



City of Marathon Planning Commission
Monday October 19, 2020
9805 Overseas Hwy
City Hall Council Chambers
5:30 PM

1. **Call To Order**
 2. **Pledge Of Allegiance**
 3. **Roll Call**
 4. **Minutes**
 5. **Quasi-Judicial Statement**
 6. **Notice**
 7. **Items For Public Hearing**
 8. **Adjournment**
-

5. Quasi-Judicial Statement

Please be advised that some of the items on the agenda are quasi-judicial in nature. If you wish to give testimony on any item please inform the Boards clerk by filling out an available sign up form. An opportunity to speak will be made available after the applicant and staff have made their presentations on each item. All testimony, including public testimony and evidence, will be made under oath or affirmation. Additionally, all persons giving testimony may be subject to cross examination. If you refuse either to be cross examined or to be sworn your testimony will not be considered. The general public will not be allowed to cross examine witnesses, but they can ask the Commission to ask questions on their behalf. Persons representing organizations must present evidence of their authority to speak for the organization.

6. Notice

Presentations to the Commission are limited to three (3) minutes for each individual speaker and five (5) minutes for the representatives of a designated group. Transfer of time between individuals and/or groups is not permitted. To the greatest extent possible, presentations to the Commission shall be limited to topics before the Commission for present or future consideration. Letters submitted to the Commission prior to the meeting will not additionally be read into the record.

7. Items For Public Hearing

Item 1. An Appeal By Roger Bolon And Alexandria Wolff Of The Decision Of The City Of Marathon Public Works Director To Issue A Permit To The Florida Keys Electric Cooperative, Inc. To Move Electric Transmission Poles From The South Side Of Aviation Boulevard To The North Side Of Aviation Boulevard From 8146 Aviation Boulevard To 109th Street, Gulf Then Toward US 1 Ending 117 Feet North Of US 1 And 109th Street. Said Appeal Is Premised On A Belief By The Parties That The City Violated City Code Section 26 (1)(A) And 337.401 F.S.

Because The City Failed To Recognize The Potential Impact On Adjacent Property Owners, Including Grandfathered Driveway Access Or Other Permitted Feature(s) In The City Right-Of-Way As Recognized In City Code; And Subsequently Discovered Violation Of F.S. Chapter 333 Because The City Failed To Obtain FAA/DOT Approval Of The Permit Prior To It Being Issued And Prior To Commencement Of The Work As Required By F.S. 333.03 And F.S. 333.025 (4)(5).

Item 2: An Appeal Of A Decision By The City Of Marathon, Florida In The Issuance Of Permit P2020-0637 For A Single Family Residence For Property Located At Lot 26, Tropic Isle Subdivision, Section A, Having Real Estate Number 00355417-002600; The Appellant's Reason For The Appeal Concern The City's Land Development Regulations (LDRs), Chapter 100, Article 1, Section 100.2, Chapter 102 Article 10 Section 102.46, Chapter 102 Article 14 Section 102.18, Chapter 103 Article 3, Chapter 107 Article 5, And Chapter 110 Article 3; Providing For A Review Of This Administrative Decision By The Planning Commission Sitting As The City's Board Of Appeals Pursuant To Chapter 102 Article 17: And Providing For A Decision By The Board.

Item 3. A Request For An Amendment Of A Conditional Use For A Plat And Site Plan Approval As Submitted By G98 Development, LLC, For A Portion Of 11th Street Ocean, Which Is Described As Being A Part Of Government Lot 1, Section 8, Township 66 South, Range 32 East, Marathon, Monroe County, Florida, Having Real Estate Numbers 00319960-000000 & 00319970-000000. Nearest Mile Marker 47.5.

Item 4: An Ordinance Of The City Of Marathon, Florida Approving The City's "10-Year Water Supply Facilities Work Plan" As Required By The State Department Of Economic Opportunity Under Chapter 163, Part II, F. S.; To Include Updated Water Demand Projections, Identify Alternative And Traditional Water Supply Projects, And Describe Conservation And Reuse Activities Needed To Meet The Projected Future Demands. Planning Tools Are Available On The District's Website For Your Use And District Staff Are Available To Provide Technical Assistance To Update The Work Plan, Including Reviewing Draft Work Plans Prior To Formal Plan Amendment Submittal; Providing For Severability; Providing For Repeal Of Conflicting Provisions; Providing For Transmittal Of This Ordinance To The State Department Of Economic Opportunity; And Providing For An Effective Date Upon The Approval Of This Ordinance By The State Department Of Economic Opportunity.



**City of Marathon
Planning Commission
Monday July 20, 2020
9805 Overseas Hwy
City Hall Council Chambers**

MINUTES

Lynn Landry called the meeting of the Planning Commission to order on Monday July 20, 2020 via Zoom at 5:30 pm.

In attendance: Planning Director George Garrett, Attorney Gaelan Jones, Admin Assistant Lorie Mullins, and members of the public.

The speakers were sworn in or they had previously been sworn in via Zoom.

The Pledge of Allegiance was recited.

George Garrett congratulated Matt Sexton on the recent birth of his child.

The roll was called. Mike Cinque-present; Matt Sexton-present; Eugene Gilson-absent; Mike Leonard-present; Lynn Landry-present.

Landry asked for approval of the last meeting minutes.

Leonard moved to approve. Sexton seconded. The roll was called. The minutes were approved 4-0.

The Quasi-Judicial Statement was read for the record.

Attorney Jones asked for any ex-parte communications. Sexton, Cinque, and Landry had conversations with Noah Singh about the project and stated it would not affect their decisions.

The Notice was read into the record: *Presentations to the Commission are limited to three (3) minutes for each individual speaker and five (5) minutes for the representatives of a designated group. Transfer of time between individuals and/or groups is not permitted. To the greatest extent possible, presentations to the Commission shall be limited to topics before the Commission for present or future consideration. Letters submitted to the Commission prior to the meeting will not additionally be read into the record.*

Item 1: Consideration Of A Request Of The City Council Of The City Of Marathon, Florida By Knight's Key Investors, LLC And Knight's Key Road, LLC For The Expansion Of An Existing Conditional Use Permit (Resolution 2015-94) And Development Agreement (Resolution 2015-96), Pursuant To Chapter 102, Articles 13 8 Respectively Of The City Of Marathon Land Development Regulations (LDRs), Seeking The Addition Of Ninety-six (96) Transient Residential Units (Hotel Rooms), Restaurant Space, And A Water Feature On An Existing 199 Room Resort Facility With Restaurants, Spas, Retail Space, And Pools; With Existing Densities Of Approximately 9.91 Transient Residential Units Per Acre; Located At 1 Knight's Key Blvd; Which Is Legally Described As Lot 1 And Part Of Lot 2 And Bay Bottom East Of And Adjacent To Government Lot 2,

Section 8 And 17, Township 66 South, Range 32 East, Knights Key, Monroe County, Florida; Having Real Estate Number 00101800-000000, Nearest Mile Marker 47; And Providing For An Effective Date.

Brian Shea presented the item with visual aids.

No comments or questions from the Commissioners.

Bart Smith presented the item on behalf of the applicant.

Landry questioned the status of the left-hand turn lane and the one-year sunset time frame.

Smith assured the commission that they would make every reasonable effort to try to get that done.

Shea stated that with the addition of 96 units FDOT may agree to the left-hand turn lane.

Leonard suggested a two-year time frame to be sure the lane is added.

Landry opened the meeting to public speakers.

Michelle Coldiron voiced her concerns with the incomplete landscaping and the employee parking outside the resort.

Cinque added concerns about the wastewater capacity for Knight's Key.

Lynn Landry moved to approve the item with the condition that the left turn lane installation run concurrent with the development agreement and to pursue it with FDOT until they give an answer to approve or disapprove.

Leonard seconded.

The roll was called. The item was approved 4-0.

Item 2: Consideration Of A Request By Seasons, Inc. (With Approval Of The Owner, Crystal Cove Market Site, LLC) For A Conditional Use Permit And Development Agreement Pursuant To Chapter 102, Articles 8 And 13 Of The City Of Marathon Land Development Regulations (LDRs) Entitled "Development Agreement" And "Conditional Use Permits" Respectively, Proposing The Development Of Twenty-Six (26) Transient Residences (Two & Three Bedroom) And Eighteen (18) One-Bedroom Hotel Style Transient Units With Amenities; Seeking To Sever The Connection With The Conditional Use Permit And Development Agreement Identified In Resolutions 2019-55 And 2016-72 (Crystal Cove Housing Partners, LP) In Favor Of The Project And Agreements Proposed Herein; For Property Located At 881 50th Street, Gulf, Marathon, Florida, Which Is Legally Described As Lying Within Township 66S, Section 6, Range 32E; Key Vaca, Marathon, Florida; Having Real Estate Number 00327150-000100. Nearest Mile Marker 50 (49.75).

George Garrett presented the item with visual aids.

Leonard voiced concerns over the traffic study asking when it had been generated, and US1 ability to handle the amount of traffic generated by the development.

Garrett reiterated that the US1 study was done in 2017 before Irma and is updated annually.

Barbara Mitchell presented them item on behalf of the applicant.

Leonard excused himself for a prior engagement, there was still a quorum.

Landry opened the meeting to public speakers.

Thomas Hill voiced concerns over traffic and safety on the residential street, and the barrier between the project and his home.

Mitchell stated that the barrier will be a fence and shrubs, not just shrubs.

After a brief discussion regarding the exit onto 50th Street, and boat trailer parking, Landry made a motion to approve the item with the condition that there be off site boat trailer parking for the project in perpetuity.

Sexton seconded.

The roll was called. The item was approved 3-0.

Motion to adjourn.

Landry adjourned the meeting at 7:01 p.m.

ATTEST:

Lynn Landry – Planning Commission Chairman

ATTEST:

Lorie Mullins-Administrative Assistant
City of Marathon Planning Department

Pursuant to Section 286.0105, Florida Statutes, if a person decides to appeal any decision made by the Planning Commission with respect to any matter considered at such hearing or meeting, one will need a record of the proceedings and for such purpose that person may need to ensure that a verbatim record of the proceedings is made; such record includes the testimony and evidence upon which the appeal is to be based.

ADA Assistance: Anyone needing special assistance at the Planning Commission Meeting due to disability should contact the City of Marathon at (305-) 743-0033 at least two days prior thereto.

(Please note that one or more Marathon City Council members may participate in the meeting.)

PLANNING COMMISSION AGENDA TATEMENT



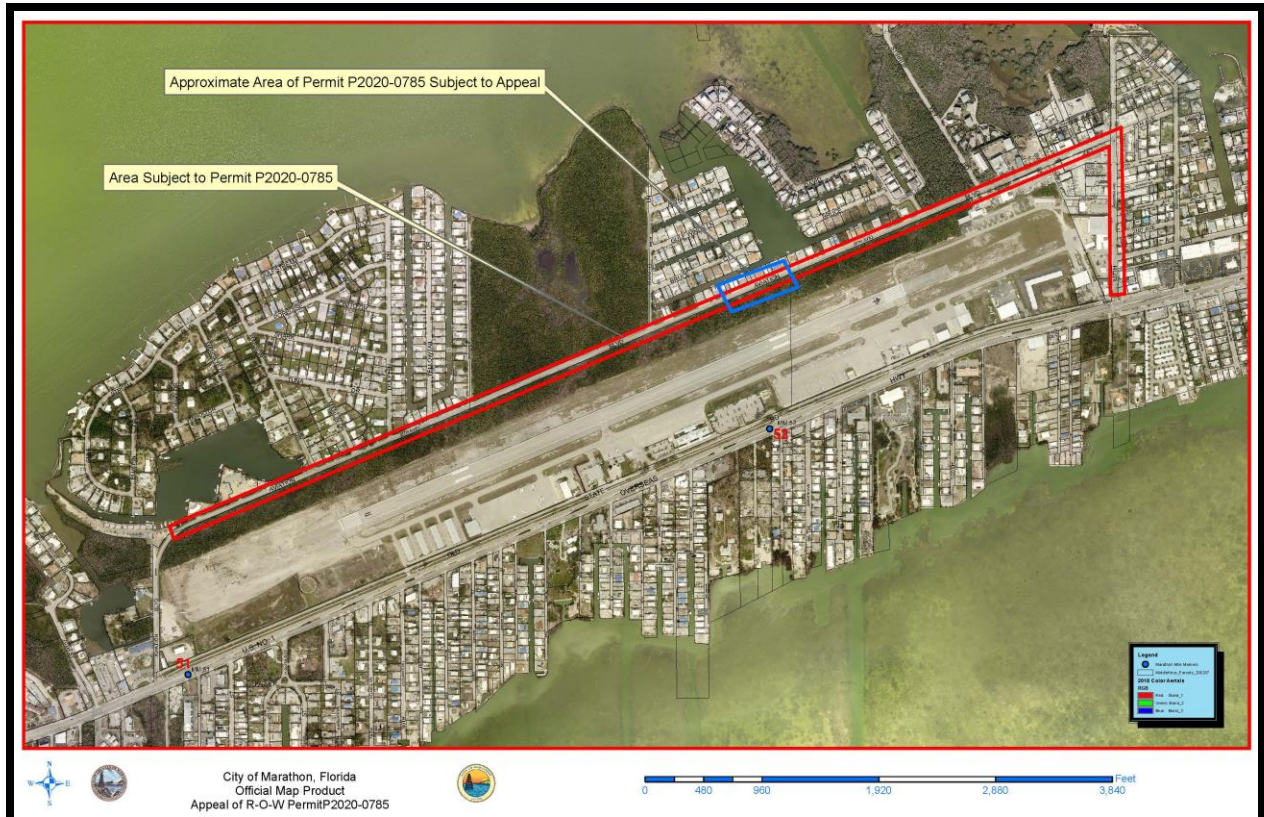
Date: October 19, 2020
To: Planning Commission
From: George Garrett, Planning Director
Subject: Appeal of Right-Of-Way Permit P2020-0785

BACKGROUND:

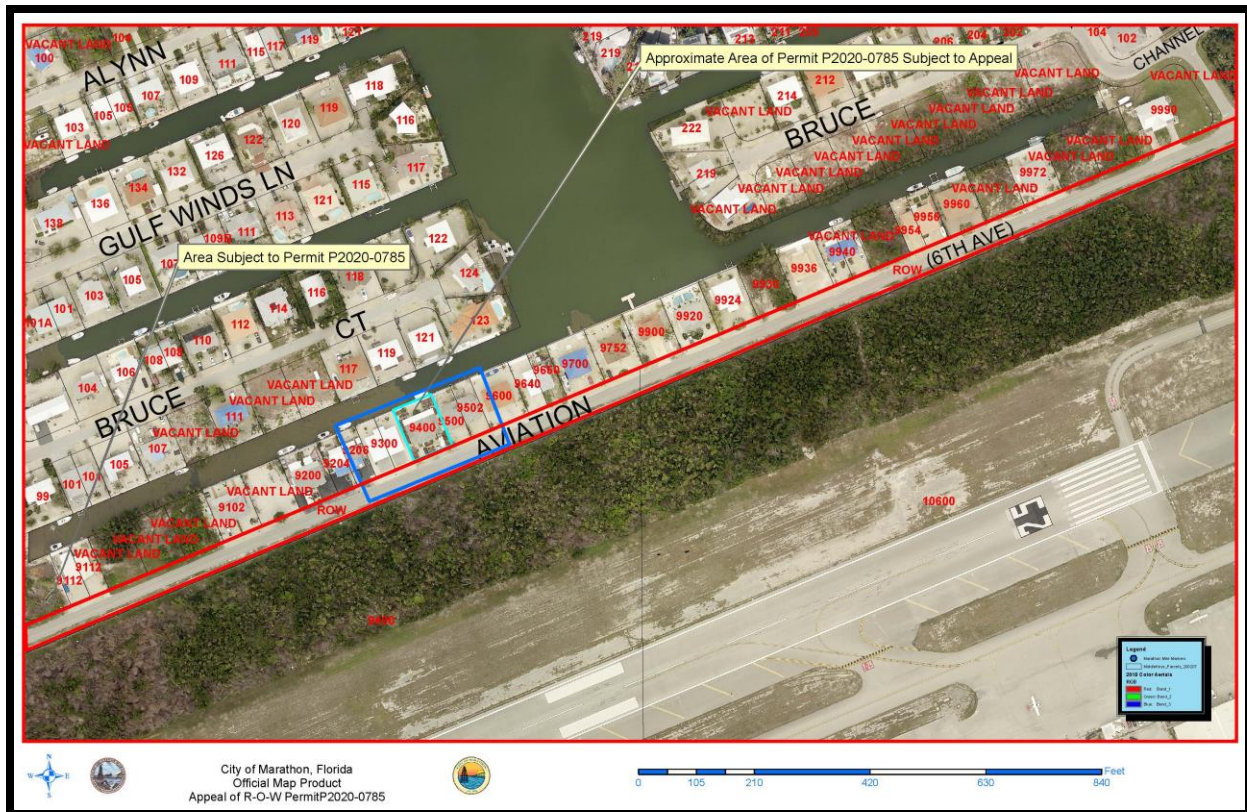
On or about June 23, 2020, the Florida Keys Electric Cooperative (FKEC) began removal of power poles on the south side of Aviation Boulevard to be replaced by a roughly equivalent number of power poles on the north side of Aviation Boulevard.

In the removal and replacement of approximately 120 power poles, all but two are now in place and the subject of the present appeal (see also Monroe County Case # 20-CA-000117-M), particularly those that would be placed near 9400 Aviation Boulevard, Appellant's residence.

City Right-Of-Way – Aviation Boulevard & 109th Street, Gulf
Location



City Right-Of-Way – Aviation Boulevard & 109th Street, Gulf
Location



Appellant’s Counsel references in their appeal, the City’s ignorance of Chapter 337.401. The City states that it has fully complied with Florida Statute 337 and in particularly 337.401 through 337.403 in the adoption of City Ordinance, Chapter 26, Article II of the City’s Code of Ordinances See **Attachment 1**.

The City, the City’s litigation Council, City attorney (Vernis & Bowling at the time), the FKEC, and it’s attorney’s met agreeing that the FKEC would cease construction activity on the removal and replacement of the power poles. These parties also agreed that the City would issue a permit (Permit P2020-0785) to the FKEC for the poles, as a consideration to limiting further movement in litigation (Case # 20-CA-000117-M). The City did not agree that a Permit was necessary under Chapter 26, Article II. However, issuance of a Permit thereby offered the Appellants an a venue, other than the court, for appeal See **Attachment 2**.

ANALYSIS:

In review, Chapter 26, Article II provides an exemption (Section 26.27) or general permit (Section 26-30) for the “. . . the installation, maintenance and repair . . . “ of their facilities, “. . . .except as provided for as provided in Section 26-30.”

Clearly, under Section 26-27, no Right of Way Permit is required of the FKEC. They were and

are “installing” new power poles, as allowed.

Section 26-30 grants a General and Continuing Permit to public and private utilities “to perform maintenance and emergency repairs as may be required to maintain their service, . . . “ Exceptions to this section are applied in Subsections (1) through (7). None apply to the subject of this appeal, except points (1) and (3) as repeated immediately below:

- “(1) A formal permit will be required by a public or private utility without the payment of a fee when:
- a. Installation or repair of a service will cause damage to an existing roadway or disrupt a previously permitted or grandfathered driveway access or other permitted feature in the City right-of-way.
 - b. In cases where an emergency repair causes damage to an existing roadway, an after-the-fact permit will be issued the next business day (See Section 26-38).

- (3) A permit will not be required when a public or private utility will perform work in the City right-of-way that will not cause damage to any City-owned or permitted feature within the right-of-way, provided, however, that the City Manager or designee is duly noticed in writing by the public or private utility that such work will be in progress and when completion is anticipated.”

In review of these subsections, the City indicates that the FKEC continues to qualify for a complete exemption to the requirement for a permit under Section 26-27 for the following reasons:

- No damage to City roadway or disruption of a previously permitted or grandfathered driveway was contemplated and has not occurred as a result of the project.
- No damage to any City owned or permitted feature was contemplated to occur and has not occurred as a result of the project to date.

Note, there are conflicts of language between Section 26-27 and 26-30. In this instance, Section 26-27 should control as the reference to Section 26-30 is only found in Section 26-27. The conflict is in the following language which in 26-27 references an exemption for installations (etc.), while Section 26-30 references maintenance and emergency repairs. Since 26-27 grants the exception, the only reason for reviewing 26-30 is to make sure that there isn’t a Condition there that would warrant a permit.

CONCLUSION:

The City of Marathon indicates that:

- Its Ordinances, particularly Chapter 26, Article II complies with the requirements of Chapter 337 F.S.
- That under Chapter 26, Article II, a public utility is provided an exception to the need for a permit in Chapter 26-27 or is granted a General and Continuing Permit under Section 26-30 to install, repair, and maintain its utilities within the City’s Rights-of-Way.

RECOMMENDATION

Based on the conclusions identified immediately above, the Planning Commission should deny the Appeal brought by Roger Bolon and Alexandria Wolff determining that:

- The City was not required to issue Permit P2020-0785.
- That Public and Private Utilities are allowed to install, repair and maintain their facilities under Section 26-27 and 26-30 without a City Right-Of-Way Permit, so long as relevant subsections of Section 26-20 do not apply.

ATTACHMENT 1
Chapter 26, Article II
Public Right-Of-Way Use Permit

ARTICLE II. - PUBLIC RIGHT-OF-WAY USE PERMIT

Sec. 26-25. - Purpose and intent.

The purpose and intent of this Article is to provide standards and procedures and a fee schedule for permitting the use of City public rights-of-way in order to preserve the function of each street and highway; provide for smooth, logical traffic flow patterns, require the application and safe standards, procedures and principles, provide for environmental compatibility, provide for stormwater management, and provide for technical standards and specifications.

(Code 1999, § 16-17)

Sec. 26-26. - Permit required.

City public right-of-way use permits shall be required for all roads and streets to be constructed or improved in existing rights-of-way; and all roads and streets which are to be dedicated to the City; all construction or installation or maintenance of any public or private utility as provided for in Section 26-30; and any structure, driveway, culvert, pavement or object in the right-of-way or easement, other than those constructed or maintained by the City, within rights-of-way of the City road system as defined in Fla. Stat. § 334.03. Construction or installation within City-owned canals and City-owned waterways will likewise require a permit. A permit from the Florida Department of Transportation is required for the construction of accessways to or construction with the rights-of-way of any part of the State highway system as defined in Fla. Stat. § 334.03.

(Code 1999, § 16-18)

Sec. 26-27. - Exemptions.

No right-of-way use permit shall be required for the following:

- (1) Construction of public or private utilities in subdivisions in accordance with engineering drawings and specifications approved by the City and prepared in accordance with the land development regulations where such construction will be completed prior to acceptance of roads by the City;
- (2) **The installation, maintenance and repair of physical plant by public or private utilities except as provided for in Section 26-30.**

(Code 1999, § 16-19)

Sec. 26-28. - Permit review by City.

The City Council hereby authorizes and empowers the City Manager or designee to receive and review permit applications, collect fees and issue permits in a timely manner allowing the permittee to enter onto the public rights-of-way within the City road system to perform specified construction or installation. No work may be performed in City rights-of-way or easements, except as noted in Sections 26-27, 26-30 and 26-38. Until plans have been submitted in conformance with Section 26-31 and a City public right-of-way use permit has been issued by the City Manager or designee.

(Code 1999, § 16-20)

Sec. 26-29. - Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Arterial road means a road carrying a higher volume of traffic than a local or collector road, which is used primarily for traffic traveling a considerable distance and as otherwise defined in Fla. Stat. § 334.03(15). An arterial road is generally continuous and is used as a main traffic artery.

Collector road means a road which carries traffic from local roads to major thoroughfares and includes the principal entrance roads of a residential subdivision and as otherwise defined in Fla. Stat. § 334.03(16).

Governmental or subgovernmental agencies means the State of Florida and its various agencies and departments, the United States of America and its various agencies and departments, political subdivisions of the State of Florida, including Counties, incorporated Municipalities of the State of Florida, drainage Districts, and such taxing Districts and special agencies and bodies as are created by County ordinances, City ordinances, Florida Statutes or by special act of the legislature, and as otherwise defined in Fla. Stat. § 334.03(3).

Local road means a road designed and maintained primarily to provide access to abutting property, and as otherwise defined in Fla. Stat. § 334.03(17). A local road is of limited continuity and not for through traffic.

Permit means the written permission of the City Council through the office of the City Manager or designee to enter onto the public rights-of-way within the City road system to perform the construction or installation as specified in that instrument.

Permittee means any individual, firm, association, syndicate, copartnership, corporation, trust or any other legal unit commencing proceedings under this Article or obtaining a permit as provided herein to effect construction within the public rights-of-way of the City.

Public or private utility means and includes any pipeline, gas, electric, heat, water, oil, sewer, telephone, telegraph, radio, cable television, transportation, communication or other system by whomsoever owned and operated for public use, including but not limited to the Florida Keys Aqueduct Authority, Southern Bell, the Florida Keys Electric Cooperative Association, Inc. and/or their successors, affiliates, subsidiaries or assigns (See Fla. Stat. § 876.37).

Public rights-of-way means land that is dedicated or deeded to (or is now used or will be used by) the City as a road, street, alley, walkway, drainage facility, access for ingress and egress, or for other purposes, including those rights-of-way which by virtue of bilateral agreements between the City and the County are subject to the jurisdiction and control of the County Public Works Department; and those State secondary roads for which maintenance has been assigned to and accepted by the County and as otherwise provided for in Fla. Stat. § 335.04. Until such time as the City Council accepts ownership and responsibility for the maintenance of a right-of-way, it shall not be considered part of the public rights-of-way for the purposes of this Article.

Road means as defined in Fla. Stat. § 334.03(7).

(Code 1999, § 16-21)

Sec. 26-30. - Public and private utility; special provisions and general permits.

All public and private utilities, as defined in Section 26-29, are hereby granted a general and continuing permit to perform maintenance and emergency repairs as may be required to maintain their service, without the issuance of a formal permit or the payment of a fee, except as provided for in Subsection (1) of this section, and subject, however, to the notice requirements of Subsection (3) of this section.

(1) A formal permit will be required by a public or private utility without the payment of a fee when:

- a. Installation or repair of a service will cause damage to an existing roadway or disrupt a previously permitted or grandfathered driveway access or other permitted feature in the City right-of-way.
 - b. In cases where an emergency repair causes damage to an existing roadway, an after-the-fact permit will be issued the next business day (See Section 26-38).
- (2) Any work other than installation of a wooden or concrete pole and overhead wires that a utility proposes to accomplish in the City right-of-way that will be accomplished within six (6) feet of an existing roadway or any other previously permitted features within the City right-of-way will be brought to the attention of the City Manager or designee, for a determination as to possible effect on the roadway or other permitted features and whether the issuance of a permit is required.
 - (3) A permit will not be required when a public or private utility will perform work in the City right-of-way that will not cause damage to any City-owned or permitted feature within the right-of-way, provided, however, that the City Manager or designee is duly notified in writing by the public or private utility that such work will be in progress and when completion is anticipated.
 - (4) Request for permits as prescribed by Subsection (1) of this section with the exception of an emergency repair permit (see Subsection (5) of this section) will be as prescribed by the Section 26-31 application procedures. No fee will be required. Insurance and bonding requirements as outlined in Section 26-32 are waived for a public or private utility; however, a subcontractor for a public or private utility shall be required to obtain such insurance and bonding, and the public or private utility shall submit evidence of such insurance and bonding to the City Manager or designee prior to the commencement of work by a subcontractor.
 - (5) Emergency repair of a utility as prescribed by Subsection (1)b of this section may be accomplished immediately and a permit request in a written form outlining the type of work to be done, and the location may be obtained the next business day from the City Manager or designee.
 - (6) It is not the intent of this section to restrict a public or private utility in any way from performing their service to the public as required and regulated by the public service commission or applicable law.
 - (7) Construction standards and specifications as outlined in Section 26-35 hereof shall be incorporated into all work accomplished for a public or private utility by its own personnel or contracted out to City or State licensed contractors. A concrete slab is not required when repairing roadways; however, the utility will assure and certify to the City that the base being installed as a result of excavation within a right-of-way conforms to City standards and has been compacted to a density not less than 98 percent of density as determined by the AASHTO test method T-180.

(Code 1999, § 16-21.1)

Sec. 26-31. - Application procedures.

- (a) All applications for City public right-of-way use permits, accompanied by the appropriate fee, and including four (4) sketches, plans or drawings of the proposed construction or alteration, shall be submitted to the City Manager or designee. All construction within City public rights-of-way shall conform to and meet the technical specifications of the City and/or land development regulations, as applicable. Applications for access to or construction within State road rights-of-way shall be submitted to the Florida Department of Transportation.
- (b) All applications for City public right-of-way use permits submitted by the owner or permittee, his engineers or legal representative, shall contain the following:

- (1) Name, address, including zip code, and telephone number of the owner and permittee, and his or their engineers.
- (2) Name, address, including zip code, and telephone number of the applicant's authorized agent for permit application coordination, together with proof of authorization.
- (3) General description of the proposed project, its purpose and intended use, including a description of the nature and type of construction; composition, etc.; date when the activity is proposed to commence and approximate date when the proposed activity will be completed; including legal description, or street address and approximate nearest mile marker and key; and an explanation or detailing of any additional information reasonably required by the City Manager or designee, including, as applicable, survey drawings, aerial photographs, topographic maps, soil percolation test, etc.
- (4) Four (4) copies of sketches, plans or drawings of the proposed construction or alterations showing project location; location within the right-of-way; and typical cross-sections of topographical and drainage details showing existing utilities, underdrains, culverts, headwalls, driveways or any other existing structures, if affected by the activity, together with all proposed structures, modifications and activities when deemed necessary by the City Manager or designee. All drainage structures shall be constructed in accordance with the County technical specifications of the City and applicable land development regulations. The drawings shall be drawn to scale, or otherwise prepared so as to reasonably depict the activity and shall show a north arrow for orientation.

(Code 1999, § 16-22)

Sec. 26-32. - Insurance and bonding.

- (a) *Insurance.* Unless specifically waived by the City Council or the City Manager or designee, the permit shall not be effective for any purpose whatsoever until the applicant, or his designated representative, delivers to the City Manager or designee a certificate of general liability insurance and automobile liability insurance with combined single limits of liability of not less than \$300,000.00 for bodily injury and property damage coverage equal to or in excess of the following limits: \$300,000.00 (combined single limit for property damage and/or bodily injury). The certificate of insurance shall name the City as an additional insured, shall be effective for all periods of work covered by this use permit, and shall be in a form acceptable to the City Manager or designee. A statement of insurance from a self-insured entity may be accepted as a substitute.
- (b) *Bonding.* An executed right-of-way bond or other form of surety acceptable to the City Manager or designee may, at the discretion of the City Manager or designee, be required in an amount equal to 110 percent of the estimated cost of construction. Said bond shall be in effect for a period of not less than 30 days and not more than 90 days after final inspection and acceptance of work by the City Manager or designee. A letter guaranteeing performance of work may be deemed acceptable in lieu of a bond. All restoration shall leave the right-of-way or easement in a condition which is as good or better than that which existed prior to construction.

(Code 1999, § 16-23)

Sec. 26-33. - Responsibilities of permittee during construction or repair work.

- (a) Where any City road or right-of-way is damaged or impaired in any way because of construction, installation, inspection or repair work by any permittee pursuant to this Article, the permittee shall, at his own expense, promptly restore the road or right-of-way as nearly as possible to its original condition before such damage. If the permittee fails to make such restoration, the City is authorized to do so and charge the cost thereof against the permittee in accordance with general provisions of law.

- (b) The applicant shall declare that all existing aerial and underground utilities will be located and the appropriate utilities notified of the proposed work.
- (c) The applicant receiving a permit shall make all necessary provisions for the accommodation and convenience of traffic and shall take such safety measures, including the placing and display of caution signs and signals as required by applicable provisions of the current edition of the Florida Department of Transportation Manual on Uniform Traffic Control Devices for Streets and Highways. The applicant shall further prevent obstructions or conditions which are or may become dangerous to the traveling public. The authority to temporarily close off a street or easement in its entirety rests entirely with the City Council.
- (d) The applicant shall notify, in writing, the Sheriff's Department and the concerned ambulance and fire districts prior to any street closing when approved by the City Council.
- (e) Fire hydrants shall be left accessible at all times.
- (f) All permitted work will be subject to inspection by the City Manager or designee.
- (g) Existing utility service shall not be disrupted without specific authority of the concerned utility and public notification by newspapers or the airways, that the disruption will occur. Repairs determined to be of an emergency nature are not subject to the notification procedure.

(Code 1999, § 16-24)

Sec. 26-34. - Access driveways.

- (a) Request to install single-family residential driveway accesses shall be submitted indicating the street address, lot and block number, a description of the nature of the construction (size), and the amount of intrusion into the City right-of-way. No insurance or bonding is required.
- (b) Access driveways onto rights-of-way shall be limited to the least possible number required to adequately serve the intended use and shall conform to all applicable traffic safety standards. Prior to installation within City rights-of-way, the application shall be reviewed by the City Manager or designee regarding any effects on sidewalks, ditches, swales, curbs or other facilities located within rights-of-way or easements. Once a permit is issued, all construction and improvements shall be subject to inspection by the City Manager or designee.

(Code 1999, § 16-25)

Sec. 26-35. - Construction standards and specifications.

All construction, repairs and/or restorations within City public rights-of-way and easements shall conform to the City's technical specifications and applicable land development regulations.

(Code 1999, § 16-26)

Sec. 26-36. - Fees.

- (a) The City Council hereby establishes reasonable application and permit fees to be charged by the City Manager or designee for activities permitted hereunder.
- (b) The following fee schedule shall be applied to all construction or installation upon or within the public rights-of-way, except in the following instances:
 - (1) Where the construction performed is for the benefit of a governmental or subgovernmental agency and applicable fees are specifically waived on an individual project-by-project basis by the City Manager or designee;

- (2) Where the permittee is under contract to deliver the constructed project over to a governmental agency upon completion of the project and the City Manager or designee has waived applicable fees for such project consistent with Subsection (b)(1) of this section;
- (3) Work performed by a public or private utility as outlined in Section 26-30.
- (c) The permit fees designated hereinafter shall be payable upon issuance of the construction permit in an amount determined by the City Manager or designee pursuant to Subsection (d) of this section. In the event a construction permit is denied, only the application fee shall be payable.
- (d) The City Manager or designee shall charge and collect fees for the items and rates listed in the amount established by resolution.
 - (1) *Application fee.* A nonrefundable processing fee shall accompany all City public right-of-way use permit applications. If the permit application is approved, the application fee will be applied to the permit fees as detailed under Subsection (d)(2) of this section.
 - (2) *Permit fees.* Fees for public works construction, under permit issued by the City Manager or designee, in canal, road and street rights-of-way and easements that are maintained by the City shall be as established by resolution.
 - (3) *Penalty fees.*
 - a. When work for which permit is required is commenced prior to obtaining a permit, a penalty fee will be imposed. If the applicant can show that failure to apply for a permit is based on a good faith belief that the construction is not affecting the City right-of-way, the penalty fee may be waived at the discretion of the City Manager or designee, provided, however, that violators promptly apply for a permit and pay all applicable fees.
 - b. The payment of such penalty fee shall not relieve any person, firm or corporation from fully complying with all of the requirements of all applicable regulations and codes, nor shall it relieve them from being subject to any of the penalties therein.

(Code 1999, § 16-27)

Sec. 26-37. - Relocation upon notice by City.

