

**CITY OF MARATHON, FLORIDA
RESOLUTION 2006-087**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING A DEVELOPMENT AGREEMENT WITH HARRY W. CAPLAN FOR THE REDEVELOPMENT OF PROPERTY LOCATED AT 5000 OVERSEAS HIGHWAY, WHICH IS LEGALLY DESCRIBED AS LOTS 1 AND 2, PEARCES SUBDIVISION AND LOTS 1 – 5, BLOCK 2, VACA VILLAGE SUBDIVISION, KEY VACA, MONROE COUNTY, FLORIDA, RE# 00327180-000000, PROVIDING FOR CONDITIONS AND REQUIREMENTS OF DEVELOPMENT, INCLUDING BUT NOT LIMITED TO, BUFFERS, BUILDING HEIGHTS, SETBACKS, AND OTHER REQUIREMENTS

WHEREAS, Harry W. Caplan (the “Applicant”) is the Owner of approximately 1.02 acres of upland property (the “Property”) in the corporate limits of the City of Marathon, Florida; and

WHEREAS, the Property is a fully developed site with hotel units and amenities; and

WHEREAS, the City Comprehensive Plan (the “Plan”) encourages redevelopment that results in the removal of cesspits, the replacement of substandard dwelling/transient units, the replacement of substandard on-site wastewater treatment, and the implementation of effective stormwater management plans; and

WHEREAS, the Plan encourages redevelopment that results in the economic stability of the City and its residents; and

WHEREAS, the City needs redevelopment to protect the environment, its residents, its infrastructure and economy by redeveloping structures that are highly vulnerable in storm events, are below the required base flood elevations and are uninsurable; and

WHEREAS, the redevelopment contemplated by the Owners will remove all existing structures and reconstruct structures in compliance with all applicable Federal Emergency Management Agency (FEMA) regulations, the Florida Department of Health (DOH) regulations, the Florida Department of Environmental Protection (“DEP”) regulations, South Florida Water Management District (“SFWMD”) regulations, applicable building codes and the City Code, including setback, open space, stormwater, and landscape bufferyard criteria; and

WHEREAS, the Property redevelopment provides an opportunity for the type of development that will provide facilities to serve and attract family oriented tourism to the City; and

WHEREAS, the Property redevelopment will encourage owners of other properties to renovate or upgrade their sites, producing greater aesthetic and economic benefits to the City, and providing enhanced environmental and storm hazard protection; and

WHEREAS, the City has determined that the redevelopment will not adversely affect hurricane evacuation clearance time because the number of transient units on the redeveloped Property will not increase beyond the number of transient units previously existing on the Property; and

WHEREAS, the Property is a highly disturbed, fully developed upland site which does not contain wetlands, listed species habitat, or other environmentally sensitive habitat, and therefore is an appropriate and preferred site to support redevelopment; and

WHEREAS, the City has held public hearings to accept and encourage public input with respect to the proposal by the Owner contained in the proposed Development Agreement (the "Agreement"), and has considered such public input; and

WHEREAS, the Agreement is consistent with the Principles for Guiding Development for the Florida Keys Area of Critical State Concern; and

WHEREAS, the Owner has provided public notice of the parties' intent to consider entering into the Agreement by publishing an advertisement in a newspaper of general circulation and readership in the City, posting the Property subject to this Agreement, and mailing notice to the persons and entities shown on the most recent Monroe County Tax Roll to be the Owner of property lying within 300 feet of the boundaries of the Property subject to the Agreement; and

WHEREAS, the City Planning Commission has held a public hearing on May 15, 2006, to consider the Agreement and recommended that the City Council conditionally approve the Agreement, and the City Council of the City has held a public hearing on June 13, 2006 to consider the Agreement; and

WHEREAS, the City has determined that the Agreement is consistent with the City's Comprehensive Plan and Land Development Regulations, is in the public interest, and will further the health, safety, welfare, and goals of the residents of the City of Marathon.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, AS FOLLOWS:

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

Section 2. The Development Agreement between the City and Harry W. Caplan in substantially the form as the attached Exhibit "A," together with such non-material changes as may be acceptable to the City Manager and approved as to form and legality by the City Attorney, is hereby approved.

