PLANNING BOARD
RESOLUTION No. 2012-25

A RESOLUTION OF THE KEY WEST PLANNING BOARD GRANTING MAJOR DEVELOPMENT PLAN APPROVAL PER SECTIONS 108-91 AND 108-96 THROUGH 108-957 FOR RECONSTRUCTION OF THE WATERFRONT MARKET BUILDING TO BE USED AS A RESTAURANT AND MICRO-BREWERY WITH WAREHOUSING AND DISTRIBUTION ABILITY FOR PROPERTY LOCATED AT 201 WILLIAM STREET (RE#00072082-004200) IN THE HRCC-2 ZONING DISTRICT, KEY WEST FLORIDA; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 108-91 of the Code of Ordinances provides that within the Historic District a Major Development Plan is required for the addition of outdoor activity consisting of restaurant seating equal or greater than 2,500 square feet or other similar activities; and

WHEREAS, the applicant proposed a development plan for a restaurant and micro-brewery with new outdoor seating, an allowed use, for city owned property located in the HRCC-2 zoning districts; and

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

_____Chairman

_____Planning Director

WHEREAS, this matter came before the Planning Board at a duly noticed public hearing on March 15, 2012 and April 19, 2012 and was postponed to work out issues with the neighbors; and

WHEREAS, this matter came back before the Planning Board at a special meeting on May 31, 2012; and

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

WHEREAS, the Planning Board finds that the granting of a Major Development application is in harmony with the general purpose and intent of the Land Development Regulations, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare; and

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

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

Section 2. The Major Development Plan for the redevelopment of the Waterfront Market building for the addition of outdoor commercial activity for a new restaurant and brewery with a total of 300 seats (150 on each floor) located at 201 William Street (RE# 00072082-004200) in the HRCC-2 zoning district per Section 108-91A(2)c. of the Land Development Regulations of the Code of Ordinances of the City of Key West, as shown in the attached plans stamped March 2, 2012, is

_____ Chairman

_____ Planning Director

hereby approved with the following conditions of approval:

General Conditions:

1. Hours of operation (excluding City approved special events) for the rooftop Waterfront Brewery Café are limited to 8 a.m. to 10 p.m. and any outdoor performance or entertainment activity whether amplified or otherwise shall end by 10 p.m.
2. The applicant shall obtain a Conditional Approval Permit, pursuant to Section 18-610.
3. The applicant shall recycle materials accepted by the city's waste handling contractor.
4. New lighting shall be designed to "Dark Sky" lighting standards.
5. The upstairs turf area shall not be used for table placement or be considered consumption area.
6. Prior to City Commission review of the project the applicant shall submit a site plan with location and direction of proposed speakers to the Planning Department for review and approval that will be attached to the Commission Review Package.

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

7. The applicant shall renew the Conditional Approval Permit issued by the City on an annual basis. The renewal is due on May 31st of every year.
8. The applicant will install and maintain a programmable distributive sound system to assure compliance with the "unreasonable noise" definition of Section 26-191 of the Code of

_____Chairman

_____ Planning Director

Ordinances, and shall include a computerized sound monitoring system with real time monitoring access provided to the City for the outdoor rooftop café area only.

9. Any outdoor televisions will not be wired through the distributive sound system or any surround sound system.
10. The applicant shall point any speakers or any sound amplification device on the rooftop Waterfront Brewery Café, away from neighboring and/or surrounding transient and residential properties.
11. The restaurant use is consistent with the October 21, 2008 Administrative Interpretation defining Bar/Lounge and Restaurant Uses attached herein.

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

Section 4. This Major Development Plan application approval by the Planning Board does not constitute a finding as to ownership or right to possession of the property, and assumes, without finding, the correctness of the applicant's assertion of legal authority respecting the property.

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

Section 6. This resolution is subject to appeal periods as provided by the City of Key West Code of Ordinances (including the Land Development Regulations). After the City appeal period has

_____ Chairman

_____ Planning Director

expired, this permit or development order will be rendered to the Florida Department of Community Affairs. Pursuant to Chapter 9J-1, F.A.C., this permit or development order is not effective for forty five (45) days after it has been properly rendered to the DCA with all exhibits and applications attached to or incorporated by reference in this approval; that within the forty five (45) day review period the DCA can appeal the permit or development order to the Florida Land and Water Adjudicatory Commission; and that such an appeal stays the effectiveness of the permit until the appeal is resolved by agreement or order.

Read and passed on first reading at a special meeting held this 31st day of May, 2012.

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

6/6/2012

Richard Klitenick, Chairman
Key West Planning Board

Date

Attest:

6.5.12

Donald Leland Craig, AICP
Planning Director

Date

Filed with the Clerk:

Cheryl Smith

6-6-12

Cheryl Smith, City Clerk

Date

_____ Chairman

_____ Planning Director

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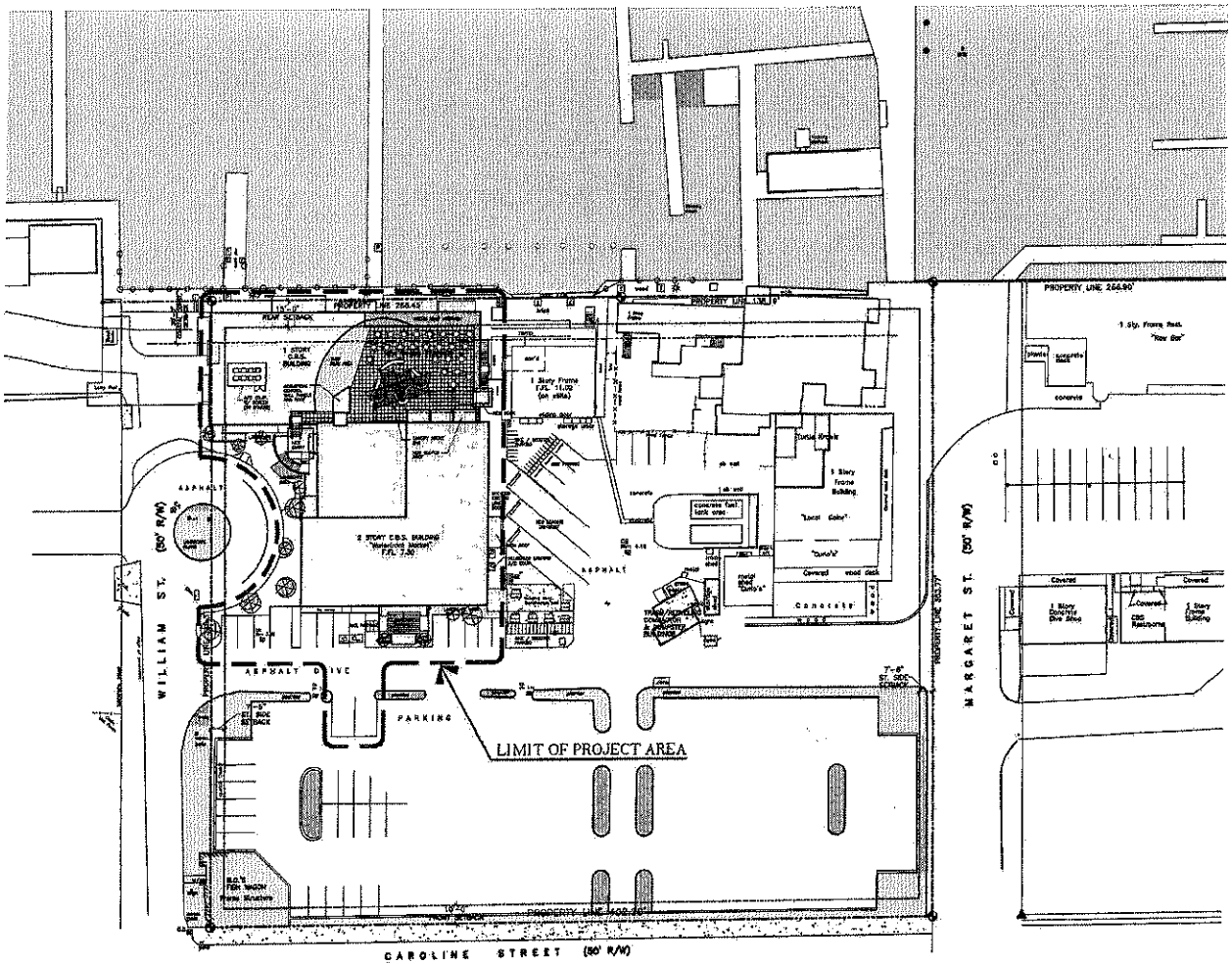

PROPOSED SITE PLAN - ROOF PLAN

SITE PLAN BASED ON INFORMATION OBTAINED FROM SURVEY PREPARED BY FREDERICK H. HILDEBRANDT, SURVEYOR DATED ON 02-27-06

SCALE: 1"= 30'-0"

RECEIVED
March 2, 2012
KW Planning Dpt

SITE DATA

SITE AREA: 140,058 S.F. (3.21 ACRES)

LAND USE: NRCD-2

FLOOD ZONE: VE +10.0' (FLOOD PNL #12087C0518K), EXISTING F.F.=7.30'

SETBACKS:

FRONT SETBACK:
REQUIRED = 10.0'
EXISTING = 10.0'
PROPOSED = 10.0' (NO CHANGE)

SIDE SETBACK:
REQUIRED = 7.5'
EXISTING = 7.5'
PROPOSED = 7.5' (NO CHANGE)

REAR SETBACK:
REQUIRED = 15.0'
EXISTING = 0.0'
PROPOSED = 0.0' (NO CHANGE)

STREET SIDE SETBACK:
REQUIRED = 7.5'
EXISTING = 0.0'
PROPOSED = 0.0' (NO CHANGE)

COASTAL CONST. CONTROL LINE:
REQUIRED = 30.0'
EXISTING = 7.0'
PROPOSED = 7.0' (NO CHANGE)

FAR:
ALLOWABLE: 70,030 S.F. (0.5 MAX.)
EXISTING: 47,620 S.F. (0.34 MAX.)
PROPOSED: 45,935 S.F. (0.32 MAX.)

