RESOLUTION NO. 15-09-91

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, CONSIDERING ADMINISTRATIVE APPEAL NO. AA-15-02 FILED BY LORI BLAIR, BETH KAMENSTEIN, KIPPS (KEEP ISLAMORADA PEACEFUL PROSPEROUS AND SAFE) AND BAY HAMMOCK HOMEOWNERS ASSOCIATION INC., RELATING TO AN ADMINISTRATIVE DECISION AND INTERPRETATION BY THE DIRECTOR OF PLANNING AND DEVELOPMENT SERVICES FOR PROPERTY LOCATED AT 83224-83274 OVERSEAS HIGHWAY, ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AS LEGALLY DESCRIBED IN EXHIBIT “A”; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, on May 22, 2015, Lori Blair, Beth Kamenstein, KIPPS (Keep Islamorada Peaceful Prosperous and Safe) and Bay Hammock Homeowners Association Inc., (the “Appellants”) filed Administrative Appeal No. AA-15-01 (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 (the “Director”) regarding Minor Deviation MD-15-02 (the “Minor Deviation”) which amended Major Conditional Use MJ-14-02 (the “Major Conditional Use”) for property located at 83224-83274 Overseas Highway, as legally described in Exhibit “A” attached hereto; and

WHEREAS, on September 10, 2015, 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:

(1) The Council heard the Appeal on September 10, 2015.

(2) The hearing was noticed pursuant to Section 30-213 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 10, 2015.

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

(5) The granting of the Administrative Appeal 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 the Appellants 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.

The foregoing Resolution was offered by Councilman Dennis Ward, who moved for its adoption. This motion was seconded by Vice Mayor Deb Gillis, and upon being put to a vote, the vote was as follows:

FINAL VOTE AT ADOPTION

VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS

Mayor Mike Forster YES
Vice Mayor Deb Gillis YES
Councilman Jim Mooney NO
Councilman Chris Sante YES
Councilman Dennis Ward YES

PASSED AND ADOPTED THIS 10TH DAY OF SEPTEMBER, 2015.

MIKE FORSTER, MAYOR
ATTEST:

[Signature]

KELLY TOOTH, VILLAGE CLERK

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

[Signature]

ROGER V. BRYAN, VILLAGE ATTORNEY
Exhibit “A”

PARCEL 1:
FROM A GALVANIZED IRON PIPE AT THE NORTH EAST CORNER OF THE TOWNSHIP OF ISLAMORADA, ACCORDING TO THE PLAT THEREOF PUBLIC RECORDS, RUN NORTHEASTERLY ON THE NORTH WESTERLY RIGHT-OF-WAY LINE OF THE OVERSEAS HIGHWAY (FORMERLY THE FLORIDA EAST COAST RAILWAY) A DISTANCE OF 1,780.0 FEET TO THE POINT OF BEGINNING OF THE TRACT OF LAND HEREINAFTER DESCRIBED; THEN RUN NORTHEASTERLY AT RIGHT ANGLES TO THE SAID NORTH WESTERLY RIGHT-OF-WAY LINE A DISTANCE OF 200 FEET, THEN RUN SOUTH WESTERLY AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE A DISTANCE OF 100 FEET TO THE NORTH WESTERLY RIGHT-OF-WAY LINE, THEN RUN SOUTH WESTERLY ALONG SAID RIGHT-OF-WAY LINE A DISTANCE OF 100 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED PROPERTY IS SHOWN AS LOT 2 ON THE MAP AS SHOWN FOLLOWING DESCRIBED IN DEED BOOK 11, PAGE 17, IN THE SUBDIVISION OF A PORTION OF GOVERNMENT LOT 1, SECTION 27, AND A PORTION OF GOVERNMENT LOT 2, SECTION 28, TOWNSHIP 63 SOUTH, RANGE 37 EAST, SEE ALSO RECORDS BOOK 11, PAGE 252, OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA, DEED DATED JUNE 28, 1957.

