

RESOLUTION NO. 17-01-01

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, CONSIDERING THE REQUEST BY DMB INVESTMENT TRUST FOR A DOCK LENGTH VARIANCE FOR THE DEVELOPMENT OF A PIER-TYPE DOCK WITH A 2' X 195' ACCESS WALK CULMINATING IN A 96 SQUARE FOOT (6' X 16') TERMINAL PLATFORM, FOR A DOCKING FACILITY WITH A TOTAL FOOTPRINT OF 488 SQUARE FEET ON PROPERTY LOCATED AT 139 GIMPY GULCH DRIVE, PLANTATION KEY, AS LEGALLY DESCRIBED IN EXHIBIT "A;" PROVIDING FOR THE TRANSMITTAL OF THIS RESOLUTION TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, DMB Investment Trust, (the "Applicant") has submitted an application for a dock length variance pursuant to Section 30-1550(g) of the Code of Ordinances (the "Code") of Islamorada, Village of Islands, Florida (the "Village") to construct a pier-type dock with a two-foot by one hundred ninety five foot (2' x 195') access walk culminating in a 96 square foot (6' x 16') terminal platform, for a docking facility total footprint of 488 square feet (the "Request") on property located at 139 Gimpy Gulch Drive, Plantation Key, as legally described in Exhibit "A;" (the "Property"); and

WHEREAS, the Property is located within the Residential Single-Family (RI) Zoning District; and

WHEREAS, the Development Review Committee (the "DRC") considered the Request at a DRC meeting on August 16, 2016 and recommended DENIAL to the Director of Planning ("Director"); and

WHEREAS, the Director issued a Notice of Intent to deny the Request on September 6, 2016; and

WHEREAS, on January 5, 2017, the Village Council conducted a duly noticed public hearing regarding the Request.

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

Section 1. Findings of Fact.

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

- (1) The Application for dock length variance **does not** meet the requirements set forth in Code Section 30-1550(g) and **has not** demonstrated through competent substantial evidence that the criteria for granting the Request have been met; and
- (2) The Village Council **denies** the Request submitted by the Applicant.

Section 2. 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 Comprehensive Plan and the Code; and
- (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 contained within the record.

Section 3. Effective Date.

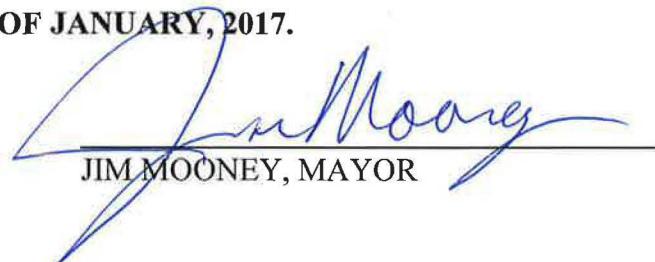
This Resolution shall not take effect until after both thirty (30) days following the date it is filed with the Village Clerk, during which time the Request herein shall be subject to appeal as provided in the Code; and following the thirty (30) days, this resolution shall not be effective or acted upon 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

The foregoing resolution offered by Councilwoman Cheryl Meads, who moved for its adoption on reading. This motion was seconded by Vice Mayor Chris Sante and upon being put to a vote, the vote is as follows:

FINAL VOTE AT ADOPTION
VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS:

Mayor Jim Mooney	YES
Vice Mayor Chris Sante	YES
Councilman Mike Forster	YES
Councilwoman Deb Gillis	YES
Councilwoman Cheryl Meads	YES

PASSED AND ADOPTED THIS 5TH DAY OF JANUARY, 2017.



Jim Mooney
JIM MOONEY, MAYOR

ATTEST:



Kelly S. Toth
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 10th day of January, 2017.

