

THE CITY OF KEY WEST
PLANNING BOARD
Staff Report



To: Chairman and Planning Board Members

Through: Patrick Wright, Planning Director

From: Melissa Paul-Leto, Planner Analyst

Meeting Date: May 18, 2017

Agenda Item: **Variance – 821-823 Whitehead Street (RE # 00017250-000000, 00017250-000000)** – A request for a Variance to the minimum parking requirements for 13 parking spaces on property located in the Historic Medium Density (HMDR) zoning district pursuant to Sections 90-395, 108-572 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

Request: Variance from Section 108-572(9) to the minimum parking requirements of 1 parking space per 45 square feet of non-conforming restaurant use for a 552 square feet space requiring per code 13 regular parking spaces.

Applicant: Owen Trepanier & Associates, Inc.

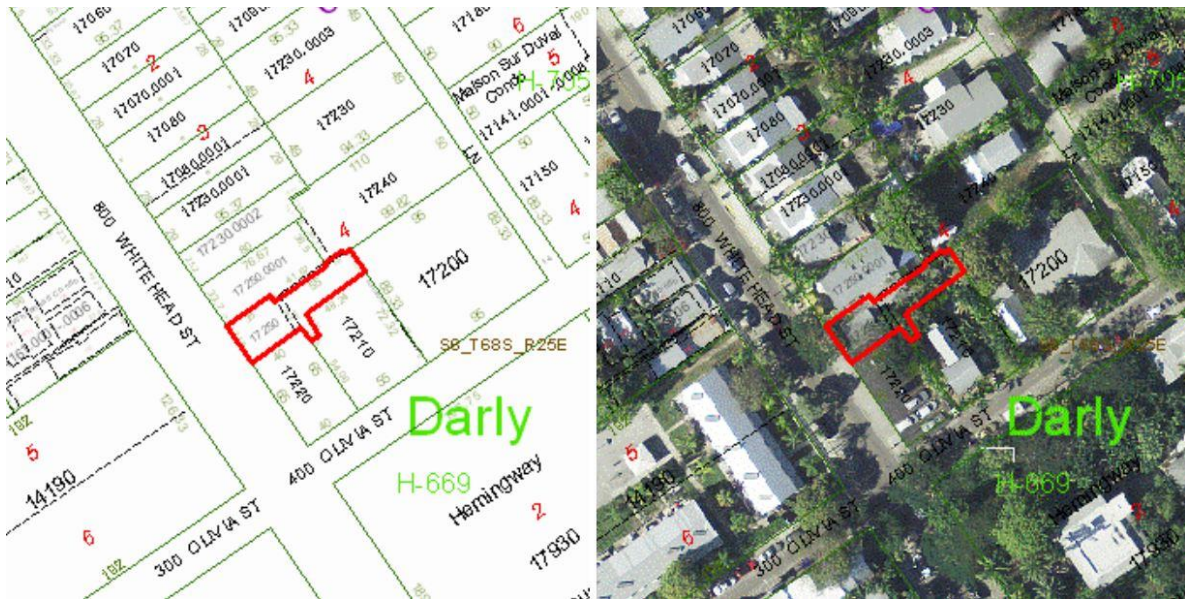
Property Owner: Jamille Cucci, Butanella 821 LLC

Location: 821-823 Whitehead Street (RE # 00017250-000000, 00017250-000000)

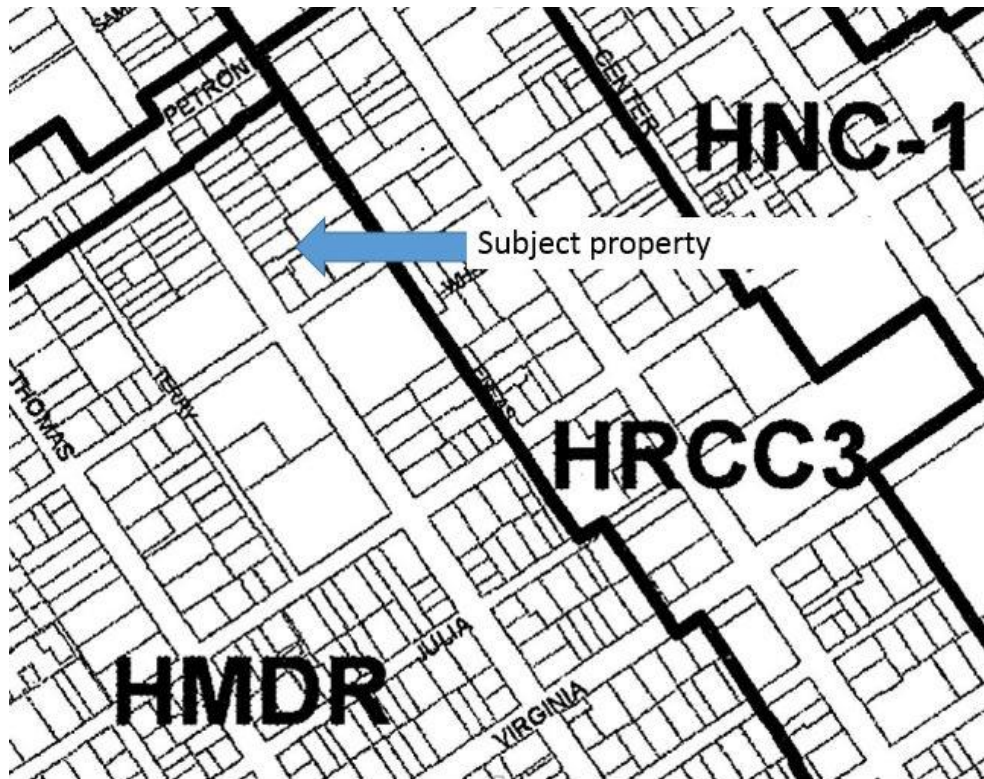
Zoning: Historic Medium Density (HMDR)



821 Whitehead Street



823 Whitehead Street



2015 Zoning Map

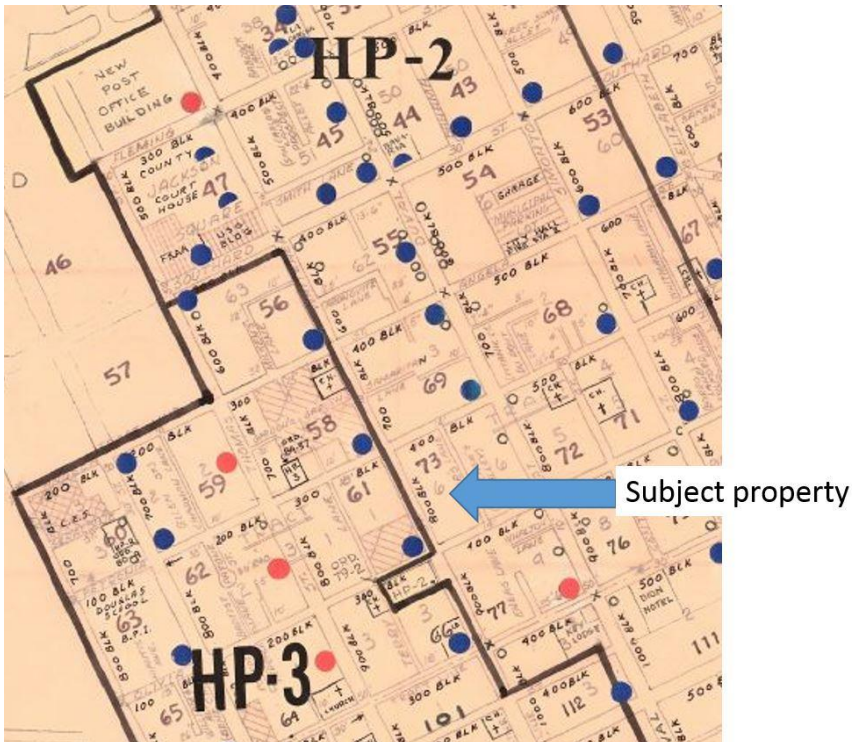
Subject property is located within the Historic Medium Density (HMDR) zoning district.

Sec. 122-596. - Intent. The HMDR district shall accommodate historic Old Town medium density residential development for permanent residents, including single-family, duplex, and multiple-family residential structures. The HMDR district shall provide a management framework for preserving the residential character and historic quality of the medium density residential areas within Old Town.



1974 Zoning Map

HP-2 Commercial Historic Preservation District. The provisions of this district are intended to protect and enhance the character of the commercial historic areas of the City of Key West. Permitted uses: HP-2 (6) Retail stores, sales and display rooms except automotive uses including establishments in which retail goods are sold upon the premises. HP-2(7) Eating and drinking establishments excluding drive-ins and establishments specializing in the preparation of foods not to be consumed within the main structure.