OPEN SPACE RATIO: 0.50 W/IN 100' MHW.

HEIGHT:
ALLOWABLE: 35.0'
EXISTING: 32.0'
PROPOSED: 34.0' (T.O. BAR CANOPY)

LOT COVERAGE AREA:
REQUIRED: 70,030 S.F. (50% MAX.)
EXISTING: 42,016 S.F. (30%)
PROPOSED: 42,701 S.F. (30.5%)

IMPERVIOUS AREA:
REQUIRED: 84,035 S.F. (60% MAX.)
EXISTING: 131,624 S.F. (94%)
PROPOSED: 130,300 S.F. (93%)

LANDSCAPE AREA:
REQUIRED: 28,012 S.F. (20%)
EXISTING: 9,435 S.F. (6%)
PROPOSED: 9,758 S.F. (7%)
**ADDED 530 S.F. OF ROOF GARDEN NOT INCLUDED ABOVE

BICYCLE SPACES:
EXISTING: 21 SPACES
PROPOSED: 40 SPACES

PARKING:
EXISTING = 15 SPACES, CODE COMPLIANT
PROPOSED = 15 SPACES, CODE COMPLIANT

CONSUMPTION AREA:
EXISTING: 1,260 S.F. (84 SEATS @ 15 S.F./SEAT)
PROPOSED: 4,500 S.F. (300 SEATS @ 15 S.F./SEAT)

SITE DRAINAGE:
EXISTING TO REMAIN UNCHANGED.
(IMPROVED BY INCREASE IN LANDSCAPE, PREVIOUS AREA)

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WATERFRONT BREWERY
201 WILLIAM STREET
KEY WEST BIGHT FL.

SEAL

THESE DRAWINGS MAY NOT BE REPRODUCED WITHOUT WRITTEN AUTHORIZATION BY WILLIAM P. HORN

DATE
11-11-11 HARC
12-01-11 DRC

REVISIONS

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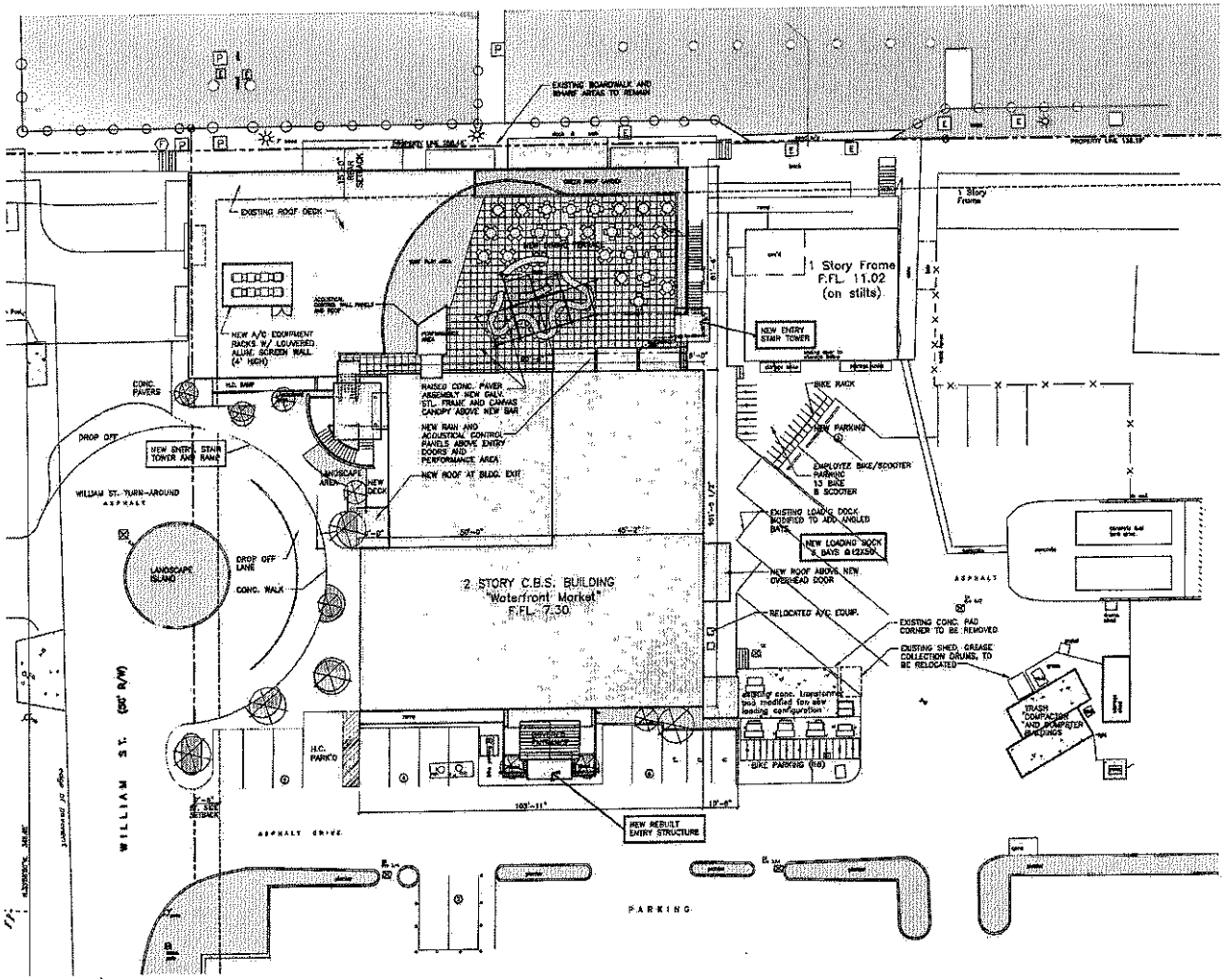
1113

A-1

WATERFRONT BREWERY

201 WILLIAM STREET
KEY WEST BIGHT, FLORIDA



PROPOSED SITE PLAN - ROOF PLAN

SITE PLAN BASED ON INFORMATION OBTAINED FROM SURVEY PREPARED BY FREDERICK H. HILDEBRANDT, SURVEYOR DATED ON 02-27-06

SCALE: 1/16" = 1'-0"

