

# CITY COUNCIL AGENDA STATEMENT



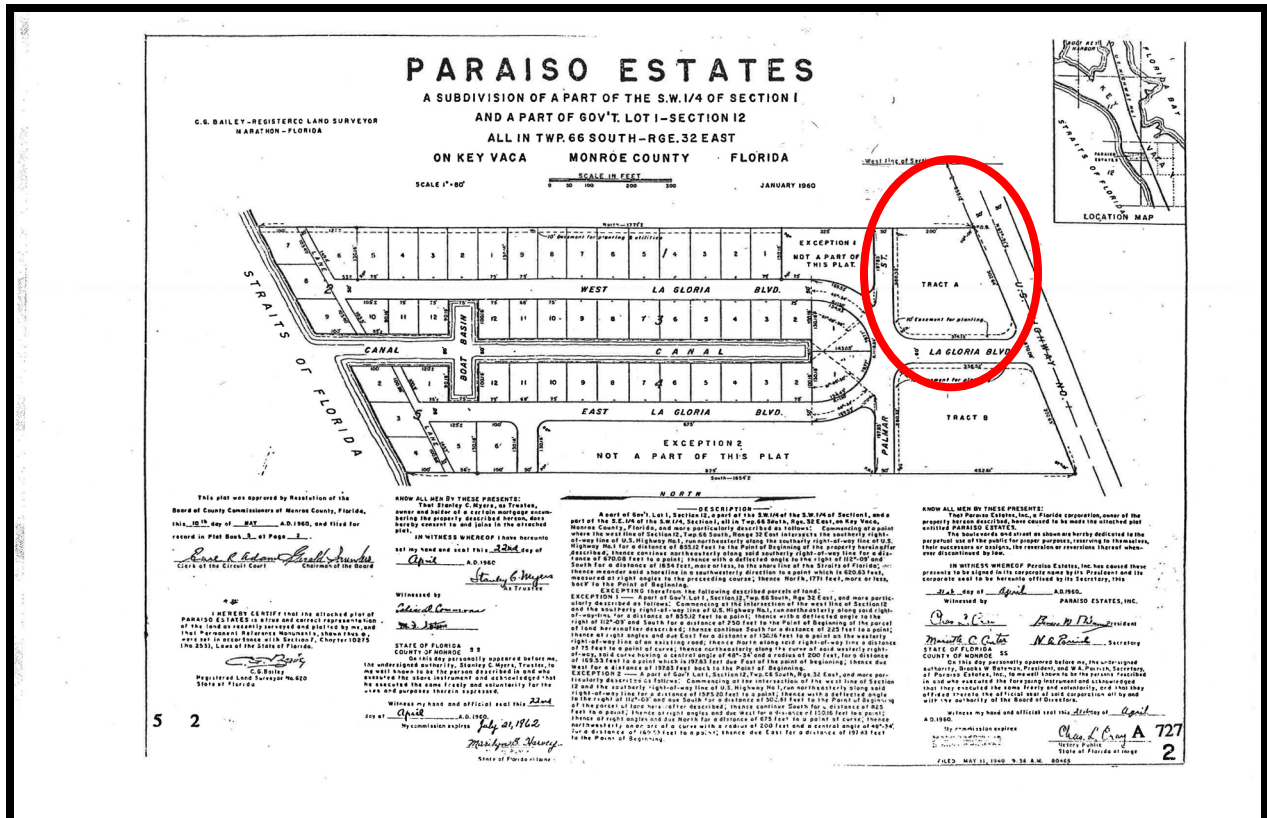
Meeting Date: September 8, 2020  
 From: George Garrett, Planning Director  
 Through: Chuck Lindsey, City Manager

Agenda Item: **Resolution 2020-64** Of The City Council Of The City Of Marathon, Florida Promulgating That The City Has No Interest, As A Matter Of Ownership Or Current And Future Use, In A Parcel Severed At Sale From "Tract A" (RE No. 00343500-000000) As Part Of Paraiso Estates Subdivision, A Part Of The S.W. ¼ Of Section 1 And A Part Of Govt. Lot 1, Section 12, All In Township 66 South, Range 32 East, Providing For Signature By The Mayor, Providing For An Effective Date

