Memorandum

MIAMI-DADE COUNTY

Date: July 6, 2016

Agenda Item No. 5(N)

To: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

Subject: Class I Permit Application by Timothy Bryan to Trim Mangrove Trees in a Coastal Band Community

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Attached for your consideration is an application by Timothy Bryan for a Class I permit and the acceptance of a restrictive covenant running with the land in favor of Miami-Dade County.

Also attached is the recommendation of the Department of Regulatory and Economic Resources and a proposed resolution that approves the issuance of the Class I permit and the acceptance of the restrictive covenant.

This item is quasi-judicial.

Jack Osterholt
Deputy Mayor

Memorandum

MIAMI-DADE COUNTY

Date: June 22, 2016

To: Carlos A. Gimenez
Mayor

From: Jack Osterholt, Deputy Mayor/Director
Department of Regulatory and Economic Resources

Subject: Class I Permit Application by Timothy Bryan to Trim Mangrove Trees in a Coastal Band Community for the Creation of a Viewing Corridor and Construction of a Viewing Platform, and to Request the Acceptance of a Restrictive Covenant Running with the Land in Favor of Miami-Dade County at 820 Mashta Place in the Village of Key Biscayne, Florida

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Recommendation

I have reviewed the attached application for a Class I permit and the attached restrictive covenant running with the land in favor of Miami-Dade County by Timothy Bryan. Based upon the applicable evaluation factors set forth in Section 24-48.3 of the Code of Miami-Dade County (Code), I recommend that the Board of County Commissioners (Board) approve the issuance of a Class I permit and authorize the acceptance of the restrictive covenant for the reasons set forth below.

Scope

The project site is located at 820 Mashta Place, Key Biscayne, Florida in Commission District 7, which is represented by Commissioner Xavier L. Suarez.

Fiscal Impact/Funding Source

This resolution is a regulatory approval and does not have a fiscal impact, as contemplated by Resolution No. R-530-10.

Track Record/Monitor

The Coastal and Wetlands Resources Section Manager, Pamela Sweeney, in the Department of Regulatory and Economic Resources, Division of Environmental Resources Management, will be responsible for monitoring the proposed permit.

Background

This Class I permit application requests authorization to trim mangrove trees that are part of a Coastal Band Community as defined in Section 24-5 of the Code. The proposed work will maintain clearance along the uplands adjacent to the landward side of the mangroves, establish a view corridor, and establish an access corridor through the mangroves for the construction of an elevated walkway to a viewing platform over Biscayne Bay. The proposed project is required to be reviewed and approved by the Board at a public hearing because the scope of work is specifically referenced in Section 24-48.2 of the Code as work that shall be processed as a standard form application, including a public hearing.

The proposed work involves the trimming of mangroves that are located along the shoreline of the subject property, adjacent to Biscayne Bay. The proposed trimming will create a view corridor and will also provide for the construction of an elevated walkway through mangroves out to a viewing platform over Biscayne Bay. In addition, the applicant is requesting to conduct minor trimming of lateral branches that overhang the uplands. The proposed trimming configuration has been designed to avoid significant impacts to any individual tree or to the wetland area as a whole. The Class I permit will authorize future maintenance of the permitted configuration, and will include conditions that prohibit top-pruning or the removal of greater than 25 percent of the canopy of any

individual tree. The proposed project is consistent with the Code requirement to avoid and minimize resource impacts, and is not reasonably expected to result in significant adverse environmental impacts. Therefore, the proposed project is recommended for approval.

To provide for the future protection of the mangroves, a restrictive covenant running with the land in favor of Miami-Dade County is included in this application. The restrictive covenant limits the mangrove trimming at the property to the approved configuration, designates a portion of the mangroves as a preservation area, and requires that they be managed such that they are not disturbed or removed, and are maintained free of invasive and exotic vegetation. Persons responsible for violations of the terms of the restrictive covenant are subject to enforcement actions.

Additionally, the viewing platform will be located over submerged lands owned by the State of Florida. The applicant has obtained an Environmental Resource Permit from the Florida Department of Environmental Protection that includes authorization for the use of sovereign submerged lands.

Section 24-48.3 of the Code requires mitigation for permittable projects that otherwise result in environmental impacts. The project will result in the removal of mangrove canopy and impacts to benthic resources associated with the proposed viewing platform. Mitigation for impacts to resources will be satisfied through a contribution to the Biscayne Bay Environmental Enhancement Trust Fund in the amount of $24,815.00 to be used for the creation, restoration, or enhancement of coastal wetlands and seagrass habitat adjacent to and within Biscayne Bay or its tidal tributaries.

The proposed project has been designed in accordance with all relevant Miami-Dade County coastal construction criteria and is consistent with all Miami-Dade County coastal protection provisions. The attached Project Report sets forth the reasons the project is recommended for approval pursuant to the applicable evaluation factors set forth in Section 24-48.3 of the Code.

Attachments

Attachment A: Class I Permit Application
Attachment B: Owner/Agent Letter, Engineer Letter and Project Sketches
Attachment C: Names and Addresses of Owners of All Riparian or Wetland Property within Three Hundred (300) Feet of the Proposed Work
Attachment D: Zoning Memorandum
Attachment E: Restrictive Covenant Running with the Land in Favor of Miami-Dade County
Attachment F: DERM Project Report

Attachment A

Class I Permit Application

MIAMI-DADE COUNTY

Class I Permit Application

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MAR 07 2016
DERM Coastal Resources Section
Natural Resources Regulation & Restoration
Division (NRRRD)

FOR DEPARTMENTAL USE ONLY

Date Received:

Application Number: CLI-2015-0330

Application Fee: $1,220.00

Application must be filled out in its entirety. Please indicate N/A for non-applicable fields.

1. Applicant Information:

Name: Timothy Bryan

Address: 820 Mashta Place

Key Biscayne, Florida Zip Code: 33149

Phone #: 646-641-5931 Fax#:

Email: tbryan@galaxe.com

* This should be the applicant's information for contact purposes.

2. Applicant's Authorized Permit Agent:

Agent is allowed to process the application, furnish supplemental information relating to the application and bind the applicant to all requirements of the application.

Name: David Ettman, Biscayne Environmental, Inc.

