



Islamorada, Village of Islands

SPECIAL CALL VILLAGE COUNCIL MEETING

April 11, 2023 - 3:00 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. **MAYOR / COUNCIL COMMUNICATIONS**
- V. **VILLAGE ATTORNEY / VILLAGE MANAGER COMMUNICATIONS**
- VI. **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.)

- VII. **QUASI-JUDICIAL**

- A. Final Plat Approval - Sojourn - **TAB 1** (Jennifer DeBoisbriand , Planning Director)

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, CONSIDERING THE REQUEST BY TY HARRIS, PA ("AGENT") ON BEHALF OF SOJOURN INC ("OWNER") FOR FINAL PLAT APPROVAL FOR PROPERTY LOCATED IN SUBDIVISION SANDY BEACH, LOWER MATECUMBE KEY, ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, HAVING REAL ESTATE NUMBERS 00394480-000100, AS LEGALLY DESCRIBED IN EXHIBIT "A"; AND PROVIDING FOR AN EFFECTIVE DATE

- B. Administrative Variance - Sideyard Setback - 121 Carroll Street - **TAB 2** (Jennifer DeBoisbriand , Planning Director)

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, CONSIDERING THE REQUEST OF PEDRO GREER JR TO ALLOW FOR A

REDUCTION IN THE REQUIRED BUFFER YARD FROM THE MINIMUM REQUIRED TWENTY (20) FEET TO TEN (10) FEET FOR PROPOSED ADDITION TO THE EXISTING PRINCIPAL STRUCTURE, AND ALLOW FOR A REDUCTION IN THE REQUIRED BUFFER YARD FROM TWENTY (20) FEET TO FIFTEEN (15) FEET TO ACCOMMODATE PROPOSED ACCESSORY STRUCTURES. THE PROJECT IS LOCATED AT 121 CARROLL STREET ON UPPER MATECUMBE KEY, WITHIN THE SETTLERS RESIDENTIAL (SR) DISTRICT, REAL ESTATE NUMBER 00096150-000000, AS LEGALLY DESCRIBED HEREIN; AND PROVIDING FOR AN EFFECTIVE DATE.

VIII. RESOLUTIONS

- A.** Alcohol Beverage Use Permit - Midway Cafe - **TAB 3** (Jennifer DeBoisbriand , Planning Director)

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, CONSIDERING THE REQUEST OF MIDWAY CAFE ISLAMORADA, INC. FOR A 2COP ALCOHOLIC BEVERAGE USE PERMIT TO ALLOW BEER AND WINE ON-PREMISES CONSUMPTION AND PACKAGE, ON PROPERTY LOCATED AT 80499 OVERSEAS HIGHWAY, WITH THE PARCEL IDENTIFICATION NUMBER 00405190-000100 WITHIN THE HC (HIGHWAY COMMERCIAL) ZONING DISTRICT, AS LEGALLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE.

- B.** Alcohol Beverage Use Permit - Papa Joes - **TAB 4** (Jennifer DeBoisbriand , Planning Director)

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, CONSIDERING THE REQUEST OF PJ ISLAMORADA, LLC FOR A 5COP SRX ALCOHOLIC BEVERAGE USE PERMIT TO ALLOW RESTAURANT SALES, ON PROPERTY LOCATED AT 79786 OVERSEAS HIGHWAY, WITH THE PARCEL IDENTIFICATION NUMBER 00096900-000000 WITHIN THE HC (HIGHWAY COMMERCIAL) ZONING DISTRICT, AS LEGALLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE.

- C.** 1st Quarter 2023 Market Rate Building Permit Allocation System Awards - **TAB 5** (Daniel J. Gulizio, Director of Development Services)

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, APPROVING RESIDENTIAL BUILDING PERMIT ALLOCATION SYSTEM RANKINGS AND AWARDING RESIDENTIAL BUILDING PERMIT ALLOCATIONS FOR QUARTER 1 OF 2023; AND PROVIDING AN EFFECTIVE DATE

- D. 1st Quarter 2023 Affordable Building Permit Allocation System Awards - **TAB 6** (Daniel J. Gulizio, Director of Development Services)

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, APPROVING RESIDENTIAL BUILDING PERMIT ALLOCATION SYSTEM RANKINGS AND AWARDING AFFORDABLE RESIDENTIAL BUILDING PERMIT ALLOCATIONS FOR QUARTER 1 OF 2023; AND PROVIDING FOR AN EFFECTIVE DATE

- E. 1st Quarter 2023 Non-Residential Building Permit Allocation System Awards - **TAB 7** (Daniel J. Gulizio, Director of Development Services)

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, APPROVING NONRESIDENTIAL BUILDING PERMIT ALLOCATION SYSTEM (“BPAS”) RANKINGS AND AWARDING NONRESIDENTIAL BUILDING PERMIT ALLOCATIONS FOR QUARTER 1 OF 2023; AND PROVIDING AN EFFECTIVE DATE

IX. ORDINANCES

- A. Ordinance Concerning Appointments for Village Boards, Commissions, and Committees - **TAB 8**
(John Quick, Interim Village Attorney)

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING CHAPTER 2 “ADMINISTRATION” CREATING A NEW ARTICLE V TO BE ENTITLED “VILLAGE BOARDS, COMMITTEES AND COMMISSIONS”, SECTIONS 2-329 THROUGH 2-335; AMENDING CHAPTER 30 “LAND DEVELOPMENT REGULATIONS”, ARTICLE III “DECISION MAKING AND OTHER ADMINISTRATIVE BODIES”, DIVISION 3 “LOCAL PLANNING AGENCY”, SECTION 30-103 OF THE VILLAGE CODE RELATING TO APPOINTMENT, REMOVAL, TERMS, AND VACANCIES; AMENDING CHAPTER 30 “LAND DEVELOPMENT REGULATIONS”, ARTICLE VII “ENVIRONMENTAL REGULATIONS”, DIVISION 7 “HISTORIC AND ARCHAEOLOGICAL SITES”, SECTION 30-1693 RELATING TO THE HISTORIC PRESERVATION COMMISSION; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE

X. LAND DEVELOPMENT REGULATION WORKSHOP ITEMS

- A. Chapter 30, Article VI, Division 11 - Alcoholic Beverage Use Permits - **TAB 9**
- B. Chapter 30, Article VI, Division 13 - Mobile Food Vendors - **TAB 10**
- C. Chapter 30, Article II - Definition of Lot Area - **TAB 11**
- D. Lot Area Variance Code Amendment - **TAB 12**

- E. Amendment of Multifamily (MF) Zoning District to Include Single-Family Residences as a Permitted Use - **TAB 13**
- F. Chapter 30, Article V, amending Tourist Commercial (TC) District related to outdoor storage and display - **TAB 14**
- G. Amendment of Village Code to Modify Chapter 30 (Land Development Regulations) Division 9 related to Outdoor Seating Areas - **TAB 15**
- H. Amendment to Tourist Commercial (TC) District to Incorporate Boat Dealerships as a Major Conditional Use - **TAB 16**
- I. Amendment of the Village Code to Standardize Notice Provisions for the Development Review Process - **TAB 17**
- J. Farmers' Markets, Flea Markets, and Fairs Code Amendment - **TAB 18**
- K. Chapter 30, Article IV, Division 11 - Building Permit Allocation System (BPAS) - **TAB 19**
- L. Chapter 30, Article IV, Division 12 - Transfer of Development Rights - **TAB 20**

XI. 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: Jennifer DeBoisbriand , Planning Director
Date: April 11, 2023
SUBJECT: Final Plat Approval - Sojourn - TAB 1

Background:

The property owner is SOJOURN INC (the "Owner") represented by Ty Harris PA (the "Applicant/Agent"). The Applicant is requesting approval of a Final Plat for the "Sojourn Property" consisting of six (6) lots, pursuant to Chapter 30, Article VI, Division 10, Platting, of the Code of Ordinances (the "Code") of Islamorada, Village of Islands, Florida (the "Village").

The subject property is located on Lower Matecumbe Key located on land between Captains Cove and Overseas Highway with Real Estate Numbers 00394480-000100 (the "Property") and is located within the Multifamily (MF) Zoning District and legally described as attached to the proposed Resolution.

The total land area of the site is approximately 2.09 acres. The Property is considered disturbed.

The property was previously the subject of litigation between the Owner and the Village. The result of that litigation was an amicable settlement agreement outlined in Resolution No. 08-07-48 adopted by the Village Council in July 2008 as attached.

Analysis:

The Property is within the Residential High (RH) Future Land Use Map (FLUM) Category of the Comprehensive Plan and is subject to Comprehensive Plan Policy 1-2.3.4. Pursuant to this policy and the settlement agreement, the Property is subject to the following limitations:

1. The total residential density shall not exceed six (6) units per acre, except that up to twelve (12) units per acre may be permitted pursuant to the standards in the Land Development Regulations for purposes of providing transfers of density from approved sending sites, including environmentally sensitive lands, and fifteen (15) units per acre may be permitted for purposes of providing affordable housing.
2. The Applicant has agreed to and signed a restrictive covenant limiting the future development to no more than six (6) detached market rate single family homes and their accessory uses.
3. The property has been rezoned Multi-Family (MF) which will allow the development of six (6) units by obtaining plat approval.

The Property is within the Multi-Family (MF) Zoning District of the Official Zoning Map.

The proposed Final Plat will not change the future land use map category, zoning designation or permitted density of the Property. The proposed Final Plat divides the Property into six (6) lots.

The proposed plat is consistent with the platting requirements pursuant to the Village Code Chapter 30, Article IV Division 10, Platting.

The Planning Director issued the Preliminary Plat Approval for this application on February 9, 2023.

Budget Impact:

None

Staff Impact:

None

Recommendation:

Based on the above information, Staff recommends the Village Council of Islamorada, Village of Islands APPROVE of the request for approval of the Final Plat for the "Sojourn Property" by the adoption of the attached Resolution with the following condition:

1. Upon approval of the Final Plat, the Applicant shall provide an improvement guarantee in an amount to be determined by the Director of Public Works pursuant to Section 30-435 of the Village Code.

- Attachments:**
1. Final Plat Resolution - Sojourn Revised
 2. PLAT 30by 36 FINAL REV 4
 3. Sojourn Subdivision 03302023 Checklist
 4. Preliminary Plat Approval
 5. Sojourn_VC_Attachments
 6. 08-07-48
 7. sojourn vs Islamorada
 8. Correspondence_GYoung

RESOLUTION 23-

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, CONSIDERING THE REQUEST BY TY HARRIS, PA ("AGENT") ON BEHALF OF SOJOURN INC ("OWNER") FOR FINAL PLAT APPROVAL FOR PROPERTY LOCATED IN MATECUMBE SANDY BEACH, LOWER MATECUMBE KEY, ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, HAVING REAL ESTATE NUMBER 00394480-000100, AS LEGALLY DESCRIBED IN EXHIBIT "A"; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Sojourn Inc., (the "Owner") are the owners of property located on Lower Matecumbe Key located on land between Captains Cove and Overseas Highway with Real Estate Number 00394480-000100, as legally described in Exhibit "A" and

WHEREAS, pursuant to Article IV "Administrative Procedures," Division 10 "Platting," Sections 30-431 through 30-444 of the Islamorada, Village of Islands (the "Village") Code of Ordinances (the "Village Code"), Ty Harris, PA as the Agent and Applicant (the "Agent/Applicant") has applied for Final Plat approval for the subdivision of one parcel into six (6) lots (the "Request"); and

WHEREAS, the Village Director of Planning granted preliminary plat approval on February 9, 2023; and

WHEREAS, pursuant to the applicable provisions of the Code, the Director in her Staff Report dated March 30, 2023 recommended approval of the Final Plat to the Village Council; and

WHEREAS, the Village Council has considered the Request, the relevant supporting materials, the Director's recommendation, public testimony and evidence given at a properly advertised public hearing held on April 11, 2023 (the "Hearing").

**NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF ISLAMORADA,
VILLAGE OF ISLANDS, AS FOLLOWS:**

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

Section 2. **Findings of Fact.** The Village Council having considered the Request, the relevant support materials, the Director's recommendation, public testimony and evidence given at the Hearing, does hereby find and determine:

- (1) The Applicant submitted the Request on May 24, 2022.
- (2) The Request consists of a Final Plat attached as Exhibit "B" depicting the Request's configuration, layout, and level of impacts.
- (3) The Property is located within the Multifamily (MF) Zoning District.
- (4) The property was previously the subject of litigation between the Owner and the Village. The result of that litigation was an amicable settlement agreement outlined in Resolution No. 08-07-48 adopted by the Village Council in July 2008.
- (5) The Request **complies** with the standards of Code Section 30-434 for considering Final Plats.
- (6) The Request **complies** with the standards of Chapter 177, Florida Statutes for consideration of final plats.
- (7) The Request **is** consistent with the purposes, goals, objectives, and policies of the Village Comprehensive Plan, including standards for building and structural intensities and densities, and intensities of use.

Section 3. Conclusions of Law. Based upon the above Findings of Fact, the Village Council does hereby make the following Conclusions of Law:

(1) The Request has been processed in accordance with the Village's Comprehensive Plan and Land Development Regulations and **will not** be detrimental to the community.

(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 of record

Section 4. Approval of Final Plat. Pursuant to the requirements set forth in Article IV "Administrative Procedures," Division 10 "Platting," Sections 30-431 through 30-444 of the Village Code, the requested Final Plat, attached hereto as Exhibit "B," is hereby [DENIED/APPROVED].

Section 5. Conditions Imposed. Granting of the Request is subject to the following conditions:

(1) Upon approval of the Final Plat, the Applicant shall provide an improvement guarantee in an amount to be determined by the Director of Public Works pursuant to Section 30-435 of the Village Code.

Section 6. 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 conditions and/or time limitations shall apply.

Section 7. Violation of Conditions. The Owner understands and acknowledges that he or she must comply with all terms and conditions herein, and all other applicable requirements of the Village or other governmental agencies before he or she may affect the proposed transfer of development rights or commence construction or operation of any use authorized herein. In accordance with Code Section 30-224, this approval may be revoked by the Village Council upon a determination that the Owner or its successor(s) or designee(s) is in non-compliance with this Resolution or the Code. Failure to adhere all 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 8. 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 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 Florida Department Of Economic Opportunity (the "DEO"), pursuant to Chapter 73C-44.0033 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 instrument until the appeal is resolved by agreement or order.

Section 9. Recording of Final Plat. Upon approval or approval with conditions, the Applicant shall record the Final Plat in the office of the recorder of deeds of Monroe County and a copy of the recorded plat shall be provided to the Director. In addition to the printed copy of the Final Plat, the Applicant shall also provide an electronic copy of the plat in a format acceptable to

the Director. Such recording shall be completed within 90 days of approval of the final plat, or such approval shall be deemed null and void. If this Resolution is appealed under the LDRs or by DEO, the above time limits shall be tolled until the appeals are resolved.

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	_____
Councilman Mark Gregg	_____
Councilman Henry Rosenthal	_____
Councilwoman Elizabeth Jolin	_____

PASSED AND ADOPTED on 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

This Resolution was filed in the Office of the Village Clerk of this ____ day of _____, 2023.

Marne McGrath, Village Clerk

**VILLAGE OF ISLAMORADA
RECORD PLAT REVIEW CHECK SHEET**

NAME OF PLAT: Sojourn Property

DATE REVIEWED: March 30, 2023

REVIEWED BY: Randall L. Roberts, RLS

FS denotes Florida Statutes

FS 177.041 - Boundary Survey and Title Certification Required

1. Signed and Sealed Boundary Survey prepared by Professional Surveyor and Mapper submitted.

☒ APPROVED as to form
☐ FAILED

2. Title Certificate prepared by Attorney, Abstractor, or Title Company.

☒ APPROVED
☐ FAILED

3. Title Certificate Legal Description exactly matches Plat Legal Description.

☒ APPROVED
☐ FAILED –

4. All Mortgages listed in Title Certificate are referenced on Plat.

☒ APPROVED N/A per Title
☐ FAILED

5. All Easements listed in Title Certificate are shown on Plat.

☒ APPROVED as noted
☐ FAILED

6. Title Certificate addressed to the Village.

☒ APPROVED
☐ FAILED

**VILLAGE OF ISLAMORADA
RECORD PLAT REVIEW CHECK SHEET**

NAME OF PLAT: Sojourn Property

DATE: March 30, 2023

FS 177.051 - Name of Subdivision

7. Name of Subdivision is not a duplicate of any other subdivision except if it is another phase of existing Plat.

☒ APPROVED

☐ FAILED

8. The words “the”, “replat” or “a” may not be used as first word of Subdivision’s primary name.

☒ APPROVED

☐ FAILED

9. All words in the name are of the same size and type of font. (No hand lettered additions)

☒ APPROVED

☐ FAILED

10. The subdivision name must be recited in the Owner’s dedication.

☒ APPROVED

☐ FAILED

11. Subtitle of plat states the Section, Township, Range, County, City (if inside corporate limits) or Village or Town and State.

☒ APPROVED

☐ FAILED

12. If this is a replat, Subtitle must state that this is a replat and must quote the full name and recording data.

☒ APPROVED

☐ FAILED

**VILLAGE OF ISLAMORADA
RECORD PLAT REVIEW CHECK SHEET**

NAME OF PLAT: Sojourn Property

DATE: March 30, 2023

FS 177.061 - Qualification of Person filing Plat

13. Plat was prepared by a Professional Surveyor licensed in accordance with Chapter 472, Florida Statutes.

☒ APPROVED

☐ FAILED

14. Plat contains the printed name of the Surveyor of Record.

☒ APPROVED

☐ FAILED

15. Plat contains the full address of the Surveyor of Record.

☒ APPROVED

☐ FAILED

16. Plat contains the registration number of the Surveyor of Record

☒ APPROVED

☐ FAILED

17. Plat contains the certificate of authorization number of the Company if applicable.

☒ APPROVED

☐ FAILED

18. Signing surveyor must state that the plat was prepared under his/her direction and complies with all survey requirements of F.S. 177.

☒ APPROVED

☐ FAILED

**VILLAGE OF ISLAMORADA
RECORD PLAT REVIEW CHECK SHEET**

NAME OF PLAT: Sojourn Property

DATE: March 30, 2023

FS 177.071 - Approval of Plat by Governing Bodies

19. Engineer/Administrative Official Approval checked for form and spelling.

☒ APPROVED Village Clerk
☐ FAILED

20. Planner's Approval checked for form and spelling.

☐ APPROVED
☐ FAILED

21. Surveyor's Approval checked for form and spelling.

☒ APPROVED
☐ FAILED

22. Mayor Acceptance checked for form and spelling.

☒ APPROVED
☐ FAILED

23. Clerk of the Court's Approval checked for form and spelling.

☒ APPROVED
☐ FAILED

FS 177.081 - Dedication and Approval

24. Dedication executed by all owners. Dedicates streets, alleys, and easements.

☐ APPROVED
☒ FAILED

Preliminary Not an executed copy

**VILLAGE OF ISLAMORADA
RECORD PLAT REVIEW CHECK SHEET**

NAME OF PLAT: Sojourn Property

DATE: March 30, 2023

25. Mortgagee(s) executed joinder to the Dedication on face of Plat.

☒APPROVED – N/A per Title
☐FAILED

FS 177.091 - Plats made for Recording

26. Index or key map required for multiple sheet plats.

☒APPROVED –
☐FAILED

27. All matchlines are clearly labeled, if applicable.

☒APPROVED
☐FAILED

28. Scale and font size sufficient to show all detail. The minimum recommended text height is 0.07' at 1"=1"

☒APPROVED
☐FAILED

29. Scale shall be stated and graphically shown on every sheet showing any portion of the lands being platted.

☒APPROVED
☐FAILED –

30. Name of the subdivision shown on all sheets in the same size and type of font.

☒APPROVED
☐FAILED

**VILLAGE OF ISLAMORADA
RECORD PLAT REVIEW CHECK SHEET**

NAME OF PLAT: Sojourn Property

DATE: March 30, 2023

31. Name of Surveyor or legal entity, street and mailing address shown on all sheets.

☒ APPROVED
☐ FAILED

32. Prominent North Arrow on all sheets showing any portion of the lands being platted.

☒ APPROVED
☐ FAILED

33. Basis of Bearing referenced to a well-established and monumented line stated on all sheets.

☒ APPROVED
☐ FAILED

34. Permanent Reference Monuments (PRM's) placed at each corner or change in direction of the plat boundary.
(May not be more than 1400 feet apart and must be set prior to acceptance of the plat. Cannot be bonded.)

☒ APPROVED per Legend symbol
☐ FAILED

35. Inaccessible PRM's offset within the boundary of the plat and the offset properly noted.

☒ APPROVED as per legend note
☐ FAILED –

36. Registration number for found previously set PRM's noted or, if un-numbered, shall be so noted.

☒ APPROVED as noted
☐ FAILED

**VILLAGE OF ISLAMORADA
RECORD PLAT REVIEW CHECK SHEET**

NAME OF PLAT: Sojourn Property

DATE: March 30, 2023

37. Permanent Control Points (PCP's) set on centerline at the intersection and terminus of all streets, all changes of direction and not more than 1000 feet apart. **(Must be set within one year of the plat acceptance or, if bonded, must be set prior to the expiration of the bond)**

☒ APPROVED None set per plat drawing
☐ FAILED

38. Monumentation set at all lot corners, points of intersection, and changes of direction of lines within the subdivision which do not require a PRM or PCP. **(Must be set before the transfer of any lot or, if bonded, must be set prior to the expiration of the bond.)**

☒ APPROVED – POL's at 70.00 '
☐ FAILED

39. Section, Township and Range stated immediately under the name of the subdivision on each sheet along with the name of the appropriate city, town, village, county and state in which the plat is situated.

☒ APPROVED add Village in subtitle
☐ FAILED

40. Description is complete, exactly matches the title opinion and accurately depicts the lands being platted.

☒ APPROVED
☐ FAILED –

41. All dedications and approvals required by ss.177.071 and 177.081 are shown.

☒ APPROVED subject to staff review
☐ FAILED

42. The Clerk of the Court's and Professional Surveyor's seal and certification shown.

☐ APPROVED
☒ FAILED

N/A – Preliminary Copy

**VILLAGE OF ISLAMORADA
RECORD PLAT REVIEW CHECK SHEET**

NAME OF PLAT: Sojourn Property

DATE: March 30, 2023

43. All section lines and quarter section lines occurring within the subdivision are shown.

☒ APPROVED

☐ FAILED

44. All information in the legal description is shown. (Point of Commencement, Point of Beginning, etc.)

☒ APPROVED

☐ FAILED

45. Location, width, and names of all streets waterways or other right-of-ways shown.

☒ APPROVED

☐ FAILED –

46. Location, width, and purpose of all existing and proposed easements shown. (Recording information for all existing easements required.)

☒ APPROVED

☐ FAILED

47. All contiguous properties identified by subdivision title, plat book and page, or if unrecorded, noted as such.

☒ APPROVED

☐ FAILED –

48. If a replat, sufficient ties to controlling lines on the previous plat to allow an overlay to be made.

☒ APPROVED – per description

☐ FAILED

**VILLAGE OF ISLAMORADA
RECORD PLAT REVIEW CHECK SHEET**

NAME OF PLAT: Sojourn Property

DATE: March 30, 2023

49. All lots numbered progressively or, if in blocks, progressively within the blocks.

☒ APPROVED

☐ FAILED

50. Sufficient survey data to accurately describe the bounds of every lot, block, street, easement, tract, etc.

☒ APPROVED –

☐ FAILED

51. All distances to the nearest hundredth of a foot.

☒ APPROVED

☐ FAILED

52. Curvilinear lot lines shall show as a minimum, the radii, arc distances and central angles.

☒ APPROVED

☐ FAILED

53. Radial lot lines shall be so designated. Directions of nonradial lines shall be indicated.

☒ APPROVED

☐ FAILED

54. All angles, bearings, or azimuths to the nearest second of arc.

☒ APPROVED

☐ FAILED

55. Centerlines of noncurved streets dimensioned with distances together with either angles, bearings or azimuths.

☒ APPROVED

☐ FAILED

**VILLAGE OF ISLAMORADA
RECORD PLAT REVIEW CHECK SHEET**

NAME OF PLAT: Sojourn Property

DATE: March 30, 2023

56. Centerlines of curves streets dimensioned with arc distances, central angles, radii, chord distances, and chord bearings or azimuths.

☒ APPROVED –
☐ FAILED

57. Parks and recreations areas so designated.

☒ APPROVED –
☐ FAILED

58. All excepted parcels labeled as “Not a part of this plat.”

☒ APPROVED –
☐ FAILED

59. The purpose of all dedicated blocks, tracts or parcels shall be clearly stated.

☒ APPROVED
☐ FAILED

60. If line or curve tables are used, the tabular data must appear on the sheet to which it applies.

☒ APPROVED –
☐ FAILED

61. The plat shall include in a prominent place the following statement:

NOTICE: This plat, as recorded in its graphic form, is the official depiction of the subdivided lands described herein and will in no circumstances be supplanted in authority by any other graphic or digital form of the plat. There may be additional restrictions that are not recorded on this plat that may be found in the public records of this county.

☒ APPROVED
☐ FAILED

**VILLAGE OF ISLAMORADA
RECORD PLAT REVIEW CHECK SHEET**

NAME OF PLAT: Sojourn Property

DATE: March 30, 2023

62. All platted utility easements shall provide that such easements are for the construction, installation, maintenance, and operation of cable television.

☒ APPROVED
☐ FAILED

63. A legend of all symbols and abbreviations shall be shown.

☒ APPROVED
☐ FAILED

.....

COMMENTS:

Please see plat pdf.

This checklist is subject to Village Engineer, Attorney as well as staff review comments including Chapter 30 Division 10 Land Development Regulations

CERTIFICATION:

I HEREBY CERTIFY that this plat has been reviewed for the conformity to the requirements of Chapter 177, Part I of Florida Statutes. No confirmation of mathematical closure or the placement of PRM's and PCP's in the field was made in this review.

CPH, LLC LB #7143
500 West Fulton Street
Sanford, Fl 32771

By: Randall L. Roberts, R.L.S.
Florida Registration Number 3144

Date: March 30, 2023



ISLAMORADA, VILLAGE OF ISLANDS
PLANNING AND DEVELOPMENT SERVICES DEPARTMENT
86800 Overseas Highway • Islamorada, Florida 33036 • www.islamorada.fl.us

February 9, 2023

Ty Harris, PA

Sent via email: tyharrispa@gmail.com

Subject: Preliminary Plat Approval (PLPP20220064)

Location: Vacant Land Approximately Sandy Cove & US1, Lower Matecumbe Key

Parcel No.: 00394480-000100

Dear Mr. Harris:

Pursuant to Section 30-433 of the Code of Ordinances ("Code") of Islamorada, Village of Islands, Florida ("Village"), this letter shall serve as a written approval from the Director of Planning for Preliminary Plat Approval PLPP20220064. The Preliminary Plat has been found in compliance with Division 10 *Platting*, Article IV, Chapter 30 of the Village Code.

The Final Plat request will be scheduled for Public Hearing at the March 23, 2023, Regular Village Council meeting.

Sincerely,

A handwritten signature in black ink, appearing to read "Jennifer DeBoisbriand".

Jennifer DeBoisbriand
Director of Planning

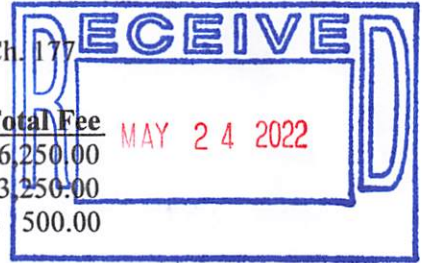


ISLAMORADA, VILLAGE OF ISLANDS
PLANNING AND DEVELOPMENT SERVICES DEPARTMENT

APPLICATION FOR PLAT APPROVAL

Pursuant to Code Chapter 30, Article IV, Division 10 and F.S. Ch. 177

Application Type	Fee	*Deposit	Total Fee
☒ Plat Approval (Preliminary and Final)	\$5,000.00	\$1,250.00	\$6,250.00
☐ Modification to Plat	\$2,000.00	\$1,250.00	\$3,250.00
☐ Technical or Minor Change to Plat	\$ 500.00		\$ 500.00



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 Attachment A for a list of required submittals and documents.

TYPE OF PLAT APPROVAL REQUESTED:

- ☒ Preliminary Plat Approval (5 or more lots or acres of land) ☐ Vacation of Plat
☐ Final Plat Approval (less than 5 lots or acres of land) ☐ Amendment of Recorded Final Plat

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: Ty Harris PA

Mailing Address: 110 Plantation Shores Drive

City: Tavernier State: FL Zip: 33070

Home/Mobile Phone: 386 956 8776

Office: 386 956 8776

Fax:

Email: tyharrispa@gmail.com

PROPERTY OWNER:

Name: RDB Industries INC

SOJOURN INC -

Mailing Address: 3100 Gordon Drive

City: Naples State: FL Zip: 34102

Home/Mobile Phone: See Agent

Office:

Fax:

Email: See Agent

SURVEYOR OR MAPPER:

Name: Juan Carlos Melendez P.S.M.

Registration number: FL LIC #6721 P.R. LIC #22186

Mailing Address: 13460 SW 24th Street

City: Miami State: Florida Zip: 33175

Home/Mobile Phone:

Office: 305-877-9721

Fax:

Email: ORTHOTEK@OTEKMAP.COM

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

Physical Address: MM 74.5 Vacant Land See Survey & PRC Mile Marker: 74.5

Lot: Block: Subdivision:

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

Real Estate (RE) Number: 00394480-000100 Alternate Key: 1482820

Section: Township: Range:

Application for Plat Approval

PROPERTY DESCRIPTION:

Zoning District: MF Future Land Use Category: Residential
 Total Land Area: 2.09 acres Square Feet 91,040 square feet Acres
 Existing Use of Property: Vacant MF REsidential
 Proposed Use of Property: MF REsidential comprising six (6) homes.

PROPOSED PLAT APPROVAL:

Primary name of subdivision: Sojourn
 Reason for subdivision or any vacations or amendments to final plat: N/A

Are any variances to the platting standards being requested? ☐ Yes ☒ No
 If yes, please describe the variances requested: N/A

Proposed number of lots: 6 Proposed average lot size: _____ Proposed minimum lot size: _____

Width of right-of-way: N/A

Lineal feet of new streets: N/A

Proposed description of streets (public or private): N/A

Street lights: N/A

Will sidewalks be provided? ☐ Yes ☒ No One side: ☐ Yes ☐ No Both sides: ☐ Yes ☐ No

Width of surface (feet): _____

Estimated water requirements (gallons/day): 828 for six homes

Proposed water source: FCAA

Estimated sewage disposal requirements (gallons/day): _____

Proposed method of collection and treatment: Key Largo Wastewater Treatment District

Property Description & Density Calculations

Zoning District	Habitat Type/Quality	Size (Acres)	Allocated Density Per Acre	# of Dwelling Units Allocated
MF				

Proposed Land Uses

	# of Units	Area (Acres)	% of Total Area	Estimated Population
Single Family:	6			
Detached:	6			
Attached Dwelling:	0			
Commercial:	0			
Industrial:	0			
Public Areas:	0			
Other:	0			
Total:	6			

Application for Plat Approval

Public Areas (in acres)

Streets: 0	Open Space: 0	Semi-Public Area: 0
Walkways:	Dedicated Park Sites: 0	Dedicated School Sites: 0
Easements: 0	Reserved Park Sites: 0	Other:
Total Public Area: 0		

Subdivision Improvements Cost Estimate

Intending to be legally bound and in order to secure final plat approval, the undersigned hereby agrees to provide through this subdivision, and as shown on the proposed plat, the following improvements:

	Unit	Estimated Construction Cost	Estimated Completion Dates
Construction cost			
Type of improvements			
Street grading	N/A		
Street base	N/A		
Street paving	N/A		
Curbs	N/A		
Sidewalks	N/A		
Storm sewer facilities	N/A		
Street name signs	N/A		
Survey monuments & boxes	N/A		
Trunk lines	N/A		
Mains	N/A		
Sewer connection	N/A		
Water mains	N/A		
Water supply	N/A		
Fire hydrants	N/A		
Street lights	N/A		

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 application: _____

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 Attachment A, has been provided.

Ty Harris
Signature of Applicant or Agent

5/24/2022
Date

Print Name: Ty Harris

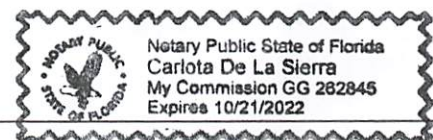
STATE OF FLORIDA
COUNTY OF MONROE

Sworn to and subscribed before me this 24th day of MAY, 2022,
by TY HARRIS (name of person signing the application)
as AGENT (type of authority...e.g. officer, manager/member, trustee, attorney in fact)
for SOJOURN INC / RDB INDUSTRIES INC (name of entity or party on behalf of whom application was executed).

Carlota De La Sierra
Signature of Notary Public – State of Florida

☒ Personally Known ☐ Produced Identification

SEAL:



Type of ID: _____

ATTACHMENT A

The following is a list of required documents for Plat approval. To determine whether an item is appropriate to a particular application, please contact the Planner and Biologist reviewing your application

- ☒ **Correct nonrefundable 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.
- ☒ **Proof of ownership** e.g. warranty deed, lease or pending sale contract.
- ☒ **Property record card** from the Monroe County Property Appraiser.
- ☒ **Title opinion** of an attorney licensed in Florida showing that record title to the land as described and shown on the plat is in the name of the person, persons, corporation, or entity executing the dedication required by § 177.081, F.S. The title opinion shall also show all mortgages not satisfied or released of record nor otherwise terminated by law.
- ☒ **Location map** showing where the project is located on the Key.
- ☒ **Aerial photographs** recently taken of site with property boundaries outlined.
- ☒ **Boundary survey** signed and sealed by a Florida registered surveyor or mapper. The survey should include elevations and location of all existing structures, paved areas, location of all utility structures, bodies of water, docks, piers, mean high water line, acreage by zoning district and acreage by habitat.
- ☒ **Habitat analysis** prepared by a biologist qualified by the Village.
- ☒ **Proposed plat** prepared by a Florida registered surveyor or mapper pursuant to Chapter 177, Florida Statutes.
- ☒ **Conceptual utility plan** prepared by a Florida registered architect, engineer or landscape architect at a standard engineering scale as appropriate for the size and shape of the project.
- ☒ **Conceptual drainage plan** prepared by a Florida registered architect, engineer or landscape architect at a standard engineering scale as appropriate for the size and shape of the project.
- ☒ **Drainage plan** with drainage calculations prepared by a registered engineer 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.
- ☒ **Traffic study** prepared by a licensed traffic engineer pursuant to Monroe County Traffic Report Guidelines Manual.
- ☐ **Covenants.** A draft of any proposed protection covenants or deed restrictions.
- ☒ **Code enforcement violation history.** Any historical and outstanding Code enforcement violations.
- ☐ **Phasing.** Description of the phases of development.
- ☐ **Improvement guarantee** (i.e., cash escrow, letter of credit, or surety bond) pursuant to Code Section 30-435.
- ☒ **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:
 - ☐ 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.



