



City of Marathon Planning Commission
Monday June 21, 2021
9805 Overseas Hwy
City Hall Council Chambers
5:30 PM

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

5. Quasi-Judicial Statement

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

6. Items For Public Hearing

1. A Request For A Conditional Use Permit For A Preliminary Plat And Site Plan Approval As Submitted By Casa Marabella LLC For A Portion Of Land Having The Addresses Of 12670, 12700, And 12800 Overseas Highway, Which Is Described As Part Of Government Lot 1 And Part Of Bay Bottom Adjacent To Lot 1 Section 5 South Township 65 South Range 33 East And Government Lot 2 And Bay Bottom Northerly Of Lot 2 Section 33 South Township 65 South Range 33 East, Fat Deer Key, Marathon, Monroe County, Florida, Having Real Estate Number 00099610-000000.



**City of Marathon Planning Commission
Monday May 17, 2021
9805 Overseas Hwy
City Hall Council Chambers**

MINUTES

Lynn Landry called the meeting of the Planning Commission to order on Monday, May 17, 2021, at 5:30 pm.

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

The Pledge of Allegiance was recited.

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

Landry asked for approval of the last meeting minutes.

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

The quasi-judicial statement was read into the record.

Public speakers were sworn in.

Item 1 was read into the record. Consideration Of A Request By Circle K Stores, Inc. For A Conditional Use Permit Pursuant To Chapter 102 Article 13 Of The City Of Marathon Land Development Regulations (LDRs) Entitled "Conditional Use Permits" For The Development Of A 5,200 Sq. Ft. Convenience Store With 14 Self-Service Fuel Positions On Property Located At 11100 & 11150 Overseas Highway, Which Is Legally Described As The South 150 Feet Of Lots 1 And 2 In Block 1 And The South 208.85 Feet Of Lots 3 And 4 Block 1 Of Key Colony Subdivision No. 3, Key Vaca, Marathon, Monroe County, Florida; Having Real Estate Numbers 00334560-000000 & 00334600-000000.

Brian Shea presented the item.

Bill Pfeffer, the engineer of record for the applicant, offered to answer questions.

After a brief discussion regarding an EPA study, traffic study, alternative energy vehicles, access to the shopping center, the possibility of adding some tropical décor, landscaping, and traffic flow at the pumps during an emergency, Leonard made a motion to approve the item with the removal of condition 5. Klock seconded.

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

Items 2 and 3 were read into the record. Consideration Of A Request By Florida Keys Animal Encounters, LLC For A Conditional Use Permit Pursuant To Chapter 102 Article 13 Of The City Of Marathon Land Development Regulations (LDRs) Entitled “Conditional Use Permits”, For The Expansion Of The Previously Approved Sea Life Amusement Park And A Marine Educational Facility, To Include A 15,200 Square Foot Warehouse, Office, And Lab Space, At 11710 Overseas Highway, And Legally Described As Part Of Government Lot 4, Section 5, Township 66 South, Range 33 East, Key Vaccas, Monroe County, Florida, Having Real Estate Number 00104130-000000.

Item 3. Consideration Of A Request By Florida Keys Animal Encounters, LLC For A Variance Pursuant To Chapter 102 Article 20 From The Provisions Of Section 106.28 Of The City Land Development Regulations (LDRs) Regulating The Minimum Setback For A Principal Structure On Property Located At 11710 Overseas Highway, And Legally Described As Part Of Government Lot 4, Section 5, Township 66 South, Range 33 East, Key Vaccas, Monroe County, Florida, Having Real Estate Number 00104130-000000.

Williams asked for ex-parte communications.

Sexton had been contacted by the Chamber and applicant, and owners of Seawatch, by email and telephone communications.

Landry had contact with the applicant and an owner at Seawatch.

Bart Valdes representing Heidi Valdes, an owner at Seawatch, withdrew the request to continue.

Shea presented the items.

Bart Smith presented both items on behalf of the applicant.

Ben Daughtry, applicant, answered questions from the commissioners regarding setbacks, the size of the building, and how the reduction in setbacks would affect the proposed programs and uses.

Landry opened the meeting to public speakers.

- Nick Mulick representing organizations that object to the items.
- Bart Valdes wanted to submit a report by Sandra Walters to be added to the record. A vote was taken and passed that no new evidence will be added given the untimely request for submission. He proceeded to speak against the items. The report will be added to the minutes.
- Daniel Samess, Marathon Chamber of Commerce, spoke in favor of the items.
- Susan Tatgenhorst spoke against the items.
- Brian Bolon spoke against the items.
- Michael Echevarria spoke in favor of the items.
- Hiram Collazo spoke against the items.
- Richard Sweetham spoke against the items.
- Charlotte Quinn spoke in favor of the items.
- Bob Rehbock spoke against the items.
- Sylvia Eriksen spoke against the items.
- Julie Joyce-Rehbock spoke against the items.