Kelly J. Toth
KELLY TOTH, VILLAGE CLERK

Exhibit "A"

Doc# 1854272
Bk# 2537 Pg# 175

PARCEL #1 (91850-000000): From a point on the East line of the Southeast 1/4 of Section 13, Township 63 South, Range 37 East, Plantation Key, Monroe County Florida, at the intersection of the Northwesterly right of way line of State Road No. 5 (formerly P.R.C. Railway) run Southwesterly along said right of way line a distance of 33 feet, more or less, to the Southwest corner of AMENDED PLAT OF OLLIWOOD, NO. 3, Plat Book 4, at Page 27, of the Public Records of Monroe County, Florida; thence continue Southwesterly along the said right of way line a distance of 450.75 feet; thence North and parallel with the said East line of Section 13, a distance of 719.8 feet to the Point of Beginning of the parcel hereinafter described; thence East at the right angles to last described corner, a distance of 252 feet; thence North and parallel to the said East line of Section 13, a distance of 256.1 feet, more or less, to the mean high tide line on the shore of the Bay of Florida; thence Northwesterly continuing said mean high tide line a distance of 271 feet, more or less, to a point directly North of the point of beginning; thence South and parallel to the said East line of Section 13, a distance of 255.2 feet, more or less, to the Point of Beginning.

PARCEL #2 (91870-00000): A tract of submerged land lying in Section 13, Township 63 South, Range 37 East, on PLANTATION KEY, Monroe County, Florida, which tract is more particularly described as follows:

From the intersection of the dividing line between OLLIWOOD NO. 2 AMENDED, according to a map or Plat thereof, recorded in Plat Book 4, Page 27 of the Public Records of Monroe County, Florida, and lot 9 of McDONALD PLAT, according to a map or Plat thereof, recorded in Plat Book 1, Page 61 of said Public Records, with the Northwesterly side of the Right-of-way of State Road No. 5 (U.S. No. 1) Run North 01 degrees 50' 04" West for 780.2 feet; thence run North 01 degrees 58' 00" East along the said dividing line for 103.7 feet; thence run North 01 degrees 30' 04" West along the said dividing line for 980.9 feet, more or less, to the mean high tide line on the shore of Florida Bay; thence run North 31 degrees 29' 14" West for 291.36 feet; thence run South 24 degrees 57' 51" West for 450.00 feet; thence run South 02 degrees 07' 09" East for 450.00 feet; thence run South 02 degrees 52' 51" West for 260.22 feet; thence run South 07 degrees 52' 51" West for 20.23 feet to an intersection of a Northwesterly prolongation of the exactly boundary of the Schmitz property and the Point of Beginning of the herein described tract of submerged land; thence said Point of Beginning continues South 57 degrees 52' 51" West for 222.00 feet to an intersection with a Northwesterly prolongation of the westerly boundary of the said Schmitz property; thence run South 01 degrees 45' 04" East along the said Northwesterly prolongation of the said Point of Beginning for 130 feet, more or less, to the high tide line on the shore of Florida Bay; thence Southwesterly continuing the said mean high tide line for 270 feet, more or less, to a point in the Easterly boundary of the said Schmitz property; thence run North 01 degrees 45' 04" West along a Northwesterly prolongation of the said Easterly boundary for 249.73 feet, more or less, to the Point of Beginning.

Together with all fixtures, etc., over, and across the following described parcel:

A parcel of land in Section 13, Township 63 South, Range 37 East on Plantation Key, Monroe County, Florida, being more particularly described as follows: Commences at the intersection of the East line of Section 13, Township 63 South, Range 37 East with the Northwesterly right of way line of State Road No. 3 (formerly P.R.C. Railway/ U.S. Highway No. 1); thence run Southwesterly along said right of way line for a distance of 513.13 feet, more or less, to the Southwesterly corner of lot 9, more or less, formerly of Carol Cottrell and the Point of Beginning of the parcel hereinafter described; thence run North, parallel with said East line of Section 13 for a distance of 719.82 feet, more or less, to the Southwesterly corner of lands described in Official Records Book 805, Page 1332 of the public records of Monroe County, Florida; thence run East along said lands for a distance of 33.00 feet; thence run North, parallel to said East line of Section 13 for a distance of 705.62 feet, more or less, to the Northwesterly right of way line of State Road No. 5; thence run Southwesterly along said right of way line for a distance of 37.66 feet to the Point of Beginning.

Excepting therefrom that portion designated as Unit E as set forth in the Declaration of Condominium recorded in Official Records Book 2341, Page 1987 of the Public Records of Monroe County, Florida.

CERTIFICATE OF SERVICE

A true and correct copy of the above and foregoing Resolution was furnished to the Applicant, via U.S. certified mail, return receipt requested, addressed to John Jabro, Esq., 90311 Overseas Highway, Suite B, Tavernier, FL 33070, this 11 day of Jan, 2017.

Kelly S. Toth
Kelly Toth, Village Clerk