



THE CITY OF KEY WEST

Post Office Box 1409 Key West, FL 33041-1409 (305) 809-3700

CITY OF KEY WEST, FLORIDA • PLANNING DIRECTOR'S REPORT TO THE PLANNING BOARD - DECEMBER 12, 2023 624 WHITE STREET - ADA ACCESSIBILITY WAIVER

The Planning Board granted a conditional use approval to allow for cultural and civic activities without an associated/accessory commercial sales use on a parcel located at 624 White Street on May 21, 2020, Planning Board Resolution 2020-15. The approved site plans depict an ADA lift and a new accessible walkway. Characteristics of use described in the staff report included the following language from the City of Key West Code Section 122-62.(b)(2)e. *Other unique facilities/structures proposed as part of site improvement* “(i) ADA access from front of property to rear with ADA elevator.”

Subsequently, the City of Key West received notification from Mr. Haskell on November 7, 2023 advising a Final Order (VW 2023-132) was received from the Florida Building Commission which grants the project at 624 White Street a waiver from the requirement to provide vertical accessibility to the first and second floors.

The application for waiver was submitted by Mr. Haskell on behalf of the property owner, the Key West Literary Seminar, and came for consideration before the Florida Building (Commission) in accordance with section 553.512(1), Florida Statutes, and chapter 61G20-4, Florida Administrative Code, at a meeting of the Commission on October 17, 2023. The applicant requested relief from requirements to construct an onsite ADA lift and ADA accessibility.

Section 553.512(1), Florida Statutes, provides for a waiver of the accessibility requirements set forth in Section 553.509, Florida Statutes, upon a determination of “unnecessary, unreasonable, or extreme hardship.”

Based on the description of the construction, the representation by the applicant, and the applicable legal requirements, the Council recommended that the Request for Waiver be granted under the provisions of Section 553.512, Florida Statutes, on the grounds that adherence to the literal requirement of the Act would cause unreasonable and economic hardship due to the historic nature of the structure.

The City's Historic Preservation Planner advised the changes pertaining to previous ADA issues for the house can be approved at staff level.

Therefore, based upon the City's review of the accessibility waiver granted by the Florida Building Commission, the letter from the State Historic Preservation Office, the conditional use staff report and Resolution 2020-15, it has been determined that an amendment to the conditional use approval is not required. The applicant does not have to comply with site plan components that concern vertical accessibility provided in the approved site plan associated with Planning Board Resolution 2020-15.



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Katie P. Halloran
Planning Director

Cc: Ronald Ramsingh, City Attorney
Todd Stoughton, Assistant City Manager
Raj Ramsingh, Chief Building Official

Attachments:

Final Order VW 2023-132
State Historic Preservation Office Letter
Planning Board Resolution 2020-15

**STATE OF FLORIDA
BUILDING COMMISSION**

In the Matter of
ELIZABETH BISHOP HOUSE
624 White Street
Key West, FL 33040:

Key West Literary Seminar,
Petitioner.

VW 2023-132

FINAL ORDER

The Application for Waiver by Petitioner, Key West Literary Seminar, came for consideration before the Florida Building Commission (Commission) in accordance with section 553.512(1), Florida Statutes, and chapter 61G20-4, Florida Administrative Code,¹ at the meeting of the Commission on October 17, 2023, upon the recommendations of the Accessibility Advisory Council (Council). At that meeting, the Commission made the following findings of fact:

1. The Owner is Key West Literary Seminar, 717 Love Lane, Key West, FL 33040 (Petitioner).
2. The Applicant is Arlo Haskell, Petitioner's executive director, 716 Love Lane, Key West, FL 33040 (Applicant).
3. Applicant appeared telephonically before the Council on October 5, 2023.
4. The project for which the Applicant is seeking a waiver consists of the alteration of an existing two-story, 1,366 square foot historic residence being utilized as a museum. The project is currently under construction.
5. Applicant provided a letter from the Florida Department of State confirming that the structure is historic in nature and stating that the provision of vertical accessibility to the

¹ Unless otherwise indicated, all citations to Florida statutes refer to the 2023 codification of *Florida Statutes*, and all citations to Florida administrative rules refer to the latest version of the final adopted rule presented in *Florida Administrative Code*.