- Michael Puto spoke in favor of the items.

Landry closed the meeting to public speakers.

Bart Smith addressed concerns of the public.

Nick Mulick stepped up to the podium to comment on Smith's comments, but Williams stopped him and asked Landry if he wanted to acknowledge Mulick's comments. Landry did not allow Mulick to speak again as public comments had been closed.

After a brief discussion between Smith, Daughtry, and commissioners,

Williams asked Brandon to display the site plan so that the square footage of the proposed building could be verified. Daughtry confirmed 15,200 sq ft. Smith's prior comment of a 7,600 sq ft was incorrect.

Landry asked Garrett why the City requires a 50' setback when the South Florida Water Management District only requires 25'. The City will possibly update the codes to match.

Leonard made a motion to approve item 3, the variance. Klock seconded.

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

Landry asked about widening the road to Seawatch, which is owned by Aquarium Encounters who give Seawatch an easement. Daughtry had no objections to widening the road.

Klock moved to approve item 2 for the conditional use, with the condition of widening the road subject to the applications to ACOE/DEP. If ACOE/DEP denies the applications to widen the road it will not be fatal to this conditional use. Leonard seconded.

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

Motion to adjourn.

Landry adjourned the meeting at 8:00 p.m.

ATTEST:

Lynn Landry – Planning Commission Chairman

ATTEST:

Lorie Mullins-Administrative Assistant
City of Marathon Planning Department

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

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

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

DRAFT

PLANNING COMMISSION AGENDA STATEMENT



Meeting Date: June 21, 2021
To: Planning Commission
From: Brian Shea, Planning Director

Agenda Item: A Request For A Conditional Use Permit For A Preliminary Plat And Site Plan Approval As Submitted By Casa Marabella LLC For A Portion Of Land Having The Addresses Of 12670, 12700, And 12800 Overseas Highway, Which Is Described As Part Of Government Lot 1 And Part Of Bay Bottom Adjacent To Lot 1 Section 5 South Township 65 South Range 33 East And Government Lot 2 And Bay Bottom Northerly Of Lot 2 Section 33 South Township 65 South Range 33 East, Fat Deer Key, Marathon, Monroe County, Florida, Having Real Estate Number 00099610-000000.

APPLICANT/ OWNER: Manny Roman Casa Marabella LLC

AGENT : Amie Owens, Don Horton Construction

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

**Figure 1
Project Site**



REQUEST: A Conditional Use Permit and Preliminary Plat approval for the subject property having RE 00099610-000000 to allow for the subdivision of the single parcel into three parcels.

FUTURE LAND USE MAP DESIGNATION:

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

**Figure 2
Future Land Use Map**



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

Figure 3
Zoning Map



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

SURROUNDING ZONING AND USES:

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

EXISTING CONDITIONS:

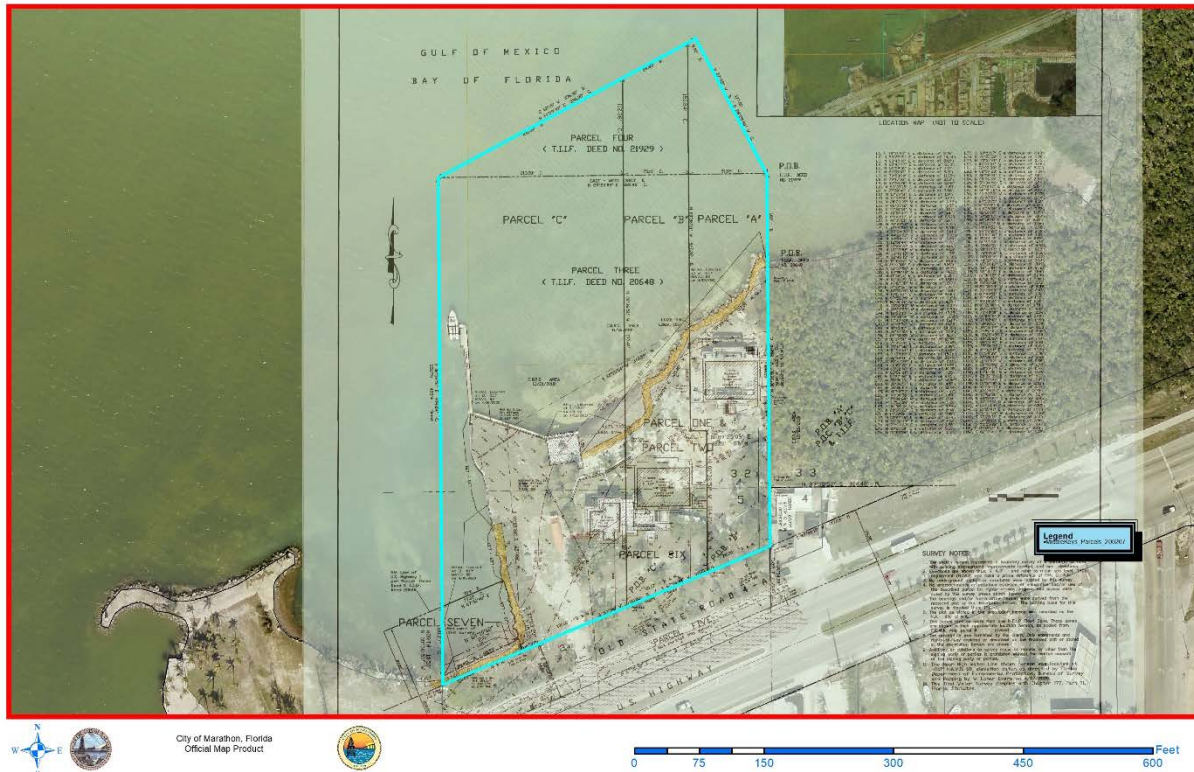
The project site consists of a large lot with three homes on the property.

PROPOSED REDEVELOPMENT:

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

See Figure 4 for Site Plan layout.

**Figure 4
Proposed Redevelopment Site Plan**



BACKGROUND:

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

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

EVALUATION FOR COMPLIANCE WITH THE LAND DEVELOPMENT REGULATIONS:

The criteria for evaluating a Conditional Use Approval are outlined in Chapter 102, Article 13, Conditional Use Permits, in the City of Marathon Land Development Regulations.

CRITERIA

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

The proposed development project is located within the Mixed Use (MU) Zoning District. Per Chapter 103, Article 2, Section 103.09 of the Land Development Regulations, the district is designed to “accommodate a wide variety of commercial and retail activities that will result in the most efficient and attractive use of the City’s historic business district and the US1 Corridor, in an effort to recognize the role of US1 as the City of Marathon’s ‘Main Street.’ The MU district also provides for large-scale retail and commercial business opportunities in other areas, including larger shopping center, specialty shopping centers, individual multi-tenant commercial buildings, automotive services and sales, fast food restaurants, affordable housing uses, transient lodging and other retail establishments that serve the community at large”.

Table 103.15.2 in the Land Development Regulations establishes constraints on density and intensity allowed in the MU district based on the types of uses proposed. Using the property area, the proposed use can have up to 11 residential units, however the applicant is just subdividing the lot so that each of the existing 3 residential units is on its own lot. Table 103.15.3 further qualifies the allowed range of intensities based on the intensity of retail use.

Development Type	Proposed	Maximum Allowed
Residential Units		
Market Rate	3	11

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

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

B. The proposed use is compatible with the existing land use pattern and future uses designated by the Comprehensive Plan;

The proposed project is located within the Mixed-Use Commercial Future Land Use District. Policy 1-3.1.4 of the City of Marathon Comprehensive Plan states that the “principal purpose of the Mixed-Use Commercial land use category is to provide for the establishment of mixed-use development patterns and to recognize established mixed use development patterns within the City.” The project as originally approved included mixed use development of transient RV rights, affordable housing, and commercial retail, which is consistent with the Mixed-Use classification. At this juncture, the previously approved RV Park component was separated from the rest of the development and is now being proposed to be platted into seven single family lots.

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

Section 103.15, Table 103.15.2, “Uses By Zoning District,” establishes whether specific uses are allowed as of right, limited, accessory or conditional use permit. That table shows that Plats and subdivisions are permitted only when approved through the Conditional Use Permit process. Conditional Use Permit review is intended to allow a broader view of the potential impacts of a

project on adjacent uses and on City concurrency related resources such as road capacity, solid waste, sewer, and potable water availability.

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

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

C. The proposed use shall not adversely affect the health, safety, and welfare of the public;

The proposed conditional use does not adversely affect the health, and welfare of the public. The impacts on surrounding properties as a result of the proposed development should be positive.