All permission granted for construction under this Article does not constitute and shall not be construed as permitting a permanent installation within any public right-of-way. Any facility permitted within the public right-of-way shall be relocated or reconstructed by the owner at his sole cost and expense when in irreconcilable conflict with any construction, reconstruction, or any project performed by the City or its authorized representative, which is deemed to be in the interest of the general public within 30 days of the request. It shall be the responsibility of the City Manager or designee to provide notice to the affected permittees at the earliest possible time prior thereto of any such conflicts, whether actual, possible or planned. Where the owner requests additional time up to a maximum of 180 days, this may be granted by the office of the City Manager or designee upon receipt of a letter stating adequate grounds to support the owner's position that additional time is necessary to complete the relocation. If the extension of time requested by the owner is denied by the City Manager or designee or an extension in excess of 180 days is desired by the owner, the owner may appeal to the City Council by written request; and the time for relocation shall be stayed while the appeal is pending. Where the City has requested a relocation, permits will be required to approve the new sites of the utility facility, but permit fees shall be waived. Utility placements and relocations shall be governed by the prescriptions of applicable law.

(Code 1999, § 16-28)

Sec. 26-38. - Emergency repairs.

In the event of an emergency requiring repairs by utility companies to some portion of their facilities, nothing in this Article shall be deemed to prohibit the making of such repairs, however, emergency repairs shall be reported to the City Manager or designee the next business day as provided for in Section 26-30 hereof. Traffic safety measures must be implemented by the utility. Work performed as a result of such emergency repairs may continue pending the granting of an after-the-fact permit.

(Code 1999, § 16-29)

Sec. 26-39. - Appeals.

Any party claiming to be aggrieved by a decision of the City Manager or designee may appeal to the City Council by filing a written notice of appeal with the City Manager or designee within 30 days of the date of denial.

(Code 1999, § 16-30)

Sec. 26-40. - Time limits.

- (a) Within seven (7) days after receipt of an application for a permit under this Article, the City Manager or designee shall review the application and shall request submittal of any additional information the City Manager or designee is permitted by law to require. If the applicant believes any request for additional information is not authorized by law or rule, the applicant may file an appeal to the City Council pursuant to Section 26-39. Within 15 days after receipt of such additional information, the director shall review it and may request only that information needed to clarify such additional information or to answer new questions raised by or directly related to such additional information. If the applicant believes the request of the City Manager or designee for such additional information is not authorized by law or rule, the City Manager or designee, at the applicant's request, shall proceed to process the permit application. Permits shall be approved or denied within 30 days after receipt of the original application, the last item of timely requested additional material, or the applicant's written request to begin processing the permit application. If the application is not approved or denied in writing within 30 days, it shall be deemed approved. Applications for permits may be denied solely on the basis of actual and irreconcilable conflict of the proposed work with City technical specifications or land development regulations. Any denial of an application must state the specific basis upon which the denial is based. The permit shall be considered valid for six (6) months beginning on the date of issuance unless the commencement date shall be beyond such time. If work does not commence by the end of this period, the permit shall be considered void and reapplication will be necessary. Work must be completed by the completion date indicated on the application unless the permit is extended upon request to the City Manager or designee with an explanation of the basis for such request.
- (b) A request may be made to the City Manager or designee with the filing of an application for expedited review and processing; and provided that all information required as described in Subsection (a) of this section is submitted with said application, the director shall make a reasonable effort to review and process the same within five (5) days after receipt.

(Code 1999, § 16-31)

Sec. 26-41. - Restoration and penalty.

No person shall use City rights-of-way or easements for any purpose for which a permit is required by this Article without first obtaining a permit therefor unless said use is existing upon the effective date of the ordinance from which this section is derived or unless otherwise authorized by law. In the event City rights-of-way or easements are used and/or construction takes place without a permit, upon written notice by the City Manager or designee, the person shall apply for an after-the-fact permit and pay all fees and

penalties therefor and shall restore the area to its original condition and cease any nonpermitted use except as noted in Section 26-36(3).

(Code 1999, § 16-32)

Secs. 26-42—26-70. - Reserved.

ATTACHMENT 2
Bolon / Wolff Appeal Documentation



CITY OF
MARATHON, FLORIDA
Planning Department

9805 Overseas Hwy, Marathon, FL 33050
Phone (305) 743-0033 www.ci.marathon.fl.us

Office Use Only	
Recv'd: _____	By: _____
App #: _____	
#: _____	
Meeting Date: _____	

Appeal Application 2017

FEE: \$1,500.00. The fee is payable upon application submittal.

*Any additional meeting with mailed & published notice will be charged additional \$1,500.00

Please check: Administrative Appeal Planning Commission Appeal

Applicant Name: Roger Bolon and Alexandria Wolff

Mailing Address: 9400 Aviation Blvd, Marathon, FL 33050

Phone Number: (305) 743-7653 **Phone (Alt):** _____

Email: roger@bbolon.com

Agent Name: Ronald I. Strauss, Esq.

Mailing Address: 5196 Overseas Highway

Phone Number: (305) 743-9073 **Phone (Alt):** _____

Email: rslawpa@ronstrausslaw.com

*Property owner must submit a notarized letter authorizing the agent to act on his/her behalf.

Property Owner Name: City of Marathon ROW

Mailing Address: 9805 Overseas Highway, Marathon, FL 33050

Phone Number: (305) 743-0033 **Phone (Alt):** _____

Email: _____

Legal Description of Property:

City of Marathon Right of Way

Key: _____ **Mile Marker:** _____

RE Number: 77777777-777777

If in metes and bounds, attach a legal description on separate sheet.

Property Description:

Street Address of Property (if applicable), or General Location Description:

Aviation Blvd from street address 8146 to 109th Street, Gulf, then toward US 1 ending 117 feet North of US 1 and 109th Street

Parcel Number(s): _____

Land Use District: _____

Zoning District: _____

Present Use of Property: Right of Way

Proposed Use of Property: _____

Property Size: _____

Decision Being Appealed

Right of way Permit #72020-2047

Date of Decision Being Appealed 8/17/2020

A COPY OF THE BASIS FOR THE APPEAL IN THE NATURE OF AN INITIAL BRIEF AND ANY EVIDENCE INCLUDING TESTIMONY, AFFIDAVITS, AND THE CURRICULUM VITAE OF ANY EXPERT WITNESS THAT WILL BE CALLED MUST BE ATTACHED TO THIS APPLICATION. The brief must at a minimum state all grounds for the appeal, including, but not limited to, the law being appealed and any facts necessary for the interpretation of those laws. *(Attach additional sheets of paper as necessary.)*

Names and addresses of all expert witnesses that you propose to call at the hearing:

Thomas D. Wright, Esq., 9711 Overseas Highway, Marathon, Florida 33050, (305) 743-8118, Email: tom@keysclosings.com
Carlos Solis, Public Works and Engineering Director, 9805 Overseas Highway, Marathon, Florida 33050
Possible additional expert Rimkus Consulting Group, Inc., address and CV to be supplied

Are there any pending code violations on the property? No Yes If yes, please explain:

I certify that I am familiar with the information contained in this application, and that to the best of my knowledge such information is true, complete and accurate.

Ronald I. Strauss, Esq.

Applicant or Agent Name (Please Print)

[Handwritten Signature]

Signature of Applicant or Agent

8/18/20

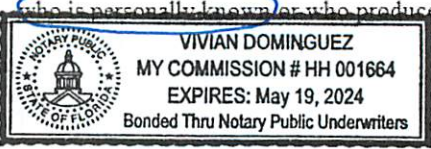
Date

NOTARY STATE OF FLORIDA,
COUNTY OF MONROE

The foregoing instrument was acknowledged before me on this 18th day of August, 2020, by Ronald I. Strauss who is personally known or who produced _____ for identification.

[Handwritten Signature]

Signature of Notary Public – State of Florida



VIVIAN DOMINGUEZ
MY COMMISSION # HH 001664
EXPIRES: May 19, 2024
Bonded Thru Notary Public Underwriters

My commission Expires: _____

OWNER'S AUTHORIZATION FOR AGENT REPRESENTATION

CITY OF MARATHON PLANNING DEPARTMENT

I/WE Roger Bolon and Alexandria Wolff

Print name(s) of property owner(s)

Hereby Authorize: Ronald I. Strauss, Esq.

Print name of Agent

to represent me/us in processing an application for: Appeal

Type of Application

on our behalf. In authorizing the agent to represent me/us, I/we, as owner/owners, attest that the application is made in good faith and that any information contained in the application is accurate and complete.

Roger B. Bolon
(Signature of owner)

Alexandria Wolff
(Signature of owner)

Roger Bolon
(Print name of owner)

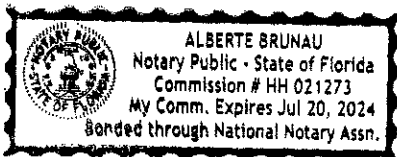
Alexandria Wolff
(Print name of owner)

**NOTARY STATE OF FLORIDA,
COUNTY OF MONROE**

The foregoing instrument was acknowledged before me on this 18 day of Aug, 2020, by Roger Bolon and Alexandria Wolff who is personally known or who produced FL DL for identification.

[Signature]
Signature of Notary Public – State of Florida

July 20, 2024
My commission Expires:



Appeals

- An appeal of the decision of the administrative official or body may be made **within 30 working days from the date of such decision**. If filed, an appeal stays any further action on the permit until final resolution of the appeal, unless the administrative official or body, whose action is the subject of the appeal, certifies in writing that the stay poses an imminent peril to life or property.

IMPORTANT NOTES:

- A concept meeting with the Planning Department is recommended prior to submitting your application; this informal meeting allows you to become acquainted with all requirements and processes involved with your application. To guide you through the process and ensure that your application is understood and properly processed, it is recommended that you also meet with a City Planner at the time you submit your completed application. Appointments can be scheduled by contacting the Department ahead of time.
- The Council and PC shall consider only those items cited in the appeal. In its deliberation, it may use the record and any additional evidence relative to the application and may confirm, reverse, or modify the appealed action based upon its interpretation of the findings required and the evidence submitted.
 - *Commission:* The PC shall hear and make decisions on appeals of an action by any administrative official or the TRC made pursuant to the provisions of the LDRs.
 - *Council:* The Council shall hear and make decisions on appeals of an action taken by the PC made pursuant to the provisions of the LDRs.
- The decision of the Council and PC on an appeal shall be effective immediately.
- An appeal of the decision of the Planning Commission may be made within 30 working days from the date of such decision. The appeal will be heard by the City Council within 45 working days of receipt of a complete appeal application.
- **In accordance with FL Statute 286.0105** if a person decides to appeal any decision made by the board, agency, or commission with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. The requirements of this section do not apply to the notice provided in s. 200.065(3).

2017 Planning Commission Meeting Schedule

Application Deadline											
12/01/16	01/01/17	02/01/17	03/01/17	04/01/17	05/01/17	06/01/17	07/01/17	08/01/17	09/01/17	10/01/17	11/01/17
Planning Commission Meeting Date											
01/17/17	02/21/17	03/20/17	04/17/17	05/22/17	06/19/17	07/17/17	08/21/17	09/18/17	10/16/17	11/20/17	12/18/17

Meetings are held the 3rd Monday of the month at 5:30pm.

STAFF CONTACTS: The Planning Department will guide your application from start to finish, engaging other City departments or agencies as needed. You will receive a copy of the staff report one week before your meeting.

George Garrett
 Planning Director
garrettg@ci.marathon.fl.us
 305-289-4111

Brian Shea
 City Planner
sheab@ci.marathon.fl.us
 305-289-4112

Geovanna Torres
 City Planner
torresg@ci.marathon.fl.us
 305-289-4109

CITY OF MARATHON PLANNING DEPARTMENT

Application Requirements Appeal Applications

These requirements are not to be considered ALL inclusive of the requirements for the proposed work. The City may require additional drawings, specifications or information in order to complete the review of the application.

THE FOLLOWING MUST BE PROVIDED IN ORDER TO BE A COMPLETE APPLICATION:

- ⇒ **Application completed in full.**
- ⇒ **Proof of ownership** (copy of deed or tax statement)
- ⇒ **Agent authorization** (as applicable)
- ⇒ **Property Survey** no older than two years from date of application.
- ⇒ **Site Plans.** As applicable
- ⇒ **A copy of the document(s) which comprise the decision being appealed.**
- ⇒ Letters of Coordination may be required. The applicant must check with the Planning Department to identify other agencies expected to review the project. These may include:
 - City of Marathon, City Fire Chief – (305) 743-5266
 - City of Marathon, Utilities Manager- (305) 289-5009
 - Florida Department of Environmental Protection (FDEP) – (305) 289-2310
 - Florida Department of State, Division of Historic Resources
 - Florida Department of Transportation (FDOT) – (305) 289-2350
 - Florida Keys Aqueduct Authority (FKAA) – (305) 743-5409
 - Florida Keys Electric Cooperative (FKEC) – (305) 743-5344
 - Monroe County Department of Health – (305) 289-2721
 - South Florida Water Management District (SFWMD)
 - U.S. Army Corps of Engineers (ACOE) – (305) 743-5349
 - U.S. Fish and Wildlife Service (USFWS) – (772) 562-3909, ext. 306
 - Other, as applicable to the project

Chapter 102, Article 17 – Appeals

Provide an explanation of the basis for the appeal and any other evidence that may be pertinent to the application.

Use additional sheets as necessary

Plaintiffs, ROGER BOLON and ALEXANDRIA WOLFF, are property owners for the past 29 years, and therefore, enjoy the protection afforded to Citizens and residents of the City of Marathon under its code and under applicable Florida Statutes.

Pursuant to Code, Section 26(1)(a), FKEC is required to obtain:

(1) A formal permit will be required by a public or private utility without the payment of a fee when:

a. Installation or repair of a service will cause damage to an existing roadway or disrupt a previously permitted or grandfathered driveway access or other permitted feature in the City right-of-way. (Emphasis Supplied)

Further, under Code Section 26(1)(a), the Defendant, City of Marathon, after FKEC commenced construction and the filing of litigation in Case #20-CA-000117-M (copy of the Compliant attached) concluded FKEC was required to have a formal permit, as clearly set forth in Section 26(1)(a), and thereby recognized, the Aviation Blvd. residents maintained a prior right to grandfathered driveway access to the residences on Aviation Blvd. As of this submission, FKEC, obtained permit #72020-2047 from the City, however, FKEC and the City Public Works Department are well aware that, FKEC, does not have a utility easement on the residential north side of Aviation Blvd., and therefore is utilizing the City Right of Way north side of Aviation Blvd. for its construction project, ignored requiring FKEC to provide negative impact report on obvious safety issues, and further failed to require alternative underground electrical planning connections, and availability through federal grants, although the construction contract is in excess of \$500,000.00!

Effective: July 1, 2019 to June 30, 2020, F.S. §337.401 Use of Right-Of-Way For Utilities Subject to Regulation; Permit; Fees, in effect when FKEC commenced construction before it was required to obtain a permit by the City, provides specifically through its statewide jurisdiction of city or county within its statutory superior parameters to enact rules and regulations, however, City Public Works Department ignored the F.S. §337.401 delegated guidelines for utilities Use Of Right-Of-Way, and therefore, permit #72020-2047 was issued in contrary to and in violation of F.S. §337.401.

(1)(a) The department and local governmental entities, referred to in this section and in ss. 337.402,337.403, and 337.404 as the "authority," that have jurisdiction and control of public roads or publicly owned rail corridors are authorized to prescribe and enforce reasonable rules or regulations with reference to the placing and maintaining across, on, or within the right-of-way limits of any road or publicly owned rail corridors under their respective jurisdictions any electric transmission, voice, telegraph, data, or other communications services lines or wireless facilities; pole lines; poles...

(b) ...placement of and access to such transmission lines adjacent to and within the right-of-way of any department-controlled public roads, including longitudinally within limited access facilities where there is no other practicable alternative available, ... if compliance with the standards established by such rules is achieved. Without limiting or conditioning the department's jurisdiction or authority described in paragraph (a), with respect to limited access right-of-way, such rules may include, but need not be limited to, that the use of the right-of-way for longitudinal placement of electric utility transmission lines is reasonable based upon a consideration of economic and environmental factors, including, without limitation, other practicable alternative alignments, utility corridors and easements, impacts on adjacent property owners, and minimum clear zones and other safety standards, ...(Emphasis Supplied)

CONCLUSION

The application submitted by FKEC to the City Public Works Department was in violation of the requirements delegated to the City pursuant to F.S. §337.401 Use of Right-Of-Way for Utilities, because FKEC did not provide in the application for permit any consideration of or reference to "... consideration of economic and environmental factors, including, without limitation, other practicable alternative alignments, utility corridors and easements, impacts on adjacent property owners..."

Therefore, the City Council of Marathon, should recognize the deficiencies in the permit issued by its public works department which is in violation of §337.401 because it did not comply with the specific provisions delegated to cities by the Florida Statute.

It is respectfully submitted that within the \$500,000.00 construction contract of FKEC for the Aviation Boulevard project, underground utility connections to the residential area could easily be accomplished by erecting the utility telephone poles on the south side of the right-of-way replacing the existing wooden poles, however, FKEC failed to abide by F.S. §337.401, nonetheless, because of the use of the City right-of-way without a utility easement it ignored the impact on adjacent property owners, including grandfathered driveway access or other permitted feature in the City right-of-way as also recognized specifically Marathon Code Section 26(1)(a).

SUMMARY

Jurisdiction of The City of Marathon Regarding the Construction in The Right-Of-Way. The permit issued by the City of Marathon, Building Department (Public Works), specifically provided that the Permit was conditionally approved and " ...a permit shall be construed to be a license to proceed with the work and not authority to violate cancel, alter or set aside the provisions of the codes ... and further," ...all construction in the right-of-way is subject to removal at any time by any authority utility or the city without guarantee of replacement .."

ALL CONSTRUCTION IN THE RIGHT OF WAY IS SUBJECT TO REMOVAL AT ANY TIME BY ANY UTILITY OR THE CITY WITHOUT GUARANTEE OF REPLACEMENT.

In that FKEC failed to abide FS §337.401 and Code, Section 26(1)(a), regarding construction in the Cities right-of-way without a utility easement permit, the City Counsel should grant the objections to the issuance of the Permit and direct that the City of Marathon should forthwith issue its directives to FKEC, to halt all construction on Aviation Boulevard pending compliance with the foregoing statutory requirements which were imposed and superseding the City's Code where same is in conflict with the statutory requirements because grandfathered driveway access or other permitted feature in the City right-of-way requires compliance with statutory law before a permit is issued.

IN THE CIRCUIT COURT OF THE SIXTEENTH JUDICIAL CIRCUIT
IN AND FOR MONROE COUNTY, FLORIDA

ROGER BOLON and ALEXANDRIA WOLFF,

CASE NO.:

Plaintiffs,

vs.

FLORIDA KEYS ELECTRIC COOPERATIVE
ASSOCIATION, INC., a Florida non-profit
corporation, and CITY OF MARATHON,

Defendants.

**VERIFIED COMPLAINT FOR DECLARATORY RELIEF AND
MOTION FOR EMERGENCY TEMPORARY/PERMANENT
INJUNCTION AND DAMAGES**

Plaintiffs, ROGER BOLON and ALEXANDRIA WOLFF, individually and on behalf of approximately 40 homeowners on Aviation Blvd. [to be named] ("OWNERS"), sue the Defendants, FLORIDA KEYS ELECTRIC COOPERATIVE ASSOCIATION, INC. ("FKEC") a Florida Non-Profit Corporation, and Defendant, CITY OF MARATHON ("CITY"), a municipality in the state of Florida and would show as follows:

JURISDICTIONAL FACTS AND RELATIONSHIPS OF THE PARTIES

1. This is an action for Declaratory Relief, and Emergency Temporary/Permanent Injunction and Damages, within jurisdictional limits, and this Court has subject matter jurisdiction.

2. The cause of action arose in Monroe County, Florida and venue is proper in Monroe County.

3. Plaintiffs, ROGER BOLON and ALEXANDRIA WOLFF, are the title owners of 9400 Aviation Blvd., Marathon, Florida, and bring this action, for Declaratory Judgment

and Injunctive Relief as against Defendants, FKEC and CITY pursuant to F.S. §86.011 seeking Declaratory Relief and Temporary/Permanent Injunctive Relief and may also demand additional, alternative, coercive, subsequent, or supplemental relief including damages in the same action.

4. Regarding the "Sunshine Law", Public Meetings and Records; Public Inspection; etc., the Circuit Courts of this state, under F.S. 286.011, shall have jurisdiction to issue injunctions to enforce the purpose of this section *upon application by any citizen of this state (emphasis supplied)*. Plaintiff's grievance constitutes a violation of "Government in the Sunshine" as defined by F.S. 286.011.

5. Pursuant to Florida Rule of Civil Procedure 1.610, Plaintiffs, OWNERS, by and through undersigned counsel, move for the entry of an emergency temporary injunction enjoining Defendants, FKEC and CITY, their agents, and all others acting in concert with Defendants, FKEC and CITY, are responsible for carrying out or permitting the actions of the Defendant, FKEC, from beginning construction without a valid permit, or a right of way utility easement, and implanting multiple utility poles conducting electricity on the north residential side of Aviation Blvd., in front of the affected residences, or any other act in furtherance thereof.

6. Plaintiffs, OWNERS, are also members of the electricity cooperative Defendant, FKEC, and are the home-owners/property owners of residential developed property on the north side of Aviation Blvd., across from the Marathon International Airport, located in the City of Marathon, Monroe County, Florida.

AS TO DEFENDANT FKEC

7. Defendant, FKEC, is a rural electric cooperative organized and existing under Chapter 425, Florida Statutes.

8. FKEC provides electric power throughout its area of interest, which includes the Florida Keys, from Ocean Reef to Marathon, Florida. FKEC maintains its principal place of business in Tavernier, Florida.

9. Defendant, FKEC, is also a Florida corporation doing business in Monroe County, Florida and was at all times material hereto owner and/or operator of a line of utility poles abutting and bordering the Marathon International Airport on the south side of Aviation Blvd. located in the City of Marathon, Monroe County, Florida.

10. Upon information and reasonable belief, Defendant, FKEC, has adopted certain bylaws governing FKEC, which is a member of the National Rural Electric Cooperative Association, which has adopted an "Electric Consumer Bill of Rights". This Bill of Rights expressly recognizes the rights of the electric consumer-owned company so that FKEC must best meet the needs of the members-customers/consumers.

AS TO CITY OF MARATHON

11. At all times related hereto, the Defendant, CITY, is a government entity with its principal place of business at 9805 Overseas Hwy, Marathon, Florida 33050, located in Monroe County, Florida and was at all times material, hereto title-owner, and or had rights to the land and property known as Aviation Blvd., located in the City of Marathon, Monroe County, Florida.

12. Defendant, CITY, was and is a political subdivision of the State of Florida, generally charged with administering public services in the city, including scheduling

meeting on matters its citizens may present on the City Council Agenda, and because of the pandemic such meetings may be scheduled via the Zoom platform.

13. Defendant, CITY, without any public notice, provided Defendant, FKEC "an arrangement" for the transfer, construction and/or deconstruction of existing multiple utility poles on the south side adjacent to the Airport, and the transfer of electricity power lines to utility poles (to be constructed) on the residential north side of Aviation Blvd. and same is in clear violation of Section 26 of the Defendant, CITY, ordinance and F.S. 286.011.

14. Defendant, FKEC, does not have a utility right of way easement on the residential north side of Aviation Blvd. to undertake this construction project and it is not one of necessity, not an emergency, and not otherwise exempted by Section 26 of the City of Marathon Code for an application and acquisition of a permit, " to perform maintenance and emergency repairs as may be required to maintain their service, without the issuance of a formal permit", and otherwise is therefore subject to a public hearing.

15. Section 26(1)(a)¹ applies because the installation "...Will cause damage to an existing roadway and disrupt previously permitted driveway access to and directly in

¹Section 26(1)(a) is attached hereto to facilitate review.

Sec. 26-30. - Public and private utility; special provisions and general permits.

All public and private utilities, as defined in Section 26-29, are hereby granted a general and continuing permit to perform maintenance and emergency repairs as may be required to maintain their service, without the issuance of a formal permit or the payment of a fee, except as provided for in Subsection (1) of this section, and subject, however, to the notice requirements of Subsection (3) of this section.

(1) A formal permit will be required by a public or private utility without the payment of a fee when:

a. Installation or repair of a service will cause damage to an existing roadway or disrupt a previously permitted or grandfathered driveway access or other permitted feature in the City right-of-way. **(Emphasis Supplied)**

front the residential properties, which access is grandfathered driveway access, for use by the affected properties on and across the Defendant, CITY's, unpaved portion of its "right of way" and "other permitted features in the Defendant CITY's right-of-way" thereby requiring Defendant, FKEC, to acquire from the Defendant, CITY, a formal permit to do the projected construction and on the Defendant, CITY's, "right of way".

(1) A formal permit will be required by a public or private utility without the payment of a fee when:

a. Installation or repair of a service will cause damage to an existing roadway or disrupt a previously permitted or grandfathered driveway access or other permitted feature in the City right-of-way.

16. Aviation Blvd. is an existing roadway technically owned by the Defendant, CITY, which grandfathered in the driveway access to the existing residential properties parallel to and beyond the asphalt roadway, on the north side of Aviation Blvd., which is a "permitted feature in the Defendant, CITY's "right-of-way" and Defendant, FKEC, lacking a utility easement on the north side of Aviation Blvd, the Defendant, FKEC, will therefore be illegally implanting poles and electricity power lines in front of the residential properties without a permit, and it intends to commence construction immediately.

17. Defendant, CITY, must provide public notice and the opportunity for a hearing to transfer use of public property to Defendant, FKEC, which does not have a utility easement on the residential north side of Aviation Blvd., for the construction of multiple utility poles on Defendant, CITY's right of way beyond the asphalt roadway in front of the affected residences, and the transfer of electricity power lines to utility poles (to be constructed) on the residential north side of Aviation Blvd.

18. Despite these facts, Defendant, FKEC, is employing tactics and intends to follow certain practices, more fully described below, which are contrary to Defendant, FKEC's Bylaws, and contrary to the detriment of members and Plaintiffs, OWNERS, as set forth hereinbelow.

19. All conditions precedent to the maintenance of this action has occurred, performed, or have been waived.

FACTUAL ALLEGATIONS RELATED
TO THE ACTION AGAINST DEFENDANT, FKEC

20. Plaintiffs, OWNERS, reallege the allegation of paragraphs 1-19 above, and incorporate the same herein by reference.

21. On and before June 23, 2020, Defendant, FKEC, designed, constructed, owned, operated, and/or maintained a certain line of power utility poles on the south side of Aviation Blvd., adjacent to The Marathon International Airport, Marathon, Florida, and provided feeder power lines across Aviation Blvd. to the residential and commercial properties on the north side of Aviation Blvd.

22. On or about June 23, 2020, Defendant, FKEC, arbitrarily and without any notice to the Owners/members on Aviation Blvd, decided to remove the then existing multiple utility poles on the south side adjacent to the Airport and transfer a line of power utility poles to the north side of Aviation Blvd., implanting large utility poles in the Defendant, CITY's, right of way, parallel to Plaintiff, OWNER's residences, which negatively impact the residential properties on the north side of Aviation Blvd.

23. At all times material hereto, it was foreseeable to Defendant, FKEC, that they would create a zone or risk of danger or hazard to the residential homes on the

north side of Aviation Blvd. by vehicular crash accidents, with where construction project was planned, without reasonable notice for the transfer of designated power lines from the existing south side of Aviation Blvd. to power utility poles to be implanted on the north residential side of Aviation Blvd. in the un-asphalted portion of the Defendant, CITY's right of way.

24. It is believed that Defendant, FKEC, has experienced and is aware of the known danger of vehicles crashing into the utility poles, which would be in the proximity of the planned north side utility pole relocation, which endangerment would include the ricochet of the accident vehicles literally into the living rooms of the adjacent residential homes of the Plaintiffs, OWNERS, and in some cases the planned utility pole relocations are within several feet from some of the residences.

25. Although there is an increased risk of serious bodily harm by transferring and construction of the subject line of utility poles to the residential side of Aviation Blvd., Defendant, FKEC, failed to acquire any traffic safety impact analysis, as a common planning tool to foresee demands on the transportation network and to mitigate any negative impacts.

26. Defendant, FKEC directly or through their agents, servants, employees and/or subcontractors, failed to do any negative impact or safety studies as to the residential properties, and failed to exercise reasonable care and not to create a zone or risk of danger or hazard to the owners and residential homes, but breached the aforementioned public duty of care, by committing some or all of the following acts:

A. Defendant, FKEC, attempting transfer and placement of the utility power poles in question on the residential north side of Aviation Blvd. without

having any easement right of way dedicated for such purpose and without a valid permit.

B. Defendant, FKEC, designed the transfer of utility power poles to the residential side of Aviation Blvd. without acquiring negative impact studies as to the residential properties or any studies whatsoever.

C. Although there is an increased risk of serious bodily harm by transferring the subject line of utility poles to the residential side of Aviation Blvd., Defendant, FKEC, failed to acquire or publish or present to the Defendant, CITY, any traffic accident safety analysis, a common planning tool, to foresee demands on the transportation network and to mitigate any negative impacts.

D. Defendant, FKEC, by acquiring construction rights on Defendant, CITY's property, without any written or signed authorizations, and without a public hearing or reasonable notice, to utilize the property owned by the City of Marathon, to wit: Aviation Blvd., to cross over and implant utility power poles on the residential north side Aviation Blvd. without a right of way easement of its own, failed to notice the matter for hearing before the City of Marathon Council, knowing that such hearing was required.

E. Defendant, FKEC, by entering into a *sub-rosa* "agreement" with certain unknown departments of the City of Marathon, to use its property and right of way because it did not have a utility right of way easement right on the residential north side of Aviation Blvd., then it is reasonably believed, that Defendant, FKEC, surreptitiously obtained some sort of "understanding" from the Defendant, CITY, to cross over its property (Aviation Blvd. Roadway) and implant

utility power poles *in the City's unpaved roadway right of way in front of and on the residential north side Aviation Blvd.*, knowing that such understandings or "agreements" must be published and produced for public scrutiny under Government in the Sunshine Law², as is required for all municipalities in Florida.

F. Defendant, FKEC, failed to identify potential problems with the proposed development and admittedly failed undertake any study whatsoever internally or by experts regarding the negative affect on the residential north side of Aviation Blvd., and Defendant, FKEC, failed to not engage any study to pursue underground utility electric lines and feeder lines where same currently exist on the south side of Aviation Blvd. without use of the Defendant CITY right of way on the residential north side Aviation Blvd.

G. Defendant, FKEC, failed to timely allow the community the opportunity to timely assess the impact that a proposed Aviation Blvd. construction project to transfer across the roadway electrical power poles implanted adjacent to the residential north side Aviation Blvd. may have.

H. Defendant, FKEC, failed to consider or determine the negative impact on the community investment and negative effect on values of the residential properties on the north side of Aviation Blvd. once the construction of utility power poles are implanted just some feet away from the residential properties.

² Florida's Government-in-the-Sunshine Law was enacted in 1967 and currently the Sunshine Law, [Chapter 286](#) of the Florida Statutes, regarding open government is established in Florida as a basic right of access to government documents and access to most meetings of boards, commissions and other governing bodies of state and local governmental agencies or authorities.

I. Defendant, FKEC, failed to consider or determine the imminent danger in the area arising from crash accidents striking the utility power pole, which could engage a fire hazard to the adjacent residential properties, as compared to the complete total avoidance of the safety risk by construction of underground power connections.

J. The repositioning of the utility poles by Defendant, FKEC, to the north side residential side of Aviation Blvd. will not only require removal of some of the Plaintiffs, OWNERS, landscaping trees and shrubs, it will risk damaging the buried water and sewer lines along that same area, and lower property values by view obstruction presence, and also create a possibility of fire to the residences to the closer proximity of the proposed high voltage electrical overhead power lines, and fear of health risks due to the closeness of the high voltage lines.

27. Plaintiffs, OWNERS, notified Defendant, FKEC, of the allegations and concerns set forth herein and on July 15, 2020, due to the circumstances of the pandemic, some of the Plaintiffs, OWNERS on short notice some of the current, Plaintiffs, OWNERS, conducted a Zoom conference with representative of Defendant, FKEC, wherein however, the issues were not resolved, and Defendant, FKEC, is moving forward immediately with the construction project on Aviation Blvd. A copy of the agreed notice of Zoom conference July 15, 2020 is attached hereto as Exhibit 1.

28. To date, Defendant, FKEC, has not permitted this issue to be placed on the City Council Agenda, requiring as a condition precedent that Plaintiff, OWNERS, participate in a Zoom Conference with representative of Defendant, FKEC.

29. Defendant, CITY, has been placed on due notice of the violation of unfettered delegation of its Aviation Blvd property rights to Defendant, FKEC, which does not have any statutory or utility easement right to use of Defendant, FKEC , but Defendant, CITY failed to respond to one or more requests for its own action to stop the Construction Project.

30. Plaintiffs, OWNERS, will suffer permanent and irreparable endangerment to their safety by their presence of high voltage lines and power poles in the close proximity of their residences, endangerment by creating a possibility of crash accidents ricocheting into their residences, of fire to the residences due to the close proximity of the proposed high voltage electrical overhead power lines, and fear of health risks due to the closeness of the high voltage lines. as well as adverse negative affect to their properties and property values.

31. Plaintiffs, OWNERS, have engaged the undersigned attorney and have agreed to pay a reasonable fee.

FACTUAL ALLEGATIONS RELATED
TO THE ACTION AGAINST DEFENDANT, CITY OF MARATHON

32. Plaintiffs, OWNERS, reallege the allegations of paragraphs 1-31 above, and incorporates the same herein by reference.

33. Plaintiffs, OWNERS, reallege that pursuant to F.S. 286.0105, meetings of City Council must have a hearing on the record, which is required to appeal, the Plaintiffs, OWNERS, however, have not been provided an opportunity to appear on the Defendant, CITY, Council's agenda before the start date of the Construction Project scheduled for commencement immediately, and therefore, Plaintiffs, OWNERS, have

been procedurally foreclosed to appeal the Defendant, CITY's, malfeasance as detailed above.

34. Defendant, CITY, declined to halt the Aviation Blvd. Construction Project pending a hearing, notwithstanding that it is on notice.

35. Plaintiffs, OWNERS, will suffer permanent and irreparable endangerment of their safety by the presence of high voltage lines and power poles in the close proximity of their residences, diminishment to their property values; endangerment by creating a possibility of crash accidents ricocheting into their residences; of fire to the residences due to the closer proximity of the proposed high voltage electrical overhead power lines to their residence; and fear of health risks due to the closeness of the high voltage lines, unless an injunction is issued to halt construction project.

36. The violations of Defendant, CITY, Ordinance 26-30 identified in the email notification to the Defendant, CITY, and copied to Defendant, FKEC, revealed or suspected substantial and specific violations of the Defendant, CITY, to the public's health, safety and welfare.

37. Plaintiffs, OWNERS, have engaged the undersigned attorney and have agreed to pay a reasonable fee.

EMERGENCY MOTION FOR TEMPORARY INJUNCTION

38. Plaintiffs, OWNERS, reallege the allegations of paragraphs 1-37 above, and incorporate the same herein by reference.

39. This Court has jurisdiction to declare rights, status, and other equitable or legal relations between the parties on a temporary basis and pending entry of a final

judgment. The Court may render temporary injunctions as part of the proceedings of declaratory judgments on the matter presented.

40. Monetary damages could not and would not adequately compensate the Plaintiffs, OWNERS, for damages and endangerment of their safety.

WHEREFORE, Plaintiffs, OWNERS, request the entry of a Declaratory Judgment and Emergency Temporary and Permanent Injunction Judgment as against the Defendant, FKEC, and Defendant, CITY, consistent with the allegations afore-alleged, and entry of orders consistent therewith, including award of attorney's fees and costs to the Plaintiffs, OWNERS.

