

& ASSOCIATES INC

LAND USE PLANNING  
DEVELOPMENT CONSULTANTS

# Zoning Map Amendment

Pursuant to Ch. 90, Art. VI, Div. 2, KW LDRs

Mel Fisher Maritime Heritage Society, Inc.

200 Greene Street

(RE No. 00001630-000300 & 00001630-000500)

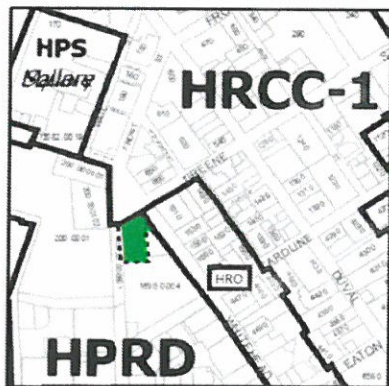
## Project Proposal (Sec. 90-518):

Mel Fisher Maritime Heritage Society, Inc., seeks a amend to the Zoning and Future Land Use Maps for the property known as 200 Greene Street from the existing HPRD (*Historic Planned Redevelopment District*) & HR (*Historic Residential*) to the proposed HRCC-1 (*Historic Residential Commercial Core*) & HC (*Historic Commercial*).

This property was leased to Mel Fisher in 1982 as his operations headquarters. It was included in the original land acquisition by Truman Annex Land Limited Partnership from the US Navy<sup>1</sup> in 1986 and subsequently purchased by the Fisher family in 1987.



The property was developed into the commercial tourist-oriented Key West Treasure Exhibit, warehousing, conserving and retailing the salvaged treasure from the sunken Spanish galleons of the *Nuestra Senora de Atocha* and the *Santa Margarita* lost in 1622 in the offshore waters of Key West. The property was never developed within, or concurrent with, the Truman Annex's residentially-oriented framework.



Over the past 30 years, this Key West icon transformed into the fully accredited Mel Fisher Maritime Heritage Society. The Society now, not only serves the commercial tourist market in the central activity hub of the Historic Residential Commercial Core ("HRCC-1"), but also has significant community-oriented activities. The Society seeks to insure that both aspects of their operation are protected under their land use rights granted by the Comprehensive Plan and the Land Development Regulations.

The property's original land use designation, PRD, contemplated and permitted the Treasure Exhibit's activities within the zoning district's master planning process.

Despite the Treasure Exhibit's compatibility with the adjacent tourist-oriented commercial core, it was included in, and remains today, part of the residentially-oriented HPRD zoning of the adjacent Truman Annex.

When the property was rezoned HPRD in 1997, it also was given a future land use designation of HPRD. The zoning and the FLUM designations accommodated the Treasure Exhibit's commercial, educational and research activities, as a conditional use. However, during the most recent comprehensive plan revisions undertaken by the Key West Planning Department, the HPRD FLUM designation of the entire Truman Annex property was changed to Historic Residential (HR); unfortunately the Society's property was again included with the overall Truman Annex and assigned this residential "HR" designation. This new designation had the effect of "down-zoning" the property because, unlike the old HPRD FLUM, the HR FLUM does not allow commercial activities.

Since the change in the Future Land Use Map, the Society's commercial-tourist activities, which are critical to both its historical beginnings and its long-term viability, are now in direct conflict with the Comprehensive Plan. Allowable uses in the HR are generally limited to residentially-oriented uses including community facilities. The HR FLUM acknowledges and allows for the half of the Society's mission and work, while prohibiting the other half.

This property is immediately adjacent to the HRCC-1 zoning district and the HC future land use district, which accommodate and allow all of the Society's activities within their existing regulatory framework. The proposed combination of HC & HRCC-1 will eliminate the existing regulatory conflicts and will insure the Society's activities are protected into the future.

This request is to amend the Zoning and Future Land Use Maps for the property located at 200 Greene Street from HPRD & HR to HRCC-1 & HC.

**Application and Fee (Sec. 90-519): \$6,000.00**

## **Sec. 90-520. Application**

### **(1) Property Description: Legal Description<sup>2</sup>:**

**Parcel "1":** A parcel of land on the island of Key West being a portion of Block 16 as shown on the unrecorded "Map of the Town of Key West Together with the island as surveyed and delineated February, 1829 by W.A. Whitehead" and being more particularly described as follows:

---

<sup>2</sup> Exhibit A, Warranty Deed

Commence at P.K. nail and Brass Washer stamped 2749, said point being the intersection of the Southeasterly right of way line of Greene Street and the Easterly right of way line of Front Street; thence run along said Easterly right of way line of Front Street South 01°56'59" East, 18.30 feet to the POINT OF BEGINNING of the following described parcel of land; thence leaving said right of way line, run North 88°05'24" East, 85.70 feet; thence run South 01°57'35" East, 139.67 feet; thence run North 89°41'19" West, 75.15 feet; thence run North 02°01'33" West, 109.38 feet; thence run North 36°26'26" West, 18.43 feet to a point on the Easterly right of way line of Front Street; thence run along the said right of way line North 01°56'59" West, 12.12 feet to the POINT OF BEGINNING. All the described land lying in Section 6, Township 68 South, Range 25 East, Monroe County, Florida.

And Also;

**Parcel "2":** A parcel of land on the Island of Key West being a portion of Block 16 as shown on the unrecorded "Map of the Town of Key West Together with the Island as surveyed and delineated February, 1829 by W.A. Whitehead" and being more particularly described as follows:

Begin at P.K. Nail and Brass Washer stamped 2749, said point being the intersection of the Southeasterly right of way line of Greene Street and the Easterly right of way line of Front Street; thence run along said Easterly right of way line of Front Street S 01°56'59" E for 18.30 feet; thence leaving said right of way line, run N 88°05'24" E for 85.70 feet; thence run S 01°57'35" E for 10.00 feet; thence run N 88°05'24" E for 33.40 feet to a point on the Southwesterly right of way line of Whitehead Street; thence along said right of way line N 34°04'40" W for 87.28 feet to a point of intersection with the Southeasterly right of way line of Greene Street said point being an aluminum disc stamped 928; thence along said Southeasterly right of way line S 55°59'14" W for 85.77 feet to the POINT OF BEGINNING. All the above described land lying in Section 6, Township 68 South, Range 25 East, Monroe County, Florida.

And Also:

**Parcel "3":** A parcel of land on of land on the Island of Key West being a portion of Block 16 as shown on the unrecorded "Map of the Town of Key West Together with the Island as surveyed and delineated February, 1829 by W.A. Whitehead" and being more particularly described as follows:

Commence at P.K. Nail and Brass Washer stamped 2749, said point being the intersection of the Southeasterly right of way line of Greene Street and the Easterly right of way line of Front Street; thence run along said Easterly right of way line of Front Street South 01°56'59" East, 18.30 feet to the POINT OF BEGINNING of the following described parcel of land; thence leaving said right of way line N 88°05'24" E for 84.85 feet; thence N 01°57'35" W for 1.50 feet; thence S 88°05'24" W for 84.85 feet to a point on said Easterly right of way line of Front Street; thence along said right of way line S 01°56'59" E for 1.50 feet to the POINT OF BEGINNING. All of the above described land lying in Section 6, Township 68 South, Range 25 East, Monroe County, Florida.

**Site Address:** 200 Greene Street (Corner of Front and Greene Street)

**Real Estate (RE):** 00001630-000300 & 00001630-000500

**Alternate Key:** 8732473 & 8732490

**Total Land Area:** 15,377 sq.ft.

**Flood zone:** X-zone

**Historic Resources:** Historically known as the "Naval Store Building", (a.k.a. Building 48), the Neoclassical Revival building was completed in 1910 with three stories and two mezzanines. It was commissioned in 1901 as a naval Storehouse for Supplies and Accounts with its design based largely on a Navy storehouse in New Orleans. Constructed of concrete block cast on site, a new technique at the time, it stands as a fine example of early twentieth century functional military architecture. The exterior façade features concrete pilasters that run the full height of the building, with a fully developed entablature at the top. Decorative sheet metal pediments and cornices lead to a gable roof topped by a similarly designed monitor<sup>3</sup>.

The property is located within the Key West Historic District and listed as a contributing historic structure in the Historic Resources Survey of the City of Key West.

In the early 1980's, the Navy leased the structure to Mel Fisher for his treasure salvaging headquarters and artifacts warehouse and conservatory. In 1987, the Navy transferred the subject property to the Truman Annex Land Limited Partnership who subsequently sold the property to Key West Treasure Exhibit, Inc. In 2000, ownership was transferred to The Mel Fisher Maritime Heritage Society, Inc.

**Encumbrances:** Covenants and restrictions do apply to the subject property.<sup>4</sup>

## **(2) Comprehensive Plan / Future Land Use:**

- **Current: Historic Residential (HR)**
- **Proposed: Historic Commercial (HC)**

---

<sup>3</sup> Historic Structure Report, June, 2001

<sup>4</sup> Exhibit A



Figure 1. Future Land Use Map

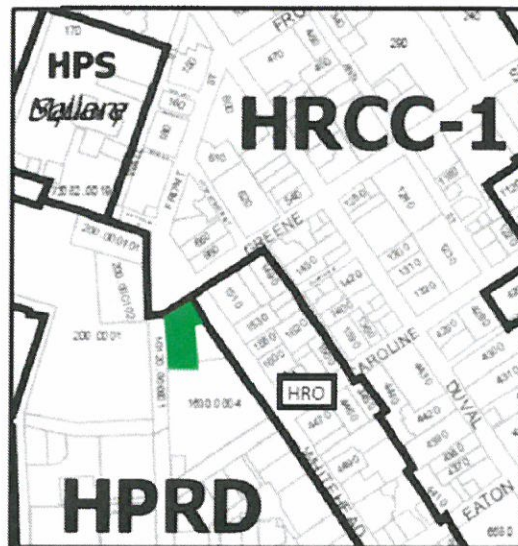


### (3) Current and Proposed Zoning:

Zoning District:

- Current: Historic Planned Redevelopment and Development District ("HPRD")
- Proposed: Historic Residential Commercial Core - 1 (HRCC-1) Duval Street Gulfside District

Figure 2. Zoning Map



### (4) Existing and Proposed Use:

- Pre 1970's: Military – Office & Warehouse
- Current: Commercial (Museum, Commercial Retail, Restaurant)
- Proposed: Commercial (Museum, Commercial Retail, Restaurant)

#### **(5) Disclosure of ownership**

Name of Applicant: Lori Thompson  
 Trepanier and Associates, Inc.  
 Owen Trepanier, President  
 Richard Puente, Vice President

Address of Applicant: 1421' 1<sup>st</sup> Street, Unit 101. Key West, FL 33040

Agent Phone #: 305-293-8983 Fax: 305-293-8748

Email Address: lori@owentrepanier.com

Name of Owner: The Mel Fisher Maritime Heritage Society Inc<sup>5</sup>

Registered Agent: Melissa Kendrick

Address of Owner: 200 Greene St., Key West, FL 33040

Agent Phone #: C/o 305-293-8983 Fax: C/o 305-293-8748

Email Address: C/o lori@owentrepanier.com

#### **(6) Justification**

##### **a. Comprehensive plan consistency.**

As currently designated, the long-established commercial use of the subject property is in direct conflict with the 2013 Comprehensive Plan and associated Historic Residential land use designation. If corrected as proposed, the museum will be in compliance with the 2013 Comprehensive Plan as a commercial use within the Historic Commercial future land use designation.

