

**CITY OF MARATHON, FLORIDA  
RESOLUTION 2015- 61**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING THE REQUEST BY US HWY 1 PHARMACY INC 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 THE USE OF PHARMACY ON DEVELOPED LOT, SUBJECT TO CONDITIONS IMPOSED, FOR PROPERTY LOCATED AT 6465 OVERSEAS HIGHWAY, SUITE 3, WHICH IS LEGALLY DESCRIBED AS SECTION 11, TOWNSHIP 66, RANGE 32, FAT DEER KEY, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBER 00340300-000000.**

**WHEREAS**, US HWY 1 Pharmacy Inc. (The “Applicant”) filed an Application on April 22, 2015 for a Conditional Use Permit pursuant to Chapter 102, Articles 13 of the City of Marathon Land Development Regulations (LDRs); and

**WHEREAS**; the Applicant has proposed use of Pharmacy on multi-tenant retail building on developed land; 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 15<sup>th</sup> day of June, 2015, 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 8 of the LDRs; and

**WHEREAS**, and on the 23<sup>th</sup> day of June, 2015, the City Council (the “Council”) conducted a properly advertised public hearing (the “Public Hearing”) regarding the request submitted by the Applicant, for a Conditional Use Permit pursuant to Chapter 102, Article 8 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 development of residential 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 2015-06, a copy of which is attached hereto as Exhibit "A", granting a Conditional Use Permit to US HWY 1 Pharmacy, 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 23<sup>TH</sup> DAY OF JUNE, 2015.**

**THE CITY OF MARATHON, FLORIDA**



**Chris Bull, Mayor**

AYES: Zieg, Senmartin, Keating, Kelly, Bull  
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:**



Dirk Smits, City Attorney



**CITY OF MARATHON, FLORIDA  
CONDITIONAL USE  
DEVELOPMENT ORDER # 2015-06**

**A DEVELOPMENT ORDER APPROVING THE REQUEST BY US HWY 1 PHARMACY, INC 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 USE OF A PHARMACY ON DEVELOPED LOT, SUBJECT TO CONDITIONS IMPOSED, FOR PROPERTY LOCATED AT 6465 OVERSEAS HIGHWAY, WHICH IS LEGALLY DESCRIBED AS SECTION 11, TOWNSHIP 66, RANGE 32, FAT DEER KEY, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBER 00340300-000000.**

**WHEREAS**, US HWY 1 Pharmacy, Inc., (The “Applicant”) filed an Application on April 22<sup>nd</sup>, 2015 for a Conditional Use Permit pursuant to Chapter 102, Articles 13 of the City of Marathon Land Development Regulations (LDRs); and

**WHEREAS**; the Applicant has proposed authorization of a pharmacy on developed multi-tenant building on developed land; 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 2<sup>th</sup> day of June, 2015, the City of Marathon Technical Review Committee (the “TRC”) held 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 8 of the LDRs; and

**WHEREAS**, on the 15<sup>th</sup> day of June, 2015 and the 23<sup>th</sup> day of June, 2015, the Planning Commission (the “PC”) and 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 3 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

**WHEREAS**, the Council has duly considered the recommendation of the PC, and the information and documentary evidence submitted by US 1 HWY Pharmacy, Inc., and does hereby find and determine as provided below.

## **FINDINGS OF FACT:**

1. The Applicant has proposed use of Pharmacy in existing multi-tenant retail building on developed land.
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**

- 1) There shall be no bio hazardous garbage on-site;
- 2) All signs will be reviewed and approved for compliance with the City of Marathon LDRs;
- 3) Window sign shall not cover more than 60% of window;
- 4) The applicant is required and shall provide insurance from the Board of Pharmacies.
- 5) There shall be no on-site clinic offering out-patient services;
- 6) A full-time licensed Pharmacist shall remain on-duty during operating hours;
- 7) The applicant will provide fire protection plans in accordance with fire protection requirements as outlined by the City Fire Marshal and;
- 8) The Conditional Use Development Order will constitute the Certificate of Concurrence for the project. The determination will be valid for one year.

## **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 permit 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.

7/7/15  
Date

George Garrett  
George Garrett  
Director of Planning

This Development Order was filed in the Office of the City Clerk of this 7 day of July, 2015.

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

this 7 day of July, 2015.

USI Pharmacy, Inc. Attn: Jorge  
6465 Overseas Hwy. #3 Gonzalez  
Marathon, Fl 33050  
Diane Clavier

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Diane Clavier, City Clerk