

CITY COUNCIL AGENDA STATEMENT



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

**Agenda Item:** **Resolution 2023-99**, A Request For Final Plat Approval As Submitted By Casa Marabella LLC For A Portion Of Land Having The Addresses Of 12670, 13380, And 13440 Overseas Highway, Which Is Described As Part Of Government Lot 1 And Part Of Bay Bottom Adjacent To Lot 1 Section 5 South Township 65 South Range 33 East And Government Lot 2 And Bay Bottom Northerly Of Lot 2 Section 33 South Township 65 South Range 33 East, Fat Deer Key, Marathon, Monroe County, Florida, Having Real Estate Number 00099610-000000.

**APPLICANT/ OWNER:** Manny Roman Casa Marabella LLC

**AGENT :** Amie Owens, Don Horton Construction

**LOCATION:** The project site is located at 12670, 12700, & 12800 Overseas Highway. See Figure 1.

**Figure 1  
Project Site**



**REQUEST:** A Final Plat approval for the subject property having RE 00099610-000000 to allow for the subdivision of the single parcel into three parcels.

**FUTURE LAND USE MAP DESIGNATION:**

Mixed Use Commercial (MU-C). See Figure 2.

**Figure 2  
Future Land Use Map**



**ZONING MAP DESIGNATION:**  
Mixed Use (MU). See Figure 3.

**Figure 3**  
**Zoning Map**



**LOT SIZE:**  
Total acreage: Approx. 80,215 sq. ft. of uplands.

**SURROUNDING ZONING AND USES:**

	<u><i>Zoning</i></u>	<u><i>Use</i></u>
<b>North</b>	NA	Gulf of Mexico
<b>East</b>	Mixed Use and Conservation Native Area	State Lands, a commercial property, and a billboard.
<b>South</b>	Mixed Use	Motel, offices and commercial
<b>West</b>	Mixed Use	The Quay

**EXISTING CONDITIONS:**

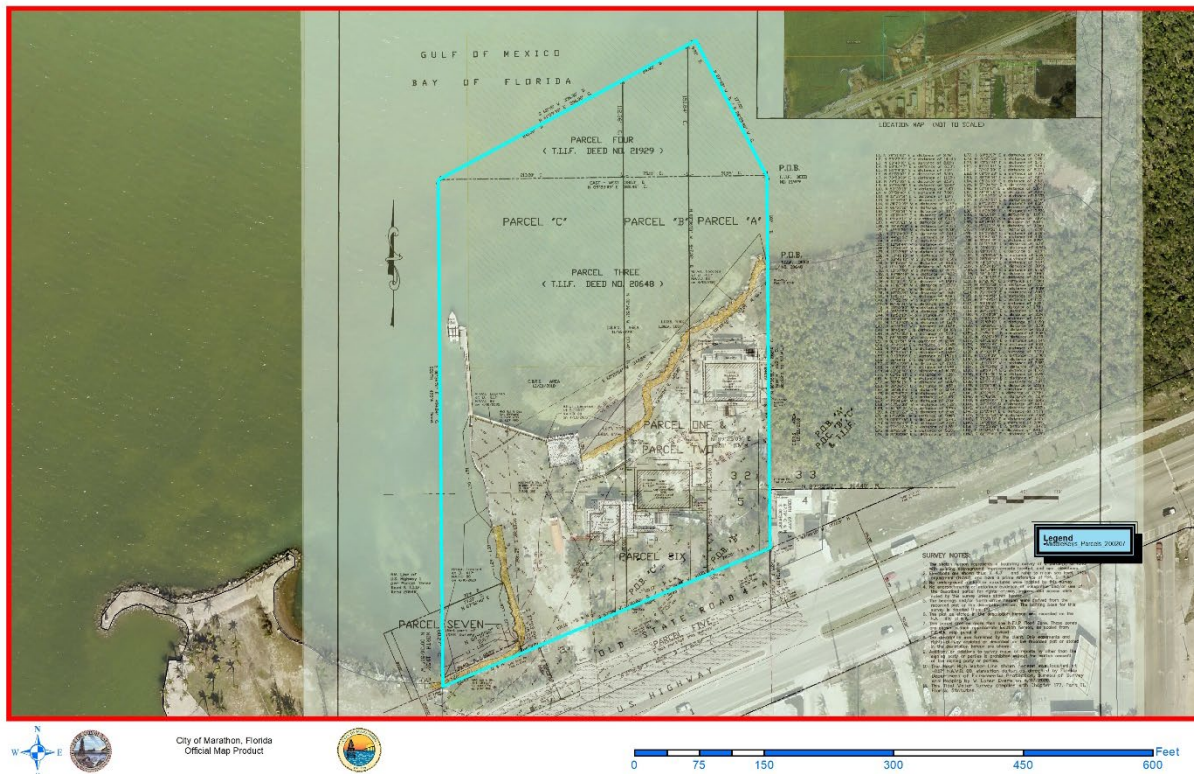
The project site consists of a large lot with three homes on the property.