Address: 999 N.E. 2nd Avenue, Suite 313

Miami Shores, Florida Zip Code: 33138

Phone #: 305-759-0077 Fax #:

Email: biscayneinc@bellsouth.net

3. Location where proposed activity exists or will occur (latitude and longitude are only necessary for properties without address or folio #):

Folio #(s): 24-5206-003-0030 Latitude: 25.6871 Longitude: 80.17688

Street Address: 820 Mashta Place Section: 06 Township: 55 Range: 42

In City or Town: Key Biscayne Near City or Town:

Name of waterway at location of the activity: Biscayne Bay

4. Describe the proposed activity (check all that apply):

- ☐ Seawall
  - ☐ New/Replacement Seawall
  - ☐ Seawall Cap
  - ☐ Batter Piles
  - ☐ King Piles
  - ☐ Footer/Toe Wall
  - ☐ Riprap
- ☐ Dock(s)
- ☐ Pier(s)
- X Viewing Platform
- ☐ Boatlift
- ☐ Mooring Piles
- ☐ Fender Piles
- ☐ Davits
- ☐ Dredging
  - ☐ Maintenance
  - ☐ New
- ☐ Filling
- X Mangrove Trimming
- ☐ Mangrove Removal

☐ Other:

Estimated project cost = $40,500.00

Are you seeking an after-the-fact approval (ATF)? ☐ Yes X No If "Yes", describe the ATF work:

5. Proposed Use (check all that apply):

- X Single Family
- ☐ Multi-Family
- ☐ Private
- ☐ Public
- ☐ Commercial
- ☐ Industrial
- ☐ Utility

6. If the proposed work relates to the mooring of vessels provide the following information (please also indicate if the applicant does not have a vessel):

Proposed Vessel Type (s): None

Vessel Make/Model (If known):

Draft (s)(range in inches.): Length (s)(range in feet.):

Total Number of Slips:

7. List all permits or certifications that have been applied for or obtained for the above referenced work:

Issuing Agency	Type of Approval	Identification Number	Application Date	Approval Date

8. Contractor Information (If known):

Name: To be determined. License # (County/State): _____

Address: _____ Zip Code: _____

Phone #: _____ Fax # _____ E-mail: _____

9. IMPORTANT NOTICE TO APPLICANTS: The written consent of the property owner is required for all applications to be considered complete. Your application WILL NOT BE PROCESSED unless the Applicant **and** Owner Consent portion of the application is completed below. You have the obligation to apprise the Department of any changes to information provided in this application.

Application is hereby made for a Miami-Dade County Class I permit to authorize the activities described herein. I agree to or affirm the following:

- I possess the authority to authorize the proposed activities at the subject property, and
- I am familiar with the information, data and plans contained in this application, and
- To the best of my knowledge and belief, the information, data and plans submitted are true, complete and accurate, and
- I will provide any additional information, evidence or data necessary to provide reasonable assurance that the proposed project will comply with the applicable State and County water quality standards both during construction and after the project is completed, and
- I am authorizing the permit agent listed in Section 2 of this application to process the application, furnish supplemental information relating to this application and bind the applicant to all requirements of this application, and
- I agree to provide access and allow entry to the project site to inspectors and authorized representatives of Miami-Dade County for the purpose of making the preliminary analyses of the site and to monitor permitted activities and adherence to all permit conditions.

A. IF APPLICANT IS AN INDIVIDUAL

_____ Timothy Bryan _____ 3/7/16

Signature of Applicant | Print Applicant's Name | Date

B. IF APPLICANT IS OTHER THAN AN INDIVIDUAL OR NATURAL PERSON
(Examples: Corporation, Partnership, Trust, LLC, LLP, etc.)

_____ _____ _____

Print Name of Applicant (Enter the complete name as registered) | Type (Corp, LLC, LLP, etc.) | State of Registration/Incorporation

Under the penalty of perjury, I certify that I have the authority to sign this application on behalf of the Applicant, to bind the Applicant, and if so required to authorize the issuance of a bond on behalf of the Applicant. (If asked, you must provide proof of such authority to the Department). ***Please Note: If additional signatures are required, pursuant to your governing documents, operating agreements, or other applicable agreements or laws, you must attach additional signature pages. ***

_____ _____ _____ _____

Signature of Authorized Representative | Print Authorized Representative's Name | Title | Date

C. IF APPLICANT IS A JOINT VENTURE Each party must sign below(If more than two members, list on attached page)

_____ _____ _____

Print Name of Applicant (Enter the complete name as registered) | Type (Corp, LLC, LLP, etc.) | State of Registration/Incorporation

_____ _____ _____

Print Name of Applicant (Enter the complete name as registered) | Type (Corp, LLC, LLP, etc.) | State of Registration/Incorporation

Under the penalty of perjury, I certify that I have the authority to sign this application on behalf of the Applicant, to bind the Applicant, and if so required to authorize the issuance of a bond on behalf of the Applicant. (If asked, you must provide proof of such authority to the Department). ***Please Note: If additional signatures are required, pursuant to your governing documents, operating agreements, or other applicable agreements or laws, you must attach additional signature pages. ***

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Natural Resources Regulation & Restoration
Division (NRRRD)

_____ _____ _____ _____

Signature of Authorized Representative | Print Authorized Representative's Name | Title | Date

_____ _____ _____

Signature of Authorized Representative | Print Authorized Representative's Name | Title

10. WRITTEN CONSENT OF THE PROPERTY OWNER OF THE AREA OF THE PROPOSED WORK

I/We are the fee simple owner(s) of the real property located at 820 Mashta Place Miami-Dade County, Florida, otherwise identified in the public records of Miami-Dade County as Folio No. 24-5206-003-0030. I am aware and familiar with the contents of this application for a Miami-Dade County Class I Permit to perform the work on or adjacent to the subject property, as described in Section 4 of this application. I possess the riparian rights to the area of the proposed work (if applicable) and hereby consent to the work identified in this Class I Permit application.

A. IF THE OWNER(S) IS AN INDIVIDUAL

Signature of Owner	Print Owner's Name	Date
	Timothy Bryan	3/7/16

Signature of Owner	Print Owner's Name	Date

B. IF THE OWNER IS OTHER THAN AN INDIVIDUAL OR NATURAL PERSON
(Examples: Corporation, Partnership, Joint Venture, Trust, LLC, LLP, etc.)

Print Name of Owner (Enter the complete name as registered)	Type (Corp, LLC, LLP, etc.)	State of Registration/Incorporation

Address of Owner

Under the penalty of perjury, I certify that I have the authority to sign this application on behalf of the Owner, to bind the Owner, and if so required to authorize the issuance of a bond on behalf of the Owner. (If asked, you must provide proof of such authority to the Department). ***Please Note: If additional signatures are required, pursuant to your governing documents, operating agreements, or other applicable agreements or laws, you must attach additional signature pages. ***

Signature of Authorized Representative	Print Authorized Representative's Name	Title	Date

Signature of Authorized Representative	Print Authorized Representative's Name	Title	Date

Please Review Above

Appropriate signature(s) must be included in:

Box 9: either A, B or C

AND

Box 10: either A or B

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Division (NRRRD)

Attachment B

Owner/Agent Letter, Engineer Letter and Project Sketches

Biscayne Environmental, Inc.
Environmental and Land Development Consultants ♦ Mitigation Design and Contracting

March 3, 2016

Miami Dade County Department of Regulatory and Economic Resources
Class I Permitting Program
701 NW 1st Court
Miami, FL 33136

RE: Class I Standard Form Permit Application Number CLI-2015-0330
Applicant's Authorized Agent Statement

To Whom It May Concern,

By the attached Class I Standard Form application with supporting documents, I, David Ettman, President of Biscayne Environmental, Inc., am the applicant's authorized agent and hereby request permission to perform the work associated with Class I Permit Application CLI-2015-0330. I understand that a Miami-Dade County Class I Standard Form Permit is required to perform this work.

