

CODE ENFORCEMENT SPECIAL MAGISTRATE
CITY OF MADEIRA BEACH

CITY OF MADEIRA BEACH,

CASE NUMBER: CE-22-0050

Petitioner,
vs.

DE CANDIDO, PATRICIA H TRE,
530 Lillian Dr.
Madeira Beach, FL 33708,

Respondent.

_____ /

FINDINGS OF FACT, CONCLUSION OF LAW AND ORDER IMPOSING FINE

THIS CAUSE came on to be heard for public hearing before the undersigned Special Magistrate on May 22, 2023, after due notice to the Respondent, and the Special Magistrate having heard testimony under oath, received evidence, and otherwise being fully advised in the premises, hereby finds as follows:

Findings of Fact:

1. The City was represented by the City Attorney, and Deputy Cory Snyder, provided testimony on behalf of the City.
2. Dominic Asterlita appeared on behalf of the Respondent.
3. Jeff Hughes provided public comment that the property was being used as a short term rental.
4. The property in question is located at 530 Lillian Dr., Madeira Beach, Florida 33708 ("Property"). The legal description for the Property is as follows:

CRYSTAL ISLAND 1ST ADD LOT 59

5. Proper notice was served upon the Respondent via certified mail, regular mail, posting or hand delivery in accordance with Chapters 162 and 166, Florida Statutes.
6. The Respondent was notified that Respondent was in violation of the following section of the Code of Ordinances of the City of Madeira Beach to wit:

Sec. 110-176. - Definition; purpose and intent.

The R-1, single-family residential district provides for single-family residential development located where lower density single-family uses are desirable. The R-1,

single-family residential district correlates with the residential urban (RU) category of the Countywide Plan. The lots and dwellings are larger sized to provide for the desired density of use. Essential services and public facilities compatible with this residential district are also provided. Any use which is not specifically identified as a permitted use, accessory use or special exception use is a prohibited use. Prohibited uses shall include, but are not limited to, short term rentals of a housing unit. As used in this division, the term "short term rental" shall mean any rental of a dwelling unit, or portion thereof, for less than a six-month period.

7. The violation set forth above existed as of the date of the Notice of Violation herein and at all times subsequent thereto up to the date of the Hearing.

BASED UPON THE FOREGOING FINDINGS OF FACT, IT IS HEREBY ORDERED AND ADJUDGED AS FOLLOWS:

1. The Respondent, and the Property at the above mentioned location, are found to be in violation of Section 110-176, of the Code of Ordinances of the City of Madeira Beach.

2. The Respondent has corrected the above stated by taking the remedial action as set forth, and stated on the record at the hearing, which is to stop short term rentals on the Property.

3. A fine shall be imposed in the amount of \$150.00 per day for the violation set forth in Paragraph 6 above for 22 days (March 9, 2023, to March 31, 2023), for a total amount of \$3,300.00.

4. The Special Magistrate does hereby retain jurisdiction over this matter to enter such other and further orders as may be just and proper.

DONE AND ORDERED this 8th day of June, 2022.



Bart R. Valdes
Special Magistrate

A true and correct copy of this Order was delivered by certified mail, regular mail and electronic mail to: **De Candidio, Patricia H Tre, 530 Lillian Dr., Madeira Beach, FL 33708; and 12521 Frank Dr. N., Seminole, FL 33776** by electronic mail to **Thomas Trask, Esq. (tom@cityattorneys.legal)**; and by U.S. Mail and e-mail transmission to the **City of Madeira Beach, Clara VanBlargan, 300 Municipal Dr., Madeira Beach, Florida 33708**, on this 8th day of June, 2023.



Bart R. Valdes

APPEALS

An aggrieved party, including the local governing body, may appeal a final administrative order of a Special Magistrate to the circuit court. Such an appeal shall not be a hearing de nova but shall be limited to appellate review of the record created before the Special Magistrate. An appeal shall be filed within 30 days of the execution of the order to be appealed. Ss. 162-11.

LOCAL GOVERNMENT VARIANCES, SPECIAL EXCEPTIONS USES
AND APPEALS OF ADMINISTRATIVE DECISIONS
CITY OF MADEIRA BEACH, FLORIDA
Application No. SE 2023-01

JPV Hotel Property, LLC,
For the property located at
129th Ave. E., Boardwalk Pl. E., 146
Boardwalk Pl. E., 204 Boardwalk Pl. E.,
206 Boardwalk Pl. E., 210 Boardwalk
Pl. E., 214 Boardwalk Pl. E.,
Madeira Beach, Florida,

Applicant.

