

**RESOLUTION NO. 24-12-140**

**A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, CONSIDERING THE REQUEST OF LAH ISLANDER LLC FOR AN AMENDMENT TO A MAJOR CONDITIONAL USE APPROVAL FOR THE EXPANSION OF THE EXISTING HOTEL FOR PROPERTY LOCATED AT 82100 AND 81998 OVERSEAS HIGHWAY AND 132 CARROLL STREET ON UPPER MATECUMBE KEY WITHIN THE TOURIST COMMERCIAL (TC) AND SETTLERS RESIDENTIAL (SR) ZONING DISTRICTS, WITH REAL ESTATE NUMBERS 00400810-000000 AND 00400450-000000 AS LEGALLY DESCRIBED HEREIN; PROVIDING FOR THE TRANSMITTAL OF THIS RESOLUTION TO THE FLORIDA DEPARTMENT OF COMMERCE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, LAH Islander 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 of the existing hotel; for property located at 82100 Overseas Highway, 81998 Old Highway and 132 Carroll Street on Upper Matecumbe Key within the Village, as legally described herein (the "Property"); and,

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

**WHEREAS**, a Notice of Public Hearing was sent to adjacent property owners and posted a sign on the subject properties on or about July 17, 2024; and,

**WHEREAS**, on August 8, 2024, 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:

STRATTONS SUBD PB 2-38 UPPER MATECUMBE LOT 8 SQR 9 and  
BK 8 LTS 10-12 BK9 LTS 11-12 BK 10 NE 1/2 LT 4 AND LTS 5-9 AND BAY BOTTOM  
SLY AND ADJ TO BK 10 NE 1/2 LT 4 AND LTS 5-9 BLK STRATTONS SUBD PB2-38  
UPPER MATECUMBE and  
BK 9 LT 4 STRATTONS SUBD PB2-38 UPPER MATECUMBE

(3) The approval is subject to the following Conditions of Approval:

1. Prior to the issuance of a Building permit water quantity calculations along with all applicable rainfall and soil data shall be provided to the planning review engineer to verify exfiltration trench design.
2. During review of Building permit applications, the following Fire Department Conditions shall be met:
  - a. Hydrant required, to be located by AHJ
  - b. Fire Alarm system required
  - c. Aldridge Bengé Signage is required where applicable.
  - d. The structure(s) shall be protected throughout by an approved, supervised automatic sprinkler system installed in accordance with NFPA 1-13.3.2.15.2. [101:30.3.5.1].
  - e. All fire lanes must be extended or have landscaping capable of supporting fire apparatus installed.

- f. Current fire lane access off of Carol St cannot be used as construction entrance. Construction traffic must use the main entrance off of Overseas Highway.
  - g. Further conditions may be applied when building permits are applied for.
- 3. Prior to the issuance of a Building Permit provide a copy of the SFWMD ERP Permit for the project
- 4. Project must comply with current Florida Building Code and Village Floodplain Ordinance.
- 5. Prior to the issuance of any Building Permit, the Applicant, their Successors or Assigns, shall have an approved Stormwater Management Plan for the proposed project and submit it to the Planning and Development Services Department.
- 6. Prior to the issuance of any Building Permit, the Applicant, their Successors or Assigns, shall coordinate with the Village's Wastewater consultant for the provision of wastewater services. The project shall comply in all aspects with Village Wastewater requirements.
- 7. No occupancy permits shall be issued until occupancy permits have been issued for Workforce/Affordable housing at Creekside Inn.
- 8. The proposed Major Conditional Use Permit shall allow for the construction of 56 hotel units and associated site improvements as defined in the Code of Ordinances as depicted on the Site Plan, prepared by Weiler Engineering Corporation dated February 7, 2024, and entitled 'Concept Best Management Practices Plan for Islander Resort.' All improvements shall be completed in substantial conformance with said Site Plan pursuant to the direction of the Department of Planning and Development Services.
- 9. 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.
- 10. The Applicant shall meet the requirements of Comprehensive Plan Coastal Element - Policy 5-1.2.13, which requires a Water Quality Monitoring Program.
- 11. 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.
- 12. 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.
- 13. 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.
- 14. 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.