Dated this 17th day of July, 2020.

RONALD I. STRAUSS, ESQUIRE, P. A.
Attorney for Plaintiffs
5196 Overseas Highway
Marathon, Florida 33050
Telephone: (305) 743-9073
Service E-Mail: pleadings@ronstrauslaw.com
Non-Service E-Mail: rslawpa@ronstrauslaw.com

By /s/Ronald I. Strauss
RONALD I. STRAUSS
FBN: 078825

RIS/rp
7/17/20
Complaint

Alexandria Wolff
ALEXANDRIA WOLFF

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

BEFORE ME, a Notary Public authorized to administer oaths, personally appeared, ALEXANDRIA WOLFF, who after being duly sworn, deposes and says that the facts contained in this Complaint for Declaratory Relief, and Temporary/Permanent Injunction and Damages, are true and correct.

SWORN and SUBSCRIBED to before me this 15th day of July, 2020.

My commission expires:

[Signature]
Name of Notary Public - Printed

Roger B. Bolon
ROGER BOLON

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

BEFORE ME, a Notary Public authorized to administer oaths, personally appeared, ROGER BOLON, who after being duly sworn, deposes and says that the facts contained in this Complaint for Declaratory Relief, and Temporary/Permanent Injunction and Damages, are true and correct.

SWORN and SUBSCRIBED to before me this 15th day of July, 2020.

My commission expires:

[Signature]
Name of Notary Public - Printed

From: RSLAW PA rslawpa@ronstrauslaw.com
Subject: Re: Aviation Blvd construction project - ZOOM meeting invite
Date: Jul 10, 2020 at 2:25:29 PM
To: Bill Lee bill.lee@fkec.com
Cc: Michael Roberge michael.roberge@fkec.com
Bcc: Roger Bolen roger@bbolon.com

Ronald Strauss is inviting you to a scheduled Zoom meeting.

Topic: FKEC and Resident Meeting
Time: Jul 15, 2020 2:00 PM Eastern Time (US and Canada)

Join Zoom Meeting

[https://us02web.zoom.us/j/88092114949?
pwd=K0JpOXpOU3g5VzRVSW0wUTMxSEJsZz09](https://us02web.zoom.us/j/88092114949?pwd=K0JpOXpOU3g5VzRVSW0wUTMxSEJsZz09)

Meeting ID: 880 9211 4949
Password: 094983

One tap mobile

[+16465588656](tel:+16465588656), [88092114949#](tel:+188092114949), ..., [0#](tel:+1094983), [094983#](tel:+1094983) US (New York)
[+13017158592](tel:+13017158592), [88092114949#](tel:+188092114949), ..., [0#](tel:+1094983), [094983#](tel:+1094983) US (Germantown)

Dial by your location

[+1 646 558 8656](tel:+16465588656) US (New York)
[+1 301 715 8592](tel:+13017158592) US (Germantown)
[+1 312 626 6799](tel:+13126266799) US (Chicago)
[+1 669 900 9128](tel:+16699009128) US (San Jose)
[+1 253 215 8782](tel:+12532158782) US (Tacoma)
[+1 346 248 7799](tel:+13462487799) US (Houston)

Meeting ID: 880 9211 4949
Password: 094983

Find your local number: [https://us02web.zoom.us/j/88092114949?
pwd=K0JpOXpOU3g5VzRVSW0wUTMxSEJsZz09](https://us02web.zoom.us/j/88092114949?pwd=K0JpOXpOU3g5VzRVSW0wUTMxSEJsZz09)

Should you have any further questions or concerns, please do not hesitate to contact me.

Thank you,
Rebecca Pelaez, Paralegal to Ronald I. Strauss, Esq.

RONALD I. STRAUSS, ESQ., P.A.
550 Biltmore Way, Suite 780
Coral Gables, FL 33134
Tel: (305) 285-4100
Fax: (305) 350-2001
E-Mail: rslawpa@ronstrauslaw.com



Marathon Information System
City Of Marathon
CITY BOOKS
 8/14/2020 3:48:00 PM

Building Project Permit
OFFICE COPY

9805 Overseas Highway, Marathon, FL 33050 Phone: (305) 743-0033 Fax: (305) 743-3667

PROJECT NUMBER

P2020-0785

<u>Job Address</u> City of Marathon ROW		<u>Project Status Tracking</u>	
<u>Owner</u> City of Marathon ROW	<u>Address</u>	8/7/2020	Approved
<u>City/State/Country/Zip Code</u>	<u>Phone</u> (305) 743-0033	8/7/2020	Approved
<u>Architect</u>	<u>Address</u>	8/11/2020	Approved
<u>City/State/Country/Zip Code</u>	<u>License</u>	8/14/2020	Pricing
	<u>Phone</u>	8/14/2020	Issued
		8/14/2020	Permitted

<u>Applicant</u> TBD	<u>Address</u>	<u>Project Valuation</u> \$500,000.00
<u>City/State/Country/Zip Code</u>	<u>Phone</u>	<u>\$ / Sq. Ft.</u> 0

<u>Project Description:</u> Aviation Blvd from street address 8146 through to 109th Street, Gulf, then toward US 1 ending 117 feet North of US 1 and 109th Street, Gulf intersection.	<u>Stories</u>	<u>Type Of Construction</u> New
--	----------------	------------------------------------

Block	Zoning	Lot	Year Built	Real Estate Number	No. Units	Floor Area
				77777777-777777		0

Right of Way Permit Permit #: 72020-2047 Right of Way Permit Fee: \$0.00

<u>Contractor</u> Pike Electric	<u>Address</u> 11760 US Hwy 1	<u>License No</u> C2020-0113
<u>City/State/Country/Zip Code</u> Palm Beach Gardens FL 33408	<u>Phone</u> (336) 719-4235	<u>Permit Type</u> Right of Way

Quantity	Units	Description	Unit Cost	Total Cost
1		ROW \$93.50	\$0.00	\$0.00
				Total: \$0.00

Permit Conditions

RE: 77777777-777777 (City of Marathon ROW)
 BUILDING DEPARTMENT NOTICE TO CONTRACTORS:
 ANY CONTRACTOR STARTING WORK WHERE A PERMIT IS REQUIRED WITHOUT FIRST OBTAINING A PERMIT WILL BE REPORTED TO DBPR.

- All work must be performed according to Code.
- All debris must be properly disposed of.
- All native vegetation must remain undisturbed.
- Construction fencing, silt screens, guard rails (caution tape), and any applicable safety and/or OSHA measures shall be put in place as necessary.
- All invasive exotic vegetation must be removed prior to permit closure.
- All storm water must be retained on site.

PUBLIC WORKS & ENGINEERING

- All disturbed areas shall be restored to their existing condition.
- Poles shall be installed a minimum of 6 feet from the edge of pavement.

FOR INSPECTIONS PLEASE CALL: (305) 289-4133. PLEASE LEAVE YOUR NAME, PROJECT #, LOCATION OF INSPECTION, TYPE OF INSPECTION, PHONE NUMBER OF PERSON TO BE CONTACTED IF WE HAVE ANY QUESTIONS. THE OWNER OR CONTRACTOR MUST CALL IN BY 3 PM OF THE PREVIOUS WORK DAY. ALL INSPECTIONS WILL BE PERFORMED WITHIN 24 HOURS (NEXT WORKING DAY) OF THE CALL IN. ALL WORK TO COMPLY WITH APPLICABLE CODES.

EVERY PERMIT ISSUED SHALL BECOME INVALID UNLESS THE WORK AUTHORIZED BY SUCH PERMIT IS NOT COMMENCED WITHIN 6 MONTHS AFTER ITS ISSUANCE, AND RECEIVES AN APPROVED INSPECTION OR IF THE WORK AUTHORIZED BY SUCH PERMIT IS SUSPENDED OR ABANDONED FOR A PERIOD OF 6 MONTHS AFTER THE TIME THE WORK IS COMMENCED. IF WORK HAS COMMENCED AND THE PERMIT IS REVOKED, BECOMES NULL AND VOID, OR EXPIRES BECAUSE OF LACK OF PROGRESS OR ABANDONMENT, A NEW PERMIT COVERING THE PROPOSED CONSTRUCTION SHALL BE OBTAINED BEFORE PROCEEDING WITH THE WORK.

NOTICE: IN ADDITION TO THE REQUIREMENTS OF THIS PERMIT, THE MARATHON CODE, AND MARATHON LAND DEVELOPMENT REGULATIONS, THERE MAY BE ADDITIONAL RESTRICTIONS OR REQUIREMENTS APPLICABLE TO THIS PROPERTY THAT MAY BE FOUND

IN THE PUBLIC RECORDS OF MONROE COUNTY OR THAT MAY BE REQUIRED FROM OTHER GOVERNMENTAL ENTITIES SUCH AS FEDERAL AGENCIES, STATE AGENCIES OR WATER MANAGEMENT DISTRICT, FCAA ,FKEC, FDOT, AND ANY OTHER APPLICABLE OUTSIDE AGENCY. ISSUANCE OF THIS PERMIT DOES NOT CREATE ANY RIGHTS ON THE PART OF THE APPLICANT TO OBTAIN A PERMIT FROM ANY FEDERAL AGENCY, STATE AGENCY, THE WATER MANAGEMENT DISTRICT, FCAA ,FKEC, FDOT, AND ANY OTHER APPLICABLE OUTSIDE AGENCY ; AND DOES NOT CREATE ANY LIABILITY ON THE PART OF THE CITY OF MARATHON IF THE APPLICANT FAILS TO OBTAIN REQUISITE APPROVALS OR FULFILL THE OBLIGATIONS IMPOSED BY A FEDERAL AGENCY, STATE AGENCY, WATER MANAGEMENT DISTRICT INCLUDING BUT NOT LIMITED TO FCAA ,FKEC, FDOT, AND ANY OTHER APPLICABLE OUTSIDE AGENCY.

IT IS A CONDITION OF THIS PERMIT THAT THE APPLICANT OBTAIN ALL APPLICABLE/REQUIRED FEDERAL, STATE, WATER MANAGEMENT DISTRICT INCLUDING BUT NOT LIMITED TO FCAA ,FKEC, FDOT, AND ANY OTHER APPLICABLE OUTSIDE AGENCY PERMITS BEFORE COMMENCEMENT OF DEVELOPMENT.

WARNING TO OWNER: YOUR FAILURE TO RECORD A NOTICE OF COMMENCEMENT MAY RESULT IN YOUR PAYING TWICE FOR IMPROVEMNTS TO YOUR PROPERTY. IF YOU INTEND TO OBTAIN FINANCING, CONSULT WITH YOUR LENDER OR AN ATTORNEY BEFORE RECORDING YOUR NOTICE OF COMMENCEMENT.

CONDITIONALLY APPROVED: A PERMIT ISSUED SHALL BE CONSTRUED TO BE A LICENSE TO PROCEED WITH THE WORK AND NOT AS AUTHORITY TO VIOLATE, CANCEL, ALTER OR SET ASIDE ANY OF THE PROVISIONS OT THE CODES, NOR SHALL THE ISSUANCE OF A PERMIT PREVENT THE BUILDING OFFICIAL FROM THEREAFTER REQUIRING A CORRECTION OF ERRORS IN PLANS, CONSTRUCTION OR VIOLATIONS OF THE CODES AND LDR'S.

ALL CONSTRUCTION IN THE RIGHT OF WAY IS SUBJECT TO REMOVAL AT ANY TIME BY ANY UTILITY OR THE CITY WITHOUT GUARANTEE OF REPLACEMENT.

IT IS THE OWNER'S RESPONSIBILITY TO UNDERSTAND, ACKNOWLEDGE, AND ACCEPT ALL GUIDANCE, RECOMENDATIONSAND CONDITIONS PLACED UPON THIS PERMIT IN CONSIDERATION OF SECTION 107.106 OF THE CITY OF MARATHON FLOODPLAIN MANAGEMENT REGULATIONS ADOPTED IN COMPLIANCE WITH THE SETTLEMENT AGREEMENT DATED JANUARY, 11, 2011 IN THE FEMA/FWS LAWSUIT AND FWS BIOLOGICAL OPINION CONCERNING THE LAWSUIT DATED APRIL 30, 2010 AS AMENDED.

IT IS THE OWNER' S RESPONSIBILITY TO SEE THAT ALL FINAL INSPECTIONS HAVE BEEN COMPLETED AND APPROVED.

PRINT NAME: Joshua Eller

SIGN NAME: Joshua Eller

DATE: 8/17/2020

(FINAL PAGE OF BUILDING PROJECT: P2020-0785)

OFFICE COPY

THOMAS D. WRIGHT, ESQ.

Tom Wright is a sole practitioner in Marathon. He received his JD degree from the Ohio State University College of Law. He is Board Certified in Real Estate Law and his practice consists primarily of residential and commercial real estate transactions. Tom has served for 20 years on the Florida Realtor Attorney Joint Committee, which drafts the FR-BAR contract forms. Tom began his legal career in Key West as a Navy JAG officer, and he retired from the Naval Reserve in 2001 as a Captain. Tom currently serves as City Attorney for the City of Key Colony Beach and represents the Marathon and Lower Keys Association of Realtors, Inc.

Lorie Mullins

From: Barcena, Ron (Ext. 603133) <Ron.Barcena@RNDC-USA.COM>
Sent: Monday, October 12, 2020 10:42 AM
To: Planning
Cc: ron@ronstrauslaw.com; Sandy Wolff
Subject: Meeting Monday October 19, 2020

I am the owner of half a duplex at 9302 Aviation Dr, Marathon. It has come to my attention that I will not be allowed to attend via Zoom the upcoming meeting. It is unthinkable that the planning commission would expect those of us that are out of town to come in for this meeting in person. This isn't a criminal court proceeding where you have subpoenaed our attendance. In light of the restricted travel due to Covid, how do you expect us to travel and incur additional expense when we can be a part of this meeting safely at our own homes.

As a resident of Marathon I would like to hear your explanation for the following questions:

1. Why weren't these poles eliminated and the wires run underground. This is especially desirable in a hurricane track environment.
2. Why weren't the residents of Aviation BLVD given an opportunity to review the facts on the change prior to the work beginning.

I am asking you to allow those of us out of town and/or practicing safe distancing to attend the meeting via Zoom. This will help us answer some of all the questions I have proposed above and others from my neighbors.

Thank you,

Ron Barcena
EVP Florida
813-496-3133



"The information transmitted is intended only for the person or entity to which it is addressed and may contain proprietary, business-confidential and/or privileged material. If you are not the intended recipient of this message you are hereby notified that any use, review, retransmission, dissemination, distribution, reproduction or any action taken in reliance upon this message is prohibited. If you received this in error, please contact the sender and delete the material from any computer."

October 12, 2020

City of Marathon
Planning Commission
9805 Overseas Highway
Marathon, Florida 33050

Dear Planning Commission:

I live at 9600 Aviation Blvd with my wheelchair bound, unwell husband. I am his sole caregiver and cannot attend a meeting in person. If this meeting were available as a Zoom meeting I would be most eager to attend.

Since I will not be able to participate and Zoom has been denied, I would appreciate if you would read my letter at the upcoming meeting of the planning board on 10/19/20.

I am exceedingly opposed to the moving of the electric poles to the residential side of Aviation Blvd.

My personal reasons are that their placement in my yard will no longer allow my side yard to be used for storage of my boat and/or boat trailer. This will certainly make my property less desirable and reduce its value.

I am afraid of the electric lines being placed so close to my bedroom window and fear the unknown health risks. To my knowledge, there have been no studies done that prove it is not a health hazard.

The poles have been erected very close to the road and the lower half is wrapped in black so that they are dangerously invisible at night.

Recently a woman and two police officers were in my driveway. Apparently the woman was so afraid of hitting the poles that she hit an oncoming truck's side mirror.

If you pull out of the driveway or are coming towards Aviation Blvd. from one of the many side streets you cannot see oncoming traffic. That is an accident waiting to happen. The city would be liable since you have been made aware of the problem and are permitting the placement of the poles.

I was informed there are also issues with the Marathon Airport and the F.A.A. regarding the height and placement of the poles as well.

If the pole support wires being on airport property were the reason for the move, the new poles do not require support wires and could easily have been placed and maintained where the old poles exist. The beautiful bike path/sidewalk is now being used by the city trucks as a roadway to maintain the grass and could also be used to maintain the poles.

I am equally upset that this project was completed without notifying the members of the cooperative with no regard to its exorbitant expense and the resident's concerns. Our Electric coop is governed by BY-LAWS. The leadership should not be allowed to choose to ignore the ones they do not like.

It would be prudent for you to research the many grants that may be available to assist with the cost of putting the lines underground where they would not devalue the nearby homes and endanger the citizens.

Sincerely,


Norma Newfield

Mailed via USPS and Email.

PLANNING COMMISSION AGENDA STATEMENT

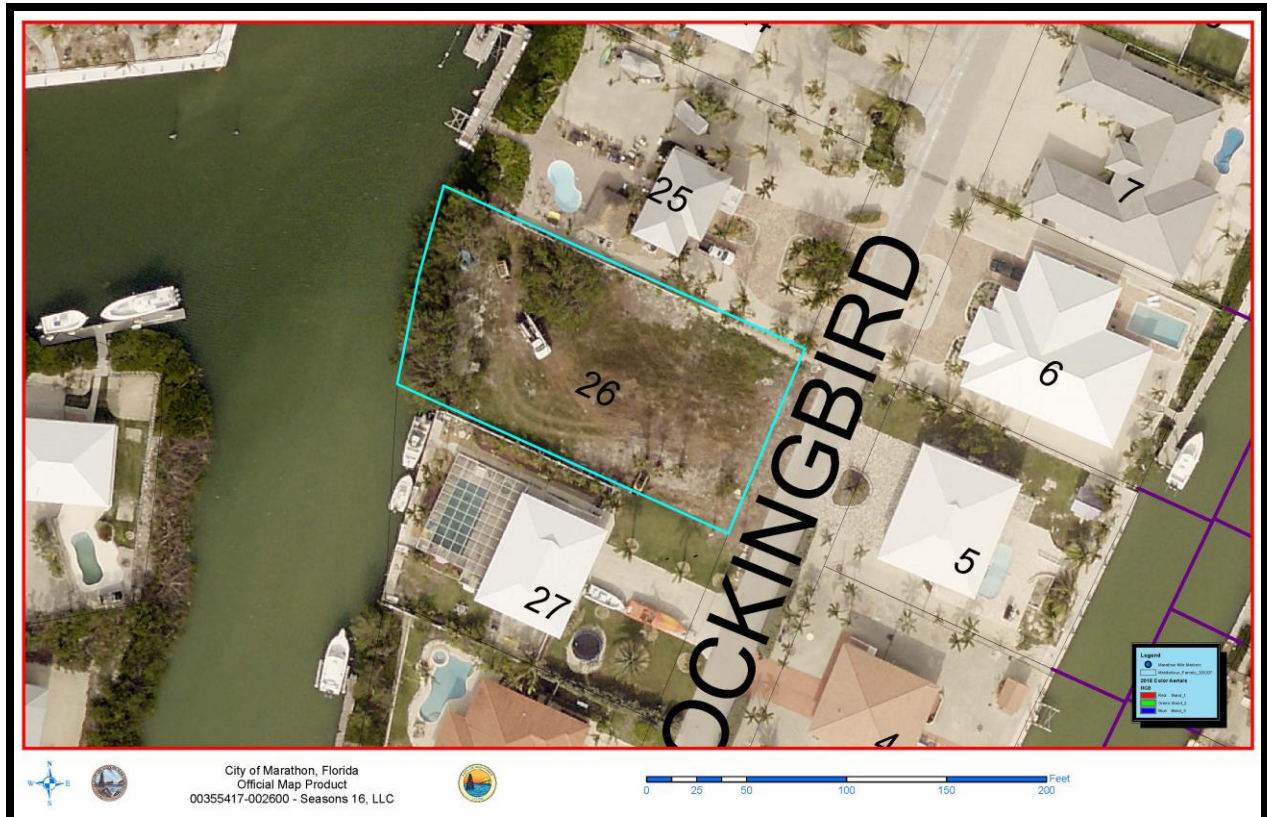


Date: October 19, 2020
To: Planning Commission
From: George Garrett, Planning Director
Subject: Appeal of Residential Building Permit P2020-0637

BACKGROUND:

Albert Kretschmer and Harriet Gates applied for the approval of a single family residence through BPAS on June 13, 2017. The property in question is located on Mockingbird Lane (RE No. 00355417.002600 / Lot 26, Tropical Isle, Section A) in Marathon (See Location Map). The property has FLUM and Zoning Designations of Residential Medium (RM). Permit P2016-1493 was issued to Kretschmer and Gates on August 3, 2018. Minimal work was completed between issuance and the purchase of the property by Seasons 16, LLC. Permit P2016-1493 was assumed by Seasons LLC and was reissued to them as Permit P2020-0548.

00355417-002600 – Season 16 LLC
Location



Season 16 LLC applied for a second permit with the transfer of a Transferable Building Right (TBR) to the property. The premise for that request is that the RM zoning classification allows five (5) residential units per acre. See Table 103.15.2 of the City's Land Development Regulations. Based on a complete review of the permit application, the City issued Permit P2020-0637. It is this permit that the Appellant, Mr. Stelzer appealed.

At the time of application for Permit P2020-0637, Seasons 16 LLC also made an application to transfer density to the site. They understood how large the platted parcel was but, were uncertain of the area of mangroves or submerged land See Attachments 1A & 1B.. Based on the overall size of the parcel, the City determined that the transfer of TDRs was not necessary. Neither survey given to the City provided an area calculation. However, the City and Monroe County Property Appraiser's GIS and on-line data indicated that the parcel was 19,058 square feet (19,000 sq ft on the MCPA qPublic Website).

All other aspects of the proposed development of the two units met the City's Land Development Regulations code, particularly as that relates to setbacks – front, side, and rear (shoreline). In addition, the plans for the two residences provided appropriate fire separation

Mr. Stetzer has appealed Permit P2020-0637 based on his concern that issuance of the permit does not meet all elements of the City's Land Development Regulations See **Attachment 2**. Similarly, Tara Duhy Esq. for the property owner, has provided their own response to Mr. Stetzer's request for an appeal. See **Attachment 3**.

CONSIDERATION:

At five (5) residential units per acre, the minimum property area for one residential unit is 8,712 square feet (43,560 sq. ft./acre / 5 unit/acre = 8,712 sq. ft. per unit). Existing residences and previously platted parcels are excepted. The property in question is 19,058 square feet in area based on a review of the City's GIS System and the Monroe County Property Appraiser's data. At 19,058 square feet, the property would allow 2.19 (2) residences (19,058 sq. ft. / 8,712 sq. ft./Unit). The number of residential units allowed rounds down to the nearest integer.

Other considerations

- Density does not accrue to mangrove forests, water, or submerged land (Policy 1-3.2.3)
 - Though Mean High Water (MHW) was delineated on available surveys of the property, there was no clear determination of area above or below MHW on available surveys
 - As determined by site visit, there are wetlands along the shoreline below Mean High Water (MHW)
 - Density which accrues to low quality wetlands (Saltmarsh & Buttonwood Association) does accrue density and may be transferred (Policy 1-3.2.3).
 - Such wetlands are, by reality and definition below MHW.
 - Density is transferable pursuant to Policy 1-3.5.16 and Chapter 107, Article 3

- Permits as requested and issued, must meet all other aspects of the City’s Comprehensive Plan and Land Development Regulations
 - Setbacks – front, rear, side, shoreline
 - Setbacks per fire code
- If subdivided, the parcel in question must meet all aspects of the platting Ordinance, Chapter 102, Article 10.

See **Attachment 4**.

ANALYSIS:

The City provides an analysis of its own determinations as it issued the permit in question and for each point of Mr. Stetzer’s appeal.

1. The buildable square footage of the lot is not large enough to allow for two single family homes in an RM neighborhood and the definition of submerged lands is being applied incorrectly on the permit as described below.

See Appellant’s document – pages 8 & 9

The City issued the permit in question based on the two surveys provided by the original owner and Seasons 16 LLC which closely comports with the records of the Monroe County Property Appraiser. Again, the area of lot 26 is approximately 19,058 square feet (19,000 in MCPA qPublic site). An indeterminant area of the property is characterized as below MHW and some portion of that area may be submerged land or water. See Boundary Survey attached as Attachments 1A & 1B.

- No information is provided by the appellant clearly identifying that the area above MHW is less than the required 17,424 square feet to allow for two residences (LDR, Chapter 103, Table 103.15.2). The City made a determination that the area of the entire property was sufficient to provide for two residence under the LDRs.
- At time of permitting, Seasons 16 LLC sought concurrent approval to transfer density to the property. At the time, the City determined that the TDR transfer was not necessary and upon complete review, issued Permit P2020-0643.
- After the Appeal was filed, the Seasons 16 LLC insisted on making the TDR transfer, thus making any claim that the property did not have enough density moot.
- Final note, in their underlying claim to point 1 above, the Appellant indicates that the following foot notes to Table 103.15.2 apply and were violated in issuance of Permit P2020-0643:

**** Allocated densities for all zoning districts are subject to the following additional requirements:

- Salt marsh/buttonwood association wetlands that are either undisturbed or of high functional capacity as defined in Article 4, of [Chapter 106](#) shall be assigned a density of 0.25 units per acre for the sole purpose of transferring the density out of these habitats.

- Submerged lands, salt ponds and mangrove wetlands shall not be assigned density for any purpose (i.e., allocated density = 0).

And further, that submerged land is defined as “Land below mean high water and/or the mean high water line for an upland water body” (Definitions, Chapter 110).

There is a logical flaw in the LDRs, since Salt Marsh and Buttonwood (SMB) habitats lie below mean high water by nature and by definition, and yet are allocated density under the LDRs in apparent conflict with the definition. In compliance with both the City’s Comprehensive Plan and Land Development Regulations, City staff has consistently considered that SMB is allocated density for the purposes of transfer.

The City issued Permit P2020-0637 (and P2020-0548) in review of a site plan and plan documents which it indicates met required setbacks with no variances.

Appellant Point 2 - Encroachment issues.

- a. Plan inconsistency – Questionable if the lot is wide enough

See Appellant’s document – pages 9 & 10

The City reviewed both residential permit applications simultaneously for consistency with setback requirements, to wit:

- Each residence meets required front setbacks
- Each residence meets side setback requirements as measured from the “drip line” or the “. . . further most project(ion) of the principle structure . . . “ to the property line on either side (site plan only thus far).
- Each residence meets required setbacks to the shoreline
- Each residence meets required fire separation setbacks

Permitted projects must meet all Florida Building Code provisions and the City Comprehensive Plan and Land Development Regulations. Once permitted, compliance with these regulations is determined by various inspection requirements, including “setback’ inspections. The Permit in question was “stayed” prior to a request or requirement for a setback inspection.

Appellant Point 2. Encroachment issues.

- b. Plan inconsistency – Swales.

See Appellant’s document – pages 9 & 10

Based on the City’s review of the Permit plans (both Permits), the project meets necessary stormwater retention requirements, notably retention of all stormwater on the project property (Chapter 107, Article 11. Further, stormwater retention on site is a Condition of Permit approval. The Appellant’s assessment is presumptive and cannot be verified.

Permitted projects must meet all Florida Building Code provisions and the City Comprehensive Plan and Land Development Regulations. Once permitted, compliance with these regulations is determined by various inspections requirements, including “swale’ inspections. The Permit in

question was “stayed” prior to a setback inspection was requested or required.

Appellant Point 3. – Intent to Subdivide

See Appellant’s document – page 11

At the time that the City reviewed Permit applications, ultimately issued as Permits P2020-0548 and P2020-0637, there had been no request by Seasons 16 LLC. As two residences were determined to be allowed on the property, there was no reason to make a presumption that Seasons 16 LLC would subdivide the property. Prior to the appeal and in response to Mr. Stetzer, the City did indicate that, IF Seasons 16 LLC were to request a Simple Subdivision of the property, THEN they would be required to meet the provisions of the Code for platting, Chapter 102, Article 10.

Seasons 16 LLC has requested a subdivision of the property, and in review, the City will require that any requested subdivision meet the requirements of the Land Development Regulations. See also, my Interpretation of the Land Development Regulations (AI 20-03) relevant to use of Chapter 102, Article 10, Section 102.46, Table 102.46.1 – “Minimum/Maximum Subdivided Lot Area and Front Lot Width.” See **Attachment 5**.

At the time of appeal, a Simple Subdivision would have been presumptive. The appeal in front of the Planning Commission is an appeal only of Permit P2020-0637, a single building permit. An application for a Simple Subdivision is currently under review.

Appellant Point 4 – The planned build does not fit the look and feel of the Tropic Isle Subdivision

See Appellant’s document – pages 11 & 12

The Appellant suggests non compliance with Chapter 100, Section 100.02, points, A, M, and N. as quoted below:

“A. Protection of the small town family feel of the community;

M. Ensuring new and redevelopment compliments and enhances community character; and

N. Implementation of thoughtful controlled growth.”

The City’s comprehensive plan designated the Tropic Isle Subdivision as:

FLUM	Residential Medium
Zoning	RM

As previously noted, these categories allow development at five residential units per acre. The Points noted above serve as broad guidance for implementation of the City’s Land Development Regulations. The points noted are intended to be broadly interpreted, but do not provide a quantifiable metric for determining anything related to Mr. Stelzer’s appeal on this point. There are no specific conditions in Chapter 103, Article 3, Table 103.15.2 which would limit the use of land at the densities allowed, except for the provisions of Chapters 107 and relevant sub-Articles, and then, only under proposed development approval. Further, the Simple Subdivision of a

parcel is allowed as an administrative function, requiring no broader review than assurance that the subdivision meets the constraints provided by the LDRs.

The presumption must be that ALL chapters which proceed after Chapter 100, comport to the City's Comprehensive Plan and Land Development Regulations within which they are embedded.

The bottom line is that the property owner and Permit holder has issued a Permit (two) in full compliance with the City's Comprehensive Plan and Land Development Regulations.

Appellant Point 5 – Work was done before the permit was issued.

See Appellant's document – page 12

Permit 2016-1493 was issued to the previous property owner in August of 2018. The owner at that time installed a temporary electric pole. No inspection is required for such action. Beyond that, two extensions of the permit were issued, one in March of 2019 and a second in February of 2020. No violations have occurred associated with the property. No violations have occurred related to Permit P2020-1493. In June 2020, Seasons 16 LLC requested a revision to the permit which was ultimately approved and reissued as Permit P2020-0548. No violations of that Permit have occurred. This permit is not the subject of the appeal before the Planning Commission.

Permit P2020-0637 was issued for the second residence associated with the property in question. There have been no violations of that permit.

Appellant Point 6 – Permit not valid do (due) to inaccuracies in paperwork

See Appellant's document – page 13

After review, the City continues to find that the Permit in question P2020-0637 was properly issued, based on adequate information from all perspectives – Code Compliance, Utilities, Public Works, Planning and Building Departments.

CONCLUSION:

The City indicates that it properly issued P2020-0637.

- The property in question exceeds the minimum lot area of 17,424 square feet required under the City's LDRs.
 - It is not known precisely how much area of the property lies above MHW or within associated degraded wetlands.
 - IN ADDITION, the current owner has transferred density to ensure that there is no question about the property containing enough density to allow two residences.
- The City has reviewed the plan set for each of the permits issued and has confirmed that the identical residences meet front, side, and rear setbacks as well as the minimum distance between buildings (as measure from the eaves).
- The city has received a request to subdivide the property in question. It has not been adequately reviewed on this date to issue or deny the request. As the Appeal concerns

the City's issuance of Permit P2020-0637, the point is moot. Issuance of Permit P2020-0637 did not and does not rely on a request to subdivide the property

- As to "the look and feel" of Tropic Isle Subdivision, the City indicates that the project meets all elements of the City's LDRs and the Florida Building Code.
- The City indicates that no violations of Permit P2020-0643 have occurred.
- The City indicates that it received and reviewed an adequate body of information with which it could make a decision that the Permit application met the Florida Building Code and the City's LDRs. Therefore, the City issued Permit P2020-0643 correctly.

RECOMMENDATION

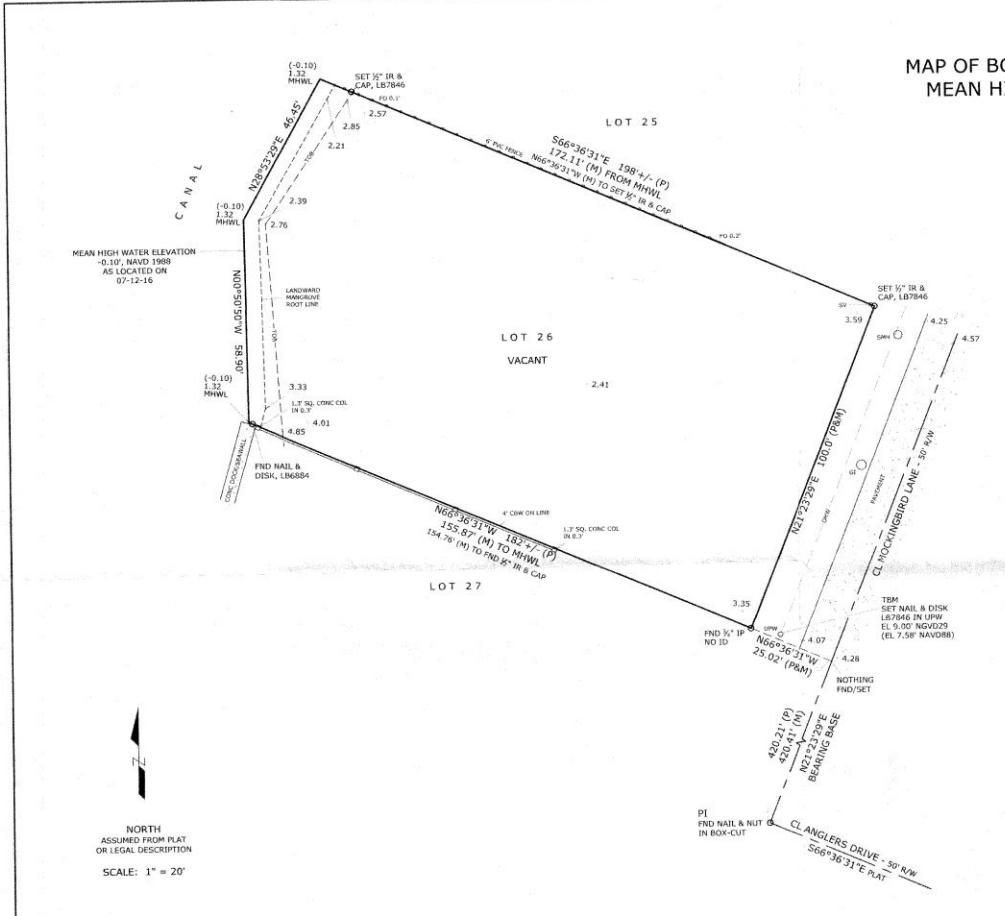
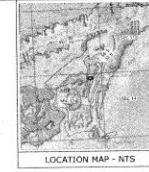
The Planning Commission should find that the City's issuance of Permit P2020-0637 was in compliance with the Florida Building Code and the City's Land Development Regulations. Further, the Planning Commission should find that Permit P2020-0637 was properly issued by the City based on the relevant points elucidated in the Conclusions above.

The Appeal of Permit P2020-0637 should be denied based on these findings and the points noted immediately above.

