

**CITY OF MARATHON, FLORIDA
RESOLUTION 2007-148**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING THE REQUEST BY SH3, LTD. FOR A MAJOR CONDITIONAL USE PERMIT, PURSUANT TO SECTION 9.5-69 OF THE CITY OF MARATHON CODE, AUTHORIZING THE REDEVELOPMENT OF A RESORT AND YACHT CLUB, AT PROPERTY LOCATED AT 1996 OVERSEAS HIGHWAY AND 15TH STREET, OCEAN, AND LEGALLY DESCRIBED AS PART OF THE AMENDED PLAT OF BAYVIEW SUBDIVISION, PART OF DAVIS ADDITION, AND PART OF GOVERNMENT LOT 2 AND ADJACENT BAY BOTTOM OF SECTION 9, TOWNSHIP 66 SOUTH, RANGE 32 EAST, KEY VACA, AND PART OF GOVERNMENT LOT 2 OF SECTION 16, TOWNSHIP 66 SOUTH, RANGE 32 EAST, AND FILLED IN BOOT KEY HARBOR, KEY VACA, AND PART OF LOT 19, LOT 20, AND PART OF LOT 21, BLOCK 1 AND ADJACENT BAY BOTTOM, KEY VACA AND 2010 OVERSEAS HIGHWAY WHICH IS LEGALLY DESCRIBED AS DAVIS ADDITION PB2-71 PART GOVERNMENT LOT 2, SECTION 9, TOWNSHIP 66 SOUTH PART LOT 8-9, HAVING REAL ESTATE NUMBERS 00102650-000000, 00337880-000000, 00104050-000000, AND 00326620-000000; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, on the 17th day of September, 2007, the City of Marathon Planning Commission and on the 25th day of September, 2007, the City of Marathon City Council, conducted properly advertised public hearings regarding the request submitted by SH3, Ltd. (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 the resort and yacht club (the "Proposed Use") at 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 2007-05, a copy of which is attached hereto as Exhibit "A", granting a major conditional use to the Applicants 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 October, 2007.

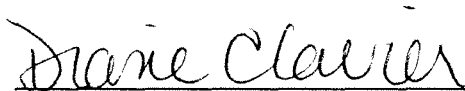
THE CITY OF MARATHON, FLORIDA



Christopher M. Bull, Mayor

AYES: Cinque, Tempest, Vasil, Worthington, Bull
NOES: None
ABSENT: None
ABSTAIN: None

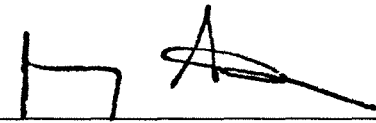
ATTEST:



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 # 2007-05**

Doc# 1668034
Bk# 2327 Pg# 2266

A DEVELOPMENT ORDER APPROVING A MAJOR CONDITIONAL USE APPLICATION SUBMITTED BY SH3, LTD., FOR A MAJOR CONDITIONAL USE PERMIT, PURSUANT TO SECTION 9.5-69 OF THE CITY OF MARATHON CODE, AUTHORIZING THE REDEVELOPMENT OF AN EXISTING RESORT AND YACHT CLUB, AT PROPERTY LOCATED AT 1996 OVERSEAS HIGHWAY AND 15TH STREET, OCEAN, AND LEGALLY DESCRIBED AS PART OF THE AMENDED PLAT OF BAYVIEW SUBDIVISION, PART OF DAVIS ADDITION, AND PART OF GOVERNMENT LOT 2 AND ADJACENT BAY BOTTOM OF SECTION 9, TOWNSHIP 66 SOUTH, RANGE 32 EAST, KEY VACA, AND PART OF GOVERNMENT LOT 2 OF SECTION 16, TOWNSHIP 66 SOUTH, RANGE 32 EAST, AND FILLED IN BOOT KEY HARBOR, KEY VACA, AND PART OF LOT 19, LOT 20, AND PART OF LOT 21, BLOCK 1 AND ADJACENT BAY BOTTOM, KEY VACA AND 2010 OVERSEAS HIGHWAY WHICH IS LEGALLY DESCRIBED AS DAVIS ADDITION PB2-71 PART GOVERNMENT LOT 2, SECTION 9, TOWNSHIP 66 SOUTH PART LOT 8-9, HAVING REAL ESTATE NUMBERS 00102650-000000, 00337880-000000, 00104050-000000, AND 00326620-000000; PROVIDING FOR A TERM OF THE APPROVAL; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, SH3, Ltd. (the "Applicant") owns the Property and applied for a Major Conditional Use approval to redevelop the existing resort on property which is located in the Mixed Use (MU), Urban Commercial (UC) and Commercial Fishing Area (CFA) land use districts (the "Application"); and

WHEREAS, the Applicant submitted the Application to redevelop an existing resort and yacht club in accordance with the City of Marathon Land Development Regulations (the "LDRs"); 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 LDR's, met to review the Application to determine its compliance with the applicable regulations on September 17, 2007; and

WHEREAS, the Commission recommended conditional approval of the 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 Application to determine its compliance with the applicable regulations on September 25, 2007; 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.

FINDINGS OF FACT:

1. Based on the submitted site plan, the Property consists of three discrete site areas which collectively form the Faro Blanco Resort and Yacht Club development. The Property consists of approximately 10.4 acres of upland and 9.26 acres of bay bottom. The site was once operated as the Faro Blanco Marine Resort and Boot Key Marina, but has been closed for several years. The Applicants are proposing to redevelop the Property into a hotel resort and yacht club which includes eighty-eight (88) one and two-bedroom hotel units and 159 dock slips.
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; 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) The Applicant will obtain approval of final landscaping and mitigation plans (as needed) and lighting plans in coordination with the City Biologist prior to Development Order issuance;
- 2) The Applicant will obtain federal, state and local permits for marina-related development, as required to meet the City's Marina Siting-related Comprehensive Plan and Land Development Regulations provisions;
- 3) Issues raised by the United States Coast Guard are satisfactorily resolved;
- 4) An acceptable transportation study proving that transportation impacts are acceptable will be provided before Development Order issuance;
- 5) The Applicant will coordinate with the FDOT to determine, in writing, whether an access permit is required;

- 6) The Applicant shall provide fire hydrants and other such fire protection facilities as required by the Life Safety Code administered by the City Fire Department. Fire sprinklers will be installed as required by City Code.
- 7) The Applicant will meet all floodplain related requirements as part of the Building Permit process;
- 8) All wastewater systems will comply with 2010 wastewater treatment standards and additional design details, including facility capacity assessment, transmission systems, and other technical details will be required prior to Building Permit issuance.
- 9) A South Florida Water Management District permit and City approval are required for the stormwater management systems prior to Building Permit Approval.
- 10) The Applicant will obtain sign permits for any signs erected on the property, as required under the Code;
- 11) The Conditional Use Development Order will constitute the Certificate of Concurrency for the project. The determination will be valid for one year.

VIOLATION OF CONDITIONS:

The Applicant understands and acknowledges 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 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 subject to the conditions contained herein.

RECORDING:

The Applicant shall at its 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 Applicant 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.

10/17/07
Date



Fred Gros
Planning Director

This Development Order was filed in the Office of the City Clerk of this 17 day of October 2007.



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 one (1) year 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 nine (9) 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 SH3, Ltd., 506 Fleming Street,
this 18 day of October, 2007. Key West, FL 33040

Diane Clavier

Diane Clavier, City Clerk