

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



**To:** Chairman and Planning Board Members

**Through:** Thaddeus Cohen, Planning Director

**From:** Melissa Paul-Leto

**Meeting Date:** November 19, 2015

**Agenda Item:** **Variance – 725 Duval St. (RE # 00015920-000000; AK # 1016306)** – A request for Variance to minimum parking requirements in order to renovate an existing commercial structure on property located in the Historic Residential Commercial Core (HRCC-1) zoning district pursuant to Sections 90-395, 108-572 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

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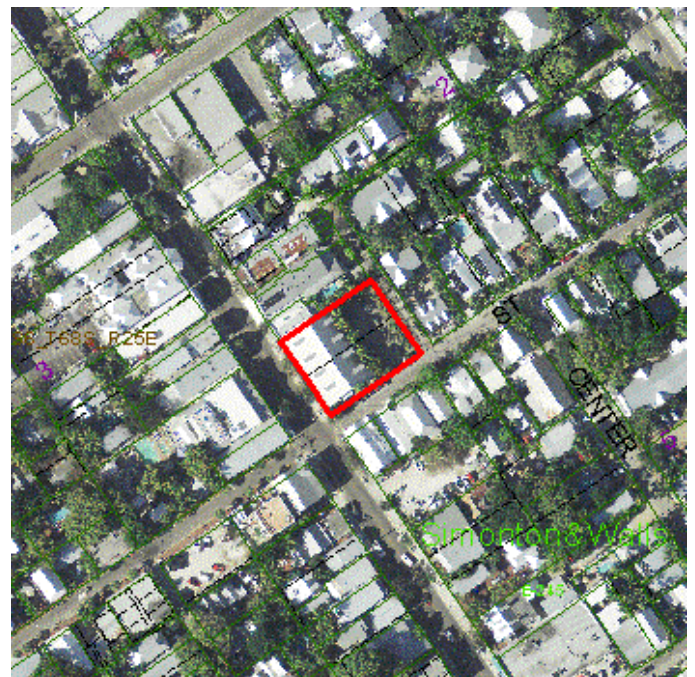
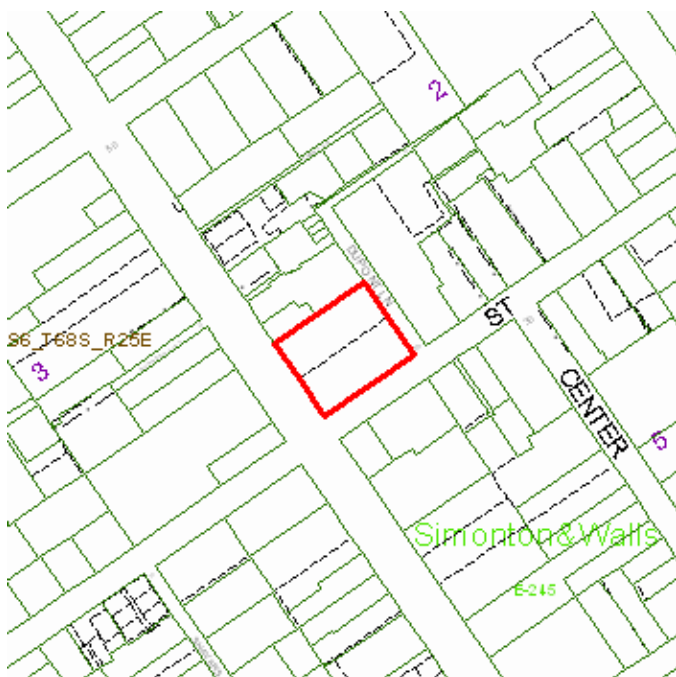
**Request:** Variance from Section 108-572 to allow a reduction in the minimum parking requirements from 22 to 9 regular parking spaces based on a parking study analysis and the change of square footage and use being proposed.

**Applicant:** Trepanier & Associates, Inc.

**Property Owner:** 725 Duval Street, LLC

**Location:** 725 Duval Street (RE # 00015920-000000; AK # 1016306)

**Zoning:** Historic Residential Commercial Core (HRCC-1)



**Background:**

The existing three-story commercial structure was constructed in 1991 and was approved for a parking variance, Resolution #89-486 to install 11 compact spaces and 9 full size spaces under the HP-2 Zoning District. This approved parking design requires one-way ingress via Petronia St. and one-way egress via DuPont Lane. There are currently 20 parking spaces.

As part of a new Major Development Plan application, the applicant is proposing to renovate the existing commercial structure by eliminating approximately 5,393 sq. ft. of non-residential floor area and using that remaining space instead for residential units on the 2<sup>nd</sup> and 3<sup>rd</sup> floor. Based on the calculations of square footage being taken from commercial use into residential use, the proposal reduces the overall parking demand on site from 27 spaces required by code to 22 spaces due to the shifting of commercial space to residential space.

The need for the Variance is triggered by Section 108-571 requiring Major Development Plans to comply with the minimum parking requirements of Section 108-572.

**Sec. 108-571. - Applicability.**

Parking shall be provided in all districts at the time any building or structure is erected or enlarged or increased in capacity by a change of use or the addition of dwelling units, transient units, floor area, seats, beds, employees or other factors impacting parking demand as stated in this article. The parking spaces shall be delineated on a Development Plan if required pursuant to Article II of this chapter. If a Development Plan is not required, the applicant shall submit a scaled drawing which shall be approved by the Building Official and filed with the Building Department. The land comprising approved parking spaces required by the Land Development Regulations shall be maintained as off-street parking spaces in perpetuity and shall not be used for other purposes unless there is a city-approved change in land use on the premises which warrants a change in the design, layout, or number of required parking spaces.

**Sec. 108-572. - Schedule of off-street parking requirements by use generally.**

Off-street parking spaces shall be provided in accordance with the following schedule for motor vehicles and bicycles:

Use		Minimum Number of Parking Spaces Required For:	
		Motorized Vehicles	Bicycles As % of Motor Vehicles
(1)	Single-family	1 space per dwelling unit	None
(2)	Multiple-family:		
	a. Within historic district	1 space per dwelling unit	10%
(16)	Retail stores and service establishments	1 space per 300 square feet of gross floor area	25%
(17)	Warehousing or manufacturing	1 space per 600 square feet of gross floor space	10%

<b>Relevant HRCC-1 Zoning District Dimensional Requirements: Code Section 122-660</b>				
<b>Dimensional Requirement</b>	<b>Required/ Allowed</b>	<b>Existing</b>	<b>Proposed</b>	<b>Change / Variance Required?</b>
Maximum height	35 feet	40'	40'	In compliance (Sec. 122-32)
Minimum lot size	4,000 sf	10,892 sf	10,892 sf	In compliance
Maximum density	22 dwelling units per acre	0	5 units = 20 du/acre + 2 density bonus	In compliance
Maximum floor area ratio	1.0	0.99	0.49	In compliance
Maximum building coverage	50%	51%	50%	In compliance
Maximum impervious surface	70%	98%	92%	In compliance (Sec. 122-32)
Minimum front setback	0 feet	15.94'	10'	In compliance
Minimum side setback (northwest)	2.5 feet	2.5'	2.5'	In compliance
Minimum side setback (Petronia)	0 feet	2.5'	2.5'	In compliance
Minimum rear setback	10 feet	35'	50'	In compliance
Minimum vehicular parking	22	9 full size 11 compact	9 full size spaces	<b>Variance required</b>
Minimum handicap parking	N/A	0	1	+1 / In compliance
Minimum bicycle parking	4	0	14 spaces	+14 / In compliance
Minimum open space	33%	2%	7%	+5% In compliance (Sec. 122-32)
Landscaping	Code Ch 108, Arts V & VI	See analysis	See analysis	In compliance
Consumption area or number of seats		None	None	None

**Process:**

**Planning Board Meeting:**

**HARC:**

**Local Appeal Period:**

**DEO Review Period:**

November 19, 2015

TBD

30 days

up to 45 days

**Analysis – Evaluation for Compliance with the Land Development Regulations:**

The criteria for evaluating a Variance are listed in Section 90-395 of the City Code. The Planning Board before granting a Variance must find all of the following:

1. *Existence of special conditions or circumstances. That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other land, structures or buildings in the same zoning district.*

The land is located in HRCC-1 Zoning district and the Historic Commercial Pedestrian Oriented Area (Parking Waiver Zone). Currently, the parking lot provides 20 vehicular parking spaces. The current parking lot design is the result of a variance approval via Resolution 89-486 when the property was zoned HP-2 requiring 27 parking spaces. The applicant is proposing to shift commercial storage space to residential space allowing a required 22 parking spaces. The ratio of lot size to existing building floor area makes the required parking demand not feasible without demolishing existing floor area.

IN COMPLIANCE.

2. *Conditions not created by applicant. That the special conditions and circumstances do not result from the action or negligence of the applicant.*

The applicant has proposed to construct seven residential units on the 2<sup>nd</sup> and 3<sup>rd</sup> floors. By making this decision as a property owner, the property has increased its need for parking. The special conditions and circumstances are a result of the applicant.

NOT IN COMPLIANCE.

3. *Special privileges not conferred. That granting the variance requested will not confer upon the applicant any special privileges denied by the land development regulations to other lands, buildings or structures in the same zoning district.*

Given the existing site conditions and prior development of the property, it would be difficult for the applicant to propose any reasonable use of the property without needing a parking variance. Therefore, granting the variance request may not necessarily confer upon the applicant special privileges denied to other lands, buildings or structures in the HRCC-1 Zoning District.

IN COMPLIANCE.



4. ***Hardship conditions exist. That literal interpretation of the provisions of the land development regulations would deprive the applicant of rights commonly enjoyed by other properties in this same zoning district under the terms of this ordinance and would work unnecessary and undue hardship on the applicant.***

The land is located in the HRCC-1 Zoning district and historic commercial pedestrian oriented area. The interpretation of the current parking standards deprive the applicant of developing permitted uses on the property while applying alternate parking demand standards.

IN COMPLIANCE.

5. ***Only minimum variance granted. That the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure.***

The variance request is the minimum necessary that will make possible the reasonable use of the land and structure as proposed. The characteristics of the proposed project and the associated permitted uses, demand nine parking spaces as determined by professional engineering analysis. The variance request will allow the development of permitted uses in HRCC-1 with the necessary parking.

IN COMPLIANCE.

6. ***Not injurious to the public welfare. That the granting of the variance will be in harmony with the general intent and purpose of the land development regulations and that such variance will not be injurious to the area involved or otherwise detrimental to the public interest or welfare.***

Due to not being in compliance with all of the standards for considering variances, the granting of the requested variance would not be in compliance with this standard.

NOT IN COMPLIANCE.

7. ***Existing nonconforming uses of other property not the basis for approval. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.***

Existing non-conforming uses of other properties, use of neighboring lands, structures, or buildings in the same district, or other zoning districts, are not the basis for this request.

IN COMPLIANCE.

**Pursuant to Code Section 90-395(b), the Planning Board shall make factual findings regarding the following:**

**(1) That the standards established by Code Section 90-395 have been met by the applicant for a variance.**

The standards established by Code Section 90-395 have not all been met by the applicant for a variance for nine (9) regular parking spaces from the required twenty two (22) parking spaces.

**(2) That the applicant has demonstrated a "good neighbor policy" by contacting or attempting to contact all noticed property owners who have objected to the variance application, and by addressing the objections expressed by these neighbors.**

The Planning Department has not received any public comment for the variance request as of the date of this report.

**RECOMMENDATION:**

The Planning Department, based on the criteria established by the Comprehensive Plan and the Land Development Regulations, recommends that the request for variance to waive thirteen (13) parking spaces be **DENIED**.

Variance Application  
City of Key West Planning Department  
3140 Flagler Avenue, Key West, FL 33040  
(305) 809-3720



Variance Application

Please completely fill out this application and attach all necessary documents. This will help our staff to process your request quickly and obtain necessary information without delay. If you have any questions please call 305-809-3720 to schedule an appointment with a Planner.

Please print or type a response to the following:

1. Site Address 725 Duval Street, Key West, FL 33040
2. Name of Applicant Trepanier & Associates, Inc.
3. Applicant is: Owner \_\_\_\_\_ Authorized Representative X
4. Address of Applicant 1421 First St  
Key West, FL 33040
5. Phone # of Applicant 305-293-8983 Mobile# \_\_\_\_\_
6. E-Mail Address kevin@owentrepanier.com
7. Name of Owner, if different than above 725 Duval Street LLC
8. Address of Owner 301 Lincoln Road, Miami Beach, FL 33139-3102
9. Phone # of Owner \_\_\_\_\_
10. Email Address \_\_\_\_\_
11. Zoning District of Parcel HRCC-1 RE# 00015920-000000
12. Description of Proposed Construction, Development, and Use

Renovation of an existing mixed-use, 3-story frame building in the Historic District to include: seven new residential units (2 affordable & 5 market-rate), ~5,339 sq. ft. of first floor commercial floor area and applicable site improvements.

13. List and describe the specific variance(s) being requested:

Variance to allow the redevelopment of an existing substandard parking lot to create new open space, landscape areas and bicycle parking in association with a mixed-use building.

**Variance Application**  
**City of Key West Planning Department**  
**3140 Flagler Avenue, Key West, FL 33040**  
**(305) 809-3720**



14. Please fill out the relevant Site Data in the table below. For Building Coverage, Impervious Surface, Open Space and F.A.R provide square footages and percentages.

<b>Site Data Table</b>				
Site Data	Permitted	Existing	Proposed	Compliance
Zoning	HRCC-1	HRCC-1	No Change	<i>Complies</i>
Min Lot Size	4,000 sf	10,892 sf	No Change	<i>Complies</i>
Commercial FAR	1.0 (10,892 sq. ft.)	0.99 (10,732sq. ft. <sup>1</sup> )	0.49 (5,339 sq. ft.)	<i>Complies</i>
Max Density	5.5@ 22/ acre	0 units	5.5 units	<i>Complies</i>
Compact Infill Bonus (0.78)	2 units	0 units	2 units	<i>Complies</i>
Total Residential Units	7.5	0 units	7.0	<i>Complies</i>
Max Height	35'	40'	No change	<i>Complies*</i>
Open Space Ratio	20%/ 35%	2%	7%	<i>Complies*</i>
Landscape	20%	2%	7%	<i>Complies*</i>
Building Coverage	50%	51%	50.9%	<i>Complies *</i>
Impervious Surface Ratio	0.70	98%	92.9%	<i>Complies *</i>
Setbacks: Duval St	0 ft.	0.5 ft.	No Change	<i>Complies</i>
Petronia St	2.5 ft.	0 ft.	No Change	<i>Complies</i>
DuPont Lane	10 ft.	35 ft.	50 ft.	<i>Complies</i>
Side	2.5 ft.	2.5 ft.	No Change	<i>Complies</i>
<small>* Existing non-conformity pursuant Sec. 122-27</small>				
<b>Parking</b>	20	9	9	<i>variance</i>
<b>Handicap Parking</b>	1	0	1	<i>complies</i>
<b>Bicycle Parking</b>	4	0	4	<i>complies</i>

15. Is Subject Property located within the Historic District? Yes  No   
 If Yes, attach HARC approval and approved site plans

Meeting Date Pending HARC Approval # Pending

**Variance Application**  
**City of Key West Planning Department**  
**3140 Flagler Avenue, Key West, FL 33040**  
**(305) 809-3720**



16. Are there any easements, deed restrictions or other encumbrances attached to the subject property? Yes \_\_\_\_\_ No  X  If Yes, please describe and attach relevant documents

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17. Will the work be within the dripline (canopy) of any tree on or off the property?

