

Application

TREPANIER



& ASSOCIATES INC

LAND USE PLANNING
DEVELOPMENT CONSULTANTS

FUTURE LAND USE MAP AMENDMENT

Key West Code Ch. 90, Art. VI, Div. 3
City of Key West Land Development Regulations.

Site: Bahama Village Market

EXECUTIVE SUMMARY:

This is an application to amend the Future Land Use Map to address what appears to be a mapping error. The intent is to eliminate land use regulation confusion and uncertainty. This application analyses the proposed map amendment based on the criteria contained in KW Code Ch. 90; the Principles for Guiding Development and F.S. Ch. 163.

Bahama Village Market was developed by Bahama Village Market, LTD beginning in 1996 under HP3 zoning. At the same time the City's first Future Land Use Map which created the current confusion and uncertainty went into effect after a long drawn out legal battle. When the new FLUM went into effect, it bisected the property (half being HNC-3 and half being HMDR. It was determined, at the time, that a variance to the permitted uses of the HMDR was the simpler fix and so the property was granted variance to the permitted uses of HMDR. The property then operated as a mixed-use traditional Bahamian Straw Market from 1997 until the early 2000's. After that time the property sat mostly fallow with sporadic short-term attempts at revitalization. After the Straw Market closed, the property began to decline into disrepair, until 2015, when Historic Tours of America, reinvested heavily into the property and received conditional use approval to recommence operations.



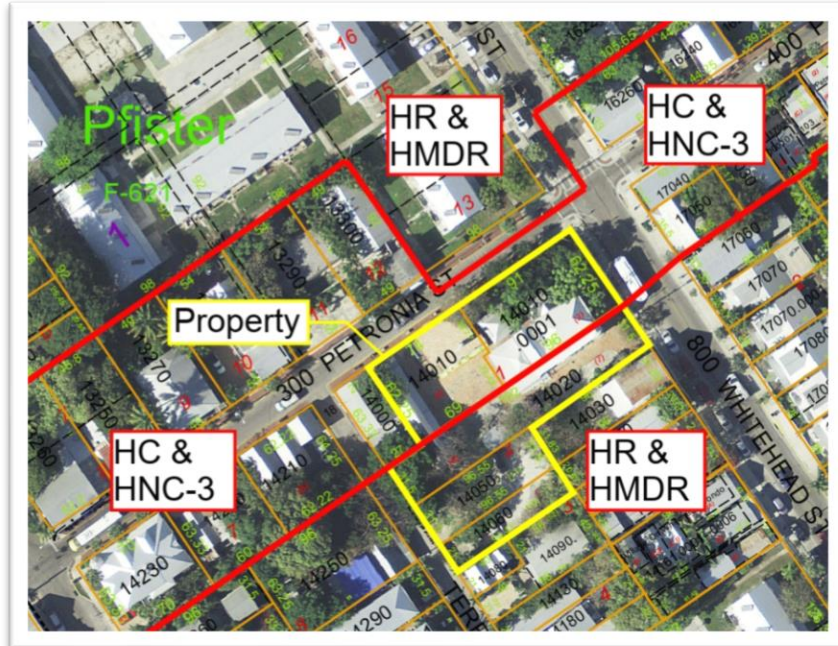
During the 2011 approval process this property was discovered to have a unique peculiarity of split zoning and future land use designations (residential and commercial). This is one of the very few properties in town to, not only have split zoning and FLUM designations, but to contain a historic building and mixed-use commercial operation which itself is bisected by zoning and FLUM lines. This condition creates confusion and uncertainty for the property and the historic structure relative to land use regulations.

This application proposes to correct the FLUM to eliminate the confusion and uncertainty, without expanding the commercial uses, by recognizing the existing boundaries of the long-established rights of the property.

The analysis demonstrates the proposed map amendment is not inconsistent with the Comprehensive Plan, the Land Development regulations or the Principles for Guiding Development and Ch. 163.

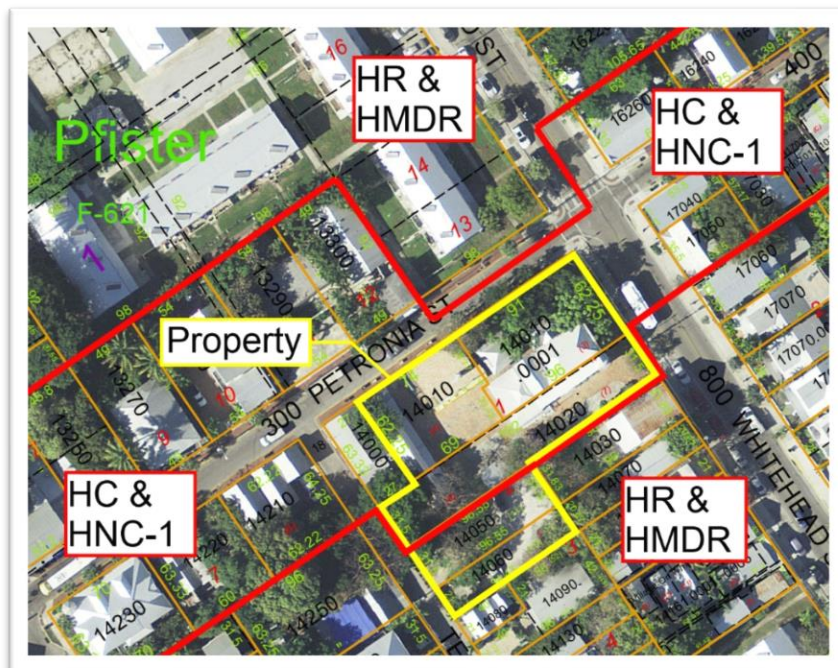
EXISTING CONDITIONS

The property, and the historic structure, are bisected by zoning and FLUM designations.



PROPOSED SOLUTION

We propose to conform the zoning and FLUM lines with the long-established boundaries of the Market.



PROPOSED AMENDMENT:

Historic Tours of America, Inc. seeks to amend the Future Land Use Map relative to the property commonly known as Bahama Village Market from the existing Historic Residential ("HR") to Historic Commercial ("HC").

The purpose of this amendment is to make necessary adjustments in light of apparent mapping errors, Confusion and uncertainty and changed conditions pursuant to the City of Key West Comprehensive Plan Data and Analysis, as adopted on March 5, 2013 via Ord. No. 13-04 and subsequently adopted by the Florida Department of Economic Opportunity, consistent with F.S. ch. 163.

The following analysis demonstrates the proposed map amendment is not inconsistent with the Comprehensive Plan, Chapter 90, Article VI of the Land Development regulations, the Principles for Guiding Development and Ch. 163 of the Florida Statutes.

AMENDMENT ANALYSIS

Application & Fee (Sec. 90-554): \$6,000.00

(1) Property Description.

Addresses associated with zoning change per the Monroe County Monroe

Property Appraiser:

RE No.: 00014010-000000

318 Petronia Street

320 Petronia Street

322 Petronia Street

324 Petronia Street

802 Whitehead Street

804 Whitehead Street

806 Whitehead Street

Area (total site): 21,520 sq. ft. (0.49 acres)

Area (affected by change): 6.093 sq. ft. (0.14 acres)

Flood Zone: X

Legal Description:

(Entire site attached to WD)

Legal Description of parcel's (as per attached survey) affected by the proposed boundary change:

PARCEL "A" (Parcel 7 on WD legal) 806 Whitehead Street:

On the Island of Key West and designated on Charles W. Tift's Map of said island as part of Lot No. 2 in the Subdivision of Square No. 1, in part of Tract 3 known as Simonton's Addition to the City of Key West; COMMENCING at a point on Whitehead Street, distant 63 feet from the corner of Petronia and Whitehead Sts. And run thence in a Southeasterly direction 31 feet and 6 inches; thence at right angles in a southwesterly direction 96 feet; thence at right angles Northwesterly 31 feet and 6 inches; thence at right angles Northeasterly 96 feet to the place of beginning.
ALSO

PARCEL "D" (Parcel 9 on WD legal):

On the Island of Key West, as known as Charles W. Tift's Map of the City of Key West, as part of Square One (1) in Tract Three (3) and is part of Subdivision Two (2) in Square One (1), according to a diagram made of portion of said Tract Three (3), which diagram is recorded in Book "I" deeds page 421 of Monroe County Records: COMMENCING at a point on an Eighteen foot alleyway, Sixty Three (63) feet and four (4) inches distant from the corner of Petronia Street and said alley way and running thence along said alley way in a Southeasterly direction Thirty-one feet and six inches, and extending back in a Northeasterly direction on both lines a distance of Ninety-Six (96) feet.

- (2) Current and proposed comprehensive plan official zoning land use map designation.

Existing FLUM: HR
Proposed FLUM: HC

- (3) Current and proposed zoning.

Existing Zoning: HMDR
Proposed Zoning: HNC-3

- (4) Existing and proposed use.

Existing use: Commercial
Proposed Use: Commercial

- (5) Disclosure of ownership.

Owner: Historic Tours of America, Inc. - A Florida Corporation

Agent: Edwin O Swift III
201 Front Street Ste 224
Key West, FL 33040

Officers: Edwin O Swift III
Christopher C Belland
John Dolan-Heitlinger
Ronald Cohen MD

(6) Justification

a. Comprehensive plan consistency.

The proposed amendment is fully compatible with the Comprehensive Plan as outlined in this application.

b. Impact on surrounding properties and infrastructure.

The proposed correction will have no impact on surrounding properties and no impact on infrastructure is anticipated. This particular parcel has been commercially used for decades. The HNC zoning district is intended to accommodate both residential and neighborhood commercial uses typically located along thoroughfares such as Whitehead Street.

| Surrounding Properties | | | |
|------------------------|--------------------------|--|--------------|
| Adjacency | Existing Use | Future Land Use | Zoning |
| North | Commercial | Historic Commercial | HC |
| South | Commercial & Residential | Historic Residential | HR |
| East | Commercial & Residential | Historic Residential | HR |
| West | Commercial & Residential | Historic Commercial & Historic Residential | HNC-3 & HMDR |

Levels of Service – Based on the evaluation criteria of Sec. 90-521(5) the impact of the proposed changes are generally summarized as follows:

- The requested change is not anticipated to alter demand on the surrounding transportation system. Policy 2-1.1.3 effectively eliminates the transportation concurrency requirement in favor of a prioritization of safety and function of existing roads and multi-modal transportation improvements (i.e. transit, air, boat, bicycles, pedestrianism, mixed-use development. This property is adjacent to the historic commercial pedestrian-orientated area and is located along the city's "Duval Loop" route; a free bus service around the historic downtown area.
- There is no proposed development or change to existing uses therefore, the proposed zoning change will not alter demand on for potable water.
- There is no proposed development or change to existing uses therefore, the proposed zoning change will not alter wastewater supply.

- There is no proposed development or change to existing uses therefore, the proposed zoning change will not alter solid waste supply.
- There is no proposed development or change to existing uses therefore, the proposed zoning change will not alter stormwater LOS.
- There is no proposed development or change to existing uses therefore, the proposed zoning change will not alter recreation LOS.

c. Avoidance of spot zoning.

The requested zoning change will not result in spot zoning, would best serve the public interest and is consistent with the comprehensive plan.

Spot zoning occurs when:

1. A small parcel of land is singled out for special and privileged treatment;

No special or privileged treatment will be conferred through approval of the request. This parcel(s) is part of an existing commercial site with HNC-3 zoning and Historic Commercial FLUM. This approval will provide consistency with the site's surroundings by clarifying existing intent and promote continued compatibility with its conjoined properties.

2. The singling out is not in the public interest but only for the benefit of the landowner; and;

As mentioned above, no singling out. The request will recognize compatible, pre-existing uses for this property and provide for zoning consistency.

3. The action is not consistent with the adopted comprehensive plan

The action is not inconsistent with the Comprehensive Plan. Amending the zoning division of the site and reconcile the long-standing uses, many of which have been granted conditional use approval over the years, will be consistent with the intent of the comprehensive plan.

- d. Undeveloped land with similar zoning. The amount of undeveloped land in the general area and in the city having the same zoning classification as that requested shall be stated.

There is vacant parcel and one parking lot that are located within 300ft with current zoning of HMDR.

| Zoning | FLUM | RE. No. | Size (sq. ft.) |
|---------------|-------------|-----------------|-----------------------|
| HMDR | HR | 00014300-000000 | 6,048 |
| HMDR | HR | 00017220-000000 | 2,373 |

CRITERIA FOR APPROVAL (SECTION 90-555)

- (1)** Consistency with plan. Whether the proposal is consistent with the overall purpose of the comprehensive plan and relevant policies within the comprehensive plan, including the adopted infrastructure minimum levels of service standards and the concurrency management program

- a. Consistency with the Comprehensive plan.

Policy 1-1.1.9: Allowed Uses in Historic Neighborhood Commercial:

- Correcting the zoning of this parcel to Historic Neighborhood Commercial-3 is consistent with the comprehensive plan as the plan promotes both residential and neighborhood commercial activity along such highly trafficked streets such as Whitehead and specifically for properties associated with the Petronia Street Corridor.

Policy 1-1.3.1: Improve the Image and Function of the Historic Preservation District Commercial Core Area.

- Approval of the request will more accurately categorize the subject property which is located in the middle of Old Town and an integral part of the core tourism area. The property currently exists as a nonconforming use and is restricted from making functional improvements consistent with the image of the Historic Preservation District Commercial Core Area.

Policy 1-1.2.1: Provide Access to Goods and Services and Protect Residential Areas from the adverse Impacts of Transition in Land Use.

- With the zoning boundary currently running through this parcel and through a commercial building on the site, no protection exists or is viable for the adjacent residential structures. Whereas, if the zoning boundary was adjusted to adequately establish the division of commercial to residential, then a vegetated buffer along the

commercial boundary or something similar would allow protection for the neighboring residential parcel.

b. Consistency with adopted infrastructure minimum levels of service standards

As mentioned above, there is no proposed new development or change of use for the associated property, therefore, there are no anticipated impacts to existing infrastructure minimum levels of service standards.

c. Concurrency management program

The request is consistent with the concurrency management program Objective 9-1.5. Specific concurrency applications in accordance with Section 94-32 may be required for specific future development plans. No Plans are proposed as part of this application. At this time, no system improvements are anticipated as a result of the proposed map amendment.

(2) Conformance with requirements Conformance with ordinances. Whether the proposal is in conformance with all applicable requirements of the Code of Ordinances.

The proposal is consistent with the procedures for amending the Official Zoning Map as demonstrated herein. The proposal is in conformance with the procedures for amending the Land Development Regulations as demonstrated herein.

(3) Changed conditions. Whether, and the extent to which, land use and development conditions have changed since the comprehensive plan's effective date and whether such conditions support or work against the proposed change.

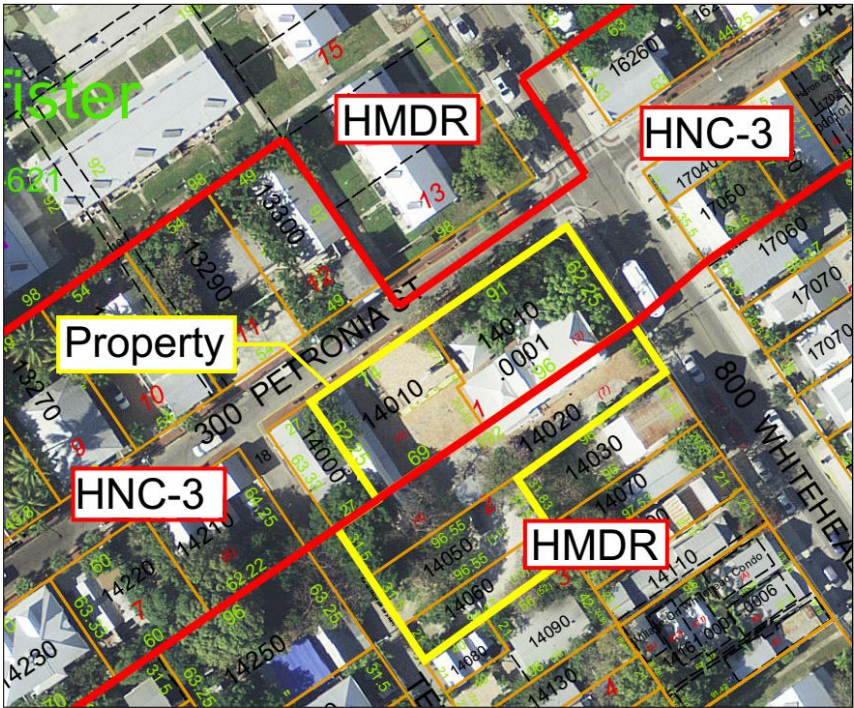
The effective date of the Land Development Regulations is July 3, 1997. The 2030 Comprehensive Plan was adopted on March 5, 2013. Both the 2030 Comprehensive Plan and the LDRs are "Living Documents" that are, by their very nature, designed to evolve and change with the community's goals. In this case, the community surrounding the subject property has developed/redeveloped over the last 30 years into a vibrant commercial and recreational activity center.

(4) Land use compatibility. Whether, and the extent to which, the proposal would result in any incompatible land uses, considering the type and location of uses involved.

The proposed map amendment would serve to extend the adjacent HC District. Adjacent commercial uses will remain compatible. The subject properties currently have a variety of existing legal non-conforming land uses within the HMDR zoning. These inconsistent land uses include: commercial retail, restaurant and parking lot. It is important to note that all these existing inconsistent land uses within HMDR zoning would all be consistent with HNC-3 zoning.

| Current site use | HMDR | | HNC-3 | |
|------------------------|------|----|-------|----|
| | Yes | No | Yes | No |
| Restaurant | | X | X | |
| Retail – low intensity | | X | X | |

Current Zoning Depiction:



Current FLUM Map:



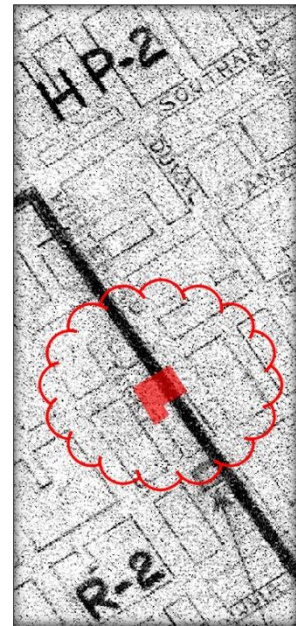
Comparison - Future Land Use Designation ■ Historic Commercial

| | Existing | Proposed |
|----------------|---|--|
| Zoning | Historic Medium Density Residential (HMDR) | Historic Neighborhood Commercial (HNC-3) |
| Density | 16 | 16 |
| FAR | NA | 0.8 |
| Allowable Uses | <p>Allowable uses in areas designated HR are single family, duplex and multi-family residential that preserve the historic character and quality of the Historic Preservation District central residential community. Accessory uses, including approved home occupations, and customary community facilities are also allowed. Transient uses are not permitted.</p> | <p>Intended to accommodate both residential and neighborhood commercial uses typically located along major thoroughfares which lead into or are adjacent to the central core commercial area. Restaurants (drive-in or drive through), banking and financial institutions, personal service shops, specialty shops and retail sales and service.</p> <p>Transient uses are permitted.</p> <p>Supportive community facilities, business and professional offices may be allowed in areas zoned HNC.</p> |

Figure 1 - 1965 Photo from Property Appraiser



Figure 2- 1974 Zoning Map



Historically this property was a residence. It fell into disrepair and became vacant in the 70's.

Figure 3:



In 1984, the zoning boundaries changed (Figure 3) and the previously established R-2 zoning for this neighborhood was revised to HP-3 Light Commercial Historic Preservation District zoning. The intent of this district was to allow for light commercial activity compatible with residential neighborhoods.

In 1997, the long fought-over FLUM and zoning amendments became effective and a significant portion of this mixed-use property became nonconforming. The HP-2 zoning district was eliminated and a new Historic Neighborhood Commercial (HNC-3) zoning district was established. The HNC-3 zoning district encompassed Petronia Street from Duval to Emma Street bisecting the previous districts. This area designation was in recognition of the increase in tourism trends and expansion of commercial activity in historic downtown areas. As part of the HNC-3 zoning district's purpose, the Pedestrian-Orientated commercial district was established to recognize those areas frequented by persons traveling on foot,

bicycle or other non-automotive means and, therefore, allowing flexibility in the parking requirement for commercial changes.

- (5) *Adequate public facilities.*** Whether, and the extent to which, the proposal would result in demands on public facilities and services, exceeding the capacity of such facilities and services, existing or programmed, including

Transportation - Policy 2-1.1.1

Policy 2-1.1.3 prioritizes safety and function of existing roads and multi-modal transportation improvements (i.e. transit, air, boat, bicycles, pedestrianism, and mixed-use development) in lieu of LOC concurrency standards.

Policy 2-1.1.3: Exempts Key West from transportation concurrency requirements for roadways in favor of substantive expansion and prioritization of roadway safety and function through multi-modal transportation improvements (i.e. transit, air, boat, bicycles, pedestrianism, mixed-use development).

Summary Response: The zoning boundary adjustment would not result in an increase in maximum trip generation. There is no change to existing uses proposed as part of this request.

Potable Water - Policy 4-1.1.2.C

The Florida Keys Aqueduct Authority (FKAA) has the capacity to supply adequate service to the subject properties. The FKAA has the capacity to provide 23 million gallons per day to Monroe County as a result of: the South Florida Water Management District's issuance of Water Use Permit #13-0005, which allocates 17 million gallons per day in the dry season; 17.79 million gallons per day which can be withdrawn from the Biscayne Aquifer; and six million gallons per day provided by a reverse osmosis treatment plant in Florida City. As documented above, the City is meeting its Level of Service Standard for Potable Water. The City projects a slight permanent population decrease, and only a slight increase in its functional population and non-residential development during short and long-range planning periods, so the current capacity should remain adequate. Ongoing capital improvements will be necessary to maintain and improve standards and service delivery.

Summary Response: The zoning amendment will not result in an increase in potable water across as there is no change to existing uses as part of this proposal.

Sanitary Sewage - Policy 4-1.1.2.A

The City contracts out the operation of the Richard A. Heyman Environmental Pollution Control Facility, its wastewater treatment plant (Plant), and the associated collection system to Operations Management International, Inc. (OMI). The Plant currently has the capacity to treat 10 million gallons per day, exceeding the capacity required to achieve the existing Level of Service Standard by approximately seven million gallons per day. Actual daily flow is 4.5 million gallons per day. This is a reduction from eight (8) million gallons per day due to a 67 million dollars capital improvement to the City's wastewater treatment during the past short term planning period, including \$56 million for collection system rehabilitation.

As documented above, the City is exceeding its Level of Service Standard for Wastewater. The City projects a slight permanent population decrease, and only a slight increase in its functional population and non-residential development, during the short and long-range planning periods, so the current capacity should remain adequate. Ongoing capital improvements and continuing conservation efforts will continue to maintain and improve service delivery.¹

Summary Response: The zoning amendment will not result in an increase in sanitary sewer as there is no change to existing uses.

Solid Waste - Policy 4-1.1.2.D

The City currently contracts with Waste Management of Florida, Inc. to collect, transfer and dispose of solid waste and residential recyclables. Commercial recyclables and other non-franchised collection services such as construction and demolition debris and yard waste are available on the open market to all licensed haulers. The City owns and operates a solid waste transfer station on Rockland Key that received 45,402.10 tons of solid waste for disposal and 3,607 tons of recyclables in 2009/10. Waste Management disposes of the solid waste collected in Monroe County, including the City of Key West, at its Central Sanitary Landfill in Broward County. In 2009 Waste Management Inc. reported a reserve capacity of 17 years at this facility. There is therefore an estimated reserve capacity of 15 years as of the date of this report.

As documented above, the City is meeting its Level of Service Standard for solid waste. The City projects a slight permanent population decrease, and only a slight increase in its functional population and non-residential development, during the short and long-range planning periods, and the

¹ City of Key West Comprehensive Plan Data and Analysis, Pg A-16

current capacity should remain adequate. Ongoing capital improvements will be necessary to improve standards and service delivery.²

Summary Response: The zoning amendment will not result in an increase in solid waste as there are no proposed changes to existing uses.

Policy 4-1.1.2.D- Recyclable Waste Generation

Summary Response: The zoning amendment will not result in an increase in recycling materials due to no proposed development or changes to the existing commercial use.

Comprehensive Plan Policy 4-1.1.2. E- Drainage

Policy 4-1.1.2. E- Drainage Facilities Level of Service has not changed with the adoption of the new Comprehensive Plan.

The Drainage level of service standard below will be applicable to all types of development. Where two or more standards impact a specific development, the most restrictive standard shall apply:

1. Post development runoff shall not exceed the pre-development runoff rate for a 25-year storm event, up to and including an event with a 24 hour duration.
2. Stormwater treatment and disposal facilities shall be designed to meet the design and performance standards established in Chapter 62-25 Section 25.025, Florida Administrative Code, with treatment of the runoff from the first one inch of rainfall on-site to meet the water quality standards required by Chapter 62-302, Florida Administrative Code. Stormwater facilities which directly discharge into "Outstanding Florida Waters" (OFW) shall provide an additional treatment pursuant to Section 62-25.025 (9), Florida Administrative Code.
3. Stormwater facilities must be designed so as to not degrade the receiving water body below the minimum conditions necessary to assure the suitability of water for the designated use of its classification as established in Chapter 62-302 Florida Administrative Code.

Summary Response: Any new development will be required to comply with storm water requirements.

Recreation

² City of Key West Comprehensive Plan Data and Analysis, Pg A-17

Policy 7-1.1.9- The proposed change is not expected to have any adverse effect on availability of recreation services.

Approval of a plan amendment does not constitute a concurrency determination, and the applicant will be required to a concurrency determination pursuant to chapter 94.

Applicant understands and concurs with this criterion. Concurrency determination will be made at the time specific development order(s) are proposed.

- (6)** Natural environment. Whether, and to the extent to which, the proposal would result in adverse impacts on the natural environment, including consideration of wetlands protection, preservation of groundwater aquifer, wildlife habitats, and vegetative communities.

The site is currently developed in the urban area. No wetlands, aquifer recharge area, protected habitats or sensitive vegetative communities exist on site. No quantifiable impacts can be directly correlated or associated with the proposed change; therefore, no foreseeable adverse impacts are expected

- (7)** Economic effects. Whether, and the extent to which, the proposal would adversely affect the property values in the area or the general welfare. The proposed map amendment will have no adverse impacts to the property values in the area. This change will serve to accurately differentiate between commercial and residential properties, avoiding confusion and adding to the economic vitality of the district.

- (8)** Orderly development. Whether the proposal would result in an orderly and compatible land use pattern. Any negative effects on such pattern shall be identified.

The proposed map amendment would result in an orderly and compatible development pattern, no deleterious effects have been identified.

- (9)** Public interest; enabling act Public interest; enabling act. Whether the proposal would be in conflict with the public interest, and whether it is in harmony with the purpose and interest of this subpart B and its enabling legislation.

The proposal is not in conflict with the public interest and is in harmony with the purpose and intent of the Land Development Regulations and the

Comprehensive Plan as demonstrated in the above findings of the criteria for approval.

- (10)** Other matters. Other matters which the planning board and the city commission may deem appropriate.
At the time of application submittal, no other matters are deemed appropriate.

Warranty Deed

4,355.00

Doc# 2010917 12/31/2014 12:55PM
Filed & Recorded in Official Records of
MONROE COUNTY AMY HEAVILIN

Prepared by and return to:

JOHN M. SPOTTSWOOD, JR.
Attorney at Law
Spottswood, Spottswood & Spottswood
500 Fleming Street
Key West, FL 33040
305-294-9556
File Number: 14-120-EJD
Will Call No.:

12/31/2014 12:55PM
DEED DOC STAMP CL: Krys \$30,485.00

Doc# 2010917
Bk# 2718 Pg# 2117

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Warranty Deed

This Warranty Deed made this 18th day of December, 2014 between Bahama Village Market, LLC, a Florida limited liability company whose post office address is 201 Front Street, Key West, FL 33040, grantor, and Historic Tours of America, Inc., a Florida corporation whose post office address is 201 Front Street Suite 1-7, Key West, FL 33040, grantee:

(Whenever used herein the terms "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives, and assigns of individuals, and the successors and assigns of corporations, trusts and trustees)

Witnesseth, that said grantor, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable considerations to said grantor in hand paid by said 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, situate, lying and being in **Monroe County, Florida** to-wit:

See Attached Exhibit "A"

Parcel Identification Number: 00014010-000100 (as to parcel 3)
Parcel Identification Number: 00014010-000000 (as to parcel 4&5)
Parcel Identification Number: 00014210-000000 (as to parcel 6)
Parcel Identification Number: 00014020-000000 (as to parcel 7, 8, 9)
Parcel Identification Number: 00014060-000000 (as to parcel 10)
Parcel Identification Number: 00014050-000000 (as to parcel 11)

Subject to taxes for 2015 and subsequent years; covenants, conditions, restrictions, easements, reservations and limitations of record, if any.

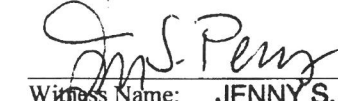
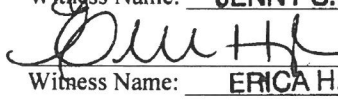
Together with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

To Have and to Hold, the same in fee simple forever.


And the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes accruing subsequent to **December 31, 2014**.

In Witness Whereof, grantor has hereunto set grantor's hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:


Witness Name: JENNY S. PERRY

Witness Name: ERICA H. STERLING

Bahama Village Market, LLC, a Florida limited liability company

By: 
Edwin O. Swift, III, Manager

State of Florida
County of Monroe

The foregoing instrument was acknowledged before me this 19th day of December, 2014 by Edwin O. Swift, III, Manager of Bahama Village Market, LLC, a Florida limited liability company, on behalf of said limited liability company. He ☐ is personally known or ☒ has produced a driver's license as identification.

[Notary Seal]




Notary Public

Printed Name: _____

My Commission Expires: _____

EXHIBIT A

Doc# 2010917
Bk# 2716 Pg# 2119

PARCEL 3:

In the City of Key West, Monroe County, Florida and is designated on Charles W. Tift's Map of said City as Part of Lot 1 of Square 1 in Tract 3 of Simonton's Addition to the City of Key West and herein described more particularly described more particularly by metes and bounds as follows: BEGIN at the intersection of the Southerly Right-of-Way line of Petronia St. and the Westerly Right-of-Way boundary line Whitehead Street for a Point of Beginning; thence Southerly along the said Westerly line of Whitehead Street 62.25 feet to a point; thence Westerly at right angles 96 feet to a point; thence Northerly at right angles 23.48 feet to a point; thence Easterly at right angles 5 feet to a point; thence Northerly at right angles 38.77 feet to a point on the said line of Petronia St.; thence at right angles in a Northeasterly direction 91 feet back to the Point of Beginning.

PARCEL 4:

Part of Lot One (1) of Square One (1), Tract Three (3) of Simonton's Addition to the City of Key West, Florida: COMMENCING at the intersection of the Westerly Right-of-Way boundary line of Whitehead Street and the Southerly Right-of-Way boundary line of Petronia Street and run thence Westerly along the said line of Petronia 91 feet to the Point of Beginning of the parcel herein being described; thence continue along the said line of Petronia Street 74 feet to a point; thence Southerly and at right angles 62.25 feet to a point; thence Easterly and at right angles 69 feet to a point; thence Northerly and at right angles 23.48 feet to a point; thence Easterly at right angles 5 feet to a point; thence Northerly at right angles 38.77 feet back to the Point of Beginning on Petronia Street.

PARCEL 5:

On the Island of Key West, Monroe County, Florida and being a part of Lot 1 in Square 1 of a Sub-division of a part of the Estate of John W. Simonton Tract 3, Key West, Florida as recorded in Deed Book 1 at Page 421, Public Records of Monroe County, Florida and being described more particularly as follows: COMMENCE at the point of intersection of the Southerly line of Petronia Street with the Easterly line of Terry Lane; thence Southeasterly along the said line of Terry Lane 63.34 feet to a point; thence Northeasterly at a right angle 27 feet to the Point of Beginning of the parcel of land herein described; thence Northwesterly at a right angle 1.09 feet to a point; thence Northeasterly at a right angle 69 feet to a point; thence Southeasterly at a right angle 1.09 feet to a point; thence Southwesterly at a right angle 69 feet back to the Point of Beginning.

PARCEL 6:

A parcel of land on the Island of Key West, Monroe County, Florida, and is known on Charles W. Tift's Map of said Island as part of Lots 7 and 8, of Square I, in Tract 3 of Simonton's Addition according to Deed Book "I" at Page 421 of the Public Records of Monroe County, Florida, said parcel being more particularly described by metes and bounds as follows: COMMENCE at the intersection of the Northeasterly right of way line of Thomas Street with the Southeasterly right of way line of Petronia Street and run thence in a Northeasterly direction along the Southeasterly right of way line of the said Petronia Street for a distance

of 130.00 feet to the Point of Beginning; thence continue Northeasterly along the Southeasterly right of way line of the said Petronia Street for a distance of 62.22 feet to the Southwesterly right of way line of Terry Lane; thence Southeasterly at right angles and along the Southwesterly right of way line of the said Terry Lane for a distance of 64.25 feet; thence Southwesterly and at right angles for a distance of 62.22 feet; thence Northwesterly and at right angles for a distance of 64.25 feet back to the Point of Beginning.

PARCEL 7:

On the Island of Key West, and designated on Charles W. Tift's Map of said Island as part of Lot No. 2 in the Subdivision of Square No. 1, in part of Tract 3 known as Simonton's Addition to the City of Key West: COMMENCE at a point on Whitehead Street, distant 63 feet from the corner of Petronia and Whitehead St., and run thence in a Southeasterly direction 31 feet and 6 inches; thence at right angles in a Southwesterly direction 96 feet; thence at right angles Northwesterly 31 feet and 6 inches; thence at right angles Northeasterly 96 feet to the place of beginning.

PARCEL 8:

In the City of Key West, Monroe County, Florida and its designated on Charles W. Tift's Map of said City as to part of Lot 1, of Square 1 in Tract 3 of Simonton's Addition to the City of Key West and herein described more particularly described by metes and bounds as follows: COMMENCE at the intersection of the Southerly Right-of-Way boundary of Petronia Street and the Westerly Right-of-Way boundary line of Whitehead St. 62.25 feet to the Point of Beginning; thence continue along the said Westerly line of Whitehead Street 0.75 feet to a point; thence Westerly at right angles 96 feet to a point; thence Northerly at right angles 0.75 feet to a point; thence Easterly at right angles 96 feet back to the Point of Beginning.

PARCEL 9:

On the Island of Key West, as known as Charles W. Tift's Map of the City of Key West, as part of Square One (1) in Tract Three (3) and is part of Subdivision Two (2) in Square One (1) according to a diagram made of portion of said Tract Three (3), which diagram is recorded in Book "I" deeds page 421 of Monroe County Records: COMMENCING at a point on an Eighteen foot alley-way, Sixty Three (63) feet and four (4) inches distance from the corner of Petronia Street and said alley-way and running thence along said alley-way in a Southeasterly direction Thirty-One feet and six inches, and extending back in a Northeasterly direction on both lines a distance of Ninety-Six (96) feet.

PARCEL 10:

On the Island of Key West and is known as Part of Lot Three, (3), in the Subdivision of Square One, (1), in part of Tract Three, (3); Commencing at a point on Whitehead Street One Hundred Twenty-six feet Four inches (126' 4"), in a South East direction from the corner of Whitehead and Petronia Streets; running thence a right angles in a South West direction Ninety-six feet, (96'), to a point of beginning of Lot to be conveyed; running thence at right angles in a South East direction Twenty-one, (21'); then at right angles in a South West direction Ninety-six feet (96') to an alley known as Terry's Lane; thence in a North West direction along said alley Twenty-one feet, (21'); thence at right angles in a North East direction Ninety-six, (96') to point of beginning.

PARCEL 11:

Part of Lot Two (2), in Square One (1) of Tract Three and also known as 809 Terry Lane, in the City of Key West, County of Monroe, State of Florida.

ALSO DESCRIBED AS:

On the Island of Key West is known as Part of Lot Two (2), in the Subdivision of Square One (1), in part of Tract Three (3), and being more particularly described as follows:

Commence at the intersection of the Southwesterly Right-of-Way Line of Whitehead Street and the Southeasterly Right-of-Way Line of Petronia Street; thence in a Southwesterly direction along the said Southeasterly Right-of-Way Line of Petronia Street for a distance of 192.13 feet to the Northeasterly Right-of-Way Line of Terry Lane; thence at an angle of 90°07' 00" to the right and in a Southeasterly direction along the said Northeasterly Right-of-Way Line of Terry Lane for a distance of 94.83 feet to the Point of Beginning; thence at a right angle and in a Northeasterly direction for a distance of 96.55 feet; thence at a right angle and in a Southeasterly direction for a distance of 31.50 feet; thence at a right angle and in a Southwesterly direction for a distance of 96.55 feet to the said Northeasterly Right-of-Way Line of Terry Lane; thence at a right angle and in a Northwesterly direction along the said Northeasterly Right-of-Way Line of Terry Lane for a distance of 31.50 feet to the Point of Beginning.

Property Record Card

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.

By continuing into this site you assert that you have read and agree to the above statement.

Summary

Parcel ID 00014010-000000
Account# 1014397
Property ID 1014397
Millage Group 11KW
Location 324 PETRONIA St, KEY WEST
Address
Legal KW PT LOTS 1 AND 2 SQR 1 TR 3 B3-6 G22-421/29 G44-427/28 BOOK OF WILLS C-408/09 CO
Description JUDGES DOCKET 11-10 OR500-508 OR513-666 OR602-438/39 OR805-1099/1101 OR1143-338D/C OR1295-1572/73 OR1344-1666/7 OR1388-218/219 OR2133-389/393 OR2718-2117/21
(Note: Not to be used on legal documents.)
Neighborhood 32060
Property Class STORE (1100)
Subdivision
Sec/Twp/Rng 06/68/25
Affordable No
Housing



Owner

HISTORIC TOURS OF AMERICA INC
 201 Front St
 Key West FL 33040

Valuation

| | 2018 | 2017 | 2016 | 2015 |
|----------------------------|-------------|-----------|-----------|-----------|
| + Market Improvement Value | \$438,269 | \$265,292 | \$291,530 | \$291,530 |
| + Market Misc Value | \$63,063 | \$11,163 | \$11,932 | \$10,708 |
| + Market Land Value | \$2,172,852 | \$447,744 | \$495,578 | \$467,071 |
| = Just Market Value | \$2,674,184 | \$724,199 | \$799,040 | \$769,309 |
| = Total Assessed Value | \$2,674,184 | \$724,199 | \$799,040 | \$769,309 |
| - School Exempt Value | \$0 | \$0 | \$0 | \$0 |
| = School Taxable Value | \$2,674,184 | \$724,199 | \$799,040 | \$769,309 |

Land

| Land Use | Number of Units | Unit Type | Frontage | Depth |
|-----------------------|-----------------|-------------|----------|-------|
| COMMERCIAL DRY (100D) | 16,461.00 | Square Foot | 63.3 | 93 |

Commercial Buildings

Style 1 STY STORE-A / 11A
Gross Sq Ft 2,412
Finished Sq Ft 1,146
Perimeter 0
Stories 1
Interior Walls
Exterior Walls C.B.S.
Quality 400 ()
Roof Type
Roof Material
Exterior Wall1 C.B.S.
Exterior Wall2
Foundation
Interior Finish
Ground Floor Area
Floor Cover
Full Bathrooms 0
Half Bathrooms 2
Heating Type
Year Built 1943
Year Remodeled
Effective Year Built 1995

| Code | Description | Sketch Area | Finished Area | Perimeter |
|--------------|----------------|--------------|---------------|-----------|
| FLA | FLOOR LIV AREA | 1,146 | 1,146 | 0 |
| OUU | OP PR UNFIN UL | 1,206 | 0 | 0 |
| OPF | OP PRCH FIN LL | 60 | 0 | 0 |
| TOTAL | | 2,412 | 1,146 | 0 |

Style 1 STY STORE-A / 11A
Gross Sq Ft 3,585
Finished Sq Ft 2,250
Perimeter 782
Stories 2
Interior Walls
Exterior Walls AB AVE WOOD SIDING
Quality 450 ()
Roof Type

| Roof Material | | | | |
|----------------------|--------------------|--------------|---------------|------------|
| Exterior Wall1 | AB AVE WOOD SIDING | | | |
| Exterior Wall2 | | | | |
| Foundation | | | | |
| Interior Finish | | | | |
| Ground Floor Area | | | | |
| Floor Cover | | | | |
| Full Bathrooms | 3 | | | |
| Half Bathrooms | 3 | | | |
| Heating Type | | | | |
| Year Built | 1927 | | | |
| Year Remodeled | 0 | | | |
| Effective Year Built | 1980 | | | |
| Condition | AVERAGE | | | |
| Code | Description | Sketch Area | Finished Area | Perimeter |
| OPX | EXC OPEN PORCH | 888 | 0 | 320 |
| FLA | FLOOR LIV AREA | 2,250 | 2,250 | 296 |
| OPU | OP PR UNFIN LL | 76 | 0 | 46 |
| OPF | OP PRCH FIN LL | 371 | 0 | 120 |
| TOTAL | | 3,585 | 2,250 | 782 |

| Style | 1 STY STORE-B / 11B | | | |
|----------------------|---------------------|--------------|---------------|-----------|
| Gross Sq Ft | 1,050 | | | |
| Finished Sq Ft | 1,050 | | | |
| Perimeter | 0 | | | |
| Stories | 1 | | | |
| Interior Walls | | | | |
| Exterior Walls | C.B.S. | | | |
| Quality | 350 () | | | |
| Roof Type | | | | |
| Roof Material | | | | |
| Exterior Wall1 | C.B.S. | | | |
| Exterior Wall2 | | | | |
| Foundation | | | | |
| Interior Finish | | | | |
| Ground Floor Area | | | | |
| Floor Cover | | | | |
| Full Bathrooms | 0 | | | |
| Half Bathrooms | 0 | | | |
| Heating Type | | | | |
| Year Built | 1998 | | | |
| Year Remodeled | | | | |
| Effective Year Built | 2001 | | | |
| Condition | | | | |
| Code | Description | Sketch Area | Finished Area | Perimeter |
| FLA | FLOOR LIV AREA | 1,050 | 1,050 | 0 |
| TOTAL | | 1,050 | 1,050 | 0 |

Yard Items

| Description | Year Built | Roll Year | Quantity | Units | Grade |
|--------------|------------|-----------|----------|---------|-------|
| BRICK PATIO | 1996 | 1997 | 1 | 2028 SF | 2 |
| WROUGHT IRON | 1944 | 1945 | 1 | 276 SF | 1 |
| TIKI | 1999 | 2000 | 1 | 255 SF | 4 |
| CONC PATIO | 1999 | 2000 | 1 | 345 SF | 2 |
| TIKI | 1999 | 2000 | 1 | 368 SF | 4 |
| TIKI | 1999 | 2000 | 1 | 40 SF | 1 |
| BRICK PATIO | 1999 | 2000 | 1 | 5652 SF | 2 |
| TIKI | 1999 | 2000 | 1 | 170 SF | 1 |
| BRICK PATIO | 1999 | 2000 | 1 | 270 SF | 2 |
| TILE PATIO | 1999 | 2000 | 1 | 990 SF | 3 |

Sales

| Sale Date | Sale Price | Instrument | Instrument Number | Deed Book | Deed Page | Sale Qualification | Vacant or Improved |
|------------|-------------|---------------|-------------------|-----------|-----------|--------------------|--------------------|
| 12/19/2014 | \$4,355,000 | Warranty Deed | | 2718 | 2117 | 30 - Unqualified | Improved |
| 1/1/1995 | \$322,900 | Warranty Deed | | 1344 | 1666 | M - Unqualified | Improved |
| 2/1/1994 | \$300,000 | Warranty Deed | | 1295 | 1572 | M - Unqualified | Improved |

Permits

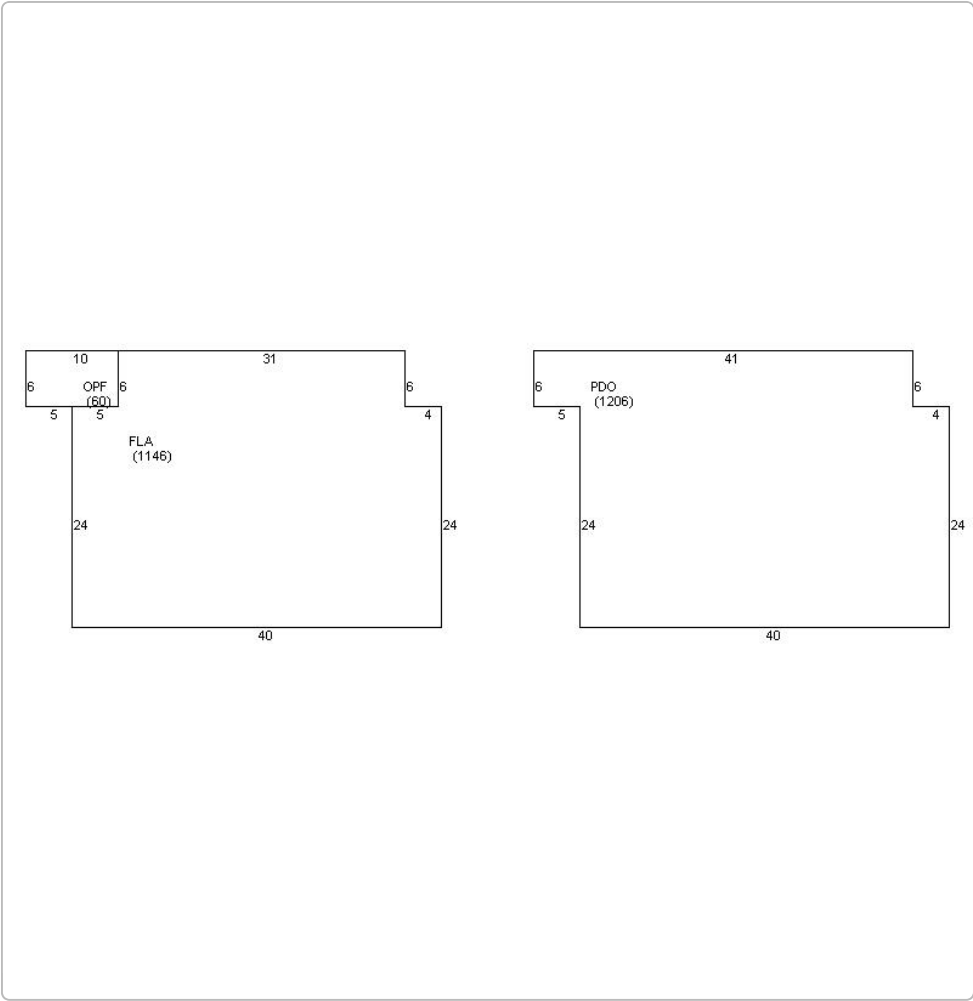
| Number | Date Issued | Date Completed | Amount | Permit Type | Notes |
|-------------|-------------|----------------|-----------|-------------|--|
| 16-0435 | 2/22/2016 | | \$1,500 | Commercial | COMMERCIAL OCCUPANCY CHANGE FROM 40 SEAT RESTAURANT (AT 324 PETRONIA) TO 150 SEAT RESTAURANT (804 WHITEHEAD). CONNECT RETAIL SPACE TO CONSUMPTION AREA. |
| 15-4747 | 12/30/2015 | | \$600 | Commercial | REMOVAL OF TICKET BOOTH |
| 15-00002126 | 5/31/2015 | | \$1,800 | Commercial | REMOVE APPLIED FINISHES INCLUDING BROKEN BAR TO TILE. REMOVE ROTTEN TITLE AND STUCCO. REMOVE DAMAGED SHEETROCK BASE TRIM. N.O.C. EXEMPT. |
| 15-1690 | 5/9/2015 | | \$4,000 | | UNDERGROUND ROUGH AND TRIM OUT. 2ND FLOOR SINKS, 1ST FLOOR DRAIN, 3 HAND WASH SINKS, 1 DISHWASHER, 1 MOP SINK, 1 PLE. COMPARTMENT SINK, 1 UNDERGROUND GREASE TRAP AND 1 SMALL 20 6PM. GREASE TRAP EXP. |
| 15-0035 | 1/12/2015 | | \$50,000 | | REPAIR 100 SF OF SIDING AND PAINT BUILDING |
| 08-222 | 5/5/2008 | | \$320,000 | Commercial | INTERIOR AND EXTERIOR RENOVATION. |
| 08-238 | 5/5/2008 | | \$240,000 | Residential | CONSTRUCT 1600 SF CONJOINED SINGLE FAMILY RESIDENCE |
| 08-220 | 5/4/2008 | 4/24/2010 | \$220,000 | Commercial | RENOVATION OF 1600SF BLDG. |
| 08-237 | 5/4/2008 | 4/24/2010 | \$210,000 | Residential | CONSTRUCT 1600 SF CONJOINED WITH SINGLE FAMILY HOME |
| 08-233 | 5/3/2008 | 4/24/2010 | \$210,000 | Residential | CONSTRUCT 1600 SF CONJOINED WITH SINGLE FAMILY HOME |
| 04-0560 | 2/25/2004 | 11/22/2004 | \$1,000 | | NEW SERVING STATION |
| 04-0354 | 2/6/2004 | 11/22/2004 | \$500 | | ELECTRICAL |
| 02-3095 | 11/15/2002 | 10/30/2003 | \$300 | | SIGN |
| 01/3858 | 12/13/2001 | 9/16/2002 | \$900 | Commercial | CONNECT A/C |

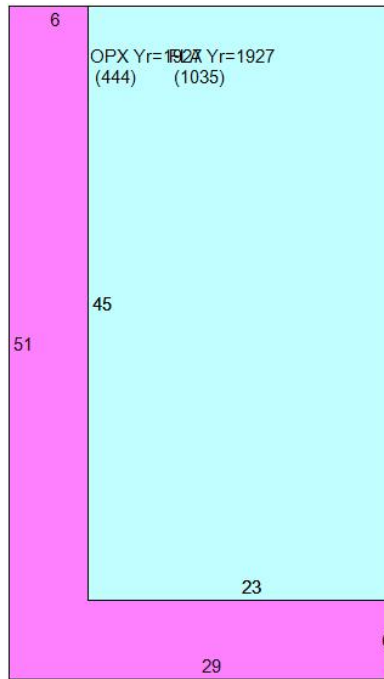
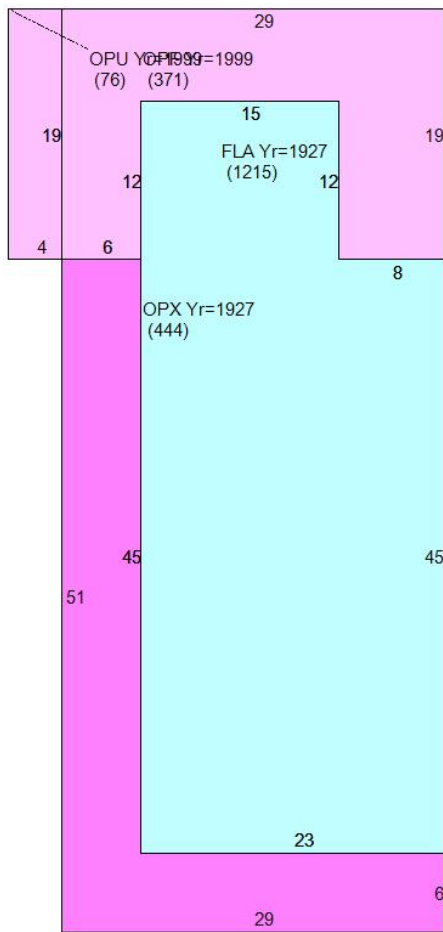
| Number ↕ | Date Issued ↕ | Date Completed ↕ | Amount ↕ | Permit Type ↕ | Notes ↕ |
|----------|---------------|------------------|-----------|---------------|---------------------------|
| 01-3879 | 12/10/2001 | 9/16/2002 | \$3,500 | Commercial | INSTALL 3.5 TON A/C |
| 9902690 | 9/25/1999 | 12/31/1999 | \$800 | | SIGN |
| 9901775 | 5/24/1999 | 12/30/1999 | \$3,050 | Commercial | CENTRAL AC |
| 9900687 | 3/2/1999 | 4/30/1999 | \$10,000 | | FINISH INTERIOR WORK |
| 9900704 | 2/26/1999 | 4/30/1999 | \$500 | | ELECTRICAL |
| 9702296 | 1/26/1999 | 4/30/1999 | \$105,000 | | RENOVATIONS |
| 9702958 | 12/29/1998 | 4/30/1999 | \$48,000 | | ROOFING |
| 9803341 | 10/26/1998 | 4/30/1999 | \$2,500 | | ELECTRICAL |
| 9803109 | 10/6/1998 | 4/30/1999 | \$10,000 | | ELECTRICAL |
| 9802589 | 8/21/1998 | 4/30/1999 | \$2,200 | | WATER/SEWER LINE |
| 9802419 | 8/19/1998 | 4/30/1999 | \$1,000 | | SIGNS |
| 9802240 | 7/17/1998 | 4/30/1999 | \$14,690 | | 17 NEW FIXTURES |
| 9801726 | 6/3/1998 | 1/1/1999 | \$14,000 | Commercial | OUTLET SWITCHES ETC |
| 9801732 | 6/2/1998 | 1/1/1999 | \$1 | Commercial | BOOTHs |
| 9702958 | 5/26/1998 | 12/30/1998 | \$48,000 | Commercial | 1 STRY OPEN MARKET BLDG |
| 9704346 | 4/30/1998 | 1/1/1999 | \$10,000 | Commercial | HOOD FIRE SYSTEM |
| 9704277 | 4/27/1998 | 1/1/1999 | \$15,000 | Commercial | CENTRAL AC SYSTEM |
| 9801209 | 4/12/1998 | 1/1/1999 | \$400 | Commercial | LIGHT/SWITCH ETC |
| 9800568 | 4/7/1998 | 1/1/1999 | \$1 | Commercial | V-CRIMP ROOF |
| 9800791 | 3/12/1998 | 1/1/1999 | \$4,100 | Commercial | HOOD, EXHAUST DUCT & FAN |
| 9704346 | 3/6/1998 | 1/1/1999 | \$10,000 | Commercial | CENTRAL AC & DUCT ETC |
| 9704346 | 2/27/1998 | 1/1/1999 | \$10,000 | Commercial | GREASE TRAP, SINK ETC |
| 9704346 | 2/17/1998 | 1/1/1999 | \$10,000 | Commercial | OUTLETS, SWITCHES ETC |
| 9704346 | 2/12/1998 | 1/1/1999 | \$10,000 | Commercial | INTERIOR IMPROVEMENTS |
| 9704277 | 1/28/1998 | 1/1/1999 | \$15,000 | Commercial | LIGHTS, FANS ETC |
| 9800121 | 1/13/1998 | 12/30/1999 | \$79,000 | Commercial | DEMO SHED/NEW BLDG |
| 9704084 | 12/4/1997 | 4/30/1999 | \$450 | | NEW SEWER LINE |
| 9702296 | 11/19/1997 | 4/30/1999 | \$105,000 | | RENOVATION OF APARTMENTS |
| 9703571 | 10/31/1997 | 4/30/1999 | \$1,500 | | RELOCATION OF BOOTH |
| 9701683 | 7/2/1997 | 4/30/1999 | \$1 | | DEMO INTERIOR |
| 990986 | 5/15/1997 | 12/30/1999 | \$1 | Commercial | RENOVATE CISTERN/BRICK PA |

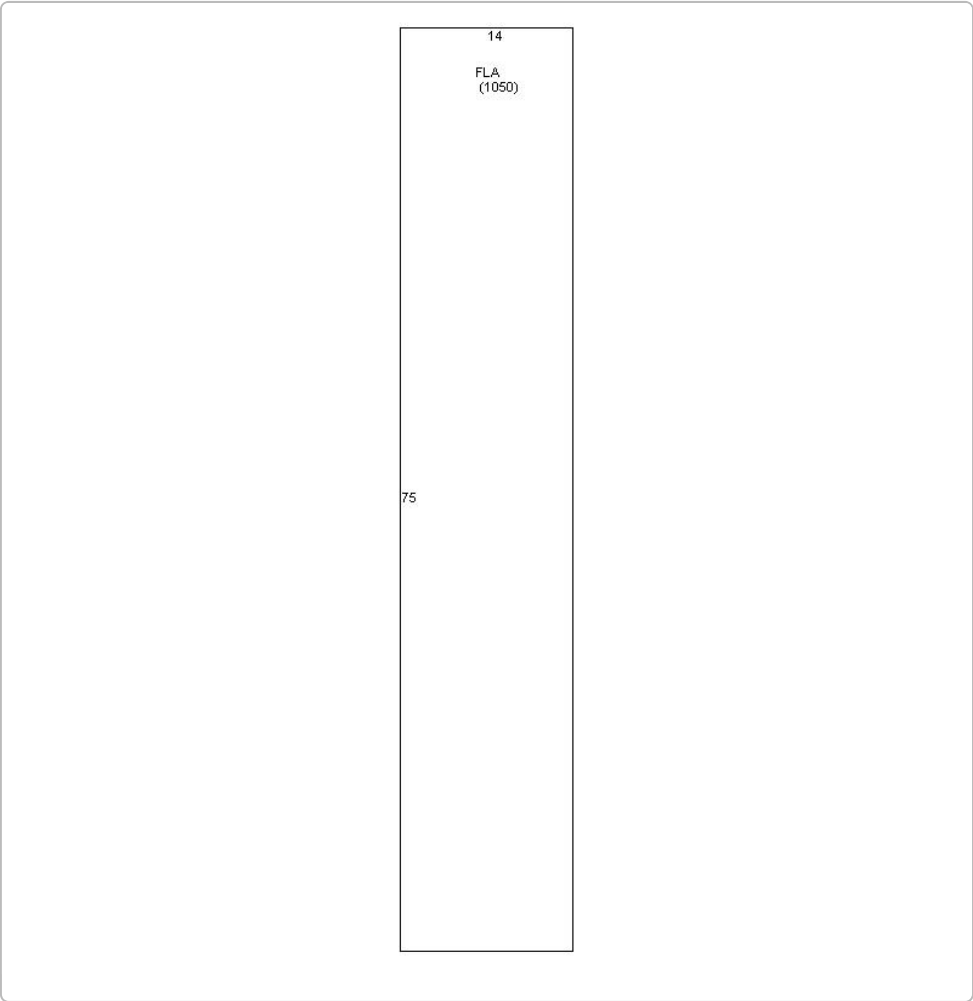
View Tax Info

[View Taxes for this Parcel](#)

Sketches (click to enlarge)







Photos



Map



TRIM Notice

Trim Notice

2018 Notices Only

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

The Monroe County Property Appraiser's office maintains data on property within the County solely for the purpose of fulfilling its responsibility to secure a just valuation for ad valorem tax purposes of all property within the County. The Monroe County Property Appraiser's office cannot guarantee its accuracy for any other purpose. Likewise, data provided regarding one tax year may not be applicable in prior or subsequent years. By requesting such data, you hereby understand and agree that the

Last Data Upload: 6/4/2019 5:28:24 AM

Version 2.2.22

Developed by



Survey

Authorization Form

City of Key West
Planning Department



Authorization Form
(Where Owner is a Business Entity)

Please complete this form if someone other than the owner is representing the property owner in this matter.

I, Edwin O Swift III as
Please Print Name of person with authority to execute documents on behalf of entity

President of Historic Tours of America, Inc.
Name of office (President, Managing Member) *Name of owner from deed*

authorize Trepanier & Associates, Inc.
Please Print Name of Representative

to be the representative for this application and act on my/our behalf before the City of Key West.


Signature of person with authority to execute documents on behalf on entity owner

Subscribed and sworn to (or affirmed) before me on this 2-11-19
Date

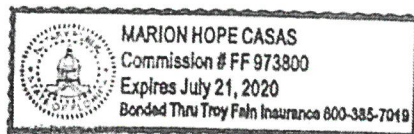
by Edwin O Swift III
Name of person with authority to execute documents on behalf on entity owner

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


Notary's Signature and Seal

MARION HOPE CASAS
Name of Acknowledger typed, printed or stamped

Commission Number, if any



Verification Form

City of Key West
Planning Department



Verification Form

(Where Authorized Representative is an Entity)

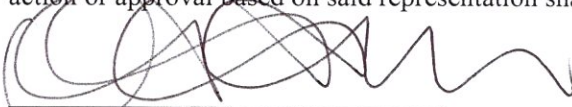
I, Owen Trepanier, in my capacity as President
(print name) (print position; president, managing member)
of Trepanier & Associates, Inc.
(print name of entity serving as Authorized Representative)

being duly sworn, depose and say that I am the Authorized Representative of the Owner (as appears on the deed), for the following property identified as the subject matter of this application:

802-806 Whitehead St

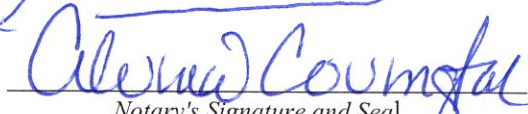
Street Address of subject property

All of the answers to the above questions, drawings, plans and any other attached data which make up the application, are true and correct to the best of my knowledge and belief. In the event the City or the Planning Department relies on any representation herein which proves to be untrue or incorrect, any action or approval based on said representation shall be subject to revocation.


Signature of Authorized Representative

Subscribed and sworn to (or affirmed) before me on this 22 July 2019 by
date
Owen Trepanier
Name of Authorized Representative

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


Notary's Signature and Seal

Alvina Covington
Name of Acknowledger typed, printed or stamped

GG 328928
Commission Number, if any



Public Comments

To: City Commission c/o the Key West City Clerk

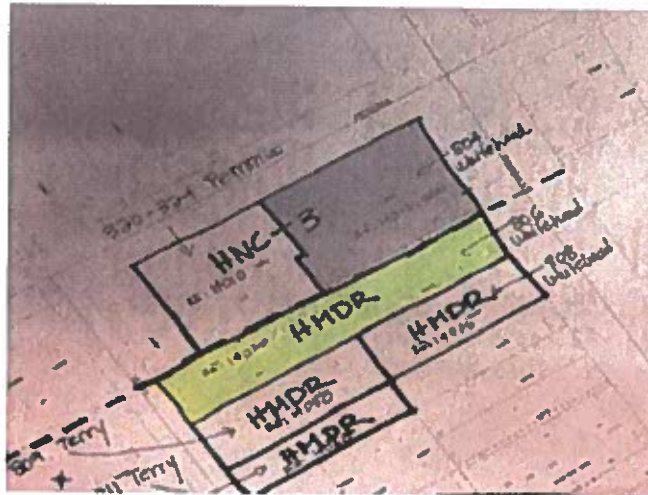
Appeal of January 16, 2020 Planning Board Decision (the “Decision”) on Applications of Historic Tours of America, Inc. For Applications for FLUM amendment and Official Zoning Map Amendment for 318-324 Petronia Street (802-806 Whitehead Street) (the “Applications”)

The undersigned owns 819 Terry Lane in Key West with my wife Susan. I am appealing the 4-2 vote of the Planning Board (the “Board”) at the January 16, 2020 meeting approving the Applications. The Decision is contrary to the Ordinance. The Decision violates the agreement reached between the City of Key West and the Applicant’s owner Ed Swift in 1996-97, and it is against the clear and convincing evidence in the record demonstrating the Applications are contrary to virtually every one of the criteria Sec. 90-555 the Applicant was required to prove. Based on the testimony at the Board meetings, opposition filings with the Board¹ by the undersigned and other neighboring property owners in opposition to the Applications that are a part of the record on these Applications, and below information and arguments, the Board’s ruling should be overturned, as it is not supported by the record or applicable law. It is respectfully requested that the Commission deny the Applications based on the record and information and arguments referenced herein.

Background. Ed Swift is owner of the Applicant and its predecessors that own several Lots bordered by Whitehead and Petronia Streets and Terry Lane. In a 2010 Zoning Letter Ed Swift’s properties are shown to include the following, to wit: 804, 806, and 808 Whitehead; 318-324 Petronia Street, and 809 and 811 Terry Lane. Effective with the FLUM/Zoning Ordinance amendment on July 3, 1997 the zoning district boundaries are as shown below. Both Applications claim “This is an application to amend the Zoning Map [the Future Land Use Map] to address a mapping error. The intent is to eliminate land use regulation confusion and uncertainty.”] The Applications seek to change the yellow highlighted space from HMDR to HNC-3 because Mr. Swift claims the boundary line between the Parcels in 804 Whitehead/318-324 Thomas and 806 Whitehead was a “mapping error.”

¹ By this reference I am incorporating the Neighboring Property Owners’ and residents’ prior opposition filings and emails to the Board as to these Applications into the evidence presented in this hearing In Haec Verba. These include the comments appended to this Board’s agenda items in reference to these Applications, without limitation including:

Neighborhood Homeowners’ Opposition to Applications to Amend Zoning and Future Zoning Map for Property #RE00014010-000000 and exhibits; Additional Comment Opposing Applications Based on Trips Intensity/Parking Nuisance of the Bar/Restaurant Use of Property including all exhibits; Addendum and Supplemental Opposition of Undersigned Residential Owners... including all exhibits (Including Exhibit 4 (Point by Point The Neighboring Residential Property Owners’ point by point response ...)); Emails to Planning Board Members dated November 26, 2019, December 13, 2019, and January 8, 2020, including all attachments.



No Error-No Confusion. Ed Swift testified at two Board meetings in support of the Applications that in late 1996 and early 1997, Ted Strader on behalf of Key West and Mr. Swift as owner of the Lots and parcels comprising the Property reached an agreement with regard to the boundary line between the HNC-3 and HMDR zoning districts running through the Property.

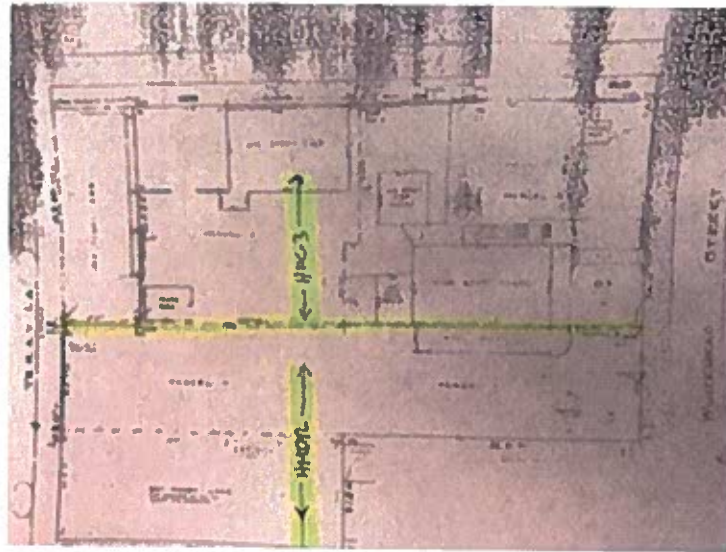
The Agreement---Given the contentious history of the zoning/FLUM ordinance amendment in the mid 1990's, Mr. Swift agreed he would not challenge the HMDF/HNC-3 Boundary line in the FLUM/Zoning District Ordinance in exchange for the City giving Mr. Swift certain concessions that were soon embodied in Resolution Nos. 97-72 and 97-73 passed by the Zoning Board of Adjustment and the City Commission in early 1997. According to Ed Swift's sworn testimony Ted Strader agreed on behalf of Key West to Mr. Swift's proposal.

The City of Key West delivered its side of the deal and Resolution Nos. 97-72 and 97-73 both were passed by the Zoning Board of Adjustment effective February, 1997. As the record and the Applications show, Mr. Swift is reneging on his agreement with Key West.

Res. # 97-72 dealt only with a restaurant Special Exception for 804 Whitehead with a FLUM of HNC-3 effective July 3, 1997. Res. # 97-72 also included 809 and 811 Terry Lane, but for parking only. Res. # 97-72 approved a special exception for a 45-seat restaurant, although impact fees were only paid for 40 seats (ultimately all the seats that were allowed for restaurant operations). Res. # 97-72 also allowed a setback variance.

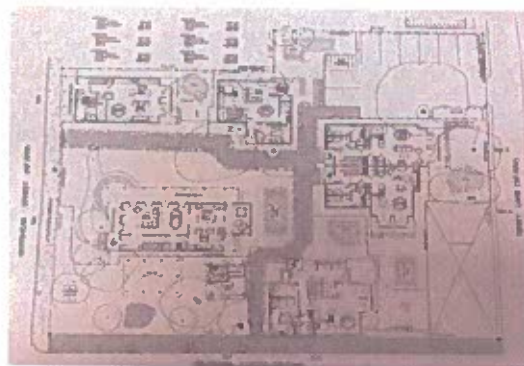
Res. # 97-73 dealt only with 806 Whitehead (Lots 7 and 9) and 809 and 811 Terry Lane, all with a FLUM of HMDR effective as of July 3, 1997. Resolution #97-93 was broad, allowing and exception for "SMALL SCALE COMMERCIAL USE (RETAIL SALES/RESTAURANT/PARKING)" without any specificity. But there was a one---year window for development and except for an open air commercial retail building built at 322 Petronia Street in 1998. That building was 75 foot long and a back portion of it extended onto a part of Lot 9 of 806 Whitehead Street. All other exceptions to the HMDR zoning requirements on Lots 7 and 9 of 806 Whitehead lapsed under the express terms of Sections 2 and 3 of Res. # 97-73.

In Mr. Swift's 1996 applications for Res. Nos. 97-72 and 97-73 he submitted the following Plat of Survey on which was handwritten the zoning boundaries going into effect July 3, 1997.

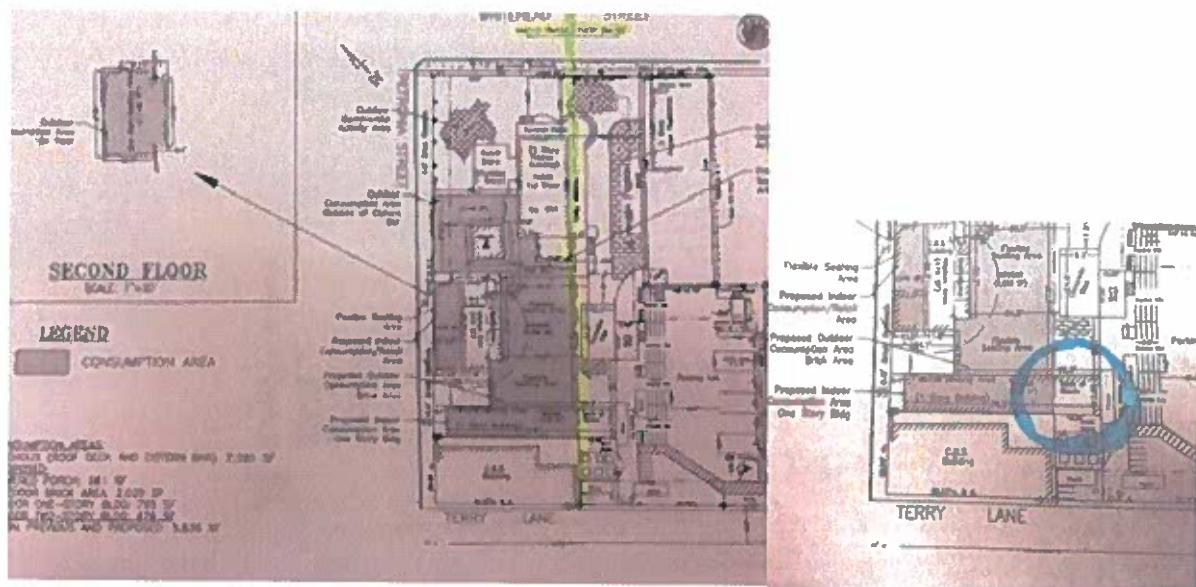


Notably, the boundary line separated the porch (on 806 Whitehead) from the house on 806 Whitehead existed, but the 75 foot long open retail air market at 322 Petronia Street did not.

In 2006, when Mr. Swift thought it was in his interest to convert the Property into a residential development, he included his adjoining 808 Whitehead Lot with its two-story residential structure in his "development site." See his Minor Development plan for 318, 320, 322, 324 Petronia Street, 802, 804, 806, 808 Whitehead Street and 809 and 811 Terry Lane approved by the City Commissions as consistent with the Comprehensive Plan in Res. #06-045. That resolution approved by the City Commission entailed Mr. Swift demolishing existing retail; replacement of two (2) residential units; conversion of restaurant space to residential; and conversion of retail space and three apartments into a single-family home plus parking. There would be a total of six (6) houses and retail only at the corner of Whitehead and Petronia Streets. The "development site" included 808. See drawing Mr. Swift submitted with the application.



In 2011 the Board passed Res. 2011-059 giving Mr. Swift a special use exception for 150 restaurant seats and 6,637 square feet of flexible consumption area pursuant to the approved site plan attached to the resolution, all of which was in the HNC-3 district. The yellow boundary line



shows that all restaurant consumption space was mandated to be to the left of the boundary line. Circled in blue is the “Back of House” (322 Petronia Street) demonstrating the lapse of Res. 95-73--no restaurant consumption space was permissible as it is in the HMDR district. Likewise no restaurant consumption space was available on Lots 7 or 9 of 806 Whitehead because they were in the HMDR district. This was confirmed in the 2015 Minor Modification to Res. # 2011-059:

“The covered porch located at the northeastern portion of two-story structure is in the HMDR Zoning District. Restaurant use is a prohibited use in the HMDR zoning district; therefore, no consumption area shall take place on the covered porch located at the northeastern portion of the two-story structure.”

This further confirms there never has been nor is there any confusion on where HNC-3/HMDR boundary line along Lots 7 and 9 of 806 Whitehead is drawn and its impact on permissible conditional uses. Mr. Swift’s PowerPoint presented his representative at the August 15th Planning Board meeting demonstrates clarity of the existing boundary line-no error or confusion:



Since July 1997 that HNC-3/HMDR boundary line has followed the Lots 7 and 9 Boundaries (Mr. Swift’s Red line above in the August 15th Power Point photos). The red line he draws in his power point photos follows the border line between 806 and 804 Whitehead and is clear. That line has been drawn and acknowledged and applied by Mr. Swift and this Board and its Staff and

the Commission and the City of Key West in a multitude of Mr. Swift's applications for special treatment on the various parts of the Property over more than a twenty three year period.

As this Board found in the 2010 Zoning Letter, the Minor Modification, and in every other Resolution on the Property, the covered porch is on Lot 7 and is HMDR-residential and the "Back of House" is and has always been distinctly different from the rest of the structure permitted and built after the July 3, 1997 FLUM zoning change. Mr. Swift, this Board, the Commission and Key West have never had difficulty or confusion in applying that boundary line on the Property to limit permitted and conditional uses on Lots 7 and 9 based on them being in the HMDR zoning district.

The Applicant has Not Met its Burden of Proof

Sec. 122-93(b) requires evidence—not mere factually devoid assertions. Sec. 122-93(b) places the burden squarely on the Applicant, stating in part:

"(b) Map amendment. Procedures for amendment of the official zoning map are as follows...The property owner shall have the burden of proving that the rezoning proposal is consistent with the comprehensive plan and that it complies with all procedural requirements of the zoning ordinances.....".

In the Neighbor's multiple opposition filings and emails to the Board we have demonstrated that the Applicant has not submitted evidence or otherwise met its burden of proof required to sustain its Applications for an amendment of the FLUM and the Zoning District under the Ordinance. As shown in the opposition filings to the board and below, the Applicant merely made conclusory assertions in response to almost every required element of its burden of proof. As a threshold matter the Applications fly in the face of the purpose and intent of the Ordinance's intended purpose for Zoning and Map amendments.

Sec.90-516. - Purpose and limitations.

The purpose of this subdivision is to provide a means for changing the text of the land development regulations or the boundaries of the official zoning map. **It is not intended to relieve particular hardships nor to confer special privileges or rights on any person, but only to make necessary adjustments in light of changed conditions.....** (Emphasis added).

Mr. Swift presented no evidence as to why the Applications further the intent and purpose of the Ordinance. In fact, all record evidence is to the contrary. Two neighbors testified at the hearing that the Applicant's property will increase in value because of the change. This is self-evidence by virtue of the numerous uses available to the Applicant by the change to commercial. One was a Key West real estate professional. He testified without rebuttal that the surrounding landowners' properties would be less valuable if the Applications are granted; that granting the Applications only benefited the Applicant and no surrounding property owners; and that granting

the Applications is the epitome of “spot zoning.” Another neighbor, an attorney, testifies she has a similar situation with her property not far from the Applicant’s property has two different zoning district classifications. She testified she also would like her property to be entirely commercial since it would be more valuable.

Why and Why Now?

Sec. 90-520. - Contents of application. Requires: “The application shall contain the following information: (4) Existing and proposed use. The existing and proposed use of the subject property shall be stated.”

To that the Applicant has refused to state any plans for the property other than what Applicant states in the Application: “Existing use: Commercial Proposed Use: Commercial.”

That is not responsive. That also is not true. There is no existing lawful commercial use on 806 Whitehead. At one point in the meeting Ed Swift testified that is why he is seeking to change it—so he can get his carts back. Mr. Trepanier mentioned that to put the carts back they’d probably have to do a parking study. But, Ed Swift responded to a board member’s questioning “We Have No Plans.” Which as the neighbors have pointed out, even if true, cuts against Applicant. That means all intense uses need to be accounted for by Applicant.

The Applicant is required to prove he is entitled to the relief granted under Sec. 90-555. – “Criteria for approving amendments to comprehensive plan future land use map. In evaluating proposed changes to the comprehensive plan future land use map, the city shall consider the following criteria:”

The Applicant has failed to do so, as to any of the criteria, and especially as to the following:

(3) Changed conditions. Whether, and the extent to which, land use and development conditions have changed since the comprehensive plan's effective date and whether such conditions support or work against the proposed change.

The Applicant does not address this. It only dissembles, stating:

“The effective date of the Land Development Regulations is July 3, 1997. The 2030 Comprehensive Plan and the LDRs are “Living Documents” that are, by their very nature, designed to evolve and change with the community’s goals. In this case, the community surrounding the subject property has developed over the last 30 years into a vibrant commercial and recreational activity center.”

Undisputedly, in July 1997 the Bahama Village was a distressed area. But now it is a vibrant residential community with neighborhood serving commercial uses except for Applicant and its tenant RAMSHEAD. There’s already too much intensity in the neighborhood. The Applicant is required to explain, but does not, how more commercial land in the Bahama Village is good for

the vibrant residential neighborhood and the Comprehensive Plan's and Bahama Village Plan's intended small, neighborhood serving commercial neighbors.

(4) Land use compatibility. Whether, and the extent to which, the proposal would result in any incompatible land uses, considering the type and location of uses involved.

Applicant responds: "The proposed map amendment would serve to extend the adjacent HC District. Adjacent commercial uses will remain compatible.

Applicant does not address incompatibility and the adverse impact of the proposed new HNC-3 land on the RESIDENTIAL property owners in the area, or the area's small, neighborhood serving commercial establishments.

The Applicant without evidence misstates "The subject properties currently have a variety of existing legal non-conforming land uses within the HMDR zoning. These inconsistent land uses include: commercial retail, restaurant and parking lot."

1. There is no legal restaurant use on any HMDR part of the property.
2. Parking lots and facilities are HMDR conditional uses.
3. There are no existing, lawful commercial uses (not even carts) operating on the HMDR land and Applicant has produced no evidence supporting such claim.

Granting zoning changes of Lots 7 and 9 to HNC-3 by itself increases permissible noise level at that property line to 75 dBA or 77 dBC (maximum permitted sound level in decibels).....during a mandated 8:00 p.m. to 7:59 a.m. quiet period under HMDR.

By way of example: A conversation in restaurant, office, background music, Air conditioning unit at 100 feet is 60 dB, which is half as loud as 70dB.

Other automatic intensity changes:

The Applications are not consistent with Policy 1-1.1.3, ignored by Applicant. Intensity automatically increases with FAR of .8 introduced by a change to HNC-3 (versus .5 associated with HMDR--setbacks and other restrictions on residential developments permit far less than that density).

Newly Available Permitted Uses in HNC-3 as of Right, including, (4) Places of worship; (5) Business and professional offices; (6) Commercial retail low intensity less than or equal to 2,500 square feet; (7) Hotels, motels, and transient lodging; (8) Medical services; (9) Parking lots and facilities; (10) Veterinary medical services, without outside kennels.

Applicant addresses none of these.

(7)Economic effects. Whether, and the extent to which, the proposal would adversely affect the property values in the area or the general welfare.

Without any evidence or explanation, Applicant asserts: “The proposed map amendment will have no adverse impacts to the property values in the area.”

However, a Key West Real Estate professional testified before the Board that making Lots 7 and 9 of 806 Whitehead commercial would adversely impact and lower the property values of the surrounding property owners’ properties. This is a Residential neighborhood and it is undisputed that the Bahama Village Plan and HNC-3 zoning intends only Low intensity commercial businesses. The Applicant’s asserted “economic vitality of the district” is irrelevant to the Applications—and if at all only applies to neighborhood serving commercial uses.

(8) Orderly development. Whether the proposal would result in an orderly and compatible land use pattern. Any negative effects on such pattern shall be identified.

Again without any evidence or explanation, Applicant asserts: “The proposed map amendment would result in an orderly and compatible development pattern, no deleterious effects have been identified.”

The evidence demonstrates an adverse impact on the surrounding neighboring property owners will occur if the Applications are granted—increased noise violations and worse parking and traffic and garbage nightmares. The Applications are not consistent with the Comprehensive Plan and changed circumstances since July 3, 1997. There is no justification for elimination of residential land and changing residential land to commercial with more intense uses associated with HNC-3 versus HMDR. Residential development was already approved for the Property and found consistent with the Comprehensive Plan--including also 808 Whitehead, owned by the Applicant. Applicant has not and cannot prove changing 806 Whitehead Street from HMDR to HNC-3 is consistent with the Comprehensive Plan.

(9) Public interest; enabling act. Whether the proposal would be in conflict with the public interest, and whether it is in harmony with the purpose and interest of this subpart B and its enabling legislation.

Again without any evidence, explanation, or supporting citation, the Applicant asserts: “The proposal is not in conflict with the public interest and is in harmony with the purpose and intent of the Land Development Regulations and the Comprehensive Plan as demonstrated in the above findings of the criteria for approval.

The record is replete with evidence demonstrating the Applications benefit only the Applicant and that the requested amendments would only further intensify the already existing harm imposed by the Property's operations on the adversely impacted neighboring property owners, both commercial and residential. More commercial property in the Bahama Village flies in the

face of the Comprehensive Plan, the changed Bahama Village into a vibrant historical residential community, the delicate balance struck by Key West in the FLUM, Bahama Village and Comprehensive Plans, the adverse impact on neighboring land values and residential livability, etc.

Policy 1-1.1.1: “Planning Horizons. The Future Land Use Map shall contain an adequate supply of land in each district to meet the demands of the existing and future population.”

Policy 1-1.2.1 Ignored by Mr. Swift. (“Sufficient space shall be provided for residential development and required community facilities to adequately meet the housing needs of the present and expected future population.... Monitoring Measure(s): Providing an adequate supply of residentially-designated lands on the Future Land Use Map to meet need of current and projected population..... Stable residential areas and projected future residential areas as delineated on the Future Land Use Map shall be protected from encroachment by incompatible development.”).

Mr. Swift has not submitted proof that making Lots 7 and 9 HNC-3 is consistent with the Comprehensive Plan, and worse, he only claims the Applications “are not inconsistent with the Comprehensive Plan.” But under Sec. 122-93(b) “The property owner shall have the burden of proving that the rezoning proposal is consistent with the comprehensive plan....”

(10) Other matters. Other matters which the planning board and the city commission may deem appropriate.

Applicant ignored this in the Applications. The Applicant has not responded to the neighboring property owners’ evidence showing both the Applicant and its tenant are the epitome of Key West Bad Neighbors. To make matters worse, the Applicant has not responded to the neighbors’ complaints, and legitimate concerns about its past and current operations ignoring Res. # 2011-59 conditions and the increased intensity of adding yet more commercial land---compounding existing bar/restaurant/amplified music/noise/ increased traffic and lack of parking/etc.

That goes double for its tenant Rams Head-a true Key West Bad Bahama Village Neighbor—who refuses any dialogue with its neighbors in their attempt to obtain Rams Head’s compliance with Res. # 2011-59 --the law– with no response from Rams Head.

Mr. Swift claims the City intended intense commercial use of the Property. That ignores the 1998 and 2009 Bahama Village Redevelopment Plan:

SECTION 4.04. BAHAMA VILLAGE; REDEVELOPMENT OBJECTIVES AND STRATEGIES FOR ADDRESSING OBJECTIVES. (A) Primary Objective 1: Recognition of Unique Community Characteristics. (A) Primary Objective... (2) *Commercial uses should be encouraged to be small scale, neighborhood serving, and should avoid negatively impacting or displacing residents of the subarea.* (3) Discourage

large scale development and redevelopment projects unless they are demonstratively reflective of or otherwise advance the existing small scale fabric of the subarea. Require mitigation for large scale redevelopment to counter the negative impacts to the existing small-scale fabric of the Bahama Village subarea. (Emphasis added.)

Conclusion. Mr. Swift fails to prove that threshold requirement (confusion) and that ends the matter. It is not the Surrounding Property Owners' Burden to Prove Mr. Swift's Applications should be denied, but they have done so. Mr. Swift's Threshold Burden is to prove confusion or uncertainty as to the boundary—but, he presented no evidence showing confusion or uncertainty. The opposite is true—the boundary follows the lot lines consistent with §122-94(2).

But, beyond that, the Applicant also fails to prove the Applications are consistent with the Comprehensive Plan and all other policies and Ordinances. Finally, based on the undisputed record, granting the Applications would be illegal Spot Zoning.

It is respectfully requested that the Commission not follow the recommendation of the Planning Board and deny the Applications.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Mark E. Furlane', written in a cursive style.

Mark E. Furlane

Joint Owner of 819 Terry Lane, Key West, Florida 33040

Keri O'Brien

From: Keri O'Brien
Sent: Wednesday, January 15, 2020 4:55 PM
To: Keri O'Brien
Subject: FW: Applications for FLUM amendment for 318-324 Petronia Street (802-806 Whitehead Street), 809 & 811 Terry Lane/Official Zoning Map Amendment-318-324 Petronia Street
Attachments: Zoning Verification Letter September 10, 2010.pdf
Importance: High

From: Mark Furlane [<mailto:mfurlane@bnf-law.com>]
Sent: Wednesday, January 08, 2020 12:50 PM
To: Roy Bishop <rbishop@cityofkeywest-fl.gov>; Vanessa T. Sellers <vsellers@cityofkeywest-fl.gov>
Cc: Nancy Paulic <nancypaulic@yahoo.com>; Todd Santoro <todd@toddsantoro.com>; John hembling <jhembling@sbcglobal.net>; Bob Walsh <robertwalsh620@comcast.net>; David Amendt <davidamendt@hotmail.com>; judyhembling@yahoo.com; Susan Keegan <susan@susankeegan.com>
Subject: Applications for FLUM amendment for 318-324 Petronia Street (802-806 Whitehead Street), 809 & 811 Terry Lane/Official Zoning Map Amendment-318-324 Petronia Street

Dear Mr. Bishop and Ms. Sellers,

Please forward the neighbors' below email and attachment to the Planning Board members together with the attachment. Also, please make this part of the public record on the Applications pending before the Planning Board.

Thank you,

Mark Furlane

Dear Planning Board Chairman Sam Holland, Jr, and
Members Ann Henderson, Ed Russo, Jim Gilleran, Gregory Lloyd,
and Michael Browning; (Freddy Varela, Sr. (recused))

c/o Planning Board Staff Members Roy Bishop (Planning Director) and Vanessa Sellers (Planner II)

Re: Applications for FLUM amendment and Official Zoning Map Amendment for 318-324 Petronia Street (802-806 Whitehead Street)

Because the Planning Board Process allows the Applicant and Board Members to make statements and present testimony and arguments at the Planning Board meeting after the public has been allowed to present their comments, there was no opportunity for neighboring citizens to correct the record at the meeting. However, as the Board deferred voting on these two Applications at the November 21st meeting the Neighbors will take this opportunity to respond to and clarify certain of Applicant's erroneous assertions made following the public comments at the November 21st Planning Board meeting.

Among others, we are addressing (1) Owen Trepanier's assertion that a restaurant use was a permitted use on the three residentially zoned Lots (although he was actually referring to four lots--Lots 7 and 9 (806 Whitehead Street) and 809 and 811 Terry Lane; and (2) Owen Trepanier's related and unsupported claim that in applying Land Development Regulation Sec. 122 "Lot" should be considered a "development lot."

Mr. Trepanier testified as follows at the November 21st Planning Board Meeting (1:02:44 of the video):

...this lot, the entirety of it, was approved for restaurant use for the special exception by Resolution #97-93. And that special exception reads this way, because I think what Mr. Furlane inferred, if I heard him right, that these properties were not approved for restaurant use. The title of the special exception: Special Exception. "A SPECIAL EXCEPTION TO ALLOW: SMALL SCALE COMMERCIAL USE (RETAIL SALES/RESTAURANT/PARKING) ON THE THREE LOTS WITH A FLUM OF HMDR."

As shown below Lots 7 and 9 have never been approved for restaurant use.

(4). Res. # 97-73 (Exhibit to the attached September 10, 2010 Zoning Verification Letter).

Res. # 97-73 was passed by the Board of Adjustment and filed with the clerk on February 10, 1997. The FLUM and Zoning Amendments went into effect about five months later, on July 3, 1997. Res. # 97-73 dealt only with 806 Whitehead (Lots 7 and 9) and 809 and 811 Terry Lane, all with a FLUM of HMDR effective as of July 3, 1997.

Resolution #97-93 was admittedly an "inside deal"---a special use exception, allowing "SMALL SCALE COMMERCIAL USE (RETAIL SALES/RESTAURANT/PARKING)" without any specificity. There was no special use identified in Res. # 97-73, and ultimately, the only commercial use of any part of Lots 7 and 9 (806 Whitehead) approved under Resolution #97-93 was an open air retail use building built over a year later. In reality Res. # 97-73 was an ultra vires attempt to regulate *future* zoning for Lots 7 and 9 of 806 Whitehead Street and 809 and 811 Terry Lane for one year. However, Mr. Trepanier's "restaurant" comment became irrelevant because Res. # 97-73 mandated that as to any commercial uses to allowed on those Lots, all required permits **must** be submitted in their entirety within a year from the effective date of Res. # 97-73, as Res. #97-73 (Section 2) states in pertinent part:

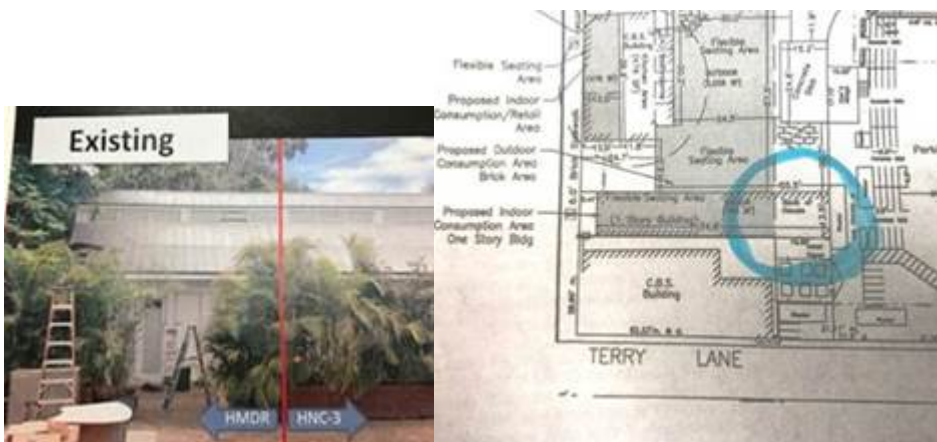
"Section 2. It is an essential condition of this SPECIAL EXCEPTION that full, complete, and final application for all permits required for any new construction for any use and occupancy for which the SPECIAL EXCEPTION is wholly or partly necessary, whether or not such construction is suggested or proposed in the documents presented in support of this SPECIAL EXCEPTION, shall be submitted in its entirety within 12 months after the date hereof. It is an essential condition of this SPECIAL EXCEPTION that no application or reapplication for new construction for which the SPECIAL EXCEPTION is wholly or partly necessary shall be made after expiration of said 12-month period."

"Section 3. Failure to submit full and complete application for permits for new construction for which this SPECIAL EXCEPTION is wholly or partly necessary, or failure to complete new construction for use and occupancy pursuant to this SPECIAL EXCEPTION in accordance with the terms of a City building permit issued upon timely application as described in Section 2 hereof, shall immediately operate to terminate this SPECIAL EXCEPTION, which SPECIAL EXCEPTION shall be of no force or effect.

It is a fact that no commercial use or existing commercial structure existed on 324 Petronia or on Lot 9 of 806 Whitehead Street before July 3, 1997 FLUM/zoning amendments. The only building permit applied for under Res. # 97-73 for 324 Petronia (or otherwise) was applied for on **August 29, 1997**, after the July 3, 1997 effective date of the FLUM/Zoning amendments. The day before, on August 28, 1997, Mr. Swift applied with

HARC seeking to tear down the existing, dilapidated shed at 324 Petronia and erect a proposed new one story “15’ by 75’ open market building” at 324 Petronia Street. The building permit was issued **November 11, 1997** for new construction of an open air market commercial use building with part of it extending onto a portion of one of the two Lots comprising 806 Whitehead Street. Thus, the 75’ long building depicted as part of Mr. Trepanier’s August 15th slide presentation (also shown in the below picture)—is the building Mr. Swift both applied for permits for and built after the July 3, 1997 FLUM/Zoning Amendments effective date. Mr. Swift did not apply for permits for restaurant use or build a restaurant on 806 Whitehead (Lots 7 or 9) or on the two Terry Lane Lots within the short one-year deadline mandated by Res. #97-73, so on and after mid-February 1998, **a restaurant was a prohibited use on Lots 7 and 9 of 806 Whitehead Street.**

The Plat Survey approved by this Board in Res. #2011-059 contains 324 Petronia. As seen in the relevant part of that Plat shown below, **only** the front part of 324 Petronia was approved by Res. #2011-059 for Restaurant Consumption use. **Notably**, that part of the 75’ building that is on Lot 9 of 806 Whitehead of the Property, one of the two lots that are the subject of the Applications, is depicted as the “Back of House” on the Res. #2011-059 approved Site Plan (see below). No restaurant consumption use was allowed by this board in the “Back of House” because it is on the HMDR Lot 9 of 806 Whitehead Street and no lawful restaurant use had ever been established for 806 Whitehead Street.



At the time this Board approved Res. #2011-059 this Board and Mr. Swift both knew a restaurant use on Lots 7 and 9 of 806 Whitehead Street was a “prohibited use.” The “Back of House” shown above from the Site Plan approved by the Planning Board in Res. # 2011-059 (white area in blue circled area) could not be restaurant consumption space, because restaurant use was a “prohibited use” on Lots 7 and 9. See September 10, 2010 Zoning Verification Letter.

(B). Res. # 97-72 (Exhibit to the attached September 10, 2010 Zoning Verification Letter).

Res. # 97-72 was approved by the Adjustment Board on the same day as Res. # 97-73. Res. # 97-72 dealt only with a restaurant Special Exception for 804 Whitehead with a FLUM of HNC-3 effective July 3, 1997. Res. # 97-72 also included 809 and 811 Terry Lane, but for parking only. Res. # 97-72 approved a special exception for a 45-seat restaurant, although impact fees were only paid for 40 seats (ultimately all the seats that were allowed for restaurant operations). Res. # 97-72 also allowed a setback variance.

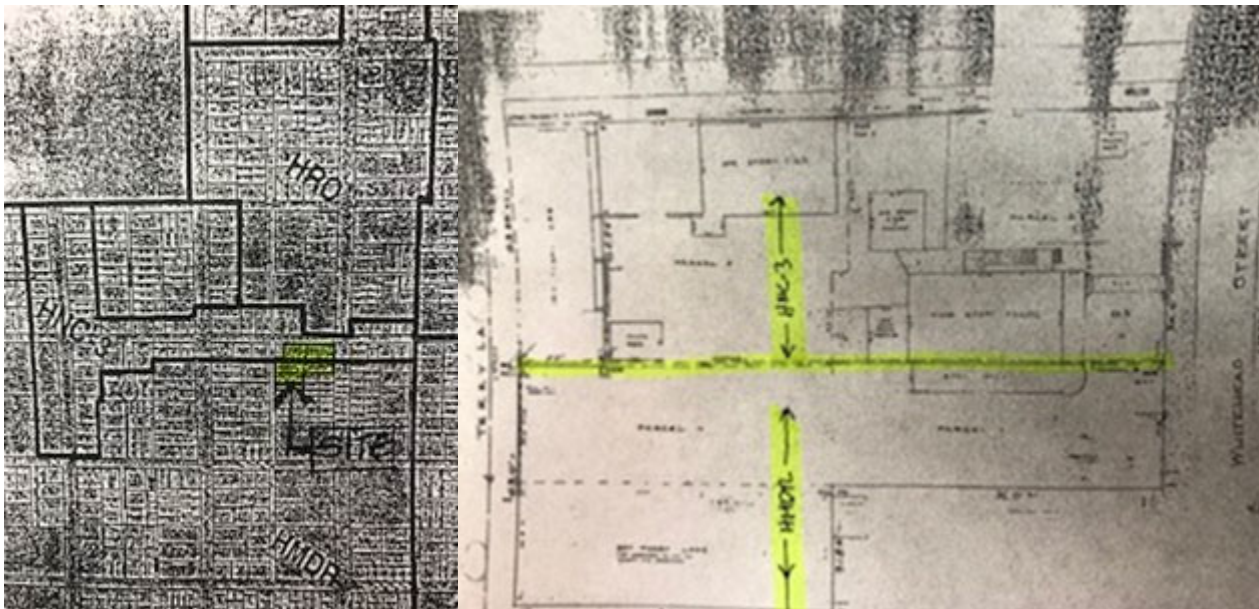
Mr. Swift decided which of his “Lots” on the Property to include in each of these two applications for exceptions and variances as to his two different “development sites.” Mr. Swift never pursued any restaurant use on 806 Whitehead (the two Lots 7 and 9 that are the subjects of his current pending Applications), and there never was nor has there been a restaurant use on 806 Whitehead, whether under Res. #97-73, Res. #97-72, Res. # 2011-059, or otherwise.

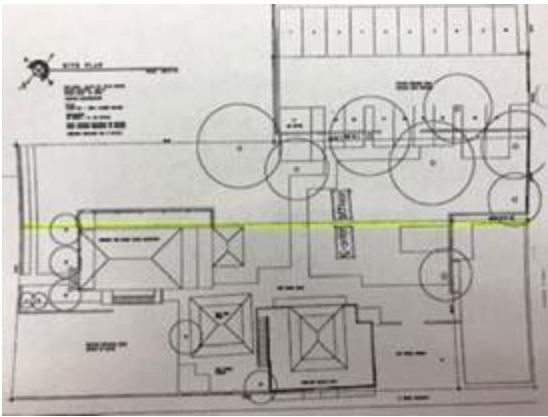
According to Mr. Swift's testimony at the Planning Board meetings, in order for Ted Strader to get Mr. Swift to not challenge the FLUM/zoning ordinance changes, Mr. Strader gave Mr. Swift a one-year option giving him greater **future rights** on 806 Whitehead (Lots 7 and 9) and 809 and 811 Terry Lane, all with a FLUM of HMDR effective as of July 3, 1997, than Mr. Swift would otherwise be allowed under the soon to be effective HMDR zoning on those Lots. According to Mr. Swift their deal was not as to an "existing use" but was as to a **future use** and a **future structure** that neither existed nor were permitted or licensed as of July 3, 1997.

It is submitted that "inside deal" was ultra vires and illegal, whether as 'spot zoning' or "conditional zoning." But, the Planning Board need not address that illegal conditional/spot zoning issue, because any such small scale commercial special use exception was long ago forfeited by the Applicant under the express conditions of Res. #97-73.

No Confusion; No Uncertainty. Only a Clear understanding of where the HMDR/HNC-3 Boundary Line was drawn and its impact as to development of the various Property's Lots.

The HMRD/HNC-3 boundary line was drawn by Key West very clearly down the boundary line of Lots 7 and 9 (comprising 806 Whitehead), which are the only subject of Mr. Swift's pending Applications. Even before the effective date of the FLUM/zoning changes on July 3, 1997, Mr. Swift and Key West knew exactly where the boundary line was drawn and its effect on the different lots of the Property. Mr. Swift submitted applications prior to the July 3, 1997 FLUM/Zoning change for the resolutions that were ultimately Res. #97-73 and Res. #97-72. With those applications he submitted plats of survey showing exactly where the HMDR/HNC-3 boundary line was being drawn, and as seen on those Plats of survey Mr. Swift submitted with his applications leading to Res. #97-72, no restaurant use was applied for or granted for what would be Lots 7 and 9 of 806 Whitehead (with a FLUM of HMDR).



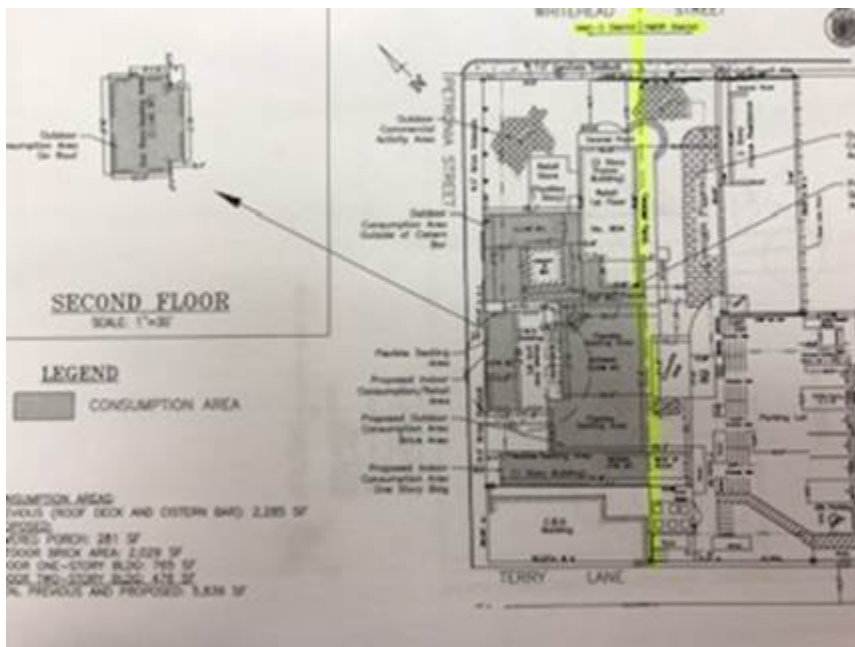


As shown in an attachment to the 2010 Zoning Verification Letter, Lots 7 and 9 are 806 Whitehead (RE#14020); their Lot lines adjacent to 804 Whitehead Street lot form the HMDR/HNC-3 Border. The 2010 Planning Manager's Zoning Verification Letter found that Mr. Swift had not preserved any commercial use of Lots 7 or 9 other than limited, possibly, some low intensity retail.

“806 Whitehead Street has some legally established commercial uses..... it does not appear that restaurant or outdoor entertainment uses can be substantiated in this area.....”



One thing is clear from the Site Plan submitted by Mr. Swift and approved by this Board in Res. #2011-059, everyone knew exactly where the HMDR/HNC-3 boundary line along Lots 7 and 9 of 806 Whitehead was drawn and its legal impact for development of the Property. The approved Res. #2011-059 Plat (shown below) clearly shows restaurant consumption space to the right of the HMDR/HNC-3 boundary line is not allowed because everyone knew restaurant use was prohibited to the right of the boundary line.



It is also unlikely any retail use of the “Back of House” of 324 Petronia was preserved as a legal nonconforming use under the LDR, FLUM, and zoning Ordinance. LDR Sec. 122-26 states:

“Definitions Nonconforming use means a use of a building or structure or a tract of land which does not, on the effective date of the ordinance from which this section derives or amendment thereto, conform to any one of the current permitted uses of the zoning district in which it is located, but which was legally established in accordance with the zoning in effect at the time of its inception or which use predates all zoning codes and which use has not changed or been abandoned. This definition shall not operate to make legal an unlicensed transient rental accommodation located in a residential structure.

Between the time of the 2010 Zoning Letter and the 2015 Minor Modification to Res. # 2011-059, any possible arguments as to any commercial use nonconforming uses were abandoned for 806 Whitehead, under Sec. 122-30.

As to Mr. Swift’s claim of Confusion—there is NONE—everyone knows and has always known where the boundary line was drawn along Lots 7 and 9. Everyone has always known that boundary line’s effect on available permissible and conditional uses of the Lots in the two different zoning districts of the Property. Any commercial use in the “Back of the House” of 324 Petronia building once it was rezoned to HMDR was and is unlawful—not because it is confusing or was an error, but because Ted Strader and Mr. Swift knew exactly where the boundary line would run.

The Applicant has not answered the Board’s question, “what is your proof that where the boundary line was drawn was an error?” Instead, in response they dissemble—their only response---Mr. Trepanier’s repeated claim to know of only one other property with “split zoning.” But, then another resident present at the November 21st hearing testified about her split-zoned property a few blocks away. She testified she would like to change her property to all commercial too, as she and everyone else knows that the HMDR part of her property would be more valuable if it was all zoned HNC-3, opening up considerably more uses available for her property development. But more opportunities for a property owner is not a justification for changing her or the Applicant’s split-zoned properties from residential to commercial. It also should be noted that the words “split zoning,” or the concept for that matter, appear nowhere in the FLUM or zoning ordinances. IT certainly is not a recognized factor to justify amending the LUM and Zoning Ordinances.

