THE CITY OF KEY WEST PLANNING BOARD Staff Report



To: Chairman and Planning Board Members

Through: Thaddeus Cohen, Planning Director

From: Ginny Haller, Planner II

Meeting Date: April 21, 2016

Agenda Item: Change of Non-Conforming Use – 916 Pohalski Avenue (RE #

00021080-000000; **AK** # **1021822**) – A request for change of nonconforming use in order to change the use from a commercial retail (dance school and studio) to a medical use on property located within the Historic High Density Residential (HHDR) Zoning District pursuant to Section 122-32(e) of the code of Ordinances of the City of Key West, Florida.

Request: Approval to change an existing dance school and studio (commercial

retail) nonconforming use to acupuncture practice with related wellness

therapies and therapeutic massage (medical use).

Applicant: Smith Oropeza Hawks, PL

Owner: Capital Bank, NA

Location: 916 Pohalski Avenue (RE # 00021080-000000; AK # 1021822)

Zoning: Historic High Density Residential (HHDR) Zoning District



\Background and Request:

The subject property is located on Pohalski Avenue just off of Truman Avenue and is comprised of a single story frame structure. The property is located within the HHDR Zoning District, which does not allow commercial uses. However, the prior use of the property as the Coffee Mill, a dance studio and school, was an existing legal nonconforming use which was established prior to the adoption of the current zoning ordinance in 1997.

The property has been sold and the Coffee Mill is relocating. The Coffee Mill offers classes in ballet, tap, jazz, modern, Tai Chi, has Capoiera, Pilates and jazzercise. It also offers rehearsal space. It currently is open seven days a week from 8 AM to 10 PM and has an average of sixty-three classes per week with four to twenty participants per session.

The proposed use is for a medical use with an acupuncture practice along with related wellness therapies and therapeutic massage. As seen on the proposed floor plan, the applicant is proposing two private treatment rooms and one area for small group wellness activities. It is anticipates the treatment of ten to twelve patrons per day, five days a week.

Surrounding Zoning and Uses within 300 feet:

North: HMDR Single-family, multifamily residential

South: HNC-1 Single-family residential, multifamily residential,

medical services, business and professional offices

East: HHDR Single-family residential, multifamily residential West: HHDR Single-family residential, multifamily residential

HHDR Permitted Uses Per City Code Section 122-627:

- (1) Single-family and two-family residential dwellings.
- (2) Multiple-family residential dwellings
- (3) Group homes with less than or equal to six residents as provided in section 122-1246.
- (4) Cemeteries, in the area bounded by Olivia Street, Windsor Lane, Passover Lane, Angela Street, and Frances Street.

HHDR Conditional Uses Per City Code Section 122-628:

- (1) Group homes with seven to 14 residents as provided by 122-1246..
- (2) Cultural and civic activities.
- (3) Educational institutions and day care.
- (4) Nursing-homes, rest homes and convalescent homes.
- (5) Parks and recreation, active or passive.
- (6) Places of worship.
- (7) Protective services.
- (8) Public and private utilities.
- (9) Parking lots and facilities.

Process:

Development Review Committee: February 25, 2016 **Planning Board:** April 21, 2016

Local Appeal Period: 10 days

DEO Review Period: Up to 45 days

<u>Analysis – Evaluation for Compliance With The Land Development Regulations:</u>

Pursuant to City Code Section 122-32(e), a nonconforming use of a building or structure may be changed to another nonconforming use if the Planning Board finds that:

1. The new use is equally or more appropriate to the zoning district; and

The proposed use of an acupuncture practice with related wellness therapies and therapeutic massage would be equally as appropriate as the former commercial retail use.

IN COMPLIANCE.

2. The change of use would not intensify the use of the premises by increasing the need for parking facilities; increasing vehicular traffic to the neighborhood; increasing noise, dust, fumes or other environmental hazards; or by having an adverse impact on drainage.

Intensity of Proposed Use: Parking

The change of use will decrease the intensity by decreasing the number of patrons which will decrease the vehicular and pedestrian traffic, therefore decreasing the need for parking facilities. The change of use does not involve enlarging the existing building or adding new floor area. **IN COMPLIANCE.**

Intensity of Proposed Use: Traffic

Compared to the prior commercial retail use, it is anticipated that the proposed use would decrease vehicular traffic to the neighborhood. **IN COMPLIANCE.**

Intensity of Proposed Use: Noise, Dust, Fumes and Other Environmental Hazards

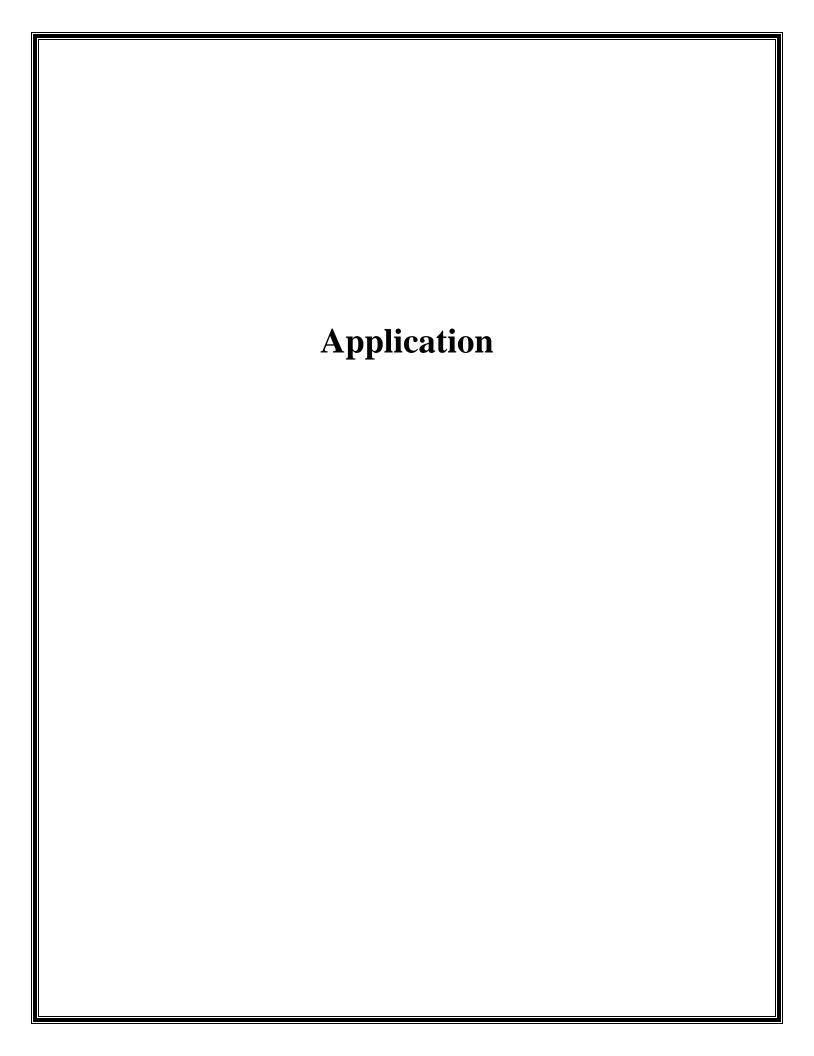
The less intensive traditional Chinese Medicine practice will decrease the noise (from the music of the dance studio), Also the dust and fumes will decrease as a result of the decrease in traffic. **IN COMPLIANCE.**