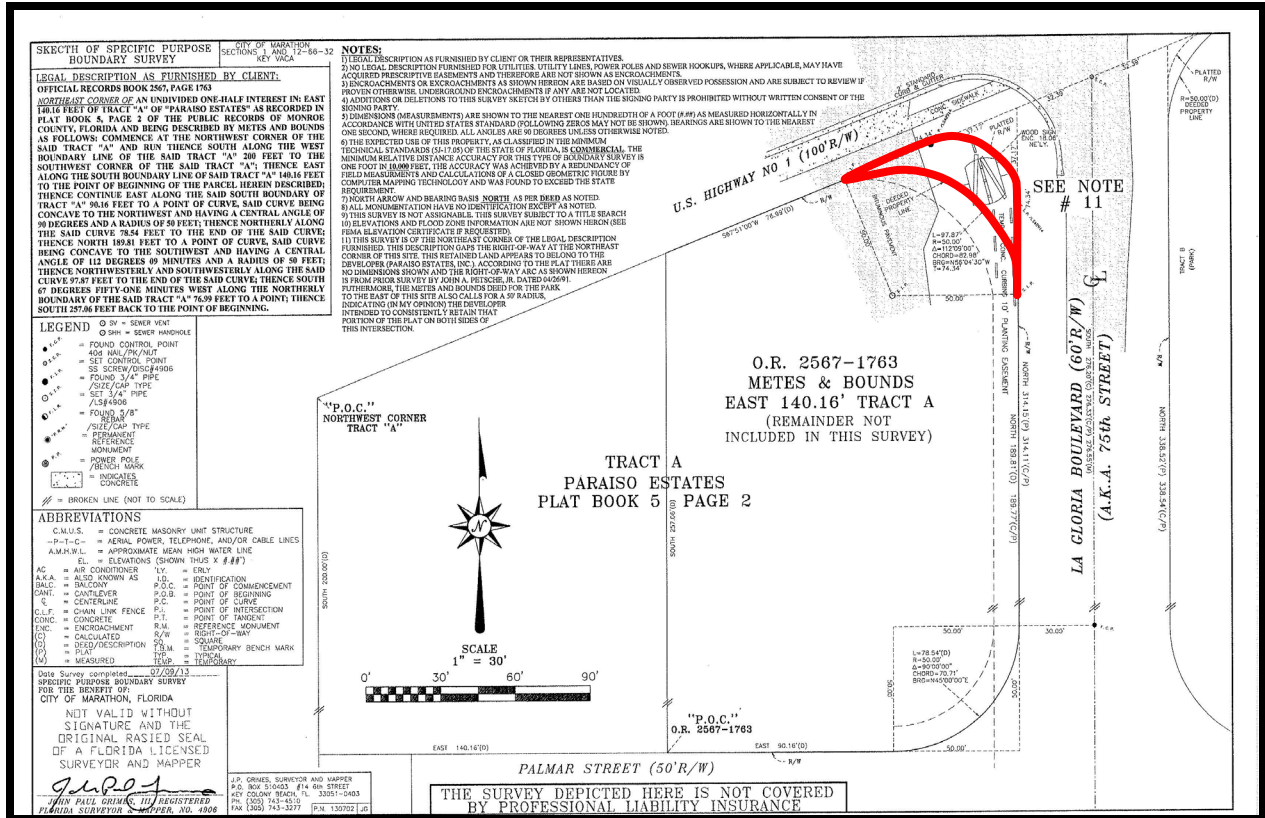
## BACKGROUND & JUSTIFICATION:

The City of Marathon and other governments and entities has been challenged concerning the ownership of a small area of land on the northeast corner of Tract A Paraiso Subdivision at the intersection of La Gloria Boulevard, Tract A, and U.S. Highway 1. This report and attached Resolution provide an agreed upon resolution to the City's interest in the property in question. The question arises as this area is the location of a sign that has been in place since at least 1975 (based on 1975 aerial photograph) and has been utilized as such by the current owner of Tract A since his purchase of the property (Tender Loving Care Nursery – RE No.

Paraiso Subdivision (75<sup>th</sup> Street) was platted (OR B2567, P 1763) in May of 1960 (final signature).



