

Sponsored by: Hernstadt  
Introduction Date: July 16, 2012  
Public Hearing Dates: July 16, 2012  
October 15, 2012  
November 13, 2012  
Enactment date: November 27, 2012

**CITY OF MARATHON, FLORIDA  
RESOLUTION 2012-133**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING THE REQUEST BY GLEN & BARBARA HEWLETT FOR A CONDITIONAL USE PERMIT, PURSUANT TO CHAPTER 102, ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (CODE) ENTITLED "CONDITIONAL USE PERMITS", AUTHORIZING A RETAIL AND SUPPLY YARD WITH OUTDOOR STORAGE AT PROPERTY LOCATED AT 11990 OVERSEAS HIGHWAY, NEAREST MILE MARKER 53, WHICH IS LEGALLY DESCRIBED AS LOTS 4, 5, & 6, BLOCK E, HAWAIIAN VILLAGE SUBDIVISION, FAT DEER KEY, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBER 00357680-000000; AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, the purpose of the conditional use process is to provide the general public and the neighboring community with the opportunity to review and comment on proposed development which may have potential impacts beyond the limits of the project boundaries; and

**WHEREAS**, on the 16<sup>th</sup> day of July, 2012, and then again on the 15<sup>th</sup> day of October, 2012, the City of Marathon (the "City") Planning Commission (the "Commission") and on the 13<sup>th</sup> day of November, 2012, the City Council (the "Council") conducted properly advertised public hearings (the "Public Hearings") regarding the request submitted by Glen & Barbara Hewlett (the "Applicant"), for a conditional use permit pursuant to Chapter 102, of the Marathon Land Development Regulations (the LDRs); and

**WHEREAS**, review and approval of the proposed project with conditions imposed is consistent with the City of Marathon Comprehensive Plan and LDRs,

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

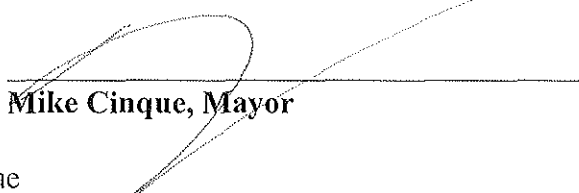
**Section 1.** The above recitals are true and correct and incorporated herein.

**Section 2.** Development Order 2012-07 granting a Conditional Use Permit to the Applicant, a copy of which is attached as Exhibit "A," is hereby approved

**Section 3.** This resolution shall take effect immediately upon its adoption.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 27<sup>th</sup> DAY OF NOVEMBER, 2012.**

**THE CITY OF MARATHON, FLORIDA**

  
\_\_\_\_\_  
**Mike Cinque, Mayor**

AYES: Bull, Keating, Ramsay, Snead, Cinque  
NOES: None  
ABSENT: None  
ABSTAIN: None

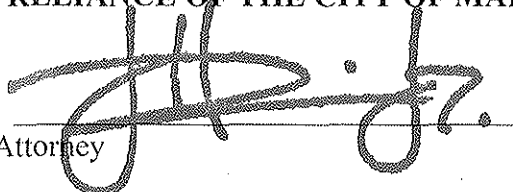
**ATTEST:**

  
\_\_\_\_\_

Diane Clavier, City Clerk

(City Seal)

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

  
\_\_\_\_\_  
City Attorney



**CITY OF MARATHON, FLORIDA  
CONDITIONAL USE  
DEVELOPMENT ORDER # 2012-07**

**A DEVELOPMENT ORDER APPROVING THE CONDITIONAL USE APPLICATION SUBMITTED BY GLEN & BARBARA HEWLETT FOR A CONDITIONAL USE PERMIT, PURSUANT TO CHAPTER 102, ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (CODE) ENTITLED "CONDITIONAL USE PERMITS", AUTHORIZING A RETAIL AND SUPPLY YARD WITH OUTDOOR STORAGE AT PROPERTY LOCATED AT 11990 OVESEAS HIGHWAY, NEAREST MILE MARKER 53, WHICH IS LEGALLY DESCRIBED AS LOTS 4, 5, & 6, BLOCK E, HAWAIIAN VILLAGE SUBDIVISION, FAT DEER KEY, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBER 00357680-000000.**

**WHEREAS**, Glen & Barbara Hewlett are the owners of the Property and applied for a Conditional Use approval to permit retail and supply yard with outdoor storage on property located in the Mixed Use (MU) land use district (the "Application"); and

**WHEREAS**, the Planning Commission (Commission), in accordance with the provisions of Sections 101.02 and 102.75 of the City of Marathon Land Development Regulations, met to review the Application to determine its compliance with the applicable regulations on July 16, 2012 and again on October 15, 2012; and

**WHEREAS**, the Commission recommended approval of the Application to the City Council (the "Council"), subject to conditions; and

**WHEREAS**, the Council of the City of Marathon, Florida, in accordance with the provisions of Sections 101.01 and 102.76 of the City of Marathon Land Development Regulations, met to review the Application to determine its compliance with the applicable regulations on November 13<sup>th</sup>, 2012; and

**WHEREAS**, the Council has duly considered the recommendation of the Commission, and the information and documentary evidence submitted by Glen & Barbara Hewlett and does hereby find and determine as provided below.