In accordance with Comp Plan Policy 1-1.1.8, the Historic Residential Commercial Core (HRCC-1) zoning district, located within the Historic Commercial Future Land Use District, is intended to provide an intensely vibrant tourist commercial entertainment center characterized by specialty shops, sidewalk-oriented restaurants, lounges and bars with inviting live entertainment; and transient residential accommodations.

With the prevailing commercial character of the surrounding neighborhood of Greene, Front and Whitehead streets, a FLUM designation of Historic Commercial is most appropriate for the property and is in accordance with the assessment of adjacent land use compatibility per Objective 1A-1.2 and Policy 1A-1.2.4 of the Historic Preservation Element.

---

<sup>5</sup> Exhibit B

Policy 1A-1.2.7 awards historic structures with the highest priority to planning activities with historical preservation benefits. Consistent and accurate zoning designations are critical in maintaining and preserving the historic commercial use of this priceless local landmark.

Its historic use as office, coal storage and warehouse combined with today's educational purpose, office and retail/commercial uses are consistent with Policy 1-1.3.2 which designates various types of mixed use commercial nodes to accommodate diverse commercial uses. This policy charges, "A variety of commercial development designations shall be provided in order to adequately ensure availability of sites that accommodate the varied site and spatial requirements for such activities as: professional and business offices, limited commercial activities, and general retail sales and services."

The full Comprehensive Plan consistency analysis is presented under the criteria for approval in Section 90-521(1) below.

**b. Impact on surrounding properties and infrastructure.**

No impact on surrounding properties or infrastructure is anticipated. The subject property is 15,377 square feet. An approval will reflect current conditions and allow future flexibility consistent with the surrounding uses and historical context.

Surrounding Properties			
Adjacency	Existing Use	Future Land Use	Zoning
North	Public Park, Commercial Retail, Restaurants, Bars & Lounges	Historic Commercial	HRCC-1
South	Transient Residential	Historic Residential	HPRD
East	Commercial Retail, Restaurants, Bars & Lounges	Historic Commercial	HRO
West	Transient Residential, Public Park, Commercial Retail, Restaurants, Bars & Lounges	Historic Residential	HPRD

Levels of Service – Based on the evaluation criteria of Sec. 90-521(5) the impacts of the proposed changes are generally summarized as follows:

- The proposed change is not expected to increase demand on the surrounding transportation system.
- The proposed change is not expected to increase demand for Potable Water.
- The proposed change is not expected to decrease Wastewater.
- The proposed change is not expected to increase Solid Waste supply.
- The proposed change is not expected to impact Stormwater LOS.
- The proposed change is not expected to impact Recreation LOS.

As demonstrated in Section 90-521(5) adequate public facilities are available to provide service to the development and the request is consistent with adopted infrastructure minimum levels of service standards.

**c. Avoidance of spot zoning.**

**1. A small parcel of land is singled out for special and privileged treatment**

No special or privileged treatment will be conferred through approval of the request. If the request is granted, the property's mixed use nature will be recognized and it will share the same obligations and privileges as other Historic Commercial/HRCC-1 properties and as found elsewhere in the City of Key West.

**2. The singling out is not in the public interest but only for the benefit of the landowner; and;**

As mentioned above, there is no singling out. The request does not confer any land use activities not already provided to the HRCC-1 zoning district as adopted in the Land Development Regulations. The request is therefore found to be in the public interest. Additional discussion is provided in criteria for approval-Section 90-521, below.

**3. The action is not consistent with the adopted comprehensive plan**

The action is found to be consistent with the Comprehensive Plan as presented in the associated Comprehensive Plan Amendment under (6)a of this application.

**d. Undeveloped land with similar zoning. The amount of undeveloped land in the general area and in the city having the same zoning classification as that requested shall be stated.**

Of the 50 parcels located within 300 feet<sup>6</sup> three (3) are undeveloped<sup>7</sup>.

FLUM	RE. No.	Zoning	Size (sq.ft.)
HC	00001540-000000	HRO	2,508
HC	00001560-000000	HRO	6,065
HC	00001620-000000	HRO	9,666

<sup>6</sup> 300 ft radius report- MCPA

<sup>7</sup> Categorized as 'vacant' by Monroe County Property Appraiser



## Criteria for Approval (Section 90-521)

**(1) Consistency with plan. Whether the proposal is consistent with the overall purpose of the comprehensive plan and relevant policies within the comprehensive plan, including the adopted infrastructure minimum levels of service standards and the concurrency management program**

Policy 1-1.1.8: Allowed Uses in Historic Residential Commercial Core within the Historic Commercial FLUM:

Approval of the request will be more consistent with the historic use of the property; accommodating the commercial uses with this tourist-related commercial hub.

Policy 1A-1.2.4 -Land Use Compatibility

Approval of the request will be consistent with the goal to eliminate inconsistent land uses in the Historic District.

Policy 1A-1.2.7: Historic Structures have highest priority.

Approval of the request will be consistent with accurate zoning designations; therefore assisting in maintaining and preserving the historic commercial use of this particular local landmark.

Objective 1-1.3: Allocating Commercial Development

Approval of the request will be consistent with promoting the image, function, architecture, and ambiance of the Historic Preservation Commercial Core District as the City's center for commerce as well as civic and cultural enrichment.

Policy 1-1.3.2: Designate Various Types of Mixed Use Commercial Nodes to Accommodate Diverse Commercial Uses.

- Approval of the request will more adequately ensure availability of a mixed use commercial node at the intersection of Front St. and Greene St.

**(2) Conformance with requirements Conformance with ordinances. Whether the proposal is in conformance with all applicable requirements of the Code of Ordinances.**

The proposal is in conformance with the procedures for amending the Land Development Regulations as demonstrated herein.

The proposal will reduce nonconformities in the following manner:

- (5) **Adequate public facilities.** Whether, and the extent to which, the proposal would result in demands on public facilities and services, exceeding the capacity of such facilities and services, existing or programmed, including

#### Comprehensive Plan Policy 2-1.1.1 - Transportation

Policy 2-1.1.3 effectively eliminates the transportation concurrency requirement in favor of a prioritization of safety and function of existing roads and multi-modal transportation improvements (i.e. transit, air, boat, bicycles, pedestrianism, and mixed-use development).

**Policy 2-1.1.3: Dense Urban Land Area.** The City of Key West is a substantially developed dense urban land area and is thereby exempted from transportation concurrency requirements for roadways. The City recognizes that its development characteristics make substantive expansion of capacity of the roadway system prohibitive. The City will therefore prioritize improving the safety and function of existing roads and multi-modal transportation improvements (i.e. transit, air, boat, bicycles, pedestrianism, mixed-use development) as its primary strategies for addressing current and projected transportation needs.

#### Comprehensive Plan Policy 4-1.1.2.C – Water

Summary Response: The Potable Water Level of Service will not be affected because the allowable densities and intensities of the HPRD and HRCC-1 future land use designations are identical; therefore, it is not expected that the proposal will result in excess capacity on this public facility.

Designation	Residential		Commercial		Total
	LOS	Capacity <sup>8</sup>	Rate	Capacity	
HPRD	100 gal/capita/day	20.25 <sup>9</sup> capita x 100 gal = 2,025 gal/day	100 gal/capita/day	100g x 70.4 <sup>10</sup> = 7000 gal/day	~9,025 gal/day
HRCC-1	100 gal/capita/day	20.25 <sup>11</sup> capita x 100 gal = 2,025 gal/day	100 gal/capita/day	100g x 70.4 <sup>12</sup> = 7000 gal/day	~9,025 gal/day

<sup>8</sup> For the purposes of LOS, "capita" was calculated as *maximum density x persons / household* using the 2009-2013 US Census Data - 2.63 persons per household

<sup>9</sup> 22 x 2.63 = 57.86 persons/acre x 0.35acres= 20.25 persons

<sup>10</sup> Planners Estimating Guide, p. 137: Table 11-1-Basic Impact Coefficients [50% floor area (15,910 sf) @ 1.5833 persons per 1,000 sf of Neighborhood Retail (25) & 50% floor area (15,910 sf) @ 2.8536 persons per 1,000 sf of General Office (45.4)]

<sup>11</sup> 22 x 2.63 = 57.86 persons/acre x 0.35acres= 20.25 persons

<sup>12</sup> Planners Estimating Guide, p. 137: Table 11-1-Basic Impact Coefficients [50% floor area (15,910 sf) @ 1.5833 persons per 1,000 sf of Neighborhood Retail (25) & 50% floor area (15,910 sf) @ 2.8536 persons per 1,000 sf of General Office (45.4)]

The Florida Keys Aqueduct Authority (FKAA) has the capacity to supply adequate service to the subject properties. The FKAA has the capacity to provide 23 million gallons per day to Monroe County as a result of: the South Florida Water Management District's issuance of Water Use Permit #13-0005, which allocates 17 million gallons per day in the dry season; 17.79 million gallons per day which can be withdrawn from the Biscayne Aquifer; and six million gallons per day provided by a reverse osmosis treatment plant in Florida City. As documented above, the City is meeting its Level of Service Standard for Potable Water. The City projects a slight permanent population decrease, and only a slight increase in its functional population and non-residential development during short and long range planning periods, so the current capacity should remain adequate. Ongoing capital improvements will be necessary to maintain and improve standards and service delivery.