YES \_\_\_\_\_ NO  x

If yes, provide date of landscape approval, and attach a copy of such approval.

This application is pursuant to Section 106-51 & 52 City of Key West Land Development Regulations.

If the applicant would like additional information, electronic version of the City's Code of Ordinances can be found either through [www.keywestcity.com](http://www.keywestcity.com), Planning Department archives or at [www.municode.com](http://www.municode.com). Once there, search Online Library/Florida/Key West/Chapter 122.

**\*Please note, variance approvals are quasi-judicial hearings, and it is improper for the owner or signatory to speak to a Planning Board member or City Commissioner about the hearing.**



**Variance Application**  
**City of Key West Planning Department**  
**3140 Flagler Avenue, Key West, FL 33040**  
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**Standards for Considering Variances**

**Before any variance may be granted, the Planning Board and/or Board of Adjustment must find all of the following requirements are met:**

1. Existence of special conditions or circumstances. That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other land, structures or buildings in the same zoning district.

The land is located in HRCC-1 Zoning district and the historic commercial pedestrian oriented area (parking waiver zone). The structure and the current layout of the site has been in existence since its approval by the City and subsequent development around 1990. The design of the parking lot approved at that time is nonfunctional. As designed, the existing parking space size and aisle width do not allow vehicles to maneuver within the parking area. Functionally the parking lot accommodates nine automobiles. KBP Traffic Engineering analyzed the functionality of the existing lot from a traffic engineering perspective and also concluded the lot can accommodate nine spaces (pls see attached traffic analysis). Secondly, KBP further analyzed the trip generation and determined the characteristics of the development and the pedestrian-oriented area require also nine parking spaces.

2. Conditions not created by applicant. That the special conditions and circumstances do not result from the action or negligence of the applicant.

The special conditions are not the result of the applicant. The applicant purchased the property 'as-is' and was not party to the 1989 development approval of a nonfunctional parking design nor was the applicant party to the property's designation in the historic commercial pedestrian oriented area (parking waiver zone).

3. Special privileges not conferred. That granting the variance(s) requested will not confer upon the applicant any special privileges denied by the land development regulations to other lands, buildings or structures in the same zoning district.

The granting of this variance will not confer any special privileges to the applicant. Granting the variance will permit the applicant to develop permitted uses on the property and further the goals of the City's comprehensive Plan, Land Development Regulation and Principals for Guiding development with regard to increase the affordable housing stock and reducing parking impacts, traffic circulation on site, reduction of the building and site's carbon footprint through implementation of green building renovations and mixed use development.

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**City of Key West Planning Department**  
**3140 Flagler Avenue, Key West, FL 33040**  
**(305) 809-3720**



4. Hardship conditions exist. That literal interpretation of the provisions of the land development regulations would deprive the applicant of rights commonly enjoyed by other properties in this same zoning district under the terms of this ordinance and would work unnecessary and undue hardship on the applicant.

The land is located in the HRCC-1 Zoning district and historic commercial pedestrian oriented area; thus, the literal interpretation of the current parking standards deprive the applicant of developing permitted uses on the property while applying alternate parking demand standards more indicative of actual conditions; the current parking standards are overly burdensome based on the pedestrian oriented nature and location of the project. Denying the variance would work unnecessary and undue hardship on the applicant by requiring more parking facilities than are necessary in the historic commercial pedestrian oriented area and more parking facilities than are demanded by professionally accepted parking demand modelling standards and practices as evidenced in the Trip Generation and Parking Analyses by KBP Consulting, Inc.

5. Only minimum variance(s) granted. That the variance(s) granted is/are the minimum variance(s) that will make possible the reasonable use of the land, building or structure.

The variance request is the minimum necessary to make possible the reasonable use of the land and structure. The characteristics of the proposed project demand nine parking spaces as determined by professional engineering analysis. The variance request is to allow the development of the project with the necessary parking.

6. Not injurious to the public welfare. That granting of the variance(s) will be in harmony with the general intent and purpose of the land development regulations and that such variances will not be injurious to the area involved or otherwise detrimental to the public interest or welfare.

The grant of the variance will not be injurious to the public welfare as evidenced by the fact that the request is in compliance with all of the standards for considering variances and accomplishes the legitimate public purpose of "preserving the nature, character and historic quality of the Historic Preservation District commercial core" and furthers the Goals, Objectives and Policies of the City of Key West Comprehensive Plan related to affordable housing and compact development incentives, multi-modal transportation, green building design, urban infill and mixed use development.



**Variance Application**  
**City of Key West Planning Department**  
**3140 Flagler Avenue, Key West, FL 33040**  
**(305) 809-3720**



7. Existing nonconforming uses of other property shall not be considered as the basis for approval. That no other nonconforming use of neighboring lands, structures, or buildings in the same district, and that no other permitted use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.

No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted use of lands, structures or buildings in other districts is considered grounds for the issuance of this variance.

**The Planning Board and/or Board of Adjustment shall make factual findings regarding the following:**

- That the standards established in subsection (a) have been met by the applicant for a variance.
- That the applicant has demonstrated a "good neighbor policy" by contacting or attempting to contact all noticed property owners who have objected to the variance application, and by addressing the objections expressed by these neighbors. Please describe how you have addressed the "good neighbor policy."

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**  
**725 Duval St. (RE No. 00015920-000000)**

Pursuant to Sec. 90-273, the Planning Board must consider substantial competent evidence to support the granting of the proposed variance. The evidence in the application substantiates the ruling that this variance approval accomplishes the legitimate public purpose of maintaining individual property rights in the zoning district.

**Sec. 90-394. - Action.**

1. The Planning Board hereby finds that granting of this variance does not permit a use not permitted by right or as a conditional use in the zoning district involved or any use expressly or by implication prohibited by the terms of the ordinance in the zoning district.
2. The Planning Board hereby finds that no nonconforming use of neighboring lands, structures, or buildings in the same zoning district and no permitted use of lands, structures, or buildings in other zoning districts is considered grounds for the authorization of this variance.
3. The Planning Board hereby finds that granting of this variance does not increase or have the effect of increasing density or intensity of a use beyond that permitted by the comprehensive plan or these LDRs.

**Sec. 90-395. - Standards, findings.**

The Planning Board hereby makes factual findings that all of the following standards for a variance have been met by the applicant in an affirmative manner:

1. Existence of special conditions or circumstances.

There is an existence of special conditions and circumstances which are peculiar to the land, structure or building involved and which are not applicable to other land, structures or buildings in the same zoning district.

2. Conditions not created by applicant.

The special conditions and circumstances do not result from the action or negligence of the applicants.

3. Special privileges not conferred.

The granting the variance requested does not confer upon the applicant any special privileges denied by the land development regulations to other lands, buildings or structures in the same zoning district.

4. Hardship conditions exist.

Literal interpretation of the provisions of the land development regulations do deprive the applicant of rights commonly enjoyed by other properties in this same zoning

district under the terms of this ordinance and would work unnecessary and undue hardship on the applicant.

5. Only minimum variance granted.

The variance is the minimum variance that will make possible the reasonable use of the land, building or structure.

6. Not injurious to the public welfare.

The grant of the variance is in harmony with the general intent and purpose of the land development regulations and as such, the variance will not be injurious to the area involved or otherwise detrimental to the public interest or welfare.

7. No nonconforming use.

No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted use of lands, structures or buildings in other districts is considered grounds for the issuance of this variance.

**Good Neighbor Policy:**

The applicant has demonstrated a "good neighbor policy" by contacting or attempting to contact adjacent property owners and addressing any issues and/or concerns.

October 1<sup>st</sup>, 2015

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

**RE: 725 Duval Street  
Variance Revision- Parking**



Dear Director Cohen:

Thank you for accepting this revision to our variance application submitted on May 1<sup>st</sup>, 2014. This revised variance application accompanies the parking waiver request submitted to your office on 9/16/2015. We understand the parking waiver request will be heard on October 15<sup>th</sup> Planning Board agenda and, if successful, this variance will be heard, along with the Major Development Plan on November's Planning Board agenda.

As previously stated in the parking waiver request submittal, a Trip Generation and Parking Analyses by KBP Consulting, Inc.<sup>1</sup>, demonstrates the code requirement is not necessary given the particular use and occupancy of the proposed development and the context of the surrounding dense urban land area.

The proposed development has particular conditions/ characteristics, which create a hardship condition with regard to Ord. 15-05<sup>2</sup> and the literal interpretation of Chapter 108, Article VII. Our variance revision submittal provides substantial competent evidence to support the parking variance request.

1. The property is located within the intensely vibrant tourist commercial entertainment center<sup>3</sup> and the Historic Commercial Pedestrian-Oriented Area<sup>4</sup> which is overwhelmingly characterized by pedestrian traffic<sup>5</sup>.
2. Exiting approved parking layout<sup>6</sup> is nonfunctional<sup>7</sup>.
3. The proposed parking configuration is in compliance with the City's Comprehensive Plan<sup>8</sup>.
4. The project utilizes mixed-use development patterns and affordable housing incentive programs to reduce parking demand<sup>9</sup> and create affordable housing.

We look forward to demonstrating to the Planning Board on November 19<sup>th</sup>, 2015 the particular conditions of this mixed use redevelopment infill project in order that they may "make specific findings concerning the lack of need for vehicular parking"<sup>10</sup> associated with this project.

Best Regards,

A handwritten signature in cursive script, appearing to read 'Kevin Sullivan'.

Kevin Sullivan, AICP

<sup>1</sup> Exhibit 1

<sup>2</sup> Exhibit 2

<sup>3</sup> HRCC-1 (Historic Residential Commercial Core – Gulf side)

<sup>4</sup> Exhibit 3

<sup>5</sup> According to engineering analysis by KBP Consulting (Exhibit 1)

<sup>6</sup> Exhibit 4

<sup>7</sup> According to engineering analysis by KBP Consulting (Exhibit 1)

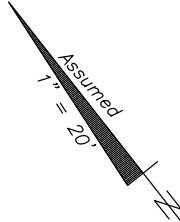
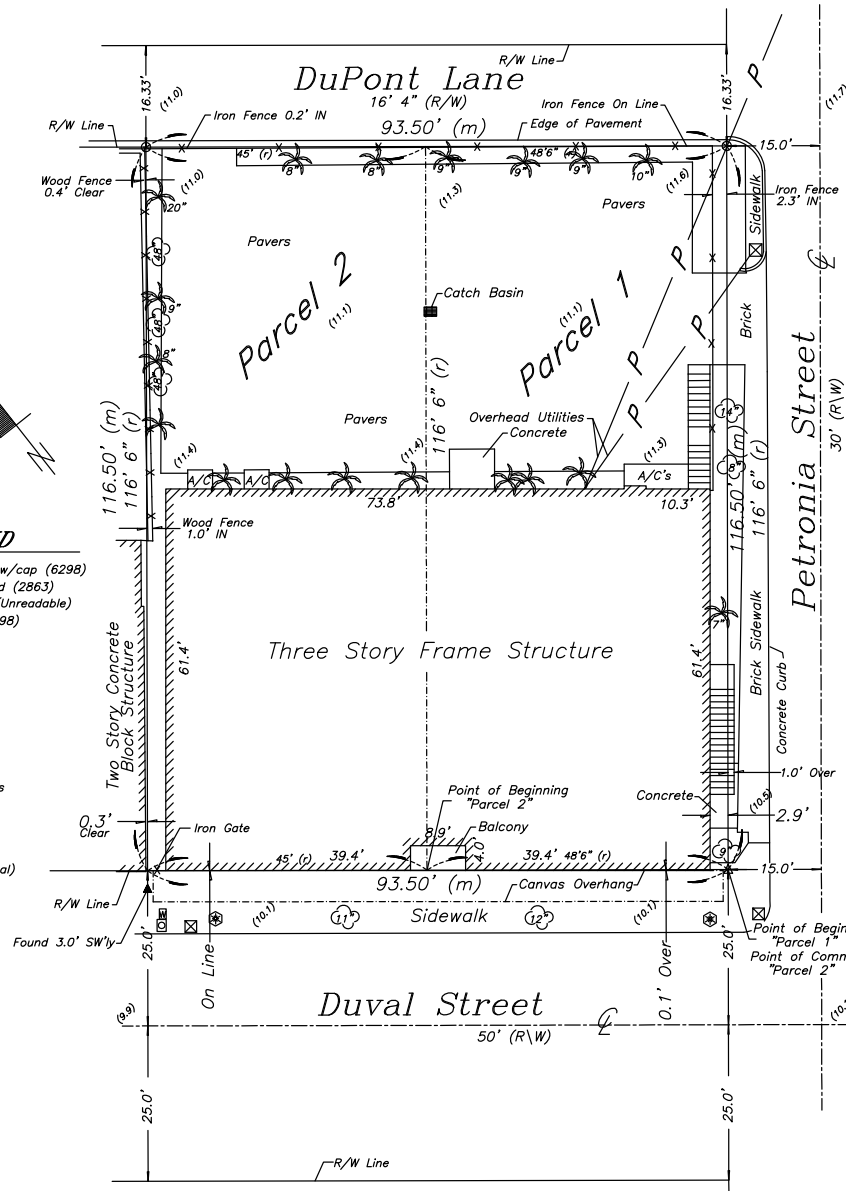
<sup>8</sup> Exhibit 5

<sup>9</sup> Ord. 02-08 (Exhibit 6) encourages commercial properties to create urban infill with small affordable units with bike and scooter parking

<sup>10</sup> Exhibit 2: Pg 8

# Site Plans

# Boundary Survey Map of part of Lot 4, Square 2 Island of Key West, Florida



### LEGEND

- Set 3/4" Iron Pipe w/cap (6298)
- Found 1/2" Iron Rod (2863)
- ▲ Found Nail & Disc (Unreadable)
- △ Set Nail & Disc (6298)
- (M) Measured
- (R) Record
- (M/R) Measured & Record
- R/W Right of Way
- CLF Chain Link Fence
- ⊕ Centerline
- ⊗ Wood Utility Pole
- ⊠ Concrete Utility Pole
- P- Overhead Utility Lines
- ☒ Sewer Cleanout
- ⊕ Water Meter
- ⊙ Light Post
- ⊙ Spot Elevation (Typical)
- 🌴 Palm
- 🌳 Tree

### NOTES:

1. The legal description shown hereon was furnished by the client or their agent.
2. This survey does not determine or imply ownership.
3. Underground foundations and utilities were not located.
4. All angles are 90° (Measured & Record) unless otherwise noted.
5. Street address: 725 Duval Street, Key West, FL.
6. This survey is not valid without the signature and the original raised seal of a Florida licensed surveyor and mapper.
7. Lands shown hereon were not abstracted for rights-of-way, easements, ownership, or other instruments of record.
8. North Arrow is assumed and based on the legal description.
9. Date of field work: May 19, 2014
10. Ownership of fences is undeterminable, unless otherwise noted.
11. Elevations are shown in parenthesis and refer to Mean Sea Level N.G.V.D. 1929 Datum.

