



**City of Marathon Planning Commission**  
**Monday November 16, 2020**  
**9805 Overseas Hwy**  
**City Hall Council Chambers**  
**5:30 PM**

1. **Call To Order**
  2. **Pledge Of Allegiance**
  3. **Roll Call**
  4. **Nominations for Chair and Vice Chair**
  5. **Minutes**
  6. **Items For Public Hearing**
  7. **Adjournment**
- 

**6. Items For Public Hearing**

**Item 1.** 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.



**City of Marathon Planning Commission  
Monday October 19, 2020  
9805 Overseas Hwy  
City Hall Council Chambers**

**MINUTES**

Lynn Landry called the meeting of the Planning Commission to order on Monday October 19, 2020 at 5:30 pm.

In attendance: Planning Director George Garrett, Attorney Steve Williams, Admin Assistant Lorie Mullins, Senior Planner Brian Shea, and members of the public.

The Pledge of Allegiance was recited.

George Garrett introduced and welcomed new City Attorney Steve Williams.

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

Landry asked for approval of the last meeting minutes.

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

The Quasi-Judicial Statement was read into the record.

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** was read into the record. 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 11<sup>th</sup> 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.

Brian Shea presented the item with visual aids.

There were no comments or questions from the Commissioners and there were no public speakers.

Sexton moved to approve. Gilson seconded.

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

**Item 2** was read into the record. 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 109<sup>th</sup> Street, Gulf Then Toward US 1 Ending 117 Feet North Of US 1 And 109<sup>th</sup> 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.

The complete 128-page transcript is available upon request.

Leonard moved to deny the appeal. Sexton seconded.

The roll was called. The appeal was denied 4-0.

**Item 3** was read into the record. 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.

Stelzer requested a continuance based on his belief that he was not given all documents in a timely fashion.

Leonard moved to approve the request for a continuance at a special meeting on Thursday October 29th.

Gilson seconded.

The roll was called. The motion to continue was approved 4-0.

Motion to adjourn.

Landry adjourned the meeting at 9:15 p.m.

ATTEST:

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Lynn Landry – Planning Commission Chairman

ATTEST:

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Lorie Mullins-Administrative Assistant  
City of Marathon Planning Department

DRAFT

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 STATEMENT



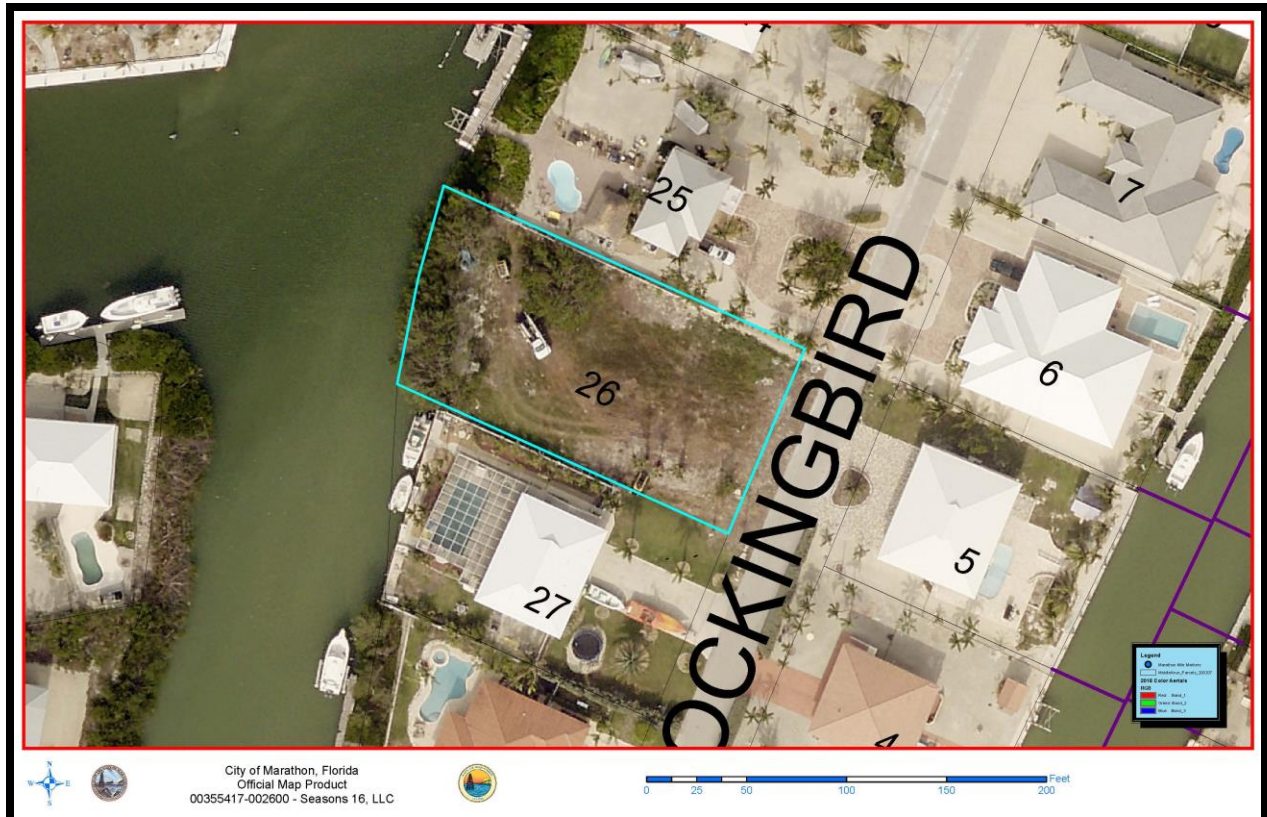
**Date:** November 16, 2020  
**To:** Planning Commission  
**From:** George Garrett, Planning Director  
**Subject:** Appeal of Residential Building Permit P2020-0637

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## **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 Duhay 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.

