

**Development Review Committee
August 26, 2010 – 2:00 p.m.
City Commission Chamber
Old City Hall, 510 Greene Street**



- 4f. Conditional Use – 729 Thomas Street (RE# 00013260-000000)** – A conditional use request for the addition of 495 square feet of outdoor consumption area, and the addition of 91 seats, a combination of which are proposed indoors and outdoors in the HNC-3 zoning district per Section 122-63 (e) of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

DEVELOPMENT PLAN AND CONDITIONAL USE APPLICATION
City of Key West Planning Department
605-A Simonton Street, Key West, FL 33040
(305) 292-8229



Date Rec'd _____

Conditional Use Application

(Applications will not be accepted until they are complete)

Development Plan
Major _____
Minor _____

Conditional Use
 X

Historic District
Yes X
No _____

Please print or type and call the Planning Department if you have any questions.

- 1) Site Address: **729 Thomas Street - 305-311 Petronia Street**
- 2) Name of Applicant: **Rumrell, Costabel, Warrington, and Brock LLP**
- 3) Applicant is: Owner _____ Authorized Representative **X**
(attached Authorization Form must be completed)
- 4) Address of Applicant: **201 Front Street, Suite 204, Key West FL 33040**
- 5) Applicant's Phone # **305 293 4240** Fax **904-996-1120**
- 6) Name of Owner, if different than above: **729 Thomas Street, LLC.**
- 7) Address of Owner: **729 Thomas Street, Key West, FL 33040**
- 8) Owner Phone #: **305-296-8666** Fax: **305-296-9052**
- 9) Zoning District of Parcel: **HNC-3** Re#: **00013250-000000**
00013260-000000
00013270-000000
- 10) Is Subject Property located within the Historic District? Yes: **X** No:
If Yes: Date of approval: **NA** HARC #: **NA**
OR: Date of workshop: **NA** Date of expected approval: **NA**
- 11) Description of Proposed Development and Use. Please be specific. List existing and proposed buildings and uses, number of dwelling units, parking, restaurant seats, vehicles proposed, etc. If there is more than one use, describe in detail the nature of each use. (Give concise description here and use a separate sheet if necessary):



This application seeks to increase the outdoor consumption area by 495 sq. ft. and restore the previously approved 157 seats¹, of which 64 will be located indoors and 93 outdoors.

¹ According to a memo by Amy Kimball-Murley, AICP, Key West Planning Director. The Owners believe they were permitted to have 160 seats. For the purposes of this application we are relying on the 157 seats.

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12) Has subject Property received any variance(s)? Yes X² No _____

Date	Resolution No.	Approval Type	Comments
08-20-84	84-160	Setback Variance/Special Exception	Special exception for snack shop & game room
01-22-91	91-41	Variance to HP-3	Parking Variance - Allow zero parking
11-04-92	92-471	Variance to HP-3	Setbacks, Lot Width, Lot Depth, Lot Coverage

13) Are there any easements, deed restrictions or other encumbrances on the subject property? Yes _____
 No X If Yes, describe and attach relevant documents.

- 14) A. For *Conditional Uses and Development Plans*, provide the information requested on the attached **Conditional Use and Development Plan** sheet.
 B. For *Conditional Uses*, include also the **Conditional Use Criteria** required under Chapter 122, Article III, Sections 122.61 and 122.62 of the Land Development Regulations (copy attached).
 C. For *Major Development Plans*, provide also the additional information requested on the **Development Plan Submission Materials** (Sections 108.226 through 108.232 of the Land Development Regulations, copy attached) and other information as determined by the Planning Staff.

Please note, development plan and conditional use approvals are quasi-judicial hearings and it is improper to speak to a Planning Board member or City Commissioner about the project outside of the hearing.

Verification

I, **Richard G. Rumrell**, being duly sworn, depose and say that I am (check one) the owner _____ / owner(s)' legal representative X of the property which is the subject matter of this application. All of the answers to the above questions, drawings, plans and any other attached data to this application, are true and correct to the best of my knowledge and belief and that if not true or correct, are grounds for revocation of any action reliant on said information.

PLEASE SEE NEXT PAGE _____

Signature of Applicant _____

Subscribed and sworn to (or affirmed) before me on _____ (date) by **Richard G. Rumrell** is personally known to me or has presented _____ as identification.

 Name of Acknowledger typed, printed or stamped

 Notary _____ Title or Rank _____ Commission Number _____



² Listing according to the records available to Trepanier & Associates, Inc. at the time of drafting this application

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Required Plans and Related Materials

- I. Existing Conditions.
A. Recent Survey: **Attached**
- II. Proposed Development:
A) Site Plan: **No changes proposed - please see attached**
B) Building Elevations: **No changes proposed – photos attached**
C) Drainage Plan: **No changes proposed, No new impervious surface proposed**
D) Landscape Plan: **No changes proposed**
- III. Solutions Statement. Aspects of the design that address community issues including but not limited to water pollution from stormwater runoff, potable water conservation, waste disposal, energy conservation, affordable housing, and impacts on neighbors such as lighting, noise, traffic and parking.

Background:

Blue Heaven has been operating on this mixed-use property, located in the Bahama Village Commercial Core, in more or less its existing condition, for more than 17 years. Since 1991, the restaurant received approvals for consumption area permitting up to 157 seats, however, the City has recently opined that the right to utilize those seats has expired and the property must go back through the approval process. Following the City's direction, an application was previously filed and in an attempt to meet the intent of the "good neighbor policy" the property owners withdrew the application and entered into mediation with the adjacent neighbor. The mediation occurred over the course of several days. Without disclosing the discussions of the mediation, the following impacts have been identified:

- Parking
- Special Events
- Loading
- Noise

A set of mitigative measures have been devised for the above impacts:

Parking:

1. Blue Heaven will require its employees to refrain from parking in spaces designated as "Residential Parking" within the areas defined in the area map attached to this agreement and marked as Exhibit "B". This paragraph is not applicable to Blue Heaven employees who are also residents of Bahama Village.
2. To aid in the enforcement of paragraph 1, Blue Heaven will maintain a list of the tag numbers of each of its employee's vehicles. If a Bahama Village resident informs Blue Heaven of a violation of paragraph 1 of this agreement, Blue Heaven will first require the employee to move his/her vehicle and thereafter utilize appropriate measures to ensure the violation will not reoccur, as long as it does not create legal liability to Blue Heaven.
3. Blue Heaven will discourage their patrons from driving to the restaurant. Blue Heaven has added additional signage both inside and outside the restaurant advising non resident patrons not to park in the designated residential parking spaces and will work with the City of Key West police department and parking enforcement officers to help enforce the residential parking restrictions in Bahama Village.



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Blue Heaven will provide training for its managers and employees as to the protocol for dealing with non-resident patrons who are parking illegally. As part of the training, managers and employees will be instructed that upon notification of a parking violation, the manager on duty will attempt to notify the patron inside the restaurant and direct him/her to move their vehicle or risk a fine or towing. Additionally, Blue Heaven has placed a cautionary statement.

4. Blue Heaven has increased the number of bicycle parking for its patrons and has provided an additional bicycle rack inside the premises for its employees. Blue Heaven employees are required to park their bicycles inside the premises in a location specifically provided therefore. The additional bicycle parking areas are intended to reduce or eliminate the need for customers or employees to chain their bicycles to fences or signposts in the neighborhood. Blue Heaven will provide, at its expense, signs for neighbors' fences or property warning patrons against creating a nuisance with their bicycles and mopeds

Loading:

All semi-trailer trucks and box-type delivery trucks making deliveries to the restaurant will be requested by Blue Heaven to off-load in the space marked "Loading Zone" between the hours of 7:00 a.m. and 5:00 p.m. Blue Heaven and its employees agree to notify their vendors in writing of these restrictions AND shall request any vendors who do not comply to request that they move their vehicles to the "Loading Zone" location. Blue Heaven will also direct that a portion of their vendors deliver goods to the restaurant Salute and Blue Heaven has agreed to be responsible for transporting them from Salute to Blue Heaven.

Special Events:

Blue Heaven will not apply for Special Events permits pursuant to City Ordinance 6-86 for more than a total of five (5) special events per year on the restaurant premises. A "Special Event" is an event for which the City issues special event permits pursuant to ordinances 6-86 or 18-88, or successor ordinances. A material condition of this agreement is that Blue Heaven will comply with all applicable City Ordinances related to sound control and entertainment licenses.

Noise:

With the exception of certain Special Events specified herein, Blue Heaven will cause any live-outdoor amplified music to end by 10:00 p.m. on weekdays and 11:00 p.m. on weekends. Sound speakers shall at all times face at the most favorable angle that will emit the least volume of sound to the neighborhood depending on weather or other conditions. Sound shall not exceed the decibel level allowed pursuant to City Ordinance 6-86 (noise control) at any event, at any time. Blue Heaven shall maintain a working decibel sound meter on the premises at all times. Music and amplified sound is prohibited unless a working decibel sound meter is on site, accessible, and fully and completely operational. Blue Heaven shall freely and voluntarily produce the sound meter and measure the sound upon request of a neighbor or an officer of the city. Blue Heaven shall at all times be in compliance with the recommendations found in the owners manual of the sound meter located on the premises. The sound restriction may be waived by the application for and issuance of a special event permit pursuant to City Ordinance 6-86 (noise control). Blue Heaven may also apply for special permits pursuant to City Ordinance 18-88 (open container waiver). Should the City amend either ordinance, the amended or similar ordinance shall apply to the terms of this agreement. The conditions of this provision as to the

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level of sound, place of measurement and location of sound source are to protect the neighborhood.

Unfortunately, the mediation agreement reached impasse. Nevertheless the owners of Blue Heaven have agreed to the spirit of the mediation and implemented the items above.

Spatially, the property has two street frontages and corners Petronia & Thomas Streets. The 300 block of Petronia is predominantly commercial and serves as a services access for trash, recycling, propane and some deliveries. There is also a loading zone diagonally across the intersection on Thomas Street.

The plumbing and the grease trap at Blue Heaven was recently upgraded to an over-capacity state of the art system. A recycling program is part of the normal operating procedures. Trash is handled by a licensed hauler, stored in proper containers and collected daily to prevent impacts.

The property contains 7 dwelling units. These units are mostly leased by people employed on the property. Most tenants utilize bikes and scooters as their primary mode of transportation.

In addition to the mitigative techniques hammered out in mediation, sound is contained onsite through a number of physical and operational features. The sound system is a specially designed system to contain sound within the interior of the property. The design allows the sound level to be kept very low and intimate, so minimal creepage occurs. The on site sound levels are kept low to allow a pleasant dining atmosphere. Additionally the restaurant addresses noise in the Employee Manual "NOISE - Please be aware of noise and respectful of our neighbors who live here. Kitchen music should only be heard in the kitchen. If it can be heard out of the kitchen it is too loud and must be immediately turned down. At 10:30 p.m. the kitchen shutters must be closed. Be aware that handling glass in the bus station is loud. Do not handle glass recycling in the bus station after 6 p.m."³

Parking has always been challenging in this mixed-use neighborhood. To mitigate the impacts of parking the business addresses parking in it Employee Manual "Please try not to bring a car to work. Parking is very limited and the neighborhood residents have priority. Bicycles, scooters, feet or taxi use are strongly encouraged. Mopeds and bikes should park in the designated area in front. If you must drive a car please park in a non-residential spot..."⁴. Signs alerting patrons that most parking in the area is restricted to residents and requesting respect for the property's residential neighbors, are located throughout the property. When reservations are taken, the manager urges guests to arrive by taxi, bike or foot. Bicycle parking is provided adjacent to the property along Thomas Street.

Stormwater management on site has been accomplished by maintaining the minimal impervious surface possible. The majority of the site is permeable or semi-permeable. Much of the site is gravel, sand or sand-set pavers. There is a high percentage of landscaping and minimal building coverage.

-----CONDITIONAL USE CRITERIA-----

Sec. 122-61. Purpose and intent: The proposed use can be adequately accommodated while mitigating adverse impacts on properties and land uses within the adjacent vicinity.

Sec. 122-62. Specific criteria for approval.

³ Excerpt from Blue Heaven Employee Manual, dated 10/10/01, page 6

⁴ Excerpt from Blue Heaven Employee Manual, dated 10/10/01, page 5



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(a) Findings: The existing and proposed restaurant on this Bahama Village Commercial Core property within the Historic Neighborhood Commercial District complies with the goals and intent of both the Comprehensive Plan and the Land Development Regulations. The Plan & LDR intent for the HNC-3 district is to accommodate neighborhood commercial uses. Restaurant use is permitted as a conditional use. The City Commission previously found restaurant use on this property complies with the goals and intent of the Comprehensive Plan and the land development regulations in 1991 & again in 1997.

