



Application For Variance

City of Key West, Florida • Planning Department

3140 Flagler Avenue • Key West, Florida 33040-4602 • 305-809-3720 • www.keywestcity.com

RECEIVED

JAN 28 2015

**CITY OF KEY WEST
PLANNING DEPT.**

Application Fee: \$1,150.00 / After-the-Fact: \$2,150.00
(includes \$100.00 advertising/noticing fee and \$50.00 fire review fee)

Please complete this application and attach all required documents. This will help staff process your request quickly and obtain necessary information without delay. If you have any questions, please call 305-809-3720.

PROPERTY DESCRIPTION:

Site Address: 101 Duval Street, Key West, Florida 33040

Zoning District: HRCC-1 Real Estate (RE) #: 00000470-000000

Property located within the Historic District? ☒ Yes ☐ No

APPLICANT: ☐ Owner ☒ Authorized Representative

Name: Boos Development, Inc. c/o Smith Oropeza Hawks

Mailing Address: 138-142 Simonton Street

City: Key West State: FL Zip: 33040

Home/Mobile Phone: _____ Office: 305-296-7227 Fax: 305-296-8448

Email: bart@smithoropeza.com

PROPERTY OWNER: (if different than above)

Name: Sunset Plaza, Inc.

Mailing Address: PO Box 1268

City: Hallandale Beach State: FL Zip: 33008-1268

Home/Mobile Phone: _____ Office: _____ Fax: _____

Email: _____

Description of Proposed Construction, Development, and Use:

Please see Minor Development Plan and Application submitted to City of Key West Planning Department on September 8, 2014 regarding the increase of the building square footage by 1,094 square feet resulting in a new total of approximately 10,631 square feet ("Development Plan")

List and describe the specific variance(s) being requested:

In connection with the increased square footage of the building described in the Development Plan, 2 additional parking spaces are required. As the Applicant desires to (i) retain solely the 34 spaces on the Property currently required for the building and (ii) permit a third party parking operator to charge and permit general parking to vehicles which are not visiting the CVS store located in the building, and (iii) maintain parking spaces that are 8.5 feet wide, a variance is required.

Are there any easements, deed restrictions or other encumbrances attached to the property? ☐ Yes ☒ No

If yes, please describe and attach relevant documents: _____

Will any work be within the dripline (canopy) of any tree on or off the property?

☐ Yes ☒ No

If yes, provide date of landscape approval, and attach a copy of such approval.

Is this variance request for habitable space pursuant to Section 122-1078?

☐ Yes ☒ No

Please fill out the relevant Site Data in the table below. For Building Coverage, Impervious Surface, Open Space and F.A.R. provide square footages and percentages.

Site Data Table				
	Code Requirement	Existing	Proposed	Variance Request
Zoning	HRCC-1			
Flood Zone	AE7			
Size of Site	20,925 sq.ft.			
Height	35 ft			NO
Front Setback	none			NO
Side Setback	2.5 ft.			NO
Side Setback	2.5 ft.			NO
Street Side Setback	none			NO
Rear Setback	10 ft.			NO
F.A.R	1.0	.455	.508	NO
Building Coverage	50%	45.5%	50.8%	NO
Impervious Surface	70%	89.58%	89.58%	NO
Parking	38	36	36	YES
Handicap Parking	2	0	2	NO
Bicycle Parking	10	0	10	NO
Open Space/ Landscaping	20%	10.42%	10.42%	NO
Number and type of units	N/A			
Consumption Area or Number of seats	N/A			

For items in red font, please see the Application for Variance delivered to City of Key West Planning Department on September 8, 2014 regarding the increase of building square footage by 1,094 square feet resulting in a new total of approximately 10,631 square feet.

This application is reviewed pursuant to Section 90-391 through 90-397 of the City of Key West Land Development Regulations (LDRs). The City's LDRs can be found in the Code of Ordinances online at http://www.municode.com/Library/FL/Key_West under Subpart B.

*Please note, variances are reviewed as quasi-judicial hearings, and it is improper for the owner or applicant to speak to a Planning Board member or City Commissioner about the hearing.

