

**CITY OF MARATHON, FLORIDA
RESOLUTION 2015- 31**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING THE REQUEST BY ELITE SKY HOLDINGS, 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 TRAP STORAGE AND REPAIR, SUBJECT TO CONDITIONS IMPOSED, FOR PROPERTY LOCATED AT 1100 OVERSEAS HIGHWAY, WHICH IS LEGALLY DESCRIBED AS PART OF GOVERNMENT LOT 1, PART OF STATE ROAD 5, PART OF PARCEL 17 AND ½ PARCEL 16, SECTION 08, TOWNSHIP 66S, RANGE 32E, HOG KEY, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBER 00101780-000000.

WHEREAS, Elite Sky Holdings, LLC, (The “Applicant”) filed an Application on December 24, 2014 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 an existing seafood processing facility and proposes to allow trap storage and repair; 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 16th day of March, 2015, 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, and on the 24th day of March, 2015, 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 redevelopment of commercial 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:

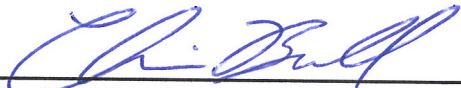
Section 1. The above recitals are true and correct and incorporated herein.

Section 2. The City Council hereby approves Development Order 2015-01, a copy of which is attached hereto as Exhibit "A", granting a Conditional Use Permit to Elite Sky 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.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 24TH DAY OF MARCH, 2015.

THE CITY OF MARATHON, FLORIDA



Chris Bull, Mayor


AYES: Keating, Senmartin, Zieg, Bull
NOES: None
ABSENT: None
ABSTAIN: Kelly

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:



Dirk Smits, City Attorney



**CITY OF MARATHON, FLORIDA
CONDITIONAL USE
DEVELOPMENT ORDER # 2015-01**

A DEVELOPMENT ORDER APPROVING THE REQUEST BY ELITE SKY HOLDINGS, 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 TRAP STORAGE AND REPAIR, SUBJECT TO CONDITIONS IMPOSED, FOR PROPERTY LOCATED AT 1100 OVERSEAS HIGHWAY, WHICH IS LEGALLY DESCRIBED AS PART OF GOVERNMENT LOT 1, PART OF STATE ROAD 5, PART OF PARCEL 17 AND ½ OF PARCEL 16, SECTION 08, TOWNSHIP 66S, RANGE 32E, HOG KEY, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBER 00101780-000000.

WHEREAS, Elite Sky Holdings, LLC., (The “Applicant”) filed an Application on December 24th, 2014 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 an existing seafood processing facility and proposes to allow trap storage and repair; 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 6th day of March, 2015, the City of Marathon Technical Review Committee (the “TRC”) held 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, on the 16th day of March, 2015 and the 24th day of March, 2015, the Planning Commission (the “PC”) and 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 3 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 redevelopment of commercial properties in Marathon, and will further the health, safety and welfare of the residents of Marathon; and

WHEREAS, the Council has duly considered the recommendation of the PC, and the information

and documentary evidence submitted by Elite Sky Holdings, LLC, and does hereby find and determine as provided below.

FINDINGS OF FACT:

1. The Applicant has an existing seafood processing facility and proposes to allow trap storage and repair.
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) Trap storage shall be contained to designated area as shown in the attached site plan and shall be a minimum of 150 feet from the western property line and provide a minimum ten (10) foot setback from the inside of the existing fence and vegetative buffer on the eastern property line.
- 2) Trap Maintenance and Repair shall ONLY take place between dawn and dusk. No night time trap maintenance and repair.
- 3) Project design requires stormwater on the property as required by Code.
- 4) Exterior mangrove fringe to the west of the parcel to remain intact.
- 5) Debris from trap repair shall be properly disposed of at all times.
- 6) Existing trash receptacles shall be buffered from visibility as required by Code generally.
- 7) One designated employee/delivery parking spot is required.
- 8) One ADA parking with access path to pavement is required.
- 9) Fence on eastern part of property requires maintenance and must comply with code.
- 10) No traffic ingress or egress shall be allowed from 12th Street Gulf.
- 11) A minimum of four canopy trees and two understory trees are required along US 1 street frontage dependent on an inventory of the actual number of trees, understory trees, and shrubs on US 1.
- 12) A minimum of ten (10) canopy trees and understory trees are required along 12th Street, Gulf dependent on an inventory of the actual number of trees, understory trees, and shrubs on US 1.
- 13) Planted trees must meet the requirements stated in the code of ordinances and will be approved by the city for species and size.
- 14) Should any planted trees die, they must be replaced accordingly with a plant of similar species and size.
- 15) The applicant will obtain approval of final landscaping and mitigation plans (as needed) in coordination with the City Biologist prior to building permit issuance;
- 16) 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.

3/25/2015
Date

George Garrett
George Garrett
Director of Planning

This Development Order was filed in the Office of the City Clerk of this 25 day of March, 2015.

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 1100 Overseas Hwy., Marathon, FL,
this 25 day of March, 2015. 33050

Diane Clavier

Diane Clavier, City Clerk