TOGETHER WITH:

PARCEL 2:
LOT 3 ON THE MAP OF A PORTION OF A GOVERNMENT LOT 1, SECTION 27, AND A PORTION OF GOVERNMENT LOT 2, SECTION 28, TOWNSHIP 63 SOUTH, RANGE 37 EAST, MORE PARTICULARLY DESCRIBED AS:
LOT 3, FROM A GALVANIZED IRON PIPE AT THE NORTH EAST CORNER OF THE TOWNSHIP OF ISLAMORADA, ACCORDING TO THE PLAT FILED IN MONROE COUNTY PUBLIC RECORDS, RUN NORTHEASTERLY ON THE NORTH WESTERLY RIGHT-OF-WAY LINE OF THE OVERSEAS HIGHWAY (FORMERLY THE FLORIDA EAST COAST RAILWAY) A DISTANCE OF 1,580.5 FEET TO THE POINT OF BEGINNING OF THE TRACT OF LAND HEREINAFTER DESCRIBED; THEN RUN NORTHEASTERLY AT RIGHT ANGLES TO THE SAID NORTH WESTERLY RIGHT-OF-WAY LINE OF THE OVERSEAS HIGHWAY A DISTANCE OF 200 FEET, THEN RUN NORTHEASTERLY PARALLEL TO THE SAID NORTH WESTERLY RIGHT-OF-WAY LINE OF THE OVERSEAS HIGHWAY A DISTANCE OF 100 FEET, THEN RUN SOUTH WESTERLY AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE A DISTANCE OF 200 FEET TO THE SAID NORTH WESTERLY RIGHT-OF-WAY LINE, THEN RUN SOUTH WESTERLY ALONG SAID RIGHT-OF-WAY LINE A DISTANCE OF 100 FEET TO THE POINT OF BEGINNING.

PARCEL 3:
LOT 4, FROM A GALVANIZED IRON PIPE AT THE NORTH EAST CORNER OF THE TOWNSHIP OF ISLAMORADA, ACCORDING TO THE PLAT FILED IN MONROE COUNTY PUBLIC RECORDS, RUN NORTHEASTERLY ON THE NORTH WESTERLY RIGHT-OF-WAY LINE OF THE OVERSEAS HIGHWAY (FORMERLY THE FLORIDA EAST COAST RAILWAY) A DISTANCE OF 1,680.5 FEET TO THE POINT OF BEGINNING OF THE TRACT OF LAND HEREINAFTER DESCRIBED; THEN RUN NORTHEASTERLY AT RIGHT ANGLES TO THE SAID NORTH WESTERLY RIGHT-OF-WAY LINE OF THE OVERSEAS HIGHWAY A DISTANCE OF 200 FEET, THEN RUN NORTHEASTERLY PARALLEL TO THE SAID NORTH WESTERLY RIGHT-OF-WAY LINE OF THE OVERSEAS HIGHWAY A DISTANCE OF 100 FEET, THEN RUN SOUTH WESTERLY AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE A DISTANCE OF 200 FEET TO THE SAID NORTH WESTERLY RIGHT-OF-WAY LINE, THEN RUN SOUTH WESTERLY ALONG SAID RIGHT-OF-WAY LINE A DISTANCE OF 100 FEET TO THE POINT OF BEGINNING.

