

**CITY OF MARATHON, FLORIDA
RESOLUTION 2021-75**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING THE REQUEST BY FLORIDA KEYS ANIMAL ENCOUNTERS, LLC FOR A CONDITIONAL USE PERMIT PURSUANT TO CHAPTER 102 ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (LDRS) ENTITLED “CONDITIONAL USE PERMITS”, FOR THE EXPANSION OF THE PREVIOUSLY APPROVED SEA LIFE AMUSEMENT PARK AND A MARINE EDUCATIONAL FACILITY, TO INCLUDE A WAREHOUSE, OFFICE, AND LAB SPACE NOT TO EXCEED 30,400 SQUARE FEET, AT 11710 OVERSEAS HIGHWAY, AND LEGALLY DESCRIBED AS PART OF GOVERNMENT LOT 4, SECTION 5, TOWNSHIP 66 SOUTH, RANGE 33 EAST, KEY VACCAS, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBER 00104130-000000.

WHEREAS, Florida Keys Animal Encounters LLC. (The “Applicant”) filed an Application on March 22, 2021 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 proposed redevelopment of an Marine Life facility to include warehouse, office space and laboratory; 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 17th day of May, 2021, and the 16th day of August, 2021, 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 14th day of September, 2021, 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 development of residential 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 2021-06, a copy of which is attached hereto as Exhibit "A", granting a Conditional Use Permit to Florida Keys Animal Encounters 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 14TH DAY OF SEPTEMBER, 2021.

THE CITY OF MARATHON, FLORIDA



Luis Gonzalez, Mayor

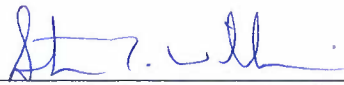
AYES: Zieg, Cook, Bartus, Senmartin, Gonzalez
NOES: None
ABSENT: None
ABSTAIN: None

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:



Steven T. Williams, City Attorney



**CITY OF MARATHON, FLORIDA
CONDITIONAL USE
DEVELOPMENT ORDER # 2021-06**

A DEVELOPMENT ORDER APPROVING THE REQUEST BY FLORIDA KEYS ANIMAL ENCOUNTERS, LLC FOR A CONDITIONAL USE PERMIT PURSUANT TO CHAPTER 102 ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (LDRS) ENTITLED “CONDITIONAL USE PERMITS”, FOR THE EXPANSION OF THE PREVIOUSLY APPROVED SEA LIFE AMUSEMENT PARK AND A MARINE EDUCATIONAL FACILITY, TO INCLUDE A 15,200 SQUARE FOOT WAREHOUSE, OFFICE, AND LAB SPACE, AT 11710 OVERSEAS HIGHWAY, AND LEGALLY DESCRIBED AS PART OF GOVERNMENT LOT 4, SECTION 5, TOWNSHIP 66 SOUTH, RANGE 33 EAST, KEY VACCAS, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBER 00104130-000000..

WHEREAS, Florida Keys Animal Encounters LLC (The “Applicant”) filed an Application on March 22, 2021 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 proposed redevelopment of an Marine Life facility to include warehouse, office space and laboratory; 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 17th day of May, 2021, and the 16th day of August, 2021, 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 8th day of June, 2021, 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 development of residential 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 the applicant, and does hereby find and determine as provided below.

FINDINGS OF FACT:

1. The Applicant has proposed redevelopment of the Marine Life facility to include warehouse, office space and laboratory; on developed land as shown in Exhibit 1.
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) A CBPAS allocation for 24,806 square feet must be obtained prior to development of the second building;
- 2) Must meet all conditions of the Fire Marshal prior to permit issuance.
- 3) A conservation easement in a form approved by the City Attorney must be provided for the wetland area.
- 4) City approval is required for the stormwater management system prior to building permit approval.
- 5) Protection of the wetland area shall be assured through a conservation easement recorded in the public records of Monroe County, Florida, pursuant to Chapter 106, Article 8 – “Conservation Management Areas”.
- 6) To reduce further impact potential to the wetlands for this setback reduction Staff is recommending a six-foot-high fence or wall, between the development and the wetlands. The height of the wall as measured from the improved grade would ensure that human encroachment is less likely to occur.
- 7) Transplantation shall be the priority mitigation plan for the native vegetation in the low-quality hammock per Section 106.09.
- 8) Staff requires that upon planning review, 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) Applicant will expand the width of the access road to the greatest extent practicable. Should the expansion be denied by any agency, the denial shall be documented, and the condition shall be severable and not affect any other term or condition of the conditional use approval.
- 10) The applicant will meet all floodplain related requirements as part of the building permit process.
- 11) Every off-street loading and unloading space shall have direct access to a public street or alley, and shall have the following minimum dimensions: length, 30 feet; width, 12 feet; height, 14 feet of unobstructed vertical clearance.
- 12) Any loading space located within 100 feet of areas zoned for residential use shall be screened and operated as necessary to reduce noise and visual impacts. Noise mitigation measures may include architectural or structural barriers, beams, walls, or restrictions on the hours of operation.
- 13) Final site plan must show screened dumpster enclosure prior to permit issuance.
- 14) City approval is required for the stormwater management system prior to building permit approval.
- 15) City approval of the connection to the city wastewater utility will be required.
- 16) The Conditional Use Development Order will constitute the Certificate of Concurrency for the project. The determination will be valid for one year.
- 17) A Final Landscape Plan must be submitted showing the proper treatments and buffers, including the appropriate treatment types and trees.