_____ /

ORDER GRANTING SPECIAL EXCEPTION USE

The Applicant seeks a special exception use in regard to Madeira Beach Land Development Regulations, Section 110-259(6) allowing a stand-alone parking lot as a principal use and as a special exception use. The property address(s) are 129th Ave. E., Boardwalk Pl. E., 146 Boardwalk Pl. E., 204 Boardwalk Pl. E., 206 Boardwalk Pl. E., 210 Boardwalk Pl. E., 214 Boardwalk Pl. E., Madeira Beach, FL 33708, and it is identified as:

PARCEL IDENTIFICATION NUMBER: 15-31-15-58320-001-0020, 15-31-15-58320-001-0040, 15-31-15-58320-001-0050, 15-31-15-58320-001-0060, 15-31-15-58320-001-0070, 15-31-15-58320-001-0080, 15-31-15-58320-001-0090, 15-31-15-58320-001-0140, 15-31-15-58320-001-0160, 15-31-15-58320-001-0170, 15-31-15-58320-001-0190, 15-31-15-58320-001-0200 (the "Property")

Special Magistrate, Bart R. Valdes, heard testimony, and reviewed all evidence received at the Special Magistrate hearing held on June 2, 2023, and, based on the evidence, enters the following findings of fact, conclusion of law and order.

FINDINGS OF FACT

1. The application of UPP Global, LLC, ("the applicant") requests a special exception use from the zoning requirements of the above Madeira Beach Code, and seeks a special exception relating to a stand-alone parking lot as a principal use at the Property.

2. The Special Magistrate heard testimony from Andrew Morris, received the written Staff Report and Recommendation, with attachments, and heard testimony from Scott Brainard on behalf of the applicant. The Special Magistrate received public comment from Robert Bellow, Stephanie Beny, Jeff Beggins, Sue Zirneskie, Williams Karns, and Dan McNutt and considered all matters presented at the hearing.

3. The applicant seeks approval to operate a stand-alone parking lot on a property zoned in a C-1 Zoning District.

4. The use is a permitted special use pursuant to Section 110-259(6) of the Code of Ordinances of the City of Madeira Beach, Florida, which provides:

Sec. 110-110-259.- Special exception uses.

(6) Stand-alone parking lots and parking garages as a principal use.

5. The use is a permitted special use.

6. The use is so designed, located and proposed to be operated that the public health, safety, welfare, and convenience will be protected.

7. The use will not cause substantial injury to the value of other property in the neighborhood where it is to be located.

8. The use will be compatible with adjoining development and the proposed character of the district where it is to be located.

9. Adequate landscaping and screening is provided as required in the land development regulations, or otherwise required.

10. Adequate off-street parking and loading is provided, and ingress and egress is so designed as to cause minimum interference with traffic on abutting streets.

11. The use conforms with all applicable regulations governing the district where located, except as may otherwise be allowable for planned unit developments.

12. If a variance is also desired, and/or required, a separate application shall be submitted concurrently with the special exception application.

13. Special exception use will not grant to the land more privilege than the best use available in the zone where that special exception use would be a principal permitted use.

14. The applicant currently has an open code violation case for use and failure to comply with the off-street parking requirements. No fines have been levied because the applicant is in the process of resolving the code violation. The applicant must receive approval of the Special Exception Use to resolve the outstanding code violation and then the applicant would be able to apply for a building permit to bring the parking lot into compliance.

15. The special exception use is appropriate under the following condition(s):

- a.) The stand-alone parking lot must be brought into compliance with the off-street parking requirements located in Chapter 110 – Zoning Article VII. - Off-Street Parking and Loading

- b.) The parking lot must meet the landscaping requirements located in Chapter 106 – Vegetation Article II. – Landscaping. The Special Exception Use
- c.) The stand-alone parking lot must adhere to the drainage requirements in Chapter 98 – Natural Resources.
- d.) The stand-alone parking lot must meet the driveway requirements in Chapter 58 – Streets, Sidewalks, and Other Public Places, Article II. -Sidewalks and Driveways.
- e.) An approved building permit will be required to bring the parking lot into compliance.

CONCLUSION OF LAW

16. Section 2-506 of the Madeira Beach Code of Ordinances authorizes special exception use, with appropriate conditions and safeguards, when the special use will not adversely affect the public interest, or the denial of special exception uses when not in harmony with the purpose and intent of the city land development regulations.

17. The applicant has the burden to establish the requirements for a special exception use. Here, the applicant meets the criteria for the special exception use as set forth in Section 2-506 of the Madeira Beach Code of Ordinances.

ORDER

It is ADJUDGED that the application is APPROVED, allowing a special exception from the zoning requirements of the Madeira Beach Land Development Regulations, to allow the property to operate a stand-alone parking lot, as set forth in the Application with the following conditions:

- a.) The stand-alone parking lot must be brought into compliance with the off-street parking requirements located in Chapter 110 – Zoning Article VII. - Off-Street Parking and Loading
- b.) The parking lot must meet the landscaping requirements located in Chapter 106 – Vegetation Article II. – Landscaping. The Special Exception Use
- c.) The stand-alone parking lot must adhere to the drainage requirements in Chapter 98 – Natural Resources.
- d.) The stand-alone parking lot must meet the driveway requirements in Chapter 58 – Streets, Sidewalks, and Other Public Places, Article II. -Sidewalks and Driveways.
- e.) An approved building permit will be required to bring the parking lot into compliance.

DONE AND ORDERED on June 8, 2023.



Bart R. Valdes
Special Magistrate

Copies furnished to:

Tom Trask, City Attorney

Clara VanBlargan, City of Madeira Beach

UPP Global
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Portland, ME 04101

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410 150th Ave., Suite H
Madeira Beach, FL 33708