The Applicant has Not Met the Required Burden for an Amendment of the FLUM and Zoning Ordinance. No Confusion; no Error and No Change Equals-No Amendment.

The threshold requirement in the Ordinances and Land Development Regulations for the Applicant proving an amendment of the FLUM and zoning districts are warranted starts with Sec. 90-551:

Sec 90-551. - Purpose. The purpose of this division is to provide a means for changing the boundaries of the future land use map of the comprehensive plan future land use map (i.e., specific comprehensive plan amendment) consistent with F.S. ch. 163. **It is not intended to relieve particular hardships nor to confer special privileges or rights on any person, but only to make necessary adjustments in light of changed conditions.** In determining whether to grant a requested amendment, the city commission shall consider, in addition to the factors set forth in this division, the consistency of the proposed amendment with the intent of the comprehensive plan. (Emphasis added.)

Under the legislative intent of this section, the requested amendment must be “**only to make necessary adjustments in light of changed conditions.**” No such *changed conditions* exist, and therefore, no adjustment is necessary. Instead, Mr. Swift argued at the August 15th meeting that Sec. 122-94(7) justifies granting his Applications. **It does not.**

As is obvious, Sec. 122-94(7) has nothing to do with the Applicant’s burden of proof required to sustain his Applications. First, Sec. 122-94(7) does not apply to a zoning amendment. It provides a rule of interpretation when there is uncertainty about the location of the Ordinance’s existing zoning district/FLUM boundary. Second, to the extent Sec. 122-94 applies, it is subsection 122-94(2) that applies, not subsection 122-94(7), as argued by Applicant.

“Sec. 122-94 Interpretation of District Boundaries. When uncertainty exists as to boundaries of the districts on the official zoning map, the following rules shall apply:

* * *

(2) Lot, section and tract lines. Boundaries indicated as approximately following platted lot lines or section or tract lines shall be construed as following such lines.”

* * *

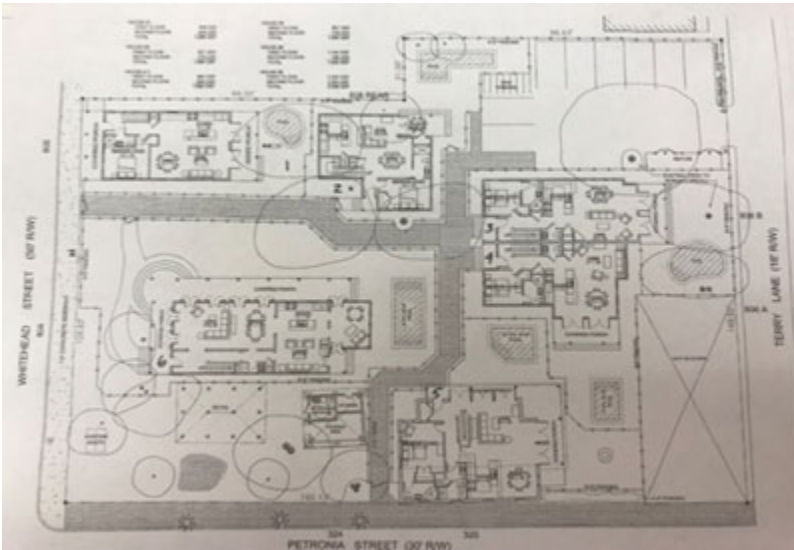
(7) Where physical or cultural features existing on the ground are at variance with those shown on the official zoning map or if any other uncertainty exists, the city commission shall interpret the intent of the official zoning map as to the location of district boundaries.”

But, even if Sec. 122-94 has any applicability, the plain meaning of Subsection Sec. 122-94(2) applies, and under that section there is neither confusion nor an error as to where the boundary line was drawn along Lots 7 and 9 of 806 Whitehead Street.

After the Neighbors raised this at the November 21st Planning Board meeting, Mr. Trepanier argued (without a neighbors’ rebuttal opportunity) that the Applicant’s “development site” comprises a single “Lot” under subsection 122-94(2), not the individual “Lots” comprising the “development site,” or in this case, Lots 7 and 9 (806 Whitehead), which are the sole subject of the Applications.

This is more dissembling. Under that logic, in Res. # 2011-059, the “Development Site” includes all HNC-3 Lots of the Property, the 806 Whitehead (Lots 7 and 9-which are HMDR), and 809 and 811 Terry Lane (also HMRD Lots). But, then Mr. Swift removed 809 and 811 Terry Lane from the “Development Site” in his Applications, although they along with 806 Whitehead (Lots 7 and 9) are all part of Res. # 2011-059. In addition, Mr. Swift admitted that he also owns 808 Whitehead Street (Also HMDR) that also borders 806 Whitehead Street. Why isn’t that part of the development site, other than the fact that for Mr. Swift’s current purposes it doesn’t fit his argument? Notably, in 2006, when Mr. Swift thought it was in his interest to convert

the Property into a residential development, he included his adjoining 808 Whitehead Lot with its two-story residential structure in his “development site.” See his Minor Development plan for 318, 320, 322, 324 Petronia Street, 802, 804, 806, 808 Whitehead Street and 809 and 811 Terry Lane approved in Res. #06-045. That resolution approved by the City Commission entailed Mr. Swift demolishing existing retail; replacement of two (2) residential units; conversion of restaurant space to residential; and conversion of retail space and three apartments into a single-family home plus parking. There would be a total of six (6) houses and retail only at the corner of Whitehead and Petronia Streets. As is obvious in the drawing below, the “development site” includes 808 Whitehead.



It is readily apparent Mr. Swift’s proposed “development site” definition of “Lot” is a moving target. Mr. Swift gerrymanders a compilation of individual “lots” and addresses into a larger development site (he claims--“for tax purposes”).

There is no justification for the Applicant to claim “Lots” in subsection 122-94(2) refer to other than the actual Lots/parcels themselves—in this case the boundary line between 804 Whitehead and 806 Whitehead (along Lots 7 and 9 of 806 Whitehead and along the boundary line of 804 Whitehead Street). Mr. Swift’s suggested interpretation of “Lots” is certainly not a better definition of “Lots” for the purposes of applying subsection 122-94(2) than the actual Lot Boundary Line the City of Key West determined to follow along the border of 806 Whitehead (Lots 7 and 9).

The Planning Board’s approval and Commission’s finding of conformance of Res. #06-045 with the Comprehensive Plan fly in the face of the Applicant’s position of “confusion.” The Commission’s finding in Res. #06-045 of that Residential Development Plan’s conformance with the Comprehensive Plan cannot be reconciled with Applicant’s current claim there was an error or confusion as to the boundary line.

Mr. Swift’s PowerPoint he presented at the August 15th Planning Board meeting also demonstrates clarity of the existing boundary line-no error or confusion:



Since July 1997 that HNC-3/HMDR boundary line has followed the Lots 7 and 9 Boundaries (Mr. Swift's Red line above in the August 15th Power Point photos). The red line he draws in his power point photos follows the border line between 806 and 804 Whitehead and are perfectly clear. That line has been drawn and acknowledged and applied by Mr. Swift and this Board and its Staff and the Commission and the City of Key West in a multitude of Mr. Swift's applications for special treatment on the various parts of the Property over more than a twenty three year period.

The "Back of House" and the 2015 Minor Modification to Res. # 2011-059 further confirms there has been nor was there any confusion on where HNC-3/HMDR Lot 7 boundary line is drawn and its impact on permissible conditional uses. This Board found in the 2015 Minor Modification:

"The covered porch located at the northeastern portion of two-story structure is in the HMDR Zoning District. Restaurant use is a prohibited use in the HMDR zoning district; therefore, no consumption area shall take place on the covered porch located at the northeastern portion of the two-story structure."

As this Board found in the 2010 Zoning Letter, the Minor Modification, and in every other Resolution on the Property, the covered porch is on Lot 7 and is HMDR-residential and the "Back of House" is and has always been distinctly different from the rest of the structure permitted and built after the July 3, 1997 FLUM zoning change. Mr. Swift, this Board, the Commission and Key West have never had difficulty or confusion in applying that boundary line on the Property to limit permitted and conditional uses on Lots 7 and 9 based on them being in the HMDR zoning district.

No Plans Require this Board to Consider Applicable the Most Intensive Permitted Uses and Impact on the Property and Neighbors.

Mr. Swift has claimed he has no plans for the Property. That the case, as the neighbors pointed out at the November 21 Planning Board meeting, with "No Plans" this Board's focus is not on the status quo. Rather, Mr. Swift's burden of proof on his Applications is to justify the most intense permitted and conditional uses under his applied for change to HNC-3 zoning.

With Lots 7 and 9 FLUM/Zoning changes to HNC-3, more intense permitted uses are available to the Applicant as a matter of right, together with the right to pursue significantly more intense conditional uses for those Lots. Mr. Swift *must* address the resulting impacts of those more intense permitted and conditional uses on the Applicant's neighbors and Key West, as they are unavailable to the Applicant if the Property remains HMDR, but they are available to Mr. Swift if his Applications are granted. This Mr. Swift has not proven or even attempted to address.

The Applicant's and certain board members' assertion that intense commercial use of the Property was intended in the FLUM/zoning ordinance ignores the 1998 and 2009 Bahama Village Redevelopment Plans and testimony at the November 21st meeting (both on these Applications but on another application up that night):

SECTION 4.04. BAHAMA VILLAGE; REDEVELOPMENT OBJECTIVES AND STRATEGIES FOR ADDRESSING OBJECTIVES. (A) Primary Objective 1: Recognition of Unique Community Characteristics. (A) Primary Objective... (2) Commercial uses should be encouraged to be small scale, neighborhood serving, and should avoid negatively impacting or displacing residents of the subarea. (3) Discourage large scale development and redevelopment projects unless they are demonstratively reflective of or otherwise advance the existing small scale fabric of the subarea. Require mitigation for large scale redevelopment to counter the negative impacts to the existing small-scale fabric of the Bahama Village subarea.

We urge the Planning Board to recommend to the Commission the denial of the pending Applications. The Applicant has utterly failed to meet its burden of proof required for this Board to recommend and the Commission to grant the relief Applicant requests in the Applications. The question is not even close.

NOTE: Although at the last Planning Board meeting the Key West Attorney opined that an email such as this one could be sent directly to the Planning Board Members as a whole, out of an abundance of caution we are sending it via the Planning Board staff to forward to the Planning Board Members. Please make this email a matter of public record relative to our opposition to the Applications. Thank you for your consideration.

Sincerely,

Mark E. Furlane and Susan Keegan, 819 Terry Lane, Key West, Florida

Nancy A. Paulic, 812 Terry Lane, , Key West, Florida

Todd Santoro, 818 Whitehead St Key West

Bob Walsh, 810 Terry Lane, Key West, Florida

Dave Amendt, 815 Whitehead St, Key West

John and Judy Hembling, 821 Terry Lane, Key West, Florida

Zoning Verification Letter
September 10, 2010



THE CITY OF KEY WEST

Post Office Box 1409 Key West, FL 33041-1409 (305) 809-3700

September 10, 2010

VIA ELECTRONIC MAIL

Ms. Jill McDonald
Aqua Nightclub
711 Duval St
Key West, FL 33040

RE: 804-808 Whitehead Street
Zoning Verification
RE Numbers 00014010-000000, 00014010-000100, 00014020-000000, 00014050-000000,
00014060-000000, and 00014030-000000

Dear Ms. McDonald:

The purpose of this letter is to summarize my understanding of legally established uses on the properties generally known as 804-808 Whitehead Street. This letter does not respond to a specific site plan request, although a Major Development Plan and Conditional Use request for the site is currently pending. Rather, this letter discusses prior approvals, development and abandonment relative to commercial use of the properties, particularly as it relates to the existing residential zoning on four of the six parcels which constitute the overall development.

The collective properties consist of six separate parcels. Four of the six parcels are zoned Historic Medium Density Residential - HMDR; the remaining two parcels are zoned Historic Neighborhood Commercial - HNC-3. A copy of the Monroe County Property Appraisers parcel map for the area showing the sites, real estate (RE) numbers, and associated zoning is provided as Attachment A.

Over the years, the parcels have been referenced by addresses on Whitehead Street, Petronia Street, and Terry Lane. Attachment A also notes our understanding of street addresses applicable to each parcel. These street addresses are important since the City records development approvals in part by street address.

Our research of planning-related approvals found three relevant resolutions for commercial development which generally reflect what is on the site today (a subsequent approval for residential redevelopment of the site (via Resolution 06-045) was never implemented and has now expired and that approval does not appear relevant to this analysis of commercial uses). The resolutions are provided as Attachment B. These resolutions allow commercial development of the site, including the approval of a 45-seat restaurant. Resolution 97-72 requires that a master plan for the site must be provided. City records indicate that the master plan was heard by the Planning Board on March 19, 1998 (see Attachment C). We have not been able to locate an approving resolution, if such resolution exists. However, the site plan (date stamped February 19, 1998) is on file and appears to be the model for the construction of the development which exists on the site today. A reduction of the plan and the associated Community Impact Assessment

Statement is included as Attachment D. While the status of the plan is unclear, it may be the best indicator of what was approved for the site and appears to be the basis for much of what is on the site today.

A site visit conducted on June 24, 2010, documented conditions on the site and found the survey (see Attachment E) to be generally accurate. In general, it appears that the structures contemplated in the plan exist on the site today, with two main exceptions: the parking lot in 809 and 811 Terry Lane does not appear to be developed per the plan, although a parking area does exist there; and, the mixed use parking/grass/plaza area adjacent to the one story market place is not evident. The plaza area is particularly interesting. It appears clear that the one story market, with glass doors opening onto the brick paved area, was intended to be open-air blended retail space. However, how this "festival marketplace" approach was compatible with parking, even overflow parking, is not clear. The actual developed space is fully paved with bricks (shown as area "C" on the survey) and is physically related to the retail space; it appears to be able to function as an outdoor commercial/gathering space. An existing outdoor stage which is located in this area is not shown on the plan. The original developer of the site has described this area as outdoor retail and outdoor consumption area with occasional live music. While the outdoor consumption and music venues may have existed, the plan and physical design at best support outdoor retail use in this area. In summary, it appears that the site plan is generally consistent with other approvals and with the physical layout of the site today.

The next step in determining whether uses are legally established is to review whether the uses as developed were abandoned. The definition of abandonment in Chapter 122 is informed by the more detailed provisions in Chapter 86-9, which reads as follows: "Abandon means to discontinue a land use for a period of 24 months without demonstrating an intent to continue the use as indicated by the following: (1) Allowing licenses to lapse; (2) Removing meters; (3) Not maintaining a structure in a habitable condition; (4) Not making a unit available for occupation (i.e., advertising or marketing through a realtor or other agent); and/or (5) Failure to perform pursuant to the terms of an active building permit." This analysis focuses on the commercial uses within the HMDR zoned area and whether they were abandoned. While there were several licenses for commercial uses that appear to be established in this area over time (the use of addresses was not consistent), including outdoor sales carts, most licenses were inactivated by 2002. However, a review of meters showed only one meter was removed, and this meter was associated with 804 Whitehead Street (see Attachment F). Further, the structures appear ready for occupation and do not appear significantly deteriorated. Although retail space may have been available for rent, the developer was not able to provide documentation of sales activities (when the entire development was listed for sale) until late 2008. As such, the commercial use of these areas as shown on the site plan does not appear to have been abandoned under the code.

Although this letter does not address proposed uses under a specific site plan (my understanding is that revisions to the site plan will be submitted in response to this determination), it is important to clarify the extent to which legally established uses can continue and how these uses can be translated to future development. Key findings are as follows:

- 809 Terry Lane and 811 Terry Lane were used for parking and future parking associated with the commercial use may be allowed, pursuant to other requirements in the code. Expansion of retail or other commercial uses into this area is not supported by any of the documentation we have reviewed.

- 808 Whitehead Street does not appear to have any associated legally established commercial uses. My understanding is that this parcel may not be included in a future redevelopment plan.
- City code requires approved parking to be maintained. All parking shown on the site plan (25 spaces) must either be maintained on site, replaced elsewhere on or off site, as allowed by the code, or be subject to a parking variance. Some future development (beyond the program of development associated with the site plan, see Attachment D) may be required to meet parking requirements and will be addressed during the development plan review process.
- 806 Whitehead Street has some legally established commercial uses. The area previously described as area "C", or the brick paved commercial/parking area, is partially zoned HMDR. While the background information and the site visit support commercial use of the HMDR zoned area, it does not appear that restaurant or outdoor entertainment uses can be substantiated in this area. A pool associated with a commercial use on the HNC-3 zoned parcel may be appropriate, so long as there is no consumption area or other intensification beyond that associated with a retail use involved. Further, the area adjacent to the historic structure (in the vicinity of "A" on the survey) had outdoor commercial use (as retail space) which is shown on the site plan and substantiated through fixtures during the site visit. A proposed expansion of the historic structure into this area for the sole purposes of ADA bathrooms, associated with an elimination of outdoor commercial activity in this entire area, would appear to reduce non-conforming commercial uses and enclose them, thereby reducing impacts. A change in legal non-conforming use approach may be necessary to fully accommodate any proposed changes and will be to be addressed upon revised site plan submittal.

In addition to the issues described above, it may be helpful to be mindful of the following issues regarding potential site redevelopment:

- Section 122-1531 through 122-1537 addresses adult entertainment establishments. I know that you are familiar with these code provisions and understand that adult entertainment establishments are only allowed in the HRCC-1 district, that the number of such businesses is capped and that an existing license cannot be moved from the HRCC-1 zoning district. Therefore, no adult entertainment establishments as defined in the code can be allowed on this site. A copy of the relevant code provisions is attached (see Attachment G.)
- The HNC-3 district allows restaurants conditionally. Bars and lounges are not permitted as of right or conditionally and are not allowed on this site. Chapter 86-9 defines restaurants as follows: "Restaurant, excluding drive-through, means any establishment, which is not a drive-through service establishment, where the principal business is the sale of food, desserts and beverages to the customer in a ready-to-consume state. This includes service within the building as well as takeout or carryout service. For the purpose of this subpart B and impact fee assessments, a takeout or carryout restaurant shall be limited to no more than five chairs or bench seats without tables or counter tops. The phrase "principal business is the sale of food" is particularly important. In the past we have generally interpreted this to represent percent of sales relative to liquor sales, consistent with an SRX licensing. However, not all restaurants have a SRX license and requirement of specific licensing provisions relative to this issue may deserve reconsideration. However, the continuous provision of food sales (a full menu) at all times alcohol is sold or occurring seems to be a minimum threshold to ensure that the restaurant definition and intent of the code is being met. Other provisions to ensure operation of a restaurant are often imposed as conditions of approval.

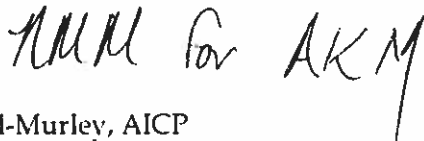
Please note that our research did not substantiate that any restaurant or bar uses continued on the site, and all proposed restaurants will require conditional use approval.

- Generation of noise is an important concern in any development approval with potential outdoor uses. Methods to control and reduce noise, including sound attenuation approaches, limits to outdoor activities, and/or limits to outdoor areas of operations are expected to be considerations on this site, especially given the proximity of residential uses. Even developments located in the city's most intense zoning districts have been subject to extensive noise control measures in recent approvals.
- Land use compatibility is at the heart of any conditional use application. Working with the neighbors to address potential concerns is important and can be accomplished in a variety of different ways. Please continue to work with adjacent land owners as the project evolves.

We look forward to reviewing a revised site plan regarding this important project in light of the findings of our research.

Please do not hesitate to call me with any questions or concerns.

Sincerely,



Amy Kimball-Murley, AICP
Planning Director

Xc: GEO Files

Attachments:

- Attachment A: Parcels and Zoning
- Attachment B: Resolutions: 97-72; 97-73; and 98-44
- Attachment C: Planning Board Meeting Agenda, March 19, 1998
- Attachment D: Site Plan and CIAS Application, February 19, 1998
- Attachment E: Survey
- Attachment F: Keys Electric Records
- Attachment G: Code of Ordinances, Division 12, Adult Entertainment Establishments

Attachment A

804 Whitehead

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

PAIMIS

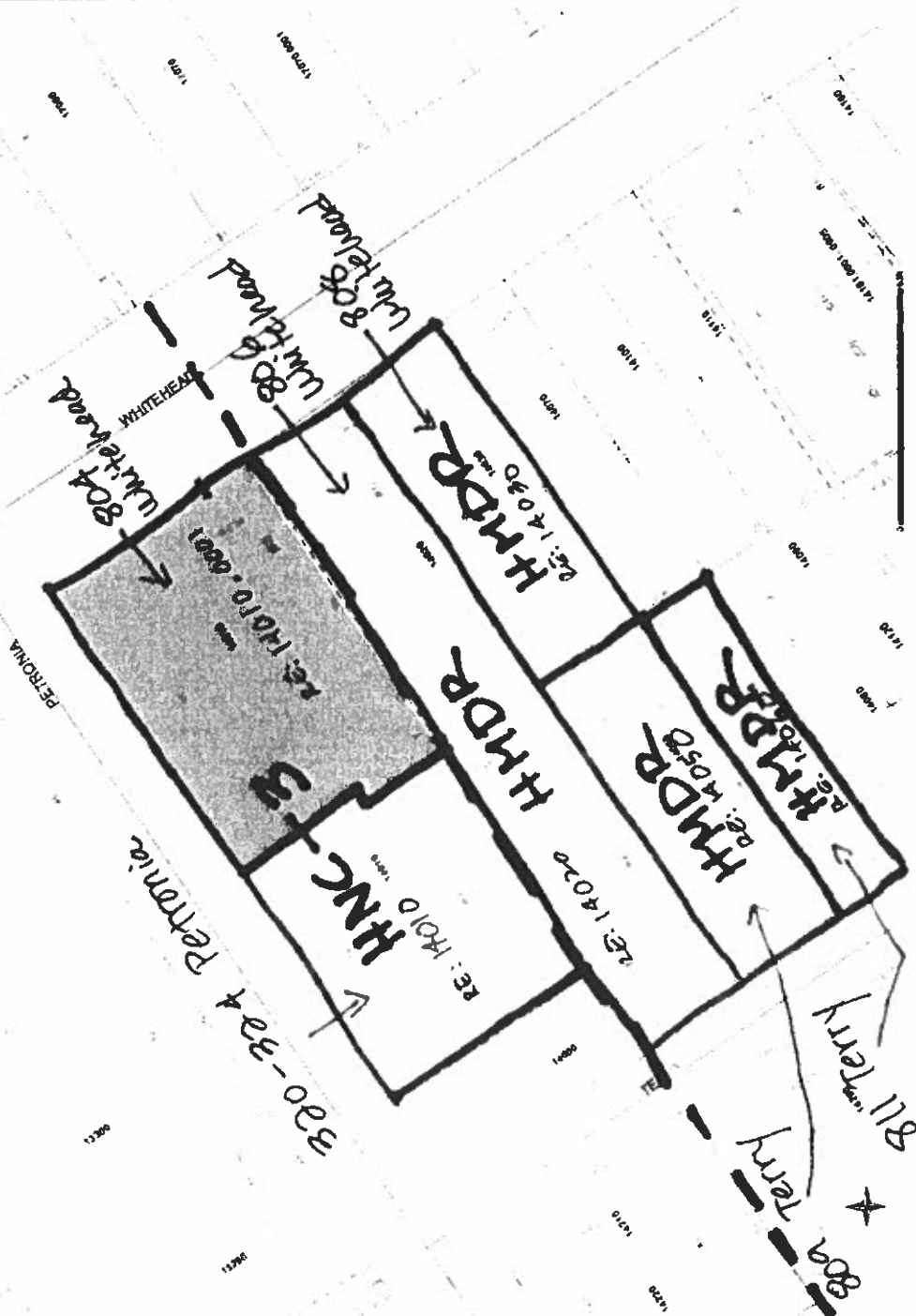
Monroe County Property Appraiser

500 Whitehead Street

Key West, FL.

THE MAJOR COUNTY PROPERTY APPRAISER'S OFFICE maintains data on property within the County solely for the purpose of fulfilling its responsibility to secure a final valuation for ad valorem tax purposes of all properties within the County. The MAJOR COUNTY PROPERTY APPRAISER'S OFFICE cannot guarantee its accuracy for any other purpose. If 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: September 5, 2010 4:58 PM



Attachment B

RESOLUTION NO. 97-72

VARIANCE: 804 WHITEHEAD STREET,
809, 811 TERRY LANE

A RESOLUTION GRANTING A VARIANCE TO HP-3, LIGHT COMMERCIAL HISTORIC DISTRICT UNDER CHAPTER 35 OF THE CODE OF ORDINANCES OF THE CITY OF KEY WEST, FLORIDA PERMITTING A VARIANCE TO ALLOW: A ZERO FOOT RIGHT SIDE SETBACK (25' REQUIRED) FOR THE RECONSTRUCTION OF EXISTING BUILDINGS; AND A SPECIAL EXCEPTION TO ALLOW A RESTAURANT USE UP TO 45 SEATS IN AN HNC-3/HP-3 LAND-USE DISTRICT, ON THE FOLLOWING DESCRIBED PROPERTY:

ON THE ISLAND OF KEY WEST, AND DESIGNATED ON CHARLES W. TIFT'S MAP OF SAID ISLAND AS PART OF LOT NO. 2 IN THE SUBDIVISION OF SQUARE NO. 1, IN PART OF TRACT 3 KNOWN AS SIMONTON'S ADDITION TO THE CITY OF KEY WEST; COMMENCING AT A POINT ON WHITEHEAD STREET, DISTANT 63 FEET FROM THE CORNER OF PETRONIA AND WHITEHEAD STS. AND RUN THENCE IN A S.E.'LY DIRECTION 31 FEET AND 6 INCHES; THENCE AT RIGHT ANGLES IN A S.W.'LY DIRECTION 96 FEET; THENCE AT RIGHT ANGLES N.W.'LY 31 FEET AND 6 INCHES; THENCE AT RIGHT ANGLES N.E.'LY 96 FEET TO THE PLACE OF BEGINNING.

AND

IN THE CITY OF KEY WEST, MONROE COUNTY, FLORIDA AND IS DESIGNATED ON CHARLES W. TIFT'S MAP OF SAID CITY AS PART OF LOT 1 OF SQUARE 1 IN TRACT 3 OF SIMONTON'S ADDITION TO THE CITY OF KEY WEST AND HEREIN DESCRIBED MORE PARTICULARLY BY METES AND BOUNDS AS FOLLOWS: BEGIN AT THE INTERSECTION OF THE SOUTHERLY RIGHT-OF-WAY LINE OF PETRONIA ST. AND THE W'LY RIGHT-OF-WAY BOUNDARY LINE OF WHITEHEAD STREET FOR A POINT OF BEGINNING; THENCE SOUTHERLY ALONG

THE SAID WESTERLY LINE OF WHITEHEAD STREET 62.25 FEET TO A POINT; THENCE WESTERLY AT RIGHT ANGLES 96 FEET TO A POINT; THENCE NORTHERLY AT RIGHT ANGLES 23.48 FEET TO A POINT; THENCE EASTERLY AT RIGHT ANGLES 5 FEET TO A POINT; THENCE NORTHERLY AT RIGHT ANGLES 38.77 FEET TO A POINT ON THE SAID LINE OF PETRONIA ST., 91 FEET BACK TO THE POINT OF BEGINNING

AND

PART OF LOT ONE (1) SQUARE ONE (1), TRACT THREE (3) OF SIMONTON'S ADDITION TO THE CITY OF KEY WEST, FLORIDA: COMMENCING AT THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY BOUNDARY LINE OF WHITEHEAD STREET AND THE SOUTHERLY RIGHT-OF-WAY BOUNDARY LINE OF PETRONIA STREET AND RUN THENCE WESTERLY ALONG THE SAID LINE OF PETRONIA 91 FEET TO THE POINT OF BEGINNING OF THE PARCEL HEREIN BEING DESCRIBED; THENCE CONTINUE ALONG THE SAID LINE OF PETRONIA STREET 74' FEET TO A POINT; THENCE SOUTHERLY AND AT RIGHT ANGLES 62.25 FEET TO A POINT; THENCE EASTERLY AND AT RIGHT ANGLES 69 FEET TO A POINT; THENCE NORTHERLY AND AT RIGHT ANGLES 23.48 FEET TO A POINT; THENCE EASTERLY AT RIGHT ANGLES 5 FEET TO A POINT; THENCE NORTHERLY AT RIGHT ANGLES 38.77 FEET BACK TO THE POINT OF BEGINNING ON PETRONIA STREET

AND

ON THE ISLAND OF KEY WEST, AS KNOWN ON CHARLES W. TIFT'S MAP OF THE CITY OF KEY WEST, AS PART OF SQUARE ONE (1) IN TRACT THREE (3) AND IS PART OF SUBDIVISION TWO (2) IN SQUARE ONE (1) ACCORDING TO A DIAGRAM MADE OF PORTION OF SAID TRACT THREE (3), WHICH DIAGRAMS IS RECORDED IN BOOK "I" DEEDS PAGE 421 OF MONROE COUNTY RECORDS: COMMENCING AT A POINT ON AN EIGHTEEN FOOT ALLEY-WAY, SIXTY THREE (63) FEET AND FOUR (4) INCHES

DISTANT FROM THE CORNER OF PETRONIA STREET AND SAID ALLEY-WAY AND RUNNING THENCE ALONG SAID ALLEY-WAY IN A SOUTHEASTERLY DIRECTION THIRTY-ONE FEET AND SIX INCHES, AND EXTENDING BACK IN A NORTHEASTERLY DIRECTION ON BOTH LINES A DISTANCE OF NINETY-SIX (96) FEET

AND

IN THE CITY OF KEY WEST, MONROE COUNTY, FLORIDA AND IS DESIGNATED ON CHARLES W. TIFT'S MAP OF SAID CITY AS PART OF LOT 1 OF SQUARE 1 IN TRACT 3 OF SIMONTON'S ADDITION TO THE CITY OF KEY WEST AND HEREIN DESCRIBED MORE PARTICULARLY BY METES AND BOUNDS AS FOLLOWS: COMMENCE AT THE INTERSECTION OF THE SOUTHERLY RIGHT-OF-WAY BOUNDARY OF PETRONIA STREET AND THE WESTERLY RIGHT-OF-WAY BOUNDARY LINE OF WHITEHEAD ST. 62.25 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG THE SAID WESTERLY LINE OF WHITEHEAD STREET 0.75 FEET TO A POINT; THENCE WESTERLY AT RIGHT ANGLES 96 FEET TO A POINT; THENCE NORTHERLY AT RIGHT ANGLES 0.75 FEET TO A POINT, THENCE EASTERLY AT RIGHT ANGLES 96 FEET BACK TO THE POINT OF BEGINNING

ALSO KNOWN AS REF 1401, 1401-001, 1402, 1405, 1406 AND 804 WHITEHEAD STREET, 809, 811 TERRY LANE, KEY WEST, MONROE COUNTY, FLORIDA

WHEREAS, special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, buildings or structures in the subject district; and

WHEREAS, literal interpretation of the provisions of the Zoning Ordinance of the City of Key West would deprive the owner of

the subject property of rights commonly enjoyed by other properties in the same district under the terms of the Zoning Ordinance.

WHEREAS, the special conditions and circumstances do not result from the actions of the applicant.

WHEREAS, the granting of the variance requested will not confer on the applicant any special privilege that is denied by the ordinance to other land, structures or buildings in the same district.

WHEREAS, the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.

WHEREAS, the granting of the variance will be in harmony with the general purpose and intent of the zoning provisions, will not be injurious to the neighborhood, or otherwise detrimental to the public welfare; now therefore,

BE IT RESOLVED by the Board of Adjustment of the City of Key West, Florida:

Section 1. That a variance to: **HP-3, LIGHT COMMERCIAL HISTORIC PRESERVATION DISTRICT**, under Chapter 35 of the Code of Ordinances of the City of Key West, Florida, permitting a variance to allow:

A ZERO FOOT RIGHT SIDE SETBACK (25' REQUIRED) FOR THE RECONSTRUCTION OF EXISTING BUILDINGS; AND A SPECIAL EXCEPTION TO ALLOW A RESTAURANT USE UP TO 45 SEATS IN AN HNC-3/HP-3 LAND-USE DISTRICT, ON THE FOLLOWING DESCRIBED PROPERTY:

ON THE ISLAND OF KEY WEST, AND DESIGNATED ON CHARLES W. TIFT'S MAP OF SAID ISLAND AS PART OF LOT NO. 2 IN THE SUBDIVISION OF SQUARE NO. 1, IN PART OF TRACT 3 KNOWN AS SIMONTON'S ADDITION TO THE CITY OF KEY WEST; COMMENCING AT A POINT ON WHITEHEAD STREET, DISTANT 63 FEET FROM THE CORNER OF PETRONIA AND WHITEHEAD STS. AND RUN THENCE IN A S.E.'LY DIRECTION 31 FEET AND 6 INCHES; THENCE AT RIGHT ANGLES IN A S.W.'LY DIRECTION 96 FEET; THENCE AT RIGHT ANGLES N.W.'LY 31 FEET AND 6 INCHES; THENCE AT RIGHT ANGLES N.E.'LY 96 FEET TO THE PLACE OF BEGINNING.

AND

IN THE CITY OF KEY WEST, MONROE COUNTY, FLORIDA AND IS DESIGNATED ON CHARLES W. TIFT'S MAP OF SAID CITY AS PART OF LOT 1 OF SQUARE 1 IN TRACT 3 OF SIMONTON'S ADDITION TO THE CITY OF KEY WEST AND HEREIN DESCRIBED MORE PARTICULARLY BY METES AND BOUNDS AS FOLLOWS: BEGIN AT THE INTERSECTION OF THE SOUTHERLY RIGHT-OF-WAY LINE OF PETRONIA ST. AND THE W'LY RIGHT-OF-WAY BOUNDARY LINE OF WHITEHEAD STREET FOR A POINT OF BEGINNING; THENCE SOUTHERLY ALONG THE SAID WESTERLY LINE OF WHITEHEAD STREET 62.25 FEET TO A POINT; THENCE WESTERLY AT RIGHT ANGLES 96 FEET TO A POINT; THENCE NORTHERLY AT RIGHT ANGLES 23.48 FEET TO A POINT; THENCE EASTERLY AT RIGHT ANGLES 5 FEET TO A POINT; THENCE NORTHERLY AT RIGHT ANGLES 38.77 FEET TO A POINT ON THE SAID LINE OF PETRONIA ST., 91 FEET BACK TO THE POINT OF BEGINNING

AND

PART OF LOT ONE (1) SQUARE ONE (1), TRACT THREE (3) OF SIMONTON'S ADDITION TO THE CITY OF KEY WEST, FLORIDA: COMMENCING AT THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY BOUNDARY LINE OF WHITEHEAD STREET AND THE SOUTHERLY RIGHT-OF-WAY BOUNDARY LINE OF PETRONIA STREET AND RUN THENCE WESTERLY ALONG THE SAID LINE OF PETRONIA 91 FEET TO THE POINT OF BEGINNING OF THE PARCEL HEREIN BEING DESCRIBED; THENCE CONTINUE ALONG THE SAID LINE OF PETRONIA STREET 74' FEET TO A POINT; THENCE SOUTHERLY AND AT RIGHT ANGLES 62.25 FEET TO A POINT; THENCE EASTERLY AND AT RIGHT ANGLES 69 FEET TO A POINT; THENCE NORTHERLY AND AT RIGHT ANGLES 23.48 FEET TO A POINT; THENCE EASTERLY AT RIGHT ANGLES 5 FEET TO A POINT; THENCE NORTHERLY AT RIGHT ANGLES 38.77 FEET BACK TO THE POINT OF BEGINNING ON PETRONIA STREET

AND

ON THE ISLAND OF KEY WEST, AS KNOWN ON CHARLES W. TIFT'S MAP OF THE CITY OF KEY WEST, AS PART OF SQUARE ONE (1) IN TRACT THREE (3) AND IS PART OF SUBDIVISION TWO (2) IN SQUARE ONE (1) ACCORDING TO A DIAGRAM MADE OF PORTION OF SAID TRACT THREE (3), WHICH DIAGRAMS IS RECORDED IN BOOK "I" DEEDS PAGE 421 OF MONROE COUNTY RECORDS: COMMENCING AT A POINT ON AN EIGHTEEN FOOT ALLEY-WAY, SIXTY THREE (63) FEET AND FOUR (4) INCHES DISTANT FROM THE CORNER OF PETRONIA STREET AND SAID ALLEY-WAY AND RUNNING THENCE ALONG SAID ALLEY-WAY

IN A SOUTHEASTERLY DIRECTION THIRTY-ONE FEET AND SIX INCHES, AND
EXTENDING BACK IN A NORTHEASTERLY DIRECTION ON BOTH LINES A
DISTANCE OF NINETY-SIX (96) FEET

AND

IN THE CITY OF KEY WEST, MONROE COUNTY, FLORIDA AND IS DESIGNATED
ON CHARLES W. TIFT'S MAP OF SAID CITY AS PART OF LOT 1 OF SQUARE 1
IN TRACT 3 OF SIMONTON'S ADDITION TO THE CITY OF KEY WEST AND
HEREIN DESCRIBED MORE PARTICULARLY BY METES AND BOUNDS AS FOLLOWS:
COMMENCE AT THE INTERSECTION OF THE SOUTHERLY RIGHT-OF-WAY BOUNDARY
OF PETRONIA STREET AND THE WESTERLY RIGHT-OF-WAY BOUNDARY LINE OF
WHITEHEAD ST. 62.25 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE
ALONG THE SAID WESTERLY LINE OF WHITEHEAD STREET 0.75 FEET TO A
POINT; THENCE WESTERLY AT RIGHT ANGLES 96 FEET TO A POINT; THENCE
NORTHERLY AT RIGHT ANGLES 0.75 FEET TO A POINT, THENCE EASTERLY AT
RIGHT ANGLES 96 FEET BACK TO THE POINT OF BEGINNING

ALSO KNOWN AS RE# 1401, 1401-001, 1402, 1405, 1406 AND 804 WHITEHEAD
STREET, 809, 811 TERRY LANE, KEY WEST, MONROE COUNTY, FLORIDA

Section 2. It is an essential condition of this variance that
full, complete, and final application for all permits required for
any new construction for any use and occupancy for which this
variance is wholly or partly necessary, whether or not such
construction is suggested or proposed in the documents presented

in support of this variance, shall be submitted in its entirety within 12 months after the date hereof. It is an essential condition of this variance that no application or reapplication for new construction for which the variance is wholly or partly necessary shall be made after expiration of said 12-month period.

Section 3. Failure to submit full and complete application for permits for new construction for which this variance is wholly or partly necessary, or failure to complete new construction for use and occupancy pursuant to this variance in accordance with the terms of a City building permit issued upon timely application as described in Section 2 hereof, shall immediately operate to terminate this variance, which variance shall be of no force or effect.

Section 4. This variance does not constitute a finding as to ownership or right to possession of the property, and assumes, without finding, the correctness of applicant's assertion of legal authority respecting the property.

Section 5. As a condition for approval of this request for variance and special exception, applicant shall provide 28 bicycle parking spaces.

Section 6. As a condition for approval of this request for variance and special exception, applicant understands and agrees


that no future uses on the subject property will be considered by the City or its boards without the applicant first providing a master plan for the site.

Section 7. This Resolution shall go into effect immediately upon its passage and adoption and authentication by the signatures of the presiding officer and the Clerk of the Commission.

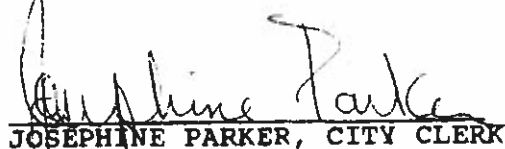
Read and passed on first reading at a regular meeting held this 5th day of February, 1997.

Authenticated by the presiding officer and Clerk of the Board on 10th day of February, 1997.

Filed with the Clerk on February 10, 1997.


SALLY LEWIS,
CHAIRMAN PRO TEMPORE
BOARD OF ADJUSTMENT

ATTEST:


JOSEPHINE PARKER, CITY CLERK

D:\WPDOCS\CITYATTY\VAR\ANCE\604\WHTD.WPD

RESOLUTION NO. 97-73

SPECIAL EXCEPTION:

804 WHITEHEAD STREET,
809, 811 TERRY LANE

A RESOLUTION GRANTING A SPECIAL EXCEPTION TO HP-3, LIGHT COMMERCIAL HISTORIC DISTRICT UNDER CHAPTER 35 OF THE CODE OF ORDINANCES OF THE CITY OF KEY WEST, FLORIDA PERMITTING A SPECIAL EXCEPTION TO ALLOW: SMALL SCALE COMMERCIAL USE (RETAIL SALES/RESTAURANT/PARKING) ON THREE LOTS WITH A FUTURE LAND USE DESIGNATION OF HMDR, ON THE FOLLOWING DESCRIBED PROPERTY:

ON THE ISLAND OF KEY WEST, AND DESIGNATED ON CHARLES W. TIFT'S MAP OF SAID ISLAND AS PART OF LOT NO. 2 IN THE SUBDIVISION OF SQUARE NO. 1, IN PART OF TRACT 3 KNOWN AS SIMONTON'S ADDITION TO THE CITY OF KEY WEST; COMMENCING AT A POINT ON WHITEHEAD STREET, DISTANT 63 FEET FROM THE CORNER OF PETRONIA AND WHITEHEAD STS. AND RUN THENCE IN A S.E.'LY DIRECTION 31 FEET AND 6 INCHES; THENCE AT RIGHT ANGLES IN A S.W.'LY DIRECTION 96 FEET; THENCE AT RIGHT ANGLES N.W.'LY 31 FEET AND 6 INCHES; THENCE AT RIGHT ANGLES N.E.'LY 96 FEET TO THE PLACE OF BEGINNING.

AND

IN THE CITY OF KEY WEST, MONROE COUNTY, FLORIDA AND IS DESIGNATED ON CHARLES W. TIFT'S MAP OF SAID CITY AS PART OF LOT 1 OF SQUARE 1 IN TRACT 3 OF SIMONTON'S ADDITION TO THE CITY OF KEY WEST AND HEREIN DESCRIBED MORE PARTICULARLY BY METES AND BOUNDS AS FOLLOWS: BEGIN AT THE INTERSECTION OF THE SOUTHERLY RIGHT-

OF-WAY LINE OF PETRONIA ST. AND THE W'LY RIGHT-OF-WAY BOUNDARY LINE OF WHITEHEAD STREET FOR A POINT OF BEGINNING; THENCE SOUTHERLY ALONG THE SAID WESTERLY LINE OF WHITEHEAD STREET 62.25 FEET TO A POINT; THENCE WESTERLY AT RIGHT ANGLES 96 FEET TO A POINT; THENCE NORTHERLY AT RIGHT ANGLES 23.48 FEET TO A POINT; THENCE ~~EASTERLY AT RIGHT ANGLES 5 FEET TO A~~ POINT; THENCE NORTHERLY AT RIGHT ANGLES 39.77 FEET TO A POINT ON THE SAID LINE OF PETRONIA ST., 91 FEET BACK TO THE POINT OF BEGINNING

AND

PART OF LOT ONE (1) SQUARE ONE (1), TRACT THREE (3) OF SIMONTON'S ADDITION TO THE CITY OF KEY WEST, FLORIDA: COMMENCING AT THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY BOUNDARY LINE OF WHITEHEAD STREET AND THE SOUTHERLY RIGHT-OF-WAY BOUNDARY LINE OF PETRONIA STREET AND RUN THENCE WESTERLY ALONG THE SAID LINE OF PETRONIA 91 FEET TO THE POINT OF BEGINNING OF THE PARCEL HEREIN BEING DESCRIBED; THENCE CONTINUE ALONG THE SAID LINE OF PETRONIA STREET 74' FEET TO A POINT; THENCE SOUTHERLY AND AT RIGHT ANGLES 62.25 FEET TO A POINT; THENCE EASTERLY AND AT RIGHT ANGLES 69 FEET TO A POINT; THENCE NORTHERLY AND AT RIGHT ANGLES 23.48 FEET TO A POINT; THENCE EASTERLY AT RIGHT ANGLES 5 FEET TO A POINT; THENCE NORTHERLY AT RIGHT ANGLES 38.77 FEET BACK TO THE POINT OF BEGINNING ON PETRONIA STREET

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ON THE ISLAND OF KEY WEST, AS KNOWN ON CHARLES W. TIFT'S MAP OF THE CITY OF KEY WEST, AS PART OF SQUARE ONE (1) IN TRACT THREE (3) AND IS PART OF SUBDIVISION TWO (2) IN SQUARE ONE (1) ACCORDING TO A DIAGRAM MADE OF PORTION OF SAID TRACT THREE (3), WHICH DIAGRAMS IS RECORDED IN BOOK

"I" DEEDS PAGE 421 OF MONROE COUNTY RECORDS: COMMENCING AT A POINT ON AN EIGHTEEN FOOT ALLEY-WAY, SIXTY THREE (63) FEET AND FOUR (4) INCHES DISTANT FROM THE CORNER OF PETRONIA STREET AND SAID ALLEY-WAY AND RUNNING THENCE ALONG SAID ALLEY-WAY IN A SOUTHEASTERLY DIRECTION THIRTY-ONE FEET AND SIX INCHES, AND EXTENDING BACK IN A NORTHEASTERLY DIRECTION ON BOTH LINES A DISTANCE OF NINETY-SIX (96) FEET

AND

IN THE CITY OF KEY WEST, MONROE COUNTY, FLORIDA AND IS DESIGNATED ON CHARLES W. TIFT'S MAP OF SAID CITY AS PART OF LOT 1 OF SQUARE 1 IN TRACT 3 OF SIMONTON'S ADDITION TO THE CITY OF KEY WEST AND HEREIN DESCRIBED MORE PARTICULARLY BY METES AND BOUNDS AS FOLLOWS: COMMENCE AT THE INTERSECTION OF THE SOUTHERLY RIGHT-OF-WAY BOUNDARY OF PETRONIA STREET AND THE WESTERLY RIGHT-OF-WAY BOUNDARY LINE OF WHITEHEAD ST. 62.25 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG THE SAID WESTERLY LINE OF WHITEHEAD STREET 0.75 FEET TO A POINT; THENCE WESTERLY AT RIGHT ANGLES 96 FEET TO A POINT; THENCE NORTHERLY AT RIGHT ANGLES 0.75 FEET TO A POINT, THENCE EASTERLY AT RIGHT ANGLES 96 FEET BACK TO THE POINT OF BEGINNING

ALSO KNOWN AS RE# 1401, 1401-001, 1402, 1405, 1406 AND 804 WHITEHEAD STREET, 809, 811 TERRY LANE, KEY WEST, MONROE COUNTY, FLORIDA

WHEREAS, special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, buildings or structures in the subject district; and

WHEREAS, literal interpretation of the provisions of the Zoning Ordinance of the City of Key West would deprive the owner of the subject property of rights commonly enjoyed by other properties in the same district under the terms of the Zoning Ordinance.

WHEREAS, the special conditions and circumstances do not result from the actions of the applicant.

WHEREAS, the granting of the SPECIAL EXCEPTION requested will not confer on the applicant any special privilege that is denied by the ordinance to other land, structures or buildings in the same district.

BE IT RESOLVED by the Board of Adjustment of the City of Key West, Florida:

Section 1. That a SPECIAL EXCEPTION to: **HP-3, LIGHT COMMERCIAL HISTORIC PRESERVATION DISTRICT**, under Chapter 35 of the Code of Ordinances of the City of Key West, Florida, permitting a SPECIAL EXCEPTION to allow:

SMALL SCALE COMMERCIAL USE (RETAIL SALES/RESTAURANT/PARKING) ON THREE LOTS WITH A FUTURE LAND USE DESIGNATION OF HMDR, ON THE FOLLOWING DESCRIBED PROPERTY:

ON THE ISLAND OF KEY WEST, AND DESIGNATED ON CHARLES W. TIFT'S MAP OF SAID ISLAND AS PART OF LOT NO. 2 IN THE SUBDIVISION OF SQUARE NO. 1, IN PART OF TRACT 3 KNOWN AS SIMONTON'S ADDITION TO THE CITY OF KEY WEST; COMMENCING AT A POINT ON WHITEHEAD STREET, DISTANT 63 FEET FROM THE CORNER OF PETRONIA AND WHITEHEAD STS. AND RUN THENCE IN A S.E.'LY DIRECTION 31 FEET AND 6 INCHES; THENCE AT RIGHT ANGLES IN A S.W.'LY DIRECTION 96 FEET; THENCE AT RIGHT ANGLES N.W.'LY 31 FEET AND 6 INCHES; THENCE AT RIGHT ANGLES N.E.'LY 96 FEET TO THE PLACE OF BEGINNING.

AND

IN THE CITY OF KEY WEST, MONROE COUNTY, FLORIDA AND IS DESIGNATED ON CHARLES W. TIFT'S MAP OF SAID CITY AS PART OF LOT 1 OF SQUARE 1 IN TRACT 3 OF SIMONTON'S ADDITION TO THE CITY OF KEY WEST AND HEREIN DESCRIBED MORE PARTICULARLY BY METES AND BOUNDS AS FOLLOWS: BEGIN AT THE INTERSECTION OF THE SOUTHERLY RIGHT-OF-WAY LINE OF PETRONIA ST. AND THE W'LY RIGHT-OF-WAY BOUNDARY LINE OF WHITEHEAD STREET FOR A POINT OF BEGINNING; THENCE SOUTHERLY ALONG THE SAID WESTERLY LINE OF WHITEHEAD STREET 62.25 FEET TO A POINT; THENCE WESTERLY AT RIGHT ANGLES 96 FEET TO A POINT; THENCE NORTHERLY AT

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AND

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AND

ON THE ISLAND OF KEY WEST, AS KNOWN ON CHARLES W. TIFT'S MAP OF THE CITY OF KEY WEST, AS PART OF SQUARE ONE (1) IN TRACT THREE (3) AND IS PART OF SUBDIVISION TWO (2) IN SQUARE ONE (1) ACCORDING TO A

DIAGRAM MADE OF PORTION OF SAID TRACT THREE (3), WHICH DIAGRAMS IS RECORDED IN BOOK "I" DEEDS PAGE 421 OF MONROE COUNTY RECORDS: COMMENCING AT A POINT ON AN EIGHTEEN FOOT ALLEY-WAY, SIXTY THREE (63) FEET AND FOUR (4) INCHES DISTANT FROM THE CORNER OF PETRONIA STREET AND SAID ALLEY-WAY AND RUNNING THENCE ALONG SAID ALLEY-WAY IN A SOUTHEASTERLY DIRECTION THIRTY-ONE FEET AND SIX INCHES, AND EXTENDING BACK IN A NORTHEASTERLY DIRECTION ON BOTH LINES A DISTANCE OF NINETY-SIX (96) FEET

AND

IN THE CITY OF KEY WEST, MONROE COUNTY, FLORIDA AND IS DESIGNATED ON CHARLES W. TIFT'S MAP OF SAID CITY AS PART OF LOT 1 OF SQUARE 1 IN TRACT 3 OF SIMONTON'S ADDITION TO THE CITY OF KEY WEST AND HEREIN DESCRIBED MORE PARTICULARLY BY METES AND BOUNDS AS FOLLOWS: COMMENCE AT THE INTERSECTION OF THE SOUTHERLY RIGHT-OF-WAY BOUNDARY OF PETRONIA STREET AND THE WESTERLY RIGHT-OF-WAY BOUNDARY LINE OF WHITEHEAD ST. 62.25 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG THE SAID WESTERLY LINE OF WHITEHEAD STREET 0.75 FEET TO A POINT; THENCE WESTERLY AT RIGHT ANGLES 96 FEET TO A POINT; THENCE NORTHERLY AT RIGHT ANGLES 0.75 FEET TO A POINT, THENCE EASTERLY AT RIGHT ANGLES 96 FEET BACK TO THE POINT OF BEGINNING

ALSO KNOWN AS RE# 1401, 1401-001, 1402, 1405, 1406 AND 804 WHITEHEAD STREET, 809, 811 TERRY LANE, KEY WEST, MONROE COUNTY, FLORIDA

Section 2. It is an essential condition of this SPECIAL EXCEPTION that full, complete, and final application for all permits required for any new construction for any use and occupancy for which this SPECIAL EXCEPTION is wholly or partly necessary, whether or not such construction is suggested or proposed in the documents presented in support of this SPECIAL EXCEPTION, shall be submitted in its entirety within 12 months after the date hereof. It is an essential condition of this SPECIAL EXCEPTION that no application or reapplication for new construction for which the SPECIAL EXCEPTION is wholly or partly necessary shall be made after expiration of said 12-month period.

Section 3. Failure to submit full and complete application for permits for new construction for which this SPECIAL EXCEPTION is wholly or partly necessary, or failure to complete new construction for use and occupancy pursuant to this SPECIAL EXCEPTION in accordance with the terms of a City building permit issued upon timely application as described in Section 2 hereof, shall immediately operate to terminate this SPECIAL EXCEPTION, which SPECIAL EXCEPTION shall be of no force or effect.

Section 4. This SPECIAL EXCEPTION does not constitute a finding as to ownership or right to possession of the property, and


assumes, without finding, the correctness of applicant's assertion of legal authority respecting the property.

Section 5. This Resolution shall go into effect immediately upon its passage and adoption and authentication by the signatures of the presiding officer and the Clerk of the Commission.

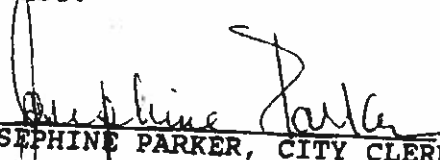
Read and passed on first reading at a regular meeting held this 5th day of February, 1997.

Authenticated by the presiding officer and Clerk of the Board on 10th day of February, 1997.

Filed with the Clerk on February 10, 1997.


SALLY LEWIS,
CHAIRMAN PRO TEMPORE
BOARD OF ADJUSTMENT

ATTEST:


JOSEPHINE PARKER, CITY CLERK

RESOLUTION NO. 98-44

VARIANCE: 804 WHITEHEAD STREET
809, 811 TERRY LANE

A RESOLUTION GRANTING A VARIANCE TO HP-3, LIGHT COMMERCIAL HISTORIC PRESERVATION DISTRICT UNDER CHAPTER 35 OF THE CODE OF ORDINANCES OF THE CITY OF KEY WEST, FLORIDA PERMITTING A VARIANCE TO ALLOW: 5.0 ' RIGHT SIDE CORNER SETBACK (15' REQUIRED) AND 1.33' REAR SETBACK (16.0' REQUIRED) TO ALLOW CONSTRUCTION OF A NEW ONE-STORY COMMERCIAL STRUCTURE OF 1,025 SQUARE FEET; AND, A VARIANCE TO ALLOW ZERO FEET LEFT SIDE SETBACK (15' REQUIRED) AND ZERO FEET REAR SETBACK (15' REQUIRED) FOR AIR CONDITIONING EQUIPMENT AT TWO LOCATIONS AS SHOWN ON ACCOMPANYING SITE PLAN.

REAL ESTATE PARCEL #1401, 1401-001, 1402, 1405, 1406, ALSO KNOWN AS 804 WHITEHEAD STREET & 809, 811 TERRY LANE KEY WEST, MONROE COUNTY, FLORIDA

WHEREAS, special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, buildings or structures in the subject district; and

WHEREAS, literal interpretation of the provisions of the Zoning Ordinance of the City of Key West would deprive the owner of the subject property of rights commonly enjoyed by other properties in the same district under the terms of the Zoning Ordinance.

WHEREAS, the special conditions and circumstances do not result from the actions of the applicant.

WHEREAS, the granting of the variance requested will not

confer on the applicant any special privilege that is denied by the ordinance to other land, structures or buildings in the same district.

WHEREAS, the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.

WHEREAS, the granting of the variance will be in harmony with the general purpose and intent of the zoning provisions, will not be injurious to the neighborhood, or otherwise detrimental to the public welfare; now therefore,

BE IT RESOLVED by the Board of Adjustment of the City of Key West, Florida:

Section 1. That a variance to: HP-3, Light Commercial Historic Preservation District, under Chapter 35 of the Code of Ordinances of the City of Key West, Florida, permitting a variance to allow:

5.0 ' RIGHT SIDE CORNER SETBACK (15' REQUIRED) AND 1.33' REAR SETBACK (16.0' REQUIRED) TO ALLOW CONSTRUCTION OF A NEW ONE-STORY COMMERCIAL STRUCTURE OF 1,025 SQUARE FEET; AND, A VARIANCE TO ALLOW ZERO FEET LEFT SIDE SETBACK (15' REQUIRED) AND ZERO FEET REAR SETBACK (15' REQUIRED) FOR AIR CONDITIONING EQUIPMENT AT TWO LOCATIONS AS SHOWN ON ACCOMPANYING SITE PLAN.

REAL ESTATE PARCEL #1401, 1401-001, 1409, 1405, 1406 ALSO KNOWN AS

804 WHITEHEAD STREET & 809, 811 TERRY LANE KEY WEST, MONROE COUNTY,
FLORIDA

Section 2. It is an essential condition of this variance that full, complete, and final application for all permits required for any new construction for any use and occupancy for which this variance is wholly or partly necessary, whether or not such construction is suggested or proposed in the documents presented in support of this variance, shall be submitted in its entirety within 12 months after the date hereof. It is an essential condition of this variance that no application or reapplication for new construction for which the variance is wholly or partly necessary shall be made after expiration of said 12-month period.

Section 3. Failure to submit full and complete application for permits for new construction for which this variance is wholly or partly necessary, or failure to complete new construction for use and occupancy pursuant to this variance in accordance with the terms of a City building permit issued upon timely application as described in Section 2 hereof, shall immediately operate to terminate this variance, which variance shall be of no force or effect.

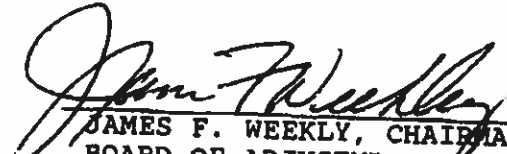
Section 4. This variance does not constitute a finding as to ownership or right to possession of the property, and assumes, without finding, the correctness of applicant's assertion of legal authority respecting the property.

Section 5. This Resolution shall go into effect immediately upon its passage and adoption and authentication by the signatures of the presiding officer and the Clerk of the Commission.

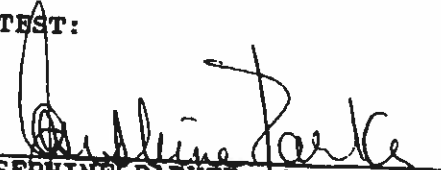
Read and passed on first reading at a regular meeting held this 4th day of February, 1998.

Authenticated by the presiding officer and Clerk of the Board on 11th day of February, 1998.

Filed with the Clerk on February 11, 1998.


JAMES F. WEEKLY, CHAIRMAN
BOARD OF ADJUSTMENT
PRO TEM

ATTEST:


JOSEPHINE PARKER, CITY CLERK

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Attachment C

Key West Planning Board
Regular Meeting Agenda

Thursday, March 19, 1998, 6:00 P.M.
City Commission Chamber, Old City Hall
510 Greene St., Key West, FL 33040

1. Pledge of Allegiance
2. Roll call
3. Approval of agenda

4. Consideration/Review of Revised CIAS and Site Plan for proposed redevelopment of existing lumber and hardware complex into a specialty retail and restaurant complex; utilizing existing building and adding approximately 5,451 net commercial square feet of new space; total of 74,784 s.f. in project, 69,333 s.f. is existing space to be remodeled over multi-year time frame; until possible ROGO units are available for 13 proposed employee residential units, second-floor shell space created will be used for storage space for merchants in new retail center; proposed "Simonton Row Retail Center" project is located at 120 Simonton St., RE # 290 and 240; applicant Manley-DeBoer, Inc. (Erik DeBoer) for owner, Struck Lumber Yard, Inc. (E. A. Strunk III)

5. Consideration/Review of proposed Site Plan and CIAS (Traffic) for proposed new mixed use two-story retail/office building with first floor and mezzanine for 6,124 s.f. of retail use and second floor for 5 proposed residential units, two replacing existing units to be removed on the site, plus 3 subject to ROGO limitations at 117 Duval St. (RE # 530, 430); applicant William P. Horn, Architect; owner, Key West MJM Investments, Inc., Hollywood, FL (Judith A. Greenberg)

6. Consideration/Review of limited revisions to Approved Site Plan for proposed SeaSide Condominium project at 3800 So. Roosevelt Blvd. (RE # 65900; 66210; 66190); applicant Steven L. Johnson, Architect; owner, owner, Key West SeaSide Corp. (Robert Butler, President), Argonaut Development Group, Inc., Developer

7. *To be* Consideration/Review of proposed Site Plan for construction of three residential units above existing commercial space, the Greyhound Bus Terminal at 615 1/2 Duval St. (RE # 12350); applicant Bert L. Bender, Architect; owner, Greg Artman.

8. *8/14/01* Consideration/Review of proposed Site Plan for phased commercial development including existing and new construction on multi-parcel site; present application includes new 1,025 s.f. one-story, open market building and conversion of first floor of two-story existing building from residential to commercial at site location, ~~804 Whitehead St/809, 811 Terry Lane (RE # 1401, 1401-001, 1402, 1403, 1406)~~ applicant William P. Horn, Architect; owner, Bahama Village Market. Ltd. (Gerald R. Mosher, partner)

9. *To be* Consideration/Review of Site Plan for proposed renovation/expansion of one-story retail use building area and addition of a new second story overhead for addition of seven new residential units subject to ROGO at 508 Southard St. (RE # 1230), known as "Key Lime Square"; applicant William P. Horn, Architect; owner, Old Town Key West Development, Ltd.

10. *To be* Consideration/Review of Site Plan and CIAS for proposed construction of approximately 26,500 s.f. of building and related infrastructure for wholesale storage and distribution of Anheuser-Busch products at 2600 No. Roosevelt Blvd. (RE # 65010); applicant Larry Frank, Overbeck and Elliott; owner Silver Eagle Distributors, Ltd. (Ramon Oyarzun)

11. Update from Mallory Square Subcommittee (Mr. Ingram, Mr. Malcolm)

12. City Planner Update

13. Old Business

14. New Business

15. Adjournment

MEMORANDUM
City of Key West
Planning Department

To: Site Plan and CIAS Review Staff
From: Wendy Tucker, Planning Coordinator II *Wendy Tucker*
Date: March 2, 1998
Subj: Site Plan Review Application, 804 Whitehead St./809, 811 Terry Lane (RE # 1401, 1401-001, 1402, 1405, 1406)

Enclosed please find a Site Plan for a project that already has several phases of activity underway on a site of multiple real estate parcels and several existing structures. Attached is a letter I requested from the project architect, William P. Horn, explaining what processes and permissions have already occurred relative to the overall project.

As expressed, the applicant's present objectives relative to the submitted site plan include addition of a new retail one-story building of 1,025 s.f. for an open-air market, and conversion of the first floor of an existing two-story building that fronts on Whitehead Street to retail use.

As requested, we have placed this item on the March 19 Key West Planning Board agenda. Please review and comment as soon as possible, hopefully no later than Monday, March 9. Your comments will be distributed to the Planning Board, but you are also invited to attend the meeting which will begin at 6 p.m. at Old City Hall.



WILLIAM P. HORN, ARCHITECT, P.A.

License No. AA 0003040

915 EATON STREET, KEY WEST, FLORIDA 33040

PHONE: 305-296-8302 FAX: 305-296-1033

MAR 2 1998

March 2, 1998

**To: Planning Department
City of Key West
Attn. Wendy Tucker**

**Re: 804 Whitehead Street
Phase III (New open Market)**

Dear Mrs. Tucker,

I am writing to clarify why we are going to the planning board for this project.

We need planning board approval to build the new 1,025 S.F. open market building (one story structure), and to convert the first floor plan of the two story building (existing on site) from residential to commercial. All other items shown on plans are existing or permitted already (building permit on hand). The whole site was given a special exception to be commercial by the board of adjustment.

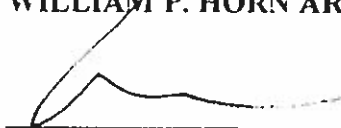
The one story "restaurant and retail building" is existing and the interior of the restaurant kitchen is almost complete. The ticket booth and carts are existing.

The two story building has 3 existing units permitted on the second floor and they are being renovated. The first floor has a permitted (and half completed) open pavillion for retail on the Petronia Street side. The remaining original part of the two story house will be converted to retail use.

A variance was given for the new buildings setbacks.

Please call if you have any questions.

WILLIAM P. HORN ARCHITECT, P.A.


**William P. Horn,
Principal**

Attachment D

Site Plan and CIAS Application

City of Key West PLANNING DEPARTMENT

Site Plan X Community Impact Assessment Statement _____

Please print or type a response to the following:

1. Site Address 804 Whitehead St. / 809,811 Terry Lane
2. Name of Applicant William P. Horn Architect, P.A.
3. Applicant is: Owner _____ Authorized Representative X
(attached Authorization Form must be completed)
4. Address of Applicant 915 Eaton Street
Key West, FL 33040
5. Phone Number of Applicant 296-8302
6. Name of Owner, if different than above Bahama Village Market, Ltd.
7. Address of Owner 201 Front Street, Suite 310
Key West, FL 33040
8. Phone Number of Owner 294-3225
9. Future Land Use District of Parcel HNC-3
10. Zoning District of Parcel HP-3 RE# 1401, 1401-001, 1402, 1405, 1406
11. Description of Proposed Development and Use. Please be specific. List all existing and proposed buildings and uses of the property (including number of dwelling units). If there is more than one use please describe in detail the nature of each use (use a separate sheet of paper if necessary) Add new retail one story building (1025 S.F.) existing buildings include one story CBS restaurant and retail building, 2 story frame retail with 3 residential units on 2nd level, ticket booth and 8 carts for retail use.

13. Is Subject Property located within the Historic District? Yes X No _____
If Yes, indicate the date HARC granted approval of the proposed development, as well as the HARC Number assigned to that application
Date 9-9-97 HARC# H9-97-2905, 06-17815-97, H10-97-3571
VARIANCE APPROVED FEBRUARY 5, 1998

14. Are there any easements, deed restrictions or other encumbrances attached to the subject property? Yes _____ No X If Yes, please describe and attach relevant documents. _____

The following must be included with this application:

- X Copy of a deed showing ownership and a legal description of the subject property
- X Two (2) Signed and sealed site survey illustrating buildings and structures existing on property, as well as area of requested easement
- X Photograph of area of requested easement
- X Application fee -- payable to the City of Key West:
 - 1) for Site Plan Review Only, \$100.00; or
 - 2) for Site Plan and CIAS Review, \$600.00
- X Notarized Verification Form
- X Notarized Authorization Form (if applicable)

Authorization Form

Please complete this form if someone other than the property owner is representing the property.

I, Batana Village, Nrk authorize WILLIAM P. HORN to
Property Owner's Name Applicant's Name

represent my property for this application. (SHE ALON APPLICANT)

[Signature]
Signature of Property Owner

Subscribes and sworn to (or affirmed) before me on _____ (date) by
(name of affiant, deponent or other signer). She is personally
known to me, or has presented _____ as identification.

[Signature]
Notary's Signature and Seal

Name of Acknowledger typed, printed or stamped



JOYCE A. PIVEC
MY COMMISSION # CC384479 EXPIRES
August 14, 1998
BONDED THRU TROY FAIR INSURANCE, INC.


Title or Rank

Commission Number, if any

Verification Form

This form should be completed by the applicant. Where appropriate, please indicate whether applicant is the owner or legal representative of the property. If a legal representative, please have the property owner complete the following page, "Authorization Form".

I, William P. Horn, being duly sworn, depose and say that: I am (check one) the owner ☐ legal representative ☒ of the property which is the subject matter of this application. All of the answers to the above questions, sketches and attached data which make up this application, are true and correct to the best of my knowledge and belief.



Signature of Applicant

Subscribes and sworn to (or affirmed) before me on _____ (date) by
_____ (name of affiant, deponent or other signer). He/She is personally known to
me or has presented _____
as identification.

Notary's Signature and Seal

Name of Acknowledger typed, printed or stamped

Title or Rank

Commission Number, if any

Return to: Michael H. Cates
#8 Key Lime Square
Key West, Florida 33040

This instrument prepared by:
Michael H. Cates
#8 Key Lime Square
Key West, Florida, 33040

Property Appraisers Parcel I.D.:
0001401, 0001401-001 & 0001402
Grantee(s) SS# or FEIN
65-0476595

MONROE COUNTY FLA

65 MAR-9 AM 59

FILED - 10-03-95

.....space above for recording data.....

THIS WARRANTY DEED, Made the 1st day of January, 1995 by BAHAMA VILLAGE MARKET, INC, a Florida Corporation, hereinafter called the Grantor, to BAHAMA VILLAGE MARKET, LTD, a Florida Limited Partnership whose post office address is #8 Key Lime Square, Key West, Florida, 33040

(Wherever used herein the terms "Grantor" and "Grantee" include all the parties to the instrument and the heirs, legal representatives, and assigns of individuals, and the successors and assigns of corporations or partnerships.)

WITNESSETH, That the Grantor, for and consideration of the sum of \$10.00 and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the Grantee all that certain land, situated in MONROE COUNTY, State of Florida, viz:

See attached exhibit "A" attached for complete legal description

SUBJECT to existing mortgage in favor of Barbara K. Murphy which the grantee hereby agrees to assume and pay.

TOGETHER, with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

TO HAVE AND TO HOLD, the same in fee simple forever.

AND, the Grantor hereby covenants with said Grantee that the Grantor is/are lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land, and hereby warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances; except taxes accruing subsequent to December 31, 1993 and as otherwise set forth herein.

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

Signed, sealed and delivered in the presence of:

Michael H. Cates
Print name: Michael H. Cates
Tulley Lopez
Print name: Tulley Lopez

Edwin O. Swift, III
Edwin O. Swift, III, president
& secretary
Bahama Village Market, Inc

STATE OF FLORIDA
COUNTY OF MONROE

The foregoing instrument was acknowledged before me this 8 day of March, 1995, by EDWIN O. SWIFT, III, president and secretary of BAHAMA VILLAGE MARKET, Inc, who is personally known to me and did take an oath.

Notary Signature

Printed Name: Joyce A. Pivec
My Commission Expires:



JOYCE A. PIVEC
MY COMMISSION / DC384479 EXPIRES
August 14, 1994

FORM 2060 30 3/8/95
MONROE COUNTY

1344 PAGE 1667

882069

... and designated on Charles W. Tift's
... stand as part of Lot No. 2 in the Subdivision
... Square No. 1, in part of Tract 3 known as Simonton's
Addition to the City of Key West; COMMENCING at a point on
Whitehead Street, distant 63 feet from the corner of Petronia
and Whitehead Sts. and run thence in a S.E. ly direction 31
feet and 6 inches; thence at right angles in a S.W. ly direction
96 feet; thence at right angles N.W. ly 31 feet and 6 inches
thence at right angles N.E. ly 96 feet to the place of
beginning.

ALSO

In the City of Key West, Monroe County, Florida and is
designated on Charles W. Tift's Map of said City as part of
Lot 1 of Square 1 in Tract 3 of Simonton's Addition to the

City of Key West and herein described more particularly by metes
and bounds as follows: BEGIN at the intersection of the Southerly
Right-of-Way line of Petronia St. and the W. ly Right-of-Way
boundary line of Whitehead Street for a Point of Beginning;
thence Southerly along the said Westerly line of Whitehead Street
62.25 feet to a point; thence Westerly at right angles 96 feet to
a point; thence Northerly at right angles 23.48 feet to a point;
thence Easterly at right angles 5 feet to a point; thence Northerly
at right angles 38.77 feet to a point on the said line of Petronia
St., 91 feet back to the Point of Beginning.

ALSO

Part of Lot One (1) of Square One (1), Tract Three (3) of Simonton's
Addition to the City of Key West, Florida: COMMENCING at the
intersection of the Westerly Right-of-Way boundary line of Whitehead
Street and the Southerly Right-of-Way boundary line of Petronia
Street and run thence Westerly along the said line of Petronia 91
feet to the Point of Beginning of the Parcel herein being described;
thence continue along the said line of Petronia Street 74 feet to
a point; thence Southerly and at right angles 62.25 feet to a
point; thence Easterly and at right angles 69 feet to a point;
thence Northerly and at right angles 23.48 feet to a point;
thence Easterly at right angles 5 feet to a point; thence Northerly
at right angles 38.77 feet back to the Point of Beginning on
Petronia Street.

ALSO

On the Island of Key West, as known on Charles W. Tift's map of
the City of Key West, as Part of Square One (1) in Tract Three
(3) and its part of Subdivision Two (2) in Square One (1) according
to a diagram made of portion of said Tract Three (3), which
diagram is recorded in Book "I" deeds page 421 of Monroe County
Records: COMMENCING at a point on an Eighteen foot alley-way,
Sixty three (63) feet and four (4) inches distant from the corner
of Petronia Street and said alley-way and running thence along
said alley-way in a Southeasterly direction Thirty-one feet and
six inches, and extending back in a Northeasterly direction on
both lines a distance of Ninety-six (96) feet.

ALSO

In the City of Key West, Monroe County, Florida and is designated
on Charles W. Tift's Map of said City as Part of Lot 1 of Square
1 in Tract 3 of Simonton's Addition to the City of Key West and
herein described more particularly by metes and bounds as follows:
COMMENCE at the intersection of the Southerly Right-of-Way
boundary of Petronia Street and the Westerly Right-of-Way
boundary line of Whitehead St. 62.25 feet to the Point of
Beginning; thence continue along the said Westerly line of
Whitehead Street 0.75 feet to a point; thence Westerly at
right angles 96 feet to a point; thence Northerly at right
angles 0.75 feet to a point; thence Easterly at right angles
96 feet back to the Point of Beginning.

Recorded in Official Records
in Monroe County, Florida
Record Book 100

DARRELL L. KOLTA
Clerk Circuit Court

93 65

REC 1303 PAGE 118
0218

Return to: Michael H. Catow
18 Key Lime Square
Key West, Florida 33040

This instrument prepared by:
Michael H. Catow
18 Key Lime Square
Key West, Florida 33040

Property Appraisers Parcel I.D:
0001401, 0001401-001 & 0001402
Grantee(s) SS# or FEIN
65-0476595

.....space above for recording data.....

THIS WARRANTY DEED, Made the 26 day of January, 1996 by BARBARA K. MURPHY, an unmarried widow, hereinafter called the Grantor, to BAHAMA VILLAGE MARKET, LTD, a Florida Limited Partnership whose post office address is 18 Key Lime Square, Key West, Florida, 33040

[wherever used herein the terms "Grantor" and "Grantee" include all the parties to the instrument and the heirs, legal representatives, and assigns of individuals, and the successors and assigns of corporations or partnerships.]

WITNESSETH, That the Grantor, for and consideration of the sum of \$10.00 and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the Grantee all that certain land, situated in MONROE COUNTY, State of Florida, viz:

See attached exhibit "A" attached for complete legal description

SUBJECT to existing mortgage in favor of Barbara K. Murphy.

THIS IS NOT HOMESTEAD PROPERTY

TOGETHER, with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

TO HAVE AND TO HOLD, the same in fee simple forever.

AND, the Grantor hereby covenants with said Grantee that the Grantor is/are lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land, and hereby warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances; except taxes accruing subsequent to December 31, 1993 and as otherwise set forth herein.

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

Signed, sealed and delivered in the presence of:

Heidi Tudman
Print name: Heidi Tudman
Donald R. Miller
Print name: Donald R. Miller

Barbara K. Murphy
BARBARA K. MURPHY ac,
unmarried widow

STATE OF Florida
COUNTY OF Monroe

The foregoing instrument was acknowledged before me this 26 day of January, 1996, by BARBARA K. MURPHY an unmarried widow, who is personally known to me or has produced as identification and did (did not) take an oath.

Notary Signature

Printed Name:
My Commission

JOYCE A. PIVER

EXPIRES
AUGUST 14, 1998
BONDED FROM 1993 FOR INSURANCE, ETC.

8-899

OFF REC 1352 PA. 339

Return to: Michael H. Cates
#8 Key Lime Square
Key West, Florida 33040

This instrument prepared by:
Michael H. Cates
#8 Key Lime Square
Key West, Florida, 33040

Property Appraisers Parcel I.D.
00014050-000000
Grantee(s) SS# or FEIN
267-24-4757

.....space above for recording data.....
THIS WARRANTY DEED, Made the 8 day of May, 1995 as heirs of HAZELINE LOPEZ, w/w/a HAZELINE S LOPEZ, her s/w/v HERMAN I. LOPEZ, her daughters BESSIE LOPEZ and ELIZABETH L. MATHEWS hereinafter called the Grantors, to BAHAMA VILLAGE MARKET, LTD, a Florida Limited Partnership whose post office address is #8 Key Lime Square, Key West, Florida, 33040

(wherever used herein the terms "Grantor" and "Grantee" include all the parties to the instrument and the heirs, legal representatives, and assigns of individuals, and the successors and assigns of corporations or partnerships.)

WITNESSETH, That the Grantor, for and consideration of the sum of \$10.00 and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the Grantee all that certain land, situated in MONROE COUNTY, State of Florida, viz:

PART OF LOT TWO (2) IN SQUARE ONE (1) OF TRACT THREE (3) ALSO KNOWN AS 809 TERRY LANE, IN THE CITY OF KEY WEST, COUNTY OF MONROE, STATE OF FLORIDA.

RE NO. 1405, ALTERNATE KEY NO. 1014435 AS

THIS IS NOT HOMESTEAD AND IS A VACANT LOT
REFERENCE PROBATE PROCEEDING CASE NO: 95-50-CP-08

TOGETHER, with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining,

TO HAVE AND TO HOLD, the same in fee simple forever.

AND, the Grantor hereby covenants with said Grantee that the Grantor is/are lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land, and hereby warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances.

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

Signed, sealed and delivered in the presence of:

AS TO HERMAN I. LOPEZ

Witness

Print name: William J. Goodman

Signature: William J. Goodman

Witness

Print name: Edric J. Edgerton

Signature: Edric J. Edgerton

Herman I. Lopez
Herman I. Lopez
4500 Shannon Blvd. #78
Union City, CA 94581

01-1-95, deed, war

DS Paid 245.00 Date 5/10/95
MONROE COUNTY
DANNY L. KOLB, CLERK OF COURT
By [Signature] D.C.

AS TO BESSIE LOPEZ,

Witness

Signature

Print name:

Witness

Signature

Print name:

AS TO ELIZABETH L. MATHEWS

Witness

Signature

Print name:

Witness

Signature

Print name:

Bessie Lopez
315 Myrtle Avenue
Albany, NY 12208

Elizabeth L. Mathews
147 N. Robinson Street
Philadelphia, PA 19139

STATE OF GEORGIA

COUNTY OF FAYETTE

The foregoing instrument was acknowledged before me this 12 day of MAY, 1995, by HERMAN I. LOPEZ, who produced GA STATE DRIVER'S LICENSE as identification.

seal

Notary Signature

Printed Name:

My Commission Expires:

STATE OF NEW YORK

COUNTY OF Albany

The foregoing instrument was acknowledged before me this 3rd day of April, 1995, by BESSIE LOPEZ who produced City of NY Driver's License as identification.

seal

Notary Signature

Printed Name:

My Commission Expires:

STATE OF PENNSYLVANIA

COUNTY OF Philadelphia

The foregoing instrument was acknowledged before me this 24 day of April, 1995, by ELIZABETH L. MATHEWS, who produced City of Phila. Driver's License as identification.

seal

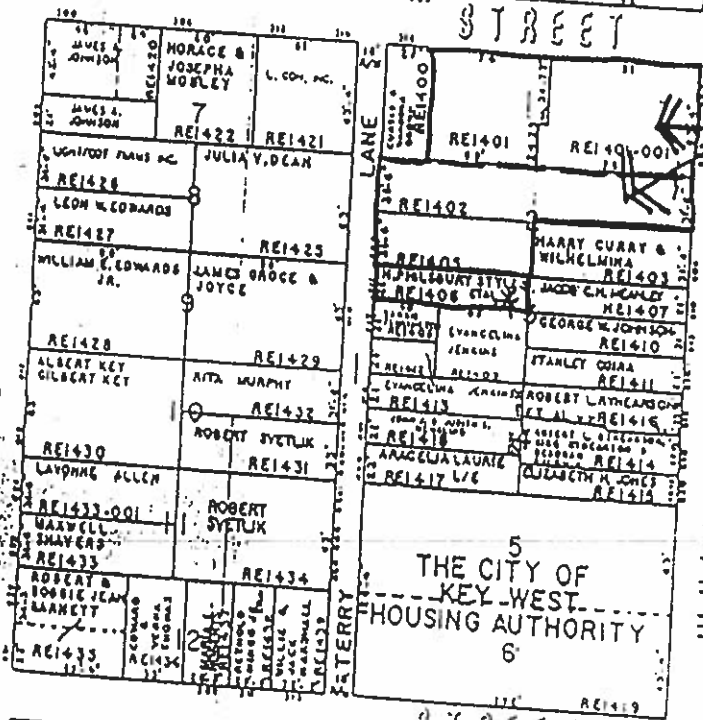
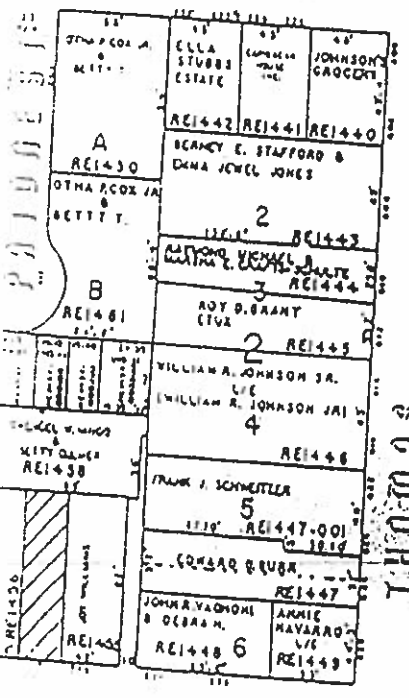
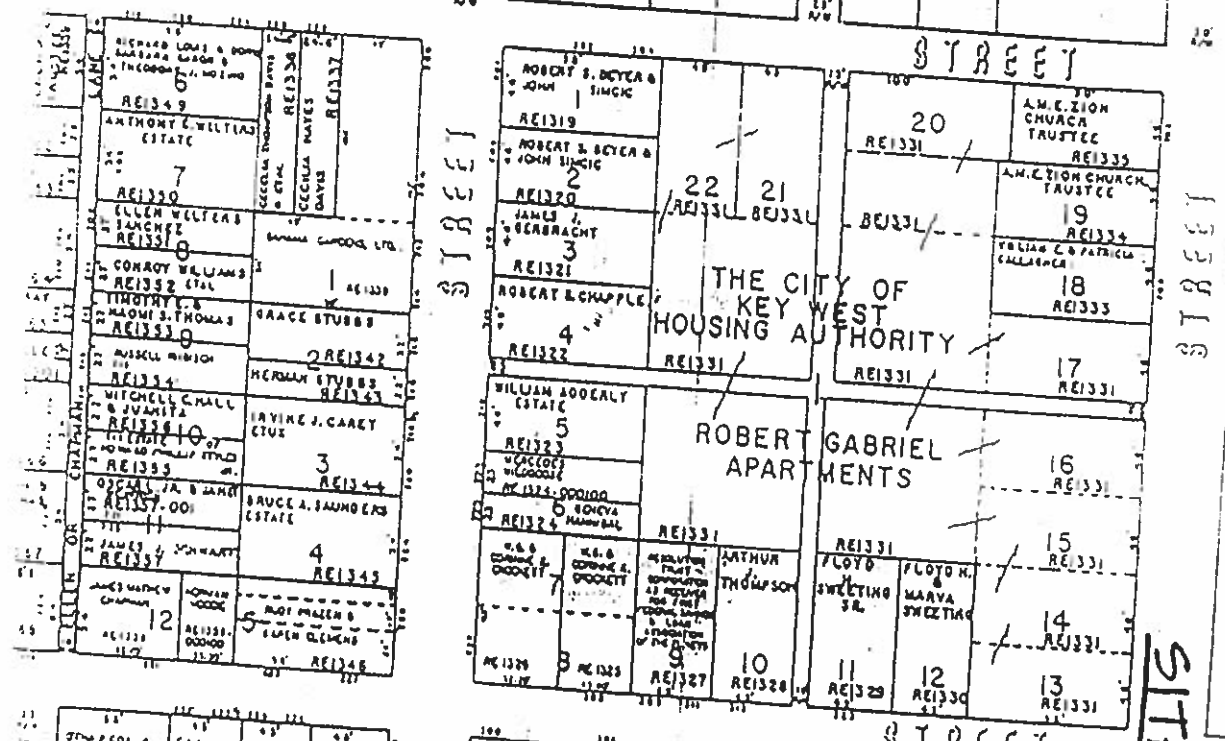
Notary Signature

Printed Name:

My Commission Expires:

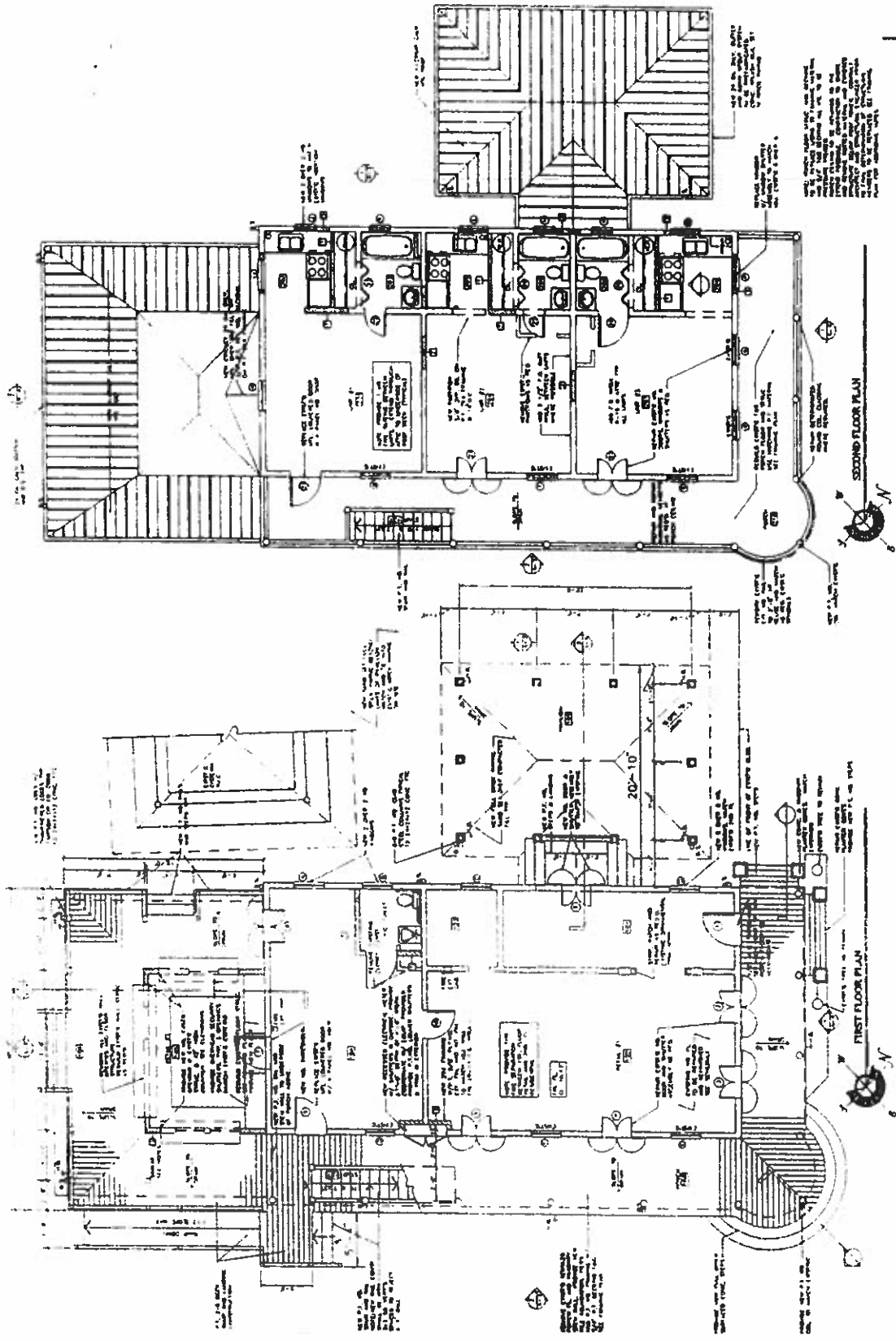
NOTARIAL SEAL
IRVING L. BOHM, Notary Public
City of Philadelphia, Phila. County
My Commission Expires Sept. 7, 1998

CONTINUED ON PAGE NO. 15



CONTINUED ON PAGE NO. 26

EXHIBIT A



PHASE II - EXISTING BUILDING

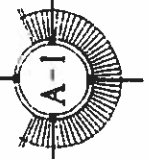
WILLIAM P. HORN
ARCHITECT, P.A.

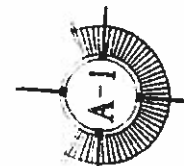
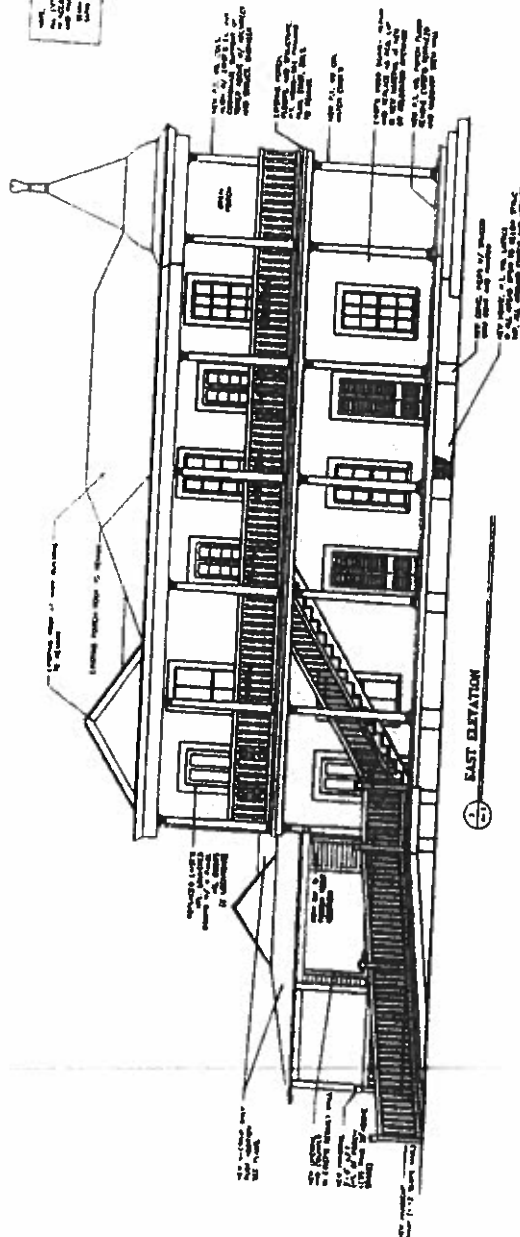
LICENCE NO.
AR 001537
TEL 009 296-8372
FAX 009 296-1033

BAHAMA VILLAGE MARKET
WHITEHEAD & PETRONIA STREET
KEY WEST, FLORIDA

PROJECT NUMBER
9725

FLOOR PLAN
NOT TO SCALE





ELEVATIONS
NOT TO SCALE

PROJECT NUMBER
9725

BAHAMA VILLAGE MARKET
WHITEHEAD & PETRONIA STREET
KEY WEST, FLORIDA

LICENCE NO.
AR 001337
TEL (305) 296-4302
FAX (305) 296-1033

WILLIAM P. HORN
ARCHITECT, P.A.

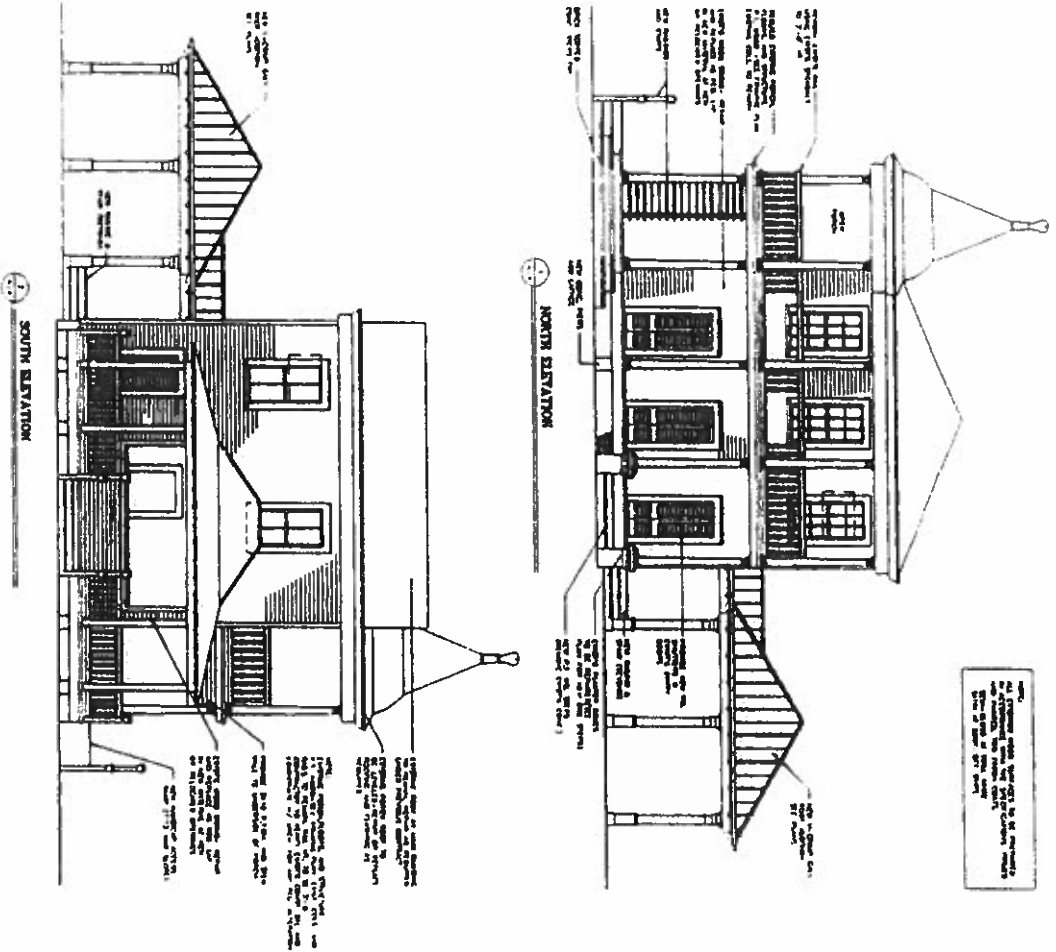
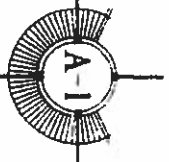
WILLIAM P. HORN
ARCHITECT, P.A.

LICENCE NO.
AR 001557
TEL 609 296-6302
FAX 609 296-1031

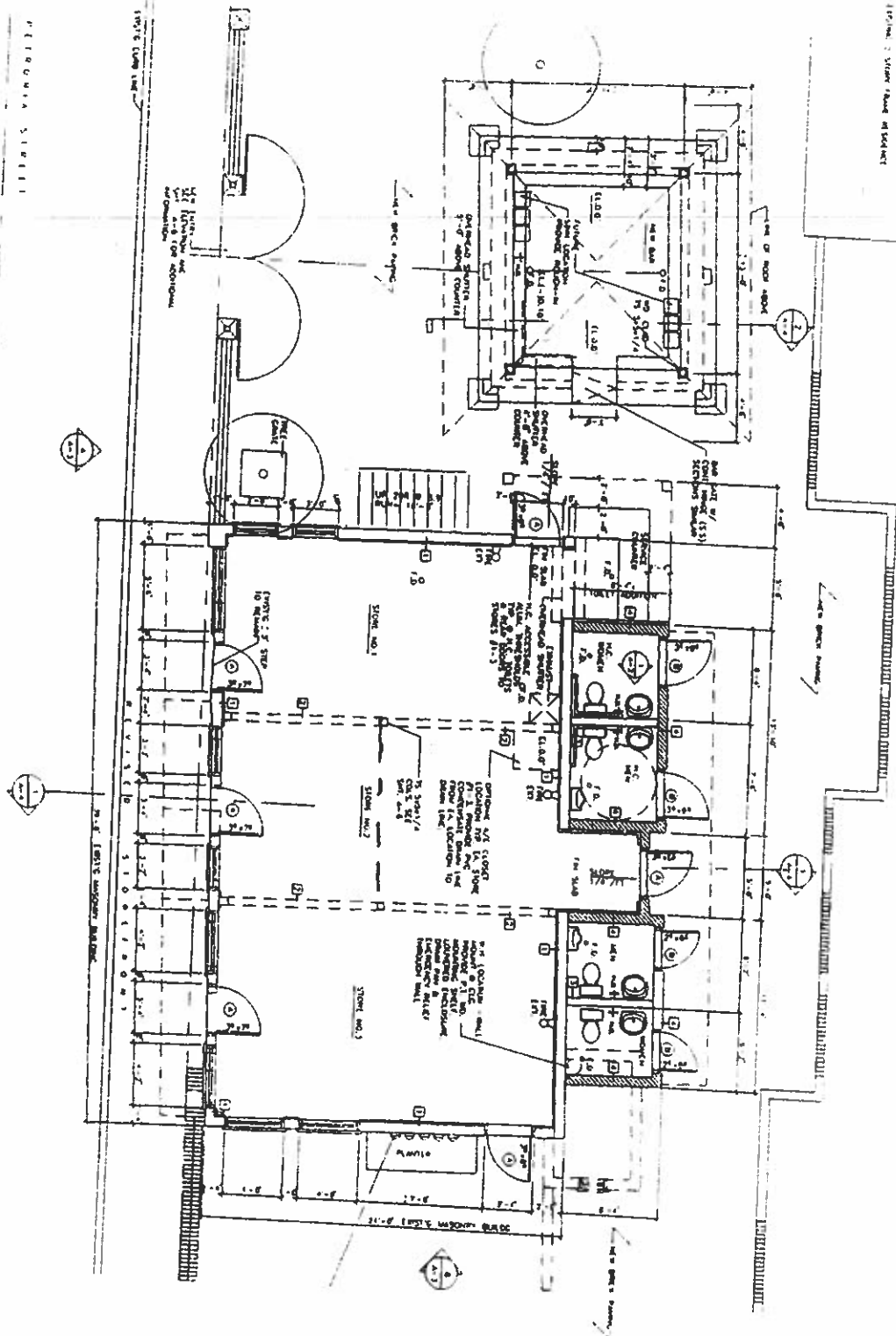
BAHAMA VILLAGE MARKET
WHITEHEAD & PETRONIA STREET
KEY WEST, FLORIDA

PROJECT NUMBER
9725

ELEVATIONS
NOT TO SCALE



1/17/76 - 2nd Floor Plan and Section



FIRST FLOOR PLAN

PHASE I - EXISTING BUILDING

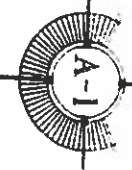
WILLIAM P. HORN
ARCHITECT, P.A.

LICENSE NO.
AR 0013537
TEL 0909 296-0002
FAX 0909 296-1033

BAHAMA VILLAGE MARKET
WHITEHEAD & PETRONIA STREET
KEY WEST, FLORIDA

PROJECT NUMBER
9725

FLOOR PLAN
NOT TO SCALE

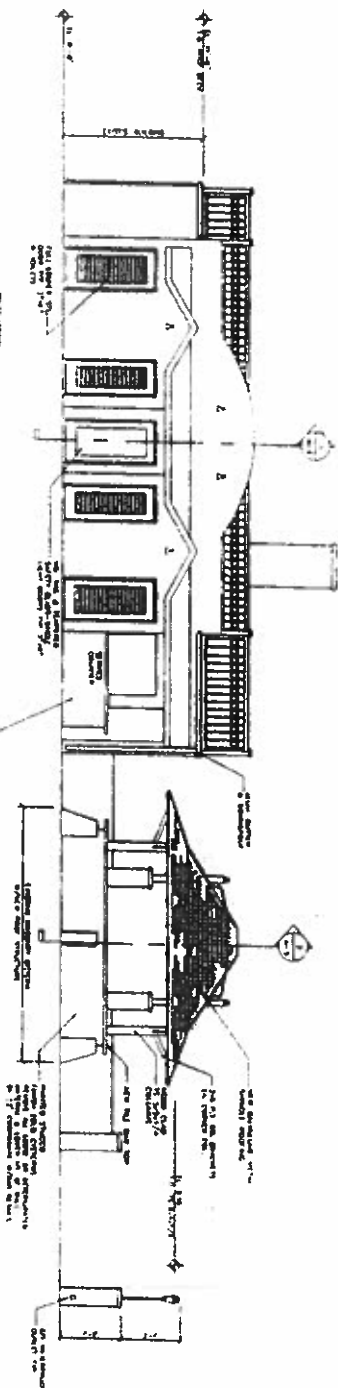
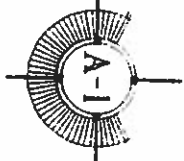


LICENCE NO.
AR 0015577
TEL (905) 296-8302
FAX (905) 296-1050

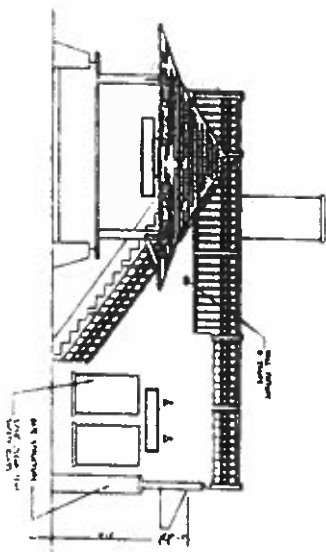
BAHAMA VILLAGE MARKET
WHITEHEAD & PETRONIA STREET
KEY WEST, FLORIDA

PROJECT NUMBER
9725

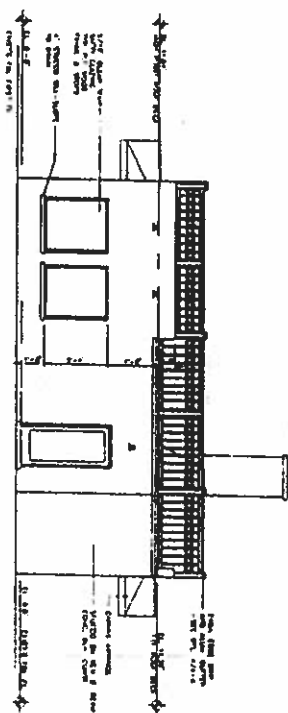
ELEVATIONS



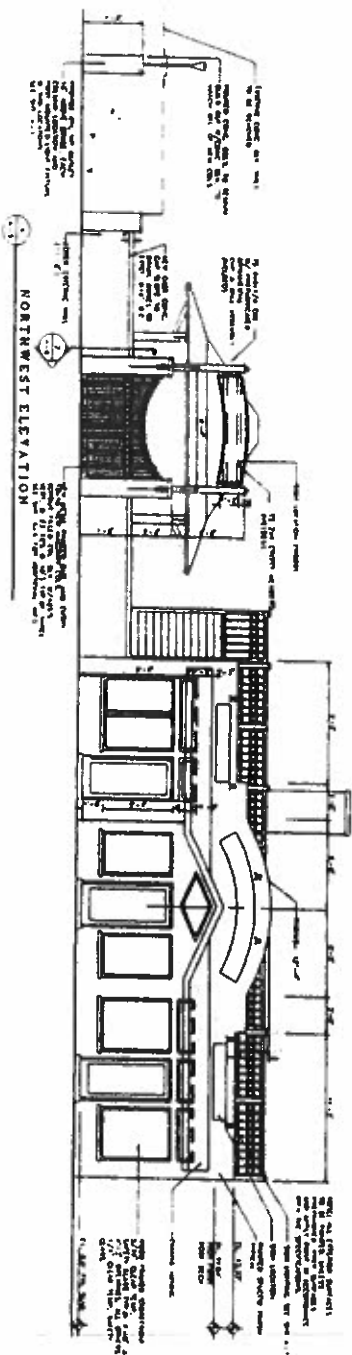
SOUTHEAST ELEVATION



NORTHEAST ELEVATION



SOUTH WEST ELEVATION



NORTHWEST ELEVATION

WHITEHEAD
STREET

TERRY LANE

[illegible][illegible]

On the Island of Key West, Monroe County, Florida and being a Survey made in Special A Sub-division of the Public Lands as recorded in Book No. 1, from Tract 7, Key West, Florida, of the General Land Office, Florida and being described as Part Section of Monroe County, Florida at the point of intersection of the boundary as follows:

Southwesterly along the easterly line of Perry Lane 42.34 feet to a point; thence Northwesterly line of Perry Lane 42.34 feet to the point of beginning of the parcel of land 48x90 37 feet to the center Northwesterly at a right angle 1.06 foot South described, thence Northwesterly at a right angle 1.06 foot South described, thence Northwesterly at a right angle 1.06 foot to a point; thence Northwesterly at a right angle 1.06 foot to a point; thence Northwesterly at a right angle 1.06 foot back to the point of beginning.

