

**IN THE CITY OF KEY WEST, BEFORE THE CITY COMMISSION SITTING AS
THE BOARD OF ADJUSTMENT FOR THE CITY OF KEY WEST, FLORIDA**

BRUGMAN HOLDINGS, LLC, a
Florida limited liability company,

Appellant,

vs.

CITY OF KEY WEST,

Appellee.

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CITY OF KEY WEST
KEY WEST, FLORIDA

NOTICE OF APPEAL OF DENIAL OF LAWFUL UNIT DETERMINATION

NOTICE IS GIVEN that BRUGMAN HOLDINGS, LLC, a Florida limited liability company (“Appellant”), hereby appeals to the Board of Adjustment of the City of Key West, Florida, the administrative decision of the Planning Director Roy Bishop (“Planning Director”) of the City of Key West, Florida denying the lawful unit determination application with respect to the real property located at 9-D, 10-B2, 10-C Hilton Haven Drive, Key West, Florida 33040.¹ The Planning Director rendered the decision on December 11, 2019 and subsequently issued an amended decision on December 20, 2019, which amended decision was hand delivered to Appellant’s representative on December 23, 2019. Attached to this Notice of Appeal are copies of the original and amended decisions by the Planning Director. App. (090, 001).

Appellant has standing to bring this appeal pursuant to section 90-430, City of Key West, Florida, Municipal Code (2019), because Appellant is affected by the decision rendered by the City Planner of the City of Key West.

1. The specific parcels subject to this appeal are RE # 00002070-000000 (AK # 1002178); RE # 00001850-000000 (AK # 1001945); and RE # 00002100-000000 (AK # 1002208).

BACKGROUND

1. Appellant is the owner of the real property located at 9, 9-A, 9-B, 9-C, 9-D, 10-A, 10-B, and 10-B2 Hilton Haven Drive, Key West, Florida 33040 (“Subject Property”).
2. Edward J. Brugman and Susan K. Shelly are Appellant’s managing members.
3. The Subject Property consists of twelve (12) market-rate residential units. Six (6) of the units have been previously recognized by the City of Key West (the “City”) as lawful non-transient units, as reflected in the City Licensing Records from the Building Department.
4. The Subject Property has a total of 34,270 square feet of site area: 9 Hilton Haven Drive (18,820 square feet); 10 Hilton Haven Drive (4,950 square feet); 10A-10B Hilton Haven Drive (10,500 square feet).
5. The six (6) additional units on the Subject Property that Appellant seeks to be recognized by the City are: one (1) non-transient Lockout Studio at 9-D Hilton Haven Drive; one (1) non-transient Recreational Vehicle (“RV”) unit on Hilton Haven Drive; one (1) non-transient Lockout Studio on 10-B2 Hilton Haven Drive; and three (3) units comprising of three slips for non-transient Single Family Residential (“SFR”) Floating Structure and Liveaboard on 10-C Hilton Haven Drive.
6. The City passed section 108-991(3), Key West, Fla., Municipal Code (2019) (the “LUD Ordinance”) for the purpose of resolving property owners’ interests, such as Appellant, by virtue of the City’s recognition of lawful units on the owners’ properties. To that end, on October 7, 2019, Appellant filed with the City an application for a Lawful Unit Determination (LUD), “to clarify the number and structure type of actual units that existed on the property on or about April 1, 2010 for the purposes of Sec. 108-991(3) [(the LUD Ordinance)].”

7. In particular, the application sought the recognition of the additional six (6) units on the Subject Property as *non-transient units*, which, if so determined, would result in a total of twelve (12) units recognized by the City as lawful non-transient units on the Subject Property.² Appellant attached to its application seventy-six (76) pages of supporting evidence.

8. In a letter dated December 11, 2019, the Planning Director issued the initial LUD decision involving the Subject Property. The Planning Director noted that he considered the criteria provided in the LUD Ordinance and visited the Subject Property. The Planning Director confirmed that Appellant established that six (6) non-transient units exist on the Subject Property, as the City previously recognized those units. However, the Planning Director declined to recognize the additional six (6) non-transient units as lawfully existing on the Subject Property. The Planning Director denied the requested recognition:

based on the fact that [Appellant] ha[s] not demonstrated that in the current MDR zoning district or the former R2 zoning district, that these *transient* units meet the requirements of Section d. [of the LUD Ordinance] and that they are or were legally permissible under current or previous requirements. The MDR zoning district according to Section 122-266, “shall not accommodate *transient* lodgings . . .” and in R2 they are not specifically permitted.

(Emphasis added). App. (091).

9. In addition, the Planning Director found that the units failed to satisfy the term “dwelling units” under the City’s Code. App. (091).

10. On the same day of the LUD decision, the Planning Director announced that he would “withdraw” the decision following Appellant’s correspondence to the City’s Planning Department’s office clarifying that the application sought City recognition of an additional six (6) *non-transient* units as opposed to transient units. App. (100).

2. Trepanier & Associates, Inc., as Appellant’s authorized representative, submitted the application on Appellant’s behalf.

11. Subsequently, on December 20, 2019, the Planning Director issued an “Amended” decision wherein the Planning Director again confirmed the previously recognized six (6) non-transient units and refused to recognize the request for the additional six (6) non-transient units as lawfully established on the Subject Property. The amended LUD decision stated in relevant part:

[M]y determination on the new submittals for six (6) additional non-transient units is that they do not meet the definition of “dwelling units” under our Code as follows: “Dwelling unit and living unit means a single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.” Evidence submitted is not convincing that these units existed on or about April 1, 2010 and that they met the definition of dwelling units.”

In addition, Section 108-681 of the Land Development Regulation state that all trailers and the like occupied for living quarters shall be parked in a regularly licensed trailer park. Liveboards are not a legally permissible use under current and previous zoning requirements in this district (current MDR and previous R2 zoning).

App. (002).

12. The amended LUD decision removed the term “transient” units.

13. Appellant now appeals the Planning Director’s administrative action in his refusal to recognize the additional six (6) units as lawful non-transient units existing on the Subject Property.

ARGUMENT

I. APPELLANT TIMELY APPEALS THE LUD DECISION TO THE CITY’S ADJUSTMENT BOARD.

Pursuant to the LUD Ordinance, “[a]n appeal to the board of adjustment shall be taken on or before the tenth day, counted consecutively, after the date of . . . the administrative action of . . . the city planner.” § 90-431(1)(b). Three (3) days may be added to the appeal timeframe where the administrative action was mailed to the party. § 90-431(1)(c).

In this case, the amended LUD decision on December 20, 2019 and not the original decision on December 11, 2019 controls because the decision was amended in a material respect as the basis for the denial was materially changed. See Degale v. Krongold, Bass & Todd, 773 So. 2d 630, 631 (Fla. 3d DCA 2000) (“Florida follows the majority rule that, where a judgment is amended in a material respect, the appeal time runs from the date of the amendment, provided the amendment is material, not minor or formal.”). Moreover, the amended decision was not mailed to Appellant’s authorized representative. Instead, it was hand delivered to Appellant’s authorized representative on December 23, 2019. App. (003, 004). Consequently, the deadline for Appellant to appeal to the board of adjustment is ten (10) days following the December 23, 2019 hand delivery of the amended LUD decision or January 2, 2020. Accordingly, this Notice of Appeal is timely filed.

II. THE CITY IS REQUIRED TO FOLLOW ITS OWN LAW (THE LUD ORDINANCE), AND THE CITY’S FAILURE TO FOLLOW THE LUD ORDINANCE IN DENYING APPELLANT’S REQUEST TO RECOGNIZE THE ADDITIONAL SIX (6) NON-TRANSIENT UNITS ON THE SUBJECT PROPERTY IS A DENIAL OF APPELLANT’S DUE PROCESS RIGHTS.

The City is bound to follow its own rules and regulations, and denies due process if it does not do so. Fruman v. City of Detroit, 1 F.Supp 2d 665, 672 (E.D. Mich. 1998); Superior Savings Association v. Cleveland, 501 F. Supp. 1244, 1249 (N.D. Ohio 1980), quoting Service v. Dulles, 354 U.S. 363 (1957). The City’s own Municipal Code (“City Code”) requires that a lawful unit determination be granted based on the specific criteria listed in the LUD Ordinance. Appellant has met the specific criteria and, therefore, the LUD Ordinance requires that the units be recognized.

Additionally, in Rinker Materials Corp. v. City of North Miami, 286 So. 2d 552, 553 (Fla. 1973), the Florida Supreme Court sought to resolve a conflict among the courts that

resulted in a “failure to follow established decisional rules of statutory construction.” The Rinker Materials Corp. Court reaffirmed the principles to be:

- (a) In statutory construction, statutes must be given their plain and obvious meaning and it must be assumed that the legislative body knew the plain language and ordinary meanings of the words.
- (b) Statutes or ordinances should be given that interpretation which renders the ordinance valid and constitutional.
- (c) Since zoning regulations are in derogation of private rights of ownership, words used in a zoning ordinance should be given their broadest meaning when there is no definition or clear intent to the contrary and the ordinance should be interpreted in favor of the property owner.

Id. at 553. Additionally, the Rinker Materials Corp. Court held that “Municipal ordinances are subject to the same rules of construction as state statutes.” Id. Pursuant to Rinker Materials Corp., the City must apply these rules of statutory construction.

Applying Rinker Materials Corp., Section 108-991(3), the LUD Ordinance, unequivocally controls in this matter, and requires that Appellant’s six (6) additional non-transient units be recognized. Section 108-991(3) must be given its plain and obvious meaning. *See Rinker Materials Corp.*, 286 So. 2d at 553. The plain and obvious meaning of the LUD Ordinance is that once an applicant has demonstrated that the six (6) additional units existed on or about April 1, 2010, then LUD recognition is mandated.

The LUD Ordinance provides that units determined to have been in existence on or about April 1, 2010 are presumed not to be affected by the City’s Building Permit Allocation System (“BPAS”) if two of the delineated categories of records support a finding that the units existed on or about April 1, 2010. The LUD Ordinance only requires that two of the delineated nine categories are required under the ordinance in order to grant LUD recognition.

The LUD Ordinance states in pertinent part:

(3) Units determined to have been in existence at the time the April 1, 2010, census was prepared are presumed not to be affected by BPAS. The city planner shall review available documents to determine if a body of evidence exists to support the existence of units on or about April 1, 2010. Units existing in 2010 will be documented through a mandatory site visit by city staff and at least two of the following records:

- a. Aerial photographs and original dated photographs showing that the structure existed on or about April 1, 2010;
- b. Building permits issued prior to April 1, 2010;
- c. Copies of city directory entries on or about April 1, 2010;
- d. Applications received after May 2, 2017 must demonstrate that the unit sought to be established hereunder is or has been legally permissible under the current or any former zoning requirements of the applicable district in which the unit is located.
- e. Rental, occupancy or lease records from before and including April 1, 2010, indicating the number, type and term of the rental or occupancy;
- f. Copies of state, county, and city licenses on and about April 1, 2010, indicating the number and types of rental units;
- g. Documentation for Keys Energy Service, Florida Keys Aqueduct Authority and other available utilities indicating the type of service (residential or commercial) provided and the number of meters on or about April 1, 2010;
- h. Documentation for the Monroe County Property Appraiser's Office for the time on or about April 1, 2010, (Green Card); and
- i. Similar documentation as listed above.

§ 108-991(3), Key West, Fla., Municipal Code (2019). "Provision of affidavits to support the existence of a unit is allowed, but cannot be the sole record upon which a decision is based." Id.

This Case

The City previously recognized six (6) non-transient units belonging on the Subject Property. Appellant seeks LUD recognition of six (6) additional non-transient units because the existence of these additional six (6) units on April 1, 2010 is clear from the record evidence.

Applying the LUD Ordinance criteria unequivocally results in a determination that the Subject Property be recognized as having an additional six (6) non-transient units for a total of twelve (12) non-transient units on the Subject Property. Appellant satisfied at least two of the criteria for the recognition of the six (6) additional units. The additional six (6) units and the supporting evidence are as follows:

Additional Unit 1 - 9-D Hilton Haven Drive (Lockout Studio).³ The supporting evidence includes Affidavits under (3)i, Legal Permissibility under (3)d, and Structural Age Report under (3)i;

Additional Unit 2 - RV Unit Hilton Haven Drive.⁴ The supporting evidence includes Affidavits under (3)i, Legal Permissibility under (3)d, and Arborist Report under (3)I;

Additional Unit 3 - Unit 10-B2 Hilton Haven (Lockout Studio).⁵ The supporting evidence includes Affidavits under (3)i, Legal Permissibility under (3)d, and Structural Age Report under (3)i; and

Additional Units 4-6 - 10-C Hilton Haven, slips 1-3 (SFR Floating Structure & Liveboards).⁶ The supporting evidence includes Affidavits under (3)i, Legal Permissibility under (3)d, Keys Energy under (3)g, Planning Aerial under (3)a, Code Case 00-1065 under (3)i, Home Occupation License under (3)f; County Aerial under (3)a, Polk City Directory under (3)c, City - Planning Records & Photographs under (3)a, County Aerial under (3)a, and Tenant Lease 2012-2013 under (3)e.

As noted above, pursuant to the LUD Ordinance, “[p]rovision of affidavits to support the existence of a unit is allowed.” § 108-991(3), Key West, Fla., Municipal Code. Appellant’s managing member Edward Brugman stated in his Affidavit that having owned the Subject Property from 1971 through 2019, the Subject Property consisted of twelve (12) non-transient units, each individually keyed, in April of 2010. App. (051). Moreover, the Affidavit from the property manager of the Subject Property from 1989 through 2019, corroborated Mr. Brugman’s

3. RE No. 00002070-000000.

4. RE No. 00002070-000000.

5. RE No. 00002100-000000.

6. RE No. 00001850-000000.

Affidavit. The property manager also stated in his Affidavit that the Subject Property contained twelve (12) non-transient units with each unit individually keyed in April of 2010. App. (052).

The Lockout Units

Appellant's application requested recognition of two non-transient Lockout units: Unit 9-D Hilton Haven Drive and Unit 10-B2 Hilton Haven Drive. The supporting evidence attached to the application established that the lockout units must be recognized as non-transient units by the City. The evidence included Affidavits from a Florida licensed general contractor who inspected unit 9-D Hilton Haven Drive (Lockout Studio) and concluded that in his professional expertise the unit was in existence on or about April of 2010. App. (057). The contractor also concluded that Unit 10-B2 Hilton Haven (Lockout Studio) and its improvements were in existence on or about April of 2010. App. (059).

As noted above, the Planning Director determined in the amended decision that the six (6) additional units did not meet the definition of "dwelling units":

[M]y determination on the new submittals for six (6) additional non-transient units is that they do not meet the definition of "dwelling units" under our Code as follows: "Dwelling unit and living unit means a single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation." Evidence submitted is not convincing that these units existed on or about April 1, 2010 and that they met the definition of dwelling units."

However, the LUD Ordinance recognizes "units" and does not limit its recognition to "dwelling units." Notably paragraph (1) and (2) of section 108-991 refer to "dwelling units" whereas paragraph (3), the paragraph at issue in this case, uses the term "Units":

(1) Any use, development, project, structure, building, fence, sign or activity which does not result in a net addition to the number of residential *dwelling* unit stock.

(2) Redevelopment or rehabilitation which replaces but which does not increase the number of *dwelling* units above that existing on the site prior to redevelopment or rehabilitation.

(3) *Units* determined to have been in existence at the time the April 1, 2010 . . .

§ 108-991 (emphasis added). See American Bankers Life Assurance Co. v. Williams, 212 So. 2d 777, 778 (Fla. 1st DCA 1968) (“Had the legislature intended the statute to import a more specific and definite meaning, it could easily have chosen words to express any limitation it wished to impose.”).

Section 86-9, titled “Definition of Terms,” defines “Lock-Out Unit” as:

[A]ny room or group of rooms which is part of a single family or multi-family dwelling or a transient room, or transient suite of rooms which can be accessed and locked or keyed separately from the principal entry to the dwelling, unit or suite. The access to the Lock-out may be by separate door, from a common hallway, foyer or other common area of the units. Lock-outs create a separate habitable space, and shall be considered a unit which requires an additional Building Permit Allocation System (BPAS) unit, when such Lock-outs are held out for rent barter or lease for either transient or non-transient purposes separately from the principal dwelling, transient room or suite.

§ 86-9, Key West, Fla., Municipal Code (2019). Therefore, Lockout units, by definition, do not require bathing or cooking facilities, and are eligible for recognition under section 108-991. Nonetheless, the evidence included photographs of the lockout units showing independent living facilities, containing a kitchen and bathroom. Photographs submitted also present the exterior door to the unrecognized lockout unit of 10-B in the same structure as and only a few feet from and the exterior door belonging to the recognized lockout unit of 10-B2.

Accordingly, it was erroneous to apply the “dwelling unit” definition as a limitation on Appellant’s request to recognize the Lockout units. Appellant presented sufficient evidence that the two Lockout units must be recognized as non-transient units by the City.

The Liveboards Units

The Planning Director also determined that Liveboards “are not a legally permissible use under current and previous zoning requirements in this district (current MDR and previous R2 zoning).” To the contrary, the prior R-2 zoning specifically permits “Boat piers or slips for the docking of privately owned and used watercraft of any sort” as a principal use and structure. City of Key West Ord. No. 69-29(5)(b)3. In addition, the Liveboard and Floating Structures are located over submerged bay bottom currently zoned in the “Conservation district” where any use or development is permitted by conditional use. In April of 2010, (1) there were no restrictions that Liveboards were only permitted in marinas duly approved for Liveboards; and (2) Liveboards were counted as units within BPAS. Therefore, the evidence established that the three (3) units comprised of three slips for non-transient SFR Floating Structures and Liveboard on 10-C Hilton Haven Drive must be recognized by the City.

The RV Unit

In declining to recognize Appellant’s RV on Hilton Haven Drive as a non-transient unit, the Planning Director concluded, “Section 108-681 of the Land Development Regulations state that all trailers and the like occupied for living quarters shall be parked in a regularly licensed trailer park.” However, the previously applicable Key West Ordinance No 86-15 identifies “[m]obile home parks,” which necessarily include RVs, as a “[s]pecial exception[] permissible by board of adjustment” within the R-2 zoning district. In addition, prior to the effective date of Ordinance No. 13-19, mobile homes were specifically included in the definition of a “dwelling unit.”

Accordingly, it is of no consequence that the RV in question is not parked in a “regularly licensed trailer park.” The supporting evidence clearly established that the RV unit is entitled to non-transient unit status on the Subject Property.

Based on a careful review of the supporting evidence submitted with the application, the LUD Ordinance mandates the granting of Appellant's LUD request because the record evidence reveals that Appellant demonstrated that the additional six (6) non-transient units lawfully existed on or about April of 2010. A plain reading of the LUD Ordinance requires the City to make a determination recognizing the additional six (6) lawful non-transient units since at least two of the criteria has been met for each unit. Concluding otherwise is a denial of Appellant's rights secured under the Due Process Clause.

III. THE PLANNING DIRECTOR MISAPPREHENDED THAT THE APPLICATION INVOLVED THE REQUEST FOR RECOGNITION OF NON-TRANSIENT UNITS ONLY.

The Planning Director's "findings of fact are clothed with a presumption of correctness on appeal, and these findings will not be disturbed unless the appellant can demonstrate that they are clearly erroneous." See Negron v. Resolution Life Holdings, Inc., 271 So. 3d 137 (Fla. 3d DCA 2019) (quoting Universal Beverages Holdings, Inc. v. Merkin, 902 So. 2d 288, 290 (Fla. 3d DCA 2005)).

In the withdrawn decision, the Planning Director found against Appellant:

based on the fact that [Appellant] ha[d] not demonstrated that in the current MDR zoning district or the former R2 zoning district, that these *transient* units meet the requirements of Section d. [of the LUD Ordinance] and that they are or were legally permissible under current or previous requirements. The MDR zoning district according to Section 122-266, "shall not accommodate *transient* lodgings . . ." and in R2 they are not specifically permitted.

(Emphasis added). Respectfully, the LUD decision, which was based on the finding that Appellant requested that *transient* units be recognized, was clearly erroneous. The Planning Director's amended decision, which deleted the use of the term "transient" units, similarly

denied Appellant's requested relief based on a misapplication or misreading of the applicable ordinances, as set forth in detail above.

Appellant maintains that the amended decision failed to sufficiently remedy the error contained in the original decision because the LUD ordinance applies to "units" and is not limited to "dwelling units" and because the Planning Director failed to recognize that the RV was allowed outside of a licensed trailer park under the R2 zoning and because live-aboards were allowed in the R2 zoning district. Appellant is certainly aware of the Planning Director's top-notch qualifications pertaining to municipal land use regulation, but Appellant is also aware of the voluminous LUD applications filed in the City's Planning Department.

CONCLUSION

In light of the foregoing, the Subject Property exceeds the number of criteria required to obtain the requested lawful unit determinations under the LUD Ordinance. The Planning Director should have entered a decision recognizing the six (6) additional non-transient units as lawfully established on the Subject Property.

Accordingly, Applicant respectfully requests the Board of Adjustment to enter a decision as follows:

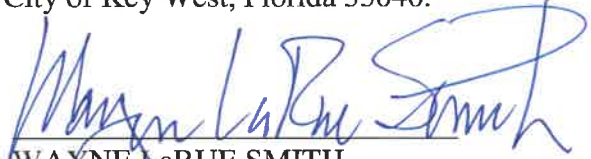
a. Grant the relief sought by Appellant, BRUGMAN HOLDINGS, LLC, a Florida limited liability company, by concluding that Appellant is entitled to the City recognizing the six (6) additional non-transient units on the Subject Property;

b. Disapprove the administrative action of the Planning Director of the City of Key West, Florida, rendered on December 11, 2019 and amended on December 20, 2019, which denied the LUD application relating to the six (6) additional non-transient units filed by BRUGMAN HOLDINGS, LLC; and

c. For such other relief as the Board of Adjustment deems just and proper.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on January 2, 2020, a true and correct copy of the foregoing was personally served on Cheri Smith, Clerk of the City of Key West, Florida 33040.



WAYNE LaRUE SMITH
Florida Bar No. 0031410
BRETT TYLER SMITH
Florida Bar No. 0085412
THE SMITH LAW FIRM,
a professional association
Counsel for Appellants
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**IN THE CITY OF KEY WEST, BEFORE THE CITY COMMISSION SITTING AS
THE BOARD OF ADJUSTMENT FOR THE CITY OF KEY WEST, FLORIDA**

BRUGMAN HOLDINGS, LLC,
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Appellant,

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CITY OF KEY WEST,

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**INDEX OF APPENDIX IN SUPPORT OF NOTICE OF APPEAL
OF DENIAL OF LAWFUL UNIT DETERMINATION**

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THE CITY OF KEY WEST – PLANNING DEPARTMENT

Post Office Box 1409 Key West, FL 33041-1409 (305) 809-3764

December 20, 2019

AMENDED

Trepanier and Associates
Ms. Lori Thompson
1421 First Street
Key West, FL 33040

RE: LUD Application – 9,10, 10A and 10B Hilton Haven Drive, Key West, FL 33040

Dear Ms. Thompson,

We have reviewed your application for six (6) additional non-transient units for the real property located at 9, 10, 10A and 10B Hilton Haven Drive, Key West, FL 33040. Your application was reviewed in accordance with the criteria found in Key West Code of Ordinances section 108-991. Specifically, 108-991 (3) provides in part that:

Units determined to have been in existence at the time the April 1, 2010 census was prepared are presumed not to be affected by BPAS. The city planner shall review available documents to determine if a body of evidence exists to support the existence of units on or about April 1, 2010. Units existing in 2010 will be documented through a mandatory site visit by city staff and at least two of the following records:

- a. Aerial photographs and original dated photographs showing that the structure existed on or about April 1, 2010;
- b. Building permits issued prior to April 1, 2010;
- c. Copies of city directory entries on or about April 1, 2010;
- d. Applications received after May 2, 2017 must demonstrate that the unit sought to be established hereunder is or has been legally permissible under the current or any former zoning requirements of the applicable district in which the unit is located.

Transient units which meet the criteria in this subsection will be licensed by the city.

- e. Rental, occupancy or lease records from before and including April 1, 2010, indicating the number, type and term of the rental or occupancy;
- f. Copies of state, county, and city licenses on and about April 1, 2010, indicating the number and types of rental units;
- g. Documentation for Keys Energy Service, Florida Keys Aqueduct Authority and other available utilities indicating the type of service (residential or commercial) provided and the number of meters on or about April 1, 2010;
- h. Documentation for the Monroe County Property Appraiser's Office for the time on or about April 1, 2010, (Green Card); and
- i. Similar documentation as listed above.

Provision of affidavits to support the existence of a unit is allowed, but cannot be the sole record upon which a decision is based. Provision of documents is the responsibility of the applicant. The city planner's



THE CITY OF KEY WEST – PLANNING DEPARTMENT

Post Office Box 1409 Key West, FL 33041-1409 (305) 809-3764

decision shall be rendered to the department of economic opportunity for a determination of consistency with the principals for guiding development.

After review of your application considering these criteria, coupled with a site visit on November 7, 2019, it is my determination that you have established six (6) non transient units exist on the property. The units are not a new determination as they have already been recognized by the City.

However, my determination on the new submittals for six (6) additional non-transient units is that they do not meet the definition of “dwelling units” under our Code as follows: “Dwelling unit and living unit means a single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.” Evidence submitted is not convincing that these units existed on or about April 1, 2010 and that they met the definition of dwelling units.

In addition, Section 108-681 of the Land Development Regulations state that all trailers and the like occupied for living quarters shall be parked in a regularly licensed trailer park. Liveboards are not a legally permissible use under current and previous zoning requirements in this district (current MDR and previous R2 zoning).

Sincerely,

A handwritten signature in black ink that reads "Roy Bishop". The signature is written in a cursive, slightly slanted style.

Roy Bishop
Planning Director

Dated: 12/20/19

Wayne Smith

From: Owen Trepanier <owen@owentrepanier.com>
Sent: Tuesday, December 31, 2019 11:37 AM
To: Wayne Smith
Cc: Lauren Mongelli
Subject: FW: Hilton Haven LUD

Appeal period commencing 12/23 confirmed.

Owen

Trepanier & Associates, Inc.
Land Planners & Development Consultants
305-293-8983

From: Roy Bishop <rbishop@cityofkeywest-fl.gov>
Sent: Tuesday, December 31, 2019 11:36 AM
To: Owen Trepanier <owen@owentrepanier.com>
Cc: Lauren Mongelli <lauren@owentrepanier.com>
Subject: RE: Hilton Haven LUD

Hello Owen: 12/23 is confirmed. Roy

From: Owen Trepanier [<mailto:owen@owentrepanier.com>]
Sent: Tuesday, December 31, 2019 10:15 AM
To: Roy Bishop <rbishop@cityofkeywest-fl.gov>
Cc: Lauren Mongelli <lauren@owentrepanier.com>
Subject: FW: Hilton Haven LUD

Sorry Roy. For some reason, I typed "Wayne".

Owen

Trepanier & Associates, Inc.
Land Planners & Development Consultants
305-293-8983

From: Owen Trepanier
Sent: Tuesday, December 31, 2019 10:12 AM
To: Roy Bishop <rbishop@cityofkeywest-fl.gov>
Cc: Lauren Mongelli <lauren@owentrepanier.com>
Subject: FW: Hilton Haven LUD

Hi Wayne,

Thanks for speaking with me yesterday. Could you confirm our conversation that the 10-day appeal period commenced on 12/23/19?

Thanks a lot.

Owen

Trepanier & Associates, Inc.
Land Planners & Development Consultants
305-293-8983

From: Owen Trepanier
Sent: Monday, December 30, 2019 11:31 AM
To: Roy Bishop <rbishop@cityofkeywest-fl.gov>
Cc: Lauren Mongelli <lauren@owentrepanier.com>
Subject: Hilton Haven LUD

Hi Roy,

The LUD for Hilton Haven is dated 12/20/19. You "hand delivered" the decision to me on the 12/23/19. Could you confirm that the 10-day appeal period commenced on the 23rd?

Thanks a lot.

Owen

Trepanier & Associates, Inc.
Land Planners & Development Consultants
305-293-8983

October 7, 2019

Mr. Roy Bishop, Planning Director
City of Key West
1300 White Street
Key West, FL 33040

TREPANIER



RE: Lawful Unit Determination Application
Hilton Haven Drive (RE# 00002070-000000,
00001850-000000 & 00002100-000000)

Dear Mr. Bishop:

Attached is an application for a Lawful Unit for the
referenced property. We seek to clarify the units
that existed on the property on or before 12/31/1991(3).

Residential Unit Type

According to #1
between #1 and #2

TREPANIER & ASSOCIATES INC.
P O Box 2155 Ph. 305-293-8983
Key West, FL 33045

PAY TO THE ORDER OF

City of Key West
one thousand \$001100

BB&T
BRANCH BANKING AND TRUST COMPANY
1-800-BANK BB&T BB&T.com

FOR

App Fee

DATE 10/2/19 \$ 1,000.00
6015
63-9136/2831

DOLLARS

Richard Puente

		Unrecognized
	X	
	X	
	X	
	X	
Studio		X
		X
Nontransient SFR Units		
Nontransient SFR	X	
Nontransient SFR	X	
Nontransient Lock-out studio		X
3 - Nontransient SFR Units		
1 - Nontransient SFR Floating Structure		X
1 - Nontransient SFR Liveboard		X
1 - Nontransient SFR Liveboard		X
Subtotal	3 - Nontransient SFR Units	
Total	12 - Nontransient SFR Units	6



Application For Lawful Unit Determination

City of Key West, Florida • Planning Department

1300 White Street • Key West, Florida 33040-4602 • 305-809-3764 • www.cityofkeywest-fl.gov

Application Fee: \$1,000.00

Ordinance 17-02, Effective May 3, 2017

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: 9, 10, 10A-10B Hilton Haven Drive

Real Estate (RE) #: _____ Alternate Key: _____

Zoning District: MDR Total Land Area (sq ft): _____

Property located within the Historic District? Yes No

APPLICANT: Owner Authorized Representative

Name: Trepanier & Associates, Inc.

Mailing Address: 1421 First Street unit 101

City: Key West State: FL Zip: 33040

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

Email: lori@owentrepanier.com

PROPERTY OWNER: (if different than above)

Name: Brugman Holdings, LLC

Mailing Address: 7894 Stow Rd

City: Hudson State: OH Zip: 44236

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

Email: c/o lori@owentrepanier.com

Is this request based on a code case? Yes No Case Number: _____

UNIT TYPE	NUMBER OF UNITS	
	EXISTING	LICENSED ¹ / RECOGNIZED
Market-Rate Residential Dwelling Units	12	6
Affordable Residential Dwelling Units ²	0	0
Transient Units	0	0
Commercial Units	0	0

1 Please provide City Licensing Records from the Building Department

2 All units allocated as affordable are subject to Section 122-1467(c), (d), (e), and (f) of the Workforce Housing Ordinance. Applicant Eligibility Requirements are subject to Section 122-1469 (2) through (15) of the Workforce Housing Ordinance. Affordable housing projects enabled by federal tax credit housing are not subject to 122-1467(c).

Sec 108-991(4) - Units determined to have been in existence at the time the April 1, 2010 census was prepared are presumed not to be affected by BPAS. The City Planner shall review available documents to determine if a body of evidence exists to support the existence of units on or about April 1, 2010. Units existing in 2010 will be documented through a mandatory site visit by city staff and at least two of the following records:

- Aerial photographs and original dated photographs showing that the structure existed on or about April 1, 2010;
- Building permits issued prior to April 1, 2010;
- Copies of city directory entries on or about April 1, 2010;
- Applications received after May 2, 2017 must demonstrate that the unit sought to be established hereunder is or has been legally permissible under the current or any former zoning requirements of the applicable district in which the unit is located.
- Site visits which indicate that the age of the structure and associated improvements likely pre-date 2010;
- Rental, occupancy or lease records from before and including April 1, 2010, indicating the number, type and term of the rental or occupancy;
- Copies of state, county, and city licenses on and about April 1, 2010, indicating the number and types of rental units;
- Documentation for Keys Energy Service, Florida Keys Aqueduct Authority and other available utilities indicating the type of service (residential or commercial) provided and the number of meters on or about April 1, 2010;
- Documentation for the Monroe County Property Appraiser's Office for the time on or about April 1, 2010 (Green Card); and
- Similar documentation as listed above.

Provision of affidavits to support the existence of a unit is allowed, but cannot be the sole record upon which a decision is based. **Provision of documents is the responsibility of the applicant.** The City Planner's decision shall be rendered to the Department of Economic Opportunity (DEO) for a determination of consistency with the principals for guiding development.

Units which are determined not to be affected by the building permit allocation system per this subsection but which have not been previously acknowledged by the City Planner are presumed to be lawfully established per Chapter 122, Article II, Nonconformities, if the additional following requirements are met:

- a. The applicant satisfies the building department that the unit meets the Florida Building Code, through as-built certifications or other means acceptable to the building official; and
- b. Fees: All back-fee payments shall be paid current and in full, from the date determined to be the established date of the unit. All impact fees shall be paid in full for units determined to have been established after the implementation of the Impact Fee Ordinance (January 1, 1985).
- c. Occupational license with the city is updated, and street addresses are assigned commensurate with the updated unit count.
- d. Applications received after May 2, 2017 must demonstrate that the unit sought to be established hereunder is or has been legally permissible under the current or any former zoning requirements of the applicable district in which the unit is located.

Transient units which meet the criteria in subsection 108-991 will be licensed by the city.

Additional information that may be considered as evidence to prove existence of a unit(s) includes but is not limited to the following:

1. Official Appraisal Reports;
2. Inspection reports on company letterhead; and/or
3. Similar documentation.

The review process for lawful unit determination is as follows:

1. Applications will be processed on a first come, first serve basis. If the property is under contract with a scheduled closing date, staff will consider an expedited review;
2. Staff will schedule a site visit to include the Building Official when the application is under review;
3. If a unit(s) is recognized, the Collections Manager will coordinate with the applicant regarding any back fees owed; and
4. The lawful unit determination shall be rendered to the DEO for a determination of consistency with the principals for guiding development.

Application checklist:

- Application fee. Please make checks payable to "City of Key West."
- Notarized verification form signed by property owner or the authorized representative.
- Notarized authorization form signed by property owner, if applicant is not the owner.
- Copy of recorded warranty deed
- Survey
- Sketch of site and floor plan
- Supporting documentation that unit existed

October 7, 2019

Mr. Roy Bishop, Planning Director
 City of Key West
 1300 White Street
 Key West, FL 33040

TREPANIER



& ASSOCIATES INC
 LAND USE PLANNING
 DEVELOPMENT CONSULTANTS

**RE: Lawful Unit Determination Application
 Hilton Haven Drive (RE# 00002070-000000,
 00001850-000000 & 00002100-000000)**

Dear Mr. Bishop:

Attached is an application for a Lawful Unit Determination (LUD) for the above referenced property. We seek to clarify the number and structure type of actual units that existed on the property on or about April 1, 2010 for the purposes of Sec. 108-991(3).