Standards for Considering Variances

Before any variance may be granted, the Planning Board and/or Board of Adjustment must find all of the following requirements are met:

1. Existence of special conditions or circumstances. That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other land, structures or buildings in the same zoning district.

Please see attached letter.

2. Conditions not created by applicant. That the special conditions and circumstances do not result from the action or negligence of the applicant.

Please see attached letter.

3. Special privileges not conferred. That granting the variance(s) requested will not confer upon the applicant any special privileges denied by the land development regulations to other lands, buildings or structures in the same zoning district.

Please see attached letter.

4. Hardship conditions exist. That literal interpretation of the provisions of the land development regulations would deprive the applicant of rights commonly enjoyed by other properties in this same zoning district under the terms of this ordinance and would work unnecessary and undue hardship on the applicant.

Please see attached letter.

5. Only minimum variance(s) granted. That the variance(s) granted is/are the minimum variance(s) that will make possible the reasonable use of the land, building or structure.

Please see attached letter.

6. Not injurious to the public welfare. That granting of the variance(s) will be in harmony with the general intent and purpose of the land development regulations and that such variances will not be injurious to the area involved or otherwise detrimental to the public interest or welfare.

Please see attached letter.

7. Existing nonconforming uses of other property shall not be considered as the basis for approval. That no other nonconforming use of neighboring lands, structures, or buildings in the same district, and that no other permitted use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.

Please see attached letter.

The Planning Board and/or Board of Adjustment shall make factual findings regarding the following:

- That the standards established in Section 90-395 have been met by the applicant for a variance.
- That the applicant has demonstrated a "good neighbor policy" by contacting or attempting to contact all noticed property owners who have objected to the variance application, and by addressing the objections expressed by these neighbors. Please describe how you have addressed the "good neighbor policy."

REQUIRED SUBMITTALS: All of the following must be submitted in order to have a complete application. Please submit one paper copy and one electronic copy of all materials.

- ☒ Correct application fee. Check may be payable to "City of Key West."
- ☒ Notarized verification form signed by property owner or the authorized representative.
- ☒ Notarized authorization form signed by property owner, if applicant is not the owner.
- ☒ Copy of recorded warranty deed
- ☒ Property record card
- ☐ Signed and sealed survey ON FILE
- ☐ Site plan (plans MUST be signed and sealed by an Engineer or Architect) ON FILE
- ☐ Floor plans ON FILE
- ☐ Stormwater management plan ON FILE

SMITH | OROPEZA | HAWKS
ATTORNEYS AT LAW

Barton W. Smith, Esq.
bart@smithoropeza.com

VIA HAND DELIVERY

January 28, 2015

Kevin Bond, AICP, Planning Director
City of Key West Planning Department
3140 Flagler Avenue
Key West, Florida 33040

RE: Application for Parking Variance at 101 Duval Street – Boos Development, Inc.

Dear Mr. Bond,

Please allow this letter and supporting documentation to serve as the application of my client, Boos Development, Inc., (“Applicant”) for a parking variance at 101 Duval Street, Key West, Florida 33040 (“Property”) which is being filed in connection with the Minor Development Plan and Application for Variance previously submitted to you on September 8, 2014 regarding the increase of the building square footage by 1,094 square feet resulting in a new total of approximately 10,631 square feet (“Prior Development Applications”). The project consists of an existing single story retail space located on the southeast corner of Duval Street and Front Street. Per the Prior Development Applications enclosing an additional 1,094 square feet resulting in a new total of approximately 10,631 square feet. Due to such increase and in order to assist in the lack of overall general public parking areas in the historic commercial pedestrian-oriented area of the Historic District of the City of Key West, a variance for parking is needed for the following (collectively, the “Variance Items”):

- 1) Allowance to maintain the 34 parking spaces currently on the Property without requiring the additional 2 parking spaces required due to the 1,095 square foot increase (per Sec. 108.572 of the Key West, Florida Code of Ordinances, required to have 1 parking space per 300 square feet of gross floor area) ;
- 2) Allowance to maintain the parking spaces at current 8.5 foot width (per Sec 104-641, parking spaces must be 9 feet wide).
- 3) Permit a third party parking operator to charge and permit general public parking to vehicles which are not visiting the CVS store located in the building (per Sec 108-577 of the Key West, Florida Code of Ordinances, the use of a required space assigned to one use may not be assigned to another use at the same time);

