

**SPOTTSWOOD, SPOTTSWOOD, SPOTTSWOOD & STERLING, PLLC**

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November 28, 2017

Mr. Patrick Wright  
Planning Director  
City of Key West  
1300 White Street  
Key West, Florida 33040

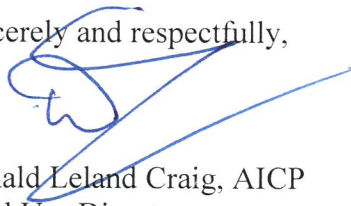
RE: Peavy Court – Major Development Plan Application

Dear Patrick:

I have attached the hard copy of the application sent electronically on Saturday,  
November 26, 2017.

Thanks.

Sincerely and respectfully,



Donald Leland Craig, AICP  
Land Use Director

Enclosure: Major Development Plan Application

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Memorandum

To: Patrick Wright, Planning Director  
From: Donald Craig

Date: 11-28-17

Subject: Peay Court

CC: File

Attachments: Major Development Plan Applications

Patrick - I have attached the  
hand copy of the applications sent  
electronically on Saturday 11-26-17.

Thanks



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November 22, 2017

Mr. Patrick Wright, Planning Director  
City of Key West  
1300 White Street  
key West, Florida 33040

Subject: Peary Court – Revision to Major Development Plan

Dear Patrick;

Our firm recently completed and submitted to the City a proposed revision to the current Development Agreement applicable to the Peary Court Apartments at 541 White Street ("Property"). Attached to this letter is an application for an amendment to the Major Development Plan that accompanied the original and current Development Agreement so that going forward there will be complete consistency between the two approvals.

As stated in the Development Plan application, as well as the Development Agreement application, the intent is to simplify the use of the forty-eight (48) BPAS allocations associated with Property as a result of the Comprehensive Plan amendment in 2012. The method by which this can be accomplished is to use the BPAS allocations by the internal remodeling of existing multi-unit structures to create one bedroom units to serve smaller families and individuals in the community. This approach is also much more cost-effective than the site plan proposed for the 48 units by the previous land owner.

This simplified plan will not require changes to the site as it now exists. No additional parking is required as there is a surfeit of spaces. The existing drainage, street network, landscaping and site amenities are all sufficient to serve the additional units. While the development proposed is different in type than the current Development Plan, the number of units to be created is the same. Therefore, it is appropriate to rely on the concurrency analysis and traffic impact report previously submitted because the impacts will be the same, or less because the units are smaller one bedroom occupancies.

The attached site survey shall serve as the required site plan because no changes to the site itself are proposed. The existing open space ratios, impervious area ratios, lot and building coverage ratios will remain the same. There will be no changes in lighting and signage. The two site access points from Palm Avenue and White Street will remain.

Other Key Development Plan Requirements:

Proposed Land Use: 208 units of deed restricted affordable housing. Once the development plan is completed there will be:

- 99 one bedroom units
- 109 two bedroom units

Density: The 208 units that will result from the proposed development will achieve a density of 8.6 units per acre on the 24.184-acre site, which is the maximum for the HSMDR district.

Architecture: The plans for remodeling the interiors of the existing buildings are attached.

Zoning: HSMDR (Historic Special Medium Density Residential)

Legal Description/Survey/Legal Description: See attached survey

Building Size: See attached survey. The existing building coverage is 15.79% or 166,382 sq.ft. as compared to the 40% or 421,374 s.f. allowed.

Floor Area Ratio: Unchanged-See survey.

ALLOWED: 1.0 PROVIDED: .202

Lot Coverage: Each new unit will have a new concrete sidewalk added. It totals 70 sq. ft. per unit or 3,360 sq. ft. for all 48 units. This is 0.003% of the entire site of 24+ acres. This is an acceptable increase because more than 10,000 sq. ft. of building area and associated parking have been removed with the demolition of the old Navy Credit Union building. The drainage system which served that much area – now no longer impermeable – is adequate for this very small change. The total impervious area of the site is:

Existing Unit Coverage: 166,382 s.f.

Existing Roadways & Sidewalks: 321,638 s.f.

488,020 s.f. or 46.33%

Impervious/Pervious Surface: See above.

Landscape Areas: No change – See survey.

Parking Spaces: There are 157 single car garages on the site, together 102 unreserved spaces. Of the 157 garages, 52 have a driveway area in front that can be used for the parking of an additional “guest”. Therefore, the total provided parking is at least 311 spaces. The requirement for HSMDR is one space per unit or 208. Sufficient parking exists.

Setbacks: The setbacks of the existing buildings will not change. They are:

FRONT: (White Street) 10' PROVIDED: 10'

SIDE YARD (Palm, Angela, Eaton): 7.5' PROVIDED: 7.5'

REAR (Eisenhower): 15' PROVIDED: 15'

Project Phasing: The improvements will occur over time as current tenants move out of their units in order not to displace anyone. Hence the longer timeframe for completing the 48 units. Realistically it is anticipated to require 5 to 7 years to be completed.

Affordable Housing Requirement: All of the existing and new units will be deed restricted as per the existing Declaration of Affordable Housing Restriction which is attached as an exhibit.



Intergovernmental Coordination: Because there is no material in the site characteristics, street layout, drainage or land use type, as well as the number of units previously proposed, the only permits required are those from the City of Key West.

Please review the attached plans and schedule the hearings for the Development Plan application together with the Development Agreement as quickly as is feasible.



Sincerely and Respectfully  
Donald Leland Craig, AICP  
Land Use Director

cc: Jeff Cornfeld  
Erica Sterling  
Jim Scholl  
Shawn Smith

**DEVELOPMENT PLAN AND CONDITIONAL USE APPLICATION**  
**City of Key West Planning Department**  
**1300 White Street, Key West, FL 33040**  
**(305) 809-3720**



**Development Plan & Conditional Use Application**

**Applications will not be accepted unless complete**

Development Plan

Major  \_\_\_\_\_  
 Minor  \_\_\_\_\_

Conditional Use

\_\_\_\_\_

Historic District

Yes  \_\_\_\_\_  
 No  \_\_\_\_\_

Please print or type:

- 1) Site Address 541 White Street Key West, Fl.
- 2) Name of Applicant The Spottswood Law Firm
- 3) Applicant is: Owner  \_\_\_\_\_ Authorized Representative  \_\_\_\_\_  
 (attached Authorization and Verification Forms must be completed)
- 4) Address of Applicant 500 Fleming St.  
Key West, Fl. 33040
- 5) Applicant's Phone # 305 294 9556 Email dcraig@spottswood.com
- 6) **Email Address:** \_\_\_\_\_
- 7) Name of Owner, if different than above Peary Court Apartments, LLC
- 8) Address of Owner 3850 Hollywood Blvd. Ste. 400 Hollywood, Fl. 33021
- 9) Owner Phone # 954 989 2200 Email jeff@cornfeldgroup.com
- 10) Zoning District of Parcel HSMR RE# 00006730-000000
- 11) Is Subject Property located within the Historic District? Yes  No   
 If Yes: Date of approval not yet approved HARC approval # \_\_\_\_\_  
 OR: Date of meeting \_\_\_\_\_
- 12) Description of Proposed Development and Use. Please be specific, list existing and proposed buildings and uses, number of dwelling units, parking, restaurant seats, vehicles proposed, etc. If there is more than one use, describe in detail the nature of each use (Give concise description here and use a separate sheet if necessary).  
 The proposal is to amend the current Major Development Plan approved by Planning Board Resolution 2015-48. The revision is to  
allow the use of the 48 unbuilt BPAS allocation associated with the site by  
remodeling tri and four plex units to add one unit to create four and five plex  
units. There will be no change to the site, parking, landscaping or drainage. All  
additions and improvements are internal to existing buildings.

**DEVELOPMENT PLAN AND CONDITIONAL USE APPLICATION**  
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13) Has subject Property received any variance(s)? Yes  No

If Yes: Date of approval \_\_\_\_\_ Resolution # \_\_\_\_\_

Attach resolution(s).