ATTACHMENT 1A

Boundary Survey – 00355417-002600

MAP OF BOUNDARY, TOPOGRAPHIC & MEAN HIGH WATER LINE SURVEY LOT 26 TROPIC ISLE SECTION A



BEARING BASE:
THE CENTERLINE
OF MOCKINGBIRD LANE
AT N21°23'29"E
AS SHOWN UPON PLAT

ALL ANGLES DEPICTED
ARE 90 DEGREES UNLESS
OTHERWISE INDICATED

ADDRESS:
LOT 26 MOCKINGBIRD LANE
MARATHON, FL 33050

MEAN HIGH WATER SURVEY
FILE NUMBER IS PENDING

THIS MEAN HIGH WATER LINE
SURVEY COMPLIES WITH CHAPTER
177, PART II, FLORIDA STATUTES

THE MEAN HIGH WATER ELEVATION
AS SHOWN HEREON WAS ESTABLISHED
BY EXTENDING THE ELEVATION SHOWN
AT MEAN HIGH WATER INTERPOLATION
POINT NO. 3130

BENCHMARK USED: PID AA0316
STAMPING: U 273 1966
MARK LOGS: CSS
EL. 5.97', NGVD29
(EL. 4.55', NAVD88)

ELEVATIONS SHOWN AS
X.XX REFER TO NGVD29
VERTICAL DATUM

ELEVATIONS SHOWN AS
(X.XX) REFER TO NAVD88
VERTICAL DATUM

FLOOD ZONES REFER TO NGVD29
AS PER FIRM MAPS

I HAVE CONSULTED THE FEDERAL
EMERGENCY MANAGEMENT AGENCY
FLOOD INSURANCE RATE MAP -
COMMUNITY NO.: 120681
MAP NO.: 12087C-1379K
MAP DATE: 02-18-05
THE HEREON DESCRIBED
PROPERTY APPEARS TO BE IN -
FLOOD ZONE: AE
BASE ELEVATION: 7', NGVD29 DATUM.

LEGAL DESCRIPTION -

Lot 26, TROPIC ISLE, SECTION A, a subdivision according to the Plat thereof as recorded in Plat Book 6, Page 73, of the Public Records of Monroe County, Florida.

CERTIFIED TO -

Albert E Kretschmer, III and Harriet G. Kretschmer
Law Offices of Thomas D. Wright, Chartered
Chicago Title Insurance Company

SCALE: 1" = 20'

DATE: 07/12/16

DRAWN BY: JM

CHECKED BY: RER

INVOICE # 16079502

REECE & ASSOCIATES
PROFESSIONAL SURVEYOR AND MAPPER, LB 7846
127 INDUSTRIAL ROAD, BIG PINE KEY, FL 33043
OFFICE (305) 872 - 1346
FAX (305) 872 - 5622

NOTES:

THIS SURVEY WAS PERFORMED FOR THE SOLE AND EXCLUSIVE BENEFIT OF THE PARTIES LISTED HEREON AND SHALL NOT BE RELIED UPON BY ANY OTHER ENTITY OR INDIVIDUAL WHOSEVER, UNLESS, ANY REUSE OF THIS SURVEY FOR ANY PURPOSE OTHER THAN THAT WHICH WAS ORIGINALLY INTENDED, WITHOUT THE WRITTEN PERMISSION OF THE UNDERSIGNED SURVEYOR & MAPPER, WILL BE DONE SO AT THE RISK OF THE REUSING PARTY AND WITHOUT ANY LIABILITY TO THE UNDERSIGNED SURVEYOR & MAPPER.

LEGAL DESCRIPTIONS HAVE BEEN FURNISHED BY THE CLIENT OR HIS/HER REPRESENTATIVE. PUBLIC RECORDS HAVE NOT BEEN RESEARCHED BY THE SURVEYOR TO DETERMINE THE ACCURACY OF THESE DESCRIPTIONS NOR HAVE ADJOINING PROPERTIES BEEN RESEARCHED TO DETERMINE OVERLAPS OR MATTERS.

THIS SURVEY DOES NOT SUPPORT TO SHOW OWNERSHIP OF WALLS OR FENCES ALONG PROPERTY LINES.

ADDITIONS OR DELETIONS TO THIS SURVEY MAP BY OTHER THAN THE SIGNING PARTY OR PARTIES IS PROHIBITED WITHOUT WRITTEN CONSENT OF THE SIGNING PARTY OR PARTIES.

NOTE: MEASURED DIMENSIONS EQUAL PLATTED OR DESCRIBED DIMENSIONS UNLESS INDICATED OTHERWISE. FOUNDATIONS BENEATH THE SURFACE ARE NOT SHOWN.

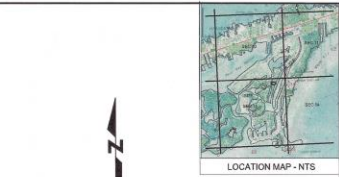
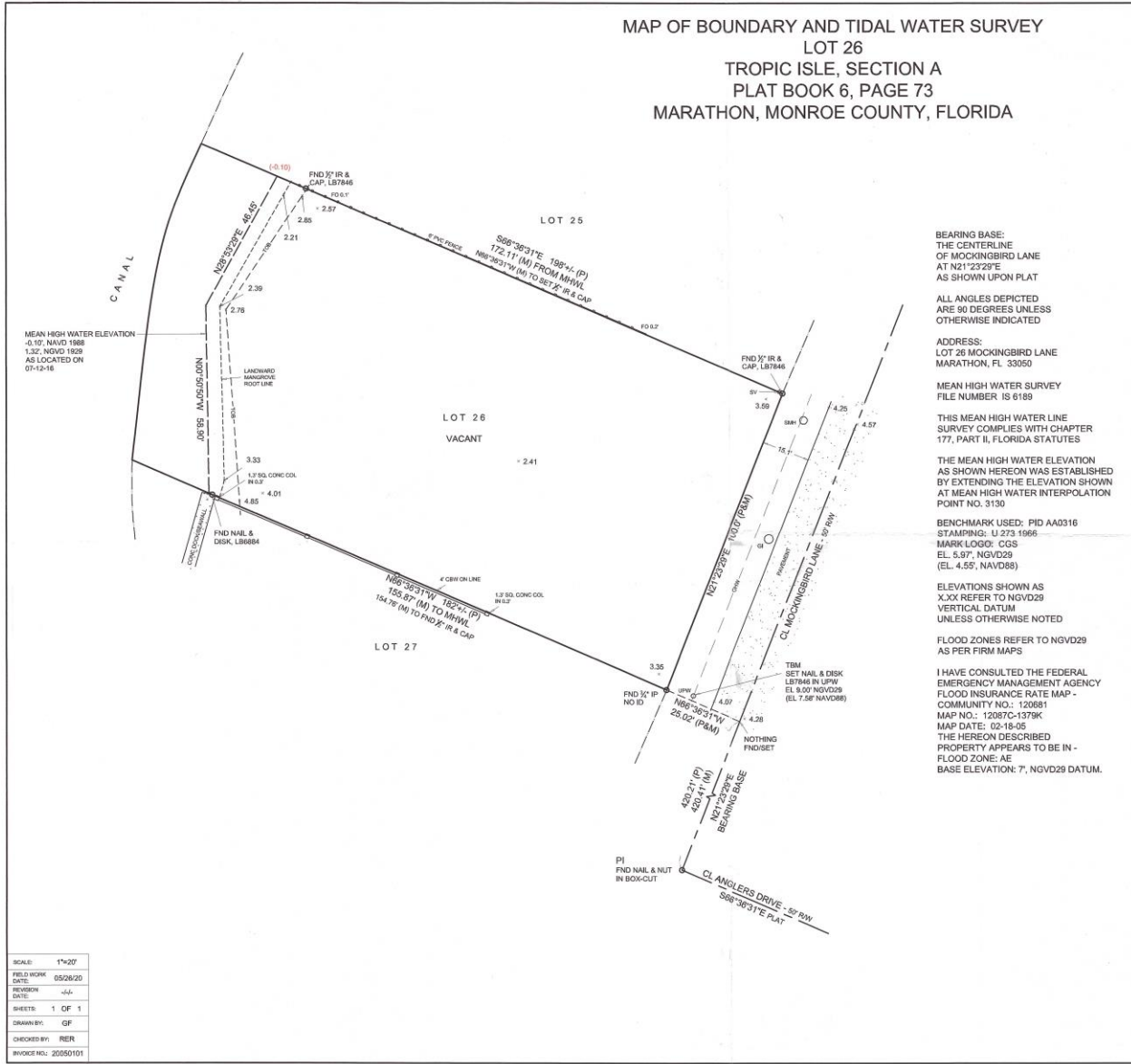
THE FOLLOWING IS A LIST OF ABBREVIATIONS THAT MAY BE FOUND ON THIS SHEET:

REF = BENCH/CONTROL POINT	PI = POINT OF INTERSECTION	PC = POINT OF CURVE	PT = TOP OF BENCH
PO = POINT OF BEGINNING	POB = POINT OF BEGINNING OF BENCH	POC = POINT OF CURVE	TOB = TOP OF BENCH
POI = POINT OF INTERSECTION	POI = POINT OF INTERSECTION	POI = POINT OF INTERSECTION	TOB = TOP OF BENCH
POI = POINT OF INTERSECTION	POI = POINT OF INTERSECTION	POI = POINT OF INTERSECTION	TOB = TOP OF BENCH
POI = POINT OF INTERSECTION	POI = POINT OF INTERSECTION	POI = POINT OF INTERSECTION	TOB = TOP OF BENCH

ATTACHMENT 1B

Mean High Water Survey – 00355417-002600

MAP OF BOUNDARY AND TIDAL WATER SURVEY
 LOT 26
 TROPIC ISLE, SECTION A
 PLAT BOOK 6, PAGE 73
 MARATHON, MONROE COUNTY, FLORIDA



NORTH
 ASSUMED FROM PLAT
 OR LEGAL DESCRIPTION
 SCALE: 1" = 20'

BEARING BASE:
 THE CENTERLINE
 OF MOCKINGBIRD LANE
 AT N21°22'29"E
 AS SHOWN UPON PLAT

ALL ANGLES DEPICTED
 ARE 90 DEGREES UNLESS
 OTHERWISE INDICATED

ADDRESS:
 LOT 26 MOCKINGBIRD LANE
 MARATHON, FL 33050

MEAN HIGH WATER SURVEY
 FILE NUMBER IS 6189

THIS MEAN HIGH WATER LINE
 SURVEY COMPLIES WITH CHAPTER
 177, PART II, FLORIDA STATUTES

THE MEAN HIGH WATER ELEVATION
 AS SHOWN HEREON WAS ESTABLISHED
 BY EXTENDING THE ELEVATION SHOWN
 AT MEAN HIGH WATER INTERPOLATION
 POINT NO. 3130

BENCHMARK USED: PID AA0316
 STAMPING: UJ 273 1966
 MARK LOG: CDS
 EL. 5.97, NGVD29
 (EL. 4.55, NAVD88)

ELEVATIONS SHOWN AS
 XXX REFER TO NGVD29
 VERTICAL DATUM
 UNLESS OTHERWISE NOTED

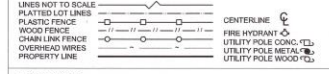
FLOOD ZONES REFER TO NGVD29
 AS PER FIRM MAPS

I HAVE CONSULTED THE FEDERAL
 EMERGENCY MANAGEMENT AGENCY
 FLOOD INSURANCE RATE MAP -
 COMMUNITY NO.: 120661
 MAP NO.: 12087C-1379K
 MAP DATE: 02-18-05
 THE HEREON DESCRIBED
 PROPERTY APPEARS TO BE IN -
 FLOOD ZONE: AE
 BASE ELEVATION: 7', NGVD29 DATUM.

CERTIFIED TO:
 MIKE ARANDA

LEGAL DESCRIPTION:
 Lot 26, TROPIC ISLE, SECTION A, a subdivision according to the Plat
 thereof as recorded in Plat Book 6, Page 73, of the Public Records of
 Monroe County, Florida.

ABBREVIATIONS:	UP	UP	UP
BFV	= BACKFLOW PREVENTER	LP	= LIGHT POLE
BO	= BLOW OUT	LS	= LANDSCAPE
C	= CALCULATED	M	= MEASURED
CA	= CENTRAL ANGLE	MBWL	= MEAN HIGH WATER LINE
CL	= CENTERLINE	NAVD	= NORTH AMERICAN VERTICAL DATUM 1983
CLF	= CHAINLINK FENCE	NGS	= NATIONAL GEODETIC SURVEY DATUM 1983
D	= DEED	NOVD	= NATIONAL GEODETIC VERTICAL DATUM (1929)
EB	= ELECTRIC BOX	P	= PLAT
EM	= ELECTRIC METER	PI	= PERMANENT IDENTIFIER ELEVATION
F	= FENCE	POB	= POINT OF BEGINNING
FFE	= FINISHED FLOOR ELEVATION	POC	= POINT OF COMMENCEMENT
FI	= FIRE HYDRANT	R	= RODS
FO	= FENCE OUTSIDE	ROL	= ROOF OVERHANG LINE
FOL	= FENCE ON LINE	SCO	= SANITARY CLEARCUT
GI	= GRATE INLET	SMH	= SANITARY MANHOLE
GL	= GROUND LEVEL	SV	= SWEET VALVE
GW	= GUY WIRE	WCF	= WOOD FENCE
L	= ARC LENGTH	WM	= WATER METER
LE	= LOWER ENCLOSURE	WV	= WATER VALVE



GENERAL NOTES
 1.) THIS SURVEY WAS PERFORMED FOR THE SOLE AND EXCLUSIVE BENEFIT OF THE PARTIES LISTED HEREIN AND SHALL NOT BE RELIED UPON BY ANY OTHER ENTITY OR INDIVIDUAL WHOEVER. LICENSEE: ANY REUSE OF THIS SURVEY FOR ANY PURPOSE OTHER THAN WHICH WAS ORIGINALLY INTENDED, WITHOUT THE WRITTEN PERMISSION OF THE UNDERSIGNED SURVEYOR & MAPPER, WILL BE DONE SO AT THE RISK OF THE REUSING PARTY AND WITHOUT ANY LIABILITY TO THE UNDERSIGNED SURVEYOR & MAPPER.
 2.) LEGAL DESCRIPTIONS HAVE BEEN FURNISHED BY THE CLIENT OR HIS/HER REPRESENTATIVE. PUBLIC RECORDS HAVE NOT BEEN RESEARCHED BY THE SURVEYOR TO DETERMINE THE ACCURACY OF THESE DESCRIPTIONS NOR HAVE ADJOINING PROPERTIES BEEN RESEARCHED TO DETERMINE OVERLAPS OR NATURAL BOUNDARIES.
 3.) THIS SURVEY DOES NOT PURPORT TO SHOW OWNERSHIP OF WALLS OR FENCES ALONG PROPERTY LINES.
 4.) ADDITIONS OR DELETIONS TO THIS SURVEY MAP BY OTHER THAN THE SIGNING PARTY OR PARTIES IS PROHIBITED WITHOUT WRITTEN CONSENT OF THE SIGNING PARTY OR PARTIES.
 5.) FOUNDATIONS BENEATH THE SURFACE ARE NOT SHOWN.
 6.) MEASURED DIMENSIONS (SOME PLATTED OR DESCRIBED DIMENSIONS UNLESS INDICATED OTHERWISE).

REECE & ASSOCIATES
 PROFESSIONAL SURVEYORS AND MAPPERS
 LICENSED BUSINESS (L) NO. 7846
 127 INDUSTRIAL ROAD, BIG PINE KEY, FL 33043
 OFFICE (305) 872 - 1348
 EMAIL: info@reeceurveying.com

I HEREBY CERTIFY THAT THIS SURVEY WAS MADE UNDER MY RESPONSIBLE CHARGE AND MEETS THE STANDARDS OF PRACTICE AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 6407, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 473.027, FLORIDA STATUTES. THIS SURVEY, WHEN SCHEDULE 1B HAS BEEN PROVIDED, MEETS THE PROVISIONS OF FLORIDA ENDORSEMENT FORM & SUPPLEMENT (1B) (1) (2) (3) (4) (5) (6) (7) (8) (9) (10) (11) (12) (13) (14) (15) (16) (17) (18) (19) (20) (21) (22) (23) (24) (25) (26) (27) (28) (29) (30) (31) (32) (33) (34) (35) (36) (37) (38) (39) (40) (41) (42) (43) (44) (45) (46) (47) (48) (49) (50) (51) (52) (53) (54) (55) (56) (57) (58) (59) (60) (61) (62) (63) (64) (65) (66) (67) (68) (69) (70) (71) (72) (73) (74) (75) (76) (77) (78) (79) (80) (81) (82) (83) (84) (85) (86) (87) (88) (89) (90) (91) (92) (93) (94) (95) (96) (97) (98) (99) (100) (101) (102) (103) (104) (105) (106) (107) (108) (109) (110) (111) (112) (113) (114) (115) (116) (117) (118) (119) (120) (121) (122) (123) (124) (125) (126) (127) (128) (129) (130) (131) (132) (133) (134) (135) (136) (137) (138) (139) (140) (141) (142) (143) (144) (145) (146) (147) (148) (149) (150) (151) (152) (153) (154) (155) (156) (157) (158) (159) (160) (161) (162) (163) (164) (165) (166) (167) (168) (169) (170) (171) (172) (173) (174) (175) (176) (177) (178) (179) (180) (181) (182) (183) (184) (185) (186) (187) (188) (189) (190) (191) (192) (193) (194) (195) (196) (197) (198) (199) (200) (201) (202) (203) (204) (205) (206) (207) (208) (209) (210) (211) (212) (213) (214) (215) (216) (217) (218) (219) (220) (221) (222) (223) (224) (225) (226) (227) (228) (229) (230) (231) (232) (233) (234) (235) (236) (237) (238) (239) (240) (241) (242) (243) (244) (245) (246) (247) (248) (249) (250) (251) (252) (253) (254) (255) (256) (257) (258) (259) (260) (261) (262) (263) (264) (265) (266) (267) (268) (269) (270) (271) (272) (273) (274) (275) (276) (277) (278) (279) (280) (281) (282) (283) (284) (285) (286) (287) (288) (289) (290) (291) (292) (293) (294) (295) (296) (297) (298) (299) (300) (301) (302) (303) (304) (305) (306) (307) (308) (309) (310) (311) (312) (313) (314) (315) (316) (317) (318) (319) (320) (321) (322) (323) (324) (325) (326) (327) (328) (329) (330) (331) (332) (333) (334) (335) (336) (337) (338) (339) (340) (341) (342) (343) (344) (345) (346) (347) (348) (349) (350) (351) (352) (353) (354) (355) (356) (357) (358) (359) (360) (361) (362) (363) (364) (365) (366) (367) (368) (369) (370) (371) (372) (373) (374) (375) (376) (377) (378) (379) (380) (381) (382) (383) (384) (385) (386) (387) (388) (389) (390) (391) (392) (393) (394) (395) (396) (397) (398) (399) (400) (401) (402) (403) (404) (405) (406) (407) (408) (409) (410) (411) (412) (413) (414) (415) (416) (417) (418) (419) (420) (421) (422) (423) (424) (425) (426) (427) (428) (429) (430) (431) (432) (433) (434) (435) (436) (437) (438) (439) (440) (441) (442) (443) (444) (445) (446) (447) (448) (449) (450) (451) (452) (453) (454) (455) (456) (457) (458) (459) (460) (461) (462) (463) (464) (465) (466) (467) (468) (469) (470) (471) (472) (473) (474) (475) (476) (477) (478) (479) (480) (481) (482) (483) (484) (485) (486) (487) (488) (489) (490) (491) (492) (493) (494) (495) (496) (497) (498) (499) (500) (501) (502) (503) (504) (505) (506) (507) (508) (509) (510) (511) (512) (513) (514) (515) (516) (517) (518) (519) (520) (521) (522) (523) (524) (525) (526) (527) (528) (529) (530) (531) (532) (533) (534) (535) (536) (537) (538) (539) (540) (541) (542) (543) (544) (545) (546) (547) (548) (549) (550) (551) (552) (553) (554) (555) (556) (557) (558) (559) (560) (561) (562) (563) (564) (565) (566) (567) (568) (569) (570) (571) (572) (573) (574) (575) (576) (577) (578) (579) (580) (581) (582) (583) (584) (585) (586) (587) (588) (589) (590) (591) (592) (593) (594) (595) (596) (597) (598) (599) (600) (601) (602) (603) (604) (605) (606) (607) (608) (609) (610) (611) (612) (613) (614) (615) (616) (617) (618) (619) (620) (621) (622) (623) (624) (625) (626) (627) (628) (629) (630) (631) (632) (633) (634) (635) (636) (637) (638) (639) (640) (641) (642) (643) (644) (645) (646) (647) (648) (649) (650) (651) (652) (653) (654) (655) (656) (657) (658) (659) (660) (661) (662) (663) (664) (665) (666) (667) (668) (669) (670) (671) (672) (673) (674) (675) (676) (677) (678) (679) (680) (681) (682) (683) (684) (685) (686) (687) (688) (689) (690) (691) (692) (693) (694) (695) (696) (697) (698) (699) (700) (701) (702) (703) (704) (705) (706) (707) (708) (709) (710) (711) (712) (713) (714) (715) (716) (717) (718) (719) (720) (721) (722) (723) (724) (725) (726) (727) (728) (729) (730) (731) (732) (733) (734) (735) (736) (737) (738) (739) (740) (741) (742) (743) (744) (745) (746) (747) (748) (749) (750) (751) (752) (753) (754) (755) (756) (757) (758) (759) (760) (761) (762) (763) (764) (765) (766) (767) (768) (769) (770) (771) (772) (773) (774) (775) (776) (777) (778) (779) (780) (781) (782) (783) (784) (785) (786) (787) (788) (789) (790) (791) (792) (793) (794) (795) (796) (797) (798) (799) (800) (801) (802) (803) (804) (805) (806) (807) (808) (809) (810) (811) (812) (813) (814) (815) (816) (817) (818) (819) (820) (821) (822) (823) (824) (825) (826) (827) (828) (829) (830) (831) (832) (833) (834) (835) (836) (837) (838) (839) (840) (841) (842) (843) (844) (845) (846) (847) (848) (849) (850) (851) (852) (853) (854) (855) (856) (857) (858) (859) (860) (861) (862) (863) (864) (865) (866) (867) (868) (869) (870) (871) (872) (873) (874) (875) (876) (877) (878) (879) (880) (881) (882) (883) (884) (885) (886) (887) (888) (889) (890) (891) (892) (893) (894) (895) (896) (897) (898) (899) (900) (901) (902) (903) (904) (905) (906) (907) (908) (909) (910) (911) (912) (913) (914) (915) (916) (917) (918) (919) (920) (921) (922) (923) (924) (925) (926) (927) (928) (929) (930) (931) (932) (933) (934) (935) (936) (937) (938) (939) (940) (941) (942) (943) (944) (945) (946) (947) (948) (949) (950) (951) (952) (953) (954) (955) (956) (957) (958) (959) (960) (961) (962) (963) (964) (965) (966) (967) (968) (969) (970) (971) (972) (973) (974) (975) (976) (977) (978) (979) (980) (981) (982) (983) (984) (985) (986) (987) (988) (989) (990) (991) (992) (993) (994) (995) (996) (997) (998) (999) (1000)

SCALE:	1"=20'
FIELD WORK:	05/28/20
REVISION DATE:	JUL
SHEETS:	1 OF 1
DRAWN BY:	GF
CHECKED BY:	REER
INVOICE NO.:	20250101

ATTACHMENT 2
Stelzer Appeal



CITY OF
MARATHON, FLORIDA
Planning Department

9805 Overseas Hwy, Marathon, FL 33050
Phone (305) 743-0033 www.ci.marathon.fl.us

DP2020-0123

Office Use Only	
Rev'd:	By:
RECEIVED	
App #:	
SEP 25 2020	
Meeting Date:	
BY:	<i>[Signature]</i>

Appeal Application 2017

FEE: \$1,500.00. The fee is payable upon application submittal.

*Any additional meeting with mailed & published notice will be charged additional \$1,500.00

Please check: Administrative Appeal Planning Commission Appeal

Applicant Name: Jim Stelzer speaking for the residents of Mockingbird Lane

Mailing Address: 116 Mockingbird Lane; Marathon, FL 33050

Phone Number: 215-796-2084 **Phone (Alt):** _____

Email: jamesstelzer@hotmail.com

Agent Name: N/A

Mailing Address: _____

Phone Number: _____ **Phone (Alt):** _____

Email: _____

*Property owner must submit a notarized letter authorizing the agent to act on his/her behalf.

Property Owner Name: N/A

Mailing Address: _____

Phone Number: _____ **Phone (Alt):** _____

Email: _____

Legal Description of Property:

Lot 26 Tropic Isle Section A P B6-73

Key: Boat Key **Mile Marker:** 50

RE Number: 00355417-002600

If in metes and bounds, attach a legal description on separate sheet.

Property Description:

Street Address of Property (if applicable), or General Location Description:

123 Mockingbird Lane

Parcel Number(s): Lot 26

Land Use District: Residential

Zoning District: RM



Marathon Information System
City Of Marathon
CITY BOOKS
9/25/2020 1:17:26 PM

PAYMENT RECEIPT
DEVELOPMENT APPLICATION

Development Receipt

Date: 25 September 2020

RE: 123 MOCKINGBIRD LN

Paid By: JRS Software LLC

Real Estate #: 00355417-002600

Receipt #: DP2020-0100

Project #: DP2020-0123

Received By: Lorie Mullins

Paid With: Check

Check #: 876560

Amount: \$1,500.00

\$: One Thousand Five Hundred Dollars

Receipt From: _____

WARNING - THIS CHECK IS PROTECTED BY SPECIAL SECURITY GUARD FEATURES

IBERIABANK

Cashier's Check

876560

JRS SOFTWARE LLC

Date: 9/24/20

REMITTER

Branch: 0422

**PAY
TO THE
ORDER OF**

EXACTLY **1,500 AND 00/100 DOLLARS

\$1,500.00

CITY OF MARATHON
PERMIT APPEAL

WARNING - THIS CHECK IS PROTECTED BY SPECIAL SECURITY GUARD FEATURES

⑈0000876560⑈ ⑆265270413⑆ 807007001⑈

Present Use of Property: Vacant Lot

Proposed Use of Property: 2 single family homes

Property Size: 19,000 sq feet per tax appraisal

Decision Being Appealed

Issuance of Permit P2020-0637 dated 8/27/20.
See attached brief and documentation.

Date of Decision Being Appealed 8/27/20

A COPY OF THE BASIS FOR THE APPEAL IN THE NATURE OF AN INITIAL BRIEF AND ANY EVIDENCE INCLUDING TESTIMONY, AFFIDAVITS, AND THE CURRICULUM VITAE OF ANY EXPERT WITNESS THAT WILL BE CALLED MUST BE ATTACHED TO THIS APPLICATION. The brief must at a minimum state all grounds for the appeal, including, but not limited to, the law being appealed and any facts necessary for the interpretation of those laws. *(Attach additional sheets of paper as necessary.)*

Names and addresses of all expert witnesses that you propose to call at the hearing:

N/A

Are there any pending code violations on the property? No Yes If yes, please explain:

I certify that I am familiar with the information contained in this application, and that to the best of my knowledge such information is true, complete and accurate.

JAMES STELZER

Applicant or Agent Name (Please Print)

[Signature]

Signature of Applicant or Agent

9-25-2020

Date

NOTARY STATE OF FLORIDA,
COUNTY OF MONROE

The foregoing instrument was acknowledged before me on this 25 day of Sept, 2020, by James Stelzer who is personally known or who produced DR lic for identification.

[Signature]
Signature of Notary Public - State of Florida

Bambi Kuck
NOTARY PUBLIC - STATE OF FLORIDA
MY COMMISSION EXPIRES JUNE 14, 2021
COMMISSION NO. EG 108249

OWNER'S AUTHORIZATION FOR AGENT REPRESENTATION

CITY OF MARATHON PLANNING DEPARTMENT

Phone (305) 743-0033 | planning@ci.marathon.fl.us | www.ci.marathon.fl.us/government/planning/

I/WE _____
Print name(s) of property owner(s)

Hereby Authorize: _____
Print name of Agent

to represent me/us in processing an application for: _____
Type of Application

on our behalf. In authorizing the agent to represent me/us, I/we, as owner/owners, attest that the application is made in good faith and that any information contained in the application is accurate and complete.

(Signature of owner)

(Signature of owner)

(Print name of owner)

(Print name of owner)

**NOTARY STATE OF FLORIDA,
COUNTY OF MONROE**

The foregoing instrument was acknowledged before me on this _____ day of _____, 20____, by _____ who is personally known or who produced _____ for identification.

Signature of Notary Public – State of Florida

My commission Expires:

CITY OF MARATHON PLANNING DEPARTMENT

Appeals

- An appeal of the decision of the administrative official or body may be made **within 30 working days from the date of such decision**. If filed, an appeal stays any further action on the permit until final resolution of the appeal, unless the administrative official or body, whose action is the subject of the appeal, certifies in writing that the stay poses an imminent peril to life or property.

IMPORTANT NOTES:

- A concept meeting with the Planning Department is recommended prior to submitting your application; this informal meeting allows you to become acquainted with all requirements and processes involved with your application. To guide you through the process and ensure that your application is understood and properly processed, it is recommended that you also meet with a City Planner at the time you submit your completed application. Appointments can be scheduled by contacting the Department ahead of time.
- The Council and PC shall consider only those items cited in the appeal. In its deliberation, it may use the record and any additional evidence relative to the application and may confirm, reverse, or modify the appealed action based upon its interpretation of the findings required and the evidence submitted.
 - *Commission:* The PC shall hear and make decisions on appeals of an action by any administrative official or the TRC made pursuant to the provisions of the LDRs.
 - *Council:* The Council shall hear and make decisions on appeals of an action taken by the PC made pursuant to the provisions of the LDRs.
- The decision of the Council and PC on an appeal shall be effective immediately.
- An appeal of the decision of the Planning Commission may be made within 30 working days from the date of such decision. The appeal will be heard by the City Council within 45 working days of receipt of a complete appeal application.
- **In accordance with FL Statute 286.0105** if a person decides to appeal any decision made by the board, agency, or commission with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. The requirements of this section do not apply to the notice provided in s. 200.065(3).

2017 Planning Commission Meeting Schedule

Application Deadline											
12/01/16	01/01/17	02/01/17	03/01/17	04/01/17	05/01/17	06/01/17	07/01/17	08/01/17	09/01/17	10/01/17	11/01/17
Planning Commission Meeting Date											
01/17/17	02/21/17	03/20/17	04/17/17	05/22/17	06/19/17	07/17/17	08/21/17	09/18/17	10/16/17	11/20/17	12/18/17

Meetings are held the 3rd Monday of the month at 5:30pm.

STAFF CONTACTS: The Planning Department will guide your application from start to finish, engaging other City departments or agencies as needed. You will receive a copy of the staff report one week before your meeting.

George Garrett
 Planning Director
garrettg@ci.marathon.fl.us
 305-289-4111

Brian Shea
 City Planner
sheab@ci.marathon.fl.us
 305-289-4112

Geovanna Torres
 City Planner
torresg@ci.marathon.fl.us
 305-289-4109

CITY OF MARATHON PLANNING DEPARTMENT

Application Requirements Appeal Applications

These requirements are not to be considered ALL inclusive of the requirements for the proposed work. The City may require additional drawings, specifications or information in order to complete the review of the application.

THE FOLLOWING MUST BE PROVIDED IN ORDER TO BE A COMPLETE APPLICATION:

- ⇒ **Application completed in full.**
- ⇒ **Proof of ownership** (copy of deed or tax statement)
- ⇒ **Agent authorization** (as applicable)
- ⇒ **Property Survey** no older than two years from date of application.
- ⇒ **Site Plans.** As applicable
- ⇒ **A copy of the document(s) which comprise the decision being appealed.**
- ⇒ Letters of Coordination may be required. The applicant must check with the Planning Department to identify other agencies expected to review the project. These may include:
 - City of Marathon, City Fire Chief – (305) 743-5266
 - City of Marathon, Utilities Manager- (305) 289-5009
 - Florida Department of Environmental Protection (FDEP) – (305) 289-2310
 - Florida Department of State, Division of Historic Resources
 - Florida Department of Transportation (FDOT) – (305) 289-2350
 - Florida Keys Aqueduct Authority (FKAA) – (305) 743-5409
 - Florida Keys Electric Cooperative (FKEC) – (305) 743-5344
 - Monroe County Department of Health – (305) 289-2721
 - South Florida Water Management District (SFWMD)
 - U.S. Army Corps of Engineers (ACOE) – (305) 743-5349
 - U.S. Fish and Wildlife Service (USFWS) – (772) 562-3909, ext. 306
 - Other, as applicable to the project

CITY OF MARATHON PLANNING DEPARTMENT

Phone (305) 743-0033 | planning@ci.marathon.fl.us | www.ci.marathon.fl.us/government/planning/

Chapter 102, Article 17 – Appeals

Provide an explanation of the basis for the appeal and any other evidence that may be pertinent to the application.

Use additional sheets as necessary

See Attached.

Appeal

123 Mockingbird Lane (Lot 26)

RE 00355417-002600

The purpose of this appeal is not to say that Seasons 16 shouldn't build a home at 123 Mockingbird Lane (Lot 26) but to ensure that all written building ordinances are being enforced equitably by the city for all who apply. The owners of the properties on Mockingbird Lane, Marathon, FL are requesting that permit P2020-0637 (Attachment 1) issued on August 27, 2020 be rescinded for any or all of the following reasons based on the following ordinances.

Chapter 100 Article 1 Section 100.02, Chapter 102 Article 10 Section 102.46, Chapter 102 Article 14 Section 102.18, Chapter 103 Article 3, Chapter 107 Article 5, Chapter 110 Article 3

- 1. The buildable square footage of the lot is not large enough to allow for two single family homes in an RM neighborhood and the definition of submerged lands is being applied incorrectly on the permit as described below.**

Calculation of Buildable Square Footage

	Square Feet
Property Appraiser Site Square Footage*	19,000
Less submerged lands that do not have a density calculation**	1,933
Independent Licensed Surveyor Calculation above mean high water level***	17,067

Square Footage Required Per City Ordinance Table 103.15.2 (Attachment 2)

Land Density required per dwelling per City Ordinance	8,712
Two dwellings require	17,424

Footnotes:

*qPublic.net Monroe county, FL (Attachment 3)

**Footnotes to Table 103.15.2 (Attachment 2 pg. 3)

** Reese Surveyors Property Survey (Attachment 4)

Builder is short at least 357 square feet to build two dwellings (17,424 less 17, 067).

Land below the mean high water line was not being subtracted from the 19,000 sq. ft. to calculate the actual buildable square footage of the lot. The independent survey (Attachment 4) clearly shows the mean high water line and the footnotes to Table 103.15.2 (Attachment 2 pg. 3) clearly state that “allocated densities for all zoning districts are subject to the following additional requirements:”

- Salt marsh/buttonwood association wetlands that are either undisturbed or of high functional capacity as defined in Article 4, of Chapter 106 shall be assigned a density of 0.25 units per acre for the sole purpose of transferring the density out of these habitats.
- Submerged lands, salt ponds and mangrove wetlands shall not be assigned density for **any** purpose (i.e., allocated density = 0).

The definition of submerged land per Chapter 110 Article 3 Defined Terms is as follows:

Submerged Land: Land below the mean high tide line and/or the mean high water line of an upland water body.

As seen by the calculations and definitions in the Marathon City Ordinances, the planning department has not calculated the density properly and this project does not meet minimum requirements. Therefore the property owners of Mockingbird Lane are requesting the permit to be rescinded.

2. Encroachment issues

a. Plan inconsistency – Questionable if the lot is wide enough

The width of the lot is 100 ft wide. Since the builder is trying to build two houses on the one lot, the widest each house can be is 40 ft. wide with five foot setbacks from each of the side rooflines. (4 setbacks x 5 ft. each = 20 ft.) Because the builder is using every inch of width possible on this lot, the plans need to be accurate and the homes built exactly to the inch so that there are no encroachment issues.