AGENT AUTHORIZATION LETTER

Islamorada, Village of Islands, Florida • Planning and Development Services Department
86800 Overseas Highway • Islamorada, Florida 33036 • 305-664-6400 • www.islamorada.fl.us

Note: Pursuant to Section 30-212(d)(2) of the Code of Ordinances of Islamorada, Village of Islands, Florida (the "Village"), all owners and any person having a contractual interest in the land shall give their permission for every application for a development permit. Therefore, more than one agent authorization letter must be submitted if there are multiple owners or persons having a contractual interest in the site.

Date: 4/21/22

I hereby authorize Ty Harris PA. 110 Plantation Shores DR., Tavernier, FL. 33070
(Name, Address and Phone Number of Authorized Agent)

to be listed as authorized agent on behalf of KERRY M. MARSH
(Name of Owner or Person Having Contractual Interest)

for the purpose of conducting all business necessary to process and obtain approval from the Village Planning and Development Services Department, in regard to:

Sojourn
(Project Name / Application Type)

Property Address: Matecumbe Sandy Beach, Bk 3, Page 127 Lower Matecumbe Key

Real Estate Number(s): Real Estate Account # 1482820

This authorization shall be effective on the date this affidavit is notarized and shall remain in effect until terminated by the undersigned owner. This authorization acts as a durable power of attorney only for the purposes stated herein.

The undersigned understands the liabilities involved in the granting of this agency and accepts full responsibility, thus holding the Village harmless, for any and all of the actions of the agent named, related to the acquisition of development permits for the aforementioned owner/applicant.

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.

Property Owner Signature: _____

Printed Name: KERRY M. MARSH

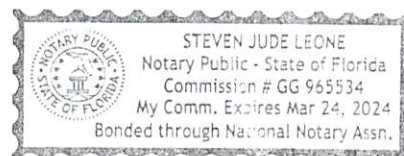
STATE OF Florida

COUNTY OF Brazos

Sworn to and subscribed before me by means of ☒ physical appearance or ☐ online notarization, this 21st day of April, 2022, by Kerry M. Marsh (name of person signing the application) as owner (type of authority e.g. officer, manager / member, trustee, attorney in fact) for property @ address (name of entity or party on behalf of whom application was executed).

Steven Leone
Signature of Notary Public - State of Florida
Steven Leone

SEAL:



☐ Personally Known ☒ Produced Identification Type of ID FLDL

CORPORATE WARRANTY DEED

This Warranty Deed, made this 2 day of March, 1998, between
Rhodamora, Inc., a Florida corporation

hereinafter called the grantor, whose post office address is: P.O. Box 298
Islamorada, FL 33036

And

Sojourn, Inc., a Florida corporation,

hereinafter called the grantee, whose post office address is: 407 Lincoln Road, Suite 11B
Miami Beach, FL 33139

Witnesseth, that the grantor, for and in consideration of the sum of \$10.00 and other valuable consideration, to the grantor in hand paid by the grantee, the receipt whereof is hereby acknowledged, has granted, bargained and sold to the grantee, and the heirs and assigns of the grantee forever, the following described land situate in Monroe County, Florida, to wit:

See attached Exhibit "A" - Legal Description

Parcel Identification Number: Tax#000394480-000100/Alt#1462620
Tax#000394480-000100/Alt#8660464

Subject to covenants, restrictions and encumbrances of record, and taxes accruing subsequent to December 31, 1997.

The grantor does hereby fully warrant the title to said land, and will defend the same against the lawful claims of all persons whomsoever.

In Witness Whereof, the grantor has executed these presents the day and year first above written.

Signed in our presence:

[Signature]
Signature of Witness
Print Name: Robert M. Cleary
[Signature]
Signature of Witness
Print Name: Gas H. Cleary

Rhodamora, Inc.

By [Signature]
Robert M. Cleary, President

(Corporate Seal)



State of Florida
County of Monroe

The foregoing instrument was acknowledged before me this 2nd day of March, 1998, by

Robert M. Cleary, President of Rhodamora, Inc., a Florida corporation, on behalf of the corporation. He/she is personally known to me or has produced Driver License as identification and did not take an oath.

[Signature]
Notary Public, State of Florida
Print Name: ANGELA P. RAY
My Commission Expires: APR 6, 1999

Attest Notary



Prepared by: Andrew McClung, Atlantic Title Insurance Company, P.O. Box 2800, Key Largo, Florida, 33037.

HONOR COUNTY
OFFICIAL RECORDS

FILE #1051405
BK1502 PG1514

RCD Mar 11 1998 10:59AM
DANNY L. KOLMAGE, CLERK

DEED DOC STAMP 3500.00
03/11/1998
HP DEP CLK

PARCEL A:

A part of Tract 5, according to the Plat of MATTHEW SANDY BEACH, as recorded in Plat Book 3 at Page 127, of the Public Records of Monroe County, Florida, on Lower Matanzas Bay, in Sections 20 and 21, Township 64 South, Range 36 East, being more particularly described as follows:

From the intersection of the Southeastery side of said Tract 5 with the Northwestery right-of-way line of Overseas Highway (U.S. Highway No. 1) all as shown on said Plat of MATTHEW SANDY BEACH; thence proceed $N56^{\circ}42'30''E$ along said right-of-way line 699.00 feet to the Point of Beginning of the tract hereinafter described; thence continue $N56^{\circ}42'30''E$ along said right-of-way line 622.04 feet; thence $S23^{\circ}17'30''W$ 200 feet; thence $S56^{\circ}42'30''W$ 622.04 feet; thence $S23^{\circ}17'30''E$ 200 feet to the Point of Beginning.

A part of Tract 5, according to the Plat of MATTHEW SANDY BEACH, as recorded in Plat Book 3 at Page 127, of the Public Records of Monroe County, Florida, on Lower Matanzas Bay, in Sections 20 and 21, Township 64 South, Range 36 East, being more particularly described as follows:

From the intersection of the Southeastery side of said Tract 5 with the Northwestery right-of-way line of Overseas Highway (U.S. Highway No. 1), all as shown on said Plat of MATTHEW SANDY BEACH; thence proceed $N56^{\circ}42'30''E$ along said right-of-way line 1422.04 feet to the Point of Beginning of the tract hereinafter described; thence continue $N56^{\circ}42'30''E$ along said right-of-way line 90.60 feet to a point of curvature of a circular curve concave to the Southeast and having a radius of 2944.93 feet; thence continue along said right-of-way line and Southeastery along the arc of said curve through a central angle of $7^{\circ}30'51''$, 300.04 feet to a point of tangency; thence proceed $N64^{\circ}13'21''E$ along said right-of-way line, 123.05 feet to a point of curvature of a circular curve concave to the West and having a radius of 25 feet and to the Southeastery right-of-way line of Sandy Cove Avenue; thence proceed Southeastery along the arc of said curve and along said right-of-way line through a central angle of $97^{\circ}30'51''$, 42.55 feet to a point of tangency; thence proceed $N23^{\circ}17'30''W$ along said right-of-way line, 173.20 feet; thence proceed $S64^{\circ}13'21''W$, 125.19 feet to a point of curvature of a circular curve concave to the Southwest and having a radius of 3164.93 feet; thence proceed Southeastery along the arc of said curve through a central angle of $7^{\circ}30'51''$, 415.07 feet to a point of tangency; thence proceed $S56^{\circ}42'30''W$, 89.60 feet; thence proceed $S23^{\circ}17'30''E$, 200.00 feet to the Point of Beginning.

A part of Tract 5, according to the Plat of MATTHEW SANDY BEACH, as recorded in Plat Book 3 at Page 127, of the Public Records of Monroe County, Florida, and being more particularly described as follows:

From the intersection of the Westerly line of Sandy Cove Avenue with the Northerly right-of-way line of the Overseas Highway (State Road No. 5), as shown on said Plat, run $N23^{\circ}17'30''W$, along said Westerly line of Sandy Cove Avenue a distance of 201.71 feet to the Point of Beginning of the parcel hereinafter described, thence continue $N23^{\circ}17'30''W$, a distance of 83.29 feet; thence $S56^{\circ}42'30''W$, a distance of 80.60 feet; thence $S23^{\circ}17'30''E$, a distance of 71.42 feet; thence North $64^{\circ}13'21''E$, a distance of 90.70 feet to the Point of Beginning.

Exhibit "A" - Legal Description

MONROE COUNTY
OFFICIAL RECORDS

FILE 21051405
BOOK 1502 PAGE 15

[Handwritten signature]

Disclaimer

The Monroe County Property Appraiser's office maintains data on property within the County solely for the purpose of fulfilling its responsibility to secure a just valuation for ad valorem tax purposes of all property within the County. The Monroe County Property Appraiser's office cannot guarantee its accuracy for any other purpose. Likewise, data provided regarding one tax year may not be applicable in prior or subsequent years. By requesting such data, you hereby understand and agree that the data is intended for ad valorem tax purposes only and should not be relied on for any other purpose.

By continuing into this site you assert that you have read and agree to the above statement.

Summary

Parcel ID	00394480-000100
Account#	1482820
Property ID	1482820
Millage Group	50VI
Location	VACANT LAND, LOWER MATECUMBE KEY
Address	
Legal Description	MATECUMBE SANDY BEACH PB3-127 LOWER MATECUMBE KEY PT TRACT 5 (2.65AC) OR408-701-702 OR547-500 OR550-749 OR877-424/425 OR987-44/51 OR1034-245/246 OR1373-488/89 OR1421-1671/74/CASE NO 96-0035-CR-LENARD/LP/MARSHAL OR1480-554/563/FINL/ORD/FORFT/MARSHAL OR1485-1528/32MARSHAL/DEED OR1489-2297/98 OR1502-1514/15 OR2394-2174/2177(DEC/REST) (Note: Not to be used on legal documents.)
Neighborhood	10024
Property Class	COMMERCIAL (1000)
Subdivision	MATECUMBE SANDY BEACH
Sec/Twp/Rng	20/64/36
Affordable Housing	No



Owner

[SOJOURN INC](#)
555 NE 15th St
Ste 2C
Miami FL 33132

Valuation

	2021	2020	2019	2018
+ Market Improvement Value	\$0	\$0	\$0	\$0
+ Market Misc Value	\$0	\$0	\$0	\$0
+ Market Land Value	\$887,950	\$887,950	\$599,125	\$739,327
= Just Market Value	\$887,950	\$887,950	\$599,125	\$739,327
= Total Assessed Value	\$333,348	\$303,044	\$275,495	\$250,450
- School Exempt Value	\$0	\$0	\$0	\$0
= School Taxable Value	\$887,950	\$887,950	\$599,125	\$739,327

Land

Land Use	Number of Units	Unit Type	Frontage	Depth
COMM/HWY/CANAL (1MHC)	91,040.00	Square Foot	0	0
ENVIRONMENTALLY SENS (000X)	0.82	Acreage	0	0

Sales

Sale Date	Sale Price	Instrument	Instrument Number	Deed Book	Deed Page	Sale Qualification	Vacant or Improved
3/1/1998	\$500,000	Warranty Deed		1502	1514	M - Unqualified	Improved
11/1/1997	\$465,000	Warranty Deed		1489	2297	M - Unqualified	Improved
10/1/1995	\$500,000	Warranty Deed		1373	0488	M - Unqualified	Improved
11/1/1987	\$1	Warranty Deed		1035	245	U - Unqualified	Vacant
3/1/1983	\$577,000	Warranty Deed		877	424	U - Unqualified	Vacant

Permits

Number	Date Issued	Date Completed	Amount	Permit Type	Notes
9532116	8/1/1995	12/1/1995	\$1		ATF DRIVEWAY

View Tax Info

[View Taxes for this Parcel](#)

Photos



Map



TRIM Notice

2021 TRIM Notice (PDF)

2021 Notices Only

No data available for the following modules: Buildings, Yard Items, Sketches (click to enlarge).

The Monroe County Property Appraiser's office maintains data on property within the County solely for the purpose of fulfilling its responsibility to secure a just valuation for ad valorem tax purposes of all property within the County. The Monroe County Property Appraiser's office cannot guarantee its accuracy for any other purpose. Likewise, data provided regarding one tax year may not be applicable in prior or subsequent years. By requesting such data, you hereby understand and agree that the

[User Privacy Policy](#)
[GDPR Privacy Notice](#)

[Last Data Upload: 5/24/2022, 4:13:15 AM](#)

Developed by
 Schneider
GEOSPATIAL

Version 2.3.195



[Department of State](#) / [Division of Corporations](#) / [Search Records](#) / [Search by Entity Name](#) /

Detail by Entity Name

Florida Profit Corporation
SOJOURN, INC.

Filing Information

Document Number	P98000018853
FEI/EIN Number	65-0823106
Date Filed	02/26/1998
State	FL
Status	ACTIVE
Last Event	AMENDMENT
Event Date Filed	05/12/2022
Event Effective Date	NONE

Principal Address

517 IDLEWYLD DR.
FORT LAUDERDALE, FL 33301

Changed: 05/12/2022

Mailing Address

517 IDLEWYLD DR.
FORT LAUDERDALE, FL 33301

Changed: 05/12/2022

Registered Agent Name & Address

NICOLA L. ZAGAROLO & ASSOCIATES PA
3800 NE THIRD AVE.
POMPANO BEACH, FL 33064

Name Changed: 05/12/2022

Address Changed: 02/02/2005

Officer/Director Detail

Name & Address

Title P

MARSH, KERRY

517 IDLEWYLD DR.
FORT LAUDERDALE, FL 33301

Title S

MARSH, MICHELE
517 IDLEWYLD DR.
FORT LAUDERDALE, FL 33301

Annual Reports

Report Year	Filed Date
2020	05/30/2020
2021	03/06/2021
2022	04/09/2022

Document Images

05/12/2022 -- Amendment	View image in PDF format
04/09/2022 -- ANNUAL REPORT	View image in PDF format
09/23/2021 -- Amendment	View image in PDF format
03/06/2021 -- ANNUAL REPORT	View image in PDF format
05/30/2020 -- ANNUAL REPORT	View image in PDF format
03/24/2019 -- ANNUAL REPORT	View image in PDF format
03/04/2018 -- ANNUAL REPORT	View image in PDF format
03/18/2017 -- ANNUAL REPORT	View image in PDF format
04/16/2016 -- ANNUAL REPORT	View image in PDF format
03/02/2015 -- ANNUAL REPORT	View image in PDF format
02/27/2014 -- ANNUAL REPORT	View image in PDF format
03/28/2013 -- ANNUAL REPORT	View image in PDF format
03/21/2012 -- ANNUAL REPORT	View image in PDF format
03/15/2011 -- ANNUAL REPORT	View image in PDF format
02/19/2010 -- ANNUAL REPORT	View image in PDF format
03/23/2009 -- ANNUAL REPORT	View image in PDF format
04/01/2008 -- ANNUAL REPORT	View image in PDF format
01/31/2007 -- ANNUAL REPORT	View image in PDF format
04/17/2006 -- ANNUAL REPORT	View image in PDF format
02/02/2005 -- REINSTATEMENT	View image in PDF format
01/13/2003 -- ANNUAL REPORT	View image in PDF format
02/28/2002 -- ANNUAL REPORT	View image in PDF format
01/30/2001 -- ANNUAL REPORT	View image in PDF format
01/24/2000 -- ANNUAL REPORT	View image in PDF format
03/01/1999 -- ANNUAL REPORT	View image in PDF format
02/26/1998 -- Domestic Profit	View image in PDF format





Florida Keys Aqueduct Authority

1100 Kennedy Drive
Key West, Florida 33040
Telephone (305) 296-2454
www.fkaa.com



J. Robert Dean
Chairman
District 3

Richard J. Toppino
Vice-Chairman
District 2

Antoinette M. Appell
Secretary/Treasurer
District 4

Nicholas W. Mulick
District 5

Cara Higgins
District 1

Kerry G. Shelby
Executive Director

May 10, 2022

Ty Harris, P.A.
110 Plantation Shores Drive
Tavernier, FL 33070
tyharrispa@gmail.com

RE: Marsh Property
Overseas Hwy and Sandy Cove Ave, Lower Matecumbe Key
RE#: 00394480-000100

Dear Ty,

This letter will serve as preliminary coordination of the above referenced project with the Florida Keys Aqueduct Authority.

There is an 8" water main on Overseas Highway and a 6" water main on Sandy Cove Avenue, adjacent to the proposed project which appears to be adequate to serve this project.

A complete set of Civil and Architectural/Plumbing plans will be required to determine meter requirements and system development charges.

Should you have any questions or require any further information please feel free to call me.

Sincerely,
Florida Keys Aqueduct Authority

Marnie Walterson
Digitally signed by Marnie
Walterson
Date: 2022.05.16 08:32:37 -0400

Marnie L. Walterson
Utility Design Supervisor

CC Anna Fernandez, Customer Service Manager-Tavernier
Yusi Bonachea, Customer Service Manager-Marathon
Danielle Mendez, Customer Service Manager-Key West



FLORIDA KEYS ELECTRIC COOPERATIVE ASSOCIATION, INC. – FKEC

91630 OVERSEAS HIGHWAY, P.O. BOX 377, TAVERNIER, FL 33070-0377 PHONE (305) 852-2431 FAX (305) 852-4794

May 9, 2022

Ty Harris, P.A.
RDB Industries Inc.
3100 Gordon Drive
Naples, Florida 34102

Via email: tyharrispa@gmail.com

Re: Letter of Coordination – Parcel ID: 00394480-000100

Dear Ty Harris,

The facilities and operations of Florida Keys Electric Cooperative Association, Inc. (FKEC) are designed to accommodate normal electrical load growth, providing sufficient energy is available from our mainland supplier. FKEC anticipates no significant problems in providing power to the property referenced above.

Easements may be required.

When preliminary electrical and site plans are available, please arrange to meet with FKEC Engineering staff to review and plan the project.

Sincerely,

A handwritten signature in dark ink, appearing to read "S. Lovell", written in a cursive style.

Suzanne Lovell
Senior Staking Technician

SL/ba

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.

**Ron DeSantis**

Governor

Joseph A. Ladapo, M.D., Ph.D.

State Surgeon General

Vision: To be the Healthiest State in the Nation

Letter of Coordination

May 3, 2022

Ty Harris, P.A.
110 Plantation Shores Drive
Tavernier, Florida 33070
tyharrispa@gmail.com (386) 956-8776

Dear Mr. Harris,

As per your request, I have reviewed our records for information about the vacant land at mm75, on Lower Matecumbe Key, Florida, property ID 00394480-000100. The Health Department has no record of septic systems or any other regulated activity at this property. Therefore, as long as the individual properties each have central water and central sewage disposal, we have no reservations for this project.

You may need to get approval from other agencies as well.

If you have any questions, please call me at 305.676.3908.

Sincerely,

A handwritten signature in black ink, appearing to read "James Rachal".

James Rachal
Environmental Manager
FL DOH-Monroe

JMR/jr



Florida Fish
and Wildlife
Conservation
Commission

Commissioners

Rodney Barreto
Chairman
Coral Gables

Steven Hudson
Fort Lauderdale

Gary Lester
Oxford

Albert Maury
Coral Gables

Gary Nicklaus
Jupiter

Sonya Rood
St. Augustine

Robert A. Spottswood
Key West

Office of the
Executive Director

Eric Sutton
Executive Director

Thomas H. Eason, Ph.D.
Assistant Executive Director

Jennifer Fitzwater
Chief of Staff

850-487-3796
850-921-5786 FAX

*Managing fish and wildlife
resources for their long-term
well-being and the benefit
of people.*

620 South Meridian Street
Tallahassee, Florida
32399-1600
Voice: 850-488-4676

Hearing/speech-impaired:
800-955-8771 (T)
800 955-8770 (V)

MyFWC.com

May 9, 2022

Ty Harris, P.A.
110 Plantation Shores Drive
Tavernier, FL 33070
tyharrispa@gmail.com

RE: Notice of Coordination, RDB Industries Inc., Marsh - Property, Monroe County

Dear Mr. Harris:

Florida Fish and Wildlife Conservation Commission (FWC) staff received a request for a letter of coordination for the potential development at the property above. This letter serves as notification to the applicant, RDB Industries Inc., and the Village of Islamorada that FWC staff will coordinate with all parties during the project life cycle to provide technical assistance on fish and wildlife resources and their habitat.

To expedite future review processes, FWC staff suggests any application packages include descriptions of the following: proposed wet or dry slips, existing wet or dry slips, construction activities involving new or existing culverts or in-water pipes, boat ramps, and any other type of in-water work.

FWC staff appreciates the opportunity to assist with this project and looks forward to working with the applicant throughout the project life cycle. For specific technical questions regarding the content of this letter, please contact Michelle Sempstrott at (407) 572-9122 or by email at Michelle.Sempstrott@MyFWC.com. All other inquiries may be sent to ConservationPlanningServices@MyFWC.com.

Sincerely,

Jason Hight, Director
Office of Conservation Planning Services

jh/ms
Village of Islamorada_47772_05112022

cc: Rachel Joffey

Environmental Assessment & Vegetation Survey

Project

Matecumbe Sandy Beach Subdivision
Sojourn Property

Real Estate Number
00394480-000100

May 16, 2022

71 TINGLER LANE, MARATHON, FL 33050

JULIE_CHEON@HOTMAIL.COM

PHONE (305) 395-1985

FAX (305) 743-4587

Background:

The following report was completed to document the existing conditions and the Listed species onsite. The report includes a site description, a vegetation map, a species list, and site photos.

Site visits were performed on the above referenced property on May 8 and May 15, 2022.

Site Description:

The property is approximately 126,250 square feet, which includes upland and submerged lands.

The scarified upland is bordered on the east and south by paved roads, Sandy Cove Ave, and U.S. Highway 1, respectively. It is bordered on the west by a similarly scarified parcel, and it is bordered on the north by a large basin (known as Captain's Cove) at the terminal end of a canal.

The property is comprised of compacted fill. Groundcovers are the dominant species. A previously planted vegetated buffer is present along the east property line. The shoreline is unarmored and contains a large mangrove-buttonwood fringe. Mangrove measurements are provided in Attachment C. There is a sharp drop off from the top of berm to the mean high water line. Concrete slurry and other construction materials were observed.

Species of Note:

Zoysia sp. (Zoysia Grass), *Casuarina equisetifolia* (Australian Pine), *Leucaena leucocephala*, and *Scaevola taccada* (Scaevola) were the invasive exotic species observed onsite. All are required to be removed prior to a certificate of occupancy being issued.

Dominant species onsite include *Sporobolus*, Buttonwood, Mahogany, Tamarind, and Red Mangroves.

A complete species list is located in Table 1.

Mitigation Requirements:

The property would be classified as disturbed. As such the following conditions are required to be adhered to:

- All listed threatened, endangered, commercially exploited, and regionally important native plant species shall be preserved, protected, relocated or replaced with the same species or equally rare species suitable to the site in accordance with [section 30-1615](#).
- All specimen and champion trees shall be preserved in their natural condition;
- All non-invasive or native trees greater than six-inch dbh shall be preserved, protected, relocated or replaced in accordance with [section 30-1615](#).

- All areas of disturbance shall be managed to avoid the introduction and/or establishment of invasive exotic species; and
- All invasive exotic species shall be removed from the parcel proposed for development.

Appropriate permits must be obtained from the Village of Islamorada prior to removal of any vegetation. Please consult the Islamorada Environmental Planning Department for specific requirements.

Please feel free to direct any questions regarding this report to the author at the above referenced contacts.

Table 1 – Species List

<u>Scientific Name</u>	<u>Common Name</u>	<u>Map Symbol</u>	<u>Status</u>
<i>Acacia choriophylla</i>	Cinnecord	Cn	END
<i>Borrchia arborescens</i>	Sea Oxeye Daisy	-	N
<i>Bourreria succulenta</i>	Strongback/Strongbark	Sb	END
<i>Bursera simaruba</i>	Gumbo Limbo	G	N
<i>Calyptanthus pallens</i>	Spicewood/ Pale Lidflower	Sp	T
<i>Capparis cynophallophora</i>	Jamaica Caper	-	SR
<i>Casuarina equisetifolia</i>	Australian Pine	-	IEX
<i>Coccoloba uvifera</i>	Seagrape	Sg	N
<i>Conocarpus erectus</i>	Green Buttonwood	B	N
<i>Conocarpus erectus var. sericeus</i>	Silver Buttonwood	-	N
<i>Erithalis fruticosa</i>	Blacktorch	E	T
<i>Ernodea littoralis</i>	Beach Creeper	-	N
<i>Eugenia foetida</i>	Spanish Stopper	-	N
<i>Fimbristylis cymosa (aka F. spathacea)</i>	Hurricane Grass	-	N
<i>Flaveria linearis</i>	Yellowtop	-	N
<i>Leucaena leucocephala</i>	Lead Tree	-	IEX
<i>Lysiloma latisiliquum</i>	Wild Tamarind	T	N
<i>Metopium toxiferum</i>	Poisonwood	Pw	N
<i>Pithecellobium guadalupense</i>	Blackbead	-	N
<i>Pithecellobium unguis-cati</i>	Catclaw Blackbead	-	N
<i>Randia aculeata</i>	Randia/White Indigo Berry	-	N
<i>Sesuvium portulacastrum</i>	Seapurslane	-	N
<i>Sporobolus spp.</i>	Sporobolus	-	N
<i>Suriana maritima</i>	Bay Cedar	-	N
<i>Swietenia Mahagoni</i>	Mahogany	M	END
	Unidentified Palm Sapling	-	

Key ~ Status

CE	Commercially Exploited	All Protected
ex	Exotic	non-native (may be naturalized)
END	Endangered	All Protected
IEX	Invasive Exotic	Removal Prior to CO Required
N	Native	> 4" dbh protected
RI	Regionally Important	All protected
T	Threatened	All Protected

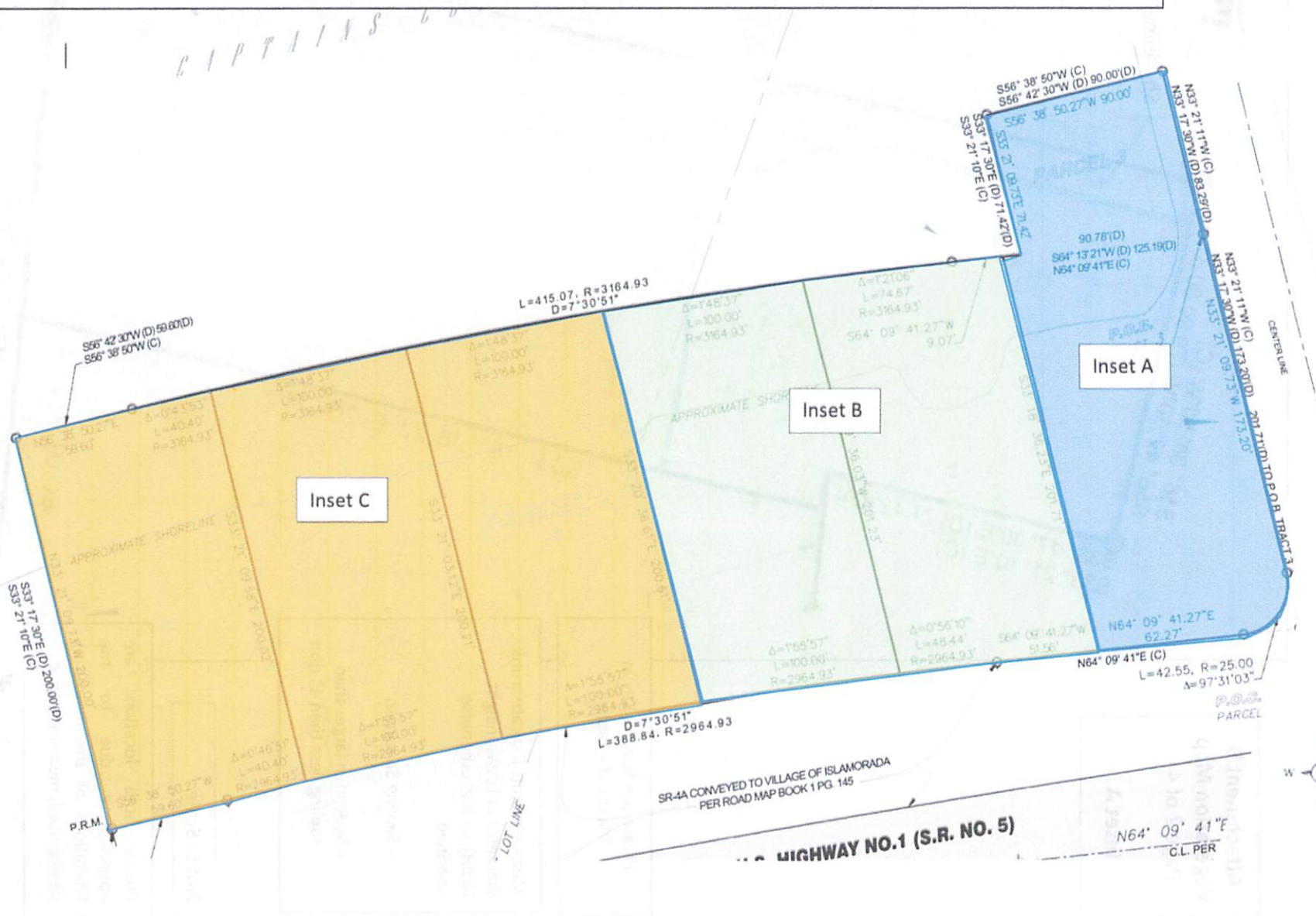
Attachment A
Location Map

Subject Property



Attachment B – Vegetation Map (page 1 of 4)

Overview Page



Attachment B
Vegetation Map
Page 2 of 4

Inset A

Please see Species Key in
Plant List - Table 1

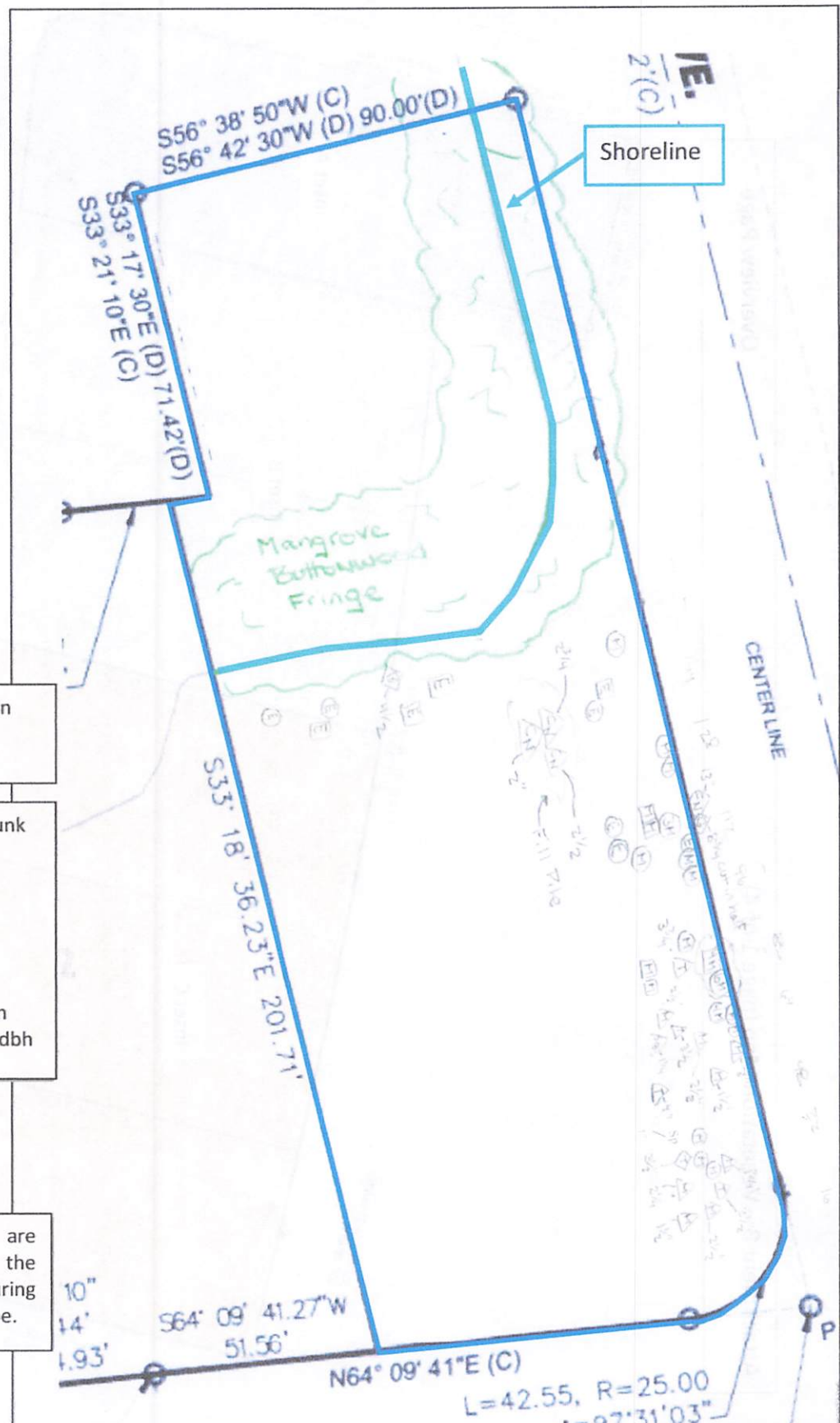
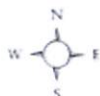
Measurements indicate trunk
diameter at breast height
(DBH), unless otherwise
specified.

○ = Sapling Specimen

□ = Specimen larger than
sapling, less than 1" dbh

Not to Scale

Please note locations are
approximate due to the
limitations of the measuring
device used, measuring tape.