Intensity of Proposed Use: Drainage

No changes are proposed to the exterior of the building or property that would affect drainage. The change of use would not have an adverse impact on drainage. **IN COMPLIANCE.**

Recommendation:

Based on the above analysis of the standards for considering changes of nonconforming uses in Section 122-32(e) of the Land Development Regulations, the Planning Department recommends the request be **APPROVED**.





Application Fee: \$1,150.00

DEC 23 2015

(includes \$100.00 advertising/noticing fee and \$50.00 fire review fee)

Please complete this application and attach all required documents. This will help staff process your request quickly and obtain necessary information without delay. If you have any questions, please call 305-809-3720.

PROPERTY DESCRIPTION:	
Site Address: 916 Pohalski Avenue	
Real Estate (RE) #: 00021080-000000	Alternate Key: 1021822
Zoning District: HHDR	Total Land Area (sq ft): 1,572.15
Property located within the Historic District?	xx Yes □ No
APPLICANT: Owner Author	rized Representative
Name: Smith Oropeza Hawks, Pl.	·
Mailing Address: <u>138-142 Simonton Street</u>	
City: Key West	State: FL Zip: 33040
riome/ Mobile Phone:C	office: (305)296-7227 Fax: (305)296-8448
Email: greg@smithoropeza.com	
PROPERTY OWNER: (if different than above) Name:Capital Bank, NA Mailing Address: _6435 Naples Boulevard	
City: Naples	State: <u>FL</u> Zip: <u>34109</u> ffice: (239)825-2254 Fax:
Home/Mobile Phone:O	ffice: (239)825-2254 Fax:
Email: <u>Michael.Rinaldi@capitalbank</u>	-us.com
Are there any easements, deed restrictions or other en	ncumbrances attached to the property? Yes XXNo
Description of existing use and proposed use. If there	

Pursuant to Section 122-32(e) of the Municipal Code, a nonconforming use of a building or structure may be changed to another nonconforming use if the Planning Board finds: (1) that the new use is equally or more appropriate to the zoning district; and (2) the change of use would not intensify the use of the premises by increasing the need for parking facilities; increasing vehicular traffic to the neighborhood; increasing noise, dust, fumes or other environmental hazards; or by having an adverse impact on drainage. Please explain how the change complies with this standard (use a separate sheet of paper if necessary:

City of Key West Application Change of Nonconforming Use
DECLUDED CUDATITE ATC. ATT. C. of C.
REQUIRED SUBMITTALS: All of the following must be submitted in order to have a complete application. Please submit one paper copy and one electronic copy of all materials.
applications I lease subtilit one paper copy and one electronic copy of an materials.
☑ Correct application fee. Check may be payable to "City of Key West."
Notarized verification form signed by property owner or the authorized representative.
Notarized authorization form signed by property owner, if applicant is not the owner.
☑ Copy of recorded warranty deed
🖾 Property record card
☑ Signed and sealed survey
X Site and Elevation plan (plans MUST be signed and sealed by an Engineer or Architect prior to Planning
Board hearing)
A Floor plans
☐ Stormwater management plan N/A

Existing and Proposed Use of 916 Polhaski Avenue

Existing Use:

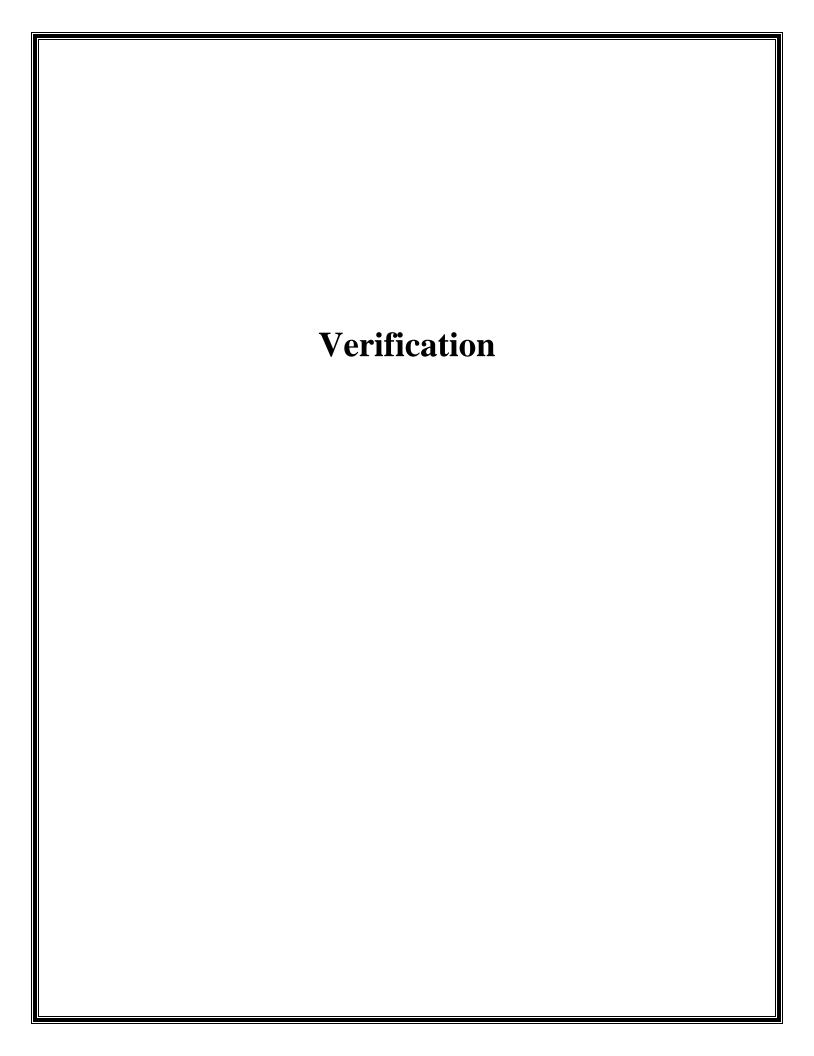
The property is currently the home of the "Coffee Mill" which is a dance school and studio. The Coffee Mill offers classes in Ballet, Tap, Jazz, Modern, Yoga, Zumba, Tai Chi, Capoiera, Pilates and Jazzercise. Additionally, the Coffee Mill is a rehearsal space for both professional and amateur dancers and artists. The majority of the use of the Coffee Mill is accompanied by music and consists of class sizes of four (4) to twenty (20) participants per session. The Coffee Mill is currently open seven (7) days a week from 8 a.m. to 10 p.m. The Coffee Mill averages sixty-three (63) classes per week.