The plan package measurements do not agree and depending on which page you look at, the plans show houses that may or may not fit on this lot. For example, the single site plan (Attachment 5 pg. 1) shows a 40 ft house with no roof overhang on the bump out. The site plan with two houses (Attachment 5 pg. 2) shows a 41.3

ft. house (scales on page don't match) with an overhang on the bump out. The roof plan shows a house that is 41 ft. wide (Attachment 5 pg. 3).

Since two houses are being built on a single lot, you would assume that the lot would be laid out according to the site plan which displays two houses (41.3 ft. per house). If that is the case, the houses do not fit on the lot.

In addition, the site plan with two houses (Attachment 5 pg. 2) only shows a setback of 10 ft between the two houses from wall to wall instead of roofline to roofline.

Ordinance Chapter 107, Section 107.35 states:

"Measurement: In measuring a setback, the horizontal distance between the lot line and the further most project of the principal building shall be used."

The property owners of Mockingbird Lane are requesting that The City only accept accurate plans especially when buildings are being built exactly to the setback. Because this issue has been brought up to the Planning Director and City Planner in meetings by the owners of Mockingbird Lane, we feel a setback **variances will not be acceptable** once the homes are built. **We are requesting that the permit be rescinded until proper and consistent plans are submitted for structures that fit on the lot.**

b. Swales –

The site plan drawings for unit 2 shows swale A (which is 5' wide and 1 ft deep) starting at the roof line and butting up against the adjacent properties fence. (See Attachment 5 page 1)

Fill was brought in and raised the property elevation higher than the adjacent property. The current swale drawing does not fit in the area designated because the swale drawing shows a 5 ft swale 1 ft deep surrounded by permeable soil. In this case, the line trench fabric will be against the neighbor's fence which is plastic and not permeable soil. The water will runoff onto the adjacent property and undercut the neighbor's fence over time.

The crest of the swale needs to be at a minimum the same elevation as the adjacent property.

The property owners of Mockingbird Lane are requesting that the permit be rescinded until proper plans are submitted where the swale drawings properly reflect what needs to be done for the actual elevation of the property.

3. Intent to Subdivide

A simple subdivision is defined in the City Ordinances Chapter 110 Article 3 as follows.

Simple Subdivision: The subdivision of a parcel with a duplex structure into two (2) separate parcels or alternatively, the subdivision of a vacant parcel into two (2) legal parcels each of which meets all of the requirements of the City's Comprehensive Plan and Land Development Regulations.

The developer clearly plans to subdivide this lot as can be seen by:

- **The site plans** which indicate a Lot A and Lot B. Lot A indicates 52' of street frontage. Lot B indicates 48' of street frontage and there are **two separate driveways**. (See Attachment 5 pg. 2)
- **Two permits have been issued** (See Attachment 1 and Attachment 6)
- **Lots are being advertised individually** and this has been brought to the city's attention. (See Attachment 7)

This is important due to City Code requirements:

- **The existing lot must be 26,136 square feet to subdivide** into two lots per city ordinance Chapter 102 Article 10 Table 102.46.1 Simple Subdivision. The 123 Mockingbird Lane lot is much smaller than the required 26,136 sq. feet. (See Attachment 8 pg. 2)
- Zoning requirements **require 100' of street frontage per lot**. (See Attachment 8 Page 2)
- The site plans show an **obvious setback encroachment** between the two units if the subdivision occurs. (See Plan Inconsistency 2a above).
- This is no longer a vacant parcel per the definition of a Simple Subdivision (See definition above).

The property owners on Mockingbird Lane request that the Planning Commission not allow this lot to be subdivided if it is requested in the future and to keep to the required 100 ft. of street frontage.

4. The planned build does not fit the look and feel of the Tropic Isle Subdivision.

- No lots have been subdivided since the original subdivision of Tropic Isle in 1970 (See Attachment 9).
- All lots have 100 ft of street frontage unless they are one of the pie shaped lots in the circle.
- All lots have been developed using the same look and feel except for the last 3 vacant lots which have been purchased or are under contract by Seasons 16.

The neighborhood is trying to keep the feel of large lots with larger than required setbacks. Until this permit, the look and feel has been maintained by everyone in the neighborhood except Seasons 16.

Chapter 100 Article 1 Section 100.02. - Purpose and intent states that “the City has developed these land development regulations to implement the Comprehensive Plan and to protect the character, environment and viability through:

- A: Protection of the small town family feel of the community;
- M. Ensuring new and redevelopment compliments and enhances community character;
- N: Implementation of thoughtful controlled growth.”

The Mockingbird Lane neighborhood requests that the Planning Commission allows us to maintain our small town family feel by not allowing the last builder in our subdivision to change the look and feel that we have maintained up until this point. We request that two residences not be allowed on this single family lot or allow the lot to be subdivided.

5. Work was done before the permit was issued.

Chapter 102 Article 14 Section 102.18 states the following:

B. Improvements without a Building Permit: When a building permit is required, site work, site clearing, grading, improvement of property or construction of any type shall not be commenced prior to the issuance of the permit.

- a. Removal of Buttonwood comment was added on 8/19 to the permit. **The permit was issued two weeks after the buttonwood was removed.** (See Attachment 1)
- b. **Letter of commencement was filed 7 days before the permit was issued.** (See Attachment 1 and Attachment 10)

The property owners on Mockingbird Lane request that all construction conform to the permits. Work beginning before a permit is issued sets a precedent that builders can begin work when they want as opposed to beginning work once it is permitted. Code Compliance needs to review commencement documentation and permits (current and previous) to correctly enforce regulations.

6. Permit not valid do to inaccuracies in paperwork

Permit P2020-0637 was not issued to Seasons 16 who acquired the property on 6/25/20 per the Deed Warranty. (See Attachment 11). They were issued to the previous owners Albert E Kretschmer II and Harriet Gates Krestschmer. The previous owners gave authorization to Seasons 16 to do General Planning for the lot while it was still under their name but did not authorize them to apply for and have a permit issued in their name. (See Attachments 1, 11, 12)

The property owners on Mockingbird Lane are asking the City Planning Department to make sure that Building Applications are being submitted for the correct authorized work and that permits are issued in the correct name. As of 9/23, the permit was still not issued in the correct name and therefore was not valid.

Conclusion: The construction on 123 Mockingbird Lane has brought to light that not all ordinances are being enforced even when they are clearly written. Variances are not just being granted for unique situations but are being used to fix issues that should have been addressed during the planning process. The property owners of Mockingbird Lane are asking the Planning Commission to please carefully consider our requests regarding 123 Mockingbird Lane and to **rescind permit P2020-0637** as well as **enforce the written city ordinances at this location and equitably throughout the city.**



Marathon Information System
City Of Marathon
CITY BOOKS
 8/27/2020 8:34:20 AM

Building Project Permit

OFFICE COPY

9805 Overseas Highway, Marathon, FL 33050 Phone: (305) 743-0033 Fax: (305) 743-3667

PROJECT NUMBER
P2020-0637

Job Address 123 MOCKINGBIRD LN	
Owner KRETSCHMER ALBERT E III AND HARRIET GATES	Address 711 HUMMINGBIRD WAY APT 207 NORTH PALM BEACH, FL 33408-5170
City/State/Country/Zip Code NORTH PALM BEACH FL 33408-5170	Phone (772) 218-0780
Architect JC Kosinski Engineering Inc City/State/Country/Zip Code Ft Myers Beach FL 33931	Address 135 Gulfview Ave License AZ017-0020

Project Status Tracking	
8/4/2020	Approved
8/12/2020	Geo-tech Rept Rcvd
8/12/2020	Approved
8/19/2020	Pricing
8/19/2020	PRICING COMPLETED
8/21/2020	Permit Paid For
8/27/2020	Issued
8/27/2020	Permitted

Applicant Construction Dynamics Inc City/State/Country/Zip Code Cape Coral FL 33904	Address 1222 SE 47th St Suite 330 Phone (239) 267-4804	Project Valuation \$0.00 \$ / Sq. Ft. 0
---	---	--

Project Description:
 BPAS Plans to replace P2016-1493 with new CBS Duplex: metal roof, water and electric to dock.
 8/17/20 Per GG, not a duplex, 2 SFR side by side, no common wall
 **8/19/2020 Permit also allows the removal of one (1) mature buttonwood - GG"

Block	Zoning	Lot	Year Built	Real Estate Number	No. Units	Floor Area
				00355417-002600		0

Building Permit Permit #: B2020-1638 Building Permit Fee: \$8,561.96

Contractor Construction Dynamics Inc City/State/Country/Zip Code Cape Coral FL 33904	Address 1222 SE 47th St Suite 330 Phone (239) 267-4804	License No C2014-0123 Permit Type Building
--	---	---

Quantity	Units	Description	Unit Cost	Total Cost
2206		RES CBS/NON-MODULAR (\$2.00 PER SF)	\$2.00	\$4,412.00
1.5		RES PLANS REVIEW / REV REVIEW	\$70.00	\$105.00
8		City Ed Fee \$4	\$4.00	\$32.00
1		DCA Surcharge Fee	\$47.04	\$47.04
1		DBPR Surcharge Fee	\$70.56	\$70.56
1739		IMPACT FEE: Cons Lands Residential	\$0.36	\$626.04
1739		IMPACT FEE: Parks Residential	\$0.50	\$869.50
1739		IMPACT FEE: Roads Residential	\$0.88	\$1,530.32
1739		IMPACT FEE: Safety Residential	\$0.50	\$869.50
8 Items				Total: \$8,561.96

Building Sewer Permit Permit #: T2020-1646 Building Sewer Permit Fee: \$5,823.50

Contractor Ernest Liz Plumbing City/State/Country/Zip Code Key West FL 33040	Address 3711 Pearlman Court Phone (305) 879-3715	License No C2010-0053 Permit Type Building Sewer
--	---	---

Quantity	Units	Description	Unit Cost	Total Cost
1		Sewer Lat Conn \$93.50	\$93.50	\$93.50
1		WasteWater System Dev Fees	\$5,730.00	\$5,730.00
2 Items				Total: \$5,823.50

Electrical Permit Permit #: E2020-1647 Electrical Permit Fee: \$0.00

Contractor Veres Electric Inc City/State/Country/Zip Code Homestead FL US 33033	Address 29218 SW 187 Ave Phone (786) 298-1990	License No C2018-0149 Permit Type Electrical
---	--	---

Quantity	Units	Description	Unit Cost	Total Cost
1		Electric-new construction	\$0.00	\$0.00
1 Item				Total: \$0.00

Mechanical Permit		Permit #: M2020-1649	Mechanical Permit Fee: \$0.00	
Contractor Houston Air (DBA) City/State/Country/Zip Code Tavernier FL 33070		Address P.O. Box 1321 Phone (305) 852-2960	License No C2007-0038 Permit Type Mechanical	
Quantity	Units	Description	Unit Cost	Total Cost
1		Mechanical new construction	\$0.00	\$0.00
1 Item				Total: \$0.00

Plumbing Permit		Permit #: P2020-1648	Plumbing Permit Fee: \$0.00	
Contractor Ernest Lix Plumbing City/State/Country/Zip Code Key West FL 33040		Address 3711 Pearman Court Phone (305) 879-3715	License No C2010-0053 Permit Type Plumbing	
Quantity	Units	Description	Unit Cost	Total Cost
1		Plumbing new construction	\$0.00	\$0.00
1 Item				Total: \$0.00

Right of Way Permit		Permit #: 72020-1652	Right of Way Permit Fee: \$93.50	
Contractor Construction Dynamics Inc City/State/Country/Zip Code Cape Coral FL 33904		Address 1222 SE 47th St Suite 330 Phone (239) 267-4804	License No C2014-0123 Permit Type Right of Way	
Quantity	Units	Description	Unit Cost	Total Cost
1		ROW \$93.50	\$93.50	\$93.50
1 Item				Total: \$93.50

Roof/Reroof Permit		Permit #: R2020-1650	Roof/Reroof Permit Fee: \$0.00	
Contractor Lindholm Construction Inc. City/State/Country/Zip Code ISLAMORADA FL 33036		Address 88005 O/S HWY Phone (305) 393-1735	License No C2009-0107 Permit Type Roof/Reroof	
Quantity	Units	Description	Unit Cost	Total Cost
1		Roofing-new construction	\$0.00	\$0.00
1 Item				Total: \$0.00

Site Work Permit		Permit #: S2020-1651	Site Work Permit Fee: \$0.00	
Contractor Construction Dynamics Inc City/State/Country/Zip Code Cape Coral FL 33904		Address 1222 SE 47th St Suite 330 Phone (239) 267-4804	License No C2014-0123 Permit Type Site Work	
Quantity	Units	Description	Unit Cost	Total Cost
1		RES SITEWORK \$93.50	\$0.00	\$0.00
1 Item				Total: \$0.00

\$14,478.96

Permit Conditions
 RE: 00355417-002600 (123 MOCKINGBIRD LN Unit 2)
 BUILDING DEPARTMENT NOTICE TO CONTRACTORS:
 ANY CONTRACTOR STARTING WORK WHERE A PERMIT IS REQUIRED WITHOUT FIRST OBTAINING A PERMIT WILL BE REPORTED TO DBPR.

- All work must be performed according to Code.
- All debris must be properly disposed of.
- One buttonwood may be removed to be mitigated on site with three buttonwoods (or similar) 10 gallons pots or greater
- All other native vegetation must remain undisturbed.
- Construction fencing, silt screens, guard rails (caution tape), and any applicable safety and/or OSHA measures shall be put in place as necessary.

OFFICE COPY

- 6. All invasive exotic vegetation must be removed prior to permit closure.
- 7. All storm water must be retained on site.

UTILITY DEPARTMENT CONDITIONS – VACUUM SYSTEM:
 CITY UTILITY DEPARTMENT STAFF MUST BE ON SITE TO WITNESS CONNECTION TO CITY SEWAGE COLLECTION SYSTEM. CONNECTION TO THE CITY OWNED CLEANOUT IS PROHIBITED UNTIL ALL INSPECTIONS ARE APPROVED.
 *****PLEASE NOTE THE TWO-STEP INSPECTION PROCESS. ANY ISSUES ARISING FROM IMPROPER CONNECTIONS WILL BE CHARGED TO THE PROPERTY OWNER. FINAL INSPECTION FROM UTILITY DEPARTMENT REQUIRED PRIOR TO CONNECTING TO WASTE WATER SYSTEM*****

- 1. Plumber required to field verify location and depth of connection to City collection system. Coordination with the City Utility Department to verify would be preferred.
- 2. Ensure appropriate air intake at each lateral.
- 3. All edge of the sewer line trench must be bedded with 3/4" gravel (#57). Please assure proper compaction and densities are performed as much of work appears to be under paved driving / parking areas.
- 4. Trench backfill material shall be compacted in 12" lifts up to grade elevation.
- 5. Air Intake line must be perpendicular to the ground, with a stainless 4 inch screen (Part no. GVF) available thru AirVac or equivalent and be located out of vehicular traffic or parking areas.
- 6. Contractor must coordinate flushing of lines and include observation by the City through inspection, prior to connection to the Cities collection system. Debris in vacuum pit resulting from any construction work SHALL be removed by CONTRACTOR/OWNER.
- 7. Contractor must coordinate hydrostatic tests and open trench inspections for all gravity lines through City building department.
- 8. Backwater valve is required.
- 9. Any right-of-way areas damaged during construction, including asphalt or sod, shall be repaired and restored to the satisfaction of the City.
- 10. Sunshine One Call 800-432-4770 Notification Required to find out where buried facilities (electric, gas, telephone, cable, water) are located as specified by Chapter 566, F.S. including two (2) full business days notice before digging in public right-of-way, as applicable.
- 11. PRIOR TO CONNECTING to the City's collection system. Please contact the building department inspection line (305-289-4133) TO SCHEDULE VALVE INSTALL AND FINAL INSPECTIONS AND CONNECTION BY THE UTILITY DEPARTMENT to the City's wastewater system with no less than 48-hours advance notice.
- 12. Any deviations from the plan submitted are required to submit a permit modification prior to proceeding with the work.
- 13. ALL GLUE JOINTS TO BE PURPLE PRIMER/HEAVY BODY GRAY PVC GLUE

FOR INSPECTIONS PLEASE CALL: (305) 289-4133. PLEASE LEAVE YOUR NAME, PROJECT #, LOCATION OF INSPECTION, TYPE OF INSPECTION, PHONE NUMBER OF PERSON TO BE CONTACTED IF WE HAVE ANY QUESTIONS. THE OWNER OR CONTRACTOR MUST CALL IN BY 3 PM OF THE PREVIOUS WORK DAY. ALL INSPECTIONS WILL BE PERFORMED WITHIN 24 HOURS (NEXT WORKING DAY) OF THE CALL IN. ALL WORK TO COMPLY WITH APPLICABLE CODES.

EVERY PERMIT ISSUED SHALL BECOME INVALID UNLESS THE WORK AUTHORIZED BY SUCH PERMIT IS NOT COMMENCED WITHIN 6 MONTHS AFTER ITS ISSUANCE, AND RECEIVES AN APPROVED INSPECTION OR IF THE WORK AUTHORIZED BY SUCH PERMIT IS SUSPENDED OR ABANDONED FOR A PERIOD OF 6 MONTHS AFTER THE TIME THE WORK IS COMMENCED. IF WORK HAS COMMENCED AND THE PERMIT IS REVOKED, BECOMES NULL AND VOID, OR EXPIRES BECAUSE OF LACK OF PROGRESS OR ABANDONMENT, A NEW PERMIT COVERING THE PROPOSED CONSTRUCTION SHALL BE OBTAINED BEFORE PROCEEDING WITH THE WORK.

NOTICE: IN ADDITION TO THE REQUIREMENTS OF THIS PERMIT, THE MARATHON CODE, AND MARATHON LAND DEVELOPMENT REGULATIONS, THERE MAY BE ADDITIONAL RESTRICTIONS OR REQUIREMENTS APPLICABLE TO THIS PROPERTY THAT MAY BE FOUND IN THE PUBLIC RECORDS OF MONROE COUNTY OR THAT MAY BE REQUIRED FROM OTHER GOVERNMENTAL ENTITIES SUCH AS FEDERAL AGENCIES, STATE AGENCIES OR WATER MANAGEMENT DISTRICT, FCAA, FKEC, FDOT, AND ANY OTHER APPLICABLE OUTSIDE AGENCY. ISSUANCE OF THIS PERMIT DOES NOT CREATE ANY RIGHTS ON THE PART OF THE APPLICANT TO OBTAIN A PERMIT FROM ANY FEDERAL AGENCY, STATE AGENCY, THE WATER MANAGEMENT DISTRICT, FCAA, FKEC, FDOT, AND ANY OTHER APPLICABLE OUTSIDE AGENCY; AND DOES NOT CREATE ANY LIABILITY ON THE PART OF THE CITY OF MARATHON IF THE APPLICANT FAILS TO OBTAIN REQUISITE APPROVALS OR FULFILL THE OBLIGATIONS IMPOSED BY A FEDERAL AGENCY, STATE AGENCY, WATER MANAGEMENT DISTRICT INCLUDING BUT NOT LIMITED TO FCAA, FKEC, FDOT, AND ANY OTHER APPLICABLE OUTSIDE AGENCY.

IT IS A CONDITION OF THIS PERMIT THAT THE APPLICANT OBTAIN ALL APPLICABLE/REQUIRED FEDERAL, STATE, WATER MANAGEMENT DISTRICT INCLUDING BUT NOT LIMITED TO FCAA, FKEC, FDOT, AND ANY OTHER APPLICABLE OUTSIDE AGENCY PERMITS BEFORE COMMENCEMENT OF DEVELOPMENT.

WARNING TO OWNER: YOUR FAILURE TO RECORD A NOTICE OF COMMENCEMENT MAY RESULT IN YOUR PAYING TWICE FOR IMPROVEMENTS TO YOUR PROPERTY. IF YOU INTEND TO OBTAIN FINANCING, CONSULT WITH YOUR LENDER OR AN ATTORNEY BEFORE RECORDING YOUR NOTICE OF COMMENCEMENT.

CONDITIONALLY APPROVED: A PERMIT ISSUED SHALL BE CONSTRUED TO BE A LICENSE TO PROCEED WITH THE WORK AND NOT AS AUTHORITY TO VIOLATE, CANCEL, ALTER OR SET ASIDE ANY OF THE PROVISIONS OF THE CODES, NOR SHALL THE ISSUANCE OF A PERMIT PREVENT THE BUILDING OFFICIAL FROM THEREAFTER REQUIRING A CORRECTION OF ERRORS IN PLANS, CONSTRUCTION OR VIOLATIONS OF THE CODES AND LDR'S.

ALL CONSTRUCTION IN THE RIGHT OF WAY IS SUBJECT TO REMOVAL AT ANY TIME BY ANY UTILITY OR THE CITY WITHOUT GUARANTEE OF REPLACEMENT.

IT IS THE OWNER'S RESPONSIBILITY TO UNDERSTAND, ACKNOWLEDGE, AND ACCEPT ALL GUIDANCE, RECOMENDATIONS AND CONDITIONS PLACED UPON THIS PERMIT IN CONSIDERATION OF SECTION 107.106 OF THE CITY OF MARATHON FLOODPLAIN MANAGEMENT REGULATIONS ADOPTED IN COMPLIANCE WITH THE SETTLEMENT AGREEMENT DATED JANUARY, 11, 2011 IN THE FEMA/FWS LAWSUIT AND FWS BIOLOGICAL OPINION CONCERNING THE LAWSUIT DATED APRIL 30, 2010 AS AMENDED.

IT IS THE OWNER'S RESPONSIBILITY TO SEE THAT ALL FINAL INSPECTIONS HAVE BEEN COMPLETED AND APPROVED.

PRINT NAME: [Signature]

SIGN NAME: [Signature]

DATE: 8/28/20

OFFICE COPY

Table 103.15.2
 DENSITY, INTENSITY AND DIMENSIONS FOR ZONING DISTRICTS

	MU	MU-M	P	PR	RH	R-MH	RM	RM-1	RM-2	RL	RL-C
Density Range (units per acre)	6-15	6-15	10-25	1/4ac	8-25	8-25	<u>5-10</u>	4	5	0.5	.25
Market Rate (maximum)	6	6		.25	8	8	5	4	5	0.5	0.25
Affordable (maximum)	15	15	10-25	.25	15-25	25	10	4	5	0.5	.25
Transient	<u>5-25</u>		<u>3-25</u>	10	0	0	0	0	0	0	0
Min lot area per unit (square feet)											
Market Rate	7,260	7,260		4 acres	5,445	5,445	8,712	10,000	8,712	2 acre	4 acres
Affordable	2,904	2,904	1,742	4 acres	1,742	1,742	4,356	10,000	8,712	2 acre	4 acres
FAR	0.15-0.61	0.15-0.61	0.15-0.75	0.15-0.50							N/A

Setbacks											
Front, min	0-30	20	15	15	10	10	20	20	20	25	25
Rear, min	20	20	10	10	10	10	20	20	20	25	25
Side 1, min	0-10	10			5	5	5	10	10	10	10
Interior Side Min	10		5	5				10	5		
Side 2, min	0-10	10			5	5	5	10	10	10	10
Street Side Min	0-5		5	5							
Height Limit'	37	37	37	37	37	37	37	37	37	37	37
Units Per Building***					10	N/A					
Max Lot Coverage**											
Open Space, Min. (%)**	0.20	0.20	0.20	0.20	.20	.20	.20	.20	.20	0.50	0.50

Minimum Street-front Lot Width					75'		100'	100'	100'		
--------------------------------	--	--	--	--	-----	--	------	------	------	--	--

Footnotes for Table 103.15.2

* Determined by the Director, based upon Habitat Analysis

** Subject to Table 106.16.1 "Open Space Requirements per Habitat Type"

*** Affordable dwelling units not subject to this limitation

**** Allocated densities for all zoning districts are subject to the following additional requirements:

- Salt marsh/buttonwood association wetlands that are either undisturbed or of high functional capacity as defined in Article 4, of Chapter 106 shall be assigned a density of 0.25 units per acre for the sole purpose of transferring the density out of these habitats.

- Submerged lands, salt ponds and mangrove wetlands shall not be assigned density for any purpose (i.e., allocated density = 0).

¹ The FAR for mixed-use developments may be increased to .75 if mitigated by the development of affordable/workforce housing is provided

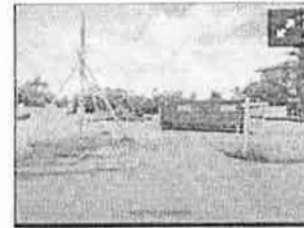
² Density bonus limited to deed-restricted affordable housing as established in Article 1, "Affordable Housing" of Chapter 104.

³ Subject to the additional height restrictions of Article 5, Chapter 107.

(Ord. No. 2010-15, § 2, 1-11-2011; Ord. No. 2014-10, § 4, 7-8-2014; Ord. No. 2018-04, § 1, 7-10-2018)

Summary

Parcel ID: 60355437-002600
 Account#: 1426700
 Property ID: 1432700
 Mileage Group: 30034
 Location: MOCKINGBIRD LN MARATHON
 Address:
 Legal: LOT 26 TROPIC ISLE SECTION 4 BOOTH KEY P64-73 OR399-241 OR734-1097 OR355-1503 OR1340-0257 OR1042-
 Description: 2428 OR1356-1674 OR1729-1485 OR1951 174175 OR2000-187172 OR3033-1531
 (Note: Null: or used in legal documents)
 Neighborhood: 2169
 Property: VACANT RES (0000)
 Class:
 Subdivision: TROPIC ISLE A
 Rec/Twp/Rng: 18/46/33
 Allotable: No
 Housing:



Owner

SEYMOUR L LEE
 1121 SE 47th St
 Ste 200
 Cape Coral FL 33904

Valuation

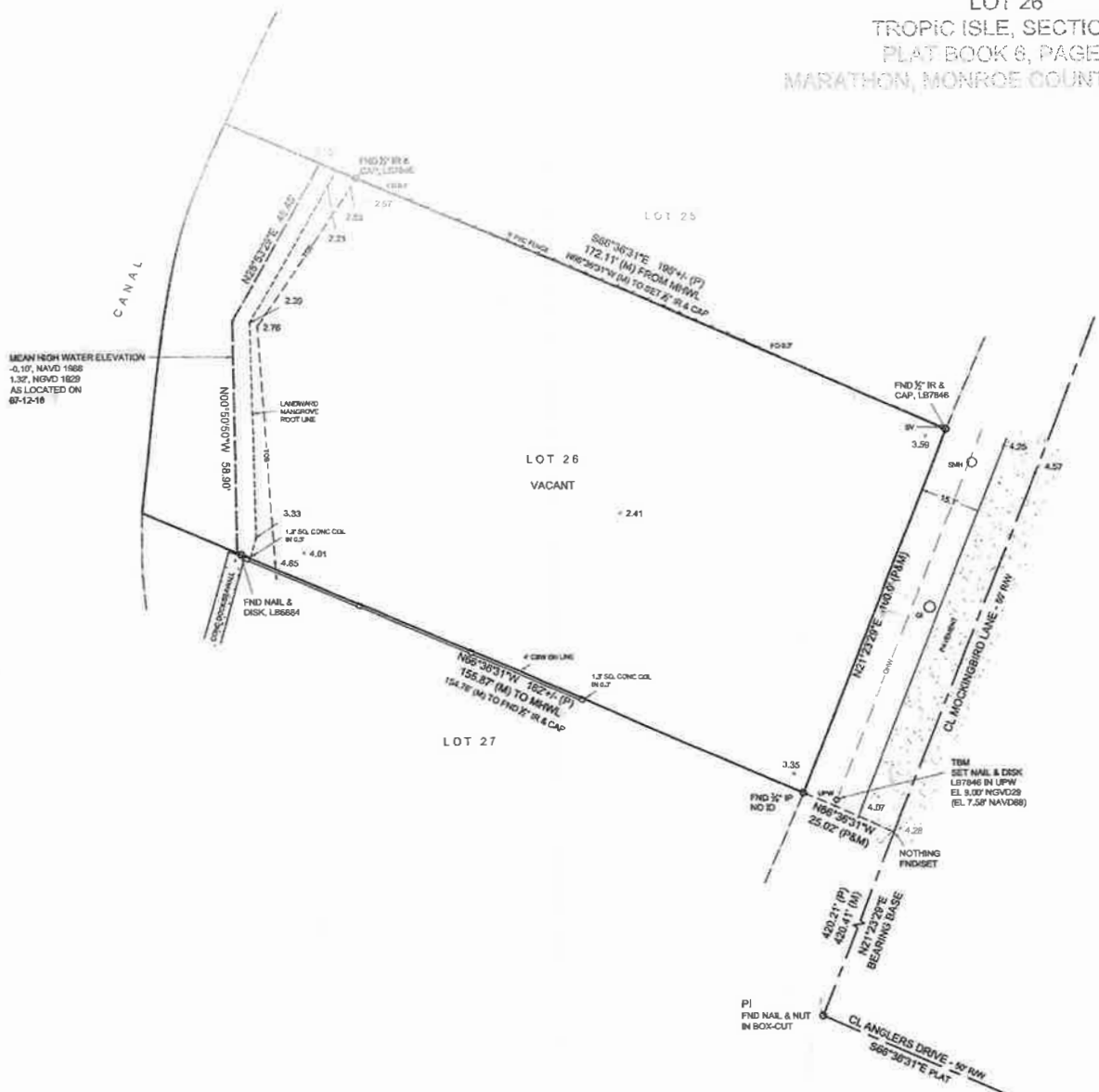
	2020	2019	2018	2017	2016
• Market Improvement Value	\$0	\$0	\$0	\$0	\$0
• Market Sdc Value	\$0	\$0	\$0	\$0	\$0
• Market Land Value	\$475,475	\$385,775	\$372,650	\$322,775	\$222,393
• Just Market Value	\$475,475	\$385,775	\$372,650	\$322,775	\$222,393
• Total Assessed Value	\$296,513	\$269,529	\$245,052	\$222,775	\$121,722
• School Exempt Value	\$0	\$0	\$0	\$0	\$0
• School Taxable Value	\$475,475	\$385,775	\$372,650	\$322,775	\$222,393

Land

Land Use	Number of Units	Unit Type	Frontage	Depth
PERMITTED SECRECASSAL (0000)	19,000.00	Square Foot	0	0

Attachment 4 p. 1 of 1

**MAP OF BOUNDARY AND TIDAL WATER SURVEY
LOT 26
TROPIC ISLE, SECTION A
PLAT BOOK 6, PAGE 73
MARATHON, MONROE COUNTY, FLORIDA**



BEARING BASE:
THE CENTERLINE
OF MOCKINGBIRD LANE
AT N21°23'28"E
AS SHOWN UPON PLAT

ALL ANGLES DEPICTED
ARE 90 DEGREES UNLESS
OTHERWISE INDICATED

ADDRESS:
LOT 26 MOCKINGBIRD LANE
MARATHON, FL 33050

MEAN HIGH WATER SURVEY
FILE NUMBER IS 6189

THIS MEAN HIGH WATER LINE
SURVEY COMPLIES WITH CHAPTER
177, PART II, FLORIDA STATUTES

THE MEAN HIGH WATER ELEVATION
AS SHOWN HEREON WAS ESTABLISHED
BY EXTENDING THE ELEVATION SHOWN
AT MEAN HIGH WATER INTERPOLATION
POINT NO. 3130

BENCHMARK USED: PID A40316
STAMPING: U 273 1066
MARK LOGO: CGS
EL. 5.97', NGVD29
(EL. 4.55', NAVD88)

ELEVATIONS SHOWN AS
X:XX REFER TO NGVD29
VERTICAL DATUM
UNLESS OTHERWISE NOTED

FLOOD ZONES REFER TO NGVD29
AS PER FIRM MAPS

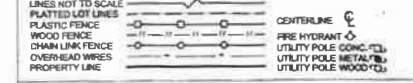
I HAVE CONSULTED THE FEDERAL
EMERGENCY MANAGEMENT AGENCY
FLOOD INSURANCE RATE MAP -
COMMUNITY NO.: 120661
MAP NO.: 12067C-1379K
MAP DATE: 02-18-05
THE HEREON DESCRIBED
PROPERTY APPEARS TO BE IN -
FLOOD ZONE: AE
BASE ELEVATION: 7', NGVD29 DATUM.

CERTIFIED TO:
MIKE ARANDA

LEGAL DESCRIPTION:
Lot 26, TROPIC ISLE, SECTION A, a subdivision according to the Plat
thereof as recorded in Plat Book 6, Page 73, of the Public Records of
Monroe County, Florida.

ABBREVIATIONS:

BFP	BACK-FLOW PREVENTER	LP	LIGHT POLE
BO	BLOW OUT	LS	LANDSCAPE
C	CALCULATED	M	MEASURED
CA	CENTRAL ANGLE	MHWL	MEAN HIGH WATER LINE
CL	CENTERLINE	NAVD	NORTH AMERICAN VERTICAL DATUM 1985
CLF	CHAIN LINK FENCE	NIS	NATIONAL GEODETIC SURVEY DATUM 1983
D	DEED	NOVD	NATIONAL GEODETIC VERTICAL DATUM (1929)
EB	ELECTRIC BOX	P	PLAT
EM	ELECTRIC METER	PEI	PERMANENT IDENTIFIER
F	FIELD	POB	POINT OF BEGINNING
FPE	FRESH FLOOR ELEVATION	POC	POINT OF COMMENCEMENT
PH	FIRE HYDRANT	R	RADIUS
PI	FENCE INSIDE	ROL	ROOF OVERHANG LINE
FO	FENCE OUTSIDE	SCC	SANITARY CLEAN-OUT
FOL	FENCE ON LINE	SMH	SANITARY MANHOLE
G	GUY WIRE	SV	SCHER VALVE
L	ARC LENGTH	WDF	WOOD FENCE
LE	LOWER ENCLOSURE	WM	WATER METER
		WV	WATER VALVE



- GENERAL NOTES:
- 1.) THIS SURVEY WAS PERFORMED FOR THE SOLE AND EXCLUSIVE BENEFIT OF THE PARTIES LISTED HEREIN AND SHALL NOT BE RELIED UPON BY ANY OTHER ENTITY OR INDIVIDUAL, WHOMSOEVER, LIKEWISE, ANY REUSE OF THIS SURVEY FOR ANY PURPOSE OTHER THAN WHICH WAS ORIGINALLY INTENDED, WITHOUT THE WRITTEN PERMISSION OF THE UNDERSIGNED SURVEYOR & MAPPER, WILL BE DONE SO AT THE RISK OF THE REUSING PARTY AND WITHOUT ANY LIABILITY TO THE UNDERSIGNED SURVEYOR & MAPPER.
 - 2.) LEGAL DESCRIPTIONS HAVE BEEN FURNISHED BY THE CLIENT OR HIS/HER REPRESENTATIVE. PUBLIC RECORDS HAVE NOT BEEN RESEARCHED BY THE SURVEYOR TO DETERMINE THE ACCURACY OF THESE DESCRIPTIONS NOR HAVE ADJOINING PROPERTIES BEEN RESEARCHED TO DETERMINE OVERLAPS OR STATUS.
 - 3.) THIS SURVEY DOES NOT PURPORT TO SHOW OWNERSHIP OF WALLS OR FENCES ALONG PROPERTY LINES.
 - 4.) ADDITIONS OR DELETIONS TO THIS SURVEY MAP BY OTHER THAN THE SIGNING PARTY OR PARTIES IS PROHIBITED WITHOUT WRITTEN CONSENT OF THE SIGNING PARTY OR PARTIES.
 - 5.) FOUNDATIONS BENEATH THE SURFACE ARE NOT SHOWN.
 - 6.) MEASURED DIMENSIONS EQUAL PLATTED OR DESCRIBED DIMENSIONS UNLESS INDICATED OTHERWISE.

