



Islamorada, Village of Islands

SPECIAL CALL VILLAGE COUNCIL LAND USE MEETING

May 18, 2023 - 5:30 PM
Founders Park Community Center
87000 Overseas Highway
Islamorada, FL 33036

The Village Council has resumed the in-person regular meeting format. Virtual participation is still available to the public. Please see the last page of the agenda for participation details

AGENDA

- I. CALL TO ORDER / ROLL CALL**
- II. PLEDGE OF ALLEGIANCE**
- III. AGENDA: Requests for Deletion / Emergency Additions**
- IV. PUBLIC COMMENT**
(This is general public comment. It provides an opportunity for the public to speak about matters not scheduled elsewhere on the agenda. The mayor opens public comment on agenda items throughout the meeting.)
- V. MAYOR / COUNCIL COMMUNICATIONS**
 - A.** Discussion regarding Transfer of Development Rights (TDRs) for residential dwelling units (Councilmember Gregg) - **TAB 10**
 - B.** Discussion regarding Art in Public Places (Councilmember Gregg) - **TAB 11**
 - C.** Discussion regarding Achievable Housing Citizens' Advisory Committee (Councilmember Gregg)
- VI. VILLAGE ATTORNEY / VILLAGE MANAGER COMMUNICATIONS**
 - A.** Policy Discussion on use of Moratoriums
- VII. QUASI-JUDICIAL**
 - A.** Major Conditional Use Permit - Morada Cove - **TAB 9** (Jennifer DeBoisbriand , Planning Director)

**A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA,
VILLAGE OF ISLANDS, FLORIDA, CONSIDERING THE
REQUEST OF MORADA COVE PARTNERS LLC FOR MAJOR
CONDITIONAL USE APPROVAL FOR THE REDEVELOPMENT
AND EXPANSION OF EXISTING BAR, RESTAURANT, HOTEL
AND MARINA FOR PROPERTY LOCATED AT 85500 OVERSEAS
HIGHWAY ON WINDLEY KEY WITHIN THE TOURIST**

**COMMERCIAL (TC) ZONING DISTRICT, WITH REAL ESTATE
NUMBER 00093830-000000 AS LEGALLY DESCRIBED HEREIN;
PROVIDING FOR THE TRANSMITTAL OF THIS RESOLUTION TO
THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY;
AND PROVIDING AN EFFECTIVE DATE.**

VIII. ORDINANCES

- A.** Chapter 30, Article VI, Division 11 - Alcoholic Beverage Use Permits - **TAB 1**
- B.** Chapter 30, Article II - Definition of Lot Area - **TAB 2**
- C.** Lot Area Variance Code Amendment - **TAB 3**
- D.** Amendment of Multifamily (MF) Zoning District to Include Single-Family Residences as a Permitted Use - **TAB 4**
- E.** Amendment of Village Code to Modify Chapter 30 (Land Development Regulations) Division 9 related to Outdoor Seating Areas - **TAB 5**
- F.** Amendment to Tourist Commercial (TC) District to Incorporate Boat Dealerships as a Major Conditional Use - **TAB 6**
- G.** Amendment of the Village Code to Standardize Notice Provisions for the Development Review Process - **TAB 7**

IX. ADJOURNMENT

Options for Viewing the Village Council Meeting:

The public is encouraged to watch the meeting on Monroe County's MCTV Comcast Channel 77. Alternatively, the public may view the meeting streamed live on the Village website from their personal computer, tablet or phone via the following link:

https://www.islamorada.fl.us/departments/communications/live_village_broadcast_meeting.php

Option 1: Email your comments.

- 1. Public comment should be submitted via email to: public.comment@islamorada.fl.us
- 2. The email should contain "Public Comment" in the subject line.
- 3. The name and address of the submitter shall be included in the email.
- 4. Public comment should be submitted by 9 a.m. the day before the meeting. Public comment will be sent to the Village Councilmembers for consideration prior to the meeting. Public comments will not be read during the meeting.

Option 2: Call in During the Meeting.

1. If phoning in, dial 305-224-1968 and enter the webinar ID: **911 0656 4166** followed by #. When the Mayor opens public comment pertaining to the agenda item you are interested in dial *9 to be recognized by the Zoom meeting monitor. The Monitor will call you by the last four digits of your phone number. **Please be sure to unmute your phone when you are called upon.**

2. If watching online via Zoom: Open the Zoom webinar link <https://zoom.us/j/91106564166> and follow the prompts to join the webinar. When the Mayor opens public comment use the “raise your hand” feature to be recognized by the meeting monitor. Public comments will be heard in the order in which they are received.

ADA Assistance:

These meetings are open to the public. In accordance with the Americans with Disabilities Act of 1990, all persons who are disabled and who need special accommodations to participate in this meeting because of that disability should contact the ADA Coordinator at (305) 664-6448 or by email at ADA@islamorada.fl.us at least 48 hours before the scheduled meeting



Council Communication

To: Mayor and Village Council
From:
Date: May 18, 2023
SUBJECT: Discussion regarding Transfer of Development Rights (TDRs) for residential dwelling units (Councilmember Gregg) - TAB 10

Background:

Analysis:

Budget Impact:

Staff Impact:

Recommendation:

Attachments: 1 Sec. 30_506. Transfer of development rights TDRs for residential dwelling units and density.
2 Sec. 30_506. Transfer of development rights TDRs for residential dwelling units and density.

Sec. 30-506. Transfer of development rights (TDRs) for residential dwelling units and density.

Off-site redevelopment of all residential TDRs, including Transferable ROGO Exemption (TRE) Certificates and building permit allocations for residential dwelling units, shall, at a minimum, be subject to the following transfer conditions:

- (1) Dwelling units and density.
 - a. The transfer of four or less dwelling units shall be reviewed using the procedures for minor conditional use review pursuant to section 30-217 and shall be noticed pursuant to the procedures in subsection 30-213(h), except that hotels and motels shall not be considered a residential use;
 - b. The transfer of five or more dwelling units shall be reviewed using the procedures for major conditional use review pursuant to section 30-218 and shall be noticed pursuant to the procedures in subsection 30-213(i), except that hotels and motels shall not be considered a residential use; and
 - c. Both sender and receiver sites shall be in zoning districts that permit dwelling units and shall be subject to the following restrictions for the transfer of dwelling units:

Residential Sender Sites	Zoning Districts Eligible as Receiver Sites
Conservation (C)	NR, RE, R1, R1M, RMH, R2, R3, R4, MF, MH, SR, VC, TC, NC, I*,TA, M*
Native Residential (NR)	NR, RE, R1, R1M, RMH, R2, R3, R4, MF, MH, SR, VC, TC, NC, I*,TA, M*
Residential Estate (RE)	RE, R1, R1M, RMH, R2, R3, R4, MF, MH, SR, VC, TC, NC, I*,TA, M*
Residential Single Family (R1) and (R1M)	R1, R1M, RMH, R2, R3, R4, MF, MH, SR, VC, TC, NC, I*,TA, M*
Residential Mobile Home (RMH)	R1, R1M, RMH, R2, R3, R4, MF, MH, SR, VC, TC, NC, I*,TA, M*
Residential Duplex (R2)	R2, R3, R4, MF, MH, SR, VC, TC, NC, I*,TA, M*
Residential Triplex (R3)	R3, R4, MF, MH, SR, VC, TC, NC, I*,TA, M*
Residential Fourplex (R4)	R4, MF, MH, SR, VC, TC, NC, I*,TA, M*
Multifamily (MF)	R1**, R1M**, R2**, R3**, R4**, MF, MH, SR, VC, TC, NC, I*,TA, M*
Mobile Home Park (MH)	R1**, R1M**, R2**, R3**, R4**, MH**, SR**, VC**, TC**, HC**, NC**, I*, M*
Settlers Residential (SR)	RE, R1, R1M, RMH, R2, R3, R4, MF, MH, SR, VC, TC, I*, TA, M*
Village Center (VC)	RE, R1, R1M, RMH, R2, R3, R4, MF, MH, SR, VC, TC, NC, I*,TA, M*
Tourist Commercial (TC)	RE, R1, R1M, RMH, R2, R3, R4, MF, MH, SR, VC, TC, NC, I*, TA, M*
Commercial Fishing (CF)	RE, R1, R1M, RMH, R2, R3, R4, MF, MH, SR, VC, TC, CF, MR, NC, I*, TA, M*
Marine Use (MR)	RE, R1, R1M, RMH, R2, R3, R4, MF, MH, SR, VC, TC, MR, NC, I*, M*
Highway Commercial (HC)	RE, R1, R1M, RMH, R2, R3, R4, MF, MH, SR, VC, TC, HC, NC, I*, M*
Neighborhood Commercial (NC)	RE, R1, R1M, RMH, R2, R3, R4, MF, MH, SR, VC, NC, I*, M*
Industrial (I)*	I*, M*
Tavernaero Airstrip (TA)	MF, MH, SR, , I*,TA, M*
Public and Semi-Public Services (PS)	R1**, R1M**, R2**, R3**, R4**, MH**, SR**, VC**, TC**, HC**, NC**, I*, M*

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Mariculture (M)	M*
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*Limited to a caretaker's cottage.

**Limited to affordable residential dwelling unit.

- d. The transfer of residential density off-site shall be in the amount of 0.25 per acre and in conformance with the permitted zoning districts in the following table:

Residential Sender Sites	Zoning Districts Eligible as Receiver Sites
Conservation (C)	NR, RE, R1, R1M, RMH, R2, R3, R4, MF, MH, SR, TA, VC, TC, CF, MR, HC, NC
Native Residential (NR)	NR, RE, R1, R1M, RMH, R2, R3, R4, MF, MH, SR, TA, VC, TC, CF, MR, HC, NC
Residential Estate (RE)	RE, R1, R1M, RMH, R2, R3, R4, MF, MH, SR, TA, VC, TC, CF, MR, HC, NC
Residential Single Family (R1) and (R1M)	R1, R1M, RMH, R2, R3, R4, MF, MH, SR, TA, VC, TC, CF, MR, HC, NC
Residential Mobile Home (RMH)	R1, R1M, RMH, R2, R3, R4, MF, MH, SR, TA, VC, TC, CF, MR, HC, NC
Residential Duplex (R2)	R2, R3, R4, MF, MH, SR, TA, VC, TC, CF, MR, HC, NC
Residential Triplex (R3)	R3, R4, MF, MH, SR, TA, VC, TC, CF, MR, HC, NC
Residential Fourplex (R4)	R4, MF, MH, SR, TA, VC, TC, CF, MR, HC, NC
Multifamily (MF)	R1**, R1M**, R2**, R3**, R4**, MF, MH, SR, TA, VC, TC, CF, MR, HC, NC
Mobile Home Park (MH)	R1**, R1M**, R2**, R3**, R4**, MH**, SR**, VC**, TC**, CF**, MR**, HC**, NC**
Settlers Residential (SR)+	R1, R1M, RMH, R2, R3, R4, MF, MH, SR, TA, VC, TC, CF, MR, HC, NC
Tavernaero Airstrip (TA)	MF, MH, SR, TA, VC, TC, CF, MR, HC, NC

**Limited to affordable residential dwelling unit.

+ Limited to lots of record within Residential Medium Use FLUM.

Note: Receiver sites within mixed-use zoning districts are only permitted to apply off-site residential density to the residential component of a development.

(2) Hotel/motel units.

- The transfer of four or less hotel or motel unit(s) shall be reviewed using the procedures for minor conditional use review pursuant to section 30-217 and shall be noticed pursuant to the procedures in subsection 30-213(h).
- The transfer of five or more hotel or motel units shall be reviewed using the procedures for major conditional use review pursuant to section 30-218 and shall be noticed pursuant to the procedures in subsection 30-213(i).
- The receiver site shall be located in either the village center (VC), tourist commercial (TC) or highway commercial (HC) zoning district.

- (3) Development of a receiver site shall not exceed the greater of either one market rate dwelling unit or the densities provided for within division 2 of article V of this chapter. Additionally, the maximum amount of transferable area of off-site residential density that can be transferred from a sender site

and credited to a receiver site is calculated by and equal to the pre-existing lot area of the receiver site, expressed in acreage or square footage, prior to any transfer, that can be credited to the receiver site. A development right in the form of off-site residential density that has been successfully transferred and officially credited to a receiver site is known as transferred residential density credit (TRDC).

- (4) The structure cannot be placed in a VE flood zone on the receiver site.
- (5) Regardless of the on-site allocated densities available on a lot, exercising the TDR process to remove dwelling units, transfer building permits or density from a lot shall, result in a permanent reduction of density, and no additional density to that remaining on the sender site after the transfer takes place shall be permitted on the sender site. Notwithstanding the foregoing, affordable housing and/or nonresidential floor area may be provided only through the Building Permit Allocation System in instances following the transfer of a hotel or motel unit, but in no case shall the sender or receiver site exceed the permitted density or intensity provided for within division 2 of article V of this chapter. Each TDR shall require that a declaration of covenants, conditions and restrictions, as approved by the village attorney, be placed on the sender site, restricting densities to the number of market-rate, hotel or motel units remaining on the sender site after the transfer takes place.
- (6) Following the transfer of a hotel or motel unit(s) from a sender site, affordable housing and/or nonresidential floor area in accordance with article IV, division 11 of this chapter, may be developed on the sender site by either the conversion of an existing structure or portion thereof, or the construction of a new structure. A new or existing structure shall be brought into compliance with all applicable sections of this chapter and the Florida Building Code. This option may only be utilized provided that the applicant applies for and is granted an allocation award for an affordable residential dwelling unit and/or nonresidential floor area from the Building Permit Allocation System in accordance with article IV, division 11 of this chapter. In no case shall development of the sender site or the receiver site exceed the permitted density or intensity provided for within division 2 of article V of this chapter. Furthermore, the transfer or conversion to affordable housing and/or nonresidential floor area on the sender site shall be completed prior to the issuance of a building permit on the receiver site. If the above option is not utilized, the applicant shall be required to demolish the transferred hotel or motel unit(s) on the sender site.
- (7) A grant of conservation easement agreement (GOCEA), as approved by the village attorney, shall be placed by the owner of the sender site on all areas of the sender site determined to be tropical hardwood hammock and restricting further residential development rights. The sender site shall be required to comply with the landscaping standards pursuant to a restoration plan consistent with article V, division 6 of this chapter and approved by the director of planning and development services.
- (8) The following restrictions on residential dwelling unit transfers shall apply:
 - a. Hotel and motel unit TDRs shall be transferable only to hotel and motel units, and furthermore parcels not containing any shoreline shall be prohibited from transferring to parcels containing shorelines;
 - b. Market rate dwelling unit TDRs shall be transferable only to market rate dwelling units or affordable dwelling units, and furthermore parcels not containing any shoreline shall be prohibited from transferring to parcels containing shorelines; and
 - c. Affordable dwelling unit TDRs, including all mobile homes and recreational vehicle spaces from approved mobile home parks, shall be transferable only as affordable dwelling units, in accordance with affordability standards and definitions as specified in section 30-32 of this Code.

(Ord. No. 11-12, § 1, 5-26-2011; Ord. No. 14-11, § 1, 9-23-2014; Ord. No. 15-02, § 1, 1-22-2015; Ord. No. 20-02, § 2, 7-16-2020; Ord. No. 21-04, § 2, 6-9-2021)

Sec. 30-506. Transfer of development rights (TDRs) for residential dwelling units and density.

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 - a. Hotel and motel unit TDRs shall be transferable only to hotel and motel units, and furthermore parcels not containing any shoreline shall be prohibited from transferring to parcels containing shorelines;
 - b. Market rate dwelling unit TDRs shall be transferable only to market rate dwelling units or affordable dwelling units, and furthermore parcels not containing any shoreline shall be prohibited from transferring to parcels containing shorelines; and
 - c. Affordable dwelling unit TDRs, including all mobile homes and recreational vehicle spaces from approved mobile home parks, shall be transferable only as affordable dwelling units, in accordance with affordability standards and definitions as specified in section 30-32 of this Code.

(Ord. No. 11-12, § 1, 5-26-2011; Ord. No. 14-11, § 1, 9-23-2014; Ord. No. 15-02, § 1, 1-22-2015; Ord. No. 20-02, § 2, 7-16-2020; Ord. No. 21-04, § 2, 6-9-2021)



Council Communication

To: Mayor and Village Council
From:
Date: May 18, 2023
SUBJECT: Discussion regarding Art in Public Places (Councilmember Gregg) -
TAB 11

Background:

Analysis:

Budget Impact:

Staff Impact:

Recommendation:

Attachments: 1. DIVISION_8.___ART_IN_PUBLIC_PLACES_BOARD
2. DIVISION_8.___ART_IN_PUBLIC_PLACES_BOARD

SUBPART A - GENERAL ORDINANCES
Chapter 2 - ADMINISTRATION
ARTICLE V. - COMMITTEES, BOARDS AND COMMISSIONS
DIVISION 8. ART IN PUBLIC PLACES BOARD

DIVISION 8. ART IN PUBLIC PLACES BOARD¹

Sec. 2-481. Established; general duties.

There is established an art in public places board. It shall advise the city commission in the selection and location of public art in the city.

(Code 1986, § 22.01)

Sec. 2-482. Composition; terms of office.

The art in public places board shall consist of seven members. The mayor and each city commissioner shall appoint one member of the board. The term of the board member shall be equal and shall run parallel to that of the appointing commissioner. The board member's term shall end at the conclusion of the commissioner's term; a reelected commissioner may reappoint a board member.

(Code 1986, § 22.02(a))

Sec. 2-483. Applicability of general provisions.

All sections of division 2 of this article are applicable to art in public places board members except that members shall have a business, employment, or profession related to the creation or sale of art within the City of Key West and reside in the Lower Keys from Key West, to, and including Big Coppitt Key.

(Code 1986, § 22.02(b); Ord. No. 16-01, § 1, 1-5-2016)

Sec. 2-484. Organization.

- (a) Four members of the art in public places board shall constitute a quorum for the transaction of business during both regular and special meetings.
- (b) The board shall adopt rules of procedure for the conduct of its meetings, which shall include Robert's Rules of Order, Newly Revised. At its inaugural meeting, the board shall establish a mission statement and goals and objectives, and transmit them to the city manager. At the end of each fiscal year, the board shall submit a year-end report to the city commission.
- (c) The board shall convene scheduled meetings during the evening hours for the convenience of the public.

(Code 1986, § 22.03(a), (c), (d))

¹Cross reference(s)—Streets and sidewalks, ch. 62.

Sec. 2-485. Clerk.

The city manager shall appoint a clerk of the art in public places board. The clerk shall be responsible for preparing all board agendas and minutes, ensuring that all board meetings are properly noticed, and maintaining all records of the board.

(Code 1986, § 22.03(f))

Sec. 2-486. Duties.

The art in public places board shall:

- (1) Develop written guidelines for the location and display of public art.
- (2) Develop written guidelines for the competitive selection of and purchase of public art consistent with the goals of the city's purchasing procedures.
- (3) Investigate and recommend to the city commission funding sources for public art. With respect to city funds, the board shall recommend an annual budget.
- (4) Subject to the procurement process outlined in chapter 2, article VII, division 3, be responsible for the expenditure of and accounting for the one (1) percent set aside funds and limit the amount of dollars spent on art/cultural activities, programs and events to no more than fifteen (15) percent of the one (1) percent set aside funds in a fiscal year.
- (5) Coordinate the installation of public art with the city's building department and historic architectural review commission in order to comply with building codes and historic district guidelines.
- (6) Coordinate the organizing of art on public property sponsored art, cultural events, and programs.
- (7) Coordinate with the city manager's office for the maintenance of public art, once installed.
- (8) Forward to the city manager the board's written recommendation for the purchase of each piece of public art.
- (9) From time to time, commission public art, after approval of the city commission, and in both commissioning and selecting public art seek to reflect diversity in the artistic community.

(Code 1986, § 22.04; Ord. No. 16-01, § 2, 1-5-2016)

Sec. 2-487. Funding of art in new construction and major renovation projects.

- (a) *Purpose and intent.* It is the intent of the city's Art in Public Places Program (the "Program") to encourage the inclusion of works of art in public and private construction projects in order to expand citizens' and visitors' experience with visual art and enable them to better understand our community and their individual lives. By encouraging artists capable of creating works of art in public places, the Program shall strive to stimulate the vitality and economy of the city by enhancing the visual beauty of the city and contributing to making the city the "island of the arts." It is the goal of the Program to expend private and public funds on works of art and art projects of redeeming quality that advance public understanding of art and enhance the aesthetic quality of public places.
- (b) *Definitions.* For the purposes of this section, the following words and phrases shall have the following meanings:

Art in Public Places (AIPP) Board or the "board" means the advisory board appointed by the city commission as set forth in this division.

Artist or professional artist means a practitioner in the arts generally recognized by critics and peers as a professional possessing serious intent and ability. Indications of a person's status as a professional artist include, but are not limited to, income realized through the sole commission of artwork, frequent or consistent art exhibitions, placement of artwork in public institutions or museums, receipt of honors and awards, and training in the arts.

Artwork or works of art means all forms of original creations of art, which may be portable as well as permanent and shall include, but not be limited to:

Paintings of all media, including both portable and permanently affixed works such as frescoes and murals;

Sculpture of any form and in any material or combination of materials including statues, monuments, fountains, arches or other structures intended for ornamentation or commemoration, reliefs, mobiles, kinetic, electronic and neon sculptures;

Other works of art, such as inscriptions, stained glass, fiber works, carvings, mosaics, photographs, film and video works, performance art, drawings, collages, textile works, prints and other decorative and utilitarian works in clay, fiber, wood, metal, glass, stone, plastic and other materials; and

Artist-designed landscape and earthworks, including the artistic placement of natural materials or other functional art objects.

Construction costs means the total of all construction and renovation costs, as determined by the building official in issuing a building permit, associated with a particular major development plan as defined in chapter 108 of the city land development regulations of a particular public or private construction or renovation project within the city, excluding architectural fees, engineering fees, asbestos abatement, other environmental preparation, site work and contingency costs.

Developer means any person, property owner, corporation, public or private entity or governmental agency responsible for undertaking a qualifying construction or renovation project for which the city's Art in Public Places Program applies.

Publicly accessible means locations that are open to the general public during normal business hours and visible by the general public at all times.

- (c) *Public art set-aside.* One percent (1%) of the construction costs of all new public or private construction and renovation projects, including any governmental agency owned project within the city, as specified herein shall be set aside for the acquisition, commission and installation of works of art to be placed on the site of said construction or renovation, as well as a consultant, or coordinator/employee, as requested by the AIPP Board and approved by the city manager and/or the city commission, as prescribed by city ordinance.

- (1) *Applicability.* The one-percent for public art fund set-aside requirement shall only apply to:

- a. New public or private construction projects that qualify as a major development plan as defined in chapter 108 of the City of Key West Code of Ordinances and exceed \$500,000.00 in construction costs; and
- b. Public or private renovation projects that qualify as a major development plan as defined in chapter 108 of the City of Key West Code of Ordinances and exceed \$100,000.00 in construction costs.

- (2) *Compliance options.* When a new construction or renovation project is subject to the one-percent for public art set-aside requirement, the developer shall have the following options:

- a. *On-site artwork.* The developer may allocate one percent (1%) of the construction costs as defined in subsection 2-487(b) to the commissioning and installation of permanent, on-site public artwork as part of the development project. All artwork shall be permanently located in publicly

accessible locations. Prior to the issuance of a building permit, the developer shall provide a performance bond to the city equal to the one percent (1%) public art set-aside. The artwork shall be commissioned, installed and approved by the city before a certificate of occupancy may be issued for the new construction or renovation project. If the artwork is not produced and installed, then said performance bond shall be transferred to the city public art fund described in subsection 2-487(e), and a certificate of occupancy may be issued.

1. Private and non-city public projects. The developer may contract with a professional artist to create the on-site artwork. If desired by the developer, support shall be available from city staff and the AIPP board to assist in the selection of an artist. Before contracting with the artist and prior to issuance of a building permit for the project, the developer shall submit for review and approval by the AIPP board a public art plan as set forth in subsection 2-487(c)(3). Following approval of the public art plan, the developer may contract with the artists. A non-city public agency may substitute its own art in public places program as long as the minimum one percent (1%) public art set-aside of the city program is provided.
 2. *City projects.* The commissioning and placement of on-site artwork for qualifying city projects shall comply with applicable purchasing and procurement requirements of the city code and AIPP guidelines promulgated pursuant to section 2-486.
 - b. *In-lieu fee.* In lieu of on-site artwork, the developer may opt out by contributing one percent (1%) of the construction costs as defined in subsection 2-487(b) to the city AIPP fund to be used for purposes under subsection 2-487(e). The in-lieu fee shall be paid to the city prior to the issuance of a building permit associated with said major development plan.
- (3) *On-site public art plan requirements and artwork budget.*
- a. The public art plan shall include the following:
 1. Names and qualifications of the proposed professional artists as defined in subsection 2-487(b);
 2. Draft contract with the proposed artists;
 3. Description of proposed artwork, including overall length, width and height, materials, and method of construction;
 4. Detailed drawings or photographs of the proposed artwork;
 5. Detailed drawings of the specific public art sites showing:
 - A. Location of artwork(s);
 - B. Location of any electricity, landscaping, parking, plumbing or other amenities for artwork(s);
 - C. Location of plaque for artwork(s);
 6. Statement on conservation and maintenance requirements;
 7. Itemized construction costs of the qualifying construction or renovation project;
 8. Itemized public art budget; and
 9. Any other information as requested by staff or the board.
 - b. The AIPP board shall review the public art plan budget to be certain that the proposed budget meets the one percent set-aside requirement. The budget shall be adequate to cover all eligible costs for the design, fabrication, insurance, transportation, storage and installation of the

proposed artwork, plus reasonable unforeseen circumstances. An itemized budget shall be prepared for the public art plan including the following eligible costs:

1. Artist costs for design and fabrication including materials, insurance, permits, taxes and site preparation;
 2. Transportation fees;
 3. Delivery and installation fees, including lighting, electricity and plumbing as necessary;
 4. Pedestals, foundations or other structures to support the artwork;
 5. Acknowledgement/identification plaque; and
 6. Additional amenities as expressly related to public art installation.
- c. Maintenance shall not be an eligible cost of the artwork budget. However, in-lieu fees collected pursuant to this section may be used for maintenance of artwork on public property as set forth in subsection 2-487(e) and AIPP guidelines.
- d. The following criteria, at a minimum, shall be considered by the AIPP board in the review and approval of the public art plan:
1. Exceptional quality, enduring value and maintenance;
 2. Appropriateness to the site and environmental conditions;
 3. Character, environment and history of the city and the Florida Keys;
 4. Accessibility to the public;
 5. Whether the artwork too closely resembles a business logo or sign; and
 6. Any other criteria set forth in the AIPP guidelines, as amended from time to time.
- (d) *Timing of cost calculation.* To determine program applicability, all applications for major development plan shall include an estimate of construction costs. All construction costs to be used in determining the AIPP appropriation shall be calculated as of the date of building permit issuance, including any subsequent modifications of the major development plan.
- (e) *Accounting; use of funds.* In-lieu funds collected under this provision, as well as any gifts, grants and donations made to the City of Key West for the purpose of acquiring and installing art in public places, shall be separately accounted for and may be used only for the following purposes: acquisition, administration, personnel, grants, matching funds, proposals, activities, programs, projects, commissions, installation, and maintenance of art in public places.
- (f) *Ownership and maintenance of on-site artwork.*
- (1) Ownership of all works of art incorporated into city construction or renovation projects shall be vested in the city, which shall retain title to each work of art.
 - (2) All contracts for artwork to be acquired or accepted for ownership by the city shall be reviewed and approved by the city's legal department.
 - (3) Ownership of all works of art incorporated into private or non-city public construction or renovation projects shall be vested in the property owner who shall retain title to each work of art. Art in private or non-city public construction or renovation projects shall be installed and maintained permanently on the property, and shall be the responsibility of the property owner and any and all successors in title. The artwork shall not be altered, modified, relocated or removed other than as provided herein without the prior approval of the AIPP board.

