



Islamorada, Village of Islands

LAND USE VILLAGE COUNCIL MEETING

REVISED

April 11, 2024 - 5:30 PM
Founders Park Community Center
87000 Overseas Highway
Islamorada, FL 33036

MINUTES

I. CALL TO ORDER / ROLL CALL

Mayor Joseph B. Pinder III called the meeting to order at 05:23 PM

PRESENT: Council Member Mark Gregg, Council Member Elizabeth Jolin,
Council Member Henry Rosenthal, Vice Mayor Sharon Mahoney,
Mayor Joseph B. Pinder III

ABSENT:

II. PLEDGE OF ALLEGIANCE

Daniel Parabok led the Pledge of Allegiance and Tony Hammon started the meeting with a prayer.

III. AGENDA: Requests for Deletion / Emergency Additions

Council Member Mark Gregg suggested changing the order of the agenda to hear Island Community Church first and requested the FLUM and Zoning Map amendment to be considered at the same time.

The item was moved to follow Public Comment.

IV. REPORTS, PRESENTATIONS AND ANNOUNCEMENTS

A. Presentation on the Comparison of Habitat in the Village Code vs. Monroe County Code - **TAB A**

Environmental Planner Daniel Parabok reported his findings and summarized:

- The only definition that the Village does not share with the County is "Disturbed Saltmarsh and Buttonwood".
- Overall, the County is more restrictive on developments within protected habitats.
- The biggest difference between the two codes is how clearing is calculated based on existing conditions.

A request for a recommendation from staff for potential improvements to the Code was to be added to the After Action Report as a lower priority item.

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.)

Mayor Joseph B. Pinder III opened public comment.

Speakers included:

Van Cadenhead

John Fernandez

Joe Wischmeier

Deb Gillis

There being no one else wishing to speak, Mayor Pinder closed public comment.

VI. QUASI-JUDICIAL

- A.** Ordinance Amendment Considering the Request of Island Community Church Inc to Amend the Future Land Use Map of Parcel 00402900-000000 - **First Reading- TAB E** (Jennifer DeBoisbriand , Planning Director)

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, CONSIDERING THE REQUEST OF TY HARRIS PA AGENT FOR ISLAND COMMUNITY CHURCH INC, TO AMEND THE VILLAGE'S FUTURE LAND USE MAP FROM PUBLIC/SEMI-PUBLIC SERVICES (PS) TO MIXED USE (MU) FOR THE SUBJECT PROPERTY, LOCATED ON UPPER MATECUMBE KEY, WITH REAL ESTATE NUMBER 00402900-000000, AS LEGALLY DESCRIBED HEREIN; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE STATE DEPARTMENT OF COMMERCE; AND PROVIDING FOR AN EFFECTIVE DATE UPON THE APPROVAL OF THIS ORDINANCE BY THE STATE DEPARTMENT OF COMMERCE.

Interim Village Attorney John Quick read the Quasi-judicial statement, noting that all documentation would be made part of the record. Planning Director Jennifer DeBoisbriand asked if the Council was comfortable hearing both items together as they all pertained to the property. Council and the applicant agreed and Interim Village Attorney John Quick read both ordinance titles prior to discussion.

Council Member Elizabeth Jolin recused herself as the applicant was a client of her employer.

Council was asked to disclose any ex parte communications:

Mayor Joseph B. Pinder III noted he spoke with Tony Hammon and Ty Harris. Vice Mayor Sharon Mahoney noted she spoke with Tony Hammon, Trevor, and Ty Harris.

Council Member Mark Gregg noted he spoke to Ty Harris.

Council Member Henry Rosenthal noted he spoke to Chuck Tittle, Sue Miller, and Dave Petkovich.

Planning Director Jennifer DeBoisbriand summarized the request and indicated that staff recommends approval of both changes.

Ty Harris, representing the applicant, noted when Village incorporated and made changes from the County zoning, this property was down-zoned. He noted the state legislature required protection for private property rights and referenced a recent case where even if zoning was changed years ago, the property owner may still be able to recoup the previous zoning designation. The applicant was requesting a Future Land Use Map (FLUM) Amendment from Public/Semi-Public Services (PS) to a Mixed-Use (MU) designation and a Zoning Map Amendment, which proposes a change from a Public/Semi-Public Services (PS) District to Highway Commercial (HC) District, and the FLUM amendment cannot be approved without approval of the companion Zoning Map Amendment.

Mayor Joseph B. Pinder III opened the testimony.

