

EXHIBIT C

IN THE CIRCUIT COURT OF THE SIXTEENTH JUDICIAL CIRCUIT
IN AND FOR MONROE COUNTY, FLORIDA

ROBERT COBB; MELISSA
ALLISON COBB; ANNE ABIGAIL
COBB; AND RONALD HECK,

Case No.: 2014-001134

Plaintiffs,

v.

RICHARD WALKER, and THE CITY
OF KEY WEST, FLORIDA, a municipal
corporation of the State of Florida,

Defendants.

12-29-14 10:35AM

[Signature]
GUS MERKLE
MCSO #338

SUMMONS

TO: RICHARD WALKER
2407 North Roosevelt Blvd.
Key West, FL 33040

Answer Due
19 Jan. 2015

IMPORTANT

A lawsuit has been filed against you. You have 20 calendar days after this summons is served on you to file a written response to the attached Complaint in this Court. A phone call will not protect you; your written response, including the above case number and named parties, must be filed if you want the Court to hear your case. If you do not file your response on time, you may lose the case, and your wages, money, and property may thereafter be taken without further warning from the Court. There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may call an attorney referral service or a legal aid office (listed in the phone book).

If you choose to file a written response yourself, at the same time you file your written response to the Court you must also mail or take a carbon copy or photocopy of your written response to the Plaintiff's Attorney, whose name and address is Mayanne Downs, Counsel for Plaintiff, GrayRobinson, P.A., 301 E. Pine Street, Suite 1400, P.O. Box 3068, Orlando, Florida 32802-3068.

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THE STATE OF FLORIDA:
TO EACH SHERIFF OF THE STATE:

YOU ARE COMMANDED to serve this Summons and a copy of the Complaint in this lawsuit on the above named Defendant. 12/22/14

AMY HEAVILIN
CLERK OF THE CIRCUIT COURT

By: 
Deputy Clerk

In accordance with the Americans With Disabilities Act, if you are a person with a disability who needs any accommodation to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact Cheryl Alfonso, 302 Fleming Street, Key West, Florida 33040, telephone (305) 292-3423, at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days. If you are hearing impaired, call (TDD) 1-800-955-8771, or if you are voice impaired, call (V) 1-800-955-8770, via Florida Relay Service.

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IMPORTANTE

Usted ha sido demandado legalmente. Tiene veinte (20) dias, contados a partir del recibo de esta notificacion, para contestar la demanda adjunta, por escrito, y presentarla ante este tribunal. Una llamada telefonica no lo protegera; si usted desea que el tribunal considere su defensa, debe presentar su respuesta por escrito, incluyendo el numero del caso y los nombres de las partes interesadas en dicho caso. Si usted no contesta la demanda a tiempo, podria perder el caso y podria ser despojado de sus ingresos y propiedades, o privado de sus derechos, sin previo aviso del tribunal. Existen otros requisitos legales. Si lo desea, puede usted consultar a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a una de las oficinas de asistencia legal que aparecen en la guia telefonica.

Si desea responder a la demanda por su cuenta, al mismo tiempo en que presenta su respuesta ante el tribunal, debera usted enviar por correo o entregar una copia de su respuesta a la persona denominada abajo como "Plaintiff/Plaintiff's Attorney." (Demandante o Abogado del Demandante).

IMPORTANT

Des poursuites judiciaires ont ete entreprises contre vous. Vous avez 20 jours consecutifs a partir de la date de l'assignation de cette citation pour depoter une reponse ecrite a la plainte ci-jointe aupres de ce Tribunal. Un simple coup de telephone est insuffisant pour vous proteger; vous etes oblige de depoter votre reponse ecrite, avec mention du numero de dossier ci-dessus et du nom des parties nommees ici, si vous souhaitez que le Tribunal entende votre cause. Si vous ne deposez pas votre reponse ecrite dans le delai requis, vous risquez de perdre la cause ainsi que votre salaire, votre argent, et vos biens peuvent etre saisis par la suite, sans aucun preavis ulterieur du Tribunal. Il y a d'autres obligations juridiques et vous pouvez requerir les services immediats d'un avocat. Si vous ne connaissez pas d'avocat, vous pourriez telephoner a un service de reference d'avocats ou a un bureau d'assistance juridique (figurant a l'annuaire de telephones).

Si vous choisissez de depoter vous-meme une response ecrite, il vous faudra egalement, en meme temps que cette formalite, faire parvenir ou expedier une copie au carbone ou une photocopie de votre reponse ecrite au "Plaintiff/Plaintiff's Attorney" (Plaignant ou a son avocat) nomme ci-dessous.

Mayanne Downs
Plaintiff's Attorney
GrayRobinson, P.A.
301 E. Pine Street, Suite 1400
P.O. Box 3068
Orlando, FL 32802-3068

IN THE CIRCUIT COURT OF THE SIXTEENTH JUDICIAL CIRCUIT
IN AND FOR MONROE COUNTY, FLORIDA

ROBERT COBB; MELISSA
ALLISON COBB; ANNE ABIGAIL
COBB; AND RONALD HECK,

Case No.:

Plaintiffs,

v.

RICHARD WALKER, and THE CITY
OF KEY WEST, FLORIDA, a municipal
corporation of the State of Florida,

Defendants.

**COMPLAINT FOR DECLARATORY RELIEF
AND INJUNCTIVE RELIEF**

Plaintiffs, Robert Cobb ("R. Cobb"), Melissa Allison Cobb ("M. Cobb"),
Anne Abigail Cobb ("A. Cobb") and Ronald Heck ("Heck") (collectively
"Plaintiffs"), hereby sue Defendants, Richard Walker ("Walker") and the City of
Key West, Florida (the "City"), for declaratory and injunctive relief, and state:

Summary

1. By obtaining approvals to develop and build a 74-berth commercial
marina within an environmentally-sensitive conservation area surrounded by
mangroves, Walker has demanded and obtained land use approvals that violate the
City's Comprehensive Plan.