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- (4) Property owners shall be required to maintain the work of art in good condition in the approved location, as required by law or other applicable guidelines including, but not limited to, the city code enforcement rules, to ensure that proper maintenance is provided.
 - (5) The owner may request that the artwork be removed from the site due to hardship with the approval of the board. In addition, in the event there is a condition or accident that occurs outside the reasonable control of the owner, such as an act of God, resulting in damage or destruction of the artwork, then the artwork may be removed or replaced with the approval of the board.
 - (g) *Compliance with historic district guidelines.* All public artwork, including murals, shall adhere to all applicable portions of the city land development regulations, including, but not limited to, chapter 108 historic preservation. If necessary, a certificate of appropriateness for the proposed artwork shall be obtained prior to installation.
 - (h) *Compliance with building codes.* If required pursuant to chapter 14 of the City Code, a building permit for the proposed artwork shall be obtained prior to installation.
- (Ord. No. 11-01, § 1, 1-18-2011; Ord. No. 14-03, § 1, 3-4-2014; Ord. No. 16-01, § 3, 1-5-2016; Ord. No. 22-04, § 1, 1-19-2022)

Secs. 2-488—2-515. Reserved.

SUBPART A - GENERAL ORDINANCES
Chapter 2 - ADMINISTRATION
ARTICLE V. - COMMITTEES, BOARDS AND COMMISSIONS
DIVISION 8. ART IN PUBLIC PLACES BOARD

DIVISION 8. ART IN PUBLIC PLACES BOARD¹

Sec. 2-481. Established; general duties.

There is established an art in public places board. It shall advise the city commission in the selection and location of public art in the city.

(Code 1986, § 22.01)

Sec. 2-482. Composition; terms of office.

The art in public places board shall consist of seven members. The mayor and each city commissioner shall appoint one member of the board. The term of the board member shall be equal and shall run parallel to that of the appointing commissioner. The board member's term shall end at the conclusion of the commissioner's term; a reelected commissioner may reappoint a board member.

(Code 1986, § 22.02(a))

Sec. 2-483. Applicability of general provisions.

All sections of division 2 of this article are applicable to art in public places board members except that members shall have a business, employment, or profession related to the creation or sale of art within the City of Key West and reside in the Lower Keys from Key West, to, and including Big Coppitt Key.

(Code 1986, § 22.02(b); Ord. No. 16-01, § 1, 1-5-2016)

Sec. 2-484. Organization.

- (a) Four members of the art in public places board shall constitute a quorum for the transaction of business during both regular and special meetings.
- (b) The board shall adopt rules of procedure for the conduct of its meetings, which shall include Robert's Rules of Order, Newly Revised. At its inaugural meeting, the board shall establish a mission statement and goals and objectives, and transmit them to the city manager. At the end of each fiscal year, the board shall submit a year-end report to the city commission.
- (c) The board shall convene scheduled meetings during the evening hours for the convenience of the public.

(Code 1986, § 22.03(a), (c), (d))

¹Cross reference(s)—Streets and sidewalks, ch. 62.

Sec. 2-485. Clerk.

The city manager shall appoint a clerk of the art in public places board. The clerk shall be responsible for preparing all board agendas and minutes, ensuring that all board meetings are properly noticed, and maintaining all records of the board.

(Code 1986, § 22.03(f))

Sec. 2-486. Duties.

The art in public places board shall:

- (1) Develop written guidelines for the location and display of public art.
- (2) Develop written guidelines for the competitive selection of and purchase of public art consistent with the goals of the city's purchasing procedures.
- (3) Investigate and recommend to the city commission funding sources for public art. With respect to city funds, the board shall recommend an annual budget.
- (4) Subject to the procurement process outlined in chapter 2, article VII, division 3, be responsible for the expenditure of and accounting for the one (1) percent set aside funds and limit the amount of dollars spent on art/cultural activities, programs and events to no more than fifteen (15) percent of the one (1) percent set aside funds in a fiscal year.
- (5) Coordinate the installation of public art with the city's building department and historic architectural review commission in order to comply with building codes and historic district guidelines.
- (6) Coordinate the organizing of art on public property sponsored art, cultural events, and programs.
- (7) Coordinate with the city manager's office for the maintenance of public art, once installed.
- (8) Forward to the city manager the board's written recommendation for the purchase of each piece of public art.
- (9) From time to time, commission public art, after approval of the city commission, and in both commissioning and selecting public art seek to reflect diversity in the artistic community.

(Code 1986, § 22.04; Ord. No. 16-01, § 2, 1-5-2016)

Sec. 2-487. Funding of art in new construction and major renovation projects.

- (a) *Purpose and intent.* It is the intent of the city's Art in Public Places Program (the "Program") to encourage the inclusion of works of art in public and private construction projects in order to expand citizens' and visitors' experience with visual art and enable them to better understand our community and their individual lives. By encouraging artists capable of creating works of art in public places, the Program shall strive to stimulate the vitality and economy of the city by enhancing the visual beauty of the city and contributing to making the city the "island of the arts." It is the goal of the Program to expend private and public funds on works of art and art projects of redeeming quality that advance public understanding of art and enhance the aesthetic quality of public places.
- (b) *Definitions.* For the purposes of this section, the following words and phrases shall have the following meanings:

Art in Public Places (AIPP) Board or the "board" means the advisory board appointed by the city commission as set forth in this division.

Artist or professional artist means a practitioner in the arts generally recognized by critics and peers as a professional possessing serious intent and ability. Indications of a person's status as a professional artist include, but are not limited to, income realized through the sole commission of artwork, frequent or consistent art exhibitions, placement of artwork in public institutions or museums, receipt of honors and awards, and training in the arts.

Artwork or works of art means all forms of original creations of art, which may be portable as well as permanent and shall include, but not be limited to:

Paintings of all media, including both portable and permanently affixed works such as frescoes and murals;

Sculpture of any form and in any material or combination of materials including statues, monuments, fountains, arches or other structures intended for ornamentation or commemoration, reliefs, mobiles, kinetic, electronic and neon sculptures;

Other works of art, such as inscriptions, stained glass, fiber works, carvings, mosaics, photographs, film and video works, performance art, drawings, collages, textile works, prints and other decorative and utilitarian works in clay, fiber, wood, metal, glass, stone, plastic and other materials; and

Artist-designed landscape and earthworks, including the artistic placement of natural materials or other functional art objects.

Construction costs means the total of all construction and renovation costs, as determined by the building official in issuing a building permit, associated with a particular major development plan as defined in chapter 108 of the city land development regulations of a particular public or private construction or renovation project within the city, excluding architectural fees, engineering fees, asbestos abatement, other environmental preparation, site work and contingency costs.

Developer means any person, property owner, corporation, public or private entity or governmental agency responsible for undertaking a qualifying construction or renovation project for which the city's Art in Public Places Program applies.

Publicly accessible means locations that are open to the general public during normal business hours and visible by the general public at all times.

- (c) *Public art set-aside.* One percent (1%) of the construction costs of all new public or private construction and renovation projects, including any governmental agency owned project within the city, as specified herein shall be set aside for the acquisition, commission and installation of works of art to be placed on the site of said construction or renovation, as well as a consultant, or coordinator/employee, as requested by the AIPP Board and approved by the city manager and/or the city commission, as prescribed by city ordinance.

- (1) *Applicability.* The one-percent for public art fund set-aside requirement shall only apply to:

- a. New public or private construction projects that qualify as a major development plan as defined in chapter 108 of the City of Key West Code of Ordinances and exceed \$500,000.00 in construction costs; and
- b. Public or private renovation projects that qualify as a major development plan as defined in chapter 108 of the City of Key West Code of Ordinances and exceed \$100,000.00 in construction costs.

- (2) *Compliance options.* When a new construction or renovation project is subject to the one-percent for public art set-aside requirement, the developer shall have the following options:

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- a. *On-site artwork.* The developer may allocate one percent (1%) of the construction costs as defined in subsection 2-487(b) to the commissioning and installation of permanent, on-site public artwork as part of the development project. All artwork shall be permanently located in publicly accessible locations. Prior to the issuance of a building permit, the developer shall provide a performance bond to the city equal to the one percent (1%) public art set-aside. The artwork shall be commissioned, installed and approved by the city before a certificate of occupancy may be issued for the new construction or renovation project. If the artwork is not produced and installed, then said performance bond shall be transferred to the city public art fund described in subsection 2-487(e), and a certificate of occupancy may be issued.
1. *Private and non-city public projects.* The developer may contract with a professional artist to create the on-site artwork. If desired by the developer, support shall be available from city staff and the AIPP board to assist in the selection of an artist. Before contracting with the artist and prior to issuance of a building permit for the project, the developer shall submit for review and approval by the AIPP board a public art plan as set forth in subsection 2-487(c)(3). Following approval of the public art plan, the developer may contract with the artists. A non-city public agency may substitute its own art in public places program as long as the minimum one percent (1%) public art set-aside of the city program is provided.
 2. *City projects.* The commissioning and placement of on-site artwork for qualifying city projects shall comply with applicable purchasing and procurement requirements of the city code and AIPP guidelines promulgated pursuant to section 2-486.
- b. *In-lieu fee.* In lieu of on-site artwork, the developer may opt out by contributing one percent (1%) of the construction costs as defined in subsection 2-487(b) to the city AIPP fund to be used for purposes under subsection 2-487(e). The in-lieu fee shall be paid to the city prior to the issuance of a building permit associated with said major development plan.
- (3) *On-site public art plan requirements and artwork budget.*
- a. The public art plan shall include the following:
1. Names and qualifications of the proposed professional artists as defined in subsection 2-487(b);
 2. Draft contract with the proposed artists;
 3. Description of proposed artwork, including overall length, width and height, materials, and method of construction;
 4. Detailed drawings or photographs of the proposed artwork;
 5. Detailed drawings of the specific public art sites showing:
 - A. Location of artwork(s);
 - B. Location of any electricity, landscaping, parking, plumbing or other amenities for artwork(s);
 - C. Location of plaque for artwork(s);
 6. Statement on conservation and maintenance requirements;
 7. Itemized construction costs of the qualifying construction or renovation project;
 8. Itemized public art budget; and
 9. Any other information as requested by staff or the board.

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- b. The AIPP board shall review the public art plan budget to be certain that the proposed budget meets the one percent set-aside requirement. The budget shall be adequate to cover all eligible costs for the design, fabrication, insurance, transportation, storage and installation of the proposed artwork, plus reasonable unforeseen circumstances. An itemized budget shall be prepared for the public art plan including the following eligible costs:
 - 1. Artist costs for design and fabrication including materials, insurance, permits, taxes and site preparation;
 - 2. Transportation fees;
 - 3. Delivery and installation fees, including lighting, electricity and plumbing as necessary;
 - 4. Pedestals, foundations or other structures to support the artwork;
 - 5. Acknowledgement/identification plaque; and
 - 6. Additional amenities as expressly related to public art installation.
 - c. Maintenance shall not be an eligible cost of the artwork budget. However, in-lieu fees collected pursuant to this section may be used for maintenance of artwork on public property as set forth in subsection 2-487(e) and AIPP guidelines.
 - d. The following criteria, at a minimum, shall be considered by the AIPP board in the review and approval of the public art plan:
 - 1. Exceptional quality, enduring value and maintenance;
 - 2. Appropriateness to the site and environmental conditions;
 - 3. Character, environment and history of the city and the Florida Keys;
 - 4. Accessibility to the public;
 - 5. Whether the artwork too closely resembles a business logo or sign; and
 - 6. Any other criteria set forth in the AIPP guidelines, as amended from time to time.
 - (d) *Timing of cost calculation.* To determine program applicability, all applications for major development plan shall include an estimate of construction costs. All construction costs to be used in determining the AIPP appropriation shall be calculated as of the date of building permit issuance, including any subsequent modifications of the major development plan.
 - (e) *Accounting; use of funds.* In-lieu funds collected under this provision, as well as any gifts, grants and donations made to the City of Key West for the purpose of acquiring and installing art in public places, shall be separately accounted for and may be used only for the following purposes: acquisition, administration, personnel, grants, matching funds, proposals, activities, programs, projects, commissions, installation, and maintenance of art in public places.
 - (f) *Ownership and maintenance of on-site artwork.*
 - (1) Ownership of all works of art incorporated into city construction or renovation projects shall be vested in the city, which shall retain title to each work of art.
 - (2) All contracts for artwork to be acquired or accepted for ownership by the city shall be reviewed and approved by the city's legal department.
 - (3) Ownership of all works of art incorporated into private or non-city public construction or renovation projects shall be vested in the property owner who shall retain title to each work of art. Art in private or non-city public construction or renovation projects shall be installed and maintained permanently on the property, and shall be the responsibility of the property owner and any and all successors in

title. The artwork shall not be altered, modified, relocated or removed other than as provided herein without the prior approval of the AIPP board.

- (4) Property owners shall be required to maintain the work of art in good condition in the approved location, as required by law or other applicable guidelines including, but not limited to, the city code enforcement rules, to ensure that proper maintenance is provided.
- (5) The owner may request that the artwork be removed from the site due to hardship with the approval of the board. In addition, in the event there is a condition or accident that occurs outside the reasonable control of the owner, such as an act of God, resulting in damage or destruction of the artwork, then the artwork may be removed or replaced with the approval of the board.
- (g) *Compliance with historic district guidelines.* All public artwork, including murals, shall adhere to all applicable portions of the city land development regulations, including, but not limited to, chapter 108 historic preservation. If necessary, a certificate of appropriateness for the proposed artwork shall be obtained prior to installation.
- (h) *Compliance with building codes.* If required pursuant to chapter 14 of the City Code, a building permit for the proposed artwork shall be obtained prior to installation.

(Ord. No. 11-01, § 1, 1-18-2011; Ord. No. 14-03, § 1, 3-4-2014; Ord. No. 16-01, § 3, 1-5-2016; Ord. No. 22-04, § 1, 1-19-2022)

Secs. 2-488—2-515. Reserved.



Council Communication

To: Mayor and Village Council
From:
Date: May 18, 2023
SUBJECT: Discussion regarding Achievable Housing Citizens' Advisory Committee (Councilmember Gregg)

Background:

Analysis:

Budget Impact:

Staff Impact:

Recommendation:

Attachments: None



Council Communication

To: Mayor and Village Council
From:
Date: May 18, 2023
SUBJECT: Policy Discussion on use of Moratoriums

Background:

Analysis:

Budget Impact:

Staff Impact:

Recommendation:

Attachments: None



Council Communication

To: Mayor and Village Council
From: Jennifer DeBoisbriand , Planning Director
Date: May 18, 2023
SUBJECT: **Major Conditional Use Permit - Morada Cove - TAB 9**

Background:

Morada Cove Partners, LLC has submitted an application for Major Conditional Use approval to allow for the redevelopment and expansion of the existing bar, restaurant, hotel and marina located at 85500 Overseas Highway. On May 2, 2023, the Village mailed notices to adjacent property owners informing them that the project was scheduled to be reviewed by the Village Council. A sign was also posted on the property on May 2, 2023. The Village has received no letters of objection or contact from adjacent owners as of this Council Communication. Pursuant to the Village Code of Ordinances, a Public Hearing before the Village Council to review the request is required.

The property is approximately 2.53 acres in size. The property is located on the west side of Overseas Highway just south of the Snake Creek bridge. The property is zoned Tourist Commercial (TC) and within the Mixed Use (MU) Future Land Use Map designation (FLUM). The property is surrounded by a large parcel of vacant land zoned Conservation (C) and across the street is another marina zoned Highway Commercial (HC). The existing use of the property is a 12-unit hotel with an associated marina, restaurant and bar.

The proposed development is to allow for the redevelopment and expansion of the existing uses. The Major Conditional Use is triggered by the size of the restaurants. In the Tourist Commercial Zoning District, restaurants between 3,001 to 5,000 square feet require a major conditional use.

The existing habitat for the Subject Parcel is classified as Disturbed. There is a wetland setback at the rear of the property that needs to be at 25 feet.

Analysis:

Pursuant to Section 30-218 of the Code of Ordinances (the "Code") of Islamorada, Village of Islands, Florida (the "Village"), applications for Major Conditional Use must be considered by the Village Council for approval, approval with conditions, or denial based on the standards in Code Chapter 30, Land Development Regulations (LDRs).

Conditional uses are those uses that are generally compatible with the other uses permitted in a zoning district, but that require individual review of their location, design, configuration and intensity and density of the use and structures and may require the imposition of conditions pertinent thereto in order to ensure the appropriateness and compatibility of the use at a

particular location. Conditional use review shall be accompanied by a site plan consistent with subsection 30-215(d).

Pursuant to Code Section 30-216(d), when considering an application for a Conditional Use, the Director and Village Council shall consider the following factors, and no conditional use shall be approved which fails to meet any standard below. Failure to comply with any standard shall be deemed adverse to the public interest:

(1) The proposed conditional use is consistent with the purposes, goals, objectives, and policies of the Comprehensive Plan, including standards for building and structural intensities and densities, and intensities of use;

Policy 1-1.2.2: Enhance the Appearance and Function of the U.S. 1 Corridor

The proposed redevelopment of the existing marina, hotel and accessory uses will enhance the scenic view along the Overseas Highway as well as provide local residents, visitors and employees with access to residential, commercial and leisure activities.

The proposed development is within the Mixed Use (MU) FLUM Category. The Applicant's proposal meets the general criteria of Objective 1-2.4 of the Comprehensive Plan relating to the type and scope of uses that are permitted within the Mixed Use (MU) FLUM category and Policies 1-2.4.1, 1-2.4.3 and 1-2.4.6 relating to accommodation of existing or proposed marinas and tourist-oriented facilities.

OBJECTIVE 1-2.4: RECOGNIZE MIXED USE DEVELOPMENT PATTERNS. Areas designated Mixed Use (MU) on the Future Land Use Map recognize the prevalent and historical mixed-use pattern of development in the Village. The MU category shall accommodate a mix of commercial and residential uses, which may be located in the same building, limited public and semi-public uses, recreational facilities, schools, marinas, tourist-oriented facilities, and supportive community facilities ancillary to the permitted uses, pursuant to the standards in the Comprehensive Plan and the Land Development Regulations.

Policy 1-2.4.1: - Guide the Location of Commercial Uses and Revitalize Commercial Areas. Mixed Use (MU) is the only FLUM category in which commercial uses shall be permitted. The general pattern of commercial land uses in MU shall:

1. Prevent negative impacts on the fragile coastal ecosystem by directing commercial development away from environmentally sensitive lands and critical habitat;
2. Revitalize all existing commercial areas and further distinguish Village Activity Centers;
3. Restrict the scale and intensity of commercial development outside of the Village Activity Centers and other appropriate areas in the Village;
4. Promote safe and efficient vehicle, cyclist and pedestrian movement;
5. Prevent or minimize Village costs to provide infrastructure;
6. Avoid encroachment of incompatible commercial activity into established residential neighborhoods;
7. Enhance the unique character of the Village's commercial land uses through incentives for bufferyards and landscaping; and
8. Facilitate within the Village Activity Centers, the creation of aesthetically pleasing commercial spaces outdoors, as places for social leisure and interaction, while limiting light industrial uses, outdoor storage and sales as a primary use of land, and outdoor retail sales as an accessory use of land.

Policy 1-2.4.3: - Commercial Uses Located Outside of Village Activity

Centers. Redevelopment shall be encouraged for commercial structures and uses designated MU and located outside of the Village Activity Centers, but only to the extent that

impacts generated by the new structure and use are equal to or less than that generated by the previous structure and use. Commercial uses adjoining residential canals, except commercial fishing uses, shall be limited to fully enclosed uses of medium to low intensity. In lieu of commercial development, vacant properties shall be allowed, one (1) single family home or a transfer of development rights associated with the property, providing that such transfer restricts all future development options as further implemented by standards in the Land Development Regulations.

Policy 1-2.4.6: Establish Zoning District Criteria for MU. The following criteria shall be used as guidelines for designating Zoning Districts within the Mixed Use FLUM category:

1. Residential Zoning Districts: In general, residential Zoning Districts shall be established where there are existing residential neighborhoods within the Village Activity Centers.
2. Commercial Zoning Districts: In general, commercial Zoning Districts shall be established where there are existing commercial uses, including single vacant parcels of land located between two (2) existing commercial uses.
3. Integrated Use Zoning Districts: Integrated use Zoning Districts, which encourage commercial and residential uses to co-locate on the same parcel or within the same building shall be established to maintain and promote affordable, workforce and employee housing. Appropriate locations for integrated use zoning shall include, in general, areas where such uses already exist, the core areas of the Village Activity Centers and other select locations along U.S. 1 where existing structures, business types and locations lend themselves to compatible co-existence with residential uses.
4. School and Recreational Zoning Districts: These Zoning Districts shall be established to accommodate existing or proposed school or recreational uses.

The proposed Major Conditional Use is consistent with the above policies. The project is compatible with the surrounding commercial uses and will not negatively impact level of service standards.

IN COMPLIANCE.

Policy 1-2.4.5: Standards Applicable to Non-Residential Uses in the MU Designation.

FAR within the Village Activity Centers and on the subject property is within the allowable standards for Mixed Use (MU). Comprehensive Plan Policy 1-2.4.5 and as provided in a table 'MAXIMUM DENSITY AND INTENSITY BY FUTURE LAND USE MAP CATEGORY', the proposed intensity of the site is within the limits of the plan.

Objective 1-4.1: Concurrency Management.

Objective 1-4.2: Manage and Coordinate Future Land Use Decisions.

The proposed redevelopment project includes the demolition of some existing structures and the remodeling of some existing commercial buildings and the reconstruction of other buildings. All necessary public facilities are available at the subject site. Additionally, infrastructure and services are available to support the land use activity.

IN COMPLIANCE

- (2) The proposed conditional use complies with all relevant and appropriate portions of the LDRs;

Landscaping Standards:

The proposed redevelopment is an existing hotel, restaurant and marina with installed landscape buffers. However, since the project is a new Major Conditional Use, it is required to provide landscaping to the greatest extent possible. There is a required 25-foot buffer to the west of the property. The applicant must amend their plan to show the required buffer.

IN COMPLIANCE (Conditioned upon receipt of new plan).

Parking:

The proposed additional use accommodates the parking of vehicles for anticipated uses of the property. The Applicant has entered into a lease with FDOT for the use of its right of way for parking.

IN COMPLIANCE

(3) The proposed conditional use is compatible and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development;

The proposed use is compatible and consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development. The property has been used as a hotel, restaurant and marina since the late 1950's or early 1960's.

IN COMPLIANCE

(4) The design of the proposed conditional use minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands;

The proposed project has been designed to minimize adverse effects on adjacent property. Landscaping is being increased with the proposed project.

IN COMPLIANCE

(5) The Proposed Development complies with Division 5 (Concurrency Management) [of Article IV of the LDRs];

Roads:

The Property is located on Overseas Highway. The proposed remodel is not expected to impact the Level of Service (LOS) for Overseas Highway. There is sufficient available capacity to operate at the LOS C standard for road concurrency. The Applicant has submitted a Traffic Impact Analysis completed by Trebilcock Consulting Solutions dated May 13, 2022.

IN COMPLIANCE

Stormwater:

The Applicant is providing stormwater management for the proposed project.

IN COMPLIANCE

(6) The proposed conditional use minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands and the natural functioning of the environment; and,

There are no environmentally sensitive habitats on the subject property.

IN COMPLIANCE

(7) The proposed conditional use will result in logical, timely and orderly development patterns.

The proposed project is a redevelopment project.

IN COMPLIANCE

Budget Impact:

None

Staff Impact:

None

Recommendation:

Staff has reviewed the request for Major Conditional Use Approval and determined that the site plan is consistent with the goals, objectives, and policies of the comprehensive plan and complies with applicable provisions of the Code of Ordinances. Staff recommends that the Village Council APPROVE the proposed Major Conditional Use application by adoption of the attached Resolution, subject to the following Conditions of Approval:

1. Use of the premises shall be limited to the following:

- a. Twelve (12) Unit Hotel/Motel with accessory office and retail space;
- b. 4 restaurants with a maximum gross floor area of 13,511 square feet and in no instance shall any individual restaurant be more than 5,000 square feet of gross floor area;
- c. Docking Facility with 30 boat slips;
- d. A bait house with a maximum gross floor area of 180 square feet.

A valid Certificate of Occupancy or Compliance shall be obtained prior to the occupation of the proposed facilities.

2. No display of boats or vehicles shall be visible from Overseas Highway.

3. Prior to the issuance of any Certificates of Occupancy, the Applicant, their Successors or Assigns, shall have an approved Stormwater Management Plan for the proposed project.

4. Prior to the issuance of any Certificates of Occupancy, the Applicant, their Successors or Assigns, shall coordinate with the Village's Wastewater consultant for the provision of wastewater services. Shall comply in all aspects with Village Wastewater requirements.

5. The proposed Major Conditional Use Permit shall allow for the construction of 4 restaurants with a total of 13,511 square feet, 12-Unit Hotel/Motel, 30-Slip Docking Facility, a 180 square foot bait house and associated site improvements as defined in the Code of Ordinances as depicted on the Site Plan, prepared by MHK Architecture & Planning Architect dated February 7, 2023, and entitled 'Morada Cove Restaurant Morada Cove Partners LLC 85500 Overseas Highway Islamorada, Florida 33036.' All improvements shall be completed in substantial conformance with said Site Plan pursuant to the direction of the Department of Planning and Development Services.

6. Parking.

a. Morada Cove shall maintain a total of 174 parking spaces on site and in conjunction with Florida Department of Transportation (FDOT) right-of-way, through Lease Agreements. All parking shall be improved in accordance with the Village Code, except as may otherwise be permitted by the Department of Planning and Development Services. In the event the Lease Agreements with FDOT are rescinded or otherwise cease to be valid, the project shall be required to provide the required Parking Spaces either on-site or off site as permitted by the Department of Planning and Development Services.

b. Pursuant to Sec. 30-852 of the Village Code, racks for parking bicycles may be substituted for up to five percent (5%) of required vehicular parking at a ratio of three bicycle parking spaces for every one (1) vehicular parking space. Said bicycle racks shall be depicted on the final site plan pursuant to the direction of the Department of Planning and Development

Services.

c. Subject to site plan approval, credit for Temporary Boat Parking located at the on-site docking facility may be permitted.

7. Landscaping and buffer improvements shall be completed in substantial conformance with the Landscape Plan submitted as a part of the Application pursuant to the direction of the Department of Planning and Development Services prior to the issuance of any Certificates of Occupancy. The Applicant shall provide a new plan showing the required 25-foot buffer from the wetlands.

8. The Applicant shall meet the requirements of Comprehensive Plan Coastal Element - Policy 5-1.2.13, which requires a Water Quality Monitoring Program.

9. A Final Certificate of Occupancy shall not be issued for the proposed construction until all required improvements have been completed to the satisfaction of the Department of Planning and Development Services and the Village Building Official.

10. The improvement of the premises, in accordance with the determination of the Village, must commence within thirty-six (36) months after the date of the granting of the Major Conditional Use. If not commenced within this period, the Village reserves the right to revoke any and all approvals associated with the subject property after due public hearing. Thereafter, the operation of the use previously authorized shall be terminated and there shall be no right to non-conformity.

11. The Village reserves the right to rescind in whole or part any aspect of this Major Conditional Use in the event violation of these conditions occurs.

12. All conditions shall be enforceable through all the powers of the Village Attorney's Office and the Village reserves the right after due public hearing, to rescind in whole or part this Major Conditional Use, if violation of the conditions persists.

13. In the event that the Applicant decides to construct the 6 townhomes as shown on the site plan, a new landscaping plan shall be submitted for administrative approval.

Attachments:

1. 2023-2-8_MHK_21129_CHIEF-MARINE-SITE-PLAN
2. Landscape Plan
3. Reso_PLCUP20210220_Morada Cove
4. Reso_PLCUP20210220_Morada Cove

ADDRESS = 85500, ISLAMORADA, FLORIDA
PROPERTY = 2.53 ACRES / 109,993 SQUARE FEET
UPLAND AREA = 1.80 ACRES / 78,293 SQUARE FEET
D.O.T. LEASE = EAST = 0.48 ACRES / 21,000 SQUARE FEET
WEST = 0.20 ACRES / 8,514 SQUARE FEET
ZONING = (TC) TOURIST COMMERCIAL
12 HOTEL UNITS = 1,444 S.F.
RESTAURANT = 2,998 S.F.
MIN. LOT AREA = NOT APPLICABLE
MAX HEIGHT = 35 FEET MEASURED FROM FEMA
MIN. YARDS = FRONT : 15 FEET
SIDE : 10 FEET
WATERFRONT: 20 FEET
NOTE: EXISTING NON-CONFORMING
REAR ENCROACHMENTS TO REMAIN
MAX
LOT COVERAGE = NOT APPLICABLE
FLOOD ZONE = AE 8 FEET NGVD D.F.E. = 9' NGVD
MAX F.A.R. = 0.35 BASED UPON UPLAND SQUARE FOOTAGE
78,293 S.F. (X) 0.35 = 27,403 SQUARE FEET
MAX SIZE
DENSITY = MAXIMUM PRINCIPAL BUILDING SIZE IS 10,000 S.F.
OR MAXIMUM F.A.R. (WHICHEVER IS LESS)

<u>EXISTING NON-RESIDENTIAL BUILDING S.F.:</u>	
RESTAURANT	= 4,124
RESTAURANT TIKI	= 1,334
BAIT HOUSE	= 182
HOTEL RECEPTION	= 1,891
1 STORY COMM.	= 948
SEWAGE TREAT	= 800
1 STORY RESTRM	= 185
TOTAL COMMERCIAL	= 9,470

MAXIMUM PRINCIPAL BUILDING SIZE:
MAXIMUM PRINCIPAL BUILDING SIZE: THE MAXIMUM NONRESIDENTIAL FLOOR AREA FOR A PRINCIPAL STRUCTURE SHALL BE 10,000 SQUARE FEET OR THE MAXIMUM INTENSITY (FLOOR AREA RATIO) ALLOWABLE PURSUANT TO THIS SECTION, WHICHEVER IS LESS.

