

## Historic Preservation Staff Report



**To:** City Staff and DEO

**From:** Brian Shea, Senior Planner

**Deliverable Item:** A report summarizing existing Historic Preservation code sections, Comprehensive Plan requirements, relevant permitting policies and procedures, and recommend amendments to become a certified local government.

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### **RECOMMENDATION:**

Staff recommends the adoption of a historic preservation ordinance tailored specifically to Marathon and its history that also qualifies the City to be a participating Certified Local Government.

### **COMPREHENSIVE PLAN:**

Policy 2-1.7.1 of the Comprehensive plan states that the City should conduct a survey to identify the architecturally and historically significant sites within the City limits. It further states that this survey should look at structures 40 years old and older. This is rather progressive, as a structure is not generally eligible to be historic unless it is fifty years old. There is the Criteria G exception, for structures that have been shown to already have had an impact before that time frame has been reached. Because the survey proposes to look at structures at least forty years old, then there is the potential to create a watch list. This watch list would catch any structures that are not deemed historic, but may have intrinsic or architectural details that will make them eligible if they stand the test of time. By denoting these structures, we may plan ahead for their nomination and preservation and rehabilitation without the worry that they may be demolished before their true value is realized.

Objective 4-1.10 of the Comprehensive Plan directs the City to ensure the preservation of historical, cultural, or archeological features of local, regional, State, and National Significance. The five policies that guide this are as follows; implement historic and archeological site policies, establish provisions to address impacts to historic and archeological sites, identify historic and archeological sites, preserve historic and archeological sites, and to review post disaster management alternatives. While land development regulations were adopted to address these policies, they do not have the required elements to meet all of these policies. For example, at this time there is no method to nominate or designate a structure as locally significant.

When the Comprehensive Plan was updated in February of 2013, a records request with the State Historic Resources Department only obtained six individual Florida Master Site File documents. Since this date, the entirety of the Florida Master Site Files for the City of Marathon, as well as the Survey documents associated with the City have been acquired.

## **LAND DEVELOPMENT REGULATIONS:**

Historic Preservation is mentioned in various sections of the LDRs. Articles 5 and 7 of Chapter 106 are the primary code sections for historic preservation and archeological resources. The Floodplain Management code section, Section 107, discusses the definitions of historic structures and variance procedures. Historic structures are mentioned in the nonconforming use section in Section 108.17, as well as in the nonconforming sign section of Section 107.62. Finally there is Article 3 of Section 110, which lists all defined terms within the LDRs and Code of Ordinances.

Article 5 of the LDRs entitled Historic Structures and Sites should be amended as soon as possible, as the current ordinance is vague and does not meet the policies set forth in the Comprehensive Plan as it is currently written. The current code only addresses significant historic structures as those found to be significant at the State and federal levels. These are listed on the Florida Master Site file and the National Register of Historic Places respectively. It does not address any structures or sites found to be significant on the local level. Like most ordinances, preservation ordinances have more “teeth” at the local level. That is to say, that the enforcement and regulations are generally more stringent, and have the desired effect at the local level, where the higher the authorities pertain more to guidelines and principals that must be followed.

The existing LDRs address the general mapping criteria and identification of historic structures and sites. The proposed survey and master plan will have updated maps for easy public reference, and should be adopted as part of the code revisions. Additionally based upon the data collected, more detailed maps may be created from the data files and incorporated into GIS. Additionally, there are standards adopted into the code and made part of the chapter by reference. However one item is added as a link, which is broken, and should be added by name only, and the link removed.

Between Section 106.40 and Section 106.41 structures are identified and prohibited activities are listed. There are many sections of a preservation ordinance that should exist between these two sections. This portion of the ordinance should be updated to reflect similar ordinances from Certified Local Governments, which have approved ordinances from Department of the Interior. Recommendation of selecting those CLGs within Florida that are coastal communities, and using the framework of their ordinances.

Every preservation ordinance should have a separate definitions section adopted into it. If there is a commission, there should be a section creating the commission and its required positions and its powers. Additionally there should be sections pertaining to designation criteria and the process to designate a property as historic. The sections pertaining to alterations and rehabilitation should include certificates of appropriateness as well as section on maintenance and demolition by neglect. Sections pertaining to variances and the appeals process should also be incorporated into the ordinance. To avoid vagueness cases, the ordinance should describe existing districts, prominent styles within the City, and a design language. Many of these elements, including the creation of a watch list can be in the Historic Preservation Master Plan, and adopted as reference to this code section. Furthermore, while there are the separate code sections pertaining to

nonconformities, flood, signs, etc., it is recommended that they be included in the preservation code section as well so that it is all consolidated and referenced in one location.

As Article 7 pertains to archeological resources, there is very little that requires amendment. The only changes recommended are grammatical in nature to assure that there are no interpretative issues, while also addressing some politically incorrect language.

