

# Agenda

PLANNING COMMISSION  
MONROE COUNTY  
April 28, 2010  
10:00 A.M.  
COUNTY, FL

MARATHON GOV'T CENTER  
2798 OVERSEAS HIGHWAY  
MARATHON, FL

MONROE

**CALL TO ORDER**

**PLEDGE OF ALLEGIANCE**

**ROLL CALL**

**COMMISSION:**

Randy Wall, Chairman  
Denise Werling  
Jeb Hale  
Jim Cameron  
Elizabeth Lustberg

**STAFF:**

Townsley Schwab, Senior Director of Planning and Environmental Resources  
Susan Grimsley, Ass't County Attorney  
John Wolfe, Planning Commission Counsel  
Mitch Harvey, Comp Plan Manager  
Kathy Grasser, Comprehensive Planner  
Joe Haberman, Principal Planner  
Debby Tedesco, Planning Commission Coordinator

-  
**COUNTY RESOLUTION 131-92 APPELLANT TO PROVIDE RECORD FOR APPEAL**

-  
**SUBMISSION OF PROPERTY POSTING AFFIDAVITS AND PHOTOGRAPHS**

-  
**SWEARING OF COUNTY STAFF**

**CHANGES TO THE AGENDA**

-  
-  
-  
-  
-  
-  
-

## MEETING

**CONTINUED ITEMS:**

**1. An Ordinance of the Board of County Commissioners of Monroe County, Florida, creating Section 130-131 of the Monroe County Land Development Code, creating the Lower Sugarloaf Key Community Center Overlay District** for Real Estate Number 00118470.000000 and for portions of parcels having Real Estate numbers 00118420.000000 and 00117930.000000 described as a portion of Government Lot 3 and portion of Government Lot 4, Section 3, Township 67 South, Range 27 East and a portion of Government Lot 3, Section 34, Township 66 South, Range 27 East, Sugarloaf Key, Monroe County, Florida and a portion of Government Lot 3, Section 34, Township 66 South, Range 27 East, Sugarloaf Key, Monroe County, Florida at 17001 Overseas Highway, Lower Sugarloaf Key, at approximately Mile Marker 17.

[2010-015 ORDINANCE CREATING SECTION 130.pdf](#)

**2. An Ordinance of the Board of County Commissioners of Monroe County, Florida, amending the Land Use District Map designation from Destination Resort (DR), Native Area (NA) and Suburban Commercial (SC) to Mixed Use (MU)** for Real Estate Number 00118470.000000 and for portions of parcels having Real Estate numbers 00118420.000000 and 00117930.000000 described as a portion of Government Lot 3 and Portion of Government Lot 4, Section 3, Township 67 South, Range 27 East and a portion of Government Lot 3, Section 34, Township 66 South, Range 27 East, Sugarloaf Key, Monroe County, Florida and a portion of Government Lot 3, Section 34, Township 66 South, Range 27 East, Sugarloaf Key, Monroe County, Florida at 17001 Overseas Highway, Lower Sugarloaf Key, at approximately Mile Marker 17.

#### **NEW ITEMS:**

**3. Kula Property, 150 Ellis Drive, Tavernier, Mile Marker 92.5:** A request for an administrative appeal to the Planning Commission based on a Letter of Understanding by the Senior Director of Planning & Environmental Resources dated December 22, 2009. The subject property is legally described as Part of Tract 1, Plat of Survey of Ellis Property (PB2-99), Key Largo, Monroe County, Florida, having real estate number 00490130.000100.

[2010-012 FILE.pdf](#)

[2010-012 Survey.PDF](#)

[2010-012 SR 4.28.10.PDF](#)

**4. An Ordinance by the Monroe County Board of County Commissioners amending Monroe County Code Section 142-4(3)d, A-frame signs (i.e. Sandwich board signs),** to revise the date in which a-frame signs may be permitted; providing for severability; providing for repeal of conflicting provisions; providing for transmittal to the Department of Community Affairs and the Secretary of State; providing for codification; providing for an effective date.

[2010-042 SR PC 4.28.10.PDF](#)

**5. An Ordinance by the Monroe County Board of County Commissioners amending Monroe County Code Section 138-23, Moratorium on New Transient Units,** to revise the date in which the moratorium shall expire; providing for severability; providing for repeal of conflicting provisions; providing for transmittal to the Department of Community Affairs and the Secretary of State; providing for codification; providing for an effective date.

[2010-039 SR PC 4.28.10 cont to 5.26.10.PDF](#)

#### **BOARD DISCUSSION**

- **GROWTH MANAGEMENT COMMENTS**

-

- **RESOLUTIONS FOR SIGNATURE**

#### **ADJOURNMENT**



**AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS CREATING SECTION 130-131 OF THE MONROE COUNTY LAND DEVELOPMENT CODE, CREATING THE LOWER SUGARLOAF KEY COMMUNITY CENTER OVERLAY DISTRICT FOR REAL ESTATE NUMBER 00118470.000000 AND FOR PORTIONS OF PARCELS HAVING REAL ESTATE NUMBERS 00118420.000000 AND 00117930.000000 DESCRIBED AS A PORTION OF GOVERNMENT LOT 3 AND PORTION OF GOVERNMENT LOT 4, SECTION 3, TOWNSHIP 67 SOUTH, RANGE 27 EAST AND A PORTION OF GOVERNMENT LOT 3, SECTION 34, TOWNSHIP 66 SOUTH, RANGE 27 EAST, SUGARLOAF KEY, MONROE COUNTY, FLORIDA AND A PORTION OF GOVERNMENT LOT 3, SECTION 34, TOWNSHIP 66 SOUTH, RANGE 27 EAST, SUGARLOAF KEY, MONROE COUNTY, FLORIDA LOWER SUGARLOAF KEY GULF SIDE AT APPROXIMATELY MILE MARKER 17; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE DEPARTMENT OF COMMUNITY AFFAIRS AND THE SECRETARY OF STATE; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE**

**File #:** **2010-012**

**Owner's Name:** Kula, Leon D., Trustee of Leon D.  
Kula Living Trust

**Applicant:** Mull, Patricia – Kula Property

**Agent:** Andrew M. Tobin

**Type of Application:** Admin Appeal to PC

**Key:** Tavernier

**RE:** 00490130-000100

**Additional Information added to File 2010-012**

County of Monroe  
Growth Management Division

**Office of the Director**  
2798 Overseas Highway  
Suite #400  
Marathon, FL 33050  
Voice: (305) 289-2517  
FAX: (305) 289-2854



**Board of County Commissioners**  
Mayor George Neugent, Dist. 2  
Mayor Pro Tem Sylvia J. Murphy, Dist. 5  
Kim Wigington, Dist. 1  
Heather Carruthers, Dist. 3  
Mario Di Gennaro, Dist. 4

*We strive to be caring, professional and fair*

Date: 1/28/2010

Dear Applicant:

This is to acknowledge submittal of your application for Admin Appeal to the MC Planning Commission  
Type of application

KULA Property  
Project / Name to the Monroe County Planning Department.

Thank you.

Shil Creech

Planning Staff

**End of Additional File 2010-012**

**ANDREW M. TOBIN, PA**  
**Attorney at Law**  
**Post Office Box 620**  
**Tavernier, Florida 33070**  
**Telephone 305-852-3388**

TobinLaw@Terranova.net

Land Use & Zoning Law  
Environmental Law  
Administrative Law  
Appellate Practice  
Real Estate Closings

January 21, 2010



Roman Gastesi, Monroe County Administrator  
Gato Building  
1100 Simonton Street  
Key West, Florida 33040

Re: Administrative Appeal of Planning Director's Letter of Understanding  
Kula Property – Real Estate # 00490130.000100

Dear Mr. Gastesi;

Please find enclosed our application for an administrative appeal for the above referenced property, and check # 5035 in the amount of \$1,760.00. As required, I am providing a separate copy to Mr. Schwab.

Please schedule this matter before the Planning Commission at your earliest opportunity.

Sincerely yours,

A handwritten signature in blue ink, appearing to read "Andrew M. Tobin".

Andrew M. Tobin, Esq.

cc: Townsley Schwab, Planning Director

Received by Monroe County on January 21, 2009

By: \_\_\_\_\_



APPLICATION  
MONROE COUNTY  
PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT



Administrative Appeal to the Monroe County Planning Commission

Monroe County Code § 102-185

Appeals of administrative actions must be filed with the County Administrator and with the Planning & Environmental Resources Department within thirty (30) days of the date of the decision

Administrative Appeal Application Fee: \$1,500.00

*In addition to the application fee, the following fees also apply:*

Advertising Costs: \$245.00

Surrounding Property Owner Notification: \$3.00 for each property owner required to be noticed

Date of Submittal: 1 / 20 / 10  
Month Day Year

Decision being appealed: Letter of Understanding for Kula Property

Date of decision being appealed: 12 / 22 / 09  
Month Day Year

Appellant:

Patricia Mull  
Name

91760 Overseas Highway, Tavernier  
Mailing Address (Street, City, State, Zip Code)

305-852-8025  
Daytime Phone

Email Address

Agent (if applicable):

Andrew M Tobin  
Name

P.O. Box 620, Tavernier, FL 33070  
Mailing Address (Street, City, State, Zip Code)

305-852-3388  
Daytime Phone

tobinlaw@terranova.net  
Email Address

Property Owner:

Kula, Leon D., Trustee of Leon D. Kula Living Trust 5-6-99  
Name

150 Ellis Drive, Tavernier, FL 33070  
Mailing Address (Street, City, State, Zip Code)

Daytime Phone

APPLICATION

Legal Description of Property:

(If in metes and bounds, attach legal description on separate sheet)

Block		Lot	Subdivision	Key
00490130-000100			1605182	
Real Estate (RE) Number			Alternate Key Number	
150 Ellis Drive, Tavernier, FL 33070			92.5 Bayside	
Street Address			Approximate Mile Marker	

Land Use District Designation(s): SC

Present Land Use of the Property: single family/residential

Are there any pending codes violations on the property? Yes: X No:       

If yes, please provide case number: CE08040073

A COPY OF THE BASIS FOR THE APPEAL IN THE NATURE OF AN INITIAL BRIEF AND ANY EVIDENCE INCLUDING TESTIMONY, AFFIDAVITS AND THE CURRICULUM VITAE OF ANY EXPERT WITNESS THAT WILL BE CALLED MUST BE ATTACHED TO THIS APPLICATION. The brief must at a minimum state all grounds for the appeal, including but not limited to, the law being appealed and any facts necessary for interpretation of those laws. (Attach additional sheets of paper)

All of the following must be submitted in order to have a complete application submittal: (Please check as you attach each required item to the application)

- Complete administrative appeal application (unaltered and unbound);
- Correct fee (check or money order to Monroe County Planning & Environmental Resources);
- Proof of ownership (i.e. Warranty Deed);
- Current Property Record Card(s) from the Monroe County Property Appraiser;
- A copy of the document(s), which comprise the administrative decision being appealed;
- Any evidence and record which forms the basis for the appeal must be submitted with this application;
- Names and addresses of all expert witnesses that you propose to call at the hearing;
- Photograph(s) of site from adjacent roadway(s);

If applicable, the following must be submitted in order to have a complete application submittal:

- Notarized Agent Authorization Letter (note: authorization is needed from all owner(s) of the subject property)
- Boundary Survey – ten (10) sets (please contact Monroe County Environmental Resources prior to application submittal to determine if this documentation is necessary)

If deemed necessary to complete a full review of the application, the Planning & Environmental Resources Department reserves the right to request additional information.

