

DEVELOPMENT REVIEW COMMITTEE AGENDA



Thursday, October 22, 2009, 2:00 P.M.
City Commission Chamber
Old City Hall, 510 Greene Street

1. **Roll Call**
2. **Approval of Agenda**
3. **Approval of Minutes**
 - a. **September 14, 2009**
 - b. **September 17, 2009**
 - c. **September 24, 2009**
4. **Old Business**
 - a. **After-the-Fact Variances – 1831 Harris Avenue (RE 00049510-000000)** – An After-the-Fact Variance for a side yard setback in the Single Family zoning district per Section 122-238 (6) a. (2) of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.
5. **New Business**
 - a. **Conditional Use – 1500 Reynolds (RE Number 00037160-000100)** – A conditional use for proposed antenna mount on rooftop equipment shelter in the HCT zoning district per Section 122-898 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.
 - b. **Variance – 1500 Reynolds (RE Number 00037160-000100)** – A variance request for height for proposed antenna mount on rooftop equipment shelter in the HCT zoning district per Section 122-900 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.
 - c. **Development Agreement – 2319-2401 North Roosevelt Avenue (RE Numbers 00001990-000000, 00002000-000000, 00002080-0001000 and 00002260-000000)** – A Development Agreement for an approved Major Development Plan and Conditional Use for a mixed use (transient and residential) project known as Banana Bay in the General Commercial (CG) Zoning District pursuant to Chapter 90, Article IX, Development Agreements of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.
6. **Discussion Items**
7. **Adjournment**

Interested parties may appear at the public meeting and be heard with respect to the proposed items. Copies of the applications are available from the City of Key West Planning Department located at 604 Simonton Street, Key West, Florida, Monday through Friday between the hours of 8:00 am and 5:00 pm. Applications can also be viewed online at www.keywestcity.com.

ADA Assistance: Anyone needing special assistance at the DRC due to disability should contact the City of Key West at (305) 809-3720 at least two days prior thereto.

Please note that one or more City Commission and/or Planning Board members may be present at this meeting.

Please Publish on Tuesday, October 13, 2009
Please Return an Affidavit of Publication to:
City of Key West Planning Department
PO Box 1409, Key West, Florida 33040

**Development Review Committee
October 22, 2009 – 2:00 p.m.
City Commission Chamber
Old City Hall, 510 Greene Street**



Item 3a. Approval of Minutes – September 14, 2009

Minutes of the Development Review Committee
Meeting of September 14, 2009

Amy Kimball-Murley, Planning Director, convened a meeting of the Development Review Committee of the City of Key West at 9:20 am, September 14, 2009. The meeting was held at Old City Hall, in the antechamber at 510 Greene Street, Key West.

1. Roll Call

Present for the Roll Call were:

Amy Kimball-Murley, Planning Director
John Woodson, Building Official
Diane Nicklaus, HARC Representative
Enid Torregrosa, HARC Planner (arrived at 10:50 am)

Alan Averette, Lt. Fire Inspector
John Wilkins, ADA Coordinator
Gary Bowman, General Services (arrived at 9:35 am)

Planning Staff:

Brendon Cunningham
Ashley Monnier

Rodney Corriveau
Carlene Cowart

Comments received from:

Cynthia Domenech-Coogle, Landscape Coordinator

2. Approval of Agenda

Mrs. Kimball-Murley stated that she received a request from the applicant for 5555 College Road, to move Item 3e to the top of New Business due to a schedule conflict.

Mrs. Kimball-Murley also received a request from the applicant for 1 Pinder Lane, to move Item 3n after Item 3c, since she is representing the first three items as well as the last item on the agenda.

A motion to approve the agenda as amended was made by Mr. Wilkins and seconded by Mr. Averette.

Motion carried by unanimous voice vote.

SO ORDERED.

3. New Business

- e. Major Development Plan and Conditional Use – 5555 College Road (RE 00072080-001400) – A Major Development Plan and Conditional Use Application within the commercial general (CG) zoning designation for the installation of stacked boat racks at Sunset Marina per Section 108-31 and Section 122-61 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.**

The applicant, Joanne Alexander, reviewed the Major Development Plan and Conditional Use request with committee members. Ms. Alexander stated that the stormwater plan has been amended and boat racks have been decreased from 203 to 184 vessel spaces.

Mrs. Cowart read into the record comments from DRC member, Cynthia Domenech-Coogle:

Due to the Major Development Plan request, Tree Commission approval will be required. This item is scheduled to be heard at the regularly scheduled Tree Commission meeting on October 19, 2009. Comments were sent to the Planning Department on June 24, 2009.

Mr. Woodson had no comments.

Mr. Wilkins asked for clarification on parking spaces. Ms. Alexander stated that there will be 145 parking spaces, five of which will be designated handicapped parking.

Mrs. Nicklaus had no comments.

Mr. Averette asked for clarification on emergency access. Ms. Alexander confirmed that there is at least 20' access provided throughout the property.

Mr. Corriveau informed members that there will be parking underneath the boat racks. Ms. Alexander stated that bollards or something similar will be put in place to prevent any damage to the boat racks. John Woodson and Alan Averette stated that they had no objection to parking under the racks.

Mr. Corriveau updated members with the status of the amended settlement agreement which requires approval by the DCA and the City.

There were no public comments.

- a. Major Development Plan – 524 Eaton Street (RE 00006500-000100) – An application for Major Development Plan to construct five transient units by reducing existing office space from 10,000 square feet to 5,000 square feet and adding an additional floor to the existing building in the HNC-1 zoning district per Section 108-91(A.)(2.)(a.) and (b.) of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.**

The applicant, Ginny Stones with Stones and Cardenas, reviewed the Major Development Plan request with committee members.

Mrs. Cowart stated that no written comments were received from staff.

Mr. Woodson had no comments at this time.

Mr. Wilkins stated that he has met with Mr. Kephart regarding ADA issues. Mr. Wilkins requested that the applicant verify the slope at the entrance of the building to ensure ADA compliance. He also noted that the access route to and from the handicap parking space needs to meet ADA requirements.

Mrs. Stones informed members that five parking spaces are being provided for the transit units, one of which is designated as handicapped, at an offsite location.

Mr. Wilkins made the applicant aware that within the next year, the City will be replacing the curb cut on the access route to the property. Mrs. Stones stated that she will coordinate with Mr. Wilkins and Engineering on the curb cut timeline.

Mrs. Nicklaus stated that HARC approved the construction of a third floor with a roof and a front tower with an elevator on May 12, 2009. Mrs. Nicklaus suggested that the applicant unify the title. Mrs. Stones stated that this has been discussed and agreed upon with the Planning Department.

Mr. Averette stated that he has met with Mr. Kephart and informed him that the entire building will require a sprinkler system.

Mrs. Monnier requested that the applicant include the parking space dimensions on the site plans. She informed the applicant that the utilities and injection wells are demonstrated on the proposed site plan but not on the existing site plans.

Mrs. Monnier stated that the open space on site may require a variance. Mrs. Kimball-Murley reminded the applicant that landscape plans need to be signed and sealed by a landscape architect unless a waiver to the Development Plan requirements is requested from the Planning Department. Ms. Stones indicated that the plans would be prepared by a registered landscape architect and that a waiver request would not be necessary.

Mr. Wilkins added that he had spoken with Mr. Kephart about finding creative ways to implement bicycle parking requirements.

Mr. Bowman had no comments.

There were no public comments.

b. Transient License Transfer – 524 Eaton Street (RE 00006500-000000 and 00006500-000100) – An application for transfer of four (4) transient units in the HNC-1 zoning district per Section 122-1338 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

The applicant, Mrs. Stones, gave committee members an overview of the transient license transfer request.

Mrs. Cowart stated that no written comments were received from staff.

Mr. Woodson, Mr. Wilkins, Mrs. Nicklaus, Mr. Averette and Mr. Bowman had no comments.

Mr. Cunningham informed members that the applicant submitted plans indicating the elimination of a door at the top of the stairs, eliminating the concern that a lock out was being proposed. He then expressed his concern on the size of the bathrooms, opening the possibility of a lock out in the future. Ms. Stones indicated that bathroom size was not regulated by the code. Mrs. Kimball-Murley concurred but stressed the importance of making clear how the units will be operated.

There were no public comments.

c. Variances – 512-524 Eaton Street (RE 0006500-000000 and 00006500-000100) – Variances for maximum building coverage and impervious surface ratio, and for front, rear, and street side setbacks in the HNC-1 zoning district per Section 122-810 (4)(a),(b); (6)(a),(c),and (d) of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

The applicant, Mrs. Stones, gave committee members an overview of the variance request.

Mrs. Cowart stated that no written comments were received from staff.

Mrs. Kimball-Murley asked for clarification on the expansion to the footprint. Mr. Kephart stated that the elevator is being built over the entryway into the building. Mrs. Kimball-Murley stated that the expansion to the footprint, combined with the addition of the third story necessitated the need for the variance.

Mr. Woodson, Mrs. Nicklaus and Mr. Averette had no comments.

Mr. Wilkins stated that if there is an increase to the building coverage, it is due to meeting ADA compliance with the elevator.

Mr. Bowman requested that the property owner install a small trench drain with two pipes dumping out on each side of the offsite parking lot on Bahama Street to help with the stormwater sheet flow.

Mrs. Monnier informed the applicant that the open space requirement would need to be addressed. Mrs. Kimball-Murley stated that the applicant will need clarification from the Landscape Coordinator on this issue prior to moving forward.

There were no public comments.

- n. **Easement - 1 Pinder Lane (RE 00008400-000000) - An easement with the City of Key West for 1.39 foot encroachment on right-of-way in the Historic High Density Residential (HHDR) zoning district per Sections 2-938 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.**

The Applicant, Mrs. Stones, gave committee members an overview of the easement request.

Mrs. Cowart stated that no written comments were received from staff.

Mr. Woodson, Mr. Wilkins, Mr. Averette and Mr. Bowman had no comments.

Mrs. Nicklaus stated that applicant received HARC approval on June 2009.

Mrs. Kimball-Murley stated that this item will be heard at the September 15th City Commission meeting.

There were no public comments.

- d. **Conditional Use – 512 Greene Street (RE 00001170-000000) – A Conditional Use for a bar in the Historic Residential Commercial Core (HRCC-1) zoning district per Section 122-688 (9) of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.**

The applicant, Owen Trepanier with Trepanier and Associates, gave committee members an overview of the conditional use request.

Mrs. Cowart read into the record information derived from a tree permit obtained on August 10, 2009:

All trees and plants shall be planted according to current best management practices. Call Landscape office for tree replacement inspection. This Tree Permit is effective for six months from the date issued.

Mr. Woodson stated that he has no comments at this time; however, he requested a full set of working plans for the Building Permit process.

Mr. Wilkins stated that he has met with the applicant. Since this project is going from a residential use to a commercial use, it triggers 100% ADA compliance. Applicant is providing a lift to gain access to the property because a ramp will not work. Additional review is occurring through the building process. Mr. Wilkins commended applicant for their efforts.

Mrs. Nicklaus stated that the applicant obtained HARC approval on June 9, 2009 for adding an ADA ramp, restoring buildings and outbuildings and rebuilding a non historic kiosk in the same footprint envelope. She then updated the applicant on their request for changing the building address. Mrs. Kimball-Murley clarified that the addressing is not a DRC-related issue.

Mr. Averette stated that he had no DRC comments. The applicant already made necessary placement changes of the smoke detectors in the existing structures.

Mr. Bowman requested a full set of plans for stormwater review. He clarified that there is no need to hold up the application from a DRC perspective; he will coordinate with the applicant.

There were no public comments.

- f. **Transient License Transfer - 915 Windsor Lane (RE 00020090-000000) to 918-920 Center Street (RE# 00017830-000000) - An application for a Transient License Transfer from 915 Windsor Lane located in the Historic Medium Density Residential (HMDR) zoning district to 918-920 Center Street located in the Historic Residential Commercial Core (HRCC-1) zoning district per Sections 122-1338 and 122-1339 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.**

Mrs. Stones informed members that Mrs. Van Steelandt is out of the country; however, she is familiar with the transient license request if members have any questions.

Mrs. Cowart stated that no written comments were received from staff.

DRC Committee Members had no comments.

There were no public comments.

- g. **Transient License Transfer - 915 Windsor Lane (RE 00020090-000000) to 515 Amelia Street (RE# 00027750-000000) - An application for a Transient License Transfer from 915 Windsor Lane located in the Historic Medium Density Residential (HMDR) zoning district to 515 Amelia Street located in the Historic Residential Commercial Core (HRCC-1) zoning district per Sections 122-1338 and 122-1339 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.**

The owner's legal representative, Mrs. Stones, gave committee members an overview of the transient license transfer request.

Mrs. Cowart noted that Cynthia Domenech-Coogle provided a written statement that she had no comments on this project.

DRC Committee Members had no comments.

The following member of the public spoke on the matter:

- Margaret Romero, 1615 Washington Street

Mrs. Stones addressed public concern by clarifying that the transfer is not intended for five individual rentals but for a single unit with five rooms.

Mrs. Stones asked Mr. Cunningham if he had received a letter from the applicant regarding stove removal. Mr. Cunningham informed Mrs. Stones that he had not.

- h. **Conditional Use – 2832 North Roosevelt Blvd (RE 00065380-000000) – A Conditional Use for a cellular phone tower in the Commercial General (CG) zoning district per Section 122-418 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.**

The applicant, Mr. Trepanier, gave committee members an overview of the conditional use request.

Mrs. Cowart read into the record comments from DRC member, Cynthia Domenech-Coogle:

Since the Fire Department is requiring a 360 degree access to the above said address a variance will be required. In order to mitigate compliance with Article VI Landscaping Sec 108, the applicant has suggested a \$3,000 donation to the Tree Commission/Tree Replacement fund based on the code requirements. This is appropriate according to Section 110-327 approval criteria (6) (a), (b), (c) and (7) and due to the pending reconstruction of North Roosevelt Boulevard Tree

Commission approval will be required. The next regularly scheduled meeting is October 19, 2009.

Mrs. Kimball-Murley stated that further clarification will be needed from Mrs. Domenech-Coogle a about the type of variance.

Mr. Woodson had no comments.

Mr. Wilkins stated that the City would like to have continuous sidewalks on N. Roosevelt. Mr. Wilkins inquired if it would be possible to place a condition on the conditional use request to give an easement to the City to build a sidewalk. Mr. Trepanier stated that he will discuss the request with the property owner. Mr. Bowman stated that he will review FDOT's plans and determine which easements they are seeking. Mrs. Kimball-Murley stated that the applicant will need to follow-up with Mr. Bowman as part of the proposed mitigation plan.

Mr. Trepanier stated that members from the public did not want landscaping. Mrs. Kimball-Murley stated that she heard some members of the public discuss landscaping at the community meeting. Mr. Corriveau stated that the owner made a statement about landscaping around the tower.

Mr. Trepanier informed members that the tower will be located at the end of the property; therefore, future construction for the remaining lot may still take place.

Ms. Torregrosa informed the applicant that the proposed tower will need to comply with Section 106 of the National Historic Preservation Act. Therefore, the applicant will need to provide a map showing a radius of 500 feet from the center of the proposed tower. Historic properties that are within that 500 foot radius need to be shown on the map.

Mr. Averette stated they have 360 degree access to the tower and is satisfied with the plans.

Mr. Bowman requested that the applicant follow-up with him regarding swale vegetation.

Mr. Corriveau stated that he is compiling a list which he will provide to the applicant of items that should be shown on the site plan. For example, location of the emergency contact signs, etc.

Mr. Corriveau then informed members that there may be up to six emergency generators placed on the property and that noise may be an issue. Mr. Woodson stated that he lives in the area and does not see that as an issue since the commercial buildings in that vicinity also have emergency generators.

Mr. Trepanier added that the equipment is very sensitive; therefore, each individual cell provider would prefer to house their own equipment.

Mrs. Kimball-Murley thanked the applicant for holding a public meeting. She stated that it appeared that aesthetics, health and the need for additional coverage where the primary impacts the neighbors were concerned about. She urged the applicant to address the concerns in a fair and appropriate manner if possible. She then added that additional information and clarification is needed on the site plans to ensure that the commitments made by the applicant are reflected on the plans.

Mr. Corriveau informed members that members of the public were also concerned about the constructional safety. Mr. Trepanier commented that this tower is engineered to have a breaking point, meaning it controls where it breaks and where it would fall. He then stated that there are no single family or public right-of-way in the area where the tower would fall.

Mrs. Kimball-Murley asked Mr. Trepanier if the letter dated August 24, 2009 included a graphic of the breaking point. Mr. Trepanier stated that it did not.

Mr. Trepanier then relayed a message to members from Mr. Richter, that the consensus from the public meeting was that the neighbors understand the need for the cell tower but do not want it located in their area.

There were no public comments.

- i. **Variance – 2832 North Roosevelt Blvd (RE 00065380-000000) – A Variance for height of 105 ft. for a cellular phone tower in the Commercial General (CG) zoning district per Section 122-1149 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.**

The applicant, Mr. Trepanier, gave committee members and overview of the variance request.

Mrs. Cowart stated that no written comments were received from staff.

Mr. Woodson, Mr. Wilkins and Mr. Bowman had no comments.

Ms. Torregrosa requested a 500 foot radius map. Map should include historical properties located within that radius.

Mr. Averette asked for clarification on the height requested. Mrs. Kimball-Murley stated that the applicant is seeking a 105 foot height variance above the allowed 40 foot height requirement, creating a 145 foot tower.

Mr. Corriveau informed members that one in six households have a home phone, this data taken from a 2007 survey included in the application.

Mrs. Kimball-Murley requested that the applicant collate all of their information into a single document. She then referenced a letter provided to the applicant by AT&T stating that the height requested is optimal not minimum necessary, and then read the variance criterium relating to minimum requirements into the record. She noted that all the criteria need to be met according to the code.

Mrs. Kimball-Murley urged the applicant to maintain a good neighbor policy and to follow-up with concerns that were addressed at the public meeting.

There were no public comments.

- j. **Outdoor Display - 715 Duval Street (RE 00015780-000402) – An application for an Exception for an Outdoor Merchandise Display to allow the display, rolling and sale of cigars on a portable table in the Historic Residential Commercial Core (HRCC-1) zoning district per Section 106-52 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.**

The applicant, Mr. Trepanier, requested this item be tabled while they seek HARC approval.

A motion to table this item was made by Mr. Wilkins and seconded by Ms. Torregrosa.

Motion carried by unanimous voice vote.

- k. **Major Development - 512-514 Duval Street (RE 00009840-000000) - An application for a Major Development Plan for a mixed use commercial and residential building in the HRCC-1 zoning district per Section 108-91 A. 2. (b) of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.**

The applicant, Tom Pope, gave committee members an overview of the major development request.

Mrs. Cowart read into the record comments from DRC member, Cynthia Domenech-Coogle:

A landscape plan is required for Major Development. However, this property has very little open space and the request proposed is build back from a fire at no fault to the owner. I suggest a one tree donation to be planted on Duval Street in the 500 block in an open planter to be specified and coordinated prior to the Tree Commission meeting. Tree Commission approval will be required. The next regularly scheduled meeting is October 19, 2009.

Mrs. Kimball-Murley informed the applicant that they can submit a waiver request on the landscape architect requirement in the code. The Planning Director can approve such a waiver administratively.

Mr. Pope stated that they do not oppose donating a tree to be planted on Duval Street.

Mr. Woodson, Mr. Wilkins, Mr. Averette and Mr. Bowman had no comments.

Ms. Torregrosa stated that the applicant received HARC approval on August 25, 2009.

There were no public comments.

1. **Variance - 512-514 Duval Street (RE 00009840-000000) - An application for variances to building coverage and impervious surface for a mixed use commercial and residential building in the HRCC-1 zoning district per Section 122-690 (4) a. & b. of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.**

The applicant, Tom Pope, gave committee members an overview of the variance request.

Mrs. Cowart stated that no written comments were received from staff.

Mr. Woodson asked for clarification on the involuntarily destroyed status. Mrs. Kimball-Murley stated that the addition of a second story stimulates the need for a variance.

Mr. Wilkins, Ms. Torregrosa, Mr. Averette and Mr. Bowman had no comments.

Mrs. Kimball-Murley recognized the effort the applicant has made in communicating with their neighbors. She urged that they continue the good neighbor policy.

There were no public comments.

- m. **Variance - 811 Southard Street (RE 00008460-000000) - An application a variance for detached habitable space in an existing building on property located in the Historic High Density Residential (HHDR) zoning district per Section 122-1078 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.**

The applicant, Tom Pope, gave committee members an overview of the variance request.

Mrs. Cowart noted that Cynthia Domenech-Coogle provided a written statement that she had no comments on this project.

Mr. Woodson, Mr. Averette and Mr. Bowman had no comments.

Ms. Torregrosa stated that the applicant received HARC approval on August 25, 2009 for the following:

- A new front door

- Restoration of louvers to side porch
- Removal of out-door kitchen building
- Removal of rear covered porch (non-historic) and replacement with new covered porch
- Removal of spiral stair and hot tub
- Addition of bath to rear building
- Restoration of garage doors and installation of glass sliders behind doors

Mr. Woodson asked the applicant for their FEMA elevation zone. Mr. Pope stated that are in an X Zone. Applicant will provide a flood map.

There were no public comments.

4. Adjournment

A motion to adjourn was made by Mr. Averette and seconded by Ms. Torregrosa.

Motion was carried by unanimous voice vote.

Meeting adjourned at 11:25 am.

Respectively Submitted,

Carlene Cowart
Administrative Coordinator

**Development Review Committee
October 22, 2009 – 2:00 p.m.
City Commission Chamber
Old City Hall, 510 Greene Street**



Item 3b. Approval of Minutes – September 17, 2009

Minutes of the Development Review Committee
Meeting of September 17, 2009

Amy Kimball-Murley, Planning Director, convened a meeting of the Development Review Committee of the City of Key West at 2:05 PM, September 17, 2009. The meeting was held at the ADA Conference Room, 525 Angela Street, Key West.

1. Roll Call

Present for the Roll Call were:

Amy Kimball-Murley, Planning Director
John Woodson, Building Official
Myra Wittenberg, DOT Director

Alan Averette, Lt. Fire Inspector
Gary Bowman, General Services

Planning Staff:

Rodney Corriveau
Nicole Malo

Brendon Cunningham
Carlene Cowart

Comments received from:

Cynthia Domenech-Coogle, Landscape Coordinator

Enid Torregrosa, HARC Planner

2. Approval of Agenda

Mrs. Kimball-Murley requested that a discussion item be added for property located at 1028 Flagler Avenue.

A motion to approve the agenda as amended was made by Mr. Averette and seconded by Mr. Woodson.

Motion carried by unanimous voice vote.

SO ORDERED.

3. New Business

- a. Conditional Use – 1010 Kennedy Drive (RE 00065650-000500) – A Conditional Use for a wireless telecommunication facility to be located in the Commercial General (CG) zoning district per Section 122-418 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.**

The applicant, Pritam Singh, reviewed the updated conditional request with committee members. The telecommunication tower will now be placed against the side of the building versus the top of the building, making the tower more secure. Mr. Singh provided members with revised plans and additional AT&T documents.

Mrs. Kimball-Murley requested more information on the structural stability of the tower. Mr. Bowman requested information on the load counts.

Mr. Singh clarified for Mr. Averette the type of generators that will be located on the rooftop. Each entity will provide their own small generators.

Mrs. Wittenberg had no comments.

Mrs. Cowart read into the record comments from HARC Planner, Enid Torregrosa:

Not in a historic district zone. Staff understands that this proposed antenna will need to comply with Section 106 of the National Historic Preservation Act. A map showing a radius of 500 feet from the center of the proposed antenna will be appropriate. On the 500 feet radius, properties that are historic, eligible to be nominated to the National Register of Historic Places (NRHP) or are already listed in the NRHP, or in the City of Key West survey should be included as part of the document. This will give staff enough information to evaluate any potential visual effect on a historic building within the 500 feet radius.

Mrs. Cowart read into the record comments from Landscape Coordinator, Cynthia Domenech-Coogle:

The above said property will not be changing the footprint of the existing building therefore Landscape and Tree Commission approvals are not required.

Mrs. Kimball-Murley requested that the applicant send the revised plans to the Landscape Coordinator, Cynthia Domenech-Coogle.

Mr. Corriveau suggested that the applicant demonstrate essential public service. Mr. Singh stated that AT&T engineers are seeking an improvement in cell service in this area.

Mrs. Kimball-Murley informed applicant that he needs to explain in his application the request for a multi-use tower versus a single use tower.

Mrs. Kimball-Murley then requested that the applicant follow-up with ADA Coordinator, John Wilkins.

Mr. Corriveau requested that the applicant provide copies of the following: (1) Federal registration programmatic agreement; (2) FAA coordination agreement; (3) Determination of no hazard; (4) FCC registration and license number.

b. Pre-Application Conference - 1500 Reynolds Avenue (RE 00037160-000100) – Review plans for a proposed parking lot expansion/reconfiguration at the existing Casa Marina Resort.

The applicant, Kevin Spiedel, reviewed the proposed parking lot expansion request with committee members.

Mr. Corriveau informed members that the applicant received approval in 2006 for a major development plan for the redevelopment and restoration of the Casa Marina Resort.

Members voiced their concern that the parking lot that was associated with the overall site plan was never constructed.

Mr. Woodson stated that he would need to speak with Jose and find out what was and was not built per the approved plan.

Mrs. Kimball-Murley stated that this would need to come back to DRC. She then added that if this does not move forward, the applicant still needs to complete the project approved or seek a modification to a major development plan.

Mrs. Kimball-Murley requested that the applicant follow-up with ADA Coordinator, John Wilkins.

Mrs. Cowart read into the record comments from HARC Planner, Enid Torregrosa:

Staff would like to see details of proposed lighting systems, including any ground and or pole light fixtures. Staff would also like to know if there are new proposed fences, type, measurements, materials and colors. If there is new signage for the parking staff we will want to

see its design. This site is located on a historic district zone. Any changes, alterations, new construction or signage will require a Certificate of Appropriateness.

Mrs. Cowart read into the record comments from Landscape Coordinator, Cynthia Domenech-Coogle:

A landscape plan will be required as per code. Tree Commission approval will be required due to the removal and or transplants. The next scheduled Tree Commission meeting will be October 19, 2009.

- c. Variance – 508-510 South Street (RE 00036280-000000, 0036290-000000, 00036310-000000) - An application for a variance to impervious surface coverage for a mixed use commercial and residential building in the HCT zoning district per Section 122-900(4) of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.**

The applicant, Donna Bosold, gave committee members an overview of the variance request.

Mrs. Cowart read into the record comments from HARC Planner, Enid Torregrosa:

Staff approved Certificate of Appropriateness #H09-7-28-824 for the removal of 1,036 square feet of sod within pool area to be replaced with pavers. Pavers will match existing pavers recently installed (and approved) as part of the redevelopment of the resort. The application includes the removal of 1,462 square feet of sod and the installation of 1,462 square feet of artificial turf to be used for an activity/putting green area. Staff understands that HARC does not have jurisdiction on the turf proposal. This application was approved on August 17, 2009.

Mrs. Cowart read into the record comments from Landscape Coordinator, Cynthia Domenech-Coogle:

Since the request to increase the impervious ratio is very small I suggest one tree planting mitigation in close proximity to the area in order to accommodate the applicant request. The tree shall be a large maturing, native tree, FL#1, installed at minimum 12'. Species approval and location will be required prior to Building Department permit issuance. Tree Commission approval will not be required.

Mr. Bowman stated that an increase in impervious surface can offset stormwater. Applicant stated that stormwater retention has been met.

Mr. Bowman added that solid waste will resolve staff concerns on restrooms.

Mr. Averette stated that he will follow-up and provide comments.

Mrs. Wittenberg had no comments.

Mrs. Kimball-Murley requested that the applicant follow-up with ADA Coordinator, John Wilkins.

- d. Minor Development and Conditional Use - 629 Duval Street (RE 00012440-000100) - An application for a Minor Development Plan and Conditional Use for the reconfiguration of an existing parking lot for use as an electric car rental operation in the HRCC-1 zoning district per Sections 108-91 A. 1.(c), 122-61, 122-62 and 122-688(17) of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.**

The applicant, Kimberly Blanchette, gave committee members an overview of the minor development and conditional use request.

Mrs. Cowart read into the record comments from HARC Planner, Enid Torregrosa:

The Historical Architectural Review Commission reviewed Certificate of Appropriateness #H09-04-16-405 for the demolition of existing booth and construction of new booth and resurfacing of

existing parking lot. The commission approved the proposed resurfacing of the existing parking lot with turf block pavers 16" x 24" x 4". The commission also motioned to table the demolition of the existing booth and new design. The applicant withdrew the application on June 22, 2009. A new application for a Certificate of Appropriateness with new proposed materials for the parking lot should be filed. If there is a new proposal for demolition of the booth or improvements to the existing the applicant should submit a Certificate of Appropriateness. If the applicant is proposing new signs, fence, light systems or any other site improvement, all should be submitted for HARC review.

Mrs. Cowart read into the record comments from Landscape Coordinator, Cynthia Domenech-Coogle:

Above said property is void of vegetation. No site or landscape plan was submitted with application. Requirements include buffers, trees, shrubs and ground covers as per Landscape Ordinance Sec 108-381. Landscape and Tree Commission plan approval will be required. Next Tree Commission meeting will be October 19, 2009. Submission deadline is September 23, 2009.

Mr. Cunningham stated that in the past, the parking requirements were handled with a conditional use.

Mrs. Kimball-Murley stated that staff will take a look at change in commercial use to ensure that there are no additional parking requirements.

Mr. Bowman stated that there are vast improvements to stormwater.

Mr. Averette had no comments.

Mrs. Kimball-Murley recommended that applicant meet good neighbor policy and that they follow-up with ADA Coordinator, John Wilkins.

- e. **Variance – 421 Virginia Street (RE 00027160-000100) – A variance for a side setback for a carport and a rear yard setback for an expansion of a non-conforming accessory structure in the Historic Residential Commercial Core (HRCC-3) zoning district per Section 122-1182 and Section 122-1181 and 122-28 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.**

The Applicant's representative, Owen Trepanier, gave committee members an overview of the variance request.

Mrs. Cowart read into the record comments from Myra Wittenberg:

Concerned about adding square footage to an accessory unit and about lack of parking.

Mrs. Cowart read into the record comments from HARC Planner, Enid Torregrosa:

The Historic Architectural Review Commission approved Certificate of Appropriateness #H09-03-27-323 to renovate cottage to original state and the demolition of existing carport and construction of a new carport. This project was approved on the public hearing held on April 14, 2009.

Mrs. Cowart read into the record comments from Landscape Coordinator, Cynthia Domenech-Coogle:

Landscape and Tree Commission approval is not required, by ordinance, for residential plan approvals. However, there are four palms to the rear, NE corner, of property that will require staff approval for removal or transplant. Also planted is a Sour Orange tree that will require Tree Commission approval for transplant or removal. Immediately adjacent to the 421 Virginia Street property, rear, is a very large Royal Poinciana tree in the rear yard of a property that fronts Duval

Street. The canopy extends over the rear yard of subject property. Plans show concrete slab to be removed. Applicant must demonstrate how work within the trees dripline will be accomplished, as to avoid damaging the root system, to remove slab prior to issuance of Building Department permits.

Mr. Bowman had no comments.

Mr. Averette stated that there are no issues as long as the structure stays open. He then asked applicant for clarification on the number of stories since site photos are not consistent with site plans.

Mrs. Kimball-Murley requested that the applicant follow-up with ADA Coordinator, John Wilkins.

- f. **Variance – 300 Petronia Street (RE 00014230-000000) - A variance request for fifteen (15) vehicle and four (4) bicycle parking spaces from the fifteen (15) and four (4) required parking spaces in the Historic Neighborhood Commercial (HNC-3) zoning district per Section 108-572(9), Section 108-573(c)2, and Section 108-575(5) of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.**

And

- g. **Conditional Use within Historic District – 300 Petronia Street (RE 00014230-000000) - A Conditional Use request for a change of use from retail space to consumption area for an existing restaurant in the Historic Neighborhood Commercial (HNC-3) zoning district per Section 122-868(9) of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.**

The Applicant, Owen Trepanier, gave committee members an overview of the variance and conditional use request. Mr. Trepanier stated that Mr. Wilkins did a site visit and suggested additional bike parking.

Mrs. Kimball-Murley stated that the owner will have more flexibility if the consumption area is not segregated. She then suggested that the applicant ask for number of seats instead.

Mr. Trepanier voiced his concern with consumption area triggering parking.

Mrs. Cowart read into the record comments from Myra Wittenberg:

Concerned about parking in general when we allow the required spaces to be reduced.
Minimum impact due to existing condition in Bahama Village area.

Mrs. Cowart read into the record comments from HARC Planner, Enid Torregrosa:

New building was approved by HARC. A Certificate of Appropriateness will be required for any signage, new exterior light systems or any changes, additions or alterations to the new building.

Mrs. Cowart read into the record comments from Landscape Coordinator, Cynthia Domenech-Coogole:

Above said property is heavily planted with trees, palms, shrubs, and ground covers to the rear and sides of property well above the requirements for minimal landscape. Site contains buffers, trees, shrubs and ground covers as per Landscape Ordinance Sec. 108-381. Landscape and Tree Commission plan approval will not be required for applicant request.

Mrs. Kimball-Murley requested that the applicant follow-up with ADA Coordinator, John Wilkins.

Mr. Trepanier stated that he spoke with John and that a planter on Petronia will be replaced with a Sable Palm.

Mr. Averette and Mr. Bowman had no comments.

Mrs. Kimball-Murley recommended that applicant meet good neighbor policy. She then requested that the applicant indicate how the business will impact the neighborhood, from services, deliveries and parking.

Ms. Malo requested that the application addresses the following: (1) garbage and recycling; (2) type of service vehicle; (3) number of employees; (3) amend variance approval and maintain condition of original approval; (4) hours of operation; (5) conditional use – no special events; (6) no increase in consumption area.

h. Discussion – 1028 Flagler Avenue

Mrs. Kimball-Murley stated that this item was added to the agenda in order to hold a dialog.

Members discussed whether or not the 66% rule was triggered on this project. Mr. Woodson stated that if the appraisal is followed then the applicant is ok.

Mrs. Kimball-Murley then questioned if an expansion of non-conforming use that does not trigger the 66% rule, trigger a variance. Mrs. Kimball-Murley stated she would like to review the building file on this project.

4. Adjournment

A motion to adjourn was made by Mr. Averette and seconded by Mr. Woodson.

Motion was carried by unanimous voice vote.

Meeting adjourned at 4:50 pm.

Respectively Submitted,
Carlene Cowart
Administrative Coordinator

**Development Review Committee
October 22, 2009 – 2:00 p.m.
City Commission Chamber
Old City Hall, 510 Greene Street**



Item 3c. Approval of Minutes – September 24, 2009

**Minutes of the Development Review Committee
Meeting of September 24, 2009**

Amy Kimball-Murley, Planning Director, convened a meeting of the Development Review Committee of the City of Key West at 2:05 PM, September 24, 2009. The meeting was held at the City Manager's Conference Room, 525 Angela Street, Key West.

1. Roll Call

Present for the Roll Call were:

Amy Kimball-Murley, Planning Director
John Woodson, Building Official
Diane Nicklaus, HARC Representative
Enid Torregrosa, HARC Planner

Alan Averette, Lt. Fire Inspector
Gary Bowman, General Services
Myra Wittenberg, DOT Director

Planning Staff:

Rodney Corriveau
Nicole Malo

Ashley Monnier
Carlene Cowart

Comments received from:

Cynthia Domenech-Coogle, Landscape Coordinator Keys Energy

2. Approval of Agenda

Mrs. Kimball-Murley stated that she had received requests for the following applications to be added to the agenda:

- Variance request for 512-524 Eaton Street
- Major Development Plan for 5701 College Road
- Discussion on 1016 Duval Street

Ms. Malo then stated that the applicant for 1831 Harris asked that his application be tabled until the next DRC meeting.

A motion to approve the agenda as amended was made by Mr. Woodson and seconded by Mr. Averette.

Motion carried by unanimous voice vote.

SO ORDERED.

3. New Business

- a. After-the-Fact Variances – 1831 Harris Avenue (RE 00049510-000000) – An After-the-Fact Variance for a side yard setback in the Single Family zoning district per Section 122-238 (6) a. (2) of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.**

This item has been tabled per the applicant's request.

- b. Minor Development - 302-310 Front Street (RE# 00000640-000000 & 00000640-000200) - An application for a Minor Development Plan for a mixed use commercial property in the HRCC-1 zoning district per Section 108-91 A.1.(b) of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.**

The applicant, Bill Horn, reviewed the Minor Development Plan request with committee members.

Mrs. Cowart noted that Keys Energy provided a written statement that they have no objections on this project. Mrs. Kimball-Murley asked that the applicant follow-up with the Landscape and ADA Coordinators.

Mrs. Kimball-Murley informed the applicant that they can submit a waiver request on the landscape architect requirement in the code. The Planning Director can approve such a waiver administratively.

Mr. Woodson, Mrs. Nicklaus and Mr. Bowman had no comments.

Ms. Torregrosa stated that applicant has received HARC approval. She then informed the applicant that HARC approval will be required if they seek signage.

Mr. Averette confirmed that exits were 75' apart.

Mrs. Kimball-Murley stated that staff will follow up to ensure that this request does constitute a Minor Development.

Ms. Malo informed the applicant that he would need to submit a concurrency management report as well as address garbage and recycling area.

Mrs. Kimball-Murley suggested that applicant also address how things will be serviced and delivered. She then encouraged applicant to use green building materials.

There were no public comments.

- c. Variance - 302 - 310 Front Street (RE# 00000640-000000 & 00000640-000200) - An application for variances to building coverage, impervious surface and open space for a mixed use commercial property in the HRCC-1 zoning district per Sections 122-690 (4) a. & b. and 108-346(b) of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.**

The applicant, Bill Horn, gave committee members an overview of the variance request.

Mrs. Cowart noted that Keys Energy provided a written statement that they have no objections on this project.

Mr. Woodson, Ms. Torregrosa, Mr. Averette, Mr. Bowman and Ms. Malo had no comments.

Mrs. Nicklaus stated that the applicant has been working closely with Mr. Wilkins regarding ADA accessibility.

There were no public comments.

- d. Conditional Use - 1075 Duval Street, Unit C-4 (RE# 00027090-000106) - A Conditional Use for a bar/lounge serving beer and wine (bar) in the Historic Residential Commercial Core Duval Street Oceanside (HRCC-3) zoning district, per Section 122-748 (9) of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.**

The applicant, Chris Pare, gave committee members an overview of the variance request.

Mrs. Cowart noted that Keys Energy provided a written statement that they have no objections on this project.

Mrs. Kimball-Murley asked that Mr. Corriveau research the original file to see if the entitlement exists in that area for that property. She then informed the applicant that the conditional use goes with the land and requested that the applicant detail the consumption area on the site plan.

Mr. Woodson stated that his only concern would be meeting ADA accessibility.

Mrs. Nicklaus, Mr. Averette and Mr. Bowman had no comments.