ELIZABETH BISHOP HOUSE
624 White Street
Key West, FL 33040

building would negatively impact its historically significant features. Applicant also provided a letter from David J. Salay, architect for the project, which states that it would be technically infeasible to install an elevator or ramp at the property, due to extensive structural modifications that would have to occur and because of local fire safety requirements. Applicant asserts that the owner will incur substantial financial costs if the installation of a ramp or an elevator were to be required.

6. The requirements from which the Applicant seeks a waiver are those in the Florida Americans with Disabilities Accessibility Implementation Act (the Act), Section 553.509, Florida Statutes, which require the Petitioner to provide vertical accessibility to all levels above and below the occupiable grade level of a building, structure, or facility. Specifically, Applicant requests a waiver from providing vertical accessibility to the first and second floors of an existing historic residence being utilized as a museum.

7. Section 553.512(1), Florida Statutes, provides for a waiver of the accessibility requirements set forth in Section 553.509, Florida Statutes, upon a determination of "unnecessary, unreasonable, or extreme hardship."

8. Based on consideration of the foregoing information, the description of the construction, the representations by the Applicant, and the applicable legal requirements, the Council recommended that the Request for Waiver be granted under the provisions of Section 553.512, Florida Statutes, on the grounds that adherence to the literal requirements of the Act would cause unreasonable and economic hardship due to the historic nature of the structure.


Having considered the foregoing information, together with the recommendation of the Council, the Commission hereby agrees with the Council's recommendation and concludes that the Applicant's Request for Waiver should be, and hereby is, GRANTED.

ELIZABETH BISHOP HOUSE
624 White Street
Key West, FL 33040

This Final Order is intended for the enforcement of the Florida Americans With Disabilities Accessibility Implementation Act, as amended, Section 553.501 et seq., Florida Statutes, and, other than as modified by this Final Order, any construction or post-construction activities which deviate from the requirements of that Act will be deemed to be a violation of this Final Order.

Responsibility for the enforcement of this Final Order and for enforcement of the Americans with Disabilities Accessibility Implementation Act shall rest with the Building Official of the local government with permitted authority for the project. §553.513, Florida Statutes. Nothing in this Final Order shall be construed to relieve the Owner of any duties it may have under the Americans with Disabilities Act of 1990, Pub. L. No. 101-336, § 42 U.S.C. 12101 et seq., or other applicable regulations. Any waiver granted in this Final Order shall expire one year from the date of the Order unless the construction has commenced within that time.

DONE AND ORDERED this 25th day of OCTOBER, 2023 in St. Augustine, St. Johns County, State of Florida.


JAMES R. SCHOCK
Chairman, Florida Building Commission

ELIZABETH BISHOP HOUSE
624 White Street
Key West, FL 33040

NOTICE OF RIGHT TO APPEAL

Petitioner and any substantially affected parties are hereby advised of their right to seek judicial review of this Order in accordance with section 120.68(2)(a), Florida Statutes, and Florida Rules of Appellate Procedure 9.110(a) and 9.030(b)(1)(C). To initiate an appeal, a Notice of Appeal must be filed with Agency Clerk, Department of Business and Professional Regulation, 2601 Blair Stone Road, Tallahassee, Florida 32399-2202 and with the appropriate District Court of Appeal not later than thirty (30) days after this Order is filed with the Clerk of the Department of Business and Professional Regulation. A Notice of Appeal filed with the District Court of Appeal shall be accompanied by the filing fee specified by section 35.22(3), Florida Statutes.

ELIZABETH BISHOP HOUSE
624 White Street
Key West, FL 33040

CERTIFICATE OF FILING AND SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing order has been filed with the undersigned and furnished to the persons listed below this 31st day of October, 2023.