FLOOR AREA, NONRESIDENTIAL MEANS THE SUM OF THE GROSS FLOOR AREA FOR NONRESIDENTIAL STRUCTURES, AND ALL COVERED, UNENCLOSED AREAS USED FOR COMMERCIAL ACTIVITIES INCLUDING OUTDOOR SEATING AREAS, EXCEPT FOR WALKWAYS, STAIRWAYS, ENTRYWAYS, PARKING AND LOADING AREAS OR DRIVE-THROUGH CANOPIES, OUTDOOR STORAGE AND DISPLAY AREAS, TEMPORARY USES, TEMPORARY STRUCTURES, AND SPACE OCCUPIED BY TRANSIENT RESIDENTIAL AND INSTITUTIONAL-RESIDENTIAL PRINCIPAL USES ARE NOT NONRESIDENTIAL FLOOR AREA. ADDITIONALLY, BOAT BARNs LEGALLY EXISTING PRIOR TO JANUARY 1, 2008, SHALL BE CONSIDERED NONRESIDENTIAL FLOOR AREA, WHILE THOSE LIMITED TO 14,000 SQUARE FEET AND APPROVED AFTER JANUARY 1, 2008, SHALL NOT BE CONSIDERED NONRESIDENTIAL FLOOR AREA. ADDITIONALLY, PACKAGE SEWAGE TREATMENT FACILITIES THAT ARE LEGALLY EXISTING PRIOR TO SEPTEMBER 1, 2015 SHALL BE CONSIDERED NONRESIDENTIAL FLOOR AREA. PACKAGE SEWAGE TREATMENT FACILITIES THAT ARE PERMITTED AFTER SEPTEMBER 1, 2015 SHALL NOT BE CONSIDERED NONRESIDENTIAL FLOOR AREA. FLOOR AREA RATIO (FAR) MEANS THE TOTAL FLOOR AREA OF THE BUILDING OR BUILDINGS ON A LOT DIVIDED BY THE GROSS AREA OF THE LOT OR SITE.

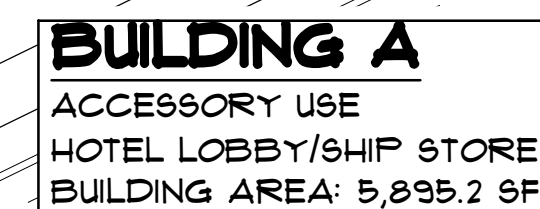
FLOOR AREA RATIO (FAR) CALCULATION:		
RESTAURANT DEFINED AREA	2,998 S.F.	10,000 S.F. ALLOWED
SALES OFFICE / TRANSIENT BLD	874 S.F.	
TOTAL ROOFED AREA:	3,831 S.F.	0.049 FAR

WEST PROPERTY LINE
EDGE OF MANGROVES
15' MANGROVE SETBACK
SEC. 30-1616 (CX4)(B)

BULKHEAD FACE
0' WATERFRONT SETBACK
EXISTING NON-CONFORMITY
30'-8" ENCROACHMENT
INDICATES LOCATION OF
UNDERGROUND FUEL CELLS

WEST D.O.T. LAND LEASE
0.05 ACRES / 2,01 S.F. —

EDGE OF MANGROVES
TO BE DETERMINED



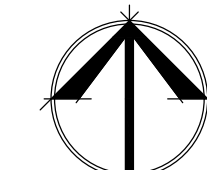
BUILDING B
PRINCIPLE USE
HOTEL
BUILDING AREA: 7933.2 SF

BUILDING C
ACCESSORY USE
RESTAURANT
BUILDING AREA: 21,279 SF

BUILDING D
ACCESSORY USE
TOWNHOUSES (3 STORY)
BUILDING AREA: 13,500 SF

BUILDING E
ACCESSORY USE
BAIT HOUSE
BUILDING AREA: 180 SF

SCALE: 1:40



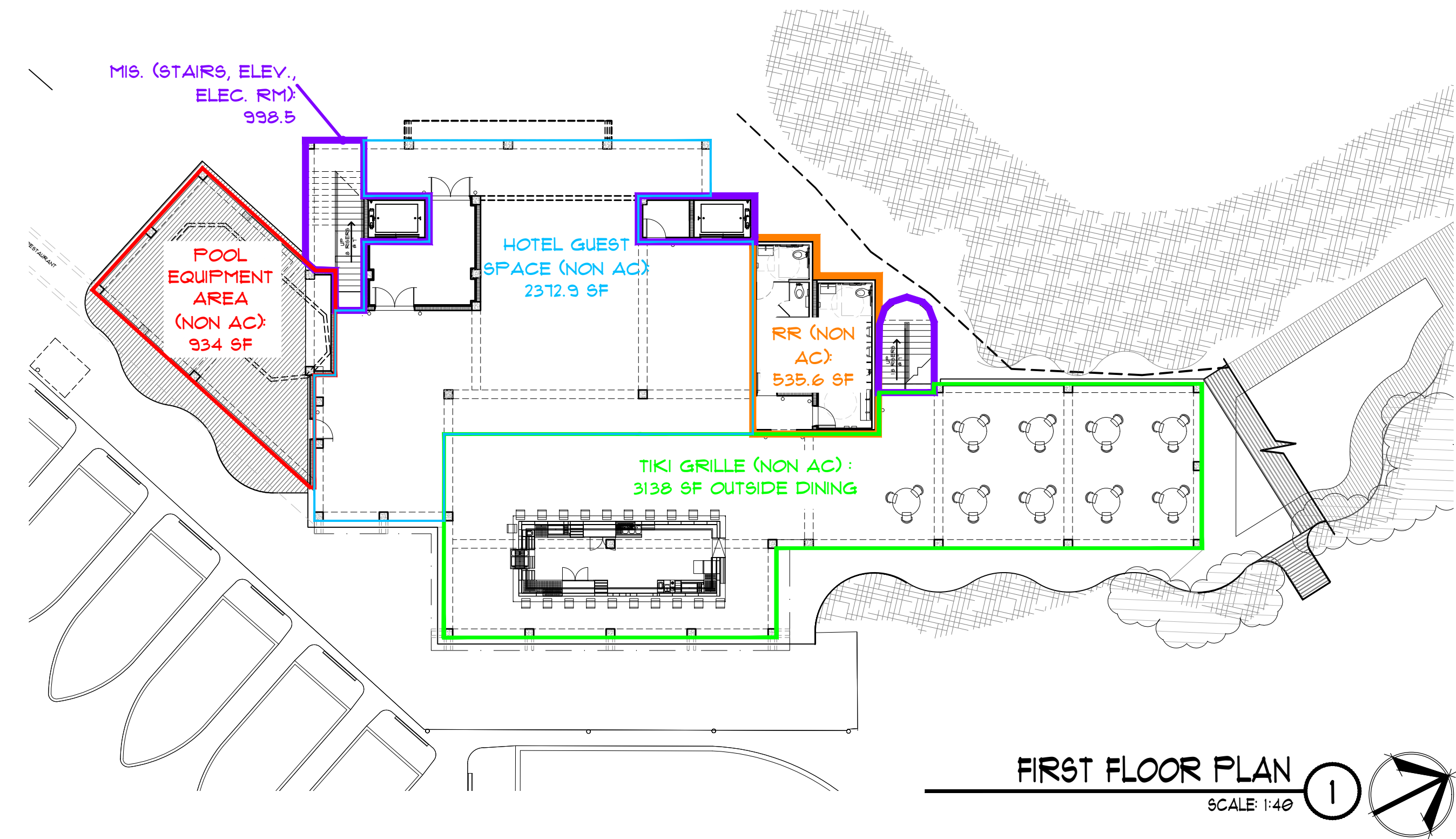
FIRST FLOOR:

"TIKI GRILLE" (OPENS @ 11 AM (LUNCH)):

3138 SF OUTSIDE DINING

9 (3) TOPS AND 21 BAR STOOLS

16 PARKING SPOTS REQUIRED



SECOND FLOOR:

"THE LEDGE" (OPENS @ 1AM (BREAKFAST/LUNCH)):

(AC RESTAURANT) / AC KITCHEN: 2250 SF

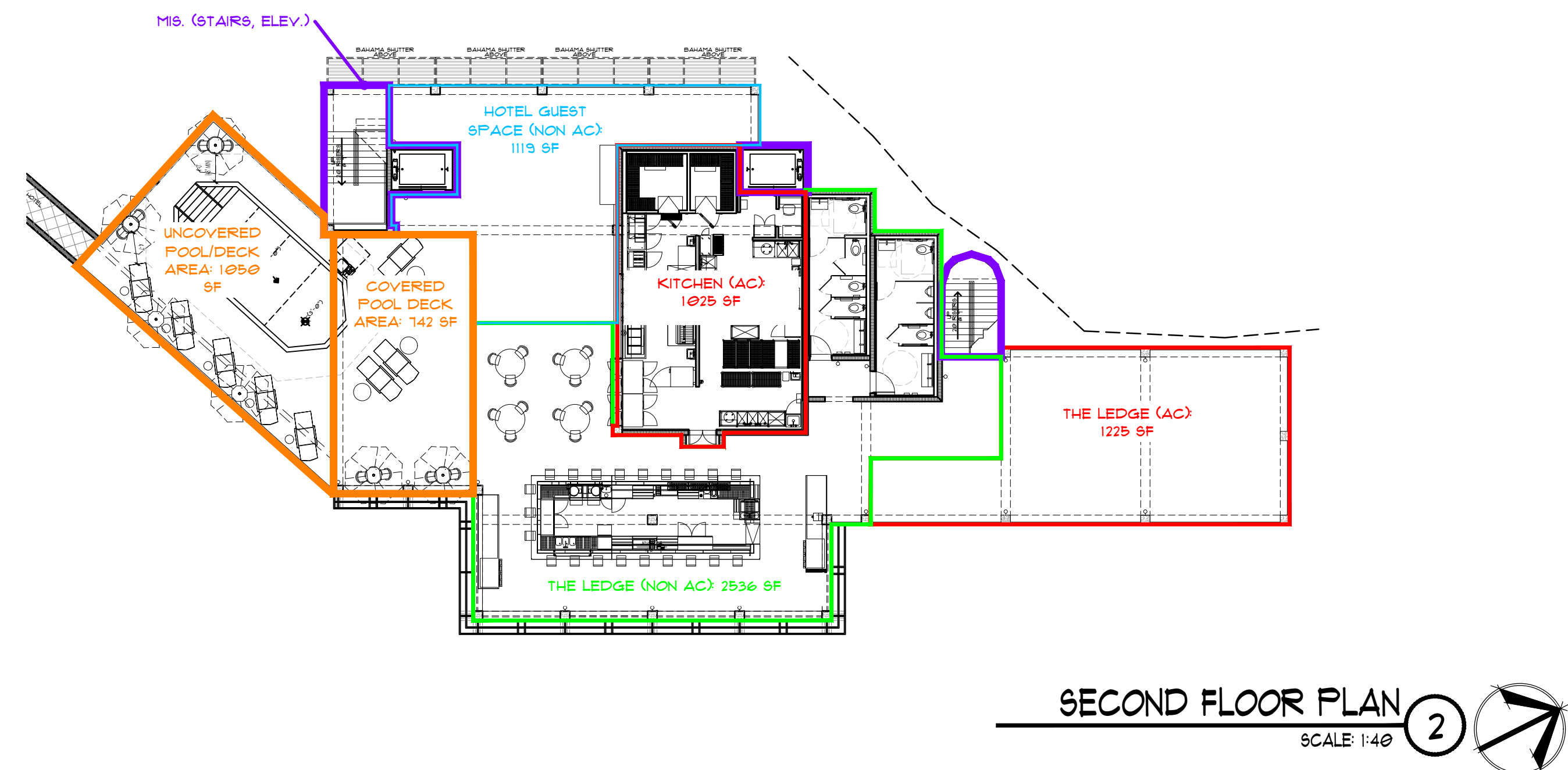
(NON AC RESTAURANT): 2536 SF

= 33.8 PARKING SPOTS

4 (3) TOPS

21 BAR STOOLS = 11 PARKING SPOTS

44.8 PARKING SPOTS REQUIRED



THIRD FLOOR:

"PRIME 85" (OPENS AT 5PM (STEAK/SEAFOOD)):

(AC RESTAURANT): 4331 SF

= 65.1 PARKING SPOTS

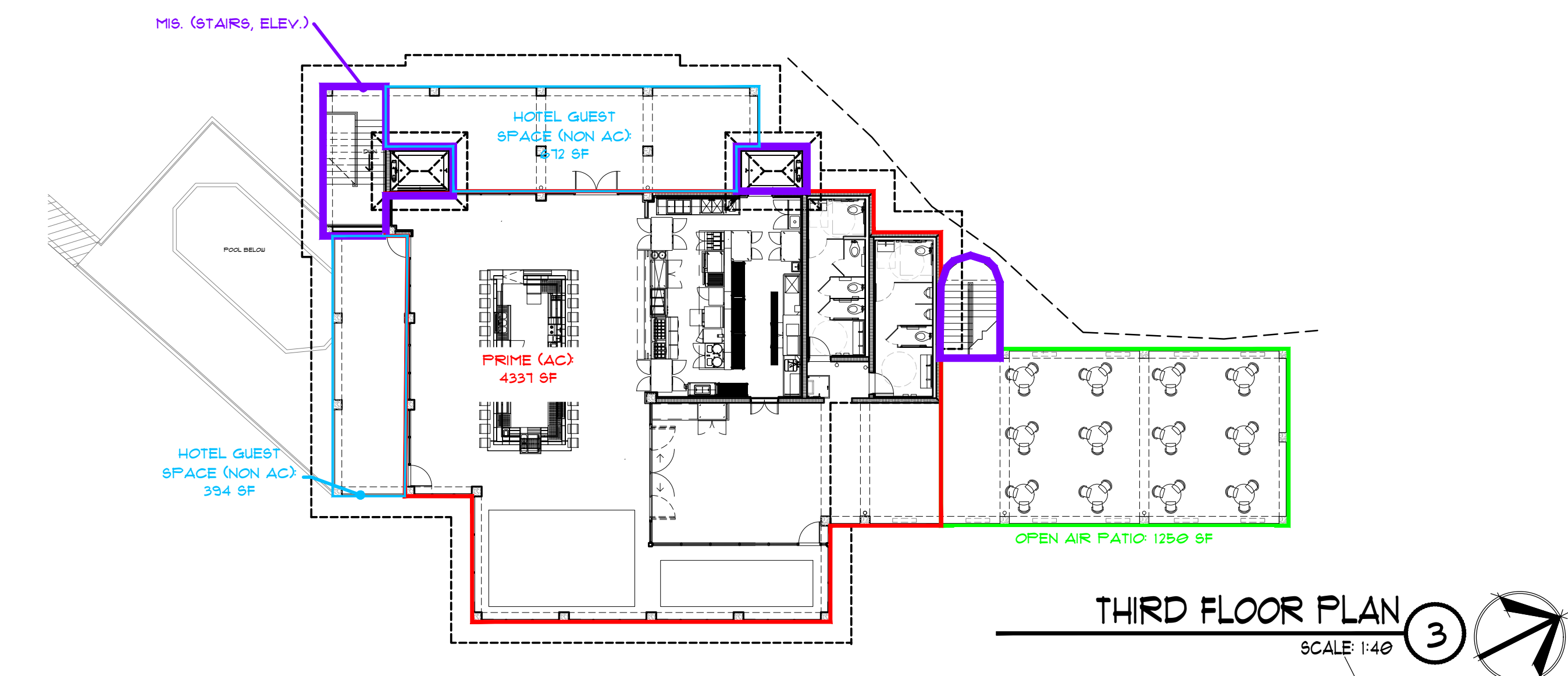
"THE PATIO" (OPENS @ 5PM (TAPAS AND DESSERT)):

(OUTDOOR RESTAURANT): 1250 SF

12 (3) TOPS

= 12 PARKING SPOTS

77.1 PARKING SPOTS REQUIRED



TOTAL RESTAURANT PARKING REQUIRED : 131.9

8500 OVERSEAS HIGHWAY MITIGATION TABLE

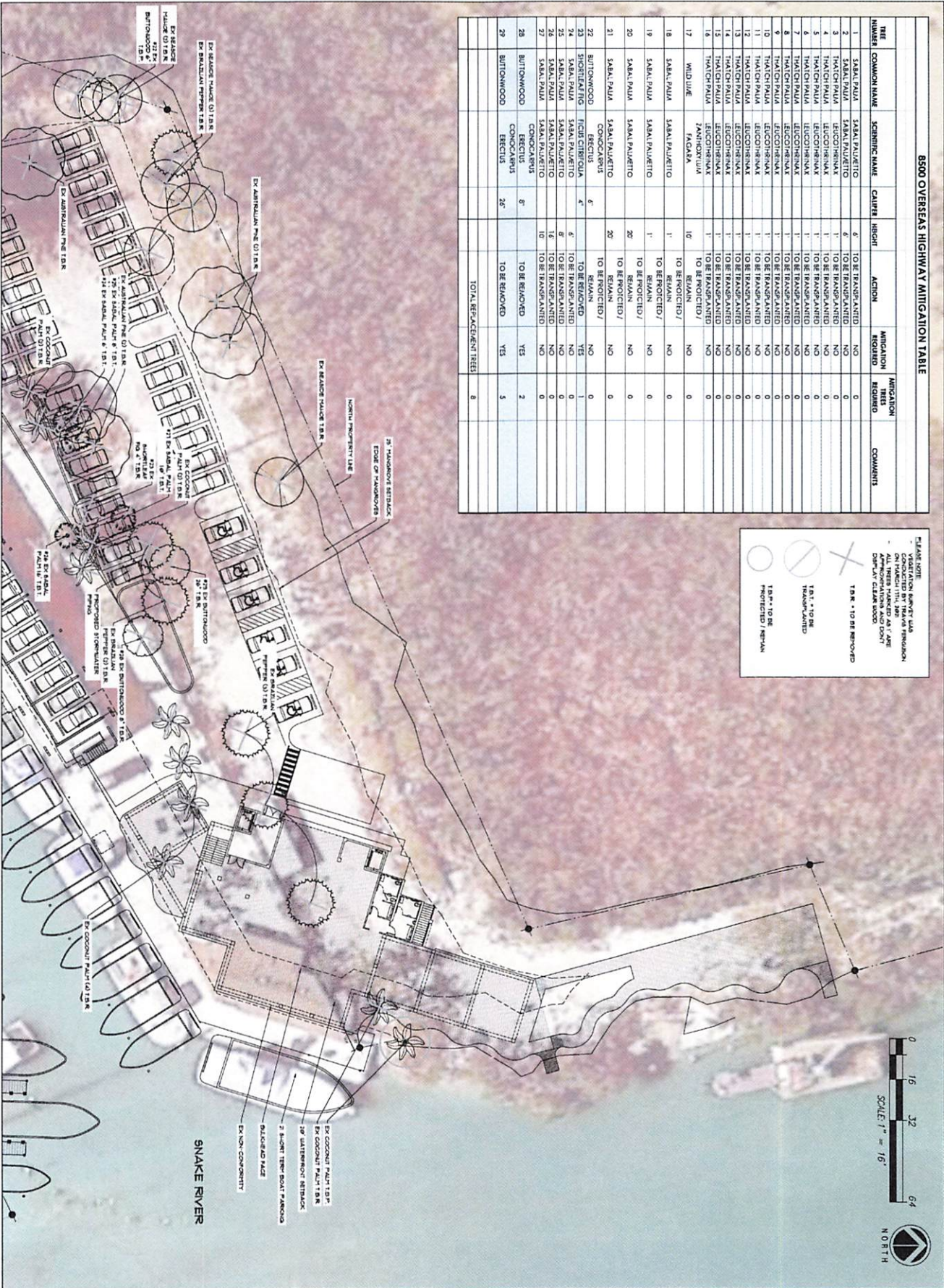
TREE NUMBER	COMMON NAME	SCIENTIFIC NAME	CHAPER	HIGHT	ACTION	MITIGATION REQUIRED	REPLACEMENT REQUIRED	COMMENTS
1	SABAL PALM	SABAL PALMETTO		6'	TO BE TRANSPLANTED	NO	0	
2	SABAL PALM	SABAL PALMETTO		6'	TO BE TRANSPLANTED	NO	0	
3	THATCH PALM	LECOPHINAX		1'	TO BE TRANSPLANTED	NO	0	
4	THATCH PALM	LECOPHINAX		1'	TO BE TRANSPLANTED	NO	0	
5	THATCH PALM	LECOPHINAX		1'	TO BE TRANSPLANTED	NO	0	
6	THATCH PALM	LECOPHINAX		1'	TO BE TRANSPLANTED	NO	0	
7	THATCH PALM	LECOPHINAX		1'	TO BE TRANSPLANTED	NO	0	
8	THATCH PALM	LECOPHINAX		1'	TO BE TRANSPLANTED	NO	0	
9	THATCH PALM	LECOPHINAX		1'	TO BE TRANSPLANTED	NO	0	
10	THATCH PALM	LECOPHINAX		1'	TO BE TRANSPLANTED	NO	0	
11	THATCH PALM	LECOPHINAX		1'	TO BE TRANSPLANTED	NO	0	
12	THATCH PALM	LECOPHINAX		1'	TO BE TRANSPLANTED	NO	0	
13	THATCH PALM	LECOPHINAX		1'	TO BE TRANSPLANTED	NO	0	
14	THATCH PALM	LECOPHINAX		1'	TO BE TRANSPLANTED	NO	0	
15	THATCH PALM	LECOPHINAX		1'	TO BE TRANSPLANTED	NO	0	
16	THATCH PALM	LECOPHINAX		1'	TO BE TRANSPLANTED	NO	0	
17	WILD LIME	FAKARA		16'	TO BE PROTECTED /	NO	0	
18	SABAL PALM	SABAL PALMETTO		1'	TO BE PROTECTED /	NO	0	
19	SABAL PALM	SABAL PALMETTO		1'	TO BE PROTECTED /	NO	0	
20	SABAL PALM	SABAL PALMETTO		20'	TO BE PROTECTED /	NO	0	
21	SABAL PALM	SABAL PALMETTO		20'	TO BE PROTECTED /	NO	0	
22	BUTTERNUT	CONOCARPUS		6'	TO BE PROTECTED /	NO	0	
23	BUTTERNUT	CONOCARPUS		6'	TO BE PROTECTED /	NO	0	
24	SABAL PALM	SABAL PALMETTO		6'	TO BE TRANSPLANTED	NO	0	
25	SABAL PALM	SABAL PALMETTO		16'	TO BE TRANSPLANTED	NO	0	
26	SABAL PALM	SABAL PALMETTO		16'	TO BE TRANSPLANTED	NO	0	
27	SABAL PALM	SABAL PALMETTO		16'	TO BE TRANSPLANTED	NO	0	
28	BUTTERNUT	CONOCARPUS		6'	TO BE REMOVED	YES	2	
29	BUTTERNUT	CONOCARPUS		26'	TO BE REMOVED	YES	5	
TOTAL REPLACEMENT TREES							8	

PLEASE NOTE:
 - VISITATION SURVEY LINES
 - ALL TREES PLANTED AS Y ARE
 - PLANTED WITHIN 100' OF
 - EXISTING CLEAR ROAD

10' R. 10' TO BE
 PROTECTED / REMAIN

10' R. 10' TO BE
 TRANSPLANTED

10' R. 10' TO BE
 REMOVED



Date:
 09/22/2021
 Design by: AM, PA
 Reviewed by: MF
 Scale: Refer to plan
 Revised: 11/11/2021
 9/13/2022, 09/13/2022

Landscape Plan
MARINA REDEVELOPMENT
 85500 Overseas Hwy, Islamorada, FL 33036

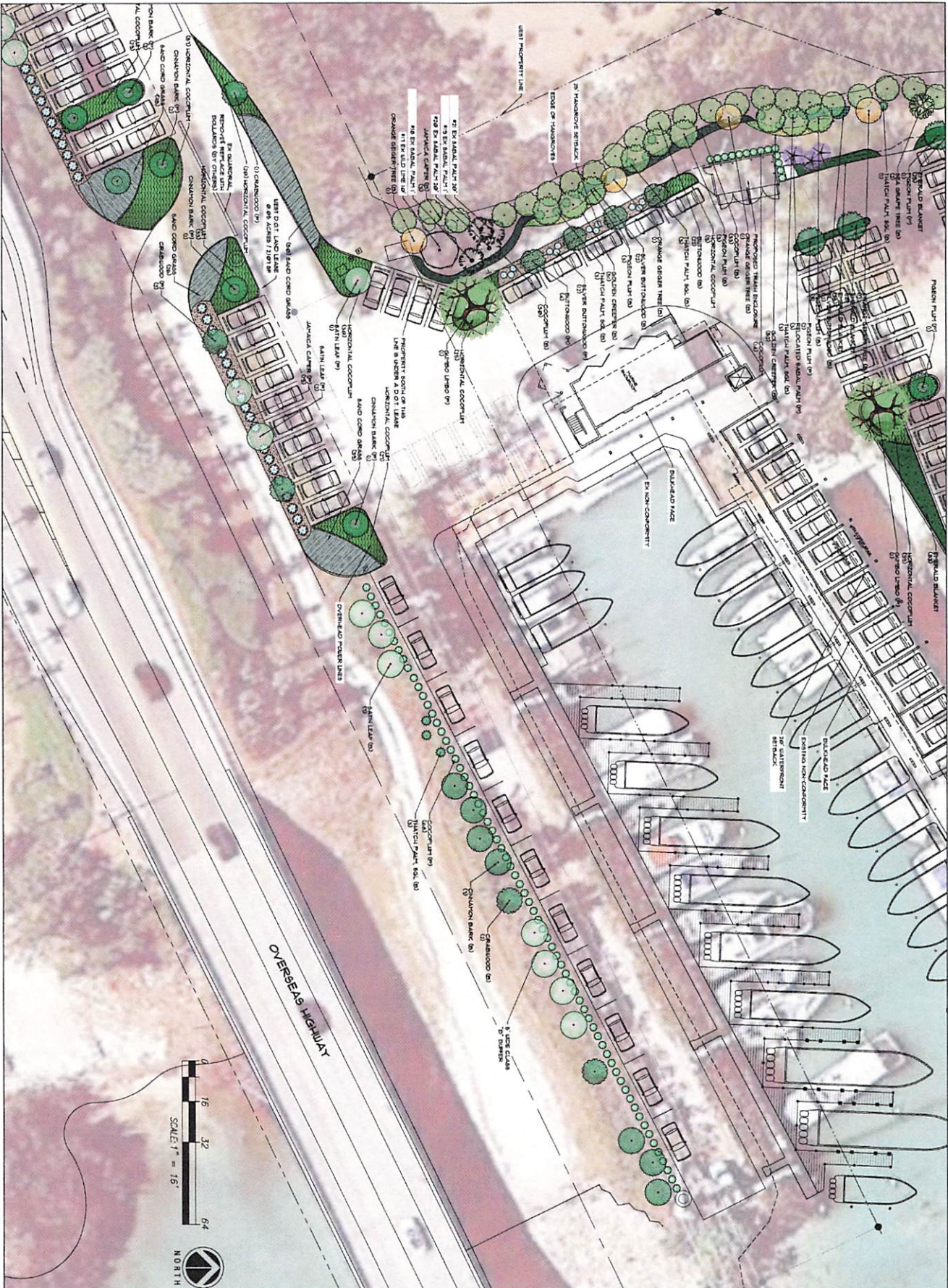
Sheet
L2
 Sitework Plan

Michael Flough
 LANDSCAPE ARCHITECT

11 Aug. 2020/178
 772.419.0024
 Email: mflough@flough.com
 Website: www.mflough.com

PLEASE NOTE:
 This landscape plan is a professional representation of existing conditions and proposed improvements. It is based on the information provided by the client and on-site observations. The client is responsible for the accuracy of the information provided. The landscape architect is not responsible for the accuracy of the information provided by the client or on-site observations. The landscape architect is not responsible for the accuracy of the information provided by the client or on-site observations. The landscape architect is not responsible for the accuracy of the information provided by the client or on-site observations.





