MAJOR CONDITIONAL USE MJ-11-02

RESOLUTION NO. 12-05-31

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, APPROVING THE REQUEST BY MONTE W. GREEN FOR MAJOR CONDITIONAL USE APPROVAL FOR THE DEVELOPMENT OF A 18,325 SQUARE FOOT MINI STORAGE WAREHOUSE AND ONE CARETAKER'S COTTAGE ON PROPERTY LOCATED AT 86430 OVERSEAS HIGHWAY ON PLANTATION KEY, AS LEGALLY DESCRIBED IN EXHIBIT "A;" WITHIN THE INDUSTRIAL (I) ZONING DISTRICT; PROVIDING FOR THE TRANSMITTAL OF THIS RESOLUTION TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Monte W. Green (the “Owner”) is the owner of property located at 86430 Overseas Highway on Plantation Key, with Real Estate Number 00091980-000000 and as legally described in Exhibit “A” (the “Property”); and

WHEREAS, according to an Administrative Interpretation pursuant to Section 30-681(b)(2) of the Code of Ordinances (the “Code”) of the Islamorada, Village of Islands, Florida (the “Village”) by the Director of Planning and Development Services (the “Director”), warehousing and indoor storage greater than 3,000 square feet within the Industrial (I) Zoning District shall be reviewed as a major conditional use; and

WHEREAS, pursuant to Code Chapter 30, Article IV, Division 2, the Owner has applied for Major Conditional Use Approval (MJ-11-02) for the development of a 18,325-square-foot mini storage warehouse, one caretaker’s cottage and accessory uses and structures (the “Request”); and
WHEREAS, the Village Development Review Committee (the “DRC”) reviewed the Request during a meeting held on March 12, 2012 and recommended approval of the Request with conditions to the Director of Planning and Development Services (the “Director”); and

WHEREAS, pursuant to the applicable provisions of the Code, the Director in his Council Communication dated May 10, 2012 recommended to the Village Council that the Request be approved with conditions; and

WHEREAS, the Village Council considered the Request, the relevant support materials, the DRC's and the Director's recommendations, and public testimony given at a properly advertised public hearing held on May 10, 2012 (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, and public testimony given at the hearing, does hereby find and determine:

1. The Owner submitted the Request on April 1, 2011.

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

3. The Property is located within the Industrial (I) Future Land Use Map (FLUM) category.

4. The Property is located within the Industrial (I) 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 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 substantial competent 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 Request shall be consistent with the site plan (attached as Exhibit “B”) signed and sealed on March 20, 2012 by Daryle L. Osborn, of Keys Engineering Services, Inc.

2. An approved Affordable Housing Agreement, pursuant to Code Section 30-638(b)(7), shall be required prior to issuance of any building permits. The proposed deed restriction/restrictive covenant to be placed on the affordable residential dwelling unit shall be
executed, reviewed by the Village Attorney, and recorded at the Owner’s expense prior to issuance of any building permits.

3. A Certificate of Occupancy for the Request shall not be issued until a Certificate of Occupancy has been issued for the required on-site affordable housing unit, pursuant to the Affordable Housing Agreement.

4. A Conservation Easement on 70 percent of the moderate quality tropical hardwood hammock shall be executed and reviewed by the Village Attorney, and recorded at the Owner’s expense prior to issuance of any building permits.

5. Caretaker’s cottage shall comply with Code Section 30-476(a)(5), (6) and (7) prior to issuance of any building permit.

6. The Owner shall be responsible for obtaining all required permits from FDOT for the driveway connection, drainage and hydrant location within the Overseas Highway right-of-way.

7. One fire well is required to be installed in a location and design approved by the Fire Chief at the sole cost of the Owner, prior to issuance of any Certificate of Occupancy.

8. One fire hydrant is required to be installed in a location and design approved by the Fire Chief, in coordination with adjacent property owners, FDOT and FKAA as applicable. An executed Letter of Intent to install the fire hydrant near Overseas Highway shall be required prior to issuance of any Certificate of Occupancy.

9. A transplantation and restoration plan prepared by a qualified biologist shall be required prior to issuance of any building permits, pursuant to Code Section 30-1615. All transplantation and restoration shall be completed prior to issuance of any Certificate of Occupancy.
Section 5. Conflicting Provisions. In the 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 6. Violation of Conditions. The Owner understands and acknowledges 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 Owner 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 9J-1 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 Vice Mayor Philipson, who moved for its adoption. This motion was seconded by Councilman Blackburn, and upon being put to a vote, the vote was as follows:

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

Mayor Michael Reckwerdt        YES
Vice Mayor Ken Philipson         YES
Councilman Ted Blackburn         YES
Councilman Don Achenberg         YES
Councilman Dave Purdo            ABSTAINED

PASSED AND ADOPTED THIS 10TH DAY OF MAY, 2012.

[Signature]
KEN PHILIPSON, VICE MAYOR

ATTEST:

[Signature]
VILLAGE CLERK

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

[Signature]
VILLAGE ATTORNEY

This Resolution was filed in the Office of the Village Clerk on this 17 day of May, 2012.

[Signature]
Debra Eastman, Village Clerk
CERTIFICATE OF SERVICE

A true and correct copy of the above and foregoing Resolution was furnished to the Owner, via U.S. certified mail, return receipt requested, addressed to Monte W. Green, 88110 Overseas Highway, Islamorada, Florida 33036-3048, as agent for the Owner, this 17th day of May, 2012.

Debra Eastman, Village Clerk
Legal Description for Parcel # 00091980-000000
