

PLANNING BOARD RESOLUTION
Number 2018-13

A RESOLUTION OF THE CITY OF KEY WEST PLANNING BOARD PURSUANT TO SECTIONS 90-676 THROUGH 90-692 OF THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES OF THE CITY OF KEY WEST, RECOMMENDING APPROVAL OF AN AMENDMENT TO A DEVELOPMENT AGREEMENT FOR PROPERTY LOCATED AT 541 WHITE STREET IN THE HISTORIC SPECIAL MEDIUM DENSITY RESIDENTIAL ZONING DISTRICT (HSMDR) (RE#00006730-000200) BETWEEN THE CITY OF KEY WEST AND PEARY COURT APARTMENTS LLC; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Pursuant to section 122-611(e), Any amendment to a development plan approval submitted for a property in the HSMDR zoning district shall be accompanied by a concurrent application for a development agreement; and

WHEREAS, the Development Review Committee reviewed the draft Amendment to a Development Agreement and related documentation on January 4, 2018; the agreement was revised to reflect staff comments; and

WHEREAS, after public notice pursuant to Section 90-683 of the Land Development Regulations of the Code of Ordinances, the request for an Amendment to a Development Agreement was heard by the Planning Board at the regularly scheduled Planning Board Meeting on April 19, 2018; and

WHEREAS, the Planning Board evaluated the request for an Amendment to a Development Agreement pursuant to criteria included in Section 90-682 of the Land Development Regulations of the Code of Ordinances;

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the City of Key West, Florida:

Section 1. That the Planning Board recommends the City Commission grant **approval** of the draft Amendment to a Development Agreement (see attached).

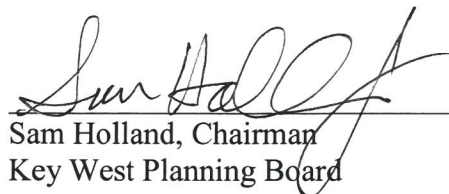
Section 2. This Resolution shall go into effect immediately upon its passage and adoption and authentication by the signatures of the Chairman of the Planning Board and the Planning Director.



Chairman
Planning Director

Passed at a meeting held April 19, 2018

Authenticated by the Chair of the Planning Board and the Planning Director.



Sam Holland, Chairman
Key West Planning Board

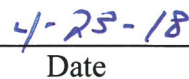


Date

Attest:

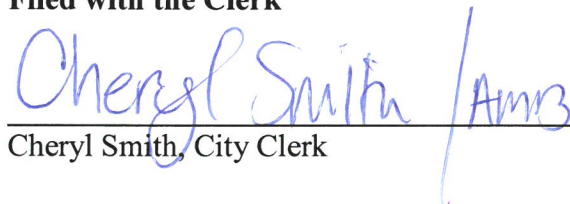


Patrick Wright, Planning Director

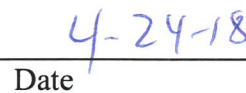


Date

Filed with the Clerk



Cheryl Smith, City Clerk



Date

**AMENDED AND RESTATED DEVELOPMENT AGREEMENT FOR
THE PEARY COURT AFFORDABLE HOUSING COMPLEX**

THIS AMENDED AND RESTATED DEVELOPMENT AGREEMENT(hereinafter **“Development Agreement”**) is entered into by and between Peary Court Apartments LLC, a Delaware Limited Liability Company (herein referred to as the “Owner”) and the CITY OF KEY WEST, a Florida municipal corporation (herein the “City”) (collectively the “Parties”), pursuant to Chapter 90, Article IX of the City Code of Ordinances (the “Code”), and the Florida Local Government Development Agreement Act, Sections 163.3220-163.3243, *Florida Statutes*, and is binding on the “Effective Date” set forth herein.

WITNESSETH:

WHEREAS, the Owner is the record title holder of the Peary Court Affordable Housing Complex (herein referred to as the “Property”, or “Peary Court”) located in the City of Key West, as more specifically described in Exhibit A- Survey and Legal Description hereto; and

WHEREAS, The current owner, Peary Court Apartments LLC purchased the Property on July 18, 2016 (see Attached Exhibit B- Special Warranty Deed) and wishes to amend the current Development Agreement, Approved by City Resolution No. _____ to reflect changes in the demand for the types of affordable housing to be provided at the Property and to recognize the cost of providing affordable housing requires a more cost effective design of unit types.

WHEREAS, Peary Court currently has vested entitlements for 160 dwelling units (158 constructed units and 2 unconstructed units of three units involuntarily destroyed by fire) historically used for military housing, and has (pursuant to a duly-issued demolition permit and

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the Historic Architectural Review Commission (HARC) approval) demolished a previously-existing 10,000 square foot commercial building; and

WHEREAS, City Code Section 122-611(e) requires submission and approval of a Development Agreement with any development plan submitted for approval on the property within the HSMDR Zoning District, thereby superseding the requirement in Code Section 90-679 for the City Commission to make a preliminary determination of whether or not to enter into a Development Agreement and to pursue negotiations with the Owner; and

WHEREAS, pursuant to recommendation of the Department of Economic Opportunity (DEO), the City Commission, through Ordinance No. 12-33, authorized an exception within the HSMDR Zoning District to the affordable housing and workforce housing Ordinance criteria, so that the development of Peary Court would allow the addition of 48 affordable work force housing units (calculated at 30% of the 160 existing residential units); and

WHEREAS, Owner has identified a method of constructing forty-eight (48) new affordable work force housing units within the existing triplex and quadraplex units that will not require any changes to the existing site layout, open space, parking, landscape or drainage, as depicted on the attached Affordable Housing Survey Site Plan (Exhibit A, referred to herein as the "Site Plan"); and

WHEREAS, on July 18, 2016, the Owner executed a Declaration of Affordable Housing Restrictions (Exhibit C-), which was recorded at Monroe County Official Record Book 2806, Page 1651, (hereinafter being referred to as the "Deed Restriction") by which Owner encumbered the entire Property so that all existing and all newly constructed units will be restricted as affordable housing units; and

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WHEREAS, the Site Plan has been reviewed and approved by the Historic Architectural Review Commission and /or designated staff; and

WHEREAS, on _____, the City of Key West Planning Board approved Resolution No.17-_____, recommending approval of the Development Agreement, a copy of the Resolution being attached hereto as Exhibit D; and

WHEREAS, on _____ the City Commission considered the comments and recommendation of the City staff, the Planning Board, and comments of members of the public and approved Resolution No. 17-__ (Exhibit E) authorizing development of the Affordable Housing units as provided in this Development Agreement; and

WHEREAS, the City has determined that the new development proposed in the Site Plan is consistent with the City's Comprehensive Plan and Land Development Regulations and is compatible with surrounding land uses; and

WHEREAS, the City has determined that this Development Agreement is consistent with the Comprehensive Plan, the Land Development Regulations, and the Florida Statutes Principles Guiding Development for the City, and further finds that this Development Agreement is in the public interest, and will further the health, safety, welfare, and goals of the residents of the City.