Speakers in favor:

Tony Hammon
Van Cadenhead
Deb Gillis

Those opposed:

No one was signed up to speak in opposition

ACTION: Motion to approve item VI.A. by Mark Gregg second by Sharon Mahoney;

Motion passed with a 4:0 vote

AYES: Mark Gregg, Henry Rosenthal, Sharon Mahoney, Joseph B. Pinder III

NAYS: None

ABSTAIN: Elizabeth Jolin

- B.** Ordinance Amendment Considering the Request of Island Community Church Inc to Amend the Zoning Map for Parcel 00402900-000000 - **First Reading - TAB F** (Jennifer DeBoisbriand , Planning Director)

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, CONSIDERING THE REQUEST OF TY HARRIS PA AGENT FOR ISLAND COMMUNITY CHURCH INC, TO AMEND THE OFFICIAL ZONING MAP FROM PUBLIC/SEMI-PUBLIC SERVICES (PS) TO HIGHWAY COMMERCIAL (HC) FOR THE SUBJECT PROPERTY, LOCATED ON UPPER MATECUMBE KEY, WITH REAL ESTATE NUMBER 00402900-000000, AS LEGALLY DESCRIBED HEREIN; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE STATE DEPARTMENT OF COMMERCE; AND PROVIDING FOR AN EFFECTIVE DATE UPON THE APPROVAL OF THIS ORDINANCE

BY THE STATE DEPARTMENT OF COMMERCE.

ACTION: Motion to approve item VI.B. by Sharon Mahoney second by Mark Gregg;
Motion passed with a 4:0 vote
AYES: Mark Gregg, Henry Rosenthal, Sharon Mahoney, Joseph B. Pinder III
NAYS: None
ABSTAIN: Elizabeth Jolin

VII. MAYOR / COUNCIL COMMUNICATIONS

There were no items.

VIII. VILLAGE ATTORNEY / VILLAGE MANAGER COMMUNICATIONS

A. Update on Issue of Lots Fronting on US 1 for Affordable Housing - **TAB B**

Planning Director Jennifer DeBoisbriand summarized that there are 12 lots that would be considered fronting on US-1 if the past Council direction was followed.

Interim Village Attorney John Quick said there were two potential options:

- Change the Code to clarify that Council considers the Old Road to be fronting US-1, which would allow for deed restricted affordable housing.
- Clarify the definition of fronting in the Code to mean the front of a parcel adjoining a specified location

A majority of the Council indicated they did not believe that properties on the Old Road were fronting US-1 and asked for an ordinance to reflect that interpretation.

B. MOVED FROM APRIL 9 - BPAS & County ROGO Update and Request for Council Direction- **TAB 3**

Planning Director Jennifer DeBoisbriand noted that Monroe County released clearance times in 2023 and the State Legislature in 2024 added Key West to baseline modeling. She asked for direction from Council regarding the process for future BPAS consideration timeline.

There was a request to discuss the moratorium at the May Council meeting.

C. MOVED FROM APRIL 9 - Guidelines for Reservation of Affordable Allocations - **TAB 4**

Discussion ensued and direction was given to come back at the next meeting with a discussion of Affordable Housing items including beneficial use, review of the Monroe County Code and income limits.

IX. RESOLUTIONS

A. 4th Quarter 2023 Affordable Building Permit Allocation Award - **TAB C** (Jennifer DeBoisbriand , Planning Director)

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA,

VILLAGE OF ISLANDS, FLORIDA, APPROVING RESIDENTIAL BUILDING PERMIT ALLOCATION SYSTEM RANKINGS AND AWARDED AFFORDABLE RESIDENTIAL BUILDING PERMIT ALLOCATIONS FOR QUARTER 4 OF 2023; AND PROVIDING FOR AN EFFECTIVE DATE

Council Member Mark Gregg recused himself as he was the applicant in this case. He indicated that he did what the regulations required and noted two previous Planning Directors agreed with his interpretation of fronting.

Mayor Joseph B. Pinder III opened public comment.

Speakers included:

Deb Gillis

Van Cadenhead

There being no one else wishing to speak, Mayor Pinder closed public comment.

ACTION: Motion to deny item IX.A. by Henry Rosenthal second by Sharon Mahoney;

Motion passed with a 4:0 vote

AYES: Elizabeth Jolin, Henry Rosenthal, Sharon Mahoney, Joseph B. Pinder III

NAYS: None

ABSTAIN: Mark Gregg

Mayor Pinder recessed the meeting at 8:06 p.m. and reconvened at 8:31 p.m.