### BOUNDARY SURVEY OF:

**PARCEL 1:** On the Island of Key West and known as part of Tract 4 according to W.A. Whitehead's map of said Island, delineated in February, AD 1829, but better known as a part of Lot Four (4) in Square Two (2) of said Tract Four according to CW Tift's map of said Tract; Commencing at the corner of Duval and Petronia Streets, and runs thence in a Northwesterly direction along the line of said Duval Street Forty-Eight (48) feet Six (6) inches; thence at right angles in a Northeasterly direction One hundred and Sixteen (116) feet Six (6) inches; thence at right angles in a Southeasterly direction Forty-Eight (48) feet Six (6) inches out to Petronia Street; thence at right angles in a Southwesterly direction along the line of Petronia Street to the Point of Beginning.

**PARCEL 2:** A certain piece of land in Wall Addition to the City of Key West, known as a part of Lot Four (4) Square Two (2) in Tract Four (4) beginning at a point on Duval Street Forty-Eight (48) feet Six (6) inches from the corner of Duval and Petronia Streets and running thence along Duval Street in a Northwesterly direction Forty-Five (45) feet; thence at right angles in a Northeasterly direction One hundred and Sixteen (116) feet Six (6) inches; thence at right angles in a Southeasterly direction Forty-Five (45) feet; thence at right angles in a Southwesterly direction One hundred and Sixteen (116) feet Six (6) inches to the Point of Beginning.

BOUNDARY SURVEY FOR: 725 Duval, LLC;

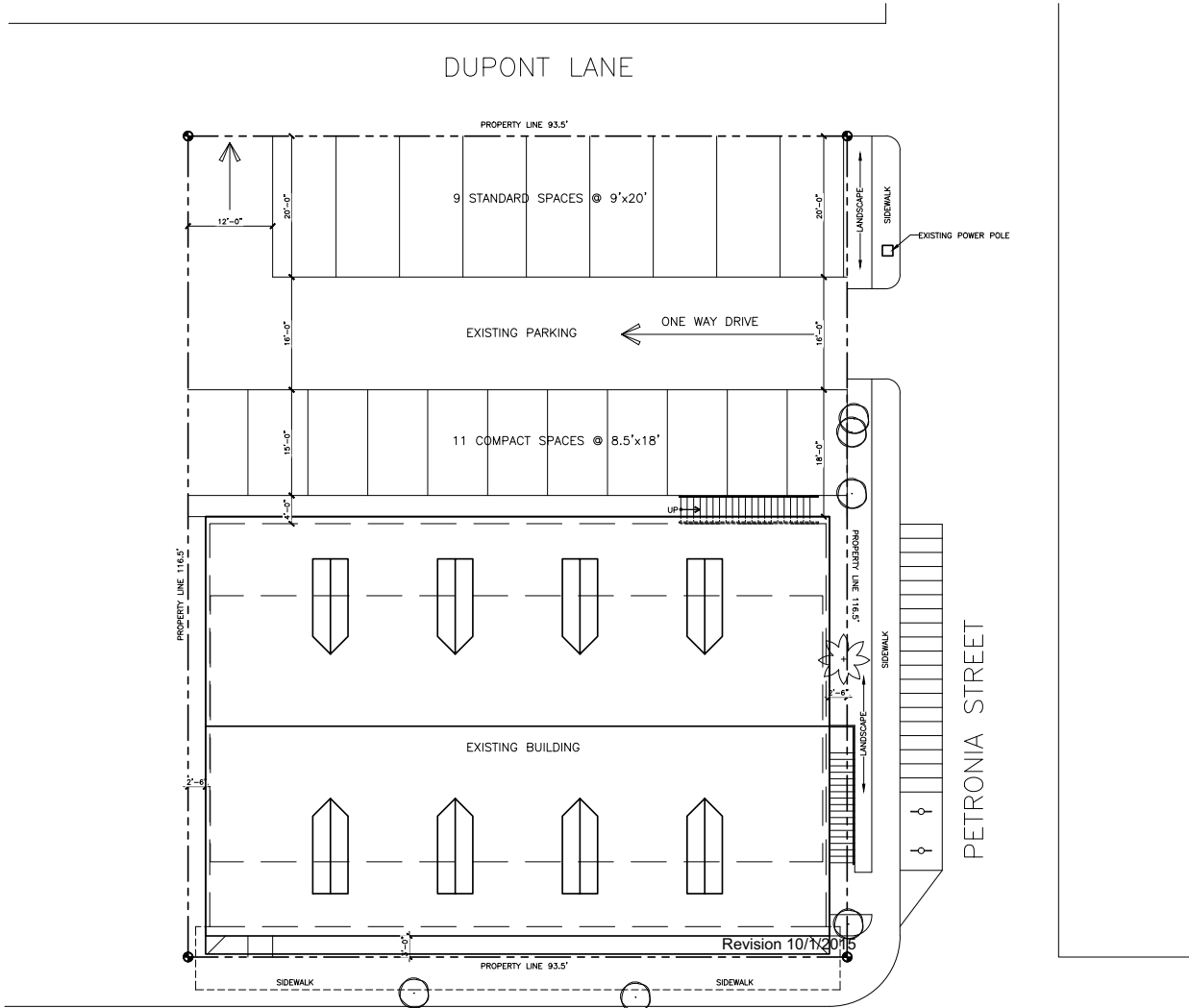
J. LYNN O'FLYNN, INC.

J. Lynn O'Flynn, PSM  
Florida Reg. #6298  
May 20, 2014

THIS SURVEY  
IS NOT  
ASSIGNABLE

**J. LYNN O'FLYNN, Inc.**  
Professional Surveyor & Mapper  
PSM #6298  
3430 Duck Ave., Key West, FL 33040  
(305) 296-7422 FAX (305) 296-2244

Revision 10/1/2015



DUPONT LANE

DUVAL STREET

PETRONIA STREET

WILLIAM P. HORN  
ARCHITECT, P.A.

915 EATON ST.  
KEY WEST,  
FLORIDA  
33040

TEL. (305) 296-8302  
FAX (305) 296-1033

LICENSE NO.  
AA 0003040

NEW HOUSING UNITS  
725 DUVAL STREET  
KEY WEST, FLORIDA.

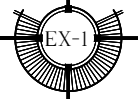
SEAL

DATE  
04-28-15 DRC

REVISIONS  
05-26-15

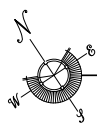
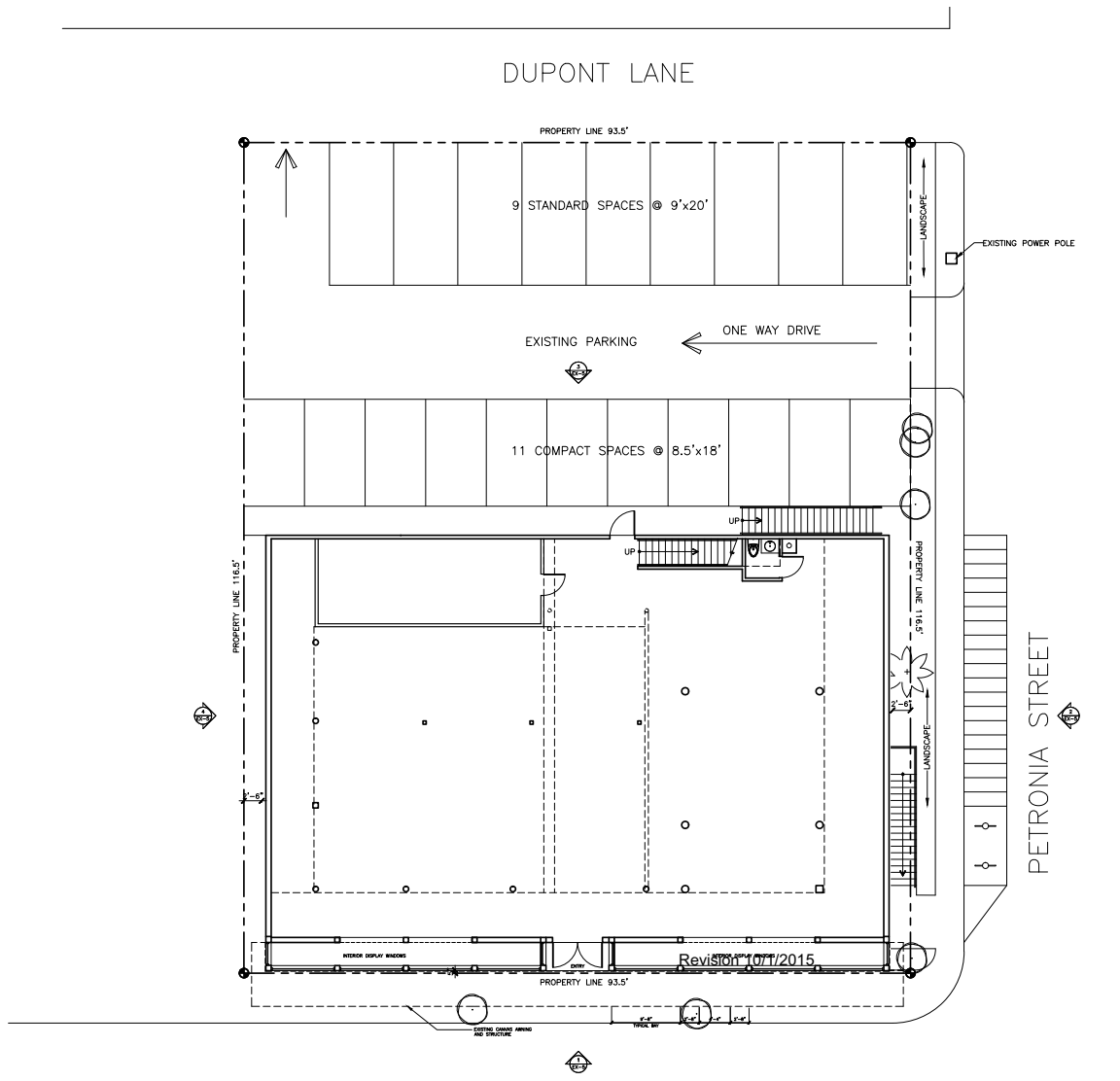
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PROJECT  
NUMBER  
1424



NEW HOUSING UNITS  
725 DUVAL STREET  
KEY WEST, FLORIDA





EXISTING 1ST. FLOOR PLAN

SCALE: 1/8"=1'-0"

DUPONT LANE

DUVAL STREET

PETRONIA STREET

PROPERTY LINE 93.5'

9 STANDARD SPACES @ 9'x20'

EXISTING PARKING

ONE WAY DRIVE

11 COMPACT SPACES @ 8.5'x18'

PROPERTY LINE 116.5'

PROPERTY LINE 116.5'

PROPERTY LINE 93.5'

EXISTING CURB AND STRUCTURE

TRUCK STOP

REVISION 10/7/2015

WILLIAM P. HORN  
ARCHITECT, P.A.

915 EATON ST.  
KEY WEST,  
FLORIDA  
33040

TEL. (305) 296-8302  
FAX (305) 296-1033

LICENSE NO.  
AA 0003040

NEW HOUSING UNITS  
725 DUVAL STREET  
KEY WEST, FLORIDA

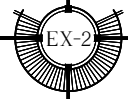
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05-26-15

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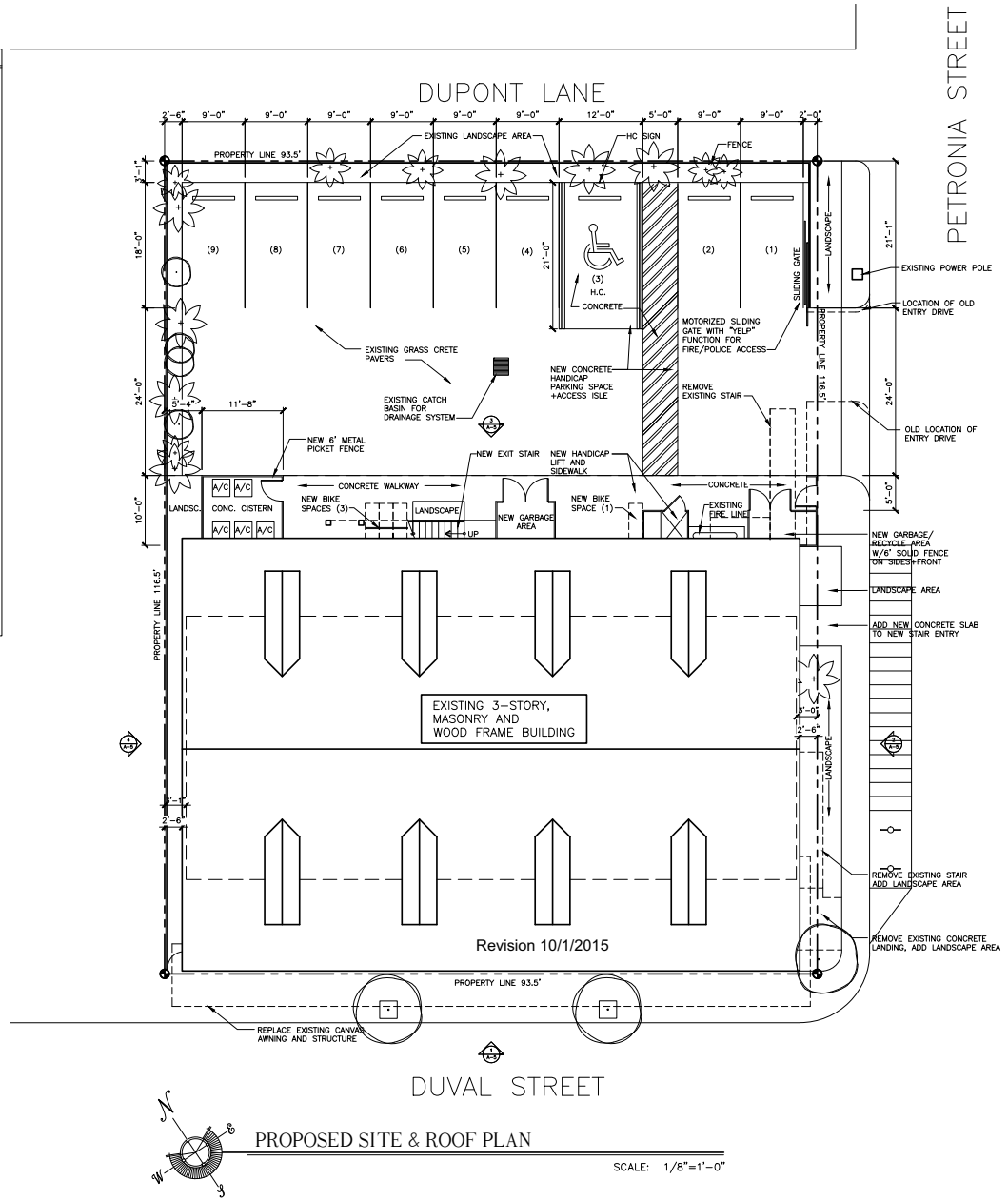
PROJECT  
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NEW HOUSING UNITS  
725 DUVAL STREET  
KEY WEST, FLORIDA

