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**CITY OF MARATHON, FLORIDA
RESOLUTION 2005-016**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING THE REQUEST BY MARINE BANK, FOR A MINOR CONDITIONAL USE PERMIT, PURSUANT TO SECTION 9.5-68 OF THE CITY OF MARATHON CODE, AUTHORIZING THE DEVELOPMENT OF AN OFFICE BUILDING AND FIVE (5) AFFORDABLE DWELLING UNITS, AT PROPERTY LEGALLY DESCRIBED AS LOTS 5 AND 6, BLOCK 1, KEY COLONY SUBDIVISION

WHEREAS, on the 19th day of January, 2005, the City of Marathon (the "City") Planning Commission (the "Commission") and on the 8th day of February, 2005, the City Council (the "Council"), conducted properly advertised public hearings (the "Public Hearings") regarding the request submitted by Marine Bank (the "Applicant"), for a minor conditional use permit pursuant to Sections 9.5-68 of the City Code (the "Code"); and

WHEREAS, the purpose of the minor conditional use permit is to allow the Applicant to develop an office building and five (5) affordable dwelling units (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, FLORIDA, THAT:

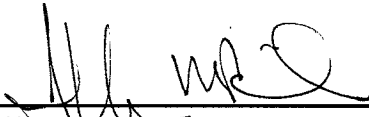
Section 1. The above recitals are true and correct and incorporated herein.

Section 2. The City Council hereby approves Development Order Number 2005-03, a copy of which is attached hereto as Exhibit "A", granting a minor conditional use to Marine Bank for the Proposed Use. The Director of Planning is authorized to sign the development order on behalf of the City.

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 22nd day of February, 2005.

THE CITY OF MARATHON, FLORIDA



Jeffrey M. Pinkus, Mayor

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

ATTEST:



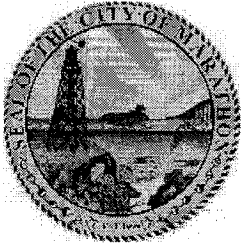
Cindy L. Ecklund
City Clerk

(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
MINOR CONDITIONAL USE
DEVELOPMENT ORDER # 2005-03**

A DEVELOPMENT ORDER APPROVING THE MINOR CONDITIONAL USE APPLICATION SUBMITTED BY MARINE BANK, FOR A MINOR CONDITIONAL USE PERMIT, PURSUANT TO SECTION 9.5-68 OF THE CITY OF MARATHON CODE, AUTHORIZING THE DEVELOPMENT OF AN OFFICE BUILDING AND FIVE (5) AFFORDABLE DWELLING UNITS, AT PROPERTY LEGALLY DESCRIBED AS LOTS 5 AND 6, BLOCK 1, KEY COLONY SUBDIVISION, VACA KEY, MONROE COUNTY, FLORIDA (THE "PROPERTY") PROVIDING FOR CONDITIONS OF APPROVAL; PROVIDING FOR PENALTIES FOR VIOLATIONS OF THE CONDITIONS OF APPROVAL; PROVIDING FOR A TERM OF THE APPROVAL; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Marine Bank is the owner of the Property and applied for a Minor Conditional Use approval to develop an office building and five (5) affordable dwelling units on property located in the Urban Commercial (UC) land use district (the "Application"); and

WHEREAS, the Planning Commission (Commission), in accordance with the provisions of Sections 9.5-22 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 January 19, 2005; and

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

WHEREAS, the Council of the City of Marathon, Florida (the "City"), in accordance with the provisions of Sections 9.5-21 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 February 8, 2005; and

WHEREAS, the Council has duly considered the recommendation of the Commission, and the information and documentary evidence submitted by Marine Bank and does hereby find and determine as provided below.

FINDINGS OF FACT:

1. Based on the submitted site plan, the site is a 56,766 square feet (1.3 acres) parcel. Currently there is an existing structure on the property of approximately 7,753 square feet, which operates as a bank with a drive-through teller window. The applicant is proposing to construct an additional structure on the rear portion of the parcel that will contain approximately 5,097 square feet of office space and five (5) affordable dwelling units.

2. In accordance with Section 9.5-65 of the Code, the Commission and Council considered and determined the Applicant met the following criteria:
 - a. The Proposed Use is consistent with goals, objectives and policies of the City Comprehensive Plan (the "Plan") and Chapter 9.5 of the Code; and
 - b. The Proposed Use is consistent with the character of the immediate vicinity of the parcel proposed for development; and
 - c. The design of the Proposed Use minimizes adverse effects, including visual impacts, of the proposed use on adjacent properties; and
 - d. The Proposed Use will not have an adverse effect on the value of surrounding properties; and
 - e. The public facilities and services, including but not limited to roadways, park facilities, police and fire protection, hospital and medical services, hurricane shelter, drainage systems, refuse disposal, water and sewers, and schools are adequate; and
 - f. The Proposed Use complies with all additional standards imposed on it by the particular provisions of Chapter 9.5 of the Code, authorizing such use and by all other applicable requirements of the Code.

