

RESOLUTION NO. 24-12-142

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, CONSIDERING THE REQUEST OF LAH ISLANDER LLC FOR A TRANSFER OF DEVELOPMENT RIGHTS OF FIVE OR MORE HOTEL/MOTEL UNITS FROM THE PROPERTY LOCATED AT 90611,90655, 90691 AND 90701 OLD HIGHWAY IN TAVERNIER WITH REAL ESTATE NUMBERS 00437590-000000, 00437610-000000, 00437630-000000 AND 00437640-000000 AS LEGALLY DESCRIBED HEREIN TO PROPERTY LOCATED AT 82100 AND 81998 OVERSEAS HIGHWAY AND 132 CARROLL STREET ON UPPER MATECUMBE KEY, WITH REAL ESTATE NUMBERS 00400810-000000 AND 00400450-000000 AS LEGALLY DESCRIBED HEREIN; PROVIDING FOR THE TRANSMITTAL OF THIS RESOLUTION TO THE FLORIDA DEPARTMENT OF COMMERCE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, LAH Creekside LLC applied for the Transfer of Development Rights pursuant to Section 30-503 of the Code of Ordinances Islamorada, Village of Islands, FL on April 16, 2024, to transfer fifty (50) hotel/motel units from the real property located at 90611, 90655, 90691 AND 90701 Old Highway in Tavernier with Real Estate Numbers 00437590-000000, 00437610-000000, 00437630-000000 and 00437640-000000 (Sender Site) to the real property located at 82100 Overseas Highway and 81998 Old Highway and 132 Carroll Street on Upper Matecumbe Key, with real estate numbers 00400810-000000, 00400400-000000 and 00400450-000000 (Receiver Site); and

WHEREAS, the Staff reviewed the Request and recommended approval with conditions of the Request; and

WHEREAS, pursuant to the applicable provisions of the Code, the Staff Report dated August 8, 2024 recommended to the Village Council that the Request be approved with conditions; and

WHEREAS, the Village Council conducted a duly noticed Public Hearing regarding the application for Transfer of Development Rights and has considered the Request, the relevant supporting materials, the Staff's recommendations, public testimony and evidence given.

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 into this Resolution by this reference.

Section 2. **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 a Transfer of Development Rights meets the requirements set forth in Village Code Chapter 30, Article IV, Division 12-Transfer of Development Rights and has demonstrated through competent substantial evidence that the criteria for granting the Request have been met.

(2) 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 affecting the removal of the fifty (50) development rights proposed for transfer from the Sender Site.

(3) 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 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; and
- (3) Imposed the following Conditions:
1. This approval shall not take effect prior to the effective date of the Resolution approving Major Conditional Use Application PLCUP20220131.
 2. Upon approval of the Major Conditional Use PLCUP20220131, the Village shall record the executed Declaration of Covenants, Conditions, and Restrictions provided herein, removing the fifty (50) hotel/motel development rights from the Sender Site.
 3. No occupancy permits shall be issued to the transferred units at the Receiver Site until occupancy permits are issued for Workforce/Affordable Housing at the Sender Site.

Section 4. Effective Date.

This approval shall not take effect prior to the effective date of the Resolution approving Major Conditional Use Application PLCUP20220131. 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 Commerce ("DOC"), pursuant to Chapter 9J-1 of the Florida Administrative Code. During those forty-five (45) days, the DOC 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 Councilwoman Gillis, second by Councilman Horton.

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

Mayor Sharon Mahoney	NO
Vice Mayor Don Horton	YES
Councilman Joseph B. Pinder III	YES
Councilwoman Deb Gillis	YES
Councilman Steve Friedman	NO

PASSED AND ADOPTED THIS 12th DAY OF DECEMBER, 2024

Sharon Mahoney
SHARON MAHONEY, MAYOR

ATTEST:

Marne McGrath
MARNE MCGRATH, VILLAGE CLERK

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

John J. Quick
JOHN J. QUICK, INTERIM VILLAGE ATTORNEY

