

**RESOLUTION NO. 2022-XX\_\_\_\_\_**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA GRANTING MAJOR DEVELOPMENT PLAN AND CONDITIONAL USE APPROVAL AT 1405 DUVAL STREET (RE# 00072082-001501) AND 1406 DUVAL STREET (RE# 00036370-000000) AND 508 SOUTH STREET (RE# 00036280-000000) FOR CONSTRUCTION OF A FLOATING SEAWEED BARRIER ANCHORED TO SUBMERGED LAND, ON PROPERTY LOCATED WITHIN THE HISTORIC COMMERCIAL TOURIST AND CONSERVATION-OUTSTANDING WATERS (HCT & C-OW) ZONING DISTRICTS; PURSUANT TO SECTION 108-91.A.2, SECTION 122-62 , AND SECTION 122-129 OF THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES OF THE CITY OF KEY WEST, FLORIDA, PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Section 108-91.A.2.(d) of the Code of Ordinances (the “Code”) of the City of Key West, Florida (the “City”) provides that within the Historic District, a Major Development Plan is required for any development located within tidal waters extending six hundred (600) feet seaward of the corporate city limits; and

**WHEREAS**, the request for Major Development Plan and Conditional Use approval is to construct a floating seaweed barrier anchored to submerged land on property located within the Historic Commercial Tourist and Conservation-Outstanding Waters (HCT & C-OW) zoning districts; and

**WHEREAS**, Code Section 108-196(a) requires the Planning Board to review and approve, approve with conditions, or deny the proposed Major Development Plan and Conditional Use in an advisory capacity to the City Commission; and

**WHEREAS**, this matter came before and was approved by the Planning Board at a duly noticed public hearing on August 18<sup>th</sup>, 2022; and

**WHEREAS**, the City Commission finds granting of this Major Development Plan and

Conditional Use application is consistent with the criteria of the Code of Ordinances; and

**WHEREAS**, the City Commission finds that the granting of a Major Development and Conditional Use application is in harmony with the general purpose and intent of the Land Development Regulations, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

**NOW THEREFORE**, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AS FOLLOWS:

**Section 1.** That the above recitals are incorporated by reference as if fully set forth herein.

**Section 2.** The Major Development Plan and Conditional Use to construct a floating seaweed barrier anchored to submerged land on property located at 1405 Duval Street (RE# 00072082-001501) and 1406 Duval Street (RE# 00036370-000000) and 508 South Street (RE# 00036280-000000) within the Historic Commercial Tourist and Conservation-Outstanding Waters (HCT & C-OW) zoning districts, pursuant to Section 108-91.A.2, Section 122-62, and Section 122-29 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida, as shown in the attached plans dated July 11, 2022, is hereby approved with the following conditions:

**General Conditions:**

1. The proposed construction shall be in substantial compliance with the site plans signed, sealed, and dated 7/11/2022 by Glen Boe and Associates, Inc. Construction drawings for permitting shall be dated as approved herein, with any proposed revisions (modifications) clearly noted and dated. Development plan modifications that do not rise to the status of minor or major plan modifications may be approved

by the city planner as per Section 108-91.C.1. All modifications shall be submitted for review and approval to the Planning Department prior to building permit application. Minor and major development plan modifications are addressed as per Section 108-91.C.

2. The outfall pipe location is approximate. Anchors on the side of the pier with the outfall may need to be adjusted to avoid impact to the pipe. The applicant shall advise their contractor to locate the outfall pipe and make adjustment to placement of the anchors to avoid damage to the outfall pipe.
3. All conditions listed on the FDEP and ACOE permits (when issued) shall be followed. ACOE permit is required prior to submittal of a building permit.
4. There are provisions of the USACE Weed Barrier Management Plan that address floating debris and seagrass removal from the barrier. The applicant shall coordinate with appropriate state and federal agencies to identify frequency of removal to ensure no impact to adjacent properties/shorelines from excess accumulations of floating debris/seagrass.
5. The applicant shall provide notice to the City of Key West City Manager's Office and to the Code Compliance Department of any complaints received associated with nuisance accumulation of floating debris/sargassum on adjacent properties attributable to the barrier. The barrier design and placement shall be modified in coordination with the City, and may include removal of the barrier, if impacts to surrounding properties or public areas are substantiated.
6. All materials associated with construction and placement of the barrier shall be

contained in an upland storage area. No materials shall be temporarily stored on the beach area near the shoreline.

7. Best management practices for erosion control and turbidity shall be followed. Any materials that accidentally fall into the water shall be immediately retrieved.
8. Endangered Species protective measures for manatees, sea turtles, and sawfish shall be followed.
9. The barrier, once installed, shall be inspected on a daily basis to insure there are no marine entanglements and all repairs that are required will be performed in a timely manner.
10. Monitoring for sea turtle nests shall be done during the turtle nesting season. Coordination with the local sea turtle club shall be initiated for the monitoring patrols and reports to the FWCC.

**Section 3.** This resolution does not constitute a finding as to ownership or right to possession of the property, and assumes, without finding, the correctness of applicant's assertion of legal authority respecting the property.

**Section 4.** This resolution shall go into effect immediately upon its passage and adoption and authentication by the signatures of the presiding officer and the Clerk of the Commission.

**Section 5.** This resolution is subject to appeal periods as provided by the City of Key West Code of Ordinances (including the Land Development Regulations). After the City appeal period has expired, this permit or development order shall be rendered to the Florida Department of Economic Opportunity. Pursuant to Chapter 73C-44, F.A.C., this permit or development order is not effective for 45 days after it has been properly rendered to the DEO with all exhibits and applications attached

to or incorporated by reference in this approval; that within the 45-day review period, the DEO can appeal the permit or development order to the Florida Land and Water Adjudicatory Commission; and that such an appeal stays the effectiveness of the permit until the appeal is resolved by agreement or order.

Read and passed on first reading at a regularly scheduled meeting held this 20<sup>th</sup> day of September 2022.

Authenticated by the presiding officer and Clerk of the Commission on September 20<sup>th</sup>, 2022.

Filed with the Clerk the \_\_\_\_ day of 2022.

Mayor Teri Johnston	_____
Commissioner Gregory Davila	_____
Commissioner Mary Lou Hoover	_____
Vice Mayor Sam Kaufman	_____
Commissioner Clayton Lopez	_____
Commissioner Billy Wardlow	_____
Commissioner Jimmy Weekley	_____

\_\_\_\_\_  
TERI JOHNSTON, MAYOR

ATTEST:

\_\_\_\_\_  
Cheryl Smith, City Clerk

\_\_\_\_\_  
Date