PARCEL 4:
LOT 5, FROM A GALVANIZED IRON PIPE AT THE NORTH EAST CORNER OF THE TOWNSHIP OF ISLAMORADA, ACCORDING TO THE PLAT FILED IN MONROE COUNTY PUBLIC RECORDS, RUN NORTHEASTERLY ON THE NORTH WESTERLY RIGHT-OF-WAY LINE OF THE OVERSEAS HIGHWAY (FORMERLY THE FLORIDA EAST COAST RAILWAY) A DISTANCE OF 1,780.0 FEET TO THE POINT OF BEGINNING OF THE TRACT OF LAND HEREINAFTER DESCRIBED; THEN RUN NORTHEASTERLY AT RIGHT ANGLES TO THE SAID NORTH WESTERLY RIGHT-OF-WAY LINE OF THE OVERSEAS HIGHWAY A DISTANCE OF 200 FEET, THEN RUN NORTHEASTERLY PARALLEL TO THE SAID NORTH WESTERLY RIGHT-OF-WAY LINE OF THE OVERSEAS HIGHWAY A DISTANCE OF 100 FEET, THEN RUN SOUTH WESTERLY AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE A DISTANCE OF 200 FEET TO THE SAID NORTH WESTERLY RIGHT-OF-WAY LINE, THEN RUN SOUTH WESTERLY ALONG SAID RIGHT-OF-WAY LINE A DISTANCE OF 100 FEET TO THE POINT OF BEGINNING.

PARCEL 2:
A PART OF GOVERNMENT LOT 2, IN SECTION 28, TOWNSHIP 63 SOUTH, RANGE 37 EAST, IN UPPER MATCUMBRIME KEY, MONROE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: FROM A CONCRETE MONUMENT ON THE NORTH WESTERLY RIGHT-OF-WAY LINE OF THE OVERSEAS HIGHWAY, AND AT THE NORTH EAST CORNER OF THE TOWNSHIP OF ISLAMORADA, AS PER PLAT RECORDED IN PLAT BOOK 1, PAGE 48, PUBLIC RECORDS OF MONROE COUNTY, FLORIDA, RUN NORTHEASTERLY ON THE SAID NORTH WESTERLY RIGHT-OF-WAY LINE A DISTANCE OF 1,780.0 FEET TO THE POINT OF BEGINNING OF THE TRACT OF LAND HEREINAFTER DESCRIBED; THEN CONTINUE NORTH WESTERLY ON THE LAST DESCRIBED COURSE, A DISTANCE OF 112.6 FEET, OR MINUS TO THE NORTH LINE OF GOVERNMENT LOT 2, THEN EAST ON THE SAID NORTH LINE OF GOVERNMENT LOT 2, A DISTANCE OF 135.1 FEET, THEN SOUTH WESTERLY WITH A DEVIATION ANGLE OF 74º 44' TO THE RIGHT, A DISTANCE OF 218.8 FEET, THEN SOUTH WESTERLY PARALLEL WITH THE SAID NORTH WESTERLY RIGHT-OF-WAY LINE A DISTANCE OF 100 FEET TO THE POINT OF BEGINNING.

PARCEL 3:
LOT 6, FROM A GALVANIZED IRON PIPE AT THE NORTH EAST CORNER OF THE TOWNSHIP OF ISLAMORADA, ACCORDING TO THE PLAT FILED IN MONROE COUNTY PUBLIC RECORDS, RUN NORTHEASTERLY ON THE NORTH WESTERLY RIGHT-OF-WAY LINE OF THE OVERSEAS HIGHWAY (FORMERLY THE FLORIDA EAST COAST RAILWAY) A DISTANCE OF 1,880.5 FEET TO THE POINT OF BEGINNING OF THE TRACT OF LAND HEREINAFTER DESCRIBED; THEN RUN NORTH WESTERLY AT RIGHT ANGLES TO THE SAID NORTH WESTERLY RIGHT-OF-WAY LINE OF THE OVERSEAS HIGHWAY A DISTANCE OF 200 FEET, THEN RUN NORTHEASTERLY PARALLEL TO THE SAID NORTH WESTERLY RIGHT-OF-WAY LINE OF THE OVERSEAS HIGHWAY A DISTANCE OF 100 FEET, THEN RUN SOUTH WESTERLY AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE A DISTANCE OF 200 FEET TO THE SAID NORTH WESTERLY RIGHT-OF-WAY LINE, THEN RUN SOUTH WESTERLY ALONG SAID RIGHT-OF-WAY LINE A DISTANCE OF 100 FEET TO THE POINT OF BEGINNING.

