

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE BOARD OF ADJUSTMENT OF THE CITY OF KEY WEST, FLORIDA, RECONSIDERING AND GRANTING/DENYING AN APPEAL BY ATTORNEY WAYNE LARUE SMITH, ON BEHALF OF PROPERTY OWNER BRUGMAN HOLDINGS, LLC, UPON A FINDING BY THE 16<sup>th</sup> JUDICIAL CIRCUIT COURT FOR MONROE COUNTY CERTIORARI CASE NO. CA-734-K, THAT QUASHED RESOLUTION NO. 20-025 AND REMANDED THE ORIGINAL APPEAL FOR RECONSIDERATION; UPHOLDING/DENYING THE PLANNING DIRECTOR'S LAWFUL UNIT DETERMINATION FOR 9-D, 10-B2, 10-C HILTON HAVEN DRIVE; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, at its meeting of January 22, 2020, the City Commission, sitting as the Key West Board of Adjustment conducted a quasi-judicial hearing concerning an appeal by the property owners of the Interim Planning Director's Lawful Unit Determination dated December 10, 2019, for property located at 9-D, 10-B2, 10-C Hilton Haven Drive and denied the appeal in Resolution 20-025; and

WHEREAS, the property owners then timely submitted a Petition for Writ of Certiorari to the Sixteenth Judicial Circuit

Court of Monroe County, challenging the City's denial of appeal;  
and

WHEREAS, on March 22, 2022, the Court granted the Petition for Writ of Certiorari, stating in its conclusion:

"The record does not establish the criteria that the Planning Director and the BOA considered in reaching the decision to deny the LUD. Petitioner provided evidence to support the existence of the units in 2010, and the record does not establish what evidence the Planning Director and the BOA considered in rejecting the LUD for each unit. Without this information, the Court cannot assess whether the BOA's findings and judgment are supported by competent substantial evidence and whether the essential requirements of the law have been observed.

Therefore, the Court **GRANTS** the Petition for Writ of Certiorari, **QUASHES** Resolution No. 20-025, and **REMANDS** for proceedings consistent with this opinion."

**WHEREAS**, at its meeting of May 3, 2022, the City Commission, sitting as the Key West Board of Adjustment conducted a quasi-

judicial hearing to reconsider the appeal by the property owners of the Interim Planning Director's Lawful Unit Determination dated December 10, 2019, for property located at 9-D, 10-B2, 10-C Hilton Haven Drive; and

**WHEREAS**, the Board of Adjustment considered the record upon which the Interim City Planning Director rendered his decision, and provided opportunity for presentation by the appellant and the City Planner; and

**WHEREAS**, City Code of Ordinances section 90-431(4) requires the concurring vote of no less than four members of the Board of Adjustment/City Commission to reverse or modify the order, requirement, decision or determination of the city planner.

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

Section 1: That the appeal is hereby **granted/denied**, based upon the following finding: **that the Planning Director used criteria and evidence including: \_\_\_\_\_.**

Section 2: That the appeal is hereby **granted/denied**, based upon the following finding: **that the Board of Adjustment used criteria and evidence including: \_\_\_\_\_.**

Section 3: That the ruling of the Interim City Planner is **upheld and affirmed/denied** as consistent with the Land Development Regulations.

Section 4: That this Resolution shall go into effect immediately upon its passage and adoption and authentication by the signature of the Presiding Officer and the Clerk of the Board.

Passed and adopted by the Board of Adjustment at a meeting held this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

Authenticated by the Presiding Officer and Clerk of the Board on \_\_\_\_\_ day of \_\_\_\_\_, 2022.

Filed with the Clerk on \_\_\_\_\_, 2022.

Mayor Teri Johnston	_____
Vice Mayor Sam Kaufman	_____
Commissioner Gregory Davila	_____
Commissioner Mary Lou Hoover	_____
Commissioner Clayton Lopez	_____
Commissioner Billy Wardlow	_____
Commissioner Jimmy Weekley	_____

\_\_\_\_\_  
TERI JOHNSTON, MAYOR

ATTEST:

\_\_\_\_\_  
CHERYL SMITH, CITY CLERK