Ms. Torregrosa informed applicant that HARC approval is required for any exterior changes.

Mr. Corriveau asked Mr. Pare if he would seek additional employees. Mr. Pare stated that one position may come available in the future.

There were no public comments.

e. Easement - 1328 Atlantic Boulevard (RE# 00064630-000400) - An Easement request for an existing footer and concrete wall per Section 2-938 of the Land Development Regulations of the City of Key West, Florida.

The Applicant's agent, Michelle Maxwell, gave committee members an overview of the easement request. Ms. Maxwell informed members that research is still being done on this project due to conflicting survey information. She stated that she has been working with Ron Ramsingh and is waiting to hear back from him.

Mrs. Kimball-Murley requested the following information from the applicant:

- Clear title
- Clear drawing and legal description of the easement
- Easement area on survey needs to be enlarged for newspaper noticing
- Indicate square footage on drawing

Mrs. Kimball-Murley informed the applicant that if the land is under the co-ownership of the State's TIFF, the easement would need to be approved by the State as well as the City.

Mr. Woodson, Ms. Torregrosa, Mr. Averette and Mrs. Wittenberg had no comments.

Mrs. Cowart noted that Keys Energy provided a written statement that they have no objections on this project.

Mr. Corriveau informed the applicant that if the easement was granted, there is a yearly fee.

A motion to continue item under discussion was made by Mrs. Wittenberg and seconded by Mr. Averette.

f. Major Development Plan and Conditional Use – 525 Angela Street, 604 Simonton Street (RE# 00012210-000000 and 00012220-000000) – A Major Development Plan request for the redevelopment of the existing City of Key West City Hall, Fire Station, and Madeline Bean administrative offices into a 35,320 sq ft City Administration Building Complex and 51,236 sq ft parking garage in the HPS and HNC-1 zoning districts per Section 108-91 (A)(2)(b), and Sections 122-958 (2) and 122-808 (3) of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

The Applicant, Don Craig, gave committee members an overview of the major development plan and conditional use request. The applicant was accompanied by Michael Ingram, Will Shepler, Allen Perez and Elizabeth Newland. Mr. Craig stated that the City will unify the title.

Mrs. Cowart read into the record comments from Keys Energy and Landscape Coordinator, Cynthia Domenech-Coogle:

Keys Energy Services has high voltage servicing the existing property 120/208 voltage. Keys is recommending that the property be fed in the same manner. The customer will need to provide a full set of plans and a project review form.

All trees, with the exception of the very large, historic Mahogany tree on Simonton Street, will be removed. Of the 35 trees 20 will be transplanted and 14 will be removed. Their structural condition does not warrant transplanting or retaining. 48 palms currently exist on property; 39 will be transplanted and 9 will be removed. Transplanting of trees and palms will be to city properties to be determined at a later date. The landscape plan meets or exceeds the requirements according to the City of Key West Code of Ordinances with the exception of the 20% minimum landscape area. This item will appear on the City of Key West Tree Commission agenda on October 19, 2009 at which time a decision will be made. According to Ordinance Sec 108-411 (a) Landscape Approval, this item is acceptable and may be forwarded to the City of Key West Planning Board.

Mrs. Kimball-Murley urged applicant to coordinate with Mrs. Domenech-Coogle and verify the 20%.

Mr. Woodson and Mrs. Nicklaus had no comments.

Ms. Torregrosa stated that HARC has approved the site plans and the two readings for the demolition.

Mrs. Kimball-Murley informed Mr. Ingram that the Planning Board looks to make sure that plans submitted are the same plans that have been approved by HARC. Mr. Ingram stated that all plans issued are dated and tracked.

Mrs. Wittenberg requested a full set of plans for the multi-mobile facility. She will be looking at height and grade, in particular to access for oversized vehicles. Mr. Craig informed members that they will be providing 134 vehicle, 52 bike and 12 scooter parking spaces. Mr. Ingram stated that there will be no reserved parking.

Mr. Averette asked where the Fire Station will be housed during the construction. The Applicant stated that management is coordinating all the moves.

Mrs. Kimball-Murley requested that plans indicate clear dimensions. Ms. Malo requested dimensions on elevation plans.

Ms. Malo requested that the applicant provide a concurrency management report. Mr. Craig stated that Chapter 4, Section 94, 4e exempts them from providing a report. Mr. Ingram will meet with Mrs. Kimball-Murley to discuss the concurrency management report.

Mr. Bowman discussed drainage area with the applicant.

Mrs. Kimball-Murley urged the applicant to address neighbor concerns in regards to construction management practices.

There were no public comments.

- g. Variances– 525 Angela Street, 604 Simonton Street (RE# 00012210-000000 & 00012220-000000) – Variances for maximum building coverage, impervious surface ratio, front yard setbacks, side yard setbacks, and open space requirements in the HPS zoning district per Sections 122-960 (4)(a), 122-960(4)(b), 122-960 (6)(a), 122-960 (6)(b), and 108-346 (b) of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida; and for maximum building coverage, impervious surface ratio, front yard setbacks, side yard setbacks, rear yard**

setbacks, and open space per Sections 122-810 (4)(a), 122-810 (4)(b), 122-810 (6)(a), 122-810 (6)(b), 122-810 (6)(c), and 108-346 (b) of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

The Applicant, Don Craig, gave committee members an overview of the variances request.

Mrs. Cowart noted that Keys Energy provided a written statement that they have no objections on this project.

Mr. Woodson, Ms. Torregrosa, Mr. Averette, Mr. Bowman and Mrs. Wittenberg had no comments.

Ms. Malo and Mr. Craig will meet to modify the dimensions table on the application.

Ms. Newland clarified with Mr. Woodson that the pavers need to be sand set on concrete.

There were no public comments.

h. Variance – 1010 Kennedy Drive (RE# 00065650-000500) – A Variance for Height up to 125 ft. for a cellular phone tower in the Commercial General (CG) zoning district per Section 122-1149 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

The Applicant, Elizabeth Newland, gave committee members an overview of the revised variance request.

Mrs. Kimball-Murley confirmed that the new application serves the same number of users and replaces all other requests. Ms. Newland concurred.

Mr. Woodson and Mrs. Nicklaus had no comments.

Mr. Corriveau asked applicant for FCC coordination on RF signals and FAA coordination for a determination of no flight hazard for proposed tower.

Mrs. Kimball-Murley stated that the applicant has coordinated with neighbors and held a community meeting. Mr. Corriveau gave members an overview of the community meeting. He stated that some changes came out of the meeting and that the applicant may hold an additional meeting.

Mrs. Kimball-Murley stated that there is a tough set of criteria that needs to be met including requesting the minimum height needed.

Ms. Newland will research for Mr. Averette how much fuel will be stored at the top of the building.

There were no public comments.

i. Variance – 512-524 Eaton Street

Mrs. Kimball-Murley informed members that this is the first time the variance request has been heard by the DRC. Mrs. Kimball-Murley stated that depending on the 66% rule, a height variance may not be required as long as non-conforming height is not increased. Staff will follow-up with applicant.

There were no public comments.

j. Discussion – 1016 Duval Street

Members reviewed options for the guard rail situation with the owner, Dar Castillo.

k. Major Development Plan - KW Transit Facility – 5701 College Road

Mrs. Kimball-Murley gave committee members an overview of the Major Development project.

There were no comments from members.

There were no public comments.

4. Adjournment

A motion to adjourn was made by Ms. Torregrosa and seconded by Mr. Averette.

Motion was carried by unanimous voice vote.

Meeting adjourned at 6:00 pm.

Respectively Submitted,

Carlene Cowart
Administrative Coordinator

DRAFT

**Development Review Committee
October 22, 2009 – 2:00 p.m.
City Commission Chamber
Old City Hall, 510 Greene Street**



- Item 4a.** **After-the-Fact Variances – 1831 Harris Avenue (RE 00049510-000000)** – An After-the-Fact Variance for a side yard setback in the Single Family zoning district per Section 122-238 (6) a. (2) of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

**VARIANCES ARE QUASI-JUDICIAL HEARINGS AND IT IS
IMPROPER TO SPEAK TO A PLANNING BOARD AND/OR BOARD
OF ADJUSTMENT MEMBER ABOUT THE VARIANCE
OUTSIDE THE HEARING**

Variance Application

City of Key West
Planning Department

Please print or type a response to the following:

1. Site Address 1831 HARRIS AVE
2. Name of Applicant MANUEL E Garcia Esq
3. Applicant is: Owner _____ Authorized Representative
 (attached Authorization Form must be completed)
4. Address of Applicant 515 Whitehead st.
5. Phone # of Applicant 305-292-1437 Mobile# 305-587-1257 Fax# 305 295-0385
6. E-Mail Address MGLAWKLO@bellsouth.net
7. Name of Owner, if different than above Michael + Jackie LeFFerts
8. Address of Owner 1831 HARRIS AVE
9. Phone Number of Owner _____ Fax# _____
10. Email Address _____
11. Zoning District of Parcel _____ RE# _____
12. Description of Proposed Construction, Development, and Use
Extension to existing Bathroom into side yard
REQUIRING VARIANCE

13. Description of Variances Being Requested:

	Required	Existing	Requested
Front Side	5.00 Ft.	2.5 Ft.	2.5 Ft.
Side			
Side			
Rear			
Building Coverage			
Open Space Requirements			
Impervious Surface			

14. Is Subject Property located within the Historic District? Yes _____ No X
 If Yes, indicate date of HARC approval as well as the HARC Approval Number. Attach minutes of the meeting.

Date _____ HARC # _____

15. Are there any easements, deed restrictions or other encumbrances attached to the subject property? Yes _____ No X If Yes, please describe and attach relevant documents. _____

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

YES _____ NO X

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

Check List

(to be completed by Planning Staff and Applicant at time of submittal)

Applicant Initials	Staff Initials	The following must be included with this application
<u>[Signature]</u>	_____	Copy of the most recent recorded deed showing ownership and a legal description of the subject property
<u>[Signature]</u>	_____	Application Fee (to be determined according to fee schedule)
<u>[Signature]</u>	_____	Site Plan (existing and proposed) as specified on Variance Application Information Sheet
<u>[Signature]</u>	_____	Floor Plans of existing and proposed development (8.5 x 11) <i>to be provided</i>
<u>[Signature]</u>	_____	Copy of the most recent survey of the subject property
_____	_____	Elevation drawings as measured from crown of road <i>to be provided</i>
_____	_____	Stormwater management plan <i>"</i>
<u>[Signature]</u>	_____	HARC Approval (if applicable) <i>N/A</i>
_____	_____	Notarized Verification Form
_____	_____	<u>A PDF</u> or compatible electronic copy of the complete application on a compact disk

Please note that all architecture or engineering designs must be prepared and sealed by a professional architect or engineer registered in the state pursuant to F.S. chs. 471 and 481, respectively. Two signed and sealed copies will be required at time of submittal.

Standards for Considering Variances

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

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

CORNER Lot. Lot size is narrower (48') than the usual lots found in same zoning district Existing Home (structure) is smaller than the average SZD home. Without Variance Bathroom is significantly smaller than many Bathrooms in SZD

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

The conditions of existing home were present when owner purchase property. owner did not subdivide property or decrease size of home

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

Addition will only moderately increase size of unusually small Bathroom (only Bathroom) The variance will give the owner/applicant a typically sized bathroom consistent w/ same Zoning District & Not grant a special privilege

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

MR Lefterts is Physically handicap ^(stroke) & cannot use a Tub & requires a walk in Shower. Applicant is asking a minimal variance to expand his bathroom. There is no other feasible means to accomplish this. A Normal sized Bathroom is a right commonly enjoyed by other property owners in the same Z.D & would work & unnecessary hardship on the applicant/owner if denied.

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

The requested variance is the minimal expansion that allows a meaningful yet reasonable modification to allow a reasonable use to the structure

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

The granting of the variance will not adversely affect the public interest

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

The Applicant is not using other properties as a basis for approval

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

- That the standards established in subsection (a) have been met by the applicant for a variance.
- That the applicant has demonstrated a "good neighbor policy" by contacting or attempting to contact all noticed property owners who have objected to the variance application, and by addressing the objections expressed by these neighbors.



Verification Form

Verification Form

Please note, variances are quasi-judicial hearings and it is improper to speak to a Planning Board or Board of Adjustment Member about the variance 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, MANUEL E. GARCIA, ESQ.
~~Michael & Jackie Lettels~~, 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:

1831 HARRIS AVE
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.

Manuel E. Garcia Signature of Owner/Legal Representative

Signature of Joint/Co-owner

Subscribed and sworn to (or affirmed) before me on March 26, 2009 (date) by
Manuel E. Garcia (name). He/She is personally known to me or has
presented _____ as identification.

Jean Gregory Notary's Signature and Seal

0915645

 Name of Acknowledger typed, printed or stamped

Rank _____ Commission Number (if any)

Deed

Prepared by and return to:
Jerry Coleman, Esq.

Doc# 1610165 10/30/2006 11:00AM
Filed & Recorded in Official Records of
MONROE COUNTY DANNY L. KOLHAGE

JERRY COLEMAN, P.L.
201 Front Street Suite 203
Key West, FL 33040-8347
305-292-3095
File Number: Garvin-Lefferts

10/30/2006 11:00AM
DEED DOC STAMP CL: PW \$3,675.00

Parcel Identification No. 00049510-000000

Doc# 1610165
Bk# 2248 Pg# 270

_____[Space Above This Line For Recording Data]_____

Warranty Deed

(STATUTORY FORM - SECTION 689.02, F.S.)

This Indenture made as of the 27th day of October, 2006 between Peter G. Garvin, a single man whose post office address is 355 E. Boca Raton Road, Boca Raton, FL 33432 of the County of Palm Beach, State of Florida, grantor*, and Michael Lefferts and Jackie Klein-Lefferts, husband and wife whose post office address is 1831 Harris Avenue, Key West, FL 33040 of the County of Monroe, State of Florida, grantee*,

Witnesseth that said grantor, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable considerations to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, has granted, bargained, and sold to the said grantee, and grantee's heirs and assigns forever, the following described land, situate, lying and being in Monroe County, Florida, to-wit:

On the Island of Key West and known on the Key West Realty Company's Subdivision No. 1 of Tract 21, and Salt Pond Lots Nos. 1, 2, 3, 4, and 5 as Lot 7 in Block 35 according to diagram of said Subdivision recorded in Plat Book 1, Page 43, Monroe County Records.

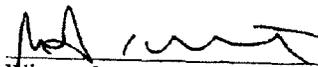
a/k/a 1831 Harris Avenue, Key West, FL 33040
RE No. 00049510-000000

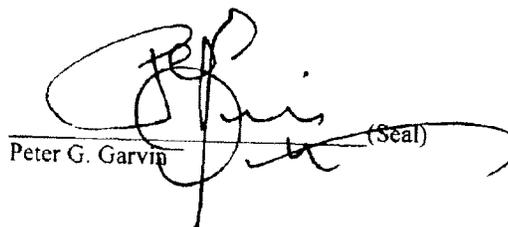
and said grantor does hereby fully warrant the title to said land, and will defend the same against lawful claims of all persons whomsoever.

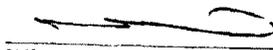
* "Grantor" and "Grantee" are used for singular or plural, as context requires.

In Witness Whereof, grantor has hereunto set grantor's hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:


Witness Name: Robert E. Nesbitt


Peter G. Garvin (Seal)


Witness Name: Shanna McDermald

Doc# 1610165
Bk# 2248 Pg# 271

State of Florida
County of Monroe

The foregoing instrument was acknowledged before me this 24th day of October, 2006 by Peter G. Garvin, who is personally known or has produced a driver's license as identification.

[Notary Seal]





Notary Public

Printed Name: Shannon McDonald

My Commission Expires: February 7, 2009

MONROE COUNTY
OFFICIAL RECORDS

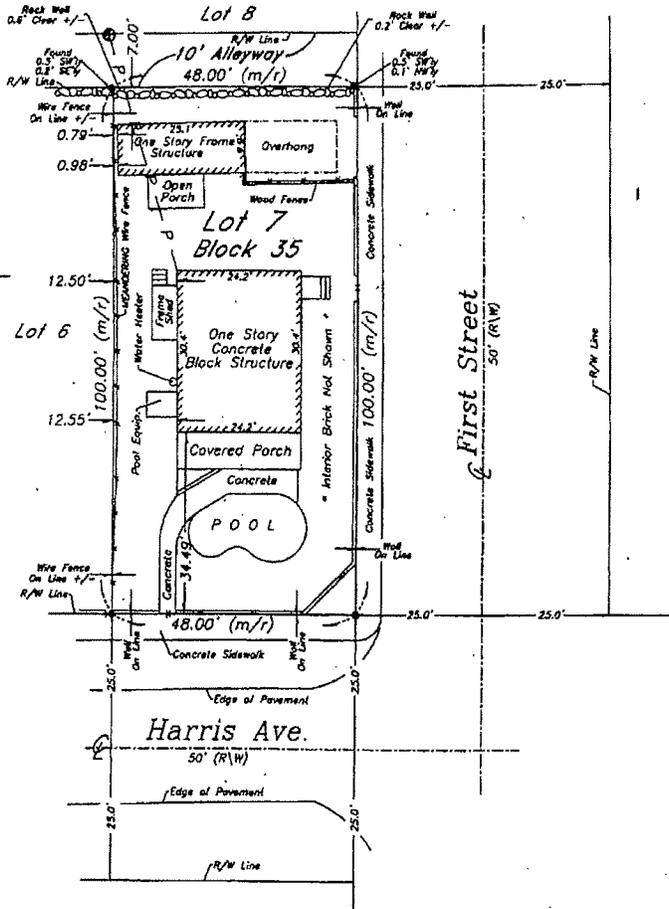
Site Plans

**Boundary Survey Map of Lot 7, Block 35, KEY WEST
REALTY-CO'S SUBDIVISION No. 1**



LEGEND

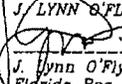
- Found 1/2" Iron Pipe (FHH)
- Set #5 rebar w/cap (6298)
- Found 1/2" Iron Rod (2863)
- ▲ Found Nail & Disc (PTS)
- △ Set Nail & Disc (6298)
- (M) Measured
- (R) Record
- (M/R) Measured & Record
- C.B.S. Concrete Block Structure
- R/W Right of Way
- CLF Chain Link Fence
- E Centerline
- ⊕ Wood Utility Pole
- ⊗ Concrete Utility Pole
- P- Overhead Utility Lines



- 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: 1831 Harris Ave., 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 plat.
 8. This survey is not assignable.
 9. Date of field work: September 21, 2006.
 10. Ownership of fences is undeterminable, unless otherwise noted.
 11. All interior bricking is not shown.

BOUNDARY SURVEY OF: On the Island of Key West and known on the Key West Realty Company's Subdivision No. 1 of Tract 21, and Salt Pond Lots Nos. 1, 2, 3, 4, and 5 as Lot 7 in Block 35 according to diagram of said subdivision recorded in Plat Book 1, Page 43, Monroe County, Records.

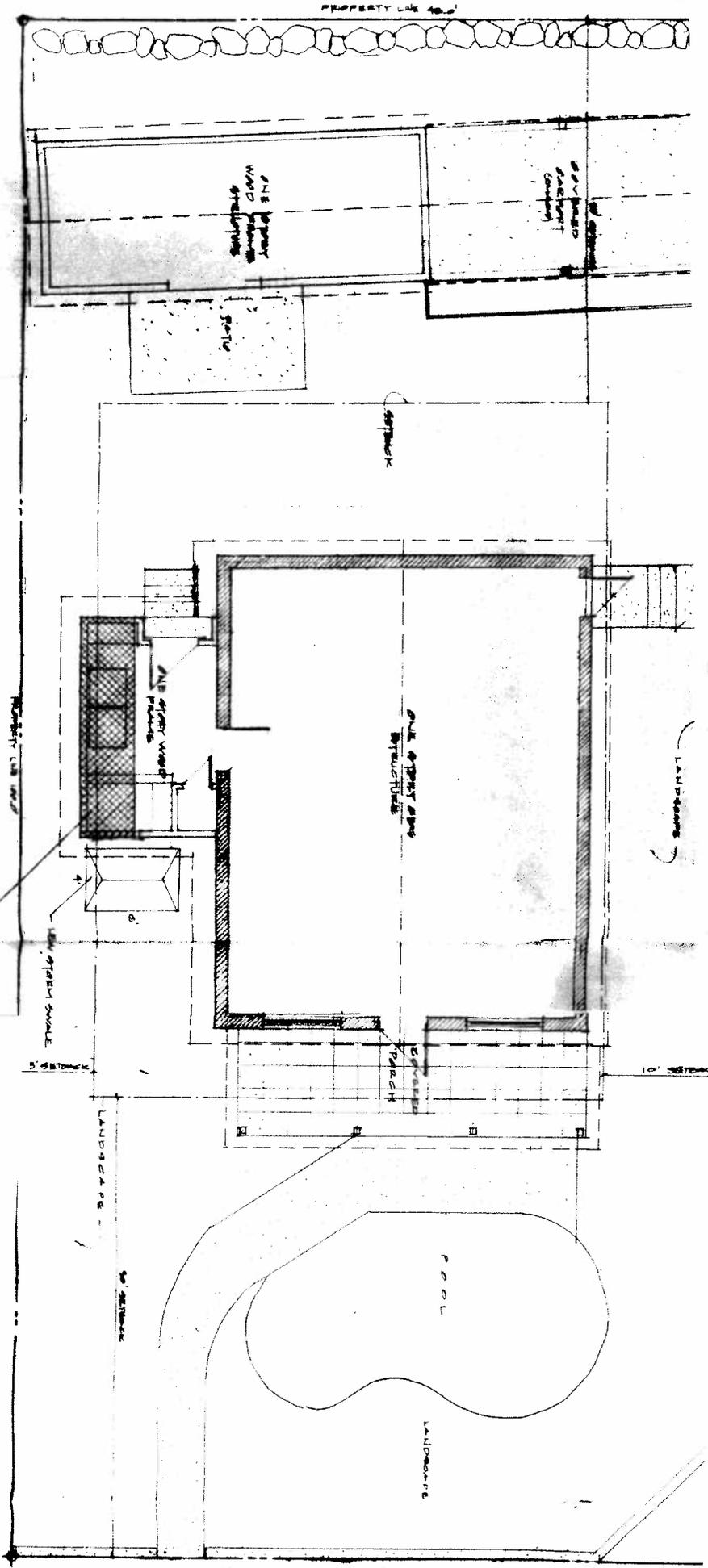
BOUNDARY SURVEY FOR: Michael Lefferts and Jackie Klein-Lefferts;
Home Loan Corporation, dba Expanded Mortgage Credit;
Jerry Coleman, P.L.;
Attorney's Title Insurance Fund, Inc.;

J. LYNN O'FLYNN, INC.

J. Lynn O'Flynn, PSM
Florida Reg. #6298
October 4, 2006

J. LYNN O'FLYNN, Inc.

Professional Surveyor & Mapper
FSM #6298

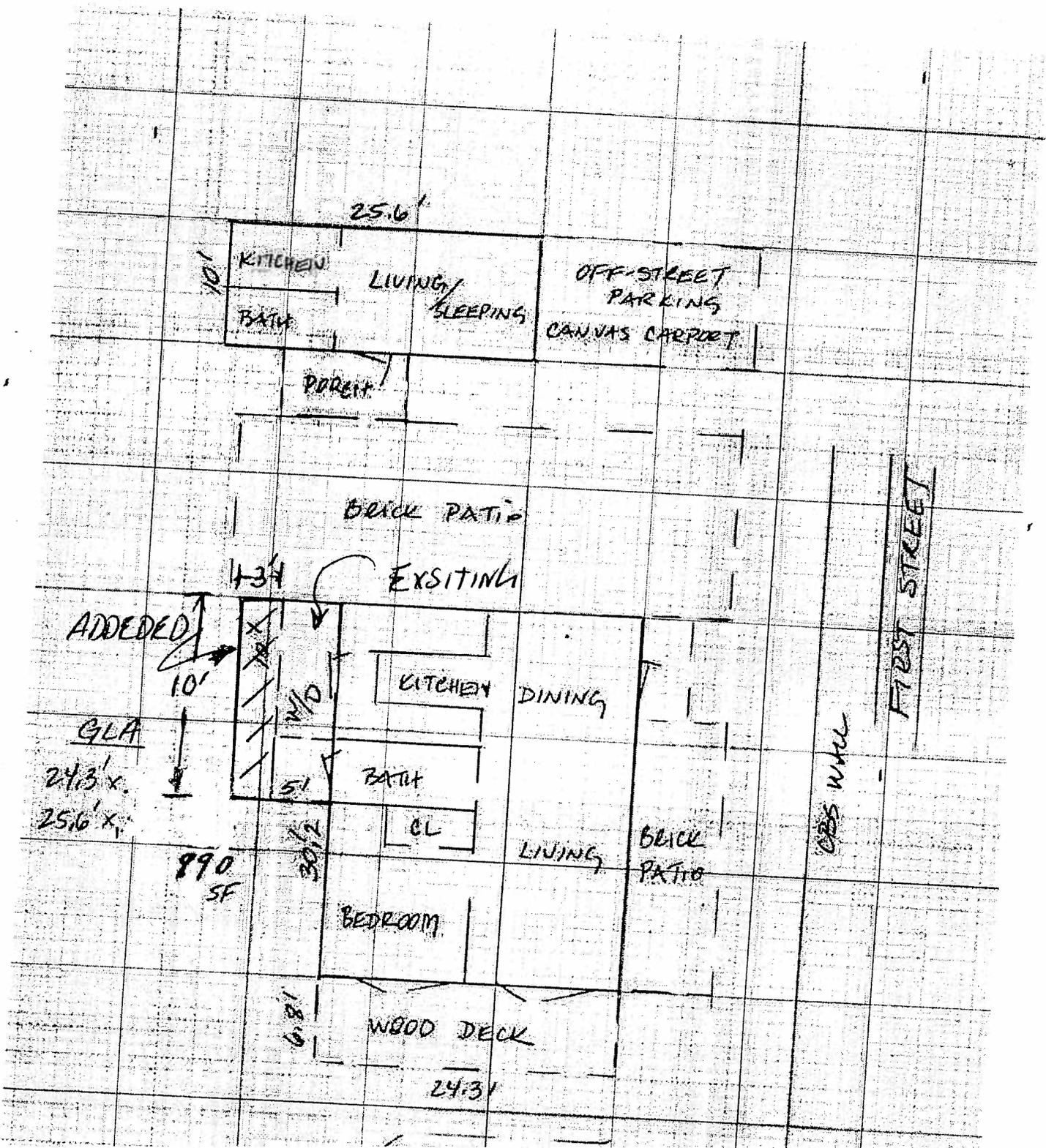
3430 Duck Ave., Key West, FL 33040
(305) 286-7422 FAX (305) 286-2244



New Addition
3' x 10'

Floor Plan Sketch

Borrower/Client Michael and Jackie Lefferts			
Property Address 1831 Harris Avenue			
City Key West	County Monroe	State FL	Zip Code 33040-3617
Lender Amity Mortgage, LLC			



Property Appraiser Information

Ervin A. Higgs, CFA Property Appraiser Monroe County, Florida

office (305) 292-3420
fax (305) 292-3501

Property Record View

Alternate Key: 1050105 Parcel ID: 00049510-000000

Ownership Details

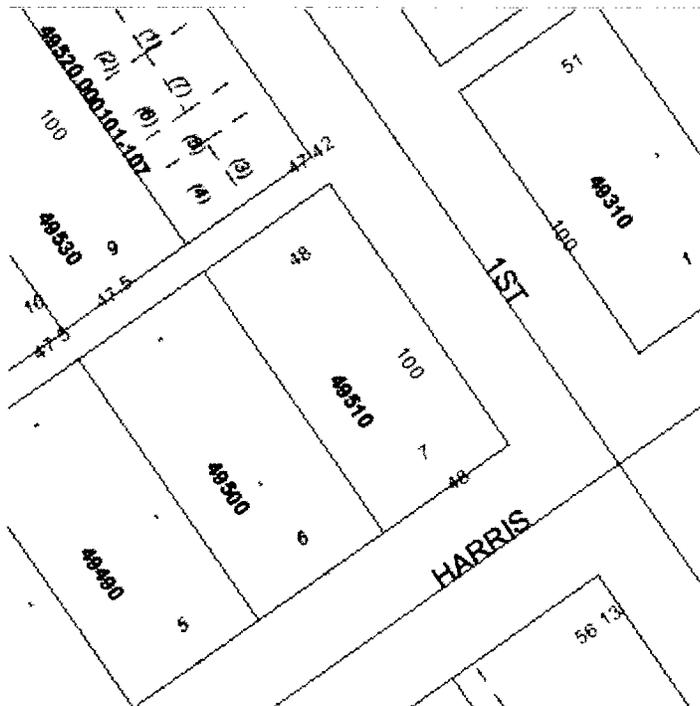
Mailing Address:
LEFFERTS MICHAEL
1831 HARRIS AVE
KEY WEST, FL 33040

All Owners:
LEFFERTS MICHAEL, KLEIN-LEFFERTS JACKIE H/W

Property Details

PC Code: 08 - MULTI FAMILY LESS THAN 10UNITS
Millage Group: 10KW
Affordable Housing: No
Section-Township-Range: 05-68-25
Property Location: 1831 HARRIS AVE KEY WEST
Subdivision: Key West Realty Co's First Sub
Legal Description: KW KW REALTY COS FIRST SUB PB 1-43 LOT 7 SQR 35 TR 21 G56-161/162 G56-163/164
OR386-1028/1029L/E (U/R D/C ON FILE-CAW) OR1144-1168D/C OR1229-1709R/S OR1396-99/100
OR1542-2325 OR2248-270/71

Parcel Map





Exemptions

Exemption	Amount
39 - 25000 HOMESTEAD	25,000.00
44 - ADDL HOMESTEAD	25,000.00

Land Details

Land Use Code	Frontage	Depth	Land Area
010D - RESIDENTIAL DRY	48	100	4,800.00 SF

Building Summary

Number of Buildings: 2
 Number of Commercial Buildings: 0
 Total Living Area: 1092
 Year Built: 1947

Building 1 Details

Building Type R1
 Effective Age 13
 Year Built 1947
 Functional Obs 0

Condition A
 Perimeter 134
 Special Arch 0
 Economic Obs 0

Quality Grade 450
 Depreciation % 14
 Grnd Floor Area 842

Inclusions: R1 includes 1 3-fixture bath and 1 kitchen.

Roof Type GABLE/HIP
 Heat 1 FCD/AIR DUCTED

Roof Cover METAL
 Heat 2 NONE

Foundation CONCR FTR
 Bedrooms 2

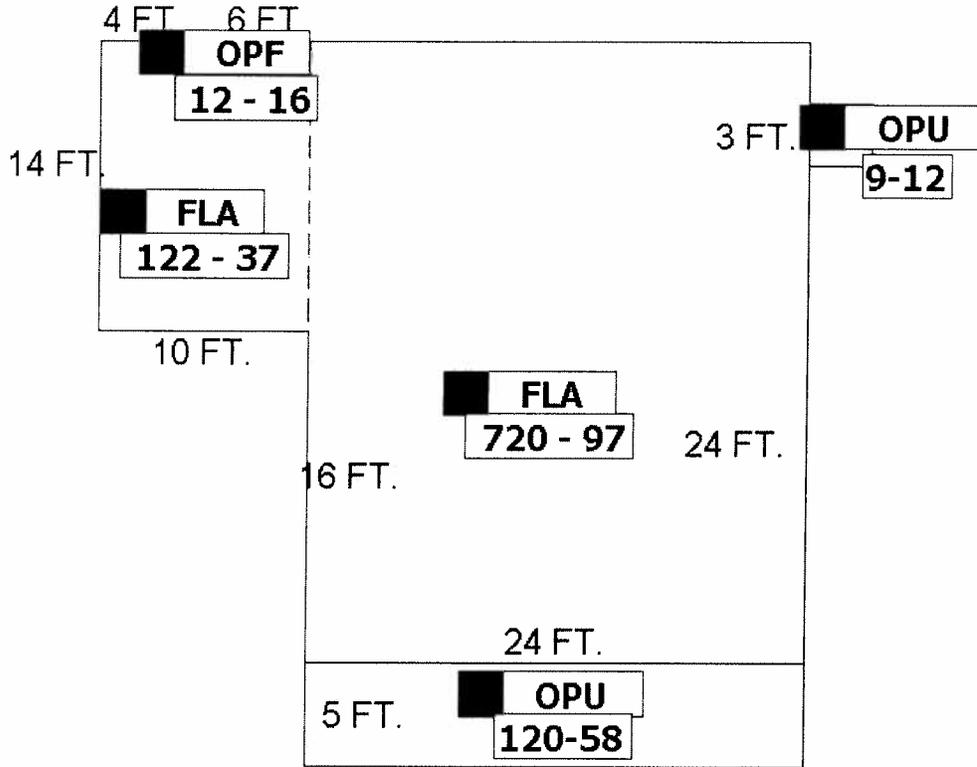
Heat Src 1 ELECTRIC

Heat Src 2 NONE

Extra Features:

- 2 Fix Bath 0
- 3 Fix Bath 0
- 4 Fix Bath 0
- 5 Fix Bath 0
- 6 Fix Bath 0
- 7 Fix Bath 0
- Extra Fix 0

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



Sections:

Nbr	Type	Ext Wall	# Stories	Year Built	Attic	A/C	Basement %	Finished Basement %	Area
1	FLA	9:STONE/BRICK	1	1947	N	Y	0.00	0.00	720
2	OPU		1	1993			0.00	0.00	120
3	OPU		1	1993			0.00	0.00	9
7	OPF		1	2006					12
8	FLA	10:CUSTOM	1	2006		Y			122

Building 2 Details

Building Type R1
 Effective Age 15
 Year Built 1993
 Functional Obs 0

Condition A
 Perimeter 70
 Special Arch 0
 Economic Obs 0

Quality Grade 450
 Depreciation % 17
 Grnd Floor Area 250

Inclusions: R1 includes 1 3-fixture bath and 1 kitchen.

Roof Type
Heat 1
Heat Src 1

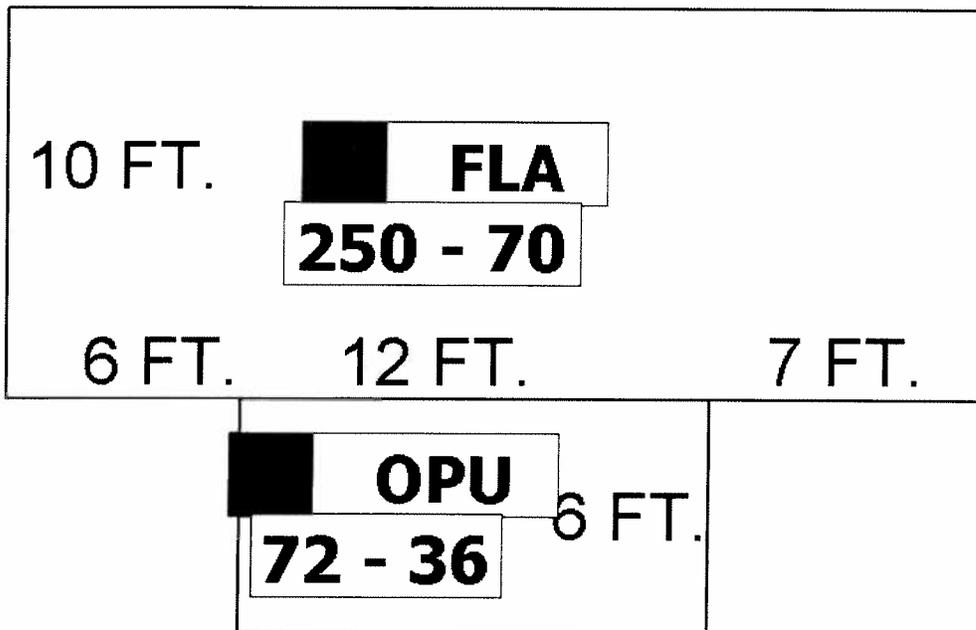
Roof Cover
Heat 2
Heat Src 2

Foundation
Bedrooms 1

Extra Features:

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

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



Sections:

Nbr	Type	Ext Wall	# Stories	Year Built	Attic A/C	Basement %	Finished Basement %	Area
1	FLA	12:ABOVE AVERAGE WOOD	1	1993				250
2	OPU		1	1993				72

Misc Improvement Details

Nbr	Type	# Units	Length	Width	Year Built	Roll Year	Grade	Life
1	FN2:FENCES	192 SF	48	4	1963	1964	3	30
2	FN2:FENCES	528 SF	88	6	2006	2007	2	30
3	FN2:FENCES	660 SF	132	5	1982	1983	5	30

4	AC2:WALL AIR COND	1 UT	0	0	1992	1993	1	20
5	PO4:RES POOL	200 SF	0	0	1993	1994	5	50
6	PT4:PATIO	156 SF	0	0	1993	1994	4	50
7	PT2:BRICK PATIO	240 SF	30	8	1995	1996	2	50

Appraiser Notes

2007-01-10 FIELD INSPXN FOR 2006 SALE, MEASURED FLD FROM NEIGHBORS YARD DUE TO LOCKED GATES AND BAD DOG.DKRAUSE

Building Permits

Bldg	Number	Date Issued	Date Completed	Amount	Description	Notes
3	07-2805	06/08/2007	07/09/2007	3,700	Residential	INSTALL A 2.5 TON A/C UNIT AND 9 DROPS
1	B94-0332	01/01/1994	07/01/1994	11,000	Residential	10X20 SHOTCRETE POOL
2	00-0364	02/14/2000	07/24/2000	250	Residential	REPLACE POOL HEATER LINE

Parcel Value History

Certified Roll Values.

[View Taxes for this Parcel.](#)

Roll Year	Total Bldg Value	Total Misc Improvement Value	Total Land Value	Total Just (Market) Value	Total Assessed Value	School Exempt Value	School Taxable Value
2008	158,719	22,240	247,200	428,159	428,159	25,000	403,159
2007	192,079	18,882	240,000	450,961	450,961	25,000	425,961
2006	194,312	17,665	288,000	422,252	422,252	0	422,252
2005	199,864	18,046	216,000	433,910	433,910	0	433,910
2004	142,522	18,447	158,400	319,369	319,369	0	319,369
2003	174,921	18,853	72,000	265,774	265,774	0	265,774
2002	182,000	19,253	67,200	268,453	268,453	0	268,453
2001	126,926	19,655	67,200	213,781	213,781	0	213,781
2000	116,536	20,281	48,000	184,818	184,818	0	184,818
1999	112,483	20,164	48,000	180,647	180,647	0	180,647
1998	100,083	17,723	48,000	165,806	153,995	25,000	128,995
1997	92,181	16,760	38,400	147,341	147,341	25,000	122,341
1996	56,942	12,451	38,400	107,793	92,689	25,000	67,689
1995	54,833	12,294	38,400	105,527	90,429	25,000	65,429
1994	46,397	1,817	38,400	86,614	86,614	25,000	61,614
1993	33,113	2,888	38,400	74,401	74,401	0	74,401
1992	33,113	3,015	38,400	74,528	74,528	0	74,528

1991	33,113	3,108	38,400	74,621	74,621	0	74,621
1990	29,753	1,091	36,000	66,844	66,844	0	66,844
1989	27,048	1,021	34,800	62,869	62,869	0	62,869
1988	16,556	812	26,400	43,768	43,768	0	43,768
1987	16,353	838	17,280	34,471	34,471	0	34,471
1986	16,446	858	17,280	34,584	34,584	0	34,584
1985	15,744	878	17,520	34,142	34,142	0	34,142
1984	14,839	905	17,520	33,264	33,264	0	33,264
1983	12,880	259	17,520	30,659	30,659	0	30,659
1982	13,124	259	13,488	26,871	26,871	0	26,871

Parcel Sales History

NOTE: Sales do not generally show up in our computer system until about two to three months after the date of sale. If a recent sale does not show up in this list, please allow more time for the sale record to be processed. Thank you for your patience and understanding.