Agency Clerk's Office
Department of Business and Professional
Regulation & Florida Building Commission
2601 Blair Stone Road
Tallahassee, Florida 32399-2202

By U.S. Mail:

Key West Literary Seminar
717 Love Lane
Key West, FL 33040

Arlo Haskell
716 Love Lane
Key West, FL 33040

Enid Torregrosa
1300 White Street
Key West, FL 33040

David Salay
410 Angela Street
Key West, FL 33040

By Electronic Mail:

Chip Sellers
Codes & Standards Office
Department of Business & Professional
Regulation
2601 Blair Stone Road
Tallahassee, Florida 32399
Chip.sellers@myfloridalicense.com



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

Cord Byrd
Secretary of State

August 14, 2023

Arlo Haskell
Key West Literary Seminar
717 Love Lane
Key West, FL, 33040

RE: Received by DHR: June 27, 2023
Project: *ADA Sec. 202.5 Exemption Waiver Review:*
Elizabeth Bishop House
624 White Street, Key West, FL, 33040
County: Monroe

To Whom it May Concern:

At your request we reviewed the above referenced property pursuant to the procedures set forth in Section 202.5 – *Alterations to Qualified Historic Buildings and Facilities*, 2020 Florida Accessibility Code for Building Construction, 7th Edition, codified in 28 CFR Part 36 and equivalent procedures implementing Sections 553.503 of the Florida Statutes.

The above referenced property is listed in the *National Register of Historic Places* as a contributing resource to the Key West National Register Historic District. This house is historically known as the Bishop House after Elizabeth Bishop and is significant for its connection to the literary master. The property was built in 1933, is approximately 1,366 square feet, and is currently owned and operated by the Key West Literary Society as a partial house museum, partial office building. Approximately 50% of the building is private offices with the historic kitchen, dining room, porch/patio, and living room open to the public. Most of the activated space for the facility is outside of the building itself.

This project was initially brought to our office's attention when the applicant consulted with our office regarding the requirements for an exterior ramp to the inside of the building and which configuration our office thought was best. However, after much discussion between the owner, the architect, and the state historic preservation office, it became clear that a ramp may not be practical considering there is no way to make the interior accessible without seriously altering the historic fabric and historic configuration of the property. In many cases, some alterations to a building's historic fabric and configuration is acceptable for the purposes of ADA. However, it is important to remember that the basis of historic preservation as set forth by the National Historic Preservation Act, is the protection of the physical, tangible remnants of

Division of Historical Resources
R.A. Gray Building • 500 South Bronough Street • Tallahassee, Florida 32399
850.245.6300 • 850.245.6436 (Fax) • FLHeritage.com



history as they are represented in the built environment. For a house museum that is designated as historic based on its association with who lived there and how they lived their life, the fabric and configuration become more important than a building associated with an event or archeological site for example. This is because the historic fabric and configuration display the design choices and thought processes of the person who lived there.

In this case, in order to make the interior ADA compliant, just on the first floor alone, the applicant would need to:

- address multiple variations in floor grade throughout the interior,
- remove and/or reconfigure the historic layout of the kitchen and dining room, much of which is built in cabinetry,
- Remove all of the doors on the interior and at least one exterior door and make those opening larger to accommodate necessary width requirements for ADA access.

All of which would adversely affect the historical materials and design of the building.

Therefore, it is the opinion of this office that the property is eligible for the exemption granted Qualified Historic Buildings and Facilities per Section 202.5 of the FACBC, 2020 as the considered measures to meet full compliance with ADA requirements would threaten or destroy the historic integrity of the above referenced project.

If you have any questions, please contact Kyra Lucas, Historic Preservationist, by email at kyra.lucas@dos.myflorida.com, or by telephone at 850.245.6339.

Sincerely,



Dr. Kyra N. Lucas
Supervisor
Survey and Registration
Bureau of Historic Preservation
State Historic Preservation Office

**PLANNING BOARD
RESOLUTION NO. 2020-15**

A RESOLUTION OF THE CITY OF KEY WEST PLANNING BOARD GRANTING WITH CONDITIONS A CONDITIONAL USE APPROVAL TO ALLOW FOR CULTURAL AND CIVIC ACTIVITIES WITHOUT AN ASSOCIATED ACCESSORY COMMERCIAL SALES ON A PARCEL LOCATED AT 624 WHITE STREET WITHIN THE HISTORIC MEDIUM DENSITY RESIDENTIAL (HMDR) ZONING DISTRICT PURSUANT TO THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES OF THE CITY OF KEY WEST, FLORIDA; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the subject property is located within the Historic Medium Residential Residential (HMDR) Zoning District; and

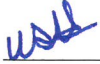
WHEREAS, pursuant to Sections 122-62 and 122-928 (2) of the Land Development Regulations (the “LDRs”) of the Code of Ordinances (the “Code”) of the City of Key West, Florida (the “City”), the applicant filed a conditional use application for cultural and civic activities without associated/accessory commercial sales use located at 624 White Street; and