Minor differences exist between the definitions section as it pertains to flood hazard mitigation and the defined terms definition sections of Chapter 110. The floodplain management section is based upon the Model Flood Ordinance. This section may be amended as the Flood Ordinance is updated to mirror new FBC code requirements of freeboard. This is currently being updated by staff, and is therefore recommended to be corrected first in the flood section, and later amended in the definitions section so that the two definitions match. Additionally staff should coordinate with CRS/FEMA representatives to guarantee that historic preservation sections are reflected in the new flood ordinance to increase score within the Community Rating System (CRS) program.

The existing floodplain code states that variances may be issued for the repair and rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure. This would be accomplished through the review of a certificate of appropriateness, and would of course reference back to the variance code sections. It is recommended that this section be expanded to reference the FEMA publications for elevating historic structures above flood. These and other resiliency options should be in the Historic Preservation Master Plan. It should be noted that elevation should be recommended only if does not conflict with Secretary of the Interior's guidance on historic character and context.

There are historic preservation code section in the existing sign ordinance. However, based upon the recent rulings in Reed v. Town of Gilbert, staff is recommending to avoid touching the current sign code section. Instead staff recommends the addition of content neutral sign guidelines to the Historic Preservation code section, rather than amending sign section. These should encourage a "recreation" option, which does not meet strict requirement of sign code, with the submission of documentation of previous historic signage that was damaged or destroyed. This should require similar sizing, scale, fonts, but allow the sign to be updated with current business information. Additional requirements pertaining to informative signage within the business depicting historic sign and current sign are recommended. These should explain the significance, date, and recreation process. Additionally by adding a designation process as referenced above, the nonconforming sign section can actually be applied to those signs found to be historical or cultural landmarks, and their specific restrictions thus can be imposed by Council.

The final code section that should be amended pertains to the definitions sections. As stated above the ordinance should have its specific definitions section, however, those definitions should also be reflected in the main definitions section. As such this would create agreement between the multiple code sections, and remove those elements that are not in agreement, or are vague within the definition section but clearer within the specific code sections themselves.

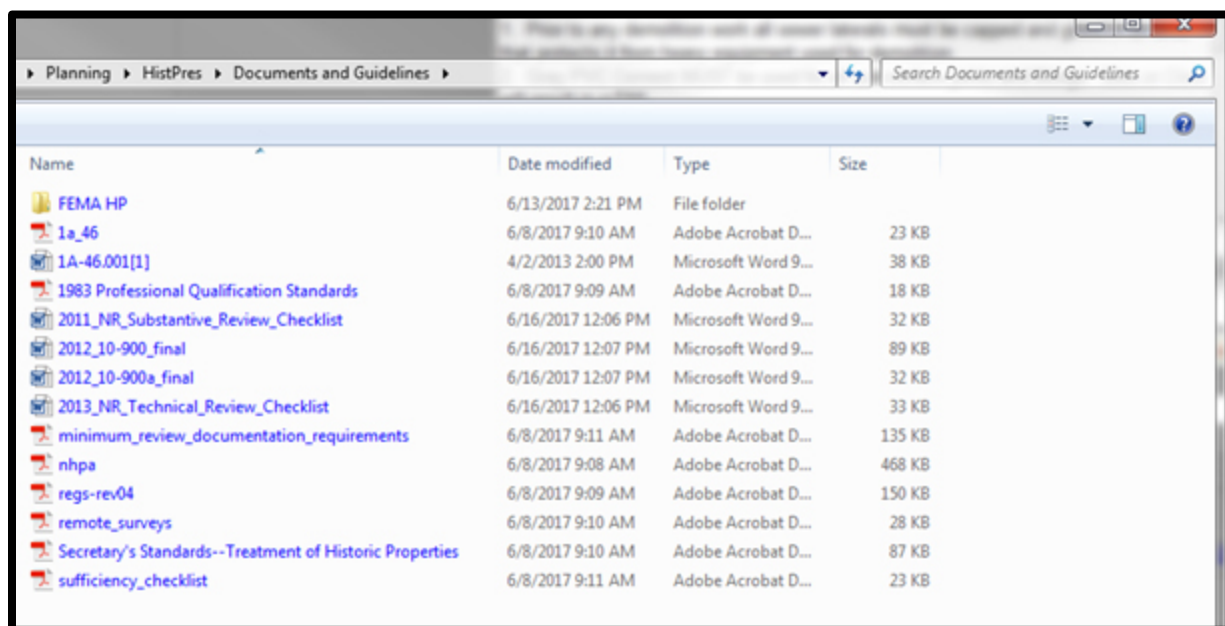
## PERMITTING POLICIES AND PROCEDURES:

In house policies and procedures have been reviewed as they pertain to historic preservation. There are no separate applications, at this time. Work to be done to a historic structure is applied for using the standard building permit. Staff reviews permit application and conditional use applications to verify if the site is on any of these lists. Staff earlier in the year went through and categorized all of the FMSF forms by Real Estate number, as that is how all properties are tracked within the City systems. This ensures that the staff reviewer can easily see if the parcel is listed as having a historic structure.