Residential Unit Type Background:

According to the Monroe County Property Appraiser, these properties were developed between the 1950s and the 1970s, in the following manner:

RE No.	Address	Unit Type	Recognized	Unrecognized
00002070-000000	9 Hilton Haven Drive	1 - 1/1 Nontransient SFR	X	
	9-A Hilton Haven Drive	1 - 1/1 Nontransient SFR	X	
	9-B Hilton Haven Drive	1 - 1/1 Nontransient SFR	X	
	9-C Hilton Haven Drive	1 - 1/1 Nontransient SFR	X	
	9-D Hilton Haven Drive	1 - Nontransient Lock-out studio		X
	RV Unit Hilton Haven Drive	1 - 1/1 Nontransient RV		X
	Subtotal	6 - Nontransient SFR Units		
00002100-000000	10-A Hilton Haven	1 - 1/1 Nontransient SFR	X	
	10-B Hilton Haven	1 - 1/1 Nontransient SFR	X	
	10-B2 Hilton Haven	1 - Nontransient Lock-out studio		X
	Subtotal	3 - Nontransient SFR Units		
00001850-000000	10-C Hilton Haven, slip 1	1 - Nontransient SFR Floating Structure		X
	10-C Hilton Haven, slip 2	1 - Nontransient SFR Liveaboard		X
	10-C Hilton Haven, slip 3	1 - Nontransient SFR Liveaboard		X
	Subtotal	3 - Nontransient SFR Units		
	Total	12 - Nontransient SFR Units	6	6

Units Currently Recognized by the City of Key West and Monroe County:

Entity	9 Hilton Haven	10 Hilton Haven	10A & 10B Hilton Haven
Key West Licensing ¹	4 non-transient rentals	No Records	2 non-transient rentals
Key West Utilities ²	3 residential units	No Records	2 residential units
Monroe County Property Appraiser ³	4 residential units	No Records	2 residential units
Monroe County Tax Collector ⁴	4 non-transient rentals	No Records	2 non-transient rentals

Unrecognized units in existence on or about April 1, 2010

#9 Hilton Haven (RE No. 00002070-000000) – 1 Lockout Unit				
Date	Unit Type	Evidence	Compliance	Exhibit
2010	Nontransient Lock-out studio	Affidavits	Sec. 108-991(3)i	A
2010	Nontransient Lock-out studio	Legal Permissibility	Sec. 108-991(3)d	B
2010	Nontransient Lock-out studio	Structural Age Report	Sec. 108-991(3)i	C

#9 Hilton Haven (RE No. 00002070-000000) – 1 Nontransient RV				
Date	Unit Type	Evidence	Compliance	Exhibit
2010	Nontransient RV	Affidavits	Sec. 108-991(3)i	A
2010	Nontransient RV	Legal Permissibility	Sec. 108-991(3)d	B
2019	Nontransient RV	Arborist report	Sec. 108-991(3)i	D

#10B Hilton Haven (RE No. 00002100-000000) – 1 Lockout Unit				
Date	Unit Type	Evidence	Compliance	Exhibit
2010	Nontransient Lock-out studio	Affidavits	Sec. 108-991(3)i	A
2010	Nontransient Lock-out studio	Legal Permissibility	Sec. 108-991(3)d	B
2010	Nontransient Lock-out studio	Structural Age Report	Sec. 108-991(3)i	C

#10C Hilton Haven (RE No. 00001850-000000) – Nontransient SFR Floating Structure & Liveaboards					
Date	Unit Type	No. of Units	Evidence	Compliance	Exhibit
2010	Nontransient SFR Floating Structure & Liveaboards	3	Affidavits	Sec. 108-991(3)i	A
2010	Nontransient SFR Floating Structure & Liveaboards	3	Legal Permissibility	Sec. 108-991(3)d	B
1974	Residential	3	Keys Energy	Sec. 108-991(3)g	E
1999	Nontransient SFR Floating Structure & Liveaboards	3	Planning aerial	Sec. 108-991(3)a	F
2000	Nontransient SFR Floating Structure & Liveaboards	3	Code Case 00-1065	Sec. 108-991(3)i	G
11.14.00	Residential	10-C	Home occupation license	Sec. 108-991(3)f	H

¹ Attachment A
² Attachment B
³ Attachment C
⁴ Attachment D

2002	Nontransient SFR Floating Structure & Liveboards	3	County Aerial	Sec. 108-991(3)a	I
2005	Nontransient SFR Floating Structure & Liveboards	3	Polk City Directory	Sec. 108-991(3)c	J
2006	Nontransient SFR Floating Structure & Liveboards	3	City – Planning records & photos	Sec. 108-991(3)a	K
2009	Nontransient SFR Floating Structure & Liveboards	3	County aerial	Sec. 108-991(3)a	L
12.1.12	Residential	10-C	Tenant lease 2012-2013	Sec. 108-991(3)e	M

Legal Permissibility (under current or any former zoning requirements):

Structure type and use: The property’s current zoning is Medium Density Residential. MDR zoning permits single, two-family and multifamily residential units by right.

Density (dwelling units per acre): Current density is as follows:

RE No.	Density
00002070-000000	6 units
00002100-000000	3 units
00001850-000000	3 units
Total	12 units

Density limitations were introduced into the city’s zoning code by the adoption of Ordinance 86-15. This property is currently zoned Medium Density Residential (MDR), with density limitations of 16 du/acre, however, under prior C-2 zoning, density limitations did not apply.

Conclusion:

This application meets the requirements of a Lawful Unit Determination for recognition of 12 non-transient units on or about April 1, 2010 pursuant to Sec. 108-991(3).

As required, the application contains at least two records for each unrecognized unit as outlined in the table.

- Code Sec. 108-991(3)a: Aerial photos
- Code Sec. 108-991(3)c: City directory entries
- Code Sec. 108-991(3)d: as it has been demonstrated above, that the unit sought to be established hereunder is or has been legally permissible under the current or any former zoning requirements of the applicable district in which the unit is located.
- Code Sec. 108-991(3)e: Rental records
- Code Sec. 108-991(3)f: Occupational License
- Code Sec. 108-991(3)g: KEYS Energy Service records

- Code Sec. 108-991(3)i: Affidavits. As cited, the code, "allows for the provision of affidavits to support the existence of a unit but cannot be the sole record upon which a decision is based."

Given the above documentation, we respectfully request the City of Key West recognize that the above described non-transient dwelling units existed on the subject property on, or about, April 1, 2010.

Thank you in advance for your consideration.

Best Regards,



Lori Thompson

**City of Key West
Planning Department**



Verification Form

(Where Authorized Representative is an Entity)

I, Lori Thompson, in my capacity as Associate
(print name) *(print position; president, managing member)*
of Owen Trepanier-Trepanier & Associates, Inc.
(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:

9;10 & 10A Hilton Haven Dr.

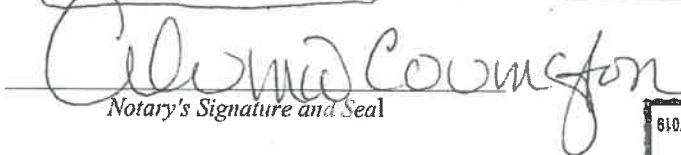
Street Address of subject property

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.

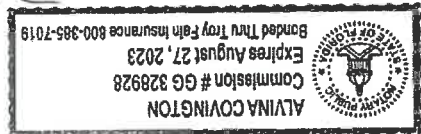

Signature of Authorized Representative

Subscribed and sworn to (or affirmed) before me on this 2nd Oct 2010 by
Lori Thompson
Name of Authorized Representative
date

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


Notary's Signature and Seal

Alvina Covington
Name of Acknowledger typed, printed or stamped



GG328928
Commission Number, if any

08/19/2015 3:33PM
DEED DOC STAMP CL: MT

\$0.70

Prepared by and please return to:

E. James Brugman
7894 Stow Road
Hudson, OH 44236

Doc# 2042242
Bk# 2756 Pg# 1752

Rec. \$ _____

Doc. St. _____

Property Appraiser's Parcel
ID No. 00001850-000000 and
00002100-000000

QUIT-CLAIM DEED

[Limited Partnership to L.L.C.]

THIS QUIT-CLAIM DEED, made this 7th day of August, 2015 between **THE BRUGMAN FAMILY LIMITED PARTNERSHIP** dated May 16, 1996, a Florida limited partnership, of the County of Monroe, State of Florida, **Grantor**, and **BRUGMAN HOLDINGS, LLC**, a Florida limited liability company, whose address is 721 South Street, Key West, FL 33040, **Grantee**.

WITNESSETH, that the GRANTOR, for and in consideration of the sum of TEN DOLLARS (\$10.00), and other good and valuable consideration to GRANTOR in hand paid by GRANTEE, the receipt whereof is hereby acknowledged, has granted, bargained and quitclaimed to thee said GRANTEE, its successors and assigns forever, the following described land, situate, lying and being in the County of Monroe, State of Florida, to wit:

PARCEL A

All of Tract (10) and the Easterly Five (5) feet of Tract Eleven (11) adjoining it of the Amended Plat of HILTON HAVEN, Section No. 2, a subdivision on the Island of Key West, Monroe County, Florida, according to Plat recorded in Plat Book 2, Page 138, Public Records of Monroe County, Florida.

TOGETHER with a parcel adjacent to the aforementioned real property, which parcel is located in Key West, Monroe County, Florida, and is legally described as follows, to-wit;

A parcel lying northerly of and adjacent to all of Tract 10 and the easterly five (5) feet of Tract 11 of "HILTON HAVEN SUBDIVISION, SECTION No. 2", on the Island of Key West, Florida, and being recorded in Plat Book 2, Page 138, Public Records of Monroe County, Florida, and being more particularly described by metes and bounds as follows:

COMMENCING at the northwesterly right-of-way line of Roosevelt Boulevard and the northerly property line of said HILTON HAVEN SUBDIVISION, bear westerly along the northerly property line of said HILTON HAVEN SUBDIVISION for a distance of 795.35 feet to the point of beginning of the parcel of bay bottom land hereinafter described; from said point of beginning, continue bearing westerly along the northerly property line of said HILTON HAVEN SUBDIVISION for a distance of 65.0 feet to a point; thence at right angles and northerly for a distance of 135.0 feet to a point; thence at right angles and easterly for a distance of 65.0 feet to a point; thence at right angles and southerly for a distance of 135.0 feet, back to the point of beginning. Lying and being in Township 67 South, Range 25 East, Monroe County, Florida.

PARCEL B

A parcel of bay bottom lying northerly of all of Tract 10 and the easterly Five (5) feet of Tract 11 of "HILTON HAVEN SUBDIVISION, SECTION No. 2," on the Island of Key West, Florida, and being recorded in Plat Book 2, page 138, Public Records of Monroe County, Florida, and being more particularly described by metes and bounds as follows:

COMMENCING at the northwesterly right-of-way line of Roosevelt Boulevard and the northerly property line of said HILTON HAVEN SUBDIVISION, bear westerly along the northerly property line of said HILTON HAVEN SUBDIVISION for a distance of 795.35 feet, thence at right angles and northerly for a distance of 135 feet to the point of beginning; thence from said point of beginning continue bearing northerly for a distance of 165 feet; thence at right angles westerly for a distance of 65 feet to a point; thence at right angles southerly for a distance of 165 feet to a point; thence at right angles easterly for a distance of 65 feet back to the place of beginning.

TO HAVE AND HOLD the same, together with all and singular the appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest, lien, equity and claim whatsoever of grantor, either in law or equity, for the use, benefit and profit of the said grantee forever.

IN WITNESS WHEREOF, the grantor has signed and sealed these presents the day and

year first above written.

Signed, sealed and delivered in presence of:

The Brugman Family Limited Partnership dated May 16, 1996, a Florida limited partnership

George A. Vinco, Jr.
Witness Name: George A. Vinco, Jr.

By: *Mildred G. Brugman*
Mildred G. Brugman, General Partner

Molly Brainard
Witness Name: Molly Brainard

OHIO
State of Florida)
LAKE) ss.
County of Monroe)

The foregoing instrument was acknowledged by me this 7th day of August, 2015 by **Mildred G. Brugman, General Partner** on behalf of **The Brugman Family Limited Partnership** dated May 16, 1996, a Florida limited Partnership, who is personally known to me or who has produced _____ as identification.

(SEAL)



Molly Brainard

Printed Name: Molly Brainard
Notary Public
My Commission Expires:

Molly Brainard
Notary Public, State of Ohio
My Commission Expires:
July 17, 2008 2018
Recorded in Lake County

Parcel ID#: 0000-1850-000000 and 0000-2100-000000

RETURN INSTRUMENT TO:

John S. Bohatch, Esquire
RICHMAN, GUTTENMACHER & BOHATCH, P.A.
19 West Flagler Street, 14th Floor
Miami, Florida 33130

MONROE COUNTY
OFFICIAL RECORDS

FILE #1015486
BK#1467 PG#2172

RCD Jul 23 1997 09:59AM
DANNY L KOLHAGE, CLERK
DEED DOC STAMPS 2170.00
07/23/1997 RP DEP CLK

THIS INSTRUMENT PREPARED BY:

John S. Bohatch, Esquire
RICHMAN, GUTTENMACHER & BOHATCH, P.A.
19 West Flagler Street, 14th Floor
Miami, Florida 33130

QUITCLAIM DEED

[Deed Prepared Without Title Examination]

THIS QUIT-CLAIM DEED, executed this 25th day of Nov '96, 1996, by EDWARD H. BRUGMAN and MILDRED G. BRUGMAN, his wife, the first party, ("GRANTOR") to **THE BRUGMAN FAMILY LIMITED PARTNERSHIP DATED MAY 16, 1996**, second party, ("GRANTEE"), whose post office address is 721 South Street, Key West, Florida, 33040.

WITNESSETH, That the said first party, for and in consideration of the sum of \$10.00 in hand paid by the said second party, the receipt whereof is hereby acknowledged, does hereby remise, release and quit-claim unto the said second party forever, all the right, title, interest, claim and demand which the said first party has in and to the following described lot, piece or parcel of land, situate, lying and being in the County of Monroe, State of Florida, to-wit:

PARCEL A

All of Tract (10) and the Easterly Five (5) feet of Tract Eleven (11) adjoining it of the Amended Plat of HILTON HAVEN, Section No. 2, a subdivision on the Island of Key West, Monroe County, Florida, according to Plat recorded in Plat Book 2, Page 138, Public Records of Monroe County, Florida.

TOGETHER with a parcel adjacent to the aforementioned real property, which parcel is located in Key West, Monroe County, Florida, and is legally described as follows, to-wit;

A parcel lying northerly of and adjacent to all of Tract 10 and the easterly five (5) feet of Tract 11 of "HILTON HAVEN SUBDIVISION, SECTION No. 2", on the Island of Key West, Florida, and being recorded in Plat Book 2, Page 138, Public Records of Monroe County, Florida, and being more particularly described by metes and bounds as follows:

COMMENCING at the northwesterly right-of-way line of Roosevelt Boulevard and the northerly property line of said HILTON HAVEN SUBDIVISION, bear westerly along the northerly property line of said HILTON HAVEN SUBDIVISION for a distance of 795.35 feet to the point of beginning of the parcel of bay bottom land hereinafter described; from said point of beginning, continue bearing westerly along the northerly property line of said HILTON HAVEN SUBDIVISION for a distance of 65.0 feet to a point; thence at right angles and northerly for a distance of 135.0 feet to a

point; thence at right angles and easterly for a distance of 65.0 feet to a point; thence at right angles and southerly for a distance of 135.0 feet, back to the point of beginning. Lying and being in Township 67 South, Range 25 East, Monroe County, Florida.

ALSO

PARCEL B

A parcel of bay bottom lying northerly of all of Tract 10 and the easterly Five (5) feet of Tract 11 of "HILTON HAVEN SUBDIVISION, SECTION No. 2," on the Island of Key West, Florida, and being recorded in Plat Book 2, page 138, Public Records of Monroe County, Florida, and being more particularly described by metes and bounds as follows:

COMMENCING at the northwesterly right-of-way line of Roosevelt Boulevard and the northerly property line of said HILTON HAVEN SUBDIVISION, bear westerly along the northerly property line of said HILTON HAVEN SUBDIVISION for a distance of 795.35 feet, thence at right angles and northerly for a distance of 135 feet to the point of beginning; thence from said point of beginning continue bearing northerly for a distance of 165 feet; thence at right angles westerly for a distance of 65 feet to a point; thence at right angles southerly for a distance of 165 feet to a point; thence at right angles easterly for a distance of 65 feet back to the place of beginning.

TO HAVE AND TO HOLD The same together with all and singular the appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest, lien, equity and claim whatsoever of the said first party, either in law or equity, to the only proper use, benefit and behoof of the said second party forever.

Full power and authority is granted by this Deed to the GRANTEE, their successors and assigns, to protect, conserve, sell, lease, encumber or otherwise manage and dispose of the real property or any part of it.

FILE # 1015486
BK# 1467 PG# 2173

Prepared by and please return to:

E. James Brugman
7894 Stow Road
Hudson, OH 44236

08/19/2015 3:33PM
DEED DOC STAMP CL: MT \$0.70

Doc# 2042241
BK# 2756 Pg# 1750

Rec. \$ _____

Doc. St. _____

Property Appraiser's Parcel
ID No. 00002070-000000

QUIT-CLAIM DEED

[Limited Partnership to L.L.C.]

THIS QUIT-CLAIM DEED, made this 7th day of August, 2015 between **THE BRUGMAN FAMILY LIMITED PARTNERSHIP** dated May 16, 1996, a Florida limited partnership, of the County of Monroe, State of Florida, **Grantor**, and **BRUGMAN HOLDINGS, LLC**, a Florida limited liability company, whose address is 721 South Street, Key West, FL 33040, **Grantee**.

WITNESSETH, that the GRANTOR, for and in consideration of the sum of TEN DOLLARS (\$10.00), and other good and valuable consideration to GRANTOR in hand paid by GRANTEE, the receipt whereof is hereby acknowledged, has granted, bargained and quitclaimed to thee said GRANTEE, its successors and assigns forever, the following described land, situate, lying and being in the County of Monroe, State of Florida, to wit:

The Westerly 130 feet of Tract 9, together with the 20 foot roadway which runs along and is adjacent to said tract on the Northerly side thereof, according to Amended Plat of HILTON HAVEN, Section No. 1, a subdivision of the Island of Key West, Monroe County, Florida, according to Plat thereof recorded in Plat Book 2, Page 108, Monroe County, Florida, Public Records.

Excepting therefrom the parcel conveyed to City of Key West, a Municipal Corporation, by instrument dated November 24, 1998 and recorded April 19, 2002 in BK# 1778, PG#54 of Monroe County Official Records, further described as follows:

A parcel of land on the Island of Key West, Monroe County, Florida being more particularly described as follows:

The northerly 20.00 feet of the easterly 27.00 feet of the westerly 32.00 feet, as measured parallel

with the corresponding property lines, of Tract 9 according to the Amended Plat of HILTON HAVEN, Section No. 1, a subdivision on the Island of Key West, Monroe County, Florida, according to Plat recorded in Plat Book 2, Page 108, of the Public Records of Monroe County, Florida.

TO HAVE AND HOLD the same, together with all and singular the appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest, lien, equity and claim whatsoever of grantor, either in law or equity, for the use, benefit and profit of the said grantee forever.

IN WITNESS WHEREOF, the grantor has signed and sealed these presents the day and year first above written.

Signed, sealed and delivered in presence of:

The Brugman Family Limited Partnership dated May 16, 1996, a Florida limited partnership

George A. Vincent, Jr.
Witness Name: George A. Vincent, Jr.

By: *Mildred G. Brugman*
Mildred G. Brugman, General Partner

Molly Brainard
Witness Name: Molly Brainard

OHIO)
State of Florida)
LAKE) ss.
County of Monroe)

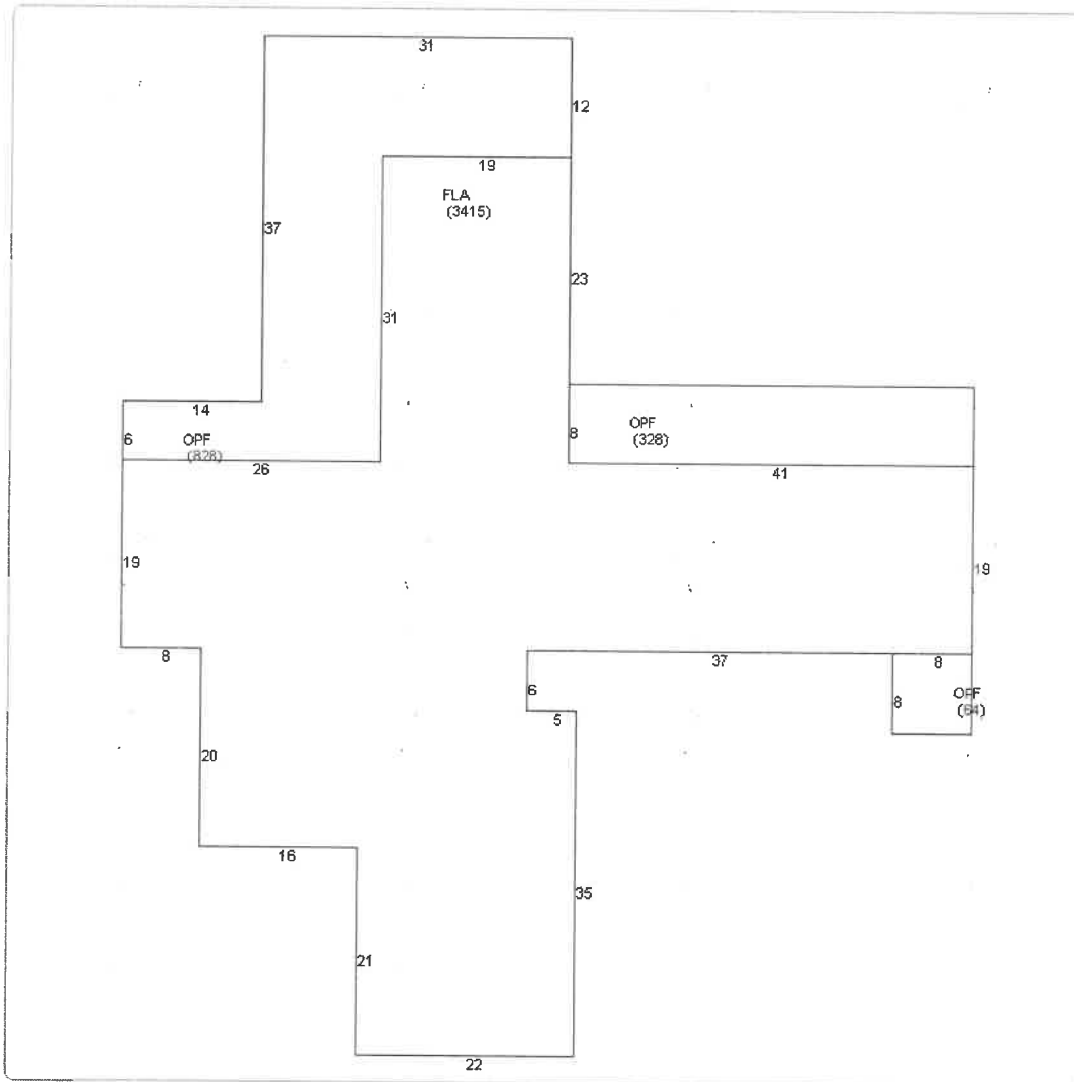
The foregoing instrument was acknowledged by me this 7th day of August, 2015 by **Mildred G. Brugman, General Partner** on behalf of **The Brugman Family Limited Partnership** dated May 16, 1996, a Florida limited Partnership, who is personally known to me or who has produced _____ as identification.



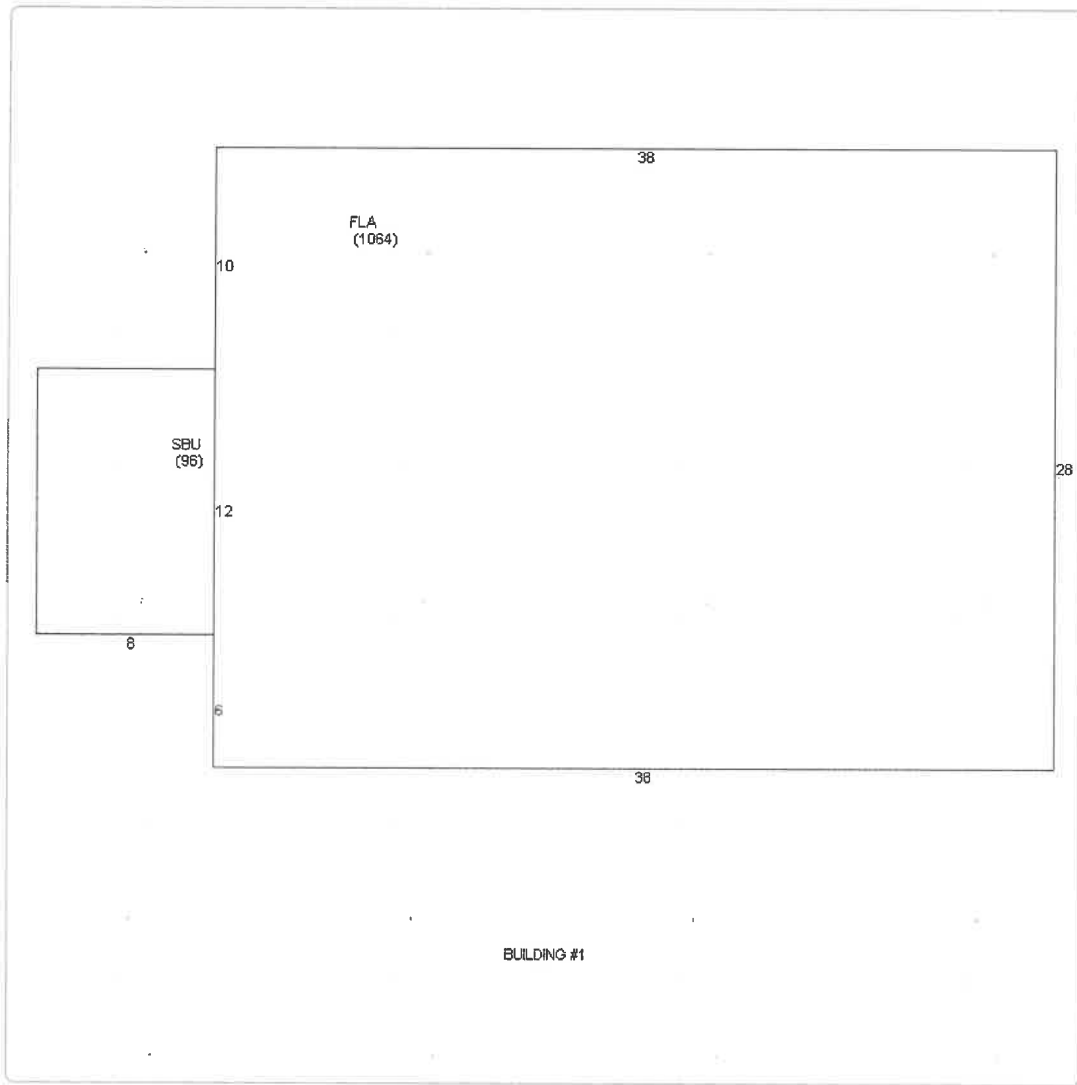
Molly Brainard
Printed Name: Molly Brainard
Notary Public
My Commission Expires:

Molly Brainard
Notary Public, State of Ohio
My Commission Expires:
July 17, 2008 2018
Recorded in Lake County

MONROE COUNTY
OFFICIAL RECORDS



Photos



ATTACHMENTS

CITY OF KEY WEST, FLORIDA

Business Tax Receipt **Attachment A**

This Document is a business tax receipt
Holder must meet all City zoning and use provisions.
P.O. Box 1409, Key West, Florida 33040 (305) 809-3955

Business Name BRUGMAN HOLDINGS LLC
Location Addr 9 HILTON HAVEN BLVD
Lic NBR/Class 587
Issued Date 9/27/2017 Expiration Date: September 30, 2019
NON TRANSIENT RESIDENTIAL

Comments: FOUR NON-TRANSIENT RENTAL UNITS

Restrictions:

BRUGMAN HOLDINGS LLC
11240 TANGELO TERR
BONITA SPRINGS, FL 34135



BRUGMAN, EDWARD

CITY OF KEY WEST, FLORIDA

Business Tax Receipt Attachment A

This Document is a business tax receipt
Holder must meet all City zoning and use provisions.
P.O. Box 1409, Key West, Florida 33040 (305) 809-3955

Business Name BRUGMAN HOLDINGS LLC
Location Addr 10 HILTON HAVEN DR
Lic NBR/Class 594
Issued Date 9/27/2017 Expiration Date: September 30, 2019

NON TRANSIENT RESIDENTIAL

Comments: TWO NON-TRANSIENT RENTAL UNITS

Restrictions:

BRUGMAN HOLDINGS LLC
11240 TANGELO TERR

BONITA SPRINGS, FL 34135



This document must be prominently displayed.

BRUGMAN, EDWARD H

Attachment B

Alvina Covington

From: Shirley Sealey <ssealey@cityofkeywest-fl.gov>
Sent: Wednesday, May 01, 2019 10:44 AM
To: Alvina Covington
Subject: RE: 9 - 10 Hilton Haven

Good Morning Alvina,

Regarding 9 Hilton Haven Drive:

6856-37061 1 Residential Unit
6856-37063 1 Residential Unit A
6856-37065 1 Residential Unit B

Regarding 10 Hilton Haven Drive:

6858-9857 1 Residential Unit
23580-28985 1 Residential Unit B

I only show 2 Units @ 10 Hilton Haven Drive and 3 units @ 9 Hilton Haven Drive. If he has other units the City do not recognize them as livable units.

Let me know if you need anything further.

Shirley Sealey
Supervisor of Revenue/Customèr Services
City of Key West
1300 White Street
Key West, Florida 33040
305 809-3816
sssealey@cityofkeywest-fl.gov

From: Alvina Covington <alvina@owentrepanier.com>
Sent: Tuesday, April 30, 2019 2:38 PM

Attachment C



Summary

Parcel ID 00002070-000000
Account# 1002178
Property ID 1002178
Millage Group 10KW
Location 9 HILTON HAVEN Dr, KEY WEST
Address
Legal Description AMENDED PLAT OF HILTON HAVEN SEC 1 A SUBDIVISION ON THE ISLAND OF KEY WEST FLA PB2-108 PT TR 9 OR233-159 OR494-991 OR1028-1948D/C OR1028-1946 OR1332-1287/1303-E(RES NO 94-484) OR1467-2199/2200 OR1778-201E OR2756-1750/51
(Note: Not to be used on legal documents.)
Neighborhood 6225
Property Class MULTI FAMILY LESS THAN 10 UNITS (0800)
Subdivision Amended Plat of Hilton Haven Section No 1
Sec/Twp/Rng 32/67/25
Affordable Housing No



Owner

BRUGMAN HOLDINGS LLC
 11240 Tangelo Ter
 Bonita Springs FL 34135

Valuation

	2018	2017	2016	2015
+ Market Improvement Value	\$318,863	\$323,845	\$287,561	\$300,372
+ Market Misc Value	\$10,672	\$10,672	\$9,217	\$7,914
+ Market Land Value	\$869,543	\$869,543	\$872,178	\$882,190
= Just Market Value	\$1,199,078	\$1,204,060	\$1,168,956	\$1,190,476
= Total Assessed Value	\$1,199,078	\$1,204,060	\$1,168,956	\$1,091,180
- School Exempt Value	\$0	\$0	\$0	\$0
= School Taxable Value	\$1,199,078	\$1,204,060	\$1,168,956	\$1,190,476

Land

Land Use	Number of Units	Unit Type	Frontage	Depth
MULTI RES CANAL (080C)	18,820.00	Square Foot	130	200
EASEMENT (000E)	1.00	Lot	0	0
ENVIRONMENTALLY.SENS (000X)	0.09	Acreage	0	0

Buildings

Building ID 63
Style GROUND LEVEL
Building Type M.F.-R4 / R4
Gross Sq Ft 4635
Finished Sq Ft 3415
Stories 1 Floor
Condition AVERAGE
Perimeter 364
Functional Obs 0
Economic Obs 0
Depreciation % 36
Interior Walls DRYWALL
Exterior Walls C.B.S.
Year Built 1959
EffectiveYearBuilt 1985
Foundation CONCR FTR
Roof Type GABLE/HIP
Roof Coverage METAL
Flooring Type CONC ABOVE GRD
Heating Type NONE with 0% NONE
Bedrooms 5
Full Bathrooms 4
Half Bathrooms 0
Grade 500
Number of Fire Pl 0

Code	Description	Sketch Area	Finished Area	Perimeter
FLA	FLOOR LIV AREA	3,415	3,415	0
OPF	OP PRCH FIN LL	1,220	0	0
TOTAL		4,635	3,415	0

Yard Items

Description	Year Built	Roll Year	Quantity	Units	Grade
SEAWALL	1958	1959	1	322 SF	3
FENCES	1964	1965	1	210 SF	3
CONC PATIO	1964	1965	1	430 SF	2
FENCES	1974	1975	1	200 SF	2
WALL AIR COND	1984	1985	1	2 UT	2

Attachment C

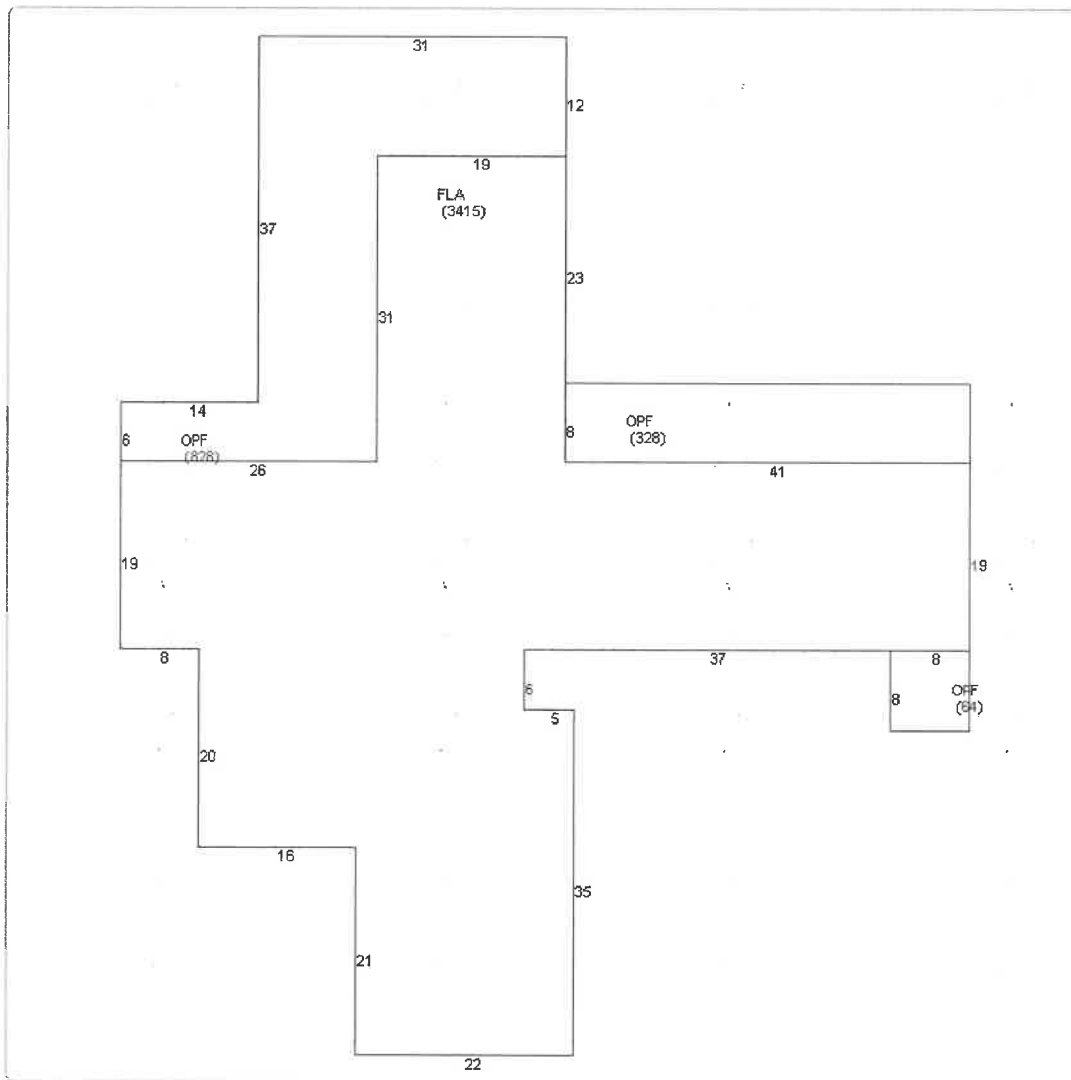
Sales

Sale Date	Sale Price	Instrument	Instrument Number	Deed Book	Deed Page	Sale Qualification	Vacant or Improved
8/7/2015	\$100	Quit Claim Deed		2756	1750	11 - Unqualified	Improved
11/1/1996	\$320,000	Quit Claim Deed		1467	2199	K - Unqualified	Improved
10/1/1987	\$290,000	Warranty Deed		1028	1946	Q - Qualified	Improved
2/1/1972	\$70,000	Conversion Code		494	991	Q - Qualified	Improved

Permits

Number	Date Issued	Date Completed	Amount	Permit Type	Notes
18-1079	3/13/2018		\$15,160		REMOVE AND REPLACE 1400 SF OF ROOF DECKING W/3/4 CDX PLYWOOD. INSTALL GAF STRATAVENT BASE SHEET. INSTALL GAF HYDROSTOP PREMIUM COAST SYSTEM. ROOF
9902512	7/19/1999	11/9/1999	\$5,650		SEWER LINE
9901580	5/12/1999	11/9/1999	\$180		REED FENCE
9602566	6/1/1996	8/1/1996	\$11,000		

Sketches (click to enlarge)



Photos

Attachment C



Map



TRIM Notice

Trim Notice

2018 Notices Only

No data available for the following modules: Commercial Buildings, Mobile Home Buildings, Exemptions.