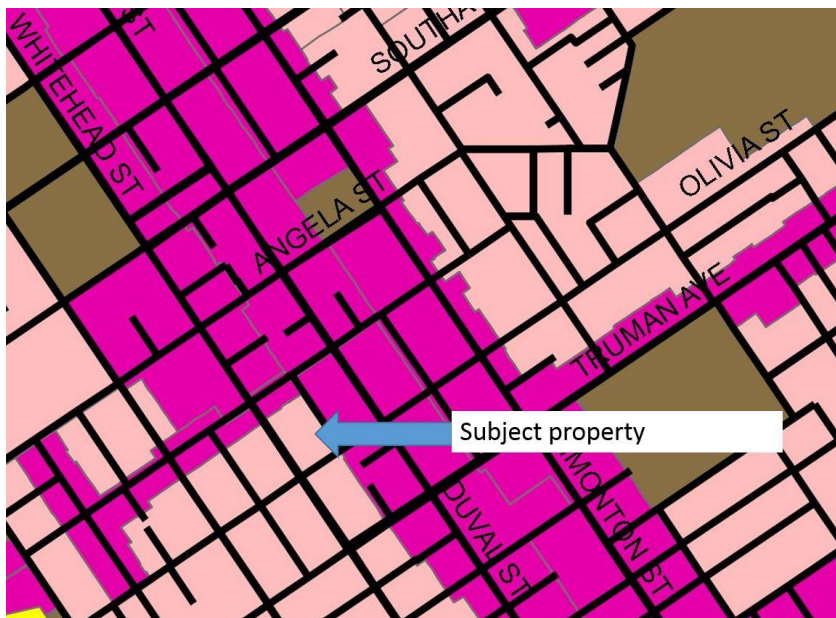


1985 Zoning Map

The Six-Toed Cat Café has been a neighborhood café since 1992.



Future Land Use Map 1993, 1997 Zoning Map is when the 821-823 Whitehead Street the Six-Toed Cat became a non-conforming use.



Future Land Use Map 2030
 Light Pink: Historic Residential, Hot Pink: Historic Commercial

Background:

The existing one and two story contributing structures were constructed in 1928 and have two existing non-conforming uses; commercial retail and restaurant. The subject property has been used as restaurant/ retail spaces since 1992. In 1992, the subject property was located within the HP-2 Zoning District where retail and restaurant uses were a permitted use. In 1997, the City’s 1993 Future Land Use Map became the City’s Zoning Map. The change in zoning districts affected the subject properties permitted uses. The 1997 Zoning Map placed the subject properties within the Historic Medium Density (HMDR) Zoning District where retail and restaurant use is considered a non-conforming use.

The applicant is proposing to do away with the existing non-conforming retail use dedicated to a 552 square foot space in order to convert to restaurant use. Based on the calculations, the change of non-conforming use request of the 552 square foot space would increase the overall parking demand on site from 0 spaces to the required per code, 13 spaces.

The need for the Variance is triggered by Section 122-32(e) requiring Additional Regulations to a change of non-conforming use. The change of use would intensify the minimum parking requirements of Section 108-572(9). The City’s Engineering Department has reviewed the Traffic Memorandum by KBP Consulting, Inc., and concurs with the study’s conclusions.

Sec. 108-571. - Applicability.

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

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

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

Use		Minimum Number of Parking Spaces Required For:	
		Motorized Vehicles	Bicycles As % of Motor Vehicles
(1)	Single- family	1 space per dwelling unit	None
(2)	Multiple- family:		
	a. Within historic district	1 space per dwelling unit	10%
(9)	Restaurants, bars and lounges	1 space per 45 square feet of serving and/or consumption area	25%
(16)	Retail stores and service establishments	1 space per 300 square feet of gross floor area	25%

Dimensional Requirement for (HMDR)	Required/ Allowed	Proposed
Minimum Number of Parking Spaces Required	1 space per 45 square feet of 552 square feet 12.2	Variance Required for 13 Parking Spaces
Bicycle parking	25% of 12.2 motor vehicles three (3)	Three (3) Balusters Provides for six (6) bicycle parking spaces

Process:

Planning Board Meeting:	May 18, 2017
Planning Board Meeting: (Postponed by applicant)	April 20, 2017
Planning Board Meeting: (Postponed)	March 16, 2017
Planning Board Meeting: (Postponed by staff)	February 23, 2017
HARC:	TBD
Local Appeal Period:	30 days
DEO Review Period:	up to 45 days

Analysis – Evaluation for Compliance with the Land Development Regulations:

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

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

The restaurant and retail uses on the subject properties were a permitted use prior to the City's 1997 Zoning Map change. The change of retail use to restaurant would have been allowed during the time of the Café's opening in 1992 up till the time of the 1997 Zoning Map. The land is now located in the HMDR Zoning district. Currently, the Six-Toed Cat Café provides 0 vehicular parking spaces and six (6) bicycle parking spaces. The applicant is proposing to shift non-conforming commercial retail space to non-conforming restaurant space triggering a required 13 parking spaces.

NOT IN COMPLIANCE.

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

The applicant is proposing to convert 552 square feet of non-conforming retail space into 36 seats of non-conforming restaurant space. By making this decision as a property owner, the property has increased its need for parking. The special conditions and circumstances are a result of the conditions created by the applicant.

NOT IN COMPLIANCE.

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

Given the existing non-conforming uses and current zero parking requirements for the property, the applicant possesses reasonable use of the property without needing a parking variance. Therefore, granting the variance request will confer upon the applicant special privileges denied to other lands, buildings or structures in the HMDR Zoning District.

NOT IN COMPLIANCE.

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

The current parking standards deprive the applicant of expansion of the use on the property. However, hardship conditions for the applicant currently does not exist. The applicant is operating a non-conforming business within this zoning district and has special privileges regarding no current parking requirements. That being said, the traffic study submitted by the applicant concludes the proposed change of use to allow for additional restaurant seating will have no measureable impact on parking demand or traffic to and from the area.

NOT IN COMPLIANCE.

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

The variance request is the minimum request necessary for the proposed use of the land and structure. The characteristics of the proposed project and the associated non-conforming use, demand 13 parking spaces as determined by the City's Land Development Regulations.

NOT IN COMPLIANCE.

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

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

NOT IN COMPLIANCE.

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

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

IN COMPLIANCE.

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

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

The standards established by Code Section 90-395 have not all been met by the applicant for a variance for (13) regular parking spaces.

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

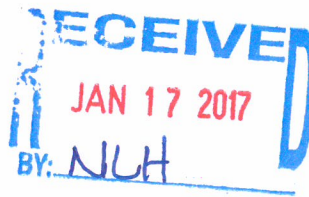
The Planning Department has received one (1) opposing comment and one hundred and seventy-seven (177) letters of support for the variance request as of the date of this report.

RECOMMENDATION:

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

Application

January 17, 2017



Thaddeus Cohen, Planning Director
City of Key West
1300 White Street
Key West, FL 33040



**RE: Parking Variance Application
821-823 Whitehead Street – Six-Toed Cat Cafe**

Dear Mr. Cohen:

Shady Cat, LLC is seeking a change of nonconforming use. As part of that application, a traffic and parking study demonstrated that the change of use will not create additional parking impacts. The City's Comprehensive Plan Policy 2-1.1.3 prioritizes multi-modal transportation improvements over automobile-oriented development, however, the current LDRs have not yet been updated in a consistent manner with the Plan.

Therefore, we are obligated to submit the attached request for a Parking Variance as an accompaniment to the Change in Non-Conforming Use application (submitted on October 21, 2016) for the referenced property located in the Historic Medium Density Residential ("HMDR") zoning district. This application seeks a variance for the 12.2 parking spaces required by the current LDRs for increasing the restaurant square footage by 552 square feet which would become available for additional seating.

This location has been a neighborhood café since 1992; for the past nine years, it has been the home of The Six-Toed Cat, a pedestrian-oriented neighborhood sidewalk café. The included traffic study¹ conducted over six days in 2016 confirmed what the owners already knew; that this café is frequented by island visitors traveling by foot or bicycle on their way to tourist sites in the area. Last year, the owners responded to the increased number of bicycling visitors by working with the City to install bicycle racks to meet this need.²

Taking into account the conflict between the City's LDR's that only identifies vehicle parking and Comp Plan Policy 2-1.1.3 which prioritizes multi-modal transportation improvements, we respectfully request the Planning Board approve the request for a variance from required parking per Sec. 108-572 based on the need of this particular property. Thank you in advance for your consideration.

Best Regards,

Lori Thompson,
Project Manager

¹ Attachment A
² Attachment B

Oper: KEYWCAW Type: OC Drawer: 1
Date: 1/23/17 72 Receipt no: 8275
C PERMIT-OPC/TAXI/APFARL 1.00 \$1150.00

001000003230000
0010000104000
CK CHECK 1135 \$1150.00
Total tendered \$1150.00
Total payment \$1150.00

Trans date: 1/20/17 Time: 16:07:23

October 5, 2016

Ms. Lori Thompson
Trepanier & Associates, Inc.
1421 First Street
Key West, Florida 33040

**Re: Six-Toed Cat Café – Key West, Florida
Traffic Memorandum**

Dear Lori:

The Six-Toed Cat café is located at 821 and 823 Whitehead Street in Key West, Monroe County, Florida. The total building area for this site is 1,772 square feet. Within this building, 552 square feet are presently used for retail purposes; however, it is the desire of the owner to convert this space to restaurant use in order to provide additional restaurant seating for the café. The purpose of this technical memorandum is to document the parking and traffic impacts associated with this proposed change of use.

Current Traffic and Parking Characteristics

In order to assess the traffic and parking impacts of the proposed action it is advisable and beneficial to identify the parking and trip generation characteristics of the current restaurant operations. This was achieved by surveying all of the restaurant's customers over a six-day period earlier this year. Customers were asked if they drove an automobile to this area of Key West for the primary purpose of dining at the Six-Toed Cat. Over the six-day period there were no customers that specifically drove to the area to dine at the subject restaurant. Given the pedestrian and tourist oriented characteristics of this area, this finding is not surprising. In fact, based upon discussions with their customers, it was learned that approximately 95% of their patrons walked or rode a bicycle to the site.

