

**CITY OF MARATHON, FLORIDA  
RESOLUTION 2006-011**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, DENYING THE APPEAL REQUESTED BY STEVEN C. MURPHY AND MARLENE F. LOGAN AND APPROVING THE APPLICATION BY JOHN T. O'QUINN, FOR A VARIANCE TO SECTION 9.5-289 OF CITY CODE WHICH ESTABLISHES MAXIMUM DOCK LENGTHS, AT PROPERTY LOCATED AT 113 WINDY POINT CIRCLE, AND FURTHER DESCRIBED AS LOT 76, STIRRUP KEY SUBDIVISION, MONROE COUNTY, FLORIDA, HAVING THE REAL ESTATE NUMBER 00333641-007600**

**WHEREAS**, Planning Department staff reviewed an application submitted by John T. O'Quinn (the "Applicant") for a variance pursuant to Section 9.5-289 of the City Code (the "Code"); and

**WHEREAS**, the purpose of the variance is to allow the Applicant to construct a long dock that would be 4' x 240' access walk with a 8' x 20' terminal platform and including 4 mooring piles (the "Proposed Use") at the property described in the application (the "Property"); and

**WHEREAS**, Planning Department staff reviewed the variance application and determined it satisfied the applicable criteria to grant the variance; and

**WHEREAS**, Steven C. Murphy and Marlene F. Logan filed an appeal requesting a public hearing pursuant to Section 9.5-521 of the Code challenging the granting of the variance; and

**WHEREAS**, on December 19, 2005, the City of Marathon (the "City") Planning Commission (the "Commission") and on January 10, 2006, the City Council (the "Council"), conducted properly advertised public hearings (the "Public Hearings") regarding the request submitted by the Appellant.

**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.

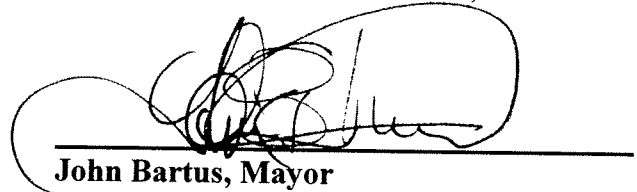
**Section 2.** The City Council hereby denies the appeal of Steven C. Murphy and Marlene F. Logan (the "Appellants"), and approves Development Order Number 2006-02, a copy of which is attached hereto as Exhibit "A", granting the variance, with conditions to the Applicant for the Proposed Use. The Appellants failed to demonstrate through competent substantial evidence the Proposed Use did not meet the applicable criteria for the granting of a long dock variance, or that the

City did not apply the correct law, or that procedural due process was not provided. 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 24<sup>th</sup> day of January, 2006.

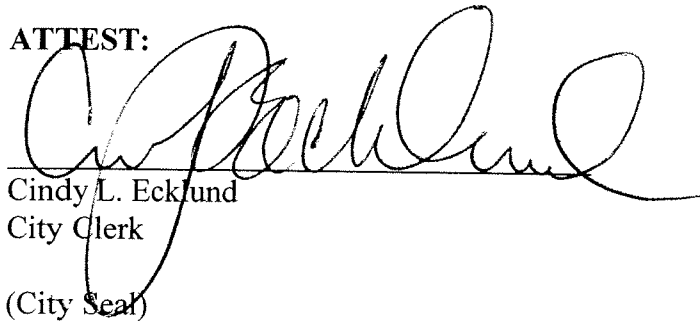
**THE CITY OF MARATHON, FLORIDA**



\_\_\_\_\_  
**John Bartus, Mayor**

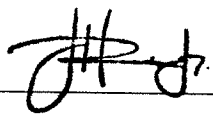
AYES: Bull, Mearns, Miller, Pinkus, Bartus  
NOES: None  
ABSENT: None  
ABSTAIN: None

**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  
LONG DOCK VARIANCE  
DEVELOPMENT ORDER # 2006-02**

**A DEVELOPMENT ORDER APPROVING THE APPLICATION SUBMITTED BY JOHN T. O'QUINN FOR AN ADMINISTRATIVE LONG DOCK VARIANCE FROM THE PROVISIONS OF SECTION 9.5 289 OF THE LAND DEVELOPMENT REGULATIONS REGULATING THE LENGTH RESTRICTIONS FOR A DOCK ON PROPERTY LOCATED AT 113 WINDY POINT CIRCLE AND LEGALLY DESCRIBED AS LOT 76, STIRRUP KEY SUBDIVISION, MONROE COUNTY, FLORIDA (THE "PROPERTY") WITH THE REAL ESTATE NUMBER 00333641-008000.**