**NEIGHBORHOOD HOMEOWNERS' OPPOSITION TO APPLICATIONS TO AMEND
ZONING AND FUTURE ZONING MAP FOR PROPERTY RE#00014010-000000**

To the Key West Planning Board:

Please accept this opposition of the undersigned homeowners of the properties located at the addresses shown below next to their names. This opposition is to the applications of Historic Tours of America, Inc. (the "Owner") for a "Zoning Map Amendment" as to RE#00014010-000000 and "Future Land Use Map Amendment" as to RE#00014010-000000 ((the property sought to be rezoned and remapped for the future, hereinafter, the "Property"). Copies of the applications for amendment of zoning and the future zoning map are attached for your convenience as, respectively, Exhibits 1 and 2, and hereafter jointly, the "Applications").

Executive Summary and Relief Sought. It is our position that the Applications should be denied for the following reasons. First, although the Owner removed 809 and 811 Terry Lane from its Applications, 31.5 feet of the Property RE#00014010-000000 borders on Terry Lane (approximately 3,041.325 feet)(the "Terry Lane Parcel").¹ Regardless of whether any relief is to be granted to the Owner, the Terry Lane Parcel should both be removed from any relief granted on the Owner's Applications and also added to and incorporated in the Planning Board Resolution Number 2011-059 (attached hereto as Exhibit 3 and hereafter the "Restrictive Agreement").² Second, as shown below there was no "error" in the zoning of the multiple properties recently collapsed into one RE number RE#00014010-000000, and when the comprehensive changes to zoning and the future zoning map became effective in 1997 the zoning of the various addresses within what is only recently collapsed into RE#00014010-000000 were properly zoned. Third, the Owner has been violating the Good Neighbor Policy by violating the covenants, agreements, and restrictions in the Restrictive Agreement. Fourth, if any relief is to be granted to the Owner, all of the agreements and restrictions in the Restrictive Agreement should be expressly included and incorporated into any amendments granted pursuant to the Applications. And Fifth, if any relief is to be granted to the Owner, the Restrictive Agreement should be clarified as set forth below, and as a condition precedent to and requirement of any zoning or zoning map changes under the Applications, the Restrictive Agreement as amended and clarified should thereafter run with the land as conditions of the land and be binding on the Owner and future owners.

¹ The Terry Lane Parcel consists of 31.5 feet of what is now RE#00014010-000000 bordering on Terry Lane and extending 96.55 feet from Terry Lane to a line 31.5 feet long which extends outward from the line marking the borders of both 809 and 811 Terry Lane farthest from Terry Lane. The Terry Lane Parcel can be seen on the map included on the next page as copied from the Monroe County's website.

² This includes the maintenance of 809 and 811 Terry Lane parcels with their present historical residential zoning classifications of HMDR/HR and all restrictions and agreements reached and incorporated into the Restrictive Agreement.

I. The Property Includes in the Applications Material Square Footage on Terry Lane that has Always Properly Been and Should Remain Historical Residential

The Terry Lane Parcel. The Applications fail to mention the Property includes the Terry Lane Parcel, which as can be seen is a large square footage area bordering on Terry Lane. According to the Warranty Deed attached to both Applications (the "Warranty Deed"), at the time of the Owner's acquisition the Owner acquired what is now the Property that is the subject of the Applications; the Owner acquired nine separate parcels shown in the Warranty Deed with six RE identification numbers. RE##00014010-000100 and 00014020-000000 are identified in the Minor Modification letter as 802-806 Whitehead Street. The Warranty Deed references 00014010-000100 as parcel 3 suggesting it holds one Whitehead Street address and that RE#00014020-000000 holding parcels 7, 8 and 9, suggesting it holds three Whitehead Street addresses. But, that RE number contains only three Whitehead Street addresses; e.g., 802, 804 and 806. The mistake in the Minor Modification letter is shown in the Warranty Deed descriptions of the three parcels included in RE#0001420-000000. Parcel 9 is not a Whitehead Street address. Rather, Parcel 9 is a 3,024 square foot property with 31.5 feet of it bordering on Terry Lane; e.g., Parcel 9 is actually the Terry Lane Parcel.

Parcel 9 is described as follows in the Warranty Deed:

On the Island of Key West, as known as Charles W. Tift's Map of the City of Key West, as part of Square One (1) in Tract Three (3) and is part of Subdivision Two (2) in Square One (1) according to a diagram made a portion of said Tract Three (3), which diagram is recorded in Book "I" deeds page 421 of Monroe County Records: COMMENCING at a point on an Eighteen foot alley-way, Sixty-Three (63) feet and four (4) inches distance from the corner of Petronia Street and said alley-way and running thence along said alley-way in a Southeasterly direction Thirty-One feet and six inches, and extending back in a Northeasterly direction on both lines a distance of Ninety-Six feet.

The "alley-way" referred to in the description is Terry Lane, and 31.5 feet of Parcel 9 borders Terry Lane. It then extends for a depth of 96 feet on both parallel property lines. This is what should be 807 Terry Lane.

The Terry Lane Parcel is and has always been properly zoned as HMDR/HR as part of what is now the HMDR/HR part of the recently created RE #00014010-000000 combining of previously separate groupings of properties and Whitehead Street and Petronia Street addresses). As can be seen on the zoning map it comprises an area with 31.5 feet bordering on Terry Lane contiguous to 809 Terry Lane (also 31.5 feet bordering on Terry Lane) that is roughly equivalent to a lot that should for all intents and purposes for the Applications be considered as 807 Terry Lane, even though the City has not assigned an address to the Terry Lane Parcel.

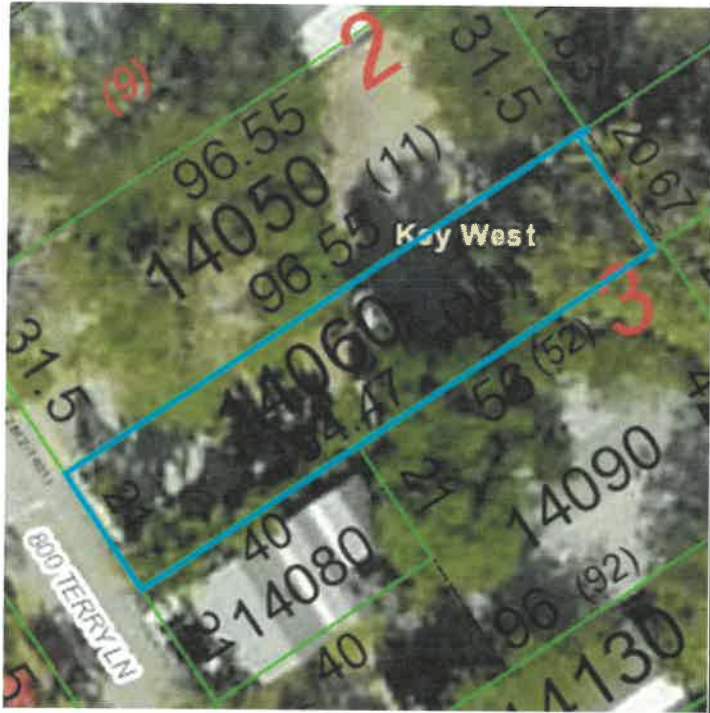


The picture from the County's website for (RE#00014010-000000), as seen above, also shows that 316 Petronia Street (on the corner of Petronia Street and Terry Lane) is carved-out of the Property; it is not part of the Applications. A photo of 316 Petronia Street is shown below for reference. The 316 Petronia Street property is and has been zoned HNC-3 because it is located on the Petronia Street commercial corridor for which HCN-3 zoning was created in the existing plan. The Terry Lane Parcel is located behind the 316 Petronia Street property, and it is clearly a Terry Lane property. In contrast to the Petronia Street commercial corridor, Terry Lane has never been anything but residential. Regardless what the Owner claims as to the Petronia Street and Whitehead Street addresses of the Property, there is no justification for the Owner lumping the Terry Lane Parcel into the Owner's Application for the Owner's all-in zoning/future zoning map amendments to HNC-3/HC for RE#00014010-000000. The Owner recently changed the Applications to delete 809-811 Terry Lane properties RE#00014050-000000 and RE#000140060-000000 from the Applications. They are also owned by Historic Tours of America, Inc. They are currently zoned/mapped HMDR/HR. The Terry Land Parcel should have been removed from the Applications when the Owner removed 809 and 811 Terry Lane from the Applications. Under the current Applications, the Terry Lane Parcel will go from HMDR/HR to HC/HCN-3. The Terry Lane Parcel is properly zoned HMDR/HR and that part of the property is not an "error" as the Owner claims.



The 316 Petronia Street property (RE#00014000-000000) is owned by Daniel J Calabro, according to the Monroe County Assessor's website.





811 Terry Lane

The Owner's inclusion of the Terry Lane Parcel in its Applications is reason alone to deny the Applications in their totality.

II. The Challenged Zoning/Future Zoning Map were Not in Error and are Proper.

According to the Warranty Deed attached to both Applications the Owner only acquired the Property as of December 18, 2014. Therefore, the Owner bought the Property less than five years ago fully aware of the Property's zoning and the Restrictive Agreement. Yet, the Applicant proceeds in its Applications arguing a fallacy that the Applications are addressing a "mapping error." There never was a zoning or future zoning map error. The Whitehead parcels were historically residential and logically zoned HMDR under the new comprehensive plan. Given the intent to continue the Petronia Street commercial corridor, assigning the new HCN-3 classification to the Petronia Street addresses made perfect sense--it was not a mistake—it was the *plan* to rezone those parcels HNC-3. At the time and following the City of Key West's HNC-3 Petronia Street commercial corridor zoning purpose and intent of the new zoning plan and ordinance, the Petronia street addresses (318, 320, 322 and 324 Petronia Street) of what is now RE#00014010-000000 were zoned HNC-3/HC and the rest of what is now RE#00014010-000000 was appropriately zoned HMDR/HR.

The Owner claims without substantiation and with fallacious reasoning that this Property has

"a unique peculiarity of split zoning and future land use designations (residential and commercial). This is one of the very few properties in town to, not only have split zoning and FLUM designations, but to contain a historic building and mixed-use commercial operation which itself is bisected by zoning and FLUM lines."

As to the three Whitehead Street parcels properly characterized as such, and zoned appropriately, according to the Parcel 3 description in the Warranty Deed it starts at the corner of Petronia Street and Whitehead Street and borders Whitehead Street for 62.5 feet, with slightly irregular depths (e.g., 96 feet and 91 feet) because of a small rectangular carve out for one of the Petronia Street parcels listed in the Warranty Deed. According to the Parcel 7 description in the Warranty Deed it starts on Whitehead Street 63 feet from the corner and follows Whitehead Street for 31.5 feet. According to the Parcel 8 description in the Warranty Deed that parcel makes up an approximately .75 foot gap between where Parcel 3 ends and Parcel 7 starts on Whitehead Street.

According to the Minor Modification letter³ RE#00014010-000000 describes the parcels comprising 318-324 Petronia Street. The Warranty Deed identifies this RE# as parcels 4 and 5. The Warranty Deed also includes RE##00014060-000000 and 00014050-000000 which we know from the Minor Modification letter to be 809-811 Terry Lane.

A review of the history of the Property and the surrounding neighborhoods does not support the Owner's claim/argument in the Applications that the HMDR/HR classifications are an "error." As shown below, when the new Ordinance and Future Zoning Map were enacted HCN-3 was intended to cover the Petronia Street commercial corridor; not Whitehead Street or the Terry Lane Parcel:

HNC-3. The HNC-3 designation shall also include the Bahama Village neighborhood commercial core along Petronia Street, approximately 200 feet west of Duval Street and extends westward to the rear property lines of lots abutting the west side of Emma Street. The Bahama Village neighborhood commercial core is linked to the Duval Street commercial core. This Village area is a City target for redevelopment and revitalization. The City initiated redevelopment program is intended to mobilize public and private initiatives in support of a village commercial center with rehabilitated housing resources. Future improvements strategies shall place a high priority on maintaining and/or revitalizing existing housing structures while preventing displacement of residents. Concurrency management policies shall ensure that redevelopment activities provide necessary infrastructure, including traffic improvements required to comply with improvement and level of service mandates. As in HNC-2 areas, within HNC-3 areas land use activities shall not generate more than fifty (50) trips per one thousand (1000) square feet of gross leasable floor area per day. (Emphasis added.)

³ On March 17, 2015, a Minor Modification requested by the Owner for the Property was granted by the City of Key West Planning Department administratively (Exhibit 4 hereto)(the "2015 Minor Modification"). In the 2015 Minor Modification Letter, 318-324 Petronia Street are identified as RE#00014010-000000 and 802-806 Whitehead Street are identified as RE#00014010-000100 and 00014020-000000, demonstrating those properties were only recently combined into one RE number, RE#00014010-000000. Also without explanation by the Owner is when the Terry Lane Parcel was lumped in with the Whitehead Street Property addresses.

The Owner claims to have started developing the market starting in 1996 along Petronia Street under the then existing HP3 zoning.⁴ According to the Owner's unsubstantiated claim the market lasted a little over four years and went out of business almost two decades ago (e.g., "from 1997 until the early 2000's). So, the Owner cannot logically claim it is fixing an error "*by recognizing the existing boundaries of the long-established rights of the property.*" Regardless whether the Owner believes it is entitled to the requested relief for that part of the Application with Petronia Street and Whitehead Street addresses, the Owner presents no reasoning or evidence to support its Applications for Amendment of the Zoning Map or Future Land Use for that the part of RE#00014010-000000 as to the Terry Lane Parcel that is presently HMDR/HR. That does not seem to be borne out by the construction permits issued Owner during the period, which according to the Assessor's website first was issued to the long vacant property 5/15/97, by which time the comprehensive zoning ordinance and future zoning map were both firmly in place. Also note that the Assessor's Website identifies the permits as commercial, so they most likely applied only to the Petronia Street addresses (318, 320, 322 and 324) which prior to 2015 were contained in RE#00014010-000000. Without mention or explanation from the Owner in the Applications, the four RE##'s for the properties at 318, 320, 322, 324 Petronia Street and the three RE##'s for 802, 804, 806 Whitehead Street were lumped into one RE number, RE#00014010-000000 *after* 2015. This is shown by the most recent 2/22/2016 permit notation on the Assessor's website moving the commercial restaurant seating from the Petronia Street address to a Whitehead Street address, apparently in response to the Restrictive Agreement and the 2015 Minor Modification granted the Owner by the Planning Department.

Permits

Columns

| Number | Date Issued | Date Completed | Amount | Permit Type | Notes |
|---------|-------------|----------------|---------|-------------|---|
| 16-0435 | 2/22/2016 | | \$1,500 | Commercial | COMMERCIAL OCCUPANCY CHANGE FROM 40 SEAT RESTAURANT (AT 324 PETRONIA) TO 150 SEAT RESTAURANT (804 WHITEHEAD). CONNECT RETAIL SPACE TO CONSUMPTION AREA. |

⁴ The City's website states "The City of Key West prepared its current Comprehensive Plan in 1990, and it was found sufficient by the State in 1994. In 1995 the Plan was amended to extend the extraterritorial powers 600 feet into the tidal waters around the City, and to make several small scale amendments to land use districts. In 1997 Land Development Regulations based on the Comprehensive Plan were adopted."...

| | | | | | |
|---------|-----------|------------|-----|------------|---------------------------|
| 9701683 | 7/2/1997 | 4/30/1999 | \$1 | | DEMO INTERIOR |
| 990986 | 5/15/1997 | 12/30/1999 | \$1 | Commercial | RENOVATE CISTERN/BRICK PA |

Even a cursory review of the history of the Property establishes the Owner created this argument out of whole cloth. The combination of properties that now comprise RE#00014010-000000 contains at least seven or more property addresses (318, 320, 322 and 324 Petronia Street 802, 804, 806 Whitehead Street and should include an address for the Terry Lane Parcel. The Zoning Amendments rezoned/remapped some addresses in what now comprises the Property as HMDR/HR and some addresses in what now comprises the Property as HNC-3/HC.

The Owner neglects to point out in the Applications that after those comprehensive zoning/map changes the Owner now claims to be in "error" it was undoubtedly the Owner who facilitated several parcels with unique addresses and RE##'s to only recently be lumped together into what is now the Property RE#00014010-000000. It is true that if enough Key West property address RE's are lumped together under one RE number, eventually the new "property" under the combined RE number will contain addresses that will have split zoning. That does not make the original zoning future zoning map with different zoning for the different RE numbered property addresses an error. Rather, the Owner's claim is merely a "bootstrap" argument, with the Owner having caused the lumping together of the individual street addresses into one RE number.

The new FLUM and HNC-3 and HMDR zoning bifurcation occurred because Petronia Street had historically been and still is a commercial corridor. But, 802, 804, 806 Whitehead Street were not commercial, but historically residential and were so in 1997 and before when the comprehensive zoning changes and future zoning map were enacted. The zoning covering the property where the Bahama Village Market was developed for its short history was appropriate before and after the new FLUM and zoning went into effect.



The Owner should have access to all the records involving the seven plus addresses and relevant historical transactions that would either support or undercut its allegations in the Applications, but the Owner presents no evidence supporting its claimed "mapping error" or any error in zoning in the new comprehensive zoning map/ordinance. On the contrary, the Owner's Applications acknowledge that the Whitehead Street parcels (and at least part of the Petronia

Street parcels), were historically a large and stately residence.⁵ Although not provided as an exhibit or otherwise made available, the Owner claims the Owner had a “variance” from permitted uses of HMDR/HR to operate the straw market. The Owner through its records may be able to clarify and support its various allegations in its Applications, but the mere fact the Owner claims to have required a variance to operate the straw market suggests the Owner had not already been operating the straw market on the HMDR/HR property at the time of the new zoning Ordinance. Or, if the Owner’s claimed relatively short “mixed-use” is true, the Straw Market would seem to have been a nonconforming use, or if the Owner began operating the Straw Market after the zoning change on the HMDR/HR properties, an unpermitted use. In any event, the Straw Market existed for a short duration and ended almost two decades ago, compared with the Property’s use for decades as a stately and then vacant residence. The Straw Market operation, with or without a variance for that part of the market operated on the Whitehead Street addresses and Terry Lane Parcel zoned/mapped HMDR/HR, is no justification for the Owner’s claim that the line of demarcation between HMDR/HR and HNC-3/HC in the Zoning Plan and Future Zoning Map was an “error” for the addresses and Terry Lane Parcel as they existed at the time the new ordinance/future zoning map became effective.

III. No Zoning/Future Zoning Map Change is Necessary or Proper and in any event the Applications Should be Denied because of the Owner’s Blatant and Long-Standing Violation of Key West’s Good Neighbor Policy

a. **There is no need for an amendment.** The Owner’s Applications have not established a need for Zoning/Future Zoning Map amendments to operate its existing restaurant/bar/rental units or their next generations. The Owner provides no support for its fallacious argument that “[T]his application process to correct the zoning to eliminate the confusion and uncertainty, without expanding the commercial uses, by recognizing the existing boundaries of the long-established rights of the property.”

Given the Owner’s past failures to follow the Restrictive Agreement, both the Applications, and the Owner’s claim above that the existing commercial uses will not be expanded, must be taken with suspicion. First of all the HMDR and HR classifications/future zoning map classifications for the Terry Lane Parcel and Whitehead Street Addresses were spot on as was the HCN-3 zoning for the Petronia Street parcels. Even at the time of the major zoning map changes the Bahama Village Market was at best in the planning stages as an outdoor market, and when it later spilled over into some of the Historical Residential Whitehead Street part of the Property it

⁵ The Owner acknowledges the building on Whitehead Street and at least part of the Petronia Street when zoned HP3, were mostly, if not all, an historic residence that was vacant at the time the Owner began development of Bahama Village Market, which without support the Applications claim to have begun in 1996 or 1997, and the Owner states, again without specificity, clarification, or support, “[t]he property then operated as a mixed-use traditional Bahamian Straw Market from 1997 until the early 2000’s.” The Owner also does not describe or support a foundation as to what “mixed-use” refers..

operated as a nonconforming use for the few years of its existence, either with or without the alleged “variance.” The brief Bahama Village Market deviance from decades of residential use hardly demonstrates “long-established rights,” especially as to the extent the market spilled over into the HMRD/HR parcels it was a nonconforming use (variance or not) and the Owner was certainly on notice of the parcels’ historical residential status, and even if it was not, ignorance of the law is not a defense.

Moreover, there is no reason for either applied for amendment as to RE#00014010-000000. In 2011 the Community, the City of Key West through the Planning Board, and the Owner reached an agreement allowing a major concession to the Owner from the neighborhood and City of Key West in granting a conditional use to the Owner via the Restrictive Agreement/Planning Board Resolution Number 2011-059, granting, to wit: a Conditional Use approval “for a restaurant for up to 150 seats maximum and 6,637 square feet of flexible consumption area to be located at 802-805 Whitehead Street (RE#00014010-000100 and 00014020-000000) and 318-324 Petronia Street (RE#00014010-000000) and the reconfiguration of the parking lot at 809-811 Terry Lane.....”

From the Restrictive Agreement and the 2015 Minor Modification the Owner got its restaurant and the way it wanted its restaurant. As shown above in the Assessor’s website with respect to the 2016 building permit entry from the Assessor’s website, the Owner had no problem changing commercial occupancy from a 40 seat restaurant at 324 Petronia Street to a 150 seat restaurant at 804 Whitehead and connecting the retail space to the consumption area under the existing zoning/future zoning map covering the Property.

The Owner presents no evidence showing any error in the relief already granted or that the Zoning or Future Zoning Map was wrong when enacted and requires amendment to correct an alleged, but not established “error.” In fact, other than the Owner’s incredibly suspicious and fallacious allegations that the Owner only wants to correct an “error” and “confusion,” it gives no reason or supporting evidence. Given this history of proper zoning of the Property and the variances and conditional uses and accompanying restrictions and mandates of the Owner’s use of the Property, the Owner has not established a need for the requested Amendments in the Owner’s Applications.

b. The Owner has Blatantly Violated the Board’s Mandates and Good Neighbor Policy and the Applications Should be Denied. There are two things that are crystal clear: (1) The Owner already received a conditional use resolution and administrative action allowing its requested restaurant operation, but also imposing on the Owner innumerable obligations and restrictions with respect to the operation of the Property; and (2) The Owner has blatantly violated those Owner obligations and restrictions under the Restrictive Agreement.

In the Planning Board’s consideration of and granting relief under the Zoning/Future Zoning Map Ordinances, its Members have long subscribed to the requirement that applicants are subject

to and must demonstrate they will and have met Key West's good neighbor policy. As shown below, not only has the Owner to date failed to comply with that policy and the Restrictive Agreement, but the Owner's past conduct demonstrates it is improbable the Owner will comply with either the Good Neighbor Policy, the Restrictive Agreement, or other mandates of the Planning Board.

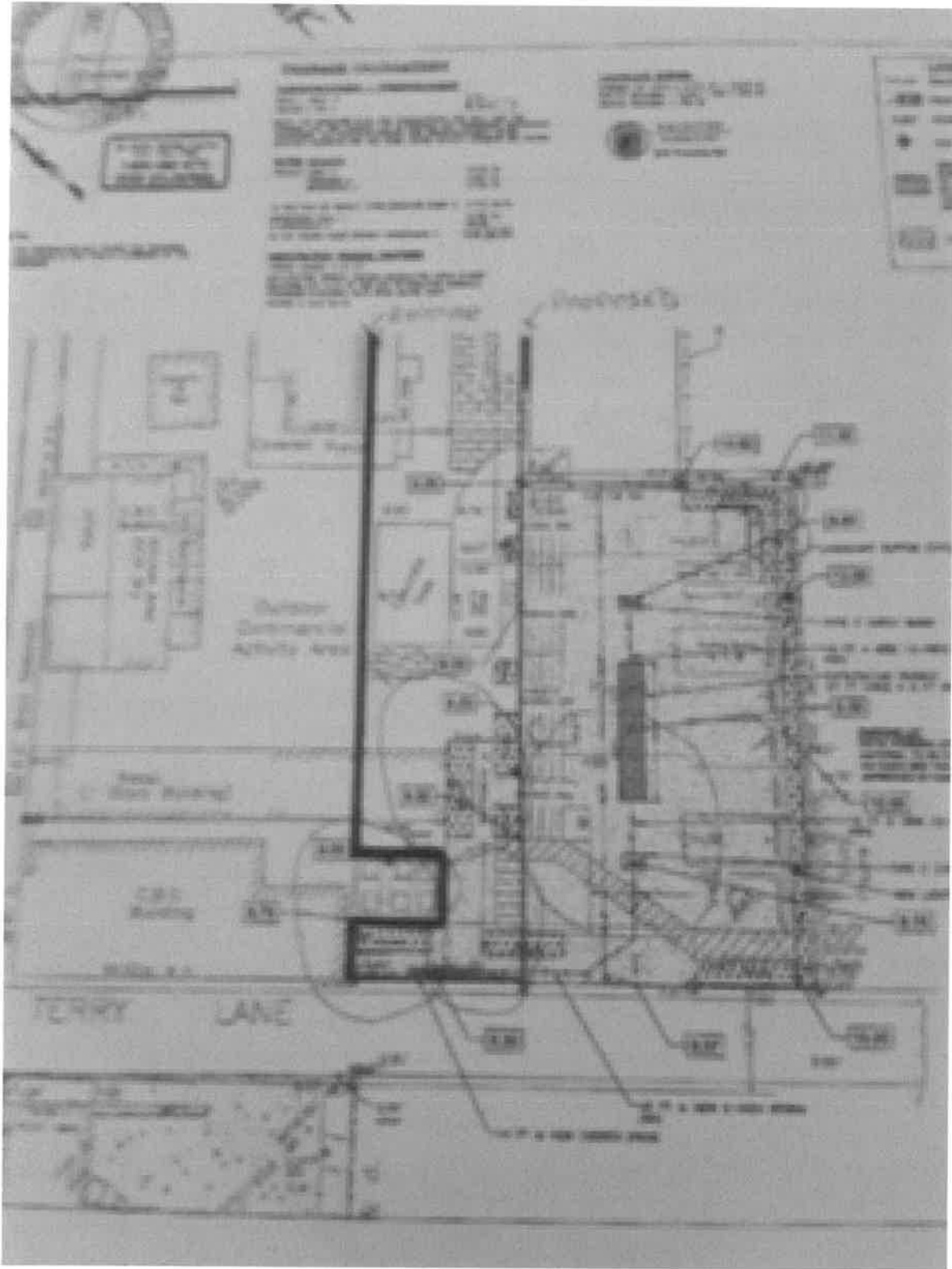
The Owner has already blatantly violated the Planning Board's mandates under Planning Board Resolution Number 2011-059. In exchange for the Planning Board and the City of Key West granting Planning Board Resolution Number 2011-059, they imposed numerous mandated obligations and restrictions on the Owner relative to the Property. Among those many restrictions, requirements and conditions for this Conditional Use approval the Board expressly mandated that the Owner must do the following:

2. The Parking lot shall be reconfigured ...
 3. The waste and recycling handling shall be screened from adjacent properties and public rights-of-way by appropriate fences, walls or landscaping in accordance with Code Section 108-279, and the area shall be enclosed on all four sides with a roof and doors for access."
 5. Completion of all improvements as depicted on the site plan.
 6. The applicant will install and maintain a programmable distributive sound system to assure compliance with the "unreasonable noise" definition of Section 26-191 of the Code of Ordinances, and shall include a computerized monitoring system with real time monitoring access is provided to the City.
 7. The applicant shall revise and resubmit a signed and sealed Landscape Plan that reflects the modified site plan dated November 1, 2011 and Civil Plan Dated November 9, 2011[both within one-year of Resolution.]
- * * *
10. Hours of operation are limited from 9am to 11pm daily except during special city sanctioned events such as Fantasy Fest and Goombay.
 11. Service vehicles are prohibited from using Petronia Street and Terry Lane and the Terry Lane parking lot for deliveries.
 12. All waste pickup shall be daily via Whitehead Street."

However, the Owner has not complied with the Restrictive Agreement. Since the Owner and its tenant opened the restaurant conditionally approved in Number 2011-059, as modified on March

17, 2015,⁶ the Owner ignored the restrictions and obligations mandated as conditions of the Conditional Use grant. This includes its failures to comply with the delivery and waste removal and waste masking mandates and failure to submit *and follow the site plans*, and its operations stretching the time and noise limits and requirements mandated in the Conditional Use permission in the Restrictive Agreement. The next page includes the apparent site plan developed by the Owner. However, it has not been followed.

⁶ After having received its Conditional Use the Owner then applied for and obtained a modification of the Conditional use approval Number 2011-059 as to the location of the restaurant space. The Owner's ability to obtain these modifications without any notice to the neighboring residential homeowners, while the Owner was in material violation of the law and mandated Conditional Use restrictions imposed by the Board is yet another reason the Owner should be allowed no further concessions by the Board with regard to the Property without Community involvement and the Owner first meeting its existing obligations.



Below are a several photos showing other blatant violations by the Owner of the Restrictive Agreement, not just occasionally, but constantly. Indeed, the Owner has completely failed to comply or follow the Restrictive Agreement obligations and restrictions for more than six years.

These include the Owner's failure to screen its waste and recycling handling from adjacent properties and public rights-of-way by appropriate fences, walls or landscaping for the massive amounts of garbage and trash generated by the Owner; the Owner has not presented and followed the mandated signed and sealed landscape design or site plan; the Owner has not limited its garbage/trash pickup to Whitehead Street (e.g., the Owner's waste removal company Waste Management did not use Whitehead as mandated, but instead uses Petronia Street (and even worse—Terry Lane), along with many other large trucks a day servicing Owner, including delivering and removing dumpsters and trash kept in unmasked trash cans through the parking lot entering the parking lot from Terry Lane to access the Trash receptacles). Not shown by photos is the noncompliance with restricted daily beginning and ending times for operations, and excessive noise of what is now virtually an entire outside restaurant/Bloody Mary etc.





For the Owner to apply for such zoning and future zoning map amendments, equity demands that the Owner should have first honored the law and the existing mandates of this Board and the City of Key West and the Owner having shown even a modicum of respect for Key West's Good Neighbor Policy. The Owner should be barred from being considered for any zoning or future zoning map change until the Owner complies with the Restrictions in the Restrictive Agreement for a reasonable period of time and demonstrates it can and will responsibly comply with the Restrictive Agreement and any other conditions and restrictions set by the Board.

IV. Alternatively, if the Board intends to Grant Owner any Relief the Terry Lane Property Should be Carved Out from Any Zoning Relief/Amendment.

Although the Applications should be denied outright, if the Board decides to grant the Owner any of the relief requested in the Applications, we respectfully request also or alternatively to the above opposition, that these restrictions and conditions be incorporated into any relief granted:

(1) That part of the recently constituted RE#00014010-000000 that borders Terry Lane should be removed from any relief granted. It has come to light that there is the Terry Lane Parcel (e.g., the material part of the recently constituted RE#00014010-000000 bordering Terry Lane). The Terry Lane Parcel should be identified and separated from any zoning change to HC/HNC-3, as it is clearly historical residential and should be considered a historic residential property going forward. To convert that Terry Lane property into commercial property flies in the face of the very purpose of HARC and Key West's comprehensive zoning plan to preserve the historical significance of Key West's residential neighborhoods.

(2) All conditions in Conditional Use Approval Number 2011-059 should be Clarified and Applied as to the Terry Lane Parcel and 809-811 Terry Lane. If any part of the Owner's Applications is granted, all conditions, restrictions, and mandates in the Restrictive Agreement should be clarified and included as a condition precedent to the Board granting any on the Applications. The Owner should be required to first bring the Property and the Owner's operations on the Property into compliance with the Restrictive Agreement. Further, and once the Owner complies with that precondition, in any zoning change and/or in any relief granted the

Owner on its Applications, all conditions, restrictions, and mandates in the Restrictive Agreement should be clarified and incorporated into any action taken by the Board (not merely as recitals in a Whereas Clause, but expressly incorporated into any Zoning/Future Zoning Map amendments). These restrictions and conditions should be filed of record and run with the land.

Further, those restrictions should be clarified as to all Terry Lane properties (including 809 and 811 Terry Lane- currently part of the Restrictive Agreement and the Terry Lane Parcel). Those conditions should be clarified and strengthened so that the legitimate interests of Key West and the surrounding residential neighbors are protected from the Owner repeating past un-neighborly behavior in its operations that are likely to continue, unless effective conditions and restrictions are imposed with respect to the applied for changes in the Applications.

Thank you for considering our position on and opposition to the Owner's Applications. We urge the Board to continue its well appreciated efforts at maintaining the historical nature of the HARC area including the Bahama Village residential neighborhoods. We urge the Board to deny the Owner's applications, to enforce the Good Neighbor Policy, and if Relief is Granted, to carve out exceptions and enforceable and clear conditions on the Owner's use of the Property that will be filed of record and run with the land.

Signed July 24, 2019 by:



Nancy A. Paulic 2015 Revocable Trust, Owner of 812 Terry Lane
Nancy Paulic, Trustee

Signed July 24, 2019 by:



Jeff Dunaway, Co-Owner of 807 Thomas Street

Signed July 24, 2019 by:



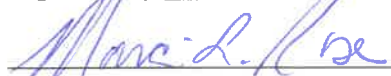
John Caldwell, Co-Owner of 807 Thomas Street

Signed July 24th, 2019 by:



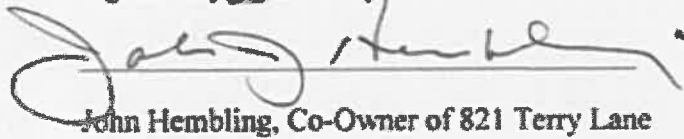
Marci L. Rose, Owner of 810 Thomas Street

Signed July 24th, 2019 by:



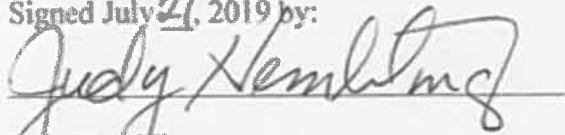
Marci L. Rose, Owner of 812 Thomas Street

Signed July 21, 2019 by:

A handwritten signature in dark ink, appearing to read "John Hembling", written over a horizontal line.

John Hembling, Co-Owner of 821 Terry Lane

Signed July 21, 2019 by:

A handwritten signature in dark ink, appearing to read "Judy Hembling", written over a horizontal line.

Judy Hembling

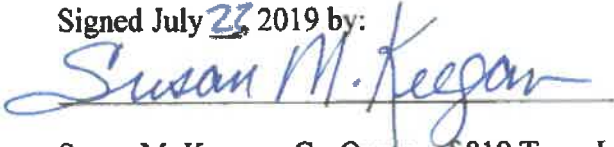
Co-Owner of 821 Terry Lane

Signed July 23, 2019 by:

A handwritten signature in blue ink, appearing to read "Mark E. Furlane", written over a horizontal line.

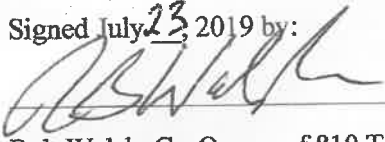
Mark E. Furlane, Co-Owner of 819 Terry Lane

Signed July 23, 2019 by:

A handwritten signature in blue ink, appearing to read "Susan M. Keegan", written over a horizontal line.

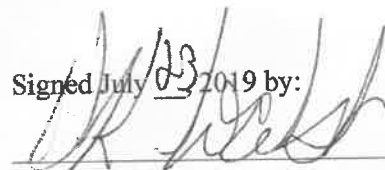
Susan M. Keegan, Co-Owner of 819 Terry Lane

Signed July 23, 2019 by:

A handwritten signature in dark ink, appearing to read 'Bob Walsh', written over a horizontal line.

Bob Walsh, Co-Owner of 810 Terry Lane

Signed July 23, 2019 by:

A handwritten signature in dark ink, appearing to read 'Vicki Walsh', written over a horizontal line.

Vicki Walsh, Co-Owner of 810 Terry Lane

Signed July ²⁴ 2019 by

Isaac Bay

Birch Ohlinger, Trustee, OHLINGER BIRCHARD HAYES REVOCABLE LIVING TRUST
Owner of 817 1/2 Terry Lane

Application

EXHIBIT

1

tabbies

TREPANIER

ZONING MAP AMENDMENT

Key West Code Ch. 90, Art. VI, Div. 3
City of Key West Land Development Regulations.

Site: Bahama Village Market

EXECUTIVE SUMMARY:

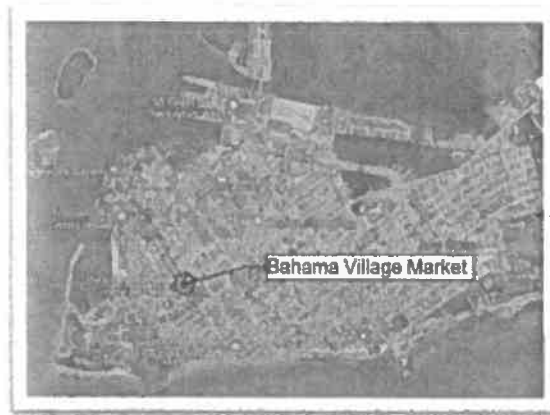
This is an application to amend the Zoning Map to address a mapping error. The intent is to eliminate land use regulation confusion and uncertainty. This application analyzes the proposed map amendment based on the criteria contained in KW Code Ch. 90; the 2013 Comprehensive Plan Principles for Guiding Development and F.S. Ch. 163.

The location of the error is the old Bahama Village Market, which was developed by Bahama Village Market, LTD beginning in 1996 under HP3 zoning. At the same time the City's first Future Land Use Map and a wholly new zoning, map which created the current confusion and uncertainty, went into effect after a long legal battle. When the new FLUM and zoning went into effect, it bisected the property (half being HNC-3 and half being HMDR) and the existing historic mixed-use building. It was determined, at the time, that a variance to the permitted uses of the HMDR was the simpler fix and so the property was granted variance to the permitted uses of HMDR (back in the time when the City of Key West issued variances to permitted uses). The property then operated as a mixed-use traditional Bahamian Straw Market from 1997 until the early 2000's. After that time the property sat mostly fallow with sporadic short-term attempts at revitalization. Following the Straw Market closure, the property began a slow decline into disrepair, until 2015, when Historic Tours of America, reinvested heavily into the property and received conditional use approval to recommence beneficial operations.

It was during the 2015 approval process this property was rediscovered to have a unique peculiarity of split zoning and future land use designations (residential and commercial). This is one of the very few properties in town to, not only have split zoning and FLUM designations, but to contain a historic building and mixed-use commercial operation which itself is bisected by zoning and FLUM lines. This



& ASSOCIATES INC.
LAND USE PLANNING
DEVELOPMENT CONSULTANTS



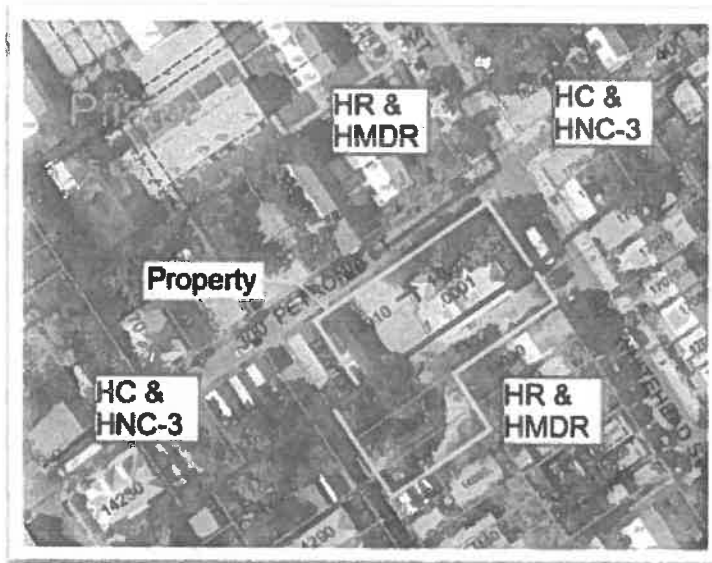
condition creates confusion and uncertainty for the property and the historic structure relative to land use regulations.

This application proposes to correct the zoning to eliminate the confusion and uncertainty, without expanding the commercial uses, by recognizing the existing boundaries of the long-established rights of the property.

The analysis demonstrates the proposed map amendment is not inconsistent with the Comprehensive Plan, the Land Development regulations or the Principles for Guiding Development and Ch. 163.

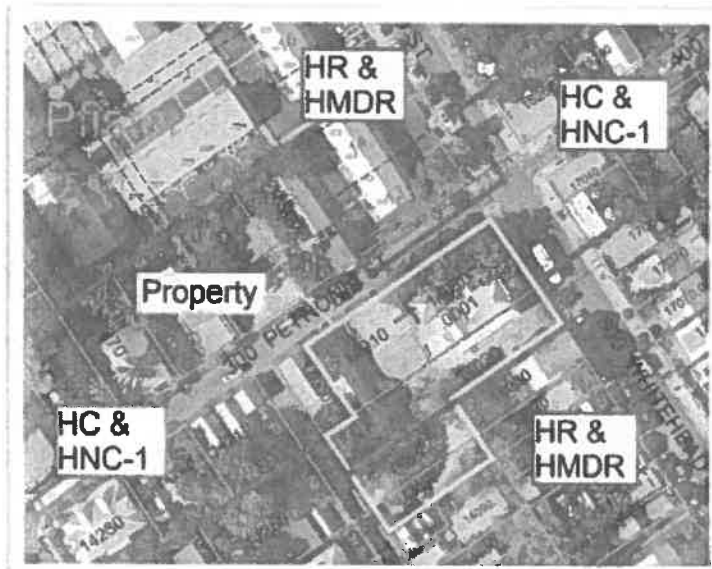
EXISTING CONDITIONS

The property, and the historic structure, are bisected by zoning and FLUM designations.



PROPOSED SOLUTION

We propose to conform the zoning and FLUM lines with the long-established boundaries of the Market.



PROPOSED AMENDMENT:

Historic Tours of America, Inc. seeks to amend the Official Zoning Map of Key West relative to the property commonly known as Bahama Village Market from the existing Historic Medium Density Residential District ("HMDR") to Historic Neighborhood Commercial ("HNC-3").

The purpose of this amendment is to make necessary adjustments in light of apparent mapping errors, confusion and uncertainty and changed conditions pursuant to the City of Key West Comprehensive Plan Data and Analysis, as adopted on March 5, 2013 via Ord. No. 13-04 and subsequently adopted by the Florida Department of Economic Opportunity, consistent with F.S. ch. 163.

The following analysis demonstrates the proposed map amendment is not inconsistent with the Comprehensive Plan, Chapter 90, the City's Comprehensive Plan, Article VI of the Land Development regulations, the Principles for Guiding Development and Ch. 163 of the Florida Statutes.

AMENDMENT ANALYSIS

Application & Fee (Sec. 90-554): \$6,000.00

(1) Property Description.

Addresses associated with zoning change per the Monroe County Monroe Property Appraiser:

RE No.: 00014010-000000
318 Petronia Street
320 Petronia Street
322 Petronia Street
324 Petronia Street
802 Whitehead Street
804 Whitehead Street
806 Whitehead Street

Area (total site): 21,520 sq. ft. (0.49 acres)

Area (affected by change): 6,093 sq. ft. (0.14 acres)

Flood Zone: X

Legal Description:
(Entire site attached to WD)

Legal Description of parcel's (as per attached survey) affected by the proposed boundary change:

PARCEL "A" (Parcel 7 on WD legal) 806 Whitehead Street:

On the Island of Key West and designated on Charles W. Tift's Map of said island as part of Lot No. 2 in the Subdivision of Square No. 1, in part of Tract 3 known as Simonton's Addition to the City of Key West; COMMENCING at a point on Whitehead Street, distant 63 feet from the corner of Petronia and Whitehead Sts. And run thence in a Southeasterly direction 31 feet and 6 inches; thence at right angles in a southwesterly direction 96 feet; thence at right angles Northwesterly 31 feet and 6 inches; thence at right angles Northeasterly 96 feet to the place of beginning.

ALSO

PARCEL "D" (Parcel 9 on WD legal):

On the Island of Key West, as known as Charles W. Tift's Map of the City of Key West, as part of Square One (1) in Tract Three (3) and is part of Subdivision Two (2) in Square One (1), according to a diagram made of portion of said Tract Three (3), which diagram is recorded in Book "I" deeds page 421 of Monroe County Records: COMMENCING at a point on an Eighteen foot alley-way, Sixty Three (63) feet and four (4) inches distant from the corner of Petronia Street and said alley way and running thence along said alley way in a Southeasterly direction Thirty-one feet and six inches, and extending back in a Northeasterly direction on both lines a distance of Ninety-Six (96) feet.

- (2) Current and proposed comprehensive plan official zoning land use map designation.**

Existing FLUM: HR
Proposed FLUM: HC

- (3) Current and proposed zoning.**

Existing Zoning: HMDR
Proposed Zoning: HNC-3

- (4) Existing and proposed use.**

Existing use: Commercial
Proposed Use: Commercial

- (5) Disclosure of ownership.**

Owner: Historic Tours of America, Inc. - A Florida Corporation

Agent: Edwin O Swift III
201 Front Street Ste 224
Key West, FL 33040

Officers: Edwin O Swift III
Christopher C Belland

John Dolan-Heitlinger
Ronald Cohen MD

(6) Justification

a. Comprehensive plan consistency.

The proposed amendment is fully compatible with the Comprehensive Plan as outlined in this application.

b. Impact on surrounding properties and infrastructure.

The proposed correction will have no impact on surrounding properties and no impact on infrastructure is anticipated. This particular parcel has been commercially used for decades. The HNC zoning district is intended to accommodate both residential and neighborhood commercial uses typically located along thoroughfares such as Whitehead Street.

| Surrounding Properties | | | |
|------------------------|--------------------------|---|-----------------|
| Adjacency | Existing Use | Future Land Use | Zoning |
| North | Commercial | Historic Commercial | HC |
| South | Commercial & Residential | Historic Residential | HR |
| East | Commercial & Residential | Historic Residential | HR |
| West | Commercial & Residential | Historic Commercial & Historic Residential | HNC-3 & HMDR |

Levels of Service – Based on the evaluation criteria of Sec. 90-521(5) the impact of the proposed changes are generally summarized as follows:

- The requested change is not anticipated to alter demand on the surrounding transportation system. Policy 2-1.1.3 effectively eliminates the transportation concurrency requirement in favor of a prioritization of safety and function of existing roads and multi-modal transportation improvements (i.e. transit, air, boat, bicycles, pedestrianism, mixed-use development. This property is adjacent to the historic commercial pedestrian-orientated area and is located along the city's "Duval Loop" route; a free bus service around the historic downtown area.
- There is no proposed development or change to existing uses therefore, the proposed zoning change will not alter demand on for potable water.

- There is no proposed development or change to existing uses therefore, the proposed zoning change will not alter wastewater supply.
- There is no proposed development or change to existing uses therefore, the proposed zoning change will not alter solid waste supply.
- There is no proposed development or change to existing uses therefore, the proposed zoning change will not alter stormwater LOS.
- There is no proposed development or change to existing uses therefore, the proposed zoning change will not alter recreation LOS.

c. Avoidance of spot zoning.

The requested zoning change will not result in spot zoning, would best serve the public interest and is consistent with the comprehensive plan.

Spot zoning occurs when:

1. A small parcel of land is singled out for special and privileged treatment;

No special or privileged treatment will be conferred through approval of the request. This parcel(s) is part of an existing commercial site with HNC-3 zoning and Historic Commercial FLUM. This approval will provide consistency with the site's surroundings by clarifying existing intent and promote continued compatibility with its conjoined properties.

2. The singling out is not in the public interest but only for the benefit of the landowner; and;

As mentioned above, no singling out. The request will recognize compatible, pre-existing uses for this property and provide for zoning consistency.

3. The action is not consistent with the adopted comprehensive plan

The action is not inconsistent with the Comprehensive Plan. Amending the zoning division of the site and reconcile the long-standing uses, many of which have been granted conditional use

approval over the years, will be consistent with the intent of the comprehensive plan.

- d. Undeveloped land with similar zoning. The amount of undeveloped land in the general area and in the city having the same zoning classification as that requested shall be stated.

There is a vacant parcel and one parking lot that are located within 300ft with current zoning of HMDR.

| Zoning | FLUM | RE. No. | Size (sq. ft.) |
|--------|------|-----------------|----------------|
| HMDR | HR | 00014300-000000 | 6,048 |
| HMDR | HR | 00017220-000000 | 2,373 |

Criteria for Approval (Section 90-555)

- (1) Consistency with plan. Whether the proposal is consistent with the overall purpose of the comprehensive plan and relevant policies within the comprehensive plan, including the adopted infrastructure minimum levels of service standards and the concurrency management program

- a. Consistency with the Comprehensive plan.

Policy 1-1.1.9: Allowed Uses in Historic Neighborhood Commercial:

- Correcting the zoning of this parcel to Historic Neighborhood Commercial-3 is consistent with the comprehensive plan as the plan promotes both residential and neighborhood commercial activity along such highly trafficked streets such as Whitehead and specifically for properties associated with the Petronia Street Corridor.

Policy 1-1.3.1: Improve the Image and Function of the Historic Preservation District Commercial Core Area.

- Approval of the request will more accurately categorize the subject property which is located in the middle of Old Town and an integral part of the core tourism area. The property currently exists as a nonconforming use and is restricted from making functional improvements consistent with the image of the Historic Preservation District Commercial Core Area.

Policy 1-1.2.1: Provide Access to Goods and Services and Protect Residential Areas from the adverse Impacts of Transition in Land Use.

- With the zoning boundary currently running through this parcel and through a commercial building on the site, no protection exists or is viable for the adjacent residential structures.

Whereas, if the zoning boundary was adjusted to adequately establish the division of commercial to residential, then a vegetated buffer along the commercial boundary or something similar would allow protection for the neighboring residential parcel.

b. Consistency with adopted infrastructure minimum levels of service standards

As mentioned above, there is no proposed new development or change of use for the associated property, therefore, there are no anticipated impacts to existing infrastructure minimum levels of service standards.

c. Concurrency management program

The request is consistent with the concurrency management program Objective 9-1.5. Specific concurrency applications in accordance with Section 94-32 may be required for specific future development plans. No Plans are proposed as part of this application. At this time, no system improvements are anticipated as a result of the proposed map amendment.

(2) Conformance with requirements Conformance with ordinances. Whether the proposal is in conformance with all applicable requirements of the Code of Ordinances.

The proposal is consistent with the procedures for amending the Official Zoning Map as demonstrated herein. The proposal is in conformance with the procedures for amending the Land Development Regulations as demonstrated herein.

(3) Changed conditions. Whether, and the extent to which, land use and development conditions have changed since the comprehensive plan's effective date and whether such conditions support or work against the proposed change.

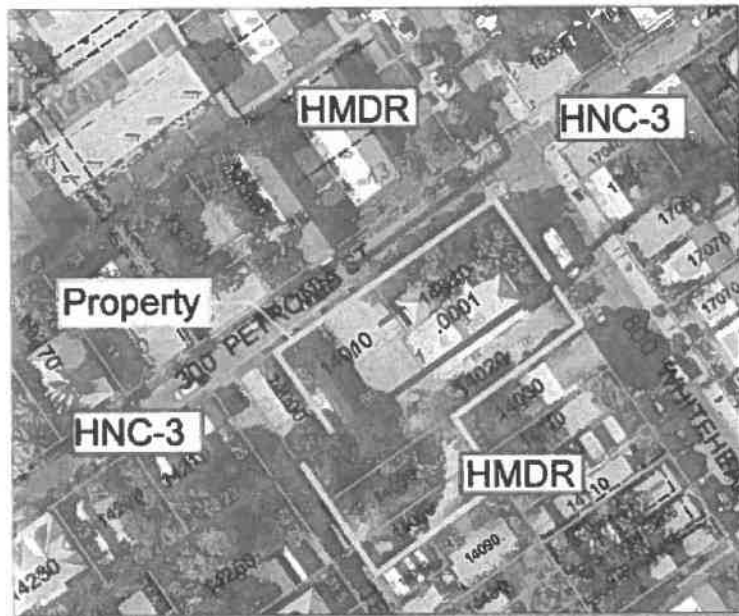
The effective date of the Land Development Regulations is July 3, 1997. The 2030 Comprehensive Plan was adopted on March 5, 2013. Both the 2030 Comprehensive Plan and the LDRs are "Living Documents" that are, by their very nature, designed to evolve and change with the community's goals. In this case, the community surrounding the subject property has developed/redeveloped over the last 30 years into a vibrant commercial and recreational activity center.

- (4) Land use compatibility. Whether, and the extent to which, the proposal would result in any incompatible land uses, considering the type and location of uses involved.

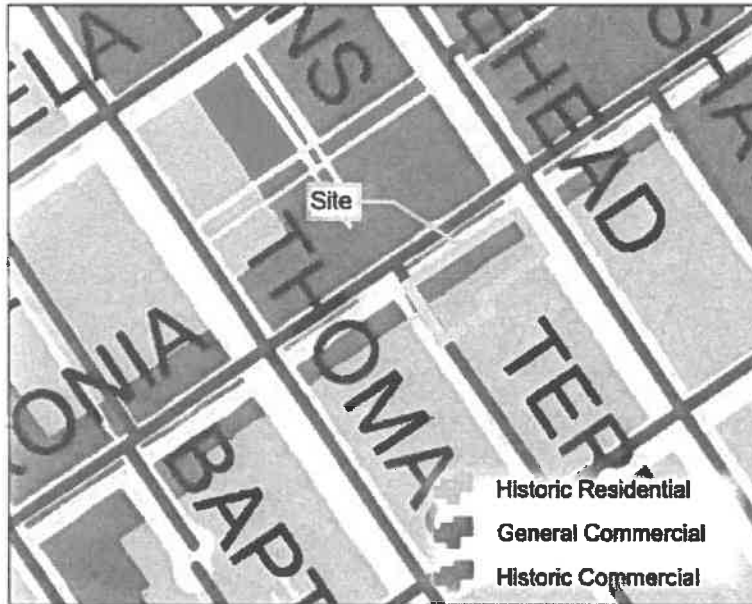
The proposed map amendment would serve to extend the adjacent HC District. Adjacent commercial uses will remain compatible. The subject properties currently have a variety of existing legal non-conforming land uses within the HMDR zoning. These inconsistent land uses include: commercial retail, restaurant and parking lot. It is important to note that all these existing inconsistent land uses within HMDR zoning would all be consistent with HNC-3 zoning.

| Current site use | HMDR | | HNC-3 | |
|------------------------|------|----|-------|----|
| | Yes | No | Yes | No |
| Restaurant | | X | X | |
| Retail – low intensity | | X | X | |

Current Zoning Depiction:



Current FLUM Map:



Comparison - Future Land Use Designation

| | Existing | Proposed |
|----------------------|--|--|
| Zoning | Historic Medium Density Residential (HMDR) | Historic Neighborhood Commercial (HNC-3) |
| Density (units/acre) | 16 | 16 |
| FAR | NA | 0.8 |
| Allowable Uses | Allowable uses in areas designated HR are single family, duplex and multi-family residential that preserve the historic character and quality of the Historic Preservation District central residential community. Accessory uses, including approved home occupations, and customary community facilities are also allowed. Transient uses are not permitted. | Intended to accommodate both residential and neighborhood commercial uses typically located along major thoroughfares which lead into or are adjacent to the central core commercial area. Restaurants (drive-in or drive through), banking and financial institutions, personal service shops, specialty shops and retail sales and service. Transient uses are permitted. Supportive community facilities, business and professional offices may be allowed in areas zoned HNC. |

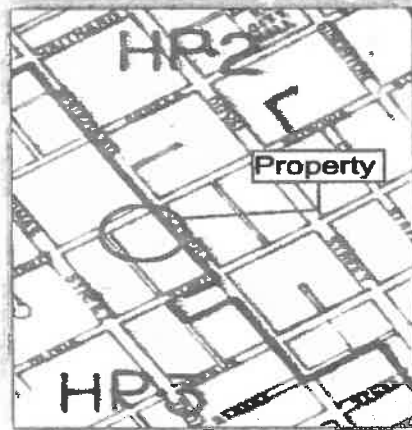
Figure 1 - 1965 Photo from Property Appraiser



Figure 2- 1974 Zoning Map



Historically this property was a residence. It fell into disrepair and became vacant in the 70's.



In 1984, the zoning boundaries changed (Figure 3) and the previously established R-2 zoning for this neighborhood was revised to HP-3 Light Commercial Historic Preservation District zoning. The intent of this district was to allow for light commercial activity compatible with residential neighborhoods.

In 1997, the long pending zoning amendments became effective and a significant portion of this mixed-use property became nonconforming. The HP-2 zoning district was eliminated and a new Historic Neighborhood Commercial (HNC-3) zoning

district was established. The HNC-3 zoning district encompassed Petronia Street from Duval to Emma Street bisecting the previous districts. This area designation was in recognition of the increase in tourism trends and expansion of commercial activity in historic downtown areas. As part of the HNC-3 zoning district's purpose, the Pedestrian-Orientated commercial district was established to recognize those areas frequented by persons traveling on foot, bicycle or other non-automotive means and, therefore, allowing flexibility in the parking requirement for commercial changes.

- (5) Adequate public facilities. Whether, and the extent to which, the proposal would result in demands on public facilities and services, exceeding the capacity of such facilities and services, existing or programmed, including

Transportation - Policy 2-1.1.1

Policy 2-1.1.3 prioritizes safety and function of existing roads and multi-modal transportation improvements (i.e. transit, air, boat, bicycles, pedestrianism, and mixed-use development) in lieu of LOC concurrency standards.

Policy 2-1.1.3: Exempts Key West from transportation concurrency requirements for roadways in favor of substantive expansion and prioritization of roadway safety and function through multi-modal transportation improvements (i.e. transit, air, boat, bicycles, pedestrianism, mixed-use development).

Summary Response: The zoning boundary adjustment would not result in an increase in maximum trip generation. There is no change to existing uses proposed as part of this request.

Potable Water - Policy 4-1.1.2.C

The Florida Keys Aqueduct Authority (FKAA) has the capacity to supply adequate service to the subject properties. The FKAA has the capacity to provide 23 million gallons per day to Monroe County as a result of: the South Florida Water Management District's issuance of Water Use Permit #13-0005, which allocates 17 million gallons per day in the dry season; 17.79 million gallons per day which can be withdrawn from the Biscayne Aquifer; and six million gallons per day provided by a reverse osmosis treatment plant in Florida City. As documented above, the City is meeting its Level of Service Standard for Potable Water. The City projects a slight permanent population decrease, and only a slight increase in its functional population and non-residential development during short and long-range planning periods, so the current capacity should remain adequate. Ongoing capital improvements will be necessary to maintain and improve standards and service delivery.

Summary Response: The zoning amendment will not result in an increase in potable water across as there is no change to existing uses as part of this proposal.

Sanitary Sewage - Policy 4-1.1.2.A

The City contracts out the operation of the Richard A. Heyman Environmental Pollution Control Facility, its wastewater treatment plant (Plant), and the associated collection system to Operations Management International, Inc. (OMI). The Plant currently has the capacity to treat 10 million gallons per day, exceeding the capacity required to achieve the existing Level of Service Standard by approximately seven million gallons per day. Actual daily flow is 4.5 million gallons per day. This is a reduction from eight (8) million gallons per day due to a 67 million dollars capital improvement to the City's wastewater treatment during the past short term planning period, including \$56 million for collection system rehabilitation.

As documented above, the City is exceeding its Level of Service Standard for Wastewater. The City projects a slight permanent population decrease, and only a slight increase in its functional population and non-residential development, during the short and long-range planning periods, so the current capacity should remain adequate. Ongoing capital improvements and continuing conservation efforts will continue to maintain and improve service delivery.¹

Summary Response: The zoning amendment will not result in an increase in sanitary sewer as there is no change to existing uses.

Solid Waste - Policy 4-1.1.2.D

The City currently contracts with Waste Management of Florida, Inc. to collect, transfer and dispose of solid waste and residential recyclables. Commercial recyclables and other non-franchised collection services such as construction and demolition debris and yard waste are available on the open market to all licensed haulers. The City owns and operates a solid waste transfer station on Rockland Key that received 45,402.10 tons of solid waste for disposal and 3,607 tons of recyclables in 2009/10. Waste Management disposes of the solid waste collected in Monroe County, including the City of Key West, at its Central Sanitary Landfill in Broward County. In 2009 Waste Management Inc. reported a reserve capacity of 17 years at this facility. There is therefore an estimated reserve capacity of 15 years as of the date of this report.

As documented above, the City is meeting its Level of Service Standard for solid waste. The City projects a slight permanent population decrease, and only a slight increase in its functional population and non-residential development, during the short and long-range planning periods, and the current capacity should remain adequate. Ongoing

¹ City of Key West Comprehensive Plan Data and Analysis, Pg A-16

capital improvements will be necessary to improve standards and service delivery.²

Summary Response: The zoning amendment will not result in an increase in solid waste as there are no proposed changes to existing uses.

Policy 4-1.1.2.D- Recyclable Waste Generation

Summary Response: The zoning amendment will not result in an increase in recycling materials due to no proposed development or changes to the existing commercial use.

Comprehensive Plan Policy 4-1.1.2. E- Drainage

Policy 4-1.1.2. E- Drainage Facilities Level of Service has not changed with the adoption of the new Comprehensive Plan.

The Drainage level of service standard below will be applicable to all types of development. Where two or more standards impact a specific development, the most restrictive standard shall apply:

1. Post development runoff shall not exceed the pre-development runoff rate for a 25-year storm event, up to and including an event with a 24 hour duration.
2. Stormwater treatment and disposal facilities shall be designed to meet the design and performance standards established in Chapter 62-25 Section 25.025, Florida Administrative Code, with treatment of the runoff from the first one inch of rainfall on-site to meet the water quality standards required by Chapter 62-302, Florida Administrative Code. Stormwater facilities which directly discharge into "Outstanding Florida Waters" (OFW) shall provide an additional treatment pursuant to Section 62-25.025 (9), Florida Administrative Code.
3. Stormwater facilities must be designed so as to not degrade the receiving water body below the minimum conditions necessary to assure the suitability of water for the designated use of its classification as established in Chapter 62-302 Florida Administrative Code.

Summary Response: Any new development will be required to comply with storm water requirements.

² City of Key West Comprehensive Plan Data and Analysis, Pg A-17

Recreation

Policy 7-1.1.9- The proposed change is not expected to have any adverse effect on availability of recreation services.

Approval of a plan amendment does not constitute a concurrency determination, and the applicant will be required to a concurrency determination pursuant to chapter 94.

Applicant understands and concurs with this criterion. Concurrency determination will be made at the time specific development order(s) are proposed.

- (6)** Natural environment. Whether, and to the extent to which, the proposal would result in adverse impacts on the natural environment, including consideration of wetlands protection, preservation of groundwater aquifer, wildlife habitats, and vegetative communities.

The site is currently developed in the urban area. No wetlands, aquifer recharge area, protected habitats or sensitive vegetative communities exist on site. No quantifiable impacts can be directly correlated or associated with the proposed change; therefore, no foreseeable adverse impacts are expected

- (7)** Economic effects. Whether, and the extent to which, the proposal would adversely affect the property values in the area or the general welfare. The proposed map amendment will have no adverse impacts to the property values in the area. This change will serve to accurately differentiate between commercial and residential properties, avoiding confusion and adding to the economic vitality of the district.

- (8)** Orderly development. Whether the proposal would result in an orderly and compatible land use pattern. Any negative effects on such pattern shall be identified.

The proposed map amendment would result in an orderly and compatible development pattern, no deleterious effects have been identified.

- (9)** Public interest; enabling act Public interest; enabling act. Whether the proposal would be in conflict with the public interest, and whether it is in harmony with the purpose and interest of this subpart B and its enabling legislation.

The proposal is not in conflict with the public interest and is in harmony with the purpose and intent of the Land Development Regulations and the Comprehensive Plan as demonstrated in the above findings of the criteria for approval.

- (10) Other matters.** Other matters which the planning board and the city commission may deem appropriate.
At the time of application submittal, no other matters are deemed appropriate.

Warranty Deed

1/3/15

Doc# 2010917 12/31/2014 12:55PM
Filed & Recorded in Official Records of
MONROE COUNTY ANY HEAVILIN

Prepared by and return to:
JOHN M. SPOTTSWOOD, JR.
Attorney at Law
Spottswood, Spottswood & Spottswood
500 Fleming Street
Key West, FL 33040
305-294-9556
File Number: 14-120-EJD
Will Call No.:

12/31/2014 12:55PM
DEED DOC STAMP CL: Krys \$30,485.00

Doc# 2010917
Bk# 2718 Pg# 2117

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Warranty Deed

This Warranty Deed made this 18th day of December, 2014 between Bahama Village Market, LLC, a Florida limited liability company whose post office address is 201 Front Street, Key West, FL 33040, grantor, and Historic Tours of America, Inc., a Florida corporation whose post office address is 201 Front Street Suite 1-7, Key West, FL 33040, grantee:

(Whenever used herein the terms "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations, trusts and trustees)

Witnesseth, that said grantor, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable considerations to said grantor in hand paid by said 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, situate, lying and being in Monroe County, Florida to-wit:

See Attached Exhibit "A"

Parcel Identification Number: 00014010-000100 (as to parcel 3)
Parcel Identification Number: 00014010-000000 (as to parcel 4&5)
Parcel Identification Number: 00014210-000000 (as to parcel 6)
Parcel Identification Number: 00014020-000000 (as to parcel 7, 8, 9)
Parcel Identification Number: 00014060-000000 (as to parcel 10)
Parcel Identification Number: 00014050-000000 (as to parcel 11)

Subject to taxes for 2015 and subsequent years; covenants, conditions, restrictions, easements, reservations and limitations of record, if any.

Together with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

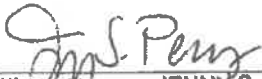
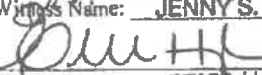
To Have and to Hold, the same in fee simple forever.

And the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor hereby warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes accruing subsequent to December 31, 2014.

In Witness Whereof, grantor has hereunto set grantor's hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

Bahama Village Market, LLC, a Florida limited liability company


Witness Name: JENNY S. PERRY

Witness Name: ERICA H. STERLING

By: 
Edwin O. Swift, III, Manager

State of Florida
County of Monroe

The foregoing instrument was acknowledged before me this 19th day of December, 2014 by Edwin O. Swift, III, Manager of Bahama Village Market, LLC, a Florida limited liability company, on behalf of said limited liability company. He ☐ is personally known or ☒ has produced a driver's license as identification.

[Notary Seal]




Notary Public

Printed Name: _____

My Commission Expires: _____

EXHIBIT A

Doc# 2010917
Bk# 271b Pg# 2119

PARCEL 3:

In the City of Key West, Monroe County, Florida and is designated on Charles W. Tift's Map of said City as Part of Lot 1 of Square 1 in Tract 3 of Simonton's Addition to the City of Key West and herein described more particularly described more particularly by metes and bounds as follows: BEGIN at the intersection of the Southerly Right-of-Way line of Petronia St. and the Westerly Right-of-Way boundary line Whitehead Street for a Point of Beginning: thence Southerly along the said Westerly line of Whitehead Street 62.25 feet to a point; thence Westerly at right angles 96 feet to a point; thence Northerly at right angles 23.48 feet to a point; thence Easterly at right angles 5 feet to a point; thence Northerly at right angles 38.77 feet to a point on the said line of Petronia St.; thence at right angles in a Northeasterly direction 91 feet back to the Point of Beginning.

PARCEL 4:

Part of Lot One (1) of Square One (1), Tract Three (3) of Simonton's Addition to the City of Key West, Florida: COMMENCING at the intersection of the Westerly Right-of-Way boundary line of Whitehead Street and the Southerly Right-of-Way boundary line of Petronia Street and run thence Westerly along the said line of Petronia 91 feet to the Point of Beginning of the parcel herein being described; thence continue along the said line of Petronia Street 74 feet to a point; thence Southerly and at right angles 62.25 feet to a point; thence Easterly and at right angles 69 feet to a point; thence Northerly and at right angles 23.48 feet to a point; thence Easterly at right angles 5 feet to a point; thence Northerly at right angles 38.77 feet back to the Point of Beginning on Petronia Street.

PARCEL 5:

On the Island of Key West, Monroe County, Florida and being a part of Lot 1 in Square 1 of a Sub-division of a part of the Estate of John W. Simonton Tract 3, Key West, Florida as recorded in Deed Book 1 at Page 421, Public Records of Monroe County, Florida and being described more particularly as follows: COMMENCE at the point of intersection of the Southerly line of Petronia Street with the Easterly line of Terry Lane; thence Southeasterly along the said line of Terry Lane 63.34 feet to a point; thence Northeasterly at a right angle 27 feet to the Point of Beginning of the parcel of land herein described; thence Northwesterly at a right angle 1.09 feet to a point; thence Northeasterly at a right angle 69 feet to a point; thence Southeasterly at a right angle 1.09 feet to a point; thence Southwesterly at a right angle 69 feet back to the Point of Beginning.

PARCEL 6:

A parcel of land on the Island of Key West, Monroe County, Florida, and is known on Charles W. Tift's Map of said Island as part of Lots 7 and 8, of Square 1, in Tract 3 of Simonton's Addition according to Deed Book "I" at Page 421 of the Public Records of Monroe County, Florida, said parcel being more particularly described by metes and bounds as follows: COMMENCE at the intersection of the Northeasterly right of way line of Thomas Street with the Southeasterly right of way line of Petronia Street and run thence in a Northeasterly direction along the Southeasterly right of way line of the said Petronia Street for a distance

of 130.00 feet to the Point of Beginning; thence continue Northeasterly along the Southeasterly right of way line of the said Petronia Street for a distance of 62.22 feet to the Southwesterly right of way line of Terry Lane; thence Southeasterly at right angles and along the Southwesterly right of way line of the said Terry Lane for a distance of 64.25 feet; thence Southwesterly and at right angles for a distance of 62.22 feet; thence Northwesterly and at right angles for a distance of 64.25 feet back to the Point of Beginning.

PARCEL 7:

On the Island of Key West, and designated on Charles W. Tift's Map of said Island as part of Lot No. 2 in the Subdivision of Square No. 1, in part of Tract 3 known as Simonton's Addition to the City of Key West: COMMENCE at a point on Whitehead Street, distant 63 feet from the corner of Petronia and Whitehead St., and run thence in a Southeasterly direction 31 feet and 6 inches; thence at right angles in a Southwesterly direction 96 feet; thence at right angles Northwesterly 31 feet and 6 inches; thence at right angles Northeasterly 96 feet to the place of beginning.

PARCEL 8:

In the City of Key West, Monroe County, Florida and its designated on Charles W. Tift's Map of said City as to part of Lot 1, of Square 1 in Tract 3 of Simonton's Addition to the City of Key West and herein described more particularly described by metes and bounds as follows: COMMENCE at the intersection of the Southerly Right-of-Way boundary of Petronia Street and the Westerly Right-of-Way boundary line of Whitehead St. 62.25 feet to the Point of Beginning; thence continue along the said Westerly line of Whitehead Street 0.75 feet to a point; thence Westerly at right angles 96 feet to a point; thence Northerly at right angles 0.75 feet to a point; thence Easterly at right angles 96 feet back to the Point of Beginning.

PARCEL 9:

On the Island of Key West, as known as Charles W. Tift's Map of the City of Key West, as part of Square One (1) in Tract Three (3) and its part of Subdivision Two (2) in Square One (1) according to a diagram made of portion of said Tract Three (3), which diagram is recorded in Book "I" deeds page 421 of Monroe County Records: COMMENCING at a point on an Eighteen foot alley-way, Sixty Three (63) feet and four (4) inches distance from the corner of Petronia Street and said alley-way and running thence along said alley-way in a Southeasterly direction Thirty-One feet and six inches, and extending back in a Northeasterly direction on both lines a distance of Ninety-Six (96) feet.

PARCEL 10:

On the Island of Key West and is known as Part of Lot Three, (3), in the Subdivision of Square One, (1), in part of Tract Three, (3); Commencing at a point on Whitehead Street One Hundred Twenty-six feet Four inches (126' 4"), in a South East direction from the corner of Whitehead and Petronia Streets; running thence a right angles in a South West direction Ninety-six feet, (96'), to a point of beginning of Lot to be conveyed; running thence at right angles in a South East direction Twenty-one, (21'); then at right angles in a South West direction Ninety-six feet (96') to an alley known as Terry's Lane; thence in a North West direction along said alley Twenty-one feet, (21'); thence at right angles in a North East direction Ninety-six, (96') to point of beginning.

PARCEL 11:

Part of Lot Two (2), in Square One (1) of Tract Three and also known as 809 Terry Lane, in the City of Key West, County of Monroe, State of Florida.

ALSO DESCRIBED AS:

On the Island of Key West is known as Part of Lot Two (2), in the Subdivision of Square One (1), in part of Tract Three (3), and being more particularly described as follows:

Commence at the intersection of the Southwesterly Right-of-Way Line of Whitehead Street and the Southeasterly Right-of-Way Line of Petronia Street; thence in a Southwesterly direction along the said Southeasterly Right-of-Way Line of Petronia Street for a distance of 192.13 feet to the Northeasterly Right-of-Way Line of Terry Lane; thence at an angle of $90^{\circ}07'00''$ to the right and in a Southeasterly direction along the said Northeasterly Right-of-Way Line of Terry Lane for a distance of 94.83 feet to the Point of Beginning; thence at a right angle and in a Northeasterly direction for a distance of 96.55 feet; thence at a right angle and in a Southeasterly direction for a distance of 31.50 feet; thence at a right angle and in a Southwesterly direction for a distance of 96.55 feet to the said Northeasterly Right-of-Way Line of Terry Lane; thence at a right angle and in a Northwesterly direction along the said Northeasterly Right-of-Way Line of Terry Lane for a distance of 31.50 feet to the Point of Beginning.

Property Record Cards

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.

By continuing into this site you assert that you have read and agree to the above statement.

Summary

Parcel ID 00014010-000000
 Account# 1014397
 Property ID 1014397
 Millage Group 11KW
 Location 324 PETRONIA SL, KEY WEST
 Address
 Legal Description KW PT LOTS 1 AND 2 SQR 1 TR 3 B3-6 G22-421/29 G44-427/28 BOOK OF WILLS C-408/09 CO JUDGES DOCKET 11-10 OR500-508 OR513-666 OR602-438/39 OR805-1099/1101 OR1143-338D/C OR1295-1572/73 OR1344-1666/7 OR1388-218/219 OR2133-389/393 OR2718-2117/21
 (Note: Not to be used on legal documents.)
 Neighborhood 32060
 Property Class STORE (1100)
 Subdivision
 Sec/Twp/Rng 06/68/25
 Affordable No
 Housing



Owner

HISTORIC TOURS OF AMERICA INC
 201 Front St
 Key West FL 33040

Valuation

| | 2018 | 2017 | 2016 | 2015 |
|----------------------------|-------------|-----------|-----------|-----------|
| + Market Improvement Value | \$438,269 | \$265,292 | \$291,530 | \$291,530 |
| + Market Misc Value | \$63,063 | \$11,163 | \$11,932 | \$10,708 |
| + Market Land Value | \$2,172,852 | \$447,744 | \$495,578 | \$467,071 |
| = Just Market Value | \$2,674,184 | \$724,199 | \$799,040 | \$769,309 |
| = Total Assessed Value | \$2,674,184 | \$724,199 | \$799,040 | \$769,309 |
| - School Exempt Value | \$0 | \$0 | \$0 | \$0 |
| = School Taxable Value | \$2,674,184 | \$724,199 | \$799,040 | \$769,309 |

Land

| Land Use | Number of Units | Unit Type | Frontage | Depth |
|-----------------------|-----------------|-------------|----------|-------|
| COMMERCIAL DRY (1000) | 16,461.00 | Square Foot | 63.3 | 93 |

Commercial Buildings

Style 1STY STORE-A/11A
 Gross Sq Ft 2,412
 Finished Sq Ft 1,146
 Perimeter 0
 Stories 1
 Interior Walls
 Exterior Walls C.B.S.
 Quality 400 (t)
 Roof Type
 Roof Material
 Exterior Wall1 C.B.S.
 Exterior Wall2
 Foundation
 Interior Finish
 Ground Floor Area
 Floor Cover
 Full Bathrooms 0
 Half Bathrooms 2
 Heating Type
 Year Built 1943
 Year Remodeled
 Effective Year Built 1995

| Code | Description | Sketch Area | Finished Area | Perimeter |
|--------------|----------------|--------------|---------------|-----------|
| FLA | FLOOR LIV AREA | 1,146 | 1,146 | 0 |
| OUU | OP PR UNFRN UL | 1,206 | 0 | 0 |
| OPF | OP PRCH FIN LL | 60 | 0 | 0 |
| TOTAL | | 2,412 | 1,146 | 0 |

Style 1STY STORE-A/11A
 Gross Sq Ft 3,585
 Finished Sq Ft 2,250
 Perimeter 782
 Stories 2
 Interior Walls
 Exterior Walls AB AVE WOOD SIDING
 Quality 450 (t)
 Roof Type

Roof Material
Exterior Wall1 AS AVEWOOD SIDING
Exterior Wall2

Foundation
Interior Finish
Ground Floor Area
Floor Cover
Full Bathrooms 3
Half Bathrooms 3
Heating Type
Year Built 1927
Year Remodeled 0
Effective Year Built 1980
Condition AVERAGE

| Code | Description | Sketch Area | Finished Area | Perimeter |
|-------|----------------|-------------|---------------|-----------|
| OPX | EXC OPEN PORCH | 888 | 0 | 320 |
| FLA | FLOOR LIV AREA | 2,250 | 2,250 | 296 |
| OPU | OP PR UNFIN LL | 76 | 0 | 46 |
| OPF | OP PRCH FIN LL | 371 | 0 | 120 |
| TOTAL | | 3,585 | 2,250 | 782 |

Style 1 STY STORE-B / 118

Gross Sq Ft 1,050
Finished Sq Ft 1,050
Perimeter 0
Stories 1
Interior Walls
Exterior Walls C.B.S.
Quality 350 I
Roof Type
Roof Material
Exterior Wall1 C.B.S.
Exterior Wall2
Foundation
Interior Finish
Ground Floor Area
Floor Cover
Full Bathrooms 0
Half Bathrooms 0
Heating Type
Year Built 1998
Year Remodeled
Effective Year Built 2001
Condition

| Code | Description | Sketch Area | Finished Area | Perimeter |
|-------|----------------|-------------|---------------|-----------|
| FLA | FLOOR LIV AREA | 1,050 | 1,050 | 0 |
| TOTAL | | 1,050 | 1,050 | 0 |

Yard Items

| Description | Year Built | Roll Year | Quantity | Units | Grade |
|--------------|------------|-----------|----------|---------|-------|
| BRICK PATIO | 1996 | 1997 | 1 | 2028 SF | 2 |
| WROUGHT IRON | 1944 | 1945 | 1 | 276 SF | 1 |
| TIKI | 1999 | 2000 | 1 | 255 SF | 4 |
| CONC PATIO | 1999 | 2000 | 1 | 345 SF | 2 |
| TIKI | 1999 | 2000 | 1 | 368 SF | 4 |
| TIKI | 1999 | 2000 | 1 | 40 SF | 1 |
| BRICK PATIO | 1999 | 2000 | 1 | 5652 SF | 2 |
| TIKI | 1999 | 2000 | 1 | 1705F | 1 |
| BRICK PATIO | 1999 | 2000 | 1 | 270 SF | 2 |
| TILE PATIO | 1999 | 2000 | 1 | 990 SF | 3 |

Sales

| Sale Date | Sale Price | Instrument | Instrument Number | Deed Book | Deed Page | Sale Qualification | Vacant or Improved |
|------------|-------------|---------------|-------------------|-----------|-----------|--------------------|--------------------|
| 12/19/2014 | \$4,355,000 | Warranty Deed | | 2718 | 2117 | 30 - Unqualified | Improved |
| 1/1/1995 | \$322,900 | Warranty Deed | | 1344 | 1666 | M - Unqualified | Improved |
| 2/1/1994 | \$300,000 | Warranty Deed | | 1295 | 1572 | M - Unqualified | Improved |

Permits

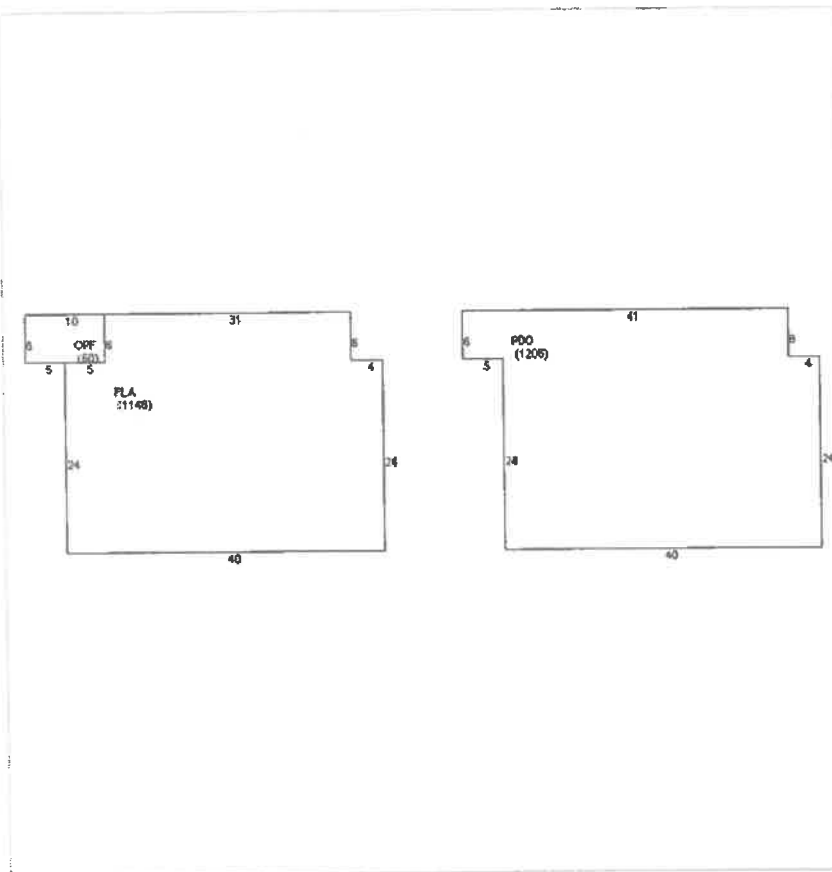
| Number | Date Issued | Date Completed | Amount | Permit Type | Notes |
|-------------|-------------|----------------|-----------|-------------|--|
| 16-0435 | 2/22/2016 | | \$1,500 | Commercial | COMMERCIAL OCCUPANCY CHANGE FROM 40 SEAT RESTAURANT (AT 324 PETRONIA) TO 150 SEAT RESTAURANT (804 WHITEHEAD). CONNECT RETAIL SPACE TO CONSUMPTION AREA. |
| 15-4747 | 12/30/2015 | | \$600 | Commercial | REMOVAL OF TICKET BOOTH |
| 15-00002126 | 5/31/2015 | | \$1,800 | Commercial | REMOVE APPLIED FINISHES INCLUDING BROKEN BAR TO TILE. REMOVE ROTTEN TITLE AND STUCCO. REMOVE DAMAGED SHEETROCK BASE TRIM. N.O.C. EXEMPT. |
| 15-1690 | 5/9/2015 | | \$4,000 | | UNDERGROUND ROUGH AND TRIM OUT. 2ND FLOOR SINKS. 1ST FLOOR DRAIN. 3 HAND WASH SINKS. 1 DISHWASHER. 1 MOP SINK. 1 PLE. COMPARTMENT SINK. 1 UNDERGROUND GREASE TRAP AND 1 SMALL 30 GPM. GREASE TRAP EXP. |
| 15-0035 | 1/12/2015 | | \$50,000 | | REPAIR 100 SF OF SIDING AND PAINT BUILDING |
| 08-222 | 5/5/2008 | | \$320,000 | Commercial | INTERIOR AND EXTERIOR RENOVATION. |
| 08-238 | 5/5/2008 | | \$240,000 | Residential | CONSTRUCT 1600 SF CONJOINED SINGLE FAMILY RESIDENCE |
| 08-220 | 5/4/2008 | 4/24/2010 | \$220,000 | Commercial | RENOVATION OF 1600SF BLDG. |
| 08-237 | 5/4/2008 | 4/24/2010 | \$210,000 | Residential | CONSTRUCT 1600 SF CONJOINED WITH SINGLE FAMILY HOME |
| 08-233 | 5/3/2008 | 4/24/2010 | \$210,000 | Residential | CONSTRUCT 1600 SF CONJOINED WITH SINGLE FAMILY HOME |
| 04-0560 | 2/25/2004 | 11/22/2004 | \$1,000 | | NEW SERVING STATION |
| 04-0354 | 2/6/2004 | 11/22/2004 | \$500 | | ELECTRICAL |
| 02-3095 | 11/15/2002 | 10/30/2003 | \$300 | | SIGN |
| 01/3858 | 12/13/2001 | 9/16/2002 | \$900 | Commercial | CONNECT A/C |

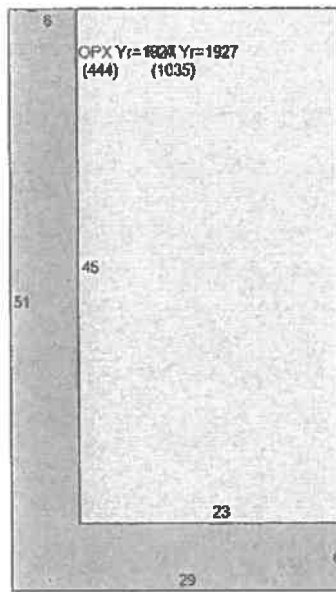
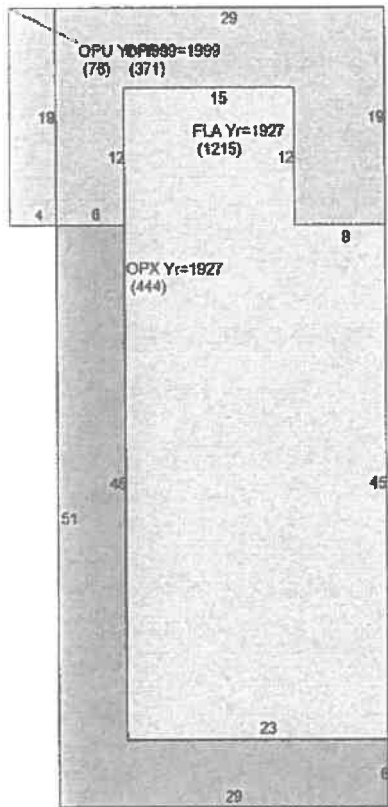
| Number | Date Issued | Date Completed | Amount | Permit Type | Notes |
|---------|-------------|----------------|-----------|-------------|---------------------------|
| 01-3879 | 12/10/2001 | 9/16/2002 | \$2,500 | Commercial | INSTALL 3.5 TON A/C |
| 9902690 | 9/25/1999 | 12/31/1999 | \$800 | | SIGN |
| 9901775 | 5/24/1999 | 12/30/1999 | \$3,050 | Commercial | CENTRAL AC |
| 9900687 | 3/2/1999 | 4/30/1999 | \$10,000 | | FINISH INTERIOR WORK |
| 9900704 | 2/26/1999 | 4/30/1999 | \$300 | | ELECTRICAL |
| 9702296 | 1/26/1999 | 4/30/1999 | \$105,000 | | RENOVATIONS |
| 9702958 | 12/29/1998 | 4/30/1999 | \$48,000 | | ROOFING |
| 9803341 | 10/26/1998 | 4/30/1999 | \$2,500 | | ELECTRICAL |
| 9803109 | 10/6/1998 | 4/30/1999 | \$10,000 | | ELECTRICAL |
| 9802589 | 8/21/1998 | 4/30/1999 | \$2,200 | | WATER/SEWER LINE |
| 9802419 | 8/19/1998 | 4/30/1999 | \$1,000 | | SIGNS |
| 9802240 | 7/17/1998 | 4/30/1999 | \$14,490 | | 17 NEW FIXTURES |
| 9801726 | 6/3/1998 | 1/1/1999 | \$14,000 | Commercial | OUTLET SWITCHES ETC |
| 9801732 | 6/2/1998 | 1/1/1999 | \$1 | Commercial | BOOTHS |
| 9702958 | 5/26/1998 | 12/30/1998 | \$48,000 | Commercial | 1 STY OPEN MARKET BLDG |
| 9704346 | 4/30/1998 | 1/1/1999 | \$10,000 | Commercial | HOOD FIRE SYSTEM |
| 9704277 | 4/27/1998 | 1/1/1999 | \$15,000 | Commercial | CENTRAL AC SYSTEM |
| 9801209 | 4/12/1998 | 1/1/1999 | \$400 | Commercial | LIGHT/SWITCH ETC |
| 9800568 | 4/7/1998 | 1/1/1999 | \$1 | Commercial | V-CRIMP ROOF |
| 9800791 | 3/12/1998 | 1/1/1999 | \$4,100 | Commercial | HOOD, EXHAUST DUCT & FAN |
| 9704346 | 3/6/1998 | 1/1/1999 | \$10,000 | Commercial | CENTRAL AC & DUCT ETC |
| 9704346 | 2/27/1998 | 1/1/1999 | \$10,000 | Commercial | GREASE TRAP, SINK ETC |
| 9704346 | 2/17/1998 | 1/1/1999 | \$10,000 | Commercial | OUTLETS, SWITCHES ETC |
| 9704346 | 2/12/1998 | 1/1/1999 | \$10,000 | Commercial | INTERIOR IMPROVEMENTS |
| 9704277 | 1/28/1998 | 1/1/1999 | \$15,000 | Commercial | LIGHTS, FANS ETC |
| 9800121 | 1/13/1998 | 12/30/1999 | \$79,000 | Commercial | DEMO SHED/NEW BLDG |
| 9704084 | 12/4/1997 | 4/30/1999 | \$450 | | NEW SEWER LINE |
| 9702296 | 11/19/1997 | 4/30/1999 | \$105,000 | | RENOVATION OF APARTMENTS |
| 9703571 | 10/31/1997 | 4/30/1999 | \$1,500 | | RELOCATION OF BOOTH |
| 9701683 | 7/2/1997 | 4/30/1999 | \$1 | | DEMO INTERIOR |
| 990986 | 5/15/1997 | 12/30/1999 | \$1 | Commercial | RENOVATE CISTERN/BRICK PA |

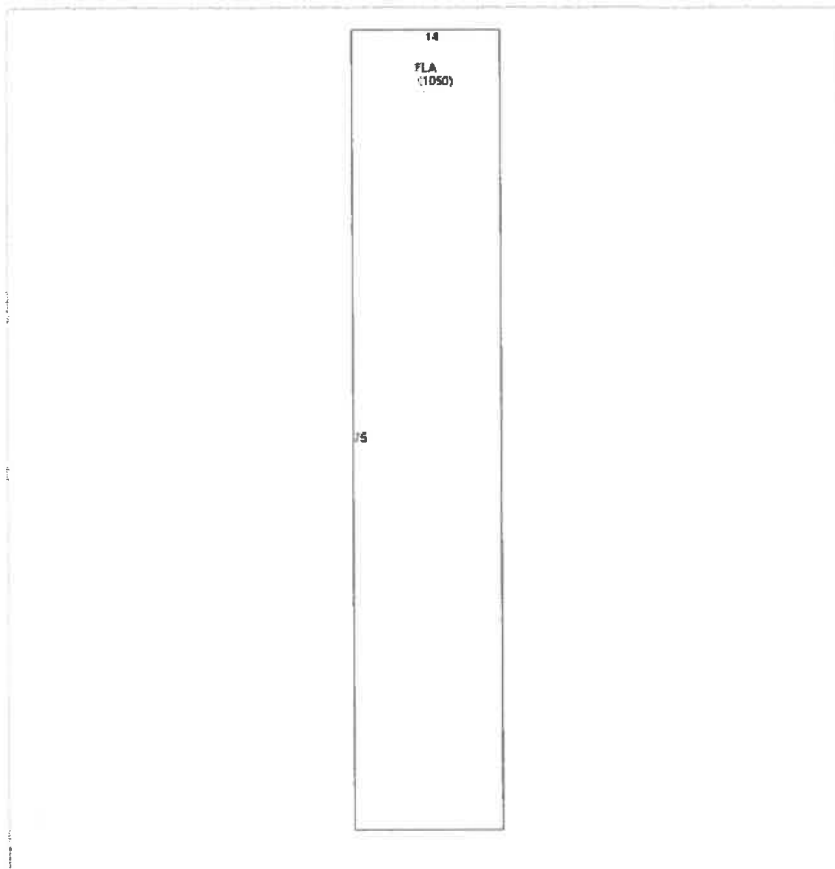
View Tax Info

[View Taxes for this Parcel](#)

Sketches (click to enlarge)







Photos



Map



TRIM Notice

Trim Notice

2018 Notices Only

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

The Monroe County Property Appraiser's office maintains data on property within the County solely for the purpose of fulfilling its responsibility to secure a just valuation for ad valorem tax purposes of all property within the County. The Monroe County Property Appraiser's office cannot guarantee its accuracy for any other purpose. Likewise, data provided regarding one tax year may not be applicable in prior or subsequent years. By requesting such data, you hereby understand and agree that this

Last Data Upload: 6/4/2019 5:28:14 AM

Developed by



Version 2.2.22

Survey

[illegible]

Authorization Form

City of Key West
Planning Department



Authorization Form
(Where Owner is a Business Entity)

Please complete this form if someone other than the owner is representing the property owner in this matter.

I, Edwin O Swift III as
Please Print Name of person with authority to execute documents on behalf of entity

President of Historic Tours of America, Inc.
Name of office (President, Managing Member) *Name of owner from deed*

authorize Trepanier & Associates, Inc.
Please Print Name of Representative

to be the representative for this application and act on my/our behalf before the City of Key West.

[Signature]
Signature of person with authority to execute documents on behalf on entity owner

Subscribed and sworn to (or affirmed) before me on this 2-11-19
Date

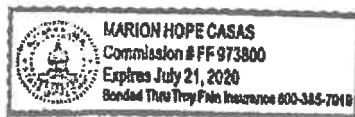
by Edwin O Swift III
Name of person with authority to execute documents on behalf on entity owner

☒ (He) She is personally known to me or has presented _____ as identification.

Marion Hope Casas
Notary's Signature and Seal

MARION HOPE CASAS
Name of Acknowledger typed, printed or stamped

Commission Number, if any



Verification Form

Application

EXHIBIT

2

TREPANIER

FUTURE LAND USE MAP AMENDMENT

Key West Code Ch. 90, Art. VI, Div. 3
City of Key West Land Development Regulations.

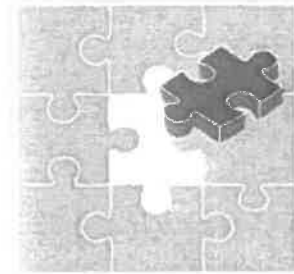
Site: Bahama Village Market

EXECUTIVE SUMMARY:

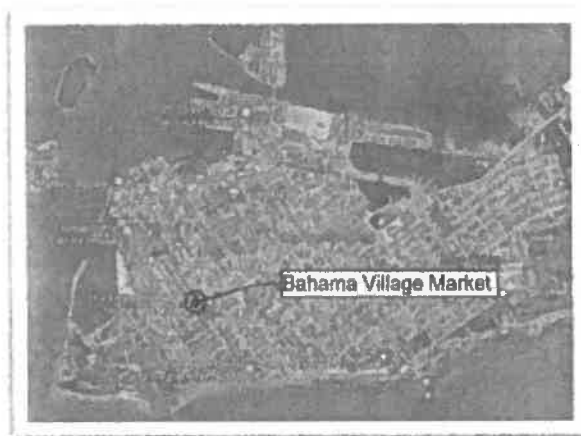
This is an application to amend the Future Land Use Map to address what appears to be a mapping error. The intent is to eliminate land use regulation confusion and uncertainty. This application analyses the proposed map amendment based on the criteria contained in KW Code Ch. 90; the Principles for Guiding Development and F.S. Ch. 163.

Bahama Village Market was developed by Bahama Village Market, LTD beginning in 1996 under HP3 zoning. At the same time the City's first Future Land Use Map which created the current confusion and uncertainty went into effect after a long drawn out legal battle. When the new FLUM went into effect, it bisected the property (half being HNC-3 and half being HMDR. It was determined, at the time, that a variance to the permitted uses of the HMDR was the simpler fix and so the property was granted variance to the permitted uses of HMDR. The property then operated as a mixed-use traditional Bahamian Straw Market from 1997 until the early 2000's. After that time the property sat mostly fallow with sporadic short-term attempts at revitalization. After the Straw Market closed, the property began to decline into disrepair, until 2015, when Historic Tours of America, reinvested heavily into the property and received conditional use approval to recommence operations.

During the 2011 approval process this property was discovered to have a unique peculiarity of split zoning and future land use designations (residential and commercial). This is one of the very few properties in town to, not only have split zoning and FLUM designations, but to contain a historic building and mixed-use commercial operation which itself is bisected by zoning and FLUM lines. This condition creates confusion and uncertainty for the property and the historic structure relative to land use regulations.



& ASSOCIATES INC
LAND USE PLANNING
DEVELOPMENT CONSULTANTS

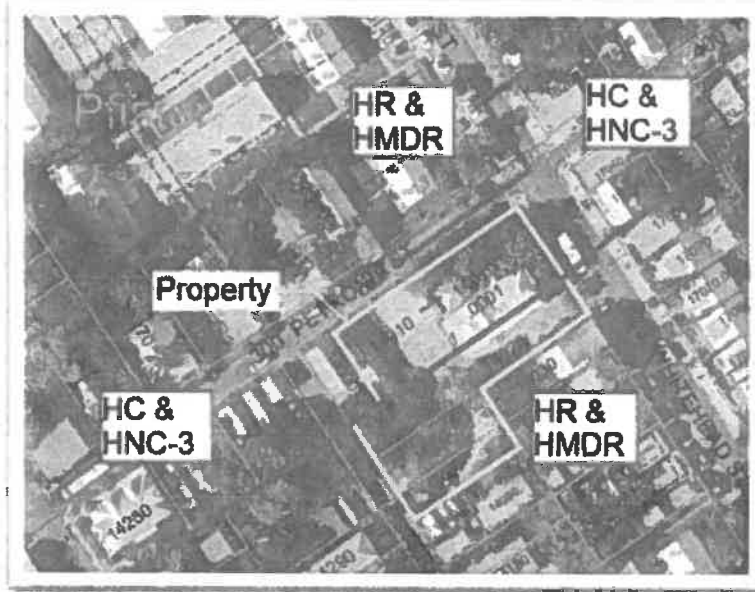


This application proposes to correct the FLUM to eliminate the confusion and uncertainty, without expanding the commercial uses, by recognizing the existing boundaries of the long-established rights of the property.

The analysis demonstrates the proposed map amendment is not inconsistent with the Comprehensive Plan, the Land Development regulations or the Principles for Guiding Development and Ch. 163.

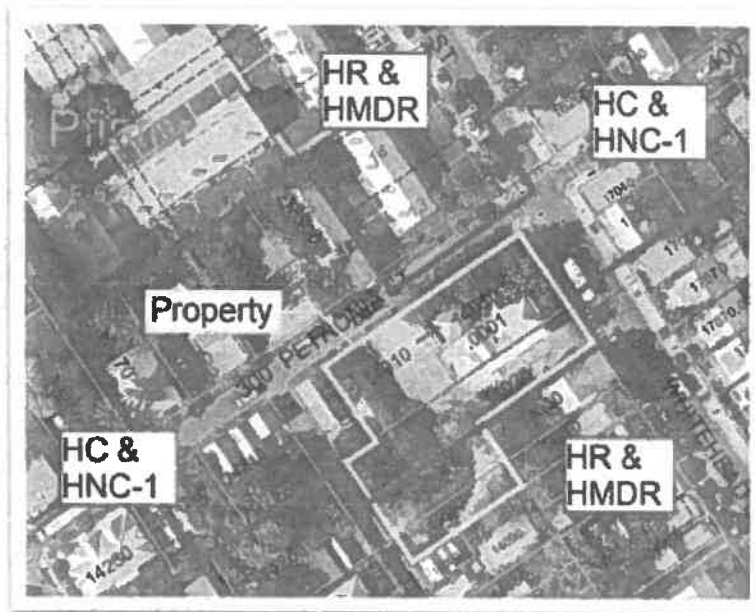
EXISTING CONDITIONS

The property, and the historic structure, are bisected by zoning and FLUM designations.



PROPOSED SOLUTION

We propose to conform the zoning and FLUM lines with the long-established boundaries of the Market.



PROPOSED AMENDMENT:

Historic Tours of America, Inc. seeks to amend the Future Land Use Map relative to the property commonly known as Bahama Village Market from the existing Historic Residential ("HR") to Historic Commercial ("HC").

The purpose of this amendment is to make necessary adjustments in light of apparent mapping errors, Confusion and uncertainty and changed conditions pursuant to the City of Key West Comprehensive Plan Data and Analysis, as adopted on March 5, 2013 via Ord. No. 13-04 and subsequently adopted by the Florida Department of Economic Opportunity, consistent with F.S. ch. 163.

The following analysis demonstrates the proposed map amendment is not inconsistent with the Comprehensive Plan, Chapter 90, Article VI of the Land Development regulations, the Principles for Guiding Development and Ch. 163 of the Florida Statutes.

AMENDMENT ANALYSIS

Application & Fee (Sec. 90-554): \$6,000.00

(1) Property Description.

Addresses associated with zoning change per the Monroe County Monroe

Property Appraiser:

RE No.: 00014010-000000

318 Petronia Street

320 Petronia Street

322 Petronia Street

324 Petronia Street

802 Whitehead Street

804 Whitehead Street

806 Whitehead Street

Area (total site): 21,520 sq. ft. (0.49 acres)

Area (affected by change): 6,093 sq. ft. (0.14 acres)

Flood Zone: X

Legal Description:

(Entire site attached to WD)

Legal Description of parcel's (as per attached survey) affected by the proposed boundary change:

PARCEL "A" (Parcel 7 on WD legal) 806 Whitehead Street:

On the Island of Key West and designated on Charles W. Tift's Map of said island as part of Lot No. 2 in the Subdivision of Square No. 1, in part of Tract 3 known as Simonton's Addition to the City of Key West; COMMENCING at a point on Whitehead Street, distant 63 feet from the corner of Petronia and Whitehead Sts. And run thence in a Southeasterly direction 31 feet and 6 inches; thence at right angles in a southwesterly direction 96 feet; thence at right angles Northwesterly 31 feet and 6 inches; thence at right angles Northeasterly 96 feet to the place of beginning.

ALSO

PARCEL "D" (Parcel 9 on WD legal):

On the Island of Key West, as known as Charles W. Tift's Map of the City of Key West, as part of Square One (1) in Tract Three (3) and is part of Subdivision Two (2) in Square One (1), according to a diagram made of portion of said Tract Three (3), which diagram is recorded in Book "I" deeds page 421 of Monroe County Records: COMMENCING at a point on an Eighteen foot alleyway, Sixty Three (63) feet and four (4) inches distant from the corner of Petronia Street and said alley way and running thence along said alley way in a Southeasterly direction Thirty-one feet and six inches, and extending back in a Northeasterly direction on both lines a distance of Ninety-Six (96) feet.

- (2) Current and proposed comprehensive plan official zoning land use map designation.

Existing FLUM: HR
Proposed FLUM: HC

- (3) Current and proposed zoning.

Existing Zoning: HMDR
Proposed Zoning: HNC-3

- (4) Existing and proposed use.

Existing use: Commercial
Proposed Use: Commercial

- (5) Disclosure of ownership.

Owner: Historic Tours of America, Inc. - A Florida Corporation

Agent: Edwin O Swift III
201 Front Street Ste 224
Key West, FL 33040

Officers: Edwin O Swift III
Christopher C Belland
John Dolan-Heitlinger
Ronald Cohen MD

(6) Justification

a. Comprehensive plan consistency.

The proposed amendment is fully compatible with the Comprehensive Plan as outlined in this application.

b. Impact on surrounding properties and infrastructure.

The proposed correction will have no impact on surrounding properties and no impact on infrastructure is anticipated. This particular parcel has been commercially used for decades. The HNC zoning district is intended to accommodate both residential and neighborhood commercial uses typically located along thoroughfares such as Whitehead Street.

| Surrounding Properties | | | |
|------------------------|--------------------------|--|--------------|
| Adjacency | Existing Use | Future Land Use | Zoning |
| North | Commercial | Historic Commercial | HC |
| South | Commercial & Residential | Historic Residential | HR |
| East | Commercial & Residential | Historic Residential | HR |
| West | Commercial & Residential | Historic Commercial & Historic Residential | HNC-3 & HMDR |

Levels of Service – Based on the evaluation criteria of Sec. 90-521(5) the impact of the proposed changes are generally summarized as follows:

- The requested change is not anticipated to alter demand on the surrounding transportation system. Policy 2-1.1.3 effectively eliminates the transportation concurrency requirement in favor of a prioritization of safety and function of existing roads and multi-modal transportation improvements (i.e. transit, air, boat, bicycles, pedestrianism, mixed-use development. This property is adjacent to the historic commercial pedestrian-orientated area and is located along the city's "Duval Loop" route; a free bus service around the historic downtown area.
- There is no proposed development or change to existing uses therefore, the proposed zoning change will not alter demand on for potable water.
- There is no proposed development or change to existing uses therefore, the proposed zoning change will not alter wastewater supply.

- There is no proposed development or change to existing uses therefore, the proposed zoning change will not alter solid waste supply.
- There is no proposed development or change to existing uses therefore, the proposed zoning change will not alter stormwater LOS.
- There is no proposed development or change to existing uses therefore, the proposed zoning change will not alter recreation LOS.

c. Avoidance of spot zoning.

The requested zoning change will not result in spot zoning, would best serve the public interest and is consistent with the comprehensive plan.

Spot zoning occurs when:

1. A small parcel of land is singled out for special and privileged treatment;

No special or privileged treatment will be conferred through approval of the request. This parcel(s) is part of an existing commercial site with HNC-3 zoning and Historic Commercial FLUM. This approval will provide consistency with the site's surroundings by clarifying existing intent and promote continued compatibility with its conjoined properties.