This Property is a non-contributing structure within the Historic District of the City of Key West. As the Property is located within the commercial pedestrian-oriented area, the parking spaces have been historically extremely underutilized by customers of retail businesses in this area as the vast majority of its customers arrive on foot or bicycle. As such, since 1995, the parking spaces have been and are currently rented to the general public for an hourly fee by a third party parking operator and, even with such availability to the general public, the parking operator does not recall a time that all of the parking spaces have ever been filled, even when the prior tenants in the Property were in business. As such, a variance should be granted allowing the Property to maintain the current 34 space as this amount of spaces has historically been more than sufficient for the Property. Also, the variance allowing a parking operator to continue to rent spaces to the general public helps alleviate the public parking shortage in the area and will not diminish the minimal amount of parking spaces needed for CVS (which will be operating on the Property) customers as so few CVS customers will arrive by car in this area. The

variance allowing the parking spaces to remain at the current 8.5 foot width will permit the current amount of parking spaces to remain in effect.

In support thereof, the Applicant states as follows with respect to the criteria for granting the variance.

1. Existence of special conditions or circumstances. That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other land, structures, or buildings in the same zoning district.
 - a. Due to the existing layout of the parking structure of the Property, only 34 spaces, at 8.5 wide, can be accommodated at the Property.
2. Conditions not created by applicant. That the special conditions and circumstances do not result from the action or negligence of the applicant.
 - a. The condition was not created by the Applicant as the structure and parking spaces were designed and constructed previously. The Applicant is merely seeking to provide better amenities to both customers utilizing the Property as well as the general public.
3. Special privileges not conferred. That granting the variance requested will not confer upon the applicant any special privileges denied by the land development regulations to other lands, buildings or structures in the same zoning district.
 - a. Allowing the Variance items would not confer special privileges upon the Applicant. It will provide a benefit to the general public by keeping parking spaces available to the public to utilize in the downtown area. It will allow the Property to function as a retail facility while also serving as a parking area for the general parking.
4. Hardship conditions exist. That literal interpretation of the provisions of the land development regulations would deprive the applicant of rights commonly enjoyed by other properties in this same zoning district under the terms of this ordinance and would work unnecessary and undue hardship on the applicant.
 - a. The Property is located in the pedestrian corridor where people typically travel by bicycle, scooter or walk. Because the preferred methods of traveling do not involve vehicles, the pedestrian corridor permits changes of use in existing buildings to be exempted from compliance with current parking regulations. The subject property was developed in compliance with parking regulations and is well in excess of parking provided for a typical building located in the pedestrian corridor. Requiring parking spaces to be limited solely to customers of the building creates a hardship for those preferring to travel by vehicle to the downtown area. Moreover, the configuration maximizes parking spaces for the Property. To require a half foot wider spaces would reduce parking spaces available for the public, which is a detriment to the public.

5. Only minimum variance granted. That the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure.
 - a. The variance requested is the minimum variance that will make possible the continued use of the Property as a retail and parking facility.
6. Not injurious to the public welfare. That granting of the variance will be in harmony with the general intent and purpose of the land development regulations and that such variances will not be injurious to the area involved or otherwise detrimental to the public interest or welfare.
 - a. The granting of the variance will not be injurious to the area involved or detrimental to the public interest. Granting the variance of the Variance Items will benefit the public welfare by keeping additional public parking in an area that is underserved.
7. Existing nonconforming uses of other property shall not be considered as the basis for approval. That no other nonconforming uses of neighboring lands, structures, or buildings in the same district and that no other permitted use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.
 - a. The nonconformities of neighboring and surrounding properties do not have any affect or influence on this application and are not the basis for this request.

If you should have any questions, comments, or concerns, **please** do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Barton W. Smith', with a long horizontal flourish extending to the right.

Barton W. Smith, Esq.

