SMITH/HAWKS
ATTORNEYS AT LAW

MEMORANDUM

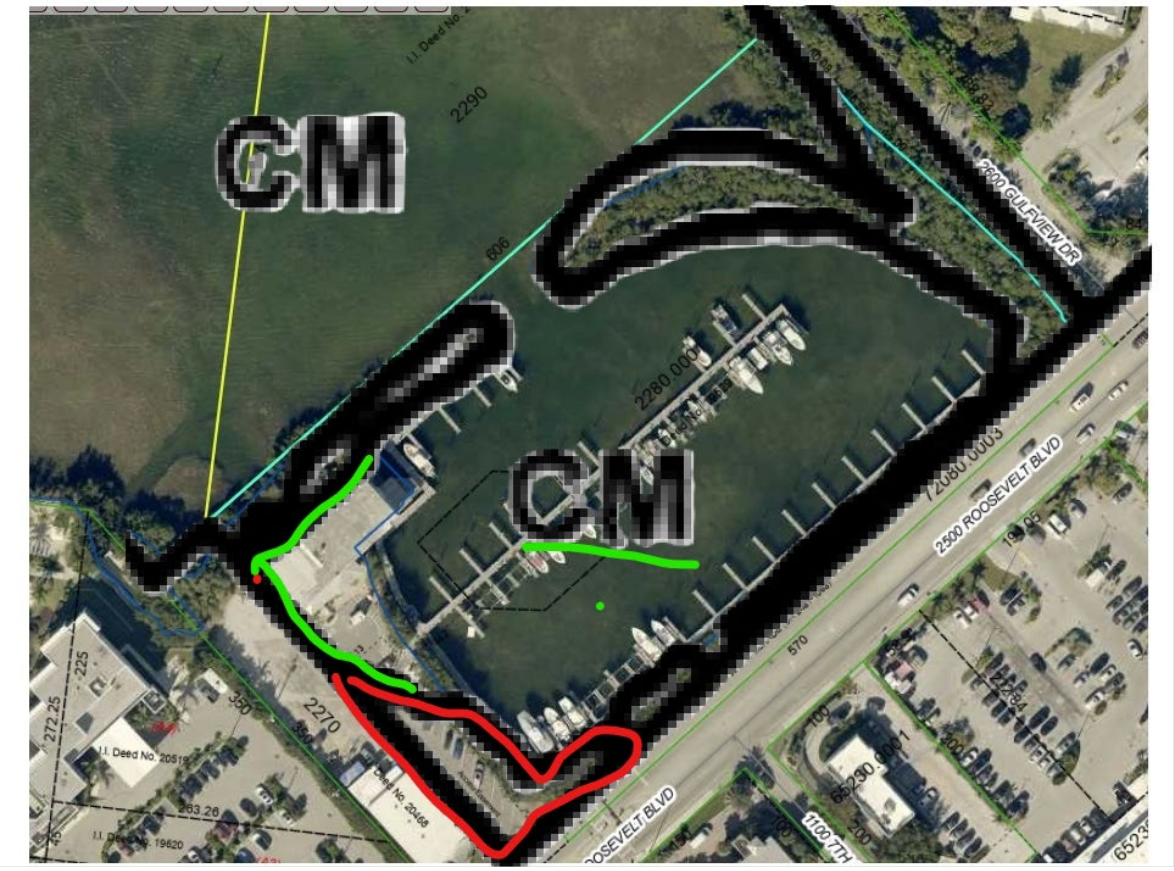
TO:	**MAYANNE DOWNS, *City Attorney*, City of Key West**
FROM:	**BARTON W. SMITH**
SUBJECT:	**ADMINISTRATIVE INTERPRETATION REQUEST UNDER SECTION 122-94 – ZONING MAP DETERMINATION – (HAPPY LANDINGS MARINA – 2407 N. ROOSEVELT BLVD)**
DATE:	**MARCH 30, 2026**

This memorandum is provided to address the request by City staff for an administrative interpretation under Sec. 122-94 and to clarify the proper application of the Code to the subject property.

City staff has requested an administrative interpretation pursuant to Sec. 122-94, which provides that when interpreting the official zoning maps, "When uncertainty exists as to boundaries of the districts on the official zoning map, the following rules shall apply," and sets forth multiple rules where there are uncertainties. Two specific issues identified are (1) uncertainties or (2) excluded areas.

City staff asserts that there is an uncertainty, relying on the provision that states, "(7) Uncertainties. Where physical or cultural features existing on the ground are at variance with those shown on the official zoning map, or if any other uncertainty exists, the city commission shall interpret the intent of the official zoning map as to the location of district boundaries."

In order to evaluate this assertion, the Official Zoning Map has been overlaid onto the Property Appraiser's parcel map for the subject property, as shown in the image below. This overlay provides a clear visual comparison between the zoning boundaries and the actual parcel configuration:



The Official Zoning Map overlayed on an aerial evidences that there is no uncertainty, and this provision should not apply, as the area with the building is clearly within the CM, and the area where the cars drive through is excluded. Therefore, only the excluded areas provision applies, which states: "Excluded areas. Where parcels of land and water areas have been inadvertently excluded from a zoning district classification in any manner, such parcels shall be classified in conformance with the most restrictive zoning district which abuts the excluded area until or unless changed pursuant to amendment procedures contained in this division."

This would place the parcel in the adjacent Conservation Mangrove (CM) district, not the General Commercial (CG) district. The fact is that the intent is to change the Future Land Use Map (FLUM) to Commercial (C) and the Land Use District (LUD) Map to General Commercial (CG). City Code and Florida Statutes provide the procedure for amending the FLUM and LUD maps. Circumventing this procedure is not appropriate because it eliminates public input, review by the State, and the proper noticing required for such a change.

Based on the foregoing, the request for an administrative interpretation under the "uncertainty" provision of Sec. 122-94 is not supported by the record. The Official Zoning Map does not present an uncertainty. The property owner can follow the same procedure that any proper owner must follow to change the FLUM and LUD, and not circumvent the public process.