#### **Comprehensive Plan Policy 4-1.1.2.A- Sanitary Sewage**

Summary Response: The Sanitary Sewage Level of Service will not be affected because the allowable densities and intensities of the HPRD and HRCC-1 future land use designations are identical; therefore, it is not expected that the proposal will result in excess capacity on this public facility.

Designation	Residential		Commercial		Total
	LOS	Capacity <sup>13</sup>	Rate	Capacity	
HPRD	100 gal/capita/day	20.25 <sup>14</sup> capita x 100 gal = 2,025 gal/day	660 gal/acre/day	660 gal x 0.72acres = 475 gal/day	~2,500 gal/day
HRCC-1	100 gal/capita/day	20.25 <sup>15</sup> capita x 100 gal = 2,025 gal/day	660 gal/acre/day	660 gal x 0.72acres = 475 gal/day	~2,500 gal/day

The City contracts out the operation of the Richard A. Heyman Environmental Pollution Control Facility, its wastewater treatment plant (Plant), and the associated collection system to Operations Management International, Inc. (OMI). The Plant currently has the capacity to treat 10 million gallons per day, exceeding the capacity required to achieve the existing Level of Service Standard by approximately seven million gallons per day. Actual daily flow is 4.5 million gallons per day. This is a reduction from eight (8) million gallons per day due to a 67 million dollars capital improvement to the City's wastewater treatment during the past short term planning period, including \$56 million for collection system rehabilitation.

<sup>13</sup> For the purposes of LOS, "capita" was calculated as *maximum density x persons / household* using the 2009-2013 US Census Data - 2.63 persons per household

<sup>14</sup>  $22 \times 2.63 = 57.86 \text{ persons/acre} \times 0.35 \text{ acres} = 20.25 \text{ persons}$

<sup>15</sup>  $22 \times 2.63 = 57.86 \text{ persons/acre} \times 0.35 \text{ acres} = 20.25 \text{ persons}$

As documented above, the City is exceeding its Level of Service Standard for Wastewater. The City projects a slight permanent population decrease, and only a slight increase in its functional population and non-residential development, during the short and long range planning periods, so the current capacity should remain adequate. Ongoing capital improvements and continuing conservation efforts will continue to maintain and improve service delivery.<sup>16</sup>

#### Comprehensive Plan Policy 4-1.1.2.D- Solid Waste

Summary Response: The Solid Waste Level of Service will not be affected because the allowable densities and intensities of the HPRD and HRCC-1 future land use designations are identical; therefore, it is not expected that the proposal will result in excess capacity on this public facility.

Designation	Residential		Commercial		Total
	LOS	Capacity <sup>17</sup>	Rate	Capacity	
HPRD	2.66 lbs/capita/day	20.25 <sup>18</sup> capita x 2.66 lbs = 53 lbs/day	6.37 lbs/capita/day	6.37 x 70.4 <sup>19</sup> = 447lbs/day	~500 lbs/day
HRCC-1	2.66 lbs/capita/day	20.25 <sup>20</sup> capita x 2.66 lbs = 53 lbs/day	6.37 lbs/capita/day	6.37 x 70.4 <sup>21</sup> = 447lbs/day	~500 lbs/day

The City currently contracts with Waste Management of Florida, Inc. to collect, transfer and dispose of solid waste and residential recyclables. Commercial recyclables and other non-franchised collection services such as construction and demolition debris and yard waste are available on the open market to all licensed haulers. The City owns and operates a solid waste transfer station on Rockland Key that received 45,402.10 tons of solid waste for disposal and 3,607 tons of recyclables in 2009/10. Waste Management disposes of the solid waste collected in Monroe County, including the City of Key West, at its Central Sanitary Landfill in Broward County. In 2009 Waste Management Inc. reported a reserve capacity of 17 years at this facility. There is therefore an estimated reserve capacity of 15 years as of the date of this report.

<sup>16</sup> City of Key West Comprehensive Plan Data and Analysis, Pg A-16

<sup>17</sup> For the purposes of LOS, "capita" was calculated as *maximum density x persons / household* using the 2009-2013 US Census Data - 2.63 persons per household

<sup>18</sup>  $22 \times 2.63 = 57.86$  persons/acre x 0.35acres= 20.25 persons

<sup>19</sup> Planners Estimating Guide, p. 137: Table 11-1-Basic Impact Coefficients [50% floor area (15,910 sf) @ 1.5833 persons per 1,000 sf of Neighborhood Retail (25) & 50% floor area (15,910 sf) @ 2.8536 persons per 1,000 sf of General Office (45.4)]

<sup>20</sup>  $22 \times 2.63 = 57.86$  persons/acre x 0.35acres= 20.25 persons

<sup>21</sup> Planners Estimating Guide, p. 137: Table 11-1-Basic Impact Coefficients [50% floor area (15,910 sf) @ 1.5833 persons per 1,000 sf of Neighborhood Retail (25) & 50% floor area (15,910 sf) @ 2.8536 persons per 1,000 sf of General Office (45.4)]



As documented above, the City is meeting its Level of Service Standard for solid waste. The City projects a slight permanent population decrease, and only a slight increase in its functional population and non-residential development, during the short and long range planning periods, and the current capacity should remain adequate. Ongoing capital improvements will be necessary to improve standards and service delivery.<sup>22</sup>

#### Policy 4-1.1.2.D- Recyclable Waste Generation

Summary Response: The Recyclable Waste Level of Service will not be affected because the allowable densities and intensities of the HPRD and HRCC-1 future land use designations are identical; therefore, it is not expected that the proposal will result in excess capacity on this public facility.

Designation	Residential		Commercial		Total
	LOS	Capacity <sup>23</sup>	Rate	Capacity <sup>24</sup>	
HPRD	0.05 lbs/capita/day	$20.25^{25} \text{ capita} \times 0.05 \text{ lbs} = 1 \text{ lbs/day}$	0.25 lbs/capita/day	$0.25 \times 70.4^{26} = 17.6 \text{ lbs/day}$	19 lbs/day
HRCC-1	0.05 lbs/capita/day	$20.25^{27} \text{ capita} \times 0.05 \text{ lbs} = 1 \text{ lbs/day}$	0.25 lbs/capita/day	$0.25 \times 70.4^{28} = 17.6 \text{ lbs/day}$	19 lbs/day

#### Comprehensive Plan Policy 4-1.1.2. E- Drainage

Summary Response: Stormwater concurrency will be insured as part of any future development order in accordance with Chapter 94.

Policy 4-1.1.2. E- Drainage Facilities Level of Service has not changed with the adoption of the new Comprehensive Plan.

The Drainage level of service standard below will be applicable to all types of development. Where two or more standards impact a specific development, the most restrictive standard shall apply:

<sup>22</sup> City of Key West Comprehensive Plan Data and Analysis, Pg A-17

<sup>23</sup> For the purposes of LOS, "capita" was calculated as *maximum density x persons / household* using the 2009-2013 US Census Data - 2.63 persons per household

<sup>24</sup> Adopted LOS 0.5 / Adopted LOS 0.25 = 2.00 multiplier;  $4.03 \times 2.00 = 8.06$

<sup>25</sup>  $22 \times 2.63 = 57.86 \text{ persons/acre} \times 0.35 \text{ acres} = 20.25 \text{ persons}$

<sup>26</sup> Planners Estimating Guide, p. 137: Table 11-1-Basic Impact Coefficients [50% floor area (15,910 sf) @ 1.5833 persons per 1,000 sf of Neighborhood Retail (25) & 50% floor area (15,910 sf) @ 2.8536 persons per 1,000 sf of General Office (45.4)]

<sup>27</sup>  $22 \times 2.63 = 57.86 \text{ persons/acre} \times 0.35 \text{ acres} = 20.25 \text{ persons}$

<sup>28</sup> Planners Estimating Guide, p. 137: Table 11-1-Basic Impact Coefficients [50% floor area (15,910 sf) @ 1.5833 persons per 1,000 sf of Neighborhood Retail (25) & 50% floor area (15,910 sf) @ 2.8536 persons per 1,000 sf of General Office (45.4)]

1. Post development runoff shall not exceed the pre-development runoff rate for a 25-year storm event, up to and including an event with a 24 hour duration.
2. Stormwater treatment and disposal facilities shall be designed to meet the design and performance standards established in Chapter 62-25 Section 25.025, Florida Administrative Code, with treatment of the runoff from the first one inch of rainfall on-site to meet the water quality standards required by Chapter 62-302, Florida Administrative Code. Stormwater facilities which directly discharge into "Outstanding Florida Waters" (OFW) shall provide an additional treatment pursuant to Section 62-25.025 (9), Florida Administrative Code.
3. Stormwater facilities must be designed so as to not degrade the receiving water body below the minimum conditions necessary to assure the suitability of water for the designated use of its classification as established in Chapter 62-302 Florida Administrative Code.

### **Recreation**

Policy 7-1.1.9- The proposed change is not expected to have any adverse effect on availability of recreation services.

### **Education**

No level of service currently exists in Comprehensive Plan but the proposed change is not expected to have an adverse effect on availability education services.

### **Emergency services**

No level of service currently exists in Comprehensive Plan for emergency services but the proposed change is not expected to have an adverse on availability emergency services.

### **Similar necessary facilities and services-**

No level of service currently exists in Comprehensive Plan for similar or necessary facilities but the proposed change is not expected to have an adverse effect on availability of such services.

**Approval of a plan amendment does not constitute a concurrency determination, and the applicant will be required to a concurrency determination pursuant to chapter 94.**

Applicant understands and concurs with this criterion. Concurrency determination will be made at the time specific development order(s) are proposed.

**(6) Natural environment. Whether, and to the extent to which, the proposal would result in adverse impacts on the natural environment, including consideration of wetlands protection, preservation of groundwater aquifer, wildlife habitats, and vegetative communities.**

The site is currently developed in the urban downtown. No wetlands, aquifer recharge area, protected habitats or sensitive vegetative communities exist on site. No quantifiable impacts can be directly correlated or associated with the proposed change; therefore, no foreseeable adverse impacts are expected

**(7) Economic effects. Whether, and the extent to which, the proposal would adversely affect the property values in the area or the general welfare.**

The Mel Fisher Museum is a cultural icon of Key West. Not only does it represent the maritime cultural history of the keys, but it revels in everyone's fantasy of finding lost treasure. Tourist from around the globe pass through the museum doors daily to delight in the visions of precious gold, silver, and fine gemstones that once laid at the bottom of the salty sea for centuries. Museum patrons are educated in the history of maritime trade (including slave trade), hurricanes, salvaging & wrecking, as well as providing expertise in the principles of conservation and preservation of artifacts.