2. The singling out is not in the public interest but only for the benefit of the landowner; and;

As mentioned above, no singling out. The request will recognize compatible, pre-existing uses for this property and provide for zoning consistency.

3. The action is not consistent with the adopted comprehensive plan

The action is not inconsistent with the Comprehensive Plan. Amending the zoning division of the site and reconcile the long-standing uses, many of which have been granted conditional use approval over the years, will be consistent with the intent of the comprehensive plan.

- d. Undeveloped land with similar zoning. The amount of undeveloped land in the general area and in the city having the same zoning classification as that requested shall be stated.

There is vacant parcel and one parking lot that are located within 300ft with current zoning of HMDR.

| Zoning | FLUM | RE. No. | Size (sq. ft.) |
|---------------|-------------|-----------------|-----------------------|
| HMDR | HR | 00014300-000000 | 6,048 |
| HMDR | HR | 00017220-000000 | 2,373 |

CRITERIA FOR APPROVAL (SECTION 90-555)

- (1) Consistency with plan. Whether the proposal is consistent with the overall purpose of the comprehensive plan and relevant policies within the comprehensive plan, including the adopted infrastructure minimum levels of service standards and the concurrency management program

- a. Consistency with the Comprehensive plan.

Policy 1-1.1.9: Allowed Uses in Historic Neighborhood Commercial:

- Correcting the zoning of this parcel to Historic Neighborhood Commercial-3 is consistent with the comprehensive plan as the plan promotes both residential and neighborhood commercial activity along such highly trafficked streets such as Whitehead and specifically for properties associated with the Petronia Street Corridor.

Policy 1-1.3.1: Improve the Image and Function of the Historic Preservation District Commercial Core Area.

- Approval of the request will more accurately categorize the subject property which is located in the middle of Old Town and an integral part of the core tourism area. The property currently exists as a nonconforming use and is restricted from making functional improvements consistent with the image of the Historic Preservation District Commercial Core Area.

Policy 1-1.2.1: Provide Access to Goods and Services and Protect Residential Areas from the adverse Impacts of Transition in Land Use.

- With the zoning boundary currently running through this parcel and through a commercial building on the site, no protection exists or is viable for the adjacent residential structures. Whereas, if the zoning boundary was adjusted to adequately establish the division of commercial to residential, then a vegetated buffer along the

commercial boundary or something similar would allow protection for the neighboring residential parcel.

b. Consistency with adopted infrastructure minimum levels of service standards

As mentioned above, there is no proposed new development or change of use for the associated property, therefore, there are no anticipated impacts to existing infrastructure minimum levels of service standards.

c. Concurrency management program

The request is consistent with the concurrency management program Objective 9-1.5. Specific concurrency applications in accordance with Section 94-32 may be required for specific future development plans. No Plans are proposed as part of this application. At this time, no system improvements are anticipated as a result of the proposed map amendment.

(2) Conformance with requirements Conformance with ordinances. Whether the proposal is in conformance with all applicable requirements of the Code of Ordinances.

The proposal is consistent with the procedures for amending the Official Zoning Map as demonstrated herein. The proposal is in conformance with the procedures for amending the Land Development Regulations as demonstrated herein.

(3) Changed conditions. Whether, and the extent to which, land use and development conditions have changed since the comprehensive plan's effective date and whether such conditions support or work against the proposed change.

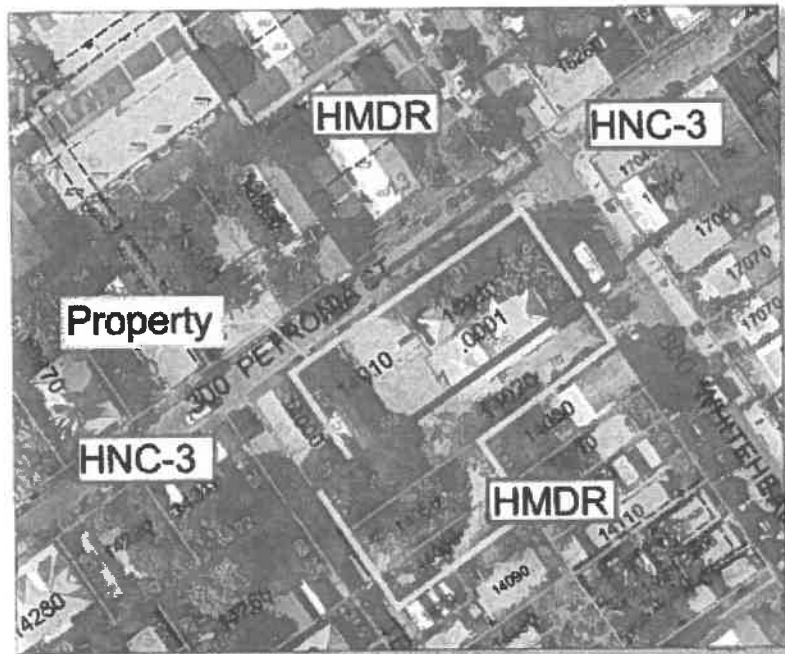
The effective date of the Land Development Regulations is July 3, 1997. The 2030 Comprehensive Plan was adopted on March 5, 2013. Both the 2030 Comprehensive Plan and the LDRs are "Living Documents" that are, by their very nature, designed to evolve and change with the community's goals. In this case, the community surrounding the subject property has developed/redeveloped over the last 30 years into a vibrant commercial and recreational activity center.

(4) Land use compatibility. Whether, and the extent to which, the proposal would result in any incompatible land uses, considering the type and location of uses involved.

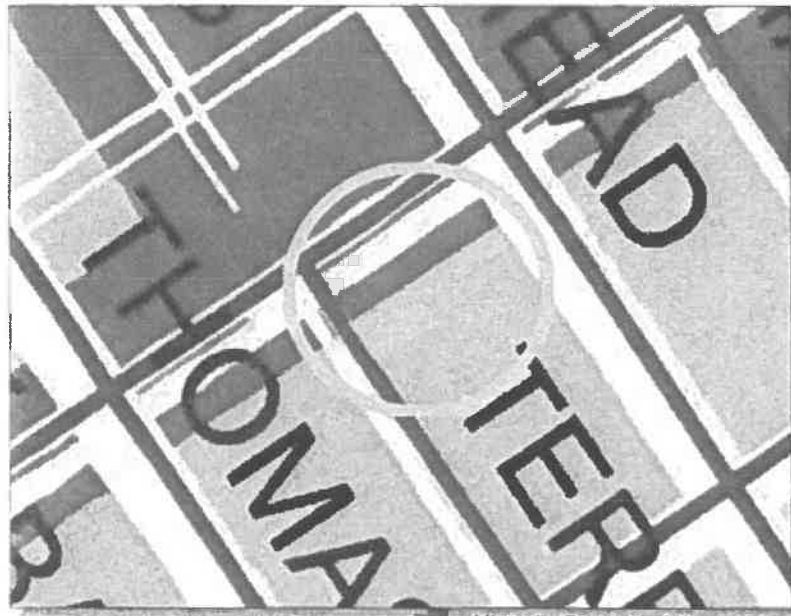
The proposed map amendment would serve to extend the adjacent HC District. Adjacent commercial uses will remain compatible. The subject properties currently have a variety of existing legal non-conforming land uses within the HMDR zoning. These inconsistent land uses include: commercial retail, restaurant and parking lot. It is important to note that all these existing inconsistent land uses within HMDR zoning would all be consistent with HNC-3 zoning.

| Current site use | HMDR | | HNC-3 | |
|------------------------|------|----|-------|----|
| | Yes | No | Yes | No |
| Restaurant | | X | X | |
| Retail – low intensity | | X | X | |

Current Zoning Depiction:



Current FLUM Map:



Comparison - Future Land Use Designation

| | Existing | Proposed |
|-----------------------|---|--|
| Zoning | Historic Medium Density Residential (HMDR) | Historic Neighborhood Commercial (HNC-3) |
| Density | 16 | 16 |
| FAR | NA | 0.8 |
| Allowable Uses | <p>Allowable uses in areas designated HR are single family, duplex and multi-family residential that preserve the historic character and quality of the Historic Preservation District central residential community. Accessory uses, including approved home occupations, and customary community facilities are also allowed. Transient uses are not permitted.</p> | <p>Intended to accommodate both residential and neighborhood commercial uses typically located along major thoroughfares which lead into or are adjacent to the central core commercial area. Restaurants (drive-in or drive through), banking and financial institutions, personal service shops, specialty shops and retail sales and service.</p> <p>Transient uses are permitted.</p> <p>Supportive community facilities, business and professional offices may be allowed in areas zoned HNC.</p> |

Figure 1 - 1965 Photo from Property Appraiser



Figure 2- 1974 Zoning Map



Historically this property was a residence. It fell into disrepair and became vacant in the 70's.

Figure 3:



In 1984, the zoning boundaries changed (Figure 3) and the previously established R-2 zoning for this neighborhood was revised to HP-3 Light Commercial Historic Preservation District zoning. The intent of this district was to allow for light commercial activity compatible with residential neighborhoods.

In 1997, the long fought-over FLUM and zoning amendments became effective and a significant portion of this mixed-use property became nonconforming. The HP-2 zoning district was eliminated and a new Historic Neighborhood Commercial (HNC-3) zoning district was established. The HNC-3 zoning district encompassed Petronia Street from Duval to Emma Street bisecting the previous districts. This area designation was in recognition of the increase in tourism trends and expansion of commercial activity in historic downtown areas. As part of the HNC-3 zoning district's purpose, the Pedestrian-Orientated commercial district was established to recognize those areas frequented by persons traveling on foot,

bicycle or other non-automotive means and, therefore, allowing flexibility in the parking requirement for commercial changes.

- (5) *Adequate public facilities.* Whether, and the extent to which, the proposal would result in demands on public facilities and services, exceeding the capacity of such facilities and services, existing or programmed, including

Transportation - Policy 2-1.1.1

Policy 2-1.1.3 prioritizes safety and function of existing roads and multi-modal transportation improvements (i.e. transit, air, boat, bicycles, pedestrianism, and mixed-use development) in lieu of LOC concurrency standards.

Policy 2-1.1.3: Exempts Key West from transportation concurrency requirements for roadways in favor of substantive expansion and prioritization of roadway safety and function through multi-modal transportation improvements (i.e. transit, air, boat, bicycles, pedestrianism, mixed-use development).

Summary Response: The zoning boundary adjustment would not result in an increase in maximum trip generation. There is no change to existing uses proposed as part of this request.

Potable Water - Policy 4-1.1.2.C

The Florida Keys Aqueduct Authority (FKAA) has the capacity to supply adequate service to the subject properties. The FKAA has the capacity to provide 23 million gallons per day to Monroe County as a result of: the South Florida Water Management District's issuance of Water Use Permit #13-0005, which allocates 17 million gallons per day in the dry season; 17.79 million gallons per day which can be withdrawn from the Biscayne Aquifer; and six million gallons per day provided by a reverse osmosis treatment plant in Florida City. As documented above, the City is meeting its Level of Service Standard for Potable Water. The City projects a slight permanent population decrease, and only a slight increase in its functional population and non-residential development during short and long-range planning periods, so the current capacity should remain adequate. Ongoing capital improvements will be necessary to maintain and improve standards and service delivery.

Summary Response: The zoning amendment will not result in an increase in potable water across as there is no change to existing uses as part of this proposal.

Sanitary Sewage - Policy 4-1.1.2.A

The City contracts out the operation of the Richard A. Heyman Environmental Pollution Control Facility, its wastewater treatment plant (Plant), and the associated collection system to Operations Management International, Inc. (OMI). The Plant currently has the capacity to treat 10 million gallons per day, exceeding the capacity required to achieve the existing Level of Service Standard by approximately seven million gallons per day. Actual daily flow is 4.5 million gallons per day. This is a reduction from eight (8) million gallons per day due to a 67 million dollars capital improvement to the City's wastewater treatment during the past short term planning period, including \$56 million for collection system rehabilitation.

As documented above, the City is exceeding its Level of Service Standard for Wastewater. The City projects a slight permanent population decrease, and only a slight increase in its functional population and non-residential development, during the short and long-range planning periods, so the current capacity should remain adequate. Ongoing capital improvements and continuing conservation efforts will continue to maintain and improve service delivery.¹

Summary Response: The zoning amendment will not result in an increase in sanitary sewer as there is no change to existing uses.

Solid Waste - Policy 4-1.1.2.D

The City currently contracts with Waste Management of Florida, Inc. to collect, transfer and dispose of solid waste and residential recyclables. Commercial recyclables and other non-franchised collection services such as construction and demolition debris and yard waste are available on the open market to all licensed haulers. The City owns and operates a solid waste transfer station on Rockland Key that received 45,402.10 tons of solid waste for disposal and 3,607 tons of recyclables in 2009/10. Waste Management disposes of the solid waste collected in Monroe County, including the City of Key West, at its Central Sanitary Landfill in Broward County. In 2009 Waste Management Inc. reported a reserve capacity of 17 years at this facility. There is therefore an estimated reserve capacity of 15 years as of the date of this report.

As documented above, the City is meeting its Level of Service Standard for solid waste. The City projects a slight permanent population decrease, and only a slight increase in its functional population and non-residential development, during the short and long-range planning periods, and the

¹ City of Key West Comprehensive Plan Data and Analysis, Pg A-16

current capacity should remain adequate. Ongoing capital improvements will be necessary to improve standards and service delivery.²

Summary Response: The zoning amendment will not result in an increase in solid waste as there are no proposed changes to existing uses.

Policy 4-1.1.2.D- Recyclable Waste Generation

Summary Response: The zoning amendment will not result in an increase in recycling materials due to no proposed development or changes to the existing commercial use.

Comprehensive Plan Policy 4-1.1.2. E- Drainage

Policy 4-1.1.2. E- Drainage Facilities Level of Service has not changed with the adoption of the new Comprehensive Plan.

The Drainage level of service standard below will be applicable to all types of development. Where two or more standards impact a specific development, the most restrictive standard shall apply:

1. Post development runoff shall not exceed the pre-development runoff rate for a 25-year storm event, up to and including an event with a 24 hour duration.
2. Stormwater treatment and disposal facilities shall be designed to meet the design and performance standards established in Chapter 62-25 Section 25.025, Florida Administrative Code, with treatment of the runoff from the first one inch of rainfall on-site to meet the water quality standards required by Chapter 62-302, Florida Administrative Code. Stormwater facilities which directly discharge into "Outstanding Florida Waters" (OFW) shall provide an additional treatment pursuant to Section 62-25.025 (9), Florida Administrative Code.
3. Stormwater facilities must be designed so as to not degrade the receiving water body below the minimum conditions necessary to assure the suitability of water for the designated use of its classification as established in Chapter 62-302 Florida Administrative Code.

Summary Response: Any new development will be required to comply with storm water requirements.

Recreation

² City of Key West Comprehensive Plan Data and Analysis, Pg A-17

Policy 7-1.1.9- The proposed change is not expected to have any adverse effect on availability of recreation services.

Approval of a plan amendment does not constitute a concurrency determination, and the applicant will be required to a concurrency determination pursuant to chapter 94.

Applicant understands and concurs with this criterion. Concurrency determination will be made at the time specific development order(s) are proposed.

- (6)** Natural environment. Whether, and to the extent to which, the proposal would result in adverse impacts on the natural environment, including consideration of wetlands protection, preservation of groundwater aquifer, wildlife habitats, and vegetative communities.

The site is currently developed in the urban area. No wetlands, aquifer recharge area, protected habitats or sensitive vegetative communities exist on site. No quantifiable impacts can be directly correlated or associated with the proposed change; therefore, no foreseeable adverse impacts are expected

- (7)** Economic effects. Whether, and the extent to which, the proposal would adversely affect the property values in the area or the general welfare. The proposed map amendment will have no adverse impacts to the property values in the area. This change will serve to accurately differentiate between commercial and residential properties, avoiding confusion and adding to the economic vitality of the district.

- (8)** Orderly development. Whether the proposal would result in an orderly and compatible land use pattern. Any negative effects on such pattern shall be identified.

The proposed map amendment would result in an orderly and compatible development pattern, no deleterious effects have been identified.

- (9)** Public interest; enabling act Public interest; enabling act. Whether the proposal would be in conflict with the public interest, and whether it is in harmony with the purpose and interest of this subpart B and its enabling legislation.

The proposal is not in conflict with the public interest and is in harmony with the purpose and intent of the Land Development Regulations and the

Warranty Deed

1/3/15
Doc# 2010917 12/31/2014 12:55PM
Filed & Recorded in Official Records of
MONROE COUNTY AMY HEAVILIN

Prepared by and return to:

JOHN M. SPOTTSWOOD, JR.
Attorney at Law
Spottswood, Spottswood & Spottswood
500 Fleming Street
Key West, FL 33040
305-294-9556
File Number: 14-120-EJD
Will Call No.:

12/31/2014 12:55PM
DEED DOC STAMP CL: Krya \$30,485.00

Doc# 2010917
Bk# 2718 Pg# 2117

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Warranty Deed

This Warranty Deed made this 18th day of December, 2014 between Bahama Village Market, LLC, a Florida limited liability company whose post office address is 201 Front Street, Key West, FL 33040, grantor, and Historic Tours of America, Inc., a Florida corporation whose post office address is 201 Front Street Suite 1-7, Key West, FL 33040, grantee:

(Whenever used herein the terms "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives, and assigns of individuals, and the successors and assigns of corporations, trusts and trustees)

Witnesseth, that said grantor, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable considerations to said grantor in hand paid by said 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, situate, lying and being in Monroe County, Florida to-wit:

See Attached Exhibit "A"

Parcel Identification Number: 00014010-000100 (as to parcel 3) ✓
Parcel Identification Number: 00014010-000000 (as to parcel 4&5)
Parcel Identification Number: 00014210-000000 (as to parcel 6)
Parcel Identification Number: 00014020-000000 (as to parcel 7, 8, 9) ✓
Parcel Identification Number: 00014060-000000 (as to parcel 10)
Parcel Identification Number: 00014050-000000 (as to parcel 11)

Subject to taxes for 2015 and subsequent years; covenants, conditions, restrictions, easements, reservations and limitations of record, if any.

Together with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

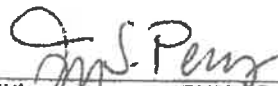
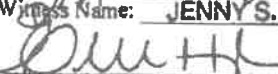
To Have and to Hold, the same in fee simple forever.

And the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes accruing subsequent to December 31, 2014.


In Witness Whereof, grantor has hereunto set grantor's hand and seal the day and year first above written.

DoubleTimes

Signed, sealed and delivered in our presence:


Witness Name: JENNY S. PERRY

Witness Name: ERICA H. STERLING

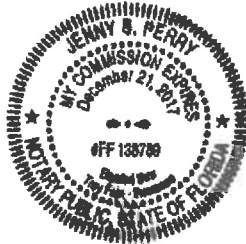
Bahama Village Market, LLC, a Florida limited liability company

By: 
Edwin O. Swift, III, Manager

State of Florida
County of Monroe

The foregoing instrument was acknowledged before me this 19th day of December, 2014 by Edwin O. Swift, III, Manager of Bahama Village Market, LLC, a Florida limited liability company, on behalf of said limited liability company. He ☐ is personally known or ☒ has produced a driver's license as identification.

[Notary Seal]




Notary Public

Printed Name: _____

My Commission Expires: _____

EXHIBIT A

Doc# 2010917
Bk# 271b Pg# 2119

PARCEL 3:

In the City of Key West, Monroe County, Florida and is designated on Charles W. Tift's Map of said City as Part of Lot 1 of Square 1 in Tract 3 of Simonton's Addition to the City of Key West and herein described more particularly by metes and bounds as follows: BEGIN at the intersection of the Southerly Right-of-Way line of Petronia St. and the Westerly Right-of-Way boundary line Whitehead Street for a Point of Beginning: thence Southerly along the said Westerly line of Whitehead Street 62.25 feet to a point; thence Westerly at right angles 96 feet to a point; thence Northerly at right angles 23.48 feet to a point; thence Easterly at right angles 5 feet to a point; thence Northerly at right angles 38.77 feet to a point on the said line of Petronia St.; thence at right angles in a Northeasterly direction 91 feet back to the Point of Beginning.

PARCEL 4:

Part of Lot One (1) of Square One (1), Tract Three (3) of Simonton's Addition to the City of Key West, Florida: COMMENCING at the intersection of the Westerly Right-of-Way boundary line of Whitehead Street and the Southerly Right-of-Way boundary line of Petronia Street and run thence Westerly along the said line of Petronia 91 feet to the Point of Beginning of the parcel herein being described; thence continue along the said line of Petronia Street 74 feet to a point; thence Southerly and at right angles 62.25 feet to a point; thence Easterly and at right angles 69 feet to a point; thence Northerly and at right angles 23.48 feet to a point; thence Easterly at right angles 5 feet to a point; thence Northerly at right angles 38.77 feet back to the Point of Beginning on Petronia Street.

PARCEL 5:

On the Island of Key West, Monroe County, Florida and being a part of Lot 1 in Square 1 of a Sub-division of a part of the Estate of John W. Simonton Tract 3, Key West, Florida as recorded in Deed Book 1 at Page 421, Public Records of Monroe County, Florida and being described more particularly as follows: COMMENCE at the point of intersection of the Southerly line of Petronia Street with the Easterly line of Terry Lane; thence Southeasterly along the said line of Terry Lane 63.34 feet to a point; thence Northeasterly at a right angle 27 feet to the Point of Beginning of the parcel of land herein described; thence Northwesterly at a right angle 1.09 feet to a point; thence Northeasterly at a right angle 69 feet to a point; thence Southeasterly at a right angle 1.09 feet to a point; thence Southwesterly at a right angle 69 feet back to the Point of Beginning.

PARCEL 6:

A parcel of land on the Island of Key West, Monroe County, Florida, and is known on Charles W. Tift's Map of said Island as part of Lots 7 and 8, of Square 1, in Tract 3 of Simonton's Addition according to Deed Book "I" at Page 421 of the Public Records of Monroe County, Florida, said parcel being more particularly described by metes and bounds as follows: COMMENCE at the intersection of the Northeasterly right of way line of Thomas Street with the Southeasterly right of way line of Petronia Street and run thence in a Northeasterly direction along the Southeasterly right of way line of the said Petronia Street for a distance

of 130.00 feet to the Point of Beginning; thence continue Northeasterly along the Southeasterly right of way line of the said Petronia Street for a distance of 62.22 feet to the Southwesterly right of way line of Terry Lane; thence Southeasterly at right angles and along the Southwesterly right of way line of the said Terry Lane for a distance of 64.25 feet; thence Southwesterly and at right angles for a distance of 62.22 feet; thence Northwesterly and at right angles for a distance of 64.25 feet back to the Point of Beginning.

PARCEL 7:

On the Island of Key West, and designated on Charles W. Tift's Map of said Island as part of Lot No. 2 in the Subdivision of Square No. 1, in part of Tract 3 known as Simonton's Addition to the City of Key West: COMMENCE at a point on Whitehead Street, distant 63 feet from the corner of Petronia and Whitehead St., and run thence in a Southeasterly direction 31 feet and 6 inches; thence at right angles in a Southwesterly direction 96 feet; thence at right angles Northwesterly 31 feet and 6 inches; thence at right angles Northeasterly 96 feet to the place of beginning.

PARCEL 8:

In the City of Key West, Monroe County, Florida and its designated on Charles W. Tift's Map of said City as to part of Lot 1, of Square 1 in Tract 3 of Simonton's Addition to the City of Key West and herein described more particularly described by metes and bounds as follows: COMMENCE at the intersection of the Southerly Right-of-Way boundary of Petronia Street and the Westerly Right-of-Way boundary line of Whitehead St. 62.25 feet to the Point of Beginning; thence continue along the said Westerly line of Whitehead Street 0.75 feet to a point; thence Westerly at right angles 96 feet to a point; thence Northerly at right angles 0.75 feet to a point; thence Easterly at right angles 96 feet back to the Point of Beginning.

PARCEL 9:

On the Island of Key West, as known as Charles W. Tift's Map of the City of Key West, as part of Square One (1) in Tract Three (3) and is part of Subdivision Two (2) in Square One (1) according to a diagram made of portion of said Tract Three (3), which diagram is recorded in Book "I" deeds page 421 of Monroe County Records: COMMENCING at a point on an Eighteen foot alley-way, Sixty Three (63) feet and four (4) inches distance from the corner of Petronia Street and said alley-way and running thence along said alley-way in a Southeasterly direction Thirty-One feet and six inches, and extending back in a Northeasterly direction on both lines a distance of Ninety-Six (96) feet.

PARCEL 10:

On the Island of Key West and is known as Part of Lot Three, (3), in the Subdivision of Square One, (1), in part of Tract Three, (3); Commencing at a point on Whitehead Street One Hundred Twenty-six feet Four inches (126' 4"), in a South East direction from the corner of Whitehead and Petronia Streets; running thence a right angles in a South West direction Ninety-six feet, (96'), to a point of beginning of Lot to be conveyed; running thence at right angles in a South East direction Twenty-one, (21'); then at right angles in a South West direction Ninety-six feet (96') to an alley known as Terry's Lane; thence in a North West direction along said alley Twenty-one feet, (21'); thence at right angles in a North East direction Ninety-six, (96') to point of beginning.

PARCEL 11:

Part of Lot Two (2), in Square One (1) of Tract Three and also known as 809 Terry Lane, in the City of Key West, County of Monroe, State of Florida.

ALSO DESCRIBED AS:

On the Island of Key West is known as Part of Lot Two (2), in the Subdivision of Square One (1), in part of Tract Three (3), and being more particularly described as follows:

Commence at the intersection of the Southwesterly Right-of-Way Line of Whitehead Street and the Southeasterly Right-of-Way Line of Petronia Street; thence in a Southwesterly direction along the said Southeasterly Right-of-Way Line of Petronia Street for a distance of 192.13 feet to the Northeasterly Right-of-Way Line of Terry Lane; thence at an angle of $90^{\circ}07'00''$ to the right and in a Southeasterly direction along the said Northeasterly Right-of-Way Line of Terry Lane for a distance of 94.83 feet to the Point of Beginning; thence at a right angle and in a Northeasterly direction for a distance of 96.55 feet; thence at a right angle and in a Southeasterly direction for a distance of 31.50 feet; thence at a right angle and in a Southwesterly direction for a distance of 96.55 feet to the said Northeasterly Right-of-Way Line of Terry Lane; thence at a right angle and in a Northwesterly direction along the said Northeasterly Right-of-Way Line of Terry Lane for a distance of 31.50 feet to the Point of Beginning.

Property Record Cards



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.

By continuing into this site you assert that you have read and agree to the above statement.

Summary

Parcel ID 00014010-000000
 Account# 1014397
 Property ID 1014397
 Millage Group 11KW
 Location 324 PETRONIA SL KEY WEST
 Address
 Legal KW PT LOTS 1 AND 2 SQR 1 TR 3 B3-6 G22-421/29 G44-427/28 BOOK OF WILLS C-408/09 CO
 Description JUDGES DOCKET 11-10 OR500-508 OR513-644 OR602-438/39 OR805-1099/1101 OR1143-338QVC OR1295-1572/73 OR1344-1666/7 OR1388-218/219 OR2133-389/393 OR2718-2117/21
 (Note: Not to be used on legal documents.)
 Neighborhood 32060
 Property Class STORE (1100)
 Subdivision
 Sec/Twp/Rng 06/68/25
 Affordable No
 Housing



Owner

HISTORIC TOURS OF AMERICA INC
 201 Front St
 Key West FL 33040

Valuation

| | 2018 | 2017 | 2016 | 2015 |
|----------------------------|-------------|-----------|-----------|-----------|
| + Market Improvement Value | \$438,269 | \$265,292 | \$291,530 | \$291,530 |
| + Market Misc Value | \$63,063 | \$11,163 | \$11,932 | \$10,708 |
| + Market Land Value | \$2,172,852 | \$447,744 | \$495,578 | \$467,071 |
| = Just Market Value | \$2,674,184 | \$724,199 | \$799,040 | \$769,309 |
| = Total Assessed Value | \$2,674,184 | \$724,199 | \$799,040 | \$769,309 |
| - School Exempt Value | \$0 | \$0 | \$0 | \$0 |
| = School Taxable Value | \$2,674,184 | \$724,199 | \$799,040 | \$769,309 |

Land

| Land Use | Number of Units | Unit Type | Frontage | Depth |
|-----------------------|-----------------|-------------|----------|-------|
| COMMERCIAL DRY (100D) | 16,461.00 | Square Foot | 63.3 | 93 |

Commercial Buildings

Style 1 STY STORE-A / 11A
 Gross Sq Ft 2,412
 Finished Sq Ft 1,146
 Perimeter 0
 Stories 1
 Interior Walls
 Exterior Walls C.B.S.
 Quality 400 Q
 Roof Type
 Roof Material
 Exterior Wall1 C.B.S.
 Exterior Wall2
 Foundation
 Interior Finish
 Ground Floor Area
 Floor Cover
 Full Bathrooms 0
 Half Bathrooms 2
 Heating Type
 Year Built 1943
 Year Remodeled
 Effective Year Built 1995
 Condition

| Code | Description | Sketch Area | Finished Area | Perimeter |
|-------|----------------|-------------|---------------|-----------|
| FLA | FLOOR LIV AREA | 1,146 | 1,146 | 0 |
| OUU | OP PR UNFIN UL | 1,206 | 0 | 0 |
| OPF | OP PRCH FIN LL | 60 | 0 | 0 |
| TOTAL | | 2,412 | 1,146 | 0 |

Style 1 STY STORE-A / 11A
 Gross Sq Ft 3,585
 Finished Sq Ft 2,250
 Perimeter 782
 Stories 2
 Interior Walls
 Exterior Walls AB AVE WOOD SIDING
 Quality 450 Q
 Roof Type

Roof Material
 Exterior Wall1 AB AVE WOOD SIDING
 Exterior Wall2
 Foundation
 Interior Finish
 Ground Floor Area
 Floor Cover
 Full Bathrooms 3
 Half Bathrooms 3
 Heating Type
 Year Built 1927
 Year Remodeled 0
 Effective Year Built 1980
 Condition AVERAGE

| Code | Description | Sketch Area | Finished Area | Perimeter |
|-------|----------------|-------------|---------------|-----------|
| OPX | EXC OPEN PORCH | 888 | 0 | 320 |
| FLA | FLOOR LIV AREA | 2,250 | 2,250 | 296 |
| OPU | OPPR UNFIN LL | 76 | 0 | 46 |
| OPF | OPPRCH FIN LL | 371 | 0 | 120 |
| TOTAL | | 3,585 | 2,250 | 782 |

Style 1 STY STORE-B / 11B
 Gross Sq Ft 1,050
 Finished Sq Ft 1,050
 Perimeter 0
 Stories 1
 Interior Walls
 Exterior Walls C.B.S.
 Quality 350()
 Roof Type
 Roof Material
 Exterior Wall1 C.B.S.
 Exterior Wall2
 Foundation
 Interior Finish
 Ground Floor Area
 Floor Cover
 Full Bathrooms 0
 Half Bathrooms 0
 Heating Type
 Year Built 1998
 Year Remodeled
 Effective Year Built 2001
 Condition

| Code | Description | Sketch Area | Finished Area | Perimeter |
|-------|----------------|-------------|---------------|-----------|
| FLA | FLOOR LIV AREA | 1,050 | 1,050 | 0 |
| TOTAL | | 1,050 | 1,050 | 0 |

Yard Items

| Description | Year Built | Roll Year | Quantity | Units | Grade |
|--------------|------------|-----------|----------|---------|-------|
| BRICK PATIO | 1996 | 1997 | 1 | 2028 SF | 2 |
| WROUGHT IRON | 1944 | 1945 | 1 | 276 SF | 1 |
| TIKI | 1999 | 2000 | 1 | 255 SF | 4 |
| CONC PATIO | 1999 | 2000 | 1 | 345 SF | 2 |
| TIKI | 1999 | 2000 | 1 | 368 SF | 4 |
| TIKI | 1999 | 2000 | 1 | 40 SF | 1 |
| BRICK PATIO | 1999 | 2000 | 1 | 5652 SF | 2 |
| TIKI | 1999 | 2000 | 1 | 170 SF | 1 |
| BRICK PATIO | 1999 | 2000 | 1 | 270 SF | 2 |
| TILE PATIO | 1999 | 2000 | 1 | 990 SF | 3 |

Sales

| Sale Date | Sale Price | Instrument | Instrument Number | Deed Book | Deed Page | Sale Qualification | Vacant or Improved |
|------------|-------------|---------------|-------------------|-----------|-----------|--------------------|--------------------|
| 12/19/2014 | \$4,355,000 | Warranty Deed | | 2718 | 2117 | 30 - Unqualified | Improved |
| 1/1/1995 | \$322,900 | Warranty Deed | | 1344 | 1666 | M - Unqualified | Improved |
| 2/1/1994 | \$300,000 | Warranty Deed | | 1295 | 1572 | M - Unqualified | Improved |

Permits

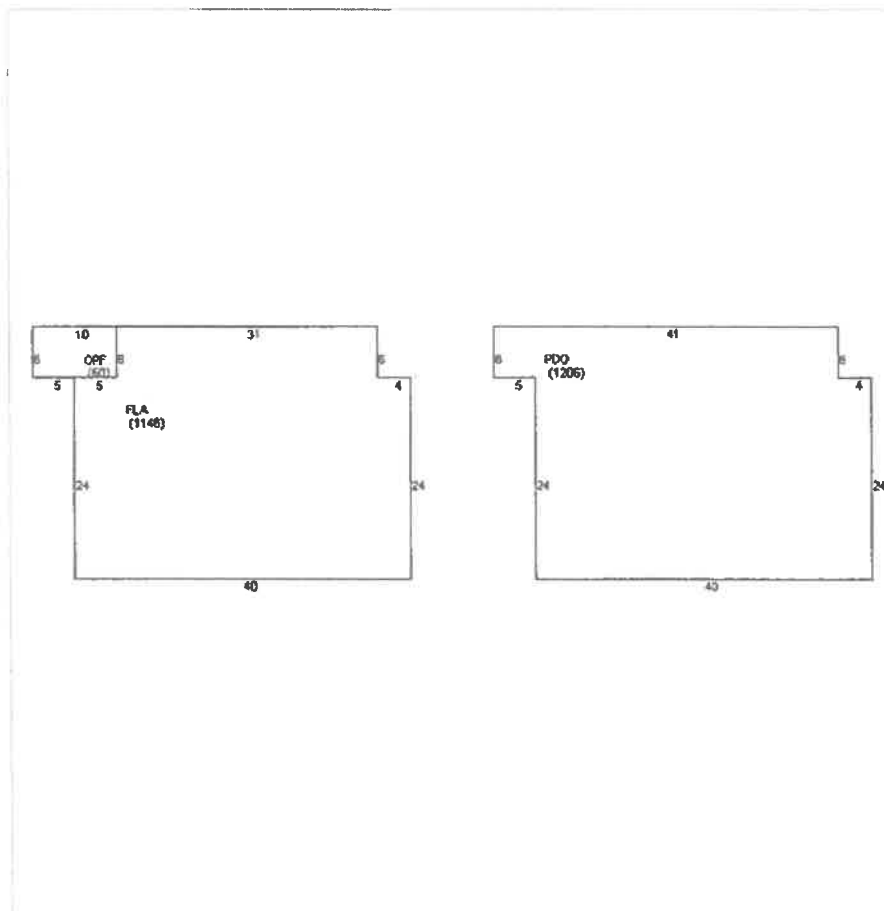
| Number | Date Issued | Date Completed | Amount | Permit Type | Notes |
|-------------|-------------|----------------|-----------|-------------|--|
| 16-0435 | 2/22/2016 | | \$1,500 | Commercial | COMMERCIAL OCCUPANCY CHANGE FROM 40 SEAT RESTAURANT (AT 324 PETRONIA) TO 150 SEAT RESTAURANT (804 WHITEHEAD). CONNECT RETAIL SPACE TO CONSUMPTION AREA. |
| 15-4747 | 12/30/2015 | | \$600 | Commercial | REMOVAL OF TICKET BOOTH |
| 15-00002126 | 5/31/2015 | | \$1,800 | Commercial | REMOVE APPLIED FINISHES INCLUDING BROKEN BAR TO TILE. REMOVE ROTTEN TITLE AND STUCCO. REMOVE DAMAGED SHEETROCK BASE TRIM. N.O.C. EXEMPT. |
| 15-1690 | 5/9/2015 | | \$4,000 | | UNDERGROUND ROUGH AND TRIM OUT. 2ND FLOOR SINKS, 1ST FLOOR DRAIN, 3 HAND WASH SINKS, 1 DISHWASHER, 1 MOP SINK, 1 PLE. COMPARTMENT SINK, 1 UNDERGROUND GREASE TRAP AND 1 SMALL 20 GPM. GREASE TRAP EXP. |
| 15-0035 | 1/12/2015 | | \$50,000 | | REPAIR 100 SF OF SIDING AND PAINT BUILDING |
| 08-222 | 5/5/2008 | | \$320,000 | Commercial | INTERIOR AND EXTERIOR RENOVATION. |
| 08-238 | 5/5/2008 | | \$240,000 | Residential | CONSTRUCT 1600 SF CONJOINED SINGLE FAMILY RESIDENCE |
| 08-220 | 5/4/2008 | 4/24/2010 | \$220,000 | Commercial | RENOVATION OF 1600SF BLDG. |
| 08-237 | 5/4/2008 | 4/24/2010 | \$210,000 | Residential | CONSTRUCT 1600 SF CONJOINED WITH SINGLE FAMILY HOME |
| 08-233 | 5/3/2008 | 4/24/2010 | \$210,000 | Residential | CONSTRUCT 1600 SF CONJOINED WITH SINGLE FAMILY HOME |
| 04-0560 | 2/25/2004 | 11/22/2004 | \$1,000 | | NEW SERVING STATION |
| 04-0354 | 2/6/2004 | 11/22/2004 | \$500 | | ELECTRICAL |
| 02-3095 | 11/15/2002 | 10/30/2003 | \$300 | | SIGN |
| 01/3858 | 12/13/2001 | 9/16/2002 | \$900 | Commercial | CONNECT A/C |

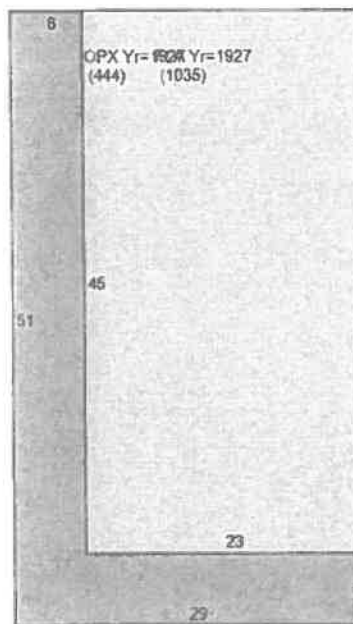
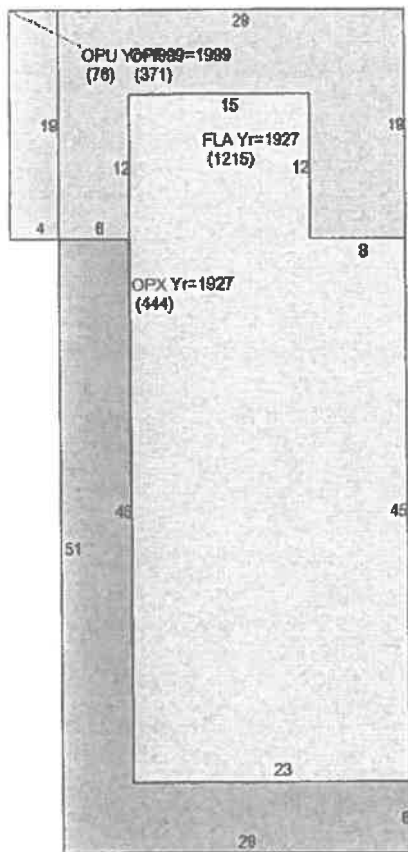
| Number # | Date Issued # | Date Completed # | Amount \$ | Permit Type | Notes # |
|----------|---------------|------------------|-----------|-------------|---------------------------|
| 01-3879 | 12/10/2001 | 9/16/2002 | \$3,500 | Commercial | INSTALL 3.5 TON A/C |
| 9902690 | 9/25/1999 | 12/31/1999 | \$800 | | SIGN |
| 9901775 | 5/24/1999 | 12/30/1999 | \$3,050 | Commercial | CENTRAL AC |
| 9900687 | 3/2/1999 | 4/30/1999 | \$10,000 | | FINISH INTERIOR WORK |
| 9900704 | 2/26/1999 | 4/30/1999 | \$500 | | ELECTRICAL |
| 9702296 | 1/26/1999 | 4/30/1999 | \$105,000 | | RENOVATIONS |
| 9702958 | 12/29/1998 | 4/30/1999 | \$48,000 | | ROOFING |
| 9803341 | 10/26/1998 | 4/30/1999 | \$2,500 | | ELECTRICAL |
| 9803109 | 10/6/1998 | 4/30/1999 | \$10,000 | | ELECTRICAL |
| 9802589 | 8/21/1998 | 4/30/1999 | \$2,200 | | WATER/SEWER LINE |
| 9802419 | 8/19/1998 | 4/30/1999 | \$1,000 | | SIGNS |
| 9802240 | 7/17/1998 | 4/30/1999 | \$14,690 | | 17 NEW FIXTURES |
| 9801726 | 6/3/1998 | 1/1/1999 | \$14,000 | Commercial | OUTLET SWITCHES ETC |
| 9801732 | 6/2/1998 | 1/1/1999 | \$1 | Commercial | BOOTHES |
| 9702958 | 5/26/1998 | 12/30/1998 | \$48,000 | Commercial | 1 STORY OPEN MARKET BLDG |
| 9704346 | 4/30/1998 | 1/1/1999 | \$10,000 | Commercial | HOOD FIRE SYSTEM |
| 9704277 | 4/27/1998 | 1/1/1999 | \$15,000 | Commercial | CENTRAL AC SYSTEM |
| 9801209 | 4/12/1998 | 1/1/1999 | \$400 | Commercial | LIGHT/SWITCH ETC |
| 9800568 | 4/7/1998 | 1/1/1999 | \$1 | Commercial | V-CRIMP ROOF |
| 9800791 | 3/12/1998 | 1/1/1999 | \$4,100 | Commercial | HOOD, EXHAUST DUCT & FAN |
| 9704346 | 3/6/1998 | 1/1/1999 | \$10,000 | Commercial | CENTRAL AC & DUCT ETC |
| 9704346 | 2/27/1998 | 1/1/1999 | \$10,000 | Commercial | GREASE TRAP SINK ETC |
| 9704346 | 2/17/1998 | 1/1/1999 | \$10,000 | Commercial | OUTLETS, SWITCHES ETC |
| 9704346 | 2/12/1998 | 1/1/1999 | \$10,000 | Commercial | INTERIOR IMPROVEMENTS |
| 9704277 | 1/28/1998 | 1/1/1999 | \$15,000 | Commercial | LIGHTS, FANS ETC |
| 9800121 | 1/13/1998 | 12/30/1999 | \$79,000 | Commercial | DEMO SHED/NEW BLDG |
| 9704084 | 12/4/1997 | 4/30/1999 | \$450 | | NEW SEWER LINE |
| 9702296 | 11/19/1997 | 4/30/1999 | \$105,000 | | RENOVATION OF APARTMENTS |
| 9703571 | 10/31/1997 | 4/30/1999 | \$1,500 | | RELOCATION OF BOOTH |
| 9701683 | 7/2/1997 | 4/30/1999 | \$1 | | DEMO INTERIOR |
| 990986 | 5/15/1997 | 12/30/1999 | \$1 | Commercial | RENOVATE CISTERN/BRICK PA |

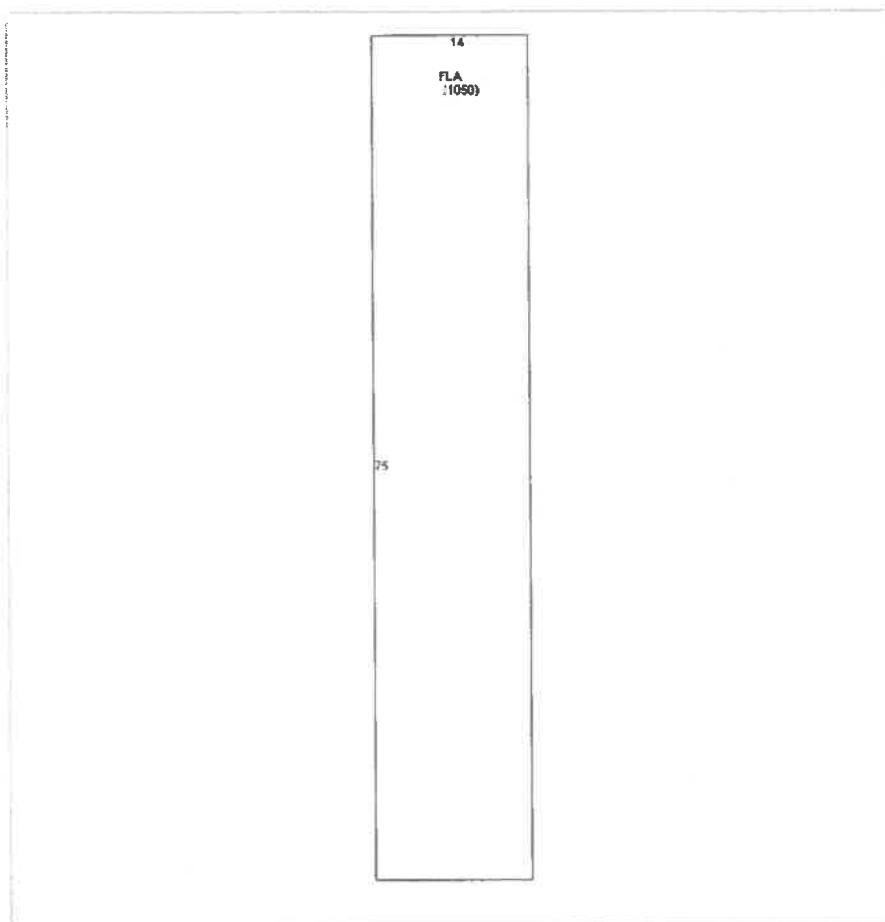
View Tax Info

[View Taxes for this Parcel](#)

Sketches (click to enlarge)







Photos



Map



TRIM Notice

Trim Notice

2018 Notices Only

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

The Monroe County Property Appraiser's office maintains data on property within the County solely for the purpose of fulfilling its responsibility to secure a just valuation for ad valorem tax purposes of all property within the County. The Monroe County Property Appraiser's office cannot guarantee its accuracy for any other purpose. Likewise, data provided regarding one tax year may not be applicable in prior or subsequent years. By requesting such data, you hereby understand and agree that the

Last Data Upload: 6/4/2019 5:28:24 AM

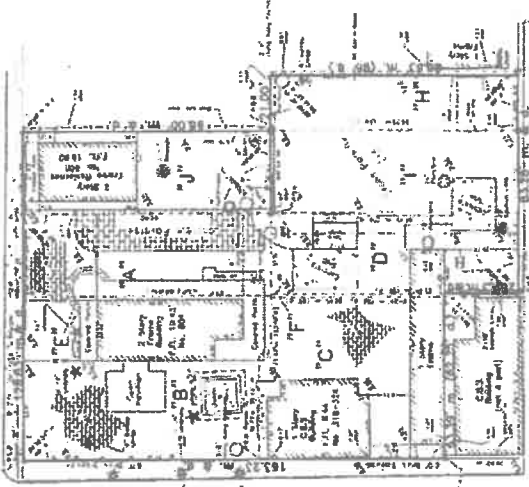
Version 2.2.22

Developed by



Survey

WHITEHEAD STREET (50' R/W)



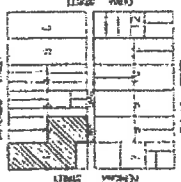
TERRY LANE (18' R/W)

PETRONIA STREET (30' R/W)



Map of the City of Los Angeles, California, showing the location of the property described in the accompanying text. The map is a plan view of the property, showing the street layout and the location of the property. The property is located in the City of Los Angeles, California, and is situated on the corner of Whitehead Street and Petronia Street. The property is bounded by Whitehead Street to the north, Petronia Street to the south, and Terry Lane to the east. The property is shown in a shaded area on the map.

Map of the City of Los Angeles, California, showing the location of the property described in the accompanying text. The map is a plan view of the property, showing the street layout and the location of the property. The property is located in the City of Los Angeles, California, and is situated on the corner of Whitehead Street and Petronia Street. The property is bounded by Whitehead Street to the north, Petronia Street to the south, and Terry Lane to the east. The property is shown in a shaded area on the map.



LOCATION MAP
Sheet 1, Map A, City of Los Angeles

Map of the City of Los Angeles, California, showing the location of the property described in the accompanying text. The map is a plan view of the property, showing the street layout and the location of the property. The property is located in the City of Los Angeles, California, and is situated on the corner of Whitehead Street and Petronia Street. The property is bounded by Whitehead Street to the north, Petronia Street to the south, and Terry Lane to the east. The property is shown in a shaded area on the map.

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ISLAND SURVEYING INC.
SURVEYING
11111 W. 11th St., Suite 100
Los Angeles, CA 90024
(310) 441-1111

| NO. | DATE | BY | FOR | FILE NO. |
|-----|----------|-------------|-------|----------|
| 1 | 11/11/11 | J. A. Smith | Map A | 11111 |
| 2 | 11/11/11 | J. A. Smith | Map A | 11111 |
| 3 | 11/11/11 | J. A. Smith | Map A | 11111 |
| 4 | 11/11/11 | J. A. Smith | Map A | 11111 |
| 5 | 11/11/11 | J. A. Smith | Map A | 11111 |
| 6 | 11/11/11 | J. A. Smith | Map A | 11111 |
| 7 | 11/11/11 | J. A. Smith | Map A | 11111 |
| 8 | 11/11/11 | J. A. Smith | Map A | 11111 |
| 9 | 11/11/11 | J. A. Smith | Map A | 11111 |
| 10 | 11/11/11 | J. A. Smith | Map A | 11111 |

Authorization Form

City of Key West
Planning Department



Authorization Form
(Where Owner is a Business Entity)

Please complete this form if someone other than the owner is representing the property owner in this matter.

I, Edwin O Swift III :15
Please Print Name of person with authority to execute documents on behalf of entity

President of Historic Tours of America, Inc.
Name of office (President, Managing Member) *Name of owner from deed*

authorize Trepanier & Associates, Inc.
Please Print Name of Representative

to be the representative for this application and act on my/our behalf before the City of Key West.


Signature of person with authority to execute documents on behalf of entity owner

Subscribed and sworn to (or affirmed) before me on this 2-11-19
Date

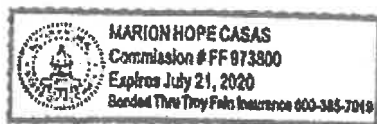
by Edwin O Swift III
Name of person with authority to execute documents on behalf of entity owner

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


Notary's Signature and Seal

MARION HOPE CASAS
Name of Acknowledger typed, printed or stamped

Commission Number, if any



Verification Form

**PLANNING BOARD RESOLUTION
NUMBER 2011-059**

**A RESOLUTION OF THE KEY WEST
PLANNING BOARD GRANTING A
CONDITIONAL USE APPROVAL PER
SECTION 122-62 AND 122-63 OF THE CODE
OF ORDINANCES FOR A RESTAURANT
WITH 150 SEATS MAXIMUM TO BE
LOCATED AT 802 - 806 WHITEHEAD STREET
(RE# 00014010-000100 AND 00014020-000000)
AND 318 - 324 PETRONIA STREET (RE#
00014010-000000) AND 809 - 811 TERRY LANE
(RE# 00014050-000000, 00014060-000000) IN THE
HISTORIC NEIGHBORHOOD COMMERCIAL-
BAHAMA VILLAGE COMMERCIAL CORE
(HNC-3) ZONING DISTRICT, PURSUANT TO
SECTION 122-868(9) OF THE CODE OF
ORDINANCES, KEY WEST FLORIDA;
PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS, the subject property is located in the Historic Neighborhood Commercial-
Bahama Village Commercial Core (HNC-3) zoning district; and**

**WHEREAS, Section 122-868(9) of the Code of Ordinances provides that restaurants are
allowed as a conditional use within the Historic Neighborhood Commercial- Bahama Village
Commercial Core (HNC-3) zoning district; and**

**WHEREAS, Section 122-61 of the Code of Ordinances allows applicants to request a
conditional use approval; and**

Page 1 of 9
Resolution Number 2011 - 059



[Signature] Chairman
[Signature] Planning Director

WHEREAS, the applicant filed a conditional use application for a restaurant not to exceed maximum of 150 seats, with 6,637 square feet of flexible indoor/outdoor consumption area at 802 - 806 Whitehead Street (RE# 00014010-000100 and 00014020-000000) and 318 - 324 Petronia Street (RE# 00014010-000000); and

WHEREAS, the associated with the Conditional Use request, the applicant is required to bring the parking lot located at 809 - 811 Terry Lane (RE# 00014050-000000 and 00014060-000000) into compliance with dimensional requirements, landscaping and drainage; and



WHEREAS, the parking lot shall be reconfigured to include two (2) compact car spaces in order to protect the root system of large trees on the site, six (6) standard vehicular spaces, one (1) handicap space, and forty (40) scooter/bicycle spaces on the lot; and

WHEREAS, Section 122-62 outlines the criteria for reviewing a conditional use application by the Planning Board; and

WHEREAS, this matter came before the Planning Board at a duly noticed public hearing on November 17, 2011; and

WHEREAS, the Planning Board found that the proposed use complies with the criteria in Section 122-62; and



 Chairman
 Planning Director

WHEREAS, the approval of the conditional use application will be in harmony with the general purpose and intent of the Land Development Regulations, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare; and

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

Section 1. That the above recitals are incorporated by reference as fully set forth herein.

Section 2. That the request for a Conditional Use approval per Section 122-62 and 122-63 of the Code of Ordinances for a restaurant for up to 150 seats maximum and 6,637 square feet of flexible consumption area to be located at 802 - 806 Whitehead Street (RE# 00014010-000100 and 00014020-000000) and 318 - 324 Petronia Street (RE# 00014010-000000) and the reconfiguration of the parking lot at 809 - 811 Terry Lane (RE# 00014050-000000 and 00014060-000000) to meet Code requirements, landscaping and drainage, and to accommodate two (2) compact car spaces in order to protect the root system of large trees on the site, six (6) standard vehicular spaces, one (1) handicap space, and forty (40) scooter/bicycle parking spaces for property located in the Historic Neighborhood Commercial- Bahama Village Commercial Core (HNC-3) zoning district, pursuant to section 122-868(9) of the Code of Ordinances, Key West, Florida; providing for an effective date, as shown in the attached site plans dated November 1, 2011 with the following conditions:



 Chairman
 Planning Director

Conditions subject to a Conditional Approval Permit, per Ordinance 10-22. Conditions subject to an associated annual inspection:

1. Approval is limited to no more than 150 seats. At no time does the request for 6,637 square feet of consumption area allow the applicant to increase seating on the site without conditional use review.
2. The parking lot shall be reconfigured and maintained to include two (2) compact car spaces in order to protect the root system of large trees on the site, six (6) standard vehicular spaces, one (1) handicap space, and forty (40) bicycle/scooter spaces on the lot.
3. The waste and recycling handling shall be screened from adjacent properties and public rights-of-way by appropriate fences, walls or landscaping in accordance with Code Section 108-279, and the area shall be enclosed on all four sides with a roof and doors for access.
4. The applicant will install and maintain a programmable distributive sound system to assure compliance with the "unreasonable noise" definition of Section 26-191 of the Code of Ordinances, and shall include a computerized sound monitoring system with real time monitoring access is provided to the City. The applicant expressly agrees to provide the City's agents unfettered access to the computer-generated reports and full, real-time web-based access to the digital monitoring of on-site acoustics for the purpose of assuring compliance with the conditions contained herein.

Page 4 of 9
Resolution Number 2011 - 059



 Chairman
 Planning Director

Conditions required prior to the issuance of a Certificate of Occupancy:

5. Completion of all improvements as depicted on the site plan.
6. The applicant will install and maintain a programmable distributive sound system to assure compliance with the "unreasonable noise" definition of Section 26-191 of the Code of Ordinances, and shall include a computerized sound monitoring system with real time monitoring access is provided to the City.
7. The applicant shall revise and resubmit a signed and sealed Landscape Plan that reflects the modified site plan dated November 1, 2011 and Civil Plan Dated November 9, 2011.

General conditions:

8. No outdoor music of any kind is allowed after the hours of 10pm unless approved under a special event permit per Section 6-86 of the City Code or for a special city-sanctioned event within the Petronia Street Commercial Corridor. Amplified music will be regulated by the "unreasonable noise" definition of Section 26-191 of the Code of Ordinances.
9. Recycling of applicable materials is required.
10. Hours of operation are limited from 9am to 11pm daily except during special city sanctioned events such as Fantasy Fest and Goombay.
11. Service vehicles are prohibited from using Petronia Street and Terry Lane and the Terry Lane parking lot for deliveries.
12. All waste pickup shall be daily via Whitehead Street.



RWK Chairman
QC Planning Director

13. In an effort to increase employment opportunities for residents of the Bahama Village Community Redevelopment Area ("BVCRA") the restaurant operator will make a good faith effort to employ a minimum of 25% of the restaurant workforce from qualified residents of the BVCRA.

"Good faith effort" means all employment opportunities will be advertised and posted in places frequented by residents of the BVCRA, such as the District 6 Commissioner's office, the Douglas Community Center, the Nutrition Center, the Martin Luther King swimming pool, neighborhood churches, neighborhood fraternal organizations, grocery stores, etc.

In the event the property owner is not the operator of the restaurant, the restaurant operator shall submit to the property owner proof of compliance with the employment requirement, on a quarterly basis. The property owner shall, in turn, provide the proof of compliance to the City of Key West, upon request. If the property owner operates the restaurant, in the event that this requirement is not complied with for any reason, the property owner shall tender to the BVCRA the amount of \$750 for each month the requirement is not met to be used to further employment programs within the Bahama Village Community.

In the event the property owner is not the operator of the restaurant, any lease, management agreement, or other document utilized to transfer operation of the restaurant shall include the provisions above along with a provision that the operator's rent will increase in the amount of \$750.00 per month for each month the



RWK Chairman
AC Planning Director

requirement is not met. The property owner will in turn pay this increased amount to the BVCRA to be used to further employment programs within the Bahama Village Community Redevelopment Area. The property owner's failure to insist upon, collect, and transfer the increased amount to the City of Key West shall constitute a breach of this condition.

This requirement shall run with the conditional use and remain in place from owner to owner, Lessee to Lessee and Lessor to Lessor.

Section 3. Full, complete, and final application for all permits required for which this resolution is wholly or partly necessary, shall be submitted in its entirety within 12 months after the date hereof.



Section 4. This conditional use approval does not constitute a finding as to ownership or right to possession of the property, and assumes, without finding, the correctness of applicant's assertion of legal authority respecting the property.

Section 5. This resolution shall go into effect immediately upon its passage and adoption and authentication by the signatures of the presiding officer and the Clerk of the Commission.

Section 6. This resolution is subject to appeal periods as provided by the City of Key West Code of Ordinances (including the Land Development Regulations). After the City appeal period has

Page 7 of 9
Resolution Number 2011 - 059



 Chairman
 Planning Director

expired, this permit or development order will be rendered to the Florida Department of Community Affairs. Pursuant to Chapter 9J-1, F.A.C., this permit or development order is not effective for forty five (45) days after it has been properly rendered to the DCA with all exhibits and applications attached to or incorporated by reference in this approval; that within the forty five (45) day review period the DCA can appeal the permit or development order to the Florida Land and Water Adjudicatory Commission; and that such an appeal stays the effectiveness of the permit until the appeal is resolved by agreement or order.

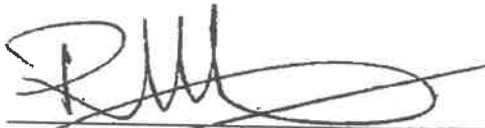


RWK Chairman

DC Planning Director

Read and passed on first reading at a regular meeting held this 17th day of November, 2011.

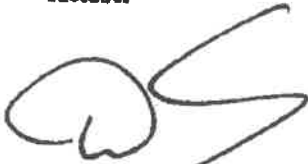
Authenticated by the Chairman of the Planning Board and the Planning Director.



Richard Klitenick, Chairman
Key West Planning Board

12/7/2011
Date

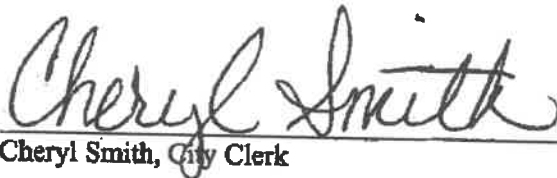
Attest:



Donald Leland Craig, AICP
Planning Director

12/7/11
Date

Filed with the Clerk:



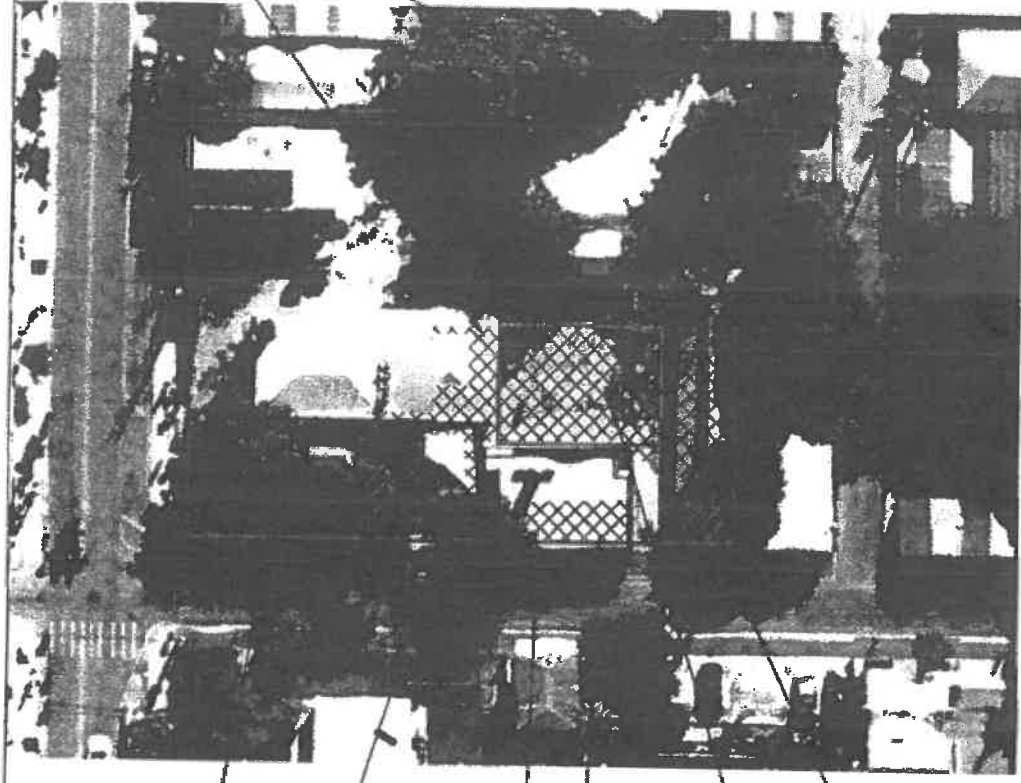
Cheryl Smith, City Clerk

12-7-11
Date



 Chairman
 Planning Director

RUK



Proposed Flexible Seating/Consumption Area

Site Boundary

Outdoor Commercial Activity Area

Outdoor Consumption Area Outside of Cistern Bar


Flexible Seating Area (Roof Top)

Proposed Indoor Consumption/Retail Area (Ground Floor)

Proposed Outdoor Consumption Area Brick Area

Proposed Indoor Consumption Area One Story Bldg

LEGEND

 CONSUMPTION AREA

CONSUMPTION AREAS:

PREVIOUS (ROOF DECK AND CISTERN BAR): 2,285 SF

PROPOSED:

COVERED PORCH: 281 SF

OUTDOOR BRICK AREA: 2,029 SF

INDOOR ONE-STORY BLDG: 765 SF

INDOOR TWO-STORY BLDG: 478 SF

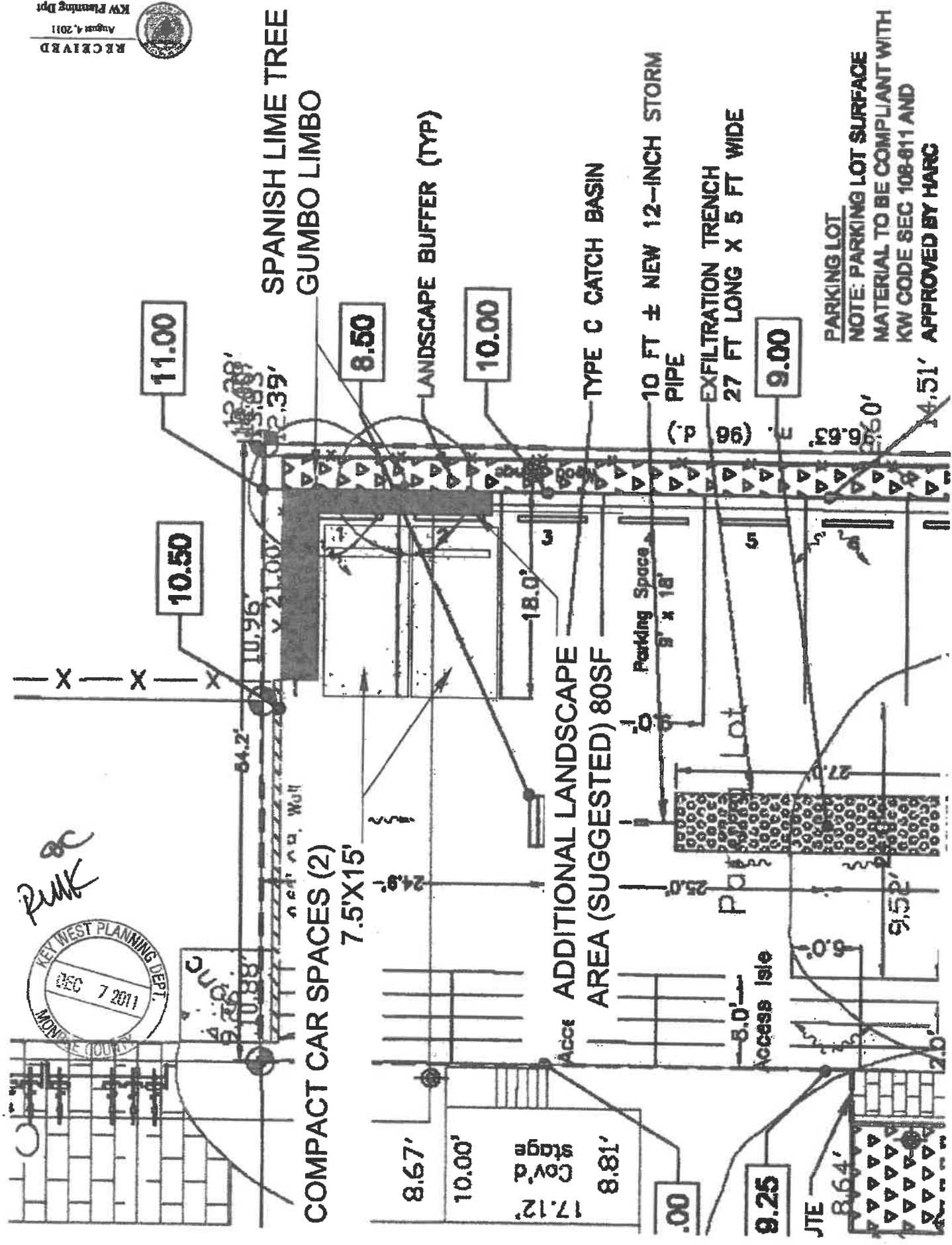
TOTAL PREVIOUS AND PROPOSED: 5,836 SF

BAHAMA VILLAGE MARKET

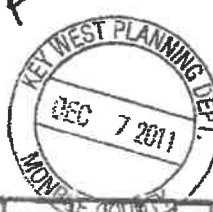
PROPOSED CONSUMPTION AREAS

SCALE: 1"=30' (11x17 paper)





PMK



PARKING LOT

NOTE: PARKING LOT SURFACE
MATERIAL TO BE COMPLIANT WITH
KW CODE SEC 108-811 AND
APPROVED BY HARC



THE CITY OF KEY WEST

Post Office Box 1409 Key West, FL 33041-1409 Phone 305/371-1111

To: Kevin Bond, AICP, LEED Green Associate, Acting Planning Director
Richard Klitenick, Esq., Planning Board Chairman
James Bouquet, PE, City Engineer

From: Carlene Smith, LEED Green Associate, Planner II

Date: March 17, 2015

RE: Minor Modification of Conditional Use Approval PB Res No. 2011-059
802-806 Whitehead Street (RE#: 00014010-000100, 00014020-000000)
318-324 Petronia Street (RE#: 00014010-000000)
809-811 Terry Lane (RE#: 00014050-000100, 00014060-000000)

Request

On February 17, 2015, the applicant requested a minor modification to the conditional use approval obtained via Planning Board Resolution No. 2011-059, in order to modify the site plan layout associated with the approved restaurant use. The approved site plan positioned the indoor and outdoor consumption area at the rear of the property adjacent to the residential neighborhood. The applicant is proposing to reduce the outdoor consumption area by 76 square feet and increase the indoor consumption area by 76 square feet, maintaining the same over all consumption area of 5,836 square feet. In order to accommodate this modification, the applicant is requesting to move the majority of the consumption area forward towards the more commercialized corner of Petronia and Whitehead Street and to the interior of the existing mixed use building at 802-804 Whitehead Street.

Code Applicability

The criteria for minor modifications of development plan is listed in Section 108-91.C.2 of the City Code:

Minor Modifications. The following and similar modifications must be approved by the city planner, city engineer and planning board chairperson and reported to the planning board at a regularly scheduled meeting:

- (a) Relocation of at least ten feet of pools, parking spaces, drives and driveways, or buildings from the location shown on the approved plan;
- (b) Addition of parking spaces not to exceed 25 percent (including fractions thereof) of the total number of existing parking spaces or five spaces, whichever is the lesser amount, and no such additional parking shall consume the approved landscaped area;
- (c) Attached or detached additions to buildings in the historic district that do not increase the floor area in excess of 500 square feet;
- (d) Installation of utility system improvements including buildings not exceeding 200 square feet; or

EXHIBIT

4

- (e) Any use, except single-family dwelling units and accessory structures thereto, or change in use resulting in less than 1,000 square feet of impervious surface area on the entire site.

The applicant is requesting review under Section 108-91.C.2(e).

Background

The applicant received conditional use approval for a restaurant via Planning Board Resolution No. 2011-059 (Attachment 1). City correspondence dated October 31, 2014, acknowledged that Planning Board Resolution No. 2011-059 was extended for an additional two years for a combined total of four years until the effective date of January 1, 2016 pursuant to House Bill 503 and 7023 (Attachment 2).

The conditional use approval for the 150 seat restaurant consisted of indoor and outdoor consumption area located on a commercial property along the Petronia Street Commercial Corridor in the Historic Neighborhood Commercial - Bahama Village (HNC-3) Zoning District. The approval is associated with the reconfiguration of an on-site parking lot. Thirteen conditions are associated with the approval. The applicant is not requesting any changes to the conditions.

Analysis

The applicant proposes to use the existing structures, facilities and utilities currently on the site. There are no changes to the dimensional requirements. The proposed modification would reduce the outdoor consumption area, as well as move both the indoor and outdoor consumption area further away from the adjacent residential neighborhood.

The mixed-use building at 802-804 Whitehead Street was included in the conditional use approval but only 281 square feet of outdoor consumption area was approved on a portion of the rear covered porch. This parcel is located in the HNC-3 and HMDR zoning districts. The covered porch located at the northeastern portion of two-story structure is in the HMDR Zoning District. Restaurant use is a prohibited use in the HMDR zoning district; therefore, no consumption area shall take place on the covered porch located at the northeastern portion of the two-story structure.

The applicant is proposing the following layout modification per site plan sheet C-1.4:

1. Remove the existing retail use on the first floor at 802-804 Whitehead Street and add 841 square feet of indoor consumption area on the first floor, 108 square feet of outdoor consumption area on a portion of the front porch and increase the outdoor consumption area from 281 square feet to 283 square feet. Three non-transient residential units will remain on the second floor.
2. The flexible outdoor seating area located at 318-324 Petronia Street would be reduced from 2,029 square feet to 328 square feet.
3. The outdoor consumption area located around the cistern bar would be reduced from 1,145 square feet to 1,078 square feet.
4. The applicant is proposing to move 1,591 square feet of outdoor consumption area to the existing outdoor commercial activity area located at the corner of Whitehead and Petronia Street.
5. All indoor consumption area would be removed from the one-story building located at the rear of the property.
6. Outdoor consumption area on the roof top of the one-story structure facing Petronia Street will remain the same.

Determination

This letter does not grant the expansion of consumption area, restaurant seats or retail use, but rather recognizes that the proposed modification to the conditional use approval per the proposed site plan signed

and sealed March 5, 2015 by Richard J. Milelli, Professional Engineer, would reconfigure both the indoor and outdoor consumption area further away from the adjacent residential neighborhood. The total amount of consumption area of 5,836 square feet and restaurant seating of 150 seats would remain unchanged. The reconfiguration of the on-site parking lot and the 13 conditions associated with the approval would not be modified.

Conditions of Administrative Approval

General condition:

1. No consumption area shall be allowed on the covered porch located at the northeastern portion of the two story structure at 802-804 Whitehead Street zoned HMDR as depicted on site plan sheet C-1.4.

Condition required to be completed prior to issuance of a building permit:

2. Life safety plan shall be submitted to the Fire Marshall's office for review.

Anyone who may wish to appeal any administrative decision may do so in accordance with Section 90-431 of the Land Development Regulations. Please do not hesitate to contact me at 305-809-3722 with any questions or comments that you may have.

Respectfully,



Carlene Smith, LEED Green Associate, Planner II

Attachments:

- 1 Site Plan Sheet C-1.4
- 2 Planning Board Resolution No. 2011-059
- 3 House Bill 503 and 7023 Extensions
- 4 Minor Modification of Conditional Use Approval Request

cc: Ron Wampler, Building Official
Larry Erskine, Chief Assistant City Attorney
Carolyn Walker, Licensing Official
Michael Turner, Utilities Collection Manager
Diane Nicklaus, Engineering Services
Scott Russell, C.F.A., Monroe County Property Appraiser


Kevin Bond, AICP, LEED Green Associate
Acting Planning Director

3/17/2015
Date


Richard Klitenick, Esq.,
Planning Board Chairman

3/17/2015
Date


James Bouquet, PE
City Engineer

3/17/2015
Date



THE CITY OF KEY WEST

Post Office Box 1409 Key West, FL 33040-1409 (Post Office 33040)

To: Kevin Bond, AICP, LEED Green Associate, Acting Planning Director
Richard Klitenick, Esq., Planning Board Chairman
James Bouquet, PE, City Engineer

From: Carlene Smith, LEED Green Associate, Planner II

Date: March 17, 2015

RE: Minor Modification of Conditional Use Approval PB Res No. 2011-059
802-806 Whitehead Street (RE#: 00014010-000100, 00014020-000000)
318-324 Petronia Street (RE#: 00014010-000000)
809-811 Terry Lane (RE#: 00014050-000100, 00014060-000000)

Request

On February 17, 2015, the applicant requested a minor modification to the conditional use approval obtained via Planning Board Resolution No. 2011-059, in order to modify the site plan layout associated with the approved restaurant use. The approved site plan positioned the indoor and outdoor consumption area at the rear of the property adjacent to the residential neighborhood. The applicant is proposing to reduce the outdoor consumption area by 76 square feet and increase the indoor consumption area by 76 square feet, maintaining the same over all consumption area of 5,836 square feet. In order to accommodate this modification, the applicant is requesting to move the majority of the consumption area forward towards the more commercialized corner of Petronia and Whitehead Street and to the interior of the existing mixed use building at 802-804 Whitehead Street.

Code Applicability

The criteria for minor modifications of development plan is listed in Section 108-91.C.2 of the City Code:

Minor Modifications. The following and similar modifications must be approved by the city planner, city engineer and planning board chairperson and reported to the planning board at a regularly scheduled meeting:

- (a) Relocation of at least ten feet of pools, parking spaces, drives and driveways, or buildings from the location shown on the approved plan;
- (b) Addition of parking spaces not to exceed 25 percent (including fractions thereof) of the total number of existing parking spaces or five spaces, whichever is the lesser amount, and no such additional parking shall consume the approved landscaped area;
- (c) Attached or detached additions to buildings in the historic district that do not increase the floor area in excess of 500 square feet;
- (d) Installation of utility system improvements including buildings not exceeding 200 square feet; or

EXHIBIT

4

- (e) Any use, except single-family dwelling units and accessory structures thereto, or change in use resulting in less than 1,000 square feet of impervious surface area on the entire site.

The applicant is requesting review under Section 108-91.C.2(e).

Background

The applicant received conditional use approval for a restaurant via Planning Board Resolution No. 2011-059 (Attachment 1). City correspondence dated October 31, 2014, acknowledged that Planning Board Resolution No. 2011-059 was extended for an additional two years for a combined total of four years until the effective date of January 1, 2016 pursuant to House Bill 503 and 7023 (Attachment 2).

The conditional use approval for the 150 seat restaurant consisted of indoor and outdoor consumption area located on a commercial property along the Petronia Street Commercial Corridor in the Historic Neighborhood Commercial - Bahama Village (HNC-3) Zoning District. The approval is associated with the reconfiguration of an on-site parking lot. Thirteen conditions are associated with the approval. The applicant is not requesting any changes to the conditions.

Analysis

The applicant proposes to use the existing structures, facilities and utilities currently on the site. There are no changes to the dimensional requirements. The proposed modification would reduce the outdoor consumption area, as well as move both the indoor and outdoor consumption area further away from the adjacent residential neighborhood.

The mixed-use building at 802-804 Whitehead Street was included in the conditional use approval but only 281 square feet of outdoor consumption area was approved on a portion of the rear covered porch. This parcel is located in the HNC-3 and HMDR zoning districts. The covered porch located at the northeastern portion of two-story structure is in the HMDR Zoning District. Restaurant use is a prohibited use in the HMDR zoning district; therefore, no consumption area shall take place on the covered porch located at the northeastern portion of the two-story structure.

The applicant is proposing the following layout modification per site plan sheet C-1.4:

1. Remove the existing retail use on the first floor at 802-804 Whitehead Street and add 841 square feet of indoor consumption area on the first floor, 108 square feet of outdoor consumption area on a portion of the front porch and increase the outdoor consumption area from 281 square feet to 283 square feet. Three non-transient residential units will remain on the second floor.
2. The flexible outdoor seating area located at 318-324 Petronia Street would be reduced from 2,029 square feet to 328 square feet.
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6. Outdoor consumption area on the roof top of the one-story structure facing Petronia Street will remain the same.

Determination

This letter does not grant the expansion of consumption area, restaurant seats or retail use, but rather recognizes that the proposed modification to the conditional use approval per the proposed site plan signed

and sealed March 5, 2015 by Richard J. Milelli, Professional Engineer, would reconfigure both the indoor and outdoor consumption area further away from the adjacent residential neighborhood. The total amount of consumption area of 5,836 square feet and restaurant seating of 150 seats would remain unchanged. The reconfiguration of the on-site parking lot and the 13 conditions associated with the approval would not be modified.

Conditions of Administrative Approval

General condition:

1. No consumption area shall be allowed on the covered porch located at the northeastern portion of the two story structure at 802-804 Whitehead Street zoned HMDR as depicted on site plan sheet C-1.4.

Condition required to be completed prior to issuance of a building permit:

2. Life safety plan shall be submitted to the Fire Marshall's office for review.

Anyone who may wish to appeal any administrative decision may do so in accordance with Section 90-431 of the Land Development Regulations. Please do not hesitate to contact me at 305-809-3722 with any questions or comments that you may have.

Respectfully,



Carlene Smith, LEED Green Associate, Planner II


Attachments:

- 1 Site Plan Sheet C-1.4
- 2 Planning Board Resolution No. 2011-059
- 3 House Bill 503 and 7023 Extensions
- 4 Minor Modification of Conditional Use Approval Request

cc: Ron Wampler, Building Official
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Kevin Bond, AICP, LEED Green Associate
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3/17/2015
Date


Richard Klitenick, Esq.,
Planning Board Chairman

3/17/2015
Date


James Bouquet, PE
City Engineer

3/17/2015
Date

**ADDENDUM AND SUPPLEMENTAL OPPOSITION¹ OF UNDERSIGNED NEIGHBORHOOD
RESIDENTIAL OWNERS TO APPLICATIONS FOR ZONING MAP AND FUTURE LAND USE
AMENDMENTS BY HISTORIC TOURS OF AMERICA, INC.**

Introduction

The Neighboring Property Owners file this Addendum to their prior Opposition submission filed on July 25, 2019. It supplements the Opposition based on recently obtained information and documents, including recent activities by the Owner (the "Applicant")² of RE#00014010-000000 (the "Property") filing the Applications to Amend Zoning and Future Zoning Map.³ This information materially impacts Planning Board Resolution Number 2011-059 the "Resolution",⁴ the Minor Modification, and the Applications.⁵ The Neighboring Property Owners also file herewith the Neighborhood Owner's Point by Point Responses to the Applicant's enumerated false allegations in the Applications that it meets all policies, conditions, and criteria for approval under Section 90-555 for the requested zoning map and future land use amendments.⁶ Sec. 122-93(b) places the burden squarely on the Applicant, stating in part:

“(b) Map amendment. Procedures for amendment of the official zoning map are as follows...**The property owner shall have the burden of proving that the rezoning proposal is consistent with the comprehensive plan and that it complies with all procedural requirements of the zoning ordinances.....**”.

1. Applicant has not Met the Conditions to Lawfully Operate Its Commercial activities on the Property. The Commercial Restaurant Use of the Property is a Prohibited Use.⁷

The Applicant has claimed the Future Zoning Map is in error. However as shown below the City erroneously issued an occupancy permit and annual licenses to the Applicant and its tenant(s)

¹ Defined terms used in the previously filed Neighborhood Homeowners' Opposition to Applications to Amend Zoning and Future Zoning Map for the Property RE#00014010-000000 (the "Applications") (the "Opposition") are used herein unless otherwise stated.

² The Applicant refers not only to the Property Owner of RE#00014010-000000 but also its predecessor owners of the property, tenants and agents with operations on the Property.

³ Since filing the Opposition Neighborhood Residential Owners discovered numerous documents and information and also activities of the Applicant that should be considered by the Board.

⁴ The Planning Board Resolution 2011-059 with its attachments are filed herewith as **Exhibit 1**. A copy of the Minor Modification and its attachments are filed herewith as **Exhibit 2**, including the site plan. The Minor Modification was issued and changed none of those requirements, except to move some seating and consumption area either inside or outside. The Resolution was identified as the "Restrictive Agreement" in the original Opposition filing.

⁵ This includes the November 17, 2011 Staff Report on the Applicant's original conditional use application leading to the Resolution (the "Staff Report"). A copy is filed herewith as **Exhibit 3**.

⁶ These responses are attached hereto as **Exhibit 4** and incorporated herein by this reference.

⁷ The information, position and arguments stated in this section are also incorporated into some of the Neighborhood Owner's point by point responses (**Exhibit 4**) by reference to the "Conditional Use Preconditions Position."

when they have never met the conditions precedent to their issuance under the zoning ordinance and Section 5 of the Resolution states:

“Conditions required prior to the issuance of a Certificate of Occupancy:”

* * *

“5. Completion of all improvements as depicted on the site plan.”

[The referenced site plan is attached to the Resolution and to the Minor Modification letter dated March 17, 2015 (the “Minor Modification”).]⁸

Section 3 of the Resolution states:

“3. Full, complete, and final application for all permits required for which this resolution is wholly or partly necessary, shall be submitted in its entirety within 12 months after the date hereof.

The Resolution was signed by the Board on December 7, 2011. The Applications identify the permits sought by the Applicant and issued by the City for the Property since 2008 as follows:

| | | | | | |
|-------------|------------|-----------|-----------|------------|--|
| 16-0435 | 2/22/2016 | | \$1,500 | Commercial | COMMERCIAL OCCUPANCY CHANGE FROM 40 SEAT RESTAURANT (AT 324 PETRONIA) TO 150 SEAT RESTAURANT (804 WHITEHEAD). CONNECT RETAIL SPACE TO CONSUMPTION AREA. |
| 15-4747 | 12/30/2015 | 2/27/2017 | \$600 | Commercial | REMOVAL OF TICKET BOOTH |
| 15-00002126 | 5/31/2015 | 2/23/2015 | \$1,800 | Commercial | REMOVE APPLIED FINISHES INCLUDING BROKEN BAR TO TILE. REMOVE ROTTEN TITLE AND STUCCO. REMOVE DAMAGED SHEETROCK BASE TRIM. N.O.C. EXEMPT. |
| 15-1690 | 5/9/2015 | 2/23/2016 | \$4,000 | Commercial | UNDERGROUND ROUGH AND TRIM OUT. 2ND FLOOR SINKS, 1ST FLOOR DRAIN, 3 HAND WASH SINKS, 1 DISHWASHER, 1 MOP SINK, 1 PLE. COMPARTMENT SINK, 1 UNDERGROUND GREASE TRAP AND 1 SMALL 20 6PM. GREASE TRAP EXP. |
| 15-0035 | 1/12/2015 | | \$50,000 | | REPAIR 100 SF OF SIDING AND PAINT BUILDING |
| 08-222 | 5/5/2008 | | \$320,000 | Commercial | INTERIOR AND EXTERIOR RENOVATION. |

As can be seen, no permits were applied for or issued to the Applicant within the required 12-month period to lawfully build out a 150 seat restaurant (The \$1,500 value of the work associated with the 2/22/16 entry is undoubtedly not a material construction permit and it has never been closed.)

⁸ The Site Plan requires a large buffer area of shrubbery and bicycle parking between Terry Lane and the approved site for the Applicant’s garbage/trash/recycling storage on the Property

The Resolution required the Applicant to apply for and obtain required permits within 12 months. The Applicant failed to do so. Thus, the Property has been in violation of the Resolution since at least 2013. To date it also appears no Fire Marshall Approval has been submitted by the Applicant for any of its commercial restaurant operations on the Property. Further, the updated Landscape Plan mandated by the Resolution has never been submitted.

The Applicant cannot demonstrate it complied with the site plan and other conditions approved by the Board in the Resolution with regard to trash/garbage/recycling/grease storage, because as the site plan and below and the Opposition establish the garbage area on the Terry Lane Parcel is not in accordance with the site plan. It is presently a Prohibited Use of that HDNR zoned parcel. The Resolution states:

“Conditions subject to a Conditional Approval Permit, per Ordinance 10-22. Conditions subject to an associated annual inspection:

2. The Parking lot shall be reconfigured and maintained to include two (2) compact car spaces in order to protect the root system of large trees on the site, six (6) standard vehicular spaces, one (1) handicap space, and forty (40) bicycle/scooter spaces on the lot.
3. The waste and recycling handling shall be screened from adjacent properties and public rights-of-way by appropriate fences, walls or landscaping in accordance with Code Section 108-279, and the area shall be enclosed on all four sides with a roof and doors for access.”

The above conditions can only be read in the context of the site plan which was part of the Resolution approved by the Planning Board. The HNC-3 District **does not allow a restaurant** as a permitted use as the District was contemplated as having only very limited and unobtrusive commercial activities. Completion of the site plan improvements (including waste and recycling handling location, landscaping, parking spaces, and other buffering, all in their exact site plan locations) were express preconditions of the Resolution for issuance of a Certificate of Occupancy required for the Applicant to operate as small restaurant on the property.

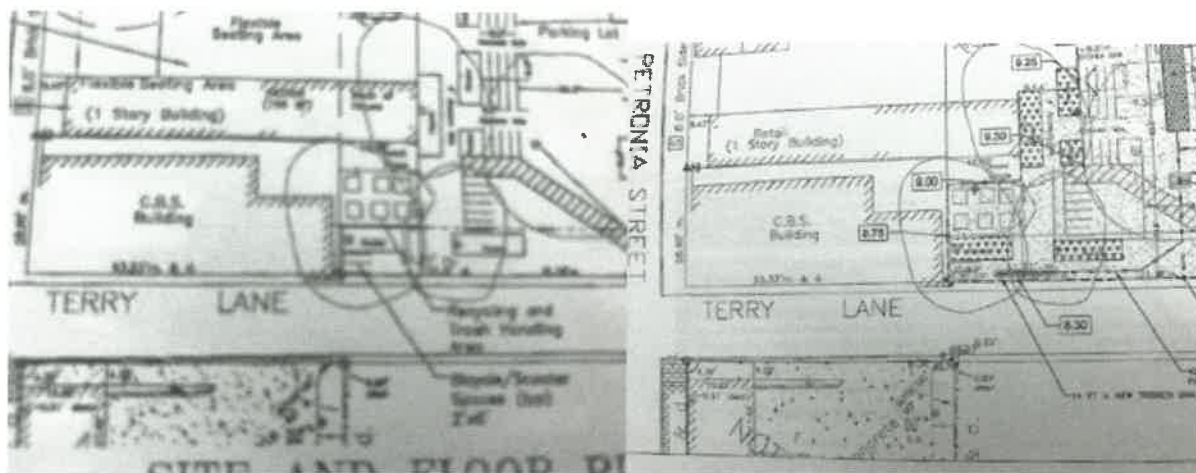
The Resolution became final in accordance with its express terms in accordance with Section 6 of the Resolution. Thereafter any changes to the Resolution required new Planning Board approval. A deviation from the Resolution without the Board’s approval amounts to a Prohibited Use of the Property. The Applicant should **never** have been issued a certificate of occupancy and licenses without having completed all projects in accordance with the site plan. The City’s Building and Licensing Departments cannot change the Conditions of the Resolution. Only this Board can, and it did not. The fact that the Applicant somehow was able to erroneously obtain a certificate of occupancy and licenses as well as conditional approval permits, does not change the fact that since the Applicant failed to comply with the necessary preconditions and conditions of the Resolution, **the entire commercial restaurant use of the Property is a Prohibited Use.** Any certificate of occupancy, licenses or permits that City Departments may have issued relating to the Property inconsistent with the approved site plan were issued in error and are thus, void.

2. The garbage, trash, recycling, grease storage (the “Garbage Storage”) on Terry Lane is a prohibited use.⁹

A. **Introduction.** Despite years of Applicant violations and neighborhood complaints, after the Opposition was filed with the Board last month, the Applicant attempted (albeit it appears, illegally) to address the Applicant’s Garbage Storage on Terry Lane. As shown in the picture, on August 5, 2019, the Applicant sent contractors to the Applicant’s Garbage Storage area bordering on Terry Lane to start illegally and without permits to build walls, a roof and doors over the unlawfully sited Garbage Storage location.



B. **Mandated Garbage Storage Location and Size.** The Resolution mandates the location of the Garbage Storage as a condition required prior to the issuance of a Certificate of Occupancy. A pertinent part of the site plan the Board approved in the Resolution is shown below.



The site plan clearly establishes the Garbage Storage must be located over 11 feet distance from Terry Lane—not on Terry Lane as the Applicant has been and is doing now. Garbage Storage for the conditional restaurant use is limited to that small area shown on the site plan that must be buffered by an approximately 12 feet by 15 feet bicycle parking/ and a shrubbery area on Parcel

⁹ The information, position and arguments stated in this section are also incorporated into some of the Neighborhood Owner’s point by point responses (**Exhibit 4**) by reference to the “Garbage Response.”

9 of the Property on Terry Lane. The Applicant unlawfully and materially expanded its Garbage Storage and located it directly on Terry Lane, unlawfully eliminating the mandated bicycle parking and a shrub area buffers **and** the space that must be open between the Garbage Storage and the 318 Petronia Street Building wall.

As established by pictures in the Opposition and below, in the Applicant's site drawings submitted with its Conditional Use application it materially understated the amounts of garbage and trash from its commercial restaurant operations. The Applicant's Garbage Storage consumes the entire area between Terry Lane and the 318 Petronia Street building. The Resolution only allows that **small** part of Parcel 9 for Garbage Storage under the very restrictive mandatory conditions in the Resolution. It is important to note that in **Exhibit 1** to the Site Plans attached by the Applicant to its July 14, 2015 application for a Minor Modification of Res. No. 2011-059, it attaches Resolution No. 90-96 and the approved site plan (Exhibits D and E to **Exhibit 1**) and Resolution No. 97-73 and its approved site plans (Exhibits F and G to **Exhibit 1** attached hereto). Both site plans with respect to the approved Garbage Storage area have the exact same trash garbage location, square footage and required buffering space as is found on the site plan approved by the Board in the Resolution. That establishes that since at least 1990, the Owner's present Garbage Storage location and size has been a Prohibited Use on Parcel 9. As seen by pictures in the Opposition and below, the enormity of the Applicant's Garbage Storage compared to what the Applicant showed on the site plan, demonstrate the Applicant's flagrant violation of the Resolution and the applicable zoning laws. It is also clear that the restaurant operations are not the type of small, unobtrusive and residential friendly restaurant contemplated within HNC-3 zoning district and certainly not in the HDMR residential district where the Property is located.

The Resolution also expressly requires surrounding a Garbage Storage walls, roof and door structure fully encompassing a small and properly sited Garbage Storage Area. It was never built, and the one-year requirement for permit applications is long over--ending December 7, 2012. The Garbage Storage conditions are an integral part of and precondition to the Property's Conditional Use restaurant operations approved by the Board. The unlawfully sited and much too large Garbage Storage materially violates the preconditions and conditions for restaurant operations on the Property and makes the bar/restaurant operations on the Property a Prohibited Use (not only of Parcel 9, but the entire Property).

That is only the tip of the iceberg as to the Applicant's Garbage violations of the Resolution. The Applicant has now presented a Waste Management letter in applying for the conditional use proposing pickups on Whitehead Street three times a week, which was not acceptable to the Board. General Conditions 12 of the Resolution mandates as a condition of the Property's use as a Restaurant that "All waste pickup shall be daily via Whitehead Street." Both the Applicant's past, present and proposed pickups are in violation of this Board's Resolution. After the Opposition was filed the Applicant began moving the Property's garbage/grease etc. pick up location from Terry Lane to Petronia Street. This recent action does not cure Applicant's violation of General Condition 12 of this Board's the Resolution..



3. **The 2011 Traffic – Parking Report Submitted by the Applicant is Founded on False Assumptions and Should Have Been and Should Be Disregarded.**¹⁰ In its original filing for the conditional use granted by this Board in 2011-059, the Applicant submitted a “Traffic Parking Report.”¹¹ On its surface the Traffic Parking Report appeared to be submitted in good faith, but further analysis reveals it was misleading and materially inaccurate.

Specifically, the Applicant’s Conditional Use application (also included in the Staff Report) was for “flexible, indoor/outdoor consumption area of 6,637 square feet to be located in the HNC-3 zoning district only.” The Traffic Parking Report admittedly ignores the applicable HNC-3 zoning standard for trip analysis, as it turns out, through fallacious reasoning and misapplication of applicable criteria. The Traffic Parking Report falsely argued that the traffic congestion and parking problems in the surrounding neighborhoods would decrease from conversion from the almost nonexistent commercial retail use to restaurant use, which the Staff Report accepted without comment. But, the Traffic Parking Report makes an admission in footnote 1 of the Report. (where the Report also admits ignoring the standard required for analyzing trip generation in HNC-3 zoning areas):

“The HNC-3 zoning district requires trip generation to be measured in terms of trips per 1,000 sq. ft. of gross leasable floor area per day. However, for restaurants and other establishments with significant outdoor activity area, the ITE indicates trip generation by floor area is an inaccurate measure of intensity, **due to the additional intensity associated with the non-floor area (i.e. outdoor) portions of the site.** To mitigate the potential inaccuracy, gross leasable area used, instead of just the gross leasable floor area, and includes indoor and outdoor activity, thereby incorporating the additional potential intensity of the outdoor (non-floor area) uses.” (Emphasis added.)

As noted in the Staff Report, in considering applications for conditional use, the prior zoning exceptions relative to restaurants allowed on the Property “a 40-seat restaurant with 2,285 square feet of consumption area...” (At page 3 of 12) Between December 7, 2011 (when the Resolution was signed by the Board) and March 17, 2015, when the staff granted the Minor Modification, the Property’s restaurant activities if any were relatively small, non-intensive and

¹⁰ The information, position and arguments stated in this section are also incorporated into some of the Neighborhood Owner’s point by point responses (**Exhibit 4**) by reference to the “Traffic Parking Report Response”

¹¹ A Copy is attached to the November 17, 2011 Staff Report filed herewith as **Exhibit 3**.

unobtrusive. The Minor Modification converted the almost nonexistent retail use of 802-804 Whitehead Street wholly to a bar/restaurant¹² use, seeking to increase the seating from 40 seats to 150 seats. Nearly all of the additional seating was situated outside the original structure. The building permit submitted by the Applicant after the Minor Modification identifies the only permit entry since the Minor Modification as:

"COMMERCIAL OCCUPANCY CHANGE FROM 40 SEAT RESTAURANT (AT 324 PETRONIA) TO 150 SEAT RESTAURANT (804 WHITEHEAD). CONNECT RETAIL SPACE TO CONSUMPTION AREA"

The Applicant still has not applied for nor been granted building permits for the major improvement changes necessary to pursue the Applicant's transition from a restaurant with 40 seats to 150 seats allowed conditionally in the Resolution, according to what the Applicant submitted with its current Applications and the Assessor's website.

Since the Minor Modification, the Applicant has operated the restaurant, including outdoors music, earlier and later than the hours allowed for in the Resolution. These increased hours have greatly increasing the trips, congestion and parking strain for the surrounding residential and commercial neighbors. On August 5, 2019, following the filing of the Opposition the Applicant changed the starting time to 9:00A.M. But this was after years of noncompliance with the Resolution. Given the Applicant's past operational violations of every one of the conditions in the Conditional Use, and despite neighboring property owner complaints, it smacks of it being a ploy while the Applicant's current Applications are under consideration.

A critical analysis of the Traffic Parking Report shows it only achieved trip numbers below 50 per 1,000 sq. ft. of leasable square feet by submitting results so materially deviating from reality that with hindsight the Report is seen to have been designed with the intent of arriving at inaccurately low trip numbers. The Traffic Parking Report's author's support for ignoring the HNC-3 required trip generation analysis was a claim it was done to "mitigate the potential inaccuracy" because the Applicant's proposed outdoor use is much more intense than inside use. But, the conditional use application was for "a restaurant with indoor and outdoor consumption area of 165¹³ seats on the proposed site." According to the Traffic Parking Report the "proposed site" is 6,637 square feet, but that is not consistent with the Board's Staff's finding in their Minor Modification letter stating the overall approved consumption area of the Conditional Use granted by the Board in Res. 2011-059 is only 5,836 square feet, which arguably should have been used.

The Applicant's Traffic Parking Report calculated the total proposed restaurant trips per day for 165 seats as shown in the Traffic Parking Report to be 471.9 restaurant trips per day. It then added to that total number of restaurant trips attributable to the Conditional use permitted 5,836 square feet of restaurant space (e.g., adding 139.13 additional trips per day attributed by the Traffic Parking Report to all non-restaurant uses of all parcels of the Property) for a total of 611.03 proposed trips per day.

¹² Given the Applicant's current commercial activities on the Property the Applicant's liquor/bar sales appear to materially exceed the Applicant's food sales defining it as a bar that serves food. That is not the HNC-3 conditional use contemplated in the HNC-3 Petronia Street corridor District.

¹³ Applicant's 165 seat request was reduced by the Board in the Resolution to 150 seats.

Using the required leasable restaurant square footage as required for an HNC-3 zoning district would use either 6,637 sq. ft. or 5,836 sq. ft. Without justification the Traffic Parking Report increases the square footage it uses 17,500 square feet to calculate trips by using all square footage of the Property (even the square footage where restaurant use is prohibited). This added an extra 10,863 sq. ft. to the divisor used in the Traffic Parking Report, even though the added 139.13 trips associated with this maneuver amounts to only 22% of the total trip generations.

If analyzed correctly, dividing just the restaurant trips the Traffic Parking Report claims to expect $(471.9^{14} \text{ restaurant trips per day} / (6,637 \text{ sq. ft.} = 1,000 \text{ sq. ft.} = 6.637) = 71.1014 \text{ trips per day}$ of traffic congestion and residential and commercial neighbors traffic and parking nightmares. If the maximum approved consumption space (5,836 sq. ft.) is used it shows more intensity (e.g., 73.50 Trips per day).¹⁵ The misleading Traffic Parking Report is the only reason the trips per day were lower in the report than 50 trips per day maximum. The 34.92 trips predicted in Traffic Parking Report came from watering down the true restaurant trips per day intensity by ignoring the required HNC-3 district formula for assessing trips per day. Had the Traffic Parking Report been on the level the Conditional Use request would have been DOA. Because of this the neighborhood's traffic congestion and parking situation has become a nightmare since 2016.

The parking analysis is even more specious because there was almost no commercial traffic generated by retail activities on the Property. The Bahama Market was a failure, and even the Applicant acknowledges it ended in the early 2000's. The few sporadic carts following that period hardly produced numbers used in the Report to claim there would be a reduction in traffic and parking needs in the area. Using the Traffic Parking Report the Applicant convinced the Board to eliminate most of the minimally required 17 on-site parking spaces the Staff Report concluded were needed for the requested Conditional Use increase to 150 seats.

The Applicant has since taken over many of those mandated parking spaces for garbage and other commercial uses. In all, since the Minor Modification, the increased trip intensity and Applicant's failure to provide the required parking spaces has increased use of the limited street parking available to the residential owners and legitimate HNC-3 commercial businesses along the Petronia Street corridor. This has caused the neighborhood residences and surrounding businesses to suffer from the increased traffic congestion far exceeding the number of maximum trips per day permitted in the HNC-3 District.

4. The Applications Would Perpetuate the Applicant's Prohibited Use of the Property.¹⁶ In the Application ("Amendment Analysis" at "(6)") the Application states "The

¹⁴ If 150 seats were substituted in the Report's calculation it would be $150 \times 2.86 = 429$ for weekdays.

¹⁵ $(429 \text{ restaurant trips per day} / (6,637 \text{ sq. ft.} = 1,000 \text{ sq. ft.} = 6.637) = 64.63 \text{ trips per day}$ —still over the maximum permissible for HNC-3. If the real leasable consumption space of 5,836 sq. ft. was used with the lower 150 seats the it would be 73.50 trips per day.

¹⁶ The information, position and arguments stated in this section are also incorporated into some of the Neighborhood Owner's point by point responses (**Exhibit 4**) by reference to the "Prohibited Use Response."

HNC zoning district is intended to accommodate both residential and neighborhood uses typically located along thoroughfares such as Whitehead Street.” But, none of the Property is “HNC.” The Property contains only HNC-3 parcels and HMDR parcels. The Applicant is not attempting to get general HNC zoning, but rather the specific HNC-3 zoning, which is the most limited and restrictive of the HNC-1, HNC-2, and HNC-3 districts. Sec. 122-866, states:

Sec. 122-866. - Intent. The historic neighborhood commercial district (HNC-3) consists of the Bahama Village commercial core. The HNC-3 Bahama Village commercial core district includes the Bahama Village neighborhood commercial core along Petronia Street, approximately 200 feet southwest of Duval Street, and extends southwestward to the rear property lines of lots abutting the southwest side of Emma Street. The village area is a redevelopment area, including a commercial center linked to Duval Street. Consistent with the comprehensive plan, **development in the district shall be directed toward maintaining and/or revitalizing existing housing structures, preventing displacement of residents, and compliance with concurrency management.** (Emphasis Added).

As seen above and below the Applications are not consistent with the comprehensive plan. In the Staff Report is noted as to the HMDR parcels 7 and 9 that are the focus of the Applications, “the plan and physical design at best support outdoor retail use in the HMDR zoned area, and it does not appear that restaurant or outdoor entertainment uses can be substantiated in this area.” Page 3 of 12 of Staff Report. Notably, staff concludes in the Minor Modification, “The covered porch located at the northeastern portion of the two-story structure is in the HMDR Zoning District. Restaurant use is a prohibited use in the HMDR zoning districts; therefore, no consumption area shall take place on the covered porch located at the northeastern portion of the two-story structure.”

The Staff Report also notes, “In 2006 the site was approved for residential development via Resolution 06-045, that has subsequently been extended to date, but has not been implemented...” The Applicant cannot claim an error as to HMDR zoning of parcels 7 and 9 of the Property, when the Applicant sought, received and extended residential development approvals for the Property. The 75 foot building built at 318 Petronia Street after July 3, 1997, as it extends onto the Terry Lane Parcel (Parcel 9), was vacant for much more time than provided for in the zoning ordinance for a lapse to occur from its abandoned commercial use, rendering any future commercial use a prohibited use

Before the New Zoning Map went into effect Parcels 7 and 9 were HP-3. However, the City decided to be more protective of historically residential areas and limit the new HNC-3 zoning district both in size and permitted uses. Restaurants would no longer be a permitted use in the HNC-3 District, and HNC-3 was intended to be narrowly limited to the Petronia Street Corridor and then only with severe restrictions on their operations to protect the largely residential areas through which the Petronia Street Corridor runs. That includes the very restrictive HNC-3 50 trips per 1,000Sq Ft of leasable area mandate, as the restaurants contemplated were to be small. Parcels 7 and 9 of the Property were intentionally excluded from HNC-3 because they were not within the Petronia Street Corridor and were historically residential.