SITE DATA	
LAND USE :	HRCC-1
FLOOD ZONE :	ZONE "X"
SITE AREA :	10,892.75 S.F. (0.25 ACRES)
LOT COVERAGE :	ALLOWABLE = 50% (5,446.375 S.F.) EXISTING = 51% (5,598 S.F.) PROPOSED = 50.9% (5,550 S.F.)
IMPERVIOUS AREA :	ALLOWABLE = 70% (7,625 S.F.) EXISTING = 98% (10,662.75 S.F.) PROPOSED = 92.9% (10,123 S.F.)
LANDSCAPE AREA :	ALLOWABLE = 20% MIN (2,178.5 S.F.) EXISTING = 2% (230 S.F.) PROPOSED = 7% (770 S.F.)
OPEN SPACE :	ALLOWABLE = 33% MIN (3,594.6 S.F.) EXISTING = 2% (230 S.F.) PROPOSED = 7% (770 S.F.)
MAX. HEIGHT:	ALLOWABLE = 35.0' EXISTING = 39.97' PROPOSED = NO CHANGE TO HEIGHT
SETBACKS :	FRONT: ALLOWABLE: 0.0' EXISTING: 0.5' PROVIDED: 0.5' (NO CHANGE) SIDE: ALLOWABLE: 2.5' EXISTING: 2.5' PROVIDED: 2.5' (NO CHANGE) REAR: ALLOWABLE: 10.0' EXISTING: 35.5' PROVIDED: 50.0' S. SIDE: ALLOWABLE: 0.0' EXISTING: OVER PROPERTY LINE PROVIDED: 2.5'
PARKING REQUIREMENTS :	EXISTING APPROVED PARKING SPACES = 20.0 SPACES PROPOSED PARKING SPACE = 9.0 SPACES EXISTING ON SITE BIKE/SCOOTER SPACES = 0 PROPOSED ON SITE BIKE/SCOOTER SPACES = 4 EXISTING OFF SITE BIKE/SCOOTER SPACES = 23 PROPOSED OFF SITE BIKE/SCOOTER SPACES = 23

DRAWING LIST	
A-1	PROPOSED SITE & ROOF PLAN
A-2	PROPOSED 1ST FLOOR PLAN
A-3	PROPOSED 2ND FLOOR PLAN
A-4	PROPOSED 3RD FLOOR PLAN
A-5	PROPOSED ELEVATIONS
EX-1	EXISTING SITE & ROOF PLAN
EX-2	EXISTING 1ST FLOOR PLAN
EX-3	EXISTING 2ND FLOOR PLAN
EX-4	EXISTING 3RD FLOOR PLAN
EX-5	EXISTING ELEVATIONS
E-1	EXTERIOR ELECTRIC LIGHTING PLAN
LS-1	LIFE SAFETY ROOF PLAN
LS-2	LIFE SAFETY 1ST FLOOR PLAN
LS-3	LIFE SAFETY 2ND FLOOR PLAN
LS-4	LIFE SAFETY 3RD FLOOR PLAN
LX-1	EXISTING LANDSCAPE PLAN
L-1	PROPOSED LANDSCAPE & IRRIGATION PLAN
SU-1	SURVEY



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ARCHITECT, P.A.

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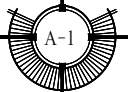
NEW HOUSING UNITS  
725 DUVAL STREET  
KEY WEST, FLORIDA

SEAL

DATE  
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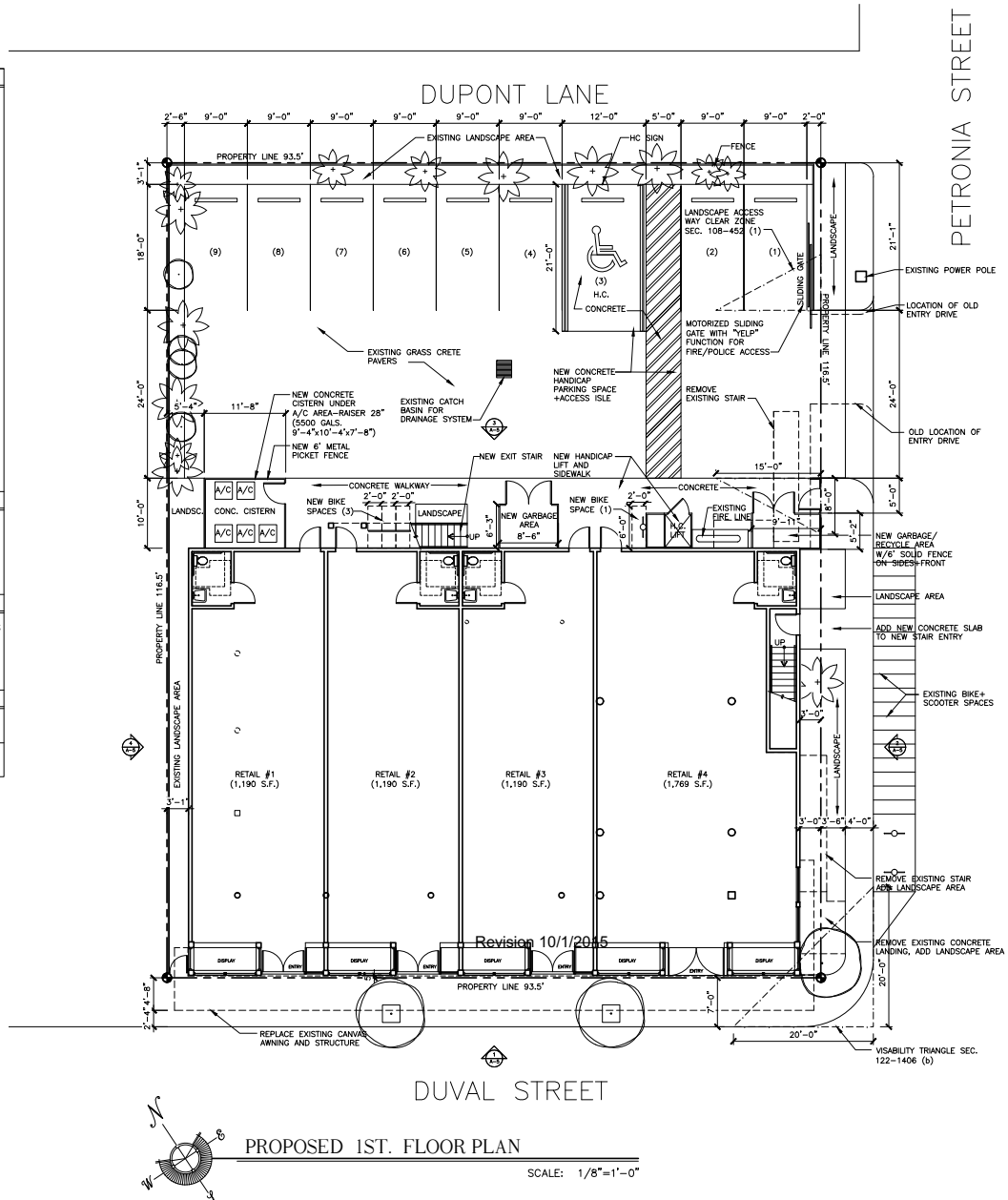
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09-17-15 REV (DRC)

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OCE  
EMA  
JW  
PROJECT  
NUMBER  
1424



NEW HOUSING UNITS  
725 DUVAL STREET  
KEY WEST, FLORIDA

BUILDING DATA	
<b>EXISTING BUILDING AREAS</b>	
EXISTING RETAIL:	
1ST FLOOR =	5,339 S.F.
EXISTING OPEN ACCESSORY COMMERCIAL STORAGE	
2ND FLOOR =	1,428 S.F.
EXISTING ENCLOSED ACCESSORY COMMERCIAL STORAGE	
2ND FLOOR =	2,132 S.F.
3RD FLOOR =	1,833 S.F.
TOTAL =	10,732 S.F.
<b>PROPOSED BUILDING AREAS</b>	
PROPOSED RETAIL (1ST FLOOR ONLY):	
RETAIL NO. 1 =	1,190 S.F.
RETAIL NO. 2 =	1,190 S.F.
RETAIL NO. 3 =	1,190 S.F.
RETAIL NO. 4 =	1,769 S.F.
SUBTOTAL =	5,339 S.F.
NEW RESIDENTIAL UNITS (2ND AND 3RD FLOORS):	
UNIT NO. 1 =	1,880 S.F.
UNIT NO. 2 =	1,669 S.F.
UNIT NO. 3 =	706 S.F.
UNIT NO. 4 =	400 S.F.
UNIT NO. 5 =	400 S.F.
UNIT NO. 6 =	532 S.F.
UNIT NO. 7 =	1,862 S.F.
SUBTOTAL =	7,449 S.F.
TOTAL =	12,788 S.F.
<b>BUILDING OCCUPANCY:</b>	
1ST FLOOR=	MERCANTILE (M)
2ND AND 3RD FLOORS=	RESIDENTIAL (R-2)
CONSTRUCTION TYPE=	V-B; FULLY SPRINKLED
NOTE:	EXISTING BUILDING CONSISTS OF CMU EXTERIOR WALLS AND WOOD FRAME ROOF AND INTERIOR CONSTRUCTION.
<b>FIRE SEPARATIONS:</b>	
EXTERIOR WALL-	2 HR CONST. REQUIRED ALONG INSIDE PROPERTY LINE (LESS THAN 5'-0" TO PROPERTY LINE)
HORIZONTAL SEPARATION-	1 HR AT FLOORS; M TO R-2 AND R-2 TO R-2
SEPARATION OF UNITS-	1 HR; M TO M AND R-2 TO R-2
<b>HEIGHT AND AREA: SPRINKLED</b>	
M	ALLOWED = 18,000 S.F. 2 STORY PROPOSED = 5,339 S.F. 1 STORY
R-2	ALLOWED = 14,000 S.F. 3 STORY PROPOSED = 5,050 S.F. 2 STORY



PROPOSED 1ST. FLOOR PLAN

SCALE: 1/8"=1'-0"

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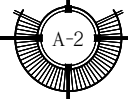
NEW HOUSING UNITS  
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KEY WEST, FLORIDA.

SEAL

DATE  
04-28-15 DRG

REVISIONS  
05-26-15  
08-08-15 REV (DRG)  
09-15-15 REV (DRG)  
09-17-15 REV (DRG)

DRAWN BY  
OCE  
EMA  
JW  
PROJECT  
NUMBER  
1424



# **Parking Analyses**

September 8, 2015

Mr. Kevin Sullivan, AICP  
Trepanier & Associates, Inc.  
1421 First Street, P.O. Box 2155  
Key West, Florida 33045-2155

**Re: 725 Duval Street – Key West, Florida  
Trip Generation and Parking Analyses**

Dear Kevin:

There is an existing three-story building located at 725 Duval Street in Key West, Monroe County, Florida. The subject site is located, generally, in the northeast quadrant of the intersection at Duval Street and Petronia Street. The existing commercial space (5,339 square feet) on the first floor will remain; however, it will be divided into four (4) separate commercial units. Seven (7) residential apartment units will be constructed on the second and third floors in space (5,393 square feet) that is currently used as accessory / storage area for the first floor retail space.

The purpose of this correspondence is to document the projected trip generation characteristics of the reconfigured building and to address the proposed parking configuration and supply.

**Trip Generation Analysis**

The trip generation for this project was determined utilizing the trip generation rates and equations contained in the Institute of Transportation Engineer's (ITE) *Trip Generation Manual (9<sup>th</sup> Edition)*. According to the subject ITE manual, the most appropriate land use categories for the subject land uses are Land Use #220 – Apartment and Land Use #826 – Specialty Retail Center. The trip generation rates and equations used to determine the vehicle trips associated with this analysis are presented below.

**Apartment – ITE Land Use #220**

- Weekday:  $T = 6.65 (X)$   
*where T = number of trips and X = number of dwelling units*
- AM Peak Hour:  $T = 0.51 (X)$  (20% in / 80% out)
- PM Peak Hour:  $T = 0.62 (X)$  (65% in / 35% out)

**Specialty Retail Center – ITE Land Use #826**

- Weekday:  $T = 44.32 (X)$   
*where T = number of trips and X = 1,000 square feet of gross leasable area*
- AM Peak Hour:  $T = 0.00 (X)$
- PM Peak Hour:  $T = 2.71 (X)$  (44% in / 56% out)

Regarding the subject site, the location (i.e. in “the heart” of the Duval Street commercial corridor), the proposed uses (i.e. retail and residential), and limited parking supply, it is clearly evident that a majority of the patrons as well as residents of this site will likely utilize modes of travel other than personal automobiles.

Principally, it is expected that most patrons will be tourists and nearly all of them will walk or bike to the site. Similarly, it is expected that most of the residents will also work and shop primarily in the downtown area and will walk or bike to their destination. Conservatively, it is estimated that 80% of the “trips” generated by this site will involve non-automobile modes of transportation.

