



STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS
"Dedicated to making Florida a better place to call home"

JEB BUSH
 Governor

THADDEUS L. COHEN, AIA
 Secretary

Received

DEC 20 2004

City Clerk

December 1, 2004

City of Marathon
 ATTN: Cindy L. Ecklund, City Clerk
 10045-55 Overseas Highway
 Marathon FL 33050

Re: Resolution 2004-064 (First State Bank Redevelopment)

Dear Ms. Ecklund:

The Department Field Office has received your request for a letter stating that the Department will not appeal the above permit. The Department will not appeal this building permit pursuant to Section 380.07, Florida Statutes. While the Department will not appeal this development order under its statutory authority, the development order is still subject to the local administrative appeal provisions.

This letter is not intended to constitute, and shall not be construed as constituting, a verification of compliance with the Comprehensive Plan and Land Development Regulations, and shall not be relied upon as a precedent or a waiver of rights regarding any other development order.

Sincerely,

Rebecca Jetton, Administrator
 Florida Keys Area of Critical State Concern

c: City of Marathon Building Department

2 5 5 5 SHUMARD OAK BOULEVARD • TALLAHASSEE , FLORIDA 32399-2100

Phone: (850) 488-8466/Suncom 278-8466 FAX: (850) 921-0781/Suncom 291-0781

Internet address: <http://www.dca.state.fl.us>

CRITICAL STATE CONCERN FIELD OFFICE
 2796 Overseas Highway, Suite 212
 Marathon, FL 33050-2227
 (305) 289-2402

COMMUNITY PLANNING
 2555 Shumard Oak Boulevard
 Tallahassee, FL 32399-2100
 (850) 488-2356

EMERGENCY MANAGEMENT
 2555 Shumard Oak Boulevard
 Tallahassee, FL 32399-2100
 (850) 413-9969

HOUSING & COMMUNITY DEVELOPMENT
 2555 Shumard Oak Boulevard
 Tallahassee, FL 32399-2100
 (850) 488-7956

Sponsored by: Janke

**CITY OF MARATHON, FLORIDA
RESOLUTION 2004-064**

A RESOLUTION OF THE CITY OF MARATHON CITY COUNCIL, APPROVING A REQUEST BY FIRST STATE BANK, FOR A MAJOR CONDITIONAL USE PERMIT, PURSUANT TO SECTIONS 9.5-69 OF THE CITY OF MARATHON CODE, AUTHORIZING THE REDEVELOPMENT OF AN EXISTING RESTAURANT BUILDING TO A FULL-SERVICE BANK WITH DRIVE-UP WINDOWS, AT PROPERTY LEGALLY DESCRIBED AS PART OF LOT 4, CASA MANANA COLONY SUBDIVISION

WHEREAS, on the 17th day of May, 2004, the City of Marathon (the "City") Planning Commission (the "Commission") and on the 8th day of June, 2004, the City Council (the "Council") conducted a properly advertised public hearing (the "Public Hearing") regarding the request submitted by First State Bank (the "Applicant"), for a major conditional use permit pursuant to Sections 9.5-69 of the City Code (the "Code"); and

WHEREAS, the purpose of the major conditional use permit is to allow the Applicant to redevelop an existing restaurant building to a full-service bank with drive-up windows (the "Proposed Use") at the property described in the application (the "Property").

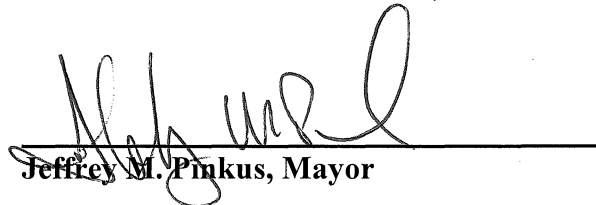
NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, AS FOLLOWS:

Section 1. Development Order 2004-01, a copy of which is attached hereto as Exhibit "A", granting a major conditional use for the Proposed Use is hereby approved.

Section 2. This Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED by the City Council of the City of Marathon, Florida, this 27th day of July, 2004.