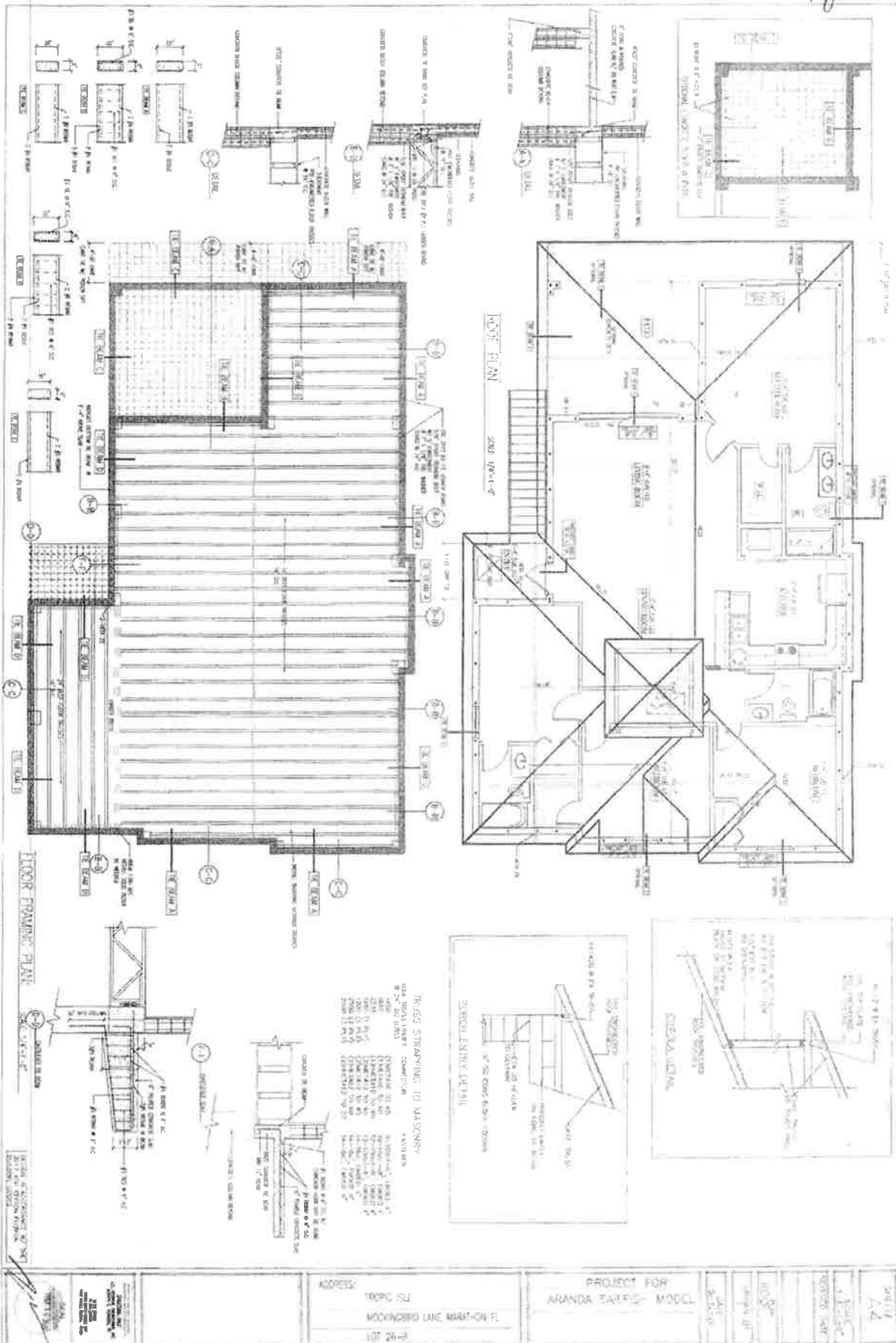
REECE & ASSOCIATES
PROFESSIONAL SURVEYORS AND MAPPERS
LICENSED IN BUSINESS (LS) NO. 7266
127 INDUSTRIAL ROAD, BIG PINE KEY, FL, 33043
OFFICE (305) 872 - 1348
EMAIL: info@reesesurveying.com

I HEREBY CERTIFY THAT THIS SURVEY WAS MADE UNDER MY RESPONSIBLE CHARGE AND MEETS THE STANDARDS OF PRACTICE AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 64-F, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES. THIS SURVEY, WHEN SCHEDULE B HAS BEEN PROVIDED MEETS THE PROVISIONS OF FLORIDA ENDORSEMENT FORM B (SUBPANGRAPH 18) (SETBACKS), (SETBACK ADJUSTMENTS), & (SETBACKMENTS), SCHEDULE "B" HAS NOT BEEN PROVIDED.

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL PAGED SEAL OF A FLORIDA SURVEYOR AND MAPPER

SIGNED: *Robert E. Reece*
ROBERT E. REECE
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA LICENSE NO. LS 5632

SCALE:	1"=20'
FIELD WORK DATE:	05/26/20
REVISION DATE:	J-J
SHEETS:	1 OF 1
DRAWN BY:	GF
CHECKED BY:	RER
WORK NO.:	20050101



<p>ADDRESS: 18000 156 MOONBROOK LANE, MARATHON FL LOT 26</p>	<p>PROJECT FOR ARANDA TALENT MODEL</p>	<p>DATE: 7/7/11</p>	<p>SCALE: 1/8" = 1'-0"</p>	<p>7/7/11</p>
--	--	---------------------	----------------------------	---------------

Attachment 6 pg 1 of 1

Marathon Information System **Building Project Permit**
 City of Marathon
 CITY BOOKS
 8340022 2:01:48 PM

OFFICE COPY

3000 Citrusville Highway, Marathon, FL 33050 Phone: (305) 743-0033 Fax: (305) 743-3557 PROJECT NUMBER
P2529-9528

APPLICANT		PROJECT STATUS HISTORY	
Name: KURT SCHWAB, ROBERT E W AND HARRIET GAYNE	Address: 711 HUMMINGBIRD WAY APT 207 NORTH PALM BEACH FL 33408-5170	6/4/2020	Approved
City/County/Zip Code: NORTH PALM BEACH FL 33408-5170	Phone: (772) 716-0740	6/12/2020	Geotech Rept Recd
Company: JCB Architects Engineering Inc 78 South Ocean FL 33401	Address: 135 Gulfview Ave A3317-0030	6/12/2020	Approved
		6/17/2020	Pricing
		6/19/2020	PRICING COMPLETED
		6/21/2020	Permit Paid For
		6/21/2020	Issued
		6/21/2020	Permitted

Company: Construction Dynamics Inc 2525 US Highway 90 Cape Coral FL 33904	Address: 1222 SE 47th St Suite 330 Egmont (239) 267-4804	Project Location: \$600,000.00 Est. No.: 0
---	--	---

Work Description:
 REDO RELATIONSHIP Plans to replace P-574-1403 with new CBS duplex, metal roof, water and electric to work.
 NOTE: Two CBS, one duplex, 2 SFR side by side, no common wall
 REVISED-0778 TRACKING RECVD OF GEOTECHNICAL REPORT, NEW PLANS AS PER REVIEWER COMMENTS INSERTED INTO PLANS JMW

CLASS	TAXES	USE	YEAR BUILT	REG. STATE NUMBER	NO. UNITS	EXIST. STRE.
				00355417-002900	0	0

Permit # 2529-9528 Building Permit Fee: \$4,000.00

Company: Construction Dynamics Inc 2525 US Highway 90 Cape Coral FL 33904	Address: 1222 SE 47th St Suite 330 Egmont (239) 267-4804	License No.: C2014-0123 Permit Type: Building
---	--	--

Quantity	Rate	Description	Unit Cost	Total Cost
2279		RES COMMON-MODULAR (\$2.00 PER SF)	\$2.00	\$4,412.00
1		RES PLANS REVIEW / REV REVIEW	\$70.00	\$105.00
1		DCA Surcharge Fee	\$47.04	\$47.04
1		OSPR Surcharge Fee	\$70.56	\$70.56
1		CON. EXPENSE	\$4.00	\$4.00
				Total: \$4,668.60

Permit # 2529-9528 Building Permit Fee: \$93.50

Company: Egmont Building Court 3711 Palmview Court Marathon FL 33906	Address: 3711 Palmview Court Egmont (305) 878-3715	License No.: C2010-0052 Permit Type: Building Sewer
--	--	--

Quantity	Rate	Description	Unit Cost	Total Cost
1		SEWER USE TAX \$93.50	\$93.50	\$93.50
				Total: \$93.50

Presented by: Lisa Baez
Brokered by: The New Home Spot, Inc.



\$1,250,000 Est. Payment \$4,240/mo

4 bed 3 bath 1,739 sqft 9,500 sqft lot

123 Mockingbird Ln Unit 1, Marathon, FL 33050

Property Type

Single Family Home

Price per sqft

\$719

Fc

Ask a question

Share this listing

- E. *Division of One (1) Parcel Into Two (2) Parcels.* A legal lot of record may be divided into two (2) separate lots, parcels, tracts or other subdivision of land, without complying with the subdivision requirements of this article, through the simple subdivision review process, provided all of the conditions below are met:
1. The legal lot of record has frontage on and has direct access to an existing publicly maintained street. The access may be provided by a legally established joint driveway access to the public street in lieu of public street frontage for both lots upon approval by the City and City Attorney. The minimum lot area to allow subdivision, the minimum resulting lot area and street-front lot width for all Land Use Districts are as follows:

Table 102.46.1

Minimum/Maximum Subdivided Lot Area and Front Lot Width

Land Use District	Minimum Existing Lot Area (Sq. Ft.)	Minimum Subdivided Lot Area (Sq. Ft.)	Minimum Subdivided Lot Area (Sq. Ft.)	Street-Front Lot Width (Ft.)
A	NA	NA	NA	NA
C-NA	12 Acres	4 Acres	348,479	NA
C-I	30 Acres	10 Acres	871,199	NA
I-G	26,136	8,712	17,423	NA
I-M	26,136	8,712	17,423	NA
MU	21,780	7,260	14,519	NA
MU-M	21,780	7,260	14,519	NA
P	13,068	4,356	8,711	NA
PR	12 Acres	4 Acres	348,479	NA
RH	16,335	5,445	10,879	75
RL	6 Acres	2 Acres	87,119	NA
RL-C	12 Acres	4 Acres	348,479	NA
R-MH	16,335	5,445	10,879	NA

RM	26,136	8,712	17,423	100
RM-1	32,670	10,890	21,779	100
RM-2	26,136	8,712	17,423	100

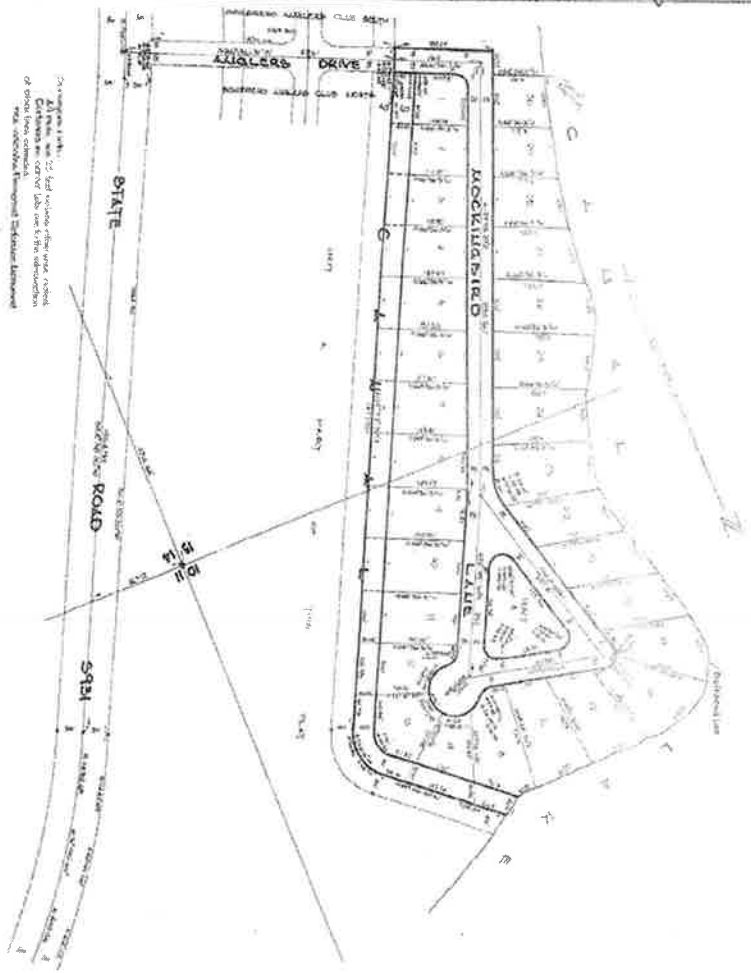
2. The resultant two (2) lots shall:
 - a. Meet the minimum requirements of the City Comprehensive Plan and the LDRs.
 - b. Each be memorialized with a survey showing at a minimum, the parent parcel and the resultant individual parcel each survey of which shall be recorded in the public record.
 - c. Each be memorialized with a document recorded in the public record, which shall include the following disclosure statement:

"The parcel of land described in this instrument is located in the City of Marathon. The use of the parcel of land is subject to and restricted by the goals, policies and objectives of the Plan and land development regulations adopted as a part of, and in conjunction with and as a means of implementing the Plan. The Land Development Regulations provide that no building permit shall be issued for any development of any kind unless the proposed development complies with each and every requirement of the regulations, including minimum area requirements for residential development. You are hereby notified that under the City Land Development Regulations, the division of land into parcels of land which are not approved as platted lots under these regulations confer no right to develop a parcel of land for any purpose. You are further notified that the platting of land confers no rights to a building permit allocation under the Building Permit Allocations System (BPAS). The platting of land is not recognition of the right to a BPAS allocation which is predicated on availability and the Florida Keys hurricane evacuation model clearance time"
3. Any further division of a legal lot of record shall be deemed a subdivision and shall comply with this article and these regulations.
4. Reconfigured lots must be unified through a Unity of Title or a declaration of restrictions and covenants in a form approved by the City Attorney.

TROPIC ISLE SECTION A

Development of a portion of the Panguitch Highways' (road-rich) area in Tropic, Utah - a community development project

CELESTINE & ASSOCIATES
 1000 S. UNIVERSITY AVENUE
 SALT LAKE CITY, UTAH 84143



As shown on the site plan, the proposed development is located on the east side of the State Road, south of the intersection with Mockingbird Drive. The site is bounded by State Road to the west, Mockingbird Drive to the north, and the existing development to the east and south.

I, CELESTINE & ASSOCIATES, hereby certify that the attached plat and map were prepared by me or under my direct supervision and that I am a duly licensed professional engineer in the State of Utah. My commission expires on 12/31/2012.

CELESTINE & ASSOCIATES
 Professional Engineer
 State of Utah



STATE OF UTAH
 DEPARTMENT OF HERITAGE AND ARTS
 DIVISION OF CULTURAL RESOURCES
 160 EAST 200 SOUTH, SALT LAKE CITY, UTAH 84111
 TEL: 325-7300 FAX: 325-7301
 WWW.CULTURALRESOURCES.STATE.UT.US

APPROVED FOR THE STATE OF UTAH
 DEPARTMENT OF HERITAGE AND ARTS
 DIVISION OF CULTURAL RESOURCES
 160 EAST 200 SOUTH, SALT LAKE CITY, UTAH 84111
 TEL: 325-7300 FAX: 325-7301
 WWW.CULTURALRESOURCES.STATE.UT.US

APPROVED FOR THE STATE OF UTAH
 DEPARTMENT OF HERITAGE AND ARTS
 DIVISION OF CULTURAL RESOURCES
 160 EAST 200 SOUTH, SALT LAKE CITY, UTAH 84111
 TEL: 325-7300 FAX: 325-7301
 WWW.CULTURALRESOURCES.STATE.UT.US

APPROVED FOR THE STATE OF UTAH
 DEPARTMENT OF HERITAGE AND ARTS
 DIVISION OF CULTURAL RESOURCES
 160 EAST 200 SOUTH, SALT LAKE CITY, UTAH 84111
 TEL: 325-7300 FAX: 325-7301
 WWW.CULTURALRESOURCES.STATE.UT.US

Book Page 73
 201172 73

Attachment 10 pg 1 of 1



CITY OF
MARATHON, FLORIDA
Building Department

Permit No 2020-06387 Real Estate No 00355417-002600
0637 Prepared By: Name MICHAEL A. ANGLA
STATE OF FLORIDA, Address 441 Sombredo Beach Rd.
COUNTY OF MONROE.

Notice of Commencement

THE UNDERSIGNED hereby gives notice that improvement will be made to certain real property, and in accordance with Chapter 713, Florida Statutes, the following information is provided in this Notice of commencement.

- Description of property: (legal description of property, and street address if available)
123-2 Mockingbird Ln
- General description of improvements: new construction
- Owner Name: SEASONS 16, LLC
Address: 1222 SE 47th St., Cape Coral, FL 33904
Interest in property: 100%
Name and address of fee simple titleholder (if other than owner): _____
- Contractor Name: Construction Dynamic's Phone: 561-722-6590
Address: 1222 SE 47th St, Cape Coral, FL 33904
- Surety Name: _____ Phone: _____
Address: _____
Amount of bond \$: _____
- Lender's Name: alt Phone: _____
Address: _____
- Persons within the State of Florida designated by Owner upon whom notices or other documents may be served as provided by Section 713.13(1)(a)7., Florida Statutes:
Name: _____ Phone: _____
Address: _____
- In addition to himself, Owner designates the following person(s) to receive a copy of the Lienor's Notice as provided in Section 713.13(1)(b), Florida Statutes:
Name: _____ Phone: _____
Address: _____
- Expiration date of notice of commencement (the expiration date is 1 year from the date of recording unless a different date is specified).

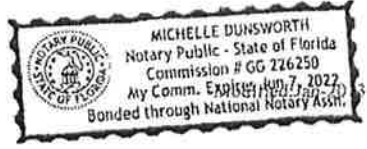
WARNING TO OWNER: ANY PAYMENTS MADE BY THE OWNER AFTER THE EXPIRATION OF THE NOTICE OF COMMENCEMENT ARE CONSIDERED IMPROPER PAYMENTS UNDER CHAPTER 713, PART 1, SECTION 713.13, FLORIDA STATUTES, AND CAN RESULT IN YOUR PAYING TWICE FOR IMPROVEMENTS TO YOUR PROPERTY. A NOTICE OF COMMENCEMENT MUST BE RECORDED AND POSTED ON THE JOB SITE BEFORE THE FIRST INSPECTION. IF YOU INTEND TO OBTAIN FINANCING, CONSULT WITH YOUR LENDER OR AN ATTORNEY BEFORE COMMENCING WORK OR RECORDING YOUR NOTICE OF COMMENCEMENT.

Signature of Owner or Owner's Authorized Agent [Signature] Printed Name of Owner or Owner's Authorized Agent MICHAEL A. ANGLA Date 8/20/20

Sworn to and subscribed before me on this 20th day of Aug, 2020

Personally Known _____ Produced Identification FLDL
Signature of Notary Public - State of Florida [Signature] My Commission Expires 6-7-22

Filename: Notice of Commencement



Attachment 11
page 1 of 2

Prepared by and return to:

Wolfe Stevens PLLC
6807 Overseas Highway
Marathon, FL 33060
305-743-9888
File Number: 20-158
Will Call No.:

Parcel Identification No. 00355417-002600

~~375,000.00~~ / ~~262.00~~

[Space Above This Line For Recording Data]

Warranty Deed
(STATUTORY FORM - SECTION 689.02, F.S.)

This Indenture made this 25th day of June, 2020 between Albert E. Kretschmer, III and Harriet Gates Kretschmer, husband and wife whose post office address is 60 Hernandez Ave, Palm Coast, FL 32137 of the County of Flagler, State of Florida, grantor, and Seasons 16 LLC, a Delaware limited liability company whose post office address is 1222 SE 4TH Street, Suite 110, Cape Coral FL 33904 of the County of , State of , grantee,

Witnesseth that said grantor, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable considerations to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, has granted, bargained, and sold to the said grantee, and grantee's heirs and assigns forever, the following described land, situate, lying and being in Monroe County, Florida, to-wit:

Lot 25, TROPIC ISLE, according to the Plat thereof, recorded in Plat Book 6, Page 73, of the Public Records of Monroe County, Florida.

and said grantor does hereby fully warrant the title to said land, and will defend the same against lawful claims of all persons whomsoever.

* "Grantor" and "Grantee" are used for singular or plural, as context requires.

In Witness Whereof, grantor has hereunto set grantor's hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

[Signature]
Witness Name: Cartena Record

[Signature] (Seal)
Albert E. Kretschmer, III

[Signature]
Witness Name: Maria Cecilia

[Signature] (Seal)
Harriet Gates Kretschmer

State of Florida
County of Flagler

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 24 day of June, 2020 by Albert E. Kretschmer, III and Harriet Gates Kretschmer, who are personally known or have produced a driver's license as identification.

[Notary Seal]



[Signature]
Notary Public
Printed Name: Maria Cecilia
My Commission Expires: 12/22/2023



CITY OF MARATHON, FLORIDA
Planning Department

**OWNER'S AUTHORIZATION
FOR AGENT REPRESENTATION**

I/We Albert Kretschmer III & Harriet Kretschmer

(print name of property owner(s))

Hereby authorize Mike Aranda - Seasons16 LLC

(print name of agent)

to represent me/us in processing an application for: General Planning 26 Mockingbird Ln.

(type of application)

on our behalf. In authorizing the agent to represent me/us, I/we, as owner/owners, attest that the application is made in good faith and that any information contained in the application is accurate and complete.

Albert Kretschmer III
doLoop ver: 604
05/27/20 10:10 AM EDT
UNCL 1K12 MGE1-GQ02

(Signature of owner)

Harriet Kretschmer
doLoop ver: 604
05/27/20 10:10 AM EDT
UNCL 1K12 MGE1-GQ02

(Signature of owner)

Albert Kretschmer

(Print name of owner)

Harriet Kretschmer

(Print name of owner)

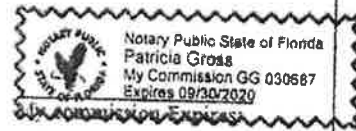
NOTARY STATE OF FLORIDA,
COUNTY OF MONROE

The foregoing instrument was acknowledged before me on this 29 day of May, 2020, by

Albert & Harriet Kretschmer who is personally known or who produced

_____ for identification.

Patricia Gross
Signature of Notary Public - State of Florida



CITY OF MARATHON PLANNING DEPARTMENT

Phone (305) 743-0033 | www.ci.marathon.fl.us/government/planning/

ATTACHMENT 3
Seasons 16 LLC Response to Appeal

**Planning Commission
City of Marathon, Florida**

RESPONSE TO APPEAL

Appeal No.: DP2020-0123

Appellant: Jim Stelzer
116 Mockingbird Lane Marathon, FL 33050

Permit Appealed: P2020-0637, Issued: August 27, 2020

Subject Property Lot 26 Tropic Isle Section A PB6-73
123 Mockingbird Lane

On behalf of Season 16, LLC, please accept the following response to the appeal of its Building Permit No. P2020-0637, filed by Jim Seltzer.

I. FACTS

Seasons 16, LLC (“Owner”), is the owner of the Subject Property previously described as evidenced by the Warranty Deed. (Appeal, Attachment 11) Owner through its duly authorized agent seeks to develop the Subject Property for residential use. The necessary permits were sought from the City of Marathon (“City”) by Owner acting as the Authorized Agent for the previous owners Albert Kretschmer III & Harriet Kretschmer. (Appeal, Attachment 12) The City granted two permits regarding the development of the Subject Property – P2020-0637 and P2020-0528. The Appellant specifically appealed P2020-0637 (“Permit”) but did not challenge P2020-0528. The Subject Property carries a Zoning and Land Use designation of Residential Medium (RM). The City granted permit P2020-0637 because Owner meets all relevant criteria found in the City of Marathon Land Development Regulations (hereinafter “LDRs”).

II. ANALYSIS**A. Applicable Law**

Owner has demonstrated compliance with all applicable City codes and ordinances and is entitled to its Permit. It is well established law that once an applicant has demonstrated compliance with all applicable codes and ordinances, the burden of proof shifts to the government to establish by competent and substantial evidence why the permits should not be issued. *Bd. of County Com'rs of Brevard County v. Snyder*, 627 So. 2d 469, 476 (Fla. 1993)

In this case, City staff carefully reviewed the Permit application based on all applicable LDR criteria and, after determining that the application was fully compliant, issued the Permit. Staff’s interpretation of the LDRs is entitled to deference and should be honored unless clearly incorrect. *Broward Cty. V G.B.V. Int’l Ltd.*, 787 So.2d 838 (Fla. 2001).

For these reasons, this Planning Commission may not rescind the subject Permit unless the Appellant provides competent substantial evidence as to why the Permit does not meet the requirements of applicable law. The subject Appeal utterly fails to establish any facts indicating that the Permit does not comply with applicable law and, therefore, the appeal must be denied.

B. The Owner is Entitled to the Permit as a Matter of Law

As analyzed in detail below, Appellant provided no evidence demonstrating that the subject Permit was issued in violation of any City LDR or Ordinance. Therefore, the Planning Commission must uphold the Permit as issued.

Appellant Argument 1. *The buildable square footage of the lot is not large enough to allow for two single family homes in an RM neighborhood and the definition of submerged lands is being applied incorrectly on the permit as described below.*

Calculation of Buildable Square Footage

	<i>Square Feet</i>
<i>Property Appraiser Site Square Footage*</i>	<i>19,000</i>
<i>Less submerged lands that do not have a density calculation**</i>	<i>1,933</i>
<i>Independent Licensed Surveyor Calculation above mean high water level***</i>	<i>17,067</i>
<i>Square Footage Required Per City Ordinance Table 103.15.2 (Attachment 2)</i>	
<i>Land Density required per dwelling per City Ordinance</i>	<i>8,712</i>
<i>Two dwellings require</i>	<i>17,424</i>

Footnotes:

**qPublic.net Monroe county, FL (Attachment 3)*

***Footnotes to Table 103.15.2 (Attachment 2 pg. 3)*

*** Reese Surveyors Property Survey (Attachment 4)*

Builder is short at least 357 square feet to build two dwellings (17,424 less 17, 067).

Land below the mean high water line was not being subtracted from the 19,000 sq. ft. to calculate the actual buildable square footage of the lot. The independent survey (Attachment 4) clearly shows the mean high water line and the footnotes to Table 103.15.2 (Attachment 2 pg. 3) clearly state that "allocated densities for all zoning districts are subject to the following additional requirements:"

- Salt marsh/buttonwood association wetlands that are either undisturbed or of high functional capacity as defined in Article 4, of Chapter 106 shall be assigned a density of 0.25 units per acre for the sole purpose of transferring the density out of these habitats.*

- *Submerged lands, salt ponds and mangrove wetlands shall not be assigned density for any purpose (i.e., allocated density = 0).*

The definition of submerged land per Chapter 110 Article 3 Defined Terms is as follows:

Submerged Land: Land below the mean high tide line and/or the mean high water line of an upland water body.

As seen by the calculations and definitions in the Marathon City Ordinances, the planning department has not calculated the density properly and this project does not meet minimum requirements. Therefore the property owners of Mockingbird Lane are requesting the permit to be rescinded.

1. Response to Appellants Argument No. 1.

The Appellant attempts to conflate an issue related to the calculation of density pursuant to the City's Comprehensive Plan with the City's LDR requirements for splitting lots. The Appellant incorrectly asserts that the City cannot include that portion of the Subject Property lying below the mean high tide line when evaluating whether or not the property meets LDR provisions regarding lot size. This is incorrect, as reiterated by City Staff in its response to Appellant, which is entitled to deference as explained above.

As evidenced by the Owner's survey, which was attached as Attachment 4 to Appellant's Appeal, Owner's parcel clearly meets the requirements of applicable sections of the City's LDRs for a lot split. Section 102.46 requires that a parcel be at least 17,423 sq.ft. to allow for a lot split. In his appeal, Appellant concedes that the square footage of the property is 19,000 sq.ft.

Owner's parcel is also compliant with Section 102.46 of the City's LDRs, which requires that the resulting parcels from a lot split be at least 8,712 sq.ft. to accommodate construction of a residential structure. By virtue of his admission to the overall square footage of the lot, Appellant is also conceding that the resulting lots are code compliant.

The import of property lying below the mean high tide line relates solely to the calculation of appropriate density on a given piece of property. The Appellant contends that the areas below the mean high tide line should not be utilized when calculating density. City Staff considered this issue during their review and determined that the Property carries adequate density for the construction authorized by the Permit.

Nonetheless, even assuming Appellant's argument is correct as to density, in order to moot this argument entirely, the Owner has requested a transfer of density to the Property pursuant to LDR, Chapter 107. Thus, Appellant's arguments are rendered moot upon the transfer of density, pursuant to the LDR.

In summary, Appellant has conceded that the Subject Property conforms to the requirements of the City's LDRs for a lot split. Further, Appellant's claim regarding the calculation of density contradicts City Staff's interpretation, which must be given deference. Nonetheless, even assuming Appellant is correct in his calculation of density for the property (which he is not), the issue is moot as a result of the pending transfer of density request. Thus, Appellant has failed to provide competent and substantial evidence demonstrating that the Permit does not conform to applicable law and the Permit must be upheld.

Appellant Argument 2. Encroachment issues

a. Plan inconsistency — Questionable if the lot is wide enough

The width of the lot is 100 ft wide. Since the builder is trying to build two houses on the one lot, the widest each house can be is 40 ft. wide with five foot setbacks from each of the side rooflines. (4 setbacks x 5 ft. each = 20 ft.) Because the builder is using every inch of width possible on this lot, the plans need to be accurate and the homes built exactly to the inch so that there are no encroachment issues.

The plan package measurements do not agree and depending on which page you look at, the plans show houses that may or may not fit on this lot. For example, the single site plan (Attachment 5 pg. 1) shows a 40 ft house with no roof overhang on the bump out. The site plan with two houses (Attachment 5 pg. 2) shows a 41.3 ft. house (scales on page don't match) with an overhang on the bump out. The roof plan shows a house that is 41 ft. wide (Attachment 5 pg. 3).

Since two houses are being built on a single lot, you would assume that the lot would be laid out according to the site plan which displays two houses (41.3 ft. per house). If that is the case, the houses do not fit on the lot.

In addition, the site plan with two houses (Attachment 5 pg. 2) only shows a setback of 10 ft between the two houses from wall to wall instead of roofline to roofline.

Ordinance Chapter 107, Section 107.35 states:

"Measurement: In measuring a setback, the horizontal distance between the lot line and the further most project of the principal building shall be used."

The property owners of Mockingbird Lane are requesting that The City only accept accurate plans especially when buildings are being built exactly to the setback. Because this issue has been brought up to the Planning Director and City Planner in meetings by the owners of Mockingbird Lane, we feel a setback variances will not be acceptable once the homes are built. We are requesting that the permit be rescinded until proper and consistent plans are submitted for structures that fit on the lot.

b. Swales —

The site plan drawings for unit 2 shows swale A (which is 5' wide and 1 ft deep) starting at the roof line and butting up against the adjacent properties fence. (See Attachment 5 page 1)

Fill was brought in and raised the property elevation higher than the adjacent property. The current swale drawing does not fit in the area designated because the swale drawing shows a 5 ft swale 1 ft deep surrounded by permeable soil. In this case, the line trench fabric will be against the neighbor's fence which is plastic and not permeable soil. The water will runoff onto the adjacent property and undercut the neighbor's fence over time.

The crest of the swale needs to be at a minimum the same elevation as the adjacent property.

The property owners of Mockingbird Lane are requesting that the permit be rescinded until proper plans are submitted where the swale drawings properly reflect what needs to be done for the actual elevation of the property.

2. Response to Appellants Argument No. 2.

Preliminarily, it must be noted that, by its terms, the Permit requires conformance with all LDR requirements. (Appeal, Attachment 1, p.2, Permit Condition 1.) The Owner is required to situate the structures to meet the relevant setbacks as clearly required by Permit Condition 1. Appellant's argument is based on his own misreading of the permit and submitted drawings. The permit cannot be overturned on the grounds of an alleged future violation that has not been substantiated. To the contrary, the site plan submitted by the Owner meets all applicable setbacks requirements and the Owner is not requesting any variances to these LDR requirements to construct the residential structure. Thus, Appellants have failed to provide competent substantial evidence to support overturning the Permit.

The Appellant makes additional claims regarding the swale described by the site plan. Again, on its face, the Permit requires compliance with all applicable Code provisions and it cannot be overturned based on unsubstantiated claims that the permit will be violated in the future. Even so, the Appellant offers no evidence to support his prediction that the swale will cause damage to the adjacent property in the future. To the contrary, evidence in the record demonstrates that these allegations are unfounded. Permit Condition 7 clearly requires that: "All storm water must be retained on site." (Appeal, Attachment 1, p.2, Permit Condition 7.) The site plan appropriately accounts for the storm water requirements of the LDR and ensures that the development will occur in a manner to avoid the type of harm feared by the Appellant. The Appellant has failed to offer proof that the specific requirements of the LDR have not been met and therefore the Permit cannot be overturned on these grounds.

Appellant Argument 3. Intent to Subdivide

A simple subdivision is defined in the City Ordinances Chapter 110 Article 3 as follows.

Simple Subdivision: The subdivision of a parcel with a duplex structure into two (2) separate parcels or alternatively, the subdivision of a vacant parcel into two (2) legal parcels each of which meets all of the requirements of the City's Comprehensive Plan and Land Development Regulations.

The developer clearly plans to subdivide this lot as can be seen by:

- *The site plans which indicate a Lot A and Lot B. Lot A indicates 52' of street frontage. Lot B indicates 48' of street frontage and there are two separate driveways. (See Attachment 5 pg. 2)*
- *Two permits have been issued (See Attachment 1 and Attachment 6)*
- *Lots are being advertised individually and this has been brought to the city's attention. (See Attachment 7)*

This is important due to City Code requirements:

- *The existing lot must be 26,136 square feet to subdivide into two lots per city ordinance Chapter 102 Article 10 Table 102.46.1 Simple Subdivision. The 123 Mockingbird Lane lot is much smaller than the required 26,136 sq. feet. (See Attachment 8 pg. 2)*

- *Zoning requirements require 100' of street frontage per lot. (See Attachment 8 Page 2)*
- *The site plans show an obvious setback encroachment between the two units if the subdivision occurs.
(See Plan Inconsistency 2a above).*
- *This is no longer a vacant parcel per the definition of a Simple Subdivision (See definition above).*

The property owners on Mockingbird Lane request that the Planning Commission not allow this lot to be subdivided if it is requested in the future and to keep to the required 100 ft. of street frontage.

3. Response to Appellants Argument No. 3.

Although the Appellants complaint regarding this issue is entirely premature and not ripe for consideration as part of the Planning Commission’s review of the subject Permit, we are addressing it here because it is entirely without merit.

The Appellant correctly assumes that the Owner seeks to subdivide the Subject Property pursuant to LDR, Section 102.46. In recognition of the fact that LDR Table 102.46.1 can be misinterpreted, George Garrett, Planning Director issued Administrative Interpretation 20-03 to clarify the application of the table based on its plain terms. As discussed above, this interpretation must be given deference. (*Broward, 787 So.2d 838 (Fla. 2001)*). Administrative Interpretation 20-03 inserts logic into Table 102.46.1 to avoid an absurd result. The Appellant attempts to apply an unreasonable interpretation to the LDR, contending that the minimum size of a “parent” lot must be at least large enough to accommodate three individual lots, after a lot split. Administrative Interpretation 20-03 clarifies that the “parent” lot must be 17,423 sq.ft. and accommodates the resultant minimum lot size of 8,712 sq.ft. This clarification by the Planning Director is certainly within the duties imposed by the City pursuant to LDR 102.138. By its terms, Administrative Interpretation 20-03 will apply until the table is modified.