The Applicant claims throughout the Applications that the current HMDR zoning of Parcels 7 and 9 of the Property is an “error.” That assertion is flatly not true. In 1990 the Applicant sought a Special Exception to HP-3, Light Commercial Historic Preservation District, to “install approximately 15 food and craft booths along Petronia Street between Whitehead Street and Terry Lane.” That special exception was for what is now the HNC-3 part of the Property, with that exception to be reviewed in one year. By granting that use only along Petronia Street, none of that use applied to parcels that are presently zoned HMDR. A copy of Resolution 90-96 is attached to the Applicant’s Minor Modification. Then, shortly before the effective date of the New Zoning Map, the Applicant¹⁷ applied for a special exception to HP-3, Light Commercial Historic Preservation District on three lots that the Ordinance expressly mentioned as being “three lots with a future land use designation of HMDR.” It was granted in Resolution No. 97-73, allowing small scale commercial use (Retail Sales/Restaurant/Parking) in accordance with the site plan attached to Resolution No. 97-73. The Applicant built a very small part of an open air market building at 318 Petronia Street extending into a small part of the Terry Lane Parcel; the Applicant otherwise neither permitted nor built anything else commercially on Parcels 7 and 9 of the Property or on 809 and 811 Terry Lane. The approved site plan only permitted “Outdoor Commercial Activity Area” on Parcel 7. Even in 2011 the use was so sporadic that the Staff Report noted,

“Therefore, although the approved development contemplated non-conforming uses in the HMDR zoning district, those uses may be limited and cannot be expanded or otherwise reconsidered without an application for a change of non-conforming use.

The Staff Report notes that a Master Plan, as required by Resolution 97-72, was never approved. Despite all the prior development plan resolutions the Staff Report concludes that “Although planning site visits and analysis indicate that while the outdoor consumption and music venues may have existed, the plan and physical design at best support outdoor retail use in the HMDR zoned area, **it does not appear that restaurant or outdoor entertainment uses can be substantiated in this area.**” (Emphasis added.)

In 2010 and 2011 there were still a few carts on Parcel 7, but those dwindled down to nothing. Subsequent to those reports in 2010 and 2011, the occasional and minimal commercial use on the HMDR/HR Parcel 7 of the Property was abandoned. It has since been abandoned as to both Parcels 7 and 9 of the Property. This in large part was because (1) outdoor vendors were almost always in the outdoor marketplace portions of the HNC3 zoning district. The staff report noted the other two structures on the HNC-3 zoned district had been out of business since 2005. Again, the Staff Report comment” In 2006 the site was approved for residential development via Resolution 06-045, that has subsequently been extended to date, but has never been implemented...” underscores that the Property was never intended to be zoned HNC-3 either before or after the Future Zoning Map was adopted.

¹⁷ The beneficial owner of the Property has apparently remained the same through a number of corporate/LLCs owning the Property and surrounding parcels through the years and that beneficial owner is throughout referred to as the Applicant, since the restrictions and rights at issue generally run with the Land with a few exceptions.

Light commercial use on Parcels 7 and 9 of the Property, if ever and to the extent covered by Resolution No. 97-73, was discontinued and abandoned, reverting completely to HDMR under **Sec. 58-64. - Nonconforming lots, nonconforming uses and nonconforming structures.** Subparagraph (d)(6), which states:

(6) When a nonconforming use of land or a structure or land and structure in combination is discontinued for three consecutive months (except when governmental action impedes access to the premises), the land or structure or land and structure in combination shall not thereafter be used except in conformity with the regulations of the district in which it is located. If a nonconforming use is discontinued or abandoned on a portion of the land or structure for three consecutive months, that portion of the land or structure shall not thereafter be used except in conformity with the regulations of the district in which it is located. Land or structures shall not be deemed to be active and in continued nonconforming usage solely from the existence of a state license or local business tax receipt permitting such a use or business, but such use or business must be actively undertaken, staffed and in operation, unless other facts show legally sufficient activity, for such use or business to be deemed in active continued nonconforming usage.

The lapse of the nonconforming commercial use of Parcels 7 and 9 is confirmed in the Minor Modification, since extending the commercial use to Parcels 7 and 9 under the Resolution was noted in the Minor Modification as a prohibited use. Had this Board intended to zone Parcels 7 and 9 of the Property HNC-3 it would have done so. The Applicant could have sought such a change before the Future Zoning Map was finalized more than twenty years ago. But, the Applicant did not and as intended Parcels 7 and 9 were zoned HDMR/HR and the Applicant was subject to the intent and letter of the new Future Zoning Map and could use Parcels 7 and 9 only in accordance with its terms. Resolution No. 97-73 was not intended to allow a restaurant or shops in the future HDMR parcels, as the outdoor consumption areas being approved were all on the soon to be HNC-3 parcels, and only Parcel 9 of the Property was permitted to have “outdoor Commercial Activity” on the site map --not outdoor/indoor consumption areas.

Below is the 318 Petronia Street property and a site plan showing part of its back extending into the Terry Lane Parcel (Parcel 9).



318 Petronia was vacant and for years not used as a commercial use. Therefore its portion on the Terry Lane Parcel reverted to the HDMR zoning district, or certainly at least that part of Parcel 9 on which the rear part of the building is not physically situated.

Most of the Applicant's parcels either in or adjacent to the Property are HMDR. The Applicant's Conditional Use application made in 2011 at that time included 318, 320, 322, 324 Petronia Street (RE#0001410-000000-land square footage 4,489 SF zoned HNC-3); 802 and 804 Whitehead (RE#0001410-000100)(combined square footage 5,782 SF) (HNC-3) 806 Whitehead RE# 00014020-000000(square footage 6,190 SF and zoned HDMR)-identified as vacant property by assessor and includes the Terry Lane Parcel) and 809 Terry Lane RE#1014050-000000(3,024 SF-HMDR Zoning); and 811 Terry Lane RE#00014060-0000009 (1,984.37 SF-Zoned HDMR). The HDMR Square Footage of that Property in the 2011-059 Conditional Use was about 11,198.37 SF of the 21,520 square foot, with the HNC-3 zoned property Square Footage being only 10,271 square foot.

We, the undersigned neighboring property owners affected by the Applications, respectfully request the Board to deny the Applications for Zoning Map and Future Land Use Amendments by Historic Tours of America, Inc.

Signed August 8, 2019 by:



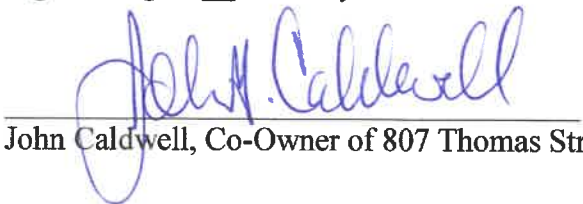
Nancy A. Paulic 2015 Revocable Trust, Owner of 812 Terry Lane
Nancy Paulic, Trustee

Signed August 8, 2019 by:



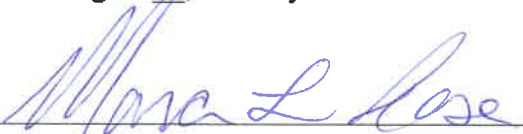
Jeff Dunaway, Co-Owner of 807 Thomas Street

Signed August 8, 2019 by:

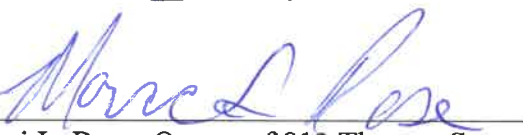


John Caldwell, Co-Owner of 807 Thomas Street

Signed August 8, 2019 by:


Marci L. Rose, Owner of 810 Thomas Street

Signed August 8, 2019 by:


Marci L. Rose, Owner of 812 Thomas Street

Signed August 8, 2019 by:

A handwritten signature in blue ink, reading "Mark E. Furlane", written over a horizontal line.


Mark E. Furlane, Co-Owner of 819 Terry Lane

Signed August 8, 2019 by:

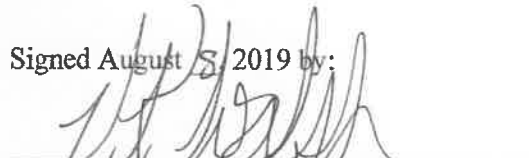
A handwritten signature in blue ink, reading "Susan M. Keegan", written over a horizontal line.

Susan M. Keegan, Co-Owner of 819 Terry Lane

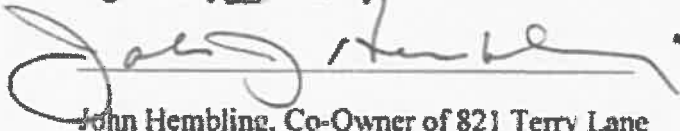
Signed August 8, 2019 by:


Bob Walsh, Co-Owner of 810 Terry Lane

Signed August 8, 2019 by:

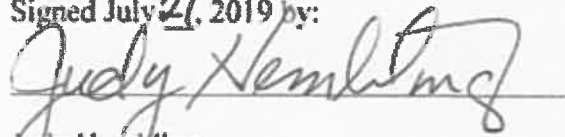

Vicki Walsh, Co-Owner of 810 Terry Lane

Signed July 21, 2019 by:

A handwritten signature in dark ink, appearing to read "John Hembling", written over a horizontal line.

John Hembling, Co-Owner of 821 Terry Lane

Signed July 21, 2019 by:

A handwritten signature in dark ink, appearing to read "Judy Hembling", written over a horizontal line.

Judy Hembling

Co-Owner of 821 Terry Lane

July 14, 2015

Mr. Thaddeus Cohen, Planning Director
City of Key West
3134 Flagler Avenue
Key West, FL 33040

**RE: Minor Modification Request (Res No. 2011-059)
Bahama Village Market**

802-804 Whitehead Street (RE#: 00014010-000100)
806 Whitehead Street (RE#: 00014020-000000)
318-324 Petronia Street (RE#: 00014010-000000)
809-811 Terry Lane (RE#: 00014050-000100, 00014060-000000)

TREPANIER



ASSOCIATES INC
LAND USE PLANNING
DEVELOPMENT CONSULTANTS

Dear Director Cohen:

We are requesting a Minor Modification to Res. 2011-059¹. We seek to modify the existing approved site plan² to consolidate existing approved outdoor commercial square footage on Parcel A (RE No. 00014020-000000) within a 491 sq. ft. historically-appropriate one-story commercial/retail structure as depicted on the attached proposed site plan³.

Historical approvals for this site (see Land Use Approvals chart below) include Resolution 90-96⁴ granting a special exception to allow approximately 15 (8' x 8') food and crafts booths on Parcel A⁵ and Resolution 97-73⁶ to allow small-scale⁷ commercial use (retail sales/restaurant/parking) on Parcels A, B, C, D & E⁸.

On March 17, 2015, the City approved a minor modification to Res. 2011-059 where indoor and outdoor consumption areas were relocated on the property. The existing uses currently utilize only 765 sq. ft. of the 2,553 sq. ft. of previously approved retail space on the property.

Due to the various RE#'s attached to this property, the chart below provides the RE# and its associated address.

| RE # | Address | Survey Parcel ID |
|-----------------|--|------------------|
| 00014010-000100 | 802-804 Whitehead St | Parcel B & E |
| 00014010-000000 | 318 Petronia St. 320 Petronia St. 322 Petronia St. 324 Petronia St. | Parcel C |
| 00014020-000000 | 806 Whitehead St. | Parcel A & D |
| 00014050-000000 | 809 Terry Ln. | Parcel I |
| 00014060-000000 | 811 Terry Ln. | Parcel H |

¹ Attachment A

² Attachment B

³ Attachment C

⁴ Attachment D

⁵ Attachment E

⁶ Attachment F

⁷ Sec. 122-1112(b) Low and medium intensities 2,500 sq. ft.

⁸ Attachment G

EXHIBIT

1

| Land Use Approvals | | | | | | |
|---|---|--|----------------------------------|--------------------|--------|--|
| Resolution | RE# | Address | Survey Parcel ID | Type | Sq.Ft. | Permitted |
| Res. 90-96 | No RE# provided, (Legal description corresponds to RE# 00014020-000000 at 806 Whitehead St) | 320-324 Petronia St (806 Whitehead) | Parcel A | Special Exception | 960 | Installation of approx. 15 food/craft booths |
| Res. 97-73 | 00014010-000000 00014010-000100 00014020-000000 00014050-000000 00014060-000000 | 804 Whitehead, 809, 811 Terry Lane | Parcel A & D, B & E, C & F, H, I | Special Exception | 15,943 | Small-scale commercial use (retail sales/ restaurant/ parking) |
| Res. 98-94, Res. 98-95, Res. 98-96, Res. 98-97, Res. 98-98, Res. 98-99 | | 804 Whitehead | Parcel B & E | Special Exception | ~384 | Allowed for outdoor display of merchandise |
| Res. 2011-059 | 00014010-000000 00014010-000100 00014020-000000 00014050-000000 00014060-000000 | 802-804 Whitehead St. 806 Whitehead St. 318-324 Petronia St. 809-811 Terry Ln | Parcel A & D, B & E, C & F, H, I | Conditional Use | 15,943 | Restaurant with 150 seats max |
| Minor Modification | 00014010-000000 00014010-000100 00014020-000000 00014050-000000 00014060-000000 | 802-804 Whitehead St. 806 Whitehead St. 318-324 Petronia St. 809-811 Terry Ln | Parcel A & D, B & E, C & F, H, I | Minor Modification | 765 | Relocation of existing approved consumption and commercial/retail area |

Based on the above information, we respectfully request a Minor Modification to Res. 2011-059⁹ to consolidate existing approved outdoor commercial square footage on Parcel A (RE No. 00014020-000000) within a 491 sq. ft. historically-appropriate one-story commercial/retail structure as depicted on the attached proposed site plan¹⁰.

Thank you in advance for your consideration.

Best Regards,


Lori Thompson

⁹ Attachment A

¹⁰ Attachment C

Exhibit A

PLANNING BOARD RESOLUTION NUMBER 2011-059

A RESOLUTION OF THE KEY WEST PLANNING BOARD GRANTING A CONDITIONAL USE APPROVAL PER SECTION 122-62 AND 122-63 OF THE CODE OF ORDINANCES FOR A RESTAURANT WITH 150 SEATS MAXIMUM TO BE LOCATED AT 802 - 806 WHITEHEAD STREET (RE# 00014010-000100 AND 00014020-000000) AND 318 - 324 PETRONIA STREET (RE# 00014010-000000) AND 809 - 811 TERRY LANE (RE# 00014050-000000, 00014060-000000) IN THE HISTORIC NEIGHBORHOOD COMMERCIAL-BAHAMA VILLAGE COMMERCIAL CORE (HNC-3) ZONING DISTRICT, PURSUANT TO SECTION 122-868(9) OF THE CODE OF ORDINANCES, KEY WEST FLORIDA; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the subject property is located in the Historic Neighborhood Commercial-Bahama Village Commercial Core (HNC-3) zoning district; and

WHEREAS, Section 122-868(9) of the Code of Ordinances provides that restaurants are allowed as a conditional use within the Historic Neighborhood Commercial- Bahama Village Commercial Core (HNC-3) zoning district; and

WHEREAS, Section 122-61 of the Code of Ordinances allows applicants to request a conditional use approval; and

Page 1 of 9
Resolution Number 2011 - 059



 Chairman
 Planning Director

Exhibit A

WHEREAS, the applicant filed a conditional use application for a restaurant not to exceed maximum of 150 seats, with 6,637 square feet of flexible indoor/outdoor consumption area at 802 - 806 Whitehead Street (RE# 00014010-000100 and 00014020-000000) and 318 - 324 Petronia Street (RE# 00014010-000000); and

WHEREAS, the associated with the Conditional Use request, the applicant is required to bring the parking lot located at 809 - 811 Terry Lane (RE# 00014050-000000 and 00014060-000000) into compliance with dimensional requirements, landscaping and drainage; and

WHEREAS, the parking lot shall be reconfigured to include two (2) compact car spaces in order to protect the root system of large trees on the site, six (6) standard vehicular spaces, one (1) handicap space, and forty (40) scooter/bicycle spaces on the lot; and

WHEREAS, Section 122-62 outlines the criteria for reviewing a conditional use application by the Planning Board; and

WHEREAS, this matter came before the Planning Board at a duly noticed public hearing on November 17, 2011; and

WHEREAS, the Planning Board found that the proposed use complies with the criteria in Section 122-62; and



 Chairman
 Planning Director

Exhibit A

WHEREAS, the approval of the conditional use application will be in harmony with the general purpose and intent of the Land Development Regulations, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare; and

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

Section 1. That the above recitals are incorporated by reference as fully set forth herein.

Section 2. That the request for a Conditional Use approval per Section 122-62 and 122-63 of the Code of Ordinances for a restaurant for up to 150 seats maximum and 6,637 square feet of flexible consumption area to be located at 802 - 806 Whitehead Street (RE# 00014010-000100 and 00014020-000000) and 318 - 324 Petronia Street (RE# 00014010-000000) and the reconfiguration of the parking lot at 809 - 811 Terry Lane (RE# 00014050-000000 and 00014060-000000) to meet Code requirements, landscaping and drainage, and to accommodate two (2) compact car spaces in order to protect the root system of large trees on the site, six (6) standard vehicular spaces, one (1) handicap space, and forty (40) scooter/bicycle parking spaces for property located in the Historic Neighborhood Commercial- Bahama Village Commercial Core (HNC-3) zoning district, pursuant to section 122-868(9) of the Code of Ordinances, Key West, Florida; providing for an effective date, as shown in the attached site plans dated November 1, 2011 with the following conditions:

Page 3 of 9
Resolution Number 2011 - 059



 Chairman

 Planning Director

Exhibit A

Conditions subject to a Conditional Approval Permit, per Ordinance 10-22. Conditions subject to an associated annual inspection:

1. Approval is limited to no more than 150 seats. At no time does the request for 6,637 square feet of consumption area allow the applicant to increase seating on the site without conditional use review.
2. The parking lot shall be reconfigured and maintained to include two (2) compact car spaces in order to protect the root system of large trees on the site, six (6) standard vehicular spaces, one (1) handicap space, and forty (40) bicycle/scooter spaces on the lot.
3. The waste and recycling handling shall be screened from adjacent properties and public rights-of-way by appropriate fences, walls or landscaping in accordance with Code Section 108-279, and the area shall be enclosed on all four sides with a roof and doors for access.
4. The applicant will install and maintain a programmable distributive sound system to assure compliance with the "unreasonable noise" definition of Section 26-191 of the Code of Ordinances, and shall include a computerized sound monitoring system with real time monitoring access is provided to the City. The applicant expressly agrees to provide the City's agents unfettered access to the computer-generated reports and full, real-time web-based access to the digital monitoring of on-site acoustics for the purpose of assuring compliance with the conditions contained herein.

Page 4 of 9
Resolution Number 2011 - 059



 Chairman
 Planning Director

Exhibit A

Conditions required prior to the issuance of a Certificate of Occupancy:

5. Completion of all improvements as depicted on the site plan.
6. The applicant will install and maintain a programmable distributive sound system to assure compliance with the "unreasonable noise" definition of Section 26-191 of the Code of Ordinances, and shall include a computerized sound monitoring system with real time monitoring access is provided to the City.
7. The applicant shall revise and resubmit a signed and sealed Landscape Plan that reflects the modified site plan dated November 1, 2011 and Civil Plan Dated November 9, 2011.

General conditions:

8. No outdoor music of any kind is allowed after the hours of 10pm unless approved under a special event permit per Section 6-86 of the City Code or for a special city-sanctioned event within the Petronia Street Commercial Corridor. Amplified music will be regulated by the "unreasonable noise" definition of Section 26-191 of the Code of Ordinances.
9. Recycling of applicable materials is required.
10. Hours of operation are limited from 9am to 11pm daily except during special city sanctioned events such as Fantasy Fest and Goombay.
11. Service vehicles are prohibited from using Petronia Street and Terry Lane and the Terry Lane parking lot for deliveries.
12. All waste pickup shall be daily via Whitehead Street.



RWK Chairman
QC Planning Director

Exhibit A

13. In an effort to increase employment opportunities for residents of the Bahama Village Community Redevelopment Area ("BVCRA") the restaurant operator will make a good faith effort to employ a minimum of 25% of the restaurant workforce from qualified residents of the BVCRA.

"Good faith effort" means all employment opportunities will be advertised and posted in places frequented by residents of the BVCRA, such as the District 6 Commissioner's office, the Douglas Community Center, the Nutrition Center, the Martin Luther King swimming pool, neighborhood churches, neighborhood fraternal organizations, grocery stores, etc.

In the event the property owner is not the operator of the restaurant, the restaurant operator shall submit to the property owner proof of compliance with the employment requirement, on a quarterly basis. The property owner shall, in turn, provide the proof of compliance to the City of Key West, upon request. If the property owner operates the restaurant, in the event that this requirement is not complied with for any reason, the property owner shall tender to the BVCRA the amount of \$750 for each month the requirement is not met to be used to further employment programs within the Bahama Village Community.

In the event the property owner is not the operator of the restaurant, any lease, management agreement, or other document utilized to transfer operation of the restaurant shall include the provisions above along with a provision that the operator's rent will increase in the amount of \$750.00 per month for each month the

 Chairman
 Planning Director



Exhibit A

requirement is not met. The property owner will in turn pay this increased amount to the BVCRA to be used to further employment programs within the Bahama Village Community Redevelopment Area. The property owner's failure to insist upon, collect, and transfer the increased amount to the City of Key West shall constitute a breach of this condition.

This requirement shall run with the conditional use and remain in place from owner to owner, Lessee to Lessee and Lessor to Lessor.

Section 3. Full, complete, and final application for all permits required for which this resolution is wholly or partly necessary, shall be submitted in its entirety within 12 months after the date hereof.

Section 4. This conditional use approval does not constitute a finding as to ownership or right to possession of the property, and assumes, without finding, the correctness of applicant's assertion of legal authority respecting the property.

Section 5. This resolution shall go into effect immediately upon its passage and adoption and authentication by the signatures of the presiding officer and the Clerk of the Commission.

Section 6. This resolution is subject to appeal periods as provided by the City of Key West Code of Ordinances (including the Land Development Regulations). After the City appeal period has

Page 7 of 9
Resolution Number 2011 - 059



 Chairman
 Planning Director

Exhibit A

expired, this permit or development order will be rendered to the Florida Department of Community Affairs. Pursuant to Chapter 9J-1, F.A.C., this permit or development order is not effective for forty five (45) days after it has been properly rendered to the DCA with all exhibits and applications attached to or incorporated by reference in this approval; that within the forty five (45) day review period the DCA can appeal the permit or development order to the Florida Land and Water Adjudicatory Commission; and that such an appeal stays the effectiveness of the permit until the appeal is resolved by agreement or order.

Page 8 of 9
Resolution Number 2011 - 059



RWK Chairman

DC Planning Director

Exhibit A

Read and passed on first reading at a regular meeting held this 17th day of November, 2011.

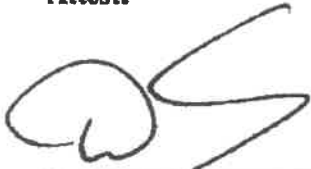
Authenticated by the Chairman of the Planning Board and the Planning Director.



Richard Klitenick, Chairman
Key West Planning Board

12/7/2011
Date

Attest:



Donald Leland Craig, AICP
Planning Director

12/7/11
Date

Filed with the Clerk:



Cheryl Smith, City Clerk

12-7-11
Date



 Chairman
 Planning Director

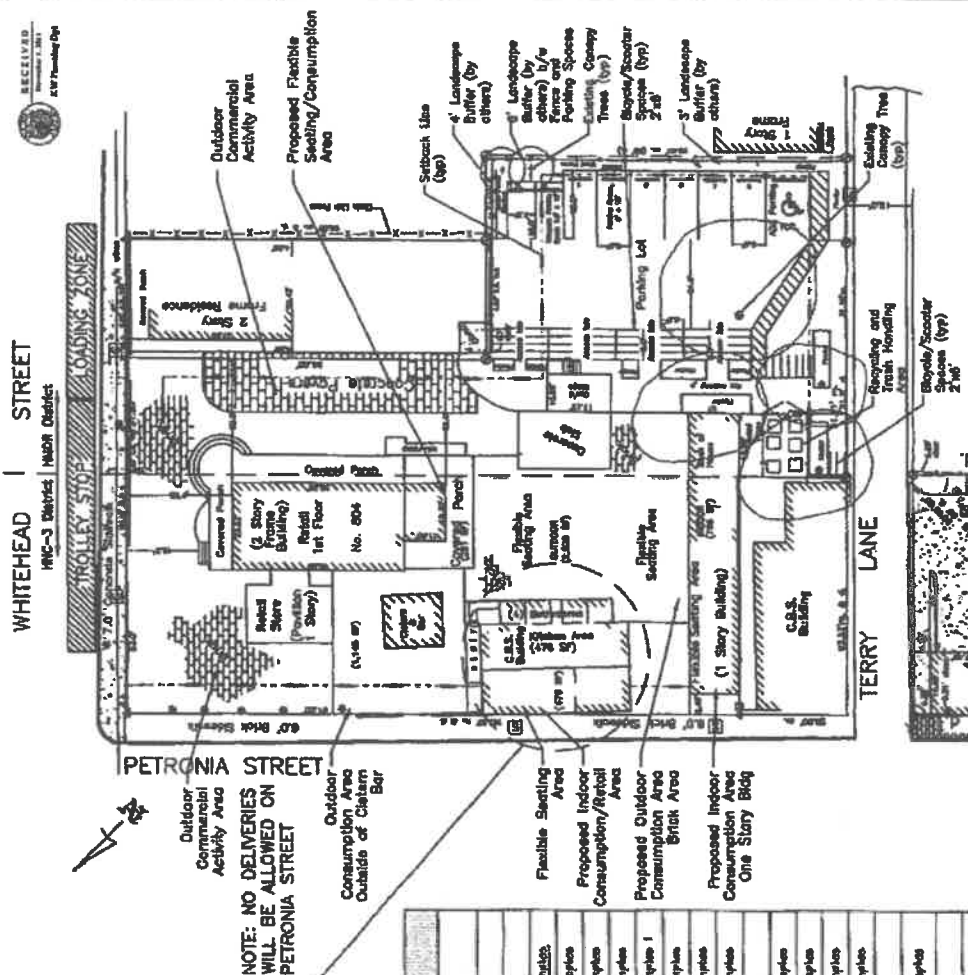
2nd Story Seeding Area
(1,140 SF)

SCALE: 1"=30'

SCALE: 1"=30'

| SITE DATA | | | | |
|--|----------------------------|-----------------------|--------------------------------|----------------------|
| 0000 4000-0000000; 0001 4000-0000000; 0001 4000-0000000; 0001 4010-0000000; 0001 4010-0001000 NMDR (1 to 154 sq. ft.) and NMC-B (10,566 sq. ft.) ZONE: V MAP 1 80097C-15 1G | | | | |
| Address | Existing NMDR and NMC-B | Proposed No Change | Reasons/Permitted No Change | Comments Complete |
| Zoning Designation | | No Change | No Change | Complete |
| Parcel Zone | | No Change | No Change | Complete |
| Zone | | No Change | No Change | Complete |
| Site Size (sq. ft.) | 21,500 | No Change | 4,000 | Complete |
| Building Coverage (sq. ft.) | 4,277 | No Change | 6,000 (40%) | Complete |
| Impervious Surface (sq. ft.) | 20,216 (95.4%) | No Change | No Change | Complete 1 |
| Open Space Ratio (sq. ft.) | 804 (4.2%) | No Change | 4,804 (20%) | Complete |
| FAIR | 0.26 | No Change | 1.0 | Complete |
| Realt. Space (sq. ft.) | 5,595 | 2,555 | 15,843 | Complete |
| Companion Area | | | | |
| Indoor (sq. ft.) | | 1,241 | | Complete |
| Outdoor (sq. ft.) | 2,205 | 4,595 | | Complete |
| Restaurant Seats | 45 | 163 | | Complete |
| Parking Spaces | 17 | 19 ^a | 17 | Complete |
| Accommodate | | 40 | | |
| Amusement Units | 8-Shoots | 3-Shoots | 10 | Complete |
| Bottlecks | | | | |
| Front | 16'-375'-0" | 16'-270'-0" | 0'-0"110'-0" | Complete |
| Side | 5'-075'-0" | 16'-974'-0" | 7'-675'-0" | Complete |
| Back | 24'-0" | 24'-0" | 110'-0" | Complete |

1. **Cashier responsibility**
2. **Step into auto holding customers, drivers, accounts and parking areas**
3. **Prepared to handle up to \$100 parking tickets and 40 minutes apiece**
4. **The City of Los Angeles has a \$100 parking ticket and 40 minutes apiece**
5. **100-3 at the last number and 1000, at this number**
6. **100-3 at the last number and 1000, at this number**
7. **100-3 at the last number and 1000, at this number**
8. **100-3 at the last number and 1000, at this number**
9. **100-3 at the last number and 1000, at this number**
10. **100-3 at the last number and 1000, at this number**



SITE AND FLOOR PLAN

SCALE: 1"=30'

THE LEGEND

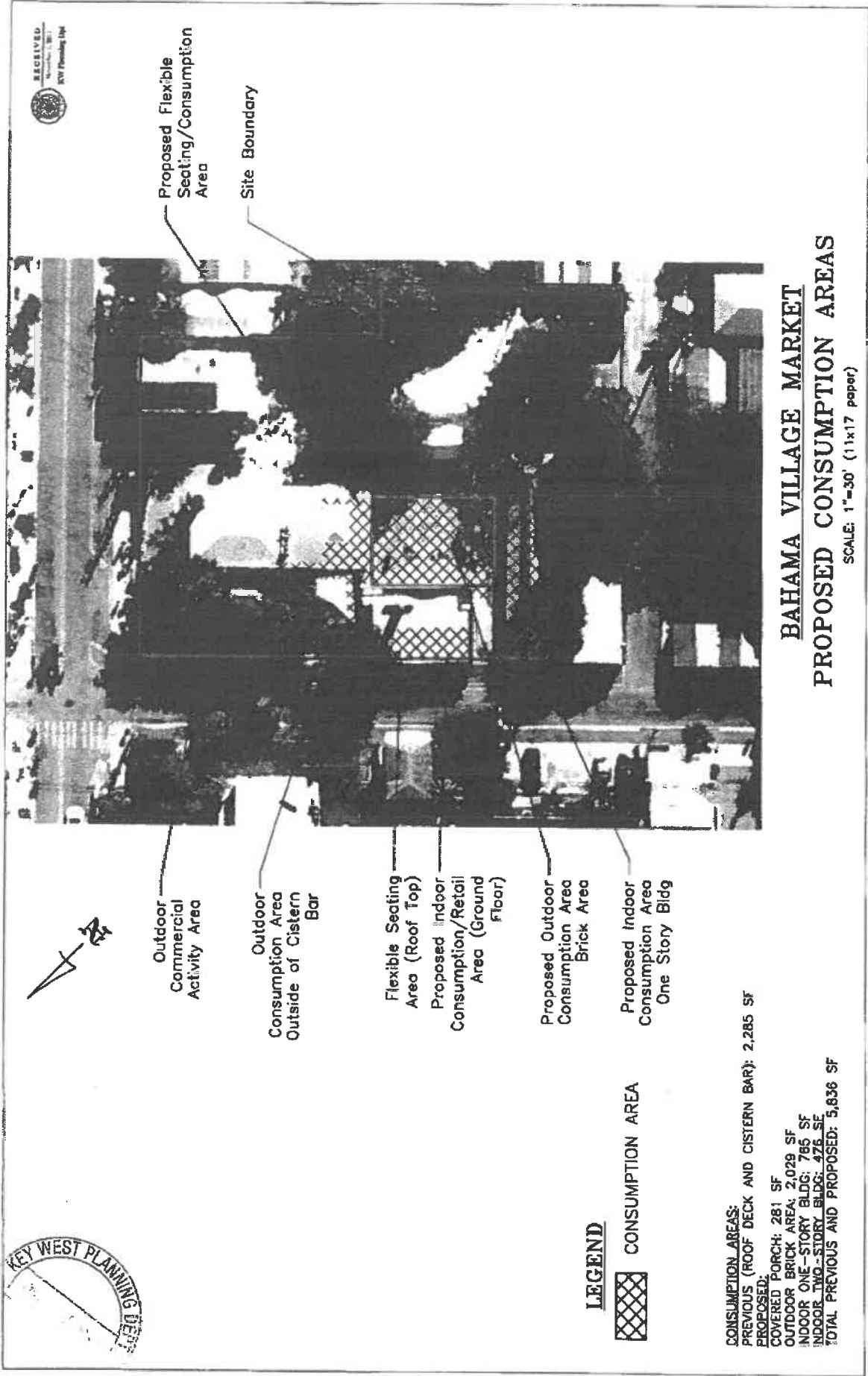
[S] EXISTING SEWER CLEANOUT (TYP OF 5)

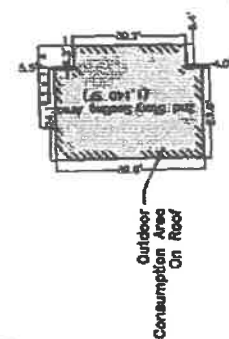
NOTE: THE SITE DOES NOT HAVE AN EXISTING STORMWATER MANAGEMENT SYSTEM OR A GREASE TRAP

[illegible][illegible]

Ryk oc

Exhibit A



[illegible]

SCALE: 1"=30'

CONSUMPTION AREA

CONSUMPTION AREAS:
 PREVIOUS (ROOF DECK AND CISTERN BAR); 2,285 SF
 PROPOSED:
 COVERED PORCH: 281 SF
 OUTDOOR BRICK AREA: 2,028 SF
 INDOOR ONE-STORY BLDG: 765 SF
 INDOOR TWO-STORY BLDG: 478 SF
 TOTAL PREVIOUS AND PROPOSED: 5,836 SF

SCALE: 1"=30'

C-12



Runk

DRAINAGE CALCULATIONS

PERMEABILITY - IMPERVIOUSNESS
Roof - 0.9
Paved - 0.8
Grass - 0.1
Soil - 0.05

RAINFALL - 1.5 INCHES
1.5 INCHES

WATER DEMANDS
PERMIT AREA = 1.5 AC
PERMIT AREA = 1.5 AC
PERMIT AREA = 1.5 AC
PERMIT AREA = 1.5 AC

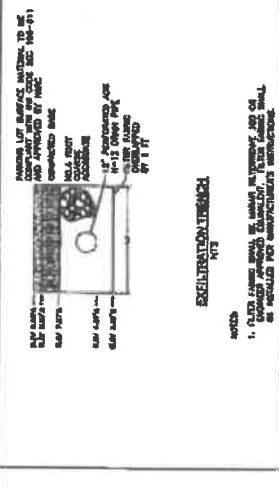
WATER DEMANDS
PERMIT AREA = 1.5 AC
PERMIT AREA = 1.5 AC
PERMIT AREA = 1.5 AC
PERMIT AREA = 1.5 AC

WATER DEMANDS
PERMIT AREA = 1.5 AC
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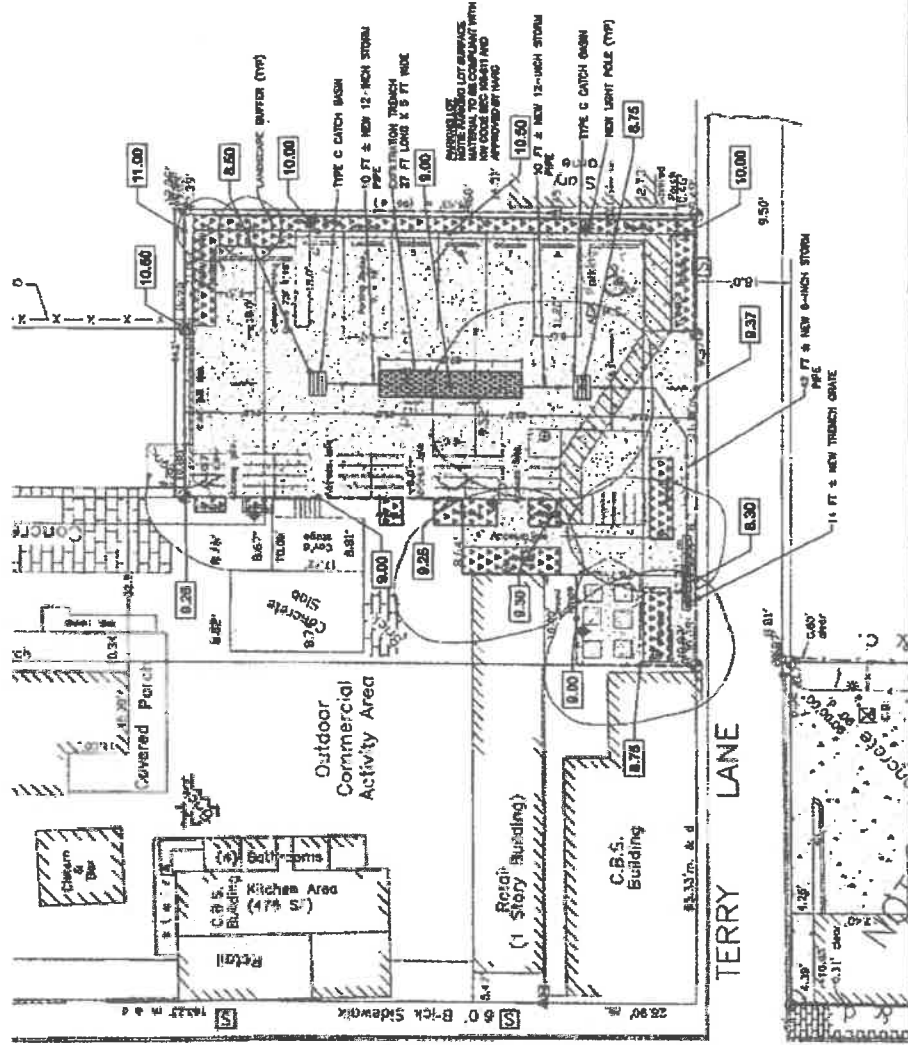
LEGEND

- PROPOSED DRAINAGE FLOW
- PROPOSED ELEVATION
- EXISTING ELEVATION
- NEW LIGHT POLE
- NEW PARKING LOT SURFACE MATERIAL TO BE COMPACTED WITH ALL COARSE AGGREGATE APPROVED BY HARC
- LANDSCAPE AREA

- PROPOSED DRAINAGE FLOW
- PROPOSED ELEVATION
- EXISTING ELEVATION
- NEW LIGHT POLE
- NEW PARKING LOT SURFACE MATERIAL TO BE COMPACTED WITH ALL COARSE AGGREGATE APPROVED BY HARC
- LANDSCAPE AREA



NOTES:
1. THE CONTRACTOR SHALL MAINTAIN THE EXISTING ELEVATION OF THE LOT SURFACE TO BE COMPACTED WITH ALL COARSE AGGREGATE APPROVED BY HARC.

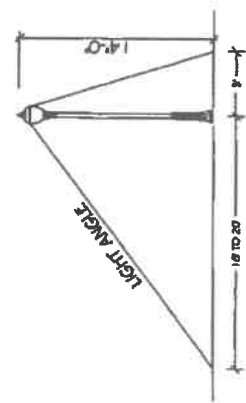


PETRONIA STREET

TERRY LANE

BAHAMAMA MARKET VILLAGE

| | |
|-------------|-------------------------|
| Project No. | 1704-C-11 |
| Owner | BAHAMAMA MARKET VILLAGE |
| Design | 1704-C-11 |
| Scale | 1" = 10' |
| Sheet | 1704-C-11 |
| Drawn By | 1704-C-11 |
| Checked By | 1704-C-11 |
| Date | 1704-C-11 |



LIGHT POLE DETAIL

- 1. THE LIGHT POLE SHALL BE A MINIMUM OF 15' HIGH AT THE BASE OF THE LIGHT FIXTURE AND NOT LESS THAN 12" IN DIAMETER AT THE BASE OF THE LIGHT FIXTURE.
- 2. THE LIGHT POLE SHALL BE A MINIMUM OF 15' HIGH AT THE BASE OF THE LIGHT FIXTURE AND NOT LESS THAN 12" IN DIAMETER AT THE BASE OF THE LIGHT FIXTURE.
- 3. THE LIGHT POLE SHALL BE A MINIMUM OF 15' HIGH AT THE BASE OF THE LIGHT FIXTURE AND NOT LESS THAN 12" IN DIAMETER AT THE BASE OF THE LIGHT FIXTURE.
- 4. THE LIGHT POLE SHALL BE A MINIMUM OF 15' HIGH AT THE BASE OF THE LIGHT FIXTURE AND NOT LESS THAN 12" IN DIAMETER AT THE BASE OF THE LIGHT FIXTURE.
- 5. THE LIGHT POLE SHALL BE A MINIMUM OF 15' HIGH AT THE BASE OF THE LIGHT FIXTURE AND NOT LESS THAN 12" IN DIAMETER AT THE BASE OF THE LIGHT FIXTURE.
- 6. THE LIGHT POLE SHALL BE A MINIMUM OF 15' HIGH AT THE BASE OF THE LIGHT FIXTURE AND NOT LESS THAN 12" IN DIAMETER AT THE BASE OF THE LIGHT FIXTURE.
- 7. THE LIGHT POLE SHALL BE A MINIMUM OF 15' HIGH AT THE BASE OF THE LIGHT FIXTURE AND NOT LESS THAN 12" IN DIAMETER AT THE BASE OF THE LIGHT FIXTURE.
- 8. THE LIGHT POLE SHALL BE A MINIMUM OF 15' HIGH AT THE BASE OF THE LIGHT FIXTURE AND NOT LESS THAN 12" IN DIAMETER AT THE BASE OF THE LIGHT FIXTURE.
- 9. THE LIGHT POLE SHALL BE A MINIMUM OF 15' HIGH AT THE BASE OF THE LIGHT FIXTURE AND NOT LESS THAN 12" IN DIAMETER AT THE BASE OF THE LIGHT FIXTURE.
- 10. THE LIGHT POLE SHALL BE A MINIMUM OF 15' HIGH AT THE BASE OF THE LIGHT FIXTURE AND NOT LESS THAN 12" IN DIAMETER AT THE BASE OF THE LIGHT FIXTURE.



REINFORCED CONCRETE RAIL DETAIL



[illegible]

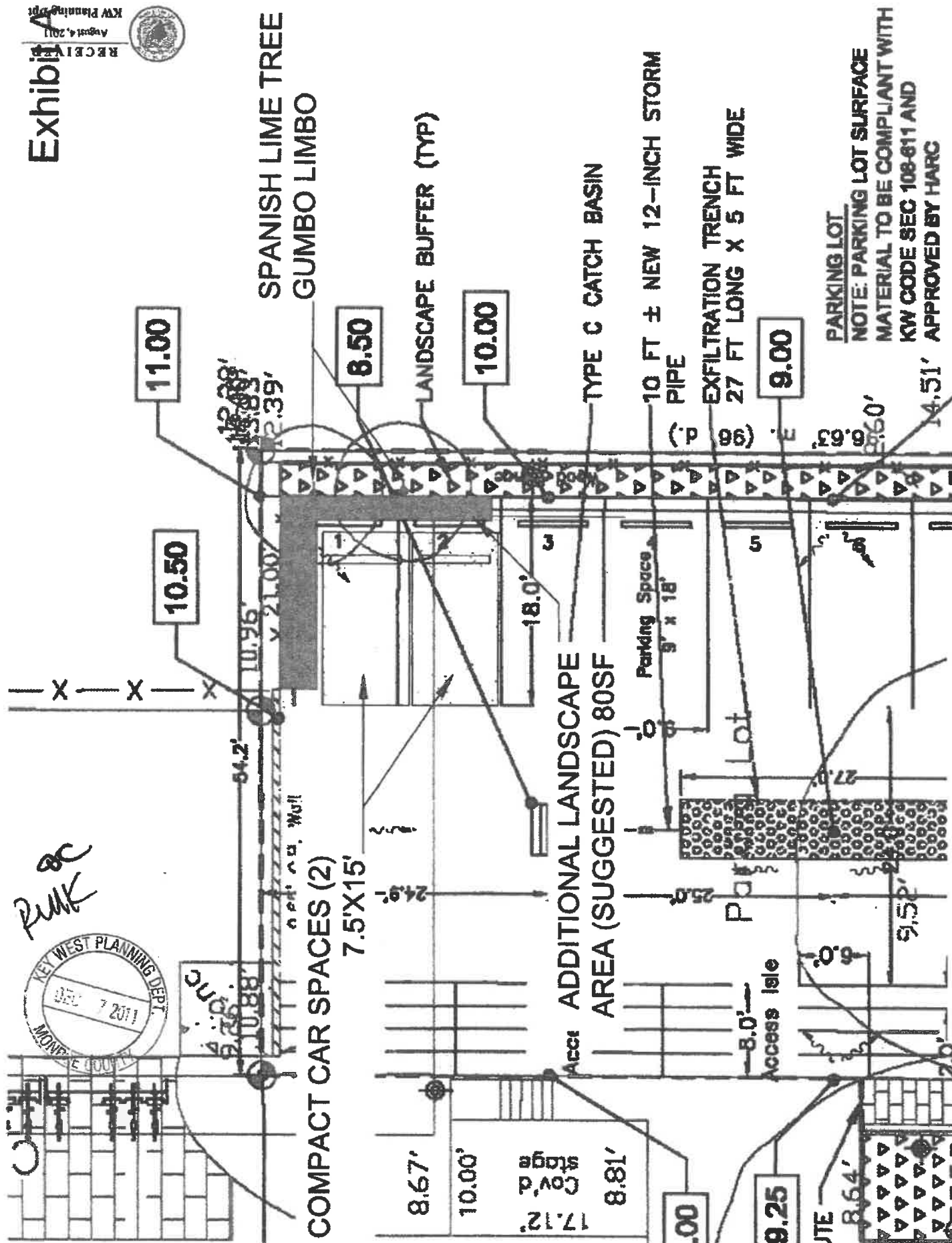


Exhibit B



Marden Engineering LLC
201 First Street, Suite 210
Key West, Florida 33040
AUTHORIZATION #23401
Professional Seal



WHITEHEAD & PETRONIA
KEY WEST, FLORIDA

BAHAMAMA VILLAGE MARKET

Drawn By: PCS
Checked By: RJM
Revisions:

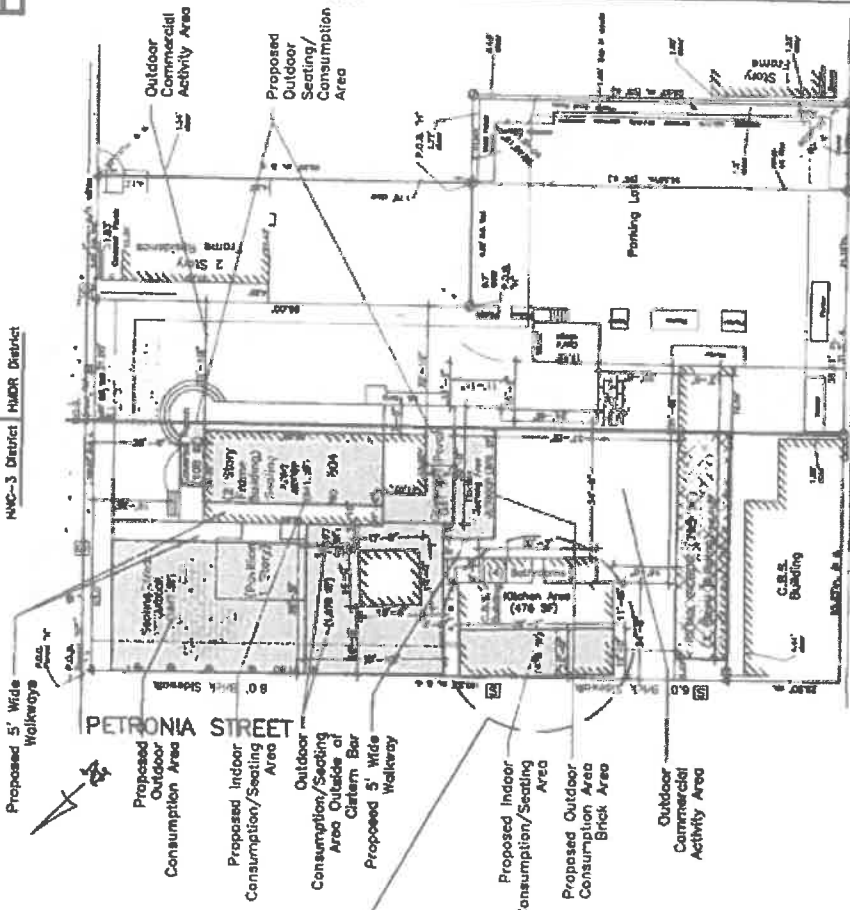
Title: PROPOSED AND PREVIOUS CONSUMPTION AREAS

Sheet Number: C-1.4

Date: MARCH 5, 2015

WHITEHEAD
NWC-3 District HMOR District

STREET

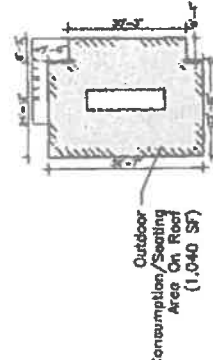


PROPOSED CONSUMPTION AREA
SCALE: 1"=30'

CONSUMPTION AREAS:
PREVIOUS (FRONT OUTDOOR AREA AND CISTERN BAR): 1,078 SF
PROPOSED:
COVERED PORCHES: 369 SF
OUTDOOR REAR BRICK AREA: 308 SF
INDOOR FIRST FLOOR 2-STORY BLDG.: 841 SF
OUTDOOR FRONT BRICK AREA: 1,857 SF
OUTDOOR NEAR CISTERN BAR: 67 SF
OUTDOOR ROOF ONE-STORY BLDG.: 1,040 SF
INDOOR ONE-STORY BLDG.: 478 SF
TOTAL PREVIOUS AND PROPOSED: 5,836 SF

LEGEND

CONSUMPTION AREA
RETAIL AREA



SECOND FLOOR
SCALE: 1"=30'

SITE DATA

| RE Numbers | 00014050-0000000; 00014050-0000000; 00014050-0000000; 00014010-0000000; 00014010-0000000 | | | |
|------------------------------|--|-------------|-----------------|----------------------|
| Zoning Designation | HMOR (11.154 sq. ft.) and HNC-3 (10,346 sq. ft.) | | | |
| Flood Zone | ZONE X MAP: 2007C-1516R | | | |
| Issue | Existing | Proposed | Revised/Amended | Complex |
| Zoning | HMOR and HNC-3 | No Change | No Change | Complex |
| Site Size (sq. ft.) | 2,590 | No Change | 4,000 | Complex |
| Building Coverage (sq. ft.) | 4,877 | No Change | 6,606 (40%) | Complex |
| Impervious Surface (sq. ft.) | 20,616 (95.6%) | No Change | 12,912 (80%) | Complex ¹ |
| Open Space Ratio (sq. ft.) | 904 (4.2%) | No Change | 4,304 (20%) | Complex |
| PAR | 0.26 | No Change | 0 | Complex |
| Retail Space (sq. ft.) | 2,853 | 765 | 15,943 | Complex |
| Consumption Area | | | | |
| Indoor (sq. ft.) | 1,241 | 1,317 | | Complex |
| Outdoor (sq. ft.) | 4,595 | 4,519 | | Complex |
| Restaurant Seats | 150 | No Change | | Complex |
| Parking Spaces | 19 ² | No Change | 17 | Complex |
| Seater | 40 | No Change | | |
| Stocker/Bicycle | 23 | No Change | | |
| Residential Units | 3 Studios ³ | No Change | 10 | Complex |
| Setbacks | | | | |
| Front | 18'-210'-0" | 18'-210'-0" | 0'-0110'-0" | Complex |
| Side | 5'-015'-0" | 5'-014'-0" | 7'-015'-0" | Complex |
| Rear | 20'-0" | 20'-0" | 15'-0" | Complex |

1. Existing imperviousness (paved areas, roofs, asphalt and parking lots) are based on aerial photography and field inspection.
2. The City of Key West recognizes the 2007C-1516R map as the official map.
3. PAR is the ratio of open space to total site area.
4. PAR is the ratio of open space to total site area.
5. PAR is the ratio of open space to total site area.

Exhibit C

1000

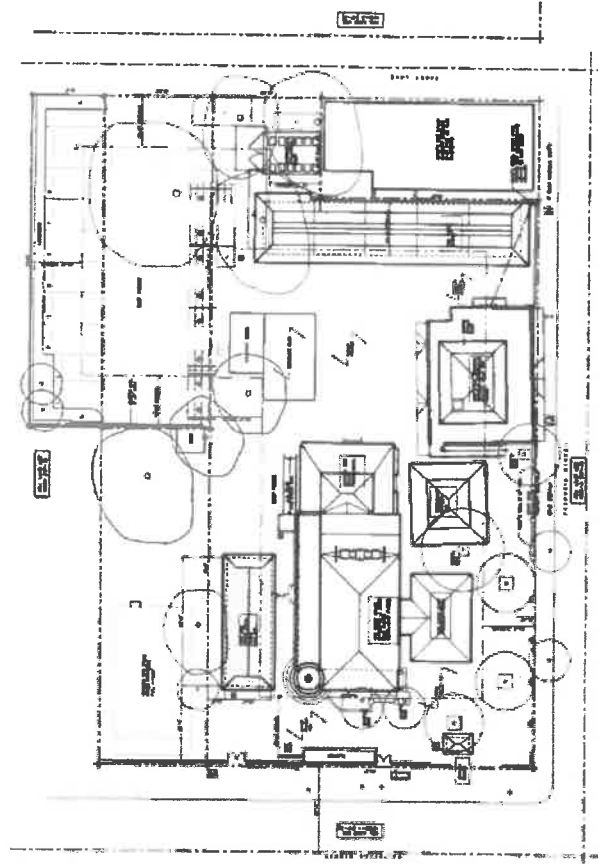
1506-91

3

P. P. 4 R

8411A VILAGE
MARKET - NEW
REI MOL BUILDING,
2000 E. 15th St., N. M. Telephone - 1022.
Apt. 2003 - 1000 4th.

BAHAMA VILLAGE MARKET
WHITEHEAD & PETRONIA STREET
KEY WEST, FLORIDA

[illegible]

Test

SCALE 1/16"=1'-0"

Abstract

ASH N. B. 2021

100

BAHAMA VILLAGE MARKET • NEW RETAIL BUILDING
WHITEHEAD & PLATONIA STREET
NEW WES, FLORIDA

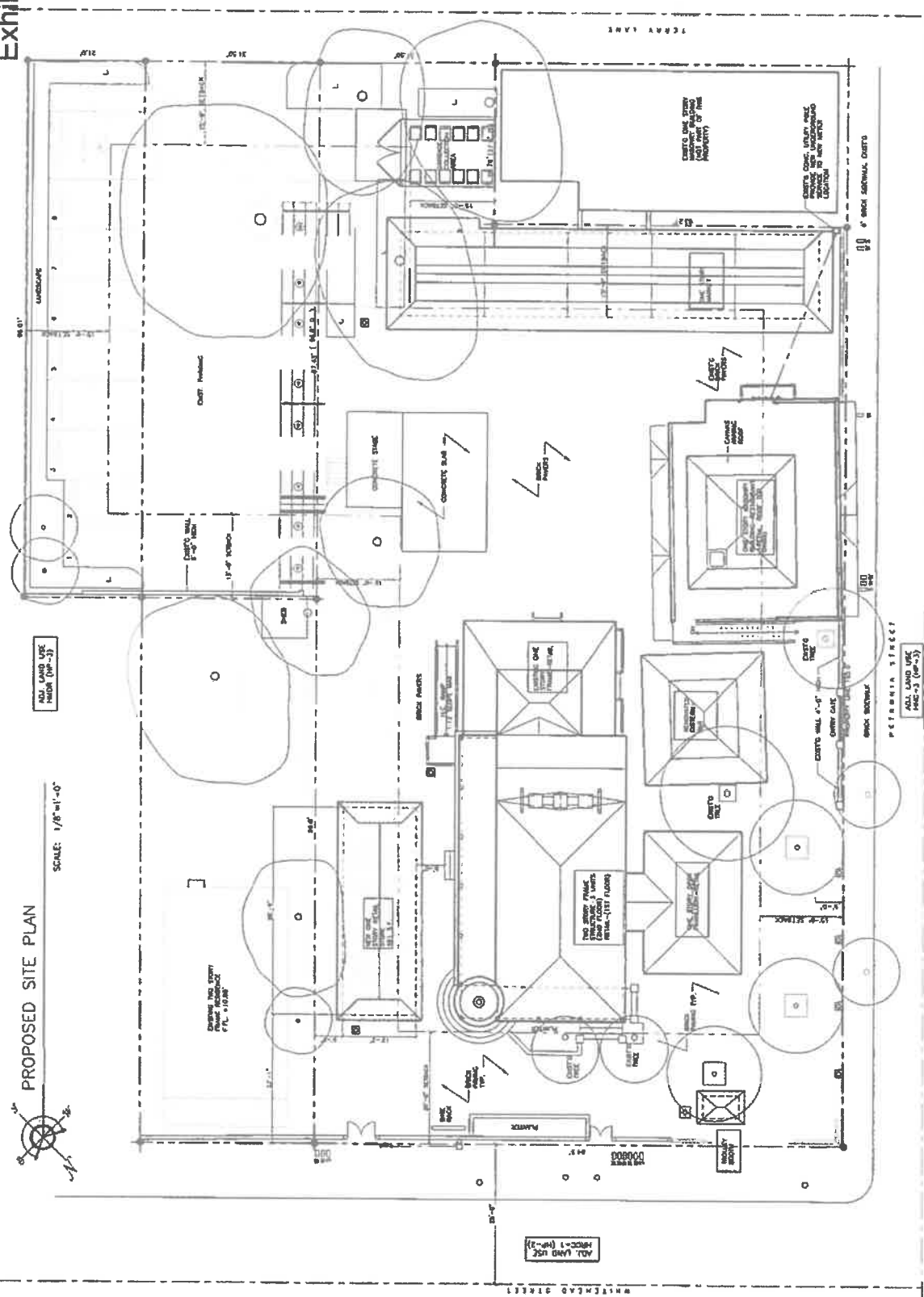
字

Exhibit C

WILLIAM PEREN
ARCHITECT P.A.

DATE: 10/10/10
BY: W.P.
SCALE: 1/8"=1'-0"

BAHAMA VILLAGE
NEW RETAIL BUILDING
10000 WHITEHEAD STREET
KEY WEST, FLORIDA 34291



A-1

BAHAMA VILLAGE MARKET - NEW RETAIL BUILDING
WHITEHEAD & PETRONIA STREET
KEY WEST, FLORIDA

File



RESOLUTION NO. 90-96

A RESOLUTION GRANTING A SPECIAL EXCEPTION TO HP-3, LIGHT COMMERCIAL HISTORIC PRESERVATION DISTRICT, PURSUANT TO SECTION 12.02 OF THE KEY WEST CODE OF ORDINANCES BY ALLOWING INSTALLATION OF APPROXIMATELY 15 FOOD AND CRAFTS BOOTHS ALONG PETRONIA STREET BETWEEN WHITEHEAD STREET AND TERRY LANE, ON THE FOLLOWING DESCRIBED PROPERTY: ON THE ISLAND OF KEY WEST, AND DESIGNATED ON CHARLES W. TIFT'S MAP OF SAID ISLAND AS PART OF LOT NO. 2 IN THE SUBDIVISION OF SQUARE NO. 1, IN PART OF TRACT 3 KNOWN AS SIMONTON'S ADDITION TO THE CITY OF KEY WEST; COMMENCING AT A POINT ON WHITEHEAD STREET, DISTANT 63 FEET FROM THE CORNER OF PETRONIA AND WHITEHEAD STS. AND RUN THENCE IN A S.E.'LY DIRECTION 31 FEET AND 6 INCHES; THENCE AT RIGHT ANGLES IN A S.W.'LY DIRECTION 96 FEET; THENCE AT RIGHT ANGLES N.W.'LY 31 FEET AND 6 INCHES; THENCE AT RIGHT ANGLES N.E.'LY 96 FEET TO THE PLACE OF BEGINNING; ALSO KNOWN AS 320 - 324 PETRONIA STREET, KEY WEST, MONROE COUNTY, FLORIDA.

WHEREAS, the Board of Adjustment of the City of Key West finds that, pursuant to the City zoning codes, it is empowered to grant the special exception herein described, and that such grant will not adversely affect the public interest; and

WHEREAS, satisfactory provision and arrangement has been made concerning the following, as applicable:

1. Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;
2. Off-street parking or loading areas where required, with particular attention to the items in paragraph 1 (above) and the economic, noise, glare, or odor effects of the special exception on adjoining property generally in the district;
3. Refuse and service areas, with particular reference to the items in paragraphs 1 and 2 (above);
4. Utilities, with reference to locations, availability, and compatibility;
5. Screening and buffering with reference to type, dimensions, and character;
6. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district; and
7. Required yards and other open space; and

WHEREAS, the use will be reasonably compatible with surrounding uses in its function, its hours of operation, the type and amount of traffic to be generated, building size and setbacks, its relationship to land values, and other factors noted on the record, if any, that may be used to measure compatibility; and

WHEREAS, the use will not violate the rules and regulations of the

Exhibit D

Historic Architectural Review Committee, as applicable; NOW THEREFORE

BE IT RESOLVED, by the Board of Adjustment of the City of Key West, as follows:

Section 1. A special exception is hereby granted to HP-3, Light Commercial Historic Preservation District, pursuant to Section 12.02 of the Key West Code of Ordinances, to install approximately 15 food and crafts booths along Petronia Street between Whitehead Street and Terry Lane, on the following described property:

On the Island of Key West, and designated on Charles W. Tift's Map of said Island as part of Lot No. 2 in the Subdivision of Square No. 1, in part of Tract 3 known as Simonton's Addition to the City of Key West; COMMENCING at a point on Whitehead Street, distant 63 feet from the corner of Petronia and Whitehead Sts. and run thence in a S.E.'ly direction 31 feet and 6 inches; thence at right angles in a S.W.'ly direction 96 feet; thence at right angles N.W.'ly 31 feet and 6 inches; thence at right angles N.E.'ly 96 feet to the place of beginning; also known as 320 - 324 Petronia Street, Key West, Monroe County, Florida.

Section 2. This special exception is granted subject to, and is dependent upon, the applicant's full compliance with the following terms and conditions:

1. The booths shall close at 11:00 P.M.
2. All goods must be contained within the structure of the booths.
3. Booths shall be limited in number to 15 total.
4. Booths shall be no larger than 8' x 8'.
5. This special exception shall be reviewed in one year.

Section 3. Applicant's failure to fully comply with each of the above-listed conditions, shall immediately operate to terminate this special exception, which special exception shall be of no force or effect.

Section 4. It is an essential condition of this special exception that full, complete, and final application for all permits required for any new construction for any use and occupancy for which this special exception is wholly or partly necessary, whether or not such construction is suggested or proposed in the documents presented in support of this variance, shall be submitted in its entirety within 12

Exhibit D

months after the date hereof. It is an essential condition of this special exception that no application or reapplication for new construction for which the special exception is wholly or partly necessary shall be made after expiration of said 12-month period.

Section 5. Failure to submit full and complete application for permits for new construction for which this special exception is wholly or partly necessary, or failure to complete new construction for use and occupancy pursuant to this special exception in accordance with the terms of a City building permit issued upon timely application as described in Section 2 hereof, shall immediately operate to terminate this special exception, which special exception shall be of no force or effect.

Section 6. This special exception does not constitute a finding as to ownership or right to possession of the property, and assumes, without finding, the correctness of applicant's assertion of legal authority respecting the property.

Section 7. This resolution shall go into effect immediately upon its passage and adoption and authentication by the signatures of the presiding officer and the Clerk of the Commission.

Read and passed at a regular meeting held this 12th day of February, 1990.


TONY TARABACINO, MAYOR

ATTEST:

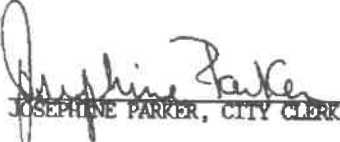

JOSEPHINE PARKER, CITY CLERK

Exhibit E

Reso. 90-96

Allowing 15 food and crafts booths on Parcel "A"

- * Max 15 booths
- * No larger than 8' x 8'
- * 11pm close time
- * All goods contained within structure of booth

"E" (804 Whitehead): Prt Lot 1, Sq. 1, Tract 3

"B" (802 Whitehead): Lot 1, Sq. 1, Tract 3

"F": Lot 1 in Sq. 1, Subdivision of prt Estate of John W. Simonton Tract 3

"C" (318-324 Petronia): Lot 1, Sq. 1, Tract 3

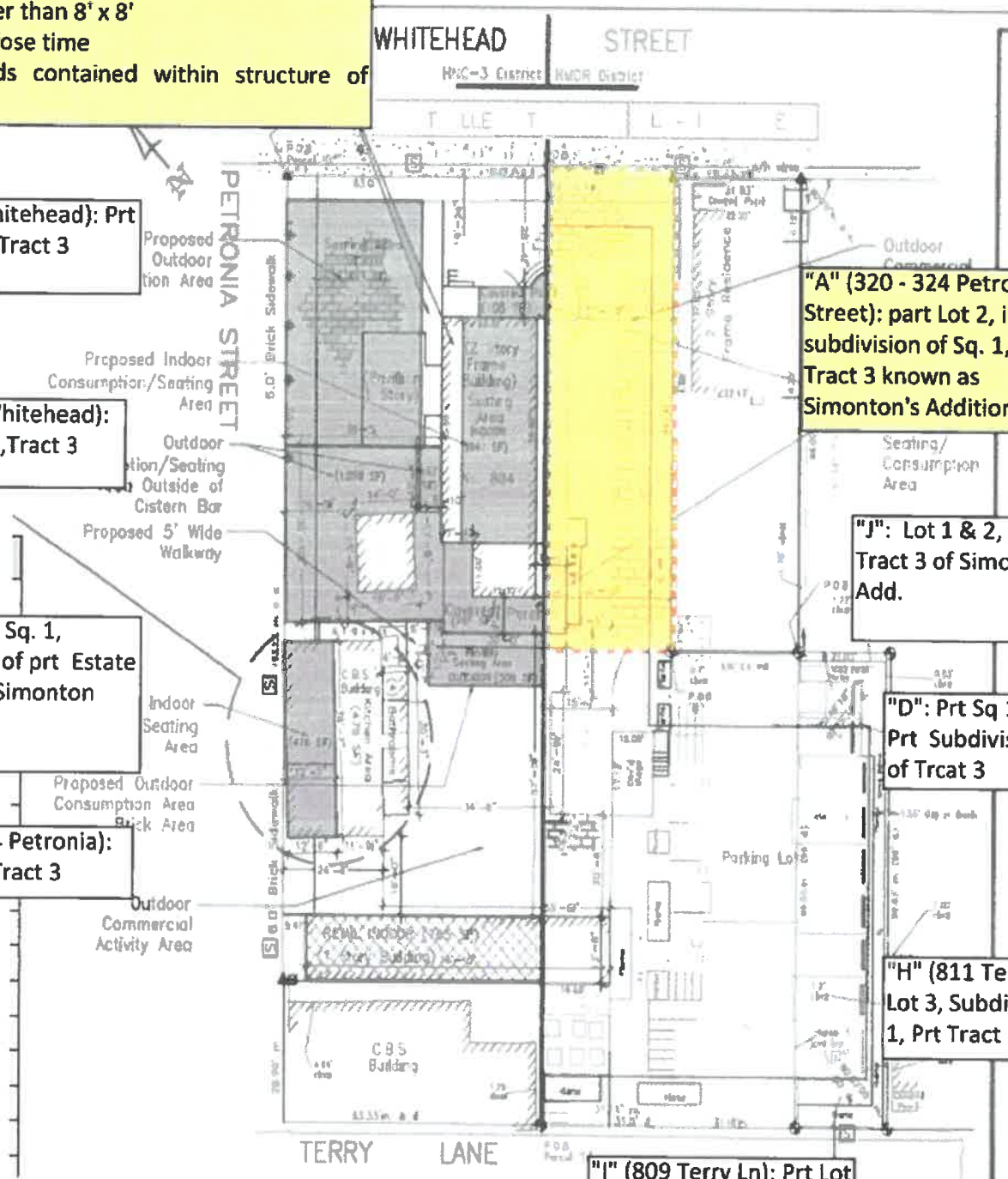
"A" (320 - 324 Petronia Street): part Lot 2, in subdivision of Sq. 1, part of Tract 3 known as Simonton's Addition

"J": Lot 1 & 2, Sq. 1, Tract 3 of Simonton's Add.

"D": Prt Sq 1, Tract 3 & Prt Subdivision 2, Sq 1 of Tract 3

"H" (811 Terry Ln): Prt Lot 3, Subdivision of Sq 1, Prt Tract 3

"I" (809 Terry Ln): Prt Lot 2, Sq 1, Tract 3



RESOLUTION NO. 97-73

SPECIAL EXCEPTION:
804 WHITEHEAD STREET,
809, 811 TERRY LANE

A RESOLUTION GRANTING A SPECIAL EXCEPTION TO HP-3, LIGHT COMMERCIAL HISTORIC DISTRICT UNDER CHAPTER 35 OF THE CODE OF ORDINANCES OF THE CITY OF KEY WEST, FLORIDA PERMITTING A SPECIAL EXCEPTION TO ALLOW: SMALL SCALE COMMERCIAL USE (RETAIL SALES/RESTAURANT/PARKING) ON THREE LOTS WITH A FUTURE LAND USE DESIGNATION OF HMDR, ON THE FOLLOWING DESCRIBED PROPERTY:

ON THE ISLAND OF KEY WEST, AND DESIGNATED ON CHARLES W. TIFT'S MAP OF SAID ISLAND AS PART OF LOT NO. 2 IN THE SUBDIVISION OF SQUARE NO. 1, IN PART OF TRACT 3 KNOWN AS SIMONTON'S ADDITION TO THE CITY OF KEY WEST; COMMENCING AT A POINT ON WHITEHEAD STREET, DISTANT 63 FEET FROM THE CORNER OF PETRONIA AND WHITEHEAD STS. AND RUN THENCE IN A S.E.'LY DIRECTION 31 FEET AND 6 INCHES; THENCE AT RIGHT ANGLES IN A S.W.'LY DIRECTION 96 FEET; THENCE AT RIGHT ANGLES N.W.'LY 31 FEET AND 6 INCHES; THENCE AT RIGHT ANGLES N.E.'LY 96 FEET TO THE PLACE OF BEGINNING.

Parcel A

AND

IN THE CITY OF KEY WEST, MONROE COUNTY, FLORIDA AND IS DESIGNATED ON CHARLES W. TIFT'S MAP OF SAID CITY AS PART OF LOT 1 OF SQUARE 1 IN TRACT 3 OF SIMONTON'S ADDITION TO THE CITY OF KEY WEST AND HEREIN DESCRIBED MORE PARTICULARLY BY METES AND BOUNDS AS FOLLOWS: BEGIN AT THE INTERSECTION OF THE SOUTHERLY RIGHT-

Parcel B

OF-WAY LINE OF PETRONIA ST. AND THE W'LY RIGHT-OF-WAY BOUNDARY LINE OF WHITEHEAD STREET FOR A POINT OF BEGINNING; THENCE SOUTHERLY ALONG THE SAID WESTERLY LINE OF WHITEHEAD STREET 62.25 FEET TO A POINT; THENCE WESTERLY AT RIGHT ANGLES 96 FEET TO A POINT; THENCE NORTHERLY AT RIGHT ANGLES 23.48 FEET TO A POINT; THENCE EASTERLY AT RIGHT ANGLES 5 FEET TO A POINT; THENCE NORTHERLY AT RIGHT ANGLES 39.77 FEET TO A POINT ON THE SAID LINE OF PETRONIA ST., 91 FEET BACK TO THE POINT OF BEGINNING

AND

PART OF LOT ONE (1) SQUARE ONE (1), TRACT THREE (3) OF SIMONTON'S ADDITION TO THE CITY OF KEY WEST, FLORIDA: COMMENCING AT THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY BOUNDARY LINE OF WHITEHEAD STREET AND THE SOUTHERLY RIGHT-OF-WAY BOUNDARY LINE OF PETRONIA STREET AND RUN THENCE WESTERLY ALONG THE SAID LINE OF PETRONIA 91 FEET TO THE POINT OF BEGINNING OF THE PARCEL HEREIN BEING DESCRIBED; THENCE CONTINUE ALONG THE SAID LINE OF PETRONIA STREET 74' FEET TO A POINT; THENCE SOUTHERLY AND AT RIGHT ANGLES 62.25 FEET TO A POINT; THENCE EASTERLY AND AT RIGHT ANGLES 69 FEET TO A POINT; THENCE NORTHERLY AND AT RIGHT ANGLES 23.48 FEET TO A POINT; THENCE EASTERLY AT RIGHT ANGLES 5 FEET TO A POINT; THENCE NORTHERLY AT RIGHT ANGLES 39.77 FEET BACK TO THE POINT OF BEGINNING ON PETRONIA STREET

Parcel C

AND

ON THE ISLAND OF KEY WEST, AS KNOWN ON CHARLES W. TIFT'S MAP OF THE CITY OF KEY WEST, AS PART OF SQUARE ONE (1) IN TRACT THREE (3) AND IS PART OF SUBDIVISION TWO (2) IN SQUARE ONE (1) ACCORDING TO A DIAGRAM MADE OF PORTION OF SAID TRACT THREE (3), WHICH DIAGRAMS IS RECORDED IN BOOK

Exhibit F

"I" DEEDS PAGE 421 OF MONROE COUNTY RECORDS: COMMENCING AT A POINT ON AN EIGHTEEN FOOT ALLEY-WAY, SIXTY THREE (63) FEET AND FOUR (4) INCHES DISTANT FROM THE CORNER OF PETRONIA STREET AND SAID ALLEY-WAY AND RUNNING THENCE ALONG SAID ALLEY-WAY IN A SOUTHEASTERLY DIRECTION THIRTY-ONE FEET AND SIX INCHES, AND EXTENDING BACK IN A NORTHEASTERLY DIRECTION ON BOTH LINES A DISTANCE OF NINETY-SIX (96) FEET

Parcel D

AND

IN THE CITY OF KEY WEST, MONROE COUNTY, FLORIDA AND IS DESIGNATED ON CHARLES W. TIFT'S MAP OF SAID CITY AS PART OF LOT 1 OF SQUARE 1 IN TRACT 3 OF SIMONTON'S ADDITION TO THE CITY OF KEY WEST AND HEREIN DESCRIBED MORE PARTICULARLY BY METES AND BOUNDS AS FOLLOWS: COMMENCE AT THE INTERSECTION OF THE SOUTHERLY RIGHT-OF-WAY BOUNDARY OF PETRONIA STREET AND THE WESTERLY RIGHT-OF-WAY BOUNDARY LINE OF WHITEHEAD ST. 62.25 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG THE SAID WESTERLY LINE OF WHITEHEAD STREET 0.75 FEET TO A POINT; THENCE WESTERLY AT RIGHT ANGLES 96 FEET TO A POINT; THENCE NORTHERLY AT RIGHT ANGLES 0.75 FEET TO A POINT, THENCE EASTERLY AT RIGHT ANGLES 96 FEET BACK TO THE POINT OF BEGINNING

Parcel E

ALSO KNOWN AS REF 1401, 1401-001, 1402, 1405, 1406 AND 804 WHITEHEAD STREET, 809, 811 TERRY LANE, KEY WEST, MONROE COUNTY, FLORIDA

WHEREAS, special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, buildings or structures in the subject district; and

WHEREAS, literal interpretation of the provisions of the Zoning Ordinance of the City of Key West would deprive the owner of the subject property of rights commonly enjoyed by other properties in the same district under the terms of the Zoning Ordinance.

WHEREAS, the special conditions and circumstances do not result from the actions of the applicant.

WHEREAS, the granting of the SPECIAL EXCEPTION requested will not confer on the applicant any special privilege that is denied by the ordinance to other land, structures or buildings in the same district.

BE IT RESOLVED by the Board of Adjustment of the City of Key West, Florida:

Section 1. That a SPECIAL EXCEPTION to: HP-3, LIGHT COMMERCIAL HISTORIC PRESERVATION DISTRICT, under Chapter 35 of the Code of Ordinances of the City of Key West, Florida, permitting a SPECIAL EXCEPTION to allow:

Exhibit F

SMALL SCALE COMMERCIAL USE (RETAIL SALES/RESTAURANT/PARKING) ON THREE LOTS WITH A FUTURE LAND USE DESIGNATION OF HMDR, ON THE FOLLOWING DESCRIBED PROPERTY:

ON THE ISLAND OF KEY WEST, AND DESIGNATED ON CHARLES W. TIFT'S MAP OF SAID ISLAND AS PART OF LOT NO. 2 IN THE SUBDIVISION OF SQUARE NO. 1, IN PART OF TRACT 3 KNOWN AS SIMONTON'S ADDITION TO THE CITY OF KEY WEST; COMMENCING AT A POINT ON WHITEHEAD STREET, DISTANT 63 FEET FROM THE CORNER OF PETRONIA AND WHITEHEAD STS. AND RUN THENCE IN A S.E.'LY DIRECTION 31 FEET AND 6 INCHES; THENCE AT RIGHT ANGLES IN A S.W.'LY DIRECTION 96 FEET; THENCE AT RIGHT ANGLES N.W.'LY 31 FEET AND 6 INCHES; THENCE AT RIGHT ANGLES N.E.'LY 96 FEET TO THE PLACE OF BEGINNING.

AND

IN THE CITY OF KEY WEST, MONROE COUNTY, FLORIDA AND IS DESIGNATED ON CHARLES W. TIFT'S MAP OF SAID CITY AS PART OF LOT 1 OF SQUARE 1 IN TRACT 3 OF SIMONTON'S ADDITION TO THE CITY OF KEY WEST AND HEREIN DESCRIBED MORE PARTICULARLY BY METES AND BOUNDS AS FOLLOWS: BEGIN AT THE INTERSECTION OF THE SOUTHERLY RIGHT-OF-WAY LINE OF PETRONIA ST. AND THE W'LY RIGHT-OF-WAY BOUNDARY LINE OF WHITEHEAD STREET FOR A POINT OF BEGINNING; THENCE SOUTHERLY ALONG THE SAID WESTERLY LINE OF WHITEHEAD STREET 62.25 FEET TO A POINT; THENCE WESTERLY AT RIGHT ANGLES 96 FEET TO A POINT; THENCE NORTHERLY AT

Exhibit F

RIGHT ANGLES 23.48 FEET TO A POINT; THENCE EASTERLY AT RIGHT ANGLES 5 FEET TO A POINT; THENCE NORTHERLY AT RIGHT ANGLES 39.77 FEET TO A POINT ON THE SAID LINE OF PETRONIA ST., 91 FEET BACK TO THE POINT OF BEGINNING

AND

PART OF LOT ONE (1) SQUARE ONE (1), TRACT THREE (3) OF SIMONTON'S ADDITION TO THE CITY OF KEY WEST, FLORIDA: COMMENCING AT THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY BOUNDARY LINE OF WHITEHEAD STREET AND THE SOUTHERLY RIGHT-OF-WAY BOUNDARY LINE OF PETRONIA STREET AND RUN THENCE WESTERLY ALONG THE SAID LINE OF PETRONIA 91 FEET TO THE POINT OF BEGINNING OF THE PARCEL HEREIN BEING DESCRIBED; THENCE CONTINUE ALONG THE SAID LINE OF PETRONIA STREET 74' FEET TO A POINT; THENCE SOUTHERLY AND AT RIGHT ANGLES 62.25 FEET TO A POINT; THENCE EASTERLY AND AT RIGHT ANGLES 69 FEET TO A POINT; THENCE NORTHERLY AND AT RIGHT ANGLES 23.48 FEET TO A POINT; THENCE EASTERLY AT RIGHT ANGLES 5 FEET TO A POINT; THENCE NORTHERLY AT RIGHT ANGLES 38.77 FEET BACK TO THE POINT OF BEGINNING ON PETRONIA STREET

AND

ON THE ISLAND OF KEY WEST, AS KNOWN ON CHARLES W. TIFT'S MAP OF THE CITY OF KEY WEST, AS PART OF SQUARE ONE (1) IN TRACT THREE (3) AND IS PART OF SUBDIVISION TWO (2) IN SQUARE ONE (1) ACCORDING TO A

Exhibit F

DIAGRAM MADE OF PORTION OF SAID TRACT THREE (3), WHICH DIAGRAMS IS RECORDED IN BOOK "I" DEEDS PAGE 421 OF MONROE COUNTY RECORDS: COMMENCING AT A POINT ON AN EIGHTEEN FOOT ALLEY-WAY, SIXTY THREE (63) FEET AND FOUR (4) INCHES DISTANT FROM THE CORNER OF PETRONIA STREET AND SAID ALLEY-WAY AND RUNNING THENCE ALONG SAID ALLEY-WAY IN A SOUTHEASTERLY DIRECTION THIRTY-ONE FEET AND SIX INCHES, AND EXTENDING BACK IN A NORTHEASTERLY DIRECTION ON BOTH LINES A DISTANCE OF NINETY-SIX (96) FEET

AND

IN THE CITY OF KEY WEST, MONROE COUNTY, FLORIDA AND IS DESIGNATED ON CHARLES W. TIFT'S MAP OF SAID CITY AS PART OF LOT 1 OF SQUARE 1 IN TRACT 3 OF SIMONTON'S ADDITION TO THE CITY OF KEY WEST AND HEREIN DESCRIBED MORE PARTICULARLY BY METES AND BOUNDS AS FOLLOWS: COMMENCE AT THE INTERSECTION OF THE SOUTHERLY RIGHT-OF-WAY BOUNDARY OF PETRONIA STREET AND THE WESTERLY RIGHT-OF-WAY BOUNDARY LINE OF WHITEHEAD ST. 62.25 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG THE SAID WESTERLY LINE OF WHITEHEAD STREET 0.75 FEET TO A POINT; THENCE WESTERLY AT RIGHT ANGLES 96 FEET TO A POINT; THENCE NORTHERLY AT RIGHT ANGLES 0.75 FEET TO A POINT, THENCE EASTERLY AT RIGHT ANGLES 96 FEET BACK TO THE POINT OF BEGINNING

ALSO KNOWN AS RE# 1401, 1401-001, 1402, 1405, 1406 AND 804 WHITEHEAD STREET, 809, 811 TERRY LANE, KEY WEST, MONROE COUNTY, FLORIDA

Section 2. It is an essential condition of this SPECIAL EXCEPTION that full, complete, and final application for all permits required for any new construction for any use and occupancy for which this SPECIAL EXCEPTION is wholly or partly necessary, whether or not such construction is suggested or proposed in the documents presented in support of this SPECIAL EXCEPTION, shall be submitted in its entirety within 12 months after the date hereof. It is an essential condition of this SPECIAL EXCEPTION that no application or reapplication for new construction for which the SPECIAL EXCEPTION is wholly or partly necessary shall be made after expiration of said 12-month period.

Section 3. Failure to submit full and complete application for permits for new construction for which this SPECIAL EXCEPTION is wholly or partly necessary, or failure to complete new construction for use and occupancy pursuant to this SPECIAL EXCEPTION in accordance with the terms of a City building permit issued upon timely application as described in Section 2 hereof, shall immediately operate to terminate this SPECIAL EXCEPTION, which SPECIAL EXCEPTION shall be of no force or effect.

Section 4. This SPECIAL EXCEPTION does not constitute a finding as to ownership or right to possession of the property, and

Exhibit F


assumes, without finding, the correctness of applicant's assertion of legal authority respecting the property.

Section 5. This Resolution shall go into effect immediately upon its passage and adoption and authentication by the signatures of the presiding officer and the Clerk of the Commission.

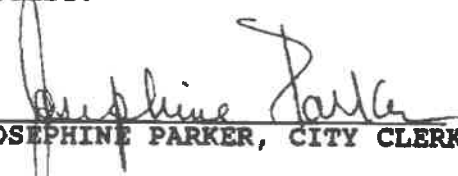
Read and passed on first reading at a regular meeting held this 5th day of February, 1997.

Authenticated by the presiding officer and Clerk of the Board on 10th day of February, 1997.

Filed with the Clerk on February 10, 1997.


SALLY LEWIS,
CHAIRMAN PRO TEMPORE
BOARD OF ADJUSTMENT

ATTEST:


JOSEPHINE PARKER, CITY CLERK

C:\WPD003\CITYATTY\VARTANCE\SPER001W.WPD

Reso. 97-73

Special Exception to HP-3

To allow: Small scale commercial use (retail sales/restaurant/parking) on three lots with a FLUD of HMDR for Legals provided for Parcels A, B, C, D & E.

RE#'s & addresses listed include 809 - 811 Terry Lane (Parcel I & H)

Exhibit G

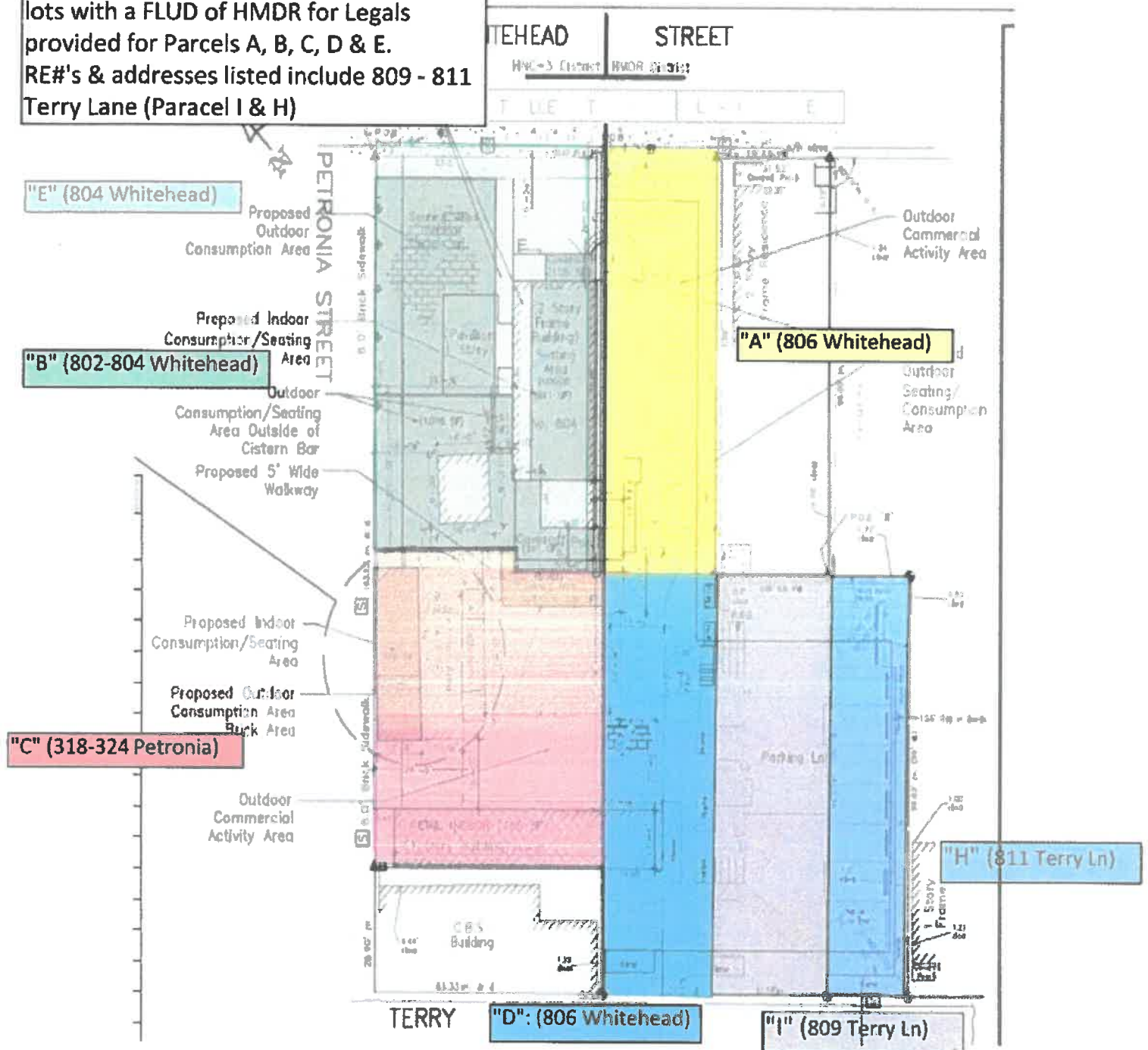




Exhibit H

THE CITY OF KEY WEST

Post Office Box 1409 Key West, FL 33041-1409 (305) 809-3700

To: Kevin Bond, AICP, LEED Green Associate, Acting Planning Director
Richard Klitenick, Esq., Planning Board Chairman
James Bouquet, PE, City Engineer

From: Carlene Smith, LEED Green Associate, Planner II

Date: March 17, 2015

RE: Minor Modification of Conditional Use Approval PB Res No. 2011-059
802-806 Whitehead Street (RE#: 00014010-000100, 00014020-000000)
318-324 Petronia Street (RE#: 00014010-000000)
809-811 Terry Lane (RE#: 00014050-000100, 00014060-000000)

Request

On February 17, 2015, the applicant requested a minor modification to the conditional use approval obtained via Planning Board Resolution No. 2011-059, in order to modify the site plan layout associated with the approved restaurant use. The approved site plan positioned the indoor and outdoor consumption area at the rear of the property adjacent to the residential neighborhood. The applicant is proposing to reduce the outdoor consumption area by 76 square feet and increase the indoor consumption area by 76 square feet, maintaining the same over all consumption area of 5,836 square feet. In order to accommodate this modification, the applicant is requesting to move the majority of the consumption area forward towards the more commercialized corner of Petronia and Whitehead Street and to the interior of the existing mixed use building at 802-804 Whitehead Street.

Code Applicability

The criteria for minor modifications of development plan is listed in Section 108-91.C.2 of the City Code:

Minor Modifications. The following and similar modifications must be approved by the city planner, city engineer and planning board chairperson and reported to the planning board at a regularly scheduled meeting:

- (a) Relocation of at least ten feet of pools, parking spaces, drives and driveways, or buildings from the location shown on the approved plan;
- (b) Addition of parking spaces not to exceed 25 percent (including fractions thereof) of the total number of existing parking spaces or five spaces, whichever is the lesser amount, and no such additional parking shall consume the approved landscaped area;
- (c) Attached or detached additions to buildings in the historic district that do not increase the floor area in excess of 500 square feet;
- (d) Installation of utility system improvements including buildings not exceeding 200 square feet; or

Exhibit H

- (e) Any use, except single-family dwelling units and accessory structures thereto, or change in use resulting in less than 1,000 square feet of impervious surface area on the entire site.

The applicant is requesting review under Section 108-91.C.2(e).

Background

The applicant received conditional use approval for a restaurant via Planning Board Resolution No. 2011-059 (Attachment 1). City correspondence dated October 31, 2014, acknowledged that Planning Board Resolution No. 2011-059 was extended for an additional two years for a combined total of four years until the effective date of January 1, 2016 pursuant to House Bill 503 and 7023 (Attachment 2).

The conditional use approval for the 150 seat restaurant consisted of indoor and outdoor consumption area located on a commercial property along the Petronia Street Commercial Corridor in the Historic Neighborhood Commercial - Bahama Village (HNC-3) Zoning District. The approval is associated with the reconfiguration of an on-site parking lot. Thirteen conditions are associated with the approval. The applicant is not requesting any changes to the conditions.

Analysis

The applicant proposes to use the existing structures, facilities and utilities currently on the site. There are no changes to the dimensional requirements. The proposed modification would reduce the outdoor consumption area, as well as move both the indoor and outdoor consumption area further away from the adjacent residential neighborhood.

The mixed-use building at 802-804 Whitehead Street was included in the conditional use approval but only 281 square feet of outdoor consumption area was approved on a portion of the rear covered porch. This parcel is located in the HNC-3 and HMDR zoning districts. The covered porch located at the northeastern portion of two-story structure is in the HMDR Zoning District. Restaurant use is a prohibited use in the HMDR zoning district; therefore, no consumption area shall take place on the covered porch located at the northeastern portion of the two-story structure.

The applicant is proposing the following layout modification per site plan sheet C-1.4:

1. Remove the existing retail use on the first floor at 802-804 Whitehead Street and add 841 square feet of indoor consumption area on the first floor, 108 square feet of outdoor consumption area on a portion of the front porch and increase the outdoor consumption area from 281 square feet to 283 square feet. Three non-transient residential units will remain on the second floor.
2. The flexible outdoor seating area located at 318-324 Petronia Street would be reduced from 2,029 square feet to 328 square feet.
3. The outdoor consumption area located around the cistern bar would be reduced from 1,145 square feet to 1,078 square feet.
4. The applicant is proposing to move 1,591 square feet of outdoor consumption area to the existing outdoor commercial activity area located at the corner of Whitehead and Petronia Street.
5. All indoor consumption area would be removed from the one-story building located at the rear of the property.
6. Outdoor consumption area on the roof top of the one-story structure facing Petronia Street will remain the same.

Determination

This letter does not grant the expansion of consumption area, restaurant seats or retail use, but rather recognizes that the proposed modification to the conditional use approval per the proposed site plan signed

Exhibit H

and sealed March 5, 2015 by Richard J. Milelli, Professional Engineer, would reconfigure both the indoor and outdoor consumption area further away from the adjacent residential neighborhood. The total amount of consumption area of 5,836 square feet and restaurant seating of 150 seats would remain unchanged. The reconfiguration of the on-site parking lot and the 13 conditions associated with the approval would not be modified.

Conditions of Administrative Approval

General condition:

1. No consumption area shall be allowed on the covered porch located at the northeastern portion of the two story structure at 802-804 Whitehead Street zoned HMDR as depicted on site plan sheet C-1.4.

Condition required to be completed prior to issuance of a building permit:

2. Life safety plan shall be submitted to the Fire Marshall's office for review.

Anyone who may wish to appeal any administrative decision may do so in accordance with Section 90-431 of the Land Development Regulations. Please do not hesitate to contact me at 305-809-3722 with any questions or comments that you may have.

Respectfully,



Carlene Smith, LEED Green Associate, Planner II

Attachments:

- 1 Site Plan Sheet C-1.4
- 2 Planning Board Resolution No. 2011-059
- 3 House Bill 503 and 7023 Extensions
- 4 Minor Modification of Conditional Use Approval Request

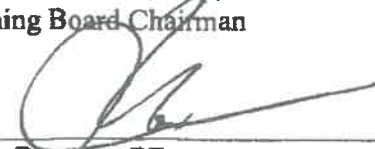
cc: Ron Wampler, Building Official
Larry Erskine, Chief Assistant City Attorney
Carolyn Walker, Licensing Official
Michael Turner, Utilities Collection Manager
Diane Nicklaus, Engineering Services
Scott Russell, C.F.A., Monroe County Property Appraiser


Kevin Bond, AICP, LEED Green Associate
Acting Planning Director

3/17/2015
Date


Richard Klitenick, Esq.,
Planning Board Chairman

3/17/2015
Date


James Bouquet, PE
City Engineer

3/17/2015
Date

Exhibit H

Site Plan Sheet C-1.4
Signed and Sealed March 5, 2015



| SITE DATA | | | | |
|------------------------------|--|----------------|-----------------|---------------------------|
| RE Numbers | 00014050-000000; 00014050-000000; 00014050-000000; 00014010-000000; 00014010-000100 | | | |
| Zoning Designation | HMUR (11 154 sq. ft.) and HMC 3 (10,365 sq. ft.) | | | |
| Flood Zone | ZONE X MAP 2007C-1516K | | | |
| | <u>Issue</u> | <u>Finding</u> | <u>Proposed</u> | <u>Required/Permitted</u> |
| Zoning | HMUR and HMC-3 | | No Change | No Change |
| Site Use (sq. ft.) | 2,520 | | No Change | 4,000 |
| Building Coverage (sq. ft.) | 4,877 | | No Change | 8,608 (40%) |
| Impervious Surface (sq. ft.) | 20,616 (95.0%) | | No Change | 12,912 (60%) |
| Open Space: Ratio (sq. ft.) | 904 (4.0%) | | No Change | 4,304 (20%) |
| PAR | 0.56 | | No Change | 1.0 |
| Regal Space (sq. ft.) | 2,953 | | 765 | 15,943 |
| Construction Area | | | | |
| Indoor (sq. ft.) | 1,241 | | 1,317 | Complex |
| Outdoor (sq. ft.) | 4,595 | | 4,519 | Complex |
| Restaurant Seats | 150 | | No Change | Complex |
| Parking Spaces | 19 | | No Change | Complex |
| Scouters | 40 | | No Change | 7 |
| Scouters/Bicycle | 23 | | No Change | |
| Residential Units | 3 Studios ⁴ | | No Change | 0 |
| Setbacks | | | | |
| Front | 10'-2" (0'-0") | | 10'-2" (0'-0") | 0'-2" (10'-0") |
| Side | 5'-0" (0'-0") | | 16'-9" (4'-0") | 7'-6" (5'-0") |
| Rear | 20'-0" | | 20'-0" | 15'-0" |
| | | | | Complex |
| | | | | Complex |
| | | | | Complex |

[illegible]

PB Resolution No. 2011-059

Exhibit H

PLANNING BOARD RESOLUTION NUMBER 2011-059

A RESOLUTION OF THE KEY WEST PLANNING BOARD GRANTING A CONDITIONAL USE APPROVAL PER SECTION 122-62 AND 122-63 OF THE CODE OF ORDINANCES FOR A RESTAURANT WITH 150 SEATS MAXIMUM TO BE LOCATED AT 802 - 806 WHITEHEAD STREET (RE# 00014010-000100 AND 00014020-000000) AND 318 - 324 PETRONIA STREET (RE# 00014010-000000) AND 809 - 811 TERRY LANE (RE# 00014050-000000, 00014060-000000) IN THE HISTORIC NEIGHBORHOOD COMMERCIAL-BAHAMA VILLAGE COMMERCIAL CORE (HNC-3) ZONING DISTRICT, PURSUANT TO SECTION 122-868(9) OF THE CODE OF ORDINANCES, KEY WEST FLORIDA; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the subject property is located in the Historic Neighborhood Commercial-Bahama Village Commercial Core (HNC-3) zoning district; and

WHEREAS, Section 122-868(9) of the Code of Ordinances provides that restaurants are allowed as a conditional use within the Historic Neighborhood Commercial- Bahama Village Commercial Core (HNC-3) zoning district; and

WHEREAS, Section 122-61 of the Code of Ordinances allows applicants to request a conditional use approval; and

Page 1 of 9
Resolution Number 2011 - 059



 Chairman
 Planning Director

Exhibit H

WHEREAS, the applicant filed a conditional use application for a restaurant not to exceed maximum of 150 seats, with 6,637 square feet of flexible indoor/outdoor consumption area at 802 - 806 Whitehead Street (RE# 00014010-000100 and 00014020-000000) and 318 - 324 Petronia Street (RE# 00014010-000000); and

WHEREAS, the associated with the Conditional Use request, the applicant is required to bring the parking lot located at 809 - 811 Terry Lane (RE# 00014050-000000 and 00014060-000000) into compliance with dimensional requirements, landscaping and drainage; and

WHEREAS, the parking lot shall be reconfigured to include two (2) compact car spaces in order to protect the root system of large trees on the site, six (6) standard vehicular spaces, one (1) handicap space, and forty (40) scooter/bicycle spaces on the lot; and

WHEREAS, Section 122-62 outlines the criteria for reviewing a conditional use application by the Planning Board; and

WHEREAS, this matter came before the Planning Board at a duly noticed public hearing on November 17, 2011; and

WHEREAS, the Planning Board found that the proposed use complies with the criteria in Section 122-62; and



 Chairman
 Planning Director

Exhibit H

WHEREAS, the approval of the conditional use application will be in harmony with the general purpose and intent of the Land Development Regulations, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare; and

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

Section 1. That the above recitals are incorporated by reference as fully set forth herein.

Section 2. That the request for a Conditional Use approval per Section 122-62 and 122-63 of the Code of Ordinances for a restaurant for up to 150 seats maximum and 6,637 square feet of flexible consumption area to be located at 802 - 806 Whitehead Street (RE# 00014010-000100 and 00014020-000000) and 318 - 324 Petronia Street (RE# 00014010-000000) and the reconfiguration of the parking lot at 809 - 811 Terry Lane (RE# 00014050-000000 and 00014060-000000) to meet Code requirements, landscaping and drainage, and to accommodate two (2) compact car spaces in order to protect the root system of large trees on the site, six (6) standard vehicular spaces, one (1) handicap space, and forty (40) scooter/bicycle parking spaces for property located in the Historic Neighborhood Commercial- Bahama Village Commercial Core (HNC-3) zoning district, pursuant to section 122-868(9) of the Code of Ordinances, Key West, Florida; providing for an effective date, as shown in the attached site plans dated November 1, 2011 with the following conditions:

Page 3 of 9
Resolution Number 2011 - 059



 Chairman
 Planning Director

Exhibit H

Conditions subject to a Conditional Approval Permit, per Ordinance 10-22. Conditions subject to an associated annual inspection:

1. Approval is limited to no more than 150 seats. At no time does the request for 6,637 square feet of consumption area allow the applicant to increase seating on the site without conditional use review.
2. The parking lot shall be reconfigured and maintained to include two (2) compact car spaces in order to protect the root system of large trees on the site, six (6) standard vehicular spaces, one (1) handicap space, and forty (40) bicycle/scooter spaces on the lot.
3. The waste and recycling handling shall be screened from adjacent properties and public rights-of-way by appropriate fences, walls or landscaping in accordance with Code Section 108-279, and the area shall be enclosed on all four sides with a roof and doors for access.
4. The applicant will install and maintain a programmable distributive sound system to assure compliance with the "unreasonable noise" definition of Section 26-191 of the Code of Ordinances, and shall include a computerized sound monitoring system with real time monitoring access is provided to the City. The applicant expressly agrees to provide the City's agents unfettered access to the computer-generated reports and full, real-time web-based access to the digital monitoring of on-site acoustics for the purpose of assuring compliance with the conditions contained herein.

**Page 4 of 9
Resolution Number 2011 - 059**



 Chairman
 Planning Director

Exhibit H

Conditions required prior to the issuance of a Certificate of Occupancy:

5. Completion of all improvements as depicted on the site plan.
6. The applicant will install and maintain a programmable distributive sound system to assure compliance with the "unreasonable noise" definition of Section 26-191 of the Code of Ordinances, and shall include a computerized sound monitoring system with real time monitoring access is provided to the City.
7. The applicant shall revise and resubmit a signed and sealed Landscape Plan that reflects the modified site plan dated November 1, 2011 and Civil Plan Dated November 9, 2011.

General conditions:

8. No outdoor music of any kind is allowed after the hours of 10pm unless approved under a special event permit per Section 6-86 of the City Code or for a special city-sanctioned event within the Petronia Street Commercial Corridor. Amplified music will be regulated by the "unreasonable noise" definition of Section 26-191 of the Code of Ordinances.
9. Recycling of applicable materials is required.
10. Hours of operation are limited from 9am to 11pm daily except during special city sanctioned events such as Fantasy Fest and Goombay.
11. Service vehicles are prohibited from using Petronia Street and Terry Lane and the Terry Lane parking lot for deliveries.
12. All waste pickup shall be daily via Whitehead Street.



 Chairman
 Planning Director

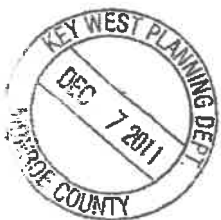
Exhibit H

13. In an effort to increase employment opportunities for residents of the Bahama Village Community Redevelopment Area ("BVCRA") the restaurant operator will make a good faith effort to employ a minimum of 25% of the restaurant workforce from qualified residents of the BVCRA.

"Good faith effort" means all employment opportunities will be advertised and posted in places frequented by residents of the BVCRA, such as the District 6 Commissioner's office, the Douglas Community Center, the Nutrition Center, the Martin Luther King swimming pool, neighborhood churches, neighborhood fraternal organizations, grocery stores, etc.

In the event the property owner is not the operator of the restaurant, the restaurant operator shall submit to the property owner proof of compliance with the employment requirement, on a quarterly basis. The property owner shall, in turn, provide the proof of compliance to the City of Key West, upon request. If the property owner operates the restaurant, in the event that this requirement is not complied with for any reason, the property owner shall tender to the BVCRA the amount of \$750 for each month the requirement is not met to be used to further employment programs within the Bahama Village Community.

In the event the property owner is not the operator of the restaurant, any lease, management agreement, or other document utilized to transfer operation of the restaurant shall include the provisions above along with a provision that the operator's rent will increase in the amount of \$750.00 per month for each month the



 Chairman
 Planning Director

Exhibit H

requirement is not met. The property owner will in turn pay this increased amount to the BVCRA to be used to further employment programs within the Bahama Village Community Redevelopment Area. The property owner's failure to insist upon, collect, and transfer the increased amount to the City of Key West shall constitute a breach of this condition.

This requirement shall run with the conditional use and remain in place from owner to owner, Lessee to Lessee and Lessor to Lessor.

Section 3. Full, complete, and final application for all permits required for which this resolution is wholly or partly necessary, shall be submitted in its entirety within 12 months after the date hereof.

Section 4. This conditional use approval does not constitute a finding as to ownership or right to possession of the property, and assumes, without finding, the correctness of applicant's assertion of legal authority respecting the property.

Section 5. This resolution shall go into effect immediately upon its passage and adoption and authentication by the signatures of the presiding officer and the Clerk of the Commission.

