MAJOR CONDITIONAL USE MJ-17-01

RESOLUTION NO. 17-03-23

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, CONSIDERING THE REQUEST BY INSITE REAL ESTATE, LLC. FOR MAJOR CONDITIONAL USE APPROVAL FOR THE DEVELOPMENT OF A 9,972 SQUARE FOOT RETAIL STORE FOR WEST MARINE ON PROPERTY LOCATED AT 81984 OVERSEAS HIGHWAY ON UPPER MATECUMBE KEY WITHIN THE VILLAGE CENTER (VC) ZONING DISTRICT WITH PARCEL IDENTIFICATION NUMBER 00399710-000000, AS LEGALLY DESCRIBED IN EXHIBIT “A;” PROVIDING FOR THE TRANSMITTAL OF THIS RESOLUTION TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Insite Real Estate Investment LLC (the “Applicant”) are the owners of property located at 81984 Overseas Highway on Upper Matecumbe Key with Parcel ID number 00399710-000000, and as legally described in Exhibit “A” (the “Property”); and

WHEREAS, Insite Real Estate Investment, LLC as the Agent/Applicant for the Owner (the “Agent/Applicant”), has applied for Major Conditional Use approval for 9,972 square foot retail building at the Property; and

WHEREAS, pursuant to Section 30-692(d)(1) of the Code of Ordinances (the “Code”) of Islamorada, Village of Islands, Florida (the “Village”), any permitted use of 5,001 to 10,000 square feet in the Village Center (VC) Zoning District shall be reviewed as a Major Conditional Use; and
WHEREAS, pursuant to Code Chapter 30, Article IV, Division 2, the Applicant has applied for Major Conditional Use Approval (MJ-17-01) (the “Request”); and

WHEREAS, the Village Development Review Committee (the “DRC”) reviewed the Request during a meeting held on February 21, 2017 and recommended approval of the Request with conditions to the Director of Planning (the “Director”); and

WHEREAS, pursuant to the applicable provisions of the Code, the Director in her Council Communication dated March 30, 2017 recommended to the Village Council that the Request be approved with conditions; and

WHEREAS, the Village Council has considered the Request, the relevant support materials, the DRC's and the Director's recommendations, public testimony and evidence given at a properly advertised public hearing held on March 30, 2017 (the “hearing”).

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The above recitals are true, correct, and incorporated herein by this reference.

Section 2. Findings of Fact. The Village Council, having considered the Request, the relevant support materials, the DRC's and Director's recommendations, public testimony and evidence given at the hearing, does hereby find and determine:

1. The Applicant submitted the Request on November 8, 2016.

2. The Request consists of a Site Plan attached as Attachment “D” depicting the Request’s configuration, layout and level of impacts.

3. The Property is located within the Mixed Use (MU) Future Land Use Map (FLUM) category.
4. The Property is located within the Village Center (VC) Zoning District.

5. The Request **complies** with the standards of Code Section 30-216(d) for considering conditional uses.

6. The Request **complies** with the Concurrency Management and other applicable requirements of Code Chapter 30, *Land Development Regulations* (the “LDRs”).

7. The Request is consistent with the purposes, goals, objectives and policies of the Village Comprehensive Plan, including standards for building and structural intensities and densities, and intensities of use.

**Section 3. Conclusions of Law.** Based upon the above Findings of Fact, the Village Council does hereby make the following Conclusions of Law:

1. The Request has been processed in accordance with the applicable provisions of the Village Comprehensive Plan and LDRs, and **will not** be detrimental to the community as a whole.

2. In rendering its decision as reflected in this Resolution, the Village Council has:
   (a) Accorded procedural due process;
   (b) Observed the essential requirements of the law; and
   (c) Supported its decision by competent substantial evidence of record.

3. The Request is hereby **APPROVED**, subject to the conditions imposed below.

**Section 4. Conditions Imposed.** Granting of the Request is subject to the following conditions:

1. The Applicant shall obtain all FDOT permits necessary to construct the required Overseas Highway improvements. A Letter of Intent from FDOT shall be required prior to issuance of any building permit. All improvements shall be completed by the Applicant at its sole expense. All improvements shall be accepted by FDOT prior to the issuance of a certificate of occupancy.

2. The property shall provide a Knoxbox for Fire Department access.
3. The Applicant shall obtain 9,248 square feet of nonresidential floor area from the Building Permit Allocation System prior to issuance of any building permit.

4. A Certificate of Occupancy for the Request shall not be issued until a Certificate of Occupancy has been issued for the required affordable housing units, pursuant to the Affordable Housing Agreement.

5. The Applicant proffered and shall build an eight (8) foot tall masonry wall, approximately 200 feet long, located along the rear property line, abutting lots 6 and 7 of Block 5 of the Stratton’s Subdivision Plat, recorded in Plat Book 2, Page 38 of the Public Records of Monroe County. The wall must be completed prior to obtaining a Certificate of Occupancy for the building.

