

Application

October 21, 2016

Thaddeus Cohen, Planning Director
City of Key West
3140 Flagler Avenue
Key West, FL 33040

**RE: Change of Non-Conforming Use Application
821 Whitehead Street**



Dear Mr. Cohen:

On behalf of the property owner, Shady Cat, LLC, please accept the attached application as a formal request for a Change of Nonconforming Use¹ for the referenced property located in the Historic Medium Density Residential (“HMDR”) zoning district. This application seeks to eliminate the 552 square feet of retail use and combine it into the existing sidewalk-oriented neighborhood café.

Background:

This location has been a neighborhood café since 1992; for the past nine years, it has been the home of The Six-Toed Cat, a pedestrian-oriented neighborhood sidewalk café.

Year	Use	Restaurant Name
1992	Café	Café Next Door
1996	Café	Café Sanmarco/ Luigi's Deli
2000	Café	Ernest's Café
2002	Café	Ernest's Cafeteria
2007	Café	Six-Toed Cat

This property, like many other properties currently zoned HMDR, originated under the HP-2 zoning category of the pre-1986 Comprehensive Zoning Regulations for the City of Key West. The intent of the HP-2 zoning district was “to protect and enhance the character of the commercial historic area”. The overall 1997 Comprehensive Planning process changed the zoning district from HP-2 to HMDR; prior to these changes, commercial, sidewalk-oriented neighborhood cafés and restaurants were not only permitted in this area but their use was protected and encouraged.

Criteria for Approval:

The materials provided in the attached application address the relevant criteria for approving the request.

As mentioned above, this property has two existing nonconforming uses; commercial retail and restaurant. Eliminating one of the two nonconforming uses on the property will further the goals of Section 122-32(e) by reducing impacts on the neighborhood through a decrease in the number of delivery vehicles to the property. This application proposes to eliminate the retail use and thereby

¹ Section 122-32(e)



reduce the delivery traffic associated with that use. The area occupied by the retail will be incorporated into the existing café.

The change from retail to restaurant will serve to eliminate the extended wait times for seating currently experienced by Six-Toed customers; this in turn, reduces congestion in the immediate area serving to improve pedestrian circulation.

As a part of the neighborhood fabric for the last 24 years, the low-intensity café blends with its neighbors and provides a community amenity not otherwise available in the immediate area. Discontinuing the retail sales will reduce commercial traffic and improve compatibility with the neighborhood and district.

The Traffic Memorandum by Traf Tech Engineering² analyzes the vehicular impact of the proposed change of nonconforming use from retail to café. It concludes the proposed change will not increase the need for parking facilities or increase vehicular traffic. The Memorandum explains that over a typical six-day period:

- 95% of café customers arrive on foot or bike (the remaining arrive by some other form of for-hire transportation); and
- The majority of customers are passersby on their way to or from the Hemingway House, Southernmost Point and other tourist-oriented sites within the immediate area.

In conclusion, the findings of the Traffic Memorandum, the reduction in commercial deliveries, and no increase in noise, dust, fumes or other environmental hazards all serve to make the proposed change of nonconforming use consistent with the applicable approval criteria.³

As demonstrated above, the proposed change of use is more appropriate and compatible with the district and will better conform to the comprehensive plan based on the following approval criteria:

1. The proposed change of use from retail to restaurant is more appropriate to the zoning district.
2. The proposed use complies with Section 122-32(e) and therefore meets the intent of the Land Development Regulations.
3. The proposed use furthers goals of the Comprehensive Plan.⁴
4. The change of use does not increase any of the following:
 - the need for parking facilities.
 - vehicular traffic to the neighborhood.
 - noise, dust, fumes and other environmental hazards.
5. The change of use will not have an adverse impact on drainage.

We respectfully request the Planning Board approve the request for a change of non-conforming use in accordance with Sec.122-32(e). Thank you in advance for your consideration.

Best Regards,



Lori Thompson, Project Manager

² Application Exhibit A – Traffic Memorandum

³ Section 122-32(e).

⁴ Application Exhibit B – Comprehensive Plan Analysis



Application - Change of Nonconforming Use

City of Key West, Florida • Planning Department

3140 Flagler Avenue • Key West, Florida 33040-4602 • 305-809-3720 • www.keywestcity.com

Application Fee: \$1,150.00

(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: 821-823 Whitehead Street

Real Estate (RE) #: 17250-000000, 17250- 000100 Alternate Key: 1017701 & 1017710

Zoning District: HMDR Total Land Area (sq ft): 5,113 sq. ft.

Property located within the Historic District? Yes No

APPLICANT: Owner Authorized Representative

Name: Trepanier & Associates, Inc.

Mailing Address: 1421 1st Street Unit 101

City: Key West State: FL Zip: 33040

Home/Mobile Phone: _____ Office: 305-293-8983 Fax: 305-293-8748

Email: lori@owentrepanier.com

PROPERTY OWNER: (if different than above)

Name: Shady Cat, LLC

Mailing Address: P.O. Box 87

City: Egg Harbor State: WI Zip: 54209

Home/Mobile Phone: _____ Office: c/o 305-293-8983 Fax: _____

Email: c/o lori@owentrepanier.com

Are there any easements, deed restrictions or other encumbrances attached to the property? Yes No

If yes, please describe and attach relevant documents: _____

Description of existing use and proposed use. If there is more than one use please describe each use:

The origin of a cafe at this location began in 1992. By 1997, 821 & 823 were combined into one restaurant with 552 sf of retail space. This application seeks to change the retail use to restaurant.

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

The traffic survey (Exhibit A) demonstrates that vehicular traffic is not generated by the customers of the cafe. This area is highly trafficked by pedestrian tourists visiting the Hemingway House/Museum as well as those in route to the Lighthouse, Butterfly Museum, Southernmost Point and other sites in the vicinity. Therefore, converting the retail space to restaurant use will not increase the need for parking facilities nor will it generate additional traffic, noise, fumes or other environmental hazards to the neighborhood. Furthermore, the change being proposed is compatible with the comprehensive plan as indicated by Exhibit B.

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.

