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OF COUNSEL:

JOHN M. SPOTTSWOOD (1920 – 1975)
ROBERT A. SPOTTSWOOD of Counsel
WILLIAM B. SPOTTSWOOD of Counsel

September 26, 2023

NOTICE OF APPEAL

Keri O'Brien, CMC
City Clerk
1300 White Street
Key West, FL 33040


RE: Appeal of Denial of Seating Request
409 Caroline Street – Parcel # 00001580-000000

Dear Ms. O'Brien:

Please allow this letter to act as our formal notice of appeal of the Planning Director's denial of a seating request for the property located at 409 Caroline Street, Key West, Florida 33040.

Enclosed herewith are copies of the application, supporting documentation, and the denial letter provided by the Planning Director.

Sincerely,


Richard J. McChesney

Cc: Ron Ramsingh, City Attorney
Eric Norback, Assistant City Attorney

RECEIVED
CITY CLERK'S OFFICE
2023 SEP 27 PM 2:05
CITY OF KEY WEST
KEY WEST, FLORIDA



THE CITY OF KEY WEST

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

Date: September 20, 2023
To: Amanda Brady, Chief Licensing Official
From: Katie P. Halloran, Planning Director
Subject: Seating Request – 409 Caroline Street

Background

This memo is provided in response to a June 27, 2023 email requesting additional seating at 409 Caroline Street.

When the bar/lounge business commenced, the property was located in the area of the city designated HP-2, which permitted eating and drinking establishments. However, when the current zoning regulations were enacted, the subject property was included in the area of the city designated Historic Residential/Office (HRO). Section 122-926 of the city code provides, in part, that the "HRO district shall accommodate business and professional offices as well as residential structures". In the HRO district, outside of the Appellrouth Business Corridor, neither a bar/lounge or restaurant is a permitted or conditional use.

Section 122-26 of the city code provides that that a nonconforming use is a use "which was legally established in accordance with the zoning in effect at the time of its inception or which use predates all zoning codes and which use has not changed or been abandoned". In that the bar/lounge and restaurant uses appear to have been established prior to the implementation of the current city code, those uses would fall within this definition.

In 1997, the attorney representing the owner of the property at that time corresponded with Robert Tischenkel, the City Attorney at that time, for the purpose of documenting the seating capacity for the business. In that letter, which was acknowledged by the signature of the City Manager at that time, the parties agreed that the owner was entitled to 40 outdoor seats and that the number of indoor seats would be reduced from 20 seats to 9 seats in order to eliminate the need for additional parking.

In 2018, the owner obtained a business tax receipt for a restaurant with 49 seats and a business tax receipt for an entertainment permit for live or recorded amplified music. In 2019, the owner obtained a business tax receipt for dogs in a public service establishment.

In early 2023, the City's Licensing and Code Compliance Department performed a restaurant seat license compliance audit. The Code Compliance Department cited the business on January 31, 2023 for 69 unlicensed seats. As a result, the Planning Department received a request from the owner's representative requesting to increase the number of indoor seats from 9 to 22 and the number of outdoor seats from 40 to



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134. Section 122-32(d) of the city code provides that “a nonconforming use shall not be extended, expanded, enlarged, or increased in intensity”. The seating plan proposal received on June 27, 2023 does not contemplate a physical expansion of the footprint of the area occupied by the business; however, the proposed seating request is an expansion and increase in intensity of a legal non-conforming use.

Following the seat license compliance audit, but prior to the submission of the seating plan, the owner of the subject property executed and recorded a unity of title which joined the subject property with an adjoining parcel, formerly 407 Caroline Street, creating one parcel. The historical uses associated with 407 Caroline Street include skin care technician (no activity requiring a state license), retail hats & caps, and a sports card shop. The last retail license expired on September 30, 2000. When these retail establishment licenses were active, the property was located in the area of the city designated HP-2, which permitted retail stores, sales and display rooms except automotive uses. However, the legal nonconforming use has been abandoned. The lot at 407 Caroline Street is now included in the area of the city designated Historic Residential/Office (HRO). In the HRO zoning district, outside of the Appelrouth Business Corridor, commercial retail low, medium or high intensity is not a permitted or conditional use. Also, as noted previously, in the HRO district, outside of the Appelrouth Business Corridor, neither a bar/lounge or restaurant is a permitted or conditional use.

