

**THE CITY OF KEY WEST
PLANNING BOARD
Staff Report**



To: Chair and Planning Board Members

From: Ginny Haller, Planner II

Through: Patrick Wright, Planning Director

Meeting Date: December 21, 2017

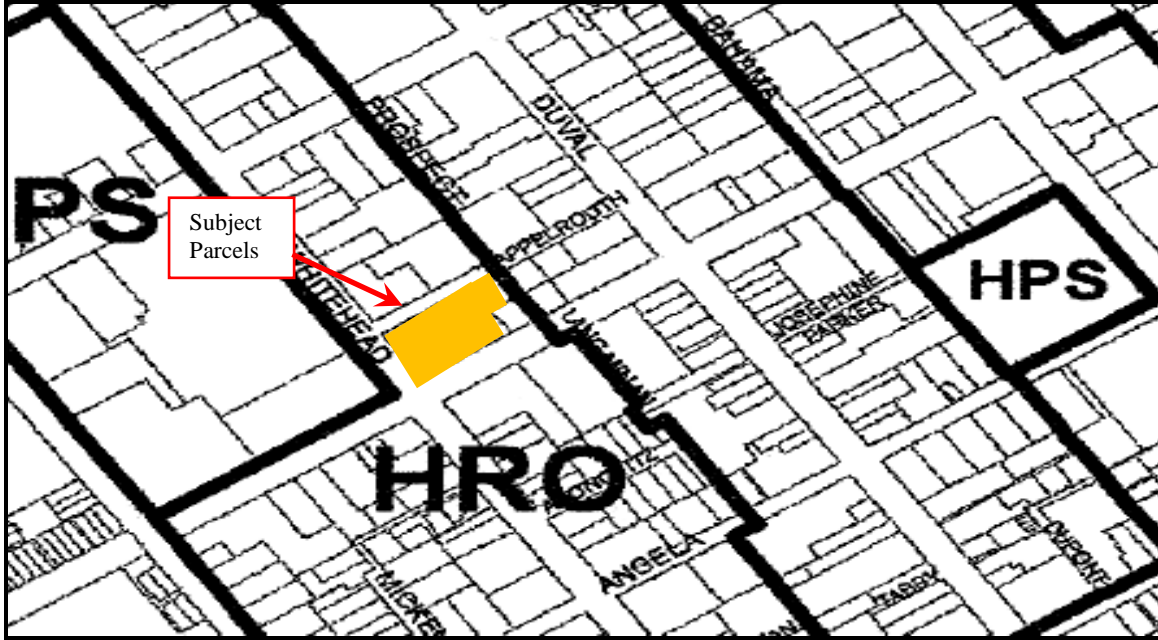
Agenda Item: **Text Amendment – 402 Appelrouth Lane (RE# 00010000-000102 ; RE# 00010000-000103 ; RE# 00010000-000104 ; RE# 00010000-000105 ; RE# 00010000-000106), 416 Appelrouth Lane (RE# 00009980-000000), 533 Whitehead Street (RE# 00010010-000000) - A request to amend the Historic Residential/Office (HRO) Zoning District to allow additional permitted and conditional uses defined on the properties stated above pursuant to the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.**

Request: An amendment to the Land Development Regulations specifically to the HRO Zoning District.

Applicant: Trepanier & Associates, Inc.

Property Owners: Browning Family revocable Trust, James J. Sireci, Jr., Bone Island Properties Inc., Whitehead Trust LLC, Savage KW Properties, Inc.

Location: 402 Appelrouth Lane (RE# 00010000-000102 ; RE# 00010000-000103 ; RE# 00010000-000104 ; RE# 00010000-000105 ; RE# 00010000-000106), 416 Appelrouth Lane (RE# 00009980-000000), 533 Whitehead Street (RE# 00010010-000000)



Background:

The properties are located at the southern end of Appelrouth Lane and Southard Street bound by Whitehead Street. The properties are located within the historic district and all of the buildings with the exception of 533 Whitehead Street are contributing structures according to the City’s 2011 Historic Resources Survey. The applicant defines the proposed area as the Appelrouth Business Corridor, generally describes as the properties adjacent to Appelrouth Lane within the HRO district including the parcel located on the Northern corner of Whitehead Street, excluding the parcel located on the South-easterly corner of Whitehead Street and Appelrouth Lane.

Historic uses of the properties over the last 100 years includes residential dwellings, retail stores, a restaurant, a bakery, a tailor, and a grocery according to Sanborn maps from 1892 to 1962. The current use of the properties is outlined below according to City Licensing Department records:

Property Address	Current Use
402 Appelrouth Lane	Mixed Use Residential and Commercial
409 Appelrouth Lane	Transient Residential
416 Appelrouth Lane	Restaurant
517 Whitehead Street	Transient and Non-Transient Residential
533 Whitehead Street	Small Recreational Power Driven Equipment Rentals/ Commercial Retail

Request:

The applicant is requesting an amendment to the Land Development Regulations to modify the permitted and conditional uses in for a specific group of properties in the Historic Residential Office Zoning District (HRO).