RECEIVED
March 2, 2012
KW Planning Dpt

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WATERFRONT BREWERY
201 WILLIAM STREET
KEY WEST BIGHT, FLORIDA

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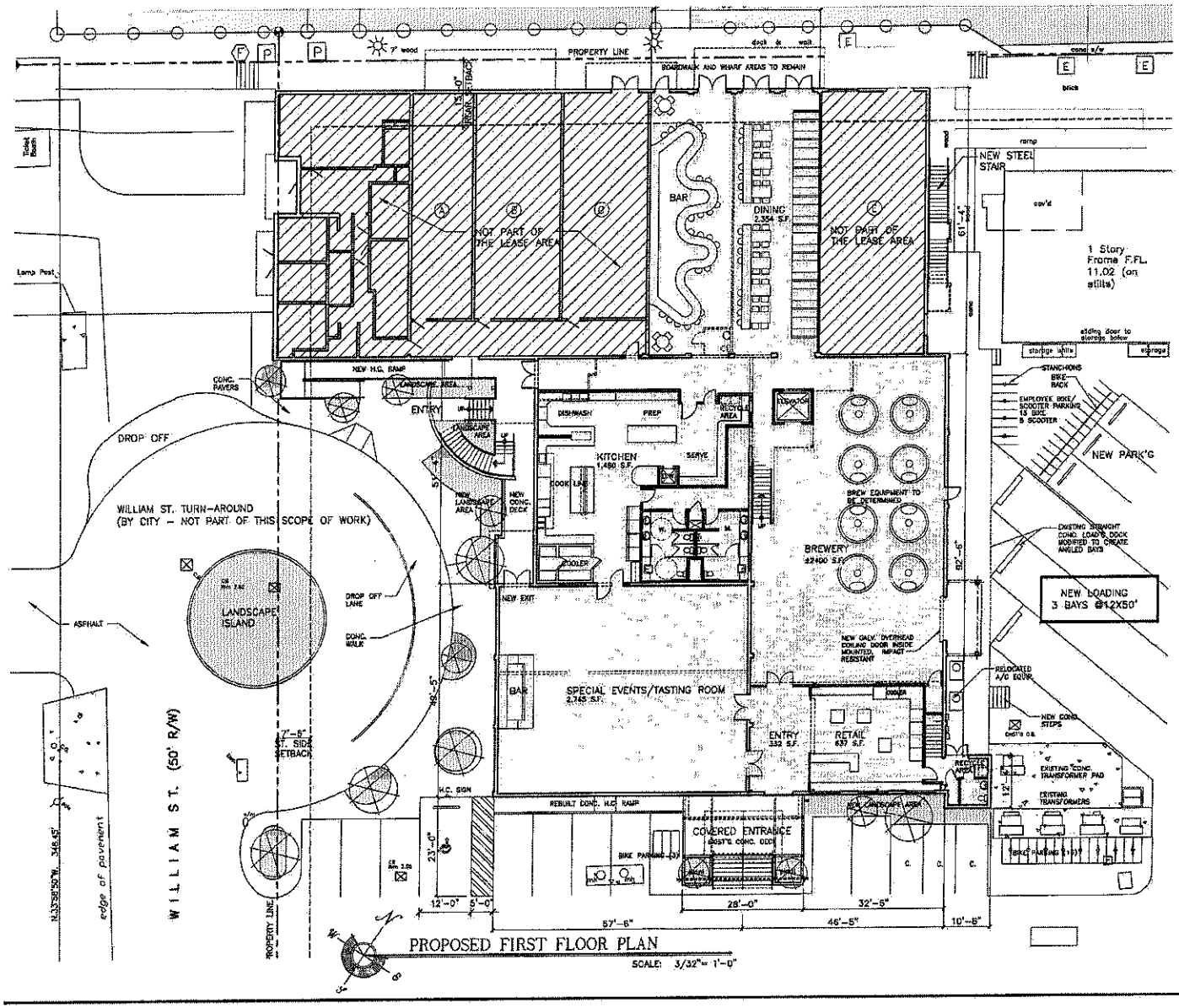

PROPOSED FIRST FLOOR PLAN

SCALE: 3/32"= 1'-0"

RECEIVED
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WALL LEGEND

- EXISTING WD. FRAME WALL CONST.
- NEW WALL
- EXISTING TO BE REMOVED

BUILDING DATA

EXISTING BUILDING DATA (LEASE AREA)			
1ST. FLOOR ENCLOSED	12,832 S.F.	1ST. FLOOR COVERED	1,535 S.F.
2ND. FLOOR ENCLOSED	2,619 S.F.	COVERED/STAIR	148 S.F.
MEZZ. #1	997 S.F.		
MEZZ. #2	1,122 S.F.		
MEZZ. #3	1,122 S.F.		
TOTAL EXISTING ENCLOSED	18,692 S.F.	TOTAL EXISTING COVERED	1,683 S.F.

EXISTING AREA TO BE REMOVED		
1 ST FL.	(–) 192 S.F.	(COOLER BLDG. & OLD LOAD'G AREA)
MEZZ. #1	(–) 997 S.F.	(TOTAL REMOVAL)
MEZZ. #1 – BUILD BACK	+375 S.F.	(NEW STAIR, ELEVATOR AND LANDINGS)
MEZZ. #2	(–) 370 S.F.	(PARTIAL REMOVAL)
MEZZ. #3	(–)1,122 S.F.	(TOTAL REMOVAL)
TOTAL AREA REDUCTION	2,307 S.F.	
(TO BE APPLIED TO ROOFTOP CONSUMPTION AREA, SEE BELOW)		

PROPOSED BUILDING DATA			
1ST. FLOOR ENCLOSED	12,040 S.F.	1ST. FLOOR COVERED	1,687 S.F.
2ND. FLOOR ENCLOSED	2,619 S.F.	2ND. FLOOR COVERED	604 S.F.
MEZZ #1	375 S.F.		
MEZZ #2	751 S.F.		
TOTAL PROPOSED ENCLOSED	15,385 S.F.	TOTAL PROPOSED COVERED	2,291 S.F.

NEW ROOFTOP CONSUMPTION AREA = 2,250 S.F. EQUAL 150 SEATS

AREA REDUCTION FROM ABOVE = 2,307 S.F.

NEW ROOFTOP RAISED DECK AREA:	
CONSUMPTION AREA	= 2,250 S.F.
CIRCULATION	= 1,451 S.F.
GAME AREA (TURF)	= 970 S.F.
TOTAL ROOF TOP LEASE AREA	= 4,671 S.F.
GREEN ROOF GARDEN	= 630 S.F.

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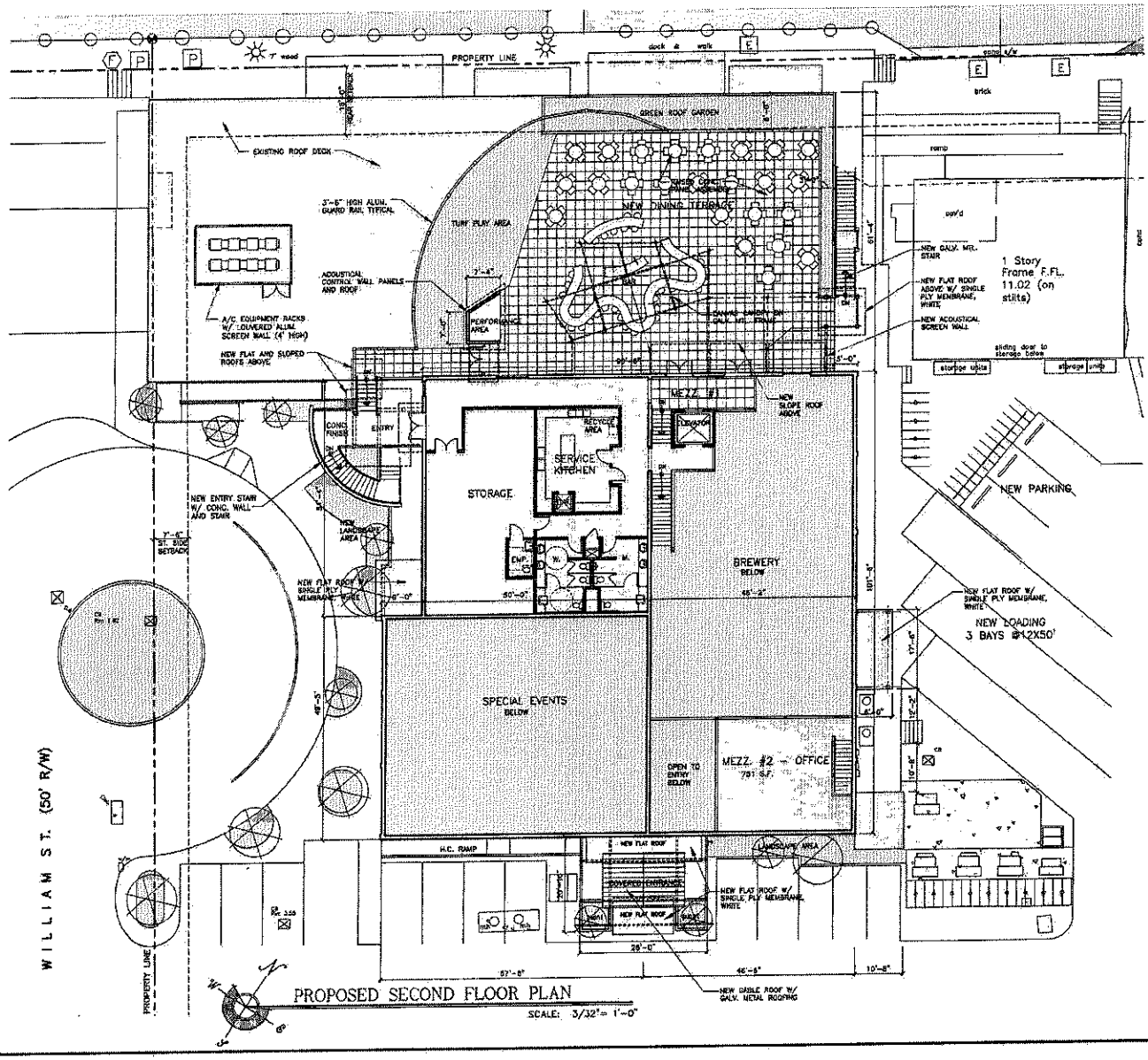
A-3

WATERFRONT BREWERY

201 WILLIAM STREET
KEY WEST RIGHT FLORIDA



PROPOSED SECOND FLOOR PLAN

SCALE: 3/32" = 1'-0"