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2. The City's Land Development Regulations ("LDRs") and Comprehensive Plan prohibit commercial and marina activity within conservation areas. Instead of following the City's policy and duty to protect this sensitive land, Walker is attempting to engage in a noxious and harmful use.

3. Walker's new use is inconsistent with the City's conservation goals and responsibilities. Collectively, the Florida Keys have made significant efforts to protect environmentally sensitive areas. Throughout the Florida Keys are established conservation museums, wildlife shelters and hospitals, wildlife refuges, and preservation areas. The City alone is home to the Key West National Wildlife Refuge, the Great White Heron National Wildlife Refuge, the West Martello and Key West Garden Club preservation museum, the Key West Tropical Forest and Botanical Garden, and the Florida Keys Eco-Discovery Center.

4. The City has recognized the importance of protecting its biodiversity and the ecosystems that provide its organisms with a climate within which to thrive. The City has adopted a strong policy of conservation, which is reflected in the City's Comprehensive Plan and in the LDRs, which were adopted to enforce the Plan. As part of its LDRs, the City has designated certain areas as conservation and prohibited developing commercial activity within those areas.

5. Yet, Walker recently demanded and obtained land use approvals to develop a 74-berth marina in an area zoned as "Conservation - Outstanding Waters

of the State,” which he received (“Walker’s Marina”). This activity is prohibited by the Plan, the LDRs, and Florida law. Accordingly, Plaintiffs are entitled to a judgment declaring Walker’s Marina is improper and enjoining this noxious and inconsistent use.

General Allegations

6. This is an action pursuant to Section 163.3215, *Florida Statutes*, to challenge the consistency of a development order rendered by the City with the City’s Comprehensive Plan, which the City adopted pursuant to Chapter 163, *Florida Statutes*.

7. Pursuant to Section 163.3215(5), venue is proper in Monroe County, Florida, because the City’s actions giving rise to these causes of action occurred in Monroe County, Florida.

8. The City is a municipal corporation organized and existing under the laws of the State of Florida.

9. Heck, R. Cobb, M. Cobb, and A. Cobb are the owners of the real property located at 2409 North Roosevelt Boulevard, Key West, Monroe County, Florida (Parcel Number 00002280-000101, Alternate Key Number 8890621) (“Plaintiffs’ Property”).

10. Walker is the owner of the real property located at 2407 North Roosevelt Boulevard, Key West, Monroe County, Florida (Parcel Number

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00002280-000100, Alternate Key Number 8890613) ("Walker's Property").

11. Plaintiffs' Property is immediately adjacent to and surrounded by Walker's Property as depicted below where the small blue area denotes Plaintiffs' Property, and the larger blue area denotes Walker's Property:



12. Plaintiffs' Property is literally in the middle of Walker's proposed project, and Plaintiffs' Property will be specially damaged by Walker's proposed marina.

13. Plaintiffs' interest in ensuring compliance with the Comprehensive Plan in this case exceeds in degree and kind the general interest the community shares. Specifically, Plaintiffs' proximity to the project will heighten the adverse effects caused by a commercial marina including but not limited to noise, wake, pollution, sewage, prevention of land use and enjoyment, and environmental harms and disruptions.

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14. Plaintiffs have standing to maintain this lawsuit under Chapter 163, *Florida Statutes*, because they are aggrieved and adversely affected parties. Plaintiffs will suffer an adverse effect to interests protected and furthered by the Plan. Plaintiffs are especially affected by Defendants' actions because Plaintiffs' Property is located within the new construction zone.

Walker's Property

15. Walker's Property is zoned "Conservation – Outstanding Waters of the State."

16. Walker's Property has a future land use designation of Conservation.

17. Walker's Property is surrounded by mangroves, which are a highly protected class of coastal trees and shrubs.

18. Walker's Property is situated adjacent to the Gulf of Mexico (Outstanding Florida Waters).

19. Walker's Property is within the Florida Keys National Marine Sanctuary, and in close proximity to the Great White Heron National Wildlife Refuge.

The Resolution to Build an Illegal Marina Within Conservation Lands

20. In or around November of 2013, Walker filed an application with the City seeking approval of a major commercial development plan and conditional

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use to build a seventy-nine (79) berth marina within Walker's Property ("Walker's Application").

21. Walker's Application describes the proposed development and use as "dockage with 79 berths," but Walker is actually seeking to establish a marina.

22. The City's Planning Board and the City Commission held hearings on Walker's Application on August 21, 2014, and October 21, 2014, respectively.

23. The City's Planning Board passed Resolution Number 2014-48 approving the marina, which thereafter went before the City Commission. A true and correct copy of Resolution 2014-48 is attached hereto as Exhibit "A."

24. As reflected in the plans attached to Resolution 2014-48, Walker referred to the 79 berth project as a marina in a diagram entitled "Marina" and noting the "Marina Location" on the diagram.

25. During the hearings before the City Planning Board and City Commission, the City, the Planning Board, and Owen Trepanier (Walker's representative) referred to this proposed use as a "marina" no less than twenty-one (21) separate times.

26. For example, Planning Director Don Craig testified that Walker's Application seeks "to construct a 79 berth marina in the conservation and open water zoning district."

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27. Owen Trepanier testified that Walker's Application was designed "to create what is now what we propose is a 79 slip small boat marina" He further testified that the proposed use is "literally a small boat marina."

28. On November 17, 2014, the City passed Resolution 2014-316, approving Walker's Application. A true and correct copy of Resolution 2014-316 (the "Resolution") is attached hereto as Exhibit "B."

29. Resolution constitutes a "development order" within the meaning set forth in Sections 163.3215(4) and 163.3164(15), (16), *Florida Statutes*, because it is an order granting an application for a development permit, which materially alters the use and intensity of use on the Walker Property.