**FINDINGS OF FACT:**

1. The applicant is proposing to an outdoor storage yard at property located at 11990 Overseas Highway.

2. In accordance with Section 102.77 of the 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
  - e. Satisfactory provisions and arrangements have been made concerning the following matters, where applicable:
    1. Protection of the viewshed from US-1 and Vaca Cut;
    2. Protection of the character of the adjacent residential neighborhood of Hawaiian Village;
    3. The noise, glare or odor effects of the conditional use on surrounding properties;
    4. Screening and buffering with reference to type, dimensions and character;
    5. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety and compatibility with surrounding properties;
    6. Required yards and other open space;
    7. General compatibility with surrounding properties; and
    8. Any special requirements set forth in the LDRs for the particular use involved.

**CONDITIONS IMPOSED:**

1. A restriction on hours of operation – 7 AM to 7 PM
2. A restriction on the types of materials, landscape rock, sand, and river rock, or similar materials (non-dust generating)
3. A restriction prohibiting any form of on-site materials processing.
4. A limitation on the number of vehicles to be parked on the property at any one time (3 to 5).
5. A limitation on the height of vehicle parked on the property. Vehicle should be of a maximum height so as to not be visible from U.S. 1 after required vegetative buffers are installed.
6. The site must provide both electric connections for security lighting as needed and a

- water meter in order to contain dust on the property.
7. East-bound vehicles seeking to enter 120<sup>th</sup> Street should not be longer than 20 feet. Longer vehicles should seek alternate access from the west-bound direction.
  8. A solid wall or opaque fence at least 6 feet in height must surround the entire property.
  9. The project's northern boundary abuts a Residential Medium (RM) zone and its southern boundary abuts US-1 and the Heritage Trail. Pursuant to Chapter 107, Section 107.70 and Table 107.66.1 of the City of Marathon Land Development Regulations (LDR's), a High-type buffer is required between Mixed Use (MU) and Residential Medium (RM) zones, as well as areas where protection of the viewshed of the US-1 corridor is deemed necessary. Due to the nature of this site and its prominent location along US-1, adjacent to Vaca Cut, the applicant shall significantly enhance vegetation landscape and buffer requirements, both in number and stature:
    - a. Buffers shall have a minimum width of 10 feet.
    - b. The northern buffer shall be fortified with 20 canopy trees, 10 understory trees, 5 non-deciduous trees, 30 shrubs, and additional screening in the form of either a concrete block wall or a solid fence.
    - c. The southern buffer shall be fortified with 10 canopy trees, 10 understory trees, 10 non-deciduous trees, and 60 shrubs. All vegetation on the southern buffer must be mature and dense enough to screen the project site entirely from US-1.
    - d. A street front buffer with screening shall be required along the 120<sup>th</sup> Street access area in order to screen the property from the road. This buffer shall have a minimum width of 5 feet and contain 5 understory trees and shrubbery sufficient to screen the fence or wall.
  10. There will be no storage of hazardous or noxious materials on the property.
  11. Applicant must maintain the fence and screening in accordance with City Ordinance 2011-02. Weeds shall not be allowed to grow up onto the fence or wall material.
  12. Applicant must submit a detailed lighting plan including placement and brightness of all overhead lamps to be installed, if any. If provided, lighting shall provide adequate light for site security while being downcast so as to minimize light impact on neighboring residential structures.
  13. Applicant shall submit a stormwater management plan in order to retain any stormwater on site.
  14. This yard shall not be used as a storage yard for wrecker or tow truck operators or other types of general outdoor storage. The request and approval is only for outdoor storage as a "supply yard" (see Exhibit 1).
  15. Upon sale of the property, should that occur, the property should be reviewed for continued compliance with the conditions of the Conditional Use Approval.

### **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.

11/28/2012  
Date

George Garrett  
George Garrett  
Planning Director

This Development Order was filed in the Office of the City Clerk of this 28 day of November 2012.

Diane Clavier  
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 Economic Opportunity 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 Economic Opportunity. 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 815 100th St., Marathon, FL 33050, this 29 day of November, 2012.



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Diane Clavier City Clerk