RESOLUTION NO. 14-11-84

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, CONSIDERING THE REQUEST BY INTERSTATE COMMERCE OF FLORIDA, LLC FOR VARIANCES FROM SECTION 30-852 “OFF-STREET PARKING” OF THE VILLAGE CODE OF ORDINANCES TO ALLOW FOR A REDUCTION IN OFF-STREET PARKING AND SECTION 30-854 “LANDSCAPING FOR OFF-STREET PARKING” TO ALLOW FOR A REDUCTION IN LANDSCAPING FOR OFF-STREET PARKING; ON PROPERTY LOCATED AT 83413 OVERSEAS HIGHWAY OCEANSIDE ON UPPER MATECUMBE KEY WITH REAL ESTATE NUMBER 00403980-000100, AS LEGALLY DESCRIBED IN EXHIBIT “A” WITHIN THE TOURIST COMMERCIAL (TC) ZONING DISTRICT; PROVIDING FOR THE TRANSMITTAL OF THIS RESOLUTION TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Interstate Commerce of Florida, LLC (the “Owner”) is the owner of property located at 83413 Overseas Highway on Upper Matecumbe Key, with Real Estate Number 00403980-000100 and as legally described in Exhibit “A” (the “Property”) within Islamorada, Village of Islands, Florida (the “Village”); and

WHEREAS, Island Construction Management, Inc. is the applicant/agent for the project (the “Applicant”); and
WHEREAS, the Applicant has applied to the Village for Major Conditional Use approval for the development of a 13,478 square foot restaurant on the Property; and

WHEREAS, the Applicant has submitted an application for a variance from Section 30-852 and 30-854 of the Code of Ordinances of Islamorada, Village of Islands, Florida (the “Code”) to allow for a reduction of Off Street Parking and a reduction in Landscaping for Off Street Parking (the “Requests”), on property legally described in Exhibit “A;” and

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

WHEREAS, on October 21, 2014, the Village Development Review Committee (the “DRC”) reviewed the Request and recommended denial of the Requests to the Director; and

WHEREAS, on November 6, 2014 the Village Council of Islamorada, Village of Islands, Florida (the “Village Council”) conducted a duly noticed public hearing regarding the Variance Requests.

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 Requests, 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 Property is located within the Mixed Use (MU) Future Land Use Map (FLUM) category.

2. The Property is located within the Tourist Commercial (TC) Zoning District.
3. The Requests comply with the standards of Code Section 30-221(d) for considering variances.

4. The Requests are 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 Requests have 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; and
   (b) Observed the essential requirements of the law; and
   (c) Supported its decision by substantial competent evidence contained within the record; and

(3) The Requests are hereby APPROVED.

**Section 4. Effective Date.** This Resolution shall not take effect until after thirty (30) days following the date it is filed with the Village Clerk, during which time the Requests herein shall be subject to appeal as provided in the Village Code.
The foregoing Resolution was offered by Councilman Ken Philipson, who moved for its adoption. This motion was seconded by Vice Mayor Deb Gillis, and upon being put to a vote, the vote was as follows:

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

Mayor Ted Blackburn                      YES
Vice Mayor Deb Gillis                    YES
Councilman Mike Forster                  YES
Councilman Ken Philipson                  YES
Councilman Dave Purdo                     YES

PASSED AND ADOPTED THIS 6th DAY OF NOVEMBER, 2014.

TED BLACKBURN, 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 on this __ day of Nov, 2014.

Kelly Toth, Village Clerk
CERTIFICATE OF SERVICE

A true and correct copy of the above and foregoing Resolution was furnished to the Agent for the Property Owners, via U.S. certified mail, return receipt requested, addressed to Don Horton, Island Construction Management, Inc. as Agent for Interstate Commerce of Florida, LLC, 144 Apache Street, Tavernier, FL 33070, this 7 day of Nov, 2014.

Kelly Toth, Village Clerk
Parcel 1

A Parcel, being a portion of TRACT 1, of the "Russell Estates, according to the Plat thereof as recorded in Plat Book 2, Page 14 and 15 of the Public Records of MONROE COUNTY, FLORIDA; and portions of those certain parcels as described T.I.I.F. Deed No. 21079 and No. 21919, Recorded in Official Records Book 298, Page 48 thru 50, of the Public Records of MONROE COUNTY, FLORIDA; all lying in Section 27, Township 63 South, Range 37 East; Upper Matecumbe Key, MONROE COUNTY, FLORIDA; and being more particularly described as follows:

Commence at the most Westerly corner of said Tract I, thence N48°08'30"E along the Northwesterly boundary line of said Tract I, also being the Southeasterly Right-of-Way line of State Road No. 5 (116.00 feet Southeasterly of, as measured at right angles from the centerline of the former F.E.C. Railway Right-of-Way) for 368.00 feet to the POINT OF BEGINNING of the following described parcel; thence S41°51'30"E for 437.60 feet more or less to an intersection with the Southeasterly boundary line of the parcel described in said T.I.I.F. Deed No. 21919; thence N36°04'30"E along said Southeasterly boundary line for 454.00 feet; thence N41°51'30"W along the Northeasterly boundary line of the parcel described in said T.I.I.F. Deed No. 21919 for 258.66 feet to the Southeasterly Right-of-Way line of State Road No. 5 (200.00 feet-260.00 feet – Deed) Southeasterly of, as measured at right angles from the centerline of the former FEC Railway Right-of-Way; thence S48°08'30"W along the Northwesterly boundary line of the parcel described in said T.I.I.F. Deed No. 21919 for 182.00 feet more or less to an intersection with the former Mean High Tide Line of the ATLANTIC OCEAN as shown on said Plat of the "Russell Estates", thence meander Northerly along said former Mean High Tide line for 150.00 feet more or less, to said Northwesterly boundary line of said Tract I, thence S48°08'30"W along Northwesterly line of said Tract I for 368.00 feet more or less to the POINT OF BEGINNING; together with all improvements located thereof and personal property located thereon.

TOGETHER WITH

Parcel 2

A Parcel of filled submerged land lying in State Road No. 5 Right-of-Way, being a portion of the Northwest quarter (NW1/4) of Section 27, Township 63 South, Range 37 East on Upper Matecumbe Key, MONROE COUNTY, FLORIDA, and being more particularly described by "Mete and Bounds" as follows:

Commence at the intersection of the West line of said Section 27 and the Southeasterly Right-of-Way being 116.00 feet Southeasterly of, as
measured at right angles and parallel to the centerline of the former FLORIDA EAST COAST (F.E.C.) Railway Right-of-Way; thence N48°08'30"E along said Southeasterly Right-of-Way line and along the Northeasterly prolongation thereof for 2363.35 feet to the POINT OF BEGINNING of the following described Parcel No. 2; thence S41°51'30"E for 84.00 feet to an intersection with the Southeasterly Right-of-Way line of State Road No. 5, said Southeasterly Right-of-Way line being 200.00 feet Southeasterly of, as measured at right angles and parallel to said centerline of the former F.E.C. Railway Right-of-Way, said intersection being also the most Northwesterly corner of that certain Parcel of submerged land previously conveyed by Trustees of the Internal Improvement Trust Fund Deed No. 21919; thence S48°08'30"W along said Southeasterly Right-of-Way line for 182.00 feet more or less to an intersection with the former Mean High Tide Line as depicted on drawing prepared by G.A. Crashaw, Florida Registered Land Surveyor, Certificate of Registration No. 198, dated August 25th, 1960; thence Northeasterly along said former Mean High Tide Line for 135.00 feet more or less to an intersection with the aforementioned Southeasterly Right-of-Way line of the OVERSEAS HIGHWAY, said Southeasterly Right-of-Way line being 116.00 feet Southeasterly of as measured at right angles and parallel to said centerline of the former F.E.C. Railway Right-of-Way; thence N48°08'30"E along the Northeasterly prolongation of said Southeasterly Right-of-Way line for 76.00 feet more or less to the POINT OF BEGINNING.

AND

Parcel 3

A Parcel of filled submerged land lying in the STATE ROAD No. 5 Right-of-Way being a portion of the Northwest Quarter (NW1/4) of Section 27, Township 63 South, Range 37 East on Upper Matecumbe Key, MONROE COUNTY, FLORIDA and being more particularly described by "Metes and Bounds" as follows: Commence at the intersection of the West line of said Section 27 and the Southeasterly Right-of-Way line of the OVERSEAS HIGHWAY, said Southeasterly Right-of-Way line being 116.00 feet Southeasterly of as measured at right angles and parallel to the centerline of the former FLORIDA EAST COAST (F.E.C.) Railway Right-of-Way line, thence N48°08'30"E along said Southeasterly Right-of-Way line, and along the Northeasterly prolongation thereof for 2363.35 feet to the POINT OF BEGINNING of the following described Parcel No. 3, thence S41°51'30"E for 84.00 feet to an intersection with the Southeasterly Right-of-Way line of said STATE ROAD No. 5, said Southeasterly Right-of-Way line being 200.00 feet Southeasterly of, as measured at right angles and parallel to said centerline of the former F.E.C. Railway Right-of-Way, said intersection being also the most
Northwesterly corner of that certain Parcel of submerged land previously conveyed by Trustee of the Internal Improvement Trust Fund Deed No. 21919; thence N48°08'30"E along said Southeasterly Right-of-Way line for 20.00 feet more or less to an intersection with the Northerly face of an existing concrete seawall; thence Northwesterly along said Northerly face for 45.00 feet more or less to an intersection with the existing boulder rip-rap shoreline; thence Northwesterly along said shoreline for 70.00 feet more or less; thence Northeasterly along said boulder rip-rap and face of shoreline escarpment 115.00 feet more or less to an intersection with the aforementioned Northeasterly prolongation of the Southeasterly Right-of-Way line of said OVERSEAS HIGHWAY, said Northeasterly prolongation being 116.00 feet Southeasterly of, as measured at right angles and parallel to said centerline of the former F.E.C. Railway; thence S48°08'30"W along said parallel line for 190.00 feet more or less to the POINT OF BEGINNING.