

**CITY OF MARATHON, FLORIDA
RESOLUTION 2014-074**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING THE REQUEST BY JOJO'S OF THE FLORIDA KEYS, LLC AND NOMAD OUTFITTER'S LLC FOR A CONDITIONAL USE PERMIT, PURSUANT TO CHAPTER 102, ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (CODE) ENTITLED "CONDITIONAL USE PERMITS", AUTHORIZING THE REDEVELOPMENT OF A MIXED USE PROJECT CONSISTING OF FOURTEEN (14) SINGLE FAMILY RESIDENCES, A CONVENIENCE STORE WITH FUEL, AND A MARINA AT THE PROPERTY LOCATED AT 59720 AND 59740 OVERSEAS HIGHWAY, OCEAN, NEAREST MILE MARKER 60, WHICH IS LEGALLY DESCRIBED AS PART OF GOVERNMENT LOT 5, GRASSY KEY, SECTION 20, TOWNSHIP 65, RANGE 34, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBERS 00100110-000000, 00100110-000200, 00100110-000300, AND 00100130-000000.

WHEREAS, JoJo's / Nomad Outfitters, (The "Applicant") filed an Application on May 5, 2014 for a Conditional Use Permit and Development Agreement pursuant to Chapter 102, Articles 13 and 8 respectively of the City of Marathon Land Development Regulations (LDRs); and

WHEREAS; the Applicant proposes to redevelop the existing project site by creating fourteen (14) single family residences, a convenience store with fuel, and a marina; and

WHEREAS, City staff reviewed the Applicant's request for a Conditional Use Permit and Development Agreement 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 16th day of June, 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, and on the 8th day of July, 2014 and the 22nd day of July, 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 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 2014-05, a copy of which is attached hereto as Exhibit "A", granting a Conditional Use Permit to JoJo's of the Florida Keys, LLC and Nomad Outfitters 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.

PASSED AND APPROVED by the City Council of the city of Marathon, Florida, this 22nd day of July, 2014.

THE CITY OF MARATHON, FLORIDA



Dick Ramsay, Mayor

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

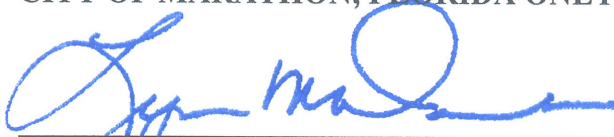
ATTEST:



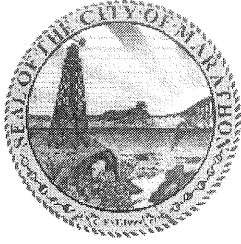
Diane Clavier, City Clerk

(City Seal)

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



Lynn M. Dannheisser, City Attorney



CITY OF MARATHON, FLORIDA
CONDITIONAL USE
DEVELOPMENT ORDER # 2014-05

A DEVELOPMENT ORDER APPROVING THE CONDITIONAL USE APPLICATION SUBMITTED BY JOJO'S OF THE FLORIDA KEYS, LLC AND NOMAD OUTFITTER'S LLC FOR A CONDITIONAL USE PERMIT, PURSUANT TO CHAPTER 102, ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (CODE) ENTITLED "CONDITIONAL USE PERMITS", AUTHORIZING THE REDEVELOPMENT OF A MIXED USE PROJECT CONSISTING OF FOURTEEN (14) SINGLE FAMILY RESIDENCES, A CONVENIENCE STORE WITH FUEL, AND A MARINA AT THE PROPERTY LOCATED AT 59720 AND 59740 OVERSEAS HIGHWAY, OCEAN, NEAREST MILE MARKER 60, WHICH IS LEGALLY DESCRIBED AS PART OF GOVERNMENT LOT 5, GRASSY KEY, SECTION 20, TOWNSHIP 65, RANGE 34, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBERS 00100110-000000, 00100110-000200, 00100110-000300, AND 00100130-000000.

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WHEREAS, City staff reviewed the Applicant's request for a Conditional Use Permit and Development Agreement 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

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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, and

WHEREAS, the Council has duly considered the recommendation of the Commission, and the information and documentary evidence submitted by JoJo's of the Florida Keys, LLC and Nomad Outfitters LLC. and does hereby find and determine as provided below.