Section 6. This resolution is subject to appeal periods as provided by the City of Key West Code of Ordinances (including the Land Development Regulations). After the City appeal period has



 Chairman
 Planning Director

Exhibit H

expired, this permit or development order will be rendered to the Florida Department of Community Affairs. Pursuant to Chapter 9J-1, F.A.C., this permit or development order is not effective for forty five (45) days after it has been properly rendered to the DCA with all exhibits and applications attached to or incorporated by reference in this approval; that within the forty five (45) day review period the DCA can appeal the permit or development order to the Florida Land and Water Adjudicatory Commission; and that such an appeal stays the effectiveness of the permit until the appeal is resolved by agreement or order.



RWK Chairman

DC Planning Director

Exhibit H

Read and passed on first reading at a regular meeting held this 17th day of November, 2011.

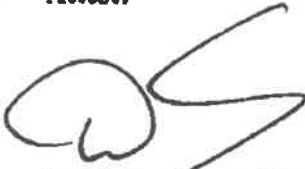
Authenticated by the Chairman of the Planning Board and the Planning Director.



Richard Klitenick, Chairman
Key West Planning Board

12/7/2011
Date

Attest:



Donald Leland Craig, AICP
Planning Director

12/7/11
Date

Filed with the Clerk:



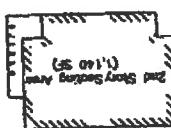
Cheryl Smith, City Clerk

12-7-11
Date



 Chairman
 Planning Director

RUK



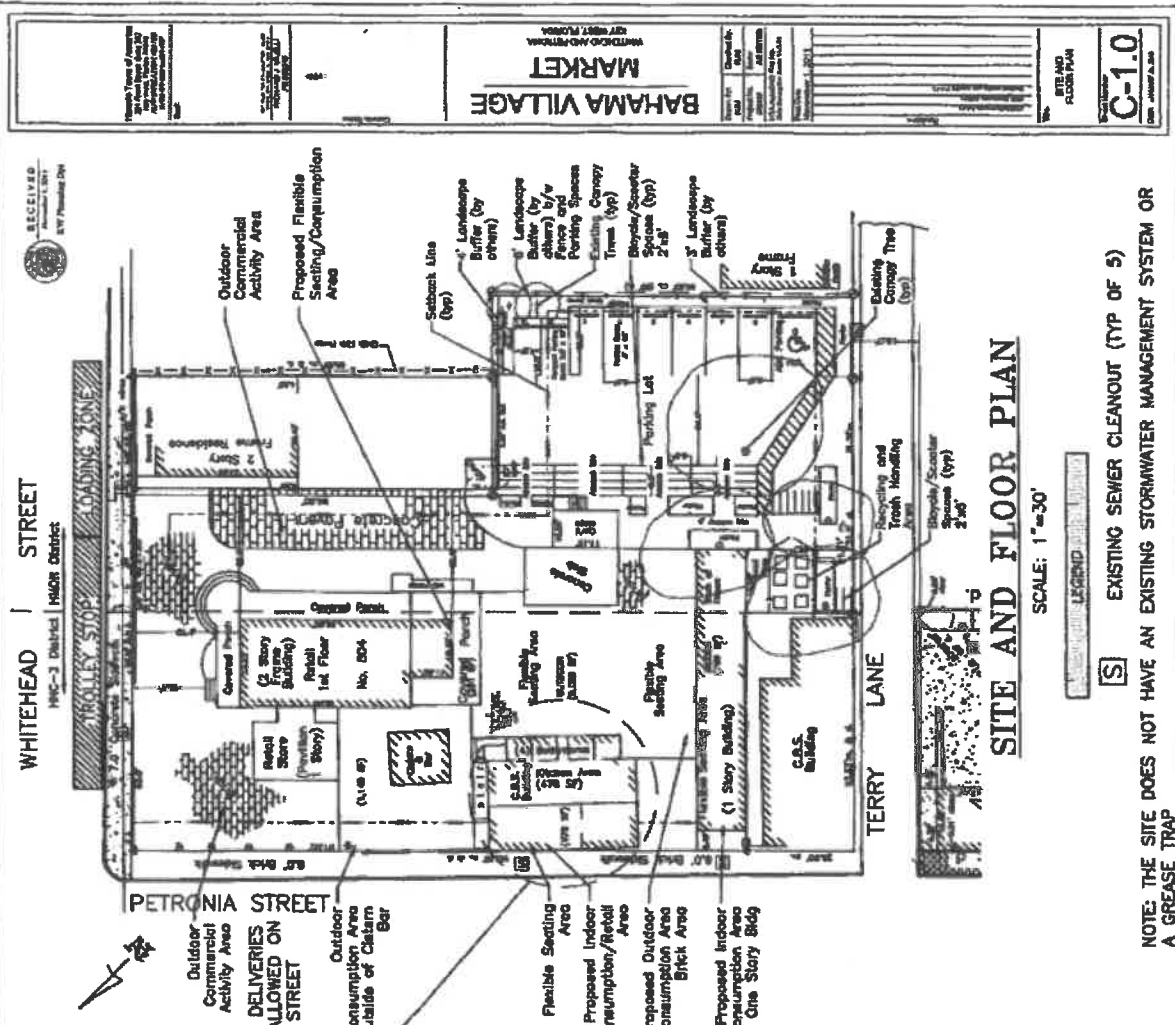
SECOND FLOOR

SCALE: 1"=30'

| INDEX OF DRAWINGS |
|---|
| C-1.0 SITE AND FLOOR PLAN |
| C-1.1 PREVIOUS CONSUMPTION AREAS |
| C-1.2 PROPOSED AND PREVIOUS CONSUMPTION AREAS |
| C-1.3 PARKING LOT PLAN |

| SITE DATA | | | | |
|------------------------------|--|-----------|--------------------|------------|
| RE Numbers | 000 4060-0000000 00014090-0000000 00014090-0000000 | | | |
| Zoning Designation | 00014010-0000000 00014010-0000000 | | | |
| Flood Zone | HAZ (1, 1.54 sq. ft.) and HNC-8 (10,565 sq. ft.) | | | |
| ZONE MAP 15087C-1510C | | | | |
| Item | Existing | Proposed | Resource/Permitted | Comments |
| Zoning | HNC-8 and HNC-5 | No Change | No Change | Complete |
| Site Area (sq. ft.) | 21,500 | No Change | 4,000 | Complete |
| Building Coverage (sq. ft.) | 4,877 | No Change | 6,608 (40%) | Complete |
| Impervious Surface (sq. ft.) | 20,616 (95.0%) | No Change | 12,812 (62%) | Complete 1 |
| Open Space Ratio (sq. ft.) | 904 (4.2%) | No Change | 4,304 (80%) | Complete |
| PAR | 0.35 | No Change | 1.0 | Complete |
| Retail Space (sq. ft.) | 5,583 | 2,553 | 13,543 | Complete |
| Consumption Area | | | | |
| Indoor (sq. ft.) | | 1,241 | | Complete |
| Outdoor (sq. ft.) | 2,295 | 4,395 | | Complete |
| Restaurant Seats | 45 | 145 | | Complete |
| Parking Spaces | 17 | 19 | 17 | Complete |
| Motorcycles | | 40 | | Complete |
| Remediated Lanes | 8-Stalls | 8-Stalls | 10 | Complete |
| Subtotals | | | | |
| Food | 18-250-0' | 18-250-0' | 0-010-0' | Complete |
| Beer | 5-015-0' | 10-014-0' | 7-015-0' | Complete |
| Alcohol | 28-0' | 28-0' | 19-0' | Complete |

1. Existing consumption
2. Site area from building footprint, parking, landscape and parking areas
3. Impervious surface as defined by the City of Key West
4. PAR is the ratio of open space to total site area
5. HNC-8 is the site area for the HNC-8 site
6. HNC-8 zoning only



RECEIVED

PLANNING DEPT.

NOV 14 2011

BAHAMA VILLAGE MARKET

15087C-1510C

DATE: 11/14/11

BY: [Signature]

FOR: [Signature]

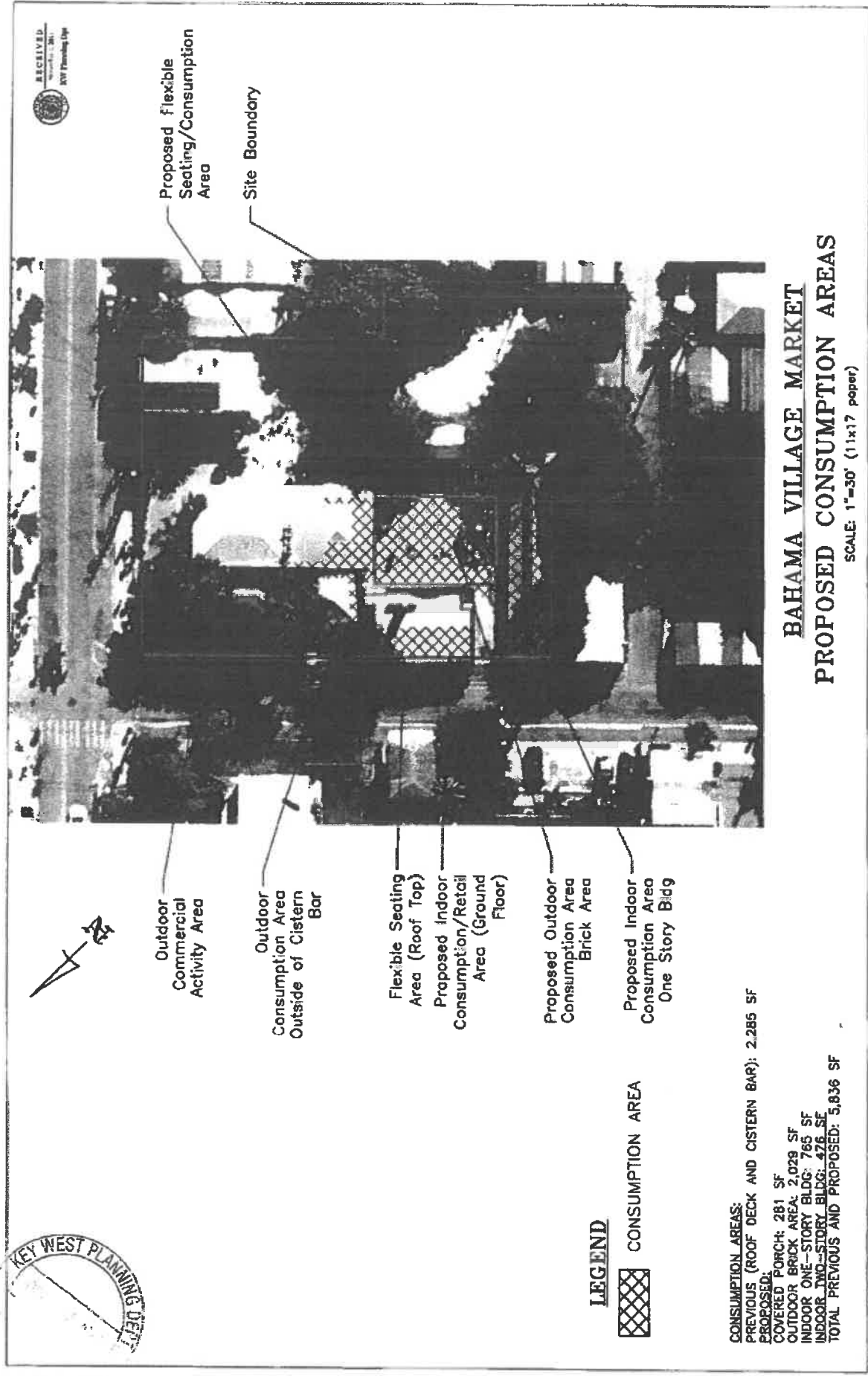
PROJECT: 15087C-1510C

SCALE: 1"=30'

DATE: 11/14/11

Ryk

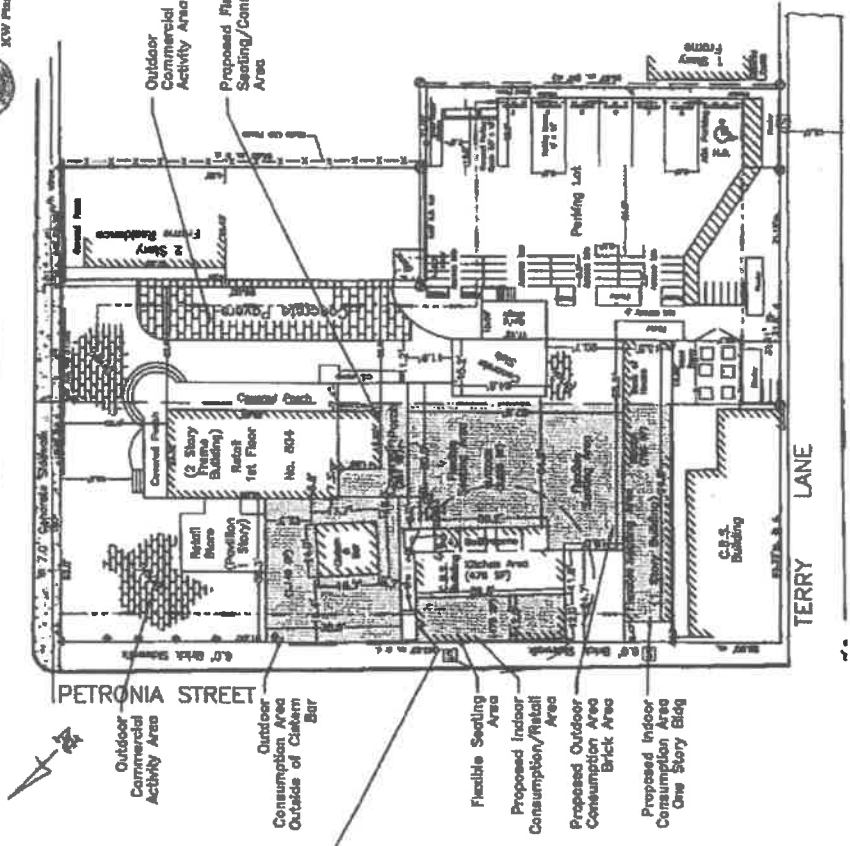
Exhibit H



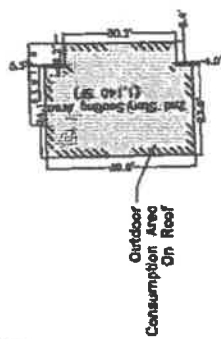
| WHITEHEAD | STREET |
|----------------|---------------|
| HBC-3 District | HUMR District |



RECEIVED
November 1964
KWW PHO



PROPOSED CONSUMPTION AREAS



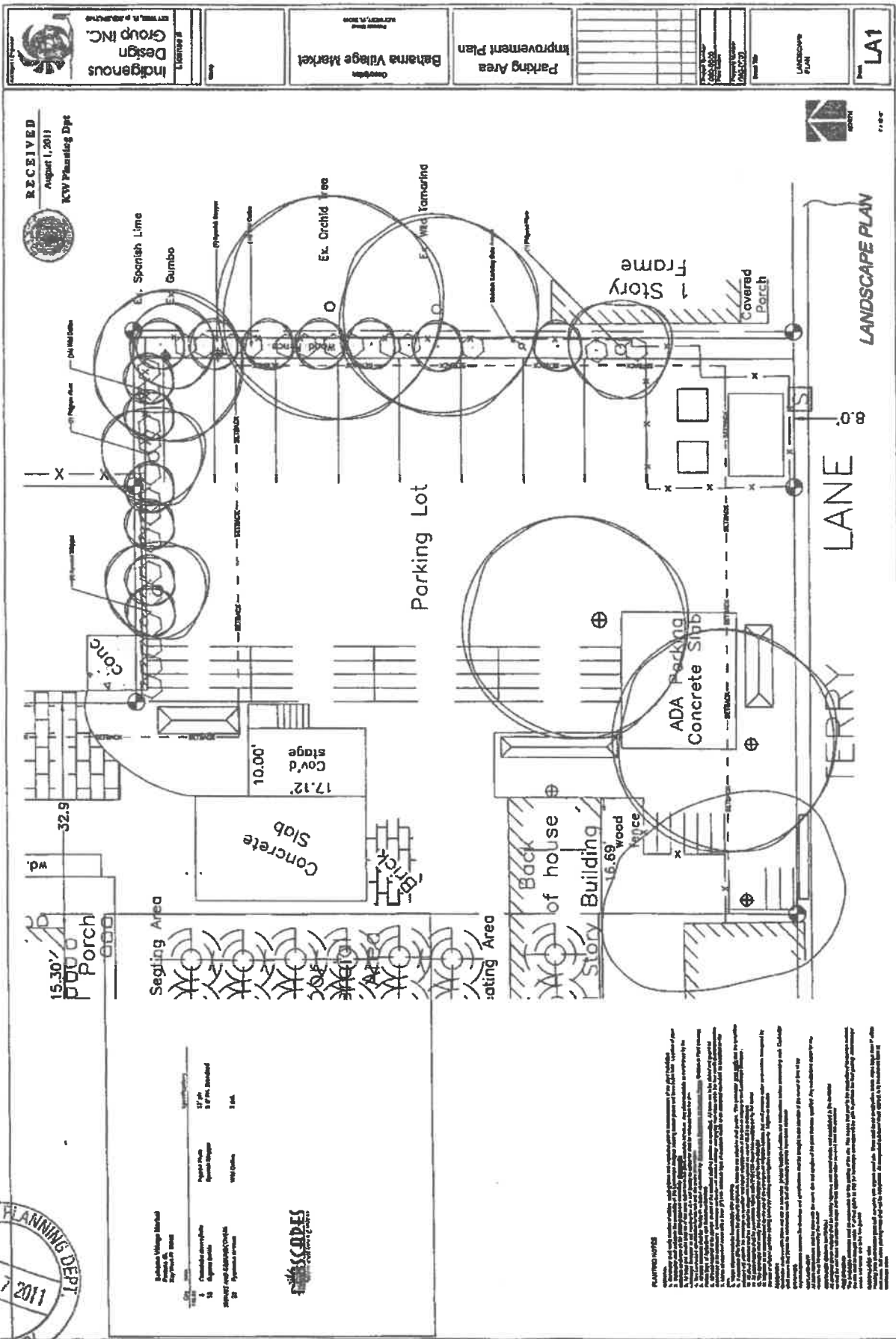
SECOND FLOOR
SCALE: 1"=30'

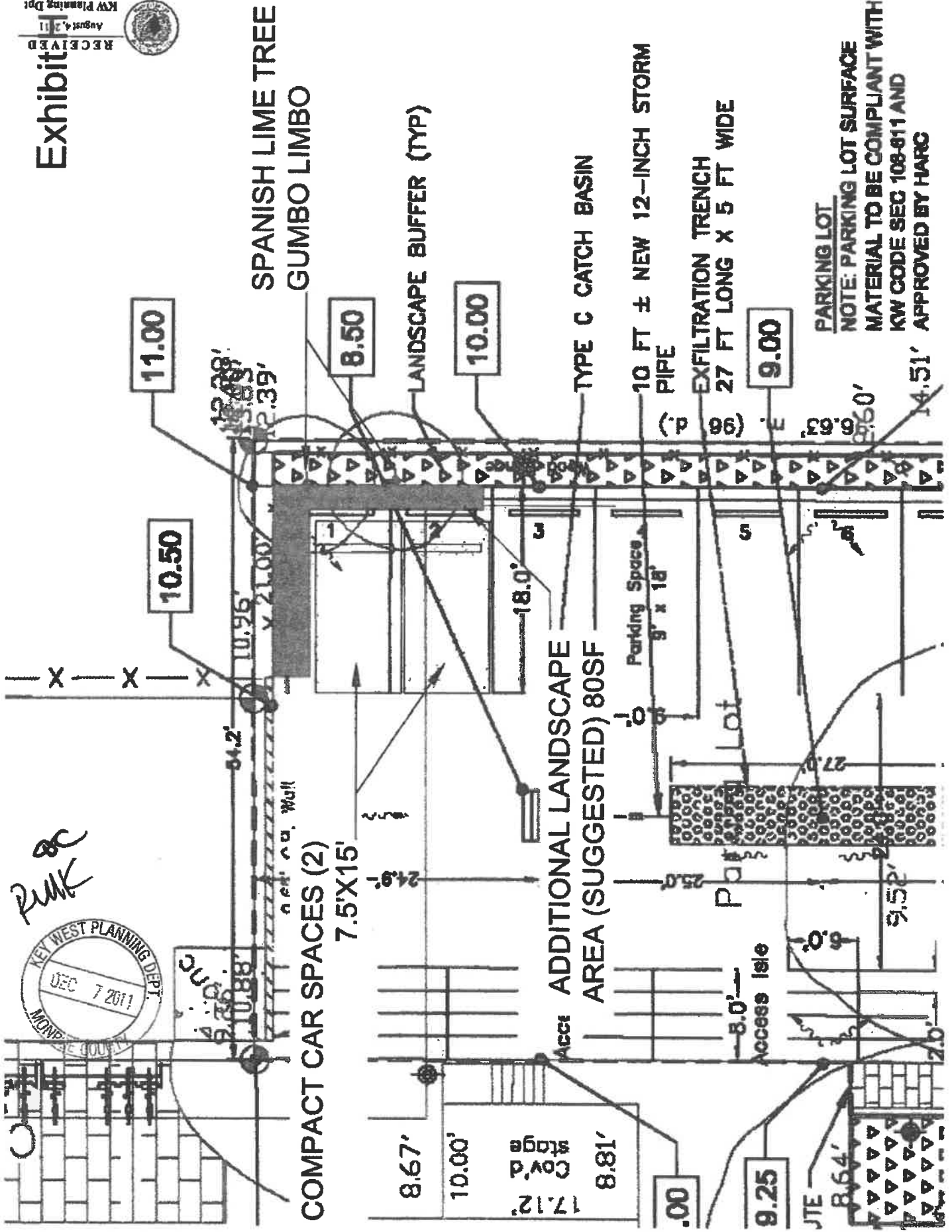
LEGEND

CONSUMPTION AREA

CONSUMPTION AREAS:
PREVIOUS (ROOT DECK AND CISTERN BAR): 2,285 SF
PROPOSED:
COVERED PORCH: 281 SF
OUTDOOR BRICK AREA: 2,029 SF
INDOOR ONE-STORY BLDG: 765 SF
INDOOR TWO-STORY BLDG: 475 SF
TOTAL PREVIOUS AND PROPOSED: 5,836 SF

RECEIVED
August 1, 2011
KTV Planning Dpt





House Bill 503 and 7023 Extensions



Exhibit H

THE CITY OF KEY WEST

Post Office Box 1409 Key West, FL 33041-1409 (305) 809-3700

October 31, 2014

Owen Trepanier
Trepanier & Associates
PO Box 2155
Key West, FL 33045

RE: House Bill 7023 / Development Order Extension Notification
Bahama Village Market, 802-806 Whitehead Street (RE# 00014010-000100, AK# 1014401)
Planning Board Resolution 2011-059

Dear Mr. Trepanier,

This letter is in response to the notification of your intent to extend Planning Board Resolution 2011-059 that was previously extended for two years in accordance with House Bill 503 on November 30, 2012. Your request for development order extension for an additional two years per House Bill 7023 was received by the Planning Department on September 15, 2014, in a timely manner and therefore appears to be eligible for the extension.

For your records, this letter recognizes that notification to the city has been made and received and that the date of expiration for Planning Board Resolution 2011-059 is understood to be extended for an additional two years for a combined total of four years until the effective date of January 1, 2016 pursuant to House Bill 7023.

Please contact me directly should you have any questions. Thank you.

Respectfully,

A handwritten signature in black ink, appearing to read "Carlene Smith".

Carlene Smith, LEED Green Associate
Planner II

Enclosures: Applicant Request
Extension Documentation
HB 7023

cc: Donald Leland Craig, AICP, Planning Director
Larry Erskine, Chief Assistant City Attorney
Ron Wampler, Building Official
Carolyn Walker, Licensing Official

Exhibit H



THE CITY OF KEY WEST

Post Office Box 1409 Key West, FL 33041-1409 (305) 809-3700

February 12, 2013

VIA ELECTRONIC MAIL

Owen Trepanier
Trepanier & Associates
402 Appelrouth Lane
Key West 33040

Dear Mr. Trepanier,

This letter is sent in reply to your request for recognition of your outstanding development orders. Your requests for extending the following approvals were received in a timely manner and are thus extended according to House Bill 503 to the appropriate dates:

1. Resolution 2006-212
2. Resolution 2006-295
3. Resolution 2008-131
4. Resolution 2011-059

These approvals have been the subject of previous extensions, please see attached. If there are any questions or concerns, please contact me directly.

Respectfully,

Brendon Cunningham
Senior Planner
City of Key West Planning Department
3140 Flagler Avenue
Key West 33040

Direct 305.809.3724
Main 305.809.3720
Fax 305.809.3978

**Minor Modification of
Conditional Use Request**

2/17/15

Ms. Carlene Smith, Planner II
 City of Key West
 Via Email - cesmith@cityofkeywest-fl.gov

RE: Res. No. 2011-059 – Minor Modification
 802-806 Whitehead St. (RE No. 00014010-000100 & 00014020-000000)
 318-324 Petronia St. (RE No. 00014010-000000)
 809-811 Terry Ln. (RE No. 00014050-000100 & 00014060-000000)



Dear Carlene:

Thank you for meeting with us to discuss this project.

We are attempting to modify the site plan layout associated with the approved restaurant use in Res. No. 2011-059¹.

The approved site plan² concentrated the restaurant seating in the outdoor rear of the property closest to the residential neighborhood. We propose to move the majority of that area forward towards the more commercialized corner of Petronia and Whitehead³ and to the interior of the existing mixed use building at 804 Whitehead. The result is a small reduction in outdoor consumption area and what remains will be moved away from the adjacent residential neighborhood. We propose no changes to any conditions of approval.

Changes to consumption area are proposed as follows:

| Consumption Area | Indoor | Outdoor | Total |
|------------------|---------------|---------------|---------------|
| Existing | 1,241 sq. ft. | 4,595 sq. ft. | 5,836 sq. ft. |
| Proposed | 1,317 sq. ft. | 4,519 sq. ft. | 5,836 sq. ft. |
| Change | +76 sq. ft. | - 76 sq. ft. | No Change |

According to Sec. 108-91.C.2(e)⁴ Minor Modifications. "change in use resulting in less than 1,000 square feet of impervious surface area on the entire site" is a minor modification. We are proposing to change the use as described above with no change to impervious surface.

Sec. 108-91 requires such modifications to be "approved by the city planner, city engineer and planning board chairperson and reported to the planning board at a regularly scheduled meeting".

Based on the above information and the attached exhibits, we respectfully request a minor modification to the site plan associated with Res. 2011-059 as depicted in Exhibit B.

¹ Exhibit A

² Exhibit A

³ Exhibit B

⁴ **108-91.C.2. Minor Modifications.** The following and similar modifications must be approved by the city planner, city engineer and planning board chairperson and reported to the planning board at a regularly scheduled meeting:

(e) Any use, except single-family dwelling units and accessory structures thereto, or change in use resulting in less than 1,000 square feet of impervious surface area on the entire site.

February 17, 2015
Page 2 of 2

Exhibit H

Sincerely,

A handwritten signature in dark ink, appearing to read "Lori Thompson", with a long horizontal flourish extending to the right.

Lori Thompson

Cc: Kevin Bond, AICP, Acting City Planner
James Bouquet, PE, City Engineer
Richard Klitenick, Esq., Planning Board Chair

Exhibit A of Exhibit H

PLANNING BOARD RESOLUTION NUMBER 2011-059

A RESOLUTION OF THE KEY WEST PLANNING BOARD GRANTING A CONDITIONAL USE APPROVAL PER SECTION 122-62 AND 122-63 OF THE CODE OF ORDINANCES FOR A RESTAURANT WITH 150 SEATS MAXIMUM TO BE LOCATED AT 802 - 806 WHITEHEAD STREET (RE# 00014010-000100 AND 00014020-000000) AND 318 - 324 PETRONIA STREET (RE# 00014010-000000) AND 809 - 811 TERRY LANE (RE# 00014050-000000, 00014060-000000) IN THE HISTORIC NEIGHBORHOOD COMMERCIAL-BAHAMA VILLAGE COMMERCIAL CORE (HNC-3) ZONING DISTRICT, PURSUANT TO SECTION 122-868(9) OF THE CODE OF ORDINANCES, KEY WEST FLORIDA; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the subject property is located in the Historic Neighborhood Commercial-Bahama Village Commercial Core (HNC-3) zoning district; and

WHEREAS, Section 122-868(9) of the Code of Ordinances provides that restaurants are allowed as a conditional use within the Historic Neighborhood Commercial- Bahama Village Commercial Core (HNC-3) zoning district; and

WHEREAS, Section 122-61 of the Code of Ordinances allows applicants to request a conditional use approval; and

Page 1 of 9
Resolution Number 2011 - 059



 Chairman
 Planning Director

Exhibit A of Exhibit H

WHEREAS, the applicant filed a conditional use application for a restaurant not to exceed maximum of 150 seats, with 6,637 square feet of flexible indoor/outdoor consumption area at 802 - 806 Whitehead Street (RE# 00014010-000100 and 00014020-000000) and 318 - 324 Petronia Street (RE# 00014010-000000); and

WHEREAS, the associated with the Conditional Use request, the applicant is required to bring the parking lot located at 809 - 811 Terry Lane (RE# 00014050-000000 and 00014060-000000) into compliance with dimensional requirements, landscaping and drainage; and

WHEREAS, the parking lot shall be reconfigured to include two (2) compact car spaces in order to protect the root system of large trees on the site, six (6) standard vehicular spaces, one (1) handicap space, and forty (40) scooter/bicycle spaces on the lot; and

WHEREAS, Section 122-62 outlines the criteria for reviewing a conditional use application by the Planning Board; and

WHEREAS, this matter came before the Planning Board at a duly noticed public hearing on November 17, 2011; and

WHEREAS, the Planning Board found that the proposed use complies with the criteria in Section 122-62; and



 Chairman
 Planning Director

Exhibit A of Exhibit H

WHEREAS, the approval of the conditional use application will be in harmony with the general purpose and intent of the Land Development Regulations, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare; and

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

Section 1. That the above recitals are incorporated by reference as fully set forth herein.

Section 2. That the request for a Conditional Use approval per Section 122-62 and 122-63 of the Code of Ordinances for a restaurant for up to 150 seats maximum and 6,637 square feet of flexible consumption area to be located at 802 - 806 Whitehead Street (RE# 00014010-000100 and 00014020-000000) and 318 - 324 Petronia Street (RE# 00014010-000000) and the reconfiguration of the parking lot at 809 - 811 Terry Lane (RE# 00014050-000000 and 00014060-000000) to meet Code requirements, landscaping and drainage, and to accommodate two (2) compact car spaces in order to protect the root system of large trees on the site, six (6) standard vehicular spaces, one (1) handicap space, and forty (40) scooter/bicycle parking spaces for property located in the Historic Neighborhood Commercial- Bahama Village Commercial Core (HNC-3) zoning district, pursuant to section 122-868(9) of the Code of Ordinances, Key West, Florida; providing for an effective date, as shown in the attached site plans dated November 1, 2011 with the following conditions:



 Chairman
 Planning Director

Exhibit A of Exhibit H

Conditions subject to a Conditional Approval Permit, per Ordinance 10-22. Conditions subject to an associated annual inspection:

1. Approval is limited to no more than 150 seats. At no time does the request for 6,637 square feet of consumption area allow the applicant to increase seating on the site without conditional use review.
2. The parking lot shall be reconfigured and maintained to include two (2) compact car spaces in order to protect the root system of large trees on the site, six (6) standard vehicular spaces, one (1) handicap space, and forty (40) bicycle/scooter spaces on the lot.
3. The waste and recycling handling shall be screened from adjacent properties and public rights-of-way by appropriate fences, walls or landscaping in accordance with Code Section 108-279, and the area shall be enclosed on all four sides with a roof and doors for access.
4. The applicant will install and maintain a programmable distributive sound system to assure compliance with the "unreasonable noise" definition of Section 26-191 of the Code of Ordinances, and shall include a computerized sound monitoring system with real time monitoring access is provided to the City. The applicant expressly agrees to provide the City's agents unfettered access to the computer-generated reports and full, real-time web-based access to the digital monitoring of on-site acoustics for the purpose of assuring compliance with the conditions contained herein.

**Page 4 of 9
Resolution Number 2011 - 059**



 Chairman
 Planning Director

Exhibit A of Exhibit H

Conditions required prior to the issuance of a Certificate of Occupancy:

5. Completion of all improvements as depicted on the site plan.
6. The applicant will install and maintain a programmable distributive sound system to assure compliance with the "unreasonable noise" definition of Section 26-191 of the Code of Ordinances, and shall include a computerized sound monitoring system with real time monitoring access is provided to the City.
7. The applicant shall revise and resubmit a signed and sealed Landscape Plan that reflects the modified site plan dated November 1, 2011 and Civil Plan Dated November 9, 2011.

General conditions:

8. No outdoor music of any kind is allowed after the hours of 10pm unless approved under a special event permit per Section 6-86 of the City Code or for a special city-sanctioned event within the Petronia Street Commercial Corridor. Amplified music will be regulated by the "unreasonable noise" definition of Section 26-191 of the Code of Ordinances.
9. Recycling of applicable materials is required.
10. Hours of operation are limited from 9am to 11pm daily except during special city sanctioned events such as Fantasy Fest and Goombay.
11. Service vehicles are prohibited from using Petronia Street and Terry Lane and the Terry Lane parking lot for deliveries.
12. All waste pickup shall be daily via Whitehead Street.



 Chairman
 Planning Director

Exhibit A of Exhibit H

13. In an effort to increase employment opportunities for residents of the Bahama Village Community Redevelopment Area ("BVCRA") the restaurant operator will make a good faith effort to employ a minimum of 25% of the restaurant workforce from qualified residents of the BVCRA.

"Good faith effort" means all employment opportunities will be advertised and posted in places frequented by residents of the BVCRA, such as the District 6 Commissioner's office, the Douglas Community Center, the Nutrition Center, the Martin Luther King swimming pool, neighborhood churches, neighborhood fraternal organizations, grocery stores, etc.

In the event the property owner is not the operator of the restaurant, the restaurant operator shall submit to the property owner proof of compliance with the employment requirement, on a quarterly basis. The property owner shall, in turn, provide the proof of compliance to the City of Key West, upon request. If the property owner operates the restaurant, in the event that this requirement is not complied with for any reason, the property owner shall tender to the BVCRA the amount of \$750 for each month the requirement is not met to be used to further employment programs within the Bahama Village Community.

In the event the property owner is not the operator of the restaurant, any lease, management agreement, or other document utilized to transfer operation of the restaurant shall include the provisions above along with a provision that the operator's rent will increase in the amount of \$750.00 per month for each month the



 Chairman
 Planning Director

Exhibit A of Exhibit H

requirement is not met. The property owner will in turn pay this increased amount to the BVCRA to be used to further employment programs within the Bahama Village Community Redevelopment Area. The property owner's failure to insist upon, collect, and transfer the increased amount to the City of Key West shall constitute a breach of this condition.

This requirement shall run with the conditional use and remain in place from owner to owner, Lessee to Lessee and Lessor to Lessor.

Section 3. Full, complete, and final application for all permits required for which this resolution is wholly or partly necessary, shall be submitted in its entirety within 12 months after the date hereof.

Section 4. This conditional use approval does not constitute a finding as to ownership or right to possession of the property, and assumes, without finding, the correctness of applicant's assertion of legal authority respecting the property.

Section 5. This resolution shall go into effect immediately upon its passage and adoption and authentication by the signatures of the presiding officer and the Clerk of the Commission.

Section 6. This resolution is subject to appeal periods as provided by the City of Key West Code of Ordinances (including the Land Development Regulations). After the City appeal period has

Page 7 of 9
Resolution Number 2011 - 059



 Chairman
 Planning Director

Exhibit A of Exhibit H

expired, this permit or development order will be rendered to the Florida Department of Community Affairs. Pursuant to Chapter 9J-1, F.A.C., this permit or development order is not effective for forty five (45) days after it has been properly rendered to the DCA with all exhibits and applications attached to or incorporated by reference in this approval; that within the forty five (45) day review period the DCA can appeal the permit or development order to the Florida Land and Water Adjudicatory Commission; and that such an appeal stays the effectiveness of the permit until the appeal is resolved by agreement or order.



RWK Chairman

DE Planning Director

Exhibit A of Exhibit H

Read and passed on first reading at a regular meeting held this 17th day of November, 2011.

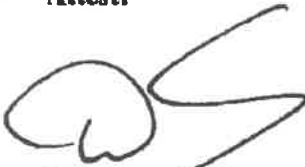
Authenticated by the Chairman of the Planning Board and the Planning Director.



Richard Klitenick, Chairman
Key West Planning Board

12/7/2011
Date

Attest:



Donald Leland Craig, AICP
Planning Director

12/7/11
Date

Filed with the Clerk:



Cheryl Smith, City Clerk

12-7-11
Date



 Chairman
 Planning Director

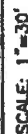
OK
Puk

INDEX OF DRAWINGS

| | |
|-------|---|
| C-1.0 | SITE AND FLOOR PLAN |
| C-1.1 | PREVIOUS CONSUMPTION AREAS |
| C-1.2 | PROPOSED AND PREVIOUS CONSUMPTION AREAS |
| C-1.3 | PARKING LOT PLAN |

| RE Numbers | Zoning Designation | Issues | Exclusions | Proposed | Revised/Promissed | Comments |
|--|--|------------------------------|--------------------------|-----------------|-------------------|----------|
| 000-4060-000000; 000-4070-000000; 000-4080-000000; 000-4090-000000; 000-4010-000100 | NMDR (), 154 sq. ft. 844 NMC-S (10,356 sq. ft.) | Flood Zone | | | | |
| | | Zoning | NMDR and NMC-S | No Change | No Change | Complete |
| | | Site Size (sq. ft.) | 21,150 | No Change | 4,000 | Complete |
| | | Building Coverage (sq. ft.) | 4,577 | No Change | 6,000 (40%) | Complete |
| | | Impervious Surface (sq. ft.) | 20,616 (95.9%) | No Change | 12,913 (60%) | Complete |
| | | Open Space Ratio (sq. ft.) | 8094 (4.2%) ² | No Change | 4,304 (20%) | Complete |
| | | PAR | 0.26 | No Change | 1.0 | Complete |
| | | Rural Space (sq. ft.) | 3,356 | 2,553 | 15,843 | Complete |
| | | Consumption Area | | | | |
| | | Indoor (sq. ft.) | | 1,241 | | Complete |
| | | Outdoor (sq. ft.) | 2,225 | 4,593 | | Complete |
| | | Restaurant Sign | 45 | 163 | | Complete |
| | | Printing Signage | 17 | 15 ^b | 17 | Complete |
| | | Secondary/Bicycle | | 40 | | |
| | | Remodeled Units | 2-Sheds | 3-Sheds | 10 | Complete |
| | | Setbacks | | | | |
| | Front | | 10'-2X0'-0" | 16'-5X0'-0" | 0'-0X10'-0" | Complete |
| | Side | | 5'-0X5'-0" | 10'-5X4'-0" | 7'-5X5'-0" | Complete |
| | Back | | 25'-9" | 30'-9" | 15'-0" | Complete |

1. **Causing nonconformity**
2. **Proposed lots behind** **avenue, power, sewer, water and parking areas**
3. **Shall be based on** **all** **existing** **sewers and** **40** **acres** **aprox.**
4. **The City of** **Key West** **recommends** **for** **ACZ** **except** **existing** **units, for**
5. **PHC-3** **is** **less** **100** **number** **and** **PHC-3** **is** **the** **standard**
6. **100000** **Noting** **only**

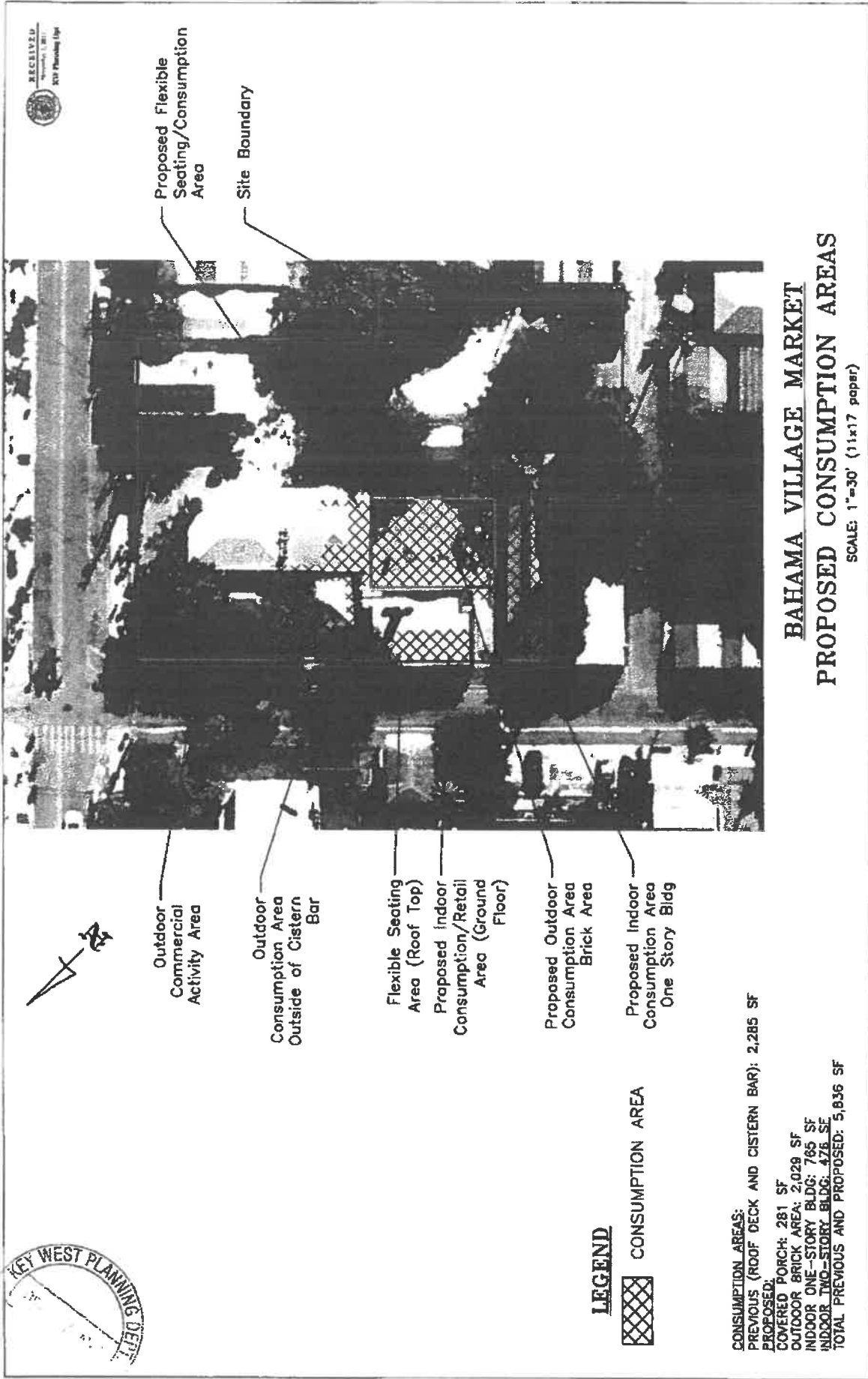


S EXISTING SEWER CLEANOUT (TYP OF 5)

NOTE: THE SITE DOES NOT HAVE AN EXISTING STORMWATER MANAGEMENT SYSTEM OR A GREASE TRAP

C-1.0

Exhibit A of Exhibit H



OK
Rmk

PROPOSED CONSUMPTION AREAS
SCALE: 1"=30'



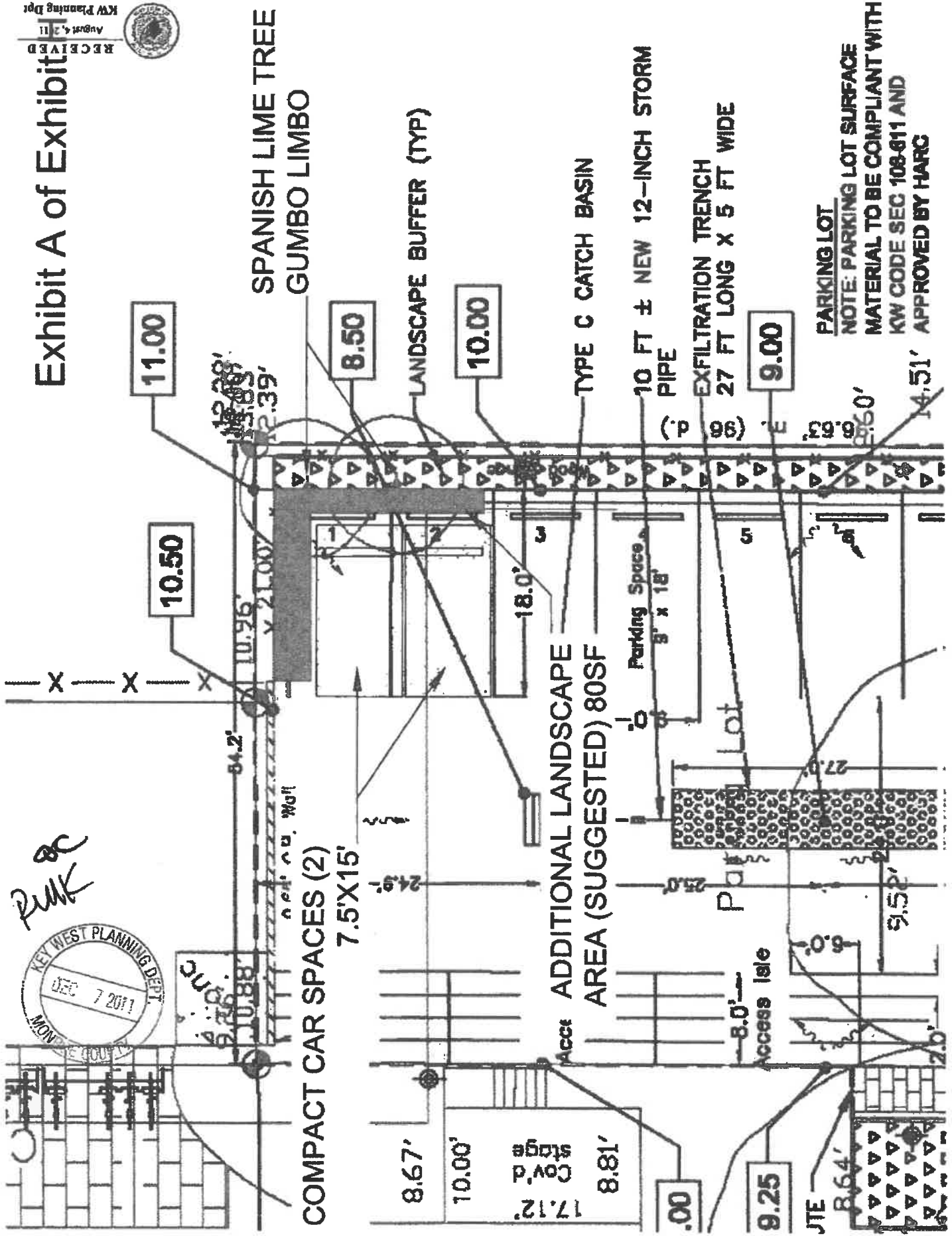
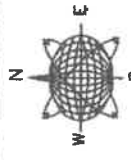


Exhibit A of Exhibit H



Meridian Engineering LLC
201 Front Street, Suite 210
Key West, Florida 33040
AUTHORIZATION # 29401
P.E. 38079-200 (for 750-4899)

Scale:

RICHARD J. McLELLI
P.E. #80015

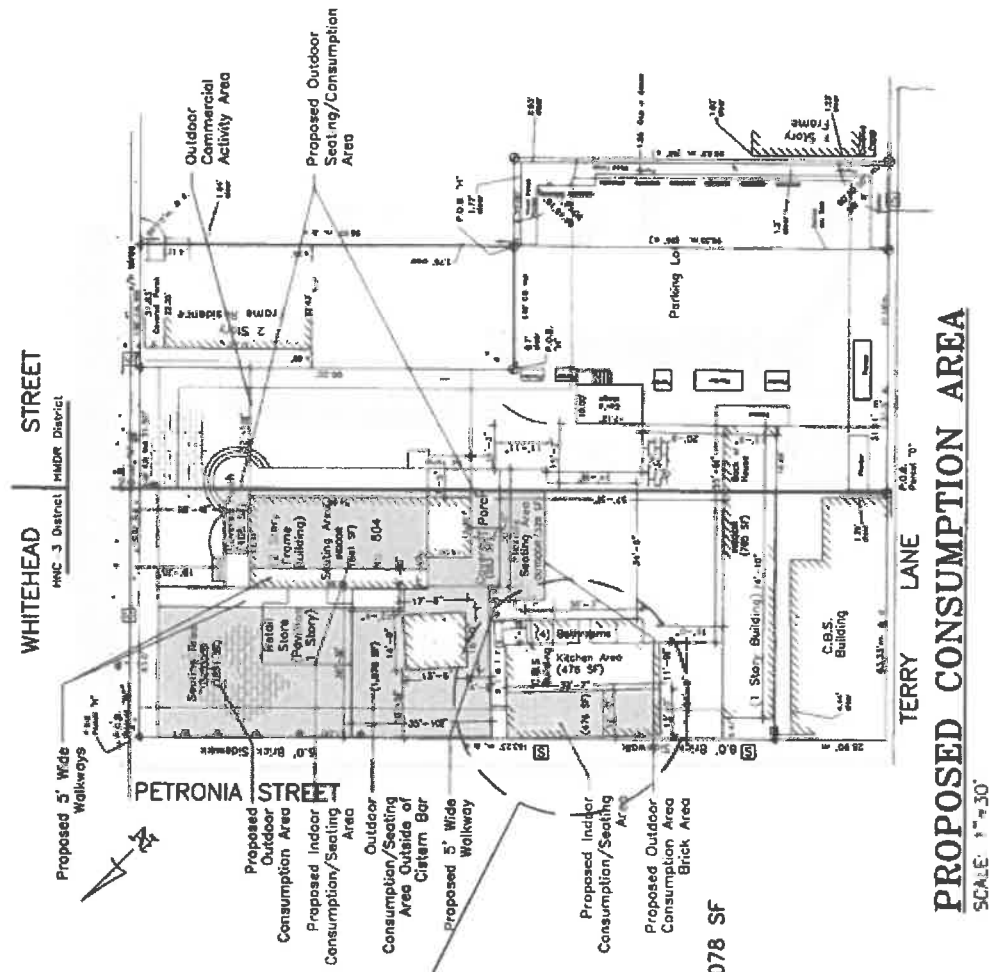
BAHAMAMA VILLAGE
MARKET
WHITEHEAD & PETRONIA
KEY WEST, FLORIDA

Drawn By: PCS
Checked By: RJM
Revisions:

Title:
PROPOSED
AND PREVIOUS
CONSUMPTION
AREAS

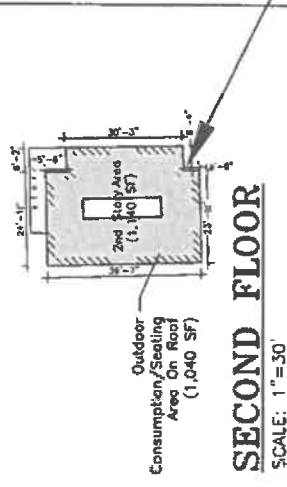
Sheet Number
C-1.3

Date: FEBRUARY 9, 2015



PROPOSED CONSUMPTION AREA

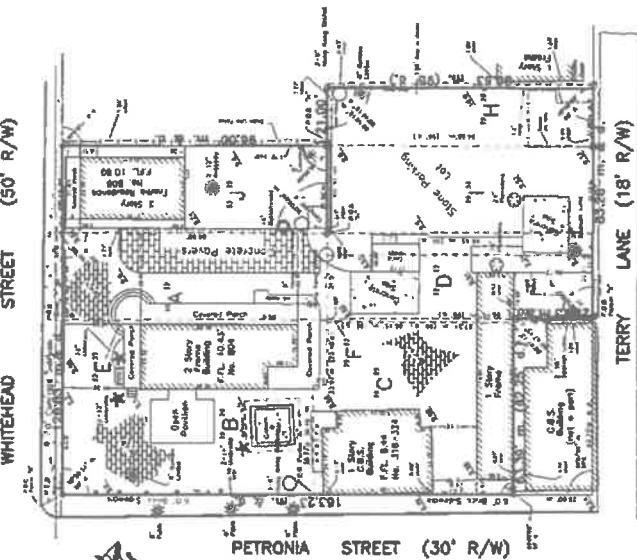
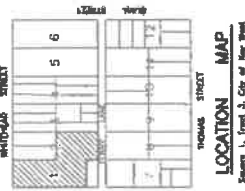
SCALE: 1"=30'



LEGEND

CONSUMPTION AREA

CONSUMPTION AREAS:
PREVIOUS (FRONT OUTDOOR AREA AND CISTERN BAR): 1,078 SF
PROPOSED:
COVERED PORCHES: 482 SF
OUTDOOR REAR BRICK AREA: 328 SF
INDOOR FIRST FLOOR 2-STORY BLDG: 841 SF
OUTDOOR FRONT BRICK AREA: 1,591 SF
OUTDOOR TWO-STORY BLDG.: 1,040 SF
INDOOR TWO-STORY BLDG.: 476 SF
TOTAL PREVIOUS AND PROPOSED: 5,836 SF



LEGAL DESCRIPTION
 Parcel 1: 30' x 100' Subdivided Parcel
 On the north side of Terry Lane, in the City of Miami, Florida, a certain parcel of land, known as Parcel 1, being a portion of the land of the late John J. ...

LEGAL DESCRIPTION
 Parcel 2: 30' x 100' Subdivided Parcel
 On the north side of Terry Lane, in the City of Miami, Florida, a certain parcel of land, known as Parcel 2, being a portion of the land of the late John J. ...

LEGAL DESCRIPTION
 Parcel 3: 30' x 100' Subdivided Parcel
 On the north side of Terry Lane, in the City of Miami, Florida, a certain parcel of land, known as Parcel 3, being a portion of the land of the late John J. ...

LEGAL DESCRIPTION
 Parcel 4: 30' x 100' Subdivided Parcel
 On the north side of Terry Lane, in the City of Miami, Florida, a certain parcel of land, known as Parcel 4, being a portion of the land of the late John J. ...

LEGAL DESCRIPTION
 Parcel 5: 30' x 100' Subdivided Parcel
 On the north side of Terry Lane, in the City of Miami, Florida, a certain parcel of land, known as Parcel 5, being a portion of the land of the late John J. ...

LEGAL DESCRIPTION
 Parcel 6: 30' x 100' Subdivided Parcel
 On the north side of Terry Lane, in the City of Miami, Florida, a certain parcel of land, known as Parcel 6, being a portion of the land of the late John J. ...

LEGAL DESCRIPTION
 Parcel 7: 30' x 100' Subdivided Parcel
 On the north side of Terry Lane, in the City of Miami, Florida, a certain parcel of land, known as Parcel 7, being a portion of the land of the late John J. ...

LEGAL DESCRIPTION
 Parcel 8: 30' x 100' Subdivided Parcel
 On the north side of Terry Lane, in the City of Miami, Florida, a certain parcel of land, known as Parcel 8, being a portion of the land of the late John J. ...

LEGAL DESCRIPTION
 Parcel 9: 30' x 100' Subdivided Parcel
 On the north side of Terry Lane, in the City of Miami, Florida, a certain parcel of land, known as Parcel 9, being a portion of the land of the late John J. ...

LEGAL DESCRIPTION
 Parcel 10: 30' x 100' Subdivided Parcel
 On the north side of Terry Lane, in the City of Miami, Florida, a certain parcel of land, known as Parcel 10, being a portion of the land of the late John J. ...

CERTIFICATION
 I, the undersigned, being a duly qualified and sworn Surveyor, do hereby certify that the foregoing is a true and correct copy of the original record of the plat of the subject property, as the same appears in the public records of the Office of the Surveyor, Miami, Florida, and that the same is a true and correct copy of the original record of the plat of the subject property, as the same appears in the public records of the Office of the Surveyor, Miami, Florida.

NOTARY PUBLIC
 My Commission Expires: 10/10/2010
 My Office: Miami, Florida

PREPARED BY
 JAMES H. McCOMBS, JR.
 Surveyor

REMARKS
 This plat was prepared by James H. McCombs, Jr., Surveyor, and is a true and correct copy of the original record of the plat of the subject property, as the same appears in the public records of the Office of the Surveyor, Miami, Florida.

REMARKS
 This plat was prepared by James H. McCombs, Jr., Surveyor, and is a true and correct copy of the original record of the plat of the subject property, as the same appears in the public records of the Office of the Surveyor, Miami, Florida.

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185 | 186 | 187 | 188 | 189 | 190 | 191 | 192 | 193 | 194 | 195 | 196 | 197 | 198 | 199 | 200 | 201 | 202 | 203 | 204 | 205 | 206 | 207 | 208 | 209 | 210 | 211 | 212 | 213 | 214 | 215 | 216 | 217 | 218 | 219 | 220 | 221 | 222 | 223 | 224 | 225 | 226 | 227 | 228 | 229 | 230 | 231 | 232 | 233 | 234 | 235 | 236 | 237 | 238 | 239 | 240 | 241 | 242 | 243 | 244 | 245 | 246 | 247 | 248 | 249 | 250 | 251 | 252 | 253 | 254 | 255 | 256 | 257 | 258 | 259 | 260 | 261 | 262 | 263 | 264 | 265 | 266 | 267 | 268 | 269 | 270 | 271 | 272 | 273 | 274 | 275 | 276 | 277 | 278 | 279 | 280 | 281 | 282 | 283 | 284 | 285 | 286 | 287 | 288 | 289 | 290 | 291 | 292 | 293 | 294 | 295 | 296 | 297 | 298 | 299 | 300 | 301 | 302 | 303 | 304 | 305 | 306 | 307 | 308 | 309 | 310 | 311 | 312 | 313 | 314 | 315 | 316 | 317 | 318 | 319 | 320 | 321 | 322 | 323 | 324 | 325 | 326 | 327 | 328 | 329 | 330 | 331 | 332 | 333 | 334 | 335 | 336 | 337 | 338 | 339 | 340 | 341 | 342 | 343 | 344 | 345 | 346 | 347 | 348 | 349 | 350 | 351 | 352 | 353 | 354 | 355 | 356 | 357 | 358 | 359 | 360 | 361 | 362 | 363 | 364 | 365 | 366 | 367 | 368 | 369 | 370 | 371 | 372 | 373 | 374 | 375 | 376 | 377 | 378 | 379 | 380 | 381 | 382 | 383 | 384 | 385 | 386 | 387 | 388 | 389 | 390 | 391 | 392 | 393 | 394 | 395 | 396 | 397 | 398 | 399 | 400 | 401 | 402 | 403 | 404 | 405 | 406 | 407 | 408 | 409 | 410 | 411 | 412 | 413 | 414 | 415 | 416 | 417 | 418 | 419 | 420 | 421 | 422 | 423 | 424 | 425 | 426 | 427 | 428 | 429 | 430 | 431 | 432 | 433 | 434 | 435 | 436 | 437 | 438 | 439 | 440 | 441 | 442 | 443 | 444 | 445 | 446 | 447 | 448 | 449 | 450 | 451 | 452 | 453 | 454 | 455 | 456 | 457 | 458 | 459 | 460 | 461 | 462 | 463 | 464 | 465 | 466 | 467 | 468 | 469 | 470 | 471 | 472 | 473 | 474 | 475 | 476 | 477 | 478 | 479 | 480 | 481 | 482 | 483 | 484 | 485 | 486 | 487 | 488 | 489 | 490 | 491 | 492 | 493 | 494 | 495 | 496 | 497 | 498 | 499 | 500 | 501 | 502 | 503 | 504 | 505 | 506 | 507 | 508 | 509 | 510 | 511 | 512 | 513 | 514 | 515 | 516 | 517 | 518 | 519 | 520 | 521 | 522 | 523 | 524 | 525 | 526 | 527 | 528 | 529 | 530 | 531 | 532 | 533 | 534 | 535 | 536 | 537 | 538 | 539 | 540 | 541 | 542 | 543 | 544 | 545 | 546 | 547 | 548 | 549 | 550 | 551 | 552 | 553 | 554 | 555 | 556 | 557 | 558 | 559 | 560 | 561 | 562 | 563 | 564 | 565 | 566 | 567 | 568 | 569 | 570 | 571 | 572 | 573 | 574 | 575 | 576 | 577 | 578 | 579 | 580 | 581 | 582 | 583 | 584 | 585 | 586 | 587 | 588 | 589 | 590 | 591 | 592 | 593 | 594 | 595 | 596 | 597 | 598 | 599 | 600 | 601 | 602 | 603 | 604 | 605 | 606 | 607 | 608 | 609 | 610 | 611 | 612 | 613 | 614 | 615 | 616 | 617 | 618 | 619 | 620 | 621 | 622 | 623 | 624 | 625 | 626 | 627 | 628 | 629 | 630 | 631 | 632 | 633 | 634 | 635 | 636 | 637 | 638 | 639 | 640 | 641 | 642 | 643 | 644 | 645 | 646 | 647 | 648 | 649 | 650 | 651 | 652 | 653 | 654 | 655 | 656 | 657 | 658 | 659 | 660 | 661 | 662 | 663 | 664 | 665 | 666 | 667 | 668 | 669 | 670 | 671 | 672 | 673 | 674 | 675 | 676 | 677 | 678 | 679 | 680 | 681 | 682 | 683 | 684 | 685 | 686 | 687 | 688 | 689 | 690 | 691 | 692 | 693 | 694 | 695 | 696 | 697 | 698 | 699 | 700 | 701 | 702 | 703 | 704 | 705 | 706 | 707 | 708 | 709 | 710 | 711 | 712 | 713 | 714 | 715 | 716 | 717 | 718 | 719 | 720 | 721 | 722 | 723 | 724 | 725 | 726 | 727 | 728 | 729 | 730 | 731 | 732 | 733 | 734 | 735 | 736 | 737 | 738 | 739 | 740 | 741 | 742 | 743 | 744 | 745 | 746 | 747 | 748 | 749 | 750 | 751 | 752 | 753 | 754 | 755 | 756 | 757 | 758 | 759 | 760 | 761 | 762 | 763 | 764 | 765 | 766 | 767 | 768 | 769 | 770 | 771 | 772 | 773 | 774 | 775 | 776 | 777 | 778 | 779 | 780 | 781 | 782 | 783 | 784 | 785 | 786 | 787 | 788 | 789 | 790 | 791 | 792 | 793 | 794 | 795 | 796 | 797 | 798 | 799 | 800 | 801 | 802 | 803 | 804 | 805 | 806 | 807 | 808 | 809 | 810 | 811 | 812 | 813 | 814 | 815 | 816 | 817 | 818 | 819 | 820 | 821 | 822 | 823 | 824 | 825 | 826 | 827 | 828 | 829 | 830 | 831 | 832 | 833 | 834 | 835 | 836 | 837 | 838 | 839 | 840 | 841 | 842 | 843 | 844 | 845 | 846 | 847 | 848 | 849 | 850 | 851 | 852 | 853 | 854 | 855 | 856 | 857 | 858 | 859 | 860 | 861 | 862 | 863 | 864 | 865 | 866 | 867 | 868 | 869 | 870 | 871 | 872 | 873 | 874 | 875 | 876 | 877 | 878 | 879 | 880 | 881 | 882 | 883 | 884 | 885 | 886 | 887 | 888 | 889 | 890 | 891 | 892 | 893 | 894 | 895 | 896 | 897 | 898 | 899 | 900 | 901 | 902 | 903 | 904 | 905 | 906 | 907 | 908 | 909 | 910 | 911 | 912 | 913 | 914 | 915 | 916 | 917 | 918 | 919 | 920 | 921 | 922 | 923 | 924 | 925 | 926 | 927 | 928 | 929 | 930 | 931 | 932 | 933 | 934 | 935 | 936 | 937 | 938 | 939 | 940 | 941 | 942 | 943 | 944 | 945 | 946 | 947 | 948 | 949 | 950 | 951 | 952 | 953 | 954 | 955 | 956 | 957 | 958 | 959 | 960 | 961 | 962 | 963 | 964 | 965 | 966 | 967 | 968 | 969 | 970 | 971 | 972 | 973 | 974 | 975 | 976 | 977 | 978 | 979 | 980 | 981 | 982 | 983 | 984 | 985 | 986 | 987 | 988 | 989 | 990 | 991 | 992 | 993 | 994 | 995 | 996 | 997 | 998 | 999 | 1000 | 1001 | 1002 | 1003 | 1004 | 1005 | 1006 | 1007 | 1008 | 1009 | 1010 | 1011 | 1012 | 1013 | 1014 | 1015 | 1016 | 1017 | 1018 | 1019 | 1020 | 1021 | 1022 | 1023 | 1024 | 1025 | 1026 | 1027 | 1028 | 1029 | 1030 | 1031 | 1032 | 1033 | 1034 | 1035 | 1036 | 1037 | 1038 | 1039 | 1040 | 1041 | 1042 | 1043 | 1044 | 1045 | 1046 | 1047 | 1048 | 1049 | 1050 | 1051 | 1052 | 1053 | 1054 | 1055 | 1056 | 1057 | 1058 | 1059 | 1060 | 1061 | 1062 | 1063 | 1064 | 1065 | 1066 | 1067 | 1068 | 1069 | 1070 | 1071 | 1072 | 1073 | 1074 | 1075 | 1076 | 1077 | 1078 | 1079 | 1080 | 1081 | 1082 | 1083 | 1084 | 1085 | 1086 | 1087 | 1088 | 1089 | 1090 | 1091 | 1092 | 1093 | 1094 | 1095 | 1096 | 1097 | 1098 | 1099 | 1100 | 1101 | 1102 | 1103 | 1104 | 1105 | 1106 | 1107 | 1108 | 1109 | 1110 | 1111 | 1112 | 1113 | 1114 | 1115 | 1116 | 1117 | 1118 | 1119 | 1120 | 1121 | 1122 | 1123 | 1124 | 1125 | 1126 | 1127 | 1128 | 1129 | 1130 | 1131 | 1132 | 1133 | 1134 | 1135 | 1136 | 1137 | 1138 | 1139 | 1140 | 1141 | 1142 | 1143 | 1144 | 1145 | 1146 | 1147 | 1148 | 1149 | 1150 | 1151 | 1152 | 1153 | 1154 | 1155 | 1156 | 1157 | 1158 | 1159 | 1160 | 1161 | 1162 | 1163 | 1164 | 1165 | 1166 | 1167 | 1168 | 1169 | 1170 | 1171 | 1172 | 1173 | 1174 | 1175 | 1176 | 1177 | 1178 | 1179 | 1180 | 1181 | 1182 | 1183 | 1184 | 1185 | 1186 | 1187 | 1188 | 1189 | 1190 | 1191 | 1192 | 1193 | 1194 | 1195 | 1196 | 1197 | 1198 | 1199 | 1200 | 1201 | 1202 | 1203 | 1204 | 1205 | 1206 | 1207 | 1208 | 1209 | 1210 | 1211 | 1212 | 1213 | 1214 | 1215 | 1216 | 1217 | 1218 | 1219 | 1220 | 1221 | 1222 | 1223 | 1224 | 1225 | 1226 | 1227 | 1228 | 1229 | 1230 | 1231 | 1232 | 1233 | 1234 | 1235 | 1236 | 1237 | 1238 | 1239 | 1240 | 1241 | 1242 | 1243 | 1244 | 1245 | 1246 | 1247 | 1248 | 1249 | 1250 | 1251 | 1252 | 1253 | 1254 | 1255 | 1256 | 1257 | 1258 | 1259 | 1260 | 1261 | 1262 | 1263 | 1264 | 1265 | 1266 | 1267 | 1268 | 1269 | 1270 | 1271 | 1272 | 1273 | 1274 | 1275 | 1276 | 1277 | 1278 | 1279 | 1280 | 1281 | 1282 | 1283 | 1284 | 1285 | 1286 | 1287 | 12 |
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THE CITY OF KEY WEST
Post Office Box 1409 Key West, FL 33041-1409 (305) 809-5700

To: Kevin Bond, AICP, LEED Green Associate, Acting Planning Director
Richard Klitenick, Esq., Planning Board Chairman
James Bouquet, PE, City Engineer

From: Carlene Smith, LEED Green Associate, Planner II

Date: March 17, 2015

RE: Minor Modification of Conditional Use Approval PB Res No. 2011-059
802-806 Whitehead Street (RE#: 00014010-000100, 00014020-000000)
318-324 Petronia Street (RE#: 00014010-000000)
809-811 Terry Lane (RE#: 00014050-000100, 00014060-000000)

Request

On February 17, 2015, the applicant requested a minor modification to the conditional use approval obtained via Planning Board Resolution No. 2011-059, in order to modify the site plan layout associated with the approved restaurant use. The approved site plan positioned the indoor and outdoor consumption area at the rear of the property adjacent to the residential neighborhood. The applicant is proposing to reduce the outdoor consumption area by 76 square feet and increase the indoor consumption area by 76 square feet, maintaining the same over all consumption area of 5,836 square feet. In order to accommodate this modification, the applicant is requesting to move the majority of the consumption area forward towards the more commercialized corner of Petronia and Whitehead Street and to the interior of the existing mixed use building at 802-804 Whitehead Street.

Code Applicability

The criteria for minor modifications of development plan is listed in Section 108-91.C.2 of the City Code:

Minor Modifications. The following and similar modifications must be approved by the city planner, city engineer and planning board chairperson and reported to the planning board at a regularly scheduled meeting:

- (a) Relocation of at least ten feet of pools, parking spaces, drives and driveways, or buildings from the location shown on the approved plan;
- (b) Addition of parking spaces not to exceed 25 percent (including fractions thereof) of the total number of existing parking spaces or five spaces, whichever is the lesser amount, and no such additional parking shall consume the approved landscaped area;
- (c) Attached or detached additions to buildings in the historic district that do not increase the floor area in excess of 500 square feet;
- (d) Installation of utility system improvements including buildings not exceeding 200 square feet; or

EXHIBIT

2

- (e) Any use, except single-family dwelling units and accessory structures thereto, or change in use resulting in less than 1,000 square feet of impervious surface area on the entire site.

The applicant is requesting review under Section 108-91.C.2(e).

Background

The applicant received conditional use approval for a restaurant via Planning Board Resolution No. 2011-059 (Attachment 1). City correspondence dated October 31, 2014, acknowledged that Planning Board Resolution No. 2011-059 was extended for an additional two years for a combined total of four years until the effective date of January 1, 2016 pursuant to House Bill 503 and 7023 (Attachment 2).

The conditional use approval for the 150 seat restaurant consisted of indoor and outdoor consumption area located on a commercial property along the Petronia Street Commercial Corridor in the Historic Neighborhood Commercial - Bahama Village (HNC-3) Zoning District. The approval is associated with the reconfiguration of an on-site parking lot. Thirteen conditions are associated with the approval. The applicant is not requesting any changes to the conditions.

Analysis

The applicant proposes to use the existing structures, facilities and utilities currently on the site. There are no changes to the dimensional requirements. The proposed modification would reduce the outdoor consumption area, as well as move both the indoor and outdoor consumption area further away from the adjacent residential neighborhood.

The mixed-use building at 802-804 Whitehead Street was included in the conditional use approval but only 281 square feet of outdoor consumption area was approved on a portion of the rear covered porch. This parcel is located in the HNC-3 and HMDR zoning districts. The covered porch located at the northeastern portion of two-story structure is in the HMDR Zoning District. Restaurant use is a prohibited use in the HMDR zoning district; therefore, no consumption area shall take place on the covered porch located at the northeastern portion of the two-story structure.

The applicant is proposing the following layout modification per site plan sheet C-1.4:

1. Remove the existing retail use on the first floor at 802-804 Whitehead Street and add 841 square feet of indoor consumption area on the first floor, 108 square feet of outdoor consumption area on a portion of the front porch and increase the outdoor consumption area from 281 square feet to 283 square feet. Three non-transient residential units will remain on the second floor.
2. The flexible outdoor seating area located at 318-324 Petronia Street would be reduced from 2,029 square feet to 328 square feet.
3. The outdoor consumption area located around the cistern bar would be reduced from 1,145 square feet to 1,078 square feet.
4. The applicant is proposing to move 1,591 square feet of outdoor consumption area to the existing outdoor commercial activity area located at the corner of Whitehead and Petronia Street.
5. All indoor consumption area would be removed from the one-story building located at the rear of the property.
6. Outdoor consumption area on the roof top of the one-story structure facing Petronia Street will remain the same.

Determination

This letter does not grant the expansion of consumption area, restaurant seats or retail use, but rather recognizes that the proposed modification to the conditional use approval per the proposed site plan signed

and sealed March 5, 2015 by Richard J. Milelli, Professional Engineer, would reconfigure both the indoor and outdoor consumption area further away from the adjacent residential neighborhood. The total amount of consumption area of 5,836 square feet and restaurant seating of 150 seats would remain unchanged. The reconfiguration of the on-site parking lot and the 13 conditions associated with the approval would not be modified.

Conditions of Administrative Approval

General condition:

1. No consumption area shall be allowed on the covered porch located at the northeastern portion of the two story structure at 802-804 Whitehead Street zoned HMDR as depicted on site plan sheet C-1.4.

Condition required to be completed prior to issuance of a building permit:

2. Life safety plan shall be submitted to the Fire Marshall's office for review.

Anyone who may wish to appeal any administrative decision may do so in accordance with Section 90-431 of the Land Development Regulations. Please do not hesitate to contact me at 305-809-3722 with any questions or comments that you may have.

Respectfully,



Carlene Smith, LEED Green Associate, Planner II


Attachments:

- 1 Site Plan Sheet C-1.4
- 2 Planning Board Resolution No. 2011-059
- 3 House Bill 503 and 7023 Extensions
- 4 Minor Modification of Conditional Use Approval Request

cc: Ron Wampler, Building Official
Larry Erskine, Chief Assistant City Attorney
Carolyn Walker, Licensing Official
Michael Turner, Utilities Collection Manager
Diane Nicklaus, Engineering Services
Scott Russell, C.F.A., Monroe County Property Appraiser


Kevin Bond, AICP/LEED Green Associate
Acting Planning Director

3/17/2015
Date


Richard Klitenick, Esq.,
Planning Board Chairman

3/17/2015
Date


James Bonquet, PE
City Engineer

3/17/2015
Date

**THE CITY OF KEY WEST
PLANNING BOARD
Staff Report**



To: Chairman and Planning Board Members

From: Nicole Malo

Through: Donald Leland Craig, AICP, Planning Director

Meeting Date: November 17, 2011

Agenda Item: **Conditional Use – 802 - 804 Whitehead Street (RE# 00014010-000100 and 00014020-000000) and 320 - 324 Petronia Street (RE# 00014010-000000) and 809 - 811 Terry Lane (RE# 00014050-000000, 00014060-000000) - A Conditional Use request for a restaurant in the HNC-3 zoning district per Section 122-868(9) of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida**

Request: To allow a conditional use approval for a restaurant with indoor and outdoor consumption area located on a commercial property along the Petronia Street Commercial Corridor in the Historic Neighborhood Commercial District - Bahama Village Commercial Core (HNC-3). The conditional use request is associated with the reconfiguration of an on-site parking lot on site. The request is for up to 125 new seats, in addition to the 40 seats paid to date that run with the land, for a total of 165 seats proposed on site.

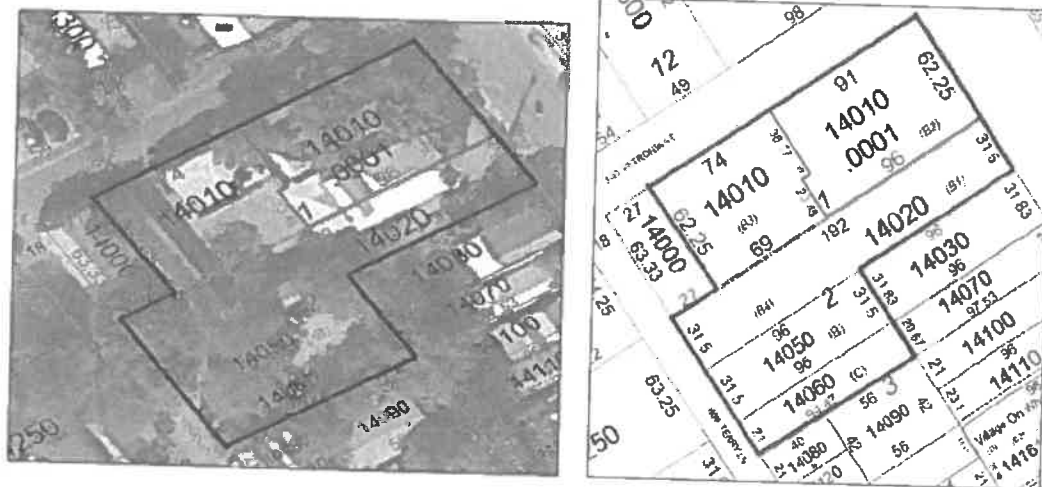
Applicant: Trepanier and Associates, Inc.

Property Owner: Edwin O. Swift, III

Location: 802 - 804 Whitehead Street RE# 00014010-000100; 320-324 Petronia Street, RE# 00014010-000000; 806 Whitehead Street, RE# 00014020-000000; 809 Terry Lane, RE# 00014050-000000 and; 811 Terry Lane, RE# 00014060-000000.

Zoning: Historic Neighborhood Commercial, Bahama Village Commercial Core (HNC-3)
Historic Medium Density Residential (HMDR)





Background:

The applicant held a community meeting on the site on September 5, 2011 that was well attended. As part of this request, the applicant has revised the site plans relocating the waste handling area away from the adjacent single family home and increased the landscape buffers between the consumption area and the parking lot.

The proposed application is for a mixed use property of approximately 21,520 square feet located at the corner of Whitehead and Petronia Streets. The collective properties consist of five separate parcels. Three of the five parcels are zoned Historic Medium Density Residential – HMDR, including the parking lot that is accessed on Terry Lane; the remaining two parcels along Petronia Street are zoned Historic Neighborhood Commercial – HNC-3 as pictured below.



In 1997- 1998, the existing development was approved through development plan Resolutions 90-97, 97-72 and 97-73 and 98-44 (see attached). These resolutions allowed commercial development of the entire site, including three non-transient residential units, a 40-seat restaurant with 2,285 square feet of consumption area, indoor and outdoor commercial retail space and an associated parking lot. These approvals were required to be combined under a Master Plan that established the commercial use and design of the entire site; however there is no documentation that this plan was ever approved. In response to a zoning verification request, on September 10, 2010 the Planning Director issued a document that establishes the entitled, legally non-conforming uses as they relate to the aforementioned approvals, abandonment and development of the site. This includes the recognition of existing commercial areas that were approved for and utilized as consumption area and indoor/outdoor marketplace areas. A site visit conducted by the Planning Department on June 24, 2010 confirms that no new construction or additional floor area has been added and it appears that the majority of the utilities, have not been removed to date (see attached). In short, the September 10, 2010 letter found that almost all portions of the property located in the HNC-1 zoning district have established existing commercial use of indoor/outdoor areas and courtyards including 2,285 square feet of consumption area, and that portions of the property located in the HMDR zoning district have legally established non-conforming commercial uses associated with the approvals above, as follows:

Although planning site visits and analysis indicate that while the outdoor consumption and music venues may have existed, the plan and physical design at best support outdoor retail use in the HMDR zoned area, it does not appear that restaurant or outdoor entertainment uses can be substantiated in this area.

Therefore, although the approved development contemplated non-conforming uses in the HMDR zoning district, those uses may be limited and cannot be expanded or otherwise reconsidered without an application for a change of non-conforming use.

Because a Master Plan, as required by Resolution 97-72, was never approved it has been difficult for staff to determine the model for the final site plan. Staff has a site plan that reflects the required parking to be for 25 spaces (received by the Planning Department February 19, 1998); however, since the September Planning Board meeting the applicant has provided staff with two

approved building permits from 1998 that reflect most accurately the construction of the development which exists on the site today (attached herein). These Building Permit issued site plans reflect 17 parking spaces within the footprint of the existing Terry Lane parking lot. Pursuant to Code Section 108-573, any preexisting off-street parking servicing the structure must be maintained to service the new use; therefore 17, parking spaces are required to be maintained onsite or otherwise accommodated for.

Currently, outdoor marketplace areas on portions of the site located in the HNC-3 zoning district are used commercially by various cart vendors. On the first floor of the primary historic structure on 802-806 Whitehead Street is commercial retail use and the second floor has three non-transient units. The remaining two structures and outdoor courtyard areas have been out of use since around 2005, although as previously stated the Planning Department has found that the uses have not been abandoned as defined in Code Section 86-9.

In 2006 the site was approved for residential redevelopment via Resolution 06-045, that has subsequently been extended to date, but has never been implemented and is not relevant to this analysis of commercial uses.

Request:

This request is for a conditional use to increase seating capacity associated with special exception approval, Resolution 97-72 that runs with the land. According to the associated site plans provided by the applicant, approximately 2,285 square feet of consumption area (equivalent to 152 seats) was contemplated, however impact fees have been paid for only 40 seats (see attached Site Plans and Previous Approvals). Therefore, this request is for an increase of 125 seats, for a total of 165 seats. The applicant has chosen to limit the number of seats allowed while requesting flexible, indoor/outdoor consumption area of 6,637 square feet to be located in the HNC-3 zoning district only.

Currently, the site is required to maintain the parking lot and 17 parking spaces associated with the existing development. However, 17 parking spaces cannot be accommodated by the dimensional limitations of the code therefore the reconfiguration of the lot is proposed to bring it into compliance. The site is located in the Historic Commercial Pedestrian Oriented Area, and the change of use from the established commercial/restaurant uses to restaurant use does not trigger an increase in parking requirements. Furthermore, the applicant has provided a Parking and Trip Generation Analysis as prepared by a licensed engineer that demonstrates that the proposed application may reduce potential impacts to the site from the previously approved land uses.

Mitigative techniques to reduce impacts to the immediate adjacent properties include paving the parking lot and managing the stormwater runoff onsite, landscape buffering, relocating the garbage handling area with appropriate screening, and limited hours of operation and amplified music are proposed.

This request does not include uses that may be considered non-conforming, that are associated with the HMDR zoning district, but that have been established by the Zoning Verification Analysis completed September 10, 2010 by the previous City Planner attached to this report as previously noted.

Surrounding Zoning and Uses:

North: HNC-3: Multi-family residential
South: HMDR: Single-family residential
East: HNC-3: Mixed use - residential and commercial
West: HNC-3: Commercial

HNC-3 Zoning District

Uses Permitted: Section 122-867

Within the historic neighborhood commercial district (HNC-3), redevelopment or conversion of permanent housing structures to transient residential, office, or other allowable commercial uses shall be permitted only if no on-site reduction in housing units for permanent residents occurs. Uses permitted include the following:

- (1) Single-family and two-family residential dwellings.
- (2) Multiple-family residential dwellings.
- (3) Group homes with less than or equal to six residents as provided in Section 122-1246
- (4) Places of worship.
- (5) Business and professional offices.
- (6) Commercial retail low intensity less than or equal to 2,500 square feet.
- (7) Hotels, motels, and transient lodging.
- (8) Medical services.
- (9) Parking lots and facilities.
- (10) Veterinary medical services, without outside kennels.

Sec. 122-868. - Conditional uses.

- (1) Group homes with seven to 14 residents as provided in Section 122-1246
- (2) Cultural and civic activities.
- (3) Educational institutions and day care.
- (4) Nursing homes, rest homes and convalescent homes.
- (5) Parks and recreation, active and passive.
- (6) Protective services.
- (7) Public and private utilities.
- (8) Commercial retail low intensity greater than 2,500 square feet to less than or equal to 5,000 square feet.
- (9) Restaurants, excluding drive-through.

Process:

Planning Board:

August 18, 2011
September 19, 2011
November 17, 2011

Development Review Committee Meeting:

April 28, 2011

HARC:

H11-01-229

Conditional Use Review:

Code Sec.122-62 (a) provides, in part, that "a conditional use shall be permitted upon a finding by the Planning Board that the proposed use, application, and, if applicable, development plan

comply with the criteria specified in this section, including specific conditions established by the Planning Board and or the City Commission during review of the respective application in order to ensure compliance with the Comprehensive Plan and Land Development Regulations. The same section also specifies that "a conditional use shall be denied if the City determines that the proposed use does not meet the criteria provided in this section and, further, that the proposed conditional use is adverse to the public's interest."

Conditional Use Criteria Per Code Sec. 122-62:

(a) **Findings:** The Planning Board may find that the application meets the Code purpose of ensuring that "a conditional use shall only be permitted on specific sites where the proposed use may be adequately accommodated without generating adverse impacts on properties and land uses within the immediate vicinity." The following criteria form the basis for a finding of compliance.

(b) **Characteristics of Use Described:**

1) **Scale and Intensity:**

a. **Floor Area Ratio:**

The allowed F.A.R in the HMDR zoning district is 0.5 and 1.0 in the HNC-3 zoning district for a combined total of 15,943 square feet of F.A.R allowed. No changes are proposed to the floor area ratio. The outdoor consumption area proposed has been utilized as commercial floor area. The total F.A.R for the entire site is 0.26 (5,595 square feet).

b. **Traffic Generation:**

The applicant has provided a signed and sealed Parking and Trip Generation Analysis as prepared by a licensed engineer. The report indicates that both parking and trip generation should decrease from the proposed change in use (see attached), although the applicant believes that the anticipated traffic should be primarily bicycle and pedestrian oriented.

c. **Square Feet of Enclosed Building for Each Specific Use:**

The site has a total of 4,877 square feet of enclosed building area. The enclosed area for the proposed restaurant is 1,483 square feet. The Enclosed commercial area is 2,214 square feet, and the enclosed residential floor area is 1,058 square feet.

d. **Proposed Employment**

There will be approximately 19 employees associated with the restaurant and a total of approximately 27 potential employees associated with the site. At September Planning Board Meeting the applicant requested postponement in order to create a Bahama Village Employment program for the proposed restaurant. The applicant has informed staff that the proposal will be discussed at the Planning Board Meeting.

e. **Proposed Number of Service Vehicles:**

Certain service vehicles are expected for delivery a total of five trips daily. Up to five trips a week can be expected for other types of service delivery. The planning department is currently working with city staff to establish a loading zone in the right-of-way along Whitehead Street adjacent to the property to be shared by the applicant, however this is contingent on the required size of the adjacent Trolley stop and City Manager approval. The proposal is not required to have on or off-site loading per code Section 108-649. Service vehicles are prohibited from using Petronia Street and Terry Lane and the Terry Lane parking lot for deliveries.

f. Off-Street Parking:

The proposed use is located on an existing and approved development within the Commercial Pedestrian Oriented Area. Because the commercial uses there have not been abandoned pursuant to the Planning Directors Zoning Verification Letter referred to above, and because no additional floor area is proposed, the change of use from the established commercial/restaurant uses to a restaurant use, no additional parking is required per Code Section 108-573. Furthermore, the applicant has provided a Parking and Trip Generation Analysis as prepared by a licensed engineer that demonstrates that the proposed application may reduce potential impacts to the site from the previous land uses. However, the existing development is associated with a Master Plan approval requiring 17 on-site parking spaces. The code does not allow for the onsite reduction or removal of parking. Therefore, 17 parking spaces are required to be maintained with the existing development.

The existing parking lot configuration previously approved for 17 parking spaces is currently non-conforming to landscaping and drainage requirements, in addition to dimensional requirements for isle width and stall size. This renders the lot unworkable and possibly dangerous in operation. In order to bring the lot into compliance with no net loss of required parking the applicant has proposed to reconfigure the lot to accommodate a landscape plan and stormwater drainage plan, 6 full-size auto spaces along the east property line, two compact car spaces, one standard ADA vehicular parking space, and a conforming isle width of 24 feet. In order to maintain the use of the 17 required parking spaces staff directed the applicant to create 40 conforming scooter/ bicycle spaces in the parking lot.

Although, the applicant proposed full-size auto spaces along the east property line, two existing trees (Spanish Lime & Gumbo Limbo), could be adversely affected by the two adjacent parking spaces. Section 108-646 allows up to 15% of a lot of 20 or more spaces to be compact. Therefore, in the interest of reducing the potential impact of parking full-size vehicles adjacent to existing shade trees, and pursuant to Section 108-646 for a parking lot intended to accommodate over 20 spaces, staff recommends the two spaces adjacent to the above mentioned trees be reduced to 7.5x15 feet for compact vehicle spaces. This provides a two foot of buffer space between the edge of the parking space and the trees. Please see the attached site plans.

2) On or Off Site Improvements Required and Not Listed in Subsection (b)(1)

- a. **Utilities:**
No utility changes are expected as a result of the proposed conditional use. Additionally, Keys Energy Services and Florida Keys Aqueduct Authority have no objections to the proposed conditional use, comments are attached.
 - b. **Public facilities:**
The applicant has included a Concurrency Management Analysis attached herein. According to the report, no changes to public facilities are required to ensure compliance with concurrency management, as provided in Chapter 94 of the City Code. There are no expected changes regarding level of service for potable water and sanitary sewer. Site improvements include swales and French Drains as proposed on the Drainage Plan to meet parking lot stormwater retention requirements. The applicant has provided a signed and sealed engineered Parking and Trip Generation Analysis that shows that traffic may decrease from the previous use.
 - c. **Roadway or Signal Improvements:**
No changes are required to the roadway and no signal improvements are proposed.
 - d. **Accessory Structures or Facilities:**
No accessory structures or facilities are proposed.
 - e. **Other Unique Facilities/Structures Proposed as Part of On-Site Improvements:**
The proposed project does not include unique facilities or structures.
- 3) **On-Site Amenities Proposed to Enhance the Site and Planned Improvements.**
Planned improvements to the site include primarily parking lot upgrades including landscape buffering, a stormwater drainage plan and configuration modifications to bring the parking lot into compliance and rearrange the garbage handling area.
- a. **Open Space:**
No changes are proposed to open space. The site is required to be 20% (4,304 s.f) open space, however the site is over 95% impervious surface. Open space requirements have not been met.
 - b. **Setbacks from Adjacent Properties:**
No changes are proposed that would alter structural setbacks.
 - c. **Screening and Buffers:**
Landscape screening and buffering is proposed between commercial and residential land uses as required by the code. Since the September Planning Board Meeting the applicant has added landscape buffering in areas around the solid waste storage area and the parking lot.
 - d. **Landscaped Berms Proposed to Mitigate Against Adverse Impacts to Adjacent Sites:**

No landscaped berms are proposed.

e. Mitigative Techniques for Abating Smoke, Odor, Noise, and Other Noxious Impacts:

To mitigate potential impacts the applicant has proposed a parking lot landscape plan and drainage plan to capture stormwater runoff on site. The waste handling area is proposed to be relocated away from adjacent residential land uses and is required to be entirely enclosed. Additionally, no amplified music or live performance is allowed after the hours of 10pm, except by special event permit or special city-sanctioned event within the Petronia Street Commercial Corridor. These site improvements are recommended as conditions of approval. No noxious impacts are anticipated as a result of this proposal.

(c) Criteria for Conditional Use Review and Approval. Applications for a Conditional Use review shall clearly demonstrate the following:

1) Land Use Compatibility:

The property is zoned HNC-3, which is contemplated by the Land Use Element of the Comprehensive Plan as providing a neighborhood commercial core linking the Duval Street commercial core. Policy 1-2.3.5 of the Comprehensive Plan contemplates commercial improvement strategies for this corridor, yet also proposes measures which limit potential impacts these commercial uses may inflict upon residential properties in the area. From a land use compatibility standpoint, balance was anticipated between both commercial and residential properties within the corridor, as this is a mixed-use district.

Restaurants are allowed in the district by conditional use only. Currently the site has a Special Exception/Conditional Use approval for a restaurant that runs with the land (Resolution 97-73) and impact fees have been paid to date for 40 seats. This application therefore constitutes an expansion of that approved use. The proposed site is located along a commercial corridor that is bordered by a residential neighborhood. Outdoor commercial retail uses currently exist on the site today; this application proposes to consolidate the mix of commercial uses; however, potential impacts to the neighborhood could include noise generated by the proposed outdoor consumption area, solid waste odors and potential parking and traffic impacts. To help reduce potential noise impacts, the applicant is proposing to limit hours of operation from 8am to 11pm and to prohibit amplified music or live performance after the hours of 10pm; the configuration of the site may help limit the noise amplification from traveling off of the property; consumption area is limited to the courtyard areas located within the HNC-3 district; and areas along the commercial corridor on Petronia Street. Landscaping buffering is proposed between the commercial areas and parking lot and between the parking lot and adjacent residential uses. The parking lot will be brought into compliance with stormwater drainage requirements. Since the previous Planning Board hearings, the applicant has revised the site plans to relocate the waste and recycling handling area as per the site plans and shall be screened from adjacent properties and public rights-of-way and enclosed with a roof and four walls.

Additionally, the applicant has requested from the City a loading zone on Whitehead Street adjacent to the property in order to provide space for deliveries that is in the process of approval that must be granted by the City Manager.

The Planning Department finds that in order to protect the adjacent residential lands and uphold the integrity of the intended land uses in the Land Development Regulations and the Comprehensive Plan conditions of approval are necessary, including but not limited to a limit on the seating capacity of up to 165 seats, separate from the flexible consumption area. At no time does the request for 6,637 square feet of consumption area allow the applicant to increase seating on the site without conditional use review.

The proposed location of the restaurant is across the street from residences and other commercial uses; however, much of the proposed consumption area is in the courtyard of the property and buffered by landscaping, structures, and a parking lot from the nearest residential uses. The proposed restaurant may increase noise impacts during operating hours. However, parking and traffic impacts may potentially be reduced from the previous use as a community gathering and market place as described in the Parking and Trip Analysis provided by the applicant. Nine (9) on site vehicular parking spaces and forty (40) bicycle/scooter spaces are proposed. The site is located in the heart of the Petronia Street Commercial Core and the proposed use appears compatible with the intent and the intensity requirements of the zoning district; however, the proposed intensity of the use may not be compatible with the existing fabric of small shops and restaurants located along the Petronia Street Corridor and the adjacent residential uses. Mitigative techniques proposed by the applicant may help alleviate impacts include: limiting the number of seats (165), limiting the location of the allowed consumption area, and prohibiting the use of amplified music after 10 pm. Hours of operation are proposed between 8am and 11pm. The size of the site and the onsite parking appear to accommodate the needs of the proposed use that is located within the pedestrian core of the city. With the proposed conditions of approval the proposed restaurant may be generally compatible with adjacent land uses. However, the department is unaware as to whether the mitigative techniques proposed are satisfactory to the adjacent residents.

2) Sufficient Site Size, Adequate Site Specifications and Infrastructure to Accommodate the Proposed Use:

The size and shape of the site are adequate to accommodate the proposed scale and intensity of the conditional use requested. The applicant proposes to use the existing structures, facilities and utilities currently on the site. Urban design amenities such as streetscape landscaping and rooftop dining are proposed.

3) Proper Use of Mitigative Techniques:

Mitigative measures have been previously addressed.

4) Hazardous Waste:

Not applicable; no hazardous waste will be generated or stored on site by the proposed conditional use.

5) Compliance with Applicable Laws and Ordinances:

The applicant will comply with all applicable laws and regulations as a condition of approval. The application has been deemed ADA compliant.

6) Additional Criteria Applicable to Specific Land Uses. Applicants Shall Demonstrate the Proposed Conditional Use Satisfies the Following Criteria:

a. Land Uses Within a Conservation Area:

Not applicable; the site is not located in a conservation area.

b. Residential Development:

Not applicable; no residential development is proposed.

c. Commercial or Mixed Use Development:

Not applicable; no commercial or mixed use development is proposed.

d. Development Within or Adjacent to Historic Districts:

The proposed site is within the City's Historic District. The applicant has obtained HARC approval for proposed new awnings through certificate of appropriateness #H11-01-229. Although additional HARC approval will be required for paint, signage or any additional changes to the façade of the structures.

e. Public Facilities or Institutional Development:

Not applicable; no public facilities or institutional development is being proposed.

f. Commercial Structures, Uses and Related Activities Within Tidal Waters:

Not applicable; this site is not located within tidal waters.

g. Adult Entertainment Establishments:

Not applicable; no adult entertainment is proposed.

Concurrency Facilities and Other Utilities or Service (Section 108-233):

Concurrency management has been previously addressed in this report. The proposed site is in compliance with Chapter 94 of the City Code of Ordinances.

RECOMMENDATION:

The Planning Department, based on the criteria established by the Comprehensive Plan and the Land Development Regulations, recommends the request for conditional use be **approved** with the following conditions:

Conditions subject to a Conditional Approval Permit, per Ordinance 10-22. Conditions subject to an associated annual inspection:

1. Approval is limited to no more than 165 seats. At no time does the request for 6,637 square feet of consumption area allow the applicant to increase seating on the site without conditional use review.

2. The parking lot shall be reconfigured and maintained to include two (2) compact car spaces in order to protect the root system of large trees on the site, six (6) standard vehicular spaces, one (1) handicap space, and forty (40) scooter spaces on the lot including twenty-five (25) bicycle parking spaces throughout the site.
3. The waste and recycling handling area shall exchange location with the handicap parking space as per the revised site plans and shall be screened from adjacent properties and public rights-of-way by appropriate fences, walls or landscaping in accordance with Code Section 108-279, and the area shall be enclosed on all four sides with a roof and a door for access.

Conditions required prior to the issuance of a Certificate of Occupancy:

4. Completion of all improvements as depicted on the site plan.
5. The applicant shall revise and resubmit a signed and sealed Landscape Plan that reflects the modified site plan dated November 1, 2011 and Civil Plan Dated November 9, 2011.

General conditions:

6. No amplified music or live performance is allowed after the hours of 10pm unless approved under a special event permit per Section 6-86 of the City Code or for a special city-sanctioned event within the Petronia Street Commercial Corridor. Amplified music will be regulated by the "unreasonable noise" definition of Section 26-191 of the Code of Ordinances.
7. Recycling of applicable materials is required.
8. Hours of operation are limited from 8am to 11pm daily except during special city sanctioned events such as Fantasy Fest and Goombay.
9. Service vehicles are prohibited from using Petronia Street and Terry Lane and the Terry Lane parking lot for deliveries.

**Draft
Resolution**

**PLANNING BOARD RESOLUTION
NUMBER 2011-XX**

**A RESOLUTION OF THE KEY WEST
PLANNING BOARD GRANTING A
CONDITIONAL USE APPROVAL PER
SECTION 122-62 AND 122-63 OF THE CODE
OF ORDINANCES FOR A RESTAURANT
WITH 165 SEATS MAXIMUM TO BE
LOCATED AT 802 - 806 WHITEHEAD STREET
(RE# 00014010-000100 AND 00014020-000000)
AND 318 - 324 PETRONIA STREET (RE#
00014010-000000) AND 809 - 811 TERRY LANE
(RE# 00014050-000000, 00014060-000000) IN THE
HISTORIC NEIGHBORHOOD COMMERCIAL-
BAHAMA VILLAGE COMMERCIAL CORE
(HNC-3) ZONING DISTRICT, PURSUANT TO
SECTION 122-868(9) OF THE CODE OF
ORDINANCES, KEY WEST FLORIDA;
PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, the subject property is located in the Historic Neighborhood Commercial-
Bahama Village Commercial Core (HNC-3) zoning district; and

WHEREAS, Section 122-868(9) of the Code of Ordinances provides that restaurants are
allowed as a conditional use within the Historic Neighborhood Commercial- Bahama Village
Commercial Core (HNC-3) zoning district; and

WHEREAS, Section 122-61 of the Code of Ordinances allows applicants to request a
conditional use approval; and

_____ Chairman

_____ Planning Director

WHEREAS, the applicant filed a conditional use application for a restaurant not to exceed maximum of 165 seats, with 6,637 square feet of flexible indoor/outdoor consumption area at 802 - 806 Whitehead Street (RE# 00014010-000100 and 00014020-000000) and 318 - 324 Petronia Street (RE# 00014010-000000); and

WHEREAS, the associated with the Conditional Use request, the applicant is required to bring the parking lot located at 809 - 811 Terry Lane (RE# 00014050-000000 and 00014060-000000) into compliance with dimensional requirements, landscaping and drainage; and

WHEREAS, the parking lot shall be reconfigured to include two (2) compact car spaces in order to protect the root system of large trees on the site, six (6) standard vehicular spaces, one (1) handicap space, and forty (40) scooter/bicycle spaces on the lot; and

WHEREAS, Section 122-62 outlines the criteria for reviewing a conditional use application by the Planning Board; and

WHEREAS, this matter came before the Planning Board at a duly noticed public hearing on November 17, 2011; and

_____ Chairman

_____ Planning Director

WHEREAS, the Planning Board found that the proposed use complies with the criteria in Section 122-62; and

WHEREAS, the approval of the conditional use application will be in harmony with the general purpose and intent of the Land Development Regulations, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare; and

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

Section 1. That the above recitals are incorporated by reference as fully set forth herein.

Section 2. That the request for a Conditional Use approval per Section 122-62 and 122-63 of the Code of Ordinances for a restaurant for up to 165 seats maximum and 6,637 square feet of flexible consumption area to be located at 802 - 806 Whitehead Street (RE# 00014010-000100 and 00014020-000000) and 318 - 324 Petronia Street (RE# 00014010-000000) and the reconfiguration of the parking lot at 809 - 811 Terry Lane (RE# 00014050-000000 and 00014060-000000) to meet Code requirements, landscaping and drainage, and to accommodate two (2) compact car spaces in order to protect the root system of large trees on the site, six (6) standard vehicular spaces, one (1) handicap space, and forty (40) scooter/bicycle parking spaces for property located in the Historic Neighborhood Commercial- Bahama Village Commercial Core (HNC-3) zoning district, pursuant to

Chairman

Planning Director

section 122-868(9) of the Code of Ordinances, Key West, Florida; providing for an effective date, as shown in the attached site plans dated November 1, 2011 with the following conditions:

Conditions subject to a Conditional Approval Permit, per Ordinance 10-22. Conditions subject to an associated annual inspection:

1. Approval is limited to no more than 165 seats. At no time does the request for 6,637 square feet of consumption area allow the applicant to increase seating on the site without conditional use review.
2. The parking lot shall be reconfigured and maintained to include two (2) compact car spaces in order to protect the root system of large trees on the site, six (6) standard vehicular spaces, one (1) handicap space, and forty (40) scooter spaces on the lot including twenty-five (25) bicycle parking spaces throughout the site.
3. The waste and recycling handling area shall exchange location with the handicap parking space as per the revised site plans and shall be screened from adjacent properties and public rights-of-way by appropriate fences, walls or landscaping in accordance with Code Section 108-279, and the area shall be enclosed on all four sides with a roof and a door for access.

Conditions required prior to the issuance of a Certificate of Occupancy:

4. Completion of all improvements as depicted on the site plan.

_____ Chairman

_____ Planning Director

5. The applicant shall revise and resubmit a signed and sealed Landscape Plan that reflects the modified site plan dated November 1, 2011 and Civil Plan Dated November 9, 2011.

General conditions:

6. No amplified music or live performance is allowed after the hours of 10pm unless approved under a special event permit per Section 6-86 of the City Code or for a special city-sanctioned event within the Petronia Street Commercial Corridor. Amplified music will be regulated by the "unreasonable noise" definition of Section 26-191 of the Code of Ordinances.
7. Recycling of applicable materials is required.
8. Hours of operation are limited from 8am to 11pm daily except during special city sanctioned events such as Fantasy Fest and Goombay.
9. Service vehicles are prohibited from using Petronia Street and Terry Lane and the Terry Lane parking lot for deliveries.

Section 3. Full, complete, and final application for all permits required for which this resolution is wholly or partly necessary, shall be submitted in its entirety within 12 months after the date hereof.

Section 4. This conditional use approval does not constitute a finding as to ownership or

right to possession of the property, and assumes, without finding, the correctness of applicant's assertion of legal authority respecting the property.

Section 5. This resolution shall go into effect immediately upon its passage and adoption and authentication by the signatures of the presiding officer and the Clerk of the Commission.

Section 6. This resolution is subject to appeal periods as provided by the City of Key West Code of Ordinances (including the Land Development Regulations). After the City appeal period has expired, this permit or development order will be rendered to the Florida Department of Community Affairs. Pursuant to Chapter 9J-1, F.A.C., this permit or development order is not effective for forty five (45) days after it has been properly rendered to the DCA with all exhibits and applications attached to or incorporated by reference in this approval; that within the forty five (45) day review period the DCA can appeal the permit or development order to the Florida Land and Water Adjudicatory Commission; and that such an appeal stays the effectiveness of the permit until the appeal is resolved by agreement or order.

_____ Chairman

_____ Planning Director

Read and passed on first reading at a regular meeting held this 17th day of November, 2011.

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

Richard Klitenick, Chairman
Key West Planning Board

Date

Attest:

Donald Leland Craig, AIGP
Planning Director

Date

Filed with the Clerk:

Cheryl Smith, City Clerk

Date

Chairman

Planning Director

Application

DEVELOPMENT PLAN AND CONDITIONAL USE APPLICATION
City of Key West Planning Department
604 Simonton Street, Key West, FL 33040
(305) 809-3720



Development Plan & Conditional Use Application

(Applications will not be accepted until they are complete)



RECEIVED
August 1, 2011
KW Planning Dpt

Development Plan
Major _____
Minor _____

Conditional Use
 X

Historic District
Yes X
No _____

Please print or type and call the Planning Department if you have any questions.