Sale Date	Official Records Book/Page	Price	Instrument	Qualification
10/24/2006	2248 / 270	525,000	WD	Q
10/19/1998	1542 / 2325	245,000	WD	Q
3/1/1996	1396 / 0099	217,000	WD	Q
10/1/1992	1229 / 1709	95,000	WD	Q

This page has been visited 164,879 times.

Monroe County Property Appraiser
Ervin A. Higgs, CFA
P.O. Box 1176
Key West, FL 33041-1176

**Development Review Committee
October 22, 2009 – 2:00 p.m.
City Commission Chamber
Old City Hall, 510 Greene Street**



- Item 5a.** **Conditional Use – 1500 Reynolds (RE Number 00037160-000100)** – A conditional use for proposed antenna mount on rooftop equipment shelter in the HCT zoning district per Section 122-898 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
 604 Simonton Street, Key West, FL 33040
 (305) 809-3720



Development Plan & Conditional Use Application

(Applications will not be accepted until they are complete)

<u>Development Plan</u>	<u>Conditional Use</u>	<u>Historic District</u>
Major _____	<input checked="" type="checkbox"/>	Yes _____
Minor _____		No _____

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

- 1) Site Address 811 SEMINOLE STREET
- 2) Name of Applicant SBA NETWORK SERVICES
- 3) Applicant is: Owner _____ Authorized Representative
 (attached Authorization Form must be completed)
- 4) Address of Applicant 5900 BROKEN SOUND PKWY NW
BOCA RATON, FL. 33487
- 5) Applicant's Phone # 786 361-2928 Email ORMOEDO@SBASITE.COM
- 6) Name of Owner, if different than above CASA MARINA OWNER LLC
- 7) Address of Owner 595 S. FEDERAL HIGHWAY SUITE 600
- 8) Owner Phone # 305 295 3535 Fax _____
- 9) Zoning District of Parcel HCT RE# 00037160 000100
- 10) Is Subject Property located within the Historic District? Yes No _____
 If Yes: Date of approval _____ HARC # _____
 OR: Date of workshop _____ Date of expected approval _____
- 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)

WIRELESS TELECOMMUNLATION FACILITY ON
EXISTING ROOF TOP



DEVELOPMENT PLAN AND CONDITIONAL USE APPLICATION
City of Key West Planning Department
604 Simonton Street, Key West, FL 33040
(305) 809-3720



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

If Yes: Date of approval _____ Resolution # 02-068

Attach resolution(s).

13) Are there any easements, deed restrictions or other encumbrances on the subject property?

Yes No 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 Form

DEVELOPMENT PLAN AND CONDITIONAL USE APPLICATION
City of Key West Planning Department
604 Simonton Street, Key West, FL 33040
(305) 809-3720



Verification Form

I, SRA NETWORK SERVICES (please print), being duly sworn, depose and say
Print Name of Applicant

That I am the owner _____/legal representative of the property, which is the subject matter of this application. All of the answers to the above questions, sketches and attached data that make up this application, are true and correct to the best of my knowledge and belief.

Signature of Applicant

Subscribes and sworn to (or affirmed) before me on _____ (date) by _____ (name of affiant, deponent or other signer). He/She is personally known to me or has presented _____ as identification.

Notary's Signature and Seal

Name of Acknowledger typed, printed or stamped _____

Commission Number, if any _____





Authorization Form

DEVELOPMENT PLAN AND CONDITIONAL USE APPLICATION
City of Key West Planning Department
604 Simonton Street, Key West, FL 33040
(305) 809-3720



Authorization Form

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

I, CASA MARINA OWNER LLC authorize
Please Print Name(s) of Owner(s)

SPBA NETWORK SERVICES.
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





Warranty Deed

D
730,213.40

Record & Return to:
LandAmerica - Brigitte Sawicki
1302 N. 19th Street, Suite 200
Tampa, FL 33605
File # FD53331

Doc# 1517059 05/18/2005 3:34PM
Filed & Recorded in Official Records of
MONROE COUNTY DANNY L. KOLHAGE

This instrument prepared by:

DEED DOC STAMP CL: JILL \$730,213.40

Sung Lee, Esq.
Akin Gump Strauss Hauer & Feld LLP
1700 Pacific Avenue, Suite 4100
Dallas, Texas 75201-4675

Doc# 1517059
Bk# 2115 Pg# 141

GENERAL WARRANTY DEED

STATE OF FLORIDA

§

KNOW ALL MEN BY THESE PRESENTS THAT:

COUNTY OF MONROE

§

§

THAT CASA MARINA REALTY PARTNERSHIP, L.P., a Delaware limited partnership (hereinafter called "Grantor"), whose mailing address is c/o Wyndham International, Inc., 1950 Stemmons Freeway, Suite 6001, Dallas, Texas 75207, for and in consideration of the sum of TEN AND NO/100 Dollars (\$10.00) and other good and valuable consideration in hand paid by CASA MARINA OWNER, LLC, a Delaware limited liability company (hereinafter called "Grantee"), whose mailing address is c/o Wyndham International, Inc., 1950 Stemmons Freeway, Suite 6001, Dallas, Texas 75207, the receipt and sufficiency of which are hereby acknowledged, has GRANTED, SOLD AND CONVEYED and by these presents does GRANT, SELL AND CONVEY unto Grantee that certain real property situated in Monroe County, Florida, and more particularly described on Exhibit A attached hereto and made a part hereof for all purposes (the "Land"), together with Grantor's interest in and to all rights, titles, benefits, easements, privileges, remainders, tenements, hereditaments, interests, reversions and appurtenances thereunto belonging or in any way appertaining, and all of the estate, right, title, interest, claim or demand whatsoever of Grantor therein, in and to adjacent strips and gores, if any, between the Land and abutting properties, and in and to adjacent streets, highways, roads, alleys or rights-of-way, and the beds thereof, either at law or in equity, in possession or expectancy, now or hereafter acquired (all of the above-described properties together with the Land are hereinafter collectively referred to as the "Property").

This conveyance is made and accepted subject and subordinate to (a) standby fees, taxes and assessments by any taxing authority for the current year and subsequent years, and subsequent taxes and assessments by any taxing authority for prior years due to change in land usage or ownership by Grantee, its successors or assigns, which standby fees, taxes and assessments Grantee assumes and agrees to pay, (b) zoning laws and regulations and ordinances of municipal and other governmental authorities affecting the Property, and (c) all matters listed on Exhibit B attached hereto and made a part hereof for all purposes (all of those items described in (a) through (c) above are hereinafter collectively referred to as the "Permitted Encumbrances").



TO HAVE AND TO HOLD the Property, together with all and singular the rights and appurtenances thereto in any wise belonging unto Grantee, Grantee's legal representatives, successors and assigns forever and subject to the Permitted Encumbrances, and Grantor does hereby bind itself, its successors and assigns, to WARRANT AND FOREVER DEFEND all and singular the Property unto Grantee, Grantee's legal representatives, successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof.



EXECUTED this 14th day of May, 2005, to be effective for all purposes
as of the 10th day of May, 2005.

GRANTOR:

CASA MARINA REALTY PARTNERSHIP, L.P., a
Delaware limited partnership

By: Casa Marina Realty Corporation, a Delaware
corporation, its general partner

Cindy Nelson
Cindy Nelson
Witness

By: *[Signature]*
Name: Gregory J. Moundas
Title: Vice President

Natalya Samulevich
Natalya Samulevich
Witness

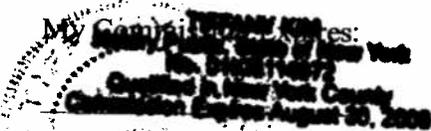
STATE OF NY §
§
COUNTY OF NY §

BEFORE ME, the undersigned authority, on this day personally appeared Gregory Moundas
Vice President of Casa Marina Realty Corporation, a Delaware corporation, general partner
of CASA MARINA REALTY PARTNERSHIP, L.P., a Delaware limited partnership, known to
me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to
me that he executed the same for the purposes and consideration therein expressed, in the
capacity therein stated, and as the act and deed of said corporation and limited partnership.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 14 day of
May, 2005.

[Signature]
Notary Public in and for the State of NY

TIFFANY KIM
Notary's Printed Name



After recording, this document should be returned to:

Akin Gump Strauss Hauer & Feld LLP
Attn: Sung Lee
1700 Pacific Avenue, Suite 4100
Dallas, TX 75201-4675

Wyndham Resorts Casa Marina
Key West, FL

012665-0348 WEST 5722675 v1



Exhibit A to General Warranty Deed

Description of Land

Doc# 1517059
Bk# 2115 Pg# 144



Exhibit A

Doc# 1517059
Bk# 2115 Pg# 145

Policy Number: Proforma

Exhibit A-1:

Parcel I:

All that land in the City of Key West, Monroe County, Florida, lying and being situate within a triangle formed by Seminole Avenue, Reynolds Street and the low water mark of the shore known as South Beach, the said triangle embracing Blocks 1, 2, 3, 4, 5 and 6 and the space between them formerly laid out as streets, but heretofore vacated as streets by the City Council of the City of Key West, all shown on the Plat of the KEY WEST INVESTMENT COMPANY'S SUBDIVISION OF PART OF TRACT 17, recorded in Plat Book 1, at page 69 of the Public Records of Monroe County, Florida; and also all the land under water lying in front of and all riparian rights belonging or appurtenant to the said triangle; less, however, that portion of Block 6 which is not included in Parcel II described herein and all of the land under water lying in front of and all riparian rights belonging or appurtenant thereto.

Subject to encroachment by Reynolds Street being more particularly described by metes and bounds as follows:

Commencing at the Northeast corner of Block 4 of KEY WEST INVESTMENT COMPANY'S SUBDIVISION OF PART OF TRACT 17, Key West, Monroe County, Florida and recorded in Plat Book 1, at page 69 of the Public Records of Monroe County, Florida, said corner is also known as the Point of Beginning of the land hereinafter described:

From said Point of Beginning bear South 37°32'30" East for a distance of 706.00 feet, more or less, to the shore line of said plat; thence meander the shoreline of said plat in a Westerly direction to a point which is 10.21 feet measured at right angles to the preceeding course; thence bear North 37°32'30" West for a distance of 678.00 feet, more or less, to a point; thence continue bearing Northwesterly for a distance of 20.00 feet, more or less, to a point on the Southeasterly property line of Seminole Avenue; said point also bearing South 52°00'00" West from the Point of Beginning; thence bear North 52°00'00" East for a distance of 17.81 feet back to the Point of Beginning.

Parcel II:

On the Island of Key West, Monroe County, Florida and being a part of Block 6 of KEY WEST INVESTMENT COMPANY'S SUBDIVISION OF PART OF TRACT 17 as recorded in Plat Book 1, at page 69 of the Public Records of Monroe County, Florida and being more particularly described by metes and bounds as follows:

Begin at a point on the Southeasterly property line of Seminole Avenue at the Intersection of the Southwesterly property line of Alberta Street extended on its course Southeasterly; thence Southwesterly along the Southeasterly property line of Seminole Avenue for a distance of 14.83 feet; thence run Southeasterly and parallel with the said Alberta Street for a distance of 67.00 feet, more or less, to the Mean High Tide Line of the Straits of Florida; thence run Easterly along the said Mean High Tide Line for a distance of 18.00 feet, more or less to the Easterly boundary of said Block 6; thence run Northwesterly along the Easterly boundary of said Block 6 for a distance of 78.00 feet, more or less, back to the Point of Beginning; together with all the land under water lying in front of and all riparian rights belonging or appurtenant thereto.

Parcel III:

A concrete dock or pier situated on the following described property:

A parcel of submerged land lying in the Straits of Florida adjacent to Block 6 of the KEY WEST INVESTMENT COMPANY'S SUBDIVISION OF PART OF TRACT 17 as recorded in Plat Book 1, at page 69 of



the Public Records of Monroe County, Florida and being more particularly described by metes and bounds as follows:

Commencing at a point on the Southeasterly property line of said Seminole Avenue at the intersection of the Southwesterly property line of Alberta Street extended on its course Southeasterly; thence run Southeasterly along the Easterly boundary of said Block 6 for a distance of 78.00 feet, more or less, to the Mean High Water Line of the Straits of Florida and the Point of Beginning of the parcel of land herein being described: Thence continue Southeasterly along the extension of the Easterly boundary of said Block 6 for a distance of 106.00 feet; thence run Southerly along a line deflected $41^{\circ}09'30''$ to the right for a distance of 270.00 feet; thence at right angles in a Westerly direction for a distance of 25.00 feet; thence at right angles in a Northerly direction for a distance of 262.00 feet; thence run Northwesterly along a line deflected $41^{\circ}09'30''$ to the left for a distance of 115.00 feet, more or less, to the Mean High Tide Line of the Straits of Florida; thence run Easterly along the said Mean High Tide Line a distance of 28.00 feet, more or less, back to the Point of Beginning.

Parcel IV:

On the island of Key West, Florida being Lots 1 through 16, inclusive, all being in Block Seven (7) as shown on the plat of the Key West Investment Company's Subdivision of part of Tract Seventeen (17), recorded in Plat Book Number 1, page 69, of the Public Records of Monroe County, Florida.

**Doc# 1517059
Bk# 2115 Pg# 146**



Exhibit B to General Warranty Deed

Permitted Encumbrances

All matters of record affecting the Property which are valid and subsisting.

MONROE COUNTY
OFFICIAL RECORDS

Wyndham Resorts Casa Marina
Key West, FL
012665-0348 WEST 5722675 v1



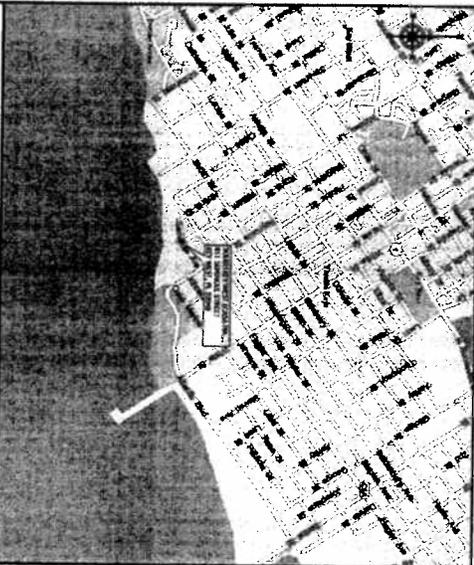


Site Plan

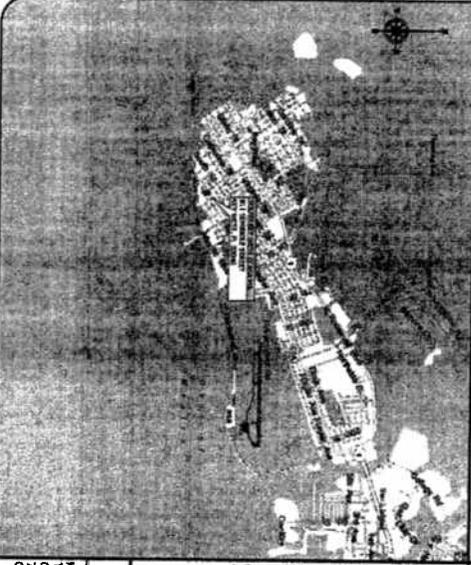
DRIVING DIRECTIONS

FROM ALEX'S OFFICE: HEAD SOUTH ON I-95 FOR 44.3 MILES TO SR-636 (DOLPHIN EXPY), HEAD WEST ON SR-636 (DOLPHIN EXPY) FOR 7.0 MILES TO SR-608 (PALMETTO EXPY), HEAD SOUTH ON PALMETTO FOR 3.4 MILES TO SR-608 (PALMETTO EXPY), CONTINUE SOUTH ON SR-608 FOR 7.5 MILES TO FLORENCE TURNPIKE, HEAD WEST ON FLORENCE TURNPIKE FOR 17.0 MILES TO US-1, HEAD SOUTH ON US-1 FOR 12.9 MILES TO N ROOSEVELT BLVD, HEAD NORTH THEN SOUTHWEST ON N ROOSEVELT BLVD FOR 2.6 MILES TO TRINITY AVE, HEAD WEST ON TRINITY AVE FOR 0.3 MILES TO GOSWELL ST, TURN LEFT AND HEAD SOUTHWEST FOR 0.3 MILES TO SOUTH ST, TURN RIGHT AND HEAD SOUTHWEST FOR 0.2 MILES TO SITE AT ENH OF ROADS.

LOCAL MAP



VICINITY MAP



SOUTH KEY WEST (CASA MARINA)

811 SEMINOLE STREET
KEY WEST, FL 33040

10134222

PROPOSED INSTALLATION OF EQUIPMENT ON ROOFTOP



SITE DATA

PLOD # 0668 25 00037160000100
 LATITUDE: 24° 22' 51.37" N
 LONGITUDE: 81° 47' 28.40" W
 ZONING: CITY OF KEY WEST
 JURISDICTION: CITY OF KEY WEST
 ZONING CLASSIFICATION: TBO
 PROPERTY OWNERS: CASA MARINA OWNER, LLC
 811 SEMINOLE STREET
 KEY WEST, FL 33040
 LEGAL DESCRIPTION:
 1/4 NW INVESTMENT CO SUB P81-89 SOBS 1
 (PART) 3 & 4 PT SOB 6 & 8 SOB 7 TR 17
 05-144/45 (082) 67 6706-506/9 ON 1
 75-144/45 (082) 67 6706-506/9 ON 1
 0632-35 06387-

APPROVALS

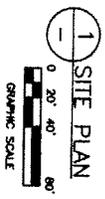
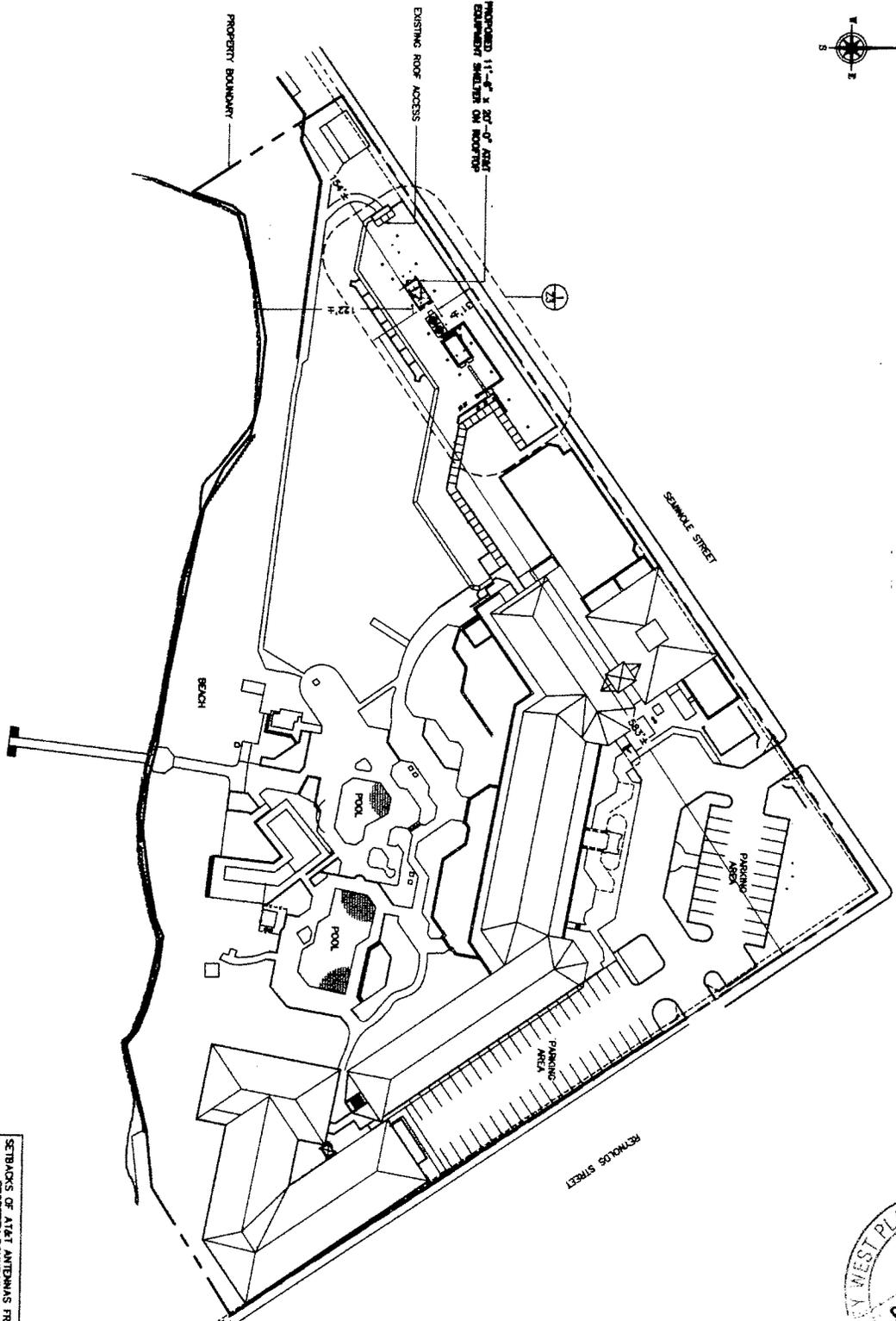
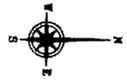
CONSTRUCTION NOTES

INDEX OF DRAWINGS

- PROPERTY OWNER: _____
 RF ENGINEER: _____
 CONSTRUCTION: _____
 SITE ACQUISITION: _____
 ZONING: _____
 NETWORK: _____
 OPERATIONS: _____
 CONTRACTOR: _____
1. ALL NEW BUILDINGS AND STRUCTURES HAVE BEEN DESIGNED IN ACCORDANCE WITH THE 2007 EDITION OF THE FLORIDA BUILDING CODE AND ALL APPLICABLE LOCAL ORDINANCES AND REGULATIONS. CONTRACTOR SHALL VERIFY ALL PLANS AND EXISTING DIMENSIONS AND CONDITIONS ON THE JOB SITE AND SHALL IMMEDIATELY NOTIFY THE ENGINEER IN WRITING OF ANY DISCREPANCIES OR INCONSISTENCIES WITH THE WORK OR BE RESPONSIBLE FOR SUCH DISCREPANCIES.
 2. CONTRACTOR SHALL NOTIFY OWNER FOR ACCESS TO SITE.
 3. THIS IS AN UNMANNED FACILITY AND WILL BE USED FOR THE TRANSMISSION OF RADIO SIGNALS FOR THE PURPOSE OF PROVIDING PUBLIC CELLULAR SERVICE.
 4. ALL SERVICES ASSOCIATED WITH THIS FACILITY WILL BE PROVIDED ONLY BY SERVICE PERSONNEL FOR REPAIR PURPOSES ONLY.
 5. NO WASTEWATER WILL BE GENERATED AT THIS LOCATION.
 6. NO SOLID WASTE WILL BE GENERATED AT THIS LOCATION.

PROJECT INFORMATION

CONTRACT OF AUTHORIZATION # 0000
 PROJECT NO. 8788-06-1916 (0)
 CONTRACTOR: MACTEC CONSULTING & CONSTRUCTION, INC.
 100 LANTANA STREET
 MIAMI, FL 33131
 PHONE: (305) 555-1111
 FAX: (305) 555-1111
 EMAIL: SALES@MACTEC.COM
 WEBSITE: WWW.MACTEC.COM
 PROJECT MANAGER: G. BELZER
 CHECKED BY: M. AMARY
 SOUTH KEY WEST (CASA MARINA)
 811 SEMINOLE STREET
 KEY WEST, FL 33040
 SHEET NAME: TITLE SHEET
 SHEET NUMBER: Z1

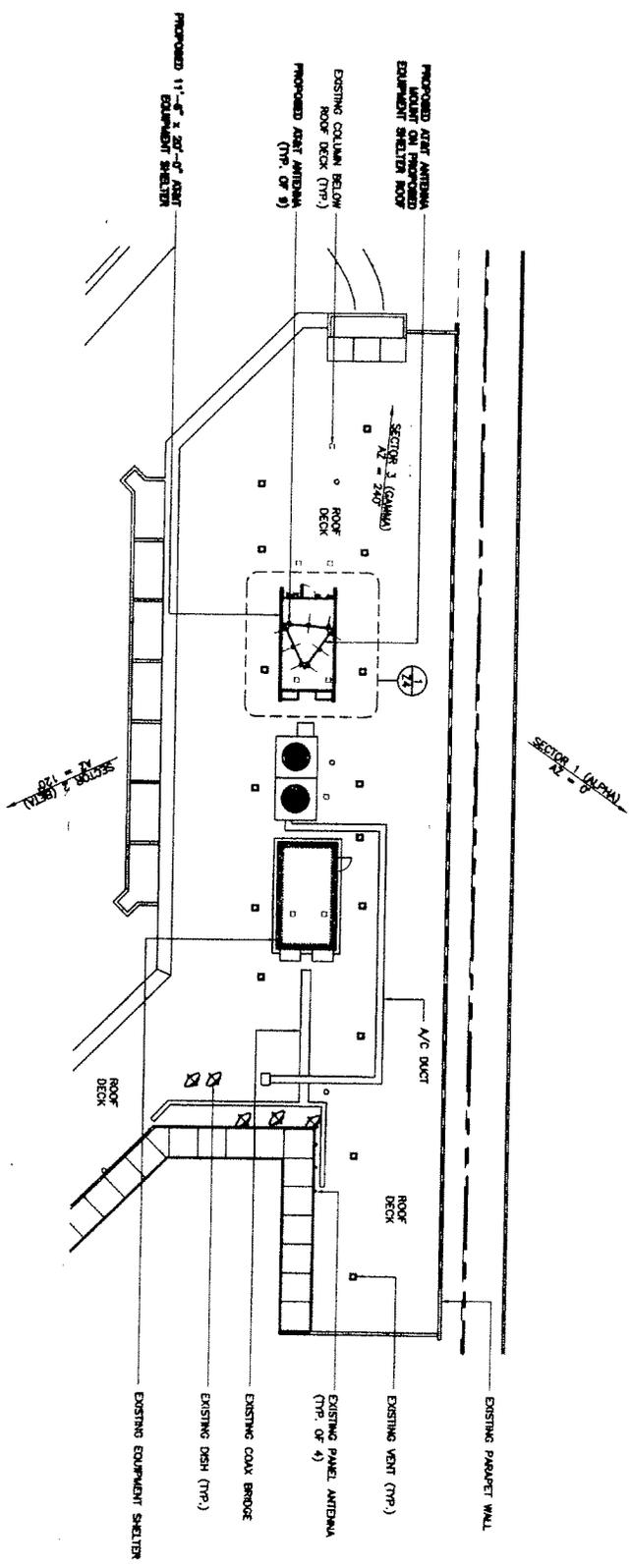
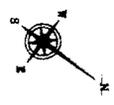


SETBACKS OF AT&T ANTENNAS FROM PROPERTY BOUNDARY	
SOUTHWEST	164' ±
NORTHWEST	31' ±
SOUTH	122' ±
NORTHEAST	383' ±



		MACTEC CONSULTING & CONSTRUCTION, INC. 1101 ALPHONSE DRIVE ALPHONSE, FL 32008 PHONE: (904) 488-1888 FAX: (904) 488-1788
	PROJECT NO. 0708-08-1801 (42)	CHECKED BY: S. AMERY
	SOUTH KEY WEST (CASA MARINA)	SHEET NUMBER 72

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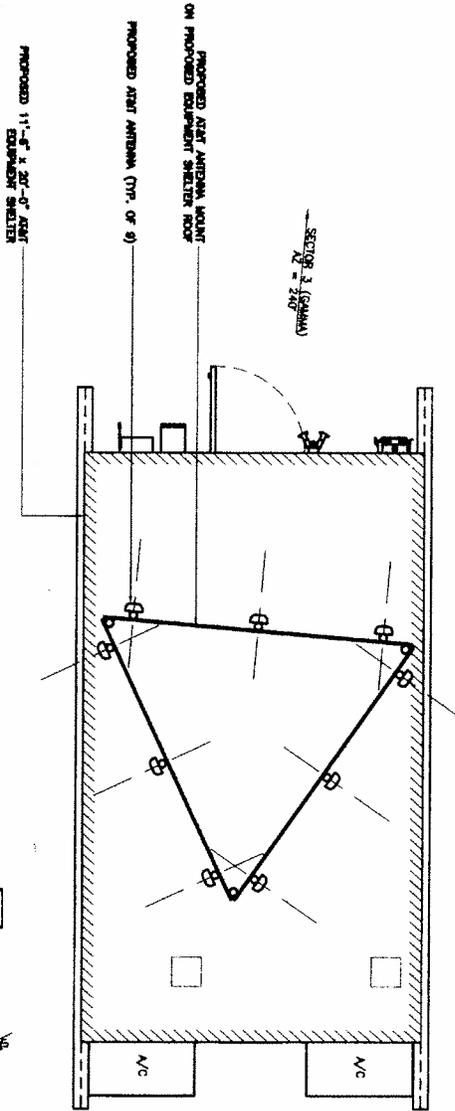
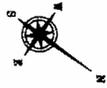


1 ROOF PLAN
 0 5' 10' 15' 20' 25'
 GRAPHIC SCALE



811 SEQUOIA STREET KEY WEST, FL 33400 SHEET NAME ROOF PLAN SHEET NUMBER Z 3		MACTEC ENGINEERING & CONSULTING, INC. CONSULTING OFFICE 1100 ALABAMA AVE. SUITE 200 ALABAMA, MO 64401 PHONE (417) 439-1100 FAX (417) 439-1101 WWW.MACTEC.COM	
SOUTH KEY WEST (CASA MARINA)		CHECKED BY: M. AMBET	

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ROOF DECK

SECTION 1 (ALPHA) 1/2" = 2'-0"

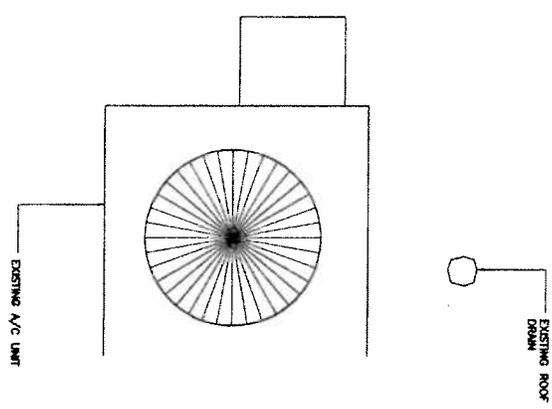
EXISTING VENT (TYP.)

SECTION 2 (BETA) 1/2" = 1'-0"

A/C

A/C

ROOF DECK



1 EQUIPMENT LAYOUT PLAN



GRAPHIC SCALE



MACTEC

COMMERCIAL ENGINEERING & CONSULTING INC.
 10001 W. STATE STREET
 SUITE 100
 TAMPA, FL 33613
 TEL: (813) 833-1000
 FAX: (813) 833-1000

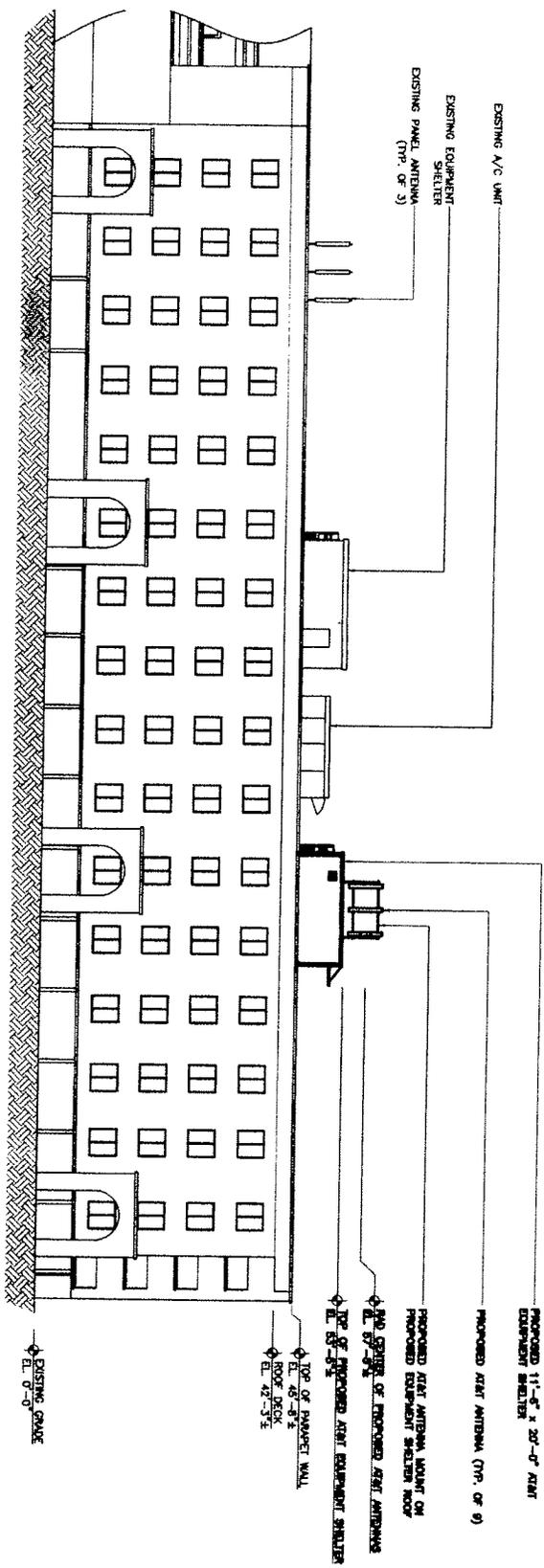
DATE: 08/20/08
 PROJECT NO.: 0708-08-194 (2)

NO.	DATE	DESCRIPTION
1	8/20/08	ISSUE FOR PERMIT
2	8/20/08	ISSUE FOR PERMIT
3	8/20/08	ISSUE FOR PERMIT
4	8/20/08	ISSUE FOR PERMIT
5	8/20/08	ISSUE FOR PERMIT
6	8/20/08	ISSUE FOR PERMIT
7	8/20/08	ISSUE FOR PERMIT
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49	8/20/08	ISSUE FOR PERMIT
50	8/20/08	ISSUE FOR PERMIT

SOUTH KEY WEST
 (CASA MARINA)

ANTENNA AND
 EQUIPMENT
 LOCATION PLANS

74



NOTE:
ANTENNAS SHALL BE PAINTED TO MATCH EXISTING BUILDING.

1 PARTIAL NORTH ELEVATION

0 5' 10' 20'

GRAPHIC SCALE



CONTRACTOR: MACTEC CONSULTING & CONSTRUCTION, INC. 1705 LAKEWOOD PARKWAY JACKSONVILLE, FL 32206 PHONE: 904.731.1234 FAX: 904.731.1235 WWW.MACTEC.COM	
DIVISION OF ADMINISTRATION & CODE PROJECT NO.: 0798-02-184 (A1)	
DRAWING BY: C. TILLEY CHECKED BY: M. HENRY	
SOUTH KEY WEST (CASA MARINA) 641 SEASIDE STREET KEY WEST, FL 33040 SHEET NAME: BUILDING ELEVATION SHEET NUMBER: Z5	



Previous Approval

**CITY OF KEY WEST
PLANNING DEPARTMENT
MEMORANDUM**

To: Ms. Cheryl Smith, City Clerk
From: Owen Trepanier, Senior Planner 
Date: 17 December 2001
Re: **Variance Application for 1500 Reynolds Street (Casa Marina).
BOA Meeting of 02-06-02**

REQUEST

Address: 1500 Reynolds Street. RE #: 00037160-000100
Zoning: HCT (Historic Commercial Tourist District)
Purpose: Install Rooftop Antennae
Technical Description: Variance to:
MAXIMUM HEIGHT ARTICLE V SUBSECTION 2-5.5.5.E.3: of 17 feet from the 35 feet allowed to the 52 feet proposed (50 feet existing) to install 9 antennae and an equipment shelter on the roof.

ANALYSIS

There are nine, 2.5-inch x 116-inch, antennae and an equipment shed proposed for the roof of the Casa Marina. The antennae are for wireless communication and engineered to withstand 274 mph wind loads.

The Casa has a parapet style roof. The antenna will be located behind the parapet with the top six feet rising above. The placement of these antennae has received HARC approval.

Background: Our hurricane prone climate and limited island space makes the strength of the few towers/antennae, we can locate in the City, one of the most important factors to consider.

Because there are so few adequate locations for towers/antennae in Key West, we should allow only those that will withstand strong weather events to fill the limited spaces. Unfortunately, if a tower/antennae cannot withstand heavy wind loads, it will fall - not only creating dangerous situations, but blocking roadways and exacerbating rescue and clean-up activities as well.



A quick overview of the storms that reached our area in the last century reveals what we can logically expect to reach us in the future:

Hurricane¹	Year	Category	Landfall
Atlantic-Gulf	1919	4	Keys
San Felipe-Okeechobee	1928	4	Palm Beach
Florida Keys Labor Day	1935	5	Keys
Donna	1960	4	Keys
Andrew	1992	4	S. Florida
Georges	1998	2	Keys
Floyd	1999	4	Bahamas
Michelle	2001	4	Cuba

The City Engineer and co-Directors' of the City Emergency Operations Center all recommend new towers/antennae should withstand 200 mph sustained wind loads.

Category – Wind Speed Table:

Category	Wind Speed
1	75 - 95 mph
2	96 - 110 mph
3	111 - 130 mph
4	131 - 155 mph
5	Greater than 155 mph

RECOMMENDATION

The Planning Department has not received input from the public or the Fire Inspector, however based on site visits and discussions with the applicant, we recommend **APPROVAL** with the condition that they are installed in a manner that maximizes their wind load capacity.



¹ National Hurricane Center http://www.nhc.noaa.gov/HAW/basics/historic_storms.htm
K:\Geo Projects\Reynolds St\1500 (Casa)\02a BOA 02-06-02.doc

RESOLUTION NO. 02-068

VARIANCE: 1500 REYNOLDS STREET

A RESOLUTION OF THE KEY WEST BOARD OF ADJUSTMENT TO ALLOW THE INSTALLATION OF ROOFTOP ANTENNAE AND AN EQUIPMENT SHELTER BY GRANTING A VARIANCE TO THE MAXIMUM HEIGHT REGULATIONS FOR PROPERTY IN THE HCT, HISTORIC COMMERCIAL TOURIST ZONING DISTRICT, UNDER THE LAND DEVELOPMENT REGULATIONS OF THE CITY OF KEY WEST, FLORIDA. SPECIFICALLY PERMITTING A VARIANCE TO: ARTICLE V, SUBSECTION 2-5.5.5.E.3. OF 17 FEET FROM THE 35 FEET MAXIMUM HEIGHT ALLOWED TO THE 52 FEET PROPOSED (50 FEET EXISTING) TO INSTALL 9 ANTENNAE AND AN EQUIPMENT SHELTER ON THE ROOF. FOR PROPERTY LOCATED AT 1500 REYNOLDS STREET (RE# 00037160-000100).