APPLICATION

If new evidence, or the basis for appeal, is submitted at the Planning Commission hearing, Staff shall request that the hearing be continued to the next Planning Commission meeting nearest to the property (approximately six weeks) so that Staff has the opportunity to prepare a response to the new evidence.

If the applicant does not submit the basis for the appeal with the application, Staff will recommend denial of the appeal.

I certify that I am familiar with the information contained in this application, and that to the best of my knowledge such information is true, complete and accurate.

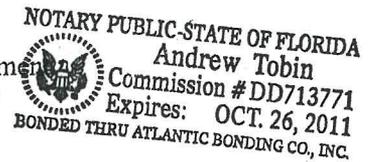
Signature of Applicant: [Handwritten Signature] Date: 1/20/2010

Sworn before me this 20<sup>TH</sup> day of January 2010

[Handwritten Signature]  
Notary Public  
My Commission Expires

Please send the complete application package to:

Planning Commissioner Coordinator  
Monroe County Planning & Environmental Resources Department  
2798 Overseas Highway, Suite 400, Marathon, FL 33050



-AND-

Monroe County Administrator  
The Gato Building  
1100 Simonton Street, Key West, FL 33040

PURSUANT TO SECTION 286.0105, FLORIDA STATUTES, NOTICE IS GIVEN THAT IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE PLANNING COMMISSION WITH RESPECT TO ANY MATTER CONSIDERED AT SUCH HEARING OR MEETING, THAT PERSON WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT, FOR SUCH PURPOSE THAT PERSON MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. SUCH RECORD TO BE AT THE COST OF THE APPELLANT. ALSO, MONROE COUNTY RESOLUTION #131-1992 REQUIRES THAT "IF A PERSON DECIDES TO APPEAL ANY DECISION OF THE PLANNING COMMISSION, HE SHALL PROVIDE A TRANSCRIPT OF THE HEARING BEFORE THE PLANNING COMMISSION, PREPARED BY A COURT REPORTER AT THE APPLICANT'S EXPENSE, WHICH TRANSCRIPT SHALL BE FILED AS PART OF THE RECORD ON APPEAL WITHIN THE TIME PROVIDED IN SECTION 9.5-521(f), MONROE COUNTY CODE.

Please Note: A transcript made from recordings or other secondary means does not provide a sufficiently accurate record of all the speakers. Therefore, such "secondary" transcripts may not be accepted as a valid verbatim transcript.

1/20/10  
(Date)

I hereby authorize Andrew M. Tobin be listed as authorized agent  
(Name of Agent)

for Patricia Mull for the purpose of conducting all business necessary to  
(Name of Owner(s) / Applicant)

process and obtain approval in regard to \_\_\_\_\_ for \_\_\_\_\_  
(Project Name) (Application Type)

for Real Estate No(s): 00490130-000100 from  
the Monroe County Planning and Environmental Resources Department.

This authorization becomes effective on the date this affidavit is notarized and shall remain in effect until terminated by the undersigned. This authorization acts as a durable power of attorney only for the purposes stated.

The undersigned understands the liabilities involved in the granting of this agency and accepts full responsibility (thus holding Monroe County harmless) for any and all of the actions of the agent named, related to the acquisition of permits for the aforementioned applicant.

Note: Authorization is needed from each owner of the subject property. Therefore, one or more authorization forms must be submitted with the application if there are multiple owners.

[Handwritten Signature]  
Owner(s) / Applicant Signature

PATRICIA MULL  
Printed Name of Owner(s) / Applicant

NOTARY:  
STATE OF FLORIDA  
COUNTY OF MONROE

The foregoing instrument was acknowledged before me this 20<sup>th</sup> day of January, 2010.

Patricia Mull is  personally known  produced identification

(n/a Type of Identification), did / did not take an oath.

[Handwritten Signature]  
Notary

NOTARY PUBLIC-STATE OF FLORIDA  
Andrew Tobin  
Commission # DD713771  
Expires: OCT. 26, 2011  
BONDED THRU ATLANTIC BONDING CO., INC.

## **Mull/Kula Administrative Appeal**

### **Basis of Appeal**

Appellant asserts as follows:

A. There is insufficient evidence to support the Planning Director's decision that the subject workshop was "lawfully established" (permitted), for low or medium intensity commercial office or retail purposes. This will be established by testimony from Mrs. Patricia Mull and others. It is also evident because the Monroe County Building and Zoning Department did not require compliance with the commercial office or retail commercial standards such as bulk regulation, floodproofing of below BFE structures, handicap parking requirements, etc.

B. If the Planning Commission determines there is competent substantial evidence to support a finding that the commercial retail or office use was lawfully established, then and in that event, the Planning Commission should find that Mr. Kula abandoned and discontinued the purported "lawful use" by virtue of the conversion of the purported commercial use by construction of a habitable dwelling unit. (Mr. Kula constructed the following: partitioned walls for a living room, bathroom, bedroom, ceramic tiles, new windows and doors, new electrical service, etc.)

In Conclusion, Mr. Kula should be required to demolish the un-permitted habitable dwelling unit and return the structure to its former use as an accessory workshop to a single family residence.

### **Expert Witness**

Paul Turick, 212 Jasmine Street, Tavernier, Florida 33070, will testify as a former assistant building official for Monroe County.

# County of Monroe Growth Management Division

**Planning & Environmental Resources  
Department**

2798 Overseas Highway, Suite 410  
Marathon, FL 33050  
Voice: (305) 289-2500  
FAX: (305) 289-2536



**Board of County Commissioners**

Mayor Sylvia J. Murphy, Dist. 5  
Mayor Pro Tem Heather Carruthers, Dist. 3  
Kim Wigington, Dist. 1  
George Neugent, Dist. 2  
Mario Di Gennaro, Dist. 4

*We strive to be caring, professional and fair*

December 22, 2009

Don Horton  
No Stress Property Management  
144 Apache Street  
Tavernier, FL 33070

**SUBJECT: LETTER OF UNDERSTANDING FOR THE 'KULA' PROPERTY LOCATED AT  
150 ELLIS DRIVE, TAVERNIER, MILE MARKER 92.5 (BAYSIDE) AND  
HAVING REAL ESTATE NUMBER 00490130.000100**

Mr. Horton,

Pursuant to §110-3 of the Monroe County Code (MCC), this document shall constitute a Letter of Understanding (LOU). On November 24, 2009, a Pre-Application Conference regarding the above-referenced property was held at the office of the Monroe County Planning & Environmental Resources Department on Key Largo.

Attendees of the meeting included Don Horton, No Stress Property Management, Inc., and John Jabro (hereafter referred to as "the Applicant") and Joseph Haberman, Principal Planner; Steven Biel, Senior Planner; and Barbara Bauman, Senior Planning Technician (hereafter referred to as "Staff").

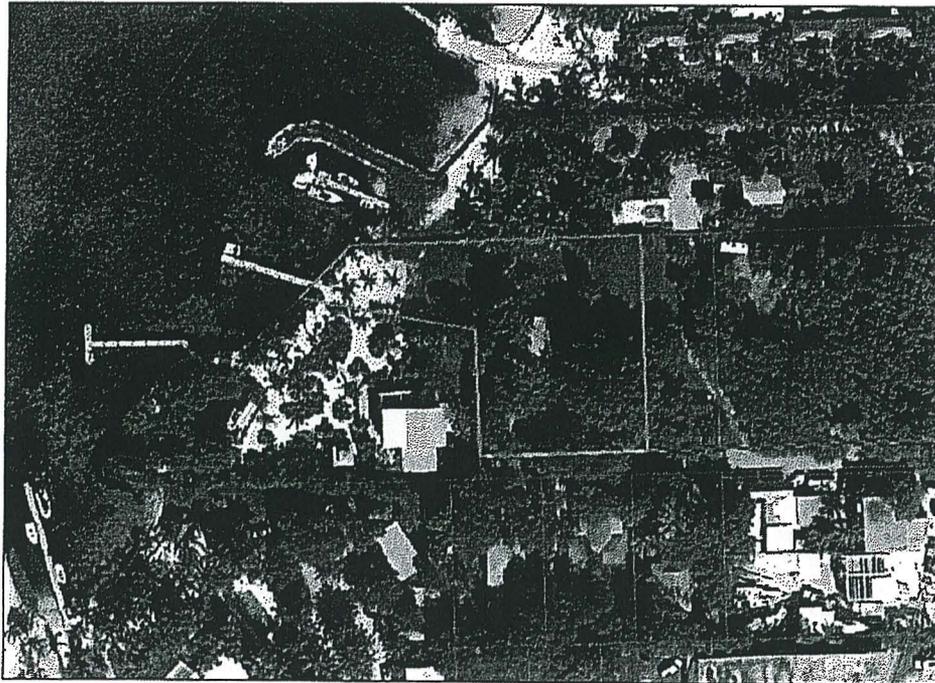
*Materials presented for review included:*

- (a) Pre-Application Conference Request Form;
- (b) Monroe County Property Record Card; and
- (c) Supporting Documentation (tax records and newspaper articles)

## **I. APPLICANT PROPOSAL**

1. The Applicant is requesting that the Planning & Environmental Resources Department recognize that the existing commercial retail use was lawfully-established on the subject property. The Applicant is also requesting that the Department allow the use of the commercial retail building to be expanded from only a workshop with no visiting customers to a workshop and studio where customers can visit and purchase artwork and other products produced on the site. The Applicant

contends that the property owner has been operating a metal sculpturing business out of a workshop on the site since as early as 1983.



