

RESOLUTION NO. 23-04-45

Filed and Recorded in Official Records of
MONROE COUNTY KEVIN MADOK, CPA

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, CONSIDERING ADMINISTRATIVE APPEAL NO. PLADA20230026 FILED BY SMITH HAWKS, PL (AGENT) ON BEHALF OF WHAT A GOOD CATCH LLC (APPELLANT) RELATING TO AN ADMINISTRATIVE DECISION AND INTERPRETATION BY THE DIRECTOR OF PLANNING (DENIAL OF A TRANSFERABLE DEVELOPMENT RIGHT) FOR PROPERTY LOCATED AT 81912 OVERSEAS HWY (REAL ESTATE NUMBER 00399300-000000) AND 82601 OLD HIGHWAY (REAL ESTATE NUMBER 00401260-000000), ON UPPER MATECUMBE KEY, ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AS LEGALLY DESCRIBED HEREIN; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Ty Harris, PA ("Representative") on behalf of After Hours Inc ("Owner") applied for Minor Conditional Use Permit for the Transfer of Development Right ("TDR") ("Application") pursuant to Section 30-503 of the Code of Ordinances Islamorada, Village of Islands, Florida on January 4, 2023, to transfer one (1) TDR from the real property located at 81912 Overseas Highway, Upper Matecumbe, Florida, having Parcel ID 00399300-000000 ("Sender Site") to the real property located at 82601 Old Highway, Upper Matecumbe, Florida, having Parcel ID 0040126-000000 (the "Receiver Site"); and

WHEREAS, the Director of Planning sent notice of denial for TDR application PLTDR20230001 to the owner's representative via email on January 27, 2023; and

WHEREAS, on February 3, 2023, Barton W. Smith ("Agent") submitted an Administrative Appeal on behalf of What a Good Catch ("Applicant"), appealing the Planning Director's decision to deny the application for Transfer of Development Rights; and

WHEREAS, the Village Council conducted a duly noticed Public Hearing regarding the Request to Appeal the Planning Director's decision to deny the application for Transfer of Development Rights on March 2, 2023; and

WHEREAS, the Village Council tabled the hearing on March 2, 2023 to a date certain hearing date for April 13, 2023; and

WHEREAS, the Village Council conducted a duly noticed Public Hearing regarding the Request to Appeal the Planning Director's decision to deny the application for Transfer of Development Rights on April 13, 2023; and

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 Transfer of Development Rights meets the requirements set forth in the Village Code, Chapter 30, Article IV, Division 12 – Transfer of Development Rights and has demonstrated through competent substantial evidence that the criteria for granting the Request have been met.; and

(2) The applicant has met the standards for an Administrative Appeal of the denial of the proposed Transfer of Development Rights contained within Sec. 30-281 (Administrative Appeals) of the Village Code.; and

(3) The Village Council approves the Request submitted by the Agent on behalf of the Applicant.

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; and
- (d) Imposed the following conditions:
 - 1. The property owner shall enhance the existing hammock on the receiver site
subject to the satisfaction of the Village biologist.
 - 2. The final footprint of the restored hammock on the receiver site shall be
placed into a conservation easement subject to the satisfaction of the Village
biologist. The restored hammock will be monitored for 5 years and shall
remain intact based on survival rates to the satisfaction of the Village.
 - 3. If the restored hammock on the receiver site is destroyed, it shall be replanted
to the satisfaction of the Village biologist and subject to all of the
enforcement mechanisms of the Village.
 - 4. The proposed single-family residence will be consistent with the plans
submitted to the Village in connection with the pending Building Permit
Allocation System (BPAS) application.

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 Councilmember Mark Gregg, second by Mayor Joseph B. Pinder.

FINAL VOTE AT ADOPTION

Mayor Joseph B. Pinder III	YES
Vice Mayor Sharon Mahoney	YES
Councilman Mark Gregg	YES
Councilman Henry Rosenthal	YES
Councilwoman Elizabeth Jolin	YES

PASSED AND ADOPTED on the second reading this 13th day of April, 2023.


JOSEPH B. PINDER III, MAYOR

ATTEST:

[illegible]

MARNE MCGRATH, VILLAGE CLERK

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



JOHN J. QUICK, INTERIM VILLAGE ATTORNEY