If approval is granted for the proposed work by the Board of County Commissioners, complete and detailed plans and calculations of the proposed work shall be prepared by an engineer licensed in the State of Florida in accordance with the minimum requirements of Chapter 24 of the Code of Miami-Dade County, Florida. Said plans and calculations shall be subject to the review and approval of the Department. The permit applicant will secure the services of an engineer licensed in the State of Florida to conduct inspections throughout the construction period, and said engineer shall prepare all required drawings of record. In the event that the proposed work, which is the subject of this Class I Permit application, involves the cutting or trimming of a mangrove tree(s), a detailed plan of the proposed cutting or trimming shall be prepared by a licensed landscape architect and submitted to the Department for review and approval, and the permit applicant will secure the services of a licensed landscape architect to supervise the trimming or cutting.

Respectfully submitted,

David Ettman, President
Biscayne Environmental, Inc.
Applicant's Authorized Agent

DE/ cs

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Department of Regulatory and Economic Resources
Natural Resources Division

9999 NE 2nd Avenue, Suite 313 ♦ Miami Shores, Florida 33138 ♦ Telephone 305-759-0077 ♦ Fax 305-759-1799

EAS ENGINEERING, INC.

55 ALMERIA AVE. • CORAL GABLES • FLORIDA 33134 • (305) 445-8693 • FAX: (305) 444-2112 • ESWAKON@EAS-ENG.COM

ENGINEER STATEMENT

March 11, 2016

Miami-Dade County Department of Regulatory and Economic Resources
Class I Permitting Program
701 NW 1st Court
Miami FL, 33136

RE: Class I Standard Form Permit Application Number CLI-2015-0330

Ladies and Gentlemen:

This letter will certify that I am an engineer licensed in the State of Florida, qualified by education and experience in the area of engineering design and inspection, and that to the best of my knowledge and belief, the proposed work does not violate any laws, rules or regulations of the State of Florida or any provision of the Code of Miami Dade County which may be applicable, that diligence and recognized standard practices of the engineering profession have been exercised in the engineer's design of the proposed work, and in my opinion based upon my knowledge and belief, the following will not occur:

a) Harmful obstruction or undesirable alteration of the natural flow of the water within the area of the proposed work.

b) Harmful or increased erosion, shoaling of channels or stagnant areas of water. (Not applicable to class IV permits)

c) Material injury to adjacent property.

d) Adverse environmental impacts from changes in water quality or quantity. (Applicable to class IV permits only)

Further, I have been retained by the applicant to provide inspections throughout the construction period and to prepare a set of reproducible record prints of drawings showing changes made during the construction process based upon the marked-up prints, certified surveys, drawings, and other data furnished by the contractor to me.

Sincerely,

Edward A. Swakon, P.E.
P.E. # 30184

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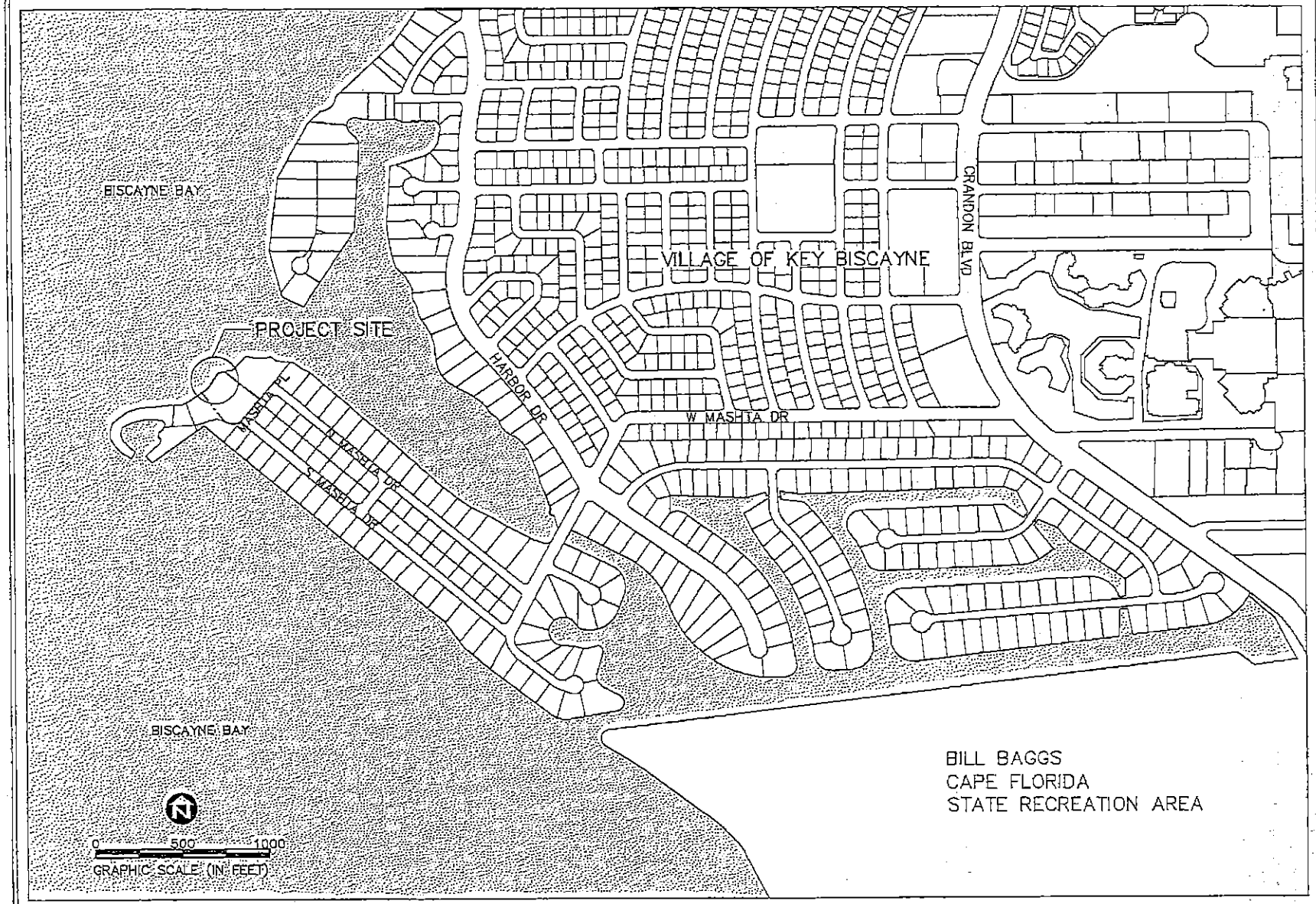
Department of Regulatory and Economic Resources
Natural Resources Division