Subject Property (outlined in blue) (2009)

## II. SUBJECT PROPERTY DESCRIPTION

1. The subject property is located at 150 Ellis Drive in Tavernier Key Largo, at approximate mile marker 92.5 of US 1. The site consists of approximately 32,810 ft<sup>2</sup> (0.753 acres).
2. The subject property is currently identified as real estate (RE) number 00490130.000100 and is legally described as part of tract 1, Plat of Survey of Ellis Property (PB2-99), Key Largo, Monroe County, Florida.
3. According to the Monroe County Property Appraiser's records, the parcel is currently owned by Leon D. Kula, Trustee (Leon D. Kula Living Trust).
4. According to the Monroe County Property Appraiser's records, the parcel currently has a property classification (PC) code of 01-Single-Family.

## III. RELEVANT PRIOR COUNTY ACTIONS

1. The site is currently developed with a single-family residence and a detached building, currently used by the property owner as a workshop. According to the Monroe County Property Appraiser's records, the 1,940 ft<sup>2</sup> single-family residence was constructed in 1948 and the 864 ft<sup>2</sup> building in which the workshop is located was constructed in 1948. The Appraiser's records also imply that the workshop building's floor area was remodeled or expanded in 1993. Staff could

not locate building permits approving either the single-family residence or the building in which the workshop is located. However, this is common for structures built prior to 1950.

#### IV. REVIEW OF REDEVELOPMENT PROPOSAL

The following land development regulations directly affect the proposal. However, there are other land development regulations not referred to nor described in this letter which may govern future development as well:

1. The property has a Land Use District designation of Suburban Commercial (SC) and a Future Land Use Map (FLUM) designation of Mixed Use/Commercial (MC).
2. Concerning the existing single-family residence on the property, pursuant to MCC §138-22(1), the Rate of Growth Ordinance (ROGO) shall not apply to the redevelopment, rehabilitation or replacement of any lawfully-established residential dwelling unit which does not increase the number of residential dwelling units above that which existed on the site prior to the redevelopment, rehabilitation or replacement. Therefore, owners of land containing residential dwelling units shall be entitled to one (1) unit for each such unit lawfully-established. Administrative Interpretation 03-108 provides the criteria to be used by Staff to determine whether or not a residential unit was lawfully-established.

There is no building permit on file for the construction of the single-family residence. However, several building permits for improvements to the single-family residence were found. In addition, the Monroe County Property Appraiser's records indicate that a residential unit has been on the tax roll from 1982 to 2009, with the year built of the building indicated as 1948, and aerial photographs support the existence of the structure back to 1986.

Based on a review of the records, Staff has determined that the existing single-family residence was lawfully-established.

3. Concerning the existing building in which the workshop is located, pursuant to MCC §138-50, the Non-Residential Rate of Growth Ordinance (NROGO) shall not apply to the redevelopment, rehabilitation or replacement of any lawfully-established, non-residential floor area which does not increase the amount of non-residential floor area greater than that which existed on the site prior to the redevelopment, rehabilitation or replacement. Therefore, owners of land containing non-residential floor area shall be entitled to one square foot for each such square foot lawfully-established. Non-residential floor area is the sum of the gross floor area for a non-residential building or structure as defined in MCC §101-1, any areas used for the provision of food and beverage services and seating whether covered or uncovered, and all covered, unenclosed areas. Administrative Interpretation 03-108 provides the criteria to be used by Staff to determine whether or not no-residential floor area was lawfully-established.

There is no building permit on file for the construction of the building. In addition, there is no notation of a commercial workshop or any non-residential use on the parcel in the Monroe County Property Appraiser's records. Therefore, there is no definitive information as to whether or not the structure was initially built to serve as an accessory structure to the single-family residence or to serve an independent building for commercial use.

There is a reference to the workshop in the application submitted for Building Permit #973-3871, which was issued in 1997 for the demolition of a shed and concrete pad and the construction of a new concrete pad in front of a workshop. In addition, aerial photography dating back to 1986 shows the structure in which the workshop is located; the Applicant submitted tax records for the business with 150 Ellis Drive as its address; and the Applicant provided several newspaper articles that imply the workshop was in existence on the site for several years.

Based on a review of the records, Staff has determined that the existing building in which the workshop is located was lawfully-established and its present non-residential use was lawfully-established.

4. Pursuant to MCC §130-93, dwelling units not deed-restricted as employee housing or commercial apartments are not permitted in the SC district. However, since the existing single-family residence was lawfully-established it may continue in accordance with MCC §130-163. Notwithstanding the provisions of MCC §130-157 and §130-158, the owners of land upon which a lawfully established dwelling unit exists shall be entitled to one dwelling unit for each such unit in existence. Such legally-established dwelling unit shall not be considered as a nonconforming use.
5. A workshop and studio for the sale or artwork and other products is a commercial retail use. Depending on trip generation, commercial retail uses are classified as low, medium or high-intensity. This type of business would be either low or medium intensity.

Pursuant to MCC §130-93, in the SC District, low and medium-intensity commercial retail uses of less than 2,500 ft<sup>2</sup> of floor area may be permitted as-of-right with a building permit.

6. As a note, the Applicant implied that the artwork and other materials made of metal would be produced on the site. Staff has determined that as long as the business does not carry out any of the activities expressly contained within the definition of industrial use, the production of the items shall be a component of the commercial retail use. As defined in MCC §101-1, an industrial use means a use devoted to the manufacture, warehousing, assembly, packaging, processing, fabrication, storage, or storage of goods and materials whether new or used or the substantial refinishing, repair and/or rebuilding of vehicles or boats. Pursuant to §130-93(b)(7), light industrial uses are permitted in the SC district; however a minor conditional use permit shall be required.
7. The allowance of customers into the workshop/studio would trigger the site to be brought into compliance with the off-street parking regulations. Pursuant to MCC §114-67, the following off-street parking would be required:

Specific Use	Multiplier	Proposed	Required Spaces
Single-family dwelling unit	2 spaces / dwelling unit	1 dwelling unit	2 spaces
Commercial Retail	3 spaces / 1,000 ft <sup>2</sup> of floor area	864 ft <sup>2</sup>	3 spaces
total			5 spaces

## V. OTHER ISSUES CONCERNING THE PROPOSAL

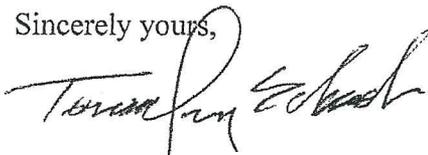
1. The following shall be required in order for Staff to approve the change of intensity of the existing workshop from one-employee only (the self-employed property owner) into the proposed workshop/studio with customers and possibly additional employees:
  - a) The Applicant shall apply for a building permit in order to have the increased intensity to the site approved. An increase in intensity will result from the traffic of customers and patrons visiting the business.
  - b) The Applicant shall bring the site into compliance with the off-street parking regulations. A site plan showing parking shall be submitted as part of the aforementioned building permit application.
  - c) The Applicant shall bring the building and site into compliance with all necessary Americans with Disabilities Act (ADA) regulations. A site plan showing handicap parking and access to the building shall be submitted as part of the aforementioned building permit application.
  - d) The Applicant shall agree that no use that falls within the definition of industrial use shall occur on the site unless a minor conditional use permit is applied for and received.
  - e) The Applicant shall coordinate with the Monroe County Floodplain Coordinator and if determined necessary shall flood-proof the workshop/studio building.
  - f) The Applicant shall coordinate with the Monroe County Office of the Fire Marshal.
  - g) The Applicant shall contact the Monroe County Property Appraiser and determine if the property classification (PC) code should be modified from 01-Single-Family to a classification that properly assesses the single-family and commercial use on the site.

Pursuant to MCC §110-3, you are entitled to rely upon the representations set forth in this letter as accurate under the regulations currently in effect. This letter does not provide any vesting to the existing regulations. If the Monroe County Code or Year 2010 Comprehensive Plan are amended, the project will be required to be consistent with all goals, objectives and standards at the time of development approval. The Planning & Environmental Resources Department acknowledges that all items required as a part of the application for development approval may not have been addressed at the meeting.

You may appeal decisions made in this letter. If you choose to do so, please contact the Planning Commission Coordinator at (305)289-2500 for the necessary forms and information. The appeal must be filed with the County Administrator, 1100 Simonton Street, Gato Building, Key West, FL 33040, within thirty (30) calendar days from the date of this letter. In addition, please submit a copy of your application to Planning Commission Coordinator, Monroe County Planning & Environmental Resources Department, 2798 Overseas Highway, Suite 410, Marathon, FL 33050.

We trust that this information is of assistance. If you have any questions regarding the contents of this letter, or if we may further assist you with your project, please feel free to contact our Marathon office at (305)289-2500.

Sincerely yours,



Townsley Schwab, Senior Director Planning & Environmental Resources

MONROE COUNTY  
OFFICIAL RECORDS

FILE #1138956  
BK#1591 PG4592

RCD Aug 11 1999 08:50AM  
DANNY L KOLHAGE, CLERK

THIS INSTRUMENT PREPARED BY:  
Johns S. Bohatch, Esquire  
GUTTENMACHER & BOHATCH, P.A.  
2600 Douglas Road, Penthouse 8  
Coral Gables, Florida 33134

DEED DOC STAMPS 0.70  
08/11/1999 RP DEP CLK

Parcel ID Number:

## Warranty Deed

This Indenture, made this 19 day of July, 1999 A.D. Between LEON D. KULA and NORMA A. KULA, husband and wife, of the County of Monroe, State of Florida, grantors, LEON D. KULA, TRUSTEE OF THE LEON D. KULA LIVING TRUST, dated May 6, 1999, whose address is 150 Elis Drive, Tavernier, Florida 33070, of the County of Monroe, State of Florida, grantee.

