

Sponsored by: Puto

**CITY OF MARATHON, FLORIDA
RESOLUTION 2004-136**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING THE REQUEST BY JACK AND VERONICA LEGGETT, FOR A MAJOR CONDITIONAL USE PERMIT, PURSUANT TO SECTION 9.5-69 OF THE CITY OF MARATHON, AUTHORIZING THE REDEVELOPMENT OF THIRTY UNITS AT A RESORT KNOWN AS CRYSTAL BAY, AT PROPERTY LEGALLY DESCRIBED AS LOTS 5 AND 6, THOMPSON ADAMS SUBDIVISION, AND LOT 1, 2, 9-13, BLOCK 1, VACA VILLAGE SUBDIVISION

WHEREAS, on the 23rd day of August, 2004, the City of Marathon (the "City") Planning Commission (the "Commission") and on the 26th day of October, 2004, the City Council (the "Council"), conducted properly advertised public hearings (the "Public Hearings") regarding the request submitted by Jack and Veronica Leggett (the "Applicant"), for a major conditional use permit pursuant to Sections 9.5-69 of the City Code (the "Code"); and

WHEREAS, the purpose of the major conditional use permit is to allow the Applicant to redevelop thirty (30) existing units at a resort known as Crystal Bay (the "Proposed Use") at the property described in the application (the "Property").

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 Number 2004-06, a copy of which is attached hereto as Exhibit "A", granting a major conditional use to Jack and Veronica Leggett for the Proposed Use. 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 9th day of November, 2004.


THE CITY OF MARATHON, FLORIDA



Jeffrey M. Pinkus, Mayor

AYES: Bartus, Bull, Mearns, Miller, Pinkus
NOES: None
ABSENT: None
ABSTAIN: None


ATTEST:



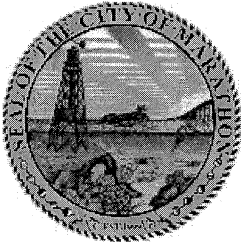
Cindy L. Ecklund
City Clerk

(City Seal)

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



City Attorney



**CITY OF MARATHON, FLORIDA
MAJOR CONDITIONAL USE
DEVELOPMENT ORDER # 2004-06**

A DEVELOPMENT ORDER APPROVING THE MAJOR CONDITIONAL USE APPLICATION SUBMITTED BY JACK AND VERONICA LEGGETT, FOR A MAJOR CONDITIONAL USE PERMIT, PURSUANT TO SECTION 9.5-69 OF THE CITY OF MARATHON CODE, AUTHORIZING THE REDEVELOPMENT OF THIRTY UNITS AT A RESORT KNOWN AS CRYSTAL BAY, AT PROPERTY LEGALLY DESCRIBED AS LOTS 5 AND 6, THOMPSON ADAMS SUBDIVISION, AND LOT 1, 2, 9-13, BLOCK 1, VACA VILLAGE SUBDIVISION, MONROE COUNTY, FLORIDA (THE "PROPERTY") PROVIDING FOR CONDITIONS OF APPROVAL; PROVIDING FOR PENALTIES FOR VIOLATIONS OF THE CONDITIONS OF APPROVAL; PROVIDING FOR A TERM OF THE APPROVAL; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Jack and Veronica Leggett are the owners of the Property and applied for a Major Conditional Use approval to redevelop thirty (30) units at a resort known as Crystal Bay on property located in the Suburban Residential (SR) and Suburban Commercial (SC) land use districts (the "Application"); and

WHEREAS, the Planning Commission (Commission), in accordance with the provisions of Sections 9.5-22 and 9.5-69 of the City of Marathon Land Development Regulations, met to review the Application to determine its compliance with the applicable regulations on August 23, 2004; and

WHEREAS, the Commission recommended approval of the Application to the City Council (the "Council"), subject to conditions; and

WHEREAS, the Council of the City of Marathon, Florida (the "City"), in accordance with the provisions of Sections 9.5-21 and 9.5-69 of the City of Marathon Land Development Regulations, met to review the Application to determine its compliance with the applicable regulations on October 26, 2004; and

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

FINDINGS OF FACT:

1. Based on the submitted site plan, the site is a 251,814 square feet (5.78 acres) parcel with approximately 0.78 acres of bay bottom. The applicant is proposing to redevelop the thirty (30) existing units on site.