Determination

The language contained in section 122-32(d) of the city code is that it was intended to allow legally created nonconformities to exist in their present condition. The current request would result in an increase in occupancy from 49 seats to 156 seats. This would constitute an intensification of the use and the impacts resulting from such an increase would violate both the spirit and intent of this provision. Therefore, the Planning Department cannot approve the request to increase seating.

A handwritten signature in black ink, appearing to read "Katie P. Halloran", is written over a horizontal line.

Katie P. Halloran, Planning Director

9/20/2023
Date

cc: Ronald Ramsingh, City Attorney
Eric Norback, Assistant City Attorney
Lori Thompson, Spottswood Law

Disclaimer

The Monroe County Property Appraiser's office maintains data on property within the County solely for the purpose of fulfilling its responsibility to secure a just valuation for ad valorem tax purposes of all property within the County. The Monroe County Property Appraiser's office cannot guarantee its accuracy for any other purpose. Likewise, data provided regarding one tax year may not be applicable in prior or subsequent years. By requesting such data, you hereby understand and agree that the data is intended for ad valorem tax purposes only and should not be relied on for any other purpose.

By continuing into this site you assert that you have read and agree to the above statement.

Summary

Parcel ID 00001580-000000
 Account# 1001635
 Property ID 1001635
 Monroe County, FL
 Village Group
 Location 409 CAROLINE St, KEY WEST
 Address
 Legal KW SUB 1 PT LOT 4 SQR 15 G6-438 G35-319 G35-322 G52-160 OR562-476
 Description OR781-854 OR825-1104 OR825-1110 OR825-1117 OR922-1059 OR938-2464 OR996-2317 OR1053-1279 OR1337-1842 OR1673-1053 OR1819-1152 OR2205-1047 OR2459-673 OR2489-2132 OR2937-849 OR2938-1885 OR3231-2282
 (Note: Not to be used on legal documents.)
 Neighborhood 32020
 Property Class RESTAURANT (2100)
 Subdivision
 Sec/Twp/Rng 06/68/25
 Affordable No
 Housing

**Owner**

HANKS HAIR OF THE DOG LLC
 15 Sunset Key Dr
 Key West FL 33040

Valuation

	2023 Preliminary Values	2022 Certified Values	2021 Certified Values	2020 Certified Values
+ Market Improvement Value	\$235,330	\$118,008	\$117,602	\$117,602
+ Market Misc Value	\$34,621	\$27,230	\$28,248	\$29,266
+ Market Land Value	\$1,929,678	\$1,332,750	\$1,199,475	\$1,199,475
= Just Market Value	\$2,199,629	\$1,477,988	\$1,345,325	\$1,346,343
= Total Assessed Value	\$2,199,629	\$1,477,988	\$1,345,325	\$1,346,343
- School Exempt Value	\$0	\$0	\$0	\$0
= School Taxable Value	\$2,199,629	\$1,477,988	\$1,345,325	\$1,346,343

Historical Assessments

Year	Land Value	Building Value	Yard Item Value	Just (Market) Value	Assessed Value	Exempt Value	Taxable Value	Maximum Portability
2022	\$1,332,750	\$118,008	\$27,230	\$1,477,988	\$1,477,988	\$0	\$1,477,988	\$0
2021	\$1,199,475	\$117,602	\$28,248	\$1,345,325	\$1,345,325	\$0	\$1,345,325	\$0
2020	\$1,199,475	\$117,602	\$29,266	\$1,346,343	\$1,346,343	\$0	\$1,346,343	\$0
2019	\$1,146,165	\$110,684	\$30,284	\$1,287,133	\$1,287,133	\$0	\$1,287,133	\$0
2018	\$788,340	\$123,456	\$20,221	\$932,017	\$852,429	\$0	\$932,017	\$0

The Maximum Portability is an estimate only and should not be relied upon as the actual portability amount. Contact our office to verify the actual portability amount.

