



Islamorada, Village of Islands LOCAL PLANNING AGENCY MEETING

November 13, 2023 - 5:30 PM
Founders Park Community Center
87000 Overseas Highway
Islamorada, FL 33036

AGENDA

I. CALL TO ORDER / ROLL CALL

II. PLEDGE OF ALLEGIANCE

III. REORGANIZATION

- A. Nominations and Election for Chair (Tab 1) (Jennifer DeBoisbriand , Planning Director)

- B. Nominations and Election for Vice Chair (Tab 2) (Jennifer DeBoisbriand , Planning Director)

IV. AGENDA: Requests for Deletion / Emergency Additions

V. 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.)

VI. CONSENT AGENDA

- A. Approval of the September 11, 2023 meeting minutes. (Tab 3) ()

VII. PUBLIC HEARINGS

- A. Ordinance Creating Art in Public Places. (Tab 4) (John Quick, Interim Village Attorney)

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, CREATING ARTICLE VIII, "PUBLIC ART PROGRAM," OF CHAPTER 30, "LAND DEVELOPMENT REGULATIONS," OF THE VILLAGE CODE TO ESTABLISH A PUBLIC ART PROGRAM FOR DEVELOPMENT PROJECTS IN THE VILLAGE; 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.

- B.** Ordinance Amending Administrative Procedures Platting. (Tab 5)
(John Quick, Interim Village Attorney)

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING CHAPTER 30 “LAND DEVELOPMENT REGULATIONS”, ARTICLE IV “ADMINISTRATIVE PROCEDURES”, DIVISION 10 “PLATTING”, SECTION 30-431 OF THE VILLAGE CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

- C.** Ordinance Amending Administrative Procedures Zoning in Progress. (Tab 6) (John Quick, Interim Village Attorney)

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING CHAPTER 30 “LAND DEVELOPMENT REGULATIONS”, ARTICLE IV “ADMINISTRATIVE PROCEDURES”, DIVISION 2 “DEVELOPMENT REVIEW PROCESS”, SECTION 30-212 OF THE VILLAGE CODE TO CREATE A ZONING IN PROGRESS PROVISION; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

VIII. CHAIR AND LOCAL PLANNING AGENCY MEMBERS

IX. FUTURE AGENDA ITEMS

X. PLANNING DIRECTOR / VILLAGE MANAGER

- A.** Discussion regarding training and possible Special Meeting (Tab 7)

XI. VILLAGE ATTORNEY

XII. MOTIONS

XIII. OTHER BUSINESS

XIV. ADJOURNMENT

Options for Viewing the Local Planning Agency 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://islamoradafl.portal.civicclerk.com/>

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 LPA members 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: 966 8605 3458** followed by #. When the Chair 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/96686053458> and follow the prompts to join the webinar. When the Chair 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



Local Planning Agency Communication

To: Local Planning Agency Chair and Agency Members
From:
Date: November 13, 2023
Subject: Approval of the September 11, 2023 meeting minutes. (Tab 3)

Background:

Analysis:

Budget Impact:

Staff Impact:

Recommendation:

Attachments:

1. Minutes_LPA_Rev_091123



Islamorada, Village of Islands LOCAL PLANNING AGENCY MEETING

September 11, 2023 - 5:30 PM
Founders Park Community Center
87000 Overseas Highway
Islamorada, FL 33036

MINUTES

I. CALL TO ORDER / ROLL CALL

Chair Deb Gillis called the meeting to order at 5:30 PM.

Present were Chair Deb Gillis, Vice Chair Lorie Lalonde, Tony Hammon, Mirna Hormechea, Susan Raffanello and James Rhyne.

II. PLEDGE OF ALLEGIANCE

The pledge of Allegiance was led by Ty Harris.

III. AGENDA: Requests for Deletion / Emergency Additions

Chair Deb Gillis asked for deletions and / or additions to the agenda. Under Section VI: items E, F, I, J, K and L were deleted from the agenda.

IV. PUBLIC COMMENT

(This is general public comment. It provides an opportunity for the public to speak about matters not scheduled elsewhere on the agenda. The Chair opens public comment on agenda items throughout the meeting.)

Chair Deb Gillis opened public comment at 7:13 minutes into the meeting. Interim Village Attorney John Quick reviewed the newly established procedures for public comment.

Joan Scholz (Plantation Key), Van Cadenhead (Islamorada), Pete Bacheler (Islamorada) provided public comment.

V. CONSENT AGENDA

(All items on the Consent Agenda are considered routine by the Local Planning Agency and will be approved by one motion. There will be no separate discussion of these items unless a LPA member so requests, in which event, the item will be moved to the Main Agenda.)

At 17:17 minutes into the meeting, the consent agenda items were reviewed. Lorie Lalonde made a motion to approve the minutes of both the February 13 and March 13, 2023. Tony Hammon seconded the motion. A vote was taken and the motion passed 6 – 0.

A. Approval of Minutes from the February 13, 2023 meeting.

- B. Approval of Minutes from the March 13, 2023 meeting.

VI. PUBLIC HEARINGS

- A. Amending Administrative Relief Under the Building Permit Allocation System (BPAS) (John Quick, Interim Village Attorney)

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING ARTICLE IV, "ADMINISTRATIVE PROCEDURES," OF CHAPTER 30, "LAND DEVELOPMENT REGULATIONS," OF THE VILLAGE CODE RELATING TO ADMINISTRATIVE RELIEF AVAILABLE TO APPLICANTS UNDER THE BUILDING PERMIT ALLOCATION SYSTEM (BPAS); 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.

John Quick presented this amendment on behalf of staff. This amendment was developed at the suggestion of a couple of council members.

The amendment would allow those individuals in BPAS with land dedications an avenue to get their building permits.

Susan Raffanello expressed concerns about using Administrative Relief permits for land dedication applicants. Does not want to diminish the pool for which Administrative Relief was intended.

Lorie Lalonde pointed out that there are several property owners on the BPAs list who have been on the BPAs list longer than the land dedication applicants.

Chair Deb Gillis concurred with Ms. Raffanello and Ms. Lalonde. Chair Gillis also suggested looking at keeping the initial anniversary date for lot dedication properties to not punish the lot dedication property owners for having to withdraw their initial application then reapply.

Sue Miller (Lower Matecumbe) and Van Cadenhead (Islamorada) provided public comment.

Susan Raffanello made a motion to deny the proposed amendment. Vice Chair Lorie Lalonde seconded the motion. A vote was taken, motion to deny passed 6-0.