Discussions with the project team and the restaurant owner revealed that only the restaurant manager drives a vehicle to the site and he uses on-street parking. All other employees walk or ride a bicycle / scooter. This condition is not expected to be altered with the proposed change of use.

Conclusions

Based upon the existing operating and customer characteristics of the Six-Toed Cat café, it is evident that the proposed change of use to allow for additional restaurant seating will have no measurable impact on parking demand or traffic to and from the area. Instead, it is expected that this use will continue to draw from those walking or bicycling along Whitehead Street.

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

Sincerely,

KBP CONSULTING, INC.



Karl B. Peterson, P.E.
Senior Transportation Engineer

Attachment B



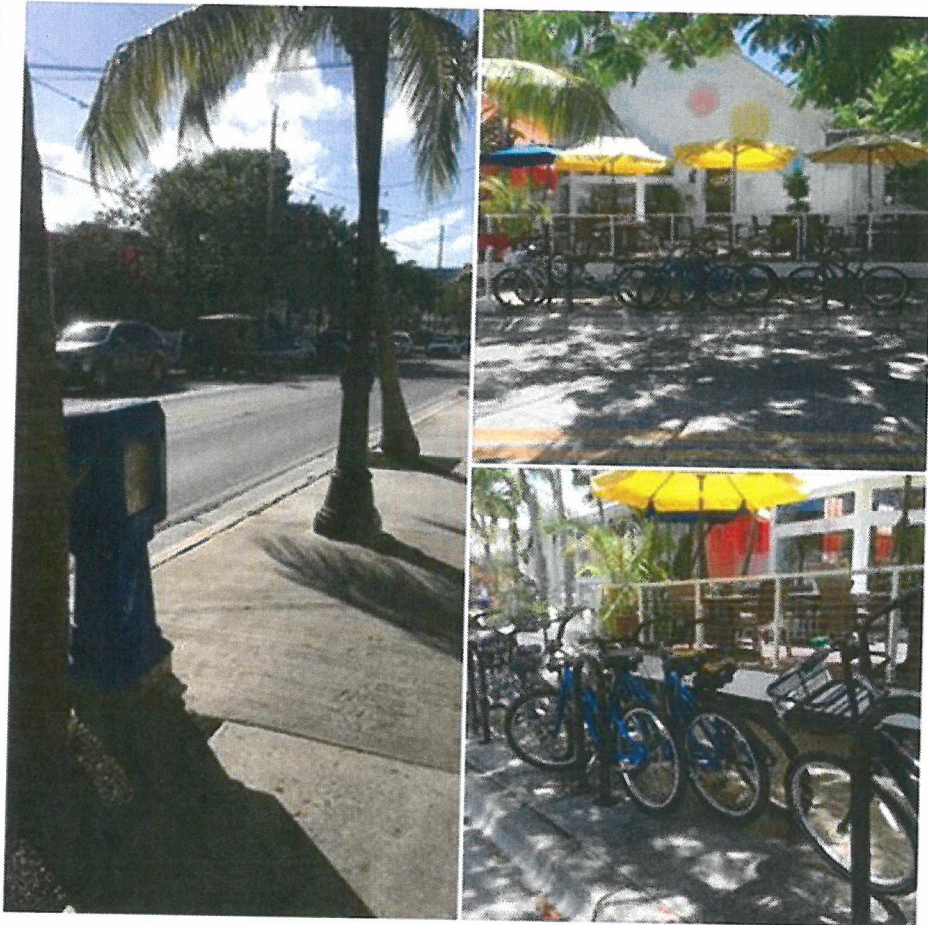
Key



Bike Walk Key West added 3 new photos.

4 mins

Thanks City of Key West Community Services Public Works Department! A week ago the nice owners of The Six Toed Cat at 823 Whitehead asked if they could get some bike parking as there's nothing anywhere nearby. Luckily Public Works had some extras that fit the space and viola! They're already in, look beautiful and are being used! PS - we're working on an order for more right now so hopefully you'll see new racks popping up in a few months.



VIDEOS



UPCOMIN



Chris Hamilton | Bicycle/Pedestrian/Transportation Coordinator | Planning Department | City of Key West
Mail: P.O. Box 1409 Key West, FL 33041 | Physical Address: Planning Dep., 3140 Flagler Avenue, Key West, FL 33040
Tel: 305-809-3725 | Fax: 305-809-3978 | chamilton@cityofkeywest-fl.gov | www.cityofkeywest-fl.gov

Attachment B

Cc: Leah Stockton, Healthy Start Coalition (fkhsprograms@gmail.com) <fkhsprograms@gmail.com>
Subject: RE: Bike Rack - 823 Whitehead Street

Chris Hamilton can help.

He is our new Bike Coordinator (amongst other job titles)

John Wilkins

From: Owen Trepanier [<mailto:owen@owentrepanier.com>]
Sent: Tuesday, July 26, 2016 2:42 PM
To: John Wilkins <jwilkins@cityofkeywest-fl.gov>
Cc: Leah Stockton, Healthy Start Coalition (fkhsprograms@gmail.com) <fkhsprograms@gmail.com>
Subject: Bike Rack - 823 Whitehead Street

Hi John,

Can you help me figure out how we go about requesting a bike rack in front of 823 Whitehead Street? The owners are hoping a rack could be installed in this location. This is the 6-Toed Cat next to the Hemmingway House. Their market is almost totally a bike/ped and, aside from local folks grabbing a bite to eat, it is heavily associated with folks coming and going from the Hemmingway House, the Light House, and the Southernmost Point.

They are hoping a bike rack will bring some order to the bicycle parking in the area.

Thanks.

Owen





Application For Variance

City of Key West, Florida • Planning Department

3140 Flagler Avenue • Key West, Florida 33040-4602 • 305-809-3720 • www.keywestcity.com

Application Fee: \$1,150.00 / After-the-Fact: \$2,150.00
(includes \$100.00 advertising/noticing fee and \$50.00 fire review fee)

Please complete this application and attach all required documents. This will help staff process your request quickly and obtain necessary information without delay. If you have any questions, please call 305-809-3720.

PROPERTY DESCRIPTION:

Site Address: 821-823 Whitehead Street

Zoning District: HMDR Real Estate (RE) #: 00017250-000000 / 000100

Property located within the Historic District? Yes No

APPLICANT: Owner Authorized Representative

Name: Trepanier & Associates,

Mailing Address: 1421 First Street, Suite 101

City: Key West State: FL Zip: 33040

Home/Mobile Phone: _____ Office: 305-293-8983 Fax: 305-293-8748

Email: lori@owentrepanier.com

PROPERTY OWNER: (if different than above)

Name: Butanella 821, LLC

Mailing Address: 3729 Eagle Avenue

City: Key West State: FL Zip: 33040

Home/Mobile Phone: _____ Office: c/o 305-293-8983 Fax: 305-293-8748

Email: c/o lori@owentrepanier.com

Description of Proposed Construction, Development, and Use: _____

This project seeks to eliminate the 552 sq. ft. of commercial retail use and combine the floor area into the existing sidewalk-oriented neighborhood café.

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

Variance per Sec. 108-572 for 12.2 parking spaces

Are there any easements, deed restrictions or other encumbrances attached to the property? Yes No

If yes, please describe and attach relevant documents: _____

Will any work be within the dripline (canopy) of any tree on or off the property? Yes No
 If yes, provide date of landscape approval, and attach a copy of such approval.

Is this variance request for habitable space pursuant to Section 122-1078? Yes No

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

Site Data Table				
	Code Requirement	Existing	Proposed	Variance Request
Zoning	HMDR			
Flood Zone	X			
Size of Site	5,113 sq. ft.			
Height				No Change
Front Setback				No Change
Side Setback				No Change
Side Setback				No Change
Street Side Setback				No Change
Rear Setback				No Change
F.A.R				No Change
Building Coverage				No Change
Impervious Surface				No Change
Parking	12.2	0.0	0.0	12.2
Handicap Parking	1.0	0.0	0.0	No Change
Bicycle Parking				No Change
Open Space/ Landscaping				No Change
Number and type of units				No Change
Consumption Area or Number of seats		28	64	

This application is reviewed pursuant to Section 90-391 through 90-397 of the City of Key West Land Development Regulations (LDRs). The City's LDRs can be found in the Code of Ordinances online at http://www.municode.com/Library/FL/Key_West under Subpart B.

*Please note, variances are reviewed as quasi-judicial hearings, and it is improper for the owner or applicant to speak to a Planning Board member or City Commissioner about the hearing.

Standards for Considering Variances

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

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

This neighborhood café is located along the well-traveled tourist-pedestrian corridor traveling to the adjacent and nearby historic landmarks. It is located just one block outside the official boundary for the Historic Commercial Pedestrian-Oriented Area. This lawfully established café has never had on-site parking and has successfully served the pedestrian public without traffic or parking conflicts. The requested change of use will not alter the café market demographics. The traffic engineering study shows no increase in parking demand.

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

The existing conditions for this property were not created by the applicant. The current owner purchased this property as an established neighborhood café and commercial retail operation without on-site parking. The current LDR's do not yet implement the goals of the comp plan which encourage the minimization of off-street parking in order to address and support the community's goal of increased multi-modal transportation.

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

Special privileges not conferred. The required parking per the LDR's do not reflect the need of the café's market demographics. The traffic study determined that the café's clientele and staff are pedestrian-oriented. No increase in parking impact is anticipated. Therefore, varying the requirement for parking would serve only to penalize the property owner.