REAL ESTATE PARCEL 00037160-000100,
ALSO KNOWN AS 1500 REYNOLDS STREET,
KEY WEST, MONROE COUNTY, FLORIDA

WHEREAS, special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, buildings or structures in the subject district; and

WHEREAS, literal interpretation of the provisions of the Zoning Ordinance of the City of Key West would deprive the owner of the subject property of rights commonly enjoyed by other properties in the same district under the terms of the Land Development Regulations.



WHEREAS, the special conditions and circumstances do not result from the actions of the applicant.

WHEREAS, the granting of the variance requested will not confer on the applicant any special privilege that is denied by the ordinance to other land, structures or buildings in the same district.

WHEREAS, the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.

WHEREAS, the granting of the variance will be in harmony with the general purpose and intent of the Land Development Regulations, will not be injurious to the neighborhood, or otherwise detrimental to the public welfare; now therefore,

BE IT RESOLVED by the Board of Adjustment of the City of Key West, Florida:

Section 1. That a variance to **MAXIMUM HEIGHT** regulations in the **HCT, HISTORIC COMMERCIAL TOURIST Zoning District**, under the Land Development Regulations of the City of Key West, Florida, is hereby granted as follows to: **ARTICLE V, SUBSECTION 2-5.5.5.E.3. OF 17 FEET FROM THE 35 FEET MAXIMUM HEIGHT ALLOWED TO THE 52 FEET PROPOSED (50 FEET EXISTING).** THE PURPOSE OF THE REQUEST IS TO ALLOW THE INSTALLATION OF 9 ROOFTOP ANTENNAE AND AN EQUIPMENT



SHELTER ON THE ROOF ON PROPERTY LOCATED AT 1500 REYNOLDS STREET
(RE# 00037160-000100).

REAL ESTATE PARCEL 00037160-000100, ALSO KNOWN AS 1500 REYNOLDS
STREET, KEY WEST, MONROE COUNTY, FLORIDA

Section 2. It is an essential condition of this variance that full, complete, and final application for all permits required for any new construction for any use and occupancy for which this variance is wholly or partly necessary, whether or not such construction is suggested or proposed in the documents presented in support of this variance, shall be submitted in its entirety within 12 months after the date hereof. It is an essential condition of this variance that no application or reapplication for new construction for which the variance is wholly or partly necessary shall be made after expiration of said 12-month period.

Section 3. Failure to submit full and complete application for permits for new construction for which this variance is wholly or partly necessary, or failure to complete new construction for use and occupancy pursuant to this variance in accordance with the terms of a City building permit issued upon timely application as described in Section 2 hereof, shall immediately operate to terminate this variance, which variance shall be of no force or effect.



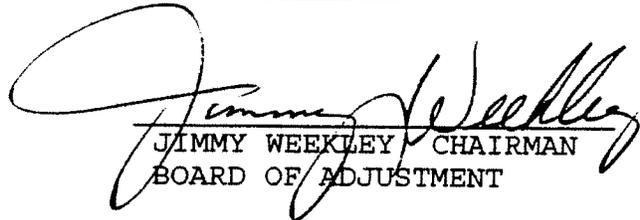
Section 4. This variance does not constitute a finding as to ownership or right to possession of the property, and assumes, without finding, the correctness of applicant's assertion of legal authority respecting the property.

Section 5. This Resolution shall go into effect immediately upon its passage and adoption and authentication by the signatures of the presiding officer and the Clerk of the Commission.

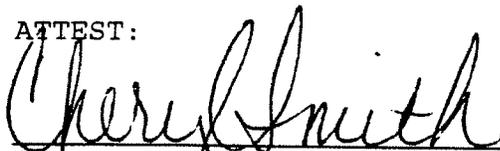
Read and passed on first reading at a regular meeting held this 6th day of March, 2002.

Authenticated by the presiding officer and Clerk of the Board on 7th day of March, 2002.

Filed with the Clerk on March 7, 2002.


JIMMY WEEKLEY CHAIRMAN
BOARD OF ADJUSTMENT

ATTEST:


CHERYL SMITH, CITY CLERK





Affordable Housing Information

Prepared by and Return To:
Larry R. Erskine, Esq.
P.O. Box 1409
Key West, FL 33041-1409
(305) 809-3770

Doc# 1743312
Bk# 2414 Pg# 19

**CORRECTED, AMENDED AND RESTATED DECLARATION OF AFFORDABLE
HOUSING RESTRICTIONS AND RELEASE**

This Corrected, Amended and Restated Declaration of Affordable Housing Restrictions and Release (hereinafter "**Declaration**") is made and entered into this 5th day of MAY, 2009, by Casa Marina Owner, LLC, a Delaware limited liability company authorized to conduct business in the State of Florida (hereinafter "**Declarant**"), whose principal mailing address is 595 S. Federal Highway, Suite 600, Boca Raton, Florida, 33432.

WHEREAS, the Declarant previously entered into that certain Declaration of Affordable Housing Restrictions dated October 9, 2007 (the "**Original Declaration**"), which Original Declaration was recorded on October 17, 2007, in the Office Records of Monroe County as Document No. 1667164, Book No. 2326, Page No. 1954.

WHEREAS, the Original Declaration erroneously described the real property to be subjected to the restrictions of the Original Declaration as follows (the "**Original Property**"):

On the island of Key West, Florida, being Lots 1 through 16, inclusive, all being in Block Seven (7) as shown on the plat of the Key West Investment Company's Subdivision of part of Tract Seventeen (17), recorded in Plat Book Number 1, page 69, of the Public Records of Monroe County, Florida.

WHEREAS, the real property which the Declarant intended to subject to the restrictions of the Original Declaration is more particularly described as follows (the "**Property**"):

On the island of Key West, Florida, being Lots 13, 14, and 15, all being in Block Seven (7) as shown on the plat of the Key West Investment Company's Subdivision of part of Tract Seventeen (17), recorded in Plat Book Number 1, page 69 of the Public Records of Monroe County, Florida.

WHEREAS, the Property represents a portion of the Original Property which has been encumbered by the Original Declaration.

WHEREAS, it is the intention of the Declarant and the City of Key West (hereinafter, the "**City**") that only that portion of the Original Property which constitutes the Property be subject to (a) regulation pursuant to Sections 122-1465 through 122-1500 of the Code of Ordinances of the City of Key West, Florida, as amended from time to time ("**Work Force Housing Ordinance**"), and (b) any other regulations and limitations placed on the Property to



establish and maintain the affordability of the Property for persons with incomes within a specified range;

WHEREAS, the Declarant, with the consent of the City, desires to release the portion of the Original Property which does not constitute the Property (the "**Released Property**") from the limitations and restrictions of the Original Declaration and to amend, restate and affirm the limitations and restrictions placed on the Property pursuant to the Original Declaration on the terms set forth in this Declaration;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Declarant hereby amends and restates the Original Declaration in its entirety as follows:

I. DEFINITIONS

A. "Declarant" shall mean the owner of the Property and any subsequent purchaser, devisee, transferee, grantee or holder of title of the Property or any portion of the Property.

B. "Transfer" means any sale, assignment or transfer, voluntary, involuntary or by operation of law (whether by deed, contract of sale, gift, devise, bequest, trustee's sale, deed in lieu of foreclosure, or otherwise) of any interest in the Property, including but not limited to, a fee simple interest, a joint tenancy interest, a life estate, a leasehold interest, or an interest evidenced by a land contract by which possession of the Property is transferred and Declarant retains title.

C. "Transferee" shall mean an individual, or individuals, who receive a Transfer of the Property from the Declarant.

All other terms shall have the same meaning given to them in the City's Work Force Housing Ordinance.

II. TERM AND ENFORCEABILITY

A. This Declaration shall run with the Property and bind the Declarant, his or her heirs, legal representatives, executors, successors in interest and assigns, for a period of fifty (50) years from the effective date of this Declaration. At any time during the final year of the restriction, the City, at its sole discretion, may act by Resolution to renew this Declaration for an additional 50-year term.

B. The Property is held and hereafter shall be held, conveyed, encumbered, used, rented, leased and occupied subject to these covenants, conditions, restrictions and limitations. All of the herein-stated covenants, conditions, restrictions and limitations are intended to constitute both equitable servitudes and covenants running with the land.

C. Any transferee or purchaser of the Property, or of any portion of or interest in the Property, by the acceptance of a deed therefore, whether from Declarant or from any subsequent purchaser of the Property, or by the signing of a contract or agreement to purchase the same



shall, by the acceptance of such deed or by the signing of such contract or agreement, be deemed to have consented to and accepted the covenants, conditions, restrictions and limitations set forth herein.

D. In order to preserve through this Declaration the affordability of the Property for persons with incomes within a specified range, the Declarant hereby grants and assigns to the City the right to monitor and enforce compliance with this Declaration. Declarant otherwise reserves the rights necessary to implement the provisions of this Declaration.

III. OCCUPANCY, LEASING AND USE OF THE PROPERTY

A. The improvements located on the subject Property shall be operated, managed and otherwise administered as affordable work force housing and such other uses incidental to residential use as may be permitted by local zoning and land use regulations.

1. Occupancy shall be restricted to households or persons who derive at least 70 percent of its or his/her total income from gainful employment in Monroe County.
2. At the time the subject unit is leased, the total income of the eligible household or persons shall not exceed 100 percent of the median household income for Monroe County (adjusted for family size). During the occupancy of the rental unit, the household's income may increase to an amount not to exceed 140 percent of the median household income for Monroe County (adjusted for family size). In such event, the tenant's occupancy shall terminate at the end of the existing lease term.
3. The monthly rent for the rental unit, not including utilities, shall not exceed 30 percent of that amount which represents 100 percent of the monthly median household income of Monroe County (adjusted for family size).
4. Eligibility is based on proof of legal residence in Monroe County for at least one consecutive year.
5. Priority shall be given to families of four or more members for larger sized affordable work force housing units.
6. The income of eligible households shall be determined by counting only the first and highest paid 40 hours of employment per week of each unrelated adult. For a household containing adults related by marriage or a domestic partnership registered with the City, only the highest 60 hours of combined employment shall be counted. The income of dependents regardless of age shall not be counted in calculating a household's income.
7. In the event that a tenant's income shall exceed the maximum allowable income under this section and such shall occur for the first time during the



last three months of a tenancy, then the landlord and tenant may extend a lease for a period of one year at the affordable rate.

8. The board of adjustment may review a household's income and unique circumstances to determine eligibility and conformance with the intent of this ordinance to assure that people in need are not excluded and people without need are not included.

B. Notwithstanding anything in this Agreement to the contrary, the first floor of the improvements located on the Property shall not be subject to the limitations and restrictions set forth in Section III(A) above, and the Declarant shall be permitted to use, operate and maintain the first floor of such improvements in any manner permitted by applicable law (including any applicable zoning regulations).

IV. DEFAULTS AND REMEDIES: ASSIGNMENT OF RENTS

A. Upon any violation of the provisions of this Declaration the City may declare a default under this Declaration by delivering written notice thereof to the Declarant. After providing written notice of default, the City may apply to a court of competent jurisdiction for specific performance of the Declaration, for an injunction prohibiting a proposed sale or transfer in violation of this Declaration, for a declaration that a prohibited transfer is void, or for any such other relief as may be appropriate.

B. Assignment of Rents: Declarant hereby assigns to City the right to receive the rents due or collected from the operation and leasing of the Property or any portion thereof (other than the first floor of the improvements located thereon) during the entire period the Property is occupied in violation of any of the terms of this Declaration.

C. The remedies stated herein shall not be exclusive, but shall be cumulative to all other remedies and rights the parties may lawfully exercise.

V. REQUIREMENTS FOR WRITTEN REPORTS FROM DECLARANT

Declarant shall provide a written report to the City each year on October 1, or on such other date as specified by the City in writing, which includes a statement that Declarant has complied with all provisions of this Declaration, or includes Declarant's explanation of any violation of any provision of this Declaration. The report shall be submitted within thirty (30) days of the specified date to the City, or to such other person or address designated by the City. Failure to report in a timely manner, or any misrepresentations on the report, shall constitute a default under this Declaration.

VI. GENERAL PROVISIONS

A. The City may assign its rights and delegate its duties hereunder in writing without the consent of Declarant. Upon such assignment the City shall notify the Declarant.

B. If any action is brought to enforce the terms of this Declaration, the prevailing party shall be entitled to reasonable attorneys' fees and costs.



C. If any one or more of the provisions contained in this Declaration shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions contained in this Declaration, and this Declaration shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

D. The terms of this Declaration shall be interpreted under the laws of the State of Florida and venue shall lie in Monroe County, Florida.

E. All notices required herein shall be sent by certified mail, return receipt requested, to the Declarant at the address of the Property and to the City or its designee at P.O. Box 1409, Key West, Florida, 33041, or such other address that the City may subsequently provide in writing to the Declarant.

VII. RELEASE; RESTATEMENT

A. The Released Property, which is more particularly described as follows, is hereby released from the restrictions, limitations and other terms and conditions of the the Original Declaration, and the Original Declaration shall be of no further force or effect with respect to such Released Property:

On the island of Key West, Florida, being Lots 1 through 12 and Lot 16, all being in Block Seven (7) as shown on the plat of the Key West Investment Company's Subdivision of part of Tract Seventeen (17), recorded in Plat Book Number 1, page 69, of the Public Records of Monroe County, Florida.

B. The terms and conditions of this Declaration supersede, amend, restate and replace the terms and conditions of the Original Declaration in its entirety.



IN WITNESS WHEREOF, the Declarant has executed this Declaration as of the date first written above.

DECLARANT:

Doc# 1743312
Bk# 2414 Pg# 24

Arial

Casa Marina Owner, LLC

Witness

Name: Alison Ardo

By: David Hirsh

Name: David Hirsh

Witness

Name: Jill Allegretti

Title: Managing Director and Vice President

STATE OF NEW YORK
COUNTY OF NEW YORK

Sworn to or affirmed and subscribed before me this 31 day of October, 2008, by David Hirsh, as Managing Director and VP of Casa Marina Owner, LLC, who is personally know to me or has produced _____ as identification.

Douglas V. Summa

NOTARY SEAL:

DOUGLAS V. SUMMA
NOTARY PUBLIC, State of New York
No. 016U6133067
Qualified in New York County
Commission Expires Sept. 6, 2009



For purposes of acknowledging and agreeing to the terms of the attached Declaration, including the release described in Section VII thereof:

Maria Ratchiff
Witness

City of Key West

Name: Maria Ratchiff

By: [Signature]
Name: MORGAN McPHERSON

Patricia Navarro
Witness

Title: Mayor

Name: Patricia Navarro

Doc# 1743312
Bk# 2414 Pg# 25

State of Florida
County of Monroe

The foregoing instrument was acknowledged this 5th day of May, 2009, by Morgan McPherson, as the Mayor of City of Key West, who is personally known to me or who has produced personally known as identification.

[Signature]

NOTARY PUBLIC
AVIAN PEREZ
Commission # DD 863517
Expires April 9, 2013
Bonded thru Tidy Fair Insurance 800-365-7019

MONROE COUNTY
OFFICIAL RECORDS

KEY WEST PLANNING DEPT
SEP 30 2009
MONROE COUNTY

Prepared by and Return to:
Larry R. Erskine, Esq.
P.O. Box 1409
Key West, FL 33041-1409
(305) 809-3770

Doc# 1667164
Bk# 2326 Pg# 1954

DECLARATION OF AFFORDABLE HOUSING RESTRICTIONS

This Declaration of Affordable Housing Restrictions (hereinafter "Declaration") is made and entered into this 9th day of October, 2007, by Casa Marina Owner, LLC, a Delaware limited liability company authorized to conduct business in the State of Florida (hereinafter "Declarant"), whose principal mailing address is 595 S. Federal Highway, Suite 600, Boca Raton, Florida, 33432.

This Declaration applies to the real property located at 811 Seminole Street, in Key West, Florida, which is more particularly described as follows:

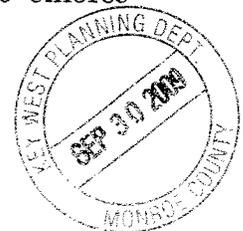
On the island of Key West, Florida, being Lots 1 through 16, inclusive, all being in Block Seven (7) as shown on the plat of the Key West Investment Company's Subdivision of part of Tract Seventeen (17), recorded in Plat Book Number 1, page 69, of the Public Records of Monroe County, Florida.

WHEREAS, the Property is subject to regulation pursuant to Sections 122-1465 through 122-1500 of the Code of Ordinances of the City of Key West, Florida, as amended from time to time ("Work Force Housing Ordinance"), which ordinance establishes affordable housing categories to facilitate the development of housing designed to meet the needs of people employed by the local economy, establishes eligibility requirements for occupants of work force housing, and restricts the sales price of the Property and requires that the Property be sold at a price substantially less than fair market value to a purchaser within a specific income range; and

WHEREAS, Declarant as well as subsequent purchasers and tenants will benefit from the limitations and regulations placed on the Property by operation of this Declaration; and,

WHEREAS, the intent of the City of Key West (hereinafter "City") in imposing reasonable regulations on the Property is to establish and maintain the affordability of the Property for persons with incomes within a specified range; and

WHEREAS, the intent of Declarant is to preserve through this Declaration the affordability of the Property and to assign to the City the right to enforce compliance with this Declaration; and



NOW, THEREFORE, the Declarant agrees that the Property shall be held and conveyed subject to the following affordable housing restrictions, covenants and conditions, which shall run with the Property and be binding on all parties having any right, title or interest in the Property or any part thereof, their heirs, successors and assigns for the entire term of this Declaration.

I. DEFINITIONS

- A. "Declarant" shall mean the owner of the Property and any subsequent purchaser, devisee, transferee, grantee or holder of title of the Property or any portion of the Property.
- B. "Transfer" means any sale, assignment or transfer, voluntary, involuntary or by operation of law (whether by deed, contract of sale, gift, devise, bequest, trustee's sale, deed in lieu of foreclosure, or otherwise) of any interest in the Property, including but not limited to, a fee simple interest, a joint tenancy interest, a life estate, a leasehold interest, or an interest evidenced by a land contract by which possession of the Property is transferred and Declarant retains title.
- C. "Transferee" shall mean an individual, or individuals, who receive a Transfer of the Property from the Declarant.

All other terms shall have the same meaning given to them in the City's Work Force Housing Ordinance.

II. TERM AND ENFORCEABILITY

A. This Declaration shall run with the Property and bind the Declarant, his or her heirs, legal representatives, executors, successors in interest and assigns, for a period of fifty (50) years from the effective date of this Declaration. At any time during the final year of the restriction, the City, at its sole discretion, may act by Resolution to renew this Declaration for an additional 50-year term.

B. The Property is held and hereafter shall be held, conveyed, encumbered, used, rented, leased and occupied subject to these covenants, conditions, restrictions and limitations. All of the herein-stated covenants, conditions, restrictions and limitations are intended to constitute both equitable servitudes and covenants running with the land.

C. Any transferee or purchaser of the Property, or of any portion of or interest in the Property, by the acceptance of a deed therefore, whether from Declarant or from any subsequent purchaser of the Property, or by the signing of a



contract or agreement to purchase the same, shall, by the acceptance of such deed or by the signing of such contract or agreement, be deemed to have consented to and accepted the covenants, conditions, restrictions and limitations set forth herein.

D. In order to preserve through this Declaration the affordability of the Property for persons with incomes within a specified range, the Declarant hereby grants and assigns to the City the right to monitor and enforce compliance with this Declaration. Declarant otherwise reserves the rights necessary to implement the provisions of this Declaration.

III. OCCUPANCY, LEASING AND USE OF THE PROPERTY

A. The subject property shall be operated, managed and otherwise administered as affordable work force housing and such other uses incidental to residential use as may be permitted by local zoning and land use regulations.

1. Occupancy shall be restricted to households or persons who derive at least 70 percent of its or his/her total income from gainful employment in Monroe County.

2. At the time the subject unit is leased, the total income of the eligible household or persons shall not exceed 100 percent of the median household income for Monroe County (adjusted for family size). During the occupancy of the rental unit, the household's income may increase to an amount not to exceed 140 percent of the median household income for Monroe County (adjusted for family size). In such event, the tenant's occupancy shall terminate at the end of the existing lease term.

3. The monthly rent for the rental unit, not including utilities, shall not exceed 30 percent of that amount which represents 100 percent of the monthly median household income of Monroe County (adjusted for family size).

4. Eligibility is based on proof of legal residence in Monroe County for at least one consecutive year.

5. Priority shall be given to families of four or more members for larger sized affordable work force housing units.



6. The income of eligible households shall be determined by counting only the first and highest paid 40 hours of employment per week of each unrelated adult. For a household containing adults related by marriage or a domestic partnership registered with the City, only the highest 60 hours of combined employment shall be counted. The income of dependents regardless of age shall not be counted in calculating a household's income.

7. In the event that a tenant's income shall exceed the maximum allowable income under this section and such shall occur for the first time during the last three months of a tenancy, then the landlord and tenant may extend a lease for a period of one year at the affordable rate.

8. The board of adjustment may review a household's income and unique circumstances to determine eligibility and conformance with the intent of this ordinance to assure that people in need are not excluded and people without need are not included.

IV. DEFAULTS AND REMEDIES: ASSIGNMENT OF RENTS

A. Upon any violation of the provisions of this Declaration the City may declare a default under this Declaration by delivering written notice thereof to the Declarant. After providing written notice of default, the City may apply to a court of competent jurisdiction for specific performance of the Declaration, for an injunction prohibiting a proposed sale or transfer in violation of this Declaration, for a declaration that a prohibited transfer is void, or for any such other relief as may be appropriate.

B. Assignment of rents: Declarant hereby assigns to City the right to receive the rents due or collected during the entire period the Property is occupied in violation of any of the terms of this Declaration.

C. The remedies stated herein shall not be exclusive, but shall be cumulative to all other remedies and rights the parties may lawfully exercise.

V. REQUIREMENTS FOR WRITTEN REPORTS FROM DECLARANT

Declarant shall provide a written report to the City each year on October 1, or on such other date as specified by the City in writing, which includes a statement that Declarant has complied with all provisions of this Declaration, or includes Declarant's explanation of any violation of any provision of this Declaration. The



report shall be submitted within thirty (30) days of the specified date to the City, or to such other person or address designated by the City. Failure to provide a report in a timely manner, or any misrepresentations on the report, shall constitute a default under this Declaration.

VI. GENERAL PROVISIONS

A. The City may assign its rights and delegate its duties hereunder in writing without the consent of Declarant. Upon such assignment the City shall notify the Declarant.

B. If any action is brought to enforce the terms of this Declaration, the prevailing party shall be entitled to reasonable attorneys' fees and costs.

C. If any one or more of the provisions contained in this Declaration shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions contained in this Declaration, and this Declaration shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

D. The terms of this Declaration shall be interpreted under the laws of the State of Florida and venue shall lie in Monroe County, Florida.

E. All notices required herein shall be sent by certified mail, return receipt requested, to the Declarant at the address of the Property and to the City or its designee at P.O Box 1409, Key west. Florida, 33041, or such other address that the City may subsequently provide in writing to the Declarant.

IN WITNESS WHEREOF, the Declarant has executed this Declaration as of the date written below.

DECLARANT: CASA MARINA OWNER, LLC

By: _____

Dennis J. McDonagh, its Manager

10-09-07

Date



STATE OF ~~FLORIDA~~ *New York*
COUNTY OF ~~MONROE~~ *New York*

Sworn to or affirmed and subscribed before me this 9th day of October, 2007, by Dennis J. McDonagh, as Manager of Casa Marina Owner, LLC, who is personally known to me or has produced _____ as identification.

NOTARY SEAL:

Melissa Herland
NOTARY PUBLIC

MELISSA HERLAND
Notary Public, State of New York
No. 30-4814429
Qualified in Nassau County
Commission Expires *5-7-2011*

MONROE COUNTY
OFFICIAL RECORDS



**Development Review Committee
October 22, 2009 – 2:00 p.m.
City Commission Chamber
Old City Hall, 510 Greene Street**



- Item 5b.** **Variance – 1500 Reynolds (RE Number 00037160-000100)** – A variance request for height for proposed antenna mount on rooftop equipment shelter in the HCT zoning district per Section 122-900 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

**VARIANCES ARE QUASI-JUDICIAL HEARINGS AND IT IS
IMPROPER TO SPEAK TO A PLANNING BOARD AND/OR BOARD
OF ADJUSTMENT MEMBER ABOUT THE VARIANCE
OUTSIDE THE HEARING**

Variance Application

**City of Key West
Planning Department**



Please print or type a response to the following:

1. Site Address 811 Seminole Street
2. Name of Applicant SBA Network Services Inc./AT&T Mobility
3. Applicant is: Owner _____ Authorized Representative x
(attached Authorization Form must be completed)
4. Address of Applicant 5900 Broken Sound PKWY NW
Boca Raton, Florida 33487
5. Phone # of Applicant 786-351-2928 Mobile# _____ Fax# 561-981-9901
6. E-Mail Address aamoedo@sbase.com
7. Name of Owner, if different than above Casa Marina Owner LLC
8. Address of Owner 595 S Federal Highway Suite 600
Boca Raton, Florida 33432
9. Phone Number of Owner 305-295-3535 Fax# _____
10. Email Address Speidel, Kevin [KSpeidel@luxuryresorts.com]
11. Zoning District of Parcel HCT RE# 00037160-000100
12. Description of Proposed Construction, Development, and Use
AT&T Mobility Wireless Rooftop Telecommunications Facility

13. Required information: (application will not move forward until all information is provided)

	Required	Existing	Requested
Front Setback			
Side Setback			
Side Setback			
Rear Setback			
Building Coverage			
Open Space Requirements			
Impervious Surface			

Height

35'

62'

14. Is Subject Property located within the Historic District? Yes No
 If Yes, indicate date of HARC approval as well as the HARC Approval Number. Attach minutes of the meeting.

Date 3/7/2002 HARC # 02-068

15. Are there any easements, deed restrictions or other encumbrances attached to the subject property? Yes No If Yes, please describe and attach relevant documents. Declaration of Affordable Housing Restrictions and Release

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

YES NO

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

Check List

(to be completed by Planning Staff and Applicant at time of submittal)

Applicant Initials	Staff Initials	The following must be included with this application
_____	_____	Copy of the most recent recorded deed showing ownership and a legal description of the subject property
_____	_____	Application Fee (to be determined according to fee schedule)
_____	_____	Site Plan (existing and proposed) as specified on Variance Application Information Sheet
_____	_____	Floor Plans of existing and proposed development (8.5 x 11)
_____	_____	Copy of the most recent survey of the subject property
_____	_____	Elevation drawings as measured from crown of road
_____	_____	Stormwater management plan
_____	_____	HARC Approval (if applicable)
_____	_____	Notarized Verification Form
_____	_____	A PDF or compatible electronic copy of the complete application on a compact disk

Please note that all architecture or engineering designs must be prepared and sealed by a professional architect or engineer registered in the state pursuant to F.S. chs. 471 and 481, respectively. Two signed and sealed copies will be required at time of submittal.

Standards for Considering Variances



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

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

35 foot Zoning District height restrictions prohibits the operation of the proposed AT&T Mobility Wireless Telecommunications Facility to operate effectively. We are requesting a height variance of 27'.

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

The allowable maximum height of thirty five (35) feet will

not allow for AT&T Mobility to offer their customers who work, live and travel within this geographical area the optimal coverage necessary to avoid dropped calls in the area, which will also affect all emergency services (911).

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

This height Variance does not confer any special privileges.

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

The number of calls AT&T Mobility is receiving is overwhelming within this geographical area. There is a capacity these sites can handle at one time and when number of calls exceed the capacity of the site then the public starts to experience dropped calls or are unable to receive any service at all (blocked signals). Results like this are detrimental to a proper functioning network. The State of Florida considers wireless communications services to be essential to the public safety and is considered an emergency service per the 2005 Florida Statue AT&T Mobility mandated by the FCC to provide E911 service to their subscribers. The E911 system directs 911 calls to appropriate public safety answering points by routing based on the geographical location in which the call originated or by providing automatic location-identification.

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

62' is the minimum height required to allow AT&T Mobility telecommunications facility to function correctly.

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

This site will allow AT&T Mobility to improve the coverage in the area which will benefit the public welfare, improve connectivity of calls in the geographical area, and provide reliable service.

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

Nonconformities are not considered as the basis for this request.

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

- That the standards established in subsection (a) have been met by the applicant for a variance.
- That the applicant has demonstrated a "good neighbor policy" by contacting or attempting to contact all noticed property owners who have objected to the variance application, and by addressing the objections expressed by these neighbors.



Verification Form



Verification Form

Please note, variances are quasi-judicial hearings and it is improper to speak to a Planning Board or Board of Adjustment Member about the variance 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, SBA Network Services/AT&T Mobility, 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:

811 Seminole Street, Key West, Florida

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 of Owner/Legal Representative

Signature of Joint/Co-owner

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

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

Notary's Signature and Seal

Name of Acknowledger typed, printed or stamped

Title or Rank _____ Commission Number (if any)



Authorization Form



Authorization Form

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

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

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

SBA Network Services/AT&T Mobility _____
Please Print Name of Representative

to be the representative for this application and act on my/our behalf before the Planning Board.

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)



Warranty Deed

D
130,213.40

Record & Return to:
LandAmerica - Brigitte Sawicki
1302 N. 19th Street, Suite 200
Tampa, FL 33605
File # FD53331

Doc# 1517059 05/18/2005 3:34PM
Filed & Recorded in Official Records of
MONROE COUNTY DANNY L. KOLHAGE

This instrument prepared by:

DEED DOC STAMP CL: JILL \$730,213.40

Sung Lee, Esq.
Akin Gump Strauss Hauer & Feld LLP
1700 Pacific Avenue, Suite 4100
Dallas, Texas 75201-4675

Doc# 1517059
Bk# 2115 Pg# 141

GENERAL WARRANTY DEED

STATE OF FLORIDA §
 § KNOW ALL MEN BY THESE PRESENTS THAT:
COUNTY OF MONROE §

THAT CASA MARINA REALTY PARTNERSHIP, L.P., a Delaware limited partnership (hereinafter called "Grantor"), whose mailing address is c/o Wyndham International, Inc., 1950 Stemmons Freeway, Suite 6001, Dallas, Texas 75207, for and in consideration of the sum of TEN AND NO/100 Dollars (\$10.00) and other good and valuable consideration in hand paid by CASA MARINA OWNER, LLC, a Delaware limited liability company (hereinafter called "Grantee"), whose mailing address is c/o Wyndham International, Inc., 1950 Stemmons Freeway, Suite 6001, Dallas, Texas 75207, the receipt and sufficiency of which are hereby acknowledged, has GRANTED, SOLD AND CONVEYED and by these presents does GRANT, SELL AND CONVEY unto Grantee that certain real property situated in Monroe County, Florida, and more particularly described on Exhibit A attached hereto and made a part hereof for all purposes (the "Land"), together with Grantor's interest in and to all rights, titles, benefits, easements, privileges, remainders, tenements, hereditaments, interests, reversions and appurtenances thereunto belonging or in any way appertaining, and all of the estate, right, title, interest, claim or demand whatsoever of Grantor therein, in and to adjacent strips and gores, if any, between the Land and abutting properties, and in and to adjacent streets, highways, roads, alleys or rights-of-way, and the beds thereof, either at law or in equity, in possession or expectancy, now or hereafter acquired (all of the above-described properties together with the Land are hereinafter collectively referred to as the "Property").

This conveyance is made and accepted subject and subordinate to (a) standby fees, taxes and assessments by any taxing authority for the current year and subsequent years, and subsequent taxes and assessments by any taxing authority for prior years due to change in land usage or ownership by Grantee, its successors or assigns, which standby fees, taxes and assessments Grantee assumes and agrees to pay, (b) zoning laws and regulations and ordinances of municipal and other governmental authorities affecting the Property, and (c) all matters listed on Exhibit B attached hereto and made a part hereof for all purposes (all of those items described in (a) through (c) above are hereinafter collectively referred to as the "Permitted Encumbrances").



TO HAVE AND TO HOLD the Property, together with all and singular the rights and appurtenances thereto in any wise belonging unto Grantee, Grantee's legal representatives, successors and assigns forever and subject to the Permitted Encumbrances, and Grantor does hereby bind itself, its successors and assigns, to WARRANT AND FOREVER DEFEND all and singular the Property unto Grantee, Grantee's legal representatives, successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof.



EXECUTED this 4th day of May, 2005, to be effective for all purposes
as of the 10th day of May, 2005.

GRANTOR:

CASA MARINA REALTY PARTNERSHIP, L.P., a
Delaware limited partnership

By: Casa Marina Realty Corporation, a Delaware
corporation, its general partner

Cindy Nelson
Cindy Nelson
Witness

By: *[Signature]*
Name: Gregory J. Moundas
Title: Vice President

Natalya Smulevich
Natalya Smulevich
Witness

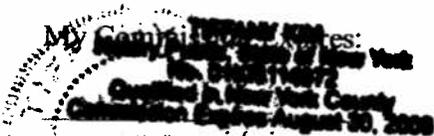
STATE OF NY §
§
COUNTY OF NY §

BEFORE ME, the undersigned authority, on this day personally appeared Gregory Moundas
Vice President of Casa Marina Realty Corporation, a Delaware corporation, general partner
of CASA MARINA REALTY PARTNERSHIP, L.P., a Delaware limited partnership, known to
me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to
me that he executed the same for the purposes and consideration therein expressed, in the
capacity therein stated, and as the act and deed of said corporation and limited partnership.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 4 day of
May, 2005.

[Signature]
Notary Public in and for the State of NY

TIFFANY KIM
Notary's Printed Name



After recording, this document should be returned to:

Akin Gump Strauss Hauer & Feld LLP
Attn: Sung Lee
1700 Pacific Avenue, Suite 4100
Dallas, TX 75201-4675

Wyndham Resorts Casa Marina
Key West, FL
012665-0348 WEST 5722675 v1



Exhibit A to General Warranty Deed

Description of Land

Doc# 1517059
Bkn 2115 Pg# 144

Wyndham Resorts Casa Marina
Key West, FL
012665-0348 WEST 5722675 v1



Exhibit A

Doc# 1517059
Bk# 2115 Pg# 145

Policy Number: Proforma

Exhibit A-1:

Parcel I:

All that land in the City of Key West, Monroe County, Florida, lying and being situate within a triangle formed by Seminole Avenue, Reynolds Street and the low water mark of the shore known as South Beach, the said triangle embracing Blocks 1, 2, 3, 4, 5 and 6 and the space between them formerly laid out as streets, but heretofore vacated as streets by the City Council of the City of Key West, all shown on the Plat of the KEY WEST INVESTMENT COMPANY'S SUBDIVISION OF PART OF TRACT 17, recorded in Plat Book 1, at page 69 of the Public Records of Monroe County, Florida; and also all the land under water lying in front of and all riparian rights belonging or appurtenant to the said triangle; less, however, that portion of Block 6 which is not included in Parcel II described herein and all of the land under water lying in front of and all riparian rights belonging or appurtenant thereto.

Subject to encroachment by Reynolds Street being more particularly described by metes and bounds as follows:

Commencing at the Northeast corner of Block 4 of KEY WEST INVESTMENT COMPANY'S SUBDIVISION OF PART OF TRACT 17, Key West, Monroe County, Florida and recorded in Plat Book 1, at page 69 of the Public Records of Monroe County, Florida, said corner is also known as the Point of Beginning of the land hereinafter described:

From said Point of Beginning bear South 37°32'30" East for a distance of 706.00 feet, more or less, to the shore line of said plat; thence meander the shoreline of said plat in a Westerly direction to a point which is 10.21 feet measured at right angles to the preceeding course; thence bear North 37°32'30" West for a distance of 678.00 feet, more or less, to a point; thence continue bearing Northwesterly for a distance of 20.00 feet, more or less, to a point on the Southeasterly property line of Seminole Avenue; said point also bearing South 52°00'00" West from the Point of Beginning; thence bear North 52°00'00" East for a distance of 17.81 feet back to the Point of Beginning.

Parcel II:

On the Island of Key West, Monroe County, Florida and being a part of Block 6 of KEY WEST INVESTMENT COMPANY'S SUBDIVISION OF PART OF TRACT 17 as recorded in Plat Book 1, at page 69 of the Public Records of Monroe County, Florida and being more particularly described by metes and bounds as follows:

Begin at a point on the Southeasterly property line of Seminole Avenue at the intersection of the Southwesterly property line of Alberta Street extended on its course Southeasterly; thence Southwesterly along the Southeasterly property line of Seminole Avenue for a distance of 14.83 feet; thence run Southeasterly and parallel with the said Alberta Street for a distance of 67.00 feet, more or less, to the Mean High Tide Line of the Straits of Florida; thence run Easterly along the said Mean High Tide Line for a distance of 18.00 feet, more or less to the Easterly boundary of said Block 6; thence run Northwesterly along the Easterly boundary of said Block 6 for a distance of 78.00 feet, more or less, back to the Point of Beginning; together with all the land under water lying in front of and all riparian rights belonging or appurtenant thereto.

Parcel III:

A concrete dock or pier situated on the following described property:

A parcel of submerged land lying in the Straits of Florida adjacent to Block 6 of the KEY WEST INVESTMENT COMPANY'S SUBDIVISION OF PART OF TRACT 17 as recorded in Plat Book 1, at page 69 of



the Public Records of Monroe County, Florida and being more particularly described by metes and bounds as follows:

Commencing at a point on the Southeasterly property line of said Seminole Avenue at the intersection of the Southwesterly property line of Alberta Street extended on its course Southeasterly; thence run Southeasterly along the Easterly boundary of said Block 6 for a distance of 78.00 feet, more or less, to the Mean High Water Line of the Straits of Florida and the Point of Beginning of the parcel of land herein being described: Thence continue Southeasterly along the extension of the Easterly boundary of said Block 6 for a distance of 106.00 feet; thence run Southerly along a line deflected $41^{\circ}09'30''$ to the right for a distance of 270.00 feet; thence at right angles in a Westerly direction for a distance of 25.00 feet; thence at right angles in a Northerly direction for a distance of 262.00 feet; thence run Northwesterly along a line deflected $41^{\circ}09'30''$ to the left for a distance of 115.00 feet, more or less, to the Mean High Tide Line of the Straits of Florida; thence run Easterly along the said Mean High Tide Line a distance of 28.00 feet, more or less, back to the Point of Beginning.

