

**CITY OF MARATHON, FLORIDA
RESOLUTION 2006-176**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING THE REQUEST BY KNIGHTS KEY CORPORATION, INC. FOR AN AMENDMENT TO A MAJOR CONDITIONAL USE PERMIT, PURSUANT TO SECTION 9.5-69 OF THE CITY OF MARATHON CODE, AUTHORIZING THE REDEVELOPMENT OF A CONDO-HOTEL, SINGLE-FAMILY RESIDENCES, WORKFORCE HOUSING UNITS, MARINA, AND COMMERCIAL FLOOR AREA, AT PROPERTY LOCATED AT 1 KNIGHTS KEY BOULEVARD, MILE MARKER 47, WHICH IS LEGALLY DESCRIBED AS LOT 1 AND PART OF LOT 2 AND BAY BOTTOM EAST OF AND ADJACENT TO GOVERNMENT LOT 2, SECTIONS 8 AND 17, TOWNSHIP 66 SOUTH, RANGE 32 EAST, KNIGHTS KEY, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBERS 00101800-000000 AND 00101790-000000

WHEREAS, on May 15, 2006, the City of Marathon Planning Commission and on October 24, 2006, the City of Marathon City Council, conducted properly advertised public hearings regarding the request submitted by Knights Key Corporation, Inc. (the "Applicant"), for an amendment to a major conditional use permit pursuant to Sections 9.5-69 of the City Code (the "Code"); and

WHEREAS, the purpose of the amendment to the major conditional use permit is to allow the Applicant to redevelop the existing RV resort, marina, and commercial floor area (the "Proposed Use") at the Property under the City's Destination Resort land use district.

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 2006-16, a copy of which is attached hereto as Exhibit "A", granting an amendment to a major conditional use to the Applicant 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 14th day of November, 2006.


THE CITY OF MARATHON, FLORIDA



Christopher M. Bull, Mayor

AYES: Mearns, Pinkus, Tempest, Worthington, Bull
NOES: None
ABSENT: None
ABSTAIN: None

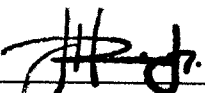
ATTEST:



Diane Clavier
City Clerk

(City Seal)

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



City Attorney



**CITY OF MARATHON, FLORIDA
MAJOR CONDITIONAL USE
DEVELOPMENT ORDER # 2006-16**

Doc# 1615408
Bk# 2255 P# 1777

A DEVELOPMENT ORDER APPROVING THE AMENDMENT TO A MAJOR CONDITIONAL USE APPLICATION SUBMITTED BY KNIGHTS KEY CORPORATION, INC., FOR AN AMENDMENT TO A MAJOR CONDITIONAL USE PERMIT, PURSUANT TO SECTION 9.5-69 OF THE CITY OF MARATHON CODE, AUTHORIZING THE REDEVELOPMENT OF A CONDO-HOTEL, SINGLE-FAMILY RESIDENCES, WORKFORCE HOUSING UNITS, MARINA, AND COMMERCIAL FLOOR AREA, AT PROPERTY LOCATED AT 1 KNIGHTS KEY BOULEVARD, MILE MARKER 47, WHICH IS LEGALLY DESCRIBED AS LOT 1 AND PART OF LOT 2 AND BAY BOTTOM EAST OF AND ADJACENT TO GOVERNMENT LOT 2, SECTIONS 8 AND 17, TOWNSHIP 66 SOUTH, RANGE 32 EAST, KNIGHTS KEY, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBERS 00101800-000000 AND 00101790-000000 (THE "PROPERTY"); PROVIDING FOR A TERM OF THE APPROVAL; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, Knights Key Corporation, Inc. (the "Applicant") owns the Property and applied for an Amendment to a Major Conditional Use approval to redevelop the existing RV resort, marina, and commercial floor area on property which is located in the Destination Resort (DR) land use district (the "Amendment Application"); and

WHEREAS, the City of Marathon Planning Commission (the "Commission"), in accordance with the provisions of Sections 9.5-22 and 9.5-69 of the City of Marathon Land Development Regulations (the "LDR's"), met to review the Amendment Application to determine its compliance with the applicable regulations on May 15, 2006; and

WHEREAS, the Commission recommended conditional approval of the Amendment Application to the City of Marathon City Council (the "Council"); and

WHEREAS, the Council, in accordance with the provisions of Sections 9.5-21 and 9.5-69 of the LDR's, met to review the Amendment Application to determine its compliance with the applicable regulations on October 24, 2006; and

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

I certify this document to be a True and Correct Copy of the original.

