

**CITY OF MARATHON, FLORIDA
RESOLUTION 2014-47**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING THE APPEAL FILED BY MR. MARV SCHINDLER, ON BEHALF OF STIRRUP KEY HOMEOWNERS ASSOCIATION, OF THE DECISION MADE BY THE PLANNING COMMISSION AS SET FORTH IN PLANNING COMMISSION RESOLUTION 2014-01, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, it is within the purview of the Planning Director (“the Director”) to approve, approve with conditions, approve with modifications, or deny requests for permits under authority established in Chapters 100 and 101 of the City of Marathon Land Development Regulations (LDRs); and

WHEREAS, it is within the purview of the City of Marathon Planning Commission (“the Commission) and the City of Marathon City Council (“the City Council”) to hear requests for appeals under authority established in Chapters 100 and 101 and as further outlined in Chapter 102, Article 17 of the City of Marathon Land Development Regulations (LDRs); and

WHEREAS, on June 11, 2013 the Director completed and sent a letter to Discount Rock and Sand, Inc. denying permit application number P2013-0546 for a stormwater collection system which, as proposed, is integral to a proposed Construction and Demolition Debris Transfer Facility (“C & D Facility”); and

WHEREAS, the salient details and basis for the permit denial by the Director was a determination that the operation of C & D Facilities is not a permitted use within the Industrial (I) land use (zoning) district specifically or any other land use district generally; and

WHEREAS, on July 22, 2013, Discount Rock and Sand, Inc. filed a Request for Appeal of the Director’s decision dated June 11, 2013 as allowed under Chapter 103, Article 17 of the LDRs; and

WHEREAS, consultants for the Appellant understood that an application had also been made for a pole barn as part of the proposed C & D Facility; and

WHEREAS, when it was determined that such an application had not been made, the Appellant applied for a pole barn then identified in permit application P2013-1848; and

WHEREAS, the Director rewrote his letter of June 11, 2013 in a letter dated November 26, 2013 denying permit numbers P2013-0546 and P2013-1848 for a stormwater collection system and pole barn respectively as part of a proposed C & D Facility; and

WHEREAS, the basis for denying permit application number P2013-00546 and P2013-1848 remained the same; and

WHEREAS, the original Request for Appeal was accepted as a Request to Appeal the Director's letter dated November 26, 2013; and

WHEREAS, an Appeal Hearing was scheduled before the Commission dated December, 16, 2013; and

WHEREAS, the Commission overturned the decision of the Director as promulgated in Commission Resolution 2014-01 dated January 21, 2014, and

WHEREAS, Marv Schindler on behalf of the Stirrup Key Homeowners Association filed an appeal of the Commission decision on December 23, 2013; and

WHEREAS, a properly noticed Public Hearing was set and was heard before the City Council on April 22, 2014; and

WHEREAS, due process was afforded the parties, the essential requirements of law were adhered to and competent and substantial evidence was presented by Applicant and Appellant.

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. Based on the competent and substantial evidence presented to the City Council at its April 22, 2014 regular meeting, and made part of the record hereof, the City Council finds that:

- a. The Council in hearing the Appeal and in reviewing the decision of the Commission as promulgated in Commission Resolution 2014-01, hereby makes the determination that the Commission erred in its interpretation of the facts presented by all parties on December 16, 2013 effectively reaffirming the decision made by the Director in his letter of November 26, 2013; and
- b. The Director correctly interpreted the LDRs, Chapter 103, Article 3, Table 103.15.1 and Chapter 104, Article 1, Section 104.27 in his determination that the operation of a Construction and Demolition Debris Transfer Facility was and is not a permitted-use under the LDRs; and
- c. Therefore, the Appellant adequately demonstrated an error on the part of the Commission, as promulgated in Commission Resolution 2014-01, in its decision to overturn the decision of the Director in his denial of Permit Nos. P2013-0546 and P2013-1848.
- d. The Council hereby approves the Appeal requested by Marv Schindler on behalf

- e. of the Stirrup Key Homeowners Association; and
The Council afforded the Appellant and all parties due process during the Appeal hearing of April 22, 2014, the essential requirements of law were adhered to and competent and substantial evidence was presented.

Section 3. The City Council reverses findings of the Commission set forth in Commission Resolution 2014-001 and hereby denies the requests for permits as inconsistent with the City's LDRs and Comprehensive Plan.

Section 4. This resolution shall take effect immediately upon its adoption and shall be filed with the City Clerk.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 8th DAY OF JULY 2014.

CITY OF MARATHON, FLORIDA



Dick Ramsay, Mayor

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

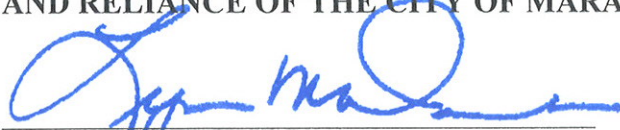
ATTEST:



Diane Clavier, City Clerk

(Seal)

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



City Attorney