

RESOLUTION NO. 16-353

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING A REQUEST FOR INTERPRETATION OF DISTRICT BOUNDARIES PURSUANT TO SECTIONS 122-94(7) OF THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES OF THE CITY OF KEY WEST, ON PROPERTY LOCATED AT 417 SOUTHARD STREET (RE # 00010040-000000; AK # 1010324) WITHIN THE HISTORIC RESIDENTIAL COMMERCIAL CORE - DUVAL STREET GULFSIDE (HRCC-1) AND HISTORIC RESIDENTIAL OFFICE (HRO) ZONING DISTRICTS; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Section 122-94 (7), of the Code of Ordinances (the "Code") of the City of Key West, Florida (the "City") provides that Uncertainties. Where physical or cultural features existing on the ground are at variance with those shown on the official zoning map or if any other uncertainty exists, the city commission shall interpret the intent of the official zoning map as to the location of district boundaries.; and

WHEREAS, the approval of the request for district boundary interpretations consistent with the criteria of the Code of Ordinances; and

WHEREAS, pursuant to Code Section 122-94 (7), the City Commission shall interpret the intent of the official zoning map as to the location of district boundaries; and

WHEREAS, the City Commission has approved the request for interpretation of district boundaries to recognize the entire

building and parcel located at 417 Southard Street (RE # 00010040-000000; AK # 1010324) as Historic Residential Commercial Core - Duval Street Gulfside (HRCC-1) ; and

WHEREAS, the approval of the request for district boundary interpretations will be in harmony with the general purpose and intent of the Land Development Regulations, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare; and

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

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

Section 2. That the City Commission grants approval of approval of the request for interpretation of district boundaries to recognize the entire building and parcel located at 417 Southard Street (RE # 00010040-000000; AK # 1010324) as Historic Residential Commercial Core - Duval Street Gulfside (HRCC-1) pursuant to Sections 122-94(7) of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

Section 3. This interpretation of district boundaries 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 4. This Resolution shall go into effect immediately upon its passage and adoption and authentication by the signatures of the presiding officer and the Clerk of the Commission.

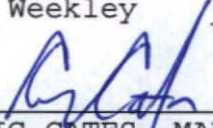
Section 5. This Resolution is subject to appeal periods as provided by the City of Key West Code of Ordinances (including the Land Development Regulations). After the City appeal period has expired, this permit will be rendered to the Florida Department of Economic Opportunity. Pursuant to Chapter 73C, F.A.C., this permit is not effective for forty five (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 forty five (45) day review period the DEO can appeal the permit 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.

Passed and adopted by the City Commission at a meeting held this 15th day of November, 2016.

Authenticated by the presiding officer and Clerk of the Commission on November 16, 2016.


Filed with the Clerk November 16, 2016.

Mayor Craig Cates	<u>Yes</u>
Vice Mayor Clayton Lopez	<u>Yes</u>
Commissioner Samuel Kaufman	<u>Yes</u>
Commissioner Richard Payne	<u>Yes</u>
Commissioner Margaret Romero	<u>Yes</u>
Commissioner Billy Wardlow	<u>Yes</u>
Commissioner Jimmy Weekley	<u>Yes</u>



CRAIG CATES, MAYOR

ATTEST:



CHERYL SMITH, CITY CLERK

EXECUTIVE SUMMARY



To: Jim Scholl, City Manager

Through: Thaddeus Cohen, Planning Director

From: Patrick Wright, Senior Planner II

Meeting Date: November 15, 2016

RE: **Interpretation of District Boundaries – 417 Southard Street (RE # 00010040-000000, AK # 1010324)** – Approving a request for Interpretation of District Boundaries on a property located in the Historic Residential Commercial Core - Duval Street Gulfside (HRCC-1) and Historic Residential Office (HRO) Zoning Districts per Section 122-94 (7) of the Land Development Regulations of the Code of Ordinances of the City of Key West.

ACTION STATEMENT:

Request: Approving a request for Interpretation of District Boundaries on a property located in the in the Historic Residential Commercial Core - Duval Street Gulfside (HRCC-1) and Historic Residential Office (HRO)

Applicant: Trepanier & Associates Inc.

Property Owner: Tapley O. Johnson III

Location: 417 Southard Street (RE # 00010040-000000, AK # 1010324)

Zoning: Historic Residential Office (HRO) / Historic Residential Commercial Core – Duval Street Gulfside (HRCC-1)

Existing:



BACKGROUND:

The property is located on the 400 block of Southard Street between Duval and Whitehead Streets. The property contains a commercial retail storefront on the first floor and two non-transient units on the second floor. Licensing records indicate the building has been used as mixed use commercial/residential going back to at least the mid-1980s. Currently the retail use of an art gallery is operating on the first floor, prior to that a scooter and motorcycle shop known as Honda Key West operated in this location.

With the adoption of the current Land Development Regulations and Official Zoning Map in 1997 the building was bisected by a zoning line, leaving a portion of the building in the Historic Residential Commercial Core zoning district and the remainder in the Historic Residential Office zoning district. Currently the line bisects a legal parcel of record per the Monroe County Property Appraiser's Office, and has since the 2000 tax roll.