Description of Proposed Use:

The proposed use is the operation of an acupuncture practice together with related wellness therapies and therapeutic massage. The wellness therapies include Traditional Chinese Herbal Medicine, therapeutic stretching and meditation. All of these modalities are components of a Traditional Chinese Medicine Practice. As noted on the proposed floor plan, the Applicant is proposing the establishment of two private treatment rooms and one area for small group wellness activities. The Applicant anticipates treating ten (10) to twelve (12) per day, five (5) days a week.

Compliance with City Code Section 122-32(e):

Pursuant to Section 122-32(e) the proposed Traditional Chinese Medicine is as compatible, if not more compatible with the surrounding mixture of uses including commercial, industrial and residential as the proposed use will substantially decrease the intensity of the property. The change of use will decrease the intensity of the premises by decreasing the number of patrons which in turn decrease traffic, both vehicular and pedestrian thereby decreasing the need for parking facilities. The less intensive Traditional Chinese Medicine practice will decrease noise as the very nature of an acupuncture practice is substantially less noisy then a dance studio. Additionally dust and fumes will decrease as a result in the decrease to traffic. There are no adverse impacts to drainage or environmental hazards as a result of the proposed use.



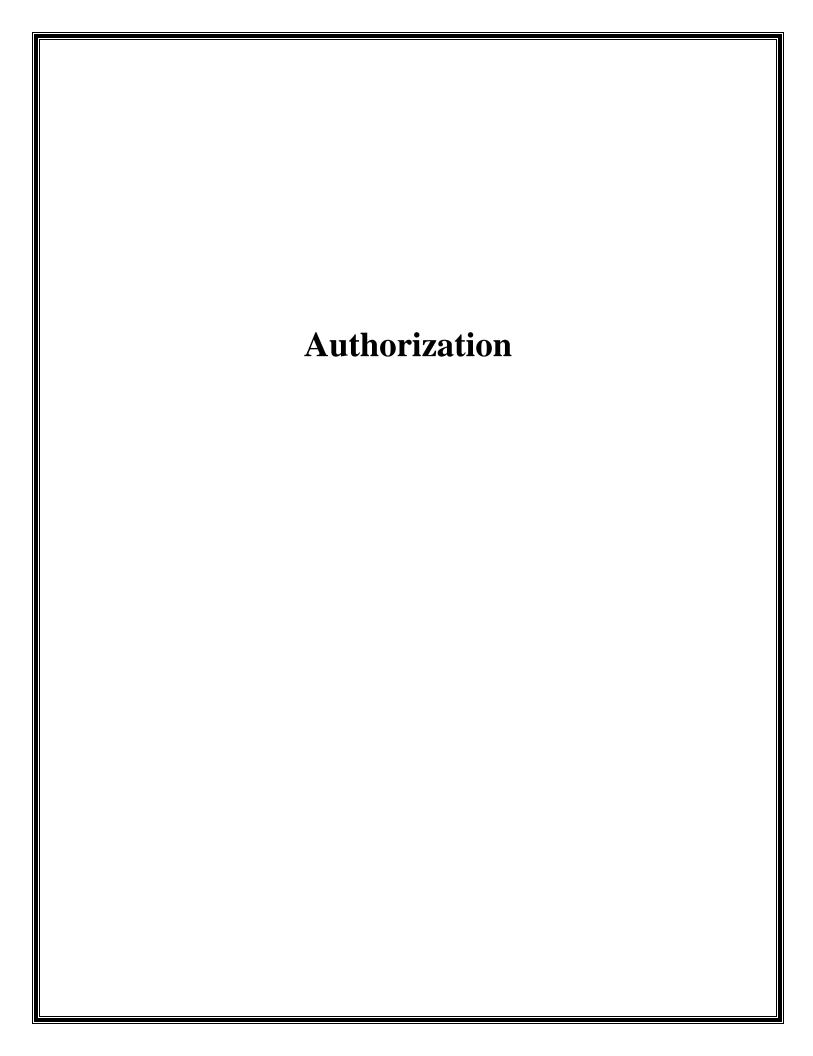
City of Key West Planning Department



Verification Form

(Where Authorized Representative is an entity)

I. Gresory Oropera in my capacity as Attorney
I, 6 regord Oropeta , in my capacity as (print position; president, managing member)
of Smith oropeza Hawtes (print name of entity serving as Authorized Representative)
(print name of entity serving as Authorized Representative)
being duly sworn, depose and say that I am the Authorized Representative of the Owner (as appears of the deed), for the following property identified as the subject matter of this application:
914 Pohalski Avenue Street Address of subject property
Street Address of subject property
All of the answers to the above questions, drawings, plans and any other attached data which make up th application, are true and correct to the best of my knowledge and belief. In the event the City or the Planning Department relies on any representation herein which proves to be untrue or incorrect, any action or approval based on said representation shall be subject to revocation.
Signature of Authorized Representative
Subscribed and sworn to (or affirmed) before me on this 12-23-15 by date
Name of Authorized Representative
He/She is personally known to me or has presented as identification.
Nadisen alle
Notary's Signature and Seal MADISON FALLON MY COMMISSION #FF063393 EXPIRES 101
Name of Acknowledger typed, printed or stamped Name of Acknowledger typed, printed or stamped Vor 10
Commission Number, if any

