

**RESOLUTION NO. 22-07-65
(CORRECTED AND REVISED)**

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, CONSIDERING THE REQUEST OF MORADA COVE PARTNERS FOR A VARIANCE FROM THE PROVISIONS OF SECTION 30-1542(1)(A), TO ALLOW FOR A REDUCTION IN THE SHORELINE SETBACK FROM 20 FEET TO A MAXIMUM OF ZERO (0) FOOT FOR TWO (2) PRINCIPAL STRUCTURES (HOTEL/MOTEL AND RESTAURANT/BAR) FOR PROPERTY LOCATED AT 85500 OVERSEAS HIGHWAY ON WINDLEY KEY, WITHIN THE TC (TOURIST COMMERCIAL) ZONING DISTRICT, WITH REAL ESTATE NUMBER 00093830-000000, AS LEGALLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE. (File No: PLVAR20220071)

WHEREAS, Morada Cove Partners (the "Applicant") is the owner of property located at 85500 Overseas Highway on Windley Key, with Parcel Identification Number 00093830-000000 and legally described below (the "Property") within Islamorada, Village of Islands, Florida (the "Village"); and,

WHEREAS, the Applicant has submitted an application for a Variance from Section 30-1542(1)(a) of the Village Code of Ordinances (the "Code"), to allow for a reduction in the required setback from a minimum setback of 20 feet from the Mean High Water Line (MHWL) for principal structures. The applicant would like to reduce the required setback to zero (0) foot, on the Property legally described below; and,

WHEREAS, on July 14, 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:

A Tract of land in Government Lot 1, in Section 23, Township 63 South, Range 37 East, on Windley Key, Monroe County, Florida, more particularly described as follows:

BEGINNING at a point on the Northerly right of way line of State Road No. 5, which point is 100 feet measured at right angles from the center line of State Road No. 5, and 445.9 feet Easterly along said right of way line from the Easterly boundary of the land leased to Keystone Art Corp., by lease dated December 23, 1933; thence run Northerly at right angles to said right of way line, a distance of 150 feet; thence run Easterly parallel to said right of way line, a distance of 420 feet, more or less, thence at a 90 degree angle to the South run Southerly 150 feet, more or less to the right of way line of State Road No. 5; thence run Westerly along the Northerly boundary line of State Road No. 5, 420 feet, more or less to the Point of Beginning.

Together with:

Commencing at a point 100' North of and Parallel to the centerline and baseline of State Road No. 5 (U.S. Highway No. 1) and on the Easterly boundary line of land leased to Keystone Art Corp. by lease dated Mary 17th, 1955, thence run N.66°20'10"E. along the Northerly right of way line of State Road No. 5, as shown on the Florida Department of Transportation, right of way, specific purpose survey, section 90060 sheet 58 of 148, last revised 12-2005, for a distance of 445.9' to the Point of Beginning (POB) of the described parcel of land. Thence run at right angles from said right of way line N.23°33'50"W. for 150', thence run N.21°35'18"E. for 129.42'; thence run N.68°23'09"E. for 350.26', thence run N.10°49'06"W. for 112.41', thence run N.68°55'28"E. for 33.50' to the approximate mean high water line of Snake Creek, thence run Southerly along the Westerly mean high water line of Snake Creek for 195' more or less to a point being 150' North of and parallel to the Northerly right of way line of State Road No. 5 and 455' East of and parallel to aforementioned point of beginning. Thence run S.66°20'10"E. for 420', along a line 150' North of and parallel to the North right of way line of State Road No. 5, thence run S.22°33'50"E. for 150' to the North right of way line of State Road No. 5, thence run S.66°20'10"E. along the North right of way line of State Road No. 5, 35' to the Point of Beginning (POB). This legal description describes the same parcel described as Parcel C is Official Records Book 2521, at Page 642, of the Public Records of Monroe County, Florida.

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

1. Use of the premises shall be limited to the following:
 - a. Twelve (12) Hotel/Motel Unit with accessory office space;
 - b. A restaurant with a maximum gross floor area of 2,998 square feet;
 - c. Docking Facility. A maximum of 29 Wet Slips shall be permitted in connection with the subject property. The boat storage and display area shall not be visible from Overseas Highway.
A valid Certificate of Occupancy or Compliance shall be obtained prior to the occupation of the proposed facilities.
2. All activities on the property shall be in compliance with Chapter 18, Article IV – Noise of the Code of Ordinances.
3. Prior to the issuance of any Certificates of Occupancy, the Applicant, their Successors or Assigns, shall have approved a Stormwater Management Plan for the proposed project.
4. Prior to the issuance of any Certificates of Occupancy, the Applicant, their Successors or Assigns, shall coordinate with the Village's Wastewater consultant for the provision of wastewater services. Applicant/owner shall comply in all aspects with Village Wastewater requirements.

