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SENT VIA E-MAIL

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**RE: TEXT AMENDMENT AND ZONING MAP AMENDMENT RELATED TO
MALLORY SQUARE**

Dear City Commissioners, Mayor, Manager, Attorney, and Clerk,

My client, Tannex Development, L.C. (“Tannex”), is the owner of the real property with an address of 271 Front Street, Key West, Florida 33040, having Monroe County Property Appraiser Parcel Identification Number 00000200-000100 (the “Tannex Property”). The Tannex Property, which contains an operating resort, lies immediately south of the Mallory Square parcels. Because of its proximity and the direct impact that redevelopment of Mallory Square will have on the Tannex Property, Tannex has a significant and legitimate interest in the planning and future use of Mallory Square.

We fully recognize the cultural and economic importance of Mallory Square and strongly support appropriate improvements to Mallory Square. We also feel strongly about the preservation and character of this historical community park and are concerned with the potential overdevelopment of this historical community park. While we prefer the City not proceed with the proposed amendments and protect this historical public area for generations to come. Should

the City choose to move forward on the amendments, we respectfully submit important revisions that would preserve the uninterrupted public access to the waterfront, maintain Mallory Square's identity as a family-oriented passive park rather than an extension of Duval Street-style nightlife, and protect the quiet enjoyment of neighboring properties, including the Tannex Property and the Key West Aquarium.

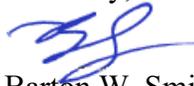
The text proposed by the City [with our suggested revisions shown in blue](#) are provided in full below. The waterfront setback concept is the same as is currently in place in the HRCC-2 Key West Bight district.

The suggested language offered is intended to achieve the following:

1. Establish a setback from the waterfront (in addition to the side, rear and front setbacks) to preserve the waterfront as a passive public park. A similar waterfront setback currently exists in the HRCC-2 Key West Bight district, where public access to the waterfront has been successfully preserved.
2. Prohibit new bars, lounges and restaurants from being within 100 feet of the waterfront, thereby providing for an adequate pedestrian buffer for pedestrian walkways and sunset celebration crowds.
3. Limit operating hours of any new bars and restaurants so that large crowds are not encouraged to linger in the park. Pedestrians will remain free to enjoy the waterfront at any hour, but the Square will not be transformed into another late-night entertainment zone when an abundance of bars and nightlife venues already exist within easy walking distance on Duval Street and elsewhere.
4. Prohibit amplified outdoor music in order to preserve the tranquil, family-friendly atmosphere of the Square.
5. Limit maximum building height to 25 feet in order to preserve the waterfront views and open feel of Mallory Square.

We appreciate all of the City's efforts to improve this historic public place and welcome the opportunity to discuss our recommendations further. Thank you for your consideration, and please don't hesitate to contact me if you need further information on this matter.

Sincerely,



Barton W. Smith

Enclosure

BWS/bg

DIVISION 11. - HISTORIC PUBLIC AND SEMIPUBLIC SERVICES DISTRICTS ¹

Subdivision I. Historic Public and Semipublic Services District (HPS)

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Subdivision IV. Historic Public and Semipublic Services Mallory Square

District-3 (HPS-3)

Sec. 122-981. Intent.

The historic public and semipublic services Mallory Square district-3 (HPS-3) is established to implement comprehensive plan policies for areas designated HPS-3 on the future land use map located within the City-owned Mallory Square area parcels. This district is specifically intended to implement the Mallory Square Master Plan to facilitate the redevelopment and historic preservation of the Mallory Square area, including the waterfront, and to provide better connectivity to other public areas including the historic Clinton Square, the Truman Waterfront Park, the Key West Bight, the Simonton Street Beach, and Duval Street. Mallory Square shall be dedicated in perpetuity as a publicly accessible waterfront park with emphasis on local Key West culture and the arts, particularly the performing arts, Sunset Celebration, and environmental education.

The HPS-3 district shall accommodate an urban waterfront park with uses essential to recreation for residents and visitors, given its prominence as a cultural landmark and economic

¹Cross reference(s)—Historic preservation, ch. 102.

driver for the island. This zoning district implements goals, objectives and policies associated with the City’s Comprehensive Plan and Coastal Management Element.

The City and its partners shall endeavor to accomplish the following goals associated with the Mallory Square Master Plan:

- i. Preserve and enhance public access and views of the waterfront through historically appropriate improvements to hardscape, landscape, and the wharf, by minimizing the use of structures such as fences, walls, or kiosks, to maintain an open, pedestrian-oriented square.
- ii. Improved pedestrian access through reinforced or widened waterfront walkways to commercial neighbors and waterfront parks, and through lighting and streetscape finishes that draw visitors to Mallory Square from Duval Street, and other nearby streets and alleys.
- iii. Improved mobility options for visitors and residents to access Mallory Square through enhanced multi-modal planning and services and off-site parking facilities.
- iv. Financial planning to identify funding mechanisms to maintain Mallory Square and provide enhanced security services.
- v. Historic design guidelines specific to Mallory Square administered by the Historic Architectural Review Commission to provide architectural, operational, and programmatic guidance to preserve the character of the square.

