

Sponsor: Garrett

**CITY OF MARATHON, FLORIDA
RESOLUTION 2021-93**

A RESOLUTION OF THE CITY COUNCIL OF MARATHON, FLORIDA APPROVING OF A REQUEST FOR A CONDITIONAL USE PERMIT AND PLAT APPROVAL PURSUANT TO CHAPTER 102 ARTICLE 10 AND ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (LDRS) ENTITLED “SUBDIVISION OF LAND/PLATS AND RE-PLATS,” AND “CONDITIONAL USE PERMITS” RESPECTIVELY, FOR A PLAT AND SITE PLAN APPROVAL AS SUBMITTED BY NOVOA ANGELA C 2012 IRREVOCABLE TRUST 11/16/12 FOR VACANT LAND ON AVENUE A (PESCAYO AVENUE), WHICH IS DESCRIBED AS LOTS 1 THROUGH 6 OF BLOCK 5 AND BAY BOTTOM ADJACENT TO LOTS 1 THROUGH 6 OF BLOCK 5, COCO PLUM BEACH SUBDIVISION, FAT DEER KEY, MARATHON, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBERS 00363430-000000, 00363450-000000, 00363460-000000, 00363460-000100, 363470-000000, 00363480-000000, 00363490-000000, 00363490-000000, AND 00363500-000000. NEAREST MILE MARKER 54.

WHEREAS, Novoa Angela C 2012 Irrevocable Trust 11/16/12 (Applicant) filed an Application on July 10, 2021 for a Conditional Use Permit for approval of a plat and site plan for the property into eighteen (18) residential lots pursuant to Chapter 177, Florida Statutes and Chapter 102, Article 10, of the City of Marathon Land Development Regulations (LDRs); and

WHEREAS, City staff reviewed the Applicant's request for a Conditional Use Permit and determined that the Applicant's project proposal was in compliance with the City's Comprehensive Plan and Land Development Regulations (LDRs) and further that there was no substantial impact on the City's Level of Service (LOS); and

WHEREAS, the Council duly considered the Applicant's request and made a determination that the request for a Conditional Use Permit, subject to the terms of the LDRs and with Conditions imposed, was in Compliance with the City's Comprehensive Plan and LDRs and further, that the approval is in the public interest, is consistent with its policy to encourage the redevelopment of properties within the City of Marathon and will further the health, safety and welfare of the residents of Marathon; and

WHEREAS, the purpose of the Conditional Use Permit is to allow for the integration of certain land uses and structures within the City of Marathon, based on conditions imposed by the Council. Review is based primarily on compatibility of the use with its proposed location and with surrounding land uses and on the basis of all zoning, subdivision and other ordinances applicable to the proposed location and zoning district; and

WHEREAS, on the 16th day of August, 2021, the City of Marathon Planning Commission (the “Commission”) conducted a properly advertised public hearing (the “Public Hearings”) regarding the request submitted by the Applicant, for a Conditional Use Permit pursuant to Chapter 102, Article 13 of the LDRs; and

WHEREAS, and on the 14th day of September, 2021, the City Council (the “Council”) conducted properly advertised public hearings (the “Public Hearings”) regarding the request submitted by the Applicant, for a Conditional Use Permit pursuant to Chapter 102, Article 13 of the LDRs; and

WHEREAS; the City Council made a determination that the Applicant’s request for a Conditional Use Permit, subject to the terms of the LDRs and with Conditions imposed, was in Compliance with the City’s Comprehensive Plan and LDRs and further, that the approval is in the public interest, is consistent with its policy to encourage the redevelopment of properties within the City of Marathon and will further the health, safety and welfare of the residents of Marathon; and

WHEREAS, the purpose of the Conditional Use Permit is to allow for the integration of certain land uses and structures within the City of Marathon, based on conditions imposed by the Council. Review is based primarily on compatibility of the use with its proposed location and with surrounding land uses and on the basis of all zoning, subdivision and other ordinances applicable to the proposed location and zoning district,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THAT:

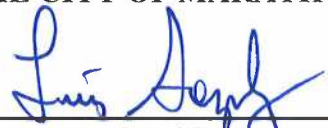
Section 1. The above recitals are true and correct and incorporated herein.

