

**CITY OF MARATHON, FLORIDA
RESOLUTION 2017-87**

APPROVAL OF A CONSIDERATION OF A REQUEST BY WOLFE UNLIMITED LLC FOR A CONDITIONAL USE PERMIT PURSUANT TO CHAPTER 102, ARTICLES 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (“THE CODE”) ENTITLED “CONDITIONAL USE PERMITS,” FOR THE DEVELOPMENT OF SELF-SERVICE STORAGE UNITS AND ONE WORKFORCE HOUSING UNIT ON PROPERTY LOCATED AT 12575 & 12693 OVERSEAS HIGHWAY, WHICH IS LEGALLY DESCRIBED AS PART OF LOT 2, TOWNSHIP 66, SECTION 5, RANGE 33; FAT DEER KEY, MARATHON, FLORIDA; HAVING REAL ESTATE NUMBERS 00100340-000000 & 00100260-000600. NEAREST MILE MARKER 54.

WHEREAS, Request By Wolfe Unlimited LLC. (The “Applicant”) filed an Application on July 13, 2017 for a Conditional Use Permit and Development Agreement pursuant to Chapter 102, Articles 8 and 13 of the City of Marathon Land Development Regulations (LDRs); and

WHEREAS; the Applicant proposes to develop additional Self-Storage Units split between two buildings, a workforce housing unit, and a covered outdoor storage area; and

WHEREAS, City staff reviewed the Applicant’s request for a Conditional Use Permit 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 21st day of August, 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 24th day of October, 2017 the City Council (the “Council”) 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; 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 2017-08, a copy of which is attached hereto as Exhibit "A", granting a Conditional Use Permit to Request By Wolfe Unlimited LLC 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 24TH DAY OF OCTOBER, 2017.

THE CITY OF MARATHON, FLORIDA



Dr. R. Daniel Zieg, Mayor

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

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 # 2017-08**

A DEVELOPMENT ORDER APPROVING A REQUEST BY WOLFE UNLIMITED LLC FOR A CONDITIONAL USE PERMIT PURSUANT TO CHAPTER 102, ARTICLES 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (“THE CODE”) ENTITLED “CONDITIONAL USE PERMITS,” FOR THE DEVELOPMENT OF SELF-SERVICE STORAGE UNITS AND ONE WORKFORCE HOUSING UNIT ON PROPERTY LOCATED AT 12575 & 12693 OVERSEAS HIGHWAY, WHICH IS LEGALLY DESCRIBED AS PART OF LOT 2, TOWNSHIP 66, SECTION 5, RANGE 33; FAT DEER KEY, MARATHON, FLORIDA; HAVING REAL ESTATE NUMBERS 00100340-000000 & 00100260-000600. NEAREST MILE MARKER 54.

WHEREAS, Request By Wolfe Unlimited LLC (The “Applicant”) filed an Application on July 13, 2017 for a Conditional Use Permit and Development Agreement pursuant to Chapter 102, Articles 8 and 13 of the City of Marathon Land Development Regulations (LDRs); and

WHEREAS; the Applicant proposes to develop additional Self-Storage Units split between two buildings, a workforce housing unit, and a covered outdoor storage area; and

WHEREAS, City staff reviewed the Applicant’s request for a Conditional Use Permit 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 21st day of August, 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 24th day of October, 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 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 additional Self-Storage Units split between two buildings, a workforce housing unit, and a covered outdoor storage area with the following determinations:
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;
 3. The noise, glare or odor effects of the conditional use on surrounding properties;
 4. Refuse and service areas, with particular reference to location;
 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

- 1) Clear sight triangles must be shown on the site plan at time of building permit issuance.
- 2) A detailed lighting plan must be submitted before the project is permitted.
- 3) City approval is required for the stormwater management system prior to Building Permit Approval.
- 4) All signs will be reviewed and approved for compliance with the City of Marathon LDR's.
- 5) A conservation easement must be recorded memorializing the 100% open space for the hammock area of the site.
- 6) Prior to permit issuance, the site plan must meet the 20% open space required.
- 7) Affordable housing criteria set forth in this Chapter and Chapter 110 "Definitions";
- 8) Shall be permanently deed-restricted as affordable;
- 9) Shall be restricted to occupancy to households that derive at least 70 percent of their household income from gainful employment in Monroe County;
- 10) Shall be restricted to occupancy for 28 consecutive days or longer;
- 11) Shall not be used for vacation rental use; and
- 12) Shall not be sold separately as a condominium.
- 13) Very-low-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 50 percent of the median adjusted gross annual income for households within the county;
- 14) Low-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 80 percent of the median adjusted gross annual income for households within the county;
- 15) Median-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 100 percent of the median adjusted gross annual income for households within the county;
- 16) Moderate-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 120 percent of the median adjusted gross annual income for households within the county;
- 17) Middle-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 160 percent of the median adjusted gross annual income within the county;
- 18) For the purposes of this section, "adjusted gross income" means all wages, income from assets, regular cash or non-cash contributions or gifts from persons outside the household (that will be used to offset the purchase price of the dwelling unit), and such other resources and benefits as may be determined to be income by the United States Department of Housing and Urban Development, adjusted for family size, less deductions allowable under Section 62 of the Internal Revenue Code. Income from assets is calculated at either the actual income from all assets or two (2%) percent of the value of all assets, whichever is greater. If total assets are less than \$5,000.00, no income is considered. Asset inclusions: Cash accounts

(checking, savings, IRA, Money Market...), investments, retirement accounts, boats, RV's.
Income exclusions: Personal property, automobiles;

- 19) The maximum sales price shall not exceed 300 percent of that amount which represents 160 percent of the median adjusted gross annual income for households within the county;
- 20) The monthly rent shall not exceed 30 percent of that amount which represents the income bracket of the household, i.e., very low, low, median, moderate or middle, divided by 12. In no case shall the monthly rent exceed 160 percent of the median adjusted gross annual income for households within the county, divided by 12; and
- 21) If the dwelling units utilize affordable housing BPAS allocations, the requirements of Subsection 107.06(c) shall also apply.
- 22) Annual income qualification, lease or employment verification, as applicable, by the City, or its designee, shall be limited to rental and employee housing dwelling units. Income verification for owner occupied dwellings shall be performed and approved by the City or its designee prior to the sales closing and occupancy of the dwelling unit.
- 23) Individual storage areas shall not exceed 400 square feet each.
- 24) Storage of boats, recreational vehicles and similar equipment may be allowed, subject to the following standards:
- 25) Storage shall occur only within a designated area, approved as part of the site plan.
- 26) Storage areas shall not exceed 50 percent of the lot area of the site.
- 27) Boats shall be stored on trailers with wheels.
- 28) Storage areas shall be completely screened from public rights-of-way or adjacent residential zoning districts, utilizing either the buildings associated with the storage facility or by an opaque masonry wall, or equivalent approved by the Director, a minimum of six (6) feet in height.
- 29) The applicant will meet all floodplain related requirements as part of the Building Permit process;
- 30) The applicant will obtain any required permits from SFWMD and FDOT prior to building permit issuance;
- 31) The Conditional Use Development Order will constitute the Certificate of Concurrence for the project. The determination will be valid for one year.
- 32) As a condition of development, the developer and the City shall enter into a Development Agreement, in addition to compliance with all other provisions of the Code.

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.

10/25/2017
Date

George Garrett
George Garrett
Director of Planning

This Development Order was filed in the Office of the City Clerk of this 26 day of October 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 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 Wolfe Unlimited 2949 Overseas Hwy.
this 26 day of October, 2017. Marathon, FL 33050



Diane Clavier City Clerk