- 18) A Final Site Plan must be submitted showing the buildings meeting the required setbacks, parking locations, and access drives.
- 19) All signs will be reviewed and approved for compliance with the City of Marathon LDR's.
- 20) A final lighting plan must be submitted prior to permit issuance.
- 21) The applicant will obtain any required permits from SFWMD, DEP, and ACOE prior to building permit issuance.
- 22) Easement for ingress and egress shall not be impeded nor impaired.

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.

9/22/21
Date



Brian Shea
Director of Planning

This Development Order was filed in the Office of the City Clerk of this 28 day of September, 2021.

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 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 Florida Keys Animal Encounters LLC, 11710 Overseas Hwy Marathon FL, 33050, this 22 day of September, 2021.

Diane Clavier

Diane Clavier, City Clerk

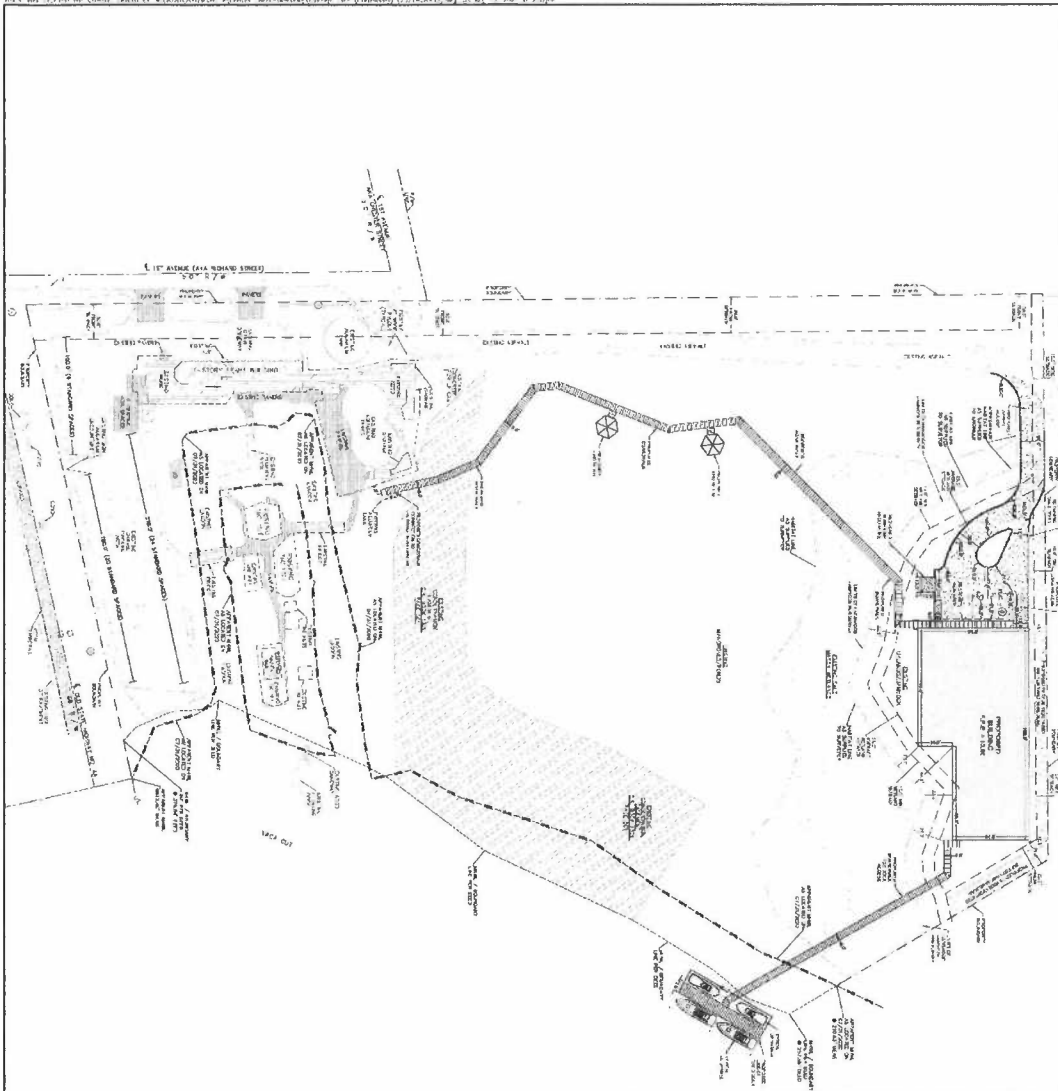


Exhibit 1

LEGEND

	10' Wide Path
	6' Wide Path
	4' Wide Path
	2' Wide Path
	1' Wide Path
	1/2' Wide Path
	3/4' Wide Path
	5/8' Wide Path
	7/8' Wide Path
	1' Wide Path
	1 1/8' Wide Path
	1 1/4' Wide Path
	1 1/2' Wide Path
	1 3/4' Wide Path
	1 7/8' Wide Path
	2' Wide Path
	2 1/8' Wide Path
	2 1/4' Wide Path
	2 1/2' Wide Path
	2 3/4' Wide Path
	2 7/8' Wide Path
	3' Wide Path
	3 1/8' Wide Path
	3 1/4' Wide Path
	3 1/2' Wide Path
	3 3/4' Wide Path
	3 7/8' Wide Path
	4' Wide Path
	4 1/8' Wide Path
	4 1/4' Wide Path
	4 1/2' Wide Path
	4 3/4' Wide Path
	4 7/8' Wide Path
	5' Wide Path
	5 1/8' Wide Path
	5 1/4' Wide Path