The Appellant also prematurely and incorrectly argues that the subject lot will not conform to LDR provisions regarding street frontage requirements. As part of the permitting process, pursuant to LDR Section 102.46 E.1, in lieu of providing the stated amount of street frontage for each resulting lot, the Owner has requested approval of a joint driveway access agreement. The approval of this request is ministerial in nature and the Owner is entitled to issuance because all code requirements are clearly met.

In summary, this argument is not ripe and is therefore not relevant to the appeal of the Permit at issue. Nonetheless, the Appellant’s argument fails as to the requested lots split because he has offered no evidence demonstrating that the request does not meeting applicable LDR requirements. The Appeal must fail on this point.

Appellant Argument 4. The planned build does not fit the look and feel of the Tropic Isle Subdivision.

- *No lots have been subdivided since the original subdivision of Tropic Isle in 1970
(See Attachment 9).*
- *All lots have 100 ft of street frontage unless they are one of the pie shaped lots in the circle.*

- *All lots have been developed using the same look and feel except for the last 3 vacant lots which have been purchased or are under contract by Seasons 16.*

The neighborhood is trying to keep the feel of large lots with larger than required setbacks. Until this permit, the look and feel has been maintained by everyone in the neighborhood except Seasons 16.

Chapter 100 Article 1 Section 100.02. - Purpose and intent states that "the City has developed these land development regulations to implement the Comprehensive Plan and to protect the character, environment and viability through:

A: Protection of the small town family feel of the community;

M. Ensuring new and redevelopment compliments and enhances community character;

N: Implementation of thoughtful controlled growth."

The Mockingbird Lane neighborhood requests that the Planning Commission allows us to maintain our small town family feel by not allowing the last builder in our subdivision to change the look and feel that we have maintained up until this point. We request that two residences not be allowed on this single family lot or allow the lot to be subdivided.

4. Response to Appellants Argument No. 4.

The Appellant's argument amounts to a challenge to the City's own LDRs establishing setbacks in a baseless effort to require setbacks larger than currently required. The LDRs compliance with the City's Comprehensive Plan cannot be challenged through an appeal of this Permit.

Issuance of the Permit by the City was done pursuant to the criteria clearly outlined in the City's LDRs. The LDR provision cited by the Appellant, Section 100.02, states that the LDRs meets the intent and requirements of the City's Comprehensive Plan. As previously outlined, the Owner *has met* the relevant requirements of the LDR and therefore, satisfies the Comprehensive Plan. Approval must be granted by the City when the Owner demonstrates compliance with the applicable code provisions. (*Snyder. See also Premier Developers III Assocs. v. City of Fort Lauderdale, 920 So. 2d 852, (Fla. 4th D.C.A. 2006)*).

In summary, the appeal of this Permit is not the proper forum for challenging the compliance of a City LDR provision with the City's Comprehensive Plan. Thus, because Appellants provide no evidence demonstrating that the Permit violates any LDR provisions with regard to setback requirements, this argument fails and the Permit cannot be overturned on these grounds.

Appellant Argument 5. Work was done before the permit was issued.

Chapter 102 Article 14 Section 102.18 states the following:

B. Improvements without a Building Permit: When a building permit is required, site work, site clearing, grading, improvement of property or construction of any type shall not be commenced prior to the issuance of the permit.

a. Removal of Buttonwood comment was added on 8/19 to the permit. The permit was issued

two weeks after the buttonwood was removed. (See Attachment 1)
b. Letter of commencement was filed 7 days before the permit was issued. (See Attachment 1 and Attachment 10)

The property owners on Mockingbird Lane request that all construction conform to the permits. Work beginning before a permit is issued sets a precedent that builders can begin work when they want as opposed to beginning work once it is permitted. Code Compliance needs to review commencement documentation and permits (current and previous) to correctly enforce regulations.

5. Response to Appellants Argument No. 5.

The Appellant's argument incorrectly assumes that work on the Subject Property was done pursuant to the Permit. However, as noted in a memorandum issued by the Planning Director, limited work was completed on the Subject Property pursuant to a different permit issued to the previous owners. (See attached, Garrett Memo.) The Appellant's argument is therefore without merit and must fail.

Appellant Argument 6. Permit not valid do to inaccuracies in paperwork

Permit P2020-0637 was not issued to Seasons 16 who acquired the property on 6/25/20 per the Deed Warranty. (See Attachment 11). They were issued to the previous owners Albert E Kretschmer II and Harriet Gates Kretschmer. The previous owners gave authorization to Seasons 16 to do General Planning for the lot while it was still under their name but did not authorize them to apply for and have a permit issued in their name. (See Attachments 1, 11, 12)

The property owners on Mockingbird Lane are asking the City Planning Department to make sure that Building Applications are being submitted for the correct authorized work and that permits are issued in the correct name. As of 9/23, the permit was still not issued in the correct name and therefore was not valid.

Response to Appellants Argument No. 6.

As previously discussed, the application materials supporting the Permit accurately and clearly illustrate that the relevant LDR provisions are met. The hearing before the Planning Commission is a de novo review. The evidence presented at the hearing, including the staff report, clearly demonstrates that all relevant LDR requirements are met and the permit was correctly issued. Appellants have offered no evidence, let alone competent substantial evidence, that the Permit violates any provision of City Code. Therefore, the Appeal must fail and the Permit must be upheld.

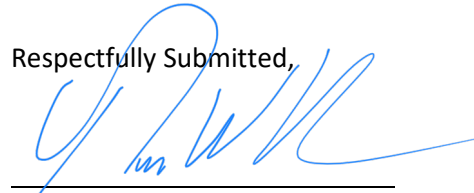
III. CONCLUSION

The Owner submitted information to the City that demonstrated the application's compliance with all applicable requirements of the LDRs. City Staff reviewed the application materials and issued the Permit based on a finding that the application complied with all applicable LDR provisions. Florida law requires that the interpretation of the LDRs by City staff be given deference.

In this Appeal, the Appellant bears the burden to produce competent substantial evidence demonstrating that the Permit was issued in contravention of the City's laws. The Appellant's flawed allegations fail to meet the required burden of proof. The Appellant has indicated that he does not intend to introduce expert testimony during the hearing. (Appeal, p.2.) Therefore the Appeal must fail and the Permit must be upheld as a matter of law.

It should also be noted that the Appellant purports to represent his entire neighborhood. However, the Appellant did not provide any evidence that authorizes him to speak on behalf of anyone else. Therefore, he is not a duly authorized agent of the residents of Mockingbird Lane and he may not speak on their behalf.

Respectfully Submitted,



Tara W. Duhy, Esq.
Executive Shareholder
Lewis, Longman & Walker, P.A.

PLANNING DEPARTMENT



Date: September 4, 2020
To: For the File
From: George Garrett, Planning Director
Subject: Residential Permits P2020-0528 & P2020-0637

BACKGROUND:

Albert Kretschmer and Harriet Gates applied for the approval of a single family residence through BPAS on June 13, 2017. The property in question is located on Mockingbird Lane (RE No. 00355417.002600 / Lot 26, Tropical Isle, Section A) in Marathon and has a Zoning Designation of Residential Medium (RM). The permit was issued to the applicants on August 3, 2018. Minimal work was completed between issuance and the purchase of the property by Seasons 16, LLC.

00355417-002600 – Season 16 LLC
Location



Season 16 LLC assumed the Kretschmer permit and applied for a second permit with the transfer of a Transferable Building Right (TBR) to the property. The premise for request is that the RM zoning classification allows five (5) residential units per acre. See Table 103.15.2 of the City's Land Development Regulations.

The neighborhood is not happy with the fact that the City issued both permits, thus allowing two residences on the property in question.

CONSIDERATION:

At 5 residential units per acre, the minimum property area for one residential unit is 8,712 square feet (43,560 sq. ft./acre / 5 unit/acre = 8,712 sq. ft. per unit). The property in question is 19,058 square feet in area. At 19,058 square feet, the property would allow 2.19 (2) residences (19,058 sq. ft. / 8,712 sq. ft./Unit). The number of residential units allowed rounds down to the nearest integer.

Other considerations

- Density does not accrue to mangrove forests, water, or submerged land
 - There does not appear to be any submerged land or water as part of the platted property
 - There does appear to wetlands along the shoreline below Mean High Water (MHW)
- The residences built must meet all other aspects of the City's Comprehensive Plan and Land Development Regulations

The neighbors have sought to review and have been provided the approved plans. In particular, City staff has heard that the surveyed property area is less than the required area of 17,424 for two residential units. Staff has also heard that the residential setbacks were not properly applied or approved. A concern has also been raised that Season 16 plans to subdivide the property and will not be able to meet the minimum 100 foot front lot line width.

ANALYSIS:

The City issued the two permits in question based on the survey provided by Seasons 16 LLC which closely comports with the records of the Monroe County Property Appraiser. Again, the area of lot 26 is approximately 19,058 square feet. Apparently, none of the property is characterized as submerged land or water, although some portion IS below MHW. See Boundary Survey attached as Attachment 1.

The neighbors acquired and reviewed a copy of a MHW survey of the same property. There is an approximately 2,000 square foot difference between the two. This may account for the discrepancy between the City review of the project and the issuance of two permits and the neighbors view that the property is too small for two residential units. See Attachment 2.

CONCLUSION:

The City believes that it properly issued both permits in question (P2020-0528 & P2020-0637). The property in question exceeds the minimum lot area of 17,424 square feet required under the City's LDRs.

The City has reviewed the plan set for each of the permits issued and has confirmed that the identical residences meet front, side, and rear set backs as well as the minimum distance between buildings (as measure from the eaves).

Additional Considerations

If it were true that the property in question were under the minimum lot size for two residences, then it would be possible to transfer residential density to the property to make up for any difficiency. There is a limit to how much density could be transferred pursuant to the following policies found within the Comprehensive Plan:

Policy 1-3.2.4 Density Increase Provisions

Special provisions and criteria have been ~~shall be~~ established in the Land Development Regulations to provide incentives to increase the supply of affordable housing by allowing for high density for affordable units. This high density shall only be available for Residential Medium, Residential High and Mixed Use Commercial categories. The transfer of development rights (TDR's) is not required for affordable units under these provisions. Assigned density under these provisions cannot exceed a maximum of 25 units per acre, as provided for in Table 1-1 and this density can only be applied to the following environmental habitats:

- Disturbed with Hammock
- Disturbed
- Disturbed with exotics
- Scarified

Property owners may seek a FLUM change to a FLUM category which would allow a greater residential density. However, there shall be no presumption in any request that the request must be or will be granted by the City. If the FLUM change is granted, then the difference in residential density between the two FLUM categories shall be achieved through a transfer of TDRs which shall not exceed the density allowed in Table 1-1 for the new FLUM category. The Transfer of Development Rights shall be accomplished in accordance with the provision of Policy 1-3.5.16.

Policy 1-3.5.16 Program for Transfer of Density and Building Rights (TDR's and TBR's)

- a. The transfer of density and building rights within the City's boundaries shall attempt to achieve the following:
1. Protect environmental resources in balance with the protection of property rights;
 2. Encourage the replacement of substandard structures, non-conforming structures, structures within environmentally sensitive habitat; structures subject to repetitive flood damage, and units or non-residential square footage which exceeds density limitations;

3. Facilitate redevelopment and revitalize the commercial centers by concentrating mixed use activities;
4. Facilitate the redevelopment and revitalization of hotels and motels in the City;
5. Protect housing affordability and facilitate the provision of new affordable housing units throughout the City;
6. Redistribute existing residential units or densities from more environmentally sensitive properties to less environmentally sensitive properties to encourage infill development and achieve planned densities without increasing the overall density;
7. Protect environmentally sensitive sites through the removal of existing dwelling units or allocated development rights;
8. Encourage the placement of conservation easements on environmentally sensitive or flood prone parcels of land;
9. Further the public good and the goals, objectives and policies of the Plan;
10. Protect housing affordability and facilitate the provision of new affordable housing units throughout the City.

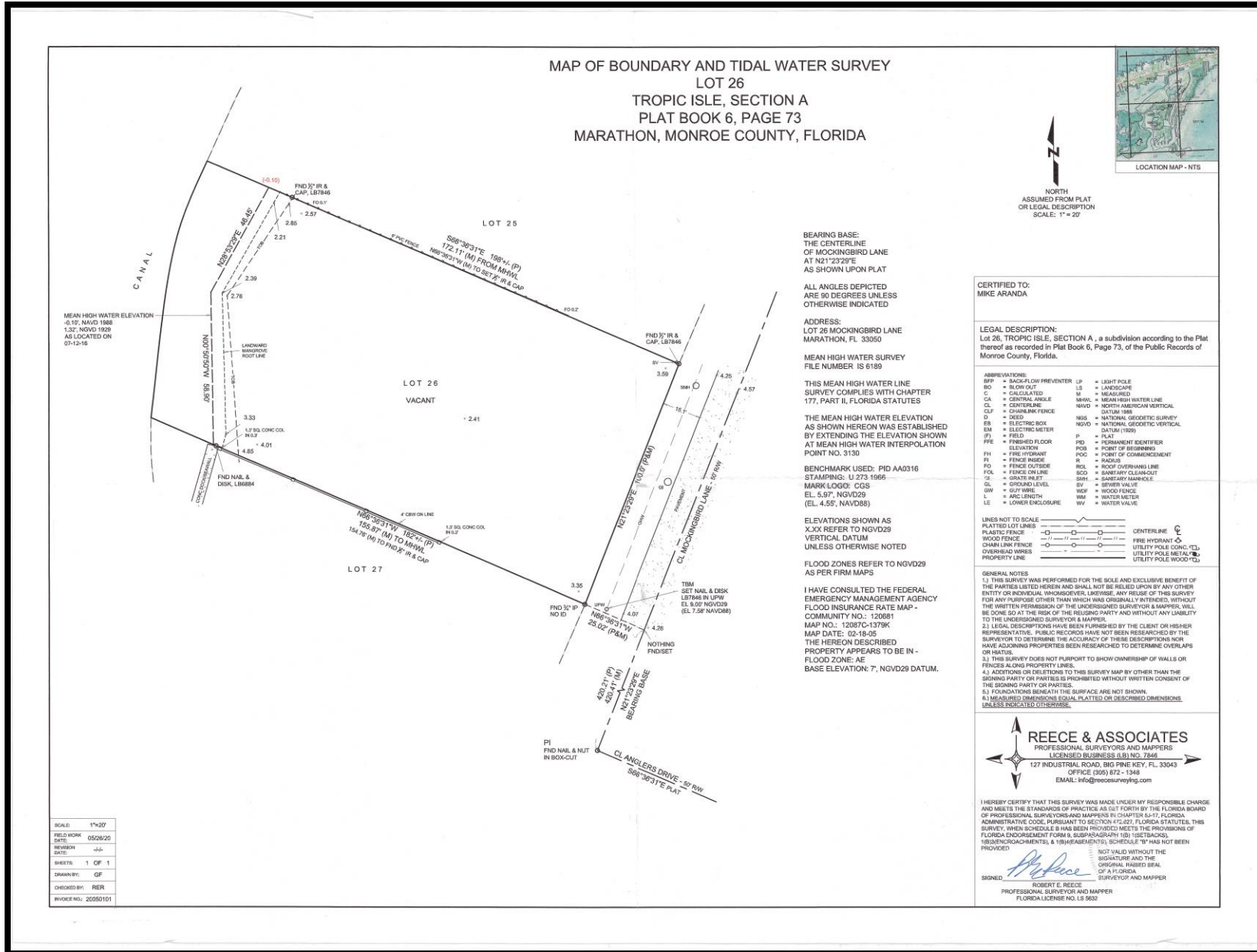
b. Transfer of Residential Density (TDRs)

1. Residential density (TDRs) shall only be transferable from a FLUM category of lower density to one of higher density as defined in Table 1-1 of the Comprehensive Plan. Properties with a FLUM category of Conservation shall not be eligible as TDR receiver sites. TDRs are only transferable to receiver site properties whose habitats are deemed by the City Biologist to be less sensitive than the sender site properties as defined in policy 4-1.5.7.
2. Increases in Residential Density which are greater than those allowed for a given FLUM category in Table 1-1 may occur, but shall only occur as a result of a TDR transfer. Such TDR transfers shall not exceed 20 percent of the Future Land Use Densities allowed by FLUM category in Table 1-1.
3. If a property owner intends to achieve a residential density higher than a 20 percent increase over that allowed in Table 1-1, then the owner must seek a FLUM change to a FLUM category which would allow a greater residential density. However, there shall be no presumption in any request that the request must be or will be granted by the City. If the FLUM change is granted, then the difference in residential density between the two FLUM categories must be achieved through a transfer of TDRs which shall not exceed the density allowed in Table 1-1 for the new FLUM category.
4. The transfer of TDRs is subject to approval by the City based on the criteria established in b.1. and b.2. above. All transfers of TDRs must identify the removal of the TDRs from the sender site and their transfer to the receiving site and be recorded in the chain of title for both properties.
5. Lands for which all residential density has been entirely removed must have a maintenance program to continuously remove exotic invasive vegetation or be transferred to an appropriate land management entity, such as the State of Florida or the City of Marathon.

If the Seasons 16 Inc were to subdivide the parcel, now with two building permits, the Applicant would be required to meet the Subdivision and Platting requirements of Chapter 102, Article 10 of the Land Development Regulations.

Attachment 1

Boundary Survey – 00355417-002600



ATTACHMENT 4
Additional Considerations

Comprehensive Plan

Policy 1-3.2.4 Density Increase Provisions

Special provisions and criteria have been ~~shall be~~ established in the Land Development Regulations to provide incentives to increase the supply of affordable housing by allowing for high density for affordable units. This high density shall only be available for Residential Medium, Residential High and Mixed Use Commercial categories. The transfer of development rights (TDR's) is not required for affordable units under these provisions. Assigned density under these provisions cannot exceed a maximum of 25 units per acre, as provided for in Table 1-1 and this density can only be applied to the following environmental habitats:

- Disturbed with Hammock
- Disturbed
- Disturbed with exotics
- Scarified

Property owners may seek a FLUM change to a FLUM category which would allow a greater residential density. However, there shall be no presumption in any request that the request must be or will be granted by the City. If the FLUM change is granted, then the difference in residential density between the two FLUM categories shall be achieved through a transfer of TDRs which shall not exceed the density allowed in Table 1-1 for the new FLUM category. The Transfer of Development Rights shall be accomplished in accordance with the provision of Policy 1-3.5.16.

Policy 1-3.5.16 Program for Transfer of Density and Building Rights (TDR's and TBR's)

- a. The transfer of density and building rights within the City's boundaries shall attempt to achieve the following:
1. Protect environmental resources in balance with the protection of property rights;
 2. Encourage the replacement of substandard structures, non-conforming structures, structures within environmentally sensitive habitat; structures subject to repetitive flood damage, and units or non-residential square footage which exceeds density limitations;
 3. Facilitate redevelopment and revitalize the commercial centers by concentrating mixed use activities;
 4. Facilitate the redevelopment and revitalization of hotels and motels in the City;
 5. Protect housing affordability and facilitate the provision of new affordable housing units throughout the City;
 6. Redistribute existing residential units or densities from more environmentally sensitive properties to less environmentally sensitive properties to encourage infill development and achieve planned densities without increasing the overall density;
 7. Protect environmentally sensitive sites through the removal of existing dwelling units or allocated development rights;

8. Encourage the placement of conservation easements on environmentally sensitive or flood prone parcels of land;
9. Further the public good and the goals, objectives and policies of the Plan;
10. Protect housing affordability and facilitate the provision of new affordable housing units throughout the City.

b. Transfer of Residential Density (TDRs)

1. Residential density (TDRs) shall only be transferable from a FLUM category of lower density to one of higher density as defined in Table 1-1 of the Comprehensive Plan. Properties with a FLUM category of Conservation shall not be eligible as TDR receiver sites. TDRs are only transferable to receiver site properties whose habitats are deemed by the City Biologist to be less sensitive than the sender site properties as defined in policy 4-1.5.7.
2. Increases in Residential Density which are greater than those allowed for a given FLUM category in Table 1-1 may occur, but shall only occur as a result of a TDR transfer. Such TDR transfers shall not exceed 20 percent of the Future Land Use Densities allowed by FLUM category in Table 1-1.
3. If a property owner intends to achieve a residential density higher than a 20 percent increase over that allowed in Table 1-1, then the owner must seek a FLUM change to a FLUM category which would allow a greater residential density. However, there shall be no presumption in any request that the request must be or will be granted by the City. If the FLUM change is granted, then the difference in residential density between the two FLUM categories must be achieved through a transfer of TDRs which shall not exceed the density allowed in Table 1-1 for the new FLUM category.
4. The transfer of TDRs is subject to approval by the City based on the criteria established in b.1. and b.2. above. All transfers of TDRs must identify the removal of the TDRs from the sender site and their transfer to the receiving site and be recorded in the chain of title for both properties.
5. Lands for which all residential density has been entirely removed must have a maintenance program to continuously remove exotic invasive vegetation or be transferred to an appropriate land management entity, such as the State of Florida or the City of Marathon.

If the Seasons 16 Inc were to subdivide the parcel, now with two building permits, the Applicant would be required to meet the Subdivision and Platting requirements of Chapter 102, Article 10 of the Land Development Regulations.

Land Development Regulations

Section 102.46. - Simple Subdivision.

A. Application Requirements. The submittal requirements and review procedure for all requests for a simple subdivision shall be in accordance with [Chapter 102](#) and shall provide the following minimal information:

1. Proof of Ownership of the parcel or parcels proposed for simple subdivision or reconfiguration.

2. An independent survey of each of the proposed parcels or reconfigured parcels including an identification of the parent parcel in the survey.
- B. Review and Approval Procedure.
1. The Director or his designee shall review the applicant for the proposed simple subdivision taking the following criteria into consideration:
 - a. The Simple Subdivision procedure is an administrative process carried out by the Director in coordination with other City staff including the Public Works and Utilities Directors.
 - b. With the exception of the proposed subdivision of a parcel with a duplex residence, the resultant parcels of a simple subdivision or reconfiguration shall meet all of the minimum lot area, density, intensity, clustering, and dimension requirements of the City's Land Development Regulations.
 - c. Otherwise, the following requirements of the following subsections apply.
- C. Notice.
1. Notice is not required for a Simple Subdivision.
- D. [Approval.] Approval of a Simple Subdivision is a ministerial function which should generally receive approval so long as all criteria in the review process are met.
- E. Division of One (1) Parcel Into Two (2) Parcels. A legal lot of record may be divided into two (2) separate lots, parcels, tracts or other subdivision of land, without complying with the subdivision requirements of this article, through the simple subdivision review process, provided all of the conditions below are met:
1. The legal lot of record has frontage on and has direct access to an existing publicly maintained street. The access may be provided by a legally established joint driveway access to the public street in lieu of public street frontage for both lots upon approval by the City and City Attorney. The minimum lot area to allow subdivision, the minimum resulting lot area and street-front lot width for all Land Use Districts are as follows:

Table 102.46.1
Minimum/Maximum Subdivided Lot Area and Front Lot Width

Land Use District	Minimum Existing Lot Area (Sq. Ft.)	Minimum Subdivided Lot Area (Sq. Ft.)	Minimum Subdivided Lot Area (Sq. Ft.)	Street-Front Lot Width (Ft.)
A	NA	NA	NA	NA
C-NA	12 Acres	4 Acres	348,479	NA
C-I	30 Acres	10 Acres	871,199	NA
I-G	26,136	8,712	17,423	NA
I-M	26,136	8,712	17,423	NA
MU	21,780	7,260	14,519	NA
MU-M	21,780	7,260	14,519	NA
P	13,068	4,356	8,711	NA
PR	12 Acres	4 Acres	348,479	NA
RH	16,335	5,445	10,879	75

Land Use District	Minimum Existing Lot Area (Sq. Ft.)	Minimum Subdivided Lot Area (Sq. Ft.)	Minimum Subdivided Lot Area (Sq. Ft.)	Street-Front Lot Width (Ft.)
RL	6 Acres	2 Acres	87,119	NA
RL-C	12 Acres	4 Acres	348,479	NA
R-MH	16,335	5,445	10,879	NA
RM	26,136	8,712	17,423	100
RM-1	32,670	10,890	21,779	100
RM-2	26,136	8,712	17,423	100

2. The resultant two (2) lots shall:
 - a. Meet the minimum requirements of the City Comprehensive Plan and the LDRs.
 - b. Each be memorialized with a survey showing at a minimum, the parent parcel and the resultant individual parcel each survey of which shall be recorded in the public record.
 - c. Each be memorialized with a document recorded in the public record, which shall include the following disclosure statement:
"The parcel of land described in this instrument is located in the City of Marathon. The use of the parcel of land is subject to and restricted by the goals, policies and objectives of the Plan and land development regulations adopted as a part of, and in conjunction with and as a means of implementing the Plan. The Land Development Regulations provide that no building permit shall be issued for any development of any kind unless the proposed development complies with each and every requirement of the regulations, including minimum area requirements for residential development. You are hereby notified that under the City Land Development Regulations, the division of land into parcels of land which are not approved as platted lots under these regulations confer no right to develop a parcel of land for any purpose. You are further notified that the platting of land confers no rights to a building permit allocation under the Building Permit Allocations System (BPAS). The platting of land is not recognition of the right to a BPAS allocation which is predicated on availability and the Florida Keys hurricane evacuation model clearance time"
3. Any further division of a legal lot of record shall be deemed a subdivision and shall comply with this article and these regulations.
4. Reconfigured lots must be unified through a Unity of Title or a declaration of restrictions and covenants in a form approved by the City Attorney.

F. Subdivision of Duplex Lots.

1. A parcel containing a duplex structure may be subdivided into two (2) parcels subdividing said duplex structure pursuant to Policy 1-3.1.2 of the City's Comprehensive Plan and requirements of the LDRs provided that:
 - a. Each of the parcels thus divided is memorialized with a survey showing at a minimum, the parent parcel and the resultant individual parcel each survey of which shall be recorded in the public record; and


b. A Joint Maintenance Agreement, as approved by the City Attorney, of the duplex structure shall be recorded in the Public Records of Monroe County by the individual lot owners.

G. Reconfiguration of Lots. From one (1) to three (3) adjacent parcels may be reconfigured; provided, however, that the sale, exchange or reconfiguration of lots to or between adjoining property owners of the re-subdivided lots meet all of the following:

1. Does not create additional lots or the potential for additional density or intensity;
2. Does not alter rights-of-way or other areas dedicated for public use;
3. The new lots and any residual land meets the requirements of the City's Plan and LDRs;
4. Reconfigured lots must be unified through a Unity of Title or a declaration of restrictions and covenants in a form approved by the City Attorney.
5. Reconfiguration does not convey any additional right to clear native vegetation beyond those limits established in the LDRs or as may have been established by conservation easement.

ATTACHMENT 5
Administrative Interpretation AI 20-03

ADMINISTRATIVE INTERPRETATION 2020-03

From: George Garrett, Planning Director 
To: City Manager, City Attorney, Planning Staff, the File
Date: September 4, 2020
Subject: Administrative Interpretation 20-03: Interpretation of Table 102.46.1, "Minimum/Maximum Subdivided Lot Area and Front Lot Width"

AUTHORITY

LDRs
CHAPTER 102

ARTICLE 22. - INTERPRETATION OF REGULATIONS

Section 102.138. - Director Authorized.

Unless otherwise provided herein, the Director of Planning is authorized to interpret all provisions of the LDRs.

Section 102.139. - Formal Request for Interpretation.

The Director shall render interpretations of this LDR pursuant to this article. Unless waived by the Director, all formal requests for an interpretation shall be submitted on forms provided by the City.

Section 102.140. - Form of Response.

- A. Written Response: The interpretation shall be provided in writing to the applicant.
- B. Notice to Property Owner: If the individual requesting an interpretation is not the property owner, the interpretation shall also be mailed to the property owner within seven (7) working days after the Director issues the written response.

Section 102.141. - Official Record.

The Department shall maintain an official record of all interpretations.

BACKGROUND

City staff recently realized that the table “headers” in Table 102.46.1 do not make sense as they currently read. The headers are:

Land Use District	Minimum Existing Lot Area (Sq. Ft.)	Minimum Subdivided Lot Area (Sq. Ft.)	Minimum Subdivided Lot Area (Sq. Ft.)	Street-Front Lot Width (Ft.)
-------------------	-------------------------------------	---------------------------------------	---------------------------------------	------------------------------

- **Land Use District** – This Header is correct
- **Minimum Existing Lot Area (Sq. Ft.)** – This Header does not make sense when applied to Section 102.46 which only deals with lot splits from one parent lot into two new lots. The numbers in the associated column equate to one and a half times (1.5X) the necessary land area as required for two residential units under respective zoning categories.
- **Minimum Subdivided Lot Area (Sq. Ft.)** – First, this column header is precisely the same as the next one. Otherwise, this header is correct as it relates to the minimum lot area for one residential unit with respect to each zoning category.
- **Minimum Subdivided Lot Area (Sq. Ft.)** – This Header is incorrect, as the column provides the minimum area for two residential units with respect to each zoning category.
- **Street-Front Lot Width (Ft.)** - This Header is correct

ASSESSMENT

However, for the obvious intent of the Table (utilized for determinations in both Sections 102.46 and 102.47), the following interpretation of the table will apply until formally amended to read correctly, as intended during adoption, and as applied in the following sections:

- **Land Use District = Land Use District**
- **Minimum Existing Lot Area (Sq. Ft.) For Subdivision into Three (3) or More Lots Section 102.47**
- **Minimum Existing Lot Area (Sq. Ft.) For Subdivision into Two (2) Lots – Section 102.46**
- **Street-Front Lot Width (Ft.) = Street-Front Lot Width (Ft.)**

INTERPRETATION

Thus, the following interpretations of the relevant portions of Sections 102.46 and 102.47 will apply until the table is modified to read correctly:

Section 102.46 Simple Subdivision

E. Division of one (1) parcel into two (2) parcels: A legal lot of record may be divided into two (2) separate lots, parcels, tracts or other subdivision of land, without complying with the subdivision requirements of this article, through the simple subdivision review process, provided all of the conditions below are met:

1. The legal lot of record has frontage on and has direct access to an existing publicly maintained street. The access may be provided by a legally established joint driveway access to the public street in lieu of public street frontage for both lots upon approval by the City and City Attorney. The minimum lot area to allow subdivision, the minimum resulting lot area and street-front lot width for all Land Use Districts are as follows:

Table 102.46.1
Minimum/Maximum Subdivided Lot Area & Front Lot Width

Land Use District	Minimum Existing Lot Area (Sq. Ft.) For Subdivision into Three (3) or More Lots Section 102.47	Minimum Subdivided Lot Area (Sq. Ft.)	Minimum Existing Lot Area (Sq. Ft.) For Subdivision into Two (2) Lots – Section 102.46	Street-Front Lot Width (Ft.)
A	NA	NA	NA	NA
C-NA	12 Acres	4 Acres	348,479	NA
C-)I	30 Acres	10 Acres	871,199	NA
I-G	26,136	8,712	17,423	NA
I-M	26,136	8,712	17,423	NA
MU	21,780	7,260	14,519	NA
MU-M	21,780	7,260	14,519	NA
P	13,068	4,356	8,711	NA
PR	12 Acres	4 Acres	348,479	NA
RH	16,335	5,445	10,879	75

RL	6 Acres	2 Acres	87,119	NA
RL-C	12 Acres	4 Acres	348,479	NA
R-MH	16,335	5,445	10,879	NA
RM	26,136	8,712	17,423	100
RM-1	32,670	10,890	21,779	100
RM-2	26,136	8,712	17.423	100

Section 102.47 Minor And Major Subdivision

A. Application Requirements: The submittal requirements and review procedure for all minor and major subdivision development plans shall be in accordance with Chapter 102 and shall provide the following minimal information:

The preliminary subdivision plan for both a minor or major subdivision (and plat) shall be submitted on black or blue line prints drawn at an acceptable scale such as 50 feet to the inch on sheets no larger than 34 by 44 inches. The principle difference between a Minor and Major Subdivision lies in whether the subdivision proposes the approval of new streets which may be ultimately be dedicated to the City of Marathon (or remain as private streets). The plan drawing shall include the following:

14. The location of all existing lots must be shown. Proposed lot lines and areas must be shown as well and meet the standards set out in Table 102.46.1

PLANNING COMMISSION AGENDA STATEMENT



Meeting Date: October 19, 2020
To: Planning Commission
From: George Garrett, Planning Director

Agenda Item: A Request For An Amendment Of A Conditional Use For A Plat And Site Plan Approval As Submitted By G98 Development, LLC, For A Portion Of 11th Street Ocean, Which Is Described As Being A Part Of Government Lot 1, Section 8, Township 66 South, Range 32 East, Marathon, Monroe County, Florida, Having Real Estate Numbers 00319960-000000 & 00319970-000000. Nearest Mile Marker 47.5.

APPLICANT/ OWNER: G98 Development LLC

AGENT: William E. Niemann

LOCATION: The project site is located at 453, 455, 457 And 543 11th Street, nearest mile marker 47.5. See Figure 1.

Figure 1
Project Site



REQUEST: A Conditional Use Permit for the amendment of the authorization of development of the subject property having the real estate numbers 00319960-000000 and 00319970-000000 to include the replat of the property.

FUTURE LAND USE MAP DESIGNATION:

Residential High (RH). See Figure 2.

**Figure 2
Future Land Use Map**



ZONING MAP DESIGNATION:
Residential Mobile Home (R-MH). See Figure 3.

Figure 3
Zoning Map



LOT SIZE:
Total acreage: Approx. 88,836 sq. ft. of which 50,572 is uplands.