- 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
- NA Site and Elevation plan (plans MUST be signed and sealed by an Engineer or Architect prior to Planning Board hearing) No Changes required or proposed
- Floor plans
- NA Stormwater management plan No Changes required or proposed

October 5, 2016

Ms. Lori Thompson
Trepanier & Associates, Inc.
1421 First Street
Key West, Florida 33040

**Re: Six-Toed Cat Café – Key West, Florida
Traffic Memorandum**

Dear Lori:

The Six-Toed Cat café is located at 821 and 823 Whitehead Street in Key West, Monroe County, Florida. The total building area for this site is 1,772 square feet. Within this building, 552 square feet are presently used for retail purposes; however, it is the desire of the owner to convert this space to restaurant use in order to provide additional restaurant seating for the café. The purpose of this technical memorandum is to document the parking and traffic impacts associated with this proposed change of use.

Current Traffic and Parking Characteristics

In order to assess the traffic and parking impacts of the proposed action it is advisable and beneficial to identify the parking and trip generation characteristics of the current restaurant operations. This was achieved by surveying all of the restaurant's customers over a six-day period earlier this year. Customers were asked if they drove an automobile to this area of Key West for the primary purpose of dining at the Six-Toed Cat. Over the six-day period there were no customers that specifically drove to the area to dine at the subject restaurant. Given the pedestrian and tourist oriented characteristics of this area, this finding is not surprising. In fact, based upon discussions with their customers, it was learned that approximately 95% of their patrons walked or rode a bicycle to the site.

Discussions with the project team and the restaurant owner revealed that only the restaurant manager drives a vehicle to the site and he uses on-street parking. All other employees walk or ride a bicycle / scooter. This condition is not expected to be altered with the proposed change of use.

Conclusions

Based upon the existing operating and customer characteristics of the Six-Toed Cat café, it is evident that the proposed change of use to allow for additional restaurant seating will have no measurable impact on parking demand or traffic to and from the area. Instead, it is expected that this use will continue to draw from those walking or bicycling along Whitehead Street.

If you have any questions or require additional information, please do not hesitate to contact me.

Sincerely,

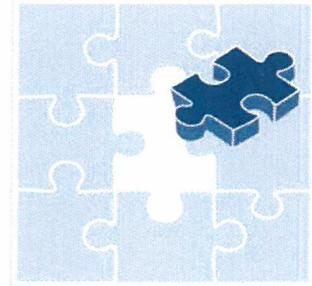
KBP CONSULTING, INC.



Karl B. Peterson, P.E.
Senior Transportation Engineer

Exhibit B

TREPANIER



& ASSOCIATES INC
LAND USE PLANNING
DEVELOPMENT CONSULTANTS

Comprehensive Plan Analysis

Change of Non-Conforming Use Application

821 Whitehead Street
Six-Toed Cat Café

The request for a Change of Nonconforming Use is consistent with the comprehensive plan based on the following:

Chapter 1 - Future Land Use Element

OBJECTIVE 1-1.1: FUTURE LAND USE MAP. The Future Land Use Map depicts the City's vision for its current and future development through the provision and location of specific future land use districts. All development and redevelopment in the City shall be in accordance with the Map, as it may be amended from time to time.

- The proposed change promotes orderly land use transition by consolidating existing legal, nonconforming uses; thereby more accurately reflecting those uses permitted under the map designations.

Policy 1-1.5.1: Reinforce and Enhance the City's Community Appearance. Major attributes shall be preserved through application of design review standards and management of signs, landscaping, open space, tree protection, and other urban design amenities. Special emphasis shall be placed on preserving and/or improving the character of major natural and man-made corridors, including the waterfront shoreline, scenic views of the waterfront and tidal waters, wetlands, major drainage corridors, and major transportation corridors which serve as a focal point for the motoring public.

- The proposed change recognizes and consolidates existing vintage neighborhood commercial uses as urban design amenities that will continue to improve and enhance the character of the man-made environment; specifically, properties along Whitehead Street, which serves as a dense, walkable, pedestrian-oriented, mixed use environment.

Policy 1-1.9.2: Comprehensive Plan Implementation and Land Development Regulations. The City shall continue to ensure that during the development review process the City shall enforce qualitative and quantitative performance criteria consistent with the Comprehensive Plan policies governing the preservation of environmentally sensitive lands, including wetlands; stormwater; convenient on-site traffic flow and vehicle parking; and all other requisite infrastructure both on- and off-site as stipulated within the Comprehensive Plan. Furthermore, the City shall require maintenance and continuing adherence to these standards. The City's existing Land Development Regulations governing zoning; subdivision; signage; landscaping and tree protection; sustainability; and surface water management shall be enforced and shall be revised as needed in order to: 1) effectively regulate future land use activities and natural resources identified on the Future Land Use Map; 2) adequately protect property rights; and 3) implement the goals, objectives, and policies stipulated in the Comprehensive Plan.

Exhibit B

- The proposed change adequately protects property rights; and implements the goals, objectives, and policies in the Comprehensive Plan by recognizing the long-standing, lawfully existing commercial use of the property.

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 requesting a change of nonconforming use per the Land Development Regulations. The approval of this request will not require changes to the LDR's as demonstrated herein.

Dimensional Requirements Comparison	Section 122-600 HMDR	Effects of Change
Maximum density (dwelling units per acre)	16	No Change
Maximum floor area ratio	1.0	No Change
Maximum height (feet)	30	No Change
Maximum lot coverage:		
Maximum building coverage	40%	No Change
Maximum impervious surface ratio	60%	No Change
Minimum lot size (square feet.)	4,000	No Change
Minimum lot width (feet)	40	No Change
Minimum lot depth (feet)	90	No Change
Minimum setbacks (feet):		
Front	10	No Change
Side	5	No Change
Rear	15	No Change
Street side	7.5	No Change

Policy 1.1.9.5: Land Use Consistency and Compatibility. The City of Key West shall continue to enforce Land Development Regulations which ensure that future land uses shall be compatible with the Future Land Use Map, hurricane evacuation plans, and other applicable laws, ordinances, and administrative rules regulating land and water resource management.

- The proposed change eliminates one of two lawful nonconforming uses on this property, thus improving compatibility with the Future Land Use Map and Land Development Regulations. Furthermore, the proposed change will have no impact on hurricane evacuation plans or other laws, ordinances or administrative rules regulating land and water resource management.

Furthermore, compatibility is addressed via Policy 1-1.2.1, Policy 1-1.2.2 and Policy 1-1.9.5, which addresses existing instances of commercial abutting residential throughout the City. Therefore, the proposal will serve to bolster compatibility requirements within the existing regulatory framework in the Land Development Regulations through additional application of qualitative and quantitative performance standards (best management practices).