(b) Characteristics of use described. The following characteristics of a proposed conditional use shall be clearly described as part of the conditional use application:

(1) Scale and intensity of the proposed conditional use as measured by the following:

a. Floor area ratio;

Permitted	Existing	Proposed
1.0	0.8	No Change

b. Traffic generation;

HNC-3 zoning district has a trip generation limitation for commercial activity of 50 trips per 1,000 sq. ft. of gross leaseable floor area. The 7th edition of the ITE Trip Generation Manual states that for Quality Restaurants (ITE Land Use Code #931) that have a significant portion of out door seating seats per gross leaseable floor area is not an accurate measure for trip generation, instead it states "the number of seats may be a more reliable independent variable on which to establish trip generation rates for facilities having significant outdoor seating" (pg. 1703).

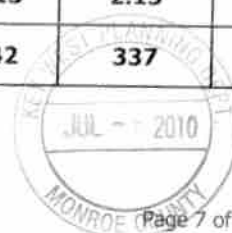
Therefore, to test compliance of the proposed project with the trip generation standards for HNC-3 we performed the following analysis. We calculated the number of trips per seat based on the existing and proposed, and then used this trip generation and calculated the trips per gross leaseable area.

The proposed number of seats generated in the bottom column of the table 1 (column 3) have been divided by the per/1,000 sq. ft. existing, previously approved, and proposed Gross Leaseable Floor Areas of the table below (column 2). As is demonstrated in the table below, all trip generations fall below 50 trips per 1,000 sq. ft. of the Gross Leaseable Floor Area, and the proposed number of seats complies with code.

Trip Generation by day of the week - Table 1

Restaurant (ITE Land Use Code 931)	Trip Generation by day of the week - Table 1								
	Weekday			Saturday			Sunday		
	Existing	Previously Approved ¹	Proposed	Existing	Previously Approved ¹	Proposed	Existing	Previously Approved ¹	Proposed
1 Number of Seats	66	157	157	66	157	157	66	157	157
2 Trips per seat	2.86	2.86	2.86	2.81	2.81	2.81	2.15	2.15	2.15
3 Number of Trips	188	449	449	185	441	441	142	337	337

¹ According to memo by Amy Kimball-Murley, Key West Planning Director 1/9/09



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Trip Generation by day of the week – Table 2

Restaurant (ITE Land Use Code 931)	Weekday			Saturday			Sunday		
	Existing	Previously Approved ¹	Proposed	Existing	Previously Approved ¹	Proposed	Existing	Previously Approved ¹	Proposed
1 Gross Leaseable Floor Area	9,045	9,045	9,540	9,045	9,045	9,540	9,045	9,045	9,540
2 Trips per 1,000 sq. ft. of Gross Leaseable Floor Area	20.78	49.64	47.06	20.45	48.75	46.22	15.69	37.25	35.32
3 Compliance	Complies	Complies	Complies	Complies	Complies	Complies	Complies	Complies	Complies

c. Square feet of enclosed building for each specific use;

Characteristic	Approved	Existing	Proposed
Dwelling Units	7	7	No Change
Gross Leaseable Floor Area	9,045 sq. ft.	9,045 sq. ft.	9,540
Indoor Consumption Area	1,457 sq. ft. ⁵	1,457 sq. ft.	2,050
Outdoor Consumption Area	900 sq. ft.	900 sq. ft.	1,395 sq. ft.
No. of Seats	157	66	157

d. Proposed employment: **Employment changes are expected to be commensurate with industry standards.**

e. Proposed number and type of service vehicles: **The site is currently served by service vehicles. No additional service vehicles will be required as a result of this request.**

f. Off-street parking needs: **This property is located within the Parking Waiver Zone. No new commercial floor area will be created, thus no increase in parking is required.**

(2) On- or off-site improvement needs generated by the proposed conditional use and not identified on the list in subsection (b)(1) of this section including the following:

a. Utilities: **No new utilities required**

b. Public facilities, especially any improvements required to ensure compliance with concurrency management as provided in chapter 94: **No new public facilities required**

c. Roadway or signalization improvements, or other similar improvements: **No new roadway or signalization improvements required**

d. Accessory structures or facilities: **No new accessory structures or facilities required**

e. Other unique facilities/structures proposed as part of site improvements: **No other unique facilities or structures are proposed**

(3) On-site amenities proposed to enhance site and planned improvements. Amenities including mitigative techniques such as:

a. Open space: **The site has heavy tree crown coverage. The property has several mature specimens on site that provide extensive coverage with minimal ground-level area. The site is a**

⁵ According to a memo by Amy Kimball-Murley, AICP, Key West Planning Director. The Owners believe they were permitted to have 160 seats. For the purposes of this application we are relying on the 157 seats.



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- mix of pure open space consisting of mulch and pea rock and old permeable sand-set brick pavers.
- b. Setbacks from adjacent properties: **No changes to setbacks are proposed as a result of this request**
 - c. Screening and buffers: **Landscaping has been added to the edges of the property. Additional landscaping can be added, if it is determined that such addition will further mitigate impacts.**
 - d. Landscaped berms proposed to mitigate against adverse impacts to adjacent sites: **NA – Landscape berms are inappropriate for this site.**
 - e. Mitigative techniques for abating smoke, odor, noise, and other noxious impacts: **Operational techniques are employed on site to reduce impacts. These include closing exterior kitchen shutters at 10:30 p.m. to contain excessive kitchen-related noises; trash and recycling is served via Petronia Street to avoid the more residential oriented Thomas Street side. Additionally the directly adjacent residential property is separated by a 7.5 ft tall concrete block wall. Entertainment sound is contained onsite through a number of physical and programmatic features. The sound system is a specially designed system to contain sound within the interior of the property. The design allows the sound level to be kept very low and intimate, so minimal creepage occurs. The on site sound levels are very low to allow a pleasant dining atmosphere. Additionally the restaurant addresses noise in the Employee Manual "NOISE – Please be aware of noise and respectful of our neighbors who live here. Kitchen music should only be heard in the kitchen. If it can be heard out of the kitchen it is too loud and must be immediately turned down. At 10:30 p.m. the kitchen shutters must be closed. Be aware that handling glass in the bus station is loud. Do not handle glass recycling in the bus station after 6 p.m."**

With the exception of certain Special Events specified herein, Blue Heaven will cause any live-outdoor amplified music to end by 10:00 p.m. on weekdays and 11:00 p.m. on weekends. Sound speakers shall at all times face at the most favorable angle that will emit the least volume of sound to the neighborhood depending on weather or other conditions. Sound shall not exceed the decibel level allowed pursuant to City Ordinance 6-86 (noise control) at any event, at any time. Blue Heaven shall maintain a working decibel sound meter on the premises at all times. Music and amplified sound is prohibited unless a working decibel sound meter is on site, accessible, and fully and completely operational. Blue Heaven shall freely and voluntarily produce the sound meter and measure the sound upon request of a neighbor or an officer of the city. Blue Heaven shall at all times be in compliance with the recommendations found in the owners manual of the sound meter located on the premises. The sound restriction may be waived by the application for and issuance of a special event permit pursuant to City Ordinance 6-86 (noise control). Blue Heaven may also apply for special permits pursuant to City Ordinance 18-88 (open container waiver). Should the City amend either ordinance, the amended or similar ordinance shall apply to the terms of this agreement. The conditions of this provision as to the level of sound, place of measurement and location of sound source are to protect the neighborhood.

(c) Criteria for conditional use review and approval. Applications for a conditional use shall clearly demonstrate the following:

- (1) Land use compatibility: **This requested scale and intensity of the request is compatible with the adjacent land uses, demonstrated as follows:**

Trip Generation: The proposed request complies with the HNC-3 trip generation requirements as demonstrated above.

Parking has always been challenging in this mixed-use neighborhood. To mitigate the impacts of parking the business addresses parking in its Employee Manual. Employees are strongly urged to

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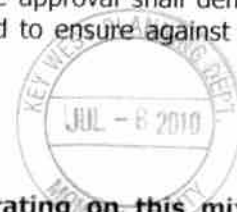


walk, bike, scooter, or taxi to work - "Please try not to bring a car to work. Parking is very limited and the neighborhood residents have priority. Bicycles, scooters, feet or taxi use are strongly encouraged. Mopeds and bikes should park in the designated area in front. If you must drive a car please park in a non-residential spot...". Furthermore, Blue Heaven will maintain a list of its employees' vehicle tag numbers to track any parking violations. Signs alerting patrons that most parking in the area is restricted to residents and requesting respect for the property's residential neighbors are located through out the property. Blue heaven will work with the Key West Police Department and parking officials to enforce parking restrictions in Bahama Village. Blue Heaven will place on its menus a cautionary statement that improperly parked vehicles are subject to fines and/or towing.

Semi-trailer trucks and box-type delivery trucks will off-load in the space marked "Loading Zone" between the hours of 7:00am and 5:00pm. Blue Heaven and its employees agree to notify their vendors in writing of these restrictions AND shall request and vendors who do not comply to request that they move their vehicles to the "Loading Zone" location. Blue Heaven will also direct that portion of their vendors deliver goods to Salut  and be responsible for transporting them to Blue Heaven.

- (2) Sufficient site size, adequate site specifications, and infrastructure to accommodate the proposed use: The site is adequate for the use as demonstrated by the attached Fire Marshal's report regarding permitted occupancy loads, the existing over-sized grease traps, and the prior special exceptions and variances granted the property by the City. The increased number of seats will not require any expansion of impervious surface or building coverage.
- (3) Proper use of mitigative techniques: This application demonstrates the request incorporates appropriate mitigative techniques that adequately address off-site impacts.
- (4) Hazardous waste: NA. All restaurant waste is handled by licensed haulers.
- (5) Compliance with applicable laws and ordinances: This project proposes to comply with all applicable laws and ordinances.
- (6) Additional criteria applicable to specific land uses. Applicants for conditional use approval shall demonstrate that the proposed conditional use satisfies the following specific criteria designed to ensure against potential adverse impacts which may be associated with the proposed land use:
 - a. Land uses within a conservation area: NA
 - b. Residential development: NA
 - c. Commercial or mixed use development: This restaurant has been operating on this mixed-use property, located in the Bahama Village Commercial Core, in more or less its existing condition, for more than 17 years. The restaurant use was approved by the City and found to be an appropriate use for the property. The current request is only to increase the number of seats and proposes no new development.

This restaurant has been operating on this mixed-use property, located in the Bahama Village Commercial Core, in more or less its existing condition, for more than 17 years. The property has two street frontages and corners Petronia & Thomas streets. The 300 block of Petronia predominantly commercial and serves as a services access for trash, recycling, propane and some deliveries. There is also a loading zone on Thomas Street.
 - d. Development within or adjacent to historic district: This proposal complies with the HARC guidelines as demonstrated by the attached HARC approval.



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- e. Public facilities or institutional development: **NA**
- f. Commercial structures, uses and related activities within tidal waters: **NA**
- g. Adult entertainment establishments: **NA**



Verification Form

Verification Form

Please note, Conditional Use requests are quasi-judicial hearings and it is improper to speak to a Planning Board or Board of Adjustment Member about the request outside of the hearing.

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

I, Richard G. Rumrell, being duly sworn, depose and say
Name(s) of Applicant(s)

that: I am (check one) the Owner Owner's Legal Representative
for the property identified as the subject matter of this application:

729 Thomas St. Key West, FL + 309 Petronia St. Key West, FL
Street Address and Commonly Used Name (if any)

All of the answers to the above questions, drawings, plans and any other attached data which make up this application, are true and correct to the best of my knowledge and belief and that if not true or correct, are grounds for revocation of any action reliant on said information.

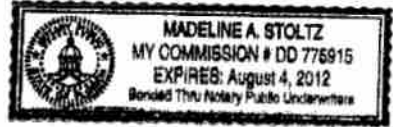
[Signature]
Signature of Owner/Legal Representative

[Signature]
Signature of Joint/Co-owner

Subscribed and sworn to (or affirmed) before me on 1st day of July 2010 by
Richard G. Rumrell (name). He/She is personally known to me or has

presented as identification.