Land

Land Use	Number of Units	Unit Type	Frontage	Depth
(1200)	7,711.00	Square Foot	0	0

Buildings

Building ID	39167	Exterior Walls	REIN CONCRETE with 41% AB AVE WOOD SIDING
Style		Year Built	1923
Building Type	RESTRNT/CAFETR-B- / 21B	EffectiveYearBuilt	2002
Building Name		Foundation	
Gross Sq Ft	1057	Roof Type	GABLE/HIP
Finished Sq Ft	871	Roof Coverage	METAL
Stories	2 Floor	Flooring Type	
Condition	GOOD	Heating Type	

Perimeter	146	Bedrooms	0	
Functional Obs	0	Full Bathrooms	2	
Economic Obs	0	Half Bathrooms	0	
Depreciation %	26	Grade	450	
Interior Walls		Number of Fire Pl	0	
Code	Description	Sketch Area	Finished Area	Perimeter
FLA	FLOOR LIV AREA	871	871	176
OPU	OP PR UNFIN LL	81	0	60
OPF	OP PRCH FIN LL	105	0	52
TOTAL		1,057	871	288

Building ID	65985	Exterior Walls	AB AVE WOOD SIDING	
Style		Year Built	1938	
Building Type	APTS-A / 03A	EffectiveYearBuilt	1993	
Building Name		Foundation		
Gross Sq Ft	1648	Roof Type		
Finished Sq Ft	702	Roof Coverage		
Stories	1 Floor	Flooring Type		
Condition	EXCELLENT	Heating Type		
Perimeter	114	Bedrooms		
Functional Obs	0	Full Bathrooms	2	
Economic Obs	0	Half Bathrooms	0	
Depreciation %	38	Grade	400	
Interior Walls		Number of Fire Pl	0	
Code	Description	Sketch Area	Finished Area	Perimeter
OPX	EXC OPEN PORCH	126	0	50
FAT	FINISHED ATTIC	558	0	98
FLA	FLOOR LIV AREA	702	702	114
OPU	OP PR UNFIN LL	28	0	22
OPF	OP PRCH FIN LL	234	0	62
TOTAL		1,648	702	346

Yard Items

Description	Year Built	Roll Year	Size	Quantity	Units	Grade
WATER FEATURE	1999	2000	0 x 0	1	1 UT	1
BRICK PATIO	1999	2000	39 x 102	1	3095 SF	2
WOOD DECK	1999	2000	18 x 24	1	432 SF	2
FENCES	2018	2019	6 x 100	1	600 SF	5
FENCES	2001	2002	4 x 34	1	136 SF	5
FENCES	2001	2002	8 x 34	1	272 SF	5
CONC PATIO	2001	2002	10 x 41	1	410 SF	2
BRICK PATIO	2001	2002	0 x 0	1	541 SF	4