Land Use Compatibility Analysis	HMDR (Existing)	Consistency of Proposed Change
Permitted Uses		
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 as provided in (section 122-1246).	X	X
Conditional Uses		
Group homes with seven to 14 residents (section 122-1246).	X	X
Cultural and civic activities.	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	X
Protective services.	X	X
Public and private utilities.	X	X
Parking lots and facilities.	X	X

Chapter 1A - Historic Preservation Element

Policy 1A-1.2.4: Land Use Compatibility

The City shall identify and through its Building Code enforcement of amended Land Development Regulations and code enforcement program, shall pursue the reduction and incremental elimination of inconsistent land uses in the Historic District. Adjacent land uses in the Historic District shall be compatible.

- The proposed change eliminates one of two lawful nonconforming uses on this property, thus improving compatibility with the Future Land Use Map and Land Development Regulations

Chapter 2 – Transportation Element

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.

The proposed change recognizes the development characteristics of Old Town as a historically mixed use area that relies on sustainable support mechanisms for permanent and seasonal residents. By recognizing existing vintage neighborhood-oriented cafes and restaurants that are supportive of residents and visitors alike in a dense, walkable, pedestrian-oriented, mixed use environment, this amendment addresses the primary strategic focus away from auto-centric development patterns.

Nevertheless, as required per the application and section 122-32(e) a traffic analysis¹ was performed and results indicated no increase in the need for parking facilities nor is an increase in vehicular traffic anticipated to the neighborhood. The elimination of the retail use will eliminate retail commercial deliveries. The proposal is consistent with the concurrency management program of Objective 9-1.5.

Chapter 4 – Public Facilities Element

Consistency with adopted infrastructure minimum levels of service standards

The change proposes to convert one commercial use for another. No additional impact on surrounding properties or infrastructure is currently anticipated.

Based on the LOS evaluation criteria, the impacts of the proposed changes are generally summarized as follows:

- The proposed change is not expected to alter demand on the surrounding transportation system²
- The proposed change is not expected to alter demand for Potable Water
- The proposed change is not expected to alter Wastewater supply
- The proposed change is not expected to alter Solid Waste supply
- The proposed change is not expected to alter Stormwater LOS.
- The proposed change is not expected to alter Recreation LOS.

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

Chapter 9 - Concurrency management program.

- The request is consistent with the concurrency management program of Objective 9-1.5. Specific concurrency applications in accordance with Section 94-32 may be required for specific future development plans. No Plans are proposed as part of this application. At this time, no system improvements are anticipated as a result of the proposed change as evidenced in the findings of Section 90-521(5), below.

Policy 4-1.1.2.C – Potable Water

¹ Exhibit A

² Exhibit A

- Based on the City of Key West adopted level of service plan pursuant to Policy 4-1.1.2.C, the potable water LOS for nonresidential development is 650 gal/acre/day. The proposed change will not affect site size or nonresidential floor area, therefore, it is not expected to alter demand for potable water or result in excess capacity on this public facility.

Therefore, the proposal is consistent with the concurrency management program of Objective 9-1.5. At this time, no system improvements are anticipated as a result of the proposed changes

Policy 4-1.1.2. A- Sanitary Sewage

- Based on the City of Key West adopted level of service plan pursuant to Policy 4-1.1.2. A, the sanitary sewer LOS for nonresidential development is 660 gal/capita/day. The proposed change will not affect site size or nonresidential floor area, therefore, it is not expected to alter the level of service or result in excess capacity on this public facility.

Therefore, the proposal is consistent with the concurrency management program of Objective 9-1.5. At this time, no system improvements are anticipated as a result of the proposed changes.

Policy 4-1.1.2.D- Solid Waste

- Based on the City of Key West adopted level of service plan pursuant to Policy 4-1.1.2.D, the solid waste LOS for nonresidential development is 6.37 lbs/capita/day and based on the number of employee's. The proposed change is not expected to increase employee number, thereby it is not expected to alter demand for solid waste and it is not expected that the proposal will result in excess capacity on this public facility.

Therefore, the proposal is consistent with the concurrency management program of Objective 9-1.5. Specific concurrency applications in accordance with Section 94-32 may be required for specific future development plans. No Plans are proposed as part of this application. At this time, no system improvements are anticipated as a result of the proposed changes.

Policy 4-1.1.2. E- Drainage

- Stormwater concurrency will be insured as part of any future development orders in accordance with Chapter 94.

No changes in the physical site are planned at this time. Any future changes to the site will have to conform to stormwater requirements.

Recreation

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

Verification

City of Key West
Planning Department



Verification Form

(Where Authorized Representative is an entity)

I, Owen Trepanier, in my capacity as President
(print name) *(print position; president, managing member)*
of Trepanier & Associates, Inc.
(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 on the deed), for the following property identified as the subject matter of this application:

821 - 823 Whitehead Street

Street Address of subject property

All of the answers to the above questions, drawings, plans and any other attached data which make up the 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 27/ June, 2016 by
date

Owen Trepanier
Name of Authorized Representative

He/She is personally known to me or has presented _____ as identification.

Alvina Covington
Notary's Signature and Seal

Alvina Covington
Name of Acknowledger typed, printed or stamped



Alvina Covington
COMMISSION #FF913801
EXPIRES: August 27, 2018
WWW.AARONNOTARY.COM

FF913801
Commission Number, if any

Authorization

**City of Key West
Planning Department**



Authorization Form
(Where Owner is a Business Entity)

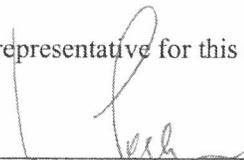
Please complete this form if someone other than the owner is representing the property owner in this matter.

I, Noreen M Pollman as
Please Print Name of person with authority to execute documents on behalf of entity

Registered Agent of Shady Cat, LLC
Name of office (President, Managing Member) *Name of owner from deed*

authorize Trepanier & Associates, Inc.
Please Print Name of Representative

to be the representative for this application and act on my/our behalf before the City of Key West.



Signature of person with authority to execute documents on behalf on entity owner

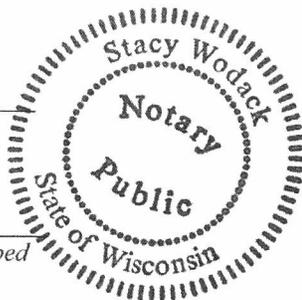
Subscribed and sworn to (or affirmed) before me on this 5-9-16 by
date

Noreen Pollman
Name of Authorized Representative

He/She is personally known to me or has presented _____ as identification.