Witnesseth that the GRANTORS for and in consideration of the sum of TEN & NO/100 (\$10.00) DOLLARS, and other good and valuable consideration to GRANTORS in hand paid by GRANTEE, the receipt whereof is hereby acknowledged, has granted, bargained and sold to the said GRANTEE and GRANTEE'S heirs and assigns forever, the following described land, situated, lying and being in the County of Monroe, State of FLORIDA to wit:

See attached legal description - Exhibit A

Subject to restrictions, reservations and easements of record, if any, which are not reimposed hereby, and taxes for the current and subsequent years.

and the grantors do hereby fully warrant the title to said land, and will defend the same against lawful claims of all persons whomsoever.

In Witness Whereof, the grantors have hereunto set their hands and seals the day and year first above written.



EXHIBIT A

All that piece or parcel of land situate in NW ¼ of the SE ¼ of Section 27, Township 62 S., Range 38 E., Key Largo, Monroe County, Florida, and being a part of Tract 1, of "PLAT OF SURVEY OF ELLIS PROPERTY", as recorded in Plat Book 2, at Page 99 of the Public Records of Monroe County, Florida, and being more particularly described by metes and bounds as follows:

Begin at the intersection of the South line of the South 100 ft. of the North 300 ft. of Tract 1 of said Plat of Survey of Ellis Property with the W'y Right-of-way line of state Road No. 5 (U.S. No. 1); thence run Southerly along said Right-of-way line of 117.73 ft. to a point of curvature of a curve, concave to the West and having a radius of 1860.08 ft.; thence continue along said curve and Right-of-way for 66.5 ft. more or less to the Northerly line of a 20 ft. (formerly 15 ft.) street. Thence Westerly along the Northerly boundary of said Street a distance of 395.76 feet to an iron pipe; thence Northerly, at right angles, a distance of 104.95 feet to an iron pipe; thence Westerly at an interior angle of 101 degrees, 49 minutes, 30 seconds measured to the right, a distance of 122.00 ft., thence by the same course, a distance of 3 ft., more or less, to the mean high water line of the Bay of Florida; thence Northeasterly along the mean high water line of the Bay of Florida, a distance of Northeasterly along the mean high water line of the Bay of Florida, a distance of 78.03 ft., more or less, to the Southwest corner of lands previously deeded to Cecil R. Sampson, et ux, as recorded in Official Recorded Book 390, Page 693, Public Records of Monroe County, Florida and adjacent to the lands herein described; thence Easterly along the Southerly boundary of said lands of Cecil R. Sampson, et ux, a distance of 3 feet, more or less, to a concrete monument; thence by the same course, a distance of 495.0 ft., more or less, to the Point of Beginning.

MONROE COUNTY  
OFFICIAL RECORDS

**Ervin A. Higgs, CFA**  
**Property Appraiser**  
**Monroe County, Florida**

office (305) 292-3420  
 fax (305) 292-3501

**Property Record View**

Alternate Key: 1605182 Parcel ID: 00490130-000100

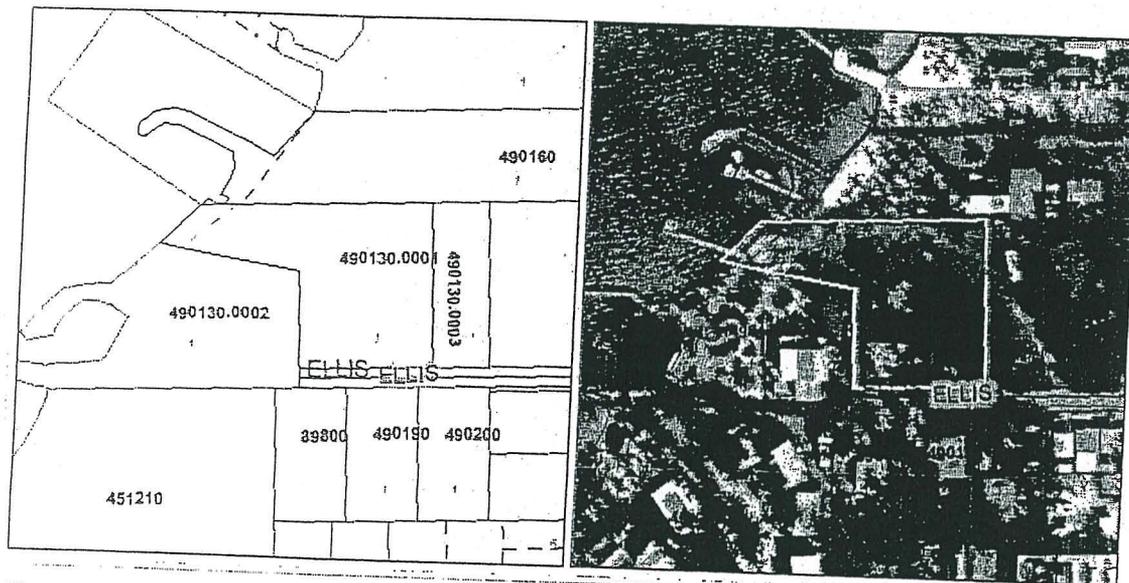
**Ownership Details**

Mailing Address:  
 KULA LEON D TRUSTEE  
 (LEON D KULA LIV TR 5-6-99) - % LEON D KULA (Q)  
 150 ELLIS DRIVE  
 TAVERNIER, FL 33070

**Property Details**

PC Code: 01 - SINGLE FAMILY  
 Millage Group: 500P  
 Affordable Housing: No  
 Section-Township-Range: 27-62-38  
 Property Location: 150 ELLIS DR KEY LARGO  
 Subdivision: ELLIS PROPERTY PLAT OF SURVEY  
 Legal Description: PLAT OF SURVEY OF ELLIS PROPERTY KEY LARGO PB2-99 PT TRACT 1 OR485-12 OR803-1827 OR1532-100/01CERT OR1591-592/94 (UNR M/T ON FILE-KULA LEON D)

**Parcel Map**



**Exemptions**

Exemption	Amount
39 - 25000 HOMESTEAD	25,000.00
44 - ADDL HOMESTEAD	25,000.00

**Land Details**

Land Use Code	Frontage	Depth	Land Area
010W - RES WATERFRONT	0	0	32,810.00 SF

**Building Summary**

Number of Buildings: 1  
 Number of Commercial Buildings: 0  
 Total Living Area: 1940  
 Year Built: 1948

### Building 1 Details

Building Type R1  
 Effective Age 47  
 Year Built 1948  
 Functional Obs 0

Condition G  
 Perimeter 190  
 Special Arch 0  
 Economic Obs 0

Quality Grade 500  
 Depreciation % 47  
 Grnd Floor Area 1,940

Inclusions: R1 includes 1 3-fixture bath and 1 kitchen.

Roof Type GABLE/HIP  
 Heat 1 NONE  
 Heat Src 1 NONE

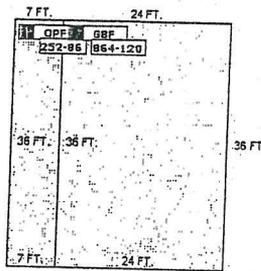
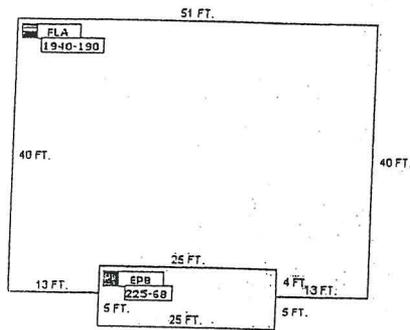
Roof Cover ASPHALT SHINGL  
 Heat 2 NONE  
 Heat Src 2 NONE

Foundation CONCR FTR.  
 Bedrooms 3

Extra Features:

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

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



Sections:

Nbr	Type	Ext Wall	# Stories	Year Built	Attic	A/C	Basement %	Finished Basement %	Area
1	FLA	10:CUSTOM	1	1993	N	N	0.00	0.00	1,940
2	EPB	10:CUSTOM	1	1993	N	N	0.00	0.00	224
3	OPF	5:C.B.S.	1	1993	N	N	0.00	0.00	252
4	GBF	5:C.B.S.	1	1993	N	N	0.00	0.00	864

### Misc Improvement Details

Nbr	Type	# Units	Length	Width	Year Built	Roll Year	Grade	Life
2	BR2:BOAT RAMP	312 SF	26	12	1980	1981	1	60
3	SW2:SEAWALL	225 SF	75	3	1980	1981	3	60
4	DK4:WOOD DOCKS	618 SF	103	6	1980	1981	3	40

### Building Permits

Bldg	Number	Date Issued	Date Completed	Amount	Description	Notes
	9733871	12/18/1997	12/31/1999	1		DEMOLISH SHED
	09300409	04/07/2009		1		FENCE - WOOD

### Parcel Value History

Certified Roll Values.

View Taxes for this Parcel.

Roll Year	Total Bldg Value	Total Misc Improvement Value	Total Land Value	Total Just (Market) Value	Total Assessed Value	School Exempt Value	School Taxable Value
2008	168,863	11,725	627,491	808,079	259,444	25,000	234,444
2007	203,526	9,277	629,820	842,623	251,887	25,000	226,887
2006	207,810	7,657	629,820	845,287	245,743	25,000	220,743
2005	252,341	7,792	447,872	708,005	238,585	25,000	213,585
2004	235,518	8,207	342,902	586,627	231,636	25,000	206,636
2003	166,248	8,460	342,902	517,610	227,317	25,000	202,317
2002	84,575	8,875	251,928	345,378	221,990	25,000	196,990
2001	94,064	9,195	125,964	229,223	218,495	25,000	193,495
2000	94,064	6,101	111,968	212,132	212,132	25,000	187,132
1999	94,064	6,995	111,968	213,027	213,027	25,000	188,027
1998	91,698	7,120	111,968	210,785	210,785	25,000	185,785
1997	91,698	7,317	111,968	210,983	210,983	25,000	185,983
1996	91,698	7,622	111,968	211,288	211,288	25,000	186,288
1995	91,698	7,851	111,968	211,517	211,517	25,000	186,517
1994	91,698	8,125	111,968	211,790	211,790	25,000	186,790
1993	54,862	7,262	111,968	174,092	174,092	25,000	149,092
1992	54,862	7,527	111,968	174,357	174,357	25,000	149,357
1991	54,862	7,700	111,968	174,530	174,530	25,000	149,530
1990	54,862	7,963	55,984	118,809	118,809	25,000	93,809
1989	54,862	8,162	55,984	119,008	119,008	25,000	94,008
1988	44,775	6,855	55,984	107,614	107,614	25,000	82,614
1987	44,352	7,017	55,984	107,353	107,353	25,000	82,353
1986	44,557	7,232	55,984	107,773	107,773	25,000	82,773
1985	43,127	7,373	55,984	106,484	106,484	25,000	81,484
1984	40,072	7,588	55,984	103,644	103,644	25,000	78,644
1983	40,072	7,749	22,951	70,772	70,772	25,000	45,772
1982	40,896	7,035	22,951	70,882	70,882	0	70,882

### Parcel Sales History

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

Sale Date	Official Records Book/Page	Price	Instrument	Qualification
2/1/1971	803 / 1827	35,000	00	Q

This page has been visited 72,051 times.