NOW, THEREFORE, in consideration of the mutual promises and undertakings contained herein, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

A. RECITALS. The recitals set forth in the preceding "Whereas" clauses are incorporated herein and form a material part of this Agreement.

B. DEFINITIONS. For the purposes of this Development Agreement, the following terms shall have the following meanings. Terms not defined in this Development Agreement shall

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be as defined in the City Code, Chapter 163, *Florida Statutes*, or, if not defined in the Code or statute, shall be understood according to their usual and customary meanings.

1. “Affordable Work Force Housing” means housing as defined in Article V, Division 10 of Chapter 122, Sections 122-1465 through 122-1467 of the City Code.

2. “Building Permit Allocation” means a residential permit allocation under Article V, Division 10, of Chapter 122, Sections 108-986 through 108-998 of the City Code.

3. “City Code” means the Code of Ordinances of the City of Key West in effect on the Effective Date of this Development Agreement.

4. “Comprehensive Plan” means the City’s Comprehensive Plan in effect on the Effective Date of this Development Agreement.

5. “Development”, “Redevelopment”, or “Redevelopment Plan” shall refer to the development of the Property for the uses, densities and intensities permitted by this Development Agreement, subject to the conditions, obligations, restrictions and terms contained herein.

6. “Site Plan” shall refer to the Affordable Housing Survey Site Plan dated _____, approved by the City Commission in Resolution 17-____, which is attached hereto as Exhibit G.

7. “Effective Date” shall refer to the date this Development Agreement becomes effective, as set forth in herein.

8. “Prerequisite Standards” shall mean “prerequisites, minor construction/renovation” as defined in City Code Section 86-9 and are the minimum standards for new development required in order to be eligible to receive an allocation award from the City BPAS, pursuant to City Code Section 108-997 (b) (2).

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9. "Property" shall refer to the parcel described in Exhibit "A" that is the subject of this Development Agreement.

10. "Public facilities" means those facilities identified in Section 163.3221, *Florida Statutes*.

C. TERMS OF AGREEMENT.

1. Legal Description; Ownership and Equitable Interests in the Property. The legal description of the Property subject to this Development Agreement is attached hereto as Exhibit "A" and incorporated herein by reference. As evidenced by the Special Warranty Deed conveying the Property (a copy of which is attached hereto as Exhibit B"), the Owner of the Property is Peary Court Apartments LLC and such entity responsible for negotiation of this Agreement and for development of the Property.

2. Duration of Agreement; Renewal. This Development Agreement shall remain in effect for a period of five (5) years, commencing on the Effective Date set forth below. This Development Agreement may be renewed or extended pursuant to City Code Section 90-682(a)(2) and *Florida Statute* § 163.3229.

3. Existing Development. The Property consists of the following development located in the City of Key West on the historic Peary Court military housing site: 160 existing vested dwelling unit entitlements (158 constructed units and 2 unconstructed units of 3 units involuntarily destroyed by fire, entitled to be rebuilt as of right).

4. Site Plan.

a. Uses, Densities and Intensities. The residential uses, densities and intensities, existing and proposed, conform with HSMR Zoning District standards. The Property is allowed a maximum density of 8.6 units per acre. The Site Plan proposes up to an additional 48

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one-bedroom units, for a total of 208 residential dwelling units on the Property. No commercial development is proposed.

b. Building Permit Allocations. The Site Plan encompasses construction on the Property of up to 48 new affordable housing units. The City through its adopted Comprehensive Plan has reserved to the Property 48 affordable residential dwelling unit allocations from the City of Key West Building Permit Allocation System required to construct the new affordable work force housing units within the existing structures depicted on the Site Plan. These allocations shall be awarded at the time the City issues building permits for the affordable work force housing units.

c. Conformity with the Land Development Regulations Development Standards. The following development features shall conform to the Land Development Regulations in effect the time of this Development Agreement:

1. Open Space.
2. Recreation Areas, which shall conform to the access requirements of Paragraph 10 (j), below.
3. Types and locations of units, which shall be subject to adjustment within the standard deviations range set forth in Paragraph 6.
4. Parking for vehicles and bicycles is provided at the locations depicted on the Site Plan.
5. Landscaping, which is already in place and shall not be affected by the Site Plan
6. Solid waste and recycling container storage, which is currently in place.
7. Fencing.
8. Utilities and Mechanical Equipment.

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9. Streets. The existing internal streets providing access to the affordable housing units shall be retained, as depicted on the Site Plan.

5. Site Plan Modifications. Site Plan modifications shall require approval pursuant to City Code Section 108-91(c), including , but not limited to, those listed in such section , as well as minor additions of sidewalks to the new units and small reductions of pervious area to accommodate the sidewalks.

6. Affordable Work Force Housing; Timing of Development; Deed Restriction. The Owner shall be allowed to develop up to forty-eight (48) affordable work force housing units, all of which shall - be at least 400 square feet in size pursuant to City Code Section 122-1467, subject to the following conditions:

a. Upon issuance of a Certificate of Occupancy for any of the 48 new affordable work force housing units, the newly constructed units shall be subject to the current Deed Restriction applicable to the entire site. Owner shall provide a copy of the Certificate of Occupancy for each new unit to the City Planning Department and the Key West Housing Authority within two weeks after issuance.

b. The affordable work force housing unit income categories and rental rates for the 48 new affordable work force housing units shall conform to the provisions of the Deed Restriction.

