

**CITY OF MARATHON, FLORIDA  
RESOLUTION 2014-107**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA APPROVING THE REQUEST BY CRISTIAN'S LANDSCAPING, INC. FOR A CONDITIONAL USE PERMIT, PURSUANT TO CHAPTER 102, ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS ("LDRS") ENTITLED "CONDITIONAL USE PERMITS" AUTHORIZING RETAIL AND SUPPLY YARD WITH OUTDOOR STORAGE AT PROPERTY LOCATED AT 990 41 STREET, WHICH IS LEGALLY DESCRIBED AS LOT 8, LOTS 9 & 10 BLOCK 1 PLUS BAY BOTTOM, MARATHON BEACH SUBD., KEY VACA, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBERS 00336670-000000 & 00336680-000000. NEAREST MILE MARKER 49.5**

**WHEREAS**, Cristian's Landscaping, Inc. (The "Applicant") filed an Application on January 2, 2014 for a Conditional Use Permit pursuant to Chapter 102, Article 13 of the City of Marathon Land Development Regulations (LDRs); and

**WHEREAS**; the Applicant has proposed the redevelopment of the site to permit a landscaping business providing retail and supply yard with outdoor storage; 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 18<sup>th</sup> day of August, 2014, 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**, on the 26<sup>th</sup> day of August, 2014 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 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 2014-07, a copy of which is attached hereto as Exhibit "A", granting a Conditional Use Permit to Cristian's Landscaping, Inc. 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 9<sup>th</sup> day of September, 2014.

**THE CITY OF MARATHON, FLORIDA**

  
\_\_\_\_\_  
**Dick Ramsay, Mayor**


AYES: Bartus, Bull, Senmartin, Ramsay  
NOES: None  
ABSENT: Keating  
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:**

  
\_\_\_\_\_  
Lynn M. Dannheisser, City Attorney



**CITY OF MARATHON, FLORIDA  
CONDITIONAL USE  
DEVELOPMENT ORDER # 2014-07**

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**WHEREAS**; the Applicant has proposed the redevelopment of the site to permit a landscaping business providing retail and supply yard with outdoor storage; 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 18<sup>th</sup> day of August, 2014, 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

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**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 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 subject to the site plan to permit a landscaping business providing retail and supply yard with outdoor storage (See Exhibit “A”):
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. Cristian's Landscaping hours of operation shall be no earlier than 7 AM and no later than 6 PM, Monday Through Saturday.
2. Landscape materials held on-site are restricted to landscape rock, sand, river rock and similar non-dust generating materials.
3. The applicant will be responsible for posting one speed limit sign at its property and will observe the posted speed limits for 41<sup>st</sup> Street, Gulf, particularly as related to the area in front of Grace Jones Day Care
4. Vegetative waste be properly disposed of and shall not be stored on site for more than 7 days.
5. Dust control measures shall be put in place during the construction and occupancy phases for the site.
6. Absolutely no mineral processing, crushing, or sorting equipment is allowed on the property and shall not be utilized for any purposes on the site.
7. Removal or relocation of the existing trailer is required.
8. 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.
9. The site must provide both electric connections for security lighting as needed and maintain a water meter in order to contain dust on the property.
  - a. Applicant must submit a detailed lighting plan including placement and brightness of all overhead lamps to be installed, if any. If provided, lighting shall provide adequate light for site security while being downcast so as to minimize light impact on neighboring residential structures.
10. An outdoor storage yard shall be a minimum of 15 feet from any public street.
11. To avoid erosion of the perimeter berm, it should be no closer than 5 feet from the mean high water line.
12. A solid wall or opaque fence at least 6 feet in height must surround the entire property.
13. There will be no storage of hazardous or noxious materials on the property.
14. Applicant must maintain the fence and screening in accordance with City Ordinance 2011-02. Weeds shall not be allowed to grow up onto the fence or wall material.
15. This yard shall not be used as a storage yard for wrecker or tow truck operators. The request and approval is only for outdoor storage as a "supply yard" and for storage of equipment associated with and necessary for the proposed landscape business.
16. The applicant shall obtain approval of final landscaping and mitigation plans (as needed) and lighting plans in coordination with the City Biologist prior to building permit issuance;
17. The applicant will meet all floodplain related requirements as part of the Building Permit process;
18. The applicant will obtain City approval of the stormwater management system prior to Permit issuance;
19. Should it be needed, the applicant will obtain City approval for wastewater management through the City's Wastewater Utility;

20. Should it be needed, the applicant will obtain sign permits for any signs erected on the property, as required under the Code; and
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.

Sept. 02, 2014  
Date

George Garrett  
George Garrett, Director of Planning

This Development Order was filed in the Office of the City Clerk of this 12 day of Sept., 2014.

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.