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

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Attachment C



Summary

Parcel ID 00001850-000000
Account# 1001945
Property ID 1001945
Millage Group 10KW
Location 10 HILTON HAVEN Dr, KEY WEST
Address
Legal KW PT SEC 32 TWP 67S RGE 25E N SIDE OF HILTON HAVEN SUB PB2-138 65
Description FT X 300 FT 0.45AC OR52-21(II DEED 21002) OR514-658 COUNTY JUDGES DOCKET 78-279 (OR776-1273/1281) OR819-565D/C OR819-566 OR931-444 PROBATE84-394-CP-23 OR962-1686/91 OR1332-1287/03-E(RES NO 94-484) OR1467- 2172/74 OR2756-1752/54
(Note: Not to be used on legal documents.)
Neighborhood 6225
Property Class VACANT RES (0000)
Subdivision
Sec/Twp/Rng 32/67/25
Affordable No
Housing



Owner

BRUGMAN HOLDINGS LLC
 11240 Tangelo Ter
 Bonita Springs FL 34135

Valuation

	2018	2017	2016	2015
+ Market Improvement Value	\$0	\$0	\$0	\$0
+ Market Misc Value	\$6,334	\$6,451	\$5,399	\$4,604
+ Market Land Value	\$693,009	\$693,009	\$695,360	\$699,506
= Just Market Value	\$699,343	\$699,460	\$700,759	\$704,110
= Total Assessed Value	\$699,343	\$699,460	\$700,759	\$475,827
- School Exempt Value	\$0	\$0	\$0	\$0
= School Taxable Value	\$699,343	\$699,460	\$700,759	\$704,110

Land

Land Use	Number of Units	Unit Type	Frontage	Depth
RES WATERFRONT (010W)	4,950.00	Square Foot	0	0
ENVIRONMENTALLY SENS (000X)	0.09	Acreage	0	0

Yard Items

Description	Year Built	Roll Year	Quantity	Units	Grade
RW2	2012	2013	1	18 SF	4
SEAWALL	2012	2013	1	66 SF	4

Sales

Sale Date	Sale Price	Instrument	Instrument Number	Deed Book	Deed Page	Sale Qualification	Vacant or Improved
8/7/2015	\$100	Quit Claim Deed		2756	1752	11 - Unqualified	Vacant
11/1/1996	\$1	Quit Claim Deed		1467	2172	M - Unqualified	Improved
1/1/1986	\$1	Warranty Deed		962	1686	M - Unqualified	Improved

Permits

Number	Date Issued	Date Completed	Amount	Permit Type	Notes
15-0654	3/17/2015	4/27/2015	\$1,000	Residential	REPLACE TOILET, SHOWER AND SINK.
15-0653	3/16/2015	4/27/2015	\$4,000	Residential	REPLACE DAMAGED DECKING ON PORTION OF EXISTING DOCK, SCREEN 125 SF UP-GRADE AND REPAIR EXISTING SHOWER/WASHROOM ENCLOSURE (365 SF). REPAIR & UPGRADE EXISTING YARD SCREENING.
12-957	3/16/2012	7/31/2012	\$40,000		CONSTRUCT APPROX 66 LF OF NEW CONCRETE SEAWALL, 18 LF OF NEW RETAINING WALL
08-0133	1/23/2008	2/4/2008	\$1,100	Residential	REPAIR 80 LF OF DAMAGED WOOD SOFFIT & FASCIA

Photos

Attachment C



Map



TRIM Notice

Trim Notice

2018 Notices Only

No data available for the following modules: Buildings, Commercial Buildings, Mobile Home Buildings, Exemptions, Sketches (click to enlarge).

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Attachment C



Summary

Parcel ID 00002100-000000
Account# 1002208
Property ID 1002208
Millage Group 10KW
Location 10 HILTON HAVEN DR, KEY WEST
Address
Legal Description AMENDED PLAT OF HILTON HAVEN SEC 2 A SUBDIVISION ON THE ISLAND OF KEY WEST FLA PB2-138 TR 10 E 5 FT OF TR 11 OR6-105/106 COUNTY JUDGES DOCKET 78-279 (OR776-1273/1281) OR819-565D/C OR819-566D/C OR931-444 PROBATE 84-394-CP-23 OR962-1686/1691 OR1332-1287/1303-E (RES NO 94-484) OR1467-2172/74 OR1778-206E OR2756-1752/54
(Note: Not to be used on legal documents.)
Neighborhood 6225
Property Class MULTI FAMILY LESS THAN 10 UNITS (0800)
Subdivision Amended Plat of Hilton Haven Section No 2
Sec/Twp/Rng 32/67/25
Affordable Housing No



Owner

BRUGMAN HOLDINGS LLC
 11240 Tangelo Ter
 Bonita Springs FL 34135

Valuation

	2018	2017	2016	2015
+ Market Improvement Value	\$165,090	\$165,090	\$148,429	\$151,803
+ Market Misc Value	\$32,497	\$32,497	\$28,242	\$23,938
+ Market Land Value	\$654,309	\$654,309	\$657,334	\$667,324
= Just Market Value	\$851,896	\$851,896	\$834,005	\$843,065
= Total Assessed Value	\$851,896	\$851,896	\$834,005	\$771,048
- School Exempt Value	\$0	\$0	\$0	\$0
= School Taxable Value	\$851,896	\$851,896	\$834,005	\$843,065

Land

Land Use	Number of Units	Unit Type	Frontage	Depth
MULTI RES CANAL (080C)	10,050.00	Square Foot	65	180
EASEMENT (000E)	1.00	Lot	0	0
ENVIRONMENTALLY SENS (000X)	0.04	Acreage	0	0

Buildings

Building ID 64	Exterior Walls C.B.S.
Style GROUND LEVEL	Year Built 1970
Building Type S.F.R. - R1 / R1	Effective Year Built 1992
Gross Sq Ft 1160	Foundation CONCR FTR
Finished Sq Ft 1064	Roof Type GABLE/HIP
Stories 1 Floor	Roof Coverage ASPHALT SHINGL
Condition POOR	Flooring Type CONC ABOVE GRD
Perimeter 132	Heating Type NONE with 0% NONE
Functional Obs 0	Bedrooms 2
Economic Obs 0	Full Bathrooms 1
Depreciation % 33	Half Bathrooms 0
Interior Walls DRYWALL	Grade 450
	Number of Fire Pl 0

Code	Description	Sketch Area	Finished Area	Perimeter
FLA	FLOOR LIV AREA	1,064	1,064	0
SBU	UTIL UNFIN BLK	96	0	0
TOTAL		1,160	1,064	0

Building ID 65	Exterior Walls C.B.S.
Style GROUND LEVEL	Year Built 1970
Building Type S.F.R. - R1 / R1	Effective Year Built 1992
Gross Sq Ft 483	Foundation CONCR FTR
Finished Sq Ft 483	Roof Type GABLE/HIP
Stories 1 Floor	Roof Coverage ASPHALT SHINGL
Condition POOR	Flooring Type CONC ABOVE GRD
Perimeter 88	Heating Type NONE with 0% NONE
Functional Obs 0	Bedrooms 1

Attachment C

Economic Obs 0
 Depreciation% 33
 Interior Walls DRYWALL

Full Bathrooms 1
 Half Bathrooms 0
 Grade 450
 Number of Fire Pl 0

Code	Description	Sketch Area	Finished Area	Perimeter
FLA	FLOOR LIV AREA	483	483	0
TOTAL		483	483	0

Yard Items

Description	Year Built	Roll Year	Quantity	Units	Grade
SEAWALL	1969	1970	1	520 SF	4
CONC PATIO	1969	1970	1	850 SF	1
FENCES	1974	1975	1	250 SF	3
WOOD DECK	1977	1978	1	1020 SF	2
FENCES	1977	1978	1	180 SF	2
WALL AIR COND	1984	1985	1	1 UT	2
WALL AIR COND	1984	1985	1	2 UT	1

Sales

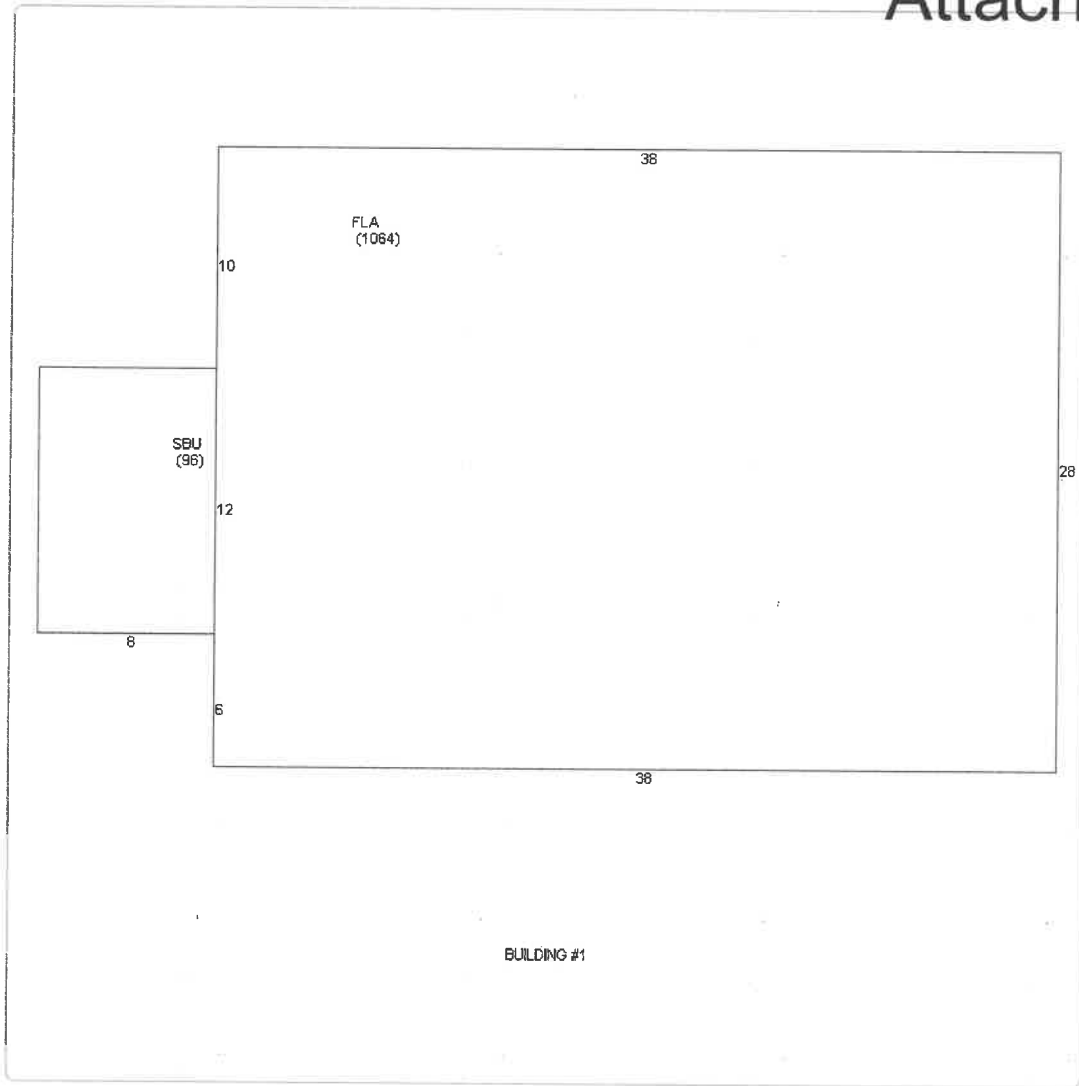
Sale Date	Sale Price	Instrument	Instrument Number	Deed Book	Deed Page	Sale Qualification	Vacant or Improved
8/7/2015	\$100	Quit Claim Deed		2756	1752	11 - Unqualified	Improved
11/1/1996	\$310,000	Quit Claim Deed		1467	2172	M - Unqualified	Improved
1/1/1986	\$185,100	Warranty Deed		962	1686	M - Unqualified	Improved

Permits

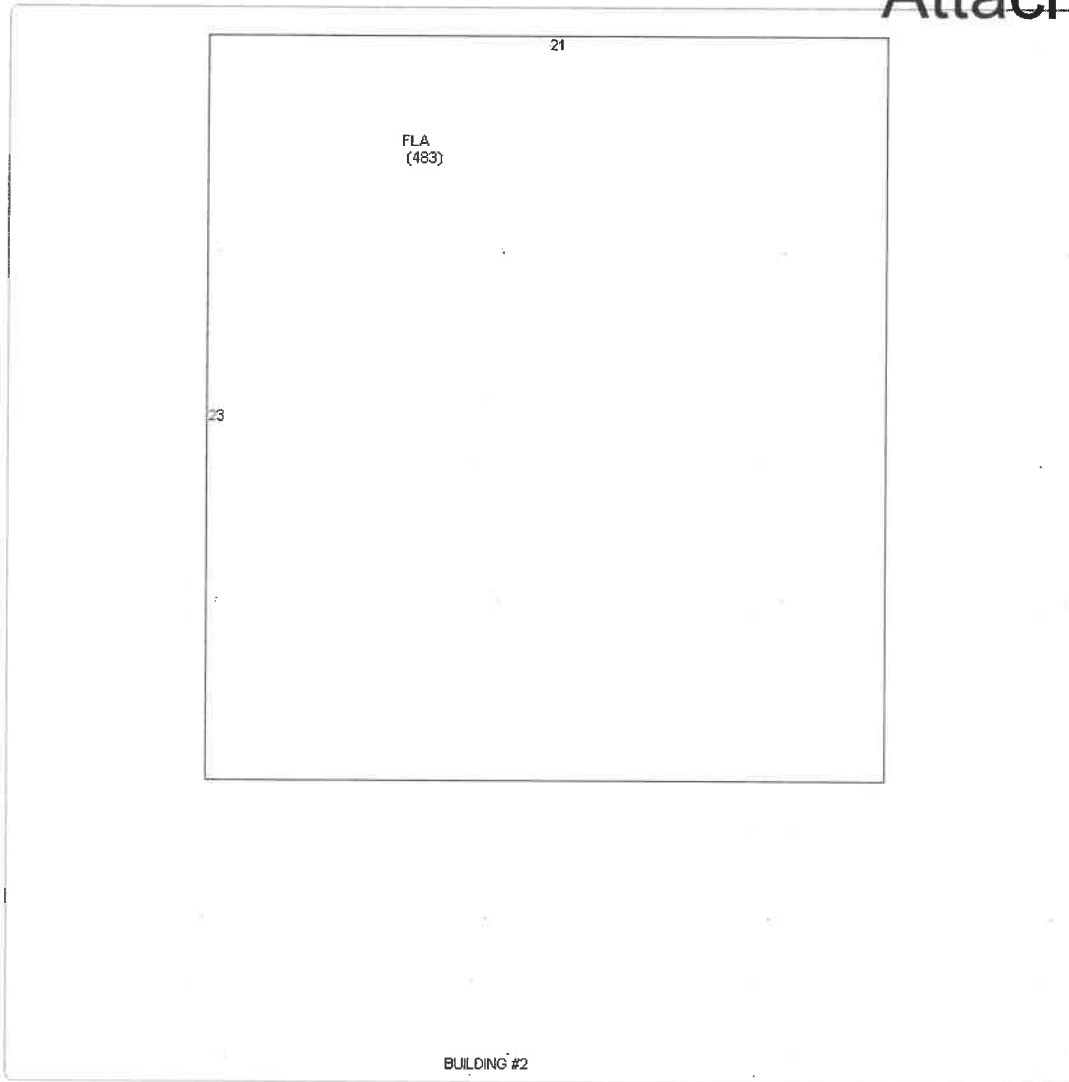
Number	Date Issued	Date Completed	Amount	Permit Type	Notes
9902513	7/19/1999	11/9/1999	\$2,300		SEWER LINE

Sketches (click to enlarge)

Attachment C



Attachment C



Photos



Attachment C

Map



TRIM Notice

Trim Notice

2018 Notices Only

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Developed by
 Schneider
 GEOSPATIAL

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Attachment D

**2018 / 2019
MONROE COUNTY BUSINESS TAX RECEIPT
EXPIRES SEPTEMBER 30, 2019**

Business Name: BRUGMAN EDWARD & MILDRED

RECEIPT# 25230-27460

Owner Name: EDWARD & MILDRED BRUGMAN
Mailing Address: C/O SUSAN SHELLY
11240 TANGELO TER
BONITA SPRINGS, FL 34135

Business Location: 9 & 10 HILTON HAVEN
KEY WEST, FL 33040
Business Phone: 305-294-8084
Business Type: APARTMENTS CONDOS HOUSES & COMMERCIAL
UNITS (NON TRANSIENT)

Rooms 6

Tax Amount	Transfer Fee	Sub-Total	Penalty	Prior Years	Collection Cost	Total Paid
120.00	0.00	120.00	0.00	0.00	0.00	120.00

Paid 103-17-00005086 09/10/2018 120.00

THIS BECOMES A TAX RECEIPT
WHEN VALIDATED

Danise D. Henriquez, CFC, Tax Collector
PO Box 1129, Key West, FL 33041

THIS IS ONLY A TAX.
YOU MUST MEET ALL
COUNTY AND/OR
MUNICIPALITY PLANNING
AND ZONING REQUIREMENTS.

MONROE COUNTY BUSINESS TAX RECEIPT
P.O. Box 1129, Key West, FL 33041-1129
EXPIRES SEPTEMBER 30, 2019

Business Name: BRUGMAN EDWARD & MILDRED

RECEIPT# 25230-27460

Owner Name: EDWARD & MILDRED BRUGMAN
Mailing Address: C/O SUSAN SHELLY
11240 TANGELO TER
BONITA SPRINGS, FL 34135

Business Location: 9 & 10 HILTON HAVEN
KEY WEST, FL 33040
Business Phone: 305-294-8084
Business Type: APARTMENTS CONDOS HOUSES & COMMERCIAL
UNITS (NON TRANSIENT)

Rooms 6

Tax Amount	Transfer Fee	Sub-Total	Penalty	Prior Years	Collection Cost	Total Paid
120.00	0.00	120.00	0.00	0.00	0.00	120.00

Paid 103-17-00005086 09/10/2018 120.00

9 Hilton Haven



Unit 9



9 A

9 Hilton Haven



9 B



9 C

9 Hilton Haven



Lockout Unit attached to unit #9 - exterior



Unit 9 Lockout – interior kitchen area

9 Hilton Haven

Unit 9 Lockout – bathroom



9 Hilton Haven, RV -side/rear yard:



Attachment E
10-A, 10-B and 10-B lockout unit Hilton Haven



10-A and 10B – front



10-A, front



10-B, front

Attachment E
10-A, 10-B and 10-B lockout unit Hilton Haven



**10-B & 10-B Lockout,
Front**



**10-B & 10-B Lockout,
Rear**

10-C Hilton Haven Attachment E
Photos



**10-C Hilton Haven
Photos**

Attachment E



**10-C Hilton Haven
Photos**

Attachment E



10-C Hilton Haven
Photos

Attachment E



EXHIBITS

Exhibit A

AFFIDAVIT

I, Edward J. Brugman swear/affirm the following to be true and correct to the best of my knowledge:

1. I am the owner of the properties located at 9 & 10 Hilton Haven Road from 1971 until 2019. I have personal knowledge that in April, 2010 the property contained:

- 5 Upland non-transient units at 9 Hilton Haven;
- 1 R/V non-transient unit at 9 Hilton Haven;
- 3 Upland non-transient units at 10A & B Hilton Haven;
- 1 Floating Structure non-transient unit at 10C Hilton Haven;
- 1 Houseboat non-transient unit at 10C Hilton Haven;
- 1 Liveaboard non-transient vessel at 10C Hilton Haven;

2. Each unit was/is individually keyed.

Edward J. Brugman
Signature

8/22/19
Date

Subscribed and sworn to (or affirmed) before me on August 22, 2019 (date) by Edward J. Brugman (name of affiant), he/she is personally known to me or has presented Ohio Drivers License as identification.

Linda L Brode
Notary's Signature and Seal

Name of Acknowledger printed or stamped

Title or Rank

Commission Number, if any



AFFIDAVIT

I, MICHAEL B JANSEN, swear/affirm the following to be true and correct to the best of my knowledge:

1. I have been the property manager of the properties located at 9 & 10 Hilton Haven Road from 8-1-89 until 8-1-19. I have personal knowledge that in April, 2010 the property contained:

- 5 Upland non-transient units at 9 Hilton Haven;
- 1 R/V non-transient unit at 9 Hilton Haven;
- 3 Upland non-transient units at 10A & B Hilton Haven;
- 1 Floating Structure non-transient unit at 10C Hilton Haven;
- 1 Houseboat non-transient unit at 10C Hilton Haven;
- 1 Liveaboard non-transient vessel at 10C Hilton Haven;

2. Each unit was/is individually keyed.

Michael B Jansen Signature 8-1-19 Date

Subscribed and sworn to (or affirmed) before me on 2nd August 2019 (date) by Michael Jansen (name of affiant), he/she is personally known to me or has presented FL DL as identification.

Alvina Covington
Notary's Signature and Seal

ALVINA COVINGTON Name of Acknowledger printed or stamped
Title or Rank
Commission Number, if any

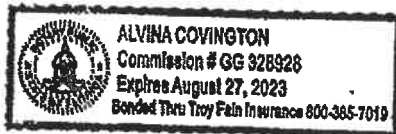


Exhibit A

10B HISTORY

ON OR ABOUT FEB ~~2003~~¹⁹⁹⁷ 10B WAS OCCUPIED BY FRANCIS RAYMOND JANSSEN HE ALSO HAD POSSESSION OF THE STUDIO ATTACHED (SAME BUILDING) AND 10A HILTON NAVAL RD KEY WEST FLA 33040 HE RENTED SAID STUDIO AND 10A TILL APPROXIMATELY 2001 WHEN HE DEFAULTED, LEFT AND KEPT THE SECURITY DEPOSITS AND LAST MONTH RENT OF THE TENANTS. THEN THE WHOLE COMPLEX 10A 10B AND STUDIO WAS LEASED BY DAVID EDWARD GNIDIONI UNTIL HURRICANE IRMA. PAM HOBBS WAS ONE OF HIS TENANTS (10A). HE RENTED THE STUDIO TO A PERSON KNOWN ONLY AS TOMMY TO ME. HE ALSO LEFT AFTER IRMA. PAM STILL OCCUPIES 10A.

R.U. ON OR ABOUT 1990 THE R.U. WAS RENTED TO A PERSON KNOWN AS PATRICIA NOWIKI

HOUSEBOATS WHEN I WAS FIRST INTRODUCED TO THE PROPERTY A PERSON KNOWN TO ME AS GARY ZIMMERMAN OCCUPIED ON SLIP THE OTHER TWO WERE RENTED TO OTHER PEOPLE NOT KNOWN TO ME THEY ALL THREE HAVE BEEN RENTED CONTINUALLY

Exhibit A

- APTS #9 I HAVE OCCUPIED #9 SINCE
1988 AND STILL DO
- 9A WAS OCCUPIED BY PAMPLA BRACKS UNTIL
ABOUT 3 YEARS AGO
- 9B HAS BEEN ~~CO~~ OCCUPIED BY TERESA
AMADDIO SINCE 1998 I KNOW BECAUSE
SHE MOVED IN AFTER HURICANE GEORGETS
ON OR ABOUT 2009 WAS RENTED TO WILLIAM
WALLACE WHO ALSO HAD 2 ROOMMATES
IS HAS ~~BEEN~~ BEEN OCCUPIED SINCE ~~TO~~ CONSTANTLY
- STUDIO WAS RENTED SINCE ABOUT 2000 BY
SHEREE RUF AND HAS BEEN FULL WITH
DIFFERENT PEOPLE EVEN SINCE

Exhibit B

Sec. 108-991. - Development not affected by article.

Development consistent with the following shall not be affected by the terms of this article, but such development shall comply with all applicable sections of the city's land development regulations:

- (1) Any use, development, project, structure, building, fence, sign or activity which does not result in a net addition to the number of residential dwelling unit stock.
- (2) Redevelopment or rehabilitation which replaces but which does not increase the number of dwelling units above that existing on the site prior to redevelopment or rehabilitation.
- (3) Units determined to have been in existence at the time the April 1, 2010, census was prepared are presumed not to be affected by BPAS. The city planner shall review available documents to determine if a body of evidence exists to support the existence of units on or about April 1, 2010. Units existing in 2010 will be documented through a mandatory site visit by city staff and at least two of the following records:

- a. Aerial photographs and original dated photographs showing that the structure existed on or about April 1, 2010;
- b. Building permits issued prior to April 1, 2010;
- c. Copies of city directory entries on or about April 1, 2010;
- d. Applications received after May 2, 2017 must demonstrate that the unit sought to be established hereunder is or has been legally permissible under the current or any former zoning requirements of the applicable district in which the unit is located.

Transient units which meet the criteria in this subsection will be licensed by the city.

- e. Rental, occupancy or lease records from before and including April 1, 2010, indicating the number, type and term of the rental or occupancy;
- f. Copies of state, county, and city licenses on and about April 1, 2010, indicating the number and types of rental units;
- g. Documentation for Keys Energy Service, Florida Keys Aqueduct Authority and other available utilities indicating the type of service (residential or commercial) provided and the number of meters on or about April 1, 2010;
- h. Documentation for the Monroe County Property Appraiser's Office for the time on or about April 1, 2010, (Green Card); and
- i. Similar documentation as listed above.

Exhibit B

Provision of affidavits to support the existence of a unit is allowed, but cannot be the sole record upon which a decision is based. Provision of documents is the responsibility of the applicant. The city planner's decision shall be rendered to the department of economic opportunity for a determination of consistency with the principals for guiding development.

Units which are determined not to be affected by the building permit allocation system per this subsection but which have not been previously acknowledged by the city planner are presumed to be lawfully established per chapter 122, article II, nonconformities, if the additional following requirements are met:

- a. The applicant satisfies the building department that the unit meets the Florida Building Code, through as-built certifications or other means acceptable to the building official; and
- b. Fees: All back fee payments shall be paid current and in full, from the date determined to be the established date of the unit. All impact fees shall be paid in full for units determined to have been established after the implementation of the Impact Fee Ordinance (January 1, 1985).
- c. Occupational license with the city is updated, and street addresses are assigned commensurate with the updated unit count.
- d. Applications received after May 2, 2017, must demonstrate that the unit sought to be established hereunder is or has been a legally permissible under the current or any former zoning requirements of the applicable district in which the unit is located.

Transient units which meet the criteria in this subsection will be licensed by the city.

Exhibit C

AGE OF STRUCTURE AND ASSOCIATED IMPROVEMENTS REPORT

1, Michael Skoglund swear/affirm the following to be true and correct to the best of my knowledge:

1. I am a Florida Licensed General Contractor (No. RB0054201).
2. I inspected the 1 unrecognized lockout units located at 9 Hilton Haven on 9-10-2019.
3. Based on my contracting expertise, it is my professional opinion that the dwelling unit and associated improvements predate 2010.
4. The dwelling unit was individually keyed.
5. Based on my inspection and my professional expertise, this unit was in existence on and about April 1, 2010.
6. I have no monetary interest in the property.

M Skoglund
Signature _____ Date 9-10-19

Subscribed and sworn to (or affirmed) before me on 10th Sept 2019 (date) by Michael Skoglund (name of affiant) he she is personally known to me or has presented _____ as identification.

Alvina Covington
Notary's Signature and Seal



Name of Acknowledger printed or stamped
Title or Rank
Commission Number, if any

MICHAEL SKOGLUND, ARCHITECT

A R C H I T E C T U R E A N D
C O N T R A C T I N G S E R V I C E S

September 6, 2019

Terrence K. Justice, Building Director
City of Key West Building Department
P.O. Box 1409
1300 White Street
Key West, Florida 33040

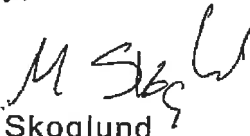
Re: As-Built Certification
9 Hilton Haven – Unrecognized lockout unit

Mr. Justice:

I have inspected the structure in question and have determined that it conforms to the building code at the time of the original construction as well as the subsequent revisions.

Please call me if you have any questions or concerns about this matter.

Sincerely,



Michael Skoglund
Architectural Lic. # FL5322
Contractor Lic. # RB0054201

Exhibit C

AGE OF STRUCTURE AND ASSOCIATED IMPROVEMENTS REPORT

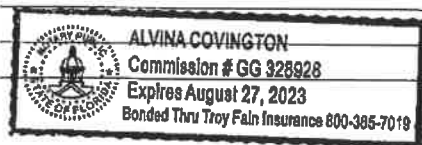
I, Michael Skoglund swear/affirm the following to be true and correct to the best of my knowledge:

1. I am a Florida Licensed General Contractor (No. RB0054201).
2. I inspected the 1 unrecognized lockout unit located at 10B Hilton Haven on 9-10-2019
3. Based on my contracting expertise, it is my professional opinion that the dwelling unit and associated improvements predate 2010.
4. The dwelling unit was individually keyed.
5. Based on my inspection and my professional expertise, this unit was in existence on and about April 1, 2010.
6. I have no monetary interest in the property.

Signature M Skoglund Date 9-10-19

Subscribed and sworn to (or affirmed) before me on 10th Sept 2019 (date) by Michael Skoglund (name of affiant) he she is personally known to me or has presented _____ as identification.

Alvina Covington
Notary's Signature and Seal



Name of Acknowledger printed or stamped

Title or Rank

Commission Number, if any

MICHAEL SKOGLUND, ARCHITECT

A R C H I T E C T U R E A N D
C O N T R A C T I N G S E R V I C E S

September 6, 2019

Terrence K. Justice, Building Director
City of Key West Building Department
P.O. Box 1409
1300 White Street
Key West, Florida 33040

Re: As-Built Certification
10-B Hilton Haven – Unrecognized lockout unit

Mr. Justice:

I have inspected the structure in question and have determined that it conforms to the building code at the time of the original construction as well as the subsequent revisions.

Please call me if you have any questions or concerns about this matter.

Sincerely,



Michael Skoglund
Architectural Lic. # FL5322
Contractor Lic. # RB0054201



Exhibit D

To: Trepanier & Associates
Re: 9 Hilton Haven Drive

8/25/19

Dear Owen and Lori-

At your request, I have completed an inspection of the tree at 9 Hilton Haven Drive in Key West. It is a *Schefflera actinophylla*- commonly known as Schefflera. I have observed the tree to be in generally good health overall, and, with a height of 18-20 feet and a DBH of 12 inches, to be 15-20 years old. Due to its location so near the tongue of the adjacent trailer, it does not appear to have been planted, but instead is most likely a volunteer, ie, sprouted from seed in its current location. I observed no apparent disturbance of the landscape in the general vicinity of the tree, and it appears that the area has been generally undisturbed for at least a decade.

If you have any questions at all, please feel free to contact me any time.

Sincerely,
Scott Montgomery
ISA Certified Arborist FL 6018A

Gricel Owen

HR & Public Records Coordinator

HR/Communications

To monitor the progress or update this request please log into the [Public Records Center](#)



On 4/9/2019 12:04:41 PM, KEYS ENERGY SERVICES Support wrote:

Subject: [Records Center] Public Records Request :: R000240-040919

Body:

Hi Alvina,

Units A & B were established in 1972 and Unit C in 1974. Please let me know if you need anything else.

Thank You,
Gricel Owen

On 4/9/2019 11:38:04 AM, KEYS ENERGY SERVICES Support wrote:



Dear Alvina Covington:

Thank you for your interest in public records of Keys Energy Services. Your request has been received and is being processed in accordance with Chapter 119 of the Florida Statutes, the Public Records Act. Your request was received in this office on 4/9/2019 and given the reference number R000240-040919 for tracking purposes.

Account Management View (BROWSE)



Quick Info Account Details

Exhibit E

Service Location Info

Account Number: Occupant: Name: Customer:
 Service Address: House #: Mod: Street: Apt.: Region:
 City: State: Zip: Home phone:

Ready

Service Summary (BROWSE) Service Details (BROWSE)



Main Detail Balances / Aging

Billing Information

	Total	Current	Overdue	Interest	Late Charge
<input type="text" value="ELECTRIC"/>	0.00	0.00	0.00	0.00	0.00
	0.00	0.00	0.00	0.00	0.00

Main Additional

Service Information

Service: <input type="text" value="E"/>	<input type="text" value="ELECTRIC"/>	No units: <input type="text" value="1"/>	Disconnect Code: <input type="text" value="N"/>
Location: <input type="text" value="I"/>	<input type="text" value="In City"/>	Start: <input type="text" value="2012-12-19"/>	Reason: <input type="text" value="No"/>
Category: <input type="text" value="R"/>	<input type="text" value="RESIDENTIAL"/>	Final: <input type="text"/>	Date: <input type="text"/>
Bill code: <input type="text" value="110"/>	<input type="text" value="RESIDENTIAL"/>	Final pend: <input type="text"/>	Reconnect: <input type="text"/>
Bill period: <input type="text" value="1"/>	<input type="text" value="MONTHLY BILLING"/>	Inactive from: <input type="text"/>	
SIC code: <input type="text" value="1"/>	<input type="text" value="RESIDENTIAL"/>	Inactive to: <input type="text"/>	

Exemptions

Late pay:
 Interest:
 Estimate:
 Disconnect:
 Reason:
 Taxes:
 Fees:

Notices:

	1	2	3
Current:	<input type="text" value="N"/>	<input type="text" value="N"/>	<input type="text" value="N"/>
Prior:	<input type="text" value="S"/>	<input type="text" value="S"/>	<input type="text" value="S"/>

Deposits:

On file:	75.00
Required:	0.00
To collect:	0.00

Readings

Last read:
 Last billed:
 Amount:
 Last payment:
 Amount:
 Due date:

App 063

Exhibit F



App. 064



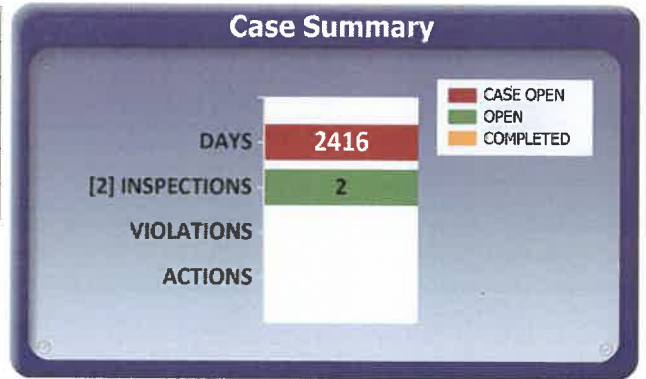
Case Details - No Attachments

City of Key West

Case Number **Exhibit G**

00-01065

Description:		Status: CASE CLOSED	
Type: GENERAL COMPLAINT		Subtype:	
Opened: 6/14/2000	Closed: 1/25/2007	Last Action:	Fillw Up:
Site Address: 10 HILTON HAVEN DR KEY WEST, FL 33040			
Site APN: 00001850-000000		Officer: Z -Ronald Clark	
Details: HOUSEBOAT NOT CONNECTED TO SANITARY SEWER SYSTEM.			



ADDITIONAL SITES	LINKED CASES
------------------	--------------

CHRONOLOGY

CONTACTS

NAME TYPE	NAME	ADDRESS	PHONE	FAX	EMAIL
COMPLAINANT	CITY OFFICIAL				
OWNER	BRUGMAN EDWARD H & MILDRED G	721 SOUTH ST KEY WEST, FL 33040			

FINANCIAL INFORMATION

INSPECTIONS

INSPECTION TYPE	INSPECTOR	SCHEDULED DATE	COMPLETED DATE	RESULT	REMARKS	NOTES
Follow up Inspection	RONALD CLA					
Initial Inspection	RONALD CLA					



CITY OF KEY WEST, FLORIDA

Business Tax Receipt

Exhibit H

This Document is a business tax receipt
Holder must meet all City zoning and use provisions.
P.O. Box 1409, Key West, Florida 33040 (305) 809-3955

Business Name BRADFORD, JUDI

Location Addr 10 HILTON HAVEN DR

Lic NBR/Class 602

Issued Date 11/14/2000

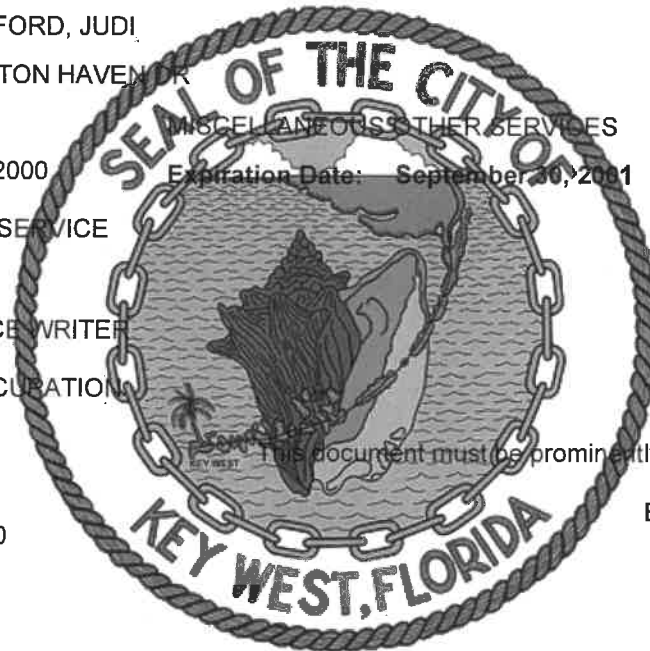
Expiration Date: September 30, 2001

MISCELLANEOUS OTHER SERVICE

Comments: FREELANCE WRITER

Restrictions: HOME OCCUPATION

BRADFORD, JUDI
10C HILTON HAVEN
KEY WEST, FL 33040



This document must be prominently displayed.