2. In accordance with Section 9.5-65 of the Code, the Commission and Council considered and determined the Applicant met the following criteria:
 - a. The Proposed Use is consistent with goals, objectives and policies of the City Comprehensive Plan (the "Plan") and Chapter 9.5 of the Code; and
 - b. The Proposed Use is consistent with the character of the immediate vicinity of the parcel proposed for development; and
 - c. The design of the Proposed Use minimizes adverse effects, including visual impacts, of the proposed use on adjacent properties; and
 - d. The Proposed Use will not have an adverse effect on the value of surrounding properties; and
 - e. The public facilities and services, including but not limited to roadways, park facilities, police and fire protection, hospital and medical services, hurricane shelter, drainage systems, refuse disposal, water and sewers, and schools are adequate; and
 - f. The Proposed Use complies with all additional standards imposed on it by the particular provisions of Chapter 9.5 of the Code, authorizing such use and by all other applicable requirements of the Code.

CONDITIONS IMPOSED:

Granting approval of the Application is subject to the following conditions:

1. A transplantation plan shall be submitted and approved by the City Biologist prior to issuance of building permits.
2. The marina shall only be for the use of the resort guests and there shall be no live aboards or floating structures permitted in the marina. The developer shall record a restrictive covenant, approved as to form and content by the City Attorney, to run with the property stating that there shall be no live aboard vessels or floating structures and that the marina is for the sole use by the resort guests.
3. The developer shall provide additional screening between the resort and adjacent residential properties. The landscaping plans shall be submitted and approved by the City Biologist prior to issuance of building permits.
4. The decorative gateway arch shown on the submitted site plan shall be designed and constructed to a width of no less than 20 feet and a height of no less than 14.5 feet in order to accommodate emergency vehicles.
5. The applicant shall coordinate with the City the location of any required standpipes or fire hydrants if required based upon building design.
6. The applicant shall submit an application for a building permit(s) within nine (9) months of the date of approval of the conditional 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 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:

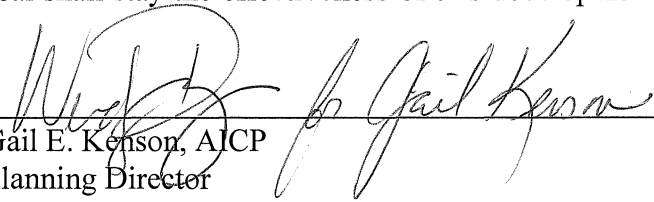
Based upon the above Findings of Fact, the Council does hereby make the following Conclusions of Law:

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 major conditional use is hereby GRANTED.

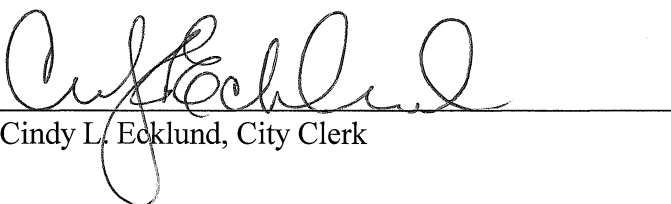
EFFECTIVE DATE:

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 major 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.

11/15/04
Date


Gail E. Kenson, AICP
Planning Director

This Development Order was filed in the Office of the City Clerk of this 10 day of November, 2004.


Cindy L. Ecklund, City Clerk

NOTICE

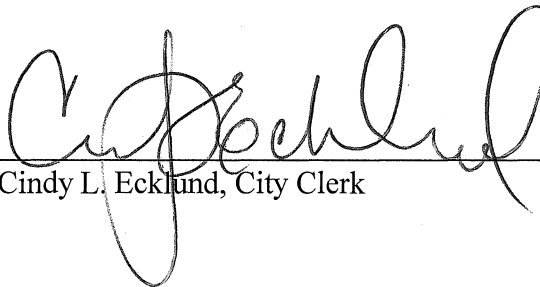
Section 9.5-72 (a) of Marathon City Code states that a conditional use permit shall not be transferred to a successive owner without notification to the Development Review Coordinator within five (5) days of the transfer.

Under the authority of Section 9.5-72(a) 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 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 six (6) months of the expiration of the Department of Community Affairs appeal period 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 those forty-five days, the Florida Department of Community Affairs 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 JACK LEGGETT, 4900 Overseas Highway,
this 16th day of Nov., 2004. Marathon, FL 33050



Cindy L. Ecklund, City Clerk