

**CITY OF MARATHON, FLORIDA
RESOLUTION 2011-55**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING AN AMENDMENT TO A CONDITIONAL USE PERMIT FOR SH3 LTD., PURSUANT TO CHAPTER 102, ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (CODE) ENTITLED "CONDITIONAL USE PERMITS", FOR THE REDEVELOPMENT OF THE PROPERTIES LOCATED AT 1996 OVERSEAS HIGHWAY, 1685 OVERSEAS HIGHWAY AND 1020 15TH STREET, OCEAN, WHICH ARE 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 LOTS 21 & 22, BLOCK 1 AND ADJACENT BAY BOTTOM, KEY VACA, HAVING REAL ESTATE NUMBERS 00102650-000000, 00326620-000000, 00337880-000000 AND 00104050-000000; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, SH3, Ltd., ("Faro Blanco") has requested an amendment to an approved Conditional Use as provided for in Section 102, Article 13 of the Code; and

WHEREAS, on the 18th day of July, 2011, the City of Marathon Planning Commission and on the 26th day of July 2011, the City of Marathon City Council, conducted properly advertised public hearings regarding the request submitted by Faro Blanco, for approval of an amendment to an approved Conditional Use pursuant to Chapter 102, Article 13 of the Code.

WHEREAS, the purpose of the Amended Conditional Use is to allow Faro Blanco to revise its redevelopment plan for the Faro Blanco Resort and Yacht Club.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THAT:

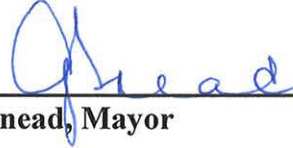
Section 1. The above recitals are true and correct and incorporated herein.

Section 2. The City Council hereby approves Development Order Number 2011-02, a copy of which is attached hereto as Exhibit "A", granting requested amendment to a previously approved major conditional use for the redevelopment plan for the Faro Blanco Resort and Yacht Club. 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 AUGUST, 2011.

THE CITY OF MARATHON, FLORIDA



Ginger Snead, Mayor

AYES: Cinque, Keating, Ramsay, Worthington, Snead
NOES: None
ABSENT: None
ABSTAIN: None

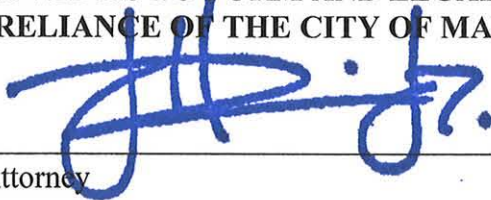
ATTEST:



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 # 2011-02**

A DEVELOPMENT ORDER APPROVING AN AMENDMENT TO A CONDITIONAL USE PERMIT FOR SH3 LTD., PURSUANT TO CHAPTER 102, ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (“CODE”) ENTITLED “CONDITIONAL USE PERMITS”, FOR THE REDEVELOPMENT OF THE PROPERTIES LOCATED AT 1996 OVERSEAS HIGHWAY, 1685 OVERSEAS HIGHWAY AND 1020 15TH STREET, OCEAN, WHICH ARE 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 LOTS 21 & 22, BLOCK 1 AND ADJACENT BAY BOTTOM, KEY VACA, HAVING REAL ESTATE NUMBERS 00102650-000000, 00326620-000000, 00337880-000000 AND 00104050-000000 (“PROPERTY; PROVIDING FOR A TERM OF THE APPROVAL; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, SH3, Ltd., (“Faro Blanco”) has requested an amendment to an approved Conditional Use as provided for in Section 102, Article 13 of the City’s Code; and

WHEREAS, on the 18th day of July, 2011, the City of Marathon Planning Commission and on the 26th day of July 2011, the City of Marathon City Council, conducted properly advertised public hearings regarding the request submitted by Faro Blanco, for approval of the amendment to an approved Conditional Use pursuant to Chapter 102, Article 13 of the City Code; and