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WALL LEGEND

- EXISTING WD. FRAME WALL CONST.
- NEW WALL
- EXISTING TO BE REMOVED

BUILDING DATA			
EXISTING BUILDING DATA (LEASE AREA)			
1ST. FLOOR ENCLOSED	12,632 S.F.	1ST. FLOOR COVERED	1,535 S.F.
2ND. FLOOR ENCLOSED	2,619 S.F.	COVERED/STAIR	148 S.F.
MEZZ. #1	997 S.F.		
MEZZ. #2	1,122 S.F.		
MEZZ. #3	1,122 S.F.		
TOTAL EXISTING ENCLOSED	18,682 S.F.	TOTAL EXISTING COVERED	1,683 S.F.
EXISTING AREA TO BE REMOVED			
1 ST FL.	(-) 192 S.F.	(COOLER BLDG. @ OLD LOAD'G AREA)	
MEZZ. #1	(-) 997 S.F.	(TOTAL REMOVAL)	
MEZZ. #1 - BUILD BACK	+375 S.F.	(NEW STAIR, ELEVATOR AND LANDINGS)	
MEZZ. #2	(-) 370 S.F.	(PARTIAL REMOVAL)	
MEZZ. #3	(-) 1,122 S.F.	(TOTAL REMOVAL)	
TOTAL AREA REDUCTION	2,307 S.F.		
(TO BE APPLIED TO ROOFTOP CONSUMPTION AREA SEE BELOW)			
PROPOSED BUILDING DATA			
1ST. FLOOR ENCLOSED	12,640 S.F.	1ST. FLOOR COVERED	1,667 S.F.
2ND. FLOOR ENCLOSED	2,619 S.F.	2ND. FLOOR COVERED	604 S.F.
MEZZ #1	375 S.F.		
MEZZ #3	751 S.F.		
TOTAL PROPOSED ENCLOSED	16,385 S.F.	TOTAL PROPOSED COVERED	2,291 S.F.
NEW ROOFTOP CONSUMPTION AREA = 2,230 S.F. EQUAL 150 SEATS			
AREA REDUCTION FROM ABOVE = 2,307 S.F.			
NEW ROOFTOP RAISED DECK AREA			
CONSUMPTION AREA	= 2,250 S.F.		
CIRCULATION	= 1,451 S.F.		
GAME AREA (TURF)	= 970 S.F.		
TOTAL ROOF TOP LEASE AREA	= 4,671 S.F.		
GREEN ROOF GARDEN	= 630 S.F.		

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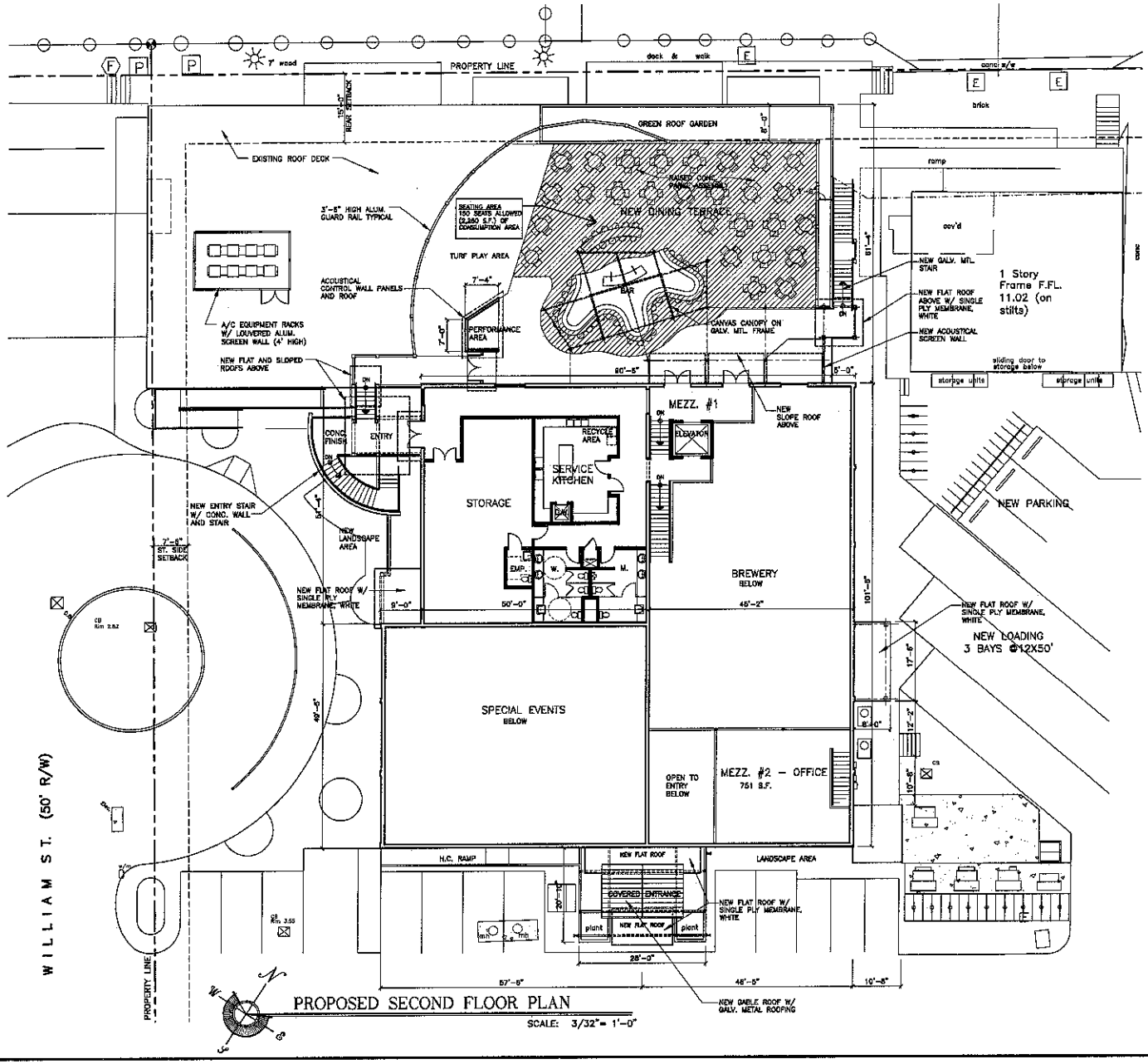
A-4

WATERFRONT BREWERY

201 WILLIAM STREET
KEY WEST BIGHT, FLORIDA



WALL LEGEND

	EXISTING WD. FRAME WALL CONST.
	NEW WALL
	EXISTING TO BE REMOVED

BUILDING DATA

EXISTING BUILDING DATA (LEASE AREA)			
1ST. FLOOR ENCLOSED	12,632 S.F.	1ST. FLOOR COVERED	1,535 S.F.
2ND. FLOOR ENCLOSED	2,619 S.F.	COVERED/STAIR	146 S.F.
MEZZ. #1	997 S.F.		
MEZZ. #2	1,122 S.F.		
MEZZ. #3	1,122 S.F.		
TOTAL EXISTING ENCLOSED 18,692 S.F.		TOTAL EXISTING COVERED	1,633 S.F.

EXISTING AREA TO BE REMOVED		
1 ST FL.	(–) 192 S.F.	(COOLER BLDG. @ OLD LOAD'G AREA)
MEZZ. #1	(–) 997 S.F.	(TOTAL REMOVAL)
MEZZ. #1 – BUILD BACK	+375 S.F.	(NEW STAIR, ELEVATOR AND LANDINGS)
MEZZ. #2	(–) 370 S.F.	(PARTIAL REMOVAL)
MEZZ. #3	(–)1,122 S.F.	(TOTAL REMOVAL)
TOTAL AREA REDUCTION 2,307 S.F. (TO BE APPLIED TO ROOFTOP CONSUMPTION AREA. SEE BELOW)		

PROPOSED BUILDING DATA			
1ST. FLOOR ENCLOSED	12,640 S.F.	1ST. FLOOR COVERED	1,687 S.F.
2ND. FLOOR ENCLOSED	2,619 S.F.	2ND. FLOOR COVERED	604 S.F.
MEZZ #1	375 S.F.		
MEZZ #2	751 S.F.		
TOTAL PROPOSED ENCLOSED 16,385 S.F.		TOTAL PROPOSED COVERED	2,291 S.F.

NEW ROOFTOP CONSUMPTION AREA = 2,250 S.F. EQUAL 150 SEATS	
AREA REDUCTION FROM ABOVE = 2,307 S.F.	
NEW ROOFTOP RAISED DECK AREA	
CONSUMPTION AREA	= 2,250 S.F.
CIRCULATION	= 1,451 S.F.
GAME AREA (TURF)	= 970 S.F.
TOTAL ROOF TOP LEASE AREA	= 4,671 S.F.
GREEN ROOF GARDEN	= 630 S.F.