Attachment B – Vegetation Map (page 3 of 4)

Inset B

Please see Species Key in
Plant List - Table 1

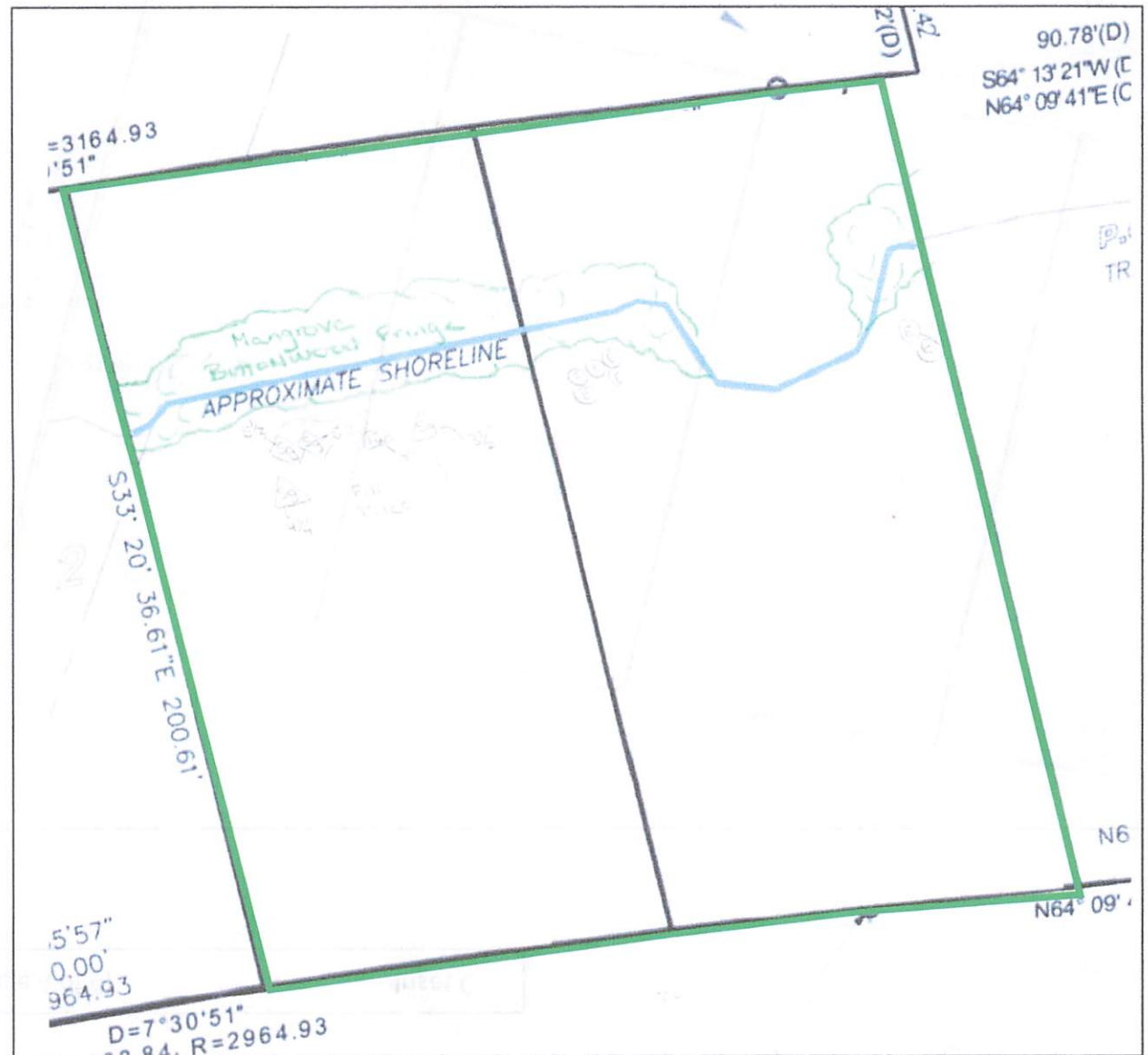
Measurements indicate trunk
diameter at breast height
(DBH), unless otherwise
specified.

- = Sapling Specimen
□ = Specimen larger than
sapling, less than 1" dbh

Not to Scale



Please note locations are
approximate due to the
limitations of the measuring
device used, measuring tape.



Attachment B- Vegetation Map (page 4 of 4)

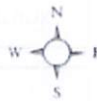
Inset C

Please see Species Key in
Plant List - Table 1

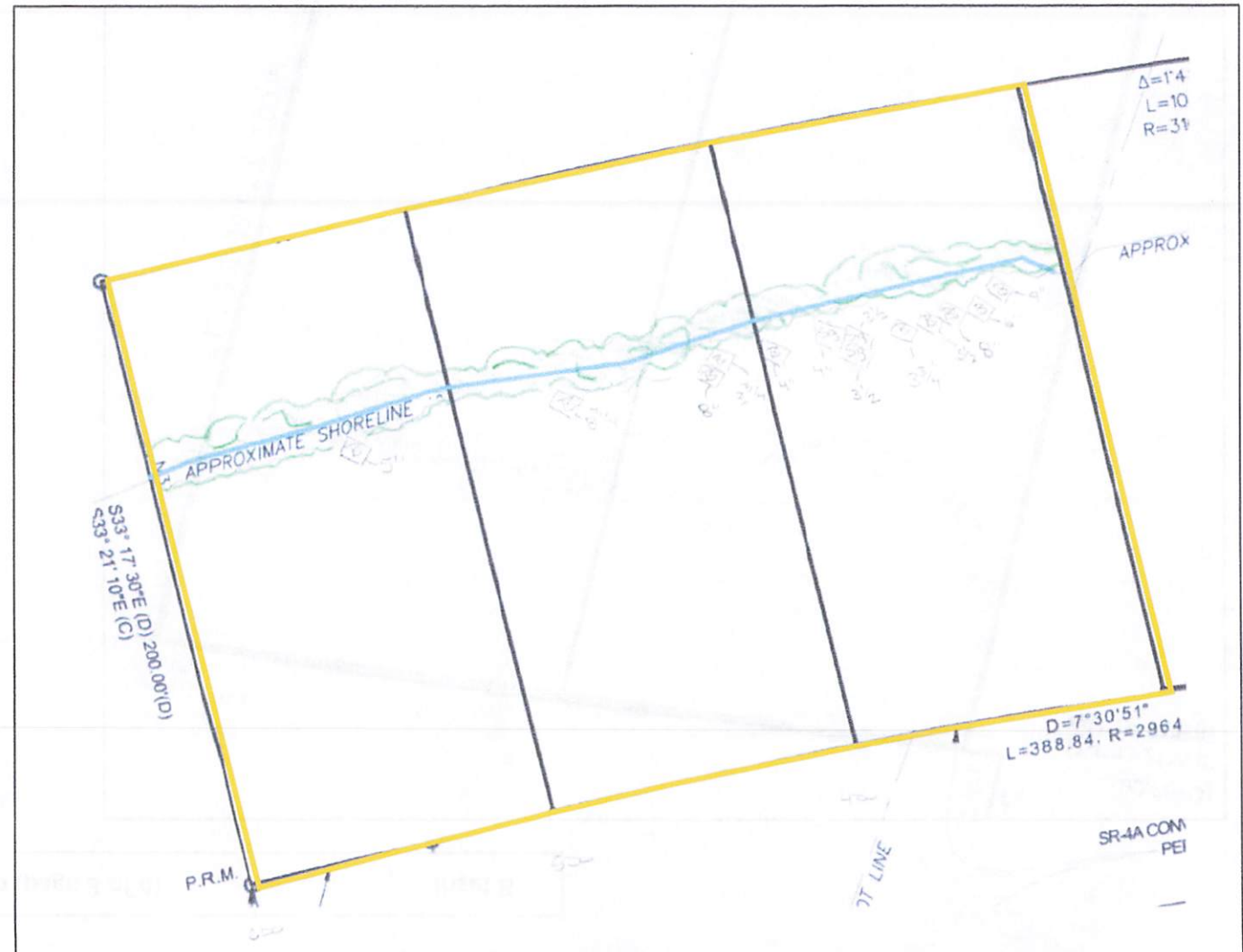
Measurements indicate trunk
diameter at breast height
(DBH), unless otherwise
specified.

- = Sapling Specimen
□ = Specimen larger than
sapling, less than 1" dbh

Not to Scale



Please note locations are
approximate due to the
limitations of the measuring
device used, measuring tape.

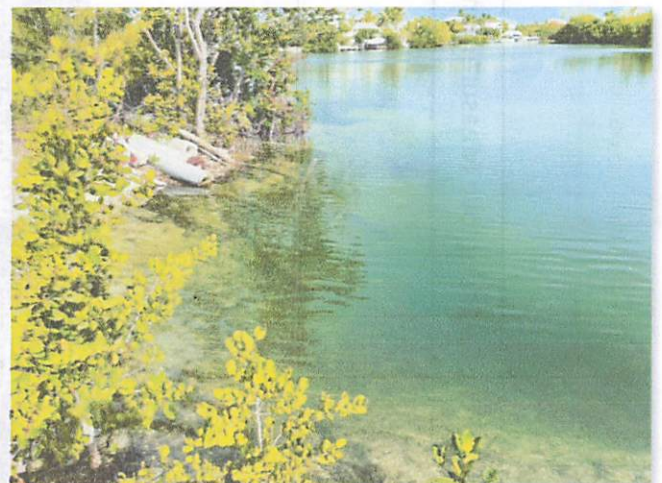


Attachment C – Mangrove Measurements

Inset C



Attachment D – Site Photos



RESOLUTION NO. 08-07-48

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, APPROVING THE LITIGATION SETTLEMENT AGREEMENT WITH SOJOURN, INC.; AUTHORIZING THE APPROPRIATE VILLAGE OFFICIALS TO EXECUTE THE SETTLEMENT AGREEMENT AND ANY ADDITIONAL DOCUMENTS PERTAINING TO THE SETTLEMENT AGREEMENT AND TO TAKE ALL ACTIONS NECESSARY TO IMPLEMENT THE TERMS AND CONDITIONS OF THE SETTLEMENT AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Sojourn, Inc. ("Sojourn") filed suit against Islamorada, Village of Islands, Florida (the "Village") in an action styled Sojourn, Inc. vs. Islamorada, Village of Islands, Case No. 44-2004-CA 252-P, in the Circuit Court of the Sixteenth Judicial Circuit in and for Monroe County, Florida, (the "Litigation"); and

WHEREAS, the Litigation involves a claim for damages and inverse condemnation concerning land owned by Sojourn and located within the Village; and

WHEREAS, the Village Council of Islamorada, Village of Islands, Florida, (the "Village Council") desires to enter into a settlement of the Litigation, a copy of which is attached hereto as Exhibit "A" (the "Settlement Agreement"), which will avoid the expense and delay of lengthy litigation and allow the Village and Sojourn to resolve the Litigation on an amicable basis.

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 are incorporated herein by this reference.

Section 2. **Approval of the Settlement Agreement.** The Village Council hereby approves the execution of the Settlement Agreement and any additional documents pertaining to the Settlement Agreement.

Section 3. **Authorization.** The appropriate Village officials including the Mayor, Village Manager and Village Attorney are authorized to execute and deliver the Settlement Agreement and any additional documents pertaining to the Settlement Agreement, including but not limited to addendums thereto, Joint Stipulation for Final Order of Dismissal, termination of the Settlement Agreement if necessary, and to take all action necessary to implement the terms and conditions of the Settlement Agreement.

Section 4. **Effective Date.** This Resolution shall be effective immediately upon its adoption

The foregoing Resolution was offered by Councilman Boerner, who moved for its adoption on first reading. This motion was seconded by Vice Mayor Achenberg, and upon being put to a vote, the vote was as follows:

FINAL VOTE AT ADOPTION

VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS

Mayor Cathi Hill	YES
Vice Mayor Don Achenberg	YES
Councilman Michael Reckwerdt	YES
Councilman Dave Boerner	YES
Councilwoman Jill Zima Borski	YES

PASSED AND ADOPTED THIS 24TH DAY OF JULY, 2008.



Cathi Hill, MAYOR

ATTEST:



Beverly Raddatz, Village Clerk

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



VILLAGE ATTORNEY

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT made this 3 day of July, 2008, is entered into between ISLAMORADA, VILLAGE OF ISLANDS, a municipal corporation of the State of Florida (the "VILLAGE"), and SOJOURN, INC. a Florida corporation ("SOJOURN").

WITNESSETH:

WHEREAS, SOJOURN filed suit against the VILLAGE in an action styled Sojourn, Inc. vs. Islamorada, Village of Islands, Case No. 44-2004-CA 252-P, in the Circuit Court of the Sixteenth Judicial Circuit in and for Monroe County, Florida, (the " Litigation"); and

WHEREAS, the Litigation involves a claim for damages and inverse condemnation concerning land owned by SOJOURN and located within the VILLAGE, more particularly described in Exhibit "A" attached hereto (the " Property"); and

WHEREAS, effective January 4, 1996 under the Monroe County Comprehensive Zoning Ordinance, the Property was classified within the Residential Low (RL) future land use map ("FLUM") category, and

WHEREAS, due to the Village's desire to acquire the Property as a park, the property was designated within the Recreation and Open Space (RO) FLUM category during the adoption phase of the Comprehensive Planning process, and

WHEREAS, the Islamorada, Village of Islands Comprehensive Plan (the "Comprehensive Plan") became effective December 6, 2001; and

WHEREAS, without prejudicing either the VILLAGE or SOJOURN'S legal position in the Litigation, and to avoid the expense and delay of lengthy litigation, the parties desire to resolve the litigation on an amicable basis, and

WHEREAS, SOJOURN has applied for and the VILLAGE has approved a change to the FLUM designation of the Property from Recreation Open Space (RO) to Residential High (RH) (Ordinance NO. 07-33); and

WHEREAS, the maximum density within the Residential High (RH) FLUM category is six (6) market rate dwelling units per acre or twelve (12) affordable dwelling units per acre; and

WHEREAS, SOJOURN has filed an application to change the Village's Zoning Map designation on the Property from Recreation (R) to Multi-Family (MF); and

WHEREAS, SOJOURN has proffered a restrictive covenant on the Property, attached as Exhibit "B", which limits future development to no more than six (6) detached single-family market rate residential dwelling units along with customary accessory uses (the "Six Units") as defined and allowed pursuant to the Village Code of Ordinances (the "Village Code"); and

WHEREAS, the VILLAGE agrees that if the property is rezoned to MF, SOJOURN shall have the right to develop the Six Units as separate lots via a land condominium or by obtaining plat approval; and

WHEREAS, SOJOURN recognizes that the process for review and consideration of the proposed rezoning and related development permits to develop the Property can be protracted and wishes to obtain a binding commitment that the VILLAGE will expeditiously and diligently review, process and finally consider the proposed rezoning and related development permits; and

WHEREAS, the VILLAGE and SOJOURN wish to enter into a settlement of the Litigation, subject to the terms and conditions set forth herein;

NOW, THEREFORE, IN CONSIDERATION of the terms and conditions set forth hereinafter and as the full, complete and final agreement, the parties hereto agree as follows:

1. The foregoing recitals are hereby incorporated in this Agreement and made a part hereof.
2. SOJOURN has submitted an application to rezone the Property from Recreation (R) to Multi-Family (MF) (the "Rezoning") and has agreed to pay all fees customarily charged by the VILLAGE to file, process and advertise the Rezoning application. The VILLAGE agrees to timely process the application and to timely schedule for public hearing(s), the Rezoning.
3. The VILLAGE and SOJOURN further agree to use their best efforts and to faithfully, responsibly, and completely fulfill the intent and duties set forth herein by using their best efforts to process the proposed Rezoning and such other approvals and permits that may be required to allow SOJOURN to develop and construct six (6) detached market rate single-family dwelling units along with customary accessory uses, as defined and allowed pursuant to the Village Code.
4. During the public hearing process on the FLUM Amendment and proposed Rezoning, SOJOURN has voluntarily proffered and agreed to record in the public records a deed restriction running with the land, which shall provide that notwithstanding the FLUM and Zoning approvals, the use of the Property shall be limited to six (6) detached market rate single-family residential dwelling units (See Exhibit "B"). Said deed restriction shall be recorded if the Rezoning is approved. In the event Sojourn's application to re-zone the property to Multi-Family (MF) is denied by either the

VILLAGE or the Florida Department of Community Affairs (“DCA”), the executed deed restriction shall be null and void and shall be returned to SOJOURN.

5. Due to the extraordinary delays incurred in development as a result of the Recreation Open Space (RO) FLUM designation and Recreational (R) zoning of the Property, when and if SOJOURN obtains the necessary Zoning approvals as set forth above, the VILLAGE agrees, upon proper application by SOJOURN or any subsequent property owner, to expeditiously review and process any such applications in accordance with its Building Permit Allocation System (“BPAS”).

6. Based upon the foregoing, when and if SOJOURN or any subsequent property owner submits a BPAS application for any of the six (6) detached single-family residential dwelling units subject to this Agreement, the VILLAGE, upon acceptance of a complete application, shall initially allocate two (2) building permits. The remaining four (4) BPAS applications shall be allocated the equivalent of four (4) years of perseverance points to the building permit application on the date each application enters the Village BPAS.

7. SOJOURN agrees not to oppose any future VILLAGE initiated or sponsored FLUM Amendment from Residential High (RH) to Residential Medium (RM) on the Property.

8. In the event the Rezoning is not approved with finality (following the disposition of any appeal or expiration of any appeal) by the Village and the Florida Department of Community Affairs, this Settlement Agreement shall be null and void and of no further force and effect. In the event the Rezoning is approved with finality by the Village and the Florida Department of Community Affairs, a copy of this Settlement Agreement shall be attached to and incorporated in a Joint Stipulation for the entry of a Final Order of Dismissal and filed with the Court in *Sojourn, Inc. vs. Islamorada Village of Islands*, case no. 44-2004-CA-252-P. The parties agree that the Joint

Stipulation shall provide for the entry of a Final Order of Dismissal with each party to bear its own costs and attorneys fees and that the Court shall retain jurisdiction of the parties and subject matter to enforce the terms of the Settlement Agreement. A copy of the Joint Stipulation and proposed Final Order of Dismissal are attached hereto as composite Exhibit "C."

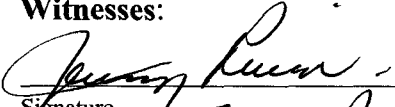
9. The VILLAGE and SOJOURN agree that they shall immediately commence all reasonable actions necessary to fulfill their obligations described in this Agreement and shall diligently pursue the same throughout the existence of this Agreement.

10. In any action to enforce this Agreement, the prevailing party shall be entitled to recover its costs and attorneys fees from the losing party.

11. This Agreement shall be binding upon and shall inure to the benefit of the parties, their successors and assigns.

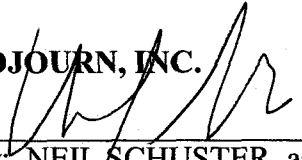
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

Witnesses:


Signature
Print Name: Jeremy Rivera

Signature
Print Name: STACEY STOKES

SOJOURN, INC.

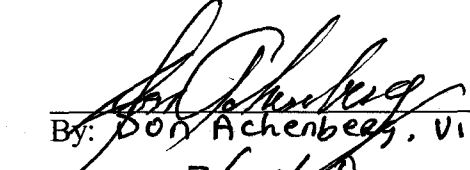

By: NEIL SCHUSTER, as President of Sojourn, Inc.

Dated: 9-3, 2008

Attest:


Village Clerk

ISLAMORADA, VILLAGE OF ISLANDS

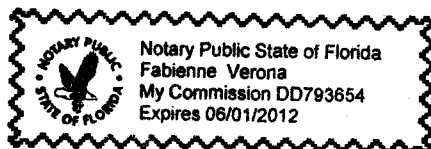

By: DON ACHENBERG, VICE MAYOR
Dated: 7/25/08, 2008

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY FOR THE USE AND
BENEFIT OF ISLAMORADA


VILLAGE ATTORNEY

STATE OF FLORIDA
COUNTY OF MONROE

The foregoing instrument was acknowledged before me by NEIL SCHULSTER as President of SOJOURN, INC. who is personally known to me or produced D/L 523-133-51-203 D. as identification.




Notary Public
Dated: 7/3, 2008

EXHIBIT "A"

LEGAL DESCRIPTION

A part of Tract 5 according to Plat of MATECUMBE SANDY BEACH as recorded in Plat Book 3 at Page 127 of the Public Records of Monroe County, Florida on Lower Matecumbe Key in Sections 20 and 21, Township 64 South, Range 36 East, being more particularly described as follows:

From the intersection of the Southwesterly side of said Tract 5 with the Northwesterly Right – of – way line of Overseas Highway (US Highway No. 1) all as shown on said Plat of MATECUMBE SANDY BEACH, thence proceed North 56 degrees 42 minutes 30 seconds East along said Right – of – Way line 1422.84 feet to the Point of Beginning of the tract hereinafter described, thence continue North 56 degrees 42 minutes 30 seconds East along said Right – of – Way line 59.60 feet to a point of curvature of a circular curve concave to the Southeast and having a radius of 2964.93 feet, thence continue along said Right – of – Way line and Northeasterly along the arc of said curve through a central angle of 7 degrees 30 minutes 51 seconds. 388.84 feet to a point of tangency, thence proceed North 64 degrees 13 minutes 21 seconds East, along said Right – of – Way line 123.05 feet to a point of curvature of a circular curve concave to the West and having a radius of 25 feet and to the Southwesterly Right – of – Way line of Sandy Cove Avenue, thence proceed Northeasterly along said Right – of – Way line through a central angle of 97 degrees 30 minutes 51 seconds 42.55 feet to a point of tangency, thence proceed North 33 degrees 17 minutes 30 seconds West along said Right – of – Way line. 173.20 feet, thence proceed South 64 degrees 13 minutes 21 seconds West, 125.19 feet to a point of curvature of a circular curve concave to the Southwest and having a radius of 3164.93 feet, thence proceed Southwesterly along the arc of said curve through a central angle of 7 degrees 30 minutes 51 seconds. 415.07 feet to a point of tangency, thence proceed South 56 degrees 42 minutes 30 seconds West, 59.60 feet, thence proceed South 33 degrees 17 minutes 30 seconds East, 200.00 feet to the Point of Beginning.

This instrument prepared by:

James White, Esq.
Weiss Serota Helfman Et Al
200 East Broward Blvd.
Suite 1900
Ft. Lauderdale, Florida 33301

DECLARATION OF RESTRICTIONS

WHEREAS, SOJOURN, INC., a Florida corporation ("Owner"), holds fee simple title to the real property located in Islamorada, Village of Islands, Monroe County, Florida, described in Exhibit "A" attached hereto and made part hereof (hereinafter referred to as the "Property");

WHEREAS, Owner has filed an application for an amendment to the Official Zoning Map with Islamorada, Village of Islands, a Florida municipal corporation (hereinafter referred to as the "Village") through the Village Department of Planning and Development Services referred to as Application No. FLRZ 06-02 ("Rezoning Application");

WHEREAS, Owner has simultaneously filed an application for an amendment to the Future Land Use Map with the Village through the Village Department of Planning and Development Services also referred to as Application No. FLRZ 06-02 ("Land Use Map Amendment");

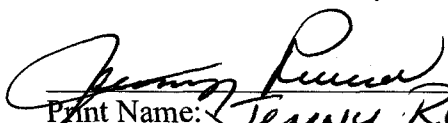
NOW, THEREFORE, in order to assure the Village that the representations made by the Owner during consideration of the Rezoning and the Land Use Map Amendment, Public Hearing No. FLRZ 06-02, will be abided by, the Owner, their successors or assigns, freely, voluntarily and without duress, hereby proffer, declare, covenant, and agree that the Property shall be developed, held and conveyed subject to the following restrictions, covenants and conditions, which shall run with the Property and be binding upon all persons having any right, title or interest in the Property or any part thereof:

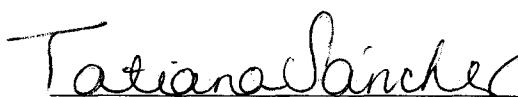
1. **Density Restriction.** The Property shall be limited to no more than six (6) detached single-family residential dwelling units. Notwithstanding the requested Multi-Family (MF) zoning district designation for the Property pursuant to the Rezoning Application, the development of the Property shall be limited to no more than six (6) detached single-family residential dwelling units.
2. **Covenant Regarding Uses.** Neither the Property, nor any portion or part thereof, may be used at any time for any other use other than residential dwelling units, and customary accessory uses such as swimming pools, docks, etc., as defined in the Village's Code.

3. **Covenant Running with the Land.** This Declaration on the part of the Owner shall be recorded in the public records of Monroe County, Florida and shall remain in full force and effect and be binding upon the undersigned Owner, and their heirs, successors or assigns. These restrictions during their lifetime shall be for the benefit of, and limitation upon, all present and future owners of the Property and for the public welfare.
4. **Term.** This Declaration is to run with the land and shall be binding on all parties and all persons claiming under it for a period of thirty (30) years from the date this Declaration is recorded after which time it shall be extended automatically for successive periods of (10) years each.
5. **Enforcement.** Enforcement shall be by action against any parties or person violating, or attempting to violate, any covenants. The prevailing party in any action or suit pertaining to or arising out of this Declaration shall be entitled to recover, in addition to costs and disbursements allowed by law, such sum as the Court may adjudge to be reasonable for the services of his or her attorney. This enforcement provision shall be in addition to any other remedies available at law or in equity or both.
6. **Severability.** Invalidation of any one of these covenants, by judgment of Court, in no way shall affect any of the other provisions which shall remain in full force and effect.
7. **Recording.** This Declaration shall become final and shall be filed of record in the public records of Monroe County, Florida, at the cost of the Owner following the adoption by the Village Council of a final ordinance approving the Rezoning Application and the Land Use Map Application and expiration of all appellate time frames.

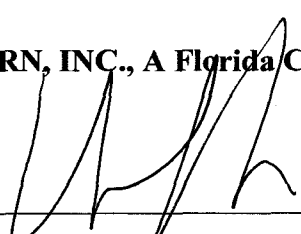
Signed, witnessed, executed and acknowledged this 13 day of July, 2008.

Witnesses:


Print Name: Jeremy Rivera


Print Name: Tatiana Sanchez

SOJOURN, INC., A Florida Corporation

By: 

Name: N. M. Schuster

Title: President of Sojourn

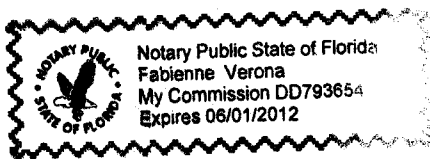
STATE OF FLORIDA)

)SS.

COUNTY OF DADE)

The foregoing instrument was acknowledged before me this 23 day of July 2008 by Neil M Schuster, as President, of SOJOURN, INC., a Florida corporation, who is personally known to me or has produced N/A as identification.

[SEAL]



[Signature]

Notary Public, State of Florida

Fabienne Verona

Print Name of Notary

Commission No. DD793654

Commission Expires: 06/01/2012

EXHIBIT "A"**LEGAL DESCRIPTION**

A part of Tract 5 according to Plat of MATECUMBE SANDY BEACH as recorded in Plat Book 3 at Page 127 of the Public Records of Monroe County, Florida on Lower Matecumbe Key in Sections 20 and 21, Township 64 South. Range 36 East, being more particularly described as follows:

From the intersection of the Southwesterly side of said Tract 5 with the Northwesternly Right – of – way line of Overseas Highway (US Highway No. 1) all as shown on said Plat of MATECUMBE SANDY BEACH, thence proceed North 56 degrees 42 minutes 30 seconds East along said Right – of – Way line 1422.84 feet to the Point of Beginning of the tract hereinafter described, thence continue North 56 degrees 42 minutes 30 seconds East along said Right – of – Way line 59.60 feet to a point of curvature of a circular curve concave to the Southeast and having a radius of 2964.93 feet, thence continue along said Right – of – Way line and Northeasterly along the arc of said curve through a central angle of 7 degrees 30 minutes 51 seconds. 388.84 feet to a point of tangency, thence proceed North 64 degrees 13 minutes 21 seconds East, along said Right – of – Way line 123.05 feet to a point of curvature of a circular curve concave to the West and having a radius of 25 feet and to the Southwesterly Right – of – Way line of Sandy Cove Avenue, thence proceed Northeasterly along said Right – of – Way line through a central angle of 97 degrees 30 minutes 51 seconds 42.55 feet to a point of tangency, thence proceed North 33 degrees 17 minutes 30 seconds West along said Right – of – Way line. 173.20 feet, thence proceed South 64 degrees 13 minutes 21 seconds West, 125.19 feet to a point of curvature of a circular curve concave to the Southwest and having a radius of 3164.93 feet, thence proceed Southwesterly along the arc of said curve through a central angle of 7 degrees 30 minutes 51 seconds. 415.07 feet to a point of tangency, thence proceed South 56 degrees 42 minutes 30 seconds West, 59.60 feet, thence proceed South 33 degrees 17 minutes 30 seconds East, 200.00 feet to the Point of Beginning.

IN THE CIRCUIT COURT OF THE 16TH
JUDICIAL CIRCUIT IN AND FOR
MONROE COUNTY, FLORIDA

CASE NO. 44-2004-CA-252-P

SOJOURN, INC.

Plaintiff,

vs.

ISLAMORADA, Village of Islands,
a municipal corporation

Defendant.

JOINT STIPULATION FOR FINAL ORDER OF DISMISSAL

Pursuant to the parties Settlement Agreement, a copy of which is attached hereto, the Plaintiff and the Defendant stipulate and agree to the entry of a Final Order of Dismissal with each party to bear its own costs and attorneys' fees. The parties further request that the Court approve and retain jurisdiction to enforce their settlement agreement.

Andrew M. Tobin, Esquire
P.O. Box 620
Tavernier, FL 33070
305/852-3388 Telephone
305/852-6957 Facsimile

Michael T. Burke, Esquire
Johnson, Anselmo, Murdoch, Burke,
Piper & Hochman, P.A.
2455 East Sunrise Boulevard
Suite 1000
Fort Lauderdale, Florida 33304
954/463-0100 Telephone
954/463-2444 Facsimile

IN THE CIRCUIT COURT OF THE
16TH JUDICIAL CIRCUIT IN AND
FOR MONROE COUNTY, FLORIDA

CASE NO. 44-2004-CA-252-P

By: _____
ANDREW TOBIN
Florida Bar No. 184825

Dated: _____

By: _____
MICHAEL T. BURKE
Florida Bar No. 338771

Dated: _____

IN THE CIRCUIT COURT OF THE 16TH
JUDICIAL CIRCUIT IN AND FOR
MONROE COUNTY, FLORIDA

CASE NO. 44-2004-CA-252-P

SOJOURN, INC.

Plaintiff,

vs.

ISLAMORADA, Village of Islands,
a municipal corporation

Defendant.
_____ /

FINAL ORDER OF DISMISSAL

THIS CAUSE having come before the Court on the Parties' Joint Stipulation for entry of a Final Order of Dismissal, and the Court otherwise fully advised in the premises, it is hereupon

ORDERED AND ADJUDGED that the above-styled action be and the same is hereby dismissed with each party to bear its own costs and attorneys' fees. The Parties settlement agreement, a copy of which is attached hereto, is approved, the Parties are directed to comply with the same and the Court retains jurisdiction to enforce the settlement agreement.

DONE AND ORDERED in Chambers at Plantation key, Florida, this ____ day of

_____, 2008.

Louis Garcia
CIRCUIT COURT JUDGE

Copies furnished:
Andrew M. Tobin, Esquire
Michael T. Burke, Esquire

TobinLaw@Terranova.net

ANDREW M. TOBIN, PA
Attorney at Law
Post Office Box 620
Tavernier, Florida 33070
Telephone 305-852-3388

Land Use & Zoning Law
Environmental Law
Administrative Law
Appellate Practice
Real Estate Closings

July 8, 2008

Edward J. Koconis, AICP
Director of Planning & Development
Village of Islamorada
P.O. Box 568
Islamorada, Florida 33036

Re: Sojourn, Inc. v. Islamorada
Case No. 44-2004-CA-252-P

Dear Ed;

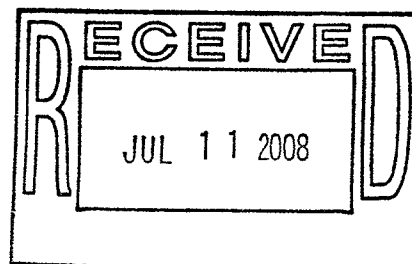
Enclosed is an executed settlement agreement and declaration of restrictions signed by Neil Schuster as President of Sojourn, Inc. Please return the executed copy following the approval by the Village Council.

Thank you for your cooperation in this matter.

Sincerely yours,


Andrew M. Tobin, Esq.

cc: James E. White, Esq.
Michael Burke, Esq.



SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT made this 3 day of July, 2008, is entered into between ISLAMORADA, VILLAGE OF ISLANDS, a municipal corporation of the State of Florida (the "VILLAGE"), and SOJOURN, INC. a Florida corporation ("SOJOURN").