- B. Moratorium on Building Permit Allocations (BPAS) (John Quick, Interim Village Attorney)

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, ESTABLISHING A TEMPORARY MORATORIUM, WITHIN THE VILLAGE, ON THE ACCEPTANCE OF MARKET RATE RESIDENTIAL BUILDING PERMIT ALLOCATION SYSTEM (BPAS) APPLICATIONS, ACCEPTANCE OF NONRESIDENTIAL BUILDING PERMIT ALLOCATION SYSTEM (BPAS) APPLICATIONS, ACCEPTANCE OF BPAS LAND DEDICATIONS; PROVIDING FOR EXEMPTIONS; PROVIDING FOR PROCEDURES FOR VESTED RIGHTS AND JUDICIAL REVIEW; PROVIDING FOR A TERM; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING FOR AN EFFECTIVE DATE UPON THE APPROVAL OF THIS ORDINANCE BY THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY.

At 1:25 hours into the meeting, the item was heard. Interim Village Attorney John Quick presented on behalf of staff.

This ordinance would cover new market rate BPAS applications, nonresidential applications and market rate BPAS applications with land dedications. This moratorium does not apply to affordable BPAS and Transfer of Development Rights applications.

The moratorium would be for a 6-month period but could possibly be extended with justification.

Discussion ensued among the LPA members. There was a concern as to why impose a moratorium at all. An additional concern is why include nonresidential permits while there is square footage available.

Sue Miller (Lower Matecumbe) and Van Cadenhead (Islamorada) provided public comments.

Lorie Lalonde made a motion to approve the moratorium with the exclusion of nonresidential BPAS. James Rhyne seconded the motion. A vote was taken and the motion passed 4 – 2.

- C. Ordinance Amending Land Development Regulations Relating to the Historic Preservation Commission (John Quick, Interim Village Attorney)

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, 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.

At 1:58 hours into the meeting, Interim Village Attorney John Quick presented the item on behalf of staff.

Public comment was provided by Van Cadenhead (Islamorada).

Tony Hammon made a motion to approve the amendment. Mirna Hormechea seconded the motion. A vote was taken and the motion passed 6 – 0.

- D. Ordinance Amending Policy 1-3.1.1, Establish a Building Permit Allocation System (BPAS) (Jennifer DeBoisbriand , Planning Director, Rebecca Jetton, Village Consultant)

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING POLICY 1-3.1.1, “ESTABLISH A BUILDING PERMIT ALLOCATION SYSTEM,” OF THE VILLAGE COMPREHENSIVE PLAN RELATING TO ESTABLISHING ADDITIONAL NON-RESIDENTIAL BUILDING PERMIT ALLOCATIONS; PROVIDING FOR SEVERABILITY; 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.

At 2:03 hours into the meeting, Village Consultant Rebecca Jetton presented on behalf of staff. The ordinance proposes 239 square feet of nonresidential square footage for each affordable allocation the Village is to receive. 10.25 allocations were provided for by Key West distribution that were never distributed. This would allow for additional market rate units. Early out allocations are recommended to be distributed at 30 allocations per year.

Chair Deb Gillis suggested allocating the 10.25 available units in 2 separate allocation cycles.

Susan Raffanello questioned whether if the allocations and square footage were accepted, would that not overtax the Village’s infrastructure.

Mirna Hormechea asked why we would want to place additional demands on Village infrastructure.

There was no public comment.

Chair Deb Gillis made a motion to approve as presented. Tony Hammon seconded the motion. A vote was taken and the motion passed 4 – 2.

- E. Ordinance Amendment Considering the Request of Integra Real Estate to Amend the Future Land Use Map of Parcel 00399601-000000 (Jennifer DeBoisbriand , Planning Director)

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, CONSIDERING THE REQUEST OF INTEGRA REAL ESTATE, LLC TO AMEND THE VILLAGE'S FUTURE LAND USE MAP FROM MIXED USE (MU) TO RESIDENTIAL HIGH (RH) FOR THE SUBJECT PROPERTY, LOCATED ON UPPER MATECUMBE KEY, WITH REAL ESTATE NUMBER 00399601-000000, AS LEGALLY DESCRIBED HEREIN; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING FOR AN EFFECTIVE DATE UPON THE APPROVAL OF THIS ORDINANCE BY THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY.

Item deleted.

- F. Ordinance Amendment Considering the Request of Integra Real Estate to Amend the Zoning Map for Parcel 00399601-000000 (Jennifer DeBoisbriand , Planning Director)

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, CONSIDERING THE REQUEST OF INTEGRA REAL ESTATE, LLC, TO AMEND THE OFFICIAL ZONING MAP FROM VILLAGE CENTER (VC) TO NEIGHBORHOOD COMMERCIAL (NC) FOR THE SUBJECT PROPERTY, LOCATED ON UPPER MATECUMBE KEY, WITH REAL ESTATE NUMBER 00399601-000000, AS LEGALLY DESCRIBED HEREIN; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING FOR AN EFFECTIVE DATE UPON THE APPROVAL OF THIS ORDINANCE BY THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY.

Item deleted.

- G. Ordinance Amendment Considering the Request of Integra Real Estate to Amend the Future Land Use Map of Parcel 00097000-000000 (Jennifer DeBoisbriand , Planning Director)

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, CONSIDERING THE REQUEST OF INTEGRA REAL ESTATE, LLC TO AMEND THE VILLAGE'S FUTURE LAND USE MAP FROM RESIDENTIAL CONSERVATION (RC) TO MIXED USE (MU) FOR THE SUBJECT PROPERTY, LOCATED ON UPPER MATECUMBE KEY, WITH REAL ESTATE NUMBER 00097000-000000, AS LEGALLY DESCRIBED HEREIN; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING FOR AN EFFECTIVE DATE UPON THE APPROVAL OF THIS ORDINANCE BY THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY.

At 2:28 hours into the meeting, the ordinance was presented by Director of Planning Jennifer DeBoisbriand. Both the FLUM and Zoning amendments for this parcel will be heard together but voted on separately.

The intent is for the property owner to transfer 30 hotel units to the subject property. Based upon the analysis conducted by the Planning Director, she is recommending approval of both the FLUM and Zoning amendments.

Bart Smith with Smith Hawks presented on behalf of the applicant, Integra Real Estate. Mr. Smith made a presentation on Tea Table Key.

The plan is to change the FLUM from Residential Conservation to Mixed Use and amend the Zoning map from Native Residential to Tourist Commercial. Transfer in 30 hotel units to the Terra Key property from the Sunset Inn location.

Susan Raffanello noted that there are no studies present for her to determine a justification.

Chair Deb Gillis stated that the zoning change needs to stand on its own.

Lorie Lalonde pointed out the island is in the vicinity of commercial businesses.

Tony Hammon acknowledged that the road leading into Terra Key will require significant upgrades.

Sue Miller (Lower Matecumbe) Van Cadenhead (Islamorada), Joan Scholz and Pete Bacheler (via zoom) provided public comment.

Attorney for the applicant requested to defer this item. Applicants have additional items they would like to present.

Lorie Lalonde made a motion to accept the applicant's deferment request. Tony Hammon Seconded the motion. A vote was taken and the motion passed 5 -1.