N:\wp2011\2011-03\Class1PE_STDform.doc



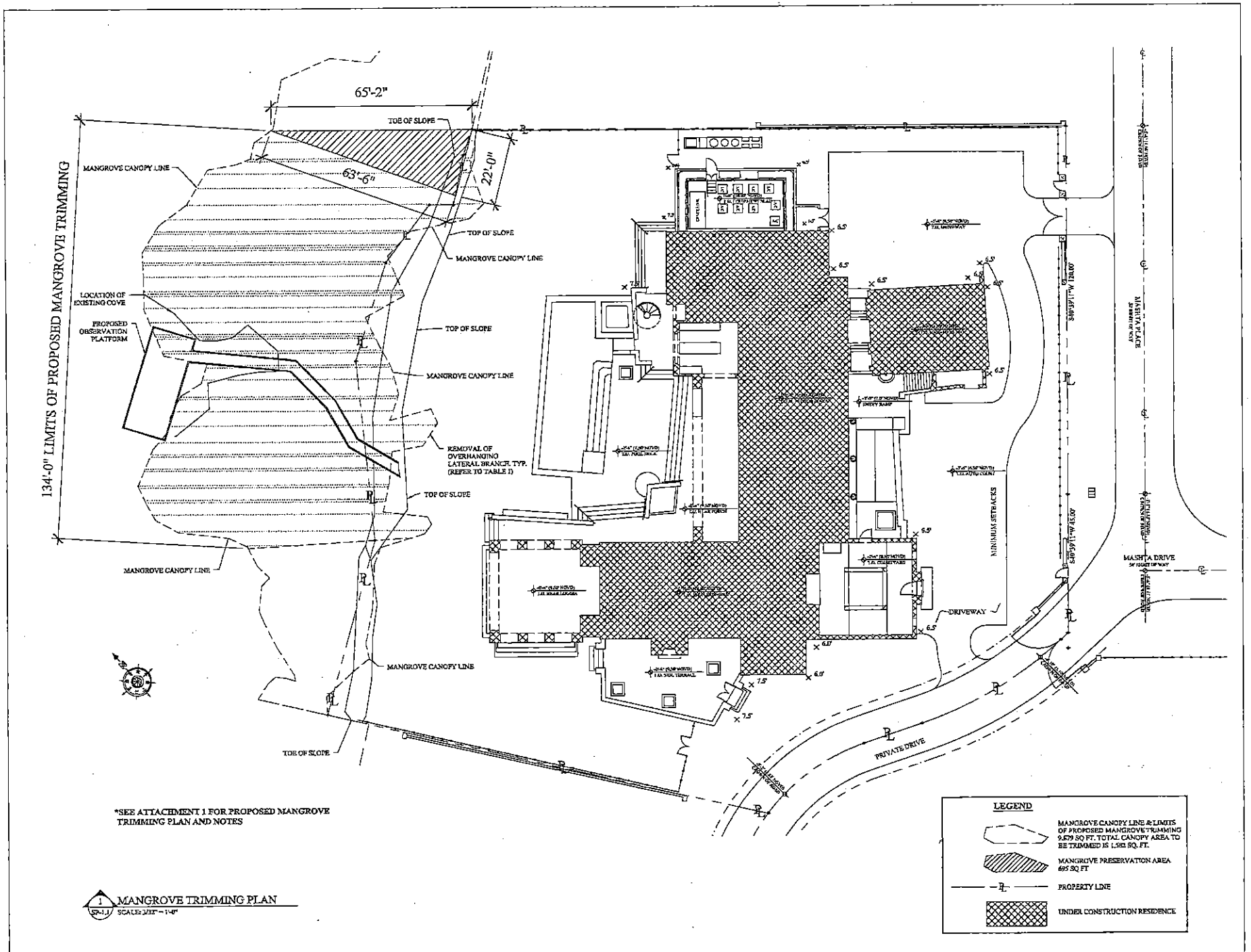
PURPOSE: LOCATION MAP
DATUM: N/A
JOB NO: 2011-03

EAS ENGINEERING, INC.
55 ALMERIA AVENUE CORAL GABLES 33134 (305)446-6553

COUNTY OF MIAMI-DADE STATE OF FLORIDA
APPLICATION BY:
TIMOTHY BRYAN
820 MASHTA PLACE
VILLAGE OF KEY BISCAYNE, FL.
SHEET 1 DATE: 06/30/15

SECTION: 6
TOWNSHIP: 55
RANGE: 42

REV. # DATE & DESCRIPTION



*SEE ATTACHMENT 1 FOR PROPOSED MANGROVE TRIMMING PLAN AND NOTES

1 SP-1.1 MANGROVE TRIMMING PLAN
SCALE: 1/32" = 1'-0"

PROJECT: KEYAN RESIDENCE
125 MASHTA PLACE KEY BISCAYNE, FL
NO.

MANGROVE TRIMMING PLAN
125 MASHTA PLACE KEY BISCAYNE, FL

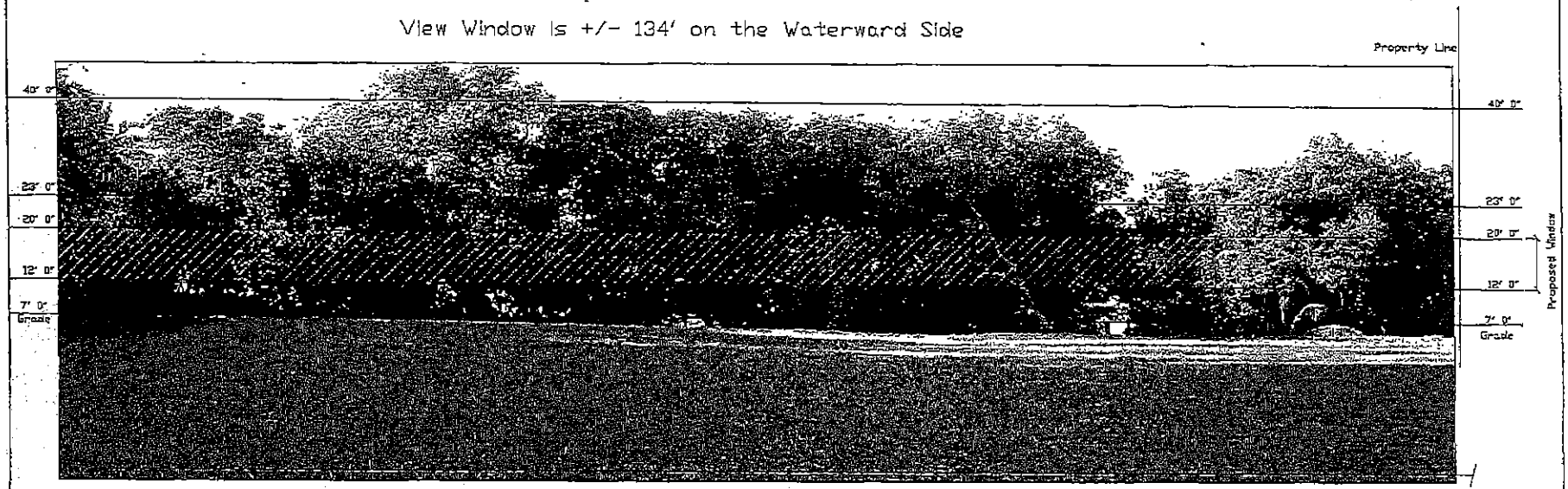
JORGE L. HERNANDEZ
Architect
535 Palermo Avenue, Coral Gables, Florida 33134 (305) 774-0022

REVISIONS

DRAWING: MANGROVE TRIMMING PLAN
DATE:
SHEET: SP-1.1

These designs and drawings are the copyrighted property of Jorge L. Hernandez Architect, P.A. and may not be reproduced except with specific written consent of the architect. The contractor must check and verify all dimensions of the job and be responsible for same, reporting any discrepancies to the architect before commencing work. Drawing not to be scaled.