WITNESSETH:

WHEREAS, SOJOURN filed suit against the VILLAGE in an action styled Sojourn, Inc. vs. Islamorada, Village of Islands, Case No. 44-2004-CA 252-P, in the Circuit Court of the Sixteenth Judicial Circuit in and for Monroe County, Florida, (the " Litigation"); and

WHEREAS, the Litigation involves a claim for damages and inverse condemnation concerning land owned by SOJOURN and located within the VILLAGE, more particularly described in Exhibit "A" attached hereto (the " Property"); and

WHEREAS, effective January 4, 1996 under the Monroe County Comprehensive Zoning Ordinance, the Property was classified within the Residential Low (RL) future land use map ("FLUM") category, and

WHEREAS, due to the Village's desire to acquire the Property as a park, the property was designated within the Recreation and Open Space (RO) FLUM category during the adoption phase of the Comprehensive Planning process, and

WHEREAS, the Islamorada, Village of Islands Comprehensive Plan (the "Comprehensive Plan") became effective December 6, 2001; and

WHEREAS, without prejudicing either the VILLAGE or SOJOURN'S legal position in the Litigation, and to avoid the expense and delay of lengthy litigation, the parties desire to resolve the litigation on an amicable basis, and

WHEREAS, SOJOURN has applied for and the VILLAGE has approved a change to the FLUM designation of the Property from Recreation Open Space (RO) to Residential High (RH) (Ordinance NO. 07-33); and

WHEREAS, the maximum density within the Residential High (RH) FLUM category is six (6) market rate dwelling units per acre or twelve (12) affordable dwelling units per acre; and

WHEREAS, SOJOURN has filed an application to change the Village's Zoning Map designation on the Property from Recreation (R) to Multi-Family (MF); and

WHEREAS, SOJOURN has proffered a restrictive covenant on the Property, attached as Exhibit "B", which limits future development to no more than six (6) detached single-family market rate residential dwelling units along with customary accessory uses (the "Six Units") as defined and allowed pursuant to the Village Code of Ordinances (the "Village Code"); and

WHEREAS, the VILLAGE agrees that if the property is rezoned to MF, SOJOURN shall have the right to develop the Six Units as separate lots via a land condominium or by obtaining plat approval; and

WHEREAS, SOJOURN recognizes that the process for review and consideration of the proposed rezoning and related development permits to develop the Property can be protracted and wishes to obtain a binding commitment that the VILLAGE will expeditiously and diligently review, process and finally consider the proposed rezoning and related development permits; and

WHEREAS, the VILLAGE and SOJOURN wish to enter into a settlement of the Litigation, subject to the terms and conditions set forth herein;

NOW, THEREFORE, IN CONSIDERATION of the terms and conditions set forth hereinafter and as the full, complete and final agreement, the parties hereto agree as follows:

1. The foregoing recitals are hereby incorporated in this Agreement and made a part hereof.
2. SOJOURN has submitted an application to rezone the Property from Recreation (R) to Multi-Family (MF) (the "Rezoning") and has agreed to pay all fees customarily charged by the VILLAGE to file, process and advertise the Rezoning application. The VILLAGE agrees to timely process the application and to timely schedule for public hearing(s), the Rezoning.
3. The VILLAGE and SOJOURN further agree to use their best efforts and to faithfully, responsibly, and completely fulfill the intent and duties set forth herein by using their best efforts to process the proposed Rezoning and such other approvals and permits that may be required to allow SOJOURN to develop and construct six (6) detached market rate single-family dwelling units along with customary accessory uses, as defined and allowed pursuant to the Village Code.
4. During the public hearing process on the FLUM Amendment and proposed Rezoning, SOJOURN has voluntarily proffered and agreed to record in the public records a deed restriction running with the land, which shall provide that notwithstanding the FLUM and Zoning approvals, the use of the Property shall be limited to six (6) detached market rate single-family residential dwelling units (See Exhibit "B"). Said deed restriction shall be recorded if the Rezoning is approved. In the event Sojourn's application to re-zone the property to Multi-Family (MF) is denied by either the

VILLAGE or the Florida Department of Community Affairs (“DCA”), the executed deed restriction shall be null and void and shall be returned to SOJOURN.

5. Due to the extraordinary delays incurred in development as a result of the Recreation Open Space (RO) FLUM designation and Recreational (R) zoning of the Property, when and if SOJOURN obtains the necessary Zoning approvals as set forth above, the VILLAGE agrees, upon proper application by SOJOURN or any subsequent property owner, to expeditiously review and process any such applications in accordance with its Building Permit Allocation System (“BPAS”).

6. Based upon the foregoing, when and if SOJOURN or any subsequent property owner submits a BPAS application for any of the six (6) detached single-family residential dwelling units subject to this Agreement, the VILLAGE, upon acceptance of a complete application, shall initially allocate two (2) building permits. The remaining four (4) BPAS applications shall be allocated the equivalent of four (4) years of perseverance points to the building permit application on the date each application enters the Village BPAS.

7. SOJOURN agrees not to oppose any future VILLAGE initiated or sponsored FLUM Amendment from Residential High (RH) to Residential Medium (RM) on the Property.

8. In the event the Rezoning is not approved with finality (following the disposition of any appeal or expiration of any appeal) by the Village and the Florida Department of Community Affairs, this Settlement Agreement shall be null and void and of no further force and effect. In the event the Rezoning is approved with finality by the Village and the Florida Department of Community Affairs, a copy of this Settlement Agreement shall be attached to and incorporated in a Joint Stipulation for the entry of a Final Order of Dismissal and filed with the Court in *Sojourn, Inc. vs. Islamorada Village of Islands*, case no. 44-2004-CA-252-P. The parties agree that the Joint

Stipulation shall provide for the entry of a Final Order of Dismissal with each party to bear its own costs and attorneys fees and that the Court shall retain jurisdiction of the parties and subject matter to enforce the terms of the Settlement Agreement. A copy of the Joint Stipulation and proposed Final Order of Dismissal are attached hereto as composite Exhibit "C."

9. The VILLAGE and SOJOURN agree that they shall immediately commence all reasonable actions necessary to fulfill their obligations described in this Agreement and shall diligently pursue the same throughout the existence of this Agreement.

10. In any action to enforce this Agreement, the prevailing party shall be entitled to recover its costs and attorneys fees from the losing party.

11. This Agreement shall be binding upon and shall inure to the benefit of the parties, their successors and assigns.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

Witnesses:

Signature _____
Print Name: Jenny Rivera
Signature _____
Print Name: STACEY STOKES

SOJOURN, INC.

By: NEIL SCHUSTER, as President of Sojourn, Inc

Dated: July 3, 2008

Attest:

ISLAMORADA, VILLAGE OF ISLANDS

Village Clerk

By: _____ as Mayor

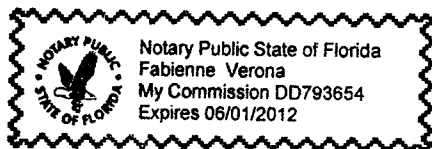
Dated: _____, 2008

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY FOR THE USE AND
BENEFIT OF ISLAMORADA

VILLAGE ATTORNEY

STATE OF FLORIDA
COUNTY OF MONROE

The foregoing instrument was acknowledged before me by NEIL SCHULSTER as President of
SOJOURN, INC. who is personally known to me or produced D/L 523.133-51-203-D.
as identification.



Signature _____
Notary Public
Dated: 7/3, 2008

This instrument prepared by:

James White, Esq.
Weiss Serota Helfman Et Al
200 East Broward Blvd.
Suite 1900
Ft. Lauderdale, Florida 33301

DECLARATION OF RESTRICTIONS

WHEREAS, SOJOURN, INC., a Florida corporation ("Owner"), holds fee simple title to the real property located in Islamorada, Village of Islands, Monroe County, Florida, described in Exhibit "A" attached hereto and made part hereof (hereinafter referred to as the "Property");

WHEREAS, Owner has filed an application for an amendment to the Official Zoning Map with Islamorada, Village of Islands, a Florida municipal corporation (hereinafter referred to as the "Village") through the Village Department of Planning and Development Services referred to as Application No. FLRZ 06-02 ("Rezoning Application");

WHEREAS, Owner has simultaneously filed an application for an amendment to the Future Land Use Map with the Village through the Village Department of Planning and Development Services also referred to as Application No. FLRZ 06-02 ("Land Use Map Amendment");

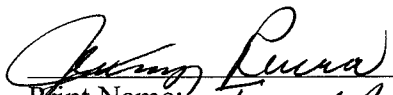
NOW, THEREFORE, in order to assure the Village that the representations made by the Owner during consideration of the Rezoning and the Land Use Map Amendment, Public Hearing No. FLRZ 06-02, will be abided by, the Owner, their successors or assigns, freely, voluntarily and without duress, hereby proffer, declare, covenant, and agree that the Property shall be developed, held and conveyed subject to the following restrictions, covenants and conditions, which shall run with the Property and be binding upon all persons having any right, title or interest in the Property or any part thereof:

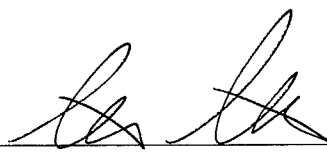
1. **Density Restriction.** The Property shall be limited to no more than six (6) detached single-family residential dwelling units. Notwithstanding the requested Multi-Family (MF) zoning district designation for the Property pursuant to the Rezoning Application, the development of the Property shall be limited to no more than six (6) detached single-family residential dwelling units.
2. **Covenant Regarding Uses.** Neither the Property, nor any portion or part thereof, may be used at any time for any other use other than residential dwelling units, and customary accessory uses such as swimming pools, docks, etc., as defined in the Village's Code.

3. **Covenant Running with the Land.** This Declaration on the part of the Owner shall be recorded in the public records of Monroe County, Florida and shall remain in full force and effect and be binding upon the undersigned Owner, and their heirs, successors or assigns until such time as the same is modified or released. These restrictions during their lifetime shall be for the benefit of, and limitation upon, all present and future owners of the Property and for the public welfare.
4. **Term.** This Declaration is to run with the land and shall be binding on all parties and all persons claiming under it for a period of thirty (30) years from the date this Declaration is recorded after which time it shall be extended automatically for successive periods of (10) years each.
5. **Enforcement.** Enforcement shall be by action against any parties or person violating, or attempting to violate, any covenants. The prevailing party in any action or suit pertaining to or arising out of this Declaration shall be entitled to recover, in addition to costs and disbursements allowed by law, such sum as the Court may adjudge to be reasonable for the services of his or her attorney. This enforcement provision shall be in addition to any other remedies available at law or in equity or both.
6. **Severability.** Invalidation of any one of these covenants, by judgment of Court, in no way shall affect any of the other provisions which shall remain in full force and effect.
7. **Recording.** This Declaration shall become final and shall be filed of record in the public records of Monroe County, Florida, at the cost of the Owner following the adoption by the Village Council of a final ordinance approving the Rezoning Application and the Land Use Map Application and expiration of all appellate time frames.

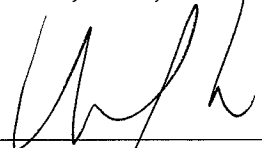
Signed, witnessed, executed and acknowledged this 3 day of July, 2008.

Witnesses:


Print Name: Jenny A. Rivera


Print Name: Stanley Stokes

SOJOURN, INC., A Florida Corporation

By: 
Name: NEIL M. DeHUSTER
Title: President, Sojourn, Inc

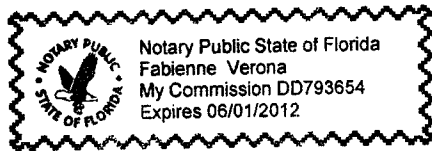
STATE OF FLORIDA)

)SS.

COUNTY OF Dade)

The foregoing instrument was acknowledged before me this 3 day of July 2008 by NEIL M. SCHUSTER, as PRESIDENT, of SOJOURN, INC., a Florida corporation, who is personally known to me or has produced His Dallas license as identification.

[SEAL]



[Signature]
 Notary Public, State of Florida

Fabienne Verona

Print Name of Notary

Commission No. DD 793654Commission Expires: 6/01/2012

EXHIBIT "A"**LEGAL DESCRIPTION**

A part of Tract 5 according to Plat of MATECUMBE SANDY BEACH as recorded in Plat Book 3 at Page 127 of the Public Records of Monroe County, Florida on Lower Matecumbe Key in Sections 20 and 21, Township 64 South. Range 36 East, being more particularly described as follows:

From the intersection of the Southwesterly side of said Tract 5 with the Northwesterly Right – of – way line of Overseas Highway (US Highway No. 1) all as shown on said Plat of MATECUMBE SANDY BEACH, thence proceed North 56 degrees 42 minutes 30 seconds East along said Right – of – Way line 1422.84 feet to the Point of Beginning of the tract hereinafter described, thence continue North 56 degrees 42 minutes 30 seconds East along said Right – of – Way line 59.60 feet to a point of curvature of a circular curve concave to the Southeast and having a radius of 2964.93 feet, thence continue along said Right – of – Way line and Northeasterly along the arc of said curve through a central angle of 7 degrees 30 minutes 51 seconds. 388.84 feet to a point of tangency, thence proceed North 64 degrees 13 minutes 21 seconds East, along said Right – of – Way line 123.05 feet to a point of curvature of a circular curve concave to the West and having a radius of 25 feet and to the Southwesterly Right – of – Way line of Sandy Cove Avenue, thence proceed Northeasterly along said Right – of – Way line through a central angle of 97 degrees 30 minutes 51 seconds 42.55 feet to a point of tangency, thence proceed North 33 degrees 17 minutes 30 seconds West along said Right – of – Way line. 173.20 feet, thence proceed South 64 degrees 13 minutes 21 seconds West, 125.19 feet to a point of curvature of a circular curve concave to the Southwest and having a radius of 3164.93 feet, thence proceed Southwesterly along the arc of said curve through a central angle of 7 degrees 30 minutes 51 seconds. 415.07 feet to a point of tangency, thence proceed South 56 degrees 42 minutes 30 seconds West, 59.60 feet, thence proceed South 33 degrees 17 minutes 30 seconds East, 200.00 feet to the Point of Beginning.

DAN:

I AM ENCLOSED A COPY
OF THE E-MAIL I HAD
INTENDED TO SEND YOU.
MY WI-FI WAS KNOCKED
OUT AND I ALSO LOST
A NUMBER OF DOCUMENTS
FORTUNATELY, I HAD SAVED
A COPY — BEFORE I AM!
THANKS,

GEORGE YOUNG

Dan Gulizio.

planningdirecter@islamorada.fl.us

Dan Gulizio.

I want to thank you for your response to my letters regarding the Sojourn Property. You gave me a lot of information which is quite useful. You had also stated in our phone call that you would respond to my other questions. I have talked with several people about the issues I had raised: so I will summarize my remaining issues::

1. I recontacted the DEP office in Ft. Myers and was told that they no longer had records; and they directed me to the office in Marathon. The Marathon DEP office now has responsibility for Islamorada. They checked their records and determined that the inspectors who were assigned to deal with my complaint re: mangrove destruction were two islamorada staff members. One of these responded to my call on the Monday following the destruction, and told me since he did not see it happening he could do nothing. A Village Council member told me that that response was not true. and mentioned aerial photos which could be used for before and after conditions. A simple site inspection could also have documented the damage utilizing a horticulture expert.

I was told that a mitigation plan was developed (with watering system) to replace other species which were also removed. The Mangrove situation, to my present knowledge, has not been addressed. Mangroves are a federally protected species, so why no mitigation plan? If there is a plan I would request a copy and also a copy of any other mitigation plans for this or adjacent properties.

2. Where are the permits that we have guaranteed the owners to come from? If we are close to reaching "buildout" will permits be available when the "subdivision" and replatting proposals are completed?

3. All of the neighbors executed a form that requires a supermajority vote by the Council. Is this still in effect?

Dan, I do not want to interpose my concerns on this issue--in fact I believe it might be possible to retain some of the local fishing related culture which provides a lot of charm and enjoy the development of residential single family homes in this area.

Sans Serif

Send

October 20, 2022

Dan Gulizio, Planning Director
Islamorada, Village of Islands
86800 Overseas Highway
33036



Dear Dan:

I have not heard from you regarding the questions we discussed on the telephone. I did send you a copy of the e-mail I had planned to send you which did not survive a direct lightning strike which knocked out my wifi and erased some items in my hard drive, I enclose another copy.

I have been interested in the development of the Sojourn Property for 20 years and have correspondence with various state agencies dating back to 2008. There is some history with this property which explains why so many of nearby residences have expressed themselves. The area (prior to Irma) had become a mess: Trash dumped illegally, vehicles abandoned, homeless squatters living under tents, boats dumped illegally, box truck being used as a "home" and drug and alcohol consumption leading to fights. Many of us called the sheriff's office and they always responded. In short; we were worn out with excuses for non action. The owners finally decided to rectify the situation and the cleanup began. In talking with Sheila she said they had just issued a "clearing permit" and work began and short posts were placed around the perimeter which kept all vehicles out of the area (except for trap builders on the south end of the property).

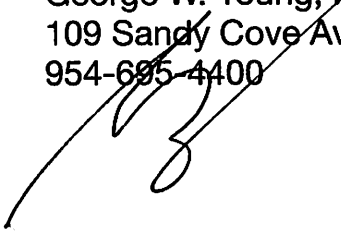
You know the Zoning upgrades and the threatened lawsuits, so I will not be labor those issues. Sue Miller detailed our concerns in her analysis of Feb 27, 2008 (copy is enclosed).

Hurricane Irma provided an opportunity to complete the clearing of the area; but the clearing permit did not include the destruction of the Mangroves at the rear of the property.. I observed the trackhoes ripping out mangroves, and I recall yelling at the operator nearest my home that he was breaking the law. He proceeded to remove hundreds of mangroves. On the next Sunday I observed 3 semitrailers load up the mangroves and cover them with Australian pine branches. That's when I began to call the Village to report what I had witnessed. I was told that since the inspector had not witnessed the destruction there was nothing he could do. I gave up and called the DEP office in Fort Myers and was told that they would send inspectors. I later learned that the inspectors were Village employees.

Dan, is this transparency, or coverup behavior; and are we now covering up the original coverup? At this point I have not involved any other government officers but some action is necessary, in my opinion. Please let me know what plans are being proposed...

Thank You for listening:

George W. Young, III
109 Sandy Cove Ave
954-695-4400

A handwritten signature in black ink, appearing to be 'G. Young', written over the printed name and address.

**Sue Miller
P.O. Box 986
Islamorada, Florida 33036**

Feb 27, 2008

Dear Mayor, Council,

I have reviewed a copy of the staff report regarding zoning change request made by Sojourn, Inc that you will be voting on at your Thursday meeting.

I am completely opposed to this zoning change.

Limit Development Rights

The Comp Plan clearly states that we are to limit development rights. We must not ignore this policy.

The staff report suggests that this request does not increase the building rights within the village – something strictly prohibited by our comp plan. The only justification....at one time the staff recommended the property should have a Mixed Use classification and therefore the report concludes that Residential High would not increase density. But this staff recommendation would have required public hearings, Village Council approval and DCA approval. None of that happened. So why would that staff recommendation be at all relevant ...clearly it isn't relevant. And therefore cannot and should not be used to bypass important Comprehensive Plan criteria that was approved through lengthy public hearings, council votes and DCA review.

Beneficial Use

The staff claims, in bold letters, that approving this zoning change will provide beneficial use for this property! The property has been in use for decades for commercial fishing. Who could possibly suggest that this use, in the fishing capital of the world, is not a beneficial use? Hasn't the property owner been leasing the land and gaining benefit? With the liberal nonconformity regulations of the Village, the fishing use can continue forever! And the recent change to the recreational zoning to allow numerous recreational uses on privately owned property adds even more beneficial uses. Perhaps not ones that provide enough pure profit to satisfy the property owner, but our comp plan was not created to provide profit.

By changing the zoning to residential high density you could be creating a nightmare in the future as we have such limited permits under BPAS. Shouldn't those permits go to properties where there is no other beneficial use? This zoning change is likely to increase the value of the property dramatically. And then 4 years from now, if no permits are available, will we have a new beneficial use lawsuit that actually is more legitimate than what we have now?

There are still many vacant lots in the Village that won't be able to get a permit for even a single home because of the very limited number of permits remaining over the last 13 years of BPAS. There are about 375 total (market rate and affordable) permits left. We need more than that just for our affordable housing needs. With about 150 people already in line waiting for market rate permits, it is clear there just aren't going to be enough permits to go around. Don't create more need. You'd be intensifying the problem by granting high density zoning.

Working Waterfront

In 2005 and again in 2006 the Florida Legislature passed legislation to encourage local governments in coastal communities to protect working waterfronts through their comprehensive plans. Islamorada needs to do what we can to protect our commercial fishing interests. The Sojourn property has been in use for decades, rented to commercial fishermen for dockage and trap storage. Certainly, a change in zoning will doom the fishermen.

Environmental Issues

The stretch of U.S. One from MM74.5 to MM75, where this property is located is ever so critical a location for so many reasons. The beach, just 200 feet from the Sojourn property, on the other side of the highway, is a turtle nesting beach, one of few left in the area. Captain's Cove, on the other side is home to manatee.

Limitations of Infrastructure

During even minor storms the highway in this area floods, eroding away beach and moving it onto and over the highway, right onto the property in question. It doesn't take a very bad storm to close U.S. One until the sand and debris is cleared. The DOT right of way extends into the waters of Captains Cove at points, leaving little room for the heavy equipment needed to restore access to points south after a storm. A solution needs to be determined. New high density development wouldn't help solve anything. It could make things even worse.

We are already concerned about lack of sewers as 2010 approaches. Should we add to the stress.

Our highway is overcrowded. Our stormwater concerns are tremendous.

All of these issues create the very reason that BPAS exists and our comp plan is so restrictive. Shouldn't we follow the comp plan, not diverting every time a property owner desires a greater profit.

Zoning Versus Deed Restriction

It is indicated in the agenda packet that the property owner will restrict his project to 6 units instead of the maximum allowed. How will this be done? A FLUM or zoning change goes through public hearings and oversight approval processing with DCA. Over 20% of the nearby residents have objected to the zoning change, forcing a super majority for approval of the change. A deed restriction can be changed by a 3-2 vote of council. By contrast, how easy it is to change a deed restriction.

TDRs Too?

If the owner limits the number of units he builds, will he be able to sell the balance of the TDRs transferring the density problems to another neighborhood? Please consider all the loopholes!

Why Say No..... A Clear Answer

Our own LDRs provide the answer to this request for re-zoning in Chapter 30 Article IV, Division 9 (d) (4) (b) of the Village code:

"The village council must find that the application is consistent with the comprehensive plan, that the applicant has complied with all procedural requirements of this section and that the maintenance of the existing zoning on the property does not accomplish a legitimate public purpose. The village council shall make its determination on legitimate public purpose.."

The council should clearly recognize that maintenance of commercial fishing on the property does accomplish a legitimate public purpose. We need to remember the importance of preserving working waterfront. And shouldn't you remind the staff to consider consistency with the comp plan, not based on what they recommended, but what the public insisted upon, the council actually approved and DCA confirmed! Saying that this is consistent and does not increase density is just not the case. If it were the case this request would not be necessary!!!

I know how busy you all are, but I hope you will take the time to look at this zoning change request from all angles. Is this for the public good? I don't think so! This is one small property but you must learn to say no each time an inappropriate change is requested, otherwise the community loses time and time again.

Daniel Gulizio

From: Daniel Gulizio
Sent: Monday, November 14, 2022 7:59 AM
To: gwyong3
Cc: Jamie Terry
Subject: Sojourn Plat

J- please see me.
Thanks D.G.

Dear Mr. Young,

I am writing in response to your recent correspondence concerning the property referred to as the Sojourn Property. Please forgive my delay in responding. Below please find specific responses to the three (3) questions posed in your recent email.

1. Mangrove Clearing Violation – In 2018 a clearing violation occurred in connection with the subject property. This clearing was documented by the Village and subject to a mitigation plan. The mitigation measures are detailed below. I have been informed by our Biologist that the mitigation plantings have been completed. If additional clearing of the mangroves occurred, this issue can be addressed as the property moves through the regulatory process associated with the Plat Review.

Per Sec. 30-1615 and 30-1617 the following mitigation is required:

- One understory tree a minimum of 10 feet in overall height. This tree must be a species that is listed as threatened.
- One understory tree or palm a minimum of 8 feet in overall height or three feet of clear trunk. This tree/palm must be a species listed as endangered.
- Two understory trees a minimum of six feet in overall height.
- 16 canopy trees a minimum of eight feet in overall height.
- All required mitigation shall be planted onsite.
- All mitigation tree shall meet a 100% survivorship rate after two years.

2. Available Allocations – According to the Stipulation of Settlement associated with the property, the applicant/owner is entitled to two (2) allocations along with additional points for the remaining lots proposed with the Plat. These two (2) allocations will come from the Administrative Relief Pool associated with the Village Building Permit Allocation System (BPAS). The two (2) allocations have already been reserved.

3. Super Majority Vote – Unfortunately, I am not familiar with a form or petition executed by neighbors that would trigger a super majority vote. If you could send me a copy of the petition or some additional background information on it, I will be happy to research the issue further.

My apologies again for the delay in responding to your request. Please do not hesitate to contact me should you have additional questions.

Sincerely,

Daniel J. Gulizio, Director
Planning and Development Services
(305) 664-6422
planningdirector@islamorada.fl.us



Council Communication

To: Mayor and Village Council
From: Jennifer DeBoisbriand , Planning Director
Date: April 11, 2023
SUBJECT: **Administrative Variance - Sideyard Setback - 121 Carroll Street - TAB 2**

Background:

The subject property is located on the east side of Carroll Street, north of Blackwood Drive, in Upper Matecumbe Key. The site maintains a lot area of approximately 44,148 square feet (1.01 acres). The site is zoned Settlers Residential (SR) District and is located within the Residential Medium (RM) Future Land Use Map (FLUM) category. The site is adjacent to single family homes, located within the Settlers Residential (SR) to the south and west and a hotel/motel use, located within Tourist Commercial (TC) District, to the north. The site is adjacent to the Atlantic Ocean to the east.

There is currently an existing single-family residence on the site. The applicant is seeking a buffer relaxation in order to decrease the minimum required buffer yard from twenty (20) feet to ten (10) feet for a span of 48.8 feet and from twenty (20) feet to fifteen (15) feet for 95.1 feet. This buffer relaxation is limited to the area adjacent to the hotel/motel use.

Existing Habitat:

The existing habitat for the Subject Parcel is scarified as a result of its development. There is no environmentally sensitive habitat remaining on the site. The site is designated as a Turtle Beach.

Analysis:

According to Section 30-221: "A variance is 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."

Pursuant to Sec. 30-221 (d) "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.”

In this instance, the scope of the variance requested is limited to the area adjacent to the hotel/motel use to the north. The property is only 50’2” wide. The applicant did not subdivide the lot or create the reduced lot width himself. The applicant has indicated that the current bufferyard requirement reduces the buildable area of the parcel by 4,050 square feet. Except the adjoining property to the southwest all other surrounding parcels are significantly wider than this site. The applicant also notes that a similar but larger parcel on the street recently received the same relief from bufferyard. Also, the variance is requested in a way to allow reasonable use of the land while minimizing the reduction in bufferyards.

The Village Biologist has reviewed the request and suggested the following conditions:

1. Only the width is approved for reduction and the number of plantings required shall remain the same.
2. No landscaping shall be placed waterward of the waterward face of the existing deck.

Budget Impact:

None

Staff Impact:

None

Recommendation:

Staff has reviewed the request for a Variance and determined that the request is consistent with the goals, objectives, and policies of the comprehensive plan and complies with applicable provisions of the Code of Ordinances. Therefore, Staff recommends that the Village Council APPROVE the proposed Variance to allow a reduction in the width of a required bufferyard by adoption of the attached Resolution. Staff recommends that the Council incorporate the below conditions in conjunction with any approval of the request.

1. Only the width is approved for reduction and the number of plantings required shall

remain the same.

2. No landscaping shall be placed waterward of the waterward face of the existing deck.
3. Except as otherwise provided herein, applicant/owner agrees to comply in all respects with any applicable Federal, State, County, or local rules and regulations.
4. All conditions shall be enforceable through all the powers of the Village Attorney's Office and the Village Council reserves the right after due public hearing, to rescind any prior approvals and/or terminate operation of the existing use if violation of the conditions persist.

Attachments:

1. Proposed Resolution
2. Overall site plan
3. Overall site landscape

RESOLUTION NO. 23-XX

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, CONSIDERING THE REQUEST OF PEDRO GREER JR TO ALLOW FOR A REDUCTION IN THE REQUIRED BUFFER YARD FROM THE MINIMUM REQUIRED TWENTY (20) FEET TO TEN (10) FEET FOR PROPOSED ADDITION TO THE EXISTING PRINCIPAL STRUCTURE, AND ALLOW FOR A REDUCTION IN THE REQUIRED BUFFER YARD FROM TWENTY (20) FEET TO FIFTEEN (15) FEET TO ACCOMMODATE PROPOSED ACCESSORY STRUCTURES. THE PROJECT IS LOCATED AT 121 CARROLL STREET ON UPPER MATECUMBE KEY, WITHIN THE SETTLERS RESIDENTIAL (SR) DISTRICT, REAL ESTATE NUMBER 00096150-000000, AS LEGALLY DESCRIBED HEREIN; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Pedro Greer Jr. is the owner of property located at 121 Carroll Street on Upper Matecumbe Key, with Parcel Identification Number 00096150-000000 and legally described below (the "Property") within Islamorada, Village of Islands, Florida (the "Village"); and,

WHEREAS, Russell Yagel ("Agent"), on behalf of the owner, has submitted an application for a Buffer Relaxation to allow for a buffer of ten (10) feet instead of the minimum required twenty (20) feet for a proposed addition to the existing principle structure; and a Buffer Relaxation to allow for a buffer of fifteen (15) feet instead of the minimum required twenty (20) feet for the proposed accessory structures, on the Property legally described below; and,

WHEREAS, on April 11, 2023, the Village Council of Islamorada, Village of Islands, Florida (the "Village Council") conducted a duly noticed Public Hearing regarding the Buffer Relaxation Request (the "Request").

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

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

Section 2. **Findings of Fact.** The Village Council, having considered the Request, the relevant support materials and public testimony given at the Hearing, does hereby find and determine:

1. The Request [**complies/does not comply**] with the standards of Code Sec. 30-221(d) for considering Variances.

2. The Request [**is/is not**] consistent with the goals, objectives, and policies of the Village Comprehensive Plan, including standards for building and structural intensities and densities, and intensities of use.

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

a. The Application for a Variance [**does/does not**] meet the requirements set forth in Code Section 30-221 and [**has/has not**] demonstrated through competent substantial evidence that the criteria for granting the Request have been met; and,

b. The Village Council [**approves/denies**] the Request submitted by the Applicant, for the following described property:

Strattons Subdivision, Plat Book 2, Page 36, Upper Matecumbe PT SWLY 1/2 LT 3 SQR 10 AND BAY BOTTOM SLY AND ADJ TO PT LOT 3 BLK 10, as shown in the Public Records of Monroe County.

c. The request is subject to the following Condition of Approval:

1. Only the width is approved for reduction and the number of plantings required shall remain the same.
2. No landscaping shall be placed waterward of the waterward face of the existing deck.
3. Except as otherwise provided herein, applicant/owner agrees to comply in all respects with any applicable Federal, State, County, or local rules and regulations.

4. All conditions shall be enforceable through all the powers of the Village Attorney's Office and the Village Council reserves the right after due public hearing, to rescind any prior approvals and/or terminate operation of the existing use if violation of the conditions persist.

Section 3. Conclusions of Law. Based upon the above Findings of Fact, the Village Council does hereby make the following Conclusions of Law:

- (1) The Request has been processed in accordance with the applicable provisions of the LDRs, and **[will/will not]** be detrimental to the community as a whole.
- (2) In rendering its decision, as reflected in this Resolution, the Village Council has:
 - (a) Accorded procedural due process; and,
 - (b) Observed the essential requirements of the law; and,
 - (c) Supported its decision by substantial competent evidence contained within the record.
- (3) The Request is hereby **[APPROVED/DENIED]**.

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 11TH DAY OF APRIL 2023.

JOSEPH B. PINDER III, MAYOR

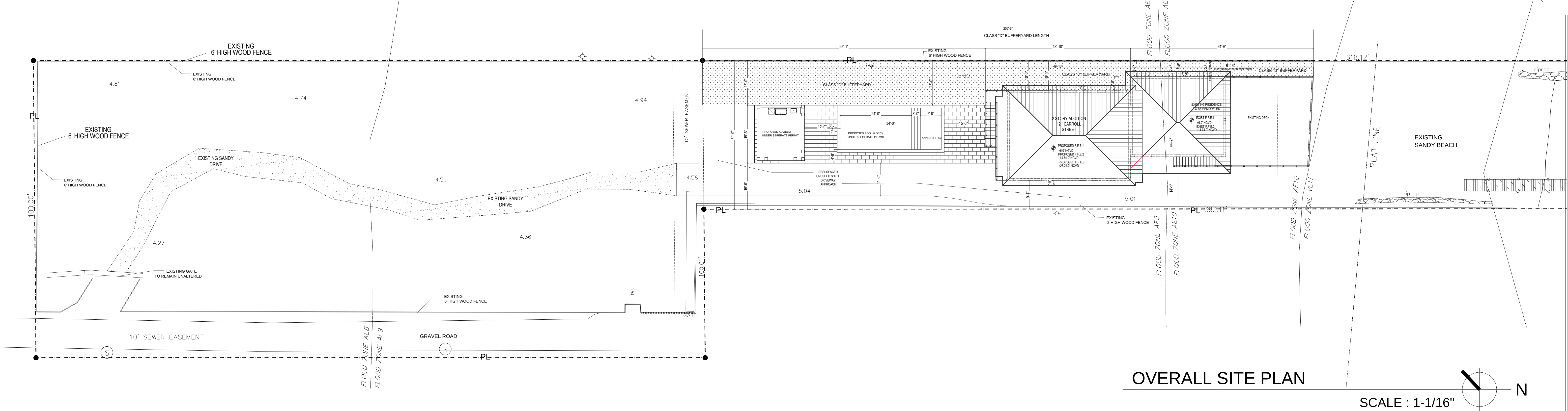
ATTEST:

MARNE MCGRATH, VILLAGE CLERK

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

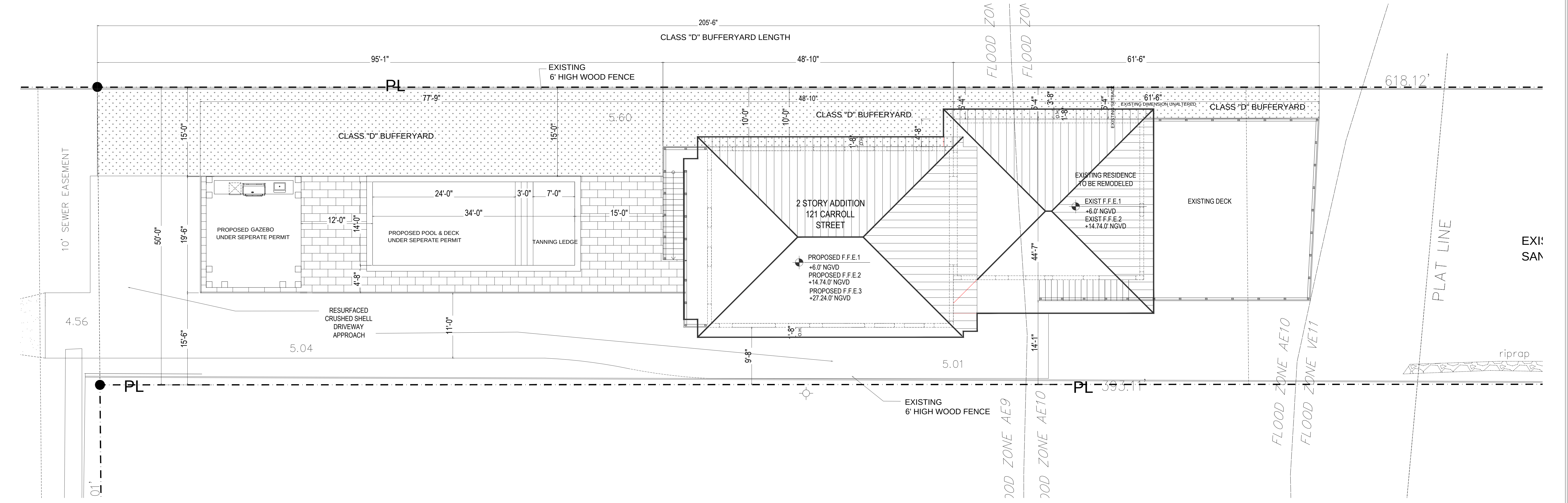
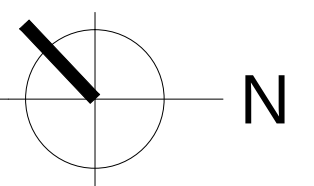
JOHN QUICK, INTERIM VILLAGE ATTORNEY

This Resolution was filed in the Office of the Village Clerk of this ____ day of _____, 2023.