The proposed changes are underlined to the Permitted Uses Sec. 122-927:

- (1) Single-family and two-family residential dwellings.
- (2) Group homes with less than or equal to six residents as provided in [section 122-1246](#).
- (3) Multiple-family residential dwellings.
- (4) Places of worship.
- (5) Business and professional offices.
- (6) Parking lots and facilities.
- (7) Medical services.
- (8) Veterinary medical services, without outside kennels.
- (9) Commercial retail low and medium intensity less than or equal to 5,000 square feet, as provided in division 11 of article V of this chapter, within the Appelrouth Business Corridor.
- (10) Commercial retail high intensity less than or equal to 2,500 square feet, as provided in division 11 of article V of this chapter, within the Appelrouth Business Corridor.
- (11) Hotels, motels, and transient lodging within the Appelrouth Business Corridor.
- (12) Restaurants, excluding drive-through, within the appelrouth Business Corridor.

Add to Conditional Uses Sec. 122-928

- (1) Group homes with seven to 14 residents as provided in [section 122-1246](#).
- (2) Cultural and civic activities with or without associated/accessory commercial sales on Whitehead Street from Greene Street to Southard Street.
- (3) Community center, clubs and lodges.
- (4) Educational institutions and day care.
- (5) Nursing homes, rest and convalescent homes.
- (6) Parks and recreation, active and passive.
- (7) Protective services.
- (8) Public and private utilities.
- (9) Funeral homes
- (10) Commercial low and medium intensity greater than 5,000 square feet as provided in division 11 of article V of this chapter, within the Appelrouth Business Corridor.
- (11) Commercial retail high intensity greater than 2,500 square feet as provided in division 11 of article V of this chapter, within the Appelrouth Business Corridor.
- (12) Small recreational power-driven equipment rentals within the Appelrouth Business Corridor.

Surrounding Zoning and Uses:

North: HRCC-1, Tourist commercial entertainment thoroughfare

South: HPS, County courthouse facilities

East: HRO, Nonconforming commercial uses

West: HRO, Offices

Land Development Regulations Amendment Process:

Planning Board:	December 21, 2017
Planning Board:	August 17, 2017 (Postponed)
If denied, then appeal may be filed within 10 calendar days.	
City Commission (1st Reading)	Pending
City Commission (2nd Reading)	Pending
Local Appeal Period:	30 days
Render to DEO	10 working days
DEO Review:	Up to 45 days
DEO Notice of Intent (NOI)	Effective when NOI posted to DEO website

Analysis:

The purpose of Chapter 90, Article VI, Division 1 of the Land Development Regulations (the “LDRs”) of the Code of Ordinances (the “Code”) of the City of Key West, Florida (the “City”) is to provide a means for changing the text of the land development regulations or the boundaries of the official zoning map. It is not intended to relieve particular hardships nor to confer special privileges or rights on any person, but only to make necessary adjustments in light of changed conditions. In determining whether to grant a requested amendment, the city commission shall consider, in addition to the factors set forth in this subdivision, the consistency of the proposed amendment with the intent of the comprehensive plan.

Pursuant to Code Section 90-522(a), the Planning Board, regardless of the source of the proposed change in the LDRs, shall hold a public hearing thereon with due public notice. The Planning Board shall consider recommendations of the City Planner, City Attorney, Building Official and other information submitted at the scheduled public hearing. The Planning Board shall transmit a written report and recommendation concerning the proposed text amendment to the City Commission for official action. In its deliberations, the Planning Board shall consider the criteria in Code Section 90-521.

Criteria for Approving Amendments to the Land Development Regulations pursuant to Code Section 90-522 (a) and 90-521. In evaluating proposed changes to the Official Zoning Map, the City shall consider the following criteria:

(1) *Consistency with plan.* Whether the proposal is consistent with the Comprehensive Plan, including the adopted infrastructure minimum levels of service standards and the concurrency management program.

Consistency with the Comprehensive Plan

The City’s Comprehensive Plan (the “Plan”) was developed in response to the requirements of the Local Government Comprehensive Planning and Land Development Regulation Act (Chapter 163, Part II, Florida Statutes). The Plan and its updates are consistent with the State, Regional and County plans; and serves as the basis for all land development decisions within the City of Key West. In addition to fulfilling legislative requirements, the City’s Plan:

- ❖ protects and maintain its natural, historic and cultural resources;
- ❖ preserves its community character and quality of life;
- ❖ ensures public safety, and;

- ❖ directs development and redevelopment in an appropriate manner.

The proposed land development regulation amendment would be consistent with the amended Table 1-1.1.5 of the comprehensive plan, which outlines the uses and limitations of the HRO Zoning District. The existing and amended Table recognizes the existing grandfathered transient residential uses. The proposed LDR text amendment seeks to permit transient uses as of right specifically in the proposed Appelrouth Business Corridor.

Consistent with the adopted infrastructure minimum LOS standards and concurrency

The result of changing the permitted and conditional uses for these properties could potentially increase the demand on potable water, sewage and solid waste.

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

The conformity of the proposed Land Development Regulations amendment with all applicable requirements of the City Code is being evaluated herein. The submitted application contains all of the information requirement by Code Section 90-520 for zoning map amendments.

(3) *Changed conditions. Whether, and the extent to which, land use and development conditions have changed since the effective date of the existing regulations, and whether such changes support or work against the proposed rezoning.*

The existing LDRs were adopted on July 3, 1997 through Ordinance No. 97-10 following adoption of the 1994 Comprehensive Plan. Over the last 18 years, the Comprehensive Plan and LDRs have been amended from time-to-time. A new Comprehensive Plan was adopted on March 5, 2013 and became effective on May 2, 2013. Since the adoption of the new Comprehensive Plan, the LDRs and the Official Zoning Map have not been significantly amended, with the exception of the Building Permit Allocation System (BPAS) ordinance.