Monroe County Property Appraiser  
 Ervin A. Higgs, CFA  
 P.O. Box 1176  
 Key West, FL 33041-1176

# MULL

- Legend**
- Selected Features
  - Real Estate Number
  - Parcel Lot Text
  - Dimension Text
  - Block Text
  - Point of Interest Text
  - Hooks/Leads
  - Lot Lines
  - Easements
  - Road Centerlines
  - Water Names
  - Parcels
  - Shoreline
  - Section Lines

PALMIS

Monroe County Property Appraiser  
500 Whitehead Street  
Key West, FL

**DISCLAIMER:** 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 data is intended for *ad valorem tax purposes* only and should not be relied on for any other purpose.

Date Created: January 20, 2010 4:29 PM



Coffin, William & Bonnie M  
92510 Overseas Hwy  
Tavernier, FL 33070

Mull, Patricia B.  
200 Ellis Dr.  
Tavernier, FL 33070

Vaughn, LLC  
P.O. Box 464  
Tavernier, FL 33070

Vaughn, Robert O. & Shirley A.  
P.O. Box 64  
Tavernier, FL 33070

Murphy, Sylvia  
P.O. Box 111  
Tavernier, FL 33070

Republic Security Bank, F.S.B., its successors and/or assigns, A.T.I.M.A. Joe Miklas, P.A. Attorney's Title Insurance Fund, Inc.

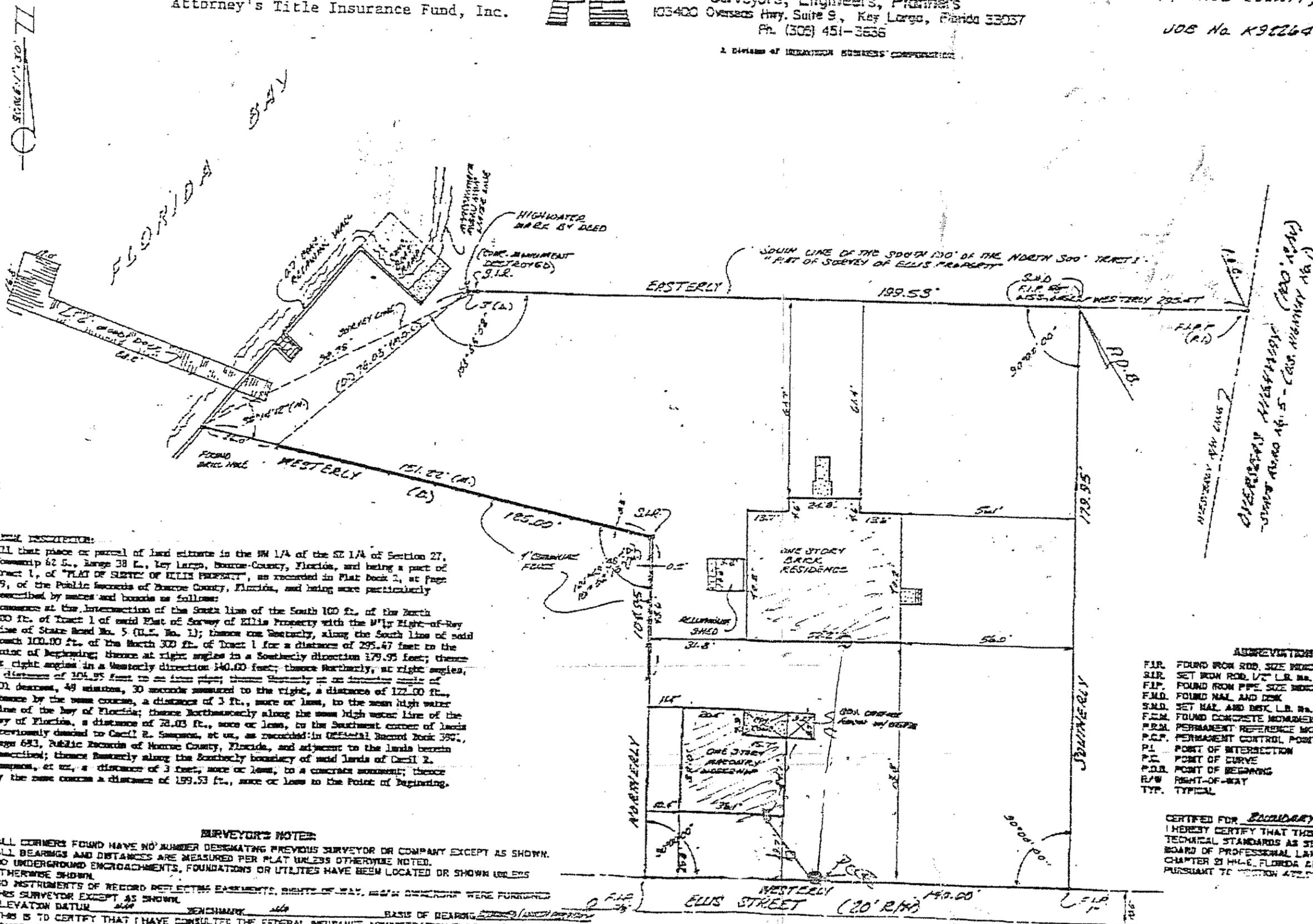


**Frank & Elliott**  
 Surveyors, Engineers, Planners  
 103400 Overseas Hwy, Suite 9, Key Largo, Florida 33037  
 Ph. (305) 451-3536

A DIVISION OF HERBERTSON BUSINESS CORPORATION

SEC. 27, TWP. 62 S., RGE. 38 E.  
 MONROE COUNTY, FLORIDA

JOB No. K92264



**LEGAL DESCRIPTION:**  
 All that piece or parcel of land situate in the SW 1/4 of the SE 1/4 of Section 27, Township 62 S., Range 38 E., Key Largo, Monroe County, Florida, and being a part of Tract 1, of "PLAT OF SURVEY OF ELLIS PROPERTY", as recorded in Plat Book 1, at page 59, of the Public Records of Monroe County, Florida, and being more particularly described by metes and bounds as follows:  
 Commence at the intersection of the South line of the South 100 ft. of the North 500 ft. of said Tract 1 of said Plat of Survey of Ellis Property with the W'ly Right-of-Way line of State Road No. 5 (H.S. No. 1); thence on West, along the South line of said South 100.00 ft. of the North 500 ft. of Tract 1 for a distance of 295.47 feet to the Point of Beginning; thence at right angles in a Southwesterly direction 179.95 feet; thence at right angles in a Westwesterly direction 140.00 feet; thence Northerly, at right angles, a distance of 101.95 feet to an iron pipe; thence Westerly in an azimuth angle of 101 degrees, 49 minutes, 30 seconds measured to the right, a distance of 122.00 ft., thence by the same course, a distance of 3 ft., more or less, to the mean high water line of the bay of Florida; thence Northwesterly along the mean high water line of the bay of Florida, a distance of 22.03 ft., more or less, to the Southeast corner of lands previously deeded to Cecil R. Simpson, et al., as recorded in Official Record Book 397, Page 693, Public Records of Monroe County, Florida, and adjacent to the lands herein described; thence Westerly along the Southeast boundary of said lands of Cecil R. Simpson, et al., a distance of 3 feet, more or less, to a concrete monument; thence by the same course a distance of 199.53 ft., more or less to the Point of Beginning.

**SURVEYOR'S NOTES:**  
 ALL CORNERS FOUND HAVE NO NUMBER DESIGNATING PREVIOUS SURVEYOR OR COMPANY EXCEPT AS SHOWN.  
 ALL BEARINGS AND DISTANCES ARE MEASURED PER PLAT UNLESS OTHERWISE NOTED.  
 NO UNDERGROUND ENCROACHMENTS, FOUNDATIONS OR UTILITIES HAVE BEEN LOCATED OR SHOWN UNLESS OTHERWISE SHOWN.  
 NO INSTRUMENTS OF RECORD REFLECTING EASEMENTS, RIGHTS OF WAY, EASES OR ENCUMBRANCES WERE FURNISHED THIS SURVEYOR EXCEPT AS SHOWN.  
 ELEVATION DATUM: SEA LEVEL BENCHMARK: 464 BASIS OF BEARING: TRUE  
 THIS IS TO CERTIFY THAT I HAVE CONSULTED THE FEDERAL INSURANCE ADMINISTRATION FLOOD HAZARD BOUNDARY MAP, COMMUNITY MAP NO. 1000, PANEL NO. 1000, EFFECTIVE DATE 10-17-89 AND THE ABOVE DESCRIBED PROPERTY APPEARS TO BE IN ZONE 2 WITH A BASE ELEVATION OF 9.2.