Verification

City of Key West
Planning Department



Verification Form
(Where Authorized Representative is an entity)

I, Barton W. Smith, in my capacity as member
(print name) (print position; president, managing member)

of Smith Oropeza Hawks
(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:

101 Duval Street, Key West, Florida 33040

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.

A handwritten signature in blue ink, appearing to be "Barton W. Smith", is written over a horizontal line.

Signature of Authorized Representative

Subscribed and sworn to (or affirmed) before me on this 12/12/14 by
date

Barton W. Smith.
Name of Authorized Representative

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

A handwritten signature in blue ink, appearing to be "Madison Fallon", is written over a horizontal line.
Notary's Signature and Seal

Name of Acknowledger typed, printed or stamped

Commission Number, if any

Authorization

**City of Key West
Planning Department**



**Authorization Form
(Individual Owner)**

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

I, Sunset Plaza Benjamin Hamuy authorize
Please Print Name(s) of Owner(s) (as appears on the deed) Pres.

Boas Development Group and Smith Group
Please Print Name of Representative

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

Benjamin Hamuy
Signature of Owner

Signature of Joint/Co-owner if applicable

Subscribed and sworn to (or affirmed) before me on this 7/28/2014 by
date

Benjamin Hamuy
Name of Authorized Representative

He/She is personally known to me or has presented FL State Driver's License as identification.

[Signature]
Notary's Signature and Seal

Leo Paul Senecal
Name of Notary: typed, printed or stamped



Leo Paul Senecal
State of Florida
MY COMMISSION # FF 18540
Expires: May 15, 2017

#FF18540
Commission Number, if any

Deed

753450

REC 1228 PM 1546

1500
12,320.00
12,335.00

RETURN TO:

THIS INSTRUMENT PREPARED BY:
Craig M. Benson, Esq.
Federal Deposit Insurance Corp.
P.O. Box 725003
Orlando, FL 32872-5003
407-282-7575
Parcel #27-383100-26-5.07

FILED FOR RECORD
22 JUN -2 P314
DANNY J. HARRIS
CLERK OF COURT
MONROE COUNTY, FLA.

QUIT CLAIM DEED

THIS INSTRUMENT made this 21st day of June, 1992, by the FEDERAL DEPOSIT INSURANCE CORPORATION, as Receiver of SOUTHEAST BANK, N.A., whose address is P.O. Box 725003, Orlando, FL 32872-5003, hereinafter called the Grantor, and SUNSET PLAZA, INC., a Florida Corporation, whose tax identification number is [redacted] and whose address is 2465 East Sunrise Blvd. Suite 1000 Ft. Lauderdale, FL 33304, hereinafter called the Grantee.

When used herein, the terms "Grantor" and "Grantee", include all parties to this instrument, their heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations.

WITNESSETH: That the Grantor, for and in consideration of the sum of TEN AND 00/100THS DOLLARS (\$10.00) and other good and valuable consideration, paid by the Grantee, receipt and sufficiency hereof is hereby acknowledged, does hereby remise, release and forever quit claim unto the Grantee, its heirs and assigns, all of Grantor's right, title, and interest in and to the following described real property situated in Monroe County, State of Florida, to-wit:

SEE EXHIBIT "A" ATTACHED HERETO

THIS DEED IS WITHOUT ANY WARRANTY (WHETHER STATUTORY, EXPRESS OR IMPLIED), AND GRANTOR DOES NOT WARRANT TITLE TO THE REAL PROPERTY HEREBY CONVEYED.

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

WIT FOR ME, CLERK OF COURT, this 22nd day of June, 1992, at Ft. Lauderdale, Florida.
DANNY J. HARRIS
CLERK OF COURT
MONROE COUNTY, FLA.

753450

REC 1228 MAR 15 47

IN WITNESS WHEREOF, the Grantor has caused these presents to be signed by its Attorney-in-Fact this 29 day of Sept, 1992.

WITNESSES:

FEDERAL DEPOSIT INSURANCE
CORPORATION, as Receiver
of SOUTHEAST BANK, N.A.