If a permit is received for work on a historic structure it is reviewed against the guidelines and protocols listed in the Guidelines and Documents sections of the Historic Preservation folder in our database. Figure 1 below shows some the documents used in review, including those adopted as part of the LDRs. Additionally all permits receive conditions requiring work to be performed to the Secretary of the Interior's standards.

**FIGURE 1**

Guidelines and Documents



Name	Date modified	Type	Size
FEMA HP	6/13/2017 2:21 PM	File folder	
1a_46	6/8/2017 9:10 AM	Adobe Acrobat D...	23 KB
1A-46.001[1]	4/2/2013 2:00 PM	Microsoft Word 9...	38 KB
1983 Professional Qualification Standards	6/8/2017 9:09 AM	Adobe Acrobat D...	18 KB
2011_NR_Substantive_Review_Checklist	6/16/2017 12:06 PM	Microsoft Word 9...	32 KB
2012_10-900_final	6/16/2017 12:07 PM	Microsoft Word 9...	89 KB
2012_10-900a_final	6/16/2017 12:07 PM	Microsoft Word 9...	32 KB
2013_NR_Technical_Review_Checklist	6/16/2017 12:06 PM	Microsoft Word 9...	33 KB
minimum_review_documentation_requirements	6/8/2017 9:11 AM	Adobe Acrobat D...	135 KB
nhpa	6/8/2017 9:08 AM	Adobe Acrobat D...	468 KB
regs-rev04	6/8/2017 9:09 AM	Adobe Acrobat D...	150 KB
remote_surveys	6/8/2017 9:10 AM	Adobe Acrobat D...	28 KB
Secretary's Standards--Treatment of Historic Properties	6/8/2017 9:10 AM	Adobe Acrobat D...	87 KB
sufficiency_checklist	6/8/2017 9:11 AM	Adobe Acrobat D...	23 KB

To date, only one permit has been issued for the rehabilitation of a National Register property. That was for the tabby restoration to the Adderley House, which won preservation awards last year from the Florida Trust for Historic Preservation.

## POTENTIAL SITES ANALYSIS:

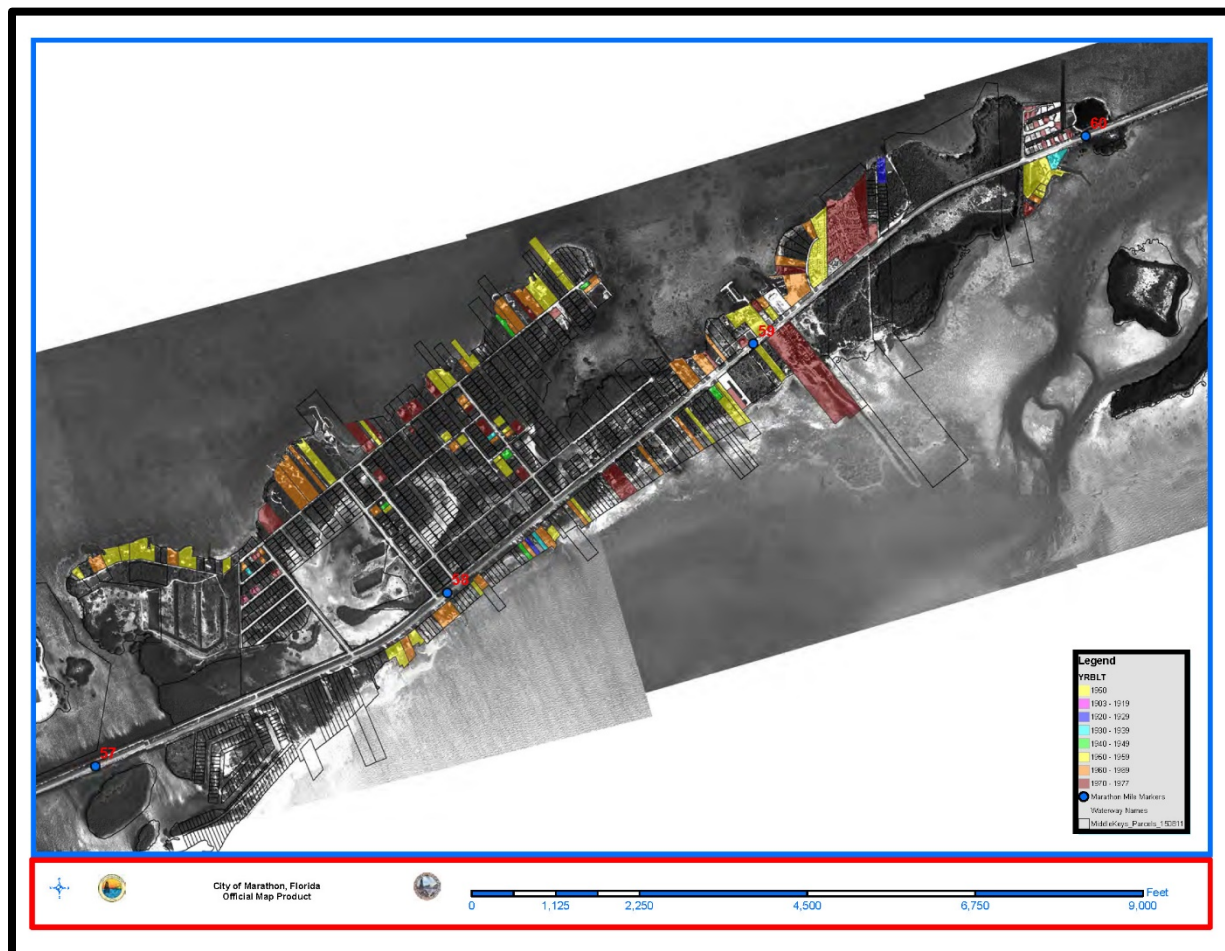
Staff has begun collection information already obtained through previous surveys or Florida Master Site Files submitted to the State. Additionally staff has mapped all properties that contain