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

The historic lack of space for parking in the downtown historic district creates a hardship. The LDR's also create an undue hardship by the determination that any increase in seating will result in an increase in parking demand. The application has demonstrated through the attached traffic study that there will be no increase parking demand based on the factual market demographics. The Comp Plan recognizes the hardship of being a dense urban land area in Policy 2-1.1.3 and thus prioritizes the minimization of parking and the increase in multi-modal transportation.

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

Only the minimum variance would be granted. The requested variance will allow the conversion of the existing commercial retail to be combined into the existing café.

City of Key West • Application for Variance

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

Not injurious to the public welfare. Study shows there will be no increase in parking demand while at the same time there will be a decrease in delivery traffic.

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

Existing nonconforming uses of other properties are not considered as the basis for this request.

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

- That the standards established in Section 90-395 have been met by the applicant for a variance.
- That the applicant has demonstrated a "good neighbor policy" by contacting or attempting to contact all noticed property owners who have objected to the variance application, and by addressing the objections expressed by these neighbors. Please describe how you have addressed the "good neighbor policy."

REQUIRED SUBMITTALS: All of the following must be submitted in order to have a complete application. Please submit one paper copy and one electronic copy of all materials.

- X Correct application fee. Check may be payable to "City of Key West."
- X Notarized verification form signed by property owner or the authorized representative.
- X Notarized authorization form signed by property owner, if applicant is not the owner.
- Copy of recorded warranty deed
- X Property record card
- X Signed and sealed survey
- Site plan (plans MUST be signed and sealed by an Engineer or Architect)
- X Floor plans
- NA Stormwater management plan

Verification

City of Key West
Planning Department



Verification Form

(Where Authorized Representative is an entity)

I, Jamille Cucci, in my capacity as Dole managing member
(print name) (print position; president, managing member)
of Butanella 821 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:

821 - 823 Whitehead St. 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]
Signature of Authorized Representative

Subscribed and sworn to (or affirmed) before me on this 2/16/17 by
date

Jamille Cucci
Name of Authorized Representative

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

[Signature]
Notary's Signature and Seal

Name of Acknowledger, Witness, or Notary Public stamped

Commission Number, if any



Authorization

**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, Jamille Cucci as
Please Print Name of person with authority to execute documents on behalf of entity
m/m of Butanella 821 LLC
Name of office (President, Managing Member) *Name of owner from deed*
authorize Trepanier + Associates -
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]
Signature of person with authority to execute documents on behalf on entity owner

Subscribed and sworn to (or affirmed) before me on this 2/16/17 by
date

Jamille Cucci
Name of Authorized Representative

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

Cindy Sawyer
Notary's Signature and Seal

Name of Acknowledge, Commission Expires or Stamped

Commission Expires or Stamped

A circular notary seal for Cindy Sawyer, Notary Public, State of Florida. The seal contains the text "CINDY SAWYER", "COMMISSION EXPIRES January 17, 2020", and "#FF 917523".

Deed

Prepared by and return to:

Erica Hughes-Sterling

Attorney at Law

Spottswood, Spottswood & Spottswood

500 Fleming Street

Key West, FL 33040

305-294-9556

File Number: 185-16.00599 EB

Purchase Price: \$1,150,000.00

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Warranty Deed

This Warranty Deed made this 15th day of February, 2017 between Shady Cat, LLC, a Florida limited liability company whose post office address is 628 William Street, Key West, FL 33040, grantor, and Butanella 821 LLC, a Florida limited liability company whose post office address is 3729 Eagle Avenue, Key West, FL 33040, grantee:

(Whenever used herein the terms "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives, and assigns of individuals, and the successors and assigns of corporations, trusts and trustees)

Witnesseth, that said grantor, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable considerations to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, has granted, bargained, and sold to the said grantee, and grantee's heirs and assigns forever, the following described land, situate, lying and being in Monroe County, Florida to-wit:

On the Island of Key West, known on William A. Whitehead's Map, delineated in February, A.D. 1829, as part of Tract 4, but better known according to Simonton & Wall's Addition to the City of Key West, as part of Lot 4, in Square 6, of Tract 4, being described as follows: COMMENCING at a point on Whitehead Street distant 96.8 feet Northwesterly from the corner of Olivia Street for a Point of Beginning; thence run in a Northwesterly direction along Whitehead Street 33.7 feet to a point; thence at right angles and Northeasterly 76.67 feet to a point; thence at right angles and Southeasterly 38.5 feet to a point; thence at right angles and Southwesterly 41.67 feet to a point; thence at right angles and Northwesterly 4.8 feet to a point; thence at right angles and Southwesterly 35 feet back to the Point of Beginning.

AND:

On the Island of Key West, known on William A. Whitehead's Map, delineated in February A.D., 1829, as part of Tract 4, but better known according to Simonton & Wall's Addition to the City of Key West, as part of Lot 4 in Square 6, of said Tract 4, being described as follows: COMMENCING at a point on Whitehead Street, distant 65 feet Northwesterly from the corner of Olivia Street for a point of beginning; thence run in a Northwesterly direction along Whitehead Street 31.8 feet to a point; thence at right angles and Northeasterly 35 feet to a point; thence at right angles and Southeasterly 31.8 feet to a point; thence at right angles and Southwesterly 35 feet back to the Point of Beginning.

AND:

On the Island of Key West, and known as Part of Lot Four (4) in Square Six (6) of Simonton and Wall's Addition to the City of Key West: COMMENCING at a point Forty (40) feet from the corner of Whitehead and Olivia Streets, and running Northeasterly along the line of Olivia Street, Fifty-five (55) feet; thence at right angles Northwesterly Eighty-Nine (89) feet Four-Twelfths (89-4/12) feet; thence at right angles in a Southwesterly direction Five (5) feet; thence at right angles in a Northwesterly direction Two (2) feet, Two (2) inches; thence at right angles in a Southwesterly

direction Fifty (50) feet; thence at right angles in a Southeasterly direction Ninety-one (91) feet Six (6) inches to the Point of Beginning.

LESS AND EXCEPT:

A part of land on the Island of Key West, and known as part of Lot 4, in Square 6 of Simonton and Walls Addition to the City of Key West, said parcel being more particularly described by metes and bounds as follows: COMMENCE at the intersection of the NE'ly right of way line of Whitehead Street with the NW'ly right of way line of Olivia Street for a distance of 40 feet to the Point of Beginning; thence continue NE'ly along the NW'ly right of way line of the said Olivia Street for a distance of 55.00 feet; thence NW'ly and at right angles for a distance of 72.32 feet; thence SW'ly with a deflection angle of 91°10'58" to the left and along the NW'ly face of an existing wood fence and extension thereof for a distance of 48.24 feet to a fence corner; thence SE'ly with a deflection angle of 89°24'40" to the left and along the SW'ly face of said fence for a distance of 16.87 feet to a fence corner; thence SW'ly with a deflection angle of 87°20'01" to the right and along the NW'ly face of said of said fence for a distance of 6.95 feet to a point; thence SE'ly with a deflection angle of 86°44'23" to the left for a distance of 54.06 back to the Point of Beginning.

AND:

A parcel of land on the Island of Key West and known as a part of Lot 4, in Square 6 of Simonton and Wall's Addition to the City of Key West as Part of Tract 4, said parcel being more particularly described by metes and bounds as follows: COMMENCE at the intersection of the NW'ly right of way line of Olivia Street with the NE'ly right of way line of Whitehead Street and run thence NW'ly along the NE'ly right of way line of the said Whitehead Street for a distance of 65.00 feet; thence NE'ly and at right angles for a distance of 35.00 feet to the Point of Beginning; thence NW'ly and at right angles for a distance of 27.00 feet; thence NE'ly and at right angles for a distance of 41.67 feet; thence SE'ly and at right angles for a distance of 0.50 feet to the NW'ly boundary line of the lands described in Official Records Book 1505, at Page 1091, of the Pubic Records of Monroe County, Florida; thence SW'ly and at right angles along the NW'ly boundary line of said lands for a distance of 36.67 feet; thence SE'ly and at right angles along the SW'ly boundary line of said lands for a distance of 26.50 feet; thence SW'ly and at right angles for a distance of 5.00 feet back to the Point of Beginning.

Parcel Identification Number: 00017250-000100 & 00017250-000000

Subject to taxes for 2017 and subsequent years; covenants, conditions, restrictions, easements, reservations and limitations of record, if any.

Together with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

To Have and to Hold, the same in fee simple forever.

And the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes accruing subsequent to December 31, 2016.

In Witness Whereof, grantor has hereunto set grantor's hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:


Witness Name: ERICA H. STERLING


Witness Name: MARY E. TURSO


Witness Name: ERICA H. STERLING


Witness Name: MARY E. TURSO

Shady Cat, LLC
By: 
David Pollman, Member

By: 
Robert P. Pollman, Manager

State of Florida
County of Monroe

The foregoing instrument was acknowledged before me this 15th day of February, 2017 by David Pollman, Member and Robert P. Pollman, Manager of Shady Cat, LLC, on behalf of the limited liability company. They are personally known to me or have produced a driver's license as identification.

