RESOLUTION NO. 13-09-75

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, APPROVING THE REQUEST BY OCEAN DAWN LLC DBA OCEAN HOUSE FOR A 2COP ALCOHOLIC BEVERAGE USE PERMIT TO ALLOW PACKAGE SALES AND ON-PREMISES CONSUMPTION OF BEER AND WINE ON PROPERTY LOCATED AT 82885 OLD HIGHWAY ON UPPER MATECUMBE KEY, AS LEGALLY DESCRIBED IN EXHIBIT “A;” WITHIN THE RESIDENTIAL ESTATE (RE) ZONING DISTRICT; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Tim Blum (the “Applicant”), has applied for a 2COP Alcoholic Beverage Use Permit to allow package sales of beer and wine and on-premises consumption (the “Proposed Use”) on property located at 82885 Old Highway on Upper Matecumbe Key as legally described in Exhibit “A” (the “Property”); and

WHEREAS, the owner of the Property is Ocean Dawn, LLC DBA Ocean House (the “Property Owner”); and

WHEREAS, the Director of Planning and Development Services (the “Director”) has recommended to the Village Council (the “Council”) that the Proposed Use be approved; and

WHEREAS, pursuant to the applicable provisions of the Code of Ordinances (the “Code”) of Islamorada, Village of Islands, Florida (the “Village”), the Council conducted a duly noticed public hearing (the “Public Hearing”) on September 26, 2013 regarding the Proposed Use.

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

Section 1. Findings of Fact. The Council having considered the testimony and evidence presented by all parties, including the Applicant, does hereby find and determine:
1. The Council reviewed the application for the Proposed Use on September 26, 2013.

2. The Public Hearing was properly noticed, the application for the Proposed Use was properly before the Council for consideration, and all interested parties concerned in the matter were given an opportunity to be heard.

3. In accordance with Code Section 30-1461, the Council considered whether or not the Proposed Use met the following criteria:

   a. The Proposed Use is compatible and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development as represented by property owners within 500 feet of the premises;

   b. The Proposed Use is consistent with the purposes, goals, objectives and policies of the comprehensive plan and this chapter, including standards for building and structural intensities and densities, and intensities of use; and the suitability of the premises in regard to its location, site characteristics and intended purpose;

   c. The Proposed Use complies with Code Chapter 30, Article IV, Division 5 (Concurrency Management); and

   d. The design of the Proposed Use minimizes adverse effects, including visual impact and intensity of the Proposed Use on adjacent lands.

4. The Director presented to the Council his written recommendation dated September 26, 2013 to approve the application for the Proposed Use.

5. The Applicant has demonstrated the Proposed Use meets all of the criteria to receive the requested Alcoholic Beverage Use Permit.
Section 2. 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 Land Development Regulations, and will 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; and
   c. Supported its decision by competent substantial evidence of record; and

3. The Application for an Alcoholic Beverage Use Permit is hereby granted.

Section 3. 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 Village or other governmental agencies applicable to the Proposed Use granted herein. In accordance with Code Section 30-224(e), the Council may revoke this approval upon a determination that the Applicant, its successor or designee is in non-compliance with this Resolution or the 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 by the Code.

Section 4. Effective Date. This Resolution shall not take effect until after 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.
The foregoing Resolution was offered by Councilman Mike Forster, who moved for its adoption. This motion was seconded by Councilman Dave Purdo, and upon being put to a vote, the vote was as follows:

Mayor Ken Philipson       YES
Vice Mayor Ted Blackburn  YES
Councilman Mike Forster   YES
Councilwoman Deb Gillis   YES
Councilman Dave Purdo     YES

PASSED AND ADOPTED on this 26th day of September, 2013.

KEN PHILIPSON, MAYOR

ATTEST:

ARIANA S. LAWSON, VILLAGE CLERK

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

VILLAGE ATTORNEY

This Resolution was filed in the Office of the Village Clerk on this 27th day of September, 2013.

Ariana S. Lawson, Village Clerk
CERTIFICATE OF SERVICE

A true and correct copy of the above and foregoing Resolution was furnished to the Owner, via U.S. certified mail, return receipt requested, addressed to Ocean Dawn LLC, 82885 Old Highway, Islamorada, Florida 33036, this 17th day of October, 2013.

Ariana S. Lawson, Village Clerk
Parcel ID No. 00434330-000000

Legal Description

THE RUSSELL EST PB2-14-15 UPPER MATECUMBE TR 28 & NE'LY 4' TR 29 & ADJ BAY BTM