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DATE
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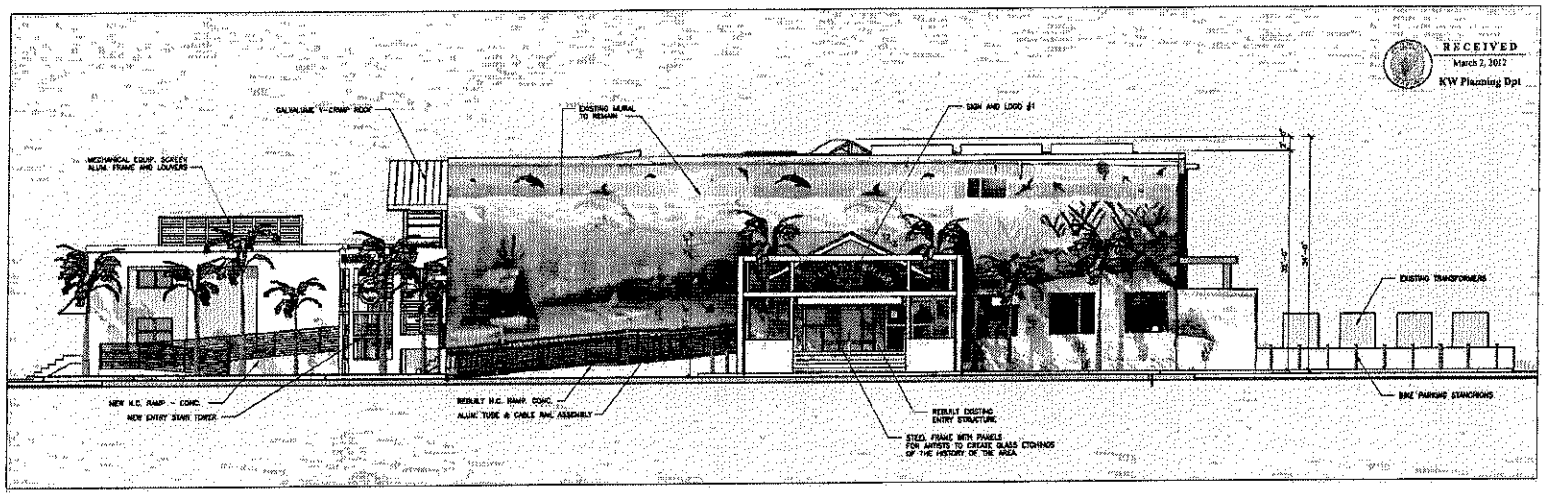
A-4

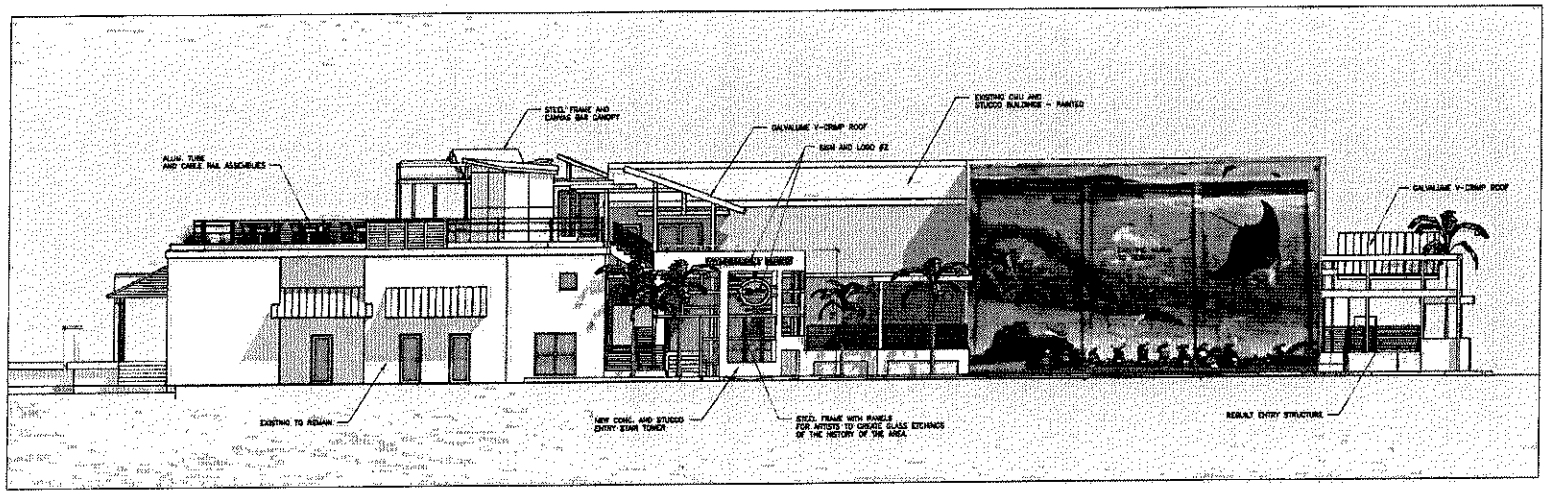
WATERFRONT BREWERY

201 WILLIAM STREET
KEY WEST BIGHT, FLORIDA



1 A-5 ELEVATION - ENTRANCE I

SCALE: 1/8"= 1'-0"



2 A-5 ELEVATION - ENTRANCE II

SCALE: 1/8"= 1'-0"

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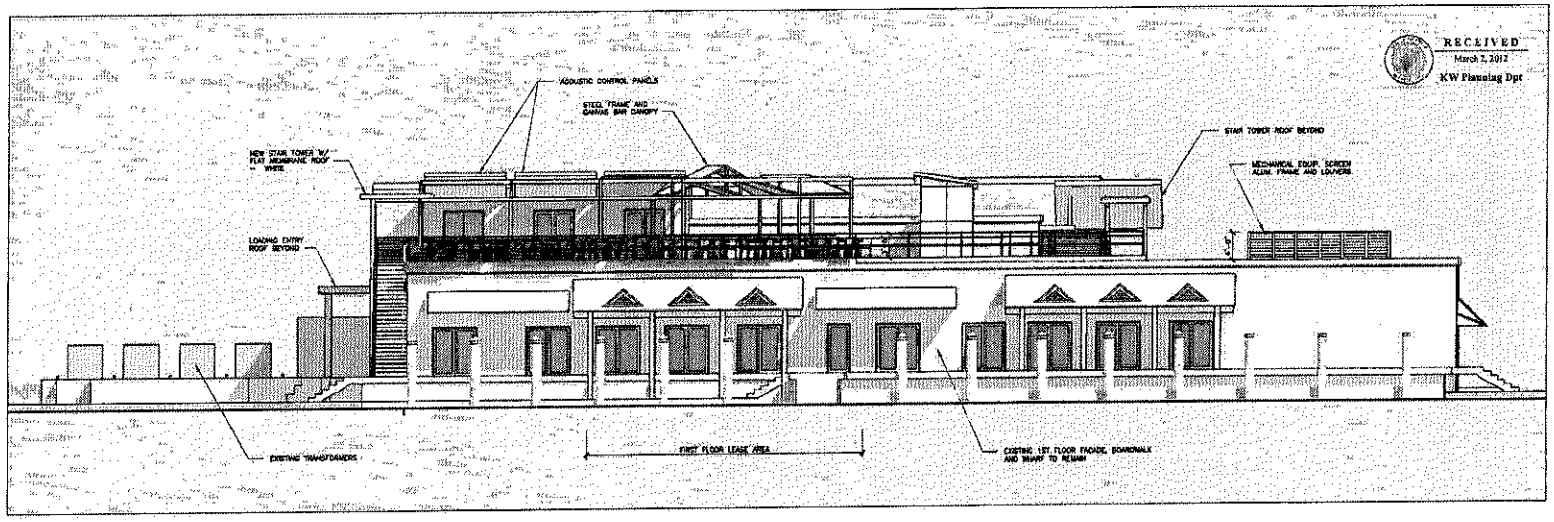
PROJECT NUMBER
1113

A-5

WATERFRONT BREWERY

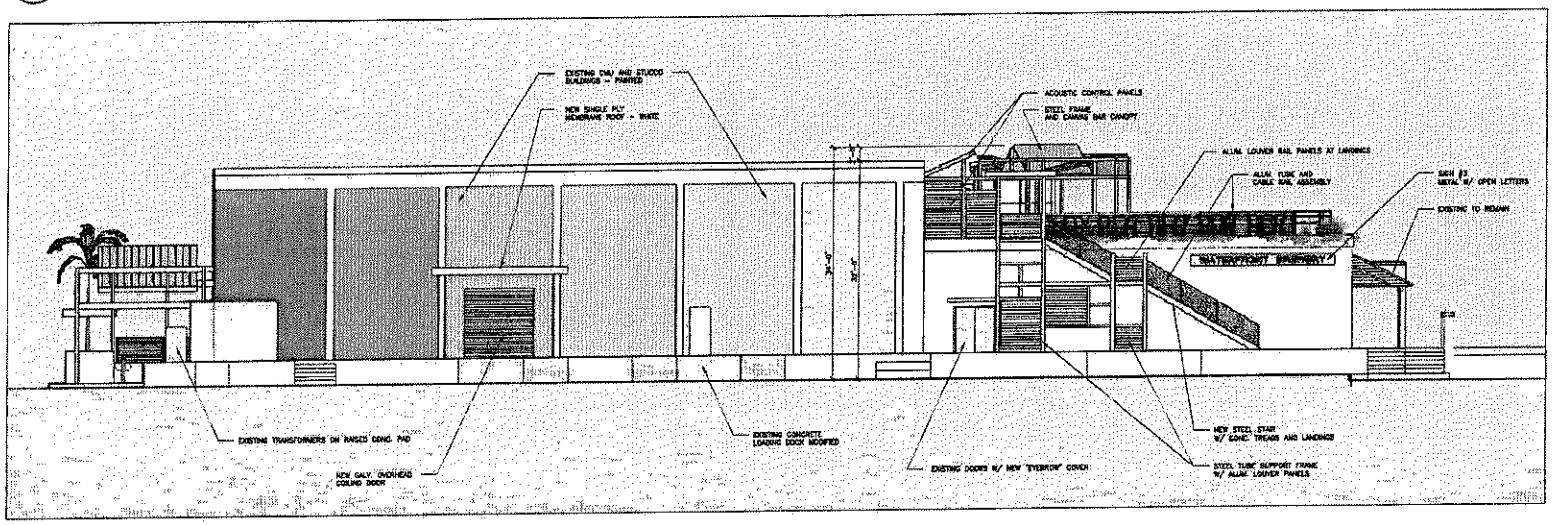
201 WILLIAM STREET
KEY WEST BIGHT, FLORIDA