THE CITY OF MARATHON, FLORIDA

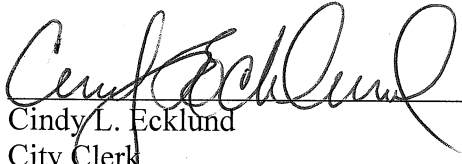


Jeffrey M. Pinkus, Mayor

AYES: Bartus, Bull, Mearns, Miller, Pinkus
NOES: None
ABSENT: None

ABSTAIN: None

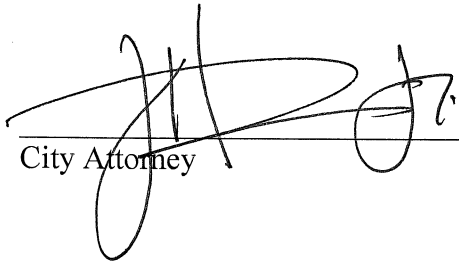
ATTEST:



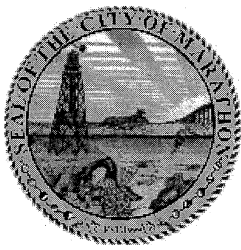
Cindy L. Ecklund
City Clerk

(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 #2004-01**

A DEVELOPMENT ORDER APPROVING THE MAJOR CONDITIONAL USE REQUEST OF FIRST STATE BANK, FOR THE REDEVELOPMENT OF AN EXISTING RESTAURANT BUILDING TO A FULL SERVICE BANK WITH DRIVE-UP WINDOWS ON PROPERTY LEGALLY DESCRIBED AS PART OF LOT 4, CASA MANANA COLONY SUBDIVISION, VACA KEY, MARATHON, FLORIDA, MILE MARKER 50.5 (THE "PROPERTY").

WHEREAS, First State Bank is the owner of the Property and applied for a Major Conditional Use approval for the redevelopment of an existing restaurant building as a full-service bank with drive-up windows on property located in the Suburban Commercial (SC) land use district (the "Application"); and

WHEREAS, the Development Review Committee of the City of Marathon, Florida (the "DRC"), in accordance with the provisions of Sections 9.5-24 and 9.5-68 of the City of Marathon Land Development Regulations, met to review the Application to determine its compliance with the applicable regulations on May 11, 2004; and

WHEREAS, the DRC recommended approval with conditions of the Application to the Planning Commission (the "Commission"); and

WHEREAS, the Commission, in accordance with the provisions of Sections 9.5-22 and 9.5-69 of the City of Marathon Land Development Regulations, met to review the Application to determine its compliance with the applicable regulations on May 17, 2004; and

WHEREAS, the Commission recommended approval with conditions of the Application to the City Council (the "Council"); and

WHEREAS, the Council of the City of Marathon, Florida, in accordance with the provisions of Sections 9.5-21 and 9.5-69 of the City of Marathon Land Development Regulations, met to review the Application to determine its compliance with the applicable regulations on June 8, 2004; and

WHEREAS, the Council has duly considered the recommendation of the DRC, 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. Based on the submitted site plan, the site has an existing 4,586 square foot commercial building. The applicant is proposing to remodel this structure into a 3,500 square foot building, with a 720 square foot drive-thru area, for a total commercial floor area of 4,220 square feet. Because the proposed redevelopment will use the existing commercial square footage on the property, the proposal is not subject to the Year 2010 Comprehensive Plan Policy 101.3 regarding new non-residential development.
2. A revision to the site plan shows the application complies with the requirements of Section 9.5-281 of the City Code.
3. A revision to the site plan provided shows the application complies with the requirements of Section 9.5-375 to 9.5-381 and 9.5-366 of the City Code.
4. A revision to the site plan provided drainage details to bring the entire site into compliance with stormwater management requirements and shows the application complies with the requirements of Section 9.5-293 of the City Code.
5. The applicant has stated they will meet the FEMA regulations if required, thus meeting the requirements of Section 9.5-361 of the City Code.
6. A revision to the site plan providing a bike rack shows compliance with Section 9.5-326 of the City Code.
7. A revision to the site plan shows the application complies with the requirements of Section 9.5-421 of the City Code.