The value of this historic resource is without merit. The lack of proper protection could negatively impact the commercial value of the property and adversely affect surrounding properties reliant on tourist activity.

**(8) Orderly development. Whether the proposal would result in an orderly and compatible land use pattern. Any negative effects on such pattern shall be identified.**

The proposed map amendment would serve to extend the adjacent Historic Commercial District in an orderly and logical manner. Current patterns of Historic Commercial land use extend past the current boundary of the HRCC-1/HC district excluding multiple historically commercial properties along Front and Whitehead streets. No negative effects are expected.

- (9) Public interest; enabling act Public interest; enabling act. Whether the proposal would be in conflict with the public interest, and whether it is in harmony with the purpose and interest of this subpart B and its enabling legislation.**

The proposal is not in conflict with the public interest and is in harmony with the purpose and intent of the Land Development Regulations and the Comprehensive Plan as demonstrated in the above findings of the criteria for approval. Moreover, the request provides an opportunity for restoring the historic use of this property and recognition of its disengagement with the Truman Annex residential/mixed use development.

- (10) Other matters. Other matters which the planning board and the city commission may deem appropriate.**

At the time of application submittal, no other matters are deemed appropriate.

## **Conclusion**

Accredited by the American Association of Museums, The Mel Fisher Maritime Heritage Society, Inc. seeks to protect the future use of this historic property by correcting the official zoning map of Key West to reflect the accurate present and future use of the site. This commercial property has never been a residential use, as its land use designation would imply, and it is the mission of guardians of this historic property to protect its history and its future. We thereby, respectfully request that the official zoning map of Key West be corrected to appropriately reflect the past and current use of this property as a historic commercial site.



# Exhibit A

This Document Prepared By and Return to:  
JOHN M. SPOTTSMOOD, JR., ESQ.  
SPOTTSMOOD, SPOTTSMOOD & SPOTTSMOOD  
500 FLEMING STREET  
KEY WEST, FL 33040

Parcel ID Number:

## Warranty Deed

This Indenture, Made this 28th day of December, 2000 A.D. Between  
KEY WEST TREASURE EXHIBIT, INC., a corporation existing under the laws  
of the State of Florida  
of the County of Monroe, State of Florida, grantor, and  
THE MEL FISHER MARITIME HERITAGE SOCIETY, INC., a corporation existing  
under the laws of the State of Florida  
whose address is: 200 Greene Street, Key West, FL 33040  
of the County of Monroe, State of Florida, grantee.

Witnesseth that the GRANTOR, for and in consideration of the sum of

-----TEN DOLLARS (\$10)----- DOLLARS,  
and other good and valuable consideration to GRANTOR in hand paid by GRANTEE, the receipt whereof is hereby acknowledged, has  
granted, bargained and sold to the said GRANTEE and GRANTEE'S heirs, successors and assigns forever, the following described land, situate,  
lying and being in the County of Monroe, State of Florida, to wit:  
A parcel of land on the Island of Key West being a portion of Block  
16 as shown on the unrecorded "Map of the Town of Key West Together  
with the Island as surveyed and delineated February, 1829 by W.A.  
Whitehead" and being more particularly described as follows:

COMMENCE at P.K. Nail and Brass Washer stamped 2749, said point being  
the intersection of the Southeasterly right of way line of Greene  
Street and the Easterly right of way line of Front Street; thence run  
along said Easterly right of way line of Front Street South 1°  
56'59" East, 18.30 feet to the POINT OF BEGINNING of the following  
described parcel of land; thence leaving said right of way line, run  
North 88° 05'24" East, 85.70 feet; thence run South 1° 57'35" East,  
139.67 feet; thence run North 89° 41'19" West, 75.15 feet; thence run  
North 2° 01'33" West, 109.38 feet; thence run North 36° 26'26" West,  
18.43 feet to a point on the Easterly right of way line of Front  
Street; thence run along the said right of way line North 1° 56'59"  
West, 12.12 feet to the POINT OF BEGINNING.

All the above described land lying in Section 6, Township 68 South,  
Range 25 East, Monroe County, Florida.

AND ALSO:

(Continued on Attached)

and the grantor does hereby fully warrant the title to said land, and will defend the same against lawful claims of all persons whomsoever.

In Witness Whereof, the grantor has hereunto set its hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

KEY WEST TREASURE EXHIBIT, INC.

Printed Name: JOHN M. SPOTTSMOOD, JR.  
Witness

By: Kim H. Fisher (Seal)  
KIM H. FISHER, President  
P.O. Address: 200 Greene Street, Key West, FL 33040

Printed Name: ROBIN R. GEDMIN  
Witness

STATE OF Florida  
COUNTY OF Monroe

(Corporate Seal)

The foregoing instrument was acknowledged before me this 28th day of December, 2000 by  
KIM H. FISHER, President of KEY WEST TREASURE EXHIBIT, INC., a Florida  
Corporation, on behalf of the corporation  
he is personally known to me or he has produced his Florida driver's license as identification

Printed Name: ROBIN R. GEDMIN  
Notary Public

Robin R. Gedmin  
MY COMMISSION # CC794170 EXPIRES  
April 1, 2003  
BONDED THRU TROY FAIRBANKS, INC.

Parcel ID Number:

A parcel of land on the Island of Key West being a portion of Block 16, as shown on the unrecorded "Map of the Town of Key West together with the Island as surveyed and delineated February, 1829, by W. A. Whitehead" and being more particularly described as follows:

Begin at a P.K. Nail and Brass Washer stamped 2749 said point being the intersection of the Southeasterly Right-of-Way line of Greene Street and the Easterly Right-of-Way line of Front Street; thence run along said Easterly Right-of-Way line of Front Street S 1°56'59"E for 18.30 feet; thence leaving said Right-of-Way line run N 88°05'24"E for 85.70 feet; thence run S 1°57'35"E for 10.00 feet; thence run N 88°05'24"E for 33.40 feet to a point on the Southwesterly Right-of-Way line of Whitehead Street; thence along said Right-of-Way line N 34°04'40"W for 87.28 feet to a point of intersection with the Southeasterly Right-of-Way line of Greene Street said point being an aluminum disc stamped 928; thence along said Southeasterly Right-of-way line S 55°59'14"W for 85.77 feet to the POINT OF BEGINNING.

All the above described land lying in Section 6, Township 68 South, Range 25 East, Monroe County, Florida.

AND ALSO:

A parcel of land on the Island of Key West being a portion of Block 16, as shown on the unrecorded "Map of the Town of Key West together with the Island as surveyed and delineated February, 1829, by W. A. Whitehead" and being more particularly described as follows:

Commence at a P.K. Nail and Brass Washer stamped 2749 said point being the intersection of the Southeasterly Right-of-Way line of Greene Street and the Easterly Right-of-Way line of Front Street; thence run along said Easterly Right-of-Way line of Front Street S 1°56'59" E for 18.30 feet to the POINT OF BEGINNING of the following described parcel of land; thence leaving said Right-of-Way line N 88°05'24"E for 84.85 feet; thence N 1°57'35"W for 1.50 feet; thence S 88°05'24"W for 84.85 feet to a point on said Easterly Right-of-Way line of Front Street; thence along said Right-of-Way line S 1°56'59"E for 1.50 feet to the POINT OF BEGINNING.

All of the above described land lying in Section 6, Township 68 South, Range 25 East, Monroe County, Florida.

Subject to conditions, limitations, restrictions and easements of record and taxes for the year 2001 and subsequent years.

Exhibit B

DECLARATION OF  
COVENANTS AND RESTRICTIONS  
AS TO TRACT 4F AT  
THE TRUMAN ANNEX

WHEREAS, Truman Annex Land Limited Partnership, a Florida limited partnership with a usual place of business at P. O. Box 4132, Key West, Florida 33041, ("Grantor") is the owner of the real property, referred to as "Tract 4F" or the "Premises", being conveyed to Key West Treasure Exhibit, Inc., ("Grantee") by that certain Special Warranty Deed of which these Covenants and Restrictions are a part; and

WHEREAS, Grantor may develop a large part of Truman Annex as a multi-use, project, including without limitations, commercial enterprises, residences, a marina, and a hotel ("the Project"), the success of which will depend on maintaining a uniformly high-quality appearance throughout the Truman Annex; and

WHEREAS, The Grantor intends to subject the conveyance of Tract 4F to the Covenants and Restrictions contained herein for the purpose of preserving and maintaining the appearance and the conforming use of Tract 4F and the improvements located thereon;

NOW THEREFORE, Grantor hereby declares that Tract 4F shall be sold and conveyed to Grantee subject to the following Covenants and Restrictions, which are for the purpose of protecting the value and desirability of Tract 4F and of the Project and which shall run with the land and be binding on all Parties having any right, title, or interest in Tract 4F or any part thereof, their heirs, successors, and assigns.

a. Generally. The conveyance of the Premises shall be subject to these restrictions set forth in this Declaration. The restrictions shall run with the land and be binding upon Grantee, its successors and assigns and shall benefit and be enforced by Grantor, provided that Grantor may not assign such benefits and right of enforcement to any other party except the Truman Annex Master Property Owners' Association, Inc. (the "Association") that has been or will be established and to which certain property owners at the Truman Annex will belong, provided that such restriction on assignment shall continue for as long as the Association continues in existence and continues to perform substantially the same functions for which it was established. In the event the Association should cease to exist or perform such functions, Grantor or the Association, as the case may be, may assign its benefits and rights hereunder to such entity as it is established to succeed to the role and functions of the Association. Any other assignment pursuant to this Paragraph (a)

shall require the prior written consent of Grantor, which shall not unreasonably be withheld.

