

**CITY OF MARATHON, FLORIDA  
RESOLUTION 2012-121**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING THE REQUEST BY MARATHON HOSPITALITY, LLC FOR AN AMENDMENT TO AN APPROVED CONDITIONAL USE PERMIT, PURSUANT TO CHAPTER 102, ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (CODE) ENTITLED "CONDITIONAL USE PERMITS", AUTHORIZING AN ALTERNATE SITE PLAN FOR THE DEVELOPMENT OF A 95 ROOM COURTYARD MARRIOTT HOTEL, COMMERCIAL SPACE, A RESTAURANT, AND THE CONCEPTUAL DESIGN FOR A 34 SLIP MARINA AT THE PROPERTIES LOCATED AT 2146 AND 2188 OVERSEAS HIGHWAY, GULF, NEAREST MILE MARKER 48, WHICH IS LEGALLY DESCRIBED AS PART OF GOVERNMENT LOT 2, PART BAY BOTTOM ADJACENT TO PART OF LOT 2, AND PART STATE ROAD 4A, KEY VACCAS, SECTION 9, TOWNSHIP 66, RANGE 32, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBER 00102900-000000, 00102810-000000, 00102810-000100, AND QUIT CLAIM DEED, BK# 1885, PG# 1556; AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, a current and valid Conditional Use permit exists as identified in Resolution 2009-04 and Development Order 2009-01 for property located at 2146 and 2188 Overseas Highway, Marathon, Florida, having RE Nos. 00102900-000000, 00102810-000000, 00102810-00010 and quit claim deed, BK# 1885, PG# 1556 (The "Property"); and

**WHEREAS**, Marathon Hospitality LLC (the "OWNER") is the current owner of the property, and has assumed the responsibilities and conditions of the approved CUP and Development Order consistent with the LDRs (the "CUP"); and

**WHEREAS**, on the 17<sup>th</sup> day of September, 2012, the City of Marathon Planning Commission (the "Commission") and on the 25<sup>th</sup> day of October, 2012, the City Council (the "Council") conducted properly advertised public hearings (the "Public Hearings") regarding the request submitted by The OWNER, for an amendment to CUP pursuant to Chapter 102, Article 13 of the City Code (the "Code"); and

**WHEREAS**, the purpose of the CUP is to allow the OWNER to develop a 95 unit hotel, retail shops, restaurant and marina (the "Proposed Use") at the Property, as described in the application.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY**

OF MARATHON, FLORIDA, THAT:

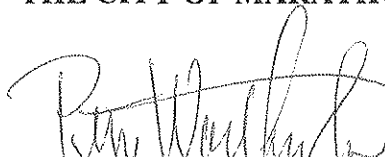
Section 1. The above recitals are true and correct and incorporated herein.

Section 2. The City Council hereby approves Development Order 2012-06, a copy of which is attached hereto as Exhibit "A", granting an amendment to an approved CUP including an alternate site plan for Marathon Hospitality LLC for a 95 unit hotel, commercial space, a restaurant, and conceptual approval of a 34 slip marina. 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 23<sup>RD</sup> DAY OF OCTOBER, 2012.

THE CITY OF MARATHON, FLORIDA

  
\_\_\_\_\_  
Pete Worthington, Mayor

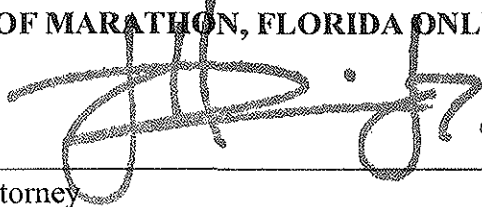
AYES: Cinque, Keating, Ramsay, Snead, Worthington  
NOES: None  
ABSENT: None  
ABSTAIN: None

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  
AMENDMENT TO AN APPROVED CONDITIONAL USE  
DEVELOPMENT ORDER # 2012-06**

**A DEVELOPMENT ORDER APPROVING THE REQUEST BY MARATHON HOSPITALITY, LLC FOR AN AMENDMENT TO AN APPROVED CONDITIONAL USE PERMIT (RESOLUTION 2009-04 & DEVELOPMENT ORDER 2009-01), PURSUANT TO CHAPTER 102, ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS ENTITLED "CONDITIONAL USE PERMITS", AUTHORIZING THE DEVELOPMENT OF A 95 ROOM COURTYARD MARRIOTT HOTEL, COMMERCIAL SPACE, A RESTAURANT, AND THE CONCEPTUAL DESIGN FOR A 34 SLIP MARINA AT THE PROPERTIES LOCATED AT 2146 AND 2188 OVERSEAS HIGHWAY, GULF, NEAREST MILE MARKER 48, WHICH IS LEGALLY DESCRIBED AS PART OF GOVERNMENT LOT 2, PART BAY BOTTOM ADJACENT TO PART OF LOT 2, AND PART STATE ROAD 4A, KEY VACCAS, SECTION 9, TOWNSHIP 66, RANGE 32, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBER 00102900-000000, 00102810-000000, 00102810-000100, AND QUIT CLAIM DEED, BK# 1885, PG# 1556**

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**WHEREAS**, a current and valid Conditional Use Permit (the "CUP") exists as identified in Resolution 2009-04 and Development Order 2009-01 for property located at 2146 and 2188 Overseas Highway, Marathon, Florida, having RE Nos. 00102900-000000, 00102810-000000, 00102810-00010 and quit claim deed, BK# 1885, PG# 1556 (the "Property"); and

**WHEREAS**, Marathon Hospitality, LLC. (the "Owner") is the current owner of the property, and has assumed the responsibilities and conditions of the approved CUP and Development Order consistent with the LDRs; and

**WHEREAS**, on the 17<sup>th</sup> day of September, 2012, the City of Marathon (the "City") Planning Commission (the "Commission") and on the 25<sup>th</sup> day of January, 2012, the City Council (the "Council") conducted properly advertised public hearings (the "Public Hearings") regarding the request submitted by The OWNER (the "Applicant", for an amendment to the CUP pursuant to Chapter 102, Article 13 of the Land Development Regulations (the "LDRs"); and

**WHEREAS**, the purpose of the CUP is to allow the OWNER to develop a 95 unit hotel, retail shops, restaurant and marina (the "Proposed Use") at the property described in the alternate site plan.

