From: Todd Santoro < todd@toddsantoro.com >

**Sent:** Thursday, July 9, 2020 11:09 AM **Subject:** Upcoming planning board meeting

Dear Planning Board Member,

I am writing to you because another item has come up with respect to the property at 804-806 Whitehead aka Rams Head Southernmost, aka Ed Swift and HTA's property. As you may remember the surrounding neighbors and home owners gave loud and strong opposition to the illegal spot zoning applications you were tasked with voting in January of this year. All but two members, Greggory Lloyd and Ann Henderson (Freddy Varela recused himself), voted to approve the illegal spot zoning for a variety of reasons. One of the reasons I recall was that the tenant, Rams Head Southernmost, and the owner, Ed Swift and HTA, had no plans to expand the commercial activities on the property, and if they wanted to they would have to come before this board to seek approval. Well that has come home to roost within 4 months-- they have come back to this board to seek approval to destroy the very protections this board erected to protect the voting public, homeowners and neighbors in Resolution 2011-059. The opposing homeowners and neighbors pleaded with you, stating that this "no plans" was not true based on reports from knowledgeable employees and credible sources. It seems that Rams Head does not want to follow any of the rules or ordinances set forth by the City of Key West let alone the conditions of Resolution 2011-059, with which they have never been in compliance their entire existence. Should they keep barking up this tree and the zoning change and the modification to Resolution 2011-059 be granted, we are ready to appeal the decision

In front of the board now is just one of two examples of Rams Head Southernmost trying to move the goal post. I will be laying out for you in this letter those movements.

The item in front of the board now is an amendment to the very resolution, 2011-059, that was drafted and put in place well before Bill Mulhauser, the owner of Rams Head Southernmost, purchased the restaurant. Those conditions were enacted as part of a comprehensive and interrelated set of conditions designed to protect the neighbors from the very thing Rams Head is now asking this board to approve. First there is the legal issue of whether Rams Head Southernmost even has standing to request a modification to Resolution 2011-059, but the fact they are requesting this modification even before they belie their "no plans for the property" assertions is appalling. The lie is confirmed by the attached code report that states that the OWNER OF THE PROPERTY would be requesting changes to Resolution 2011-059, including increasing the number of seats by a hundred seats and have the request voted on by this board.

The neighbors are on record challenging their claim theyhave absolutely no plans to expand the commercial activities on the property. Now, with the results of an information request to the City of Key West, mentioned above, you can see that the owner of Rams Head intends to add 100 more seats. His words not mine. On 08/19/2019 a neighbor complained that there were 38 more seats than the restaurant was licensed for which is the spark for the 100 seat comment by the owner of Rams Head Southernmost. For that complaint it landed her in Rams Head Southernmost jail. Within the hour Rams Head's owner enlisted a Key West police officer to deliver a trespass warning to the complaining neighbor to intimidate the very neighbor that reported the violation. In the attached code report it states that the owner is quoted saying "The owner stated he was going to increase seating from 150 to 250." Where are all these seats going to go you ask? I will tell you where, on the residential property this board mistakenly recommended to the City Commission be illegally spot zoned to HNC-3 from HMDR. The neighbors do not want to see this board make a bad situation worse by granting an amendment to Resolution 2011-059.

Further in my FOIA request I asked to see the records of provision 13 of Resolution 2011-059 and nothing came back. I have a request in to Commissioner Lopez to see if he recalls an employment notice ever being placed in his office to hire 25% neighborhood residents. I sure do have a slew of FaceBook screenshots when Rams Head Southernmost advertised open positions for employment. The city could be collecting \$750/month for not meeting this requirement. Even further in my FOIA request I asked to see the records of any violation of noise. Rams Head Southernmost finally, after over a half year of neighbors' complaints only just installed noise monitoring equipment, in January. Both code and Rams Head Southernmost don't seem to want to do what it takes to be a good neighbor or its job. No one seems to be using the sound monitoring equipment for its intended purpose, because the extreme noise continued. Only the Covid-19 hiatus has lowered the Rams Head noise volume. This is the very reason this group of neighbors have been so vocal. No one is protecting us, our interests or the peaceful enjoyment of our property. We as tax payers pay to have this type of stuff enforced. It's disheartening paying for something and getting nothing in return from its public officials.