Section 5. Conflicting Provisions. In the event that 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 6. Violation of Conditions. The Owners/Applicant understand and acknowledge that he or she must comply with all of the terms and conditions herein, and all other applicable requirements of the Village or other governmental agencies before he or she 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 7. Effective Date. This Resolution shall not take effect until after both thirty (30) days following the date it is filed with the Village Clerk, during which time the Request herein shall be subject to appeal as provided in the Code; and following the thirty (30) days, this
Resolution shall not be effective or acted upon by the Owner until forty-five (45) days following the rendition to the Florida Department of Economic Opportunity (the “DEO”), pursuant to Chapter 73C-44.003 of the Florida Administrative Code. During those forty-five (45) days, the DEO may appeal this Resolution 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.

Section 8. Term. This Development Order shall become null and void, with no further notice required by the Village, unless a complete building permit application for site preparation and building construction is submitted to the Village Building Official within the time frame specified in the LDRs. Commencement of development shall occur within three (3) years of the date of this Development Order unless a time extension is granted by the Director or the Village Council, pursuant to Code Section 30-225. If the Development Order is appealed under the LDRs or by the DEO, the above time limits shall be tolled until the appeals are resolved.

Motion to adopt by Councilman Mike Forster, 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 30TH DAY OF MARCH, 2017.
ATTEST:

Kelly J. Toth
KELLY TOOTH, 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 4th day of April, 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 ISLAMORADA, FL (81984 Overseas) LLC, c/o Insite Real Estate Investment Properties, L.L.C., 1400 16th Street, Ste. 300, Oak Brook, IL 60523 this 7th day of April, 2017.

[Signature]
Kelly Toth, Village Clerk
EXHIBIT “A”

Legal Description of Property

Lot 20 and Lot 21, Block 5, 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.
**CONCRETE SIDEWALK DETAIL**

1. **CURB RAMPS**
   - Dimensions and slopes should be as per the drawing.
   - Width: 5 1/2" min
   - Design: 1 1/4" min

2. **EXPANSION JOINTS**
   - Should be as per the drawing.

3. **CURB DETAIL**
   - Dimensions and details as per the drawing.

**THICKENED EDGE SAVING**

1. **CURB RAMPS**
   - Dimensions and slopes should be as per the drawing.
   - Width: 5 1/2" min

2. **THICKENED EDGES**
   - Dimensions and details as per the drawing.

**HANDICAP SIGN DETAIL**

1. **SIGN**
   - Dimensions and details as per the drawing.
   - Height: 9 1/8" min
   - Width: 6 1/16" min
   - Material: LED (if required)

2. **GRAPHIC DETAIL**
   - Dimensions and details as per the drawing.
   - Color: White
   - Material: Reflective

**HANDICAP GRAPHIC DETAIL**

1. **SIGN**
   - Dimensions and details as per the drawing.
   - Height: 9 1/8" min
   - Width: 6 1/16" min
   - Material: LED (if required)

2. **GRAPHIC**
   - Dimensions and details as per the drawing.
   - Color: White
   - Material: Reflective

**ADA DETAIL**

1. **SIGN**
   - Dimensions and details as per the drawing.
   - Height: 9 1/8" min
   - Width: 6 1/16" min
   - Material: LED (if required)

2. **GRAPHIC**
   - Dimensions and details as per the drawing.
   - Color: White
   - Material: Reflective

**PARKING SPACE STRIPING**

1. **STRIPES**
   - Dimensions and details as per the drawing.
   - Color: White
   - Material: Painted

**STRIPPING DETAIL**

1. **STRIPES**
   - Dimensions and details as per the drawing.
   - Color: White
   - Material: Painted

**ADDITIONAL AIDS**

1. **ARROW**
   - Dimensions and details as per the drawing.
   - Color: White
   - Material: Painted

2. **PARKING SPACE STRIPING**
   - Dimensions and details as per the drawing.
   - Color: White
   - Material: Painted

3. **PROGRAMMED CROSSES**
   - Dimensions and details as per the drawing.
   - Color: White
   - Material: Painted

4. **ADDITIONAL AIDS**
   - Dimensions and details as per the drawing.
   - Color: White
   - Material: Painted
NOTES:
1. CONTRACTOR SHALL PROVIDE AN ADEQUATE SUPPLY OF 23 1/2 FT.
   4'5" AND 4' 8" WYE SLEEVES TO MEET VARYING FIELD CONDITIONS.
2. LENGTH OF SERVICE PIPE VARIES AT EACH SERVICE CONNECTION AND
   SHALL BE PROVIDED AS REQUIRED TERMINAL SERVICE AT LOCATION
   DIRECTED BY THE ENGINEER.
3. INSTALL MULTIPLE STEEL BOXES AS REQUIRED TO BRING TO GRADE.

4. CONNECT AT TRENCH WALL OR AT SERVICE CONNECTION AT SEWER MANHOLE
   AS DIRECTED BY THE ENGINEER.
5. MATTING MICATE SEALANT BETWEEN WATER MAIN AND SEWER LATERAL
   CANNOT BE PROVIDED INSTALL 3" DIA SS SLEEVE AS DIRECTED BY THE
   ENGINEER.
6. BACKWATER VALVE SHALL BE A MODEL VK-400 (ADAPTA-VALVE)
   BY MARLINE.