Section 2. The City Council hereby approves Development Order 2021-12, a copy of which is attached hereto as Exhibit “A”, granting a Conditional Use Permit to Novoa Angela C 2012 Irrevocable Trust 11/16/12, subject to the Conditions imposed. The Director of Planning is authorized to sign the development order on behalf of the City.

Section 3. This resolution shall take effect immediately upon its adoption by the City of Marathon and after review and approval by the Department of Economic Opportunity pursuant to Chapters 163 and 380, *Florida Statutes*.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 14TH DAY OF SEPTEMBER, 2021.

THE CITY OF MARATHON, FLORIDA



Luis Gonzalez, Mayor

AYES: Senmartin, Bartus, Cook, Zieg, Gonzalez
NOES: None
ABSENT: None
ABSTAIN: None

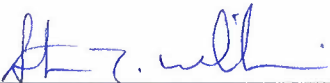
ATTEST:



Diane Clavier, City Clerk

(City Seal)

**APPROVED AS TO FORM AND LEGALITY FOR THE USE AND RELIANCE OF THE
CITY OF MARATHON, FLORIDA ONLY:**



Steve Williams, City Attorney

ATTACHMENT "A"
CITY OF MARATHON, FLORIDA
CONDITIONAL USE
DEVELOPMENT ORDER # 2021-12

APPROVAL OF A REQUEST FOR A CONDITIONAL USE PERMIT AND PLAT APPROVAL PURSUANT TO CHAPTER 102 ARTICLE 10 AND ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (LDRS) ENTITLED "SUBDIVISION OF LAND/PLATS AND RE-PLATS," AND "CONDITIONAL USE PERMITS" RESPECTIVELY, FOR A PLAT AND SITE PLAN APPROVAL AS SUBMITTED BY NOVOA ANGELA C 2012 IRREVOCABLE TRUST 11/16/12 FOR VACANT LAND ON AVENUE A (PESCAYO AVENUE), WHICH IS DESCRIBED AS LOTS 1 THROUGH 6 OF BLOCK 5 AND BAY BOTTOM ADJACENT TO LOTS 1 THROUGH 6 OF BLOCK 5, COCO PLUM BEACH SUBDIVISION, FAT DEER KEY, MARATHON, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBERS 00363430-000000, 00363450-000000, 00363460-000000, 00363460-000100, 363470-000000, 00363480-000000, 00363490-000000, 00363490-000000, AND 00363500-000000. NEAREST MILE MARKER 54.

WHEREAS, Novoa Angela C 2012 Irrevocable Trust 11/16/12 (Applicant) filed an Application on July 10, 2021 for a Conditional Use Permit for approval of a plat and site plan for the property into eighteen (18) residential lots pursuant to Chapter 177, Florida Statutes and Chapter 102, Article 10, of the City of Marathon Land Development Regulations (LDRs); and

WHEREAS, City staff reviewed the Applicant's request for a Conditional Use Permit and determined that the Applicant's project proposal was in compliance with the City's Comprehensive Plan and Land Development Regulations (LDRs) and further that there was no substantial impact on the City's Level of Service (LOS); and

WHEREAS, the Council duly considered the Applicant's request and made a determination that the request for a Conditional Use Permit, subject to the terms of the LDRs and with Conditions imposed, was in Compliance with the City's Comprehensive Plan and LDRs and further, that the approval is in the public interest, is consistent with its policy to encourage the redevelopment of properties within the City of Marathon and will further the health, safety and welfare of the residents of Marathon; and

WHEREAS, the purpose of the Conditional Use Permit is to allow for the integration of certain land uses and structures within the City of Marathon, based on conditions imposed by the Council. Review is based primarily on compatibility of the use with its proposed location and with surrounding land uses and on the basis of all zoning, subdivision and other ordinances applicable to the proposed location and zoning district; and

WHEREAS, on the 16th day of August, 2021, the City of Marathon Planning Commission (the "Commission") conducted a properly advertised public hearing (the "Public Hearings")

regarding the request submitted by the Applicant, for a Conditional Use Permit pursuant to Chapter 102, Article 13 of the LDRs; and

WHEREAS, and on the 14th day of September, 2021, the City Council (the “Council”) conducted properly advertised public hearings (the “Public Hearings”) regarding the request submitted by the Applicant, for a Conditional Use Permit pursuant to Chapter 102, Article 13 of the LDRs; and

