

**CITY OF MARATHON, FLORIDA
RESOLUTION 2019-03**

APPROVAL OF A REQUEST BY SAPODILLA HOLDINGS, LLC FOR A CONDITIONAL USE PERMIT PURSUANT TO CHAPTER 102, ARTICLES 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (LDRS) ENTITLED “CONDITIONAL USE PERMITS,” AUTHORIZING THE REDEVELOPMENT OF THE PROPERTY LOCATED AT 7200 AVIATION BOULEVARD AS A MARINA AND RV RESORT WITH 25 SPACES, LEGALLY DESCRIBED AS, PART OF THE MASTER PLAT OF NORTH MARATHON SHORES, KEY VACCAS, GOVERNMENT LOT 1 SECTION 2 GOVERNMENT LOT 2 AND PARTS OF GOVERNMENT LOT 3 AND THE SOUTHWEST QUARTER OF SECTION 1 TOWNSHIP 66 RANGE 32 E AND LOTS 18 THROUGH 22 SCHMITT SUBDIVISION KEY VACA AND PART OF ABANDONED AVIATION BOULEVARD, HAVING REAL ESTATE NUMBERS 00328520-000000, 00328470-000000, 00328460-000000, AND 00328450-000000. NEAREST MILE MARKER 51.

WHEREAS, Sapodilla Holdings, LLC., (The “Applicant”) filed an Application on the 17th day of April, 2018 for a Conditional Use Permit and Development Agreement pursuant to Chapter 102, Articles 13 of the City of Marathon Land Development Regulations (LDRs); and

WHEREAS; the Applicant proposes to develop twenty-five (25) RV spaces; 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 20th day of August, 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 13 of the LDRs; and

WHEREAS, and on the 11th day of December, 2018 and the 8th day of January, 2019, 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:

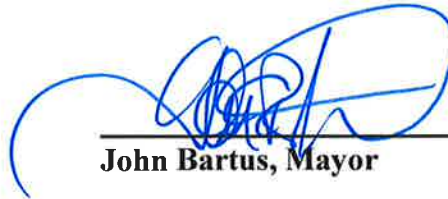
Section 1. The above recitals are true and correct and incorporated herein.

Section 2. The City Council hereby approves Development Order 2019-05 (Resolution 2019-03), a copy of which is attached hereto as Exhibit "A", granting a Conditional Use Permit to Sapodilla Holdings 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 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 8TH DAY OF JANUARY, 2019.

THE CITY OF MARATHON, FLORIDA



John Bartus, Mayor

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



David Migut, City Attorney



**CITY OF MARATHON, FLORIDA
CONDITIONAL USE
DEVELOPMENT ORDER # 2019-05**

A DEVELOPMENT ORDER APPROVING A REQUEST BY SAPODILLA HOLDINGS LLC FOR A CONDITIONAL USE PERMIT PURSUANT TO CHAPTER 102, ARTICLES 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (LDRS) ENTITLED “CONDITIONAL USE PERMITS,” AUTHORIZING THE REDEVELOPMENT OF THE PROPERTY LOCATED AT 7200 AVIATION BOULEVARD AS A MARINA AND RV RESORT WITH 25 SPACES, LEGALLY DESCRIBED AS, PART OF THE MASTER PLAT OF NORTH MARATHON SHORES, KEY VACCAS, GOVERNMENT LOT 1 SECTION 2 GOVERNMENT LOT 2 AND PARTS OF GOVERNMENT LOT 3 AND THE SOUTHWEST QUARTER OF SECTION 1 TOWNSHIP 66 RANGE 32 E AND LOTS 18 THROUGH 22 SCHMITT SUBDIVISION KEY VACA AND PART OF ABANDONED AVIATION BOULEVARD, HAVING REAL ESTATE NUMBERS 00328520-000000, 00328470-000000, 00328460-000000, AND 00328450-000000. NEAREST MILE MARKER 51.