BRADFORD, JUDI

Exhibit I



February 2005

Key West, Florida

P

FLORIDA
REFERENCE

910.25
KEY

MONROE COUNTY LIBRARY

Exhibit J Key West Polk

Serving Local

Includes 19,355

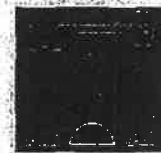
7 D

Section 1 - Alphabetical Section: Every resident & business in easy-to-use alphabetical order

Section 2 - Business Section: A handy "Yellow Pages" guide arranged by type of business

Section 3 - Telephone Number Section: A quick look-up by telephone number in numeric order

Section 4 - Street Guide: Find businesses & consumers by their Street Address



"SINCE 1943"

Key West

PERSONAL & COMMERCIAL



646

Repairs • Additions •

Pump & Water Heater Rep
Sewer & Drain Cle

State Licensed Ba
Prevention Device T

SEWER LATERAL REP



Tony He Plumbing

Over 55 YEARS EXP.
LIC. & INS. RF00381

SERVICE
305-294-1903

305

626 Louisa Street

HARRIS AVE - JAMAICA DR

HARRIS AVE Cont'd
 2712 Gibson Kevin [2]305-294-8116
 Gibson Jennifer305-294-8116
 2718 No Current Listing
 2721 Jones Gregory E & Diana S [12]305-292-0371
 2727 Carpenter Wava J [11]
 1 - 2 No Current Listing (2 Apts)
 2733 Fahey John T & Consuelo P [20]305-295-7650
 2737 Albury William J & Pamela D [13]305-294-9871
 APPLIANCE REPAIR SVC appliances- household-
 major-rpr305-296-3003
 1 - 2 No Current Listing (2 Apts)
+ 10TH ST INTERSECTS
+ 10TH ST CONTINUES
 2803 Alonso Jose L [15]305-294-5814
 2804 Whittingslow Edward J & Johanna V [20]305-296-4821
 2807 Valdez Aleida H [12]
 Valdez Norma
 2808 Cottner Stanley J [14]305-294-4682
 2811 Sody Harry & Anna C [14]305-294-3160
 2812 Russell Martha F [20]305-294-3160
 2815 De Damala David M & Pamela S305-295-1280
 2816 Woffite Eduardo [2]305-294-5684
 2819 Haskell Monica M [11]305-292-1726
 Haskell Evan P305-292-1726
 2820 AQUA-DOC POOL SVC INC swimming pool
 coping plasterin305-293-9200
 Prior Stephen L Sr [11]305-292-6920
 2824 Stewart Grady R [20]305-294-9976
 2825 ALL-CONCH REALTY INC real estate
305-296-4477
 Houghton Fiona M [7]
 2827 Alvarez Magali V [11]305-294-4034
 2828 Lot Shartene T & Julio H [20]305-296-8170
 2831 Difabio Alfred P & Juana A [20]
 2832 Alfonso Gustavo R Jr & Gina B [18]305-296-5245

+ 11TH ST INTERSECTS
 2903 Webster Deems B [11]305-292-0591
 2 Duchena Karla
 2904 Dinan Mary305-296-0176
 2907 Heinelein Carston R & Ruth M [20]305-296-1250
 2908 Jackson Steadman
 2911 Putnam Elizabeth [14]305-292-4781
 2912 Laukkanen John C & Inocenta H [20]
305-296-9585
 2915 Llama Maximo J & Alicia B [20]305-292-4914
 2916 Klitenick Richard M & Kelly J [20]
 2919 Ray Vincent W [2]
 Ray Malka G
 2920 No Current Listing
 2923 Walters Gerald
 Young Joanna C [5]305-293-1847
 2924 Romo R M305-294-0495
 Tapia Vivian [5]305-298-7218
 Tapia Violet305-296-7218
 2927 Gustafson Mary W [10]305-296-9839
 2928 Biaza Suzanne H [20]305-294-0276
 2931 Gerace Gregory J305-293-0043
 2932 Mattingley Lee E & Sherry L [6]305-296-1793

+ 12TH ST INTERSECTS

BUSINESSES 9 **HOUSEHOLDS 181**
HAVANA LN (KEY WEST)
*** ZIP CODE 33040 CAR-RT C032**
 1 Frost Derek [20]305-294-9228
+ OLIVIA ST CONTINUES
 4 Smith Stephen C [20]305-294-0585
 5 Bowers M L305-296-8610
 1 Brancel Lauren [2]305-292-4841
 2 Argento Antonio305-293-0378
 6 Landis Winifred W [9]
 8 Langos Christopher
 Larocque Philippe [9]
+ TRUMAN AVE INTERSECTS **HOUSEHOLDS 8**

HIBISCUS LN (KEY WEST)-FROM 513 GRINNELL ST
*** ZIP CODE 33040 CAR-RT C004**
 2 Kaplan Robin M [20]305-294-7382
 3 Fitzgerald William
 4 - 917 No Current Listing (2 Hses)
 919 Alfonso Diomira P [12]305-294-6648
HOUSEHOLDS 5

HICKORY ST (KEY WEST)-FROM 6801 MALONEY AVE SOUTHWEST

HIGGS LN Cont'd
 7 Elkins Robert B & Kady C [8]305-296-5568
HOUSEHOLDS 3

HILTON HAVEN RD (KEY WEST)
+ N ROOSEVELT BLVD CONTINUES
*** ZIP CODE 33040 CAR-RT C011**

5 Cory Jean305-292-4057
 6 A Carter Joseph P305-294-3331
 7 B McCoy Peter C [7]305-296-6230
 8 Teske Gary J [10]305-293-9187
 1 Taylor Donald A [6]305-295-0355
 2 - 3 No Current Listing (2 Apts)
 9 AFFORDABLE PHONES & CABLING telephone
 companies305-292-2798
 VERN'S TMA COMMUNICATIONS computers-
 networking305-294-0568
 1 - C No Current Listing (4 Apts)
 9 A Eckstein Thomas H [8]305-296-5407
 Eckstein L305-296-5407
 9 B Amaddio Teresa M [11]305-295-9823
 C Brooks Pamela J [9]305-294-7128
 10 1 - B No Current Listing (4 Apts)
 10 C MOM'S BABY EQUIPMENT RENTALS baby
 accessories305-294-8645
 10 C Bradford Judy L [17]305-294-8645
 1 - 2 No Current Listing (2 Apts)
 11 Venter Chantelle305-294-1057
 12 Chapin Mark [11]305-296-3111
 CHAPIN MARK CPA accountants305-296-3111
 1 - 3 No Current Listing (3 Apts)
 13 Grosscup William R [6]305-296-2065
 A - B No Current Listing (2 Apts)
 13 A Nosal Charles F [7]305-296-6846
 14 McCabe Lyn [11]305-294-8623
 15 Defornest Marshall B Jr [2]305-296-7940
 Smith Covington305-293-1989
 1 - 4 No Current Listing (4 Apts)
 16 Halloran George R & Marcia E [16]305-296-6108
 A - B No Current Listing (2 Apts)
 C Smith G R [6]305-295-9320
 D No Current Listing
 16 Miller Wayne R [8]
 19 Roberts Norma L [20]305-296-6235
 Roberts Paul R III305-296-6235
 20 Witwer George O [14]305-294-5404
 21 - 22 No Current Listing (2 Hses)
 24 Rossi Mark K [12]305-292-1892
 Rossi Celeste C305-292-1892
 1 - 2 No Current Listing (2 Apts)
 25 Arnold William III & Catherine [20]305-296-0447
 30 Overy Jon J & Jeff J [2]305-296-7960
 1 Gauthier Harvey E
 2 No Current Listing
 3 Hyatt Alice M [24]305-293-8119
 4 Grady Mary A [3]305-293-7827
 5 Williams James H Jr [8]305-292-0209
 5 Williams Roy305-292-0209
 6 - 8 No Current Listing (3 Apts)
 32 Biga Donald P [2]305-296-0702
 Biga Patricia305-296-0702
 1 Hall Randall305-294-8917
 1 Hall J305-294-8917
 2 - 3 No Current Listing (2 Apts)
 4 Clark Wallace E & Sara C [2]305-294-2794
 5 Onderbank Gary
 6 Sinha Sanjiv [5]
 7 - 9 No Current Listing (3 Apts)
 77 Copenhaver Bill & Jani [3]305-296-8150
 4 Catafomo Anthony J [3]305-296-7545
 6 Murphy Cornelius J & Diane [2]305-294-5309
 9 Ferris Alfred J & Louise [2]305-292-1692
 88 CHARLES MC COY & ASSOC architects
305-296-5123
 McCoy Charles E Jr & Meritt H [20]305-292-4066
BUSINESSES 5 **HOUSEHOLDS 75**

HOWE ST (KEY WEST)-FROM 220 JULIA ST SOUTHEAST
*** ZIP CODE 33040 CAR-RT C041**
 1000 Curry Walter [20]305-296-6864
 Curry Violet E305-296-6864
+ TRUMAN AVE CONTINUES

1006 Woods Norman F Jr [20]
 Woods Yvette M
 1011 Goddard Stephen D
 1012 Sweeting Marva A [20]305-294-3083
 1013 Sullivan Michael S
+ JULIA ST INTERSECTS
 1015 Rahming Dorothea M [12]
 1016 Snyder Cynthia L

HOWE ST Cont'd
+ VIRGINIA ST INTERSECTS
+ AMELIA ST INTERSECTS

HUNTS LN (KEY WEST)-FROM NORTHWEST
*** ZIP CODE 33040 CAR-RT C0**
 2 Miller Constance & Robert [2]
 3 Carow Richard A [10]
 4 No Current Listing
 5 Watkins Joseph E [20]
 6 Malouin Fernand E [2]
 Malouin Fern
 7 Strumski Leo J [3]
 8 Simons Deborah

HUTCHINSON LN (KEY WEST) SOUTHEAST
+ OLIVIA ST INTERSECTS
*** ZIP CODE 33040 CAR-RT**
 2 Simmons Phillip [2]
 3 Johnson Vera [20]
 Mumford Olitha M
 4 Johnson Corona M [8]
 5 Neuenfeldt Erik S [2]
 6 No Current Listing
 7 Paterek Jerry [2]
 11 Wolkoff Stanley & Marjory
 110 No Current Listing
 112 Dobins Bertha H [10]
 114 Pinko Nicole [2]

IBIS LN (KEY WEST)-FRC SOUTHEAST
*** ZIP CODE 33040 CAR-F**
 2 No Current Listing
 5 McMillip Ronald B & Ros

JADE DR (KEY WEST)-F NORTH
*** ZIP CODE 33040 CAR-**
 1 Renner Richard A &
 3 Rees Karen
 4 Cooper Donna M [2]
 Cooper April A
 6 A Green Ginger [2]
 B Holsombach Richard
 7 A - B No Current Listir
 7 A Petro Michael [2] ..
 9 MacLaughlin James W

1 - 2 No Current Listir
 24 1 Svikla Ailius J [3]
 2 Ayers Debra L [2]
 3 Bramante Jami
 3 Curran Kelly A [3]
 4 No Current Listing
 5 Leonard James
 5 Leonard Michael
 6 Cross Lonnie R
 6 Cross Walda
 8 Magner William
 9 Reid Marysia [9]
 9 Reid James G
 10 Makimaa Brad
 11 Murphy Allen I
 12 Christ Juli L [2]
 13 Schuyler Rick
 14 Webster W
 15 Duplessis Art
 16 Griffin Nan
 28 Reinhard Philip I
 Pinder Newell
 2 Willis Kim S [2]
 3 Bradshaw Dar
 4 No Current Li
 6 Alt Ann A & C
 8 Degenhart Ar

JAMAICA DR (KEY WEST)
*** ZIP CODE 3304**
 1600 Pita Phyllis
 1601 Verelline M
 1604 Wells John
 1605 Davis Prisc
 1606 Charette Tl

Exhibit K

Name, Nbr, Dir, Sfx
Pre/Post Qual, Dir, Apt, Jur

HILTON HAVEN

Type options, press Enter.
1=Select 5=Display

Opt	Address	Location ID	Sts
___	M 8 HILTON HAVEN	6983	
___	M 9 HILTON HAVEN	9899	
___	M 10 HILTON HAVEN	9857	
___	M 10 HILTON HAVEN	6987	
___	* 10 HILTON HAVEN B	28985	
___	M 11 HILTON HAVEN	9859	
___	M 11 HILTON HAVEN	9903	
___	M 12 HILTON HAVEN	6945	
___	M 12 A HILTON HAVEN	6989	
___	M 13 HILTON HAVEN	9861	+

F3=Exit F4=Prompt F8=LX Switch view F12=Cancel F15=Active/Inactive
F17=Subset

BP100I02

CITY OF KEY WEST
Land Miscellaneous Information Inquiry

6/23/06
16:40:28

Exhibit K

Property . . : 10 HILTON HAVEN
0000-1850-000000- -

System		Freeform information
Code	Dsgntr	
COMM	LM	2 Houseboats, 1 Shed
SQFT	UT	SQUARE FEET: 6500.00

Date	Display note at
0/00/00	Appl Permit C.O.
8/01/02	

Press Enter to continue.
F3=Exit F12=Cancel

BP100I02

CITY OF KEY WEST
Land Miscellaneous Information Inquiry

6/23/06
16:39:26

Exhibit K

Property . . . : 10 HILTON HAVEN
0000-2100-000000-REAR-

System		Freeform information
Code	Dsgntr	
NOT1	LM	#10 HILTON HAVEN DRIVE
COMM	LM	2 Hse Boats, Shed

Date	Display note at
	Appl Permit C.O.
0/00/00	
0/00/00	

Press Enter to continue.
F3=Exit F12=Cancel

Exhibit K

MONROE COUNTY PROPERTY APPRAISER

PROPERTY INFORMATION FOR:

Alternate Key: 1002208
RE Number: 00002100-000000

<p>Property Details</p> <p><u>OWNER OF RECORD</u> BRUGMAN FAMILY LTD PARTNERSHIP THE (5/16/96)</p> <p>721 SOUTH STREET KEY WEST FL 33040</p> <p><u>PHYSICAL LOCATION</u> Unit Number: BACK 10 & 10A HILTON HAVEN DRIVE KEY WEST</p> <p><u>LEGAL DESCRIPTION</u> AMENDED PLAT OF HILTON HAVEN SEC 2 A SUBDIVISION ON THE ISLAND OF KEY WEST FLA PB2-138 TR 10 E 5 FT OF TR 11 OR6-105/106 COUNTY JUDGES DOCKET 78-279 (OR776-1273/1281) OR819- 565D/C</p> <p><u>SECTION, TOWNSHIP, RANGE</u> We do not have this information on file.</p> <p><u>MILLAGE GROUP</u> 10KW</p> <p><u>PC CODE</u> 01 - SINGLE FAMILY</p>	<p style="text-align: center;"><u>PROPERTY MAP</u></p>
---	--

Building Details	
<u>NUMBER OF BUILDINGS</u> 2	<u>TOTAL LIVING AREA</u> 1547
<u>NUMBER OF COMMERCIAL BUILDINGS</u> 0	<u>YEAR BUILT</u> 1970

Land Details	
<u>LAND USE CODE</u> 010C - RESIDENTIAL CANAL 000X - ENVIRONMENTALLY SENS	<u>LAND AREA</u> 9958 SF 0.04 AC

Parcel Value History						
TAX ROLL YEAR	BUILDING	MISCELLANEOUS IMPROVEMENTS	LAND	JUST	EXEMPTIONS (NOT INCLUDING SENIORS)	TAXABLE
2005	364,896	15,418	498,500	878,814	0	878,814
2004	155,047	15,574	348,570	519,191	0	519,191
2003	116,285	15,886	211,616	343,787	0	343,787

Parcel Sales History			
NOTE - OUR RECORDS ARE TYPICALLY TWO TO THREE MONTHS BEHIND FROM THE DATE OF SALE. IF A RECENT SALE DOES NOT SHOW UP PLEASE GIVE OUR OFFICE TIME TO PROCESS IT.			
SALE DATE	OFFICIAL RECORDS BOOK/PAGE	PRICE	INSTRUMENT
11/1996	1467/2172	310,000	QC
01/1986	962/1686	185,100	WD

Exhibit K

Detailed view for record 1 ([Print](#))

Field	Value
Owner's Name	BRUGMAN FAMILY LTD PARTNERSHIP THE (5/16/96)
Address	721 SOUTH STREET
Unit	
City	KEY WEST
State	FL
Zip	33040
Country	
PC Code	01
Parcel ID	00002100-000000
Alternate Key	1002208
Millage Group	10KW
Last Sale Price	310000
Last Sale Month	11
Last Sale Year	1996
Last Sale OR Book	1467
Last Sale OR Page	2172
Land Use Code 1	000X

Field	Value
Land Area Type 1	AC
Land Area 1	0
Legal	AMENDED PLAT OF HILTON HAVEN SEC 2 A SUBDIVISION O
Description	N THE ISLAND OF KEY WEST FLA PB2-138 TR 10 E 5 FT OF TR 11 OR6-105/106 COUNTY JUDGES DOCKET 78-279 (
Prev Yr Bldg Value	364896
Prev Yr Misc Value	15418
Prev Yr Land Value	498500
Prev Yr Just Value	878814
Prev Yr Exempt Value	878814
Prev Yr Taxable Value	878814
Range	1
Township	1
Section	1
Physical Location	10 & 10A HILTON HAVEN DRIVE
Key Name	KEY WEST
Physical Location Unit Number	BACK

Exhibit K



10 A + 10 B HILTON HAVEN RD

Exhibit K

MONROE COUNTY PROPERTY APPRAISER

PROPERTY INFORMATION FOR:

Alternate Key: 1001945
RE Number: 00001850-000000

Property Details	PROPERTY MAP
<p>OWNER OF RECORD</p> <p>BRUGMAN FAMILY LT PARTN THE (5/16/96) 721 SOUTH STREET KEY WEST FL 33040</p> <p>PHYSICAL LOCATION</p> <p>Unit Number: NORTH SIDE 10 HILTON HAVEN (SMALL AREA) KEY WEST</p> <p>LEGAL DESCRIPTION</p> <p>KW PT SEC 32 TWP 67S RGE 25E N SIDE OF HILTON HAVEN SUB PB2-138 65 FT X 300 FT 0.45AC II DEED NO 21002 OR52-21 OR514-658 COUNTY JUDGES DOCKET 78-279 (OR776-1273/1281) OR819-565D/C</p> <p>SECTION, TOWNSHIP, RANGE</p> <p>We do not have this information on file.</p> <p>MILLAGE GROUP</p> <p>10KW</p> <p>PC CODE</p> <p>00 - VACANT RESIDENTIAL</p>	

Land Details	LAND AREA
LAND USE CODE	
010W - RES WATERFRONT	6500 SF
000X - ENVIRONMENTALLY SENS	0.05 AC

Parcel Value History						
TAX ROLL YEAR	BUILDING	MISCELLANEOUS IMPROVEMENTS	LAND	JUST	EXEMPTIONS (NOT INCLUDING SENIORS)	TAXABLE
2005	0	0	325,750	325,750	0	325,750
2004	0	0	227,550	227,550	0	227,550
2003	0	0	170,635	170,635	0	170,635

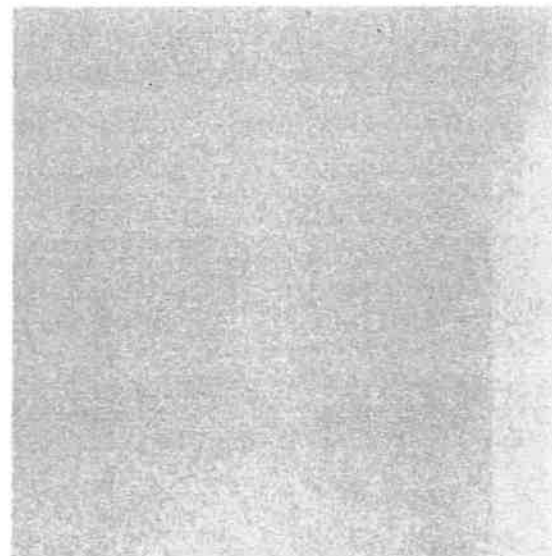
Parcel Sales History			
NOTE - OUR RECORDS ARE TYPICALLY TWO TO THREE MONTHS BEHIND FROM THE DATE OF SALE. IF A RECENT SALE DOES NOT SHOW UP PLEASE GIVE OUR OFFICE TIME TO PROCESS IT.			
SALE DATE	OFFICIAL RECORDS BOOK/PAGE	PRICE	INSTRUMENT
11/1996	1467/2172	1	QC
01/1986	962/1686	1	WD

Exhibit K

Detailed view for record 1 (Print)

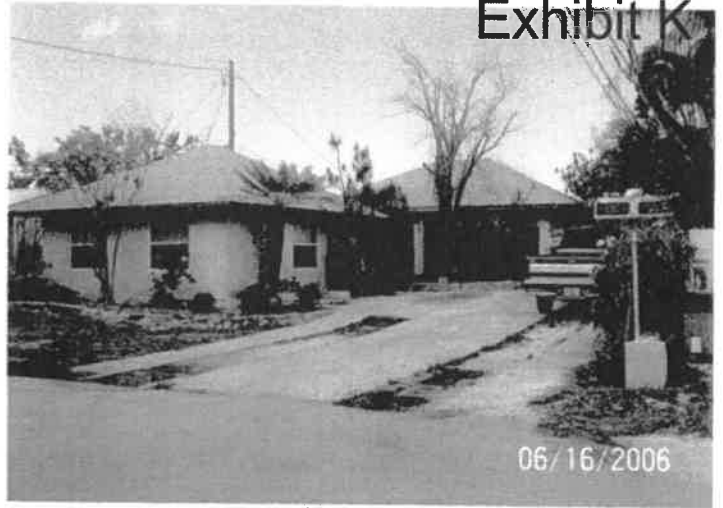
Field	Value
Owner's Name	BRUGMAN FAMILY LT PARTN THE (5/16/96)
Address	721 SOUTH STREET
Unit	
City	KEY WEST
State	FL
Zip	33040
Country	
PC Code	00
Parcel ID	00001850-000000
Alternate Key	1001945
Millage Group	10KW
Last Sale Price	1
Last Sale Month	11
Last Sale Year	1996
Last Sale OR Book	1467
Last Sale OR Page	2172
Land Use Code 1	000X

Field	Value
Land Area Type 1	AC
Land Area 1	0
Legal	KW PT SEC 32 TWP 67S RGE 25E N SIDE OF HILTON HAVE
Description	N SUB PB2-138 65 FT X 300 FT 0.45AC II DEED NO 210
	02 OR52-21 OR514-658 COUNTY JUDGES DOCKET 78-279 (
Prev Yr Bldg Value	0
Prev Yr Misc Value	0
Prev Yr Land Value	325750
Prev Yr Just Value	325750
Prev Yr Exempt Value	325750
Prev Yr Taxable Value	325750
Range	1
Township	1
Section	1
Physical Location	10 HILTON HAVEN (SMALL AREA)
Key Name	KEY WEST
Physical Location Unit Number	NORTH SIDE





HOUSE BOAT - 10 C



10 A & B HILTON HAVEN



10 C



70 C HILTON HAVEN RD

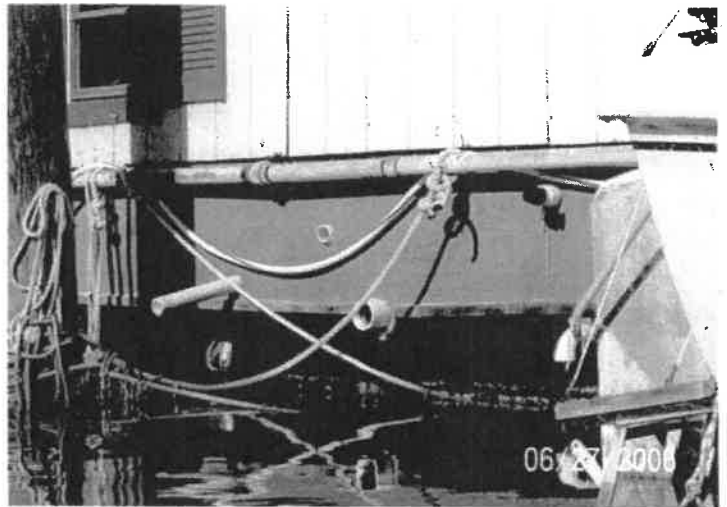
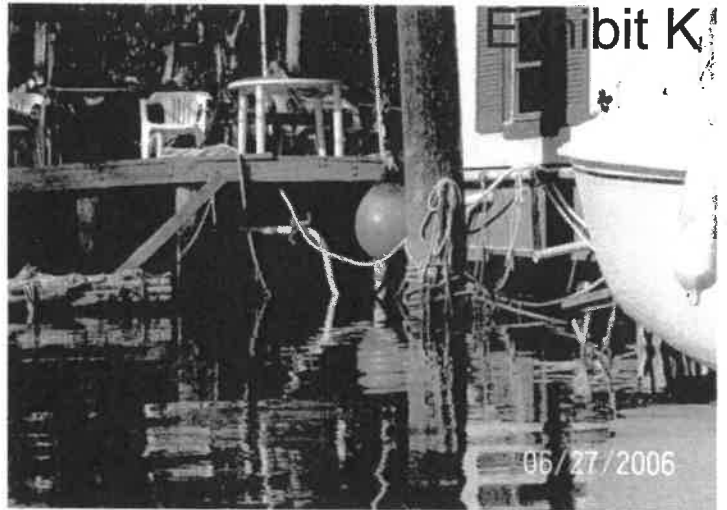


Exhibit K

MONROE COUNTY PROPERTY APPRAISER

PROPERTY INFORMATION FOR:

Alternate Key: 8681526
 RE Number: 00001850-000100

<p>Property Details</p> <p><u>OWNER OF RECORD</u></p> <p>BRUGMAN FAMILY LIMITED PARTNERSHIP THE (5/16/96) ET AL 721 SOUTH STREET KEY WEST FL 33040</p> <p><u>PHYSICAL LOCATION</u></p> <p>HILTON HAVEN BAY BOTTOM KEY WEST</p> <p><u>LEGAL DESCRIPTION</u></p> <p>KW PARCEL BAY BTM LYING N'LY TR 10 & E'LY 5' TR 11 HILTON HAVEN SUB SEC 2 PB2-138 (.25 AC) OR927-2206/2208P/R OR962-1686/1691 OR1332- 1287/1303-E(RES NO94-484) OR1467-2172/74Q/C(LG)</p> <p><u>SECTION, TOWNSHIP, RANGE</u></p> <p>We do not have this information on file.</p> <p><u>MILLAGE GROUP</u></p> <p>10KW</p> <p><u>PC CODE</u></p> <p>95 - SUBMERGED LANDS</p>	<p>PROPERTY MAP</p>
---	----------------------------

Building Details	TOTAL LIVING AREA
<u>NUMBER OF BUILDINGS</u>	<u>YEAR BUILT</u>
<u>NUMBER OF COMMERCIAL BUILDINGS</u>	

Land Details	LAND AREA
<u>LAND USE CODE</u>	
000X - ENVIRONMENTALLY SENS	0.25 AC

Parcel Value History

<u>TAX ROLL YEAR</u>	<u>BUILDING</u>	<u>MISCELLANEOUS IMPROVEMENTS</u>	<u>LAND</u>	<u>JUST</u>	<u>EXEMPTIONS (NOT INCLUDING SENIORS)</u>	<u>TAXABLE</u>
2005	0	0	3,750	3,750	0	3,750
2004	0	0	250	250	0	250
2003	0	0	50	50	0	50

Parcel Sales History

NOTE - OUR RECORDS ARE TYPICALLY TWO TO THREE MONTHS BEHIND FROM THE DATE OF SALE. IF A RECENT SALE DOES NOT SHOW UP PLEASE GIVE OUR OFFICE TIME TO PROCESS IT.

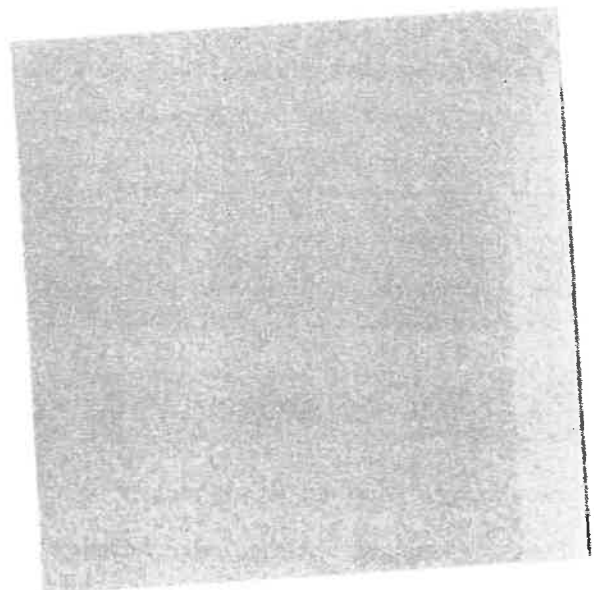
<u>SALE DATE</u>	<u>OFFICIAL RECORDS BOOK/PAGE</u>	<u>PRICE</u>	<u>INSTRUMENT</u>
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01/1986	962/1686	1	WD

Exhibit K

Detailed view for record 1 (Print)

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	THE (5/16/96) ET AL
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Unit	
City	KEY WEST
State	FL
Zip	33040
Country	
PC Code	95
Parcel ID	00001850-000100
Alternate Key	8681526
Millage Group	10KW
Last Sale Price	1
Last Sale Month	11
Last Sale Year	1996
Last Sale OR Book	1467
Last Sale OR Page	2172
Land Use Code 1	000X

Field	Value
Land Area Type 1	AC
Land Area 1	0
Legal	KW PARCEL BAY BTM LYING N'LY TR 10 & E'LY 5' TR 11
Description	HILTON HAVEN SUB SEC 2 PB2-138 (.25 AC) OR927-220
	6/2208P/R OR962-1686/1691 OR1332-1287/1303-E(RES N
Prev Yr Bldg Value	0
Prev Yr Misc Value	0
Prev Yr Land Value	3750
Prev Yr Just Value	3750
Prev Yr Exempt Value	3750
Prev Yr Taxable Value	3750
Range	1
Township	1
Section	1
Physical Location	HILTON HAVEN BAY BOTTOM
Key Name	KEY WEST
Physical Location Unit Number	



MONROE COUNTY
OFFICIAL RECORDS

FILE # 1 2 9 5 5 3 0
BK# 1 7 7 8 PG# 2 0 1

REC Apr 19 2002 11:42AM
DANNY L KOLBACH, CLERK

Exhibit K

EASEMENT AGREEMENT

THIS AGREEMENT is made this 24th day of NOVEMBER, 1998 between Edward H. and Mildred G. Brugman (hereinafter "Grantor") and the City of Key West, Florida (hereinafter "The City") and/or the Florida Keys Aqueduct Authority (hereinafter "Aqueduct").

WITNESSETH

In consideration of the mutual promises contained herein, Grantor does grant, sell and convey, unto The City and/or Aqueduct an easement under the following terms and conditions:

1. Grantor hereby agrees to grant an easement to The City and/or Aqueduct for the following described property: road footprint as depicted in the attached legal description and sketch at RE#2070.
2. The City, Aqueduct, their successors and assigns shall have the right to construct, install, alter, operate, relocate, repair, replace, improve, remove, inspect, and maintain a sewer collection system and/or transmission line and water transmission and distribution facilities across property as set forth in the map attached and made a part hereof as Exhibit "A". It is expressly understood that this Easement Agreement will be honored with the City and/or the Aqueduct, should either the City or the Aqueduct choose not to go forward with the project stated herein.
3. The City and/or Aqueduct shall have the right to enter and depart under, over, across and upon such property as necessary to the proper use of all rights granted herein, upon the conditions that The City and/or Aqueduct shall:
 - (a) Not unreasonably interfere with the Grantor's use of its property;
 - (b) Indemnify and hold harmless Grantor from any and all liability arising from the negligent use of the easement by The City and/or Aqueduct, its agents, or employees; and
 - (c) Adhere to the following terms:
 - 1) The City shall have the right to install and maintain the main sewer line.
 - 2) The Aqueduct shall have the right to install and maintain the water transmission and distribution facilities.

Exhibit K

FILE # 1 2 9 5 5 3 0
BK# 1 7 7 8 PG# 2 0 2

- 3) The City and/or Aqueduct will restore the fill under the pavement and will insure proper compaction to DOT standards to prevent future settling.
 - 4) The City and/or Aqueduct will restore any damages from construction to existing conditions.
 - 5) The City and/or Aqueduct will resurface/repave the entrance road immediately after the service is installed.
 - 6) There will be no cost to the Grantor for the services described in paragraph (c)(1-5) above.
- (d) Grantor shall bear the cost of any relocation or modification of said facilities when the change is necessitated by Grantor's requirements.
- (e) Grantor shall furnish and maintain the easement area free of and clear from any obstruction and shall not construct, place, or allow the placing or construction of any obstruction which would interfere with: (I) The City's and/or Aqueduct's safe or proper installation, operation, maintenance, inspection, or removal of the sewer collection system and/or transmission lines and water transmission and distribution facilities and all the appurtenances thereto located in the easement or (II) any other right granted to The City and/or Aqueduct. Grantor shall have the right to make any other use of the easement area which does not interfere with The City's and/or Aqueduct's rights.
- (f) It is understood that no funds are available for the purchase of easements. It is herein agreed that the parties recognize the mutual benefit of the sewer project to Hilton Haven residents and the citizens of Key West. However, by acceptance of this easement, the City/Aqueduct agree that should the City/Aqueduct decide to pay for easements, all easement Grantors will be compensated on the same basis. It is expressly understood that this section does not apply to the purchase of land and/or easement for the pump station.
- (g) All covenants, stipulations, terms, conditions, and provisions of this agreement shall extend to and be made binding upon respective successors and assigns of The City and/or Aqueduct and Grantor. It is intended that this agreement shall be recorded and be binding upon future owners of the above described property.
- (h) The Grantor does hereby warrant good and marketable title for the above described property and that it has full power of authority to grant this easement.

The parties acknowledge and agree that The City shall own and maintain the sewer line and the Aqueduct shall own and maintain the water transmission and distribution facilities and all appurtenances thereto which are located in this easement.

IN WITNESS WHEREOF, the parties have executed this Easement Agreement at the date first written above.

STATE OF FLORIDA)
COUNTY OF MONROE) SS

Executed in the presence of:

Robert Tiscoteanu
ROBERT TISCOTEANU
Printed Name

Edward H. Brugman
Edward H. Brugman

E. David Fernandez
E. David Fernandez
Printed Name

Mildred G. Brugman
Mildred G. Brugman

The foregoing instrument was acknowledged before me this 24th day of November, 1998 by Edward H. Brugman and Mildred G. Brugman who are personally known to me or who produced _____ as identification.

(SEAL)  April Vargas-Bell
MY COMMISSION # 0028155 EXPIRES
December 14, 2001
STATE OF FLORIDA, COUNTY OF MONROE, MISSISSIPPI

My Commission expires: December 14, 2001

April Vargas-Bell
Notary Public
Printed Name: APRIL VARGAS-BELL

This document prepared by E. David Fernandez, Utilities Director for the City of Key West

FILE # 1 2 9 5 5 3 0
BK 1 7 7 8 PG# 2 0 4

**LEGAL DESCRIPTION OF A PERMANENT UTILITY EASEMENT TO BE ACQUIRED
BY THE CITY OF KEY WEST ACROSS THE PROPERTY OF EDWARD H. AND
MILDRED C. BRUGMAN**

A parcel of land on the Island of Key West, Monroe County, Florida being more particularly described as follows:

A strip of land 22.00 feet wide lying 11.00 feet on each side of the following described centerline:

Commence at the northeasterly corner of Tract 9, according to the Amended Plat of HILTON HAVEN, Section No. 1, a subdivision on the Island of Key West, Monroe County, Florida, according to Plat recorded in Plat Book 2, Page 108, of the Public Records of Monroe County, Florida;

Thence southerly along the easterly boundary of said Tract 9 23.94 feet;

Thence westerly at a 90.00 degree angle 10.00 feet to the point of beginning;

Thence westerly to a point on the westerly boundary of said Tract 9 also being 35.70 feet southerly from the northwesterly corner of said Tract 9;

LESS that portion of said strip of land within the northerly 28.00 feet of the westerly 5.00 feet of said Tract 9;

AND that portion of the northerly 28.00 feet of the easterly 27.00 feet of the westerly 32.00 feet of said Tract 9 as measured parallel with it's boundary, not already described in said strip of land.