View Window is +/- 134' on the Waterward Side



View Window is +/- 112' on the Land Side

22'
Preservation Area
See Site Plan

LEGEND

= 8' View Window

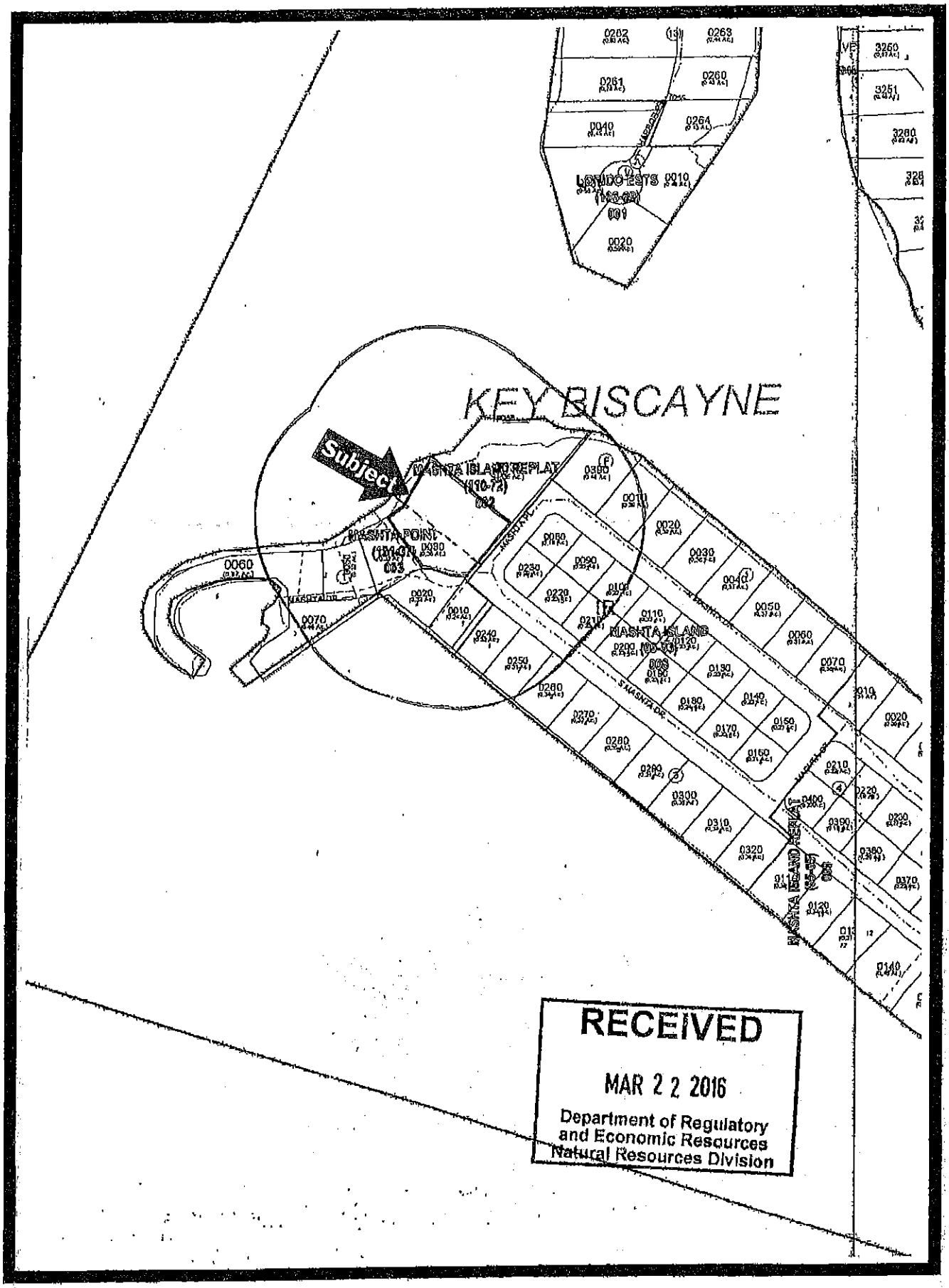
Biscayne Environmental, Inc.
9999 NE 2nd Avenue, Suite 313
Miami Shores, Florida 33138
Tel. (305) 759-0077
Fax 305-759-1799

PROJECT:	Bryan Mangrove Trimming
SHEET NAME:	Elevation View
PREPARED FOR:	Timothy Bryan
ADDRESS:	820 Mashta Place
PROJECT No:	2001-7-1
Date:	10/1/2015
Scale:	NTS
Sheet:	EV-1

3

Attachment C

Names and Addresses of Owners of All Riparian or Wetland Property Within Three Hundred (300) Feet of the Proposed Work



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Natural Resources Division

2452050080010

PATRICIA D HARTMANN
735 N MASHTA DR
KEY BISCAYNE, FL 33149-1722

2452050080020

ANGEL L ACHAVAL &W MIREN
725 N MASHTA DR
KEY BISCAYNE, FL 33149-1722

2452050080080

JOSE M NORONA &W MARIA T
740 N MASHTA DR
KEY BISCAYNE, FL 33149-1723

2452050080090

PRIME INTL HOLDINGS CORPORATION
848 BRICKELL AVE STE 1015
MIAMI, FL 33131-2996

2452050080100

720 NORTH MASHTA LLC
720 N MASHTA DR
KEY BISCAYNE, FL 33149-1723

2452050080210

721 S MASHTA DR LLC
260 CRANDON BLVD STE 53
KEY BISCAYNE, FL 33149-1538

2452050080220

JORGE L BLANCO &W MARIA LUISA
731 S MASHTA DR
KEY BISCAYNE, FL 33149-1736

2452050080230

JERRY S WILLIAMS
MARY L WILLIAMS
741 S MASHTA DR
KEY BISCAYNE, FL 33149-1736

2452050080250

KYMED LTD
730 S MASHTA DR
KEY BISCAYNE, FL 33149-1737

2452050080260

ENRIQUE COLMENARES
JULIA AMODEO OTERO
720 S MASHTA DR
KEY BISCAYNE, FL 33149-1737

2452050080390

KEY INTERNATIONAL INC
848 BRICKELL AVE STE 700
MIAMI, FL 33131-2946

2452060020030

TED FERNANDEZ &W ROSA
800 MASHTA PL
KEY BISCAYNE, FL 33149-1752

2452060030020

OLIVE DEVELOPMENTS LLC
760 S MASHTA DR
KEY BISCAYNE, FL 33149-1737

2452060030040

OLIVE DEVELOPMENTS LLC
760 S MASHTA DR
KEY BISCAYNE, FL 33149-1737

2452060030010

Jorge Caraballo & Glenda Perez
750 Mashta Dr. S.
Key Biscayne, FL 33149-1737

2452060030050

Boca Breeze, LLC
c/o JP Morgan TR CO
500 Stanton Christina Road
Newark, DE 19713

2452050080240

KEMATEF LLC
c/o Hankins Northwood Roman Wenzel
1800 N Military Trail Suite 160
Boca Raton, FL 33431-6386