[Signature]
Notary's Signature and Seal



Name of Acknowledger typed, printed or stamped
Title or Rank Commission Number (if any)



Authorization Form

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Authorization Form

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

I, _____ authorize
Please Print Name(s) of Owner(s)

Please Print Name of Representative

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

Signature of Owner

Signature of Joint/Co-owner if applicable

Subscribed and sworn to (or affirmed) before me on _____ (date) by

Please Print Name of Affiant

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

Notary's Signature and Seal

Name of Acknowledger printed or stamped

Title or Rank

Commission Number, if any



Deed

Return to: (Enclose self addressed stamped envelope)

Name: STONES & CARDENAS
Address: 221 Simonton Street
Key West, FL 33040

MONROE COUNTY
OFFICIAL RECORDS

FILE #1 236924
BK#1698 PG#603

RCD May 24 2001 10:04AM
DANNY L. KOLHAGE, CLERK

This Instrument Prepared By:

STONES & CARDENAS
221 Simonton Street
Key West, FL 33040
(305) 294-0252

DEED DOC STAMP 1446.90
05/24/2001 DRP CLK

Grantee Names & S.S.N. Richard W. Hatch III: 243-06-5028
Suanne Marie Kitchar: 470-82-8220

WARRANTY DEED

THIS INDENTURE, made this 12th day of September, 2000, by and between RICHARD W. HATCH, III, a single man and SUANNE MARIE KITCHAR, a single woman, whose address is 729 Thomas Street, Key West, Florida 33040 and ROBERT D. HATCH, a single man, whose address is 905 Emma Street, Key West, Florida 33040, as Grantors, and RICHARD W. HATCH, III, a single man and SUANNE MARIE KITCHAR, a single woman, as joint tenants with right of survivorship, whose address is 729 Thomas Street, Key West, Florida 33040, as Grantees.

WITNESSETH, That the said Grantors, for and in consideration of the sum of Ten and 00/100 (\$10.00) dollars and other good and valuable consideration to said Grantors, in hand paid, the receipt of which is hereby acknowledged, have granted, bargained and sold to the said Grantees, their successors, heirs and assigns, forever, the following described property, situate lying and being in the County of Monroe, State of Florida, to wit:

SEE EXHIBIT "A" ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE.

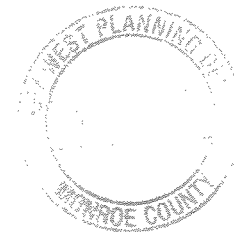
SUBJECT TO: Taxes for the year 2000 and subsequent years.

SUBJECT TO: Conditions, limitations, reservations and easements of record.

SUBJECT TO: First mortgage given be Grantees herein and in favor of William G. Crockett and Corinne K. Crockett, his wife, with an approximate principal balance of \$620,000.00.

Property Appraiser's Parcel Identification Numbers: 00013250-000000
00013260-000000
00013270-000000

THIS DOCUMENT WAS PREPARED WITHOUT BENEFIT OF TITLE SEARCH OR ABSTRACT EXAMINATION AND IS BASED SOLELY ON THE FACTS PROVIDED BY EITHER OF THE PARTIES OR THEIR AGENTS.




TOGETHER with all tenements, hereditaments and appurtenances, with every privilege, right, title, interest, and estate, reversion, remainder and easement thereunto belonging or in anywise appertaining:

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

AND the said Grantors do hereby covenant with said Grantees that the said Grantors are lawfully seized of the said property; that it is free of all encumbrances except as above stated; that they have good right and lawful authority to sell the same; and that the said Grantees shall have quiet enjoyment thereof. The said Grantors do hereby fully warrant the title to said property, and will defend the same against the lawful claims of all persons whomsoever.

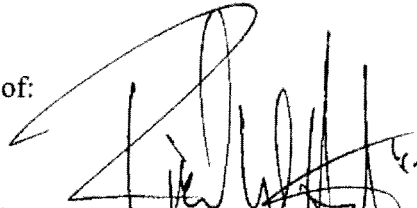
IN WITNESS WHEREOF, Grantors have hereunto set Grantors' hands and seals the day and year first above written.

Signed, Sealed and Delivered in the Presence of:




Signature of Witness
Steven R. Pribramsky

Printed Name of Witness

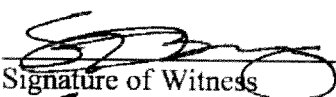


RICHARD W. HATCH, III



Signature of Witness
Susan M. Cardenas

Printed Name of Witness




Signature of Witness
Steven R. Pribramsky

Printed Name of Witness




SUANNE MARIE KITCHAR



Signature of Witness
Susan M. Cardenas

Printed Name of Witness

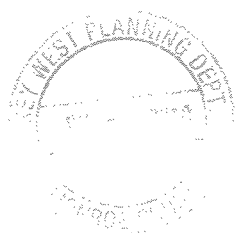


Signature of Witness
Steven R. Pribramsky

Printed Name of Witness



ROBERT D. HATCH



Susan M. Cardenas
Signature of Witness
Susan M. Cardenas
Printed Name of Witness

FILE #1236924
BK#1698 PG#605

STATE OF FLORIDA:
COUNTY OF MONROE:

I HEREBY CERTIFY that on this day personally appeared before me, an officer duly authorized to administer oaths and take acknowledgments, RICHARD W. HATCH, III, who is personally known to me to be the person described in and who executed the foregoing Quit-Claim Deed or has produced personally known as identification, and he has acknowledged before me that he executed the same freely and voluntarily for the purposes therein expressed.

WITNESS my hand and official seal at Key West, State of Florida, County of Monroe, this 12th day of September, 2000.

Susan M. Cardenas
Printed Name of Notary
My Commission Expires OCTOBER 23, 2000
#CC 574178
Bonds thru
Notary Public Underwrites
NOTARY PUBLIC, STATE OF FLORIDA

Susan M. Cardenas
NOTARY PUBLIC

STATE OF FLORIDA:
COUNTY OF MONROE:

I HEREBY CERTIFY that on this day personally appeared before me, an officer duly authorized to administer oaths and take acknowledgments, SUANNE MARIE KITCHAR, who is personally known to me to be the person described in and who executed the foregoing Quit-Claim Deed or has produced personally known as identification, and she has acknowledged before me that she executed the same freely and voluntarily for the purposes therein expressed.

WITNESS my hand and official seal at Key West, State of Florida, County of Monroe, this 12th day of September, 2000.

Susan M. Cardenas
Printed Name of Notary
My Commission Expires OCTOBER 23, 2000
#CC 574178
Bonds thru
Notary Public Underwrites
NOTARY PUBLIC, STATE OF FLORIDA

Susan M. Cardenas
NOTARY PUBLIC



STATE OF FLORIDA:
COUNTY OF MONROE:

FILE # 1 2 3 6 9 2 4
BK# 1 6 9 8 PG# 6 0 6

I HEREBY CERTIFY that on this day personally appeared before me, an officer duly authorized to administer oaths and take acknowledgments, ROBERT D. HATCH, who is personally known to me to be the person described in and who executed the foregoing Quit-Claim Deed or has produced personally known as identification, and he has acknowledged before me that he executed the same freely and voluntarily for the purposes therein expressed.

WITNESS my hand and official seal at Key West, State of Florida, County of Monroe, this 12th day of September, 2000.

Susan M. Cardenas
Printed Name of Notary

Susan M. Cardenas
NOTARY PUBLIC

My Commission Expires

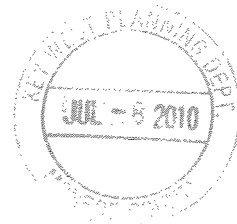
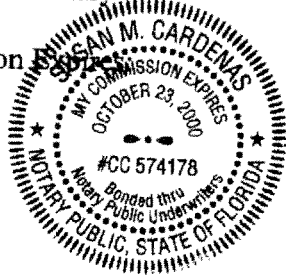


EXHIBIT "A"

FILE # 1 2 3 6 9 2 4
BK# 1 6 9 8 PG# 6 0 7

Legal Description

On the Island of Key West, and known as part of Lots 7 & 8, Square 1, Tract 3, according to a diagram made by William H. VonPhister as recorded in Deed Book "F" at page 621 of the Public Records of Monroe County, Florida; said parcel being more particularly described by metes and bounds as follows: COMMENCING at the intersection of the NE'ly right of way line of Thomas Street with the NW'ly right of way line of Petronia Street and run thence in a NE'ly direction along the NW'ly right of way line of the said Petronia Street for a distance of 52.2 feet to the Point of Beginning; thence continue NE'ly along the NW'ly right of way line of the said Petronia Street for a distance of 45.8 feet; thence NW'ly and at right angles for a distance of 92.0 feet; thence SW'ly and at right angles for a distance of 45.8 feet; thence SE'ly and at right angles for a distance of 92.0 feet back to the Point of Beginning. (Parcel A: 729 Thomas Street, Key West, Florida).

AND

On the Island of Key West, and known as part of Lots 7 & 8, Square 1, Tract 3, according to a diagram made by William H. VonPhister as recorded in Deed Book "F" at page 621 of the Public Records of Monroe County, Florida; said parcel being more particularly described by metes and bounds as follows: BEGIN at the intersection of the NE'ly right of way line of Thomas Street with the NW'ly right of way line of Petronia Street and run thence in a NE'ly direction along the NW'ly right of way line of the said Petronia Street for a distance of 52.2 feet; thence NW'ly and at right angles for a distance of 92.0 feet; thence SW'ly and at right angles for a distance of 52.2 feet to the NE'ly right of way line of the said Thomas Street; thence SE'ly and along the NE'ly right of way line of the said Thomas Street for a distance of 92.0 feet back to the Point of Beginning. (Parcel B: 305 Petronia Street, Key West, Florida).

AND

In Monroe County, State of Florida, on the Island of Key West and known as Lot 9 and part of Lot 10, of Square 1 in Tract 3, according to C.W. Tift's Map of said Island, more particularly described as follows:

COMMENCING at a point of Petronia Street distant 98 feet from the corner of Thomas and Petronia Streets and runs thence along Petronia Street in a NE'ly direction 50 feet; thence at right angles in a NW'ly direction 92 feet; thence at right angles in a SW'ly direction 50 feet; thence at right angles in a SE'ly direction 92 feet to the point of beginning. (Parcel C: 309 Petronia Street, Key West, Florida).

MONROE COUNTY
OFFICIAL RECORDS

Return to: (Enclose self addressed stamped envelope)
Name: STONES & CARDENAS
Address: 221 Simonton Street
Key West, FL 33040

MONROE COUNTY
OFFICIAL RECORDS

FILE #1432896
BK#1986 PG#1220

This Instrument Prepared By:

STONES & CARDENAS
221 Simonton Street
Key West, FL 33040
(305) 294-0252

RCD Mar 24 2004 02:26PM
DANNY L KOLHAGE, CLERK

DEED DOC STAMPED 0.70
03/24/2004 DEP CLK

QUIT CLAIM DEED

THIS QUIT CLAIM DEED, executed this 24th day of March, 2004, by and between RICHARD W. HATCH, III, a single man, and SUANNE M. KITCHAR, a single woman, as joint tenants with rights of survivorship, whose address is 729 Thomas Street, Key West, Florida, 33040, party of the first part, and 729 THOMAS STREET, LLC, a Florida limited liability company, whose address is 729 Thomas Street, Key West, Florida, 33040, party of the second part.

WITNESSETH, That the said party of the first part, for and in consideration of the sum of Ten and 00/100 (\$10.00) Dollars, in hand paid by the said party of the second part, the receipt of which is hereby acknowledged, have remised, released and quit-claimed, and by these presents do remise, release and quit-claim unto the said party of the second part all the right, title, interest, claim and demand which the said party of the first part has in and to the following described lot, piece or parcel of land, situate lying and being in the County of Monroe, State of Florida, to wit:

SEE EXHIBIT "A" ATTACHED HERETO AND INCORPORATED
HEREIN BY REFERENCE

PARCEL IDENTIFICATION NOS.: 0013250-000000
00013260-000000
00013270-000000

SUBJECT TO: Taxes for the year 2004 and subsequent years.

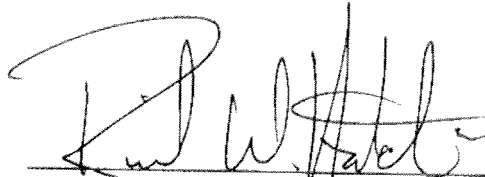
SUBJECT TO: Conditions, restrictions, limitations, reservations and easements of record, if any.

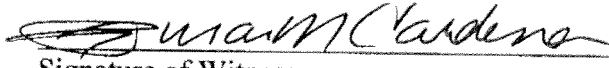
THIS DOCUMENT WAS PREPARED WITHOUT BENEFIT OF TITLE SEARCH OR ABSTRACT EXAMINATION AND IS BASED SOLELY ON THE FACTS PROVIDED BY EITHER OF THE PARTIES OR THEIR AGENTS.


TO HAVE AND TO HOLD the same, together with all and singular the appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest and claim whatsoever of the said party of the first part, either in law or equity, to the only proper use, benefit and behoof of the said party of the second part forever.