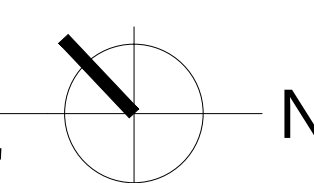
OVERALL SITE PLAN

SCALE : 1-1/16"



PARTIAL SITE PLAN

SCALE : 1-1/8"



AREA CALCULATIONS:

NEW ADDITION A/C	2,818 S.F.
EXISTING A/C	1,175 S.F.
TOTAL A/C	3,993 S.F.
EXISTING DECK	925 S.F.
NEW ADDITION BALCONIES	436 S.F.
TOTAL GROSS	5,354 S.F.

SETBACK REQUIREMENTS

	REQUIRED/ALLOWED	PROPOSED
FRONT:	25'-0"	24'-0"
INTERIOR SIDE:	5'-0" MIN. 15'-0" TOTAL	5'-4" & 9'-8" 15'-0" TOT
REAR :		EXISTING TO REMAIN
MIN. FLOOR ELEVATION:	11.00' NGVD	14.74' NGVD

GENERAL SITE PLAN NOTES

- 1 ALL RAINWATER TO BE CONTAINED WITHIN PROPERTY
- 2 NO VEGETATION TO BE PLACED OVER OR WITHIN 3 FEET OF AN UNDERGROUND UTILITY
3. EXISTING REAR SET BACK TO REMAIN
4. EXISTING SETBACK TO NORTHEAST PL TO REMAIN

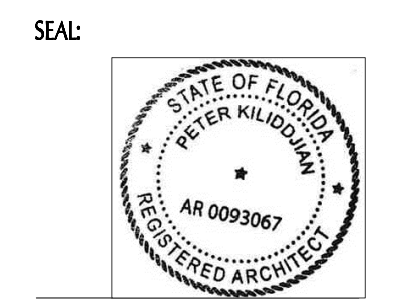
PETER
KILIDDJIAN
& ASSOCIATES
ARCHITECTS - PLANNERS
1108 OBISPO AVE
CORAL GABLES FL 33134
TELEPHONE: (305) 726-3748
PKILIDDJIAN@GMAIL.COM

PETER KILIDDJIAN, RA
LICENSE No. : AR 0093067

REVISIONS:

OWNER:
CREER FAMILY

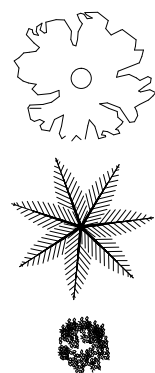
REMODELING AND ADDITION FOR
121 CARROLL STREET
ISLAMORADA, FL



Peter
Kiliddjian
AR93067

DATE : 06-09-22
SCALE : AS SHOWN
DRAWN : ID
CHECK BY: PK
JOB NO. :

SP-1



NORTHEAST PROPERTY LINE DISTRICT BUFFER
CLASS 10" BUFFER
TOTAL LENGTH 205'-2" WIDTH VARIES AS FOLLOWS: 15' WIDE X 95'-1" LONG ,
10' WIDE X 48'-10" LONG, 5' WIDE X 61'-8" LONG
CANOPY 13 UNDER STORY 10 SHRUBS 70

1. NO EXISTING INVASIVE VEGETATION
2. NO EXISTING VEGETATION IN BUFFERYARD ZONE
3. NO EXISTING VEGETATION TO BE REMOVED

4. ALL TREES SHALL BE SECURELY GUYED, BRACED, OR STAKED AT THE TIME OF PLANTING UNTIL ESTABLISHED. THE USE OF NAILS, WIRE, ROPE OR OTHER METHODS WHICH DAMAGE THE TREE ARE PROHIBITED. TREES AND PALMS THAT REMAIN UPRIGHT AT THE TIME OF PLANTING WITHOUT THE AID OF STABILIZATION MATERIALS ARE EXEMPT FROM THIS REQUIREMENT. ALL STABILIZATION MATERIAL SHALL BE REMOVED AFTER A MAXIMUM PERIOD OF ONE YEAR FROM DATE OF C.O. ALL PLANTS SHALL BE INSTALLED WITH THE TOP OF THE ROOTBALL EVEN WITH THE SOIL GRADE AS PER SEC. 30-821
5. AS PER SEC. 30-821, FINISHED GRADE OF LANDSCAPED AREAS SHALL BE AT OR BELOW ADJACENT V.U.A.

NORTHEAST PROPERTY LINE DISTRICT BUFFER					
CLASS "D" BUFFER					
CLASS "D" BUFFER	TOTAL LENGTH 205'-6"	WIDTH VARIES AS FOLLOWS: 15' WIDE X 95'-1" LONG , 10' WIDE X 48'-10" LONG, 5' WIDEX 61'-6" LONG			
CANOPY	13				
UNDERSTORY	10				
SHRUBS	64				

CANOPY TREES:	8 FEET IN HEIGHT OR 3" DIAMETER AT BREAST HEIGHT (DBH)
UNDERSTORY TREES:	6 FEET IN HEIGHT
SHRUBS:	3 FEET IN HEIGHT
SPACING AS REQUIRED BY SEC. 30- 827 (i)	

TOTAL NUMBER OF EACH SPECIES						
TRADE NAME	SCIENTIFIC NAME		CANOPY	U.S.	SHRUBS	
GUMBO LIMBO	BURSA SIMRUBA GUMBO LIMBO		7			
MAHOGANY	SWIETENIA MAHOGANI		6			
SABAL PALM	SABAL PALMETTO			5		
SILVER PALM	COCCOTHRINAX ARGENTATA			5		
WILD COFFE	PSYCHOTRIA NERVOSEA				21	
WILD LANTANA	LANTANA INVOLUCRATA				21	
FLORIDA TREMA	TREMA MICRANTHUM				22	
TOTAL			13	10	64	

NATIVE PLANT LIST BY CATEGORY

Plant materials listed below include the characteristics, common and scientific name, status (threatened, endangered or regionally important) and possible uses of various plants. There are hundreds of plants that will grow well in the Village. Included on the list are native landscape plants that are attractive in appearance, require little maintenance, require little water and are usually highly salt tolerant. Some herbaceous (non-woody) plants have been included, however the list should not be considered comprehensive because of their great numbers.

A minimum of 75% of required plants per category (e.g., canopy, understory, shrub) must be native species. Status refers to the status as Endangered (E), Threatened (T), or Regionally Important (RI) by the federal, state or local government.

 A species of tree that normally grows to a mature height of 40 feet or more. Candy trees are typically shade-producing trees and usually have one (1) vertical stem or main trunk that naturally develops a more or less distinct and elevated crown and provides at maturity a minimum shade crown of 30 feet in diameter.			
Common Name	Scientific Name	Status	Notes
Black Ironwood	<i>Knigkholodendron ferrugineum</i>	RI	
Black mangrove	<i>Avicennia germinans</i>	RI	Wetland areas or shores
Canebrake	<i>Cecropia wrightiana</i>	E	Small red flowers
Cinnabar	<i>Aescholanthus</i>	RI	
Coffea cubensis	<i>Coffea cubensis</i>	RI	
Green buttonwood	<i>Coussapora erecta</i>	RI	
Guiana palm	<i>Drypetes latifolia</i>	RI	Important for butterflies
Gumbo limbo	<i>Bursera simaruba</i>	RI	Fast growing
Ironwood	<i>Ficus pumila</i>	RI	Fast growing
Japanese dogwood	<i>Pavonia</i>	RI	Fast growing
Orange tree	<i>Citrus sinensis</i>	RI	Fragrant white flowers
Mahogany	<i>Swietenia mahoei</i>	E	Slow and large growing
Mastic	<i>Drypetes perthensis</i>	RI	Good for wildlife
Mourning glory	<i>Dioscorea dioscoria</i>	RI	Important for butterflies
Pale yellowflower or Spicewood	<i>Calyptranthes pallens</i>	RI	Fragrant flowers
Paradise tree	<i>Sinacouba glauca</i>	RI	Fast growing
Prickly pear	<i>Cylindropuntia chameley</i>	RI	Good for wildlife
Poisonwood	<i>Melastomum laevis</i>	RI	Important for wildlife
Pink apple	<i>Annona glabra</i>	RI	Wetland areas
Prickly pear cactus	<i>Cylindropuntia chameley</i>	RI	Show white flowers
Red bay or mangrove bay	<i>Persea borbonica</i>	RI	
Red bay	<i>Rhizophora mangle</i>	RI	Shorelines
Red mangrove	<i>Rhizophora mangle</i>	RI	Shorelines
Salt cedar	<i>Taxodium chinensis</i>	RI	Colorful leaves
Sesuviae	<i>Coccoloba suffrutescens</i>	RI	Edible fruit
Shortleaf pine	<i>Pinus strobus</i>	E	Large open areas
Spiceflower or Pale yellowflower	<i>Calyptranthes pallens</i>	RI	Fragrant flowers
Stingray fish	<i>Pinus strobus</i>	RI	Large open areas
Stingray fish or Red bay	<i>Pinus strobus</i>	RI	Wet areas

Page 19 of 29

Common Name

Common Name	Scientific Name	Status	Notes
White ironwood	<i>Hypelate trifoliata</i>	E	
White mangrove	<i>Laguncularia racemosa</i>		
Wild dilly	<i>Manilkara bahamensis</i>	T	
Wild tamarind	<i>Lythium latifolium</i>		
Willow bustic	<i>Sideroxylon salicifolium</i>		Good for butterflies

Understory Tree:

A species of tree or plant that normally grows to a mature height of 10 to 25 feet and often grow beneath canopy trees. They provide the mid-level landscaping within the specified height range.

Common Name	Scientific Name	Status	Notes
Blackhead	<i>Petalostemum keyense</i>	E	Important for butterflies
Bear cedar	<i>Juniperus monosperma</i>	E	Beech and sandy areas
Blackfoot	<i>Prinos flavus</i>	E	Salt tolerant
Bitilly	<i>Gnaphalium</i>	E	Beech and berries
Peppercorn plant	<i>Penstemon angustifolius</i>	E	
Cabbage plant or Sabel palm	<i>Sabel palmato</i>	E	
Cat's paw	<i>Petalostemum angustifolium</i>	E	
Earl hair herbaceous	<i>Erigeron herbaceus</i>	R	Important for butterflies
Crowweed	<i>Erigeron</i>	E	Red flowers
Cube cuboleber or Cuban Nelumbium	<i>Cubana cubensis var. floridense</i>	E	Critically Imperiled, yellow flowers
Darling plant or Red Ironwood	<i>Ranunculus spectabilis</i>	T	Eatable Fruit
Evergreen Vervet	<i>Guttierella elliptica</i>	E	
Fairy Ironwood	<i>Phyllanthus stipellata</i>	E	
Fiddlewood	<i>Citharus fragrans</i>	R	White Flower clusters
Florida Ironwood	<i>Prostratus</i>	E	Slow growing
Florida privet	<i>Fevetaria sagittalis</i>	R	Attracts Birds
Florida thorn plant	<i>Thrinax radialis</i>	E	Slow growing
Geiger tree or tree	<i>Geigeria</i>	E	Large orange flowers
Gravilya	<i>Schoefelia corymbellifolia</i>	E	
Hog Palm or Tailwood	<i>Ximenia americana</i>	E	Fragrant leaves
Ironwood	<i>Conocarpus erectus</i>	E	Purple flowers
Jacowood	<i>Acacia keyensis</i>	E	Coastal areas
Key thatch plant	<i>Thrinax morrisii</i>	E	Slow growing
Lignum	<i>Guaiacum</i>	E	Slow growing
Limber cypress	<i>Cupressus flaccida</i>	R	Attractive flowers
Long spined cactus or Porcupine	<i>Cholla macrocarpa</i>	E	
Maldenberry or Rhacoma	<i>Croton palmatum</i>	E	Red berries
Marberry	<i>Acacia excoarboles</i>	E	White flowers
Marberry	<i>Rapanea</i>	E	
Porcupine or Long spined acacia	<i>Acacia monosperma</i>	R	
Porcupine tree	<i>Solanum elaeagnifolium</i>	E	
Porcupine tree	<i>Solanum</i>	T	White flowers

Page 20 of 29

Common Name

Common Name	Scientific Name	Status	Notes
Rose or White Ingelberry	<i>Randia aculeata</i>		Good for butterflies
Red snowwood or Starling plum	<i>Ardisia coccinea</i>		
Rhacoma or Midlandberry	<i>Crossopetalum rhacoma</i>	E	
Rough velvetberry	<i>Guttardia acuta</i>	(N)	
Salt plant or callabage plant	<i>Sarcocolla purpurea</i>		
Saffron plum	<i>Sideroxylon clementina</i>	E	Eatible fruit
Shiny apple	<i>Quercus cinifolia</i>		Attractive fruit
Shoebush	<i>Coccoloba integrata</i>	Y	
Snowberry	<i>Chlorocera</i> allo		
Spangler's appearance	<i>Quercus spangleri</i>	(N)	Attracts butterflies
Stepper, Red	<i>Eugenia rhombica</i>	E	Critically imperiled
Stepper, Redberry	<i>Eugenia corifolia</i>	E	
Stepper, Spanish	<i>Eugenia</i> sp.		
Stepper, White	<i>Eugenia exoniifolia</i>		
Strawberry	<i>Rapanea succulenta</i>		Attracts butterflies
Sweetwood	<i>Acacia floribunda</i>		Yellow flowers
Tanacetum or Hog Plum	<i>Ximenes americana</i>		
Touch-me-not	<i>Antennaria densa</i>	(N)	Important for butterflies
White Ingelberry or Randa	<i>Randia aculeata</i>		
Wink lime	<i>Zanthoxylum fagara</i>		Attracts butterflies
Yellow rain tree	<i>Albizia julibrissin</i>	E	Yellow flowers

Shrubs

 Shrubs: Woody plants, usually with several permanent stems, that grow to a mature height under 20 feet. Some large shrubs can grow to a much higher height and are suitable for screening.

Common Name	Scientific Name	Status	Notes
Buccerian pine	<i>Pseudotsuga sargentii</i>	E	Accent plant
Shasta daisy	<i>Leucanthemum vir.</i> (yellow)	E	Accent plant
Alaska nightshade	<i>Solanum bahamense</i>	E	Purple flowers
Red cedar	<i>Juniperus monosperma</i>	E	Dune plant, high salt tolerance, Important for butterflies
Beachberry	<i>Cercocarpus amoenus</i>	E	Purple berries
Blackberry	<i>Rubus ursinus</i> (purple)	E	Tolerant
Butterflybush or Geiger bush	<i>Clerodendron</i>	E	Salt and drought tolerant
Chickadee berry	<i>Oxycoccus carolinianus</i>	R	Purple flowers, attracts butterflies
Fireweed	<i>Chenopodium</i>	R	
Flaxbush	<i>Hemerocallis patens</i>	R	Red flowers
Yucca	<i>Yucca brevifolia</i>	R	
Golden creosote	<i>Eurodium integrifolium</i>	R	Tolerant
Grey creosote	<i>Cercocarpus bonduc</i>	R	Tolerant
Green buttonwood	<i>Chorizanthe erectus</i>	R	
Inchberry	<i>Scaevola plumifera</i>	Y	Salt/drought tolerant, coastal plant
Jamnia cary	<i>Carpenter's yuccifolia</i>		Pink/Purple flowers

Page 21 of 29

Common Name	
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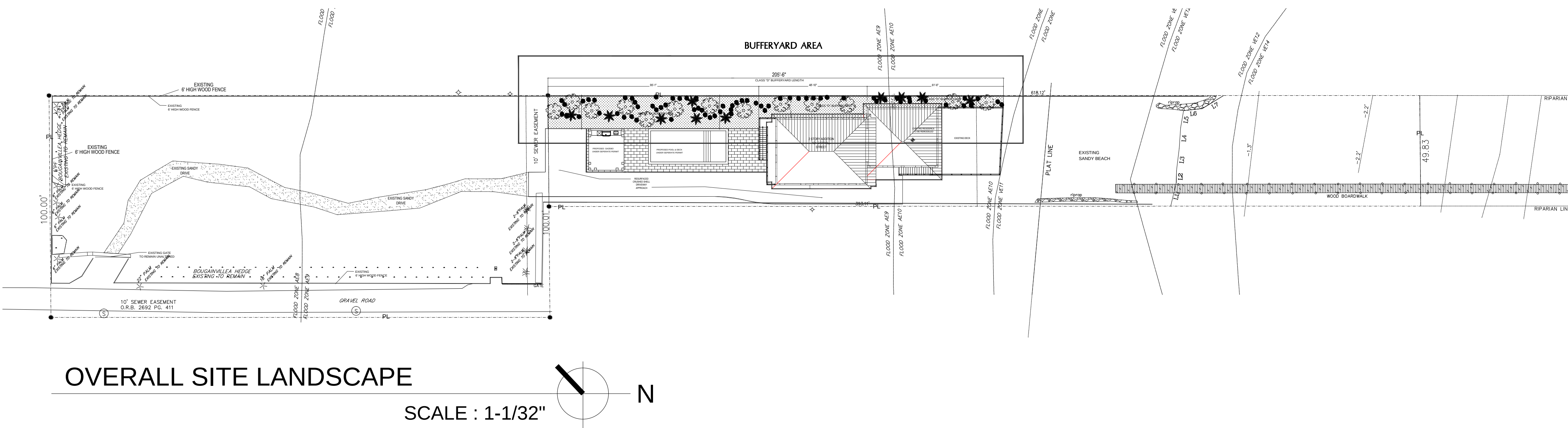
Common Name	Scientific Name	Status	Notes
Locustberry	<i>Byrsoneira hillebrandii</i>	T	Pink and red flowers, important for
Mayrhurst	<i>Myrsine phyllanthoides</i>	T	butterflies, drought tolerant
Neelakudam	<i>Sophora tomentosa</i> var. <i>truncata</i>	R	Yellow flowers, attracts butterflies
Peardale or Tear shrub	<i>Volcania indica</i>	R	and hummingbirds
Plavender	<i>Plavender</i>	E	Critically Impaired
Sea lavender	<i>Argemone gnaphalodes</i>	R	Drought tolerant, dune plant
Sensitive plant or Tropical-puff	<i>Nepenthes pulcherrima</i>	R	
Silver buttonwood	<i>Conocarpus erectus</i> var. <i>sericeus</i>	R	
Wild Indigo tree	<i>Indigofera tinctoria</i>	R	
Wild bamboo	<i>Calamagrostis canadensis</i>	R	
Wild coffee	<i>Coffea arabica</i>	R	
Wild cotton	<i>Gossypium hirsutum</i>	E	Attracts butterflies
Wild fig	<i>Ficus religiosa</i>	R	

Ground Covers

 A species that normally grows to a mature height of less than 20 inches in height. Ground covers may be used as an alternative to grasses. On slopes and berms, ground covers control erosion while eliminating the maintenance of mowing. Many ground covers survive in poor soils and high salt exposure or other adverse conditions.

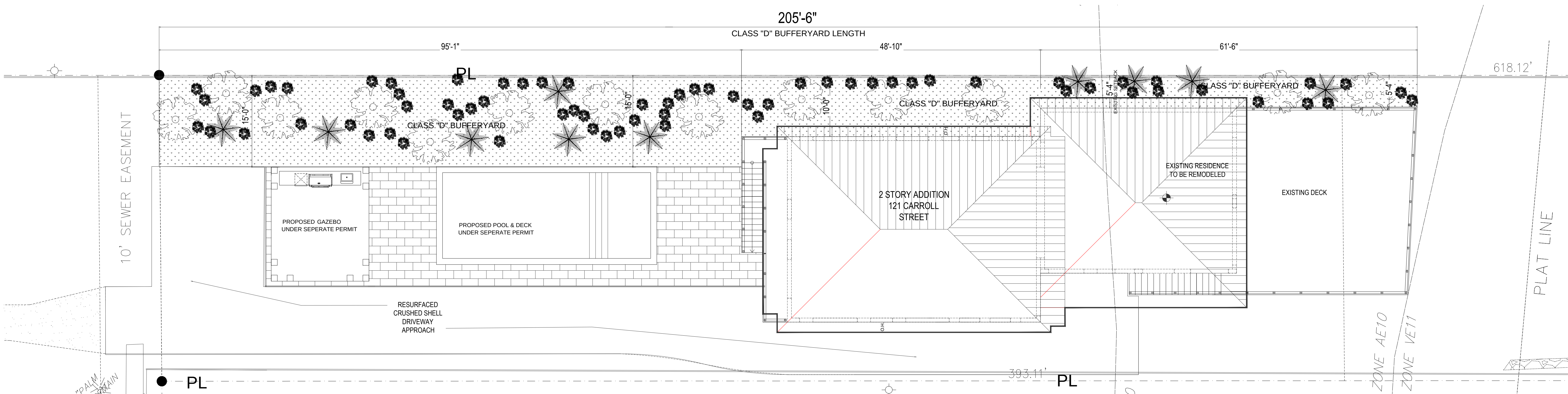
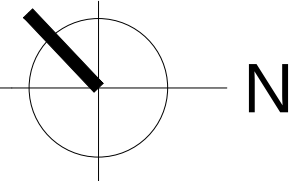
Common Name	Scientific Name	Status	Notes
Beech fly	<i>Hyemecalla latipala</i>		
Beggers tick or Tick Trawl	<i>Dermatopholus luscum</i>		
Bladderwaller or Lantern vine	<i>Hemeraea crispata</i>		
Blodgett's wild mercury	<i>Apocynum blodgettii</i>	E	
Blue flares	<i>Baccharis americana</i>	RI	
Brake fern	<i>Pteridium aquilinum var. caudatum</i>		
Bush heartbeats	<i>Pithecia cardinalis</i>		
Calypso	<i>Kaloterisma maxima</i>		
Capeweed	<i>Poa scoufflei</i>		
Coinwort	<i>Cerastella asiatica</i>		
Congress	<i>Spargang sp.</i>		
Cornus bedstraw or Galium	<i>Galium huphiliatum</i>	RI	
Dayflower	<i>Commelina erecta</i>		
Diamond flower	<i>Nepenthes nigrescens var. floridana</i>		
Dog testud	<i>Eupatorium capillatum</i>		
Fallen frogvine	<i>Agrostis fasciculata</i>		
Fake white	<i>Baccharis angustifolia</i>		
Florida white-top peddle	<i>Pentstemonis floridensis</i>		
Galium or Coastal bedstraw	<i>Galium huphiliatum</i>		
Gleades ibelia	<i>Loelia glifunosa</i>		
Glaucwort	<i>Sedum sp.</i>		
Gooseweed	<i>Cephaelis sp.</i>		

Page 22 of 25

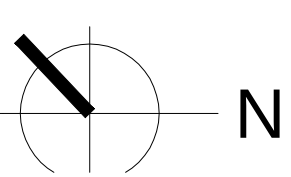


OVERALL SITE LANDSCAPE

SCALE : 1-1/32"



LANDSCAPE PLAN

$$SC \Delta I F \cdot 1.1/8'$$


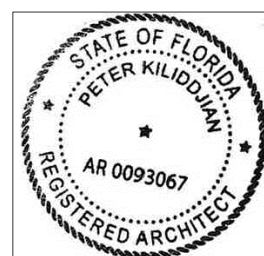
**PETER
KILIDDJIAN**
& ASSOCIATES
ARCHITECTS • PLANNERS
1108 OBISPO AVE
CORAL GABLES FL 33134
TELEPHONE : (305) 726-3748
PKILIDDJIAN@GMAIL.COM

PETER KILIDDJIAN, RA
LICENSE No. : AR 0093067

OWNER:
GREER FAMILY

REMODELING AND ADDITION FOR
121 CARROLL STREET
ISLAMORADA, FL

SEAL:



**Peter
Kiliddjian
AR93067**

DATE : 06-09-22
SCALE : AS SHOWN
DRAWN : ID
CHECK BY: PK
JOB NO. :

L-1



Council Communication

To: Mayor and Village Council
From: Jennifer DeBoisbriand , Planning Director
Date: April 11, 2023
SUBJECT: **Alcohol Beverage Use Permit - Midway Cafe - TAB 3**

Background:

The applicant is requesting the approval of a 2COP Alcoholic Beverage Use Permit to allow Beer and Wine for on-premises consumption. The subject property is located at 80499 Overseas Highway on Upper Matecumbe Key, Islamorada, Florida, as legally described in the proposed Resolution. The proposed use is within an existing restaurant/cafe building consisting of approximately 1,600 square feet on the subject property. The property is zoned Highway Commercial (HC) and has a Mixed Use (MU) Future Land Use classification consistent with the Comprehensive Plan of Islamorada, Village of Islands (the "Village").

Analysis:

The criteria for evaluating a request for an Alcoholic Beverage Use Permit are set forth in Section 30-1461(f) of the Village Code of Ordinances (the "Code"). These criteria are intended to ensure 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." The Village Council shall give due consideration to the evaluation criteria addressed within this report when 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.

The surrounding land is characterized by a mix of residential, commercial, public/semi-public, and conservation uses. The property to the north along Overseas Highway is zoned Public/Semi-public (PS); to the east along Old Highway is zoned Residential Estate (RE); to the southeast along Old Highway is zoned Tourist Commercial (TC); to the southwest is zoned Conservation (C); directly to the west across Overseas Highway is zoned Marine Use (MR) site of Angler House Marina permitted for onsite consumption of beer, wine and liquor; and to the northwest across Overseas Highway is zoned Conservation (C). Staff has determined the proposed use is compatible and generally consistent with the uses and character of the land surrounding the property.

(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.

Comprehensive Plan Policy 1-2.1.4 restricts the density and intensity of development in the Village. The development is consistent with the Comprehensive Plan standards for intensities of use and has been in existence for many years. The subject property has a zoning district designation of HC (Highway Commercial). The proposed alcoholic beverage use permit is being reviewed by Village Council pursuant to Code Section 30-1461(g).

(3) The proposed use complies with article IV, division 5 of this chapter (Concurrency Management).

The sale of on-premises consumption of alcohol is not expected to have a significant impact on demand for utilities, community facilities, or other public services and is therefore in compliance.

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

The sale of alcohol will be conducted within the existing structure. No adverse impacts to adjacent properties would be expected and therefore is in compliance.

Compliance with Code Section 30-1461(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.

There are no places of worship, schools, or childcare facilities located within 300 feet and therefore the property is in compliance with Code Section 30-1461(e).

Budget Impact:

None

Staff Impact:

None

Recommendation:

Staff has reviewed the request of Midway Cafe Islamorada, Inc. for an Alcoholic Beverage Permit for the on-premises consumption of beer and wine and determined that the Application meets the standards of review as set forth in Section 30-1461 of the Code of Ordinances.

Staff recommends that the Village Council APPROVE the request for an Alcoholic Beverage Use Permit for the subject property through the adoption of the proposed Resolution.

Attachments: 1. Resolution_Midway_Cafe
 2. A_Zoning_Map

After recording return to:
Planning and Development Services Dept.
Islamorada, Village of Islands
86800 Overseas Hwy
Islamorada, Florida 33036

RESOLUTION NO.

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, CONSIDERING THE REQUEST OF MIDWAY CAFE ISLAMORADA, INC. FOR A 2COP ALCOHOLIC BEVERAGE USE PERMIT TO ALLOW BEER AND WINE ON-PREMISES CONSUMPTION AND PACKAGE, ON PROPERTY LOCATED AT 80499 OVERSEAS HIGHWAY, WITH THE PARCEL IDENTIFICATION NUMBER 00405190-000100 WITHIN THE HC (HIGHWAY COMMERCIAL) ZONING DISTRICT, AS LEGALLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Midway Café Islamorada, Inc (“Agent”) on behalf of Walle Enterprises, LLC (“Owner”) has applied for an Alcoholic Beverage Use Permit to allow a 2COP Alcoholic Beverage Use Permit to allow Beer and Wine, on-premises consumption; and,

WHEREAS, the Proposed Use is located within the Highway Commercial (HC) Zoning District at 80499 Overseas Highway on Upper Matecumbe Key, with Parcel Identification Number 00405190-000100, and as legally described below within Islamorada, Village of Islands, Florida; and

WHEREAS, on April 11, 2023, Pursuant to the applicable provisions of the Code of Ordinances of Islamorada, Village of Islands, Florida, the Council conducted a duly noticed Public Hearing regarding the Proposed Use.

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

Section 1. Findings of Fact. The Council, having considered the testimony and evidence presented by all parties, including the Applicant, does hereby find and determine:

1. The Council reviewed the application for the Proposed Use on March 23, 2023.
2. The Public Hearing was properly noticed, the application for the Proposed Use was properly before the Council for consideration, and all interested parties were given an opportunity to be heard on the matter.
3. In accordance with Code Section 30-1461, the Council considered whether the Proposed Use met the following criteria:
 - a. 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;
 - b. 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 regarding its location, site characteristics, and intended purpose;
 - c. The Proposed Use complies with Code Chapter 30, Article IV, Division 5 (Concurrency Management); and,
 - d. The design of the Proposed Use minimizes adverse effects, including visual impact and intensity of the Proposed Use on adjacent lands.
4. The Applicant **[has/has not]** demonstrated that the Proposed Use meets all of the criteria to receive the requested Alcoholic Beverage Use Permit.

Section 2. Conclusions of Law. Based upon the above Findings of Fact, the Council does hereby make the following Conclusions of Law:

1. The Application has been processed in accordance with the applicable provisions of the Land Development Regulations and **[will/will not]** be detrimental to the community as a whole; and

2. In rendering its decision, as reflected in this Resolution, the Council has:

- a. Accorded procedural due process;
- b. Observed the essential requirements of the law; and,
- c. Supported its decision by competent substantial evidence of record.

3. The Application for an Alcoholic Beverage Use Permit is hereby **[GRANTED/DENIED]**, for the following described property:

THE KEY SUB PB2-129 UPPER MATEUCMBE KEY SUB OF LOT 7 PT LOT 7C AND PT LOT 7D ACCORDING TO THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA.

Section 3. Violation of Conditions. The Applicant understands and acknowledges that it must comply with all of the terms and conditions herein, and all other applicable requirements of the Village or other governmental agencies applicable to the Proposed Use granted herein. In accordance with Code Section 30-224(e), the Council may revoke this approval upon a determination that the Applicant, 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 4. Effective Date. This Resolution shall not take effect until after thirty (30) days following the date it is filed with the Village Clerk, during which time the Request herein shall be subject to appeal as provided in the Village Code.

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	_____
Councilman Mark Gregg	_____
Councilman Henry Rosenthal	_____
Councilwoman Elizabeth Jolin	_____

PASSED AND ADOPTED on this 11th day of April, 2023.

JOSEPH B. PINDER, MAYOR

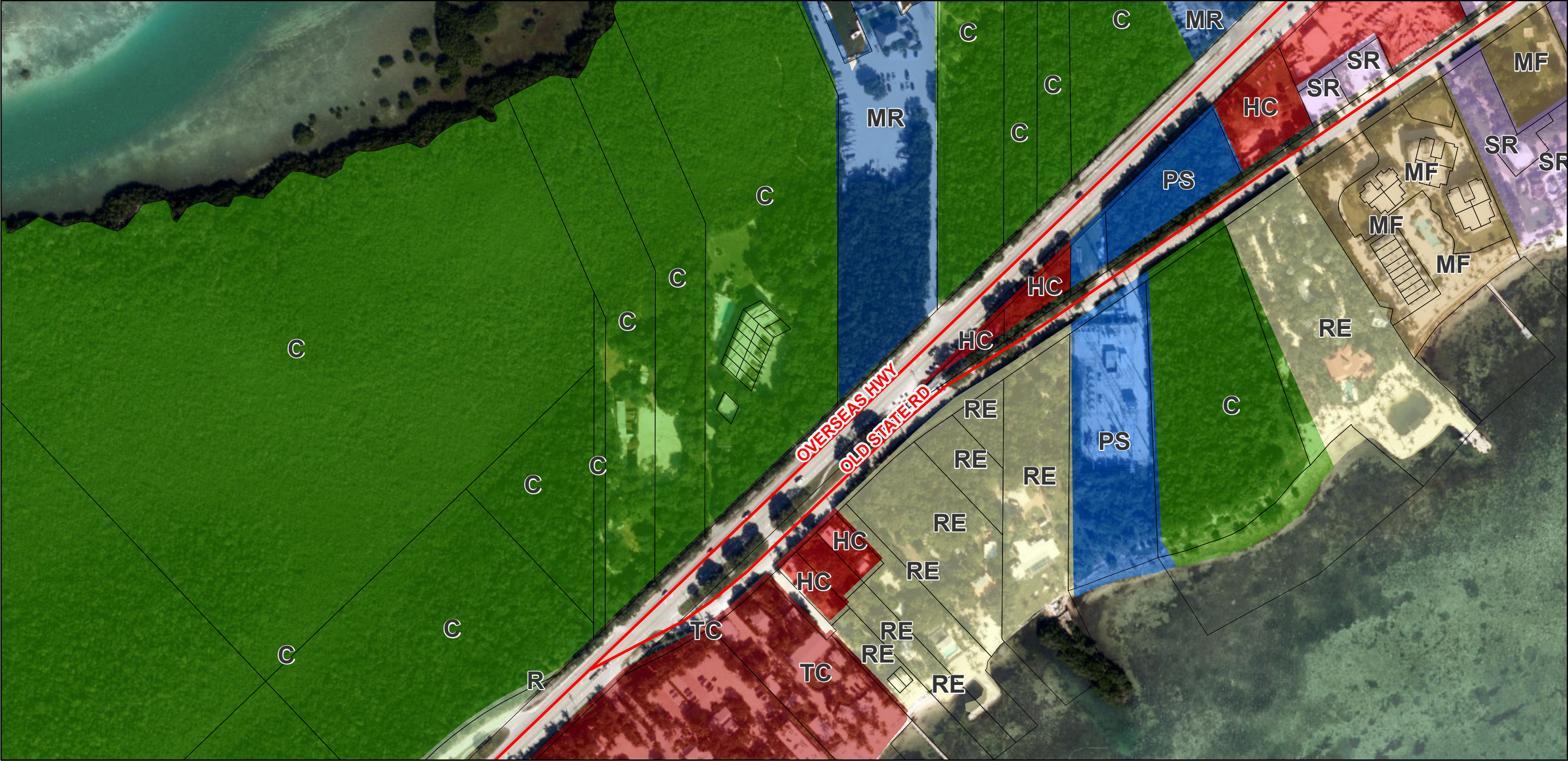
ATTEST:

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

Zoning Map



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Streets

Parcels

Zoning

Residential Estate (RE)

Multifamily (MF)

Settlers Residential (SR)

Tourist Commercial (TC)

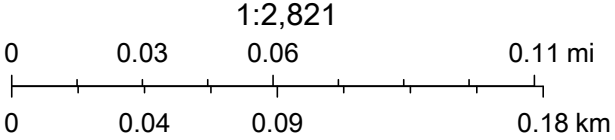
Marine Use (MR)

Highway Commercial (HC)

Conservation (C)

Public/Semi-Public Services (PS)

Recreation (R)



Monroe County BOCC, Maxar, Microsoft



Council Communication

To: Mayor and Village Council
From: Jennifer DeBoisbriand , Planning Director
Date: April 11, 2023
SUBJECT: **Alcohol Beverage Use Permit - Papa Joes - TAB 4**

Background:

The applicant is requesting the approval of a 5COP SRX Alcoholic Beverage Use Permit to allow restaurant on-premises consumption. The subject property is located at 79786 Overseas Highway on Upper Matecumbe Key, Islamorada, Florida, as legally described in the proposed resolution. The proposed use is in conjunction with redevelopment of a bar and restaurant on the subject property. The property is zoned Highway Commercial (HC) and has a Mixed Use (MU) Future Land Use classification consistent with the Comprehensive Plan of Islamorada, Village of Islands (the "Village").