Attachment D

Zoning Memorandum

Memorandum

MIAMI-DADE COUNTY

Date: June 20, 2016

To: Pamela Sweeney, Manager PS
Coastal and Wetlands Resources Section
Department of Regulatory and Economic Resources

From: Lourdes Barrelli, Biologist II LB
Coastal and Wetlands Resources Section
Department of Regulatory and Economic Resources

Subject: Class I Permit Application by Timothy Bryan to Trim Mangrove Trees in a Coastal Band Community for the Creation and Maintenance of a Viewing Corridor and Construction of a Viewing Platform and to Authorize the Acceptance of a Restrictive Covenant Running with the Land in Favor of Miami-Dade County at 820 Mashta Place in the Village of Key Biscayne, Florida

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Pursuant to Section 24-48.2(II)(B)(7), of the Code of Miami-Dade County, Florida, a substantiating letter or a plan approval shall be submitted by the applicant stating that the proposed project does not violate any zoning laws. Said letter or plan approval will be submitted after approval by the Miami-Dade County Board of County Commissioners and prior to issuance of the Class I permit.

Attachment E

Restrictive Covenant Running with the Land in Favor of Miami-Dade County

This instrument was prepared by:
Name: David Ettman
Address: 1761 Cleveland Rd.
Miami Beach, FL 33141

RESTRICTIVE COVENANT RUNNING WITH THE LAND IN FAVOR OF MIAMI-DADE COUNTY

The undersigned, Timothy Bryan and Nina Bryan, being the present owners of the following real property (hereinafter called "the Property"), lying, being and situated in Miami-Dade County, Florida, to wit:

Exhibit A

pursuant to Section 24-48.2(II) (B) (10) (c) of the Code of Miami-Dade County, Florida hereby proffer this executed Restrictive Covenant Running With The Land in Favor of Miami-Dade County, Florida (Restrictive Covenant) as part of Miami-Dade County Department of Regulatory and Economic Resources Class I Permit Application Number CLI-2015-0330:

1. The owners covenant to Miami-Dade County that the mangroves along the northern 22 linear feet of the property shall be considered a "Preservation Area" as shown on Exhibit B and be preserved and managed such that the Preservation Area is not disturbed or removed for the life of this covenant. No cutting or trimming of mangroves shall be permitted in the Preservation Area except for cutting and trimming limited to only what is necessary to maintain clearance along the uplands as specified in Number 5 below.

2. The owners covenant to Miami-Dade County that the Property shall remain free from invasive and exotic vegetation for the life of this Restrictive Covenant.

3. There shall be no work within wetlands or tidal waters at or adjacent to the Property, including but not limited to cutting or trimming of mangroves, without first obtaining a Class I permit.

4. The owners may clear mangrove and buttonwood vegetation to maintain access to and use of the viewing platform as shown on Exhibit B, provided that such clearing is not more extensive than the following limits: a maximum of 1 foot from the perimeter of the viewing platform and no higher than 8 feet above the walking surface of the viewing platform.

5. The owners may maintain access to and use of the uplands along the shoreline through the clearing of mangrove and buttonwood vegetation that overhangs the uplands landward of the top of slope, where the top of slope is shown on Exhibit B.

6. Nothing in this covenant shall prohibit the owners from maintaining a viewing corridor through the mangroves and buttonwoods along the shoreline by trimming of lateral branches between the elevations of 12 N.G.V.D. and 20 N.G.V.D, provided that any such work is done pursuant to and to the extent allowed by a valid Miami-Dade County Class I permit. Notwithstanding anything to the contrary, no work shall be allowed in the Preservation Area as shown on Exhibit B.

7. Top pruning of any mangroves is prohibited.

8. For the purposes of this Restrictive Covenant, "vessel" is herein defined as any craft designed to float or navigate on water, including but not limited to: sailboats, powerboats, rowboats, ships, boats, skiffs, houseboats, personal watercrafts, and inflatable boats.

9. For the purposes of this Restrictive Covenant, "viewing platform" is herein defined as any structure, landward or waterward of the mean high waterline, designed for pedestrian access for the sole purpose of recreational activities excluding those activities involving vessels as defined above in this Restrictive Covenant.

10. The owners agree and covenant that no vessels shall utilize or be moored at the viewing platform or at the Property, even on a temporary basis.

11. The owners agree and covenant that the installation of marine hardware utilized to secure vessels, including marine hardware that does not require a Class I permit, is prohibited along any portion of the viewing platform.

12. The owners agree and covenant not to construct, place, install, maintain, permit, allow, suffer or cause the construction, placement, installation, maintenance or existence of any structure which does not have a water-dependent use on the viewing platform.

13. The owners agree and covenant to construct and maintain handrails on all waterside portions of the access walkway and terminal platform of the viewing platform to prohibit access to and/or from any vessel(s) to and/or from the viewing platform.

14. The owners covenant and represent that any and all persons holding a security interest of any kind whatsoever in the Property has been advised of, and has agreed to, the execution of this Restrictive Covenant.

15. The owners shall notify Miami-Dade County in writing not later than thirty (30) days after any conveyance, sale, grant or transfer of the Property or any portion thereof, to any heirs, successors, assigns or grantees.

16. The owners agree and covenant that approval of this Restrictive Covenant neither authorizes nor constitutes a permit of any kind for work in wetlands or tidal waters at or adjacent to the Property.

17. The term owners shall include the owners and their heirs, successors and assigns.

18. This Restrictive Covenant shall run with the land and shall be recorded in the Public Records of Miami-Dade County, Florida and shall remain in full force and effect and be binding upon the owners, and their heirs, successors, grantees and assigns until such time as same is modified or released in writing by Miami-Dade County pursuant to the provisions of Section 24-48 of the Code of Miami-Dade County.

19. This Restrictive Covenant and the provisions contained herein may be enforced against any person permitting, allowing, letting, causing or suffering any violation of the terms of this Restrictive Covenant by the Department of Regulatory and Economic Resources, or its successor, by temporary, permanent, prohibitory, and mandatory injunctive relief as well as otherwise provided by law or ordinance and also may include an action for and to recover civil penalties, damages, costs and expenses, and attorney's fees in favor of Miami-Dade County against said person(s) as authorized by law or ordinance. All of the remedies provided herein shall be deemed to be independent and cumulative and shall be deemed to be supplemental to any remedies provided by law or ordinance.

20. No cancellation, revision, alteration or amendment of the Restrictive Covenant shall be effective without prior approval from Miami-Dade County pursuant to the provisions of Section 24-48 of the Code of Miami-Dade County.

21. This Restrictive Covenant is to run with the land and shall be binding on all parties and all persons claiming under it for a period of thirty (30) years after the date this Restrictive Covenant is recorded, after which time it shall be extended automatically for successive periods of ten (10) years each, unless the Restrictive Covenant is modified or released by Miami-Dade County.