The properties have been located within the HRO Zoning District since the adoption of the 1994 Comprehensive Plan and the 1997 Land Development Regulations. After the adoption of the 1994 Comprehensive Plan subsequent LDRs in 1997, the following uses became existing nonconforming: hotel, motel and transient lodging, restaurants, retail and small recreational power-driven equipment rental. These nonconforming uses are permitted to be continued Section 122-27 states in part: “The intent of this article is to permit a nonconforming use and a noncomplying structure or building to be continued, to be reconstructed or replaced, or to be repaired or maintained under certain conditions, but not to encourage their expansion”. Overall there has been minimal change in conditions since the adoption of the 1994 Comprehensive Plan and the 1997 LDRs with respect to the HRO Zoning District.

The Future Land Use Map of 1994 and the subsequent adoption of the official zoning map most likely intended many of the nonconforming uses to change or be abandoned over time. This was not the case as the HRO zoning district as a whole contains a large number of longstanding nonconforming uses.

(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 properties are currently mixed use commercial including transient residential, commercial retail, restaurant, scooter and electric car rental as well as permitted by right office uses. The proposed text amendment would bring into conformance many of the nonconforming uses that exist currently. That being said these nonconforming uses are permitted to be continued per Section 122-27. Given the longstanding existence of these uses as well as the proximity to the HRCC-1 zoning district and multiple nonconforming uses within the HRO district surrounding the property the proposed text amendment would not create incompatible uses.

Uses in the Historic Residential/Office Zoning District	Existing HRO	Proposed HRO
Single-family dwellings and two-family residential dwelling units	P	P
Group homes with ≤ to 6 residents	P	P
Multiple-family dwellings	P	P
Places of worship	P	P
Business and professional offices	P	P
Parking lots and facilities	P	P
Medical Services	P	P
Veterinary medical services, without outside kennels	P	P
Groups homes with 7 to 14 residents(Sec. 122-1246)	C	C
Cultural and civic activities with or without associated/accessory commercial sales on Whitehead Street from Green to Southard Streets,	C	C
Community center, clubs and lodges	C	C
Educational institutions and day care	C	C
Nursing homes, rest and convalescent homes	C	C
Parks and recreation, active and passive	C	C
Protective services	C	C
Public and private utilities	C	C
Funeral homes	C	C
Commercial retail low & medium intensity ≤ 5,000 sq.ft.	NP	P
Commercial retail high intensity ≤ 2,500 sq.ft.	NP	P
Hotels, motels and transient lodging	NP	P
Restaurants, excluding drive-through	NP	P
Bars and lounges	NP	NP
Commercial retail low & medium intensity greater than 5,000 sq.ft	NP	C
Commercial retail high intensity greater than 2,500 sq.ft.	NP	C
Small recreational power-driven equipment rentals	NP	C

- (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 transportation, water and wastewater services, solid waste disposal, drainage, recreation, education, emergency services, and similar necessary facilities and services. Rezoning does not constitute a concurrency determination, and the applicant will be required to obtain a concurrency determination pursuant to Code Chapter 94.

The demand for some public facilities would increase and some would not change. The properties given their current uses are not putting additional strain on the current LOS standards. However, the result of changing the permitted and conditional uses for these properties could potentially increase the demand on potable water, sewage and solid waste.

- (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 property does not contain any wetlands or groundwater aquifers. Any impacts on vegetative communities would be reviewed and mitigated at the time of a proposed development. The proposed text amendment is not expected to result in adverse impacts on the natural environment.

- (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 taxable values of properties is expected to have minimal or no effect as the existing uses are considered for tax purposes. The proposed text amendment is not expected to adversely affect the property values in the area or the general welfare.

- (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 proposal maintains the existing land use patterns for the identified properties. Currently, the HRO zoning district has a number of existing nonconforming uses spread throughout the district as a whole. The HRO zoning district as a whole should provide more of a buffer between the intense HRCC-1 zoning district and surrounding residential neighborhoods to the south similar to that of HNC-1. A buffer could allow for an increase in certain permitted and conditional uses while limiting their overall intensity and recognizing the long standing existing uses.

- (9) ***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 the land development regulations in this subpart B and the enabling legislation.

The proposed text amendment adds new permitted and conditional uses on these specific properties within the HRO Zoning District. The new permitted uses proposed would be hotel, motel and transient lodging, restaurants and retail. New conditional uses proposed would be larger retail (+5,000 sq. ft.) and small recreational power-driven equipment rentals.

Although these changes are not ideal, this would not be in conflict with the public interest, and would be in harmony with the purpose and interest of the LDRs.

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

The request for the text amendment as stated by the applicant is to recognize the existing nonconforming uses on these properties.

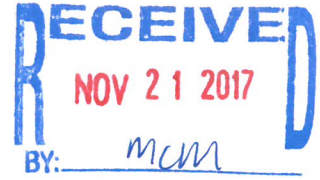
RECOMMENDATION:

The Planning Department, based on the criteria established by the Comprehensive Plan and the Land Development Regulations, recommends to the Planning Board that the request to amend the Land Development Regulations be **APPROVED**.

