

Prepared by and return to:
Islamorada, Village of Islands
Planning and Development Services Department
86800 Overseas Highway
Islamorada, Florida 33036

RESOLUTION NO. 24-08-59

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, CONSIDERING ADMINISTRATIVE APPEAL NO. PLADA20240104 FILED BY BARBARA EDGAR (APPELLANT) RELATING TO AN ADMINISTRATIVE DECISION AND INTERPRETATION BY THE DIRECTOR OF PLANNING (RECONSIDERATION OF DWELLING UNIT DETERMINATION) FOR PROPERTY LOCATED AT 75131 OVERSEAS HWY, HAVING REAL ESTATE NUMBER 00398880-000000, ON LOWER MATECUMBE KEY; AS LEGALLY DESCRIBED HEREIN; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Barbara Edgar, (the "Appellant") filed Administrative Appeal No. PLADA20240104 (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 is to seek the Village Council's review of a determination made by the Director of Planning (the "Director") regarding the request for reconsideration of a dwelling unit determination of the Appellant's property located at 75131 Overseas Hwy, as legally described in Exhibit "A" attached hereto; and

WHEREAS, on September 22, 2005, at a regularly scheduled Village Council meeting, the Village Council voted unanimously to recognize five (5) legally established dwelling units; and

WHEREAS, on September 27, 2023, the Appellant requested the Director to reconsider the Village Council's decision; and

WHEREAS, on April 18, 2024, the Director provided written notification to the Appellant regarding the request; and

WHEREAS, on May 7, 2024, the Appellant filed the Appeal of the Director's decision; and

WHEREAS, on June 13, 2024, a public hearing was held before the Village Council pursuant to Section 30-281 of the Village Code of Ordinances (the "Code").

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, 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 the Appellant and the Director, does hereby find and determine:

- (1) The Council heard the Appeal on June 13, 2024.
- (2) The hearing was duly noticed pursuant to Section 30-213(j) of the Code and all interested parties concerned in the matter were given an opportunity to be heard.
- (3) The Director presented the written recommendation of the Village Staff dated June 13, 2024, to the Village Council.
- (4) The Director's interpretation of the Code **is not** supported by the facts presented.
- (5) The granting of the appeal **is** supported by the facts and documents presented.

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 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 submitted by the Appellant is hereby **GRANTED**.

Section 4. Effective Date.

This Resolution shall not take effect until after 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 Village Code.

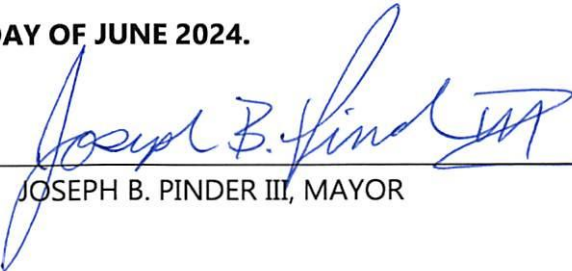
Motion to adopt by Vice Mayor Mahoney, second by Councilmember Rosenthal.

FINAL VOTE AT ADOPTION

VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS:

| | |
|------------------------------|-----|
| Mayor Joseph B. Pinder III | Yes |
| Vice Mayor Sharon Mahoney | Yes |
| Councilwoman Elizabeth Jolin | No |
| Councilman Mark Gregg | No |
| Councilman Henry Rosenthal | Yes |

PASSED AND ADOPTED THIS 13TH DAY OF JUNE 2024.



JOSEPH B. PINDER III, MAYOR

ATTEST:



MARNE MCGRATH, VILLAGE CLERK




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

DocuSigned by:

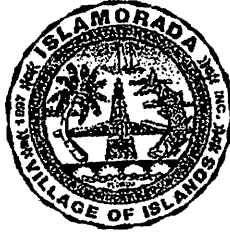

JOHN J. QUICK, INTERIM VILLAGE ATTORNEY

This Resolution was filed in the Office of the Village Clerk of this 3rd day of July, 2024.