Date: 09/22/2021
 Design by: AM, PA
 Reviewed by: MF
 Scale: Refer to plan
 Revised: 11/11/2021
 01/13/2022, 01/13/2022

Landscape Plan

MARINA REDEVELOPMENT

85500 Overseas Hwy, Islamorada, FL 33036

Notes:

The landscape plan is a professional representation of existing and proposed site elements based on multiple sources of information. These sources may include property owner, architectural plans, Google Earth, images, site observations, photographs and other data. At times, these supporting documents are inaccurate or incomplete and the designer is not responsible for the design during construction or delivery. It is the contractor's responsibility to verify all measurements and quantities prior to commencing work.

Sheet
L5
Landscape Plan

Michael Flough
LANDSCAPE ARCHITECT

H. Reg. #A0001788
 772.419.0024
 info@mf-la.com
 www.michaelflough.com



Date: 09/22/2021
 Design by: AM, PA
 Reviewed by: MF
 Scale: Refer to plan
 Revised: 11/11/2021
 01/13/2022, 07/13/2022

Landscape Plan **MARINA REDEVELOPMENT** 85500 Overseas Hwy, Islamorada, FL 33036

Sheet
L6
 Landscape Plan

Michael Flough
 LANDSCAPE ARCHITECT

FL Reg. #L2021078
 772.419.0024
 info@flaugh.com
 flough.com/flaugh-michael-flough www.MichaelFlough.com

Please note:
 This landscape plan is a professional interpretation of existing and proposed site elements based on multiple sources of information. These sources may include property owner, architectural plans, Google Earth images, site observations, photographs and the plan. At times, these supporting documents are inadequate or approximate of size and on-site adjustments to the design during construction are necessary. It is the contractor's responsibility to verify all measurements and quantities prior to commencing work.

PLANT SCHEDULE WETLAND BUFFER

[illegible]

ds
RE
as h

2/2021
 n by: AM,PA
 wed by: MF
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 d: 11/11/2021
 22, 07/13/2022

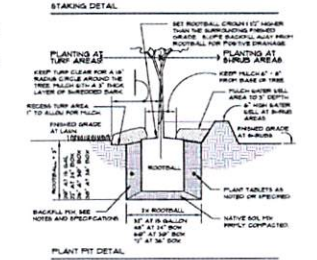
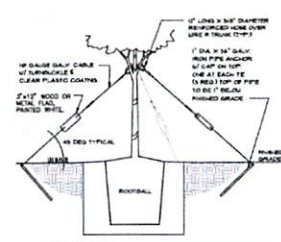
Landscape Plan
MARINA REDEVELOPMENT
 85500 Overseas Hwy, Islamorada, FL 33036

Please refer:

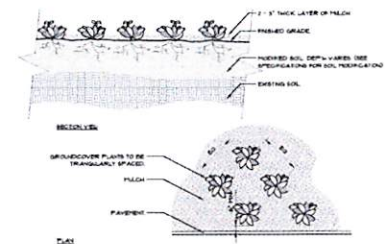
Please note:
This knowledge plan is a professional interpretation of existing and proposed site elements based on multiple sources of information. These sources may include, but are not limited to, property surveys, architectural plans, Google Earth images, the observations, photographs and plans. At times, these supporting documents are inaccurate or incomplete and field and/or site adjustments to the design during preparation are necessary. It is the contractor's responsibility to verify all measurements and quantities prior to commencing work.

LANDSCAPE INSTALLATION NOTES:

1. THE LANDSCAPE CONTRACTOR SHALL DESIGNATE AN ENGLISH SPEAKING, SKILLED CREW FOREMAN FOR THE PROJECT, WHO WILL BE AVAILABLE AND ACCESSIBLE FOR THE DURATION OF THE LANDSCAPE INSTALLATION.
2. ALL SPECIFICATIONS MUST BE SATISFIED. IF THERE IS A PROBLEM LOCATING A MATERIAL WITH GIVEN SPECIFICATIONS, THE CONTRACTOR SHALL CONTACT THE LANDSCAPE ARCHITECT BY EMAIL PRIOR TO INSTALLATION. AT THE DISCRETION OF THE LANDSCAPE ARCHITECT, A SUBSTITUTION MAY BE MADE.
3. LANDSCAPE CONTRACTOR IS RESPONSIBLE TO REVIEW AND RECONCILE PLAN WITH LANDSCAPE MATERIALS LIST, AND ANALYZE SITE CONDITIONS AND ACCESS PRIOR TO SUBMITTING A PROPOSAL.
4. LANDSCAPE CONTRACTOR MUST PROVIDE EVIDENCE OF WORKMAN'S COMPENSATION AND LIABILITY INSURANCE IN PROPOSAL PACKAGE.
5. THE LANDSCAPE CONTRACTOR SHALL COMPLY WITH ALL LOCAL AND STATE LAWS, CODES AND ORDINANCES.
6. ALL PLANT MATERIAL FURNISHED BY THE LANDSCAPE CONTRACTOR SHALL BE FLORIDA #1 OR BETTER (GRADES AND STANDARDS FOR NURSERY PLANTS, FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, LATEST EDITION) UNLESS OTHERWISE NOTED ON THE LANDSCAPE MATERIALS LIST. AS MANY SPECIES TOLERATE BOTH SUNNY AND SHADY GROUND CONDITIONS, THE LANDSCAPE CONTRACTOR IS RESPONSIBLE FOR ACQUIRING ALL PLANT MATERIAL GROWN IN SIMILAR CONDITIONS TO THE SITE.
7. THE LANDSCAPE CONTRACTOR SHALL COMPLETE ALL WORK ACCORDING TO THE FLORIDA GREEN INDUSTRIES BEST MANAGEMENT PRACTICES.
8. THE LANDSCAPE CONTRACTOR MUST SPECIFY START AND COMPLETION DATES, IF AWARDED THE PROJECT.
9. THE LANDSCAPE CONTRACTOR IS RESPONSIBLE FOR LOCATING ALL UNDERGROUND UTILITIES PRIOR TO COMMENCING WORK.
10. ALL PLANTING AREAS SHALL BE PREPARED BY REMOVING ALL DEBRIS, INCLUDING ASPHALT, CONCRETE, OR SIMILAR MATERIALS NOT SUITED FOR LANDSCAPE PLANTING.
11. PLANTING SOIL SHALL BE CLEAN OF ROCKS, STICKS, ROOTS AND SEEDS, AND SHALL BE WELL-DRAINING.
12. ALL LANDSCAPED AREAS SHALL BE FINISH GRADED SUCH THAT FINISHED ELEVATION WILL BE FLUSH AND LEVEL WITH ADJACENT PAVED SURFACES. THE FINISH GRADE AFTER PLANTING AND MULCHING SHALL NOT IMPED THE FLOW OF DRAINAGE INTO LANDSCAPED AREAS AND TO PREVENT THE BACKWASH OF MULCH AND DEBRIS INTO PAVED AREAS.
13. ALL PLANTING BEDS MUST DRAIN SUFFICIENTLY PRIOR TO PLANTING. IF EXISTING SOIL IS NOT ADEQUATE FOR ESTABLISHMENT OF PLANT MATERIALS DUE TO POOR DRAINAGE OR CHEMICAL PROPERTIES, SOIL AMENDMENTS SHALL BE ADDED PRIOR TO PLANTING.
14. PLANTS SHALL NOT BE PLACED TOO CLOSE TO ONE ANOTHER OR ANY HARDSCAPES. SEE LANDSCAPE MATERIALS LIST AND PLANTING DETAILS FOR SPACING AND PLACEMENT OF ALL PLANTS. A PALM STUMP SHALL BE LEFT BEHIND THE PLANTING BEDS AND SHALL BE SOO DRIVEWAY OR SIDEWALK. ALL PLANTS SHALL BE PLACED OUTSIDE THE EAVES OF THE ROOF, UNLESS OTHERWISE INDICATED ON THE LANDSCAPE PLAN.
15. ALL PLANTS TO BE RELOCATED SHALL BE PROPERLY ROOT PRUNED 6 TO 10 WEEKS PRIOR TO RELOCATION.
16. ALL NEW LANDSCAPE PLANTS SHALL BE PLANTED SLIGHTLY HIGHER THAN THE EXISTING GRADE LEAVING TOP OF THE ROOT BALL EXPOSED.
17. ALL PLANT MATERIALS SHALL BE THOROUGHLY WATERED IN AT THE TIME OF PLANTING.
18. 3" LAYER OF ORGANIC MULCH SHALL BE LAID IN ALL LANDSCAPE BEDS. NO MULCH SHALL BE LAID NEAR TREE TRUNKS. NO MULCH SHALL BE LAID ON TOP OF CITRUS TREE ROOT BALLS.
19. NEWLY PLANTED TREES SHALL BE STAKED ONLY IF THE ROOT BALL MOVES IN THE WIND OR THE TREES ARE LOCATED IN AN AREA OF WINDY CONDITIONS. ALL PALMS SHALL BE STAKED. ALL WOOD BRACES AND BRACE FRAMES SHALL BE STAINED DARK BROWN. NO NAILS SHALL BE DRIVEN INTO ANY PALM OR TREE.
20. PLANTING PLAN TAKES PRECEDENCE OVER PLANT LIST.
21. THE LANDSCAPE BID SHALL INCLUDE IRRIGATION ON A SEPARATE CONTRACT, EXPRESSED AS A LINE-ITEM PROPOSAL.
22. ALL LANDSCAPE AREAS SHALL BE IRRIGATED WITH FULLY AUTOMATIC IRRIGATION SYSTEM. THE IRRIGATION CONTRACTOR SHALL PROVIDE 100% COVERAGE IN ALL IRRIGATED PLANTING AREAS. THE IRRIGATION SYSTEM SHALL BE DESIGNED ACCORDING TO ACCEPTED IRRIGATION STANDARDS USING WATER CONSERVATION PRINCIPLES WITH LOW-VOLUME IRRIGATION SYSTEM. THE SYSTEM SHALL ACCOMMODATE EASY ADJUSTMENTS FOR SEASONAL IRRIGATION NEED CHANGES OR LOCAL WATERING RESTRICTIONS.
23. ALL SOO AND SHRUB AREAS SHALL BE IRRIGATED ON SEPARATE ZONES, WHENEVER POSSIBLE. PLANTING AREAS WITH DIFFERENT WATERING NEEDS SHALL BE PLACED ON SEPARATE ZONES.
24. ALL SHRUB AND GROUND COVER AREAS SHALL BE IRRIGATED WITH DRIP LINE OR MIST HEADS. TREES AND PALMS SHALL HAVE BUBBLERS. ALL HEADS IN A GIVEN ZONE MUST HAVE THE SAME PRECIPITATION RATE.
25. SPRAY HEADS SHALL BE PLACED AND ADJUSTED TO MINIMIZE OVER-SPRAY ON PAVED AREAS, ROADWAYS AND CURBS. NO OVER-SPRAY ON BUILDINGS IS ACCEPTABLE.
26. THE CONTRACTOR(S) SHALL KEEP ALL WORK AREAS NEAT AND TIDY ON A DAILY BASIS. AT COMPLETION OF THE INSTALLATION, THE CONTRACTOR SHALL REMOVE FROM THE PROPERTY ALL TEMPORARY STRUCTURES AND GARBAGE AT HIS/HER OWN EXPENSE.
27. THE CONTRACTOR(S) SHALL KEEP ALL PLANTS WATERED, FERTILIZED, MULCHED, PRUNED, STAKED AND GUINED AS NECESSARY TO ASSURE SPECIFIED MINIMUM GRADE OF FLORIDA #1 THROUGHOUT THE DURATION OF THE PROJECT CONSTRUCTION PERIOD. PLANTING BEDS SHALL BE KEPT FREE OF LITTER AND UNDESIRABLE VEGETATION. THE CONTRACTOR(S) IS RESPONSIBLE FOR KEEPING ALL PLANT MATERIAL HEALTHY, VIGOROUS, AND UNDAUNTED THROUGHOUT THE DURATION OF THE PROJECT CONSTRUCTION PERIOD.
28. THE FINAL PAYMENT IS MADE UPON COMPLETION OF PROJECT AND EXECUTION OF LIEN RELEASE AFFIDAVIT.
29. ALL SHRUBS AND GROUND COVERS SHALL BE WARRANTED FOR 90 DAYS. ALL TREES AND PALMS SHALL BE WARRANTED FOR 1 YEAR FROM THE DATE OF FINAL ACCEPTANCE AND PAYMENT.



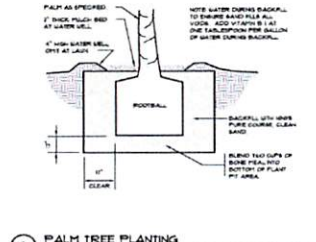
1. TREE GUY WIRE PLANTING
NOT TO SCALE



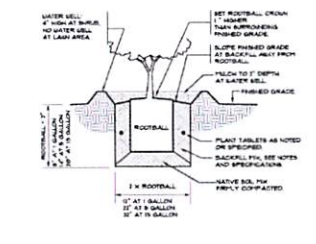
4. GROUND COVER
NOT TO SCALE



5. TREE RELOCATION
NOT TO SCALE



2. PALM TREE PLANTING
NOT TO SCALE



3. SHRUB PLANTING
NOT TO SCALE



4. GROUND COVER
NOT TO SCALE



5. TREE RELOCATION
NOT TO SCALE

LANDSCAPE MAINTENANCE GUIDELINES:

1. LAWN CARE:
 - 1.1. MAINTAIN ST. AUGUSTINE LAWN AT 3" HEIGHT. LEAVE LAWN CLIPPINGS ON THE LAWN.
 - 1.2. FERTILIZE IN FEBRUARY, MAY AND OCTOBER. APPLY PRE-EMERGENT WEED KILLER IN EARLY SPRING AND FALL.
 - 1.3. PRACTICE INTEGRATED PEST MANAGEMENT TO IDENTIFY AND TREAT INSECT STRESS, WEED AND FUNGAL PROBLEMS. INSPECT AND CONTROL INSECT DAMAGE ON LAWNS DURING SUMMER MONTHS. FOLLOW LABEL DIRECTIONS FOR ANY INSECTICIDE, HERBICIDE OR FUNGICIDE APPLICATION. REFER TO GROUNDWORK GUIDELINES FOR DETAILED INSTRUCTIONS.
 - 1.4. 100% OF THE SOO AREAS SHALL BE COVERED BY AN AUTOMATIC IRRIGATION SYSTEM. INSPECT THE IRRIGATION SYSTEM FOR BREAKS AND LEAK ALIGNMENT ROUTINELY.
2. MULCH:
 - 2.1. ALL LANDSCAPE BEDS SHALL BE MULCHED TWICE A YEAR.
 - 2.2. APPLY 3" LAYER OF MSC CERTIFIED, SHREDDED EUCALYPTUS OR RECYCLED HARDWOOD MULCH.
3. FERTILIZING:
 - 3.1. FERTILIZE WITH A GOOD QUALITY ORGANIC FERTILIZER THREE TIMES A YEAR PER LABEL INSTRUCTIONS STARTING IN MID TO LATE FEBRUARY.
 - 3.2. YELLOWING LEAVES ARE OFTEN A SIGN OF NUTRITIONAL DEFICIENCY.
 - 3.3. DO NOT APPLY FERTILIZER BETWEEN JUNE 1 AND SEPTEMBER 30. COMPOST SHALL BE USED IN LIEU OF FERTILIZER DURING THE RAINY SEASON, AS NEEDED.
 - 3.4. MAINTAIN A FERTILIZER FREE ZONE ALONG THE RIVER TO PREVENT RUN-OFF.
4. PEST AND DISEASES:
 - 4.1. SCOUT FOR PESTS AND DISEASES REGULARLY. ONLY IF OF INSECTS ARE HARMFUL TO PLANTS.
 - 4.2. USE INTEGRATED PEST MANAGEMENT PRACTICES. USE PREVENTATIVE CHEMICAL APPLICATIONS ONLY, WHEN DETERMINED NECESSARY BY A PEST MANAGEMENT PROFESSIONAL.
 - 4.3. CHEMICAL PEST CONTROL SHALL BE USED ONLY WHEN THE DAMAGE IS EXPECTED TO BE SIGNIFICANT.
5. WEEDS:
 - 5.1. WEED CONTROL SHALL BE PREVENTATIVE.
 - 5.2. HERBICIDE APPLICATIONS MUST BE DONE BY A LICENSED PEST-CONTROL PROFESSIONAL.
6. IRRIGATION:
 - 6.1. PROGRAM THE IRRIGATION SYSTEM TO RUN IN THE EARLY MORNING.
 - 6.2. NEW PLANTINGS SHOULD BE WATERED DAILY FOR THE FIRST TWO WEEKS, AFTER WHICH THREE TIMES PER WEEK FOR THE FOLLOWING TWO MONTHS.
 - 6.3. NEW TREES SHALL BE WATERED AT LEAST ONCE A WEEK FOR THE FOLLOWING YEAR AND SHRUBS FOR THE FOLLOWING 6 MONTHS FOR PROPER ESTABLISHMENT.
 - 6.4. TREES SHOULD RECEIVE 2 - 3 GALLONS OF WATER PER INCH OF TRUNK DIAMETER AT EACH WATERING.
 - 6.5. AT EACH WATERING, APPLY 1" WATER TO ESTABLISHED PLANTING BED.
 - 6.6. THE AUTOMATIC IRRIGATION SYSTEM SHALL BE INSPECTED ONCE A MONTH FOR LEAKS, BRAKES AND MISALIGNED HEADS.
 - 6.7. INCREASE WATERING FREQUENCY DURING TIMES OF HEAVY WINDS AND DROUGHT, TYPICALLY IN THE SPRING. PLEASE NOTE THAT A RAIN SENSOR WILL NOT DETECT THE DRYING EFFECTS OF HEAVY WINDS.
 - 6.8. REDUCE WATERING FREQUENCY DURING COOL WINTER AND RAINY SUMMER MONTHS. WATER ONLY AS NEEDED AS HEAVY RAINS AND INCREASE WEEDS. THE IRRIGATION SYSTEM MAY BE TURNED OFF DURING MONTHS OF HEAVY RAIN. A RAIN SENSOR MAY BE USED TO OVERRIDE THE SYSTEM DURING THE RAINY SEASON.
7. PRUNING:
 - 7.1. PRUNING AND TRIMMING TOOLS SHALL BE CLEANED AFTER EACH USE TO PREVENT SPREADING OF DISEASES.
 - 7.2. REMOVE DEAD FRONDS, DEAD WOOD AND CROSSING BRANCHES ON LARGE SHRUBS, PALMS AND TREES ANY TIME OF THE YEAR.
 - 7.3. FLOWERING SHRUBS: LATE SUMMER AND FALL FLOWERING SHRUBS, AS WELL AS CONIFERS SHALL BE PRUNED ONCE A YEAR IN MARCH. SPRING BLOOMING SHRUBS SHALL BE PRUNED ONCE A YEAR AFTER THEIR BLOOMS FADE IN LATE SPRING.
 - 7.4. SHADE TREES SHALL BE STRUCTURALLY PRUNED ONCE A YEAR IN SPRING BY A CERTIFIED ARBORIST.
 - 7.5. SHRUBS SHALL BE MAINTAINED FOLLOWING THEIR NATURAL FORM WITH ROUNDED TOP AND WIDER BASE. SMALL-LEAVED LESS THAN 1" LENGTH SHRUBS MAY BE SHEARED WITH POWERED HEDGE TRIMMERS. ALL SHRUBS SHALL BE TRIMMED ONE TO THREE TIMES A YEAR TO MAINTAIN DESIRED HEIGHT. ALL OVERGROWN SHRUBS SHALL BE CUT BACK IN MAY AND IN SEPTEMBER.
 - 7.6. HEDGES SHALL BE PRUNED REGULARLY FROM THE BEGINNING FOR PROPER ESTABLISHMENT. ALL HEDGES MUST BE MAINTAINED WITH NARROWER TOP THAN THE BOTTOM FOR SUNLIGHT TO REACH THE LOWER HALF OF THE PLANT.
 - 7.7. ORNAMENTAL GRASSES MAY BE CUT BACK ONCE A YEAR IN SUMMER TO REMOVE BROWN LEAVES. CUTTING MAY BE COMPLETED IN FOUR WEEK INTERVALS SO NOT TO HAVE ALL THE ORNAMENTAL GRASSES RECOVERING AT THE SAME TIME.
8. DIVIDING PLANTS:
 - 8.1. BROMELIADS: WHEN THE MOTHER PLANT TURNS BROWN, CAREFULLY PULL UP THE BROCHLEAD CLUMP. CUT THE PUPS APART WITH A SHARP KNIFE OR PRUNERS PRESERVING AS MANY OF THE ROOTS AS POSSIBLE. DISCARD THE DYING MOTHER PLANT AND PLANT THE PUPS. THE DEAD MOTHER PLANT MAY ALSO BE TOSTED OFF AT THE BASE, WITHOUT REMOVING THE CLUMP FROM THE GROUND.
 - 8.2. HERBACEOUS PERENNIALS: THE CLUMPS MAY BE DIVIDED EVERY TWO TO THREE YEARS IN LATE SPRING OR SUMMER. DIG THE ROOT BALL OUT OF THE GROUND AND CAREFULLY DIVIDE THE CLUMP INTO 2-4 SMALLER SECTIONS.
9. RELOCATING PLANT MATERIAL:
 - 9.1. THE BEST TIME TO RELOCATE PLANTS IN THE GARDEN IS FEBRUARY THROUGH APRIL.
 - 9.2. THE PLANT SHALL BE PROPERLY ROOT-PRUNED BETWEEN 6 AND 10 WEEKS BEFORE RELOCATION.
 - 9.3. AT THE TIME OF THE RELOCATION, THE ROOT BALL SHALL BE CUT BEYOND THE ROOT PRUNING CUT TO INCLUDE ALL NEW BERRER ROOTS.
 - 9.4. WATER RELOCATED PLANTS DAILY FOR THE FIRST TWO WEEKS, AFTER WHICH THREE TIMES PER WEEK FOR THE FOLLOWING TWO MONTHS.
10. MAINTAINING SOIL PH:
 - 10.1. SANDY SOILS ARE NATURALLY ALKALINE, BUT MOST PLANT MATERIALS PREFER SOILS IN NEUTRAL OR ACIDIC RANGE TO THRIVE.
 - 10.2. ADDING ORGANIC MATTER REGULARLY WILL MAINTAIN A HEALTHY PH LEVEL FOR ALL PLANTS.
 - 10.3. COMPOST WILL DECREASE THE SOIL PH THROUGH THE DECOMPOSITION PROCESS.
 - 10.4. ACIDIC ORGANIC MATTER, SUCH AS PINE NEEDLES AND ACID PEAT WILL REDUCE THE PH TEMPORARILY.
 - 10.5. GRANULAR SULFUR SHOULD ONLY BE USED AS THE LAST RESORT TO LOWER SOIL PH.
11. CONTAINER PLANTS:
 - 11.1. ONLY USE POTTING SOIL OR POTTING MIX IN CONTAINERS.
 - 11.2. WATER THOROUGHLY. CONTAINER PLANTS NEED MORE WATER THAN THE PLANTS IN THE GROUND. DURING SUMMER MONTHS, HERBS IN CONTAINERS WILL NEED WATERING ONCE DAILY.
12. COLD PROTECTION:
 - 12.1. WATER COLD SENSITIVE PLANTS THOROUGHLY 12 HOURS BEFORE THE FORECASTED COLD FRONT.
 - 12.2. COVER THE PLANTS AT DUSK WITH BLANKETS OR BREATHABLE COVERS. REMOVE THE COVERS AFTER DAWN.



Sheet
L9
Details and
Specifications

Marina Redevelopment
85500 Overseas Hwy, Islamorada, FL 33036

These drawings are the property of Michael Flough Landscape Architect. They are to be used only for the project and site for which they were prepared. They are not to be reproduced, copied, or used for any other project without the written consent of Michael Flough Landscape Architect. The user assumes all liability for any errors or omissions in these drawings. The user also assumes all liability for any damages or injuries resulting from the use of these drawings. The user also assumes all liability for any costs or expenses incurred in the use of these drawings.

Date: 07/22/2021
Design by: AM/PA
Reviewed by: MF
Scale: Not to Scale
07/22/2021 07/11/2022

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, CONSIDERING THE REQUEST OF MORADA COVE PARTNERS LLC FOR MAJOR CONDITIONAL USE APPROVAL FOR THE REDEVELOPMENT AND EXPANSION OF EXISTING BAR, RESTAURANT, HOTEL AND MARINA FOR PROPERTY LOCATED AT 85500 OVERSEAS HIGHWAY ON WINDLEY KEY WITHIN THE TOURIST COMMERCIAL (TC) ZONING DISTRICT, WITH REAL ESTATE NUMBER 00093830-000000 AS LEGALLY DESCRIBED HEREIN; PROVIDING FOR THE TRANSMITTAL OF THIS RESOLUTION TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING AN EFFECTIVE DATE.

(File No.: PLCUP20210220)

WHEREAS, Morada Cove Partners LLC., (the "Applicant") has submitted an application for a Major Conditional Use pursuant to Section 30-217 of the Code of Ordinances (the "Code") of Islamorada, Village of Islands, Florida (the "Village") to allow for the redevelopment and expansion of the existing bar, restaurant, hotel and marina; along with outdoor seating pursuant to Chapter 30, Article VI, Division 9 (outdoor seating); for property located at 85500 Overseas Highway on Windley Key within the Village, as legally described herein (the "Property"); and,

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

WHEREAS, the Director (the "Director") sent a Notice of Public Hearing to adjacent property owners and posted a sign on the subject properties on May 2, 2023; and,

WHEREAS, on May 18, 2023, the Village Council held a Public 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 and correct and incorporated into this Resolution by this reference.

Section 2. **Findings of Fact.**

The Village Council, having considered the testimony and evidence presented by all parties, including Village Staff, does hereby find and determine:

(1) The Application for a Major Conditional Use meets the requirements set forth in Code Section 30-216, 30-218, and 30-221 and has demonstrated through competent substantial evidence that the criteria for granting the Request have been met; and

(2) The Village Council approves the Request submitted by the Applicant, which is attached as Exhibit "A" and incorporated herein by this reference, for the following described property:

23 63 37 PT GOV LT 1 N OF RR WINDLEY ISLAND, AS RECORDED IN PLAT BOOK 1, AT PAGE 50 OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA.

- (3) The approval is subject to the following Conditions of Approval:
1. Use of the premises shall be limited to the following:
 - a. Twelve (12) Unit Hotel/Motel with accessory office and retail space;
 - b. 4 restaurants with a maximum gross floor area of 13,511 square feet and in no instance shall any individual restaurant be more than 5,000 square feet of gross floor area;
 - c. Docking Facility with 30 boat slips;
 - d. A bait house with a maximum gross floor area of 180 square feet.A valid Certificate of Occupancy or Compliance shall be obtained prior to the occupation of the proposed facilities.
 2. No display of boats or vehicles shall be visible from Overseas Highway.
 3. Prior to the issuance of any Certificates of Occupancy, the Applicant, their Successors or Assigns, shall have an approved Stormwater Management Plan for the proposed project.
 4. Prior to the issuance of any Certificates of Occupancy, the Applicant, their Successors or Assigns, shall coordinate with the Village's Wastewater consultant for the provision of wastewater services. Shall comply in all aspects with Village Wastewater requirements.
 5. The proposed Major Conditional Use Permit shall allow for the construction of 4 restaurants with a total of 13,511 square feet, 12-Unit Hotel/Motel, 30-Slip Docking Facility, a 180 square foot bait house and associated site improvements as defined in the Code of Ordinances as depicted on the Site Plan, prepared by MHK Architecture & Planning Architect dated February 7, 2023, and entitled 'Morada Cove Restaurant Morada Cove Partners LLC 85500 Overseas Highway Islamorada, Florida 33036.' All improvements

shall be completed in substantial conformance with said Site Plan pursuant to the direction of the Department of Planning and Development Services.