Application

Text Amendment to the Land Development Regulations

Pursuant to Chapter 90, Article VI, Division 2
City of Key West Land Development Regulations.

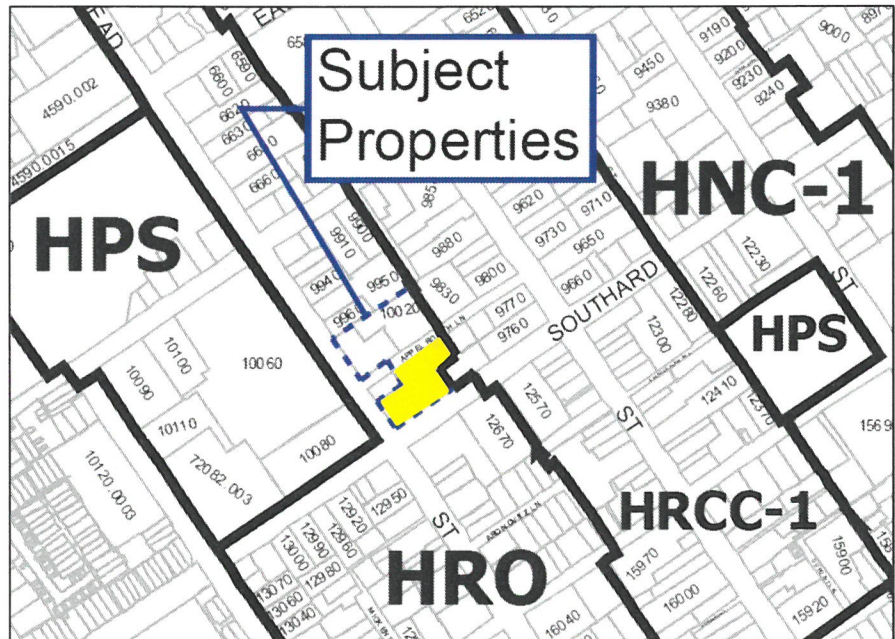


Project Proposal (Sec. 90-518):

Trepanier & Associates, Inc., on behalf of the property owners, Browning Family Irrevocable Trust, James J. Sireci, Jr., Bone Island Properties, Inc., Savage KW Properties, Inc. seek a text amendment to the Land Development Regulations for the Historic Residential/Office (“HRO”) Zoning category for the properties with the physical addresses 402, 409 & 416 Appelrouth Lane, 517, & 519 Whitehead Street, and 533 Southard Street.

The intent of this application is to adapt the language of the LDR’s in order to more accurately reflect the existing land uses within the HRO zoning district. These particular properties, identified as the Appelrouth Business Corridor, have not changed substantially since the last zoning re-designation; yet their uses were not recognized at that time.

The text amendment seeks to apply compatibility (qualitative), geographic and temporal (quantitative) performance criteria into the permitted uses of the HRO zoning district, thus allowing specific existing commercial uses to have basic protections of zoning as a conforming use. Inclusion of these long-standing neighborhood-oriented land uses as permitted uses supports equitable and viable recognition of their inherent and continuing contribution to the surrounding neighborhood fabric and consequently, the City’s future social and economic wellbeing.



The character of the surrounding community is mixed use commercial with an assortment of retail, restaurants, bars, guesthouses, government and law offices, small recreation owner-driven equipment rentals, and to a lesser extent, residential apartments. The subject properties are located within a ribbon of tourist destinations along Whitehead – Mallory to the NW, Hemmingway

& the Light House in the middle, and the Southernmost Point to the SE. The properties are in very close proximity to Mile Marker 0, the Green Parrot, the County Courthouse, the Courthouse Deli, and Duval Street. As such, this stretch of Appelrouth, Fleming and Whitehead Streets caters heavily to tourists and locals in a manner very similar to the Historic Residential Commercial Core.

Recognizing these existing activities as permitted by right supports a management framework for preserving the quality of the man-made environment and the character and historic quality within Old Town in furtherance of the goals, objectives, and policies of the Comprehensive Plan.

Request:

1. That Section 122-926 of the Code of Ordinances is amended as follows:

Sec. 122-926. - Intent.

The Historic Residential/Office district ("HRO") is established to implement comprehensive plan policies for areas designated "Historic Commercial" on the future land use map. The HRO district shall accommodate business and professional offices as well as residential structures. Cultural and civic activities are allowed anywhere in the district and those same uses with accessory/associated commercial sales are allowed on Whitehead Street between Greene Street and Southard Street. Low-med intensity retail, transient residential, restaurants and small recreational power-driven equipment rentals are allowed along the Appelrouth Business Corridor, generally described as the properties adjacent to Appelrouth Lane within the HRO including the parcel located on the Northern corner of Whitehead Street & Southard Street, excluding the parcel located on the South-Eastern corner of Whitehead Street and Appelrouth lane. Customary accessory uses and community facilities may also be located within the HRO district.

Notwithstanding the Appelrouth Business Corridor, the HRO district shall not accommodate new transient lodging or guesthouses. In addition, the HRO district shall expressly exclude general retail sales, warehousing, and outdoor storage. In order to manage the impacts of future development on transportation and public facilities, the city shall limit the intensity of development within the HRO district to activities generating no more than 50 trips per 1,000 square feet of gross leasable floor area per day.

