

**CITY OF MARATHON, FLORIDA
RESOLUTION 2007-92**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING THE REQUEST BY ISLAND TIKI BAR/MARATHON PARADISE, INC. FOR AN AMENDMENT TO A MAJOR CONDITIONAL USE PURSUANT TO SECTION 9.5-69 OF THE CITY OF MARATHON, AUTHORIZING THE CONSTRUCTION OF BOAT DOCKAGE FOR USE AS TEMPORARY MOORING OF BOATS BY RESTAURANT PATRONS, LOCATED AT 12648 OVERSEAS HYW., FAT DEER KEY, NEAREST MILE MARKER 54 BAYSIDE, AND FURTHER DESCRIBED AS PART LOTS 1 AND 2, PART OF STATE ROAD NO. 4A, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBER 00100260-000400.

WHEREAS, on May 21, 2007, the City of Marathon (the “City”) Planning Commission (the “Commission”) and on June 12, 2007, the City Council (the “Council”) conducted properly advertised public hearings (the “Public Hearings”) regarding the request submitted by Island Tiki Bar/Marathon Paradise, Inc. (the “Applicant”), for an amendment to a major conditional use permit pursuant to Section 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 construct a five hundred ten (510) square foot boat dock with one (1) mooring pile, a three thousand four hundred five (3,405) square foot wood dock with twelve (12) finger piers and eleven (11) mooring piles (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 2007-04, a copy of which is attached hereto as Exhibit “A”, granting a major conditional use to Island Tiki Bar/Marathon Paradise, Inc. 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 26th day of June, 2007.

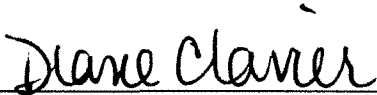
THE CITY OF MARATHON, FLORIDA



Christopher M. Bull, Mayor

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

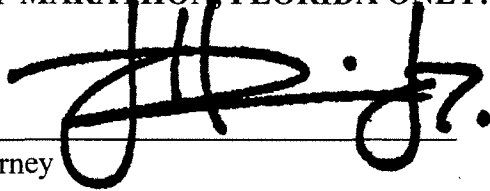
ATTEST:



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 # 2007-04**

A DEVELOPMENT ORDER APPROVING THE AMENDMENT TO A MAJOR CONDITIONAL USE APPLICATION SUBMITTED BY ISLAND TIKI BAR/MARATHON PARADISE, INC. FOR AN AMENDMENT TO A MAJOR CONDITIONAL USE PERMIT, PURSUANT TO SECTION 9.5-69 OF THE CITY OF MARATHON, AUTHORIZING THE CONSTRUCTION OF BOAT DOCKAGE FOR USE AS TEMPORARY MOORING OF BOATS BY RESTAURANT PATRONS, LOCATED AT 12648 OVERSEAS HYW., FAT DEER KEY, NEAREST MILE MARKER 54 BAYSIDE, AND FURTHER DESCRIBED AS PART LOTS 1 AND 2, PART OF STATE ROAD NO. 4A, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBER 00100260-000400. (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, ISLAND TIKI BAR/MARATHON PARADISE, INC. is the owner of the Property and applied for an amendment to a Major Conditional Use approval to construct a five hundred ten (510) square foot boat dock with one (1) mooring pile, a three thousand four hundred five (3,405) square foot wood dock with twelve (12) finger piers and eleven (11) mooring piles (the "Proposed Use") at the property described in the application (the "Property"). on property located in the Suburban Commercial (SC) land use district (the "Application"); and

WHEREAS, the Planning Commission (Commission), in accordance with the provisions of Section 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 May 21, 2007; 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, in accordance with the provisions of Section 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 June 12, 2007; and

WHEREAS, the Council has duly considered the recommendation of the Commission, and the information and documentary evidence submitted by Island Tiki Bar/Marathon Paradise, Inc. and does hereby find and determine as provided below.

FINDINGS OF FACT:

1. Based on the submitted site plan, the site is a 1.1 acre parcel. The applicant is proposing to construct a five hundred ten (510) square foot boat dock with one (1) mooring pile, a three thousand four hundred five (3,405) square foot wood dock with twelve (12) finger piers and eleven (11) mooring piles.
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:

- Maximum number of vessels permitted is 25
- Sign must be posted stating no overnight mooring
- Manatee signage at dock as required by DEP and ACOE
- One fire hydrant must be installed on the property
- A marina standpipe system engineered by a fire protection engineer is required

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 Resolution 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:

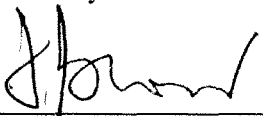
Based upon the above Findings of Fact, the Council does hereby make the following Conclusions of Law:

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 specified herein.

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.

6/28/07
Date


Fred Gross
Planning Director

This Development Order was filed in the Office of the City Clerk of this 28 day of June, 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 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 The Craig Company, Barbara Mitchell, this 29 day of June, 2007. P.O. Box 970
Key West, FL 33041

Diane Clavier
Diane Clavier, City Clerk