IN WITNESS WHEREOF, the undersigned have caused this Restrictive Covenant to be executed this 16 day of June, 2016.

Witnesses:

Sign _____
Print Robert Hagekman
Address 1800 Sunset Harbour Dr, Suite 1A
Miami Beach, FL 33139

Sign Melissa White
Print Melissa White
Address 370 Heather Lane
Key Biscayne, FL

Property Owner

Sign Timothy Bryan
Print Timothy Bryan
Address 820 Mashta Place
Key Biscayne FL 33149

Sign Nina Bryan NINA BRYAN
Print 820 Mashta Place
Address Key Biscayne FL 33149

STATE OF FLORIDA, COUNTY OF DADE

The foregoing instrument was acknowledged before me this 16 day of June, 2016. by Tim and Nina Bryan as Property Owners, who is personally known to me or who has produced _____ as identification and who did take an oath.

NOTARY PUBLIC:

Sign Joan Elizabeth McCaughan
Print JOAN ELIZABETH McCAUGHAN
State of Florida at Large (Seal)
My Commission Expires:

JOAN ELIZABETH McCAUGHAN
MY COMMISSION # FF157730
EXPIRES: October 20, 2018

Section-Township-Range: 06-55-42
Folio Number: 24-5206-003-0030

Exhibit A

Lot 3, Block 1, of MASHTA POINT SUBDIVISION, according to the Plat thereof as recorded in Plat Book 131, Page 37, of the Public Records of Miami-Dade County, Florida.

and

Lot 2, Block 4, REPLAT OF A PORTION OF TRACTS D AND F OF MASHTA ISLAND, according to the Plat thereof, as recorded in Plat Book 110, Page 72, of the Public Records of Miami-Dade County, Florida.

a/k/a 820 Mashta Place, Key Biscayne, Florida 33149

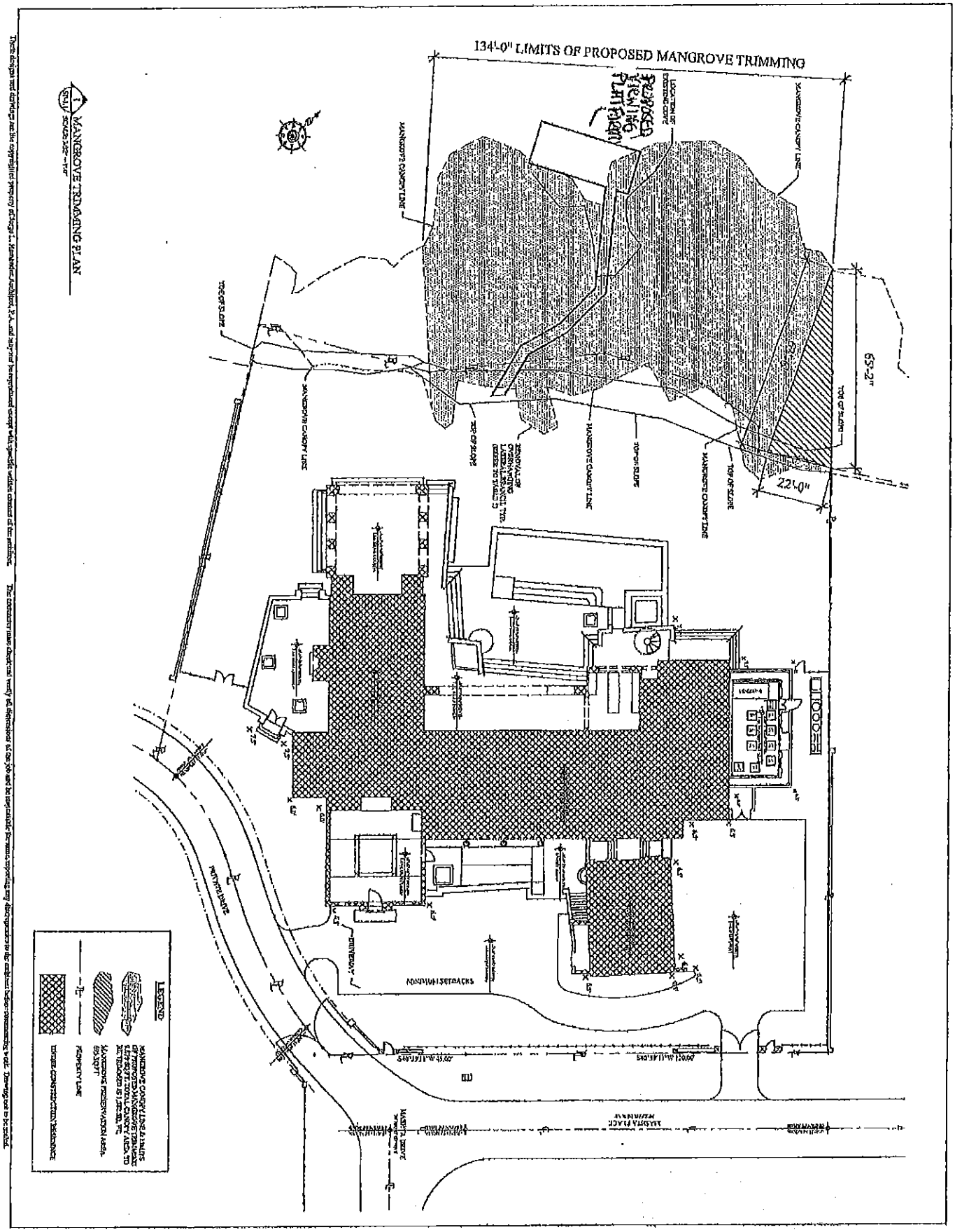
134'-0" LIMITS OF PROPOSED MANGROVE TRIMMING
MANGROVE TRIMMING PLAN
LEGEND
MINIMUM SETBACKS
JORGE L. HERNANDEZ
Architect

Exhibit B

Attachment F

DERM Project Report

CLASS I PERMIT APPLICATION NO. CLI-2015-0330

Class I Permit Application by Timothy Bryan to Trim Mangrove Trees in a Coastal Band Community for the Creation and Maintenance of a Viewing Corridor and Construction of a Viewing Platform and to Authorize the Acceptance of a Restrictive Covenant Running with the Land in Favor of Miami-Dade County at 820 Mashta Place in the Village of Key Biscayne, Florida

DATE: June 20, 2016

Staff's recommendation of approval for the above-referenced permit application is based on the applicable evaluation factors under Section 24-48.3 of the Code of Miami-Dade County, Florida (Code). The following is a summary of the proposed project with respect to each applicable evaluation factor:

1. **Potential Adverse Environmental Impact** – The potential adverse environmental impact associated with the proposed project is minimal. The project includes the trimming of lateral branches of *Rhizophora mangle* (red mangrove), *Avicennia germinans* (black mangrove), *Laguncularia racemose*, and *Conocarpus erectus* (green buttonwood) trees that are part of a Coastal Band Community, as defined in Section 24-5 of the Code. The proposed work will result in the removal of 1,582 square feet of mangrove and green buttonwood canopy; however, the proposed trimming configuration has been designed to avoid significant impacts to any individual tree or to the wetland area as a whole. The Class I permit will authorize future maintenance of the permitted configuration, and will include conditions that prohibit top-pruning or the removal of greater than 25% of the canopy of any individual tree. In addition, the proposed viewing platform will result in impacts to benthic resources. The proposed project is not reasonably expected to result in significant adverse environmental impacts and is recommended for approval.