Parcel IV:

On the Island of Key West, Florida being Lots 1 through 16, inclusive, all being in Block Seven (7) as shown on the plat of the Key West Investment Company's Subdivision of part of Tract Seventeen (17), recorded in Plat Book Number 1, page 69, of the Public Records of Monroe County, Florida.

Doc# 1517059
Bk# 2115 P# 146



Exhibit B to General Warranty Deed

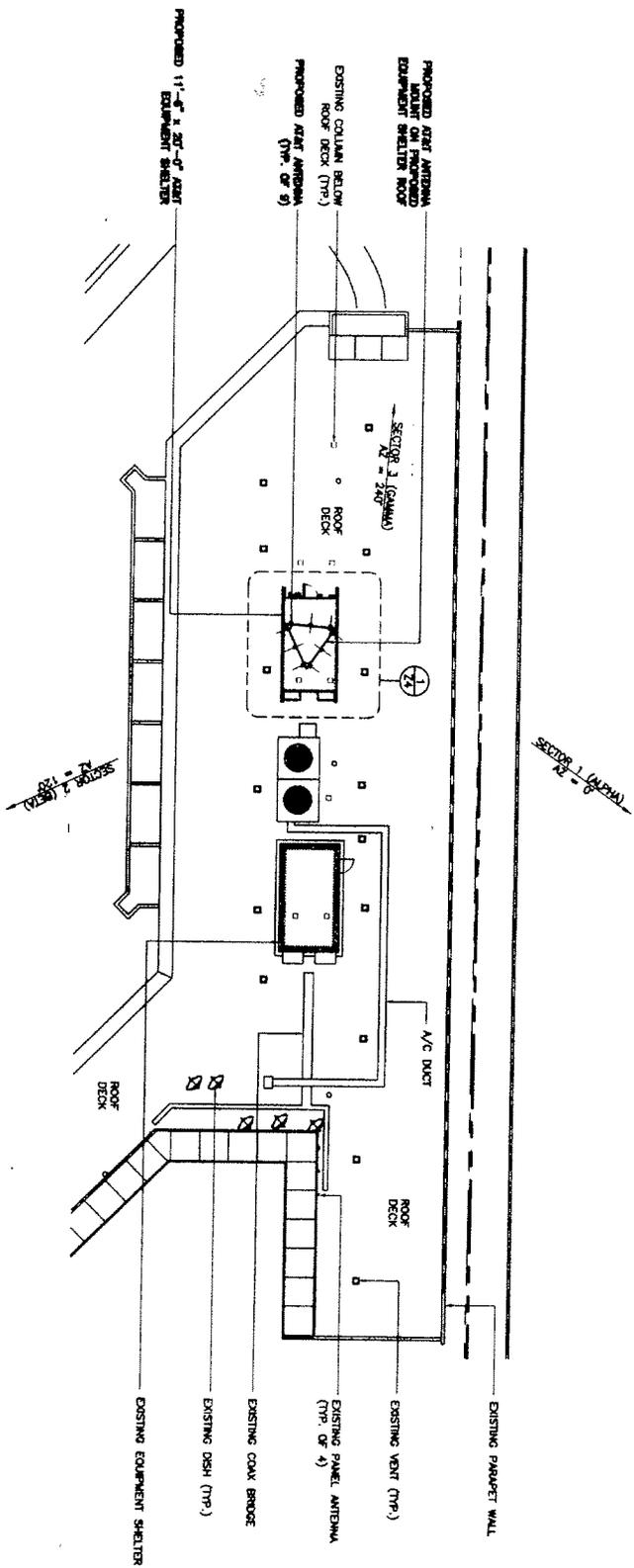
Permitted Encumbrances

All matters of record affecting the Property which are valid and subsisting.

MONROE COUNTY
OFFICIAL RECORDS



Site Plan



1 ROOF PLAN
 0, 5, 10, 15, 20, 25'
 GRAPHIC SCALE

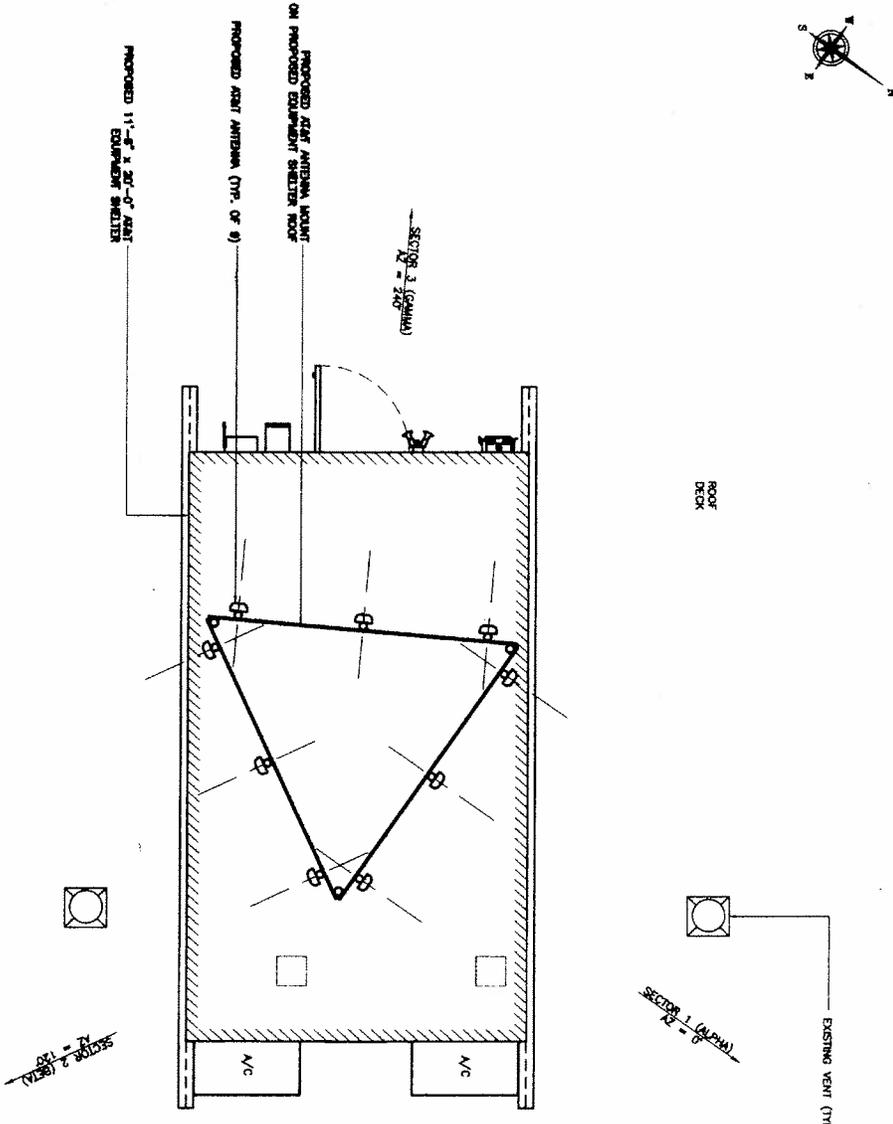
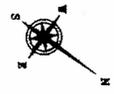




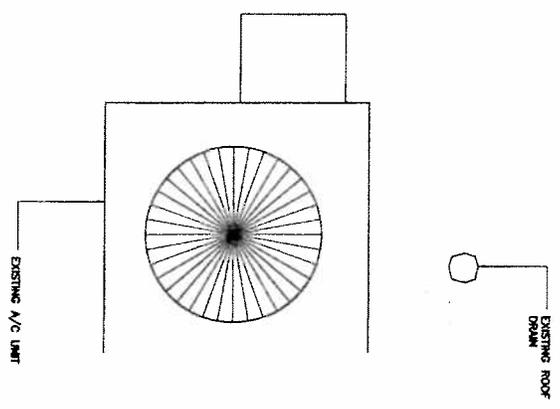
MACTEC
 COMMERCIAL ENGINEERING & CONSULTING, INC.
 1100 COMMERCIAL STREET
 MIAMI BEACH, FL 33139
 TEL: (305) 441-1444
 FAX: (305) 441-1444

PROJECT: SOUTH KEY WEST (CASA MARINA)
 SHEET: ROOF PLAN
 SHEET NUMBER: Z3

THIS DRAWING IS COPYRIGHTED AND IS THE SOLE PROPERTY OF THE OWNER. IT IS PROVIDED SOLELY FOR USE BY THE OWNER AND ITS APPLICABLE REGULATION OR USE OF THIS DRAWING AND/OR THE INFORMATION CONTAINED IN IT IS FORBIDDEN WITHOUT THE WRITTEN PERMISSION OF THE OWNER.

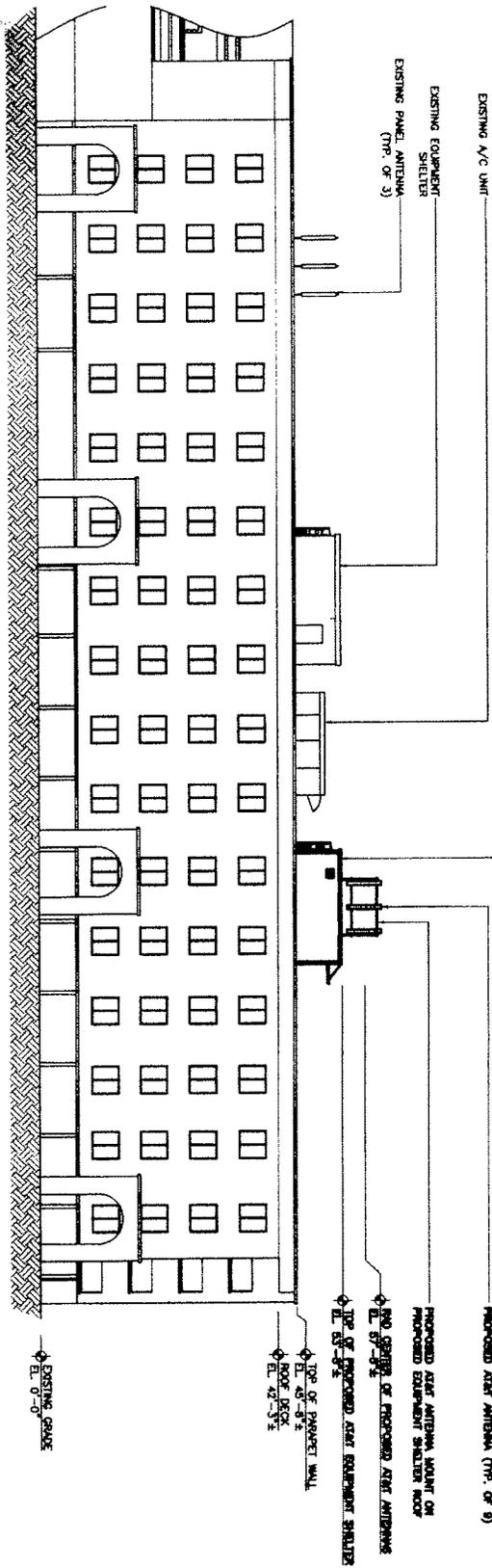


1 EQUIPMENT LAYOUT PLAN



		PROJECT NO. 0718-08-114 (01)	
		CONTRACTOR: MACTEC	
CLIENT: SOUTH KEY WEST (CASA MARINA)		PROJECT: ANTENNA AND EQUIPMENT LOCATION PLANS	
SHEET NO. Z4		DATE: 08/11/09	
DRAWN BY: C. TILLEY		CHECKED BY: M. AUSTIN	
101 BONDVILLE STREET WEST KEY WEST, FL 33500		101 BONDVILLE STREET WEST KEY WEST, FL 33500	

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NOTE:
ANTENNAS SHALL BE PAINTED
TO MATCH EXISTING BUILDING.

1 PARTIAL NORTH ELEVATION
0 5' 10' 20'
GRAPHIC SCALE



MACTEC
ARCHITECTS
104 LINDSEY AVENUE
LOCAL OFFICE
3600 SW 36TH STREET
MIAMI, FL 33135
TEL: (305) 851-1700
FAX: (305) 851-1700

DATE OF APPROVAL: 2/2009
PROJECT NO: 0708-09-1916 (01)
DESIGNED BY: M. ARBRY

NO.	REV.	DATE	DESCRIPTION
1	0	8/29/09	FOR ZONING
2	1	9/1/09	FOR ZONING
3	1	9/1/09	FOR ZONING
4	1	9/1/09	FOR ZONING
5	1	9/1/09	FOR ZONING
6	1	9/1/09	FOR ZONING
7	1	9/1/09	FOR ZONING
8	1	9/1/09	FOR ZONING
9	1	9/1/09	FOR ZONING
10	1	9/1/09	FOR ZONING
11	1	9/1/09	FOR ZONING
12	1	9/1/09	FOR ZONING
13	1	9/1/09	FOR ZONING
14	1	9/1/09	FOR ZONING
15	1	9/1/09	FOR ZONING
16	1	9/1/09	FOR ZONING
17	1	9/1/09	FOR ZONING
18	1	9/1/09	FOR ZONING
19	1	9/1/09	FOR ZONING
20	1	9/1/09	FOR ZONING

SOUTH KEY WEST
(CASA MARINA)
81 MONROE STREET
KEY WEST, FL 30904
SHEET NAME
BUILDING
ELEVATION
SHEET NUMBER
75



Affordable Housing Information

Prepared by and Return To:
Larry R. Erskine, Esq.
P.O. Box 1409
Key West, FL 33041-1409
(305) 809-3770

Doc# 1743312
Bk# 2414 Pg# 19

**CORRECTED, AMENDED AND RESTATED DECLARATION OF AFFORDABLE
HOUSING RESTRICTIONS AND RELEASE**

This Corrected, Amended and Restated Declaration of Affordable Housing Restrictions and Release (hereinafter "**Declaration**") is made and entered into this 5th day of MAY, 2008, by Casa Marina Owner, LLC, a Delaware limited liability company authorized to conduct business in the State of Florida (hereinafter "**Declarant**"), whose principal mailing address is 595 S. Federal Highway, Suite 600, Boca Raton, Florida, 33432.

WHEREAS, the Declarant previously entered into that certain Declaration of Affordable Housing Restrictions dated October 9, 2007 (the "**Original Declaration**"), which Original Declaration was recorded on October 17, 2007, in the Office Records of Monroe County as Document No. 1667164, Book No. 2326, Page No. 1954.

WHEREAS, the Original Declaration erroneously described the real property to be subjected to the restrictions of the Original Declaration as follows (the "**Original Property**"):

On the island of Key West, Florida, being Lots 1 through 16, inclusive, all being in Block Seven (7) as shown on the plat of the Key West Investment Company's Subdivision of part of Tract Seventeen (17), recorded in Plat Book Number 1, page 69, of the Public Records of Monroe County, Florida.

WHEREAS, the real property which the Declarant intended to subject to the restrictions of the Original Declaration is more particularly described as follows (the "**Property**"):

On the island of Key West, Florida, being Lots 13, 14, and 15, all being in Block Seven (7) as shown on the plat of the Key West Investment Company's Subdivision of part of Tract Seventeen (17), recorded in Plat Book Number 1, page 69 of the Public Records of Monroe County, Florida.

WHEREAS, the Property represents a portion of the Original Property which has been encumbered by the Original Declaration.

WHEREAS, it is the intention of the Declarant and the City of Key West (hereinafter, the "**City**") that only that portion of the Original Property which constitutes the Property be subject to (a) regulation pursuant to Sections 122-1465 through 122-1500 of the Code of Ordinances of the City of Key West, Florida, as amended from time to time ("**Work Force Housing Ordinance**"), and (b) any other regulations and limitations placed on the Property to



establish and maintain the affordability of the Property for persons with incomes within a specified range;

WHEREAS, the Declarant, with the consent of the City, desires to release the portion of the Original Property which does not constitute the Property (the "**Released Property**") from the limitations and restrictions of the Original Declaration and to amend, restate and affirm the limitations and restrictions placed on the Property pursuant to the Original Declaration on the terms set forth in this Declaration;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Declarant hereby amends and restates the Original Declaration in its entirety as follows:

I. DEFINITIONS

A. "Declarant" shall mean the owner of the Property and any subsequent purchaser, devisee, transferee, grantee or holder of title of the Property or any portion of the Property.

B. "Transfer" means any sale, assignment or transfer, voluntary, involuntary or by operation of law (whether by deed, contract of sale, gift, devise, bequest, trustee's sale, deed in lieu of foreclosure, or otherwise) of any interest in the Property, including but not limited to, a fee simple interest, a joint tenancy interest, a life estate, a leasehold interest, or an interest evidenced by a land contract by which possession of the Property is transferred and Declarant retains title.

C. "Transferee" shall mean an individual, or individuals, who receive a Transfer of the Property from the Declarant.

All other terms shall have the same meaning given to them in the City's Work Force Housing Ordinance.

II. TERM AND ENFORCEABILITY

A. This Declaration shall run with the Property and bind the Declarant, his or her heirs, legal representatives, executors, successors in interest and assigns, for a period of fifty (50) years from the effective date of this Declaration. At any time during the final year of the restriction, the City, at its sole discretion, may act by Resolution to renew this Declaration for an additional 50-year term.

B. The Property is held and hereafter shall be held, conveyed, encumbered, used, rented, leased and occupied subject to these covenants, conditions, restrictions and limitations. All of the herein-stated covenants, conditions, restrictions and limitations are intended to constitute both equitable servitudes and covenants running with the land.

C. Any transferee or purchaser of the Property, or of any portion of or interest in the Property, by the acceptance of a deed therefore, whether from Declarant or from any subsequent purchaser of the Property, or by the signing of a contract or agreement to purchase the same,



shall, by the acceptance of such deed or by the signing of such contract or agreement, be deemed to have consented to and accepted the covenants, conditions, restrictions and limitations set forth herein.

D. In order to preserve through this Declaration the affordability of the Property for persons with incomes within a specified range, the Declarant hereby grants and assigns to the City the right to monitor and enforce compliance with this Declaration. Declarant otherwise reserves the rights necessary to implement the provisions of this Declaration.

III. OCCUPANCY, LEASING AND USE OF THE PROPERTY

A. The improvements located on the subject Property shall be operated, managed and otherwise administered as affordable work force housing and such other uses incidental to residential use as may be permitted by local zoning and land use regulations.

1. Occupancy shall be restricted to households or persons who derive at least 70 percent of its or his/her total income from gainful employment in Monroe County.
2. At the time the subject unit is leased, the total income of the eligible household or persons shall not exceed 100 percent of the median household income for Monroe County (adjusted for family size). During the occupancy of the rental unit, the household's income may increase to an amount not to exceed 140 percent of the median household income for Monroe County (adjusted for family size). In such event, the tenant's occupancy shall terminate at the end of the existing lease term.
3. The monthly rent for the rental unit, not including utilities, shall not exceed 30 percent of that amount which represents 100 percent of the monthly median household income of Monroe County (adjusted for family size).
4. Eligibility is based on proof of legal residence in Monroe County for at least one consecutive year.
5. Priority shall be given to families of four or more members for larger sized affordable work force housing units.
6. The income of eligible households shall be determined by counting only the first and highest paid 40 hours of employment per week of each unrelated adult. For a household containing adults related by marriage or a domestic partnership registered with the City, only the highest 60 hours of combined employment shall be counted. The income of dependents regardless of age shall not be counted in calculating a household's income.
7. In the event that a tenant's income shall exceed the maximum allowable income under this section and such shall occur for the first time during the



last three months of a tenancy, then the landlord and tenant may extend a lease for a period of one year at the affordable rate.

8. The board of adjustment may review a household's income and unique circumstances to determine eligibility and conformance with the intent of this ordinance to assure that people in need are not excluded and people without need are not included.

B. Notwithstanding anything in this Agreement to the contrary, the first floor of the improvements located on the Property shall not be subject to the limitations and restrictions set forth in Section III(A) above, and the Declarant shall be permitted to use, operate and maintain the first floor of such improvements in any manner permitted by applicable law (including any applicable zoning regulations).

IV. DEFAULTS AND REMEDIES: ASSIGNMENT OF RENTS

A. Upon any violation of the provisions of this Declaration the City may declare a default under this Declaration by delivering written notice thereof to the Declarant. After providing written notice of default, the City may apply to a court of competent jurisdiction for specific performance of the Declaration, for an injunction prohibiting a proposed sale or transfer in violation of this Declaration, for a declaration that a prohibited transfer is void, or for any such other relief as may be appropriate.

B. Assignment of Rents: Declarant hereby assigns to City the right to receive the rents due or collected from the operation and leasing of the Property or any portion thereof (other than the first floor of the improvements located thereon) during the entire period the Property is occupied in violation of any of the terms of this Declaration.

C. The remedies stated herein shall not be exclusive, but shall be cumulative to all other remedies and rights the parties may lawfully exercise.

V. REQUIREMENTS FOR WRITTEN REPORTS FROM DECLARANT

Declarant shall provide a written report to the City each year on October 1, or on such other date as specified by the City in writing, which includes a statement that Declarant has complied with all provisions of this Declaration, or includes Declarant's explanation of any violation of any provision of this Declaration. The report shall be submitted within thirty (30) days of the specified date to the City, or to such other person or address designated by the City. Failure to report in a timely manner, or any misrepresentations on the report, shall constitute a default under this Declaration.

VI. GENERAL PROVISIONS

A. The City may assign its rights and delegate its duties hereunder in writing without the consent of Declarant. Upon such assignment the City shall notify the Declarant.

B. If any action is brought to enforce the terms of this Declaration, the prevailing party shall be entitled to reasonable attorneys' fees and costs.



C. If any one or more of the provisions contained in this Declaration shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions contained in this Declaration, and this Declaration shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

D. The terms of this Declaration shall be interpreted under the laws of the State of Florida and venue shall lie in Monroe County, Florida.

E. All notices required herein shall be sent by certified mail, return receipt requested, to the Declarant at the address of the Property and to the City or its designee at P.O. Box 1409, Key West, Florida, 33041, or such other address that the City may subsequently provide in writing to the Declarant.

VII. RELEASE; RESTATEMENT

A. The Released Property, which is more particularly described as follows, is hereby released from the restrictions, limitations and other terms and conditions of the the Original Declaration, and the Original Declaration shall be of no further force or effect with respect to such Released Property:

On the island of Key West, Florida, being Lots 1 through 12 and Lot 16, all being in Block Seven (7) as shown on the plat of the Key West Investment Company's Subdivision of part of Tract Seventeen (17), recorded in Plat Book Number 1, page 69, of the Public Records of Monroe County, Florida.

B. The terms and conditions of this Declaration supersede, amend, restate and replace the terms and conditions of the Original Declaration in its entirety.



IN WITNESS WHEREOF, the Declarant has executed this Declaration as of the date first written above.

DECLARANT:

Doc# 1743312
Bk# 2414 Pg# 24

Alisa
Witness

Casa Marina Owner, LLC

Name: Alison Ardo

By: David Hersh

Jill
Witness

Name: David Hersh
Title: Managing Director and V.P. President

Name: Jill Allegretti

STATE OF NEW YORK
COUNTY OF NEW YORK

Sworn to or affirmed and subscribed before me this 31 day of October, 2008, by David Hersh, as Managing Director and VP of Casa Marina Owner, LLC, who is personally know to me or has produced _____ as identification.

Douglas V. Summa

NOTARY SEAL:

DOUGLAS V. SUMMA
NOTARY PUBLIC, State of New York
No. 01506133057
Qualified in New York County
Commission Expires Sept. 6, 2009



For purposes of acknowledging and agreeing to the terms of the attached Declaration, including the release described in Section VII thereof:

Maria Ratchiff

Witness

Name: Maria Ratchiff

Poeta Navarro

Witness

Name: Poeta Navarro

City of Key West

[Signature]

By:

Name: MORGAN MCPHERSON

Title: Mayor

Doc# 1743312
Bk# 2414 Pg# 25

State of Florida
County of Monroe

The foregoing instrument was acknowledged this 5th day of May, 2009, by Morgan McPherson, as the Mayor of City of Key West, who is personally known to me or who has produced personally known as identification.

[Signature]



MONROE COUNTY
OFFICIAL RECORDS



Prepared by and Return to:
Larry R. Erskine, Esq.
P.O. Box 1409
Key West, FL 33041-1409
(305) 809-3770

Doc# 1667164
Bk# 2326 Pg# 1954

DECLARATION OF AFFORDABLE HOUSING RESTRICTIONS

This Declaration of Affordable Housing Restrictions (hereinafter "Declaration") is made and entered into this 9th day of October, 2007, by Casa Marina Owner, LLC, a Delaware limited liability company authorized to conduct business in the State of Florida (hereinafter "Declarant"), whose principal mailing address is 595 S. Federal Highway, Suite 600, Boca Raton, Florida, 33432.

This Declaration applies to the real property located at 811 Seminole Street, in Key West, Florida, which is more particularly described as follows:

On the island of Key West, Florida, being Lots 1 through 16, inclusive, all being in Block Seven (7) as shown on the plat of the Key West Investment Company's Subdivision of part of Tract Seventeen (17), recorded in Plat Book Number 1, page 69, of the Public Records of Monroe County, Florida.

WHEREAS, the Property is subject to regulation pursuant to Sections 122-1465 through 122-1500 of the Code of Ordinances of the City of Key West, Florida, as amended from time to time ("Work Force Housing Ordinance"), which ordinance establishes affordable housing categories to facilitate the development of housing designed to meet the needs of people employed by the local economy, establishes eligibility requirements for occupants of work force housing, and restricts the sales price of the Property and requires that the Property be sold at a price substantially less than fair market value to a purchaser within a specific income range; and

WHEREAS, Declarant as well as subsequent purchasers and tenants will benefit from the limitations and regulations placed on the Property by operation of this Declaration; and,

WHEREAS, the intent of the City of Key West (hereinafter "City") in imposing reasonable regulations on the Property is to establish and maintain the affordability of the Property for persons with incomes within a specified range; and

WHEREAS, the intent of Declarant is to preserve through this Declaration the affordability of the Property and to assign to the City the right to enforce compliance with this Declaration; and



NOW, THEREFORE, the Declarant agrees that the Property shall be held and conveyed subject to the following affordable housing restrictions, covenants and conditions, which shall run with the Property and be binding on all parties having any right, title or interest in the Property or any part thereof, their heirs, successors and assigns for the entire term of this Declaration.

I. DEFINITIONS

- A. "Declarant" shall mean the owner of the Property and any subsequent purchaser, devisee, transferee, grantee or holder of title of the Property or any portion of the Property.
- B. "Transfer" means any sale, assignment or transfer, voluntary, involuntary or by operation of law (whether by deed, contract of sale, gift, devise, bequest, trustee's sale, deed in lieu of foreclosure, or otherwise) of any interest in the Property, including but not limited to, a fee simple interest, a joint tenancy interest, a life estate, a leasehold interest, or an interest evidenced by a land contract by which possession of the Property is transferred and Declarant retains title.
- C. "Transferee" shall mean an individual, or individuals, who receive a Transfer of the Property from the Declarant.

All other terms shall have the same meaning given to them in the City's Work Force Housing Ordinance.

II. TERM AND ENFORCEABILITY

A. This Declaration shall run with the Property and bind the Declarant, his or her heirs, legal representatives, executors, successors in interest and assigns, for a period of fifty (50) years from the effective date of this Declaration. At any time during the final year of the restriction, the City, at its sole discretion, may act by Resolution to renew this Declaration for an additional 50-year term.

B. The Property is held and hereafter shall be held, conveyed, encumbered, used, rented, leased and occupied subject to these covenants, conditions, restrictions and limitations. All of the herein-stated covenants, conditions, restrictions and limitations are intended to constitute both equitable servitudes and covenants running with the land.

C. Any transferee or purchaser of the Property, or of any portion of or interest in the Property, by the acceptance of a deed therefore, whether from Declarant or from any subsequent purchaser of the Property, or by the signing of a



contract or agreement to purchase the same, shall, by the acceptance of such deed or by the signing of such contract or agreement, be deemed to have consented to and accepted the covenants, conditions, restrictions and limitations set forth herein.

D. In order to preserve through this Declaration the affordability of the Property for persons with incomes within a specified range, the Declarant hereby grants and assigns to the City the right to monitor and enforce compliance with this Declaration. Declarant otherwise reserves the rights necessary to implement the provisions of this Declaration.

III. OCCUPANCY, LEASING AND USE OF THE PROPERTY

A. The subject property shall be operated, managed and otherwise administered as affordable work force housing and such other uses incidental to residential use as may be permitted by local zoning and land use regulations.

1. Occupancy shall be restricted to households or persons who derive at least 70 percent of its or his/her total income from gainful employment in Monroe County.

2. At the time the subject unit is leased, the total income of the eligible household or persons shall not exceed 100 percent of the median household income for Monroe County (adjusted for family size). During the occupancy of the rental unit, the household's income may increase to an amount not to exceed 140 percent of the median household income for Monroe County (adjusted for family size). In such event, the tenant's occupancy shall terminate at the end of the existing lease term.

3. The monthly rent for the rental unit, not including utilities, shall not exceed 30 percent of that amount which represents 100 percent of the monthly median household income of Monroe County (adjusted for family size).

4. Eligibility is based on proof of legal residence in Monroe County for at least one consecutive year.

5. Priority shall be given to families of four or more members for larger sized affordable work force housing units.



6. The income of eligible households shall be determined by counting only the first and highest paid 40 hours of employment per week of each unrelated adult. For a household containing adults related by marriage or a domestic partnership registered with the City, only the highest 60 hours of combined employment shall be counted. The income of dependents regardless of age shall not be counted in calculating a household's income.

7. In the event that a tenant's income shall exceed the maximum allowable income under this section and such shall occur for the first time during the last three months of a tenancy, then the landlord and tenant may extend a lease for a period of one year at the affordable rate.

8. The board of adjustment may review a household's income and unique circumstances to determine eligibility and conformance with the intent of this ordinance to assure that people in need are not excluded and people without need are not included.

IV. DEFAULTS AND REMEDIES: ASSIGNMENT OF RENTS

A. Upon any violation of the provisions of this Declaration the City may declare a default under this Declaration by delivering written notice thereof to the Declarant. After providing written notice of default, the City may apply to a court of competent jurisdiction for specific performance of the Declaration, for an injunction prohibiting a proposed sale or transfer in violation of this Declaration, for a declaration that a prohibited transfer is void, or for any such other relief as may be appropriate.

B. Assignment of rents: Declarant hereby assigns to City the right to receive the rents due or collected during the entire period the Property is occupied in violation of any of the terms of this Declaration.

C. The remedies stated herein shall not be exclusive, but shall be cumulative to all other remedies and rights the parties may lawfully exercise.

V. REQUIREMENTS FOR WRITTEN REPORTS FROM DECLARANT

Declarant shall provide a written report to the City each year on October 1, or on such other date as specified by the City in writing, which includes a statement that Declarant has complied with all provisions of this Declaration, or includes Declarant's explanation of any violation of any provision of this Declaration. The



report shall be submitted within thirty (30) days of the specified date to the City, or to such other person or address designated by the City. Failure to provide a report in a timely manner, or any misrepresentations on the report, shall constitute a default under this Declaration.

VI. GENERAL PROVISIONS

A. The City may assign its rights and delegate its duties hereunder in writing without the consent of Declarant. Upon such assignment the City shall notify the Declarant.

B. If any action is brought to enforce the terms of this Declaration, the prevailing party shall be entitled to reasonable attorneys' fees and costs.

C. If any one or more of the provisions contained in this Declaration shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions contained in this Declaration, and this Declaration shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

D. The terms of this Declaration shall be interpreted under the laws of the State of Florida and venue shall lie in Monroe County, Florida.

E. All notices required herein shall be sent by certified mail, return receipt requested, to the Declarant at the address of the Property and to the City or its designee at P.O Box 1409, Key west. Florida, 33041, or such other address that the City may subsequently provide in writing to the Declarant.

IN WITNESS WHEREOF, the Declarant has executed this Declaration as of the date written below.

DECLARANT: CASA MARINA OWNER, LLC

By: _____

Dennis J. McDonagh, its Manager

10-09-07

Date



STATE OF ~~FLORIDA~~ *New York*
COUNTY OF ~~MONROE~~ *New York*

Sworn to or affirmed and subscribed before me this 9th day of October, 2007, by Dennis J. McDonagh, as Manager of Casa Marina Owner, LLC, who is personally known to me or has produced _____ as identification.

NOTARY SEAL:

Melissa Herand
NOTARY PUBLIC

MELISSA HERRAND
Notary Public, State of New York
No. 30-8314420
Qualified In Nassau County
Commission Expires *5-7-2011*

MONROE COUNTY
OFFICIAL RECORDS





Previous Approval

**CITY OF KEY WEST
PLANNING DEPARTMENT
MEMORANDUM**

To: Ms. Cheryl Smith, City Clerk
From: Owen Trepanier, Senior Planner 
Date: 17 December 2001
Re: **Variance Application for 1500 Reynolds Street (Casa Marina).
BOA Meeting of 02-06-02**

REQUEST

Address: 1500 Reynolds Street. RE #: 00037160-000100
Zoning: HCT (Historic Commercial Tourist District)
Purpose: Install Rooftop Antennae
Technical Description: Variance to:
MAXIMUM HEIGHT ARTICLE V SUBSECTION 2-5.5.5.E.3: of 17 feet from the 35 feet allowed to the 52 feet proposed (50 feet existing) to install 9 antennae and an equipment shelter on the roof.

ANALYSIS

There are nine, 2.5-inch x 116-inch, antennae and an equipment shed proposed for the roof of the Casa Marina. The antennae are for wireless communication and engineered to withstand 274 mph wind loads.

The Casa has a parapet style roof. The antenna will be located behind the parapet with the top six feet rising above. The placement of these antennae has received HARC approval.

Background: Our hurricane prone climate and limited island space makes the strength of the few towers/antennae, we can locate in the City, one of the most important factors to consider.

Because there are so few adequate locations for towers/antennae in Key West, we should allow only those that will withstand strong weather events to fill the limited spaces. Unfortunately, if a tower/antennae cannot withstand heavy wind loads, it will fall - not only creating dangerous situations, but blocking roadways and exacerbating rescue and clean-up activities as well.



A quick overview of the storms that reached our area in the last century reveals what we can logically expect to reach us in the future:

Hurricane¹	Year	Category	Landfall
Atlantic-Gulf	1919	4	Keys
San Felipe-Okeechobee	1928	4	Palm Beach
Florida Keys Labor Day	1935	5	Keys
Donna	1960	4	Keys
Andrew	1992	4	S. Florida
Georges	1998	2	Keys
Floyd	1999	4	Bahamas
Michelle	2001	4	Cuba

The City Engineer and co-Directors' of the City Emergency Operations Center all recommend new towers/antennae should withstand 200 mph sustained wind loads.

Category – Wind Speed Table:

Category	Wind Speed
1	75 - 95 mph
2	96 - 110 mph
3	111 - 130 mph
4	131 - 155 mph
5	Greater than 155 mph

RECOMMENDATION

The Planning Department has not received input from the public or the Fire Inspector, however based on site visits and discussions with the applicant, we recommend **APPROVAL** with the condition that they are installed in a manner that maximizes their wind load capacity.



¹ National Hurricane Center http://www.nhc.noaa.gov/HAW/basics/historic_storms.htm
 K:\Geo Projects\Reynolds St\1500 (Casa)\02a BOA 02-06-02.doc

RESOLUTION NO. 02-068

VARIANCE: 1500 REYNOLDS STREET

A RESOLUTION OF THE KEY WEST BOARD OF ADJUSTMENT TO ALLOW THE INSTALLATION OF ROOFTOP ANTENNAE AND AN EQUIPMENT SHELTER BY GRANTING A VARIANCE TO THE MAXIMUM HEIGHT REGULATIONS FOR PROPERTY IN THE HCT, HISTORIC COMMERCIAL TOURIST ZONING DISTRICT, UNDER THE LAND DEVELOPMENT REGULATIONS OF THE CITY OF KEY WEST, FLORIDA. SPECIFICALLY PERMITTING A VARIANCE TO: ARTICLE V, SUBSECTION 2-5.5.5.E.3. OF 17 FEET FROM THE 35 FEET MAXIMUM HEIGHT ALLOWED TO THE 52 FEET PROPOSED (50 FEET EXISTING) TO INSTALL 9 ANTENNAE AND AN EQUIPMENT SHELTER ON THE ROOF. FOR PROPERTY LOCATED AT 1500 REYNOLDS STREET (RE# 00037160-000100).

REAL ESTATE PARCEL 00037160-000100,
ALSO KNOWN AS 1500 REYNOLDS STREET,
KEY WEST, MONROE COUNTY, FLORIDA

WHEREAS, special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, buildings or structures in the subject district; and

WHEREAS, literal interpretation of the provisions of the Zoning Ordinance of the City of Key West would deprive the owner of the subject property of rights commonly enjoyed by other properties in the same district under the terms of the Land Development Regulations.



WHEREAS, the special conditions and circumstances do not result from the actions of the applicant.

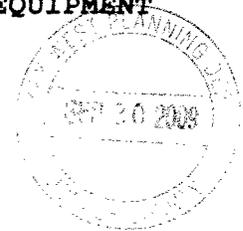
WHEREAS, the granting of the variance requested will not confer on the applicant any special privilege that is denied by the ordinance to other land, structures or buildings in the same district.

WHEREAS, the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.

WHEREAS, the granting of the variance will be in harmony with the general purpose and intent of the Land Development Regulations, will not be injurious to the neighborhood, or otherwise detrimental to the public welfare; now therefore,

BE IT RESOLVED by the Board of Adjustment of the City of Key West, Florida:

Section 1. That a variance to **MAXIMUM HEIGHT** regulations in the **HCT, HISTORIC COMMERCIAL TOURIST Zoning District**, under the Land Development Regulations of the City of Key West, Florida, is hereby granted as follows to: **ARTICLE V, SUBSECTION 2-5.5.5.E.3. OF 17 FEET FROM THE 35 FEET MAXIMUM HEIGHT ALLOWED TO THE 52 FEET PROPOSED (50 FEET EXISTING). THE PURPOSE OF THE REQUEST IS TO ALLOW THE INSTALLATION OF 9 ROOFTOP ANTENNAE AND AN EQUIPMENT**



SHELTER ON THE ROOF ON PROPERTY LOCATED AT 1500 REYNOLDS STREET
(RE# 00037160-000100).

REAL ESTATE PARCEL 00037160-000100, ALSO KNOWN AS 1500 REYNOLDS
STREET, KEY WEST, MONROE COUNTY, FLORIDA

Section 2. It is an essential condition of this variance that full, complete, and final application for all permits required for any new construction for any use and occupancy for which this variance is wholly or partly necessary, whether or not such construction is suggested or proposed in the documents presented in support of this variance, shall be submitted in its entirety within 12 months after the date hereof. It is an essential condition of this variance that no application or reapplication for new construction for which the variance is wholly or partly necessary shall be made after expiration of said 12-month period.

Section 3. Failure to submit full and complete application for permits for new construction for which this variance is wholly or partly necessary, or failure to complete new construction for use and occupancy pursuant to this variance in accordance with the terms of a City building permit issued upon timely application as described in Section 2 hereof, shall immediately operate to terminate this variance, which variance shall be of no force or effect.