b. Construction. Before commencing the construction or alteration of any buildings, enclosures, fences, parking facilities, or any other structures or permanent improvements on the Premises, Grantee shall first submit site plans or plans and specifications therefor to the Florida State Historic Preservation Office (the "FSHPO") and the Historic Florida Keys Preservation Board (the "HFKPB") and to Grantor for its written approval, which approval by Grantor shall not unreasonably be withheld. Grantor shall be guided by the guidelines established by the FSHPO and the HFKPB, but Grantor shall not be precluded from considering other guidelines and standards when reviewing said plans prior to granting its approval of same. Notwithstanding the foregoing, upon approval by the FSHPO and the HFKPB, disapproval by Grantor of such site plans or plans and specifications shall be deemed, absent extraordinary circumstances, unreasonable. In the event that Grantor shall fail to approve or disapprove such plans, specifications or site plans within 15 days after they have been submitted to Grantor, FSHPO and the HFKPB, whichever submission shall occur last, such approval will not be required and this covenant will be deemed to have been complied with. Grantor further agrees that, in the event of casualty to the Premises which results in the destruction of the improvements thereon, Grantee will not build on the Premises any structure larger than the presently existing improvements without the written consent of Grantor. In the event of such casualty, any repair, reconstruction, and/or new construction shall be subject to architectural review and approval by the FSHPO, the HFKPB, and Grantor as provided for under this Paragraph (b).

c. Signage and Exterior Display. The Building and Premises are located at the main entrance to the Project and must thus be maintained in an orderly and attractive appearance in order to safeguard the appearance of the Project. The signage on the Building and on the Premises, together with exterior displays of any kind (including, subject to Paragraph (a), lighting) on the Premises must be approved by Grantor in order to maintain and preserve the high-quality project that Grantor wishes to establish. Accordingly, Grantee shall not place or suffer to be placed or maintained on any exterior door, wall, window, fence, or other location on the Premises any sign, awning, canopy or advertising matter or suffer to be placed or maintained on any exterior door, wall, window, or fence or other thing of any kind, and will not place or maintain any decoration, lettering or advertising matter on the glass of any window or door without first obtaining Grantor's written approval and consent. In the event that Grantor shall fail to approve or disapprove such signage or exterior display within 15 days after a plan or description thereof has been submitted to Grantor, such approval will not be required and this covenant will be deemed to have been complied with. Grantee further agrees to submit



descriptions of any signs proposed to be placed on the Premises to the Historic Architectural Review Commission of Key West for prior approval.

Grantee further agrees to maintain all signs, awnings, canopies, decorations, lettering, advertising matter, and other things as may be approved by Grantor, in good condition and repair at all times. The placement, design, construction, and color of such items (including, subject to Paragraph (d) lighting) shall meet Grantor's specifications and shall be maintained so as to ensure a standard commensurate with the surrounding properties as the same may be developed from time to time.

d. Use of Premises. The uses of the Premises shall be restricted as follows:

- i. Five Year Restriction. Use of the Premises shall be limited to the uses as set forth in Exhibit A hereto, until November 1, 1992 at which time such covenant will terminate and have no further force and effect. Until November 1, 1992, Grantee agrees to keep the Museum, as defined in Exhibit A hereto, open during the hours of 10:00 a.m. to 5:00 p.m. seven days a week provided that buyer may close the Museum for a total of no more than 14 days per calendar year.
- ii. Consistent Use Restriction. After November 1, 1992, the use of the Premises shall be limited to uses consistent with the quality of other commercial enterprises then in operation at the Project. The quality of other commercial enterprises shall be determined as of the date that Grantee shall propose to Grantor a new use(s) for the Premises. Such proposal shall be made in writing to Grantor for its approval, which shall not unreasonably be withheld, and shall not unreasonably be withheld, and shall not be dated prior to February 1, 1992 nor be based on the quality of other commercial enterprises as they exist at the Project prior to that date. In the event that Grantor shall fail to approve or disapprove Grantee's proposal within 15 days of the submission of such proposal, such approval will not be required and this covenant will be deemed to have been complied with for said limited use pursuant to the aforementioned proposal.
- iii. No Restriction on Competition. The restrictions contained herein shall not prevent Grantee or its tenants from establishing a commercial enterprise on the Premises which may compete with another commercial enterprise either existing or planned

493781 OFF 1017 PAGE 0374  
at the Project, provided such other restrictions  
as may be applicable are complied with.

e. Security Measures. Grantee shall have the right to take such measures as it deems necessary to require to ensure the security of the Premises and the personal property located therein, including locking or otherwise securing the gates as referred to in Paragraph (f) and other entrances to the Premises after normal business hours, provided that it will not maintain dogs on the Premises, and provided further, that it may maintain exterior video cameras and amber flood lighting on the Premises subject to Grantor's right of approval over the type and location thereof, which approval shall not unreasonably be withheld.

f. Gates. Grantee shall not install and maintain entrance gates to the Premises except at the two locations designated as Gates 1 and Gate 2 on Exhibit B hereto. Access to the Premises from across any other locations is expressly prohibited.

g. Outside Areas and Storage. Grantee shall not store or maintain, or allow to accumulate any materials or equipment, or refuse in the area designated as "non-storage area" on Exhibit C hereto. Exterior storage of materials and equipment is allowed on the portions of the Premises along the Southerly and Westerly boundaries of the Premises not designated as "non-storage area," provided such storage areas shall be enclosed and screened from public view. The burning of refuse out-of-doors shall not be permitted. Waste materials, garbage, and trash shall be kept in sanitary containers and shall be disposed of with reasonable promptness.

h. Animals. No more than an aggregate of four dogs, cats, or customary household birds may be kept on the Premises. No wild animal, reptile, or bird may be trapped, transported, or kept, anywhere upon the Premises. No other animal or bird except a domestic dog, cat, or bird may be kept anywhere on the Premises. Breeding of any animals on the Premises is specifically prohibited.

i. Nuisances. No noxious or offensive activity shall be carried on upon the Premises, nor shall anything be done or placed on the premises which creates a disturbance, or annoyance to others. No sound shall be emitted from the Premises which is unreasonably loud or annoying; nor shall any odor be emitted from the Premises which is noxious or offensive to others.

j. Right of First Refusal. Grantor reserves to itself the right of first refusal to purchase the Premises in the event of a proposed sale or lease for a term of 25 years or more, inclusive of renewals. This right of first refusal shall terminate on June 18, 2037 or by prior mutual written consent of Grantor and Grantee.

If Grantee shall enter into a written contract with a third party unaffiliated with Grantee for the sale of the Premises (the "Contract"), Grantee shall within five days after executive and delivery thereof, provide to Grantor a copy of the Contract in accordance with Paragraph K hereof.

Consummation of such sale is contingent on compliance with the requirements of this Paragraph. Grantor shall have the right, to be exercised within 15 days after receipt of the copy of the Contract as provided above, to elect to purchase the Premises upon the same terms and conditions as set forth in the Contract. Grantor's election shall be in writing and shall be provided to Buyer in accordance with Paragraph K hereof.

Upon election to purchase, Grantor shall simultaneously enter into a contract (the "Grantor Contract") for the purchase of the Premises upon the same terms and conditions as contained in the Contract and deposit an amount equal to any amounts theretofore paid as a deposit by the third party buyer under the Contract. Grantor's deposit shall be paid in a manner substantially as provided in the Contract. The closing of the sale of the Premises pursuant to the Grantor Contract shall be held no later than the date set forth in the Contract or 60 days after Grantor's election, whichever is later.

If Grantor shall fail to elect to purchase the Premises, Grantee shall have the right to proceed with the closing pursuant to the Contract, provided that such closing occurs within 90 days after the date originally set for the closing under the Contract. If the closing under the contract is not held within such 90 day period, Grantee shall in each instance offer Grantor the right of first refusal as herein provided.

In the event of a proposed sale for consideration payable by means other than cash or promissory notes (including promissory notes secured by mortgages), Grantor shall have the right to require that the consideration to be paid for the Premises be determined by arbitration in accordance with the rules of the American Arbitration Association in Miami, provided that demand therefor is made within 15 days after receipt of the Contract from Grantee. Pending such determination, Grantee shall not convey the Premises without Grantor's express prior written approval. Grantor shall have the right to elect to exercise its right of first refusal to purchase within 15 days after receipt of the determination of the arbitrator(s), (the "Arbitrator(s)") selected in accordance with the rules of the American Arbitration Association, and the consideration to be paid by Grantor shall be determined by the Arbitrator(s), it being understood that the closing of such purchase shall be no more than 60 days after such exercise. The cost of such arbitration shall be borne as determined by the Arbitrator(s).

493781

REC 1017 PAGE 0376

1

The Paragraph (j) shall apply to a sale of the outstanding voting capital stock of Grantee (the "Stock") which leaves Melvin A. Fisher ("Fisher") owning less than a majority of the Stock, provided that Fisher shall be able to transfer up to an aggregate of 49% of the Stock without giving rise to Grantor's right of first refusal for so long as Fisher remains the record and beneficial owner of at least a majority of the Stock. Notwithstanding the foregoing, Fisher may, without giving rise to Grantor's right of first refusal, transfer any amount of the Stock to Dolores E. Fisher, any one or all of Fisher's natural or adopted children, or the Mel Fisher Maritime Heritage Society, Inc. (the foregoing parties referred to collectively as the "Transferors") for so long as (i) the Transferors retain record and beneficial ownership of the Stock so transferred and (ii) the Paragraph (d)(i) hereof notwithstanding the expiration of the five-year period. After Fisher has transferred Stock to the Transferors such that Fisher no longer retains record and beneficial ownership of at least a majority of the Stock, any subsequent transfer of any or all of the Stock by the Transferors, other than to another Transferor, or the commencement of a use of the Premises that does not conform with the requirements of Paragraph (d)(i) hereof [notwithstanding the expiration of the five-year term of the restrictions included in such paragraph (d)(i)], shall give rise to Grantor's right of first refusal.

Grantee agrees to give Grantor prompt notice of any sale of record or beneficial ownership of the Stock after the date hereof. The certificates representing shares of the Stock shall bear a legend on the face thereof, describing the right of first refusal contained in this Paragraph (j) insofar as such right of first refusal may arise from a sale of the stock. In the event of a sale of Stock which gives rise to the right of refusal contained herein, Grantor may elect to purchase the Premises at a price determined by a competent and mutually acceptable appraiser which price shall in no event be less than \$1,400,000. Any dispute as to the price or terms of such purchase shall be submitted to arbitration as set forth above upon the written request of either Buyer or Seller.

This Paragraph (j) shall not apply to foreclosure of a mortgage on the Premises or to a deed in lieu of foreclosure.

