RESOLUTION NO. 17-05-33

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, CONSIDERING ADMINISTRATIVE APPEAL NO. AA 16-04 FILED BY ISLAND CONSTRUCTION MANAGEMENT, INC. ON BEHALF OF STACEY TELENZAK RELATING TO AN ADMINISTRATIVE DECISION AND INTERPRETATION BY THE DIRECTOR OF PLANNING AND DEVELOPMENT SERVICES FOR PROPERTY LOCATED AT 84961 OLD HIGHWAY, UNIT 27, ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AS LEGALLY DESCRIBED IN EXHIBIT “A”; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, on May 11, 2016, Island Construction Management, Inc. on behalf of Stacey Telenzak, (the “Appellants”) filed Administrative Appeal AA No. 16-04 (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 was to seek the Village Council’s review of a determination made by the Director of Planning (the “Director”) regarding Appellants’ denial of an “After the Fact” building permit application PRBLD201501768 for an elevated walkway and chickee hut, with Appellant’s property located at 84961 Old Highway, Unit 27, as legally described in Exhibit “A” attached hereto; and

WHEREAS, on September 22, 2016, a duly noticed public hearing was held before the Village Council pursuant to Section 30-281 of the Village Code and at that hearing, pursuant to a motion by Village Council, the Administrative Appeal was postponed for up to 180 days for the applicant to provide new plans that were materially different with a new survey and variance application; and

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WHEREAS, on April 20, 2017 a duly noticed public hearing was held before the Village Council pursuant to Section 30-281 of the Village 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:


(2) The hearing was 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 to the Village Council the written recommendation of the Village Staff dated September 22, 2016 and April 20, 2017.

(4) The Director’s interpretation of the Code is supported by the facts presented.

(5) The granting of an elevated deck and chickee hut is not 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 by Island Construction Management, Inc. on behalf of Stacey Telenzak is hereby DENIED.

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.

This Resolution shall not take effect until Final Order approval by the DEO and thirty (30) days following the date it is filed with the Village Clerk. If during that time frame, the decision of the Village Council is appealed as provided in the Village Code and the Florida Rules of Appellate Procedure, such appeal shall stay the effectiveness of this Resolution until the appeal is resolved by a court of competent jurisdiction.

Motion to adopt by Councilwoman Cheryl Meads, second by Councilman Mike Forster.

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 4TH DAY OF MAY, 2017.
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 9 day of May, 2017.

Kelly Toth, Village Clerk
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 Stacey Telenzak., 5570 Frost Lane, Delray Beach, FL 33484 this 10 day of May, 2017.

[Signature]
Kelly Torn, Village Clerk
Legal Description:
Unit 27, WINDLEY KEY MOBILE HOME PARK CONDOINIMUM, according to the Official Condominium Documents, as recorded in Official Record Book 2228, Page 1830, of the Public Records of Monroe County, Florida.