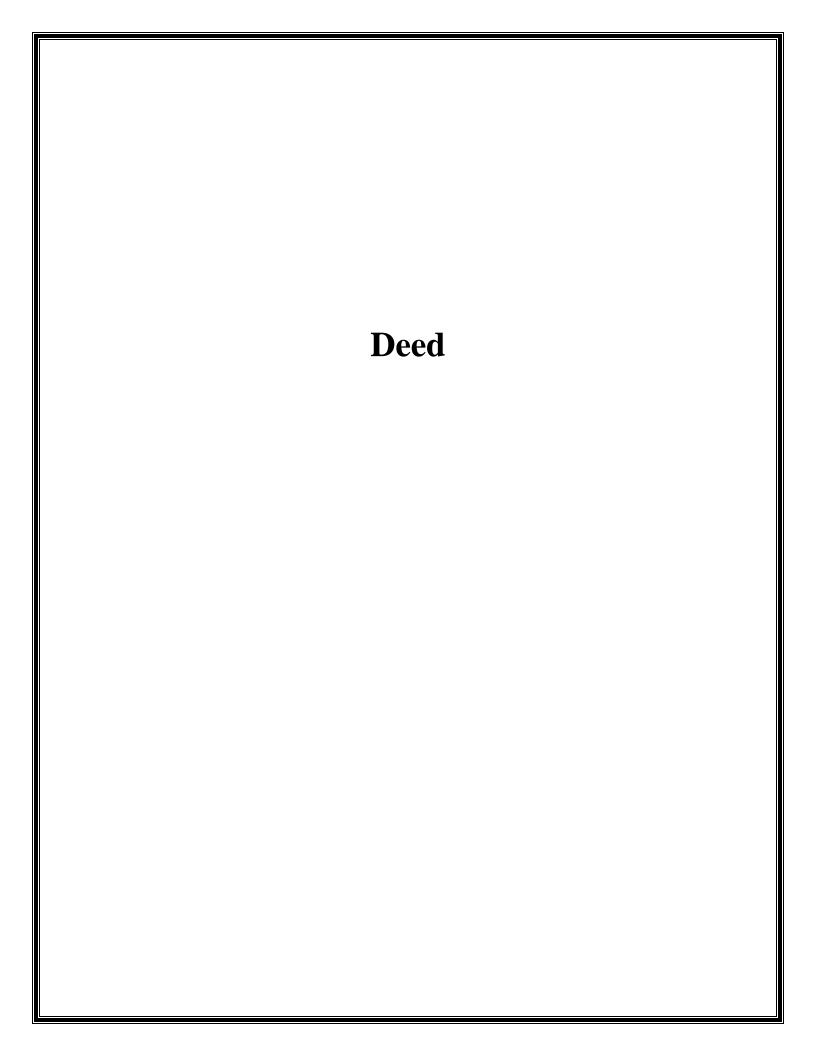


City of Key West Planning Department



Authorization Form (Where Owner is a Business Entity)

Please complete this form if someone other than the owner is representing the property owner in the matter.
1 Michael Rinaldi
Please Print Name of person with authority to execute documents on behalf of entity
Name of office (President, Managing Member) Of Capital Bank. N.A. Name of owner from deed
authorize Smith Ovopeza Howk s Please Print Name of Representative
to be the representative for this application and act on my our behalf before the City of Key West.
- Mahar Kry VI Vice President
Signature of person with authority to execute documents on behalf on entity owner
Subscribed and sworn to (or affirmed) before me on this $H-19-14$
the second
Name of person with authority to execute documents on behalf on entity owner
He/She is personally known to me or has presented as identification.
Notary's Signature and Section Linda Borgo-Forrester Notary Public - State of Florida My Comm Expires Jul 2, 2017 Commission # FF 33360
lame of Acknowledger typed, printed or stamped Bonded Through National Relay Assa.
Commission Number, if any



IN THE CIRCUIT COURT OF THE SIXTEENTH JUDICIAL CIRCUIT IN AND FOR MONROE COUNTY, FLORIDA

Doc# 1957794 11/18/2013 9:54AN Filed & Recorded in Official Records of MONROE COUNTY AMY HEAVILIN

CASE NO. 44-2011-CA-001092-K

with TIB BANK			
VS.	Plaintiff		
v 5.			3
DAIVD P. LETO et, a		2	13. 1.
	Defendant	20	
	CERTIFICATE OF TITLE	CRATE C	THED FOR RI
The undersign	ed Clerk of the Court certifies that he or she executed and fi	iled a Certi	RECONI PH ficate
	October 16, 2013 for the property described herein and that	, 	
		i no objecu	Ons
to the sale have been	filed within the time allowed for filing objections.		
The following	property in Monroe County, Florida: 11/18/2013 9:54	AM L: Krys	\$0.70
	SEE ATTACHED LEGAL DESCRIPTION		
was sold to:	CAPITAL BANK, N.A., a nation association f/k/a NAFH N	NATIONAL	BANK,
 	successor by merger with TIB BANK		
	6435 NAPLES, BOULEVARD		
	NAPLES, FLORIDA 34109		
WITNESS MY HAN	D AND SEAL of this Court on November 14, 2013		
1957794	AMY HEAVILIN,		
2658 Pg# 1833	Clerk of the Court	5.00	The .
	- Moderno	& COUN	TY COMME
	Deputy Clerk	is iiii	
	Deputy Cierra		
Bid Amount \$100.00		7310	
	3	A	15 15
		Ci	Flynd
		N. O.	SAN ESTATE

EXHIBIT "A"

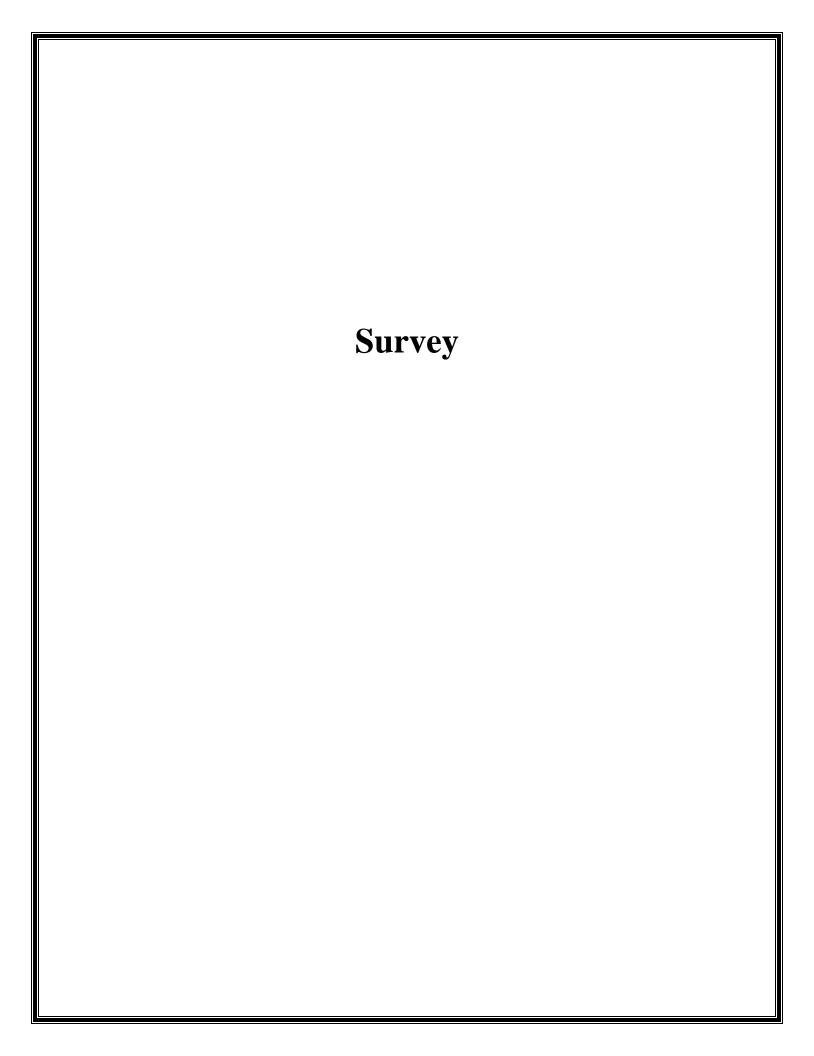
On the island of Key West and known as Lot 12, of W.A. GWYNN'S PLAT OF SUBDIVISION OF TRACT 6, recorded in Plat Book 1, Page 46, of the Public Records of Monroe County, Florida; said lot having a front on Pohalski Street of twenty eight feet, six inches and a depth of fifty four feet, six inches on Nicholas Avenue.