Table 1 below summarizes the trip generation characteristics associated with the 725 Duval Street site (existing and proposed configuration) in the City of Key West, Florida.

<b>Table 1</b>								
<b>Trip Generation Summary</b>								
<b>725 Duval Street - Key West, Florida</b>								
<b>Land Use</b>	<b>Size</b>	<b>Daily Trips</b>	<b>AM Peak Hour Trips</b>			<b>PM Peak Hour Trips</b>		
			<b>In</b>	<b>Out</b>	<b>Total</b>	<b>In</b>	<b>Out</b>	<b>Total</b>
<b>Existing</b>								
Specialty Retail Center								
- Customer Service Area	5,339 SF	237	0	0	0	6	8	14
- Accessory/Storage Area	5,393 SF	239	0	0	0	7	8	15
<b>Sub Total</b>	<b>10,732 SF</b>	<b>476</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>13</b>	<b>16</b>	<b>29</b>
- Non-Automotive Travel (80%)		(381)	0	0	0	(10)	(13)	(23)
<b>Total (Existing)</b>		<b>95</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>3</b>	<b>3</b>	<b>6</b>
<b>Proposed</b>								
Specialty Retail Center								
- Customer Service Area	4,539 SF	201	0	0	0	5	7	12
- Accessory/Storage Area	800 SF	35	0	0	0	1	1	2
Apartment	7 DU	47	1	3	4	3	1	4
<b>Sub Total</b>		<b>283</b>	<b>1</b>	<b>3</b>	<b>4</b>	<b>9</b>	<b>9</b>	<b>18</b>
- Non-Automotive Travel (80%)		(226)	(1)	(2)	(3)	(7)	(7)	(14)
<b>Total (Proposed)</b>		<b>57</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>2</b>	<b>2</b>	<b>4</b>
<b>Difference (Proposed - Existing)</b>		<b>(38)</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>(1)</b>	<b>(1)</b>	<b>(2)</b>

Compiled by: KBP Consulting, Inc. (September 2015).

Source: Institute of Transportation Engineers (ITE) Trip Generation Manual (9th Edition).

As indicated above, the amount of automobile traffic associated with the proposed configuration at the 725 Duval Street site is anticipated to be minimal and will have little impact on the surrounding roadways. Furthermore, when compared with the existing configuration of the building, the overall number of trip generated by the site will be reduced with the proposed building configuration.

**Parking Supply**

The proposed site plan indicates that the parking lot will consist of nine (9) parking spaces. As mentioned previously, the commercial space will consist of four (4) units and there will be 7 (seven) residential units. Five of the residential units require one (1) parking space while the remaining two residential units have no parking requirement. With four (4) parking spaces for the commercial component (i.e. one parking space for each commercial unit) and five (5) parking spaces for the residential component, the total supply of nine (9) parking spaces appears to be both adequate and reasonable.

This conclusion is consistent with the foregoing trip generation analysis which concludes that the patrons and residents associated with the 725 Duval Street site will principally utilize modes of transportation other than automobiles. In essence, the location of this site (i.e. in “the heart” of the Duval Street and the historic pedestrian-oriented commercial corridor) is exceedingly conducive to pedestrian and bicycle activity. As such, reliance upon the automobile is greatly diminished and, correspondingly, the need for parking is reduced.

Furthermore, it should be noted that the parking requirement associated with the existing building configuration is as follows:

- Commercial Retail (1 parking space / 300 SF) = 18 parking spaces
- Accessory Storage (1 parking space / 600 SF) = 9 parking spaces
- **Total Parking Requirement = 27 parking spaces**

The parking requirement associated with the proposed building configuration is as follows:

- Commercial Retail (1 parking space / 300 SF) = 15 parking spaces
- Accessory Storage (1 parking space / 600 SF) = 2 parking spaces
- Residential Apartment (1 parking space / DU) = 5 parking spaces
- **Total Parking Requirement = 22 parking spaces**

The overall parking demand is decreased as a result of the proposed redevelopment; coupled with the pedestrian oriented and multimodal goals, objectives and policies of the Comprehensive Plan, the proposed parking design is superior to that prescribed by the LDR's.

**Parking Lot Design**

The proposed parking lot design consists of nine (9) parking spaces oriented at 90 degrees with a 24-foot drive aisle. The parking spaces will be 9 feet by 18 feet. Ingress and egress to the parking area will be provided on Petronia Street and the entrance will be gated. The proposed parking lot configuration and dimensions are viewed as preferable when compared with the existing approved parking lot configuration.

For instance, the original design consisted of 20 parking spaces oriented at 90 degrees with a one-way, 16 foot drive aisle. Nine (9) of these parking spaces were considered “standard” with dimensions of 9 feet by 20 feet.



The remaining 11 parking spaces were considered “compact” spaces with dimensions of 8 feet – 6 inches by 18 feet – 3 inches. The overall module dimension (stall depths plus drive aisle width) was 54 feet – 3 inches.

According to the Urban Land Institute (ULI) in their publication entitled *The Dimensions of Parking (Fourth Edition)*, the minimum module dimensions for one-way traffic, double-loaded aisles, and 90 degree parking are 60 feet with a 24 foot drive aisle. Similarly, the Institute of Transportation Engineers (ITE) publication entitled *Transportation and Land Development (2<sup>nd</sup> Edition)*, the desirable module dimensions for standard parking stalls, 90 degree parking, and low turnover rates, are 59 feet with a 24 foot drive aisle.

The originally proposed parking configuration provides too little module and drive aisle width to accommodate the required parking / un-parking and circulation maneuvers. Furthermore, 90 degree parking and one-way drive aisles are not considered to be compatible and the parking radius at the north end of the parking lot is not sufficient to accommodate the vehicles exiting to DuPont Lane. And, lastly, all exiting traffic is directed to DuPont Lane; a local residential alleyway. This is viewed as an undesirable condition.

### **Conclusions**

In summary, the foregoing trip generation analysis indicates that the planned uses will generate a minimal amount of automobile traffic and the parking analysis supports the proposed supply and lot configuration.

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

Sincerely,

**KBP CONSULTING, INC.**



Karl B. Peterson, P.E.  
Florida Registration Number 49897  
Engineering Business Number 29939

# **Additional Information**

**ORDINANCE NO. 15-05**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA INVOKING THE ZONING IN PROGRESS DOCTRINE; DECLARING THAT THE CITY IS CONSIDERING AMENDMENTS TO ITS LAND DEVELOPMENT REGULATIONS TO REDUCE THE NEED FOR PARKING VARIANCES; DIRECTING PLANNING DEPARTMENT STAFF TO DEFER THE ACCEPTANCE AND PROCESSING OF APPLICATIONS FOR PARKING VARIANCES AND BICYCLE SUBSTITUTIONS; CONTINUING THIS POLICY UNTIL NEW OR AMENDED LAND DEVELOPMENT REGULATIONS ARE ADOPTED BY THE CITY COMMISSION OR UNTIL THE PASSAGE OF 360 DAYS FROM THE DATE OF THIS ORDINANCE, WHICHEVER OCCURS FIRST; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, the Key West City Commission is concerned about the increasing number of requests for variances to the City's off-street parking requirements and the cumulative effects of the approval of these requests on the public welfare; and

**WHEREAS**, the City Commission desires to review existing Land Development Regulations (the "LDRs") to determine whether there is a need to adopt amended off-street parking requirements and other relevant LDRs within the City of Key West; and

**WHEREAS**, the City Commission has directed Planning Department staff to develop any necessary proposed LDR amendments for City Commission review and adoption; and

**WHEREAS**, the City Commission wishes to definitively place all parties on notice that it is considering amending the LDRs and City Ordinances.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AS FOLLOWS:**

**Section 1:    Zoning in Progress.** The City hereby recognizes that City Planning and



Legal Department staff are researching the issue and preparing any necessary ordinances (the "Pending Ordinances") that would, if adopted, amend the LDRs. All affected property and business owners are placed on notice with respect to the Pending Ordinances and the action being taken by the appropriate departments within the City.

**Section 2:** The acceptance and processing of new applications for parking variances and bicycle substitutions shall be deferred by Planning Department staff upon passage of this Ordinance on first reading and ending as set forth in Section 3 below. Complete applications for parking variances submitted prior to the passage on first reading of this Ordinance shall be processed normally pursuant to the LDRs currently in effect.

**Section 3:** That this Zoning-In-Progress policy shall be in effect until new or amended LDRs are adopted by the City Commission or until the passage of 360 days, whichever occurs first. This policy may be extended by Resolution of the City Commission for additional 180 day periods to complete the tasks outlined herein.

**Section 4:** **Public Notice.** The adoption of this Ordinance shall be evidenced by placement of a notice in a newspaper of general circulation within the City, in accordance with Chapter 50, Florida Statutes, within two weeks after adoption of this Ordinance. A copy of this Ordinance shall also be posted at City Hall for the next one hundred and eighty (180) days.

**Section 5:** If any section, provision, clause, phrase, or application of this Ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, the remaining provisions of this Ordinance shall be deemed severable therefrom and shall be construed as reasonable and necessary to achieve the lawful purposes of this Ordinance.

**Section 6:** All Ordinances or parts of Ordinances of said City in conflict with the provisions of this Ordinance are hereby superseded to the extent of such conflict.

**Section 7:** This Ordinance shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission and approval by the Florida Department of Economic Opportunity pursuant to Chapter 380, Florida Statutes, however the City shall utilize March 3, 2015 as the date of commencement of the Zoning-in-Progress doctrine.

Read and passed on first reading at a regular meeting held this 3 day of March, 2015.

Read and passed on final reading at a regular meeting held this 17 day of March, 2015.


Authenticated by the presiding officer and Clerk of the Commission on 18 day of March, 2015.

Filed with the Clerk March 18, 2015.

Mayor Craig Cates	<u>Yes</u>
Vice Mayor Mark Rossi	<u>Yes</u>
Commissioner Teri Johnston	<u>Yes</u>
Commissioner Clayton Lopez	<u>Yes</u>
Commissioner Billy Wardlow	<u>Yes</u>
Commissioner Jimmy Weekley	<u>Yes</u>
Commissioner Tony Yaniz	<u>Yes</u>

  
CRAIG CATES, MAYOR

ATTEST:

  
CHERYL SMITH, CITY CLERK





## EXECUTIVE SUMMARY

**To:** Jim Scholl, City Manager

**Through:** Sarah Hannah Spurlock, Assistant City Manager

**From:** Kevin Bond, AICP, Acting Planning Director / Senior Planner

**Meeting Date:** March 3, 2015

**RE:** Consideration of an ordinance to invoke the Zoning-in-Progress doctrine; declaring that the City is considering amendments to its Land Development Regulations to reduce the need for parking variances; directing Planning Department staff to defer the acceptance and processing of applications for parking variances and bicycle substitutions; continuing this policy until new or amended Land Development Regulations are adopted by the City Commission or until the passage of 360 days from the date of this ordinance, whichever occurs first; providing for severability; providing for repeal of inconsistent provisions; providing for an effective date.

### ACTION STATEMENT

**Request:** Consider invoking Zoning-in-Progress to amend the Land Development Regulations as needed to reduce the need for parking variances.

**Location:** Citywide

### BACKGROUND:

On January 7, 2015, Commissioner Teri Johnston requested that the City Manager prepare an ordinance invoking a second Zoning-in-Progress (ZIP) doctrine to address the proliferation of parking variance requests in Key West. Previously, the City Commission invoked a 360-day ZIP through the passage of Ordinance No. 13-20, which started November 6, 2013 and ended November 1, 2014. During that time, the City was unable to accept or process any variance applications that would have involved a reduction in required parking or substituting vehicular parking spaces for bicycle parking.

While the ZIP was in effect, the City took several steps to alleviate the demand on available parking. Last fall, the City initiated its new residential parking program, which requires proof that vehicles are registered to City residents or business owners, rather than any Monroe County resident. The City is currently investigating the potential construction of two new parking



garages in Old Town near the central business area. And the City is beginning a comprehensive update to its land development regulations (LDRs), including looking at innovative techniques to reduce the number of parking variances required by the City Code.

## **ANALYSIS:**

Over the last few years, requests for variances to the City's off-street parking requirements have become more frequent as the local economy has recovered from the national recession. As properties have proposed new development or redevelopment, particularly within the Old Town historic district, property owners have frequently needed to apply for parking variances. This is because new or expanded uses, and changes of use to uses with higher parking requirements (i.e., restaurants, bars and lounges) trigger full compliance the minimum off-street parking requirements of the LDRs. Often times, there is already inadequate space to provide additional on-site parking, especially on built-out properties in Old Town. As a result, property owners have opted to apply for a parking variance. With a ZIP in place, property and businesses owners would have little choice but to defer their development plans or would be limited to the existing amount of development on their properties.

The purpose of a ZIP declaration is to give the City Commission and City staff up to 360 days to explore potential solutions and possible LDR amendments. Parking is a complex issue in Key West and there are many potential ways to alleviate the problem. Staff has identified the following issues that should be considered if the City Commission wishes to invoke a ZIP for parking variances:

1. How to overcome the already limited space available for on-street and off-street parking, particularly on built-out property in Old Town;
2. The availability and proximity of private and public parking lots to attractions and services;
3. Modifying the historic commercial pedestrian-oriented area, either by expanding the boundaries and/or amending the applicability and exceptions;
4. Modifying existing or creating new parking programs for residents, employees, etc.;
5. Consider transportation demand management techniques to encourage alternative modes;
6. Consider allowing shared use parking calculations and parking demand studies to substitute for the standard parking requirements and encourage mixed uses and reduced parking need;
7. Adequacy and convenience of public transit service for different types of riders (e.g., residents, tourists, commuters, etc.);
8. Review Zoning Maps and district standards to ensure that mixed-use, pedestrian-oriented and transit-oriented development are effectively encouraged through the allowed uses and maximum density and intensities.

The ZIP would begin as of the first reading of the ordinance on March 3, 2015 and would remain in effect for 360 days, or until new or amended LDRs are adopted, whichever occurs first.

## **PLANNING BOARD RECOMMENDATION:**

The Planning Board reviewed the proposed ordinance on February 4, 2015 and by a unanimous 7-0 vote passed Resolution No. 2015-07 recommending that the City Commission not pass or adopt a second Zoning-in-Progress for parking variances and bicycle substitutions. The Board's preference would be to allow property owners to apply for parking variances as currently provided by the LDRs, rather than re-impose another Zoning-in-Progress.