FINDINGS OF FACT:

1. The applicant will redevelop the existing project site by creating fourteen (14) single family residences, a 2,400 square foot convenience store with fuel, and a marina / boat ramp with approximately 590 linear feet of dockage. 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) The applicant must provide plans for an approvable wastewater conveyance system to be connected to the City's Sewer prior to the issuance of any building permits under the Conditional Use Permit approval;
- 2) The applicant must provide final plans for an approvable stormwater management system prior to the issuance of any permits under the Conditional Use Permit;
- 3) The applicant must execute a Unity of Title, retaining separate title between JoJo's and Nomad, combining all parcels, which must be approved by the City Attorney and recorded in the Official Records of the Monroe County Clerk of Courts prior to building permit application;
- 4) The applicant must comply with all comments & or conditions set out in the City TRC comment letter dated May 27, 2014; most already responded to;
- 5) The applicant will obtain site plan approval of the following from the Director and necessary City Departments prior to issuance of building permits:
 - o Final landscaping, open space, buffering, setbacks, restoration/mitigation plans (native vegetation subject to restoration/mitigation) and lighting plans in coordination with the Director and City Biologist prior to building permit approval; and
 - o The applicant will provide fire protection plans in accordance with fire protection requirements as established by the City Fire Marshal and as otherwise identified in the TRC comments; and
 - o The applicant will meet all floodplain related requirements as set out in the LDRs; and
 - o The applicant will obtain the City Engineer's approval of final stormwater plans subject to the requirements of the LDRs and as otherwise identified in the TRC comments prior to the issuance of building permits.
 - o The applicant will be required to connect to the City of Marathon wastewater collection and treatment system prior to the issuance of a Certificate of Occupancy.;

- 6) The applicant will obtain all required permits for any signs erected on the property, as required under the Code;
- 7) The applicant will obtain any required permits and permissions from SFWMD and FDOT, ACOE and any other applicable agency(s) prior to issuance of building permits;
- 8) Final Technical Review / Site Plan approval will constitute the Certificate of Concurrence for the project. The determination will be valid for one year subject to an option for a one year extension - Conditional Use Permit only. The determination will be valid for a period of 7 years – Development Agreement only.

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.

7/24/14
Date

George Garrett
George Garrett
Director of Planning

This Development Order was filed in the Office of the City Clerk of this 24 day of July 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.