7. Additional Development Conditions. The following additional conditions, terms, restrictions, and other requirements have been determined by the City of Key West to be necessary for the public health, safety, and welfare of its citizens:

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a. **Fire Safety.** The Redevelopment Plan shall rely upon the existing number of fire hydrants and/or fire wells required to conform to all applicable fire safety requirements, as determined by the Fire Marshal of the City of Key West. On-site fire protection shall be provided in accordance with the 2013 Fire Prevention code, Ch. 69A-60, F.A.C. Notwithstanding the foregoing Owner shall be entitled to rely upon the fire protection methods specified in the Information Bulletin Number 1 to contractors prepared by the architect of record, Bert Bender, dated February 10, 2017 which is Exhibit F.

b. **Timing of permit applications.** Prior to submitting a building permit application to the City, the Owner shall secure all permits required for that work pursuant to applicable state, regional and federal regulations, and shall also secure any necessary permits or authorizations from the City of Key West Utilities Dept.

c. **Fair Housing Requirements.** The Property shall continue to comply with all applicable requirements of the ADA and state and federal fair housing acts.

d. **Building Heights.** Building heights shall not exceed the maximum building height allowed in the HSMDR Zoning District applicable to the Property. Existing buildings converted to include new units will not have roof elevations changed from that existing as of the time of this Development Agreement. For the purpose of measuring building heights of new residential and accessory structures other than interior fences, the base elevation shall be 6.09 feet NGVD, which is the elevation of the crown of the road on White Street immediately in front of the main entrance to the Property at the intersection of White and Southard Streets (See site elevation determination by Donald Craig, attached hereto as Exhibit F).

e. **Site Design.** The development of the Property, as presently configured, which will not change, is and shall be consistent with all bulk and site design requirements in the

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City Code, including but not limited to open space, setbacks and buffering, lighting, landscaping, parking, utilities and stormwater management.

f. Impact Fees. Owner shall pay impact fees (i.e., sewer, solid waste, traffic and library impact fees) for the 48 new affordable housing units, in the amounts set forth in the impact fee schedule established by the City Code at the rates in effect on the date of building permit issuance, unless waived by the City Commission to the extent allowed by law.

g. Energy Efficiency / Green Building. Owner shall sustainably construct the new residential units within the existing structures in conformance with the Prerequisite Standards for minor improvements to existing structures recognized in the BPAS system, pursuant to City Code Section 86-9 and 108-997 (b) (2).

h. Flood damage avoidance. The finished floor elevation of the first habitable floor of all new units shall not be less than the finished floor elevation of the compliant structures in which they will be constructed.

i. Wind Load. Owner shall ensure that all new structures (including doors, windows, and cladding) meet all applicable codes to withstand the peak wind loads specified in the 2013 Florida Building Code.

8. Annual Progress Reports. Pursuant to City Code Section 90-688(b), the Owner shall provide the City Planning Department an annual progress report indicating all activities and achievements since the execution of the development agreement and, if applicable, since the previous periodic report.

9. Public Facilities. All required public facilities to serve the project are available as of the date of this Development Agreement, and capacity for each is projected to be available concurrent with the impacts of development. The following list identifies required public facilities

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that will service the development authorized by this Agreement, who shall provide the facilities, and that existing facilities are available and concurrent with the impacts of additional development:

a. Potable Water. Domestic potable water is provided by Florida Keys Aqueduct Authority. Adequate domestic potable water transmission and potable water source capacity exist for this project. No need for new potable water facilities, is anticipated.

b. Electric Service. Electric service is provided by Keys Energy Services. No new facilities needs are anticipated.

c. Solid Waste. Solid waste service is provided by the franchisee of the City of Key West, and adequate capacity exists for this development.

d. Wastewater. Wastewater treatment shall be provided by the City of Key West Wastewater Treatment Plant, and adequate capacity exists for this development.

e. Protective Services. Protective services other than parking enforcement shall be provided by the City of Key West.

f. Transportation. According to the Traffic Impact statement approved with the original Development Agreement provided by the previous Owner, no net additional traffic impacts are anticipated. All roadways within the Property shall remain private roads.

g. Schools. Adequate school facilities are anticipated to serve any students who may reside in the dwelling units developed under the Redevelopment Plan.

h. Existing Facilities. All public facilities identified above are available as of the date of this Amended and Restated Development Agreement and are projected to be available concurrent with the impacts of the Development compliant with the Redevelopment Plan.

i. Stormwater. Those stormwater management facilities currently installed are sufficient and meet the concurrency standards of the City.

j. Recreational facilities. The existing development provides for on-site amenities for residents and guests of the 48 new affordable housing units. Private recreational facilities are provided on the Property to serve the needs of the residents of the 48 new affordable housing units as well as the other residents on the Property. Additionally, public recreational facilities exist in the vicinity of Peary Court, adequate to serve the recreational needs of residents.

10. Required Permits and Approvals.

Nothing in this Development Agreement shall be deemed to obviate the necessity of the Owner's compliance with terms and provisions of each of the required approvals listed below. The following is a list of other development permits and approvals needed for the development of the Property as specified and required in this Agreement:

- a.** Development Agreement;
- b.** Building and related construction permits for each unit conversion;
- c.** Amendment to Major Development Plan Approval; and,
- d.** Certificates of Appropriateness.

11. Mutual Cooperation. The City agrees to cooperate with the Owner in timely reviewing and processing all applications for permits, licenses, approvals, or consents necessary or appropriate to fully implement this Development Agreement. The City and the Owner agree to cooperate fully with and assist each other in the performance of the provisions of this Development Agreement.

12. Development to Comply with Permits and City Comprehensive Plan and Code Provisions. The Development described in and authorized by this Development Agreement shall be developed in accordance with all required permits, and in accordance with all applicable provisions of the City's Comprehensive Plan and City Code in effect on the date of execution of

this Agreement. No certificate of occupancy for an individual building shall be issued until all plans for that building are approved by the City and the Owner has complied with all conditions in permits issued by the City and other regulatory entities for that building or required herein.

13. Finding of Consistency. The City finds that the Development authorized herein is consistent with the City's Comprehensive Plan and land development regulations in effect on the date of execution of this Development Agreement.

14. Compliance with Permits, Terms, Conditions, and Restrictions Not Identified Herein. The failure of this Development Agreement to address a particular permit, condition, term, or restriction shall not relieve the Owner of the necessity of complying with the law governing said permitting requirements, conditions, terms, or restrictions.