**WHEREAS**, John T. O'Quinn (the "Applicant") applied for an Administrative Long Dock Variance to construct a dock on property in the Improved Subdivision (IS) land use district (the "Application"); and

**WHEREAS**, pursuant to Section 9.5-289 of the City of Marathon Code (the "Code"), an Applicant can apply for an Administrative Long Dock Variance to allow the minimum relaxation of the length restriction as is necessary to provide the upland owner with access to adequate water depths specified for docking facilities; and

**WHEREAS**, the City of Marathon, Director of Planning conducted a review of the Application and does hereby find and determine as provided below.

**FINDINGS OF FACT:**

1. Based on the submitted site plan, the dock will consist of a 4' x 240' access walk with an 8' x 20' terminal platform.
2. In accordance with Section 9.5-289 of the Code, the Director of Planning considered and determined the Applicant met the following criteria:
  - a. The proposed dock will be consistent with the community character of the surrounding area;
  - b. The proposed dock will not interfere with public recreational uses in or on adjacent waters; and
  - c. The proposed dock will pose no navigational or safety hazard.

**CONCLUSIONS OF LAW:**

Based upon the above Findings of Fact, the Director of Planning 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 Development Order, the Director of Planning 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; and
3. The Application for an Administrative Long Dock Variance use is hereby GRANTED.

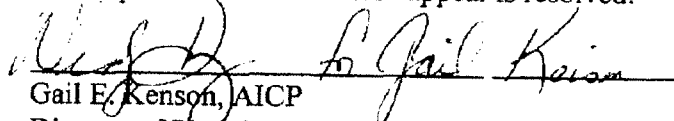
**RECORDING:**

The Applicant shall, at its sole cost and expense, record a certified copy of 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.

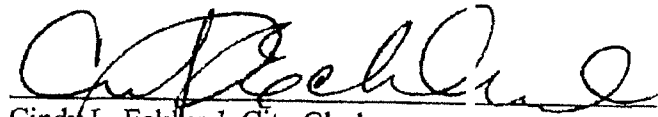
**EFFECTIVE DATE:**

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 administrative long dock variance 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.

January 25, 2006  
Date

  
Gail E. Kenson, AICP  
Director of Planning

This Development Order was filed in the Office of the City Clerk of this 25 day of Jan., 2006.

  
Cindy L. Ecklund, City Clerk

NOTICE

Pursuant to Section 9-5.523 of the Code, upon expiration of any time period established by this chapter or development permit, or non-compliance with a condition of approval, no new development permits affecting the property shall be issued by the City, and no act on which might tend to vest the development permit shall be permitted, until a determination is made by the Director of Planning on the status of the development permit. If the Director of Planning determines that any time period has expired or non-compliance with a condition of approval has occurred, the Director of Planning shall file with the Clerk of the Circuit Court a notice of such time expiration or non-compliance, which shall be placed with the records governing title to the affected property. The City Council shall then give consideration of action at a public hearing.

This Development Order shall become null and void, with no further notice required by the City of Marathon ("City"), unless a complete building permit application for site preparation and building construction with revised plans, as required herein, is submitted to the City Building Official within the timeframe specified herein. All required certificates of occupancy shall be procured within three (3) years of the date of this Resolution unless the Planning Director grants an administrative time extension.

Pursuant to Section 9-5.523 of the Land Development Regulations a public hearing before the City Council on the administrative variance application may be requested in writing to the Planning Director, within thirty (30) days of issuance of this notice by the applicant or an adjacent property owner.

This instrument shall not take effect for thirty (30) days following the date of memorialization thereof, and during that time, the permit shall be subject to appeal as provided in Section 9-5.523 of the Code. An appeal shall stay the effectiveness of this instrument until resolved.

In addition, please be advised that pursuant to Chapter 9J-1 of the Florida Administrative Code, this instrument shall not take effect for forty-five (45) days following the rendition to the DCA. During those 45 days, the DCA 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 John O'Donoghue, 775 Micer Ferry Rd on this 26 day of January, 2016.  
Deland, FL 32760



I certify this document to be a True and Correct Copy of the original. Emily E. Ecklund, City Clerk

Lillian Trajcek  
City Clerk/City of Marathon

1-26-16  
Date

MONROE COUNTY  
OFFICIAL RECORDS