

CITY COUNCIL AGENDA STATEMENT



Meeting Date: January 10, 2023
To: Honorable Mayor and City Council
From: Brian Shea, Planning Director
Through: George Garrett, City Manager

Agenda Item: **Resolution 2023-01**, Consideration Of A Request For A Conditional Use Permit For A Plat And Site Plan Approval As Submitted By QOF, Inc. For A Plat Pursuant To Chapter 102, Article 10 Of The City Of Marathon Land Development Regulation (LDRs) Entitled “Subdivision Of Land/Plats And Re-Plats,” Particularly, 4800 Overseas Hwy Unit 14 Which Is Described As Thompson And Adams Subdivision PB2-24, Part Lot 4 And Adjacent Filled Bay Bottom And Adjacent Bay Bottom (A/K/A Parcel D & Bay Bottom Parcel A), Section 10, Township 66 South, Range 32 East, Key Vaca, Marathon, Monroe County, Florida, Having Real Estate Number 00327140-000200. Nearest Mile Marker 50.

RECOMMENDATION:

The recommends conditional approval of the QOF, Inc preliminary plat proposing five individual lots for single family residences.

APPLICANT/ OWNER: QOF, Inc

AGENT: Barbara Mitchell

LOCATION: The project site is located at 4800 Overseas Hwy Unit 14, Marathon – Nearest Mile Marker 50.

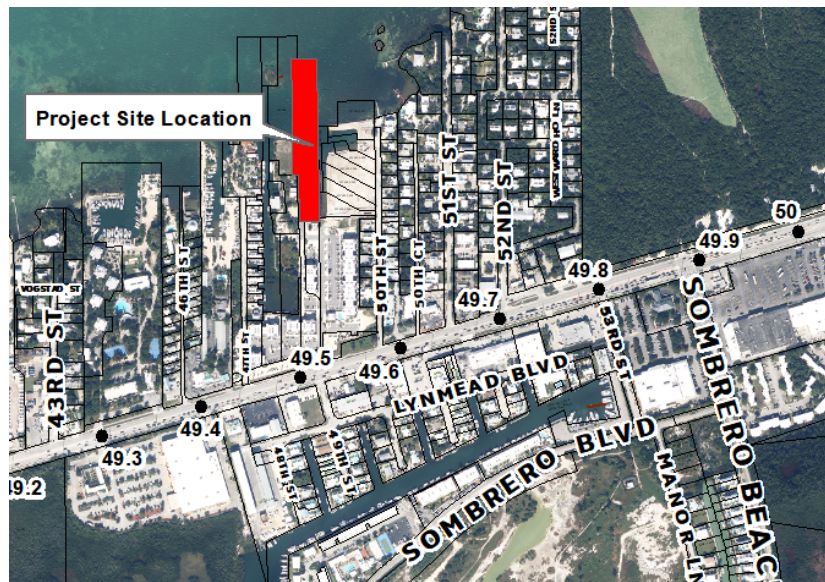
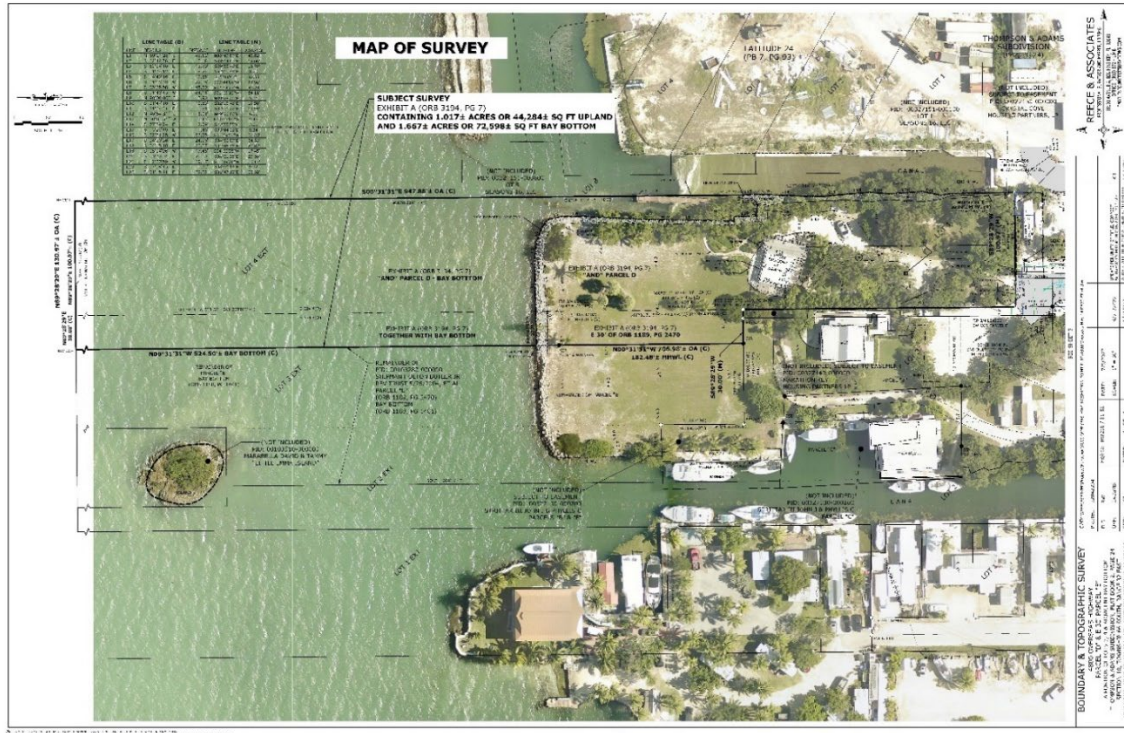


Figure 1: Project Site Survey



LOT SIZE:

Total acreage	2.684 Acres (Ac.)	116,898.58 Square Feet (Sq. Ft.)
Upland	1.017 Ac.	44,284 Sq. Ft.
Submerged	1.667 Ac.	72,614.58 Sq. Ft.

REQUEST: A Conditional Use Permit to authorize the preliminary plat of the parcel into five lots for single family residences.

FUTURE LAND USE AND ZONING MAP DESIGNATIONS:

Mixed Use Commercial (MUC) and Mixed Use (MU).

Figure 2.A: FLUM Map



Figure 2.B: Zoning Map



SURROUNDING ZONING AND USES:

	<u><i>Zoning</i></u>	<u><i>Use</i></u>
North	Florida Bay	N/A
East	Mixed Use	Residential homes of 50 th street
South	Mixed Use	Residential homes, and Crystal Cove Apts.
West	Mixed Use, Residential High	Vacant land, Residential homes, Residential homes of 47 th street

EXISTING CONDITIONS:

The project site consists of the remains of one 1960s ground level single family resident, with dock. This will be demolished.