- H. Ordinance Amendment Considering the Request of Integra Real Estate to Amend the Zoning Map of Parcel 00097000-000000 (Jennifer DeBoisbriand , Planning Director)

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, CONSIDERING THE REQUEST OF INTEGRA REAL ESTATE, LLC, TO AMEND THE OFFICIAL ZONING MAP FROM NATIVE RESIDENTIAL (NR) TO TOURIST COMMERCIAL (TC) FOR THE SUBJECT PROPERTY, LOCATED ON UPPER MATECUMBE KEY, WITH REAL ESTATE NUMBER 00097000-000000, AS LEGALLY DESCRIBED HEREIN; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING FOR AN EFFECTIVE DATE UPON THE APPROVAL OF THIS

ORDINANCE BY THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY.

Lorie Lalonde made a motion to accept the applicant's deferment request. Tony Hammon Seconded the motion. A vote was taken and the motion passed 4 – 2.

- I. Ordinance Amendment Considering the Request of Windley Cove, LLC. to Amend the Future Land Use Map of Parcel 00405350-000000 (Jennifer DeBoisbriand , Planning Director)

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, CONSIDERING THE REQUEST OF WINDLEY COVE, LLC, TO AMEND THE VILLAGE'S FUTURE LAND USE MAP FROM RESIDENTIAL MEDIUM (RM) TO MIXED USE (MU) FOR THE SUBJECT PROPERTY, LOCATED ON WINDLEY KEY, WITH REAL ESTATE NUMBER 00405350-000000, AS LEGALLY DESCRIBED HEREIN; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING FOR AN EFFECTIVE DATE UPON THE APPROVAL OF THIS ORDINANCE BY THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY.

Item deleted.

- J. Ordinance Amendment Considering the Request of Windley Cove, LLC. to Amend the Zoning Map of Parcel 00405350-000000 (Jennifer DeBoisbriand , Planning Director)

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, CONSIDERING THE REQUEST OF WINDLEY COVE, LLC, TO AMEND THE OFFICIAL ZONING MAP FROM RESIDENTIAL SINGLE FAMILY (R-1) TO HIGHWAY COMMERCIAL (HC) FOR THE SUBJECT PROPERTY, LOCATED ON WINDLEY KEY, WITH REAL ESTATE NUMBER 00405350-000000, AS LEGALLY DESCRIBED HEREIN; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING FOR AN EFFECTIVE DATE UPON THE APPROVAL OF THIS ORDINANCE BY THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY.

Item deleted.

- K. Ordinance Amendment Considering the Request of Windley Isles, LLC to Amend the Future Land Use Map of Parcel 00405360-000000 (Jennifer DeBoisbriand , Planning Director)

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, CONSIDERING THE REQUEST OF WINDLEY ISLES, LLC, TO AMEND THE VILLAGE'S FUTURE LAND USE MAP FROM RESIDENTIAL MEDIUM (RM) TO MIXED USE (MU) FOR THE SUBJECT PROPERTY, LOCATED ON WINDLEY KEY, WITH

REAL ESTATE NUMBER 00405360-000000, AS LEGALLY DESCRIBED HEREIN; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING FOR AN EFFECTIVE DATE UPON THE APPROVAL OF THIS ORDINANCE BY THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY.

Item deleted.

- L. Ordinance Amendment Considering the Request of Windley Isles, LLC to Amend the Zoning Map of Parcel 00405360-000000 (Jennifer DeBoisbriand , Planning Director)

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, CONSIDERING THE REQUEST OF WINDLEY ISLES, LLC, TO AMEND THE OFFICIAL ZONING MAP FROM RESIDENTIAL SINGLE FAMILY (R-1) TO HIGHWAY COMMERCIAL (HC) FOR THE SUBJECT PROPERTY, LOCATED ON WINDLEY KEY, WITH REAL ESTATE NUMBER 00405360-000000, AS LEGALLY DESCRIBED HEREIN; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING FOR AN EFFECTIVE DATE UPON THE APPROVAL OF THIS ORDINANCE BY THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY.

Item deleted.

VII. CHAIR AND LOCAL PLANNING AGENCY MEMBERS

VIII. FUTURE AGENDA ITEMS

IX. PLANNING DIRECTOR / VILLAGE MANAGER

X. VILLAGE ATTORNEY

XI. MOTIONS

XII. OTHER BUSINESS

XIII. ADJOURNMENT

Susan Raffanello made a motion to adjourn. Chair Deb Gillis seconded the motion. The meeting adjourned at 9:12 pm.



Local Planning Agency Communication

To: Local Planning Agency Chair and Agency Members
From: John Quick, Interim Village Attorney
Date: November 13, 2023
Subject: Ordinance Creating Art in Public Places. (Tab 4)

Background:

The Village Council previously asked the Village Attorney to prepare a potential Art in Public Places ordinance for its consideration.

Analysis:

This ordinance would create an Art in Public Places program in the code for certain developments.

It should be noted that a few definitions in the proposed ordinance are different than those found elsewhere in the code. This was done intentionally for this potential program and the definitions contained herein are drafted to apply only in the newly created article in this ordinance - specifically, a newly created Article VIII. in Chapter 30. (See Section 30-1731 - Definitions, on page 4 of the proposed ordinance).

Budget Impact:

Staff Impact:

Recommendation:

Attachments:

1. 471280103-Ordinance Creating Art in Public Places Program - Article VIII Ch 30

ORDINANCE NO. 23- ____

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, CREATING ARTICLE VIII, "PUBLIC ART PROGRAM," OF CHAPTER 30, "LAND DEVELOPMENT REGULATIONS," OF THE VILLAGE CODE TO ESTABLISH A PUBLIC ART PROGRAM FOR DEVELOPMENT PROJECTS IN THE VILLAGE; 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 (the "Village") has established Land Development Regulations ("LDRs") to properly guide development and protect the health, safety, and welfare of the public; and

WHEREAS, various local governments throughout Florida maintain public art programs requiring public art in urban environments; and

WHEREAS, the Village recognizes that a superior and diverse aesthetic character of a built environment is vital to the quality of life of its residents, the economic success of its business, and the creation of attractions for visitors; and

WHEREAS, a public art program would contribute to the aesthetic character of the Village's built environment and provide cultural enrichment for the community; and

WHEREAS, a public art program would create a stimulating cultural environment that reflects the City's heritage and character through public artworks integrated in architecture, infrastructure, and landscape; and

WHEREAS, public and private development shall contribute to a public art program to enhance and maintain the Village's aesthetic character; and

WHEREAS, in *Metromedia, Inc. v. San Diego*, 453 U.S. 490 (1980), the U.S. Supreme Court previously held that land development regulations which require development to meet aesthetic conditions have generally been found to be supported by a legitimate public purpose; and

