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**CITY OF MARATHON, FLORIDA
RESOLUTION 2005-066**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING THE REQUEST BY JAMES MASSARO, 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, AT PROPERTY LEGALLY DESCRIBED AS PART OF LOT 3, LOTS 4-7, PART OF LOT 8, BLOCK 8, LINCOLN MANOR, ON VACA KEY, MONROE COUNTY, FLORIDA

WHEREAS, on the 18th day of April, 2005, the City of Marathon Planning Commission and on the 10th day of May, 2005, the City Council, conducted properly advertised public hearings regarding the request submitted by James Massaro (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 construct an office building (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:

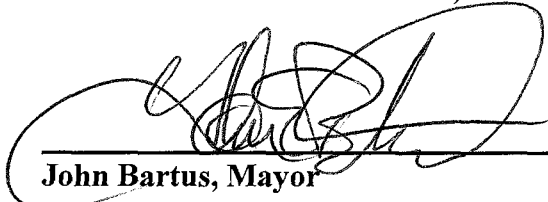
Section 1. The above recitals are true and correct and incorporated herein.

Section 2. The City Council hereby approves Development Order Number 2005-05, a copy of which is attached hereto as Exhibit "A", granting a minor conditional use to the Applicant 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 25th day of May, 2005.


THE CITY OF MARATHON, FLORIDA



John Bartus, Mayor

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

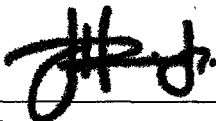
ATTEST:



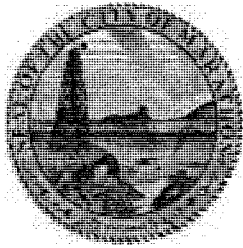
Cindy L. Ecklund
City Clerk

(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 # 2005-05**

A DEVELOPMENT ORDER APPROVING THE MINOR CONDITIONAL USE APPLICATION SUBMITTED BY JAMES MASSARO, 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, AT PROPERTY LEGALLY DESCRIBED AS A PART OF LOT 3, LOTS 4-7, PART OF LOT 8, BLOCK 8, LINCOLN MANOR, ON VACA KEY, MONROE COUNTY, FLORIDA (THE "PROPERTY") PROVIDING FOR A TERM OF THE APPROVAL; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, James Massaro is the owner of the Property and applied for a Minor Conditional Use approval to develop an office building on property located in the Mixed Use (MU) land use district (the "Application"); and

WHEREAS, the City of Marathon Planning Commission (the "Commission"), in accordance with the provisions of Sections 9.5-22 and 9.5-68 of the City of Marathon Land Development Regulations (the "LDR's"), met to review the Application to determine its compliance with the applicable regulations on April 18, 2005; and

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

WHEREAS, the Council in accordance with the provisions of Sections 9.5-21 and 9.5-68 of the LDR's, met to review the Application to determine its compliance with the applicable regulations on May 10, 2005; and

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

FINDINGS OF FACT:

1. Based on the submitted site plan, the parcel is 28,500 square feet (0.65 acres). Currently there is an existing structure on the property with 2,600 square feet of non-residential floor area. The applicant is proposing to add 1,268 square feet to the existing structure, bringing the total on site to 3,868 square feet. This commercial floor area was in existence prior to the construction of the existing building and is therefore exempt from the provisions of City Ordinance 2004-12 (NROGO).
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.

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.

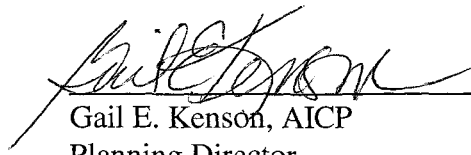
RECORDING:

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.

2 June 05
Date


Gail E. Kenson, AICP
Planning Director

This Development Order was filed in the Office of the City Clerk of this 02 day of June 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 James Massaro, 3980 Overseas Highway, Marathon, Florida 33050, this 02 day of June, 2005.


Cindy L. Ecklund, City Clerk