- 1) Site Address 318, 320, 324 Petronia St, 802, 804, 806 Whitehead St, 809, 811 Terry Ln.
- 2) Name of Applicant Trepanier & Associates, Inc., on behalf of Bahama Village Market, LLC.
- 3) Applicant is: Owner _____ Authorized Representative X
(attached Authorization Form must be completed)
- 4) Address of Applicant P.O. Box 2155, Key West, FL 33045-2155
- 5) Applicant's Phone #: (305) 298-8983 Fax: (305) 293-8748
- 6) Name of Owner, if different than above: Bahama Village Market, LLC, c/o Ms. Debbie Swift-Batty
- 7) Address of Owner: 201 Front St Suite 224, Key West, FL 33040
- 8) Owner Phone #: (305) 293-3255 Fax: (305) 295-7384
- 9) Zoning District & RE No. of Parcel:

| Address | RE#: | Zoning |
|--------------------------|-----------------|--------|
| 811 Terry Lane | 00014060-000000 | HMDR |
| 809 Terry Lane | 00014050-000000 | HMDR |
| 806 Whitehead Street | 00014020-000000 | HMDR |
| 320, 324 Petronia Street | 00014010-000000 | HNC-3 |
| 804 Whitehead Street | 00014010-000100 | HNC-3 |

- 10) Is Subject Property located within the Historic District? Yes X No _____
This property received recent approval for awnings (HARC No. 11-01-229) and will require additional approvals for normal building repairs, signage, fencing, painting, etc. No significant alterations are anticipated or sought as part of this approval.

- 11) Description of Proposed Development and Use. Please be specific. List existing and proposed buildings and uses, number of dwelling units, parking, restaurant seats, vehicles proposed, etc. If there is more than one use, describe in detail the nature of each use. (Give concise description here and use a separate sheet if necessary)

This application seeks to change the existing mix of approved uses by reducing the amount of commercial-retail oriented area and increasing restaurant seating.

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- 12) Has subject Property received any variance(s)? Yes ☒ No ☐

| Resolution No. | Approval |
|---------------------------|---|
| Res. 90-96 | Special Exception - 15 food and craft booths |
| Res. 90-97 | Variance - Setback for 320, 324 Petronia |
| Res. 97-72 | Variance & Special Exception - Zero Setback to rebuild buildings and operate a restaurant |
| Res. 97-73 | Special Exception - To operate retail, restaurant, and parking in the HMDR |
| Res. 97-494 | Impact Fee Waiver and payment plan |
| Res. 98-44 | Variance - Setback for new construction (Straw Market) |
| Res. 98-94/95/96/97/98/99 | Outdoor Display Exceptions |

- 13) Are there any easements, deed restrictions or other encumbrances on the subject property?
 Yes ☐ No ☒ If Yes, describe and attach relevant documents. Not to our knowledge

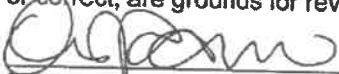
- 14) A. For Conditional Uses and Development Plans, provide the information requested on the attached

Please note, development plan and conditional use approvals are quasi-judicial hearings and it is improper to speak to a Planning Board member or City Commissioner about the project outside of the hearing.

Verification

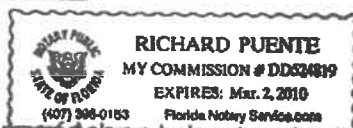
I, Trepanier & Associates, Inc. (please print), being duly sworn, depose and say

Name of Applicant
 that I am (check one) the owner ☐ / owner(s) legal representative ☒ of the property which is the subject matter of this application. All of the answers to the above questions, drawings, plans and any other attached data to this application, are true and correct to the best of my knowledge and belief and that if not true or correct, are grounds for revocation of any action reliant on said information.

 for Trepanier & Associates, Inc.
 Signature of Applicant

Subscribed and sworn to (or affirmed) before me on 3/14/11 (date) by Owen Trepanier (name of affiant, deponent or other signer) He/She is personally known to me or has presented Richard Puente as identification.


 Notary's Signature and Seal



Name of Acknowledger typed, printed or stamped

Title or Rank

Commission Number

¹ Please see Exhibit A

DEVELOPMENT PLAN AND CONDITIONAL USE APPLICATION
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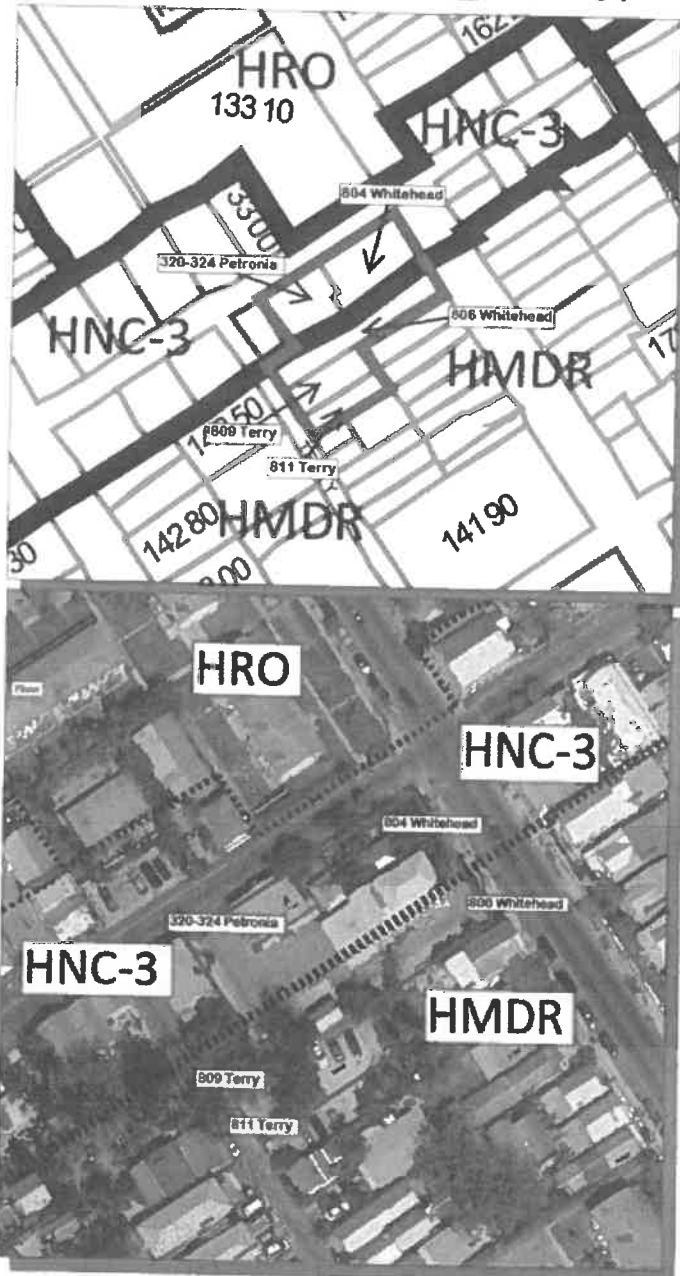


Required Plans and Related Materials



RECEIVED
August 1, 2011
KW Planning Dpt

- I. Existing Conditions.
 - A. Recent Survey of the site: **Please See Attached**
 - B) Existing size, type and location of trees, hedges, and other features: **Please See Attached**
 - C) Existing stormwater retention areas and drainage flows: **Please See Attached**
 - D) A sketch showing adjacent land uses, buildings, and driveways: **Please See Attached**
- II. Proposed Development: Plans at 11" X 17" (10,000 Sq. ft. or less); 24" X 36" if site is over 10,000 sq. ft.
 - A) Site Plan to scale with North arrow and dimensions by a licensed architect or engineer.
 - 1) Buildings: **No Significant Changes Proposed – Please See Attached**
 - 2) Setbacks: **No Change Proposed – Please See Attached**
 - 3) Parking:
 - a. Number, location and size of automobile and bicycle spaces: **Please See Attached**
 - b. Handicapped spaces: **No Change Proposed – Please See Attached**
 - c. Curbs or wheel stops around landscaping: **Please See Attached**
 - d. Type of pavement: **No Change Proposed – Please See Attached**
 - 4) Driveway dimensions and material: **Please See Attached**



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5) Location of Utility Lines (sewer, water, electric, cable, and phone) adjacent and extending into the site: **No Change Proposed – Please See Attached**

6) Signs: **No Change Proposed at this Time**



7) Project Statistics:

a. Zoning: **The site has split zoning HMDR & HNC-3**

b. Size of site: **21,520 sq. ft. (HMDR Portion: 11,154 sq. ft.; HNC-3 Portion: 10,366 sq. ft.)**

c. Number of units: **The site is mixed use and recognized for 10 units²**

d. If non-residential, floor area & proposed floor area ratio:

| Zoning | Permitted | Existing | Proposed |
|--------|----------------------|----------------|----------------------|
| HMDR | 0.5 (5,577 sq. ft.) | 15,943 sq. ft. | 0.26 (5,595 sq. ft.) |
| HNC-3 | 1.0 (10,366 sq. ft.) | | |
| | | | No Change |

e. Consumption area of restaurants & bars:

| Existing | Proposed |
|---------------|---------------|
| 2,285 sq. ft. | 6,637 sq. ft. |

f. Open space area and open space ratio:

| Required | Existing | Proposed |
|---------------------|----------------------|------------------|
| 0.2 (4,304 sq. ft.) | 0.43 (9,329 sq. ft.) | No Change |

g. Impermeable surface area and impermeable surface ratio:

| Permitted | Existing | Proposed |
|----------------------|-----------------------|------------------|
| 0.6 (12,912 sq. ft.) | 0.95 (20,616 sq. ft.) | No Change |

h. Number of automobile and bicycle spaces required and proposed:

| Parking Spaces | Number | |
|--------------------------------|----------|-----------|
| | Existing | Proposed |
| Full Size Auto | 8 | 8 |
| ADA-Compliant | 1 | 1 |
| Bicycle-Scooter | 0 | 65 |
| Non-Conforming Spaces | 8 | 0 |
| Total Conforming Spaces | 9 | 25 |

B) Building Elevations: **No Changes Proposed³**

C) Drainage Plan: **No Changes Proposed or Required**

D) Landscape Plan: **No Changes Proposed or Required**

² Please see Exhibit B (Staff Report by City Planner, p. 3 of 4)

³ Please see Exhibit C (Site Photos)

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604 SImonton Street, Key West, FL 33040
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III. Solutions Statement: This property is a historically mixed-use property used for retail, restaurant, residential and office. The property has compatibly operated as such and this proposal seeks to continue that mixed-use nature while altering the relative percentages of each use. There will be a reduction in retail and a increase in restaurant use. The site is adequate for the use as demonstrated by the site plan and the overall reductions in potential intensity. The reduction in retail use and expansion in restaurant will not require any expansion of floor area, impervious surface or building coverage. The site has been reviewed and approved several times in the past for variances and special exceptions to allow the existing uses.

The proposed project implements appropriate mitigative techniques such as:

Keeping the kitchen located interiorly to the site;

Increasing the landscaping by creating a landscape buffer along the residential side of the property;

Maintaining the existing FAR, pervious surface, building coverage and open space.

Using the existing nonconforming parking spaces for bikes & scooters, to allow a significantly more functional use of the existing approved parking lot.

The above mitigative techniques will allow the compatible operation of the property without burdening the land use activities in the immediate vicinity, including community infrastructure, with adverse impacts detrimental to the general public health, safety and welfare.

CONDITIONAL USE CRITERIA

Sec. 122-61. Purpose and intent: The proposed use can be adequately accommodated while mitigating adverse impacts on properties and land uses within the adjacent vicinity.

Sec. 122-62. Specific criteria for approval.

(a) Findings: The existing and proposed restaurant on this Bahama Village Commercial Core property within the Historic Neighborhood Commercial District and the Historic Medium Density Residential District complies with the goals and intent of both the Comprehensive Plan and the Land Development Regulations. The Plan & LDR intent for the HNC-3 district is to accommodate neighborhood commercial uses, the goals and intent of the HMDR district is to accommodate medium density residential uses and existing nonconforming uses. Restaurant use is permitted as a conditional use in the HNC-3 and Res. No 97-73⁴ permitted the retail and restaurant use on the HMDR portion of the site. Further, the City of Key West previously found restaurant use on this property complies with the goals and intent of the Comprehensive Plan and the land development regulations in 1990 and again in 1997. No change in impervious surface, or building coverage is proposed. No new development is proposed.

(b) Characteristics of use described. The following characteristics of a proposed conditional use shall be clearly described as part of the conditional use application:

(1) Scale and intensity of the proposed conditional use as measured by the following:

⁴ Please see Exhibit A

DEVELOPMENT PLAN AND CONDITIONAL USE APPLICATION
City of Key West Planning Department
604 Simonton Street, Key West, FL 33040
(305) 809-3720



a. Floor area ratio:

| Zoning | Permitted | | Existing | Proposed |
|--------|----------------------|----------------|----------------------|-----------|
| HMDR | 0.5 (5,577 sq. ft.) | 15,943 sq. ft. | 0.26 (5,595 sq. ft.) | No Change |
| HNC-3 | 1.0 (10,366 sq. ft.) | | | |

b. Traffic generation:

A trip generation analysis was performed based on the concurrency criteria of the LDRs and comprehensive plan, using the 7th edition of the Institute of Transportation Engineers ("ITE") Trip Generation Manual. The Manual uses historical studies throughout the United States from the 1960s to 1990s on traffic impacts. Most of these studies come from suburban environments and therefore are heavily biased towards automobile-oriented communities. The actual trip generations for Key West is expected to be much lower and to be more bicycle-pedestrian oriented.

The trip generation analysis, performed using the ITE predictions, shows a decrease in potential trip generation of up to 14 trips per 1,000 sq. ft. of gross leaseable area per day⁵ as a result of the proposed change in use. Additionally, the potential trip generation falls below 50 trips per 1,000 sq. ft. of the gross leaseable area per day, and thus the proposed change in use complies with intensity limitations of the HNC-3 district.

Potential Trip Generation Summary Table

| Total Trips/ 1,000 sq. ft./ Day | Weekday | | Saturday | | Sunday | |
|------------------------------------|----------|----------|----------|----------|----------|----------|
| | Existing | Proposed | Existing | Proposed | Existing | Proposed |
| | 48.88 | 34.92 | 46.62 | 33.79 | 25.15 | 24.29 |

c. Square feet of enclosed buildings: **4,877 sq. ft.**

d. Proposed employment:

| Potential Employment ⁶ | Existing | Proposed |
|-----------------------------------|----------|----------|
| Retail ⁷ | 15 | 6 |
| Office ⁸ | 1 | 1 |
| Restaurant ⁹ | 8 | 19 |
| Residential ¹⁰ | 1 | 1 |
| Total | 25 | 27 |

⁵ The HNC-3 zoning district requires trip generation to be measured in terms of trips per 1,000 sq. ft. of gross leaseable floor area per day. However, for restaurants and other establishments with significant outdoor activity area, the ITE indicates trip generation by floor area is an inaccurate measure of intensity, due to the additional intensity associated with the non-floor area portions of the site. To mitigate the inaccuracy, the gross leaseable area was used and includes indoor and outdoor activity area, thereby incorporating the additional potential intensity of the outdoor (non-floor area) uses.

⁶ According to the APA Planner's Estimating Guide, 2002

⁷ 1,021 mean sq. ft. per worker

⁸ 416 mean sq. ft. per worker

⁹ 459 mean sq. ft. per worker

¹⁰ 3,846 mean sq. ft. per worker

DEVELOPMENT PLAN AND CONDITIONAL USE APPLICATION

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- e. Proposed number and type of service vehicles: The number and type of service vehicles will generally mirror that of other similar restaurants in the immediate area:

| Vehicle | Frequency |
|-------------------------|-----------|
| Produce Box Truck | 1 x Daily |
| Seafood Van | 1 x Daily |
| Fausto's Van | 1 x Daily |
| Laundry Van | 2 x Daily |
| 2 Beer Box Truck | 1 x Week |
| 1 Soft Drink Box Truck | 1 x Week |
| 3 Wine Box Truck | 1 x Week |
| "Cisco"-type Truck | 3 x Week |
| No deliveries on Sunday | |



- f. Off-street parking needs: This property is located within the Historic Commercial Pedestrian-Oriented Area, a.k.a. "the parking waiver zone". Within the parking-waiver zone, new parking is only required when new non residential floor area is constructed or increased and when new residential or transient residential units are constructed or increased. No commercial floor area will be constructed or increased, and no residential units will be constructed or increased. The existing mix of uses will be altered, but no new commercial activity area will be created, therefore under the terms of the Historic Commercial Pedestrian-Oriented Area no increase in parking is required.

Notwithstanding the provisions of the Historic Commercial Pedestrian-Oriented Area, the attached parking demand study demonstrates that as a result of the proposed change to the mix of existing uses, there will be a small reduction in the potential parking demand.

The existing non-conforming parking lot will be improved to accommodate full-size autos, bikes and scooters, and will comply with storm water management and landscape requirements.

| Parking Spaces | Number | |
|--------------------------------|----------|-----------|
| | Existing | Proposed |
| Full Size Auto | 8 | 8 |
| ADA-Compliant | 1 | 1 |
| Bicycle-Scooter | 0 | 44 |
| Non-Conforming Spaces | 8 | 0 |
| Total Conforming Spaces | 9 | 25 |

The most recent approved plan (associated with Building Permit application made on 08/29/97 and signed by Paul Cates on 11/6/97) shows 17 parking spaces. However, parking plans approved at that time do not conform to code requirements. As part of this conditional use application, we propose mitigating potential parking impacts by using existing approved non-conforming parking spaces for bicycles and scooters, in addition to new scooter/ bicycle spaces, in order to allow the equivalent of 25 compliant parking spaces. Additionally, using the non-compliant parking spaces for bikes and scooters allows for a functional aisle width of 24ft.

DEVELOPMENT PLAN AND CONDITIONAL USE APPLICATION
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604 Simonton Street, Key West, FL 33040
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- (2) On- or off-site improvement needs generated by the proposed conditional use and not identified on the list in subsection (b)(1) of this section including the following:
- a. Utilities: No changes required or proposed.
 - b. Public facilities: No changes required or proposed as demonstrated by the Concurrency Analysis¹¹
 - c. Roadway or signalization improvements, or other similar improvements: No changes required or proposed.
 - d. Accessory structures or facilities: No changes required or proposed.
 - e. Other unique facilities/structures proposed as part of site improvements: No changes required or proposed.
- (3) On-site amenities proposed to enhance site and planned improvements. Amenities including mitigative techniques such as:
- a. Open space: No changes required or proposed.
 - b. Setbacks from adjacent properties: No changes required or proposed.
 - c. Screening and buffers: A dense landscape strip could be created as part of the mitigative strategy to help segregate this use from the adjacent uses.
 - d. Landscaped berms proposed to mitigate against adverse impacts to adjacent sites: Landscape berms are not viable, required or proposed in this instance.
 - e. Mitigative techniques for abating smoke, odor, noise, and other noxious impacts: The kitchen, for this property, is located on the interior of the site in the building addressed 320, 324 Petronia. All appliances exhaust fans, fire suppression systems will meet current code requirements. Trash and recycling is handled on site and within an enclosed area. Business hours are expected to reflect the current practice along the Petronia Street Corridor such as 8 a.m. to 11 p.m.
- (c) Criteria for conditional use review and approval:
- (1) Land use compatibility: This property was approved for residential, retail, and restaurant as modified through time by the City of Key West. As demonstrated in this application, the site is appropriate for the proposed use and will result in reductions of potential trip generation.
 - (2) Sufficient site size, adequate site specifications, and infrastructure to accommodate the proposed use: The five properties which make up this site are all under common ownership and operate as a single unit. The site is adequate for the use as demonstrated by the site plan and the overall reductions in potential intensity. Additionally the site has been reviewed and approved several times in the past for variances and special exceptions to allow the existing uses. We currently seek to modify the relative percentages of those uses. The increased number of seats will not require any expansion of floor area, impervious surface or building coverage.

¹¹ Please see Exhibit D

DEVELOPMENT PLAN AND CONDITIONAL USE APPLICATION
City of Key West Planning Department
604 Simonton Street, Key West, FL 33040
(305) 809-3720



- (3) Proper use of mitigative techniques: The proposed project implements appropriate mitigative techniques such as keeping the kitchen located interiorly to the site; increasing the landscaping by creating a landscape buffer along the residential side of the property; not increasing the FAR, impervious surface, or building coverage, and maintaining open space. The mitigative techniques will allow the compatible operation of the property without burdening the land use activities in the immediate vicinity, including community infrastructure, with adverse impacts detrimental to the general public health, safety and welfare.
- (4) Hazardous waste: All restaurant waste is handled by licensed haulers.
- (5) Compliance with applicable laws and ordinances: This project proposes to comply with all applicable laws and ordinances.
- (6) Additional criteria applicable to specific land uses:
- a. Land uses within a conservation area: NA – No land uses proposed within a conservation area.
 - b. Residential development: NA – No new residential development is proposed.
 - c. Commercial or mixed use development: This property is a historically mixed use site and, as such, has operated compatibly with itself and its surroundings. This application seeks to modify the relative percentages of each use. There will be a significant reduction in retail space and that area will, instead, be use for restaurant.
The site is located in the heart of the Bahama Village Commercial Core and the Historic Commercial Pedestrian-Oriented Area. Café-style, pedestrian-oriented restaurants with limited retail activities are exactly what the goals and intent of the Comprehensive Plan and the Land Development Regulations are designed to encourage. The proposed change will not alter floor area ratio, setbacks, lot coverage, height, mass of buildings, building coverage, and open space criteria. The appearance, design, protection of historic resources, pedestrian access and circulation, internal vehicular circulation together with access and egress to the site, off-street parking, and other mitigative measures such as landscaping and buffering will all be improved or maintained.
 - d. Development within or adjacent to historic district: As mentioned above, this property received recent approval for awnings (HARC No. 11-01-229) and will require additional approvals for normal building repairs, signage, fencing, painting, etc. No significant alterations are anticipated or sought as part of this approval.
 - e. Public facilities or institutional development: NA – No Public facilities or institutional development.
 - f. Commercial structures, uses and related activities within tidal waters: NA - No Commercial structures, uses and related activities are proposed within tidal waters.
 - g. Adult entertainment establishments: NA - No adult entertainment is proposed.

Verification Form

DEVELOPMENT PLAN AND CONDITIONAL USE APPLICATION
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- 12) Has subject Property received any variance(s)? Yes ☒ No ☐

| Resolution No. ¹ | Approval |
|-----------------------------|---|
| Res. 90-96 | Special Exception – 15 food and craft booths |
| Res. 90-97 | Variance – Setback for 320, 324 Petronia |
| Res. 97-72 | Variance & Special Exception – Zero Setback to rebuild buildings and operate a restaurant |
| Res. 97-73 | Special Exception – To operate retail, restaurant, and parking in the HMDR |
| Res. 97-494 | Impact Fee Waiver and payment plan |
| Res. 98-44 | Variance – Setback for new construction (Straw Market) |
| Res. 98-94/95/96/97/98/99 | Outdoor Display Exceptions |

- 13) Are there any easements, deed restrictions or other encumbrances on the subject property?
 Yes ☐ No ☒ If Yes, describe and attach relevant documents. Not to our knowledge

- 14) A. For *Conditional Uses and Development Plans*, provide the information requested on the attached

Please note, development plan and conditional use approvals are quasi-judicial hearings and it is improper to speak to a Planning Board member or City Commissioner about the project outside of the hearing.

Verification

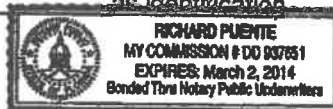
I, Trepanier & Associates, Inc. (please print), being duly sworn, depose and say
 Name of Applicant

that I am (check one) the owner ☐ / owner(s) legal representative ☒ of the property which is the subject matter of this application. All of the answers to the above questions, drawings, plans and any other attached data to this application, are true and correct to the best of my knowledge and belief and that if not true or correct, are grounds for revocation of any action reliant on said information.

[Signature] for Trepanier & Associates, Inc.
 Signature of Applicant

Subscribed and sworn to (or affirmed) before me on 8-18-2011 (date) by
Dwan Trepanier (name of affiant, deponent or other signer). ☒ He/She is personally known to me or has presented ☐ as identification.

[Signature]
 Notary's Signature and Seal



Richard Puente Name of Acknowledger typed, printed or stamped

Notary Title or Rank DD 937651 Commission Number



RECEIVED
 August 18, 2011
 KW Planning Dpt

¹ Please see Exhibit A
 Z:\Projects\Swift, Ed\Bahama Village Market\Application\Cond. Use App 5.16.11.doc

Authorization Form

DEVELOPMENT PLAN AND CONDITIONAL USE APPLICATION
City of Key West Planning Department
604 Simonton Street, Key West, FL 33040
(305) 809-3720



Authorization Form

Please complete this form if someone other than the owner is representing the property owner in this matter.

I, BAHAMIA Village Market, LLC authorize
Please Print Name(s) of Owner(s)

Trepanier & Associates, Inc.
Please Print Name of Representative

to be the representative for this application and act on my/our behalf before the City of Key West.


Signature of Owner

Signature of Joint/Co-owner if applicable

Subscribed and sworn to (or affirmed) before me on Feb. 28th, 2011 (date) by
Edwin O. Swift III
Please Print Name of Affiant

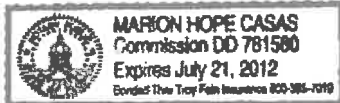
☒ He/She is personally known to me or has-presented _____ as identification.

Marion Hope Casas
Notary's Signature and Seal

Name of Acknowledger printed or stamped

Title or Rank

Commission Number, if any





FLORIDA DEPARTMENT OF STATE
DIVISION OF CORPORATIONS



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Detail by Entity Name

Florida Limited Liability Company

BAHAMA VILLAGE MARKET, LLC

Filing Information

Document Number L05000030313
FE/EIN Number 202487493
Date Filed 03/28/2005
State FL
Status ACTIVE
Last Event NAME CHANGE AMENDMENT
Event Date Filed 05/12/2005
Event Effective Date NONE

Principal Address

201 FRONT STREET
SUITE 224
KEY WEST FL 33040

Changed 03/06/2008

Mailing Address

201 FRONT STREET
SUITE 224
KEY WEST FL 33040

Changed 03/06/2008

Registered Agent Name & Address

SWIFT, EDWIN O III
201 FRONT STREET, SUITE 224
KEY WEST FL 33040

Manager/Member Detail

Name & Address

Title MGR

SWIFT, EDWIN O III
201 FRONT STREET, SUITE 224

Deed

A parcel of land on the Island of Key West, Monroe County, Florida, and is known on Charles W. Tift's Map of said Island as part of Lots 7 and 8, or Square 1, in Tract 3 of Simonson's Addition according to Deed Book "I" at Page 421 of the Public Records of Monroe County, Florida, said parcel being more particularly described by metes and bounds as follows: COMMENCE at the intersection of the Northeastly right of way line of Thomas Street with the Southeastly right of way line of Petronia Street and run thence in a Northeastly direction along the Southeastly right of way line of the said Petronia Street for a distance of 130.00 feet to the Point of Beginning; thence continue Northeastly along the Southeastly right of way line of the said Petronia Street for a distance of 62.22 feet to the Southwestly right of way line of Terry Lane; thence Southeastly at right angles and along the Southwestly right of way line of the said Terry Lane for a distance of 64.25 feet; thence Southwestly and at right angles for a distance of 62.22 feet; thence Northwestly and at right angles for a distance of 64.25 feet back to the Point of Beginning.

EXHIBIT A

PARCEL 1: On the island of Key West, and designated on Charles W. Tift's Map of said island as part of Lot No. 2 in the Subdivision of Square No. 1, in part of Tract 3 known as Simonton's Addition to the City of Key West; COMMENCING at a point on Whitehead Street, distant 63 feet from the corner of Petronia and Whitehead Sts., and run thence in a S.E.'ly direction 31 feet and 0 inches; thence at right angles in a S.W.'ly direction 86 feet; thence at right angles N.W.'ly 31 feet and 6 inches; thence at right angles N.E.'ly 66 feet to the place of beginning.

ALSO

PARCEL 2: In the City of Key West, Monroe County, Florida and is designated on Charles W. Tift's Map of said City as part of Lot 1 of Square 1 in Tract 3 of Simonton's Addition to the City of Key West and herein described more particularly by metes and bounds as follows: BEGIN at the intersection of the Southerly Right-Of-Way line of Petronia St., and the W'ly Right-Of-Way boundary line Whitehead Street for a Point of Beginning; thence Southerly along the said Westerly line of Whitehead Street 62.25 feet to a point; thence Westerly at right angles 96 feet to a point; thence Northerly at right angles 23.45 feet to a point; thence Easterly at right angles 5 feet to a point; thence Northerly at right angles 38.77 feet to a point on the said line of Petronia St., 91 feet back the Point of Beginning.

ALSO

PARCEL 3: Part of Lot One (1) of Square One (1), Tract Three (3) of Simonton's Addition to the City of Key West, Florida; COMMENCING at the intersection of the Westerly Right-Of-Way boundary line of Whitehead Street and the Southerly Right-Of-Way boundary line of Petronia Street and run thence Westerly along the said line of Petronia Street 91 feet to the Point of Beginning of the parcel herein being described; thence continue along the said line of Petronia Street 74 feet to a point; thence Southerly and at right angles 62.25 feet to a point; thence Easterly and at right angles 96 feet to a point; thence Northerly and at right angles 23.45 feet to a point; thence Easterly at right angles 5 feet to a point; thence Northerly at right angles 38.77 feet back to the Point of Beginning on Petronia Street.

ALSO

PARCEL 4: On the island of Key West, as known on Charles W. Tift's Map of the City of Key West, as part of Square One (1) in Tract Three (3) and is part of Subdivision Two (2) in Square One (1) according to a diagram made of portion of said Tract Three (3), which diagram is recorded in Book T deeds page 421 of Monroe County Records; COMMENCING at a point on an Eighteen foot alley-way, Sixty Three (63) feet and four (4) inches distant from the corner of Petronia Street and said alley-way and running thence along said alley-way in a Southeastery direction Thirty-One feet and six inches, and extending back in a Northeastery direction on both lines a distance of Ninety-Six (96) feet.

ALSO

PARCEL 5: In the City of Key West, Monroe County, Florida and is designated on Charles W. Tift's Map of said City as part of Lot 1, of Square 1 in Tract 3 of Simonton's Addition to the City of Key West and herein described more particularly by metes and bounds as follows: COMMENCE at the intersection of the Southerly Right-Of-Way boundary of Petronia Street and the Westerly Right-Of-Way boundary line of Whitehead St., 62.25 feet to the Point of Beginning; thence continue along the said Westerly line of Whitehead Street 0.75 feet to a point; thence Westerly at right angles 96 feet to a point; thence Northerly at right angles 0.75 feet to a point; thence Easterly at right angles 96 feet back to the Point of Beginning.

ALSO

PARCEL 6: On the island of Key West, Monroe County, Florida and being a part of Lot 1 in Square 1 of a "Sub-division of a part of the Estate of John W. Simonton Tract 3, Key West, Florida" as recorded in Deed Book 1 at Page 421 Public Records of Monroe County, Florida and being described more particularly as follows: COMMENCE at the point of intersection of the Southerly line of Petronia Street with the Easterly line of Terry Lane; thence Southeastery along the said line of Terry Lane 63.24 feet to a point; thence Northeastery at a right angle 27 feet to the Point of Beginning of the parcel of land herein described; thence Northwestery at a right angle 1.03 feet to a point; thence Northeastery at a right angle 53 feet to a point; thence Southeastery at a right angle 1.03 feet to a point; thence Southwestery at a right angle 53 feet back to the Point of Beginning.

ALSO

Part of Lot Two (2) in Square One (1) of Tract Three (3) also known as 803 Terry Lane, in the City of Key West, County of Monroe, State of Florida.

Doc# 1528763
Bk# 2133 Pg# 392

EXHIBIT B

On the Island of Key West and is known as Part of Lot Three, (3), in the Subdivision of Square One, (1), in part of Tract Three, (3); Commencing at a point on Whitehead Street One Hundred Twenty-six feet Four and One-half inches (126' 4 ½"), in a South East direction from the corner of Whitehead and Petronia Streets; running thence a right angles in a South West direction Ninety-six feet, (96'), to a point of beginning of Lot to be conveyed; running thence at right angles in a South East direction Twenty-one, (21'); then at right angles in a South West direction Ninety-six feet (96') to an alley known as Terry's Lane; thence in a North West direction along said alley Twenty-one feet, (21'); thence at right angles in a North East direction Ninety-six, (96') to point of beginning.

MONROE COUNTY
OFFICIAL RECORDS

EXHIBIT C



RECEIVED
August 1 2011
KW Planning Dept

Return to: Michelle I. Cates, P.A.
201 Front Street, Ste. 110
Key West, FL 33040
This instrument prepared by: Michelle Cates Deal, Esq.
201 Front Street, Ste. 110
Key West, FL 33040
Property Appraisers Parcel I.D.: 00014020-000000;
00014010-000000;
00014060-000000.
Grantee(s) SS# or FEIN

Doc# 1528763 07/15/2005 2:06PM
Filed & Recorded in Official Records of
MONROE COUNTY DANNY L. KOLHAGE
07/15/2005 2:06PM
DEED DOC STAMP CL: FP \$0.76
Doc# 1528763
BKN 2133 Pgn 389

QUIT CLAIM DEED

THIS QUIT-CLAIM DEED, executed this 14 day of July, 2005, by and between BAHAMA VILLAGE MARKET, LTD., a Florida Limited Partnership, whose Office address is 201 Front Street, Ste. 310, Key West, Monroe County, Florida, hereinafter party of the first part, referred to as "grantor" to BAHAMA VILLAGE MARKET, LLC., a Florida Limited Liability Company, whose Post Office address is 201 Front Street, Ste. 224, Key West, Florida, hereinafter party of the second part referred to as "grantee."

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

See attached Exhibit "A" commonly known as 312-314 Petronia Street, Key West, FL 33040.

See attached Exhibit "B" commonly known as 800-806 Whitehead Street; 318-324 Petronia Street; 807 and 809 Terry Lane, Key West, FL 33040.

See attached Exhibit "C" commonly known as 811 Terry Lane, Key West, FL 33040.

SUBJECT TO: Restrictions, limitations, reservations and easements of record, if any.
SUBJECT TO: Taxes for the year 2004 and subsequent years.

THIS DOCUMENT WAS PREPARED WITHOUT BENEFIT OF TITLE SEARCH OR ABSTRACT EXAMINATION IS BASED SOLELY ON THE FACTS PROVIDED BY EITHER OF THE PARTIES OR THEIR AGENTS.

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

(Wherever used herein the terms "grantor" and "grantee(s)" shall include singular and plural, heirs, legal representatives, and assigns of individuals, and the successors and assigns of corporations, wherever the context so admits or requires).

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


Signed, sealed and delivered


In the presence of:

BAHAMA VILLAGE MARKET, LTD

a Florida Limited Partnership

By it's General Partner,
OLD TOWN KEY WEST DEVELOPMENT, LTD,
a Florida Limited Partnership



Name: Hope Casas
Please print, type or stamp


by Edwin O. Swift, III, General Partner of
Old Town Key West Development, LTD,
a Florida Limited Partnership



Name: Michelle Cates Deal
Please print, type or stamp

**STATE OF FLORIDA
COUNTY OF Monroe**

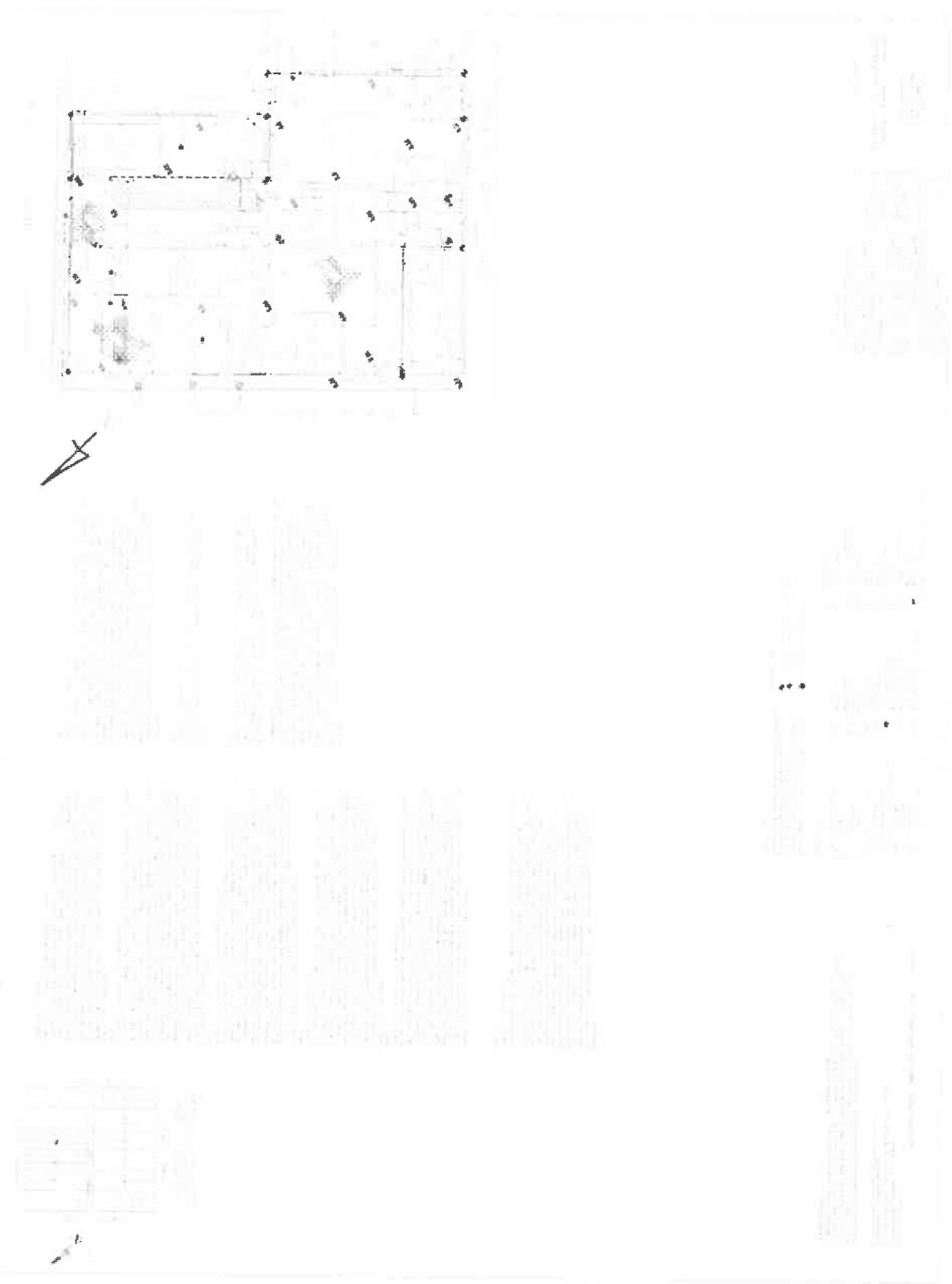
The foregoing instrument was acknowledged before me this 14th day of July, 2005, by **Edwin O Swift, III, General Partner of Old Town Key West Development, LTD, partner (or agent), on behalf of Bahama Village Market, LTD., a Florida Limited Partnership.** He is personally known to me, or has produced _____ as identification, and who did (not) take an oath.


Notary Public
My commission expires:




Commission # DD325082
Expires July 21, 2008
Bonded Key-Palm Insurance, Inc. K20-005-7010

Survey



Site Plans

[illegible]



BAHAMA VILLAGE MARKET **PROPOSED CONSUMPTION AREAS** SCALE: 1"=30' (11x17 paper)



Outdoor
Commercial
Activity Area


Outdoor
Consumption Area
Outside of Cistern
Bar

Flexible Seating
Area (Roof Top)
Proposed Indoor
Consumption/Retail
Area (Ground
Floor)

Proposed Outdoor
Consumption Area
Brick Area

Proposed Indoor
Consumption Area
One Story Bldg

LEGEND

 CONSUMPTION AREA

CONSUMPTION AREAS:
PREVIOUS (ROOF DECK AND CISTERN BAR): 2,285 SF
PROPOSED:
COVERED PORCH: 281 SF
OUTDOOR BRICK AREA: 2,029 SF
INDOOR ONE-STORY BLDG: 765 SF
INDOOR TWO-STORY BLDG: 475 SF
TOTAL PREVIOUS AND PROPOSED: 5,836 SF

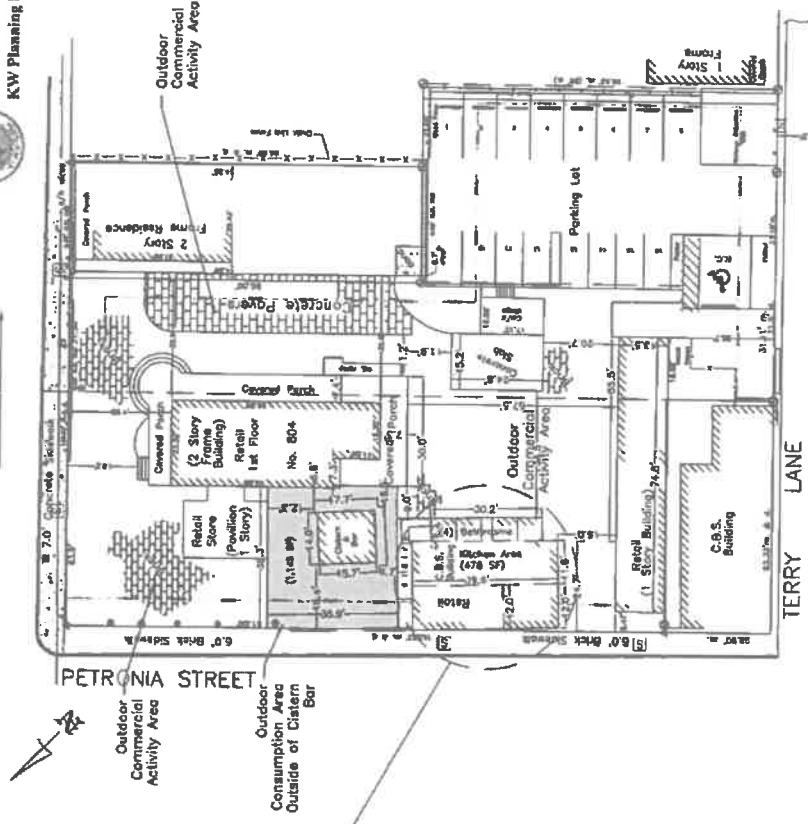
RECEIVED
August 1, 2011
KW Planning Dpt

WHITEHEAD STREET
HMC-3 District HMC-3 District

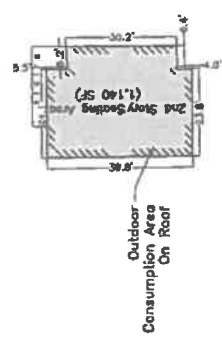


BAHAMA VILLAGE MARKET
WHITEHEAD AND STRONG
KEY WEST FLORIDA

DATE: 08/01/11
PROJECT: BAHAMA VILLAGE MARKET
SHEET: C-1.1
SCALE: 1"=30'



PREVIOUS CONSUMPTION AREA
SCALE: 1"=30'

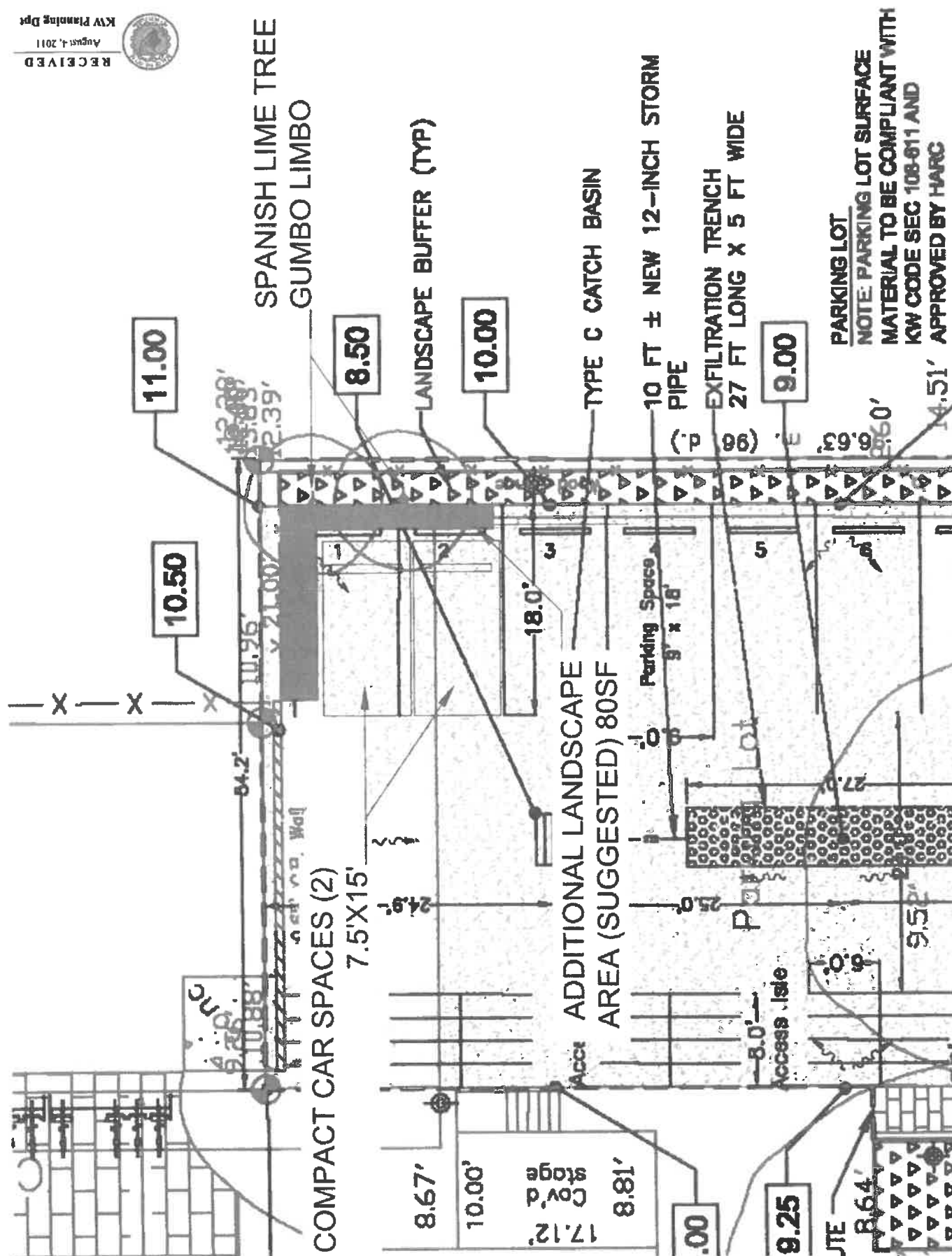


SECOND FLOOR
SCALE: 1"=30'

CONSUMPTION AREAS:
PREVIOUS OUTDOOR (CISTERN AND BAR): 1,145 SF
PREVIOUS OUTDOOR (ROOF DECK): 1,140 SF
TOTAL: 2,285 SF

LEGEND

CONSUMPTION AREA



**Approved Site Plans
per Approved Building Permits**

APPLICATION FOR BUILDING PERMIT

AUG 29 1997

ADDRESS OF CONSTRUCTION: 804 WHITEHEAD ST.OWNER: BAHAMA VILLAGE MARKET, LTD. TELEPHONE: 294-3225ADDRESS: 201 FRONT ST., SUITE 310CONTRACTOR: H.T.M., INC. TELEPHONE: 292-8950CONTRACTOR ADDRESS: 201 FRONT ST., SUITE 310ARCHITECT/ENGINEER: WILLIAM P. HANNAH, P.A. TELEPHONE: 296-8302ARCHITECT/ENGINEER ADDRESS: 915 EDWIN ST.PROPERTY IS: RESIDENTIAL ☒ COMMERCIAL ☒

EXISTING # UNITS: _____ # UNITS AFTER CONSTRUCTION: _____

EXISTING # BEDROOMS: _____ # BEDROOMS AFTER CONSTRUCTION: _____

SQUARE FOOTAGE OF EXISTING BUILDING(S): _____

DIMENSIONS OF NEW BUILDING(S) OR ADDITION: 1,125 SFTYPE OF WORK: NEW ☒ REMODEL _____ REPAIR _____ ADDITION _____DESCRIPTION OF WORK: NEW 15' X 75' OPEN MARKET BUILDING
AND SITE WORKESTIMATED COST OF COMPLETED WORK (LABOR & MATERIAL) IS \$98,000.00

SEC. 35, 12(1) OF THE KEY WEST CODE OF ORDINANCES: If the work described in any building permit has not begun within ninety (90) days from the date of issuance thereof, said permit shall expire; it shall be canceled by the Chief Building Official, and written notice shall be given to the persons affected.

If the work described in any building permit has not been substantially completed within two (2) years of the date of issuance thereof, said permit shall expire and be canceled by the Chief Building Official and written notice thereof shall be given to the persons affected, together with notice that further work described in the canceled permit shall not proceed unless and until a new building permit has been obtained.

"FAILURE TO COMPLY WITH THE MECHANIC'S LIEN LAW CAN RESULT IN THE PROPERTY OWNER PAYING TWICE FOR BUILDING IMPROVEMENTS"

Owner or Contractor

State Certification/Registration

Plan Reviewer

Date

Building Official

Date

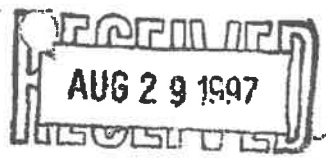
Permit Fee \$

Zoning HRcc3Flood Zone X

Re#

Assessed Value \$

2464-24455-OK



**Historic Architectural Review Commission
1997 HARC Application**

A HARC application must precede applications for building permits, variances, and development review approvals. HARC applications must meet the requirements as outlined by the *Secretary of the Interior's Standards for Rehabilitation and Design Guidelines in Key West's Historic District*. The filing of an application does not ensure approval.

This application should be completed to the best of your ability and returned to the Planning Department, 605-A Simonton Street, Key West, Florida. All applications will be forwarded to the HARC board for a decision. The applicant should be present at the scheduled HARC meeting.

- Unless scope of work follows staff approval criteria, application review period is typically 14 days.
- Consult the tree commission for questions regarding tree removal.
- Please refer to the *Secretary of the Interior's Standards for Rehabilitation and Design Guidelines in Key West's Historic District* (available at the City Planning Office) for additional information.

Required attachments:

- ☒ Photographs of existing building (for repairs, rehabilitations, or expansions)
- ☐ Photographs of adjoining buildings (for new buildings or major additions)
- ☒ Two (2) sets of to scale drawings of floor plans, site plans, exterior elevations (for new buildings or major additions)
- ☐ Illustrations of manufactured products to be used such as shutters, doors, and windows; paint color chips; and awning fabric samples
- ☒ Brief written description of scope of work intended under this application

Applications that do not have the required attachments will be considered incomplete and will not be brought to the HARC board.

Certificate of Appropriateness Number (assigned by HARC) H.A. 97-2958

Name of Property Owner: BEHND MARKET LTD. Phone: 294-5225

Permanent Home Address: 201 FRONT ST., SUITE 310

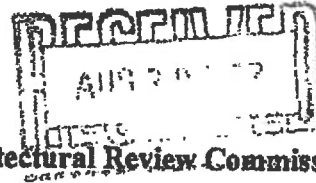
Applicant (owner or legally designated agent): W.P. HANNA AACH, JR. Phone: 294-2302

Applicant's Mailing Address: 915 EATON ST.

Address of Construction: 804 WHITEHEAD ST.



Historic Architectural Review Commission



Applicant's Summary of Scope of Work (Please type or print): NEW ONE STORY
OPEN MARKET BUILDING AND SITE WORK AS SHOWN
ON PLANS. REMOVAL OF "SHEO" BUILDING THAT IS
FALLING DOWN. PAINT WORK

I attest that I will not exceed the scope of work as summarized above without coming back before the HARC for additional review.

Date: 8-28-97 Signature: [Signature]

For HARC Use Only

Approved X Denied _____ Deferred _____

Reason for deferral/denial: _____

New Hearing Date: _____

HARC staff comments: _____

Limits of work approved, conditions of approval, and/or suggested changes, etc.:
ELEVATIONS TO BE MOVED BACK / NO HANGING SIGNS -
MUST BE PLACED OVER DOOR.

Date: SEP 9 1997

By: [Signature]

Historic Architectural Review Commission
HISTORICAL ARCHITECTURAL
REVIEW COMMISSION

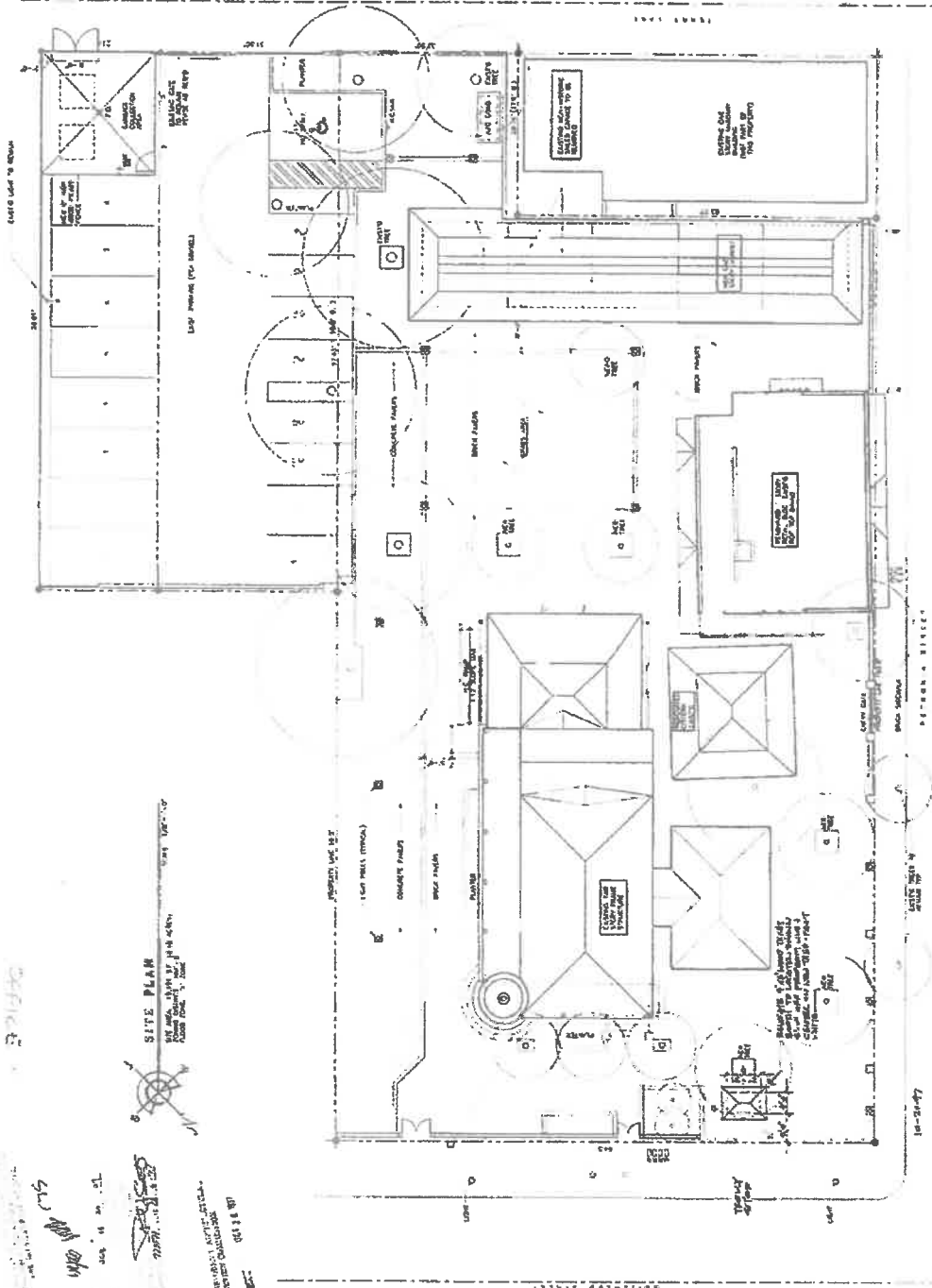
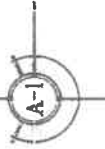
Buldy Permit
 2464-24455
 ARCHITECT: J.A.
 H9-97-2958
 HREC

BAHAMA VILLAGE MARKET
 10000 WHITEGLAD STREET
 KEY WEST, FL 34295

SCALE

DATE 6-17-97
 SETTING

DATE 6-17-97
 PROJECT 2464-24455
 PERM



SITE PLAN

10000 WHITEGLAD STREET
 KEY WEST, FL 34295

BAHAMA VILLAGE MARKET
 WHITEGLAD & PETRONIA STREET
 KEY WEST, FL



THE CITY OF KEY WEST
BUILDING DEPARTMENT
P.O. BOX 1409
KEY WEST, FL 33041-1409
(305) 292-8151

Application Number 98-00002419 Date 8/19/98
Property Address 804 WHITEHEAD ST
RE #/PARCEL #/TAX ID etc 0001-4010-000000-
Application description SIGN APPLICATION
Property Zoning NEIGHBORHOOD COMMERCIAL
Application valuation 1000

Owner Contractor
BAHAMA VILLAGE MARKET HTM INC.
226 PETRONIA ST POB 2218
KEY WEST FL 33040 KEY WEST FL 33045
(305) 294-3225

Flood zone Structure Information
Other struct info FLOOD ZONE X
HARC #

Permit SIGN PERMIT
Additional desc
Permit Fee 21.00
Issue Date 8/19/98 Valuation 0
Expiration Date 8/10/00

Qty Unit Charge Per BASE FEE Extension
21.00

Special Notes and Comments
BUILD SIGN 12' 2" HT/ 10" LETTERS, 8'x 8'
WOOD POST AGED PER PLANS ON FILE
BLUE/GREEN/GOLD COLORS, NO CORAL AT BASE
PER HARC #88-98-2419
BAHAMA VILLAGE MARKET

| Fee summary | Charged | Paid | Credited | Due |
|------------------|---------|------|----------|-------|
| Permit Fee Total | 21.00 | .00 | .00 | 21.00 |
| Grand Total | 21.00 | .00 | .00 | 21.00 |

Paul Costa

THE PROPOSED CONSTRUCTION IS PERMITTED ON CONDITION OF
COMPLIANCE WITH ALL APPLICABLE CODES AND ORDINANCES AND IN
CONFORMANCE WITH ALL PLANS, SPECIFICATIONS AND ESTIMATES
SUBMITTED WITH THE SUBJECT APPLICATION. PERMIT VOID UNLESS
CONSTRUCTION SUBSTANTIALLY COMMENCED WITHIN 90 DAYS OF ISSUE

1/7/99
DATE ISSUED

98 2419 821.00 PT
Date: 1/07/99 50 Receipt: 043052
CHECK 100157
0000000000000000

jm
BY

198-2419

KEY WEST BUILDING DEPARTMENT
APPLICATION FOR BUILDING PERMIT

ADDRESS OF CONSTRUCTION: 804 Whitehead
OWNER: Bakana U Mass Market TELEPHONE: 299-3225
ADDRESS: 201 Front St. Suite 310
CONTRACTOR: HTM, INC. TELEPHONE: _____
CONTRACTOR ADDRESS: _____
ARCHITECT/ENGINEER: _____ TELEPHONE: _____
ARCHITECT/ENGINEER ADDRESS: _____
PROPERTY IS: RESIDENTIAL _____ COMMERCIAL ☒
EXISTING # UNITS: NA # UNITS AFTER CONSTRUCTION: NA
EXISTING # BEDROOMS: NA # BEDROOMS AFTER CONSTRUCTION: NA
SQUARE FOOTAGE OF EXISTING BUILDING(S): NA
DIMENSIONS OF NEW BUILDING(S) OR ADDITION: Sign 12'2" x 12'H
TYPE OF WORK: NEW ☒ REMODEL _____ REPAIR _____ ADDITION _____
DESCRIPTION OF WORK: To Build sign out of Old bicycle
Frames and 1/2 inch Sheet Metal letters 10" High
Chain, 8x8 Wood Post / Alternate
old City Cast Iron Post
no work at Base - @
ESTIMATED COST OF COMPLETED WORK (LABOR & MATERIAL): \$1,000

SEC. 35.13(6) OF THE KEY WEST CODE OF ORDINANCES: If the work described in any building permit has not begun within ninety (90) days from the date of issuance thereof, said permit shall expire; it shall be canceled by the Chief Building Official, and written notice shall be given to the persons affected.

If the work described in any building permit has not been substantially completed within two (2) years of the date of issuance thereof, said permit shall expire and be canceled by the Chief Building Official and written notice thereof shall be given to the persons affected, together with notice that further work described in the canceled permit shall not proceed unless and until a new building permit has been obtained.

"FAILURE TO COMPLY WITH THE MECHANIC'S LIEN LAW CAN RESULT IN THE PROPERTY OWNER PAYING TWICE FOR BUILDING IMPROVEMENTS"

Michael R. Parker Partner

Owner or Contractor

State Certification/Registration

James E. O'Neil 8/16/90
Plan Reviewer Date

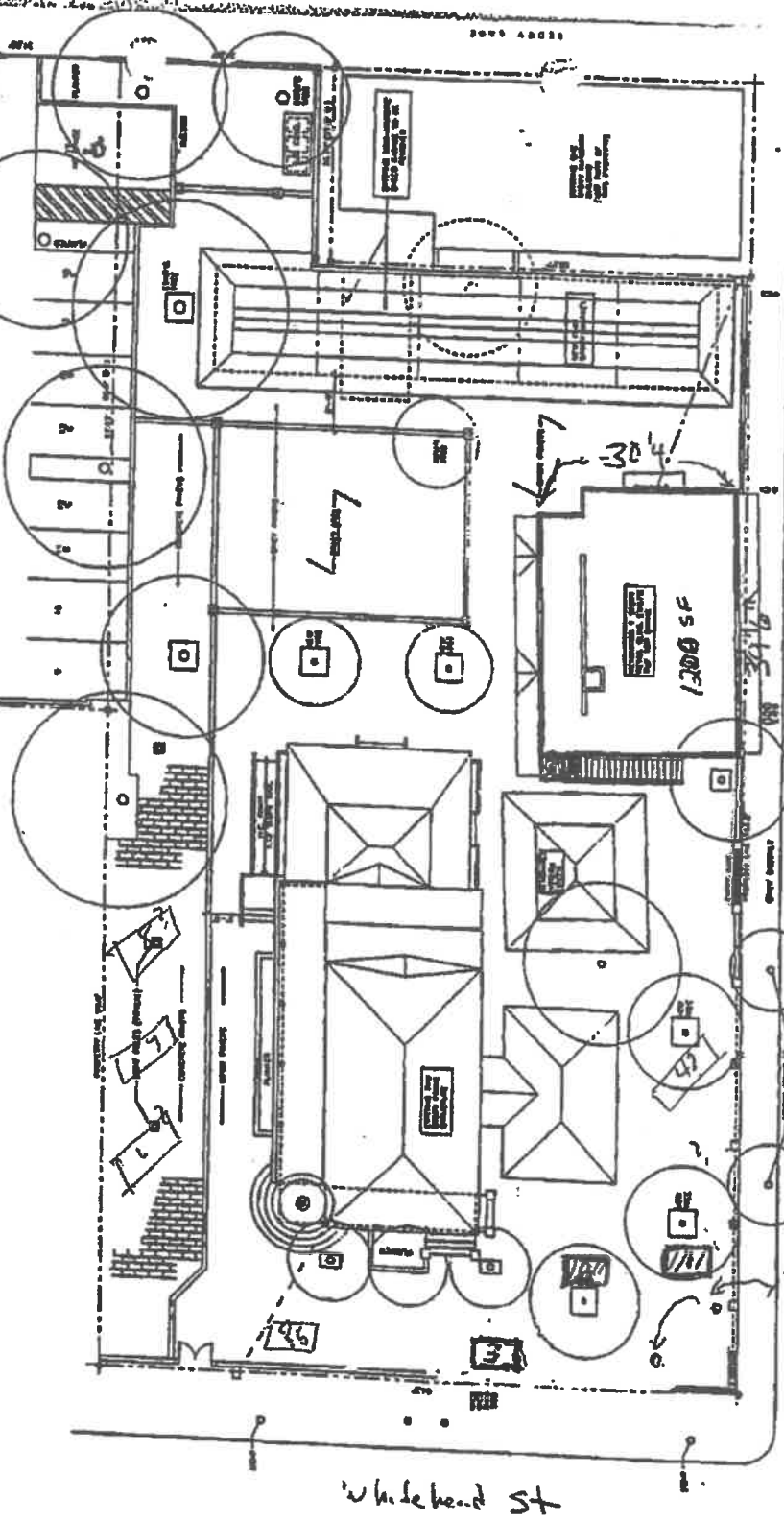
Building Official Date

Permit Fee \$ 21.

Zoning HWC3 Flood Zone X Reel _____ Assessed Value \$ _____

246424455-OK

Exhibit A BAHAMA VILLAGE MARKET, LTD. CENTER



Petrolia

BAHAMA VILLAGE MARKET, LTD. CENTER
WHITEHEAD & PETROLIA STREET
PORT WILSON, FL

Whitehead St

sign
hockey

Waste Management Letter



RECEIVED

September 22, 2011

KW Planning Dpt

WASTE MANAGEMENT

125 Toppino Industrial Road
Rockland Key, FL 33040
305-296-8297
305-296-8175 Fax

September 15, 2011

Ed Swift III

201 Front Street

Key West Fl. 33040

Ed, please accept this letter to confirm our meeting reference the property corner Whitehead & Petronia. Trash and recycling pick up will occur on Whitehead Street between six and eight am. They will be placed near the trolley stop, which will give easy access, and they can be removed from curbside so as not to interfere with other operations. Toter service is available seven days per week if necessary and can be adjusted with business volumes. I suggest at least three times per week with a 96-gallon for trash and the same for recycling. Please call me if you have any questions.

A handwritten signature in cursive script, appearing to read 'Greg Sullivan'.

Greg Sullivan

Senior District Manager

Community Meeting

Open House

Bahama Village Market

Please join us to tour and discuss our ideas for a revitalized Bahama Village Market. We propose to change the existing mix of uses by reducing the existing indoor and outdoor commercial retail space and use it instead for the restaurant.

We'd like to share our plans and hear what you think.

Where: We're inviting everyone to meet in the interior courtyard off of Petronia Street

When: Monday September 5th from 5 - 7pm

We look forward to speaking with you. If you are unable to attend and have questions or comments, please call us (Debbie Batty, 305-509-1958 or Owen Trepanier, 305-293-8983).



A special note and apology from Trepanier & Associates: Prior to the first hearing of the Planning Board, the property owners asked that we assist in the mailing of a letter to all neighbors within 300 feet of the property. The letter (copied onto the back of this invitation) was an invite to review the plans and meet with the property owners. Unfortunately, we made a mistake with our "mail merge" and not all neighboring property owners received the letter. We believe this may have caused some ill feelings and for this we sincerely apologize.

August 4th, 2011


Petronia St., Unit 1
Key West, FL
33040

Re: Bahama Village Market

Dear Mr. 

We are the long time owners of the Bahama Village Market on the corner of Whitehead and Petronia, and are trying to bring the Bahama Village Market back to life.

We have owned the property since the early 1990s. Our goal for the Market was to create an environment where small business owners and craftsmen and women could flourish, while at the same time have a positive impact on the Petronia Street corridor. The concept did flourish in the beginning but the property has since sat fallow.

We put the property up for sale and some folks contracted to buy it, and then tried to develop a nightclub-type business. They were unsuccessful for many reasons and they are no longer involved with the property. As the long-time property owners, we've decided to bring the property back to life ourselves in a considerate, respectful way. We understand many of the concerns people have regarding the impacts of the property and we would like to take this opportunity explain what we propose to do.

The Bahama Village Market is currently recognized for commercial retail, office, restaurant, and residential uses. We propose to alter the existing mix of uses by significantly reducing the amount of commercial space, retail and office space (from approx 15,500 sq. ft. to 2,500 sq. ft.) and incorporate some of that area into the existing restaurant. The restaurant will be café-style with indoor and outdoor seating. The kitchen will remain adjacent to Petronia Street, the parking lot will be brought up to current code, paved, landscaped, and stormwater management installed. Deliveries will be prohibited on Petronia, required to occur only in official loading zones. The hours of operation will be limited to 8 a.m. to 11 p.m.

City law now requires that if the property is not managed according to the conditions of approval (deliveries, noise, parking, etc.) the City will have the authority to revoke our right to operate. Thus, as the owner, we are making a commitment to the City and you, our neighbor, that this property will managed considerately, respectfully, and responsibly.

We hope you will support the process.

Please contact Debbie Batty at 305-509-1958 if you have any comments, concerns questions or would like additional information. We will be happy to talk to you, right at your home, or meet you at the property so you can fully understand our concept.

Thanks for your time.

Sincerely,


Debbie Swift-Batty

DRC
Minutes & Comments

- 3. Conditional Use - 802 - 808 Whitehead Street (RE Number) - A Conditional Use request for a restaurant in the HNC-3 zoning district per Section 122- 868(9) of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida**

Nicole Malo gave an overview of the project.

Owen Trepanier presented the project.

Mrs. Nicklaus stated that the parking constraints were a concern.

Mr. Torrence asked the applicant where deliveries were going to take place. Mr. Trepanier stated they would utilize the parking lot as well as the trolley stop area on Whitehead Street for deliveries

Mr. Torrence suggested the applicant attend the next District 6 community meeting for community input

Ms. Ignaffo requested information regarding ADA accessibility, sewer connection plan, grease intercept trap dimensions, and storm water plan.

Mrs. Torregrosa stated that any exterior changes to the building would have to come before HARC.

Mrs. Nicklaus stated that 20% of every dollar spent needs to go toward ADA improvements.

The following comment was received from the Florida Keys Aqueduct Authority and read into the record:

This site is presently being served by multiple FCAA Location #s. There is a 12" water main located on Whitehead Street, a 6" water main on Petronia Street and a 4" water main on Terry Lane. A complete set of plans will be required for review to determine meter location and requirements and any System Development Charges that will be due.

- 4. Variance - 321 Catherine Street (RE Number 00026350-000000) - A Variance request for existing non-conforming front yard setback and building coverage for an addition to the primary single family contributing structure in the HMDR zoning district per Section 122-600(4) a. and (6) a. of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.**

Nicole Malo gave an overview of the project

William Horn presented the project.

Mr. Torrence recommended that the back area be cleared of debris.

Mr. Averette, Ms. Ignaffo and Mrs. Nicklaus had no comment.

Mrs. Torregrosa recommended the applicant include the second reading for HARC March 28, 2011 in the application.

- 5. Variance - 1621 Bahama Drive (RE# 00070230-000000) For building coverage requirements in the SF zoning district per Section 122-235 (4) a. 1. of the Land Development Regulations of the City of Key West.**

Brendon Cunningham gave an overview of the project.

From: Elizabeth Ignaffo
Sent: Tuesday, August 02, 2011 4:08 PM
To: Rick Milelli
Cc: Owen Trepanier; Debbie Swift; Chris King IDG; Nicole Malo; Doug Bradshaw
Subject: Re: Bahama Village Parking Lot Plan

Follow Up Flag: Follow up
Flag Status: Red

Attachments: BAHAMA MKT_COMPACT SPACES.pdf

Hi Rick,

I reviewed the revised parking site plan, and note the following comments:

1. It appears parking spaces # 1 and 2 will impact existing trees, a Spanish Lime and Gumbo Limbo.
2. The combined landscape areas total less than 10% of the parking lot area, 610 square feet.

Please find the attached sketch that shows compact car spaces and increased landscape area replacing the standard vehicle spaces # 1 and 2. Increasing the landscape area and substituting compact spaces will protect the existing trees. The attached sketch is provided as a suggestion.

Thanks.

Elizabeth

Elizabeth Ignaffo, E.I.
Permit Engineer
City of Key West
3140 Flagler Avenue
Key West, Florida 33040
(305) 809-3966
ignaffo@keywestcity.com

On Mon, Jul 25, 2011 at 6:26 PM, Rick Milelli <rmilelli@historictours.com> wrote:

Hi Elizabeth,

Here's the revised drainage plan. I've addressed all of your comments. I increased the landscape buffer area to 638 sf by utilizing existing planters and creating new

ones around the existing trees.

Thanks,

Rick

Rick Milelli, P.E.

Meridian Engineering LLC

201 Front Street, Suite 207

Key West, FL 33040

Ph: 305-293-3263

Fax: 305-293-4899

Cell: 305-481-0400

From: Elizabeth Ignaffo [mailto:elignaffo@keywestcity.com]

Sent: Wednesday, July 13, 2011 9:13 AM

To: Rick Milelli

Subject: Re: Bahama Village Parking Lot Plan

Hi Rick,

Owen and I spoke about parking lot paving material and agreed notation should state "parking lot surface material to be compliant with KW Code of Ordinances Sec. 108-611 and be approved by HARC." The paving and exfiltration trench details should be revised to acknowledge other surface material options.

Please show the ADA path of travel and associated dimensions and markings, and be advised that a minimum 44" path of travel in front of the ADA parking space is required.

The parking plan must show driveway width dimension, wheel stops and space markings. Note: Landscaping in the amount 10% of the area, 580 square feet, shall be required.

In regard to the drainage plan calculations, I believe the exfiltration trench and inlets are sufficient to meet the requirements of the code.

Thanks.

Elizabeth

On Mon, Jul 11, 2011 at 3:21 PM, Rick Milelli <rmilelli@historictours.com> wrote:

Hi Elizabeth,

The Planning Dept is looking for a letter from the Engineering Dept about the parking lot plan for Bahama Village Market. Could you take a look at the plan and let me know if it looks ok? I'll drop off signed and sealed copies if it's good to go. Owen told me that HARC doesn't like asphalt parking lots. I can change it if it's an issue.

Thank you,

Rick

Rick Milelli, P.E.

Meridian Engineering LLC

201 Front Street, Suite 207

Key West, FL 33040

Ph: [305-293-3263](tel:305-293-3263)

Fax: [305-293-4899](tel:305-293-4899)



(305) 295-1000
1001 James Street
PO Box 6100
Key West, FL 33040-6100
www.KeysEnergy.com

UTILITY BOARD OF THE CITY OF KEY WEST

April 27, 2011

Mr. Don Craig
City of Key West
PO Box 1409
Key West, Florida 33040

RE: DEVELOPMENT REVIEW COMMITTEE
KEYS ENERGY SERVICES COMMENTS MEETING OF APRIL 28, 2011.

Dear Mr. Don Craig:

Keys Energy Services (KEYS) received the Development Review Committee Agenda for April 28, 2011. KEYS has reviewed the items that will be discussed at the City's Development Review Committee meeting.

Below are KEYS' comments:

1. LOCATION: 921 Eaton Street – Variance
COMMENT: KEYS has no objections to the Variance request.
2. LOCATION: 802-808 Whitehead Street – Conditional Use
COMMENT: KEYS has no objections to the Conditional Use request.
3. LOCATION: 321 Catherine Street - Variance
COMMENT: KEYS has no objections to the Variance request.
4. LOCATION: 1621 Bahama Dr – Variance
COMMENT: KEYS has no objections to the Variance.
5. LOCATION: 616 Virginia Street - Variances
COMMENT: KEYS has no objections to these Variances.
Customer will need to provide full set of plans for future project.
6. LOCATION: 711 Baker's Lane – Variances
COMMENT: KEYS has no objections to these Variances.
Customer must provide full set of plans and coordinate with Keys for new location of electrical service.
7. LOCATION: 1315 Third Street – Variance
COMMENT: KEYS has no objections to the Variance.
8. LOCATION: 529 United Street – Conditional Use
COMMENT: KEYS has no objections to the Conditional Use request.
Customer will need to coordinate with Keys and provide a "Project Review Form". Keys will need to verify existing facilities and/or any upgrades will be needed.

Parking and Trip Analysis

PARKING AND TRIP ANALYSIS

Bahama Village Market Development Petronia and Whitehead Streets, Key West FL

Prepared For:

Bahama Village Market, LLC
201 Front St. Ste. 224
Key West, FL 33040

Prepared By:

Richard J. Milelli, P.E.
P.E. # 58315
Historic Tours of America
201 Front St. Ste. 207
Key West, FL 33040
(305) 293-3263



Certificate of Authorization # 26120

April 2011

RJ Milelli
4/7/11

Bahama Village Market - Potential Intensity Analysis

Executive Summary

This intensity analysis was performed to understand the potential impacts of the proposed change in the mix of allowable uses associated with the Bahama Village Market property located on the corner of Whitehead and Petronia Streets. To understand the potential intensity impacts, two indicators were analyzed: potential trip generation and potential parking demand.

For trip generation the Institute of Transportation Engineers ("ITE") Trip Generation Manual, 7th Edition and the concurrency criteria of Key West Comprehensive Plan were used. City Code Sec. 108-572 along with ITE impact methodology was used to calculate potential parking demand. In both cases reductions in the relative potential impacts of both trip generation and parking demand were found as demonstrated below:

Potential Trip Generation Summary Table

| Total Trips/ 1,000 sq. ft./ Day | Weekday | | Saturday | | Sunday | |
|------------------------------------|----------|----------|----------|----------|----------|----------|
| | Existing | Proposed | Existing | Proposed | Existing | Proposed |
| | 48.88 | 34.92 | 46.62 | 33.79 | 25.15 | 24.29 |

Potential Parking Demand Summary Table

| | Existing | Proposed |
|-----------------|----------|----------|
| Sum of all uses | 71.1 | 68.3 |

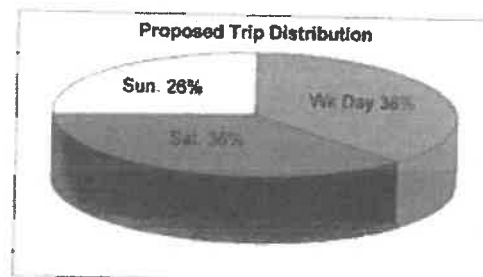
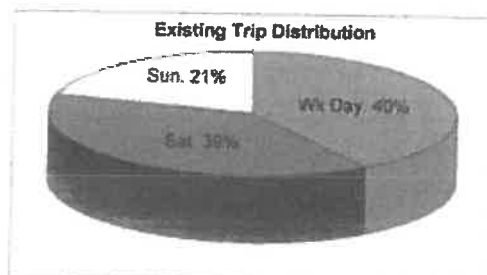


Analysis

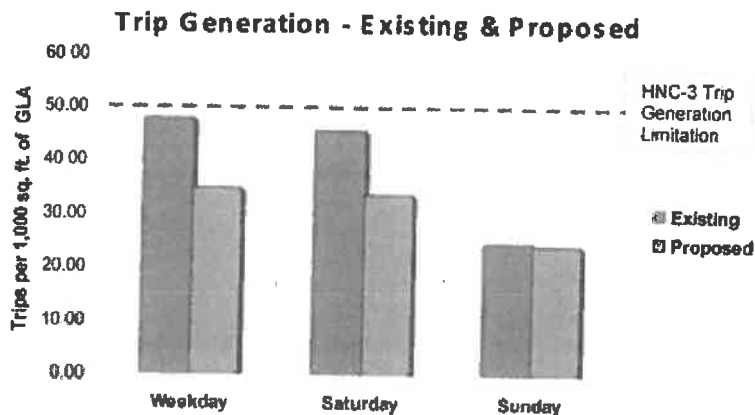
Trip Generation:

A trip generation analysis was performed based on the concurrency criteria of the City of Key West's Land Development Regulations and Comprehensive Plan, using the 7th edition of the Institute of Transportation Engineers ("ITE") Trip Generation Manual. The Manual uses historical studies throughout the United States from the 1960s to 1990s on traffic impacts. Most of these studies come from suburban environments and therefore are heavily biased towards automobile-oriented communities. The actual trip generations for Key West is expected to be much lower and to be more bicycle-pedestrian oriented.

The ITE trip generations predictions show the overall distribution of potential trips will not change significantly. This means the potential trips associated with the various days of the week will continue to be similarly associated with the same days of the week. Therefore the neighborhood will not experience a significant change in the potential traffic patterns as a result of the proposal.



The ITE trip generation predictions also show a decrease in potential trip generation of up to 10 trips per 1,000 sq. ft. of gross leaseable area per day¹ as a result of the proposed change in the mix of uses. The predictions also show the potential trip generation falls below 50 trips per 1,000 sq. ft. of the gross leaseable area per day, and thus the proposed change in the mix of uses complies with intensity limitations of the HNC-3 district.



| Potential Trip Generation Calculations | | | | | | |
|--|-----------|----------|-----------|----------|-----------|----------|
| Trip Generator | Weekday | | Saturday | | Sunday | |
| | Existing | Proposed | Existing | Proposed | Existing | Proposed |
| No. of Restaurant Seats | 45.00 | 165.00 | 45.00 | 165.00 | 45.00 | 165.00 |
| Trips per Seat (ITE #931) | 2.86 | 2.86 | 2.81 | 2.81 | 2.15 | 2.15 |
| Total Restaurant Trips | 128.70 | 471.90 | 126.45 | 463.65 | 96.75 | 354.75 |
| Existing Residential Units | 3.00 | 3.00 | 3.00 | 3.00 | 3.00 | 3.00 |
| Trips per Unit (ITE #220) | 6.72 | 6.72 | 6.39 | 6.39 | 5.86 | 5.86 |
| Total Residential Trips | 20.16 | 20.16 | 19.17 | 19.17 | 17.58 | 17.58 |
| Retail GLA | 15,943.00 | 2,553.00 | 15,943.00 | 2,553.00 | 15,943.00 | 2,553.00 |
| Trips per Retail GLA (ITE# 814) | 44.32 | 44.32 | 42.04 | 42.04 | 20.43 | 20.43 |
| Total Retail Trips | 706.59 | 113.15 | 670.24 | 107.33 | 325.72 | 52.16 |
| Office GLA | 0.00 | 529.00 | 0.00 | 529.00 | 0.00 | 529.00 |
| Trips per Office GLA (ITE# 710) | 11.01 | 11.01 | 2.37 | 2.37 | 0.98 | 0.98 |
| Total Office Trips | 0.00 | 5.82 | 0.00 | 1.25 | 0.00 | 0.52 |
| Total Gross Trips | 855.45 | 611.03 | 815.86 | 591.40 | 440.05 | 425.01 |
| Gross Leaseable Area (1,000 sq. ft.) | 17.50 | 17.50 | 17.50 | 17.50 | 17.50 | 17.50 |
| Total Trips/ 1,000 sq. ft. | 48.88 | 34.92 | 46.62 | 33.79 | 25.15 | 24.29 |

¹ The HNC-3 zoning district requires trip generation to be measured in terms of trips per 1,000 sq. ft. of gross leaseable floor area per day. However, for restaurants and other establishments with significant outdoor activity area, the ITE indicates trip generation by floor area is an inaccurate measure of intensity, due to the additional intensity associated with the non-floor area (i.e. outdoor) portions of the site. To mitigate the potential inaccuracy, gross leaseable area was used, instead of just the gross leaseable floor area, and includes indoor and outdoor activity area, thereby incorporating the additional potential intensity of the outdoor (non-floor area) uses.



Parking Demand:

The parking demand study was performed using the methodology and requirements of Article VII, Division 2, Regulations for Required Spaces. Sec. 108-572 lays out the schedule of off street parking requirements for each use. This site currently has three primary uses: retail, restaurant, and residential.

Section 108-572 specifies the following parking spaces per use:

| Use | Parking Requirement |
|-------------|--|
| Retail | 1 space per 300 sq. ft. gross floor area |
| Restaurant | 1 space per 45 sq. ft. of consumption area |
| Residential | 1 space per dwelling unit |
| Office | 1 space per 300 sq. ft. gross floor area |

Retail parking requirements are based on floor area. On sites such as this, with significant outdoor commercial activity areas, intensity studies based on floor area alone do not produce accurate results since outdoor areas are not considered "floor area" under the code. Therefore, following the methodology of the ITE, the parking requirements in this study include the impacts of both indoor and outdoor commercial areas. By including the impacts of both indoor and outdoor commercial areas, the resulting data more accurately reflects the true potential impacts of the uses.

Restaurant parking requirements in the code are also based on floor area. Again, following the ITE methodology for restaurants with significant outdoor consumption areas, this study analyzed impacts based on number of seats (both indoor and outdoor), rather than just consumption area as it relates to floor area. The result is a more accurate understanding of potential impacts and the related parking demand.

When the parking requirements of Sec. 108-572 together with the ITE based impact methodologies are applied to the existing and proposed mix of uses a 4% reduction is revealed (as demonstrated below).

| Use | Existing | Proposed |
|--|---------------------|---------------------|
| No. of Restaurant Seats | 45 seats | 165 seats |
| Functional Consumption Area ¹ | 675 sq. ft. | 2,475 sq. ft. |
| Parking - Consumption | 15 spaces | 55 spaces |
| Residential Units in Existence | 3 units | 3 units |
| Parking - Residential | 3 spaces | 3 spaces |
| Retail GLA | 15,943 sq. ft. | 2,553 sq. ft. |
| Parking - Retail | 53.14 spaces | 8.51 spaces |
| Office GLFA | 0 sq. ft. | 529 sq. ft. |
| Parking - Office | 0 spaces | 1.76 spaces |
| Total Parking | 71.14 spaces | 68.27 spaces |

¹ The functional consumption area is a measure of the consumption area represented by the maximum seating proposed for a site. This project proposes an indoor-outdoor "flexible" seating area. The indoor and the outdoor areas must each individually accommodate the full seating capacity of 165 seats (depending on weather conditions and customer needs), however, according to the application, in no case will the site ever contain more than 165 seats total. Therefore a straight measure of gross consumption area for the flexible seating arrangement produces a wildly inaccurate parking demand. In order to accurately predict the parking



demand of the proposed 165-seat indoor-outdoor flexible seating area, functional consumption area was used. The functional consumption area was determined using the life-safety required area per seat and the maximum number of seats as follows: 165 seats x 15 sq ft / seat = 2,475 sq ft.

Currently the mix of uses is predominantly retail and the percentage of the total parking demand is also predominantly retail. As is depicted in the above table, the proposed changes to the mix of uses will result in a significant reduction in potential retail activity and an increase in the number of restaurant seats. The relative change in uses, however, have similar, but opposite effects on parking demand, i.e. the reduction in retail oriented parking demand by approximately 84%. The increase in seating has a similar but opposite impact on seating-related parking, which increases by approximately 73%. The resulting impact on the potential parking demand as a result of the proposed change in the mix of uses is a decrease of approximately 2 parking spaces.

Existing Parking Demand

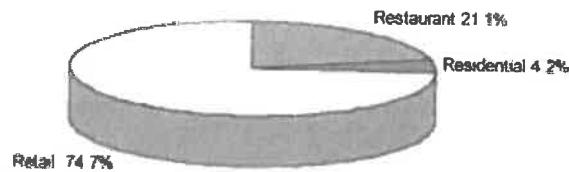


Chart - Existing Parking Demand



Proposed Parking Demand

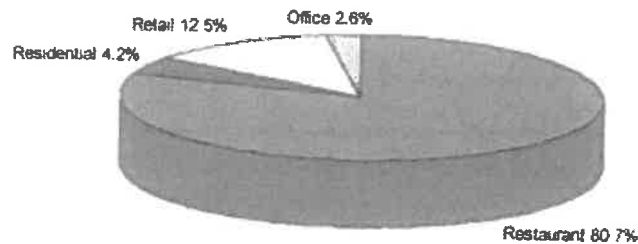
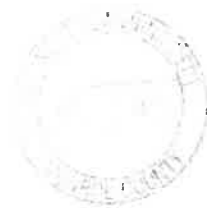


Chart - Proposed Parking Demand

Conclusion

As a result of the proposed change in the mix of uses at the Bahama Village Market property, there will be an overall reduction in potential trip generation and parking demand. The change of uses will also not significantly alter potential trip distribution.



Property Appraiser Information

802 Whitehead Street - RE# 00014010-000100

806 Whitehead Street - RE# 00014020-000000

320-324 Petronia Street - RE# 00014010-000000

809 Terry Lane - RE# 00014050-000000

811 Terry Lane - RE# 00014060-000000

Karl D. Borglum
Property Appraiser
Monroe County, Florida

office (305) 292-3420
fax (305) 292-3501
Website tested on Internet Explorer

Our Website is currently undergoing maintenance. (GIS Mapping functionality is being upgrading.)

Property Record View

Alternate Key: 1014401 Parcel ID: 00014010-000100

Ownership Details

Mailing Address:
BAHAMA VILLAGE MARKET LLC
201 FRONT ST
STE 224
KEY WEST, FL 33040

Property Details

PC Code: 12 - STORE/OFF/RES OR COMBINATION
Millage Group: 11KW
Affordable Housing: No
Section-Township-Range: 06-68-25
Property Location: 802 WHITEHEAD ST KEY WEST
804 WHITEHEAD ST KEY WEST
Legal Description: KW PT LOTS 1 & 2 SQR 1 TR 3 B3-6 G22-421/425/429 G44-427/428 BOOK OF WILLS C-408/409 CO JUDGES DOCKET 11-10 OR500-503 OR500-508 OR602-437/39
OR805-1099/1101 OR1143-338D/C OR1295-1572/73 OR1344-1666/7 OR2133-389/393Q/C

Parcel Map (Click to open dynamic parcel map)

Land Details

| Land Use Code | Frontage | Depth | Land Area |
|-----------------------|----------|-------|-------------|
| 100d - COMMERCIAL DRY | 63 | 93 | 5,782.00 SF |

Building Summary

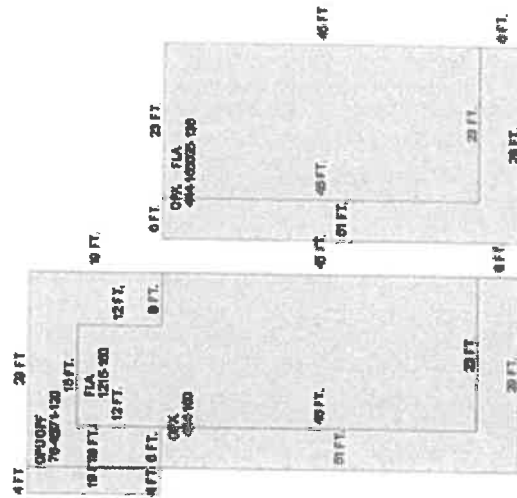
Number of Buildings: 1
Number of Commercial Buildings: 1
Total Living Area: 2250
Year Built: 1999

Building 1 Details

| | | |
|------------------|----------------|----------------------|
| Building Type | Condition E | Quality Grade 450 |
| Effective Age 30 | Perimeter 286 | Depreciation % 40 |
| Year Built 1999 | Special Arch 0 | Gmd Floor Area 2,250 |
| Functional Obs 0 | Economic Obs 0 | |

Inclusions:

| Roof Type | Roof Cover | Foundation |
|-----------------|------------|--------------------|
| Heat 1 | Heat 2 | Bedrooms 0 |
| Heat Src 1 | Heat Src 2 | |
| Extra Features: | | |
| 2 Fix Bath 3 | | Vacuum 0 |
| 3 Fix Bath 3 | | Garbage Disposal 0 |
| 4 Fix Bath 0 | | Compactor 0 |
| 5 Fix Bath 0 | | Security 0 |
| 6 Fix Bath 0 | | Intercom 0 |
| 7 Fix Bath 0 | | Fireplaces 0 |
| Extra Fix 12 | | Dishwasher 0 |



Sections:

| Nbr | Type | Ext Wall | # Stories | Year Built | Attic A/C | Basement % | Finished Basement % | Area |
|-----|------|----------|-----------|------------|-----------|------------|---------------------|-------|
| 1 | FLA | | 1 | 1927 | | | | 1,215 |
| 2 | OPF | | 1 | 1999 | | | | 371 |
| 3 | OPX | | 1 | 1927 | | | | 444 |

| | | | | |
|---|-----|---|------|-------|
| 4 | OPU | 1 | 1999 | 76 |
| 5 | FLA | 1 | 1927 | 1,035 |
| 6 | OPX | 1 | 1927 | 444 |

Interior Finish:

| Section Nbr | Interior Finish Nbr | Type | Area % | Sprinkler | A/C |
|-------------|---------------------|---------------|--------|-----------|-----|
| | 2812 | 1 STY STORE-A | 100 | Y | Y |
| | 2813 | APTS-A | 100 | N | Y |

Exterior Wall:

| Interior Finish Nbr | Type | Area % |
|---------------------|--------------------|--------|
| 687 | AB AVE WOOD SIDING | 100 |

Misc Improvement Details

| Nbr | Type | # Units | Length | Width | Year Built | Roll Year | Grade | Life |
|-----|------------------|----------|--------|-------|------------|-----------|-------|------|
| 1 | FN3:WROUGHT IRON | 276 SF | 0 | 0 | 1944 | 1945 | 1 | 60 |
| 2 | PT3:PATIO | 345 SF | 0 | 0 | 1999 | 2000 | 2 | 50 |
| 3 | PT2:BRICK PATIO | 5,652 SF | 0 | 0 | 1999 | 2000 | 2 | 50 |
| 4 | TK2:TIKI | 255 SF | 17 | 15 | 1999 | 2000 | 4 | 40 |
| 5 | TK2:TIKI | 368 SF | 23 | 16 | 1999 | 2000 | 4 | 40 |
| 6 | TK2:TIKI | 40 SF | 8 | 5 | 1999 | 2000 | 1 | 40 |

Appraiser Notes

2003-09-12-M-SALE 1995 WITH AK1014397 & AK1014419 FOR \$322,900 WMC TPP8986704-RENTALS

Building Permits

| Bldg Number | Date Issued | Date Completed | Amount | Description | Notes |
|-------------|-------------|----------------|---------|-------------|---|
| 08-222 | 05/05/2008 | | 320,000 | Commercial | INTERIOR AND EXTERIOR RENOVATION |
| 08-238 | 05/05/2008 | | 240,000 | Residential | CONSTRUCT 1600 SF CONJOINED SINGLE FAMILY RESIDENCE |

| | | | | | |
|---------|------------|------------|---------|--|--------------------------|
| 04-0560 | 02/25/2004 | 11/22/2004 | 1,000 | | NEW SERVING STATION |
| 9701683 | 07/02/1997 | 04/30/1999 | 1 | | DEMO INTERIOR |
| 9703571 | 10/31/1997 | 04/30/1999 | 1,500 | | RELOCATION OF BOOTH |
| 9702296 | 11/19/1997 | 04/30/1999 | 105,000 | | RENOVATION OF APARTMENTS |
| 9704084 | 12/04/1997 | 04/30/1999 | 450 | | NEW SEWER LINE |
| 9802240 | 07/17/1998 | 04/30/1999 | 14,690 | | 17 NEW FIXTURES |
| 9802419 | 08/19/1998 | 04/30/1999 | 1,000 | | SIGNS |
| 9802589 | 08/21/1998 | 04/30/1999 | 2,200 | | WATER/SEWER LINE |
| 9803109 | 10/06/1998 | 04/30/1999 | 10,000 | | ELECTRICAL |
| 9803341 | 10/26/1998 | 04/30/1999 | 2,500 | | ELECTRICAL |
| 9702958 | 12/29/1998 | 04/30/1999 | 48,000 | | ROOFING |
| 9702286 | 01/25/1999 | 04/30/1999 | 105,000 | | RENOVATIONS |
| 9900704 | 02/28/1999 | 04/30/1999 | 500 | | ELECTRICAL |
| 9900687 | 03/02/1999 | 04/30/1999 | 10,000 | | FINISH INTERIOR WORK |
| 9902690 | 09/25/1999 | 12/31/1999 | 800 | | SIGN |
| 02-3095 | 11/15/2002 | 10/30/2003 | 300 | | SIGN |
| 04-0354 | 02/06/2004 | 11/22/2004 | 500 | | ELECTRICAL |

Parcel Value History

Certified Roll Values.

[View Taxes for this Parcel.](#)

| Roll Year | Total Bidg Value | Total Misc Improvement Value | Total Land Value | Total Just (Market) Value | Total Assessed Value | School Exempt Value | School Taxable Value |
|-----------|------------------|------------------------------|------------------|---------------------------|----------------------|---------------------|----------------------|
| 2010 | 255,509 | 43,407 | 446,957 | 745,873 | 745,873 | 0 | 745,873 |
| 2009 | 255,509 | 44,560 | 582,114 | 882,183 | 882,183 | 0 | 882,183 |
| 2008 | 255,509 | 45,630 | 731,750 | 1,032,889 | 1,032,889 | 0 | 1,032,889 |
| 2007 | 196,231 | 46,782 | 731,750 | 974,763 | 974,763 | 0 | 974,763 |
| 2006 | 196,231 | 47,851 | 526,860 | 755,474 | 755,474 | 0 | 755,474 |
| 2005 | 254,808 | 49,003 | 439,050 | 641,006 | 641,006 | 0 | 641,006 |
| 2004 | 254,799 | 50,073 | 668,250 | 641,006 | 641,006 | 0 | 641,006 |
| 2003 | 254,799 | 51,225 | 267,300 | 641,006 | 641,006 | 0 | 641,006 |
| 2002 | 254,799 | 52,293 | 267,300 | 610,482 | 610,482 | 0 | 610,482 |

| | | | | | | | |
|------|---------|--------|---------|---------|---------|--------|---------|
| 2001 | 254,799 | 53,447 | 267,300 | 610,482 | 610,482 | 0 | 610,482 |
| 2000 | 239,233 | 18,921 | 222,750 | 480,904 | 480,904 | 0 | 480,904 |
| 1999 | 71,334 | 3,647 | 136,323 | 298,282 | 298,282 | 0 | 298,282 |
| 1998 | 74,159 | 3,647 | 136,323 | 288,045 | 288,045 | 0 | 288,045 |
| 1997 | 74,159 | 3,647 | 120,285 | 280,336 | 280,336 | 0 | 280,336 |
| 1996 | 70,628 | 3,647 | 120,285 | 211,643 | 211,643 | 0 | 211,643 |
| 1995 | 70,628 | 3,647 | 120,285 | 211,643 | 211,643 | 0 | 211,643 |
| 1994 | 70,628 | 3,647 | 120,285 | 201,988 | 201,988 | 25,500 | 176,488 |
| 1993 | 70,995 | 252 | 120,285 | 198,657 | 198,657 | 25,500 | 173,157 |
| 1992 | 86,614 | 268 | 120,285 | 215,855 | 215,855 | 25,500 | 190,355 |
| 1991 | 86,614 | 280 | 120,285 | 215,868 | 215,868 | 25,500 | 190,368 |
| 1990 | 75,438 | 292 | 98,233 | 181,536 | 181,536 | 25,000 | 156,536 |
| 1989 | 75,438 | 308 | 96,228 | 171,974 | 171,974 | 25,000 | 146,974 |
| 1988 | 49,593 | 224 | 80,190 | 130,007 | 130,007 | 25,000 | 105,007 |
| 1987 | 48,995 | 232 | 69,498 | 118,725 | 118,725 | 25,000 | 93,725 |
| 1986 | 49,260 | 244 | 64,152 | 113,656 | 113,656 | 25,000 | 88,656 |
| 1985 | 47,795 | 252 | 36,324 | 84,371 | 84,371 | 25,000 | 59,371 |
| 1984 | 31,524 | 260 | 36,324 | 68,108 | 68,108 | 25,000 | 43,108 |
| 1983 | 31,524 | 272 | 36,324 | 68,120 | 68,120 | 25,000 | 43,120 |
| 1982 | 32,144 | 506 | 26,864 | 59,514 | 59,514 | 0 | 59,514 |

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 |
|-----------|----------------------------|--------|------------|---------------|
| 1/1/1995 | 1344 / 1666 | 1 | WD | M |
| 2/1/1994 | 1295 / 1572 | 1 | WD | M |
| 2/1/1972 | 805 / 1099 | 30,000 | 00 | Q |

This page has been visited 12,342 times.

Monroe County Property Appraiser

Karl D. Borglum
Property Appraiser
Monroe County, Florida

office (305) 292-3420
fax (305) 292-3501
Website tested on Internet Explorer

Our Website is currently undergoing maintenance. (GIS Mapping functionality is being upgraded.)

