ATTEST:**



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



**CITY OF MARATHON, FLORIDA  
CONDITIONAL USE  
DEVELOPMENT ORDER # 2012-002**

**A DEVELOPMENT ORDER APPROVING THE APPLICATION SUBMITTED BY J&L ACQUISITIONS, INC. FOR A CONDITIONAL USE PERMIT, PURSUANT TO CHAPTER 102, ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS ENTITLED "CONDITIONAL USE PERMITS", AUTHORIZING THE DEVELOPMENT OF A SIXTY-SIX (66) UNIT DRY BOAT STORAGE FACILITY THE PROPERTY LOCATED AT 66 COCO PLUM DRIVE, NEAREST MILE MARKER 54, WHICH IS LEGALLY DESCRIBED AS COCO PLUM BEACH SUBDIVISION, FAT DEER KEY, LOT 21, BLOCK 1, SECTION 4, TOWNSHIP 66, RANGE 33, AND LOT 19, LOT 20, AND LOT 21, BLOCK 2, SECTION 4, TOWNSHIP 66, RANGE 33, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBERS 00363000-000000, 00363220-000000, 00363230-000000, & 00363240-000000.**

**WHEREAS**, J&L Acquisitions Inc. (the "Applicant") is the owner of the Property and applied for a Conditional Use approval to develop 66 dry boat storage units, to renovate an existing marina building, and to add a deed restricted affordable commercial apartment on property located in the Mixed Use-Maritime (MU-M) land use district (the "Application"); and

**WHEREAS**, the City of Marathon Planning Commission (the "Commission"), in accordance with the provisions of Sections 101.02 and 102.75 of the City of Marathon Land Development Regulations (the "LDRs"), met to review the Application to determine its compliance with the applicable regulations on November 21, 2011 and again on February 21, 2012; and

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

**WHEREAS**, the Council, in accordance with the provisions of Sections 101.01 and 102.76 of the LDRs, met to review the Application to determine its compliance with the applicable regulations on March 27, 2012; and

**WHEREAS**, the Council has duly considered the recommendation of the Commission, and the information and documentary evidence submitted by J&L Acquisitions, Inc and does hereby find and determine as provided below.

## **FINDINGS OF FACT:**

1. The Applicant is proposing to develop four parcels totaling 18,000 square foot parcel with a 66 unit dry boat storage facility, a 900 square foot commercial building, to renovate an existing 960 square foot marina building and to construct a deed restricted affordable commercial apartment above the marina building (the “Proposed Use”).
2. The Proposed Use:
  - a. is consistent with the City of Marathon Comprehensive Plan and LDRs;
  - b. is compatible with the existing land use pattern and future uses designated by the Comprehensive Plan;
  - c. Will not adversely affect the health, safety, and welfare of the public; and
  - d. Minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment.
3. Satisfactory provisions and arrangements have been made concerning the following matters, where applicable:
  - a. 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;
  - b. Off-street parking and loading areas where required, with particular attention to item “a” above;
  - c. The noise, glare or odor effects of the Proposed Use on surrounding properties;
  - d. Refuse and service areas, with particular reference to location, screening and items “a” and “b” above;
  - e. Utilities, with reference to location and availability;
  - f. Screening and buffering with reference to type, dimensions and character;
  - g. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety and compatibility with surrounding properties;
  - h. Required yards and other open space;
  - i. General compatibility with surrounding properties; and
  - j. Any special requirements set forth in the LDRs for the particular use involved.

## **CONDITIONS IMPOSED:**

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

- No Storage Pods or any other similar structures or any other type of outdoor storage is authorized; approval is for the Proposed Use only.
- Before the issuance of a building permit for the Proposed Use the Applicant shall obtain a right-of-way use permit from the City for the use of five (5) feet of public right-of-way contiguous with the front property line of the western parcels and install an enhanced streetscape buffer along the Coco Plum Drive corridor as reflected on the most recent site plan. In addition, the final site plan shall include landscape material on the north side fence-line.
- Before the issuance of a building permit for the Proposed Use the Applicant shall finalize and submit a traffic control plan which provides adequate traffic control for the crossing of equipment and boats across Coco Plum Drive. At a minimum the traffic control plan shall provide for:
  - The installation of signage approved by the City's Public Works Director at points of ingress and egress and at the Property corners alerting the public of the crossing of equipment and boats between the east and west portions of the Proposed Use across Coco Plum Drive. If at any point in time the City's Public Works Director determines that additional signage is needed to minimize traffic conflicts, the Applicant shall install such signage at its own cost within thirty (30) days of written notification from the City.
  - Prohibited crossing hours:
    - 6:30 – 8:00 AM
    - 2:30 – 4:00 PM
    - After dusk
  - The installation, striping and maintenance of a continuous ten (10) foot wide pavement/crossing from the east entrance to the west entrance of the Proposed Use; the striping to include Coco Plum Drive between the east and west entrances to the Proposed Use.
  - The use of a flagman whenever the crossing of equipment and boats across Coco Plum Drive takes place.
- Before the issuance of a building permit for the proposed Use the Applicant shall submit a revised site plan showing the required bicycle parking in front of retail store.
- Before the issuance of a building permit for the Proposed Use the Applicant shall submit construction plans that include permanent irrigation infrastructure and an irrigation plan in accordance with the LDRs.
- Before the issuance of a building permit for the Proposed Use the Applicant shall submit a Unity of Title for the three western parcels and the eastern parcel in a form acceptable to the City Attorney.
- Before the issuance of a building permit for the Proposed Use the Applicant shall submit and obtain approval of a final stormwater plan.
- Before the issuance of a certificate of completion/occupancy for the Proposed Use the

Applicant shall obtain an allocation for one (1) RBPAS deed restricted affordable residential unit, and construct and obtain a certificate of occupancy for the unit.

- Before the issuance of a certificate of completion/occupancy the Applicant shall connect to the City's wastewater utility in accordance with City Code.
- The Applicant and its successors in interest shall indemnify and hold the City harmless against any and all claims arising from the crossing of equipment and boats across Coco Plum Drive.
- This Conditional Use permit if approved will be valid for one (1) year from the effective date of the Conditional Use approval and may be extended for one additional year in accordance with applicable sections of the LDRs.

### **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 LDRs, the Council may revoke this approval upon a determination that the Applicant or its successor or designee is in non-compliance with this Resolution, the LDRs or the Marathon City Code. Failure to adhere to the terms and conditions of approval contained herein is a violation of the LDRs and the Marathon City 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 LDRs, 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.

4-11-12

Date

George Garrett

George Garrett  
Planning Director

This Development Order was filed in the Office of the City Clerk of this 12 day of April,  
2012.

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 those 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 PO BOX 510974 Key Colony Beach FL, this 12 day of April, 2012. 33051-0974

Diane Clavier  
Diane Clavier City Clerk