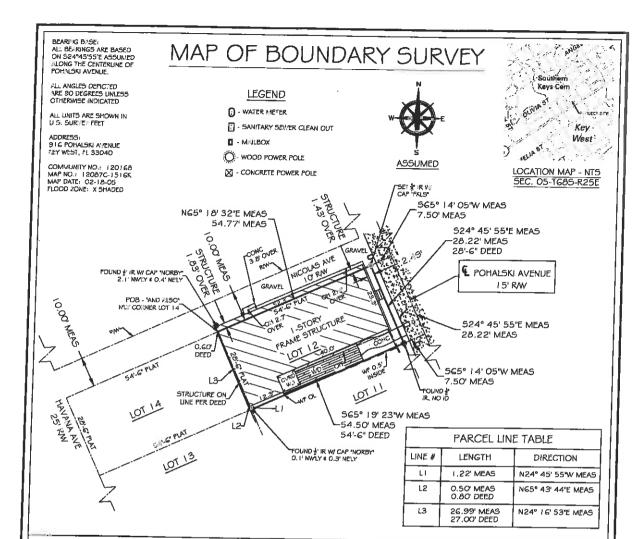
ALSO:

A parcel of land on the Island of Key West, and known as part of Lot 14, of part of Tract 6, according to a diagram which is recorded in Plat Book 1, Page 46, of the Public Records of Monroe County, Florida; said parcel being more particularly described by metes and bounds as follows:

BEGIN at the Northerly corner of the said Lot 14 and run thence Southeasterly along the Northeasterly boundary line of the said Lot 14 for a distance of 27.0 feet to the Southeasterly face of an existing one story metal building; thence Southwesterly with a deflection angle of 90°25'28" to the right along said building for a distance of 0.8 feet to the Southerly corner of said building; thence Northwesterly and at right angles along the Southwesterly face of said building for a distance of 27.0 feet to the Northwesterly boundary line of the said Lot 14; thence Northeasterly and along the said boundary line for a distance of 0.6 feet back to the Point of Beginning.

Including all Fixtures, all accessions, additions, replacements, and substitutions relating to any of the foregoing; all records of any kind relating to any of the foregoing; all proceeds relating to any of the foregoing (including insurance).





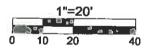
LEGAL DESCRIPTION -

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A parcel of land on the island of Key West, and known as part of Lot 14, of part of Tract 6, according to a diagram which is recorded in Plat Book 1, Page 46, of the Public Records of Monroe County, Florida: said parcel being more particularly described by metes and bounds as follows: BEGIN at the Northerly corner of the said Lot 14 and run thence Southeasterly along the Northeasterly boundary line of the said Lot 14 for a distance of 27.0 feet to the Southeasterly face of an existing one story metal building; thence Southwesterly with a deflection angle of 90°25'28" to the right along said building for a distance of 0.8 feet to the Southerly corner of said building; thence Northwesterly and at right angles along the Southwesterly face of said building for a distance of 27.0 feet to the Northwesterly boundary line of the said Lot 14; thence Northeasterly and along the said boundary line for a distance of O.6 feet back to the Point of Beginning.

CERTIFIED TO -

Edward McGinley;



TOTAL AREA = 1,547.95 SQFT±

NOTE: FOUNDATIONS BENEATH THE SUIFACE ARE NOT SHOWN, MEASURED DIMENSIONS COULD PLATTED OR DESCRIBED DIMENSIONS UNLESS INDICATED OTHERWISE.
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5CALE:	1"=20"
FIELD WC.PA DATE	12/11/2015
PEVISION DATE	XXXXXXXXXX
SHEET	I OF I
DRAWN BY:	MPB
CHECKED BY.	
JOB NO:	15-120

I HEREBY CERTIFY THAT THIS SURVEY WAS MADE UNDER MY RESPONSIBLE CHARGE AND MEETS THE STANDARDS OF PRACTICE AS SET PORTH BY THE FLORIDA BOARS. OF PROFESSIONAL SURVEYOFS AND MAPPERS IN CHINTER S-1-17. HORDRA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES AND COMPUSE WITH CHAPTER 177, FLORIDA STATUTES.