PROPOSED REDEVELOPMENT:

The proposed Shipman Point Plat Subdivision is a re-plat of a portion of Los 3 and 4, and adjacent Bay Bottom, of the Thompson & Adams Subdivision. The proposed development is five single family homes on individually platted lots. **See Figure 3. Proposed Redevelopment Site Plan.**

BACKGROUND:

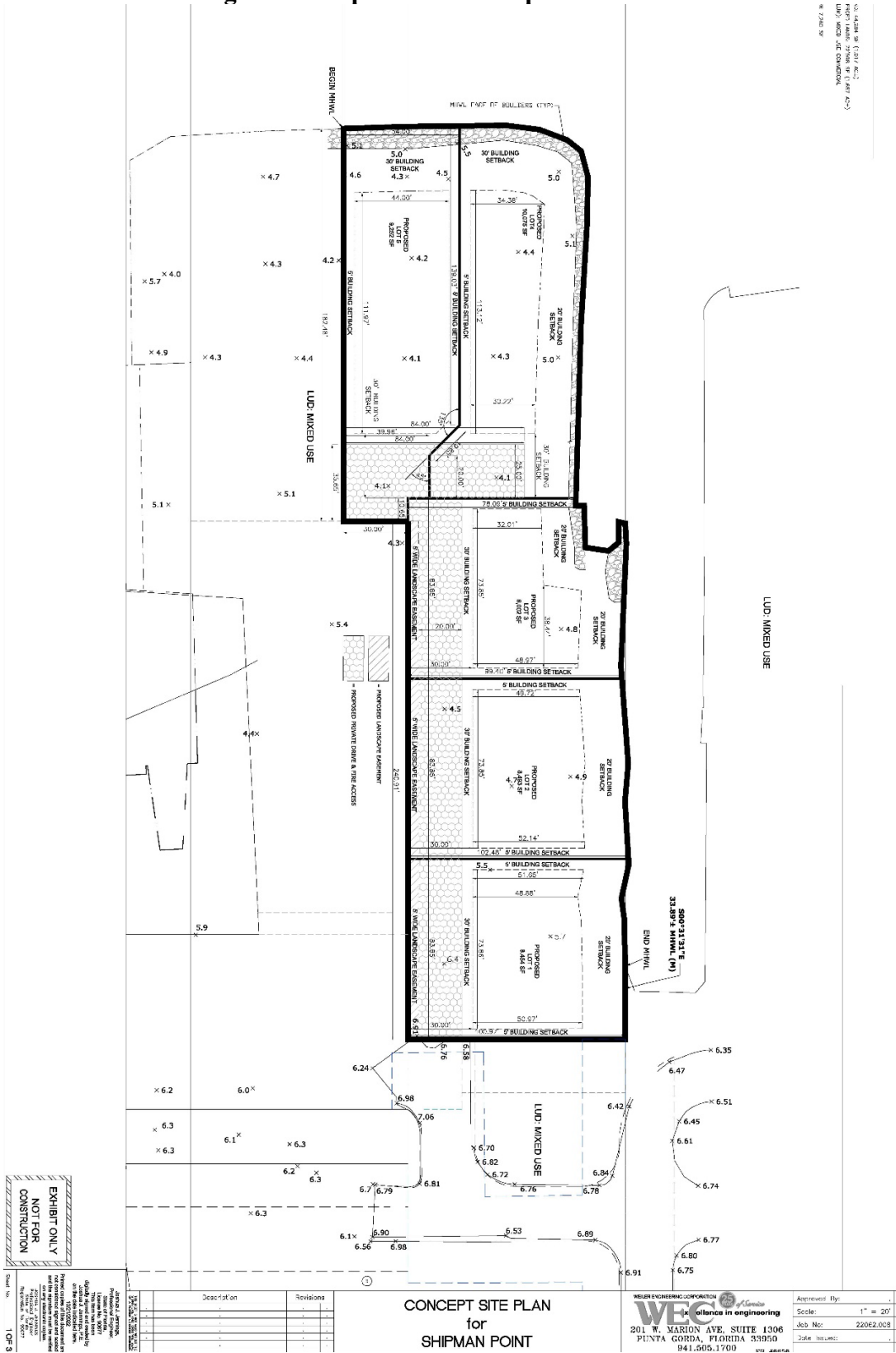
The proposed project consists of the development of five single family properties with access through private shared driveway provided by the Crystal Cove Common Access Road Easement. This easement was developed and approved by all property owners and the City in 2018/2019 when the Residences at Crystal Cove were approved for permitting.

All conditions of the Conditional Use approval will have to be met before any building permits will be approved.

EVALUATION FOR COMPLIANCE WITH THE LAND DEVELOPMENT REGULATIONS:

The criteria for evaluating a Conditional Use Approval are outlined in Chapter 102, Article 13, Conditional Use Permits, in the City of Marathon Land Development Regulations.

Figure 3: Proposed Redevelopment Site Plan



CRITERIA

A. The proposed use is consistent with the Comprehensive Plan and LDRs;

Consistent with the Comprehensive Plan

The proposed development project is located within the Mixed Use (MU) Zoning District. Per Chapter 103, Article 2, Section 103.09 of the Land Development Regulations, the district is designed to “accommodate a wide variety of commercial and retail activities that will result in the most efficient and attractive use of the City’s historic business district and the US1 Corridor, in an effort to recognize the role of US1 as the City of Marathon’s ‘Main Street.’ The MU district also provides for large-scale retail and commercial business opportunities in other areas, including larger shopping center, specialty shopping centers, individual multi-tenant commercial buildings, automotive services and sales, fast food restaurants, affordable housing uses, transient lodging and other retail establishments that serve the community at large.”

The proposed project consists of the proposed plat consisting of five single family lots within the Mixed-Use Zoning District. The surrounding properties are zoned Mixed Use and are a mix of residential uses including single-family, multi-family and deed restricted affordable apartments. Access to the site is via a common access easement to Overseas Highway. The easement is shown on the survey and designated as Crystal Cove Common Access Road Easement. It also provides utility access. This section of US 1 is four lanes with a center turning lane.

The proposed subdivision to be known as Shipman Point will not increase the density that is currently allowable on this site. This subject parcel would support up to six market rate homes, fifteen multifamily, affordable units or unto twenty-five transient units based upon the gross upland area of the parcel (1.017 acres). The proposed plat reduces the potential market rate density by 20% with the anticipated five single family market rate homes. The smallest parcel exceeds the minimum parcel size by 10%, the largest parcel exceeds the minimum size by 28%. This furthers the Comprehensive Plan policy of retention of a small-town atmosphere. The proposed platted lots are consistent with the character of the neighborhood.

a. Policy 1-1.1.2 b. & c. Adopt Compatibility for Residential Use and Non-residential Review Criteria

This project proposes to develop a residential site. Non-residential uses are not contemplated for these lots. Currently, the site contains one single-family, non-elevated home and is designated as “Disturbed” on the city habitat maps. The existing single-family home will be removed.

b. Policy 1-1.1.3 Protect Residential Neighborhood Character

The proposed Shipman Point Plat effectively removes the potential for high density multi-family or transient residential development on this parcel. The ability to efficiently design multi-family residences is significantly reduced with the side yard setbacks required for each lot. There is one existing market rate entitlement attached to the existing single-family home. The remaining four lots will have a building right for one market rate unit per lot that shall be transferred to the site. Landscape buffers are not required for this site as the zoning designation is the same on all property

boundaries. Where possible, existing plant material shall remain to provide buffering from the adjacent parcels.

