A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, CONSIDERING THE REQUEST BY JACOCKS MASTIC, LLC FOR SITE PLAN APPROVAL OF A 312 SQUARE FOOT RESTAURANT AND 2,827 SQUARE FEET OF RETAIL BUILDING ON PROPERTY LOCATED AT 103 MASTIC STREET ON UPPER MATECUMBE KEY WITHIN THE VILLAGE CENTER (VC) ZONING DISTRICT AND AS LEGALLY DESCRIBED IN EXHIBIT “A”; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Jacocks Mastic, LLC (the “Owner”) is the owner of property located at 103 Mastic Street on Upper Matecumbe Key, with Real Estate Numbers 00399160-000000 and 00399150-000000, and as legally described in Exhibit “A” (the “Property”); and

WHEREAS, pursuant to Chapter 30, Article IV, Division 2, Section 30-215 of the Code of Ordinances (the “Code”) of Islamorada, Village of Islands, Florida (the “Village”), the Owner has applied for Site Plan Approval for a 312 square foot restaurant and 2,827 square feet of retail in existing buildings (the “Request”); and

WHEREAS, pursuant to Code Section 30-692(b)(13), low/medium intensity office, retail, and service uses less than 3,000 square feet within the Village Center (VC) Zoning District are permitted uses; and

WHEREAS, pursuant to Code Section 30-692(b)(10), restaurants less than 1,500 square feet within the Village Center (VC) Zoning District are permitted uses; and

WHEREAS, pursuant to Code Section 30-215(b)(4), applications for any nonresidential
development project that would constitute a substantial improvement on property with frontage on a major street and all property within the Village Center (VC) zoning district shall be processed pursuant to the site plan procedures provided for within Code Section 30-215; and

WHEREAS, during a meeting held on October 14, 2014, the Village Development Review Committee (the “DRC”) reviewed the Request 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 considered the DRC recommendation of approval with conditions; and

WHEREAS, the Director issued a Notice of Intent to approve the Request with conditions on October 15, 2014; and

WHEREAS, a request for a Public Hearing before the Village Council was submitted to the Village on November 14, 2014 by Jeff Ragan, an adjacent property owner; and

WHEREAS, pursuant to applicable provisions of the Code, the Director in her Council Communication dated January 8, 2015 has recommended to the Village Council that the Request be approved with conditions; and

WHEREAS, at a properly advertised public hearing held on January 8, 2015 (the “Hearing”) the Village Council has considered the Request, the relevant support materials, the DRC's and the Director's recommendations, public testimony, and evidence presented at 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 substantial competent evidence given at the hearing, does hereby find and determine:

1. The Applicant submitted the Request on February 24, 2014.

2. The Request consists of a Site Plan attached as Exhibit “A” depicting the Request’s configuration, layout and levels of impact.

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 30-215(h) for considering site plan applications.

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 WITH CONDITIONS, subject to the conditions imposed in Section 4 below.

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

1. The Request shall be implemented consistent with the site plan (attached as Exhibit “A”) signed and sealed on December 22, 2014 by Paul J. Slattery, of Slattery & Associates.

2. The Applicant shall execute a cross-access and parking agreement in a form approved by the Village Attorney.

3. The Applicant shall submit a Unity of Title for Lots 2 and 3, Square 2 prior to building permit issuance.

4. An approved Affordable Housing Agreement, pursuant to Code Section 30-638(b)(7), shall be required prior to issuance of any building permit.

5. The Applicant shall obtain 3,139 square feet of nonresidential square footage from the Building Permit Allocation System or transfer development rights prior to issuance of any building permit.

6. All outdoor lighting shall comply with Code Chapter 30, Article V, Division 5. All exterior light fixtures shall be fully shielded, unless expressly exempted. In no case shall fully exposed lamps or fixtures with clear glass globes or side panels be permitted. High intensity lamps prohibited greater than 2,000 lumens.

7. Foundation landscaping shall be installed consisting of a Class G bufferyard and located entirely within 15 feet of the building.
8. Four (4) canopy trees shall be installed along Mastic Street. Existing landscaping may apply.

9. The Applicant shall proffer an 8 foot solid opaque fence on the property line between lots 3 and 4.

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. Compliance with 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 become effective immediately. The applicant, and adjacent property owners of the property subject to the site plan who have opposed it at a public hearing, may appeal the decision of the village council on a site plan by filing a petition for writ of certiorari in the circuit court in and for the county, in accordance with the procedure provided by the Florida Rules of Civil Procedure and the Florida Rules of Appellate Procedure.

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 two (2) 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 and the development order is deemed effective.

The foregoing Resolution was offered by Vice Mayor Deb Gillis, who moved for its adoption of first reading. This motion was seconded by Councilman Chris Sante, and upon being put to a vote, the vote is as follows:

FINAL VOTE AT ADOPTION

VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS:

Mayor Mike Forster         YES
Vice Mayor Deb Gillis      YES
Councilman Jim Mooney      ABSTAINED
Councilman Chris Sante     YES
Councilman Dennis Ward     YES

PASSED AND ADOPTED THIS 8TH DAY OF JANUARY, 2015.

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
EXHIBIT “A”

SQR 2 LOTS 2 AND 3, PB2-38 STRATTONS SUBD UPPER MATECUMBE
This Resolution was filed in the Office of the Village Clerk on this 13 day of January, 2015.

Kelly Toth, 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 Jacocks Mastic, LLC, 103 Mastic Street, Islamorada, Florida 33036, this 14 day of Jan., 2015.

Kelly Toth, Village Clerk