MAJOR CONDITIONAL USE MJ-17-02

RESOLUTION NO. 17-12-100

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, CONSIDERING THE REQUEST BY JAMES LUPINO ON BEHALF OF LORAN F. VAN VLEET FOR MAJOR CONDITIONAL USE APPROVAL (MJ-17-02) OF A BOAT SALES AND SERVICING BUSINESS FOR ISLAMORADA BOAT CENTER ON PROPERTY LOCATED AT 81954 OVERSEAS HIGHWAY ON UPPER MATECUMBE KEY WITHIN THE VILLAGE CENTER (VC) ZONING DISTRICT WITH PARCEL IDENTIFICATION NUMBERS 00399570-000000, 00399390-000000, 00399740-000000, and 00399730-000000, 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, Loran F. Van Vleet (the “Applicant/Owner”) is the owner of property located at 81954 Overseas Highway on Upper Matecumbe Key with Parcel ID numbers 00399570-000000, 00399390-000000, 00399740-000000, and 00399730-000000, and as legally described in Exhibit “A” (the “Property”); and

WHEREAS, James Lupino, as the Agent for the Owner (the “Agent”), has applied for Major Conditional Use approval pursuant to Village Council Resolution No. 15-04-24 to remedy numerous Village Code violations on the Property related to code compliance case(s) 98-09-V-UM and 09-04-100D; and

WHEREAS, the Applicant is proposing to develop a boat sales and service business consisting of a 5,001 square foot outdoor storage and sales area, two (2) one(1)-unit deed-
restricted affordable dwelling units, and four (4) nonresidential buildings including a 583-square foot commercial building with a 655-square-foot shade shelter; a 1,242 square-foot retail office building; a 2,208 square-foot canvas shop and office; and a 760-square-foot storage area with two metal containers and an awning for a total of 5,448 square feet of nonresidential floor area and associated accessory uses and structures; 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 Section 30-692(d)(5), redevelopment of existing outdoor storage and display areas 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, pursuant to the applicable provisions of the Code, the Director of Planning recommended to the Village Council in the Council Communication dated December 7, 2017 that the Request be approved with conditions; and

WHEREAS, the Village Council has considered the Request, the relevant support materials, and the Director's recommendations, public testimony and evidence given at a properly advertised public hearing held on December 7, 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 Director's recommendations, public testimony and evidence given at the hearing, does hereby find and determine:

1. The Applicant submitted the Request on November 28, 2016.

2. The Request consists of a Site Plan, Landscape Plan, Outdoor Lighting Plan, and Parking Plan, attached as Exhibit “B”, 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 1,242 square feet of Nonresidential floor area from the Building Permit Allocation System prior to the issuance of a building permit associated with the Request.

2. The Applicant is prohibited from the stacking of boats or the performance of hull maintenance, painting, or repair work on the Property.

3. Commercial (nonresidential activity) at the existing dock on the Property (Lot 3, Block 4) shall be limited to the Applicant and restricted to water traffic only.

4. All required vegetation shall be installed prior to the issuance of a Certificate of Occupancy for the Request.

5. The Applicant shall install a 6-foot screen around the perimeter of the proposed Outdoor Storage Area as noted on Site Plan Page C-0.

6. All outdoor lighting shall comply with the regulations and restrictions set forth in Code Section 30-792(b) regarding maximum height of fixtures.

7. All signage shall comply with the regulations and restrictions set forth in Article VI, Division 10 of the Village Code.

8. The property shall provide a Knoxbox for Fire Department access.

9. The Applicant shall obtain demolition permits to remove all nonconforming accessory structures on Lot 3, Block 4 as noted on the site plan prior to issuance of a Certificate of Occupancy for the Request.

10. The Applicant has proffered to either: 1) amend the Declaration of Covenants, Conditions and Restrictions for the existing two (2) dwelling units to a term of thirty (30) years with automatic ten (10) year renewals or 2) may apply to convert the two (2) existing dwelling units to market-rate and apply for two (2) deed restricted allocations from the Building Permit Allocation System to establish on the Property within the five (5) years remaining on the Declaration of Covenants, Conditions and Restrictions recorded in the Public Records of Monroe County, Document No. 1272489, that is active on the Property.
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 understands and acknowledges 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 commencing 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.

The foregoing Resolution was offered by Councilman Mike Forster, who moved for its adoption. This motion was seconded by Councilman Jim Mooney, and upon being put to a vote, the vote was as follows:

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

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<td>Mayor Chris Sante</td>
<td>YES</td>
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<td>Vice Mayor Deb Gillis</td>
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<td>Councilman Jim Mooney</td>
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PASSED AND ADOPTED on the second reading this 7th day of December, 2017.

CHRIS SANTE, MAYOR

ATTEST:

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
CERTIFICATE OF SERVICE

A true and correct copy of the above and foregoing Resolution was furnished to the Agent, via U.S. certified mail, return receipt requested, addressed to Mr. James S. Lupino, Esq., C/O Hershoff, Lupino, and Yagel, LLP, 90130 Old Highway, Tavernier, FL 33070 this 13th day of December, 2017.

[Signature]
Kelly Tooh, Village Clerk
DESCRIPTION:
That portion of Lot 3, Block 4, described as follows:
In 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, a part of Lot 3, Block 4, described as follows:
Beginning at the Southeast corner of Lot 3, thence going in a Northeasterly direction 100 feet along Madeira Road to the lot line of Lots 3 and 4; thence going in a Northwesterly direction along the lot line of Lots 3 and 4 for 85 feet; thence going diagonally in a Southwesterly direction to a point on the lot line of Lot 2 and 3, which is 65 feet from the Southeast corner of Lot 3; thence going 65 feet along the lot line of Lots 2 and 3 in a Southeasterly direction to the Point of Beginning.

AND
Lot 4 and the Southwesterly 50 feet of Lot 5, Block 5, STRATTON'S SUBDIVISION, according to the Plat thereof, as recorded in Plat Book 2, Page 38, of the Public Records of Monroe County, Florida.

AND
Lots 22 and 23, Block 5, STRATTON'S SUBDIVISION, according to the Plat thereof, as recorded in Plat Book 2, Page 38, of the Public Records of Monroe County, Florida.
24" LED Area Light Hercules, Olympia Series

Product Overview

Highlights:
- Engineered and manufactured in Wisconsin, USA from domestic and imported components
- ETL Certified Conforms to UL 1598 & CSA STD-22.2 No. 1996 for wet locations
- 100% LED luminaire over 200,000 hours
- Screens are easily removable/replaceable
- Area LED engine operates from 1000 - 32,000 lumens for T&D/WHW installations
- Premium high reflector (F4-2000) allows for 100% LED output
- Available 30K and 40K lamps are UL listed
- Maximum IK of 78, custom IK available

Common Applications:
- Parking lots, roundabouts, and roundways
- Industrial areas and site lighting
- School campuses, art museums, hospitals, theaters and gas stations
- Retail stores and commercial buildings

Light Engine Specifications (Values Listed for Type III, 5000K):

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Dumpster Front Elevation

Scale 3/8''=1'-0''