IN WITNESS WHEREOF, the said party of the first part has signed and sealed these

presents the day and year first above written.
Signed, Sealed and Delivered
in the Presence of:

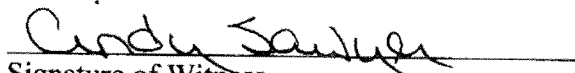

RICHARD W. HATCH, III


Signature of Witness
Susan M. Cardenas
Printed Name of Witness


Signature of Witness
Cindy Sawyer
Printed Name of Witness


Signature of Witness
Susan M. Cardenas
Printed Name of Witness


SUANNE M. KITCHAR


Signature of Witness
Cindy Sawyer
Printed Name of Witness

STATE OF FLORIDA:
COUNTY OF MONROE:

I HEREBY CERTIFY that on this day personally appeared before me, an officer duly authorized to administer oaths and take acknowledgments, RICHARD W. HATCH, III and SUANNE M. KITCHAR, who are personally known to me to be the persons described in and who executed the foregoing Quit Claim Deed or who produced personally known as identification, and they have acknowledged before me that they executed the same freely and voluntarily for the purposes therein expressed.

WITNESS my hand and official seal at Key West, County of Monroe, State of Florida, this 24th day of March, 2004.

Susan M. Cardenas
Printed Name of Notary


NOTARY PUBLIC

My Commission Expires:

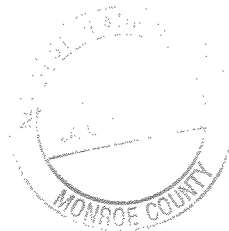


EXHIBIT "A"

FILE # 1 4 3 2 8 9 6
BK# 1 9 8 6 PG# 1 2 2 2

Legal Description

On the Island of Key West, and known as part of Lots 7 & 8, Square 1, Tract 3, according to a diagram made by William H. VonPhister as recorded in Deed Book "F" at page 621 of the Public Records of Monroe County, Florida; said parcel being more particularly described by metes and bounds as follows: COMMENCING at the intersection of the NE'ly right of way line of Thomas Street with the NW'ly right of way line of Petronia Street and run thence in a NE'ly direction along the NW'ly right of way line of the said Petronia Street for a distance of 52.2 feet to the Point of Beginning; thence continue NE'ly along the NW'ly right of way line of the said Petronia Street for a distance of 45.8 feet; thence NW'ly and at right angles for a distance of 92.0 feet; thence SW'ly and at right angles for a distance of 45.8 feet; thence SE'ly and at right angles for a distance of 92.0 feet back to the Point of Beginning. (Parcel A: 729 Thomas Street, Key West, Florida).

AND

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AND

In Monroe County, State of Florida, on the Island of Key West and known as Lot 9 and part of Lot 10, of Square 1 in Tract 3, according to C.W. Tift's Map of said Island, more particularly described as follows:

COMMENCING at a point of Petronia Street distant 98 feet from the corner of Thomas and Petronia Streets and runs thence along Petronia Street in a NE'ly direction 50 feet; thence at right angles in a NW'ly direction 92 feet; thence at right angles in a SW'ly direction 50 feet; thence at right angles in a SE'ly direction 92 feet to the point of beginning. (Parcel C: 309 Petronia Street, Key West, Florida).

MONROE COUNTY
OFFICIAL RECORDS



Survey

SEATING

INSIDE (COVERED)

MAIN STRUCTURE
FIRST FLOOR (720 SF)
SECOND FLOOR (980 SF)

TOTAL INSIDE SEATING 94

OUTSIDE (UNCOVERED)

CONCRETE (2610 SF)

TOTAL OUTSIDE SEATING 92

MAX OUTSIDE/INSIDE SEATING 157

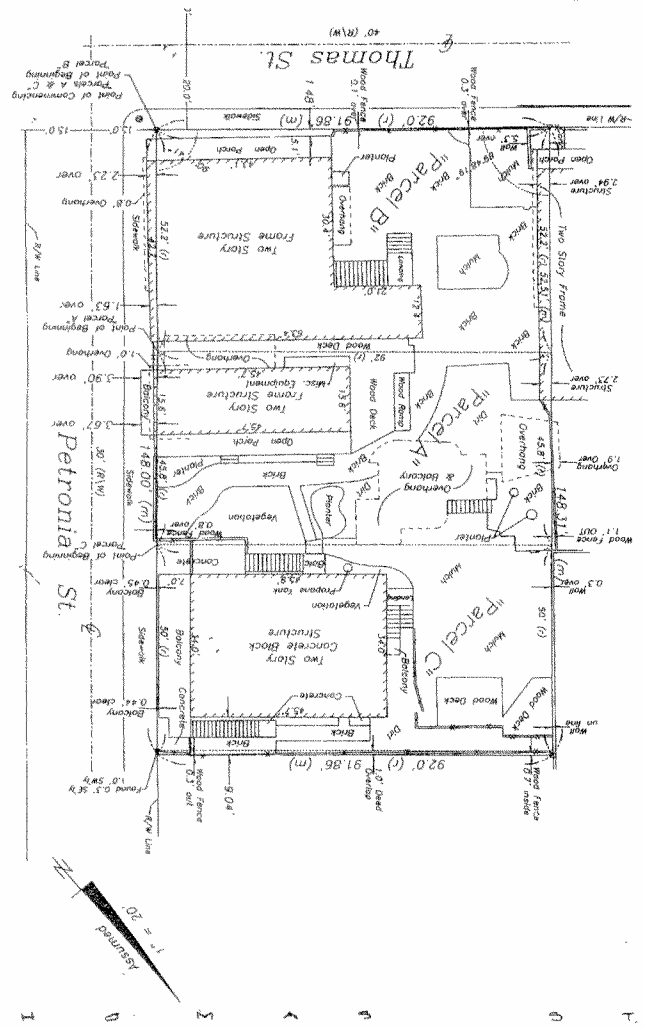
Consumption Area

Indoor

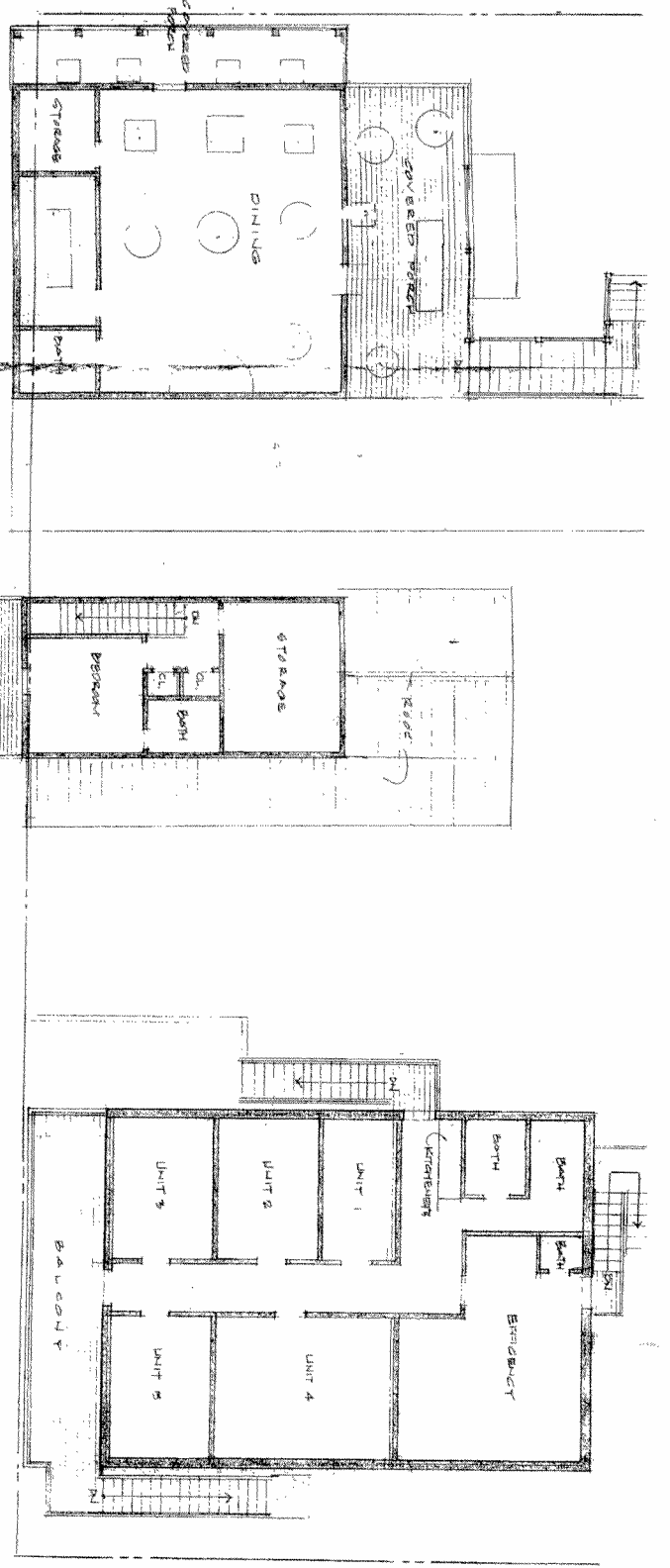
Existing: 1,457 sq. ft.
Proposed: 2,050 sq. ft.

Outdoor

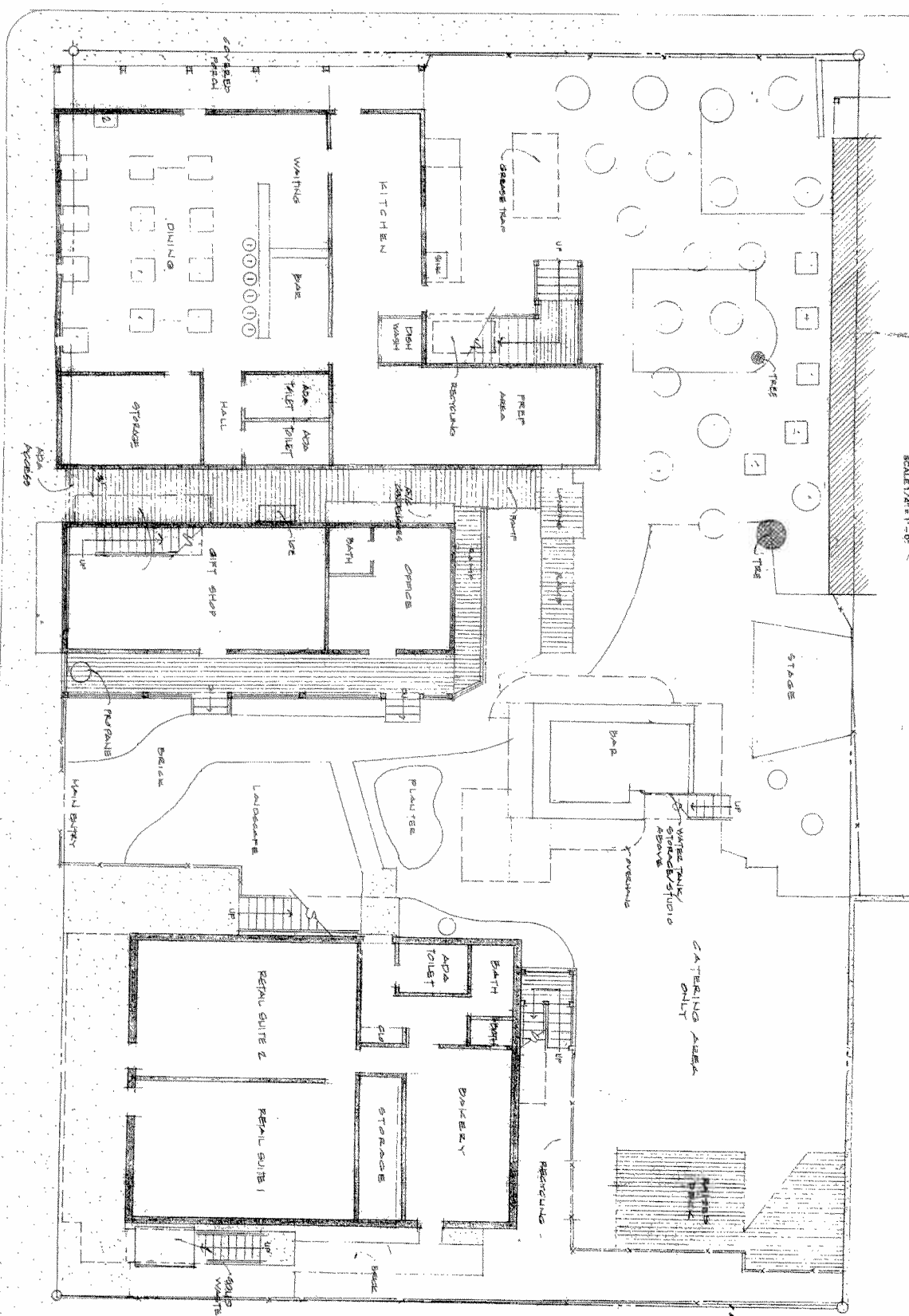
Existing: 900 sq. ft.
Proposed: 1,395 sq. ft.



