RESOLUTION NO. 17-02-06

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, CONSIDERING A REQUEST BY H & C ISLANDER RESORT, LLC AND THE FLORIDA KEYS HISTORY AND DISCOVERY FOUNDATION FOR A SIGN VARIANCE PURSUANT TO SECTION 30-1433 OF THE VILLAGE CODE OF ORDINANCES FOR THE RELAXATION OF STANDARDS REGARDING MAXIMUM TOTAL SIGN AREA, MAXIMUM SIGN AREA OF AN INDIVIDUAL SIGN, DISTANCE BETWEEN MULTIPLE SIGNS ON PROPERTY, AND TOTAL NUMBER OF SIGNS ON A PROPERTY, FOR PROPERTY LOCATED AT 82100 OVERSEAS HIGHWAY, UPPER MATECUMBE KEY AT APPROXIMATELY MILE MARKER 82.1, ISLAMORADA, FLORIDA, AS LEGALLY DESCRIBED IN EXHIBIT "A"; PROVIDING FOR SEVERABILITY, AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, on January 6, 2017, H & C Islander Resort, LLC and The Florida Keys History and Discovery Foundation, (the "Applicants") submitted a Request for Sign Variance No. PLVAR20170003 (the "Request") pursuant to Section 30-1436(1) of the Code of Ordinances (the "Code") of Islamorada, Village of Islands (the "Village"); and

WHEREAS, the purpose of the Request was to seek a variance to the requirements of Section 30-1433(3)(a) of the Code for the construction a 52.47-square-foot ground-mounted monument sign on property located at 82100 Overseas Highway, as legally described in Exhibit "A" attached hereto; and

WHEREAS, the Property is located within the Tourist Commercial (TC) Zoning District; and

WHEREAS, on February 16, 2017 a duly noticed public hearing was held before the Village Council.
NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF
ISLAMORADA, VILLAGE OF ISLANDS, AS FOLLOWS:

Section 1. Findings of Fact.

The Village Council having considered the testimony and evidence presented by all parties, including the Appellant and the Director, does hereby find and determine:

(1) The Council heard the Request on February 16, 2017.

(2) The hearing was noticed pursuant to Section 30-2130) of the Village Code and all interested parties in the matter were given an opportunity to be heard.

(3) The Director presented the written recommendation of the Village Staff to the Village Council in a Report dated February 16, 2017.

(4) The Application does meet the requirements set forth in Section 30-1436 of the Village Code regarding sign variances and has demonstrated through competent substantial evidence the criteria for granting the Variance Request with the condition that the 52.47-square-foot ground-mounted monument sign shall only be permitted as shown in Exhibit "B" and shall not be transferred in the future to a different location on the Property; and.

(5) The Village Council approves the Variance Request submitted by the Applicant subject to the conditions imposed below.

Section 2. Conclusions of Law.

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

(1) The Variance Request has been processed in accordance with the Village's Comprehensive Plan and Land Development Regulations; and

(2) In rendering its decision, as reflected in this Resolution, the Village Council has:

(a) Accorded procedural due process; and
(b) Observed the essential requirements of the law; and

(c) Supported its decision by competent substantial evidence of record; and

(3) In accordance with Sections 30-1436(1) of the Village Code, the Variance Request by H & C Islander Resort and The Florida Keys History and Discovery Foundation is hereby APPROVED subject to the conditions imposed below.

Section 3. Conditions Imposed. Granting of the request is subject to the following conditions:

1. The Applicant shall remove the nonconforming concrete and coral structure located on US-1 from FOOT right-of-way.

2. The sign, including all overhangs or footers, shall be located entirely on the Applicant's property and shall not extend into the US-1 right-of-way.

3. The sign shall not exceed the size of 52.47 square feet per side as shown on the plans submitted with this application.

4. In the event that the Florida Keys History and Discovery Center vacates or is otherwise removed from the currently leased premises, the sign shall be removed.