That Section 122-927 of the Code of Ordinances is amended as follows:

Sec. 122-927. - Uses permitted.

Uses permitted in the historic residential/office district (HRO) are as follows:

- (1) Single-family and two-family residential dwellings.
- (2) Group homes with less than or equal to six residents as provided in section 122-1246.
- (3) Multiple-family residential dwellings.
- (4) Places of worship.
- (5) Business and professional offices.
- (6) Parking lots and facilities.

- (7) Medical services.
- (8) Veterinary medical services, without outside kennels.
- (9) Commercial retail low and medium intensity less than or equal to 5,000 square feet, as provided in division 11 of article V of this chapter, within the Appelrouth Business Corridor,
- (10) Hotels, motels, and transient lodging within the Appelrouth Business Corridor,
- (11) Existing restaurants, excluding drive-through, within the Appelrouth Business Corridor.

That Section 122-928 of the Code of Ordinances is amended as follows:

Sec. 122-928. - Conditional uses.

Conditional uses in the historic residential/office district (HRO) are as follows:

- (1) Group homes with seven to 14 residents as provided in section 122-1246.
- (2) Cultural and civic activities with or without associated/accessory commercial sales on Whitehead Street from Greene Street to Southard Street.
- (3) Community center, clubs and lodges.
- (4) Educational institutions and day care.
- (5) Nursing homes, rest and convalescent homes.
- (6) Parks and recreation, active and passive.
- (7) Protective services.
- (8) Public and private utilities.
- (9) Funeral homes.
- (10) Commercial low and medium intensity greater than 5,000 square feet as provided in division 11 of article V of this chapter, within the Appelrouth Business Corridor,
- (11) Commercial retail high intensity, as provided in division 11 of article V of this chapter, within the Appelrouth Business Corridor,
- (12) New restaurants, excluding drive-through, within the Appelrouth Business Corridor
- (13) Small recreational power-driven equipment rentals within the Appelrouth Business

That Section 122-1111 of the Code of Ordinances is amended as follows:

ARTICLE V. - SUPPLEMENTARY DISTRICT REGULATIONS

DIVISION 2. - USES

Sec. 122-1111. - Table of land use by districts.

- (a) The table of land use by districts as set forth in this section stipulates the permitted and conditional uses by district.
- (b) Permitted uses are uses allowed by right, provided all applicable sections within the land development regulations are satisfied as well as all other applicable laws and administration regulations. Conditional uses are allowable only if approved by the city pursuant to administrative procedures found in article III of this chapter. The applicant requesting a conditional use must demonstrate compliance with conditional use criteria set forth in article III of this chapter.
- (c) No permitted use or conditional use shall be approved unless a site plan for such use is first submitted by the applicant. The applicant shall bear the burden of proof in demonstrating compliance with all applicable laws and ordinances during the site plan review process. The site plan review process is set forth in article II of chapter 108.

Sec. 122-1112. - Table of permitted and conditional commercial retail uses by district.

- (a) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Low intensity means commercial retail uses that generate less than 50 average daily trips per 1,000 square feet.

Medium intensity means commercial retail uses that generate between 50 and 100 average daily trips per 1,000 square feet.

High intensity means commercial retail uses that generate above 100 average daily trips per 1,000 square feet.

- (b) The table of permitted and conditional commercial retail uses by district shall be as follows:

TABLE OF PERMITTED AND CONDITIONAL COMMERCIAL RETAIL USES BY DISTRICT

District	Allowed by Right	Allowed as Conditional Use
CL, CT and HCT	Low and medium intensity > 5,000 sq. ft.	Low and medium intensity > 5,000 sq. ft. High intensity
CG	Low and medium intensity ≤ 10,000 sq. ft. High intensity ≤ 5,000 sq. ft.	Low and medium intensity > 10,000 sq. ft. High intensity > 5,000 sq. ft.
PRD	None	Low, medium and high intensity
HRCC-1	Low and medium intensity ≤ 5,000 sq. ft. High intensity ≤ 2,500 sq. ft.	Low and medium intensity > 5,000 sq. ft. High intensity > 2,500 sq. ft.
HRCC-2 and HRCC-3	Low and medium intensity ≤ 5,000 sq. ft.	Low and medium intensity > 5,000 sq. ft. High intensity
HPRD	None	Low, medium and high intensity
HNC-1	Low and medium intensity ≤ 2,500 sq. ft.	Low and medium intensity > 2,500 sq. ft. High intensity
HNC-2 and HNC-3	Low intensity ≤ 2,500 sq. ft.	Low intensity > 2,500 sq. ft. to ≤ 5,000 sq. ft.
<u>HRO (within the Appelrouth Business Corridor)</u>	<u>Low and medium intensity ≤ 5,000 sq. ft.</u> <u>High intensity ≤ 2,500 sq. ft.</u>	<u>Low and medium intensity > 5,000 sq. ft.</u> <u>High intensity > 2,500 sq. ft.</u>
A	None	Low and medium intensity

Note: The total area as stated above includes both sales area under roof and any outside sales area.

Application and Fee (Sec. 90-519): \$5,150.00

(1) Property Description:

Legal Description: Please see Attachment A for full legal property descriptions of the Subject properties.