[Notary Seal]



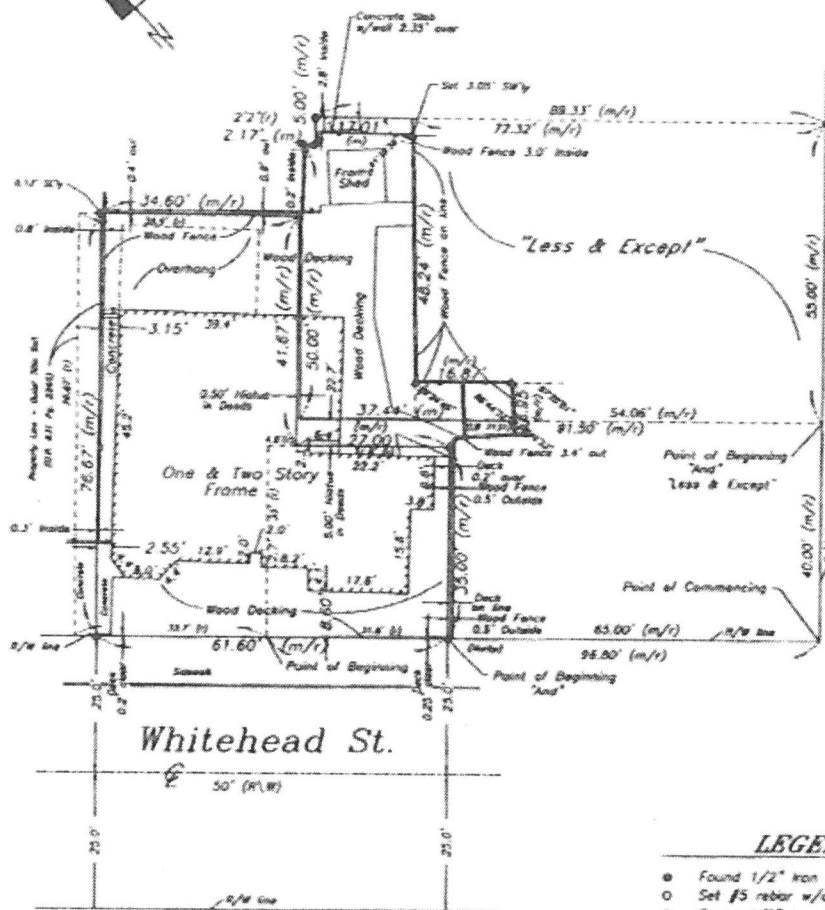
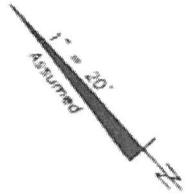

Notary Public

Printed Name: MARY E. TURSO

My Commission Expires: 5/16/17

Survey

Boundary Survey Map of Part of Lot 4, Square 6, Tract 4 Island of Key West



LEGEND

- Found 1/2" Iron Pipe (No ID)
- Set #5 rebar w/cap (6298)
- Found 1/2" Iron Rod (7131)
- ▲ Found Nail & Disc (Norty)
- △ Set Nail & Disc (6298)
- (M) Measured
- (R) Record
- (M/R) Measured & Record
- C.B.S. Concrete Block Structure
- R/W Right of Way
- C.L.F. Chain Link Fence
- ⊕ Centerline
- ⊙ Wood Utility Pole
- ⊠ Concrete Utility Pole
- P- Overhead Utility Lines

NOTE:
This Survey Map is not
full and complete without
the attached Survey Report.

Sheet One of Two Sheets

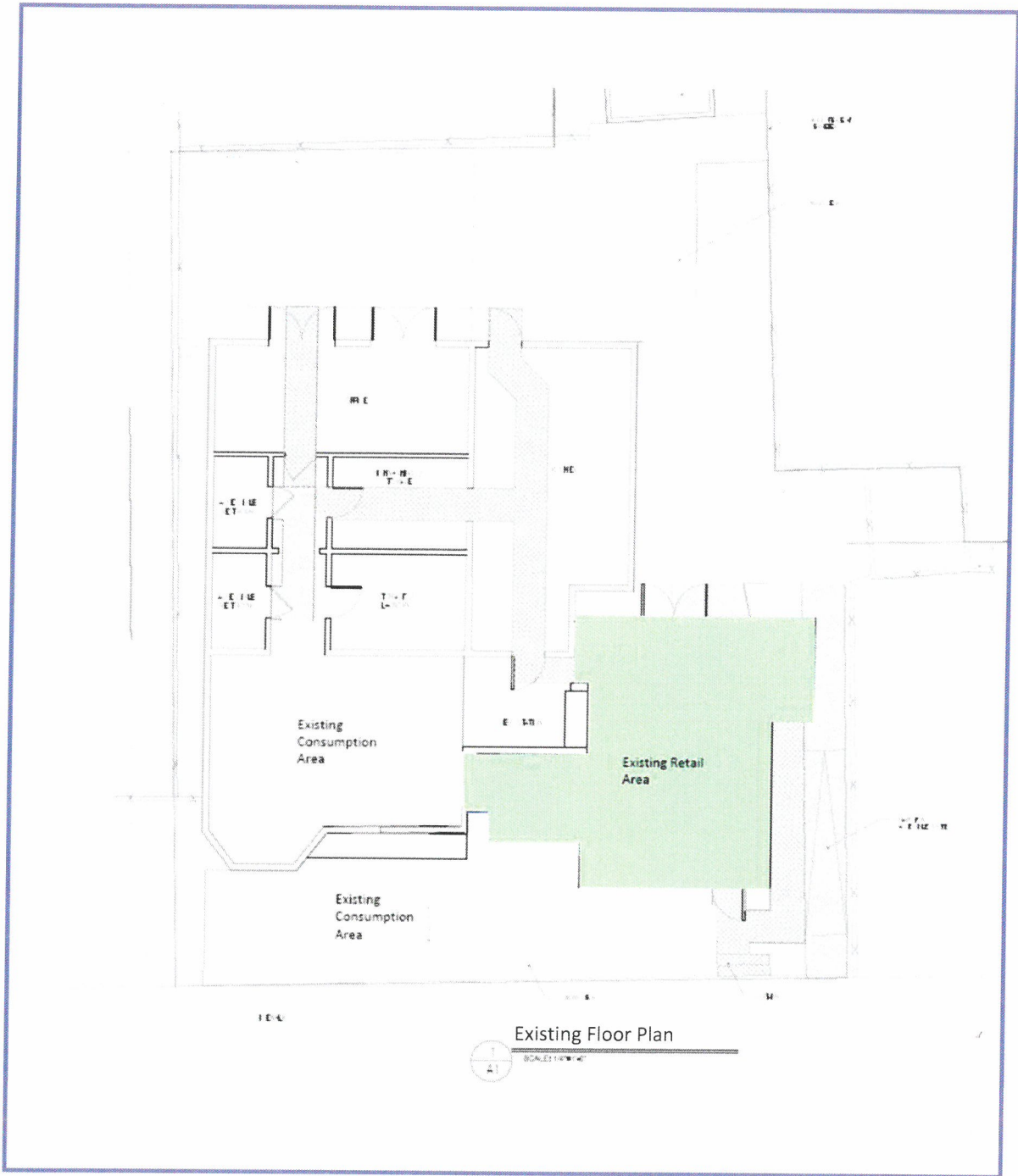
J. LYNN O'FLYNN, Inc.



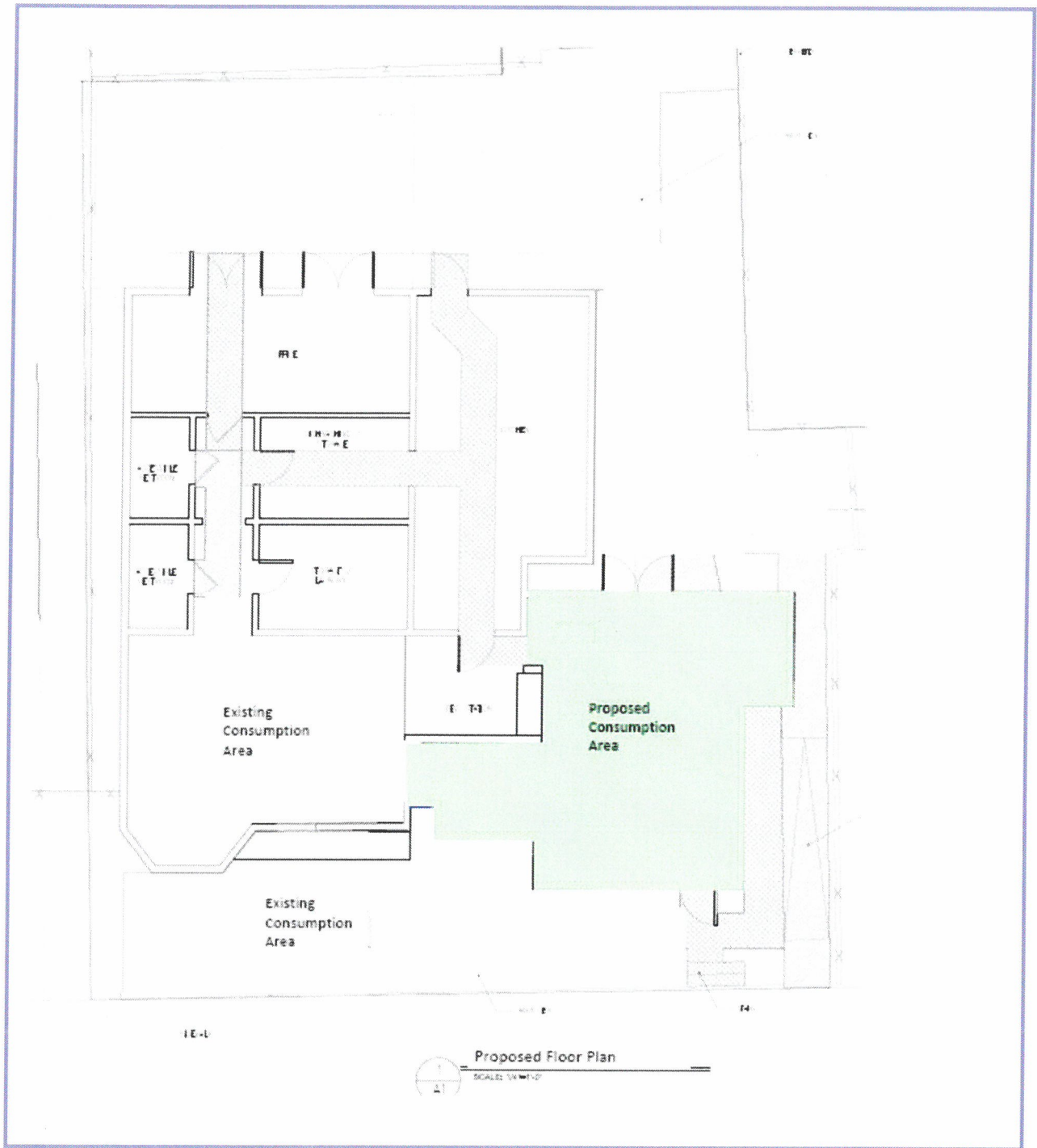
Professional Surveyor & Mapper
P.O. #2225