WHEREAS; the City Council made a determination that the Applicant’s request for a Conditional Use Permit, subject to the terms of the LDRs and with Conditions imposed, was in Compliance with the City’s Comprehensive Plan and LDRs and further, that the approval is in the public interest, is consistent with its policy to encourage the redevelopment of properties within the City of Marathon and will further the health, safety and welfare of the residents of Marathon; and

WHEREAS, the purpose of the Conditional Use Permit is to allow for the integration of certain land uses and structures within the City of Marathon, based on conditions imposed by the Council. Review is based primarily on compatibility of the use with its proposed location and with surrounding land uses and on the basis of all zoning, subdivision and other ordinances applicable to the proposed location and zoning district,

FINDINGS OF FACT:

1. The applicant will develop subdivide the parcel through the platting process into single family residence lots with the following determinations:
2. In accordance with Section 102.77 of the City Code, the Commission and Council considered and determined the Applicant met the following criteria:
 - a. The proposed use is consistent with the Comprehensive Plan and LDRs;
 - b. The proposed use is compatible with the existing land use pattern and future uses designated by the Comprehensive Plan;
 - c. The proposed use shall not adversely affect the health, safety, and welfare of the public; and
 - d. The proposed conditional use minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment; and Satisfactory provisions and arrangements have been made concerning the following matters, where applicable:
3. Ingress and egress to the property and proposed structures thereon with particular reference to automotive, bicycle, and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe;
4. Off-street parking and loading areas where required, with particular attention to item 1 above;
5. The noise, glare or odor effects of the conditional use on surrounding properties;
6. Refuse and service areas, with particular reference to location, screening and Items 1 and 2 above;
7. Utilities, with reference to location and availability;
8. Screening and buffering with reference to type, dimensions and character;

9. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety and compatibility with surrounding properties;
10. Required yards and other open space;
11. General compatibility with surrounding properties; and

CONDITIONS IMPOSED:

Granting approval of the Application is subject to the following conditions:

Conditions of Approval

- 1) Ingress and egress shall only occur from Pescayo Avenue and Coco Plum Drive.
- 2) As part of the permit application, all conditions of the Fire Marshal must be met prior to permit issuance, and hydrants must be operational prior to buildings going vertical.
- 3) City approval is required for the stormwater management system prior to Building Permit Approval.
- 4) Applicant must obtain all outside agency approvals prior permit issuance and prior to project initiation.
- 5) City approval of the final engineering and connection to the City Wastewater Utility will be required.
- 6) A Final Landscape Plan must be submitted showing the proper treatments and buffers, including the appropriate treatment types and trees prior to permit issuance.
- 7) If the redevelopment is found to have any effect on the Eastern Indigo Snake, then the prescribed protection measures must be undertaken, and the information poster posted on site.
- 8) A Site Plan must be submitted showing the buildings meeting the required setbacks, parking locations, and access drives as part of the permit process.
- 9) Applicant must obtain all outside agency approvals, this includes but is not limited to SFWMD, FDOT, ACOE, and DEP.
- 10) Affordable Housing Deed Restrictions must be filed prior to building permit issuance. Said deed restrictions shall be provided in a form acceptable to the City and shall be filed with the Monroe County Clerk of Court.
- 11) The Applicant must obtain a minimum of six (6) affordable and fifteen (15) market rate residential allocations to be transferred via the Transfer of Building Rights (TBR's), BPAS process, or any other legally established process prior to building permit issuance. THE APPROVAL OF THE REQUESTED CONDITIONAL USE PERMIT AND DEVELOPMENT AGREEMENT AMENDMENTS DO NOT CONVEY OR GRANT A VESTED RIGHT OR ENTITLEMENT TO FUTURE ALLOCATIONS BY THE CITY OF ANY AFFORDABLE RESIDENTIAL UNITS NOT CURRENTLY IN POSSESSION BY THE APPLICANT AS REFERENCED IN THE PROPOSED CONDITIONAL USE PERMIT AND DEVELOPMENT AGREEMENT.
- 12) The Conditional Use Development Order will constitute the Certificate of Concurrency for the project. The determination will be valid for one year.
- 13) Docks shall be constructed as T docks that runs parallel to the shoreline and the parallel dock cannot begin more than five (5) feet from the shoreline except for lots 5, 6 and 7 which cannot begin more than four (4) feet from the shoreline. In no instance shall the permitted structure over water shall not substantially interfere with the riparian rights of other property owners nor substantially obstruct a navigable channel or the navigation

rights of other property owners.

