

**CITY OF MARATHON, FLORIDA  
RESOLUTION 2019-01**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, APPROVING A REQUEST BY JAMES AND KAREN RUGGIO FOR A CONDITIONAL USE PERMIT, PURSUANT TO CHAPTER 102, ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (LDRS) ENTITLED “CONDITIONAL USE PERMITS”, SEEKING AUTHORIZATION FOR THE CONSTRUCTION OF A BOAT RAMP AT THE PROPERTY LOCATED AT 111 SANTA BARBARA, NEAREST MILE MARKER 50, WHICH IS LEGALLY DESCRIBED AS BK 1, LT 70 AMENDED PLAT OF FLAMINGO ISLAND ESTATES, BOOT KEY, SECTION 15, TOWNSHIP 66, RANGE 32, MONROE COUNTY, FLORIDA HAVING REAL ESTATE NUMBER 00356140-000000.**

**WHEREAS**, James and Karen Ruggio (The “Applicant”) filed an Application on September 1, 2017 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 construction of a boat ramp on a single family residential zoned parcel on developed land; 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 17<sup>th</sup> day of December, 2018, 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 8 of the LDRs; and

**WHEREAS**, The Planning Commission recommended denial of the residential boat ramp for James and Karen Ruggio based on a desire for more information. They did not specifically provide a basis for denial showing a reason why this project DOES NOT meet the requirements of the LDRs for a Conditional Use Permit.

**WHEREAS**, The Planning Department continues to recommend approval of the proposed boat ramp and dock based on the Department’s responses to the Planning Commissions concerns provided to the City Council; and

**WHEREAS**, and on the 8<sup>th</sup> day of January, 2019, the City Council (the “Council”)

conducted a properly advertised public hearing (the "Public Hearing") regarding the request submitted by the Applicant, for a Conditional Use Permit pursuant to Chapter 102, Article 8 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, is consistent with its policy to encourage the development of residential properties in Marathon, and will further the health, safety and welfare of the residents of Marathon; and

**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 2019-04, a copy of which is attached hereto as Exhibit "A", granting a Conditional Use Permit to James and Karen Ruggio, 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.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 8TH DAY OF JANUARY, 2019.**

**THE CITY OF MARATHON, FLORIDA**




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**John Bartus, Mayor**

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

**ATTEST:**



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Diane Clavier, City Clerk  
(City Seal)

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



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David Migut, City Attorney



**CITY OF MARATHON, FLORIDA  
CONDITIONAL USE  
DEVELOPMENT ORDER # 2019-04**

**A DEVELOPMENT ORDER APPROVING A REQUEST BY JAMES AND KAREN RUGGIO FOR A CONDITIONAL USE PERMIT, PURSUANT TO CHAPTER 102, ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (LDRS) ENTITLED “CONDITIONAL USE PERMITS”, SEEKING AUTHORIZATION FOR THE CONSTRUCTION OF A BOAT RAMP AT THE PROPERTY LOCATED AT 111 SANTA BARBARA, NEAREST MILE MARKER 50, WHICH IS LEGALLY DESCRIBED AS BK 1, LT 70 AMENDED PLAT OF FLAMINGO ISLAND ESTATES, BOOT KEY, SECTION 15, TOWNSHIP 66, RANGE 32, MONROE COUNTY, FLORIDA HAVING REAL ESTATE NUMBER 00356140-000000.**

**WHEREAS,** James and Karen Ruggio (The “Applicant”) filed an Application on September 1, 2017 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 construction of a boat ramp on a single family residential zoned parcel on developed land; 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 17<sup>th</sup> day of December, 2018 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 8 of the LDRs; and

**WHEREAS,** The Planning Commission recommended denial of the residential boat ramp for James and Karen Ruggio based on a desire for more information. They did not specifically provide a basis for denial showing a reason why this project DOES NOT meet the requirements of the LDRs for a Conditional Use Permit.

**WHEREAS,** The Planning Department continues to recommend approval of the proposed boat ramp and dock based on the Department’s responses to the Planning Commissions concerns provided to the City Council; and

**WHEREAS,** and on the 8<sup>th</sup> day of January, 2019, the City Council (the “Council”) conducted a properly advertised public hearing (the “Public Hearing”) regarding the request submitted by the Applicant, for a Conditional Use Permit pursuant to Chapter 102, Article 8 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, is consistent with its policy to encourage the development of residential properties in Marathon, and will further the health, safety and welfare of the residents of Marathon; and

**FINDINGS OF FACT:**

1. The Applicant has proposed construction of a boat ramp on a residential zoned parcel on developed land.
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. Detail grading plan depicting existing and proposed elevations for the proposed residence. All runoff is required to be diverted to the stormwater system with no off-site discharge.
2. City approval is required for the stormwater management system prior to Building Permit Approval.
3. Boat ramp shall be limited to the use of property owners and tenants.
4. Boat ramp shall not to be used as a public ramp.
5. All boat ramps shall be located and designed so as not to create setback nonconformity for existing structures from the new mean high water line (MHWL) created by the boat ramp and all new structures permitted subsequent to boat ramp approval must meet the new setback from MHWL.
6. All boat ramps shall be confined to shorelines of man-made canals, channels, and basins with little or no native vegetation and shall be located in the least vegetated area of the shoreline.
7. The width of boat ramps, including side slopes, shall be limited to 35 feet. As proposed, the Applicant's ramp shall not exceed 11 feet in width.
8. Dredging and filling shall be limited to the minimum amount necessary to construct the boat ramp surface, side slopes, walls and mooring or dock pilings.
9. If the redevelopment is found to have any effect on the Eastern Indigo Snake Habitat, then the prescribed protection measures must be undertaken, and the information poster posted on site.
10. The Applicants dock shall not encroach on the City Right-Of-Way, but may parallel it.
11. Native vegetation shall remain intact, except for the minimum area required for the boat ramp and, in this case the docks as approved by FDEP and the ACOE. If any mangroves or buttonwood must be removed along the City Right-Of-Way, the Applicant shall replant them in accordance with the City's mitigation requirements, typically in a 3 to 1 ratio.
12. The Conditional Use Development Order will constitute the Certificate of Concurrency 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 permit 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.

4-15-19  
Date

George Garrett  
George Garrett, Director of Planning

This Development Order was filed in the Office of the City Clerk of this 15 day of April, 2019.

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 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 441 East Bay Ave. unit #8,  
this 15 day of April, 2019. Barnegat, NJ 08005

Diane Clavier

Diane Clavier, City Clerk