5. The proposed Minor Conditional Use Permit shall allow for the construction of a 2,998 square foot restaurant, 12-Unit Hotel/Motel, Docking Facility and associated site improvements as defined in the Code of Ordinances and as depicted on the Site Plan, prepared by MHK Architecture & Planning Architect dated March 8, 2022, and entitled '85500 Overseas Highway Marina Redevelopment.' All improvements shall be completed in substantial conformance with said Site Plan pursuant to the direction of the Department of Planning and Development Services.
6. Parking.
 - a. Morada Cove shall maintain a total of 59 parking spaces on site along with an additional 125 Parking Spaces located on the adjacent Florida Department of Transportation (FDOT) right-of-way, through Lease Agreements. All parking shall be improved in accordance with the Village Code, except as may otherwise be permitted by the Department of Planning and Development Services. In the event the Lease Agreements with the FDOT are rescinded or otherwise cease to be valid, the applicant/owner agrees to submit a revised site plan and parking plan that provides parking in accordance with Village standards.
 - b. Pursuant to Sec. 30-852 of the Village Code, racks for parking bicycles may be substituted for up to five percent (5%) of required vehicular parking at a ratio of three bicycle parking spaces for every one (1) vehicular parking space. Said bicycle racks shall be depicted on the final site plan pursuant to the direction of the Department of Planning and Development Services.
 - c. Subject to site plan approval, credit for Temporary Boat Parking located at the on-site docking facility may be permitted.
7. All landscaping and buffer improvements shall be completed in substantial conformance with the Landscape Plan submitted as a part of the Application pursuant to the direction of the Department of Planning and Development Services prior to the issuance of any Certificates of Occupancy.
8. The Applicant shall meet the requirements of Comprehensive Plan Coastal Element - Policy 5-1.2.13, which requires a Water Quality Monitoring Program.
9. A Final Certificate of Occupancy shall not be issued for the proposed construction until all required improvements have been completed to the satisfaction of the Department of Planning and Development Services and the Village Building Official.
10. The improvement of the premises, in accordance with the determination of the Village, must be commenced within thirty-six (36) months after the date of the granting of the Minor Conditional Use. If not so commenced within this period, the Village reserves the right to revoke any and all approvals associated with the subject property after due public hearing. Thereafter, the operation of the use previously authorized shall be terminated and there shall be no right to non-conformity.
11. The Village reserves the right to rescind in whole or part any aspect of this Minor Conditional Use in the event violation of these conditions occurs.

12. All conditions shall be enforceable through all the powers of the Village Attorney's Office and the Village reserves the right after due public hearing, to rescind in whole or part this Major Conditional Use, if violation of the conditions persists.
13. Except as otherwise provided herein, applicant/owner agrees to comply in all respects with any and all applicable Federal, State, County and Village rules and regulations.

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

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

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

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

(3) The Request is hereby APPROVED.

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 Vice Mayor Henry Rosenthal, second by Councilman Joseph B. Pinder III.

FINAL VOTE AT ADOPTION

VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS:

Mayor Peter Bacheler	Yes
Vice-Mayor Henry Rosenthal	Yes
Councilman Joseph B. Pinder III	Yes
Councilman Mark H. Gregg	Yes
Councilman David Webb	Yes

PASSED AND ADOPTED THIS 14th DAY OF JULY, 2022.



PETER BACHELER, 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, ESQ., INTERIM VILLAGE ATTORNEY

ZONING INFORMATION:

ADDRESS = 85500, ISLAMORADA, FLORIDA
 PROPERTY = 253 ACRES / 109,393 SQUARE FEET
 UPLAND AREA = 1.80 ACRES / 78,293 SQUARE FEET
 D.O.T. LEASE = EAST = 0.48 ACRES / 21,000 SQUARE FEET
 WEST = 0.20 ACRES / 8,574 SQUARE FEET

ZONING = (1C) TOURIST COMMERCIAL

12 HOTEL UNITS = 1,444 S.F.
 RESTAURANT = 2,938 S.F.
 MIN LOT AREA = NOT APPLICABLE
 MAX HEIGHT = 35 FEET MEASURED FROM FEMA
 MIN YARDS = FRONT 25 FEET
 SIDE 10 FEET
 WATERFRONT 20 FEET