**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 Commerce (DOC), pursuant to Chapter 9J-1 of the Florida Administrative Code. During those forty-five (45) days, the DOC 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 Councilwoman Gillis, second by Councilman Pinder.

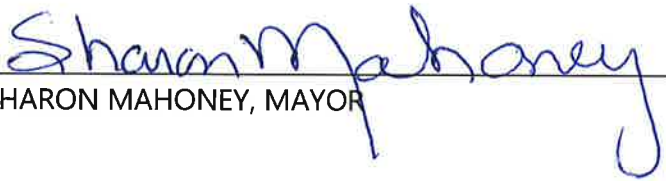


## **FINAL VOTE AT ADOPTION**

### **VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS:**

Mayor Sharon Mahoney	NO
Vice Mayor Don Horton	YES
Councilman Joseph B. Pinder III	YES
Councilwoman Deb Gillis	YES
Councilman Steve Friedman	NO

**PASSED AND ADOPTED THIS 12<sup>th</sup> DAY OF DECEMBER 2024.**

  
SHARON MAHONEY, 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



## Islamorada, Village of Islands Planning & Development Services

86800 Overseas Highway, Islamorada, FL 33036

T: 305-664-6400, F: 305-664-6467

### Application for Conditional Use Approval

*Pursuant to Code Chapter 30, Article IV, Division 2*

Application Type	Fee	*Deposit	Total Fee Due
<input checked="" type="checkbox"/> Major Conditional Use	\$5,220.00	\$5,000.00	\$10,220.00
<input type="checkbox"/> Minor conditional Use	\$3,510.00	\$5,000.00	\$ 8,510.00
<input type="checkbox"/> Minor Deviation	\$1,000.00	\$1,000.00	\$ 2,000.00
<input type="checkbox"/> Docks (pursuant to Code Section 30-1554)	\$1,900.00	\$1,000.00	\$ 2,900.00

*After a second Notice of Deficiencies, an additional fee equal to 10% of the application fee shall be due with each re-submittal.*

\* A deposit is required for development approval or permits which necessitate additional review and processing, and/or public hearing and notice requirements. Applicants are required to pay a cost recovery deposit which shall be credited toward the fee charged for such additional review and processing and shall pay additional deposits as may be required from time to time. A debit based upon the actual time expended in reviewing an application and the applicable actual amount charged to the Village shall be charged against the cost recovery deposit.

**PLEASE NOTE: THIS APPLICATION ACCEPTED BY APPOINTMENT ONLY.**

**An application must be deemed complete and in compliance with the Village Code by Staff prior to the items being scheduled for review.** See Attachments A and B for a list of required submittals and documents.

A Pre-Application Conference is mandatory prior to submission of an Application for Conditional Use Approval that would be applicable to the Administrative Design Review Standards set forth in Code Section 30-215(d)(20).

**APPLICANT / AGENT (if applicable):** Property owner must submit a **notarized** letter authorizing the applicant/agent to act on their behalf including the agent's name, address and phone number.

Name: Barton W. Smith

Mailing Address: 138 Simonton Street

City: Key West State: FL Zip: 33040

Home/Mobile Phone: \_\_\_\_\_ Office: (305) 296 7227

Fax: \_\_\_\_\_  
Email: Bart@SmithHawks.com / Jess@SmithHawks.com/Brandi@SmithHawks.com

**PROPERTY OWNER:**

Name: LAH Islander LLC

Mailing Address: C/o Agent

City: C/o Agent State: C/o Agent Zip: C/o Agent

Home/Mobile Phone: C/o Agent Office: C/o Agent

Fax: \_\_\_\_\_  
Email: C/o Agent

**LEGAL DESCRIPTION OF PROPERTY:** If in metes and bounds, attach legal description on separate sheet.

Physical Address: 82100 OVERSEAS Highway & 132 Carroll Street, Upper Matecumbe Key, Florida 33036 Mile Marker: 82