structures that are at least 40 years of age, which are mapped in Figures 2 through 11. Generally the National Register criteria for evaluation follows the ABCDs. The site, structure, building, district, etc. should be Associated with events in history, associated with Big Boys, show distinct Character defining features, or provide Data. More formally these are described as follows:

- a. That are associated with events that have made a significant contribution to the broad patterns of our history; or
- b. That are associated with the lives of significant persons in or past; or
- c. That embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- d. That have yielded or may be likely to yield, information important in history or prehistory.

**FIGURE 2**

Properties with structures 40 years or older



**FIGURE 3**

Properties with structures 40 years or older



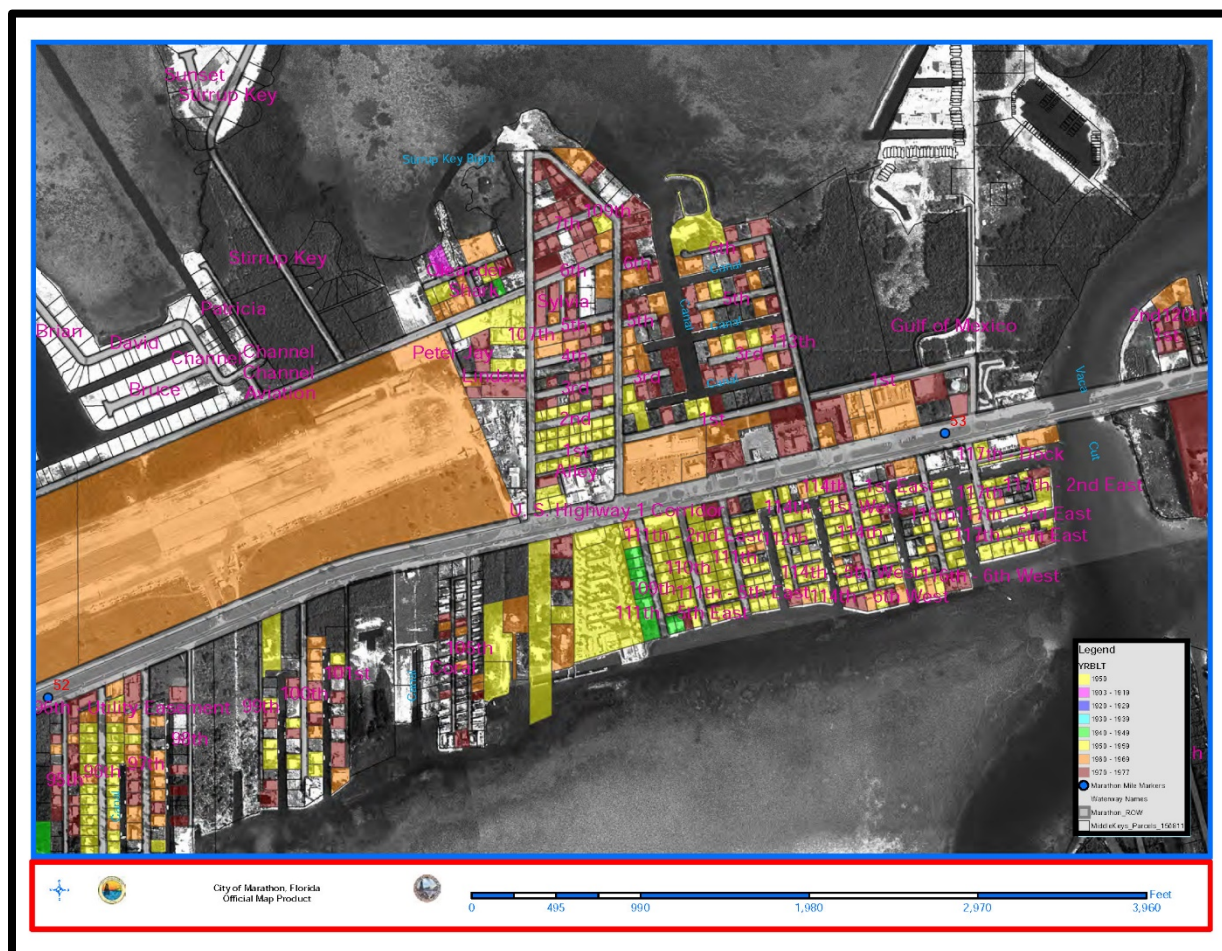
**FIGURE 4**

Properties with structures 40 years or older



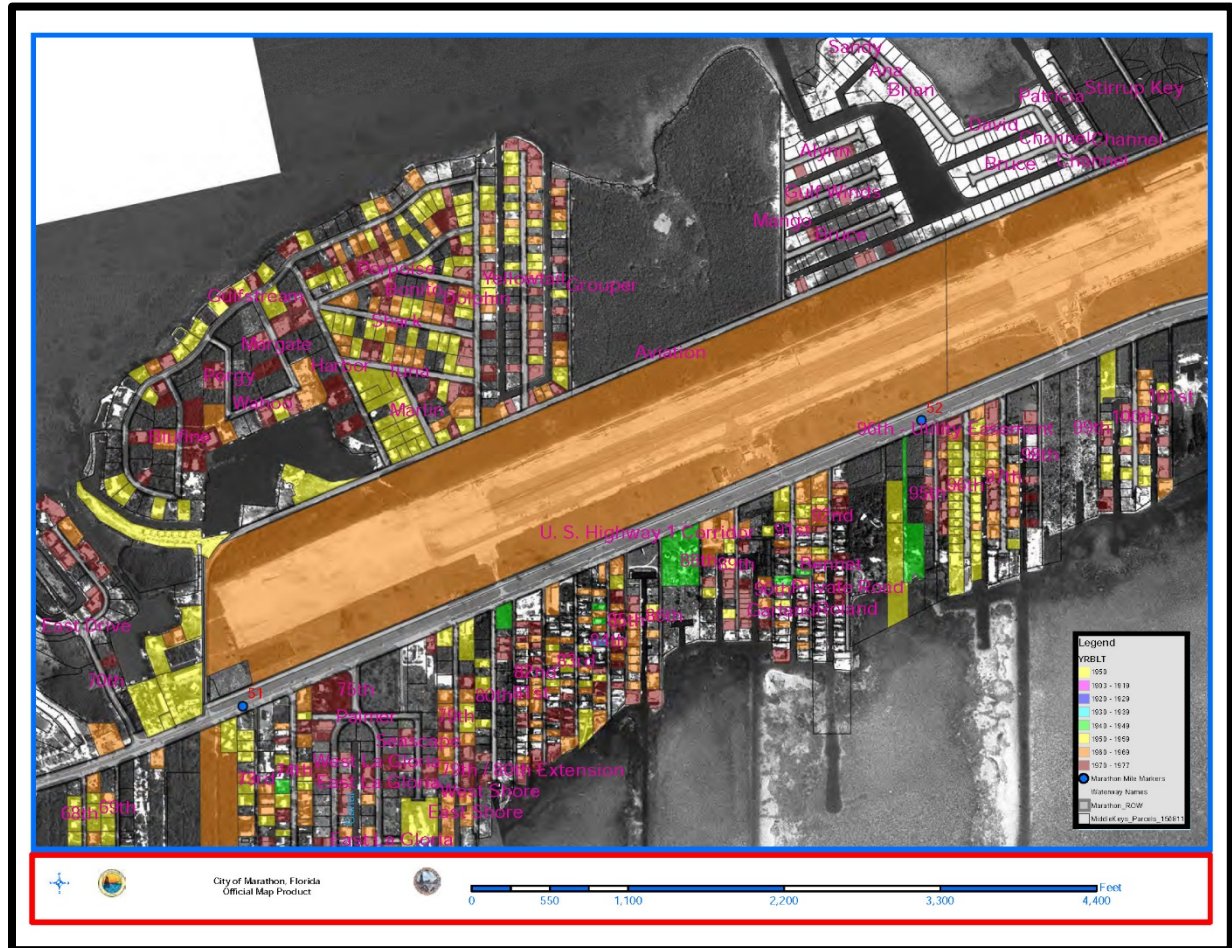
**FIGURE 5**

### Properties with structures 40 years or older



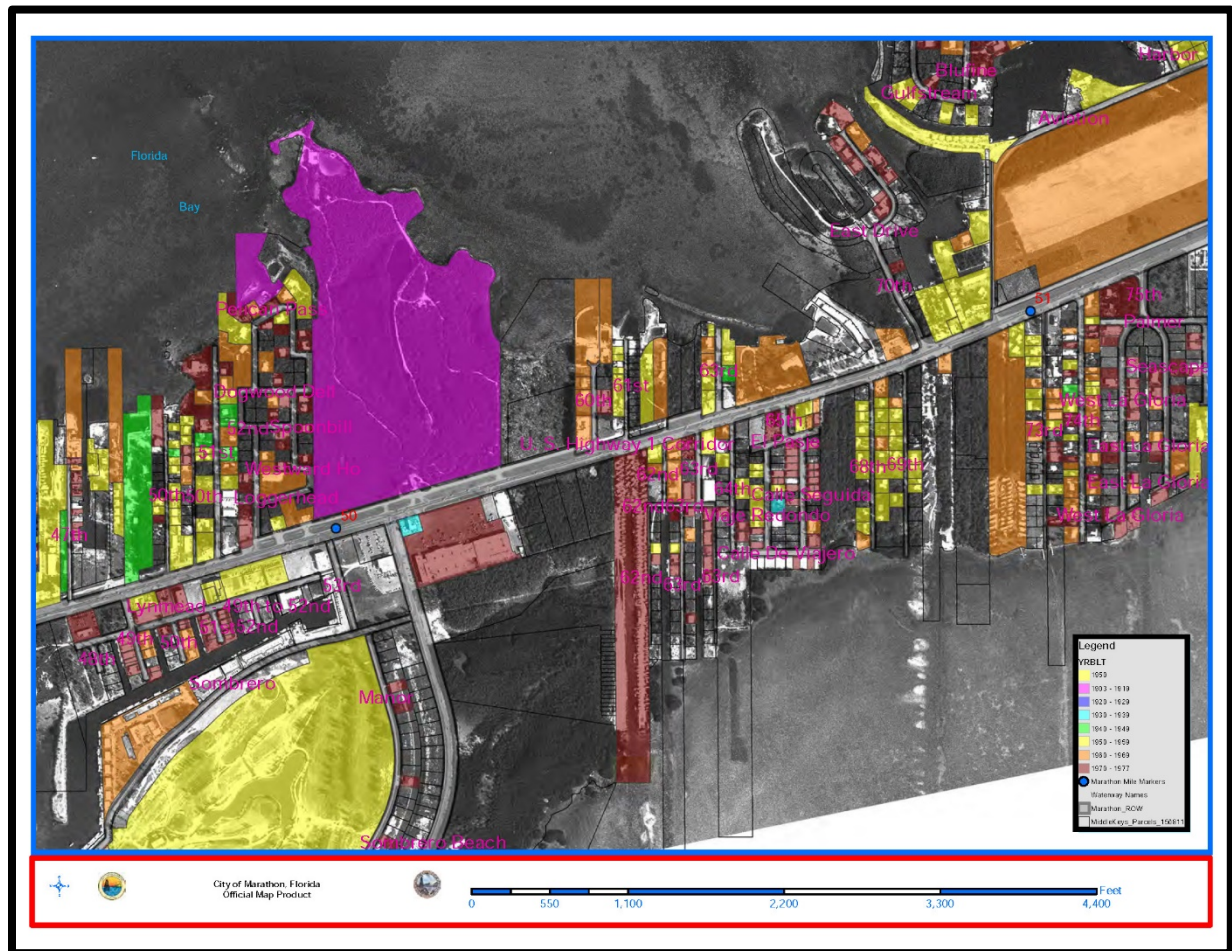
**FIGURE 6**

Properties with structures 40 years or older



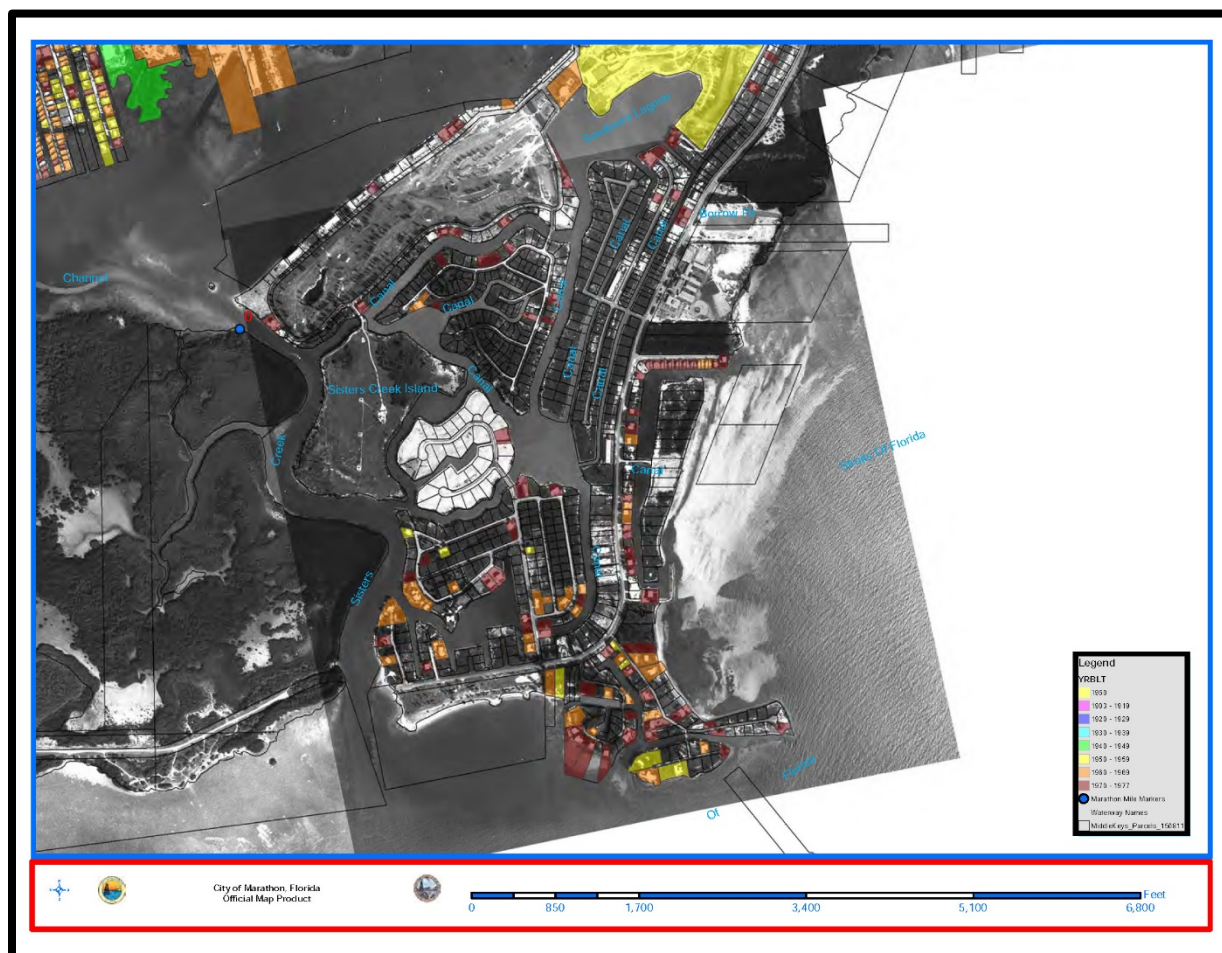