Analysis:

The criteria for evaluating a request for an Alcoholic Beverage Use Permit are set forth in Section 30-1461(f) of the Village Code of Ordinances (the "Code"). These criteria are intended to ensure 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." The Village Council shall give due consideration to the evaluation criteria addressed within this report when 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.

The surrounding land is characterized by a mix of commercial, marine, and conservation uses. The property to the north along Overseas Highway is zoned Conservation (C); to the east directly across Overseas Highway is zoned Highway Commercial (HC) and Marine Use (MR); Across Overseas Highway is the location of Bud & Mary's Marina and Lazy Days Restaurant. Both establishments currently have alcohol beverage licenses. Also, historically Papa Joe's has held a state license to serve alcohol. Staff has determined the proposed use is compatible and generally consistent with the uses and character of the land surrounding the property.

(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.

Comprehensive Plan Policy 1-2.1.4 restricts the density and intensity of development in the Village. The development is consistent with the Comprehensive Plan standards for intensities of use and has been in existence for many years. The subject property has a zoning district designation of HC (Highway Commercial). The proposed alcoholic beverage use permit is being reviewed by Village Council pursuant to Code Section 30-1461(g).

(3) The proposed use complies with article IV, division 5 of this chapter (Concurrency Management).

The sale of on-premises consumption of alcohol is not expected to have a significant impact on demand for utilities, community facilities, or other public services and is therefore in compliance.

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

The sale of alcohol will be conducted within the newly reconstructed structure. No adverse impacts to adjacent properties would be expected and therefore is in compliance.

Compliance with Code Section 30-1461(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.

There are no places of worship, schools, or childcare facilities located within 300 feet and therefore the property is in compliance with Code Section 30-1461(e).

Budget Impact:

None

Staff Impact:

None

Recommendation:

Staff has reviewed the request of PJ Islamorada, LLC for an Alcoholic Beverage Permit for the on-premises consumption of liquor and determined that the Application meets the standards of review as set forth in Section 30-1461 of the Code of Ordinances.

Staff recommends that the Village Council APPROVE the request for an Alcoholic Beverage Use Permit for the subject property through the adoption of the proposed Resolution.

Attachments:

1. Resolution_Papa_Joes
2. A_Zoning_Map

After recording return to:
Planning and Development Services Dept.
Islamorada, Village of Islands
86800 Overseas Hwy
Islamorada, Florida 33036

RESOLUTION NO.

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, CONSIDERING THE REQUEST OF PJ ISLAMORADA, LLC FOR A 5COP SRX ALCOHOLIC BEVERAGE USE PERMIT TO ALLOW RESTAURANT SALES, ON PROPERTY LOCATED AT 79786 OVERSEAS HIGHWAY, WITH THE PARCEL IDENTIFICATION NUMBER 00096900-000000 WITHIN THE HC (HIGHWAY COMMERCIAL) ZONING DISTRICT, AS LEGALLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, PJ Islamorada, LLC ("Owner"/"Applicant") has applied for an Alcoholic Beverage Use Permit to allow a 5COP SRX Alcoholic Beverage Use Permit to allow Restaurant and Package sales, on-premises consumption; and,

WHEREAS, the Proposed Use is located within the Highway Commercial (HC) Zoning District at 79786 Overseas Highway on Upper Matecumbe Key, with Parcel Identification Number 00096900-000000, and as legally described below within Islamorada, Village of Islands, Florida; and

WHEREAS, on April 11, 2023, Pursuant to the applicable provisions of the Code of Ordinances of Islamorada, Village of Islands, Florida, the Council conducted a duly noticed Public Hearing regarding the Proposed Use.

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

Section 1. Findings of Fact. The Council, having considered the testimony and evidence presented by all parties, including the Applicant, does hereby find and determine:

1. The Council reviewed the application for the Proposed Use on April 11, 2023.
2. The Public Hearing was properly noticed, the application for the Proposed Use was properly before the Council for consideration, and all interested parties were given an opportunity to be heard on the matter.
3. In accordance with Code Section 30-1461, the Council considered whether the Proposed Use met the following criteria:
 - a. 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;
 - b. 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 regarding its location, site characteristics, and intended purpose;
 - c. The Proposed Use complies with Code Chapter 30, Article IV, Division 5 (Concurrency Management); and,
 - d. The design of the Proposed Use minimizes adverse effects, including visual impact and intensity of the Proposed Use on adjacent lands.
4. The Applicant [**has/has not**] demonstrated that the Proposed Use meets all of the criteria to receive the requested Alcoholic Beverage Use Permit.

Section 2. Conclusions of Law. Based upon the above Findings of Fact, the Council does hereby make the following Conclusions of Law:

1. The Application has been processed in accordance with the applicable provisions of

the Land Development Regulations and **[will/will not]** be detrimental to the community as a whole; and

2. In rendering its decision, as reflected in this Resolution, the Council has:
 - a. Accorded procedural due process;
 - b. Observed the essential requirements of the law; and,
 - c. Supported its decision by competent substantial evidence of record.

3. The Application for an Alcoholic Beverage Use Permit is hereby **[GRANTED/DENIED]**, for the following described property:

6 64 37 PT GOVT LOTS 1-2-3 PT TRACT 1 ISLAND OF UPPER MATECUMBE G10-513, ACCORDING TO THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA.

Section 3. Violation of Conditions. The Applicant understands and acknowledges that it must comply with all of the terms and conditions herein, and all other applicable requirements of the Village or other governmental agencies applicable to the Proposed Use granted herein. In accordance with Code Section 30-224(e), the Council may revoke this approval upon a determination that the Applicant, 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 4. Effective Date. This Resolution shall not take effect until after thirty (30) days following the date it is filed with the Village Clerk, during which time the Request herein shall be subject to appeal as provided in the Village Code.

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 _____
Councilman Mark Gregg _____
Councilman Henry Rosenthal _____
Councilwoman Elizabeth Jolin _____

PASSED AND ADOPTED on 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

Zoning Map - Papa Joes Location



2/21/2023, 3:01:40 PM

- Streets

Parcels

Zoning

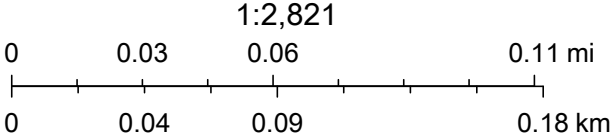
Residential Estate (RE)
- Multifamily (MF)

Tourist Commercial (TC)

Marine Use (MR)
- Highway Commercial (HC)

Conservation (C)

Recreation (R)



Monroe County BOCC, Maxar, Microsoft



Council Communication

To: Mayor and Village Council
From: Daniel J. Gulizio, Director of Development Services
Date: April 11, 2023
SUBJECT: **1st Quarter 2023 Market Rate Building Permit Allocation System Awards - TAB 5**

Background:

Pursuant to Section 30-475 of the Code of Ordinances (the Code”) of Islamorada, Village of Islands (the “Village”), the Village Council is required to take action after reviewing the Building Permit Allocation System (the “BPAS”) Evaluation Report.

Pursuant to Resolution 22-11-131, adopted on November 17, 2022, eleven (11) market rate residential allocations were made available for 2023 through the BPAS, including four (4) market rate “without land dedication” and one (1) market rate “with land dedication” available for distribution in Quarter 1 of 2023. At the close of Quarter 1, 2023, sixty-eight (68) applications for market rate residential permit allocations were in the BPAS queue awaiting building permit allocation awards.

The proposed Resolution approves the Residential BPAS Rankings and Awarding market rate building permit allocations for Quarter 1 of 2023, pursuant to Village Code Section 30-476.

Analysis:

The Residential BPAS applications were evaluated, scored, and ranked according to criteria outlined in Village Code Section 30-476 and are identified in order by ranking, score, date of application and time of application below:

With Land Dedication -

#1 with 26 points - Permit No. PRSFC202101705, real estate id 00435720-000000, for L12 B7 Sunshine Estates submitted on May 2, 2022 at 2:10 PM

Without Land Dedication -

#9 with 18 points - Permit No. PRSFC202001126, real estate id 00405340-000000, for Yolo Daddio LLC submitted on February 4, 2021 at 3:00 PM

#10 with 18 points - Permit No. PRSFC202001460, real estate id 00418311-000800, for Deana & Paul Jorgensen submitted on March 29, 2021 at 12:53 PM

#11 with 17 points - Permit No. PRSFC202001085, real estate id 00394488-002900, for Port Antigua LLC submitted on March 16, 2021 at 3:26 PM

#12 with 17 points - Permit No. PRSFC202001595, real estate id 00396390-000000, for Savage Marc Revocable Trust submitted on April 13, 2021 at 11:19 PM

Budget Impact:

If approved as recommended, the additional property value created by these building permits would increase the Village's ad valorem tax revenue in future fiscal years.

Staff Impact:

Staff impact would be limited to processing the associated development permits.

Recommendation:

It is recommended that the Village Council adopt the proposed Resolution, thereby approving the Residential BPAS Rankings and Awarding four (4) market rate "without land dedication" and one (1) market rate "with land dedication" residential building permit allocations for Quarter 1 of 2023.

- Attachments:**
1. Q1 Market Rate BPAS Resolution
 2. Exhibit "A"

RESOLUTION NO. 23-

**A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA,
VILLAGE OF ISLANDS, FLORIDA, APPROVING RESIDENTIAL
BUILDING PERMIT ALLOCATION SYSTEM RANKINGS AND
AWARDING RESIDENTIAL BUILDING PERMIT ALLOCATIONS FOR
QUARTER 1 OF 2023; AND PROVIDING AN EFFECTIVE DATE**

WHEREAS, Islamorada, Village of Islands (the "Village") has implemented the Building Permit Allocation System ("BPAS") as codified in Chapter 30, Article IV, Division 11 of the Village's Code of Ordinances (the "Village Code"); and

WHEREAS, Section 30-474 of the Village Code requires that the Village Council of Islamorada, Village of Islands (the "Village Council") establish the total amount of nonresidential floor area and residential dwelling units that may be made available for the next annual allocation, the quarterly allocations for that year and the distribution of allocations between categories; and

WHEREAS, the Village Council adopted Resolution No. 22-11-131, thereby establishing a total of eleven (11) market rate residential units for allocation in 2023, four (4) market rate allocations "without land dedication" and one (1) "with land dedication" available for Quarter 1 of 2023; and

WHEREAS, on April 11, 2023, the Village Council conducted a public hearing regarding the Residential Dwelling Unit Allocation Evaluation Report (the "Report") submitted by the Planning Director (the "Director") pursuant to the applicable provisions of the Village Code and Comprehensive Plan; and

WHEREAS, the Village Council desires to approve the residential building permit allocation rankings and award the allocations for Quarter 1 of 2023.

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

Section 1. **Findings of Fact.** The Village Council, having considered the testimony and evidence presented by all parties, including the Report, does hereby find and determine as follows:

The Village Council hereby approves the ranking and recommendation of the Director to award five (5) allocations for market rate dwelling units as follows: One (1) allocation "with land dedication" to Real Estate Number 00435720-000000, property owner L12 B7 Sunshine Estates LLC with 26 points; One (1) allocation "without land dedication" to Real Estate Number 00405340-000000, property owner Yolo Daddio LLC with 18 points; One (1) allocation "without land dedication" to Real Estate Number 00418311-000800, property owners Deana and Paul Jorgensen with 18 points; One (1) allocation "without land dedication" to Real Estate Number 00394488-002900, property owner 126 Port Antigua LLC with 17 points; One (1) allocation "without land dedication" to Real Estate Number 00396390-000000, property owner Savage Marc E Revocable Trust with 17 points as set forth in Exhibit "A" hereto.

Section 2. **Conclusions of Law.** Based upon the above Findings of Fact, the Village Council does hereby make the following Conclusions of Law:

- (1) The Building Permit Allocation System (the "BPAS") applications for Quarter 1 of 2023 have been processed in accordance with the Village Comprehensive Plan and Land Development Regulations, 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 of record.

Section 3. Effective Date. This Resolution shall not take effect until after thirty (30) days following the date it is filed with the Village Clerk, during which time the Request herein shall be subject to appeal as provided in the Village Code.

Motion to adopt by _____, seconded by _____.

FINAL VOTE AT ADOPTION

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

PASSED AND ADOPTED THIS 11TH DAY OF APRIL, 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:

JOHN QUICK, INTERIM VILLAGE ATTORNEY

This Resolution was filed in the Office of the Village Clerk of this ____ day of _____, 2023.

DRAFT Ranking of BPAS Applications for 2023 Quarter 1 (closed Friday, March 31, 2023 at 12:00 PM)							3/31/2023			
Market Rate Allocations (with & without Land Dedication Points)							RECOMMENDED FOR ALLOCATION			
Rank	Permit #	Name	Date of Application	Time of Application	Score	Key	Subdivision	Lot	Block	RE No.
1	PRSFC202101705	L12 B7 Sunshine Estates LLC (Land Dedication)	5/2/2022	2:10:00 PM	26	Plantation Key	Sunshine Estates	12	7	00435720-000000
2	PRSFC202101308	L12 B7 Sunshine Estates LLC (Land Dedication)	6/24/2022	11:12:00 AM	26	Plantation Key	Kahiki Harbor	11	1	00424960-000000
3	PRSFC201901157	Samurai Conchstruction LLC (Land Dedication)	4/14/2022	2:20:00 PM	25	Upper Matecumbe	Bay Hammock Community	17	-	00403041-001700
4	PRSFC202100516	Martinez, Lazaro & Marialina (Land Dedication)	6/27/2022	3:08:00 PM	24	Lower Matecumbe	Marlin Beach	22	H	00393860-000000
5	PRSFC201800385	Perez, George (Land Dedication)	4/4/2022	10:23:00 AM	23	Plantation Key	Coral Shores	18	-	00411410-000000
6	PRSFC202101687	Harborgate Limited Partnership (Land Dedication)	5/10/2022	2:30:00 PM	22	Upper Matecumbe	Bay Hammock Community	7	-	00403041-000700
7	PRSFC202100870	Harborgate Limited Partnership (Land Dedication)	4/12/2022	1:00:00 PM	21	Upper Matecumbe	Bay Hammock Community	6	-	00403041-000600
8	PRSFC202000634	What A Good Catch LLC (Land Dedication)	6/20/2022	2:23:00 PM	21	Upper Matecumbe	Stratton's Subd	6	12	00401260-000000
9	PRSFC202001126	Charles LeMoyné Hall	2/4/2021	3:00:00 PM	18	Windley	Galen Beach	38	-	00405340-000000
10	PRSFC202001460	Jorgensen, Deana & Paul	3/29/2021	12:53:00 PM	18	Plantation Key	Lake Harbor 1st Addition	8	-	00418311-000800
11	PRSFC202001085	126 Port Antigua LLC	3/16/2021	3:26:00 PM	17	Lower Matecumbe	Port Antigua Plat 3 & 4	126	-	00394488-002900
12	PRSFC202001595	Savage Marc Revocable Trust 2/24/2017	4/13/2021	11:19:00 AM	17	Lower Matecumbe	Matecumbe Ocean View	3	2	00396390-000000
13	PRSFC202100421	Luis Gonzalez	4/26/2021	1:30:00 PM	17	Plantation Key	Venetian Shores No 3	14	25	00409390-000000
14	PRSFC202001215	Brian Mass	4/27/2021	12:00:00 PM	17	Plantation Key	Kahiki Harbor	1	2	00425090-000000
15	PRSFC202001378	KAMELY URI PINKHAS	5/4/2021	12:00:00 PM	17	Lower Matecumbe	Port Antigua Plat NO 5&6	279	-	00394489-008200
16	PRSFC202100105	BLACK, RICHARD & BROOKE	5/6/2021	9:30:00 AM	17	Plantation Key	Vacation Village	7	1	00417530-000000
17	PRSFC202001467	CODISPOTI HUMBERTO & CARMEN	5/27/2021	1:00:00 PM	17	Lower Matecumbe	WHITE MARLIN BEACH SEC 1	11	C	00392430-000000
18	PRSFC202000472	LEON WILLIAM & JACKELINE	5/27/2021	1:10:00 PM	17	Lower Matecumbe	WHITE MARLIN BEACH SEC 1	18	E	00392990-001000
19	PRSFC202100428	RUIZ JORGE ALBERTO	6/16/2021	12:53:00 PM	17	Lower Matecumbe	Port Antigua Plat No. 1	11	-	00394486-001100
20	PRSFC202001015	NICHOLS GARY & BETH	6/25/2021	10:36:00 AM	17	Lower Matecumbe	Lower Matecumbe Beach	9	2	00388960-000100
21	PRSFC202001254	Burstyn, Samuel	8/2/2021	12:00:00 PM	17	Lower Matecumbe	Port Antigua Plat 5&6 PB6-25	317	-	00394489-012000
22	PRSFC202100688	Jaquelyn Wrenn Ekblom	8/5/2021	2:07:00 PM	17	Plantation Key	Fontaine Lake Estates	11	5	00433080-000000
23	PRSFC201901572	Morejon, Orlando and Annmarie	8/23/2021	2:20:00 PM	17	Upper Matecumbe	Russell Estates	-	-	00404060-000100
24	PRSFC202100572	Morejon, Orlando and Annmarie	9/24/2021	11:00:00 AM	17	Upper Matecumbe	Russell Estates	-	-	00404060-000300
25	PRSFC202100850	Lindback, Craig	10/12/2021	1:06:00 PM	17	Plantation Key	Plantation Key Colony	43	3	00426140-000200
26	PRSFC202100751	Torres, David and Sothsoler	10/25/2021	12:11:00 PM	17	Lower Matecumbe	Port Antigua Plat No 2	58	-	00394487-001500
27	PRSFC202100433	Makulu LLC	10/29/2021	11:44:00 AM	17	Plantation Key	Tavernero	19	1	00437493-002001
28	PRSFC202101234	Morales Rev Living Trust	11/22/2021	2:17:00 PM	17	Plantation Key	Sunshine Estates	7	1	00434630-000000
29	PRSFC202101237	Tiedemann, Jocelyn	12/1/2021	11:59:00 AM	17	Plantation Key	Key Heights Sect 2	21	4	00416180-000000
30	PRSFC202101049	Ferguson, James	1/14/2022	9:54:00 AM	17	Plantation Key	Indian Waterways	33	2	00422920-000000
31	PRSFC202101339	RCM of Florida LP	1/31/2022	10:33:00 AM	17	Lower Matecumbe	Mat Ocean Bay	9	3	00395240-000000
32	PRSFC202101553	Egret Investments Limited Partnership	8/30/2022	10:40:00 AM	17	Lower Matecumbe	Lower Matecumbe Beach	27-28	3	00389440-000000
33	PRSFC202100988	162 Sunset Dr LLC	10/20/2022	12:50:00 PM	17	Lower Matecumbe	Lower Matecumbe Beach	16	3	00389310-000000
34	PRSFC201802189	CBT Construction and Development, Inc.	4/11/2019	1:22:00 PM	16	Plantation Key	Indian Harbor	16	9	00421920-000000
35	PRSFC201900719	Holly Lynn Ernestes-Jones Revocable Trust	10/24/2019	3:48:00 PM	16	Upper Matecumbe	Bay Hammock Community	33	-	00403041-003300
36	PRSFC202000659	Islamorada Realty Invesment Trust	7/31/2020	9:15:00 AM	16	Plantation Key	Plantation Key Colony	28	11	00429010-000000
37	PRSFC202000667	Islamorada Realty Invesment Trust	7/31/2020	9:16:00 AM	16	Plantation Key	Plantation Key Colony	27	11	00429000-000000
38	PRSFC202000719	Islamorada Realty Investment Trust	8/17/2020	10:00:00 AM	16	Plantation Key	Plantation Key Colony	25	4	00426430-000000
39	PRSFC202100240	Gode, A.J and P.J.	9/27/2021	3:18:00 PM	16	Lower Matecumbe	Lower Matecumbe Beach	3	3	00389160-000000
40	PRSFC202100571	Morejon, Orlando and Annmarie	10/29/2021	11:50:00 AM	16	Upper Matecumbe	Russell Estates	-	-	00404060-000200
41	PRSFC202100954	Vaughn, Ray	11/1/2021	11:45:00 PM	16	Plantation Key	Edenair	8	1	00433470-000000
42	PRSFC202101286	Whitehill, Doria, Gregory, Alligood, Simpson	2/22/2022	10:20:00 AM	16	Plantation Key	Venetian Shores No 2	4	18	00408320-000000
43	PRSFC202200068	Islamorada Realty Investment Trust	3/30/2022	12:32:00 PM	16	Lower Matecumbe	Matecumbe Ocean Bay Sec 2	-	-	00397120-000000
44	PRSFC202000300	Villavicencio, Jose A	6/10/2022	11:00:00 AM	16	Lower Matecumbe	WHITE MARLIN BEACH SEC 1	16	I	00393270-000000
45	PRSFC202200149	Villamil Carlos and Vicente Sonia	9/1/2022	2:00:00 PM	16	Plantation Key	Plantation Key Colony	20	15	00431260-000100
46	PRSFC202101283	Martin, Akalia	9/16/2022	10:40:00 AM	16	Plantation Key	Tropical Atlantic Shores 1 Add	25	6	00436950-000000
47	PRSFC202100967	Schrader, Kathleen	9/16/2022	10:41:00 AM	16	Plantation Key	Tavernero	11	1	0037493-001100
48	PRSFC202200170	Sanders Charles Revocable Living Trust	9/23/2022	2:00:00 PM	16	Lower Matecumbe	WHITE MARLIN BEACH SEC 1	23	G	00393580-000000
49	PRSFC202201313	McKeown, James	1/23/2023	1:05:00 PM	16	Plantation Key	Tavernero	7	2	00437493-003700
50	PRSFC202200812	Weber, Craig	3/30/2023	10:00:00 AM	16	Plantation Key	Venetian Shores Plat No 2	8	10	00407150-000100
51	PRSFC201800860	LAZZERI JEFF & JULIE	4/2/2020	2:15:00 PM	15	Plantation Key	Plantation Lakes Estates	39	-	00093420-003801
52	PRSFC201801827	Paulo & Kellen Paiva	2/4/2021	12:15:00 PM	15	Upper Matecumbe	Bay Hammock Community	20	-	00403041-000100
53	PRSFC201801826	Paulo & Kellen Paiva	2/5/2021	8:00:00 AM	15	Upper Matecumbe	Bay Hammock Community	1	-	00403041-002000
54	PRSFC202001406	FERNANDEZ VIVIAN M & DOCAMPO JOSE A	5/13/2021	8:19:00 AM	15	Lower Matecumbe	Lower Matecumbe Beach	4	1	00388710-000000
55	PRSFC202100804	Island Investment Partners Inc.	10/12/2021	11:08:00 AM	15	Plantation Key	Ventetian Shores Plat No 2	1	13	00407550-000000
56	PRSFC202101379	Lonnborg, Ronald	5/11/2022	3:00:00 PM	15	Plantation Key	Plantation Beach	4	8	00414060-000000
57	PRSFC201901501	Weeks, Donald	3/16/2020	8:00:00 AM	14	Plantation Key	Plantation Lake Estates	8	-	00093420-000901

Rank	Permit #	Name	Date of Application	Time of Application	Score	Key	Subdivision	Lot	Block	RE No.
58	PRSFC202000351	Keys Basin LLC	10/7/2020	10:30:00 AM	14	Plantation Key	Vacation Village	1	1	00417470-000000
59	PRSFC202000352	Keys Basin LLC	10/7/2020	10:31:00 AM	14	Plantation Key	Vacation Village	1	1	00417470-000000
60	PRSFC202100795	MAZAL 233 LLC	9/27/2021	11:05:00 AM	14	Plantation Key	Key Heights Sect 2	5	7	00416500-000000
61	PRSFC202100796	MAZAL 233 LLC	9/27/2021	11:22:00 AM	14	Plantation Key	Key Heights Sect 2	6	7	00416510-000000
62	PRSFC202200078	Rodriguez, Robert	4/26/2022	12:00:00 PM	14	Plantation Key	Plantation Key Colony	11	7	00427430-000000
63	PRSFC202201342	Weidler Thomas	1/23/2023	12:30:00 PM	13	Plantation Key	Plantation Shores	18	3	00418621-004600
64	PRSFC202000794	Hopman, Andreas	9/16/2020	10:30:00 AM	12	Lower Matecumbe	Lower Matecumbe Beach	19	4	00389820-000100
65	PRSFC202200455	Lesko, Brian and Jodi Lynn	9/8/2022	3:00:00 PM	12	Plantation Key	Bay Hammock Community	25		00403041-002500
66	PRSFC202000555	Ewald, Nicholas	4/30/2021	11:30:00 AM	10	Plantation Key	Plantation Beach	7	2	00413760-000000
67	PRSFC202200496	Cockerham, Mark	8/4/2022	9:48:00 AM	9	Upper Matecumbe		6(9)		00096220-000300
68	PRSFC202000130	Rosa Maria Z Walchli REV Trust 11/5/2008	10/20/2020	9:27:00 AM	2	Plantation Key	Fontaine Lake Estates	2	5	00432990-000000



Council Communication

To: Mayor and Village Council
From: Daniel J. Gulizio, Director of Development Services
Date: April 11, 2023
SUBJECT: **1st Quarter 2023 Affordable Building Permit Allocation System Awards - TAB 6**

Background:

Pursuant to Section 30-475 of the Village Code of Ordinances, the Village Council of Islamorada, Village of Islands (the "Village") is required to take action after reviewing the Building Permit Allocation System (the "BPAS") Evaluation Report.

Pursuant to Resolution 22-11-131, adopted on November 17, 2022, eight (8) affordable allocations were made available for 2023 through the Village BPAS. Pursuant to Resolution 23-01-04, adopted on January 19, 2023, Village Council approved one affordable residential allocation for Quarter 4 of 2022, effectively reducing the available allocations for 2023, to seven (7).

At the close of Quarter 1 of 2023, there were two applications for Affordable Residential BPAS allocations in the queue awaiting award.

Analysis:

The affordable residential applications were evaluated, scored, and ranked according to criteria outlined in Village Code Section 30-476. The applications recommended for approval are listed in order by score, date, and time of application below:

Permit #PRCOB202200177 with 14 points was submitted by 89210 LLC on March 21, 2023 at 12:30 PM for parcel id 00422200-000000. The proposed construction requires three (3) allocations.

Permit #PRSFA202200108 with 13 points was submitted by William Ockerlund on February 3, 2023 at 11:30 AM for parcel id 00394910-000000. The proposed construction requires one (1) allocation.

There are four (4) affordable residential allocations awaiting award for Quarter 1 of 2023.

Budget Impact:

If approved as recommended, the additional property value created by this building permit would increase the Village's ad valorem tax revenue in future fiscal years.

Staff Impact:

Staff impact would be limited to processing the associated development permit.

Recommendation:

Staff recommends that the Village Council adopt the proposed Resolution, thereby approving the residential building permit allocation ranking and awarding four (4) affordable residential building permit allocations for Quarter 1 of 2023.

- Attachments:**
1. Affordable BPAS Resolution Q12023
 2. Exhibit "A"

RESOLUTION NO. 23-

**A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA,
VILLAGE OF ISLANDS, FLORIDA, APPROVING RESIDENTIAL
BUILDING PERMIT ALLOCATION SYSTEM RANKINGS AND
AWARDING AFFORDABLE RESIDENTIAL BUILDING PERMIT
ALLOCATIONS FOR QUARTER 1 OF 2023; AND PROVIDING FOR
AN EFFECTIVE DATE**

WHEREAS, Islamorada, Village of Islands (the "Village") has implemented the Building Permit Allocation System ("BPAS") as codified in Chapter 30, Article IV, Division 11 of the Village's Code of Ordinances (the "Village Code"); and

WHEREAS, Section 30-474 of the Village Code requires that the Village Council of Islamorada, Village of Islands (the "Village Council") establish the total amount of nonresidential floor area and residential dwelling units that may be made available for the next annual allocation, the quarterly allocations for that year and the distribution of allocations between categories; and

WHEREAS, the Village Council adopted Resolution No. 22-11-131, thereby establishing a total of eight (8) affordable residential units for allocation in 2023; and

WHEREAS, the Village Council adopted Resolution No. 23-01-04, thereby approving BPAS rankings and awarding one (1) affordable residential building permit allocation for Quarter 4 of 2022, reducing the available affordable allocations in 2023 to seven (7); and

WHEREAS, on April 11, 2023, the Village Council conducted a public hearing regarding the Affordable Residential Building Allocation System Ranking & Awards (the "Report") submitted by the Director of Planning (the "Director") pursuant to the applicable provisions of the Village Code and Comprehensive Plan; and

WHEREAS, the Village Council desires to approve the affordable residential building permit

allocation rankings and award the allocations for Quarter 1 of 2023.

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

Section 1. **Findings of Fact.** The Village Council, having considered the testimony and evidence presented by all parties, including the Report, does hereby approve the ranking and recommendation of the Director (Exhibit "A") to award three (3) allocations for affordable dwelling units to 89210 LLC with 14 points for property identified by Real Estate Number 00422200-000000; and one (1) allocation for an affordable dwelling unit to William Ockerlund with 13 points for property identified by Real Estate Number 00394910-000000, as set forth in Exhibit "A" hereto to.

Section 2. **Conclusions of Law.** Based upon the above Findings of Fact, the Village Council does hereby make the following Conclusions of Law:

- (1) The Building Permit Allocation System (the "BPAS") affordable application for Quarter 1 of 2023 have been processed in accordance with the Village Comprehensive Plan and Land Development Regulations; 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 of record.

Section 3. **Effective Date.** This Resolution shall not take effect until after thirty (30) days following the date it is filed with the Village Clerk, during which time the Request herein shall be subject to appeal as provided in the Village Code.

Motion to adopt by _____, seconded by _____.

FINAL VOTE AT ADOPTION

Mayor Joseph B. Pinder III _____

Vice Mayor Sharon Mahoney _____

Councilmember Mark Gregg _____

Councilmember Elizabeth Jolin _____

Councilmember Henry Rosenthal _____

PASSED AND ADOPTED THIS 11TH DAY OF APRIL, 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:

JOHN QUICK, INTERIM VILLAGE ATTORNEY

This Resolution was filed in the Office of the Village Clerk of this ____ day of _____, 2023.

EXHIBIT A

Residential Building Allocation System Ranking & Awards (the "Report")

DRAFT Ranking of BPAS Applications for 2023 Quarter 1 Affordable (closed March 31, 2023 @ 12:00pm)										
								RECOMMENDED FOR ALLOCATION		
Rank	Permit #	Name	Date of Application	Time of Application	Score	Key	Subdivision	Lot	Block	RE No.
1	PRCOB202200177	89210 Overseas Hwy	3/21/2023	12:30 PM	14	Plantation Key	Indian Harbor	44	9	00422200-000000
1	PRCOB202200177	89210 Overseas Hwy	3/21/2023	12:30 PM	14	Plantation Key	Indian Harbor	44	9	00422200-000000
1	PRCOB202200177	89210 Overseas Hwy	3/21/2023	12:30 PM	14	Plantation Key	Indian Harbor	44	9	00422200-000000
2	PRSFA202200108	William Ockerlund	2/3/2023	11:30 AM	13	Lower Matecumbe	Matecumbe Ocean Bay	1	2	00394910-000000



Council Communication

To: Mayor and Village Council
From: Daniel J. Gulizio, Director of Development Services
Date: April 11, 2023
SUBJECT: **1st Quarter 2023 Non-Residential Building Permit Allocation System Awards - TAB 7**

Background:

Pursuant to Village Code Section 30-475, the Village Council is required to act after reviewing the Building Permit Allocation System ("BPAS") Evaluation Report.

Pursuant to Resolution 22-11-131, a total of 33,964 square feet of nonresidential floor area is available for allocation in 2023. There are two (2) applications for nonresidential BPAS in the queue awaiting an award in Quarter 1 of 2023. The proposed Resolution approves the Nonresidential BPAS Rankings and Awards pursuant to Comprehensive Plan Policy 1-3.1.1(1) and Village Code Section 30-476.