WHEREAS, in *Ehrlich v. City of Culver City*, 911 P.2d 429 (Cal. 1996), the California Supreme Court held that an art fee on private development is a legitimate aesthetic regulation which does not require the same level of legal scrutiny as an impact fee; and

WHEREAS, the Village Council desires to create Article VIII, "Public Art Program," of Chapter 30 of the Village Code of Ordinances to establish a public art program and related requirements to enhance the quality of life of residents and the attractiveness of the Village through artistic opportunities and create a cultural legacy for future generations through the collection and exhibition of high-quality art pieces that reflect diverse styles; and

WHEREAS, the Public Art Program requirements proposed under Article VIII of Chapter 30 of the Village Code of Ordinances are design standards based on the aesthetic needs of the community and are not intended to be either an impact fee or a tax; and

WHEREAS, the provisions of this Ordinance are consistent with the Village Comprehensive Plan and the Principles for Guiding Development within the Florida Keys Area of Critical State Concern; and

WHEREAS, the Village Council finds that the provisions of this Ordinance are intended to advance the public health, safety, and welfare of the citizens of the Village.

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. Amendment to the Code. That Article VIII, "Public Art Program," of Chapter 30, "Land Development Regulations," of the Village Code is hereby created to read as follows:¹

CHAPTER 30 – LAND DEVELOPMENT REGULATIONS

ARTICLE VIII. – PUBLIC ART PROGRAM

Section 30-1730. Intent and purpose.

(a) This article shall be known and cited as the "Public Art Program."

(b) It is the intent and purpose of the article to further the commitment of the Islamorada to the aesthetic enrichment of the community through the creation of works of art so that citizens and visitors to the village are afforded an opportunity to enjoy and appreciate works of art. By establishing the Public Art Program, the village further desires to promote the general welfare by encouraging pride in the community, increasing property values, enhancing the quality of life through artistic opportunities, uniting the

¹ Coding: ~~Strikethrough words~~ are deletions to the existing words. Underlined words are additions to the existing words. Changes between first and second reading are indicated with **highlighted** ~~double-strikethrough~~ and double underline.

community through shared cultural experiences, and creating a cultural legacy for future generations through the collection and exhibition of high-quality art. The requirements of this article shall be construed to promote the aesthetic values of the entire community and to encourage the preservation and protection of works of art. The public art requirements found in this article are development standards based upon the aesthetic needs of the community and are not intended to be either an impact fee or a tax.

Section 30-1731. Definitions.

For the purposes of this article, the following words and phrases shall have the following meanings:

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

Art means tangible creations by artists exhibiting the highest quality of skill and aesthetic principles and includes all forms of the visual arts conceived in any medium, material, or combination thereof, including, but not limited to, paintings, sculptures, engravings, carvings, frescos, stained glass, mosaics, mobiles, tapestries, murals, photographs, video projections, digital images, bas-relief, high relief, fountains, kinetics, collages, drawings, monuments erected to commemorate a person or an event, functional furnishings, such as artist designed seating and pavers, architectural elements designed by an artist, and artist designed landforms or landscape elements. The following shall not be considered as art for purposes of this chapter:

- (a) Reproductions or unlimited copies of original art.
- (b) Art objects which are mass produced.
- (c) Works that are decorative, ornamental, or functional elements of the architecture or landscape design, except when commissioned from an artist as an integral aspect of a structure or site.

Development project means any single family (in excess of \$2,000,000.00), multifamily, commercial, or mixed use development, including remodeling, construction, or redevelopment, which requires a building permit or permits as described on the precise plan submitted for approval to the village. For purposes of this article, development projects shall also include:

1. Individual tenant improvements in any commercial development; and
2. All planned or commercially marketed and/or sold residential developments consisting of three (3) or more dwelling units.

Durable means lasting, enduring and highly resistant to deterioration due to weather or the passage of time.

Developer means the owner, including its successor and assigns, of the subject development project.

Project cost means the total cost of the improvements, excluding land costs, approved for a development project, as indicated on the construction contract(s) for the subject improvements.

Public art committee or PAC means the entity appointed by the village council to help administer the public art program and make recommendations to the village council regarding dedication, donations, and acquisition of public art to fulfill the requirements of this article.

Public art fund or the fund means a separate, interest bearing set of accounts set up by the village to receive monies for the public art program.

Public art program guidelines shall mean a set of standards, criteria and policies related to the consideration of donations, dedication, and acceptance of public art, and which shall be adopted by the village council and recommended by the public art committee, and amended from time to time. The guidelines shall govern the manner and method of the submission of proposed art to the PAC, the process by which the PAC shall make recommendations to the village council and the process by which the village council shall approve dedication, donations, and acquisition of public art to fulfill the requirements of this article.

Public art master plan shall mean a plan adopted by the village council, pursuant to a recommendation by the public art committee, which shall identify locations for public art and establish a priority order to the village council, and which shall be amended from time to time, to ensure a coherent program for dedication, donations, and acquisition of public art, and program implementation guidelines.

Public place means any exterior area on public or private property within the village which is easily accessible or clearly visible to the general public from adjacent public property such as a street or other public thoroughfare or sidewalk.

Remodeling means any changes to the facade of a building, changes to the interior of a building, increases or decreases in the floor area of a building and changes to exterior improvements.

Section 30-1730. Public art committee

(a) There is hereby established a committee to be known as the public art committee.

(b) The PAC shall consist of seven (7) members who shall be appointed in accordance with Chapter 2, Article V, Sections 2-329, et seq. It is strongly encouraged that the PAC include:

- (1) Two (2) individuals chosen from the following disciplines: landscape architecture, urban planning, engineering, or a related design discipline;
- (2) One (1) professional artist;
- (3) One (1) private citizen, knowledgeable in the field of public art, education, or community affairs; and
- (4) One (1) private citizen from the development community.

Section 30-1733. Powers and duties of public art committee (PAC).

The PAC shall have the following powers and duties:

- (1) Recommendation of public art program guidelines and amendments thereto to the village council.
- (2) Recommendation of a public art master plan.
- (3) Recommendation of expenditures of the public art fund to the village council.
- (4) Recommendation of approval, approval with conditions or disapproval of proposed installation dedication, or donation of art based on public art program guidelines and the public art master plan; and
- (5) Act on any other related matter assigned by the village council, or village manager.

Section 30-1734. Master art plan and implementation guidelines.

- (a) The Planning and Development Services Department shall prepare both a master art plan and public art program guidelines as defined in this article. The master art plan and public art program guidelines shall be prepared in coordination with the PAC. The master art plan and public art program guidelines shall be subject to recommendations by the PAC, and shall each be adopted by resolution of the village council. The PAC shall also review and recommend amendments to the master art plan and public art program guidelines, as may be proposed by the Planning and Development Services Department staff from time to time. Amendments to the master art plan and public art program guidelines shall be reviewed and adopted in the same manner as the initial master art plan and public art program guidelines.
- (b) The PAC shall review and propose art items to be acquired and accepted under the village's public art program. The PAC shall issue a recommendation to the village council for all art program acquisitions in accordance with this article. The PAC shall

oversee the public education, and curatorial aspects of the program. The Planning and Development Services Department Director or his/her assignee shall be staff liaison to the PAC. The village council may select a village council liaison to the PAC as a non-voting member. The PAC shall review and recommend submissions to the village council for final authorization for each acquisition.