c. Policy 1-1.1.4 Transition Between Land Uses

The parcel is located in a residential neighborhood. The proposed subdivision consists of five single-family lots. All the lots are waterfront. The adjacent existing uses are residential. Final landscape plans will be submitted as part of the building permit application for each lot.

e. Policy 1-3.1.4 Future Land Use Categories

The Future Land Use Map (FLUM) designates the parcels as Mixed-Use Commercial. Within this designation there are various residential uses including permanent single-family, affordable and/or commercial apartments as well as mobile homes. Commercial or transient residential uses are permitted. The residential project is consistent with the intent of this district and neither a zoning nor FLUM change is necessary.

f. Policy 1-3.2 Maximum Height

The maximum height of any new structure associated with the redevelopment of the property shall not exceed 42 feet (in Datum NAVD88), except as provided by City Code, as amended except those exceptions provided for in Section 107.41 of the City Code.

g. Policy 1-3.2.7 Restrict Density and Intensity of Development

The proposed subdivision to be known as Shipman Point will not increase the density that is currently allowable on this site. This subject parcel would support up to six market rate homes, fifteen multifamily, affordable units or unto twenty-five transient units based upon the gross upland area of the parcel (1.017 acres). The proposed plat reduces the potential market rate density by 20% with the anticipated five single family market rate homes. The smallest parcel exceeds the minimum parcel size by 10%, the largest parcel exceeds the minimum size by 28%. Residential density is consistent with thresholds outlined in Table 1-1 of the Comprehensive Plan. The submitted plat proposes a density equivalent to 5 market rate units per acre.

h. Policy 1-3.3.1 a., c, and h. General Redevelopment Criteria

The site is considered disturbed. Over the past thirty years, landscaping consisting of native and non-native plant have been planted on the site. As part of the site planning for each home, reuse of existing material is anticipated to the greatest extent practicable. The interior access drive has been designed to retain an existing landscape hedge. The shoreline along the open water and the canal are protected with riprap. A mangrove fringe exists along a portion of the canal. There is an existing dock on the proposed Lot 5. The building permit process for the single-family homes is as-of-right. At the time of building permit application, compliance with all applicable City building regulations shall be demonstrated.

i. Policy 1-3.4.1 Established Densities and Policy 1-3.4.3 Replacement of Existing Densities and Intensities

The redevelopment plan includes constructing market rate building units at a rate of one per lot. Four market rate units will require Transfer Building Right (TBR). The developer either has or will acquire these rights. The existing market rate entitlement will be transferred to one of the

new lots upon approval of the final plat and the assignment of new Property Real Estate Number(s).

Consistent with the City Land Development Regulations

a. Section 103.09 – Mixed Use

The MU District is intended to accommodate a wide range of uses and activities. Market rate, permanent residential housing is permitted as of right. The proposed density of 5 units per acre is compliant with the regulation density of six units per acre for this district.

b. Table 103.15.1 Uses By Zoning District

This redevelopment is consistent with Table 103.15.1, uses by Zoning District. A Plat of Subdivision requires a Conditional Use Permit Application, as contained herein.

c. Table 103.15.2 Density, Intensity, and Dimensions for Zoning Districts

The subject project site contains 44,284+/- square feet of upland and 72,598 square feet of bay-bottom. Table 103.15.2, Marathon City Code, lists the density for permitted uses in the MU Zoning district. For residential uses, the units per acre are: six (6) market rate, fifteen (15) affordable, and up to twenty-five (25) transient residential units. Commercial uses, although permitted, are not contemplated for this subdivision.

The proposed project, a subdivision of one parcel into five lots, will exceed the minimum lot size of 7,260 square feet required for market rate development, the equivalent density is approximately 5 units per acre.

The required setbacks in the MU district range from 0 to 30' for the front, 0 to 10' for the sides with a 20' shoreline setback along the canal and a 30' setback from the altered open water shoreline. As illustrated on the Conditional Use site plan, the proposed buildable areas demonstrate compliance with the setback requirements.

The Land Development Regulations do not address a minimum street frontage. Lots 1 through 3 are 83.85' wide and approximately 100' deep. Lots 4 and 5, the open water lots, are between 50 and 60' with a depth of 180' +/- . Frontage is along a private drive.

Table 103 .15 .2 lists the density for permitted uses in the MU Zoning district. For residential uses, the City's Code allows six (6) market rate, fifteen (15) affordable, and twenty-five (25) transient and a commercial floor area of 60% with eligibility for density bonus of up to 75%.

The applicant is proposing to subdivide into 5 single family lots. Based upon these uses the proposed density is within Code requirements.

The required setbacks in the MU district range from 0 to 30 feet. As illustrated on the site plan the proposed setbacks are consistent with this zoning standard. Each proposed lot will have to maintain the 20% open space on site per open space ratios in the LDR requirements table 103.15.2.

d. Section 107.00 Building Permit Allocation System

New BPAS allocations will not be required for this project. One market rate entitlement exists on the property. The developer currently has or will acquire existing transferrable building rights (TBRs).

e. Section 107.47 Parking

Two parking spaces shall be provided for each single-family home as required by City Code. Compliance shall be demonstrated as part of the Building Permit applications.

f. Section 107.40 Maximum Height

This application is for approval of a five-lot subdivision for single-family homes. The plans for these homes have not been developed at this time. The maximum height of any new structure associated with the redevelopment of the Property shall not exceed 42 feet, except as provided by City code, as amended.

g. Sections 107.63 – 107.72 Landscaping

The surrounding properties have a zoning designation of Mixed Use. Therefore, district landscape buffers are not required. Code states that one canopy tree is required for every 50 feet of linear street frontage. Final landscape plans will be prepared and submitted at the time of Building Permits. However, as mentioned earlier in this report, the site contains an existing planting palette of palms and trees - both native and non-native. The access road has been designed to take advantage of an existing hedge along the western property line. **See Figure 4.**