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

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

D. The proposed conditional use minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment:

The existing conditions maps indicate the subject area is designated as Developed Land. Portions of the land are flagged as undeveloped land. The State-owned land next door is also listed as hammock. However, the existing and proposed development will have no impact on the neighboring hammock.

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

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

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

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

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

E. Satisfactory provisions and arrangements have been made concerning the following matters, where applicable:

1. Ingress and egress to the property and proposed structures thereon with particular reference to automotive, bicycle, and pedestrian safety and convenience, traffic flow and control and access in cases of fire or catastrophe;

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

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

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

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

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

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

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

The existing buildings provide sufficient parking space per the code.

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

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

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

Therefore, the request is ***in compliance*** with the requirements of this section.

4. Refuse and service areas, with particular reference to locations, screening, and Items 1 and 2 above;

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

Therefore, the request is ***in compliance*** with the requirements of this section.

5. Utilities, with reference to location and availability;

Chapter 107, Article 13, establishes the City's Concurrency Management and certification requirements. This Conditional Use constitutes the City's Concurrency Level of Service Certificate, as follows:

- Wastewater: The applicant is already connected to wastewater.
- Water: The Florida Keys Aqueduct Authority already provides potable water for the facility.
- Solid Waste: Marathon Garbage Service already provides solid waste disposal.
- Surface Water: The applicant already provides stormwater retention compliance within City standards.
- Recreation and Open Space: This development will have a de minimus impact on recreation and open space.
- Roadways: The units currently exist; therefore, resulting in a de minimus impact on transportation facilities.
- Educational Facilities: This redevelopment will have a de minimus impact on educational facilities since these are existing units.

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

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

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

Table 103.15.2 outlines setback requirements in the MU district as follow: front yard 0 – 30'; side yard 1 and 2, 0 – 10; interior side yard, 10; and, street side, 0-5'.

Table 106.28.1 outlines setbacks requirements for a Principal structure on open water where original slope landward has been significantly altered by filling but a mangrove fringe exists that is contiguous from side lot line to side lot line and is at least ten (10) feet wide at the root zone;

have a setback requirement of thirty (30) feet from MHWL or the landwards extent of the mangrove root system. A resource buffer distance is set at a 30-foot minimum from MHWL, since that is further landward than the root system.

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

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

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

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

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

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

8. Required yards and other open space;

Section 106.16 established required open space for the project. The parcel is generally considered developed; therefore, a twenty percent open space requirement applies. To the greatest extent possible, the Applicant will be required to protect Regulated Trees, pursuant to Chapter 106, Article 2 of the LDRs. According to the existing survey the lots well exceed the 20% open space requirement. When the one existing preFIRM structure is replaced, the plans will be reviewed to make sure the open space requirement is continued to be met.

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

9. General compatibility with surrounding properties; and

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

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

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

10. Any special requirements set forth in the LDRs for the particular use involved.

Section 104.48 Residential Dwelling Units contains special requirements.

The following criteria are applicable to this redevelopment:

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

Therefore, with the conditions note above, the request is **in compliance** with the requirements of this section.

CONCLUSION:

The Conditional Use approval is intended to allow for the integration of certain land uses and structures within the City of Marathon based on conditions imposed by the Council. Review is based primarily on compatibility of the use with its proposed location and with surrounding land uses. Conditional uses shall not be allowed where the conditional use would create a nuisance, traffic congestion, a threat to the public health, safety, or welfare of the community.

The proposed development plat allows for the subdivision of the lot into three individual lots, one for each home. As such the development, including the overall upgrading and improvement of the site, furthers the policies for development in the City and is consistent with the Comprehensive Plan and Land Development Regulations. The project is compatible with surrounding uses, and is not expected to create a nuisance, traffic congestion or threat to public, health, safety, or welfare.

RECOMMENDATION:

The Planning staff recommends conditional approval of the Subdivision to the Planning Commission. The proposed conditions of approval are listed below.

Conditions of Approval

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

ANALYSIS OF PLAT APPROVAL REQUEST:

The standards for re-plat approval are established in Chapter 102, Article 10 of the Land Development Regulations. The application for the preliminary plat approval is being simultaneously reviewed per Section 102.45.D.2. through the Conditional Use process. Pursuant to the Code, the Planning Commission and City Council shall give due consideration to the evaluation criteria addressed within this report as well as the Conditional Use when rendering a decision to grant or deny the requested permit.

RECOMMENDATION:

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

Conditions:

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