- vi. Increase emphasis on recreational and civic opportunities that emphasize the unique working waterfront history associated with Mallory Square, the culture of Sunset Celebration, and marine education.
- vii. Enhanced event planning services to invite local artists, musicians, and performers to the Square to ensure the nightly live performance known as “Sunset Celebration” remains vibrant for decades to come, and to establish new daytime ~~and late evening events~~ to revitalize and enhance the use of Mallory Square.
- viii. Long range infrastructure planning, including financial planning, to protect the historic square from impacts associated with increased rain and storm events, flooding, and increased heat.
- ix. On-site facilities to improve human comfort including enhanced restroom facilities, shade and seating, garbage and recycling collection facilities, and designated bicycle and scooter parking and delivery locations.
- x. In the Mallory Square (HPS-3) zoning district, the City of Key West funded a master plan in 2023 which included public engagement of a broad section of stakeholders and was prepared for review and approval by the Planning Board, Tree Commission, Parks and Recreation Board, Historic Architectural Review Commission, and City Commission. Implementation of the master plan has been envisioned to occur in phases to ensure the historic live sunset celebration may continue every night. Approval of the final master plan by the City Commission shall authorize initiation of phase 1 of the master plan to include design for hardscape, landscape, infrastructure and utility improvements, and public facilities to include restrooms, as funding becomes available

Sec. 122-982. Uses permitted.

In the HPS-3 district, within 30 feet landward of the mean high water only passive parks and recreation areas shall be permitted uses. No restaurants, bars or lounges shall be located within 100 feet of the mean high water. Uses permitted in the historic public and semipublic services district-3 (HPS-3) are as follows:

- (1) Cultural and civic activities, for the promotion of cultural or civic objectives such as historical, literary, scientific, musical, dramatic, artistic or similar. These shall include museums, galleries, historic theater, aquariums, and outdoor activities.
- (2) Parks and recreation, passive, inclusive of uses typically associated with or accessory to an urban town square that serve social, educational and cultural needs not otherwise listed. This may include water-related activities such as boardwalks and interpretive trails, seating areas, and fishing piers.
- (3) Community centers.
- (4) Government business and professional offices.
- ~~(5) Light industrial associated with working waterfronts or historic Key West industries.~~
- (5~~6~~) Commercial Retail low, medium, and high intensity established prior to the date of this ordinance.
- (6~~7~~) Restaurants, excluding drive-thru, established and operating ~~prior to the date of~~ as of the date of this ordinance.

Sec. 122-983. Conditional uses.

In the HPS-3 district, within 30 feet landward of the mean high water only passive parks and recreation areas shall be permitted uses. No restaurants, bars or lounges shall be located within 100 feet of the mean high water. Restaurants, bars or lounges shall close to guests no later than two hours after sunset and shall not reopen until one hour after sunrise each day. Sunset and sunrise shall be determined as provided by the National Weather Service. No new outdoor music or amplified sound may be approved in Mallory Square. Conditional uses in the historic public and semipublic services district-3 (HPS-3) district are as follows:

- (1) Restaurants, excluding drive thru.
- (2) Bars and lounges.
- (3) Parking lots, established prior to the date of this ordinance.
- (4) Protective services, such as private security.
- (5) Public utilities necessary to provide services to the immediate area.
- (6) Educational institutions.
- (7) Commercial retail low and medium intensity less than or equal to 10,000 square feet applied for after the date of this ordinance.
- (8) Commercial retail high intensity less than or equal to 5,000 square feet applied for after the date of the ordinance.

Sec. 122-984. Prohibited uses.

In the historic public and semipublic services district-3 (HPS-3), all uses not specifically or provisionally provided for in this subdivision are prohibited. Non-government vehicles shall be prohibited from parking on the square except in areas specifically marked by the City of Key West.

Sec. 122-985. Dimensional requirements.

The dimensional requirements in the Mallory Square historic public and semipublic services district-3 (HPS-3) are as follows; however, construction is limited by scale, mass and proportion considerations as expressed through the historic architectural review commission design guidelines:

- (1) Maximum density: Not applicable.
- (2) Maximum FAR: 0.80.
- (3) Maximum height: 25 35 feet ~~plus an additional 5 feet inf the structure has a pitched roof. The design of which is approved by the historic architectural review commission.~~
- (4) Maximum lot coverage.
 - a. Maximum building coverage: 60 percent.
 - b. Impervious surface ratio: 90 percent.
- (5) Minimum lot size: Not applicable.
- (6) Minimum setbacks.
 - a. Front: none.
 - b. Side: 5 feet.

c. Rear: 5 feet.

d. Street side: none.

(7) Additional regulations:

a. In addition to Chapter 102 Historic Preservation regulations, signs and all structures, including all types of temporary and mobile vendors and vehicles, shall be reviewed for compliance with the design of the Mallory Square Master Plan by the Historic Architectural Review Commission.

b. Setbacks may be reduced to 0' on the side and rear with written approval from the Key West Fire Department.

Cross reference(s)—Historic Preservation, Ch. 102.

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