	5 1/2' Wide Path
	5 3/4' Wide Path
	5 7/8' Wide Path
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	6 1/4' Wide Path
	6 1/2' Wide Path
	6 3/4' Wide Path
	6 7/8' Wide Path
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	8 1/8' Wide Path
	8 1/4' Wide Path
	8 1/2' Wide Path
	8 3/4' Wide Path
	8 7/8' Wide Path
	9' Wide Path
	9 1/8' Wide Path
	9 1/4' Wide Path
	9 1/2' Wide Path
	9 3/4' Wide Path
	9 7/8' Wide Path
	10' Wide Path

PROPERTY AREA SUMMARY

Subtotal Area	141,719.2
Subtotal Area for Slab	141,719.2
Subtotal Area for Pavement	141,719.2
Subtotal Area for Gravel	141,719.2
Subtotal Area for Sand	141,719.2
Subtotal Area for Other	141,719.2

LOT COVERAGES SUMMARY

Lot 1	141,719.2
Lot 2	141,719.2
Lot 3	141,719.2
Lot 4	141,719.2
Lot 5	141,719.2
Lot 6	141,719.2
Lot 7	141,719.2
Lot 8	141,719.2
Lot 9	141,719.2
Lot 10	141,719.2
Lot 11	141,719.2
Lot 12	141,719.2
Lot 13	141,719.2
Lot 14	141,719.2
Lot 15	141,719.2
Lot 16	141,719.2
Lot 17	141,719.2
Lot 18	141,719.2
Lot 19	141,719.2
Lot 20	141,719.2
Lot 21	141,719.2
Lot 22	141,719.2
Lot 23	141,719.2
Lot 24	141,719.2
Lot 25	141,719.2
Lot 26	141,719.2
Lot 27	141,719.2
Lot 28	141,719.2
Lot 29	141,719.2
Lot 30	141,719.2

GENERAL INFORMATION

DATE: 08/13/2021
 PROJECT: FLORIDA KEYS AQUARIUM ENCOUNTERS
 CLIENT: FLORIDA KEYS AQUARIUM ENCOUNTERS
 LOCATION: 201 S. MARION AVE., SUITE 1306, PUNTA GORDA, FLORIDA 33950
 SCALE: 1" = 40'

DESIGNER: W&A ENGINEERING, INC.
 201 S. MARION AVE., SUITE 1306
 PUNTA GORDA, FLORIDA 33950
 888.555.1700

APPROVED: [Signature]
 DATE: 08/13/2021

OVERALL SITE CONCEPT PLAN
 for
FLORIDA KEYS AQUARIUM ENCOUNTERS