Rams Head Southernmost has shown serially that they are a bad neighbor and have no intentions of complying with Resolution 20110-059 which is why they want to change it. I respectfully request you deny this application to amend Resolution 2011-059 if not for the sanity of the neighbors then for the legality of not having standing in this matter.

Respectfully,

Todd Santoro 818 Whitehead Street

Name of Meeting:
Meeting Date:
Meeting Date:  Subject Property Address: 804-806 Whitehas 84
Under penalties of perjury, I declare that I have read the foregoing statement dated
Signature:
Print Name: Sphere  Address or Organization: N/A
Date: 7/13/20

Please provide this form, along with your written statement, to the City of Key West Planning Department by 3:00 PM of the date of the meeting. Please contact 305-809-3764 with any questions. Thank you.





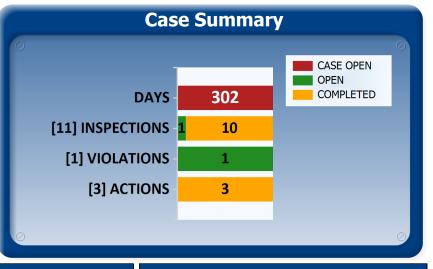
<u>Case Number</u> CC2019-01304

**City of Key West** 

Description: exeeding	seating and resolution cor	mpliance	Status: ACTIVE			
Type: GENERAL COMI	Subtype:					
Opened: 8/19/2019	Last Action: 12/13/2019 Fllw Up: 2/3/2020					
Site Address: 804 WHITEHEAD ST KEY WEST, FL 33040						
Site APN: 00014010-0						
Details: I received a complaint from Nancy Polluck in regards to this restaurant exceeding the amount of seating they are suppose to have.						

the tenant and make sure they are all in compliance. Per Director Jim Young I am reassigning this case.

Per Director of code we need to review all conditions of the Resolution 2011-059 with



### ADDITIONAL SITES LINKED CASES

CHRONOLOGY										
CHRONOLOGY TYPE	STAFF NAME	ACTION DATE	COMPLETION DATE	NOTES						
CERTIFIED MAIL RECEIPT	Dorian E Patton	12/13/2019	12/13/2019	Received 7019 1120 0000 9439 1340 signed by Nancy Aspinnale 12-9-19						
NOTICE OF VIOLATION	Dorian E Patton	12/4/2019	12/4/2019							
PERSONAL CONTACT	Dorian E Patton	8/19/2019	8/19/2019	Performed walk through with general manager and owner to count seating.						

	CONTACTS									
NAME TYPE	NAME	ADDRESS	PHONE	FAX	EMAIL					
OWNER	HISTORIC TOURS OF AMERICA INC	201 Front St Suite 224 Key West, FL 33040								
REGISTERED AGENT	William L Muehlhauser	1500 Atlantic Blvd #405 Key West , Fl 33040								



**Case Number CC2019-01304** 

**City of Key West** 

#### **FINANCIAL INFORMATION**

	INSPECTIONS								
INSPECTION TYPE	INSPECTOR	SCHEDULED DATE	COMPLETED DATE	RESULT	REMARKS	NOTES			
1ST FOLLOW UP	DEP	8/22/2019	8/22/2019	IN COMPLIANCE		I visited subject address met with owner Bill Muehlhauser, his son Kyle Muehlhauser, Kelly Norman and The General Manager Wayne. I observed that the excessive seats have been removed until they can apply for more seating. I also reviewed then entire resolution 2011-059 for all the items that are not in compliance and need to be done. They are changing starting hours of operation to 9:00am from 8:30am. They are changing the stopping of music from 10:00pm to 9:30pm in case they run a little longer. The trash was approved by city management to be picked up on Petronia instead of Whitehead. The trash enclosure was given a verbal approval to be a fenced in area instead a complete enclosure. They do have a sound system as required but they do njot know how to operate it and have a appointment set up with a IT company to review the operation and possibly get a new system.			
2ND FOLLOW UP	DEP	8/26/2019	8/26/2019	IN COMPLIANCE		I met with Bill Muehlhauser and Kelly Norman at the Key West Theater at 1:00pm. The Ramshead company would like to have several conditions amended on the resolution. I explained to them they would have to have the property owner submit any proposed changes they would like and have it presented to the planning board.			



