

After recording return to:
Craig Southern, Sr. Planner
Planning and Development Services Dept.
Islamorada, Village of Islands
86800 Overseas Hwy
Islamorada FL 33036

RESOLUTION NO. 19-07-51
(MAJOR CONDITIONAL USE PLCUP20170405)

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, CONSIDERING THE REQUEST BY JOSE ANDREW GONZALEZ, AIA, NCARB OF GONZALEZ ARCHITECTS FOR MAJOR CONDITIONAL USE APPROVAL FOR THE ADDITION OF 11,257 SQUARE FEET OF NON-RESIDENTIAL SQUARE FOOTAGE AND TWO (2) ADDITIONAL AFFORDABLE RESIDENTIAL UNITS ALLOCATED THROUGH BPAS FOR THE EXPANSION AND RECONFIGURATION OF AN EXISTING HOTEL/CONDOMINIUM AND ON-SITE AFFORDABLE HOUSING LOCATED WITHIN VILLAGE CENTER (VC) AND TOURIST COMMERCIAL (TC) ZONING DISTRICTS AT 81801 OVERSEAS HIGHWAY ON UPPER MATECUMBE KEY WITH REAL ESTATE NUMBER 00401340-000000, AS LEGALLY DESCRIBED IN EXHIBIT "A;" PROVIDING FOR THE TRANSMITTAL OF THIS RESOLUTION TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Applicant, Jose Andrew Gonzalez, AIA, NCARB (the "Applicant"), through the Agent James S. Lupino, Esquire (the "Agent") has submitted an application for a Major Conditional Use pursuant to Section 30-218 of the Code of Ordinances (the "Code") of Islamorada, Village of Islands, Florida (the "Village") for the addition of 11,257 square feet of non-residential square footage and two (2) additional affordable residential units allocated through the Building Permit Allocation System (BPAS) for the expansion and reconfiguration of the existing hotel/condominium, on-site affordable housing, additional parking and accessory uses (the "Request") on property located at 81801 Overseas Highway, as legally described herein (the "Property") attached as Exhibit "A"; and

WHEREAS, the Property is located within the Mixed Use (MU) FLUM Category of the Comprehensive Plan and the Tourist Commercial (TC) and Village Center (VC) Zoning Districts pursuant to the Official FLUM and Zoning Maps; and

WHEREAS, pursuant to the applicable provisions of the Code, the Director in his Council Communication dated July 18, 2019 recommended to the Village Council that the Request be approved with conditions; and

WHEREAS, on July 18, 2019, the Village Council conducted a duly noticed public hearing regarding the Request. That hearing was continued to the Village Council's Regular Meeting of July 18, 2019.

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 Applicant submitted the Request on May 16, 2019.
2. The Request consists of a Site Plan attached as Exhibit "B" depicting the Request's configuration, layout and level of impacts.
3. The Property is located within the Mixed Use (MU) Future Land Use Map (FLUM) category.
4. The Property is located within the Tourist Commercial (TC) and Village Center (VC) Zoning Districts.

5. The Request **complies** with the standards of Code Section 30-216(d) for considering conditional uses.

6. The Request **complies** with the Concurrency Management and other applicable requirements of Code Chapter 30, *Land Development Regulations* (the “LDRs”).

7. The Request **is** consistent with the purposes, goals, objectives and policies of the Village Comprehensive Plan

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. Conditions Imposed. Granting of the Major Conditional Use is subject to the following conditions:

1. Prior to the issuance of any Building Permits, the Applicant, their successors or assigns, shall provide and have approved by the Planning and Development Department, a Final Site Plan for the proposed project meeting all requirements of Section 30-215(d) of the Village Code of Ordinances.

2. Prior to the issuance of any Building Permits, the Applicant, their successors or assigns, shall provide a Stormwater Plan for the proposed project and have it approved by the responsible agency.
3. Prior to the issuance of any Building Permits, the Applicant, their successors or assigns, shall provide a Wastewater Management Plan for the proposed project and have it approved by the responsible agency.
4. The Property owner shall be responsible for all costs to upgrade Village infrastructure, including construction and engineering, to accommodate for the additional wastewater flow. Each residence will be assessed 1 EDU. Assessment must be paid prior to Certificate of Occupancy (C.O), currently \$6,392 each and subject to change.
5. The Proposed Development is required to obtain 11,257 square feet of non-residential footage and two (2) additional Affordable residential units allocated through the Building Permit Allocation System (BPAS) prior to issuance of any building permits associated with the Proposed Development. The Applicant would be required to pay all building permit and impact fees associated with the Proposed Development prior to issuance of any building permit.

Section 5. Conflicting Provisions. In the event the conditions or time limitations contained herein, and any conditions or time limitations of any subsequent development approval granted by the Village, or the LDRs are in conflict, the more restrictive shall apply.