Stacy Wodack
Notary's Signature and Seal

Stacy Wodack
Name of Acknowledger typed, printed or stamped



12/25/16
Commission Number, if any

Deed

Doc# 1753429 08/03/2009 3:00PM
Filed & Recorded in Official Records of
MONROE COUNTY DANNY L. KOLHAGE

08/03/2009 3:00PM
DEED DOC STAMP CL: TRINA \$5,950.00

Prepared by and return to:

Erica N. Hughes-Sterling

Attorney at Law

Spottswood, Spottswood & Spottswood

500 Fleming Street

Key West, FL 33040

305-294-9556

File Number: 09-280-EB

Doc# 1753429
Bk# 2425 Pg# 1330

[Space Above This Line For Recording Data]

Warranty Deed

This Warranty Deed made this 29th day of July, 2009 between **Mark E. Orofino Individually and as Trustee(s) of the Mark E. Orofino Living Trust u/t/d 3/5/02** whose post office address is **707 South Street, Key West, FL 33040**, grantor, and **Shady Cat, LLC, a Florida limited liability company** whose post office address is **P. O. Box 87, Egg Harbor, WI 54209**, grantee:

(Whenever used herein the terms "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives, and assigns of individuals, and the successors and assigns of corporations, trusts and trustees)

Witnesseth, that said grantor, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable considerations to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, has granted, bargained, and sold to the said grantee, and grantee's heirs and assigns forever, the following described land, situate, lying and being in **Monroe County, Florida** to-wit:

On the Island of Key West, known on William A. Whitehead's Map, delineated in February, A.D. 1829, as part of Tract 4, but better known according to Simonton & Wall's Addition to the City of Key West, as part of Lot 4, in Square 6, of Tract 4 being described as follows: COMMENCING at a point on Whitehead Street distant 96.6 feet Northwesterly from the corner of Olivia Street for a point of beginning; thence run in a Northwesterly direction along Whitehead Street 33.7 feet to a point; thence at right angles and Northeasterly 76.67 feet to a point; thence at right angles and Southeasterly 38.5 feet to a point; thence at right angles and Southwesterly 47.57 feet to a point; thence at right angles and Northwesterly 4.8 feet to a point; thence at right angles and Southwesterly 35 feet back to the Point of Beginning.

AND:

On the Island of Key West, known on William A. Whitehead's Map, delineated in February A.D., 1829, as part of Tract 4, but better known according to Simonton & Wall's Addition to the City of Key West, as part of Lot 4 in Square 6, of said Tract 4 being described as follows: COMMENCING at a point on Whitehead Street, distant 65 feet Northwesterly from the corner of Olivia Street for a point of beginning; thence run in a Northwesterly direction along Whitehead Street 31.8 feet to a point; thence at right angles and Northeasterly 35 feet to a point; thence at right angles and Southeasterly 31.8 feet to a point; thence at right angles and Southwesterly 35 feet back to the Point of Beginning.

AND:

On the Island of Key West, and known as part of Lot Four (4) in Square Six (6) of Simonton and Wall's Addition to the City of Key West: COMMENCING at a point Forty (40) feet from the corner of Whitehead and Olivia Streets, and running Northeasterly along the line of Olivia Street, Fifty-five (55) feet; thence at right angles Northwesterly Eighty-Nine (89) feet Four-Twelfths (89--4/12) feet; thence at right angles in a Southwesterly direction Five (5) feet; thence at right angles in a Northwesterly direction Two (2) feet, Two (2) inches; thence at right angles in a Southwesterly

direction Fifty (50 feet; thence at right angles in a Southeasterly direction Ninety-one (91) feet Six (6) inches to the Point of Beginning.

LESS AND EXCEPT:

A part of land on the Island of Key West, and known as part of Lot 4, in Square 6 of Simonton and Walls Addition to the City of Key West, said parcel being more particularly described by metes and bounds as follows: COMMENCE at the intersection of the NE'ly right of way line of Whitehead Street with the NW'ly right of way line of Olivia Street and run thence NE'ly along the NW'ly right of way line of the said Olivia Street for a distance of 55.00 feet; thence NW'ly and at right angles for a distance of 72.32 feet; thence SW'ly with a deflection angle of 91°10'58" to the left and along the NW'ly face of an existing wood fence and extension thereof for a distance of 48.24 feet to a fence corner; thence SE'ly with a deflection angle of 89°24'40" to the left and along the SW'ly face of said fence for a distance of 16.87 feet to a fence corner; thence SW'ly with a deflection angle of 87°20'01" to the right and along the NW'ly face of said of said fence for a distance of 6.95 feet to a point; thence SE'ly with a deflection angle of 86°44'23" to the left for a distance of 54.06 back to the Point of Beginning.

Parcel Identification Number: 00017250-000000 & 00017250-000100

Subject to conditions, limitations, restrictions and easements of record and taxes for the year 2009 and subsequent years.

The property herein conveyed does NOT constitute the Homestead property of the Grantor, as defined under the Florida Constitution.

Subject to that certain Mortgage as recorded in Official Records Book 2006, at Page 2405, of the Pubic Records of Mornoe County, Florida.

Together with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

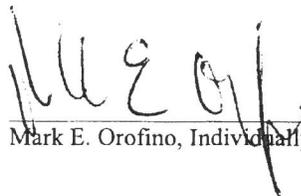
To Have and to Hold, the same in fee simple forever.

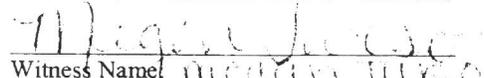
And the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes accruing subsequent to **December 31, 2008**.

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

Signed, sealed and delivered in our presence:


Witness Name: MARY E. TURSO


Mark E. Orofino, Individually and as Trustee


Witness Name: Megan Turso

State of Florida
County of Monroe

The foregoing instrument was acknowledged before me this 29th day of July, 2009 by Mark E. Orofino, Trustee, who is personally known or has produced a driver's license as identification.