# **Case Number CC2019-01304**

**City of Key West** 

3RD FOLLOW UP	DEP	9/26/2019	9/26/2019	NOT IN COMPLIANCE	I met with owner Bill and operations manager Kelly Norman at Key West theater to review items that needed to be changed for compliance. Time change of opening, moving of trash cans on petronia street side 12ft from wall. TRhey stated they would change schedules and opening time.
FOLLOW UP	DEP	10/2/2019	10/2/2019		I visited subject address observed and photographed that the restaurant was not open before 9:00. The trash cans on Terry Lane have been moved 12ft back from wall. The tenants of 316 Petronia have left their cans on the wall and have now been removed by waste management.  Blue McCaws cans are being picked up on Petronia and pick up has been scheduled daily.
FOLLOW UP	DEP	9/19/2019	9/19/2019		Officer Langford and I attende3d a meeting to review Blue McCaw and other items in the Bahama Village with owners on terry lane Nancy Paulic, Mark Furlane, Jeff Dunaway, Tood Santorum. City officials Planniny Roy and Vanessa, City Manager Greg V assistant city manager Patti M, City attorney Shawn Smith, commissioner Lopez. Review was what was going on with the planning resolution to make residential property next to Blue McCaw all commercial.
FOLLOW UP	DEP	12/3/2019	12/3/2019	NOT IN COMPLIANCE	I called and spoke with Kelly Norman and the owner Bill checking on the sound system installation. They stated they had not found anything that would do what we are requesting in the resolution. I asked them if they have submitted a new resolution to planning and they stated they have only asked for the hours of operation to be changed from 9:00am to 8:00am. Per Director of Code a notice of code violation is to be issued.



## **Case Number CC2019-01304**

**City of Key West** 

FOLLOW UP	DEP	12/4/2019	12/4/2019	NOT IN COMPLIANCE	Notice of code violation being issued today.
FOLLOW UP	DEP	1/15/2020	1/15/2020	NOT IN COMPLIANCE	I received an email from Kelly Norman 1-15-20 that the sound monitoring system has been installed and is operational.
FOLLOW UP	DEP	1/16/2020	1/16/2020	NOT IN COMPLIANCE	I visited subject address met with Kelly Norman to review the operation of the sound monitoring system. I also observed and photographed the location of all four sensors on the property and the website monitoring. Pictures are in Optiview.
FOLLOW UP	DEP	2/3/2020			
INITIAL INSPECTION	DEP	8/19/2019	8/19/2019	VIOLATION FOUND	I visited subject address met with General Manager and owner explained what the complaint was about and that I needed to count the inside and outside seating. There was 58 seats inside and 130 outside. I have to return on Wednesday to count the second floor seating and do a walk through with planning. The owner stated he was going to increase seating from 150 to 250.

