

Marci L. Rose, Esquire

810 Thomas Street
Key West, Florida 33040
(305) 293-1881 phone
(305) 293-1331 facsimile
squirerose@aol.com

April 5, 2020

csmith@cityofkeywest-fl.gov

Dear Honorable Commissioners, Jimmy Weekly, Gregory Davila, Samuel Kaufman, Mary Lou Hoover, Billy Wardlow, Clayton Lopez and City Manager, Greg Veliz:

Re: Amendment of boundaries of Official Zoning Map from HMDR to HNC-3 and Amendment of the City's Comprehensive Plan for 804-806 Whitehead St.

As a real estate attorney and as a homeowner neighboring the property for 28 years here in K.W., I strongly oppose the granting of the applicant's proposed changes. The two members of the Planning Board, Mr. Gregory Lloyd and Ann Henderson, who objected to this proposition, hit the nail on the head. This is a clear cut case of "SPOT ZONING." Only the owner of 804-806 Whitehead will benefit if these amendments are granted.

Case law supports that the granting of amendments of boundaries of the Official Zoning Map and amendments to the City's Comprehensive Plan should not benefit one person and should only be granted under exigent circumstances; none of which are present. This Applicant's request would in fact be a clear case of Spot Zoning if passed by the Commission. There are also other avenues to accomplish the desired result that don't result in such a permanent change.

The Applicant is claiming that the boundary of the zoning map between 804 and 806 Whitehead was done in error and intersects the property as if it is one property. This is an absolute fabrication. These 2 lots were combined into 1 lot for "ad valorem tax roll purposes" only on May 18, 2018. Prior to May 18, 2018, these were 2 separate parcels with 2 separate Parcel Identification Numbers and they always had been two separate parcels. Lot 1 is 804 Whitehead w/ Parcel ID No.: 00014010-000100 and Lot 2 is 806 Whitehead w/Parcel ID No.: 00014020-000000. Now and only as of May 18, 2018, both lots have been combined into one Parcel with Parcel ID No.: 00014010-000000. The fact that one owner combined the 2 contiguous, but separate parcels does not mean the zoning map was done in error. The porch of the building at 804 Whitehead merely encroaches onto the Parcel formerly known as 806 Whitehead. These encroachments exist everywhere and do not provide a valid reason to change the Zoning Map or Future Land Use Map.

This does not mean that the zoning map was done in error, in fact, quite the contrary. The HNC-3 zoning very purposefully only goes in one parcel down Petronia Street in this area so as not to more significantly impact the residential homeowners. It is a straight line on this area of the zoning map and was done so with intention and purpose. It needs to remain this way without an

exception that benefits only one person, the Applicant. This was done to create a buffer for the residents; many of whom are objecting fiercely.

The Applicant was supposed to be compliant with a Conditional Use Resolution from 2011; #2011-059. The Applicant has NOT been in compliance with this Resolution and in fact only recently due to this request has even tried to bring the property in compliance. The Applicant was and or is in violation of the Conditional Use Resolution in that: 1. the Garbage was not housed nor picked up properly as to number of times, location and containment, 2. the hours of operation are not in compliance, 3. Noise Monitors were never implemented, 4. the Seating Capacity was exceeded, etc.

The Applicant is also currently in violation of City Code in that kitchen grease is being poured down the sewage drain in the parking lot. There is no official complaint for this at this time, but it is evident and I have submitted pictures.

Even if the Applicant had been in full compliance with the Conditional Use Resolution, these requests should be denied due to the fact that if these Amendments are allowed, it is a clear case of Spot Zoning, it is not beneficial to our Community, it is ripe for appeal and there are other less permanent avenues to accomplish the desired outcome of the Applicant while appeasing the neighbors.

Thank you for your consideration in this matter. I trust you will make the correct decision; putting the greater good above one owner's special interests.

Marci L. Rose







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Meeting: Planning Board Meeting

Date: 6/2/20

Under penalties of perjury, I declare that I have read the foregoing statement and that the facts stated in it are true.

Signature:

Marci L. Rose

Print Name: MARCI L. ROSE

Address or Organization: 810 Thomas Street, K.W.

Date: 6/2/20

Please provide this form, along with your written statement, to the City of Key West Clerk's Office by 3:00 PM of the date of the meeting for which you would like to speak. Please contact 305-809-3832 with any questions. Thank you.