3430 Duck Ave., Key West, FL 33040
(305) 298-7422 Fax (305) 298-2244

Site Plan

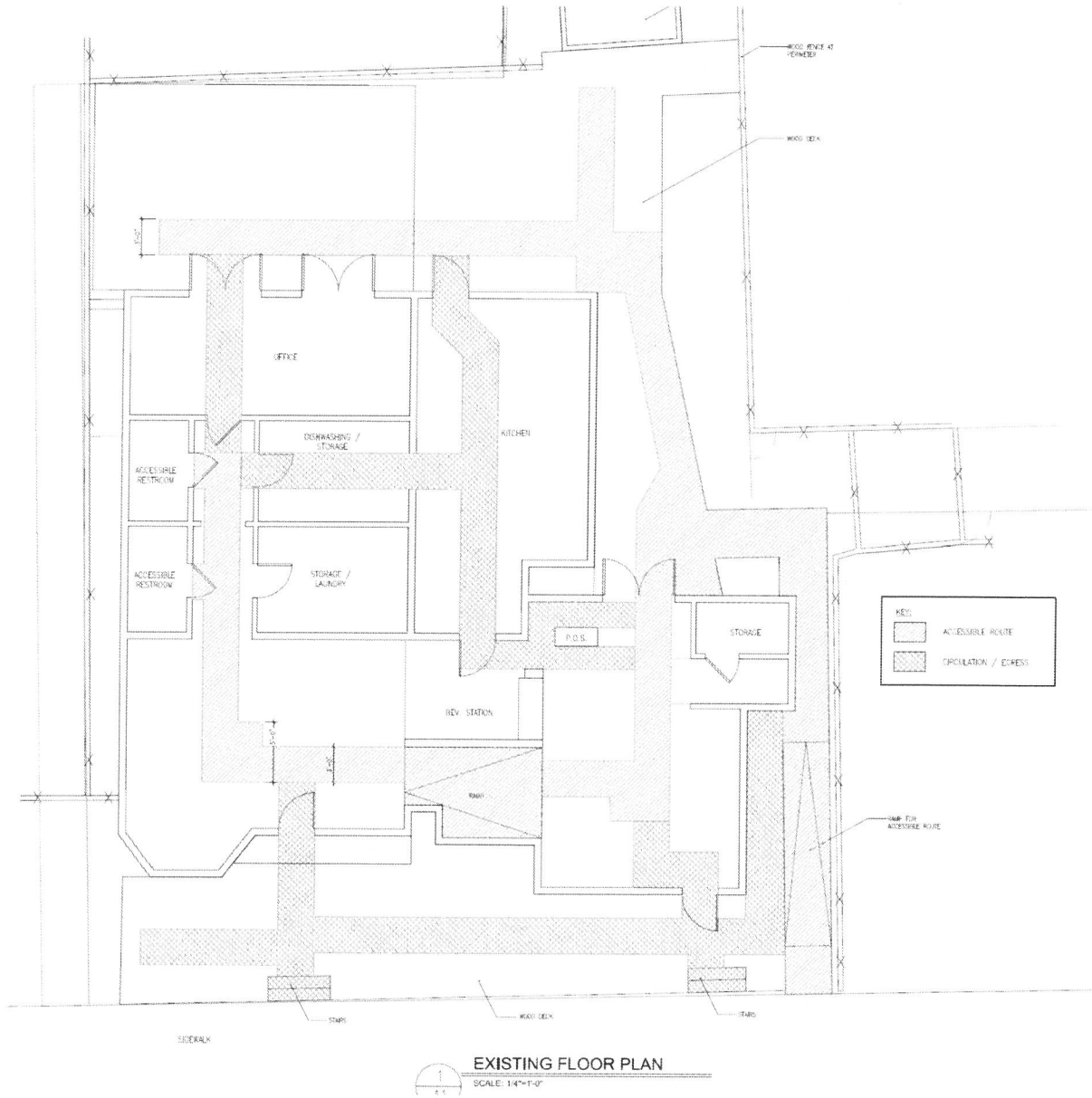


821-823 Whitehead Street
The Six-toed Cat



821-823 Whitehead Street
The Six-toed Cat

ADA Access Plan



821-823 Whitehead Street
Six-toed Cat

Site Photos



The Six-Toed Cat Café' existing non-conforming retail area.



Bicycle Parking recently provided by The City of Key West allows for a total of six (6) bicycle parking spaces.



Existing non-conforming restaurant use

821-823 Whitehead Street
SURROUNDING AREA



821-823 Whitehead Street
SURROUNDING AREA



821-823 Whitehead Street
SURROUNDING AREA



Property Appraiser

Scott P. Russell, CFA
Property Appraiser
Monroe County, Florida

Key West (305) 292-3420
Marathon (305) 289-2550
Plantation Key (305) 852-7130

Property Record Card -
Map portion under construction.

Website tested on IE8,
IE9, & Firefox.
Requires Adobe Flash
10.3 or higher

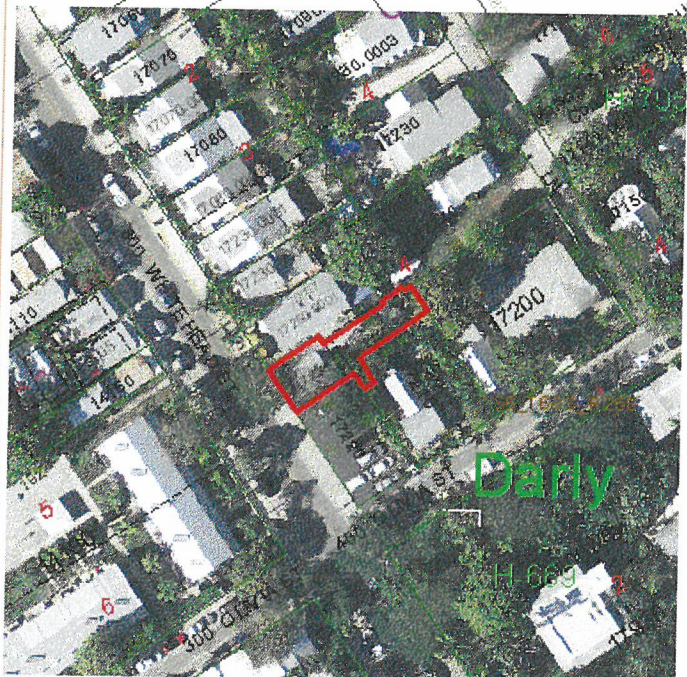
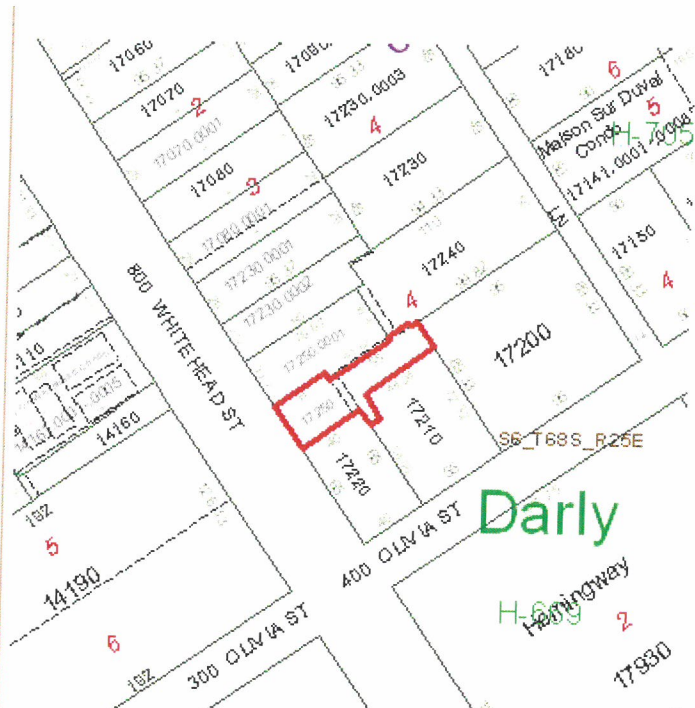
Alternate Key: 1017701 Parcel ID: 00017250-000000