WHEREAS, Sapodilla Holdings, LLC., (The “Applicant”) filed an Application on the 17th day of April, 2018 for a Conditional Use Permit and Development Agreement pursuant to Chapter 102, Articles 13 of the City of Marathon Land Development Regulations (LDRs); and

WHEREAS; the Applicant proposes to develop twenty-five (25) RV spaces; 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 20th day of August, 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 13 of the LDRs; and

WHEREAS, and on the 11th day of December, 2018 and the 8th day of January, 2019, 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,

FINDINGS OF FACT:

1. The applicant will redevelop twenty-five (25) unit RV Park, and accessory structures as may be appropriate.
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) Conservation Easement requirements
 - A 10' conservation easement in a form and content acceptable to the City is required at the southerly boundary of the project parcel immediately adjacent to the adjacent wetland parcel.
 - A conservation easement is required in a form and content acceptable to the City on the adjacent wetland parcel.
 - Both Easements shall be recorded in the public records of Monroe County, Florida, pursuant to Chapter 106, Article 8 – “Conservation Management Areas” to cover the entirety of parcel 00101260-000000. In lieu of this, the applicant may deed the adjacent wetland parcel over to the City of Marathon.
- 2) RV requirements
 - RV sites must remain transient and RVs may not remain in the RV Park for a period exceeding 180 consecutive days.
 - RVs must evacuate per the County hurricane evacuation model and plan as transient units.
 - RVs shall not be utilized for secondary rentals
 - RV site leases shall clearly define these requirements
- 3) Vegetative and physical buffer requirements
 - A split rail fence separating the development from the wetlands on the south side of the project shall be placed within the project site conservation easement in order to provide physical separation between the project site and the adjacent wetland parcel.
 - A Final Landscape Plan must be submitted showing the proper treatments and buffers based on the approved variance (Resolution 2018-118).
 - A dense planting buffer is required between the general access drive and the canal which meets all of the requirements of such a buffer regardless of the allowance for a setback variance from the canal. This will amount to approximately the same number of canopy trees, understory trees, shrubs, and ground cover as would normally be required paced at a density level of approximately two (2) times normal requirements.
 - Some form of opaque screening is required between the entire length of the project access drive and the canal to the north. Said structure must be approved by staff. It shall exist within the buffer area or at its boundary on

one side or the other.

- 4) Site egress requirements
 - A design for directional arrows, signage, and physical constraints to egress have been provided by the Applicant. It is generally acceptable to the City. Final plans for ingress and egress must be provided, approved and installed that direct RV egress to 107th Street.
- 5) Lighting Plan requirements
 - A final lighting plan must be submitted prior to permit issuance.
 - Said lighting plan shall only show ground lighting features and all lighting must be directed away from the canal and residential properties to the north.
- 6) Final site plan requirements
 - Bicycle racks per Section 107.48 must be shown on the Final site plan prior to permit issuance.
 - Screened dumpster enclosure pursuant to the City's LDRs must be shown on the final site plan prior to permit issuance.
 - The final site plan must show required setbacks, parking locations, and access drives
 - Should it be found that inadequate on-site parking causes a recurring traffic hazard or a nuisance off-site, the owner shall be responsible for increasing the number of parking spaces or decreasing the need for parking spaces.
 - All signs must be shown and will be reviewed and approved for compliance with the City of Marathon LDR's.
- 7) Wastewater requirements
 - City approval of the connection to the City Wastewater Utility will be required.
 - Individual sewer hookups are to be elevated above grade to minimize intrusion into sewer system.
 - All piping is to be pressure rated per Airvac specs.
 - Vacuum pits shall have individual breather assemblies, and not candy canes.
- 8) Stormwater requirements
 - The Applicant must provide a final stormwater plan which demonstrates flow away from the canal and toward designed drainage structures toward the southerly portion of the property.
 - Final drainage plans must be reviewed and approved by the City prior to the issuance of development permits.
- 9) Special conditions
 - No generators shall be allowed in the use of any individual RV site.
 - No sheds or other permanent accessory structures are allowed on RV sites except as are necessary to provide electric, water, sewer, and essential site lighting.
 - No businesses shall be allowed to operate within the RV Park aside from the Park itself.
- 10) The applicant will provide fire protection plans in accordance with fire protection requirements as outlined by the City Fire Marshal;
- 11) The applicant will meet all floodplain related requirements as part of the Building Permit process;
- 12) 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.

13) The Conditional Use Development Order will constitute the Certificate of Concurrency for the project.

14) Based upon the simultaneous approval of a Conditional Use Permit and a Development Agreement, the duration of the Conditional Use Permit shall be the same as the duration of the Development Agreement.

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.

Jan 22, 2019
Date

George Garrett
George Garrett
Director of Planning

This Development Order was filed in the Office of the City Clerk of this 22 day of Jan, 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 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 Jim Rhyne, 7194 Overseas Hwy, this 22 day of January 2019. Marathon, FL 33050

Diane Clavier

Diane Clavier City Clerk