X. ORDINANCES

- A.** Amending Chapter 30 Land Development Regulations Article IV Administrative Procedures - **Second Reading - TAB D** (John Quick, Interim Village Attorney, Jennifer DeBoisbriand, Planning Director)

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 REVIEW FOR THE IMPOSITION OF CERTAIN CONDITIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE

Interim Village Attorney John Quick indicated this was the Second Reading to Amend Chapter 30, Article IV, Administrative Procedures to create a process for an applicant to challenge certain imposed development conditions if the applicant believes the condition does not have a nexus to a legitimate public purpose and/or is not roughly proportionate to the impact of the proposed development. Under the proposed language, the Village Council would serve as the final arbiter of any challenge.

Mayor Joseph B. Pinder III opened public comment.

There being no one wishing to speak, Mayor Pinder closed public comment.

Council Member Elizabeth Jolin made a motion to deny as she doesn't want a final decision to be left to the Council as they sometimes make arbitrary decisions. Interim Village Attorney John Quick noted this is intended to give the Village one last opportunity to intervene before it goes to litigation.

ACTION: Motion to deny item X.A. by Elizabeth Jolin second by mark gregg;
Motion failed with a 1:4 vote

AYES: Elizabeth Jolin

NAYS: Mark Gregg, Henry Rosenthal, Sharon Mahoney, Joseph B. Pinder III

ABSTAIN: None

ACTION: Motion to approve item X.A. by Mark Gregg second by Henry Rosenthal
Motion passed with a 4-1 vote

AYES: Mark Gregg, Henry Rosenthal, Sharon Mahoney, Mayor Joseph B. Pinder III

NAYS: Elizabeth Jolin

ABSTAIN: None

XI. QUASI-JUDICIAL - PART TWO

- A.** Ordinance Amendment Considering the Request of HVS82 Investments LLC to Amend the Future Land use Map of Parcel 00415840-000000 - **First Reading - TAB G** (Jennifer DeBoisbriand , Planning Director)

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, CONSIDERING THE REQUEST OF SHARON MAHONEY ON BEHALF OF HVS82 INVESTMENTS LLC, TO AMEND THE VILLAGE'S FUTURE LAND USE MAP FROM RESIDENTIAL CONSERVATION (RC) TO MIXED USE (MU) FOR THE SUBJECT PROPERTY, LOCATED ON PLANTATION KEY, WITH REAL ESTATE NUMBER 00415840-000000, AS LEGALLY DESCRIBED HEREIN; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE STATE DEPARTMENT OF COMMERCE; AND PROVIDING FOR AN EFFECTIVE DATE UPON THE APPROVAL OF THIS ORDINANCE BY THE STATE DEPARTMENT OF COMMERCE.

Interim Village Attorney John Quick read the Quasi-judicial statement, noting that all documentation would be made part of the record. Planning Director Jennifer DeBoisbriand asked if the Council was comfortable hearing both items together as

they all pertained to the property. Council and the applicant agreed and Interim Village Attorney John Quick read both ordinance titles prior to discussion.

Vice Mayor Sharon Mahoney recused herself as she was the applicant in this case.

Council was asked to disclose any ex parte communications:

Council Member Mark Gregg indicated he had none.

Council Member Henry Rosenthal spoke to Sue Miller.

Mayor Joseph B. Pinder III noted he spoke to the applicant, Vice Mayor Sharon Mahoney, a while ago and spoke to Lou Ann Buschlen.

Planning Director Jennifer DeBoisbriand noted the request was for approval for a Zoning Map Amendment from Native Residential (NR) District to Highway Commercial (HC) District and a change to the Future Land Use Map (FLUM), proposing a change from a Residential Conservation (RC) to a Mixed-Use (MU) designation. She added that the Zoning Map amendment cannot be approved without approval of the companion FLUM Amendment. She indicated staff recommended approval of the requests.

Vice Mayor Sharon Mahoney noted she made this request after she discovered the zoning of her property had been changed after incorporation.

Mayor Pinder called for testimony first from speakers in favor of the requests and then from those opposed:

Speakers in favor:

Ty Harris

Van Cadenhead

Tony Hammon

Speakers opposed:

Susan Raffanello

LouAnn Buschlen

There being no further speakers testimony was closed.

Deliberations:

Council Member Mark Gregg asked if this passed tonight he asked for the following:

- Exhibit A referenced in the covenant to be located and attached to the declaration
- Staff to research why this property was included in the Florida Forever acquisition as he had not seen any developed property ever be targeted for acquisition in that program
- No lot combinations per the request of Ms. Raffanello who provided testimony that she was owner of the neighboring property

Susan Raffanello noted she would withdraw her objections if there were restrictions to use of the property as an office.