## PROPOSED REDEVELOPMENT:

To subdivide the lot so that each home is on its own lot.

See Figure 4 for Site Plan layout.

**Figure 4**  
**Proposed Redevelopment Site Plan**



## BACKGROUND:

The proposed project is the platting of individual lots for each unit. This report addresses the Conditional Use application associated with the Platting and Subdivision regulations.

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

## CRITERIA

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

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”.

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. Using the property area, the proposed use can have up to 11 residential units, however the applicant is just subdividing the lot so that each of the existing 3 residential units is on its own lot. Table 103.15.3 further qualifies the allowed range of intensities based on the intensity of retail use.

<b>Development Type</b>	<b>Proposed</b>	<b>Maximum Allowed</b>
<b>Residential Units</b>		
Market Rate	3	11

The project as proposed meets the basic definition of development in the MU zoning district.

Therefore, 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.”

The existing land use pattern in the project vicinity consists of commercial use and vacant land to the east; commercial uses and (mixed use) to the south; The Quay and The Island restaurant to the west; and the Gulf of Mexico directly north.

Section 103.15, Table 103.15.2, “Uses By Zoning District,” establishes whether specific uses are allowed as of right, limited, accessory or conditional use permit. That table shows that Plats and subdivisions are permitted only when approved through the Conditional Use Permit process. Conditional Use Permit review is intended to allow a broader view of the potential impacts of a project on adjacent uses and on City concurrency related resources such as road capacity, solid waste, sewer, and potable water availability.

Otherwise, the development of the site will result in significant improvement to the site development quality, including upgraded landscaping, stormwater management, and architecture. The improvements are expected to have a positive benefit on the surrounding uses and the City of Marathon.

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 impacts on surrounding properties as a result of the proposed development should be positive.

Plans submitted with the project are suitable for the Conditional Use Approval as they relate to Chapter 107, Article 12, 100 Year Floodplain. Two of the existing structures meet floodplain compliance. The third is PreFIRM (built in 1962) but is proposed to be redeveloped so that it will meet current floodplain requirements.

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. Portions of the land are flagged as undeveloped land. The State-owned land next door is also listed as hammock. However, the existing and proposed development will have no impact on the neighboring hammock.

In addition, the parcels are within a ‘Species Focus Area’ as defined in the settlement for FEMA-FWS lawsuit. All permitting will be required to be reviewed for compliance using the species assessment guides.

Further improvements to water quality are expected to arise from stormwater improvements to the site, which should provide up-to-date treatment and eliminate any existing discharges to surface waters. The applicant has submitted preliminary stormwater plans suitable for the Conditional Use Application, and final plans are required prior to building permit issuance.