**PLANNING BOARD  
RESOLUTION NO. 2015-07**

**A RESOLUTION OF THE KEY WEST PLANNING BOARD  
RECOMMENDING THAT THE CITY COMMISSION NOT  
PASS OR ADOPT AN ORDINANCE INVOKING THE  
ZONING-IN-PROGRESS DOCTRINE THAT WOULD DEFER  
THE ACCEPTANCE AND PROCESSING OF APPLICATIONS  
FOR PARKING VARIANCES AND BICYCLE  
SUBSTITUTIONS; PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, on January 7, 2015, Commissioner Johnston requested that the City Manager prepare an ordinance invoking a second Zoning-in-Progress (ZIP) doctrine to address the proliferation of parking variance requests in Key West; and

**WHEREAS**, previously, the City Commission invoked a 360-day ZIP through the passage of Ordinance No. 13-20, which started on November 6, 2013 and ended November 1, 2014; and

**WHEREAS**, during the invocation of such a ZIP, the City is unable to accept or process any variance applications involving a reduction in required parking or substituting vehicular spaces for bicycle parking; and

**WHEREAS**, the new ZIP would begin as of the first reading of the ordinance by City Commission on February 18, 2015 and would remain in effect for 360 days, or until new or amended LDRs are adopted, whichever occurs first.

**WHEREAS**, the Planning Board conducted a public hearing on February 4, 2015 regarding the proposed ordinance and by a unanimous 7-0 vote recommended that the City Commission not pass or adopt a second ZIP for parking variances and bicycle substitutions.

**NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING BOARD OF THE**

  
Chairman  
  
Planning Director



**CITY OF KEY WEST, FLORIDA:**

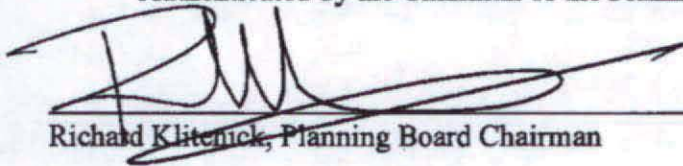
**Section 1.** That the above recitals are incorporated by reference as if fully set forth herein.

**Section 2.** The Planning Board, by a unanimous 7-0 vote, recommended that the City Commission not pass or adopt an ordinance invoking a second ZIP doctrine for parking variances and bicycle substitutions.

**Section 3.** 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 Board.


Read and passed on first reading at a regularly scheduled meeting held this 4th day of February, 2015.

Authenticated by the Chairman of the Planning Board and the Acting Planning Director.

  
Richard Klitenick, Planning Board Chairman

2/18/2015  
Date

**Attest:**

  
Kevin Bond, AICP, Acting Planning Director

2/16/2015  
Date

**Filed with the Clerk:**

  
Cheryl Smith, City Clerk

2-19-15  
Date

 Chairman  
 Planning Director



PHONE: (305) 809-3770  
FAX: (305) 809-3771

Office of the City Attorney

POST OFFICE BOX 1409  
KEY WEST, FL 33041-1409

Memorandum

TO: Mayor & Commissioners  
FROM: Shawn D. Smith, City Attorney  
RE: Additional Language for Second Reading -  
DATE: March 10, 2015

Mayor and Commissioners,

At the last Commission meeting, I was directed to include a hardship provision in the proposed Zoning in Progress ordinance regarding parking variances. I suggest the following language:

"An applicant may seek a waiver of the conditions imposed herein.

To be eligible for a waiver, the applicant must demonstrate to the Planning Board that the amount of parking required by the code of ordinances is not necessary given the particular conditions of the proposed development. The Planning Board must make specific findings concerning the lack of need for vehicular parking based upon the use and occupancy of the proposed development."

Please contact me with any questions or comments you may have.

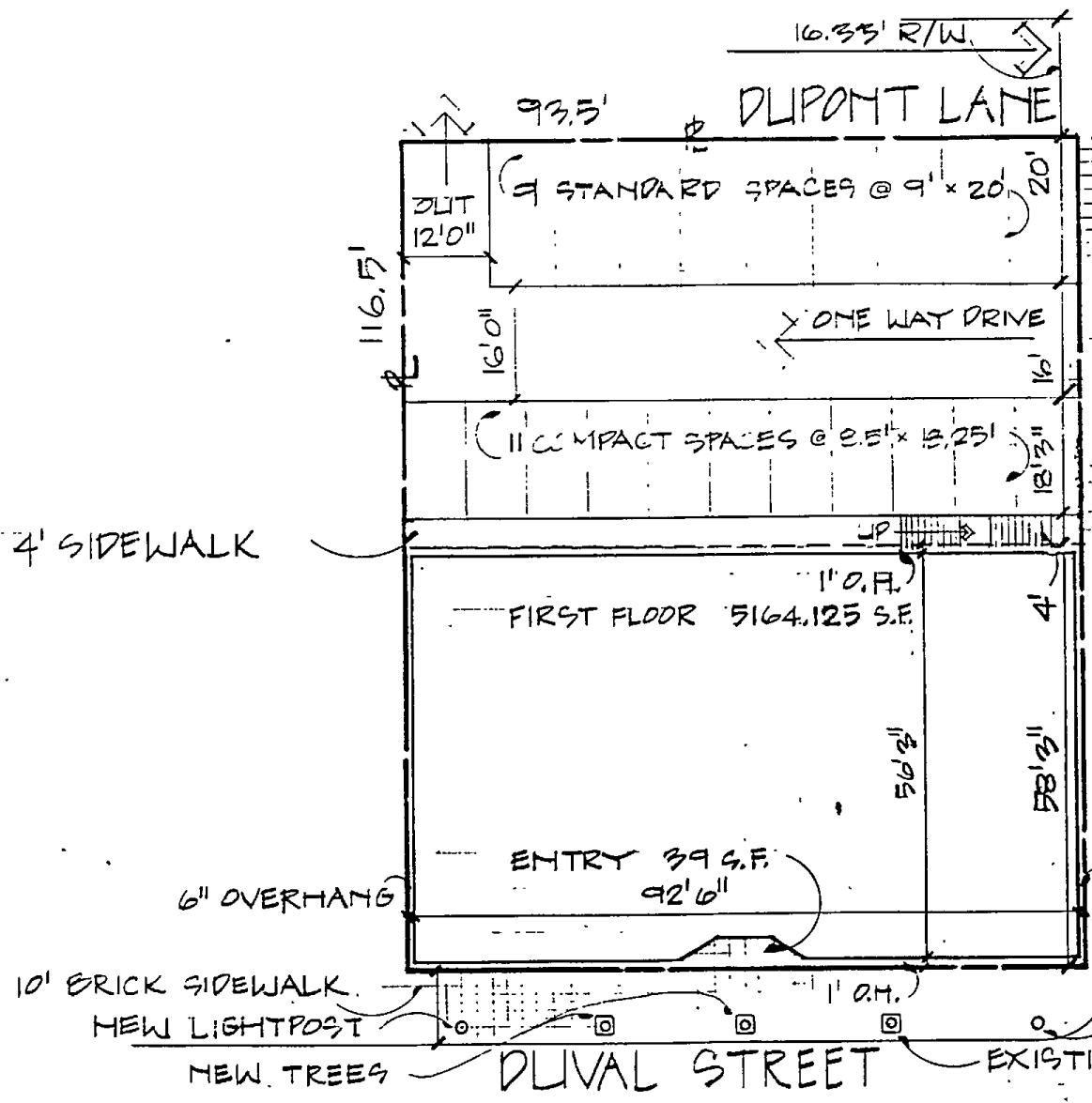
A handwritten signature in blue ink, appearing to be "S. Smith", is located at the bottom right of the page.





Residential  
 Commercial  
 Marine

Exhibit 4



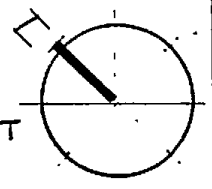
**SITE DATA**  
 ZONE: HP-2  
 LOT SIZE: 93.5' x 110.5'  
 LOT AREA: 10,392.75 S.F.  
 TOTAL LOT COVERAGE:  
 50% = 5196.375 S.F. PROVIDED  
 PARKING SPACES REQ'D.:  
 18 (FIRST FLOOR)  
 2 (STORAGE MEZZ.)  
 20 (4 EMPLOYEES)  
 PARKING SPACES PROVIDED:  
 20  
 COMPACT SPACES PERMITTED:  
 7 (35% OF 20)  
 COMPACT SPACES PROVIDED:  
 11 (55% OF 20)  
 BUILDING HEIGHT: 35'0"

**VARIANCES REQ'D.**  
 FRONT & SIDE SETBACKS,  
 55% COMPACT PROVIDED vs.  
 35% COMPACT PERMITTED.

SITE PLAN/  
 FLOOR PLAN

PETRONIA ST.

3' BRICK SIDEWALK  
 6" OVERHANG



PROJECT NO:  
 89007  
 DATE:  
 9-11-89  
 DRAWN BY: PJM  
 SHEET: 1 of 1

SCALE: 1" = 20'

A RESOLUTION ALLOWING A VARIANCE TO HP-2, COMMERCIAL HISTORIC PRESERVATION DISTRICT, UNDER CHAPTER 35 OF THE CODE OF ORDINANCES OF THE CITY OF KEY WEST, FLORIDA ALLOWING A VARIANCE TO ALLOW ZERO-FOOT FRONT SETBACKS (5-FOOT FRONT SETBACKS REQUIRED) AND 53% COMPACT CAR PARKING (35% ALLOWED), ON THE FOLLOWING DESCRIBED PROPERTY: ON THE ISLAND OF KEY WEST AND KNOWN AS PART OF TRACT FOUR (4) ACCORDING TO W.A. WHITEHEAD'S MAP OF SAID ISLAND, DELINEATED IN FEBRUARY, A.D. 1829, BUT NOW BETTER KNOWN AS A PART OF LOT FOUR (4) IN SQUARE TWO (2) OF SAID TRACT FOUR (4) ACCORDING TO C.W. TIFT'S MAP OF SAID TRACT; COMMENCING AT THE CORNER OF DUVAL AND PETRONIA STREETS AND RUNS THENCE IN A NORTHWESTERLY DIRECTION ALONG THE LINE OF SAID DUVAL STREET FORTY-EIGHT (48) FEET SIX (6) INCHES; THENCE AT RIGHT ANGLES IN A NORTHEASTERLY DIRECTION ONE HUNDRED AND SIXTEEN (116) FEET SIX (6) INCHES; THENCE AT RIGHT ANGLES IN A SOUTHEASTERLY DIRECTION FORTY-EIGHT (48) FEET SIX (6) INCHES OUT TO PETRONIA STREET; THENCE AT RIGHT ANGLES IN A SOUTHWESTERLY DIRECTION ALONG THE LINE OF PETRONIA STREET, TO THE POINT OF BEGINNING; AND: THE CERTAIN PIECE OF LAND IN WALL ADDITION TO THE CITY OF KEY WEST, KNOWN AS A PRT OF LOT FOUR (4) SQUARE TWO (2) IN TRACT FOUR (4); BEGINNING AT A POINT ON DUVAL STREET FORTY-EIGHT (48) FEET AND SIX (6) INCHES FROM THE CORNER OF DUVAL AND PETRONIA STREETS AND RUNNING THENCE ALONG DUVAL STREET IN A NORTHWESTERLY DIRECTION FORTY-FIVE (45) FEET; THENCE AT RIGHT ANGLES NORTHEASTERLY ONE HUNDRED AND SIXTEEN (116) FEET SIX (6) INCHES; THENCE AT RIGHT ANGLES SOUTHEASTERLY FORTY-FIVE (45) FEET; THENCE AT RIGHT ANGLES SOUTHWESTERLY ONE HUNDRED AND SIXTEEN (116) FEET SIX (6) INCHES TO THE POINT OF BEGINNING ON DUVAL STREET; ALSO KNOWN AS THE CORNER OF DUVAL AND PETRONIA STREETS, KEY WEST, MONROE COUNTY, FLORIDA.

Exhibit 4

WHEREAS, special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, buildings or structures in the subject district; and

WHEREAS, literal interpretation of the provisions of the Zoning Ordinance of the City of Key West would deprive the owner of the subject property of rights commonly enjoyed by other properties in the same district under the terms of the Zoning Ordinance.

WHEREAS, the special exceptions and circumstances do not result from the actions of the applicant.

WHEREAS, the granting of the variance requested will not confer on the applicant any special privilege that is denied by the ordinance to other land, structures or buildings in the same district, now therefore,

Revision 10/1/2015

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

Section 1. ~~That a variance to allow zero-foot front setbacks (5-~~  
~~foot front setbacks required) and 53% compact car parking (35%~~  
~~allowed)~~, to HP-2, Commercial Historic Preservation District, under  
Chapter 35 of the Code of Ordinances of the City of Key West, Florida  
be on the following described property:

On the Island of Key West and known as part of Tract Four (4) according to W.A. Whitehead's map of said Island, delineated in February, A.D. 1829, but now better known as a prt of Lot Four (4) in Square Two (2) of said Tract Four (4) according to C.W. Tift's map of said Tract; COMMENCING at the corner of Duval and Petronia Streets and runs thence in a Northwesterly direction along the line of said Duval Street Forty-eight (48) feet Six (6) inches; thence at right angles in a Northeasterly direction One Hundred and Sixteen (116) feet Six (6) inches; thence at right angles in a Southeasterly direction Forty-eight (48) feet Six (6) inches out to Petronia Street; thence at right angles in a Southwesterly direction along the line of Petronia Street, to the Point of Beginning; AND: The certain piece of land in Wall Addition to the City of Key West, known as a part of Lot Four (4) Square Two (2) in Tract Four (4); BEGINNING at a point on Duval Street Forty-eight (48) feet and Six (6) inches from the corner of Duval and Petronia Streets and running thence along Duval Street in a Northwesterly direction Forty-five (45) feet; thence at right angles Northeasterly One Hundred and Sixteen (116) feet Six (6) inches; thence at right angles Southeasterly Forty-five (45) feet; thence at right angles Southwesterly One Hundred and Sixteen (116) feet Six (6) inches to the Point of Beginning on Duval Street; also known as the corner of Duval and Petronia Streets, Key West, Monroe County, Florida.

Section 2. It is an essential condition of this variance that full, complete, and final application for all permits required for any new construction for any use and occupancy for which this variance is wholly or partly necessary, whether or not such construction is suggested or proposed in the documents presented in support of this variance, shall be submitted in its entirety within 12 months after the date hereof. It is an essential condition of this variance that no application or reapplication for new construction for which the variance is wholly or partly necessary shall be made after expiration of said 12-month period.