Section 30-1735. Conflict of interest.

If any member of the PAC shall find that his or her private or personal interests are involved in the matter coming before the PAC, he or she shall disqualify himself or herself from all participation in that matter. No member of the PAC nor any immediate family member of a member of the PAC shall have his or her work of art considered or approved by the PAC during their term of service on the PAC or for one (1) year thereafter.

Section 30-1736. Art and artist selection criteria; public art program guidelines.

The village council shall establish procedures and selection criteria for selection and acquisition of art to be purchased from the resources of the public art fund in accordance with the criteria and standards set forth in the adopted public art master plan and public art program guidelines, as may be amended from time to time. The village council may approve each acquisition from those selections recommended by the PAC. The village manager and village attorney will negotiate and execute appropriate contracts to acquire each approved art. Funds may be aggregated to acquire art.

Section 30-1737. Application procedures for placement of art on private property; donation of art to village.

An application for placement of art on private property or donation of art to the village shall be submitted to the village council, after review and recommendation by the PAC, and shall include the following components, as applicable:

- (A) Preliminary sketches, photographs, or other documentation of sufficient descriptive clarity to indicate the nature of the proposed art.
- (B) An appraisal or other evidence of the value of the proposed art, including acquisition and installation costs. In determining whether the value of art submitted complies with the requirements of the Public Art Program, the village may contract with an independent art appraiser to provide a written appraisal of the art. Such appraisal shall either be funded from the public art fund or by the developer as part of the overall art contribution.
- (C) Preliminary plans containing such detailed information as may be required by the village to adequately evaluate the location of the art and its compatibility with the proposed development project and/or with the character of adjacent developed parcels and the existing neighborhood.

- (D) A written agreement executed by the artist who created the art, in which he or she expressly waives all rights that may be waived under applicable state and federal laws. The artist of approved art shall grant to the village an unlimited, perpetual, non-exclusive, royalty-free, irrevocable license to reproduce and distribute two-dimensional reproductions of the art for village-related purposes, and grant to the village the exclusive irrevocable ownership rights in any trademark, service mark, or trade dress rights regarding the art, pursuant to a license that shall be approved by the village attorney. Village approval of the art shall be deemed to be a grant of the artist for authorization by third parties to review and reproduce documents provided by the artist to the village which are deemed to be public records pursuant to the public records laws of the state. The village shall also have the option of referring to the name and title of the artist and art in reproductions.
- (E) A narrative statement to be submitted to the village to demonstrate that the art will be displayed in a public place.
- (F) A statement indicating the property owner's willingness to maintain the art in compliance with section 30-1745.

Section 30-1738. Applicability.

- (a) All development projects, as defined in section 30-1731 of this article, with a project cost as provided for under the development order or building permit(s), which exceeds one million dollars (\$1,000,000.00) shall be subject to the provisions of this article.
- (b) A single-family home (including interior and/or exterior modifications, additions or new construction) exceeding a project cost of two million dollars (\$2,000,000.00) shall also be subject to the provisions of this article. All interior, exterior modifications, additions, or new construction to a single residential unit (versus developments for commercial sale of three (3) or more residential units) with a project cost under two million dollars (\$2,000,000.00) shall be exempt from the requirements of this article.
- (c) The village council may exempt the following from the public art program:
 - (1) Reconstruction of structures which have been damaged by fire, flood, wind, or other natural disaster.
 - (2) Publicly-owned buildings, including schools.
 - (3) Churches or places of worship.

Section 30-1739. Building permits.

- (a) Prior to issuance of a final building permit, the applicant or developer for projects subject to this article shall be required to comply with one of the following:

- (1) *In-lieu public art fee.* Pay one-half of one (0.5) percent of the cost of the proposed development project, not to exceed one hundred thousand dollars (\$100,000.00), as an "in lieu" public art fee; or
 - (2) *Donation of public art.* Donate art which has been approved by the PAC and village council, having a documented minimum value of one-half of one (0.5) percent of the cost of the development project excluding land acquisition and off-site improvement costs; or
 - (3) *Placement of art on site.* Place art on site, which shall have a minimum value of one-half of one (0.5) percent of the cost of the proposed project excluding land acquisition and off-site improvement costs, not to exceed one hundred thousand dollars (\$100,000.00). The owner shall provide documentation to the village that the art fee has been deposited into an escrow account for said purpose prior to the issuance of a building permit. Prior to placement on the development site, the art must be approved by the PAC and village council and conform to the adopted public art guidelines.
- (b) If the art is to be placed on site, the owner shall be given up to nine (9) months after issuance of the building permit to obtain approval of the proposed placement of art from the village council, unless the council grants an extension for good cause as determined in their sole discretion. If no such approval is obtained within the time period, the village shall require transfer of required art fee funds to the fund.
 - (c) The owner shall be given up to nine (9) months after the issuance of a certificate of occupancy to install the art, as approved by the village council in accordance with adopted public art program guidelines. The council may grant one additional six-month extension for good cause as determined in its sole discretion. If no installation occurs within the required time period, art fee funds shall be transferred from the escrow account to the fund.

Section 30-1740. Certificates of occupancy.

No final approval, such as a final inspection or a certificate of occupancy, for any development project subject to the village's public art program pursuant to section 30-1738 shall be issued unless one (1) or more of the following has been achieved:

- (A) The approved art has been installed in a manner satisfactory to the village council in compliance with this article.
- (B) In-lieu art fees have been paid.
- (C) Financial security, in an amount equal to the acquisition and installation costs of an approved art selection, has been provided to the village in a form approved by the village attorney.

(D) An approved work of art has been donated and accepted by the village council in accordance with this article.

Section 30-1741. Creation of public art fund.

There is hereby created within the village a set of accounts to be known as the Islamorada Public Art Fund. This fund shall be maintained by the village and shall be used solely for the acquisition, installation, improvement, maintenance, and insurance of art as follows:

(A) All funds received by the village pursuant to public art program or from endowments or gifts to the village designated for the arts shall be placed in the fund. All funds shall be deposited, invested, accounted for, and expended as follows:

(1) All money received shall be deposited in the fund in a manner to avoid any commingling with other revenues of the village and all funds shall be expended solely for the purposes for which they were collected. Any interest income earned by the money in the fund shall be expended only for the purpose for which the money was originally collected.