6. Parking.

- a. Morada Cove shall maintain a total of 174 parking spaces on site and in conjunction with Florida Department of Transportation (FDOT) right-of-way, through Lease Agreements. All parking shall be improved in accordance with the Village Code, except as may otherwise be permitted by the Department of Planning and Development Services. In the event the Lease Agreements with FDOT are rescinded or otherwise cease to be valid, the project shall be required to provide the required Parking Spaces either on-site or off site as permitted by the Department of Planning and Development Services.
- b. Pursuant to Sec. 30-852 of the Village Code, racks for parking bicycles may be substituted for up to five percent (5%) of required vehicular parking at a ratio of three bicycle parking spaces for every one (1) vehicular parking space. Said bicycle racks shall be depicted on the final site plan pursuant to the direction of the Department of Planning and Development Services.
- c. Subject to site plan approval, credit for Temporary Boat Parking located at the on-site docking facility may be permitted.

7. Landscaping and buffer improvements shall be completed in substantial conformance with the Landscape Plan submitted as a part of the Application pursuant to the direction of the Department of Planning and Development Services prior to the issuance of any Certificates of Occupancy. The Applicant shall provide a new plan showing the required 25-foot buffer from the wetlands.
8. The Applicant shall meet the requirements of Comprehensive Plan Coastal Element - Policy 5-1.2.13, which requires a Water Quality Monitoring Program.
9. A Final Certificate of Occupancy shall not be issued for the proposed construction until all required improvements have been completed to the satisfaction of the Department of Planning and Development Services and the Village Building Official.
10. The improvement of the premises, in accordance with the determination of the Village, must commence within thirty-six (36) months after the date of the granting of the Major Conditional Use. If not commenced within this period, the Village reserves the right to revoke any and all approvals associated with the subject property after due public hearing. Thereafter, the operation of the use previously authorized shall be terminated and there shall be no right to non-conformity.
11. The Village reserves the right to rescind in whole or part any aspect of this Major Conditional Use in the event violation of these conditions occurs.
12. All conditions shall be enforceable through all the powers of the Village Attorney's Office and the Village reserves the right after due public hearing, to rescind in whole or part this Major Conditional Use, if violation of the conditions persists.
13. In the event that the Applicant decides to construct the 6 townhomes as shown on the site plan, a new landscaping plan shall be submitted for administrative approval.

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 Village Comprehensive
Plan and the Code; and

(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 competent substantial evidence contained within
the record.

Section 4. 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 Applicant until forty-five (45) days following the rendition to the Department
of Economic Opportunity (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 Resolution
until the appeal is resolved by agreement or order.

Motion to adopt by _____, second by _____.

FINAL VOTE AT ADOPTION

VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS:

Mayor Joseph B. Pinder III
Vice Mayor Sharon Mahoney
Councilmember Mark Gregg
Councilmember Elizabeth Jolin
Councilmember Henry Rosenthal

PASSED AND ADOPTED THIS 18th DAY OF MAY 2023.

JOSEPH B. PINDER III, MAYOR

ATTEST:

MARNE MCGRATH, VILLAGE CLERK

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

JOHN J. QUICK, INTERIM VILLAGE ATTORNEY

**A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, CONSIDERING THE REQUEST OF MORADA COVE PARTNERS LLC FOR MAJOR CONDITIONAL USE APPROVAL FOR THE REDEVELOPMENT AND EXPANSION OF EXISTING BAR, RESTAURANT, HOTEL AND MARINA FOR PROPERTY LOCATED AT 85500 OVERSEAS HIGHWAY ON WINDLEY KEY WITHIN THE TOURIST COMMERCIAL (TC) ZONING DISTRICT, WITH REAL ESTATE NUMBER 00093830-000000 AS LEGALLY DESCRIBED HEREIN; PROVIDING FOR THE TRANSMITTAL OF THIS RESOLUTION TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING AN EFFECTIVE DATE.
(File No.: PLCUP20210220)**

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Section 2. **Findings of Fact.**

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(1) The Application for a Major Conditional Use meets the requirements set forth in Code Section 30-216, 30-218, and 30-221 and has demonstrated through competent substantial evidence that the criteria for granting the Request have been met; and

(2) The Village Council approves the Request submitted by the Applicant, which is attached as Exhibit "A" and incorporated herein by this reference, for the following described property:

23 63 37 PT GOV LT 1 N OF RR WINDLEY ISLAND, AS RECORDED IN PLAT BOOK 1, AT PAGE 50 OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA.

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1. Use of the premises shall be limited to the following:
 - a. Twelve (12) Unit Hotel/Motel with accessory office and retail space;
 - b. 4 restaurants with a maximum gross floor area of 13,511 square feet and in no instance shall any individual restaurant be more than 5,000 square feet of gross floor area;
 - c. Docking Facility with 30 boat slips;
 - d. A bait house with a maximum gross floor area of 180 square feet.A valid Certificate of Occupancy or Compliance shall be obtained prior to the occupation of the proposed facilities.
 2. No display of boats or vehicles shall be visible from Overseas Highway.
 3. Prior to the issuance of any Certificates of Occupancy, the Applicant, their Successors or Assigns, shall have an approved Stormwater Management Plan for the proposed project.
 4. Prior to the issuance of any Certificates of Occupancy, the Applicant, their Successors or Assigns, shall coordinate with the Village's Wastewater consultant for the provision of wastewater services. Shall comply in all aspects with Village Wastewater requirements.
 5. The proposed Major Conditional Use Permit shall allow for the construction of 4 restaurants with a total of 13,511 square feet, 12-Unit Hotel/Motel, 30-Slip Docking Facility, a 180 square foot bait house and associated site improvements as defined in the Code of Ordinances as depicted on the Site Plan, prepared by MHK Architecture & Planning Architect dated February 7, 2023, and entitled 'Morada Cove Restaurant Morada Cove Partners LLC 85500 Overseas Highway Islamorada, Florida 33036.' All improvements

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9. A Final Certificate of Occupancy shall not be issued for the proposed construction until all required improvements have been completed to the satisfaction of the Department of Planning and Development Services and the Village Building Official.
10. The improvement of the premises, in accordance with the determination of the Village, must commence within thirty-six (36) months after the date of the granting of the Major Conditional Use. If not commenced within this period, the Village reserves the right to revoke any and all approvals associated with the subject property after due public hearing. Thereafter, the operation of the use previously authorized shall be terminated and there shall be no right to non-conformity.
11. The Village reserves the right to rescind in whole or part any aspect of this Major Conditional Use in the event violation of these conditions occurs.
12. All conditions shall be enforceable through all the powers of the Village Attorney's Office and the Village reserves the right after due public hearing, to rescind in whole or part this Major Conditional Use, if violation of the conditions persists.
13. In the event that the Applicant decides to construct the 6 townhomes as shown on the site plan, a new landscaping plan shall be submitted for administrative approval.

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 Village Comprehensive Plan and the Code; and

(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 competent substantial evidence contained within the record.

Section 4. 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 Applicant until forty-five (45) days following the rendition to the Department of Economic Opportunity (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 Resolution until the appeal is resolved by agreement or order.

Motion to adopt by _____, second by _____.

FINAL VOTE AT ADOPTION

VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS:

Mayor Joseph B. Pinder III
Vice Mayor Sharon Mahoney
Councilmember Mark Gregg
Councilmember Elizabeth Jolin
Councilmember Henry Rosenthal

PASSED AND ADOPTED THIS 18th DAY OF MAY 2023.

JOSEPH B. PINDER III, MAYOR

ATTEST:

MARNE MCGRATH, VILLAGE CLERK

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

JOHN J. QUICK, INTERIM VILLAGE ATTORNEY



Council Communication

To: Mayor and Village Council
From: Daniel J. Gulizio, Director of Development Services
Date: May 18, 2023
SUBJECT: **Chapter 30, Article VI, Division 11 - Alcoholic Beverage Use Permits - TAB 1**

Background:

The Local Planning Agency (LPA) previously discussed the proposed repeal of the Alcoholic Beverage Use Permit provisions contained in Chapter 30, Article VI, Division 11 of the Village Code on February 13, 2023. At that time, the LPA reserved decision and directed Planning staff to prepare the amendments needed to incorporate the proximity standards and review criteria into the Code.

Analysis:

Chapter 30 – Article VI, Division 11 (Alcoholic Beverage Use Permit) –

Currently, the state of Florida regulates the sale and consumption of alcoholic beverages through a State licensing program. In addition, the Village currently requires a separate Alcoholic Beverage Use Permit. Individual establishments, which involve the sale and/or consumption of alcoholic beverages are also regulated by the Village through Minor and Major conditional Use provisions contained within a variety of individual zoning districts. Since the Village has complete control over the approval process for establishments that engage in the sale and/or consumption of alcoholic beverages and the State already licenses such establishments, the administration of a second alcoholic beverage use licensing program accomplishes little.

The repeal of the Village Alcoholic Beverage Use Permit process would not appear to be inconsistent with any Goals and Objectives contained within the Comprehensive Plan.

Addendum - The proposed repeal of the existing Alcoholic Beverage Use Permit provisions contained within the Village Code was discussed at the February 13, 2023 Local Planning Agency (LPA) meeting. At that time, the members of the LPA reserved decision on the proposed amendments to afford staff the opportunity to draft needed amendments to the Village Code which incorporate both the proximity standards governing the operation of businesses that involve the sale and/or consumption of alcoholic beverages and the review criteria, which guide the review of any requested variances from said proximity standards. These changes are attached.

All of the applicable proximity standards and review criteria currently contained within the Alcoholic Beverage Use Permit provisions within the Code have been retained and would continue to apply to establishments that involve the sale and/or consumption of alcoholic beverages.

Budget Impact:

None.

Staff Impact:

None.

Recommendation:

Staff respectfully requests approval of the proposed Village Code Amendment.

- Attachments:**
1. ORDINANCE_Alcoholic_Beverage_Use_Permit_-1-19-2023 (1)
 2. ABUP_Conditions_Revised_03-2023
 3. ORDINANCE_Alcoholic_Beverage_Use_Permit_-1-19-2023
 4. ABUP_Conditions_Revised_03-2023

ORDINANCE NO. 23-

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING CHAPTER 30, BY REPEALING DIVISION 11 – ALCOHOLIC BEVERAGE USE PERMITS; PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING FOR AN EFFECTIVE DATE UPON APPROVAL OF THIS ORDINANCE BY THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY.

WHEREAS, pursuant to Village Code Chapter 30, Article VI, Division 11 (Alcoholic Beverage Use Permit), Islamorada, Village of Islands regulates the sale and consumption of alcoholic beverages; and

WHEREAS, THE State of Florida already provides for the licensing of businesses which involve the sale and consumption of alcoholic beverages; and

WHEREAS, Islamorada, Village of Islands provides adequate and proper regulation for businesses which involve the sale and/or consumption of alcoholic beverages; and

WHEREAS, the repeal of Chapter 30, Article VI, Division 11 (Alcoholic Beverage Use Permit) is in the public interest.

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

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

Section 2. Chapter 30, Article VI, Division 11 (Alcoholic Beverage Use Permit) is deleted in its entirety.

Additional text is shown as underlined;

deleted text is shown as ~~strikethrough~~

DIVISION 11. - ~~ALCOHOLIC BEVERAGE USE PERMIT~~^[15]

Footnotes:

~~---(15)---~~

~~Cross reference~~—~~Noise permit; alcoholic beverages permit, § 42-42.~~

~~Sec. 30-1461. - Generally.~~

~~(a) *Purpose and intent.* This section is designed and intended to provide for reasonable regulations and control over the production, manufacture, brewing and/or sale of alcoholic beverages within the village by establishing an alcoholic beverage use permit procedure and providing criteria to be utilized to assure that all future proliferation of alcoholic beverage use enterprises within the village are compatible with adjoining and surrounding land uses and the village's comprehensive plan, and that alcoholic beverage use permits not be granted where such uses will have an adverse impact on the health, safety and welfare of the citizens and residents of the village.~~

~~(b) *Permit required.* All persons desiring to produce, manufacture, brew and/or sell alcoholic beverages upon any premises located within the village and who desire to do so upon premises not previously approved for an alcoholic beverage use permit shall~~

obtain an alcoholic beverage use permit utilizing the procedures outlined in subsection (d) of this section.

~~(c) *Classifications.* Corresponding to those alcoholic beverage license classifications adopted by the state, as may be amended from time to time, alcoholic beverage use permits issued pursuant to this division shall be classified as follows:~~

- ~~(1) 1APS: Beer, package sales only.~~
- ~~(2) 1COP: Beer, consumption on-premises and package sales.~~
- ~~(3) 2APS: Beer and wine, package sales only.~~
- ~~(4) 2COP: Beer and wine, consumption on-premises and package sales.~~
- ~~(5) 3BPS: Beer, wine and liquor, package sales only.~~
- ~~(6) 5COP: Beer, wine and liquor, consumption on-premises and package sales.~~
- ~~(7) 5COP SRX: Restaurant, no package sales.~~
- ~~(8) 5COP SR: Restaurant, package sales.~~
- ~~(9) 5COP S: Motel, package sales.~~
- ~~(10) 5COP SBX: Bowling, no package sales.~~
- ~~(11) 5COP SPX: Boat, no package sales.~~
- ~~(12) CMB: Manufacturer/brewer of malt beverages.~~

~~(d) *Procedure.* The following procedures shall be followed on any application for an alcoholic beverage use permit:~~

- ~~(1) Applications for alcoholic beverage use permits shall be submitted in a form specified by the planning and development services department for reviewing the application, and shall be accompanied by a fee as established from time to time by the village council to defray the actual cost of processing the application. After an application is submitted, the director of planning and development services shall determine if the application is complete and includes data necessary to evaluate the application. Applications shall be~~

~~reviewed in accordance with the applicable provisions of article IV, division 2 of this chapter.~~

~~(2) The director of planning and development services shall ensure that the necessary public hearing is scheduled for the decision-making or advisory body reviewing the application and that, except as provided herein, proper notice of the public hearing is provided as set forth herein. All notices for public hearings shall include the information required pursuant to [section 30-213](#).~~

~~(3) The director of planning and development services shall provide written notice to all owners of real property within a radius of 500 feet of the affected premises, posting of the property subject to the application, and by publication pursuant to the procedures provided by [section 30-213](#)(l).~~

~~(4) The public hearing shall be conducted in accordance with article IV, division 3 of this chapter.~~

~~(e) *Proximity to places of worship, schools and child care facilities.*~~

~~(1) No person shall conduct any business involving the production, manufacture, brewing or sale of alcoholic beverages within three hundred feet of any established place of worship, school and/or child care facility. Such distance shall be measured from the nearest point of the property line of the place of business to the property line of the place of worship, school and/or child care facility and used as a part of the place of worship, school and/or child care facility. However, any person or property licensed to conduct and legally conducting a business involving the production, manufacture, brewing or sale of alcoholic beverages as of the effective date of this amendment, shall be governed by the provisions of this section which existed at the time of the original licensure of such business. This prohibition shall not apply to temporary alcohol beverage use permits.~~

~~(2) When considering an application for a variance from the proximity requirement in subsection (1), the director and village council shall consider the following criteria:~~

- ~~a. The license sought is for consumption on-premises only;~~
- ~~b. The extent of conflict between the proposed use and the hours of operation of the facilities described in subsection (1) above;~~
- ~~c. Other nonresidential uses adjacent to or between the property of the proposed alcohol beverage use permit and the facilities described in subsection (1) above; and~~
- ~~d. The property of the proposed alcohol beverage use permit is separated from the facilities described in subsection (1) above by a canal, channel or creek.~~

~~Public notice shall be provided consistent with Code [section 30-213](#)(l).~~

~~(f) *Criteria.* The village council shall give due consideration to the following factors as they may apply to the particular application prior to rendering its decision to grant or deny the requested permit:~~

- ~~(1) The proposed use is compatible and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development as represented by property owners within 500 feet of the premises;~~
- ~~(2) The proposed use is consistent with the purposes, goals, objectives and policies of the comprehensive plan and this chapter, including standards for building and structural intensities and densities, and intensities of use; and the suitability of the premises in regard to its location, site characteristics and intended purpose;~~
- ~~(3) The proposed use complies with article IV, division 5 of this chapter (Concurrency Management); and~~
- ~~(4) The design of the proposed use minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.~~

~~(g) *Approval by village council.* The village council may grant approval based on reasonable conditions considering the criteria outlined herein.~~

~~(h) *Where permitted.* Alcoholic beverage use permits may be granted in the following zoning districts: village center (VC); tourist commercial (TC); marine use (MR); highway commercial (HC); industrial (I) and neighborhood commercial (NC). Notwithstanding the foregoing, alcoholic beverage sales may be permitted at restaurants, hotels, marinas and campgrounds regardless of the zoning district in which they are located. Nothing contained herein shall exempt an application from obtaining a major or minor conditional use approval when such is otherwise required by this chapter.~~

~~(i) *Transferability.* Alcoholic beverage use permits issued by virtue of this section shall be deemed to be a privilege running with the land. The sale of the real property which has been granted an alcoholic beverage use permit shall automatically vest the purchaser thereof with all rights and obligations originally granted or imposed to or on the application. Such privilege may not be separated from the fee simple interest in the realty.~~

~~(j) *Appeals.* The applicant, or any aggrieved person who has opposed the issuance of the alcoholic beverage permit at the scheduled public hearing, may appeal the decision of the village council 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, within 30 days of the date of the decision by the village council.~~

~~(Ord. No. 03-05, § 1(6.10.1), 3-27-2003; Ord. No. 15-03, § 2, 2-12-15)~~

Secs. 30-1462—30-1479. - Reserved.

Section 3. Transmittal. The Village Clerk is authorized to forward a copy of this Ordinance to the State Department of Economic Opportunity (the "DEO") for approval pursuant to section 380.05, Florida Statutes.

Section 4. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. Effective Date. This Ordinance shall not be effective immediately upon adoption. The Amendment shall not take effect until the date a final order is issued by the DEO. The DEO notice of intent to find the Amendment in compliance shall be deemed to be the final order if no timely petition challenging the Amendment is filed.

The foregoing Ordinance was offered by _____, who moved for its adoption on first reading. This motion was seconded by _____, and upon being put to a vote, the vote was as follows:

Mayor Joseph B. Pinder III	_____
Vice Mayor Sharon Mahoney	_____
Councilman Mark Gregg	_____
Councilman Henry Rosenthal	_____
Councilwoman Elizabeth Jolin	_____

PASSED on the first reading this _____ day of _____, 2023.

The foregoing Ordinance was offered by _____, who moved for its adoption on second reading. This motion was seconded by _____, and upon being put to a vote, the vote was as follows:

Mayor Joseph B. Pinder III	_____
Vice Mayor Sharon Mahoney	_____
Councilman Mark Gregg	_____
Councilman Henry Rosenthal	_____
Councilwoman Elizabeth Jolin	_____

PASSED AND ADOPTED on the second reading this ____ day of _____, 2023.

JOSEPH B. PINDER, MAYOR

ATTEST:

MARNE MCGRATH, VILLAGE CLERK

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

JOHN J. QUICK, INTERIM VILLAGE ATTORNEY

DIVISION 11. - ALCOHOLIC BEVERAGE USE PERMIT – Standards of Review

Sec. 30-1461. - Generally.

(A) Purpose and intent. This section is designed and intended to provide for reasonable regulations and control over the production, manufacture, brewing and/or sale of alcoholic beverages within the village by providing criteria to be utilized to assure that all future proliferation of alcoholic beverage use enterprises within the village are compatible with adjoining and surrounding land uses and the village's comprehensive plan, and to ensure that such uses will not have an adverse impact on the health, safety and welfare of the citizens and residents of the village.

(B) Proximity to places of worship, schools and childcare facilities.

(1) No person shall conduct any business involving the production, manufacture, brewing or sale of alcoholic beverages within three hundred feet of any established place of worship, school and/or childcare facility. Such distance shall be measured from the nearest point of the property line of the place of business to the property line of the place of worship, school and/or childcare facility and used as a part of the place of worship, school and/or childcare facility. However, any person or property licensed to conduct and legally conducting a business involving the production, manufacture, brewing or sale of alcoholic beverages as of the effective date of this amendment, shall be governed by the provisions of this section which existed at the time of the original licensure of such business. This prohibition shall not apply to temporary alcohol beverage use permits.

(2) When considering an application for a variance from the proximity requirement in subsection (1), the Village Council shall consider the following factors:

a. The extent of conflict between the proposed use and the hours of operation of the facilities described in subsection (1) above;

b. Other nonresidential uses adjacent to or between the property of the proposed establishment and the facilities described in subsection (1) above;

c. Whether or not the property of the proposed establishment is separated from the facilities described in subsection (1) above by a canal, channel, creek, or U.S. 1 (Overseas Highway);

d. Whether or not the proposed use is compatible and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development as represented by property owners within 500 feet of the premises;

e. Whether or not the proposed use is consistent with the purposes, goals, objectives and policies of the comprehensive plan and this chapter, including standards for building and structural intensities and densities, and intensities of use and the suitability of the premises in regard to its location, site characteristics and intended purpose;

f. Whether or not the proposed use complies with Article IV, Division 5 of this chapter (Concurrency Management); and

g. Whether or not the design of the proposed use minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.

(C) Approval by Village Council. The Village Council may grant a relaxation of the above proximity standards based on reasonable conditions considering the criteria outlined herein.

(D) Appeals. The applicant, or any aggrieved person who has opposed the relaxation of the above proximity standards, may appeal the decision of the Village Council 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, within 30 days of the date of the decision by the village council.

ORDINANCE NO. 23-

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING CHAPTER 30, BY REPEALING DIVISION 11 – ALCOHOLIC BEVERAGE USE PERMITS; PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING FOR AN EFFECTIVE DATE UPON APPROVAL OF THIS ORDINANCE BY THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY.

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WHEREAS, THE State of Florida already provides for the licensing of businesses which involve the sale and consumption of alcoholic beverages; and

WHEREAS, Islamorada, Village of Islands provides adequate and proper regulation for businesses which involve the sale and/or consumption of alcoholic beverages; and

WHEREAS, the repeal of Chapter 30, Article VI, Division 11 (Alcoholic Beverage Use Permit) is in the public interest.

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DIVISION 11. - ~~ALCOHOLIC BEVERAGE USE PERMIT~~^[15]

Footnotes:

~~----- (15) -----~~

~~*Cross-reference*—Noise permit; alcoholic beverages permit, § 42-42.~~

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~~(b) *Permit required.* All persons desiring to produce, manufacture, brew and/or sell alcoholic beverages upon any premises located within the village and who desire to do so upon premises not previously approved for an alcoholic beverage use permit shall~~

~~obtain an alcoholic beverage use permit utilizing the procedures outlined in subsection (d) of this section.~~

~~(c) *Classifications.* Corresponding to those alcoholic beverage license classifications adopted by the state, as may be amended from time to time, alcoholic beverage use permits issued pursuant to this division shall be classified as follows:~~

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- ~~(2) The proposed use is consistent with the purposes, goals, objectives and policies of the comprehensive plan and this chapter, including standards for building and structural intensities and densities, and intensities of use; and the suitability of the premises in regard to its location, site characteristics and intended purpose;~~
- ~~(3) The proposed use complies with article IV, division 5 of this chapter (Concurrency Management); and~~
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~~(g) *Approval by village council.* The village council may grant approval based on reasonable conditions considering the criteria outlined herein.~~

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The foregoing Ordinance was offered by _____, who moved for its adoption on first reading. This motion was seconded by _____, and upon being put to a vote, the vote was as follows:

Mayor Joseph B. Pinder III	_____
Vice Mayor Sharon Mahoney	_____
Councilman Mark Gregg	_____
Councilman Henry Rosenthal	_____
Councilwoman Elizabeth Jolin	_____

PASSED on the first reading this _____ day of _____, 2023.

The foregoing Ordinance was offered by _____, who moved for its adoption on second reading. This motion was seconded by _____, and upon being put to a vote, the vote was as follows:

Mayor Joseph B. Pinder III	_____
Vice Mayor Sharon Mahoney	_____
Councilman Mark Gregg	_____
Councilman Henry Rosenthal	_____
Councilwoman Elizabeth Jolin	_____

PASSED AND ADOPTED on the second reading this ____ day of _____, 2023.

JOSEPH B. PINDER, MAYOR

ATTEST:

MARNE MCGRATH, VILLAGE CLERK

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

JOHN J. QUICK, INTERIM VILLAGE ATTORNEY

DIVISION 11. - ALCOHOLIC BEVERAGE USE PERMIT – Standards of Review

Sec. 30-1461. - Generally.

(A) Purpose and intent. This section is designed and intended to provide for reasonable regulations and control over the production, manufacture, brewing and/or sale of alcoholic beverages within the village by providing criteria to be utilized to assure that all future proliferation of alcoholic beverage use enterprises within the village are compatible with adjoining and surrounding land uses and the village's comprehensive plan, and to ensure that such uses will not have an adverse impact on the health, safety and welfare of the citizens and residents of the village.

(B) Proximity to places of worship, schools and childcare facilities.

(1) No person shall conduct any business involving the production, manufacture, brewing or sale of alcoholic beverages within three hundred feet of any established place of worship, school and/or childcare facility. Such distance shall be measured from the nearest point of the property line of the place of business to the property line of the place of worship, school and/or childcare facility and used as a part of the place of worship, school and/or childcare facility. However, any person or property licensed to conduct and legally conducting a business involving the production, manufacture, brewing or sale of alcoholic beverages as of the effective date of this amendment, shall be governed by the provisions of this section which existed at the time of the original licensure of such business. This prohibition shall not apply to temporary alcohol beverage use permits.

(2) When considering an application for a variance from the proximity requirement in subsection (1), the Village Council shall consider the following factors:

a. The extent of conflict between the proposed use and the hours of operation of the facilities described in subsection (1) above;

b. Other nonresidential uses adjacent to or between the property of the proposed establishment and the facilities described in subsection (1) above;

c. Whether or not the property of the proposed establishment is separated from the facilities described in subsection (1) above by a canal, channel, creek, or U.S. 1 (Overseas Highway);

d. Whether or not the proposed use is compatible and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development as represented by property owners within 500 feet of the premises;

e. Whether or not the proposed use is consistent with the purposes, goals, objectives and policies of the comprehensive plan and this chapter, including standards for building and structural intensities and densities, and intensities of use and the suitability of the premises in regard to its location, site characteristics and intended purpose;

f. Whether or not the proposed use complies with Article IV, Division 5 of this chapter (Concurrency Management); and

g. Whether or not the design of the proposed use minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.

(C) Approval by Village Council. The Village Council may grant a relaxation of the above proximity standards based on reasonable conditions considering the criteria outlined herein.

(D) Appeals. The applicant, or any aggrieved person who has opposed the relaxation of the above proximity standards, may appeal the decision of the Village Council 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, within 30 days of the date of the decision by the village council.



Council Communication

To: Mayor and Village Council
From: Daniel J. Gulizio, Director of Development Services
Date: May 18, 2023
SUBJECT: Chapter 30, Article II - Definition of Lot Area - TAB 2

Background:

The Village Land Development Regulations (LDRs) include a wide variety of definitions within Article II (Rules of Construction). There is a clear inconsistency between the definition for "Buildable Area" and "Lot Area." The proposed amendment reconciles these differences and establishes a consistent standard in the definition of Buildable Area and Lot Area.

Analysis:

Sec. 30-32 of the Village Code includes definitions for both Buildable Area and Lot Area.

Buildable Area is defined as: *"the upland portion of a lot or parcel of land that can be occupied by principal buildings and such accessory buildings or uses customarily incidental to it, **exclusive of any public dedications, privately owned submerged lands and tidally inundated mangroves.**"*

Lot Area is defined as: *"the total horizontal plane area contained within the lot lines expressed in square feet or acres, exclusive of any public dedications but **including privately owned submerged lands and tidally inundated mangroves.**"*

It makes little sense to include privately owned submerged lands and tidally inundated mangroves within the definition of lot area. Aside from the inconsistency with the definition of Buildable Area, the inclusion of underwater lands and tidally influenced mangroves within the definition for lot area is inconsistent with sound planning practice and the Village's ongoing responsibility to protect near shore water quality, natural resources, natural shoreline, baches and berms, wetlands, native vegetation, marine habitats...etc.

Under the current definition for lot area, a parcel of land could be 95% under water and still qualify as a potentially buildable lot based on lot area. It is recommend that the definition of lot area be amended consistent with the definition of Buildable Area as detailed below:

Area, lot is the total horizontal plane area contained within the lot lines expressed in square feet or acres, exclusive of any public dedications, ~~but including~~ privately owned submerged lands and tidally inundated mangroves.

Budget Impact:

None.

Staff Impact:

None.