Print Name: DAVID A. PENN

By: [Signature]
Name: DAVID A. PENN
Its: Attorney-in-Fact
P.O. DRAWER 725003
Orlando, FL 32872-5003

Print Name: Marilyn Knopf

STATE OF FLORIDA
COUNTY OF ORANGE

I HEREBY CERTIFY, that on this 29 day of Sept, 1992, before me personally appeared FEDERAL DEPOSIT INSURANCE CORPORATION, as Receiver of SOUTHEAST BANK, N.A., by DAVID WATSON its Attorney-in-Fact, to me known personally or has produced as identification and did take an oath, and acknowledged the execution thereof to be his/her free act and deed for the uses and purposes therein mentioned.

WITNESSED my signature and official seal at Orlando, Florida in the County of Orange.

Marilyn Knopf
NOTARY PUBLIC
Name: Marilyn Knopf
My Commission Expires:

(NOTARIAL SEAL)
NOTARY PUBLIC STATE OF FLORIDA AT LARGE
MY COMMISSION EXPIRES APRIL 24, 1994
SUNSET TRUST ADMIN AGENCY P.A.



sunset.dca

753450

REC 1228 PAGE 548

EXHIBIT "A"

On the Island of Key West and known as a part of Lots Two (2) and Three (3) in Square Seven (7), according to William A. Mitchell's Map of said Island, delineated in February, A.D. 1825, said parcel being further described by meter and bounds as follows:

Beginning at the intersection of the Northeasterly right-of-way boundary line of Rural Street with the Northeasterly right-of-way boundary line of Town Street and running thence in a Northeasterly direction along the said right-of-way line of Town Street for a distance of 140.0 feet to a point; thence at right angles in a Southeasterly direction for a distance of 140.0 feet to a point; thence at right angles in a Southeasterly direction for a distance of 16.6 feet to a point; thence at right angles in a Northeasterly direction for a distance of 22.0 feet to a point; thence at right angles in a Southeasterly direction for a distance of 26.3 feet to a point; thence at right angles in a Northeasterly direction for a distance of 0.75 of a foot to a point; thence at right angles in a Southeasterly direction for a distance of 7.42 feet to a point; thence at right angles in a Northeasterly direction for a distance of 19.33 feet to a point; thence at right angles in a Southeasterly direction for a distance of 30.25 feet to a point; thence at right angles in a Southeasterly direction for a distance of 1.13 feet to a point; thence at right angles in a Southeasterly direction for a distance of 11.02 feet to the said right-of-way line of Rural Street; thence at right angles in a Northeasterly direction along the said right-of-way line of Rural Street for a distance of 117.00 feet back to the Point of Beginning.

Referenced to Official Records from
in Monroe County, Florida.
Record Verified
DAVID L. KOSMOSZ
Clerk Circuit Court

Property Appraiser Information



Scott P. Russell, CFA
Property Appraiser
Monroe County, Florida

Key West (305) 292-3420
Marathon (305) 289-2550
Plantation Key (305) 852-7130

Property Record Card -

Maps are now launching the new map application version.