14) Are there any easements, deed restrictions or other encumbrances on the subject property?

Yes  No

If Yes, describe and attach relevant documents.

Yes please see attached declaration of Affordable Housing Restriction

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- A. For both *Conditional Uses* and *Development Plans*, provide the information requested from the attached **Conditional Use and Development Plan** sheet.
- B. For *Conditional Uses* only, also include the **Conditional Use Criteria** required under Chapter 122, Article III, Sections 122-61 and 122-62 of the Land Development Regulations (see attached copy of criteria).
- C. For *Major Development Plans* only, also provide the **Development Plan Submission Materials** required under Chapter 108, Article II, Division 7, Sections 108-226 through 108-248 of the Land Development Regulations (see attached copy of criteria) and any additional information as determined by the Planning Staff.
- D. For both *Conditional Uses* and *Development Plans*, one set of plans MUST be signed & sealed by an Engineer or Architect.

**Please note, development plan and conditional use approvals are quasi-judicial hearings and it is improper to speak to a Planning Board member or City Commissioner about the project outside of the hearing.**



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**Required Plans and Related Materials for both a Conditional Use and  
Minor/Major Development Plan**

- I. **Existing Conditions.**
  - A) Recent Survey of the site by a licensed Surveyor showing all dimensions including distances from property lines, and including:
    - 1) Size of site;
    - 2) Buildings, structures, and parking;
    - 3) FEMA Flood Zone;
    - 4) Topography;
    - 5) Easements; and
    - 6) Location of Utility Lines (sewer, water, electric, cable) adjacent and extending into the site.
  - B) Existing size, type and location of trees, hedges, and other features.
  - C) Existing stormwater retention areas and drainage flows.
  - D) A sketch showing adjacent land uses, buildings, and driveways.
- II. **Proposed Development:** Plans at 11" X 17" (10,000 Sq. ft. or less); 24" X 36" if site is over 10,000 sq. ft.
  - A) Site Plan to scale of with north arrow and dimensions by a licensed architect or engineer.
    - 1) Buildings
    - 2) Setbacks
    - 3) Parking:
      - a. Number, location and size of automobile and bicycle spaces
      - b. Handicapped spaces
      - c. Curbs or wheel stops around landscaping
      - d. Type of pavement
    - 4) Driveway dimensions and material
    - 5) Location of Utility Lines (sewer, water, electric, cable) adjacent and extending into the site.
    - 6) Location of garbage and recycling
    - 7) Signs
    - 8) Lighting
    - 8) Project Statistics:
      - a. Zoning
      - b. Size of site
      - c. Number of units (or units and Licenses)
      - d. If non-residential, floor area & proposed floor area ratio
      - e. Consumption area of restaurants & bars
      - f. Open space area and open space ratio
      - g. Impermeable surface area and impermeable surface ratio
      - h. Number of automobile and bicycle spaces required and proposed
  - B) Building Elevations
    - 1) Drawings of all building from every direction. If the project is in the Historic District please submit HARC approved site plans.
    - 2) Height of building.
    - 3) Finished floor elevations and bottom of first horizontal structure
    - 4) Height of existing and proposed grades
  - C) Drainage Plan: Existing & Proposed retention areas and calculations approved by the City Engineer. See one of the attached commercial and residential use Stormwater Retention Forms.
  - D) Landscape Plan: Size, type, location and number of plants to be removed, kept, and installed. The plan must be approved by the City Landscape Coordinator through a letter of approval. If the project is a Major Development Plan a landscape design prepared by a licensed Landscape Architect is required per Section 108-511(b) of the Land Development Regulations.

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- III. **Solutions Statement.** Aspects of the design that address community issues including but not limited to water pollution from stormwater runoff, potable water conservation, waste disposal, recycling, energy conservation, affordable housing, and impacts on neighbors such as lighting, noise, traffic and parking.

**Development Plan Submission Materials**

**Sec. 108-226. Scope.**

A development plan, for the purposes of this division, shall include but not necessarily be limited to the requirements in this division. With the exception of sections 108-227 through 108-229, the city planner may waive or modify requirements, information and specific performance criteria for development plan review after rendering a finding in writing that such requirements:

- (1) Are not necessary prior to development plan approval in order to protect the public interest or adjacent properties;
- (2) Bear no relationship to the proposed project or its impacts; and
- (3) Are found to be impractical based on the characteristics of the use, including the proposed scale, density/intensity, and anticipated impacts on the environment, public facilities and adjacent land uses.

**Sec. 108-227. Title block.**

The development plan shall contain the following pertaining to the title block:

- (1) Name of development.
- (2) Name of owner/developer.
- (3) Scale.
- (4) North arrow.
- (5) Preparation and revision date.
- (6) Location/street address of development.

**Sec. 108-228. Identification of key persons.**

The development plan shall contain the following pertaining to identification of key persons:

- (1) Owner.
- (2) Owner's authorized agent.
- (3) Engineer and architect.
- (4) Surveyor.
- (5) Landscape architect and/or environmental consultant.
- (6) Others involved in the application.
- (7) A verified statement showing each and every individual person having a legal and/or equitable ownership interest in the subject property, except publicly held corporations whose stock is traded on a nationally recognized stock exchange, in which case the names and addresses of the corporation and principal executive officers together with any majority stockholders will be sufficient.

**Sec. 108-229. Project description.**

Project description should be included on the site plan sheet. The development plan shall contain the following pertaining to the project description:

- (1) Zoning (include any special districts).
- (2) Project site size (acreage and/or square footage).
- (3) Legal description.
- (4) Building size.
- (5) Floor area ratio, permitted and proposed.
- (6) Lot coverage, permitted and proposed.
- (7) Impervious surface.
- (8) Pervious surface.
- (9) Landscape areas.



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- (10) Parking spaces, permitted and proposed.
- (11) Delineation of location of existing and proposed structures.
- (12) Existing and proposed development type denoted by land use including density/intensity.
- (13) Setbacks.

**Sec. 108-230. Other project information.**

A general outline of the proposed development shall include the following criteria where applicable:

- (1) Proposed stages or phases of development or operation and facility utilization.
- (2) Target dates for each phase.
- (3) Expected date of completion.
- (4) Proposed development plan for the site.
- (5) A written description of characteristics of the proposed development (i.e., number and type of residential units; floor area by land use; number of tourist accommodations units; seating or parking capacities; number of hospital beds; any proposed outside facilities or areas to be used for storage, display, outside sales, waste disposal or similar use; and any other proposed uses).
- (6) For planned unit developments, indicate design techniques (i.e., clustering, zero lot line, or other techniques) used to reduce public facility costs, reduce disturbance of natural resources, and preserve scenic quality of the site.
- (7) Buildings and sitting specifications which shall be utilized to reduce damage potential and to comply with federal flood insurance regulations.
- (8) Protection against encroachment together with proposed mitigation measures to be employed within environmentally sensitive areas.

**Sec. 108-231. Residential developments.**

- (a) If the development includes residential units, the following characteristics shall be discussed in the written description:
  - (1) A breakdown of the proposed residential units by number of bedrooms;
  - (2) Tenure (i.e., owner-occupied or rental); and
  - (3) Structure type, such as single-family, duplex, multiple-family, mobile home.
- (b) Refer to division 10 of article V of chapter 122 for information and legal instruments needed to satisfy the city's affordable housing requirements.

**Sec. 108-232. Intergovernmental coordination.**

The development plan shall contain the following pertaining to intergovernmental coordination:

- (1) Provide proof of coordination with applicable local, regional, state and federal agencies, including but not limited to the following agencies that will be involved in the project:
  - a. South Florida Regional Planning Council (SFRPC).
  - b. City electric system (CES).
  - c. State department of environmental protection (DEP).
  - d. Army Corps of Engineers (ACOE).
  - e. South Florida Water Management District (SFWMD).
  - f. State department of transportation (DOT).
  - g. State department of community affairs (DCA).
  - h. Florida Keys Aqueduct Authority (FKAA).
  - i. State fish and wildlife conservation commission (F&GC).
  - j. The county.
- (2) Provide evidence that any necessary permit, lease or other permission from applicable local, regional, state and federal agencies has been obtained for any activity that will impact wetland communities or submerged land.
- (3) When intergovernmental coordination efforts are incomplete, the applicant shall provide evidence of good faith efforts towards resolving intergovernmental coordination issues.

