

RESOLUTION NO. 95-324

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA APPROVING THE ATTACHED PRELIMINARY DEVELOPMENT AGREEMENT BETWEEN THE CITY OF KEY WEST AND KEY WEST CONCH HARBOR, INC.; PROVIDING AN EFFECTIVE DATE

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

Section 1: That the attached Preliminary Development Agreement between the City of Key West and Key West Conch Harbor, Inc. is hereby approved, together with nonmaterial changes, if any, as may be negotiated by the City Manager and approved by the City Attorney.

Section 2: 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.

Passed and adopted by the City Commission at a meeting held this 15th day of August, 1995.

Authenticated by the presiding officer and Clerk of the Commission on 16th day of August, 1995.

Filed with the Clerk on August 16, 1995.


TOM L. SAWYER, MAYOR

ATTEST:


JOSEPHINE PARKER, CITY CLERK

95-324

PRELIMINARY DEVELOPMENT AGREEMENT

This Preliminary Development Agreement is entered into between the City of Key West, 525 Angela Street, a political subdivision of the State of Florida ("City") and Key West Conch Harbor, Inc., a Florida corporation, ("Developer") whose address is P.O. Box 448, Key West, Florida 33041.

WHEREAS, Developer is the owner of a parcel of property located at 909 Caroline Street, also referred to as Real Estate Parcel No. 297, Records of Monroe County Property Appraiser (hereinafter referred to as "Property" as further described below), a portion of which property, for nearly fifty (50) years, had an operating fueling station for vessels; and

WHEREAS, the Property is part of the Key West Bight community redevelopment area, a portion of the City of Key West selected for community redevelopment (CRA) by the City Commission pursuant to Chapter 163, Part III, Florida Statutes (1991 and Supp. 1992); and

WHEREAS, the City and Developer agree that the Developer is entitled to the same development criteria and requirements the City has used for the City's uses for it's adjacent property; and

WHEREAS, Developer is currently operating a dock ("Dock") and fueling station ("Fueling Station") on a portion of the Property, as illustrated by a site plan which is attached hereto and incorporated herein by this reference as Exhibit "A", using mobile tanks for fueling of vessels from the Dock; and

WHEREAS, the rehabilitation and reconstruction of the Fueling Station was originally part of the site plan (Exhibit "A") received by the City on March 2, 1994; and

WHEREAS, Developer has, since March 2, 1994, secured the environmental permits necessary for the rehabilitation and reconstruction of the Fueling Station; and

WHEREAS, the Fueling Station is part of a proposed future project to be constructed on the property known as Key West Conch Harbor ("Project"); and

WHEREAS, the Developer has created a new site plan for the project which Developer acknowledges will require a Community Impact Assessment Statement ("CIAS") review, unless comparable review process is provided by the CRA pursuant to Chapter 163 Florida Statutes; and

WHEREAS, the City and the Developer desire to have the Fueling Station rehabilitated and reconstructed as soon as possible because the planned and permitted permanent storage tanks

are equipped with containment walls and are safer to the public and the environment than the presently permitted and operating mobile tank Fueling Station; and

WHEREAS, the site plan for the Fueling Station, with the exception of a greater setback from the water's edge of the Property, are identical to the plans for the same which were incorporated in the site plan (Exhibit "A") submitted to the City in the 1994; and

WHEREAS, the Developer has agreed to include and address the impacts of the Fueling Station during the CIAS or other comparable CRA review process;

NOW THEREFORE, in consideration of the mutual promises and undertakings provided herein and other consideration, the sufficiency of which is acknowledged by the parties hereto, it is hereby agreed as follows:

1. The above recitals are true and correct and are incorporated herein as if set forth in their entirety.

2. The City, in consideration of the reciprocal easements and obligations created herein, agrees that the Developer may proceed to apply for a building permit for the Fueling Station, before a CIAS or other comparable redevelopment review (CRA) is completed for the Project, subject to all other government approvals needed for the construction of the same.

3. The parties agree to grant each other non-exclusive easements for public pedestrian and vehicular and non-vehicular access over the west side of the developers property and east side of the City's property and the water's side of Key West Bight Property as described in Exhibit "B" which is attached hereto and incorporated herein by reference. The minimum size of the reciprocal public easement along the water will be twelve feet (12') except at such locations where existing permanent physical constraints do not allow the full twelve foot (12') minimum width.