CONDITIONS IMPOSED:

Granting approval of the Application is subject to the following conditions:

1. In accordance with Section 9.5-375 through 9.5-381 of the City Code, the applicant must install a Class D bufferyard along the rear property line between the Urban Commercial (UC) and Improved Subdivision (IS) land use districts, which shall be shown on the submitted building plans.
2. The applicant shall coordinate with the City the location of a fire hydrant near the property.
3. The applicant shall install a sprinkler system approved by the City Fire Marshall.
4. The applicant must obtain NROGO allocations for the additional commercial floor area proposed for the office space.
5. The applicant must obtain five (5) affordable ROGO allocations for the five proposed dwelling units.
6. Prior to issuance of a Certificate of Occupancy, the applicant must submit a recorded Affordable Housing Restrictive Covenant for the affordable housing units restricting the use of the units in accordance with all affordable housing requirements for at least fifty (50) years.

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 Development Order 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 Application for a minor conditional use is hereby GRANTED.


RECORDING:

The applicant shall at its sole cost and expense, record a certified copy this Development Order in the Public Records of Monroe County, Florida within five (5) days of receipt of same from the City. The applicant shall provide the City with proof of the recording of the Development Order in accordance with the provisions of this paragraph.

EFFECTIVE DATE:

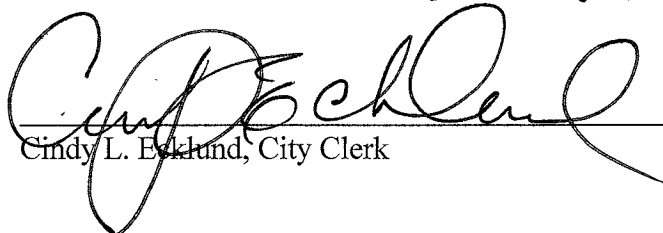
The Director of Planning shall sign this development order, and it shall not take effect for thirty (30) days following the date it is rendered/filed with the City Clerk. During that time, the minor conditional use approval granted herein shall be subject to appeal as provided in the City Code. An appeal shall stay the effectiveness of this development order until said appeal is resolved.

23 Feb 05
Date



Gail E. Kenson, AICP
Planning Director

This Development Order was filed in the Office of the City Clerk of this 23 day of Feb, 2005.



Cindy L. Ecklund, City Clerk

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 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 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 Marine Bank, 11290 Overseas Highway, Marathon, Florida 33050, this 24 day of Feb, 2005.



Cindy L. Ecklund, City Clerk


SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Marine Bank
 11290 Overseas Hwy.
 Marathon Fl. 33050

COMPLETE THIS SECTION ON DELIVERY

A. Signature  Agent
 Addressee

B. Received by (Printed Name) _____ C. Date of Delivery 2/24/05

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

MAR - 1 2005

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

7003 3110 0002 3854 6083

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

| | |
|---|---------|
| Postage | \$ 60 |
| Certified Fee | |
| Return Receipt Fee (Endorsement Required) | |
| Restricted Delivery Fee (Endorsement Required) | |
| Total Postage & Fees | \$ 4.65 |

Postmark
 Here
 FEB 24 2005

Sent To
 Marine Bank
 Street, Apt. No.,
 or PO Box No. 11290 Overseas Hwy.
 City, State, ZIP+4
 Marathon Fl. 33050

PS Form 3800, June 2002 See Reverse for Instructions

E909 458E 2000 DTTE E002



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
 MAR 18 2005
 BY: *JF*

March 15, 2005

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

Received
 MAR 21 2005
 City Clerk

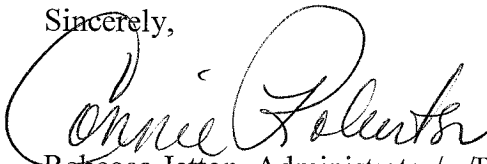
**Re: Resolution 2005-016 - Minor Conditional Use
 (Marine Bank - Office Building and 5 Affordable Welling Units)**

Dear Mrs. Ecklund:

The Department Field Office has received your request for a letter stating that the Department will not appeal the above resolution. The Department will not appeal this resolution pursuant to Section 380.07, Florida Statutes. While the Department will not appeal this resolution 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,

for 
 Rebecca Jetton, Administrator/w/PK
 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