K. Notices.

All notices required or permitted by this Declaration shall be deemed fully served when mailed by registered or certified mail, return receipt requested, or delivered in hand, addressed as follows:

TO Grantor:

Truman Annex Land Limited Partnership  
c/o Truman Annex Holding Company, Inc.  
Truman Annex  
P.O. Box 4132  
Key West Florida 33040



493781

REC 1017 PAGE 0377

7

with copies to: Edward J. Faneuil, Esq.  
Samek & Faneuil  
2 Oliver Street  
Boston, MA 02109

and to: James Hendrick  
Morgan & Hendrick  
317 Whitehead Street  
Key West, Florida 33040

TO Grantee: Melvin A. Fisher  
Key West Treasure Exhibit, Inc.  
200 Greene Street  
Key West, Florida 33040

with a copy to: Alfred John Dougherty  
Hogan & Hartson  
555 13th Street, N.W.  
Washington, D.C. 20004-1109

or to such other addresses of which notice has previously been given in the foregoing manner.

**L. Injunctive Relief**

In the event that Grantee fails to comply with any provisions of this Declaration of Covenants and Restrictions, Grantor shall be entitled to injunctive relief and such other and further relief as may be necessary or appropriate. Grantee acknowledges that its failure to comply with said Covenants and Restrictions set forth herein would cause irreparable harm to Grantor for which there would be no adequate remedy at law.

**M. Severability.** In case any provision of this Declaration shall be found unenforceable or invalid for any reason, the enforcement of any other provision hereof shall not be impaired thereby, and such provision shall be deemed modified to the extent necessary to be enforceable, or if such modification is not practicable, shall be deleted from this Declaration.

**N. Waiver.** Failure to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

**O. Successors and Assigns.** Subject to the provisions Paragraph (a), where any part of this Declaration grants or reserves to Grantor or Grantee a right or benefit, and where any part imposes upon Grantor or Grantee any duty, restriction or obligation, the reference to Grantor or Grantee therein shall include and refer to that party's assigns and successors.



# Exhibit A

P. ~~Construction~~ <sup>DEF 1017 PAGE 0378</sup> Reference herein to a specific item or example shall not be constructed to limit others, i.e. the rule of expressio unius shall not apply.

493781

REC1017 PAGE0379

## EXHIBIT A TO DEED RESTRICTIONS

### USES OF PREMISES

The Premises shall be used for the following purposes:

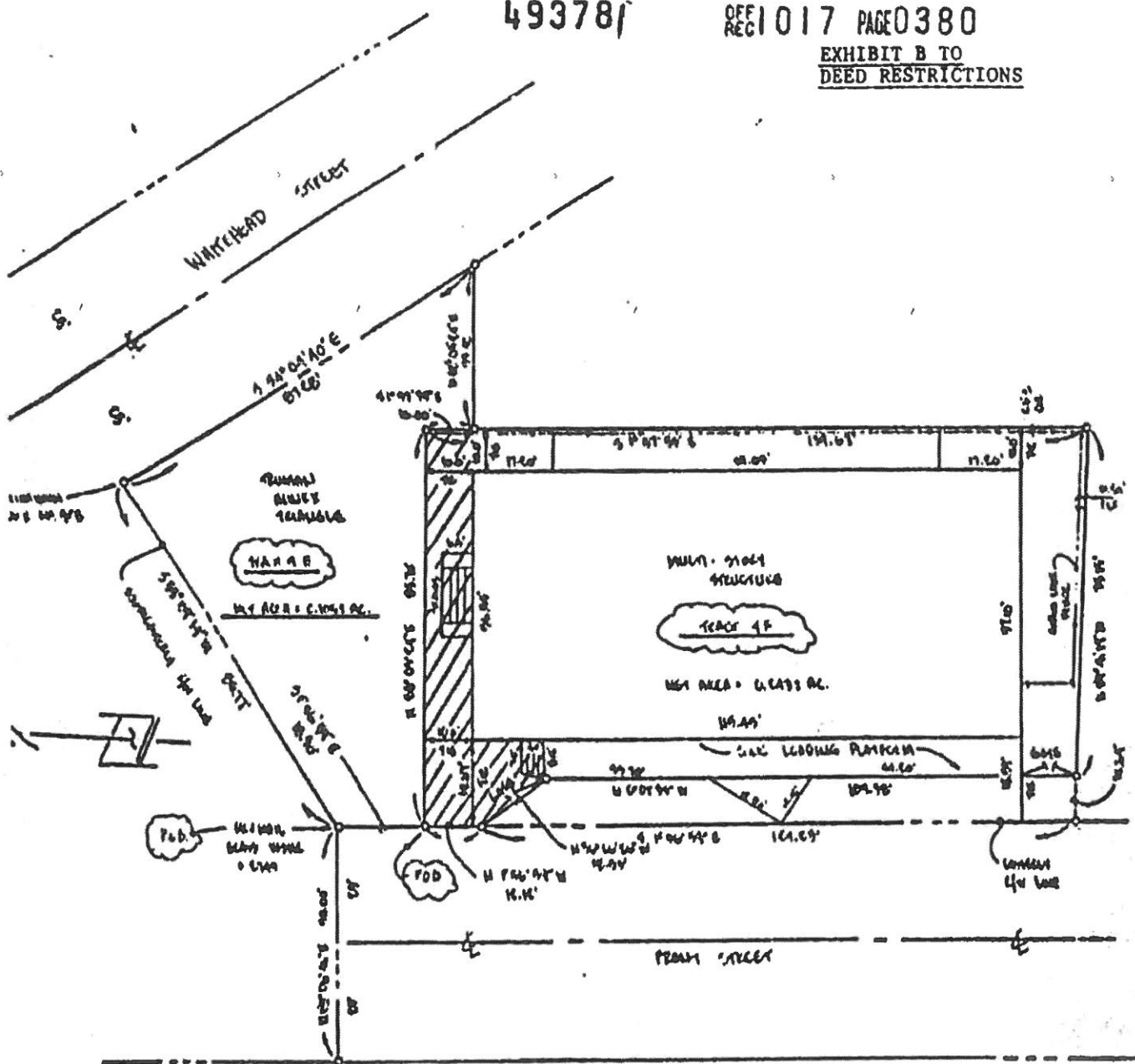
- a. for a museum (the "Museum") on the first floor of the premises displaying salvaged treasure and maritime artifacts recovered from sunken ships in the waters surrounding Key West, Florida as well as other materials relating to marine salvage operations;
- b. for general office use;
- c. for activities relating to the preservation of the aforementioned treasure and artifacts;
- d. for research and development relating to remote sensing technology used in maritime salvage operations;
- e. for artistic and other activities relating to designing and producing reproductions of certain items of the aforementioned treasure and artifacts;
- f. for a gift shop selling items relating to the aforementioned treasure and artifacts;
- g. for an audio visual theatre with a capacity for not more than 100 persons; and
- h. for the production and filming of a television special program relating to the maritime salvage and other activities of Mel Fisher and his associates.

# Exhibit A

49378j

OFF 1017 PAGE 0380

EXHIBIT B TO  
DEED RESTRICTIONS

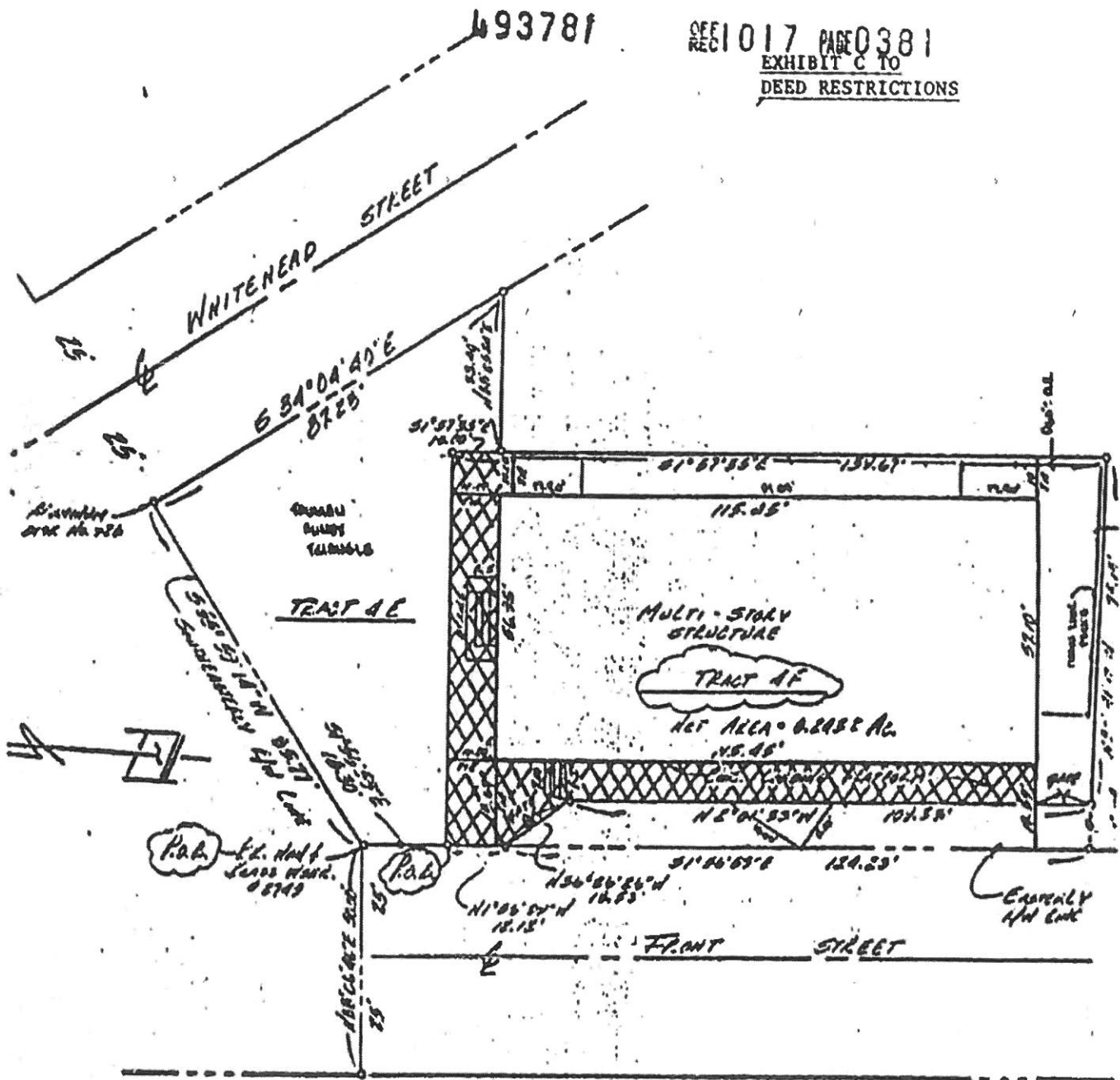


Dupe taken  
Nov 1: 60'

 **WUOLAH! BILAH BONGKARAN 40 TAHUN**

# Exhibit A

OFF REC 1017 PAGE 0381  
EXHIBIT C TO  
DEED RESTRICTIONS



DETAIL SEATED  
SCALE 1"=20'



SHOWING WALL-MOUNTED SIGN

FILE #1150273  
BK#1602 PG#1546

LICENSE AGREEMENT

THIS LICENSE AGREEMENT (this "Agreement"), dated this 30<sup>th</sup> day of September, 1999, by and between KEY WEST TREASURE EXHIBIT, INC., a Florida corporation, whose address is 200 Greene Street, Key West, Florida 33040, and TRUMAN ANNEX PROPERTIES, INC., a Florida corporation, whose address is 60 Golf Club Drive, Key West, Florida 33040.