Section 3. Failure to submit full and complete application for

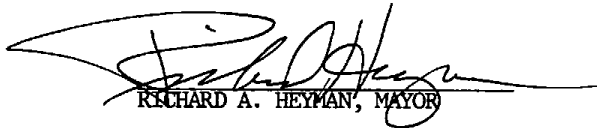
Revision 10/1/2015

permits for new construction for which this variance is wholly or partly necessary, or failure to complete new construction for use and occupancy pursuant to this variance in accordance with the terms of a City building permit issued upon timely application as described in Section 2 hereof, shall immediately operate to terminate this variance, which variance shall be of no force or effect.

**Section 4.** This variance 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 and authentication by the signatures of the presiding officer and the Clerk of the Commission.

Read and passed on first reading at a regular meeting held this 8th day of November, 1989.

  
RICHARD A. HEYMAN, MAYOR

ATTEST:

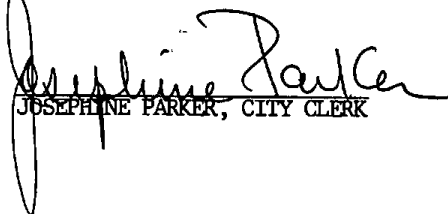
  
JOSEPHINE PARKER, CITY CLERK

Exhibit 4

Revision 10/1/2015





## CHAPTER 1: FUTURE LAND USE ELEMENT

§1-1: **FUTURE LAND USE GOALS, OBJECTIVES AND POLICIES.** This Chapter specifies goals, objectives, and implementing policies for the Future Land Use Element pursuant to Florida Statute.

**Policy 1-1.1.4: Affordable Housing and Compact Development Incentives.** Within land use categories supporting mixed use development, the Land Development Regulations shall include density and intensity bonuses that fall within the parameters of the Comprehensive Plan and Future Land Use Map to achieve the following objectives: provision of affordable housing immediately adjacent to employment opportunities; reduction in dependence on automobile travel for home/work travel; provision of a range of housing types, inclusive of apartments, townhouses, efficiencies, and single room occupancies; establishment of a variety of retail uses to support onsite or adjacent residential uses; provision of sufficient density of residential uses and presence of retail commercial to support transit demand; support of redevelopment of aging, traditional suburban shopping center retail; provision of open space and recreational uses within or immediately adjacent to the mixed use complex; provision of immediate access to and support of bicycle path networks in the City; increased efficiency of energy and water use; increased solid waste diversion; increased stormwater harvesting; decreased inappropriate water use, and; creation of opportunities to provide substantial new landscaping, parking and housing/retail areas to reduce carbon footprints and support sustainability goals.

**Policy 1-1.1.8: Allowed Uses in the Historic Residential Commercial Core:** The historic residential commercial core (HRCC) zoning district located within the Historic Commercial Future Land Use District is designed to accommodate the Historic Preservation District residential commercial core mixed use center. The HRCC zoning district is intended to provide a management framework for preserving the nature, character and historic quality of the Historic Preservation District commercial core, including related residential development.

**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 allocation of commercial uses shall recognize that respective commercial activities frequently have different site, spatial, and market area characteristics and generate significantly different impacts. Similarly, the commercial development designations on the Land Use Map shall be complemented by performance standards and site plan review requirements which shall provide a framework for managing and accessing impacts of development. These regulations shall ensure that proposed development of commercially

designated sites is well planned and can be adapted to the proposed site. For instance, the Land Development Regulations shall address issues surrounding:

1. Intensity of use
2. Natural constraints to development
3. Perimeter and internal landscaping
4. Availability of public facilities at adequate levels of service
5. Concurrency management
6. Controlled access and egress
7. Off-street parking as well as safe and convenient systems of vehicular, bicycle, and pedestrian circulation. The Land Development Regulations shall include a regulatory framework for public and private partnership in providing strategically located parking facilities in order to restrict and/or minimize vehicular traffic in the Historic Preservation District.
8. Open space preservation and maximum impervious surface
9. Height and lot coverage
10. Adequate building setbacks
11. Urban design amenities, including, but not limited to, signage controls, pedestrian amenities, landscaping improvements, building height limitations, architectural controls in the Historic Preservation District, and other similar design features.
12. Efficiency in natural resource use.

**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 Land Development Regulations shall continue to include a regulatory framework to:

1. Regulate the subdivision of land;
2. Regulate the use of land and water consistent with this Element, ensure the compatibility of adjacent land uses, and provide for open space;
3. Protect the environmentally sensitive lands as well as flora and fauna as stipulated in the Comprehensive Plan;
4. Regulate land use and minimum building elevations in areas subject to seasonal and periodic flooding and provide for drainage and stormwater management;
5. Regulate signage;
6. Ensure safe and convenient on-site and off-site traffic flow and vehicle parking needs and prohibit development within future rights-of-way;
7. Provide that development orders and permits shall not be issued which result in a reduction of levels of services for impacted public facilities below the levels of service standards which shall be adopted by the City Commission;
8. Ensure progress toward community greenhouse gas emissions reduction goals; and
9. Provide safe pedestrian and bicycle connectivity throughout the City and especially on transportation corridors.



## CHAPTER 2: TRANSPORTATION ELEMENT

**Policy 2-1.1.8: On-Site Transportation Improvements and Safe Traffic Flow.** The City shall continue to enforce its Land Development Regulations to include performance standards which require that all developments provide safe and convenient on-site traffic flow considering motorized and non-motorized vehicle parking and internal circulation needs.

**Policy 2-1.3.5: Reduction of Urban Heat Island Effect.** The City shall utilize best management practices to reduce the heat island effect of roads, parking lots, bike lanes and sidewalks by employing materials that are of a lighter color and have higher reflectivity, and providing shade from enhanced landscaping.

**Policy 2-1.4.4: Bicycle Parking Facilities.** The City shall work with major employers and tourist destinations to establish long-term bicycle parking facilities designed to provide protection for bicycles at convenient locations. Such facilities may be considered as a pro-rata portion of traffic impact fees for new developments.

**Policy 2-1.6.3: Transportation Site Plan Review Criteria.** The City of Key West shall enforce Land Development Regulations which include performance criteria designed to manage issues surrounding trip generation; design of efficient internal traffic circulation and parking facilities, including minimizing pedestrian and vehicular conflict, off-street parking, as well as safe and convenient circulation and maneuverability; control of access points; potential need for acceleration/deceleration lanes; adequate surface water management and drainage; and landscaping.

**Policy 2.16.4: Transportation Concurrency Exception Area.** As a result of the completion of the State mandated hurricane evacuation modeling workshops and amendments to the Comprehensive Plan, the City will be allocated 91 new BPAS units annually starting in 2013. Due to the City's exception from transportation concurrency, the development or redevelopment of these units shall not be subject to roadway concurrency requirements.

Revised for  
Second Reading  
February 20, 2002

ORDINANCE NO. 02-08

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA,  
AMENDING CHAPTER II, ARTICLE VII OF THE KEY  
WEST LAND DEVELOPMENT REGULATIONS (LDRS) BY  
AMENDING SECTION 2-7.24, AFFORDABLE HOUSING  
REGULATIONS; TO PROVIDE A REVISED DEFINITION  
OF AFFORDABLE HOUSING; TO AMEND APPLICANT  
ELIGIBILITY REQUIREMENTS; TO PROVIDE A FAMILY  
SIZE CALCULATION FOR RENTAL UNITS; PROVIDING  
FOR SEVERABILITY; PROVIDING FOR REPEAL OF  
INCONSISTENT PROVISIONS; PROVIDING FOR AN  
EFFECTIVE DATE

WHEREAS, the City Commission finds that the City's affordable housing ordinance is too restrictive in its eligibility standards thereby depriving a large number of Key West's working citizens from taking advantage of its provisions; and

WHEREAS, the Key West Planning Board recommended approval of the enclosed amendments at its meetings of July 12, 2001 and January 17, 2002; and

WHEREAS, the City Commission finds that a revision of these affordable housing regulations would promote the health, safety and welfare of the citizens of Key West;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF KEY WEST,  
FLORIDA:



Section 1: That Section 2-7.24 of the Land Development Regulations is hereby amended as follows\*:

**Sec. 2-7.24 Affordable Housing Regulations.**

**A. Definitions.**

1. "Affordable housing" for a rental dwelling unit shall mean a dwelling unit ~~of at least 400 square feet in size~~ whose monthly rent, ~~or monthly mortgage payment (including taxes and insurance, but not including utilities),~~ does not exceed thirty percent (30%) of that amount which represents ~~eighty~~ one-hundred percent (100%) ~~(80%)~~ of the monthly median household income (adjusted for family size) ~~per the State of Florida "SHIP" program~~ for Monroe County. ~~The City shall determine a maximum sales price under this definition to be established by Resolution and attached to this ordinance as an Exhibit.~~

For an owner-occupied dwelling unit, "affordable housing" shall mean a dwelling unit whose monthly mortgage payment (including taxes and insurance, but not including utilities) does not exceed forty percent (40%) of that amount that represents one-hundred percent (100%) of the monthly median household income (adjusted for family size) for Monroe County. However, in any case, the sales price shall not exceed three and one-half times (3.5) times the annual median household income (adjusted for family size) for Monroe County.

\*(Coding: Added language is underlined; deleted language is ~~struck through~~.)

2. "Affordable housing, low income" shall be a rental dwelling unit whose monthly rent, not including utilities, does not exceed thirty percent (30%) of that amount which represents eighty percent (80%) of the monthly median household income (adjusted for family size).

2-3. "Affordable Housing Trust Fund" shall mean the trust fund established and maintained by the City for revenues from fees in lieu of constructing affordable housing, and revenues from any other source earmarked for the trust fund by land development regulation, ordinance or donation.

3-4. "Median household income" shall mean the ~~medium~~ median household income published for Monroe County on an annual basis by the U.S. Department of Housing and Urban Development.

**B. Requirements of Affordable Housing - Ratio of New Construction**

1. At least ~~thirty three percent (33%)~~ ten percent (10%) of all new multi-family residential units constructed each year shall be low-income affordable housing of at least 400 square feet each, as defined herein and twenty percent (20%) shall be affordable housing of at least 400 square feet each, as defined herein. Residential or mixed use projects of less than ten (10) residential units shall be required to develop at least ~~thirty three percent (33%)~~ (30%) units of at least 400 square feet each as affordable, but may contribute a fee in lieu for each unit to the Affordable

Housing Trust Fund, if approved by the City Commission. The per unit fee shall be \$40,000 (representing construction cost, less land cost, of a 400 square feet unit). The thirty~~-three~~ percent ~~(33%)~~ (30%) affordability requirement shall be determined on a project by project basis and not on a city-wide basis. Vested units shall be subject to this subsection if not otherwise governed by law or agreement.

2. Linkage of projects. Two development projects may link to allow the affordable housing requirement of one development project to be built at the site of another project, so long as the affordable housing requirement of the latter development is fulfilled as well. Written proof of the project linkage shall be supplied by the developer(s) to the City Commission at the time of the first site plan approval. The project containing the affordable units must be built either before or simultaneously with the project without (or with fewer than) the required affordable units. In addition, if a developer builds more than the required number of affordable units at a development site; this development project may be linked with a subsequent development project to allow compliance with the subsequent development's affordable unit requirement. Written proof of the linkage must be supplied by the developer(s) to the City Commission at the time of the subsequent development's site plan approval. Linkage shall not be available if either development is entirely or in part to be constructed by public funds. Finally, all linkages under this subsection B.2. may

occur within Key West, or on a site within the City and on a site on Stock Island in unincorporated Monroe County.

3. Demonstration of continuing affordability. Demonstration of continuing affordability shall be by deed restriction or any other mutually acceptable method that effectively runs with the land and is binding on owners, successors in ownership, or assigns. The deed restriction shall be in a form provided by the City, and shall be for a period of at least twenty-five (25) years. It shall be recorded in the Monroe County records.

4. Reporting requirements. Owners of affordable housing projects or units shall furnish the City Manager, or his designee, with annual information necessary to assure continued compliance with affordability criteria, beginning one year after the date of building permit issuance and on each anniversary date thereafter. Reporting requirements shall include sworn tenant household verification information. Property owners subject to this subsection 4. may contract with the Key West Housing Authority to perform annual tenant eligibility verification.

5. All property owners offering affordable housing under these regulations shall comply with the anti-discrimination provisions of Chapter 72, Key West Code of Ordinances.

**C. Affordable Housing Trust Fund.**

The Affordable Housing Trust Fund (the "Trust Fund") is hereby established. The Trust Fund shall be maintained with funds



earmarked for the Trust Fund for the purpose of promoting affordable housing in the City of Key West and its immediate environs. Monies received by the Trust Fund shall not be commingled with general operating funds of the city. The Trust Fund shall be used for:

1. Financial aid to developers as project grants for affordable housing construction; or

2. Financial aid to eligible home buyers as mortgage assistance; or

3. Financial incentive for the conversion of transient units to affordable residential units; or

4. Direct investment in or leverage to housing affordability through site acquisition, housing development and housing conservation; or

5. Other affordable housing purposes from time to time established by Resolution of the City Commission.

Except as provided in subsection F., the City Commission shall determine all expenditures from the Trust Fund upon the advice of the City Manager.

**D. Applicant Eligibility Requirements for Affordable Housing.**

The following eligibility requirements shall be required of households or persons to qualify for affordable housing units to the extent lawful.

1. The household or person shall derive at least seventy percent (70%) of its or his/her total income from gainful employment in Monroe County ~~the City of Key West~~; provided, however, ~~that county residents may qualify as eligible if such is provided for in an interlocal agreement with Monroe County.~~

2. At the time of sale or lease of low income affordable housing unit, the total income of eligible household or persons shall not exceed eighty percent (80%) of the median household income for Monroe County (adjusted for family size).

3. During occupancy of any low income affordable housing, a household's income may increase to an amount not to exceed one hundred twenty percent (120%) of the median household income for Monroe County (adjusted for family size). In such event, the tenant's occupancy shall terminate at the end of the existing lease term.

~~2.4.~~ At the time of sale or lease of an affordable unit, the total income of eligible households or persons shall not exceed one hundred twenty percent (120%) ~~eighty percent (80%)~~ of the median household income for Monroe County (adjusted for family size).

~~3.5.~~ During occupancy of any affordable housing rental unit, a household's annual income may increase to an amount not to exceed one hundred sixty percent (160%) ~~forty percent (140%)~~ of median household income for Monroe County (adjusted for family size). In such event, the tenant's occupancy shall terminate at the end of the existing lease term.

~~4-6.~~ Eligibility is based on proof of legal residence in the ~~City of Key West~~ Monroe County for at least one consecutive year.

~~5-7.~~ Priority shall be given to families of four or more members for larger sized affordable housing units.

~~6-8.~~ The applicant shall execute a sworn affidavit stating the applicant's intention to occupy the dwelling unit.