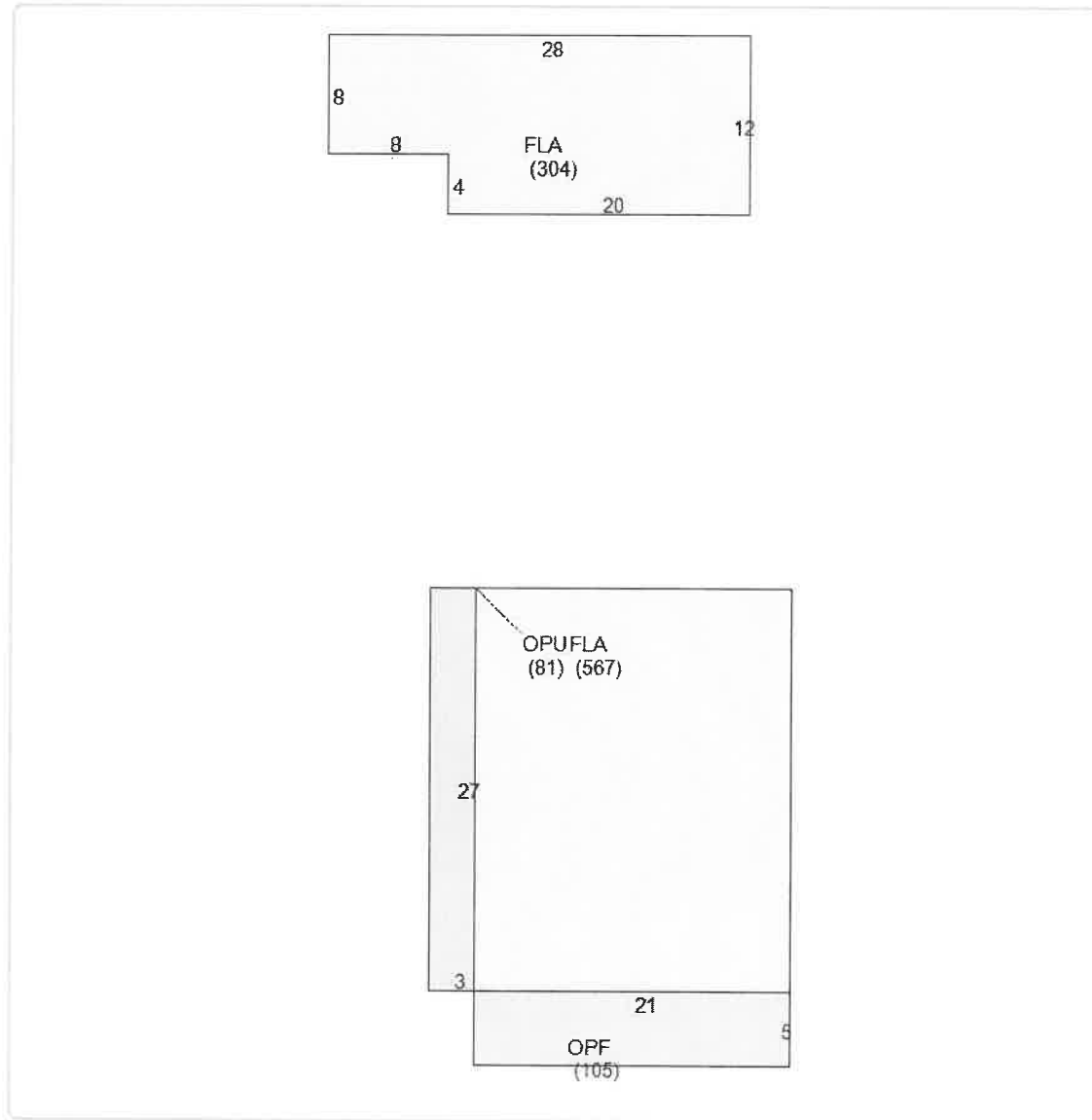
Sales

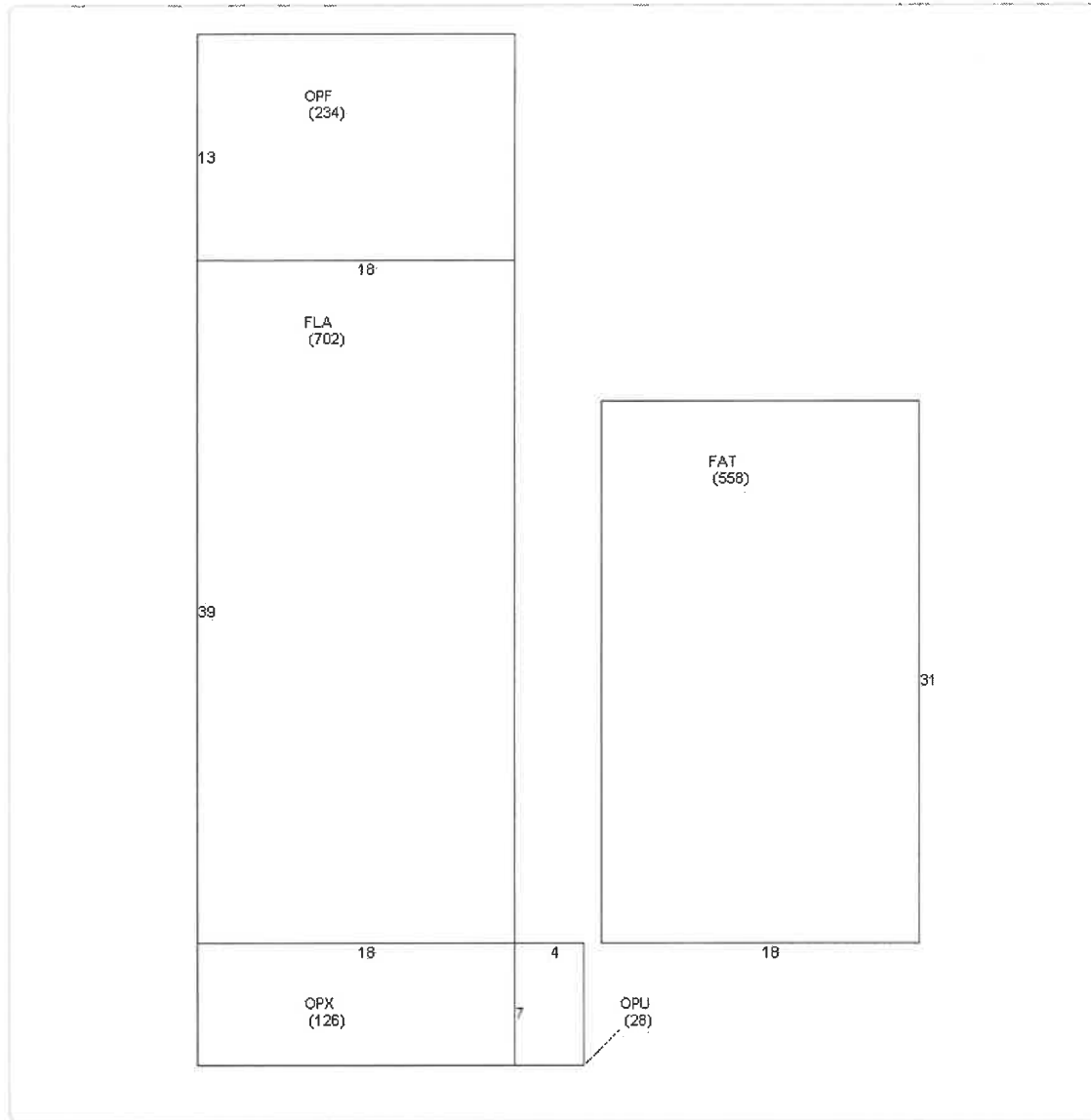
Sale Date	Sale Price	Instrument	Instrument Number	Deed Book	Deed Page
4/21/2023	\$100	Warranty Deed	2423145	3231	2282
11/30/2018	\$1,575,000	Warranty Deed	2196674	2938	1881
12/1/1986	\$159,000	Warranty Deed		996	2317