### FIGURE 7

### Properties with structures 40 years or older



**FIGURE 8**

### Properties with structures 40 years or older



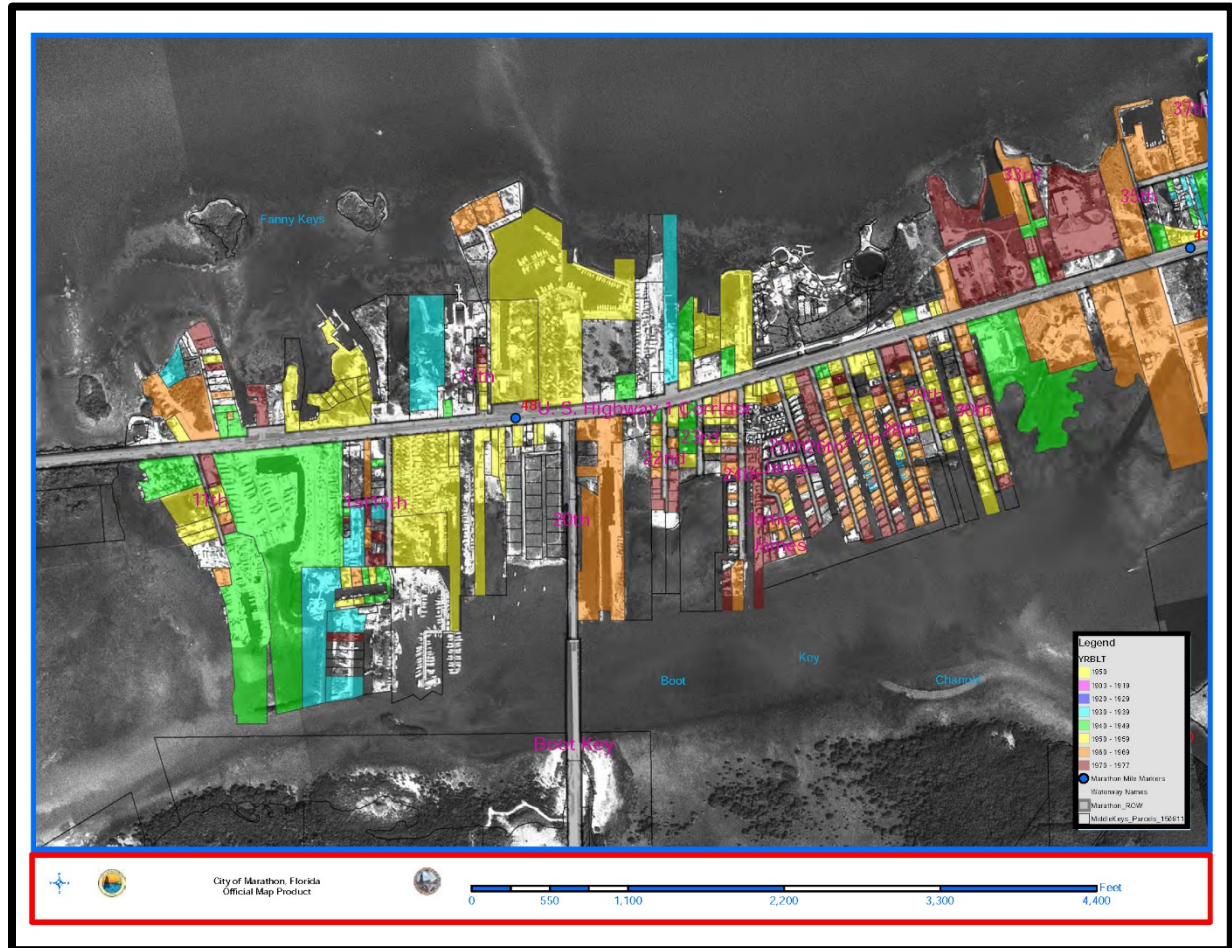
**FIGURE 9**

Properties with structures 40 years or older



**FIGURE 10**

Properties with structures 40 years or older



**FIGURE 11**

Properties with structures 40 years or older



## CERTIFIED LOCAL GOVERNMENTS:

The Certified Local Government (CLG) program was developed as part of the Amendments to the National Historic Preservation Act that occurred in 1980. The Act directs the State Historic Preservation Officer and the Secretary of the Interior to establish procedures for the certification of local governments to participate in this partnership. According to the State as part of the CLG program “the State: 1) delegates certain limited responsibilities to those local governments that meet specific qualifications for certification, and 2) provides, from its annual Historic Preservation Fund apportionment, on a competitive basis, limited grant-in-aid funding to assist certified local governments in carrying out the responsibilities so delegated.”

The following requirements must be met to be eligible as a CLG:

- Enforce appropriate state or local legislation for designation and protection of historic properties.