The above described parcel contains 0.067 acres, more or less.

*Note: There are several other pages in Plat Book 2 referring to various incarnations and portions of Hilton Haven Drive. They have not been used in the preparation of this legal description.

Page 1 of 2 (See Page 2 of 2 for sketch)

Exhibit L



Residential Lease

Clause 1. Identification of Landlord and Tenant

This agreement is entered into between WILLIAM R SHOFNER [Tenant] and MICHAEL JANSEN AKAVERN [Landlord]. Each Tenant is jointly and severally liable for the payment of rent and performance of all other terms of this Agreement.

Clause 2. Identification of Premises

Subject to the terms and conditions in this Agreement, Landlord rents to Tenant, and Tenant rents from Landlord, for residential purposes only, the premises located at 10 C WILTON HAVEN RD together with the following furnishings and appliances:

Rental of the premises also includes BOAT SLIP, DOCK AND WEST HALF OF LOT OFF ST PARKING SPACE

Clause 3. Limits on Use and Occupancy

The premises are to be used only as a private residence for Tenant(s) listed in Clause 1 of this Agreement, and the following minor children: NA

Occupancy by guests for more than NA is prohibited without Landlord's written consent and will be considered a breach of this Agreement.

Clause 4. Term of the Tenancy

The term of the rental will begin on 12-1-12, and end on 12-1-13

If Tenant vacates before the term ends, Tenant will be liable for the balance of the rent for the remainder of the term. NA

Clause 5. Payment of Rent.

Regular month rent

Tenant will pay to Landlord a monthly rent of \$800⁰⁰, payable in advance on the first day of each month, except when that day falls on a weekend or legal holiday, in which case rent is due on the next business day. Rent will be paid to MICHAEL JANSEN at 9 WILTON HAVEN RD or at such other place as Landlord designates.

Delivery of Payment.

Rent will be paid:

- by mail, to SAME
- in person, at SAME

Form of payment.

Landlord will accept payment in these forms:

- personal check made payable to MICHAEL JANSEN
- cashier's check made payable to SAME
- credit card
- money order
- cash

Clause 21. Authority to Receive Legal Papers

The Landlord, any person managing the premises, and anyone designated by the Landlord are authorized to accept service of process and receive other notices and demands, which may be delivered to:

- The Landlord, at the following address: 9 WILSON MANOR RD
- The manager, at the following address: _____
- The following person, at the following address: _____

Clause 22. Additional Provisions

Additional provisions are as follows:

Clause 23. Validity of Each Part

If any portion of this Agreement is held to be invalid, its invalidity will not affect the validity or enforceability of any other provision of this Agreement.

Clause 24. Grounds for Termination of Tenancy

The failure of Tenant or Tenant's guests or invitees to comply with any term of this Agreement, or the misrepresentation of any material fact on Tenant's rental application, is grounds for termination of the tenancy, with appropriate notice to Tenant and procedures as required by law.

Clause 25. Entire Agreement

This document constitutes the entire Agreement between the parties, and no promises or representations, other than those contained here and those implied by law, have been made by Landlord or Tenant. Any modifications to this Agreement must be in writing signed by Landlord and Tenant.

12-18-12 Michael C. Danan PROPERTY MANAGER
 Date Landlord or Landlord's Agent Title

9 WILSON MANOR RD
Address

Key West FLA 33040 305-896-4420
 City State Zip Code Phone

12/18/12 [Signature] 970-389-9124
 Date Tenant Phone

 Date Tenant Phone

 Date Tenant Phone



THE CITY OF KEY WEST – PLANNING DEPARTMENT

Post Office Box 1409 Key West, FL 33041-1409 (305) 809-3764

December 11, 2019

Trepanier and Associates
Ms. Lori Thompson
1421 First Street
Key West, FL 33040

RE: LUD Application – 9,10, 10A and 10B Hilton Haven Drive, Key West, FL 33040

Dear Ms. Thompson,

We have reviewed your application for six (6) additional non-transient units for the real property located at 9, 10, 10A and 10B Hilton Haven Drive, Key West, FL 33040. Your application was reviewed in accordance with the criteria found in Key West Code of Ordinances section 108-991. Specifically, 108-991 (3) provides in part that:

Units determined to have been in existence at the time the April 1, 2010 census was prepared are presumed not to be affected by BPAS. The city planner shall review available documents to determine if a body of evidence exists to support the existence of units on or about April 1, 2010. Units existing in 2010 will be documented through a mandatory site visit by city staff and at least two of the following records:

- a. Aerial photographs and original dated photographs showing that the structure existed on or about April 1, 2010;
- b. Building permits issued prior to April 1, 2010;
- c. Copies of city directory entries on or about April 1, 2010;
- d. Applications received after May 2, 2017 must demonstrate that the unit sought to be established hereunder is or has been legally permissible under the current or any former zoning requirements of the applicable district in which the unit is located.

Transient units which meet the criteria in this subsection will be licensed by the city.

- e. Rental, occupancy or lease records from before and including April 1, 2010, indicating the number, type and term of the rental or occupancy;
- f. Copies of state, county, and city licenses on and about April 1, 2010, indicating the number and types of rental units;
- g. Documentation for Keys Energy Service, Florida Keys Aqueduct Authority and other available utilities indicating the type of service (residential or commercial) provided and the number of meters on or about April 1, 2010;
- h. Documentation for the Monroe County Property Appraiser's Office for the time on or about April 1, 2010, (Green Card); and
- i. Similar documentation as listed above.

Provision of affidavits to support the existence of a unit is allowed, but cannot be the sole record upon which a decision is based. Provision of documents is the responsibility of the applicant. The city planner's



THE CITY OF KEY WEST – PLANNING DEPARTMENT

Post Office Box 1409 Key West, FL 33041-1409 (305) 809-3764

decision shall be rendered to the department of economic opportunity for a determination of consistency with the principals for guiding development.

After review of your application considering these criteria, coupled with a site visit on November 7, 2019, it is my determination that you have established six (6) non transient units exist on the property. The units are not a new determination as they have already been recognized by the City.

Specifically, our denial for the additional six (6) non transient units is based on the fact that you have not demonstrated that in the current MDR zoning district or the former R2 zoning district, that these transient units meet the requirements of Section d. above and that they are or were legally permissible under current or previous zoning requirements. The MDR zoning district according to Section 122-266, "shall not accommodate transient lodgings...." and in R2 they are not specifically permitted.

In addition, my determination on these new submittals is that they do not meet the definition of "dwelling units" under our Code as follows: "Dwelling unit and living unit means a single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation."

Sincerely,

A handwritten signature in cursive script that reads "Roy Bishop".

Roy Bishop
Planning Director

Dated: 12/11/19

Owen Trepanier

From: Owen Trepanier
Sent: Wednesday, December 11, 2019 4:20 PM
To: 'Natalie Hill'
Cc: 'Roy Bishop'; Lori Thompson; Lauren Mongelli
Subject: RE: 9, 10, 10A, & 10B Hilton Haven LUD letter
Attachments: Signed Letter 12.11.19.pdf; R-2 Zoning.pdf

Hi Natalie,

Thanks for the email. May I schedule a few minutes with Roy to clarify the LUD? The denial appears to be based on transient units but we are not requesting transient units; we requested non-transient.

After review of your application considering these criteria, coupled with a site visit on November 7, 2019, is my determination that you have established six (6) non transient units exist on the property. The units are not a new determination as they have already been recognized by the City.

Specifically, our denial for the additional six (6) non transient units is based on the fact that you have not demonstrated that in the current MDR zoning district or the former R2 zoning district, that these transient units meet the requirements of Section d. above and that they are or were legally permissible under current or previous zoning requirements. The MDR zoning district according to Section 122-266, "shall not accommodate transient lodgings...." and in R2 they are not specifically permitted.

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We requested non-transient units. R-2 specifically allows multi-family non-transient and prior to 1986, under R-2 zoning, the density for this property would have been 15 units (8,500 sq. ft. / 3 units + 2,800 sq. ft. / additional unit). There are only 12 units existing and requested. Also, some of the existing units are "Lock-Out" units not "Dwelling" or "Living" units as ID'd in the LUD. Lock-out units are defined in Sec. 86-9 as "any room or group of rooms which is part of a single family or multi-family dwelling or a transient room, or transient suite of rooms which can be accessed and locked or keyed separately from the principal entry to the dwelling, unit or suite. The access to the lock-out may be by separate door, from a common hallway, foyer or other common area of the units. Lock-outs create a separate habitable space, and shall be considered a unit which requires an additional building permit allocation system (BPAS) unit, when such lock-outs are held out for rent barter or lease for either transient or non-transient purposes separately from the principal dwelling, transient room or suite."

If he can squeeze me in, I don't think we need lots of time, 15-20 minutes would probably be enough.

Thanks a lot.

Owen

Trepanier & Associates, Inc.
Land Planners & Development Consultants
305-293-8983

From: Lori Thompson <lori@owentrepanier.com>
Sent: Wednesday, December 11, 2019 2:18 PM

To: Owen Trepanier <owen@owentrepanier.com>
Subject: Fwd: 9, 10, 10A, & 10B Hilton Haven LUD letter

Lori Thompson
Trepanier & Associates

Begin forwarded message:

From: Natalie Hill <nhill@cityofkeywest-fl.gov>
Date: December 11, 2019 at 11:22:27 AM EST
To: Lori Thompson <lori@owentrepanier.com>
Subject: FW: 9, 10, 10A, & 10B Hilton Haven LUD letter

Good Morning Lori,

Please see the LUD letter signed by Roy. I apologize for the delay (date changed to reflect today's date). Let me know if you have any questions.

Have a great day!

Respectfully,
Natalie L. Hill
Administrative Specialist
City of Key West
Planning Department at
Josephine Parker City Hall
1300 White Street
(305) 809-3764
nhill@cityofkeywest-fl.gov
www.cityofkeywest-fl.gov



THE CITY OF KEY WEST – PLANNING DEPARTMENT

Post Office Box 1409 Key West, FL 33041-1409 (305) 809-3764

December 11, 2019

Trepanier and Associates
Ms. Lori Thompson
1421 First Street
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- g. Documentation for Keys Energy Service, Florida Keys Aqueduct Authority and other available utilities indicating the type of service (residential or commercial) provided and the number of meters on or about April 1, 2010;
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- i. Similar documentation as listed above.

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Key to the Caribbean – average yearly temperature 77 ° Fahrenheit.



THE CITY OF KEY WEST – PLANNING DEPARTMENT

Post Office Box 1409 Key West, FL 33041-1409 (305) 809-3764

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In addition, my determination on these new submittals is that they do not meet the definition of "dwelling units" under our Code as follows: "Dwelling unit and living unit means a single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation."

Sincerely,

A handwritten signature in black ink that reads "Roy Bishop".

Roy Bishop
Planning Director

Dated: 12/11/19

ORDINANCE NO. 86-15

AN ORDINANCE AMENDING APPENDIX A -- ZONING -- OF THE CODE OF ORDINANCES OF THE CITY OF KEY WEST, FLORIDA; AMENDING SECTION VII 5(f) PROVIDING FOR MAXIMUM DENSITY; AMENDING SECTION VII 5(j) PROVIDING FOR MAXIMUM BUILDING HEIGHT; AMENDING SECTION VII 8(b)5 PROVIDING FOR TRANSIENT LIVING ACCOMODATIONS; AMENDING SECTION VII 8(f) PROVIDING FOR MINIMUM LOT AREA; AMENDING SECTION VII 8A(f) PROVIDING FOR MAXIMUM DENSITY; AMENDING SECTION VII 9(b) 5 PROVIDING FOR TRANSIENT LIVING ACCOMODATIONS; AMENDING SECTION VII 9(d)6 PROVIDING FOR SINGLE FAMILY AND MULTIFAMILY RESIDENTIAL; AMENDING SECTION VII 9(f)(1) PROVIDING FOR SQUARE FOOTAGE AND RATIO OF GROSS FLOOR AREA TO LOT AREA; AMENDING SECTION VII 10(b)4 PROVIDING FOR TRANSIENT LIVING ACCOMODATIONS; AMENDING SECTION VII 10(d)9 PROVIDING FOR SINGLE FAMILY AND MULTIFAMILY RESIDENTIAL; AMENDING SECTION VII 10 (f) PROVIDING FOR MINIMUM LOT AREA; AMENDING SECTION VII 13(a)(1)a. DELETING BUNGALOW COURTS AS PERMITTED USE; AMENDING SECTION VII 13(a)(4)a.(1) PROVIDING FOR MINIMUM LOT SIZE; AMENDING SECTION VII 13(a)(4)a.(4) PROVIDING FOR MAXIMUM BUILDING HEIGHT; AMENDING SECTION VII 13(a)(4)a.(5) PROVIDING FOR MAXIMUM DENSITY ; AMENDING SECTION VII 15(4) PROVIDING FOR DENSITY LIMITATION; AMENDING SECTION IX(1)(b) ADDING RESIDENTIAL DWELLING UNIT; AMENDING SECTION IX(1)(c), OFF-STREET PARKING WAIVER; AMENDING SECTION XXIV (44) PROVIDING DEFINITION; REPEALING ALL CONFLICTING ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, The City Commission passed an ordinance creating a committee named the Zoning Evaluation Committee to study the Zoning matters of the City of Key West, and;

WHEREAS, the Zoning Evaluation Committee has reviewed the Code and requests the following changes to be included in the Code of Ordinances of the City of Key West;

NOW THEREFORE BE IT ENACTED by the City Commission of the City of Key West, Florida

Section 1. That the following amendments to Ordinance 69-29, as amended, in the Code of Ordinances of the City of Key West Appendix A - Zoning be amended as follows: (deletions are ~~struck through~~; additions are underlined):

"VII. Schedule of district regulations adopted.

* * * *

(5) R-2 One-, Two- and Multiple-Family Dwelling District.

(a) Intent. The provisions of this district are intended to apply to an area of medium-density residential development with a variety of housing types. Lot sizes and other restrictions are intended to promote and protect medium density residential development, maintaining an adequate amount of open space for such development. Some nonresidential uses compatible with the character of the district are also permitted.

(b) Principal uses and structures. ~~Same as for R-1A/ and in addition:~~

1. Single-family dwellings.
2. Public and semipublic parks, playgrounds, playfields, and recreation facilities.
3. Boat piers or slips for the docking of privately owned and used watercraft of any sort.
4. Two-family dwellings.
5. Multiple-family dwellings.

(c) Accessory uses and structures. *Shall be kept in line.*

1. Noncommercial piers, bathhouses, and loading places intended solely for the use of the adjoining residences.
2. Noncommercial nurseries and greenhouses.
3. Customary accessory uses of a residential nature, clearly incidental and subordinate to the principal use, garages, carports, and the like, in keeping with the residential character of the district.
4. Home occupations subject to the provisions of Section X.

(d) Special exceptions permissible by board of adjustment. *Shall be kept in line.*

1. Public utility uses and rights-of-way essential to serve the neighborhood in which it is located.
2. Public schools and private schools with conventional curriculums; public libraries.
3. Churches and other places of worship; parish houses.
4. Golf course and club, tennis and racket club and similar activities in keeping with the residential character of the district.
5. Public safety structures and equipment, such as fire substations, civil defense facilities and the like.
6. Planned development on a minimum sized parcel of 4 acres for which variances of lot and building regulations are planned, subject to the provisions set forth in the Schedule of Special Exceptions Permissible by Board of Adjustment for Planned Development.
7. Professional offices.
8. Townhouses, subject to the provisions of Section VIII(1).
9. Mobile home parks, subject to the provisions of Section VIII(2).
10. Hospitals, restoriums, convalescent homes, nursing homes for human care except institutions primarily for mental care.
11. Public and private clubs and lodges not involved in the conduct of commercial activities.
12. Governmental institutions and cultural facilities.
13. Kindergartens, nurseries, and child-care facilities.
14. Garage apartments.
15. Any structure over 35 feet high.
16. General offices such as law offices, real estate offices and other similar uses in (R-2) One, Two- and Multiple Family Dwelling District.

(e) Prohibited uses and structures. All uses not specifically or provisionally permitted herein; any use not in keeping with the residential character of the district.

(f) *Maximum Density. Two-family and Multiple-family structures shall not exceed 16 dwelling units per acre density.*

Maximum Density. Two-family and Multiple-family structures shall not exceed 16 dwelling units per acre density.

(g) Minimum average lot width.

1. Single family: 0 feet.
2. Two family: 70 feet.
3. Multiple family: 80 feet.

4. Churches, hospitals, etc.: 150 feet.
 5. Clubs and lodges: 80 feet.
- (h) Minimum average lot depth.
1. Single family: 0 feet.
 2. Two family: 100 feet.
 3. Multiple family: 100 feet.
 4. Churches, hospitals, etc.: 100 feet.
 5. Clubs and lodges: 100 feet.
- (i) Maximum lot coverage. 40 per cent.
1. Single family: ~~Same as for R-1A~~ 40 per cent
 2. Two family: 35 percent.
 3. Multiple family: 35 percent.
 4. Churches, hospitals: 35 percent.
 5. Clubs and lodges: 35 percent.
- (j) Maximum height. ~~As for R-1A~~ 35 feet
- (k) Minimum building setbacks:
1. Front:
 - a. Single family: 0 feet.
 - b. Two family: 20 feet
 - c. Multiple family: 30 feet.
 - d. Churches, hospitals, etc.: 30 feet.
 - e. Clubs and lodges: 30 feet.
 2. Side interior lot:
 - a. Single family: 0 feet.
 - b. Two family: 7.5 feet or 10 per cent of width of lot up to 15 feet, whichever is greater.
 - c. Multiple family: 15 feet or 10 per cent of width of lot up to 20 feet, whichever is greater.
 - d. Churches, hospitals, etc.: 20 feet or 10 percent of width of lot up to 30 feet, whichever is greater.
 - e. Clubs and lodges: 15 feet or 10 per cent of width of lot up to 20 feet, whichever is greater.
 3. Side corner lot:
 - a. Single-family: 0, 10 feet on street side.
 - b. Two family: 7.5 feet or 10 percent of lot width, whichever is greater. 15 feet on street side.
 - c. Multiple family: 15 feet. 20 feet on street side.
 - d. Churches, hospitals, etc.: 25 feet.
 - e. Clubs and lodges: 25 feet.
 4. Rear:
 - a. Single-family: 0 feet
 - b. Two-family: 20 feet, 15 feet when abutting an alley.
 - c. Multiple-family: 25 feet, 20 feet when abutting an alley.
 - d. Churches, hospitals, etc.: 25 feet, 20 feet when abutting an alley.
 - e. Clubs and lodges: 25 feet, 20 feet when abutting an alley.
 5. Rear corner lot: Same as side interior lot
- (l) Off-street parking and loading requirements. As specified in Section IX.
- (m) Sign limitations. ~~Same as for R-1A~~
1. A nonilluminated nameplate or professional nameplate not exceeding 2 square feet in area.
 2. Nonilluminated bulletin board or sign not exceeding 5 square feet in area in conjunction with permitted public and semipublic uses.
 3. Temporary real estate signs advertising the sale, rental or lease of only the premises upon which they are located, provided that:

- a. No sign shall exceed 8 square feet in area for each 1/4 acre in the lot or tract; and
 - b. No one sign shall exceed 32 square feet in area.
4. A nonilluminated sign not exceeding 6 square feet in area used to identify a building containing multiple-family dwellings.

All signs shall be set back at least 12 feet distant from all property and right-of-way lines. (Ord. No. 83-48, ss. 1,12-5-83)

* * * *

(8) HP-2 Commercial Historic Preservation District.

- (a) Intent: The provisions of this district are intended to protect and enhance the character of the commercial historic areas of the City of Key West.
- (b) Principal uses and structures. ~~Same as for HP-1 and in addition:~~
 - 1. Single-family dwellings.
 - 2. Public and semipublic parks, playgrounds, playfields and recreation facilities.
 - 3. Boat piers or slips for the docking or privately owned and used watercraft of any sort.
 - 4. Two-family dwellings.
 - 5. Multi-family structures not to exceed 22 dwelling units per acre.
 - 6. Professional offices, studios, clinics, laboratories, general offices, business schools, and similar uses.
 - 7. Bank and financial institutions.
 - 8. Antique, souvenir, gift, or other shops related to the historic character of the City of Key West.
 - 9. Personal service establishments, such as beauty and barber shops, laundry and dry cleaning pickup stations, tailor shops, florist shops, and similar uses.
 - 10. ~~Hotels, motels, and guest cottages~~ Transient living accommodations (hotels, motels, guest houses and cottages) not to exceed 30 habitable units per acre.
 - 11. Retail stores, sales and display rooms except automotive uses including establishment in which retail goods are sold upon premises.
 - 12. Eating and drinking establishments excluding drive-ins and establishments specializing in the preparation of foods not be consumed within the main structure.
 - 13. Commercial recreation, such as theaters, bowling alleys and similar uses except drive-in theaters.
- (c) Accessory uses and structures. Customary accessory uses of one or more of the principal uses clearly incidental to the principal use in keeping with the historic character of the zone.
- (d) Special exception permissible by board of adjustment.
 - 1. Any use found by the board of adjustment to be appropriate and compatible with the historic character of the district.
 - 2. Any structure over 40 feet high.
 - 3. Any structure which preserves a historic aspect of the district which could not be saved without the special exception and the existing structure or site is causing an adverse economic impact on the surrounding commercial district.
- (e) Prohibited uses and structures. All uses not specifically or provisionally permitted herein; any use not in keeping with the historic character of the district.
- (f) Minimum lot area. 4,000 square feet and, in addition, the ratio of gross floor area to lot area shall not exceed ~~1/2~~ 1 to 1.
- (g) Minimum average lot width. 40 feet.

Owen Trepanier

From: Roy Bishop <rbishop@cityofkeywest-fl.gov>
Sent: Wednesday, December 11, 2019 5:37 PM
To: Owen Trepanier; Natalie Hill
Cc: Lori Thompson; Lauren Mongelli
Subject: Re: 9, 10, 10A, & 10B Hilton Haven LUD letter

Owen, I would like to withdraw that letter and review it further. Sorry for the confusion. Roy

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From: Owen Trepanier <owen@owentrepanier.com>
Sent: Wednesday, December 11, 2019 4:19:57 PM
To: Natalie Hill <nhill@cityofkeywest-fl.gov>
Cc: Roy Bishop <rbishop@cityofkeywest-fl.gov>; Lori Thompson <lori@owentrepanier.com>; Lauren Mongelli <lauren@owentrepanier.com>
Subject: RE: 9, 10, 10A, & 10B Hilton Haven LUD letter

Hi Natalie,

Thanks for the email. May I schedule a few minutes with Roy to clarify the LUD? The denial appears to be based on transient units but we are not requesting transient units; we requested non-transient.

After review of your application considering these criteria, coupled with a site visit on November 7, 2019, is my determination that you have established six (6) non transient units exist on the property. The units are not a new determination as they have already been recognized by the City.

Specifically, our denial for the additional six (6) non transient units is based on the fact that you have not demonstrated that in the current MDR zoning district or the former R2 zoning district, that these transient units meet the requirements of Section d. above and that they are or were legally permissible under current or previous zoning requirements. The MDR zoning district according to Section 122-266, "shall not accommodate transient lodgings...." and in R2 they are not specifically permitted.

In addition, my determination on these new submittals is that they do not meet the definition of "dwelling units" under our Code as follows: "Dwelling unit and living unit means a single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation."

We requested non-transient units. R-2 specifically allows multi-family non-transient and prior to 1986, under R-2 zoning, the density for this property would have been 15 units (8,500 sq. ft. / 3 units + 2,800 sq. ft. / additional unit). There are only 12 units existing and requested. Also, some of the existing units are "Lock-Out" units not "Dwelling" or "Living" units as ID'd in the LUD. Lock-out units are defined in Sec. 86-9 as "any room or group of rooms which is part of a single family or multi-family dwelling or a transient room, or transient suite of rooms which can be accessed and locked or keyed separately from the principal entry to the dwelling, unit or suite. The access to the lock-out may be by separate door, from a common hallway, foyer or other common area of the units. Lock-outs create a separate habitable space, and shall be considered a unit which requires an additional building permit allocation system (BPAS) unit, when such lock-outs are held out for rent barter or lease for either transient or non-transient purposes separately from the principal dwelling, transient room or suite."

If he can squeeze me in, I don't think we need lots of time, 15-20 minutes would probably be enough.
Thanks a lot.
Owen

Trepanier & Associates, Inc.
Land Planners & Development Consultants
305-293-8983

From: Lori Thompson <lori@owentrepanier.com>
Sent: Wednesday, December 11, 2019 2:18 PM
To: Owen Trepanier <owen@owentrepanier.com>
Subject: Fwd: 9, 10, 10A, & 10B Hilton Haven LUD letter

Lori Thompson
Trepanier & Associates

Begin forwarded message:

From: Natalie Hill <nhill@cityofkeywest-fl.gov>
Date: December 11, 2019 at 11:22:27 AM EST
To: Lori Thompson <lori@owentrepanier.com>
Subject: FW: 9, 10, 10A, & 10B Hilton Haven LUD letter

Good Morning Lori,

Please see the LUD letter signed by Roy. I apologize for the delay (date changed to reflect today's date). Let me know if you have any questions.

Have a great day!

Respectfully,
Natalie L. Hill
Administrative Specialist
City of Key West
Planning Department at
Josephine Parker City Hall
1300 White Street
(305) 809-3764
nhill@cityofkeywest-fl.gov
www.cityofkeywest-fl.gov

ORDINANCE NO. 86-15

AN ORDINANCE AMENDING APPENDIX A -- ZONING -- OF THE CODE OF ORDINANCES OF THE CITY OF KEY WEST, FLORIDA; AMENDING SECTION VII 5(f) PROVIDING FOR MAXIMUM DENSITY; AMENDING SECTION VII 5(j) PROVIDING FOR MAXIMUM BUILDING HEIGHT; AMENDING SECTION VII 8(b)5 PROVIDING FOR TRANSIENT LIVING ACCOMODATIONS; AMENDING SECTION VII 8(f) PROVIDING FOR MINIMUM LOT AREA; AMENDING SECTION VII 8A(f) PROVIDING FOR MAXIMUM DENSITY; AMENDING VII SECTION 9(b) 5 PROVIDING FOR TRANSIENT LIVING ACCOMODATIONS; AMENDING SECTION VII 9(d)6 PROVIDING FOR SINGLE FAMILY AND MULTIFAMILY RESIDENTIAL; AMENDING SECTION VII 9(f)(1) PROVIDING FOR SQUARE FOOTAGE AND RATIO OF GROSS FLOOR AREA TO LOT AREA; AMENDING SECTION VII 10(b)4 PROVIDING FOR TRANSIENT LIVING ACCOMODATIONS; AMENDING SECTION VII 10(d)9 PROVIDING FOR SINGLE FAMILY AND MULTIFAMILY RESIDENTIAL; AMENDING SECTION VII 10 (f) PROVIDING FOR MINIMUM LOT AREA; AMENDING VII 13(a)(1)a. DELETING BUNGALOW COURTS AS PERMITTED USE; AMENDING SECTION VII 13(a)(4)a.(1) PROVIDING FOR MINIMUM LOT SIZE; AMENDING SECTION VII 13(a)(4)a.(4) PROVIDING FOR MAXIMUM BUILDING HEIGHT; AMENDING SECTION VII 13(a)(4)a.(5) PROVIDING FOR MAXIMUM DENSITY ; AMENDING SECTION VII 15(4) PROVIDING FOR DENSITY LIMITATION; AMENDING SECTION IX(1)(b) ADDING RESIDENTIAL DWELLING UNIT; AMENDING SECTION IX(1)(c), OFF-STREET PARKING WAIVER; AMENDING SECTION XXIV (44) PROVIDING DEFINITION; REPEALING ALL CONFLICTING ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

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(b) Principal uses and structures. ~~State as told R-1/A/ and in addition/~~

1. Single-family dwellings.
2. Public and semipublic parks, playgrounds, playfields, and recreation facilities.
3. Boat piers or slips for the docking of privately owned and used watercraft of any sort.
4. Two-family dwellings.
5. Multiple-family dwellings.

(c) Accessory uses and structures. *State law limits.*

1. Noncommercial piers, bathhouses, and loading places intended solely for the use of the adjoining residences.
2. Noncommercial nurseries and greenhouses.
3. Customary accessory uses of a residential nature, clearly incidental and subordinate to the principal use, garages, carports, and the like, in keeping with the residential character of the district.
4. Home occupations subject to the provisions of Section X.

(d) Special exceptions permissible by board of adjustment. *State law limits.*

1. Public utility uses and rights-of-way essential to serve the neighborhood in which it is located.
2. Public schools and private schools with conventional curriculums; public libraries.
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15. Any structure over 35 feet high.
16. General offices such as law offices, real estate offices and other similar uses in (R-2) One, Two- and Multiple Family Dwelling District.

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- (i) Maximum lot coverage, 40 per cent.
1. Single family: ~~Same as R-1A~~ 40 per cent
 2. Two family: 35 percent.
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 4. Churches, hospitals: 35 percent.
 5. Clubs and lodges: 35 percent.
- (j) Maximum height. ~~As per R-1A~~ 35 feet
- (k) Minimum building setbacks:
1. Front:
 - a. Single family: 0 feet.
 - b. Two family: 20 feet
 - c. Multiple family: 30 feet.
 - d. Churches, hospitals, etc.: 30 feet.
 - e. Clubs and lodges: 30 feet.
 2. Side interior lot:
 - a. Single family: 0 feet.
 - b. Two family: 7.5 feet or 10 per cent of width of lot up to 15 feet, whichever is greater.
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 - d. Churches, hospitals, etc.: 20 feet or 10 percent of width of lot up to 30 feet, whichever is greater.
 - e. Clubs and lodges: 15 feet or 10 per cent of width of lot up to 20 feet, whichever is greater.
 3. Side corner lot:
 - a. Single-family: 0, 10 feet on street side.
 - b. Two family: 7.5 feet or 10 percent of lot width, whichever is greater. 15 feet on street side.
 - c. Multiple family: 15 feet. 20 feet on street side.
 - d. Churches, hospitals, etc.: 25 feet.
 - e. Clubs and lodges: 25 feet.
 4. Rear:
 - a. Single-family: 0 feet
 - b. Two-family: 20 feet, 15 feet when abutting an alley.
 - c. Multiple-family: 25 feet, 20 feet when abutting an alley.
 - d. Churches, hospitals, etc.: 25 feet, 20 feet when abutting an alley.
 - e. Clubs and lodges: 25 feet, 20 feet when abutting an alley.
 5. Rear corner lot: Same as side interior lot
- (l) Off-street parking and loading requirements. As specified in Section IX.
- (m) Sign limitations. ~~Same as R-1A~~
1. A nonilluminated nameplate or professional nameplate not exceeding 2 square feet in area.
 2. Nonilluminated bulletin board or sign not exceeding 5 square feet in area in conjunction with permitted public and semipublic uses.
 3. Temporary real estate signs advertising the sale, rental or lease of only the premises upon which they are located, provided that:

- a. No sign shall exceed 8 square feet in area for each 1/4 acre in the lot or tract; and
 - b. No one sign shall exceed 32 square feet in area.
4. A nonilluminated sign not exceeding 6 square feet in area used to identify a building containing multiple-family dwellings.

All signs shall be set back at least 12 feet distant from all property and right-of-way lines. (Ord. No. 83-48, ss. 1,12-5-83)

* * * *

(8) HP-2 Commercial Historic Preservation District.

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- (b) Principal uses and structures. ~~Same as for HP-1 and in addition;~~
 - 1. Single-family dwellings.
 - 2. Public and semipublic parks, playgrounds, playfields and recreation facilities.
 - 3. Boat piers or slips for the docking or privately owned and used watercraft of any sort.
 - 4. Two-family dwellings.
 - 5. Multi-family structures not to exceed 22 dwelling units per acre.
 - 6. Professional offices, studios, clinics, laboratories, general offices, business schools, and similar uses.
 - 7. Bank and financial institutions.
 - 8. Antique, souvenir, gift, or other shops related to the historic character of the City of Key West.
 - 9. Personal service establishments, such as beauty and barber shops, laundry and dry cleaning pickup stations, tailor shops, florist shops, and similar uses.
 - 10. ~~Hotels, motels, and guest cottages;~~ Transient living accommodations (hotels, motels, guest houses and cottages) not to exceed 30 habitable units per acre.
 - 11. Retail stores, sales and display rooms except automotive uses including establishment in which retail goods are sold upon premises.
 - 12. Eating and drinking establishments excluding drive-ins and establishments specializing in the preparation of foods not be consumed within the main structure.
 - 13. Commercial recreation, such as theaters, bowling alleys and similar uses except drive-in theaters.
- (c) Accessory uses and structures. Customary accessory uses of one or more of the principal uses clearly incidental to the principal use in keeping with the historic character of the zone.
- (d) Special exception permissible by board of adjustment.
 - 1. Any use found by the board of adjustment to be appropriate and compatible with the historic character of the district.
 - 2. Any structure over 40 feet high.
 - 3. Any structure which preserves a historic aspect of the district which could not be saved without the special exception and the existing structure or site is causing an adverse economic impact on the surrounding commercial district.
- (e) Prohibited uses and structures. All uses not specifically or provisionally permitted herein; any use not in keeping with the historic character of the district.
- (f) Minimum lot area. 4,000 square feet and, in addition, the ratio of gross floor area to lot area shall not exceed 1/4 1 to 1.
- (g) Minimum average lot width. 40 feet.

ORDINANCE NO. 13-19

AN ORDINANCE OF THE CITY OF KEY WEST AMENDING CHAPTER 86, SECTION 86-9 ENTITLED "DEFINITION OF TERMS"; CHAPTER 108 OF THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES, ENTITLED PLANNING AND DEVELOPMENT SPECIFICALLY ARTICLE X ENTITLED BUILDING PERMIT ALLOCATION SYSTEM BY AMENDING SECTION 108-986 "DEFINITIONS" AND ADDING THE DEFINITIONS TO SECTION 86-9 ENTITLED "DEFINITION OF TERMS"; AMENDING SECTION 108-987 ENTITLED "PURPOSE AND INTENT"; AMENDING SECTION 108-989 ENTITLED "AUTHORITY"; AMENDING SECTION 108-991 "DEVELOPMENT NOT AFFECTED BY ARTICLE"; AMENDING SECTION 108-994 ENTITLED "ESTABLISHED"; AMENDING SECTION 108-995 ENTITLED "REPORTING REQUIREMENTS AND ADJUSTMENTS IN RESIDENTIAL ALLOCATION SCHEDULE"; ADDING SECTION 108-996 ENTITLED "INTENT"; AMENDING SECTION 108-997 BY ADDING THE SECTION ENTITLED "PERIOD OF ALLOCATION AND RANKING/REVIEW OF APPLICATIONS", AMENDING SECTION 108-998 ENTITLED "PROCEDURES FOR ENSURING BENEFICIAL USE OF PRIVATE PROPERTY"; BY AMENDING SECTION 108-999 ENTITLED "ZONING IN PROGRESS" AND CHANGING IT TO "ALLOCATION OF RESIDENTIAL PERMITS IN THE TRUMAN WATERFRONT REDEVELOPMENT AREA"; AND AMENDING CHAPTER 122 ENTITLED "ZONING", SECTION 122-1470 ENTITLED "ACCESSORY UNIT INFILL"; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS, PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Section 90-517 of the Code of Ordinances allows the City Commission to amend the text of the Land Development Regulations in accordance with Sections 90-486 through 90-524.