Permits

Number	Date Issued	Date Completed	Amount	Permit Type
BLD2022-1964	8/1/2022	12/22/2022	\$18,500	Commercial
BLD2022-0426	2/17/2022	4/1/2022	\$14,400	Commercial
BLD2019-4572	1/24/2020		\$10,000	Commercial
BLD2019-4507	1/10/2020		\$25,000	Commercial
BLD2019-3295	9/13/2019		\$2,700	Commercial
BLD2019-2960	9/5/2019		\$130,000	Commercial
BLD2019-1577	5/13/2019		\$28,000	Commercial
	2/1/2019		\$0	
18-1550	12/18/2018	2/16/2019	\$3,600	Commercial
18-00002262	6/2/2018	10/18/2018	\$900	Commercial
02-3327	12/18/2002	7/12/2003	\$1,000	Commercial
02-0892	5/9/2002	8/24/2002	\$500	Commercial
01-567	2/8/2001	10/30/2001	\$50,000	Commercial
0002984	10/3/2000	12/19/2000	\$20,000	Commercial
0002932	9/19/2000	12/19/2000	\$2,000	Commercial
9801739	10/20/1998	2/17/2000	\$10,000	Commercial
98-1793	6/9/1998	1/1/1999	\$500	Commercial
9702786	10/1/1997	12/1/1997	\$30,000	Commercial

Number ↕	Date Issued ↕	Date Completed ↕	Amount ↕	Permit Type ↕
9701662	5/1/1997	12/1/1997	\$200	Commercial
96-3455	8/1/1996	8/1/1996	\$300	Commercial
96-3456	8/1/1996	8/1/1996	\$300	Commercial
96-2510	6/1/1996	8/1/1996	\$2,400	Commercial
B951770	5/1/1995	10/1/1995	\$2,000	Commercial
A950509	2/1/1995	10/1/1995	\$1,500	Commercial
B940478	2/1/1995	10/1/1995	\$150	Commercial

View Tax Info[View Taxes for this Parcel](#)**Sketches (click to enlarge)**

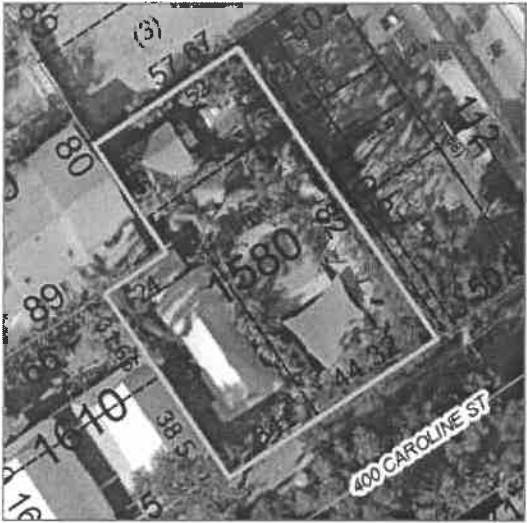


Photos





Map



TRIM Notice



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as of last upload: 9/22/2023 4:03:55 AM

DOCUMENTATION OF SEATING CAPACITY

ADELE VIRGINIA STONES, P.A.
ATTORNEY AT LAW

420 FLEMING STREET, KEY WEST, FL 33040
TELEPHONE (305) 294-0252 FAX (305) 296-4311

OF COUNSEL
SUSAN M. CARDENAS

July 17, 1997

Robert Tischenkel, City Attorney
City of Key West
P.O. Box 1409
Key West, FL 33040

Re: 409 Caroline Street

Dear Mr. Tischenkel:

This letter will confirm the understandings reached between the City of Key West and my clients Chris and Cynthia Trevett regarding 409 Caroline Street.

1. The City of Key West acknowledge that Grunts is entitled to forty (40) outdoor seats established prior to the effective date of the City ordinance assessing impact fees and parking requirements on outdoor restaurant seating.
2. The Trevetts will reduce the number of indoor seats from twenty seats to nine seats. This will eliminate the need for additional parking. The Trevetts will pay the impact fees for nine seats, less the \$34.20/square foot credit for the pre-existing commercial use.

If this correctly reflects the status of agreements reached between the Trevetts and the City of Key West please have the City Manager acknowledge same by placement of his signature below.