- The local government shall establish a historic preservation review commission (Commission) composed of professional and lay members
- The local government shall maintain a system for survey and inventory of historic properties.
- Local governments shall provide for public participation in local historic preservation programs, including the process of recommending properties for nomination to the National Register.
- Local governments shall satisfactorily perform the above responsibilities, and those specifically delegated to them by the State Historic Preservation Officer

As part of the DEO Technical Assistance Grant, the local legislation will be amended in draft form. The Grant also is allowing for the survey and inventory of historic properties, meeting that criteria section. With the intended workshops and information sessions, the public participation criteria will be met as well. Therefore the only additional requirement would be the adoption of the ordinance and the creation of the Commission.

When analyzing the existing ordinance, and whether it qualifies as an ordinance that meets the eligibility requirements, the below table is used. Based upon this table, the existing ordinance does not meet the Secretary of the Interior's standards and should be amended.

Code requirement	Met by Current Code?	
	Yes	No
Purpose clearly stated	X	
Authority for appointment of suitable commission		X
Criteria for designation of historic properties clearly defined (shall be based on and consistent with the criteria used by the National Register)		X
Clearly defined process for designation of historic properties including the consequences of designation		X
Boundaries for historic districts and individual properties identified in the ordinance are clearly established		X
Authority for the Review Commission to review and render a decision on all proposed alterations, demolitions, relocations, and new construction within the boundaries designated by the ordinance or which directly affect designated properties		X
Provisions for the delay of demolitions, but not for the indefinite stay of a demolition	X	
Criteria for the review of proposals for alterations, new construction, relocations and demolitions clearly set forth in the ordinance (alterations shall achieve the purpose of the SI Standards for Rehabilitation and Guidelines for Rehabilitation Historic Buildings)		X
Provisions for enforcing decisions		X
Penalties for non-compliance		X
Specific time frames for reviews		X
Right of appeal		X
Specific time frames for consideration of development proposals		X

To meet the criteria for the review of proposals, the adopted ordinance will require the creation of forms including those for the application for the certificate of appropriateness. Attachment A to this report contains examples of such forms from other CLG communities. Staff has reviewed ordinances from these CLG communities, and ranked them on whether they are coastal communities or counties, or landlocked. However it was noted that many of the landlocked areas contained historic structures within the floodplain of rivers or nearby lakes. As such, the ordinances and policies are still pertinent as they pertain to flooding and historic structures. Additionally ordinances adopted within the last 10 years were found to more likely address issues of resiliency and permitting as they pertain to historic structures within the floodplain.

#### **RECOMMENDATION:**

Staff recommends a complete overhaul of the historic preservation ordinance. The new ordinance should take into account the recent survey and historic resource master plan, and should meet the minimum requirements of a certified local government.

**Attachment A**  
**Certificate of Appropriateness Applications**