*Coding: Added language is underlined; deleted language is struck through
Page 1 of 110

WHEREAS, in September of 2012 the Hurricane Evacuation Memorandum of Understanding (HEM MOU) was signed by the State Department of Economic Opportunity, the Department of Emergency Management, the County and its municipalities including Key West. The HEM MOU involved updating the modeling used to determine the City's ability to evacuate in the event of a hurricane, based on the 2010 US Census population count. As a result of the modeling, it was determined that Monroe County and its municipalities have the capacity to add limited residential units and meet the 24 hour permanent resident evacuation mandate. Key West was given 91 new units for allocation of residential development beginning in 2013 and distributed annually for the next ten years; and

WHEREAS, on May 2, 2013 the City's new Comprehensive Plan became effective that established the format for how the 91 annual residential Building Permit Allocation System units would be allocated; and

WHEREAS, public policy that promotes healthy, resilient, high-performing building design and practices complements existing policies relating to development and environmental stewardship; including the Climate Action Plan, the Comprehensive Plan, the Strategic Plan and the Solid Waste Master Plan; and

*Coding: Added language is underlined; deleted language is struck through

WHEREAS, the City Commission has the ability to encourage better building practices that can reduce energy and water waste, encourage superior indoor air quality and incentivize low-impact construction through the Building Permit Allocation System for new residential development in the City; and

WHEREAS, the Key West City Commission desires to grow the twenty-first century economy by encouraging the expansion healthy, resilient, high-performing building design and practice; and

Whereas, the Key West City Commission believes that access to healthy, efficient, affordable and high quality homes should be the goal of any affordable housing program; and

WHEREAS, the majority of third-party verified green homes certified under the U.S. Green Building Council's LEED for Homes program are affordable housing developments, and the City's BPAS is designed with a focus on affordable housing development; and

WHEREAS, by listing more comprehensive green building criteria within the BPAS Ordinance the City can directly improve the supply of healthy, efficient, affordable and high quality

*Coding: Added language is underlined; deleted language is struck through

homes that can contribute to the health of residents, drive down costs through building energy and water efficiency, and reduce strain on Key West infrastructure through buildings with a lower environmental impact;

WHEREAS, green homes and buildings can contribute to the health of building occupants and also drive down costs through efficiency measures, making affordable homes even more affordable to maintain and operate; and

WHEREAS, pursuant to Section 90-522, the Planning Board held a noticed public hearing on 8-15-13; where based on the consideration of recommendations of the City Planner, City Attorney, Building Official, and public testimony and input, and recommendation of the Planning Department, recommended approval of the proposed amendments; and

WHEREAS, the City Commission held a noticed public hearing on 10-2-13 and a second public hearing on 11-6-13 and in its deliberations considered the criteria identified in Section 90-521 of the Code of Ordinances; and

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WHEREAS, the City determined that the proposed amendments are: consistent with the Comprehensive Plan; in conformance with all applicable requirements of the Code of Ordinances; are stimulated by changed conditions after the effective date of the existing regulation; will promote land use compatibility; will not result in additional demand on public facilities; will have no negative impact on the natural environment; will not negatively impact property values or the general welfare; will result in more orderly and compatible land use patterns; and are in the public interest.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF KEY WEST, FLORIDA:

Section 1: That Chapter 86-9 of the Land Development Regulations, Subpart B, of the Code of Ordinances is hereby amended as follows:

SUBPART B - LAND DEVELOPMENT REGULATIONS

Section 86-9. - Definition of Terms

Terms not otherwise defined in this section shall be interpreted first by reference to the comprehensive plan and this subpart B; secondly, by reference to generally accepted

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engineering, planning, or other professional terminology if technical; and otherwise according to common usage, unless the context clearly indicates otherwise. For the purpose of enforcing and administering this subpart B, the following words shall have the definition and meanings ascribed:

Abandon means to discontinue a land use for a period of 24 months without demonstrating an intent to continue the use as indicated by the following:

- (1) Allowing licenses to lapse;
- (2) Removing meters;
- (3) Not maintaining a structure in a habitable condition;
- (4) Not making a unit available for occupation (i.e., advertising or marketing through a Realtor or other agent); and/or
- (5) Failure to perform pursuant to the terms of an active building permit.

Abutting. See *Adjoining.*

Access, point of, means a driveway or other opening for vehicles, bicyclists, and pedestrians onto a public street or right-of-way.

Accessory ~~apartment~~ Unit means a ~~second attached or detached dwelling unit contained within a single family detached dwelling or an accessory building (structure) on the same lot as a single~~

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~~family detached dwelling for~~ dwelling unit, limited in size, with a separate entrance, for use as a complete, independent living quarters, with provisions for living, sleeping, bathing, and cooking which meet the following criteria:

- (1) Deed-restricted as affordable.
- (2) Restricted to occupancy by permanent residents.
- (3) Occupied by a person or household for whom the unit is a primary residence.
- (4) May not be rented transiently nor can it be granted a business tax receipt for transient use and cannot be sold separately as a condominium.
- (5) Shall not exceed 600 square feet and the minimum size shall be 300 square feet.
- (6) Subject to BPAS availability and allocation at 0.78 ESFU.
- (7) Adequate public utilities and public facilities shall be available concurrent with the permitting of such unit.

For properties located within the Single Family (SF) zoning district containing a single-family detached dwelling unit or principal unit, one (1) accessory dwelling unit is allowed as of right, and performance criteria, as provided for in Chapter 122. Subdivision II. Single Family Residential Zoning District regulations.

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~~(1) The principal single family dwelling shall:~~

- ~~a. Contain no more than one accessory apartment;~~
- ~~b. Be owner occupied when the original accessory unit occupancy permit is initiated; and~~
- ~~c. Not be used or licensed for transient rental housing.~~

~~(2) The accessory apartment unit shall:~~

- ~~a. Contain no more than 600 square feet of gross floor area;~~
- ~~b. Be occupied by a person or household for whom the unit is a primary residence;~~
- ~~c. Accessory units shall be used only by permanent residents;~~
- ~~d. Accessory units may not be rented transiently nor can they be granted a business tax receipt for transient use; and~~
- ~~e. Adequate public utilities and public facilities shall be available concurrent with the permitting of such unit.~~

Accessory Structure means a subordinate structure that is detached from the principal structure and located on the same parcel or property, the use of which is incidental to that of the principal structure.

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Accessory Use means a use that is clearly incidental to the principal use, that is subordinate in area extent or purpose to the principal use, and that is supportive of the principal use. An accessory use ~~and that~~ contributes to the comfort, convenience or necessity of the principal use, and/or provides support services to the principal use, and ~~that~~ is located on the same lot with such principal building or use. In a residential district, the accessory use shall not be nonresidential in character.

Accessory Unit Infill means the development of new residential accessory units associated with commercial development within the HDR, CL, CG, CT, RO, HRCC-1-3, HNC-1-3, HCT, and HRO zoning districts in order to encourage the addition of affordable work force housing within mixed use districts, that are close to jobs and transportation routes. Accessory unit infill development is subject to performance criteria as provided for in Section 122-1470 of the Work Force Housing Ordinance.

Accommodations, Overnight: Any hotel, motel, bed and breakfast, rooming-house, RV park or campground that is intended to be used for overnight lodging, rented for a period of less than 28 days. See also Transient Living Accommodations or Transient Lodging.

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Addition means a structural extension, or expansion, or increase in floor area or height of a building or structure. Types of additions are defined as follows:

- a. Addition (Type A) means habitable space, attached to the principal structure, which includes a separate entrance, lockable internal connection and a full and/or half bathroom only. No BPAS allocation is required.
- b. Addition (Type B) means habitable space which is attached to the principal structure, includes a separate entrance, unlockable internal connection of at least fifty (50) inches in width, and a kitchen and/or wet bar, full and/or half bathroom. No BPAS allocation is required.
- c. Addition (Type C) means habitable space which is attached to the principal structure with no internal connection, includes a separate entrance, kitchen and a full bathroom. BPAS allocation is required.

Adjoining or Adjacent lot or land means a lot or parcel of land that shares all or part of a common lot line including a common right-of-way with another lot or parcel of land.

Administrative official and city official mean the official appointed by the city manager to administer and enforce the land development regulations.

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Advanced Award means the borrowing ahead or reservation of future year Building Permit Allocation System (BPAS) residential units for the development of multi-unit, affordable housing projects only. Units may only be reserved one year in advance through the BPAS application process, and may be awarded. However, such Awards shall not be Allocated for building permit until July of the Award Year for which they were borrowed. An advanced award must be granted by the Planning Board in response to a recommendation by the Planning Department for a specific project which requires more than the available number of Building Permit Allocations in a single year, or if not enough units remain in the Award Year to complete the project. In order to consider an award for Advanced Award, the project must meet the prerequisites and have obtained at least 10 points through the competitive application process.

Advertising structure means a structure of any kind or character, including any sign, billboard, or other object or structure erected or maintained for outdoor advertising purposes, upon which any outdoor advertising sign may be placed.

Affordable Housing shall be in accordance with F.S 420.0004, and means a dwelling unit in which a household spends no more than 30 percent of its gross income on housing costs. Eligibility income levels are very low, low, median, middle and moderate as

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defined herein. Rental housing costs include contract rent and utilities. Owner occupied housing costs include mortgage principal and interest, property taxes, insurance, and where applicable, homeowner's association fees. Permanent deed restrictions are required to maintain affordability and must be executed prior to certificate of occupancy.

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
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family size) for Monroe County, in accordance with Section 122-1472. The definition of "affordable housing median income" shall be applied to all required deed restrictions for units constructed or built prior to July 1, 2005.

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.

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Affordable housing (very low income) for a rental dwelling unit shall mean a dwelling unit whose monthly rent, not including utilities, does not exceeded 30 percent of that amount which represents 60 percent of the monthly median income (adjusted for family size).

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.

Affordable Work Force Housing means affordable deed restricted housing required to be 30% of the aggregate total of all market rate units proposed on any one site subject to specific eligibility requirements and performance criteria as contained in Division 10. Work Force Housing, Chapter 122. Affordable work force housing shall include low income, median income, moderate income and middle income housing.

Alley means any public or private right-of-way set aside for secondary public travel and servicing which is less than 30 feet in width.

Allocation Award, BPAS Allocation, and Residential Unit Building Permit Allocation mean the issuance of a residential unit allocation by the Planning Department, documented in the City's

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BPAS records, in accordance with a Planning Board Final Determination of Award.

Allocation Application means the permanent and/or transient residential building permit allocation application submitted by a property owner seeking a unit allocation award.

Allocation Award Year or Award Year means the calendar year in which a Final Determination of Allocation Award is made, and is the year immediately following the Application Year. The first award year is 2014, and shall continue until 2024 unless amended or extended by an appropriate action of the City Commission.

Alteration means any change in the arrangement of a building, including work affecting the structural parts of a building or any change in occupancy, or change in wiring, plumbing, or heating systems.

Apartment means a room or a suite of rooms within an apartment building arranged, intended or designed to be used as a home or residence of one family and with full bathing and kitchen facilities for the exclusive use of the one family.

Apartment building means a building which is used or intended to be used as a home or residence for three or more families living in separate apartments.

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Appeal means a request for a review of a decision, finding, order, interpretation or other action concerning the land development regulations.

Application Year means the calendar year in which allocation applications are received by the City Planning Department. The first application year is 2013, and shall continue until 2023 unless amended or extended by an appropriate action of the City Commission.

Assisted living facility (ALF) means community housing facilities for people with disabilities and/or suffering from the effects of advanced aging. These facilities provide supervision or assistance with activities of daily living; ALF's are an eldercare alternative on the continuum of care for people, for whom independent living is not appropriate but who do not need the 24-hour medical care provided by a nursing home. Assisted living is a philosophy of care and services promoting independence and dignity as licensed by the State of Florida.

Automotive vehicle means any self-propelled vehicle or conveyance designed and used for the purpose of transporting or moving persons, animals, freight, merchandise or any substance. The phrase shall include passenger cars, trucks, buses, motorcycles, scooters and station wagons, but shall not include

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tractors, construction equipment or machinery or any device used for performing a job except as stated in this definition.

Awning means a light, protective appurtenance to a building.

Baseline Green Building Certification means the Florida Green Building Coalition (FGBC) Bronze level certification or Leadership in Energy and Environmental Design (LEED) Certified.

Bathroom or Full Bath means a group of fixtures consisting of a sink, a toilet and a bath or shower. A half bath contains a toilet and a sink, but can be used in conjunction with an outdoor shower to be considered a full bath.

Beneficial Use or Pre-existing Reserve Units/Permits means the remaining BPAS allocations associated with the 1993 allocation period that the City has reserved to address property rights associated with existing vacant lots of record as of January 1, 1994, and which as of the effective date of the 2013 Comprehensive Plan have not been allocated to a particular address, building or development.

Boat means every description of watercraft, barge and airboat other than a seaplane, used or capable of being used as a means of transportation on or under the water.

BRAC means the Federal Base Realignment and Closure Commission pursuant to the Defense Closure and Realignment Act of 1990, Public Law 101-510, as amended.

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Buffer strip means a parcel or tract of land, plant material, or other landscaping that is used to separate one use from another and to shield or block noise, light or other nuisances, and or provide stormwater retention areas and beautification.

Buildable area means the portion of a lot remaining after required dimensional requirements for building setbacks, yards, and required open space and landscaped areas have been provided.

Builder means any person, firm, association, syndicate, partnership, corporation, Realtor or corporation who constructs model homes and other residential dwellings and commercial properties for sale or rental to the public.

Building means any structure used or intended for supporting or sheltering any use or occupancy having a roof and which is entirely separated from any other structure by space or by walls in which there are no communicating doors or windows or any similar opening.

Building coverage means the percentage of lot area covered by buildings and including roofed porches, eaves, decks and similar structures as well as all structures, including structural elements such as raised decks, ground cover above 30 inches or more above grade.

Building height means the vertical distance measured from the crown of the road to the highest point of the roof.

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Building, principal, means a building in which the principal use of the lot in which it is located is conducted.

Building site means a defined parcel of land which is or may be constructed upon ~~occupied by a building,~~ and including any structures and the open spaces (yard setbacks) required; see the definition of *Lot*.

Building, principal, means a building in which the principal use of the lot in which it is located is conducted.

Building Permit Allocation System or BPAS means the City's policies and procedures for limiting residential development, through the allocation of residential building permit units, pursuant to provisions found in Chapter 108. Division X. Building Permit Allocation System and the Principles for Guiding Development F.A.C 28-36.003 and F.S 380.

Certificate of appropriateness means a document issued by the historic architectural review commission as provided by this subpart B.

City Green Building Standard or City Green Building Rating System means the Florida Green Building Council (FGBC) or Leadership in Energy and Education Design (LEED) green building rating system.

Compact Infill Development means mixed commercial and residential use development within the General Commercial and

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Limited Commercial zoning districts where density bonuses are allowed pursuant to regulations found within Chapter 108. Division X. Building Permit Allocation System. Compact Infill Development.

Comprehensive plan means the city comprehensive plan, as may be amended, and which was prepared and adopted pursuant to the "County and Municipal Planning and Land Development Regulation Act," F.S. Ch. 163, part II.

Conditional use means a use permitted in a particular zoning district only upon successful demonstration that the use as proposed on a specific site will comply with all the conditions and standards for the location, design, and/or operation of such use as specified in the land development regulations and as authorized by the city.

Conditional use permit means any administrative permit issued pursuant to article III of chapter 122.

Contiguous means next to, abutting, or touching and having a boundary, or portion thereof, which is coterminous.

Continuum of care means a comprehensive homeless assistance system that includes: a system of outreach and assessment (to determine the needs and conditions of the homeless); emergency shelters and transitional housing with appropriate supportive services; housing with, or without supportive services that has no established limitation on the amount of time in residence; and any

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other activity that clearly meets an identified need of the homeless and fills a gap in services.

Courtyard means an open, unobstructed, unoccupied space, other than a yard, ~~on the same premises on which the building is located.~~ An unoccupied open space on the same lot with the principal building and fully enclosed on at least three adjacent sides by walls of the principal building.

Density means the maximum number of units divided by the gross land area. It is typically expressed in units per acre.

Density, maximum gross residential, means the density which shall be determined by dividing the maximum allowable units by the gross acres of land (i.e., dwelling units/gross land acres). All residential densities denoted on the future land use map and the official zoning map stipulate the maximum gross densities permitted for development on the land. Gross land area shall be defined as those contiguous land areas under common ownership proposed for residential development.

Developer means any individual, firm, association, syndicate, copartnership, corporation, trust or any other legal entity commencing proceedings under this subpart B to effect the subdivision and/or development of land in the city and includes the term "subdivider," including model homes.

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Development means the carrying out of any building activity or excavation, including the making of any material change in the use or appearance of any structure or land, or the dividing of land into two or more parcels. The following activities or uses shall be taken for the purposes of these land development regulations to involve development:

- (1) A reconstruction, alteration of the size, or material change in the external appearance of a structure on land.
- (2) A change in the intensity of use of land, such as an increase in the number of dwelling units in a structure or on land or a material increase in the number of businesses, manufacturing establishments, offices, or dwelling units in a structure or on land.
- (3) Alteration of a shore, stream, lake, pond, or canal, including any coastal construction as defined in F.S. § 161.021.
- (4) Commencement of drilling, except to obtain soil samples or excavation on a parcel of land.
- (5) Demolition of a structure.
- (6) Clearing of land as an adjunct of construction.
- (7) Deposit of refuse, solid or liquid waste, or fill on a parcel of land.

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District means any section area of the city to which these land development regulations apply, within which the zoning requirements are uniform.

Drive-through establishment, including drive-in and drive-up, means an establishment which, by design, physical facilities, service or by packaging procedures, encourages or permits customers to receive services, obtain goods or be entertained while remaining in a motor vehicle.

Dwelling ~~See Dwelling unit and living unit.~~ means a building that is used intended, or designed to be used, rented, leased, let or hired out to be occupied for living purposes.

Dwelling, attached, means a one-family dwelling attached to one or more one-family dwellings by a common wall.

Dwelling, detached, means a dwelling which is not attached to any other dwelling by any structural means.

Dwelling, duplex or two-family, means a detached residential building containing two dwelling units, designed for occupancy by not more than two families.

Dwelling, multiple-family, means a residential building designed for or occupied by three or more families, with the number of families in residence not exceeding the number of dwelling units provided.

Dwelling, one-family or single-family, means a dwelling unit

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containing only one dwelling unit and occupied exclusively by one family as a single housekeeping unit.

Dwelling, transient living accommodation includes a mobile home or recreational vehicle as defined in F.S. § 513.01 that forms a single habitable unit with facilities that are used or intended to be occupied for living, sleeping, and sanitation by one family at a time.

Dwelling unit and living unit is a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. ~~mean either:~~

~~(1) A single family dwelling;~~
~~(2) A mobile home or recreational vehicle dwelling; or~~
~~(3) Any room or group of rooms located within a two family or multiple family dwelling, or transient living accommodations including a recreational vehicle as defined in F.S. § 513.01, and forming a single habitable unit with facilities that are used or intended to be occupied for living, sleeping, and sanitation by one family at a time.~~

Easement means a grant to another party by a property owner of the right to use land for a specific purpose, such as but not limited to drainage or placement of utility lines.

Emergency housing generally refers to housing used to

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alleviate an immediate housing crisis, where the individual or family resides for 30 days or less.

Emergency shelter means any facility with sleeping accommodations, the primary purpose of which is to provide temporary shelter for the homeless in general, or for specific populations of the homeless e.g. persons with alcohol and other substance abuse problems and/or mental illness.

Equivalent Single Family Unit means the fractionalized unit allocation based on the ratio of the average number of vehicles per unit derived from the 2010 U.S. Census for the respective residential structure types (1.0 for single family) divided by the vehicles per single-family unit (i.e. 1.28 vehicles per unit).

Excavation means removal or recovery by any means whatsoever of soil, rock, minerals, mineral substances or organic substances other than vegetation, from water or land on or beneath the surface thereof, or beneath the land surface, whether exposed or submerged.

Extended care facility means a longterm care facility or a distinct part of a facility licensed or approved as a nursing home, infirmary unit of a home for the aged or a governmental medical institution.

Family means:

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- (1) One person or a group of two or more persons related by blood, marriage, adoption, or foster care occupying a dwelling unit as a separate, independent, not-for-profit housekeeping unit with a single kitchen and set of culinary facilities. Such family may also include up to two unrelated persons who serve as servants or caretakers for the housekeeping unit; or
- (2) Up to four unrelated persons occupying a dwelling unit as a separate, independent, not-for-profit housekeeping unit with a single kitchen and set of culinary facilities.

Fence and wall mean a structure intended to separate or enclose or define space; basically freestanding; constructed of one or more of materials such as wire, wood, stone, cement or brick; designed to be decorative or ornamental or to serve utilitarian purposes as to control ingress or egress of persons or animals. A hedge, wall, or landscaped berm may constitute a fence.

Final Determination of Award means a project that has been reviewed and approved for BPAS unit award by the Planning Board. For projects that do not require further approvals, an Allocation Award will subsequently be distributed to the applicant from the Planning Department in order that building permits may be pursued.

Flag lot means a lot not fronting on or abutting a public

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road and where access to the public road is by a narrow, private right-of-way.

Floodplain means an area likely to flood based on the officially adopted flood issuance rate map (FIRM).

Floodplain, tidal, means an area likely to flood or become inundated from water which is subject to tidal action.

Floor area ratio means the total floor area of the buildings on any lot, parcel or site divided by the area of the lot, parcel or site.

Florida Green Building Coalition or FGBC is the organization responsible for creating, and rating the FGBC Green Certification Program. FGBC is a nonprofit Florida corporation dedicated to providing a statewide green building program that defines, promotes, and encourages sustainable efforts particular to the Florida climate with environmental and economic benefits.

Foster care facility means a residential facility which provides a family living environment including supervision and care necessary to meet the physical, emotional, and social needs of its residents. The capacity of such a facility shall not be more than three residents. Reference Section 122-1246.

Front lot line means the dividing line between the lot and the street.

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Frontage means all the property abutting measured along the street line.

Governmental facility means any office, facility, building or property owned, leased, or used by the federal government, the state, or any unit of local government, except such uses as are specifically listed elsewhere in the land development regulations as specific uses, and except housing projects sponsored by government agencies.

Green area. See Open space.

Green Building Certification means building(s) constructed, rated and certified to prove they comply with a recognized third party green building rating system. The third party rating systems recognized by the Building Permit Allocation System Prerequisite criteria area the Florida Green Building Coalition (FGBC) and the Leadership in Education and Environmental Design (LEED) green building standards.

Green Building Certification Upgrade means a rating level of green building certification above the Baseline Green Building Certification standard as follows:

Certification Upgrade 1 - FGBC Silver or LEED Silver

Certification Upgrade 2 - FGBC Gold or LEED Gold

Certification Upgrade 3 - FGBC Platinum or LEED Platinum

Group home facility means a residential facility which

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provides a family living environment including supervision and care necessary to meet the physical, emotional, and social needs of its residents. The capacity of such a facility shall be at least four residents but not more than 15 residents. For the purposes of this section, group home facilities shall not be considered commercial enterprises. Reference Section 122-1246.

Habitable Space is a room or space in a building designed for human occupancy that may be used for living, sleeping, eating or food preparation, or in which individuals congregate for amusement, educational or similar purposes or in which occupants are engaged at labor, and which is equipped with means of egress and light and ventilation facilities meeting the requirements of provisions. Storage or utility spaces and similar areas are not considered habitable space. All habitable space shall be accessible from the interior of exterior walls.

Habitable Space, - Non, means spaces and structures used for non-habitable purposes, including, but not limited to, radio towers, antennae, spires, storage or utility spaces and similar areas.

Home occupation means any money-raising occupation or activity carried on within a residential property, where the activity is conducted only by members of the family living within the residence; where products are not offered for sale from the

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premises; where no evidence of the occupation is visible or audible from the exterior of the residential property, except for allowable signage; where traffic is not generated in excess of that customary of a residence; and where no commercial vehicles are kept on the premises or parked overnight on the premises unless otherwise permitted by the land development regulations. The occupation must be clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change residential character thereof. Reference sections 122-1306 and 122-1307.

Homeless means an individual or family who lacks a fixed and regular nighttime place of rest or has a primary nighttime residence shelter that is a homeless facility: ~~(1) a supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for persons with mental illness); (2) an institution that provides a temporary residence for individuals intended to be institutionalized; or (3) a public or private place not designed for, or ordinarily used as, regular sleeping accommodations for human beings.~~ The term does not include any individual imprisoned or otherwise detained.

Homeless assistance conveyance means that method of conveying

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military property at no cost, to local redevelopment authorities (LRA's) or homeless providers, in order to address the needs of homeless individuals as identified in a continuum of care program.

Homeless persons with special needs means a homeless person that has special physical, mental, or other social needs such as: (but not limited to) persons with alcohol and/or drug addiction, mental illness, single women with children, abused individuals, etc.

Homeless shelters or Shelters for the Homeless means a public or private institutional facility designed to provide a continuum of care that is considered an essential public service for the homeless. A supervised publicly or privately operated shelter welfare hotels, congregate shelters, and transitional housing for persons with mental illness).

Hotel means a building with dwelling units for accommodation of transient guests or tenants and providing services common to hotels, including but not limited to a central office or lobby, room service, food service and daily maid service, and otherwise complying with requirements of the state hotel and restaurant commission. For the purpose of this definition, the term "dwelling unit" shall be defined as a sleeping room with bath, flush toilet, lavatory and storage closet.

Housing unit means an occupied or vacant house, apartment, or

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~~a single room occupied by one individual, known as single-room occupancy (SRO) that is intended as separate living quarters.~~

Hurricane Evacuation Clearance Time Memorandum of Understanding or HEM MOU means the signed Hurricane Evacuation Memorandum of Understanding between the Cities of Key West, Layton, Marathon, the Village of Isla Morada, and Key Colony Beach, and the County, and the State Department of Economic Opportunity and Emergency Management, dated August 2, 2012.

Initial Announcement of Award means the Planning Department publication of the administrative BPAS application ranking.

Intensity means the floor area ratio as defined in this section.

Kitchen means any food preparation facility larger than a wetbar. Plumbing stub outs for more than a wetbar shall be considered a kitchen.

Land use classifications. The purpose of the land development regulations is to classify uses into specially defined types on the basis of common functional characteristics and land use compatibility. These provisions apply throughout the zoning regulations. All land use activities are classified into the following activity types:

(1) Residential activities:

- a. Single-family/two-family dwellings and accessory

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residential units. Reference Sections 122-231 through 122-234.

- b. Multifamily dwellings.
- c. Manufactured housing. Reference section 122-1276
- d. Group homes.
- e. Approved home occupations.

(2) *Community facilities:*

- a. *Airport facilities* means activities which are customarily incidental to airport operations and maintenance including airport terminal; heliport; fixed base operators; airport hangars; runways, taxiways, ramps and aprons for the landing, takeoff, or surface maneuvering of aircraft; and communicative and visual guidance systems. The Federal Aviation Administration (FAA) regulations shall govern placement and specifications of structures within the airport operations area.
- b. *Cemetery* means property used for the interring of the dead.
- c. *Community centers, clubs, and lodges* mean not-for-profit activities typically operated by a government or by a group of persons for social or

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recreational purposes and primarily including services which are not customarily carried on as a business for profit.

d. *Cultural and civic activities* means activities typically performed by public or private not-for-profit private entities for the promotion of a common cultural or civic objective such as historical, literary, scientific, musical, dramatic, artistic or similar objectives.

e. *Educational institutions and day care.*

(1) *Educational institutions* includes a place for systematic instruction with a curriculum the same as customarily provided in a public school or college. These activities include nursery school and kindergarten facilities designed to provide a systematic program to meet organized training requirements.

(2) *Day care* includes activities typically performed by an agency, organization or individual, any of which must be duly licensed by the state, providing day care without living accommodations for persons not related by blood or marriage to, and not the legal wards or

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foster children of, the attendant adult.

- f. *Golf course and support facilities* means large unobstructed acreage with enough room over which to walk or ride a prescribed course, and to stroke one ball long distances. Commercial miniature golf courses and driving ranges and similar facilities are excluded from this activity as defined.
- g. *Hospitals and extensive care facilities* means institutions providing health services, primarily for inpatients, and medical or surgical care; including, as an integral part of the institution, related facilities, central service facilities, and staff offices.
- h. *Nursing homes, rest homes, assisted living facilities and convalescent homes* mean activities customarily performed at a home for the elderly or infirm in which three or more persons not of the immediate family are received, kept or provided with food, shelter and care for compensation. ~~This definition shall also apply to assisted living facilities as licensed by the State of Florida.~~ This activity shall not include duly state-licensed volunteer adult foster care homes in which three or

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fewer foster adults are placed. Neither does the principal activity include hospitals, clinics or similar institutions that diagnose and treat the sick or injured.

For purposes of permitted density and intensity, the floor area ratio shall govern, not units per acre. Individual living units or resident nursing beds shall be treated as 0.1 equivalent unit under the city's building permit allocation ordinance, Section ~~108-1056~~ et seq.108-994. If a facility is developed to remain operational during and after a category 5 hurricane, and therefore does not contribute to the evacuation of vehicles, the city commission may exempt this facility from the requirements of the building permit allocation ordinance or may authorize an alternate equivalency factor.

- i. *Place of worship* means activities customarily performed in a building where persons regularly assemble for religious worship and which building, together with its accessory building and uses, is maintained and controlled by a religious body

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organized to sustain public worship.

j. *Protective services* means fire, law enforcement and emergency medical related facilities planned and operated for the general welfare of the public.

k. *Public parks and recreation areas* means public parks and recreation land and facilities developed for use by the general public.

(1) *Active parks and recreation* means leisure-time activities, usually of a more formal nature and performed with others, often requiring equipment and taking place at prescribed places, sites or fields. This may include is not limited to swimming, tennis and other court games, baseball and other field sports, and playground activities.

(2) *Passive parks and recreation* means leisure-time activities not considered active. This may include water-related activities such as boardwalks and interpretive trails, fishing piers as well as boating. Passive recreation may also include non-water-related activities such as hiking, golfing, observation towers, and picnicking.

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1. *Public and private utilities* means use of land which is customary and necessary to the maintenance and operation of essential public services, such as electricity and gas transmission systems; water distribution, collection and disposal; communication; and similar services and facilities.

(3) *Commercial activities.*

- a. *Amusement* means active or passive recreation facilities by profit oriented firms.
- b. *Bar and lounge* mean a commercial establishment selling and dispensing for the drinking on the premises of liquor, malt, wine or other alcoholic beverages. This shall not include the sale of alcoholic beverages accessory to and within a restaurant use.
- c. *Boat sales and service* means a commercial establishment where boat sales and rentals may occur together with minor servicing and sale of marine supplies but excluding boatbuilding or shipbuilding.
- d. *Business and professional offices* means government offices, not-for-profit administrative services, and private for-profit offices extending advice,

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information or consultation of a professional nature; insurance, real estate, and financial services; banking services; and executive management and administrative activities. Offices exclude commercial storage of goods and chattels for the purpose of sale or resale as a principal use.

e. *Commercial retail use* means a use that sells goods or services at retail which is subdivided into the following three classifications in which total area includes both sales area under roof and any outside sales area:

(1) *Commercial retail low intensity* means commercial retail uses that generate less than 50 average daily trips per 1,000 square feet.

(2) *Commercial retail medium intensity* means commercial retail uses that generate between 50 and 100 average daily trips per 1,000 square feet.

(3) *Commercial retail high intensity* means commercial retail uses that generate above 100 average daily trips per 1,000 square feet.

f. *Funeral home* means undertaking and funeral services

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involving care and preparation of human deceased prior to burial, excluding crematories, crematory operations and columbariums. Such a premises, structure or site shall not be used for the burial, prolonged storage or permanent disposition of deceased human remains.

g. *Gasoline station* means a structure or place where gasoline, oil and greases, and incidental accessory sales and services are supplied and dispensed to the motor vehicle trade. Uses permissible at a gasoline station do not include major mechanical and body work; straightening of body parts; painting; welding; storage of automobiles not in operating condition; or other work involving noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in service stations. A gasoline station is neither a repair garage nor a body shop.

h. *Hotel, motel and transient lodging* mean any unit, group of units, ~~dwelling~~, building, or group of buildings within a single complex ~~of buildings~~, which is:

(1) ~~Rented more than three times in a calendar~~

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~~year for periods of less than 2830 days or one calendar month, whichever is less;~~

- (2) Advertised or held out to the public as a place regularly rented to transients.
- i. *Marina* means a commercial establishment providing for the docking, storage, and servicing of watercraft, including dispensing of motor fuel.
- j. *Medical services* means the provision of therapeutic, preventive or other corrective personal treatment services by physicians, dentists and other licensed medical practitioners, as well as the provision of medical testing and analysis services. These services are provided to patients who are admitted for examination and treatment by a physician and with no overnight lodging.
- k. *Parking lot and facilities* means a governmental or private commercial building or structure solely for the off-street parking of operable motor vehicles.
- l. *Restaurant, excluding drive-through,* means any establishment, which is not a drive-through service establishment, where the principal business is the sale of food, desserts and beverages to the

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customer in a ready-to-consume state. This includes service within the building as well as takeout or carryout service. For the purpose of this subpart B and impact fee assessments, a takeout or carryout restaurant shall be limited to no more than five chairs or bench seats without tables or counter tops.

- m. *Restaurant, drive-through*, means any establishment where the principal business is the sale of foods, desserts and beverages generally contained in a ready-to-consume state and the service and/or consumption of foods, desserts, or beverages may by design occur within a motor vehicle parked upon the premises.
- n. *Small recreation power-driven equipment rental* means rental of low-speed vehicles, jet skis, mopeds, scooters and/or other similar nonautomotive, two- or three-wheeled, power-driven vehicles, excluding the rental of automobiles, trucks, tractors, or other vehicles.
- o. *Vehicular sales* means the sale or rental of motor vehicles and related equipment, with incidental accessory service activities.
- p. *Veterinary medical services* means the provision of

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animal medical care and treatment by a state-licensed veterinarian.

(4) *Light industrial*. The following compatible land uses shall be considered light industry:

- a. Warehousing, miniwarehousing, and wholesaling within enclosed buildings.
- b. Mechanical repair and service, including but not limited to machine shops and vehicular repair, service and maintenance.
- c. Light manufacturing including skilled trades and services, light processing and metal fabrication, assembly and distribution functions, electronics, research and development, and similar uses.
- d. Building materials supply and storage, and contractor's storage.
- e. Vocational trade schools.
- f. Accessory uses to those described in this subsection.

Leadership in Energy and Education Design or LEED means the green building rating system developed and managed by the U.S. Green Building Council, Inc. The Green Building Certification Institute (GBCI) is responsible for processing and validating the

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applications for LEED rating. Several green building rating systems exist within LEED depending on the size and scope of the project. The available rating systems include: LEED for Neighborhood Development (LEED ND); LEED for Homes; LEED for Green Building Design and Construction (LEED BD&C); LEED for New Construction and Major Renovations (LEED NC); LEED for Core and Shell; LEED for Schools; LEED for Existing Buildings Operations and Maintenance (LEED EBOM); LEED for Commercial Interiors; LEED for Retail; and LEED for Healthcare.

Living area means the minimum floor area of a dwelling as measured by its outside dimensions exclusive of carports, porches, sheds, and attached garages.

Loading dock means a platform used for the loading and unloading of freight.

Loading space means space logically and conveniently located for bulk pickups and delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled. Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking space.

Lock-Out Unit means any room or group of rooms which is part of a single family or multi-family dwelling or a transient room, or transient suite of rooms which can be accessed and locked or

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keyed separately from the principal entry to the dwelling, unit or suite. The access to the Lock-out may be by separate door, from a common hallway, foyer or other common area of the units. Lock-outs create a separate habitable space, and shall be considered a unit which requires an additional Building Permit Allocation System (BPAS) unit, when such Lock-outs are held out for rent barter or lease for either transient or non-transient purposes separately from the principal dwelling, transient room or suite.

Lot means a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yards and other open spaces as are required in the land development regulations. A lot shall be comprised of contiguous land. In no case shall land be divided or combined in a manner which creates a residential lot or parcel which does not meet the requirements of this subpart B. All lots shall have frontage on an improved public street, or on an approved private street, and may consist of the following:

- (1) A single lot of record;
- (2) A portion of a lot of record;
- (3) A combination of complete lots of record, and portions of lots of record; and
- (4) A parcel of land described by metes and bounds.

Lot, buildable, and buildable site mean a site of at least

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sufficient size to meet minimum zoning requirements for use, coverage and area, including the open spaces mandated. Such buildable site may be a single lot or, for common ownership of two or more adjacent lots, parcels, or fractions thereof which have common street frontage, the entire area under common ownership shall be deemed the buildable lot or buildable site.

Lot, building, means a building site area which shall be at least the minimum area required for the zone in which the area is located, and such building lot shall be consistent with all lot requirements within the respective zoning district. The term "building lot" is not necessarily synonymous with the term "lot" as defined in this section. A building lot is always at least one lot or one lot plus a part of another lot or a combination of two or more lots or fractions thereof.

Lot, corner, means a building site abutting on two or more streets at their intersection. The second or other abutting street is described as the "intersecting" or "secondary" street; other lots often front to that second, or even third, street. A lot abutting on curbed streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees.

Lot depth means the mean horizontal distance between the

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front lot line and the rear lot line measured at right angles to the width.

Lot dimensions mean as follows:

- (1) *Depth.* Depth of a lot shall be considered to be the distance between the midpoints of the straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.
- (2) *Width.* Width of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard; provided, however, that width between side lot lines at their foremost points, where they intersect with the street lines, shall not be less than 80 percent of the required lot width except for lots on the turning circle of a cul-de-sac, where the 80-percent requirement shall not apply.

Lot, double frontage, and through lot mean a lot having a frontage on two nonintersecting streets, as distinguished from a corner lot.

Lot frontage means the portion of the lot nearest the street. Lots are normally platted within blocks to uniformly front along a street which is the frontage or primary street. On corner lots and

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through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under the definition of "yard" in this section.

Lot, illegal nonconforming, means a lot which was never duly approved by the city and fails to conform to the present land development regulations.

Lot, interior, means a lot other than a corner lot with only one frontage on a street.