PARCEL 4:
DESCRIPTION OF A PARCEL NORTH WESTERLY OF EARL L. KNOWLES PROPERTY, A PART OF GOVERNMENT LOT 1, SECTION 27, AND GOVERNMENT LOT 2, IN SECTION 28, ALL IN TOWNSHIP 63 SOUTH, RANGE 37 EAST ON UPPER MATCUMBRIME KEY, MONROE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: FROM A CONCRETE MONUMENT ON THE NORTH WESTERLY RIGHT-OF-WAY LINE OF THE OVERSEAS HIGHWAY, AND AT THE NORTH EAST CORNER OF THE TOWNSHIP OF ISLAMORADA, AS PER PLAT RECORDED IN PLAT BOOK 1, PAGE 59, PUBLIC RECORDS OF MONROE COUNTY, FLORIDA, RUN NORTHEASTERLY ON THE SAID NORTH WESTERLY RIGHT-OF-WAY LINE A DISTANCE OF 1,880.5 FEET, THEN RUN NORTH WESTERLY AT RIGHT ANGLES TO THE SAID NORTH WESTERLY RIGHT-OF-WAY LINE A DISTANCE OF 200 FEET TO THE POINT OF BEGINNING OF THE TRACT HEREINAFTER DESCRIBED; THEN CONTINUE NORTH WESTERLY ON THE LAST DESCRIBED COURSE, A DISTANCE OF 218.8 FEET TO THE NORTH LINE OF GOVERNMENT LOT 2, A DISTANCE OF 30.5 FEET TO THE NORTH EAST CORNER OF GOVERNMENT LOT 2 IN SECTION 28, TOWNSHIP 63 SOUTH, RANGE 37 EAST, AND A DISTANCE OF 127.0 FEET, THEN RUN SOUTH WESTERLY AT RIGHT ANGLES TO THE SAID NORTH WESTERLY RIGHT-OF-WAY LINE OF THE OVERSEAS HIGHWAY A DISTANCE OF 95.9 FEET, THEN RUN SOUTH WESTERLY PARALLEL WITH THE SAID NORTH WESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 110.0 FEET TO THE POINT OF BEGINNING.
A PORTION OF GOVERNMENT LOT 1 IN SECTION 27, TOWNSHIP 63 SOUTH, RANGE 37 EAST, MONROE COUNTY, FLORIDA, ALL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHERLY CORNER OF LOT 1 OF "THE HAMMOCK" ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 3, PAGE 50, OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA; THENCE SOUTH 46°09'58" WEST ON THE SOUTHWESTERLY EXTENSION OF THE SOUTHEASTERLY LINE OF SAID LOT 1, ALSO BEING THE NORTHWESTERLY RIGHT-OF-WAY LINE OF OVERSEAS HIGHWAY (U.S. HIGHWAY NO. 1) FOR 270.50 FEET; THENCE NORTH 43°50'02" WEST 298.17 FEET TO THE INTERSECTION WITH THE WEST LINE OF SAID SECTION 27, ALSO BEING THE EAST LINE OF "BAY HAMMOCK COMMUNITY", ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 7, PAGE 30 OF SAID PUBLIC RECORDS; THENCE NORTH 01°39'47" WEST ON SAID WEST LINE AND ON SAID EAST LINE 2.47 FEET TO THE INTERSECTION WITH A LINE 300 FEET NORTHWESTERLY OF AND PARALLEL WITH THE AFOREMENTIONED NORTHWESTERLY RIGHT-OF-WAY LINE; THENCE NORTH 46°09'58" EAST ON SAID PARALLEL LINE 288.84 FEET TO THE WESTERLY CORNER OF LOT 6 OF SAID PLAT, THENCE SOUTH 43°50'02" EAST ON THE SOUTHWESTERLY LINE OF "THE HAMMOCK" PLAT 300.00 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE, LYING AND BEING IN MONROE COUNTY, FLORIDA AND CONTAINING 81,146 SQ FEET, 1.8629 ACRES.