30. Attached to the Resolution is a diagram illustrating the proposed use as the "Walker Marina."

31. As part of the approval, Walker had to meet certain conditions, including obtaining and retaining a "clean *marina* designation" for his development.

32. The Resolution was approved pursuant to Section 108-91.B.2.(c) of the LDRs.¹

33. Section 108-91.B.2.(c) requires that applicants submit major redevelopment plans for *commercial* land uses.

¹ All Section references contained herein are to the LDRs.

34. Walker was also required to meet the parking requirements for marinas outlined in Section 108-575(6).

35. Under Section 86-9, a "Marina means a *commercial* establishment providing for the docking, storage, and servicing of watercraft, including dispensing of motor fuel." (emphasis added).

36. By obtaining a clean marina designation and receiving approval of Walker's Application under Sections 108-575(6) and 108-91.B.2.(c), Walker obtained authorization to construct a marina.

37. Although Walker thinly veiled his intent to build a marina by characterizing it as "dockage," the testimony at the hearings shows that Walker's Application sought to build a marina, which is exactly what Walker obtained.

The Comprehensive Plan and LDRs

38. In response to the requirements of the Local Government Comprehensive Planning and Land Development Regulation Act as codified in Chapter 163, *Florida Statutes*, the City adopted a Comprehensive Plan (the "Plan").

39. To implement the Plan, the City established the LDRs.

40. Section 86-3 of the LDRs reads "The purpose of the land development regulations is to assist implementation of the city's comprehensive plan. More

specifically the land development regulations are intended to carry out comprehensive plan policies concerned with land use”

41. Per Section 86-4, the City adopted the LDRs “to assist in carrying out the desired general policies of the comprehensive plan for managing the use of land and water within the city” and mandated that the LDRs “shall remain consistent with the comprehensive plan.”

42. Per Section 86-7, the LDRs are “minimum” requirements to comply with the Plan and other regulations, and if there is a variance, the most restrictive standard applies.

The Plan Aims to Conserve Walker’s Property.

43. The Plan and LDRs reflect an intent to protect the City’s environmentally-sensitive areas, including its mangroves, from noxious activities like this proposed marina.

44. To accomplish these goals, the Plan and LDRs specifically preclude developing a marina within conservation areas.

45. The Plan and LDRs also contain numerous provisions designed to further the City’s intent to protect its natural habitats.

46. The Plan defines the word “shall” as “that which is obligatory or necessary” and “when used in Land Development Regulation, the directive is mandatory.”

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47. Section 110-186(1)c provides that "New marinas shall not be allowed in or immediately adjacent to the following sensitive areas: . . . Outstanding Florida Waters . . . [and] Marine sanctuaries."

48. Walker's property is adjacent to Outstanding Florida Waters.

49. Objective 6-1.8 of the Plan reads "The City shall continue to enforce Land Development Regulations which include performance criteria which prevent disturbance of . . . mangroves . . . and other habitats of endangered or threatened species."

50. Under Objective 6-1.9 of the Plan, "The City shall continue to enforce Land Development Regulations which ensure that designated conservation land resources, are protected"

51. Objective 6-1.9 further provides, "All conservation land resources shall either remain undeveloped or shall undergo 'restricted development.'"

52. Objective 5-1.1 of the Plan requires enforcement of the "Land Development Regulations including performance standards designed to protect, conserve, and enhance coastal resources wetlands [This includes] [p]reventing potentially adverse impacts of development and redevelopment on wetlands . . . and other natural resources."

53. The Plan's Policy 5-1.1.4 provides "The City shall continue to enforce Land Development Regulations which include performance criteria which shall

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regulate against adverse impacts of development on . . . coastal nontidal wetland habitats [T]hese areas are sensitive to . . . other forms of pollution”

54. Policy 5-1.2.2.5e seeks to protect all grass beds and other submerged habitat deemed valuable by the State.

55. The LDRs seek to implement the Plan’s policies for preserving areas designated conservation, and to provide for the long-term preservation of environmentally sensitive natural resources, such as the mangroves on Walker’s Property.

56. The Plan dictates enforcement of the LDRs on conservation are mandatory.

57. Section 122-126 provides that “the purpose of this division is to implement the comprehensive plan policies for preserving areas designated ‘conservation’ on the comprehensive plan future land use map.”

58. Section 122-128 mandates that any “development within the conservation district shall be by conditional use due to the environmental sensitivity of lands within the conservation district.”

59. Only a limited number of activities are permitted within conservation areas as set forth in Section 122-129.

60. A marina is not among the list of permitted activities set forth in Section 122-129 for conservation areas.

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61. Pursuant to Section 122-130, "All uses not specifically or provisionally provided for in this division are prohibited in the conservation district."

62. Since a marina is not among the list of potential permitted uses for conservation areas, the use is prohibited.

63. As an intense use, the LDRs specifically provide in Section 122-418(18) that marinas have the potential to be granted a conditional use permit in the general commercial ("CG") district.

64. Section 122-417 lists the uses that are permitted outright – with no need for a conditional use permit – in the City's CG district.

65. Marinas are not even permitted outright in the City's CG district under Section 122-417.

66. Under Section 122-1111(a)'s "Table of land use by Districts," which "stipulates the permitted and conditional uses by district," Marinas are only permitted in CG, HRCC-1, HRCC-2, HPS, and PS zones as potential conditional uses.

67. The Table illustrates marinas are not permitted as either an outright use or a potential conditional use in areas designated conservation.

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68. Regarding conservation areas, the Table notes that “[d]evelopment within the conservation (C) district is substantially restricted pursuant to division 2 of article IV of this 122.”

Walker’s Marina is Inconsistent with the Plan.

69. Walker’s Marina violates the requirements of the LDRs, the Plan, and Florida law.

70. Without regard for the LDRs’ *minimum* requirements, Walker obtained permission to conduct disruptive commercial activity within a conservation area.

