

Sponsored by: Hernstadt
Public Hearing Dates: May 6, 2013
May 14, 2013
Enactment Date: May 28, 2013

CITY OF MARATHON, FLORIDA
RESOLUTION 2013-41

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING THE REQUEST BY FLORIDA KEYS LAND AND SEA TRUST, INC. FOR A CONDITIONAL USE PERMIT, PURSUANT TO CHAPTER 102, ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS ENTITLED "CONDITIONAL USE PERMITS", AUTHORIZING A PASSIVE RECREATIONAL USE FOR PROPERTY LOCATED AT 5550 OVERSEAS HIGHWAY, NEAREST MILE MARKER 50, HAVING REAL ESTATE NUMBER 00103760-000000; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the purpose of the conditional use process is to provide the general public and neighboring community with the opportunity to review and comment on proposed development which may have potential impacts beyond the limits of the project boundaries; and

WHEREAS, on the 6th day of May, 2013, the City of Marathon Planning Commission and on the 14th day of May, 2013 the City Council conducted properly advertised public hearings regarding the request submitted by Florida Keys Land and Sea Trust, Inc., for a conditional use permit pursuant to Chapter 102, of the Marathon Land Development Regulations; and

WHEREAS, review and approval of the proposed project with conditions imposed is consistent with the City of Marathon Comprehensive Plan and Land Development Regulations,

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. Development Order 2013-01 granting a Conditional Use Permit to the Applicant, a copy of which is attached and incorporated herein as Exhibit "A," is hereby approved

Section 3. This Resolution shall be effective immediately upon adoption by the City Council, except that the effective date of the Development Order approved by this Resolution shall be in accordance with 73C-44.003, *Florida Administrative Code*. No development orders, development permits, or land uses dependent on such Development Order contained herein may be issued or commenced before the effective date of the Development Order.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 28th DAY OF MAY, 2013.

THE CITY OF MARATHON, FLORIDA



Mike Cinque, Mayor

AYES: Snead, Ramsay, Bull, Cinque
NOES: Keating
ABSENT: None
ABSTAIN: None

ATTEST:



Diane Clavier, City Clerk

(City Seal)

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



City Attorney



**CITY OF MARATHON, FLORIDA
CONDITIONAL USE
DEVELOPMENT ORDER No. 2013-01**

A DEVELOPMENT ORDER APPROVING THE REQUEST BY FLORIDA KEYS LAND AND SEA TRUST, INC. FOR A CONDITIONAL USE PERMIT, PURSUANT TO CHAPTER 102, ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS ENTITLED “CONDITIONAL USE PERMITS”, AUTHORIZING A PASSIVE RECREATIONAL USE FOR PROPERTY LOCATED AT 5550 OVERSEAS HIGHWAY, NEAREST MILE MARKER 50, HAVING REAL ESTATE NUMBER 00103760-000000, WHICH IS LEGALLY DESCRIBED IN THE WARRANTY DEED ATTACHED HERETO AS “EXHIBIT A”; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the purpose of the conditional use process is to provide the general public and the neighboring community with the opportunity to review and comment on proposed development which may have potential impacts beyond the limits of the project boundaries; and

WHEREAS, on the 6th day of May, 2013, the City of Marathon (the “City”) Planning Commission (the “Commission”) and on the 14th day of May, 2013 the City Council (the “Council”) conducted properly advertised public hearings (the “Public Hearings”) regarding the request submitted by Florida Keys Land and Sea Trust, Inc. (the “Applicant”), for a conditional use permit pursuant to Chapter 102, of the Marathon Land Development Regulations (the LDRs); and

WHEREAS, review and approval of the proposed project with conditions imposed is consistent with the City of Marathon Comprehensive Plan and LDRs,

WHEREAS, the Applicant is the owner of the Property and applied for a Conditional Use approval to permit a passive recreational use on property located in the Conservation (CON) future land use district and Conservation- Native Area (C-NA) zoning district (the “Application”); and

WHEREAS, the Commission, in accordance with the provisions of Sections 101.02 and 102.75 of the LDRs, met to review the Application to determine its compliance with the applicable regulations on May 6, 2013; and

WHEREAS, the Commission recommended approval of the Application to the Council, subject to conditions; and

WHEREAS, the Council, in accordance with the provisions of Sections 101.01 and 102.76 of the LDRs, met to review the Application to determine its compliance with the applicable

regulations on May 14th, 2013; and

WHEREAS, the Council has duly considered the recommendation of the Commission, the information and documentary evidence submitted and does hereby find and determine as provided below.