Diane Claver
City Clerk/City of Marathon

11-17-06
Date

FINDINGS OF FACT:

1. Based on the submitted site plan, the Property is 24 acres. Currently the site is operating as a 199 unit RV Resort, with three (3) single-family dwelling units, a 48 slip marina, and 5,744 square feet of commercial floor area. The Applicant is proposing to redevelop the Property into a condo-hotel with one hundred ninety-nine (199) hotel units, three (3) single-family residences, thirty (30) affordable/workforce housing units, 48 boat slips and 43,770 square feet of commercial space.
2. In accordance with Section 9.5-65 of the Code, the Commission and Council considered and determined the Applicants 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;
 - b. The Proposed Use is consistent with the character of the immediate vicinity of the parcel proposed for development;
 - c. The design of the Proposed Use minimizes adverse effects, including visual impacts, of the proposed use on adjacent properties;
 - d. The Proposed Use will not have an adverse effect on the value of surrounding properties;
 - 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 Amendment Application is subject to the following conditions:

1. The Applicant will provide a Unity of Title for the parcels or move all parking out of the front setback.
2. The Applicant will be required to amend the quit claim deed with the Florida Department of Transportation as follows:
 - o Modify the reverter clause to allow for only 15 foot of the easement to be transferred back to FDOT should it be necessary at a later date (or in the alternative, revise the site plan and obtain approval from the City).
 - o Allow for parking on the parcel.
 - o Require the easement to remain open for public access.
 - o FDOT must assure that no deed impediments exist preventing the planned development within the Right-Of-Way.
 - o These amendments shall be made no later than 6 months after the approval of the Development Agreement by the City Council.

3. The Applicant must coordinate with the Department of Transportation to resolve issues concerning the installation of the left turn lane on US1 or otherwise ameliorate the unsatisfactory LOS at the entrance to the resort. Resolution of this issue must be completed within one year of the Approval of this amendment.
4. Before construction of the new commercial floor area can commence, the Applicant is required to obtain an NROGO allocation for 38,026SF. In order to obtain this allocation the Applicant must comply with all the requirements set forth by the NROGO allocation system.
5. The Applicant will be required to install fire hydrants on the Property and a dry standpipe system along the docks, upon the recommendation of the Fire Department. All new buildings shall require the installation of sprinkler systems and otherwise comply with all Fire Alarm System and Life Safety Code Requirements prior to issuance of any building permits.
6. The thirty (30) affordable dwelling units shall be for rental and employee housing only and the applicant shall record a restrictive covenant prior to the issuance of any building permits for such units. The restrictive covenant shall be for a minimum of fifty (50) years and shall be renewable for two (2) fifty (50) year periods. The developer will enter into an agreement with the Middle Keys Community Land Trust (MKCLT) or other similar organization to provide services for both the initial and annual income qualifications of tenants of the affordable/workforce housing. This agreement shall be in place and approved by the City prior to the issuance of a certificate of occupancy for the affordable/working force housing units.

VIOLATION OF CONDITIONS:

The Applicants understand and acknowledge that they 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 Applicants or their 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;

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; and
 - (c) Supported its decision by substantial competent evidence of record; and
3. The Application for an amendment to a major conditional use is hereby GRANTED subject to the conditions contained herein.

RECORDING:


The Applicants shall at their sole cost and expense, record a certified copy of this Development Order in the Public Records of Monroe County, Florida within five (5) days of receipt of same from the City. The Applicants shall provide the City with proof of the recording of the Development Order in accordance with the provisions of this paragraph.

EFFECTIVE DATE:

The Director of Planning shall sign this Development Order, and it shall not take effect for thirty (30) days following the date it is rendered/filed with the City Clerk. 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.

Date

11-16-06



Fred Gross
Planning Director

This Development Order was filed in the Office of the City Clerk of this 16 day of November 2006.



Diane Clavier, 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 that 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 Knights Key Corporation, Inc., 12800 University Dr., Suite 400, Fort Myers, Florida 33050, this 20 day of November, 2006.



Diane Clavier, City Clerk