CONDITIONS IMPOSED:

Granting approval of the application for major conditional use submitted by First State Bank for the redevelopment of an existing restaurant building as a full-service bank with drive-up windows on property described as Part of Lot 4, Casa Manana Colony Subdivision, Vaca Key, Marathon, Florida is subject to the following conditions:

1. The drainage details must be approved by the City Engineer in compliance with Section 9.5-293 of the City Code;
2. The applicant shall comply with applicable FEMA regulations should the project be found to be a substantial improvement; and
3. The applicant shall file a cross access easement with the adjacent property owner to the east to establish reciprocal access between the two parcels.

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 Application for a major conditional use is hereby GRANTED, subject to the conditions set forth above.

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 approval granted herein. The Council may revoke this approval upon a determination that the Applicant or its successor or designee is in non-compliance with this development order or the City Code. 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 by the City Code.

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 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.

11/17/04

Date

Gail Kenson
Gail Kenson, AICP


Planning Manager

This Development Order was filed in the Office of the City Clerk of this 17 day of November 2004.

Cindy Ecklund
Cindy Ecklund, City Clerk (personally known)

Clara Werner

NOTARY PUBLIC, STATE OF FLORIDA

 Clara Werner
My Commission DD290334
Expires February 12, 2008

NOTICE

Section 9.5-72 (a) of Marathon City Code states that a conditional use permit shall not be transferred to a successive owner without notification to the Development Review Coordinator within five (5) days of the transfer.

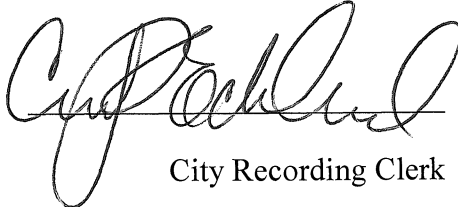
Under the authority of Section 9.5-72(a) of the City of Marathon Land Development Regulations, this development order shall become null and void with no further notice required by the City, unless a complete building permit application for site preparation and building construction with revised plans as required herein is submitted to the City of Marathon Building Official within six (6) months of the expiration of the Department of Community Affairs appeal period or the date when the Department of Community Affairs 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 Director of Planning.

If this development order is appealed under the City of Marathon Code or by the Department of Community Affairs, the above time limits shall be tolled until the appeals are resolved.

This instrument shall not take effect for thirty (30) working days following the date of memorialization thereof, and during that time permit shall be subject to appeal as provided in Section 9.5-521(d) of the City of Marathon Land Development Regulations. An appeal shall stay the effectiveness of this instrument until resolved.

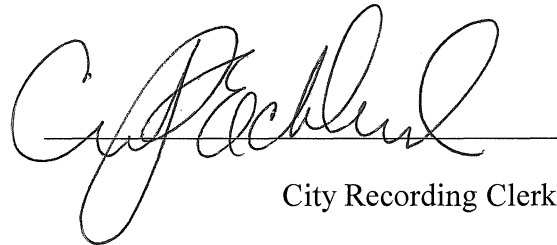
In addition, please be advised that pursuant to Chapter 9J-1, Florida Administrative Code, this instrument shall not take effect for forty-five (45) days following the rendition to the Florida Department of Community Affairs. During that forty-five days, the Florida Department of Community Affairs may 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.

This Development Order was filed in the Office of the City Recording Clerk on this 17 day of November, 2004.


City Recording Clerk

CERTIFICATE OF SERVICE

A true and correct copy of the above and foregoing Development Order was furnished to the Applicant, via U.S. certified mail, return receipt requested, addressed to First State Bank, 1201 Simonton Street, Key West, Florida 33040, and to the Department of Community Affairs, Marathon Office, 2796 Overseas Highway, Suite 212, Marathon, Florida 33050, this 17 day of November, 2004.



C. J. Pacheco

City Recording Clerk