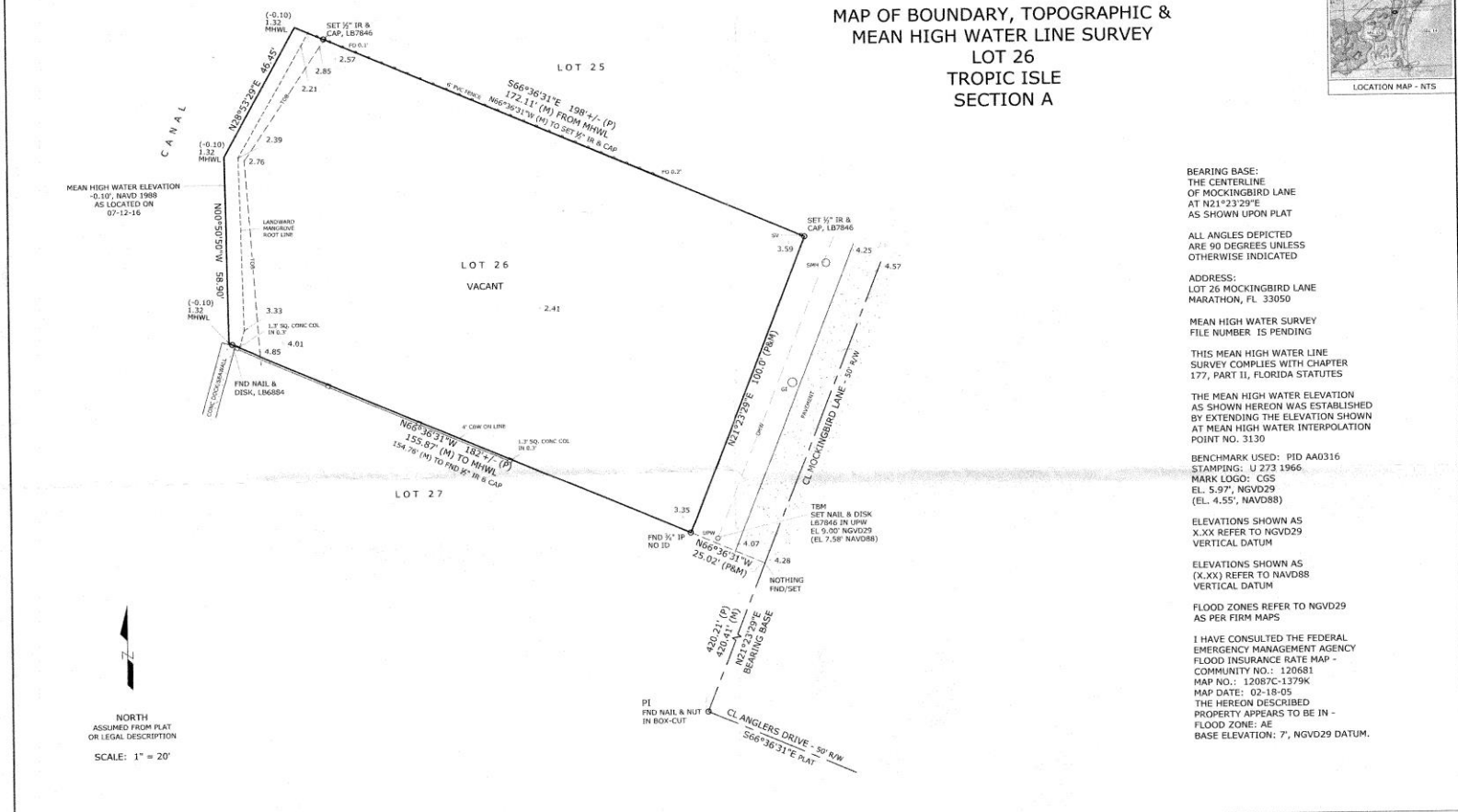
# ATTACHMENT 1A

## Boundary Survey – 00355417-002600

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



LOCATION MAP - NTS



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'**

**FILED DATE: 07/12/16**

**REVISION DATE: -/-/-**

**SHEET 1 OF 1**

**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 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 WELLS 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.

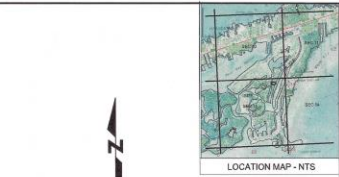
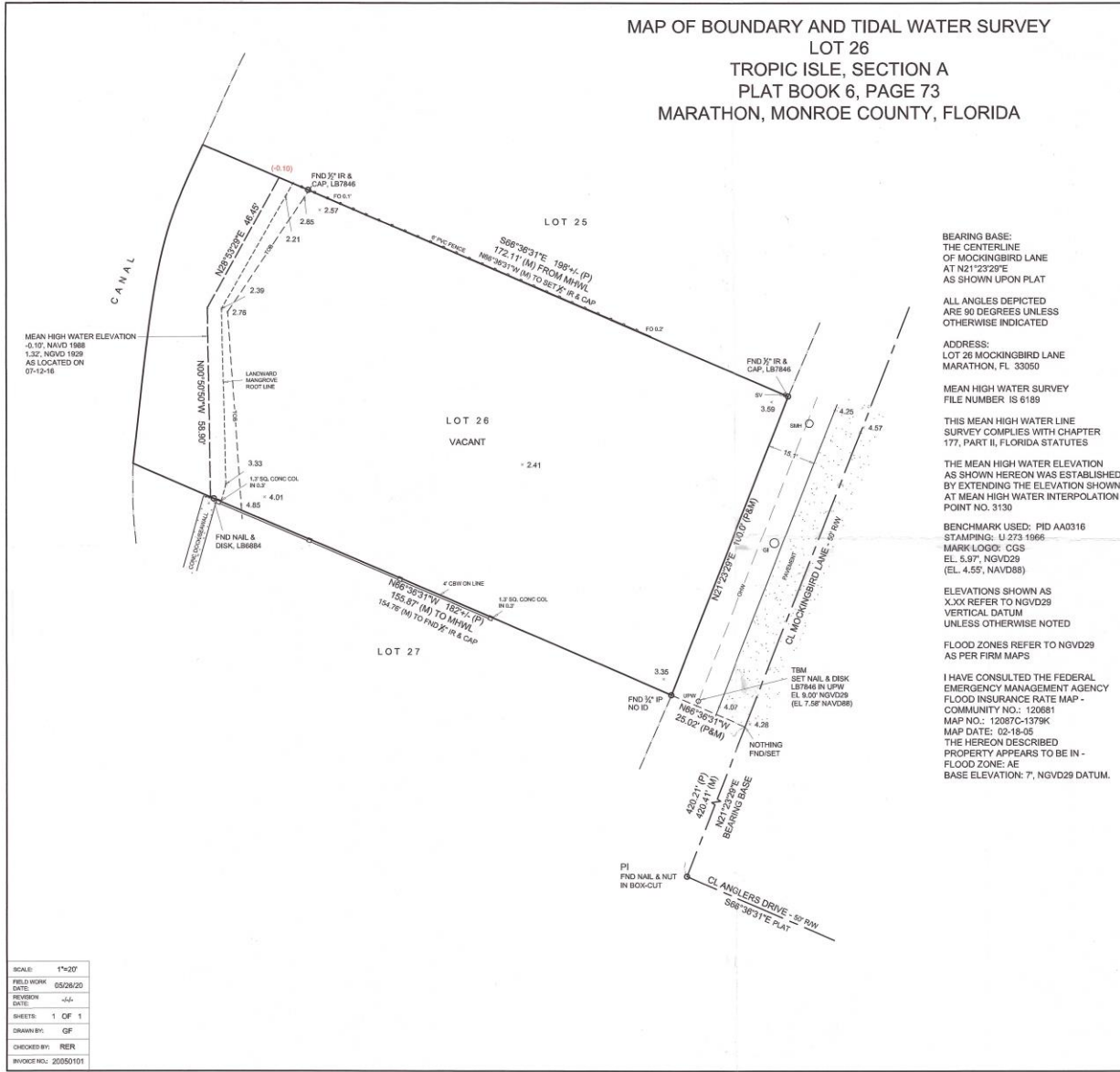
THE FOLLOWING IS A LIST OF ABBREVIATIONS THAT MAY BE FOUND ON THIS SHEET:

REF = RECONSTRUCTION	PI = POINT OF INTERSECTION	PC = POINT OF CURVE	TOP = TOP OF WALL
FI = FENCE	PIB = POINT OF BEGINNING OF BRANCH	PCD = POINT OF CURVATURE DEVELOPMENT	TID = TOP OF DRIVE
FO = FOUNDATION	PIC = POINT OF CURVATURE	PCO = POINT OF CURVATURE OF CENTERLINE	TRIP = TYPICAL SIGNATURE
CO = CONCRETE CURB & GUTTER	PIE = POINT OF END OF ESTIMATION	PCD = POINT OF CURVATURE DEVELOPMENT	GRAB = GRAB SAMPLE POINT
FL = FENCE ON LINE	PIF = POINT OF BEGINNING OF FLOOD	PDI = POINT OF INTERSECTION	CON = CONCRETE
SI = SIGN	PIG = POINT OF BEGINNING OF GRADIENT	PDI = POINT OF INTERSECTION	W = WOOD
CC = CONCRETE CURB	PIH = POINT OF BEGINNING OF HORIZONTAL CURVE	PDI = POINT OF INTERSECTION	ME = METAL
CL = CONCRETE CURB LINE	PIV = POINT OF BEGINNING OF VERTICAL CURVE	PDI = POINT OF INTERSECTION	ROCK = ROCK
CS = CONCRETE	PIW = POINT OF BEGINNING OF WATER	PDI = POINT OF INTERSECTION	WALL = WALL
CLW = CONCRETE CURB WITH WALL	PIY = POINT OF BEGINNING OF YARD	PDI = POINT OF INTERSECTION	IRON = IRON
CI = CONCRETE	PIZ = POINT OF BEGINNING OF ZONE	PDI = POINT OF INTERSECTION	BRASS = BRASS
CU = CONCRETE	PIA = POINT OF BEGINNING OF ANGLE	PDI = POINT OF INTERSECTION	SPR = SPRING
CM = CONCRETE	PIB = POINT OF BEGINNING OF BENCH	PDI = POINT OF INTERSECTION	SW = SWAMP
CO = CONCRETE	PIC = POINT OF BEGINNING OF CURVE	PDI = POINT OF INTERSECTION	ST = STREET
CC = CONCRETE	PID = POINT OF BEGINNING OF DISTANCE	PDI = POINT OF INTERSECTION	TR = TRAIL
CC = CONCRETE	PIE = POINT OF BEGINNING OF ELEVATION	PDI = POINT OF INTERSECTION	TRIP = TYPICAL SIGNATURE
CC = CONCRETE	PIF = POINT OF BEGINNING OF FLOOD	PDI = POINT OF INTERSECTION	TRIP = TYPICAL SIGNATURE
CC = CONCRETE	PIG = POINT OF BEGINNING OF GRADIENT	PDI = POINT OF INTERSECTION	TRIP = TYPICAL SIGNATURE
CC = CONCRETE	PIH = POINT OF BEGINNING OF HORIZONTAL CURVE	PDI = POINT OF INTERSECTION	TRIP = TYPICAL SIGNATURE
CC = CONCRETE	PIV = POINT OF BEGINNING OF VERTICAL CURVE	PDI = POINT OF INTERSECTION	TRIP = TYPICAL SIGNATURE
CC = CONCRETE	PIW = POINT OF BEGINNING OF WATER	PDI = POINT OF INTERSECTION	TRIP = TYPICAL SIGNATURE
CC = CONCRETE	PIY = POINT OF BEGINNING OF YARD	PDI = POINT OF INTERSECTION	TRIP = TYPICAL SIGNATURE
CC = CONCRETE	PIZ = POINT OF BEGINNING OF ZONE	PDI = POINT OF INTERSECTION	TRIP = TYPICAL SIGNATURE
CC = CONCRETE	PIA = POINT OF BEGINNING OF ANGLE	PDI = POINT OF INTERSECTION	TRIP = TYPICAL SIGNATURE
CC = CONCRETE	PIB = POINT OF BEGINNING OF BENCH	PDI = POINT OF INTERSECTION	TRIP = TYPICAL SIGNATURE

# 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\"/>

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 LOGIC: C/S

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

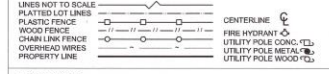
MAP NO.: 12087C-1379K  
 MAP DATE: 02-18-05  
 THE HEREON DESCRIBED  
 PROPERTY APPEARS TO BE IN -  
 FLOOD ZONE: AE

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.

BBF = 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 = CHANGELING 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
F = FIELD	POB = POINT OF BEGINNING
FFE = FINISHED FLOOR ELEVATION	POC = POINT OF COMMENCEMENT
FI = FIRE HYDRANT	R = RODS
FL = FENCE LINE	ROL = ROOF OVERHANG LINE
FO = FENCE OUTSIDE	SCO = SANITARY CLEARCUT
FXL = FENCE ON LINE	SMH = SANITARY MANHOLE
GI = GRATE INLET	SV = SEWER VALVE
GL = GROUND LEVEL	WVF = WOOD FENCE
GW = GUY WIRE	WM = WATER METER
L = ARC LENGTH	WV = WATER VALVE
LE = LOWER ENCLOSURE	



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 (SOLID, 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) 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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

DP2020-0123

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

Office Use Only	
Received By:	_____
<b>RECEIVED</b>	
App #:	_____
<b>SEP 25 2020</b>	
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

Branch: 0422

REMITTER

**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



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**

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:

## 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 3<sup>rd</sup> 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](mailto:garrettg@ci.marathon.fl.us)  
 305-289-4111

Brian Shea  
 City Planner  
[sheab@ci.marathon.fl.us](mailto:sheab@ci.marathon.fl.us)  
 305-289-4112

Geovanna Torres  
 City Planner  
[torresg@ci.marathon.fl.us](mailto: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

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**

	<b>Square Feet</b>
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***	<b>17,067</b>