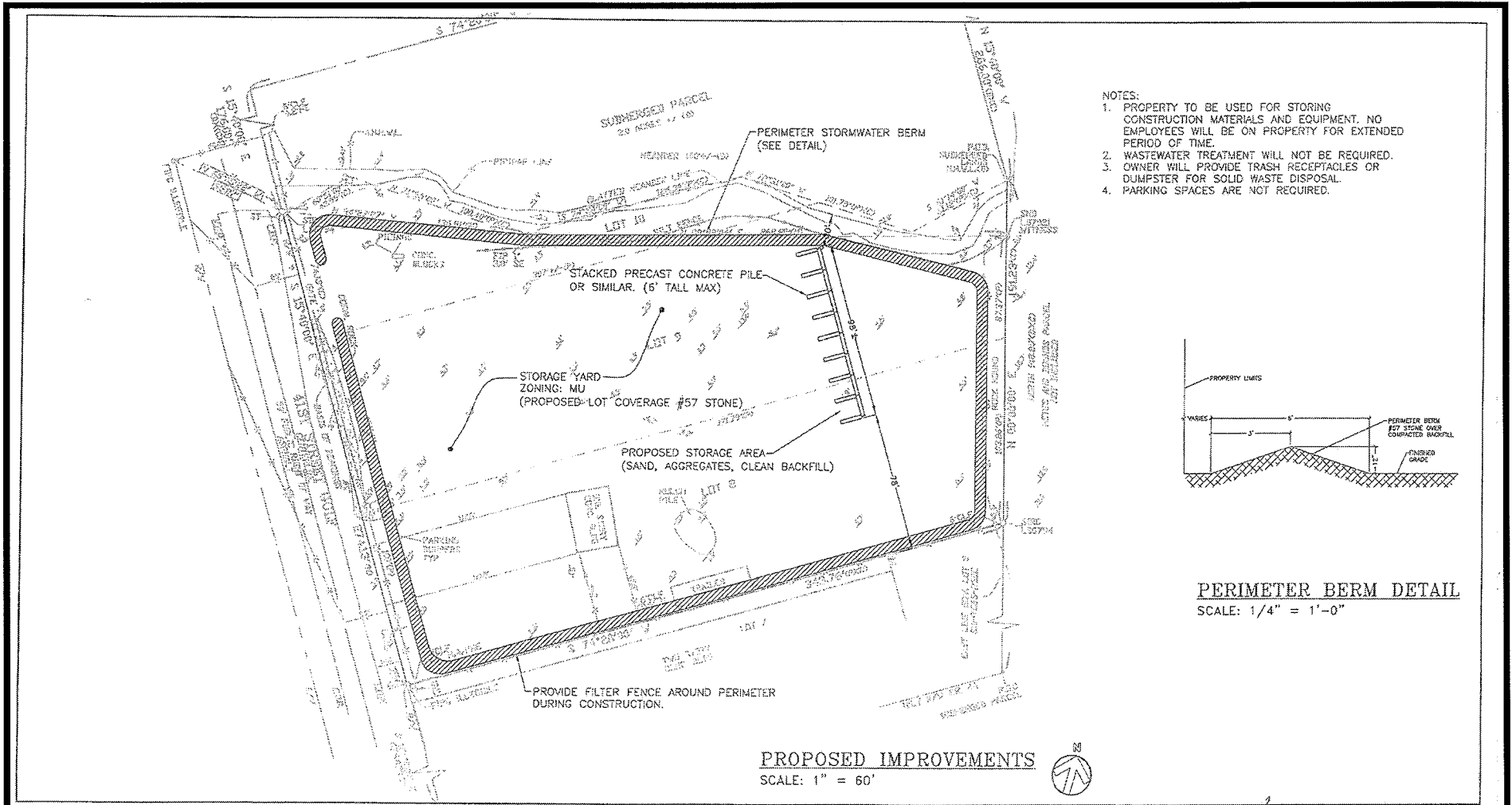
**CERTIFICATE OF SERVICE**

A true and correct copy of the above and foregoing Resolution was furnished, via U.S. certified mail, return receipt requested, addressed to Christians Landscaping, 2101 Dolphin Dr.  
this 2nd day of Oct., 2014. Marathon, FL 33050

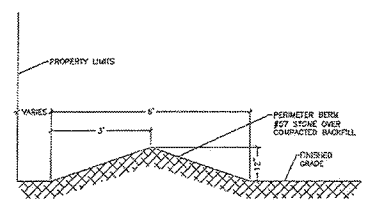
Diane Clavier

Diane Clavier City Clerk

# EXHIBIT 1



- NOTES:
1. PROPERTY TO BE USED FOR STORING CONSTRUCTION MATERIALS AND EQUIPMENT. NO EMPLOYEES WILL BE ON PROPERTY FOR EXTENDED PERIOD OF TIME.
  2. WASTEWATER TREATMENT WILL NOT BE REQUIRED.
  3. OWNER WILL PROVIDE TRASH RECEPTACLES OR DUMPSTER FOR SOLID WASTE DISPOSAL.
  4. PARKING SPACES ARE NOT REQUIRED.



**PERIMETER BERM DETAIL**  
SCALE: 1/4" = 1'-0"

**PROPOSED IMPROVEMENTS**  
SCALE: 1" = 60'



SHEET 3 OF 3	3	DATE: 11/19/14 GLEN BOE AND ASSOCIATES, INC. # 4061 8800 OVERSEAS HIGHWAY, SUITE 4, MARATHON, FL 33980 Telephone: (305) 743-9121 Fax: (305) 743-9187 Email: glenboe@bellsouth.net	STORAGE YARD FOR FFGM LIMITED LIABILITY COMPANY MARATHON, MONROE COUNTY, FL	REVISIONS: _____ _____ _____	CERTIFIED BY: SEAN KIRWAN, P.E. #51006 