[Notary Seal]



Mary E. Turso
Notary Public

Printed Name: MARY E. TURSO

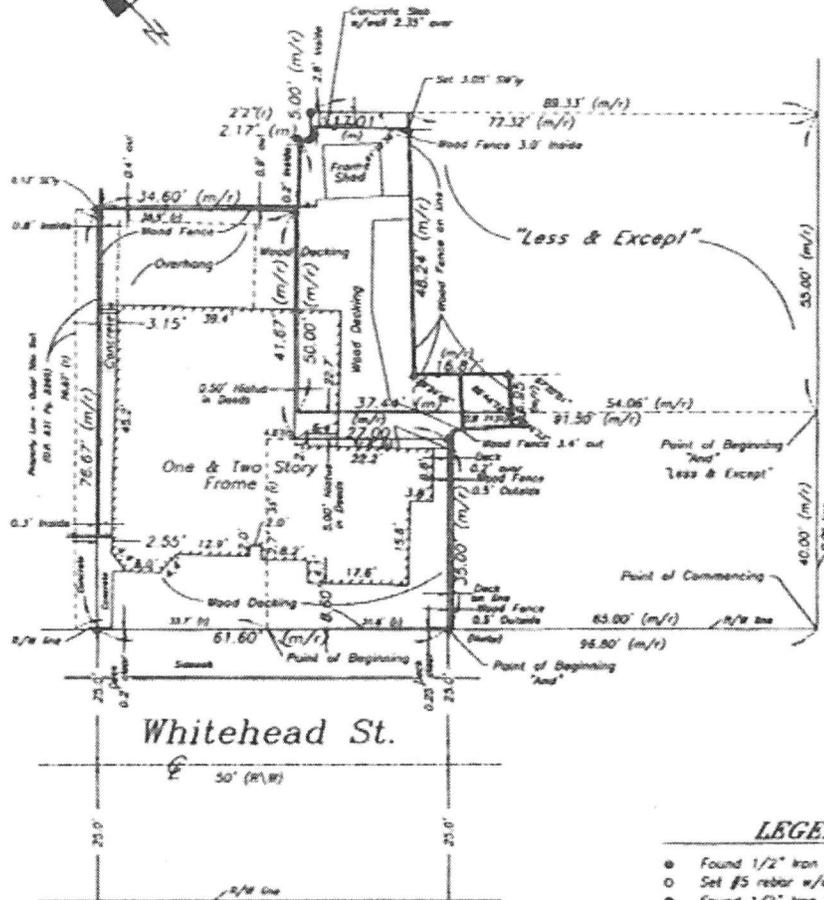
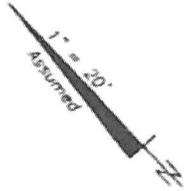
My Commission Expires: _____

MONROE COUNTY
OFFICIAL RECORDS

MET

Survey

Boundary Survey Map of Part of Lot 4, Square 6, Tract 4 Island of Key West



LEGEND

- Found 1/2" Iron Pipe (No ID)
- Set #5 rebar w/cap (6298)
- Found 1/2" Iron Rod (7131)
- ▲ Found Nail & Disc (Norbis)
- △ Set Nail & Disc (6298)
- (M) Measured
- (R) Record
- (M/R) Measured & Record
- C.B.S. Concrete Block Structure
- R/W Right of Way
- C.L.F. Chain Link Fence
- ⊕ Centerline
- ⊙ Wood Utility Pole
- ⊠ Concrete Utility Pole
- - - Overhead Utility Lines

Sheet One of Two Sheets

J. LYNN O'FLYNN, Inc.



Professional Surveyor & Mapper
P.L. 0020

3430 Duck Ave., Key West, FL 33040
(305) 298-7423 Fax (305) 298-2244

NOTE:
This Survey Map is not
full and complete without
the attached Survey Report.

Site Plan

Property Appraiser

**Scott P. Russell, CFA
Property Appraiser
Monroe County, Florida**

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

**Property Record Card -
Map portion under construction.**

Website tested on IE8,
IE9, & Firefox.
Requires Adobe Flash
10.3 or higher

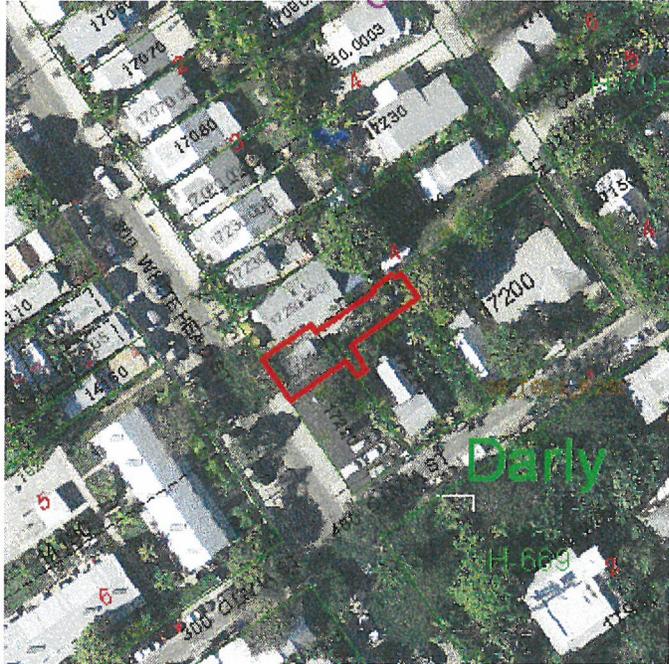
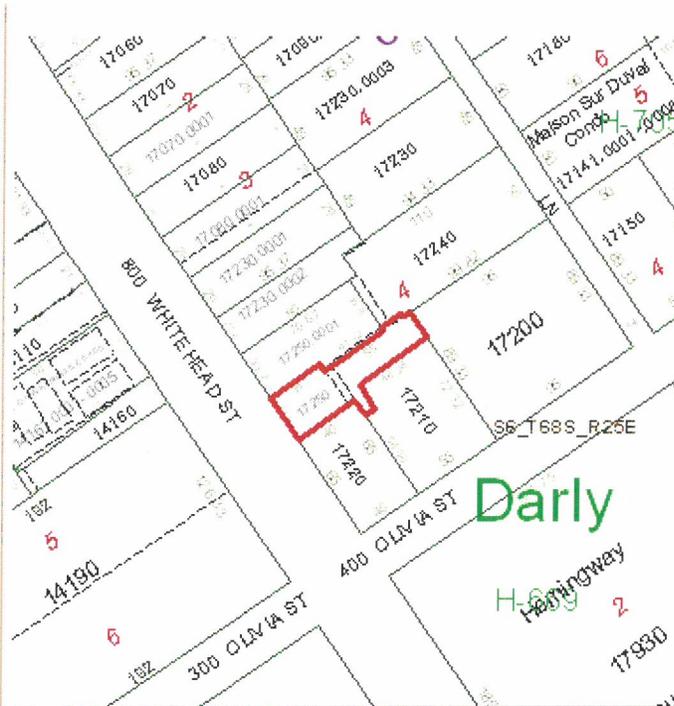
Alternate Key: 1017701 Parcel ID: 00017250-000000