WHEREAS, the purpose of the Amended Conditional Use is to allow Faro Blanco to revise its redevelopment plan for the Faro Blanco Resort and Yacht Club

WHEREAS, the Marathon City Council has duly considered the recommendation of the Planning 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 parcels (approximately 10.4 acres of upland and 9.26 acres of bay bottom), which collectively form the Faro Blanco Resort and Yacht Club development. The Applicant is proposing to redevelop the Property into a hotel resort and yacht club which includes one hundred (100) one-bedroom hotel units, one (1) caretaker's unit, fourteen (14) workforce housing units, and 159 marina wet slips, and 171 dry storage spaces.
2. In accordance with Section 102.77 of the Code, the Planning Commission and City Council considered and determined the Applicants met the following criteria:
 - A. The proposed use is consistent with the Comprehensive Plan and Code;
 - B. The proposed use is compatible with the existing land use pattern and future uses designated by the Comprehensive Plan;
 - C. The proposed use will not adversely affect the health, safety, and welfare of the public; and
 - D. The proposed conditional use minimizes environmental impacts, including but not limited to, water, air, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment; and
 - E. Satisfactory provisions and arrangements have been made concerning the following matters, where applicable:
 1. Ingress and egress to the property and proposed structures thereon with particular reference to automotive, bicycle, and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe;
 2. Off-street parking and loading areas where required, with particular attention to Subsection 1 above;
 3. The noise, glare or odor effects of the conditional use on surrounding properties;
 4. Refuse and service areas, with particular reference to location, screening and Subsections 1 and 2 above;
 5. Utilities, with reference to location and availability;
 6. Screening and buffering with reference to type, dimensions and character;
 7. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety and compatibility with surrounding properties;
 8. Required yards and other open space;
 9. General compatibility with surrounding properties; and
 10. Any special requirements set forth in the LDRs for the particular use involved.

CONDITIONS OF APPROVAL

Before any building permits are issued, Faro Blanco shall comply with all of the following conditions of approval.

Community Services Conditions:

- Final plans shall be revised to show a tie-in to the City's wastewater system and the deletion of on-site treatment plants.
- No outfalls are permitted in the City – no outfalls are shown, but final plans must reflect this.
- Obtain an NPDES permit for on-site stormwater system.

Public Works Conditions:

- Submit a detailed drainage basin map, routing calculations per City regulations (25-year 72-hour storm), a revised grading plan, and a schematic showing detailed runoff specifications for the buildings and grounds.
 - The map should show existing topographic data for the Boot Key Workforce Housing site (Site II).
 - Stormwater plan shall indicate a minimum retention pond or swale depth of 12" to accommodate runoff.
- Obtain an FDOT permit for drainage and access issues for US 1.
- A silt fence and erosion control measures must be in place prior to initiation of construction (a Best Management Practices (BMP) Plan).

Utilities Conditions:

- Submit a separate plan for the irrigation and potable water systems on the sites showing required distance separation between irrigation, potable water and wastewater lines.
- Submit a separate plan showing holding tanks/grease traps for proposed restaurant(s).
- Submit a separate plan for the wastewater collection system identifying the location of facilities and connection(s) to the City's wastewater system and coordinate the latter with the City's wastewater engineer
 - Provide estimated wastewater flow calculations based on Chapter 64E-6 F.A.C.
 - Site plan must include location of new facilities, size of new facilities and types of use.
 - Provide necessary information so that completed project assessment may be made in order to modify the current wastewater assessment for the combined project sites.

- Dock pump out plumbing plan should be provided as part of wastewater system plans.

Building Department Conditions:

- Revise final plans to show pedestrian connectivity between US-1 and site no. 1 (this may require an FDOT easement for connecting sidewalks).
- DOH permits will be required for the public pools.