Property Record View

Alternate Key: 1014397 Parcel ID: 00014010-000000

Ownership Details

Mailing Address:
BAHAMA VILLAGE MARKET LLC
201 FRONT ST
STE 224
KEY WEST, FL 33040

Property Details

PC Code: 11 - STORES ONE STORY
Millage Group: 11KW
Affordable Housing: No
Section-Township- Range
Range
Property Location 318 PETRONIA ST KEY WEST
320 PETRONIA ST KEY WEST
322 PETRONIA ST KEY WEST
324 PETRONIA ST KEY WEST
Legal Description: KW PT LOT 1 SQR 1 TR 3 B3-6 G22-421/429 G44-427/428 BOOK OF WILLS C-408/409 OR513-666 OR602-438/39 OR805-1099/1101 OR1143-338D/C OR1295-1572/73
OR1344-1666/7 OR1388-218/219 OR2133-389/393C/C

Parcel Map (Click to open dynamic parcel map)

Land Details

| Land Use Code | Frontage | Depth | Land Area |
|-----------------------|----------|-------|-------------|
| 100D - COMMERCIAL DRY | 74 | 69 | 4,489 00 SF |

Building Summary

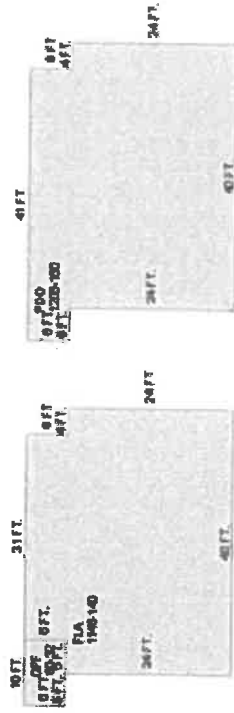
Number of Buildings: 2
 Number of Commercial Buildings: 2
 Total Living Area 2196
 Year Built: 1943

Building 1 Details

| | | |
|------------------|----------------|-----------------------|
| Building Type | Condition E | Quality Grade 400 |
| Effective Age 15 | Perimeter 140 | Depreciation % 19 |
| Year Built 1943 | Special Arch 0 | Grnd Floor Area 1,146 |
| Functional Obs 0 | Economic Obs 0 | |

Inclusions

| | |
|-----------------|--------------------|
| Roof Type | Foundation |
| Heat 1 | Bedrooms 0 |
| Heat Src 1 | |
| Extra Features: | |
| 2 Fix Bath 2 | Vacuum 0 |
| 3 Fix Bath 0 | Garbage Disposal 0 |
| 4 Fix Bath 0 | Compactor 0 |
| 5 Fix Bath 0 | Security 0 |
| 6 Fix Bath 0 | Intercom 0 |
| 7 Fix Bath 0 | Fireplaces 0 |
| Extra Fix 9 | Dishwasher 0 |



Sections:

| Nbr | Type | Ext Wall | # Stories | Year Built | Attic A/C | Basement % | Finished Basement % | Area |
|-----|------|----------|-----------|------------|-----------|------------|---------------------|-------|
| 1 | FLA | | 1 | 1993 | | | | 1,146 |
| 2 | OPE | | 1 | 1993 | | | | 60 |
| 3 | OUU | | 1 | 1993 | | | | 1,206 |

Interior Finish

| Section Nbr | Interior Finish Nbr | Type | Area % | Sprinkler | A/C |
|-------------|---------------------|---------------|--------|-----------|-----|
| | 2607 | REST/CAFET-A | 30 | Y | Y |
| | 2608 | 1 STY STORE-A | 70 | Y | Y |
| | 2609 | OPF | 100 | N | N |
| | 2610 | OUU | 100 | N | N |

Exterior Wall:

| Interior Finish Nbr | Type | Area % |
|---------------------|--------|--------|
| 685 | C.B.S. | 100 |

Building 2 Details

Building Type
 Effective Age 9
 Year Built 1998
 Functional Obs 0
 Condition E
 Perimeter 178
 Special Arch 0
 Economic Obs 0
 Quality Grade 350
 Depreciation % 12
 Grnd Floor Area 1,050

Inclusions

| Roof Type | Roof Cover | Foundation |
|--------------|------------|--------------------|
| Heat 1 | Heat 2 | Bedrooms 0 |
| Heat Src 1 | Heat Src 2 | |
| 2 Fix Bath 0 | | Vacuum 0 |
| 3 Fix Bath 0 | | Garbage Disposal 0 |
| 4 Fix Bath 0 | | Compactor 0 |
| 5 Fix Bath 0 | | Security 0 |
| 6 Fix Bath 0 | | Intercom 0 |
| 7 Fix Bath 0 | | Fireplaces 0 |
| Extra Fix 0 | | Dishwasher 0 |



Sections

| Nbr | Type | Ext Wall | # Stories | Year Buil | Attic A/C | Basement % | Finished Basement % | Area |
|-----|------|----------|-----------|-----------|-----------|------------|---------------------|-------|
| 1 | FLA | | 1 | 1998 | | | | 1,050 |

Interior Finish:

| Section Nbr | Interior Finish Nbr | Type | Area % | Sprinkler | A/C |
|-------------|---------------------|---------------|--------|-----------|-----|
| | 2611 | 1 STY STORE-B | 100 | N | Y |

Exterior Wall:

| Interior Finish Nbr | Type | Area % |
|---------------------|-------|--------|
| 686 | C.B.S | 100 |

Misc Improvement Details

| Nbr | Type | # Units | Length | Width | Year Built | Roll Year | Grade | Life |
|-----|-----------------|----------|--------|-------|------------|-----------|-------|------|
| 1 | PT2:BRICK PATIO | 2,028 SF | 0 | 0 | 1996 | 1997 | 2 | 50 |

Appraiser Notes

BUILDING 1 = RESTUARANT ETC. 2 = OPEN AIR MARKET 2003-09-12-M-SALE 1995 WITH AK1014401 & AK1014419 FOR \$322,900 WMC TPP8986704-RENTALS

Building Permits

| Bldg Number | Date Issued | Date Completed | Amount | Description | Notes |
|-------------|-------------|----------------|---------|-------------|---|
| 08-233 | 05/03/2008 | | 210,000 | Residential | CONSTRUCT 1600 SF CONJOINED WITH SINGLE FAMILY HOME |
| 08-237 | 05/04/2008 | | 210,000 | Residential | CONSTRUCT 1600 SF CONJOINED WITH SINGLE FAMILY HOME |
| 1 9704277 | 01/28/1998 | 01/01/1999 | 15,000 | Commercial | LIGHTS, FANS ETC |
| 1 9704346 | 02/27/1998 | 01/01/1999 | 10,000 | Commercial | GREASE TRAP, SINK ETC |
| 1 9704346 | 02/12/1998 | 01/01/1999 | 10,000 | Commercial | INTERIOR IMPROVEMENTS |
| 1 9704346 | 02/17/1998 | 01/01/1999 | 10,000 | Commercial | OUTLETS, SWITCHES ETC |
| 1 9704346 | 03/06/1998 | 01/01/1999 | 10,000 | Commercial | CENTRAL AC & DUCT ETC |
| 1 9800791 | 03/12/1998 | 01/01/1999 | 4,100 | Commercial | HOOD, EXHAUST DUCT & FAN |
| 1 9800568 | 04/07/1998 | 01/01/1999 | 1 | Commercial | V-CRIMP ROOF |
| 1 9801209 | 04/12/1998 | 01/01/1999 | 400 | Commercial | LIGHT/SWITCH ETC |
| 1 9704277 | 04/27/1998 | 01/01/1999 | 15,000 | Commercial | CENTRAL AC SYSTEM |
| 1 9704346 | 04/30/1998 | 01/01/1999 | 10,000 | Commercial | HOOD FIRE SYSTEM |
| 1 9801726 | 06/03/1998 | 01/01/1999 | 14,000 | Commercial | OUTLET SWITCHES ETC |
| 1 9801732 | 06/02/1998 | 01/01/1999 | 1 | Commercial | BOOTHES |
| 1 9702958 | 05/28/1998 | 12/30/1998 | 48,000 | Commercial | 1 STRY OPEN MARKET BLDG |
| 990986 | 05/15/1997 | 12/30/1999 | 1 | Commercial | RENOVATE CISTERN/BRICK PA |
| 9800121 | 01/13/1998 | 12/30/1999 | 79,000 | Commercial | DEMO SHED/NEW BLDG |
| 9801775 | 05/24/1999 | 12/30/1999 | 3,050 | Commercial | CENTRAL AC |
| 21 013858 | 12/13/2001 | 09/16/2002 | 900 | Commercial | CONNECT A/C |
| 01-3879 | 12/10/2001 | 09/16/2002 | 3,500 | Commercial | INSTALL 3.5 TON A/C |

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 |
|-----------|------------------|------------------------------|------------------|---------------------------|----------------------|---------------------|----------------------|
| 2010 | 316,089 | 11,255 | 403,128 | 730,472 | 730,472 | 0 | 730,472 |
| 2009 | 319,080 | 11,560 | 509,358 | 839,998 | 839,998 | 0 | 839,998 |
| 2008 | 319,080 | 11,864 | 570,000 | 797,413 | 797,413 | 0 | 797,413 |
| 2007 | 224,054 | 12,168 | 570,000 | 797,413 | 797,413 | 0 | 797,413 |
| 2006 | 224,054 | 12,472 | 387,600 | 755,719 | 755,719 | 0 | 755,719 |
| 2005 | 227,528 | 12,776 | 319,200 | 407,954 | 407,954 | 0 | 407,954 |
| 2004 | 232,514 | 13,081 | 273,840 | 407,954 | 407,954 | 0 | 407,954 |
| 2003 | 232,514 | 13,385 | 136,920 | 407,954 | 407,954 | 0 | 407,954 |
| 2002 | 228,727 | 13,689 | 73,024 | 407,954 | 407,954 | 0 | 407,954 |
| 2001 | 228,727 | 13,993 | 73,024 | 407,954 | 407,954 | 0 | 407,954 |
| 2000 | 228,727 | 4,384 | 63,896 | 297,007 | 297,007 | 0 | 297,007 |
| 1999 | 220,496 | 2,014 | 63,896 | 286,406 | 286,406 | 0 | 286,406 |
| 1998 | 89,448 | 2,056 | 63,896 | 155,400 | 155,400 | 0 | 155,400 |
| 1997 | 34,289 | 578 | 50,204 | 112,983 | 112,983 | 0 | 112,983 |
| 1996 | 32,666 | 578 | 50,204 | 86,772 | 86,772 | 0 | 86,772 |
| 1995 | 32,666 | 324 | 50,204 | 90,782 | 90,782 | 0 | 90,782 |
| 1994 | 32,666 | 336 | 50,204 | 86,506 | 86,506 | 0 | 86,506 |
| 1993 | 28,997 | 0 | 50,204 | 82,101 | 82,101 | 0 | 82,101 |
| 1992 | 35,376 | 0 | 50,204 | 89,118 | 89,118 | 0 | 89,118 |
| 1991 | 35,376 | 0 | 50,204 | 89,118 | 89,118 | 0 | 89,118 |
| 1990 | 26,941 | 0 | 46,781 | 76,416 | 76,416 | 0 | 76,416 |
| 1989 | 24,491 | 0 | 45,640 | 70,131 | 70,131 | 0 | 70,131 |
| 1988 | 21,554 | 0 | 31,948 | 53,502 | 53,502 | 0 | 53,502 |
| 1987 | 21,272 | 0 | 16,316 | 37,588 | 37,588 | 0 | 37,588 |
| 1986 | 21,392 | 0 | 15,061 | 36,453 | 36,453 | 0 | 36,453 |
| 1985 | 20,486 | 0 | 14,762 | 35,248 | 35,248 | 0 | 35,248 |
| 1984 | 19,355 | 0 | 14,762 | 34,117 | 34,117 | 0 | 34,117 |
| 1983 | 19,355 | 0 | 14,762 | 34,117 | 34,117 | 0 | 34,117 |
| 1982 | 19,706 | 0 | 10,946 | 30,652 | 30,652 | 25,000 | 5,652 |

Karl D. Borglum
Property Appraiser
Monroe County, Florida

office (305) 292-3420
fax (305) 292-3501
Website tested on Internet Explorer

Our Website is currently undergoing maintenance. (GIS Mapping functionality is being upgraded.)

Property Record View

Alternate Key: 1014419 Parcel ID: 00014020-000000

Ownership Details

Mailing Address:
BAHAMIA VILLAGE MARKET LLC
201 FRONT ST
STE 224
KEY WEST, FL 33040

Property Details

PC Code: 10 - VACANT COMMERCIAL
Millage Group: 11KW
Affordable Housing: No
Section-Township-Range: 06-68-25

Property Location: VACANT LAND 806 WHITEHEAD ST KEY WEST
Legal Description: KW PT LOT 2 SQR 1 TR 3 B3-6 G22-421/425/429 G44-427/428 BOOK OF WILLS C-408/409 OR513-666 OR602-438/39 OR805-1099/1101 OR1143-338D/C
OR1295-1572/73 OR1344-1666/7 OR2133-389/393Q/C

Parcel Map (Click to open dynamic parcel map)

Land Details

| Land Use Code | Frontage | Depth | Land Area |
|-----------------------|----------|-------|-------------|
| 100D - COMMERCIAL DRY | 32 | 192 | 6,190.00 SF |

Misc Improvement Details

| Nbr | Type | # Units | Length | Width | Year Built | Roll Year | Grade | Life |
|-----|-----------------|---------|--------|-------|------------|-----------|-------|------|
| 1 | PT5:TILE PATIO | 990 SF | 0 | 0 | 1999 | 2000 | 3 | 50 |
| 2 | PT2:BRICK PATIO | 270 SF | 0 | 0 | 1999 | 2000 | 2 | 50 |
| 3 | TK2 TIKI | 170 SF | 0 | 0 | 1999 | 2000 | 1 | 40 |

Appraiser Notes

2003-09-12-M-SALE 1995. WITH AK1014397 & AK1014401 FOR \$322,900 WMC

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 |
|-----------|------------------|------------------------------|------------------|---------------------------|----------------------|---------------------|----------------------|
| 2010 | 0 | 10,330 | 621,628 | 631,958 | 422,297 | 0 | 631,958 |
| 2009 | 0 | 10,606 | 373,301 | 383,907 | 383,907 | 0 | 383,907 |
| 2008 | 0 | 10,866 | 378,000 | 388,866 | 388,866 | 0 | 388,866 |
| 2007 | 0 | 11,142 | 378,000 | 389,142 | 389,142 | 0 | 389,142 |
| 2006 | 0 | 11,402 | 257,040 | 268,442 | 268,442 | 0 | 268,442 |
| 2005 | 0 | 11,679 | 211,680 | 223,359 | 223,359 | 0 | 223,359 |
| 2004 | 0 | 11,939 | 151,200 | 163,139 | 163,139 | 0 | 163,139 |
| 2003 | 0 | 12,215 | 72,576 | 84,791 | 84,791 | 0 | 84,791 |
| 2002 | 0 | 12,475 | 48,384 | 60,859 | 60,859 | 0 | 60,859 |
| 2001 | 0 | 12,751 | 48,384 | 61,135 | 61,135 | 0 | 61,135 |
| 2000 | 0 | 4,809 | 39,312 | 44,121 | 44,121 | 0 | 44,121 |
| 1999 | 0 | 0 | 39,312 | 39,312 | 39,312 | 0 | 39,312 |
| 1998 | 0 | 0 | 39,312 | 39,312 | 39,312 | 0 | 39,312 |
| 1997 | 0 | 0 | 33,264 | 33,264 | 33,264 | 0 | 33,264 |
| 1996 | 0 | 0 | 33,264 | 33,264 | 33,264 | 0 | 33,264 |
| 1995 | 0 | 0 | 33,264 | 33,264 | 33,264 | 0 | 33,264 |
| 1994 | 0 | 0 | 33,264 | 33,264 | 33,264 | 0 | 33,264 |
| 1993 | 0 | 0 | 33,264 | 33,264 | 33,264 | 0 | 33,264 |
| 1992 | 0 | 0 | 33,264 | 33,264 | 33,264 | 0 | 33,264 |
| 1991 | 0 | 0 | 33,264 | 33,264 | 33,264 | 0 | 33,264 |
| 1990 | 0 | 0 | 26,460 | 26,460 | 26,460 | 0 | 26,460 |
| 1989 | 0 | 0 | 25,704 | 25,704 | 25,704 | 0 | 25,704 |
| 1988 | 0 | 0 | 22,680 | 22,680 | 22,680 | 0 | 22,680 |
| 1987 | 0 | 0 | 9,828 | 9,828 | 9,828 | 0 | 9,828 |
| 1986 | 0 | 0 | 9,072 | 9,072 | 9,072 | 0 | 9,072 |
| 1985 | 0 | 0 | 7,987 | 7,987 | 7,987 | 0 | 7,987 |
| 1984 | 0 | 0 | 7,987 | 7,987 | 7,987 | 0 | 7,987 |
| 1983 | 0 | 0 | 7,987 | 7,987 | 7,987 | 0 | 7,987 |
| 1982 | 0 | 0 | 6,789 | 6,789 | 6,789 | 0 | 6,789 |

Karl D. Borglum
Property Appraiser
Monroe County, Florida

office (305) 292-3420
fax (305) 292-3501
Website tested on Internet Explorer

Our Website is currently undergoing maintenance. (GIS Mapping functionality is being upgraded.)

Property Record View

Alternate Key: 1014435 Parcel ID: 00014050-0000000

Ownership Details

Mailing Address
BAHAMIA VILLAGE MARKET LLC
201 FRONT ST
STE 224
KEY WEST, FL 33040

Property Details

PC Code 28 - PARKING LOTS, MOBILE HOME PARKS
Millage Group 11KW
Affordable Housing: No
Section-Township-Range: 06-68-25
Property Location: 809 TERRY LN KEY WEST
Legal Description: KW PT LOT 2 SQR 1 TR 3 H2-566 OR1347-9/13 CASE#95-50-CP-08 OR1352-1339/41 OR2133-389/393Q/C

Parcel Map (Click to open dynamic parcel map)

Land Details

| Land Use Code | Frontage | Depth | Land Area |
|-----------------------|----------|-------|-------------|
| 100D - COMMERCIAL DRY | 0 | 0 | 3,024.00 SF |

Misc Improvement Details

| Nbr | Type | # Units | Length | Width | Year Built | Ret Year | Grade | Life |
|-----|-------------------|---------|--------|-------|------------|----------|-------|------|
| 1 | CL2:CH LINK FENCE | 186 SF | 31 | 6 | 1995 | 1996 | 1 | 30 |
| 2 | FN2:FENCES | 492 SF | 82 | 6 | 1999 | 2000 | 2 | 30 |
| 3 | PT3:PATIO | 441 SF | 21 | 21 | 1999 | 2000 | 2 | 50 |
| 4 | PT3:PATIO | 340 SF | 17 | 20 | 1999 | 2000 | 2 | 50 |

Building Permits

| Bldg Number | Date Issued | Date Completed | Amount | Description | Notes |
|-------------|-------------|----------------|--------|-------------|-------|
| 9600655 | 01/01/1996 | 08/01/1996 | 550 | | FENCE |

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 |
|-----------|------------------|------------------------------|------------------|---------------------------|----------------------|---------------------|----------------------|
| 2010 | 0 | 6,325 | 303,684 | 310,009 | 310,009 | 0 | 310,009 |
| 2009 | 0 | 6,514 | 373,301 | 379,815 | 379,815 | 0 | 379,815 |
| 2008 | 0 | 6,701 | 378,000 | 384,701 | 384,701 | 0 | 384,701 |
| 2007 | 0 | 6,882 | 378,000 | 384,882 | 384,882 | 0 | 384,882 |
| 2006 | 0 | 7,071 | 257,040 | 264,111 | 264,111 | 0 | 264,111 |
| 2005 | 0 | 7,255 | 211,680 | 218,935 | 218,935 | 0 | 218,935 |
| 2004 | 0 | 7,458 | 151,200 | 158,658 | 158,658 | 0 | 158,658 |
| 2003 | 0 | 7,646 | 72,576 | 80,222 | 80,222 | 0 | 80,222 |
| 2002 | 0 | 7,831 | 48,384 | 56,215 | 56,215 | 0 | 56,215 |
| 2001 | 0 | 8,034 | 48,384 | 56,418 | 56,418 | 0 | 56,418 |
| 2000 | 0 | 2,747 | 39,312 | 42,059 | 42,059 | 0 | 42,059 |
| 1999 | 0 | 159 | 39,312 | 39,471 | 39,471 | 0 | 39,471 |
| 1998 | 0 | 165 | 39,312 | 39,477 | 39,477 | 0 | 39,477 |
| 1997 | 0 | 172 | 33,264 | 33,436 | 33,436 | 0 | 33,436 |
| 1996 | 0 | 0 | 33,264 | 33,264 | 33,264 | 0 | 33,264 |
| 1995 | 0 | 0 | 33,264 | 33,264 | 33,264 | 0 | 33,264 |
| 1994 | 0 | 0 | 33,264 | 33,264 | 33,264 | 0 | 33,264 |
| 1993 | 0 | 0 | 33,264 | 33,264 | 33,264 | 0 | 33,264 |
| 1992 | 0 | 0 | 33,264 | 33,264 | 33,264 | 0 | 33,264 |
| 1991 | 0 | 0 | 33,264 | 33,264 | 33,264 | 0 | 33,264 |
| 1990 | 0 | 0 | 26,460 | 26,460 | 26,460 | 0 | 26,460 |
| 1989 | 0 | 0 | 25,704 | 25,704 | 25,704 | 0 | 25,704 |
| 1988 | 0 | 0 | 22,680 | 22,680 | 22,680 | 0 | 22,680 |
| 1987 | 0 | 0 | 9,828 | 9,828 | 9,828 | 0 | 9,828 |
| 1986 | 0 | 0 | 9,072 | 9,072 | 9,072 | 0 | 9,072 |
| 1985 | 0 | 0 | 7,738 | 7,738 | 7,738 | 0 | 7,738 |
| 1984 | 0 | 0 | 7,738 | 7,738 | 7,738 | 0 | 7,738 |

Karl D. Borglum
Property Appraiser
Monroe County, Florida

office (305) 292-3420
fax (305) 292-3501
Website tested on Internet Explorer

Our Website is currently undergoing maintenance. (GIS Mapping functionality is being upgraded.)

Property Record View

Alternate Key: 1014443 Parcel ID: 00014060-0000000

Ownership Details

Mailing Address
BAHAMA VILLAGE MARKET LLC
201 FRONT ST
STE 224
KEY WEST, FL 33040

Property Details

PC Code: 28 - PARKING LOTS, MOBILE HOME PARKS
Millage Group: 11KW
Affordable Housing: No
Section-Township-Range: 06-68-25
Property Location: 811 TERRY LN KEY WEST
Legal Description: KW PT LOT 3 SOR 1 TR 3 G11-403 OR1447-867/889Q/C OR1455-151153AFFD OR1455-154/155AFFD OR1541-1844/45(PROB #98-04-CP-10)
OR1557-500AMD/EST/ORD OR1564-1030/32P/R OR2133-389/393Q/C

Parcel Map (Click to open dynamic parcel map)

Land Details

| Land Use Code | Frontage | Depth | Land Area |
|-----------------------|----------|-------|-------------|
| 100D - COMMERCIAL DRY | 21 | 95 | 1,984 37 SF |

Appraiser Notes

GAVE TO NEIGHBOR A 1 53' X 20 67' (31 62 SQ FT) PARCEL OF LAND PER OR1978-2309/2312Q/C. ADJUSTED LAND SIZE FOR THE 2004 TAX ROLL. LG
2007-04-10 BAHAMA VILLAGE MKRT PARKING LOT. DKRAUSE

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 |
|-----------|------------------|------------------------------|------------------|---------------------------|----------------------|---------------------|----------------------|
| 2010 | 0 | 0 | 219,752 | 219,752 | 219,752 | 0 | 219,752 |

| | | | | | | | |
|------|---|---|---------|---------|---------|---|---------|
| 2009 | 0 | 0 | 279,722 | 279,722 | 272,850 | 0 | 279,722 |
| 2008 | 0 | 0 | 248,046 | 248,046 | 248,046 | 0 | 248,046 |
| 2007 | 0 | 0 | 248,046 | 248,046 | 248,046 | 0 | 248,046 |
| 2006 | 0 | 0 | 168,671 | 168,671 | 168,671 | 0 | 168,671 |
| 2005 | 0 | 0 | 138,906 | 138,906 | 138,906 | 0 | 138,906 |
| 2004 | 0 | 0 | 99,219 | 99,219 | 99,219 | 0 | 99,219 |
| 2003 | 0 | 0 | 48,384 | 48,384 | 48,384 | 0 | 48,384 |
| 2002 | 0 | 0 | 32,256 | 32,256 | 32,256 | 0 | 32,256 |
| 2001 | 0 | 0 | 32,256 | 32,256 | 32,256 | 0 | 32,256 |
| 2000 | 0 | 0 | 26,208 | 26,208 | 26,208 | 0 | 26,208 |
| 1999 | 0 | 0 | 26,208 | 26,208 | 26,208 | 0 | 26,208 |
| 1998 | 0 | 0 | 26,208 | 26,208 | 26,208 | 0 | 26,208 |
| 1997 | 0 | 0 | 22,176 | 22,176 | 22,176 | 0 | 22,176 |
| 1996 | 0 | 0 | 22,176 | 22,176 | 22,176 | 0 | 22,176 |
| 1995 | 0 | 0 | 22,176 | 22,176 | 22,176 | 0 | 22,176 |
| 1994 | 0 | 0 | 22,176 | 22,176 | 22,176 | 0 | 22,176 |
| 1993 | 0 | 0 | 22,176 | 22,176 | 22,176 | 0 | 22,176 |
| 1992 | 0 | 0 | 22,176 | 22,176 | 22,176 | 0 | 22,176 |
| 1991 | 0 | 0 | 22,176 | 22,176 | 22,176 | 0 | 22,176 |
| 1990 | 0 | 0 | 17,640 | 17,640 | 17,640 | 0 | 17,640 |
| 1989 | 0 | 0 | 17,136 | 17,136 | 17,136 | 0 | 17,136 |
| 1988 | 0 | 0 | 15,120 | 15,120 | 15,120 | 0 | 15,120 |
| 1987 | 0 | 0 | 6,552 | 6,552 | 6,552 | 0 | 6,552 |
| 1986 | 0 | 0 | 6,048 | 6,048 | 6,048 | 0 | 6,048 |
| 1985 | 0 | 0 | 5,242 | 5,242 | 5,242 | 0 | 5,242 |
| 1984 | 0 | 0 | 5,242 | 5,242 | 5,242 | 0 | 5,242 |
| 1983 | 0 | 0 | 5,242 | 5,242 | 5,242 | 0 | 5,242 |
| 1982 | 0 | 0 | 4,455 | 4,455 | 4,455 | 0 | 4,455 |

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.

Public Notices
(radius map & mailing list)

Public Meeting Notice

The Key West Planning Board will hold a public hearing at 6:00 p.m., August 18, 2011 at Old City Hall, 510 Greene Street, Key West, Florida, (Behind Sloppy Joe's Bar). The purpose of the hearing will be to consider a request for:

Conditional Use - 802 - 806 Whitehead Street (RE# 00014010-000100, 00014020-000000) / 320-324 Petronia Street (RE# 00014010-000000), 809-811 Terry Lane (RE# 00014050-000000, 00014060-000000) - A Conditional Use request for a restaurant in the HNC-3 zoning district per Section 122- 868(9) of the Land Development Regulations of the Code of Ordinances of the City of Key West.

If you wish to see the application or have any questions, you may visit the Planning Department during regular office hours at 3140 Flagler Avenue call 809-3720 or visit our website at www.keywestcity.com.

YOU ARE WITHIN 300 FEET OF THE SUBJECT PROPERTY

The City of Key West Planning Board will be holding a Public Hearing:

Request: Conditional Use - 802 - 806 Whitehead Street (RE# 00014010-000100, 00014020-000000) / 320-324 Petronia Street (RE# 00014010-000000), 809-811 Terry Lane (RE# 00014050-000000, 00014060-000000) - A Conditional Use request for a restaurant in the HNC-3 zoning district per Section 122- 868(9) of the Land Development Regulations of the Code of Ordinances of the City of Key West.

| | | | |
|--------------------------|-------------------------------------|-----------------------------|--|
| Applicant: | Trepanier & Associates on behalf of | Owner: | Bahama Village Market, LLC |
| | Bahama Village Market, LLC | | |
| Project Location: | 802-806 Whitehead | Date of Hearing: | Thursday, August 18, 2011 |
| Time of Hearing: | 6:00 PM | Location of Hearing: | Old City Hall, City Commission Chambers 510 Greene St |

Interested parties may appear at the public hearing(s) and be heard with respect to the applications. A copy of the corresponding application is available from the City of Key West Planning Department located at 3140 Flagler Avenue, Key West, Florida, Monday through Friday between the hours of 8:00 am and 5:00 pm. Packets can be viewed online at www.keywestcity.com. Click on City Board & Committee Agendas.

Please provide written comments to the Planning Department, PO Box 1409, Key West, FL 33041-1409 , by FAX (305) 809-3978 or by email ccowart@keywestcity.com .

Pursuant to Section 286.0105, Florida Statutes, if a person decides to appeal any decision made by the Planning Commission or the City Commission with respect to any matter considered at such hearing or meeting, one will need a record of the proceedings and for such purpose that person may need to ensure that a verbatim record of the proceedings is made; such record includes the testimony and evidence upon which the appeal is to be based.

ADA ASSISTANCE: If you are a person with a disability who needs special accommodations in order to participate in this proceeding, please contact the ADA Coordinator at 305-809-3951 between the hours of 8:00 a.m. and 5:00 p.m., or information on access available to individuals with disabilities. To request materials in accessible format, a sign language interpreter or other assistance (5 days advance notice required), please call 305-809-1000 for assistance.

YOU ARE WITHIN 300 FEET OF THE SUBJECT PROPERTY

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Request: Conditional Use - 802 - 806 Whitehead Street (RE# 00014010-000100, 00014020-000000) / 320-324 Petronia Street (RE# 00014010-000000), 809-811 Terry Lane (RE# 00014050-000000, 00014060-000000) - A Conditional Use request for a restaurant in the HNC-3 zoning district per Section 122- 868(9) of the Land Development Regulations of the Code of Ordinances of the City of Key West.

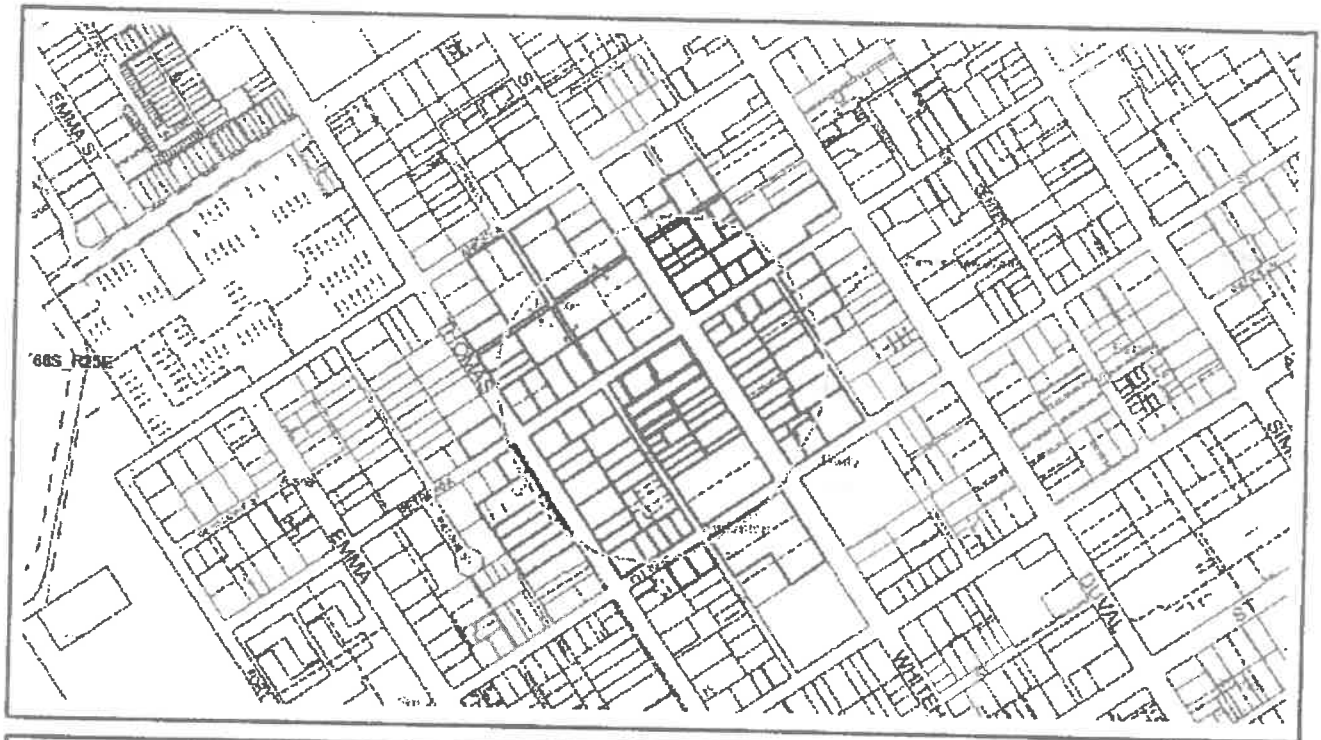
| | | | |
|--------------------------|-------------------------------------|-----------------------------|--|
| Applicant: | Trepanier & Associates on behalf of | Owner: | Bahama Village Market, LLC |
| | Bahama Village Market, LLC | | |
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Printed: Aug 08, 2011

802-806 Whitehead

MCPA GIS Public Portal



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 all voters for purposes of all property within the County. The Monroe County Property Appraiser's office cannot guarantee its accuracy for any other purposes. 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 all voters for purposes only and should not be relied on for any other purpose.

| | NAME | ADDRESS | CITY | STATE | ZIP | COUNTRY |
|----|--|-----------------------------|---------------|-------|-------|---------|
| 1 | 418-422 PETRONIA ST LLC | 728 DUVAL ST STE 206 | KEY WEST | FL | 33040 | |
| 2 | 725 THOMAS STREET LLC | 729 THOMAS ST | KEY WEST | FL | 33040 | |
| 3 | 729 THOMAS STREET LLC | 729 THOMAS ST | KEY WEST | FL | 33040 | |
| 4 | 809 WHITEHEAD STREET REALTY TR 1/14/10 | 50 LELAND RD | BREWSTER | MA | 02631 | |
| 5 | 907 WHITEHEAD STREET CORP | 907 WHITEHEAD ST | KEY WEST | FL | 33040 | |
| 6 | ANGELL GEORGE J TRUST 12/16/1998 | 808 SHAVERS LN | KEY WEST | FL | 33040 | |
| 7 | AUSTIN BRYAN E AND TERRY J | 6514 NIGHTINGALE CT | NEW MARKET | MD | 21774 | |
| 8 | BAHAMA VILLAGE MARKET LLC | 201 FRONT ST | KEY WEST | FL | 33040 | |
| 9 | BARNETT BOBBIE JEAN ESTATE | 831 THOMAS ST | KEY WEST | FL | 33040 | |
| 10 | BELLE MAISON BUILDERS LLC | 3133 CONNECTICUT AVE NW APT | WASHINGTON | DC | 20008 | |
| 11 | BERRY H MICHAEL | 416 PETRONIA ST | KEY WEST | FL | 33040 | |
| 12 | BIMINI VILLAGE CONDOMINIUM | 806 THOMAS ST | KEY WEST | FL | 33040 | |
| 13 | BI-STATE REALTY LTD | 444 N MAIN ST | HUBBARD | OH | 44425 | |
| 14 | BRICE WILLIAM L | 823 TERRY LN | KEY WEST | FL | 33040 | |
| 15 | BURKE BONITA R | 1500 ATLANTIC BLVD | KEY WEST | FL | 33040 | |
| 16 | CALABRO DANIEL J | P O BOX 1857 | BRIDGEHAMPTON | NY | 11932 | |
| 17 | CALDWELL JOHN G | 807 THOMAS ST | KEY WEST | FL | 33040 | |
| 18 | CALIHAN EDWARD J III AND MARY S | 720 LARRABEE | CHICAGO | IL | 60610 | |
| 19 | CAREY MARGARET L | P O BOX 645 | GREENVILLE | MS | 38702 | |
| 20 | CENTENNIAL BANK | 701 WHITEHEAD ST | KEY WEST | FL | 33040 | |
| 21 | CLARKE CAMILLA | 11215 SW 138TH ST | MIAMI | FL | 33176 | |
| 22 | CLINE RANDALL W AND DAWN R | 815 WHITEHEAD ST | KEY WEST | FL | 33040 | |
| 23 | COIRA STANLEY MD TRUST AGR 4/23/2001 | 4140 BONITA AVE | COCONUT GROVE | FL | 33133 | |
| 24 | COLLINS KEVIN | 410 PETRONIA ST | KEY WEST | FL | 33040 | |
| 25 | CURRY APARTMENTS LLC | 807 WHITEHEAD ST | KEY WEST | FL | 33040 | |
| 26 | CURRY ELBRIDGE W | 807 WHITEHEAD ST | KEY WEST | FL | 33040 | |
| 27 | DALTON KEVIN AND LESLIE | 213 NO QUEEN ST | CHESTERTOWN | MD | 21620 | |
| 28 | DAVIS GEORGE P | BOX 1403 | NANTUCKET | MA | 02554 | |
| 29 | DEAN JULIA V | 808 TERRY LN | KEY WEST | FL | 33040 | |
| 30 | DEUTSCHE BANK NATIONAL TRUST CO | 2424 N FEDERAL HWY STE 360 | BOCA RATON | FL | 33431 | |
| 31 | FELDMAN TODD G AND ST PHANIE | 221 HIGH MEADOW RD | SOUTHPORT | CT | 06890 | |
| 32 | FORBES ELOISE EGGLESTON | P O BOX 449 | KEY WEST | FL | 33040 | |
| 33 | FOWLER NORMAN E AND SUSAN J | 824 TERRY LN | KEY WEST | FL | 33040 | |
| 34 | GALLAGHER WILLIAM E AND PATRICIA A | 708 WHITEHEAD ST | KEY WEST | FL | 33040 | |

| NAME | ADDRESS | CITY | STATE | ZIP | COUNTRY |
|---|----------------------|--------------|-------|-------|---------|
| 35 GEORGIA/CAROLINA I & D LLC | 1215 VARELA ST | KEY WEST | FL | 33040 | |
| 36 GRANNIS JANE G | 818 TERRY LN | KEY WEST | FL | 33040 | |
| 37 HARRISON CHARLES W | 2151 JAMIESON AVE | ALEXANDRIA | VA | 22314 | |
| 38 HEMBLING JOHN J AND JUDITH B | 508 N OAK PK | OAK PARK | IL | 60302 | |
| 39 HERON COURT CONDOMINIUM | | | | | |
| 40 HOUSING AUTHORITY OF THE CITY OF KW FL | PO BOX 2476 | KEY WEST | FL | 33045 | |
| 41 HOUSING AUTHORITY THE OF THE CITY OF KW FL | PO BOX 2476 | KEY WEST | FL | 33045 | |
| 42 JOHNSON LEONARD | 29 6TH AVE | KEY WEST | FL | 33040 | |
| 43 JONES ALVILDA J | 309 OLIVIA ST | KEY WEST | FL | 33040 | |
| 44 JUSTEN RALPH J | 812 TERRY LN | KEY WEST | FL | 33040 | |
| 45 KEE GILBERT | 308 VIRGINIA ST | KEY WEST | FL | 33040 | |
| 46 KELLY SAMUEL D JR | 208 TRUMAN AVE | KEY WEST | FL | 33040 | |
| 47 KEY LIME INN INC | 725 TRUMAN AVE | KEY WEST | FL | 33040 | |
| 48 KEY WEST BANK FSB | 970 RINEHART RD | KEY WEST | FL | 33040 | |
| 49 KNOWLES PATRICIA A AND STEVE JR | 813 SHAVERS LN | LAKE MARY | FL | 32746 | |
| 50 KOPPENAAAL RICHARD J | 822 TERRY LN | KEY WEST | FL | 33040 | |
| 51 KW LLC | PO BOX 21182 | KEY WEST | FL | 33040 | |
| 52 LAST TRIPP REALTY I LLC | 1204 PINE ST | SARASOTA | FL | 34276 | |
| 53 LATHAN DYANNE | 501 RAINS LN | KEY WEST | FL | 33040 | |
| 54 LENNOX GEORGE H III AND SUSAN B | 817 TERRY LN | BOHANNON | VA | 23021 | |
| 55 LOIKO ALBERT T | 313 OLIVIA ST | KEY WEST | FL | 33040 | |
| 56 MIN KHIN MICHAEL | 1624 SIRUGO AVE | KEY WEST | FL | 33040 | |
| 57 MINGO CLIFFORD AND YOLANDA | 708 EMMA ST | KEY WEST | FL | 33040 | |
| 58 MINGO SHIRLEY R | 9046 HAWKEVE DR | KEY WEST | FL | 33040 | |
| 59 MOBLEY HORACE AND JOSEPHA | 609 THOMAS ST | JACKSONVILLE | FL | 32221 | |
| 60 MURPHY RITA | PO BOX 4191 | KEY WEST | FL | 33041 | |
| 61 MYERS BOBBIE E AND POOCHIE | 813 THOMAS ST | KEY WEST | FL | 33041 | |
| 62 OHLINGER BIRCHARD HAYES | PO BOX 57 | KEY WEST | FL | 33040 | |
| 63 OLD TOWN KEY WEST DEVELOPMENT LTD | 201 FRONT ST | FRANKFORT | MI | 49635 | |
| 64 OLD TOWN KEY WEST DEVELOPMENT LTD | P O BOX 1237 | KEY WEST | FL | 33040 | |
| 65 PARKS DENNIS L | 1385 NW 192ND TER | KEY WEST | FL | 33040 | |
| 66 PENN-OHIO ELECTRICAL COMPANY | 1370 SHARON-HOGUE RD | MIAMI | FL | 33169 | |
| 67 PETRONIA STREET CONDOMINIUM | 416 PETRONIA ST | MASURY | OH | 44438 | |
| 68 PLA STEPHEN E ESTATE | 415 OLIVIA ST | KEY WEST | FL | 33040 | |

| NAME | ADDRESS | CITY | STATE | ZIP | COUNTRY |
|---|---------------------------|------------------|-------|-------|---------|
| 69 PRAZEN RUDY | 225 PETRONIA ST | KEY WEST | FL | 33040 | |
| 70 RIVAS MARJORIE D | 817 WHITEHEAD ST | KEY WEST | FL | 33040 | |
| 71 ROSE MARCI L | 810 THOMAS ST | KEY WEST | FL | 33040 | |
| 72 SAENKO ALEXEI | 406 PETRONIA ST | KEY WEST | FL | 33040 | |
| 73 SAWYER ELVIRA V | 818 SHAVERS LN | KEY WEST | FL | 33040 | |
| 74 SCHROEDER JOSEPH J | 1202 THOMPSON ST | KEY WEST | FL | 33040 | |
| 75 SCHROEDER JOSEPH | 1202 THOMPSON ST | KEY WEST | FL | 33040 | |
| 76 SCHROEDER JOSEPH J | 1202 THOMPSON ST | KEY WEST | FL | 33040 | |
| 77 SCHROEDER JOSEPH J | 1202 THOMPSON ST | KEY WEST | FL | 33040 | |
| 78 SCHULTZ KENNETH H AND DEBORAH L ANGEL-SCHULTZ (WIFE) | 219 SIMONTON ST | KEY WEST | FL | 33040 | |
| 79 SCHULTZ KENNETH H | 810 SHAVERS LN | KEY WEST | FL | 33040 | |
| 80 SCHUPPENIES BERT | 115 E 9TH ST APT 21A | NEW YORK | NY | 10003 | |
| 81 SHADY CAT LLC | PO BOX 87 | EGG HARBOR | WI | 54209 | |
| 82 SHARKEY CAROLANN | 1120 SOUTH ST | KEY WEST | FL | 33040 | |
| 83 SHAVERS MAXWELL ESTATE | 12303 LEITH CT | WOODBRIDGE | VA | 22192 | |
| 84 SIESTA REAL ESTATE INVESTMENTS LLC | 1111 HORIZON VIEW DR | SARASOTA | FL | 34242 | |
| 85 SNYDER PAUL P AND LISA V | 600 FOX ST | LONGBOAT KEY | FL | 34228 | |
| 86 SUAREZ ANTONIA E | 813 WHITEHEAD ST | KEY WEST | FL | 33040 | |
| 87 SUMMERWIND PROPERTIES OF NEWPORT LLC | 80 OLD BEACH RD | NEW PORT | RI | 02840 | |
| 88 SWEETING FLOYD H SR REVOCABLE TRUST U/A/D 7/14/03 | 1012 HOWE ST | KEY WEST | FL | 33040 | |
| 89 SWEETING FLOYD H SR REVOCABLE TRUST U/A/D 7/14/03 | 1012 HOWE ST | KEY WEST | FL | 33040 | |
| 90 SWEETING IRMA OLEAN DEC OF TRUST DATED 2/27/98 & | 892 SW GRAND RESERVE BLVD | PORT ST LUCIE | FL | 34986 | |
| 91 TERRA KEVIN J | 819 TERRY LN | KEY WEST | FL | 33040 | |
| 92 THE VILLAGE ON WHITEHEAD CONDOMINIUM | 818 WHITEHEAD ST | KEY WEST | FL | 33040 | |
| 93 TRUSTEES OF ST JAMES MISSIONARY BAPTIST CHURCH | 312 OLIVIA ST | KEY WEST | FL | 33040 | |
| 94 TURNER JEFF B | 826 TERRY LN | KEY WEST | FL | 33040 | |
| 95 VILLAGE ON WHITEHEAD I LLC | 820 WHITEHEAD ST | KEY WEST | FL | 33040 | |
| 96 WHITE J LARRY | 685 EAST LONG LAKE | BLOOMFIELD HILLS | MI | 48304 | |
| 97 WIK COLETTE | 810 WHITEHEAD ST | KEY WEST | FL | 33040 | |
| 98 WILBUR WRIGHT 725 LLC | 1331 DUNCAN ST | KEY WEST | FL | 33040 | |
| 99 WILDGOOSE CLARENCE G JR | 1525 42ND ST | WEST PALM BEACH | FL | 33407 | |
| 100 WISSMANN KENNETH AND CHRISTINE | 144 LOBSTERTAIL RD | BIG PINE KEY | FL | 33043 | |
| 101 ZOUAD HOURIA SARA | 416 PETRONIA ST APT 5 | KEY WEST | FL | 33040 | |

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The Neighboring Residential Homeowner's point by point response to the Applicant's assertions it met the applicable standards, policies and burden of proof Incorporated by Reference into Addendum and Supplemental Opposition of Undersigned Neighborhood Residential Owners to Applications for Zoning Map and Future Land Use Amendments By Historic Tours of America, Inc.

1. Policy Addressed—(6) a. Comprehensive plan consistency

Applicant's Claim.

a. The proposed amendment is fully compatible with the Comprehensive Plan as outlined in this application.

Neighborhood Owners' Opposition.

a. In both Applications the Applicant makes conclusory assertions without factual support. It does so here as well. Only two parcels are the subject of the Applications--Parcels 7 and 9. The Applicant's assertion that "[t]his particular parcel has been commercially used for decades" is simply not true. Indeed, the Minor Modification expressly notes that any commercial activity on Parcel 7 would be a "prohibited use" and no commercial activities are permitted on the Covered Porch, which is the sole part of Parcel 7 in the HNC-3 zoning district. As noted in the Opposition, part of the HNC-3 Property was used commercially for a short time between 1998 and about 2001, and then it was dormant for more than a decade until a bar/restaurant was opened around 2015 subject to the Minor Modification and Restrictive Agreement. No restaurant use was permitted on Parcels 7 and 9 and the carts of the Bahama Market stopped in the early 2000's. Under Sec. 58-64 any prior commercial nonconforming use status is abandoned. Parcel 7 is seen in the two pictures that follow to the Left of the building on the right in the both pictures, including the side covered porch.



The covered porch and property to the left of it is zoned HDMR/HR and currently provides a modicum of a buffer for the residential neighborhood owners. The Applicant has not demonstrated it meets the intent of HNC-3 zoning, which is *not* to commercialize Whitehead Street as the Applicant argues. The fact that the Applicant's bar/restaurant is not a permitted use,

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but only a conditional use, conforms with the intent of HNC-3 zoning to be restrictive and protective of the predominantly residential character and very minor/small shop intended uses of the surrounding neighborhoods. The Applicant does not present facts proving that converting Parcels 7 and 9 (e.g., two 31.5-foot-wide parcels bordering only on Whitehead Street and Terry Lane--6,190 square feet) from HMDR to HNC -3 zoning is consistent with the comprehensive plan. The Applicant's repeated assertions "that nothing is being changed" are not true. The property operations are not in compliance with the objectives and policies embodied in the future zoning map and ordinance and the Applicant's operations largely as prohibited uses, especially since 2016, demonstrate the Applicant's existing use of the Property cannot coexist with neighboring HNC-3 zoned parcel neighbors, let alone neighboring HDMR parcels. As further support and as support we refer the Board our positions presented in the Garbage Response; the Conditional Use Preconditions Position, the Traffic Parking Report Response, and the Prohibited Use Response, which are incorporated herein by reference.

Policy Addressed—b. Impact on surrounding properties and infrastructure.

Applicant's Claim.

b. The proposed correction will have no impact on surrounding properties and no impact on infrastructure is anticipated. This particular parcel has been commercially used for decades. The HNC zoning district is intended to accommodate both residential and neighborhood commercial uses typically located along thoroughfares such as Whitehead Street.

Neighborhood Owners' Opposition.

b.. Again, despite having the burden of proof the Applicant makes allegations and arguments without providing any factual support. The Applicant is wrong that its Applications have no impact—just as to Parcel 7 alone moving the HNC-3 boundary 31.5 feet further down Whitehead Street and 96 feet from Whitehead toward the residences on Terry Lane is a major impact on the long-standing residential area. The current buffer would be gone. It also increases the commercial land square footage allowing for a more expansive commercial impact on what the Applicant can do with the Property with materially large additional commercial square footage FAR and neutering existing setbacks. See also the Prohibited Use Opposition.

The Applicant seeks to increase the existing commercial space by over 6,065 square feet coopting historically residential footage on both Whitehead Street and Terry Lane. The existing bar/restaurant is already stretching the limits of the neighborhood streets and traffic and parking congestion, FAR, setbacks, drainage, noise, stench, etc., and the commercialization of another 6,065 feet alone impacts the neighborhood and adversely impacts a "requirement in favor of a prioritization of safety and function of existing roads." The zoning change would compromise all other restrictions applicable to the other parcels in the Property by extending the commercial boundary lines and commercial square footage. This alone would greatly increase what can be done with the now one RE#, as FAR, side, rear and front setbacks if commercial space is increased 31.5 feet further down Whitehead and 31.5 feet on Terry Lane—making it the only

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commercial space on that block of Terry Lane. That is even without considering the Applicant's disregard for the Restrictive Agreement and HDMR zoning of Parcels 7 and 9--since those uses are currently prohibited in HDMR. The fact that the Applicant seeks to hide from the Board its intended development of the Property with the requested conversion of 6,065 square feet of HDMR/HR to HC/HNC-3 demonstrates the Applicant's failure to establish a basis or need for such a drastic change and impact on the historical residential neighborhood with a small swath of the Petronia Street corridor running through it, but only along Petronia Street. As further support and as support we refer the Board our positions presented in the Garbage Response; the Conditional Use Preconditions Position, the Traffic Parking Report Response, and the Prohibited Use Response, which are incorporated herein by reference.

2. Policy Addressed—Evaluation criteria of Sec. 90-521(5)- a. Levels of Service

Applicant's Claim.

Based on the evaluation criteria of Sec. 90-521(5) the impact of the proposed changes are generally summarized as follows:

- The requested change is not anticipated to alter demand on the surrounding transportation system. Policy 2-1.1.3 effectively eliminates the transportation concurrency requirement in favor of a prioritization of safety and function of existing roads and multi-modal transportation improvements (i.e. transit, air, boat, bicycles, pedestrianism, mixed-use development. This property is adjacent to the historic commercial pedestrian-orientated area and is located along the city's "Duval Loop" route; a free bus service around the historic downtown area.
- There is no proposed development or change to existing uses therefore, the proposed zoning change will not alter demand on for potable water.
- There is no proposed development or change to existing uses therefore, the proposed zoning change will not alter wastewater supply.
- There is no proposed development or change to existing uses therefore, the proposed zoning change will not alter solid waste supply.
- There is no proposed development or change to existing uses therefore, the proposed zoning change will not alter stormwater LOS.
- There is no proposed development or change to existing uses therefore, the proposed zoning change will not alter recreation LOS.

Neighborhood Owners' Opposition.

Again, despite having the burden of proof the Applicant makes allegations and arguments without providing any factual support. Neighborhood Owners deny that based on the evaluation criteria of Sec. 90-521(5) the impact of the proposed changes are as the Applicant generally summarizes above as follows and as support refers the Board our positions presented in the Garbage Response; the Conditional Use Preconditions Position, the Traffic Parking Report Response, and the Prohibited Use Response, which are incorporated herein by reference.

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- The requested change is anticipated to alter demand on the surrounding transportation system. Deny that Policy 2-1.1.3 effectively eliminates the transportation concurrency requirement in favor of a prioritization of safety and function of existing roads and multi-modal transportation improvements (i.e. transit, air, boat, bicycles, pedestrianism, mixed-use development. Deny that there is any consistency or relief from traffic and use intensity and other negatives of the Use of the Property from it being near a historic commercial pedestrian-orientated area and is located along the city's "Duval Loop" route; a free bus service around the historic downtown area.
- Deny that there is no proposed development or change to existing uses therefore, and further deny that the proposed zoning change will not alter demand on for potable water because the existing operations and the Owner's violations of the Resolution already impact those and will continue to adversely impact those.
- Deny there is no proposed development or change to existing uses therefore, and deny the proposed zoning change will not alter wastewater supply because the existing operations and the Owner's violations of the Resolution already impact those and will continue to adversely impact those.
- Deny there is no proposed development or change to existing uses therefore, the proposed zoning change will not alter solid waste supply because the existing operations and the Owner's violations of the Resolution already impact those and will continue to adversely impact those.
- Deny there is no proposed development or change to existing uses therefore, and deny the proposed zoning change will not alter stormwater LOS because the existing operations and the Owner's violations of the Resolution already impact those and will continue to adversely impact those.
- Deny there is no proposed development or change to existing uses therefore, and deny the proposed zoning change will not alter recreation LOS because the existing operations and the Owner's violations of the Resolution already impact those and will continue to adversely impact those.

3. Policy Addressed—c. Avoidance of spot zoning. —Spot zoning occurs when 1. A small parcel of land is singled out for special and privileged treatment; 2. The singling out is not in the public interest but only for the benefit of the landowner; and; 3. The action is not consistent with the adopted comprehensive plan.

Applicant's Claim.

The requested zoning change will not result in spot zoning, would best serve the public interest and is consistent with the comprehensive plan. Spot zoning occurs when:

1. A small parcel of land is singled out for special and privileged treatment; No special or privileged treatment will be conferred through approval of the request. This parcel(s) is part of an existing commercial site with HNC-3 zoning and Historic Commercial FLUM. This approval will provide consistency with the site's surroundings by clarifying existing intent and promote continued compatibility with its conjoined properties.
2. The singling out is not in the public interest but only for the benefit of the landowner; and; As mentioned above, no singling out. The request will recognize compatible, pre-existing uses for this property and provide for zoning consistency.

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3. The action is not consistent with the adopted comprehensive plan

The action is not inconsistent with the Comprehensive Plan.

Amending the zoning division of the site and reconcile the long-standing uses, many of which have been granted conditional use approval over the years, will be consistent with the intent of the comprehensive plan.

No special or privileged treatment will be conferred through approval of the request. This parcel(s) is part of an existing commercial site with HNC-3 zoning and Historic Commercial FLUM. This approval will provide consistency with the site's surroundings by clarifying existing intent and promote continued compatibility with its conjoined properties.

2. The singling out is not in the public interest but only for the benefit of the landowner; and; As mentioned above, no singling out. The request will recognize compatible, pre-existing uses for this property and provide for zoning consistency.

3. The action is not consistent with the adopted comprehensive plan

The action is not inconsistent with the Comprehensive Plan.

Amending the zoning division of the site and reconcile the long-standing uses, many of which have been granted conditional use approval over the years, will be consistent with the intent of the comprehensive plan.

Neighborhood Owners' Opposition.

The Applications are the epitome of spot zoning. Again the Applicant makes allegations/arguments without presenting facts. The Applications are a request for spot zoning—they benefit only the Applicant, while adversely impacting all of the surrounding historical residential property owners and legitimate neighboring small businesses through traffic and parking congestion, stench, etc. The intent of the existing zoning demarcations is and has been well understood, and that intent does not support the Applicant's arguments.

Deny the requested zoning change will not result in spot zoning.

Deny the Application would best serve the public interest and is consistent with the comprehensive plan.

Deny no special or privileged treatment will be conferred through approval of the request. Deny this parcel(s) is part of an existing commercial site with HNC-3 zoning and Historic Commercial FLUM.

Deny this approval will provide consistency with the site's surroundings by clarifying existing intent and promote continued compatibility with its conjoined properties.

Deny, as mentioned above there will be no singling out.

Deny the request will recognize compatible, pre-existing uses for this property and provide for zoning consistency.

Deny the Application's applied for action is not inconsistent with the Comprehensive Plan—it is inconsistent with the Comprehensive Plan.

Deny that amending the zoning division of the site will reconcile the long-standing uses, many of which have been granted conditional use approval over the years, and deny the Applications' requested relief will be consistent with the intent of the comprehensive plan. Further deny that there is any inconsistency and further deny that there exist approved Conditional Uses because

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the Applicant violated the preconditions, conditions and any exceptions have lapsed and the Applicant's commercial operations on the Property are prohibited uses. As further support and as support we refer the Board our positions presented in the Garbage Response; the Conditional Use Preconditions Position, the Traffic Parking Report Response, and the Prohibited Use Response, which are incorporated herein by reference.

The properties surrounding the Property are all historical residential and Parcels 7 and 9 are currently supposed to be providing some buffer from the bar/restaurant and prohibited uses of the Applicant's operations on its HNC-3 parcels. The Applicant is stretching the truth when arguing "the long-standing uses, many of which have been granted conditional use approval over the years." Any commercial activity on Parcels 7 and 9 over the years are long gone and are now prohibited uses. The Applicant presented no facts demonstrating the Applications are in the Public Interest, and the facts demonstrate the Applications are not and that no zoning change is warranted. The Applications are not in the public interest and support no one's interest other than the Applicant's own interests. The Applicant presents no evidence to dispute that truth that the Applicant's operation of a bar/restaurant and several prohibited uses on the Property is a negative, and not a positive benefiting the surrounding properties or Key West. The Applicant's Applications are intended to coopt over 6,000 square feet of historical residential land (3024 square feet with Parcel 7 on Whitehead Street and over 3041 square feet with Terry Lane-Parcel 9) and convert them to commercial square footage.

4. Policy Addressed—d. Undeveloped land with similar zoning. The amount of undeveloped land in the general area and in the city having the same zoning classification as that requested shall be stated.

Applicant's Claims.

There is a vacant parcel and one parking lot that are located within 300ft with current zoning of HMDR.

| Zoning | FLUM RE. No. | Size (sq. ft.) |
|---------|-----------------|----------------|
| HMDR HR | 00014300-000000 | 6,048 |
| HMDR HR | 00017220-000000 | 2,373 |

Neighborhood Owners' Opposition.

Again, the Applicant ignores the standard and the facts and provides no factual support. The standard requires the Applicant to present facts on two questions-(1) the amount of undeveloped land in the general area having the same zoning classification as that requested shall be stated, and (2) in the city having the same zoning classification as that requested shall be stated. The Applicant ignores the second requirement. As to the first, limiting it to 300 feet ignores the impact of the traffic congestion and parking availability, violations of the Conditions in the Conditional Use, and impact of expanding commercial boundaries, garbage stench, that extend well beyond 300 feet. The Applicant also ignores the long vacant parcel(s), possibly being land

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banked in the area along the Petronia Street corridor, which should be considered undeveloped. Therefore, the Neighborhood Owners deny the Applicant has identified all pertinent parcels.

5. Policies Addressed—CRITERIA FOR APPROVAL (SECTION 90-555)

(1) Consistency with plan. Whether the proposal is consistent with the overall purpose of the comprehensive plan and relevant policies within the comprehensive plan, including the adopted infrastructure minimum levels of service standards and the concurrency management program.

a. Consistency with the Comprehensive plan.

Policy 1-1.1.9: Allowed Uses in Historic Neighborhood Commercial:

Policy 1-1.3.1: Improve the Image and Function of the Historic Preservation District Commercial Core Area.

Policies Addressed—5.(1) Consistency with plan. Whether the proposal is consistent with the overall purpose of the comprehensive plan and relevant policies within the comprehensive plan, including the adopted infrastructure minimum levels of service standards and the concurrency management program.

Applicant's Claims.

Correcting the zoning of this parcel to Historic Neighborhood Commercial-3 is consistent with the comprehensive plan as the plan promotes both residential and neighborhood commercial activity along such highly trafficked streets such as Whitehead and specifically for properties associated with the Petronia Street Corridor.

Neighborhood Owners' Opposition.

Again, the Applicant ignores the standard and the facts, and despite having the burden of proof the Applicant makes allegations and arguments without providing and factual support. The HNC-3 district is intended to be very restrictive in the Petronia Street corridor—Not Whitehead Street. HNC-3 zoning's purpose is not and never was to develop Whitehead Street and Terry Lane commercially as another bar district, which is where the Applicant is now and seems to be heading even more largely. HNC-3 zoning's purpose certainly wasn't intended to create another new Duval Street on Whitehead and Petronia Streets and on Terry Lane. Except for the Applicant's Property the Petronia Street Corridor is alive and well with exactly the type residential and commercial businesses and other uses contemplated by HNC-3 on the Petronia Street corridor. Even the restaurants and bars on Petronia Street that have prospered and continued to operate as permitted uses after the future zoning map change have proven to be good neighbors, respectful of their commercial and residential neighbors. In stark contrast to the Applicant, they do not exemplify the old adage, "give them an inch and they'll take a mile." The permitted uses for HNC-3 show what was intended, and include the following:

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(1) Single-family and two-family residential dwellings. (2) Multiple-family residential dwellings. (3) Group homes with less than or equal to six residents as provided in section 122-1246. (4) Places of worship. (5) Business and professional offices. (6) Commercial retail low intensity less than or equal to 2,500 square feet. (7) Hotels, motels, and transient lodging. (8) Medical services. (9) Parking lots and facilities. (10) Veterinary medical services, without outside kennels.

Again without evidence the Applicant claims HCN-3 rezoning will improve the “image and Function of the Historic District Commercial Core Area.” This is an historic residential neighborhood, and an HCN-3 district where a restaurant is not even a permitted use. Applicant’s current use and grand plan belongs on Duval Street. See also the Garbage Response; the Conditional Use Preconditions Position, the Traffic Parking Report Response, and the Prohibited Use Response. As further support and as support we refer the Board our positions presented in the Garbage Response; the Conditional Use Preconditions Position, the Traffic Parking Report Response, and the Prohibited Use Response, which are incorporated herein by reference.

5(1) a. Policies Addressed—Consistency with the Comprehensive plan.

Applicant’s Claims.

Approval of the request will more accurately categorize the subject property which is located in the middle of Old Town and an integral part of the core tourism area. The property currently exists as a nonconforming use and is restricted from making functional improvements consistent with the image of the Historic Preservation District Commercial Core Area.

Neighborhood Owners’ Opposition.

Deny that approval of the Applications will more accurately categorize the subject property. Deny the current zoning of the Property is not accurate or is an error. Further deny the property currently exists as a nonconforming use and is restricted from making functional improvements consistent with the image of the Historic Preservation District Commercial Core Area. The Property currently exists as a prohibited use. Again, the Applicant ignores the standard and the facts, and despite having the burden of proof the Applicant makes allegations and arguments without providing and factual support. We refer the Board to our positions presented in the Garbage Response; the Conditional Use Preconditions Position, the Traffic Parking Report Response, and the Prohibited Use Response, which are incorporated herein by reference.

The Applicant again introduces no evidence to support its allegations/arguments. Duval Street and other bar districts are zoned and appropriate for bars/restaurants—not the area where the Property happens to exist. Parcel 9 is 31.5 feet on Terry Lane by 96 feet. The Applicant provides no facts why it is or should be HNC-3 (commercial). It is not on Petronia Street. See also the Garbage Response; the Conditional Use Preconditions Position, the Traffic Parking Report Response, and the Prohibited Use Response. Again, ignoring reality and with no factual basis, the Applicant claims: it is “restricted from making functional improvements consistent with the image of the Historic Preservation.” How is a bar/restaurant started in 2015

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called “Historic Preservation” and how is the Applicant restricted from making any improvements? It is not. HDMR permitted uses include, “(1) Single-family and two-family residential dwellings. (2) Multiple-family residential dwellings. (3) Group homes with less than or equal to six residents as provided in section 122-1246.” All of those are also permitted as permitted uses under HNC3. The Applicant has made no case for why a bar/restaurant rather than a permitted use on that Parcel restricts the Applicant from making permitted improvements. Historically, it was a stately residence; it has been a bar/restaurant since only 2015. The Applicant should be prohibited from making commercial changes on the Terry Lane Parcel, as HNC-3 was never intended to swallow up Terry Lane historic property.

4 b. Policy 1-1.2.1: Provide Access to Goods and Services and Protect Residential Areas from the adverse Impacts of Transition in Land Use.

Applicant’s Claims.

With the zoning boundary currently running through this parcel and through a commercial building on the site, no protection exists or is viable for the adjacent residential structures. Whereas, if the zoning boundary was adjusted to adequately establish the division of commercial to residential, then a vegetated buffer along the commercial boundary or something similar would allow protection for the neighboring residential parcel.

Neighborhood Owners’ Opposition.

Deny no protection exists or is viable for the adjacent residential structures. Deny that if the relief sought in the Applications is granted that it would establish a proper division of commercial to residential, and deny a suitable buffer cannot be imposed on the Applicant under the existing zoning classifications. Again, the Applicant presents no facts and only argument, and it is a fallacious one at that. According to the Modification Letter the covered porch is HDMR (e.g., the line between HNC-3 and HDMR zoning runs along the Southeast side of the house where it adjoins the covered porch. In the Modification Letter the staff expressly notes that restaurant business on the porch is a prohibited use. Yet, just since 2016 the Applicant has had tables and chairs in the Covered Porch HDMR area for patron consumption and those are prohibited uses of Parcel 7. The Applicant’s statement that “no protection exists or is viable for the adjacent residential structures” makes no sense. If the Applicant stops its “prohibited use” of the Property, including the covered porch then the other 30 feet of Parcel 7 could be a border with or without a vegetative buffer. As currently zoned the Owner can put a buffer on the HDMR parcels between them and other residential neighboring properties. To put in context the Applicant’s rezoning Parcels 7 and 9 to HNC-3 means their presence as existing buffers on the Property are eliminated. For the record, the “neighboring residential parcel” to Parcel 7 is owned by the Applicant. As further support and as support we refer the Board our positions presented in the Garbage Response; the Conditional Use Preconditions Position, the Traffic Parking Report Response, and the Prohibited Use Response, which are incorporated herein by reference.

4 c. Policy. Consistency with adopted infrastructure minimum levels of service standards.

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Applicant's Claims.

As mentioned above, there is no proposed new development or change of use for the associated property, therefore, there are no anticipated impacts to existing infrastructure minimum levels of service standards.

Neighborhood Owners' Opposition.

Again, the Applicant ignores the standard and the facts, and despite having the burden of proof the Applicant makes allegations and arguments without providing and factual support. This is hardly true as it would be illogical and contrary to the Applicant's economic interest to pursue these zoning changes except to increase the size of the Applicant's business operations and income. It strains credulity that the Applicant would spend all this money if the Applicant intended "business as usual." If the Board does want to take that statement as true, then no zoning change is necessary or justified, because the Conditional Use covers the existing bar/restaurant, except for the "prohibited uses," provided the Applicant lives up to the mandated conditions of use. But, since the Applicant makes no mention of its prohibited uses, but calls them permitted uses, the Applicant cannot justify any change in zoning is advisable, let alone necessary. As further support and as support we refer the Board our positions presented in the Garbage Response; the Conditional Use Preconditions Position, the Traffic Parking Report Response, and the Prohibited Use Response, which are incorporated herein by reference.

4 c. Policy. Concurrency management program.

Applicant's Claims.

The request is consistent with the concurrency management program Objective 9-1.5. Specific concurrency applications in accordance with Section 94-32 may be required for specific future development plans. No Plans are proposed as part of this application. At this time, no system improvements are anticipated as a result of the proposed map amendment.

Neighborhood Owners' Opposition.

Again, the Applicant provides no factual basis or context for its conclusory opinion. Comprehensive Plan Objective 9-1.5 directs the City to ensure that public facilities and services needed to support development are available concurrent with the impacts of new development. The analysis considers potable water, sanitary sewer, solid waste, drainage, vehicle trip generation and recreation. City Code Section 94-36 requires a concurrency review determination to be made concerning the proposed development. The Applicant has never provided the required concurrency plan for the development of the Property, despite its 150 seat bar/restaurant, which has expanded beyond the restricted hours, surpassed the mandated cap on trips and traffic, amassed tons of garbage with trucks retrieving it (and not daily) from Terry Lane, not Whited Street, exceed permissible noise levels, etc. Sec. 122-776 states:

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“(c) Performance standards shall restrict the allowable neighborhood commercial uses to very limited square footage in order to maintain land use compatibility with residential uses in the vicinity. In addition, the performance standards shall require minimum open space ratios, restrict the floor area based on traffic-generating characteristics, and incorporate other qualitative and quantitative standards which protect residential properties.

(d) In order to manage the impacts of future development on transportation and public facilities, the city shall limit the intensity of development within the HNC district by establishing the following thresholds within subdistricts HNC-1, HNC-2, and HNC-3, respectively.....

(2) Within the HNC-2 and HNC-3 subdistricts, *land use activities shall generate no more than 50 trips per 1,000 square feet of gross leasable floor area per day.*”

(Emphasis added.)

The Applicant’s conditional use permit is limited to 50 trips per 1,000 for 6,637 square feet of restaurant space (332 trips per day). With 150 tables, various bars, happy hours, and other traffic generating promotions, with operating hours ignoring the mandated 9am-11pm limits it is little wonder the traffic congestion in the area is onerous for the residents. The Applications, to be sure, are designed to increase business and the existing traffic, and that will only intensify the traffic and parking congestion worse than it already is. The Applicant claims no impact on the neighborhood, but such an assertion simply cannot be taken seriously. The same is true on all other areas covered by City Services, including the trolley, police, water, garbage, etc. As further support and as support we refer the Board our positions presented in the Garbage Response; the Conditional Use Preconditions Position, the Traffic Parking Report Response, and the Prohibited Use Response, which are incorporated herein by reference.

4 d. Policy- (2) Conformance with requirements Conformance with ordinances. Whether the proposal is in conformance with all applicable requirements of the Code of Ordinances.

Applicant’s Claims.

The proposal is consistent with the procedures for amending the Official Zoning Map as demonstrated herein. The proposal is in conformance with the procedures for amending the Land Development Regulations as demonstrated herein.

Neighborhood Owners’ Opposition.

Deny the proposal is consistent with the procedures for amending the Official Zoning Map as demonstrated herein. Deny the proposal is in conformance with the procedures for amending the Land Development Regulations as demonstrated herein.

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Again, despite having the burden of proof the Applicant makes allegations and arguments without providing and factual support. The Applicant also ignores the Policy and only claims to be in conformance with procedures for applying for the changes without any proof. The Applicant does not address the proof requirement of the Policy and the proof that is required of the Applicant to establish entitlement to the requested relief. The Applicant does nothing to prove how it is in “conformance with all applicable requirements of the Code of Ordinances, which the neighborhood residential owners dispute, Sec. 122-93(b) of the Ordinance places the burden on the Applicant to prove that the rezoning proposal is consistent with the comprehensive plan and that it complies with all procedural requirements of the zoning ordinances, that is, assuming the applications “affect a limited number of persons or property owners,” which the Applicant has made no attempt to demonstrate. We oppose the Applicant’s conclusion, as the traffic from the Applicant’s operations are clogging Petronia and Whitehead Streets, creating a bottleneck on Terry Lane with an adverse impact far beyond the Property and including on surrounding residential owners, also including excessive noise, excessive and ill-sited garbage and trash overflowing, and the list goes on of the negative impacts to and beyond the immediate surrounding neighbors and local businesses. The absence of any effort by the Applicant to prove compliance with the policy/ordinance is not just procedural, which is all the Applicant addresses and claims to have complied with, but it is substantive as well. On that prong of the Applicant’s burden, it presents no evidence, and not even a comment. As further support and as support we refer the Board our positions presented in the Garbage Response; the Conditional Use Preconditions Position, the Traffic Parking Report Response, and the Prohibited Use Response, which are incorporated herein by reference.

4 e. Policy-(3) Changed conditions. Whether, and the extent to which, land use and development conditions have changed since the comprehensive plan's effective date and whether such conditions support or work against the proposed change.

Applicant’s Claim.

The effective date of the Land Development Regulations is July 3, 1997. The 2030 Comprehensive Plan was adopted on March 5, 2013. Both the 2030 Comprehensive Plan and the LDRs are “Living Documents” that are, by their very nature, designed to evolve and change with the community’s goals. In this case, the community surrounding the subject property has developed/redeveloped over the last 30 years into a vibrant commercial and recreational activity center.

Neighborhood Owners’ Opposition.

Deny any changing conditions support the Applications. Indeed any and all changed or changing conditions resoundingly support denial of the Applications. The Applicant’s silence on this important policy issue question is determinative--there is no support from this policy for the Applications. Again, despite having the burden of proof the Applicant makes allegations and arguments without providing and factual support. The Applicant ignores the gravamen of the

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policy question—“whether such conditions support or work against the proposed change.” Except for the Applicant’s property, the rest of the Petronia Street corridor has developed in conformance with the intent of HNC-3 zoning and the historic residential neighborhoods around the Property have developed into models of historic residential neighborhoods living up to the Good Neighbor Policy. As further support and as support we refer the Board our positions presented in the Garbage Response; the Conditional Use Preconditions Position, the Traffic Parking Report Response, and the Prohibited Use Response, which are incorporated herein by reference. There is no need for nor is there a place for a bar/restaurant like the Applicant’s establishment in this neighborhood. Its development and operations are not consistent with the intent and purpose of the HNC-3 zoning district adjacent to the HDMR district; and there certainly is no need to give the Applicant even more commercial space, given it cannot comply with the restrictions of the conditional uses it was already granted on the HNC-3 and HDMR parcels it already owns. The Applicant has developed a conditional use more suited to Duval Street, not on Whitehead Street or Terry Lane or anywhere else in this historic residential neighborhood.

4 f. Policy- (4) Land use compatibility. Whether, and the extent to which, the proposal would result in any incompatible land uses, considering the type and location of uses involved.

Applicant’s Claim.

Proposed map amendment would serve to extend the adjacent HC District. Adjacent commercial uses will remain compatible. The subject properties currently have a variety of existing legal non-conforming land uses within the HMDR zoning. These inconsistent land uses include: commercial retail, restaurant and parking lot. It is important to note that all these existing inconsistent land uses within HDMR zoning would all be consistent with HNC-3 zoning. The Applicant then makes a chart alleging,

| Current site use | HMDR | | HNC-3 | |
|------------------------|------|----|-------|----|
| | Yes | No | Yes | No |
| Restaurant | | X | X | |
| Retail – low intensity | | X | X | |
| | | * | * | * |

The HNC-3 zoning district encompassed Petronia Street from Duval to Emma Street bisecting the previous districts. This area designation was in recognition of the increase in tourism trends and expansion of commercial activity in historic downtown areas. As part of the HNC-3 zoning district’s purpose, the Pedestrian-Orientated commercial district was established to recognize those areas frequented by persons traveling on foot, bicycle or other non-automotive means and, therefore, allowing flexibility in the parking requirement for commercial changes.

Neighborhood Owners’ Opposition.

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Again, without presenting evidence the Applicant makes arguments and allegations. The Applicant has not established what the uses are in the multiple buildings on the Property, and the prohibited uses in some of them. Yet, there are only two parcels at issue-Parcel 7 and Parcel 9, and they were historical before July 3, 1997 when properly zoned HMRD/HR. Those are properly residential, and the Applicant has not presented facts demonstrating why Parcel 7 should go from HMRD/HR to HNC-3. The Applicant has not shown why it should be able to encroach on the HDMR line through Parcel 7 that has existed for over twenty years. The Applicant lists permitted uses for HMDR, but make no showing why it should not have to abide by them for Parcel 7. Moreover, the Applicant does not list the Conditional Uses for HMDR, which include, “(1) Group homes with seven to 14 residents as provided in section 122-1246. (2) Cultural and civic activities. (3) Educational institutions and day care. (4) Nursing homes/rest homes and convalescent homes. (5) Parks and recreation active and passive. (6) Places of worship. (7) Protective services. (8) Public and private utilities. (9) Parking lots and facilities.”

In reality the Applicant’s position is simply that it wants more commercial space, disingenuously disclaiming any plan or ulterior motion. The Staff Report stated in 2011, “Because a Master Plan, as required by Resolution 97-92, was never approved it has been difficult for staff to determine the model for the final site plan.” Now, almost nine years later the Applicant still is unwilling to tip its hand as to even its plan for the Property. The Board and the neighboring property owners have an absolute right to know the plans before they should be called upon to make a drastic change converting two HDMR parcels to HNC-3 parcels when those parcels have been HDMR for over twenty years. Yet there is “radio silence” from the Applicant about why now, twenty years later, it needs these drastic zoning changes. The Applicant’s applications are silent as to why Parcel 9 (with its 31.5 feet on Terry Lane) should be changed to HNC-3 from its current proper HMRD/HR zoning. As further support and as support we refer the Board our positions presented in the Garbage Response; the Conditional Use Preconditions Position, the Traffic Parking Report Response, and the Prohibited Use Response, which are incorporated herein by reference.

5. Policy- (5) Adequate public facilities. Whether, and the extent to which, the proposal would result in demands on public facilities and services, exceeding the capacity of such facilities and services, existing or programmed, including Transportation - Policy 2-1.1.1 Policy 2-1.1.3 prioritizes safety and function of existing roads and multimodal transportation improvements (i.e. transit, air, boat, bicycles, pedestrianism, and mixed-use development) in lieu of LOC concurrency standards.
Policy 2-1.1.3: Exempts Key West from transportation concurrency requirements for roadways in favor of substantive expansion and prioritization of roadway safety and function through multi-modal transportation improvements (i.e. transit, air, boat, bicycles, pedestrianism, mixed-use development).

Applicant’s Claim.

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Summary Response: The zoning boundary adjustment would not result in an increase in maximum trip generation. There is no change to existing uses proposed as part of this request.

Neighborhood Owners' Opposition.

Deny the Applicant's allegation. The zoning boundary adjustment would result in an increase in maximum trip generation. Denies there is no change to existing uses proposed as part of this request. Again, despite having the burden of proof the Applicant makes allegations and arguments without providing and factual support. We refer the Board our positions presented in the Traffic Parking Report Response, which is incorporated herein by reference. The Applicant's failure to identify its plans to justify any change implies no change is necessary or warranted. The only reasonable inference from the Applications is that the Applicant intends changes to increase its business, which will generate even more traffic congestion than already exists. It is the Applicant's burden to demonstrate it will have no impact. The Applicant puts the cart before the horse—let it propose the uses in its plans, and then seek zoning changes to allow them. The Applicant simply makes no showing of a need to change Parcels 7 and 9 to HNC-3. As further support and as support we refer the Board our positions presented in the Garbage Response; the Conditional Use Preconditions Position, and the Prohibited Use Response, which are incorporated herein by reference.

6. Policy- Potable Water - Policy 4-1.1.2.C

The Florida Keys Aqueduct Authority (FKAA) has the capacity to supply adequate service to the subject properties. The FKAA has the capacity to provide 23 million gallons per day to Monroe County as a result of: the South Florida Water Management District's issuance of Water Use Permit #13-0005, which allocates 17 million gallons per day in the dry season; 17.79 million gallons per day which can be withdrawn from the Biscayne Aquifer; and six million gallons per day provided by a reverse osmosis treatment plant in Florida City. As documented above, the City is meeting its Level of Service Standard for Potable Water. The City projects a slight permanent population decrease, and only a slight increase in its functional population and non-residential development during short and long-range planning periods, so the current capacity should remain adequate. Ongoing capital improvements will be necessary to maintain and improve standards and service delivery.

Applicant's Claim.

Summary Response: The zoning amendment will not result in an increase in potable water across as there is no change to existing uses as part of this proposal.

Neighborhood Owners' Opposition.

Deny there will be no change to existing uses as part of the Applications. Deny the zoning amendment will not result in an increase in potable water.

Again, despite having the burden of proof the Applicant makes allegations and arguments without providing and factual support. Applicant's response is disingenuous and the Applicant's

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failure to identify its plans to justify any change implies no change is necessary or warranted and the Board simply cannot assess the impact without the Applicant coming showing its historical residential neighbors and the Board its cards. It is the Applicant's burden to demonstrate it will have no impact, and if the Applicant's plans to change operations under new HNC-3 zoning of Parcels 7 and 9 with their increased FAR and setback changes, etc., and those could increase the strain on the water supply, etc., it is the Applicant's burden to fully flush that out, if it is to make its required showing to prove such a drastic change is necessary or appropriate after twenty years of Parcels 7 and 9 being properly within the HDMM district. We refer the Board our positions presented in the Garbage Response; the Conditional Use Preconditions Position, the Traffic Parking Report Response, and the Prohibited Use Response, which are incorporated herein by reference.

7. Policy- Sanitary Sewage - Policy 4-1.1.2.A; Solid Waste - Policy 4-1.1.2.D; Policy 4-1.1.2.D- Recyclable Waste Generation; Comprehensive Plan Policy 4-1.1.2. E- Drainage; Recreation; Natural Environment.

Applicant's Claim..

Summary Response: The zoning amendment will not result in an increase in any of these as there is no change to existing uses as part of this proposal.

Neighborhood Owners' Opposition.

Deny there will be no change to existing uses as part of the Applications. Deny the zoning amendment would not result in an adverse impact on Sanitary Sewage, Solid Waste, Recyclable Waste Generation, Drainage; Recreation; Natural Environment. Again, despite having the burden of proof the Applicant makes allegations and arguments without providing and factual support. We refer the Board our positions presented in the Garbage Response; the Conditional Use Preconditions Position, the Traffic Parking Report Response, and the Prohibited Use Response, which are incorporated herein by reference.

8. Policy (7) Economic effects. Whether, and the extent to which, the proposal would adversely affect the property values in the area or the general welfare.

Applicant's Claim..

The proposed map amendment will have no adverse impacts to the property values in the area. This change will serve to accurately differentiate between commercial and residential properties, avoiding confusion and adding to the economic vitality of the district.

Neighborhood Owners' Opposition.

Deny the proposed map amendment will have no adverse impacts to the property values in the area. Deny this change will serve to accurately differentiate between commercial and residential properties, avoiding confusion and adding to the economic vitality of the district. Again, without presenting evidence the Applicant makes arguments and allegations. The Applicant has the

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burden of establishing this with facts. It is not the Board's or opposing neighbors' burden to establish the adverse impact on residential property values of extending a loud and obnoxious commercial use into the Residential owners' back yards. This Board is well aware that historical residential neighborhoods are at their most valuable when they are not adversely impacted by a loud bar/restaurant that converted a quiet lane into a thoroughfare often in profound deadlock because of increasing traffic, only to get worse if the 31.5 foot buffer that runs the length of the Property is converted to Commercial, with continuing overflowing garbage and unlawful garbage pickups from Terry Lane. As further support and as support we refer the Board our positions presented in the Garbage Response; the Conditional Use Preconditions Position, the Traffic Parking Report Response, and the Prohibited Use Response, which are incorporated herein by reference.

9. Policy (8) Orderly development. Whether the proposal would result in an orderly and compatible land use pattern. Any negative effects on such pattern shall be identified.

Applicant's Claim..

The proposed map amendment would result in an orderly and compatible development pattern, no deleterious effects have been identified.

Neighborhood Owners' Opposition.

Deny the proposed map amendment would result in an orderly and compatible development pattern, no deleterious effects have been identified. Again, the Applicant makes only arguments and allegations. The Applicant has the burden of establishing this with facts and did not. The Residential land Owners signing below refer the Board to their previously filed Opposition and their foregoing cited facts and rebuttal opposition in the Garbage Response; the Conditional Use Preconditions Position, the Traffic Parking Report Response, and the Prohibited Use Response, which are incorporated herein by reference.

10. Policy (9) Public interest; enabling act Public interest; enabling act. Whether the proposal would be in conflict with the public interest, and whether it is in harmony with the purpose and interest of this subpart B and its enabling legislation.

Applicant's Claim..

The proposal is not in conflict with the public interest and is in harmony with the purpose and intent of the Land Development Regulations and the Comprehensive Plan as demonstrated in the above findings of the criteria for approval.

Neighborhood Owners' Opposition.

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Deny the Applications are not in conflict with the public interest and are in harmony with the purpose and intent of the Land Development Regulations and the Comprehensive Plan. Further deny the Applicant has made any factual or evidentiary showing as to the above criteria or policies that the Applicant must prove to prevail on its Applications. Again the Applicant makes only arguments and allegations. The Applicant has the burden of establishing this with facts and did not. The Residential land Owners signing below refer the Board to their previously filed Opposition and their foregoing cited facts and rebuttal opposition. As further support and as support we refer the Board our positions presented in the Garbage Response; the Conditional Use Preconditions Position, the Traffic Parking Report Response, and the Prohibited Use Response, which are incorporated herein by reference.

11. **(10) Other matters.** Other matters which the planning board and the city commission may deem appropriate.

Applicant's Claim.

At the time of application submittal, no other matters are deemed appropriate.

Neighborhood Owners' Opposition.

The Board should consider the Applicant's failure to comply with Key West's good neighbor policy and the Applicant's violation of the conditions in the Restrictive Agreement, and the Applicant's general failure to provide facts and reliance almost entirely on allegations and assertions, without proof. Economic reality suggests the only reason the Applicant would want this change is to make a larger bar-restaurant with more seats. Applicant seeks to move those additional seats and add more bars in what is now HDMR parcel 7, which is undisputedly historical residential. Key West does not need more bars, and the intent of HNC-3 was not to create outdoor bars on Whitehead Street. The Applicant should be required to correct all of its failures to comply with the Resolution and laws of Key West before seeking relief under its Applications and to justify all of the adverse impacts on the surrounding community and Key West raised in the Opposition and presented in the Garbage Response; the Conditional Use Preconditions Position, the Traffic Parking Report Response, and the Prohibited Use Response, which are incorporated herein by reference.

Requested Relief. The Neighborhood Owners filing the Addendum and Supplemental Opposition of Undersigned Neighborhood Residential Owners to Applications for Zoning Map and Future Land Use Amendments By Historic Tours of America, Inc., to which this is attached as Exhibit 4 and incorporated therein by reference respectfully request the Board to deny the Applications.

TO: The Key West Planning Board
FROM: David A. Amendt and Leslee A. Fisher, 815 Whitehead Street
DATE: Wednesday, August 14, 2019
RE: Historic Tours of America, Inc.'s Rezoning Application

To the Key West Planning Board:

This letter is intended to be added to those already submitted objecting to Historic Tours of America, Inc.'s application for rezoning 318-324 Petronia St (802-806 Whitehead St), 809 and 811 Terry Ln.

My name is David Amendt. My wife Leslee Fisher and I live at 815 Whitehead. We have been at this address since 2016 and on Fleming St prior to that. I had every intention to speak in person. Sadly, with this item being postponed twice, I am out of town and can't attend.

All of the following points made are referencing Historic Tours of America, Inc.'s first application. We only recently received the revised application.

I know all of you have read the letters submitted by our other concerned neighbors. The group of homeowners on Terry Ln and Thomas were able convey many of our thoughts and we agree with them completely as to the reasons the Board should not approve this application. We would like to share our concerns also.

We agree that the current owner must have been aware of the existing zoning difference when they acquired the properties. We find it suspect that it is only now that Rams Head has moved in that rezoning is needed. We do not think this is a coincidence. Throughout the application, the applicant has lead you to believe there is no planned development. We find this disingenuous. If there is no plan, why all the time, money and effort to get the properties rezoned?

The applicant states that the old zoning lines are confusing and new ones less so. We believe the opposite to be the case. If approved, the new lines would create a specific cutout that is unlike any other in the HNC-3 zone.

Referring to page 7 of the application, item 4 states that the existing use is commercial and the proposed is also commercial. Right now, the area in the HMDR zone fronting Whitehead is an open courtyard, not commercial. We believe this is an area the that the rezoning is intended for.

The applicant states that rezoning will have no impact on surrounding properties. Even as it exists today, we are negatively impacted on a daily basis. The noise starts before 7 a.m. with a leaf blower, followed by an hour plus delivery truck that never shuts off. Then, the music starts - well before they open. The live music can be heard from noon until 9 p.m. all the way down the block and inside our house. There is no escape. We can't sit on our front porch and enjoy the scenery because it is too loud. By rezoning, the potential for louder music, bigger crowds, and more trouble parking is inevitable.

On page 11 and 12 of the application, in item 3, the applicant refers to the 2030 comprehensive plan and LDRs as being "Living Documents," designed to evolve and change with the community's goals. We do not believe that this rezoning is in any way the "goal" of the Whitehead neighborhood; in fact, we believe it only serves the goals of the owner and lease holder.

On page 19 of the application, in item 7, the applicant mentions economic effects. No one can say that property values won't be effected. Allowing more commercial activity by expanding the HNC-3 zone on an already extremely busy state road certainly will not add value to our homes.

On page 19 of the application, in item 8, the applicant says this rezoning will "result in an orderly and compatible development pattern." However, the applicant repeatedly states that there is no new development. Which is it - an orderly and compatible development or no new development?

Also on page 19 of the application, in item 9, the applicant states that " The proposal is not in conflict with the public interest and is in harmony with the purpose and intent of the LDR". The neighbors on Whitehead *are* the public and our interest is not in "harmony" with this proposed change.

Thank you for your consideration of our concerns and the concerns of the entire neighborhood. In closing, we found this quote in the July 15, 2019 Key West Citizen, page 3. It was in an article about the work being done at Key West by The Sea. We found it is very applicable to the current situation with Historic Tours of American, Inc. It is our US Representative Debbie Mucarsel-Powell speaking: "Key West thrives when our tourism thrives, but economic growth should not come at the expense of our residents." She was speaking to you all and for us, the people who live and work around the new Rams Head. Please take our voice into consideration strongly and keep the residents in mind as you thoughtfully deliberate about this proposed change in zoning.

Sincerely,

David Amendt and Leslee Fisher
815 Whitehead St
Key West, FL 33040

From: [Melinda C. Stewart](#)
To: [Natalie Hill](#); [Patrick Wright](#); [Vanessa T. Sellers](#)
Subject: FW: rezoning Future Land Use Map #318-324 Petronia st & 802 - 806 Whitehead St
Date: Friday, July 12, 2019 11:29:35 AM
Attachments: [image001.png](#)

Please see objection below.

Melinda C. Stewart
Deputy City Clerk
City of Key West
305-809-3834
MStewart@cityofkeywest-fl.gov
www.cityofkeywest-fl.gov



Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing. F.S. 668.6076.

From: Julie Johnson <jewel7935@aol.com>
Sent: Friday, July 12, 2019 11:01 AM
To: Melinda C. Stewart <mstewart@cityofkeywest-fl.gov>
Subject: rezoning Future Land Use Map #318-324 Petronia st & 802 - 806 Whitehead St

I own a house at 811 Whitehead, which is across the street from the property requesting this change in zoning. I object to this for numerous reasons:

1. The noise level at the current zoning of Historic Residential (HR) is at the maximum I am willing to tolerate, it's actually louder than I would like

Trucks parked on Whitehead unloading the supplies for the restaurant are very loud

Live music (from the side of the property on Petronia) can be heard all the time it's being played. There is a buffer now due to the placement of the music, moving it on to Whitehead would be disastrous to our living environment.

2. This block of Whitehead is predominately residential, most houses have been renovated and well cared for.

3. I do not want the atmosphere to change, the current use of the restaurant is complimentary to the area, anything larger would be louder, and more traffic.

4. Any rezoning of this block will have a negative impact on the value of my home,

and all other houses on the block, due to all of the above reasons.

5. A change in this zoning designation could potentially result in future changes which I believe would further have a negative impact on the value of my property as well as my enjoyment and comfort of living in my home.

Based on all of the above, I respectfully request that this rezoning request be denied.

Julie Johnson

**Additional Comment Opposing Application Based on Trips Intensity/Parking
Nuisance of the Bar/Restaurant Use of Property**

Introduction



As shown in the Opposition and Addendum filed with the Board by concerned neighboring residential owners, including the undersigned, the Applicant used a Specious Parking and Trip Analysis (the "Report") to obtain a Conditional Restaurant Use approval on the Property. Had the analysis required by the Code been used the Trip (intensity) and insufficient number of Parking Spaces could not have been approved and the parking problems and nuisance in the surrounding Bahama Village Neighborhood would have been predicted and avoided by denial of the Conditional Use application. Since 2011 retail use of the Property dwindled and now exists only with a vendor cart or two situated on the HCN-3 parcels of the Property rented out to others from time to time by the Applicant. Otherwise, only the Applicant's bar/restaurant operates on the Property. With those changed circumstances there is no basis for the Applicant to justify the restaurant bar on the Property as a conditional use under the Code with respect to Trip and Parking intensity. The same is true for the requested Zoning Change, because things have changed, even without taking into account the fallacious analyses in the Report.

The "Report" did not rely on Key West information--it relied on big city and suburban data to pull the wool over the Board's and the neighborhood's eyes in 2011. As to both its Traffic/Trip and Parking analyses the Report uses an ITE Trip Generation Manual based on big city and suburban areas wholly irrelevant to Key West. The Report flat out ignores Key West Ordinance's required HCN-3 trip intensity analysis and Code Sec. 108-572's parking intensity analysis, solely to reach the results the Applicant wanted the Report to achieve.

Applicant's Specious Trip Analysis

1. Key West requires now and required in 2011 that trip generation for the HCN-3 zoning district be measured in terms of trips per 1,000 sq. ft. of gross leasable floor area per day.

2. As is shown in the Addendum filed by several concerned neighbors, including the undersigned, if the Report had used what Key West's zoning code required for its trip analysis that would have resulted (for weekdays) between 71.1 and 73.5 trips per day of traffic congestion and residential and commercial neighbors traffic and parking nightmares. The maximum allowable HCN-3 trips per day were and are 50 trips per day.
3. The Report accomplished this fallacious result by rejecting and not using the required square footage associated with the Consumption area being allowed by the Board for the Bar/Restaurant. Instead, through the Report's mumbo jumbo the Report almost triples the square footage used (17,500 square feet) rather than the overall approved 5,836 square feet of consumption area granted by the Board in Conditional Use Res. 2011-059. Indeed, even had the "flexible, indoor/outdoor consumption area of 6,637 square feet" the Report mentions been used, the prediction would be 71.1 trips per day. That is far in excess of the 50 trips per day maximum allowable for HCN-3 conditional uses. In either case, the Report's claim that the predicted trips actually went down to 34.92 is simply ludicrous.

Applicant's Specious Parking Analysis

4. As those familiar with the Property's history know, the retail use of the Property has been sketchy and almost nonexistent since 2011. Retail is limited to a couple vendor carts the Applicant rents out from time to time for cart sales on HCN-3 parcels of the Property. So, things have changed since Res. 2011-059, and even more so since the March 17, 2015 Minor Modification. As to the Report's Parking analysis—it also was fallacious when made and it is now even more irrelevant—with virtually no retail use of the Property. The Report mixed apples and oranges—not mixed uses. The Property's almost sole use now is as a bar/restaurant, and the Report's claim that restaurant use is less intense than retail on the Property was never true, but is now not only untrue but irrelevant, given the Property's retail square footage consists of a couple carts in total probably less than 100 Square feet. Under the Code the Applicant's bar/restaurant use requires well over a hundred more parking spaces than the Property has!

5. Code Section 108-572 requires

Sec. 108-572. Schedule of off-street parking requirements by use generally. Off-street parking spaces shall be provided in accordance with the following schedule for motor vehicles and bicycles:

* * *

(9) Restaurants, bars and lounges 1 space per 45 square feet of serving and/or consumption area (Bicycles as % of Motor Vehicles-- 25%.

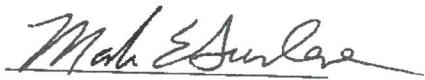
6. That Code section is crystal clear. The Report's bald assertion that the Parking analysis is limited to square feet is wrong. When as with the Applicant's bar/restaurant Conditional Use grant uses "consumption area," the plain language of Sec. 108-572 requires consumption area square footage to be used as the applicable measure.
7. According to the Report the Conditional use is for "indoor/outdoor consumption area of 6,637 square feet." Doing the math-the Code requires 147.5 off-street parking spaces for the bar/restaurant, only 25% of which can be bicycles/scooters. Even if 5,836 square feet of consumption area allowed in the Minor Modification the Code is used that requires 129.69 off-street parking spaces for the bar/restaurant, only 25% of which can be bicycles.
8. Even the Report mentions that the Restaurant needs 68.27 off-site parking spaces, but then with another sleight of hand the Report concludes that "there will be an overall reduction in parking demand." That assertion is baseless, given the retail use of the Property was all but abandoned by 2011, and the only way to make that claim was to lump in the unused part of the Property into the analysis—wholly unjustified by the Code.
9. As a result of the specious parking analysis in the Report the Applicants made available under Res.2011-059 only 2 compact car spaces, six standard vehicular spaces, one handicap space, and forty scooter/bicycle spaces. That is nine vehicle parking spaces and forty bicycle/scooter spaces. Yet, the most the Applicants can credit bicycle spaces under the Code (depending on

whether 147.5 or 129.69 parking spaces apply) is 36.9 and 32.4 bicycle spaces. So the Applicant was required by the Code to have either 110.6 or 97.27 off-street parking spaces. The Applicants has had only NINE!

10. Worse, the Applicants have taken over many of the required scooter/bicycle spaces under Res.2011-059 with garbage storage or simply not creating them. Intensifying the nuisance the Applicant created, , the Applicant advertises on Whitehead and Petronia Streets that there is free parking in the rear. Of course the woefully inadequate parking spaces provided are usually full and the Applicant has thereby diverted its patrons to the Area's few street parking spaces available to residents and the intended HCN-3 light commercial businesses in the area. In short, the necessary 147.5 or 129.69 parking spaces the Applicant didn't provide for its bar/restaurant clogs up the neighborhood's few available parking spaces and the Residential owners and their guests and the legitimate commercial operations in the neighborhood have to deal with the Applicant's extra 129.69-147.5 parkers consuming what few available street parking there is in the neighborhood.

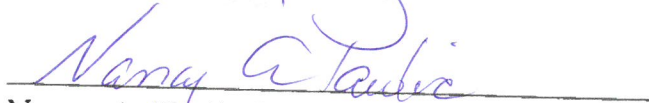
Please Hold the Line and deny the Applications.

Signed August 13, 2019 by:



Mark E. Furlane, Co-Owner of 819 Terry Lane

Signed August 13, 2019 by:



Nancy A. Paulic 2015 Revocable Trust, Owner of 812 Terry Lane
Nancy Paulic, Trustee

Melinda C. Stewart

From: julie johnson <juliej7935@gmail.com>
Sent: Wednesday, July 17, 2019 2:42 PM
To: Melinda C. Stewart
Subject: Change to land use map

I own a home on Shavers lane and I object to this change for several reasons.

Firstly, the noise from Bourbon Street is already too loud. The front bedrooms are very loud at night, the bass from the pool parties they have nightly is offensive and goes very late into the night. If the property is rezoned, i am afraid this will result in more noise.

Secondly, I am concerned that more commercial properties around my home would decrease the value of it. If the zoning is changed on Whitehead, the homes behind my house could eventually change to commercial, which I think will devalue my home.

Lastly, I believe this would result in more traffic around my residential neighborhood.

I request that you deny this request.

Mike Johnson

Keri O'Brien

From: Melinda C. Stewart
Sent: Wednesday, October 16, 2019 6:43 AM
To: Keri O'Brien
Subject: Fwd: opposition to planning amendment

Please add this Public Comment to the item. Thank you!

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From: Sherry McNeill <mcneill.sherry@gmail.com>
Sent: Tuesday, October 15, 2019 6:24:38 PM
To: Melinda C. Stewart <mstewart@cityofkeywest-fl.gov>
Subject: opposition to planning amendment

This letter is to be added to those already submitted objecting to amendments of the Zoning Map and Future Land Use Map - 318-324 Petronia Street (802-806 Whitehead).

I am the homeowner of 809 Whitehead Street. I purchased my home this year and specifically choose the historic district for it's charm, neighborhood atmosphere and proximity to special places around the island. And by proximity I mean, close to, but not in, the thick of major commercial development. Key West appears to have many mixed use areas - commercial property close to residential housing. Where commercial development is scattered and small scale, it can enhance an area. Where it becomes intense commercial use, as is the intent of the request, the residential area is compromised. Houses near me are undergoing, or will undergo, renovations and we need to support the homeowners of this area who pay a premium price for this location on the island. We can not allow overbuilding and large scale development of the surrounding area.

Many homeowners and homeowner groups have raised opposition in well stated, very thorough letters to the city. I agree with their concerns. I believe the area will be negatively impacted by noise, traffic

and congestion if the rezoning amendments are approved. Commercial uses in this area should be limited only to small scale projects that enhance the spirit of the Bahama Village subarea. Large scale commercial development will be a huge detriment to the area.

I urge you to side with homeowners and preserve the neighborhood. Vote to oppose the Zoning Map and Future Land Use Map amendments.

Sherry McNeill
809 Whitehead Street

Angela Budde

From: Roy Bishop
Sent: Tuesday, November 26, 2019 4:19 PM
To: Cheri Smith; Melinda C. Stewart
Cc: George Wallace
Subject: FW: Email to Planning Board Members via Planning Board Staff Respectfully Requesting the Planning Board to Direct the Planning Board's Staff to Update their Report and Recommendation Based on Available Evidence and Information to Date
Attachments: Addendum with Exhibit 4-Point by Point Analysis.pdf

Hello Cheri and Melinda, this letter was received today from a nearby resident who attended the November 21 Planning Board Meeting. It is in regards to Agenda Items 3-6, 318-324 Petronia Street, postponed to Jan. 16. Thanks, Roy

From: Mark Furlane [mailto:mfurlane@bnf-law.com]
Sent: Tuesday, November 26, 2019 9:52 AM
To: Roy Bishop <rbishop@cityofkeywest-fl.gov>; Vanessa T. Sellers <vsellers@cityofkeywest-fl.gov>
Cc: Todd Santoro <todd@toddsantoro.com>; John hembling <jhembling@sbcglobal.net>; judyhembling@yahoo.com; Bob Walsh <robertwalsh620@comcast.net>; Susan Keegan <susan@susankeegan.com>; Nancy Paulic <nancypaulic@yahoo.com>
Subject: Email to Planning Board Members via Planning Board Staff Respectfully Requesting the Planning Board to Direct the Planning Board's Staff to Update their Report and Recommendation Based on Available Evidence and Information to Date

Dear Planning Board Chairman Sam Holland, Jr, and
Members Ann Henderson, Ed Russo, Jim Gilleran,
Gregory Lloyd, and Michael Browning; (Freddy Varela, Sr. (recused))
c/o Planning Board Staff:

The below neighboring property owners respectfully request the Board to direct the Planning Board's Staff to reevaluate their Report and Recommendation as it relates to approval of the Applications, and to take into consideration matters not considered in the Report, including matters since the date of the Report. These include the Neighbors' opposition filings, Public communications opposing the Applications, and testimony at Planning Board meetings.

At the November 21 Planning Board meeting at least two Planning Board Members indicated they were relying on the Staff Report, apparently errantly concluding the Staff had already recommended approval. However, the Planning Board Staff's recommendation of approval was conditioned on the Applicant's and Rams Head's compliance with "all of the conditions" of Conditional Use Res. 2011-059" as a precondition of approval, concluding:

RECOMMENDATION: The Planning Department, based on the criteria established by the Comprehensive Plan and the Land Development Regulations, recommends to the Planning Board that the request to amend the Comprehensive Plan Future Land Use Map (FLUM) be **APPROVED** *if all of the conditions of the 2011 Conditional Use approval (Resolution no. 2011-059) have been met.*

Also, at the November 21 meeting, one Member indicated he believed the neighbors' comments directed at the Applicants' and its Tenant's failure to be a Good Neighbor and their repeated and serious violations of the

Conditions of Res. # 2011-059, could not be considered by the Board in deciding the Applications for FLUM and zoning changes. However, the Staff Report concludes that such information is not only relevant for the Board's determination of the Applications, but determinative. The record demonstrates the Applicant has failed to establish compliance with most, if not all the Pre-Conditions and Conditions in Res. 2011-059.

The Staff Report is undated. However, it appears it was created before and without at a minimum the benefit of the Neighboring Property Owners' November 15, 2019 letter to the Planning Board and the testimony at the November 21st meeting. That letter contains an analysis of the Applicant's deficiencies in meeting his burden of proof to support his Applications. That letter addresses the relevant policies, objectives and criteria the Applicant is required to and claims to have prove, as well as several relevant matters the Applicant has never addressed. The letter includes in its exhibits, over 600 pages of historical documents pertaining to Mr. Swift's innumerable public filings for special exceptions, variances, conditional or special uses, minor and major developments, HARC and tree commission requirements and approvals, building permit applications, and other submissions filed with the City relative to the Property, plus the two Bahama Village Redevelopment Plans. These documents provide background demonstrating why the Applications should be denied.

Also, in 2012 the Key West City Manager proposed FLUM/Comprehensive changes at <https://www.cityofkeywest-fl.gov/eGov/documents/13486132478349.pdf>. In this document the City of Key West identified the relevant criteria to be considered in the FLUM amendment process, and these also are addressed in the November 15th letter. In the last relevant criteria in that submission the City Manager in the link included above, describes the final consideration to be considered as: "(10) Other matters. Other matters which the planning board and the city commission may deem appropriate."

It appears the Staff Report may not have considered Exhibit 4 to the Neighbors' Addendum to the Neighbors' initial opposition filing (copy attached). That Exhibit is an 18-page, point by point analysis of deficiencies in the Applications relative to the criteria and policies the Applicant claims to have addressed, but as shown in Exhibit 4, it was insufficient and done only in a conclusory manner. That Exhibit and the November 15th letter do not dwell on the innumerable and continuous violations of Res. 2011-059 addressed in the Neighbors' early opposition filings, other public comments and testimony, meetings with City officials (attended by Planning Board staff), and emails from neighbors to the Planning Board staff and City officials (on which Planning Board staff were copied). Rather, they address criteria this Board must consider and other relevant criteria the Board may and should consider.

For example, Exhibits 3 and 7 attached to the November 15th opposition filing include Exhibits 3 and 7. These include Mr. Swift's building permit applications and amendments and required variance applications and related actions for the 75-foot building as to which Mr. Swift errantly testified under oath at the November 21st meeting that the building was built *before* the July 1997 FLUM/zoning change. These Exhibits prove Mr. Swift's recollection is in error and corroborate Member Lloyd's understanding of the timing of the building of the 324 Petronia building starting late in 1998 and into 1999, as shown by his questioning of Mr. Swift at the meeting.

There have been innumerable unreasonable noise and other complaints by surrounding neighbors about the Applicant's and Rams Head's operations, since Rams Head took over the bar/restaurant operations in April. Complaints were made to this Board, the City, and numerous City officials, including Code enforcement about the Applicant's and Rams Head's failures to comply with the Conditions of Res. 2011-059. This Board has heard the testimony at the August 15th and November 21st meetings and comments of innumerable neighbors and have available the opposition filings and other public communications to which Planning Board staff has been privy, demonstrating Applicant's and its Tenant's violations of Res. 2011-059.

Mr. Swift, Rams Head, and the City of Key West have known for months about the noise and other complaints and the Applicant's and its Tenant's failures to comply with the mandatory conditions of Res. 2011-059, including the Unreasonable Noise Standard. Yet, despite their compliance being Conditions to operating the

bar/restaurant, neither Mr. Swift, his representative, or the Head of Key West Code Enforcement could tell this Board whether Mr. Swift or Rams Head have sound level monitoring equipment mandated by Res. # 2011-059. Unbelievable! Rams Head may be the direct perpetrator of the noise violations, but the buck stops with Mr. Swift—the Applicant/Owner. He is responsible for and has known about noise and other Conditions violations. It is their obligation to ensure sound monitoring equipment exists, and that the Restaurant operates in accordance with the Conditions. Yet, since filing their Applications they have not investigated whether the mandated sound monitoring equipment exists on the Property. The result--testimony at the August 15th and November 21st Board hearings about continued noise violations; now, at dangerous decibel levels.

Finally, and importantly, Mr. Swift testified that prior to the July 1997 FLUM/zoning change he cut an inside deal with the City of Key West, which is nowhere found in the record except for in his testimony. He describes this deal as Mr. Swift getting two resolutions approved in early 1997, just ahead of the July 1997 FLUM/zoning amendment, in exchange for Mr. Swift agreeing not to challenge the FLUM/zoning amendment and HNC-3/HMDR boundary line along Lots 7 and 9 of the Property. If indeed that deal was made, Mr. Swift got his consideration for that deal, regardless of whether the deal was illegal spot or conditional zoning. Mr. Swift cannot now renege on that deal he describes under oath and proceed to challenge the very zoning boundary lines on his Property he agreed with the City of Key West to accept in exchange for his sweetheart deal he reaped the benefits of starting in 1997. More importantly, Mr. Swift has outsmarted himself. His testimony under oath, is a glaring admission that Mr. Swift and the City of Key West KNEW exactly where the HMRD/HNC-3 boundary line was drawn on the Property and they knew exactly what that meant for available Property uses going forward. The record demonstrates the Applicant cannot show confusion exists to support his requested amendments.

Again, we respectfully request that the Planning Board direct the Staff to reanalyze their report and recommendation based on the evidence and submissions in the record to date, including Mr. Swift's admissions against interest. The Neighboring Property Owners believe that if the Staff reviews the more recent submissions, testimony, analysis and other public communications, they would reach the conclusion that the Applicant has failed to meet his required burden of proof.

Finally, the Planning Board should inquire as to whether the Applicant is pursuing a sale of the Property, conditioned on the requested zoning change, as we believe that is relevant to this Board's consideration of the Applications. Mr. Swift's testimony he has "no plans" for any changed uses of the Property may not in his mind include such a sale.

Although at the last Planning Board meeting the Key West Attorney opined that an email such as this one could be sent directly to the Planning Board Members as a whole, out of an abundance of caution we are sending it via the Planning Board staff.

Please make this email a matter of public record relative to the Applications.

Thank you for your consideration.

Sincerely,

Mark Furlane and Susan Keegan, 819 Terry Lane

Bob and Vicki Walsh, 810 Terry Lane

Braden Plant, 810 Terry Lane

Nancy Paulic, 812 Terry Lane

Todd Santoro, 818 Whitehead Street

John and Judy Hembling, 821 Terry Lane