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**CONDITIONAL USE CRITERIA**

**Sec. 122-61. Purpose and intent.**

The purpose of this article is to ensure that a conditional use shall only be permitted on specific sites where the proposed use may be adequately accommodated without generating adverse impacts on properties and land uses within the immediate vicinity. This article sets forth provisions and criteria for consideration of conditional uses on specific sites. Conditional uses shall be permitted only upon a finding that the proposed use satisfies this article.

**Sec. 122-62. Specific criteria for approval.**

- (a) Findings. A conditional use shall be permitted upon a finding by the planning board that the proposed use, application and, if applicable, development plan comply with the criteria specified in this section, including specific conditions established by the planning board and or the city commission during review of the respective application in order to ensure compliance with the comprehensive plan and land development regulations. If the proposed conditional use is a major development pursuant to sections 108-165 and 108-166, the city commission shall render the final determination pursuant to section 122-63. A conditional use shall be denied if the city determines that the proposed use does not meet the criteria provided in this section and, further, that the proposed conditional use is adverse to the public's interest. An application for a conditional use shall describe how the specific land use characteristics proposed meet the criteria described in subsection (c) of this section and shall include a description of any measures proposed to mitigate against possible adverse impacts of the proposed conditional use on properties in the immediate vicinity.
- (b) Characteristics of use described. The following characteristics of a proposed conditional use shall be clearly described as part of the conditional use application:
- (1) Scale and intensity of the proposed conditional use as measured by the following:
    - a. Floor area ratio;
    - b. Traffic generation;
    - c. Square feet of enclosed building for each specific use;
    - d. Proposed employment;
    - e. Proposed number and type of service vehicles; and
    - f. Off-street parking needs.
  - (2) On- or off-site improvement needs generated by the proposed conditional use and not identified on the list in subsection (b)(1) of this section including the following:
    - a. Utilities;
    - b. Public facilities, especially any improvements required to ensure compliance with concurrency management as provided in chapter 94;
    - c. Roadway or signalization improvements, or other similar improvements;
    - d. Accessory structures or facilities; and
    - e. Other unique facilities/structures proposed as part of site improvements.
  - (3) On-site amenities proposed to enhance site and planned improvements. Amenities including mitigative techniques such as:
    - a. Open space;
    - b. Setbacks from adjacent properties;
    - c. Screening and buffers;
    - d. Landscaped berms proposed to mitigate against adverse impacts to adjacent sites; and
    - e. Mitigative techniques for abating smoke, odor, noise, and other noxious impacts.



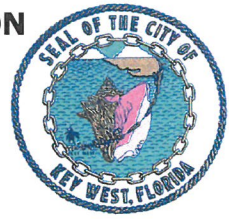
**DEVELOPMENT PLAN AND CONDITIONAL USE APPLICATION**  
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- (c) Criteria for conditional use review and approval. Applications for a conditional use shall clearly demonstrate the following:
- (1) Land use compatibility. The applicant shall demonstrate that the conditional use, including its proposed scale and intensity, traffic-generating characteristics, and off-site impacts are compatible and harmonious with adjacent land use and will not adversely impact land use activities in the immediate vicinity.
  - (2) Sufficient site size, adequate site specifications, and infrastructure to accommodate the proposed use. The size and shape of the site, the proposed access and internal circulation, and the urban design enhancements must be adequate to accommodate the proposed scale and intensity of the conditional use requested. The site shall be of sufficient size to accommodate urban design amenities such as screening, buffers, landscaping, open space, off-street parking, efficient internal traffic circulation, infrastructure (i.e., refer to chapter 94 to ensure concurrency management requirements are met) and similar site plan improvements needed to mitigate against potential adverse impacts of the proposed use.
  - (3) Proper use of mitigative techniques. The applicant shall demonstrate that the conditional use and site plan have been designed to incorporate mitigative techniques needed to prevent adverse impacts to adjacent land uses. In addition, the design scheme shall appropriately address off-site impacts to ensure that land use activities in the immediate vicinity, including community infrastructure, are not burdened with adverse impacts detrimental to the general public health, safety and welfare.
  - (4) Hazardous waste. The proposed use shall not generate hazardous waste or require use of hazardous materials in its operation without use of city-approved mitigative techniques designed to prevent any adverse impact to the general health, safety and welfare. The plan shall provide for appropriate identification of hazardous waste and hazardous material and shall regulate its use, storage and transfer consistent with best management principles and practices. No use which generates hazardous waste or uses hazardous materials shall be located in the city unless the specific location is consistent with the comprehensive plan and land development regulations and does not adversely impact wellfields, aquifer recharge areas, or other conservation resources.
  - (5) Compliance with applicable laws and ordinances. A conditional use application shall demonstrate compliance with all applicable federal, state, county, and city laws and ordinances. Where permits are required from governmental agencies other than the city, these permits shall be obtained as a condition of approval. The city may affix other conditions to any approval of a conditional use in order to protect the public health, safety, and welfare.
  - (6) Additional criteria applicable to specific land uses. Applicants for conditional use approval shall demonstrate that the proposed conditional use satisfies the following specific criteria designed to ensure against potential adverse impacts which may be associated with the proposed land use:
    - a. Land uses within a conservation area. Land uses in conservation areas shall be reviewed with emphasis on compliance with section 108-1 and articles III, IV, V, VII and VIII of chapter 110 pertaining to environmental protection, especially compliance with criteria, including land use compatibility and mitigative measures related to wetland preservation, coastal resource impact analysis and shoreline protection, protection of marine life and fisheries, protection of flora and fauna, and floodplain protection. The size, scale and design of structures located within a conservation area shall be restricted in order to prevent and/or minimize adverse impacts on natural resources. Similarly, public uses should only be approved within a wetland or coastal high hazard area V zone when alternative upland locations are not feasible on an upland site outside the V zone.
    - b. Residential development. Residential development proposed as a conditional use shall be reviewed for land use compatibility based on compliance with divisions 2 through 14 of article IV and divisions 2 and 3 of article V of this chapter pertaining to zoning district regulations, including size and dimension regulations impacting setbacks, lot coverage, height, mass of building, building coverage, and open space criteria. Land use compatibility also shall be measured by appearance, design, and land use compatibility criteria established in chapter 102; articles III, IV and V of chapter 108; section 108-956; and article II of chapter 110; especially protection of historic resources; subdivision of land; access, internal circulation, and off-



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street parking; as well as possible required mitigative measures such as landscaping and site design amenities.