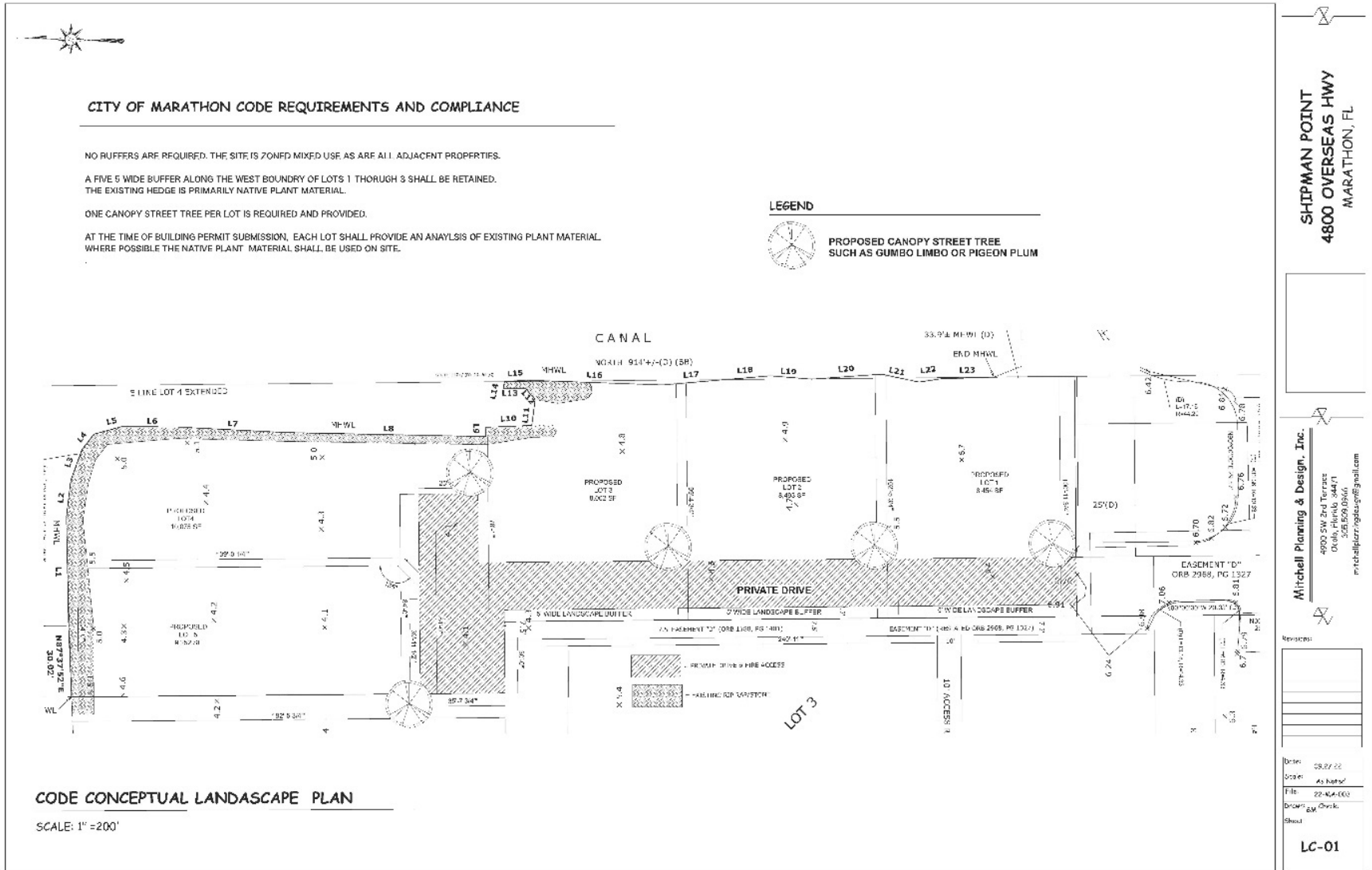
h. Section 107.73 – 107.81 Open Space

The required open space ratio for this site is 20%. Upon approval of the Plat of Subdivision, each lot will be required to provide the required open space pursuant to the Land Development Regulations in effect at the time of building permitting. The open space analysis in the following chart reflects the square footage of the required setback area for the primary use (aka single-family residence) on each lot. The following Table provides a summary, numbers are in square feet:

Lot #	Gross Lot Area	Buildable Area	Open Space Area	Open Space %
1	8,454	3,775	3,079	36.4%
2	8,493	3,796	3,022	35.6%
3	8,002	3,145	3,126	39.0%
4	10,075	3,514	5,475	54.3%
5	9,252	4,962	3,521	34.9%

The proposed open space ratios are well within City Code requirements. Actual open space may differ when accessory structures are permitted as some accessory structures are allowed along a portion of the shoreline setback.

Figure 4: Conceptual Landscape Plan



i. 107.82 – 107.85 Fences & Screening

Any fencing or screening shall be developed by the individual lot owner upon submission of Building Permit applications.

j. 107.98 – 107.102.5 Stormwater Management

The Stormwater Management Plan provided demonstrates compliance with this requirement, based upon the buildable area of each lot as noted above. The Building Permit for each residence will demonstrate compliance, once the actual footprints and impervious areas are determined

k. Sections 107.98 – 107 Floodplain Management

Pursuant to the current FEMA FIRM maps, Lots 1 through 3 are located in the AE9 flood zone. Lots 4 and 5 are located in the AE 9, VE 11, VE 12, and VE 14 flood zones. As required, the finished floor elevations or lowest horizontal structural member elevations respectively will meet or exceed in height the required per the base flood and design flood elevations. See Figure 5.

Figure 5: FEMA Flood Zones



Therefore, with conditions, the request is *in compliance* with the requirements of these sections.

B. The proposed use is compatible with the existing land use pattern and future uses designated by the Comprehensive Plan;

The proposed project is located within the Mixed-Use Commercial Future Land Use District. Policy 1-3.1.4 of the City of Marathon Comprehensive Plan states that the “principal purpose of the Mixed-Use Commercial land use category is to provide for the establishment of mixed-use

development patterns and to recognize established mixed use development patterns within the City.” Parcels immediately surrounding the proposed single-family residential community are or are in the process of being developed with residential uses. Immediately to the west is a property that has been developed with residential uses since the 1960’s. To the south is the Residences at Crystal Cove. This is a multi-family development, recently completed, and is comprised of four apartment buildings that offer deed restricted affordable housing. To the east, across the canal is a residential community currently under development it includes seven lots, recently platted, for single family homes. To the north is the Florida Bay. This application proposed the development of five, fee simple, residential lots are with entitlements transferred from within the City.

Table 103.15.2 in the Land Development Regulations establishes constraints on density and intensity allowed in the MU district based on the types of uses proposed. The proposed uses fall within the allowed densities and intensities.

Therefore, the request is ***in compliance*** with the requirements of these sections.

C. The proposed use shall not adversely affect the health, safety, and welfare of the public;

The proposed conditional use does not adversely affect the health, and welfare of the public. The proposed residential development will connect to the City’s wastewater treatment system. Stormwater management be improved on site, and all construction with comply with the current Building Code.