NOTE: EXISTING NON-CONFORMING REAR ENCROACHMENTS TO REMAIN

MAX LOT COVERAGE = NOT APPLICABLE
 FLOOD ZONE = AE @ FEET NGVD D.F.E. * 5' NGVD
 MAX F.A.R. = 0.35 BASED UPON UPLAND SQUARE FOOTAGE
 78,293 S.F. (X) @ 0.35 = 27,403 SQUARE FEET
 MAX SIZE = MAXIMUM PRINCIPAL BUILDING SIZE IS 10,000 S.F. OR MAXIMUM F.A.R. (WHICHEVER IS LESS)

EXISTING RESIDENTIAL S.F.:
 HOTEL 1 = 4,906
 HOTEL 2 = 814
 TOTAL RESIDENTIAL = 5,640

NEW RESIDENTIAL S.F.:
 HOTEL = 1,444
 NET BALANCE = (-) 3,804

EXISTING NON-RESIDENTIAL BUILDING S.F.:
 RESTAURANT = 4,124
 RESTAURANT TIKI = 1,334
 BAIT HOUSE = 187
 HOTEL RECEPTION = 1,851
 1 STORY COMM = 949
 SEWAGE TREAT = 800
 1 STORY RESTRM = 185
 TOTAL COMMERCIAL = 5,470

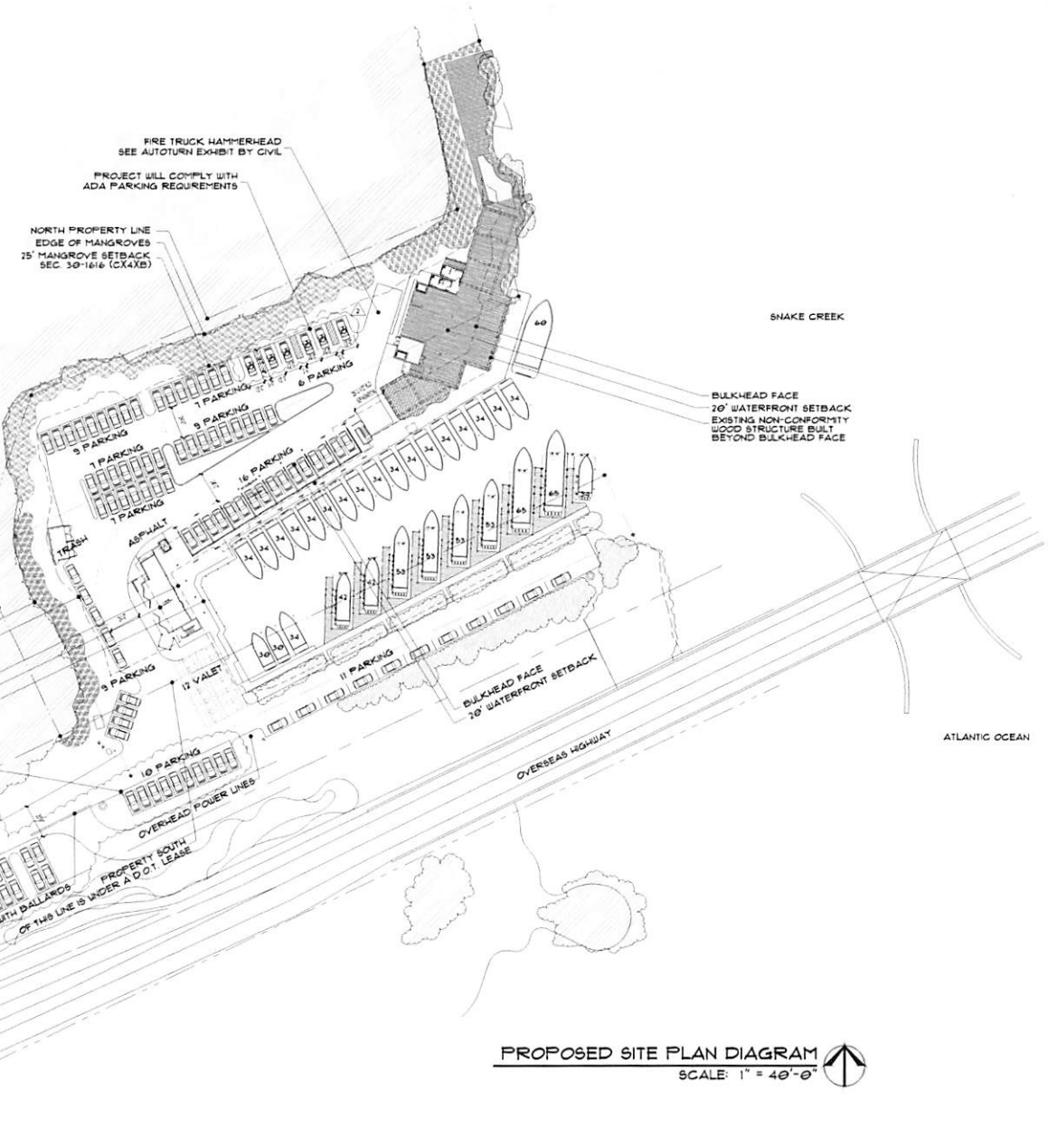
NEW NON-RESIDENTIAL BUILDING S.F.:
 RESTAURANT = 5,934
 NET BALANCE = (+) 3,476

