

Prepared by and return to:
Islamorada, Village of Islands
Planning and Development Services Department
86800 Overseas Highway
Islamorada, Florida 33036

Filed and Recorded in Official Records of
MONROE COUNTY KEVIN MADOK, CPA

****CORRECTIVE****

Correction to Section 2, Paragraph (1) of the recorded Resolution dated December 6, 2022 and recorded on December 15, 2022 in the Official Records Book 3205, Pages 90-97, of the Public Records of Monroe County, Florida

RESOLUTION NO. 22-12-138

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, CONSIDERING THE REQUEST OF 90184 RENTAL, LLC. (CBT CONSTRUCTION & DEVELOPMENT, INC., AGENT) FOR MAJOR CONDITIONAL USE APPROVAL TO ALLOW FOR THE REDEVELOPMENT OF THE PROPERTY FOR A BREWPUB/RESTAURANT/DISTILLERY WITH THE CONTINUATION OF SEVEN (7) EXISTING DEED RESTRICTED RESIDENTIAL HOUSING UNITS ON THE SECOND FLOOR; ALONG WITH OUTDOOR SEATING PURSUANT TO CHAPTER 30, ARTICLE VI, DIVISION 9 (OUTDOOR SEATING); ALONG WITH PARKING, LANDSCAPING, AND BUFFER RELAXATIONS FROM THE PROVISIONS OF THE VILLAGE'S LAND DEVELOPMENT REGULATIONS; FOR PROPERTY LOCATED AT 90184 OVERSEAS HIGHWAY ON PLANTATION KEY WITHIN THE VILLAGE CENTER (VC) ZONING DISTRICT, WITH REAL ESTATE NUMBER 00431870-000000.

(File No.: PLCUP20210151/PLVAR20220094)

WHEREAS, 90184 Rentals, Inc., (the "Applicant") has submitted an application for a Major Conditional Use pursuant to Section 30-217 of the Code of Ordinances (the "Code") of Islamorada, Village of Islands, Florida (the "Village") to allow for the redevelopment of the property for a Brewpub/Restaurant/Distillery on the first floor of an existing two-story building including the continuation of seven (7) existing deed restricted residential housing units on the second floor; along with outdoor seating pursuant to Chapter 30, Article VI, Division 9 (outdoor seating); along with parking, buffer, and landscaping relaxations from the provisions of the Village's land development regulations for property located at 90184 Overseas Highway on Plantation Key within the Village, as legally described herein (the "Property"); and,

WHEREAS, the Property is located within the Village Center (VC) Zoning District; and

WHEREAS, the Director (the "Director") sent a Notice of Public Hearing to adjacent property owners and posted a sign on the subject properties on November 18, 2022; and,

WHEREAS, on December 6, 2022, the Village Council held a Public Hearing.

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The above recitals are true and correct and incorporated into this Resolution by this reference.

Section 2. Findings of Fact.

The Village Council, having considered the testimony and evidence presented by all parties, including Village Staff, does hereby find and determine:

(1) The Application for a Major Conditional Use meets the requirements set forth in Code Section 30-216, 30-218, and 30-221 and has demonstrated through competent substantial evidence that the criteria for granting the Request have been met; and

(2) The Village Council approves the Request submitted by the Applicant, which is attached as Exhibit "A" and incorporated herein by this reference, for the following described property:

BLOCK 17, LOTS 1, 2, 3, 26, 27, AND 28 OF PLANTATION KEY COLONY, FIRST ADDITION, AS RECORDED IN PLAT BOOK 4, AT PAGE 4 OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA.

(3) The approval is subject to the following Conditions of Approval:

1. Use of the property shall be limited to a Brewpub/Restaurant/Distillery with outdoor seating. A maximum of seven (7) deed restricted affordable housing units shall also be permitted on the second floor of the existing structure, as approved by Minor Conditional Use PLCUP20190033.

2. A Major Conditional Use to allow for the operation of Brewpub/Restaurant/Distillery shall be deemed granted as a part of this application.

3. The gross floor area of the Brewpub/Restaurant/Distillery shall be limited to the total floor area as shown on the plans prepared by *dgo Architecture*, entitled Crooked Palm distillery, 90184 Overseas Highway, Islamorada, Florida and dated 11-04-22. The outdoor seating area shall be limited to a maximum of 4,751 Square Feet, in accordance with the site plan prepared by *dgo Architecture*, entitled Crooked Palm distillery, 90184 Overseas Highway, Islamorada, Florida and dated 11-04-22.