**ABBREVIATION LEGEND**

F.I.P.	FOUND IRON ROD, SIZE INDICATED	SEC.	SECTION
S.I.P.	SET IRON ROD, 1/2" L.B. NO. 5408	TWP.	TOWNSHIP
F.I.P.	FOUND IRON PIPE, SIZE INDICATED	RGE.	RANGE
F.M.D.	FOUND NAIL AND DECK	BN	BEED
S.M.D.	SET NAIL AND DECK, L.B. NO. 5408	PL	PLAT
F.C.M.	FOUND CONCRETE MONUMENT	BN	MEASURED
P.R.M.	PERMANENT REFERENCE MONUMENT	CL	CALCULATED
P.C.P.	PERMANENT CONTROL POINT	CON	CONCRETE
P.I.	POINT OF INTERSECTION	COV.	COVERED
P.C.	POINT OF CURVE	ASP.	ASPHALT
P.O.B.	POINT OF BEGINNING	P.V.	PAVEMENT
R/W	RIGHT-OF-WAY	ELEV.	ELEVATION
TYP.	TYPICAL	P.C.	POINT OF CURVE

CERTIFIED FOR BOUNDARY SURVEY  
 I HEREBY CERTIFY THAT THIS SURVEY MEETS THE MINIMUM TECHNICAL STANDARDS AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS IN CHAPTER 21 H.A.C. FLORIDA ADMINISTRATIVE CODE PURSUANT TO SECTION 475.07, STATUTES.

10-17-89

OVERBROOK & ELLIOTT P.O.I.



## MEMORANDUM

### MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT

*We strive to be caring, professional and fair*

To: Monroe County Planning Commission  
From: Steven Biel, Sr. Planner  
Through: Townsley Schwab, Sr. Director of Planning & Environmental Resources *TS*  
Date: April 20, 2010  
Subject: *Administrative Appeal by Patricia Mull concerning property located at 150 Ellis Drive, Tavernier, having Real Estate No. 00490130.000100*

---

**Meeting: April 28, 2010**

---

1 I DECISION BEING APPEALED:

2  
3 The appellant is appealing a decision by Townsley Schwab, Sr. Director of Planning &  
4 Environmental Resources, which was set forth in a Letter of Understanding to Leon D. Kula  
5 dated December 22, 2009.  
6

7 The precise decision being appealed is a determination by the planning director that a  
8 workshop was lawfully established for a low to medium intensity commercial retail use.  
9 Furthermore, the appellant contends that if the planning commission determines there is  
10 evidence to support a finding that the commercial retail use of the workshop was lawfully  
11 established, the planning commission should find that the property owner abandoned and  
12 discontinued the lawful nonconforming use of the single-family residence on the property by  
13 the converting the workshop to commercial retail use.  
14

15 Location:

16 Address: 150 Ellis Drive, Tavernier, approximate mile marker 92.5 (bayside)

17 Legal Description: Part of Tract 1, Platt of Survey of Ellis Property (PB2-99), Key  
18 Largo, Monroe County, Florida

19 Real Estate Number: 00490130.000100  
20  
21  
22  
23

24 Appellant: Patricia Mull  
25

26 II RELEVANT PRIOR COUNTY ACTIONS:

27  
28 The site is currently developed with a single-family residence and a detached building,  
29 currently used by the property owner as a workshop. According to the Monroe County  
30 Property Appraiser's records, both the 1,940 ft<sup>2</sup> single-family residence and the 864 ft<sup>2</sup>  
31 workshop building were constructed in 1948. The appraiser's records also imply that the  
32 workshop's floor area was remodeled or expanded in 1993. Building permits could not be

1 found that permitted either structure, which is not uncommon for structures built prior to  
2 1950.

3  
4 **III BACKGROUND INFORMATION:**

- 5  
6 A. Total Size of Site: 0.753 acres (32,810 ft<sup>2</sup>)  
7 B. Land Use District: Suburban Commercial (SC)  
8 C. Future Land Use Map (FLUM) Designation: Mixed Use/Commercial (MC)  
9 D. Tier Designation: Undesignated  
10 E. Existing Vegetation / Habitat: Developed  
11 F. Community Character of Immediate Vicinity: Mix of commercial and residential uses



33 **Subject Property (outlined in blue) (2009)**

34  
35 **IV REVIEW OF APPLICATION:**

36  
37 Regarding the decision being appealed (the determination that the workshop was lawfully  
38 established for a low to medium intensity commercial retail use), staff found that the existing  
39 commercial retail use taking place within the workshop building was lawfully established  
40 and thereby the floor area of the workshop building (not the adjacent single-family residence)  
41 was exempt from the Non-Residential Rate of Growth Ordinance (NROGO) permit  
42 allocation system based on the following rationale, as stated in the letter of understanding:

43  
44 Concerning the existing building in which the workshop is located, pursuant to  
45 MCC §138-50, [the NROGO] shall not apply to the redevelopment, rehabilitation  
46 or replacement of any lawfully-established, non-residential floor area which does

1 not increase the amount of non-residential floor area greater than that which  
2 existed on the site prior to the redevelopment, rehabilitation or replacement.  
3 Therefore, owners of land containing non-residential floor area shall be entitled to  
4 one square foot for each such square foot lawfully-established. Non-residential  
5 floor area is the sum of the gross floor area for a non-residential building or  
6 structure as defined in MCC §101-1, any areas used for the provision of food and  
7 beverage services and seating whether covered or uncovered, and all covered,  
8 unenclosed areas. Administrative Interpretation 03-108 provides the criteria to be  
9 used by Staff to determine whether or not no-residential floor area was lawfully-  
10 established.

11  
12 There is no building permit on file for the construction of the building. In  
13 addition, there is no notation of a commercial workshop or any non-residential  
14 use on the parcel in the Monroe County Property Appraiser's records. Therefore,  
15 there is no definitive information as to whether or not the structure was initially  
16 built to serve as an accessory structure to the single-family residence or to serve  
17 an independent building for commercial use.

18  
19 There is a reference to the workshop in the application submitted for Building  
20 Permit #973-3871, which was issued in 1997 for the demolition of a shed and  
21 concrete pad and the construction of a new concrete pad in front of a workshop.  
22 In addition, aerial photography dating back to 1986 shows the structure in which  
23 the workshop is located; the Applicant submitted tax records for the business with  
24 150 Ellis Drive as its address; and the Applicant provided several newspaper  
25 articles that imply the workshop was in existence on the site for several years.

26  
27 Based on a review of the records, Staff has determined that the existing building  
28 in which the workshop is located was lawfully-established and its present non-  
29 residential use was lawfully-established.

30  
31 Staff has reviewed the appellant's basis of appeal; however the information provided wherein  
32 does not clearly indicate that the workshop was not lawfully established and thereby provide  
33 reasoning to adjust or abandon the determination that the workshop building was lawfully  
34 converted to a commercial retail use. Based on the information provided by the applicant,  
35 staff determined that commercial retail use within the workshop was established prior to  
36 1986. This determination was based on references to a workshop in building permit files and  
37 other records provided by the property owner. In any event, the property's land use district  
38 designation of SC allows medium/low intensity commercial retail uses of less than 2,500 ft<sup>2</sup>  
39 as-of-right with a building permit.

40  
41 Regarding the appellant's second contention, that if the planning commission determines  
42 there is evidence to support a finding that the commercial retail use of the workshop was  
43 lawfully established, the planning commission should find that the property owner  
44 abandoned and discontinued the lawful nonconforming use of the single-family residence on  
45 the property by the converting the workshop to commercial retail use, staff has found that

1 such a determination would not be consistent with the provisions relating to the continuance  
2 of nonconforming uses. As stated in the letter of understanding, staff has determined:  
3  
4

5 Concerning the existing single-family residence on the property, pursuant to MCC  
6 §138-22(1), the Rate of Growth Ordinance (ROGO) shall not apply to the  
7 redevelopment, rehabilitation or replacement of any lawfully-established  
8 residential dwelling unit which does not increase the number of residential  
9 dwelling units above that which existed on the site prior to the redevelopment,  
10 rehabilitation or replacement. Therefore, owners of land containing residential  
11 dwelling units shall be entitled to one (1) unit for each such unit lawfully-  
12 established. Administrative Interpretation 03-108 provides the criteria to be used  
13 by Staff to determine whether or not a residential unit was lawfully-established.  
14

15 There is no building permit on file for the construction of the single-family  
16 residence. However, several building permits for improvements to the single-  
17 family residence were found. In addition, the Monroe County Property  
18 Appraiser's records indicate that a residential unit has been on the tax roll from  
19 1982 to 2009, with the year built of the building indicated as 1948, and aerial  
20 photographs support the existence of the structure back to 1986.  
21

22 Based on a review of the records, Staff has determined that the existing single-  
23 family residence was lawfully-established.  
24

25 ...  
26

27 Pursuant to MCC §130-93, dwelling units not deed-restricted as employee  
28 housing or commercial apartments are not permitted in the SC district. However,  
29 since the existing single-family residence was lawfully-established it may  
30 continue in accordance with MCC §130-163. Notwithstanding the provisions of  
31 MCC §130-157 and §130-158, the owners of land upon which a lawfully  
32 established dwelling unit exists shall be entitled to one dwelling unit for each such  
33 unit in existence. Such legally-established dwelling unit shall not be considered as  
34 a nonconforming use.  
35

36 The existing market-rate single-family residence is not within the same building as the  
37 workshop. However, in accordance with MCC §130-163, it is not a nonconforming use and  
38 its continued existence is permitted whether or not a commercial retail use, or any other new  
39 use, is introduced to the property.  
40

#### 41 V RECOMMENDATION: 42

43 Using the records and criteria set forth in Administrative Interpretation 03-108, staff has  
44 found that the existing structure was lawfully-established and thereby requests that the  
45 Planning Commission uphold the decision of the Senior Director of Planning &  
46 Environmental Resources.

1  
2  
3

Attachment A:  
Letter to Leon D. Kula from Townsley Schwab, Senior Director of Planning &  
Environmental Resources, dated December 22, 2009

County of Monroe  
Growth Management Division

Planning & Environmental Resources

Department

2798 Overseas Highway, Suite 410  
Marathon, FL 33050  
Voice: (305) 289-2500  
FAX: (305) 289-2536



Board of County Commissioners

Mayor Sylvia J. Murphy, Dist. 5  
Mayor Pro Tem Heather Carruthers, Dist. 3  
Kim Wigington, Dist. 1  
George Neugent, Dist. 2  
Mario Di Gennaro, Dist. 4

*We strive to be caring, professional and fair*

December 22, 2009

Don Horton  
No Stress Property Management  
144 Apache Street  
Tavernier, FL 33070

**SUBJECT: LETTER OF UNDERSTANDING FOR THE 'KULA' PROPERTY LOCATED AT 150 ELLIS DRIVE, TAVERNIER, MILE MARKER 92.5 (BAYSIDE) AND HAVING REAL ESTATE NUMBER 00490130.000100**

Mr. Horton,

Pursuant to §110-3 of the Monroe County Code (MCC), this document shall constitute a Letter of Understanding (LOU). On November 24, 2009, a Pre-Application Conference regarding the above-referenced property was held at the office of the Monroe County Planning & Environmental Resources Department on Key Largo.