Ownership Details

Mailing Address:
SHADY CAT LLC
PO BOX 87
EGG HARBOR, WI 54209

Property Details

PC Code: 21 - RESTAURANTS & CAFETERIAS
Millage Group: 11KW
Affordable Housing: No
Section-Township-Range: 06-68-25
Property Location: 823 WHITEHEAD ST KEY WEST
Legal Description: KW PT LOT 4 SQR 6 TR 4 H2-292 B OF W C-402/05 OR519-214 OR953-967 OR1036-233 OR1193-1256/58 OR1243-208/09 OR1433-464/467 OR1755-768/69 OR1770-224/225 OR1770-226/227 OR1782-867 OR2006-2391/92 OR2425-1318/1320 OR2425-1330/32 OR2425-1333/35 OR2464-1736/39F/J OR2466-1/4C OR2497-1133/40B/A



Show Parcel Map that can launch map - Must have Adobe Flash Player 10.3 or higher

Land Details

Land Use Code	Frontage	Depth	Land Area
100D - COMMERCIAL DRY	0	0	2,329.00 SF

Building Summary

Number of Buildings: 1

Number of Commercial Buildings: 1
 Total Living Area: 668
 Year Built: 1928

Building 1 Details

Building Type
 Effective Age 19
 Year Built 1928
 Functional Obs 0

Condition E
 Perimeter 112
 Special Arch 0
 Economic Obs 0

Quality Grade 350
 Depreciation % 23
 Grnd Floor Area 668

Inclusions:

Roof Type
 Heat 1
 Heat Src 1

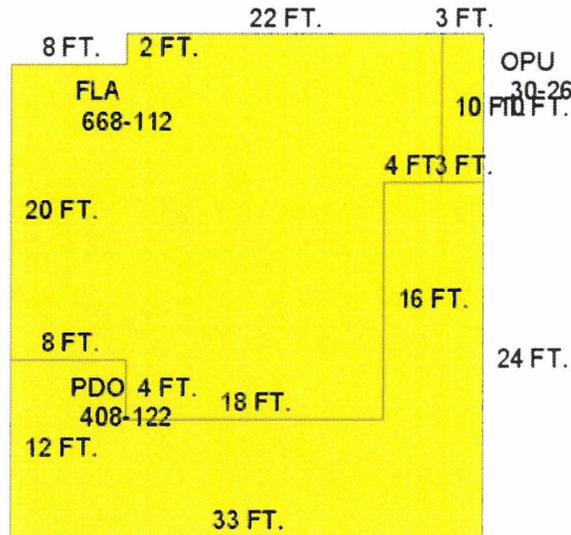
Roof Cover
 Heat 2
 Heat Src 2

Foundation
 Bedrooms 0

Extra Features:

2 Fix Bath 0
 3 Fix Bath 0
 4 Fix Bath 0
 5 Fix Bath 0
 6 Fix Bath 0
 7 Fix Bath 0
 Extra Fix 10

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



Sections:

Nbr	Type	Ext Wall	# Stories	Year Built	Attic	A/C	Basement %	Finished Basement %	Area
1	FLA		1	1993					668
2	PDO		1	1993					408
3	OPU		1	1993					30

Interior Finish:

Section Nbr	Interior Finish Nbr	Type	Area %	Sprinkler	A/C
	3100	RESTRNT/CAFETR-B-	100	N	Y
	3101	PDO	100	N	N
	3102	OPU	100	N	N

Exterior Wall:

Interior Finish Nbr	Type	Area %
810	AB AVE WOOD SIDING	100

Misc Improvement Details

Nbr	Type	# Units	Length	Width	Year Built	Roll Year	Grade	Life
1	FN2:FENCES	28 SF	0	0	1985	1986	2	30

Appraiser Notes

823 WHITEHEAD ST- THE CAFE NEXT DOOR

LAND SIZE INCREASED FOR THE 2005 TAX ROLL. PARCEL OF LAND WHICH SITS BEHIND RE 1721 DID NOT GET TRANSFERRED WITH THE SALE OF THE PROPERTY. THIS ADDITIONAL LAND IS NOW BEING ASSESSED UNDER THIS PARCEL.

Building Permits

Bldg Number	Date Issued	Date Completed	Amount	Description	Notes
09-00002459	08/18/2009	03/14/2011	6,800	DEMO 1000 SF TILE. LAY DOWN TILE BACKER	
09-00002563	08/19/2009	03/14/2011	6,800	REMOVE AND REPLACE EXISTING WATER CLOSET AND TWO LAVATORIES. INSTALL ONE 20LB & ONE 30LB GREASE TRAP. REMOVE AND REPLACE 3 COMPARTMENT SINK.	
09-00003497	11/05/2009	03/14/2011	1,500	INSTALL PYROSCHEM SYSTEM UL-300 FIRE SUPPRESSION SYSTEM ON EXHAUST HOOD	
09-3792	11/05/2009	03/14/2011	500	BRING ANSIL & HOOD WIRE AND ELECTRIC UP TO CODE	
B940819	03/01/1994	12/01/1994	1,000	INSTALL SHELVING	
9700007	01/01/1997	07/01/1997	1,500	ELECTRIC	
9903049	08/27/1999	12/05/1999	6,000	HOOD/DUCT FAN	
9903480	10/08/1999	12/05/1999	700	REPLACE/UPGRADE FIXTURES	
9903494	10/13/1999	12/05/1999	100	REPLACE KITCHEN HOOD	
9903866	11/23/1999	12/05/1999	2,300	FIRE SUPPRESSION SYSTEM	