Section 3. The City Manager is authorized to execute the Development Agreement on behalf of the City.

Section 4. This resolution shall become effective immediately upon its adoption.

PASSED AND APPROVED by the City Council of the City of Marathon, Florida, this 11th day of July, 2006.


THE CITY OF MARATHON, FLORIDA



Marjie Mearns, Vice Mayor

AYES: Pinkus, Tempest, Worthington, Mearns
NOES: None
ABSENT: Bull
ABSTAIN: None

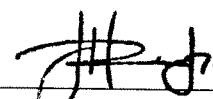
ATTEST:



Diane Clavier
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 # 2006-06**

A DEVELOPMENT ORDER APPROVING THE MAJOR CONDITIONAL USE APPLICATION SUBMITTED BY HARRY W. CAPLAN FOR AN AMENDMENT TO A MAJOR CONDITIONAL USE PERMIT, PURSUANT TO SECTION 9.5-69 OF THE CITY OF MARATHON, AUTHORIZING THE REDEVELOPMENT OF A HOTEL, AT PROPERTY LOCATED AT 5000 OVERSEAS HIGHWAY, MILE MARKER 50, AND IS LEGALLY DESCRIBED AS LOTS 1 AND 2, PEARCES SUBDIVISION AND LOTS 1 – 5, BLOCK 2, VACA VILLAGE SUBDIVISION, KEY VACA, MONROE COUNTY, FLORIDA, RE# 00327180-000000 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, Harry W. Caplan is the owner of the Property and applied for an amendment to a Major Conditional Use approval to redevelop a twenty-one (21) motel unit into eighteen (18) two (2) bedroom units with three (3) affordable/workforce housing units, a swimming pool, splash pool and hotel lobby on a parcel located in the Suburban Commercial (SC) land use district (the "Application"); and

WHEREAS, the Planning Commission (Commission), in accordance with the provisions of Sections 9.5-22 and 9.5-69 of the City of Marathon Land Development Regulations, met to review the Application to determine its compliance with the applicable regulations on May 15, 2006; 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, in accordance with the provisions of Sections 9.5-21 and 9.5-69 of the City of Marathon Land Development Regulations, met to review the Application to determine its compliance with the applicable regulations on June 13, 2006; and

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

FINDINGS OF FACT:

1. Based on the submitted site plan, the site is a 1.02 acre parcel. The applicant is proposing to redevelop a twenty-one (21) motel unit into eighteen (18) two (2) bedroom units with three (3) affordable/workforce housing units, a swimming pool, splash pool and hotel lobby.

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 condition:

- 1) Fire Suppression: The Fire Department requires the installation of fire hydrants on this property. Additionally, the Fire Department requires the installation of a sprinkler system in the new building. Proper Fire Alarm system and Life Safety requirements must be met.
- 2) Vegetation Survey and Transplantation Plan: The applicant will be required to provide a vegetation survey and a transplantation or mitigation plan prior to submittal of a building permit application.
- 3) Clear Sight Triangle: The site plan shall be modified to indicate all required clear sight triangles.
- 4) Traffic Calming Device: The owner shall install a traffic calming device at each exit that connects to the adjacent side streets.

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

Resolution 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:

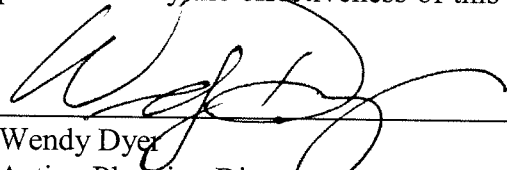
Based upon the above Findings of Fact, the Council does hereby make the following Conclusions of Law:

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 major conditional use is hereby GRANTED subject to the conditions specified herein.

EFFECTIVE DATE:

This development order shall not take effect for thirty (30) days following the date it is filed with the City Clerk, and 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.

July 24, 2006
Date


Wendy Dyer
Acting Planning Director

This Development Order was filed in the Office of the City Clerk of this 24th day of July, 2006.

Diane Clavier
Diane Clavier, 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 Harry Caplan,
this 26 day of July, 2006.

Diane Clavier
Diane Clavier, City Clerk