Attendees of the meeting included Don Horton, No Stress Property Management, Inc., and John Jabro (hereafter referred to as "the Applicant") and Joseph Haberman, Principal Planner; Steven Biel, Senior Planner; and Barbara Bauman, Senior Planning Technician (hereafter referred to as "Staff").

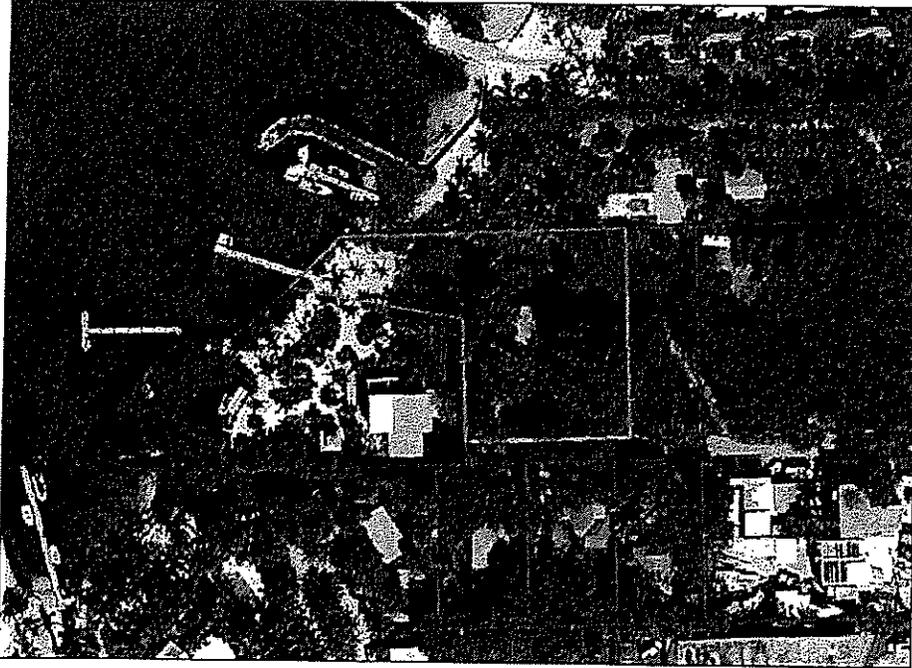
*Materials presented for review included:*

- (a) Pre-Application Conference Request Form;
- (b) Monroe County Property Record Card; and
- (c) Supporting Documentation (tax records and newspaper articles)

**I. APPLICANT PROPOSAL**

1. The Applicant is requesting that the Planning & Environmental Resources Department recognize that the existing commercial retail use was lawfully-established on the subject property. The Applicant is also requesting that the Department allow the use of the commercial retail building to be expanded from only a workshop with no visiting customers to a workshop and studio where customers can visit and purchase artwork and other products produced on the site. The Applicant

contends that the property owner has been operating a metal sculpturing business out of a workshop on the site since as early as 1983.



Subject Property (outlined in blue) (2009)

## II. SUBJECT PROPERTY DESCRIPTION

1. The subject property is located at 150 Ellis Drive in Tavernier Key Largo, at approximate mile marker 92.5 of US 1. The site consists of approximately 32,810 ft<sup>2</sup> (0.753 acres).
2. The subject property is currently identified as real estate (RE) number 00490130.000100 and is legally described as part of tract 1, Plat of Survey of Ellis Property (PB2-99), Key Largo, Monroe County, Florida.
3. According to the Monroe County Property Appraiser's records, the parcel is currently owned by Leon D. Kula, Trustee (Leon D. Kula Living Trust).
4. According to the Monroe County Property Appraiser's records, the parcel currently has a property classification (PC) code of 01-Single-Family.

## III. RELEVANT PRIOR COUNTY ACTIONS

1. The site is currently developed with a single-family residence and a detached building, currently used by the property owner as a workshop. According to the Monroe County Property Appraiser's records, the 1,940 ft<sup>2</sup> single-family residence was constructed in 1948 and the 864 ft<sup>2</sup> building in which the workshop is located was constructed in 1948. The Appraiser's records also imply that the workshop building's floor area was remodeled or expanded in 1993. Staff could

not locate building permits approving either the single-family residence or the building in which the workshop is located. However, this is common for structures built prior to 1950.

#### **IV. REVIEW OF REDEVELOPMENT PROPOSAL**

The following land development regulations directly affect the proposal. However, there are other land development regulations not referred to nor described in this letter which may govern future development as well:

1. The property has a Land Use District designation of Suburban Commercial (SC) and a Future Land Use Map (FLUM) designation of Mixed Use/Commercial (MC).
2. Concerning the existing single-family residence on the property, pursuant to MCC §138-22(1), the Rate of Growth Ordinance (ROGO) shall not apply to the redevelopment, rehabilitation or replacement of any lawfully-established residential dwelling unit which does not increase the number of residential dwelling units above that which existed on the site prior to the redevelopment, rehabilitation or replacement. Therefore, owners of land containing residential dwelling units shall be entitled to one (1) unit for each such unit lawfully-established. Administrative Interpretation 03-108 provides the criteria to be used by Staff to determine whether or not a residential unit was lawfully-established.

There is no building permit on file for the construction of the single-family residence. However, several building permits for improvements to the single-family residence were found. In addition, the Monroe County Property Appraiser's records indicate that a residential unit has been on the tax roll from 1982 to 2009, with the year built of the building indicated as 1948, and aerial photographs support the existence of the structure back to 1986.

Based on a review of the records, Staff has determined that the existing single-family residence was lawfully-established.

3. Concerning the existing building in which the workshop is located, pursuant to MCC §138-50, the Non-Residential Rate of Growth Ordinance (NROGO) shall not apply to the redevelopment, rehabilitation or replacement of any lawfully-established, non-residential floor area which does not increase the amount of non-residential floor area greater than that which existed on the site prior to the redevelopment, rehabilitation or replacement. Therefore, owners of land containing non-residential floor area shall be entitled to one square foot for each such square foot lawfully-established. Non-residential floor area is the sum of the gross floor area for a non-residential building or structure as defined in MCC §101-1, any areas used for the provision of food and beverage services and seating whether covered or uncovered, and all covered, unenclosed areas. Administrative Interpretation 03-108 provides the criteria to be used by Staff to determine whether or not non-residential floor area was lawfully-established.

There is no building permit on file for the construction of the building. In addition, there is no notation of a commercial workshop or any non-residential use on the parcel in the Monroe County Property Appraiser's records. Therefore, there is no definitive information as to whether or not the structure was initially built to serve as an accessory structure to the single-family residence or to serve an independent building for commercial use.

There is a reference to the workshop in the application submitted for Building Permit #973-3871, which was issued in 1997 for the demolition of a shed and concrete pad and the construction of a new concrete pad in front of a workshop. In addition, aerial photography dating back to 1986 shows the structure in which the workshop is located; the Applicant submitted tax records for the business with 150 Ellis Drive as its address; and the Applicant provided several newspaper articles that imply the workshop was in existence on the site for several years.

Based on a review of the records, Staff has determined that the existing building in which the workshop is located was lawfully-established and its present non-residential use was lawfully-established.

4. Pursuant to MCC §130-93, dwelling units not deed-restricted as employee housing or commercial apartments are not permitted in the SC district. However, since the existing single-family residence was lawfully-established it may continue in accordance with MCC §130-163. Notwithstanding the provisions of MCC §130-157 and §130-158, the owners of land upon which a lawfully established dwelling unit exists shall be entitled to one dwelling unit for each such unit in existence. Such legally-established dwelling unit shall not be considered as a nonconforming use.
5. A workshop and studio for the sale or artwork and other products is a commercial retail use. Depending on trip generation, commercial retail uses are classified as low, medium or high-intensity. This type of business would be either low or medium intensity.

Pursuant to MCC §130-93, in the SC District, low and medium-intensity commercial retail uses of less than 2,500 ft<sup>2</sup> of floor area may be permitted as-of-right with a building permit.

6. As a note, the Applicant implied that the artwork and other materials made of metal would be produced on the site. Staff has determined that as long as the business does not carry out any of the activities expressly contained within the definition of industrial use, the production of the items shall be a component of the commercial retail use. As defined in MCC §101-1, an industrial use means a use devoted to the manufacture, warehousing, assembly, packaging, processing, fabrication, storage, or storage of goods and materials whether new or used or the substantial refinishing, repair and/or rebuilding of vehicles or boats. Pursuant to §130-93(b)(7), light industrial uses are permitted in the SC district; however a minor conditional use permit shall be required.
7. The allowance of customers into the workshop/studio would trigger the site to be brought into compliance with the off-street parking regulations. Pursuant to MCC §114-67, the following off-street parking would be required:

Specific Use	Multiplier	Proposed	Required Spaces
Single-family dwelling unit	2 spaces / dwelling unit	1 dwelling unit	2 spaces
Commercial Retail	3 spaces / 1,000 ft <sup>2</sup> of floor area	864 ft <sup>2</sup>	3 spaces
		total	5 spaces

## V. OTHER ISSUES CONCERNING THE PROPOSAL

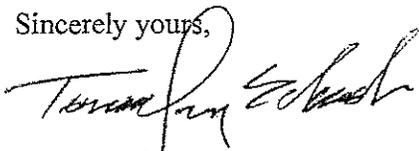
1. The following shall be required in order for Staff to approve the change of intensity of the existing workshop from one-employee only (the self-employed property owner) into the proposed workshop/studio with customers and possibly additional employees:
  - a) The Applicant shall apply for a building permit in order to have the increased intensity to the site approved. An increase in intensity will result from the traffic of customers and patrons visiting the business.
  - b) The Applicant shall bring the site into compliance with the off-street parking regulations. A site plan showing parking shall be submitted as part of the aforementioned building permit application.
  - c) The Applicant shall bring the building and site into compliance with all necessary Americans with Disabilities Act (ADA) regulations. A site plan showing handicap parking and access to the building shall be submitted as part of the aforementioned building permit application.
  - d) The Applicant shall agree that no use that falls within the definition of industrial use shall occur on the site unless a minor conditional use permit is applied for and received.
  - e) The Applicant shall coordinate with the Monroe County Floodplain Coordinator and if determined necessary shall flood-proof the workshop/studio building.
  - f) The Applicant shall coordinate with the Monroe County Office of the Fire Marshal.
  - g) The Applicant shall contact the Monroe County Property Appraiser and determine if the property classification (PC) code should be modified from 01-Single-Family to a classification that properly assesses the single-family and commercial use on the site.