4. Developer agrees to cooperate with the City and participate in the creation of a Community Redevelopment Plan for the Key West Bight, so that the Developer's Project can become and can be maintained as an integral part of the CRA. The Developer agrees to comply with height restrictions, building design guidelines, landscaping provisions and other additional structure related requirements which may be placed upon the property within the Key West Bight Community Redevelopment area.

5. Developer agrees to include the Fueling Station in any application for CIAS or other comparable redevelopment review (CRA), and to address the impacts of the same, as if construction/rehabilitation had not occurred.

6. Developer agrees that it will not claim vested rights or assert equitable estoppel, arising from this Agreement or expenditures or actions taken in reliance on this Agreement to

→ continue with the proposed Project beyond the preliminary agreement. This Agreement shall not entitle the Developer to a final approval of the total proposed Project or to particular conditions of approval. This agreement does, however, provide the developer with the same existing or future development criteria and requirements the City uses for its property which is a portion of the community redevelopment area adjacent to the Developer's Property.

7. This Agreement incorporates and includes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in or incorporated into this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any representations or agreements, whether oral or written.

8. If any part of this Agreement is contrary to, prohibited by, or deemed invalid under any applicable law, or regulation, such provisions shall be inapplicable and deemed omitted to the extent so contrary, prohibited or invalid; however, the remainder hereof shall not be invalidated thereby and shall be given full force and effect.

9. The parties hereto agree that any and all suits or actions at law shall initially be brought in Monroe County, Florida and no other jurisdiction. This Agreement shall be construed and interpreted under the laws of the State of Florida.

10. This Agreement shall be binding upon the parties hereto, their successors in interest, heirs, assigns and personal representatives. Any individual or business entity purchasing the Developer's property or any portion thereof shall take subject to the terms and provisions of this Agreement.

11. All notices, demands, requests, or replies provided for or permitted by this Agreement shall be in writing and may be delivered by any one of the following methods: (a) by personal delivery; (b) by deposit with the United States Postal Service as certified or registered mail, return receipt requested, postage prepaid, to the address stated below; (c) by prepaid telegram; or (d) by deposit with an overnight express delivery service. Notice by telegram or overnight express delivery service shall be deemed effective on (1) business day after transmission to the telegraph company or deposit with the express delivery service.

For the purposes of notice, demand, request or replies, the address of the City shall be:

Theodore Strader
Planning Director
P.O. Box 1409
Key West, Florida 33041-1409

with a copy to:

Office of the City Attorney
604 Simonton Street
Key West, Florida

The address of Developer shall be:

Key West Conch Harbor
c/o Fred Skomp
P.O. Box 448
Key West, Florida 33040

with a copy to:

David Paul Horan
608 Whitehead Street
Key West, Florida 33040

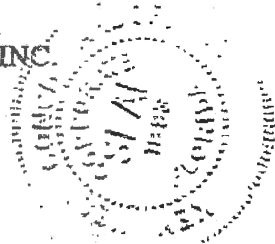
12. The effective date of this Agreement shall be the date of the Agreement is approved by the Key West City Commission.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year first above written.

Signed, sealed and delivered
in the presence of:

KEY WEST CONCH HARBOR, INC

By: 
FRED SKOMP
President




WITNESS


WITNESS

On August 15th, 1995 the City Commission of Key West approved this Preliminary Development Agreement.

ATTEST:

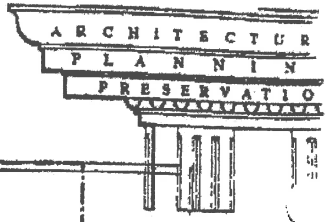
By: 
Josephine Parker, City Clerk

THE CITY OF KEY WEST, FLORIDA

By: 
Tom Sawyer, Mayor

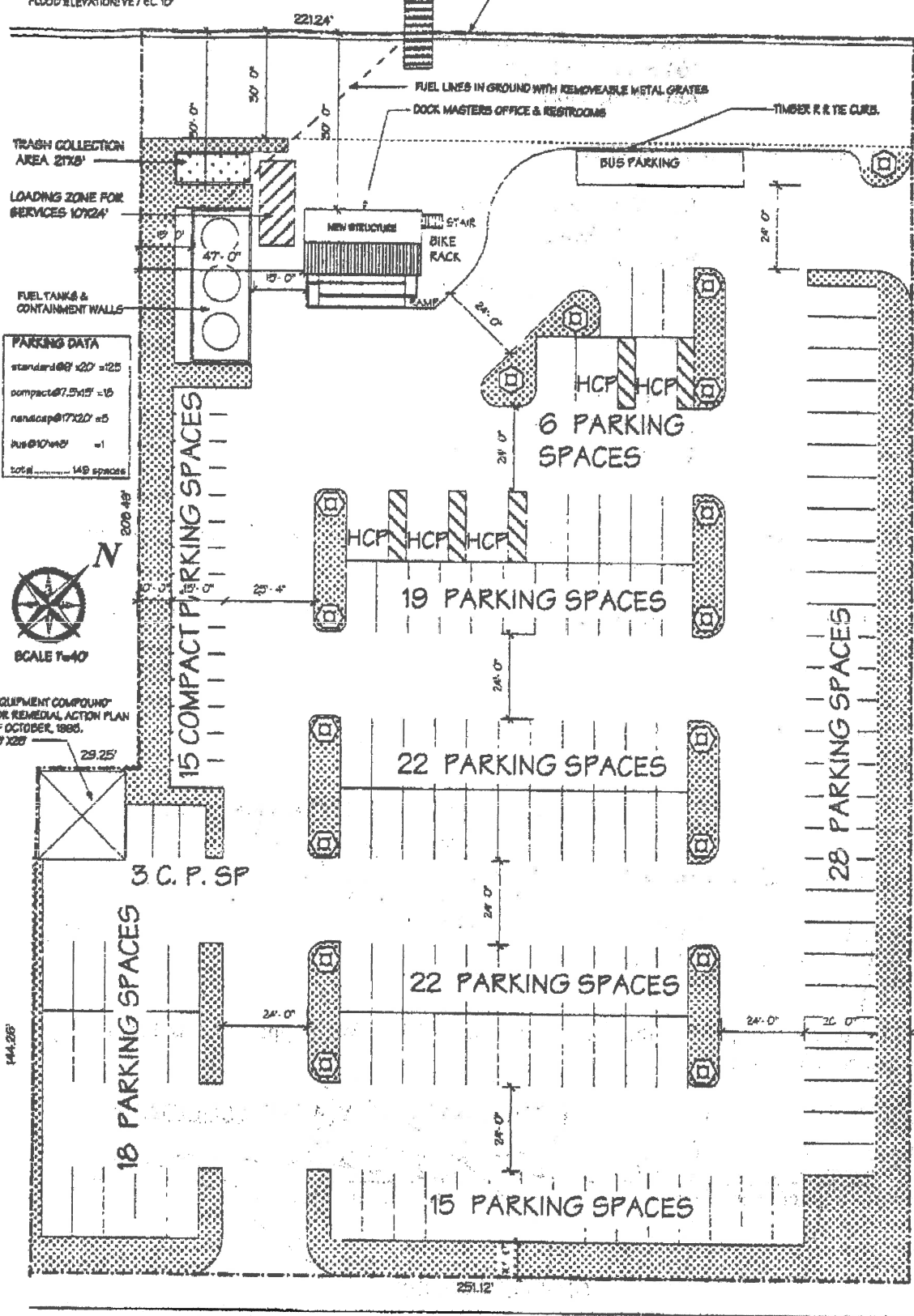
NOTE
 ALL INFORMATION ON THIS SITE SURVEY
 IS BASED ON DE. NO. 53-488 DATED 11-2-82
 BY PHILLIPS & TRACE SURVEYING, INC.
 224 SIMMONS STREET
 KEY WEST FL 33040
 FLOOD ELEVATION: VE / EL. 10'

KEY WEST BIGHT



DENNIS A. BEEB!
 ARCHITECT, P. A.
 1012 WALTER ROAD S
 KEY WEST FLORIDA
 U S A 3304
 PHONE 305.394.888

**KEY WEST
 CONCH HARBO
 SITE PLAN**



PARKING DATA

standard @ 7'x27' = 125
compact @ 7.5'x15' = 16
handicap @ 17'x22' = 5
bus @ 10'x40' = 1
total = 149 spaces



"EQUIPMENT COMPOUND"
 FOR REMEDIAL ACTION PLAN
 OF OCTOBER, 1986.
 20' x 25'