(2) The fund shall be used solely for expenses associated with the selection, commissioning, acquisition, transportation, maintenance, public appraisal, education, promotion, administration, removal and insurance of the art.

Section 30-1742. Art provided in lieu of a public art fee.

Art that is placed on private property in lieu of a public art fee, or that is donated to the village in lieu of a public art fee, must qualify as art under this article and the public art master plan and public art guidelines, as may be amended from time to time. Public art shall be operated and maintained at all times in substantial conformity with the public art master plan and public art guidelines, and the terms of the approval and acceptance of the art by the village council.

Section 30-1743. Donation of art.

Any art proposed to be donated to the village in lieu of payment of a public art fee to the fund, or otherwise to fulfill the obligations set forth within this article, must qualify as art, and must be approved by the PAC and village council in accordance with this article.

Section 30-1744. Approval for placement of art on private property; donations of art work in lieu of a fee; donations.

(a) Completed applications shall be submitted to the Planning and Development Services Department and forwarded to the PAC for review and recommendation of the art including consideration of the art's conformity to the definition of "art," all criteria of the public art master plan, and the public art program guidelines. The

recommendation from the PAC shall be forwarded to the village council for review and approval.

- (b) If, after review of the proposed placement or donation by the PAC and the village council, the applicant proposes, or the village council subsequently recommends, significant revisions to the architecture or physical design and layout of the proposed project, the revised application shall be returned to the village council for further review and approval concerning the revised proposal.

Section 30-1745. Ownership of art.

- (a) Ownership of all art acquired on behalf of the village pursuant to the requirements of this article shall be vested in the village, which shall retain title to each work of art.
- (b) All works of art acquired on behalf of the village pursuant to the requirements of this article shall be donated and title shall be transferred pursuant to a standard village public art contract reviewed and approved as to form by the village attorney.
- (c) Ownership of all art incorporated into development projects shall be vested in the property owner who shall retain title to the art. Property owners retaining title to the subject art shall provide proof of insurance in the amount of the appraised value of the art. If the property is sold, the seller shall either include restrictions in the deed that require maintenance and insurance of the art and prevent its removal from the property, or remove the art and make a contribution to the fund in an amount equal to the amount of the in-lieu public art fee which would have initially been required based on the project cost. If the title is passed to a subsequent owner and, as a result, a deed restriction exists as to the art, the subsequent owner shall maintain the art in accordance with the deed restriction, applicable law and other established guidelines. The art shall not be altered, modified, relocated or removed other than as provided herein without the prior approval of the village council.
- (d) Property owners retaining title to the subject art will be required to maintain the art in good condition in the approved location, as required by law or other applicable guidelines including, but not limited to, normal code enforcement rules, to ensure that proper maintenance is provided.

Section 30-1746. Governmental building public art requirement.

The village shall provide for the acquisition of art equivalent in value to not less than one and one-half (1½) percent of the project cost (inclusive of architectural, engineering, site work, and contingency allowance costs) of new village-owned public buildings. Acquisition of art for placement in village-owned public buildings shall be in accordance with the criteria and standards set forth in the adopted public art master plan and public art program guidelines. To the extent the total appropriation is not used for the acquisition of art for said building(s), the remainder may be used for:

(a) Program administrative costs, insurance costs or for the repair and maintenance of any works of art acquired under this section; or

(b) To supplement other appropriations for the acquisition of works of art under this section or to place works of art in, on, or near government facilities which have already been constructed.

Section 3. Repeal of Conflicting Provisions. The provisions of the 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 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. Inclusion in the Code. It is the intention of the Village Council and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code, that the sections of the Ordinance may be renumbered or relettered to accomplish such intentions, and that the word "Ordinance" shall be changed to "Section" or other appropriate word where applicable.

Section 6. 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 7. 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 this Ordinance in compliance shall be deemed to be the final order if no timely petition challenging this Ordinance is filed.

The foregoing Ordinance was offered by _____, who moved 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	_____
Councilwoman Elizabeth Jolin	_____
Councilman Mark Gregg	_____
Councilman Henry Rosenthal	_____

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

[Remainder of the page intentionally left blank.]

The foregoing Ordinance was offered by _____, who moved 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	_____
Councilwoman Elizabeth Jolin	_____
Councilman Mark Gregg	_____
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



Local Planning Agency Communication

To: Local Planning Agency Chair and Agency Members
From: John Quick, Interim Village Attorney
Date: November 13, 2023
Subject: Ordinance Amending Administrative Procedures Platting. (Tab 5)

Background:

Recently it has come to the Village's attention that some property lines have been modified with the Property Appraiser's Office without first being approved by the Village.

Analysis:

The proposed code change makes expressly clear that no lot-line modifications shall be filed with the Property Appraiser's Office without first being approved by the Village. While Village approval is required for any lot-line adjustments, we believe that it would do not harm to expressly state in the code that any such modifications shall not be recorded without prior Village approval.

Budget Impact:

N/A

Staff Impact:

N/A

Recommendation:

Staff recommends approval.

Attachments:

1. 4718667-Ordinance re recording of lot-line modifications

ORDINANCE NO. ____

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING CHAPTER 30 "LAND DEVELOPMENT REGULATIONS", ARTICLE IV "ADMINISTRATIVE PROCEDURES", DIVISION 10 "PLATTING", SECTION 30-431 OF THE VILLAGE CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE

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

WHEREAS, The Village has recently become aware of some lot-line adjustments being recorded with the property appraiser's office which have not been approved by the Village; and

WHEREAS, the Village Council desires to amend existing provisions under Division 10, "Platting" of Article IV of the Village's LDRs relating to provisions generally governing platting approval; and

WHEREAS, specifically, the Village Council desires to amend Section 30-431, "Plat approval and recording required", of the Village Code to ensure that lot-line modifications are not recorded with the property appraiser until such modification has been approved by the Village; and

WHEREAS, the provisions of this Ordinance are consistent with the Village Comprehensive Plan and the Principles for Guiding Development within the Florida Keys Area of Critical State Concern; and

WHEREAS, the Village Council finds that the provisions of this Ordinance are intended to advance the public health, safety, and welfare of the citizens of the Village.

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 30 entitled "Land Development Regulations", is hereby amended to create a new subsection (g) and re-letter the old subsection (g) in Section 30-431, as follows:

Additional text is shown as <u>underlined</u> ;	deleted text is shown as strikethrough
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ARTICLE IV. – Administrative Procedures.

Sec. 30-431. - Plat approval and recording required.

(a) Except as provided in subsections (b) and (c) of this section, plat approval shall be required for:

(1) The division of land into three or more parcels; or

(2) The division of land into two or more parcels where the land involved in the division was previously divided without plat approval within the prior two years; or

(3) The division of land into two parcels where the disclosure statement required under subsection (f) of this section is not attached to the conveyance.