- c. Commercial or mixed use development. Commercial or mixed use development proposed as a conditional use shall be reviewed for land use compatibility based on compliance with divisions 2 through 14 of article IV and divisions 2 and 3 of article V of this chapter pertaining to zoning district regulations, including size and dimension regulations impacting floor area ratio, setbacks, lot coverage, height, mass of buildings, building coverage, and open space criteria. Land use compatibility also shall be measured by appearance, design, and land use compatibility criteria established in chapter 102; articles I, II, IV and V of chapter 108; section 108-956; and article II of chapter 110; especially protection of historic resources; subdivision of land; access, pedestrian access and circulation; internal vehicular circulation together with access and egress to the site, and off-street parking; as well as possible required mitigative measures such as landscaping, buffering, and other site design amenities. Where commercial or mixed use development is proposed as a conditional use adjacent to U.S. 1, the development shall be required to provide mitigative measures to avoid potential adverse impacts to traffic flow along the U.S. 1 corridor, including but not limited to restrictions on access from and egress to U.S. 1, providing for signalization, acceleration and deceleration lanes, and/or other appropriate mitigative measures.
- d. Development within or adjacent to historic district. All development proposed as a conditional use within or adjacent to the historic district shall be reviewed based on applicable criteria stated in this section for residential, commercial, or mixed use development and shall also comply with appearance and design guidelines for historic structures and contributing structures and/or shall be required to provide special mitigative site and structural appearance and design attributes or amenities that reinforce the appearance, historic attributes, and amenities of structures within the historic district.
- e. Public facilities or institutional development. Public facilities or other institutional development proposed as a conditional use shall be reviewed based on land use compatibility and design criteria established for commercial and mixed use development. In addition, the city shall analyze the proposed site location and design attributes relative to other available sites and the comparative merits of the proposed site, considering professionally accepted principles and standards for the design and location of similar community facilities and public infrastructure. The city shall also consider compliance with relevant comprehensive plan assessments of community facility and infrastructure needs and location impacts relative to service area deficiencies or improvement needs.
- f. Commercial structures, uses and related activities within tidal waters. The criteria for commercial structures, uses and related activities within tidal waters are as provided in section 122-1186.
- g. Adult entertainment establishments. The criteria for adult entertainment establishments are as provided in division 12 of article V of this chapter.

City of Key West  
Planning Department



Verification Form  
(Where Authorized Representative is an Entity)

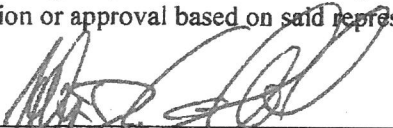
I, Jeffrey D. Cornfeld, in my capacity as Manager  
(print name) (print position; president, managing member)  
of The Cornfeld Group, LLC  
(print name of entity serving as Authorized Representative)

being duly sworn, depose and say that I am the Authorized Representative of the Owner (as appears on the deed), for the following property identified as the subject matter of this application:

541 White Street, Key West, FL 33040

*Street Address of subject property*

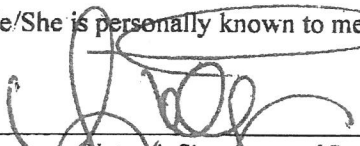
All of the answers to the above questions, drawings, plans and any other attached data which make up the application, are true and correct to the best of my knowledge and belief. In the event the City or the Planning Department relies on any representation herein which proves to be untrue or incorrect, any action or approval based on said representation shall be subject to revocation.

  
\_\_\_\_\_  
*Signature of Authorized Representative*

Subscribed and sworn to (or affirmed) before me on this 10-3-2017 by  
date

JEFFREY D. CORNFELD  
Name of Authorized Representative

He/She is personally known to me or has presented \_\_\_\_\_ as identification.

  
\_\_\_\_\_  
*Notary's Signature and Seal*

Karen Derlly  
Name of Acknowledger typed, printed or stamped

711/19  
Commission Number, if any



**City of Key West  
Planning Department**



**Authorization Form**  
*(Where Owner is a Business Entity)*

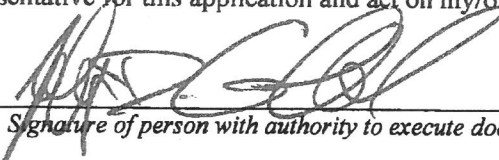
Please complete this form if someone other than the owner is representing the property owner in this matter.

I, Jeffrey D. Cornfeld as  
*Please Print Name of person with authority to execute documents on behalf of entity*

Manager of Peary Court Apartments, LLC  
*Name of office (President, Managing Member)* *Name of owner from deed*

authorize The Spottswood Law firm  
*Please Print Name of Representative*

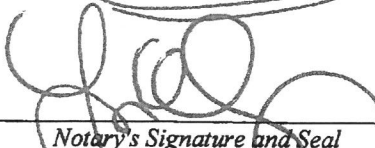
to be the representative for this application and act on my/our behalf before the City of Key West.

  
*Signature of person with authority to execute documents on behalf on entity owner*

Subscribed and sworn to (or affirmed) before me on this 10-3-2017  
*Date*

by JEFFREY D. CORNFELD  
*Name of person with authority to execute documents on behalf on entity owner*

He/She is personally known to me or has presented \_\_\_\_\_ as identification.

  
*Notary's Signature and Seal*

Karen Derlly  
*Name of Acknowledger typed, printed or stamped*

7/1/19  
*Commission Number, if any*



Doc# 2084190  
BK# 2806 Pg# 1651

Prepared by and Return to:  
Adele V. Stones, Esq.  
221 Simonton Street  
Key West, FL 33042  
(305) 294-0252

## DECLARATION OF AFFORDABLE RENTAL HOUSING RESTRICTIONS

This Declaration of Affordable Rental Housing Restrictions (hereinafter "Declaration") is made and entered into this 18<sup>th</sup> day of July, 2016, by Peary Court Apartments, LLC, a Delaware limited liability company, as assignee of American Federated Title Corporation, as Trustee under Land Trust #2016PC, a Florida land trust (hereinafter "Declarant"), whose mailing address is 3850 Hollywood Boulevard, Suite 400, Hollywood, FL 33021 and the Monroe County Comprehensive Plan Land Authority (hereinafter "Land Authority"), whose address is 1200 Truman Avenue, Suite 207, Key West FL 33040 and the Housing Authority of the City of Key West, Florida (hereinafter "Housing Authority"), whose address is 1400 Kennedy Drive, Key West, FL 33040, individually and collectively identified as the Grantees and Beneficiaries of this Declaration.

This Declaration applies to all of the real property commonly known as Peary Court in Key West, Florida, which includes the street addresses of 400 White Street and 541 White Street, and which is more fully described in the Legal Description attached hereto and incorporated herein as Exhibit A (hereinafter "Property").

**WHEREAS**, Declarant is the fee simple owner of the Property and deems it desirable, in the public interest, and in the best interest of present owner, assigns and successors-in-interest that the Property shall be used for affordable workforce rental housing purposes, subject to the covenants and restrictions set forth herein.

**WHEREAS**, the Land Authority and the Housing Authority have participated in the acquisition of the Property by the Declarant through the contribution of funding in the amount of \$12,500,000.00 for which the Land Authority and the Housing Authority are receiving an interest in the Property through this Declaration.

**WHEREAS**, it is the intention of the Declarant that the restrictions contained herein shall be perpetual, run with the land and bind the Declarant, its successors and assigns, and shall inure to the benefit of the Land Authority and the Housing Authority.

**NOW, THEREFORE**, Declarant agrees that the Property shall be held and conveyed subject to the following affordable workforce housing restrictions, covenants and conditions, which shall run with the Property and be binding on all parties having any right, title or interest in the Property or any part thereof, their heirs, successors and assigns in perpetuity.

**I. DEFINITIONS**

A. "Declarant" shall mean the owner of the Property and any subsequent purchaser, mortgagee, devisee, transferee, grantee or holder of title in the Property or any portion of the Property.

B. "Transfer" means any sale, assignment or transfer, voluntary, involuntary or by operation of law (whether by deed, contract of sale, gift, devise, bequest, trustee's sale, deed in lieu of foreclosure, or otherwise) of any interest in the Property, including but not limited to, a fee simple interest, a joint tenancy interest, a life estate, a leasehold interest, or an interest evidenced by a land contract by which possession of the Property is transferred and Declarant retains title.

C. "Transferee" shall mean an individual, or individuals, who receive a Transfer of the Property from the Declarant.

All other terms shall have the same meaning given to them in the Key West Work Force Housing Ordinance.

**II. TERM AND ENFORCEABILITY**

A. This Declaration shall run with the Property and bind the Declarant, its, his or her heirs, legal representatives, executors, successors in interest and assigns in perpetuity.

B. The Property is held and hereafter shall be held, conveyed, encumbered, developed or redeveloped, used, rented, leased and occupied as affordable work force rental housing subject to these covenants, conditions, restrictions and limitations. All of the herein-stated covenants, conditions, restrictions and limitations are intended to constitute both equitable servitudes and covenants running with the land.