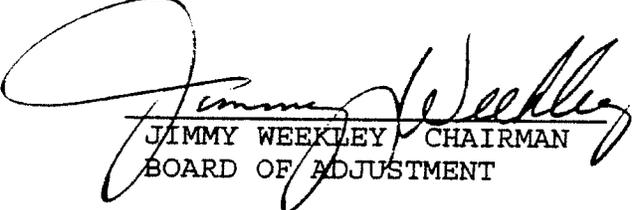
Section 4. This variance does not constitute a finding as to ownership or right to possession of the property, and assumes, without finding, the correctness of applicant's assertion of legal authority respecting the property.

Section 5. This Resolution shall go into effect immediately upon its passage and adoption and authentication by the signatures of the presiding officer and the Clerk of the Commission.

Read and passed on first reading at a regular meeting held this 6th day of March, 2002.

Authenticated by the presiding officer and Clerk of the Board on 7th day of March, 2002.

Filed with the Clerk on March 7, 2002.


JIMMY WEEKLEY, CHAIRMAN
BOARD OF ADJUSTMENT

ATTEST:


CHERYL SMITH, CITY CLERK



**Development Review Committee
October 22, 2009 – 2:00 p.m.
City Commission Chamber
Old City Hall, 510 Greene Street**



- Item 5c. Development Agreement – 2319-2401 North Roosevelt Avenue (RE Numbers 0001990-000000, 0002000-000000, 0002080-0001000 and 0002260-000000) – A Development Agreement for an approved Major Development Plan and Conditional Use for a mixed use (transient and residential) project known as Banana Bay in the General Commercial (CG) Zoning District pursuant to Chapter 90, Article IX, Development Agreements of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.**

Sherry A. Spiers
Of Counsel
Tel. 850.222.6891
e-mail: spierrss@gtlaw.com

October 2, 2009

By Electronic Mail

Amy Kimball-Murley, Planning Director
604 Simonton, 2nd Floor
Key West, FL 33040

Re: Development Agreement
Banana Bay and Fairfield Inn Properties

Dear Amy:

This firm represents Banana, LLC, and KW26, LLC, owners of the Banana Bay and Fairfield Inn Properties at 2319 - 2401 North Roosevelt Boulevard in the City of Key West. On August 5, 2008, the City Commission adopted Resolution No. 08-229, expressing its willingness to consider entering into a development agreement for redevelopment of the Banana Bay and Fairfield Inn Properties (the "Property").

The purpose of this letter is to submit an initial draft of a development agreement and to request an extension of time for executing the development agreement.

Attached is Draft # 1 of a proposed development agreement for your review. It clarifies the number of units to be built and includes all conditions in prior City approvals and resolutions for this Property. I am available to discuss this draft with you at your convenience.

Resolution No. 08-229 ("Resolution") provides that "A final Development Agreement will be executed within one year of the effective date of this resolution." It is not clear what the "effective date" of the Resolution is for the purpose of calculating the one year time period. It is our view that the time period commenced on December 13, 2008, and expires on December 13, 2009, based on the following.

The Resolution contains two effective dates. Section 3 of the Resolution provides that it becomes effective when adopted. However, Section 4 of the Resolution provides:

Pursuant to Chapter 9J-1, F.A.C., this permit or development order is not effective for forty five (45) days after it has been *properly rendered* to the DCA with all exhibits and applications attached to or incorporated by reference in the development order." (emphasis supplied).

ALBANY
AMSTERDAM
ATLANTA
AUSTIN
BERLIN*
BOSTON
BRUSSELS*
CHICAGO
DALLAS
DELAWARE
DENVER
FORT LAUDERDALE
HOUSTON
LAS VEGAS
LONDON*
LOS ANGELES
MIAMI
MILAN*
NEW JERSEY
NEW YORK
ORANGE COUNTY
ORLANDO
PALM BEACH COUNTY
PHILADELPHIA
PHOENIX
ROME*
SACRAMENTO
SHANGHAI
SILICON VALLEY
TALLAHASSEE
TAMPA
TOKYO
TYSONS CORNER
WASHINGTON, D.C.
WHITE PLAINS
ZURICH

Amy Kimball-Murley, Planning Director

October 2, 2009

Page 2

Chapter 9J-1, F.A.C., referenced in the Resolution, contains a rule stating that “A development order *shall not take effect* or be acted upon by the developer until 45 days after rendition, unless a later date is specified in the order.” (emphasis supplied) (Rule 9J-1.003(3), F.A.C.). Respectfully, this rule provision governs instead of Section 3 of the Resolution.

On October 2, 2009, the Department of Community Affairs (“DCA”) issued a letter to you stating that DCA will not appeal the Resolution and further indicating that the rendition to DCA on September 12, 2008, was incomplete. A copy of that letter is attached for your convenience. If the City views the October 2, 2009, DCA letter as a waiver letter, the one-year period of time to enter into the development agreement commenced the following day (per City Code § 1.2, computation of time) and would expire tomorrow, October 3, 2009, at the earliest.

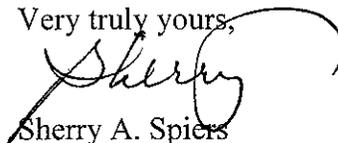
However, on July 27, 2009, Mayte Santamaria, on behalf of DCA, sent an electronic message to your office advising that the Resolution was not properly rendered to DCA until October 28, 2008, that no letter intended to be a “waiver letter” had been issued, and that DCA’s 45-day review period expired on December 12, 2008. Accordingly, consistent with Chapter 9J-1, F.A.C., Section 4 of Resolution No. 08-2008, and City Code § 1-2 (computation of time), the one year time period to execute the development agreement commenced on December 13, 2008, and expires on December 13, 2009.

Because of the time required to comply with the City’s review and public hearing requirements, we do not believe the development agreement can be executed by the December 13, 2009, deadline. You advise that it is unlikely this matter can be considered by the Development Review Committee before December of this year. To ensure sufficient time to complete negotiations and the public hearing process, we respectfully request that the Resolution be extended from December 13, 2009, for a minimum of six months (to June 13, 2010). We will diligently work with the City to pursue City Commission consideration of the development agreement as soon as possible.

Please confirm that our request for additional time to execute the development agreement has been timely made and received by the City.

I look forward to working with you on this matter.

Very truly yours,



Sherry A. Spiers

Enclosures

cc (w/enclosures):

City Attorney

Client

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(Correcting date of Landscape Plan)

Prepared by and, after recording,
return to:

Sherry A. Spiers, Esq.
Greenberg Traurig, P.A.
101 East College Avenue
Tallahassee, FL 32301
Telephone: (850) 222-6891

Parcel ID Numbers 00001990-000000,
00002000-000000, 00002080-000100,
and 00002260-000000.

**DEVELOPMENT AGREEMENT FOR
2319-2401 NORTH ROOSEVELT BOULEVARD,
BANANA BAY RESORT AND FAIRFIELD INN PROPERTIES**

THIS DEVELOPMENT AGREEMENT is entered into by and between BANANA, LLC, and KW26, LLC, both Florida limited liability companies (collectively the “Owner”), and the CITY OF KEY WEST, a Florida municipal corporation (“City”) (collectively the “Parties”), pursuant to Sections 90-676 through 90-692 of the City Code, and the Florida Local Government Development Agreement Act, Sections 163.3220-163.3243, Florida Statutes (2008), and is binding on the “Effective Date” set forth herein.

WITNESSETH:

WHEREAS, the Owner owns four (4) parcels of land, including two roadway easements for Hilton Haven Drive, consisting of four (4) acres, more or less, located at 2319 - 2401 North

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Roosevelt Boulevard in the City of Key West, Florida, more particularly described in the legal descriptions attached hereto as Composite Exhibit A (“Property”); and

WHEREAS, the Property is the location of the Banana Bay Resort and a portion of the Fairfield Inn, and is developed with 56 transient units and 20 market rate residential units; and

WHEREAS, the Property is in General Commercial future land use category and the General Commercial zoning district, which allow transient units as a permitted use and multi-family housing as a conditional use; and

WHEREAS, after demolition of substantially all of the existing structures (a portion of the Fairfield Inn will remain) and the transfer of thirty-nine (39) transient units off site, the Owner proposes to redevelop the Property with twenty (20) market rate residential units, ten (10) townhouses each with a transient license, and twenty-six (26) affordable work force housing units; and

WHEREAS, by Resolution No. 06-272, the City granted Major Development Plan and Conditional Use approval for redevelopment of the Property, which said approval was extended with a condition by Resolution No. 07-197; and

WHEREAS, due to existing economic conditions, the Owner wishes to enter into a development agreement with the City to provide an extended timeframe for the phasing of the development to ensure the most efficient use of resources while meeting the objectives of the City’s Comprehensive Plan, including the provision of much-needed affordable work force housing; and

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WHEREAS, by Resolution No. 08-229, the City Commission authorized the Owner to enter into a development agreement with the City, subject to conditions stated in the resolution; and

WHEREAS, the City has held public hearings to accept and encourage public input with respect to this Development Agreement, and has considered such public input; and

WHEREAS, the City has provided public notice of the parties' intent to consider entering into this Development Agreement by publishing an advertisement in a newspaper of general circulation and readership in the City and mailing notice to the persons and entities shown on the most recent Monroe County Tax Roll to be the owners of property lying within 500 feet of the boundaries of the Property; and

WHEREAS, the City Planning Board held an advertised public hearing on _____, and issued a recommendation to the City Commission to approve this Development Agreement; and

WHEREAS, the City Commission held an advertised public hearing on _____, to consider this Development Agreement, and received and considered the comments and recommendations of the City staff, the Planning Board, the Owner, and members of the public; and

WHEREAS, the City has determined that the Owner's redevelopment plan described herein and this Development Agreement are consistent with the City's Comprehensive Plan and

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land development regulations and that the redevelopment plan is compatible with surrounding land uses; and

WHEREAS, the City has determined that this Development Agreement is in the public interest and will further the health, safety and welfare of the residents of the City of Key West.

NOW, THEREFORE, in consideration of the mutual promises and undertakings contained herein, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

A. RECITALS. The recitals set forth in the preceding “Whereas” clauses are incorporated herein and form a material part of this Development Agreement.

B. DEFINITIONS. For the purposes of this Development Agreement, the following terms shall have the following meanings. Terms not defined in this Development Agreement shall be as defined in the City Code, in Chapter 163, Part II, Florida Statutes, or, if not defined in the Code or statute, shall be understood according to their usual and customary meanings.

1. “Affordable work force housing” means housing as defined in Sections 122-1465 through 122-1467 of the City Code.

2. “BPAS” means the City’s Building Permit Allocation System.

3. “Building permit allocation” means a residential permit allocation under Division 3 of Article X of the City Code.

4. “City Code” means the Code of Ordinances of the City of Key West in effect on the date of execution of this Development Agreement.

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5. “Comprehensive Plan” means the City’s Comprehensive Plan in effect on the date of execution of this Development Agreement.

6. “Conceptual Site Plan” means the conceptual site plan for 2319-2401 North Roosevelt Boulevard a/k/a Banana Bay and Fairfield Inn (RE #s 00001990-000000, 00002000-000000, 00002080-000000, and 00002260-000000) dated October 17, 2005, as revised on May 2, 2006, prepared by Thomas E. Pope, P.A., Architect, attached hereto as Exhibit B and incorporated herein.

7. “Development Plan”, “Redevelopment” or “Redevelopment Plan” shall refer to the redevelopment of the Property for the uses, densities and intensities permitted by this Development Agreement, subject to the conditions, obligations, restrictions and terms contained herein.

8. “Effective Date” shall refer to the date this Development Agreement becomes effective, as provided in Section 163.3239, Florida Statutes (2008), and set forth in herein.

9. “ESFU” is an acronym for Equivalent Single Family Unit factor as defined in Future Land Use Element Policy 1-3.12.3 in the City’s Comprehensive Plan and Section 108.1057 of the City Code.

10. “Property” shall refer to the four acres, more or less, described in Composite Exhibit A, that are the subject of this Development Agreement.

11. “Public facilities” means those facilities identified in Section 163.3221, Florida Statutes (2008).

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C. TERMS OF AGREEMENT.

1. Legal Description; Ownership and Equitable Interests in the Property.

The legal description of the Property subject to this Development Agreement is attached hereto as Composite Exhibit A and incorporated herein by reference. The Owners of the Property as of the date of execution of this Development Agreement are Banana, LLC, and KW26, LLC, Florida limited liability companies. The equitable owners of the Property are those persons who are owners of interests in the above two limited liability companies, the names and addresses of whom have been provided to the City. There are no other legal or equitable owners of the Property known to the parties to this Development Agreement.

2. Duration of Agreement; Renewal. This Development Agreement shall remain in effect for a period of ten (10) years, commencing on the Effective Date set forth below. This Development Agreement may be renewed or extended as provided herein.

3. Redevelopment Plan.

a. **Uses, Densities, and Intensities.** The Owner is authorized to redevelop the Property with the following uses at the following densities and intensities, subject to the conditions set forth in this Development Agreement:

- twenty (20) market rate residential units,
- ten (10) townhouses, each with a transient license (each unit may be used as a permanent residential unit or as a transient unit), and
- twenty-six (26) affordable work force housing units.

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b. **Building Permit Allocations.** Based on the existing development on the Property, the Owner has twenty (20) market rate residential allocations (each 1.0 ESFU). Each the existing 56 transient units is BPAS-exempt. The Owner will use its existing twenty (20) market rate residential allocations to redevelop twenty (20) market rate residential units on the Property. The Owner will use seventeen (17) of the existing fifty-six (56) BPAS-exempt transient units (each unit having the equivalent of 0.58 BPAS allocations) to develop the ten (10) townhouses (the equivalent of one full allocation for each townhouse), which can be used as either permanent residential units or transient units. The City agrees to provide the Owner all necessary permit allocations from the City's affordable housing allocation pool for the twenty-six (26) affordable work force housing units described in Section 6 below.

c. **Transfer of Transient Units and Licenses.** The Owner is authorized to transfer all thirty-nine (39) remaining unused BPAS-exempt transient units and transient licenses off site pursuant to the City Code. Upon the written request of the Owner, the Planning Director shall issue certificates for such units to be used at other locations in the City. The units/certificates may be transferred to a third party, but such transfer shall be recorded with the Planning Director with payment of a recording fee, if one has been adopted by the City Commission at the time of the notice of transfer is recorded.

4. Conceptual Site Plan; Minor Revisions.

a. The on-site redevelopment approved by this Development Agreement is depicted on the Conceptual Site Plan. The Conceptual Site Plan is hereby approved by the City

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Commission, and all subsequent site plans, site plan approvals and building permits shall substantially comply with the Conceptual Site Plan; provided, however, that the final site plan may deviate from the Conceptual Site Plan (1) to accommodate refinements to the Redevelopment Plan made by the Owner, including minor shifts in the locations of structures, roadways, pathways, and swimming pool configuration; (2) to change the type and number of transient residential dwelling units, so long as the maximum density set forth in this Development Agreement is not exceeded; or (3) to accommodate modifications that are necessary to meet regulatory requirements.

b. The Planning Director may approve minor modifications to the Conceptual Site Plan resulting in a reduction in building size, reduction in impervious area, expansion of landscaping, revisions to enhance storm water management, landscaping, handicapped accessibility or utilities, and similar modifications as authorized by City Code Sections 108-91.C.1. and D. Other modifications to the approved Conceptual Site Plan shall be approved as either minor or major modifications pursuant to City Code Section 108-91.C.2-4, or during site plan review.

5. Phasing. The Redevelopment Plan may be developed in one or more phases within the timeframes established in this Development Agreement.

6. Affordable Work Force Housing; Timing of Development; Deed Restriction. As part of the Redevelopment Plan, the Owner will develop twenty-six (26) affordable work

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force housing units on the Property, which will be 600 square feet or less in size. Development of the work force housing units is subject to the following conditions:

a. Certificates of occupancy for the affordable work force housing units shall be issued prior to or concurrent with the issuance of a certificate of occupancy for any other part of the Redevelopment.

b. Upon issuance of certificates of occupancy for the affordable work force housing units, the Owner shall place a deed restriction on the units, in a form acceptable to the City Attorney, restricting the use of the units to affordable work force housing for a period of fifty (50) years. The City may extend the period of the deed restriction for an additional fifty (50) years pursuant to City Code Section 122.1467(d). The effective date of the restrictive covenant or covenants shall be the date the certificate of occupancy is issued for the affordable work force housing unit(s). The Owner shall record the restrictive covenant(s) in the public records of Monroe County, Florida, and shall provide a copy of each recorded restrictive covenant showing the book and page where recorded to the City Planning Department as soon after recordation as is reasonably practical.

c. Affordable work force housing may include median income and moderate income housing. The number of affordable work force housing units devoted to each qualifying income level shall be determined at the time of issuance of certificates of occupancy.

7. Form of Ownership of Property. Condominium, cooperative, timeshare, or similar form of ownership of all or a portion of the Property, and the submission of the Property

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to the condominium, cooperative, timeshare or similar form of ownership (and recordation of a corresponding declaration of condominium or similar instrument), or the fee simple sale of individual units, shall not be prohibited and is consistent with terms and provisions of the City's Comprehensive Plan, City Code, and this Development Agreement.

8. Additional Development Conditions. The following additional conditions, terms, and restrictions have been determined by the City of Key West to be necessary for the public health, safety, and welfare of its citizens:

a. Construction Management. Prior to any demolition and construction, a solid opaque wall six (6) feet in height shall be built to secure the site and to screen the site from public view and adjacent properties. This wall shall be set back a minimum of ten (10) feet from Hilton Haven Drive (except for the existing building) and North Roosevelt Boulevard and preliminary landscaping shall be installed in front of the wall.

b. Permanent Continuous Wall. As part of the redevelopment, the Owner shall construct and maintain a continuous wall on the west property line (adjacent to the Flagler's Landing development) and the north side of Hilton Haven Drive; provided, however, that the wall is not required to be constructed in front of the existing building that will be retained on the Property since the building acts as its own barrier; and provided further that the wall may be interrupted for pedestrian access linking the townhouse development on the Property to the overflow parking area on the north side of Hilton Haven Drive. The wall will be heavily landscaped along Hilton Haven Drive. The wall shall be a minimum of six (6) feet in height and

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may be up to ten (10) feet in height if allowed by a variance to the City Code. The location of the wall is subject to approval by the Fire Marshall to ensure that fire and safety access issues, including required line-of-sight for turns to and from North Roosevelt Boulevard, are appropriately addressed.

c. Hilton Haven Drive. The portion of Hilton Haven Drive on the Property shall be rebuilt to the structural standards of the City. Speed limit signs shall be installed at one or more locations to be determined by the City Engineer.

d. Building Height. Building height shall not exceed thirty (30) feet.

e. Outdoor Lighting. Outdoor lighting fixtures shall be no more than twenty (20) feet in height and shall direct lighting towards the ground.

f. Addresses of Units. An address plan for the units shall be developed to assist emergency vehicles. The final site plan for the redevelopment shall indicate a central mail pickup or specify whether each unit shall have its own mailbox. Small direction signs indicating the locations of the units will be identified on the final site plan.

g. Garbage Collection. The existing trash area along Hilton Haven Drive shall be relocated to another, less visible location and where garbage collection will not interfere with traffic.

h. Speed Humps. The cross walks across Hilton Haven Drive shall be designed as speed humps. In addition, speed bumps will be installed immediately forward of the

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North Roosevelt Boulevard sidewalks in order to reduce the speed of automobiles exiting Hilton Haven Drive and the auxiliary drive.

i. Use of Docks. Use of the commercial docks shall be limited to prohibit jet skis. Along the canal, the maximum commercial use shall be limited to vessels capable of accommodating no more than six (6) passengers.

j. Drainage Plan. The drainage plan shall be designed so that landscaping is not adversely impacted and shall be approved by the City Engineer.

k. Landscape Plan. Under the prior Major Development Plan and Conditional Use Approval for the Property, the Owner was required to develop a landscape plan that exceeded minimum requirements, was approved by the City Tree Commission as a Superior landscape design, and highlighted a great number and diversity of native plants. The Owner's landscape plan prepared by Thomas E. Pope, P.A., Architect, dated March 25, 2008, revised October 20, 2008 ("Landscape Plan"), satisfies this requirement. Landscaping of the Property shall substantially comply with the Landscape Plan, a copy of which is attached hereto as Exhibit D and incorporated herein.

l. Timing of Permit Applications. Prior to submitting a building permit application to the City, the Owner shall secure all necessary permits from state, regional and federal agencies, including but not limited to the South Florida Water Management District and the Florida Department of Transportation; and shall also secure any necessary permits or authorizations from the City of Key West Utilities.

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m. Fair Housing Requirements. All units (non-transient and transient) shall comply with applicable state and federal fair housing act and ADA requirements for accessibility.

n. Site Design. The redevelopment of the Property shall be consistent with all bulk and site design requirements in the City Code unless a variance to such requirements is obtained from the City.

o. Additional Conditions by Mutual Agreement. Nothing in this Agreement shall preclude the parties from applying additional conditions, by mutual agreement, during final site plan review or permitting.

9. Annual Progress Reports. Pursuant to City Code Section 90-688(b), the Owner shall provide the City Planning Department an annual progress report indicating all activities and achievements since the execution of this Development Agreement and, if applicable, since the previous periodic report.

10. Public Facilities. No new public facilities are necessary or will be constructed to assure that public facilities are available concurrent with the impacts of development. The public facilities that are required and will service the redevelopment authorized by this Development Agreement, and the provider of the facilities, are as follows:

- a. Domestic potable water is provided by Florida Keys Aqueduct Authority.
- b. Electric service is provided by Keys Energy.
- c. Solid waste service is provided by City of Key West Waste Management.

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- d. Wastewater treatment shall be provided by City of Key West.
- e. Fire service will be provided by the City of Key West Fire Department.

All public facilities identified above are available as of the date of this Development Agreement and are projected to be available concurrent with the impacts of the Redevelopment.

f. Schools: Adequate school facilities are anticipated to be available to serve any students who may reside in the 10 market rate units and 26 affordable work force housing units developed on the Property.

g. Recreational facilities: Adequate City recreational facilities exist to serve the residents of the market rate units and affordable work force housing units to be developed on the Property.

11. All Permits Approved or Needed.

a. The City granted the Owner Major Development Plan and Conditional Use approval by City Commission Resolution No. 06-272 dated August 2, 2006, which said approval is attached hereto as Exhibit "C". The only City development approvals needed for the redevelopment authorized by this Agreement are building permits.

b. No further review or discretionary review will be required by the City, it being agreed that the redevelopment, as depicted on the approved Conceptual Site Plan attached hereto, requires only the above development approvals so long as the final site plan substantially complies with the Conceptual Site Plan approved under this Development Agreement.

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c. The following regional, state and federal permits are needed for the development authorized by this Development Agreement: (1) Florida Department of Transportation permits for curb cuts on North Roosevelt Boulevard, and (2) a storm water permit from the South Florida Water Management District.

d. Nothing in this Development Agreement shall be deemed to obviate the Owner's compliance with terms and provisions of each required development approval.

12. Mutual Cooperation. The City agrees to cooperate with the Owner in timely processing for approval all permits, licenses, consents, or other approvals necessary or appropriate to fully implement this Development Agreement. The City and the Owner agree to cooperate fully with and assist each other in the performance of the provisions of this Development Agreement.

13. Redevelopment to Comply with Permits and City Comprehensive Plan and Code Provisions. The redevelopment described in and authorized by this Development Agreement shall be undertaken in accordance with all required permits, and in accordance with all applicable provisions of the City's Comprehensive Plan and City Code in effect on the date of execution of this Development Agreement. No certificate of occupancy for an individual building shall be issued until all plans for that building are approved by the City and the Owner has complied with all conditions in permits issued by the City and other regulatory entities for that building.

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14. Finding of Consistency. The City finds that the redevelopment authorized herein is consistent with the City's Comprehensive Plan and land development regulations in effect on the date of execution of this Development Agreement.

15. Compliance With Permits, Terms, Conditions, and Restrictions Not Identified Herein. The failure of this Development Agreement to address a particular permit, condition, term, or restriction shall not relieve the Owner of the necessity of complying with the law governing said permitting requirements, conditions, terms, or restrictions.

16. Laws Governing.

a. For the duration of this Development Agreement, all approved development of the Property shall comply with and be controlled by this Development Agreement and provisions of the City's Comprehensive Plan and City Code in effect on the date of execution of this Development Agreement. The parties do not anticipate that the City will apply subsequently-adopted laws and policies to the redevelopment of the Property under this Development Agreement unless specifically so stated in this Development Agreement.

b. Pursuant to Section 163.3233, Florida Statutes, the City may apply subsequently adopted laws and policies to the Property only if the City holds a public hearing and determines that: (a) the new laws and policies are not in conflict with the laws and policies governing the Agreement and do not prevent redevelopment of the land uses, intensities, or densities set forth in this Development Agreement; (b) the new laws and policies are essential to the public health, safety, or welfare, and the City expressly states that they shall apply to the

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redevelopment that is subject to this Development Agreement; (c) the City demonstrates that substantial changes have occurred in pertinent conditions existing on the date of execution of this Development Agreement; or (d) the Development Agreement is based on substantially inaccurate information supplied by the Owner. However, nothing in this Development Agreement shall prohibit the parties from mutually agreeing, in writing, to apply subsequently adopted laws to the Property.

c. If state or federal laws enacted after the effective date of this Development Agreement preclude any party's compliance with the terms of this Agreement, this Development Agreement shall be modified to the limited extent necessary to comply with the relevant state or federal laws. However, this Development Agreement shall not be construed to waive or abrogate any rights that may vest pursuant to common law.

17. Amendment, Renewal, and Termination. This Development Agreement may be amended, renewed, or terminated as follows:

a. As provided in Section 163.3237, Florida Statutes, this Development Agreement may be amended by mutual consent of the parties or their successors in interest. Amendment under this provision shall be accomplished by an instrument in writing signed by the parties or their successors.

b. As provided in Section 163.3229, Florida Statutes, this Development Agreement may be renewed by the mutual consent of the parties, subject to the public hearing requirements in Section 163.3225, Florida Statutes.

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c. This Development Agreement may be terminated by the Owner or its successor(s) in interest following a breach of this Development Agreement by the City upon written notice to the City as provided in this Development Agreement.

d. Pursuant to Section 163.3235, Florida Statutes, this Development Agreement may be revoked by the City if the City finds, on the basis of competent substantial evidence, that there has been a failure by the Owner to comply with the terms of this Development Agreement.

e. This Development Agreement may be terminated at any time by mutual consent of the parties.

18. Breach of Agreement and Cure Provisions.

a. If the City finds, based on competent substantial evidence, that there has been a material failure by the Owner to comply with the terms of this Development Agreement, prior to revoking this Development Agreement, the City shall serve written notice on the Owner identifying the specific failure by the Owner to comply with the terms of this Development Agreement and providing the Owner with sixty (60) days from the date of receipt of the notice to cure such failure or negotiate an amendment to this Development Agreement; provided, however, that if the failure is, by its nature, not susceptible to curing during said sixty-day period, the cure period shall be extended as necessary to accommodate the efforts of the Owner to effectuate a cure, provided that the Owner continuously and diligently (subject to fire, storm,

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flood, other Act of God, or events beyond the control of the Owner) prosecutes its efforts to cure the failure.

b. If the Owner concludes that there has been a material breach in the terms and conditions of this Development Agreement, the Owner shall serve written notice on the City identifying the term or condition the Owner contends has been materially breached and providing the City with thirty (30) days from the date of receipt of the notice to cure the breach. The following events, unless caused by fire, storm, flood, other Act of God, or events beyond the control of the City, shall be considered a material breach of this Agreement: (1) failure to comply with the provisions of this Development Agreement; and (2) failure to timely process any application for site plan approval or other development approval required to be issued by the City for the redevelopment authorized by this Development Agreement.

c. If a material failure or breach in the performance of this Development Agreement occurs and is not cured within the time periods provided above, the party that provided notice of the failure or breach may elect to terminate this Development Agreement or may seek to enforce this Development Agreement as provided by herein.

d. If either party waives a material failure or breach in the performance of this Development Agreement by the other party, such a waiver shall not be deemed a waiver of any subsequent failure or breach.

19. Notices. All notices, demands, requests, or replies provided for or permitted by this Development Agreement, including notification of a change of address, shall be in writing to

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(Correcting date of Landscape Plan)

the addressees identified below, and may be delivered by any one of the following methods: (a) by personal delivery; (b) by deposit with the United States Postal Service as certified or registered mail, return receipt requested, postage prepaid; or (c) by deposit with an overnight express delivery service with a signed receipt or delivery confirmation required. Notice shall be effective upon receipt. The addresses and telephone numbers of the parties are as follows:

TO THE OWNER:

Banana, LLC
KW26, LLC
1001 East Atlantic Avenue, Suite 202
Delray Beach, FL 33483
Attention: Tom McMurrain
Telephone: 561-279-9900

With a copy by regular U.S. Mail to:

Adele V. Stones, Esq.
Stones & Cardenas
221 Simonton Street
Key West, FL 33040

And

Sherry A. Spiers, Esq.
Greenberg Traurig, P.A.
101 East College Avenue
Tallahassee, FL 32301

And

Richard H. Critchfield, Esq.
1001 East Atlantic Avenue, Suite 201
Delray Beach, FL 33483

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TO THE CITY:

City Planning Director
P. O. Box 1409
Key West, FL 33041-1409
Telephone: (305) 809-3720
Fax: (305) 809-3739

With a copy by regular U.S. Mail to:

City Manager
P. O. Box 1409
Key West, FL 33041-1409
Telephone: (305) 809-3888
Fax: (305) 809-3886

20. Enforcement. The parties acknowledge that, in accordance with Section 163.3243, Florida Statutes, any party to this Development Agreement, any aggrieved or adversely affected person as defined in Section 163.3215(2), Florida Statutes, or the state land planning agency (currently the Department of Community Affairs) may file an action for injunctive relief in the circuit court of Monroe County, Florida, to enforce the terms of this Development Agreement or to challenge the compliance of this Development Agreement with the provisions of Sections 163.3220-163.3243, Florida Statutes.

21. Conflicts. In the event of a conflict between the provisions of this Development Agreement and City ordinances, or the provisions of this Agreement and the Major Development approval attached as Exhibit C, the terms of this Development Agreement shall control.

22. Binding Effect. This Development Agreement shall be binding upon the parties hereto, their successors in interest, heirs, assigns, and personal representatives.

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(Correcting date of Landscape Plan)

23. Assignment. This Agreement may be assigned without the written consent of the parties.

24. Drafting of Agreement. The parties acknowledge that they jointly participated in the drafting of this Development Agreement and that no term or provision of this Development Agreement shall be construed in favor of or against either party based solely on the drafting of the Agreement.

25. Severability. If any term, covenant, or condition of this Development Agreement, or the application thereof to any person or circumstance, shall be determined to be unenforceable by a court of competent jurisdiction (the "Offending Provision"), then the remainder of this Development Agreement, or the application of such term, covenant or condition to persons, entities or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term, covenant and condition of this Development Agreement shall be valid and enforced to the fullest extent permitted by law; provided, however, that the parties shall endeavor in good faith, within sixty (60) days after the date such determination is made, to agree upon alternative provisions that shall have the same practical effect as the Offending Provision and upon any such agreement being reached, the new provision shall be incorporated into and form a part of this Development Agreement.

26. Applicable Law. This Development Agreement was drafted and delivered in the State of Florida and shall be construed and enforced in accordance with the laws of the State of Florida.

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(Correcting date of Landscape Plan)

27. Use of Singular and Plural. Where the context requires, the singular includes the plural, and the plural includes the singular.

28. Duplicate Originals; Counterparts. This Development Agreement may be executed in any number of originals and in counterparts, all of which evidence one agreement. Only one original is required to be produced for any purpose.

29. Headings. The headings contained in this Development Agreement are for identification purposes only and shall not be construed to amend, modify, or alter the terms of this Development Agreement.

30. Entirety of Agreement; Incorporation of Prior Development Approval. This Development Agreement incorporates or supersedes all prior negotiations, correspondence, conversations, agreements, or understandings regarding the matters contained herein. The parties agree that there are no commitments, agreements, understandings, or development orders concerning the subjects covered by this Development Agreement that are not contained in or incorporated into this document and, accordingly, no deviation from the terms hereof shall be predicated upon any prior representations, agreements or approvals, whether written or oral. This Development Agreement contains the entire and exclusive understanding and agreement among the parties and may not be modified in any manner except by an instrument in writing signed by the parties.

31. Recording; Effective Date. The Owner shall record this Development Agreement in the public records of Monroe County, Florida, within fourteen (14) days after the

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(Correcting date of Landscape Plan)

date of this Development Agreement. A copy of the recorded Development Agreement showing the date, book and page where recorded shall be submitted to the City and to the state land planning agency by hand delivery, registered or certified United States mail, or by a delivery service that provides a delivery receipt showing the date of delivery, within fourteen (14) days after the Development Agreement is recorded. This Development Agreement shall become effective thirty (30) days after the date it is recorded in the public records of Monroe County, Florida, and received by the state land planning agency.

32. Date of Execution of Agreement. The date of execution of this Development Agreement is the date the last party signs and acknowledges this Development Agreement and delivers an unaltered fully-executed counterpart hereof to the other party.

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have set their hands and seals on the dates below written.

CITY OF KEY WEST

_____, 2009
Date

By _____
Morgan McPherson, Mayor

ATTEST:

CITY CLERK

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY:

Development Agreement for Banana Bay and Fairfield Inn Properties
Page 24 of 27

DRAFT #2 TO CITY -- 10-08-09
(Correcting date of Landscape Plan)

CITY ATTORNEY

BANANA, LLC
A Florida Limited Liability Company

By _____
Thomas T. McMurrain, Manager

STATE OF FLORIDA
COUNTY OF _____,

The foregoing instrument was acknowledged before me this _____ day of _____, 2009, by Thomas T. McMurrain, as Manager for Banana, LLC, who is personally known to me or who produced _____ as identification.

Notary Public
Name: _____
(typed, printed or stamped)
My commission expires: _____

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(Correcting date of Landscape Plan)

KW26, LLC
A Florida Limited Liability Company

By _____
Thomas T. McMurrain, Manager

STATE OF FLORIDA
COUNTY OF _____,

The foregoing instrument was acknowledged before me this _____ day of _____, 2009, by Thomas T. McMurrain, as Manager for KW26, LLC, who is personally known to me or who produced _____ as identification.

Notary Public

Name: (typed, printed or stamped)
My commission expires: _____

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(Correcting date of Landscape Plan)

LIST OF EXHIBITS

- Exhibit A: Legal description (composite exhibit)
- Exhibit B: Conceptual Site Plan
- Exhibit C: Major Development Plan and Conditional Use Approval by City Commission Resolution No. 06-272 dated August 2,2006
- Exhibit D: Landscape Plan prepared by Thomas E. Pope, P.A., Architect, dated March 25, 2008, revised October 20, 2008.

EXHIBIT A

EXHIBIT A

BANANA BAY

PARCEL 1

Tracts 2, 3, and 4 of the Amended Plat of Hilton Haven, Section No. 1, subdivision on the Island of Key West, Monroe County, Florida, according to plat recorded in Plat Book 2, page 108, according to the Public Records of Monroe County, Florida.

AND ALSO

A second parcel of land beginning at the Northeast Corner of Tract 4 of the aforesaid Amended Plat of Hilton Haven, Section No. 1 and proceeding in a Northerly direction on the East line of Tract 4 extended Northerly a distance of 272.25 feet to a point; thence proceed at right angles in a Westerly direction 220 feet to a point; thence proceed at right angles in a Southerly direction 272.25 feet; thence at right angles in an Easterly direction 220 feet back to the Point of Beginning.

AND ALSO

PARCEL 2

A parcel of land lying Northerly of the AMENDED PLAT OF HILTON HAVEN, SECTION 1, as recorded in the Public Records of Monroe County, Florida, being more particularly described as follows: COMMENCING at the Northeasterly corner of Lot 4 of said Amended Plat of Hilton Haven Section No. 1; thence run in a Northerly direction along the East line of said Lot 4, extended Northerly 272.25 feet; thence run Westerly at right angles 220.00 feet to the Point of Beginning; thence continue Westerly along the previously described course 30.0 feet; thence run Southerly at right angles 47.0 feet; thence run Easterly at right angles 30.0 feet; thence run Northerly at right angles 47.0 feet back to said Point of Beginning.

Parcel Identification Number: 00002000-000000

and

EXHIBIT A

BANANA BAY

PARCEL 3

A parcel of land being part of the AMENDED PLAT OF HILTON HAVEN SECTION 1, as recorded in the Public Records of Monroe County, Florida, being more particularly described as follows: COMMENCING at the Northeasterly corner of Lot 4 of said Amended Plat of Hilton Haven Section No. 1; thence run North 83 degrees 03'59" West along the Northerly line of said Lot 4, for 100.00 feet to the Point of Beginning; thence continue North 83 degrees 03'59" West, 120.00 feet; thence run South 6 degrees 56'01" West, 20.00 feet; thence run South 83 degrees 03'59" East, 120.00 feet; thence run North 6 degrees 56'01" East 20.00 feet back to said Point of Beginning.

PARCEL 4

A parcel of land being a part of the AMENDED PLAT OF HILTON HAVEN, SECTION NO. 1, a subdivision on the Island of Key West, Monroe County, Florida; said parcel being described as follows: COMMENCE at the Northeast corner of Tract 4 of the aforesaid subdivision and run thence in a Southerly direction and along the East boundary line of the aforesaid Tract 4 for a distance of 73.25 feet to the POINT OF BEGINNING of the parcel of land being described herein; thence continue in a Southerly direction and along the East boundary line of the aforesaid Tract 4 for a distance of 14.14 feet; thence South 76 degrees 59'03" East for a distance of 108.60 feet; thence South 55 degrees 27'00" East for a distance of 95.00 feet to the Northeasterly right of way line (ROWL) of North Roosevelt Boulevard; thence North 47 degrees 46' 00" East and along the aforesaid ROWL for a distance of 24.34 feet; thence North 59 degrees 39' 53" West for a distance of 98.34 feet; thence North 76 degrees 54' 15" West for a distance of 117.96 feet back to the POINT OF BEGINNING.

Parcel Identification Number: 00002080-000100

FAIRFIELD INN

PARCEL A1

Tract One (1) of the Amended Plat of HILTON HAVEN, section No. 1, a subdivision on the Island of Key West, Monroe County, Florida, according to Plat recorded in Plat Book 2, Page 108, Monroe County, Florida.

AND TOGETHER WITH

PARCEL A2

On the Island of Key West, Florida, and more particularly described as follows: Commencing at a point where the Northerly property line of "HILTON HAVEN" Subdivision (Amended Plat, and recorded in Plat Book 2, Page 108, Public Records of Monroe County, Florida) intersects the Northwestern Right-of-Way line of Roosevelt Boulevard, said point also being a permanent reference monument of aforesaid "HILTON HAVEN" Subdivision from said point, run Southwesterly along the Northwestern Right-of-Way line of Roosevelt Boulevard for a distance of 165.0 feet to the point of beginning of the strip of land hereinafter described; thence with a deflected angle to the right of 72 degrees, 34 minutes and 06 seconds and in a Northwestern direction for a distance of 98.34 feet to a point; thence with a deflected angle to the left of 17 degrees, 18 minutes and 22 seconds and in a Northwestern direction for a distance of 117.96 feet to a point; thence with a deflected angle to the right of 83 degrees, 54 minutes and 16 seconds in a Northerly direction for a distance of 4.0 feet to a point; thence with a deflected angle to the right of 96 degrees, 38 minutes and 00 seconds and in a Southeasterly direction for a distance of 119.3 feet to a point; thence with a deflected angle to the right of 18 degrees, 31 minutes and 00 seconds and in a Southeasterly direction for a distance of 98.3 feet back to the Point of Beginning.

