

ORDINANCE NO. 13-18

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING THE COMPREHENSIVE PLAN BY MODIFYING PROVISIONS TO THE CAPITAL IMPROVEMENTS ELEMENT; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE UPON APPROVAL OF THIS ORDINANCE BY THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY

WHEREAS, pursuant to Chapter 163, Part II, Florida Statutes, Islamorada, Village of Islands, Florida (the “Village”) proposes to amend (the “Amendment”) the Village Comprehensive Plan (the “Comprehensive Plan”) as provided for in Exhibit “A”; and

WHEREAS, the Village’s Comprehensive Plan became effective on December 26, 2001; and

WHEREAS, Chapter 2011-139, Laws of Florida, the “Community Planning Act”, made significant changes to Florida’s statutory requirements for local government comprehensive plans and related concurrency requirements; and

WHEREAS, the Community Planning Act provides conditions under which local governments must allow development applicants to satisfy transportation concurrency; and

WHEREAS, the Village Council desires and is currently amending the comprehensive plan to establish a countywide level of service (LOS) for U.S. 1 not dependent on any single roadway segment as encouraged pursuant to Section 163.3180, Florida Statutes; and

WHEREAS, the Village has conducted duly noticed public hearings for the Comprehensive Plan Amendment pursuant to Section 163.3184(15), Florida Statutes; and

WHEREAS, the Village Local Planning Agency reviewed this Ordinance on February 11, 2013 in accordance with the requirements of Chapter 163, Florida Statutes, and recommended approval to the Village Council; and

WHEREAS, the provisions of this Ordinance are consistent with the Village Comprehensive Plan and the Principles for Guiding Development in the Florida Keys Area of Critical State Concern; and

WHEREAS, the Village Council finds that the adoption of this Ordinance is in the best interest of the Village and does comply with all applicable laws, as well as promotes the general health, safety, and welfare of the Village residents.

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

Section 1. **Recitals.** The above recitals are true, correct and incorporated herein by this reference.

Section 2. **Adoption of the Amendment.** The proposed Amendment to the Comprehensive Plan, attached as Exhibit "A," is hereby approved.

Section 3. **Transmittal.** Pursuant to Sections 163.3184 and 163.3187, Florida Statutes, the Village Clerk is authorized to forward a copy of this Ordinance, along with the supporting data and analysis, to the Florida Department of Economic Opportunity ("DEO") within ten days after its adoption.

Section 4. **Severability.** The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it

being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. Effective Date. This Ordinance shall become effective pursuant to a Notice of Intent issued by DEO finding the Amendment to be in compliance as defined in Section 163.3184(1)(b), Florida Statutes. If timely challenged, the Amendment shall not become effective until DEO or the Administration Commission enters a final order determining the adopted Amendment to be in compliance.

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The foregoing Ordinance was offered by Councilman Dave Purdo, who moved its adoption on first reading. This motion was seconded by Councilman Mike Forster, and upon being put to a vote, the vote was as follows:

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

PASSED on first reading this 28th day of March, 2013.

The foregoing Ordinance was offered by Vice Mayor Ted Blackburn, who moved for its adoption on second reading. This motion was seconded by Councilman Dave Purdo, and upon being put to a vote, the vote was as follows:

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

PASSED AND ADOPTED on second reading this 22nd day of August, 2013.

KEN PHILIPSON, MAYOR

ATTEST:

ARIANA S. LAWSON, VILLAGE CLERK

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

VILLAGE ATTORNEY

CHAPTER 9: CAPITAL IMPROVEMENTS ELEMENT
(Reference Chapter 163.3177(3), F.S.)

OBJECTIVE 9-1.2: IMPLEMENT A CONCURRENCY MANAGEMENT SYSTEM. Pursuant to Ch. 163, F.S., the Village shall implement a Concurrency Management System, which shall ensure that facilities and services needed to support development are available concurrent with the impacts of new development and redevelopment.

Policy 9-1.2.1: Maintain a Concurrency Management System. Islamorada, Village of Islands hereby adopts a Concurrency Management System to ensure that facilities and services needed to support development are available concurrent with the impact of development. The Concurrency Management System shall ensure that no development order is issued that will result in a reduction in the level of service (LOS) below the adopted LOS standard for those public facilities that are subject to the system. The Concurrency Management System shall by reference, incorporate all the applicable concurrency mitigation options allowed by Chapter 163.3180, F.S. The following guidelines identify the stages in the development review process when the test for concurrency must be met:

1. **Preliminary Development Order Stage.** A preliminary development order is a development order that precedes the issuance of a building permit, such as subdivision plat, development plan, certificate of compliance, conditional use permit, or development of regional impact development order. A proposed development must receive a conditional concurrency determination prior to receiving a preliminary development order.
2. **Final Development Order Stage.** A final development order is a building permit or any other development permit authorizing the construction or expansion of a building, an increase in development intensity, or a change of use requiring a new certificate of occupancy. With the exception of development resulting from Policy 1-2.1.3 and the replacement of existing development, a proposed development must receive a final concurrency determination prior to receiving a final development order.

The following guidelines identify the effect of a concurrency determination:

1. **Conditional Concurrency Determination.** Such determination shall indicate that adequate public facilities are available at the time the determination is issued, but shall not guarantee the adequacy or availability of public facilities at subsequent stages of development review.
2. **Final Concurrency Determination.** Such determination shall indicate that adequate facilities will be available at all subsequent stages of development review, subject to certain limitations such as elapsed time and payment of fees.

The following guidelines identify the minimum criteria necessary to meet the concurrency requirements of each public facility type:

1. The concurrency requirements for ~~roads~~, potable water, solid waste, wastewater, and drainage facilities and services shall be satisfied if one or more of the following conditions are met:

- a. The necessary facilities and services are in place at the time a development permit is issued; or
 - b. The development permit is issued subject to the condition that the necessary facilities and services will be in place when the impacts of development occur; or
 - c. The necessary facilities are under construction at the time a permit is issued; or
 - d. An enforceable development agreement guarantees that the necessary facilities and services will be in place when the impacts of the development occur.
2. The concurrency requirements for recreational facilities shall be satisfied if one or more of the following conditions are met:
 - a. Conditions 1(a), 1 (b), or 1(c) listed above; or
 - b. A binding executed contract is in place at the time the development permit is issued which provides for the commencement of the actual construction of the required facilities or provision of services within one year of permit issuance; or
 - c. The payment of fees in lieu of dedication of land, to be used for the acquisition of lands for parks, conservation or open space, in an amount determined by Islamorada, Village of Islands, provided that the facilities to correct the deficiency in LOS must be in place or under construction not more than one year after the issuance of a Certificate of Occupancy and that the improvement is included in the Capital Improvements Schedule or that such an improvement is required through an enforceable development agreement.
3. The concurrency requirements for roadways/transportation facilities and services shall be satisfied if one or more of the following conditions are met:
 - a. The necessary facilities and services are in place at the time a development permit is issued; or
 - b. The development permit is issued subject to the condition that the necessary facilities and services will be in place when the impacts of development occur; or
 - c. The necessary facilities are under construction at the time a permit is issued; or
 - d. An enforceable development agreement guarantees that the necessary facilities and services will be in place when the impacts of the development occur; or
 - e. The applicant enters into a binding agreement to pay for or construct its proportionate share of the costs of providing the necessary transportation facilities to serve the proposed development; or
 - f. The proportionate share contribution or construction is sufficient to accomplish one or more mobility improvements that will benefit a regionally significant transportation facility.