C. Any transferee, mortgagee, or purchaser of the Property, or of any portion of or interest in the Property, by the acceptance of a deed therefore, whether from Declarant or from any subsequent purchaser of the Property, or by the signing of a contract or agreement to purchase the same, shall, by the acceptance of such deed, mortgage, or transfer of interest by the signing of such contract or agreement, be deemed to have consented to and accepted the covenants, conditions, restrictions and limitations set forth herein. Any written instrument attempting or purporting to sell, convey, grant, transfer, exchange, assign, or mortgage any legal or equitable rights or interests to the Property shall be deemed null and void, where such instrument purports or evidences an attempt to sell, convey, grant, transfer, exchange or assign any right or interest to the Property where such instrument is inconsistent with or contrary to the conditions or covenants contained herein. Any



deed, mortgage, or instrument of conveyance executed by or on behalf of Declarant or any subsequent grantee, devisee, heir, assignee or other transferee shall expressly set forth verbatim this and the foregoing reservations, restrictions and covenants or, in lieu thereof, incorporate them by specific reference to this Declaration by Book and Page number(s) where recorded in the Public Records of Monroe County, Florida.

D. In order to preserve through this Declaration the affordability of the Property for persons with incomes within a specified range, the Land Authority and Housing Authority or their assigns shall have the right to monitor and enforce compliance with this Declaration. Declarant otherwise reserves the rights necessary to implement the provisions of this Declaration.

### **III. IDENTIFICATION OF THE PROPERTY AFFECTED**

A. Upon execution of this Declaration, the entire Property as described in Exhibit A shall be subject to this Declaration and the City of Key West Land Development Regulations, Chapter 122, Article V, Division 10, Section 122-1465 through 122-1500 (Work Force Housing Ordinance), as it currently exists, a copy of which is attached as Exhibit B.

B. Pursuant to Section 122-1467(c) of the Work Force Housing Ordinance, the total rental for all the units shall be based on each unit being affordable housing (moderate income). The rental may be mixed among affordable housing (low income), (median income), (moderate income) and (middle income) in order that the total value of rental does not exceed ten percent of the rental of all the units as affordable housing (moderate income).

C. The terms contained herein are the minimum standards imposed by this Declaration. Nothing herein shall be construed to limit the City of Key West from adopting standards or imposing conditions on future development that would make future units at the Property (any units in excess of the existing 208 approved units) more affordable than currently provided for by this Declaration.

### **IV. OCCUPANCY, LEASING AND USE OF THE PROPERTY**

A. Subject to Paragraph C below, the Property shall be operated, managed, developed or redeveloped and otherwise administered as affordable work force rental housing pursuant to Section 122-1469 of the Work Force Housing Ordinance and such other uses customarily accessory to residential use as may be permitted by local zoning and land use regulations, except that as required by Section 380.0666(3), Florida Statutes, under no circumstances shall the household's income be allowed to exceed 160% of the median household income for Monroe County adjusted for family size. Notwithstanding anything contained herein to the



contrary, in any year the U.S. Department of Housing and Urban Development (HUD) promulgated median household income for Monroe County increases and the corresponding promulgated rental rate(s) decrease, Declarant shall not be obligated to decrease the rental amount charged below the amount charged in the prior year.

B. Any unit that is vacant or becomes available for rental following the date of execution of this Declaration shall be immediately subject to this Declaration.

C. Any tenant or tenants occupying a unit under lease at the Property on the date of execution of this Declaration may be entitled to enjoy the full term of their existing lease plus one additional twelve (12) month lease term (said twelve (12) month period shall be referred to as the "Transition Period"), provided said tenant or tenants are in good standing under the terms of their lease(s) at lease renewal. If said tenant(s) income qualify under the terms of this Declaration, the rental rates described in Paragraph A above shall apply during the Transition Period. If said tenants do not income qualify under the terms of this Declaration, the rental rate charged during the Transition Period shall not exceed that permitted otherwise for middle income tenants.

D. At a date not later than twenty-four (24) months from execution of this Declaration the Transition Period described in Paragraph C above shall terminate and all units on the Property shall be subject to this Declaration.

#### **V. DEFAULTS AND REMEDIES: ASSIGNMENT OF RENTS**

A. Upon any violation of the provisions of this Declaration the Housing Authority or its assigns may declare a default under this Declaration by delivering written notice thereof to the Declarant. After providing written notice of default, the Housing Authority or assigns may apply to a court of competent jurisdiction for specific performance of the Declaration, for an injunction prohibiting a proposed sale, transfer, or lease in violation of this Declaration, for a declaration that a prohibited transfer or lease is void, or for any such other relief as may be appropriate.

B. Assignment of rents: Declarant hereby assigns to the Housing Authority or its assigns the right to receive the rents due or collected from any units identified to be in violation of this Declaration during the entire period those units are occupied in violation of any of the terms of this Declaration provided the Housing Authority, or its assigns, provides Declarant and any mortgagee holding a first mortgage on the Property (at the address provided in such mortgage) with written notice of default and thirty (30) days to cure. If Declarant is prevented from curing said default within the prescribed thirty (30) day period due to causes beyond the reasonable control of Declarant, the curative period shall be extended for such time as Declarant is prevented from achieving the cure. Once such cause is removed, the prescribed period shall continue to run.

C. The remedies stated herein shall not be exclusive, but shall be cumulative to all other remedies and rights the parties may lawfully exercise.

**VI. REQUIREMENTS FOR WRITTEN REPORTS FROM DECLARANT**

Declarant shall provide a written report to the Housing Authority each year on January 1, or on such other date as specified by the Housing Authority in writing, which contains the information necessary to ensure continued compliance with affordability criteria, including sworn tenant household verification information, a statement that Declarant has complied with all provisions of this Declaration, and, if applicable Declarant's explanation of any violation of any provision of this Declaration. The report shall be submitted within thirty (30) days of the specified date to the Housing Authority. Failure to provide a report in a timely manner, or any misrepresentations on the report, shall constitute a default under this Declaration.

**VII. GENERAL PROVISIONS**

A. The Land Authority and Housing Authority may assign their rights and delegate their duties hereunder in writing without the consent of Declarant. Upon such assignment the parties shall so notify each other.

B. Declarant shall be required to include in each lease for any unit located on the Property the condition that each tenant acknowledge that tenant's occupancy of the unit is subject to this Declaration and the City of Key West Work Force Housing Ordinance.

C. If any action is brought to enforce the terms of this Declaration, the prevailing party shall be entitled to reasonable attorneys' fees and costs.

D. If any one or more of the provisions contained in this Declaration shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions contained in this Declaration, and this Declaration shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

E. The terms of this Declaration shall be interpreted under the laws of the State of Florida and venue shall lie in Monroe County, Florida.

F. All notices to the Declarant, Land Authority, or Housing Authority required herein shall be sent by certified mail, return receipt requested, to the addresses stated above, or such other addresses that the parties may subsequently provide in writing.

G. This Declaration may not be terminated, amended, or modified except by written agreement executed by the parties.

**VIII. SUBORDINATION AND TRANSFER OF DEVELOPMENT RIGHTS PROHIBITED**

A. This Declaration shall be superior to all mortgages and shall not be subordinated. This Declaration shall be recorded in the Public Records immediately following the Warranty Deed conveying the Property to Declarant and before the filing of any mortgages, liens, or interests in the Property.

B. The consideration provided to Declarant is contingent upon the Property having the development rights to the 208 units referenced in Paragraph III C. above as of the date this Declaration is signed. No existing or future development rights, including but not limited to the 208 units referenced in Paragraph III C. above, may be transferred from the Property.

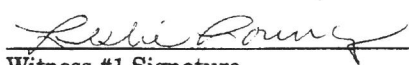
**IN WITNESS WHEREOF**, the Declarant has executed this Declaration as of the date written below.