AND TOGETHER WITH

PARCEL A3

Begin at the intersection of the Northwestern Right-of-Way line of Roosevelt Boulevard and the North Boundary of Tract 1 of HILTON HAVEN, the Point of Beginning; thence westerly along the North line of HILTON HAVEN 315.35 feet; which said line makes an angle with the center line of Roosevelt Boulevard of 49 degrees 10 minutes; thence Northerly at right angles to the North boundary of said Tract 1, 45 feet; thence Easterly at right angles to the last named course and parallel with the North boundary of said Tract 1 of HILTON HAVEN, a distance of 263.26 feet; thence in a Southeasterly direction, making an angle of 90 degrees with the center line of Roosevelt Boulevard, 68.82 feet, to the Point of Beginning.

AND TOGETHER WITH

RECEIVED

MAY 03 2011

CITY OF KEY WEST
PLANNING DEPT.

EXHIBIT "A"

Doc# 1548482
Bk# 2161 Pg# 1878

LEGAL DESCRIPTION

PARCEL A4

A parcel of land North of HILTON HAVEN SUBDIVISION, as recorded in Plat Book 2, Page 108, Public Records of Monroe County, Florida, more particularly described as follows:

Commence at the intersection of the Northerly Right-of-Way line of Roosevelt Boulevard and the Northerly boundary of said HILTON HAVEN SUBDIVISION; thence West along said Northerly boundary 315.25 feet; thence North 45 feet to the Point of Beginning; thence continue North 225 feet; thence in a Southeasterly direction 350 feet to a point East of the Point of Beginning; thence West 263.26 feet to the Point of Beginning.

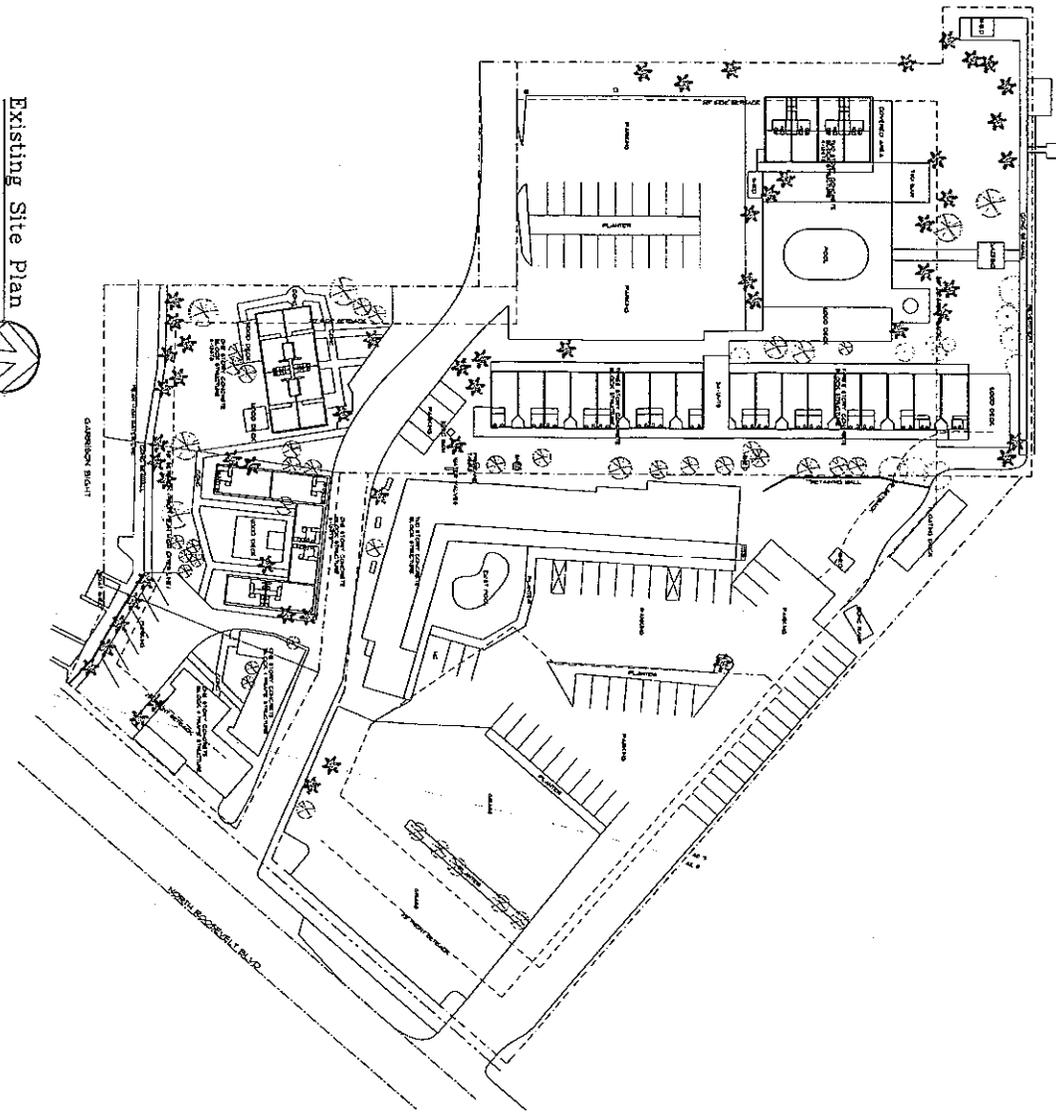
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MAY 03 2006

CITY OF KEY WEST
PLANNING DEPT.

MONROE COUNTY
OFFICIAL RECORDS

EXHIBIT B



Existing Site Plan

SCALE: 1/8" = 1'-0"



DATE: MAY 03 2006
CITY OF KEY WEST
PLANNING DEPT.

APR

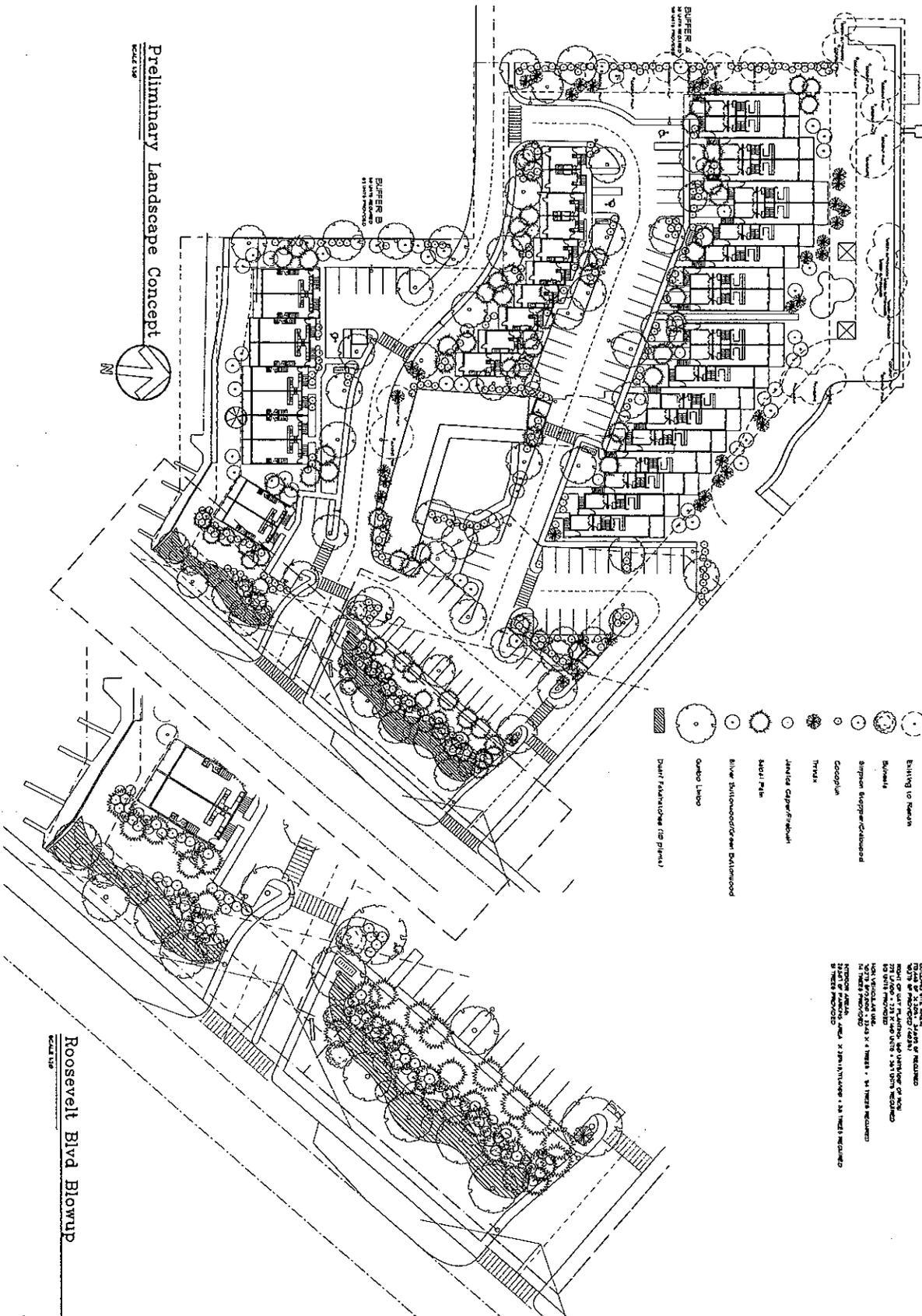
THOMAS E. POPE, P.A. ARCHITECT
610 White Street, Key West FL (305) 296 3611

2319-2401 Banana Bay
N Roosevelt Blvd Key West, FL



CITY COM
Sheet: S2

Revised 06-17-06



Preliminary Landscape Concept
SCALE 1/8" = 1'-0"



- PLANTING LEGEND**
- Building to remain
 - Building
 - Simplex Eucalyptus/Callalmond
 - Coccoloba
 - Tree
 - Jambou Casuarina
 - Silver Palm
 - Silver Ballmound/Orange Ballmound
 - Orange Limbo
 - ▨ Planters (see plan)

LANDSCAPING REQUIREMENTS

PLANTING THE AREA SHALL BE ACCORDING TO THE CITY OF KEY WEST LANDSCAPING DEPARTMENT'S LANDSCAPING MANUAL. THE LANDSCAPING SHALL BE INSTALLED WITHIN 90 DAYS OF THE COMMENCEMENT OF CONSTRUCTION. THE LANDSCAPING SHALL BE INSTALLED WITHIN 90 DAYS OF THE COMMENCEMENT OF CONSTRUCTION. THE LANDSCAPING SHALL BE INSTALLED WITHIN 90 DAYS OF THE COMMENCEMENT OF CONSTRUCTION.

Roosevelt Blvd Blowup
SCALE 1/8" = 1'-0"

DATE: 05/27/06
BY: T.E.P.
CITY OF KEY WEST
PLANNING DEPT.

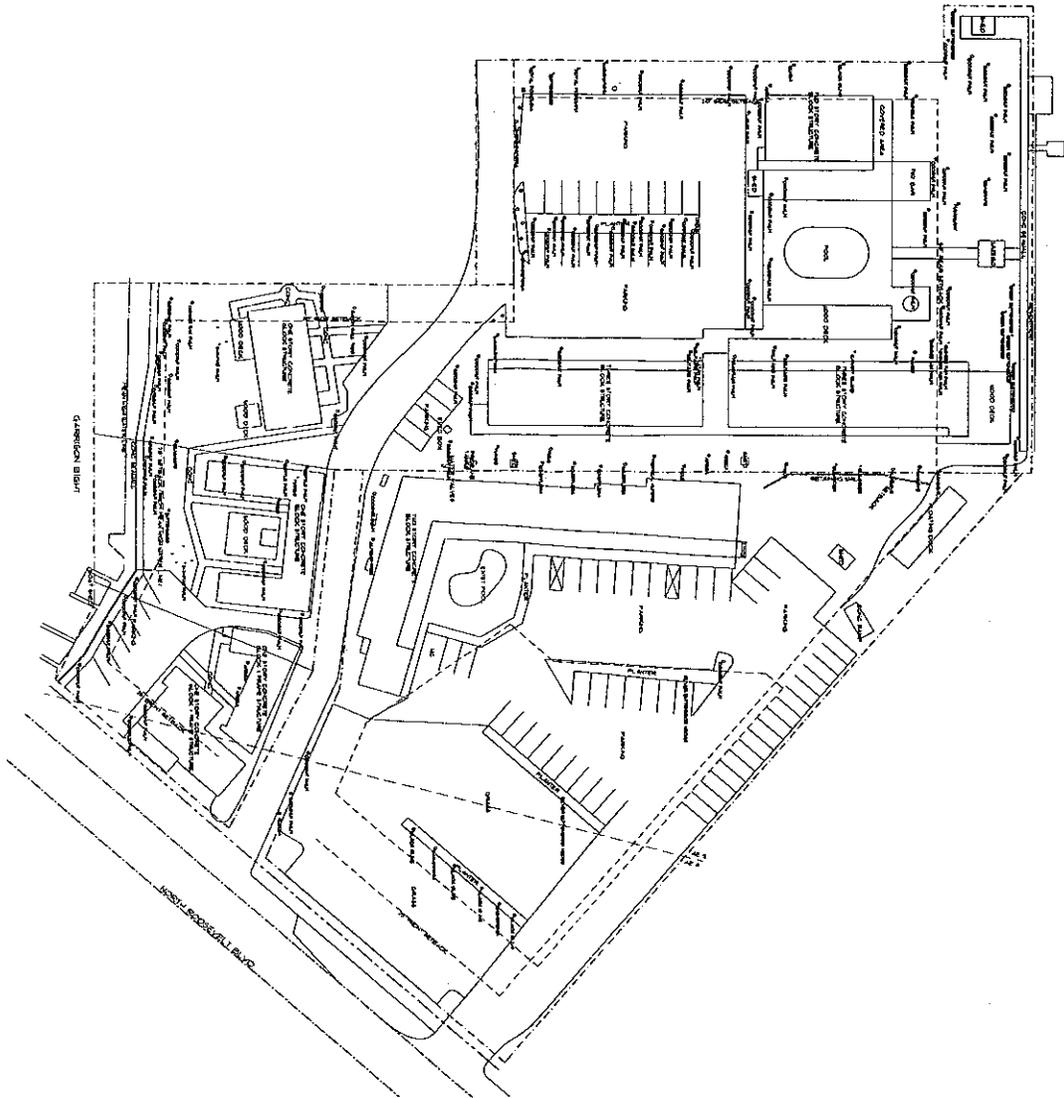


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Banana Bay
2319-2401
N Roosevelt Blvd
Key West, FL

Existing Tree Location Plan

SCALE 1/8" = 1'-0"



THP

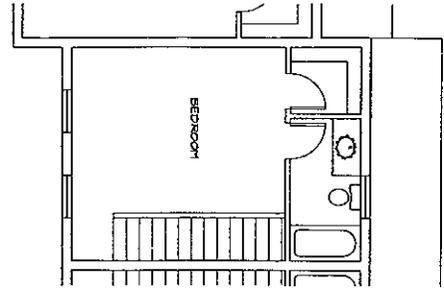
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BY: T.E. POPE
CITY OF KEY WEST
PLANNING DEPT.

THOMAS E. POPE, P.A. ARCHITECT
610 White Street, Key West FL (305) 296 3611

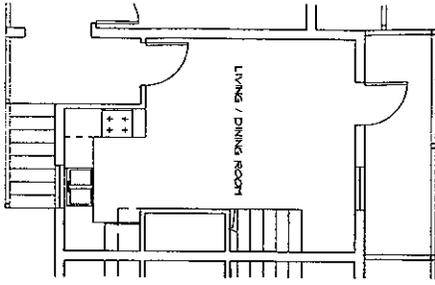
Banana Bay
2319-2401
N Roosevelt Blvd Key West, FL



CITY OF KEY WEST
PROJECT: **L2**

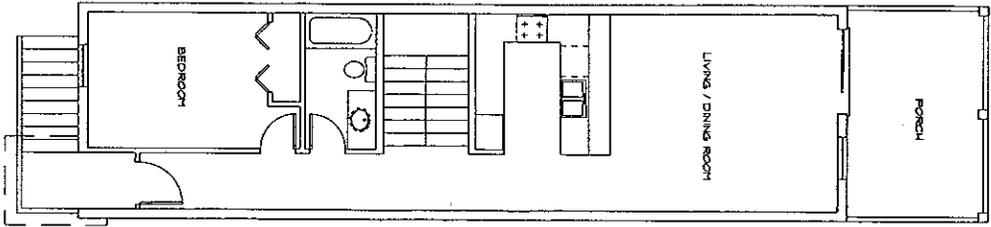


2nd Floor Plan
Affordable Units



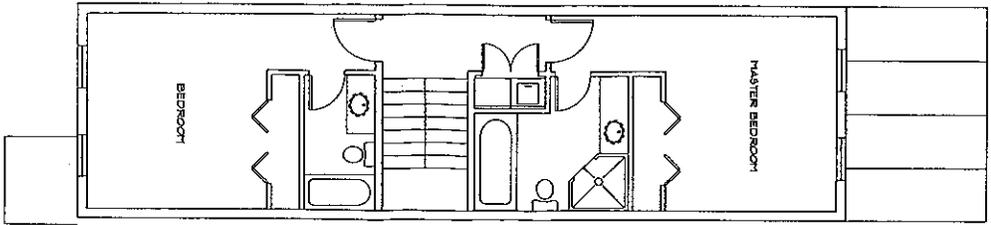
1st Floor Plan
Affordable Units

278 SF BLDG
278 SF INTERIOR
286 SF TOTAL INTERIOR

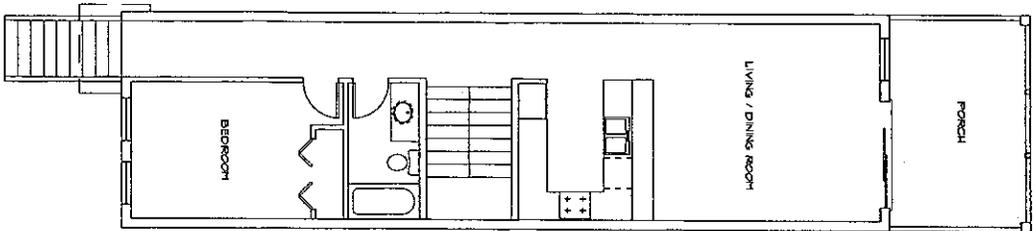


1st Floor Plan
Bay Side Units

144 SF BLDG
144 SF INTERIOR
164 SF TOTAL INTERIOR

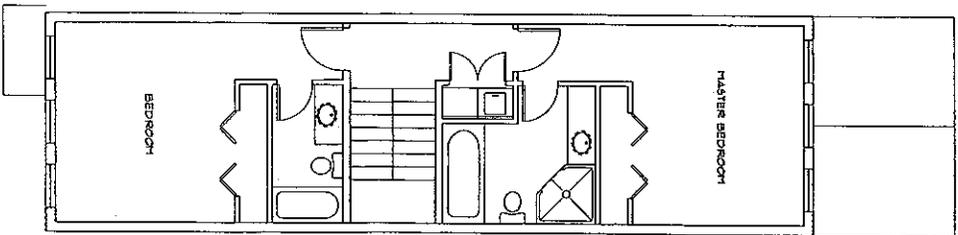


2nd Floor Plan
Bay Side Units



1st Floor Plan
Bay Side Units

144 SF BLDG
144 SF INTERIOR
164 SF TOTAL INTERIOR



2nd Floor Plan
Bay Side Units

144 SF BLDG
144 SF INTERIOR
164 SF TOTAL INTERIOR

THOMAS E. POPE, P.A. ARCHITECT
610 White Street, Key West FL (305) 296 3611

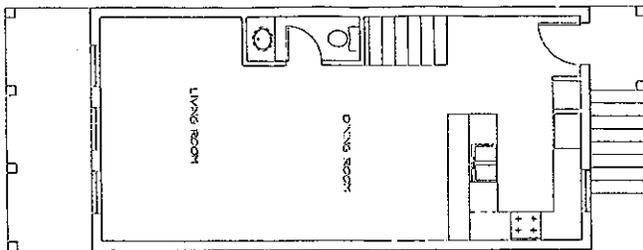
Banana Bay
2319-2401
N Roosevelt Blvd
Key West, FL



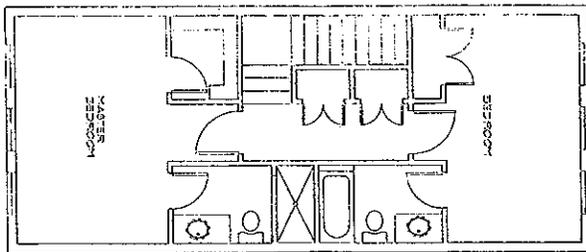
APB

A1

Resubmitted 04.27.12



1st Floor Plan
Canal Side Units
W.F.P.



2nd Floor Plan
Canal Side Units
W.F.P.

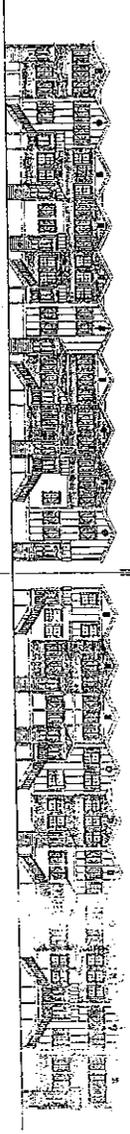
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CITY OF KEY WEST
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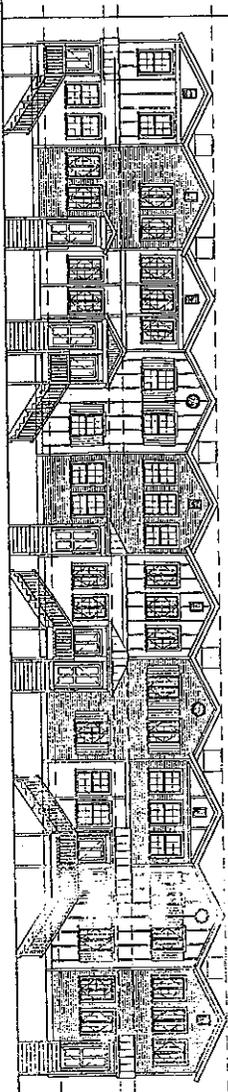
THOMAS E. POPE, P.A. ARCHITECT
610 White Street, Key West FL (305) 296 3611

Banana Bay
2019-2401
N Roosevelt Blvd Key West, FL

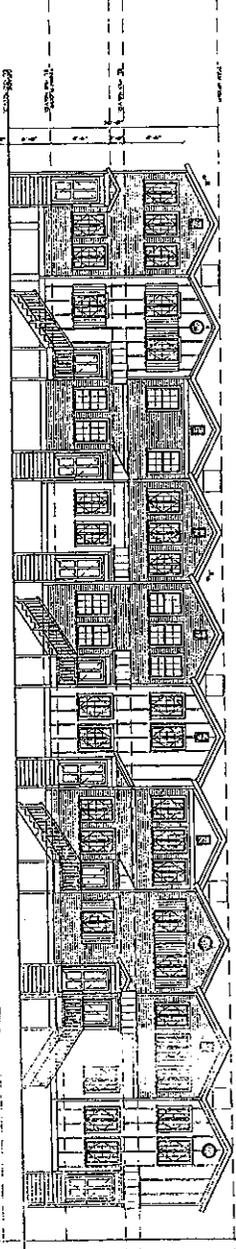




20 Units - Bay Side



Proposed Front Elevation
Bay Side



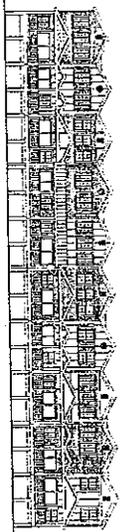
Proposed Front Elevation
Bay Side

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PROJECT: A3

THOMAS E. POPE, P.A. ARCHITECT
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Banana Bay
2319-2401
N Roosevelt Blvd Key West, FL

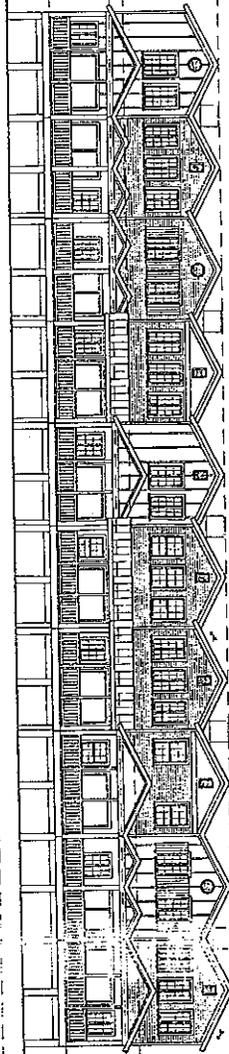


20 Units - Bay Side

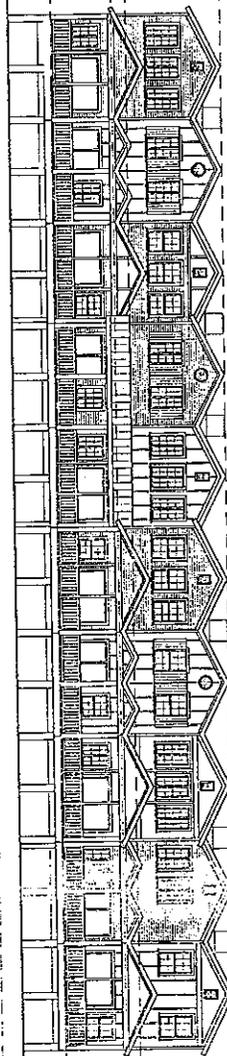
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THOMAS E. POPE, P.A. ARCHITECT
610 White Street, Key West FL (305) 296 3611



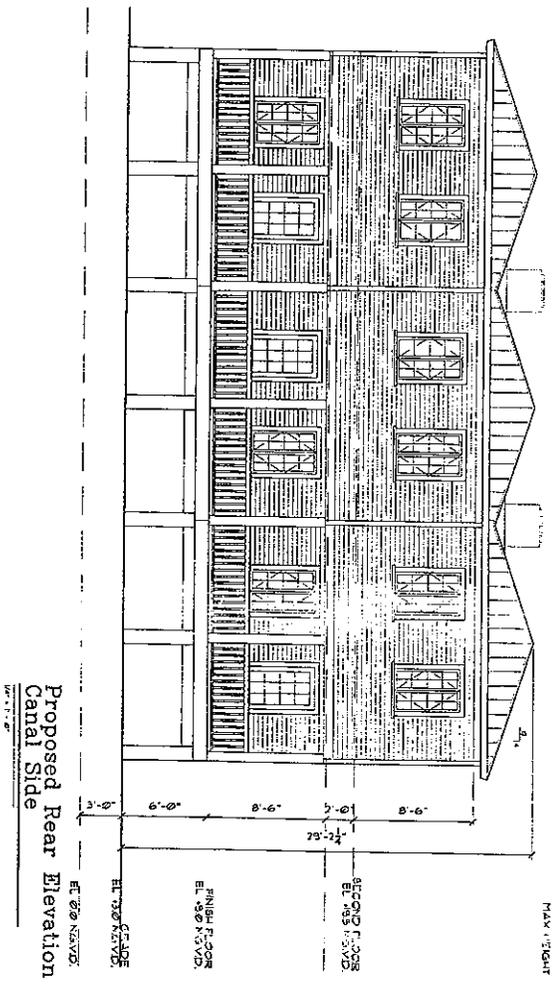
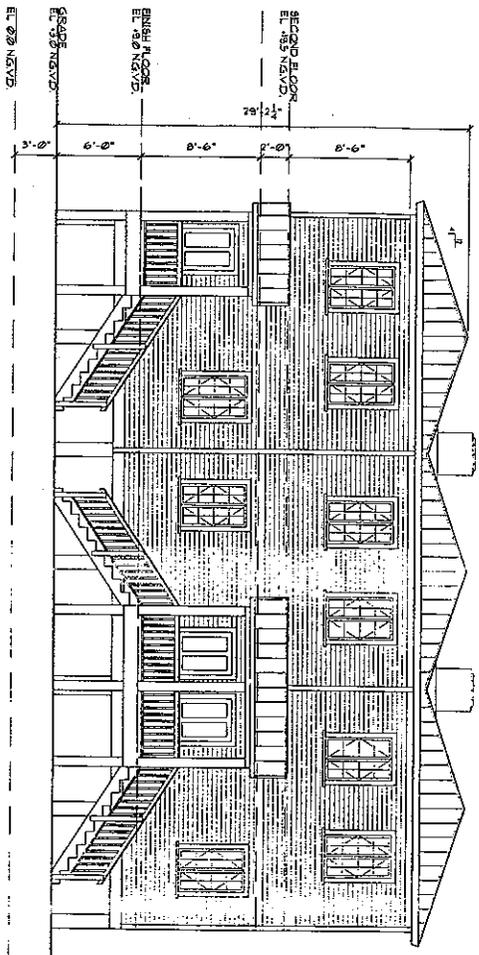
Proposed Rear Elevation
Bay Side



Proposed Rear Elevation
Bay Side

Banana Bay
2319-2401
N Roosevelt Blvd Key West, FL





Proposed Front Elevation
Canal Side

Proposed Rear Elevation
Canal Side

THOMAS E. POPE, P.A. ARCHITECT
610 White Street, Key West, FL (305) 296 3611

Banana Bay
2319-2401
N Roosevelt Blvd
Key West, FL

DATE: 5/7/06
SHEET: A6



EXHIBIT C

EXHIBIT C

RESOLUTION NO. 06-272

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING PURSUANT TO SECTIONS 108-198 AND 122-63 OF THE CODE OF ORDINANCES, RESPECTIVELY, A MAJOR DEVELOPMENT PLAN AND CONDITIONAL USE FOR THE PROPERTY LOCATED AT 2319-2401 NORTH ROOSEVELT BOULEVARD (BANANA BAY/FAIRFIELD INN); PROVIDING CONDITIONS; PROVIDING FOR AN EFFECTIVE DATE

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AS FOLLOWS:

Section 1: That the proposed Major Development Plan and Conditional Use for the property located at 2319-2401 North Roosevelt Boulevard is hereby approved.

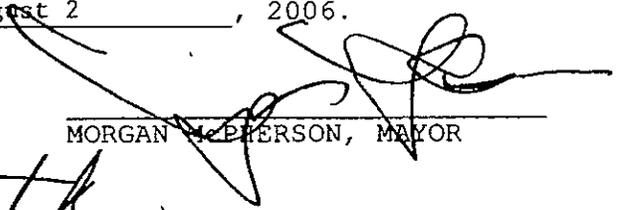
Section 2: That the eleven conditions recommended by the Key West Planning Board in its Resolution No. 2006-011, attached hereto, are hereby approved and adopted.

Section 3: That this Resolution shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission.

Passed and adopted by the City Commission at a meeting held this 1 day of August, 2006.

Authenticated by the presiding officer and Clerk of the Commission on August 2, 2006.

Filed with the Clerk August 2, 2006.


MORGAN McPERSON, MAYOR

ATTEST:


CHERYL SMITH, CITY CLERK

**PLANNING BOARD RESOLUTION
No. 2006-011**

A RESOLUTION OF THE CITY OF KEY WEST PLANNING BOARD PURSUANT TO SECTIONS 108-196 and 122-418(2) OF THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES OF THE CITY OF KEY WEST, APPROVING A MAJOR DEVELOPMENT PLAN AND A CONDITIONAL USE APPLICATION FOR the redevelopment of the Banana Bay Resort and the Fairfield Inn 2319-2401 North Roosevelt Boulevard (RE#00001990-000000, 00002000-000000, 00002080-000100 & 00002260-000000); PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, an Application for a Major Development Plan and a Conditional Use Application was filed 19 October 2005 by A.V. Stones, Stones and Cardenas, authorized agent for the owner of the property, located in the CG (General Commercial) zoning district; and

WHEREAS, the proposal is to allow for the redevelopment of the Banana Bay Resort and the renovation of the Fairfield Inn into a mix of affordable and market-rate housing; and

WHEREAS, the City Planning Department, expressed the decision that this is a conditional use that could be permitted; and

WHEREAS, at the 23 November 2005, Development Review Committee meeting there were the following comments regarding the proposed use based on the plans received 19 October 2005.

- Utilities, David Fernandez
 - Dumpster is located in the middle of a swale
 - Storm water has improved over the last set of plans
 - East entrance needs curbing and/or sloping
- Building Official, Joe April
 - Hilton Haven Drive needs to be built to minimum road standards; asphalt thickness, lane width, to the maximum extent practical
 - Remove "phase one" and "phase two" lines
 - Determine who is responsible for maintaining that road
- City Landscape Inspector, Jeff Stotts
 - Due to closeness to water, recommend that all exotic invasive plants be removed and maintained in perpetuity:
 - Almond Tree

- Washingtonian Tree
 - Brazilian Pepper Tree
- Bicycle/Ped Coordinator, Jim Malcolm
 - Speed hump at end of driveway accessing N. Roosevelt w/stop bar located at a distance that allows a clear line of sight without interfering with bicycle path
 - Proper signage
 - Sidewalk be continuous along front of property
 - Meeting section 11.9 of Florida Accessibility Codes but not limited to accessible units
 - Sidewalk access from eastern-most driveway
- Florida Keys Aqueduct Authority, Ed Nicolle (received in writing)
 - Banana Bay is served by FCAA Account #007862 which is a 1-1/2" domestic meter along with several other 5/8" meters
 - A 6' Fire Line Account #044755 also serves this site
 - The Fairfield Inn is served by FCAA Account #004014 which is a 1-1/2" domestic meter
 - There is an 8" water main located on Hilton Haven Drive and an 8" water main located on N. Roosevelt Blvd and they appear adequate to serve the site
 - Depending on meter requirements an interior water main extension may be required for the waterfront units in Phase 1
 - A complete set of plans will be required for review
- Keys Energy Services, Matthew Alfonso (received in writing)
 - Keys Energy Services is recommending primary underground for the above project, per KEYS Line Extension Policy
 - The available secondary voltage is a 3-phase 120/208 or single phase 120/240
 - The customer will need to provide KEYS with a full set of plans and a Project Review form, this will ensure the existing customers and surrounding customers have adequate power
- City Planner, Ty Symroski
 - Relocate trash area to avoid Hilton Haven Drive traffic concerns
 - N. Roosevelt street frontage pavement landscaping and driveway configuration brought to FDOT standards
 - Want written approvals from Tree Commission

WHEREAS, after public notice, the application for a Major Development Plan and a Conditional Use approval was heard by the Planning Board at its Regular Meeting of 20 April 2006; and

WHEREAS, for that meeting, there were 53 notices sent with 6 returned, 5 objections and 1 did not object. She then read the 1 comment into the record; and

WHEREAS, at that meeting, Acting City Planner Wendy Tucker presented the staff report prepared by Ty Symroski dated 6 February 2006; and

WHEREAS, the Board heard Mrs. Tucker recommend approval of the application and allow for a phased implementation of the project pursuant to Section 108-203; and

WHEREAS, the applicant stated they accepted the conditions and the requirement to submit a complete building permit within one (1) year for phase 1, the time frame being measured from the effective date of the final approval of the Development Plans by the City and Department of Community Affairs; and

WHEREAS, the following plans were being reviewed at the Planning Board meeting

Plans	By	Date	Revised	Pg #	Received
Site Plan	Thomas E. Pope Architect, p.a..	17 Oct. 2005	6 Jan. 2006	S1	9 Jan. 2006
Existing Site Plan	"	"	"	S2	"
Preliminary Landscape Plan	"	"	"	L1	"
Existing Tree Location Plan	"	"	"	L2	"
Phase One Floor Plans	"	"	"	A1	"
Phase Two Floor Plans	"	"	"	A2	"
Phase One Elevation Plans I	"	"	"	A3	"
Phase One Elevation Plans II	"	"	"	A4	"
Phase Two Elevation Plans	"	"	"	A5	"
Conceptual Drainage Plan	Alan E. Perez P.E. #51468	"	-	C-1	"
Boundary Survey	J. Lynn O' Flynn, Inc.	"	-	1 of 1	"

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

Section 1. That the Planning Board approves the application for the Major Development Plan and the Conditional Use with the following conditions:

1. Construction management. Prior to any demolition and construction, a solid opaque wall 6 feet tall be built to secure the site and to screen the site from

- public view and adjacent properties (if there is not a six foot wall already). Additionally, this wall shall be set back a minimum of 10 feet from Hilton Haven Drive (except for the existing building) and North Roosevelt Boulevard and preliminary landscaping installed in front of the wall. The application is proposing this approach.
2. Hilton Haven Drive shall be rebuilt to the structural standards of the city. Speed limit signs shall be installed at a location shown by the City Engineer.
 3. As shown on the plans, the outdoor lighting fixtures are a maximum of 20 feet high and direct the lighting towards the ground.
 4. An address plan for the units shall be developed to assist emergency vehicles. The plans shall indicate a central mail pick up or specify whether each non-transient unit shall have its own mailbox. Small directional signs will be located on the site plans.
 5. The trash area along Hilton Haven Drive is located to another, less visible location and where garbage collection will not interfere with traffic.
 6. The cross walks across Hilton Haven Drive be designed as speed humps.
 7. Speed bumps will be installed immediately forward of the North Roosevelt sidewalks in order to reduce the speed of automobiles exiting Hilton Haven Drive and the auxiliary drive.
 8. If approved the applicant will be issued 39 small transient unit certificates to be used at other locations pursuant to the transfer ordinance. These units may be transferred to a third party but such transfer must be recorded with the Planning Director and a recording fee paid as may be established by the City Commission.
 9. The commercial use of the docks shall be limited to no jet skis. Along the canal the maximum commercial use shall be limited to six passengers.
 10. The drainage plan is revised to either accommodate the landscaping or are relocated to locations where the landscaping will not be impacted and the plan shall be approved by the City Engineer.
 11. The Tree Commission approves a Superior landscape design that exceeds the minimum. This design should highlight a great number and diversity of native plants.

Section 2. The plan is approved as a phased project pursuant to Section 108-203, there will be two phases and the deadline for each phase shall be a requirement to submit a complete building permit within one (1) year for phase 1, within two (2) years for phase 2, all time frames being measured from the effective date of the final approval of the Development Plans by the City and Department of Community Affairs.

Section 3. This Resolution shall go into effect immediately upon its passage and adoption and authentication by the signatures of the Chairman of the Planning Board and the Planning Director.

Passed at a meeting held 20 April 2006.