71. There is hardly a more disruptive and noxious use of this conservation land than developing a 74 berth commercial marina.

72. New boat traffic and pollution from up to seventy-four (74) boats a day will accompany Walker’s Marina in this once protected area.

73. The City of Key West Planning Board Staff Report, dated August 21, 2014 (the “August Staff Report”), indicated that “when fully utilized a 79 slip² marina will create significantly more solid waste on a daily basis than a commercial facility with one employee.” The August Staff Report showed that “a conservative estimate would be peak day usage of $0.25 \times 79 \times 6.37\text{lbs}$ per day = 125lbs/peak day.”

² During the application process, the number of berths was reduced from 79 to 74.

74. This marina, and the increase of pollution that will accompany it, does not conform with the Plan's intent to "prevent disturbance of . . . mangroves," which border this entire proposed marina.

75. Nor does Walker's Marina further the City's objective to "protect, conserve, and enhance" these mangroves.

76. The operation of a marina within an area zoned "Conservation - Outstanding Waters of the State" is not within the spirit or the requirements of the Plan, the LDRs, or Florida law.

77. This new commercial activity is inconsistent with the Plan, the LDRs, and Florida law.

Walker's Marina is Inconsistent with Mandated Parking Requirements.

78. Policy 1-1.3.2 of the Plan provides that the LDRs "shall address issues surrounding . . . Off-street parking as well as safe and convenient systems of vehicular, bicycle, and pedestrian circulation."

79. Under Policy 1-1.9.2, "The City shall continue to ensure that during the development review process the City shall enforce qualitative and quantitative performance criteria consistent with the Comprehensive Plan policies governing . . . convenient on-site traffic flow and vehicle parking" "Furthermore, the City shall require maintenance and continuing adherence to these standards."

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80. Policy 1-1.9.3 also provides, "The following performance standards shall be maintained and enforced in the Land Development Regulations and shall reflect best management principles and practices. Plan review functions shall be carried out by the Planning Department, the City Engineer, and other designated City officials . . . [and they will] Provide criteria for off-street parking"

81. Besides the marina, Walker's Property has other uses, including two residential units and doctors' offices.

82. Even before the marina was approved, Walker's Property had insufficient parking for these uses. However, Walker's Property was grandfathered in for its then-existing use.

83. Pursuant to Section 108-575(5), once Walker obtained approval for his marina, which substantially changed the use of Walker's Property, the Plan and LDRs required that Walker comply with current parking regulations for all uses on the property.

84. With the addition of the marina, Walker must provide sufficient parking for the marina, residences, doctors' offices, and any other uses on the property.

85. When Walker submitted his application for the marina, he represented his property had only 12 on-site parking spaces, and 8 non-exclusive, shared parking spaces.

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86. In an effort to obtain sufficient parking, Walker arranged for an easement with the property referenced as Fairfield Inn (the "Inn") during the application process to use 57 of the Inn's parking spaces. However, the use of these spaces were not exclusive.

87. Ultimately, Walker only secured an exclusive easement for 20 parking spaces from the Inn.

88. Under the LDRs, including Section 108-577, the required parking spaces for any number of separate uses may be combined, but the required spaces assigned to one use may not be assigned to another use at the same time.

89. The Inn easement appears to impermissibly drop the Inn's parking below the minimum LDR requirements.

90. Even counting the 20 parking spots provided by the Inn, Walker is still below the minimum parking required for the uses on Walker's property.

91. The Resolution is inconsistent with the Plan and LDRs because the Resolution ignored the City's parking requirements.

Count I – Action for Declaratory Relief

92. Plaintiffs reallege paragraphs 1 through 91 as if fully set forth herein.

93. This is an action for declaratory relief seeking to establish the Resolution is inconsistent with the Plan.

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94. The Plan, the LDRs, and Florida law created a clear legal duty in the City to protect areas zoned as conservation, such as Walker's Property, and to prevent harmful uses of those areas.

95. In securing the Resolution, Walker has improperly obtained authorization to construct a marina within Walker's Property, an area zoned as "Conservation - Outstanding Waters of the State."

96. This marina is a noxious and illegal use of this conservation area, which is inconsistent with the Plan, the LDRs, and Florida law.

97. The Plan and LDRs also require Walker and the Inn to maintain sufficient parking.

98. The new traffic brought to and around Walker's Property will expose these conservation lands to more pollution, which is inconsistent with the Plan's and the LDRs' conservation goals.

99. Plaintiffs are entitled to a declaratory judgment against Defendants establishing the Resolution is void as inconsistent with the Plan, the LDRs, and Florida law.

WHEREFORE, Plaintiffs request this Court enter final judgment against Defendants declaring the Resolution is void, and granting any further relief this Court deems just and proper.

Count II – Action for Temporary and Permanent Injunctive Relief

100. Plaintiffs reallege paragraphs 1 through 91 as if fully set forth herein.

101. The Plan, the LDRs, and Florida law created a clear legal duty in the City to protect areas zoned as conservation, such as Walker's Property, and to prevent harmful uses of those areas.

102. As owners of Plaintiffs' Property, Plaintiffs have a clear legal right to the use and enjoyment of Plaintiffs' Property consistent with the Plan, the LDR, and Florida law.

103. The Plan, the LDRs, and Florida law prohibit the noxious and illegal marina around Plaintiffs' Property.

104. The Resolution that Walker obtained violates the Plan, the LDRs, Florida law, and Plaintiffs' right to the use and enjoyment of Plaintiffs' Property.

105. The Resolution that Walker obtained further violates the Plan, the LDRs, and Florida law by ignoring the mandated parking requirements.

106. There is no adequate remedy at law that will provide Plaintiffs the relief they are entitled to receive.

107. Injunctive relief is necessary to prevent an irreparable injury.

108. It is in the public's best interest to enjoin uses that are contrary to the Plan, the LDRs, and Florida law.

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WHEREFORE, Plaintiffs request this Court enjoin Defendants from engaging in construction activities within Walker's Property, including enjoining Defendants from constructing any docks, any berths, or a marina, and granting any further relief this Court deems just and proper.