**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	<b>17,424</b>

**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**

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

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

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

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

<b>Contractor</b> Veres Electric Inc City/State/Country/Zip Code Homestead FL US 33033	<b>Address</b> 29218 SW 187 Ave <b>Phone</b> (786) 298-1990	<b>License No</b> C2018-0149 <b>Permit Type</b> 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	
<u>Contractor</u> Houston Air (DBA)		<u>Address</u> P. O. Box 1321	<u>License No</u> C2007-0038	
<u>City/State/Country/Zip Code</u> Tavernier FL 33070		<u>Phone</u> (305) 852-2960	<u>Permit Type</u> 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	
<u>Contractor</u> Ernest Lix Plumbing		<u>Address</u> 3711 Pearman Court	<u>License No</u> C2010-0053	
<u>City/State/Country/Zip Code</u> Key West FL 33040		<u>Phone</u> (305) 879-3715	<u>Permit Type</u> 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	
<u>Contractor</u> Construction Dynamics Inc		<u>Address</u> 1222 SE 47th St Suite 330	<u>License No</u> C2014-0123	
<u>City/State/Country/Zip Code</u> Cape Coral FL 33904		<u>Phone</u> (239) 267-4804	<u>Permit Type</u> 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	
<u>Contractor</u> Lindholm Construction Inc.		<u>Address</u> 88005 O/S HWY	<u>License No</u> C2009-0107	
<u>City/State/Country/Zip Code</u> ISLAMORADA FL 33036		<u>Phone</u> (305) 393-1735	<u>Permit Type</u> 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	
<u>Contractor</u> Construction Dynamics Inc		<u>Address</u> 1222 SE 47th St Suite 330	<u>License No</u> C2014-0123	
<u>City/State/Country/Zip Code</u> Cape Coral FL 33904		<u>Phone</u> (239) 267-4804	<u>Permit Type</u> 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

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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
<b>Density Range</b> (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
<b>Min lot area per unit</b> (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
<b>FAR</b>	0.15-0.61	0.15-0.61	0.15-0.75	0.15-0.50							N/A





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).

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

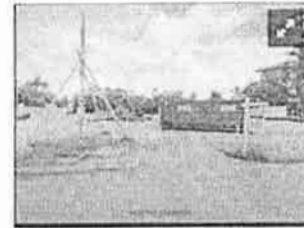
<sup>2</sup> Density bonus limited to deed-restricted affordable housing as established in Article 1, "Affordable Housing" of Chapter 104.

<sup>3</sup> 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: 1426700  
 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**

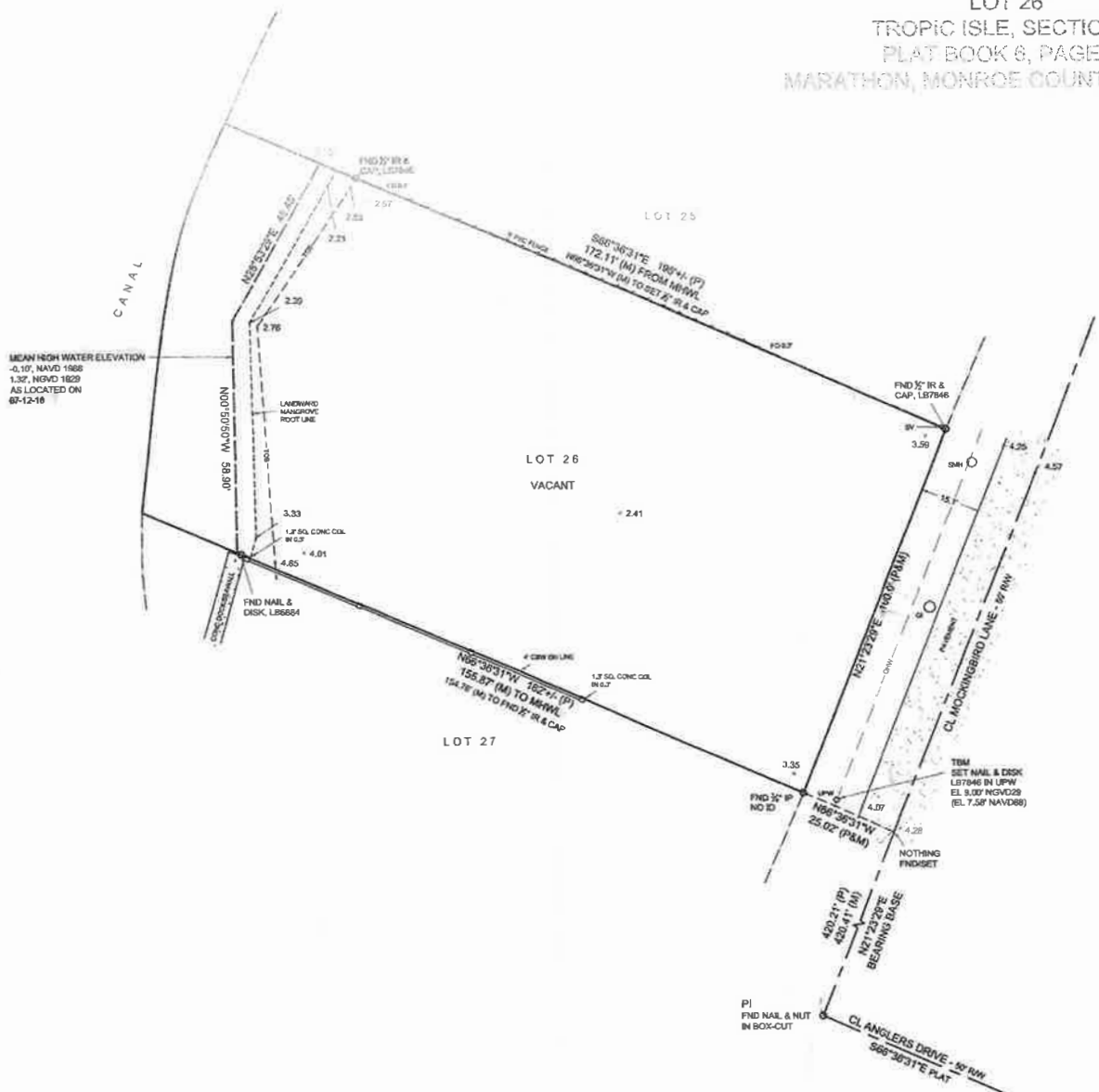
	2020	2019	2018	2017	2016
• Market Improvement Value	\$0	\$0	\$0	\$0	\$0
• Market Sdc Value	\$0	\$0	\$0	\$0	\$0
• Market Land Value	\$475,475	\$385,775	\$372,650	\$322,775	\$222,393
• Just Market Value	\$475,475	\$385,775	\$372,650	\$322,775	\$222,393
• Total Assessed Value	\$296,513	\$269,559	\$245,052	\$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**



MEAN HIGH WATER ELEVATION  
-0.10' NAVD 1988  
1.37' NGVD 1929  
AS LOCATED ON  
87-12-16

BEARING BASE:  
THE CENTERLINE  
OF MOCKINGBIRD LANE  
AT N21°23'28\"/>

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 1966  
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

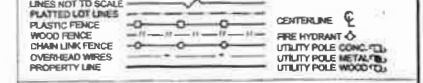
I HAVE CONSULTED THE FEDERAL  
EMERGENCY MANAGEMENT AGENCY  
FLOOD INSURANCE RATE MAP -  
COMMUNITY NO.: 120661  
MAP NO.: 12067C-1379K  
MAP DATE: 02-18-05  
THE HEREON DESCRIBED  
PROPERTY APPEARS TO BE IN -  
FLOOD ZONE: AE  
BASE ELEVATION: 7', NGVD29 DATUM.

