

Sponsor: Garrett

**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 19<sup>th</sup> 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 10<sup>th</sup> 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:**

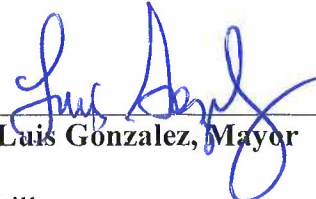
**Section 1.** The above recitals are true and correct and incorporated herein.

**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 10<sup>TH</sup> DAY OF JANUARY, 2023.**

**THE CITY OF MARATHON, FLORIDA**

  
\_\_\_\_\_  
**Luis Gonzalez, Mayor**

AYES: Landry, Gonzalez, Matlock, Smith, Still  
NOES: None  
ABSENT: None  
ABSTAIN: None

**ATTEST:**

*Diane Clavier*

\_\_\_\_\_  
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*

\_\_\_\_\_  
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 19<sup>th</sup> 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 10<sup>th</sup> 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.

1/18/23  
Date

  
\_\_\_\_\_  
Brian Shea  
Director of Planning

This Development Order was filed in the Office of the City Clerk of this 18 day of January 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 Barbara Mitchell,  
this 19 day of Jan., 2023.

4900 SW 2nd Terrace  
Ocala, FL 34471

Diane Clavier  
Diane Clavier City Clerk



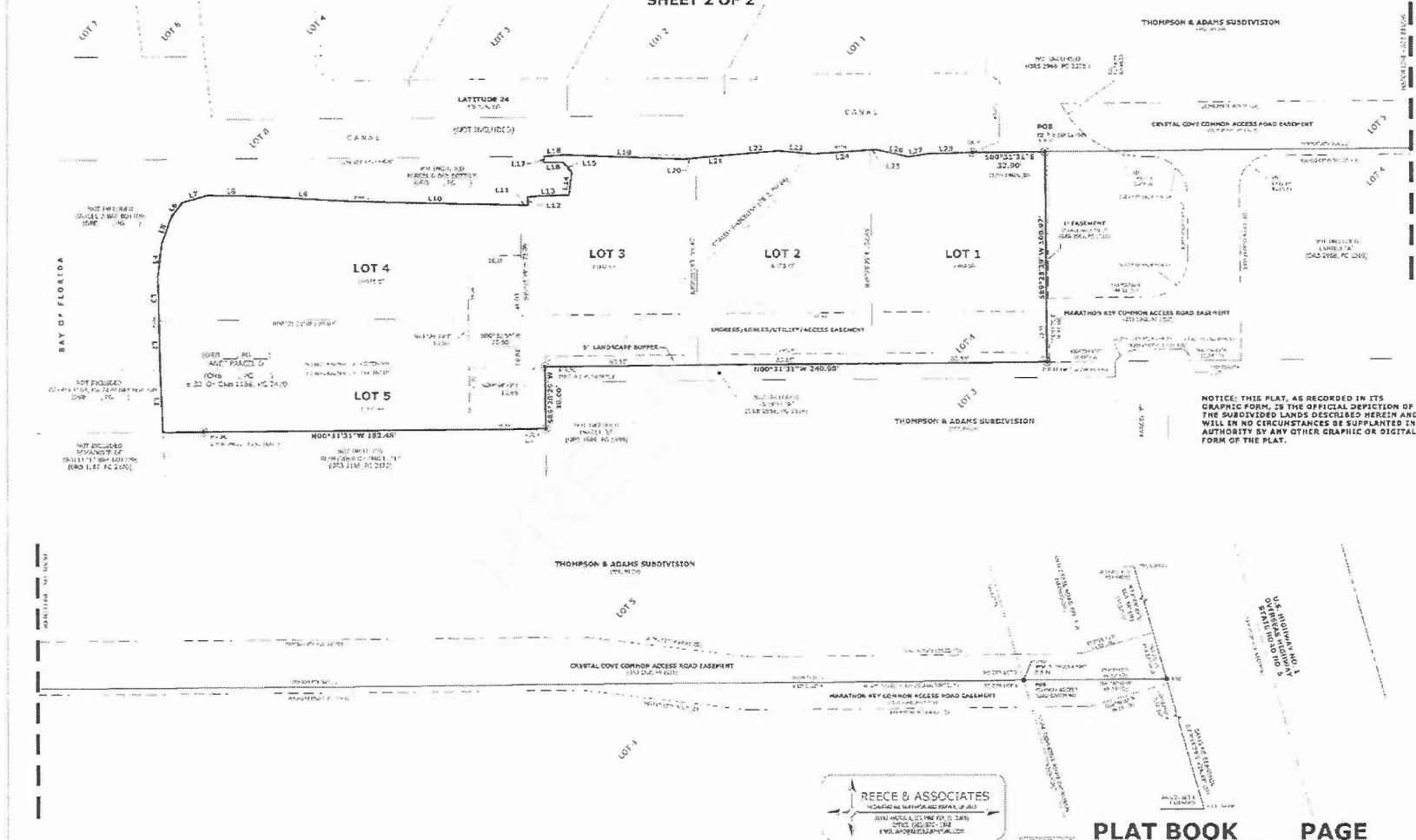
EXHIBIT 1.  
APPROVED PRELIMINARY PLAT

**SHIPMAN POINT**

A REPLAT OF A PORTION OF LOTS 3 AND 4 THOMPSON & ADAMS SUBDIVISION, PLAT BOOK 2, PAGE 24  
AND PARCEL D & THE EAST 30' OF OFFICIAL RECORDS BOOK 1189, PAGE 2470 ACCORDING TO OFFICIAL RECORDS BOOK \_\_\_\_\_ PAGE \_\_\_\_\_  
SECTION 10, TOWNSHIP 66 SOUTH, RANGE 32 EAST  
KEY VACA, CITY OF MARATHON, MONROE COUNTY, FLORIDA

SHEET 2 OF 2

SYMBOL LEGEND:  
 EASEMENT  
 POB  
 SH  
 SURVEY LINE



NOTICE: THIS PLAT, AS RECORDED IN ITS GRAPHIC FORM, IS THE OFFICIAL DEPICTION OF THE SUBDIVIDED LANDS DESCRIBED HEREIN AND WILL IN NO CIRCUMSTANCES BE SUPPLANTED IN AUTHORITY BY ANY OTHER GRAPHIC OR DIGITAL FORM OF THE PLAT.

REECE & ASSOCIATES  
 2020 MARATHON AVENUE, SUITE 100  
 KEY VACA, FLORIDA 33903  
 WWW.REECEANDASSOCIATES.COM

PLAT BOOK \_\_\_\_\_ PAGE \_\_\_\_\_