FINDINGS OF FACT:

1. The Applicant is proposing a passive recreational use at property located at 5550 Overseas Highway.
2. The subject property is described in Exhibit “A.”
3. In accordance with Section 102.77 of the LDRs, the Commission and Council considered and determined that 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 will 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:
 - i. 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;
 - ii. Off-street parking and loading areas where required, with particular attention to Subsection 1. above;
 - iii. The noise, glare or odor effects of the conditional use on surrounding properties;
 - iv. Refuse and service areas, with particular reference to location and screening;
 - v. Utilities, with reference to location and availability;
 - vi. Screening and buffering with reference to type, dimensions and character;

- vii. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety and compatibility with surrounding properties;
- viii. Required yards and other open space;
- ix. General compatibility with surrounding properties; and
- x. Any special requirements set forth in the LDRs for the particular use involved.
 - 1. Section 104.44 Parks and Recreation Facilities.
 - 2. Section 109.03 Remedies and Enforcement Powers
 - 3. Chapter 106, Article 5- Historic Structures and Sites

CONDITIONS IMPOSED:

1. Detailed vegetation and tree survey at each development site to be submitted prior to issuance of any building permit:
 - a. Survey area to coincide with extents of vegetation clearing (Sheet C-1, Preliminary Civil Package)
 - b. Compliance with Chapter 106, Article 2 of the LDRs
 - c. Compliance with all applicable Species Assessment Guides and coordination with USFWS.
2. Removal of invasive exotics plants from the following areas, whenever feasible with removal to be completed prior to final inspection/issuance of any Certificate of Occupancy or Use:
 - a. Survey area to coincide with extents of vegetation clearing (Sheet C-1, Preliminary Civil Package)
 - b. All foot paths included in the Tour route (10 feet from both sides of path)
 - c. Immediate vicinity of the Cracker House and Adderly House, and
 - d. Existing and proposed parking areas and 15' buffer thereof.
3. Sky bridge widths shall not exceed a width of 4 feet (Policy 4-1.4.11).
4. All necessary external agency permits shall be required prior to final inspection/issuance of any Certificate of Occupancy or Use.
5. Trimming of trees shall be completed by a certified Arborist and will utilize Best Management Practices in accordance with Arborist Standards.
6. All development activities shall comply with Section 106.63 of the LDRs.

7. Any necessary mitigation shall be in accordance with Chapter 106, Article 2, Article 4 and Section 106.64 of the LDRs as well as approval of the Director.
8. The Applicant shall submit an acceptable Management Plan in accordance with Chapter 106, Article 8 and Article 9 of the LDRs. A Conservation Easement shall be required and recorded prior to issuance of any building permit. The Conservation Easement shall include a use restriction limiting all future development and use of the property accessory and subordinate to the existing structures and uses. The form of the Conservation Easement shall be reviewed and approved by the City Attorney before it is recorded in the Public Records of Monroe County by the Applicant.
9. Apply for and obtain a permit for sewer lateral installation, and abandonment of existing system.
 - a. Make appropriate connections with inspections prior to final inspection/issuance of any Certificate of Occupancy or Use.
 - b. Implement historic and archaeological site surveys and preservation plans consistent with the LDRs and the proposed development of the property in cooperation with Dept. of State, Division of Historical Resources. The extent of surveys shall, at a minimum, coincide with extent of required vegetation clearing.
12. The Conditional Use (Eco-Adventure Canopy Tour) shall not be operated before 8 a.m. or after 6 p.m. EST.
13. The Conditional Use approved under this Application (Eco-Adventure Canopy Tour) shall comply with all applicable ADA requirements. The Applicant shall also prepare and implement an ADA Transition Plan for the existing improvements, programs and uses at the property prior to final inspection/issuance of any Certificate of Occupancy or Use.

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 Development Order, LDRs or Code. Failure to adhere to the terms and conditions of approval contained herein is a violation of the LDRs and 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 LDRs, and will not be detrimental to the community as a whole; and
2. In rendering its decision, as reflected in this Development Order, 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 only become effective in accordance with 73C-44.003, Florida Administrative Code. No development orders, development permits, or land uses dependent on this Development Order may be issued or commenced before the effective date.

5/31/2013
Date

George Garrett
George Garrett
Planning Director

This Development Order was filed in the Office of the City Clerk of this 31 day of May, 2013.

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 these 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 and Development Order was furnished, via U.S. certified mail, return receipt requested, addressed to Crane Point Museum and Nature Center; 5550 Overseas Hwy. Marathon, FL 33050, this 3rd day of May, 2013.