Respectfully submitted this 17th day of December, 2014.

/s/ Mayanne Downs

Mayanne Downs

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Attorneys for Plaintiffs

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PLANNING BOARD RESOLUTION NUMBER 2014-48

APPROVAL FOR A MAJOR DEVELOPMENT PLAN AND
CONDITIONAL USE FOR THE CONSTRUCTION OF A
DOCK SYSTEM WITH 79 BERTHS AT PROPERTY
LOCATED AT 2407 NORTH ROOSEVELT BOULEVARD
(RE# 00002280-000100, AK# 8890613) LOCATED IN THE
OUTSTANDING WATERS OF THE STATE (C-OW) ZONING
DISTRICT PURSUANT TO SECTION 108-91(B.) (2.) C. OF
THE LAND DEVELOPMENT REGULATIONS OF THE CODE
OF ORDINANCES OF THE CITY OF KEY WEST, FLORIDA.

WHEREAS, the subject property is located in the Outstanding Waters of the State (C-OW)
zoning district; and

WHEREAS, Section 108-91 of the Code of Ordinances provides that outside the Historic
District a Major Development Plan is required for addition of outdoor commercial activity consisting
of restaurant seating, outdoor commercial storage, active recreation, outdoor sales area or similar
activities equal to or greater than 5,000 square feet; and

WHEREAS, the applicant proposed a construction of a dock system with 79 berths; and

WHEREAS, Section 108-196(a) requires the Planning Board to review and approve,
approve with conditions, or deny the proposed Major Development Plan; and

WHEREAS, this matter came before the Planning Board at a duly noticed public hearing on
August 21, 2014; and

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Resolution Number 2014-48

RWK Chairman

Q Planning Director

EXHIBIT "A"

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WHEREAS, the granting of a Major Development Plan application is consistent with the criteria of the Code of Ordinances; and

WHEREAS, the granting of a Major Development application is 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 if fully set forth herein.

Section 2. An approval by Resolution of the Key West Planning Board for Major Development Plan and Conditional Use to allow the construction of a dock system with 79 berths, as shown in the attached plans dated September 8, 2013 on property located at 2407 North Roosevelt Boulevard (RE# 00002280-000100, AK# 8890613) with the following conditions of approval:

Conditions to be completed prior to the issuance of a building permit:

1. The Applicant receives all necessary permits from relevant State and Federal Agencies.
2. In addition to the existing on-site parking the Applicant shall make available twenty (20) exclusive parking spaces for use in association with the proposed development. Confirmation that said additional parking spaces are available for the proposed development shall be presented to the Planning Department prior to the issuance of any building permit, land clearing permit, or any permit required for physical furtherance of the proposed development. The City of Key West Attorney shall review any parking easement agreement between applicant and any property



 Chairman
 Planning Director

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owner which is in furtherance of the above stated to insure compliance with City of Key West Code Sec. 108-576(a).

3. If the construction project exceeds \$500,000, the Applicant shall obtain approval of a Public Art Plan from the AIPP Board, pursuant to City Code Section 2-487, and may include payment of an in-lieu fee.
4. The Applicant shall obtain the proper permits for any trimming of mangroves during construction of the project.

Conditions to be completed prior to the issuance of a Certificate of Occupancy:

5. On-site artwork shall be installed and inspected by the City pursuant to Section 2-487.
6. The Applicant coordinates with the U.S. Coast Guard to provide and maintain navigational markers from the docking basin to open water.
7. All lighting complies with "dark sky" or equivalent program on the docks themselves.
8. The Applicant will provide sewage pump-out facilities for all boats, with pump-out facility accessible 24 hours a day to all vessels of any length.
9. The Applicant shall provide the parking lot landscaping required by LDR Section 108-414(b) as evidenced by a landscape plan prepared by a licensed landscape architect and reflective of the conceptual design contained in the email to the Planning Department on July 8, 2014.
10. The onsite parking lot shall be striped and the driveway to said parking stalls, appropriately marked.
11. The clear site triangle for the accessory to North Roosevelt Boulevard shall be maintained clear of obstruction as per City Code.
12. The Applicant shall install the hose cabinets, standpipes and other fire suppression and alarms as required by the City Fire Marshall.
13. The parking lot on site shall be restriped to provide standard size stalls required by City Code, including two handicapped stalls.
14. There shall be no other commercial use of the marina area or parking lot, nor shall the development plan or conditional use authorize the change of the existing legally non-conforming uses to any other commercial use.
15. There shall be no boat storage of any kind on the upland portions of the site inclusive of the parking lot.
16. The Applicant shall provide a fire department Hammerhead turn-around as required by code.
17. The Applicant shall provide a letter from structural engineer determining the hammerhead access road in close proximity of the water line can safely handle the total weight of our fire department trucks.
18. The Applicant shall provide a secondary emergency egress walkway for emergency purposes only, approved location and specifications are addressed in the Fire Access Site Plan (Sheet Number: C-7.0).



 Chairman
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Conditions subject to a Conditional Approval Permit, per Ordinance 10-22 subject to an associated annual inspection:

19. The applicant maintains a Florida Department of Environmental Protection Clean Marina Designation.
20. There shall be no use of the marina for charter boats of any kind, including active or passive docking of charter vessels.
21. There shall be no boat ramp, or automobile or hoist assisted boat launching of any type.
22. There shall be no storage of boat trailers on any part of the site, nor in any of the parking spaces on site, or in leased areas.
23. No vessel longer than thirty (30) feet, nor any vessel with a draft of more than three (3) feet shall be docked, or allowed to use the marina.