5. The Applicant shall provide a Letter of Credit or Bond in the amount of one hundred ten percent (110%) of the construction cost of the sign to facilitate its removal in accordance with the provisions expressed in Condition #4.

Section 4. Conflicting Provisions. In event the conditions or time limitations contained herein, and any conditions or time limitations of any subsequent development approval granted by the Village, or the LDRs are in conflict, the more restrictive shall apply.

Section 5. Violation of Conditions. The Owners/Applicant understand and acknowledge that they must comply with all of the terms and conditions herein, and all other
applicable requirements of the Village or other governmental agencies before they may commence construction or operation of any use authorized herein. In accordance with Code Section 30-224, this approval may be revoked by the Village Council upon a determination that the Owners/Applicant or its successor or designee is in non-compliance with this Resolution or the 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 by the Code.

Section 6. Effective Date.

This Resolution shall not take effect for thirty (30) days following the date it is filed with the Village Clerk, and during that time, the Variance Request herein shall be subject to appeal as provided in the Village Code. An appeal shall stay the effectiveness of this Resolution until said appeal is resolved.

Motion to adopt by Vice Mayor Chris Sante, second by Councilwoman Deb Gillis.

FINAL VOTE AT ADOPTION
VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS:

Mayor Jim Mooney                YES
Vice-Mayor Chris Sante           YES
Councilman Mike Forster          YES
Councilwoman Deb Gillis          YES
Councilwoman Cheryl Meads        YES

PASSED AND ADOPTED THIS 16TH DAY OF FEBRUARY, 2017.

JIM MOONEY, MAYOR
ATTEST:

KELLY TOTH, VILLAGE CLERK

APPROVED AS TO FORM AND LEGALITY FOR THE USE AND BENEFIT OF ISLAMORADA, VILLAGE OF ISLANDS ONLY

ROGET V. BRYAN, VILLAGE ATTORNEY

This Resolution was filed in the Office of the Village Clerk of this 27 day of February, 2017.

Kelly Toth, Village Clerk
CERTIFICATE OF SERVICE

A true and correct copy of the above and foregoing Resolution was furnished to the Applicant, via U.S. certified mail, return receipt requested, addressed to Florida Keys History and Discovery Foundation, P.O. Box 1124, Islamorada, FL 33036 and H&C Islander Resort, LLC, 4119 Massard Road, Fort Smith, AR 72903-6223, this 28 day of Feb, 2017.

[Signature]
Kelly Toth, Village Clerk
EXHIBIT "A"

LEGAL DESCRIPTION OF:
81998 Old Highway Upper Matecumbe Key, Florida 33036

PARCEL A:
Lots 10, 11 and 12, in Block 8, of STRATTON'S SUBDIVISION, according to the Plat thereof, as recorded in Plat Book 2, at Page 38, of the Public Records of Monroe County, Florida.

PARCEL B:
Lots 10, 11 and 12, in Block 9, of STRATTON'S SUBDIVISION, according to the Plat thereof, as recorded in Plat Book 2, at Page 38, of the Public Records of Monroe County, Florida.

PARCEL C:
All of Lots 5, 6, 7, 8 and 9, in Block 10; and that part of the Northeast one-half of Lot 4, Block 10, of STRATTON'S SUBDIVISION, according to the Plat thereof, as recorded in Plat Book 2, at Page 38, of the Public Records of Monroe County, Florida, more particularly described as follows:

Starting at the dividing line between Lots 3 and 4 in Block 10, thence going in an Easterly direction one hundred (100) feet along the shoreline to a point on the Northeast one-half of Lot 4, thence going one hundred (100) feet to the dividing line of Lots 4 and 5, thence going in a Southwesterly direction along the dividing line of Lots 4 and 5, six hundred ninety-eight (698) feet, more or less, to the road, thence going in a Southwesterly direction one hundred (100) feet along the road, thence going in a Southeasterly direction six hundred fifty-five (655) feet more or less to the waters of the Atlantic Ocean to the point of beginning.

