RESOLUTION NO. 14-01-05

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, CONSIDERING ADMINISTRATIVE APPEAL NO. AA 14-01 FILED BY SAMMY T. AND PATRICIA A. SPARKS, RELATING TO AN ADMINISTRATIVE DECISION AND INTERPRETATION BY THE DIRECTOR OF PLANNING AND DEVELOPMENT SERVICES FOR PROPERTY LOCATED AT 87847 OVERSEAS HIGHWAY, ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AS LEGALLY DESCRIBED IN EXHIBIT “A”; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, on November 19, 2013, Sammy T. and Patricia A. Sparks, (the “Appellant”) filed Administrative Appeal AA No. 14-01 (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 and Development Services (the “Director”) regarding Appellant’s inability to substantiate the existence of a legally established residential dwelling unit associated with Appellant’s property located at 87847 Overseas Highway, as legally described in Exhibit “A” attached hereto; and

WHEREAS, on January 23, 2014, 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 January 23, 2014.

(4) The Director’s interpretation of the Code is not supported by the facts presented.

(5) The granting of the legally established residential dwelling unit 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 by Sammy T. and Patricia A. Sparks is hereby APPROVED.

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 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.

The foregoing Resolution was offered by Councilman Philipson, who moved for its adoption. This motion was seconded by Councilman Forster, and upon being put to a vote, the vote was as follows:

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

Mayor Ted Blackburn       YES
Vice Mayor Deb Gillis     YES
Councilman Mike Forster   YES
Councilman Ken Philipson  YES
Councilman Dave Purdo     YES

PASSED AND ADOPTED THIS 23rd DAY OF JANUARY, 2014.

TED BLACKBURN, MAYOR

ATTEST:

ANITA MUXO, ACTING VILLAGE CLERK

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

ROGET V. BRYAN, VILLAGE ATTORNEY