SURVEY



SECOND FLOOR PLAN



SITE PLAN FIRST FLOOR PLAN

SEATING LAYOUT

BLUE HEAVEN
MINOR USE DEVELOPMENT PLAN
729 THOMAS STREET KEY WEST FLORIDA

WILLIAM ROWAN ARCHITECTURE
321 PEACON LANE KEY WEST, FLORIDA
305 296 2784 FLORIDA LICENSE AR-0017751

DATE: 12/18/10
BY: [Signature]

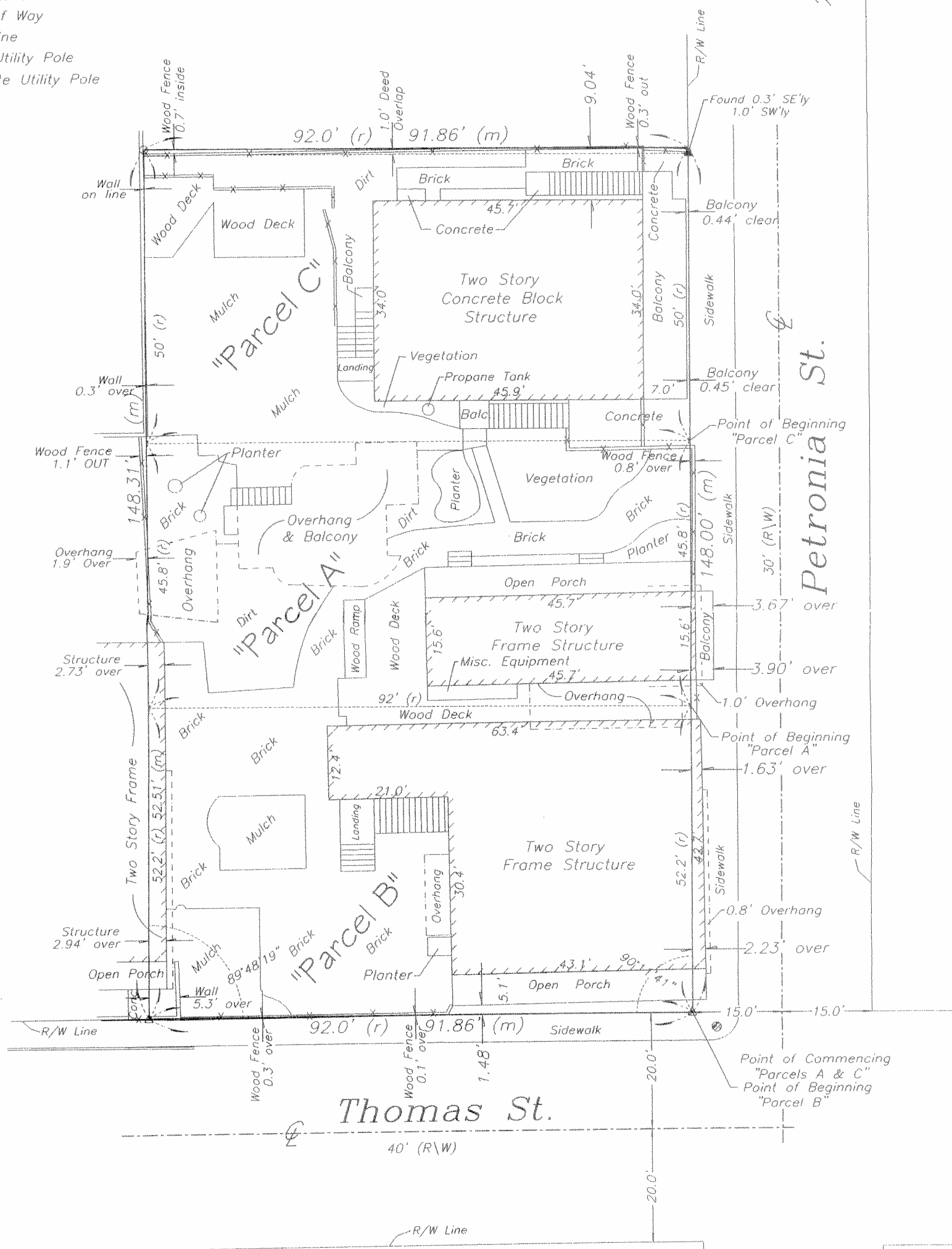
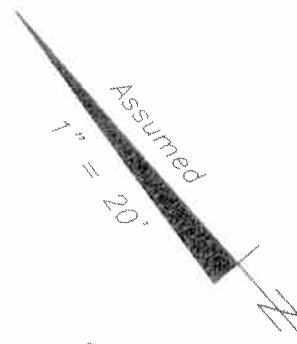
ISS NUMBER: 0786

REV: 12.16.07
DATE: 12.13.07

1
1 OF 3

LEGEND

- Set 3/4" Iron Pipe w/cap (6298)
- Found 1/2" Iron Rod (No ID)
- ▲ Found Nail & Disc (FHH)
- △ Set Nail & Disc (6298)
- (M) Measured
- (R) Record
- (M/R) Measured & Record
- C.B.S. Concrete Block Structure
- R\W Right of Way
- ⊕ Centerline
- ⊙ Wood Utility Pole
- ⊠ Concrete Utility Pole



Note:
This Survey Map is not full and complete without the attached Survey Report.

Sheet One of Two Sheets

Boundary Survey Map of Lots 7, 8, 9,
and part of Lot 10, Square 1,
Tract 3, Island of Key West

J. LYNN O'FLYNN, Inc.
Professional Surveyor & Mapper
PSM #6298
3430 Duck Ave., Key West, FL 33040
(305) 296-7422 FAX (305) 296-2244

Boundary Survey Report of Lots 7, 8, 9,
and part of Lot 10, Square 1,
Tract 3, Island of Key West

NOTES:

1. The legal description shown hereon was furnished by the client or their agent.
2. Underground foundations and utilities were not located.
3. All angles are 90° (Measured & Record) unless otherwise noted.
4. Street address: 729 Thomas Street; 305, 309 & 311 Petronia Street, Key West, FL.
5. This survey is not valid without the signature and the original raised seal of a Florida licensed surveyor and mapper.
6. Lands shown hereon were not abstracted for rights-of-way, easements, ownership, or other instruments of record.
7. North Arrow is assumed and based on the legal description.
8. This Survey is not assignable.
9. Date of field work: May 9, 2007.
10. Ownership of fences is undeterminable, unless otherwise noted.
11. This Survey Report is not full and complete without the attached Survey Map.

BOUNDARY SURVEY OF:

On the Island of Key West, and known as part of Lots 7 & 8, Square 1, Tract 3, according to a diagram made by William H. VonPhister as recorded in Deed Book "F" at page 621 of the Public Records of Monroe County, Florida; said parcel being more particularly described by metes and bounds as follows: BEGIN at the intersection of the NE'y right of way line of Thomas Street with the NW'y right of way line of Petronia Street and run thence in a NE'y direction along the NW'y right of way line of the said Petronia Street for a distance of 52.2 feet; thence NW'y and at right angles for a distance of 92.0 feet; thence SW'y and at right angles for a distance of 52.2 feet to the NE'y right of way line of the said Thomas Street; thence SE'y and along the NE'y right of way line of the said Thomas Street for a distance of 92.0 feet back to the Point of Beginning. (Parcel B: 729 Thomas St., Key West, Florida).

AND:

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AND ALSO:

In Monroe County, State of Florida, on the Island of Key West and known as Lot 9 and part of Lot 10, of Square 1 in Tract 3, according to C.W. Tift's Map of said Island, more particularly described as follows:

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BOUNDARY SURVEY FOR: Blue Heaven Restaurant;

J. LYNN O'FLYNN, INC.


J. Lynn O'Flynn, PSM
Florida Reg. #6298

May 10, 2007

Sheet One of Two Sheets

J. LYNN O'FLYNN, Inc.



Professional Surveyor & Mapper
PSM #6298

3430 Duck Ave., Key West, FL 33040
(305) 296-7422 FAX (305) 296-2244

Concurrency

MEMORANDUM

Date: 06/28/2010
To: Ms. Amy Kimball-Murley, AICP, Planning Director
From: Mehdi Benkhatar
CC: Mr. Owen Trepanier
Re: **Concurrency Analysis for Blue Heaven
(729 Thomas Street – 305-311 Petronia Street)**



The City's Comprehensive Plan Objective 9-1.5 directs the City to ensure that facilities and services needed to support development are available concurrent with the impacts of new development.

The following specific issues are outlined:

1. Potable Water & Sanitary Sewer
2. Recreation
3. Solid Waste
4. Drainage
5. Roads/Trip Generation

The following concurrency analysis reflects the proposed Conditional Use Application of Blue Heaven (729 Thomas Street – 305-311 Petronia Street).

Potable Water & Sanitary Sewer "Planned improvements in potable water and/or wastewater systems required to establish and/or maintain adopted water and wastewater levels of service. System improvements and proposed funding resources required for implementing any improvements required to establish and/or maintain adopted potable water and wastewater system level of service standards¹:"

Potable Water. Sec. 94-68 sets the level of service for residential potable water at 93 gal/ capita/ day and nonresidential at 650 gal/acre/day.

- i) Existing capacity required: **201.8 gal/day**
 - a) The total capacity required for the nonresidential use on **0.3104683 acres** is:

$$650 \text{ gal/acre/day} \times 0.3104683 \text{ acres} = 201.8 \text{ gal/day}$$

- ii) Proposed capacity required: **201.8 gal/day**
 - a) The total capacity required for the residential use of **0.3104683** is:

¹ The City of Key West's Comprehensive Plan Policy 9-1.5.1: Resolving Concurrency Issues.

$$650 \text{ gal/acres/day} \times 0.3104683 \text{ acres} = 201.8 \text{ gal/day}$$

b) The total capacity required for the nonresidential use on **0.3104683 acres** is:

$$650 \text{ gal/acres/day} \times 0.102456 \text{ acres} = 201.8 \text{ gal/day}$$

There is no increase (0 gal/day) on the capacity required as a result of this development. The Florida Keys Aqueduct Authority has the capacity to supply adequate service to this property, as demonstrated in the following:

FCAA has obtained all necessary permits and is in the process of constructing facilities on the mainland in Florida City to expand water supply for the Florida Keys. This permitted and under construction improvement will enable FCAA to provide over 23 MGD by July 2010, which will provide sufficient capacity through 2022². Once operational in 2010, a permitted expansion of the R.O. plant will provide 6.0 MGD, which combined with the 17.0 MGD permitted withdrawal from the Biscayne Aquifer, will increase available water supply to 23 MGD for the Florida Keys.

Expanded Florida City R.O. Plant. The Department of Health issued Permit # 150092-007-wc/04 (Exhibit I) on November 14, 2006 to allow for the construction of an expanded reverse osmosis (R.O.) water plant in Florida City. The expanded water plant will be designed to treat blended Floridian Aquifer water as an alternative water source to the Biscayne Aquifer. The permit design capacity of the expanded R.O. plant is 6 MGD.

Revised Water Use Permit. The SFWMD issued revised Water Use Permit (WUP) #13-00005-W (Exhibit II) on March 26, 2008, which recognizes the additional blended Floridian Aquifer capacity that will be provided by the expanded R.O. plant. Interim Water Use Allocations in the WUP permit provide FCAA with an allocation of 17.00 MGD (dry season) and 17.79 GPD (wet season) which may be withdrawn from the Biscayne Aquifer and allows FCAA to utilize the Stock Island and Marathon Reverse Osmosis plants for any demands exceeding the interim withdrawal limit, pending completion of the R.O. plant in Florida City. The Stock Island and Marathon R.O. plants have a combined capacity of 3.0 MGD providing an interim WUP water supply of 20.0 MGD during the dry season if needed. Once operational in 2010, the R.O. plant will provide an additional 6.0 MGD, which when combined with the 17.0 MGD permitted withdrawal from the Biscayne Aquifer, will increase available water supply to 23 MGD for the Florida Keys.