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	NHVS	NATIONAL GEODETIC SURVEY
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
FEE	FRESH FLOOR ELEVATION	POC	POINT OF COMMENCEMENT
FI	FENCE INSIDE	R	RADIUS
FO	FENCE OUTSIDE	ROL	ROOF OVERHANG LINE
FOL	FENCE ON LINE	SCC	SANITARY CLEAN-OUT
G	GUY WIRE	SMH	SANITARY MANHOLE
GL	GROUND LEVEL	SV	SHER VALVE
GW	GUY WIRE	WDF	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, 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 HATUS.
  - 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.

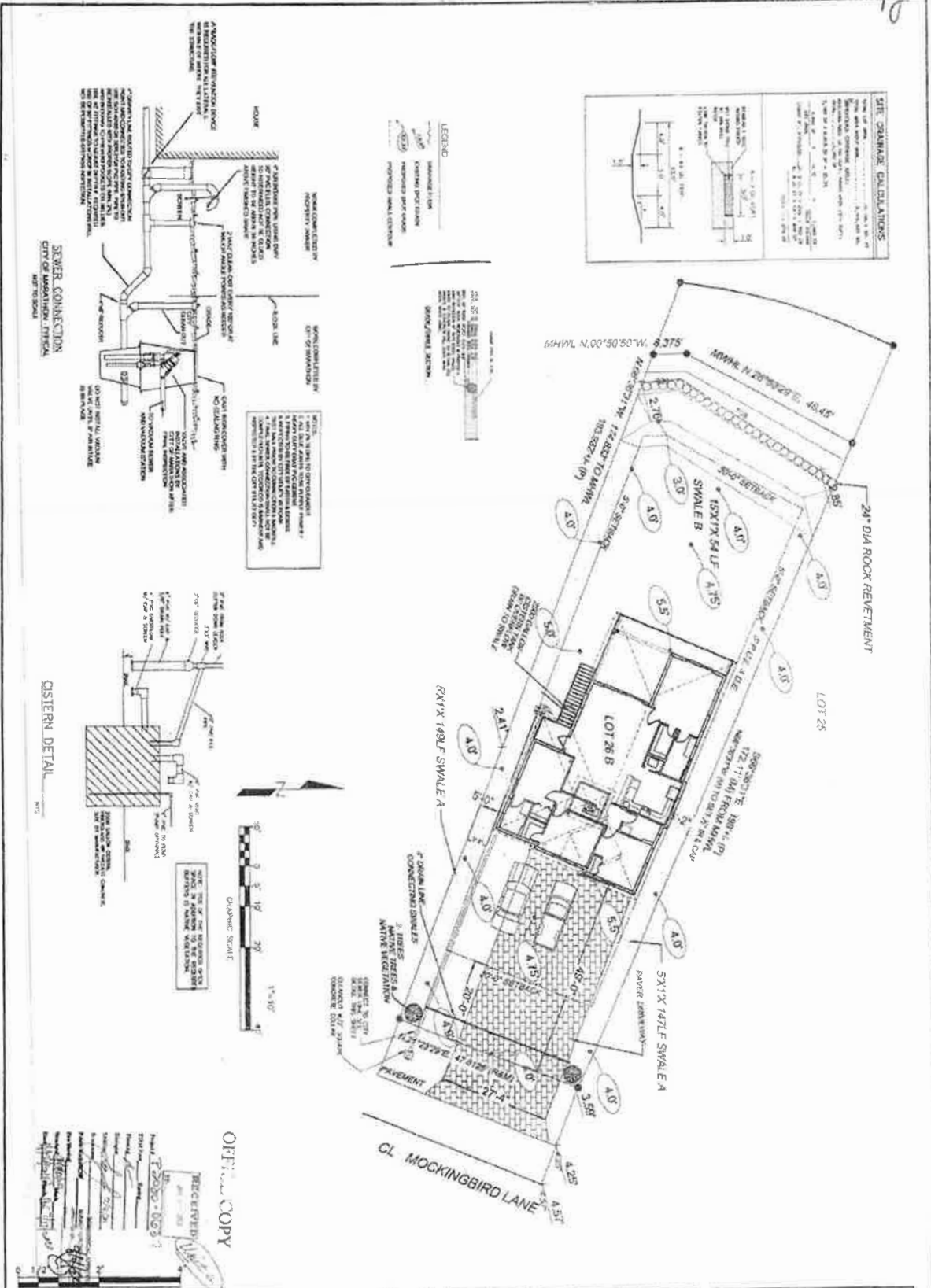
**REECE & ASSOCIATES**  
PROFESSIONAL SURVEYORS AND MAPPERS  
LICENSED BUSINESS (LS) NO. 7266  
127 INDUSTRIAL ROAD, BIG PINE KEY, FL. 33043  
OFFICE (305) 872 - 1348  
EMAIL: info@reesesurveying.com

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 54-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 (SUBPARAGRAPH 1)(B) (SETBACKS), (B)(2) (ENCROACHMENTS), & (B)(4) (ADJACENTS), 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

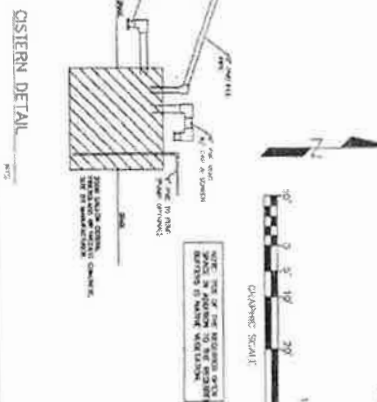
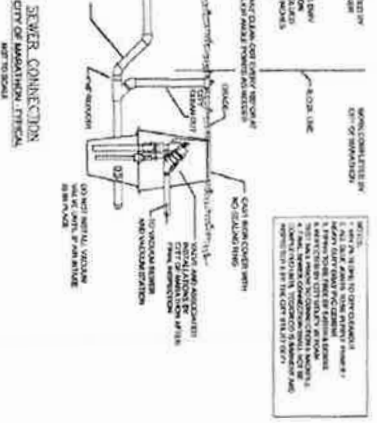


**SITE DRAINAGE CALCULATIONS**

Area	Area (sq ft)	Runoff Coefficient (C)	Runoff (cfs)
Roof	1,200	0.8	0.128
Driveway	2,400	0.6	0.144
Yard	10,000	0.2	0.200
<b>Total</b>	<b>13,600</b>		<b>0.472</b>

