

After recording return to:
Planning and Development Services Dept.
Islamorada, Village of Islands
86800 Overseas Hwy
Islamorada FL 33036
RE #'s 00432070-000000, 00432060-000000,
00432090-000000

RESOLUTION NO. 20-06-44

(File No.: PLVAR20200077)

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, CONSIDERING THE REQUEST OF AXIS DEVELOPMENT, LLC, FOR A VARIANCE FROM THE PROVISIONS OF SECTION 30-814 (SCENIC CORRIDOR AND MAJOR STREET BUFFERYARDS), TO ALLOW FOR A REDUCTION IN THE REQUIRED CLASS "D" BUFFERYARD BETWEEN THE SUBJECT PROPERTY AND OVERSEAS HIGHWAY FROM A MAXIMUM WIDTH OF THIRTY (30) FEET TO ZERO (0) FEET, FOR PROPERTY LOCATED AT 90230 OVERSEAS HIGHWAY, 90270 OVERSEAS HIGHWAY, AND 5 PALM AVENUE ON PLANTATION KEY WITHIN THE VC (VILLAGE CENTER) ZONING DISTRICT, WITH REAL ESTATE NUMBERS 00432070-000000, 00432060-000000, AND 00432090-000000, AS LEGALLY DESCRIBED HEREIN; PROVIDING FOR THE TRANSMITTAL OF THIS RESOLUTION TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Axis Development, (the "Applicant") has submitted an application for a Variance from Section 30-814 (Scenic Corridor and Major Street Bufferyards) of the Code of Ordinances (the "Code") of Islamorada, Village of Islands, Florida (the "Village") to allow for the reduction of a required bufferyard from a maximum of 30 (thirty) feet to Zero (0) feet for property located at 90230 Overseas Highway, 90270 Overseas Highway, and 5 Palm Avenue Highway within the Village, as legally described herein (the "Property"); and,

WHEREAS, the Property is located within the VC (Village Center) Zoning District; and

WHEREAS, the Director of Planning (the "Director") sent a Notice of Public Hearing to adjacent property owners and posted a sign on the subject properties on June 3, 2020; and,

WHEREAS, on June 18, 2020, the Village Council conducted a duly noticed public hearing regarding the Request.

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

Section 1. Recitals. The above recitals are true and 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 Variance **does** meet the requirements set forth in Code Section 30-222 and the Applicant **has** demonstrated through competent substantial evidence that the criteria for granting the Request have been met; and
- (2) The Village Council **approves** the Request submitted by the Applicant, which is attached as Exhibit "A" and incorporated herein by this reference, for the following described property:

THE SOUTH 40 FEET OF LOT 16, AND LOTS 17, 18, 19 AND 20, BLOCK 18, 'PLANTATION KEY COLONY, FIRST ADDITION', ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 4, PAGE 4, PUBLIC RECORDS OF MONROE COUNTY, FLORIDA; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHWEST CORNER OF SAID LOT 20; THENCE N49°19'43"E, ALONG THE WEST LINE OF SAID LOT 20, A DISTANCE OF 124.92 FEET TO A POINT OF INTERSECTION WITH THE BOAT BASIN RIGHT-OF-WAY AS SHOWN ON SAID 'PLANTATION KEY COLONY, FIRST ADDITION' PLAT; THENCE EASTERLY AND NORTHEASTERLY, ALONG SAID BOAT BASIN RIGHT-OF-WAY, AND ALONG THE NORTH LINE OF SAID LOT 20, THE WEST LINE OF SAID LOT 17 AND THE WEST LINE OF SAID LOT 16, AND ALONG THE ARC OF SAID CURVE, HAVING FOR ITS ELEMENTS A RADIUS OF 40.00 FEET, A CENTRAL ANGLE OF 58°15'26", AN ARC DISTANCE OF 40.67 FEET, A CHORD DISTANCE OF 38.94 FEET, AND A CHORD BEARING OF N80°03'03"E TO A POINT OF TANGENCY; THENCE N00°18'24"W, CONTINUING ALONG THE WEST LINE OF SAID LOT 16, A DISTANCE OF 29.07 FEET; THENCE S70°01'51"E, ALONG A LINE 40 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF SAID LOT 16, A DISTANCE OF 126.85 FEET TO A POINT OF INTERSECTION WITH THE WEST RIGHT-OF-WAY LINE OF OVERSEAS HIGHWAY (U.S. 1 / STATE ROAD NO. 5) (100 FOOT RIGHT-OF-WAY ACCORDING TO FDOT STATE ROAD NO. 5 RIGHT-OF-WAY MAP SECTION 90060); THENCE S19°58'09"W, ALONG SAID WEST RIGHT-OF-WAY LINE OF OVERSEAS HIGHWAY, AND ALONG THE EAST LINE OF SAID LOTS 16 THROUGH 19, A DISTANCE OF 165.00 FEET TO A POINT OF CURVATURE OF A CIRCULAR CURVE,

CONCAVE TO THE NORTH; THENCE SOUTHWESTERLY, WESTERLY AND NORTHWESTERLY ALONG THE ARC OF SAID CURVE, HAVING FOR ITS ELEMENTS A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 90°00'00", AN ARC DISTANCE OF 39.27 FEET, A CHORD DISTANCE OF 35.36 FEET, AND A CHORD BEARING OF S64°58'09"W TO A POINT OF TANGENCY; THENCE N70°01'51"W, ALONG THE NORTH RIGHT-OF-WAY LINE OF PALM AVENUE (50 FOOT RIGHT-OF-WAY ACCORDING TO SAID 'PLANTATION KEY COLONY, FIRST ADDITION' PLAT), AND ALONG THE SOUTH LINE OF SAID LOTS 19 AND 20, TO THE POINT OF BEGINNING.

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 Comprehensive Plan and the 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.

Section 4. Effective Date.

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 the 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 Department of Economic Opportunity (DEO), pursuant to Chapter 9J-1 of the Florida Administrative Code. During those forty-five (45) days, the DEO 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 Councilman Chris Sante, second by Councilman Jim Mooney.

FINAL VOTE AT ADOPTION

VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS:

Mayor Mike Forster	YES
Vice-Mayor Ken Davis	YES
Councilwoman Deb Gillis	YES
Councilman Jim Mooney	YES
Councilman Chris Sante	YES

PASSED AND ADOPTED THIS 18TH DAY OF JUNE, 2020.



MIKE FORSTER, 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 19th day of June, 2020.



KELLY TOTH, VILLAGE CLERK

Exhibit "A"