The interim allocation of 20 MGD (7,300 MG/year) through 2010 and 23 MGD after 2010 provides ample water supply to support the adopted amendment and allocated growth well beyond 10 years. The "Monroe County 2007 Annual Public Facilities Report" documents historic water use in the Florida Keys. Water demand has fluctuated significantly on an annual basis, however when evaluated over a ten-year period, the data shows an increase in water demand of more than 1 billion gallons over

² Excerpt from Analysis by Kenneth B. Metcalf, AICP, (Greenberg Traurig, P.A.), August 22, 2008.

the last 10 years with an annual average increase of approximately 104 MG/year. This increase in demand can be shown in the following calculation:

$$\begin{aligned}
 &1996 \text{ annual water demand} = 5,272 \text{ MG /year} \\
 &2006 \text{ annual water demand} = 6,310 \text{ MG /year} \\
 &\text{Average Annual Increase} = (6,310 \text{ MG} - 5,272\text{MG})/ 10 = 103.8 \text{ MG /year}
 \end{aligned}$$

Based on the average annual increase of 103.8 MG per year, the interim allocation would be sufficient for an additional 9.5 years of growth beyond 2006 or through 2015 until demand reaches the interim permitted withdrawal of 20 MGD (7,300 MG/year). Upon completion of the Florida City facilities, the 23 MGD allocation would be available to support yet another 9.5 years of growth. Based on these findings, sufficient permitted water supply is available to meet the needs of the Florida Keys through 2024.

Improvements Schedule/Status. Condition 30 of the WUP provides the following time schedule for construction of the R.O. plant and the associated Floridian deep wells that will provide 23 MGD of capacity through 2024:

- DEP Underground Injection and Control permit was obtained on May 21, 2008.
- Construction contracts were required within 180 days or by November 21, 2008;
- Testing is required within one year and 30 days from issuance of the permit or by June 21, 2009.
- The R.O. plant construction is scheduled for completion by December 31, 2009 and the R.O. plant will be operational no later than 2 years and 60 days from the issuance of the DEP permit or by July 21, 2010.

Sanitary Sewer

Sec. 94-67 sets the level of service for residential sanitary sewer at 100 gal/capita/day and nonresidential sanitary sewer at 660 gal/acre/day.

- i) Existing capacity required: **204.9 gal/day**
 - a) The total capacity required for the nonresidential use on **0.3104683 acres** is:

$$660 \text{ gal/acres/day} \times 0.3104683 \text{ acres} = 204.9 \text{ gal/day}$$

- ii) Proposed capacity required: **204.9 gal/day**
 - a) The total capacity required for the nonresidential use of **0.3104683 acres** is:

$$660 \text{ gal/acres/day} \times 0.3104683 \text{ acres} = 204.9 \text{ gal/day}$$

There is no increase (0 gal/day) on the capacity required as a result of this development. The current wastewater treatment plant has the potential treatment

capacity of 10 million gallons per day. Only 4.8 million gallons per day of capacity are currently utilized³. The current plant has the capacity to supply service to this project's needs.

1. **Recreation-** "In cases where residential development is proposed, information shall be submitted describing plans for accommodating recreational demands generated by the development, including demonstrated evidence that the City's adopted level of service for recreation shall not be adversely impacted⁴:"

Recreational Level of Service Standards:

Activity	Requirement⁵	Required⁶	Existing⁷	Comply?
Tennis Courts	1 court per 7,500	3.10	6	Yes
Racquetball/Handball Courts	1 court per 10,000	2.33	4	Yes
Basketball Courts	1 court per 5,000	4.65	5 ⁸	Yes
Softball/Baseball Diamonds	1 diamond per 4,500	5.17	6	Yes
Swimming Pools	1 pool per 45,000	Less than 1	2 ⁹	Yes
Golf Courses	1 18-hole course per 50,000	Less than 1	1	Yes
Boat Ramps	1 ramp per 9,500	2.45	5 ¹⁰	Yes
Football/Soccer Fields	1 field per 11,000	2.11	3	Yes
Bocce Courts	1 court per 9,500	2.45	6	Yes
Neighborhood Parks	2.5 acres per 1,000	46.52	236.5	Yes
Community Parks	2.5 acres per 1,000	46.52	acres ¹¹	

The City has more than enough additional recreational capacity beyond the adopted level of service for recreational activities for the proposed site. The City currently has enough recreational facility capacity to meet this project's needs and the City's adopted recreational level of service will not be adversely impacted as a result of this project.

2. **Solid Waste-** "Projected demand generated by the development on the solid waste disposal system and assurances that the City's adopted level of service for solid waste disposal shall not be adversely impacted¹²:"

Sec. 94-71 sets the level of service for residential solid waste disposal (1994-2010) at 2.66 lb/capita/day and nonresidential solid waste disposal at 6.37 lb/capita/day¹³.

i) Existing capacity required: **477.75 lb/day**

³ Per October 14, 2008 memo from Greg Smith, project Manager for CH2M Hill OMI (Exhibit III)

⁴ The City of Key West's Comprehensive Plan Policy 9-1.5.1: Resolving Concurrency Issues.

⁵ Per Section 94-70 of the City of Key West Code

⁶ These calculations are based on the Key West and Monroe County Demographics found: <http://www.keywestchamber.org/PDF/demographics.pdf>, which assumes a population of 23,262.

⁷ Please see attached map for specific locations. (Exhibit IV)

⁸ One located at Douglas Gym, one at the MLK Community Center, and 3 at Bay View Park.

⁹ At the MLK Community Center and Florida Keys Community College

¹⁰ One on Navy property, one on 11th Street, one at Garrison Bight, one at the Truman Water front (only open during City sanctioned events, and one at the Key West Yacht Club.

¹¹ The City of Key West Recreation Department was unable to provide the acreage of Neighborhood & Community Parks, however based on the 1993 Comprehensive Plan Table VII-1 Inventory of Public Parks there are 236.5 ac of parks. The parks are not differentiated by Community versus Neighborhood parks.

¹² The City of Key West's Comprehensive Plan Policy 9-1.5.1: Resolving Concurrency Issues.

¹³ For these calculations, we chose to use the number of employees to represent the "capita."

- a) The total capacity required for the nonresidential use of **75 employees¹⁴** is:

$$6.37 \text{ lb/capita/day} \times 75 \text{ employees} = 477.75 \text{ lb/day}$$

- ii) Proposed capacity required: **477.75 lb/day**

- a) The total capacity required for the office and nonresidential use of **75 employees¹⁵** is:

$$6.37 \text{ lb/capita/day} \times 75 \text{ employees} = 477.75 \text{ lb/day}$$

There will be no increase (0 lb/day) of solid waste generated by this site. Waste Management has more than enough capacity to handle the impact of the proposed development¹⁶.

- 3. Drainage** - "Conceptual plan for accommodating storm water run-off and demonstrated evidence that the proposed drainage improvements shall accommodate storm water run-off without adversely impacting natural systems or the City's adopted level of service for storm drainage¹⁷:"

- A. Post-development run-off shall not exceed the pre-development run-off rate for a 25-year storm event, up to and including an event with 24 hour duration. **This requirement is met and is reflected in the drainage calculations on the site plans.**
- B. Storm water treatment and disposal facilities shall be designed to meet the design and performance standards established in Chapter 17-25, Section 25.025, FAC, with treatment of the run-off from the first one inch of rainfall on-site to meet the water quality standards required by Chapter 17-302, Section 17-302.500, FAC. **This requirement is met and is reflected in the drainage plans located on the site plans.** Storm water facilities which directly discharge into Outstanding Florida Waters ("OFW") shall provide an additional treatment pursuant to Section 17-25.025 (9), FAC. The first inch of runoff from the site will be treated on site. A 50% credit on the runoff amount will be taken if dry retention systems are used. **No direct discharge into OFW will occur.**
- C. Storm water facilities must be designed so as to not degrade the receiving water body below the minimum conditions necessary to assure the suitability of water for the designated use of its classification as established in Chapter 17-302, FAC. **No direct discharge into a water body will occur.**

- 4. Roads/Trip Generation-** "Estimated trips for the peak hour generated by the proposed land use(s) together with anticipated on- and off-site improvements necessitated to accommodate the traffic impacts generated by the development

¹⁴ Data provided by applicant.

¹⁵ Data provided by applicant.

¹⁶ Per October 17, 2008 memo from Gary Bowman General Services Director for the City of Key West (Exhibit V)

¹⁷ Ibid.

including, additional R/W, roadway improvements, additional paved laneage, traffic signalization, proposed methods for controlling access and egress, and other similar improvements¹⁸.”

For the purposes of calculating traffic generation we used the Institute of Transportation Engineer’s 7th Edition Trip Generation Volumes. For the purposes of this analysis, the current site contains 9,045 sq. ft. of gross leaseable floor area (Quality Restaurant ITE # 931). The proposed site will be made up of 9,540 sq. ft. of gross leaseable floor area (Quality Restaurant ITE # 931).

Existing:

Land Use	Weekday Trips	Saturday Trips	Sunday Trips
Quality Restaurant (931) x 9.540 (per 1,000 sq. ft.)	188	185	142
Total Trips for current site	188	185	142

Proposed:

Land Use	Weekday Trips	Saturday Trips	Sunday Trips
Quality Restaurant (931) x 9.540 (per 1,000 sq. ft.)	449	441	337
Total Trips for proposed site	449	441	337

This site is located at the intersection of Thomas Street and Petronia Street. These streets are not constrained streets according to City of Key West Code Section 94-72. The weekday traffic generation will increase by 261 trips. The Saturday traffic will increase by 256 trips and the Sunday traffic will increase by 195 trips. All requirements including proposed methods for controlling ingress, egress, and providing onsite bicycle and scooter parking are met and reflected in the site plans for the proposed project.

¹⁸ The City of Key West’s Comprehensive Plan Policy 9-1.5.1: Resolving Concurrency Issues

Exhibits

Exhibit I – Department of Health Permit #150092-007-wc/04

Exhibit II – Water Use Permit (WUP) #13-00005-W

Exhibit III – October 14, 2008 Wasterwater Memo

Exhibit IV – Map of the City of Key West's Existing Recreation Services

Exhibit V – October 17, 2008 Solid Waste Memo

Exhibit I

Department of Health Permit #150092-007-wc/04



Jeb Bush
Governor

M. Rony Francis, M.D., M.S.P.H., Ph.D.
Secretary

Lillian Rivera, RN, MSN, Administrator

PERMITTEE:

Florida Keys Aqueduct Authority (FKAA)
C/o Ray M. Shimokubo
PO BOX 1239, Kennedy Drive
Key West, Florida 33041-1239

PERMIT No: 150092-007-WC/04
DATE OF ISSUE: November 14, 2006
EXPIRATION DATE: November 13, 2011
COUNTY: MIAMI-DADE COUNTY
LAT./LONG.: 25°26'25" N / 80°30'33" W
SECTION/TOWNSHIP/RANGE:
PROJECT: Reverse Osmosis (RO) Expansion
Facility, 6.0 MGD Permeate production with
blending options at FKAA J.Robert Dean WTP
Florida City, Dade County

This permit is issued under the provisions of Chapter 403, Florida Statutes, and Florida Administrative Code Rule 62-4, 62-550, 62-555 & 62-560. The above named permittee is hereby authorized to perform the work shown on the application, technical specifications approved drawing(s), plans, and other documents attached hereto or on file with the Department and made a part hereof and specifically described as follows:

TO CONSTRUCT: A Reverse Osmosis, (RO) treatment facility with a permeate capacity of up to 6 Million Gallons per Day, (MGD) produced from Phase I, consisting of three (3) 1.5 MGD trains or Phase II, consisting of an additional 1.5 MGD or four (4) 1.5 MGD trains. The RO facility will be fully integrated with the existing lime softening plant. There will be the option of bypassing a limited amount of pretreated Floridan aquifer water and blending it with RU permeate thus adding alkalinity to the product water and increasing the overall plant "net" recovery. The RO system product water (degasified permeate/blended permeate) will be combined (blended) with existing lime softening plant product and a limited amount of cartridge-filtered Biscayne Aquifer RO bypass water. The blended product water will receive chemical addition and be transferred to existing finished water storage facilities and pumped to distribution with existing high service pumps. The water treatment plant construction permit application is for 6 MGD RO permeate capacity plus up to 3 MGD cartridge filtered Biscayne Aquifer blend flow and up to 0.576 MGD (400 gpm) pretreated Floridan Aquifer feed water bypass (which blends with RO permeate), and up to 0.7 MGD Floridan Aquifer water which blends with the existing lime softening facility influent Biscayne Aquifer water. The full operation of all the above described facility units could raise the Possible Facility Output Capacity to greater than 23.8 MGD existing permissible, plus 6.0 MGD covered under this permit application.
No other facilities or new wells are part of this permit.

TO SERVE: The Florida Keys Water Distribution System, Monroe County, Florida.