Ownership Details

Mailing Address:
SHADY CAT LLC
PO BOX 87
EGG HARBOR, WI 54209

Property Details

PC Code: 21 - RESTAURANTS & CAFETERIAS
Millage Group: 11KW
Affordable Housing: No
Section-Township-Range: 06-68-25
Property Location: 823 WHITEHEAD ST KEY WEST
Legal Description: KW PT LOT 4 SQR 6 TR 4 H2-292 B OF W C-402/05 OR519-214 OR953-967 OR1036-233 OR1193-1256/58 OR1243-208/09 OR1433-464/467 OR1755-768/69 OR1770-224/225 OR1770-226/227 OR1782-867 OR2006-2391/92 OR2425-1318/1320 OR2425-1330/32 OR2425-1333/35 OR2464-1736/39F/J OR2466-1/4C OR2497-1133/40B/A



Show Parcel Map that can launch map - Must have Adobe Flash Player 10.3 or higher

Land Details

Land Use Code	Frontage	Depth	Land Area
100D - COMMERCIAL DRY	0	0	2,329.00 SF

Building Summary

Number of Buildings: 1

Number of Commercial Buildings: 1
 Total Living Area: 668
 Year Built: 1928

Building 1 Details

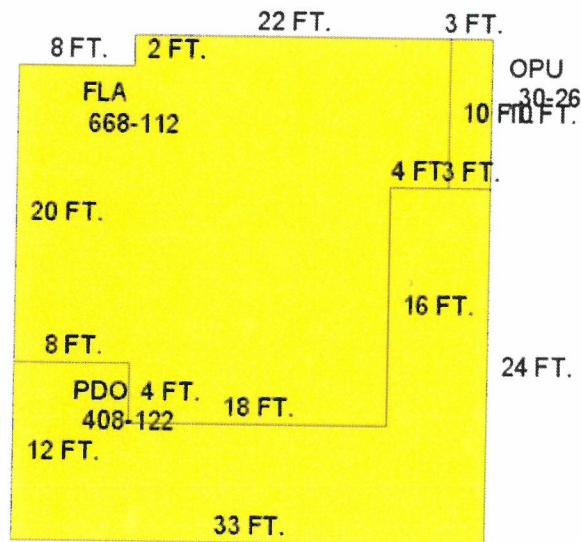
Building Type	Condition E	Quality Grade 350
Effective Age 19	Perimeter 112	Depreciation % 23
Year Built 1928	Special Arch 0	Grnd Floor Area 668
Functional Obs 0	Economic Obs 0	

Inclusions:

Roof Type	Roof Cover	Foundation
Heat 1	Heat 2	Bedrooms 0
Heat Src 1	Heat Src 2	

Extra Features:

2 Fix Bath	0	Vacuum	0
3 Fix Bath	0	Garbage Disposal	0
4 Fix Bath	0	Compactor	0
5 Fix Bath	0	Security	0
6 Fix Bath	0	Intercom	0
7 Fix Bath	0	Fireplaces	0
Extra Fix	10	Dishwasher	0



Sections:

Nbr	Type	Ext Wall	# Stories	Year Built	Attic A/C	Basement %	Finished Basement %	Area
1	FLA		1	1993				668
2	PDO		1	1993				408
3	OPU		1	1993				30

Interior Finish:

Section Nbr	Interior Finish Nbr	Type	Area %	Sprinkler	A/C
	3100	RESTRNT/CAFETR-B-	100	N	Y
	3101	PDO	100	N	N
	3102	OPU	100	N	N

Exterior Wall:

Interior Finish Nbr	Type	Area %
810	AB AVE WOOD SIDING	100

Misc Improvement Details

Nbr	Type	# Units	Length	Width	Year Built	Roll Year	Grade	Life
1	FN2:FENCES	28 SF	0	0	1985	1986	2	30

Appraiser Notes

823 WHITEHEAD ST- THE CAFE NEXT DOOR

LAND SIZE INCREASED FOR THE 2005 TAX ROLL. PARCEL OF LAND WHICH SITS BEHIND RE 1721 DID NOT GET TRANSFERRED WITH THE SALE OF THE PROPERTY. THIS ADDITIONAL LAND IS NOW BEING ASSESSED UNDER THIS PARCEL.

Building Permits

Bldg Number	Date Issued	Date Completed	Amount	Description	Notes
09-00002459	08/18/2009	03/14/2011	6,800	DEMO 1000 SF TILE. LAY DOWN TILE BACKER	
09-00002563	08/19/2009	03/14/2011	6,800	REMOVE AND REPLACE EXISTING WATER CLOSET AND TWO LAVATORIES. INSTALL ONE 20LB & ONE 30LB GREASE TRAP. REMOVE AND REPLACE 3 COMPARTMENT SINK.	
09-00003497	11/05/2009	03/14/2011	1,500	INSTALL PYROSCHEM SYSTEM UL-300 FIRE SUPPRESSION SYSTEM ON EXHAUST HOOD	
09-3792	11/05/2009	03/14/2011	500	BRING ANSIL & HOOD WIRE AND ELECTRIC UP TO CODE	
B940819	03/01/1994	12/01/1994	1,000	INSTALL SHELVING	
9700007	01/01/1997	07/01/1997	1,500	ELECTRIC	
9903049	08/27/1999	12/05/1999	6,000	HOOD/DUCT FAN	
9903480	10/08/1999	12/05/1999	700	REPLACE/UPGRADE FIXTURES	
9903494	10/13/1999	12/05/1999	100	REPLACE KITCHEN HOOD	
9903866	11/23/1999	12/05/1999	2,300	FIRE SUPPRESSION SYSTEM	

Parcel Value History

Certified Roll Values.

[View Taxes for this Parcel.](#)

Roll Year	Total Bldg Value	Total Misc Improvement Value	Total Land Value	Total Just (Market) Value	Total Assessed Value	School Exempt Value	School Taxable Value
2012	85,526	39	212,817	298,382	298,382	0	298,382
2011	85,526	39	283,756	369,321	369,321	0	369,321
2010	88,858	39	247,584	336,481	336,481	0	336,481
2009	88,858	39	310,747	399,644	399,644	0	399,644
2008	91,079	39	291,125	382,243	382,243	0	382,243
2007	68,593	39	291,125	359,757	359,757	0	359,757
2006	68,593	39	209,610	278,242	278,242	0	278,242
2005	70,207	39	174,675	244,921	244,921	0	244,921
2004	70,203	39	83,475	153,717	153,717	0	153,717
2003	70,203	42	33,390	103,635	103,635	0	103,635
2002	70,203	46	33,390	103,639	103,639	0	103,639
2001	68,589	49	33,390	102,028	102,028	0	102,028
2000	68,589	19	27,825	96,433	96,433	0	96,433
1999	67,832	21	27,825	95,678	95,678	0	95,678
1998	45,328	22	27,825	73,175	73,175	0	73,175
1997	42,185	23	25,599	67,807	67,807	0	67,807
1996	38,350	24	25,599	63,973	63,973	0	63,973
1995	38,350	25	25,599	63,974	63,974	0	63,974
1994	38,350	26	25,599	63,975	63,975	0	63,975
1993	29,606	28	25,599	55,233	55,233	0	55,233
1992	29,606	29	25,599	55,234	55,234	0	55,234
1991	29,606	30	25,599	55,235	55,235	0	55,235
1990	20,479	0	20,312	40,791	40,791	0	40,791
1989	20,479	0	20,034	40,513	40,513	0	40,513
1988	19,675	0	13,356	33,031	33,031	0	33,031
1987	19,364	0	8,183	27,547	27,547	0	27,547
1986	19,362	0	7,947	27,309	27,309	0	27,309
1985	19,021	0	7,313	26,334	26,334	0	26,334
1984	5,077	0	7,313	12,390	12,390	0	12,390
1983	5,077	0	4,416	9,493	9,493	0	9,493
1982	5,167	0	3,277	8,444	8,444	0	8,444

Parcel Sales History

NOTE: Sales do not generally show up in our computer system until about two to three months after the date of sale. If a recent sale does not show up in this list, please allow more time for the sale record to be processed. Thank you for your patience and understanding.

Sale Date	Official Records Book/Page	Price	Instrument	Qualification
7/29/2009	2425 / 1330	850,000	WD	05
7/29/2009	2425 / 1318	100	QC	11
12/1/1996	1433 / 0464	1	WD	M
12/1/1992	1243 / 208	9,500	WD	H

Scott P. Russell, CFA
Property Appraiser
Monroe County, Florida

Key West (305) 292-3420
Marathon (305) 289-2550
Plantation Key (305) 852-7130

Property Record Card -
Map portion under construction.