Recommendation:

Staff respectfully recommends that the Local Planning Agency recommend approval of the proposed amendment.

- Attachments:**
1. ORDINANCE_Lot_Area_Defintion_03-2023
 2. ORDINANCE_Lot_Area_Defintion_03-2023

ORDINANCE NO. -

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING CHAPTER 30, LAND DEVELOPMENT REGULATIONS RELATED TO THE DEFINITION OF LOT AREA; PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING FOR AN EFFECTIVE DATE UPON APPROVAL OF THIS ORDINANCE BY THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY.

WHEREAS, Islamorada, Village of Islands has established Land Development Regulations to properly guide development and protect public health, safety, and welfare; and

WHEREAS, Village Land Development Regulations include provisions for the obtaining of a variance in order to provide relief from strict application of the Land Development Regulations that would result in undue hardship; and

WHEREAS, the proper definition of lot area is critical to achieving the goals and objectives of the Comprehensive Plan and the protection of public health, safety, and welfare of the public.

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

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

Section 2. Chapter 30, Article II (Specific Definitions) is hereby modified as follows:

Additional text is shown as <u>underlined</u> ;	deleted text is shown as strikethrough
---	---

Sec. 30-32. – Specific definitions.

Area, lot is the total horizontal plane area contained within the lot lines expressed in square feet or acres, exclusive of any public dedications, ~~but including~~ privately owned submerged lands and tidally inundated mangroves.

Section 3. **Transmittal.** The Village Clerk is authorized to forward a copy of this Ordinance to the State Department of Economic Opportunity (the “DEO”) for approval pursuant to section 380.05, Florida Statutes.

Section 4. **Severability.** The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. **Effective Date.** This Ordinance shall not be effective immediately upon adoption. The Amendment shall not take effect until the date a final order is issued by the DEO. The DEO notice of intent to find the Amendment in compliance shall be deemed to be the final order if no timely petition challenging the Amendment is filed.

The foregoing Ordinance was offered by _____, who moved for its adoption on first reading. This motion was seconded by _____, and upon being put to a vote, the vote was as follows:

Mayor Joseph B. Pinder III	_____
Vice Mayor Sharon Mahoney	_____
Councilman Mark Gregg	_____
Councilman Henry Rosenthal	_____
Councilwoman Elizabeth Jolin	_____

PASSED on the first reading this ____ day of _____, 2023.

The foregoing Ordinance was offered by _____, who moved for its adoption on second reading. This motion was seconded by _____, and upon being put to a vote, the vote was as follows:

Mayor Joseph B. Pinder III	_____
Vice Mayor Sharon Mahoney	_____
Councilman Mark Gregg	_____
Councilman Henry Rosenthal	_____
Councilwoman Elizabeth Jolin	_____

PASSED AND ADOPTED on the second reading this ____ day of _____, 2023.

JOSEPH B. PINDER, MAYOR

ATTEST:

MARNE MCGRATH, VILLAGE CLERK

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

JOHN J. QUICK, INTERIM VILLAGE ATTORNEY

ORDINANCE NO. -

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING CHAPTER 30, LAND DEVELOPMENT REGULATIONS RELATED TO THE DEFINITION OF LOT AREA; PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING FOR AN EFFECTIVE DATE UPON APPROVAL OF THIS ORDINANCE BY THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY.

WHEREAS, Islamorada, Village of Islands has established Land Development Regulations to properly guide development and protect public health, safety, and welfare; and

WHEREAS, Village Land Development Regulations include provisions for the obtaining of a variance in order to provide relief from strict application of the Land Development Regulations that would result in undue hardship; and

WHEREAS, the proper definition of lot area is critical to achieving the goals and objectives of the Comprehensive Plan and the protection of public health, safety, and welfare of the public.

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

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

Section 2. Chapter 30, Article II (Specific Definitions) is hereby modified as follows:

Additional text is shown as <u>underlined</u> ;	deleted text is shown as strikethrough
---	---

Sec. 30-32. – Specific definitions.

Area, lot is the total horizontal plane area contained within the lot lines expressed in square feet or acres, exclusive of any public dedications, ~~but including~~ privately owned submerged lands and tidally inundated mangroves.

Section 3. **Transmittal.** The Village Clerk is authorized to forward a copy of this Ordinance to the State Department of Economic Opportunity (the “DEO”) for approval pursuant to section 380.05, Florida Statutes.

Section 4. **Severability.** The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. **Effective Date.** This Ordinance shall not be effective immediately upon adoption. The Amendment shall not take effect until the date a final order is issued by the DEO. The DEO notice of intent to find the Amendment in compliance shall be deemed to be the final order if no timely petition challenging the Amendment is filed.

The foregoing Ordinance was offered by _____, who moved for its adoption on first reading. This motion was seconded by _____, and upon being put to a vote, the vote was as follows:

Mayor Joseph B. Pinder III	_____
Vice Mayor Sharon Mahoney	_____
Councilman Mark Gregg	_____
Councilman Henry Rosenthal	_____
Councilwoman Elizabeth Jolin	_____

PASSED on the first reading this ____ day of _____, 2023.

The foregoing Ordinance was offered by _____, who moved for its adoption on second reading. This motion was seconded by _____, and upon being put to a vote, the vote was as follows:

Mayor Joseph B. Pinder III	_____
Vice Mayor Sharon Mahoney	_____
Councilman Mark Gregg	_____
Councilman Henry Rosenthal	_____
Councilwoman Elizabeth Jolin	_____

PASSED AND ADOPTED on the second reading this ____ day of _____, 2023.

JOSEPH B. PINDER, MAYOR

ATTEST:

MARNE MCGRATH, VILLAGE CLERK

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

JOHN J. QUICK, INTERIM VILLAGE ATTORNEY



Council Communication

To: Mayor and Village Council
From: Daniel J. Gulizio, Director of Development Services
Date: May 18, 2023
SUBJECT: Lot Area Variance Code Amendment - TAB 3

Background:

The Village Code currently authorizes the issuance of Administrative and Standard Variances for height, setbacks, parking, loading requirements, and landscaping provisions. The amendment to the Land Development Regulations proposes to authorize the issuance of a variance for "lot area" provided the requested relief is limited to a maximum of five percent (5%) or 250 square feet, whichever is less, of the minimum required lot area.

Analysis:

Pursuant to Sec. 30-221 (a) of the Village Code, a variance is defined as a relaxation of the terms of this chapter where such action will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of actions of the applicant, a literal enforcement of this chapter would result in unnecessary and undue hardship on the property. As used in this section, a variance is authorized only for height, setbacks, parking, and loading requirements, and landscaping, unless otherwise specified in this chapter. Under no circumstances shall the director of planning and development services or the village council grant a variance to permit a floor area ratio or a use not permitted under the terms of this chapter.

Additionally, pursuant to Sec. 30-221 (d) a variance is subject to a 6-part test. Specifically, the Village Code states:

When considering an application for a variance, the director and village council shall consider the following factors, and no variance shall be approved which fails to meet any standard below. Failure to comply with any standard shall be deemed adverse to the public interest.
(1) Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district;

(2) The special conditions and circumstances do not result from the actions of the applicant;

(3) Literal interpretation of the provisions of this chapter deprives the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this chapter and works unnecessary and undue hardship on the applicant;

(4) Granting the variance requested conveys the same treatment to the individual owner as to the owner of other lands, buildings, or structures in the same zoning district;

(5) The variance, if granted, is the minimum variance that makes possible the reasonable use of the land, building, or structure; and

(6) The grant of the variance is in harmony with the general intent and purpose of this chapter, and is not injurious to the neighborhood, or otherwise detrimental to the public welfare.

The proposed amendment is consistent with the approach in many municipalities to allow for the opportunity to seek a variance in connection with minimum lot area requirements. An applicant would be required to meet all of the standards associated with variance relief noted above. In addition, a lot area variance would be limited to a maximum of five percent (5%) or 250 square feet (whichever is less) of the minimum required lot area standard.

It is staff's position that the proposed amendment properly balances the rights of individual property owners with the protections needed for other members of the community.

Budget Impact:

None.

Staff Impact:

None

Recommendation:

Staff respectfully recommends adoption of the proposed amendment.

Attachments: 1. ORDINANCE_Lot_Area_Variance_01-19-2023
2. ORDINANCE_Lot_Area_Variance_01-19-2023

ORDINANCE NO. 23-

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING CHAPTER 30, LAND DEVELOPMENT REGULATIONS RELATED TO VARINCES TO PERMIT A MINOR RELAXATION OF MINIMUM LOT AREA REQUIREMENTS NOT TO EXCEED FIVE PERCENT (5%) OF THE MINIMUM REQUIRED LOT AREA OR 250 SQUARE FEET, WHICHEVER IS LESS; PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING FOR AN EFFECTIVE DATE UPON APPROVAL OF THIS ORDINANCE BY THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY.

WHEREAS, Islamorada, Village of Islands has established Land Development Regulations to properly guide development and protect public health, safety, and welfare; and

WHEREAS, Village Land Development Regulations include provisions for the obtaining of a variance in order to provide relief from strict application of the Land Development Regulations that would result in undue hardship; and

WHEREAS, the establishment of minor relief from the strict application of Village minimum lot area requirements would provide reasonable relief to property owners while protecting the health, safety, and welfare of the public.

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

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

Section 2. Chapter 30, Article IV, Division 2 (Variances in general) is hereby modified as follows:

Additional text is shown as underlined;

deleted text is shown as ~~strikethrough~~

Sec. 30-221. - Variances in general.

(a) A variance is a relaxation of the terms of this chapter where such action will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of actions of the applicant, a literal enforcement of this chapter would result in unnecessary and undue hardship on the property. As used in this section, a variance is authorized only for height, setbacks, parking, ~~and~~ loading requirements, ~~and~~ landscaping, and lot area unless otherwise specified in this chapter. A lot area variance shall be limited to a maximum of five percent (5%) of the minimum required lot area or 250 square feet, whichever is less. Under no circumstances shall the director of planning and development services or the village council grant a Floor Area Ratio (FAR) variance ~~to permit a floor area ratio or~~ authorize a use not permitted under the terms of this chapter.

Section 3. Transmittal. The Village Clerk is authorized to forward a copy of this Ordinance to the State Department of Economic Opportunity (the "DEO") for approval pursuant to section 380.05, Florida Statutes.

Section 4. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. Effective Date. This Ordinance shall not be effective immediately upon adoption. The Amendment shall not take effect until the date a final order is issued by the DEO.

The DEO notice of intent to find the Amendment in compliance shall be deemed to be the final order if no timely petition challenging the Amendment is filed.

The foregoing Ordinance was offered by _____, who moved for its adoption on first reading. This motion was seconded by _____, and upon being put to a vote, the vote was as follows:

Mayor Joseph B. Pinder III	_____
Vice Mayor Sharon Mahoney	_____
Councilman Mark Gregg	_____
Councilman Henry Rosenthal	_____
Councilwoman Elizabeth Jolin	_____

PASSED on the first reading this ____ day of _____, 2023.

The foregoing Ordinance was offered by _____, who moved for its adoption on second reading. This motion was seconded by _____, and upon being put to a vote, the vote was as follows:

Mayor Joseph B. Pinder III	_____
Vice Mayor Sharon Mahoney	_____
Councilman Mark Gregg	_____
Councilman Henry Rosenthal	_____
Councilwoman Elizabeth Jolin	_____

PASSED AND ADOPTED on the second reading this ____ day of _____, 2023.

JOSEPH B. PINDER, MAYOR

ATTEST:

MARNE MCGRATH, VILLAGE CLERK

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

JOHN J. QUICK, INTERIM VILLAGE ATTORNEY

ORDINANCE NO. 23-

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING CHAPTER 30, LAND DEVELOPMENT REGULATIONS RELATED TO VARINCES TO PERMIT A MINOR RELAXATION OF MINIMUM LOT AREA REQUIREMENTS NOT TO EXCEED FIVE PERCENT (5%) OF THE MINIMUM REQUIRED LOT AREA OR 250 SQUARE FEET, WHICHEVER IS LESS; PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING FOR AN EFFECTIVE DATE UPON APPROVAL OF THIS ORDINANCE BY THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY.

WHEREAS, Islamorada, Village of Islands has established Land Development Regulations to properly guide development and protect public health, safety, and welfare; and

WHEREAS, Village Land Development Regulations include provisions for the obtaining of a variance in order to provide relief from strict application of the Land Development Regulations that would result in undue hardship; and

WHEREAS, the establishment of minor relief from the strict application of Village minimum lot area requirements would provide reasonable relief to property owners while protecting the health, safety, and welfare of the public.

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

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

Section 2. Chapter 30, Article IV, Division 2 (Variances in general) is hereby modified as follows:

Additional text is shown as underlined;

deleted text is shown as ~~strikethrough~~

Sec. 30-221. - Variances in general.

(a) A variance is a relaxation of the terms of this chapter where such action will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of actions of the applicant, a literal enforcement of this chapter would result in unnecessary and undue hardship on the property. As used in this section, a variance is authorized only for height, setbacks, parking, ~~and~~ loading requirements, ~~and~~ landscaping, and lot area unless otherwise specified in this chapter. A lot area variance shall be limited to a maximum of five percent (5%) of the minimum required lot area or 250 square feet, whichever is less. Under no circumstances shall the director of planning and development services or the village council grant a Floor Area Ratio (FAR) variance ~~to permit a floor area ratio or authorize~~ a use not permitted under the terms of this chapter.

Section 3. Transmittal. The Village Clerk is authorized to forward a copy of this Ordinance to the State Department of Economic Opportunity (the "DEO") for approval pursuant to section 380.05, Florida Statutes.

Section 4. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. Effective Date. This Ordinance shall not be effective immediately upon adoption. The Amendment shall not take effect until the date a final order is issued by the DEO.

The DEO notice of intent to find the Amendment in compliance shall be deemed to be the final order if no timely petition challenging the Amendment is filed.

The foregoing Ordinance was offered by _____, who moved for its adoption on first reading. This motion was seconded by _____, and upon being put to a vote, the vote was as follows:

Mayor Joseph B. Pinder III	_____
Vice Mayor Sharon Mahoney	_____
Councilman Mark Gregg	_____
Councilman Henry Rosenthal	_____
Councilwoman Elizabeth Jolin	_____

PASSED on the first reading this ____ day of _____, 2023.

The foregoing Ordinance was offered by _____, who moved for its adoption on second reading. This motion was seconded by _____, and upon being put to a vote, the vote was as follows:

Mayor Joseph B. Pinder III	_____
Vice Mayor Sharon Mahoney	_____
Councilman Mark Gregg	_____
Councilman Henry Rosenthal	_____
Councilwoman Elizabeth Jolin	_____

PASSED AND ADOPTED on the second reading this ____ day of _____, 2023.

JOSEPH B. PINDER, MAYOR

ATTEST:

MARNE MCGRATH, VILLAGE CLERK

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

JOHN J. QUICK, INTERIM VILLAGE ATTORNEY



Council Communication

To: Mayor and Village Council
From: Daniel J. Gulizio, Director of Development Services
Date: May 18, 2023
SUBJECT: **Amendment of Multifamily (MF) Zoning District to Include Single-Family Residences as a Permitted Use - TAB 4**

Background:

Multifamily residential development is regulated pursuant to Chapter 30 (Land Development Regulations), Article V (Schedule of District Use and Development Standards), Division 2 (Zoning Districts) of the Village Code.

The proposed code amendment seeks to add single-family residences as a permitted use within the Multifamily (MF) Zoning District.

Analysis:

Permitted uses within the Multifamily (MF) Zoning District include the following:

- (1) Two to four dwelling units;
- (2) Accessory uses and structures, excluding docking facilities and guest houses; and
- (3) Collocation on existing wireless facility.

In addition, the Code provides for a variety of both Minor and Major Conditional Uses. However, the Code does not currently permit the development of a single-family residence within a MF District. In addition, the Code currently identifies the primary as-of-right use as "two to four dwelling units." This terminology is somewhat awkward and would seem to prohibit the development of larger development clusters consistent with current development patterns.

The proposed amendments seek to add single-family residences as a permitted use to the MF district. The development of a single-family residence raises little to no concerns in terms of compatibility or intensity of use.

Secondly, the proposed amendments seek to clarify the terminology contained within Sec. 30-689 (b) Permitted uses. The revised language includes as permitted uses (1) single-family dwelling units, (2) two-family dwelling units, and (3) multi-family dwelling units. The revised terminology is consistent with standard Code practice and will help to minimize confusion moving forward.

Budget Impact:

None

Staff Impact:

None

Recommendation:

Staff respectfully recommends approval of the proposed amendment.

- Attachments:**
1. ORDINANCE_MF_01-19-2023
 2. ORDINANCE_MF_01-19-2023

ORDINANCE NO. 23

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING CHAPTER 30, MULTIFAMILY HOUSING (MF) ZONING DISTRICT TO ADD SINGLE-FAMILY RESIDENCES TO THE LIST OF PERMITTED USES; PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING FOR AN EFFECTIVE DATE UPON APPROVAL OF THIS ORDINANCE BY THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY.

WHEREAS, Islamorada, Village of Islands has established Land Development Regulations to properly guide development and protect the health, safety, and welfare of the public; and

WHEREAS, the proper and reasonable regulation of residential development including Multifamily (MF) Development is consistent with the protection of public health, safety, and welfare; and

WHEREAS, the development of single-family residences would be consistent with development patterns within the Village Multifamily (MF) Zoning District; and

WHEREAS, the current regulations within the Village Multifamily (MF) Zoning District do not permit the development of single-family residences; and

WHEREAS, the addition of single-family residences as a permitted use within the Village Multifamily (MF) Zoning District is consistent with the protection of public health, safety, and welfare.

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

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

Section 2. Chapter 30, is hereby modified as follows:

Additional text is shown as <u>underlined</u> ;	deleted text is shown as striketrough
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Sec. 30-689. - Multifamily (MF) zoning district.

(a) Purpose and intent.

(1) The purpose of the multifamily (MF) zoning district is to accommodate existing condominiums, townhouses and apartments within the village, and to provide opportunities for new multifamily residential housing.

(2) This zoning district is established within the Residential High (RH) FLUM category.

(b) Permitted uses.

(1) Single-family dwelling units ~~Two to four dwelling units;~~

(2) Two-family dwelling units; ~~Accessory uses and structures, excluding docking facilities and guest houses; and~~

(3) Multi-family dwelling units; ~~Collocation on existing wireless facility~~

(4) Accessory uses and structures, excluding docking facilities and guest houses; and

(5) Collocation on existing wireless facility.

Secs. 30-1404—30-1430. - Reserved.

Section 3. **Transmittal.** The Village Clerk is authorized to forward a copy of this Ordinance to the State Department of Economic Opportunity (the "DEO") for approval pursuant to section 380.05, Florida Statutes.

Section 4. **Severability.** The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. **Effective Date.** This Ordinance shall not be effective immediately upon adoption. The Amendment shall not take effect until the date a final order is issued by the DEO. The DEO notice of intent to find the Amendment in compliance shall be deemed to be the final order if no timely petition challenging the Amendment is filed.

The foregoing Ordinance was offered by _____, who moved for its adoption on first reading. This motion was seconded by _____, and upon being put to a vote, the vote was as follows:

Mayor Joseph B. Pinder III	_____
Vice Mayor Sharon Mahoney	_____
Councilman Mark Gregg	_____
Councilman Henry Rosenthal	_____
Councilwoman Elizabeth Jolin	_____

PASSED on the first reading this ____ day of _____, 2023.

The foregoing Ordinance was offered by _____, who moved for its adoption on second reading. This motion was seconded by _____, and upon being put to a vote, the vote was as follows:

Mayor Joseph B. Pinder III	_____
Vice Mayor Sharon Mahoney	_____
Councilman Mark Gregg	_____
Councilman Henry Rosenthal	_____
Councilwoman Elizabeth Jolin	_____

PASSED AND ADOPTED on the second reading this ____ day of _____, 2023.

JOSEPH B. PINDER, MAYOR

ATTEST:

MARNE MCGRATH, VILLAGE CLERK

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

JOHN J. QUICK, INTERIM VILLAGE ATTORNEY

ORDINANCE NO. 23

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING CHAPTER 30, MULTIFAMILY HOUSING (MF) ZONING DISTRICT TO ADD SINGLE-FAMILY RESIDENCES TO THE LIST OF PERMITTED USES; PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING FOR AN EFFECTIVE DATE UPON APPROVAL OF THIS ORDINANCE BY THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY.

WHEREAS, Islamorada, Village of Islands has established Land Development Regulations to properly guide development and protect the health, safety, and welfare of the public; and

WHEREAS, the proper and reasonable regulation of residential development including Multifamily (MF) Development is consistent with the protection of public health, safety, and welfare; and

WHEREAS, the development of single-family residences would be consistent with development patterns within the Village Multifamily (MF) Zoning District; and

WHEREAS, the current regulations within the Village Multifamily (MF) Zoning District do not permit the development of single-family residences; and

WHEREAS, the addition of single-family residences as a permitted use within the Village Multifamily (MF) Zoning District is consistent with the protection of public health, safety, and welfare.

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

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

Section 2. Chapter 30, is hereby modified as follows:

Additional text is shown as <u>underlined</u> ;	deleted text is shown as striketrough
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Sec. 30-689. - Multifamily (MF) zoning district.

(a) Purpose and intent.

(1) The purpose of the multifamily (MF) zoning district is to accommodate existing condominiums, townhouses and apartments within the village, and to provide opportunities for new multifamily residential housing.

(2) This zoning district is established within the Residential High (RH) FLUM category.

(b) Permitted uses.

(1) Single-family dwelling units ~~Two to four dwelling units;~~

(2) Two-family dwelling units; ~~Accessory uses and structures, excluding docking facilities and guest houses; and~~

(3) Multi-family dwelling units; ~~Collocation on existing wireless facility~~

(4) Accessory uses and structures, excluding docking facilities and guest houses; and

(5) Collocation on existing wireless facility.

Secs. 30-1404—30-1430. - Reserved.

Section 3. **Transmittal.** The Village Clerk is authorized to forward a copy of this Ordinance to the State Department of Economic Opportunity (the "DEO") for approval pursuant to section 380.05, Florida Statutes.

Section 4. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. Effective Date. This Ordinance shall not be effective immediately upon adoption. The Amendment shall not take effect until the date a final order is issued by the DEO. The DEO notice of intent to find the Amendment in compliance shall be deemed to be the final order if no timely petition challenging the Amendment is filed.

The foregoing Ordinance was offered by _____, who moved for its adoption on first reading. This motion was seconded by _____, and upon being put to a vote, the vote was as follows:

Mayor Joseph B. Pinder III	_____
Vice Mayor Sharon Mahoney	_____
Councilman Mark Gregg	_____
Councilman Henry Rosenthal	_____
Councilwoman Elizabeth Jolin	_____

PASSED on the first reading this ____ day of _____, 2023.

The foregoing Ordinance was offered by _____, who moved for its adoption on second reading. This motion was seconded by _____, and upon being put to a vote, the vote was as follows:

Mayor Joseph B. Pinder III	_____
Vice Mayor Sharon Mahoney	_____
Councilman Mark Gregg	_____
Councilman Henry Rosenthal	_____
Councilwoman Elizabeth Jolin	_____

PASSED AND ADOPTED on the second reading this ____ day of _____, 2023.

JOSEPH B. PINDER, MAYOR

ATTEST:

MARNE MCGRATH, VILLAGE CLERK

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

JOHN J. QUICK, INTERIM VILLAGE ATTORNEY



Council Communication

To: Mayor and Village Council
From: Daniel J. Gulizio, Director of Development Services
Date: May 18, 2023
SUBJECT: **Amendment of Village Code to Modify Chapter 30 (Land Development Regulations) Division 9 related to Outdoor Seating Areas - TAB 5**

Background:

Chapter 30 (Land Development Regulations), Article VI (Specific Use Restrictions), Division 9 (Outdoor Seating Areas) establishes regulatory controls for establishments that seek to incorporate outdoor seating areas in connection with their restaurant, café, bar, or similar establishment that sells food and beverages for on-site consumption.” (Sec. 30-1401)

The current regulations fail to address establishments that seek to incorporate similar outdoor activities but do not include seating. The proposed amendment seeks to close this loophole through the establishment of standards for any “outdoor plaza, with or without seating.”

Analysis:

The purpose and intent of the current regulations associated with outdoor seating areas is stated as follows:

Sec. 30-1401. - Intent and purpose.

It is the intent and purpose of this division to allow outdoor seating areas in connection with any lawfully established restaurant, café, bar or similar establishment that sells food and beverages for on-site consumption.

Sec. 30-1402 of the Village Code establishes the criteria or standards for outdoor seating areas. It provides the Village Council with the authority to approve, approve with conditions or deny the requested plaza area. In addition, it establishes that outdoor seating areas may be considered in connection with any commercial business that sells food and beverages subject to compliance with specific criteria.

Criteria identified within the Code include limitations on the maximum number of seats, prohibitions on impacts to existing buffers and landscape areas, compliance with shoreline environmental and development criteria, among other criteria.

The proposed amendments seek to expand the scope of activities captured by the above-referenced code provisions to address similar outdoor activities, including those without seating. The operating characteristics of outdoor entertainment areas that lack seating are similar in scope and intensity to those with seating. In fact, without seating, an outdoor entertainment area can accommodate even larger number of patrons and, potentially, result in

even more significant impacts to surrounding neighbors.

The proposed amendment seeks to address this current loophole within the Code.

Budget Impact:

None

Staff Impact:

None

Recommendation:

Staff respectfully recommends adoption of the proposed amendment.

Attachments:

1. ORDINANCE_Outdoor_Seating_01-19-2023
2. ORDINANCE_Outdoor_Seating_01-19-2023

ORDINANCE NO. 23-

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING CHAPTER 30, LAND DEVELOPMENT REGULATIONS RELATED TO OUTDOOR SEATING AND OUTDOOR PLAZAS; PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING FOR AN EFFECTIVE DATE UPON APPROVAL OF THIS ORDINANCE BY THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY.

WHEREAS, Islamorada, Village of Islands has established Land Development Regulations to properly guide development and protect the health, safety, and welfare of the public; and

WHEREAS, the establishment of outdoor seating areas and outdoor plazas can enhance the quality of life for the residents of the Village while helping to increase the economic vitality of Village activity centers; and

WHEREAS, the Village currently regulates the operation of outdoor seating areas as an accessory use to establishments that serve food and beverages; and

WHEREAS, certain establishments that serve food and beverages include the use of outdoor plazas or entertainment areas without seating; and

WHEREAS, it is important for the protection of public health, safety, and welfare that proper and reasonable standards be enacted to address all outdoor entertainment areas associated with establishments that serve food and beverages.

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

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

Section 2. Chapter 30, is hereby modified as follows:

Additional text is shown as <u>underlined</u> ;	deleted text is shown as strikethrough
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DIVISION 9. - OUTDOOR PLAZA SEATING AREAS

Sec. 30-1401. - Intent and purpose.

It is the intent and purpose of this division to allow outdoor plaza areas with or without seating areas in connection with any lawfully established restaurant, café, bar or similar establishment that sells food and/or beverages for on-site consumption.

(Ord. No. 02-01, § 2(6.8.1), 1-10-2002)

Sec. 30-1402. - Development standards for new outdoor seating areas.

(a) The director of the planning and development services department shall review proposed outdoor plaza seating areas in accordance with the applicable provisions of article IV, division 2 of this chapter. The director and village council, as applicable, may approve, approve with conditions (including hours of operation), or deny the application.

