

Prepared by and return to:
Planning and Development Services Department
Islamorada, Village of Islands
86800 Overseas Highway
Islamorada, Florida 33036

Filed and Recorded in Official Records of
MONROE COUNTY KEVIN MADOK, CPA

RESOLUTION NO. 22-12-141

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, CONSIDERING THE REQUEST OF SPEATH ENGINEERING FOR A SHORELINE SETBACK VARIANCE ASSOCIATED WITH SAFE HARBOR FKA ISLAMORADA MARINA TO ALLOW FOR A NINE (9) FOOT SHORELINE SETBACK INSTEAD OF THE MINIMUM REQUIRED TEN (10) FOOT SETBACK FOR NEW BOAT RACKS. THE PROJECT IS LOCATED AT 80460 OVERSEAS HIGHWAY ON UPPER MATECUMBE KEY, WITHIN THE MARINE USE (MR) ZONING DISTRICT, REAL ESTATE NUMBER 00096390-000100, AS LEGALLY DESCRIBED HEREIN; PROVIDING FOR THE TRANSMITTAL OF THIS RESOLUTION TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, SHM ISLAMORADA LLC (the "Applicant") is the owner of property located at 80460 Overseas Highway on Upper Matecumbe Key, with Parcel Identification Number 00096390-000100 and legally described below (the "Property") within Islamorada, Village of Islands, Florida (the "Village"); and,

WHEREAS, the Applicant has submitted an application for a Shoreline Setback Variance from Section 30-695 (e) of the Village Code of Ordinances (the "Code"), to allow for a reduction in the required setback from a minimum setback of ten (10) feet from the Mean High Water Line (MHWL) for accessory structures to nine (9) feet to allow for the replacement and relocation of dry storage boat racks, on the Property legally described below; and,

WHEREAS, on December 6, 2022, the Village Council of Islamorada, Village of Islands, Florida (the "Village Council") conducted a duly noticed Public Hearing regarding the Variance Request (the "Request").

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

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

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

1. The Request **complies** with the standards of Code Sec. 30-221(d) for considering Variances.

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

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

a. The Application for a Variance **does** meet the requirements set forth in Code Section 30-221 and **has** demonstrated through competent substantial evidence that the criteria for granting the Request have been met; and,

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

Parcel A

On the Island of Upper Matecumbe, in the County of Monroe, and the State of Florida, and known as part of Government Lot 1, Section 5, Township 64 South, Range 37 East,

but better known as being part of Lot 7, George Mac Donald's Subdivision of part of Government Lot 1 and all of Lots 2 and 3 of Section 32, Township 63 South, Range 37 East and all of Lot 1, Section 5, Township 64 South, Range 37 East as recorded in Plat Book 1 at Page 41 of the Public Records of Monroe County, Florida and bounded and described as follows:

Commencing at a point 1,115 feet Northeasterly from a point where the Southeasterly shoreline intersects the Section line dividing Sections 5 and 6, Township 64 South, Range 37 East and running thence in a Northeasterly direction along the said shoreline 203 feet; thence North 25° West 1170 feet, more or less to the waters of the Bay; thence along the Bay shoreline in a Southwesterly direction 203 feet; thence South 25° East 1170 feet, more or less to the Southeast shoreline and the Point of Beginning.

AND EXCEPTING THERE FROM:

The right-of-way of the Florida East Coast Railroad (Overseas Highway) as constructed, being a strip of land 100 feet wide on and across said land;

AND FURTHER EXCEPTING THEREFROM:

All that portion of the above described property lying Southeasterly of the Southeasterly right-of-way line of Overseas Highway, State Road No. 5.

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

1. Use of the subject premises shall be limited to a marina with a maximum of 234 dry slip boat racks and eighteen (18) wet slips. A maximum of 11,490 square feet of commercial floor area shall also be permitted including a restaurant with a maximum occupancy of 129 persons, business offices with a maximum occupancy of 43 persons, an assembly area with a maximum occupancy of 172 persons, for a total maximum building occupancy of 344 persons.

2. A minimum shoreline setback of nine (9) feet instead of the minimum required ten (10) feet shall be maintained for the proposed dry slip boat racks as shown on the site plan prepared by Matthew S. Speath, PE, dated August 2, 2022, and entitled Dry Storage Rack Site Plan for SHM Islamorada, Monroe County Florida.