Site landscaping will be selected from Table 107.68.1, Appendix A, Article 8, Section 107 of the City of Marathon Code of Ordinances. The native vegetation will improve the environmental quality of the site and reduce irrigation needs. The applicant has previously coordinated with DOT for the removal of native vegetation in the US 1 ROW and replacement plantings within this area.

Therefore, it is staff’s opinion that the request is ***in compliance*** with the requirements of these sections.

- All development permits will require review using the species assessment guides per the FEMA/FWS settlement.

**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 existing development currently does not impede the flow of traffic through Marathon. The applicant has received preliminary approval from the FDOT for the additional driveways to be created based upon the subdivision of the parcel.

Section 107.43 requires site triangles where the access drive intersects with the street. Clear site triangles must be shown on the site plan at time of DOT permit issuance.

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

- Applicant must obtain DOT permits for the installation of the two additional driveways onto US 1.

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

Parking requirements are outlined in Section 107.46 (Parking Schedule). The following table shows the parking requirement for the residential uses on the parcel:

Use	Code Citation	Requirement	Spaces Required
Single and Two-Family, attached and detached	107.46.1	2 per dwelling unit	6
Total Required			6
Total Provided			6

The existing buildings provide sufficient parking space per the code.

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

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

The proposed project consists of three single family dwellings. No issues of noise, glare or odor have arisen from this use, nor are they expected to.

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;**

Section 107.39 requires that all dumpsters and recycling bins be fully enclosed and screened. The applicant proposes individual garbage containers similar to what is existing on site. Should a shared dumpster be proposed it must be screened according to Code.

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 applicant is already connected to wastewater.
- **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 already provides stormwater retention compliance within City standards.
- **Recreation and Open Space**: This development will have a de minimus impact on recreation and open space.
- **Roadways**: The units currently exist; therefore, resulting in a de minimus impact on transportation facilities.
- **Educational Facilities**: This redevelopment will have a de minimus impact on educational facilities since these are existing units.

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

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

Section 107.71 A. requires planting requirements for MU properties along US 1. The applicant has already planted trees in coordination with DOT, and meeting the standards set forth in 107.71 A.

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'.

Table 106.28.1 outlines setbacks requirements for a Principal structure on open water where original slope landward has been significantly altered by filling but a mangrove fringe exists that is contiguous from side lot line to side lot line and is at least ten (10) feet wide at the root zone; have a setback requirement of thirty (30) feet from MHWL or the landwards extent of the mangrove root system. A resource buffer distance is set at a 30-foot minimum from MHWL, since that is further landward than the root system.



This plan shows an 86’ setback on the front yard, a minimum of 8’ setback on the side yards, approximately 33’ setback on the nearest shoreline.

<b>Setback</b>	<b>Required</b>	<b>Required Landscape</b>	<b>Existing</b>	<b>Compliant</b>
Front	30	10	86	Y
Side	5	N/A	5	Y
Side	5	N/A	5	Y
Shoreline	30	N/A	33	Y

Therefore, with conditions, 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;**

No signs are proposed as these are existing single-family residences. There are also no proposed changes to the exterior lighting that would cause glare or issues with traffic safety.

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 considered developed; therefore, a twenty percent open space requirement applies. To the greatest extent possible, the Applicant will be required to protect Regulated Trees, pursuant to Chapter 106, Article 2 of the LDRs. According to the existing survey the lots well exceed the 20% open space requirement. When the one existing preFIRM structure is replaced, the plans will be reviewed to make sure the open space requirement is continued to be met.

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

**9. General compatibility with surrounding properties; and**

The project is subdivision of one parcel into three for the existing use of the three homes. Adjacent uses include commercial establishments. A redevelopment of residential dwellings is expected to be fully compatible with these uses. The proposed redevelopment of the PreFIRM home will be an improvement to the current state of prior development and is expected to increase compatibility with surrounding properties.

Section 107.40 restricts the height of buildings to 42’ as measured from the crown of the roadway or unimproved grade. The buildings are below 42’.