Council Member Mark Gregg made a motion to approve subject to the inclusion of exhibit A - combined with conservation easement protecting area referenced in exhibit A - no boundary adjustment that changed the configuration of the property - sub-district off allowed/low intensity office use or equal or lesser use.

ACTION: Motion to approve subject to the conditions listed item XI.A.
by Mark Gregg second by Henry Rosenthal;
Motion passed with a 4:0 vote

AYES: Mark Gregg, Elizabeth Jolin, Henry Rosenthal, Joseph B.
Pinder III

NAYS: None

ABSTAIN: Sharon Mahoney

- B.** Ordinance Amendment Considering the Request of HVS82 Investments LLC to Amend the Zoning Map for Parcel 00415840-000000 - **First Reading - TAB H** (Jennifer DeBoisbriand , Planning Director)

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, CONSIDERING THE REQUEST OF SHARON MAHONEY ON BEHALF OF HVS82 INVESTMENTS LLC, TO AMEND THE OFFICIAL ZONING MAP FROM NATIVE RESIDENTIAL (NR) TO HIGHWAY COMMERCIAL (HC) FOR THE SUBJECT PROPERTY, LOCATED ON PLANTATION KEY, WITH REAL ESTATE NUMBER 00415840-000000, AS LEGALLY DESCRIBED HEREIN; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE STATE DEPARTMENT OF COMMERCE; AND PROVIDING FOR AN EFFECTIVE DATE UPON THE APPROVAL OF THIS ORDINANCE BY THE STATE DEPARTMENT OF COMMERCE.

- C.** Orange Street - Roadway Abandonment - **TAB I** (Jennifer DeBoisbriand , Planning Director)

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, CONSIDERING A REQUEST BY JAMES LUPINO, ESQ. ("Agent") ON BEHALF OF MM82,790 LLC ("OWNER"), TO ABANDON AND VACATE A PORTION OF ORANGE STREET RIGHT OF WAY, AS SHOWN ON THE PLAT OF "MAP OF THE TOWNSITE OF ISLAMORADA", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 1, AT PAGE 48, OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED IN "EXHIBIT A"; RESERVING TO THE VILLAGE ALL RIGHTS OVER ANY PUBLIC UTILITY EASEMENTS; AND PROVIDING FOR AN

EFFECTIVE DATE

Council was asked to disclose any ex parte communications:

Council Member Henry Rosenthal indicated he spoke to the applicant, Mary Barley, and Sue Miller

Mayor Joseph B. Pinder III noted he had spoken to Ty Harris

Vice Mayor Sharon Mahoney noted she spoke to Ty Harris

Council Member Elizabeth Jolin indicated she spoke to Mary Barley, and Ms.

Barley's neighbors Marty Causey and Nicki Rudolph

Council Member Mark Gregg spoke to Ty Harris

Planning Director Jennifer DeBoisbriand noted the record of the previous hearing on this matter was part of the record and that legal representation of applicant had changed to Ty Harris.

Ty Harris indicated that any public benefit that may have been there was negated by the approval of the site plan for the sign. He noted his client would cooperate with any conditions as long as they didn't have to pay for it.

Mayor Pinder called for testimony first from speakers in favor of the requests and then from those opposed:

No one spoke in support

Speaker opposed:

Paul Schwiep, representing Mary Barley, indicated she had an interest as an affected property owner being adjacent to the subject property and that abandonment was against the public interest.

Deliberations:

Interim Village Attorney John Quick noted that it was not in the resolution to abandon half of the street and that how it would get divided is between the property owners; notice was provided in accordance with the code; anyone who met the definition of affected property owner was contacted; noting a requirement for all affected property owners for their permission and stated there were no objections.

Mark Gregg made a motion to extend the meeting to 10:30pm

Discussion continued and it was noted that the request originated as a conditional requirement of the previous Planning Director.

At 10:30 p.m. Council Member Mark Gregg moved to extend the meeting for five minutes.

ACTION: Motion to approve item XI.C. by Mark Gregg second by Joseph B. Pinder III;

Motion passed with a 3:2 vote

AYES: Mark Gregg, Sharon Mahoney, Joseph B. Pinder III

NAYS:	Elizabeth Jolin, Henry Rosenthal
ABSTAIN:	None

XII. MOTIONS

There were none.

XIII. ADJOURNMENT

Council Member Henry Rosenthal moved to adjourn the meeting at 10:37 p.m.