Samiir Elmir, M.S., P.E., DBE, Division Director
Miami-Dade County Health Department
Environmental Health and Engineering
1725 N. W. 167th Street, Miami, Florida 33056
Tel: (305) 623-3500 Fax: (305) 623-3502
Email: Samir_elmir@doh.state.fl.us
Website: www.dadehealth.org

"A"

PERMIT NO: 150092-007-WC/04

PERMIT ISSUE DATE: November 14, 2006

GENERAL CONDITIONS:

1. The terms, conditions, requirements, limitations and restrictions set forth in this permit, are "permit conditions" and are binding and enforceable pursuant to Sections 403.141, 403.727, or 403.859 through 403.861, F.S. The permittee is placed on notice that the Department will review this permit periodically and may initiate enforcement action for any violation of these conditions.
2. This permit is valid only for the specific processes and operations applied for and indicated in the approved drawings or exhibits. Any unauthorized deviation from the approved drawings, exhibits, specifications, or conditions of this permit may constitute grounds for revocation and enforcement action by the Department.
3. As provided in subsections 403.087(6) and 403.722(5), F.S., the issuance of this permit does not convey any vested rights or any exclusive privileges. Neither does it authorize any injury to public or private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations. This permit is not a waiver of or approval of any other Department permit that may be required for other aspects of the total project which are not addressed in this permit.
4. This permit conveys no title to land or water, does not constitute State recognition or acknowledgment of title, and does not constitute authority for the use of submerged lands unless herein provided and the necessary title or leasehold interests have been obtained from the State. Only the Trustees of the Internal Improvement Trust Fund may express State opinion as to title.
5. This permit does not relieve the permittee from liability for harm or injury to human health or welfare, animal, or plant life, or property caused by the construction or operation of this permitted source, or from penalties therefore; nor does it allow the permittee to cause pollution in contravention of Florida Statutes and Department rules, unless specifically authorized by an order from the Department.
6. The permittee shall properly operate and maintain the facility and systems of treatment and control (and related appurtenances) that are installed and used by the permittee to achieve compliance with the conditions of this permit, are required by Department rules. This provision includes the operation of backup or auxiliary facilities or similar systems when necessary to achieve compliance with the conditions of the permit and when required by Department rules.
7. The permittee, by accepting this permit, specifically agrees to allow authorized Department personnel, upon presentation of credentials or other documents as may be required by law and at reasonable times, access to the premises where the permitted activity is located or conducted to:
 - (a) Have access to and copy any records that must be kept under conditions of the permit;
 - (b) Inspect the facility, equipment, practices, or operations regulated or required under this permit; and

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- (c) Sample or monitor any substances or parameters at any location reasonably necessary to assure compliance with this permit or Department rules.

Reasonable time may depend on the nature of the concern being investigated.

8. If, for any reason, the permittee does not comply with or will be unable to comply with any condition or limitation specified in this permit, the permittee shall immediately provide the Department with the following information:

- (a) A description of and cause of noncompliance; and
- (b) The period of noncompliance, including dates and times; or, if not corrected, the anticipated time the noncompliance is expected to continue, and steps being taken to reduce, eliminate, and prevent recurrence if the noncompliance. The permittee shall be responsible for any and all damages which may result and may be subject to enforcement action by the Department for penalties or for revocation of this permit.

9. In accepting this permit, the permittee understands and agrees that all records, notes, monitoring data and other information relating to the construction or operation of this permitted source which are submitted to the Department may be used by the Department as evidence in any enforcement case involving the permitted source arising under the Florida Statutes or Department rules, except where such use is prescribed by Section 403.111 and 403.73, F.S. Such evidence shall only be used to the extent it is consistent with the Florida Rules of Civil Procedure and appropriate evidentiary rules.

10. The permittee agrees to comply with changes in Department rules and Florida Statutes after a reasonable time for compliance; provided, however, the permittee does not waive any other rights granted by Florida Statutes or Department rules.

11. This permit is transferable only upon Department approval in accordance with Rule 62-4.120 and 62-30.300, F.A.C., as applicable. The permittee shall be liable for any non-compliance of the permitted activity until the transfer is approved by the Department.

12. This permit or a copy thereof shall be kept at the work site of the permitted activity.

13. This permit also constitutes:

- Determination of Best Available Control Technology (BACT)
- Determination of Prevention of Significant Deterioration (PSD)
- Certification of compliance with state Water Quality Standards (Section 401, PL 92-500)
- Compliance with New Source Performance Standards

PERMIT NO: 150092-007-WC/04

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14. When requested by the Department, the permittee shall within a reasonable time furnish any information required by law, which is needed to determine compliance with the permit. If the permittee becomes aware the relevant facts were not submitted or were incorrect in the permit application or in any report to the Department, such facts or information shall be corrected promptly.

SPECIFIC CONDITIONS:

1. The applicant is responsible for retaining the engineer of record in the application for supervision of the construction of this project and upon completion, the engineer shall inspect for complete conformity to the plans and specifications as approved.
2. All concrete coatings/admixtures, liners, grouts, hoses, tubings, and protective paints and coatings shall be listed by the National Sanitation Foundation as acceptable for contact with potable water.
3. Bacteriological points depicted on the plans may be modified with Department consent to meet convenient locations where taps would be inserted in the Main for Fire, Metering, Air Release or other connections but not less than 900 foot intervals for new mains. "Additionally, each part or system module shall be Bacteriologically cleared with 2 consecutive days of sampling before being placed in service as well as the final stream going to storage and subsequent service.
4. The Applicant or his designee shall notify The Department at the local DOH office of the start of the study/construction for purposes of allowing Department Personnel to observe the actual process.
5. The owner or permittee is advised that approval is given to the functional aspects of this project on the basis of representation, and data furnished to this division. There may be County, Municipal or other Local Regulations to be complied with by the owner or permittee prior to construction of the facilities represented by the plans referred to above.
6. This construction permit is issued with the understanding that pipe material and appurtenances used in this installation will be in accordance with the latest applicable AWWA & NSF Standards for public water supplies.
7. The applicant Public Water System as a condition of this permit is hereby advised they shall revert to (2) two-six Month periods of standard monitoring for Lead and Copper upon issuance of Clearance to put the facilities into service. If no Lead or Copper exceedance occurs within the 2-6 Month periods, the System may return to annual monitoring.

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8. Prior to placing a system into service, the applicant shall submit to the Department, if requested, one set of record drawings of the completed project with completed form DEP 62.555.910(9) [Certification of Construction Completion and Request for a Letter of Clearance to Place a Public Drinking water facility into Service] signed by the engineer of record. Drawings are to be at the same scale and in the same sequence as those submitted and approved for permit. Deviations from the original permitted drawings are to be highlighted and/or noted for the Department's review. Include with the DEP form the bacteriological clearance data, pressure test results and backflow inspection certification (if applicable).

Issued this 30th day of November 2006

STATE OF FLORIDA
DEPARTMENT OF HEALTH


Samir Elmir, M.S., P.E./D.E.E.,
Division Director

Exhibit II

Water Use Permit (WUP) #13-00005-W



FORM #0299
Rev. 9/03

**SOUTH FLORIDA WATER MANAGEMENT DISTRICT
WATER USE PERMIT NO. RE-ISSUE 13-00005-W
(NON - ASSIGNABLE)**

Date Issued: 13-MAR-2008

Expiration Date: March 13, 2028

Authorizing: THE CONTINUATION OF AN EXISTING USE OF GROUND WATER FROM THE BISCAYNE AQUIFER AND FLORIDAN AQUIFER SYSTEM FOR PUBLIC WATER SUPPLY USE WITH AN ANNUAL ALLOCATION OF 8750.84 MILLION GALLONS.

Located In: Miami-Dade County, S26/T57S/R38E

Issued To: FLORIDA KEYS AQUEDUCT AUTHORITY FKA
(FLORIDA KEYS AQUEDUCT AUTHORITY)
1100 KENNEDY DR
KEY WEST, FL 33401

This Permit is issued pursuant to Application No.050329-23 , dated March 29, 2005, for the Use of Water as specified above and subject to the Special Conditions set forth below. Permittee agrees to hold and save the South Florida Water Management District and its successors harmless from any and all damages, claims or liabilities which may arise by reason of the construction, maintenance or use of activities authorized by this permit. Said application, including all plan and specifications attached thereto, is by reference made a part hereof.

Upon written notice to the permittee, this permit may be temporarily modified, or restricted under a Declaration of Water Shortage or a Declaration of Emergency due to Water Shortage in accordance with provisions of Chapter 373, Fla. Statutes, and applicable rules and regulations of the South Florida Water Management District.

This Permit may be permanently or temporarily revoked, in whole or in part, for the violation of the conditions of the permit or for the violation of any provision of the Water Resources Act and regulations thereunder.

This Permit does not convey to the permittee any property rights nor any privileges other than those specified herein, nor relieve the permittee from complying with any law, regulation, or requirement affecting the rights of other bodies or agencies.

Limiting Conditions are as follows:

SEE PAGES 2 - 7 OF 7 (35 LIMITING CONDITIONS).

South Florida Water Management
District, by its Governing Board

On March 13, 2008
By [Signature]
Deputy Clerk

LIMITING CONDITIONS

1. This permit shall expire on March 13, 2028.
2. Application for a permit modification may be made at any time.
3. Water use classification:

Public water supply

4. Source classification is:

Ground Water from:
Biscayne Aquifer
Floridan Aquifer System

5. Annual allocation shall not exceed 8751 MG.

Maximum monthly allocation shall not exceed 809.0088 MG.

The following limitations to annual withdrawals from specific sources are stipulated:
Biscayne Aquifer: 6,492 MG.

6. Pursuant to Rule 40E-1.6105, F.A.C., Notification of Transfer of Interest in Real Property, within 30 days of any transfer of interest or control of the real property at which any permitted facility, system, consumptive use, or activity is located, the permittee must notify the District, in writing, of the transfer giving the name and address of the new owner or person in control and providing a copy of the instrument effectuating the transfer, as set forth in Rule 40E-1.6107, F.A.C.

Pursuant to Rule 40E-1.6107 (4), until transfer is approved by the District, the permittee shall be liable for compliance with the permit. The permittee transferring the permit shall remain liable for all actions that are required as well as all violations of the permit which occurred prior to the transfer of the permit.

Failure to comply with this or any other condition of this permit constitutes a violation and pursuant to Rule 40E-1.609, Suspension, Revocation and Modification of Permits, the District may suspend or revoke the permit.

This Permit is issued to:

Florida Keys Aqueduct Authority
1100 Kennedy Drive
Key West, Florida 33401

7. Withdrawal facilities:

Ground Water - Existing:

2 - 24" X 60' X 2000 GPM Wells Cased To 35 Feet
3 - 24" X 56' X 2000 GPM Wells Cased To 36 Feet
1 - 20" X 60' X 2100 GPM Well Cased To 20 Feet
2 - 24" X 57' X 2000 GPM Wells Cased To 37 Feet
1 - 24" X 60' X 1400 GPM Well Cased To 24 Feet
1 - 20" X 1300' X 2000 GPM Well Cased To 880 Feet
1 - 24" X 60' X 1400 GPM Well Cased To 20 Feet

Ground Water - Proposed:

4 - 17" X 1300' X 2000 GPM Wells Cased To 880 Feet

8. Permittee shall mitigate interference with existing legal uses that was caused in whole or in part by the permittee's withdrawals, consistent with the approved mitigation plan. As necessary to offset the interference, mitigation will include pumpage reduction, replacement of the impacted individual's equipment, relocation of wells, change in withdrawal source, or other means.

Interference to an existing legal use is defined as an impact that occurs under hydrologic conditions equal to or less severe than a 1 in 10 year drought event that results in the:

(1) Inability to withdraw water consistent with provisions of the permit, such as when remedial structural or operational actions not materially authorized by existing permits must be taken to address the interference; or

(2) Change in the quality of water pursuant to primary State Drinking Water Standards to the extent that the water can no longer be used for its authorized purpose, or such change is imminent.

9. Permittee shall mitigate harm to existing off-site land uses caused by the permittee's withdrawals, as determined through reference to the conditions for permit issuance. When harm occurs, or is imminent, the District will require the permittee to modify withdrawal rates or mitigate the harm. Harm caused by withdrawals, as determined through reference to the conditions for permit issuance, includes:

(1) Significant reduction in water levels on the property to the extent that the designed function of the water body and related surface water management improvements are damaged, not including aesthetic values. The designed function of a water body is identified in the original permit or other governmental authorization issued for the construction of the water body. In cases where a permit was not required, the designed function shall be determined based on the purpose for the original construction of the water body (e.g. fill for construction, mining, drainage canal, etc.)

(2) Damage to agriculture, including damage resulting from reduction in soil moisture resulting from consumptive use; or

(3) Land collapse or subsidence caused by reduction in water levels associated with consumptive use.