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 Major Development Plan and Conditional Use application approval by the Planning Board does not constitute a finding as to ownership or right to possession of the property, and assumes, without finding, the correctness of the 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

RWK Chairman
DC Planning Director

EXHIBIT C

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.

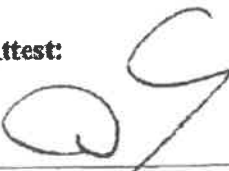
Read and passed on first reading at a regularly scheduled meeting held this 21st day of August, 2014.

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


Richard Klitenick, Chairman
Key West Planning Board

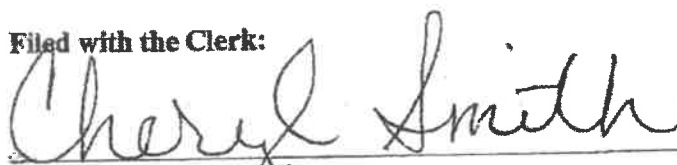
8-25-2014
Date

Attest:


Donald Leland Craig, AICP
Planning Director

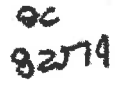
8-25-14
Date

Filed with the Clerk:


Cheryl Smith, City Clerk

8-26-14
Date

Chairman
 Planning Director



[illegible]

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8/25/14

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EXHIBIT C

RESOLUTION NO. 14-316

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, GRANTING MAJOR DEVELOPMENT PLAN, CONDITIONAL USE AND LANDSCAPE WAIVER APPROVALS PURSUANT TO SECTION 108-91.B.2.(c) OF THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES OF THE CITY OF KEY WEST, FLORIDA TO CONSTRUCT DOCKAGE WITH 79 BERTHS ON PROPERTY LOCATED AT 2407 NORTH ROOSEVELT BOULEVARD (RE #00002280-000100, AK #8890613) IN THE OUTSTANDING WATERS OF THE STATE (C-OW) ZONING DISTRICT; PROVIDING CONDITIONS; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Section 108-91 of the Code of Ordinances (the "Code") of the City of Key West, Florida (the "City") requires that outside of the Historic District a Major Development Plan is required for addition of outdoor commercial activity consisting of restaurant seating, outdoor commercial storage, active recreation, outdoor sales area or similar activities equal to or greater than 5,000 square feet; and

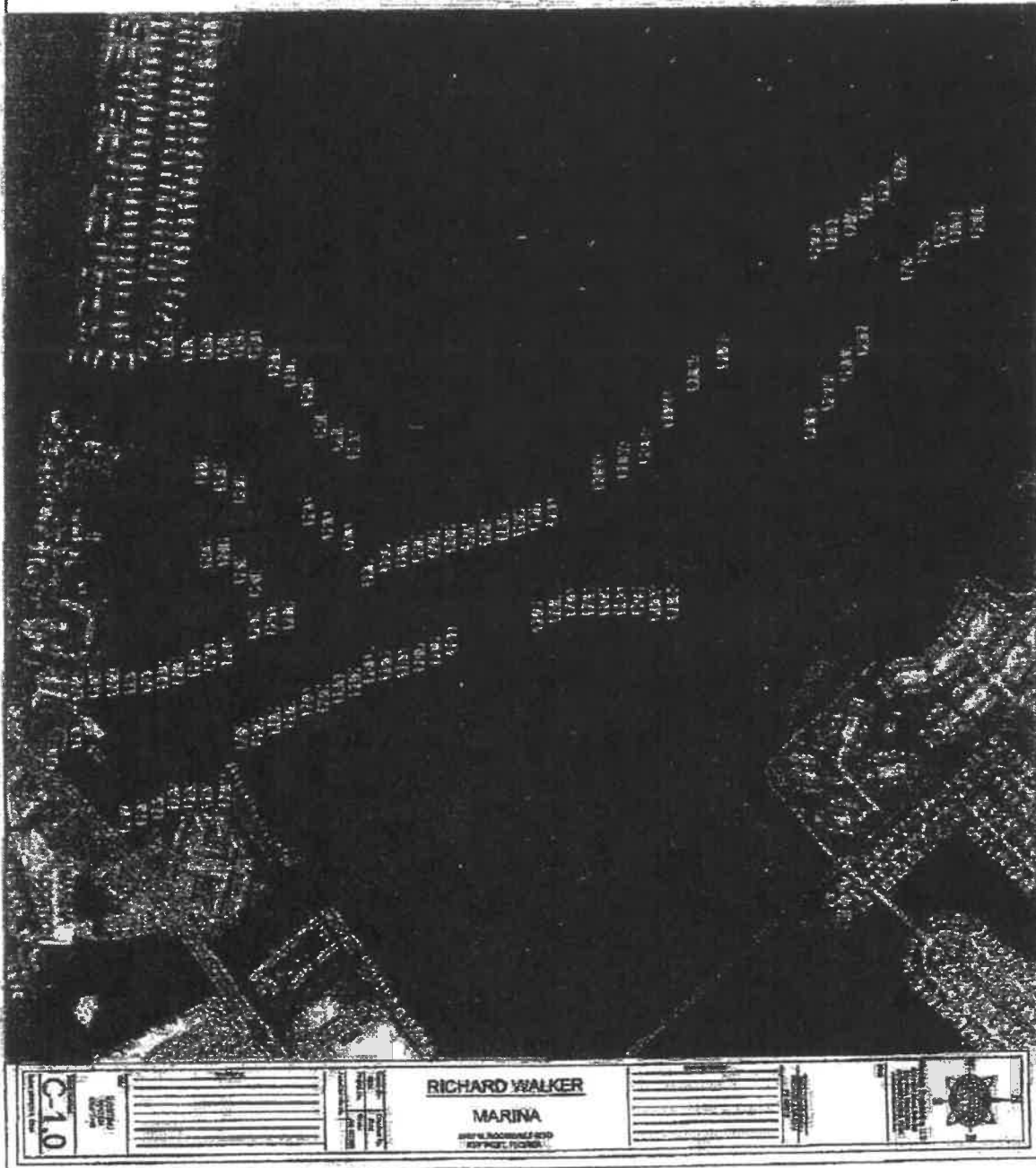
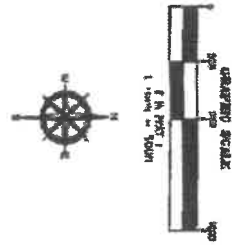
WHEREAS, the applicant proposed construction of a dock system with 79 berths; and