RECITALS

WHEREAS, TRUMAN ANNEX LAND LIMITED PARTNERSHIP, a Florida limited partnership ("TALLP"), transferred to Key West Treasure Exhibit, Inc., a Florida corporation ("Treasure"), certain property located in Key West, Florida, known as Tract 4F, as more particularly described in that certain special Warranty Deed as recorded I Official Records Book 1017 at Page 369, Public Records of Monroe County, Florida (the "Premises"); and

WHEREAS, TALLP reserved in said Special Warranty Deed certain rights, including, without limitation, a right of first refusal to purchase the subject premises for a term of 25 years and a right to approve all signature and exterior displays, all as more particularly set forth in Exhibit B (the "Declaration of Covenants and Restrictions as to Tract 4F at the Truman Annex") to the Special Warranty Deed; and

WHEREAS, TALLP has transferred its rights under the Special Warranty Deed to TAP; and

WHEREAS, TAP has agreed with Treasure to the cancellation of the Declaration of Covenants and Restrictions (including the right of first refusal) in consideration of Treasure granting to TAP, its successors and assigns, an exclusive, 30-year lease to replace, maintain and control the signage on the Premises.

NOW THEREFORE, in consideration of TEN DOLLARS (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, it is agreed.

1. *Termination of Declaration of Covenants and Restrictions.* TAP and Treasure hereby agree that the Declaration of Covenants and Restrictions as to Tract 4F at the Truman Annex as set forth in the aforesaid Special Warranty Deed are canceled and null and void.
2. *Grant of License.* Treasure hereby grants to TAP, its successors or assigns, the right to replace, erect, modify, maintain and otherwise control certain signage on the Premises, viz two existing signs as depicted in Exhibits A and



B attached hereto. TAP shall have the right to have signage on the premises, and such shall be limited to the location of the existing two signs. Except for one sign, which may be erected for the Hilton Hotel, no other signs by third parties shall be permitted on the Premises without the written consent of TAP. This license shall have a term of thirty (30) years commencing on the date hereof and shall expire on September 30, 2029. TAP shall have the right to remove said existing signs and replace them at its discretion, provided only that the replacement signs shall not be larger in size than the existing signs, the background color and lettering shall remain the same as the existing signs, and the letters shall not be larger than the largest lettering of the existing signs. The content of the signage shall be at the discretion of TAP. TAP shall maintain all future signs in good condition and shall be permitted to enter the Premises for the purpose of maintaining, modifying, changing and otherwise controlling said signs. This limited license does not restrict nor impair the right and usage of signage by Treasure, its tenants, including the Mel Fisher Maritime Heritage Museum or by their successors in interest including any purchaser of the property. Notwithstanding anything to the contrary herein, under no circumstances will signage for real estate sales, rentals, management, marketing, development or similar companies, except for the Hilton Hotel, be permitted without prior written consent of TAP for the duration of this license.

3. *No Prior Grants of License.* Treasure hereby represents to TAP that the existing signs as depicted I Exhibits A and B have gratuitously permitted to exist and that Treasure has not granted any license, easement or other authority to Truman Annex Real Estate Co., Inc. or any other party to maintain said signs or otherwise control such signage. Treasure further represents that it has not nor will it during the 30-year term of the license grant any third party, other than the Hilton Hotel, the right to erect any signage on the Premises.
4. *Other Agreements.* No modification or change in this Agreement shall be valid or binding upon the parties, unless in writing and executed by the party or parties intended to be bound by it.
5. *Construction of Agreement.* This Agreement is to be construed as a Florida contract, is to take effect as a sealed instrument, sets forth the entire contract between the parties, inuring upon and to the benefit of the parties hereto, their successors and assigns. The captions are used only as a matter of convenience and are not to be considered as a part of this Agreement or to be used in determining the intent of the parties. This Agreement has been fully negotiated between the parties, and neither party shall have any greater burden than the other in construing this Agreement, including one party being in charge with the drafting of the document.

IN WITNESS WHEREOF, the undersigned have set their respective hands and seals on the date hereinabove set forth.

WITNESSES:

Linda Randolph  
Print Name: Linda Randolph  
Janette S. Stauch  
Print Name: Janette S. Stauch

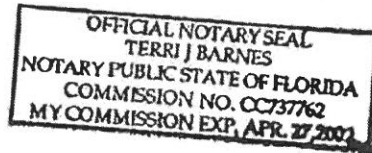
KEY WEST TREASURE  
EXHIBIT, INC., a Florida  
Corporation

By: Kim Fisher  
Print Name: Kim Fisher  
Title: President

STATE OF FLORIDA )  
COUNTY OF MONROE ) SS:

The foregoing instrument was acknowledged before me, this 16<sup>th</sup> day of October, 1999, by Kim Fisher, as President of Key West Treasure Exhibit, Inc., a Florida corporation, on behalf of the corporation. He is X personally known to me or        has produced        as identification and did/did not take an oath.

[NOTARY SEAL]



Terri J. Barnes  
Notary Public, State of Florida  
Print Name:       

WITNESSES:

Amber Bates  
Print Name: Amber Bates  
Linda Longario  
Print Name: LINDA LONGARIO

TRUMAN ANNEX PROPERTIES  
INC., a Florida Corporation

By: Peter Rysman  
Print Name: Peter Rysman  
Title: President

STATE OF FLORIDA )  
COUNTY OF MONROE ) SS:

The foregoing instrument was acknowledged before me, this 18<sup>th</sup> day of October, 1999, by Peter Rysman, as President of Truman Annex Properties, Inc., a Florida corporation, on behalf of the corporation. He is X personally known to me or        has produced        as identification and did/did not take an oath.

[NOTARY SEAL]



MARGARET E. CROWLEY  
COMMISSION # CC638275  
EXPIRES APR 13, 2001  
BONDED THROUGH  
ATLANTIC BONDING CO., INC.

Margaret E. Crowley  
Notary Public, State of Florida  
Print Name: MARGARET E. CROWLEY



LITTLE WHITE HOUSE

# Exhibit A

June 19, 1987

FILE # 1150273  
BK# 1602 PG# 1559

BY HAND

Mr. Melvin Fisher, President  
Key West Treasure Exhibit, Inc.  
200 Greene Street  
Key West, FL 33040

Dear Mel:

Pursuant to certain deed restrictions referenced in a deed from Truman Annex Holding Company to Key West Treasure Exhibit, Inc., please be advised as follows:

1. The signs evidenced by the photographs, <sup>which total (5) signs as further identified below</sup> attached hereto and which have been initialled and dated by me as president of Truman Annex Holding Company, are approved as to their type ~~and location~~.


2. Any future replacement signage which is of substantially similar material, size and type, and with the same graphic design shall be, absent extraordinary circumstances, approved pursuant to the applicable provisions of the deed restriction.

Please be reminded that all exterior displays and signs must be maintained in good condition and repair at all times.

Thank you.

Very truly yours,

TRUMAN ANNEX HOLDING COMPANY, GENERAL PARTNER

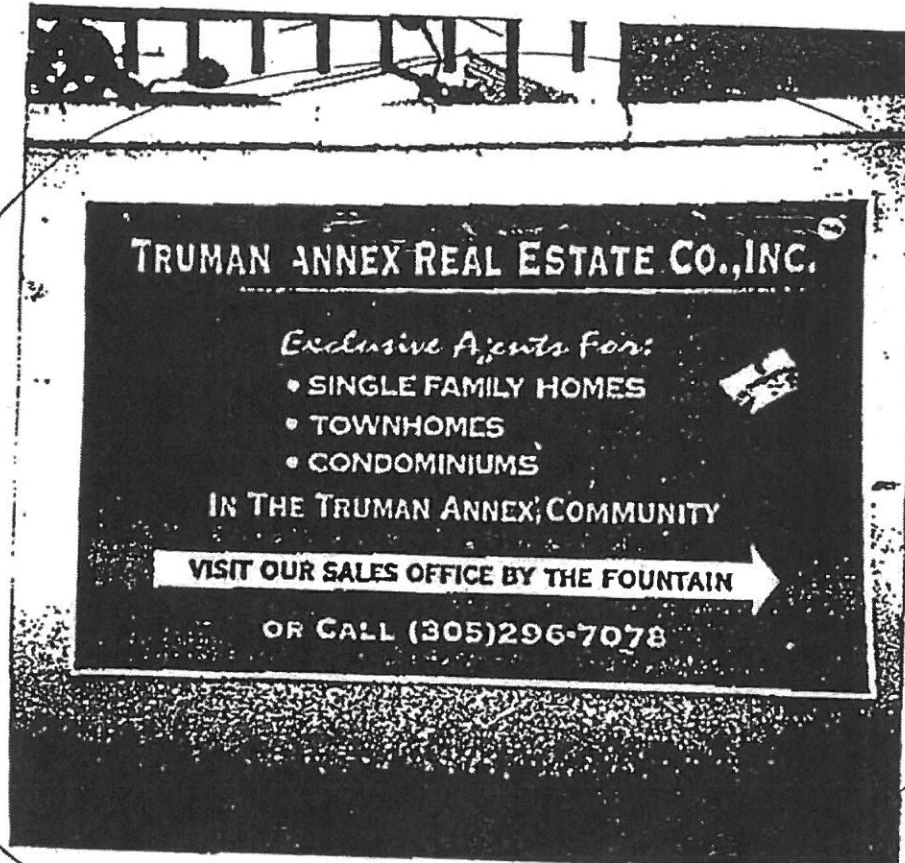
By:   
Britam Singh,  
its President

ONE (1) Sign of the same size on the bldg as on photo enclosed  
TWO (2) Signs on fence of the same size as on photo enclosed  
TWO (2) Entry signs as existing 6/19/87