Site Addresses, RE Numbers, and Alternate Keys:

Street Address	RE No.	AK No.
402 Appelrouth	00010000-000102	8775636
	00010000-000103	8775644
	00010000-000104	8775652
	00010000-000105	8775661
	00010000-000106	8822308
416 Appelrouth	00009980-000000	1010251
533 Southard	00010010-000000	1010294

Total Land Area: The combined total land area for the subject properties is 23,561 square feet.

Flood Zone: X

Historic Resources: The properties are located within the Historic Residential Office Land Use District (HRO). The area was platted by William A. Whitehead in 1829. According to the prep-1900 Sanborn maps Appelrouth Lane, historically know as Smith's Alley and later Smith's Lane, originally contained a bakery and residential Dwellings.

Concurrent with the historic growth of the City, and in particular, it's downtown business corridor, the commercial uses from Duval Street expanded into the adjoining residential areas between 1912 and 1926. Smith's Lane transformed to mixed use as dwelling units disappeared or were converted commercial uses. During this time dwelling units at 422 and 425 converted to retail use, an ice company occupied 427 and a bakery was located at 402. Along Whitehead Street, residential home at 517 were converted to offices.

By 1962, the 2 ½ story residential home at the southeast corner of Smith Lane and Whitehead had been converted into 10-unit boarding house and moved away from Whitehead into its current location where it replaced the 1 story bakery at 402. Taking the place of the former grand residence on the corner is a one story concrete block commercial structure featuring a double storefront.

Today, the properties are commercial and mixed use within the Historic Residential Office Land Use District (HRO). Existing contributing historic resources identified by the September 2004 Historic Resources Survey of Key West include 409 and 416 Appelrouth Lane, and 517 and 519 Whitehead Street. 517 Whitehead

Street is recommended for inclusion as contributing resource by the Survey.

Encumbrances: The property owners and applicant are unaware of any variances, easements, deed restrictions or other encumbrances on the properties other than those officially recorded in the property records.

(2) Comprehensive Plan / Future Land Use:

- Current: Historic Commercial Future Land Use District (HC)
- Proposed: Historic Commercial Future Land Use District (HC)

(3) Zoning District:

- Current: Historic Residential Office Land Use District ("HRO")
- Proposed: Historic Residential Office Land Use District ("HRO")

(4) Land Use:

- Past: Mixed Use Commercial
- Current: Mixed Use Commercial
- Proposed: Mixed Use Commercial

(5) Disclosure of ownership

Name of Applicant: Trepanier and Associates, Inc.
Owen Trepanier, President
Richard Puente, Vice President
Address of Applicant: 1421 1st Street, Unit 101, Key West, FL 33040
Agent Phone #: 305-293-8983 Fax: 305-293-8748
Email Address: owen@owentrepanier.com

402 Appelrouth Lane

Name of Owner: Browning Family Irrevocable Trust 1/12/2010 &
Thomas J Sireci Jr.
Address: 402 Appelrouth Lane, Key West, FL 33040
Phone#: c/o 305-293-8983 Fax: 305-293-8748
Email: c/o owen@owentrepanier.com

416 Appelrouth Lane

Owner: Bone Island Properties, Inc.
Albert L. Borer, President
Address: 738 NE 3rd Ave., Ft. Lauderdale, FL 33304-2620
Phone#: c/o 305-293-8983 Fax: 305-293-8748
Email: c/o owen@owentrepanier.com

533 Southard Street

Owner: Savage KW Properties, Inc.
Thomas J. Savage, President
Address: 2700 Bayshore Blvd., Apt. 511, Dunedin, FL 34698
Phone# c/o 305293-8983 Fax: 305-293-8748

Email: c/o owen@owentrepanier.com

(6) Justification

a. Comprehensive plan consistency.

The justification and need for the proposed text amendment is to bring both the existing and historic land uses into harmony which will relieve non-conforming uses allowing the HRO zoning district to match the existing and historic use of the subject properties.

b. Impact on surrounding properties and infrastructure.

The existing and historic use of the subject properties and surrounding properties has been mixed use commercial for at least half a century. The proposed text amendment is not anticipated to result in any significant impacts to surrounding properties and infrastructure because the historic and existing mixed use commercial character of the surrounding area is not anticipated to change.

Surrounding Properties

Adjacency	Existing Use	Future Land Use	Zoning
North	Mixed Use Commercial	Historic Commercial	HRO
South	Mixed Use Commercial	Historic Commercial	HRCC-1 & HRO
East	Mixed Use Commercial	Historic Commercial	HRCC-1
West	Government	Historic Public Semipublic	HPS

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

- The Concurrency analysis demonstrates no change is anticipated to alter demand on the surrounding transportation system. Policy 2-1.1.3¹ 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, mixed-use development.
- The Concurrency analysis demonstrates no change is anticipated to alter demand for Potable Water
- The Concurrency analysis demonstrates no change is anticipated to alter Wastewater supply
- The Concurrency analysis demonstrates no change is anticipated to alter Solid Waste supply

¹ **Policy 2-1.1.3: Dense Urban Land Area.** The City of Key West is 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 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 Concurrency analysis demonstrates no change is anticipated to alter Stormwater LOS.
- The Concurrency analysis demonstrates no change is anticipated to alter Recreation LOS.

d. 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, it will be geographically limited; however, the proposed compatibility performance criteria for specific, pre-existing uses in no way grants privileged treatment. On the contrary, the additional provisions clarify existing intent and promote continued compatibility with abutting properties.