4. The outdoor seating area shall be limited to a maximum of thirty-two (32) seats and a maximum area of 4,751 square feet as shown on the site plan and landscaping plan prepared by *dgo Architecture*, entitled Crooked Palm distillery, 90184 Overseas Highway, Islamorada, Florida and dated 11-04-22. Seating within the proposed outdoor plaza area may be modified upon application to the Department of Planning and Development Services provided the overall occupancy of the site does not exceed one hundred sixty (160) occupants including both indoor and outdoor space.

The operation of a food truck, as shown on the site plan prepared by *dgo Architecture*, entitled Crooked Palm distillery, 90184 Overseas Highway, Islamorada, Florida and dated 11-04-22, shall be permitted in connection with the outdoor seating area.

5. Landscaping and site improvements shall be completed pursuant to the satisfaction of the Department of Planning and Development Services and in substantial conformance with the site plan entitled Crooked Palm distillery, 90184 Overseas Highway, Islamorada, Florida, prepared by *dgo Architecture* and dated 11-04-22.

6. The hours of operation of the Brewpub/Restaurant/Distillery interior shall be limited to the following:

Sunday through Thursday 11:00 am – 11:00 pm; and Friday, Saturday and Holidays 9:00 am – 1:00 am.

The applicant/owner reserves the right to request a modification of the hours of operation after due public hearing. Any extension of the hours of operation shall be evaluated based upon potential impacts to surrounding residential development, including a review of past noise complaints.

7. The hours of operation of the outdoor seating area shall be limited to 11:00 am to 10:00 pm Sunday through Thursday and 9:00am to 10:00 pm Friday and Saturday. The use of live amplified music shall be limited to 8:00 pm during the week and 9:00 pm on weekends.

8. Relaxation from the landscaping standards contained within the Village Code shall be deemed granted as a part of this application. All landscaping improvements shall be completed and maintained in conformance with the site plan and landscaping plan approved as a part of this application entitled Crooked Palm distillery, 90184 Overseas Highway, Islamorada, Florida, prepared by *dgo Architecture* and dated 11-04-2022.

9. The Village Council reserves the right to revoke this Major Conditional Use and terminate operation of the Brewpub/Restaurant/Distillery at any time after due notice and a public hearing in the event violation of these conditions occurs. In addition, in the event operation of the Brewpub/Restaurant/Distillery results in noise violations as defined by the Village Noise Ordinance, the Village Council reserves the right to further restrict the hours of operation of the Brewpub/Restaurant/Distillery, including the outdoor seating area, after due notice and a public hearing. Excessive, unnecessary, or unnaturally loud noises shall be determined pursuant to Village Code Chapter 18 (Nuisances), Article IV (Noise) as may be amended from time to time. Noise disturbance means any sound that is unreasonably loud, raucous or jarring; causes an adverse psychological or physiological effect on humans; unreasonably interferes with the enjoyment of life or property, including outdoor recreation; or is a nuisance, as defined by Chapter 18, as may be amended from time to time. Applicant/owner shall be provided an opportunity to address and remedy or cure any noise complaints prior to a reduction in the hours of operation.

10. A parking relaxation shall be deemed granted as a part of this application. A minimum of forty-one (41) parking spaces shall be provided on site in accordance with the site plan and landscaping plan submitted as a part of this application entitled Crooked Palm distillery, 90184 Overseas Highway, Islamorada, Florida, prepared by *dgo Architecture* and dated 11-04-22

In the event adequate parking cannot be provided on site, applicant/owner agrees to maintain a shared parking agreement with an adjacent or nearby property owner pursuant to the satisfaction of the Department of Planning and Development Services. On-street parking shall be prohibited in connection with the subject parcel. Parking for the seven (7) affordable housing units shall be provided on site separate from parking associated with the Brewpub/Restaurant/Distillery.

11. Deliveries shall be limited to the curb-cut adjacent to Gardenia Street as shown on the site plan entitled Crooked Palm distillery, 90184 Overseas Highway, Islamorada, Florida, prepared by *dgo Architecture* and dated 11-04-22. The Village reserves the right to address any traffic safety concerns associated with the operation of the proposed loading area after due public hearing and testimony provided by a traffic safety expert. The applicant/owner shall be provided an opportunity to address, remedy or otherwise cure any traffic safety concerns associated with the proposed loading area prior to a determination by the Village Council.