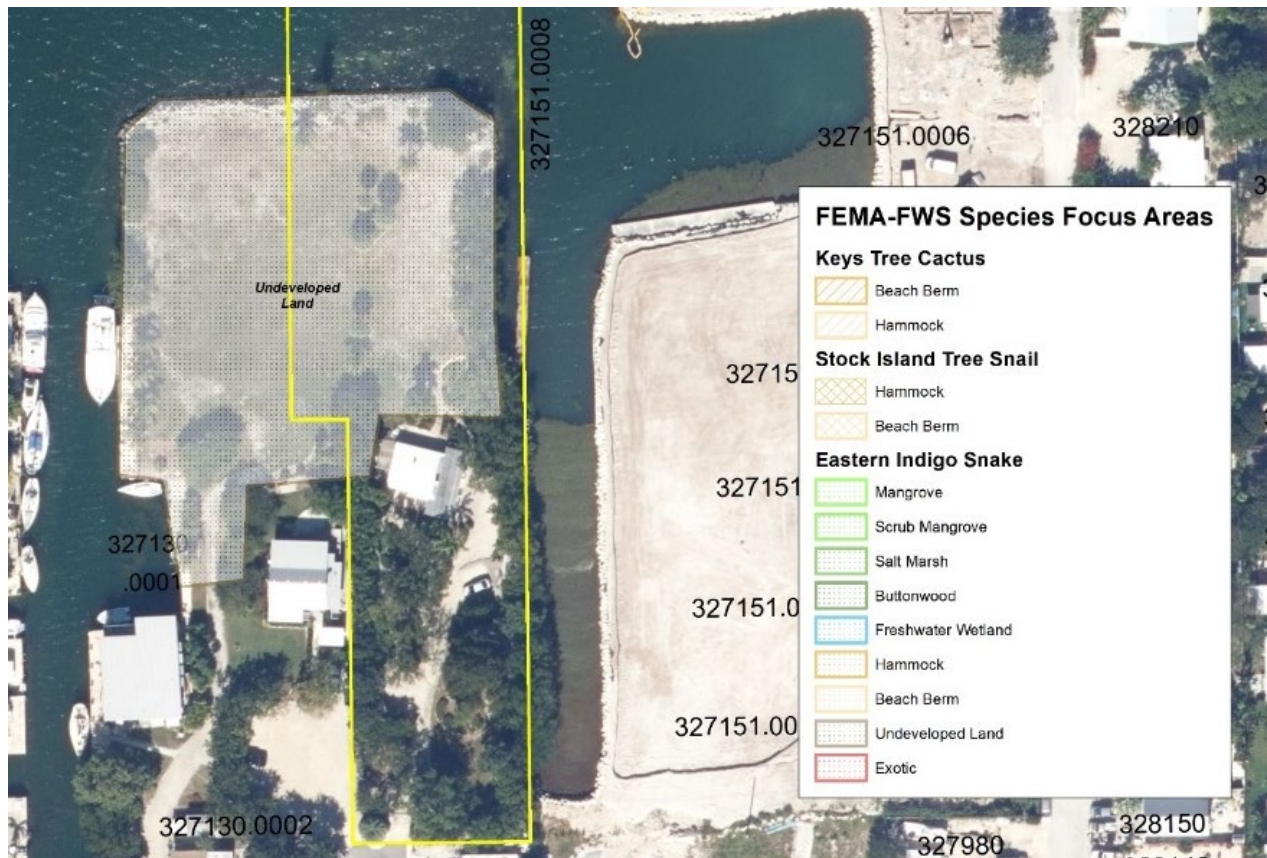
Therefore, the request is ***in compliance*** with the requirements of these sections.

D. The proposed conditional use minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment:

The existing conditions maps indicate the subject area is designated as Developed Land. Figure 7 shows that a portion falls under the category of undeveloped land. Though found within a ‘Species Focus Area’ as defined in the settlement for FEMA-FWS lawsuit, “undeveloped land” falls out of the consideration in the species assessment guides thus having “no impact” on the species concern, the Eastern Indigo Snake. **See Figure 6.**

Therefore, the request is ***in compliance*** with the requirements of these sections.

Figure 6: FEMA-FWS Focus Area Habitat



E. Satisfactory provisions and arrangements have been made concerning the following matters, where applicable:

1. Ingress and egress to the property and proposed structures thereon with particular reference to automotive, bicycle, and pedestrian safety and convenience, traffic flow and control and access in cases of fire or catastrophe;

The access to the site is via the Crystal Cove Common Access Road Easement. This easement was developed and approved by all property owners and the City in 2018/2019 when the Residences at Crystal Cove were approved for permitting. The roadway is private and provides access from the site to US 1. The travel way is paved, and utility easements have been revised and recorded in accordance with the site modifications.

A Traffic Statement prepared by KBP Consulting Inc. is submitted with this application. As documented in this study, US 1 has the reserve capacity to accommodate the additional vehicular trips anticipated with this project. Based upon the analysis performed as part of the study, the project is not expected to adversely impact the operational characteristics of the US 1.

Provisions have been made as part of the subdivision layout to address fire access. The proposed access road within the subdivision terminates in a T-turnaround. A fire hydrant is existing near the entrance of the subdivision. The Fire Chief has been contacted for coordination purposes as part of the Technical Review Committee review and has provided the condition below.

Table 1 Trip Generation Summary Shipman Point - Marathon, Florida								
Land Use	Size	Daily Trips	AM Peak Hour Trips			PM Peak Hour Trips		
			In	Out	Total	In	Out	Total
<i>Existing</i>								
Single-Family Detached Housing	1 DU	9	0	1	1	1	0	1
<i>Proposed</i>								
Single-Family Detached Housing	5 DU	47	1	3	4	3	2	5
Difference (Proposed - Existing)		38	1	2	3	2	2	4

Compiled by: KBP Consulting, Inc. (September 2022).

Source: Institute of Transportation Engineers (ITE) Trip Generation Manual (11th Edition).

Therefore, with conditions, the request is ***in compliance*** with the requirements of these sections.

- The applicant must meet NFPA1 and NFPA 101 including fire hydrant location, emergency access.

2. Off-street parking and loading areas where required, with particular attention to item 1 above;

Parking requirements are outlined in Section 107.47 (Mixed-Use Development Parking Requirements). The following table shows the parking requirement for the parcel:

Use	Code Citation	Requirement	Spaces Required
Single and Two-Family, attached and detached	107.46.1	2 per dwelling unit	10

Therefore, with the conditions, the request is ***in compliance*** with the requirements of these sections.

- The applicant will provide the required number of parking spaces per the LDRs.

3. The noise, glare, or odor effects of the conditional use on surrounding properties;

The proposed use has no known impacts to the health safety and welfare of the public. No detrimental noise or glare is expected to be generated by the proposed use.

Therefore, the request is ***in compliance*** with the requirements of this section.

4. Refuse and service areas, with particular reference to locations, screening, and Items 1 and 2 above;

The Plat of Subdivision proposes an internal access road for collection of garbage, recycling, and other services. A landscape plan has been submitted for this application. The adjacent properties are zoned the same; therefore, no district buffers are required. Each lot will install a street tree as required. The existing landscape hedge that exists along the western property line shall be maintained as a privacy buffer with the adjacent landowner.

Therefore, the request is ***in compliance*** with the requirements of this section.

5. Utilities, with reference to location and availability;

Chapter 107, Article 13, establishes the City's Concurrency Management and certification requirements. This Conditional Use constitutes the City's Concurrency Level of Service Certificate, as follows:

- Wastewater: The developer will need to provide the additional sewer infrastructure required to serve these new parcels. The applicant will have to pay for the upgrades to the existing infrastructure system to account for the proposed units.
- Water: The Florida Keys Aqueduct Authority already provides potable water for the facility.
- Solid Waste: Marathon Garbage Service already provides solid waste disposal.
- Surface Water: The applicant has provided stormwater design information suitable for the Conditional Use application review which demonstrates compliance with City standards.
- Recreation and Open Space: This redevelopment already has a de minimis impact on recreation and open space.
- Roadways: The applicant submitted an appropriate traffic study showing minimal impact to traffic flow along US1; therefore, it poses no further impact on transportation facilities.
- Educational Facilities: This development as proposed will have a de minimus impact on educational facilities.

Therefore, the request is ***in compliance*** with the requirements of these sections.

6. Screening and buffering with reference to type, dimensions, and character;

Table 107.66.1 establishes project boundary buffer standards applicable to the project. The subject parcel is zoned MU and is bordered to the west by properties zoned MU, where no project boundary buffers are necessary.