CAROLINE STREET

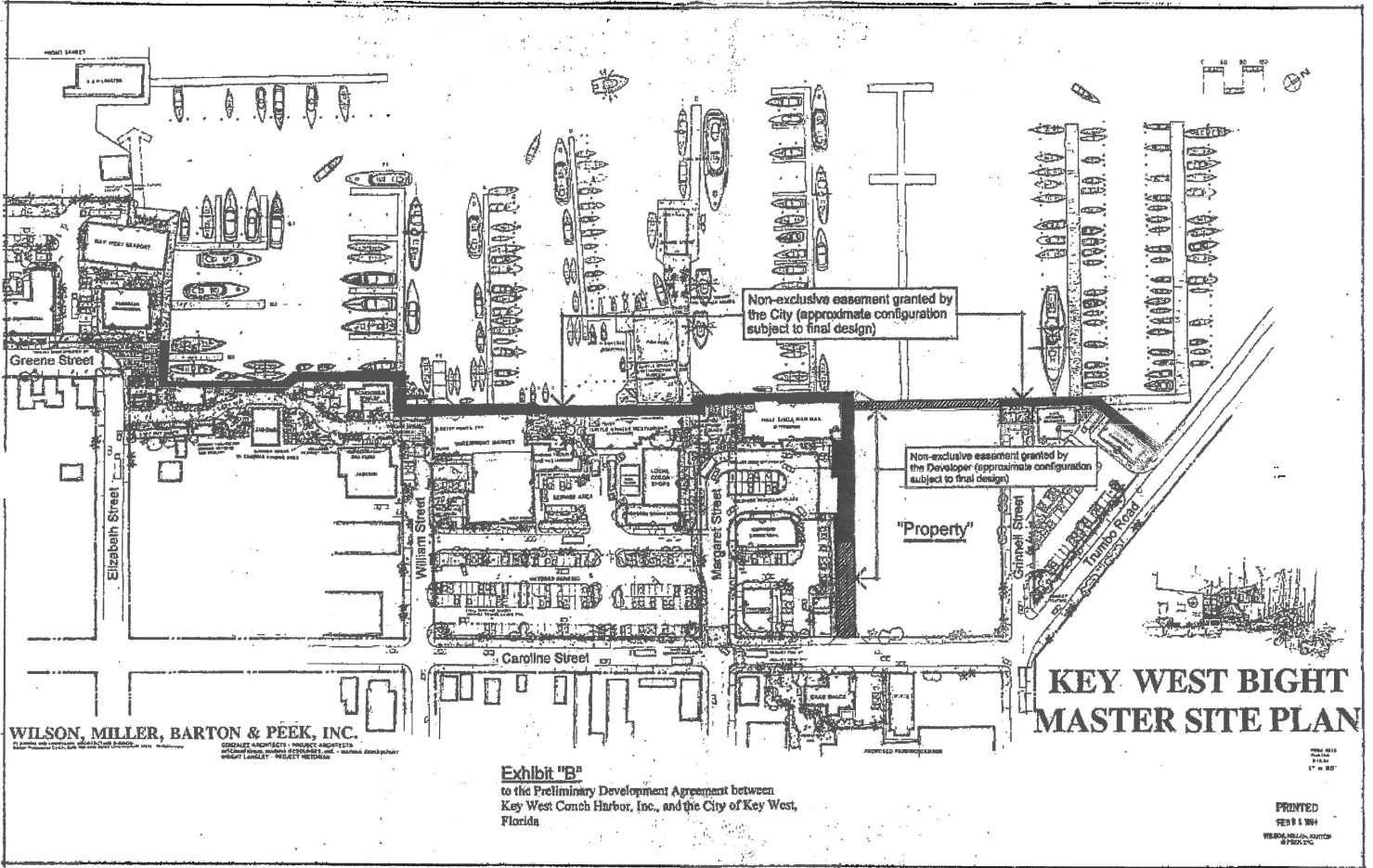
LEGEND:

- NEW LANDSCAPING
- NEW SITE LIGHTING

NOTE: ALL OUTDOOR LIGHTING SHALL BE CUT OFF TYPE FIXTURES AND SHALL NOT EXCEED 36" IN HEIGHT

SCALE AS SHOWN
 DRAWN: E.A.M.
 CHECKED: D.A.S.
 JOB NO: 8401C
 DATE: 10 JAN 89

EXHIBIT "A"