Signed, sealed and delivered in the presence of:

**DECLARANT: PEARY COURT APARTMENTS, LLC, a Delaware limited liability company**

**By: THE CORNFELD GROUP, LLC, a Florida limited liability company, its Manager.**

By:   
Jeffrey D. Cornfeld, its Manager

  
Witness #1 Signature

LESLIE LORING  
Witness #1 Printed Name

  
Witness #2 Signature

DOUG THOMPSON  
Witness #2 Printed Name

Approved as to form and legality:

  
Adele V. Stones, Esquire

STATE OF FLORIDA  
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this 9<sup>th</sup> day of JUNE, 2016 by Jeffrey D. Cornfeld, Manager of The Cornfeld Group, LLC, a Florida limited liability company, Manager of Peary Court Apartments, LLC, a Delaware limited liability company, who  is personally known to me or  has produced \_\_\_\_\_ as identification.

NOTARY SEAL:



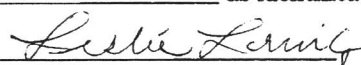
  
NOTARY PUBLIC

EXHIBIT A

A parcel of land situated in the City of Key West, Monroe County, Florida and being more particularly described as follows: COMMENCING at the intersection of the Northwestern Right-of-Way Line of Newton Street and the Northeastly Right-of-Way Line of White Street (Florida State Plane Coordinates East Zone NAD 83/90, Northing = 82591.01, Easting = 392639.41); thence N 34°08'30" W along the said Northeastly Right-of-Way Line of White Street for 310.39 feet; thence N 55°51'30" W for a distance of 0.05 feet to the back edge (Northeast side) of a concrete sidewalk and the Point of Beginning; thence N 34°08'00" W., and along the Northeast edge of a concrete sidewalk a distance of 289.66 feet; thence S 55°51'30" W for a distance of 0.10 feet to the Northeastly Right-of-Way Line of White Street; thence N 34°08'30" W along the said Northeastly Right-of-Way Line of White Street for a distance of 31.83 feet; thence N 55°51'30" E for a distance of 0.10 feet to the said back of the sidewalk of White Street; thence N 34°08'00" W along the said Northeastly edge of a sidewalk for a distance of 353.03 feet to an existing fence; thence N.55°36'56"E., and along the said fence, which lies on Eaton Street a distance of 194.19 feet to a point lying 0.5 feet (6 inches) Northeast of a fence corner; thence S 79°06'43" E., and along a line lying 0.5 feet (6 inches) Northeastly of an existing fence and wall a distance of 1206.74 feet; thence N 10°44'48" E for a distance of 8.75 feet to the Southeastly Right-of-Way Line of Palm Avenue; thence S 79°15'12" E along the said Southeastly Right-of-Way Line of Palm Avenue for a distance of 55.00 feet; thence S 10°44'48" W for a distance of 8.88 feet to the extension of a line lying 0.5 feet (6 inches) Northeastly of the existing fence and wall; thence S 79°06'43" E and along a line lying 0.5 feet (6 inches) Northeastly of the existing fence and wall for a distance of 325.66 feet to a point lying 0.5 feet (6") from the corner of the fence on Eisenhower Drive; thence S 40°23'08" E along the fence on Eisenhower for a distance of 20.90 feet; thence S 14°07'44" E and being partially along a fence line for 167.37 feet to Angela Street; thence S 56°24'46" W., and along a line lying 0.5 feet (6 inches) Southeastly of the fence line of Angela Street a distance of 1080.22 feet; thence N 19°36'43" W., and along the edge of an existing fence a distance of 72.01 feet; thence S 68°44'44" W., and along the edge of an existing fence a distance of 204.28 feet to the Northeast side of a concrete sidewalk and the Point of Beginning.

## EXHIBIT B

### DIVISION 10. - WORK FORCE HOUSING<sup>(22)</sup>

#### Footnotes:

-- (22) --

**Editor's note**—Section 1 of Ord. No. 05-27, adopted Oct. 18, 2005, amended the title of Div. 10, Affordable Housing to read as herein set out.

**Cross reference**— Fair housing, § 38-26 et seq.

#### Sec. 122-1465. - Intent.

It is the intent of this division to create affordable housing categories to facilitate the development of housing designed and priced to meet the needs of people employed by the local economy in a manner that reflects the percentage of the workforce at each income level and mixes people of all incomes together and does not create high and low-income enclaves.

(Ord. No. 05-27, § 2, 10-18-2005)

#### Sec. 122-1466. - Definitions.

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

*Affordable housing* shall be defined as provided in the following classifications:

*Affordable housing (low income)* for a rental dwelling unit shall mean a dwelling unit whose monthly rent, not including utilities, does not exceed 30 percent of that amount which represents 80 percent of the monthly median household income (adjusted for family size). For an owner-occupied dwelling unit, *affordable housing (low income)* shall mean a dwelling unit whose sales price shall not exceed two and one-half times the annual median household income (adjusted for family size) for Monroe County, in accordance with section 122-1472.

*Affordable housing (median income)* for a rental dwelling unit shall mean a dwelling unit whose monthly rent, not including utilities, does not exceed 30 percent of that amount which represents 100 percent of the monthly median household income (adjusted for family size) for Monroe County. For an owner-occupied dwelling unit, *affordable housing (median income)* shall mean a dwelling unit whose sales price shall not exceed three and one-half times the annual median household income (adjusted for family size) for Monroe County, in accordance with section 122-1472. The definition of "affordable housing (median income)" applies to and encompasses all affordable housing under construction or built pursuant to this ordinance prior to July 1, 2005, for which deed restrictions are required.

*Affordable housing (middle income)* for a rental dwelling unit shall mean a dwelling unit whose monthly rent, not including utilities, does not exceed 30 percent of that amount which represents 140 percent of the monthly median household income (adjusted for family size) for Monroe County. For an owner-occupied dwelling unit, *affordable housing (middle income)* shall mean a dwelling unit whose sales price shall not exceed six and one-half times the annual median household income (adjusted for family size) for Monroe County, in accordance with section 122-1472.

*Affordable housing (moderate income)* for a rental dwelling unit shall mean a dwelling unit whose monthly rent, not including utilities, does not exceed 30 percent of that amount which

represents 120 percent of the monthly median household income (adjusted for family size) for Monroe County. For an owner-occupied dwelling unit, affordable housing (moderate income) shall mean a dwelling unit whose sales price shall not exceed five times the annual median household income (adjusted for family size) for Monroe County, in accordance with section 122-1472.

*Affordable work force housing* shall include low income, median income, moderate income and middle income housing.

*Affordable work force housing trust fund* shall mean the trust fund established and maintained by the city for revenues from fees in lieu of constructing affordable work force housing, and revenues from any other source earmarked for the trust fund by land development regulation, ordinance or donation.

*Median household income* shall mean the median household income published for Monroe County on an annual basis by the U.S. Department of Housing and Urban Development.

(Ord. No. 98-18, § 1, 6-3-1998; Ord. No. 02-08, § 1, 2-20-2002; Ord. No. 05-27, § 3, 10-18-2005)

**Cross reference**— Definitions generally, § 1-2.

Sec. 122-1467. - Requirements of affordable work force housing; ratio of new construction.

- (a) *New market-rate multifamily residential housing.* At least ten percent of all new multifamily residential units constructed each year shall be low income affordable housing of at least 400 square feet each, as defined herein and 20 percent shall be affordable housing (median income) housing of at least 400 square feet each, as defined herein. Residential or mixed use projects of less than ten residential or mixed use units shall be required to develop at least 30 percent of units of at least 400 square feet each as affordable (median income), but may contribute a fee in lieu for each unit to the affordable work force housing trust fund, if approved by the city commission. The per unit fee shall be \$200,000.00 (representing construction cost, less land cost, of a 400 square foot unit). The 30 percent 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. For every required affordable housing (median income) unit, a developer may increase the sales or rental rates to affordable housing (middle income) so long as another unit's sales or rental rate is decreased to affordable housing (low income).
- (b) *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 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 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 may occur within the city or on a site within the city and on a site on Stock Island in the unincorporated part of the county.
- (c) *New affordable work force housing.* The maximum total rental and/or sales price for all new affordable work force housing units in a single development shall be based on each unit being affordable housing (moderate income). The rental and/or sales price may be mixed among affordable housing (low income), (median income), (middle income) and (moderate income) in order that the total value of rental and/or sales does not exceed ten percent of the rental and/or sales of all the units at affordable housing (moderate income).