~~7-9.~~ The income of eligible households shall be determined by counting only the first and highest paid 40 hours of employment per week of each unrelated adult. For a household containing adults related by marriage or a domestic partnership registered with the City, only the highest 60 hours of the combined employment shall be counted. The income of dependents regardless of age shall not be counted in calculating a household's income.

10. The Board of Adjustment may review a household's income and unique circumstances to determine eligibility and conformance with the intent of this ordinance to assure that people in need are not excluded and people without need are not included.

**E. Accessory Unit Infill.**

In all zoning districts of the City, except Conservation districts (C), ~~Airport Institutional~~ districts (~~PS, HPS, A~~) and the HPRD, PRD, HHDR, HMDR, MDR, MDR-C, LDR-C and SF districts, the City Commission desires to encourage the addition of affordable housing on the second story of commercial properties and in association with institutions to promote employee housing. Such development shall be known as accessory unit infill. ~~Such units shall be efficiencies or one bedroom units of between 400 and 600 square~~

~~feet, and shall include kitchen and bathroom facilities.~~ Tenants shall be eligible persons under Subsection D., hereof. Applicants under this Section E. ~~are encouraged to~~ may provide two bicycle or scooter parking spaces per unit as an alternatives, rather than to applying to the Board of Adjustment for parking variances. Provided that units of 600 square feet or less are treated as an 0.55 equivalent unit and all units provided are available under the City's Building Permit Allocation ordinance, section 34.1375 of the code of ordinances, the City shall process applications under this section in the same manner as multifamily units or as a conditional use if multifamily is not allowed.

**F. Community Housing Development Organization.**

The City Commission may establish a non-profit Community Housing Development Organization (CHDO), pursuant to federal regulations governing such organizations, to serve as developer of affordable housing units on city-owned property located in both the City and in the community redevelopment areas (including excessed U.S. Navy property); or located in Key Haven and Stock Island in unincorporated Monroe County, upon interlocal agreement. In such event, the City may delegate to the CHDO all or partial administration of the Affordable Housing Trust Fund.

**G. Family Size.**

When establishing a rental and sales amount, one shall assume family size as indicated in the table below. This ordinance shall not be used to establish the maximum number of individuals who actually live in the unit.

<u>Size of Unit</u>	<u>Assumed Family Size</u>	<u>Minimum Occupancy</u>
<u>Efficiency (no separate bedroom)</u>	<u>1</u>	<u>1</u>
<u>One bedroom</u>	<u>2</u>	<u>1</u>
<u>Two bedroom</u>	<u>3</u>	<u>2</u>
<u>Three bedroom</u>	<u>4</u>	<u>3</u>
<u>Four or more bedrooms</u>	<u>5</u>	<u>1 per bedroom</u>

H.G. Sunset.

Section B of tThis ordinance shall sunset and therefore expire on September 30, 2010; provided, however, that this sunset provision shall not be interpreted to terminate deed restrictions arising hereunder. ~~During the year prior thereto, the City shall undertake a study of its affordable housing needs to determining whether this ordinance, in whole or in part, should be re-created.~~ ~~In the alternative,~~ Section B of this ordinance may sunset prior to September 30, 2010, upon the City achieving a target of 1500 affordable housing units in accordance with these regulations, and including that number of affordable housing units under deed restriction and imposed by the City Commission on property owners between January 1, 1997, and the effective date of this ordinance.

Section 2. If any section, provision, clause, phrase, or application of this Ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, the remaining provisions of this Ordinance shall be deemed severable therefrom and shall be construed as reasonable and necessary to achieve the lawful purposes of this Ordinance.

Section 3. All Ordinances or parts of Ordinances of said City in conflict with the provisions of this Ordinance are hereby superseded to the extent of such conflict.

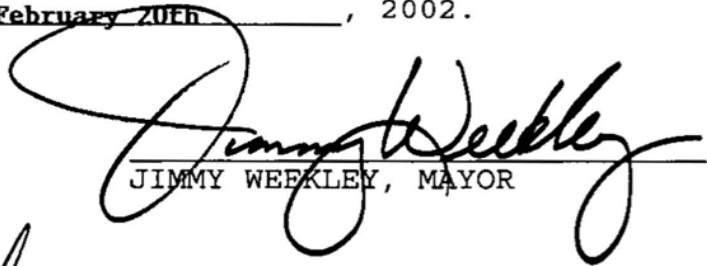
Section 4. This Ordinance shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission.

Read and passed on first reading at a regular meeting held this 5th day of February, 2002.

Read and passed on final reading at a regular meeting held this 20th day of February, 2002.

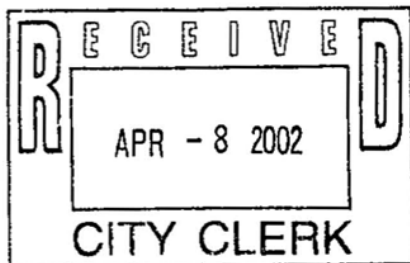
Authenticated by the presiding officer and Clerk of the Commission on 20th day of February, 2002.

Filed with the Clerk February 20th, 2002.

  
JIMMY WEEKLEY, MAYOR

ATTEST:

  
CHERI SMITH, CITY CLERK



DCA Final Order No.: DCA02-OR-086

**STATE OF FLORIDA  
DEPARTMENT OF COMMUNITY AFFAIRS**

In re: CITY OF KEY WEST LAND DEVELOPMENT  
REGULATIONS ADOPTED BY  
CITY OF KEY WEST ORDINANCE NO. 02-08

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**FINAL ORDER**

The Department of Community Affairs (the "Department") hereby issues its Final Order, pursuant to §§ 380.05(6) and (11), *Fla. Stat.*, (2001), approving a land development regulation adopted by a local government within the Florida Keys Area of Critical State Concern as set forth below.

**FINDINGS OF FACT**

1. The City of Key West is a designated area of critical state concern.
2. On February 22, 2002, the Department received for review City of Key West Ordinance No. 02-08 which was adopted by the City of Key West City Commission on February 20, 2002 ("Ord. 02-08"). Ord. 02-08 amends Section 2-7.24 of the Land Development Regulations providing an amended definition of "affordable housing" and amending applicant eligibility requirements and family size requirements.
3. Ord. 02-08 is consistent with the City's Comprehensive Plan.

**CONCLUSIONS OF LAW**

4. The Department is required to approve or reject land development regulations that are enacted, amended or rescinded by any local government in an area of critical state concern. §§ 380.05(6) and (11), *Fla. Stat.*, (2001).

5. The City of Key West is an Area of Critical State Concern. § 380.05, *Fla. Stat.* (2001) and Rule 28-36.001, *Fla. Admin. Code*.

6. "Land development regulations" include local zoning, subdivision, building and other regulations controlling the development of land. § 380.031(8), *Fla. Stat.* (2001). The regulations adopted by Ord. 02-08 are land development regulations.

7. All land development regulations enacted, amended or rescinded within an area of critical state concern must be consistent with the principles for guiding development for the particular area (the "Principles"). § 380.05(6), *Fla. Stat.*; see *Rathkamp v. Department of Community Affairs*, 21 F.A.L.R. 1902 (Dec. 4, 1998), *aff'd*, 740 So. 2d 1209 (Fla. 3d DCA 1999). The Principles for the City of Key West Area of Critical State Concern are set forth in Rule 28-36.003, *Fla. Admin. Code*.

8. Ord. 02-08 promotes and furthers the following Principles in Rule 28-36.003(1):

(a) To strengthen local government capabilities for managing land use and development.

(h) Protection of the public health, safety, welfare and economy of the City of Key West and the maintenance of Key West as a unique Florida Resource.

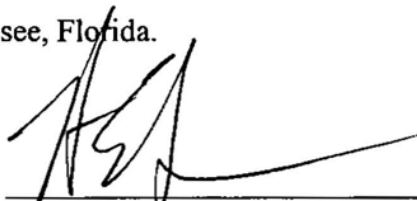
10. Ord. 02-08 is not inconsistent with the remaining Principles. Ord. 02-08 is consistent with the Principles for Guiding Development as a whole.

WHEREFORE, IT IS ORDERED that Ord. 02-08 is found to be consistent with the Principles for Guiding Development of the City of Key West Area of Critical State Concern, and is hereby APPROVED.



This Order becomes effective 21 days after publication in the Florida Administrative Weekly unless a petition is filed as described below.

DONE AND ORDERED in Tallahassee, Florida.



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SONNY TIMMERMAN, DIRECTOR  
Division of Community Planning  
Department of Community Affairs  
2555 Shumard Oak Boulevard  
Tallahassee, Florida 32399-2100

#### **NOTICE OF ADMINISTRATIVE RIGHTS**

ANY PERSON WHOSE SUBSTANTIAL INTERESTS ARE AFFECTED BY THIS ORDER HAS THE OPPORTUNITY FOR AN ADMINISTRATIVE PROCEEDING PURSUANT TO SECTION 120.569, FLORIDA STATUTES, REGARDING THE AGENCY'S ACTION. DEPENDING UPON WHETHER YOU ALLEGE ANY DISPUTED ISSUE OF MATERIAL FACT IN YOUR PETITION REQUESTING AN ADMINISTRATIVE PROCEEDING, YOU ARE ENTITLED TO EITHER AN INFORMAL PROCEEDING OR A FORMAL HEARING.

IF YOUR PETITION FOR HEARING DOES NOT ALLEGE ANY DISPUTED ISSUE OF MATERIAL FACT CONTAINED IN THE DEPARTMENT'S ACTION, THEN THE ADMINISTRATIVE PROCEEDING WILL BE AN INFORMAL ONE, CONDUCTED PURSUANT TO SECTIONS 120.569 AND 120.57(2) FLORIDA STATUTES, AND CHAPTER 28-106, PARTS I AND III, FLORIDA ADMINISTRATIVE CODE. IN AN INFORMAL ADMINISTRATIVE PROCEEDING, YOU MAY BE REPRESENTED BY COUNSEL OR BY A QUALIFIED REPRESENTATIVE, AND YOU MAY PRESENT WRITTEN OR ORAL EVIDENCE IN OPPOSITION TO THE DEPARTMENT'S ACTION OR REFUSAL TO ACT; OR YOU MAY EXERCISE THE OPTION TO PRESENT A WRITTEN STATEMENT CHALLENGING THE GROUNDS UPON WHICH THE DEPARTMENT HAS CHOSEN TO JUSTIFY ITS ACTION OR INACTION.

IF YOU DISPUTE ANY ISSUE OF MATERIAL FACT STATED IN THE AGENCY ACTION, THEN YOU MAY FILE A PETITION REQUESTING A FORMAL ADMINISTRATIVE HEARING BEFORE AN ADMINISTRATIVE LAW JUDGE OF THE DIVISION OF ADMINISTRATIVE HEARINGS, PURSUANT TO SECTIONS 120.569 AND 120.57(1), FLORIDA STATUTES, AND CHAPTER 28-106, PARTS I AND II, FLORIDA ADMINISTRATIVE CODE. AT A FORMAL ADMINISTRATIVE HEARING, YOU MAY BE REPRESENTED BY COUNSEL OR OTHER QUALIFIED REPRESENTATIVE, AND

YOU WILL HAVE THE OPPORTUNITY TO PRESENT EVIDENCE AND ARGUMENT ON ALL THE ISSUES INVOLVED, TO CONDUCT CROSS-EXAMINATION AND SUBMIT REBUTTAL EVIDENCE, TO SUBMIT PROPOSED FINDINGS OF FACT AND ORDERS, AND TO FILE EXCEPTIONS TO ANY RECOMMENDED ORDER.

IF YOU DESIRE EITHER AN INFORMAL PROCEEDING OR A FORMAL HEARING, YOU MUST FILE WITH THE AGENCY CLERK OF THE DEPARTMENT OF COMMUNITY AFFAIRS A WRITTEN PLEADING ENTITLED, "PETITION FOR ADMINISTRATIVE PROCEEDINGS" WITHIN 21 CALENDAR DAYS OF PUBLICATION OF THIS NOTICE. A PETITION IS FILED WHEN IT IS RECEIVED BY THE AGENCY CLERK, IN THE DEPARTMENT'S OFFICE OF GENERAL COUNSEL, 2555 SHUMARD OAK BOULEVARD, TALLAHASSEE, FLORIDA 32399-2100.

THE PETITION MUST MEET THE FILING REQUIREMENTS IN RULE 28-106.104(2), FLORIDA ADMINISTRATIVE CODE. IF AN INFORMAL PROCEEDING IS REQUESTED, THEN THE PETITION SHALL BE SUBMITTED IN ACCORDANCE WITH RULE 28-106.301, FLORIDA ADMINISTRATIVE CODE. IF A FORMAL HEARING IS REQUESTED, THEN THE PETITION SHALL BE SUBMITTED IN ACCORDANCE WITH RULE 28-106.201(2), FLORIDA ADMINISTRATIVE CODE.

A PERSON WHO HAS FILED A PETITION MAY REQUEST MEDIATION. A REQUEST FOR MEDIATION MUST INCLUDE THE INFORMATION REQUIRED BY RULE 28-106.402, FLORIDA ADMINISTRATIVE CODE. CHOOSING MEDIATION DOES NOT AFFECT THE RIGHT TO AN ADMINISTRATIVE HEARING.

**YOU WAIVE THE RIGHT TO AN INFORMAL ADMINISTRATIVE PROCEEDING OR A FORMAL HEARING IF YOU DO NOT FILE A PETITION WITH THE AGENCY CLERK WITHIN 21 DAYS OF PUBLICATION OF THIS FINAL ORDER.**

CERTIFICATE OF FILING AND SERVICE

I HEREBY CERTIFY that the original of the foregoing Final Order has been filed with the undersigned designated Agency Clerk, and that true and correct copies have been furnished to the persons listed below by the method indicated this 5<sup>th</sup> day of ~~March~~ <sup>April</sup>, 2002.

*for* Miriam Squires  
Paula Ford, Agency Clerk

By U.S. Mail:

Jimmy Weekly  
Mayor of the City of Key West  
P.O. Box 1409  
Key West, Florida 33041

Cheri Smith  
Clerk to the City Commission  
P.O. Box 1409  
Key West, Florida 33041

Robert Tischenkel  
City Attorney  
P.O. Box 1409  
Key West, FL 33041

Julio Avel  
City of Key West  
P.O. Box 1409  
Key West, FL 33041

By Hand Delivery or Interagency Mail:

Michael McDaniel, Growth Management Administrator, DCA Tallahassee  
Rebecca Jetton, DCA Florida Keys Field Office  
Richard A. Lotspeich, Assistant General Counsel, DCA Tallahassee