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.**

Section 104.48 Residential Dwelling Units contains special requirements.

The following criteria are applicable to this redevelopment:

- Plans must show a 10' interior setback between residential units.
- Any future alterations to the existing docking facilities will require the applicant to provide a copy of the DEP and ACOE permits and shall meet all conditions for Multi-family docking facilities. Docking facilities are a permitted use by right in all zoning districts.

Therefore, with the conditions note 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 plat allows for the subdivision of the lot into three individual lots, one for each home. As such the development, including the overall upgrading and improvement of the site, furthers the policies for development in the City and 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 Planning staff recommended conditional approval of the Subdivision to the Planning Commission. The proposed conditions of approval are listed below.

The Planning Commission recommended conditional approval of the subdivision to City Council (5-0). City Council Approved the Preliminary Plat and Conditional Use with the following conditions.

#### **Conditions of Approval**

1. Plans must show a 10' interior setback between residential units.
2. Any future alterations to the existing docking facilities will require the applicant to provide a copy of the DEP and ACOE permits and shall meet all conditions for Multi-family docking facilities. Docking facilities are a permitted use by right in all zoning districts.
3. Clear sight triangles must be shown on the site plan at time of DOT permit issuance.
4. The Conditional Use Development Order will constitute the Certificate of Concurrency for the project. The determination will be valid for one year.

### **ANALYSIS OF PLAT APPROVAL REQUEST:**

The standards for re-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.

In the title certification as done with the platting process, the area of Old State Road 4A was found to be under the ownership of the applicant. The plat was updated to bring the property lines into this area.

