

**CITY OF MARATHON, FLORIDA  
RESOLUTION 2010-42**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, GRANTING THE APPEAL FILED BY FIRST FLORIDA KEYS PROPERTIES, INC OF THE DENIAL OF THE ISSUANCE OF A 2APS ALCOHOLIC BEVERAGE PERMIT FOR WALGREENS DRUG STORE AS MEMORIALIZED IN PC RESOLUTION 2010-001; FOR PROPERTY LOCATED AT 5171 AND 5271 OVERSEAS HIGHWAY, OCEAN, NEAREST MILE MARKER 50 AND FURTHER DESCRIBED AS PART OF LOT 2 AND AMENDED PLAT OF MARAMEADE SUBDIVISION PB3-185 ALL BLOCK A AND LOTS 1 THROUGH 7, PART OF LOT 8, PART OF LOT 48 AND ALL LOTS 49 THROUGH 51 BLOCK B AND THAT VACATED PORTION OF PALM PLACE, SECTION 11, TOWNSHIP 66, RANGE 32, KEY VACCAS, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBERS 00103730-000000 AND 00324210-000000; AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, First Florida Keys Properties Inc. is the owner of real property located at 5171 and 5271 Overseas Highway (RE Nos. 00103730.000000 & 00324210.000000) (the "Property"); and

**WHEREAS**, on or about December 1, 2009, First Florida Keys Properties, Inc. (the "Applicant"), on behalf of Walgreen's Drug Store, submitted a completed and sufficient application for a 2APS alcoholic beverage license (the "Application"); and

**WHEREAS**, on or about December 8, 2009, the City of Marathon (the "City"), issued a "Notice of Intent" to grant approval of the Application, which administrative decision was appealed by a nearby property owner (the "PC Appeal"); and

**WHEREAS**, on or about February 17, 2010 the City of Marathon Planning Commission held a public hearing to consider the PC Appeal, and after receiving evidence and testimony on the issue the Planning Commission granted the PC Appeal; and

**WHEREAS**, on or about March 16, 2010, the Applicant filed an application pursuant to Chapter 102, Article 17 of the Marathon Code seeking Council review of the Planning Commission's granting of the PC Appeal as memorialized in PC Resolution 2010-001 (the "Appeal").

**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, having considered the evidence and testimony presented by all parties, including the Applicant, hereby makes the following finding of facts:

1. The City Council heard the Appeal on April 27, 2010.
2. The Appeal was properly noticed and all interested parties were given an opportunity to introduce evidence, give testimony, and be heard.
3. City staff presented to the City Council its written and verbal recommendation to grant the Appeal and issue the Applicant a 2APS alcoholic beverage license.
4. The Applicant demonstrated through competent substantial evidence that it meets all of the Marathon Code requirements to be entitled to a 2APS alcoholic beverage license.

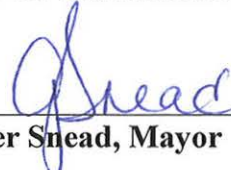
**Section 3.** Based upon the above findings of fact the City Council hereby makes the following conclusions of law:

1. The Appeal has been processed in accordance with Chapter 102, Article 17 of the Marathon Code.
2. In rendering its decision, as reflected in this Resolution, the City Council has:
  - (a) Accorded procedural due process; and
  - (b) Observed the essential requirements of the law; and
  - (c) Supported its decision by competent substantial evidence of record.
3. Pursuant to Chapter 102, Article 17 of the Marathon Code, the Appeal is GRANTED.

**Section 4** This Resolution shall take effect thirty (30) days after it has been filed with the City Clerk. If during that time frame the decision of the City Council is appealed as provided for in the Florida Appellate Rules of Procedure, the appeal shall stay the effectiveness of this Resolution until such appeal is resolved by a court of competent jurisdiction.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 27<sup>TH</sup> DAY OF APRIL, 2010.**

**CITY OF MARATHON, FLORIDA**

  
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**Ginger Shead, Mayor**

AYES: Ramsay, Keating, Cinque, Snead  
NOES: None  
ABSENT: None  
ABSTAIN: Worthington

**ATTEST:**

  
\_\_\_\_\_  
Diane Clavier, City Clerk

(City Seal)

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

  
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City Attorney