Diane Clavier City Clerk

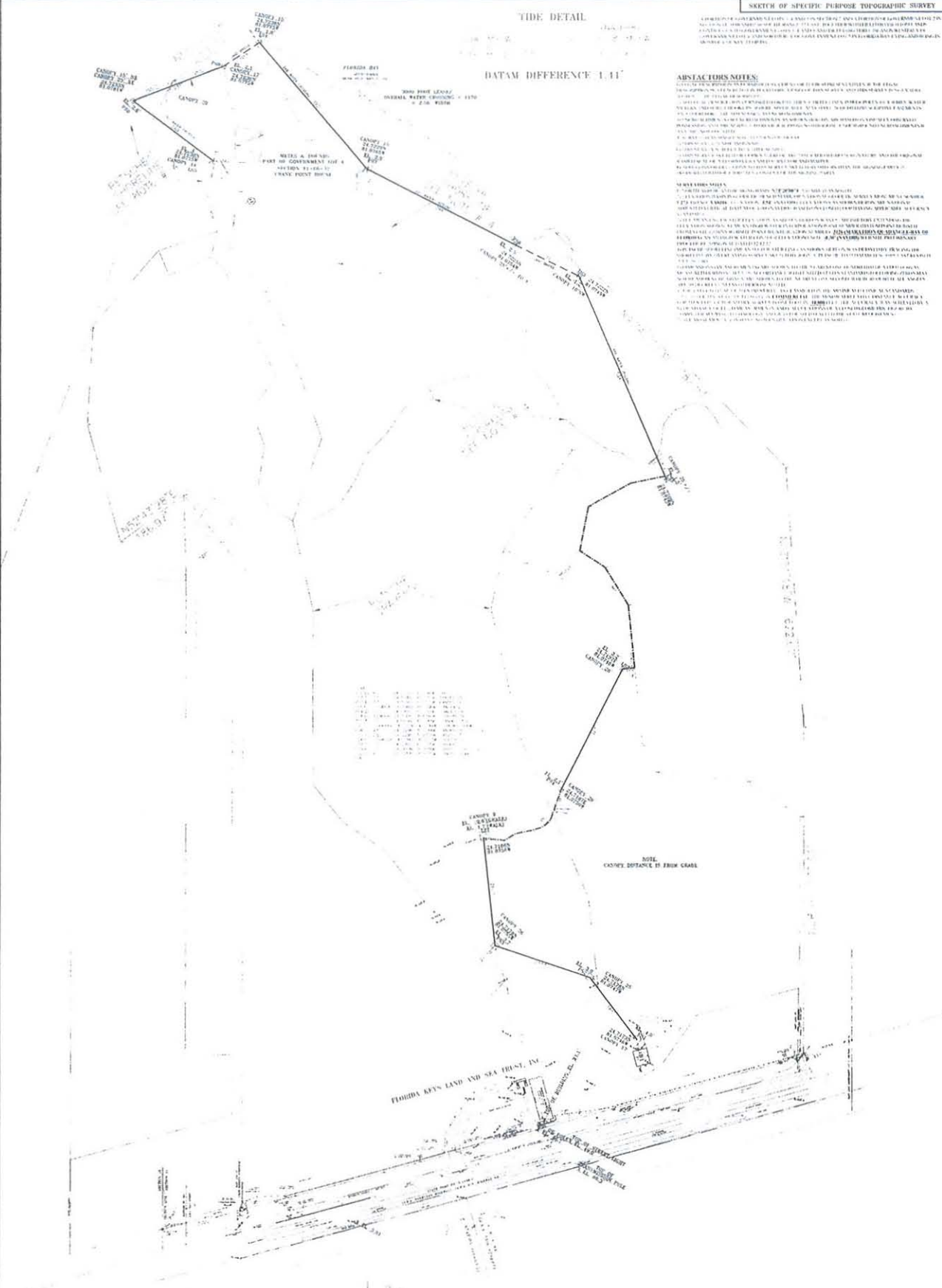
EXHIBIT A

TIDE DETAIL

SKETCH OF SPECIFIC PURPOSE TOPOGRAPHIC SURVEY

THIS SURVEY WAS CONDUCTED BY THE FLORIDA DEPARTMENT OF REVENUE AND IS NOT GUARANTEED TO BE ACCURATE OR COMPLETE. THE FLORIDA DEPARTMENT OF REVENUE IS NOT RESPONSIBLE FOR ANY ERRORS OR OMISSIONS IN THIS SURVEY.

