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**CITY OF MARATHON, FLORIDA
RESOLUTION 2005-105**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING THE REQUEST BY JACK AND VERONICA LEGGETT FOR AN AMENDMENT TO A MAJOR CONDITIONAL USE PERMIT, PURSUANT TO SECTION 9.5-69 OF THE CITY OF MARATHON CODE, AUTHORIZING THE REDEVELOPMENT OF A HOTEL, AT PROPERTY LOCATED AT 4900 OVERSEAS HIGHWAY, AND LEGALLY DESCRIBED AS LOTS 5 AND 6, THOMPSON ADAMS SUBDIVISION AND LOTS 1, 2, 9-13, BLOCK 1, VACA VILLAGE SUBDIVISION, KEY VACCAS, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBERS 00103050-000000, 00327150-000000, 00327910-000000, 00327920-000000, 0327990-000000, 00328000-000000, 00328010-000000, 00328020-000000, and 00328030-000000

WHEREAS, on the 18th day of July, 2005, the City of Marathon Planning Commission and on the 26th day of July, 2005, the City of Marathon City Council, conducted properly advertised public hearings regarding the request submitted by Jack and Veronica Leggett (the "Applicants"), for an amendment to a major conditional use permit pursuant to Sections 9.5-69 of the City Code (the "Code"); and

WHEREAS, major conditional use approval for redevelopment of the hotel was granted to the property described in the application (the "Property") on November 9, 2004; and

WHEREAS, the purpose of the amendment to the major conditional use permit is to allow the Applicant to redevelop the existing hotel (the "Proposed Use") at the Property under the City's new Hotel/Motel Ordinance.

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 2005-09, a copy of which is attached hereto as Exhibit "A", granting an amendment to a major conditional use to the Applicants 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 9th day of August, 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
MAJOR CONDITIONAL USE
DEVELOPMENT ORDER # 2005-09**

A DEVELOPMENT ORDER APPROVING THE MAJOR CONDITIONAL USE APPLICATION SUBMITTED BY JACK AND VERONICA LEGGETT, FOR AN AMENDMENT TO A MAJOR CONDITIONAL USE PERMIT, PURSUANT TO SECTION 9.5-69 OF THE CITY OF MARATHON CODE, AUTHORIZING THE REDEVELOPMENT OF AN EXISTING HOTEL, AT PROPERTY LOCATED AT 4900 OVERSEAS HIGHWAY AND LEGALLY DESCRIBED LOTS 5 AND 6, THOMPSON ADAMS SUBDIVISION AND LOTS 1, 2, 9-13, BLOCK 1, VACA VILLAGE SUBDIVISION, KEY VACCAS, MONROE COUNTY, FLORIDA, (THE "PROPERTY") HAVING REAL ESTATE NUMBERS 00103050-000000, 00327150-000000, 00327910-000000, 00327920-000000, 0327990-000000, 00328000-000000, 00328010-000000, 00328020-000000, AND 00328030-000000; PROVIDING FOR A TERM OF THE APPROVAL; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, Jack and Veronica Leggett (the "Applicants") own the Property and applied for Major Conditional Use approval to redevelop the existing hotel on property which is located in the Suburban Commercial (SC) and Suburban Residential (SR) land use districts (the "Amended Application"); and

WHEREAS, the Property was granted major conditional use approval on November 9, 2004 for the redevelopment of the existing hotel; and

WHEREAS, the Applicants submitted the Amended Application to redevelop the existing hotel under the Hotel/Motel Ordinance which was adopted in January 2005; and

WHEREAS, the City of Marathon Planning Commission (the "Commission"), in accordance with the provisions of Sections 9.5-22 and 9.5-69 of the City of Marathon Land Development Regulations (the "LDR's"), met to review the Amended Application to determine its compliance with the applicable regulations on July 18, 2005; and

WHEREAS, the Commission recommended conditional approval of the Amended 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 9.5-69 of the LDR's, met to review the Amended Application to determine its compliance with the applicable regulations on July 26, 2005; and

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

FINDINGS OF FACT:

1. Based on the submitted site plan, the property is 251,814 square feet (5.78 acres) of upland and approximately 33,976.8 square feet (0.78 acres) of bay bottom. Currently the site is operating as a 30 unit hotel, with structures containing one (1) bedroom hotel rooms and a single family residence. The Applicants are proposing to redevelop the property into a hotel with twenty-seven (27) two (2) bedroom hotel units, a manager's apartment, and clubhouse.
2. In accordance with Section 9.5-65 of the Code, the Commission and Council considered and determined the Applicants 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 Amended Application is subject to the following conditions:

1. Submission of stormwater management plans demonstrating the redeveloped property will comply with the applicable City and State stormwater regulations. Additionally, no direct outfalls to Outstanding Florida Waters shall be permitted.
2. A transplantation plan must be submitted prior to issuance of any building permits.
3. There shall be no live-aboards or floating structures permitted at the marina.
4. The Applicants will be required to install fire hydrants on the property, upon the recommendation of the Fire Department. All new buildings shall require the installation of sprinkler systems and otherwise comply with all Fire Alarm System and Life Safety Code Requirements prior to issuance of any building permits.

VIOLATION OF CONDITIONS:

The Applicants understand and acknowledge that they 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 Applicants or their 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 Amended Application for an amendment to a major conditional use is hereby GRANTED subject to the conditions contained herein.

RECORDING:

The Applicants shall at their 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 Applicants 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 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.

28 Aug 05
Date



Gail E. Kenson, AICP
Planning Director

This Development Order was filed in the Office of the City Clerk of this 29 day of 2005, 2005.



Cindy L. Ecklund, City Clerk

NOTICE

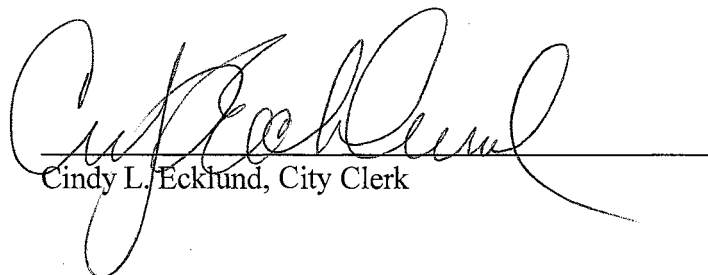
Section 9.5-72 (a) of Marathon City Code states that a conditional use permit shall not be transferred to a successive owner without notification to the Development Review Coordinator within five (5) days of the transfer.

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 Jack and Veronica Leggett, 4900 Overseas Highway, Marathon, Florida 33050, this 29 day of August, 2005.



Cindy L. Ecklund, City Clerk