(b) Outdoor plaza seating areas may be authorized in conjunction with a lawfully established commercial business that sells food and beverages for on-site consumption as provided for in article V of this chapter, provided the outdoor plaza seating area complies with each of the development standards set forth herein and in this chapter. The maximum permitted occupancy and maximum number of seats for the proposed outdoor plaza seating area, ~~and maximum number of seats~~ shall be delineated on the required site plan. Failure to comply with any of the standards enumerated below shall be deemed adverse to the public interest:

(1) The maximum permitted occupancy and maximum number of allowable outdoor seats seating shall not exceed the allowable intensity of use of the property as provided for in Article V of this chapter. The outdoor plaza seating area shall be considered floor area for purposes of calculating allowable intensity of use, floor area ratio, required bufferyards and landscaping, parking, open space, stormwater drainage requirements, and all other applicable regulations;

(2) The plaza area including any ~~No~~ table, bench, chair, or umbrella shall not include ~~be placed~~ in any area specified on an approved site plan for on-site traffic circulation, landscaping, parking, loading, setback area, stormwater drainage area, or bufferyard;

(3) Outdoor plaza seating areas located on water-dependent structures serving commercial uses shall obtain a special approval and comply with the shoreline environmental and development criteria set forth in article VII, division 2 of this chapter. A Class D bufferyard shall be installed in the setback area if the outdoor plaza seating area is adjacent to an unaltered shoreline to ensure compatibility with adjacent properties. A Class B bufferyard shall be installed in the setback area if the outdoor plaza seating area is adjacent to an altered shoreline to ensure compatibility with adjacent properties. The required bufferyard may be reduced 50 percent if the applicant installs a minimum four-foot solid fence on the perimeter of the outdoor plaza seating area;

(4) No permanent food or beverage preparation structures shall be permitted within the proposed outdoor plaza seating area unless all required development permits are obtained;

(5) The restaurant, café, bar or similar establishment that sells food and beverages for on-site consumption complies with:

- a. State department of health (DOH) standards for septic tanks or on-site sewage disposal systems, as may be amended from time to time; or
- b. State department of environmental protection (DEP) standards for package plants or advanced wastewater systems, as may be amended from time to time;

(6) The proposed outdoor plaza seating area complies with the accessibility standards set forth in [42](#) USC 12101 et seq. (Americans with Disabilities Act), and F.S. ch. 553, pt. II (F.S. § 553.501 et seq.) (Florida Americans with Disabilities Accessibility Implementation Act);

(7) Food and beverage service is not provided to persons in parked cars or through the use of a drive-up window;

(8) The proposed outdoor plaza seating area does not impede pedestrian or vehicle movement, nor impede pedestrian ingress and egress from any adjacent structure;

(9) The proposed outdoor plaza seating area is compatible and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development;

(10) The proposed outdoor plaza seating area shall be delineated with decking, concrete, fencing, landscaping, overhangs, pavers, shade coverings, or other similar treatment approved in writing by the director;

(11) The design of the proposed outdoor plaza seating area minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands; and

(12) The proposed outdoor plaza seating area minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands and the natural functioning of the environment.

(13) The use of amplified music within the proposed plaza area shall be prohibited after 9:00 pm.

(c) Proposed new outdoor plaza seating areas adjacent to existing residential uses or residential zoning districts, except for existing on-site housing located on the property where the new outdoor plaza seating is proposed, may only be approved by the village council at a public hearing noticed in accordance with subsection [30-213](#)(h). For the purposes of this subsection, "adjacent residential uses or residential zoning districts" shall be considered all residentially used or zoned property that shares a common boundary line with the property subject to the application. If the property subject to the application is located on a canal or fronts on a public right-of-way, the common boundary shall be considered the midpoint of the canal or right-of-way.

(Ord. No. 02-01, § 2(6.8.2), 1-10-2002; Ord. No. 10-01, § 6, 1-14-2010)

Sec. 30-1403. - Existing outdoor plaza seating areas.

(a) Within 180 days of the effective date of this division, the owner of any outdoor plaza seating area that existed on January 25, 2001, shall apply for and obtain approval of the existing outdoor plaza seating area in conformance with the review procedures set forth in this division and this chapter. In the event the existing outdoor plaza seating area cannot be brought into compliance with the provisions of this division and chapter it shall be brought into compliance with the provisions of this division and this chapter to the maximum extent practicable. The director may waive in part the requirements of this division and the applicable provisions of this chapter, excluding lot coverage, open space and unaltered shoreline setback requirements, based on a written determination that the existing outdoor plaza seating area does not cause damage, hazard, nuisance or other detriment to persons or property.

(b) Within 180 days of the effective date of this division, all outdoor plaza seating areas that existed on January 25, 2001, and that are adjacent to existing residential uses or residential zoning districts shall install a Class D bufferyard around the outdoor plaza seating area to ensure compatibility with adjacent properties. For the purposes of this section only, the required bufferyard may be reduced 50 percent if the applicant installs a minimum four-foot solid fence on the perimeter of the outdoor plaza seating area. The director shall have the discretion to decide the configuration and placement of the required bufferyard. For the purposes of this subsection, "adjacent

residential uses or residential zoning districts" shall be considered all residentially used or zoned property that shares a common boundary line with the property subject to the application. If the property subject to the application is located on a canal or fronts on a public right-of-way, the common boundary shall be considered the midpoint of the canal or right-of-way.

(Ord. No. 02-01, § 2(6.8.3), 1-10-2002)

Secs. 30-1404—30-1430. - Reserved.

Section 3. **Transmittal.** The Village Clerk is authorized to forward a copy of this Ordinance to the State Department of Economic Opportunity (the "DEO") for approval pursuant to section 380.05, Florida Statutes.

Section 4. **Severability.** The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. **Effective Date.** This Ordinance shall not be effective immediately upon adoption. The Amendment shall not take effect until the date a final order is issued by the DEO. The DEO notice of intent to find the Amendment in compliance shall be deemed to be the final order if no timely petition challenging the Amendment is filed.

The foregoing Ordinance was offered by _____, who moved for its adoption on first reading. This motion was seconded by _____, and upon being put to a vote, the vote was as follows:

Mayor Joseph B. Pinder III	_____
Vice Mayor Sharon Mahoney	_____
Councilman Mark Gregg	_____
Councilman Henry Rosenthal	_____
Councilwoman Elizabeth Jolin	_____

PASSED on the first reading this ____ day of _____, 2023.

The foregoing Ordinance was offered by _____, who moved for its adoption on second reading. This motion was seconded by _____, and upon being put to a vote, the vote was as follows:

Mayor Joseph B. Pinder III	_____
Vice Mayor Sharon Mahoney	_____
Councilman Mark Gregg	_____
Councilman Henry Rosenthal	_____
Councilwoman Elizabeth Jolin	_____

PASSED AND ADOPTED on the second reading this ____ day of _____, 2023.

JOSEPH B. PINDER, MAYOR

ATTEST:

MARNE MCGRATH, VILLAGE CLERK

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

JOHN J. QUICK, INTERIM VILLAGE ATTORNEY

ORDINANCE NO. 23-

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING CHAPTER 30, LAND DEVELOPMENT REGULATIONS RELATED TO OUTDOOR SEATING AND OUTDOOR PLAZAS; PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING FOR AN EFFECTIVE DATE UPON APPROVAL OF THIS ORDINANCE BY THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY.

WHEREAS, Islamorada, Village of Islands has established Land Development Regulations to properly guide development and protect the health, safety, and welfare of the public; and

WHEREAS, the establishment of outdoor seating areas and outdoor plazas can enhance the quality of life for the residents of the Village while helping to increase the economic vitality of Village activity centers; and

WHEREAS, the Village currently regulates the operation of outdoor seating areas as an accessory use to establishments that serve food and beverages; and

WHEREAS, certain establishments that serve food and beverages include the use of outdoor plazas or entertainment areas without seating; and

WHEREAS, it is important for the protection of public health, safety, and welfare that proper and reasonable standards be enacted to address all outdoor entertainment areas associated with establishments that serve food and beverages.

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

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

Section 2. Chapter 30, is hereby modified as follows:

Additional text is shown as <u>underlined</u> ;	deleted text is shown as striketrough
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DIVISION 9. - OUTDOOR PLAZA SEATING AREAS

Sec. 30-1401. - Intent and purpose.

It is the intent and purpose of this division to allow outdoor plaza areas with or without seating ~~areas~~ in connection with any lawfully established restaurant, café, bar or similar establishment that sells food and /or beverages for on-site consumption.

(Ord. No. 02-01, § 2(6.8.1), 1-10-2002)

Sec. 30-1402. - Development standards for new outdoor seating areas.

(a) The director of the planning and development services department shall review proposed outdoor plaza seating areas in accordance with the applicable provisions of article IV, division 2 of this chapter. The director and village council, as applicable, may approve, approve with conditions (including hours of operation), or deny the application.

(b) Outdoor plaza seating areas may be authorized in conjunction with a lawfully established commercial business that sells food and beverages for on-site consumption as provided for in article V of this chapter, provided the outdoor plaza seating area complies with each of the development standards set forth herein and in this chapter. The maximum permitted occupancy and maximum number of seats for the proposed outdoor plaza seating area, ~~and maximum number of seats~~ shall be delineated on the required site plan. Failure to comply with any of the standards enumerated below shall be deemed adverse to the public interest:

(1) The maximum permitted occupancy and maximum number of allowable outdoor seats seating shall not exceed the allowable intensity of use of the property as provided for in Article V of this chapter. The outdoor plaza seating area shall be considered floor area for purposes of calculating allowable intensity of use, floor area ratio, required bufferyards and landscaping, parking, open space, stormwater drainage requirements, and all other applicable regulations;

(2) The plaza area including any ~~No~~ table, bench, chair, or umbrella shall not include ~~be placed~~ in any area specified on an approved site plan for on-site traffic circulation, landscaping, parking, loading, setback area, stormwater drainage area, or bufferyard;

(3) Outdoor plaza seating areas located on water-dependent structures serving commercial uses shall obtain a special approval and comply with the shoreline environmental and development criteria set forth in article VII, division 2 of this chapter. A Class D bufferyard shall be installed in the setback area if the outdoor plaza seating area is adjacent to an unaltered shoreline to ensure compatibility with adjacent properties. A Class B bufferyard shall be installed in the setback area if the outdoor plaza seating area is adjacent to an altered shoreline to ensure compatibility with adjacent properties. The required bufferyard may be reduced 50 percent if the applicant installs a minimum four-foot solid fence on the perimeter of the outdoor plaza seating area;

(4) No permanent food or beverage preparation structures shall be permitted within the proposed outdoor plaza seating area unless all required development permits are obtained;

(5) The restaurant, café, bar or similar establishment that sells food and beverages for on-site consumption complies with:

- a. State department of health (DOH) standards for septic tanks or on-site sewage disposal systems, as may be amended from time to time; or
- b. State department of environmental protection (DEP) standards for package plants or advanced wastewater systems, as may be amended from time to time;

(6) The proposed outdoor plaza seating area complies with the accessibility standards set forth in [42](#) USC 12101 et seq. (Americans with Disabilities Act), and F.S. ch. 553, pt. II (F.S. § 553.501 et seq.) (Florida Americans with Disabilities Accessibility Implementation Act);

(7) Food and beverage service is not provided to persons in parked cars or through the use of a drive-up window;

(8) The proposed outdoor plaza seating area does not impede pedestrian or vehicle movement, nor impede pedestrian ingress and egress from any adjacent structure;

(9) The proposed outdoor plaza seating area is compatible and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development;

(10) The proposed outdoor plaza seating area shall be delineated with decking, concrete, fencing, landscaping, overhangs, pavers, shade coverings, or other similar treatment approved in writing by the director;

(11) The design of the proposed outdoor plaza seating area minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands; and

(12) The proposed outdoor plaza seating area minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands and the natural functioning of the environment.

(13) The use of amplified music within the proposed plaza area shall be prohibited after 9:00 pm.

(c) Proposed new outdoor plaza seating areas adjacent to existing residential uses or residential zoning districts, except for existing on-site housing located on the property where the new outdoor plaza seating is proposed, may only be approved by the village council at a public hearing noticed in accordance with subsection [30-213](#)(h). For the purposes of this subsection, "adjacent residential uses or residential zoning districts" shall be considered all residentially used or zoned property that shares a common boundary line with the property subject to the application. If the property subject to the application is located on a canal or fronts on a public right-of-way, the common boundary shall be considered the midpoint of the canal or right-of-way.

(Ord. No. 02-01, § 2(6.8.2), 1-10-2002; Ord. No. 10-01, § 6, 1-14-2010)

Sec. 30-1403. - Existing outdoor plaza seating areas.

(a) Within 180 days of the effective date of this division, the owner of any outdoor plaza seating area that existed on January 25, 2001, shall apply for and obtain approval of the existing outdoor plaza seating area in conformance with the review procedures set forth in this division and this chapter. In the event the existing outdoor plaza seating area cannot be brought into compliance with the provisions of this division and chapter it shall be brought into compliance with the provisions of this division and this chapter to the maximum extent practicable. The director may waive in part the requirements of this division and the applicable provisions of this chapter, excluding lot coverage, open space and unaltered shoreline setback requirements, based on a written determination that the existing outdoor plaza seating area does not cause damage, hazard, nuisance or other detriment to persons or property.

(b) Within 180 days of the effective date of this division, all outdoor plaza seating areas that existed on January 25, 2001, and that are adjacent to existing residential uses or residential zoning districts shall install a Class D bufferyard around the outdoor plaza seating area to ensure compatibility with adjacent properties. For the purposes of this section only, the required bufferyard may be reduced 50 percent if the applicant installs a minimum four-foot solid fence on the perimeter of the outdoor plaza seating area. The director shall have the discretion to decide the configuration and placement of the required bufferyard. For the purposes of this subsection, "adjacent

residential uses or residential zoning districts" shall be considered all residentially used or zoned property that shares a common boundary line with the property subject to the application. If the property subject to the application is located on a canal or fronts on a public right-of-way, the common boundary shall be considered the midpoint of the canal or right-of-way.

(Ord. No. 02-01, § 2(6.8.3), 1-10-2002)

Secs. 30-1404—30-1430. - Reserved.

Section 3. **Transmittal.** The Village Clerk is authorized to forward a copy of this Ordinance to the State Department of Economic Opportunity (the "DEO") for approval pursuant to section 380.05, Florida Statutes.

Section 4. **Severability.** The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. **Effective Date.** This Ordinance shall not be effective immediately upon adoption. The Amendment shall not take effect until the date a final order is issued by the DEO. The DEO notice of intent to find the Amendment in compliance shall be deemed to be the final order if no timely petition challenging the Amendment is filed.

The foregoing Ordinance was offered by _____, who moved for its adoption on first reading. This motion was seconded by _____, and upon being put to a vote, the vote was as follows:

Mayor Joseph B. Pinder III	_____
Vice Mayor Sharon Mahoney	_____
Councilman Mark Gregg	_____
Councilman Henry Rosenthal	_____
Councilwoman Elizabeth Jolin	_____

PASSED on the first reading this ____ day of _____, 2023.

The foregoing Ordinance was offered by _____, who moved for its adoption on second reading. This motion was seconded by _____, and upon being put to a vote, the vote was as follows:

Mayor Joseph B. Pinder III	_____
Vice Mayor Sharon Mahoney	_____
Councilman Mark Gregg	_____
Councilman Henry Rosenthal	_____
Councilwoman Elizabeth Jolin	_____

PASSED AND ADOPTED on the second reading this ____ day of _____, 2023.

JOSEPH B. PINDER, MAYOR

ATTEST:

MARNE MCGRATH, VILLAGE CLERK

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

JOHN J. QUICK, INTERIM VILLAGE ATTORNEY



Council Communication

To: Mayor and Village Council
From: Daniel J. Gulizio, Director of Development Services
Date: May 18, 2023
SUBJECT: **Amendment to Tourist Commercial (TC) District to Incorporate Boat Dealerships as a Major Conditional Use - TAB 6**

Background:

The Tourist Commercial (TC) District establishes standards for “tourist lodging, tourist attractions, and supportive facilities pursuant to Village Code Sec. 30-693.

Permitted uses within the Tourist Commercial (TC) District include:

- (1) Single family dwelling units of 25 dwelling units or less, except the conversion of existing hotels or motels to single-family dwelling units is not permitted;
- (2) Deed restricted affordable housing dwelling units of 25 dwelling units or less, except the conversion of existing hotels or motels to dwelling units is not permitted;
- (3) Hotels and motels with 25 rooms or less;
- (4) Recreational equipment rental;
- (5) Restaurants less than 1,500 square feet;
- (6) Brewpubs less than 1,500 square feet; and
- (7) Accessory uses and structures, excluding guesthouses.(8)Outdoor storage and display areas on vacant lots fronting US1 pursuant to article VI, division 8 of this chapter.

The TC District also provides for a variety of Minor Conditional and Major Conditional Uses. Minor Conditional uses include:

- (1) Any permitted residential use, greater than 25 dwelling units, except that motels and hotels shall not be considered a residential use;
- (2) Bars, taverns and drinking places less than 5,000 square feet;
- (3) Brewpubs of 1,500 to 3,000 square feet;
- (4) Commercial recreational facility less than 5,000 square feet;
- (5) Community pier or public dock;
- (6) Docking facility;
- (7) Hotels or motels having more than 25 rooms and less than 50 rooms;
- (8) Infrastructure and municipal utility facilities;
- (9) Restaurants of 1,500 to 3,000 square feet; and(10)Attached wireless facility.

Major Conditional Uses within the TC District include:

- (1) Hotels or motels having 50 rooms or more;
- (2) Brewpubs of 3,001 to 5,000 square feet;
- (3) Commercial recreational uses of 5,000 square feet or greater;

- (4) Marina redevelopment;
- (5) Restaurants of 3,001 to 5,000 square feet;
- (6) Stealth wireless facility;
- (7) Outdoor storage and display areas on lots not fronting US1 pursuant to article VI, division 8 of this chapter; and
- (8) Any use listed above as a permitted or minor conditional use, or a major conditional use listed herein, provided that the use contains a drive-in or drive-through component.

The proposed amendment seeks to add “boat dealerships” as a Major Conditional Use within the TC District.

Analysis:

There are approximately nine (9) properties currently zoned Tourist Commercial (TC) District within the Village. These properties include a wide range of existing uses from residential (resorts), marinas, boat storage, service and display uses, to restaurants. In addition, a number of sites include boat sales in conjunction with existing marina uses.

Boat sales and service are common operations associated with marinas and boat storage sites throughout the Florida Keys. Chief Marine Group, adjacent to Snake Creek Bridge, currently operates a boat dealership and Caloosa Cove on Lower Matecumbe Key has, in the past, operated a boat dealership in conjunction with its marina business. However, the current TC District does not provide for the operation of a boat dealership as an as-of-right use or Conditional Use.

The proposed amendment would provide an opportunity for a property owner to operate a boat dealership within a TC District subject to the issuance a Major Conditional Use Permit. The establishment of a boat dealership via a Major Conditional Use Permit would ensure that potential impacts associated with the operation of the boat dealership could be properly addressed through the public hearing process before the Village Council. This will also ensure that adjacent and surrounding property owners have the ability to participate in the review process and to have their concerns addressed.

Major Conditional Uses are governed pursuant to Sec. 30-26 and Sec. 30-218 of the Village Code. The imposition of a Major Conditional Use Permit provides an abundance of protection against potential impacts associated with the operation of a boat dealership. In addition to the establishment of a quasi-judicial hearing, the following factors must be considered in conjunction with a Conditional Use:

- (1) The proposed conditional use is consistent with the purposes, goals, objectives and policies of the comprehensive plan, including standards for building and structural intensities and densities, and intensities of use;
- (2) The proposed conditional use complies with all relevant and appropriate portions of this chapter;
- (3) The proposed conditional use is compatible and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development;
- (4) The design of the proposed conditional use minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands;
- (5) The proposed conditional use complies with division 5 of this article (Concurrency Management);

- (6) The proposed conditional use minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands and the natural functioning of the environment; and
- (7) The proposed conditional use will result in logical, timely and orderly development patterns.

Finally, Sec. 30-216 (d) specifically states that “no conditional use shall be approved which fails to meet any standard below. Failure to comply with any standard shall be deemed adverse to the public interest.”

Based upon existing development patterns and the protections afforded by the Conditional Use provisions contained in the Village Code, the operation of a boat dealership within a Tourist Commercial (TC) would appear reasonable.

Budget Impact:

None

Staff Impact:

None

Recommendation:

Staff respectfully recommends approval of the proposed amendment.

- Attachments:**
1. ORDINANCE_Boat_Dealerships_04-05-2023
 2. ORDINANCE_Boat_Dealerships_04-05-2023

ORDINANCE NO.

**AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA,
AMENDING CHAPTER 30, TOURIST COMMERCIAL (TC) DISTRICT
TO ALLOW BOAT DEALERSHIPS AS A MAJOR CONDITIONAL USE;
PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND
ORDINANCES INCONSISTENT WITH THIS ORDINANCE; PROVIDING
FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE;
PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE
FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY; AND
PROVIDING FOR AN EFFECTIVE DATE UPON APPROVAL OF THIS
ORDINANCE BY THE FLORIDA DEPARTMENT OF ECONOMIC
OPPORTUNITY.**

WHEREAS, Islamorada, Village of Islands has established Land Development Regulations to properly guide development and protect the health, safety, and welfare of the public; and

WHEREAS, the proper and reasonable regulation of development patterns, including those within the Tourist Commercial (TC) Zoning District is consistent with the goal of protecting public health, safety, and welfare; and

WHEREAS, current regulations do not permit the operation of boat dealerships within the Tourist Commercial (TC) Zoning District; and

WHEREAS, the inclusion of boat dealerships as a Major Conditional Use within the Tourist Commercial (TC) Zoning District is a proper and reasonable regulatory approach and is consistent with historic and current development patterns within the Tourist Commercial (TC) Zoning District; and

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

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

Section 2. Chapter 30, is hereby modified as follows:

Additional text is shown as <u>underlined</u> ;	deleted text is shown as strikethrough
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Sec. 30-693. - Tourist commercial (TC) zoning district.

(a) *Purpose and intent.*

- (1) The purpose of the tourist commercial (TC) zoning district is to accommodate existing tourist lodging, tourist attractions and supportive facilities.
- (2) This zoning district is established within the Mixed Use (MU) FLUM category.

(b) *Permitted uses.* The following uses are permitted uses if they do not contain a drive-in or drive-through component.

- (1) Single family dwelling units of 25 dwelling units or less, except the conversion of existing hotels or motels to single-family dwelling units is not permitted;
- (2) Deed restricted affordable housing dwelling units of 25 dwelling units or less, except the conversion of existing hotels or motels to dwelling units is not permitted;
- (3) Hotels and motels with 25 rooms or less;
- (4) Recreational equipment rental;
- (5) Restaurants less than 1,500 square feet;
- (6) Brewpubs less than 1,500 square feet; and
- (7) Accessory uses and structures, excluding guesthouses.
- ~~(8) Outdoor storage and display areas on vacant lots fronting US1 pursuant to article VI, division 8 of this chapter.~~

(c) *Uses reviewed as a minor conditional use.* The following uses are reviewed as minor conditional uses provided that they do not contain a drive-in or drive-through component.

- (1) Any permitted residential use, greater than 25 dwelling units, except that motels and hotels shall not be considered a residential use;
- (2) Bars, taverns and drinking places less than 5,000 square feet;
- (3) Brewpubs of 1,500 to 3,000 square feet;
- (4) Commercial recreational facility less than 5,000 square feet;
- (5) Community pier or public dock;
- (6) Docking facility;
- (7) Hotels or motels having more than 25 rooms and less than 50 rooms;
- (8) Infrastructure and municipal utility facilities;
- (9) Restaurants of 1,500 to 3,000 square feet; and
- (10) Attached wireless facility.
- (11) Outdoor storage and display areas on lots fronting US1 pursuant to article VI, division 8 of this chapter, as an accessory use to a permitted principal use.

(d) *Uses reviewed as a major conditional use.*

- (1) Hotels or motels having 50 rooms or more;
- (2) Brewpubs of 3,001 to 5,000 square feet;
- (3) Commercial recreational uses of 5,000 square feet or greater;
- (4) Marina redevelopment;
- (5) Restaurants of 3,001 to 5,000 square feet;
- (6) Stealth wireless facility;

- (7) Outdoor storage and display areas on lots not fronting US1 pursuant to article VI, division 8 of this chapter, as an accessory use to a permitted principal use; ~~and~~
- (8) Boat Dealership as an accessory use to a marina.
- (9) Any use listed above as a permitted or minor conditional use, or a major conditional use listed herein, provided that the use contains a drive-in or drive-through component.

Secs. 30-1404—30-1430. - Reserved.

Section 3. **Transmittal.** Pursuant to Sections 163.3184, Florida Statutes, the Village Clerk is authorized to forward a copy of this Ordinance to the State Department of Economic Opportunity (the “DEO”).

Section 4. **Severability.** The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. **Effective Date.** This Ordinance shall not become effective until a Notice of Intent has been issued by DEO finding the Comprehensive Plan Amendment to be in compliance as defined in Section 163.3184(1)(b), Florida Statutes. If timely challenged, the Comprehensive Plan Amendment shall not become effective until DEO or the Administration Commission enters a final order determining the adopted Comprehensive Plan Amendments to be in compliance.

The foregoing Ordinance was offered by _____, who moved for its adoption on first reading. This motion was seconded by _____, and upon being put to a vote, the vote was as follows:

Mayor Joseph B. Pinder III	_____
Vice Mayor Sharon Mahoney	_____
Councilman Mark Gregg	_____
Councilman Henry Rosenthal	_____
Councilwoman Elizabeth Jolin	_____

PASSED on the first reading this ___day of_____, 2023.

The foregoing Ordinance was offered by _____, who moved for its adoption on second reading. This motion was seconded by _____, and upon being put to a vote, the vote was as follows:

Mayor Joseph B. Pinder III	_____
Vice Mayor Sharon Mahoney	_____
Councilman Mark Gregg	_____
Councilman Henry Rosenthal	_____
Councilwoman Elizabeth Jolin	_____

PASSED AND ADOPTED on the second reading this ____ day of _____, 2023.

JOSEPH B. PINDER, MAYOR

ATTEST:

MARNE MCGRATH, VILLAGE CLERK

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

JOHN J. QUICK, INTERIM VILLAGE ATTORNEY

ORDINANCE NO.

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING CHAPTER 30, TOURIST COMMERCIAL (TC) DISTRICT TO ALLOW BOAT DEALERSHIPS AS A MAJOR CONDITIONAL USE; PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING FOR AN EFFECTIVE DATE UPON APPROVAL OF THIS ORDINANCE BY THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY.

WHEREAS, Islamorada, Village of Islands has established Land Development Regulations to properly guide development and protect the health, safety, and welfare of the public; and

WHEREAS, the proper and reasonable regulation of development patterns, including those within the Tourist Commercial (TC) Zoning District is consistent with the goal of protecting public health, safety, and welfare; and

WHEREAS, current regulations do not permit the operation of boat dealerships within the Tourist Commercial (TC) Zoning District; and

WHEREAS, the inclusion of boat dealerships as a Major Conditional Use within the Tourist Commercial (TC) Zoning District is a proper and reasonable regulatory approach and is consistent with historic and current development patterns within the Tourist Commercial (TC) Zoning District; and

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

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

Section 2. Chapter 30, is hereby modified as follows:

Additional text is shown as <u>underlined</u> ;	deleted text is shown as strikethrough
---	---

Sec. 30-693. - Tourist commercial (TC) zoning district.

(a) *Purpose and intent.*

- (1) The purpose of the tourist commercial (TC) zoning district is to accommodate existing tourist lodging, tourist attractions and supportive facilities.
- (2) This zoning district is established within the Mixed Use (MU) FLUM category.

(b) *Permitted uses.* The following uses are permitted uses if they do not contain a drive-in or drive-through component.

- (1) Single family dwelling units of 25 dwelling units or less, except the conversion of existing hotels or motels to single-family dwelling units is not permitted;
- (2) Deed restricted affordable housing dwelling units of 25 dwelling units or less, except the conversion of existing hotels or motels to dwelling units is not permitted;
- (3) Hotels and motels with 25 rooms or less;
- (4) Recreational equipment rental;
- (5) Restaurants less than 1,500 square feet;
- (6) Brewpubs less than 1,500 square feet; and
- (7) Accessory uses and structures, excluding guesthouses.
- ~~(8) Outdoor storage and display areas on vacant lots fronting US1 pursuant to article VI, division 8 of this chapter.~~

(c) *Uses reviewed as a minor conditional use.* The following uses are reviewed as minor conditional uses provided that they do not contain a drive-in or drive-through component.

- (1) Any permitted residential use, greater than 25 dwelling units, except that motels and hotels shall not be considered a residential use;
- (2) Bars, taverns and drinking places less than 5,000 square feet;
- (3) Brewpubs of 1,500 to 3,000 square feet;
- (4) Commercial recreational facility less than 5,000 square feet;
- (5) Community pier or public dock;
- (6) Docking facility;
- (7) Hotels or motels having more than 25 rooms and less than 50 rooms;
- (8) Infrastructure and municipal utility facilities;
- (9) Restaurants of 1,500 to 3,000 square feet; and
- (10) Attached wireless facility.
- (11) Outdoor storage and display areas on lots fronting US1 pursuant to article VI, division 8 of this chapter, as an accessory use to a permitted principal use.