WHEREAS, Code Section 108-196(a) requires the Planning Board to review and approve, approve with conditions or deny the proposed Major Development Plan and Conditional Use in an advisory capacity to the City Commission; and

WHEREAS, Code Section 108-517(b)(3) requires the Planning Board to consider the landscape waiver request and render the final action; and

EXHIBIT C

- NOTES
1. NUMBERS SHOWN REPRESENT DEPTH OF WATER BASED ON MEAN LOW WATER (MLW) ELEVATION.
 2. WATER DEPTH DATA COLLECTED ON MARCH 6, 2014.



PAK
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R
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EXHIBIT C

WHEREAS, this matter came before the Planning Board at a duly noticed public hearing on August 21, 2014, resulting in Planning Board Resolution No. 2014-48; and

WHEREAS, the Planning Board determined that the granting of the Major Development Plan, Conditional Use and Landscape Waiver is 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

WHEREAS, pursuant to Section 108-198, the City Commission shall review and act upon Major Development Plan proposals; and

WHEREAS, the City Commission determined that the granting of the Major Development Plan and Conditional Use 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.

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

Section 1. That the above recitals are incorporated by reference as if fully set forth herein.

Section 2. That the City Commission grants approval of the application for Major Development Plan, Conditional Use and Landscape Waiver for the construction of 79 berths on property

EXHIBIT C

located at 2407 North Roosevelt Boulevard (RE # 00002280-000100, AK # 8890613) in the C-OW Zoning District pursuant to Sections 108-91B.2(c) of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida, as shown in the attached plans dated September 8, 2013, with the following conditions provided in Planning Board Resolution 2014-48, and specified as follows:

Conditions to be completed prior to the issuance of a building permit:

1. The Applicant receives all necessary permits from relevant State and Federal Agencies.
2. In addition to the existing on-site parking, the Applicant shall make available twenty (20) exclusive parking spaces for use in association with the proposed development. Confirmation that said additional parking spaces are available for the proposed development shall be presented to the Planning Department prior to the issuance of any building permit, land clearing permit, or any permit required for physical furtherance of the proposed development. The City Attorney shall review any parking easement agreement between applicant and any property owner which is in furtherance of the above-stated to insure compliance with City of Key West Code Sec. 108-576(a).

EXHIBIT C

3. If the construction project costs exceed \$500,000, the Applicant shall obtain approval of a Public Art Plan from the AIPP Board, pursuant to City Code Section 2-487, and may include payment of an in-lieu fee.

4. The Applicant shall obtain the proper permits for any trimming of mangroves during construction of the project.

Conditions to be completed prior to the issuance of a
Certificate of Occupancy:

5. On-site artwork shall be installed and inspected by the City pursuant to Section 2-487.

6. The applicant coordinates with the U.S. Coast Guard to provide and maintain navigational markers from the docking basin to open water.

7. All lighting complies with "dark sky" or equivalent program on the docks themselves.

8. The Applicant will provide sewage pump-out facilities for all boats, with pump-out facilities accessible 24 hours a day to all vessels of any length.

9. The Applicant shall provide the parking lot landscaping required by LDR Section 108-414(b) as evidenced by a landscape plan prepared by a licensed landscape

EXHIBIT C

architect and reflective of the conceptual design contained in the email to the Planning Department on July 8, 2014.

10. The on-site parking lot shall be striped and the driveway to said parking stalls appropriately marked.

11. The clear site triangle for the access route to North Roosevelt Boulevard shall be maintained clear of obstruction as per City Code.

12. The Applicant shall install the hose cabinets, standpipes and other fire suppression and alarms as required by the City Fire Marshall.

13. The parking lot on site shall be restriped to provide standard size stalls required by City Code, including two handicapped stalls.

14. There shall be no other commercial use of the marina area or parking lot, nor shall the development plan or conditional use authorize the change of the existing legally non-conforming uses to any other commercial use.

15. There shall be no boat storage of any kind on the upland portions of the site inclusive of the parking lot.

16. The Applicant shall provide a fire department hammerhead turn-around, as required by code.

17. The Applicant shall provide a letter from a structural engineer determining the hammerhead access road

EXHIBIT C

in close proximity of the water line can safely handle the total weight of our fire department trucks.

18. The Applicant shall provide a secondary emergency egress walkway for emergency purposes only, approved location and specifications are addressed in the Fire Access Site Plan (Sheet Number C-7.0).

Conditions subject to Conditional Approval Permit, per Ordinance 10-22, subject to an associated annual inspection:

19. The applicant maintains a Florida Department of Environmental Protection Clean Marina Designation.

20. There shall be no use of the marina for charter boats of any kind, including active or passive docking of charter vessels.

21. There shall be no boat ramp, or automobile or hoist-assisted boat launching of any type.

22. There shall be no storage of boat trailers on any part of the site, nor in any of the parking spaces on site, or in leased areas.

23. No vessel longer than thirty (30) feet, nor any vessel with a draft of more than three (3) feet shall be docked, or allowed to use the marina.

