

**CITY OF KEY WEST  
PLANNING DEPARTMENT**



**Application for a Beneficial Use Determination**

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**Before filling out the questions in the application, please read the following:**

Section 108-998 of the Land Development Regulations provides the procedures for ensuring beneficial use of private property as follows:

- (a) It is the policy of the City that neither provisions of the Comprehensive Plan nor the Land Development Regulations shall deprive a property owner of all reasonable economic use of a parcel of real property which **is a lot or parcel of record as of the date of adoption of the Comprehensive Plan (August 10, 1993)**. An owner of real property may apply for relief from the literal application of applicable land use regulations or of this plan when such application would have the effect of denying all economically reasonable or viable use of that property unless such deprivation is known to be necessary to prevent a nuisance under state law or in the exercise of the City's police power to protect the health, safety, and welfare of its citizens. All reasonable economic use shall mean the minimum use of the property necessary to avoid a taking within a reasonable period of time as established by land use case law.
  
- (b) The relief to which an owner shall be entitled may be provided through the use of one or a combination of the following:
  - (1) Granting of a permit for development which shall be deducted from the permit allocation system.
  - (2) Granting the use of transfer of development rights (TDR's) consistent with the Comprehensive Plan.
  - (3) Purchasing by the City of all or a portion of the lots or parcels upon which all beneficial use is prohibited.
  - (4) Such other relief as the city may deem appropriate and adequate.

The relief granted shall be the minimum necessary to avoid a taking of the property under existing state and federal law.

- (c) Development approved pursuant to a beneficial use determination shall be consistent with all other objectives and policies of the Comprehensive Plan and Land Development Regulations unless specifically exempted from such requirements in the final beneficial use determination.

Your property may be configured, arranged, or platted such that you understand the following information as you complete this application for beneficial use.

Legal nonconforming lots are defined in Chapter 86 of the Land Development Regulations as meaning a lot, area, dimensions, or location of which that was lawful prior to the adoption, revision, or amendment of the Land Development Regulations, but which fails because of such adoption, revision, or amendment to conform to the present Land Development Regulations. Pursuant to Section 122-31, noncomplying lots or building sites of record are subject to the following regulations:

- (1.) In any district in which single-family dwellings are allowed, a single-family dwelling and customary accessory buildings may be erected on any legal nonconforming single lot that is in existence on January 1, 1994, and that is in different ownership from the adjoining property. This subsection shall apply even though such lot fails to meet the requirements for area, depth or width, provided that all other zoning requirements shall apply. (Note: the critical date for beneficial use allocations is actually August 10, 1993, per 108-998 of the Land Development Regulations).
- (2.) If two or more adjoining lots or portions of lots in single ownership on January 1, 1994, do not meet the requirements for building site width, depth and area as established by this article, the land involved shall be considered to be an undivided parcel, and no portion of the parcel shall be used or sold that does not meet building site width, depth and area requirements, nor shall any division of the parcel be made that leaves remaining any lot with substandard width, depth, area, parking, open space or stormwater retention. Notwithstanding anything to the contrary in this subsection, two or more adjoining lots or building sites shall not be considered to be an undivided parcel, and may be sold or used for single-family dwellings, if allowed by applicable district regulations, so long as each lot or building site is at least 75 percent of the minimum lot size of the applicable district regulations and is not otherwise required to provide required parking for the adjacent parcel.

**Please provide the requested information and answer the following questions:**

Please provide the Real Estate Parcel Identification Number (RE#), address, and zoning district for the property you are seeking beneficial use determination.

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RE#

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Street Address

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Zoning District

1. Was the parcel of real property a lot or parcel of record (recognized by the Monroe County Property Appraiser as a separate lot or parcel) as of the date of adoption of the Comprehensive Plan (August 10, 1993)? Please submit documentation to substantiate.

\_\_\_ Yes \_\_\_ No

2. What is the size of the lot in square feet?

\_\_\_\_\_

3. If the lot does not meet the minimum lot size requirements required in the zoning district in which it is located, please indicate if it is in the same ownership as the adjoining properties?

\_\_\_ Yes \_\_\_ No

4. Was there any dwelling unit(s) located on any part of the property on or around 1990? If the answer is yes, your property may be eligible for a Lawful Unit Determination, which may result in the right to construct a residential unit without a determination of beneficial use. If the answer is yes, please complete the attached application for Lawful Unit Determination. Please provide documentation substantiating unit existence on or around 1990 if you believe this is an option. This information may consist of aerial photographs of the property showing the dwelling unit(s), surveys of the property showing the unit(s), Monroe County Tax or Property Records showing the unit(s), dated architectural plans and or photographs showing the unit(s) and other substantial, verifiable information indicating the presence of the unit(s) existence in 1990.

\_\_\_ Yes \_\_\_ No

5. Please list the number of known dwelling units on the property.

\_\_\_\_\_

6. Please list the number of known transient residential units on the property.

\_\_\_\_\_

7. Please describe any other uses (i.e. commercial) existing on the property.

\_\_\_\_\_

8. Please describe how the property has been used since August 10, 1993.

\_\_\_\_\_

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\_\_\_\_\_

**Property Owner**

**Agent (if applicable)**

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

\_\_\_\_\_  
Mailing Address (Street, City, State, Zip Code)

\_\_\_\_\_  
Mailing Address (Street, City, State, Zip Code)

\_\_\_\_\_  
Daytime Phone

\_\_\_\_\_  
Daytime Phone

\_\_\_\_\_  
Email Address

\_\_\_\_\_  
Email Address

**Please submit the following to ensure application completeness:**

(Please check as you attach each required item to the application)

- Complete application;**
- \$500.00 check made out to The City of Key West;**
- Warranty deed;**
- Property survey;**
- Current property record card(s) from the Monroe County Property Appraiser; and**
- Verification/Authorization Forms**

**If available:**

- Other records that indicate the existence of residential units on or around 1990** (Pursuant to Code of Ordinances Section 108-991, BPAS Ordinance)

A site visit by City staff is required to complete application processing and will be scheduled through the Planning Department. If deemed necessary, the Planning Department may request additional information. Please submit the complete application package to the City of Key West Planning Department, 3140 Flagler Avenue, Key West Florida, 33040.