

Sponsored by: Hernstadt
Introduction Date: November 21, 2011
Public Hearing Dates: March 27, 2012
Enactment date: April 10, 2012

**CITY OF MARATHON, FLORIDA
RESOLUTION 2012-36**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING THE REQUEST BY J&L ACQUISITIONS INC. FOR A VARIANCE PURSUANT TO CHAPTER 102, ARTICLE 20 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS, AND GRANTING A VARIANCE OF FOURTEEN (14) FEET TO THE FRONT SETBACK AND EIGHT (8) FEET TO THE REAR SETBACK, AT THE PROPERTY LOCATED AT 50 COCO PLUM DRIVE, NEAREST MILE MARKER 54, WHICH IS LEGALLY DESCRIBED AS COCO PLUM BEACH SUBDIVISION, FAT DEER KEY, LOT 19, LOT 20, AND LOT 21, BLOCK 2, SECTION 4, TOWNSHIP 66, RANGE 33, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBERS 00363220-000000, 00363230-000000, & 00363240-000000.; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, variances are intended to provide a means of altering the requirements of certain sections of the City of Marathon Land Development Regulations (the "LDRs") in specific instances where the strict application of those requirements would deprive a property of privileges enjoyed by other properties with the identical regulatory zone because of special features or constraints unique to the property involved; and

WHEREAS, on the 21st day of November 2011 and again on the 21st day of February, 2012, the City of Marathon Planning Commission, and on the 27th day of March, 2012, the City Council conducted properly advertised public hearings regarding the request submitted by J&L Acquisitions Inc. (the "Applicant"), for a variance pursuant to Chapter 102, Article 20 of the LDRs (the "Variance"); and

WHEREAS, review and approval of the requested Variance is consistent with the City of Marathon Comprehensive Plan and LDRs.

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.

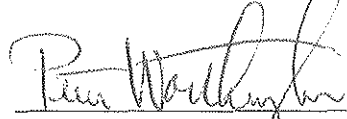
Section 2. Development Order 2012-03 granting a Variance to the Applicant, a copy of

which is attached as Exhibit "A," is hereby approved

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 10th DAY OF APRIL, 2012.

THE CITY OF MARATHON, FLORIDA



Pete Worthington, Mayor

AYES: Cinque, Keating, Ramsay, Snead, Worthington

NOES: None

ABSENT: None

ABSTAIN: None

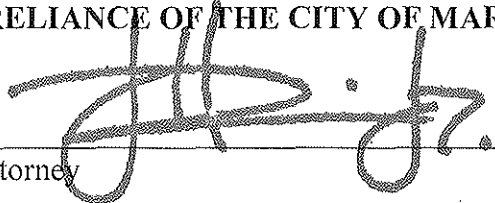
ATTEST:



Diane Clavier, City Clerk

(City Seal)

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



City Attorney



**CITY OF MARATHON, FLORIDA
DEVELOPMENT ORDER # 2012-003**

A DEVELOPMENT ORDER APPROVING THE APPLICATION SUBMITTED BY J&L ACQUISITIONS, INC. FOR A VARIANCE, PURSUANT TO CHAPTER 102, ARTICLE 20 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS, AND GRANTING A VARIANCE OF FOURTEEN (14) FEET TO THE FRONT SETBACK AND EIGHT (8) FEET TO THE REAR SETBACK, AT THE PROPERTY LOCATED AT 50 COCO PLUM DRIVE, NEAREST MILE MARKER 54, WHICH IS LEGALLY DESCRIBED AS COCO PLUM BEACH SUBDIVISION, FAT DEER KEY, LOT 19, LOT 20, AND LOT 21, BLOCK 2, SECTION 4, TOWNSHIP 66, RANGE 33, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBERS 00363220-000000, 00363230-000000, & 00363240-000000, AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, J&L Acquisitions, Inc. (the “Applicant”) is the owner of the Property and applied for a Variance of fourteen (14) feet to the front setback and eight (8) feet to the rear setback as part of an approval develop 66 dry boat storage units, to renovate an existing marina building, and to add a deed restricted affordable commercial apartment on property located in the Mixed Use-Maritime (MU-M) land use district (the “Application”); and

WHEREAS, the City of Marathon Planning Commission (the “Commission”), in accordance with the provisions of Sections 101.02 and 102.120 of the City of Marathon Land Development Regulations (the “LDRs”), met to review the Application to determine its compliance with the applicable regulations on November 21, 2011 and again on February 21, 2012; and

WHEREAS, the Commission recommended approval of the Application to the City of Marathon City Council (the “Council”); and

WHEREAS, the Council, in accordance with the provisions of Sections 101.01 and 102.120 of the LDRs, met to review the Application to determine its compliance with the applicable regulations on March 27, 2012 (the “Public Hearing”); 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. The applicant is proposing to develop four parcels totaling 18,000 square foot parcel with a

66 unit dry boat storage facility, a 900 square foot commercial building, to renovate an existing 960 square foot marina building and to construct a deed restricted affordable commercial apartment above the marina building (the “Proposed Use”).

2. The Applicant requested a Variance of fourteen (14) feet to the front setback and eight (8) feet to the rear setback of for the property located at 50 Coco Plum drive, nearest mile marker 54, which is legally described as Coco Plum Beach Subdivision, Fat Deer Key, lot 19, lot 20, and lot 21, block 2, Section 4, Township 66, Range 33, Monroe County, Florida, having real estate numbers 00363220-000000, 00363230-000000, & 00363240-000000.

3. In accordance with Section 102.120 of the LDRs, the Council considered and determined the Applicant met all of the criteria for the granting of the Variance as set forth in the Staff Report presented at the Public Hearing.

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 Variance is hereby GRANTED.

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 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.

4-11-12
Date

George Garrett
George Garrett
Planning Director

This Development Order was filed in the Office of the City Clerk of this 12 day of April, 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 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 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 those 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 PO Box 510974 Key Colony Beach FL, this 12 day of April, 2012. 33057-0974

Diane Clavier

Diane Clavier City Clerk