(b) No building permit shall be issued for the construction of any building, structure or improvement unless a final plat has been approved in accordance with the provisions of this division and recorded for the lot on which the construction is proposed or unless the building, structure or improvement qualifies for an exemption pursuant to this division.

(c) No plat approval is required if the subdivision involved consists only of:

(1) A governmentally required dedication and the director of planning and development services finds that it is not necessary that a plat be recorded. In lieu of recording a plat, the dedication shall be required by deed and shall be subject to compliance with the submission of a grading, paving and drainage plan which will meet the requirements of this chapter and the posting of an improvement guarantee or bond as required under section 30-435 before the acceptance of the dedication by the village council.

(2) The proposed subdivision is for the purpose of conveying ownership of real property with a single-family unit in a townhouse-type development when such conveyance of real property is the space beneath the unit, plus an area surrounding the unit, which is no greater than the gross ground floor area of the unit. Prerequisites for exceptions to platting in this case are as follows:

a. The minimum overall development size shall be the same as required in the zoning district assigned to the property.

b. The average building length within the townhouse development shall not exceed 160 feet. However, no such building shall contain more than eight units.

c. The proposed subdivision is part of a development project for which the village has granted site plan approval, the proposed subdivision is less than five acres in size, and the lots or parcels from which the proposed subdivision is created have been specifically delineated in a recorded plat.

(3) The combination of two or more previously platted lots to form a single unified building site. However, such combination must be accompanied by a unity of title, in a form approved by the village attorney and recorded in the public records of the clerk of the circuit court of the county.

(4) A subdivision of land legally recorded prior to September 15, 1986.

(5) A change in ownership which would result in the formation of a Condominium Association, pursuant to Florida Statute Chapter 718, however in such a case, review of the proposed condominium documents shall be required by the village at the sole cost of the applicant.

(d) No plat of any subdivision shall be entitled to be recorded in the office of the clerk of the circuit court until it shall have been approved by the village council in the manner prescribed herein and certified by the village clerk.

(e) If a plat has been previously approved and recorded, technical or minor changes to the plat may be approved by the director of planning and development services. All other changes shall be considered in accordance with the provisions of this division.

(f) No division of land through a lot-line modification shall be recorded in the county property appraiser's office until after the village has approved the application.

~~(f)~~(g) The conveyance of land that involves the division of the land into two or more parcels may result in the creation of lots that do not meet the minimum building requirements of this chapter, and thus are not buildable lots. For example, the assignment of a tax parcel number by the county appraiser's office does not signify that a parcel is buildable under this chapter. Therefore, to ensure that the public is provided disclosure additional to that which is otherwise required by law of the possible creation of such unbuildable lots by conveyance of property without platting, whenever land is conveyed that involves the division of land into two or more parcels and where plat approval is not obtained pursuant to this division, such conveyance shall include the following disclosure statement: "The parcel of land described in this instrument is located in incorporated Islamorada, Village of Islands. The use of the parcel of land is subject to and restricted by the goals, policies and objectives of the Islamorada, Village of Islands, Comprehensive Plan and Development Regulations adopted as a part of, and in conjunction with and as a means of implementing the Islamorada, Village of Islands Comprehensive Plan. The land development regulations provide that no building permit shall be issued for any development of any kind unless the proposed development complies with each and every requirement of the regulations, including minimum area requirements for residential development. You are hereby notified that under the Islamorada, Village of Islands land development

regulations, the division of land into parcels of land that are not approved as platted lots under the regulations confers no right to develop a parcel of land for any purpose."

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 6. Transmittal. The Village Clerk is authorized to forward a copy of this Ordinance to the State Department of Commerce (the "DOC") for approval pursuant to section 380.05, Florida Statutes.

Section 7. 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 DOC. The DOC notice of intent to find this Ordinance in compliance shall be deemed to be the final order if no timely petition challenging this Ordinance 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 ___
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



Local Planning Agency Communication

To: Local Planning Agency Chair and Agency Members
From: John Quick, Interim Village Attorney
Date: November 13, 2023
Subject: **Ordinance Amending Administrative Procedures Zoning in Progress. (Tab 6)**

Background:

During past Village Council meetings questions were raised about the possibility of enacting zoning in progress ("ZIP") for certain items. This item would address ZIP for future items.

Analysis:

The proposed code change would automatically institute ZIP after any amendment to Chapter 30 or a rezoning of a parcel of land has been approved on first reading by the Village Council.

Under the proposed change, ZIP would be in place for a period of six months from the date of the approval on first reading by the Village Council. This period may be extended one time for an additional three months by resolution of the Village Council.

Budget Impact:

N/A

Staff Impact:

N/A

Recommendation:

Attachments:

1. 4718628-Ordinance re zoning in progress provision

ORDINANCE NO. ____

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING CHAPTER 30 "LAND DEVELOPMENT REGULATIONS", ARTICLE IV "ADMINISTRATIVE PROCEDURES", DIVISION 2 "DEVELOPMENT REVIEW PROCESS", SECTION 30-212 OF THE VILLAGE CODE TO CREATE A ZONING IN PROGRESS PROVISION; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE

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

WHEREAS, the Village Council desires to amend existing provisions under Division 2, "Development Review Process" of Article IV of the Village's LDRs relating to provisions generally governing the development process; and

WHEREAS, specifically, the Village Council desires to amend Section 30-212, "Generally", of the Village Code to automatically implement zoning in progress upon the approval of a rezoning or amendment to Chapter 30 on first reading; and

WHEREAS, the provisions of this Ordinance are consistent with the Village Comprehensive Plan and the Principles for Guiding Development within the Florida Keys Area of Critical State Concern; and

WHEREAS, the Village Council finds that the provisions of this Ordinance are intended to advance the public health, safety, and welfare of the citizens of the Village.

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 30 entitled "Land Development Regulations", is hereby amended to create subsection (h) to Section 30-212, as follows:

Additional text is shown as <u>underlined</u> ;	deleted text is shown as strikethrough
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ARTICLE IV. – Administrative Procedures.

DIVISION 2. – Development Review Process

Sec. 30-212. Generally.

(a) *Development permits required.* No development shall take place within the jurisdiction of the village except after issuance of all development permits required under any applicable section of this chapter, the Code or village ordinance, and other governmental agencies having jurisdiction to regulate the development of land within the village's jurisdiction.

(b) *Development by governmental agencies.* Prior to undertaking development, any governmental agency shall apply for the appropriate permit under the applicable sections of this chapter, the Code or village ordinance. If any governmental agency seeking to undertake development has been specifically exempted by federal or state law from compliance with this chapter, the Code or village ordinance, the agency shall file with the village manager and director of planning and development services evidence of such exemption. In the absence of such an exemption, governmental agencies shall apply for permits in the same manner as other persons.

(c) *Technical codes.* The building, plumbing, electrical and other technical codes adopted by the village are expressly recognized as essential to the implementation of the village comprehensive plan and this chapter.