Lot: See Attached Block: See Attached Subdivision: Stratton

☐ Plantation Key ☐ Windley Key ☒ Upper Matecumbe Key ☐ Lower Matecumbe Key

Real Estate (RE) Number: 00400810-000000; Alternate Key: 00400450-000000

Zoning District:	<u>Tourist Commercial (TC)/Settlers Residential (SR)</u>	Future Land Use Category:	<u>Mixed Use (MU)</u>
Total Land Area:	<u>55.55 Gross Acres 22.08 Upland</u>	Square Feet:	<u>2,419,758 gross 961,804.8 upland</u>
Existing Use of Property:	<u>Hotel (transient uses); museum; residential</u>		
Acres:	<u>55.55 gross 22.08 upland</u>		

**If non-residential or commercial floor area is proposed, please provide:**

	Existing	Proposed	Change
Total number of non-residential buildings:	1	0	0
Total non-residential floor area in square feet:	20,596 SF	0	0

If residential dwelling units are proposed, please provide:

	Existing	Proposed	Change
Total number of residential buildings:	17	10	27
Total number of permanent, market-rate units:	0	0	0
Total number of permanent, affordable/ workforce housing units:	4	0	4
Total number of transient units (hotel/motel rooms, recreational vehicles):	114	56	170

Have any applications been submitted for this site within the past three (3) years? \_\_\_\_\_ Yes ☒ No

If yes, provide name of the applicant and date of applications: \_\_\_\_\_

Is this an Amendment or a Minor Deviation to a previously approved Conditional Use? ☒ Yes ☐ No

If yes, attach the approved site plan, a revised site plan, and list below all proposed changes. Please provide an explanation of each change: **See attached correspondence.**

If an Amendment or a Minor Deviation to an approved Conditional Use, please provide prior Project Numbers and/or Resolution Numbers: No. 11-06-33

**Pursuant to Code Section 30-216(d), when considering an application for a Conditional Use, the Director of Planning and Development Services (“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.**

**Please attach a statement explaining how the proposed Conditional Use meets each standard below.**

- (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 Village Code Chapter 30, *Land Development Regulations (LDRs)*;
- (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 (Concurrency Management) of Article IV of the LDRs;
- (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.

#### ATTACHMENT A

The following is a list of submittals and documents required for Conditional Use Approval. One (1) paper copy of all documents is required. One (1) digital copy may also be submitted in PDF format on a CD-ROM or DVD-ROM. Up to 12 additional hard copies may be requested if a public hearing is required. Data furnished in the application shall be to scale and shall include the following information, unless waived in writing by the Director. All paper plans shall be folded to a size no larger than 9"x12".

- ☒ **Correct application fee.** Check or money order to "Islamorada, Village of Islands".
- ☒ **Notarized agent authorization letter**, if applicable, including the agent's name, address and phone number authorizing the applicant/agent to act on all property owners' behalf.
- ☒ **Proof of ownership** e.g. warranty deed, lease or pending sale contract.
- ☒ **Property record card** from the Monroe County Property Appraiser.
- ☒ **Copy of recorded notice of approval or resolution** of prior Conditional Use (if submitting an application for an amendment or minor deviation).
- ☒ **Location map** showing where the project is located on the Key.
- ☒ **Photographs** of site from adjacent streets. A recent aerial photograph with property boundaries delineated may be substituted.
- ☐ **Signed and sealed survey** prepared by a Florida registered surveyor. The survey shall include elevations and location of all existing structures, paved areas, location of all utility structures, all easements, all bodies of water on and adjacent to the site, docks, piers, mean high water line and total acreage by habitat.
- ☒ **Site plan** prepared by a professional architect, engineer, or landscape architect. May be either a Site Plan previously approved and still effective by the Village or a new proposed Site Plan. See **Attachment B** for minimum site plan requirements.
- ☒ **Floor plans** of all proposed structures and for any existing structures to be redeveloped or enlarged, drawn at an appropriate standard architectural scale and including handicap accessibility features.
- ☒ **Elevation drawings** of all proposed structures and any existing structures to be modified with the elevations of the following features referenced to NGVD: Existing grade, finished grade, finished floor elevations (lowest supporting beam for V-zone development), roofline and highest point of the structure.
- ☒ **Landscaping plan** (may be combined with site plan or separate plan) drawn to scale, and at a minimum should include open space preservation areas, existing natural features, class and width of required landscape bufferyards (including the species, size and quantity of plants), street trees, and parking area landscaping.
- ☒ **Outdoor lighting plan** pursuant to Code Chapter 30, Article V, Division 5, including a site plan and inventory containing manufacturer's catalog cuts (where available), lamp type and output specification (lumen output) for each proposed fixture, proposed mounting height of all exterior fixtures, and the aiming direction and scope of illumination for any spotlights or floodlights.
- ☐ **Habitat analysis and/or vegetation survey** pursuant to Code Sections 30-1613 and 30-1614(e), prepared by a Village qualified biologist. N/A