Fire Marshal's Conditions:

- Approved fire hydrants shall be provided for buildings to meet necessary fire flow requirements as determined by the Fire Official. **This will require more than one hydrant.** Fire hydrants shall be installed as a looped system and in service before the project goes vertical.
- Provide the Fire Marshal's Office with a copy of the coordination letter with the Florida Keys Aqueduct Authority (FKAA), Engineering Dept., regarding fire hydrant installation and adequate fire flow for fire sprinkler system per project requirements. Please note, in the event that the FKAA cannot provide adequate fire flow to this location, the final plans shall be revised to indicate the proposed location of the water storage tank and fire pump installation.
- A low voltage smoke/fire alarm detection system with horn/strobes, manual pull stations with an enunciator panel and monitor shall be provided, unless otherwise changed by the Fire Marshal's Office. A Fire Alarm system professional shall be hired for plans submittal, installation, and made available to meet with the Fire Marshal.
- A sprinkler system shall be required for firefighter and occupant safety.
- Automatic sprinkler system and/or standpipe when required, the system must be installed per NFPA 13, 13R, or 13D. A set of engineered plans shall be provided. A FPE shall be hired per the FFPC and to meet with the Fire Marshal.
- All marinas and boat dockage area shall comply with NFPA 303.
- The driveways must be at least 20 feet wide and maintain a 50-foot turning radius for emergency vehicle access. Any driveway connection to FDOT right-of-way (ROW) will require FDOT approval.
- Fire access and lanes shall be 20 feet in width. Vertical clearance of not less than 13'6". Grass fire lanes or pavers shall be installed per the FFPC. If permitted, they shall meet the compaction requirements and will require the Fire Marshal's approval. Fire lane signs shall be placed at the appropriate locations determined by the Fire Marshal.
- Hammerheads or cul-de-sacs must be provided at all dead-ends to provide adequate turnaround for emergency vehicles. At least 10 feet wide access points must be provided for all parts of the project. All sites shall have unimpeded Fire Rescue access.
- A Knox Box entry system and Key Secure shall be provided.

- All Penetrations (Conduit, AC ducting, pipes, CPVC, etc.) shall have an approved UL listed fire stop and smoke stop system installed. Aerosol foams are not acceptable fire stopping systems (Great Stuff, etc).
- Additional items may be required under the FFPC, Uniform Fire Code, NFPA 1 4.5.1.2 and NFPA 101 4.6.1.2.

Planning Conditions:

- A breakdown of transient and market rate unit count, and commercial square footage, as well as, seating numbers for all dining areas must be provided on the final plans that reflect the way in which the City calculates units, space and seating with respect to density/intensity, impact fee calculations, and wastewater/stormwater assessment calculations.
- Site no. 1 must show a larger percentage of native vegetation in landscaping plan.
- Site no. 1 landscape buffer must be made denser at the U.S. Highway 1 margin
- Wastewater buffer tanks may be allowed in side yard setback, but must be heavily landscaped. Submit a separate landscaping plan for buffer tanks placed in side yard setback area.
- Submit verification documentation for of site no. 1 commercial floor entitlements.
- A marina operating permit must be obtained for all marina operations.

VIOLATION OF CONDITIONS:

Faro Blanco 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 Faro Blanco 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 City 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 Development Order, 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 an amendment to a major conditional use is hereby GRANTED subject to the conditions contained herein.

RECORDING:

Faro Blanco 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, and 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 amendment to 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.

Aug 10, 2011
Date

George Barrett
George Garrett, Planning Director

This Development Order was filed in the Office of the City Clerk of this 15 day of Aug, 2011.

Diane Clavier
Diane Clavier, City Clerk

NOTICE

Under the authority of Section 102.79(c) 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 business license has been issued for the use or 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 from the date of approval, or the date when the Department of Community Affairs waives its appeal, and all required certificates of occupancy are procured within 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 these 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., this 15 day of Aug., 2011.



Diane Clavier, City Clerk