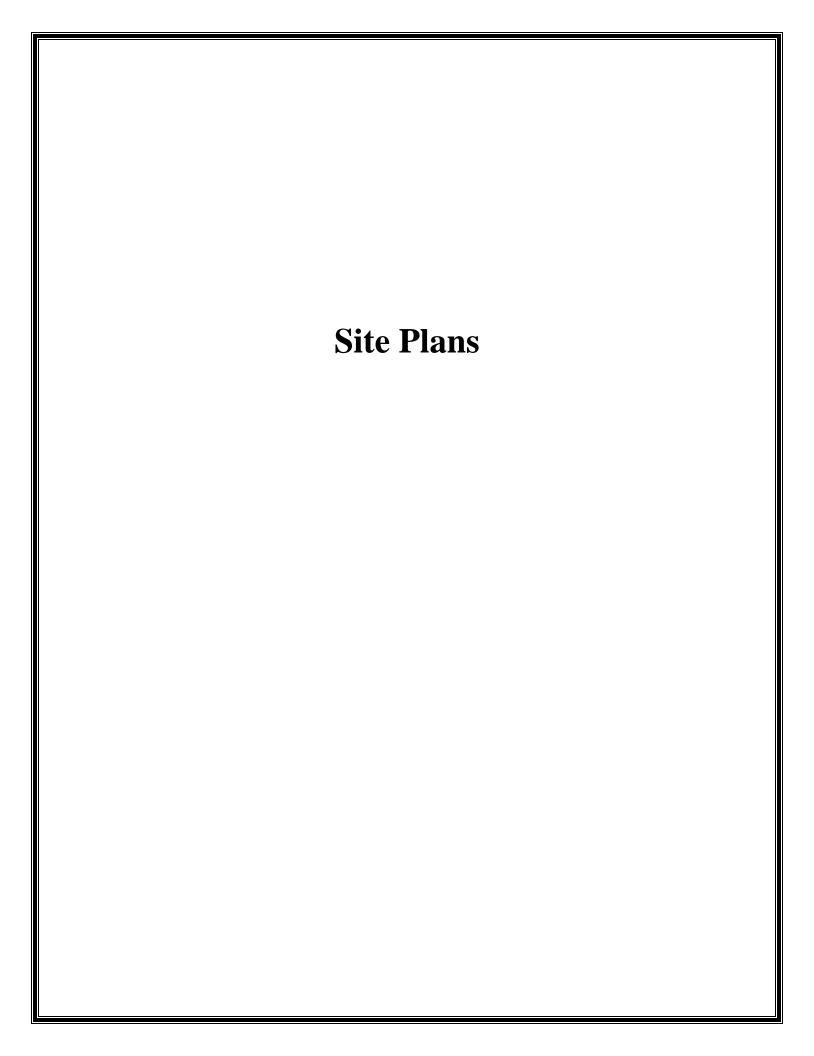
SIGNED EUC A. ISAI CO., ISAI EG783. PROPESSIONAL SURCEYOR AND MAPPER, LBS 7847

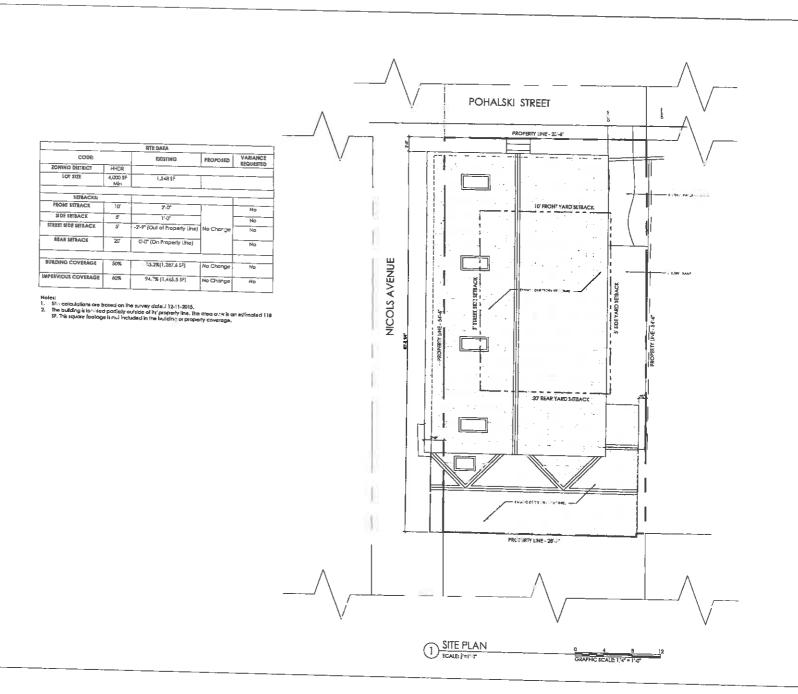
NOT VALID WITHOUT THE SIGNATURE AND THE RAISED SEAL OF A FLORIDA SUEVEYOR AND MAPPER



FLORIDA KEYS LAND SURVEYING

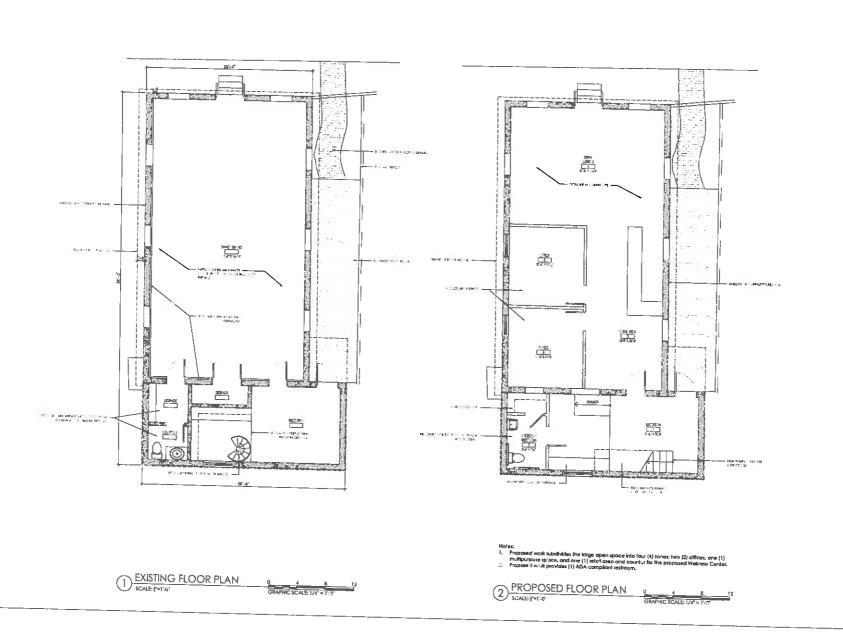
19960 OVERSEAS HIGHWAY SUGARLOAF KEY, FL 33042 PHONE: (305) 394-3690 FAX: (305) 509-7373 EMAIL: FKLSemail@Gmail.com