- ☒ **Stormwater management plan** pursuant to Code Section 30-1724, signed and sealed by a Florida registered engineer or architect with drainage calculations and at the same scale as the site plan. The plan must show existing and proposed topography, all drainage structures, retention areas and drainage swales, and existing and proposed permeable and impermeable areas.
- ☐ **Affordable housing mitigation plan** pursuant to Code Chapter 30, Article IV, Division 16. **N/A**
- ☐ **Traffic study** prepared by a licensed traffic engineer pursuant to Monroe County Traffic Report Guidelines Manual. **N/A**
- ☒ **Construction management plan** stating how impacts on nearshore water and surrounding property will be managed (i.e. construction barrier, hay bales, flagging, etc.).
- ☐ **Construction phasing plan** Phased projects must include 20% of the project's land area in the development of each phase, unless a phasing specifically requested as part of the conditional use. **N/A**
- ☐ **Letters of coordination** from the following agencies. Applicants must check with the Staff to identify other agencies expected to review the project. These may include, but are not limited to: **Pending verification from Village**
- ☐ Florida Department of Environmental Protection (DEP)
  - ☐ Florida Department of Health (DOH)
  - ☐ Florida Department of State, Division of Historic Resources (DHR)
  - ☐ Florida Department of Transportation (FDOT)
  - ☐ Florida Fish and Wildlife Conservation Commission (FWC)
  - ☐ Florida Keys Aqueduct Authority (FKAA)
  - ☐ Florida Keys Electric Cooperative (FKEC)
  - ☐ South Florida Water Management District (SFWMD)
  - ☐ U.S. Army Corps of Engineers (ACOE)
  - ☐ U.S. Fish & Wildlife Service (FWS)

***If deemed necessary to complete a full review of the application, the Planning and Development Services Department reserves the right to request additional information.***

I certify that I am familiar with the information contained in this application, and that to the best of my knowledge such information is true, complete and accurate. I certify that all information required, as indicated in Attachments A and B, has been provided.

Digital signatures do not require notarization when they can be verified by a Trusted Certificate issued by a third-party Certificate Authority. If you are not using a "verifiable digital signature", print this document and have it notarized.

Signature of Applicant or Agent: \_\_\_\_\_ Date: 10/19/2022

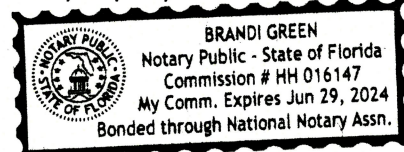
Print Name: Barton W. Smith

STATE OF Florida  
COUNTY OF Monroe

Sworn to and subscribed before me by means of ☒ physical appearance or ☐ online notarization, this 19<sup>th</sup> day of October, 2022, by Barton W. Smith (name of person signing the application) as Agent (type of authority e.g. officer, manager / member, trustee, attorney in fact) for LAH Islander LLC (name of entity or party on behalf of whom application was executed).

Brandi Green  
Signature of Notary Public –State of Florida

SEAL:



☒ Personally Known ☐ Produced Identification Type of ID: \_\_\_\_\_