Website tested on IE8,
IE9, & Firefox.
Requires Adobe Flash
10.3 or higher

Alternate Key: 1000469 Parcel ID: 00000470-000000

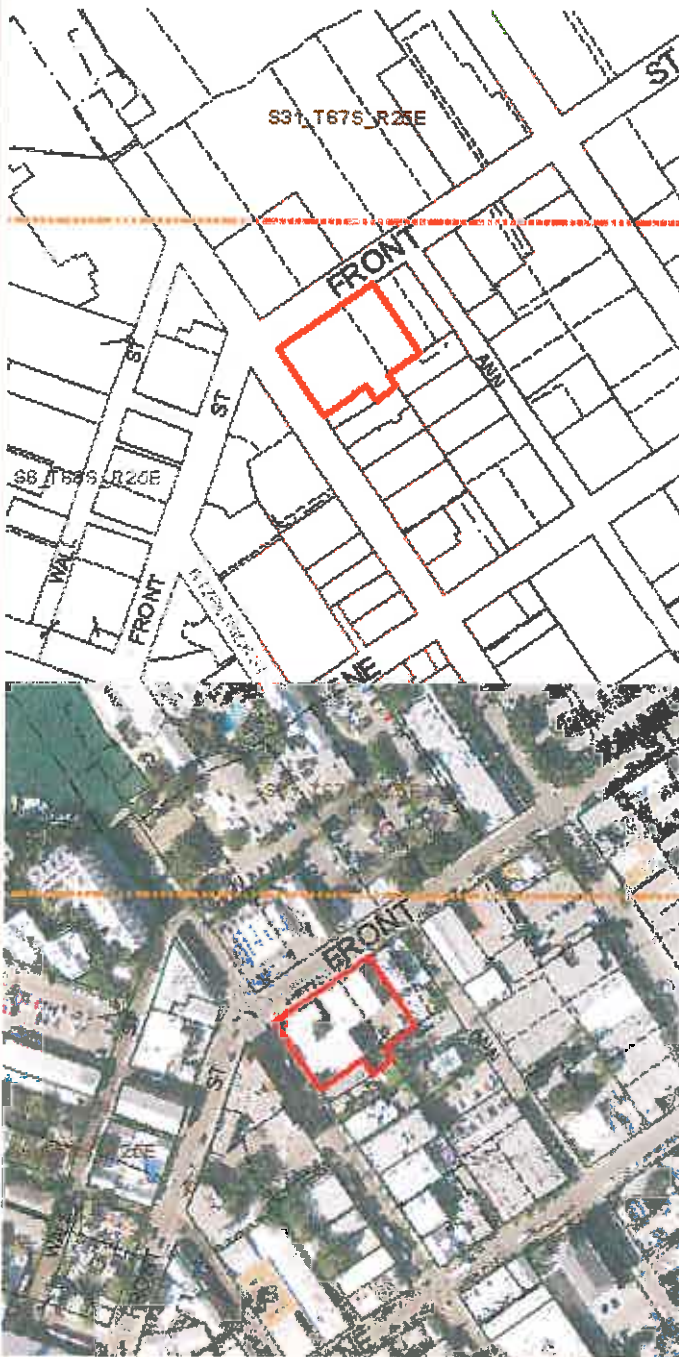
Ownership Details

Mailing Address:
SUNSET PLAZA INC
C/O HAMUY
PO BOX 1268
HALLANDALE, FL 33008-1268

Property Details

PC Code: 16 - COMMUNITY SHOPPING CENTERS
Millage Group: 10KW
Affordable Housing: No
Section-Township-Range: 06-68-25
Property Location: 101 DUVAL ST KEY WEST
Legal Description: KW PT LOTS 2 AND 3 SQR 7 G61-81/85 OR294-104/06 OR658-276/77E OR1228-1546/48 OR1288-1319/21C

[Click Map Image to open interactive viewer](#)



Land Details

Land Use Code	Frontage	Depth	Land Area
100D - COMMERCIAL DRY	119	172	20,952.00 SF

Building Summary

Number of Buildings: 1
Number of Commercial Buildings: 1

Total Living Area: 10242
Year Built: 1994

Building 1 Details

Building Type
Effective Age 13
Year Built 1994
Functional Obs 0

Condition G
Perimeter 661
Special Arch 0
Economic Obs 0

Quality Grade 500
Depreciation % 15
Grnd Floor Area 10,242

Inclusions:

Roof Type
Heat 1
Heat Src 1

Roof Cover
Heat 2
Heat Src 2

Foundation
Bedrooms 0

Extra Features:

2 Fix Bath 20
3 Fix Bath 0
4 Fix Bath 0
5 Fix Bath 0
6 Fix Bath 0
7 Fix Bath 0
Extra Fix 24

Vacuum 0
Garbage Disposal 0
Compactor 0
Security 1
Intercom 0
Fireplaces 0
Dishwasher 0



Sections:

Nbr	Type	Ext Wall	# Stories	Year Built	Attic A/C	Basement %	Finished Basement %	Area
1	OPF		1	1994				131
2	OPF		1	1994				19
3	FLA		1	1994	Y			10,242
4	OPX		1	1994				458
5	OUU		1	1994				803
6	OPF		1	1994				19