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
2012	85,526	39	212,817	298,382	298,382	0	298,382
2011	85,526	39	283,756	369,321	369,321	0	369,321
2010	88,858	39	247,584	336,481	336,481	0	336,481
2009	88,858	39	310,747	399,644	399,644	0	399,644
2008	91,079	39	291,125	382,243	382,243	0	382,243
2007	68,593	39	291,125	359,757	359,757	0	359,757
2006	68,593	39	209,610	278,242	278,242	0	278,242
2005	70,207	39	174,675	244,921	244,921	0	244,921
2004	70,203	39	83,475	153,717	153,717	0	153,717
2003	70,203	42	33,390	103,635	103,635	0	103,635
2002	70,203	46	33,390	103,639	103,639	0	103,639
2001	68,589	49	33,390	102,028	102,028	0	102,028
2000	68,589	19	27,825	96,433	96,433	0	96,433
1999	67,832	21	27,825	95,678	95,678	0	95,678
1998	45,328	22	27,825	73,175	73,175	0	73,175
1997	42,185	23	25,599	67,807	67,807	0	67,807
1996	38,350	24	25,599	63,973	63,973	0	63,973
1995	38,350	25	25,599	63,974	63,974	0	63,974
1994	38,350	26	25,599	63,975	63,975	0	63,975
1993	29,606	28	25,599	55,233	55,233	0	55,233
1992	29,606	29	25,599	55,234	55,234	0	55,234
1991	29,606	30	25,599	55,235	55,235	0	55,235
1990	20,479	0	20,312	40,791	40,791	0	40,791
1989	20,479	0	20,034	40,513	40,513	0	40,513
1988	19,675	0	13,356	33,031	33,031	0	33,031
1987	19,364	0	8,183	27,547	27,547	0	27,547
1986	19,362	0	7,947	27,309	27,309	0	27,309
1985	19,021	0	7,313	26,334	26,334	0	26,334
1984	5,077	0	7,313	12,390	12,390	0	12,390
1983	5,077	0	4,416	9,493	9,493	0	9,493
1982	5,167	0	3,277	8,444	8,444	0	8,444

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
7/29/2009	2425 / 1330	850,000	WD	05
7/29/2009	2425 / 1318	100	QC	11
12/1/1996	1433 / 0464	1	WD	M
12/1/1992	1243 / 208	9,500	WD	H

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Plantation Key (305) 852-7130

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Map portion under construction.**

Website tested on IE8,
IE9, & Firefox.
Requires Adobe Flash
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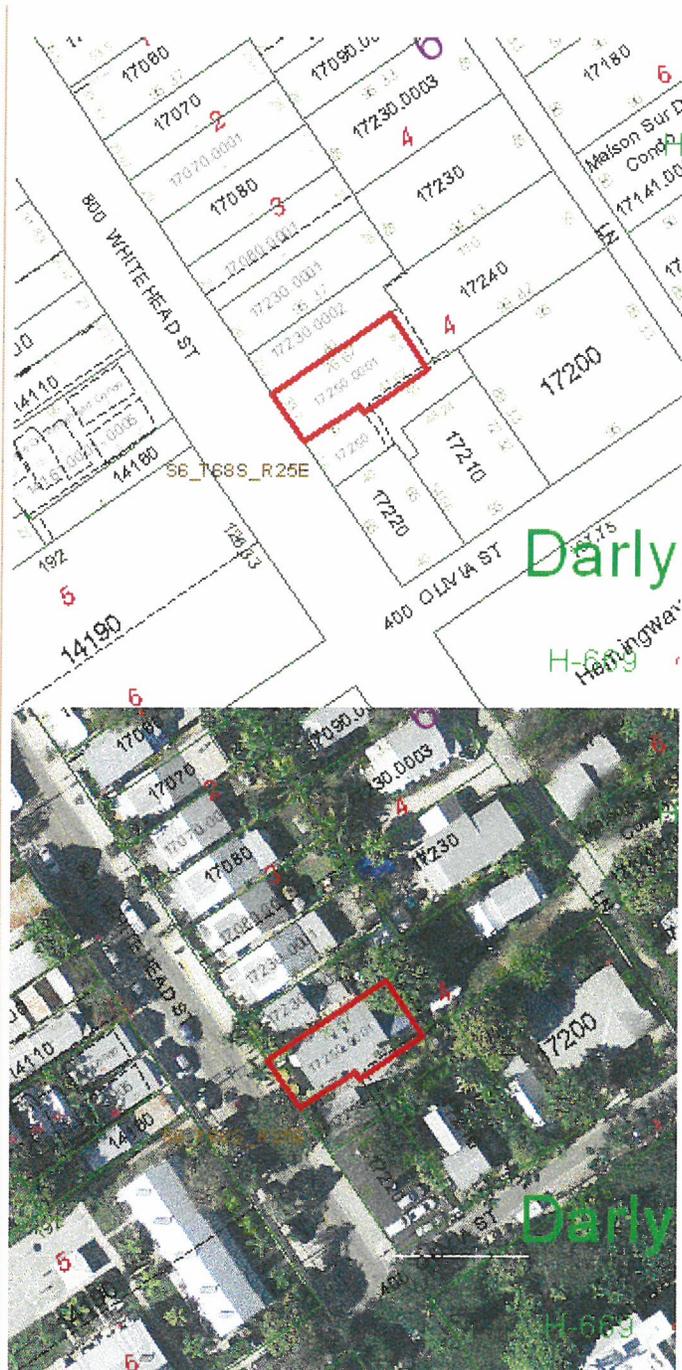
Alternate Key: 1017710 Parcel ID: 00017250-000100

Ownership Details

Mailing Address:
SHADY CAT LLC
PO BOX 87
EGG HARBOR, WI 54209

Property Details

PC Code: 12 - STORE/OFF/RES OR COMBINATION
Millage Group: 11KW
Affordable Housing: No
Section-Township-Range: 06-68-25
Property Location: 821 WHITEHEAD ST KEY WEST
Legal Description: KW PT LT 4 SQR 6 TR 4 OR519-212 OR1036-236/38 OR1193-1256/58 OR1243-208/10 OR1433-464/467 OR1755-766/767 OR1770-228/229 OR1770-230/231 OR2006-2391/92 OR2425-1318/20 OR2425-1330/32 OR2425-1333/35 OR2464-1736/39F/J OR2466-1/4C



Show Parcel Map that can launch map - Must have Adobe Flash Player 10.3 or higher

Land Details

Land Use Code	Frontage	Depth	Land Area
100D - COMMERCIAL DRY	0	0	2,784.00 SF

Building Summary

Number of Buildings: 1

Number of Commercial Buildings: 1
 Total Living Area: 1104
 Year Built: 1928

Building 1 Details

Building Type
 Effective Age 19
 Year Built 1928
 Functional Obs 0

Condition E
 Perimeter 142
 Special Arch 0
 Economic Obs 0

Quality Grade 450
 Depreciation % 23
 Grnd Floor Area 1,104

Inclusions:

Roof Type
 Heat 1
 Heat Src 1

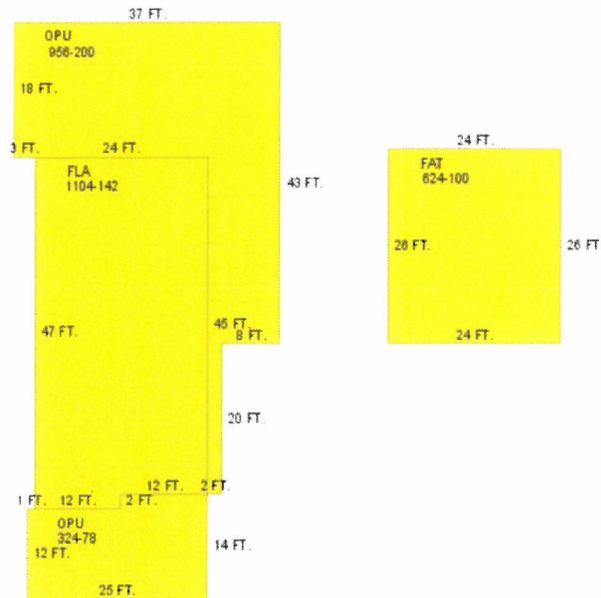
Roof Cover
 Heat 2
 Heat Src 2

Foundation
 Bedrooms 0

Extra Features:

2 Fix Bath 1
 3 Fix Bath 2
 4 Fix Bath 0
 5 Fix Bath 0
 6 Fix Bath 0
 7 Fix Bath 0
 Extra Fix 6

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



Sections:

Nbr	Type	Ext Wall	# Stories	Year Built	Attic A/C	Basement %	Finished Basement %	Area
1	FLA		1	1993				1,104
2	OPU		1	1993				324
3	OPU		1	1993				956
4	FAT		1	1993				624

Interior Finish:

Section Nbr	Interior Finish Nbr	Type	Area %	Sprinkler	A/C
	3103	1 STY STORE-A	57	Y	Y
	3104	APTS-A	43	Y	Y
	3105	OPU	100	N	N
	3106	OPU	100	N	N
	3107	FAT	100	N	N

Exterior Wall:

Interior Finish Nbr	Type	Area %
811	AB AVE WOOD SIDING	100

Misc Improvement Details

Nbr	Type	# Units	Length	Width	Year Built	Roll Year	Grade	Life
1	FN2:FENCES	320 SF	80	4	1988	1989	2	30
2	FN2:FENCES	78 SF	13	6	1996	1997	2	30
3	FN2:FENCES	145 SF	29	5	1996	1997	2	30

Appraiser Notes

821 WHITEHEAD STREET 2004-04-06 ASKING \$2,500,000 FOR 821-823 HAS 28 SEAT RESTAURANT AND GIFT SHOP NEXT TO THE HEMINGWAY HOUSE COMPLETELY REMODELED. 2004-05-04 REDUCED ASKING TO \$1,950,000-SKI

Building Permits

Bldg	Number	Date Issued	Date Completed	Amount	Description	Notes
	10-00000341	02/04/2010		500		INSTALL 6" STOVE PIPE DUCT IN BACK WALL
	B940973	03/01/1994	12/01/1994	1,600		INSTALL GATES IN RAILS
	B942029	06/01/1994	12/01/1994	1,976		INSTALL 544 SF TILE/FLOOR
1	1951335	04/01/1995	04/01/1995	1	Commercial	IMPACT FEES 552SF RETAIL\
1	9700576	03/01/1997	10/01/1997	28,000	Commercial	REPAIRS/REMODELING
	9700685	03/01/1997	10/01/1997	3,500		REPLACE 9 FIXTURES
	9701140	04/01/1997	10/01/1997	6,000		REMODELING
	9700576	03/01/1997	10/01/1997	1		RENOVATIONS
	9701417	05/01/1997	10/01/1997	5,500		1536 SQ FT GALVALUME ROOF
	9701634	05/01/1997	10/01/1997	6,300		CENTRAL AC
	9701695	05/01/1997	10/01/1997	5,000		ELECTRICAL
	9701817	06/01/1997	10/01/1997	2,000		ADD BATH ON 2ND FLOOR
	9702196	07/01/1997	10/01/1997	500		3 NEW FIXTURES

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
2012	160,809	839	244,724	406,372	406,372	0	406,372
2011	160,809	862	326,299	487,970	487,970	0	487,970
2010	167,075	893	284,316	452,284	452,284	0	452,284
2009	167,075	917	351,699	519,691	519,691	0	519,691
2008	171,252	940	348,000	520,192	520,192	0	520,192
2007	133,597	971	348,000	482,568	482,568	0	482,568
2006	133,597	1,028	250,560	385,185	385,185	0	385,185
2005	136,741	1,095	208,800	346,636	346,636	0	346,636
2004	136,731	1,161	208,800	253,683	253,683	0	253,683
2003	136,731	1,218	83,520	253,683	253,683	0	253,683
2002	136,731	1,287	83,520	241,603	241,603	0	241,603
2001	136,731	1,352	83,520	241,603	241,603	0	241,603
2000	136,731	523	69,600	206,854	206,854	0	206,854
1999	136,731	549	69,600	206,880	206,880	0	206,880
1998	91,338	572	69,600	161,510	161,510	0	161,510
1997	58,500	363	64,032	122,895	122,895	0	122,895
1996	43,797	392	64,032	108,221	108,221	0	108,221
1995	40,166	421	41,760	91,682	91,682	0	91,682
1994	40,166	450	41,760	86,438	86,438	0	86,438
1993	27,504	479	41,760	72,541	72,541	0	72,541
1992	27,504	508	41,760	72,573	72,573	0	72,573
1991	27,504	537	41,760	72,605	72,605	0	72,605
1990	30,538	566	34,104	68,318	68,318	0	68,318
1989	29,962	0	33,408	63,370	63,370	0	63,370
1988	26,237	0	27,840	54,077	54,077	0	54,077
1987	18,587	0	20,880	39,467	39,467	25,000	14,467
1986	18,692	0	20,045	38,737	38,737	25,000	13,737
1985	18,074	0	18,374	36,448	36,448	25,000	11,448
1984	11,320	0	18,374	29,694	29,694	25,000	4,694
1983	11,320	0	11,201	22,521	22,521	22,521	0
1982	11,572	0	8,284	19,856	19,856	19,856	0

Parcel Sales History

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Sale Date	Official Records Book/Page	Price	Instrument	Qualification
7/29/2009	2425 / 1330	850,000	WD	05
12/1/1996	1433 / 0464	390,000	WD	M