DATUM DIFFERENCE 1.11'



ABSTRACT NOTES:
1. THIS SURVEY WAS CONDUCTED FOR THE PURPOSE OF IDENTIFYING THE BOUNDARY OF THE PARCEL SHOWN HEREON AND FOR THE PURPOSE OF IDENTIFYING THE BOUNDARY OF THE PARCEL SHOWN HEREON AND FOR THE PURPOSE OF IDENTIFYING THE BOUNDARY OF THE PARCEL SHOWN HEREON.
2. THE SURVEY WAS CONDUCTED BY THE FLORIDA DEPARTMENT OF REVENUE AND IS NOT GUARANTEED TO BE ACCURATE OR COMPLETE. THE FLORIDA DEPARTMENT OF REVENUE IS NOT RESPONSIBLE FOR ANY ERRORS OR OMISSIONS IN THIS SURVEY.
3. THE SURVEY WAS CONDUCTED BY THE FLORIDA DEPARTMENT OF REVENUE AND IS NOT GUARANTEED TO BE ACCURATE OR COMPLETE. THE FLORIDA DEPARTMENT OF REVENUE IS NOT RESPONSIBLE FOR ANY ERRORS OR OMISSIONS IN THIS SURVEY.
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ADDITIONAL NOTES:
1. THIS SURVEY WAS CONDUCTED FOR THE PURPOSE OF IDENTIFYING THE BOUNDARY OF THE PARCEL SHOWN HEREON AND FOR THE PURPOSE OF IDENTIFYING THE BOUNDARY OF THE PARCEL SHOWN HEREON AND FOR THE PURPOSE OF IDENTIFYING THE BOUNDARY OF THE PARCEL SHOWN HEREON.
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ABBREVIATIONS

AKA	ADDITIONAL KNOWN ADDRESS
AS	AS SHOWN ON RECORD
BL	BENCH MARK
CA	CORNER
CH	CHANGING POINT
CL	CURB LINE
CO	CORNER
CP	CORNER POINT
CR	CORNER
CS	CORNER
CT	CORNER
CU	CORNER
CV	CORNER
CA	CORNER
CB	CORNER
CC	CORNER
CD	CORNER
CE	CORNER
CF	CORNER
CG	CORNER
CH	CORNER
CI	CORNER
CJ	CORNER
CK	CORNER
CL	CORNER
CM	CORNER
CN	CORNER
CO	CORNER
CP	CORNER
CQ	CORNER
CR	CORNER
CS	CORNER
CT	CORNER
CU	CORNER
CV	CORNER
CA	CORNER
CB	CORNER
CC	CORNER
CD	CORNER
CE	CORNER
CF	CORNER
CG	CORNER
CH	CORNER
CI	CORNER
CJ	CORNER
CK	CORNER
CL	CORNER
CM	CORNER
CN	CORNER
CO	CORNER
CP	CORNER
CQ	CORNER
CR	CORNER
CS	CORNER
CT	CORNER
CU	CORNER
CV	CORNER

LEGEND

—	SURVEY LINE
---	PROPERTY LINE
- - -	UNDEVELOPED AREA
...	WATER
.....	RAILROAD
---	ROAD
---	ALLEY
---	TRAIL
---	DRIVEWAY
---	WALKWAY
---	STAIRWAY
---	ELECTRIC LINE
---	TELEPHONE LINE
---	CABLE TV LINE
---	SEWER LINE
---	WATER LINE
---	PLUMBING LINE
---	MECHANICAL LINE
---	AC LINE
---	HEATING LINE
---	Cooling Line
---	Gas Line
---	Oil Line
---	Propane Line
---	Natural Gas Line
---	Electric Line
---	Telephone Line
---	Cable TV Line
---	Sewer Line
---	Water Line
---	Plumbing Line
---	Mechanical Line
---	AC Line
---	Heating Line
---	Cooling Line
---	Gas Line
---	Oil Line
---	Propane Line
---	Natural Gas Line



NOT VALID WITHOUT SIGNATURE AND THE ORIGINAL SHOULD BE IN A LICENSED LICENSE SURVEYOR'S HANDS

[Signature]

FLORIDA DEPARTMENT OF REVENUE
1901 N.W. 12TH AVENUE, SUITE 200
MIAMI, FL 33136
TEL: 305-375-1000
WWW.FRD.FL.GOV

THE SURVEY DEPICTED HERE IS NOT COVERED BY PROFESSIONAL LIABILITY INSURANCE