Analysis:

Nonresidential applications were evaluated, scored, and ranked according to criteria outlined in Village Code Section 30-476. Two (2) applications from the nonresidential BPAS category are recommended for approval. The total nonresidential floor area requested by the applications is 1,054 square feet. If approved - 32,910 square feet of nonresidential floor area would remain in the BPAS for allocation.

The applications below were ranked by score, date, and time of application:

1. 89210 LLC submitted a nonresidential BPAS application for 447 square feet on March 21, 2023 at 12:30 PM for building permit PRCOB202200177 on parcel id 00422200-000000;
2. Oak Street Properties LLC submitted a nonresidential BPAS application for 607 square feet on February 1, 2023 at 1:00 PM for building permit PRBLD202100523 on parcel id 00401660-000000.

Budget Impact:

If approved as recommended, the additional property value created by these building permits would increase the Village's ad valorem tax revenue in future fiscal years.

Staff Impact:

Staff impact would be limited to processing the associated development permits.

Recommendation:

Staff recommends that the Village Council adopt the proposed resolution, thereby approving the nonresidential building permit allocation ranking and awarding nonresidential building permit allocation for Quarter 1 of 2023.

Attachments: 1. Nonresidential BPAS Resolution
 2. Exhibit "A"

RESOLUTION NO. 23-

**A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA,
VILLAGE OF ISLANDS, FLORIDA, APPROVING NONRESIDENTIAL
BUILDING PERMIT ALLOCATION SYSTEM ("BPAS") RANKINGS
AND AWARDED NONRESIDENTIAL BUILDING PERMIT
ALLOCATIONS FOR QUARTER 1 OF 2023; AND PROVIDING AN
EFFECTIVE DATE**

WHEREAS, Islamorada, Village of Islands (the "Village") has implemented the Building Permit Allocation System ("BPAS") as codified in Chapter 30, Article IV, Division 11 of the Village's Code of Ordinances (the "Village Code"); and

WHEREAS, Section 30-474 of the Village Code requires that the Village Council establish the total amount of nonresidential floor area and residential dwelling units that may be made available for the next annual allocation, the quarterly allocations for that year and the distribution of allocations between categories; and

WHEREAS, the Village Council previously adopted Resolution No. 22-11-131, establishing a total of 33,964 square feet of nonresidential floor area available for allocation in 2023; and

WHEREAS, on April 11, 2023, the Village Council conducted a public hearing regarding the Nonresidential Allocation Evaluation Report (the "Report") submitted by the Director of Planning and Development Services (the "Director") pursuant to the applicable provisions of the Village Code and Village Comprehensive Plan; and

WHEREAS, the Village Council desires to approve the Nonresidential BPAS rankings and award for Quarter 1 of 2023.

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

Section 1. **Findings of Fact.** The Village Council, having considered the testimony and evidence presented by all parties, including the Report, does hereby find and determine as follows:

The Village Council approves the ranking and recommendation of the Director to award one (1) allocation for 447 square feet of nonresidential floor area to 89210 LLC with fifteen (15) points having Real Estate Parcel ID 00422200-000000; and one (1) allocation for 607 square feet of nonresidential floor area to Oak Street Properties LLC with 13 points having Real Estate Parcel ID 00401660-000000, as set forth in the Report attached hereto as Exhibit "A".

Section 2. **Conclusions of Law.** Based upon the above Findings of Fact, the Village Council does hereby make the following Conclusions of Law.

- (1) The Building Permit Allocation System (the "BPAS") applications for Quarter 1 of 2023 of the BPAS has been processed in accordance with the Village's Comprehensive Plan and Land Development Regulations;
- (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 of record.

Section 3. **Effective Date.** This Resolution shall not take effect until after thirty (30) days following the date it is filed with the Village Clerk, during which time the Request herein shall be subject to appeal as provided in the Village Code.

Motion to adopt by _____, seconded by _____.

FINAL VOTE AT ADOPTION

Mayor Joseph B. Pinder III _____

Vice Mayor Sharon Mahoney _____

Councilmember Mark Gregg _____

Councilmember Elizabeth Jolin _____

Councilmember Henry Rosenthal _____

PASSED AND ADOPTED THIS 11TH DAY OF APRIL, 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:

JOHN QUICK, INTERIM VILLAGE ATTORNEY

This Resolution was filed in the Office of the Village Clerk of this ____ day of _____, 2023.

DRAFT Ranking of Nonresidential BPAS Applications for 2023 Quarter 1 (closed March 31, 2023 @ 12:00 PM)											Exhibit "A"
Applications									RECOMMENDED FOR ALLOCATION		
Rank	Permit #	Name	Date of Application	Time of Application	Score	Key	Subdivision	Lot	Block	RE #	Floor Area Requested
1	PRCOB202200177	89210 LLC	3/21/2023	12:30 PM	15	Plantation Key	Indian Harbor	44	9	00422200-000000	447
1	PRBLD202100523	Oak Street Properties LLC	2/1/2023	1:00 PM	10	Upper Matecumbe Key	MATECUMBE BEACH	7		00401660-000000	607
											0
										Total Allocation	1,054
										Total Available 2023	33,964
										Total Remaining	32,910



Council Communication

To: Mayor and Village Council
From: John Quick, Interim Village Attorney
Date: April 11, 2023
SUBJECT: Ordinance Concerning Appointments for Village Boards, Commissions, and Committees - TAB 8

Background:

At its regular meetings on January 19 and February 9, 2023, the Village Council gave direction to staff to create a uniform and more streamlined process by which to make appointments to Village board, committees, and commissions. Pursuant to those directives, staff prepared an ordinance for Council consideration consistent with the discussion and aspirations deliberated at the time.

The Village currently has eight (8) committees, which are: (1) Achievable Housing Citizens' Advisory Committee; (2) Historic Preservation Commission; (3) Islamorada Youth Council; (4) Land Acquisition Advisory Committee; (5) Landscape Advisory Committee; (6) Local Planning Agency; (7) Near Shore Water Citizens' Advisory Committee; and (8) Parks and Recreation Citizens' Advisory Committee ("collectively, the "Committees"). Currently, there is no uniform process by which members are appointed to the Committees. Two of the Committees (namely, the Historic Preservation Commission ("HPC") and Local Planning Agency ("LPA")) are specifically identified in the Village Code.

The proposed ordinance was presented to the LPA on February 13, 2023. The LPA voted 7-0 to recommend that the appointments and selection process for the LPA remain the same, with the caveat that the Village have a more robust advertising for open positions.

At the March 2, 2023 regular Village Council meeting, the Council voted 4-1 to approve the proposed ordinance on first reading with the understanding that it would be re-evaluated in two (2) years should the item be approved on second reading.

Analysis:

The proposed ordinance creates a uniform process for application, appointment, removal, terms, attendance requirements. In addition, the proposed ordinance establishes a process by which a Councilmember liaison is appointed for each Committee.

Since the LPA and HPC are both specifically discussed in the Village Code, amendments to those sections are also proposed consistent with the directives to create a uniform process for consideration.

Budget Impact:

None, unless more robust advertising is undertaken. If so, additional costs could result.

Staff Impact:

None, unless more robust advertising is undertaken. If so, additional staff time could result.

Recommendation:

N/A

Attachments: 1. Ordinance re board appointments

ORDINANCE NO. ____

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING CHAPTER 2 "ADMINISTRATION" CREATING A NEW ARTICLE V TO BE ENTITLED "VILLAGE BOARDS, COMMITTEES AND COMMISSIONS", SECTIONS 2-329 THROUGH 2-335; AMENDING CHAPTER 30 "LAND DEVELOPMENT REGULATIONS", ARTICLE III "DECISION MAKING AND OTHER ADMINISTRATIVE BODIES", DIVISION 3 "LOCAL PLANNING AGENCY", SECTION 30-103 OF THE VILLAGE CODE RELATING TO APPOINTMENT, REMOVAL, TERMS, AND VACANCIES; AMENDING CHAPTER 30 "LAND DEVELOPMENT REGULATIONS", ARTICLE VII "ENVIRONMENTAL REGULATIONS", DIVISION 7 "HISTORIC AND ARCHAEOLOGICAL SITES", SECTION 30-1693 RELATING TO THE HISTORIC PRESERVATION COMMISSION; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Village Council of Islamorada, Village of Islands (the "Village Council") has a number of boards, committees and commissions of the Village that requires the Village Council to appoint members periodically; and

WHEREAS, the Village Council desires to provide for a uniform procedure for the appointment, removal and terms of members to various boards, committees and commissions of the Village; and

WHEREAS, the Village currently has boards, committees and commissions, but no uniform process of appointment, removal and terms of such members in the Village Code; and

WHEREAS, the Village Council finds that providing a uniform procedure and amending any inconsistent provisions in the Village Code for the process of appointment, removal and terms of such members is in the best interests of the Village and its residents.

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 are incorporated herein by this reference.

Section 2. Amendments to the Code.

(a) Chapter 2 entitled "Administration", is hereby amended to create Article V to be entitled "Village Boards, Committees And Commissions" as follows:

Additional text is shown as <u>underlined</u> ;	deleted text is shown as strikethrough
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ARTICLE V. – Village Board, Committees and Commissions.

Sec. 2-329. General.

The village council may create any board, committee or commission of the village as a governmental entity of the village, vested with the authority to make recommendations to the village council on matters of public interest that affect persons or property within the incorporated area of the village as prescribed in this section.

Sec. 2-330. Application and Selection Process.

Each applicant to a board, committee or commission of the village shall be a resident of the village at the time of appointment and during the appointee's term(s) in office. Appointments shall be made on the basis of civic pride, integrity, experience and interest in the field of concern in which such board, committee or commission shall be advising the village council. The village council shall attempt to nominate neighborhood activists, lawyers or other individuals from the business, financial and other segments of the community who, by virtue of their profession, business or civic involvement, have demonstrated interest in the field of concern of such board, committee or commission to which they seek appointment. Membership on any board, committee or commission should be representative of the community at large and reflect a broad cross section of the community.

Sec. 2-331. Letters of Interest and Presentations.

- (a) Each interested applicant shall submit to the village council, at the time and place, as directed by the village council, a Letter of Interest for the particular board, committee or commission such applicant is interested in being appointed. Such Letter of Interest shall provide information about the applicant setting forth their qualifications, experience and expertise, including, demonstrating their civic pride, integrity, experience and interest in the field of concern in which such board, committee or commission shall be advising the village council.
- (b) Applicants will be provided an opportunity to present their qualifications, experience and expertise to the village council, who may ask questions and further inquire as to the applicant's interest.

Sec. 2-332. Appointment to Board, Committee or Commission.

Each member of a board, committee or commission shall be appointed by a majority vote of the village council.

Sec. 2-333. Terms of Office.

Each member shall serve for a term of two (2) years, with the terms of the members being staggered for each board, committee or commission.

Sec. 2-334. Councilmember Liaison.

The mayor shall annually appoint to each board, committee or commission a councilmember liaison. The councilmember liaison shall provide periodic updates to the village council on their appointed boards, committees and commissions, as requested by the village council.

Sec. 2-335. Removal from Office.

- (a) Any member of any board, committee or commission, may be removed by a majority vote of the village council and shall be automatically removed by the village clerk upon three (3) unexcused absences from regular meetings of such board, committee or commission during a calendar year.
- (b) A member of a village board, committee or commission shall be deemed absent from a meeting when he or she is not present at the meeting at least 75 percent of its duration.
- (c) The provisions of this section may only be waived once by a four-fifths vote of the members of the full village council.
- (d) The provisions of this section shall not apply to those individuals who are members of a village board, committee or commission and who are:
 - 1. Reservists in the United States Armed Forces or members of the Florida National Guard, and have been ordered to active military duty for national, state, or homeland defense and due to such duty cannot attend board meetings; or
 - 2. Employees of agencies whose services are considered essential for national, state, or homeland defense and due to such services cannot attend board meetings.

(b) Chapter 30 entitled "Land Development Regulations", Article III entitled "Decision-Making and Administrative Bodies", Division 3 entitled "Local Planning Agency", Section 30-103 entitled "Membership: appointment, removal, terms, and vacancies" is hereby amended as follows:

Additional text is shown as underlined;

deleted text is shown as ~~strikethrough~~

DIVISION 3. - LOCAL PLANNING AGENCY

Sec. 30-103. Membership: appointment, removal, terms, and vacancies.

- (a) The local planning agency shall be comprised of seven voting members. ~~Each member of the village council shall appoint one member to the local planning agency. The remaining two members shall be appointed by the village council based upon a super majority vote (four-fifths votes) of the village council.~~ Each member shall serve for a term of two (2) years, with the terms of the members being staggered. Local planning agency member appointments, when available, shall be made during a regular village council meeting in May of each year and the term of the local planning agency members shall continue until appointments are made at a regular village council meeting in May of the following year. The appointment process shall be conducted in accordance with Chapter 2, Article V. In the event that the regular village council meeting in May is cancelled, the term of local planning agency members shall not expire until appointments are made at the next regular village council meeting.
- (b) Where required by state statute, by majority vote the village council may appoint individuals, organizations or their designee to serve in an advisory capacity as nonvoting members of the local planning agency. These nonvoting members may include, but are not limited to, representatives of area schools or the county school board.
- (c) One member of each village established citizens' advisory committee and the Historic Preservation Commission may serve as a voting member of the local planning agency. One or more members of the local planning agency may serve on a village established charter review committee.
- (d) ~~The appointing village council member~~ village council may replace a local planning agency member with or without cause at any regular village council meeting. ~~The two local planning agency members appointed by a super majority vote (four/fifths votes) of the village council may be replaced with or without cause at any regular village council meeting by a super majority vote (four/fifths votes) of the village council.~~ Replacements shall serve the remainder of the original term. Nonvoting members may be removed by majority vote of the village council without cause.
- (e) No voting member shall serve more than ~~three~~ two (2) consecutive terms unless the village council votes by super majority (four/fifths votes) to approve re-appointment for additional consecutive terms.
- (f) At an annual organizational meeting, the members of the local planning agency shall elect one of their members as chairman and one as vice-chairman. In the absence of the chairman, the vice-chairman shall act as the chairman and shall have all the powers of the chairman. The chairman shall serve a term of one year. No member shall serve as chairman for more than two consecutive terms unless the local planning agency votes by super majority (majority plus one of voting members present and voting) to approve re-appointment for additional consecutive terms.

- (g) The chairman (or vice-chairman acting in the capacity of chairman) shall serve as the presiding officer of any meeting of the local planning agency. The presiding officer or designee shall be in charge of all proceedings before the local planning agency, and shall take such action as shall be necessary to preserve order and the integrity of all proceedings before the local planning agency. In the event that the chairman or vice-chairman are unavailable, the voting members of the local planning agency who are present shall by majority vote select a voting member to act as presiding officer for the meeting in question.
- (h) Should any voting member of the local planning agency miss three consecutive meetings without being excused by the chairman, whether regular meetings or special meetings, that person shall be disqualified as a voting member of the local planning agency. Thereafter, the ~~appointing councilmember~~ village council shall fill the vacancy thereby created as soon as practicable. ~~Should the disqualified member have been appointed by a super majority vote (four-fifths votes) of the village council, then the village council shall fill the vacancy by super majority vote (four-fifths votes) as soon as practicable.~~
- (i) All provisions of Chapter 2, Article V entitled "Village Boards, Committees and Commissions" of the Code not inconsistent with the provisions of this section 30-103 shall apply.

(c) Chapter 30 entitled "Land Development Regulations", Article VII entitled "Environmental Regulations", Division 7 entitled "Historic and Archaeological Sites", Section 30-1693 entitled "Historic preservation commission" is hereby amended as follows:

Additional text is shown as <u>underlined</u> ;	deleted text is shown as strikethrough
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DIVISION 7. - HISTORIC AND ARCHAEOLOGICAL SITES

Sec. 30-1693. Historic preservation commission.

- (a) *Historic preservation commission:* The historic preservation commission (HPC) is a governmental agency of the village. The HPC is vested with the authority to make recommendations to the village council on the designation and regulation of village historic structures within a designated historic district and landmarks within the incorporated area of the village as prescribed in this division.
- (b) *Appointment and membership qualifications:* The HPC consists of five members each appointed by a majority vote of the village council. Each member shall be a resident of the village at the time of appointment and during the member's term(s) in office. Appointments shall be made on the basis of civic pride, integrity, experience and interest in the field of historic preservation. The village council shall attempt to nominate architects, realtors, archaeologists, historians, neighborhood activists, lawyers or other individuals from the business, financial and other segments of the community who, by virtue of their profession, business or civic involvement, have

demonstrated concern for historic preservation. Membership on the board should be representative of the community at large and reflect a broad cross section of the community.

- (c) *Membership removal, terms, and vacancies:* The HPC members shall serve ~~overlapping-staggered~~ terms of ~~three-two~~ years. HPC members serve without compensation, but are entitled to the reimbursement of expenses as provided in F.S. § 112.061.
- (d) *Organization and administration:* The members of the HPC shall elect a chairperson and vice chairperson, for a one-year term each. The chairperson or, in the absence of the chairperson, the vice-chairperson, shall preside at all meetings and may vote. The director of planning and development services shall designate staff to advise and provide clerical support to the HPC. The village attorney shall be the attorney to the HPC. The director of planning and development services shall be the custodian of all HPC records. The HPC shall meet at least once per month at a date and time established by the HPC, unless there is no business pending.
- (e) *Notice:* Notice of meetings required under this division shall be given in accordance with section 30-213 of the Village Code.
- (f) *Public hearings:* All hearings required under this division shall be conducted in accordance with section 30-213 of the Village Code.
- (g) *Powers and duties:* The HPC has the following powers and duties:
 - (1) Adoption of its own procedural rules and regulations as necessary for the conduct of its business;
 - (2) Investigate and recommend to the village council the adoption of ordinances designating buildings, structures, sites having special historic, architectural and archaeological value as landmarks or historic districts, and if necessary, recommend rescission of such designations;
 - (3) Investigate and recommend to the village council the adoption of ordinances on whether a substantially damaged designated historic building, structure, object, or site may be reconstructed using the criteria set forth in this division;
 - (4) Conduct surveys of historically, architecturally and archaeologically significant structures and districts within the village;
 - (5) Advise the village council on all matters related to historic preservation policy, including the use, administration, and maintenance of publicly-owned historic landmarks;
 - (6) Make recommendations on nominations of a historic property to the National Register of Historic Places;
 - (7) Increase public awareness of the value of historic and architectural preservation by developing and participating in public education programs;
 - (8) Make recommendations to the village council concerning utilization of state, federal and private funds to promote the preservation of significant structures and historic districts within the village;

- (9) Make recommendations to the village council concerning acquisition of a significant structure where its preservation is essential to the purposes of this act and where private preservation is not feasible;
 - (10) Review applications for special certificates of appropriateness and make recommendations to the village council regarding such applications; and
 - (11) Undertake any other action or activity specifically delegated to it or requested by the village council.
- (h) The HPC shall meet no less than four times per year. At a minimum of one meeting each year, the HPC shall identify those structures within the village which are historically, architecturally or archaeologically significant. The findings of the HPC shall be transmitted to the village council after each meeting of the HPC, for the review and consideration of the village council. The HPC shall otherwise encourage the identification, preservation and protection of historically, architecturally or archaeologically significant structures and sites.
- (i) All provisions of Chapter 2, Article V entitled "Village Boards, Committees and Commissions" of the Code not inconsistent with the provisions of this section 30-1693 shall apply.

Section 3. Repeal of Conflicting Provisions. The Provisions of the Village of Islamorada Code and all Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.

Section 4. Severability. The provisions of this Ordinance are declared to be severable and if any sentence, section, 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 sentences, sections, clauses or phrases of the 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. Inclusion in the Code. It is the intention of the Village Council and it is hereby ordained the provisions of this Ordinance shall become and be made part of the Village of Islamorada Code, that sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions, and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 7. **Effective Date.** This Ordinance shall become effective immediately upon adoption.

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	_____
Councilwoman Elizabeth Jolin	_____
Councilman Henry Rosenthal	_____

PASSED on the first reading this ____day of_____, 2023.

[Remainder of this page intentionally left blank]

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	_____
Councilwoman Elizabeth Jolin	_____
Councilman Henry Rosenthal	_____

PASSED AND ADOPTED on the second reading this ____ day of _____, 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, VILLAGE ATTORNEY



Council Communication

To: Mayor and Village Council
From: Daniel J. Gulizio, Director of Development Services
Date: April 11, 2023
SUBJECT: **Chapter 30, Article VI, Division 11 - Alcoholic Beverage Use Permits - TAB 9**

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

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.



Council Communication

To: Mayor and Village Council
From: Daniel J. Gulizio, Director of Development Services
Date: April 11, 2023
SUBJECT: Chapter 30, Article VI, Division 13 - Mobile Food Vendors - TAB 10

Background:

The Village previously established a Mobile Food Truck Pilot Program by resolution on March 5, 2020 (Resolution No. 20-03-19). This program expired in March, 2022. The attached draft code provisions seek to codify the former Pilot Program with standards that mirror the Pilot Program's original regulatory approach.

Analysis:

The proposed code provisions provide definitions for Mobile Food Vendors (Food Trucks) as distinguished from Canteen Trucks and Food Carts. The regulation of food trucks includes provisions for both special events and commercial use. Operating standards are also provided to address siting, hours of operation, litter, setbacks, signage, parking, and ancillary retail sales.

These standards were based upon the lessons learned during the Village's Pilot Program, in addition to an analysis of similar approaches from other communities within the State of Florida. It is the belief of staff that these regulations strike the proper regulatory balance and will allow for the operation of Food Trucks where appropriate while protecting the rights of surrounding property owners.

Budget Impact:

None.

Staff Impact:

None.

Recommendation:

Staff respectfully recommends approval of the proposed Village Code Amendment.

Attachments: 1. Draft_03_2023

DIVISION 14 – Mobile Food Vendors (Food Trucks)

Sec. 30-1493. – Purpose and Intent.

The purpose and intent of this section is to establish reasonable land use and zoning regulations for real property upon which a Mobile Food Vendor (Food Truck) is authorized to operate within the Village of Islamorada. Unless authorized pursuant to these regulations, the operation of Mobile Food Vendors (Food Trucks) is prohibited and unlawful. These provisions are not intended to prohibit Mobile Food Vendors (Food Trucks) from operating within the Village of Islamorada or to require the licensing of such uses in violation of any preemption by Florida Statutes pursuant to section 509.102.

Sec. 30-1494. – Definitions.

Mobile Food Vendor (Food Truck) means a vehicle that is a public food service establishment that is self-propelled or otherwise moveable from place to place, and which includes self-contained utilities, including, but not limited to, gas, water, electric, or liquid waste disposal.

(OR)

Mobile Food Vendor (Food Truck) means a vehicle that dispenses food. These vehicles may cook, prepare, and assemble food items on or in the units and serve a full menu. Mobile Food Vendors (Food Trucks) are self-propelled or otherwise movable from place to place.

Canteen Truck means a vehicle which sells prepackaged, pre-cooked foods including pre-packaged drinks, and incidental sales of pre-packaged frozen dairy or frozen fruits and vegetables. No preparation or assembly of food may take place on or in the vehicle. However, the heating of pre-cooked food is permitted. (Open flame and/or grease laden vapor is strictly prohibited.)

Food Cart means a mobile kitchen vehicle set up on the street to prepare and sell street food to passers-by. Food carts are not self-propelled and do not travel under their own power.

Sec. 30-1495. – When Permitted.

Mobile Food Vendors (Food Trucks), Canteen Trucks and Food Carts shall only be permitted in accordance with the following standards and regulations:

A. Mobile Food Vendors (Food Trucks).

(1) Special Events. Mobile Food Vendors (Food Trucks) for special events shall be permitted in any district with the issuance of a Temporary Use Permit in accordance with the operating standards contained herein. Temporary Use Permits for Mobile Food Vendors shall be limited to a maximum of four (4) special events per year.

(2) Commercial Use. Mobile Food Vendors (Food Trucks) shall be permitted in a Village Center (VC), Tourist Commercial (TC), and Mobile Home Park (MH) District subject to site plan

review, in accordance with the operating standards contained herein, and pursuant to any additional requirements imposed pursuant to the underlying zoning district.

B. Canteen Trucks.

Canteen trucks shall be exempt from the provisions of this section, provided such vehicles are only parked for a maximum of fifteen (15) minutes or less. Canteen trucks shall be prohibited from operating within any right-of-way and may only operate on private property within a non-residential zoning district.

C. Food Carts.

Food carts may be permitted on a temporary and short-term basis subject to the issuance of a Temporary Use Permit.

Sec. 30-1496. – Operating Standards.

(A) Special Events. The following operational standards shall apply to the issuance of a Temporary Use Permit for a Mobile Food Vendor (Food Truck):

- (1) Mobile Food Vendors (Food Trucks) shall be setback a minimum distance of fifty (50) feet from U.S. 1.
- (2) The use of polystyrene foam (Styrofoam) and single use plastics shall be prohibited.
- (3) Mobile Food Vendors (Food Trucks) shall not operate within a Village Park, Village parking lot, or Village right-of-way without approval from the Village and the issuance of any and all required permits.
- (4) Mobile Food Vendors (Food Trucks) shall be prohibited from operating within the Fills area located between mile marker 72 and mile market 79.7.
- (5) Mobile Food Vendors (Food Trucks) shall be prohibited from operating on any vacant or abandoned property.
- (6) Mobile Food Vendors (Food Trucks) shall be prohibited from selling or dispensing food and/or beverages to customers in a moving vehicle or from otherwise engaging in drive-up sales.
- (7) Mobile Food Vendors (Food Trucks) shall not be immobile and are required to be moved at the conclusion of the day.
- (8) Mobile Food Vendors (Food Trucks) shall not interfere with vehicular and pedestrian movements, block access to loading/service areas, driveways, sidewalks, or landscaped areas.

(9) The vendor shall maintain receptacles, adjacent to the Food Truck, for litter associated with the business, and shall remove all litter, debris, and other waste attributable to the business on a daily basis.

(10) No food shall be sold, prepared, or displayed outside of the Food Truck.

(11) The Mobile Food Vendor (Food Truck) shall be prohibited from discharging waste, fat, oil, grease, or such similar substances from the vehicle. All such substances related to or generated from the vehicle shall be taken with the vehicle when the vehicle leaves the subject premises.

(12) The Mobile Food Vendor (Food Truck) shall be located on private property. No portion of the Food Truck shall extend onto an adjacent property or into any right-of-way.

(13) Vendors shall comply with all applicable Federal, State and city laws, regulations, and ordinances, including those regulating noise, signage, and loitering.

(14) With the exception of ancillary sales of branded items consistent with the food or vendor, such as a cup or tee shirt that bears the name of the company, restaurant or organization engaged in mobile food vending, the sale of products other than food and beverages under the permit authorized in this section is prohibited.

(15) No more than two (2) Mobile Food Vendors (Food Trucks) are allowed to operate simultaneously per site.

(16) No overnight parking of the Mobile Food Vendor (Food Truck) shall be allowed on-site.

(17) Mobile Food Vendors (Food Trucks) shall not be located on private property upon which there are unpaid liens or open code violations.

(B) Commercial Use. Unless permitted pursuant to a Temporary Use Permit, the following operational standards shall apply to all Mobile Food Vendors (Food Trucks) operating within a Village Center (VC), Tourist Commercial (TC), and Mobile Home Park (MH) zoning district.

(1) Mobile Food Vendors (Food Trucks) shall be setback a minimum distance of fifty (50) feet from U.S. 1.

(2) The use of polystyrene foam (Styrofoam) and single use plastics shall be prohibited.

(3) Mobile Food Vendors (Food Trucks) shall be prohibited from operating within the Fills area located between mile marker 72 and mile market 79.7.

(4) Mobile Food Vendors (Food Trucks) shall be prohibited from operating on any vacant property or abandoned business location.

- (5) Mobile Food Vendors (Food Trucks) shall be prohibited from selling or dispensing food and/or beverages to customers in a moving vehicle or from otherwise engaging in drive-up sales.
- (6) The use of balloons, streamers, flashing lights, or other similar devices to attract customers shall be prohibited. Banners attached to the vehicle shall be permitted provided they are no higher than fifteen (15) feet in height from the ground and no wider or longer than the width of the vehicle.
- (7) Parking Restrictions: Mobile Food Vendors (Food Trucks) shall not impede or interfere with on-site circulation. Further, Mobile Food Vendors (Food Trucks) shall be prohibited from operating in the following locations:
- (a) on or in the public right-of-way,
 - (b) fire lanes or adjacent to a fire hydrant;
 - (c) handicapped parking zones;
 - (d) driveway aisles, no parking zones or loading areas;
 - (e) Landscaped areas and buffer yards.
- (8) Mobile Food Vendors (Food Trucks) shall not be immobile and are required to be registered and otherwise moveable at all times.
- (9) Mobile Food Vendors (Food Trucks) shall not interfere with vehicular and pedestrian movements, block access to loading/service areas, driveways, sidewalks, or landscaped areas.
- (10) The vendor shall maintain receptacles, adjacent to the Food Truck, for litter associated with the business, and shall remove all litter, debris, and other waste attributable to the business on a daily basis.
- (11) No food shall be sold, prepared, or displayed outside of the Food Truck.
- (12) The Mobile Food Vendor (Food Truck) shall be prohibited from discharging waste, fat, oil, grease, or such similar substances from the vehicle. All such substances related to or generated from the vehicle shall be taken with the vehicle when the vehicle leaves the subject premises or pumped off-site and disposed of properly at a wastewater treatment facility.
- (13) Adequate sanitary facilities must be provided to serve customers and employees on site.
- (14) No portion of the Food Truck shall extend onto an adjacent property or into any right-of-way.
- (15) Mobile Food Vendors (Food Truck) must be located on a paved or gravel surface.

(16) Mobile Food Vendors (Food Truck) that occupy any site parking space(s) shall only utilize those parking space(s) that are not required for the host business location, or any business-required parking space on the site.

(17) Vendors shall not use loud music, amplification devices, bullhorns, crying out, or any other audible methods to gain attention.

(18) With the exception of one (1) A-frame sign located directly next to the Mobile Food Vendor (Food Truck) customer service area, there shall be no signage used by vendors except for what is allowed on the Food Truck itself.

(19) With the exception of dining furniture approved through the administrative site plan, vendors are prohibited from locating, placing, or putting personal property outside of the mobile food vending vehicle (food truck), including but not limited to, fixtures, and equipment.

(20) Vendors shall comply with all applicable Federal, State, and Local laws, regulations, and ordinances, including those regulating noise, signage, and loitering.

(21) With the exception of ancillary sales of branded items consistent with the food or vendor, such as a cup or tee shirt that bears the name of the company, restaurant or organization engaged in mobile food vending, the sale of products other than food and beverages under the permit authorized in this section is prohibited.

(22) Unless otherwise approved as part of a Temporary Use Permit issued under Chapter 30, Article V, Division 8 of the Village code, no more than one (1) Mobile Food Vendor (Food Truck) is allowed to operate per site.

(23) Mobile Food Vendors (Food Trucks) shall not be located on private property upon which there are unpaid liens or open code violations.

(24) Additional permits and licenses. A copy of the appropriate license(s) issued from the Florida Department of Business & Professional Regulation (Division of Hotels and Restaurants) shall be maintained on the Mobile Food Vendor (Food Truck) at all times when the vehicle is in operation on real property located within the Village and shall be made available for inspection upon request by the city's law or code compliance officers.

Sec. 30-1497. – Revocation of Permit.

The Village of Islamorada reserves the right to revoke any Temporary Use Permit or approval for the operation of a Mobile Food Vendor (Food Truck) in the event of violation of these provisions.



Council Communication

To: Mayor and Village Council
From: Daniel J. Gulizio, Director of Development Services
Date: April 11, 2023
SUBJECT: Chapter 30, Article II - Definition of Lot Area - TAB 11

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

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
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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: April 11, 2023
SUBJECT: Lot Area Variance Code Amendment - TAB 12

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

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: April 11, 2023
SUBJECT: **Amendment of Multifamily (MF) Zoning District to Include Single-Family Residences as a Permitted Use - TAB 13**

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

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: April 11, 2023
SUBJECT: **Chapter 30, Article V, amending Tourist Commercial (TC) District related to outdoor storage and display - TAB 14**

Background:

The proposed amendment would shift outdoor storage and display in a Tourist Commercial (TC) District for vacant properties fronting on U.S. 1 from an as-of-right use to a Minor Conditional Use. In addition, the amendment would stipulate that outdoor storage and display would only be permitted as an accessory use to a permitted principal use. Finally, the amendment would limit outdoor storage and display on lots not fronting on U.S. 1 as an accessory use to a permitted principal use.

Analysis:

The proposed amendments would better limit outdoor storage and display in a Tourist Commercial (TC) District, consistent with the variety of uses permitted within the district.

Budget Impact:

None.

Staff Impact:

None.

Recommendation:

Staff respectfully recommends approval of the proposed amendment.

Attachments: 1. 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 underlined;

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: April 11, 2023
SUBJECT: **Amendment of Village Code to Modify Chapter 30 (Land Development Regulations) Division 9 related to Outdoor Seating Areas - TAB 15**

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

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



Council Communication

To: Mayor and Village Council
From: Daniel J. Gulizio, Director of Development Services
Date: April 11, 2023
SUBJECT: **Amendment to Tourist Commercial (TC) District to Incorporate Boat Dealerships as a Major Conditional Use - TAB 16**

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

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 underlined;

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: April 11, 2023
SUBJECT: **Amendment of the Village Code to Standardize Notice Provisions for the Development Review Process - TAB 17**

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

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 <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



Council Communication

To: Mayor and Village Council
From: Daniel J. Gulizio, Director of Development Services
Date: April 11, 2023
SUBJECT: **Farmers' Markets, Flea Markets, and Fairs Code Amendment - TAB 18**

Background:

Islamorada, Village of Islands (the "Village"), is home to a number of existing farmers' markets, flea markets, and fairs. However, there is little support within the Village Code of Ordinances (the "Code") for the operation of such uses. Currently, the Code provides for the issuance of Temporary Use Permits for "seasonal sales of farm produce" (Sec. 30-882) and a "farmers' market" is listed as a permitted use within the Highway Commercial (HC) zoning district. Additionally, the Village's Code Compliance Hearing Officer has previously determined that farmers' markets are subject to the issuance of a Temporary Use Permit pursuant to Article V, Division 8 (Temporary Uses Including Public Assemblies) of the Village Code. The Village Code is largely silent with respect to flea markets and fairs. The Village Council previously considered an amendment to the Village Code to address farmers' markets. The measure failed to pass as it was deemed to inadequately address flea markets and fairs. The current proposal addresses all three types of uses and proposes regulations to guide their operation in the future.