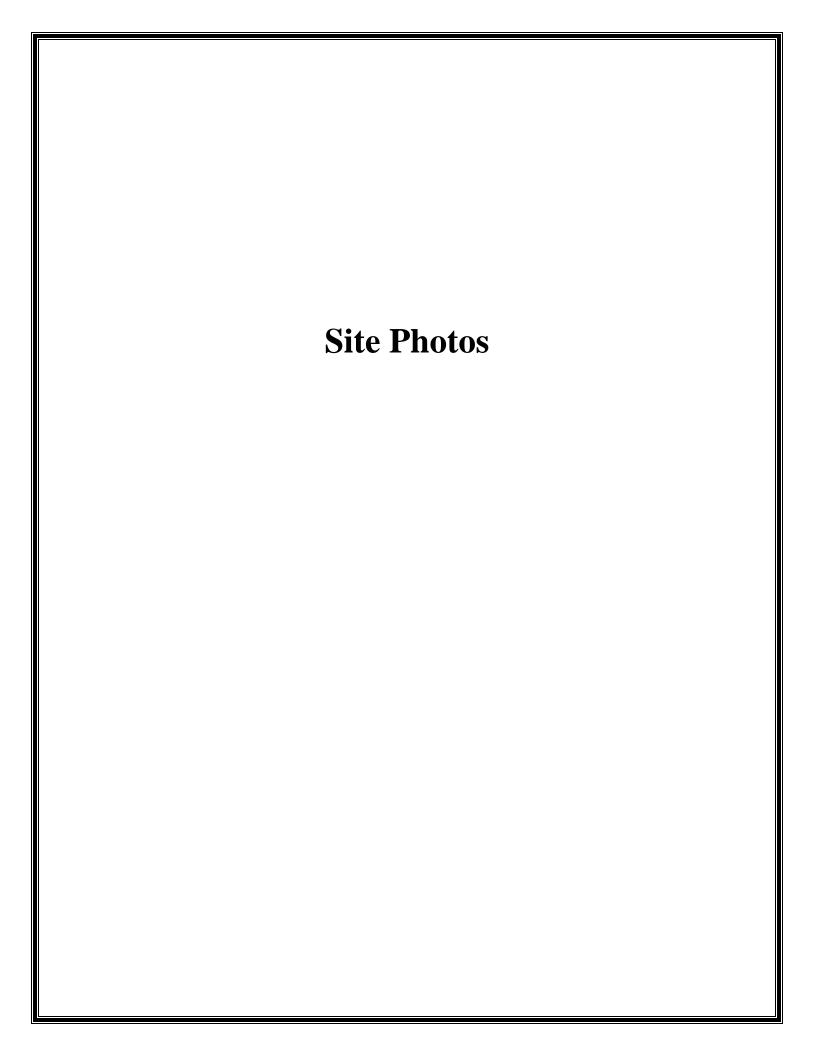


COFFEE MILL
WELLNESS CENTER
7:8 POHYLING STREET, KEY WEST, FLOREL, (200.)

EXISTING SITE PLAN



COFFEE MILL WELLNESS CENTER ING JAND PROPOSED FLOOR PLANS 2 OF 2

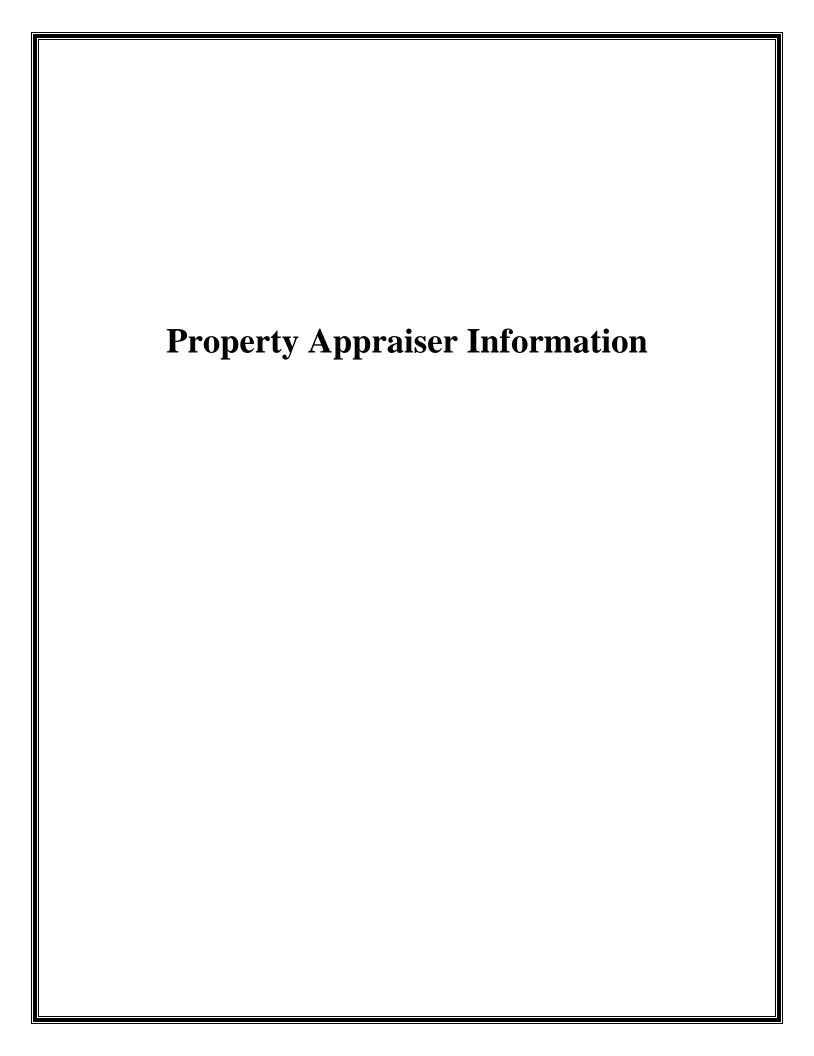


Photograph # 1 existing front of building











Key West (305) 292-3420 Marathon (305) 289-2550 Plantation Key (305) 852-7130

The offices of the Property Appraiser will be closed in the property Appraise will be closed in the property Appraiser the 24th and Friday the 25th for Christmas Holirelayobe Flash 10.3 or higher

Property Record Card -Maps are now launching the new map application version.

Alternate Key: 1021822 Parcel ID: 00021080-000000

Ownership Details

Mailing Address: CAPITAL BANK NA 6435 NAPLES BLVD NAPLES, FL 34109-2016

Property Details

PC Code: 12 - STORE/OFF/RES OR COMBINATION

Millage Group: 10KW Affordable No Housing: Section-

Township- 05-68-25

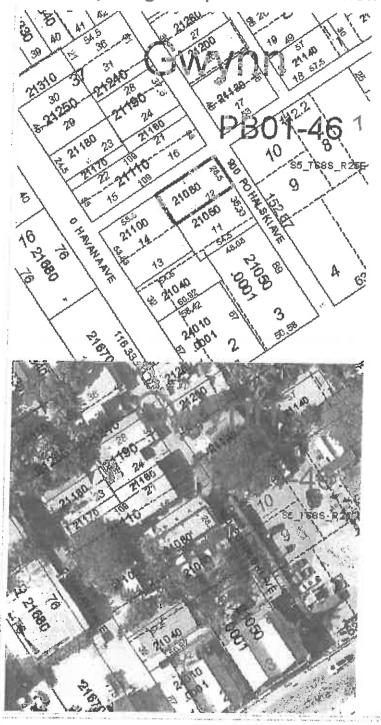
Range:

Property 916 POHALSKI AVE KEY WEST

Legal KW PB1-46 LOT 12 AND PT LOT 14 OF TR 6 G2-596 C5-120 OR559-773 OR584-204 OR757-600/01 OR862-Description: 854 OR873-950 OR1031-1477 OR1044-1593C OR1460-840/41 OR1779-2294AFF OR2220-1551 OR2220-

1554 OR2243-2163/65 OR2658-1833/34C/T

Click Map Image to open interactive viewer



Land Details

Г	Land Use Code	Frontage	Depth	Land Area
L	100D - COMMERCIAL DRY			1,572.15 SF

Building Summary

Number of Buildings: 1 Number of Commercial Buildings: 1 Total Living Area: 1256 Year Built: 1918

Building 1 Details

Building Type
Effective Age 24
Year Built 1918
Functional Obs 0

Condition A Perimeter 182 Special Arch 0 Economic Obs 0

Contraction of the Section Community Contraction of the Section Contraction Contraction of the Section Contraction Contraction

Quality Grade 400 Depreciation % 30 Grnd Floor Area 1,256

Inclusions:

Roof Type	þ
Heat 1	l
Heat Src 1	ł

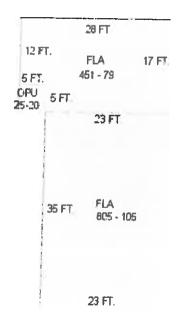
Roof Cover Heat 2 Heat Src 2

Foundation Bedrooms 0

Extra Features:

2 Fix Bath 3 Fix Bath 4 Fix Bath 5 Fix Bath 6 Fix Bath	0 0 0 0
7 Fix Bath	0
Extra Fix	8

Vacuum 0
Garbage Disposal 0
Compactor 0
Security 0
Intercom 0
Fireplaces 0
Dishwasher 0



Sections:

	Nbr	Туре	Ext Wall	# Stories	Year Built	Attic	A/C	Basement %	Finished Basement %	Area
1	1	FLA		1	1989					805
	2	FLA		1	1989					451
	3	OPU		1	1989					25

Interior Finish:

Section Nbr Interior Finish Nbr Type	
Section Nbr Interior Finish Nbr Type	Area % Sprinkler A/C
	Area /s Sprinkler A/C

3482	CLUBS-LDGE-HALLS C	100	N	N J
3483	APARTMENTS	100	N	N
3484	OPU	100	N	N

Exterior Wall:

Interior Finish Nbr	Type Type	Area %
915	MIN WOOD SIDING	42
916	METAL SIDING	58

Misc Improvement Details

Nbr	Туре	# Units	Length	Width	Year Built	Roll Year	Grade	Life
1	FN2:FENCES	100 SF	0	0	1979	1980	4	30
2	FN2:FENCES	48 SF	0	0	1991	1992	2	30

Appraiser Notes

2006-8-10 - OLD COFFEE MILL BLDG.BCS

LOCATION ADJUSTMENT WARRANTED ON THIS PARCEL DUE TO LIMITED STREET EXPOSURE.

Building Permits

Bldg	Number	Date Issued	Date Completed	Amoun	t Description	Notes
1	12- 3467	09/21/2012	12/11/2013	3,000	Residential	REMOVE SKYLIGHT & INFILL PATCH ROOF MAINT. & PAINT 2000 SQS. OF ROOFING, PAINT SILVER.
1	12- 3467	10/17/2012	12/11/2013	6,000	Residential	*REVISION #1 - DO NOT DO MAINTENANCE & PAINT AS PER 12-01-1555. REMOVE & REPLACE 200 SF OF METAL SHINGLES.

Parcel Value History

Certified Roll Values.

View Taxes for this Parcel.

Roll Year	Total Bldg Value	Total Misc Improvement Value	Total Land Value	Total Just (Market) Value	Total Assessed Value	School Exempt Value	School Taxable Value
2015	118,248	492	101,589	220,329	220,329	0	220,329
2014	123,316	447	101,589	225,352	225,352	0	225,352
2013	123,316	447	101,589	225,352	225,352	0	225,352
2012	130,073	447	136,000	266,520	266,520	0	266,520
2011	130,073	447	136,000	266,520	245,909	0	266,520
2010	130,073	447	93,034	223,554	223,554	0	223,554
2009	130,073	452	200,917	331,442	331,442	0	331,442
2008	135,141	459	410,736	546,336	546,336	0	546,336
2007	92,226	464	275,127	367,817	367,817	0	367,817

2006	75,087	469	125,772	201,328	201,328	0	201,328
2005	77,834	476	110,051	188,361	188,361	0	188,361
2004	77,787	481	94,329	138,317	138,317	0	138,317
2003	77,787	486	47,165	138,317	138,317	0	138,317
2002	84,072	493	47,165	131,730	131,730	0	131,730
2001	84,072	498	47,165	131,735	131,735	0	131,735
2000	69,236	125	29,871	99,232	99,232	0	99,232
1999	69,236	128	29,871	99,235	99,235	0	99,235
1998	46,266	130	29,871	76,267	76,267	0	76,267
1997	46,266	137	26,726	73,129	73,129	0	73,129
1996	42,059	148	26,401	68,608	68,608	0	68,608
1995	42,059	156	26,401	68,616	68,616	0	68,616
1994	42,059	164	26,401	68,624	68,624	0	68,624
1993	42,059	114	26,401	68,574	68,574	0	68,574
1992	42,059	120	26,401	68,580	68,580	0	68,580
1991	41,342	126	26,401	67,869	67,869	25,000	42,869
1990	45,768	134	22,130	68,032	68,032	25,000	43,032
989	64,108	0	21,742	85,850	85,850	25,000	60,850
988	63,649	0	18,636	82,285	82,285	25,000	57,285
987	48,813	0	8,386	57,199	57,199	0	57,199
986	48,947	0	8,386	57,333	57,333	0	57,333
985	48,217	0	6,141	54,358	54,358	0	54,358
984	12,108	0	6,141	18,249	18,249	0	18,249
983	12,195	0	6,141	18,336	18,336	0	18,336
982	6,856	0	4,482	11,338	11,338	0	11,338

Parcel Sales History

NOTE: Sales do not generally show up in our computer system until about two to three months after the date of sale. If a recent sale does not show up in this list, please allow more time for the sale record to be processed. Thank you for your patience and understanding.

Sale Date	Official Records Book/Page	Price	Instrument	Qualification
11/14/2013	2658 / 1833	100	СТ	12
6/20/2005	2220 / 1554	75,000	WD	0
9/1/1987	1031 / 1477	100,000	WD	Q
9/1/1982	862 / 854	8,000	QC	U U
2/1/1978	757 / 600	6,000	00	

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Monroe County Property Appraiser Scott P. Russell, CFA P.O. Box 1176 Key West, FL 33041-1176