

**RESOLUTION NO. 20-07-55**

**A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, CONSIDERING THE REQUEST OF RALPH SANCHEZ FOR APPROVAL OF THE TRANSFER OF NINE (9) MARKET RATE RESIDENTIAL UNITS FROM PROPERTY LOCATED AT 81906 OVERSEAS HIGHWAY HAVING PARCEL RE# 00399270-000000 ON UPPER MATECUMBE KEY, WITHIN THE VILLAGE CENTER (VC) ZONING DISTRICT (THE "SENDER SITE"), AS LEGALLY DESCRIBED HEREIN, TO PROPERTY LOCATED AT 109 CARROLL STREET HAVING PARCEL RE# 00400720-000000 ON UPPER MATECUMBE KEY, WITHIN THE TOURIST COMMERCIAL (TC) ZONING DISTRICT (THE "RECEIVER SITE"), AND LEGALLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE. (File No.: PLTDR20200007)**

**WHEREAS**, St. Coral Cove, LLC (the "Sender Site Owner") is the owner of property located at 81906 Overseas Highway on Upper Matecumbe Key with Real Estate Number 00399270-000000 and as legally described herein (the "Sender Site"); and,

**WHEREAS**, St. Oceanside, LLC (the "Receiver Site Owner") is the owner of property located at 109 Carroll Street on Upper Matecumbe Key with Real Estate Number 00400720-000000 and as legally described herein (the "Receiver Site"); and,

**WHEREAS**, Ralph Sanchez, as the Manager and representative of both properties, has applied for approval for the transfer of nine (9) Market Rate Residential Units from the Sender Site to the Receiver Site (the "Request"); and,

**WHEREAS**, the Village Planning Department Staff reviewed the Request and recommended approval with conditions of the Request to the Director of Planning (the "Director"); and,

**WHEREAS**, pursuant to the applicable provisions of the Code, the Director in his Staff Report dated July 16, 2020, recommended that the Village Council approve the Request with conditions; and

**WHEREAS**, the Village Council has considered the Request, the relevant supporting materials, the Director's recommendations, public testimony, and evidence given at a properly advertised Public Hearing held on July 16, 2020 (the "Hearing").

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

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

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

- (1) The Applicant submitted the Request on January 12, 2020.
- (2) The Sender Site has a Future Land Use Map designation of Mixed Use (MU).
- (3) The Receiver Site has a Future Land Use Map designation of Mixed Use (MU).
- (4) The Sender Site is located within the Village Center (VC) Zoning District.
- (5) The Receiver Site is located within the Tourist Commercial (TC) Zoning District.
- (5) The Sender and Receiver Sites are adjacent to bodies of water and both contain shoreline.
- (6) The Applicant has furnished the Village with a Declaration of Covenants, Conditions, and Restrictions for the Sender Site on a form acceptable to and approved by the

Village Attorney effecting the removal of the nine (9) development rights proposed for transfer from the Sender Site.

(7) The Request complies with the standards of Code Section 30-506 for considering the Transfer of Development Rights (TDRs) for Market Rate Residential Units.

(8) The Request **is** consistent with the purposes, goals, objectives, and policies of the Village Comprehensive Plan, including standards for building and structural intensities and densities, and intensities of use.

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

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

(2) In rendering its decision, as reflected in this Resolution, the Village Council has:

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

(3) The Request by Ralph Sanchez and on behalf of the Sender Site Owner and Receiver Site Owner is hereby **APPROVED**.

**Section 4. Conditions Imposed.** Granting of the Request is subject to the following conditions:

The Village shall be provided with and record the executed Declaration of Covenants, Conditions, and Restrictions , thereby removing the nine (9) Market Rate Residential Units Development Rights from the Sender Site and transferring them to the Receiver Site.

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

**Section 6. Violation of Conditions.** The Applicant understands and acknowledges that he or she must comply with all terms and conditions herein, and all other applicable requirements of the Village or other governmental agencies before he or she may affect the proposed transfer of development rights or commence construction or operation of any use authorized herein. In accordance with Code Section 30-224, this approval may be revoked by the Village Council upon a determination that the Applicant or its successor(s) or designee(s) is in non-compliance with this Resolution or the Code. Failure to adhere all terms and conditions of approval contained herein is a violation of the Code and persons found violating the conditions shall be subject to the penalties prescribed by the Code.

**Section 7. Effective Date.** This Resolution shall not take effect until after both thirty (30) days following the date it is filed with the Village Clerk, during which time the Request herein shall be subject to appeal as provided in the Code; and following thirty (30) days, this Resolution shall not be effective or acted upon by the Applicant until forty-five (45) days following the rendition to the Florida Department Of Economic Opportunity (the "DEO), pursuant to Chapter 73C-44.0033 of the Florida Administrative Code. During those forty-five (45) days, the DEO may appeal this Resolution to the Florida Land and Water Adjudicatory Commission, and that such an appeal stays the effectiveness of this instrument until the appeal is resolved by agreement or order.

Motion to adopt by Councilwoman Deb Gillis, second by Councilman Chris Sante.

**FINAL VOTE AT ADOPTION**

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

Mayor Mike Forster	YES
Vice-Mayor Ken Davis	YES
Councilwoman Deb Gillis	YES
Councilman Jim Mooney	ABSTAINED
Councilman Chris Sante	YES

**PASSED AND ADOPTED THIS 16<sup>th</sup> DAY OF JULY, 2020.**

  
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MIKE FORSTER, MAYOR

ATTEST:

  
\_\_\_\_\_  
KELLY TOTH, VILLAGE CLERK

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

  
\_\_\_\_\_  
ROGET V. BRYAN, VILLAGE ATTORNEY

This Resolution was filed in the Office of the Village Clerk of this 17<sup>th</sup> day of July, 2020.

  
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KELLY TOTH, VILLAGE CLERK