Section 6. Violation of Conditions. The Owners/Applicant understand and acknowledge that he or she must comply with all of the terms and conditions herein, and all other applicable requirements of the Village or other governmental agencies before he or she may

commence construction or operation of any use authorized herein. In accordance with Code Section 30-224, this approval may be revoked by the Village Council upon a determination that the Owners/Applicant or its successor or designee is in non-compliance with this Resolution or the Code. Failure to adhere to the terms and conditions of approval contained herein is a violation of the Code and persons found violating the conditions shall be subject to the penalties prescribed by the Code.

Section 7. Effective Date.

This Resolution shall not take effect until after both thirty (30) days following the date it is filed with the Village Clerk, during which time the Request herein shall be subject to appeal as provided in the Code; and following the thirty (30) days, this resolution shall not be effective or acted upon by the 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 Vice Mayor Mike Forster, second by Councilwoman Cheryl Meads.

FINAL VOTE AT ADOPTION

VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS:

Mayor Deb Gillis	YES
Vice Mayor Mike Forster	YES
Councilman Ken Davis	YES
Councilwoman Cheryl Meads	YES
Councilman Jim Mooney	YES

PASSED AND ADOPTED THIS 18TH DAY OF JULY, 2019.



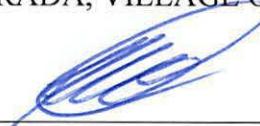
DEB GILLIS, MAYOR

ATTEST:



Kelly S Toth
KELLY TOTH, VILLAGE CLERK

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



Roger V. Bryan
ROGET V. BRYAN, VILLAGE ATTORNEY

This Resolution was filed in the Office of the Village Clerk of this 23rd day of July, 2019.



Kelly S Toth
KELLY TOTH, VILLAGE CLERK

CERTIFICATE OF SERVICE

A true and correct copy of the above and foregoing Resolution was furnished to the Applicant, via U.S. certified mail, return receipt requested, addressed to Jose Gonzalez , Gonzalez Architects, 14 NE 1st Avenue, Suite 507, Miami, FL 33132 this 30 day of July, 2019.

Kelly S. Toth

Kelly Toth, Village Clerk

Doc# 1845898
Exhibit "A" Bk# 2528 Pg# 1183

LEGAL DESCRIPTION

PARCEL I (Fee Estate):

That certain tract of land lying in Government Lots 1 and 2 of Section 32, Township 63, South Range 37 East, more particularly described as follows:

Beginning at a point where the Easterly line of Main Highway, running East of and approximately parallel to the right of way of the Florida East Coast Railway, intersects the Northeast boundary line of the tract of land known as Lot 1 of McDonald's Subdivision of part of Government Lots 1, 2 and 3 of the aforesaid Section 32; thence run in a Southerly direction on the aforesaid Northeasterly line of the said McDonald's Subdivision to the high water line of the Atlantic Ocean; thence run in a Northeasterly direction along the high water line of the Atlantic Ocean one hundred seventy and one-half (170-1/2) feet, more or less, to the most Southerly corner of the tract of land heretofore conveyed to Preston B. Pinder, Jerome B. Pinder and William H. Parker as Trustees of the Matecumbe Methodist Episcopal Church South, which tract will be hereinafter referred to as "The Church Tract"; thence run in a Northwesterly direction along the Southwesterly boundary of the said Church Tract 124 feet, more or less to the most Westerly corner of the said Church Tract; thence run in a Northeasterly direction along the Northwesterly line of the said Church Tract, eight four and one-tenth (84-1/10) feet; thence run Northwesterly parallel to the Northeast boundary line of the aforesaid Lot 1 of McDonald's subdivision of Part of Government Lots 1, 2 and 3 of the aforesaid Section 32 to the East line of the aforesaid Main County Highway; and thence run in a Southwesterly direction along the Southeasterly line of said Main Highway to the Point of Beginning.

ALSO

PARCEL II (Fee Estate):

The Northeasterly one-half (1/2) of Lot 1, and Lots 5 and 6 in Block 7, and Lots A and B, of "Stratton's Subdivision," according to Plat thereof, recorded in Plat Book 2, Page 38 of the Public Records of Monroe County, Florida; ALSO

ALSO

PARCEL III (Fee Estate):

A parcel of submerged land in Sections 32 and 33, Township 63 South, Range 37 East, Upper Matecumbe Key, Monroe County, Florida, more particularly described as follows:

From the most Northerly corner of Lot A, according to Plat of Stratton's Subdivision as recorded in Plat Book 2 at Page 38, Public Records of Monroe County, Florida; run Southeasterly along the Northeasterly boundary of Lot A, a distance of 855 feet to the high water line to the shore of

the Atlantic Ocean and the Point of Beginning of the parcel hereinafter described; thence meandering said high water line in a Southwesterly direction and shown on said Plat of Stratton's Subdivision, a distance of 1,077 feet more or less to the Northeasterly boundary line of Lot 1, as shown on Plat of "Part of Government Lot 1 and all of Lot 2 and 3 of Section 32, Township 63 South, Range 37 East, and all of Lot 1, Section 5, Township 64 South, Range 37 East.. As surveyed for Lee Pinder by George McDonald, C.E." and recorded in Plat Book 1 at Page 41, Public Records of Monroe County, Florida; thence Southeasterly along the Southeasterly prolongation of the Northeasterly boundary line of said Lot 1, according to Plat Book 1, Page 41, a distance of 100 feet; thence Northeasterly 100 feet Southeasterly from and parallel to said high water line, to a point of intersection with the Southeasterly prolongation of the Northeasterly boundary line of said Lot A; thence Northwesterly along said Southeasterly prolongation of the Northeasterly boundary line of Lot A, a distance of 100 feet to the Point of Beginning; excepting from the above described property, that portion thereof which is included between the prolongation of the Northeasterly and Southwesterly boundary line of the tract having a frontage of 114.1 feet in the Atlantic Ocean and owned by the Matecumbe Methodist Church.

ALSO

PARCEL IV (Fee Estate):

Lot 2, Block 7, "Stratton's Subdivision," according to Plat thereof, recorded in Plat Book 2, Page 38 of the Public Records of Monroe County, Florida.

LESS:

Those portions of the right-of-way of Old State Road 4-A conveyed to the Village of Islamorada by the Florida Department of Transportation as shown in that certain "Transfer Map To Convey Portions of Old State Road 4-A & State Road 905 To The Village Of Islamorada" under map Section 90060, dated May, 2005.

LESS ALSO AND EXCEPT THEREFROM those lands submitted to Condominium pursuant to the Hotel Condominium at Cheeca Lodge Resort as recorded in Official Records Book 2046 at Page 435 of the Public Records of Monroe County, Florida, and also those lands contained in the Restated Declaration of Cheeca Lodge Resort Hotel Condominium as recorded in Official Records Book 2472 at Page 7, as amended May 13, 2011 in Official Records Book 2517, Page 1541, of the Public Records of Monroe County, Florida.

THE ABOVE DESCRIBED LANDS ARE ALSO KNOWN AS FOLLOWS:

That certain tract of land lying in Government Lots 1 and 2 of Section 32, Township 63, South Range 37 East, more particularly described as follows:

Beginning at a point where the Easterly line of Main Highway, running East of and approximately parallel to the right of way of the Florida East Coast Railway, intersects the Northeast boundary line of the tract of land known as Lot 1 of McDonald's

Subdivision of part of Government Lots 1, 2 and 3 of the aforesaid Section 32; said point bears N.18°32'47"W., from the radius point of the next described circular curve concave to the Southeast and having a radius of 340.98' feet; thence along said curve to the right for an arc distance of 26.88 feet through a central angle of 4°31'02" to a point of tangency; thence N.75°58'15"E. for 120.11 feet to a point of curvature with a circular curve concave to the Northwest having a radius of 335.94' feet; thence along said curve to the left for an arc distance of 174.92 feet through a central angle of 29°50'00" to a point of tangency; thence N.46°08'15"E. for 780.97 feet (The last mentioned four courses being coincident with the Southeasterly line of said Main Highway); thence S.43°23'00"E.(measured) S.43°23'19"E.(legal Parcel V), along the Northeasterly boundary of Lot A, for 951.15 feet; thence S.37°53'08"W., along the Southeasterly line of said Parcel III, for 801.48 feet; thence N.43°22'00"E., along the Northeasterly line of lot 1 of said McDonald's Subdivision, for 1224.28 feet to the Point of Beginning.

Together with:

A portion of Lots 5 and 6 in Block 7, "Stratton's Subdivision," according to Plat thereof, recorded in Plat Book 2, Page 38 of the Public Records of Monroe County, Florida, more particularly described as follows:

Commence at the most Northerly corner of Lot A, according to Plat of Stratton's Subdivision as recorded in Plat Book 2 at Page 38, Public Records of Monroe County, Florida; thence N.43°22'04"W. for 48.00 feet to the point of Beginning of the following described parcel of land; thence S.46°08'15"W., along the Northwesterly line of said Main Highway, for 200.00 feet; thence N.43°21'38"W., along the Southwesterly line of said lot 5, for 149.46 feet; thence N.46°08'15"E., along the Northwesterly line of said lots 5 and 6, for 174.78 feet to a point of curvature with a circular curve concave to the South having a radius of 25.00' feet; thence along said curve to the right for an arc distance of 39.49 feet through a central angle of 90°30'07" to a point of tangency; thence S.43°21'38"E., along the Northeasterly line of said lot 6, for 124.24 feet to the Point of Beginning.