Marne McGrath, Village Clerk

MAYOR ROBERT JOHNSON
VICE MAYOR PATTY SCHMIDT



COUNCILMAN MIKE FORSTER
COUNCILMAN MICHAEL RECKWERDT
COUNCILMAN CHRIS SANTE

November 8, 2005

Sheryl Bower
88101 Overseas Hwy.
Islamorada, FL 33036

**RE: Dwelling Unit Determination (LD 05-02) 75141 Overseas Hwy. having Real Estate
Number #00398880.000000.**

Ms. Bower,

This letter confirms that Islamorada, Village of Islands recognizes **FIVE** legally established dwelling units consisting of one triplex and a two story duplex, located at the subject parcel. This determination is based on the following criteria listed in Ordinance 05-08:

Criterion 1. A permit or other official approval was issued by the Village or Monroe County for the unit(s) or floor area for residential dwelling units or nonresidential floor area and the unit(s) or floor area was accounted for in the Village Comprehensive Plan Building Permit Allocation System and ROGO [Rate of Growth Ordinance (Monroe County Ordinance 016-1992 as amended)] or was issued a certificate of occupancy subsequent to April 1990.

Monroe County Permit #90301081 was issued on May 16, 1990 for a re-roof of a "2 story apartment building."

If the criteria listed in (1) above is not submitted then the following documents meeting (2), (3) and (4) shall be submitted by the applicant and used as criteria to establish proof that the residential dwelling unit or nonresidential floor area was legally established:

Criterion 2.

- a. The structure in which the unit or nonresidential floor area is located is currently habitable as determined by the Building Official.**

The two-story structure was badly damaged by fire and is currently not habitable. However, the triplex (Lindo Mar Apartments) is currently inhabited.

- b. Utility invoices/receipts from Florida Keys Electric Cooperative or Florida Keys Aqueduct Authority are provided that clearly indicate by separate meter that the unit or non-residential building was being served during April 1990.**

None provided.

Monroe County property record card showing the existence of the unit or non-residential floor area in 1990;

No property record card was produced from 1990.

Occupational license or other state license for 1990 for a non-residential use of a property; or

None provided.

Insurance policy records for the building for a non-residential use of a property that clearly delineate the amount of floor area.

None provided.

Criterion 3. Aerial photograph(s) or signed and sealed survey(s) clearly showing existence of the dwelling unit or non-residential structure either in 1990, or if not available for 1990 then both prior to and subsequent to 1990.

Aerial photography clearly indicates the presence of the buildings.

Criterion 3 is satisfied.

Criterion 4. A determination by the Village that the use could have been legally permitted under the zoning and building codes in effect for the parcel at the time the structure was constructed or the business was established. This not only refers to the type of use but also to the parameters of the building construction.

According to the property record card, the buildings were constructed in 1957 and were built prior to the inception of the Monroe County Comprehensive Zoning Ordinance which was adopted in 1961.

Criterion 4 is satisfied.

The applicant met the criteria listed above in (3) and (4) but did not meet the criteria in (2). Therefore, pursuant to the regulations the Director forwarded the application to the Village Council for a determination because the applicant submitted other documentary evidence showing the existence of a unit or non-residential floor area consistent with subsections (3) and (4) above.

Documentary evidence including affidavits from witnesses and photos were submitted by the applicant. On September 22, 2005 at a regularly scheduled Village Council meeting the Village Council unanimously voted to recognize five legally established dwelling units on the subject parcel.

Redevelopment and Demolition.

If the residential dwelling units are abandoned they may be replaced without the necessity of a BPAS allocation upon application until August 27, 2007 as determined in this letter. For the purpose of this determination abandoned shall mean the cessation from actively using any premises for its intended use for a time period greater than 24 consecutive months.

If you have any questions, or if I can be of further assistance, please do not hesitate to contact me at 305-664-2345.

Sincerely,



Edward Koconis, AICP
Deputy Village Manager/ Planning and Development Services Director

C: Bernice LaPira, Village Manager
Gerry Albertson, Director of Building Services
Planning Staff
Village Attorney
Rebecca Jetton, Department of Community Affairs

np/ek



Islamorada, Village of Islands

February 25, 2008

Irving and Jeane Eyster
75141 Overseas Hwy.
Islamorada, FL 33036

**SUBJECT: DWELLING UNIT DETERMINATION (LD 05-02) AT 75141 OVERSEAS
HIGHWAY HAVING REAL ESTATE NUMBER 00398880.000000**

Dear Mr. and Mrs. Eyster,

As my letter of November 8, 2005 to your then-agent Sheryl Bower states, Islamorada, Village of Islands recognizes **FIVE** legally established dwelling units consisting of **one triplex and a two story duplex**, located at the subject parcel. This determination was based on the criteria listed in Ordinance 05-08. On September 22, 2005 at a regularly scheduled Village Council meeting the Village Council unanimously voted to recognize five legally established dwelling units on the subject parcel.