**LEGEND**

- Proposed Sewer Line
- Proposed Storm Drain
- Proposed Final Location

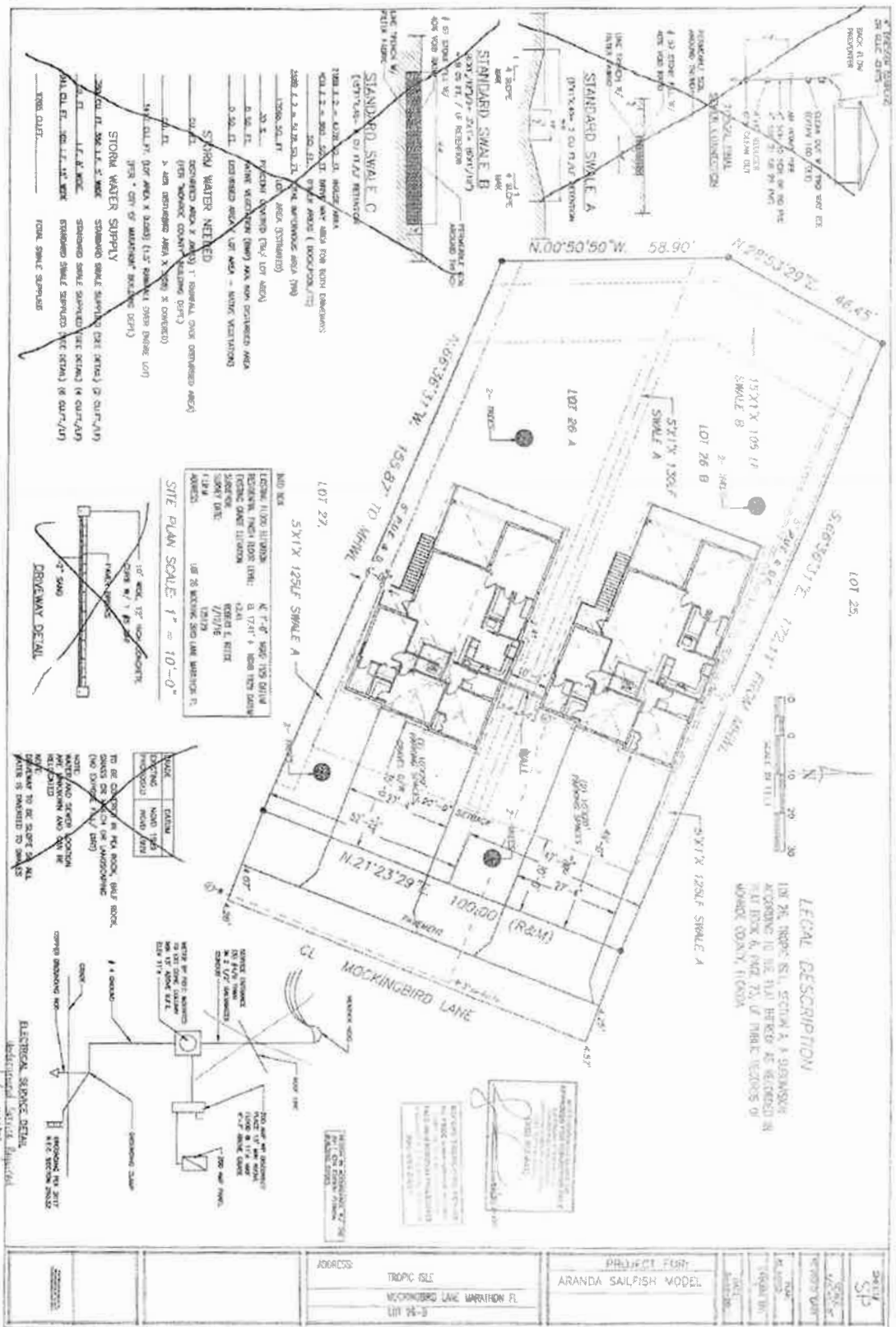


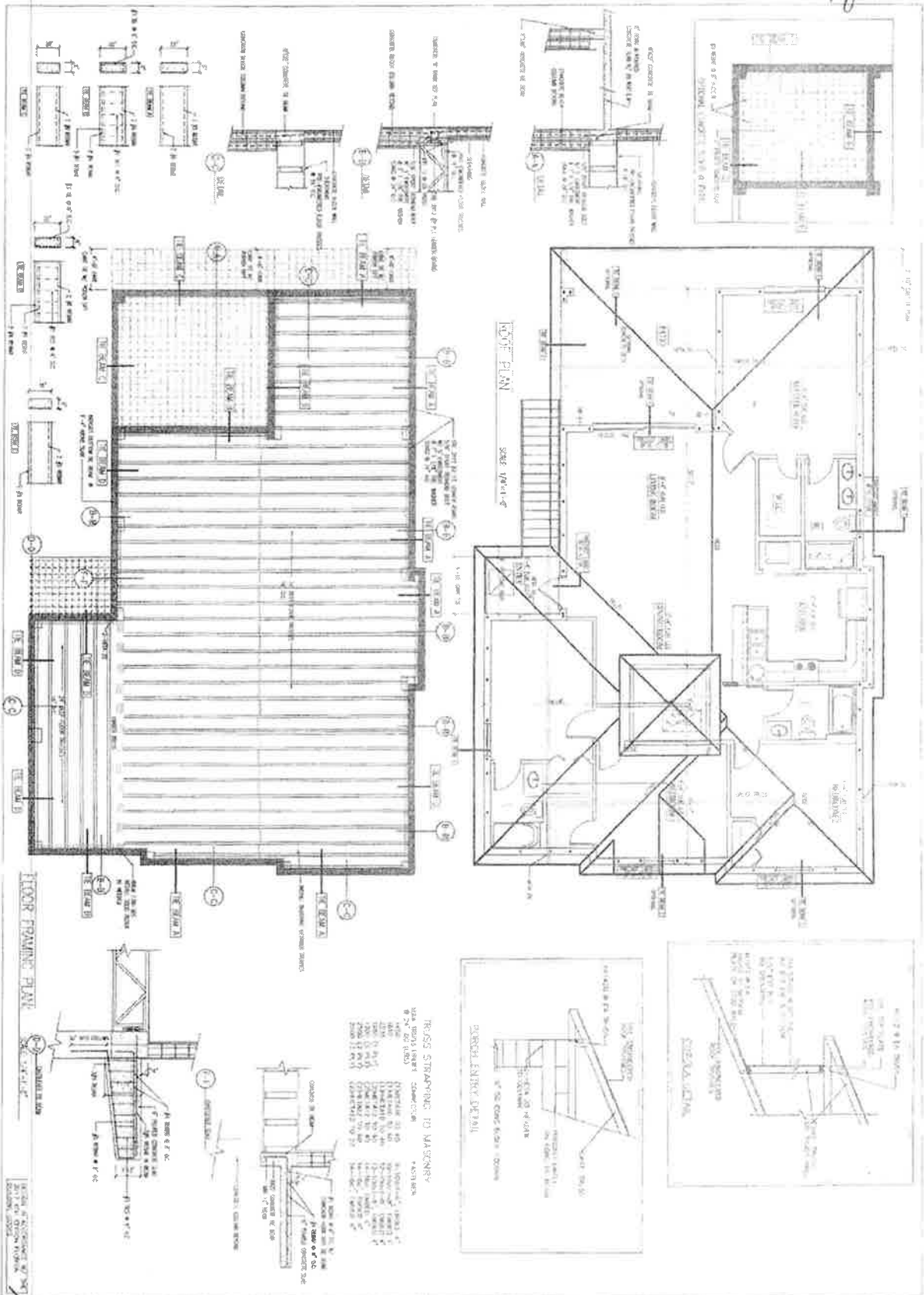
OFFICE COPY  
RECEIVED  
PROJECT 1854  
DATE: JUNE 1, 2011