Sincerely,

Adele V. Stones
Adele V. Stones
AVS/abk

cc: client

Julio Avasel
Julio Avasel, City Manager
City of Key West

MAXIMUM FLOOR AREA ALLOWANCES PER OCCUPANT				MINIMUM MEANS OF EGRESS			
PER FLORIDA BUILDING CODE 2020, BUILDING TABLE 1004.5				PER FLORIDA BUILDING CODE 2020, BUILDING SECTION 1005.3.1			
OCCUPANCY AREA	FLOOR AREA (SF)	SF PER OCCUPANT	# OF OCCUPANTS	FACTOR PER OCCUPANT	REQ'D MEANS OF EGRESS CAPACITY (INCHES)	FACTOR PER OCCUPANT	REQ'D STAIRWAY CAPACITY (INCHES)
ASSEMBLY (INTERIOR)	330	15 NET	22	2	4.4	3	6.6
ASSEMBLY (EXTERIOR)	2,021	15 NET	134	2	26.8	3	40.2

BUILDING IS SPRINKLERED.

PORTABLE FIRE EXTINGUISHER REQUIREMENTS - BUILDING		
PER FLORIDA BUILDING CODE 2020, BUILDING TABLE 906.3		
AREA	REQUIRED	PROVIDED
GROUND FLOOR - 576 SF	1	2

*ALL FIRE EXTINGUISHERS TO COMPLY WITH FBC 2020, BUILDING CHAPTER 906

1029.8 COMMON PATH OF EGRESS TRAVEL
THE COMMON PATH OF EGRESS TRAVEL SHALL NOT EXCEED 30 FEET (9144 MM) FROM ANY SEAT TO A POINT WHERE AN OCCUPANT HAS A CHOICE OF TWO PATHS OF EGRESS TRAVEL TO TWO EXITS

EXCEPTIONS:
1. FOR AREAS SERVING LESS THAN 50 OCCUPANTS, THE COMMON PATH OF EGRESS TRAVEL SHALL NOT EXCEED 75 FEET (22 860 MM).
2. FOR SMOKE-PROTECTED OR OPEN-AIR ASSEMBLY SEATING, THE COMMON PATH OF EGRESS TRAVEL SHALL NOT EXCEED 50 FEET (15 240 MM).

SEATING CALCULATIONS:

INTERIOR CONSUMPTION AREA	330 SF
SF PER OCCUPANT	15 SF
SEATS	22 SEATS
EXTERIOR CONSULTATION AREA	2,021 SF
SF PER OCCUPANT	15 SF
SEATS	134 SEATS
TOTAL PROPERTY SEATING	156 SEATS



