

**CITY OF MARATHON, FLORIDA
RESOLUTION 2004-137**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, GRANTING THE ADMINISTRATIVE APPEAL FILED BY EDWARD BUSCH, OWNER, REGARDING THE FEBRUARY 25, 2003 REVISED LETTER OF UNDERSTANDING CONCERNING THE NUMBER OF DWELLING UNITS WHICH MAY BE RECONSTRUCTED FOR THE DEVELOPMENT KNOWN AS KEYS COUNTY LOCATED AT 1733 OVERSEAS HIGHWAY AND FURTHER DESCRIBED AS LOT 15 AND A PART OF LOT 17, BLOCK 1 OF THE PARRISH SUBDIVISION AS RECORDED IN PLAT BOOK 2, PAGE 18, AND ADJACENT BAY BOTTOM, AND HAVING THE REAL ESTATE NUMBERS 00102050-000000, 00326560-000000, AND 00326580-000000. THE PROPERTY IS NEAREST TO MILE MARKER 48

WHEREAS, on the 23rd day of August, 2004, the City of Marathon (the "City") Planning Commission (the "Commission") and on the 26th day of October, 2004, the City Council (the "Council"), conducted properly advertised public hearings (the "Public Hearings") regarding the administrative appeal filed by Edward Busch (the "Applicant"); and

WHEREAS, the purpose of the appeal was to seek the Council's review of the City Planning Department's revised Letter of Understanding concerning the number of dwelling units which can be reconstructed for the development known as "Keys County" (the "Appeal") on property described in the Appeal (the "Property"); and

WHEREAS, the Council having considered the recommendation of the Commission and the testimony and evidence presented by all parties, including the Applicant, does hereby find and determine as provided below.

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 following Finding of Facts are made:

(1) That Planner, Katye Parker, presented to the Commission and Council the written recommendation of City staff regarding the Appeal.

(2) The Applicant presented competent substantial evidence that City staff erred as a matter of law or fact that the disputed dwelling units had not been lawfully established.

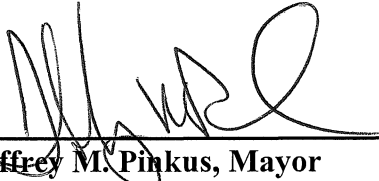
Section 3. The following Conclusions of Law are made:

- (1) City staff processed the Appeal in accordance with the City Code.
- (2) The Applicant demonstrated through competent substantial evidence that the Appeal should be granted.
- (3) That 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 substantial competent evidence of record.
- (4) The Appeal is GRANTED.

Section 4. This Resolution shall not take effect for thirty (30) days following the date it is filed with the City Clerk, and during that time, the administrative appeal granted herein shall be subject to appeal as provided in the City Code. An appeal shall stay the effectiveness of this Resolution until said appeal is resolved.

PASSED AND APPROVED by the City Council of the city of Marathon, Florida, this 9th day of November, 2004.

THE CITY OF MARATHON, FLORIDA



Jeffrey M. Pinkus, Mayor

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

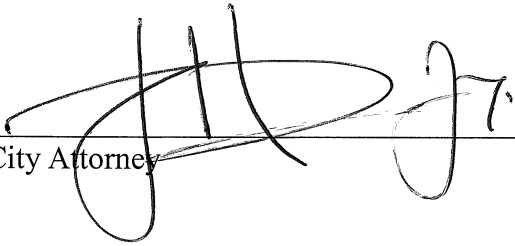
ATTEST:



Cindy L. Eklund
City Clerk

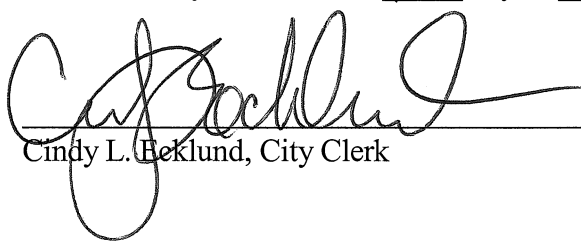
(City Seal)

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



City Attorney

This Development Order was filed in the Office of the City Clerk of this 10th day of November, 2004.



Cindy L. Ecklund, City Clerk

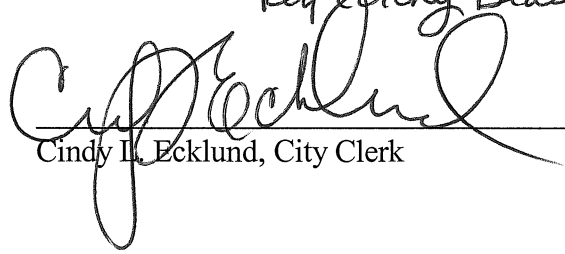
NOTICE

Please be advised that pursuant to Chapter 9J-1, Florida Administrative Code, the administrative appeal 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.

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 Edward Busch at 1733 Overseas Hwy, this 16 day of November, 2004.

PO Box 510747
Key Colony Beach FL
33051



Cindy L. Ecklund, City Clerk