8(2)



1 A-6 ELEVATION - WATERFRONT

SCALE: 1/8"= 1'-0"



2 A-6 ELEVATION - LOADING DOCK

SCALE: 1/8"= 1'-0"

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DRAWN BY
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FIH

PROJECT NUMBER
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WATERFRONT BREWERY
201 WILLIAM STREET
KEY WEST BIGHT, FLORIDA

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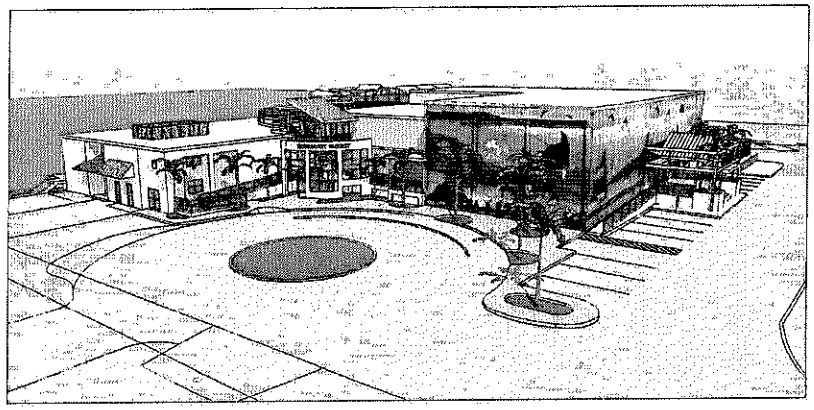
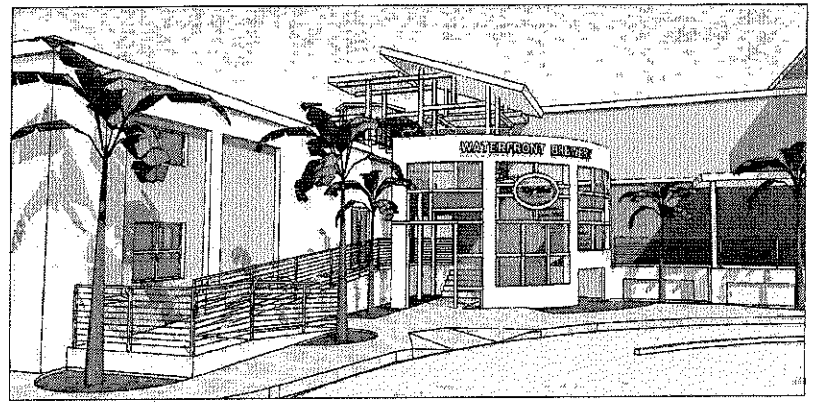
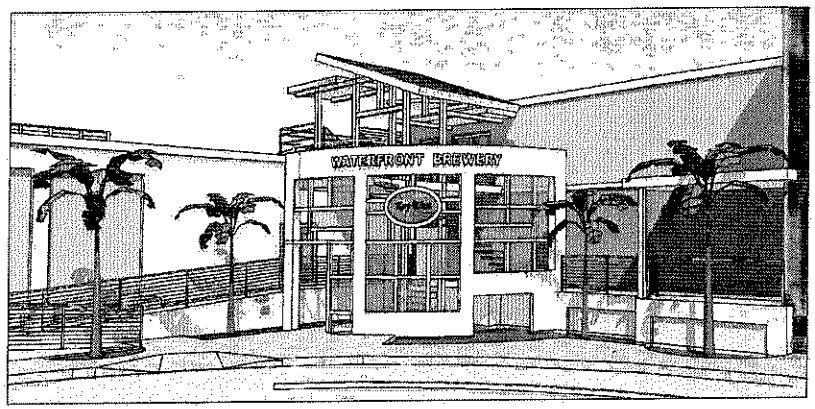
KW Planning Dpt



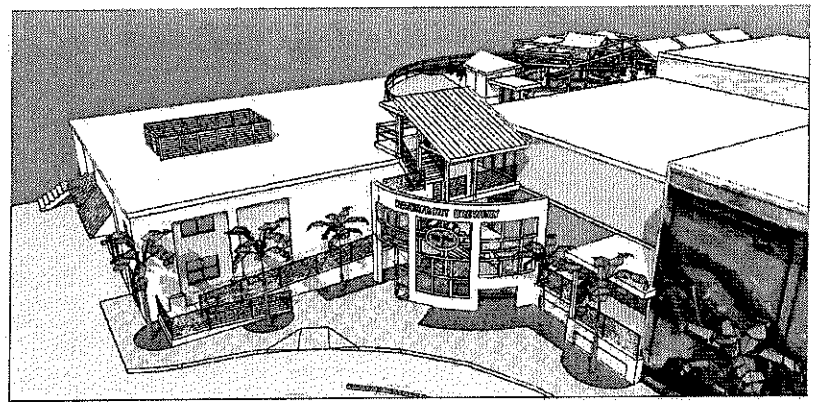
1 / A-7 ENTRANCE II - PERSPECTIVE VIEW



2 / A-7 ENTRANCE II - PERSPECTIVE VIEW



3 / A-7 ENTRANCE II - PERSPECTIVE VIEW



4 / A-7 ENTRANCE II - AERIAL VIEW

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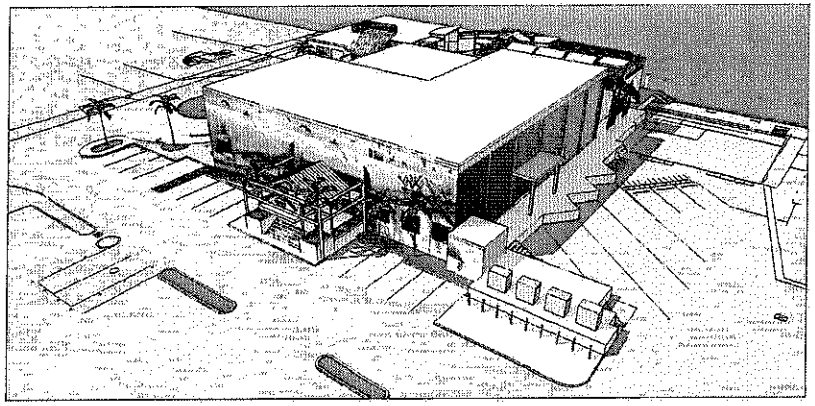

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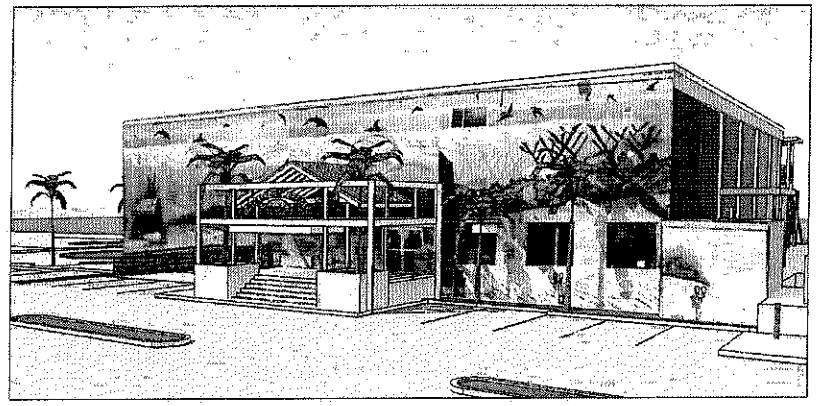