24. There shall be no slips outside the mangrove fringe (per revised site plans dated October 22, 2014).

EXHIBIT C

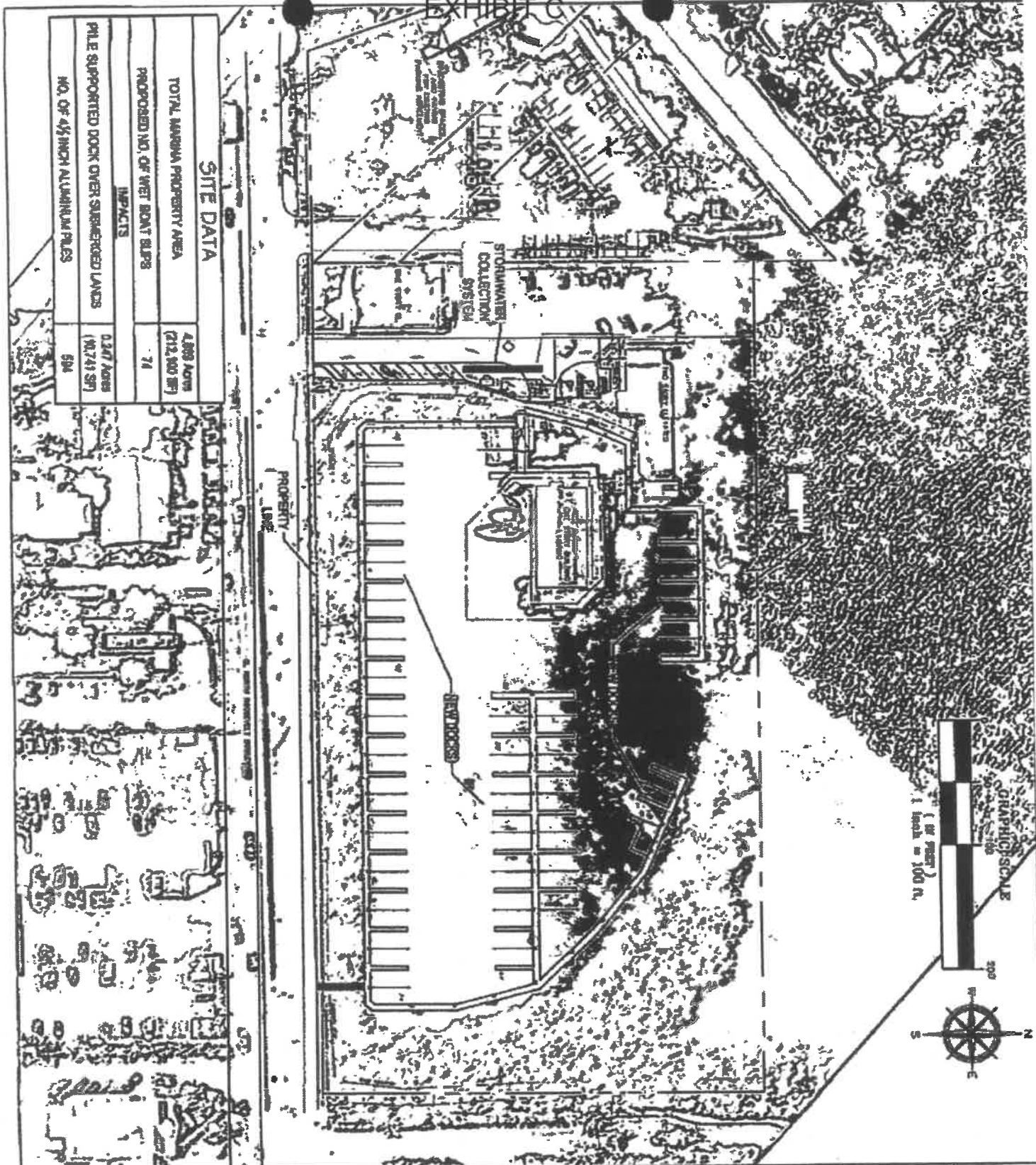
Section 3. Full, complete, and final application for all permits required for which this resolution is wholly or partly necessary, shall be submitted in its entirety within 12 months after the date hereof.

Section 4. This Major Development Plan 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 will be rendered to the Florida Department of Economic Opportunity. Pursuant to Chapter 73C, F.A.C., this permit is not effective for forty five (45) days after it has been properly rendered to the DEO with all exhibits and applications attached to or incorporated by

EXHIBIT C



SITE DATA	
TOTAL MARINA PROPERTY AREA	4.800 ACRES (212,800 SF)
PROPOSED NO. OF WET BOAT SLIPS	74
IMPACTS	
PILE SUPPORTED DOCK OVER SUBMERGED LANDS	0.247 ACRES (10,741 SF)
NO. OF 45 INCH ALUMINUM PILES	594

WALKER MARINA

3107 N. HICKORY STREET
KEY WEST, FLORIDA 33003

C-3.0 SITE PLAN EXPANDED VIEW

Project No:	162220014
Scale:	AS NOTED
CD File:	Walker MOOE (16-22-14)
Date:	10/22/2014

Meridian Engineering, LLC
201 Front Street, Suite 203
Key West, Florida 33040
AUTHORIZATION #29401
ph: 305-293-3250 fax: 293-4888

NOT VALID FOR CONSTRUCTION UNLESS
SIGNED AND SEALED BY THE ENGINEER
RICHARD J. MUELLER
PE 458315

EXHIBIT C

reference in this approval; that within the forty five (45) day review period the DEO can appeal the permit 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.

Passed and adopted by the City Commission at a meeting held this 21 day of October, 2014.

Authenticated by the presiding officer and Clerk of the Commission on November 17, 2014.

Filed with the Clerk November 17, 2014.

Mayor Craig Cates	<u>Yes</u>
Vice Mayor Mark Rossi	<u>Yes</u>
Commissioner Teri Johnston	<u>Yes</u>
Commissioner Clayton Lopez	<u>Absent</u>
Commissioner Billy Wardlow	<u>Yes</u>
Commissioner Jimmy Weekley	<u>Yes</u>
Commissioner Tony Yaniz	<u>Yes</u>


CRAIG CATES, MAYOR

ATTEST:


CHERYL SMITH, CITY CLERK