WHEREAS, City Code Sections 122-62 and 122-63 outline the criteria for reviewing a conditional use application by the Planning Board; and

WHEREAS, this matter came before the Planning Board at a duly noticed public hearing on May 21, 2020; and

WHEREAS, the Planning Board found that the proposed use complies with the criteria in City Code Sections 122-62 and 122-63; and

WHEREAS, the approval of the conditional use application will be in harmony with the general purpose and intent of the LDRs, and will not be injurious to the neighborhood, or otherwise



Chairman


Planning Director

detrimental to the public welfare.

NOW THEREFORE, BE IT RESOLVED by the Planning Board of the City of Key West, Florida:

Section 1. That the above recitals are incorporated by reference as fully set forth herein.

Section 2. That a conditional use request, pursuant to Sections 122-62 and 122-928 (2) of the Code of Ordinances of the City of Key West, Florida is hereby approved as follows: allowing the location of cultural and civic activities without an associated / accessory commercial sales use located at 624 White Street (RE# 00010130-000000) with the following conditions:

General conditions:

1. A parking variance is approved for the property at 624 White Street before a conditional use be approved.
2. The Elizabeth Bishop house shall remain open to the public for cultural and civic educational purposes during all normal business hours.
3. The garden shall remain open to the public during all normal business hours.
4. If amplified noise is desired for a special event, the applicant must obtain a Special Event Permit from the City of Key West.

Section 3. Full, complete, and final application for all permits required for which this resolution is wholly or partly necessary, shall be submitted in its entirety and construction shall commence within 12 months after the date hereof.

Section 4. This resolution does not constitute a finding as to ownership or right to possession of the property, and assumes, without finding, the correctness of applicant's assertion of legal authority respecting the property.

Section 5. This resolution shall go into effect immediately upon its passage and adoption

WJW Chairman

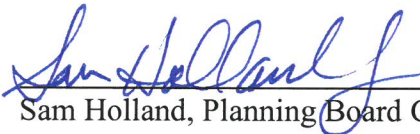
KPH Planning Director

and authentication by the signatures of the presiding officer and the Clerk of the Commission.

Section 6. This resolution is subject to appeal periods as provided by the City of Key West Code of Ordinances (including the Land Development Regulations). After the City appeal period has expired, this permit or development order will be rendered to the Florida Department of Economic Opportunity. Pursuant to Chapter 73C-44, F.A.C., this permit or development order is not effective for 45 days after it has been properly rendered to the DEO with all exhibits and applications attached to or incorporated by reference in this approval; that within the 45-day review period the DEO can appeal the permit or development order to the Florida Land and Water Adjudicatory Commission; and that such an appeal stays the effectiveness of the permit until the appeal is resolved by agreement or order.

Read and passed on first reading at a regularly scheduled meeting held this 21st day of May, 2020.

Authenticated by the Chair of the Planning Board and the Planning Director.

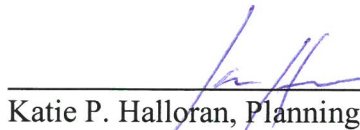


Sam Holland, Planning Board Chair

6/2/2020

Date

Attest:

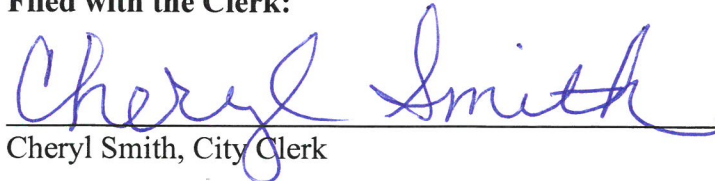


Katie P. Halloran, Planning Director

6/2/2020

Date

Filed with the Clerk:




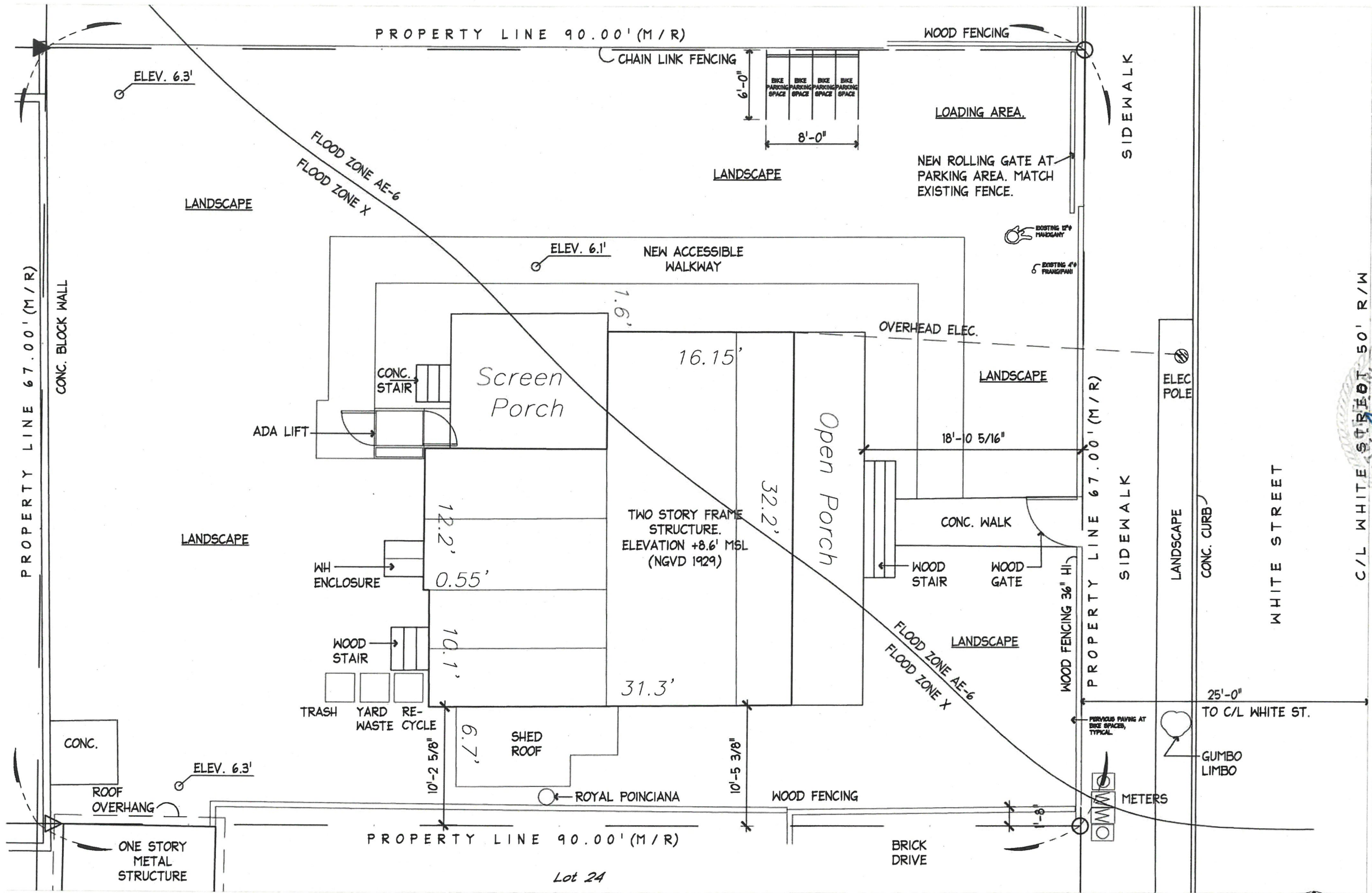
Cheryl Smith, City Clerk

6-2-2020

Date

 Chairman

 Planning Director



1
A1 PROPOSED SITE PLAN - BISHOP HOUSE

SCALE 1/8"=1'-0"



C/L WHITE STREET 50' R/W

ELIZABETH BISHOP HOUSE
 HISTORIC STRUCTURES REPORT
 624 WHITE STREET - KEY WEST FLORIDA
 KEY WEST LITERARY SEMINAR



410 Angela Street
 Key West, Florida 33040
 Telephone (305) 286-1347
 Facsimile (305) 286-2727
 Florida License AAC002022

Bender & Associates
ARCHITECTS
 p.a.

Project No. 1830
 PROPOSED
 SITE PLAN
 Date: 4/1/20

A1

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USA