VIOLATION OF CONDITIONS:

The applicant understands and acknowledges that it must comply with all of the terms and conditions herein, and all other applicable requirements of the City or other governmental agencies applicable to the use of the Property. In accordance with the Code, the Council may revoke this approval upon a determination that the Applicant or its successor or designee is in non-compliance with this Resolution or Code. Failure to adhere to the terms and conditions of approval contained herein is a violation of the Code and persons found violating the conditions shall be subject to the penalties prescribed therein.

CONCLUSIONS OF LAW:

Based upon the above Findings of Fact, the Council does hereby make the following Conclusions of Law:

1. The Application has been processed in accordance with the applicable provisions of the City Code, and will not be detrimental to the community as a whole; and
2. In rendering its decision, as reflected in this Resolution, the Council has:
 - (a) Accorded procedural due process;
 - (b) Observed the essential requirements of the law;
 - (c) Supported its decision by substantial competent evidence of record; and
3. The Application for a conditional use is hereby GRANTED subject to the conditions specified herein.


EFFECTIVE DATE:

This development order shall not take effect for thirty (30) days following the date it is filed with the City Clerk, and during that time, the conditional use approval granted herein shall be subject to appeal as provided in the City Code. An appeal shall stay the effectiveness of this development order until said appeal is resolved.

9/22/21
Date


Brian Shea
Director of Planning

This Development Order was filed in the Office of the City Clerk of this 29th day of Sept., 2021.


Diane Clavier, City Clerk

NOTICE

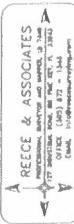
Under the authority of Section 102.79(c) of the City of Marathon Land Development Regulations, this development order shall become null and void with no further notice required by the City, unless a business license has been issued for the use or a complete building permit application for site preparation and building construction with revised plans as required herein is submitted to the City of Marathon Building Official within one (1) year from the date of conditional use approval, or the date when the Department of Community Affairs waives its appeal and all required certificates of occupancy are procured with three (3) years of the date of this development order is approved by the City Council.

In addition, please be advised that pursuant to Chapter 9J-1, Florida Administrative Code, this instrument shall not take effect for forty-five (45) days following the rendition to the Florida Department of Community Affairs. During that forty-five days, the Florida Department of Economic Opportunity may appeal this instrument to the Florida Land and Water Adjudicatory Commission, and that such an appeal stays the effectiveness of this instrument until the appeal is resolved by agreement or order.

CERTIFICATE OF SERVICE

A true and correct copy of the above and foregoing Resolution was furnished, via U.S. certified mail, return receipt requested, addressed to 12925 SW 132nd St. #5A
this 29 day of Sept., 2021. Miami, FL 33180

Diane Clavier
Diane Clavier City Clerk



RECE & ASSOCIATES
1111 S. MILITARY TRAIL, SUITE 100
MARIETTA, GEORGIA 30067
PHONE: (770) 577-1144
FAX: (770) 577-1145
WWW.REECEANDASSOCIATES.COM

COCO PLUM ESTATES
A REPEAT OF LOTS AS DESCRIBED AS A PART OF LOT 1, BLOCK 5 AND ALL OF LOTS 2, 3, 4, 5 AND 6, BLOCK 9 LOCATED IN SECTIONS 4 AND 5, TOWNSHIP 33 SOUTH, RANGE 33 EAST CITY OF MARIETTA, FAY DEER KEY, MARICOPA COUNTY, ARIZONA DECEMBER, 2021

LEGAL DESCRIPTION:
THE PART OF LOT 1, BLOCK 5 AND ALL OF LOTS 2, 3, 4, 5 AND 6, BLOCK 9 LOCATED IN SECTIONS 4 AND 5, TOWNSHIP 33 SOUTH, RANGE 33 EAST CITY OF MARIETTA, FAY DEER KEY, MARICOPA COUNTY, ARIZONA DECEMBER, 2021

STANDARD LEGEND:
● PAV
○ SW
○ CENTERLINE



Table with 18 columns and 2 rows. Columns are labeled LOT 1 through LOT 18. Row 1 contains 'AREA SURVEYED' and 'AREA NOT SURVEYED'. Row 2 contains 'ACRES' and 'SQ. FT.'. Each lot entry includes area and acreage information.