Pursuant to MCC §110-3, you are entitled to rely upon the representations set forth in this letter as accurate under the regulations currently in effect. This letter does not provide any vesting to the existing regulations. If the Monroe County Code or Year 2010 Comprehensive Plan are amended, the project will be required to be consistent with all goals, objectives and standards at the time of development approval. The Planning & Environmental Resources Department acknowledges that all items required as a part of the application for development approval may not have been addressed at the meeting.

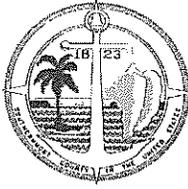
You may appeal decisions made in this letter. If you choose to do so, please contact the Planning Commission Coordinator at (305)289-2500 for the necessary forms and information. The appeal must be filed with the County Administrator, 1100 Simonton Street, Gato Building, Key West, FL 33040, within thirty (30) calendar days from the date of this letter. In addition, please submit a copy of your application to Planning Commission Coordinator, Monroe County Planning & Environmental Resources Department, 2798 Overseas Highway, Suite 410, Marathon, FL 33050.

We trust that this information is of assistance. If you have any questions regarding the contents of this letter, or if we may further assist you with your project, please feel free to contact our Marathon office at (305)289-2500.

Sincerely yours,



Townsley Schwab, Senior Director Planning & Environmental Resources



**MEMORANDUM**

Monroe County Planning & Environmental Resources Department  
We strive to be caring, professional and fair

To: Monroe County Planning Commission  
Through: Townsley Schwab, Sr. Director of Planning & Environmental Resources  
From: Steven Biel, Sr. Planner  
Date: April 20, 2010  
Subject: *Request for an amendment to Section 142-4(3)(d) regarding the sunset date for A-frame signs*

---

**Meeting: April 28, 2010**

---

**I. REQUEST**

In August of 2009, the Board of County Commissioners approved several amendments to Chapter 142 of the Monroe County Code pertaining to sign regulations (Ordinance No. 031-2009). One of those amendments was to allow for A-frame signs provided a building permit is obtained (Section 142-4(3)(d) as noted below). As part of this amendment, a “sunset” date was included for the expiration of permitted A-frame signs. The Planning Commission recommended a “sunset” date of December 31, 2010; however, the BOCC revised the “sunset” date to June 7, 2010.

It should be noted that staff is working with Florida Department of Transportation (FDOT) staff in conjunction with wayfinding signs as part of an ongoing review of the overall sign regulations that resulted from the three (3) public meetings held last year. One of the goals in developing wayfinding signage regulations is to reduce/eliminate the need for A-frame signs.

**Section 142-4(3) Signs in commercial areas.**

Sign allowances in commercial areas (AD, CFA, CFS, DR, I, MF, MI, MU, RV, SC, UC) shall be calculated based on the amount of property frontage and business frontage as follows:

1 The Planning Commission and the BOCC shall each hold at least one public hearing on a  
2 proposed amendment to the text or to the land use district map. The Planning Commission shall  
3 review the application, the reports and recommendations of the Department of Planning &  
4 Environmental Resources and the Development Review Committee, and the testimony given at  
5 the public hearing, and shall submit its recommendations and findings to the BOCC. The BOCC  
6 shall consider the report and recommendation of and the testimony given at the public hearings  
7 and may either deny the application or adopt an ordinance approving the proposed amendment.  
8 Ordinances are then reviewed by the Florida Department of Community Affairs.  
9

### 10 **III. RELEVANT PRIOR COUNTY ACTIONS**

11  
12 In the early 1990s, a major re-write of the sign regulations was undertaken with considerable  
13 input from business owners, citizens, and county staff. At the time, it was widely viewed that the  
14 resulting sign regulations were comprehensive and satisfied business owners and citizens alike.  
15

16 In December 2008, Code Enforcement conducted County-wide enforcement of all prohibited  
17 signs, signs requiring a permit, unsafe signs, "off premises" signs, and signs in the State rights-  
18 of-way. At the January 2009 BOCC meeting several business owners spoke about the economic  
19 climate and the need to keep these prohibited signs or "go out of business". The BOCC agreed  
20 that a "temporary stay" of Code Enforcement proceedings against the prohibited signs would be  
21 granted for six months or until a new sign ordinance is written. If the signs are still in violation  
22 after the new ordinance is completed, they will be moved forward for enforcement review.  
23

24 After the January BOCC meeting, the Director of Growth Management directed planning staff to  
25 conduct a series of public workshops to receive input from business owners and citizens as to  
26 how sign regulations should be revised, if in fact revisions are needed.  
27

28 The workshops began on May 11, 2009 at the Big Pine Academy School with the discussions  
29 focused on signage along US 1. Specific concerns included the wide right-of-way through Big  
30 Pine and the resulting distance from the roadway to the adjoining property line of the businesses,  
31 the need for sandwich board signs, and questions relating to vehicle signs. Concerns were also  
32 expressed that the current sign ordinance is good and that it should not be changed to the extent  
33 that the community character would be negatively impacted. The second workshop was held at  
34 the Harvey Government Center in Key West on May 12, 2009, which focused primarily on off-  
35 premises signage in the Stock Island area. The final workshop was held on May 13, 2009 at the  
36 Murray Nelson Government Center in Key Largo where concerns were expressed regarding  
37 illuminated signs and the need for signage exposure for businesses along US 1. At each  
38 workshop, questionnaires were provided for attendees to complete. In general, the types of signs  
39 that were mentioned most by the respondents were A-frames/sandwich boards, off-premises  
40 signs, and vehicle signs.  
41

### 42 **IV. REVIEW**

43  
44 A. Consistency of the proposed amendment with the provisions and intent of the Monroe County  
45 Year 2010 Comprehensive Plan:  
46

- 1 (a) To strengthen local government capabilities for managing land use and development so  
 2 that local government is able to achieve these objectives without the continuation of the  
 3 area of critical state concern designation.  
 4 (b) To protect shoreline and marine resources, including mangroves, coral reef  
 5 formations, seagrass beds, wetland, fish and wildlife, and their habitat.  
 6 (c) To protect upland resources, tropical biological communities, freshwater wetlands,  
 7 native tropical vegetation (for example, hardwood hammocks and pinelands), dune  
 8 ridges and beaches, wildlife, and their habitat.  
 9 (d) To ensure the maximum well-being of the Florida Keys and its citizens through sound  
 10 economic development.  
 11 (e) To limit the adverse impacts of development on the quality of water throughout the  
 12 Florida Keys.  
 13 (f) To enhance natural scenic resources, promote the aesthetic benefits of the natural  
 14 character of the Florida Keys.  
 15 (g) To protect the historical heritage of the Florida Keys.  
 16 (h) To protect the value, efficiency, cost-effectiveness, and amortized life of existing and  
 17 proposed major public investments, including:  
 18  
 19 1. The Florida Keys Aqueduct and water supply facilities;  
 20 2. Sewage collection and disposal facilities;  
 21 3. Solid waste collection and disposal facilities;  
 22 4. Key West Naval Air Station and other military facilities;  
 23 5. Transportation facilities;  
 24 6. Federal Parks, wildlife refuges, and marine sanctuaries;  
 25 7. State parks, recreation facilities, aquatic preserves, and other publicly owned  
 26 properties;  
 27 8. City electric service and the Florida Keys Electric Co-op; and  
 28 9. Other utilities, as appropriate.  
 29  
 30 (i) To limit the adverse impacts of public investments on the environmental resources of the  
 31 Florida Keys.  
 32 (j) To make available adequate affordable housing for all sectors of the population of the  
 33 Florida Keys.  
 34 (k) To provide adequate alternatives for the protection of public safety and welfare in the  
 35 event of a natural or manmade disaster and for a post disaster reconstruction plan.  
 36 (l) To protect the public health, safety, and welfare of the citizens of the Florida Keys and  
 37 Maintain the Florida Keys as a unique Florida resource.  
 38

39 **Staff Comment:** Staff finds the proposed amendment generally consistent with the Principals for  
 40 Guiding Development as a whole and is not inconsistent with any one principle.  
 41

42 D. Impact on Community Character:  
 43

44 **Staff Comment:** The proposed revision to the “sunset” date would allow business owners to  
 45 have an A-frame sign by benefit of a building permit through June 7, 2011. It is important to  
 46 remember that the Florida Department of Transportation (FDOT) right-of-way varies along US

1  
2  
3  
4  
5  
6  
7  
8

**VI. RECOMMENDATION**

Staff recommends **approval** to the Planning Commission

**VII. ATTACHMENTS**

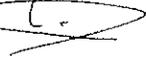
1. Proposed Ordinance



## MEMORANDUM

### MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT

*We strive to be caring, professional and fair*

To: Monroe County Planning Commission  
Through: Townsley Schwab, Senior Director of Planning & Environmental Resources  
From: Joseph Haberman, AICP, Principal Planner   
Date: April 23, 2010  
Subject: *Proposed Ordinance by the Monroe County Board of County Commissioners amending Monroe County Code Section 138-23, Moratorium on New Transient Units*

---

**Meeting: April 28, 2010**

---

- 1
- 2 The Planning & Environmental Resources Department is proposing an ordinance to amend
- 3 Monroe County Code Section 138-23, Moratorium on New Transient Units, to revise the date in
- 4 which the moratorium shall expire; providing for severability; providing for repeal of conflicting
- 5 provisions; providing for transmittal to the Department of Community Affairs and the Secretary
- 6 of State; providing for codification; providing for an effective date.
- 7
- 8 In order to run this item concurrently with a related comprehensive plan text amendment, staff is
- 9 requesting that this item be continued to the May 26, 2010 planning commission public hearing.