15. Laws Governing this Agreement.

a. For the duration of this Development Agreement, all approved Development of the Property shall comply with and be controlled by this Development Agreement and provisions of the City's Comprehensive Plan and City Code in effect on the date of execution of this Agreement.

b. Pursuant to City Code Section 90-687 and Section 163.3233, *Florida Statutes*, the City may apply subsequently adopted laws and policies to the Property only if the City holds a public hearing and determines that:

(1) the new laws and policies are not in conflict with the laws and policies governing the Agreement and do not prevent redevelopment of the land uses, intensities, or densities set forth in this Development Agreement;

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(2) the new laws and policies are essential to the public health, safety, or welfare, and the City expressly states that they shall apply to the redevelopment that is subject to this Development Agreement;

(3) the City demonstrates that substantial changes have occurred in pertinent conditions existing at the time of approval of this Development Agreement; or

(4) the Development Agreement is based on substantially inaccurate information supplied by the Owner. However, nothing in this Development Agreement shall prohibit the parties from mutually agreeing to apply subsequently adopted laws to the Property.

c. If state or federal laws enacted after the effective date of this Development Agreement preclude any party's compliance with the terms of this Agreement, this Development Agreement shall be modified as is necessary to comply with the relevant state or federal laws. However, this Development Agreement shall not be construed to waive or abrogate any rights that may vest pursuant to common law.

16. Amendment, Extension, and Termination. This Development Agreement may be amended, extended, or terminated as follows:

a. As provided in Section 163.3237, *Florida Statutes*, and City Code Section 90-689, this Development Agreement may be amended, extended or canceled by mutual consent of the parties or their successors in interest, which shall require a written document approved by the City Commission and shall require two (2) public hearings by the City.

b. As provided in Section 163.3229, *Florida Statutes*, and City Code Section 90-684, this Development Agreement may be extended by the mutual consent of the parties, subject to the public hearing requirements in Section 163.3225, *Florida Statutes*. The City shall

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conduct at least two (2) public hearings, one of which may be held by the local planning agency at the option of the City. Notice of intent to consider extension of the Development Agreement shall be advertised approximately seven (7) days before each public hearing in a newspaper of general circulation and readership in the City of Key West, Florida, and shall be mailed to all affected property owners before the first public hearing. The day, time, and place at which the second public hearing will be held shall be announced at the first public hearing. The notice shall specify the location of the land subject to the Development Agreement, the development uses on the Property, the population densities, and the building intensities and height and shall specify a place where a copy of the Development Agreement can be obtained.

c. Pursuant to Section 163.3235, *Florida Statutes*, and City Code Section 90-689, this Development Agreement may be revoked or modified by the City if the City finds, on the basis of competent substantial evidence, that there has been a failure to comply with the terms of this Development Agreement.

17. Breach of Agreement and Cure Provisions.

a. If the City concludes that there has been a breach in this Development Agreement, prior to revoking this Agreement, the City shall serve written notice on the Owner identifying the term or condition the City contends has been breached and providing the Owner with sixty (60) days from the date of receipt of the notice to cure the breach. Each of the following events, unless caused by fire, storm, flood, other Act of God, or events beyond the control of the Owner, shall be considered a breach of this Development Agreement:

(1) Failure to comply with the provisions of this Development Agreement;

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(2) Failure to comply with terms and conditions of permits issued by the City or other regulatory entity for the redevelopment authorized by this Development Agreement;

(3) Failure to comply with terms and conditions of the Deed Restrictions referred to in Paragraph 7(b), above;

(4) Failure to comply with the requirements of the Amendment to Major Development Plan

b. If the Owner concludes that there has been a breach in the terms and conditions of this Development Agreement, the Owner shall serve written notice on the City identifying the term or condition the Owner contends has been breached and providing the City with sixty (60) days from the date of receipt of the notice to cure the breach. The following events, unless caused by fire, storm, flood, other Act of God, or events beyond the control of the City, shall be considered a breach of this Agreement:

(1) Failure to comply with the provisions of this Development Agreement;

c. If a breach in this Development Agreement occurs and is not cured within the time periods provided above, the party that provided notice of the breach may elect to terminate this Development Agreement or may seek to enforce this Development Agreement as provided by herein.

d. If the City waives a breach in this Development Agreement by the Owner, such a waiver shall not be deemed a waiver of any subsequent breach.

18. Notices. All notices, demands, requests, or replies provided for or permitted by this Development Agreement, including notification of a change of address, shall be in writing to the addressees identified below, and may be delivered by any one of the following methods:

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- (a) By personal delivery;
- (b) By deposit with the United States Postal Service as certified or registered mail, return receipt requested, postage prepaid; or
- (c) by deposit with an overnight express delivery service with a signed receipt required.

Notice shall be effective upon receipt. The addresses of the parties are as follows:

PEARY COURT APARTMENTS LLC:

Registered Agent: Franklin L. Zemel
c/o Arnstein and Lehr, LLP
200 East Las Olas Blvd., Suite 1000
Fort Lauderdale, Florida 33301

With a copy to:

Jeffrey D. Cornfeld
The Cornfeld Group, LLC
3850 Hollywood Boulevard
Suite 400
Hollywood, Florida 33021

TO THE CITY:

City Planning Director
P.O. Box 1409
Key West, FL 33041

With a copy by regular U.S. Mail to:

City Attorney
P.O. Box 1409
Key West, FL 33041-1409

City Manager
P.O. Box 1409
Key West, FL 33041-1409

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19. Enforcement. In accordance with Section 163.3243, *Florida Statutes*, any party to this Development Agreement, any aggrieved or adversely affected person as defined in Section 163.3215(2), *Florida Statutes*, or the state land planning agency (currently the DEO) may file an action for injunctive relief in the circuit court of Monroe County, Florida, to enforce the terms of this Development Agreement or to challenge the compliance of this Development Agreement with the provisions of Sections 163.3220-163.3243, *Florida Statutes*.

20. Conflicts. In the event of a conflict between the provisions of this Development Agreement and City ordinances, the terms of this Development Agreement shall control.

21. Binding Effect. This Development Agreement shall be binding upon the parties hereto, their successors in interest, heirs, assigns, and personal representatives.

22. Assignment. This Agreement may not be assigned by Owner without the written consent of the City, which consent shall not be unreasonably withheld.

23. Drafting of Agreement. The parties acknowledge that they jointly participated in the drafting of this Development Agreement and that no term or provision of this Development Agreement shall be construed in favor of or against either party based solely on the drafting of the Agreement.

24. Severability. In the event any provision, paragraph or section of this Development Agreement is determined to be invalid or unenforceable by a court of competent jurisdiction, such determination shall not affect the enforceability or the validity of the remaining provisions of this Development Agreement.