				VIOLATI	ONS	
VIOLATION TYPE	USER NAME	OBSERVED DATE	CORRECTED DATE	LOCATION	REMARKS	NOTES
						To Wit: I received a complaint from Nancy Polluck in regards to this restaurant exceeding the amount of seating approved and conditions of the conditional use are not being enforced. I visited subject address performed an onsite inspection and reviewed all items of the conditional use with owner and general manager. After working with the tenant they have adjusted opening time and number of seats to comply with the resolution.  Corrective Action: The following items of resolution 2011-059 must be corrected or a new conditional





**Case Number CC2019-01304** 

**City of Key West** 

Sec. 66-109 - Schedule of taxes.	Dorian E Patton	8/19/2019	8/20/2019	
				Per Director of code we need to review all conditions of the Resolution 2011-059 with the tenant and make sure they are all in compliance.
				Page 5 item 12 All waste pickup shall be daily via Whitehead Street.
				Page 4 item 4 The applicant will install and maintain a programmable distributive sound system.
Revocation or suspension	Dorian E Patton	8/19/2019		public right 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.
Sec. 18-615 -				compliance of the resolution.  Page 4 item 3 The waste and recycling handling shall be screened from adjacent properties and
				use application must be submitted for approval with planning.  The following items are to be corrected to be in full

#### PLANNING BOARD RESOLUTION NUMBER 2011-059

A RESOLUTION OF THE KEY WEST **PLANNING BOARD** GRANTING **APPROVAL** USE CONDITIONAL 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

Planning Director

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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

Page 2 of 9

Resolution Number 2011 - 059



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:

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

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.

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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:** 

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 accept 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.

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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

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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

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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.

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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:

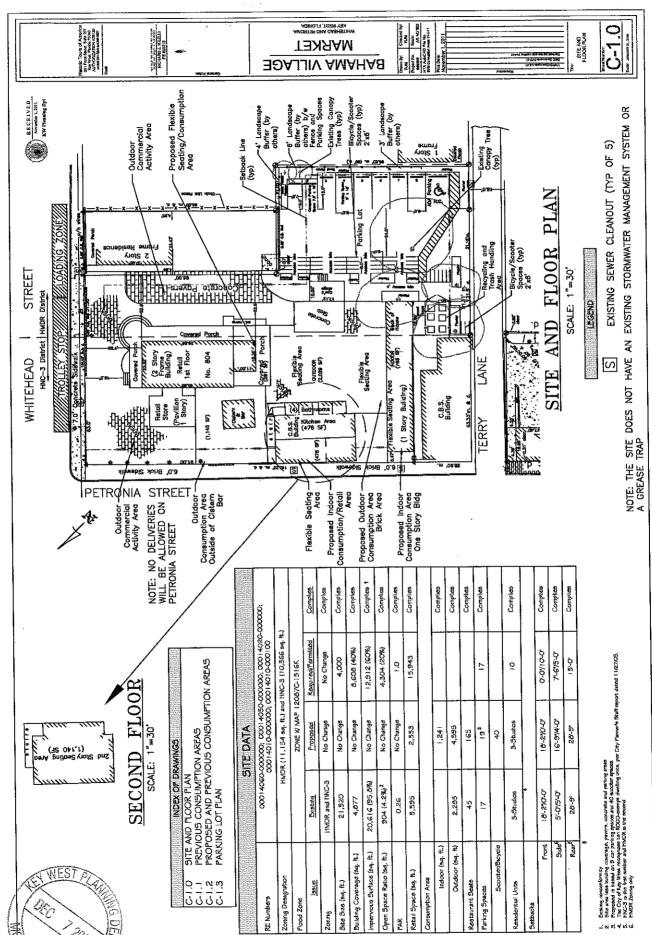
Donald Leland Craig, AICP

Planning Director

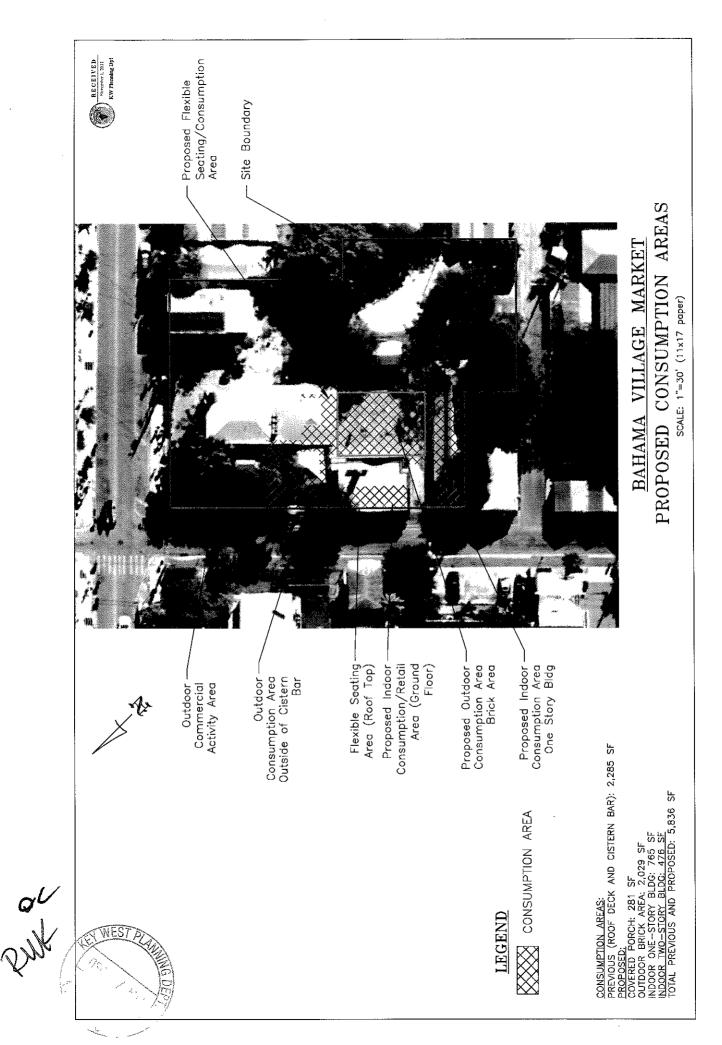
Filed with the Clerk:

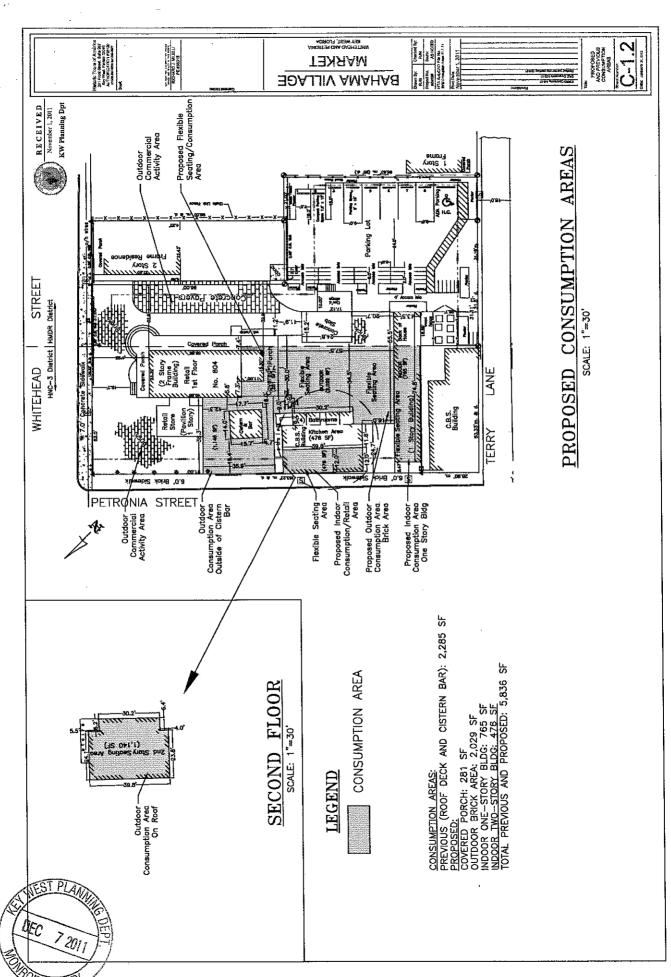
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