Table 103.15.2 outlines setback requirements in the MU district as follow: front yard 0 – 30'; side yard 1 and 2, 0 – 10; interior side yard, 10; and, street side, 0-5'.

This plan shows a 30' setback on the front yard, 5' setback on the western side and 5' on the eastern side yard, and 20' rear yard setback. Open water side requires a 30' ft setback and the canal side requires a 20' ft setback.

Setback	Required	Required Landscape	Proposed	Compliant
Front	0-30'	N/A	30'	Y
Sides	0-10'	N/A	5'	Y
Side canal from MHWL	20'	N/A	20'	Y
Rear Open water from MHWL	30'	N/A	30'	Y

Therefore, the request is ***in compliance*** with the requirements of these sections.

7. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety and compatibility with surrounding uses;

A signage program has not been developed at this time. Entrance and directional signs shall be proposed as needed.

Therefore, the request is ***in compliance*** with the requirements of these sections.

8. Required yards and other open space;

Section 106.16 established required open space for the project. The parcel is generally developed; therefore, a twenty percent open space requirement applies. The individually proposed lots will have to maintain a 20% open space requirement.

Therefore, the request is ***in compliance*** with the requirements of these sections.

9. General compatibility with surrounding properties; and

The proposed development is for a single-family residential community. The surrounding neighborhood is mixed with single-family and multi-family residential uses. The buildings will be elevated as required by City Code, providing consistency with parcels that are redeveloped. The scale and layout of the proposed lots are consistent with the City Code.

Therefore, the request is ***in compliance*** with the requirements of these sections.

10. Any special requirements set forth in the LDRs for the particular use involved.

In addition to other requirements of the LDRs and pursuant to Table 103.15.1, all residential dwelling units, except mobile homes, shall comply with the following:

- A. Two (2) side yards are required for stacked duplexes.
- B. Townhouses are limited to ten (10) dwelling units per row, except for affordable housing.
- C. The private yard area for rooftop balcony dwelling is provided by the roof or balconies of the structure.
- D. The total area of the mixed-use or commercial apartments, including patios and access way shall not exceed the area covered by the ground floor and any covered walks or arcades.

E. Each unit shall have access to a balcony or patio that is separate from the access to the unit, provides adequate privacy and the size shall be two-tenths (2/10) of unit floor area or a minimum of 60 square feet in size.

F. The patio area may be wholly or partially replaced by the provision of a recreation yard provided on site. Recreational yards shall be a minimum one-tenth (1/10) of unit floor area.

Therefore, with the conditions noted above, the request is **in compliance** with the requirements of this section.

CONCLUSION:

The Conditional Use Approval is intended to allow for the integration of certain land uses and structures within the City of Marathon based on conditions imposed by the Council. Review is based primarily on compatibility of the use with its proposed location and with surrounding land uses. Conditional uses shall not be allowed where the conditional use would create a nuisance, traffic congestion, a threat to the public health, safety, or welfare of the community.

The proposed development is consistent with the existing land use patterns and is expected not to produce any nuisances, traffic congestion, or threat to public health, safety, or welfare. As such the development is consistent with the Comprehensive Plan and Land Development Regulations. The project is compatible with surrounding uses, and is not expected to create a nuisance, traffic congestion or threat to public, health, safety, or welfare.

RECOMMENDATION:

The staff recommended conditional approval of the project known as Shipman Point to the Planning Commission. Planning Commission voted to recommend approval (4-0).

Conditions of Approval

Prior to the issuance of a building permit:

1. Acquisition of any additional development rights, as authorized through this development approval are the responsibility of the developer.
2. The applicant must meet NFPA1 and NFPA 101 including fire hydrant location, emergency access in accordance with fire protection requirements as outlined by the City Fire Marshal;
3. The applicant will meet all floodplain-related requirements as part of the Building Permit process;
4. The applicant will provide the required number of parking spaces per the LDRs.
5. The developer will need to provide additional sewer infrastructure required to serve the new parcels. The applicant shall provide plans indicating connection point to the City of Marathon Wastewater Treatment Plant when provided by Utilities department and pay any assessments due resulting from change in use;
6. The applicant will have to pay for the upgrades to the existing infrastructure system to account for the proposed units.

7. City approval is required for the stormwater management system prior to Building Permit Approval.
8. A Final Landscape Plan must be submitted showing the proper treatments and buffers, including the appropriate treatment types and trees prior to permit issuance.
9. If the redevelopment is found to have any effect on the Eastern Indigo Snake, then the prescribed protection measures must be undertaken, and the information poster posted on site.
10. The Conditional Use Development Order will constitute the Certificate of Concurrency for the project. The determination will be valid for one year from the effective date.

ANALYSIS OF PLAT APPROVAL REQUEST:

The standards for plat approval are established in Chapter 102, Article 10 of the Land Development Regulations. The application for the preliminary plat approval is being simultaneously reviewed per Section 102.45.D.2. through the Conditional Use process. Pursuant to the Code, the Planning Commission and City Council shall give due consideration to the evaluation criteria addressed within this report as well as the Conditional Use when rendering a decision to grant or deny the requested permit.

Per code streets, internal park and open space areas, recreation space, protected habitat areas requiring conservation easements may all be the basis for density reductions in the platted lot area if they are included in the overall density calculations for the subdivision and subsequent plat. Such reductions shall be noted in the plat and a complete accounting of acreage respective of allowed densities shall be made in the plat document. Equally, if lot area reductions are allowed as part of the subdivision and platting process, the plat documents shall clearly indicate that no future subdivision shall be allowed of any area accounted for in density calculations. The applicant is proposing no such reductions.