APPROVAL OF THE CITY SURVIVOR:
I, DAVID C. WILSON, CITY SURVIVOR, DO HEREBY CERTIFY THAT THE ATTACHED PLAT DATED 12-03-2021 IS A TRUE AND CORRECT REPRESENTATION OF THE LANDS DESCRIBED HEREIN AND THAT THE SURVIVOR HAS REVIEWED THE PLAT AND IS SATISFIED THAT THE INFORMATION CONTAINED THEREIN IS TRUE AND CORRECT AND THAT THE SURVIVOR HAS NO OBJECTION TO THE PLAT BEING RECORDED IN THE PUBLIC RECORDS OF THE COUNTY OF MARICOPA, ARIZONA.

APPROVAL OF THE CITY PLANNING COMMISSION:
I, DAVID C. WILSON, CITY PLANNING COMMISSIONER, DO HEREBY CERTIFY THAT THE ATTACHED PLAT DATED 12-03-2021 IS A TRUE AND CORRECT REPRESENTATION OF THE LANDS DESCRIBED HEREIN AND THAT THE COMMISSION HAS REVIEWED THE PLAT AND IS SATISFIED THAT THE INFORMATION CONTAINED THEREIN IS TRUE AND CORRECT AND THAT THE COMMISSION HAS NO OBJECTION TO THE PLAT BEING RECORDED IN THE PUBLIC RECORDS OF THE COUNTY OF MARICOPA, ARIZONA.

APPROVAL OF THE CITY COUNCIL:
I, DAVID C. WILSON, CITY COUNCIL MEMBER, DO HEREBY CERTIFY THAT THE ATTACHED PLAT DATED 12-03-2021 IS A TRUE AND CORRECT REPRESENTATION OF THE LANDS DESCRIBED HEREIN AND THAT THE COUNCIL HAS REVIEWED THE PLAT AND IS SATISFIED THAT THE INFORMATION CONTAINED THEREIN IS TRUE AND CORRECT AND THAT THE COUNCIL HAS NO OBJECTION TO THE PLAT BEING RECORDED IN THE PUBLIC RECORDS OF THE COUNTY OF MARICOPA, ARIZONA.

CERTIFICATE OF CONSENT TO PLAT AND DEDICATION BY MORTGAGE HOLDER:
I, DAVID C. WILSON, MORTGAGE HOLDER, DO HEREBY CERTIFY THAT THE ATTACHED PLAT DATED 12-03-2021 IS A TRUE AND CORRECT REPRESENTATION OF THE LANDS DESCRIBED HEREIN AND THAT THE MORTGAGE HOLDER HAS REVIEWED THE PLAT AND IS SATISFIED THAT THE INFORMATION CONTAINED THEREIN IS TRUE AND CORRECT AND THAT THE MORTGAGE HOLDER HAS NO OBJECTION TO THE PLAT BEING RECORDED IN THE PUBLIC RECORDS OF THE COUNTY OF MARICOPA, ARIZONA.

NOTARY ACKNOWLEDGMENT:
I, DAVID C. WILSON, DO HEREBY CERTIFY THAT I AM A NOTARY PUBLIC IN THE STATE OF ARIZONA AND THAT I AM QUALIFIED TO TAKE ACKNOWLEDGMENTS IN THE COUNTY OF MARICOPA, ARIZONA.

TITLE CERTIFICATION:
I, DAVID C. WILSON, TITLE EXAMINER, DO HEREBY CERTIFY THAT I HAVE REVIEWED THE TITLE RECORDS OF THE COUNTY OF MARICOPA, ARIZONA AND THAT I AM SATISFIED THAT THE INFORMATION CONTAINED IN THE ATTACHED PLAT IS TRUE AND CORRECT AND THAT THERE ARE NO ENCUMBRANCES WHICH AFFECT THE SURVIVORSHIP OF THE PROPERTY DESCRIBED IN THE PLAT.

RECORDING INFORMATION:
PLAT BOOK PAGE
12-03-2021