**CAMPBELL ENGINEERING**  
CONSULTANTS LLC  
William R. Campbell, P.E. License #: 79289

CONSTRUCTION PROPOSED FOR THE FOLLOWING LOCATION:  
LOT 26B, MOCKINGBIRD LN  
MARATHON, IL





	ADDRESS: 1800 N. 15th St. MOONSBORO LAKE, MARIETTA, GA 30067	PROJECT FOR: ARANDA TALKER MODEL	DATE: 11/11/11	DRAWN BY: J. B. BROWN	CHECKED BY: J. B. BROWN	SCALE: AS SHOWN	SHEET NO.: 77	TOTAL SHEETS: 100
	PROJECT NO.: 11-11-11	CLIENT: ARANDA TALKER MODEL	ARCHITECT: J. B. BROWN	ENGINEER: J. B. BROWN	DATE OF ISSUE: 11/11/11	DATE OF REVISION: 11/11/11	DATE OF APPROVAL: 11/11/11	DATE OF SIGNATURE: 11/11/11

Attachment 6 pg 1 of 1

**Marathon Information System**  
 City of Marathon  
 CITY BOOKS  
 8347002 2:01:48 PM

**Building Project Permit**

**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 SCHWEPPELBERG AND HARRIET GAYNE	Address: 711 HUMMINGBIRD WAY APT 207 NORTH PALM BEACH FL 33408-5170	6/4/2020 Approved	6/12/2020 Geotech Rept Recd
Company/Address/Phone: NORTH PALM BEACH FL 33408-5170	Phone: (772) 716-0740	8/17/2020 Approved	8/17/2020 Pricing
Company/Address/Phone: 130 Andrews Engineering Inc 78 South Ocean FL 33401	Address: 135 Gulfview Ave 33401	8/19/2020 PRICING COMPLETED	8/21/2020 Permit Paid For
Company/Address/Phone: 130 Andrews Engineering Inc 78 South Ocean FL 33401	Address: 135 Gulfview Ave 33401	8/21/2020 Issued	8/21/2020 Permitted

Company/Address/Phone: Construction Dynamics Inc 2525 US Highway 90 Cape Coral FL 33904	Address: 1222 SE 47th St Suite 330 33904	Phone: (239) 287-4804	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 is duplex, 2 SFR side by side, no common wall\*\*  
 \*\*SCHEDULED PERMITTING TRACKING RECVD OF GEOTECHNICAL REPORT, NEW PLANS AS PER REVIEWER COMMENTS INSERTED INTO PLANS\*\* JMW

CLASS	TAXES	USE	YEAR BUILT	Permit Number	DL AREA	EXIST. FEES
				00355417-002900		0

Permit # 2529-9528 Building Permit Fee: \$4,665.50

Company/Address/Phone: Construction Dynamics Inc 2525 US Highway 90 Cape Coral FL 33904	Address: 1222 SE 47th St Suite 330 33904	Phone: (239) 287-4804	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 / RESY REVIEW	\$70.00	\$70.00
1		DCA Surcharge Fee	\$47.04	\$47.04
1		CBPR Surcharge Fee	\$70.56	\$70.56
1		PERM. FEES	\$4.00	\$4.00
				Total: \$4,663.60

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

Company/Address/Phone: Emanuel R. Manning 1000 West US Highway 90 Marathon FL 33906	Address: 3711 Peabody Court 33906	Phone: (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

[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

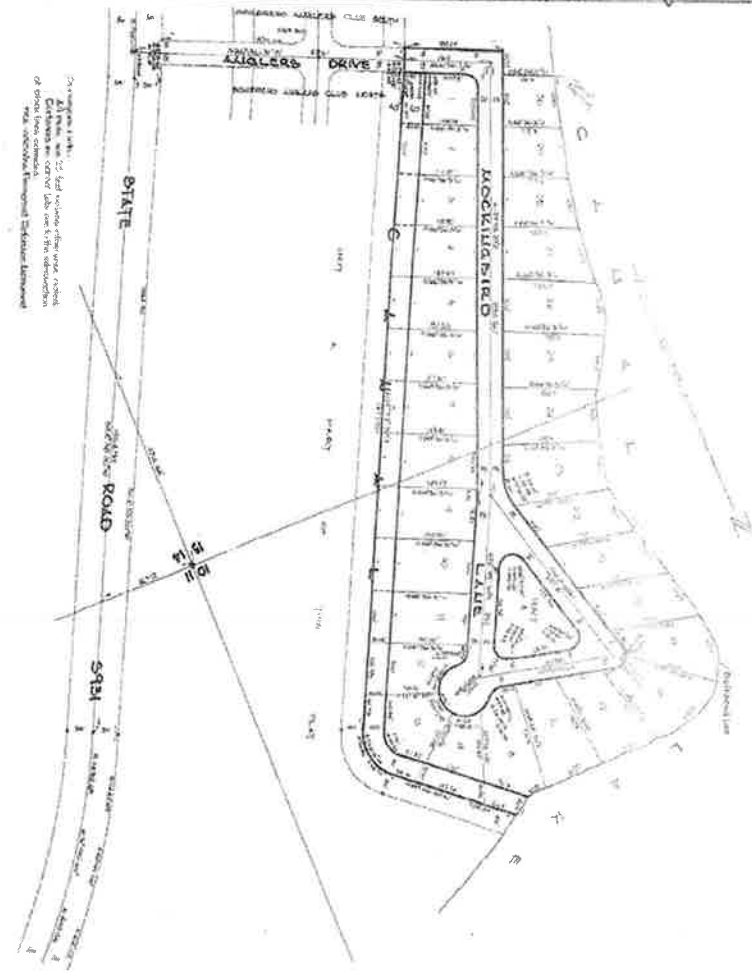
2. The resultant two (2) lots shall:
  - a. Meet the minimum requirements of the City Comprehensive Plan and the LDRs.
  - b. Each be memorialized with a survey showing at a minimum, the parent parcel and the resultant individual parcel each survey of which shall be recorded in the public record.
  - 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 Ponce de Leon "road-rich" area in the City of Jacksonville, Florida  
 City of Jacksonville  
 Planning Department  
 Planning Section  
 Jacksonville, Florida

DATE: 10/1/72  
 DRAWN BY: [Signature]  
 CHECKED BY: [Signature]



As shown on the site plan, the proposed development is located on the corner lots over the intersection of State Road and Mockingbird Drive.