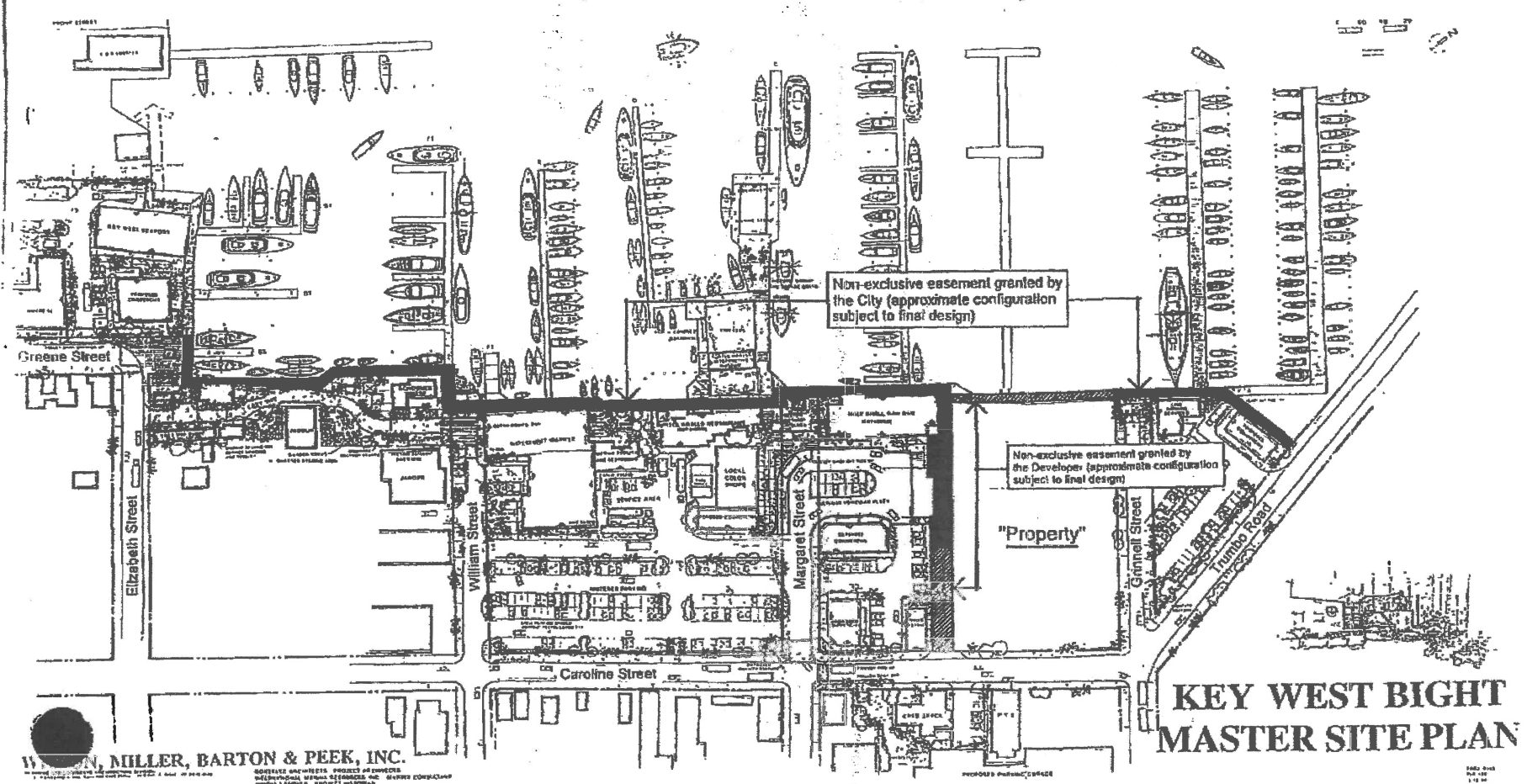


WILSON, MILLER, BARTON & PEEK, INC.

CONSULTING ENGINEERS, ARCHITECTS, INTERIORS, LANDSCAPE ARCHITECTS, PLANNERS, AND SURVEYORS
 1000 N. W. 10th Street, Suite 1000, Fort Lauderdale, Florida 33304
 PHONE: (305) 441-1111 FAX: (305) 441-1112
 WWW: WWW.WMBP.COM

Exhibit "B"
 to the Preliminary Development Agreement between
 Key West Conch Harbor, Inc., and the City of Key West,
 Florida

PRINTED
FEB 9 1 1994
 WEAVER MILLER, BARTON & PEEK, INC.



WILLIAM, MILLER, BARTON & PEEK, INC.
 SOLELY ARCHITECTS, PROJECT ARCHITECTS
 1000 N. W. 10th Street, Suite 1000, Fort Lauderdale, Florida 33304
 PHONE: (305) 461-1111 FAX: (305) 461-1112

Exhibit "B"
 to the Preliminary Development Agreement between
 Key West Conch Harbor, Inc., and the City of Key West,
 Florida

**KEY WEST BIGHT
 MASTER SITE PLAN**

Scale: 1" = 10'
 PRINTED
 FEB 2 1994
 WMB&P/STP/001