The applicant is requesting, in accordance with Section 122-94 (7), an interpretation of district boundaries by the City Commission to recognize the entire parcel and building as being zoned Historic Residential Commercial Core – Duval Street Gulfside.

City Actions:

City Commission:

November 15, 2016

PLANNING STAFF ANALYSIS:

Section 122-94 (7) states:

“Uncertainties. Where physical or cultural features existing on the ground are at variance with those shown on the official zoning map or if any other uncertainty exists, the city commission shall interpret the intent of the official zoning map as to the location of district boundaries.”

It is staff's opinion that Section 122-94 (7) applies to the current situation of this parcel and building. Given the longstanding commercial use of the property and to avoid the expansion of a nonconforming use, it is staff's opinion that the entire building and parcel should be interpreted as Historic Residential Commercial Core – Duval Street Gulfside (HRCC-1).

Options / Advantages / Disadvantages:

Option 1. Approve the request for interpretation of district boundaries to recognize the entire building and parcel located at 417 Southard Street as Historic Residential Commercial Core – Duval Street Gulfside (HRCC-1):

Consistency with the City's Strategic Plan, Vision and Mission: Granting the request would not be inconsistent with the Strategic Plan.

Financial Impact: There would be no financial impact for the City.

Option 2. Deny the request for interpretation of district boundaries to recognize the entire building and parcel located at 417 Southard Street as Historic Residential Commercial Core – Duval Street Gulfside (HRCC-1).

Consistency with the City's Strategic Plan, Vision and Mission: Denial of the request would not be inconsistent with the Strategic Plan.

Financial Impact: There would be no financial impact for the City.

RECOMMENDATION: Option 1.

Based on the existing conditions, the Planning Department recommends to the City Commission **APPROVAL** of the request for interpretation of district boundaries to recognize the entire building and parcel located at 417 Southard Street as Historic Residential Commercial Core – Duval Street Gulfside (HRCC-1).

September 14, 2016

Mr. Patrick Wright, Senior Planner
City of Key West
P.O. Box 1409
Key West, FL 33041

RE: 417 Southard Street (RE No. 00010040-000000)

TREPANIER



& ASSOCIATES INC
LAND USE PLANNING
DEVELOPMENT CONSULTANTS

Dear Mr. Wright:

My client, Tap Johnson, owns the property known as 417 Southard Street (Victor Mill's old Honda Shop). As you know, we were recently pursuing a zoning change for this property along with several other adjacent parcels. As we began analyzing the change, with your assistance, it became clear that Mr. Johnson's property was unique among the others.

While all the properties involved have long-established nonconforming commercial uses consistent with HRCC-1 zoning, the majority of Mr. Johnson's commercial floor area is already zoned HRCC-1 but has a smaller portion that is zoned HRO. The unique peculiarity of this split zoned property is that the zoning line bisects the existing structure creating uncertainty with regard to uses allowed within the structure and the property as whole (please see Existing and Proposed depictions).

As you pointed out, Sec. 122-94ⁱ sets forth the method for determining zoning boundaries when uncertainties exist and Sec 122-94(7) specifically addresses situations like the above where physical features existing on the ground are at variance with the zoning map and create uncertainty.

I appreciate your guidance in this matter and I'd like to take the next step and respectfully request an interpretation of boundary location by the City Commission pursuant to Sec. 122-94(7).

We have not previously made such a request, so we would appreciate your continued guidance. If you could be so kind as to consider the above and give us direction, we will be greatly appreciative.

Thank you very much for your consideration in the above matter.

Respectfully,

Owen Trepanier

Existing:



Proposed:



Sec. 122-94. - Interpretation of district boundaries.

When uncertainty exists as to boundaries of the districts on the official zoning map, the following rules shall apply:

- (1) *Centerlines.* Boundaries indicated as approximately following the centerlines of streets, highways and alleys shall be construed as following such lines.
- (2) *Lot, section and tract lines.* Boundaries indicated as approximately following platted lot lines or section or tract lines shall be construed as following such lines.
- (3) *Political boundaries.* Boundaries indicated as approximately following political boundaries shall be construed as following such political boundaries.
- (4) *Shorelines.* Boundaries indicated as following shorelines shall be construed as following the mean high water line (MHW), and if the mean high water line changes, the shoreline shall be construed as moving with the mean high water line. Boundaries indicated as approximately following the centerline of streams, rivers, canals, or other bodies of water shall be construed to follow such centerlines.
- (5) *Parallel lines.* Boundaries indicated as parallel to or extensions of features indicated in subsections (1) through (4) of this section shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.
- (6) *Bisecting lines.* Where district boundary lines approximately bisect blocks, the boundaries are the median line of such blocks, between the centerlines of boundary streets.
- (7) *Uncertainties.* Where physical or cultural features existing on the ground are at variance with those shown on the official zoning map or if any other uncertainty exists, the city commission shall interpret the intent of the official zoning map as to the location of district boundaries.
- (8) *Street abandonments.* Where a public road, street or alley is officially vacated or abandoned, the regulations applicable to the property to which it reverted shall apply to such vacated or abandoned road, street, or alley.
- (9) *Excluded areas.* Where parcels of land and water areas have been inadvertently excluded from a zoning district classification in any manner, such parcels shall be classified in conformance with the most restrictive zoning district which abuts the excluded area until or unless changed pursuant to amendment procedures contained in this division.