I, the undersigned, being the duly authorized representative of the City of Jacksonville, Florida, do hereby certify that the above information is true and correct to the best of my knowledge and belief.

[Signature]  
 City Engineer  
 City of Jacksonville



THE CITY ENGINEER OF THE CITY OF JACKSONVILLE, FLORIDA, HAS REVIEWED THE PLANS AND SPECIFICATIONS FOR THE PROPOSED DEVELOPMENT OF A PORTION OF THE PONCE DE LEON "ROAD-RICH" AREA IN THE CITY OF JACKSONVILLE, FLORIDA, AND HAS DETERMINED THAT THE SAME COMPLY WITH THE CITY ZONING ORDINANCES AND THE CITY ENGINEERING DEPARTMENT REGULATIONS.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the City of Jacksonville, Florida, this 21st day of December, 1972.

[Signature]  
 City Engineer  
 City of Jacksonville

APPROVED AND ADOPTED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF JACKSONVILLE, FLORIDA, THIS 21st day of December, 1972.

[Signature]  
 Mayor  
 City of Jacksonville

APPROVED AND ADOPTED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF JACKSONVILLE, FLORIDA, THIS 21st day of December, 1972.

[Signature]  
 Mayor  
 City of Jacksonville

Attachment 10 pg 1 of 1



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

**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).

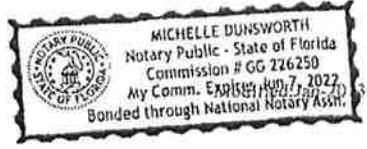
**WARNING TO OWNER:** ANY PAYMENTS MADE BY THE OWNER AFTER THE EXPIRATION OF THE NOTICE OF COMMENCEMENT ARE CONSIDERED IMPROPER PAYMENTS UNDER CHAPTER 713, PART 1, SECTION 713.13, FLORIDA STATUTES, AND CAN RESULT IN YOUR PAYING TWICE FOR IMPROVEMENTS TO YOUR PROPERTY. A NOTICE OF COMMENCEMENT MUST BE 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 ANGLA Date 8/20/20

Sworn to and subscribed before me on this 20<sup>th</sup> 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~~ / 262,000.00

[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: Cartene Reorda

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

[Signature]  
Witness Name: Maria Victoria

[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 Victoria

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)

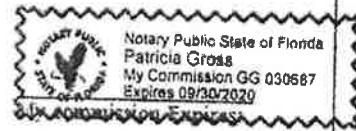
NOTARY STATE OF FLORIDA,  
COUNTY OF MONROE

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/](http://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**

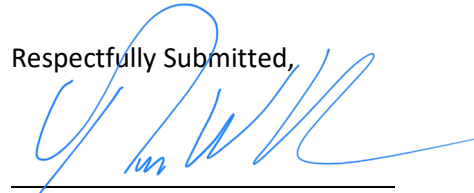
The Owner submitted information to the City that demonstrated the application's compliance with all applicable requirements of the LDRs. City Staff reviewed the application materials and issued the Permit based on a finding that the application complied with all applicable LDR provisions. Florida law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



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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.

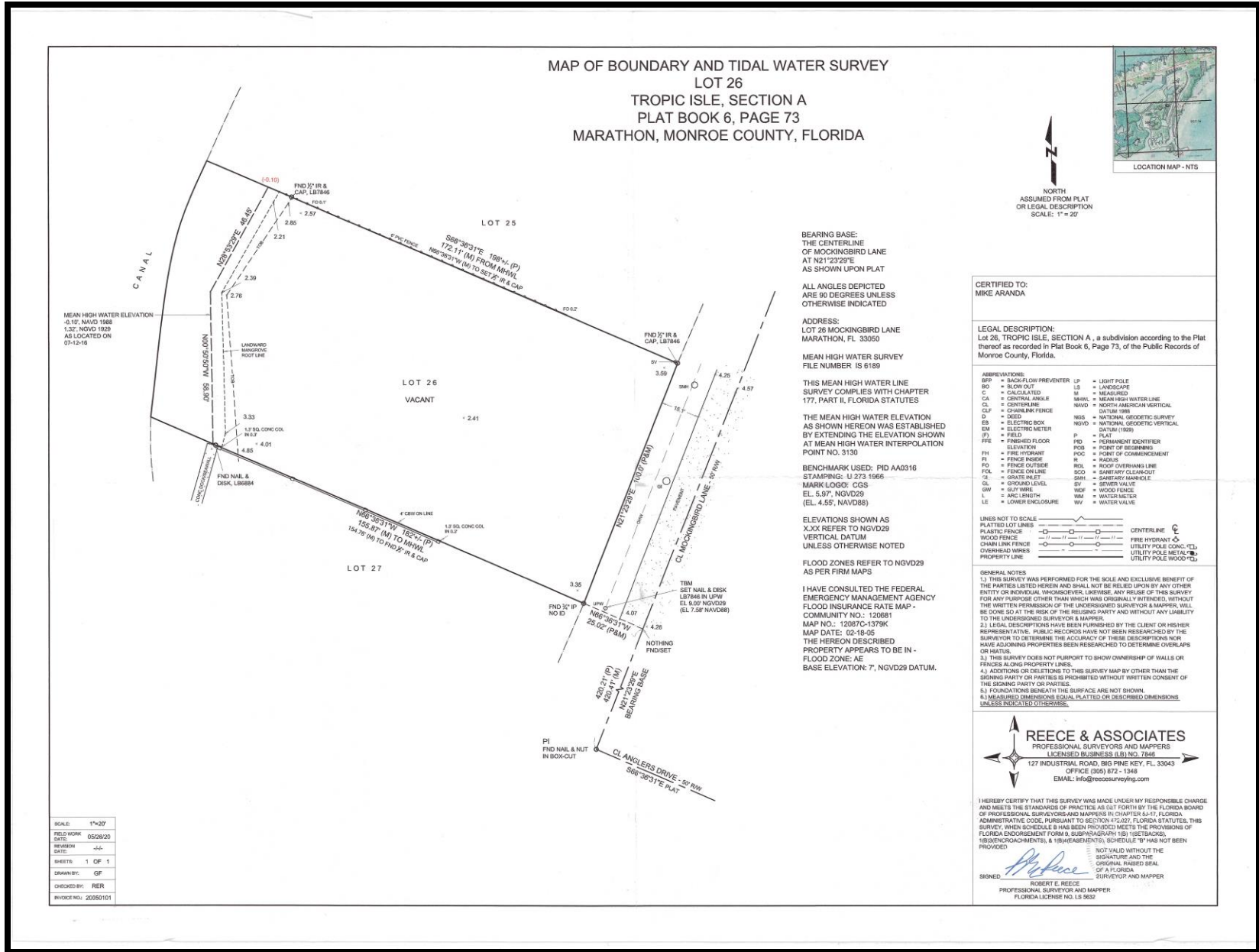
b. Transfer of Residential Density (TDRs)

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
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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.

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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.

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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"

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**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.)
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- **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**

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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:

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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

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