SURROUNDING ZONING AND USES:

	<u>Zoning</u>	<u>Use</u>
North	Residential Mobile Home	Ocean Breeze West
East	Residential Mobile Home, Mixed Use	Residential Neighborhood of 11 th street, Galway Bay, Marathon Nautical Gifts and future self-storage building.
South	Residential Mobile Home, Mixed Use	Marathon Animal Shelter, Lazy Days, Waters Edge Marina
West	NA	Boot Key Channel

EXISTING CONDITIONS:

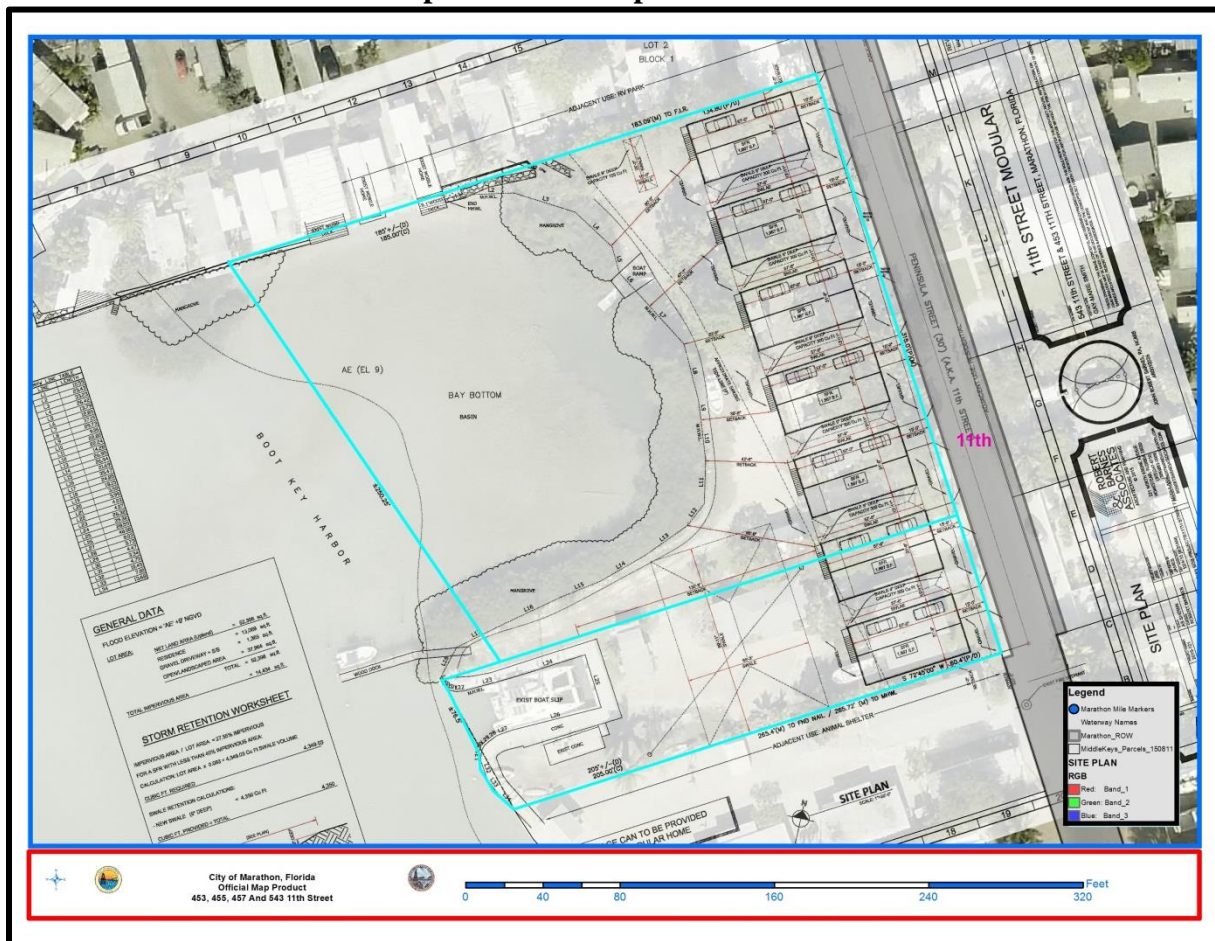
The project site consists of vacant lots that had contained seven residential units and the parcels serve as project site for redevelopment of seven residential units. The conditional use was approved under Resolution 2016-20 and extended under Resolution 2019-16.

PROPOSED REDEVELOPMENT:

Residential Units: 7 Market Rate Units

See Figure 4 for Site Plan layout.

**Figure 4
Proposed Redevelopment Site Plan**



BACKGROUND:

The proposed project is the redevelopment of seven residential units to now include the platting of individual lots for each unit, as well as common area. This report addresses the Conditional Use application associated with the Conditional Use Permit.

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 Residential Mobile Home (R-MH) Zoning District. Per Chapter 103, Article 2, Section 103.12 of the Land Development Regulations, the district is designed to “establish areas of high-density residential uses characterized by mobile homes in mobile home parks, permanent RVs, and transient RVs where they have previously existed in the District, designated within the Residential High (RH) future land use category on the Future Land Use Map (FLUM).”

The proposed project consists of the development of existing developed land within the Residential High Zoning District. 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 Market Rate residential units are allowed at a maximum of 8 units per acre and at numbers greater than three (3) are only 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.

Table 103.15.2 in the Land Development Regulations establishes constraints on density and intensity allowed in the R-MH district based on the types of uses proposed. Using the property area, the proposed use can have up to 9 residential units, however the applicant is just replacing the existing 7 residential units. Table 103.15.3 further qualifies the allowed range of intensities based on the intensity of retail use.

Development Type	Proposed	Maximum Allowed
Residential Units		
Market Rate	7	9
Affordable	0	0

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

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 Residential High Future Land Use District. Policy 1-3.1.4 of the City of Marathon Comprehensive Plan states that the “principal purpose of the Residential High future land use category is to provide for high-density single-family, multi-family, and institutional residential development. The Residential High future land use category is characterized by high density compact development on lots with disturbed or scarified vegetation and areas that are appropriate for infill development and that are served by existing infrastructure.” The proposed project includes development of an existing residential high district into the same conditional use, which is consistent with the Residential High classification.

The existing land use pattern in the project vicinity consists of residential and commercial uses to the east; open water to the west; commercial uses to the south; and residential uses directly north.

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. Final review of floodplain compliance will occur as part of building permit issuance.

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. A small portion of the property is recognized as having Mangroves. However, the proposed development will have no impact on the existing mangrove fringe.

In addition, the parcels are not within a ‘Species Focus Area’ as defined in the settlement for FEMA-FWS lawsuit.

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.

Therefore, it is staff’s opinion that the request is ***in compliance*** with the requirements of these sections so long as the development is conditioned on provision of final landscaping and mitigation plans subject to approval of the City Biologist and final stormwater plans subject to City approval.

- A final landscaping and mitigation plan, subject to approval of the City Biologist, must be submitted prior to permit approval.
- A final stormwater plan must be submitted prior to permit approval.

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 proposed redevelopment of the existing seven units currently do not impede the flow of traffic through Marathon. The Level of Service for U.S. 1 is a Level of Service A. Any change in traffic generation, positive or negative would not impact the overall LOS for U.S. 1 in the project area.

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 building permit issuance.

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

- Clear sight triangles must be shown on the site plan at time of building permit issuance.

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	14
Total Required			14
Total Provided			14

The proposed site plan provided by the applicant shows the residential structures maintaining the required residential parking spaces.

The developer proposes provisions and arrangements for off-street parking and loading areas, with particular attention to ingress and egress, automobile, bicycle, and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe.

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 development of seven multi-family dwellings planned for future development. The applicant is not proposing an exterior lighting plan. If in the future the applicant proposes exterior lighting, they must provide detailed lighting plans which conform to the letter with the City of Marathon LDR's. The applicant's detailed plans should achieve the net result of no detrimental noise, glare or odors being generated by any of the uses.

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 site plan indicates that the dumpster is (hidden) screened. However, 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 must coordinate with Wastewater Utilities Department for connection requirements. This project is replacing units already assessed, resulting in a de minimus impact.
- **Water**: The Florida Keys Aqueduct Authority will provide potable water for the facility.
- **Solid Waste**: Marathon Garbage Service will provide 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. However, a final stormwater plan will be required for building permit issuance.
- **Recreation and Open Space**: This development will have a de minimus impact on recreation and open space.
- **Roadways**: The applicant is developing the site with the same intensity that currently exists; therefore, resulting in a de minimus impact on transportation facilities.
- **Educational Facilities**: This redevelopment will have a de minimus impact on educational facilities since existing uses are replaced in kind.

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

- City approval is required for the stormwater management system prior to Building Permit Approval.
- A stormwater plan is required that provides the calculations for the retention of the 25 year/72 hour storm. Calculations require a routing analysis to ensure the system can handle the runoff during the peak of the event.
- Detail grading plan depicting existing and proposed elevations. All runoff is required to be diverted to the stormwater system with no off-site discharge.
- City approval of the modified connection to the City Wastewater Utility will be required.

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

Section 107.71 C. requires that all single family and two-family residential uses shall be required to provide a minimum of two canopy trees for every 100 linear feet of property frontage along local streets. The proposed tree coverage for the 314 linear feet of frontages meets the minimum requirements.

Table 103.15.2 outlines setback requirements in the RMH district as follow: front yard 10’; side yards 5’; and, rear yard 10’.

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 a 15’ setback on the front yard, 5’ setback on the northern and southern side yards, 32.42’ setback on the nearest shoreline.

Setback	Required	Required Landscape	Proposed	Compliant
Front	10	10	15	Y
North Side	5	N/A	5	Y
South Side	5	N/A	5	Y
Shoreline	30	N/A	32.42	Y

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

- Native Canopy Street trees must be planted according to Code.
- Applicant shall meet the minimum width and planting requirements per Table 107.70.2.

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

A review of sign requirements at this stage in development approval is not necessary; however, signs for the project will be reviewed prior to issuance of a building permit according to Chapter 107, Article 7, Signs, particularly for the non-residential portion of the project.

Article 107.54 establishes criteria for lighting, including light pole light limitations and other technical criteria. Final lighting plans will be submitted along with final landscaping plans, and will include verification from the landscape architect that all provisions of the article are met.

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

- All signs will be reviewed and approved for compliance with the City of Marathon LDR's.

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 submitted plans, 14,434 square feet of impervious area is proposed on site. This amounts to roughly 73% open space on site, this exceeds the open space requirement.

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

9. General compatibility with surrounding properties; and

The project is a development of long-standing existing uses in an area of the City which is relatively dense and intense. Adjacent uses include commercial and residential establishments. A development of residential dwellings is expected to be fully compatible with these uses. The proposed project represents 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 site plans show that 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.
- ~~A unity of title must be filed to combine the two properties into one.~~

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 consists of the replacement and enhancement of a long standing existing residential use. 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 recommends conditional approval of the multi-family residential project known as G98 Development LLC to the Planning Commission. The proposed conditions of approval are listed below.

Conditions of Approval

1. A final landscaping and mitigation plan, subject to approval of the City Biologist, must be submitted prior to permit approval.
2. A final stormwater plan must be submitted prior to permit approval.
3. City approval is required for the stormwater management system prior to Building Permit Approval.
4. A stormwater plan is required that provides the calculations for the retention of the 25 year/72 hour storm. Calculations require a routing analysis to ensure the system can handle the runoff during the peak of the event.
5. Detail grading plan depicting existing and proposed elevations. All runoff is required to be diverted to the stormwater system with no off-site discharge.
6. City approval of the modified connection to the City Wastewater Utility will be required.
7. Native Canopy Street trees must be planted according to Code.
8. Applicant shall meet the minimum width and planting requirements per Table 107.70.2.
9. All signs will be reviewed and approved for compliance with the City of Marathon LDR's.
10. Plans must show a 10' interior setback between residential units.

11. 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.
- ~~12. A unity of title must be filed to combine the two properties into one.~~
13. Clear sight triangles must be shown on the site plan at time of building permit issuance.
14. The Conditional Use Development Order will constitute the Certificate of Concurrence 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.

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.

RECOMMENDATION:

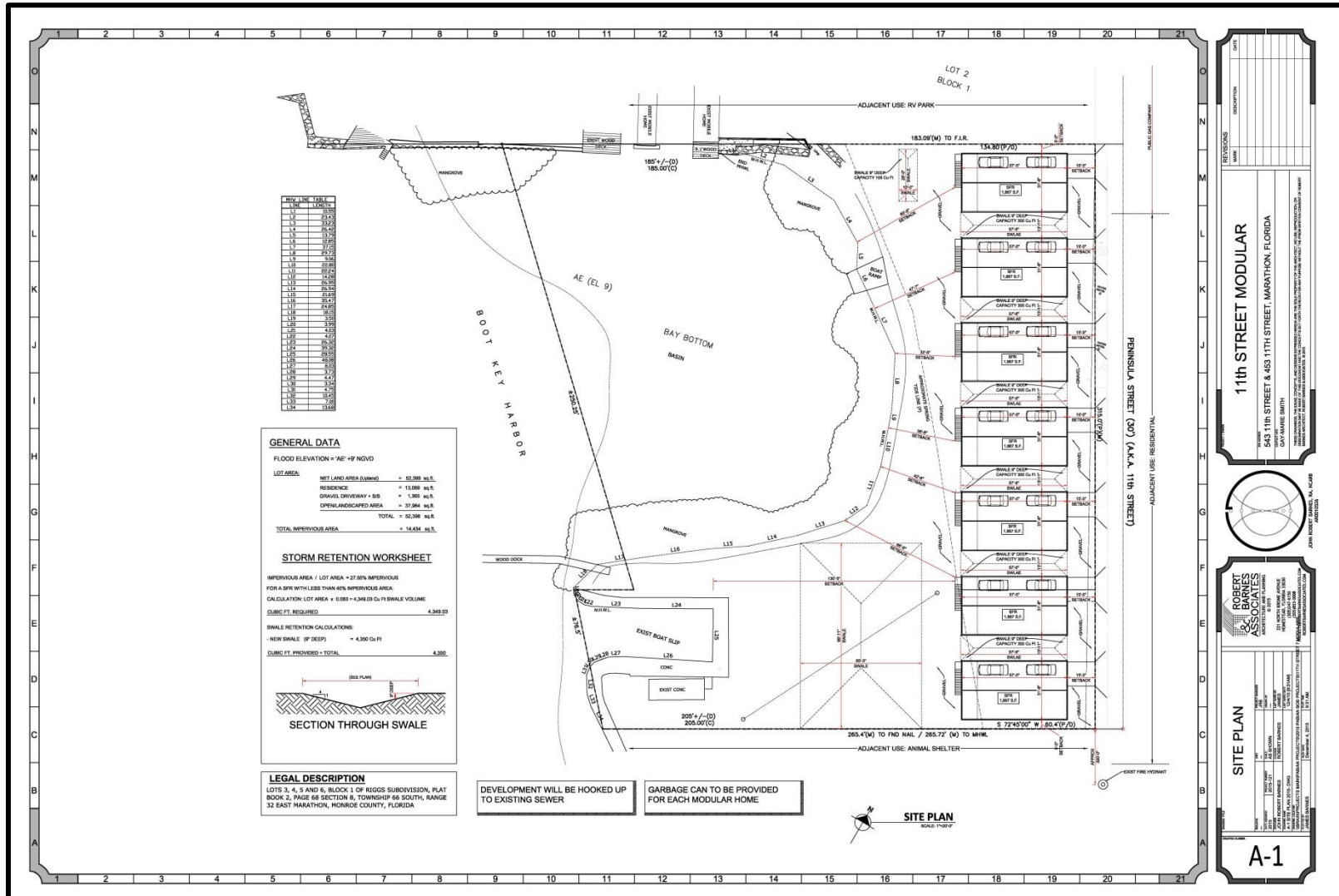
With the following conditions, the Planning staff recommends approval of the proposed final plat.

Conditions:

1. Final plat shall include language regarding owner-signed consent and acknowledgement for wastewater and stormwater assessment for future development of the properties.
2. All utility and right-of-way permits shall be obtained and issued prior to final plat approval.
3. Applicant shall provide form of guarantee for necessary utility construction.
4. Reductions shall be noted in the plat and a complete accounting of acreage respective of allowed densities shall be made in the plat document.
5. Plat documents shall clearly indicate that no future subdivision shall be allowed of any area accounted for in density calculations
6. All conditions of the Conditional Use must be met prior to building permit issuance.

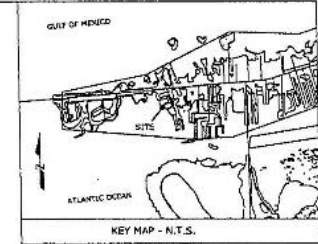
Attachments:

Attachment A: Proposed Site Plan



Attachment B: Proposed Plat

GOOSE'S COVE
 A SUBDIVISION, BEING A RE-PLAT OF
 LOTS 3, 4, 5 & 6, BLOCK 1, "RIGGS' SUBDIVISION"
 PLAT BOOK 2, PAGE 68
 BEING A PART OF GOVERNMENT LOT 1, SECTION 8, TOWNSHIP 66 SOUTH, RANGE 32 EAST
 CITY OF MARATHON, HOG KEY, MONROE COUNTY, FLORIDA
 JUNE 2020



LEGAL DESCRIPTION:

Lot 3, Block 1, RIGGS SUBDIVISION, according to the plat thereof as recorded in Plat Book 2, Page 68, Public Records of Monroe County, Florida, located in Section 8, Township 66 South, Range 32 East, commonly called Hog Key.

TOGETHER WITH:

A Parcel of bay bottom land and tidal sand in Hog Key Harbor at Hog Key, Monroe County, Florida, being wholly or in part as follows: Commencing at the intersection of the South line of Section 8, Township 66 South, Range 32 East, and the Southwesterly right of way line of Norfolk Street, run Northwesterly along the Southwesterly right of way line of Norfolk Street for a distance of 181.00 feet to a corner, said point being at the Northeast corner of Lot 4, Block 1 of said RIGGS SUBDIVISION, thence at right angles and Southwesterly along the Northwesterly line of said Lot 4 for a distance of 71.7 feet to the Point of Beginning of the bay bottom land; thence from said Point of Beginning Southwesterly along the Northwesterly line of Lot 4, extended, for a distance of 207.00 feet, more or less, to the edge of an existing channel; thence southerly along the edge of said existing channel in a Southwesterly direction for a distance of 25.00 feet, more or less, to where said edge of channel intersects the Southwesterly line of Lot 6, extended, Southwesterly; thence run Northwesterly along the Southwesterly line of Lot 6, extended Southwesterly, for a distance of 205.20 feet, more or less, to the approximate spring tide line, thence westerly to the approximate spring tide line in a Northwesterly direction for a distance of 75.00 feet, more or less, back to the POINT OF BEGINNING.

AND

Lot 3, 4 and 5, Block 1, RIGGS SUBDIVISION, according to the plat thereof as recorded in Plat Book 2, Page 68, Public Records of Monroe County, Florida,

TOGETHER WITH:

A Parcel of bay bottom land in Hog Key Harbor Westerly of and adjacent to Lots 3, 4 and 5, Block 1, of RIGGS SUBDIVISION, as shown in Plat Book 2, Page 68, of Hog Key, Monroe County, Florida, and more particularly described as follows: Commencing at the intersection of the South line of Section 8, Township 66 South, Range 32 East, and the westerly right of way line of Norfolk Street, run Northwesterly along the westerly right of way line of Norfolk Street for a distance of 361.01 feet to a corner, thence at right angles and Southwesterly for a distance of 71.7 feet to the POINT OF BEGINNING of the bay bottom land; thence from said Point of Beginning, continue Southwesterly for a distance of 175 feet, more or less, to the edge of an existing channel; thence run Northwesterly along the edge of said existing channel for a distance of 220 feet, more or less, to a point on the North line of Lot 3, Block 1, of said RIGGS SUBDIVISION, extended Southwesterly; thence run Northwesterly along the North line of Lot 3, extended Southwesterly for a distance of 185 feet, more or less, to a point on the approximate spring tide line; thence westerly to the approximate spring tide line in a Southwesterly direction for a distance of 156 feet, more or less, back to the POINT OF BEGINNING. Lying and being in Section 8, Township 66 South, Range 32 East, Monroe County, Florida.

DEDICATION:

KNOW ALL PERSONS BY THESE PRESENTS, THAT OCEAN DEVELOPMENT, LLC, A FLORIDA LIMITED LIABILITY COMPANY, OWNERS OF THE PROPERTY DESCRIBED BY THE LEGAL DESCRIPTION ABOVE, IN THE CITY OF MARATHON, HOG KEY, MONROE COUNTY, FLORIDA, HAS CAUSED TO BE MADE THE ATTACHED PLAT ENTITLED "GOOSE'S COVE".

THAT THE EXPRESS PURPOSE OF THIS PLAT INCLUDES, BUT NOT LIMITED TO, REPLAT OF THE PROPERTY DESCRIBED IN THE LEGAL DESCRIPTION ABOVE IN ORDER TO CREATE MORE SUITABLE LOTS FOR CONSTRUCTION.

HAVE DECLARED THAT NO ENCUMBRANCES ENCLUMBER THESE LOTS,

OWNERS ACKNOWLEDGMENT:

IN WITNESS WHEREOF, OCEAN DEVELOPMENT, LLC, A FLORIDA LIMITED LIABILITY COMPANY, DOES HEREBY SET THEIR HAND AND SEAL THIS ____ DAY OF _____, 2020.

 WITNESS SIGNATURE

 WITNESS SIGNATURE

 WITNESS SIGNATURE

 WITNESS SIGNATURE

NOTARY ACKNOWLEDGMENT:
 STATE OF FLORIDA
 COUNTY OF MONROE
 BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC, THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS ____ DAY OF _____, 2020,
 BY _____ AS IDENTIFICATION,
 HE IS PERSONALLY KNOWN TO ME OR HAS PRODUCED _____ AS IDENTIFICATION.

NOTARY PUBLIC STATE OF _____
 MY COMMISSION EXPIRES: _____
 PRINTED NAME: _____

NOTARY ACKNOWLEDGMENT:
 STATE OF FLORIDA
 COUNTY OF MONROE
 BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC, THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS ____ DAY OF _____, 2020,
 BY _____ AS IDENTIFICATION,
 HE IS PERSONALLY KNOWN TO ME OR HAS PRODUCED _____ AS IDENTIFICATION.

NOTARY PUBLIC STATE OF _____
 MY COMMISSION EXPIRES: _____
 PRINTED NAME: _____

CERTIFICATE OF CONSENT TO PLAT AND DEDICATION BY MORTGAGE HOLDER, CONSENT TO DEDICATION:
 THE HOLDER OF THAT CERTAIN MORTGAGE OF REAL ESTATE AND SECURITY AGREEMENT DATED THE ____ DAY OF _____, 2020, AND RECORDED IN OFFICIAL RECORDS BOOK _____, PAGE _____, OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA, DOES HEREBY RATIFY, APPROVE, CONFIRM AND CONSENT TO THIS PLAT AND THE DEDICATION CERTIFICATE THEREON.

 SIGNATURE *PRINT NAME:
NOTARY ACKNOWLEDGMENT:
 STATE OF FLORIDA
 COUNTY OF MONROE
 BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC, THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS ____ DAY OF _____, 2020,
 BY OCEAN DEVELOPMENT, LLC, A FLORIDA LIMITED LIABILITY COMPANY, WHO IS PERSONALLY KNOWN TO ME OR HAS PRODUCED _____ AS IDENTIFICATION.

NOTARY PUBLIC STATE OF _____
 MY COMMISSION EXPIRES: _____
 PRINTED NAME: _____

TITLE CERTIFICATION:

WE, _____, A TITLE COMPANY, DULY LICENSED IN THE STATE OF FLORIDA, HEREBY CERTIFY THAT WE HAVE EXAMINED THE TITLE TO THE FREELY DESCRIBED PROPERTY, THAT WE FIND THE TITLE TO THE PROPERTY IS VESTED TO OCEAN DEVELOPMENT, LLC, A FLORIDA LIMITED LIABILITY COMPANY, THAT THE SAME DOES NOT TAKE ANY OTHER PLAT THAT THE PROPERTY CONTAINS NO ENCUMBRANCES WHICH AFFECT THE SUBDIVISION OF THE PROPERTY.

BY: _____ DATE: _____
 TITLE EXAMINER

APPROVAL OF MARATHON CITY COUNCIL:

IT IS HEREBY CERTIFIED THAT THE CITY OF MARATHON CITY COUNCIL OFFICIALLY APPROVED THIS PLAT OF "GOOSE'S COVE" ON THE ____ DAY OF _____, 2020, BY RESOLUTION NO. _____ PROVIDED THAT THIS PLAT IS RECORDED IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT OF MONROE COUNTY, FLORIDA, WITHIN THIRTY (30) DAYS FROM SAID DATE.

CITY OF MARATHON, FLORIDA

BY: _____ BY: _____
 MICHELLE GELDON, MAYOR DIANE CLAVIER, CITY CLERK

APPROVAL OF CITY OF MARATHON PLANNING COMMISSION:

IT IS HEREBY CERTIFIED THAT THE CITY OF MARATHON PLANNING COMMISSION OFFICIALLY APPROVED THIS PLAT OF "GOOSE'S COVE" ON THE ____ DAY OF _____, 2020.

BY: _____
 GUY SMITH, CHAIRMAN

APPROVAL BY CITY OF MARATHON OFFICIALS:

APPROVED:

BY: _____ BY: _____
 CLY BUGHNER CITY CLERK MARATHON

APPROVAL OF THE CLERK OF THE CIRCUIT COURT

THIS PLAT WAS APPROVED BY RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, ON THE ____ DAY OF _____, 2020, WHO WAS FILED FOR RECORD THIS ____ DAY OF _____, 2020, AND RECORDED IN PLAT BOOK ____ ON PAGE ____ IN THE OFFICE OF THE CLERK OF CIRCUIT COURT OF MONROE COUNTY, FLORIDA.

BY: _____
 KEVIN MADOCK, CPA, CLERK OF COURT

SURVEYOR'S NOTES:

1. THE MEAN HIGH WATER ELEVATION, LIP NO. 1020-0.81 NAVD 1988, AS SHOWN HEREON WAS ESTABLISHED BY EXTENDING THE ELEVATION PROVIDED BY THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION MEAN HIGH WATER SURVEY PROCEDURAL APPROVAL FOR TIDE POINT NO. 3137, ACCESSED 04/15/2015, APPROVED FOR FILE NUMBER SR21.
2. THE BEARING BACK FOR THIS PLAT IS THE CENTERLINE OF PENNSYLVANIA STREET (A.K.A., 11TH STREET), SAID LINE BEARS S 17° 15' 00" E AND ALL OTHER BEARINGS ARE RELATIVE THERETO.
3. ALL ANGLES ARE 90° UNLESS OTHERWISE NOTED.
4. SQUARE FOOTAGES ARE PLUS OR MINUS (.1).
5. THE BOUNDARY LINES SHOWN HEREON WERE ESTABLISHED USING THE BUREAU OF SURVEYING AND MAPPING'S STUDY ENTITLED "GUIDELINES FOR RIPARIAN RIGHTS" REVISED FEBRUARY 26, 2013 THROUGH THE GENERALLY ACCEPTED METHOD OF APPORTIONING CANAL CENTERLINE FROM THE ANGLE BISECTIONS OF THE END OF THE CANAL BY PROPORTIONAL SHOULDER/CANAL LINES (PROPORTIONAL DITCHES); THESE RIPARIAN LINES ARE THIS SURVEYOR'S DETERMINATION, HOWEVER ONLY THE COLLECTS CAN RELY ON THE ACTUAL RIPARIAN RIGHTS.
6. THE ACTUAL EDGE OF CANAL FALLS INSIDE THE CANAL LIMITS BY THE PREVIOUS PLAT, RESULTING IN AN EXCESS OF LAND BETWEEN THE PLATTED LINES AND THE ACTUAL SHOULDERLINE.
7. NOTICE: THIS PLAT, AS RECORDED IN ITS GRAPHIC FORM, IS THE OFFICIAL DEFINITION OF THE SUBDIVIDED LANDS DESCRIBED HEREIN AND WILL IN NO CIRCUMSTANCES BE SUPPLEMENTED IN AUTHORITY BY ANY OTHER GRAPHIC OR DIGITAL FORM OF THE PLAT. THERE MAY BE ADDITIONAL RESTRICTIONS THAT ARE NOT RECORDED ON THIS PLAT THAT MAY BE FOUND IN THE PUBLIC RECORDS OF THIS COUNTY.

REVIEW AND APPROVAL OF THE CITY SURVEYOR

I HEREBY CERTIFY THAT I HAVE REVIEWED THIS PLAT FOR CONFORMITY WITH THE REQUIREMENTS OF CHAPTER 177, FLORIDA STATUTES, AS A PROFESSIONAL SURVEYOR AND MAPPER EMPLOYED BY THE CITY OF MARATHON.

BY: _____ DATE: _____

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THE ATTACHED PLAT ENTITLED "GOOSE'S COVE", AS SHOWN ON THIS AND ACCOMPANYING SHEETS NUMBERED 1 THROUGH 2 OF 2 IS A TRUE AND CORRECT REPRESENTATION OF THE LANDS ACCELY SURVEYED UNDER MY DIRECTION AND SUPERVISION AND THAT THE SURVEY DATA SHOWN ON SAID PLAT CONFORMS WITH THE APPLICABLE REQUIREMENTS OF CHAPTER 177, PART 3, FLORIDA STATUTES, AND FURTHER THAT THE NEIGHBORING REFERENCE POINTS WERE SET IN ACCORDANCE WITH SUBSECTION 177.09(1) OF SAID CHAPTER 177.

REECE & ASSOCIATES
 PROFESSIONAL SURVEYOR AND MAPPER, LB 7846
 127 INDUSTRIAL ROAD, BIG PINE KEY, FL 32943
 OFFICE (205) 872-1245
 FAX (205) 872-5922

BY: _____ DATE: _____
 ROBERT E. REECE, P.S.M.
 FLORIDA REGISTERED SURVEYOR NO. LB 5632
 REECE & WHITE LAND SURVEYING, INC.
 DBA REECE & ASSOCIATES
 CERTIFICATE OF AUTHORIZATION NO. LB 7846

GOOSE'S COVE

A SUBDIVISION, BEING A RE-PLAT OF
LOTS 3, 4, 5 & 6, BLOCK 1, "RIGGS SUBDIVISION"
PLAT BOOK 2, PAGE 68

BEING A PART OF GOVERNMENT LOT 1, SECTION 8, TOWNSHIP 66 SOUTH, RANGE 32 EAST
CITY OF MARATHON, HOG KEY, MONROE COUNTY, FLORIDA
JUNE 2020

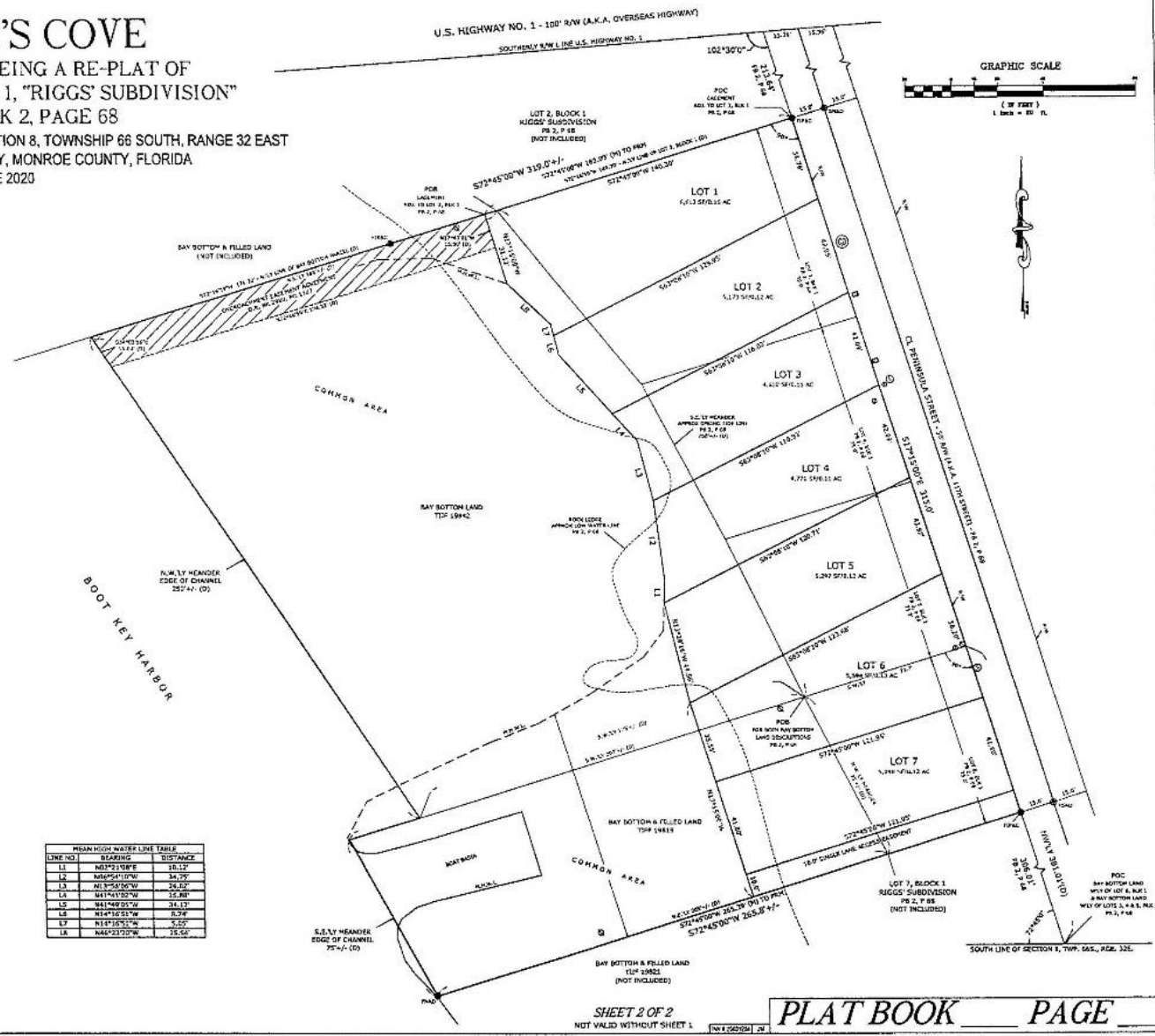
- LEGEND (UTILITIES):**
- = PVC SURVEY POINT
 - ⊙ = MARKER (NOT ON COVERED)
 - ⊖ = SANITARY CLEAN-OUT
 - ⊕ = SANITARY MANHOLE
 - ⊗ = WATER METER
 - ⊛ = WOOD UTILITY POLE

- LEGEND (CONTROL):**
- ⬢ = PERMANENT REFERENCE MONUMENT (SEE SYMBOL DESCRIPTION FOR TYPE AND STAMPING)
 - ⬢ = PERMANENT CONTROL POINT (SEE SYMBOL DESCRIPTION FOR TYPE AND STAMPING)

- ABBREVIATIONS:**
- AC = ACRES
 - C = CALCULATED
 - CM = CENTIMETER ANGLE
 - CON = CONCRETE
 - CR = CURVED RADIUS
 - CHS = CHORD DISTANCE
 - CL = CENTERLINE
 - CONC = CONCRETE
 - DB = DEER ISLAND, BLOCK 207A, PAGE 173A
 - DWN = DRAINAGE MANHOLE
 - EL = ELEVATION
 - FIND = FOUND BY 100M RISE AND CAP - ALLIGATOR
 - FINDC = FOUND 1/2" IRON ROD & CAP - 1/4" DIA
 - FINDS = FOUND 3/4" IRON ROD & CAP - 1/4" DIA
 - FINDL = FOUND 1/2" IRON ROD & CAP - 1/4" DIA
 - GOV = GOVERNMENT
 - ID = IDENTIFICATION
 - IR = IRON ROD
 - L = LINE
 - M = MOUND
 - M = MOUND
 - M = MOUND
 - M = MOUND
 - M = MOUND
 - M = MOUND
 - M = MOUND
 - M = MOUND
 - M = MOUND
 - M = MOUND
 - M = MOUND
 - M = MOUND
 - M = MOUND
 - M = MOUND
 - M = MOUND
 - M = MOUND
 - M = MOUND
 - M = MOUND
 - M = MOUND
 - M = MOUND
 - M = MOUND
 - M = MOUND
 - M = MOUND
 - M = MOUND
 - M = MOUND
 - M = MOUND
 - M = MOUND
 - M = MOUND
 - M = MOUND
 - M = MOUND
.E.S.L.V. HEADQUARTER
EDGE OF CHANNEL
257'-4" (C)

LINE NO.	BEARING	DISTANCE
L1	N02°21'N8"E	16.12
L2	S89°54'10"E	36.75
L3	N17°58'06"W	24.82
L4	N41°41'02"W	35.88
L5	S41°46'25"W	34.17
L6	N14°16'01"W	8.24
L7	N14°16'01"W	5.22
L8	N86°21'07"W	15.54

REECE & ASSOCIATES
PROFESSIONAL SURVEYOR AND MAPPER, FL 7364
127 INDUSTRIAL ROAD, BOCA RATON, FL 33433
OFFICE (305) 672-1540
FAX (305) 672-5621



SHEET 2 OF 2
NOT VALID WITHOUT SHEET 1

PLAT BOOK PAGE