NOTE: Location to be approved by seller with respect to all 5 signs

TRUMAN ANNEX COMPANY  
P.O. Box 4132, Key West, Florida 33041  
Development Office (305) 296-5601 Management and Leasing Office (305) 296-5373

FILE #1150273  
BK#1602 PG#1560



*Greene St.  
(Closest to TA)*

*2*

# Exhibit A

FILE #1150273  
BK#1602 PG#1561

**TRUMAN ANNEX REAL ESTATE CO., INC.**

*Exclusive Agents For:*

- SINGLE FAMILY HOMES
- TOWNHOMES
- CONDOMINIUMS

**IN THE TRUMAN ANNEX COMMUNITY**

**VISIT OUR SALES OFFICE BY THE FOUNTAIN**

**OR CALL (305)296-7078**

RECORDER'S MEMO:  
LEGIBILITY OF WRITING, TYPING, OR PRINTING WAS  
UNSATISFACTORY ON THIS DOCUMENT WHEN RECEIVED

*Whitehead*  
*(Closest to corner*  
*of Green.*

*3*

MONROE COUNTY  
OFFICIAL RECORDS



# Exhibit B

FLORIDA DEPARTMENT OF STATE DIVISION OF CORPORATIONS	
<a href="#">Home</a>	<a href="#">Contact Us</a>
<a href="#">E-Filing Services</a>	<a href="#">Document Searches</a>
<a href="#">Forms</a>	<a href="#">Help</a>

## Detail by Entity Name

### Florida Not For Profit Corporation

THE MEL FISHER MARITIME HERITAGE SOCIETY, INC.

### Filing Information

Document Number	762780
FEI/EIN Number	59-2207143
Date Filed	04/07/1982
State	FL
Status	ACTIVE

### Principal Address

200 GREENE STREET  
KEY WEST, FL 33040

Changed: 03/09/1995

### Mailing Address

200 GREENE STREET  
KEY WEST, FL 33040

Changed: 03/09/1995

### Registered Agent Name & Address

KENDRICK, MELISSA  
200 GREENE STREET  
KEY WEST, FL 33040

Name Changed: 02/01/2011

Address Changed: 05/08/2000

### Officer/Director Detail

#### Name & Address

Title President/CEO

KENDRICK, MELISSA  
200 GREENE STREET  
KEY WEST, FL 33040

---

[Copyright ©](#) and [Privacy Policies](#)  
State of Florida, Department of State

# Exhibit B

Title VC

SULLIVAN, GREG  
200 GREENE STREET  
KEY WEST, FL 33040

Title Chairman

RODRIGUEZ, RAUL  
200 GREENE STREET  
KEY WEST, FL 33040

Title VC

SCHMIDT, DIANE  
200 GREENE STREET  
KEY WEST, FL 33040

Title Treasurer

TINNIE, GENE  
200 GREENE STREET  
KEY WEST, FL 33040

Title Secretary

Will, Nicki, Phd  
200 GREENE STREET  
KEY WEST, FL 33040

Annual Reports

Report Year	Filed Date
2014	01/11/2014
2014	04/12/2014
2015	03/17/2015

Document Images

<a href="#">03/17/2015 -- ANNUAL REPORT</a>	View image in PDF format
<a href="#">04/12/2014 -- AMENDED ANNUAL REPORT</a>	View image in PDF format
<a href="#">01/11/2014 -- ANNUAL REPORT</a>	View image in PDF format
<a href="#">02/21/2013 -- ANNUAL REPORT</a>	View image in PDF format
<a href="#">03/27/2012 -- ANNUAL REPORT</a>	View image in PDF format
<a href="#">02/01/2011 -- ANNUAL REPORT</a>	View image in PDF format
<a href="#">02/24/2010 -- ANNUAL REPORT</a>	View image in PDF format
<a href="#">03/20/2009 -- ANNUAL REPORT</a>	View image in PDF format
<a href="#">10/24/2008 -- ANNUAL REPORT</a>	View image in PDF format

Dimensional Requirements Comparison	HPRD (Sec. 122-990)	HRCC-1 (Sec. 122-690)	Existing
Maximum density (dwelling units per acre)	22	22	0
Maximum floor area ratio	1.0	1.0	2.0
Maximum height (feet)	35	35	Unk
Maximum building coverage	40%	50%	52%
Maximum impervious surface ratio	50%	70%	10%
Minimum lot size (square feet.)	43,560	4,000	15,377
Minimum lot width (feet)	50	40	75
Minimum lot depth (feet)	100	100	18
Front setbacks (feet)	5	0	40
Side setbacks (feet)	2.5	2.5	1
Rear setbacks (feet)	10	10	12
Street side setbacks (feet)	5	0	8.5

Use Comparison	HPRD	HRCC-1
Commercial Retail sales of high intensity ( $\geq 5,000$ sf)	Non-conforming	Conforms
Business and Professional Offices	Non-conforming	Conforms
Restaurant	Non-conforming	Conforms

**(3) Changed conditions. Whether, and the extent to which, land use and development conditions have changed since the comprehensive plan's effective date and whether such conditions support or work against the proposed change.**

The effective date of the Land Development Regulations is July 3, 1997. The 2030 Comprehensive Plan was adopted on March 5, 2013. Both the 2030 Comprehensive Plan and the LDRs are "Living Documents" that are, by their very nature, designed to evolve and change with the community's goals.

In this case, the community surrounding the subject property has developed/redeveloped over the last 30 years into a vibrant transient/commercial tourist-driven activity center as part of the Truman Annex Development. The residential component of this development lies directly south of the subject property; a small distance away from the pedestrian thoroughfare directing cruise

ship passengers between the Westin Hotel and the old Customs House, now the Key West Museum of Art & History, and directing them onto Greene and Front Streets; the front steps of the Mel Fisher Maritime Heritage Museum.

**(4) Land use compatibility. Whether, and the extent to which, the proposal would result in any incompatible land uses, considering the type and location of uses involved.**

The proposed map amendment would serve to extend the adjacent HRCC-1 District, thus incorporating the commercial use of the subject property. The proposed map amendment serves to extend the designated boundary for the Historic Commercial FLUM. Adjacent uses will remain compatible.

The request restores the historic potential for commercial uses on the property. Similar circumstances exist throughout the immediate vicinity and compatibility is addressed in accordance with Comprehensive Plan Objective 1-1.3 and Policies 1-1.2.1, 1-1.2.2 and 1-1.9.5. Therefore, the proposal will not result in any incompatible land uses because existing instances of Historic Commercial abutting Historic Residential can be found throughout the City and existing design regulations in the Land Development Regulations specifically address compatibility via the implementing language in the Comprehensive Plan.

Comprehensive Plan- Future Land Use Comparison	
Existing	Proposed
Historic Residential	Historic Commercial
Maximum Density 22 dwelling units per acre	Maximum Density 22 dwelling units per acre
Maximum F.A.R. 1.0	Maximum F.A.R. 1.0
Allowable uses in areas designated Historic Residential are single family, duplex and multi-family residential that preserve the historic character and quality of the Historic Preservation District central residential community. Accessory uses, including approved home occupations and customary community facilities are also allowed. Transient uses are not permitted	Areas zoned Historic Residential Commercial Core within the Historic Commercial Future Land Use District are intended to accommodate both residential and commercial uses typically located within the city's intensely vibrant tourist commercial entertainment core of the City of Key West. Residential activities within this designated area include single family and duplex structures and multiple-family structures. Commercial uses generally permitted in the area include: <ol style="list-style-type: none"> <li>1. Professional Offices</li> <li>2. Restaurants</li> <li>3. Places of worship</li> <li>4. Specialty shops</li> <li>5. Commercial Retail sales of low and medium intensity (<math>\leq</math> 5,000 sf)</li> <li>6. Commercial Retail sales of high intensity (<math>\leq</math> 2,500 sf)</li> <li>7. Veterinary medical services without kennels</li> <li>8. Adult entertainment establishments</li> <li>9. Transient living accommodations</li> </ol>

Land Use Compatibility Analysis		
<i>Permitted</i>	Historic Residential/ HPRD	Historic Commercial/ HRCC-1
Single-family and two-family residential dwellings.	X	X
Multiple-family residential dwellings.	X	X
Group homes with less than or equal to six residents (section 122-1246).	X	X
Places of worship.		X
Business and professional offices.	X	X
Commercial retail low and medium intensity less than or equal to 5,000 square feet.		X
Commercial retail high intensity less than or equal to 2,500 square feet.		X
Hotels, motels, and transient lodging		X
Medical services.		X
Parking lots and facilities		X
Restaurants, excluding drive-through		X
Veterinary medical services, without outside kennels.		X
Adult entertainment establishments		X
<i>Conditional</i>	HPRD	HRCC-1
Group homes with seven to 14 residents (section 122-1246).		X
Cultural and civic activities.	X	X
Community centers, clubs, and lodges	X	X
Educational institutions and day care.	X	X
Nursing homes/rest homes and convalescent homes.	X	X
Parks and recreation active and passive.	X	X
Places of worship.	X	
Protective services.	X	X
Public and private utilities.	X	X
Parking lots and facilities.	X	
Commercial retail low and medium intensity greater than 5,000 square feet.	X	X
Commercial retail high intensity greater than 2,500 square feet.	X	X
Restaurants, excluding drive-through.	X	
Bars and lounges, including those associated with adult entertainment		X
Boat sales and service		X
Commercial amusement, except adult entertainment establishments		X
Funeral homes	X	X
Light industrial		X
Marinas		X
Medical services	X	
Small recreational power-driven equipment rentals		X
Hotels, motels, and transient lodging	X	
Veterinary medical services, without kennels	X	