The building rights to these five dwelling units are thereby deemed to exist on the subject property and each unit may be redeveloped in the future without the necessity of a BPAS allocation.

This shall supersede the Redevelopment and Demolition section of my November 8, 2005 letter regarding an August 27, 2007 deadline.

If you have any questions, or if I can be of further assistance, please do not hesitate to contact me at 305-664-2345.

Sincerely,

Edward Koconis, AICP
Deputy Village Manager/ Planning and Development Services Director

C: Village Attorney

1952 - Irving and Jeane Eyster purchased the property at 75141 Overseas Highway lot 67 and 68 in 1952.

1953 - They cleared the lot and lived in a trailer until 1953 when Irving, his dad and a friend Clyde Wolfe started building the Lindo Mar Apartments. They were completed in 1954.

This was an eight-unit motel. You can see from the photos each room between the columns.

1957 - In 1957 the Eyster's built the two-story building on the front of the same property which at that time, we lived in the upstairs and the office was in the downstairs with a backroom for supplies.

1960 - In 1960 Hurricane Donna destroyed the last two motel units which were on the ocean. They were eventually torn down leaving a six-unit motel.

1976 - In about 1976 they turned the motel into 6 efficiencies.

1986 - They knocked out the wall between each of the two units and made them into 3 larger units.

1983 - When they built their house on the adjoining property in 1983, the two-story building was turned into two units. The downstairs in the front was an apartment for company. The top was rented out when it burned due to the tenant smoking.

We tried to establish the two units in the burned out building for four years. The village established the two which were in question, but the motel (apartment) portion was not part of the issue. We were only trying to establish the two for the burned out building so it could be torn down.

Two years later, the village manager told me they had been patient, but we really need to tear the building down. I asked for something in writing establishing the two units in questions but was told several times they could not put it in writing.

My dad was older, had Parkinson's and was diabetic so he never questioned it.

2008 - Ed Koconis called me in February of 2008 and said we really needed to have the building demolished. I told Ed my dad wanted to tear it down for almost four years now, but no one will give us something in writing. He said let me see what I can do. He called back in about an hour and told me to come pick up the letter stating the two units were there. At that time, we didn't question the three apartments which are there now as that had nothing to do with what we were trying to accomplish.

My parents have both passed away and we need the legally established units that were here which is an 8-unit motel and a two-story building.

I have letters from both Pastor Tony Hammon and State Representative and past Village Mayor and councilman Jim Mooney stating what was there. I can get letters and have people that were here to testify if needed.

We never gave up the building rites when we turned the motel units into three units from the six that were left.

I cannot financially afford to lose what we legally had and still have today.

The attached photos show we had 8 motel units and two units in the two-story building.

I hope this clears up any question about what was here, and we can get the rights to the legally established units.



ISLAMORADA, VILLAGE OF ISLANDS
PLANNING AND DEVELOPMENT SERVICES DEPARTMENT
86800 Overseas Highway • Islamorada, Florida 33036 • www.islamorada.fl.us

April 18, 2024

Barbara Eyster Edgar
75141 Overseas Highway
Islamorada, FL 33036

Re: 75131 Overseas Highway, Islamorada – Request for reconsideration of dwelling unit determination.

Dear Ms. Edgar:

I am in receipt of your letter dated September 27, 2023, as well as the plans provided with the letter asking for reconsideration of your dwelling unit determination due to new information. As you know you received a dwelling unit determination from the Village Council on September 22, 2005. Because of this I am unable to provide a different determination at this time.

Within 30 days of receipt of this letter you can appeal to the Village Council for a decision with the added information you have provided. An appeal can be applied for through the City View Portal on the Village's Website located here: [Welcome - Islamorada, Village of Islands - City View Portal \(cvportal.us\)](http://Welcome-Islamorada-Village-of-Islands-CityViewPortal(cvportal.us)).

If you have any questions regarding the application process please contact Jamie Terry, Planning & Zoning Technician at (305) 664-6426 or jamie.terry@islamorada.fl.us.

Thank you for your patience regarding this issue.

Sincerely,

A handwritten signature in black ink, reading "Jennifer DeBoisbriand".

Jennifer DeBoisbriand
Planning Director