3. Applicant/owner shall provide a five (5) year water quality monitoring plan pursuant to Comprehensive Plan Policy 5-1.2.13 (10)(a) as noted below:

Special Approvals:

a. For structures serving commercial uses, public uses, or more than three dwelling units, the Director of Planning and Development Services may approve deviations from the adopted standards as a minor conditional use. Such approval may include additional structures or uses provided that such approval is consistent with any permitted uses, densities, and intensities of the

land use district, furthers the purposes of this plan, is consistent with the general standards applicable to all uses, and the proposed structures are located in a disturbed area of an altered shoreline. Such additional uses are limited to waterfront dining areas, pedestrian walkways, public monuments or statues, informational kiosks, fuel or septic facilities and water-dependent marina uses. Any such development shall make adequate provision for a water quality-monitoring program for a period of five (5) years after the completion of the development.

Applicant/owner agrees to submit a water quality monitoring plan for review and approval to the Department of Planning and Development Services prior to the issuance of any permits for the proposed dry slip boat racks.

4. All parking shall be provided on site. In the event adequate parking cannot be provided on site, applicant/owner agrees to provide a shared parking plan for review and approval to the Village Department of Planning and Development Services. In the event parking along U.S. 1 Overseas Highway continues, the Village Council reserve the right to hold a public hearing to address any ongoing parking shortfalls including through a reduction in the overall intensity of use of the subject property.

5. Except as otherwise provided herein, applicant/owner agrees to comply in all respects with any applicable Federal, State, County, or local rules and regulations.

6. Applicant/owner agrees to submit a stormwater management plan for review and approval prior to the issuance of any permits.

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

8. Applicant/owner shall obtain a Certificate of Occupancy or Certificate of Compliance for any existing structures and/or uses prior to the issuance of any permits for the proposed dry slip boat racks.

9. Except as otherwise provided herein, applicant/owner agrees to comply in all respects with all prior approvals including, but not limited to, Minor Deviation to Major Conditional Use MD-09-01, dated September 8, 2009, Major Conditional Use Approval Resolution NO. 09-06-41, dated June 11, 2009, Resolution NO. 09-07-59, dated July 23, 2009, and Resolution NO. 06-12-93, dated December 14, 2006.

Section 3. Conclusions of Law. Based upon the above Findings of Fact, the Village

Council does hereby make the following Conclusions of Law:

(1) The Request has been processed in accordance with the applicable provisions of the LDRs, and **will not** be detrimental to the community as a whole.

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

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

(3) The Request is hereby **APPROVED**.

Section 4. Effective Date. This Resolution shall not take effect until after both thirty (30) days following the date it is filed with the Village Clerk, during which time the Request herein shall be subject to appeal as provided in the Code; and following the thirty (30) days, this resolution shall not be effective or acted upon by the Applicant until forty-five (45) days following the rendition to the Department of Economic Opportunity (DEO), pursuant to Chapter 9J-1 of the Florida Administrative Code. During those forty-five (45) days, the DEO may appeal this resolution to the Florida Land and Water Adjudicatory Commission, and that such an appeal stays the effectiveness of this Resolution until the appeal is resolved by agreement or order.

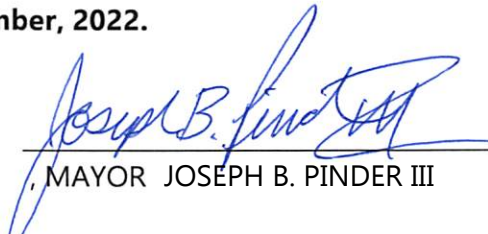
Motion to adopt by Council Member Mark Gregg, second by Vice Mayor Sharon Mahoney.

FINAL VOTE AT ADOPTION

VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS:

Council Member Mark Gregg	<u>Yes</u>
Council Member Elizabeth Jolin	<u>Yes</u>
Council Member Sharon Mahoney	<u>Yes</u>
Council Member Joseph B. Pinder III	<u>Yes</u>
Council Member Henry Rosenthal	<u>Yes</u>

PASSED AND ADOPTED THIS 6th DAY OF December, 2022.



MAYOR JOSEPH B. PINDER III

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, ESQ., INTERIM VILLAGE ATTORNEY