**FINDINGS OF FACT:**

1. The OWNER is proposing to redevelop 95 transient hotel units, 6,000 square feet of

Commercial Floor Area including retail shops and a restaurant, and the conceptual layout for a 34 slip marina facility, and accessory structures such as a swimming pool at the Courtyard Marriott Hotel.

2. In accordance with Section 102.77 of the LDRs, the Commission and Council considered and determined that the OWNER met the following criteria:
  - a. The Proposed Use is consistent with the Comprehensive Plan and LDRs;
  - b. The Proposed Use is compatible with the existing land use pattern and future uses designated by the Comprehensive Plan;
  - c. The Proposed Use shall 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 item 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 Items 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. The allocation and transfer of transient residential units (TRUs).
    11. Obligations to provide adequate workforce housing.
    12. Any special requirements set forth in the LDRs for the Proposed Use involved.

**CONDITIONS IMPOSED:**

Granting approval of the Amendment to the CUP is subject to the following conditions:

- 1) The OWNER must submit a Unity of Title combining all four parcels having RE Nos. 00102900-000000, 00102810-000000, and 00102810-000100, and the quit claim deed, BK# 1885, PG# 1556 which must be approved by the City Attorney and recorded in the Official Records of the Monroe County Clerk of Courts prior to building permit issuance;

- 2) The OWNER shall be required to obtain by any legal means at their disposal the remaining forty-nine (49) TRUs prior to the issuance of a building permit. This CUP Amendment shall not vest the additional forty-nine (49) TRUs.
- 3) An application for TRUs, if sought by the OWNER through the City, must be made by December 31, 2012 and that all project building permit applications must be submitted on or before February 1, 2012 barring un-foreseen delays in permitting from state or federal permitting agencies through no fault of Marathon Hospitality LLC.
- 4) This CUP and the corresponding Development Agreement shall expire in thirty-six (36) months from the date of approval by the Florida Department of Economic Opportunity.
- 5) Should Marathon Hospitality LLC choose to request and be granted TRUs by the City, all conditions concerning application for or approval of TRUs shall be subject to Ordinance 2012-07. Such conditions are hereby made a part of the CUP which is incorporated herein by this reference.
- 6) Hotel building appurtenances which project above 37 feet shall be considered as necessary for roof-top access, a part of required hotel mechanical equipment (air conditioning, elevators, etc), or as minor architectural features. Conditions concerning these areas or features include:
  - o All areas or features which project above 37 feet shall be non-habitable space.
  - o The roof-top deck of the hotel/motel structure shall not be utilized for any hotel/motel function involving hotel/motel guests, but may be utilized by employees or contractors performing routine work or maintenance on the building.
- 7) The OWNER will obtain approval of final landscaping plans to include, at the discretion of Marathon Hospitality LLC, but subject to the approval of the City Biologist, landscape material greater in total number and larger in stature than required by the City's LDRs.
- 8) The OWNER will obtain approval for final lighting plans in coordination with the City Biologist prior to building permit issuance.
- 9) The OWNER will submit and obtain approval of fire protection plans in accordance with fire protection requirements established by the City Fire Marshal prior to building permit issuance.
- 10) The OWNER will meet all floodplain related requirements as part of the building permit process.
- 11) The OWNER will obtain final City approval of the stormwater management system prior to Building Permit issuance.
- 12) The OWNER will connect to the City wastewater utility system prior to the issuance of a Certificate of Occupancy (C.O.).
- 13) The OWNER will obtain any required permits from SFWMD and FDOT prior to building permit issuance.
- 14) The OWNER will obtain sign permits for any signs erected on the property, as required under the LDRs.
- 15) This CUP Amendment will constitute the Certificate of Concurrency for the project. The determination will be valid for one year.

**VIOLATION OF CONDITIONS:**

The OWNER 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 City Code and LDRs, the Council may revoke this approval upon a determination that the OWNER or its successor or designee is in non-compliance with this Resolution, City Code, or LDRs. Failure to adhere to the terms and conditions of approval contained herein is a violation of the City 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 LDRs, 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 CUP Amendment 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 CUP Amendment granted herein shall be subject to appeal as provided in the LDRs. An appeal shall stay the effectiveness of this development order until said appeal is resolved.

10/24/2012  
Date

George Garrett  
George Garrett  
Director of Planning

This Development Order was filed in the Office of the City Clerk of this 24 day of October 2012.

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 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 conditional use approval, or the date when the Department of Economic Opportunity 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 Economic Opportunity. During that forty-five days, the Florida Department of Economic Opportunity 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 41251 Shendan St., Suite 480, this 25 day of October, 2012. Hollywood, FL 33021

Diane Clavier

Diane Clavier City Clerk