ALSO
A parcel of submerged land in the Atlantic Ocean in Government Lot 4, Section 28, Township 63 South, Range 37 East, Upper Matecumbe Key, Monroe County, Florida, more particularly described as follows:

From the dividing line between Lots 9 and 10, Block 10 of Stratton's Subdivision according to the Plat thereof recorded in Plat Book 2, at Page 38, of the Public Records of Monroe County, Florida, and at the Northwesterly line of Block 10, run Southwesterly along the said Northwesterly line of Block 10, a distance of 500 feet to the Southwesterly line of Northeastwesterly one-half of Lot 7 in said Block 10; thence Southwesterly along said Southwesterly line of the Northeastwesterly one-half of Lot 7, a distance of 574 feet, more or less, to the mean high tide line on the shore of the Atlantic Ocean and point of beginning of the parcel hereinafter described; thence continue Southwesterly along the Southwesterly prolongation of the Southwesterly line of the Northeastwesterly one-half of said Lot 7, a distance of 200 feet; thence Northwesterly with an interior angle of 79°54', a distance of 507.8 feet more or less to the Southwesterly prolongation of the said dividing line between Lots 9 and 10; thence Northwesterly along said prolongation, a distance of 200 feet, to the said mean high tide line at the dividing line between Lots 9 and 10; thence Southwesterly meandering said mean high tide line a distance of 507.8 feet more or less, to the point of beginning.

ALSO
A parcel of submerged land in Section 33, Township 63 South, Range 37 East, Monroe County, Florida, more particularly described as follows:

Commencing at the mean high tide line on the shore of the Straits of Florida at the Northeast boundary line of Lot 9, Block 10 of Stratton's Subdivision on Upper Matecumbe Key, according to the Plat thereof recorded in Plat Book 2, at Page 38, of the Public Records of Monroe County, Florida; thence Southwesterly along said Northeast boundary line of Lot 9 extended into the waters of the Straits of Florida for a distance of 200 feet to the Point of Beginning of the parcel hereinafter described; thence continue Southwesterly along the same course for a distance of 269 feet; thence at right angles and Southwesterly for a distance of 300 feet to the Southwesterly prolongation of the Northeast boundary line of the Northeast 1/2 of Lot 7, Block 10; thence Northwesterly along said prolongation for a distance of 200 feet; thence, with a deflected angle to the right of 79°54', run Northwesterly for a distance of 507.8 feet, more or less, back to the Point of Beginning.

ALSO
The following described land, to wit:

A parcel of submerged land in the Straits of Florida in Section 33, Township 63 South, Range 37 East, Monroe County, Florida more particularly described as follows: Beginning at the high tide line on the shore of the Atlantic Ocean at the dividing line between Lots 5 and 6 of Block 10 of Stratton's Subdivision as recorded in Plat Book 2, at Page 38, of the Public Records of Monroe County, Florida; run Southwesterly, along the extension of the dividing line between the aforementioned Lots 5 and 6, for a distance of 2000 feet thence at right angles run Southwesterly 300 feet; thence at right angles run Northwesterly 2012 feet, more or less, to the shoreline; thence meander the shore in an Easterly and Northerly direction back to the Point of Beginning.

ALSO
A parcel of submerged land in the Straits of Florida in Section 33, Township 63 South, Range 37 East, Monroe County, Florida, more particularly described as follows: Beginning at the high tide line on the shore of the Atlantic Ocean at the dividing line between Lots 5 and 6 of Block 10 of Stratton's Subdivision as recorded in Plat Book 2, at Page 38, of the Public Records of Monroe County, Florida, run Southeasterly, along the extension of the dividing line between the aforementioned Lots 5 and 6, for a distance of 2000 feet; thence at right angles run Northeasterly 300 feet; thence at right angles run Northwesterly 2125 feet, more or less, to the shoreline; thence meander the shore in a Southwesterly direction back to the Point of Beginning.

PARCEL B:
Lot 4, in Block 9, of Stratton's Subdivision, according to the Plat thereof, as recorded in Plat Book 2, at Page 38, of the Public Records of Monroe County, Florida.