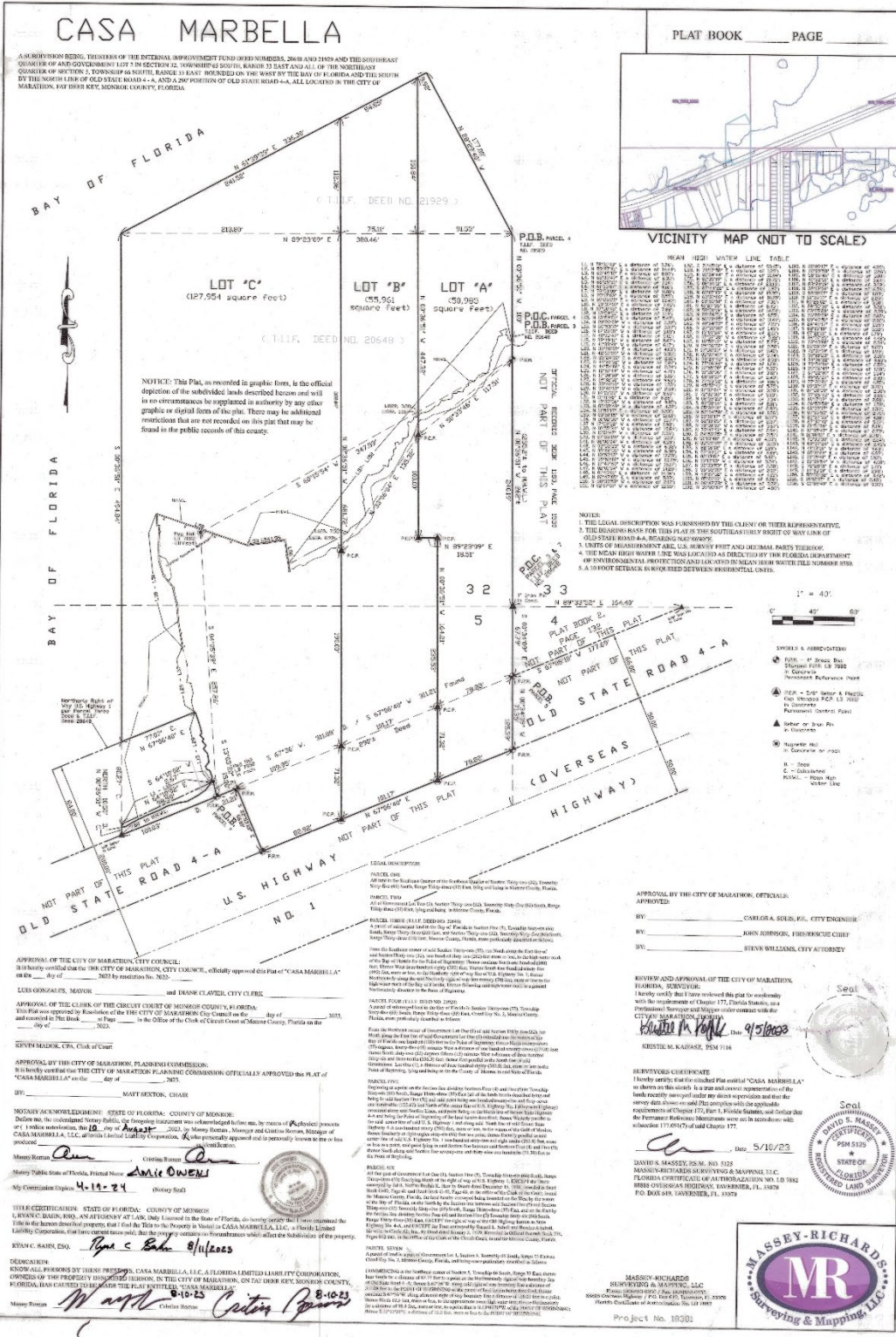
**RECOMMENDATION:**

With the following conditions, the Planning staff recommends approval of the proposed final plat.

Conditions:

1. All utility and right-of-way permits shall be obtained and issued prior to final plat approval.
2. Applicant must obtain permits from FDOT for driveway installations.
3. All conditions of the Conditional Use must be met prior to building permit issuance.

# Attachment A: Proposed Site Plan



**CITY OF MARATHON, FLORIDA  
RESOLUTION 2023-99**

**A RESOLUTION OF THE CITY COUNCIL OF MARATHON, FLORIDA APPROVING A REQUEST FOR FINAL PLAT APPROVAL AS SUBMITTED BY CASA MARABELLA LLC FOR A PORTION OF LAND HAVING THE ADDRESSES OF 12670, 13380, AND 13440 OVERSEAS HIGHWAY, WHICH IS DESCRIBED AS PART OF GOVERNMENT LOT 1 AND PART OF BAY BOTTOM ADJACENT TO LOT 1 SECTION 5 SOUTH TOWNSHIP 65 SOUTH RANGE 33 EAST AND GOVERNMENT LOT 2 AND BAY BOTTOM NORTHERLY OF LOT 2 SECTION 33 SOUTH TOWNSHIP 65 SOUTH RANGE 33 EAST, FAT DEER KEY, MARATHON, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBER 00099610-000000.**

**WHEREAS**, Casa Marabella LLC (Applicant) filed an Application on February 10, 2021 for a Conditional Use Permit for approval of a primary plat and site plan for the property into three (3) single residential lots 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 19<sup>th</sup> day of September, 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 11<sup>th</sup> day of October, 2022, 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 final plat, an unsigned copy of which is attached hereto as Exhibit "A", is hereby approved for signature and recordation and otherwise has complied with or must meet all conditions of the Plat as follows:

1. All utility and right-of-way permits shall be obtained and issued prior to final plat approval.
2. Applicant must obtain permits from FDOT for driveway installations.
3. All conditions of the Conditional Use must be met prior to building permit issuance.

**Section 3.** This resolution shall take effect immediately upon its adoption by the City of Marathon.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 10<sup>TH</sup> DAY OF OCTOBER, 2023.**

**THE CITY OF MARATHON, FLORIDA**

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**Luis Gonzalez, 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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Steve Williams, City Attorney

# EXHIBIT A. APPROVED PLAT