25. Applicable Law. This Development Agreement was drafted and delivered in the State of Florida and shall be construed and enforced in accordance with the laws of the State of Florida.

26. Use of Singular and Plural. Where the context requires, the singular includes the plural, and the plural includes the singular.

27. Duplicate Originals; Counterparts. This Development Agreement may be executed in any number of originals and in counterparts, all of which evidence one agreement. Only one original is required to be produced for any purpose.

28. Headings. The headings contained in this Development Agreement are for identification purposes only and shall not be construed to amend, modify, or alter the terms of the Development Agreement.

29. Entirety of Agreement; Incorporation of Prior Development Approvals. This Development Agreement incorporates or supersedes all prior negotiations, correspondence, conversations, agreements, or understandings regarding the matters contained herein. The parties agree that there are no commitments, agreements, understandings, or development orders concerning the subjects covered by this Development Agreement that are not contained in or incorporated into this document and, accordingly, no deviation from the terms hereof shall be predicated upon any prior representations, agreements or approvals, whether written or oral. This Development Agreement contains the entire and exclusive understanding and agreement among the parties and may not be modified in any manner except by an instrument in writing signed by the parties. Notwithstanding anything contained herein to the contrary, nothing in this Development Agreement shall, or shall be deemed to, defeat, limit, alter, modify, impair, enhance, or enlarge any right, obligation, claim or remedy created by the Deed Restriction. Furthermore, notwithstanding anything contained herein to the contrary (including the terms of Paragraph 16(b)), nothing in this Development Agreement shall be deemed to provide the City with the right or ability to modify the affordable restrictions, guidelines, or any other terms set forth in the Deed

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Restriction without the consent of the Owner. Therefore, the City acknowledges that any future modifications to the City of Key West Land Development Regulations, Chapter 122, Article V, Division 10, Sections 122-1465 through 122-1500 (Work Force Housing Ordinance) shall not be deemed to modify the Deed Restriction unless the Owner consents to the application of such revised Work Force Housing Ordinance. In the event of any conflict between this Development Agreement and the Deed Restriction, the Deed Restriction shall control.

30. Rendition. After this Agreement is signed by the parties, a copy of the signed Agreement shall be timely rendered by the City to the Florida Department of Economic Opportunity (DEO) as required by Rule 73C-44.003, Florida Administrative Code.

31. Effective Date of Agreement. This Agreement shall only become effective after the Florida Department of Economic Opportunity (DEO) waives its right to appeal, the 45-day appeal period established by Section 380.07, *Florida Statutes*, expires, or any such appeal has been finally resolved, whichever first occurs. The effective date of this Agreement shall be the date that it is recorded as provided in Paragraph 33, below.

32. Recording. As required by Section 163.3239, *Florida Statutes*, the City shall record this Development Agreement in the public records of Monroe County, Florida, within fourteen (14) days after the effective date of this Development Agreement. A copy of the recorded Development Agreement showing the date, page and book where recorded shall be submitted to the Owner and to the state land planning agency by hand delivery, registered or certified United States mail, or by a delivery service that provides a signed receipt showing the date of delivery, within fourteen (14) days after the Development Agreement is recorded.

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IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have set their hands and seals on the dates below written.

PEARY COURT APARTMENTS LLC a Delaware Liability Company

By: The Cornfeld Group, LLC a Florida Limited Liability Company, Its Manager

By: _____

Jeffrey D. Cornfeld, Manager

STATE OF FLORIDA

COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me this _____ day of _____, 2018 Jeffrey D. Cornfeld, authorized person of Peary Court Apartments LLC, on behalf of the company, who is () personally known to me or () who has produced a driver's license as identification.

SEAL

Notary Public

STATE OF FLORIDA

COUNTY OF _____

CITY OF KEY WEST

_____, 2018
Date

By _____
Mayor

ATTEST:

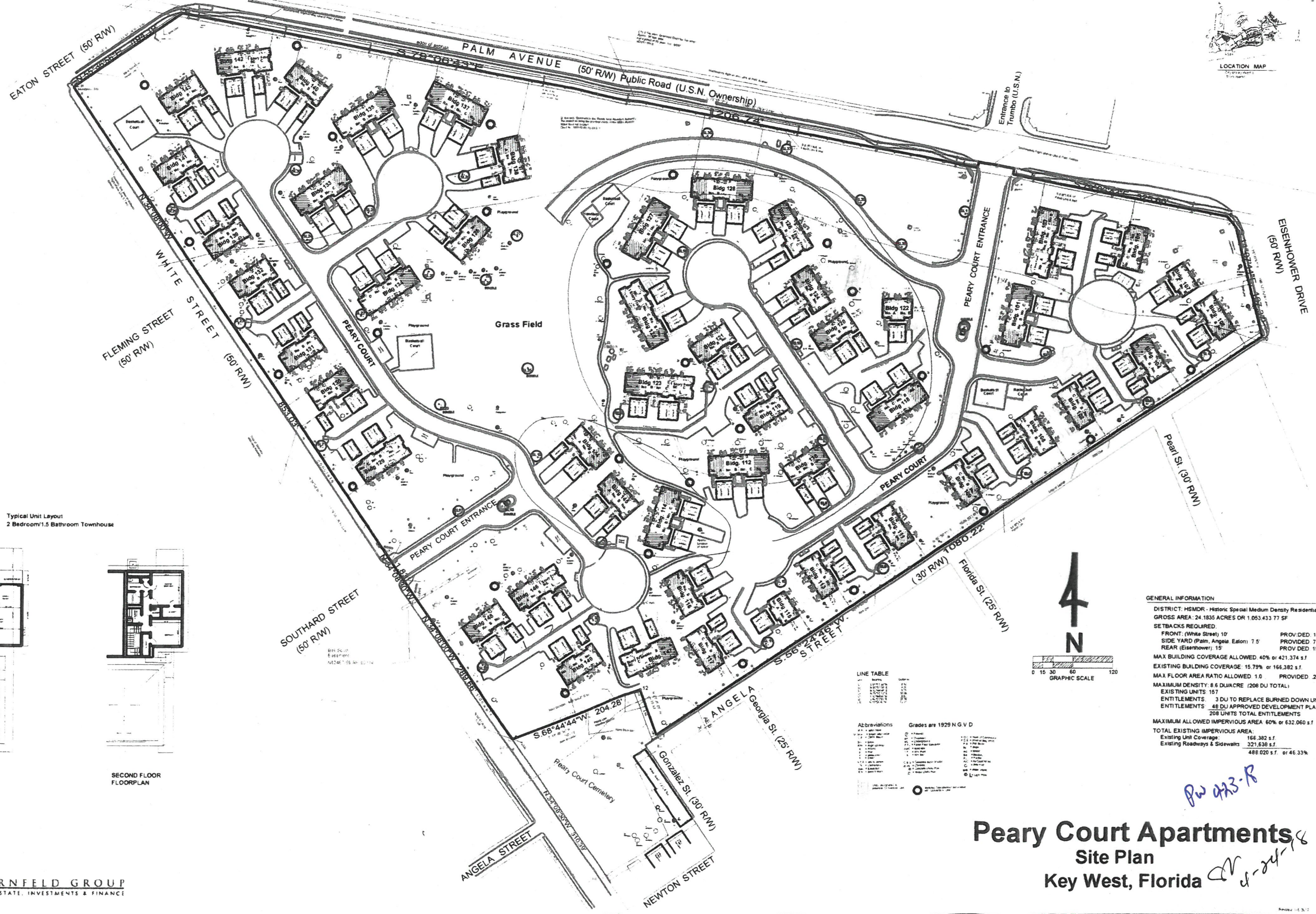
CITY CLERK

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LIST OF EXHIBITS

- Exhibit A: Legal Description and Survey of property
- Exhibit B: Copy of Special Warranty Deed, dated July 18, 2016
- Exhibit C: Declaration of Affordable Housing Restrictions, dated July 18, 2016
- Exhibit D: Key West Planning Board Resolution No. 2018-_____, Development Agreement recommendation
- Exhibit E: Key West City Commission Resolution No. 2018-_____, Development Agreement approval
- Exhibit F: Architect's Bulletin Number 1 dated February 10, 2017
- Exhibit G: Site Plan

RW 4-23-18
SD 4-24-18



SECOND FLOOR
FLOORPLAN

LINE TABLE

LINE	BEARING
1	S 89° 17' E 100.00
2	N 82° 15' W 100.00
3	N 82° 15' W 100.00
4	S 79° 15' E 100.00
5	S 82° 15' W 100.00
6	N 89° 17' E 100.00
7	N 89° 17' E 100.00

Abbreviations

Grades are 1929 N.G.V.D

[illegible]

GENERAL INFORMATION

DISTRICT: HSMR - Historic Special Medium Density Residential
GROSS AREA: 24.1835 ACRES OR 1,053,433.77 SF

SETBACKS REQUIRED.

FRONT: (White Street) 10'	PROVIDED: 10'
SIDE YARD (Palm, Angela, Easton) 7.5'	PROVIDED: 7.5'
REAR (Eisenhower): 15'	PROVIDED: 15'

EXISTING BUILDING COVERAGE: 15.79% or 166,382 s.f.

MAXIMUM DENSITY: 8.6 DU/ACRE (208 DU TOTAL)
EXISTING UNITS: 157

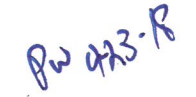
ENTITLEMENTS. 3 DU TO REPLACE BURNED DOWN UNITS
ENTITLEMENTS: 48 DU APPROVED DEVELOPMENT PLAN
208 UNITS TOTAL ENTITLEMENTS

MAXIMUM ALLOWED IMPERVIOUS AREA: 60% or 632.060 s.f.
TOTAL EXISTING IMPERVIOUS AREA:
Existing Unit Coverage: 166,282 s.f.

Existing Gravel Coverage:	166,382 s.f.
Existing Roadways & Sidewalks:	321,638 s.f.
	<u>488,020 s.f. or 46.33%</u>