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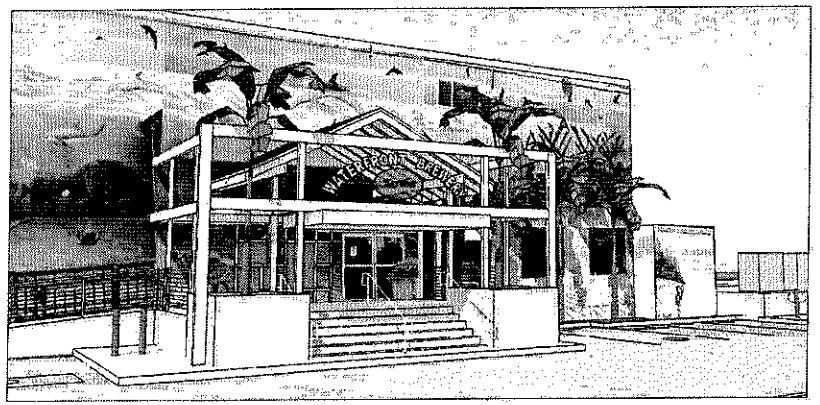

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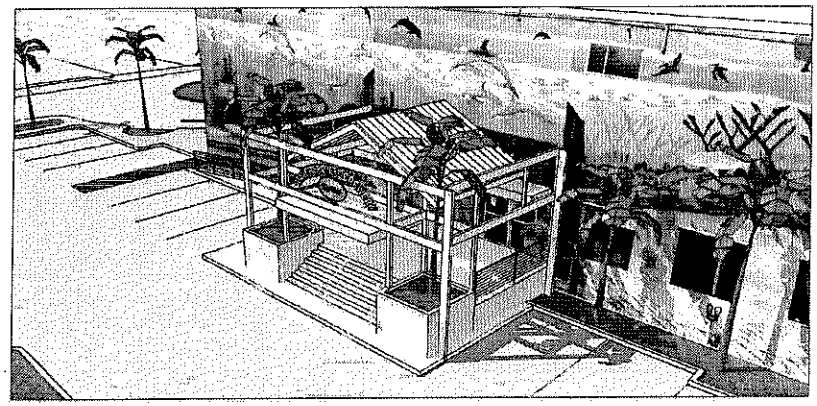

4 A-8 ENTRANCE I - AERIAL VIEW

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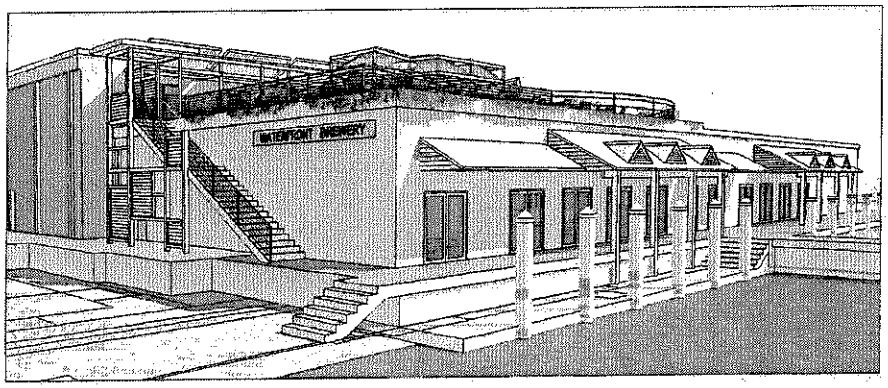
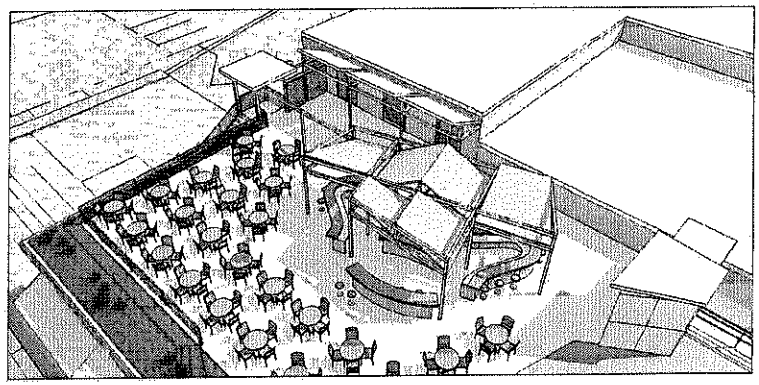
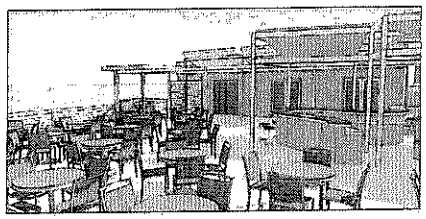


1 / A-9 PERSPECTIVE VIEW



2 / A-9 ROOF DECK - AERIAL VIEW



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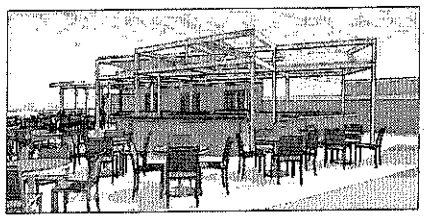

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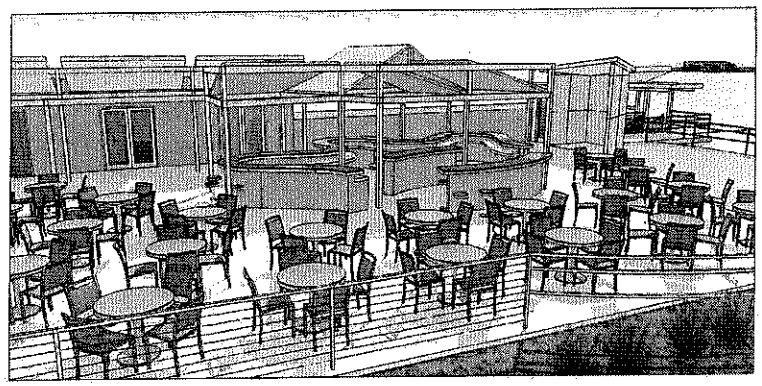

5 / A-9 ROOF DECK - PERSPECTIVE VIEW

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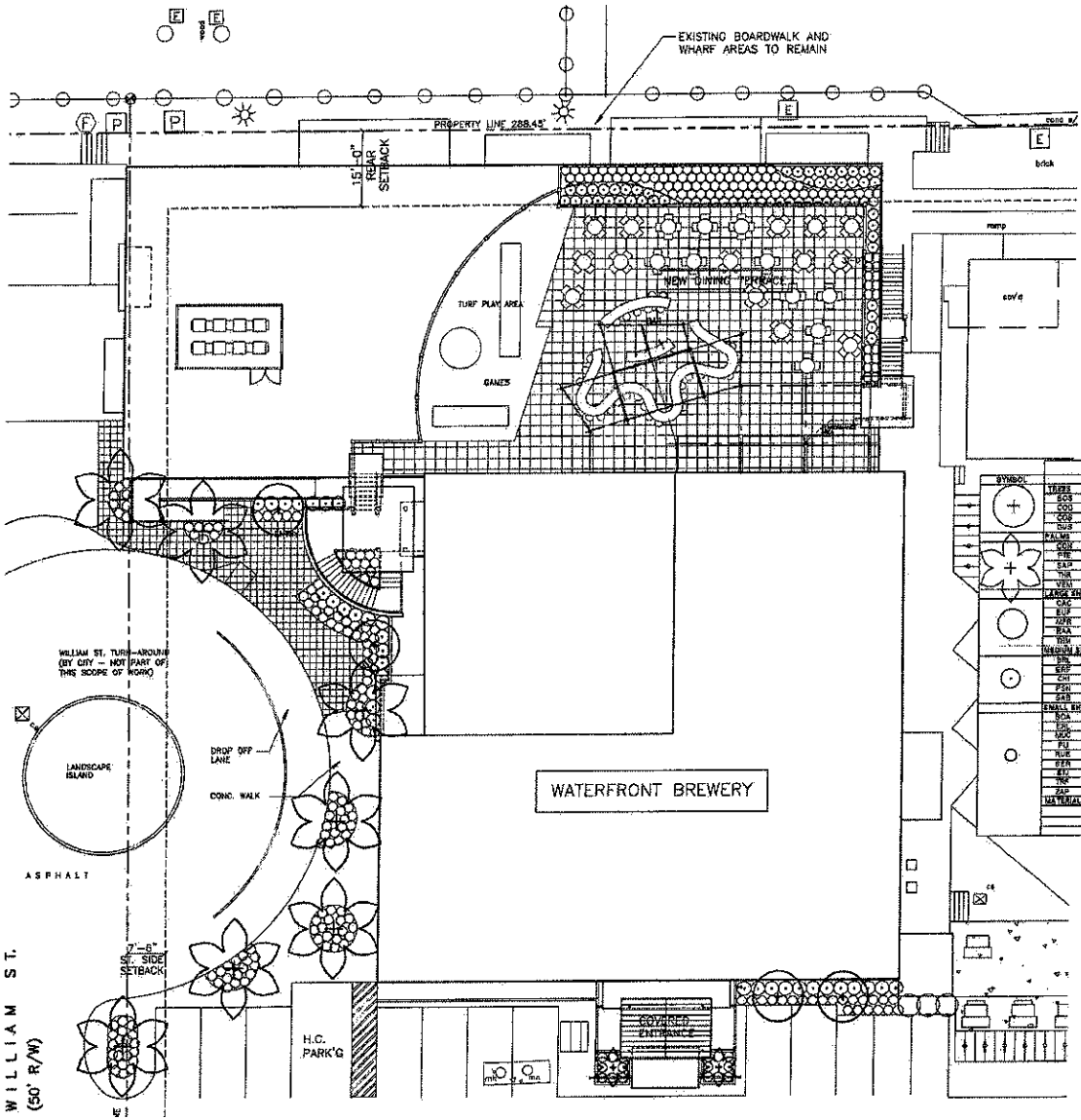