- (d) *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 50 years. It shall be recorded in the county records. During the final year of the deed restriction, the city commission may act by Resolution to renew the affordability restriction for an additional 50-year term.
- (e) *Reporting requirements.* Owners of affordable work force housing projects or units shall furnish the city manager or his designee with annual information necessary to ensure 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 may contract with the Key West Housing Authority to perform annual tenant eligibility verification.
- (f) *Compliance with antidiscrimination policy.* All property owners offering housing under this division shall comply with the antidiscrimination policy of article II of chapter 38.

(Ord. No. 98-18, § 1, 6-3-1998; Ord. No. 02-08, § 1, 2-20-2002; Ord. No. 05-27, § 4, 10-18-2005)

Sec. 122-1468. - Affordable work force housing trust fund.

- (a) The affordable work force housing trust fund (referred to as the "trust fund") is established. The trust fund shall be maintained with funds earmarked for the trust fund for the purpose of promoting affordable work force housing in the city 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 in a separate dedicated fund used only for the following:
  - (1) Financial aid to developers as project grants for affordable housing (low income) to (moderate income) construction;
  - (2) Financial aid to eligible homebuyers of affordable housing (low income) to (moderate income) as mortgage assistance;
  - (3) Financial incentive for the conversion of transient units to affordable housing (low income) to (moderate income) residential units;
  - (4) Direct investment in or leverage to housing affordability through site acquisition, housing development and housing conservation; or
  - (5) Other affordable work force housing purposes from time to time established by resolution of the city commission.
- (b) Except as provided in section 122-1471, the city commission shall determine all expenditures from the trust fund upon the advice of the city manager.

(Ord. No. 98-18, § 1, 6-3-1998; Ord. No. 02-08, § 1, 2-20-2002; Ord. No. 05-27, § 5, 10-18-2005)

Sec. 122-1469. - Applicant eligibility requirements.

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

- (1) The household or person shall derive at least 70 percent of its or his/her total income from gainful employment in the county.



- (2) At the time of sale or lease of an affordable housing (low income) unit, the total income of eligible household or persons shall not exceed 80 percent of the median household income for the county (adjusted for family size).
- (3) During occupancy of any an affordable housing (low income) rental unit, a household's income may increase to an amount not to exceed 120 percent of the median household income for the county (adjusted for family size). In such event, the tenant's occupancy shall terminate at the end of the existing lease term.
- (4) At the time of sale or lease of an affordable housing (median income) unit, the total income of eligible households or persons shall not exceed 100 percent of the median household income for the county (adjusted for family size).
- (5) During occupancy of any affordable housing (median income) rental unit, a household's annual income may increase to an amount not to exceed 140 percent of median household income for the county (adjusted for family size). In such event, the tenant's occupancy shall terminate at the end of the existing lease term.
- (6) At the time of sale or lease of an affordable housing (moderate income) unit, the total income of eligible households or persons shall not exceed 120 percent of the median household income for the county (adjusted for family size).
- (7) During occupancy of an affordable housing (moderate income) rental unit, a household's annual income may increase to an amount not to exceed 160 percent of median household income for the county (adjusted for family size). In such event, the tenant's occupancy shall terminate at the end of the existing lease term.
- (8) At the time of sale or lease of an affordable housing (middle income) unit, the total income of eligible households or persons shall not exceed 140 percent of the median household income for the county (adjusted for family size).
- (9) During occupancy of an affordable housing (middle income) rental unit, a household's annual income may increase to an amount not to exceed 180 percent of median household income for the county (adjusted for family size). In such event, the tenant's occupancy shall terminate at the end of the existing lease term.
- (10) Eligibility is based on proof of legal residence in the county for at least one consecutive year.
- (11) Priority shall be given to families of four or more members for larger sized affordable work force housing units.
- (12) The applicant shall execute a sworn affidavit stating the applicant's intention to occupy the dwelling unit.
- (13) 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.
- (14) In the event that a tenant's income shall exceed the maximum allowable income under this section and such shall occur for the first time during the last three months of a tenancy, then the landlord and tenant may extend a lease for a period of one year at the affordable rental rate.
- (15) The planning board 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.

(Ord. No. 98-18, § 1, 6-3-1998; Ord. No. 02-08, § 1, 2-20-2002; Ord. No. 05-27, § 6, 10-18-2005; Ord. No. 08-04, § 29, 5-20-2008)

Sec. 122-1470. - Accessory unit infill.

- (a) In all mixed use zoning districts of the city, the city shall encourage the addition of affordable work force housing on the same site as commercial properties and institutions to promote employee housing. Such development shall be known as accessory unit infill. Tenants shall be eligible persons under section 122-1469. Applicants under this section may provide two bicycle or scooter parking spaces per unit as an alternative to applying to the planning board for parking variances. Provided that units of 600 square feet or less are treated as an 0.78 equivalent unit and all units provided must be made available through the city's building permit allocation system.
- (b) The maximum total rental and/or sales price for accessory unit infill in a single development shall be based on each unit being affordable housing (moderate income). The rental and/or sales price may be mixed among affordable housing (low income), (median income), (middle income) and (moderate income) in order that the total value in rental and/or sales does not exceed ten percent of the rental and/or sales of all the units at affordable housing (moderate income).

(Ord. No. 98-18, § 1, 6-3-1998; Ord. No. 02-08, § 1, 2-20-2002; Ord. No. 05-27, § 9, 10-18-2005; Ord. No. 08-04, § 30, 5-20-2008; Ord. No. 13-11, § 3, 11-6-2013)

Sec. 122-1471. - Community housing development organization.

The city commission may promote the establishment of a nonprofit community housing development organization (CHDO), pursuant to federal regulations governing such organizations, to serve as developer of affordable workforce 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 the unincorporated part of the county, upon interlocal agreement. In such event, the city may delegate to the community housing development organization all or partial administration of the affordable housing trust fund.

(Ord. No. 98-18, § 1, 6-3-1998; Ord. No. 02-08, § 1, 2-20-2002; Ord. No. 05-27, § 10, 10-18-2005)

Sec. 122-1472. - Family size.

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

Size of Unit	Assumed Family Size	Minimum Occupancy
Efficiency (no separate bedroom)	1	1
One bedroom	2	1
Two bedroom	3	2
Three bedroom	4	3

Four or more bedrooms	5	1 per bedroom
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(Ord. No. 02-08, § 1, 2-20-2002; Ord. No. 05-27, § 11, 10-18-2005)

Sec. 122-1473. - Reserved.

**Editor's note**— Section 12 of Ord. No. 05-27, adopted Oct. 18, 2005, repealed § 144-1473, which pertained to sunset provisions, and derived from Ord. No. 98-18, adopted June 3, 1998; and Ord. No. 02-08, adopted Feb. 20, 2002.

Secs. 122-1474—122-1500. - Reserved.

420,000.00

Doc# 2084185 07/19/2016 3:22PM  
Filed & Recorded in Official Records of  
MONROE COUNTY AMY HEAVILIN

This Instrument Was Prepared By:

Peter D. Lopez, Esq.  
Stearns Weaver Miller Weissler  
Alhadeff & Sitterson, P.A.  
150 West Flagler St., Suite 2200  
Miami, Florida 33130

07/19/2016 3:22PM  
DEED DOC STAMP CL: Krys \$420,000.00

Doc# 2084185  
Bk# 2806 Pg# 1639

Record and Return To:  
Spottswood, Spottswood & Spottswood, PLLC  
500 Fleming Street  
Key West, Florida 33040

(Reserved)

Property Appraiser Identification No. 00006730-000200

**SPECIAL WARRANTY DEED**

THIS SPECIAL WARRANTY DEED made this 18<sup>th</sup> day of July, 2016 between Peary Court Holdings LP, a Delaware limited partnership (the "Grantor"), whose mailing address is c/o Wexford Capital LP, 411 West Putnam Avenue, Greenwich, CT 06830, and Peary Court Apartments, LLC, a Delaware limited liability company (the "Grantee"), whose mailing address is 3850 Hollywood Blvd., Suite 400, Hollywood, Florida 33021.