(d) *Uses reviewed as a major conditional use.*

- (1) Hotels or motels having 50 rooms or more;
- (2) Brewpubs of 3,001 to 5,000 square feet;
- (3) Commercial recreational uses of 5,000 square feet or greater;
- (4) Marina redevelopment;
- (5) Restaurants of 3,001 to 5,000 square feet;
- (6) Stealth wireless facility;

- (7) Outdoor storage and display areas on lots not fronting US1 pursuant to article VI, division 8 of this chapter, as an accessory use to a permitted principal use; ~~and~~
- (8) Boat Dealership as an accessory use to a marina.
- (9) Any use listed above as a permitted or minor conditional use, or a major conditional use listed herein, provided that the use contains a drive-in or drive-through component.

Secs. 30-1404—30-1430. - Reserved.

Section 3. **Transmittal.** Pursuant to Sections 163.3184, Florida Statutes, the Village Clerk is authorized to forward a copy of this Ordinance to the State Department of Economic Opportunity (the “DEO”).

Section 4. **Severability.** The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. **Effective Date.** This Ordinance shall not become effective until a Notice of Intent has been issued by DEO finding the Comprehensive Plan Amendment to be in compliance as defined in Section 163.3184(1)(b), Florida Statutes. If timely challenged, the Comprehensive Plan Amendment shall not become effective until DEO or the Administration Commission enters a final order determining the adopted Comprehensive Plan Amendments to be in compliance.

The foregoing Ordinance was offered by _____, who moved for its adoption on first reading. This motion was seconded by _____, and upon being put to a vote, the vote was as follows:

Mayor Joseph B. Pinder III	_____
Vice Mayor Sharon Mahoney	_____
Councilman Mark Gregg	_____
Councilman Henry Rosenthal	_____
Councilwoman Elizabeth Jolin	_____

PASSED on the first reading this ___day of_____, 2023.

The foregoing Ordinance was offered by _____, who moved for its adoption on second reading. This motion was seconded by _____, and upon being put to a vote, the vote was as follows:

Mayor Joseph B. Pinder III	_____
Vice Mayor Sharon Mahoney	_____
Councilman Mark Gregg	_____
Councilman Henry Rosenthal	_____
Councilwoman Elizabeth Jolin	_____

PASSED AND ADOPTED on the second reading this ____ day of _____, 2023.

JOSEPH B. PINDER, MAYOR

ATTEST:

MARNE MCGRATH, VILLAGE CLERK

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

JOHN J. QUICK, INTERIM VILLAGE ATTORNEY



Council Communication

To: Mayor and Village Council
From: Daniel J. Gulizio, Director of Development Services
Date: May 18, 2023
SUBJECT: **Amendment of the Village Code to Standardize Notice Provisions for the Development Review Process - TAB 7**

Background:

Public Hearings and Notice provisions are contained within Sec. 30-213 and Sec. 30-255 of the Village Code. There are three (3) basic types of notice provisions including (1) Posting of the property with signage, (2) Publication, and (3) Mail Notifications. The current code has different time periods and varying requirements depending on the application type. In addition, the responsibility for providing proper notice rests with the Village, not the applicant.

The proposed amendments seek to standardize the notice provisions across all application types. In addition, they seek to shift the responsibility of providing proper notice from the Village to the applicant, consistent with most municipal practices.

Analysis:

There are three (3) basic types of Notice provisions contained within the Village Council. This includes (1) Publication in a local newspaper, (2) Posting the subject property with on-site signage, and (3) Direct mailing to adjacent or nearby property owners.

However, the current code applies different notice requirements across the spectrum of application types. As a result, certain applications require all three types of notice, while other application types require one or two of the notice provisions. In addition, there are three separate standards for direct mailings, ranging from notification to adjacent property owners, to owners within 300 feet, to owners within 500 feet.

Finally, Sec. 30-255 of the Village Code establishes a requirement that staff provide the applicant and the Village Council with a copy of the Council Communication (staff report) at least 12 working days prior to the public hearing for the item. It is noted that this provision has only been enforced recently and is limited to quasijudicial items. It is further noted that this provision does not include notice to community members.

In all these cases, the Village bears the responsibility of ensuring that proper notice is provided. This is contrary to most municipal practices which (1) standardize notice provisions across all application types and (2) place the responsibility of providing notice on the applicant.

The proposed amendments standardize notice provisions across all application types and include all three (3) basic forms of notice, regardless of application type. Secondly, the

amendments place the responsibility on providing notice on the applicant, consistent with most municipal practices. Finally, the amendments modify the notice provisions for quasijudicial items to include the provision of the Council Communication to the applicant, Village Council, and the public. It also reduces the time to provide the Council Communication from 12 working days to ten calendar days.

The above amendments will help to clarify the notice provisions for applicants, staff, and community members, eliminating confusion and ensuring a more timely and predictable hearing process.

Budget Impact:

None

Staff Impact:

None

Recommendation:

Staff respectfully recommends adoption of the proposed amendment.

Attachments: 1. ORDINANCE_Public_Notice_01-19-2023
 2. ORDINANCE_Public_Notice_01-19-2023

ORDINANCE NO. 23-

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING CHAPTER 30, ARTICLE IV, DIVISION 2 – DEVELOPMENT REVIEW PROCESS BY STANDARDIZING PUBLIC NOTICE PROVISIONS; PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING FOR AN EFFECTIVE DATE UPON APPROVAL OF THIS ORDINANCE BY THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY.

WHEREAS, Islamorada, Village of Islands has established Land Development Regulations to properly guide development and protect the health, safety, and welfare of the public; and

WHEREAS, as a part of the development review process the Village has established Public Notice provisions associated with various application types; and

WHEREAS, current Public Notice provisions include contrasting and confusing notice provisions for individual application types; and

WHEREAS, the standardization of Public Notice requirements for all application types would provide a clear and understandable set of standards for applicants and members of the community; and

WHEREAS, clear and understandable Public Notice provisions would facilitate increased public participation in the review process and establish a regulatory process that is open, transparent, and inclusive consistent with sound planning practice.

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

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

Section 2. Chapter 30, is hereby modified as follows:

Additional text is shown as <u>underlined</u> ;	deleted text is shown as strikethrough
---	---

Sec. 30-213. Public hearing and notice.

- (a) When an application for development permit is subject to a public hearing, the director of planning and development services shall ensure that the necessary public hearing is scheduled for the decision-making or advisory body reviewing the application and that, except as provided herein, proper notice of the public hearing is provided as set forth herein. All notices for public hearings shall include the following information:
- (1) Identify the applicant, if other than the village.
 - (2) Indicate the date, time, and place of the public hearing.
 - (3) Describe the property involved by street address or by legal description, and area of the subject property. A map may be substituted for the legal description or as required by state law.
 - (4) Identify the current zoning district designation of the property subject to the application.
 - (5) Describe the nature, scope and purpose of the application proposal being noticed.
 - (6) Identify the village departments where the public may inspect the application, staff report and related materials during normal business hours.
 - (7) Include a statement that affected parties may appear at the public hearing, be heard and submit evidence with respect to the application.

- (b) When the provisions of this chapter require that mailed notice be provided, the applicant shall be responsible for ~~for the cost of village staff~~ preparing the written notice and for mailing the notice. Notice shall be deemed mailed by its deposit in the United States mail, certified/return receipt required, properly addressed, ~~and postage paid~~ and postmarked at least 15 days prior to the public hearing date or upon issuance of the Notice of Intent (NOI). No action taken by the village shall be voided by the failure of any individual property owner to receive such notice.
- (c) When the provisions of this chapter require that notice be published, the applicant shall be responsible for ~~the cost of village staff~~ preparing the content of the notice and publishing the notice in the non-legal section of the local newspaper of general circulation that has been selected by the village. This notice shall be published at least 15 days before the required public hearing or upon issuance of the NOI.
- (d) When the provisions of this chapter require that notice be posted on the property subject to the application, the ~~director of planning and development services~~ Applicant or Representative shall:
- (1) Place the signs on the property that is the subject of the application for at least 15 days prior to a required or requested hearing or upon issuance of the NOI.
 - (2) Place the signs along each street that is adjacent to or runs through the subject property at intervals of not more than 200 feet in a manner that makes them clearly visible to adjacent residents and passersby.
 - (3) Place the signs no more than 25 feet from the street so that the lettering is visible from the street. Where the land does not have frontage on a street, signs shall be erected on the nearest street, with an attached notation indicating generally the direction and distance to the property subject to the application.
- (e) An affidavit and photographic evidence shall be provided by the Applicant or Representative before the public hearing or prior to the issuance of a Notice of Approval (NOA) demonstrating compliance with the applicable notice requirements set forth in this section. Failure to comply with the applicable notice requirements shall result in the postponement

and re-noticing of the public hearing or a restart of the appeal period. All costs of re-noticing the public hearing shall be borne by the party ~~failing to comply with the applicable notice requirements~~ Applicant or Representative.

(f) Notice for public hearings on applications for comprehensive plan text or map amendments shall be noticed as follows:

(1) Text or map amendments initiated by the village shall be noticed by publication in accordance with the provisions of F.S. § 163.3184.

(2) Text or map amendments initiated by a property owner or governmental agency other than the village shall be noticed by publication in accordance with the provisions of F.S. § 163.3184, and by posting of the property subject to the application at least 15 day prior to the public hearing.

(g) Notice for public hearings on applications for amendments to this chapter and the official zoning map shall be noticed as follows:

(1) Text or map amendments initiated by the village shall be noticed by publication in accordance with the provisions of F.S. § 166.041.

(2) Text or map amendments initiated by a property owner or governmental agency other than the village shall be noticed by publication in accordance with the provisions of F.S. § 166.041, and by posting of the property subject to the application at least 15 day prior to the public hearing.

(h) Notice of intent to issue and public hearings on applications for development permit approvals including, but not limited to, certificates of compliance, minor and major conditional uses, administrative appeals, variances, administrative variances, alcohol beverage use permits, development status reports and site plans shall be noticed as follows:

~~(1) Posting of the property subject to the application.~~

~~(2) Mailed notice to the adjacent property owners. For the purpose of this subsection, "adjacent property owners" shall be considered all property owners, including any residents of the property subject to the application, that share a common boundary line~~

~~with the property subject to the application. If the property subject to the application is located on a canal or fronts on a public right-of-way, the common boundary shall be considered the midpoint of the canal or right-of-way. The property owners required to be provided notice by this subsection shall be determined with a copy of the most up-to-date version of the county tax roll.~~

~~(i) Notice of public hearings on applications for major conditional use approvals shall be noticed as follows:~~

- ~~(1) Posting of the property subject to the application.~~
- ~~(2) Mailed notice to all property owners, including any residents of the property subject to the application, located within 300 feet of the property subject to the application postmarked at least 15 days prior to the public hearing or upon issuance of the NOI. The property owners required to be provided notice by this subsection shall be determined with a copy of the most up-to-date version of the county tax roll.~~
- ~~(3) By publication.~~

~~(j) Notice for public hearings on applications for administrative appeals, development permit status reports or variances shall be noticed as follows:~~

- ~~(1) Posting of the property subject to the application.~~
- ~~(2) Mailed notice to all property owners, including any residents of the property subject to the application, located within 300 feet of the property subject to the application. The real property owners required to be provided notice by this subsection shall be determined with a copy of the most up-to-date version of the county tax roll.~~

~~(k) Notice of intent to issue and public hearings on applications for administrative variances shall be noticed as follows:~~

- ~~(1) Posting of the property subject to the application.~~
- ~~(2) Mailed notice to the adjacent property owners. For the purpose of this subsection "adjacent property owners" shall be considered all property owners, including any residents of the property subject to the application, that share a common boundary line~~

with the property subject to the application. If the property subject to the application is located on a canal or fronts on a public right-of-way, the common boundary shall be considered the midpoint of the canal or right-of-way. The property owners required to be provided notice by this subsection shall be determined with a certified copy of the most up-to-date version of the county tax roll.

(l) — Notice of public hearings on applications for alcohol beverage use permits shall be noticed as follows:

(1) — Posting of the property subject to the application.

(2) — Mailed notice to all property owners, including any residents of the property subject to the application, located within 500 feet of the property subject to the application. The real property owners required to be provided notice by this subsection shall be determined with a copy of the most up-to-date version of the county tax roll.

(3) — By publication.

NOTICE REQUIREMENTS

Permit	Notice Section	Posted	Published	Mailed
Certificate of compliance	30-213(h)	15 days after NOI or — prior — to hearing Upon issuance of the NOI	No 15 days prior to public hearing	Adjacent owners Owners within 300 feet
Site plan	30-213(h)	15 days after NOI or — prior — to hearing Upon issuance of the NOI	No 15 days prior to public hearing	Adjacent owners Owners within 300 feet

Administrative variance	30-213(k)	15 days after NOI or — prior — to hearing <u>Upon</u> <u>issuance of the</u> <u>NOI</u>	No <u>15 days prior</u> <u>to public hearing</u>	Adjacent owners <u>Owners within</u> <u>300 feet</u>
Minor conditional	30-213(h)	15 days after NOI or — prior — to hearing <u>Upon</u> <u>issuance of the</u> <u>NOI</u>	No <u>15 days prior</u> <u>to public hearing</u>	Adjacent owners <u>Owners within</u> <u>300 feet</u>
Major conditional	30-213(i)	15 days after NOI or prior to hearing	15 days prior to public hearing	Owners within 300 feet
Administrative appeal	30-213(j)	15 days after NOI or prior to hearing	No <u>15 days prior</u> <u>to public hearing</u>	Owners within 300 feet
Variance	30-213(j)	15 days after NOI or prior to hearing	No <u>15 days prior</u> <u>to public hearing</u>	Owners within 300 feet
Comprehensive plan—Village	30-213(f)(1)	No	F.S. § 163.3184	
Comprehensive plan—Owner	30-213(f)(2)	15 days <u>prior to</u> <u>public hearing</u>	F.S. § 163.3184	
Zoning map and text—Village	30-213(g)(1)	No	F.S. § 166.041	
Zoning map and text—Owner	30-213(g)(2)	15 days <u>prior to</u> <u>public hearing</u>	F.S. § 166.041	

Development permit status report	30-213(j)	15 days prior to public hearing	<u>15 days prior to public hearing</u>	Owners within 300 feet
Alcohol beverage use permit	30-213(l)	15 days prior to public hearing	15 days prior to public hearing	Owners within <u>500-300</u> feet

Sec. 30-255. - General procedures.

(a) Witnesses and evidence. Each party shall have the right to call and examine witnesses, to introduce exhibits, to cross examine opposing witnesses on any relevant matter (subject to the rules contained herein), and to rebut evidence.

(b) Duties of village staff. Staff shall have the responsibility of presenting the case on behalf of the village. The staff report on the application shall be posted on the Village website at least ten (10) made available to the applicant and the council at least 12 working days prior to the quasi-judicial hearing on the application.

(c) Official file. All written communication received by councilmembers or staff concerning an application, the staff report on the application, any petitions or other submissions from the public, and all other documents pertaining to the application upon receipt shall be filed in the official file for the application, which shall be maintained by staff. The comprehensive plan and the village Code shall be deemed to be part of the official file. The official file shall be available for inspection during normal business hours.

(d) Agenda. The printed agenda for the meeting at which the quasi-judicial hearing is scheduled to take place shall briefly explain the procedures and nature of the quasi-judicial hearing.

Secs. 30-1404—30-1430. - Reserved.

Section 3. **Transmittal.** The Village Clerk is authorized to forward a copy of this Ordinance to the State Department of Economic Opportunity (the "DEO") for approval pursuant to section 380.05, Florida Statutes.

Section 4. **Severability.** The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. **Effective Date.** This Ordinance shall not be effective immediately upon adoption. The Amendment shall not take effect until the date a final order is issued by the DEO. The DEO notice of intent to find the Amendment in compliance shall be deemed to be the final order if no timely petition challenging the Amendment is filed.

The foregoing Ordinance was offered by _____, who moved for its adoption on first reading.

This motion was seconded by _____, and upon being put to a vote, the vote was as follows:

Mayor Joseph B. Pinder III	_____
Vice Mayor Sharon Mahoney	_____
Councilman Mark Gregg	_____
Councilman Henry Rosenthal	_____
Councilwoman Elizabeth Jolin	_____

PASSED on the first reading this ____ day of _____, 2023.

The foregoing Ordinance was offered by _____, who moved for its adoption on second reading. This motion was seconded by _____, and upon being put to a vote, the vote was as follows:

Mayor Joseph B. Pinder III	_____
Vice Mayor Sharon Mahoney	_____
Councilman Mark Gregg	_____
Councilman Henry Rosenthal	_____
Councilwoman Elizabeth Jolin	_____

PASSED AND ADOPTED on the second reading this ____ day of _____, 2023.

JOSEPH B. PINDER, MAYOR

ATTEST:

MARNE MCGRATH, VILLAGE CLERK

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

JOHN J. QUICK, INTERIM VILLAGE ATTORNEY

ORDINANCE NO. 23-

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING CHAPTER 30, ARTICLE IV, DIVISION 2 – DEVELOPMENT REVIEW PROCESS BY STANDARDIZING PUBLIC NOTICE PROVISIONS; PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING FOR AN EFFECTIVE DATE UPON APPROVAL OF THIS ORDINANCE BY THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY.

WHEREAS, Islamorada, Village of Islands has established Land Development Regulations to properly guide development and protect the health, safety, and welfare of the public; and

WHEREAS, as a part of the development review process the Village has established Public Notice provisions associated with various application types; and

WHEREAS, current Public Notice provisions include contrasting and confusing notice provisions for individual application types; and

WHEREAS, the standardization of Public Notice requirements for all application types would provide a clear and understandable set of standards for applicants and members of the community; and

WHEREAS, clear and understandable Public Notice provisions would facilitate increased public participation in the review process and establish a regulatory process that is open, transparent, and inclusive consistent with sound planning practice.

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

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

Section 2. Chapter 30, is hereby modified as follows:

Additional text is shown as <u>underlined</u> ;	deleted text is shown as strikethrough
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Sec. 30-213. Public hearing and notice.

- (a) When an application for development permit is subject to a public hearing, the director of planning and development services shall ensure that the necessary public hearing is scheduled for the decision-making or advisory body reviewing the application and that, except as provided herein, proper notice of the public hearing is provided as set forth herein. All notices for public hearings shall include the following information:
- (1) Identify the applicant, if other than the village.
 - (2) Indicate the date, time, and place of the public hearing.
 - (3) Describe the property involved by street address or by legal description, and area of the subject property. A map may be substituted for the legal description or as required by state law.
 - (4) Identify the current zoning district designation of the property subject to the application.
 - (5) Describe the nature, scope and purpose of the application proposal being noticed.
 - (6) Identify the village departments where the public may inspect the application, staff report and related materials during normal business hours.
 - (7) Include a statement that affected parties may appear at the public hearing, be heard and submit evidence with respect to the application.

- (b) When the provisions of this chapter require that mailed notice be provided, the applicant shall be responsible for ~~for the cost of village staff~~ preparing the written notice and for mailing the notice. Notice shall be deemed mailed by its deposit in the United States mail, certified/return receipt required, properly addressed, ~~and postage paid~~ and postmarked at least 15 days prior to the public hearing date or upon issuance of the Notice of Intent (NOI). No action taken by the village shall be voided by the failure of any individual property owner to receive such notice.
- (c) When the provisions of this chapter require that notice be published, the applicant shall be responsible for ~~the cost of village staff~~ preparing the content of the notice and publishing the notice in the non-legal section of the local newspaper of general circulation that has been selected by the village. This notice shall be published at least 15 days before the required public hearing or upon issuance of the NOI.
- (d) When the provisions of this chapter require that notice be posted on the property subject to the application, the ~~director of planning and development services~~ Applicant or Representative shall:
- (1) Place the signs on the property that is the subject of the application for at least 15 days prior to a required or requested hearing or upon issuance of the NOI.
 - (2) Place the signs along each street that is adjacent to or runs through the subject property at intervals of not more than 200 feet in a manner that makes them clearly visible to adjacent residents and passersby.
 - (3) Place the signs no more than 25 feet from the street so that the lettering is visible from the street. Where the land does not have frontage on a street, signs shall be erected on the nearest street, with an attached notation indicating generally the direction and distance to the property subject to the application.
- (e) An affidavit and photographic evidence shall be provided by the Applicant or Representative before the public hearing or prior to the issuance of a Notice of Approval (NOA) demonstrating compliance with the applicable notice requirements set forth in this section. Failure to comply with the applicable notice requirements shall result in the postponement

and re-noticing of the public hearing or a restart of the appeal period. All costs of re-noticing the public hearing shall be borne by the party ~~failing to comply with the applicable notice requirements~~ Applicant or Representative.

(f) Notice for public hearings on applications for comprehensive plan text or map amendments shall be noticed as follows:

(1) Text or map amendments initiated by the village shall be noticed by publication in accordance with the provisions of F.S. § 163.3184.

(2) Text or map amendments initiated by a property owner or governmental agency other than the village shall be noticed by publication in accordance with the provisions of F.S. § 163.3184, and by posting of the property subject to the application at least 15 day prior to the public hearing.

(g) Notice for public hearings on applications for amendments to this chapter and the official zoning map shall be noticed as follows:

(1) Text or map amendments initiated by the village shall be noticed by publication in accordance with the provisions of F.S. § 166.041.

(2) Text or map amendments initiated by a property owner or governmental agency other than the village shall be noticed by publication in accordance with the provisions of F.S. § 166.041, and by posting of the property subject to the application at least 15 day prior to the public hearing.

(h) Notice of intent to issue and public hearings on applications for development permit approvals including, but not limited to, certificates of compliance, minor and major conditional uses, administrative appeals, variances, administrative variances, alcohol beverage use permits, development status reports and site plans shall be noticed as follows:

~~(1) Posting of the property subject to the application.~~

~~(2) Mailed notice to the adjacent property owners. For the purpose of this subsection, "adjacent property owners" shall be considered all property owners, including any residents of the property subject to the application, that share a common boundary line~~

~~with the property subject to the application. If the property subject to the application is located on a canal or fronts on a public right-of-way, the common boundary shall be considered the midpoint of the canal or right-of-way. The property owners required to be provided notice by this subsection shall be determined with a copy of the most up-to-date version of the county tax roll.~~

~~(i) Notice of public hearings on applications for major conditional use approvals shall be noticed as follows:~~

- ~~(1) Posting of the property subject to the application.~~
- ~~(2) Mailed notice to all property owners, including any residents of the property subject to the application, located within 300 feet of the property subject to the application postmarked at least 15 days prior to the public hearing or upon issuance of the NOI. The property owners required to be provided notice by this subsection shall be determined with a copy of the most up-to-date version of the county tax roll.~~
- ~~(3) By publication.~~

~~(j) Notice for public hearings on applications for administrative appeals, development permit status reports or variances shall be noticed as follows:~~

- ~~(1) Posting of the property subject to the application.~~
- ~~(2) Mailed notice to all property owners, including any residents of the property subject to the application, located within 300 feet of the property subject to the application. The real property owners required to be provided notice by this subsection shall be determined with a copy of the most up-to-date version of the county tax roll.~~

~~(k) Notice of intent to issue and public hearings on applications for administrative variances shall be noticed as follows:~~

- ~~(1) Posting of the property subject to the application.~~
- ~~(2) Mailed notice to the adjacent property owners. For the purpose of this subsection "adjacent property owners" shall be considered all property owners, including any residents of the property subject to the application, that share a common boundary line~~

~~with the property subject to the application. If the property subject to the application is located on a canal or fronts on a public right-of-way, the common boundary shall be considered the midpoint of the canal or right-of-way. The property owners required to be provided notice by this subsection shall be determined with a certified copy of the most up-to-date version of the county tax roll.~~

~~(l) Notice of public hearings on applications for alcohol beverage use permits shall be noticed as follows:~~

~~(1) Posting of the property subject to the application.~~

~~(2) Mailed notice to all property owners, including any residents of the property subject to the application, located within 500 feet of the property subject to the application. The real property owners required to be provided notice by this subsection shall be determined with a copy of the most up-to-date version of the county tax roll.~~

~~(3) By publication.~~

NOTICE REQUIREMENTS

Permit	Notice Section	Posted	Published	Mailed
Certificate of compliance	30-213(h)	15 days after NOI or prior to hearing Upon issuance of the NOI	No 15 days prior to public hearing	Adjacent owners Owners within 300 feet
Site plan	30-213(h)	15 days after NOI or prior to hearing Upon issuance of the NOI	No 15 days prior to public hearing	Adjacent owners Owners within 300 feet

Administrative variance	30-213(k)	15 days after NOI or prior to hearing <u>Upon</u> <u>issuance of the</u> <u>NOI</u>	No 15 days prior <u>to public hearing</u>	Adjacent owners <u>Owners within</u> <u>300 feet</u>
Minor conditional	30-213(h)	15 days after NOI or prior to hearing <u>Upon</u> <u>issuance of the</u> <u>NOI</u>	No 15 days prior <u>to public hearing</u>	Adjacent owners <u>Owners within</u> <u>300 feet</u>
Major conditional	30-213(i)	15 days after NOI or prior to hearing	15 days prior to public hearing	Owners within 300 feet
Administrative appeal	30-213(j)	15 days after NOI or prior to hearing	No 15 days prior <u>to public hearing</u>	Owners within 300 feet
Variance	30-213(j)	15 days after NOI or prior to hearing	No 15 days prior <u>to public hearing</u>	Owners within 300 feet
Comprehensive plan—Village	30-213(f)(1)	No	F.S. § 163.3184	
Comprehensive plan—Owner	30-213(f)(2)	15 days <u>prior to</u> <u>public hearing</u>	F.S. § 163.3184	
Zoning map and text—Village	30-213(g)(1)	No	F.S. § 166.041	
Zoning map and text—Owner	30-213(g)(2)	15 days <u>prior to</u> <u>public hearing</u>	F.S. § 166.041	

Development permit status report	30-213(j)	15 days prior to public hearing	<u>15 days prior to public hearing</u>	Owners within 300 feet
Alcohol beverage use permit	30-213(l)	15 days prior to public hearing	15 days prior to public hearing	Owners within 500 <u>300</u> feet

Sec. 30-255. - General procedures.

(a) Witnesses and evidence. Each party shall have the right to call and examine witnesses, to introduce exhibits, to cross examine opposing witnesses on any relevant matter (subject to the rules contained herein), and to rebut evidence.

(b) Duties of village staff. Staff shall have the responsibility of presenting the case on behalf of the village. The staff report on the application shall be posted on the Village website at least ten (10) made available to the applicant and the council at least 12 working days prior to the quasi-judicial hearing on the application.

(c) Official file. All written communication received by councilmembers or staff concerning an application, the staff report on the application, any petitions or other submissions from the public, and all other documents pertaining to the application upon receipt shall be filed in the official file for the application, which shall be maintained by staff. The comprehensive plan and the village Code shall be deemed to be part of the official file. The official file shall be available for inspection during normal business hours.

(d) Agenda. The printed agenda for the meeting at which the quasi-judicial hearing is scheduled to take place shall briefly explain the procedures and nature of the quasi-judicial hearing.

Secs. 30-1404—30-1430. - Reserved.

Section 3. **Transmittal.** The Village Clerk is authorized to forward a copy of this Ordinance to the State Department of Economic Opportunity (the "DEO") for approval pursuant to section 380.05, Florida Statutes.

Section 4. **Severability.** The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. **Effective Date.** This Ordinance shall not be effective immediately upon adoption. The Amendment shall not take effect until the date a final order is issued by the DEO. The DEO notice of intent to find the Amendment in compliance shall be deemed to be the final order if no timely petition challenging the Amendment is filed.

The foregoing Ordinance was offered by _____, who moved for its adoption on first reading.

This motion was seconded by _____, and upon being put to a vote, the vote was as follows:

Mayor Joseph B. Pinder III	_____
Vice Mayor Sharon Mahoney	_____
Councilman Mark Gregg	_____
Councilman Henry Rosenthal	_____
Councilwoman Elizabeth Jolin	_____

PASSED on the first reading this ____ day of _____, 2023.

The foregoing Ordinance was offered by _____, who moved for its adoption on second reading. This motion was seconded by _____, and upon being put to a vote, the vote was as follows:

Mayor Joseph B. Pinder III	_____
Vice Mayor Sharon Mahoney	_____
Councilman Mark Gregg	_____
Councilman Henry Rosenthal	_____
Councilwoman Elizabeth Jolin	_____

PASSED AND ADOPTED on the second reading this ____ day of _____, 2023.

JOSEPH B. PINDER, MAYOR

ATTEST:

MARNE MCGRATH, VILLAGE CLERK

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

JOHN J. QUICK, INTERIM VILLAGE ATTORNEY