—B

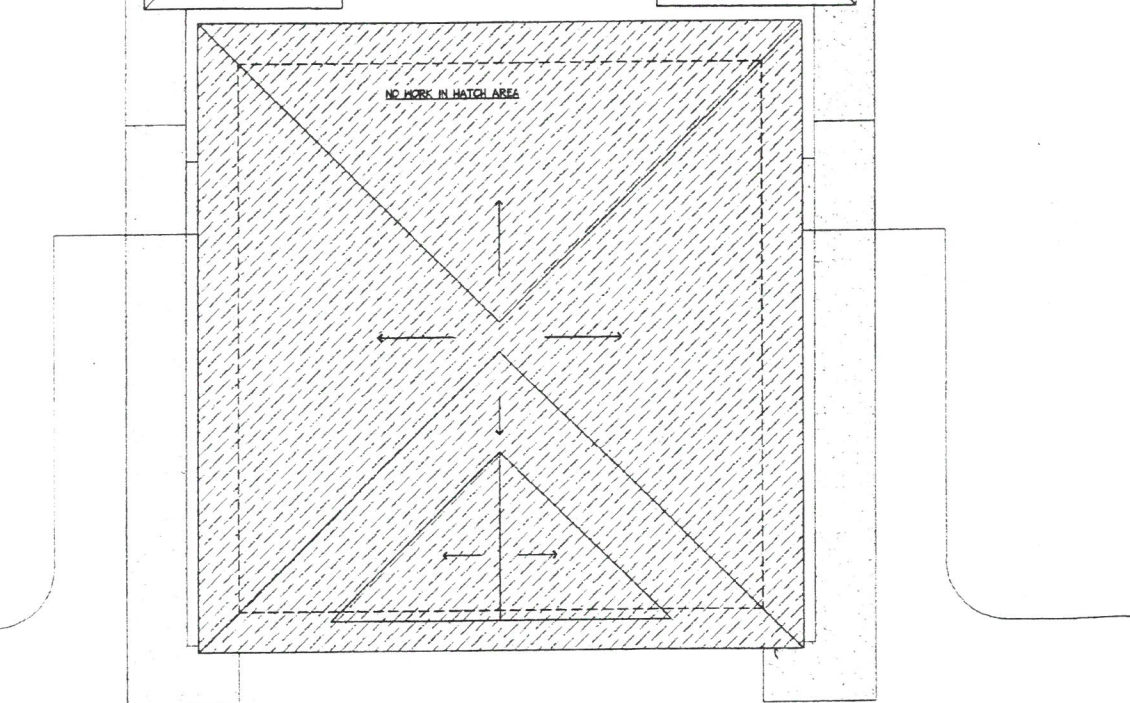
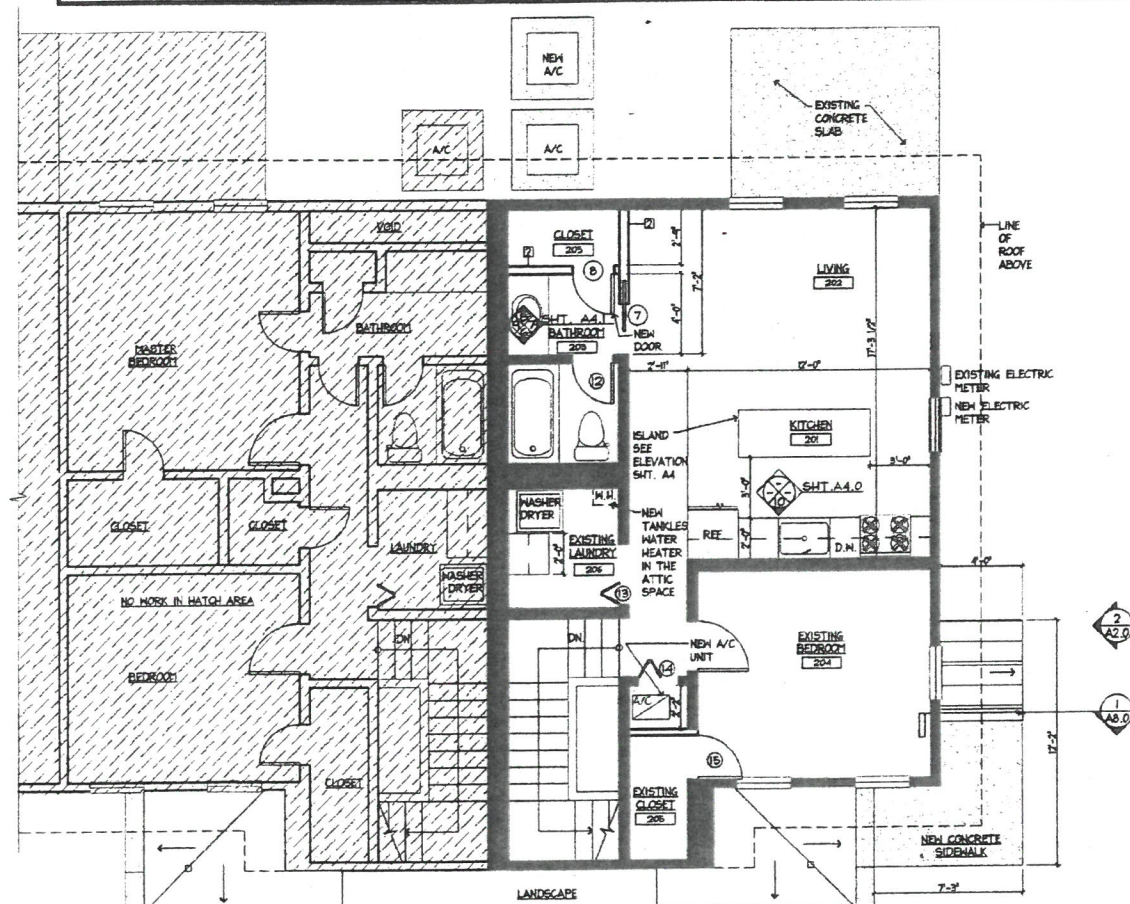
Key West, Florida



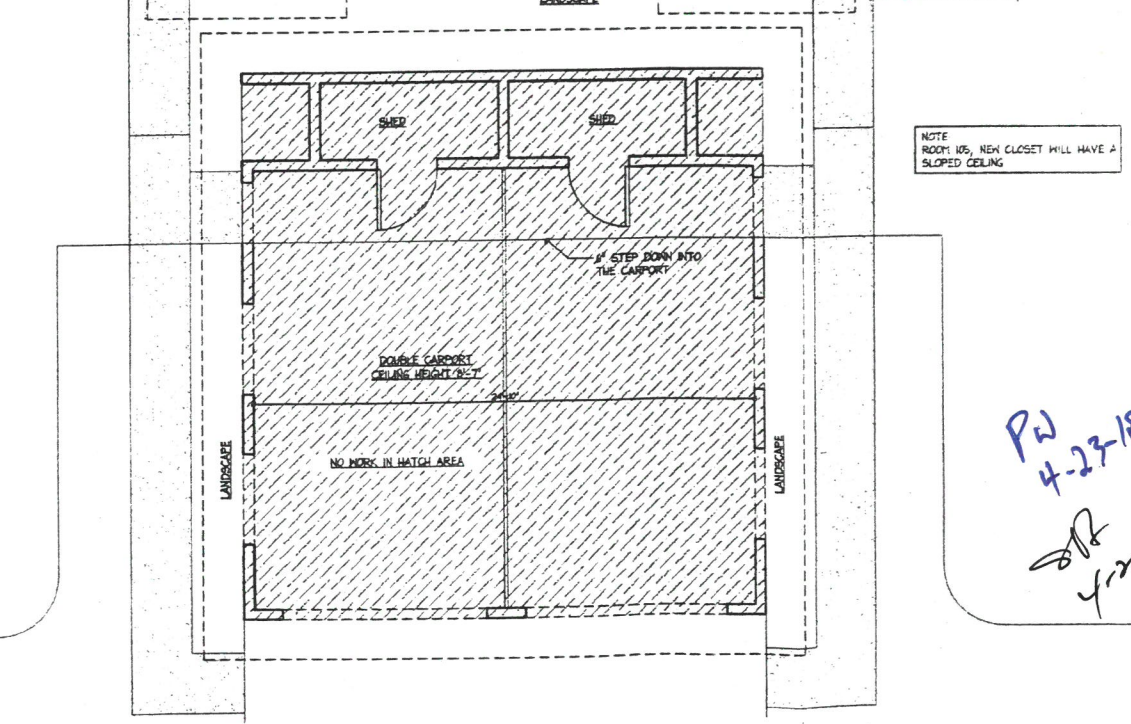
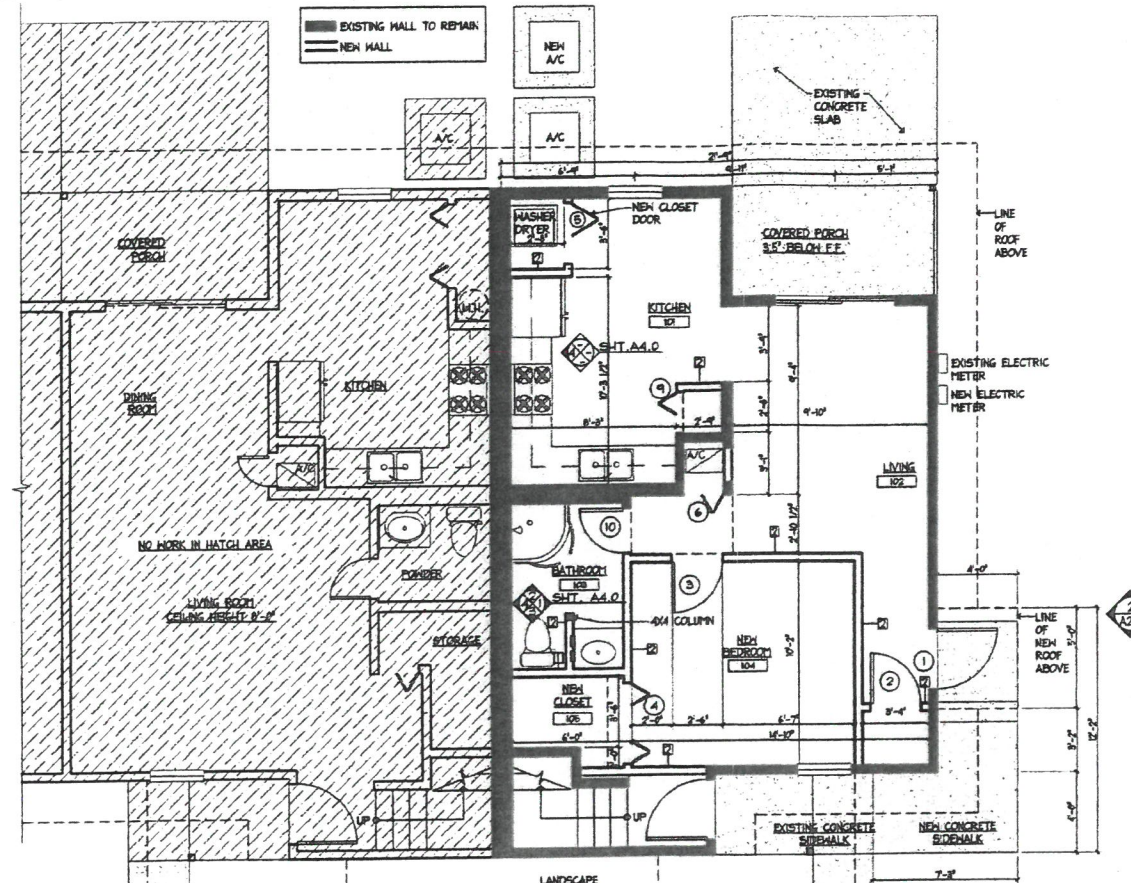
24-24-18