Analysis:

The operation of farmers' markets, flea markets, and fairs has grown in popularity over the years, particularly with the heightened focus on "shop local" campaigns. Such uses can provide many benefits including the support of local farmers, the promotion of local produce, reductions in trip generation, and enhancement to community character and quality of life for local residents. However, if not properly regulated, the operation of such uses can include the promotion of goods that have little relationship to community farmers and produce. The failure to properly regulate such uses can also result in localized impacts in the form of traffic, parking, and pedestrian safety concerns. In addition, the intensity of such uses can result in impacts to the quiet enjoyment of surrounding properties.

A review of other local codes associated with such uses reveals a wide variety of provisions designed to promote the sale of local and hand-crafted products along with standards to prevent the potential traffic, parking and quality of life impacts associated with poorly regulated markets. Typical provisions associated with such uses include limitations on the types of goods sold, the number of vendors, setback standards for tents and displays, restrictions related to the days and hours of operation, and health and safety considerations to name just a few.

The attached draft regulations are based upon a review of similar codes, the comments provided by the members of the Village Local Planning Agency, and input from interested

stakeholders, including local vendors. The proposed regulations provide the Village with the opportunity to clearly define the proper location and associated zoning districts associated with farmers' markets, flea markets, and fairs. In addition, the regulations facilitate the development of farmers' markets, flea markets, and fairs that provide benefits to the community and enhance the quality of life for local residents while protecting community character and surrounding uses from the parking, traffic and quality of life issues associated with poorly managed venues.

A summary of the recommended amendment follows:

Where Permitted.

The amendments propose to add a farmers' market, flea market or fair as a permitted use within the Highway Commercial (HC), Village Center (VC), and Neighborhood Commercial (NC) zoning districts subject to the issuance of a Temporary Use Permit pursuant to Division 8 of the Village Code (Temporary Uses Including Public Assemblies).

Farmers' Market, Flea Market, and Fair Defined.

The Draft Code provisions provide for a definition for farmers' markets, Flea markets, and fairs. It states:

Farmers' Market means an occasional or periodic sales activity held in an outdoor open area, possibly under tents, where groups or individual sellers offer fresh produce, and other related goods for sale to the public. A farmers' market does not include private garage sales, similar activities held by places of worship, flea markets and fairs.

Flea Market means a building or open area in which stalls or sales areas are set aside, and rented or otherwise provided, and which are intended for use by various unrelated individuals to sell articles that are either homemade, homegrown, handcrafted, old obsolete, or antique, and may include the selling of new or used goods at retail by businesses or individuals who are generally engaged in retail trade. Rummage sales and garage sales are not considered flea markets.

Fair means a gathering of people for various cultural, entertainment, or commercial activities, which may include the gathering of sellers and buyers at a particular time and place for trade.

Purpose and Intent.

The intent of the Code is stated as follows:

The intent of the provisions contained herein is to provide commercial opportunities for vendors associated with Farmers' Markets, Flea Markets, and Fairs to promote and sell fresh produce and locally produced products. A local product is defined as one that is produced in the State of Florida and is not a processed product distributed widely outside the state. Vendors must certify on their application that all of the products offered for sale are either fresh produce or local products as defined herein.

Budget Impact:

None.

Staff Impact:

None.

Recommendation:

Staff respectfully recommends that the LPA recommend approval to the Village Council for the proposed amendment.

Attachments: 1. ORDINANCE_Farmers_Markets_01-19-2023

ORDINANCE NO.

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING CHAPTER 30, LAND DEVELOPMENT REGULATIONS TO ESTABLISH REGULATIONS RELATED TO FARMER'S MARKETS, FLEA MARKETS, AND FAIRS; 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, farmers' markets, flea markets, and fairs currently operate within Islamorada, Village of Islands; and

WHEREAS, the Village Code currently fails to provide adequate regulations governing such uses; and

WHEREAS, it is in the best interest of public health, safety, and welfare to provide adequate and proper regulations governing such uses; 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. 30-32. - Specific definitions.

Words as used in this chapter shall have the meanings described below, unless otherwise defined in another article, division, section, or paragraph of this chapter:

Farmers' Market means an occasional or periodic sales activity held in an outdoor open area, possibly under tents, where groups or individual sellers offer fresh produce, and other related goods for sale to the public. A farmers' market does not include private rummage sales, similar activities held by places of worship, flea markets and fairs.

Flea Market means a building or open area in which stalls or sales areas are set aside, and rented or otherwise provided, and which are intended for use by various unrelated individuals to sell articles that are either homemade, homegrown, handcrafted, old obsolete, or antique, and may include the selling of new or used goods at retail by businesses or individuals who are generally engaged in retail trade. Rummage sales and garage sales are not considered flea markets.

Fair means a gathering of people for various cultural, entertainment, or commercial activities, which may include the gathering of sellers and buyers at a particular time and place for trade.

Sec. 30-696. - Highway Commercial (HC) zoning district.

(a) Purpose and intent.

(1) The purpose of the highway commercial (HC) zoning district is to accommodate existing businesses along U.S. 1 and to provide opportunities for new commercial retail shops and services that typically are auto dependent and are used by people on less than a weekly basis, or to accommodate the building and service trades. Single-family or multifamily residential uses and educational uses are an option to commercial use.

(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 unit on vacant parcels in lieu of non-residential development pursuant to comprehensive plan policy 1-2.4.3;

(2) Deed restricted affordable dwelling unit developments of 25 dwelling units or less, except the conversion of existing hotels or motels to dwelling units is not permitted;

(3) Accessory uses and structures, excluding guest houses;

(4) Brewpubs less than 1,500 square feet;

(5) Restaurants less than 1,500 square feet;

(6) Microbrewery less than 3,000 square feet;

(7) Low/medium intensity office, retail and service establishments, less than 3,000 square feet, limited to:

- a. Animal hospital;
- b. Bakery;
- c. Boat sales and service;
- d. Bowling center;
- e. Building supply store;
- f. Carwash;
- g. Commercial recreational facility;
- h. Courier service;
- i. Cultural or community center;
- j. Day care center;
- k. Delicatessen (no tables);
- l. Dive shop;
- m. Electronics store;
- n. Exterminator service;
- o. Farmers' Market, Flea Market, or Fair; subject to the issuance of a Temporary Use permit pursuant to Chapter 30 (Land Development Regulations), Division 8 (Temporary Uses Including Public Assemblies). Farmers' Markets, Flea Markets, and Fairs are subject to compliance with Article VI – Specific Use Restrictions, Division 13 – Farmers Markets, Flea Markets or Fairs.

Sec. 30-697. - Neighborhood Commercial (NC) zoning district.

(a) Purpose and intent.

(1) The purpose of the neighborhood commercial (NC) zoning district is to provide a compact commercial area designed and intended to allow for a mix of residential, office and local retail sales servicing the daily needs of local residents within convenient traveling distance.

(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 unit;

(2) Attached deed restricted affordable dwelling units;

(3) Accessory uses and structures, excluding guesthouses;

(4) Low/medium intensity retail, service and office uses, 2,500 square feet or less, limited to:

a. Medical office;

b. Professional services including accountant, administrative and management services, architect, engineer, counselor, interior designer, investment agent, lawyer, and other similar professions;

c. Studio school including art, sculpture, dance, drama and like instruction;

d. Bakery;

e. Day care center;

f. Delicatessen (no tables);

g. Drugstore;

h. Fishing, diving and sailing shop/instruction;

i. Florist;

j. Food store;

k. Gym;

l. Interior decorator;

m. Laundry;

- n. Liquor store;
- o. Office supply and service; and
- p. Salon.
- q. Farmers' Market, Flea Market, or Fair; subject to the issuance of a Temporary Use permit pursuant to Chapter 30 (Land Development Regulations), Division 8 (Temporary Uses Including Public Assemblies). Farmers' Market, Flea Markets, and Fairs are subject to compliance with Article VI – Specific Use Restrictions, Division 13 – Farmers Markets, Flea Markets, or Fairs.

Sec. 30-692. - Village Center (VC) zoning district.

(a) Purpose and intent.

(1) The purpose of the village center (VC) zoning district is to recognize and enhance the vitality of the core, mixed use business centers. In this zoning district, integrated business and residential uses shall be permitted, while requiring bufferyards and other mitigation techniques to ensure a smooth transition where these parcels interface with residential land uses. Businesses in this district promote walk-up traffic and are conducive to enhancing pedestrian-related 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) Multifamily attached dwelling units of 25 dwelling units or less, except the conversion of existing hotels or motels to multifamily attached dwelling units is not permitted;
- (3) Deed restricted affordable dwelling units of 25 dwelling units or less, except the conversion of existing hotels or motels to dwelling units is not permitted;
- (4) Accessory uses and structures, excluding guesthouses;

- (5) Brewpub less than 1,500 square feet;
- (6) Community center;
- (7) Fire station;
- (8) Library;
- (9) Municipal parking;
- (10) Police station;
- (11) Restaurants less than 1,500 square feet;
- (12) Hotels or motels of 25 rooms or less;
- (13) Collocation on existing wireless facility;
- (14) Outdoor storage and display areas on vacant lots fronting US1 pursuant to article VI, division 8 of this chapter.
- (15) Farmers' market, Flea Market, or Fair; subject to the issuance of a Temporary Use permit pursuant to Chapter 30 (Land Development Regulations), Division 8 (Temporary Uses Including Public Assemblies). Farmers' Markets, Flea Markets, and Fairs are subject to compliance with Article VI – Specific Use Restrictions, Division 13 – Farmers Markets, Flea Markets, or Fairs.
- (16) Low/medium intensity office, retail, and service use 3,000 square feet or less, limited to:

DIVISION 13. – FARMERS' MARKETS, FLEA MARKETS, AND FAIRS.

Sec. 30-1481. – Definitions.

Farmers' Market means an occasional or periodic sales activity held in an outdoor open area, possibly under tents, where groups or individual sellers offer fresh produce, and other related goods for sale to the public. A farmers' market does not include private rummage sales, similar activities held by places of worship, flea markets and fairs.

Flea Market means a building or open area in which stalls or sales areas are set aside, and rented or otherwise provided, and which are intended for use by various unrelated individuals to sell articles that are either homemade, homegrown, handcrafted, old obsolete, or antique, and may

include the selling of new or used goods at retail by businesses or individuals who are generally engaged in retail trade. Rummage sales and garage sales are not considered flea markets.

Fair means a gathering of people for various cultural, entertainment, or commercial activities, which may include the gathering of sellers and buyers at a particular time and place for trade.

Sec. 30-1482. – Intent.

The intent of the provisions contained herein is to provide commercial opportunities for vendors associated with Farmers' Markets, Flea Markets, and Fairs to promote and sell fresh produce and locally produced products. A local product is defined as one that is produced in the State of Florida and is not a processed product distributed widely outside the state. Vendors must certify on their application that all of the products offered for sale are either fresh produce or local products as defined herein.

Sec. 30-1483. – Application.

Farmers' Markets, Flea Markets, and Fairs shall be required to obtain a Temporary Use Permit pursuant to Article V – Division 8 (Temporary Uses Including Public Assemblies).

Sec. 30-1484. – Hours of operation, days, and set-up time.

A. Hours of Operation. Farmers' Markets, Flea Markets, and Fairs may operate between the hours of 9:00 am and 4:00 pm.

B. Days. A farmers' market, flea market, or fair may operate on a Saturday or Sunday, but not on both days.

C. Set Up Time. The set up and close up of a farmers' market, flea market, or fair shall take place no more than two (2) hours before and after the hours of operation noted above.

Sec. 30-1485. – Site plan required.

A site plan application shall be submitted in connection with any application for a farmers' market, flea market, or fair. All site plans shall be submitted in accordance with Village of Islamorada Land Development Regulations.

Sec. 30-1486. – Farmers' Markets – Permitted products.

A minimum of fifty-one percent (51%) of all products shall be local fruits, vegetables, and plants. Farmers' market sales shall be limited to the following:

A. Edible farm products including, but not limited to, fruits and vegetables that are locally grown.

A *locally grown* product is one which originates from the State of Florida.

B. Locally grown plants.

C. Locally prepared food such as jams, jellies, honey, breads, cakes and similar products as determined by the Village of Islamorada.

D. Locally grown teas and spices.

E. The on-site preparation of juices, smoothies, coffee, and similar items as determined by the Village of Islamorada.

F. Additional uses, consistent with the above, may be considered by the Village Council pursuant to the recommendation of the Village Manager.

Sec. 30-1487. Flea Markets and Fairs – Permitted products.

Flea market products shall consist primarily of articles that are either homemade, homegrown, handcrafted, old obsolete, or antique, and may include the selling of new or used goods at retail by businesses or individuals who are generally engaged in retail trade.

Sec. 30-1488. – Prohibitions.

The following products and sales shall be prohibited with farmers' markets and flea markets:

A. Alcoholic beverages.

B. Processed foods, packed or prepared at home if not approved or inspected by Federal, State, or Municipal health authorities.

Sec. 30-1489. – Standards.

A. Minimum Lot Size. The minimum lot size shall be one (1) acre.

B. Where Permitted. Farmers' markets, flea markets and fairs are permitted in the Highway Commercial (HC), Neighborhood Commercial (NC) and Village Center (VC) zoning districts.

C. Proximity to Other Farmers' Markets, Flea Markets and/or Fairs. A farmers' market, flea market, or fair shall not be located within one (1) mile of another farmers' market, flea market, or fair without the review and approval of the Village Council and a determination from the Department of Planning and Development Services Department that the location of the two uses will not result in any adverse traffic, parking, or similar public safety concerns.

D. Health Department Compliance Required. The sale of any and all food and beverage products shall comply in all respects with applicable Federal, State, County, and local health requirements.

E. Minimum Required Setbacks. All vendors shall maintain a minimum setback of twenty-five (25) feet from all roadways, unless a greater setback is required by the underlying zoning district. A minimum setback of ten (10) feet shall be provided from any adjacent property line unless a greater setback is required by the underlying zoning district.

F. Building and Fire Prevention Code Compliance Required. The operation of a farmers' market, flea market, or fair shall comply in all respects with any and all applicable Building and Fire Prevention Code regulations.

G. Maximum Number of Vendors. The maximum number of vendors permitted in connection with a farmers' market, flea market, or fair shall be thirty (30). However, the Village Manager and/or Village Council reserve the right to reduce the maximum number of vendors based upon lot size, parking availability, traffic safety concerns, the proximity of residential development or any other public safety consideration. All vendors shall comply with the above-referenced minimum required setbacks.

H. Restroom Facilities Required. All farmers' markets, flea markets, and fairs shall include either on-site access to restroom facilities or the provision of portable toilets. The number and location of portable toilets shall be determined through site plan review.

I. Signage. A maximum of one (1) advertising sign associated with the farmers' market, flea market, or fair shall be permitted on site. Said sign shall comply in all respects with the Islamorada Village Code.

J. Parking. A farmers' market, flea market, or fair must contain all parking on-site. The proposed use must be located outside of existing parking areas unless surplus parking exists. Surplus parking is defined as parking in excess of minimum code requirements. A minimum of one parking space per vendor shall be required in connection with a farmers' market, flea market or fair.

K. Market Manager. A farmers' market, flea market, or fair shall have a designated market manager who shall oversee the operation of the market and the enforcement of all applicable health and safety regulations and permit requirements. The market manager shall also be responsible for maintaining a vendor log, including copies of vendor licenses and permit requirements. This information shall be available upon request by Village personnel at all times before, during, and

after the operation of the market. The market manager shall provide their telephone number, address, and email address to the Village prior to the event occurring.

The market manager shall obtain a notarized letter from the property owner stating that the market has permission to operate a farmers' market on the property.

Sec. 30-1489. – Indemnification.

The owner of the site and operator of the farmers' market, flea market, or fair shall enter into an agreement with the Village of Islamorada to indemnify and hold harmless the Village from any and all actions arising from the operation of the farmers' market, flea market or fair. Said indemnification and hold harmless agreement shall be prepared pursuant to the satisfaction of the Village Attorney.

Sec. 30-1490. – Enforcement.

A violation of the provisions of this Code or any condition of approval shall result in the revocation of the permit and the issuance of a Code violation in accordance with the Code of the Village of Islamorada.

Sec. 30-1491. – Outstanding Violations. A Temporary Use Permit for a farmers' market, flea market, or fair shall not be issued in the event there are any outstanding violations for the site on which the market is located.

Sec. 30-1492. – Severability.

If any portion of this code shall be adjudged by a court of competent jurisdiction to be invalid or unconstitutional, such portion thereof shall be deemed inoperative and the balance of said code shall be deemed to be in full force and effect.

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 _____, 2022.

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: April 11, 2023
SUBJECT: **Chapter 30, Article IV, Division 11 - Building Permit Allocation System (BPAS) - TAB 19**

Background:

The Village Building Permit Allocation System (BPAS) was commenced in 2002. At that time, a total of 302 allocations were provided over the twenty-year lifetime of the program with 171 market rate allocations and 131 affordable allocations. In 2004, the State increased the total number of allocations to 565 with 290 market rate allocations (51%) and 275 affordable allocations (49%). Subsequently, in 2007, the Village increased the total number of market rate allocations to 402 (71%), while decreasing the total number of affordable allocations to 163 (29%). The total number of combined market rate and affordable allocations remained the same (565).

At present, there are 11 market rate allocations and seven (7) affordable allocations yet to be issued. In addition, there is approximately 33,964 square feet of non-residential square footage yet to be allocated, along with 29 Administrative Relief Credits. Finally, the State Legislature is in the process of drafting legislation that would increase the supply of affordable housing allocations, though the ultimate resolution of the previously issued 300 affordable housing allocations will likely be delayed by litigation.

Analysis:

With the impending sunset of the current BPAS, two questions will become increasingly urgent. The first is establishing an approach to the disposition of any remaining Administrative Relief Credits and the second is the development of standards for the disposition of any future affordable housing allocations.

Presently, the issuance of Administrative Relief Credits is reserved for Administrative Relief. Pursuant to Sec. 30-477 – Administrative Relief,

(a) *Eligibility.* An applicant is eligible for administrative relief under the provisions of this section if all the following criteria are met:

- (1) The applicant has complied with all requirements of the building permit allocation system;
- (2) The subject application has not been withdrawn;
- (3) The subject application has been considered in at least four consecutive annual allocation periods and has failed to receive an allocation award;

(4) The applicant for the subject application has not been granted an allocation award deferral pursuant to Code [section 30-475\(m\)](#); and

(5) The granting of administrative relief in the form of the issuance of a building permit shall be prohibited for lands within the Florida Forever targeted acquisition area unless, after 60 days from receipt of a complete application for administrative relief, it has been determined that the parcel cannot be purchased for conservation purposes by any county, state or federal agency or any private entity. The village shall routinely notify the Department of Environmental Protection of upcoming administrative relief requests at least six months prior to the deadline for administrative relief.

In addition, pursuant to 30-477 (f) Action by Village Council. At the conclusion of the public hearing (on an application for Administrative Relief), the Village Council may take any or a combination of the following actions:

(1) Grant the applicant an allocation award for all or part of the allocation requested in the next succeeding allocation period or extended pro rata over several succeeding allocation periods.

(2) Offer to purchase the property at its fair market value.

(3) Suggest such other relief as may be necessary and appropriate.

To date, the exclusive remedy that has been authorized by the Village Council has involved the awarding of an allocation. The third option involving the suggestion of “such other relief as may be necessary and appropriate” has not been used to date.

Moving forward, the more critical issue from a timing standpoint involve the disposition of the remaining Administrative Relief Credits. While there have been calls to use these credits to compensate both applications that involve lot donations, it would be more equitable to assign these credits in accordance with existing BPAS standards, including the need to be “considered in at least four consecutive annual allocation periods.”

During this waiting period, the Village Council could also take steps to prioritize the number of Administrative Relief Credits issued to those applications involving a lot donation consistent with Sec. 30-476 (d)(1)(b), which authorizes a maximum of six (6) allocations with lot donations on an annual basis.

Budget Impact:

None.

Staff Impact:

None.

Recommendation:

Staff respectfully requests that the Local Planning Agency provide direction regarding potential amendments to the BPAS.

Attachments: None



Council Communication

To: Mayor and Village Council
From: Daniel J. Gulizio, Director of Development Services
Date: April 11, 2023
SUBJECT: **Chapter 30, Article IV, Division 12 - Transfer of Development Rights
- TAB 20**

Background:

The regulation of the Transfer of Development Rights (TDRs) is governed by Chapter 30, Article IV, Division 12 (Transfer of Development Rights) of the Village Code. Over the last several months, the Village Council has held a series of discussions on potential amendments to the regulation of TDRs. The Village Council has tasked staff with the preparation of amendments to the current regulation of TDRs in order to better meet today's needs.

The proposed changes seek to address the ongoing issues associated with the transfer of development rights within the Village.

Analysis:

According to **Sec. 30-501** of the Village Code, the purpose and intent of the Transfer of Development Rights Ordinance is *"to permit and regulate the transfer of development rights (TDRs) between properties within the village in order to ensure that all development is consistent with the goals, objectives and policies of the comprehensive plan. Transfer of development rights will aid in the preservation of environmentally sensitive lands through the removal of existing dwelling units or rights based on permitted densities, the redistribution of existing residential dwelling units to achieve planned densities, the retirement of development rights without increasing the overall amount of development, the encouragement of the placement of conservation easements on environmentally sensitive and flood-prone lands, the facilitation of appropriate redevelopment and revitalization of the village center (VC) zoning district by the concentration of mixed use activities, the preservation of existing affordable housing and encouragement of additional affordable housing, and a reduction of negative environmental impacts from development in balance with protection of private property rights."*

Pursuant to **Sec. 30-503**, there are three (3) types of development rights that may be transferred including:

- (1) Intensity and Density including the *"transfer of intensity (FAR) from vacant nonresidential and density from residential sender sites to vacant nonresidential and residential receiver sites that meet the minimum lot area but are nonconforming as to density, so as to permit the development of the receiver site"* and,
- (2) Nonresidential Floor Area. and,

(3) **Residential Dwelling Units.** It is noted that *“Development or redevelopment of additional residential dwelling units shall only be permitted within specifically denoted zoning districts following the successful transfer of residential dwelling units to eligible receiver sites.”*

In general terms, the transfer of development rights is guided by three basic elements including:

(1) **Zoning.** The Code provides specific limitations on the transfer of development rights from one zoning district to another. These limitations include guidelines for the transfer of nonresidential floor area (Sec. 30-505), residential dwelling units and density (Sec. 30-506) and hotel/motel units (Sec. 30-506).

(2) **Habitat Classification.** Pursuant to Sec. 30-504 (b) of the Village Code, the *“receiver site shall be less environmentally sensitive than the sender site, according to a vegetation survey and/or a habitat analysis conducted by a certified biologist, and verified unless otherwise exempted or limited by the director of planning and development services or his designee, pursuant to habitat classifications described in subsection 30-1616(b)(2) of this Code, whereby the following conditions additionally apply:*

- (1) Transfer shall be permitted from Class I parcels to Class II or Class III parcels;*
- (2) Transfer shall be permitted from Class II parcels to Class II or Class III parcels; and*
- (3) Transfer shall be permitted from Class III parcels to Class III parcels.”*

(3) **Shoreline Proximity.** Pursuant to Sec. 30-505 (6) and Sec. 30-506 (8)(b), *“Parcels not containing any shoreline shall be prohibited from transferring to parcels containing shorelines.”*

In addition to the above guidelines, the existing TDR Ordinance establishes restrictions related to the transfer of development rights to a designated VE Flood Zone, hotel/motel units, market rate units, and affordable units including mobile homes and recreational vehicles (RVs). Specifically:

- Sec. 30-505 (5) and Sec. 30-506 (4) state that *“The structure cannot be placed in a VE flood zone on the Receiver Site.”*
- Sec. 30-506 (8)(a) states that *“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;”*
- Sec. 30-506 (8)(b) states that *“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;”*

- Sec. 30-506 (8)(c) states that *“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.”*

Finally, it is noted that, following the transfer of development rights, additional development of the Sender Site is prohibited with the exception of affordable housing. Specifically, pursuant to Sec. 30-506 (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.”

Under current provisions, the transfer of residential intensity and/or density has been problematic and little used. The intent of these provisions was to allow for the transfer of surplus lot area from a Sender Site to an undersized Receiver Site. Secondly, the intent was to allow for the transfer of floor area or surplus Floor Area Ratio (FAR) from the Sender Site to the Receiver Site. Due to a combination of ambiguous terminology and somewhat convoluted restrictions, the transfer of residential intensity and/or density has been rarely used.

While the process guiding the transfer of non-residential floor area is less ambiguous under the Code than residential intensity/density, this provision has also been used infrequently. By far, the primary purpose of the current TDR Ordinance has been to facilitate the transfer of residential dwelling units.

As the number of available building permits decreases with the sunseting of the Building Permit Allocation System (BPAS), the pressure on existing development patterns will increase as will the pressure to provide greater flexibility with the transfer of development rights. However, any changes to the TDR Ordinance should be evaluated based upon their consistency with the purpose and intent of the ordinance – *“to ensure that all development is consistent with the goals, objectives and policies of the comprehensive plan.”* Additional purposes to the Ordinance include:

- the preservation of environmentally sensitive lands,
- the redistribution of existing residential dwelling units to achieve planned densities,
- the retirement of development rights without increasing the overall amount of development,

- the encouragement of the placement of conservation easements on environmentally sensitive and flood-prone lands,
- the facilitation of appropriate redevelopment and revitalization of the village center (VC) zoning district by the concentration of mixed-use activities,
- the preservation of existing affordable housing and encouragement of additional affordable housing, and
- a reduction of negative environmental impacts from development in balance with protection of private property rights

As discussed previously, the Village Comprehensive Plan consists of ten (10) Chapters or Elements along with nineteen (19) goals and 102 Objectives. The first goal of the Comprehensive Plan is entitled:

Goal 1-1: Implement Future Land Use Vision. It states:

That the Village incorporated to create a Comprehensive Plan to reclaim the Keys by conserving, preserving, and retaining our remarkable assets—our waters and natural environment—and our quality of life;

That the Village is and must continue to be synonymous with sport fishing, diving, the Everglades National Park, the living coral reef, Indian Key, Lignumvitae Key, Shell Key, Windley Quarry, and many species of fish and fowl;

That the Comprehensive Plan must further understanding of the ecological limits of our Keys and prohibit any further degradation of our natural resources by incompatible land and marine activities such as casino boats, sea planes, personal watercraft, and other watercraft that are operated improperly; and

That the Comprehensive Plan must describe public and private actions needed to protect and retain the Village's waterways and natural resources comprising our unique ecosystem as well as preserve the quiet solitude of the backcountry.

Chapter 3 of the Comprehensive Plan is the Housing Element. Goal 3-1 entitled *Facilitate Provision of Quality Housing*, includes Objective 3-1.1 Provide adequate affordable housing to meet current and future needs.”

Chapter 5 of the Comprehensive Plan is the Coastal Management Element. It includes one (1) goal and nineteen (19) Objectives related to the protection of coastal resources, wetlands, estuaries, living marine resources, and wildlife habitats (Objective 5-1.1), restricting development within wetlands (Objective 5-1.3), eliminating the loss of undisturbed wetlands (Objective 5-1.4), the protection of natural shorelines, including beaches and berms (Objective 5-1.5), the implementation of policies that control pollutant discharges into surface waters (Objective 5-1.7), avoiding population concentrations in the coastal high hazard area (Objective 5-1.9), the regulation of public access to the shoreline (Objective 5-1.12), and the identification of site development techniques that minimize loss due to flooding (Objective 5-2.4).

Chapter 6 (Conservation Element) includes one goal and fourteen (14) Objectives related to air quality (Objective 6-1.1), the availability of potable water (Objective 6-1.2), the protection of

floodplains (Objective 6-1.3), the protection of natural resources (Objective 6-1.4), surface water quality and quantity (Objective 6-1.5), the protection and preservation of wetlands (Objective 6-1.6), the protection of native vegetation and marine habitats (Objective 6-1.7), habitat restoration (Objective 6-1.8), the protection of fisheries, wildlife, and wildlife habitats (Objective 6-1.9), and the management of wastes (Objective 6-1.11), among other Objectives.

Chapter 7 of the Comprehensive Plan is the Recreation and Open Space Element. It includes one (1) Goal and four (4) Objectives related to recreation and open space facilities (Objective 7-1.1) and the protection of open space systems (Objective 7-1.3).

Chapter 10 of the Comprehensive Plan is the Monitoring and Review Criteria Element. It establishes a series of objectives related to the establishment of criteria for a 7-year evaluation of the plan (Objective 10-1.2) and annual evaluations of Village limited growth objectives and policies.

Performance –

The purpose of a Comprehensive Plan is to serve as a blueprint for development and to guide both policy and decision-making. Monitoring and periodic updates are essential elements of an effective plan in order to both measure progress and ensure that Village actions are consistent with established goals and objectives. Since the TDR Ordinance is intended to advance the goals and objectives of the comprehensive plan, it is important to evaluate the effectiveness of current efforts prior to modification of the Ordinance.

In previous discussions with the LPA, the increase in Village total population and population density (measured in people/square mile) has been documented. In short, total population since the 1970's has increased from 1,251 residents to 7,107 (+468%). In addition, population density for the Village is 1,102 per square mile. This is 10x's denser than the United States (94 people/square mile), 13x's more dense than Monroe County (74.3 people/square mile), and 171 % more dense than the State of Florida (406 people per square mile).

In fact, if Islamorada, Village of Islands, was a *country*, it would be the 7th densest country on Earth, just slightly less dense than Bangladesh (1,239 people/square mile) and significantly more dense than Palestine (759 people/square mile – Source: World Atlas).

The amount of habitat loss also paints a disturbing picture. According to recent estimates, the Village has lost approximately 77% of its tropical hardwood hammock (1,600 acres) along with more than 26% of its mangroves (1,000 acres).

Additional environmental indicators reflect a need for both improvement and change including the collapse of the local conch population, an estimated 93% decline in nearshore corals, significant reductions in mean fish size, seagrass declines, emerging contaminant detection in local fish populations (including pharmaceuticals), and increasing traffic volume and congestion, to name just a few. The Village is also mandated by the State to improve canal water quality and has pursued a series of improvement projects in recent years to address poor water quality across its existing 63 canals.

Collectively, these trends reflect the need for improved policy and decision-making that can better support the goal of *“conserving, preserving, and retaining our remarkable assets—our waters and natural environment—and our quality of life.”*

Recommendations –

(1) Residential Intensity and Density Transfers. The transfer of residential intensity and density has proven to be ineffective. If successful, the transfer of lot area and/or floor area between parcels will likely result in an overall increase in the intensity and density of development inconsistent with the goals and objectives of the comprehensive plan.

In light of the continued decline in local environmental resources, the lack of adequate density controls across existing residential zoning districts, and the ongoing loss of market based affordable housing stock, it is recommended that the transfer of residential intensity and/or density be repealed from the current TDR Ordinance.

(2) Zoning District Limitations. One of the three primary mechanisms of guiding TDRs involves a series of restrictions on the transfer of development rights between zoning districts. These restrictions apply to non-residential transfers, residential intensity and density transfers, and residential dwelling unit transfers.

While this approach has been largely successful in guiding development, it is cumbersome and inconsistent in its application. A simpler approach would allow for the transfer of development rights between zoning districts provided the development right transferred is permitted in both the Sender and Receiver Sites. This will help to both facilitate the transfer of development rights and, in the process, preserve more open space consistent with the intent of the TDR Ordinance.

However, this approach should be supplemented with additional measures needed to protect the integrity of the Village's housing stock, including its supply of affordable and moderate housing units. Two additional measures are recommended including (1) the establishment of Floor Area Ratio (FAR) standards to protect community character within individual communities and (2) limitations on the amount of development rights transferred. Specifically, the total gross floor area and number of bedrooms associated with the Sender Site should be identified and limited in connection with the development of the Receiver Site. Finally, the future expansion of the amount of development on the Receiver Site should be permitted consistent with existing dimensional standards, including a newly established FAR.

These measures will help to both protect existing community character and the diversity of the region's housing stock. A diversified housing stock is a critical component of the Fair Housing Act and is needed to ensure an adequate supply of housing for local workers, emergency service personnel, and teachers to name just a few constituencies.

(3) Habitat Limitations. The TDR Ordinance currently establishes limitations on the transfer of development rights based on habitat considerations. Specifically, Sec. 30-504 (b) states that the "*receiver site shall be less environmentally sensitive than the sender site...*" Individual properties are classified from the most environmentally sensitive (Class I) to the least environmentally sensitive (Class III). Transfers between Class I Habitats are prohibited. In addition, transfers from Class II or III parcels to Class I parcels and from Class III parcels to Class II parcels are also prohibited.

As noted previously, there are multiple comprehensive plan goals, objectives and policies that speak to the need to both protect and restore the region's environmental resources. Despite these efforts, analysis of a variety of environmental trends reveals significant losses to habitat. Declines in habitat also place additional pressure on the region's threatened and endangered

species. The loss of seagrass and the resulting plight of the State's manatee population is a painful example of this dynamic.

It is recommended that the habitat restrictions contained within the TDR Ordinance be strengthened to address the ongoing failure of the program to advance the goals, objectives, and policies of the comprehensive plan. This should include, the establishment of re-vegetation plans for all Sender Sites along with improved protection of existing vegetation on all Receiver Sites.

Future policy should be guided by the need to increase the amount of both tropical hardwood hammock and mangrove vegetative communities. Consideration should be given to the establishment of numeric based goals for habitat restoration in order to begin to reverse some of the habitat loss that has occurred to date. Any additional flexibility with existing habitat restrictions contained within the TDR Ordinance should be tied to a measurable improvement in the protection of the region's remaining habitat.

(4) TDR Bank. Most TDR Ordinances establish at their inception a TDR or development rights bank. A TDR bank can help to both track and facilitate the transfer of development rights. Accurate tracking of development rights through a TDR bank would also help to eliminate confusion and potential malfeasance in connection with the transfer of development rights.

The Village should take steps to establish a development rights landbank or TDR Bank to both track and facilitate the transfer of development rights. The establishment of a TDR Bank should include an amnesty period for individuals to register any existing development rights that currently exist but have not been landed on a Receiver Site to date.

Budget Impact:

None.

Staff Impact:

None.

Recommendation:

Staff respectfully requests the Local Planning Agency provide comments regarding potential amendments to the TDR Ordinance.

Attachments: None