(d) *Application for development.*

(1) Every application for a development permit shall be in a form specified by the planning and development services department for reviewing the application, and shall be accompanied by a fee as is 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. The village shall be entitled to rely upon the statements or representations made by the applicant on a development permit application. If it is determined that the application is incomplete, or based upon incomplete or inaccurate information or misstatements of fact, notice shall be delivered to the applicant specifying the deficiencies. The director shall take no further action on the application until the deficiencies are remedied. If the applicant fails to correct the deficiencies within 20 working days, the

application shall be considered withdrawn. If or when the application is determined complete, it shall be reviewed in accordance with the applicable provisions of this chapter. Notwithstanding anything in this chapter to the contrary, on a case-by-case basis, the director may make a written determination to waive some or all of the required submittals of a development permit application. Annually, the director shall promulgate a calendar, as may be amended, showing application dates and deadlines consistent with the specifications of this chapter. This calendar shall govern all dates and the development review process.

(2) All applications shall include proof of ownership and, if applicable, consent to be represented by an agent. All owners and any person having a contractual interest in the land shall give their permission for application. Unless otherwise specified in each section describing particular development review procedures, applications for development permits require a concurrency certification by the planning and development services department prior to being placed on the agenda for a public hearing or meeting or proceeding to the subsequent step in the development review process. Unless requested by the village, applications shall not be significantly altered after certifications. In no case shall any changes be made to a development application or development plans within ten working days of any required public hearing on the application, without a continuance of the hearing.

(3) The director shall be entitled to a continuance, and an applicant shall be entitled to a continuance or withdrawal of an application for development permit if the request is made no later than five working days before final action on the application by the decision-making body or person. Requests for a continuance or withdrawal received later than five working days before the date the decision is to be made, or the public hearing is to take place, shall be granted only by the decision-making body or person with or without prejudice. Applicants in this case shall not be entitled to the return of application fees.

(4) Whenever any application for a development permit is withdrawn or denied with prejudice, an application for development permit for all or part of the same land shall not be considered for a period of one year after the date of denial, unless the subsequent application involves a development proposal that is materially different from the prior proposal, or unless the person or a majority of the members of the decision-making body that made the final decision on the application determines that the prior denial was based on a material mistake of fact. For the purpose of this subsection, an application for development permit shall be considered materially different if it involves a change in use, or a change in intensity or density of use of 25 percent or more. The body or person charged with conducting the initial development application review or public hearing under such successive application shall resolve any questions concerning the similarity of a second application.

(5) To the extent practical, applications for development permits may be consolidated for review pursuant to an agreement between the applicant and the director as part of the pre-application conference. When applications for development permits are consolidated pursuant to this subsection, the time for review shall be no less than those established for the application for development permit with the longest review period.

(6) The director and village council may impose such conditions on the granting of a development permit that are necessary to accomplish the purposes of the comprehensive plan and this chapter. Conditions shall be included if conventional standards are inadequate to protect the public interest and surrounding land uses or if additional improvements are needed to facilitate a more appropriate transition between different uses. Conditions are not intended to restate express provisions of this chapter. Such conditions may include the execution of unity of title and the location of uses on the site to minimize adverse off-site impacts and ensure on-site safety. Further, conditions may be imposed to provide road construction required for the project to meet village concurrency requirements and that allow the applicant to proceed to the subsequent stage of development review. Site-related conditions such as drainage improvements, turn lanes and signalization may be imposed. Conditions shall be reasonable, not be contrary to law and shall be limited to on-site impacts, except for off-site public road improvements or other conveyances reasonably related and proportionate to the project's impact. Conditions shall not amend village council imposed conditions or affect previously approved conditions. For modifications or additions to previously approved site plans, conditions shall only be imposed to address the specific impacts of the new use or development. Fixed times may be set for compliance with conditions and shall be governed by section 30-224.

(7) Any application for development permit may be suspended during the pendency of a code enforcement proceeding or for any code violation involving all or a portion of the land proposed for development. Development permit applications for properties that have outstanding code violations, liens or fines owed to the village shall be restricted as follows:

a. The village shall not approve a final site plan or building permit until the code violation is remedied and payment of outstanding liens or fines is made to the village.

b. The village may approve a conditional use application; however, it shall not do so unless, as a condition of approval, the code violation is remedied and the applicant agrees to the payment of all outstanding liens or fines by a date certain or prior to a specific event.

c. In the event litigation contesting the code violation or the validity of the lien or fine is initiated before the application for the development permit, the time for compliance or payment shall be established only after the conclusion of litigation.

(e) *Violation of permit condition or time limitation.* A violation of any condition or time limitation of any development permit shall be considered a violation of the Code. The violation shall be corrected prior to any public hearing or meeting on the issuance of any subsequent development permit for that project, unless a subsequent permit application seeks to amend the condition or time limitation that has been violated. Unless otherwise specified in the development permit, an approved use must comply with conditions and time limitations before implementing the approval, or before receipt of a certificate of occupancy or certificate of completion. The violation shall be subject to all enforcement procedures available as provided in the Code and by all applicable laws and ordinances.

(f) *Fraud or omission in permit application.* If there is evidence that an application for development permit was considered wherein there was misrepresentation, fraud, deceit, or a deliberate error or omission, the village may initiate a rehearing to reconsider the development permit. The village may re-approve, approve with new conditions, deny, or take such other action on the development permit at the rehearing based on the standards in this chapter. If evidence of misrepresentation is discovered during the application review and approval process, the application shall be deemed incomplete and returned to the applicant.

(g) *Development permits that are never implemented.* All development permits that are never implemented shall be either:

- (1) Rescinded simultaneously with issuance of a subsequent development permit;
- (2) Revoked after a public hearing; or
- (3) Rescinded upon the expiration of the permit as set forth in table 30-225.

(h) *Zoning in progress, hold on permits or certificate of uses.* When an amendment to Chapter 30 or a rezoning of a parcel of land has been approved on first reading by the village council, no development application pending before the village with respect to the area or text which is the subject of the proposed amendment shall be approved unless the development application would be in conformity with both the existing legislation and the proposed legislation for a period of six months from the date of the approval on first reading by the village council. This period may be extended one time for an additional three months by resolution of the village council.

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 6. Transmittal. The Village Clerk is authorized to forward a copy of this Ordinance to the State Department of Commerce (the "DOC") for approval pursuant to section 380.05, Florida Statutes.

Section 7. 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 DOC. The DOC notice of intent to find this Ordinance in compliance shall be deemed to be the final order if no timely petition challenging this Ordinance 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	___
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



Local Planning Agency Communication

To: Local Planning Agency Chair and Agency Members
From: Jennifer DeBoisbriand , Planning Director
Date: November 13, 2023
Subject: Discussion regarding training and possible Special Meeting (Tab 7)

Background:

Analysis:

Budget Impact:

Staff Impact:

Recommendation:

Attachments: None