

**RESOLUTION NO. 19-03-09**

**A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, CONSIDERING ADMINISTRATIVE APPEAL NO. PLADA20180233 FILED BY MARTIN A. DIAZ-YABOR, RELATING TO AN ADMINISTRATIVE DECISION AND INTERPRETATION BY THE DIRECTOR OF PLANNING FOR PROPERTY LOCATED AT 87301 OLD HIGHWAY, ON PLANTATION KEY, ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, WITH PARCEL IDENTIFICATION NUMBER 0093290-000000, AS LEGALLY DESCRIBED IN EXHIBIT "A"; AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, on December 5, 2018, Martin A. Diaz-Yabor, (the "Appellant") filed Administrative Appeal No. PLADA20180233 (the "Appeal") pursuant to Section 30-281 of the Code of Ordinances of Islamorada, Village of Islands (the "Village"); and

**WHEREAS**, the purpose of the Appeal is to seek the Village Council's review of a determination made by the Director of Planning (the "Director") regarding the findings set forth in Pre-Application Conference Application No. PLPRE20180080, specifically for determination of the number of legally established dwelling units on Appellant's property located at 87301 Old Highway, as legally described in Exhibit "A" attached hereto; and

**WHEREAS**, on March 14, 2019 a duly noticed public hearing was held before the Village Council pursuant to Section 30-281 of the Village Code of Ordinances (the "Code").

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

**Section 1. Findings of Fact.**

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

- (1) The Council heard the Appeal on March 14, 2019.
- (2) The hearing was duly noticed pursuant to Section 30-213(j) of the Village Code and all interested parties concerned in the matter were given an opportunity to be heard.
- (3) The Director presented the written recommendation of the Village Staff dated March 14, 2019 to the Village Council.
- (4) The Director's interpretation of the Code is **not** supported by the facts presented.
- (5) The granting of the appeal determining the existence of one (1) legally established residential dwelling unit(s) is supported by the facts and documents presented.

**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 Appeal has been processed in accordance with the Village's Comprehensive Plan and Land Development Regulations, including Section 30-281 of the Village 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 of record; and
- (3) In accordance with Sections 30-281(d), (e) and (f) of the Village Code, the Administrative Appeal submitted by Martin A. Diaz-Yabor is hereby **GRANTED**.

**Section 3. Effective Date.**

This Resolution shall not become effective until approved pursuant to Final Order by the State Department of Economic Opportunity (“DEO”) pursuant to Section 163.3184, Florida Statutes or if the Final Order is challenged until the challenge to the order is resolved pursuant to Chapter 380.05, Florida Statutes.

Motion to adopt by Vice Mayor Mike Forster, second by Councilman Ken Davis.

**FINAL VOTE AT ADOPTION**

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

Mayor Deb Gillis	YES
Vice Mayor Mike Forster	YES
Councilman Ken Davis	YES
Councilwoman Cheryl Meads	ABSENT
Councilwoman Jim Mooney	YES

**PASSED AND ADOPTED THIS 14<sup>TH</sup> DAY OF MARCH, 2019.**

  
\_\_\_\_\_  
DEB GILLIS, MAYOR

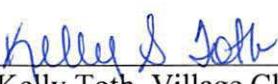
ATTEST:

  
\_\_\_\_\_  
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 15 day of March, 2019.

  
\_\_\_\_\_  
Kelly Toth, Village Clerk

## **EXHIBIT "A"**

**Legal Description:** Parcel No. 1 (OR 266-124 126) On the Island of Plantation Key, known as MACDONALD'S PLAT OF GOVERNMENT LOT 3, 5 and 6 of SECTION 18, TOWNSHIP 63 SOUTH, RANGE 38 EAST, recorded in Plat Book 1, at Page 101 of Public Records of Monroe County, Florida as follows: The Easterly on half of Lot 3, having a frontage of 272 feet, 6 inches along the Florida East Coast Railway right-of-way and a frontage of 300 feet, more or less, along the Atlantic Ocean, containing 119,922 Square Feet or 2.75 Acres more or less by calculations.

Legal Description by Form Tech Land Surveying, Inc. State of Florida LB #7980  
Eugenia L. Formoso, P.S.M State of Florida LS # 6660  
Date 05-22-2017

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 Martin A. Diaz- Yabor, 14973 SW 16<sup>th</sup> Street, Miami, FL 33185 this 18 day of March, 2019.

Kelly S. Toth  
Kelly S. Toth, Village Clerk