12. The maximum permitted occupancy of the Brewpub/Restaurant/Distillery shall be limited to 160 patrons including both indoor space and the outdoor seating area. The Village Council reserves the right to reduce the maximum permitted occupancy after due public hearing in the event adequate parking cannot be provided in connection with the operation of the Major Conditional Use

13. The improvement of the premises, in accordance with the determination of the Village Council, must be completed within twelve (12) months after the date of approval, subject to FS 252.363. If not so commenced and completed within this period, then, the Village reserves the right to revoke

the approval associated with the Major Conditional Use after due public hearing. Thereafter, the operation of the Major Conditional Use shall be terminated.

14. All conditions shall be enforceable through all the powers of the Village Attorney's Office and the Village Council reserve the right after due public hearing, to rescind the Major Conditional Use issued if violation of the conditions persists.

15. Applicant/owner agrees to record these conditions as a declaration of covenants and restrictions pursuant to the satisfaction of the Village Attorney. These covenants and restrictions shall be and constitute real covenants running with the land and shall be binding upon the declarant and any and all subsequent owners of the said real property or any part thereof, and upon their heirs, executors, and administrators (or their successors and assignees) subject, however, to the right of the Islamorada, Village of Islands Village Council after a public hearing to amend, alter, annul or repeal any or all of the foregoing covenants and/or restrictions at any time with the consent of the owner or owners for the time being of the premises therein described, and such right shall be effectual and may be exercised without the consent of any adjacent owners or other owners or lienors of any other property.

16. The applicant/owner agrees not to place live music within 75' of the Gardenia Street property line and maintain compliance with the Village of Islamorada Noise Ordinance as may be amended from time to time.

17. The applicant has proposed a food truck as part of the use. The intention of the food truck is to provide food options that are currently lacking in the Village Activity Center (VAC) and as such is an integral part of the operation. The applicant/owner agrees that during the hours of operation food will be available for sale and consumption onsite or to go. Any interruption to food service will be temporary and shall not continue for more than 2 weeks' time.

18. Applicant/owner shall be provided an opportunity to remedy and/or cure any alleged violations of these conditions prior to the revocation of the Major Conditional Use or other enforcement actions referenced above.

19. Applicant/owner reserves any and all legal remedies associated with the enforcement of the above conditions.

Section 3. Conclusions of Law.

Based upon the above Findings of Fact, the Village Council does hereby make the following

Conclusions of Law:

(1) The Request has been processed in accordance with the Village Comprehensive Plan and the Code; and

(2) In rendering its decision, as reflected in this Resolution, the Village Council has:

- (a) Accorded procedural due process; and
- (b) Observed the essential requirements of the law; and
- (c) Supported its decision by competent substantial evidence contained within the record.

Section 4. Effective Date.

This Resolution shall not take effect until after both thirty (30) days following the date it is filed with the Village Clerk, during which time the Request herein shall be subject to appeal as provided in the Code; and following the thirty (30) days, this resolution shall not be effective or acted upon by the Applicant until forty-five (45) days following the rendition to the Department of Economic Opportunity (DEO), pursuant to Chapter 9J-1 of the Florida Administrative Code. During those forty-five (45) days, the DEO may appeal this resolution to the Florida Land and Water Adjudicatory Commission, and that such an appeal stays the effectiveness of this Resolution until the appeal is resolved by agreement or order.

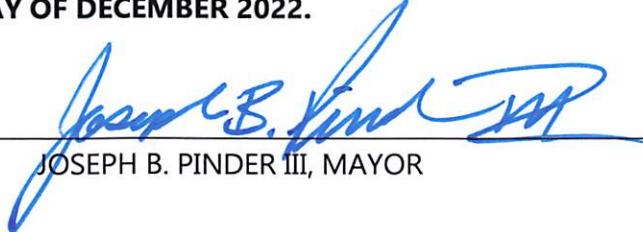
Motion to adopt by Council Member Mark Gregg, second by Mayor Joseph B. Pinder III.

FINAL VOTE AT ADOPTION

VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS:

Mayor Joseph B. Pinder III	<u>Yes</u>
Vice Mayor Sharon Mahoney	<u>Yes</u>
Councilmember Mark Gregg	<u>Yes</u>
Councilmember Elizabeth Jolin	<u>No</u>
Councilmember Henry Rosenthal	<u>No</u>

PASSED AND ADOPTED THIS 6th DAY OF DECEMBER 2022.


JOSEPH B. PINDER III, MAYOR

ATTEST:


MARNE MCGRATH, VILLAGE CLERK

APPROVED AS TO FORM AND LEGALITY FOR THE
USE AND BENEFIT OF ISLAMORADA, VILLAGE OF
ISLANDS ONLY


JOHN J. QUICK, INTERIM VILLAGE ATTORNEY