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

No singling out will be conferred through approval of the request. The request(s) will recognize compatible, pre-existing uses for HRO subject properties. These existing land use activities are not only for the benefit of landowners, they are for the benefit of the public, for whom these existing services provide valuable community resources and locally-owned economic base.

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

The action is not inconsistent with the Comprehensive Plan. Amending the text of the LDR's to accommodate these long-standing uses is consistent with the comprehensive plan because the amendment would bring the subject parcels into conformity with the LDRs and stop the propagation of non-conforming uses.

e. 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.

No undeveloped parcels are located within 300 feet of the subject properties. Two (2) parking lots are located within 300 feet with one currently zoned HRO and one currently zoned HRCC-1.

FLUM	RE No.	Zoning	Size (sq. ft.)
HC	00009950-000000	HRO	13,200
HC	00009830-000000	HRCC-1	9,810

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

Consistency with Comprehensive Plan.

GOAL 1-1: ENSURE THAT THE CHARACTER AND LOCATION OF LAND USES INCORPORATE BEST MANAGEMENT PRACTICES AND PRINCIPLES OF RESOURCE CONSERVATION; ENHANCE COMMUNITY APPEARANCES; PROMOTE ORDERLY LAND USE TRANSITION, AND; MINIMIZE THREATS TO HEALTH, SAFETY, AND WELFARE WHICH MAY BE CAUSED BY INCOMPATIBLE LAND USES, ENVIRONMENTAL DEGRADATION, HAZARDS AND NUISANCES.

- The proposed amendment ensures the character and location of certain historical and current land uses abide by performance standards (best management practices) within a regulatory framework which enhances community appearance, orderly transition and promotion of public health and welfare.

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 amendment respects the City's vision for development and redevelopment in accordance with the intention of amended future land use maps.

Policy 1-1.1.6: Historic Preservation Areas: Areas delineated on the Future Land Use Map for historic preservation shall be planned and managed using a regulatory framework designed to preserve the form, function, image, and ambiance of the Historic Preservation Districts. Dependent upon the size and scope of development proposals, either the City's Historic Architectural Review Commission (HARC) and/or Historic Preservation Planner, in addition to the Planning Board and/or staff, shall review all development proposals within the City's designated historic districts. Any development plans for these areas shall be subject to site plan review and shall be designed in a manner compatible with historic structures within the vicinity.

- The proposed amendment supports a regulatory framework that promotes performance standards to preserve the form, function, image, and ambiance

of the Historic Preservation District by recognizing vintage commercial rights in specific areas of Old Town.

Policy 1-1.3.1: 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 intersections of Appelrouth Lane, Whitehead Street and Southard Street because the uses will no longer be nonconforming.

Policy 1-1.3.2: Designate Various Types of Mixed Use Commercial Nodes to Accommodate Diverse Commercial Uses. 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 proposed amendment recognizes and manages characteristics and impacts of respective commercial activities through adoption and implementation of qualitative and quantitative performance standards, thus ensuring continued sustainability, compatibility and adaptation for vintage neighborhood commercial uses in certain areas of Old Town.

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 amendment recognizes existing vintage neighborhood commercial uses as urban design amenities that, if preserved through performance standards, will continue to improve and enhance the character of the man-made environment, specifically the area along Appelrouth Lane and its abutting properties.

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.

- The proposed amendment adopts and implements qualitative and quantitative performance criteria consistent with Comprehensive Plan policies governing requisite infrastructure; specifically, neighborhood commercial intensity standards.
- Furthermore, the proposed amendment ensures Land Development Regulations are revised in order to effectively regulate future land use activities, adequately protect property rights; and implement the goals, objectives, and policies in the Comprehensive Plan.

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 amendment adopts regulations that protect private property rights while simultaneously ensuring land use compatibility through qualitative and quantitative performance standards which recognize and manage characteristics and impacts of respective vintage neighborhood commercial uses to ensure continued sustainability, compatibility and adaptation best management practices.

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 amendment 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.

Consistency with adopted infrastructure minimum levels of service standards

The text amendment proposes to recognize existing uses and legitimize the historical and current LDR intensity of 1.0 for HMDR properties. Therefore, no additional impact on surrounding properties or infrastructure is currently anticipated or modelled.

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

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.

(2) 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.

Dimensional Requirements Comparison	Section 122-930 HRO	Section 122-930 HRO
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		No Change
Maximum building coverage	50%	No Change
Maximum impervious surface ratio	60%	No Change
Minimum lot size (square feet.)	5,000	No Change
Minimum lot width (feet)	50	No Change
Minimum lot depth (feet)	100	No Change
Minimum setbacks (feet)		No Change
Front	5	No Change
Side	5	No Change
Rear	10	No Change
Street side	5	No Change

(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 recently adopted, 2030 Comprehensive Plan was adopted on March 5, 2013. Both the

Comprehensive Plan and the LDRs are “Living Documents” that are, by their very nature, designed to evolve and change with the community’s goals. This amendment seeks to recognize long standing neighborhood commercial uses which predate the effective dates of the land development regulations and the comprehensive plan.

