

**CITY OF MARATHON, FLORIDA  
RESOLUTION 2017-56**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING A REQUEST BY WHARF MARINA 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”, AUTHORIZING THE DEVELOPMENT OF A DRY BOAT STORAGE FACILITY 10+ UNITS AT THE PROPERTY LOCATED AT 5130 OVERSEAS HIGHWAY, MARATHON, MONROE COUNTY, FLORIDA, WHICH IS LEGALLY DESCRIBED AS PART OF LOTS 1 AND 2 AND BAY BOTTOM SOUTH OF AND ADJACENT TO PART OF GOVERNMENT LOTS 1 AND 2 AND BLOCK D AMENDED PLAT OF MARAMEADE SUBDIVISION LOTS 1, 2, 3, 4, 5, 6 AND PART OF VACATED REDORA ROAD, HAVING REAL ESTATE NUMBERS 00103090-000100 AND 00324780-000000.**

**WHEREAS**, Wharf Marina, Inc, (The “Applicant”) filed an Application on May 1, 2017 for a Conditional Use Permit pursuant to Chapter 102, Articles 13 of the City of Marathon Land Development Regulations (LDRs); and

**WHEREAS**; the Applicant proposes to develop 3,842 square feet of commercial floor area (offices), 8,731 square feet of office space and 168 dry bunks; and

**WHEREAS**, City staff reviewed the Applicant’s request for a Conditional Use Permit and Development Agreement determining 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**, on the 19<sup>th</sup> day of June, 2017, 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 11<sup>th</sup> day of July, 2017 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, is consistent with its policy to encourage the redevelopment of commercial properties in Marathon, and will further the health, safety and welfare of the residents of Marathon; and

**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 2017-07, a copy of which is attached hereto as Exhibit "A", granting a Conditional Use Permit to Wharf Marina, Inc. 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.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 11<sup>TH</sup> DAY OF JULY, 2017.**

**THE CITY OF MARATHON, FLORIDA**

  
Dr. R. Daniel Zieg, Mayor

AYES: Coldiron, Bartus, Cook, Senmartin, Zieg  
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:**

  
David Migut, City Attorney



**CITY OF MARATHON, FLORIDA  
CONDITIONAL USE  
DEVELOPMENT ORDER # 2017-07**

**A DEVELOPMENT ORDER APPROVING A REQUEST BY WHARF MARINA 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”, AUTHORIZING THE DEVELOPMENT OF A DRY BOAT STORAGE FACILITY 10+ UNITS AT THE PROPERTY LOCATED AT 5130 OVERSEAS HIGHWAY, MARATHON, MONROE COUNTY, FLORIDA, WHICH IS LEGALLY DESCRIBED AS PART OF LOTS 1 AND 2 AND BAY BOTTOM SOUTH OF AND ADJACENT TO PART OF GOVERNMENT LOTS 1 AND 2 AND BLOCK D AMENDED PLAT OF MARAMEADE SUBDIVISION LOTS 1, 2, 3, 4, 5, 6 AND PART OF VACATED REDORA ROAD, HAVING REAL ESTATE NUMBERS 00103090-000100 AND 00324780-000000**

**WHEREAS**, Wharf Marina, Inc, (The “Applicant”) filed an Application on May 1, 2017 for a Conditional Use Permit pursuant to Chapter 102, Articles 13 of the City of Marathon Land Development Regulations (LDRs); and

**WHEREAS**; the Applicant proposes to re-develop 3,842 square feet of commercial floor area (offices), 8,731 square feet of office space and 168 dry bunks; and

**WHEREAS**, City staff reviewed the Applicant’s request for a Conditional Use Permit and Development Agreement determining 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**, on the 19<sup>th</sup> day of June, 2017, 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 11<sup>th</sup> day of July, 2017 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, is consistent with its policy to encourage the redevelopment of commercial properties in Marathon, and will further the health, safety and welfare of the residents of Marathon; and

**FINDINGS OF FACT:**

1. The applicant will re-develop 3,842 square feet of commercial floor area (offices), 8,731 square feet of office space and 168 dry bunks.
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. 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;
    2. Off-street parking and loading areas where required, with particular attention to item 1 above;
    3. The noise, glare or odor effects of the conditional use on surrounding properties;
    4. Refuse and service areas, with particular reference to location, screening and Items 1 and 2 above;
    5. Utilities, with reference to location and availability;
    6. Screening and buffering with reference to type, dimensions and character;
    7. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety and compatibility with surrounding properties;
    8. Required yards and other open space;
    9. General compatibility with surrounding properties; and

## **CONDITIONS IMPOSED:**

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

### **Conditions of Approval**

The Planning Commission proffers a unanimous recommendation of conditional approval of Wharf Marina to the City Council. The proposed conditions of approval are listed below, including both original and additional conditions suggested by both City Planning staff and the Planning Commission. Conditions that have been completed, are note as such (“completed”):

### **Conditions of Approval**

1. All conditions of the Conditional Use approval will have to be met before any building permit will be approved.
2. A final Landscape/mitigation plan must be submitted prior to permit issuance.
3. City approval is required for the stormwater management system prior to Building Permit Approval.
4. City approval of the connection to the City Wastewater Utility will be required.
5. The Conditional Use Development Order will constitute the Certificate of Concurrence for the project. The determination will be valid for one year.
6. A Final Landscape Plan must be submitted showing the proper treatments and buffers, including the appropriate treatment types and trees.
7. A Final Site Plan must be submitted showing the buildings meeting the required setbacks, parking locations, and access drives.
8. All signs will be reviewed and approved for compliance with the City of Marathon LDR's.
9. Applicant must apply for and obtain commercial BPAS square footage for additional Boat storage racks and office.
10. Preference shall be given to the expansion of suitable existing facilities rather than new construction.
11. Prior to the issuance of the Certificate of Occupancy, the marina shall obtain and maintain a Marina Operating Permit, in compliance with all standards of Article 24, Chapter 102.
12. All conditions of the Fire Marshal must be met prior to permit issuance.

## **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.

7/14/2017  
Date

George Garrett  
George Garrett  
Director of Planning

This Development Order was filed in the Office of the City Clerk of this 14 day of July, 2017.

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 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 5130 Overseas Hwy., Marathon, FL  
this 14 day of July, 2017. ATTN: Jim Figuerado 33050

Diane Clavier

Diane Clavier City Clerk