Also Together with:

A portion of Lots 1 and 2, Block 7, "Stratton's Subdivision," according to Plat thereof, recorded in Plat Book 2, Page 38 of the Public Records of Monroe County, Florida, more particularly described as follows:

Commence at the most Northerly corner of Lot A, according to Plat of Stratton's Subdivision as recorded in Plat Book 2 at Page 38, Public Records of Monroe County, Florida; thence N.43°22'04"W. for 48.00 feet; thence S.46°08'15"W. for 400.00 feet to the point of Beginning of the following described parcel of land; thence continue S.46°08'15"W. for 150.00 feet (The last mentioned two courses being coincident with the Northwesterly line of said Main Highway); thence N.43°21'38"W. for 149.46 feet; thence N.46°08'15"E., along the Northwesterly line of said lots 1 and 2, for 150.00 feet; thence

S.43°21'38"E., along the Northeasterly line of said lot 2, for 149.46 feet to the Point of Beginning.

LESS ALSO AND EXCEPT THEREFROM those lands submitted to Condominium pursuant to the Hotel Condominium at Cheeca Lodge Resort as recorded in Official Records Book 2046 at Page 435 of the Public Records of Monroe County, Florida, and also those lands contained in the Restated Declaration of Cheeca Lodge Resort Hotel Condominium as recorded in Official Records Book 2472 at Page 7, of the Public Records of Monroe County, Florida.

ALSO TOGETHER WITH

PARCEL V (Leasehold Estate):

A parcel of submerged land located in Sections 32 and 33, Township 63 South Range 37 East, Upper Matecumbe Key, Monroe County, Straits of Florida, Florida and containing 22,914 Square Feet, more or less, as described on the attached sketch labeled Exhibit A and dated November 17, 1996, located immediately waterward of that upland property, and being more particularly described as follows:

Commence at the Northeast Corner of Lot "A", STRATTONS SUBDIVISION", according to the Plat thereof, as recorded in Plat Book 2, at Page 38, of the Public Records of Monroe County, Florida, said point also being the intersection of the Southwesterly Right-of-Way Line of Blackwood Street and the Southeasterly Right-of-Way line of Old State Road 4A; thence S.43°23'19"E., along the Easterly Line of said Lot "A" a distance of 855.00 feet; thence S.33°18'14"W., a distance of 621.41 feet to the Mean High Water Line (Elevation 1.39 N.G.V.D.) of the Straits of Florida and the Point of Beginning: thence meander the said Mean High Water Line of the following two metes and bounds; thence S.36°38'42"W., a distance of 4.61 feet; thence S.41°17'43"W., a distance of 4.60 feet; thence S.49°21'46"E., and leaving the said Mean High Water Line of the Straits of Florida a distance of 125.95 feet; thence S.40°38'14"W., a distance of 10.00 feet; thence S.49°21'46"E., a distance of 20.00 feet; thence S.40°38'14"W., a distance of 10.00 feet; thence S.49°21'46"E., a distance of 291.59 feet; thence S.40°38'14"W., a distance of 33.40 feet; thence S.49°21'46"E., a distance of 80.20 feet; thence N.40°38'14"E., a distance of 116.00 feet; thence N.49°21'46"W., a distance of 55.50 feet; thence S.40°38'14"W., a distance of 33.40 feet; thence N.49°21'46"W., a distance of 243.59 feet; thence S.40°38'14"W., a distance of 20.00 feet; thence N.49°21'46"W., a distance of 218.93 feet to the said Mean High Water Line of the Straits of Florida and the Point of Beginning.

ALSO

PARCEL VI (Villa Condo)

Units 738 and 739 together with the Commercial Unit and their undivided interests in the Common Elements of the Hotel Condominium at Cheeca Lodge Resort as recorded in Official Records Book 2046 at Page 435 of the Public Records of Monroe County, Florida. Together with

any other tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

ALSO

PARCEL VII (Hotel Condo)

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Units 102, 104, 105, 106, 107, 108, 109, 110, 111, 112, 114, 115, 116, 117, 201, 202, 203, 204, 205, 206, 207, 209, 210, 211, 212, 215, 216, 217, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 314, 315, 316, 317, 401, 403, 404, 405, 406, 407, 409, 411, 415, 416, 417, Commercial Units CU-1, CU-2, CU-3, CU-4, CU-5, CU-6, CU-7, CU-8, CU-9, the Lobby Unit and Shared Component Unit together with their undivided interests in the Common Elements of the Amended and Restated Declaration of Cheeca Lodge Resort Hotel Condominium as recorded in Official Records Book 2472 at Page 7, as amended May 13, 2011 in Official Records Book 2517 at Page 1541 of the Public Records of Monroe County, Florida. Together with any other tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