(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 proposal will result in reduction of nonconforming uses within the future land use designation and no incompatible land uses are anticipated from the proposal. The proposal requests recognition of existing neighborhood-oriented cafe and restaurant uses under specific circumstances. The request proposes compatibility performance criteria for specific, pre-existing vintage commercial uses to ensure compatibility with abutting properties in a geographically limited context.

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	HRO (Existing)	HRO (Proposed)
Single-family and two-family residential dwellings.	Permitted	Permitted
Multiple-family residential dwellings.	Permitted	Permitted
Foster homes/Group homes with less than or equal to six residents (section 122-1246).	Permitted	Permitted
Places of worship.	Permitted	Permitted
Business and professional offices.	Permitted	Permitted
Commercial retail low and medium intensity less than or equal to 5,000 square feet, as provided in division 11 of article V of this chapter	Nonconforming	Permitted ¹
Commercial retail high intensity less than or equal to 2,500 square feet, as provided in division 11 of article V of this chapter,	Nonconforming	Permitted ¹
Hotels, motels, and transient	Nonconforming	Permitted ¹
Restaurants, excluding drive-through	Nonconforming	Permitted ¹
Medical services.	Permitted	Permitted
Parking lots and facilities.	Permitted	Permitted
Veterinary medical services, without outside kennels.	Permitted	Permitted
Parks and recreation, active and passive on the Truman Waterfront parcel, only	Conditional	Conditional
Bars and Lounges	Nonconforming	Permitted ¹
Restaurants, excluding drive-through.	Nonconforming	Permitted ¹
Group homes with seven to 14 residents (section 122-1246).	Conditional	Conditional
Cultural and civic activities.	Conditional	Conditional
Educational institutions and day care.	Conditional	Conditional
Nursing homes/rest homes and convalescent homes.	Conditional	Conditional
Parks and recreation active and passive.	Conditional	Conditional
Commercial low and medium intensity greater than 5,000 square feet as provided in division 11 of article V of this chapter	Nonconforming	Conditional
Commercial retail high intensity greater than 2,500 square feet as provided in division 11 of article V of this chapter	Nonconforming	Conditional

Small recreational power-driven equipment rentals	Nonconforming	Conditional
Places of worship.	Conditional	No Change
Protective services.	Conditional	No Change
Public and private utilities.	Conditional	No Change
Parking lots and facilities.	Conditional	No Change
Footnotes: ¹ Permitted in the Appelrouth Business Corridor only		

(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).

This amendment is impact neutral on public facilities. It does not allow new restaurants or retail; it only recognizes existing.

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 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.C – Potable Water

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 residential and nonresidential development is 100 gal/acre/day. The proposed change is not expected to alter demand for potable water and it is not expected that the proposal will result in excess capacity on this public facility.

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.

Potable water to the City of Key West is provided by the Florida Keys Aqueduct Authority (FKAA). 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.

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 and the sanitary sewer LOS for residential development is 100 gal/capita/day. The proposed change is not expected to alter demand for sanitary sewer and it is not expected that the proposal will result in excess capacity on this public facility.

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-dollar capital improvement to the City's wastewater treatment during the past short term planning period, including \$56 million for collection system rehabilitation.

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.²

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. 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 the solid waste LOS for residential development is 2.66 lbs/capita/day. The proposed change is not

² City of Key West Comprehensive Plan Data and Analysis, Pg. A-16

expected to alter demand for solid waste and it is not expected that the proposal will result in excess capacity on this public facility.

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.

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.³

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. D - Recyclable Waste Generation Level of Service

Based on the City of Key West adopted level of service pursuant to Policy 4-1.1.2.D, the recyclable waste LOS for nonresidential development is 0.25 lbs/capita/day) and the recyclable waste LOS for residential development is 0.50 lbs/capita/day. The proposed change is not expected to alter demand for recyclables and it is not expected that the proposal will result in excess capacity on this public facility.

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.

Comprehensive Plan Policy 4-1.1.2. E- Drainage

Summary Response: Stormwater concurrency will be insured as part of any future development orders 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.

³ City of Key West Comprehensive Plan Data and Analysis, Pg. A-17

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:

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 will not have any adverse effect on availability of recreation services.

Education

No level of service currently exists in Comprehensive Plan but the proposed change will not have an adverse effect on availability of 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 of 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 will not have an adverse effect on availability of other services.

- (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 proposed change will not have an adverse impact on the natural environment.

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

Assuming that conforming use properties have a higher median sales value than non-conforming use properties in the general area, no foreseeable adverse impacts on property values would be expected as part of this request. Increased potential for conforming uses associated with the request would result in increased appraisal values for affected properties; this should not adversely affect surrounding property values. Typically, properties with higher value yield more in tax revenue. In addition, the applicant is coordinating with the Monroe County Property Appraiser on this matter.

(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 text amendment would serve to recognize historic and existing commercial uses and intensities while recognizing viable trends in the urban fabric; the proposed performance standards respond to the historic and current order and compatibility of the land use pattern in HRO. Finally, these performance standards are scalable in order to respond to future land use patterns in an orderly and compatible manner.

The current and proposed land use pattern is therefore substantially similar and spatially consistent in pattern and scope and is compatible with current (and historic) surrounding patterns of urban land use. For these reasons, no negative effects on the land use pattern have been identified.

(9) *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 is hypothesized to provide increased opportunity for the Historic Downtown: restoring the historic rights of property while providing for sustainable development opportunities as promoted by the Comprehensive Plan.

(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.