F.E. - FIRE EXTINGUISHER



DE - DEFIBRILLATOR



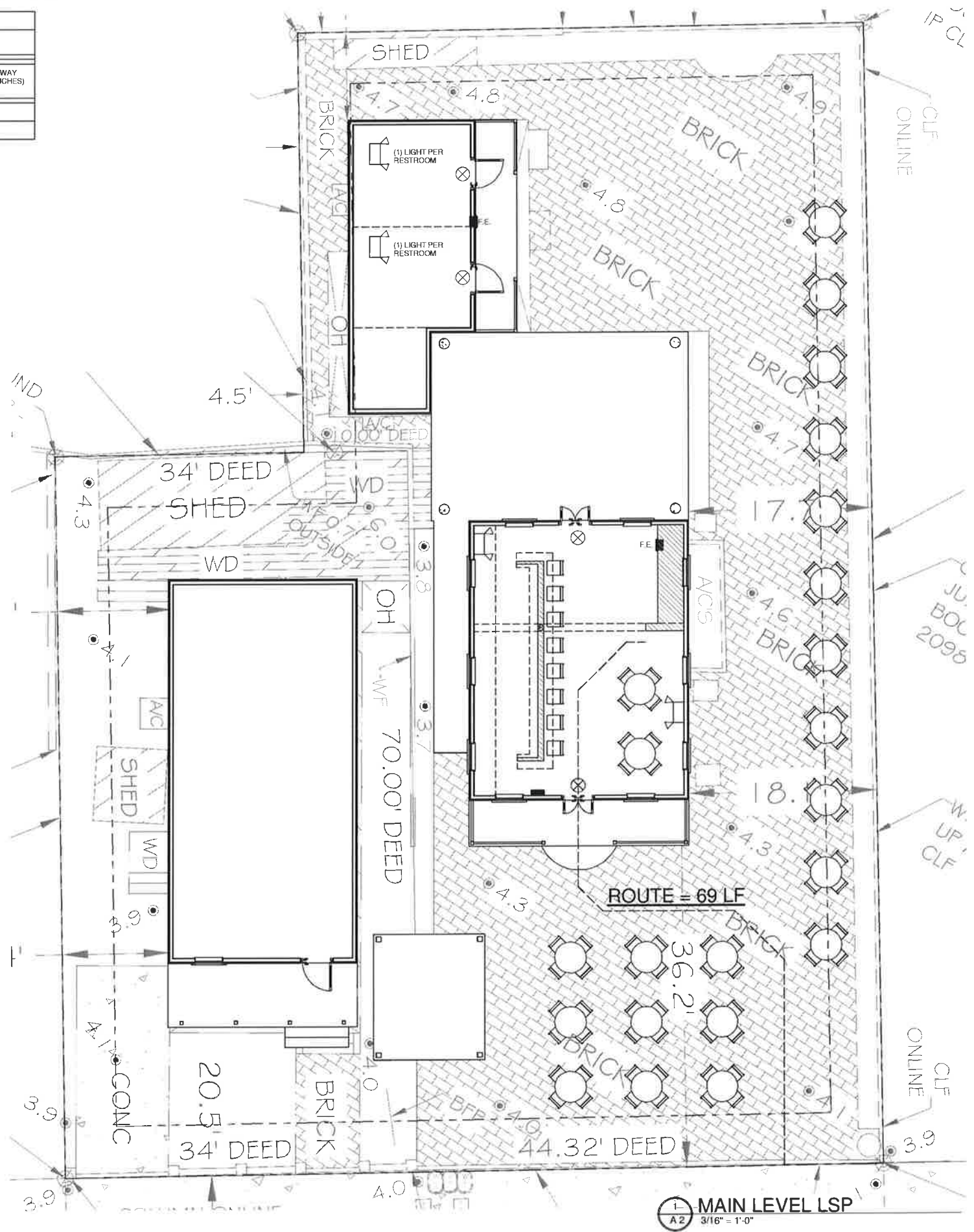
LIGHTED EXIT SIGN



LIGHTED EMERGENCY EGRESS PATH SIGN



EMERGENCY LIGHT



MAIN LEVEL LSP
3/16\"/>

DATE: 2023.07.12
REV. SET DESCRIPTION
LIFE SAFETY PLAN

SEAL:

STATE OF FLORIDA
ERICA HELEN POOLE
REGISTERED ARCHITECT
AR08525
Erica Helen Poole
Date: 2023.07.24
13:36:29 -04'00'

NOT VALID FOR CONSTRUCTION UNLESS
SIGNED/SEALED IN THIS BLOCK.
THIS ITEM HAS BEEN DIGITALLY SIGNED AND
SEALED BY ERICA HELEN POOLE USING A DIGITAL
SIGNATURE.
PRINTED COPIES OF THIS DOCUMENT ARE NOT
CONSIDERED SIGNED AND SEALED AND THE SHA
AUTHENTICATION CODE MUST BE VERIFIED ON
ANY ELECTRONIC COPIES.
ERICA HELEN POOLE - ARCHITECT
#AR08525

SANDBAR
DESIGN STUDIO
23163 CAMELLIA LANE
KEY WEST, FL 33040
WWW.SANDBARDESIGNSTUDIO.COM
878.835.5554

Life Safety Plan
407 & 409 Caroline Street
Key West, FL 33040

LIFE SAFETY PLAN

A
2
PROJECT NO: LAK2023G
DRAWN BY: EHP
APPROVED BY: EHP