Website tested on IE8,
IE9, & Firefox.
Requires Adobe Flash
10.3 or higher

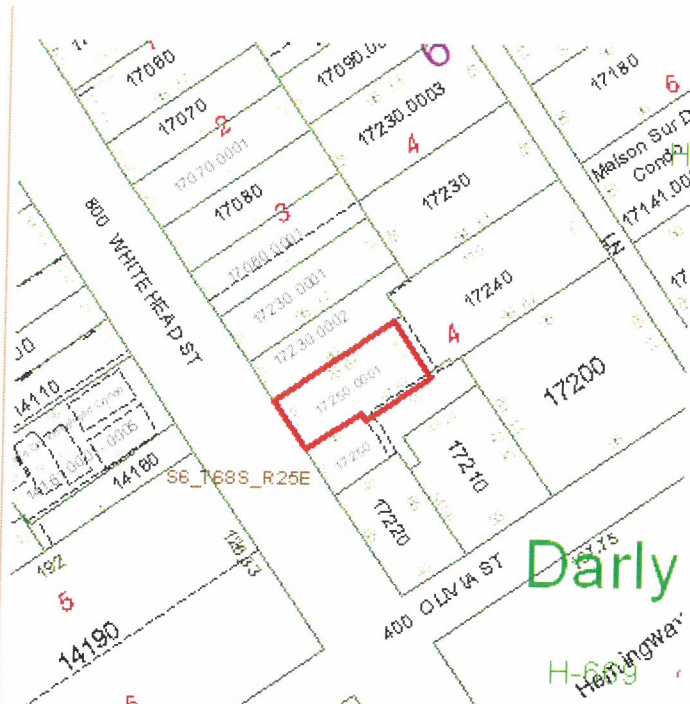
Alternate Key: 1017710 Parcel ID: 00017250-000100

Ownership Details

Mailing Address:
SHADY CAT LLC
PO BOX 87
EGG HARBOR, WI 54209

Property Details

PC Code: 12 - STORE/OFF/RES OR COMBINATION
Millage Group: 11KW
Affordable Housing: No
Section-Township-Range: 06-68-25
Property Location: 821 WHITEHEAD ST KEY WEST
Legal Description: KW PT LT 4 SQR 6 TR 4 OR519-212 OR1036-236/38 OR1193-1256/58 OR1243-208/10 OR1433-464/467 OR1755-766/767 OR1770-228/229 OR1770-230/231 OR2006-2391/92 OR2425-1318/20 OR2425-1330/32 OR2425-1333/35 OR2464-1736/39F/J OR2466-1/4C



Show Parcel Map that can launch map - Must have Adobe Flash Player 10.3 or higher

Land Details

Land Use Code	Frontage	Depth	Land Area
100D - COMMERCIAL DRY	0	0	2,784.00 SF

Building Summary

Number of Buildings: 1

Number of Commercial Buildings: 1
 Total Living Area: 1104
 Year Built: 1928

Building 1 Details

Building Type
 Effective Age 19
 Year Built 1928
 Functional Obs 0

Condition E
 Perimeter 142
 Special Arch 0
 Economic Obs 0

Quality Grade 450
 Depreciation % 23
 Grnd Floor Area 1,104

Inclusions:

Roof Type
 Heat 1
 Heat Src 1

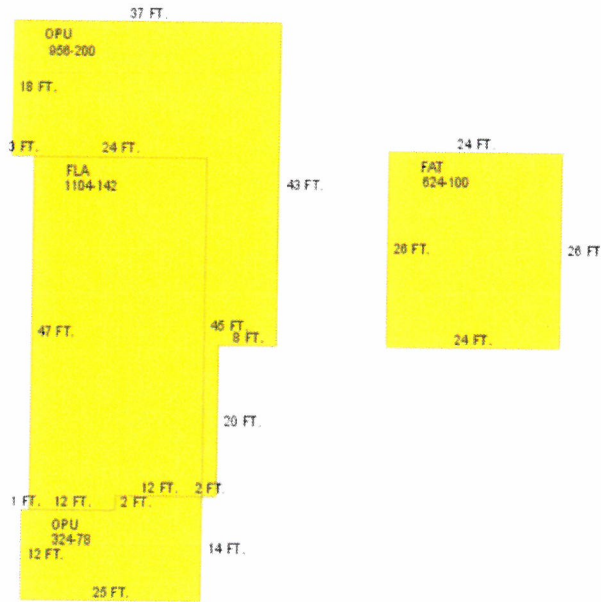
Roof Cover
 Heat 2
 Heat Src 2

Foundation
 Bedrooms 0

Extra Features:

2 Fix Bath 1
 3 Fix Bath 2
 4 Fix Bath 0
 5 Fix Bath 0
 6 Fix Bath 0
 7 Fix Bath 0
 Extra Fix 6

Vacuum 0
 Garbage Disposal 0
 Compactor 0
 Security 0
 Intercom 0
 Fireplaces 0
 Dishwasher 0



Sections:

Nbr	Type	Ext Wall	# Stories	Year Built	Attic	A/C	Basement %	Finished Basement %	Area
1	FLA		1	1993					1,104
2	OPU		1	1993					324
3	OPU		1	1993					956
4	FAT		1	1993					624

Interior Finish:

Section Nbr	Interior Finish Nbr	Type	Area %	Sprinkler	A/C
	3103	1 STY STORE-A	57	Y	Y
	3104	APTS-A	43	Y	Y
	3105	OPU	100	N	N
	3106	OPU	100	N	N
	3107	FAT	100	N	N

Exterior Wall:

Interior Finish Nbr	Type	Area %
811	AB AVE WOOD SIDING	100

Misc Improvement Details

Nbr	Type	# Units	Length	Width	Year Built	Roll Year	Grade	Life
1	FN2:FENCES	320 SF	80	4	1988	1989	2	30
2	FN2:FENCES	78 SF	13	6	1996	1997	2	30
3	FN2:FENCES	145 SF	29	5	1996	1997	2	30

Appraiser Notes

821 WHITEHEAD STREET 2004-04-06 ASKING \$2,500,000 FOR 821-823 HAS 28 SEAT RESTAURANT AND GIFT SHOP NEXT TO THE HEMINGWAY HOUSE COMPLETELY REMODELED. 2004-05-04 REDUCED ASKING TO \$1,950,000-SKI

Building Permits

Bldg	Number	Date Issued	Date Completed	Amount	Description	Notes
	10-00000341	02/04/2010		500		INSTALL 6" STOVE PIPE DUCT IN BACK WALL
	B940973	03/01/1994	12/01/1994	1,600		INSTALL GATES IN RAILS
	B942029	06/01/1994	12/01/1994	1,976		INSTALL 544 SF TILE/FLOOR
1	I951335	04/01/1995	04/01/1995	1	Commercial	IMPACT FEES 552SF RETAIL\
1	9700576	03/01/1997	10/01/1997	28,000	Commercial	REPAIRS/REMODELING
	9700685	03/01/1997	10/01/1997	3,500		REPLACE 9 FIXTURES
	9701140	04/01/1997	10/01/1997	6,000		REMODELING
	9700576	03/01/1997	10/01/1997	1		RENOVATIONS
	9701417	05/01/1997	10/01/1997	5,500		1536 SQ FT GALVALUME ROOF
	9701634	05/01/1997	10/01/1997	6,300		CENTRAL AC
	9701695	05/01/1997	10/01/1997	5,000		ELECTRICAL
	9701817	06/01/1997	10/01/1997	2,000		ADD BATH ON 2ND FLOOR
	9702196	07/01/1997	10/01/1997	500		3 NEW FIXTURES

Parcel Value History

Certified Roll Values.

[View Taxes for this Parcel.](#)

Roll Year	Total Bldg Value	Total Misc Improvement Value	Total Land Value	Total Just (Market) Value	Total Assessed Value	School Exempt Value	School Taxable Value
2012	160,809	839	244,724	406,372	406,372	0	406,372
2011	160,809	862	326,299	487,970	487,970	0	487,970
2010	167,075	893	284,316	452,284	452,284	0	452,284
2009	167,075	917	351,699	519,691	519,691	0	519,691
2008	171,252	940	348,000	520,192	520,192	0	520,192
2007	133,597	971	348,000	482,568	482,568	0	482,568
2006	133,597	1,028	250,560	385,185	385,185	0	385,185
2005	136,741	1,095	208,800	346,636	346,636	0	346,636
2004	136,731	1,161	208,800	253,683	253,683	0	253,683
2003	136,731	1,218	83,520	253,683	253,683	0	253,683
2002	136,731	1,287	83,520	241,603	241,603	0	241,603
2001	136,731	1,352	83,520	241,603	241,603	0	241,603
2000	136,731	523	69,600	206,854	206,854	0	206,854
1999	136,731	549	69,600	206,880	206,880	0	206,880
1998	91,338	572	69,600	161,510	161,510	0	161,510
1997	58,500	363	64,032	122,895	122,895	0	122,895
1996	43,797	392	64,032	108,221	108,221	0	108,221
1995	40,166	421	41,760	91,682	91,682	0	91,682
1994	40,166	450	41,760	86,438	86,438	0	86,438
1993	27,504	479	41,760	72,541	72,541	0	72,541
1992	27,504	508	41,760	72,573	72,573	0	72,573
1991	27,504	537	41,760	72,605	72,605	0	72,605
1990	30,538	566	34,104	68,318	68,318	0	68,318
1989	29,962	0	33,408	63,370	63,370	0	63,370
1988	26,237	0	27,840	54,077	54,077	0	54,077
1987	18,587	0	20,880	39,467	39,467	25,000	14,467
1986	18,692	0	20,045	38,737	38,737	25,000	13,737
1985	18,074	0	18,374	36,448	36,448	25,000	11,448
1984	11,320	0	18,374	29,694	29,694	25,000	4,694
1983	11,320	0	11,201	22,521	22,521	22,521	0
1982	11,572	0	8,284	19,856	19,856	19,856	0

Parcel Sales History

NOTE: Sales do not generally show up in our computer system until about two to three months after the date of sale. If a recent sale does not show up in this list, please allow more time for the sale record to be processed. Thank you for your patience and understanding.

Sale Date	Official Records Book/Page	Price	Instrument	Qualification
7/29/2009	2425 / 1330	850,000	WD	05
12/1/1996	1433 / 0464	390,000	WD	M