Lot, legal nonconforming, means a lot, the area, dimensions or location of which was lawful prior to the adoption, revision or amendment of the land development regulations, but which fails because of such adoption, revision or amendment to conform to the present land development regulations.

Lot lines means the lines bounding a lot or buildable site as defined in this section.

Lot of record means a lot which is a part of a subdivision, the map of which has been duly approved by the city and recorded in the office of the clerk of the circuit court of the county or a lot described by metes and bounds, the description of which has been thus recorded.

Lot, reversed frontage, means a lot on which the frontage is at right angles or approximately right angles (interior angle less than 135 degrees) to the general pattern in the area. A reversed

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frontage lot may also be a corner lot, an interior lot or a through lot.

Lot, through, means a lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as a double frontage lot.

Lot, zoning, means a tract of land consisting of one or more lots of record, or parts thereof, under single ownership located entirely within a block and occupied by or designated by its owner or developer at the time of filing for any zoning approval or building permit as a tract to be developed for a principal building and its accessory buildings, or a principal use, together with such open spaces and yards as are designated and arranged, or required under the zoning ordinance, to be used with such building or use.

Low-speed vehicle means any four-wheeled electric vehicle whose top speed is greater than 20 miles per hour but not greater than 25 miles per hour, including neighborhood electric vehicles.

Manufactured building means a closed structure, building assembly, or system of subassemblies, which may include structural, electrical, plumbing, heating, ventilating or other service systems manufactured in manufacturing facilities, for installation or erection, with or without other specified components, as a finished building or as part of a finished

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building which shall include but not be limited to residential, commercial, institutional, storage and industrial structure (F.S. § 553.36). The building plans for such structures must be sealed by the state department of community affairs.

Market Rate Housing or Permanent Housing means housing occupied on a full time basis or seasonally and is not intended for rent for less than 28 days.

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.

Mining means the removal, either in or upon the soil of the earth or beneath the soil, of any valuable inert or lifeless substance formed or deposited in its present position through natural agencies alone, as a commercial business.

Noncomplying building or structure means any building or other structure, for which the use is a lawful (permitted or nonconforming), but the building or other structure does not comply with all applicable sections of the land development regulations, including but not limited to size and dimension regulations, off-street parking requirements, landscape requirements, nuisance abatement standards, or height requirements, either on the effective date of the ordinance from which this section derives or as a result of any subsequent

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amendment.

Nonconforming density means the number of dwelling or living units per acre greater than the number allowed by the land development regulations, which were legally established or licensed prior to the effective date of the ordinance from which this section derives.

Nonconforming use means a use of a building or structure or of a tract of land which does not, on the effective date of the ordinance from which this section derives, or amendment thereto, conform to any one of the current permitted uses of the zoning district in which it is located, but 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. This definition shall not operate to make legal an unlicensed transient rental accommodation located in a residential structure.

Occupied means the use of a structure or land for any purpose, including occupancy for residential, business, industrial, manufacturing, storage, and public use.

Open space (green area) includes the gross area of the site less building coverage, parking surface, internal traffic circulation system, and other impervious surfaces, all of which

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should be open from the ground to the sky. Open space areas shall remain open and unobstructed to the sky that can be used for active or passive recreation purposes. Parking and loading areas of any type shall not be allowed in any required open space.

Parking lot means an area or plot of ground, used for the storage or parking of motor vehicles either for compensation or to provide an accessory service to a business, industrial or residential use.

Parking space, off-street, means a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room. Required off-street parking areas for three or more automobiles shall have individual spaces marked and shall be so designed, maintained and regulated that no parking or maneuvering incidental to parking shall be on any public street, walk or alley and so that any automobile may be parked and unparked without moving another. For purposes of rough computation, an off-street parking space and necessary access and maneuvering room may be estimated at 300 square feet, but off-street parking requirements will be considered to be met only when actual spaces meeting the requirements of this definition are provided and maintained, improved in a manner appropriate to the circumstances of the case, and in accordance with all city

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ordinances and regulations.

Patio means an open unoccupied space on the same lot fully enclosed on all four sides by the principal building.

Permanent housing means affordable and/or assisted housing that is expected to be available to low/moderate income and/or homeless persons, for an indefinite period of time.

Permeable surface means any surface permitting full or partial absorption of stormwater into previously unimproved land.

Pitched roof means a roof with a pitch of no less than 4/12 (a four-inch rise in a 12-inch horizontal run).

Planned development or redevelopment means land under unified control, planned and developed as a whole in a single operation or approved programmed series of operations for dwellings, for dwelling units and related uses and facilities; includes principal and accessory uses and structures substantially related to the character of the development and the surrounding area of which it is part; and is developed according to the comprehensive and detailed plans which include but are not limited to streets, utilities, lots or building sites and the like but also site plans and detailed plans for other uses and improvements, facilities and services as will be for common use by some or all of the occupants of the planned unit development but will not be provided, operated or maintained at public expense.

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Port expansion at the Truman Waterfront Parcel means the following activities at the Truman Waterfront parcel which shall constitute port expansion:

- (1) Any increase in cruise ship berthing capacity (other than the one existing cruise ship berth on the Outer Mole Pier, which shall be appropriately permitted by the State of Florida).
- (2) Development of new port facilities designed to accommodate ferry service, or use of the existing cruise ship berth at Outer Mole Pier to provide ferry service.
- (3) Development of new port facilities that require either new maritime related infrastructure or channel dredging.

The replacement or repair of existing infrastructure, so long as that activity is in the same location and does not increase capacity, as well as maintenance dredging shall not be considered expansion.

Premises means any land together with any structures occupying it.

Prerequisite, major construction/renovation means the minimum standards for new development, including additions to existing structures, or redevelopment constituting more than 50% of the value of the building, required in order to be eligible to receive an allocation award from the BPAS system as follows:

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- (1) All new units shall be constructed in compliance with and obtain a Baseline Green Building Certification.
- (2) All new buildings shall be constructed so as to have the first habitable floor 1.5 feet above the required base flood elevation, with the exception of properties located within the historic zoning districts, where the applicant must first demonstrate that such elevation does not interfere with the essential form and integrity of properties in the neighborhood by obtaining a certificate of appropriateness.
- (3) All new buildings shall be constructed with a rainwater catchment system that will hold a minimum 1,000 gallons of water or an amount equivalent to 100% of the new roof area in gallons whichever is greater.

Prerequisite, minor renovation means the minimum standards for redevelopment constituting less than 50% of the value of the building, required. In order to be eligible to receive an allocation award from the BPAS system applicants must demonstrate water and energy use 15% below the Florida Building Code using recognized energy and water rating standards.

Principal structure means a building occupied by the

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principal use of the premises or lot. In a residential district any dwelling shall be deemed to be the principal building on the lot where it is located. An attached carport, shed, garage, or any other structure with one or more walls or a part of one wall being a part of the principal building and structurally dependent, totally or in part, on the principal building shall comprise a part of the principal building and be subject to all regulations applied to the principal building. A detached and structurally independent carport, garage, or other structure shall conform to the requirements of an accessory building. A detached and structurally independent garage, carport, or other structure conforming as an accessory building may be attached to the principal building by an open breezeway not to exceed six feet in width. A connecting breezeway in excess of six feet and enclosed on one or both sides, including louvers, lattice or screening, shall cause the entire structure to be construed as the principal building and shall be subject to the regulations applicable to the principal building.

Project area. For the purpose of computing density, lot coverage, and floor area ratio for any project site, the project area shall not include public rights-of-way, or land lying below the mean high water line.

Public Rental Housing means government owned affordable

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and/or assisted rental housing that is expected to be available to low/moderate income and/or homeless persons at rents that do not exceed the established fair market rent (FMR) as determined by the U.S. Department of Housing and Urban Development (HUD).

Public use means any use of land or structures owned and operated by a municipality, county, state or the federal government or any agency thereof and for a public service or purpose.

Public water and sewer service means water and sewer systems, including pipes, rights-of-way and treatment plants, owned and operated by the city or operated under a franchise granted by the city.

Rainwater Catchment System means an on-site rain water harvesting system including an associated reuse/redistribution system/plan, designed and built to American Rainwater Catchment System Association (ARCSA) standards.

Recovered Unit means a Final BPAS Allocation Award which has not been implemented by the awardee, and has been recaptured by the City, due to the failure of the awardee to obtain a valid building permit for the principal structure for the project enabled by the BPAS award within the two year timeframe from the date of the Final Announcement and Determination of Award.

Recreational and landscaped open space means unroofed or

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screen roofed ornamental landscaped areas and recreational areas which are easily accessible and regularly available to occupants of all dwelling units on the lot wherein the open space is located. Rooftops, porches, raised decks, parking spaces, driveways, utility and service areas are not calculated as open space.

Redevelopment constitutes "development" and shall be subject to the land development regulations.

Recaptured Unit means an existing or recognized residential unit recaptured by the City from the owner through the Waiver and Release of Building Permit Allocation process due to the voluntary reduction of onsite residential density and/or change in residential use. Recaptured units shall be reserved for beneficial use allocations only.

Residential Building Permit Allocation System Unit is for all residential dwellings including single family and multiple family dwellings, all units defined as transient living accommodations or transient lodging, manufactured homes or mobile homes, accessory units, and single room occupancies.

Semipublic use means any use of land or buildings owned and operated by an individual, firm, corporation, lodge or club, either as a profit or nonprofit activity, for a public service or

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purpose. This shall include privately owned utilities, transportation, recreation, education, and cultural activities and services.

Separate entrance means any exterior building entrance that can be accessed independently from a right-of-way and can be locked and keyed from the exterior area. For purposes of BPAS management an exception to the definition may be made if the entrance is onto an enclosed courtyard or pool area. Care should be applied to ensure that a secondary residential dwelling unit is not created by a separate entrance.

Setback means the required open spaces of a lot where buildings are not permitted.

- (1) Setbacks are required for the purpose of providing and ensuring open space and become part of the yard but not necessarily the total yard.
- (2) Setbacks shall be measured from the lot, building site, boundary lines and will be designated as "front yard setback," "rear yard setback," "side yard setbacks," combining to surround and define the remaining buildable area.
- (3) Setbacks go with the land and are not intended to control or direct the actual placement or orientation of buildings.

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- (4) Buildings may be designed and constructed to fit on any part of the buildable area and are not required to front on the platted front of the lot or building site.

Sheltered means families and persons whose primary nighttime residence is a supervised publicly or privately operated shelter, including emergency shelters, transitional housing for the homeless, domestic violence shelters, residential shelters for runaway and homeless youth, and any hotel/motel/apartment voucher arrangements made because the person is homeless. The term does not include persons living doubled-up or in overcrowded or substandard conventional housing.

Shoreline means the mean high water line for tidal water bodies and ordinary high water line for nontidal waters for inland water bodies.

Short-term housing generally refers to housing that accommodates the immediate needs of individual (up to six months), and provides both housing and supportive services to homeless persons to facilitate movement to transitional or permanent housing.

Sign means any device designed to inform or attract the attention of persons not on the premises on which the sign is located; provided, however, that the following shall not be included in the application of the regulations in this subpart B:

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- (1) *Number and surface area.* In determining the number of signs, a sign shall be considered to be a single display surface or display device containing elements organized, related, and composed to form a unit. Where matter is displayed in a random manner without organized relationship of elements or where reasonable doubt exists about the relationship of elements, each element shall be considered to be a single sign.
- (2) *Off-site sign* means a sign other than on-site sign.
- (3) *On-site sign* means a sign relating in its subject matter to the premises on which it is located, or to products, accommodations, services, or activities on the premises. On-site signs do not include signs erected by the outdoor advertising industry in the conduct of the outdoor advertising business.

Sleeping Unit means a sleeping room with bath, flush toilet, lavatory and storage closet.

Social services special needs housing means short-term housing units which provide continuum of care services to a capacity of not more than 36 homeless persons with special needs.

Solar Reflectance Index or SRI is a measure of a materials ability to reject solar heat. Standard black is 0 and standard

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white is 100.

Story means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, or any portion of a building used for human occupancy between the topmost floor and the roof. A basement or cellar not used for human occupancy shall not be counted as a story.

Street means, in addition to the definition contained in Section 1-2, a public or private right-of-way set aside for public travel which is 30 feet or more in width. A street affords principal means of access to abutting property. Street classifications include the following:

- (1) *Arterial streets.* Arterial streets serve as principal routes through the city. The purpose of these facilities is to move large volumes of traffic from one part of the region or county to another. Arterial roads also provide connections between major activity centers of the county or city.
- (2) *Major collector streets.* Major collector streets collect and distribute traffic from residential access streets to arterial streets or other collector streets.
- (3) *Minor collector streets.* Minor collector streets collect traffic from local streets and feed traffic to major collectors and arterials.

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(4) *Residential access streets and local streets.*

Residential access streets and local streets are streets which directly serve abutting properties and residences. These streets should be relatively safe and quiet and should be completely free of any through traffic.

Street centerline means the midpoint between the street right-of-way or the surveyed centerline of the street.

Street right-of-way line means the property line which bounds the right-of-way set aside for use as a street. Where sidewalks exist and the exact location of the right-of-way is unknown, the side of the sidewalk farthest from the centerline of the traveled street shall be considered as the right-of-way line.

Structural alteration means any change, except for repair or replacement in the supporting members of a building, such as bearing walls, columns, beams, or girders.

Structure means anything built, constructed or assembled with a fixed location on the ground. Among other things, structures include buildings, mobile homes, walls, fences, signs and poster panels, driveways, pools, and ponds.

Subdivision means the division and recording in accordance with the city's land development regulations of a parcel of land into two or more lots or blocks for the purpose of transfer of ownership or development for development, sale or lease.

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Supportive housing means housing which includes housing units and group quarters, that have a supportive environment and include a planned supportive service component.

Supportive services means services that include (but are not limited to): case management, housing counseling, job training and placement, primary health care, mental health services, alcohol/drug abuse treatment, emergency food, domestic violence and family services, child care, veterans services, etc.

Swimming pool means a water-filled enclosure, permanently constructed or portable, having a depth of more than 18 inches below the level of the surrounding land, or an above-surface pool, having a depth of more than 30 inches, designed, used and maintained for swimming and bathing.

Terrace means an unoccupied open space adjacent to the principal building on one or two sides, prepared with a hard, semihard, or improved surface, and uncovered, for the purpose of outdoor living.

Total floor area and *gross floor area* mean the areas of all floors of a building, including finished basements and all covered areas, including porches, sheds, carports, and garages. If the first finished floor level of an elevated building or structure is elevated to a height greater than seven feet above the finished grade, the area below such first floor shall be included in

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calculating gross floor areas of the building or structure.

Townhouse means a one-family dwelling in a group of at least three and no more than ten such units in which each unit has its own front and rear access to the outside, and the units are designed with distinctive facades or varied setbacks. No unit is located over another unit, and each unit is separated from any other unit by one or more common fire resistant walls.

Transient living accommodations or *Transient Lodging*. Any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings, which is 1) rented for a period or periods of less than 28 ~~30~~ days ~~or one calendar month,~~ ~~whichever is less;~~ or which is 2) advertised or held out to the public as a place rented to transients, regardless of the occurrence of an actual rental. All entrances to a single transient living accommodation or transient lodging unit shall share the same key or means of controlling access so that the hotel or motel room as defined herein is not divisible into separately rentable units. Such a short-term rental use of or within a single-family dwelling, a two-family dwelling or a multifamily dwelling (each also known as a "residential dwelling") shall be deemed a transient living accommodation. See also *Accommodations, Overnight*.

(1) *Campground* means a place set aside and offered by a

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person, for either direct or indirect remuneration of the owner, lessor, or operator of such place, for the parking, accommodation, or rental of five or more recreational vehicles or tents, and the term also includes buildings and sites set aside for group camping and similar recreational facilities; and the rental of cottages and apartments.

- (2) *Guesthouse* and *roominghouse* mean any place wherein tourists, transients, travelers or persons desiring temporary residence are provided with sleeping and sanitary facilities. Cooking facilities may or may not be provided in a guesthouse. The number of rooms in a guesthouse shall not exceed 25. The minimum room sizes for a guesthouse shall be as follows:
- a. Single room, 80 square feet.
 - b. Double room, 100 square feet.
 - c. Multiple occupancy room, 100 square feet; in addition, 50 square feet for each occupant over two.
- (3) *Hotel* means a structure ~~primarily for transient guests, including rooms with or without cooking and complete apartment facilities,~~ but typically confined to one principal building with sleeping units for accommodation

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of transient guests or tenants and providing services common to hotels, including but not limited to a central office or lobby, room service, food service and daily maid service, that may be found within other—except—for necessary accessory buildings, and otherwise complying with requirements of the state hotel and restaurant commission.

- (4) Motel means a group of transient accommodation units under one ownership or on one tract of land and designed primarily for access by automobile. Overnight guests may stay for longer periods than overnight.
- (5) Tourist court means a group of tourist accommodation units under one ownership or on one tract of land providing facilities for longer periods of time, and with cooking facilities within the individual units.
- (6) Transient apartment means any apartment building or condominium apartment building, in which three or more units are advertised or held out to the public as available for transient occupancy.
- (7) Transient unit or room means any room accommodating beds, including conventional beds as well as sofa-beds, Murphy beds, or other types of beds with unique

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multipurpose or space-saving designs, which can be locked and keyed from the exterior of the premises or from a common hallway, foyer, or other common area and quarters for overnight lodging or for a longer period of time.

Transitional housing generally refers to housing that accommodates the needs of individuals coming out of emergency shelter situations or short-term housing, and transitioning into permanent housing. Transitional housing provides both housing and supportive services to homeless persons to facilitate movement to independent living within 24 months.

Truman Waterfront Port means one of the city's deep water port facilities.

Unlockable internal connection occurs when one occupant cannot exclude the other party from another portion of a room or building. An open wall is an unlockable internal connection. A doorway is not an unlockable internal connection. To be an unlockable internal connection, the cased opening must be 50 inches or more in width.

Unsheltered means families and individuals whose primary nighttime residence is a public or private place that is not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

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Use means the purpose or activity for which the land or building thereon is designed, arranged or intended or for which it is occupied or maintained, and shall include any manner of performance of such activity with reference to the specifications of the zoning ordinance.

Unused Allocation means a residential BPAS Unit that was never assigned to a project address or did not receive a building permit for a principal structure within two years of the Final Determination of Award.

Use means the purpose or activity for which the land or building thereon is designed, arranged or intended or for which it is occupied or maintained, and shall include any manner of performance of such activity with reference to the specifications of the zoning ordinance.

US Green Building Council or USGBC is a non-profit organization whose mission is to transform the way buildings and communities are designed, built and operated, enabling an environmentally and socially responsible, healthy and prosperous environment that improves the quality of life.

Vacant means a building or parcel of land which is neither occupied nor used or is in a non-operative state.

Vacation of easement or right-of-way means the abandonment of a public easement or right-of-way which results in the removal of

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the easement or right-of-way, reuse of the property, and/or a change in the ownership of the property.

Variance means a relaxation of the terms of the land development regulations where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the land development regulations would result in unnecessary and undue hardship. As used in the land development regulations a variance is authorized only for height, area, size of structure, or size of yards and open spaces. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district.

Vehicle means every device in, upon or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks.

Water-dependent uses means activities which can be carried out only on, in or immediately adjacent to water areas because the use requires access to the water body for: waterborne transportation, including ports or marinas; recreation; electrical generating facilities; or water supply.

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Water-related uses means activities which are not directly dependent upon access to a water body, but which provide goods and services that are directly associated with water-dependent or waterway uses and/or provide supportive services to persons using a duly permitted marina.

Watercourse means any natural or artificial channel, ditch, canal, stream, river, creek, waterway or wetland which flows either continuously or intermittently, and which has a definite channel, bed, banks or other discernible boundary.

Wetland shall be defined based on hydrology as well as hydric soil and wetland vegetation. Wetlands shall include transitional wetlands and shall include those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support and that under normal circumstances do or would support a prevalence of vegetation typically adapted for life in saturated soil conditions. The following vegetative species are wetland species commonly found in the city, although the applicable state and federal list of jurisdictional wetland vegetation shall apply:

Common Name of Wetland Species	Scientific Name
Black mangrove	Avicennia germinas
White mangrove	Laguncularia racemosa
Red mangrove	Rhizophora mangle

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Buttonwood	Conocarpus erectus
Saltwort	Batis maritima
Glasswort	Salicornia spp.
Sea purslane	Sesuvium protul acastrum
Sea blite	Suada linearis
Sea oxeye daisy	Borrichia spp.
Salt grass	Distichlis spicata
Dropseed	Sporobilus virginicus
Key grass	Monanthochloe
Fringe-rushes	Fimbristylis spp.
Cordgrass	Spartina spartinae
Sawgrass	Cladium jamaicewiss
Spike rush	Eleocharis celluosa
Cattail	Typha spp.

Wetland jurisdictional determinations shall be consistent with those of the state department of environmental protection, the South Florida Water Management District, and the U.S. Army Corps of Engineers.

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Wet Bar means a food or drink preparation area limited to a total counter surface area of 16 square feet (including sink with design limitations of one bin and limited to (1) one square foot in size) with electricity limited to 110 volt services.

Yard means an open space at grade between a building and the adjoining lot lines, unoccupied, open to the sky and unobstructed by any portion of a structure from the ground upward, except as otherwise provided. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of a rear yard, the minimum horizontal distance between the lot line and the structure shall be used (a driveway or off-street parking area may be a portion of a yard).

Exception of corner lots. On corner lots abutting two intersecting streets, the front, side and rear lot lines shall be determined as follows:

- (1) One street frontage shall be declared a front yard; and
- (2) The other street frontage shall be a street side yard.
- (3) The rear yard shall be the yard opposite the declared front yard.
- (4) The remaining yard shall be the interior side yard.

Yard, front, means the yard abutting a street (i.e., street frontage lot). The depth of required front yards shall be measured in such a manner that the yard established is a strip of at least

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the minimum width required by district regulations with its inner edge parallel with the front lot line. Such yard shall be measured from the nearest point of the building, including the roof, to the front (street frontage) property line. The front yard regulations shall apply to all lots fronting on a street.

Yard, rear, means a yard extending across the rear of a lot between the side lot lines and which is the minimum horizontal distance between the rear of the main building or any projections thereof other than projections or encroachments specifically provided for in this subpart B. For all corner lots, the rear yard shall be as indicated in the definition of the term "yard" under "exception of corner lots." The depth of required rear yards shall be measured in such a manner that the yard established is a strip of at least the minimum width required by district regulations with its inner edge parallel with the rear lot line. Such yard shall be measured from the nearest point of the building, including the roof, to the rear property line.

Yard, side, means a yard between the main building and the sideline of the lot and extending from the front lot line to the rear yard, which is the minimum horizontal distance between a side lot line and the side of the main building or any projections thereof. For all corner lots, the side yard shall be as indicated in the definition of the term "yard" under "exception of corner

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lots." The width of required side yards shall be measured in such a manner that the yard established is a strip of at least the minimum width required by district regulations with its inner edge parallel with the side lot line. Such yard shall be measured from the nearest point of the building, including the roof, to the side property line.

(Ord. No. 97-10, § 1(5-21.2), 7-3-1997; Ord. No. 97-20, § 1(ex. A, B), 9-16-1997; Ord. No. 98-16, § 1, 6-2-1998; Ord. No. 98-31, § 1, 11-10-1998; Ord. No. 98-32, § 1, 12-1-1998; Ord. No. 99-18, § 1(Exh. A), 9-8-1999; Ord. No. 00-04, § 27, 2-1-2000; Ord. No. 00-10, § 3, 6-7-2000; Ord. No. 00-14, § 1(Exh. A), 7-5-2000; Ord. No. 02-06, § 1, 2-20-2002; Ord. No. 04-07, § 1, 4-6-2004; Res. No. 06-292, § 1, 9-6-2006; Ord. No. 09-06, § 1, 4-7-2009; Ord. No. 10-04, § 1, 1-5-2010)

Cross reference— Definitions generally, § 1-2.

Section 2: That Chapter 108, Article X, of the Land Development Regulations, Subpart B, of the Code of Ordinances is hereby amended as follows:

SUBPART B - LAND DEVELOPMENT REGULATIONS

Division 1. Generally.

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Section 108-986. - Definitions.

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

The definitions for terms identified in this chapter are found in Chapter 86-9, Definition of Terms, and are applicable throughout the Land Development Regulations.

Accessory units and single room occupancies (SROs) means units that must be deed-restricted as affordable: restricted to occupancy by permanent residents; and cannot be sold separately as a condominium. When an accessory unit occupancy permit is originally initiated, the principal unit must be owned and occupied by a permanent resident. An accessory unit or SRO cannot take up more than 40 percent of the principal structure nor can it exceed 600 square feet and the minimum size shall be 300 square feet. SROs by definition shall be restricted to one-room efficiencies. No accessory unit shall have more than one bedroom unless an additional bedroom is approved as a variance by the planning board. If such variance is approved, the total square footage shall not exceed 600 square feet.

~~Administrative official means the official appointed by the city manager to administer this article.~~

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~~Allocation application means the permanent and/or transient residential building permit allocation application submitted by applicants seeking allocation awards.~~

~~Residential unit means a permanent or transient unit, apartment, or dwelling unit as defined in the land development regulations, and expressly includes hotel and motel rooms, manufactured homes or mobile homes, transient quarters, accessory units, and single room occupancies.~~

~~Residential unit building permit allocation award and allocation award and award mean the approval of a permanent or transient residential unit allocation application and the issuance of a building permit pursuant thereto.~~

Section 108-987. - Purpose and Intent.

The intent of the building permit allocation system is to implement the City's Comprehensive Plan by adepting updating the City's a residential Building Permit Allocation System limiting annual permanent and transient residential development in the city in order to:

- (1) Reduce or maintain hurricane evacuation clearance times measured by pursuant to the Florida Keys hurricane evacuation model known as the Miller Model the Transportation Interface for Modeling Evacuations (TIME) Model for the Florida Keys.

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- (2) Limit the amount of residential development commensurate with the city's ability to maintain a reasonable and safe hurricane evacuation clearance time of no more than 24 hours for permanent residents.
- (3) Regulate the amount of permanent and transient residential building permits in order to ~~prevent further deterioration of~~ maintain and improve public facility service levels, ~~especially the traffic circulation level of service.~~
- (4) Allocate the limited number of permanent and transient residential units available under this article, based upon the goals, objectives and policies set forth in the City Comprehensive Plan.
- (5) Limit units allocated from the BPAS by using those units which are identified and derive from the following sources: City of Key West Comprehensive Plan Policy 1.31.126.1, ~~Memorandums of Agreement between the Department of Community Affairs and the City of Key West; Development Agreements; Settlement Agreements; Consent Final Judgments;~~ units recovered by the city which were previously allocated and unused and subsequently returned to the city; units recaptured by the city which are derived from decreases in existing

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residential density and changes in residential uses and subsequently returned to the city through the Waiver and Release of Building Permit Allocation process and any Pre-existing Reserve Units.

~~(Code 1986, § 34.1371; Ord. No. 08-04, § 19, 5-20-2008; Ord. No. 09-07, § 3, 5-5-2009)~~

Section 108-988. - Short title.

This article shall be known and may be cited as the "building permit allocation system ordinance."

(Code 1986, § 34.1372(1); Ord. No. 09-07, § 4, 5-5-2009)

Section 108-989. - Authority

- (1) The City, pursuant to F.S. Ch. 163, part II, and ~~F.A.C. ch. 9J-5~~, adopted a Comprehensive Plan as required by state law; and,
- (2) The city, pursuant to F.S. § 163.3202(1), is required to adopt land development regulations that are consistent with and implement the adopted comprehensive plan.

(Code 1986, § 34.1372(2); Ord. No. 09-07, § 5, 5-5-2009)

Section 108-990. - Applicability.

This article shall apply to the development of all new permanent and transient residential units property within the city that shall be allocated as provided for herein except as expressly exempted in Section 108-991. Nothing in this article shall relieve

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the owner of property from complying with other applicable sections of the city land development regulations for development on the property.

(Code 1986, § 34.1372(3))

Section 108-991. - Development not affected by article.

Development consistent with the following shall not be affected by the terms of this article, but such development shall comply with all applicable sections of the city's land development regulations:

- (1) Any use, development, project, structure, building, fence, sign or activity which does not result in a net addition to the number of residential equivalent~~single-family dwelling~~ unit stock.
- (2) Redevelopment or rehabilitation which replaces but which does not increase the number of dwelling units above that existing on the site prior to redevelopment or rehabilitation.
- (3) Units determined to have been in existence at the time the April 1, ~~1990~~2010 census was prepared are presumed not to be affected by BPAS. The ~~administrative official~~ City Planner shall review available documents to determine if a body of evidence exists to support the existence of units on or about April 1, ~~1990~~ 2010. Units

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existing in ~~1990~~2010 will be documented through a mandatory site visit by city staff and at least two of the following records:

- a. Aerial photographs and original dated photographs showing that the structure existed on or about April 1, ~~1990~~2010;
- b. Building permits issued prior to April 1, ~~1990~~2010;
- c. Copies of city directory entries on or about April 1, ~~1990~~2010;
- d. Site visits which indicate that the age of the structure and associated improvements likely pre-date ~~1990~~2010;
- e. Rental, occupancy or lease records from before and including April 1, ~~1990~~2010, indicating the number, type and term of the rental or occupancy;
- f. Copies of state, county, and city licenses on and about April 1, ~~1990~~2010, indicating the number and types of rental units;
- g. Documentation for Keys Energy Service, and Florida Keys Aqueduct Authority and other available utilities indicating the type of service (residential or commercial) provided and the number of meters on or about April 1, ~~1990~~2010;

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- h. Documentation for the Monroe County Property Appraiser's Office for the time on or about April 1, ~~1990~~2010 (Green Card); and
- i. Similar documentation as listed above.

Provision of affidavits to support the existence of a unit is allowed, but cannot be the sole record upon which a decision is based. Provision of documents is the responsibility of the applicant. The ~~administrative official's~~ City Planner's decision shall be rendered to the Department of Economic Opportunity ~~community affairs~~ for a determination of consistency with the principals for guiding development.

Units which are determined not to be affected by the building permit allocation system per this subsection but which have not been previously acknowledged by the ~~administrative official~~ City Planner are presumed to be lawfully established per Chapter 122, Article II, Nonconformities, if the additional following requirements are met:

- a. The applicant satisfies the building department that the unit meets the Florida Building Code, through as-built certifications or other means acceptable to the building official; and
- b. Fees: All back fee payments, ~~including impact fee~~

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~~payments, shall be paid current and in full, from the date determined to be the established date of the unit, 1990 onward, or as determined by the building department, are made in full. All impact fees shall be paid in full for units determined to have been established after the implementation of the Impact Fee Ordinance (January 1, 1985).~~

- c. Occupational license with the city is updated, and street addresses are assigned commensurate with the updated unit count.

Transient units which meet the criteria in this subsection will be licensed by the city.

(Code 1986, § 34.1372(4); Ord. No. 09-07, § 6, 5-5-2009)

Section 108-992. - Exemptions.

Development consistent with the following shall be exempt from the terms of this article, but such development shall be subject to the terms and limitations of applicable exemption sections and shall comply with all applicable sections of the city's land development regulations:

- (1) The holder of an unexpired vested rights order approved by the city.

(Code 1986, § 34.1372(5); Ord. No. 09-07, § 7, 5-5-2009)

Section 108-993. - Construction of article.

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This article shall be liberally construed to effectively carry out the intent and purpose in the interest of the public health, safety and welfare.

~~(Code 1986, § 34.1378; Ord. No. 09-07, § 9, 5-5-2009)~~

~~Key West, Florida, Code of Ordinances >> Subpart B - LAND DEVELOPMENT REGULATIONS >> Chapter 108 - PLANNING AND DEVELOPMENT >> ARTICLE X. - BUILDING PERMIT ALLOCATION SYSTEM >> DIVISION 2. - BUILDING PERMIT ALLOCATION SYSTEM >>~~


DIVISION 2. - BUILDING PERMIT ALLOCATION SYSTEM

Section 108-994. - Established.

Section 108-995. - Reporting requirements and adjustments in residential allocation schedule.

Section 108-996. - Intent

Section 108-997. - Period of allocation, Review and Ranking of Applications.

Section 108-998. - ~~Urban Infill Redevelopment Density Intensity~~ Compact Infill Development and Mixed Use Development Incentives. ~~Bonuses Tracking and Monitoring System~~ 

Section 108-999. - Procedures for ensuring beneficial use of private property.

Section 108-1000. - ~~Zoning in Progress.~~ Allocation of Residential permits in the Truman Waterfront Redevelopment Area

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~~Section 108-1001. --- Tracking and Monitoring System. 108-1125.~~ *cl*

Reserved

Section 108-1002---108-1125 Reserved. *cl*

Section 108-994. - Established.

The City establishes a Building Permit Allocation System in order to limit the number of permits issued for permanent and transient units by structure type and affordability level (as shown on ~~the following~~ Table 1.0 below) to those available through the following means:

- (1) Units generating from policy 1-31.126.1 of the comprehensive plan that have not been allocated.
- (2) Legal mechanisms including memorandums of agreement between the Florida Department of Economic Opportunity ~~community affairs~~ and the City of Key West, development agreements, settlement agreements and consent final judgments.
- (3) Units as recovered by the city which were either previously allocated and unused or which derive from units which are determined not be affected by this article per section 108-991.

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<u>Table 1.0</u>	
<u>Residential Structure Type</u>	<u>Equivalent Single-Family Unit Factor ⁽¹⁾</u>
Single-family	1.00 ^{1a}
Accessory apt./SRO	<u>0.5578</u> ^{1b}
Multifamily	1.00 ^{1c}
Transient unit	0.5498 ^{1d}
Nursing home, Rest Home, Assisted Living Facility and Convalescent Home	0.10 ^(e)
Total	NA

(1) Pursuant to comprehensive plan policy 1-1.126.3, the equivalent single-family unit factors are based on the ratio of the average number of vehicles per unit based on the ~~1992~~2010 U.S. Census for the respective residential structure types divided by the vehicles per single-family units (i.e., 1.028 vehicles per unit). The computations are as follows:

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- (a) Single-family: $1.28/1.28 = 1.00$
- (b) Accessory unit, single room occupancy (SRO):
 $1.00/1.28 = 0.5578$
- (c) Multifamily: $1.28/1.28 = 1.00$
- (d) Transient unit: $1.10/1.28 = 0.586$ ~~is consistent with the traffic generating assumptions of the county hurricane evacuation model based on the Transportation Interface for Modeling Evacuations (TIME) Model for the Florida Keys (1.10 vehicles per transient unit in Monroe County).~~
- (e) Nursing home, rest home, assisted living facility and convalescent home: $1.0/10 = 0.10$ based on provisions set forth in Chapter 86-9. Definition of Terms.

(Ord. No. 09-07, § 15, 5-5-2009)

~~Editor's note Section 15 of Ord. No. 09-07, renumbered § 108-1056 as § 108-994, to read as herein set out. Former § 108-1056 derived from § 34.1375 of the 1986 Code.~~

Section 108-995. - Reporting requirements and adjustments in residential allocation schedule.

The City of Key West building permit allocation system shall limit the number of permits issued for new permanent and transient development, to 910 units during the period from July 2013 to July

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2023, with the exception of the Beneficial Use Permit allocations that have been reserved separately to address property rights claims. The annual allocation will be ninety-one (91) single-family units or an equivalent combination of residential and transient types based on the equivalency factors established in Policy 1-1.15.3 of the Comprehensive Plan.

In order to address the ongoing affordable housing shortage and affordable housing deed restrictions expected to expire, during the first three years (July 2013 - July 2016) 60 percent of the units allocated shall be affordable. Between years four (4) and ten (10) (2016 - 2023), 50 percent shall be affordable. Between years four (4) and ten (10), 80 percent of remaining (non-affordability restricted) units shall be permanent, and 20 percent may be transient. During year one (1) (July 2013 - 2014), 48 of the affordable units to be allocated will be dedicated for use at the Peary Court Housing complex property, being transferred from military to private sector housing, and shall meet the prerequisite standards for obtaining BPAS Awards. Table 2.0 below identifies the number of units that may be allocated at a rate of 1.0 ESFU's by housing type and by year for the period from July 2013 to July 2023.