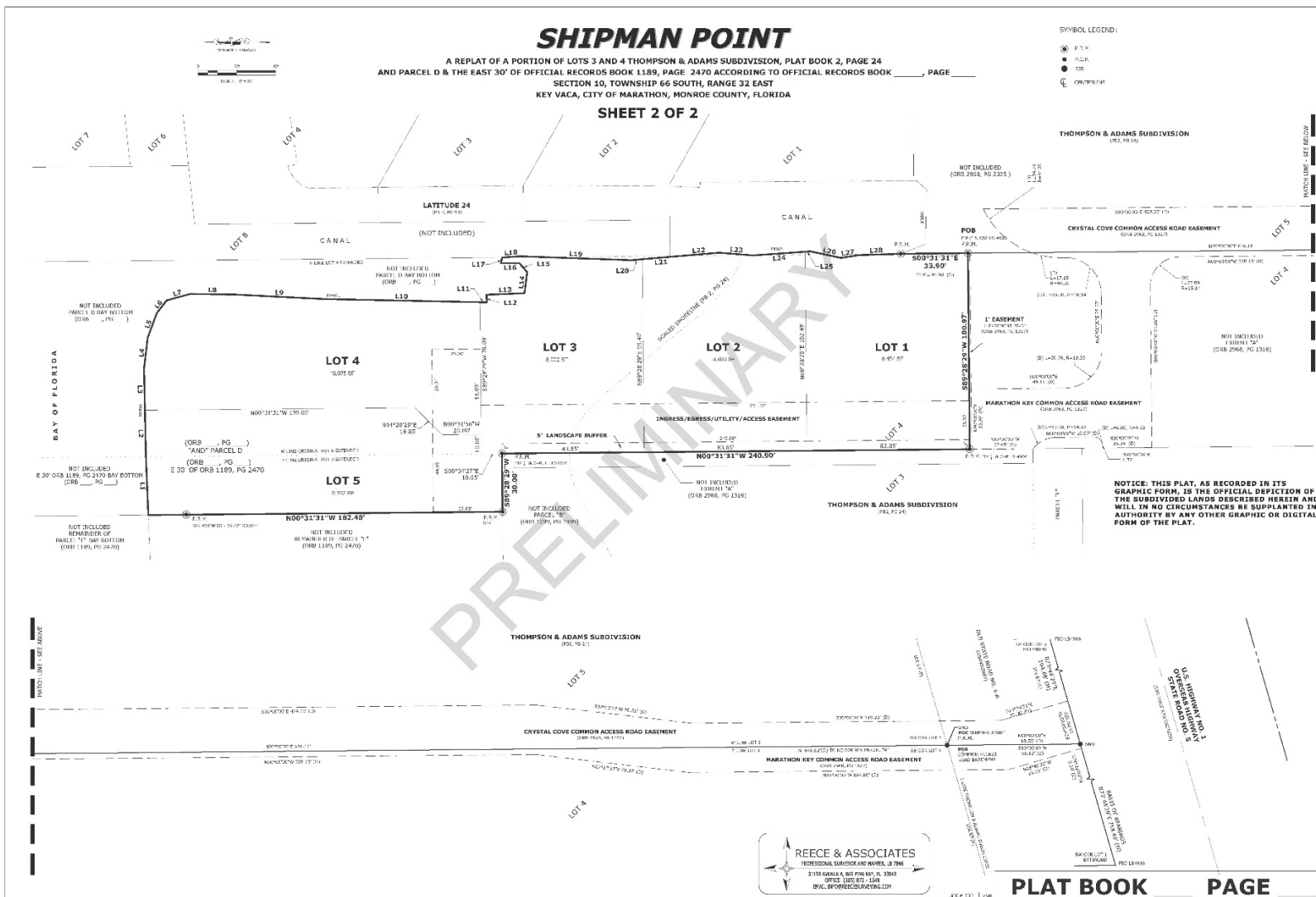
RECOMMENDATION:

With the following conditions, the staff recommended approval of the proposed plat. Planning Commission voted to recommend approval (4-0).

Conditions:

1. All conditions of the Conditional Use must be met prior to building permit issuance.
2. Final plat shall include language regarding owner-signed consent and acknowledgement for wastewater and stormwater assessment for future development of the properties.
3. Access to the site will be via the Crystal Cove Common Access Road Easement. This easement was developed and approved by all property owners and the City.

Attachment A: Proposed Preliminary Plat



**CITY OF MARATHON, FLORIDA
RESOLUTION 2023-01**

A RESOLUTION OF THE CITY COUNCIL OF MARATHON, FLORIDA APPROVING OF A REQUEST FOR A CONDITIONAL USE PERMIT FOR A PRELIMINARY PLAT AND SITE PLAN APPROVAL AS SUBMITTED BY QOF, INC. FOR A PLAT PURSUANT TO CHAPTER 102, ARTICLE 10 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATION (LDRS) ENTITLED “SUBDIVISION OF LAND/PLATS AND RE-PLATS,” PARTICULARLY, 4800 OVERSEAS HWY UNIT 14 WHICH IS DESCRIBED AS THOMPSON AND ADAMS SUBDIVISION PB2-24, PART LOT 4 AND ADJACENT FILLED BAY BOTTOM AND ADJACENT BAY BOTTOM (A/K/A PARCEL D & BAY BOTTOM PARCEL A), SECTION 10, TOWNSHIP 66 SOUTH, RANGE 32 EAST, KEY VACA, MARATHON, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBER 00327140-000200. NEAREST MILE MARKER 50.

WHEREAS, QOF, LLC (Applicant) filed an Application on October 21, 2022, for a Conditional Use Permit for approval of a preliminary plat and site plan for the property into five (5) single family residential lots and one access drive lot pursuant to Chapter 177, Florida Statutes and Chapter 102, Article 10, of the City of Marathon Land Development Regulations (LDRs); and

WHEREAS, City staff reviewed the Applicant's request for a Conditional Use Permit and determined that the Applicant's project proposal was in compliance with the City's Comprehensive Plan and Land Development Regulations (LDRs) and further that there was no substantial impact on the City's Level of Service (LOS); and

WHEREAS, the Council duly considered the Applicant's request and made a determination that the request for a Conditional Use Permit, subject to the terms of the LDRs and with Conditions imposed, was in Compliance with the City's Comprehensive Plan and LDRs and further, that the approval is in the public interest, is consistent with its policy to encourage the redevelopment of properties within the City of Marathon and will further the health, safety and welfare of the residents of Marathon; and

WHEREAS, the purpose of the Conditional Use Permit is to allow for the integration of certain land uses and structures within the City of Marathon, based on conditions imposed by the Council. Review is based primarily on compatibility of the use with its proposed location and with surrounding land uses and on the basis of all zoning, subdivision, and other ordinances applicable to the proposed location and zoning district; and

WHEREAS, on the 19th day of December 2022, the City of Marathon Planning Commission (the “Commission”) conducted a properly advertised public hearing (the “Public Hearings”) regarding the request submitted by the Applicant, for a Conditional Use Permit pursuant to Chapter 102, Article 13 of the LDRs; and

WHEREAS, and on the 10th day of January 2023, the City Council (the “Council”) conducted properly advertised public hearings (the “Public Hearings”) regarding the request submitted by the Applicant, for a Conditional Use Permit pursuant to Chapter 102, Article 13 of the LDRs; and

WHEREAS, the City Council made a determination that the Applicant’s request for a Conditional Use Permit, subject to the terms of the LDRs and with Conditions imposed, was in Compliance with the City’s Comprehensive Plan and LDRs and further, that the approval is in the public interest, is consistent with its policy to encourage the redevelopment of properties within the City of Marathon and will further the health, safety and welfare of the residents of Marathon; and

WHEREAS, the purpose of the Conditional Use Permit is to allow for the integration of certain land uses and structures within the City of Marathon, based on conditions imposed by the Council. Review is based primarily on compatibility of the use with its proposed location and with surrounding land uses and on the basis of all zoning, subdivision, and other ordinances applicable to the proposed location and zoning district,

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 2021-13 a copy of which is attached hereto as Exhibit “A”, granting a Conditional Use Permit to QOF, LLC., subject to the Conditions imposed. 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 by the City of Marathon and after review and approval by the Department of Economic Opportunity pursuant to Chapters 163 and 380, *Florida Statutes*.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 10TH DAY OF JANUARY, 2023.