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SYMBOL	QUANTITY	SCIENTIFIC NAME	COMMON NAME	NATIVE	CAL/PER	HEIGHT	CANOPY	CONTAINER	SPACING	CONDITION
TREES										
SOS	4	Bourreria succulenta	Strongbark	Yes	3"-4"	10'-12'	6'-10'	45 Gal	As Shown	Tree Type
COD		Cocoloba diversifolia	Pigeon Plum	Yes	3"-4"	12'-14'	8'-10'	45 Gal	As Shown	6' CT
COG		Coccoloba uvifera	Orange Geiger	Yes	3"-4"	12'-14'	8'-10'	45 Gal	As Shown	6' CT
GUS		Guaiacum sanctum	Lignum vitae	Yes	2"-3"	8'-10'	5'-6'	45 Gal	As Shown	Tree Type
PALMS										
CON	6	Cocos nucifera	Coconut Palm	No	12'-16'	26'-28' OA	22'-25'	B&B	As Shown	12' Grey Wood
PRE		Ptychosperma elegans	Alexander Palm	No	8'-10'	10'-12'	8'-10'	B&B	As Shown	Multi
SAP		Sabal palmetto	Palmetto	Yes	12'-16'	10'-14'	6'-10'	B&B	As Shown	With Boots
THR		Thrinax radiata	Florida Palm	Yes	8'-10'	4'-6'	4'-6'	30 Gal	As Shown	Triple
VEM		Veitchia merrillorum	Manila Palm	No	12'-16'	12'-14'	8'-10'	B&B	As Shown	Single
LARGE SHRUBS										
CAC	3	Caesalpinia granadillo	Jamaican Caper	Yes	NA	6'-8'	3'-5'	30 Gal	7' O.C.	Shrub Type
EUP		Eugenia foetida	Spanish Stopper	Yes	NA	6'-8'	3'-4'	30 Gal	7' O.C.	Shrub Type
NPR		Myrcianthes fragrans	Simpson Stopper	Yes	NA	6'-8'	3'-4'	30 Gal	7' O.C.	Shrub Type
RUA		Randia aculeata	Indigo Berry	Yes	NA	6'-8'	3'-4'	30 Gal	7' O.C.	Shrub Type
RSM		Rhapis excelsa	Lady Dwarf Palm	Yes	5'-6'	4'-6'	2'-3'	30 Gal	As Shown	Multi
MEDIUM SHRUBS										
BRL	6	Bourreria ilicifolia	Iguana Berry	Yes	NA	36"-48"	36"-48"	3 Gal	4' OC	
EBP		Ernodea littoralis	Black Torch	Yes	NA	36"-48"	36"-48"	3 Gal	4' OC	
CHI		Chrysobalanus icaco	Cocoplum	Yes	NA	24"-36"	24"-36"	3 Gal	4' OC	
PSH		Psychotria nervosa	Wild Coffee	Yes	NA	24"-36"	24"-36"	3 Gal	4' OC	
SAB		Savia bahamensis	Maiden Bush	Yes	NA	24"-36"	24"-36"	3 Gal	4' OC	
SMALL SHRUBS/GROUNDCOVER										
BOA	208	Borrichia arborescens	Sea Ox-Eye Daisy	Yes	NA	12"-18"	12"-18"	3 Gal	18" O.C.	
EPI		Ipomoea littoralis	Golden Creeper	Yes	NA	12"-18"	12"-18"	3 Gal	18" O.C.	
MUC		Muhlenbergia capillaris	Muhly Grass	Yes	NA	12"-18"	12"-18"	3 Gal	18" OC	
PU		Psychotria ipecacuanha	Dwf. Wild Coffee	Yes	NA	24"-36"	24"-36"	3 Gal	18" O.C.	
RUR		Ruellia brittoniana	Ruellia	Yes	NA	12"-18"	12"-18"	1 Gal	18" O.C.	
SPR		Serenoa repens	Saw Palmetto	Yes	NA	18"-24"	18"-24"	7 Gal	24" O.C.	
STI		Stachytarpheta jamaicensis	Porterweed	Yes	NA	18"-24"	18"-24"	1 Gal	18" O.C.	
TRP		Tripsacum floridanum	Dwarf Fakahatchee	Yes	NA	18"-24"	18"-24"	3 Gal	24" O.C.	
ZAP		Zamia pumila	Coontie	Yes	NA	18"-24"	18"-24"	7 Gal	24" OC	
MATERIALS										
	1,973	Planting Soil						CY	24" Pervious Area	Enhance Planter 5' Depth
	30	Mulch						CY	6" Pervious Area	

1/23/2012

LANDSCAPE PLAN

SITE PLAN BASED ON INFORMATION OBTAINED FROM SURVEY PREPARED BY FREDERICK H. HILDEBRANDT, SURVEYOR DATED ON 02-27-06

SCALE: 3/32"= 1'-0"

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ELIZABETH NEWLAND
LANDSCAPE ARCHITECTURE, LLC
P.O.BOX 140608
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305-461-8901
LA 0001256

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KEY WEST, FLORIDA

Administrative Interpretation
Bar/Lounge and Restaurant Uses

October 21, 2008

Issue: How does the City distinguish between restaurant and lounge/bar uses and ensure that facilities licensed as either are operating consistently with the definitions in the Land Development Regulations?

Introduction: The City of Key West Land Development Regulations define bar and lounge uses separately from restaurant uses. Further, the Land Development Regulations distinguish between these uses within individual zoning districts. In general, restaurants have less impact than lounges and bars, and the City's code reflects this by allowing restaurants as permitted uses and bars and lounges as conditional uses in the City's more intense commercial districts. New uses in the City of Key West must conform to the zoning district regulations.

Definitions for these uses, per Section 86-9, Definition of terms, Land use classifications, (3) Commercial activities, is as follows:

> b. *Bar* and *lounge* mean a commercial establishment selling and dispensing for the drinking on the premises of liquor, malt, wine or other alcoholic beverages. This shall not include the sale of alcoholic beverages accessory to and within a restaurant use.
>
> l. *Restaurant,* excluding drive-through, means any establishment, which is not a drive-through service establishment, where the principal business is the sale of food, desserts and beverages to the customer in a ready-to-consume state. This includes service within the building as well as takeout or carryout service. For the purpose of this subpart B and impact fee assessments, a takeout or carryout restaurant shall be limited to no more than five chairs or bench seats without tables or counter tops.

The City of Key West Building Department issues separate licenses for restaurants and bars/lounges based on the requested use made by the applicant, so long as the use is allowed within the applicable zoning district (or through an associated approval process, such as a Conditional Use). However, the City has not historically monitored licensed restaurant or bar/lounge uses to ensure that the facility is operating within the definitional parameters established in the Land Development Regulations, and thereby supporting the public purposes underlying the City's regulation of land use. The purpose of this interpretation is to establish guidelines for City staff to use in their determination if a facility is operating, or is proposed to operate, as a restaurant or as a bar.

Determination:
Although many bars and lounges sell food and many restaurants serve alcoholic beverages, the "principal business" of each facility defines the specific use under the Code. In other matters the City has determined that a "principal business" generates 51% or more of the revenue associated with a facility. Because the code clearly differentiates between the sale of alcoholic and other beverages, 51% of restaurant sales cannot include alcohol. Further, in the case of a restaurant, we have determined that sale of food (including dessert) must occur at all times the facility is open for business. In the event of a compliance concern, a given facility can be required to demonstrate that these criteria are being met. Although Florida Department of Revenue Sales Tax

Remittance and related documentation may be the best way to demonstrate compliance, other sources may be acceptable to the City and can be examined on a case by case basis.

In summary, the use of a facility as a restaurant can be demonstrated through the following two criteria:

1. The sale of food, desert and non-alcoholic beverages constitutes 51% or more of business; and,
2. The sale of food must occur during the time in which service is being provided to the public.

The use of a facility as a lounge or bar can be demonstrated through the following:

1. The sale of alcoholic beverages constitutes 51% or more of business.

Authority:

Section 90-301 (b) of the City of Key West Land Development Regulations provides the Planning Director the administrative responsibility to interpret the land development regulations. Section 90-301(a) requires that the Chief Building Official administer the land development regulations. Because the Building Official is also administratively responsible for Code Compliance within the City, this determination has been drafted in conjunction with him and includes his signature as well.

Signed by:

Amy Kimball-Murley, AICP
Planning Director

John Woodson
Building Official

Attested by:

Shawn Smith, Esquire
City Attorney