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

**Chairman Richard Klitenick
Key West Planning Board**

Date

Attest:

Gail E. Kenson, AICP, Planning Director

Date

Filed with the Clerk

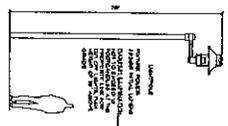
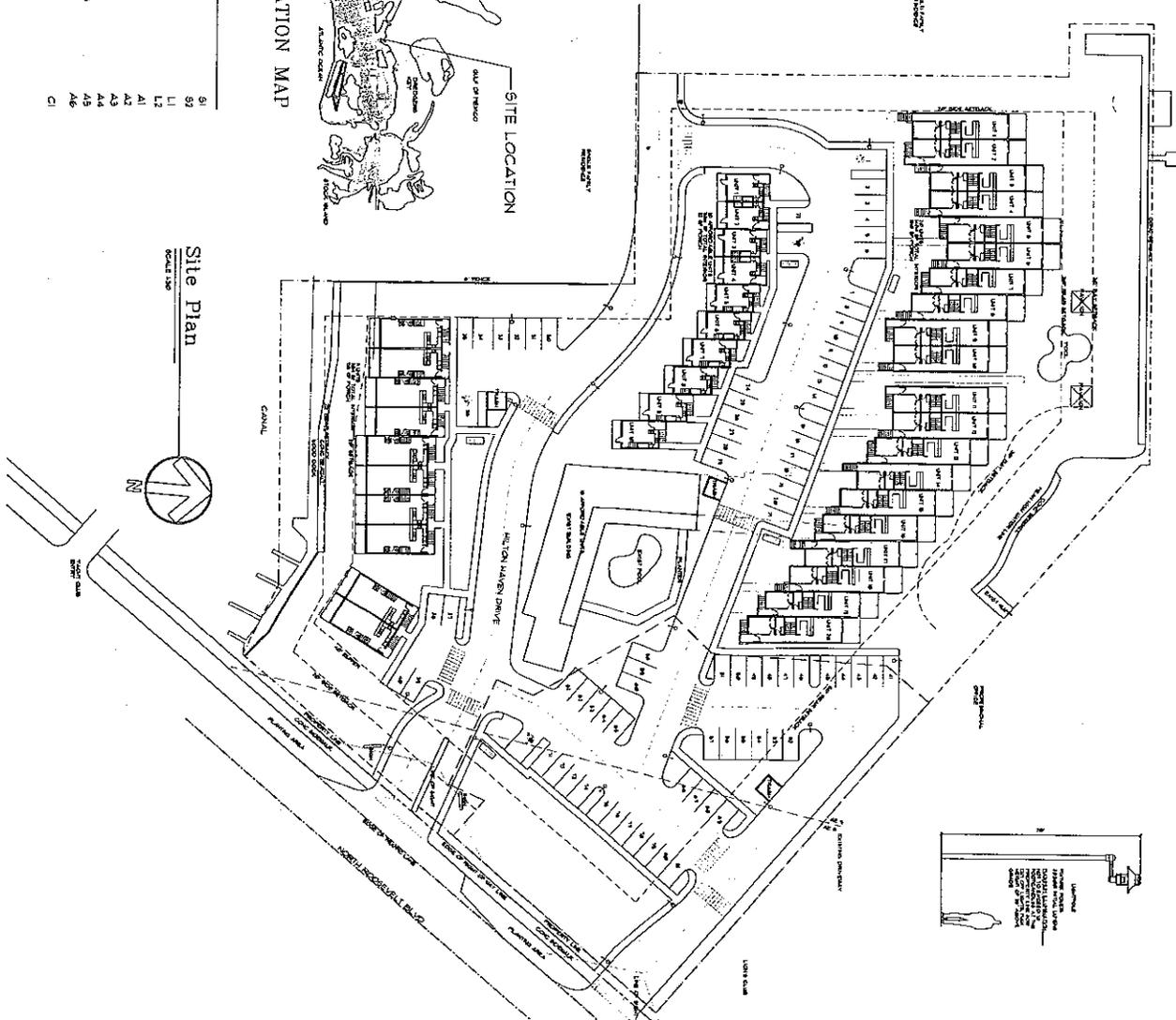
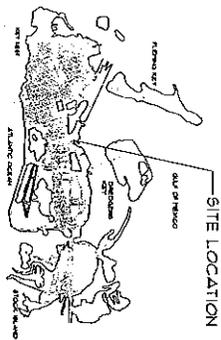
Cheryl Smith, City Clerk

Date

BANANA BAY

INDEX

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SITE ANALYSIS

DATE	05/02/06
PROJECT NO.	2319-2401
CLIENT	THOMAS E. POPE, P.A.
LOCATION	610 WHITE STREET, KEY WEST, FL
SCALE	AS SHOWN
DATE	05/02/06
PROJECT NO.	2319-2401
CLIENT	THOMAS E. POPE, P.A.
LOCATION	610 WHITE STREET, KEY WEST, FL
SCALE	AS SHOWN
DATE	05/02/06

BUILDING AREAS

BAY SIDE UNITS (75 UNITS)	120,000 sq ft
CONCRETE TOWER (1 UNIT)	10,000 sq ft
NEW APARTMENT UNITS (50 UNITS)	4,000 sq ft
MANAGEMENT BUILDING	2,000 sq ft
TOTAL BUILDING AREAS	136,000 sq ft

PARKING

UNITS	125
PARKING SPACES REQUIRED	125
PROVIDED SPACES ON SITE	125
UNITS/SPACE RATIO ON SITE	1.0
TOTAL PARKING PROVIDED	125 SPACES

DRAINAGE CALCULATIONS

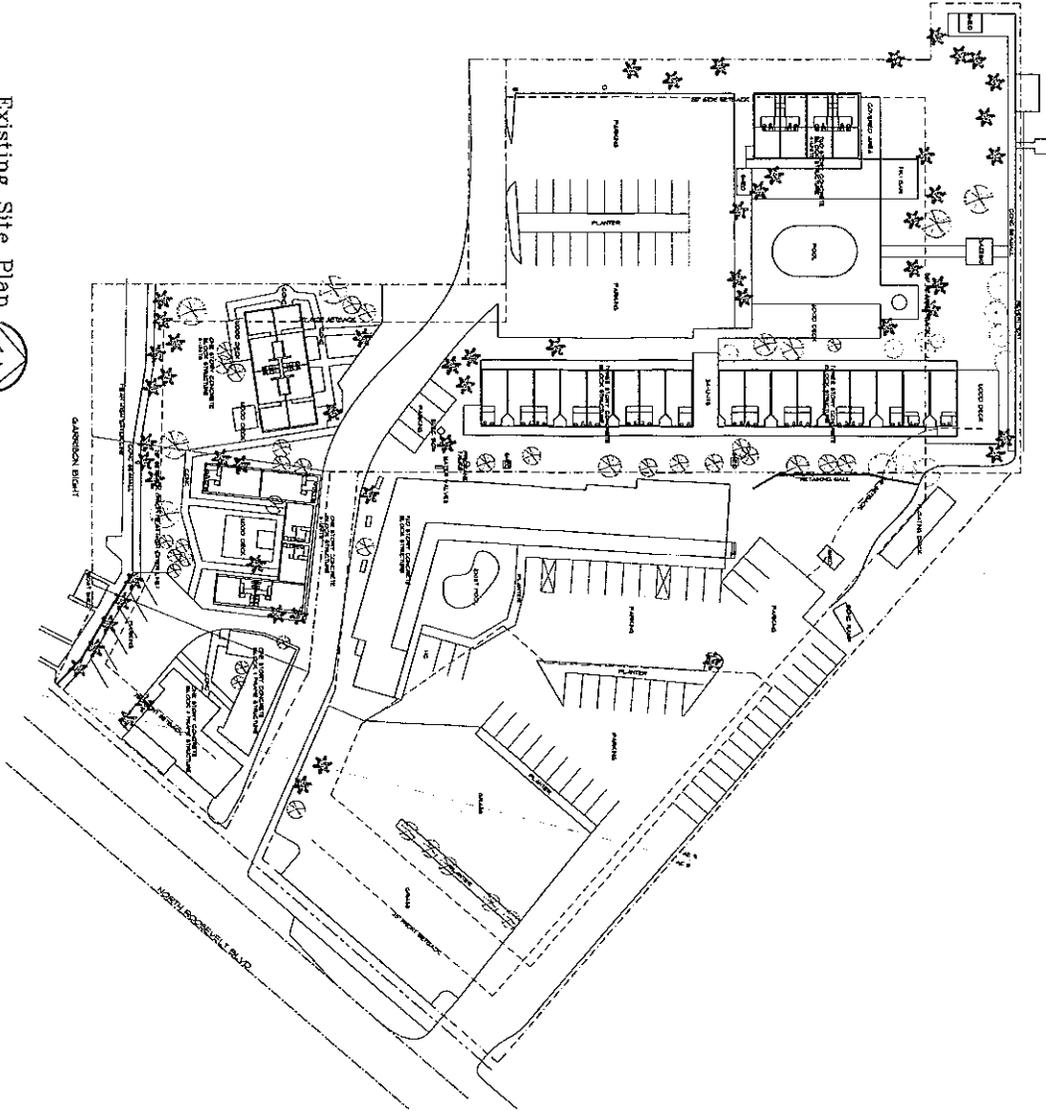
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PROJECT NO.	2319-2401
CLIENT	THOMAS E. POPE, P.A.
LOCATION	610 WHITE STREET, KEY WEST, FL
SCALE	AS SHOWN
DATE	05/02/06



THOMAS E. POPE, P.A. ARCHITECT
 610 White Street, Key West FL (305) 296 3611

Banana Bay
 2319-2401
 N Roosevelt Blvd Key West, FL

Existing Site Plan
Scale: 1/8" = 1'-0"



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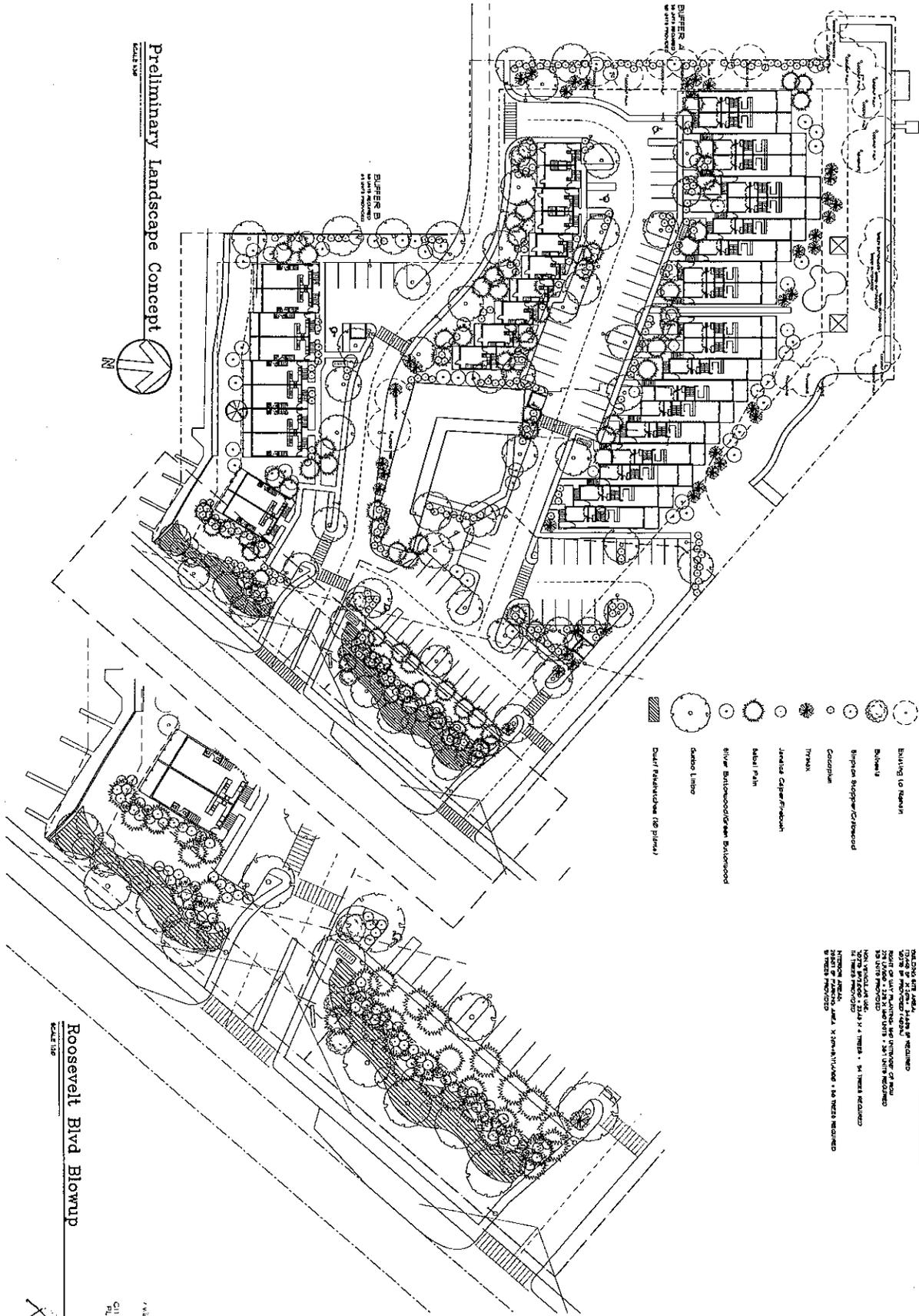
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S2

THOMAS E. POPE, P.A. ARCHITECT
610 White Street, Key West FL (305) 296 3611

Banana Bay
2319-2401
N Roosevelt Blvd Key West, FL





Preliminary Landscape Concept

SCALE: 1/8" = 1'-0"



Roosevelt Blvd Blowup

SCALE: 1/8" = 1'-0"

THOMAS E. POPE, P.A. ARCHITECT
 610 White Street, Key West, FL (305) 296-3611

DATE: 05/17/06
 REVISION: 05/18/06
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PLANTING LEGEND

- Building to remain
- Bamboo
- Simplex Shogun/Catwood
- Coccoloba
- Yucca
- Jambai Casuarina
- Jambai Palm
- Silver Satinwood/Green Satinwood
- Cactus Limp
- Dwarf Flamboyant (20' dia)

LANDSCAPING REQUIREMENTS

LANDSCAPING AREAS:
 1. 10% OF TOTAL AREA TO BE PLANTED WITH TREES.
 2. TREES TO BE PLANTED AT A RATE OF 10 PER 1000 SQ FT.
 3. TREES TO BE PLANTED AT A RATE OF 10 PER 1000 SQ FT.
 4. TREES TO BE PLANTED AT A RATE OF 10 PER 1000 SQ FT.
 5. TREES TO BE PLANTED AT A RATE OF 10 PER 1000 SQ FT.

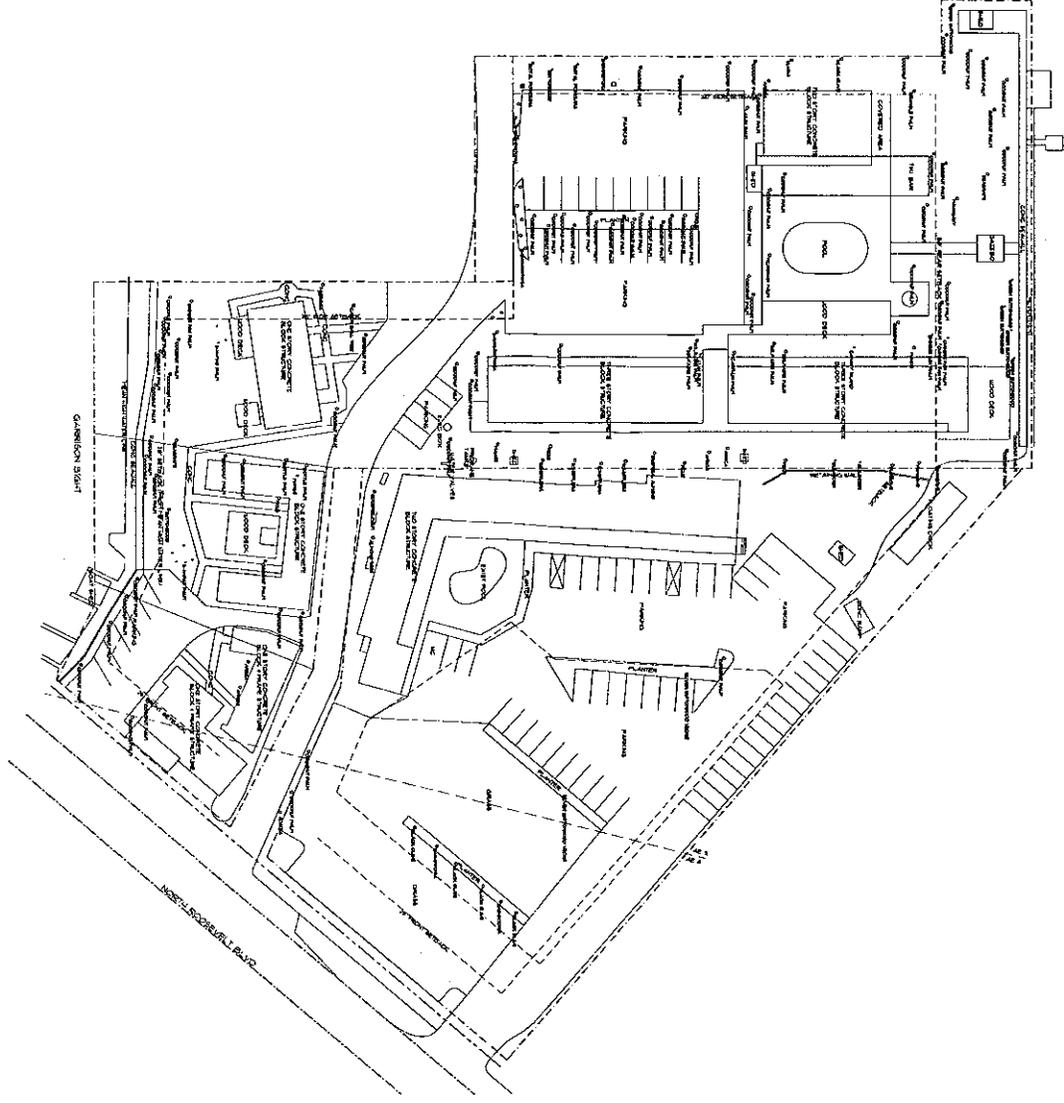
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 610 White Street, Key West, FL (305) 296 3611

Banana Bay
 2319-2401
 N Roosevelt Blvd Key West, FL



Existing Tree Location Plan

SCALE 1/8" = 1'-0"



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DATE: MAY 13 2009
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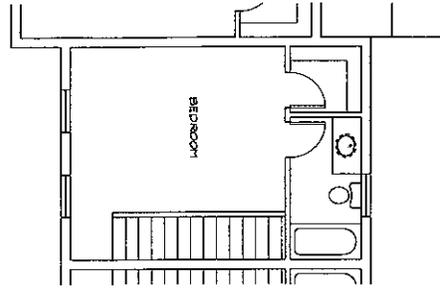
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PROJECT:

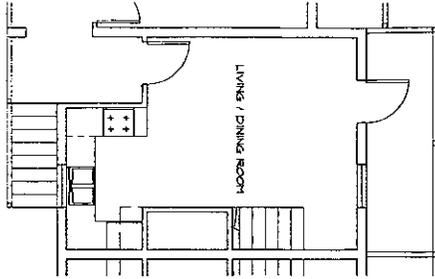
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Banana Bay
2319-2401
N Roosevelt Blvd
Key West, FL



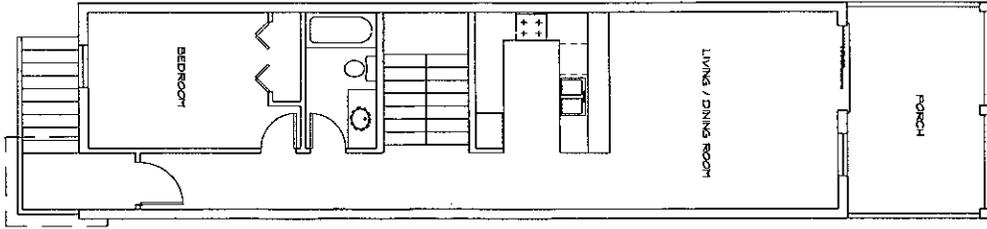


2nd Floor Plan
Affordable Units



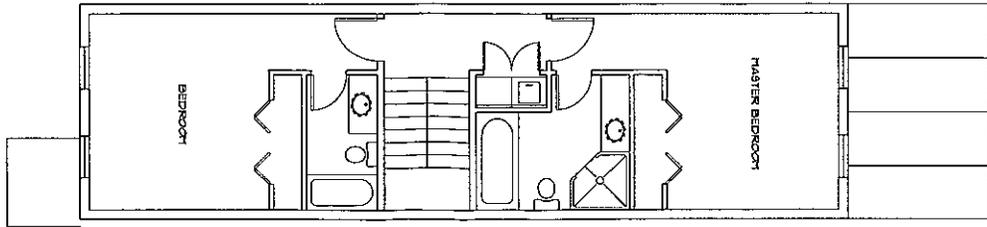
1st Floor Plan
Affordable Units

375 SF 1ST FLOOR
307 SF 2ND FLOOR
586 SF TOTAL INTERIOR

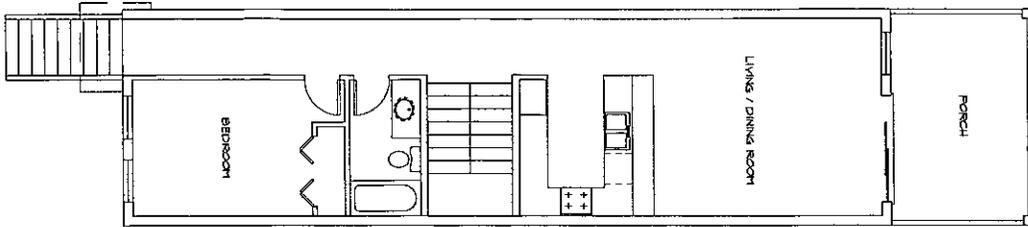


1st Floor Plan
Bay Side Units

144 SF TOTAL INTERIOR
152 SF PORCH
1634 SF TOTAL

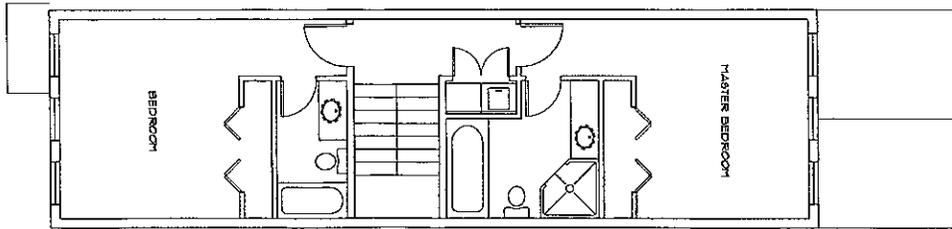


2nd Floor Plan
Bay Side Units



1st Floor Plan
Bay Side Units

144 SF TOTAL INTERIOR
152 SF PORCH
1634 SF TOTAL



2nd Floor Plan
Bay Side Units

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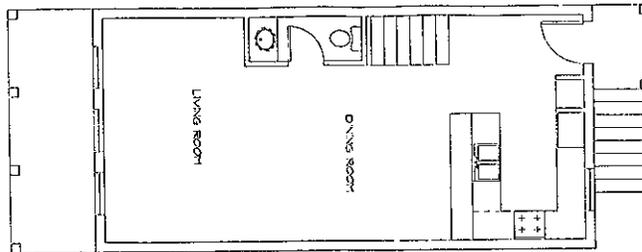
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610 White Street, Key West FL (305) 298 3611

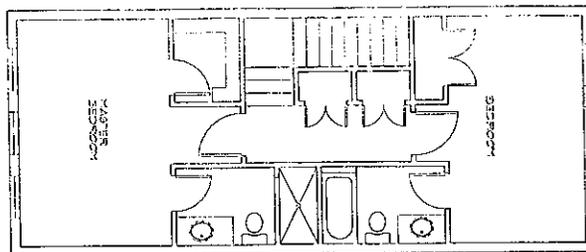
Banana Bay
2319-2401
N Roosevelt Blvd Key West, FL

1st Floor Plan
Canal Side Units

104 ST INTERIOR
105 ST INTERIOR
106 ST INTERIOR



2nd Floor Plan
Canal Side Units



1008

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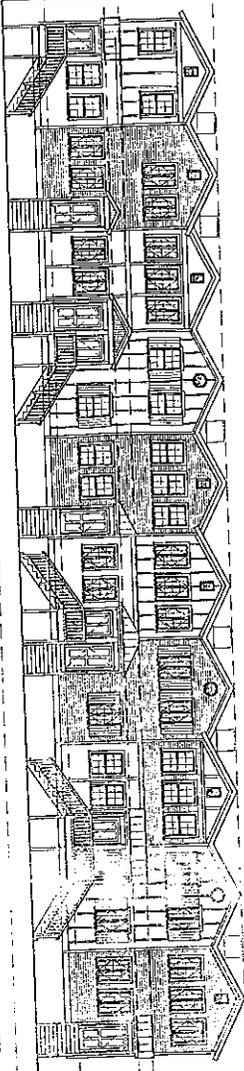
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N Roosevelt Blvd Key West, FL

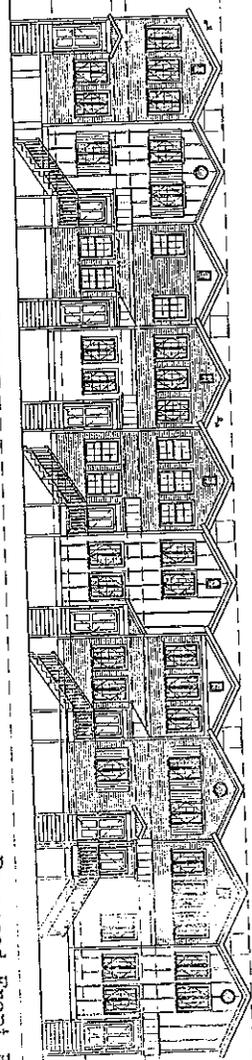




20 Units - Bay Side



Proposed Front Elevation Bay Side



Proposed Front Elevation Bay Side

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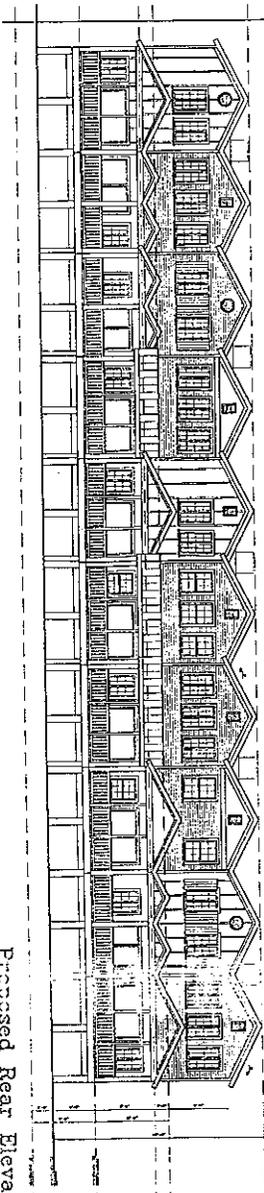
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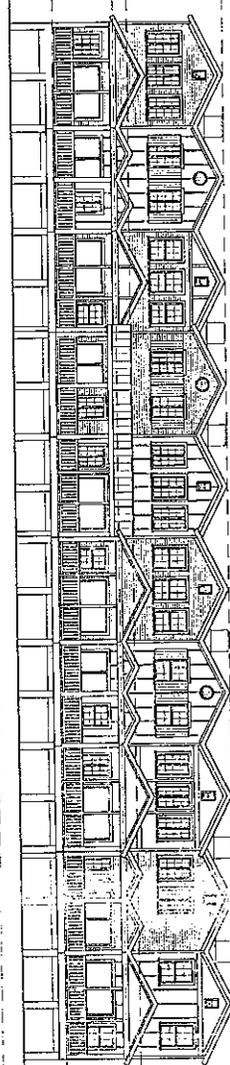
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N Roosevelt Blvd Key West, FL



20 Units - Bay Side



Proposed Rear Elevation Bay Side



Proposed Rear Elevation Bay Side

PAUL C. WILKINS
CITY OF KEY WEST
PLANNING DEPT.
MAY 14, 2006

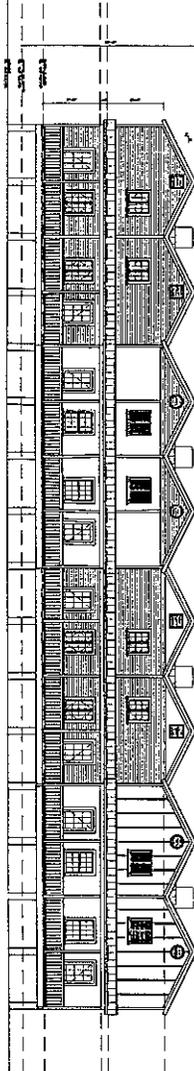
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610 White Street, Key West FL (305) 296 3611

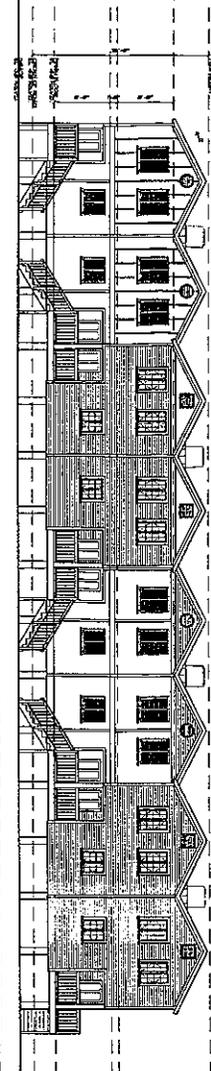
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Banana Bay
2319-2401
N Roosevelt Blvd Key West, FL





Proposed Rear Elevation



Proposed Front Elevation

Affordable Units

1208

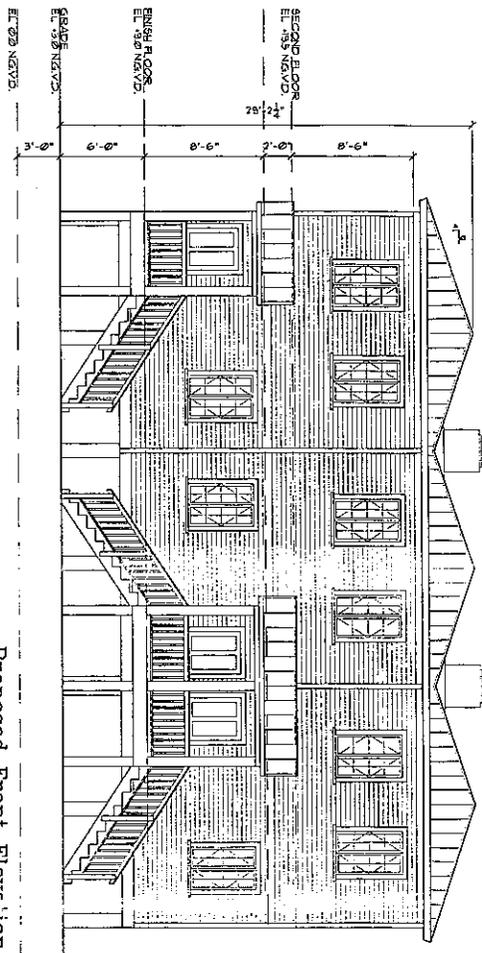
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VERSION: 07/06
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Sheet: **A5**

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Banana Bay
2319-2401
N Roosevelt Blvd Key West, FL





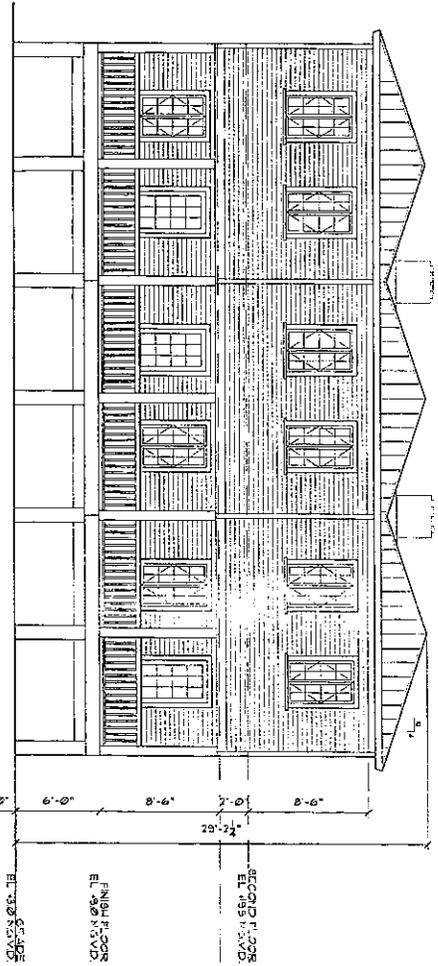
Proposed Front Elevation
Canal Side

DATE: MAY 03 2008
CITY OF KEY WEST
PLANNING DEPT

XMR

CITY OF KEY WEST
SHEET: **A6**

THOMAS E. POPE, P.A. ARCHITECT
610 White Street, Key West FL (305) 296 3611



Proposed Rear Elevation
Canal Side

DATE: MAY 03 2008
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PLANNING DEPT

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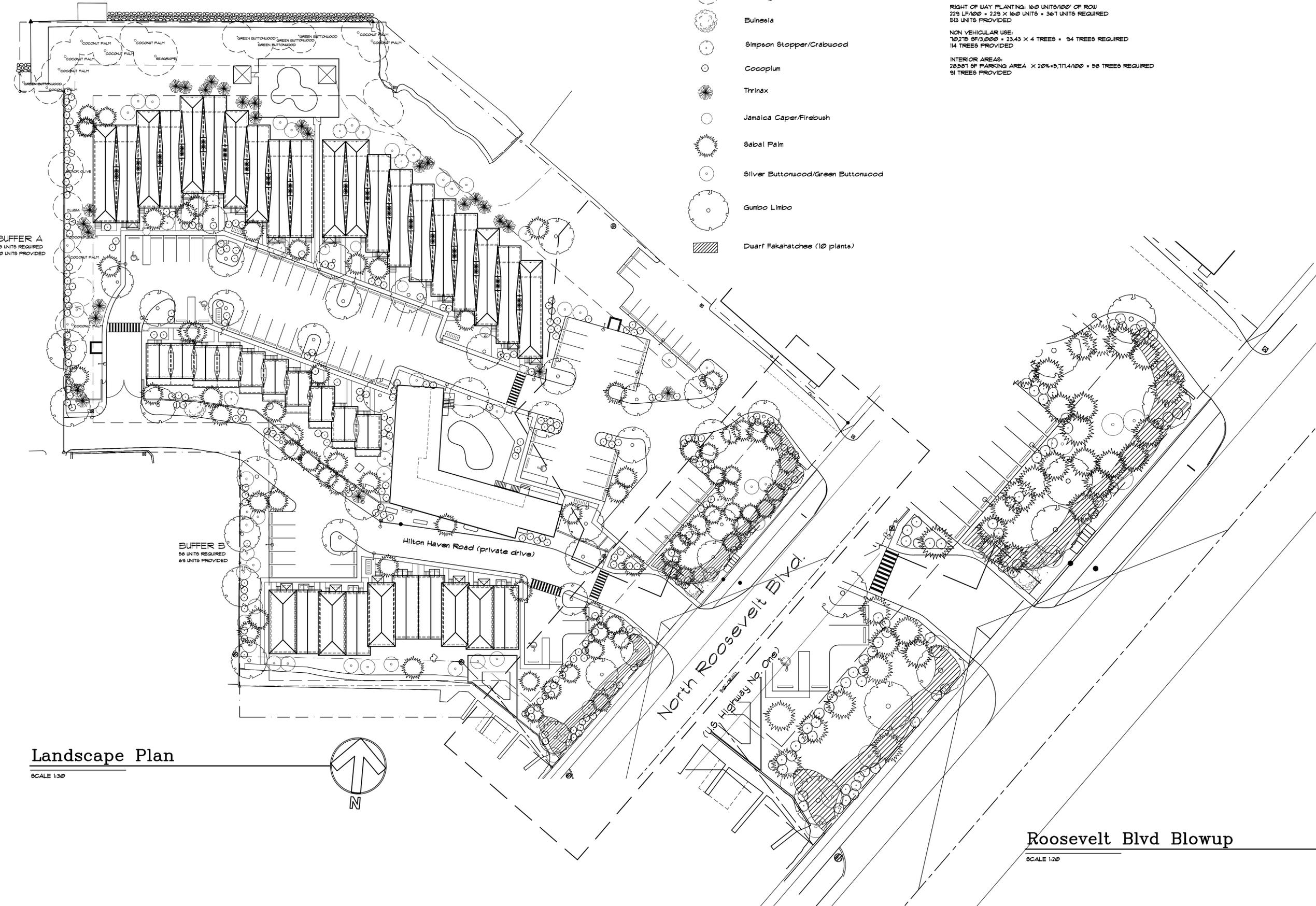
Banana Bay
1319-2401
N Roosevelt Blvd Key West, FL

MAX HEIGHT

Blank box for height specification.

EXHIBIT D

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PLANTING LEGEND

- Existing to Remain
- Bulnesia
- Simpson Stopper/Crabwood
- Cocoplum
- Tririx
- Jamaica Caper/Firebush
- Sabal Palm
- Silver Buttonwood/Green Buttonwood
- Gumbo Limbo
- Dwarf Fakahatchee (10 plants)

LANDSCAPING REQUIREMENTS

BUILDING SITE AREA:
 113,445 SF X 20% = 34,609 SF REQUIRED
 10,215 SF PROVIDED (40.5%)

RIGHT OF WAY PLANTING: 160 UNITS/100' OF ROW
 225 LF/100' = 225 X 160 UNITS = 361 UNITS REQUIRED
 513 UNITS PROVIDED

NON VEHICULAR USE:
 10,215 SF/3,000' = 23.43 X 4 TREES = 94 TREES REQUIRED
 114 TREES PROVIDED

INTERIOR AREAS:
 28,581 SF PARKING AREA X 20% = 5,714/100' = 58 TREES REQUIRED
 91 TREES PROVIDED

BUFFER A
38 UNITS REQUIRED
90 UNITS PROVIDED

BUFFER B
58 UNITS REQUIRED
65 UNITS PROVIDED

Landscape Plan

SCALE 1:20



North Roosevelt Blvd.
Highway No. One

Hilton Haven Road (private drive)

Roosevelt Blvd Blowup

SCALE 1:20

THOMAS E. POPE, P.A. ARCHITECT
 7009 Shrimp Road #4, Key West FL
 (305) 296 3611
 TEPOPEPA@aol.com

Banana Bay
 N Roosevelt Blvd Key West, FL

date: 3/25/08
 revision: 10/20/08

BLDG DEPT
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