THE CITY OF MARATHON, FLORIDA

Luis Gonzalez, Mayor

AYES:
NOES:
ABSENT:
ABSTAIN:

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:**

Steve Williams, City Attorney

**ATTACHMENT “A”
CITY OF MARATHON, FLORIDA
CONDITIONAL USE
DEVELOPMENT ORDER # 2023-02**

APPROVAL OF A REQUEST FOR A CONDITIONAL USE PERMIT FOR A PLAT AND SITE PLAN APPROVAL AS SUBMITTED BY QOF, INC. FOR A PLAT PURSUANT TO CHAPTER 102, ARTICLE 10 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATION (LDRS) ENTITLED “SUBDIVISION OF LAND/PLATS AND RE-PLATS,” PARTICULARLY, 4800 OVERSEAS HWY UNIT 14 WHICH IS DESCRIBED AS THOMPSON AND ADAMS SUBDIVISION PB2-24, PART LOT 4 AND ADJACENT FILLED BAY BOTTOM AND ADJACENT BAY BOTTOM (A/K/A PARCEL D & BAY BOTTOM PARCEL A), SECTION 10, TOWNSHIP 66 SOUTH, RANGE 32 EAST, KEY VACA, MARATHON, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBER 00327140-000200. NEAREST MILE MARKER 50.

WHEREAS, QOF, LLC filed an Application on October 21, 2022 for a Conditional Use Permit and Plat pursuant to Chapter 102, Articles 10 and 13 of the Code of Ordinances for the City of Marathon (“City Code”); and

WHEREAS, City staff reviewed the Applicant's request for a Conditional Use Permit and determined that the Applicant's project proposal was in compliance with the City's Comprehensive Plan and Land Development Regulations (LDRs) and further that there was no substantial impact on the City's Level of Service (LOS); and

WHEREAS, the Council duly considered the Applicant’s request and made a determination that the request for a Conditional Use Permit, subject to the terms of the LDRs and with Conditions imposed, was in Compliance with the City's Comprehensive Plan and LDRs and further, that the approval is in the public interest, is consistent with its policy to encourage the redevelopment of properties within the City of Marathon and will further the health, safety and welfare of the residents of Marathon; and

WHEREAS, the purpose of the Conditional Use Permit is to allow for the integration of certain land uses and structures within the City of Marathon, based on conditions imposed by the Council. Review is based primarily on compatibility of the use with its proposed location and with surrounding land uses and on the basis of all zoning, subdivision, and other ordinances applicable to the proposed location and zoning district; and

WHEREAS, City staff reviewed the Applicant’s request for a Conditional Use Permit determining that the Applicant’s project proposal was in compliance with the City’s Comprehensive Plan and Land Development Regulations (LDRs) and further that there was no substantial impact on the City’s Level of Service (LOS); and

WHEREAS, on the 19th day of December 2022, the City of Marathon Planning Commission (the “Commission”) conducted a properly advertised public hearing (the “Public Hearings”) regarding the request submitted by the Applicant, for a Conditional Use Permit pursuant to Chapter 102, Article 13 of the LDRs; and

WHEREAS, and on the 10th day of January 2023, the City Council (the “Council”) conducted properly advertised public hearings (the “Public Hearings”) regarding the request submitted by the Applicant, for a Conditional Use Permit pursuant to Chapter 102, Article 13 of the LDRs; and

WHEREAS; the City Council made a determination that the Applicant’s request for a Conditional Use Permit, subject to the terms of the LDRs and with Conditions imposed, was in Compliance with the City’s Comprehensive Plan and LDRs and further, that the approval is in the public interest, is consistent with its policy to encourage the redevelopment of properties within the City of Marathon and will further the health, safety and welfare of the residents of Marathon; and

WHEREAS, the purpose of the Conditional Use Permit is to allow for the integration of certain land uses and structures within the City of Marathon, based on conditions imposed by the Council. Review is based primarily on compatibility of the use with its proposed location and with surrounding land uses and on the basis of all zoning, subdivision, and other ordinances applicable to the proposed location and zoning district,

FINDINGS OF FACT:

1. The applicant will develop subdivide the parcel through the platting process into single family residence lots with the following determinations:
2. In accordance with Section 102.77 of the City Code, the Commission and Council considered and determined the Applicant met the following criteria:
 - a. The proposed use is consistent with the Comprehensive Plan and LDRs;
 - b. The proposed use is compatible with the existing land use pattern and future uses designated by the Comprehensive Plan;
 - c. The proposed use shall not adversely affect the health, safety, and welfare of the public; and
 - d. The proposed conditional use minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment; and Satisfactory provisions and arrangements have been made concerning the following matters, where applicable:
3. Ingress and egress to the property and proposed structures thereon with particular reference to automotive, bicycle, and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe;
4. Off-street parking and loading areas where required, with particular attention to item 1 above;
5. The noise, glare, or odor effects of the conditional use on surrounding properties;
6. Refuse and service areas, with particular reference to location, screening, and Items 1 and 2 above;
7. Utilities, with reference to location and availability;

8. Screening and buffering with reference to type, dimensions, and character;
9. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety and compatibility with surrounding properties;
10. Required yards and other open space;
11. General compatibility with surrounding properties; and

CONDITIONS IMPOSED:

Granting approval of the Application is subject to the following conditions:

Conditions of Approval

1. Acquisition of any additional development rights, as authorized through this development approval are the responsibility of the developer.
2. The applicant must meet NFPA1 and NFPA 101 including fire hydrant location, emergency access in accordance with fire protection requirements as outlined by the City Fire Marshal;
3. The applicant will meet all floodplain-related requirements as part of the Building Permit process;
4. The applicant will provide the required number of parking spaces per the LDRs.
5. The developer will need to provide additional sewer infrastructure required to serve the new parcels. The applicant shall provide plans indicating connection point to the City of Marathon Wastewater Treatment Plant when provided by Utilities department and pay any assessments due resulting from change in use;
6. The applicant will have to pay for the upgrades to the existing infrastructure system to account for the proposed units.
7. City approval is required for the stormwater management system prior to Building Permit Approval.
8. A Final Landscape Plan must be submitted showing the proper treatments and buffers, including the appropriate treatment types and trees prior to permit issuance.
9. If the redevelopment is found to have any effect on the Eastern Indigo Snake, then the prescribed protection measures must be undertaken, and the information poster posted on site.
10. The Conditional Use Development Order will constitute the Certificate of Concurrency for the project. The determination will be valid for one year from the effective date.

VIOLATION OF CONDITIONS:

The applicant understands and acknowledges that it must comply with all 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 conditional use is hereby GRANTED subject to the conditions specified herein.

EFFECTIVE DATE:

This development order shall not take effect for five (5) days following the date it is filed with the City Clerk, and during that time, the 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.

Date

Brian Shea
Director of Planning

This Development Order was filed in the Office of the City Clerk of this ____ day of _____, 2023.

Diane Clavier, City Clerk

NOTICE

Under the authority of Section 102.79(c) 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 business license has been issued for the use or 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 one (1) year from the date of conditional use approval, or the date when the Department of Economic Opportunity 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, this instrument shall not take effect for forty-five (45) days following the rendition to the Florida Department of Economic Opportunity. During those forty-five days, the Florida Department of Economic Opportunity 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 _____,
this ___ day of _____, 2023.

Diane Clavier City Clerk

EXHIBIT 1. APPROVED PRELIMINARY PLAT