10. Permittee shall mitigate harm to the natural resources caused by the permittee's withdrawals, as determined through reference to the conditions for permit issuance. When harm occurs, or is imminent, the District will require the permittee to modify withdrawal rates or mitigate the harm. Harm, as determined through reference to the conditions for permit issuance includes:

(1) Reduction in ground or surface water levels that results in harmful lateral movement of the fresh water/salt water interface,

(2) Reduction in water levels that harm the hydroperiod of wetlands,

(3) Significant reduction in water levels or hydroperiod in a naturally occurring water body such as a lake or pond,

(4) Harmful movement of contaminants in violation of state water quality standards, or

(5) Harm to the natural system including damage to habitat for rare or endangered species.

11. If any condition of the permit is violated, the permit shall be subject to review and possible modification, enforcement action, or revocation.

12. Authorized representatives of the District shall be permitted to enter, inspect, and observe the permitted system to determine compliance with special conditions.
13. The Permittee is advised that this permit does not relieve any person from the requirement to obtain all necessary federal, state, local and special district authorizations.
14. The permit does not convey any property right to the Permittee, nor any rights and privileges other than those specified in the Permit and Chapter 40E-2, Florida Administrative Code.
15. Permittee shall submit all data as required by the implementation schedule for each of the limiting conditions to: S.F.W.M.D., Supervising Hydrogeologist - Post-Permit Compliance, Water Use Regulation Dept. (4320), P.O. Box 24680, West Palm Beach, FL 33416-4680.
16. In the event of a declared water shortage, water withdrawal reductions will be ordered by the District in accordance with the Water Shortage Plan, Chapter 40E-21, F.A.C. The Permittee is advised that during a water shortage, pumpage reports shall be submitted as required by Chapter 40E-21, F.A.C.
17. Prior to the use of any proposed water withdrawal facility authorized under this permit, unless otherwise specified, the Permittee shall equip each facility with a District-approved operating water use accounting system and submit a report of calibration to the District, pursuant to Section 4.1, Basis of Review for Water Use Permit Applications.

In addition, the Permittee shall submit a report of recalibration for the water use accounting system for each water withdrawal facility (existing and proposed) authorized under this permit every five years from each previous calibration, continuing at five-year increments.
18. Monthly withdrawals for each withdrawal facility shall be submitted to the District quarterly. The water accounting method and means of calibration shall be stated on each report.
19. The Permittee shall notify the District within 30 days of any change in service area boundary. If the Permittee will not serve a new demand within the service area for which the annual allocation was calculated, the annual allocation may then be subject to modification and reduction.
20. Permittee shall implement the following wellfield operating plan:
The Biscayne Aquifer wellfield shall be operated according to the restrictions outlined in Limiting Conditions 5, 25, 26, and 27 of this permit. Upon completion and operation of the Reverse Osmosis system, pursuant to the schedule outlined in Limiting Condition 30, the Floridan Aquifer wellfield will be operated to provide the balance of the demands beyond those restrictions.
21. Permittee shall determine unaccounted-for distribution system losses. Losses shall be determined for the entire distribution system on a monthly basis. Permittee shall define the manner in which unaccounted-for losses are calculated. Data collection shall begin within six months of Permit issuance. Loss reporting shall be submitted to the District on a yearly basis from the date of Permit issuance.
22. Permittee shall maintain an accurate flow meter at the intake of the water treatment plant for the purpose of measuring daily inflow of water.
23. The Permittee shall continue to submit monitoring data in accordance with the approved saline water intrusion monitoring program for this project.
24. The Water Conservation Plan required by Section 2.6.1 of the Basis of Review for Water Use Permit Applications within the South Florida Water Management District, must be implemented in accordance with the approved implementation schedule.
25. In addition to the allocation specified in Limiting Condition 5, the permittee may apply a Special Event Peaking Factor Ratio of 1.3:1 to compensate for temporary increased demand during seasonal and Special Events up to a maximum daily withdrawal of 33.57 MG. The source limitations imposed by

Limiting Conditions 5 and 26 apply to the Special Event Peaking Factor Ratio. The permittee must notify the District in writing no less than 24 hours prior to applying this Special Event Peaking Factor Ratio and must specify the proposed duration of the use of the Special Event Peaking Factor Ratio. The use of the Special Event Peaking Factor Ratio shall be noted on the monthly pumpage reports.

26. In addition to the allocations specified in Limiting Conditions 5 and 25, during the dry season (December 1 to April 30), FCAA shall limit their average day withdrawals from the Biscayne Aquifer to 17 MGD, calculated on a monthly basis. The remaining dry season demands shall be provided by the reverse osmosis system. During the remainder of the year from May 1 to November 30, the withdrawals from the Biscayne Aquifer shall be limited to the Base Condition water use for the Biscayne Aquifer of 6,492 MG, or an average day of 17.79 MGD. Demands in excess of these volumes shall be provided by the Floridan Aquifer System wells and the emergency desalination facilities.
27. Prior to the availability of the Floridan Aquifer reverse osmosis system, dry season demand in excess of the Biscayne Aquifer pumpage limitations specified in Limiting Condition 26 shall be obtained from emergency sources pursuant to Limiting Condition 29.
28. In addition to the monthly reporting required in Limiting Condition 18, and prior to the operation of the Reverse Osmosis system, on the 15th day of each month during and immediately following the dry season extending from December 1 to April 30, FCAA shall file a written report with the District ("mid-month report") evaluating the following: 1) the daily pumpage to date during the last 30 days; and 2) any daily pumpage distribution for the remainder of the dry season as necessary to comply with the 17 MGD Biscayne Aquifer average dry season limitation. Such report shall also identify any remedial actions necessary to ensure compliance that through the remainder of the dry season the applicable Biscayne Aquifer pumpage limitations described above will be met. This report shall replace the other reports required by the Consent Agreement (including the June 15 post-dry season report and the February 15th mid-dry season additional demand report). Such mid-month report shall be evaluated by District staff and revised by the District as necessary to achieve compliance with the above. Upon completion and operation of the Reverse Osmosis system, pursuant to the schedule outlined in Limiting Condition 30, this report requirement shall cease and the monthly Biscayne Aquifer withdrawals shall be reported as required by Limiting Condition 18 of this permit.
29. In order to reduce the potential for violating the 17 MGD Biscayne Aquifer average monthly withdrawal limitation during the dry season, FCAA must to the greatest extent practical utilize the emergency desalination facilities FCAA owns and operates at Stock Island and Marathon, which are potentially capable of treating saline water at rates up to 3.0 MGD. The FCAA shall use these two emergency desalination facilities as an alternative source of water in order to assist in limiting its dry season Biscayne Aquifer withdrawals. The FCAA's ability to use, and extent of use, of these emergency desalination facilities shall be subject to not causing (i) significant adverse effects to FCAA's water treatment or distribution system; or (ii) a violation of any applicable primary or secondary drinking water standards.
30. The permittee shall adhere to the following schedule for the construction and operation of the Floridan Aquifer System reverse osmosis wellfield and treatment facility:
- Florida Keys Aqueduct Authority - Schedule for Construction and Operation of Floridan Aquifer Production Well, Floridan Aquifer Reverse Osmosis Treatment Facility, and Demineralized Concentrate Disposal Well
- Reverse osmosis water treatment plant expansion
Award Contract - September 30, 2007
Complete Construction - December 31, 2009

- Deep Injection Well
 - Obtain FDEP Permit - March 31, 2008
 - Award Contract - 152 days after receiving FDEP Underground Injection Control Permit
 - Complete Drilling and Testing - 1 year and 30 days after receiving FDEP Underground Injection Control Permit
- Complete reverse osmosis water treatment plant system
 - Begin and Stabilize Operation - 2 years and 60 days after receiving FDEP Underground Injection Control Permit

31.

In the event that a milestone specified in the alternative water supply schedule and plan contained in Limiting Condition 30 is going to be missed, the permittee shall notify the Executive Director of the District in writing explaining the nature of the delay, actions taken to bring the project back on schedule and an assessment of the impact the delay would have on the rates of withdrawals from the Everglades water bodies and associated canals as defined in District CUP rules. The District will evaluate the situation and take actions as appropriate which could include: a) granting an extension of time to complete the project (if the delay is minor and doesn't affect the Everglades Waterbodies or otherwise violates permit conditions), b) take enforcement actions including consent orders and penalties, c) modify allocations contained in this permit from the Biscayne Aquifer including capping withdrawal rates until the alternative water supply project(s) are completed (in cases where the delay would result in violations of permit conditions) or d) working with the Department of Community Affairs to limit increase demands for water until the alternative water supply project is completed. In addition, Permittee shall make to the District payment of funds as identified below for non-compliance with any timeline for development of the Floridan Aquifer System production and treatment system as provided in Limiting Condition 30, as follows:

A. Reverse Osmosis Plant construction and operation timelines in Limiting Condition 30

- Award Contract - \$2,000.00 per week
- Complete Construction - \$2,000.00 per week

B. Floridan Deep Injection Well(s) Construction and Operation

- Award Contract - \$2,000.00 per week
- Complete drilling and Testing - \$2,000.00 per week
- Complete reverse Osmosis Water Treatment Plant System - \$2,000.00 per week
- Begin and Stabilize Operation - \$2,000.00 per week

32. Prior to any application to renew or modify this permit, the Permittee shall evaluate long term water supply alternatives and submit a long term water supply plan to the District. Within one year of permit issuance, the Permittee shall submit to the District an outline of the proposed plan. The assessment should include consideration of saline intrusion, wellfield protection, plans for compliance with applicable wellfield protection ordinances, expected frequencies and plans to cope with water shortages or well field failures, and conservation measures to reduce overall stresses on the aquifer.
33. For uses with an annual allocation greater than 10 MGD and a permit duration of 20 years, every five years from the date of permit issuance, the permittee shall submit a water use compliance report for review and approval by District Staff, which addresses the following:

1. The results of a water conservation audit that documents the efficiency of water use on the project site using data produced from an onsite evaluation conducted. In the event that the audit indicates additional water conservation is appropriate or the per capita use rate authorized in the permit is exceeded, the permittee shall propose and implement specific actions to reduce the water use to acceptable levels within timeframes proposed by the permittee and approved by the District.
2. A comparison of the permitted allocation and the allocation that would apply to the project based on current District allocation rules and updated population and per capita use rates. In the event the permit allocation is greater than the allocation provided for under District rule, the permittee shall apply for a letter modification to reduce the allocation consistent with District rules and the updated population and per capita use rates to the extent they are considered by the District to be indicative of long term trends in the population and per capita use rates over the permit duration. In the event that the permit allocation is less than allowable under District rule, the permittee shall apply for a modification of the permit to increase the allocation if the permittee intends to utilize an additional allocation, or modify its operation to comply with the existing conditions of the permit.
34. If at any time there is an indication that the well casing, valves, or controls leak or have become inoperative, repairs or replacement shall be made to restore the system to an operating condition. Failure to make such repairs shall be cause for filling and abandoning the well, in accordance with procedures outlined in Chapters 40E-3 and 40E-30, Florida Administrative Code.
35. It has been determined that this project relies, in part, on the waters from the Central and Southern Florida Project, and as such is considered to be an indirect withdrawal from an MFL water body under recovery (Everglades). The 2005-2006 Lower East Coast Water Supply Plan Update (February, 2007), which is the recovery plan for the Everglades, incorporates a series of water resource development projects and operational changes that are to be completed over the duration of the permit and beyond. If the recovery plan is modified and it is determined that this project is inconsistent with the approved recovery plan, the permittee shall be required to modify the permit consistent with the provisions of Chapter 373, Florida Statutes.

Exhibit III

October 14, 2008 Wastewater Memo

Sarah Davis

From: Greg.Smith@ch2m.com
Sent: Tuesday, October 14, 2008 11:20 AM
To: Sarah Davis
Subject: RE: OMI's capacity

Sarah,

Key West's wastewater treatment facility is permitted by the Florida Department of Environmental Protection to treat 10 mgd. Our annual average flow is currently 4.8 mgd. Your proposed development will have very little impact on Key West's wastewater treatment capacity.

Please let me know if you require any additional information. You can also see our website at www.keywestwastewater.com.

Best regards,

Greg Smith, Project Manager
CH2M Hill OMI
Key West, Florida
(305) 292-5102

Exhibit IV

Map of the City of Key West's Existing Recreation Services

Exhibit V

October 17, 2008 Solid Waste Memo

The Facility (Richard A. Heyman Environmental Protection Facility) is currently permitted for 10 mgd, and is operating on a (3) monthly average of 4.303 mgd, (12) month daily average flow of 6.218. Therefore there is sufficient treatment to support this project. If you have other questions please feel free to contact me.

Gary W. Bowman
General Services Director
City of Key West
305-809-3901