At some point, based on Note No. 11 from a John Grimes Survey dated July 9, 2013, a portion of the plat between "Tract A" and the right-of-way at the intersection of Tract A, La Gloria Boulevard (now 75<sup>th</sup> Street) and U.S. 1, was retained by the developer. It is that sliver of land that has come into question as part of this report. See Grimes Survey:



\*\*\* Note 11): "This Survey is for the northeast corner of the legal description furnished. This description gaps the right-of-way at the northeast corner of this site. This retained land appears to belong to the developer (Paraiso Estates, Inc). According t the plat there are no dimensions shown and the right-of-way arc as shown herein is from prior survey by John A. Petsche, Jr. date 04/26/91. Furthermore, the metes and bounds deed for the park to the east of this site also calls for a 50' radius indicating (in my opinion) the developer intended to consistently retain that portion of the plat on both sides of the intersection."

From preliminary investigation, staff can offer the following:

1. The sign appears to exist in 1975 photography
2. The County drafted a memorandum in 1993 concerning a "Cross Access Easement" as part of a permit described as 93-1-3712 for two bathrooms. Said Easement appears to relate to a required parallel access to U.S. 1 as part of a project approval at that time. The easement does not describe the area in question herein.
3. There are additional permits for the sign issued by both the County and the City of Marathon.
  - a. 91-2-1808, 91-2-2338, 92-2-2445, 982-1383, 99-972, and P2013-1061 (Available at the City)
  - b. These permits, issued initially by the County and later by the City would indicate no ownership or interest in the property



**CITY OF MARATHON, FLORIDA  
RESOLUTION 2020-64**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA PROMULGATING THAT THE CITY HAS NO INTEREST, AS A MATTER OF OWNERSHIP OR CURRENT AND FUTURE USE, IN A PARCEL SEVERED AT SALE FROM “TRACT A” (RE NO. 00343500-000000) AS PART OF PARAISO ESTATES SUBDIVISION, A PART OF THE S.W. ¼ OF SECTION 1 AND A PART OF GOVT. LOT 1, SECTION 12, ALL IN TOWNSHIP 66 SOUTH, RANGE 32 EAST, PROVIDING FOR SIGNATURE BY THE MAYOR, PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, the City of Marathon has been challenged to by the owner of Tender Loving Care Garden Supply, Inc (TLC) through attorney James Dorl concerning ownership of a parcel of land as described above; and

**WHEREAS**, the parcel in question has no particularly Real Estate number as established by the Monroe County Property Appraiser and yet in previous surveys appears to have been severed from he original plat of Paraiso Estates Subdivision to be retained by the developer; and

**WHEREAS**, the particular interest at this time is that the owners of TLC owns and maintains a sign on the property in question and has received permits for same by both Monroe County and the City of Marathon over a time frame of 1991 to the present; and

**WHEREAS**, the sign appears to exist in 1975 aerial photography available to the City; and

**WHEREAS**, The County drafted a memorandum in 1993 concerning a “Cross Access Easement” as part of a permit described as 93-1-3712 for two bathrooms. Said Easement appears to relate to a required parallel access to U.S. 1 as part of a project approval at that time. The easement does not describe the area in question herein; and

**WHEREAS**, there are additional permits for the sign issued by both the County and the City of Marathon:

- a. 91-2-1808, 91-2-2338, 92-2-2445, 982-1383, 99-972, and P2013-1061 (Available at the City)
- b. These permits, issued initially by the County and later by the City would indicate no ownership or interest in the property; and
- c.

**WHEREAS**, in 2014, TLC obtained a Quit Claim deed from one of the original owners of Paraiso Estates, Inc; and

**WHEREAS**, in 2019 TLC obtained a survey from Prospect Surveying which includes the small area in question as part of the TLC property. Made a part of the attached Resolution.

**WHEREAS**, as the land in question does not appear to be a part of the right-of-way any longer and contains no known City assets, the City claims no ownership or other interest in 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 declares and herein promulgates that it has no ownership or other interest for current or future use in the property in question. See attached survey by Prospect Surveyors

**Section 3.** The Mayor is authorized to sign this Resolution.

**Section 4. Effective Date.** This Resolution shall become effective immediately upon its adoption.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 8TH DAY OF SEPTEMBER 2020.**

**THE CITY OF MARATHON, FLORIDA**

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**Steve Cook, Mayor**

AYES:

NOES:

ABSENT:

ABSTAIN:

**ATTEST:**

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Diane Clavier, City Clerk

(City Seal)

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

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Dirk Smits, Acting City Attorney