MAXIMUM PRINCIPAL BUILDING SIZE
 MAXIMUM PRINCIPAL BUILDING SIZE: THE MAXIMUM NONRESIDENTIAL FLOOR AREA FOR A PRINCIPAL STRUCTURE SHALL BE 10,000 SQUARE FEET OR THE MAXIMUM INTENSITY (FLOOR AREA RATIO) ALLOWABLE PURSUANT TO THIS SECTION, WHICHEVER IS LESS.

FLOOR AREA RATIO (DEFINED)
 FLOOR AREA, NONRESIDENTIAL MEANS THE SUM OF THE GROSS FLOOR AREA FOR NONRESIDENTIAL STRUCTURES, AND ALL COVERED, UNENCLOSED AREAS USED FOR COMMERCIAL ACTIVITIES INCLUDING OUTDOOR SEATING AREAS, EXCEPT FOR WALKWAYS, STAIRWAYS, ENTRYPATHS, PARKING AND LOADING AREAS OR DRIVE-THROUGH CANOPIES, OUTDOOR STORAGE AND DISPLAY AREAS, TEMPORARY USES, TEMPORARY STRUCTURES, AND SPACE OCCUPIED BY TRANSIENT RESIDENTIAL AND INSTITUTIONAL RESIDENTIAL PRINCIPAL USES ARE NOT NONRESIDENTIAL FLOOR AREA. ADDITIONALLY, BOAT BARNs LEGALLY EXISTING PRIOR TO JANUARY 1, 2009, SHALL BE CONSIDERED NONRESIDENTIAL FLOOR AREA, WHILE THOSE LISTED TO 14,000 SQUARE FEET AND APPROVED AFTER JANUARY 1, 2009, SHALL NOT BE CONSIDERED NONRESIDENTIAL FLOOR AREA. ADDITIONALLY, PACKAGE SEWAGE TREATMENT FACILITIES THAT ARE LEGALLY EXISTING PRIOR TO SEPTEMBER 1, 2015 SHALL BE CONSIDERED NONRESIDENTIAL FLOOR AREA. PACKAGE SEWAGE TREATMENT FACILITIES THAT ARE PERMITTED AFTER SEPTEMBER 1, 2015 SHALL NOT BE CONSIDERED NONRESIDENTIAL FLOOR AREA. FLOOR AREA RATIO (FAR) MEANS THE TOTAL FLOOR AREA OF THE BUILDING OR BUILDINGS ON A LOT DIVIDED BY THE GROSS AREA OF THE LOT OR SITE.

PARKING CALCULATION		PARKING
RESTAURANT GROSS SQUARE FOOTAGE	2,938 S.F. (05-10000)	44.31 SPACES
HOTEL BUILDING (MIXED USE)	814 S.F. (3-10000)	2.62 SPACES
SHOWROOM	1065 S.F. (3-10000)	3.22 SPACES
HOTEL UNITS	12 UNITS (0-200)	12.00 SPACES
MARINA USES		
WET BLM'S	25 SLP'S (0-20-SLP)	5.80 SPACES
TOTAL PARKING REQUIRED		69 SPACES
TOTAL REQUIRED WITH (10) BICYCLE PARKING CREDITS		59 SPACES
TOTAL VEHICULAR PARKING PROVIDED		155 SPACES

FLOOR AREA RATIO (FAR) CALCULATION	
RESTAURANT DEFINED AREA	10,000 S.F. ALLOWED
SALES OFFICE / TRANSIENT BLD	814 S.F.
TOTAL ROOFED AREA	3,812 S.F. @ 0.45 FAR



PROPOSED SITE PLAN DIAGRAM
 SCALE: 1" = 40'-0"

*85500 Overseas Highway Marina Redevelopment
 Formerly Smugglers Cove Marina, Islamorada, Florida*