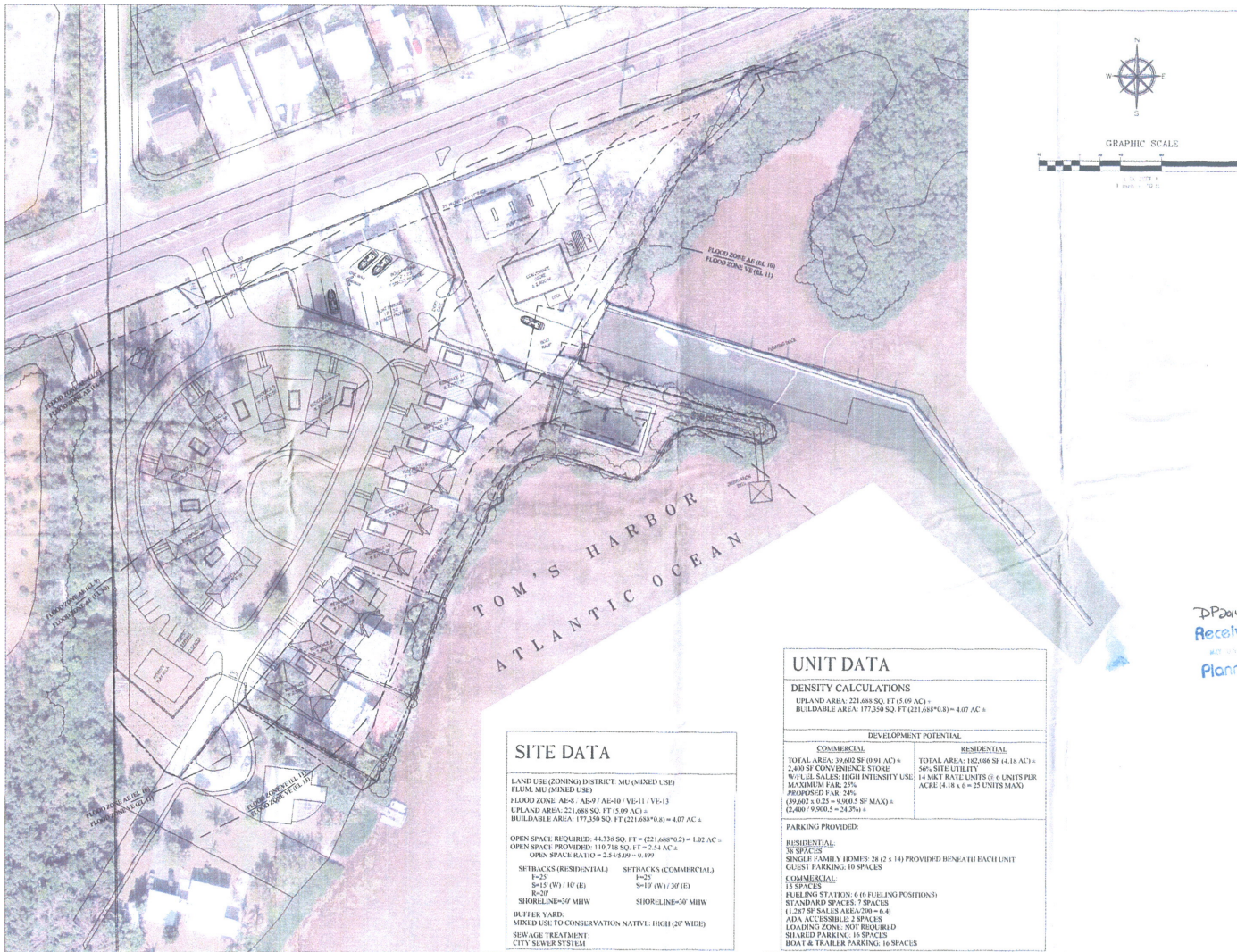
CERTIFICATE OF SERVICE

A true and correct copy of the above and foregoing Resolution was furnished, via U.S. certified mail, return receipt requested, addressed to John J. Wolfe, P.A., 2955 Overseas Hwy this 24th day of July, 2014. Marathon, FL 33050

Diane Clavier

Diane Clavier City Clerk

EXHIBIT A



SITE DATA

LAND USE (ZONING) DISTRICT: MU (MIXED USE)
 FLUM. MU (MIXED USE)
 FLOOD ZONE: AE-8 AE-9 AE-10 VE-11 VE-13
 UPLAND AREA: 221,688 SQ. FT (5.09 AC.)
 BUILDABLE AREA: 177,350 SQ. FT (21,688*0.8) = 4.07 AC. ±

OPEN SPACE REQUIRED: 44,338 SQ. FT = (221,688*0.2) = 1.02 AC. ±
 OPEN SPACE PROVIDED: 110,718 SQ. FT = 2.54 AC. ±
 OPEN SPACE RATIO = 2.54/5.09 = 0.499

SFTRACKS (RESIDENTIAL) SFTRACKS (COMMERCIAL)
 1=25' 1=25'
 8=15' (W) / 10' (E) 8=10' (W) / 30' (E)
 8=20' SHORELINE=30' MHW SHORELINE=30' MHW

BUFFER YARD
 MIXED USE: TO CONSERVATION NATIVE: 100' (20' WIDE)
 SEWAGE TREATMENT
 CITY SEWER SYSTEM

UNIT DATA

DENSITY CALCULATIONS
 UPLAND AREA: 221,688 SQ. FT (5.09 AC.)
 BUILDABLE AREA: 177,350 SQ. FT (21,688*0.8) = 4.07 AC. ±

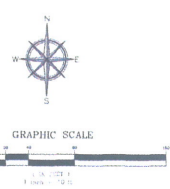
DEVELOPMENT POTENTIAL

COMMERCIAL	RESIDENTIAL
TOTAL AREA: 39,602 SF (0.91 AC.) ±	TOTAL AREA: 182,866 SF (4.18 AC.) ±
2,400 SF CONVENIENCE STORE	50% SITE UTILITY
W/1.6L SALES: HIGH INTENSITY USE	14 MKT RATE UNITS @ 6 UNITS PER ACRE (4.18 A. @ 25 UNITS MAX)
MAXIMUM FAR: 25%	
PROPOSED FAR: 24%	
(39,602 * 0.25) = 9,900.5 SF MAX	
(0.80) * 9,900.5 = 7,920.4	

PARKING PROVIDED:

RESIDENTIAL:
 38 SPACES
 SINGLE FAMILY HOMES: 28 (2 x 14) PROVIDED BENEATH EACH UNIT
 GUEST PARKING: 10 SPACES

COMMERCIAL:
 13 SPACES
 FUELING STATION: 6 (6 FUELING POSITIONS)
 STANDARD SPACES: 7 SPACES
 11,207 SF SALES AREA (200' x 64)
 ADA ACCESSIBLE: 2 SPACES
 LOADING ZONE: NOT REQUIRED
 SHIELD PARKING: 16 SPACES
 BOAT & TRAILER PARKING: 16 SPACES



North Engineering LLC
 2017 Frank Road, Suite 200
 Key West, Florida 33005
 305.834.1234 FAX 305.834.1235
 www.northeng.com

Scale:

RICHARD A. BIELLI
 PE #88310

Owner:
 JOJO'S OF THE FLORIDA KEYS
 AND NOMAD OUTFITTERS
 89720 19750 OVERSEAS HWY
 CRANSTON, FL, FLORIDA

Drawn By: [Blank] Checked By: [Blank]
 Date: [Blank] Scale: [Blank]
 Project No: [Blank] App. No: [Blank]
 AutoCAD File No: [Blank]

Revision:
 1. [Blank]
 2. [Blank]
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Title:
 PROPOSED
 SITE
 PLAN

Sheet Number:
C-1.0

Date: APRIL 29, 2014

DP2014-0027
 Received
 4/29/14
 Planning