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Table 2.0

<u>July 1, 2013</u> <u>- June 30,</u> <u>2014</u>	<u>July 1,</u> <u>2014 - June</u> <u>30, 2015</u>	<u>July 1,</u> <u>2015 -</u> <u>June 30,</u> <u>2016</u>	<u>July 1,</u> <u>2016 -</u> <u>June 30,</u> <u>2017</u>	<u>July 1,</u> <u>2017 - June</u> <u>30, 2018</u>
<u>48</u> <u>affordable</u> <u>units to be</u> <u>allocated</u> <u>for Peary</u> <u>Court</u> <u>développement.</u> <u>Minimum of 7</u> <u>affordable</u> <u>units.</u> <u>Maximum of</u> <u>36 market</u> <u>rate units.</u>	<u>Minimum of</u> <u>55</u> <u>affordable</u> <u>units.</u> <u>Maximum of</u> <u>36 market</u> <u>rate units.</u>	<u>2016</u> <u>Minimum of</u> <u>55</u> <u>affordable</u> <u>units.</u> <u>Maximum of</u> <u>36 market</u> <u>rate</u> <u>units.</u>	<u>2017</u> <u>Minimum of</u> <u>45</u> <u>affordable</u> <u>units.</u> <u>Maximum of</u> <u>46 market</u> <u>rate</u> <u>units, of</u> <u>which a</u> <u>maximum of</u> <u>ten (10)</u> <u>units may</u> <u>be</u> <u>transient.</u>	<u>45</u> <u>affordable</u> <u>units.</u> <u>Maximum of</u> <u>46 market</u> <u>rate units,</u> <u>of which a</u> <u>maximum of</u> <u>ten (10)</u> <u>units may</u> <u>be</u> <u>transient.</u>

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<u>July 1, 2018</u> <u>- June 30, 2019</u>	<u>July 1, 2019 - June 30, 2020</u>	<u>July 1, 2020 - June 30, 2021</u>	<u>July 1, 2021 - June 30, 2022</u>	<u>July 1, 2022 - June 30, 2023</u>
Minimum of 45 affordable units.	Minimum of 45 affordable units.	Minimum of 45 affordable units.	Minimum of 45 affordable units.	Minimum of 45 affordable units.
Maximum of 46 market rate units, of which a maximum of ten (10) may be transient.	Maximum of 46 market rate units, of which a maximum of ten (10) may be transient.	Maximum of 46 market rate units, of which a maximum of ten (10) may be transient.	Maximum of 46 market rate units, of which a maximum of ten (10) may be transient.	Maximum of 46 market rate units, of which a maximum of ten (10) may be transient.

The ~~administrative official~~ City Planner will provide an annual report to the Planning Board and ~~city commission~~ providing the ~~results of tracking and monitoring requirements and recommendations for any changes in the allocation by structure type or intended use.~~ The annual report shall and the state land planning agency identifying any remaining or unused allocations, and the number of permits by building type by September 1 of each year as stipulated in the 2012 Hurricane Evacuation Clearance Time Memorandum of Understanding. The first report will be published in

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~~2014. rack all inputs to the system, per section 108 994, as well as allocations to the system by structure and use type.~~

~~The table in section 108 994 illustrating the allocation of building permits by structure type shall be subject to evaluation by the city commission annually and the allocation by structure type may be adjusted to accommodate shifts in supply and demand factors; however, under no circumstances will the allocations for affordable housing constitute less than 30 percent of the total ESFU available for allocation since 1990, nor shall the transient unit allocation exceed 25 percent of the ESFU available for allocation since 1990. Because transient allocations have exceeded 25 percent of the total ESFU, no further new transient allocations will be made under this system. Provided, however, that the city shall reserve a minimum number of units for beneficial use claims. A determination of the minimum number of units shall be based upon available data illustrating parcels potentially subject to relief pursuant to section 108 998. Remaining units shall be allocated in accordance with the Comprehensive Plan and Land Development Regulations.~~

~~(Ord. No. 09-07, § 17, 5-5-2009; Ord. No. 10-10, § 1, 5-18-2010)~~

~~Editor's note Section 17 of Ord. No. 09 07, renumbered § 108 1058 as § 108 995, to read as herein set out. Former § 108 1058 derived from § 34.1375 of the 1986 Code.~~

~~*Coding: Added language is underlined; deleted language is struck through~~

Section 108-996. - Intent.

It is the intent of the City of Key West to create and manage a Building Permit Allocation System that:

- a. Is open to all property owners who wish to participate;
- b. Establishes a minimum baseline standard for all new units and buildings that assures sustainability, environmental responsibility, human health and safety;
and
- c. Is cost effective and easily administered by City staff.

Section 108-9967. - Period of allocation and Ranking/Review of Applications.

~~Allocations other than those granted for beneficial use pursuant to section 108-998 shall be for a one year period during which time a building permit must be obtained, unless a longer period is approved by resolution as part of a development plan, conditional use or development agreement approval. A single one-year renewal of an allocation shall be granted by the administrative official prior to the expiration of the allocation. One extension for a period of 12 months shall be granted by the planning board provided that the applicant makes application prior to the expiration of the allocation and demonstrates reasonable cause for the extension. No further extensions can be granted. Allocation for beneficial use pursuant to section 108-998 shall be~~

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~~for a period of two years during which time a building permit must be obtained. A single two year extension of a beneficial use allocation shall be granted by the administrative official prior to the expiration of the allocation. Unused units will be returned to the system for reallocation.~~

A. Application and Allocation Period. The annual building permit allocation period will begin in July of each year. Applications will be accepted between the first of July and mid-September. Applications will be reviewed and ranked by City staff and the Final Determination of Award will be made by the Planning Board no later than March 1. Based on the level of proposed development, development plan approvals will be reviewed by the relevant Boards and Commissions by May of each year.

B. Prerequisites

(1) Prerequisite major construction/renovation means the minimum standards for new development, including additions to existing structures, or redevelopment constituting more than 50% of the value of the building, required in order to be eligible to receive an allocation award from the BPAS system as follows:

- a. All new units shall be constructed in compliance with and obtain a Baseline Green Building Certification.

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b. All new buildings shall be constructed so as to have the first habitable floor 1.5 feet above the required base flood elevation, with the exception of properties located within the historic zoning districts, where the applicant must first demonstrate that such elevation does not interfere with the essential form and integrity of properties in the neighborhood by obtaining a certificate of appropriateness.

c. All new buildings shall be constructed with a rainwater catchment system that will hold a minimum of 1,000 gallons of water or an amount equivalent to 100% of the new roof area in gallons whichever is greater.

(2) Prerequisite, minor renovation means the minimum standards for redevelopment constituting less than 50% of the value of the building, required. In order to be eligible to receive an allocation award from the BPAS system applicants must demonstrate water and energy use 15% below the Florida Building Code using recognized energy and water rating standards.

C. Point System. The City Building Permit Allocation System application review and ranking process shall be administered by

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staff and shall be based on the point system established in the criteria listed below. The criteria shall apply to both affordable and non-affordable units proposed for construction. However, applicants for affordable unit awards shall compete only for other affordable housing unit allocations, and not for the market rate unit allocations.

(1) The following criteria and point system shall be utilized in the ranking of applications for development of three or more non-transient units as follows:

- a. Building more than 1.5' higher than the base flood elevation - 5 points
- b. Exceeding the minimum required percentage of affordable housing 5 - points
- c. Achieving Green Building Certification Upgrade 1 - 30 points
- d. Achieving Green Building Certification Upgrade 2 - 40 points
- e. Achieving Green Building Certification Upgrade 3 - 60 points
- f. Voluntary contribution to the Arts In Public Places Fund or Tree Fund in the amount of \$5,000 or more - 10 points.
- g. Design by a LEED accredited architect - 10 points.

*Coding: Added language is underlined; deleted language is struck through

- h. Providing electrical high voltage sized conduit for future electric car charging station near parking area - 5 points.
 - i. Using light colored, high reflectivity materials for all non-roof/ areas with a Solar Reflectance Index (SRI) of at least 29 - 10 points.
 - j. Providing additional on-site open space or on-site recreational facilities - 10 points.
 - k. Designing the buildings with a vegetated roof of at least 50% of the roof area - 15 points.
- (2) The following criteria and point system shall be utilized in the ranking of applications for development of one or two non-transient units as follows:
- a. Building more than 1.5' higher than the base flood elevation - 5 points.
 - b. Voluntarily providing affordable housing units - 10 points.
 - c. Achieving Green Building Certification Upgrade 1 - 30 points.
 - d. Achieving Green Building Certification Upgrade 2 - 40 points.
 - e. Achieving Green Building Certification Upgrade 3 - 60 points.

*Coding: Added language is underlined; deleted language is struck through

- f. Voluntary contributions to the Arts In Public Places Fund or Tree Fund in the amount of \$1,000 or more - 10 points.
- g. Design by a LEED accredited architect - 10 points.
- h. Providing electrical high voltage sized conduit for future electric car charging station near parking area - 5 points.
- i. Using light colored, high reflectivity materials for all non-roof/ areas with a Solar Reflectance Index (SRI) of at least 29 - 10 points.
- j. Using light colored, high reflectivity roofing materials with a Solar Reflectance Index (SRI) of at least 29 - 5 points.
- k. Designing the buildings with a vegetated roof of at least 50% of the roof area - 15 points.

D. Application Review Process - Review, Ranking, Initial Announcement and Final Determination of Award: Applications received by the application closing date (mid-September) of each year will be evaluated by staff for completeness and applicants will be notified of any deficiencies in the application and be provided a timeframe within which deficiencies can be resolved. In the event that all market rate units are not claimed or applied

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for, after initial staff evaluation of the applications, any remaining market rate units may be awarded for affordable housing purposes.

Upon ranking, in the event that two applications are determined to have the same numerical ranking score, and units are not available to provide awards to both projects, a drawing of lots will determine the awardee. Additionally, official ranking and Initial Announcement of Award information shall be published by the Planning Department by December 15th of the Application Year. Based on staff recommendation the Planning Board shall make the Final Determination of Award by March 1 of the Award Year.

Applications that receive Final Determination of Award by the Planning Board and that require development review shall be heard by the Development Review Committee no later than March of the Award Year. Applicants will be given a limited period of time to amend their applications and will subsequently be scheduled for review by the Planning Board no later than May of the Award Year. If required, City Commission review will be scheduled no later than June, so that the allocation can be made no later than one year from the receipt of the application or July 13 of the Award Year.

E. Recovered Units. Building permits shall be obtained within two years of the Final Award date. If a building permit is

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not issued within that timeframe the allocated units will revert back to the City as a Recovered Unit for allocation during the following sequential Award Year. If the Recovered Units are not allocated within the next sequential Award Year such units will be returned to the Department of Economic Opportunity for redistribution pursuant to provisions in the 2012 Hurricane Evacuation Modeling Memorandum of Understanding.

F. Affordable Unit Allocations:

1. All units allocated as affordable are subject to Section 122-1467(c), (d), (e), and (f) of the Workforce Housing Ordinance.
2. Applicant Eligibility Requirements are subject to Section 122-1469 (2) through (15) of the Workforce Housing Ordinance.
3. Affordable housing projects enabled by federal tax credit housing are not subject to 122-1467(c).

G. Transient Unit Allocation Process: Regulations for the allocation of Transient Units shall be established by April 1, 2016.

H. Penalty: For projects that fail to achieve the Green Building Standard Certification, as purported in the application for which the award was granted, final certificate of occupancy

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will not be awarded until such time that the applicant is able to establish that the Green Building Standard has been achieved.

(Ord. No. 09-07, § 20, 5-5-2009; Ord. No. 10-10, § 2, 5-18-2010)

~~Editor's note Section 20 of Ord. No. 09-07, renumbered § 108-1061 as § 108-996, to read as herein set out. Former § 108-1061 derived from § 34.1375 of the 1986 Code; and Ord. No. 08-04, adopted May 20, 2008.~~

Section 108-997g. - Tracking and monitoring system **Compact Infill Development and Mixed Use Development Incentives**

~~(a) The administrative official shall develop and maintain a tracking system which indicates the number of single family equivalent units by structure type and by affordability level allocated since April 1, 1990.~~

The city recognizes the need to encourage the redevelopment of aging commercial properties located within the city in order to promote housing opportunities in proximity to existing employment centers, and alternative transportation routes. Such development shall be known as compact infill development.

In order to encourage urban infill projects that meet design principles and standards contained in Comprehensive Plan Policy 1-1.1.4 residential density bonuses shall be allowed as follows:

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<u>Existing or Proposed Commercial Development</u>	<u>Additional Density Allowed- Market Rate (MR) and Affordable Housing (AH)</u>	
2,500 s.f of Floor <u>Area</u>	<u>0 MR</u>	<u>1 AH</u>
5,000 s.f of Floor <u>Area</u>	<u>0 MR</u>	<u>2 AH</u>
10,000 s.f of Floor <u>Area</u>	<u>0 MR</u>	<u>3 AH</u>
12,500 s.f of Floor <u>Area</u>	<u>1 MR</u>	<u>3 AH</u>
15,000 s.f of Floor <u>Area</u>	<u>2 MR</u>	<u>4 AH</u>
20,000 s.f of Floor <u>Area</u>	<u>3 MR</u>	<u>5 AH</u>
25,000 s.f of Floor <u>Area</u>	<u>4 MR</u>	<u>6 AH</u>
30,000 s.f of Floor <u>Area</u>	<u>5 MR</u>	<u>6 AH</u>

(Ord. No. 09-07, § 21, 5-5-2009)

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For redevelopment and /or development projects that meet the criteria for density bonuses the following design principals are required:

- a. Housing types - Provide for a range of housing types, inclusive of apartments, townhouses, efficiencies, accessory units and single room occupancies.
- b. Pedestrian and Bicycle linkage - Provide safe onsite bicycle and pedestrian circulation with connectivity to the City's existing bicycle and pedestrian pathway network. Provide enclosed bicycle storage area for residents.
- c. Mixed use redevelopment - For development including commercial floor area, provide enclosed bicycle storage area together with shower facilities for the bicycle user employees.
- d. Open Space and Recreation - Provide a minimum of 5% more than the open space requirement, of which a minimum of 35% shall be designed as collective community gathering/recreation space.

~~Editor's note Section 21 of Ord. No. 09-07, renumbered § 108-1062 as § 108-997, to read as herein set out. Former § 108-1062 derived from § 34.1375 of the 1986 Code.~~

Section 108-9989. - Procedures for ensuring beneficial use of private property.

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a) It is the policy of the city that neither provisions of the comprehensive plan nor the land development regulations shall deprive a property owner of all reasonable economic use of a parcel of real property which is a lot or parcel of record as of the date of adoption of the comprehensive plan (August 10, 1993) or lots of record which have been reconfigured such that the number of minimum sized lots are not increased. An owner of real property may apply for relief from the literal application of applicable land use regulations or of this plan when such application would have the effect of denying all economically reasonable or viable use of that property unless such deprivation is known to be necessary to prevent a nuisance under state law or in the exercise of the city's police power to protect the health, safety, and welfare of its citizens. All reasonable economic use shall mean the minimum use of the property necessary to avoid a taking within a reasonable period of time as established by land use case law.

b) The relief to which an owner shall be entitled may be provided through the use of one or a combination of the following:

(1) Granting of a permit for development which shall be deducted from the Pre-existing

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Reserve Units/Beneficial Use pool reserved to address outstanding beneficial use claims. All units that are recaptured by the City through a Waiver and Release of Building Permit Allocation for residential units lawfully existing prior to May 2, 2013 shall be recorded and dedicated for beneficial use only. Beneficial Use allocations shall be valid until such time that the owner choses to obtain building permits, so long that no changes are made to the configuration or size of the lot or parcel that affect the conditions in which the Beneficial Use allocation is granted as described in subsection (a) above.

- (2) Granting the use of transfer of development rights (TDRs) consistent with the comprehensive plan.
- (3) Purchasing by the city of all or a portion of the lots or parcels upon which all beneficial use is prohibited.
- (4) Such other relief as the city may deem appropriate and adequate.

The relief granted shall be the minimum necessary to avoid a taking of the property under existing state and federal law.

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c) Development approved pursuant to a beneficial use determination shall be consistent with all other objectives and policies of the comprehensive plan and land development regulations unless specifically exempted from such requirements in the final beneficial use determination.

(Code 1986, § 34.1377(4); Ord. No. 09-07, § 32, 5-5-2009)

Editor's note— Section 32 of Ord. No. 09-07, renumbered § 108-1100 as § 108-998

Section 108-9991000. - ~~Zoning in progress~~ Allocation of residential permits in the Truman Waterfront Redevelopment Area.

~~City staff shall defer the acceptance and processing of applications dated after November 16, 2011 for building permit allocations with exception of requests for beneficial use allocations until new land development regulations are adopted, or until the passage of 365 days, whichever occurs first. In order to facilitate redevelopment of the Truman Waterfront Parcel, equivalent single-family unit values and associated development rights may be transferred from anywhere within the city to land use classifications within the Truman Waterfront Parcel which allow residential development. This is not a transfer of density; rather, it pertains to the transfer of units which are allocated recognized or vested in accordance with the Building Permit Allocation Ordinance. Any density associated with the unit host~~

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site will remain on that site; however, once the unit is transferred, the density on the host site cannot be developed until units are allocated through the Building Permit Allocation Ordinance. The Planning Department shall maintain records of the transfer of units under this provision.

~~{Ord. No. 12-15, § 1, 6-5-2012}~~ CS

Section 108-10041-108-1125. - Reserved.

⁽¹¹⁹⁾ Editor's note- Sections 10-13 of Ord. No. 09-07, adopted May 5, 2009, deleted Div. 2, §§ 108-1026-108-1028, which pertained to the hearing officer, and derived from the 1986 Code, § 34.1376. Section 14 of Ord. No. 09-07 renumbered Div. 3 as Div. 2; and sections 16, 18, 19, and 22-31 deleted §§ 108-1057, 108-1059, 108-1060, Div. 4, and §§ 108-1091-108-1099, respectively. The former sections and division pertained to various provisions pertaining to allocations, adjustments, and vested rights, and derived from the 1986 Code, §§ 34.1375 and 34.1377.

Section 3: That Chapter 122, Article V, Division 10, Work Force Housing, of the Code of Ordinances is hereby amended as follows:

Section 122-1470. - Accessory unit infill.

(a) In all mixed use zoning districts of the city, ~~except conservation districts (C), airport district (A) and the~~

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~~HPRD, PRD, HHDR, HMDR, MDR, MDR C, LDR C and SF districts,~~
the city shall commission ~~desires to~~ 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 0-55.78 equivalent unit and all units provided must be made ~~are~~ available through ~~under~~ the city's building permit allocation system. ~~ordinance, Section 108-1056 et seq. of the Code of Ordinances.~~ ~~the city shall process applications under this section in the same manner as multifamily units or as a conditional use if multifamily is not allowed.~~

- (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

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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)

Section 4: If any section, provision, clause, phrase, or application of this Ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, the remaining provisions of this Ordinance shall be deemed severable therefrom and shall be construed as reasonable and necessary to achieve the lawful purposes of this Ordinance.

Section 5: All Ordinances or parts of Ordinances of said City in conflict with the provisions of this Ordinance are hereby superseded to the extent of such conflict.

Section 6: This Ordinance shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission and approval by the State Department of Community Affairs pursuant to Chapter 380, Florida Statutes.

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Read and passed on first reading at a regular meeting held
this 2nd day of October, 2013.


Read and passed on final reading at a regular meeting held
this 6th day of November, 2013.

Authenticated by the presiding officer and Clerk of the
Commission on 19th day of June, 2014.

Filed with the Clerk June 19, 2014.


CRAIG CATES, MAYOR

ATTEST:


CHERYL SMITH, CITY CLERK

Mayor Craig Cates	<u>Yes</u>
Vice Mayor Mark Rossi	<u>Yes</u>
Commissioner Teri Johnston	<u>Yes</u>
Commissioner Clayton Lopez	<u>Yes</u>
Commissioner Billy Wardlow	<u>Yes</u>
Commissioner Jimmy Weekley	<u>Yes</u>
Commissioner Tony Yaniz	<u>Yes</u>

STATE OF FLORIDA
DEPARTMENT OF ECONOMIC OPPORTUNITY

In re: A LAND DEVELOPMENT REGULATION
ADOPTED BY THE CITY OF KEY WEST,
FLORIDA, ORDINANCE NO.13-19

RECEIVED
CITY CLERK'S OFFICE
2014 FEB 10 PM 4:25
CITY OF KEY WEST
KEY WEST, FLORIDA

**FINAL ORDER APPROVING IN PART AND
REJECTING IN PART KEY WEST ORDINANCE NO. 13-19**

The Department of Economic Opportunity ("Department") hereby issues its Final Order, pursuant to §§ 380.05(6) and (11), Fla. Stat., approving in part and rejecting in part the land development regulations adopted by City of Key West Ordinance No. 13-19 (the "Ordinance").

FINDINGS OF FACT

1. The City of Key West is designated pursuant to § 380.05(1), Fla. Stat., and Chapter 28-36, Fla. Admin. Code, as an area of critical state concern. Land development regulations adopted by the City of Key West do not become effective until approved by the Department by final order. §§ 380.05(6) and (11), Fla. Stat.

2. The Ordinance was adopted by the City of Key West on November 7, 2013, and rendered to the Department on December 9, 2013.

3. The Ordinance updates definitions and provisions relating to the building permit allocation system ("BPAS") in the City Code to reflect recent updates to the City's comprehensive plan that gives the City 91 residential building permit allocations annually and 910 allocations over a ten-year horizon.

4. The Department approves the amendments to the City's land development regulations adopted by the Ordinance except for the following amendments, which are rejected:

a. Section 86-9, definition of “detached habitable space,” allows a variance but does not include variance criteria other than height.

b. Deletion of definition of “hotel” in Section 86-9 (Ordinance page 32) – the deletion would leave the City with no definition that identifies the size of a hotel room. The existing definition must be retained.

c. Section 86-9, definition of “Single Room Occupancy (SRO)” defines an SRO as a multi-room or multi-floor facility instead of as a single room.

d. Deletion of definition of “Accessory units and single room occupancy” in Section 108-986 – the definition appropriately defines a single room occupancy as a single room and must be retained.

e. Section 108-991, “Development not affected by article,” subsection (1), refers the reader to the definitions in Section 86-9 for types of residential construction determined to be affected and not affected by the BPAS, but many of the definitions do not include this information.

f. Section 108-991, “Development not affected by this article,” subsection (3) exempting public/governmental uses, facilities and services from the City’s BPAS, would exempt publicly-owned affordable housing from the BPAS.

CONCLUSIONS OF LAW

5. The Department is required to approve or reject land development regulations that are adopted by any local government in an area of critical state concern. §§ 380.05(6) and (11), Fla. Stat. (2012).

6. "Land development regulations" include local zoning, subdivision, building, and other regulations controlling the development of land. § 380.031(8), Fla. Stat. The regulations adopted by the Ordinance are land development regulations.

7. All land development regulations enacted, amended, or rescinded within an area of critical state concern must be consistent with the principles for guiding development for that area. §§ 380.05(6) and (11), Fla. Stat. The Principles for Guiding Development for the City of Key West Area of Critical State Concern are set forth in Rule 28-36.003(1), Fla. Admin. Code.

8. The portions of the Ordinance that are approved by this Final Order are consistent with the Principles for Guiding Development as a whole, and specifically further the following Principles:

(a) Strengthen local government capabilities for managing land use and development;

(c) Minimize the adverse impacts of development of the quality of water in and around the City of Key West and throughout the Florida Keys;

(e) Protection of the historical heritage of Key West and the Key West Historical Preservation District;

(f) Protection of the value, efficiency, cost-effectiveness and amortized life of existing and proposed major public investments, including:

1. The Florida Keys Aqueduct and water supply facilities,
2. Sewage collection and disposal facilities,
3. Solid waste collection and disposal facilities,
4. Key West Naval Air Station,
5. The maintenance and expansion of transportation facilities, and
6. Other utilities, as appropriate;

(g) Minimize the adverse impacts of proposed public investments on the natural and environmental resources of the City of Key West; and

(h) Protection of the public health, safety, welfare and economy of the City of Key West, and the maintenance of Key West as a unique Florida resource.

9. The portions of the Ordinance approved by this Final Order are consistent with Policies 1-1.16.3 and 1-1.1.7 and Objective 1-1.9 of the City of Key West Comprehensive Plan.

10. The portions of the Ordinance rejected by this Final Order are inconsistent with Principles (a), (f)5., and (h) in Rule 28-36.003(1), Fla. Admin. Code, and are inconsistent with Policies 1-1.16.3 and 1-1.1.7 and Objective 1-1.9 of the City of Key West Comprehensive Plan.

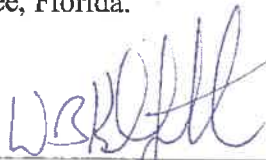
WHEREFORE, IT IS ORDERED that:

A. The portions of City of Key West Ordinance No. 13-19 identified in paragraph 4., subsections a. through f. above, are found to be inconsistent with the Principles for Guiding Development for the City of Key West Area of Critical State Concern and are hereby REJECTED.

B. All other portions of City of Key West Ordinance No. 13-19 are found to be consistent with the Principles for Guiding Development for the City of Key West Area of Critical State Concern and are hereby APPROVED.

This Order becomes effective 21 days after publication in the Florida Administrative Register unless a petition is timely filed as described in the Notice of Administrative Rights below.

DONE AND ORDERED in Tallahassee, Florida.



WILLIAM B. KILLINGSWORTH
Director, Division of Community Development
Department of Economic Opportunity

NOTICE OF ADMINISTRATIVE RIGHTS

ANY PERSON WHOSE SUBSTANTIAL INTERESTS ARE AFFECTED BY THIS ORDER HAS THE OPPORTUNITY FOR AN ADMINISTRATIVE PROCEEDING

PURSUANT TO SECTION 120.569, FLORIDA STATUTES, REGARDING THE AGENCY'S ACTION. DEPENDING UPON WHETHER YOU ALLEGE ANY DISPUTED ISSUE OF MATERIAL FACT IN YOUR PETITION REQUESTING AN ADMINISTRATIVE PROCEEDING, YOU ARE ENTITLED TO EITHER AN INFORMAL PROCEEDING OR A FORMAL HEARING.

IF YOUR PETITION FOR HEARING DOES NOT ALLEGE ANY DISPUTED ISSUE OF MATERIAL FACT CONTAINED IN THE DEPARTMENT'S ACTION, THEN THE ADMINISTRATIVE PROCEEDING WILL BE AN INFORMAL ONE, CONDUCTED PURSUANT TO SECTIONS 120.569 AND 120.57(2) FLORIDA STATUTES, AND CHAPTER 28-106, PARTS I AND III, FLORIDA ADMINISTRATIVE CODE. IN AN INFORMAL ADMINISTRATIVE PROCEEDING, YOU MAY BE REPRESENTED BY COUNSEL OR BY A QUALIFIED REPRESENTATIVE, AND YOU MAY PRESENT WRITTEN OR ORAL EVIDENCE IN OPPOSITION TO THE DEPARTMENT'S ACTION OR REFUSAL TO ACT; OR YOU MAY EXERCISE THE OPTION TO PRESENT A WRITTEN STATEMENT CHALLENGING THE GROUNDS UPON WHICH THE DEPARTMENT HAS CHOSEN TO JUSTIFY ITS ACTION OR INACTION.

IF YOU DISPUTE ANY ISSUE OF MATERIAL FACT STATED IN THE AGENCY ACTION, THEN YOU MAY FILE A PETITION REQUESTING A FORMAL ADMINISTRATIVE HEARING BEFORE AN ADMINISTRATIVE LAW JUDGE OF THE DIVISION OF ADMINISTRATIVE HEARINGS, PURSUANT TO SECTIONS 120.569 AND 120.57(1), FLORIDA STATUTES, AND CHAPTER 28-106, PARTS I AND II, FLORIDA ADMINISTRATIVE CODE. AT A FORMAL ADMINISTRATIVE HEARING, YOU MAY BE REPRESENTED BY COUNSEL OR OTHER QUALIFIED REPRESENTATIVE, AND YOU WILL HAVE THE OPPORTUNITY TO PRESENT EVIDENCE AND ARGUMENT ON ALL THE ISSUES INVOLVED, CONDUCT CROSS-EXAMINATION AND SUBMIT REBUTTAL EVIDENCE, SUBMIT PROPOSED FINDINGS OF FACT AND ORDERS, AND FILE EXCEPTIONS TO ANY RECOMMENDED ORDER.

IF YOU DESIRE EITHER AN INFORMAL PROCEEDING OR A FORMAL HEARING, YOU MUST FILE WITH THE AGENCY CLERK OF THE DEPARTMENT OF ECONOMIC OPPORTUNITY A WRITTEN PLEADING ENTITLED, "PETITION FOR ADMINISTRATIVE PROCEEDINGS" WITHIN 21 CALENDAR DAYS OF PUBLICATION OF THIS NOTICE. A PETITION IS FILED WHEN IT IS **RECEIVED** BY:

AGENCY CLERK
DEPARTMENT OF ECONOMIC OPPORTUNITY
OFFICE OF GENERAL COUNSEL
107 EAST MADISON STREET, MSC 110
TALLAHASSEE, FLORIDA 32399-4128
FAX NUMBER 850-245-7150
EMAIL: JAMES.BELLFLOWER@DEO.MYFLORIDA.COM

THE PETITION MUST MEET THE FILING REQUIREMENTS IN RULE 28-106.104(2), FLORIDA ADMINISTRATIVE CODE. IF AN INFORMAL PROCEEDING IS

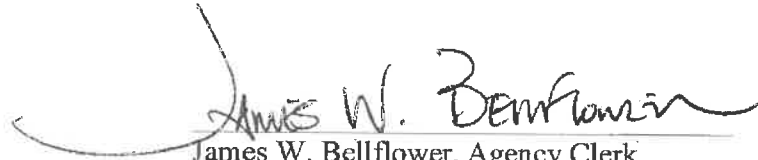
REQUESTED, THEN THE PETITION SHALL BE SUBMITTED IN ACCORDANCE WITH RULE 28-106.301, FLORIDA ADMINISTRATIVE CODE. IF A FORMAL HEARING IS REQUESTED, THEN THE PETITION SHALL BE SUBMITTED IN ACCORDANCE WITH RULE 28-106.201(2), FLORIDA ADMINISTRATIVE CODE.

A PERSON WHO HAS FILED A PETITION MAY REQUEST MEDIATION. A REQUEST FOR MEDIATION MUST INCLUDE THE INFORMATION REQUIRED BY RULE 28-106.402, FLORIDA ADMINISTRATIVE CODE. CHOOSING MEDIATION DOES NOT AFFECT THE RIGHT TO AN ADMINISTRATIVE HEARING.

YOU WAIVE THE RIGHT TO AN INFORMAL ADMINISTRATIVE PROCEEDING OR A FORMAL HEARING IF YOU DO NOT FILE A PETITION WITH THE AGENCY CLERK WITHIN 21 DAYS OF PUBLICATION OF THIS FINAL ORDER.

CERTIFICATE OF FILING AND SERVICE

I HEREBY CERTIFY that the original of the foregoing Final Order was filed with the undersigned designated Agency Clerk, and that true and correct copies were furnished to the persons listed below by the method indicated this 5th day of February, 2014.



James W. Bellflower, Agency Clerk
Department of Economic Opportunity
107 East Madison Street, MSC 110
Tallahassee, FL 32399-4128
Telephone: (850) 245-7150

By U.S. Mail:

The Honorable Craig Cates
Mayor, City of Key West
3216 Flagler Avenue
Key West, FL 33040

Cheryl Smith, City Clerk
3216 Flagler Avenue
Key West, FL 33040

Donald Leland Craig, AICP
City Planner
3140 Flagler Avenue
Key West, FL 33040

ORDINANCE NO. 18-17

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA AMENDING CHAPTER 82 OF THE CODE OF ORDINANCES ENTITLED "WATERWAYS" BY AMENDING SECTION 82-37, TO AMEND CERTAIN PROVISIONS RELATED TO LIVEABOARD VESSELS AND THE BUILDING PERMIT ALLOCATION SYSTEM (BPAS); PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City of Key West finds that it is necessary to amend regulations from time to time to eliminate inconsistencies between the Code and the Comprehensive Plan; and

WHEREAS, Policy 8-1.1.3 (18) of the City of Key West Comprehensive Plan directs the City to pursue a coordinated approach to regulating liveaboards with the State and Monroe County; and

WHEREAS, Section 82-37 (a) of the City of Key West Code of Ordinances subjects liveboard vessels to the City's Building Permit Allocation System (BPAS) ordinance; and

WHEREAS, Policy 101.3.1 of the Monroe County Comprehensive Plan expressly excludes vessels from the Residential Rate of Growth Ordinance (ROGO) System, as the vessels do not occupy a distinct location and therefore cannot be accounted for in the County's hurricane evacuation model; and

WHEREAS, the City of Key West finds that the proposed amendment brings its liveboard vessel regulations closer in line with those of Monroe County pursuant to Policy 8-1.1.3 (18) of the Comprehensive Plan; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF KEY WEST,
FLORIDA:

Section 1: That Section 82-37 of the Code of Ordinances is hereby amended as follows*:

Sec. 82-37. – Liveboard Vessels.

- (a) Liveboard vessels within the jurisdictional waters of the city are not subject to the city's ~~rate-of-growth~~ BPAS ordinance (ROGO) when such vessels are intended for permanent habitation by docking or mooring. Therefore, liveboard vessels attempting to be established after the effective date of the ~~ROGO~~ BPAS ordinance shall ~~not~~ may be limited thereby. Unless otherwise provided in the land development regulations, privately owned bay bottom shall not be recognized as the same as upland property for the purposes of density, ~~and~~ ROGO ~~units~~. Liveboard vessels shall only be located in marinas duly approved for liveboards and the number of liveboard vessels shall not exceed the number of approved slips per any City, State, or Federal approvals.
- (b) Liveboard vessels shall be docked or moored consistent with sections 82-31 and 82-33. No liveboard shall be kept on public or private property in violation of the city zoning laws.
- (c) No private or public utility shall provide water, electricity or other utility service to a liveboard vessel that is in violation of this article.

*(Coding: Added language is underlined; deleted language is ~~struck through~~ at first reading. Added language is double underlined and ~~double struck~~ through at second reading.)

Read and passed by the City Commission at a regular meeting held this 21st day of August, 2018.

Read and passed on final reading at a regular meeting held this 5th day of September, 2018.

Authenticated by the presiding officer and Clerk of the Commission on 1st day of October, 2018.

Filed with the Clerk October 1, 2018.

Mayor Craig Cates	<u>Yes</u>
Commissioner Gregory Davila	<u>Yes</u>
Commissioner Mary Lou Hoover	<u>Yes</u>
Commissioner Sam Kaufman	<u>Yes</u>
Vice Mayor Clayton Lopez	<u>Yes</u>
Commissioner Billy Wardlow	<u>Yes</u>
Commissioner Jimmy Weckley	<u>Yes</u>


CRAIG CATES, MAYOR

ATTEST:


CHERYL SMITH, CITY CLERK



EXECUTIVE SUMMARY

To: James K. Scholl, City Manager
Through: Patrick Wright, Planning Director
Shawn Smith, City Attorney
From: Vanessa Sellers, Planner I
Meeting Date: September 5, 2018
Re: Amendment to the Liveaboard Vessels Ordinance

Action Statement:

This measure proposes to amend Chapter 82 titled "Waterways" in Article II, Vessels, Section 82-37, titled Liveaboard Vessels.

Background:

Policy 8-1.1.3 (18) of the City of Key West Comprehensive Plan directs the City to pursue a coordinated approach to regulating liveaboards with the State of Florida and Monroe County.

Currently, section 82-37 (a) of the City of Key West Code of Ordinances subjects liveaboard vessels to the City's Building Permit Allocation System (BPAS) ordinance. However, policy 101.3.1 of the Monroe County Comprehensive Plan expressly *excludes* vessels from the Residential Rate of Growth Ordinance (ROGO) system, as the vessels do not occupy a distinct location and therefore cannot be accounted for in the County's hurricane evacuation model.

The proposed ordinance amendments will bring the City of Key West's liveaboard vessel regulations closer in line with Monroe County's liveaboard vessel regulations, pursuant to policy 8-1.1.3 (18) of the City of Key West Comprehensive Plan.

Options:

Option 1: Approve the proposed ordinance amendments to bring the City of Key West's liveaboard vessel regulations closer in line with those of Monroe County pursuant to policy 8-1.1.3 (18) of the City of Key West Comprehensive Plan.

Option 2: Do not approve the proposed ordinance amendments.

Recommendation:

To approve the proposed ordinance amendments.

Sec. 82-37. Liveaboard vessels.

- (a) Liveaboard vessels within the jurisdictional waters of the city are not subject to the city's ~~rate of growth~~ **BPAS** ordinance (~~ROGO~~) when such vessels are intended for permanent habitation by docking or mooring. Therefore, liveaboard vessels attempting to be established after the effective date of the ~~ROGO~~ **BPAS** ordinance shall not may be limited thereby. Unless otherwise provided in the land development regulations, privately owned bay bottom shall not be recognized as the same as upland property for the purposes of density, ~~and ROGO units.~~ Liveaboard vessels shall only be located in marinas duly approved for liveaboards and the number of liveaboard vessels shall not exceed the number of approved slips per any City, State, or Federal approvals.
- (b) Liveaboard vessels shall be docked or moored consistent with sections 82-31 and 82-33. No liveaboard shall be kept on public or private property in violation of the city zoning laws.
- (c) No private or public utility shall provide water, electricity or other utility service to a liveaboard vessel that is in violation of this article.