**WITNESSETH:**

That Grantor, for and in consideration of the sum of TEN DOLLARS (\$10.00) and other good and valuable consideration, to it in hand paid by Grantee, the receipt whereof is hereby acknowledged, does hereby grant, bargain, sell, alien, remise, release, convey and confirm unto Grantee the real property (the "Property") located in Monroe County, Florida, and more particularly described in Exhibit "A" attached hereto and made a part hereof.

**SUBJECT TO:**

1. All easements, conditions, covenants, restrictions, reservations, limitations and agreements of record, as provided on Exhibit "B" attached hereto; provided that this instrument shall not reimpose same.
2. Real estate taxes for the year 2016 and all subsequent years.
3. Existing applicable governmental building and zoning ordinances and other governmental regulations.

TOGETHER with all the tenements, hereditaments and appurtenances belonging or in any way appertaining to the Property.

TO HAVE AND TO HOLD the same in fee simple forever.

AND GRANTOR hereby covenants with Grantee that Grantor is lawfully seized of the

Property in fee simple; that Grantor has good right and lawful authority to sell and convey the Property; and that Grantor does hereby fully warrant the title to the Property and will defend the same against the lawful claims of all persons claiming by, through or under Grantor, but against none other.

IN WITNESS WHEREOF, Grantor has caused this Special Warranty Deed to be executed by its duly authorized representative on the day and year first above written.

Witnesses:

PEARY COURT HOLDINGS LP, a Delaware limited partnership

Kimberly McLoughlin  
Witness Signature

By: Peary Court Advisors LLC, a Delaware limited liability company, its general partner

Kimberly McLoughlin  
Print Name of Witness

By: Arthur Amron

Lauren Tagliaferro  
Witness Signature

Arthur Amron, Vice President and Assistant Secretary

Lauren Tagliaferro  
Print Name of Witness

**ACKNOWLEDGMENT**

STATE OF Connecticut )  
) SS:  
COUNTY OF Fairfield )

The foregoing instrument was acknowledged before me this 23<sup>rd</sup> day of June, 2016 by Arthur Amron, as Vice President and Assistant Secretary of Peary Court Advisors LLC, a Delaware limited liability company, the general partner of Peary Court Holdings LP, a Delaware limited partnership, on behalf of the company and as an act of the partnership. He is personally known to me or presented a Florida driver's license as identification and did not take an oath.

Jacquelyn M. Werner  
Notary Public, State of \_\_\_\_\_ at Large  
Print Name: \_\_\_\_\_  
Commission No. \_\_\_\_\_

**JACQUELYN M. WERNER**  
Notary Public, State of Connecticut  
My Commission Expires June 30, 2020

My Commission Expires:

Prepared by Stearns Weaver  
Approved by Phil Braunstein

EXHIBIT "A"

LEGAL DESCRIPTION

A parcel of land situated in the City of Key West, Monroe County, Florida and being more particularly described as follows: COMMENCING at the intersection of the Northwesterly Right-of-Way Line of Newton Street and the Northeasterly Right-of-Way Line of White Street (Florida State Plane Coordinates East Zone NAD 83/90, Northing = 82591.01, Easting = 392639.41): thence N 34°08'30" W along the said Northeasterly Right-of-Way Line of White Street for 310.39 feet; thence N 55°51'30" W for a distance of 0.05 feet to the back edge (Northeast side) of a concrete sidewalk and the Point of Beginning; thence N 34°08'00" W, and along the Northeast edge of a concrete sidewalk a distance of 289.66 feet; thence S 55°51'30" W for a distance of 0.10 feet to the Northeasterly Right-of-Way Line of White Street; thence N 34°08'30" W along the said Northeasterly Right-of-Way Line of White Street for a distance of 31.83 feet; thence N 55°51'30" E for a distance of 0.10 feet to the said back of the sidewalk of White Street; thence N 34°08'00" W along the said Northeasterly edge of a sidewalk for a distance of 853.03 feet to an existing fence; thence N 55°36'56"E., and along the said fence, which lies on Eaton Street a distance of 194.19 feet to a point lying 0.5 feet (6 inches) Northeast of a fence corner; thence S 79°06'43" E, and along a line lying 0.5 feet (6 inches) Northeasterly of a existing fence and wall a distance of 1206.74 feet; thence N 10°44'48" E for a distance of 8.75 feet to the Southeasterly Right-of-Way Line of Palm Avenue; thence S 79°15'12" E along the said Southeasterly Right-of-Way Line of Palm Avenue for a distance of 55.00 feet; thence S 10°44'48" W for a distance of 8.88 feet to the extension of a line lying 0.5 feet (6 inches) Northeasterly of the existing fence and wall; thence S 79°06'43" E and along a line lying 0.5 feet (6 inches) Northeasterly of the existing fence and wall for a distance of 325.66 feet to a point lying 0.5 feet (6") from the corner of the fence on Eisenhower Drive; thence S 40°23'08" E along the fence on Eisenhower for a distance of 20.90 feet; thence S 14°07'44" E and being partially along a fence line for 167.37 feet to Angela Street; thence S 56°24'46" W., and along a line lying 0.5 feet (6 inches) Southeasterly of the fence line of Angela Street a distance of 1080.22 feet; thence N 19°36'43"W, and along the edge of an existing fence a distance of 72.01 feet; thence S 68°44'44" W, and along the edge of an existing fence a distance of 204.28 feet to the Northeast side of a concrete sidewalk and the Point of Beginning.

EXHIBIT "B"

PERMITTED EXCEPTIONS

1. Easement granted the City of Key West recorded in Deed Book G-56, Page 449, and shown on Island Surveying Inc., January 31, 2012, updated July 18, 2013, and last revised August 1, 2013, Drawing No. 13-278.
2. Grant of Easement to BellSouth Telecommunications, Inc., dated July 2, 1998, N 62467-98-RP-00114, for a period of 50 years and shown on Island Surveying Inc., January 31, 2012, updated July 18, 2013, and last revised August 1, 2013.
3. Agreement Regarding Peary Court Easement and Infrastructure between Peary Court Holdings LP, a Delaware limited partnership, and Utility Board of the City of Key West, Florida, DBA Keys Energy Services, dated August 26, 2013, recorded September 4, 2013, in Official Records book 2648, Page 190 and Grant of Easement for overhead power lines to the City of Key West, Florida 9/3/1963, Noy(R) 66502, for a period of 50 years.
4. Matters as set forth on the survey prepared by Island Surveying Inc., January 31, 2012 and last revised May 21, 2016, Drawing No. 16-239 as follows:
  - a) Encroachments, if any, lying in the 20' wide Easement to the Florida Keys Aqueduct Authority by unrecorded no. N69450-08-Rp-00011, in 2368, page 2062;
  - b) Fences lying along and across the property lines.
5. Rights of tenants in possession, as tenants only, under any prior unrecorded residential leases.
6. 20' wide Easement from the United States of America, acting by and through the Department of the Navy, Naval Facilities Engineering Command Southeast to the Florida Keys Aqueduct Authority, Deed no. N69450-08-Rp-00011, recorded June 27, 2008 in Official Records Book 2368, page 2062, Public Records of Monroe County, Florida.
7. Easements, notices, covenants, restrictions, reservations and conditions as set forth in the Quit Claim Deed to Southeast Housing LLC, a Delaware limited company, recorded September 4, 2013, in Official Records Book 2648, Page 134, Public Records of Monroe County, Florida.

MONROE COUNTY  
OFFICIAL RECORDS