GENERAL FRAMING NOTES

1. Comply with "General Structural Notes" included elsewhere in these documents.
2. Where used joists/beams etc. frame into other members, end hangers are not provided. Install Simpson "LH" series joist hangers.
3. When installing the ACO pressure treated lumber, Contractor has the option of providing EITHER stainless steel joist hangers and stainless steel fasteners, OR Simpson ITWAX (G65) galvanized joist hangers with hot-dip galvanized fasteners. Contractor shall use hot-dip galvanized steel with hot-dip galvanized fasteners.
4. Provide hot dip (ZMAX) galvanized hurricane clips or all rafters at bearing locations. Provide 2 x 4 minimum collar ties between rafters at ridge in attic spaces, up to ridge. Nail to each rafter with (3) 16d nails.
5. Provide attic blocking at midpoint of all joists and rafters for spans of 6' and over. Use 2" max of blocking where spans exceed 16 feet.
6. Firestopping shall be provided in all walls and partitions to cut off all concealed draft openings both horizontal and vertical and to form a fire barrier between floors and between the upper floor and the roof space.
7. Firestopping shall be installed in wood frame construction in the following locations:
 - a) In concealed spaces of solid walls and partitions including framed spaces at ceiling and floor levels.
 - b) At all intersections between concealed vertical and horizontal spaces such as attic at soffits, drop ceilings, cone ceilings, etc.
 - c) In concealed spaces between stair stringers at the top and bottom of the run.
 - d) In concealed spaces created by an assembly of floor joists, firestopping shall be provided for the full depth of the joists at the ends and over the supports.
 - e) Firestopping shall consist of two (2) inch nominal lumber, or two (2) thicknesses of one (1) inch nominal lumber with broken lap joints, or one (1) thickness of three-fourths (3/4) inch plywood, with joints backed by three-fourths (3/4) inch plywood, or other approved materials.
8. Install all physical wall sheathing to lap joints at floors. Use 5/8" minimum thickness P.T. plywood nailed with hot galvanized nails, 4" o.c. along plates, 4" o.c. along all beams top and bottom, and 8" o.c. in the field. At stair walls, use 1/2" o.c. along panel edges and 8" o.c. at intermediate supports.
9. All framing lumber and plywood shall be pressure treated.
10. All pressure treated wood used on residential projects must be free of arsenic and chromium after June 2003. Use ACO or other EPA approved treated lumber in residential projects. On commercial projects, CU treated lumber is acceptable in concealed spaces.
11. ACO arsenic free lumber has been found to corrode standard electroplated galvanized nails and screws. Any metal fasteners (nailing or finishing) used on ACO pressure treated lumber shall be stainless steel, grade 304 or greater, or hot dip galvanized, conforming to ASTM A-653 / ASTM Standard A653 (Class G-90). Stainless steel and hot dip galvanized fasteners SHALL NOT come in contact with each other.
12. All structural lumber, i.e. joists, girders, beams, rafters, etc., shall be southern yellow pine No. 1 dense, with a minimum Bx of 100 psi, before pressure treatment. (Pressure treatment reduces floor stress by 85% to 100 P.S.I.)



2 PROPOSED SECOND FLOOR PLAN
SCALE: 1/4"=1'-0"



1 PROPOSED FIRST FLOOR PLAN
SCALE: 1/4"=1'-0"

PEARY COURT
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Florida License ALC002022

Bender & Associates
ARCHITECTS
p.a.

Project No: 1422C
PROPOSED FIRST AND
SECOND FLOOR PLAN
Date: 05/17/2017

A1.2
1 OF 24

PJ
4-23-18
4-24-18