   Section 24-48.3 of the Code requires mitigation for permittable projects that otherwise result in environmental impacts. Mitigation for impacts to resources will be satisfied through a contribution to the Biscayne Bay Environmental Enhancement Trust Fund in the amount of $24,815.00 to be used for the creation, restoration, or enhancement of coastal wetlands and seagrass habitat adjacent to and within Biscayne Bay or its tidal tributaries.

2. **Potential Cumulative Adverse Environmental Impact** – The proposed project is not reasonably expected to result in cumulative adverse environmental impacts.

3. **Hydrology** - The proposed project is not reasonably expected to adversely affect surface water drainage or retention of stormwater.

4. **Water Quality** – The proposed project is not reasonably expected to adversely affect water quality.

5. **Wellfields** – The proposed project is not reasonably expected to adversely affect wellfields.

6. **Water Supply** – The proposed project is not reasonably expected to adversely affect water supply.

7. **Aquifer Recharge** – The proposed project is not reasonably expected to adversely affect aquifer recharge.

8. **Aesthetics** – The proposed project is not reasonably expected to adversely affect aesthetics.

9. **Navigation** – The proposed project is not reasonably expected to adversely affect navigation.

10. **Public Health** - The proposed project is not reasonably expected to adversely affect public health.

11. **Historic Values** - The proposed project is not reasonably expected to adversely affect historic values.

12. **Archaeological Values** - The proposed project is not reasonably expected to adversely affect archaeological values.

13. **Air Quality** – The proposed project is not reasonably expected to adversely affect air quality.

14. **Marine and Wildlife Habitats** – The proposed project is not reasonably expected to adversely affect marine and wildlife habitats as set forth in Number 1 above.

15. **Wetland Soils Suitable for Habitat** – The proposed project is not reasonably expected to adversely affect wetland soils suitable for habitat.

16. **Floral Values** – The proposed project is not reasonably expected to adversely affect floral values as set forth in Number 1 above.

17. **Fauna Values** - The proposed project is not reasonably expected to adversely affect fauna values as set forth in Number 1 above.

18. **Rare, Threatened and Endangered Species** –The proposed is not reasonably expected to adversely affect rare, threatened and endangered species.

19. **Natural Flood Damage Protection** - The proposed project is not reasonably expected to adversely affect surface water drainage or retention of stormwater.

20. **Wetland Values** – The proposed project is not reasonably expected to adversely affect wetland values as set forth in Number 1 above.

21. **Land Use Classification** – Pursuant to Section 24-48.2(II)(B)(7) of the Code of Miami-Dade County, Florida, a substantiating letter from the Village of Key Biscayne stating that the proposed project does not violate any zoning laws, or a plan approval, will be submitted prior to permit issuance.

22. **Recreation** - The proposed project does not conflict with the recreation element of the Miami-Dade County Comprehensive Development Master Plan.

23. **Other Environmental Values Affecting the Public Interest** – The proposed project is not reasonably expected to adversely affect other environmental values affecting the public interest. The proposed project will occur on lands owned by the applicant and the State of Florida, and the applicant has obtained authorization from the State.

24. **Conformance with Standard Construction Procedures and Practices and Design and Performance Standards** – The proposed project complies with the standard construction procedures and practices and design and performance standards of the applicable portions of Chapter 33B of the Code of Miami-Dade County and the Miami-Dade County Public Works Manual.

25. **Comprehensive Environmental Impact Statement (CEIS)** - In the opinion of the Director, the proposed project is not reasonably expected to result in significant adverse environmental impacts or cumulative adverse environmental impacts. Therefore, a CEIS was not required by DERM to evaluate the project.

26. **Conformance with All Applicable Federal, State and Local Laws and Regulations** - The proposed project is in conformance with applicable State, Federal and local laws and regulations:
    a) Chapter 24 of the Code of Miami-Dade County
    b) Florida Statutes 403.9321-403-9334 (1996 Mangrove Trimming and Preservation Act)

27. **Conformance with the Miami-Dade County Comprehensive Development Master Plan (CDMP)** - In the opinion of the Director, the proposed project is in conformance with the CDMP. The following is a summary of the proposed project as it relates to the CDMP:

LAND USE ELEMENT I:

Objective 3/Policies 3A, 3B, 3C - Protection of natural resources and systems. – The proposed project is consistent with all applicable environmental regulations, is compatible with surrounding land uses in Biscayne Bay and does not involve development in the Big Cypress area of Critical State Concern or the East Everglades.

TRANSPORTATION ELEMENT II

Aviation Subelement/Objective AV-5A - Aviation System Expansion - There is no aviation element to the proposed project.

Port of Miami River Subelement/Objective 3 - Minimization of impacts to estuarine water quality and marine resources. The proposed project is not located within the Miami River.

CONSERVATION, AQUIFER RECHARGES AND DRAINAGE ELEMENT IV:

Objective 3/Policies 3A, 3B, 3D - Wellfield protection area protection. - The proposed project is not located within a wellfield protection area.

Objective 3/Policy 3E - Limestone mining within the area bounded by the Florida Turnpike, the Miami-Dade/ Broward Levee, N.W. 12 Street and Okeechobee Road. - The proposed project is not located within this area.

Objective 4/Policies 4A, 4B, 4C - Water storage, aquifer recharge potential and maintenance of natural surface water drainage. - The proposed project is not reasonably expected to adversely affect water storage, aquifer recharge potential or natural surface water drainage.

Objective 5/Policies 5A, 5B, 5F - Flood protection and cut and fill criteria – The proposed project will not compromise flood protection.

Objective 6/Policy 6A - Areas of highest suitability for mineral extraction. - The proposed project is not located in an area proposed or suitable for mineral extraction.

Objective 6/Policy 6B - Guidelines for rock quarries for the re-establishment of native flora and fauna. - The proposed project is not located in a rock quarry.

Objective 7/Policy 7A, 7C, 7D, 7J - Wetland protection and restoration. – The proposed project is not reasonably expected to compromise wetland protection or restoration, as set forth in Number 1 above.

Objective 9/Policies 9A, 9B, 9C - Protection of habitat critical to Federal or State-designated threatened or endangered species. – The proposed project is not reasonably expected to adversely affect habitat critical to Federal or State-designated threatened or endangered species, and the impacts have been minimized and will be mitigated as set forth in Number 1 above.

COASTAL MANAGEMENT ELEMENT VII:

Objective 1/Policy 1A - Tidally connected mangroves in mangrove protection areas – The proposed project is not located within a designated "Mangrove Protection Area."

Objective 1/ Policy 1B - Natural surface flow into and through coastal wetlands. – The proposed project is not reasonably expected to adversely affect natural surface flow into and through coastal wetlands.

Objective 1/ Policy 1C - Elevated boardwalk access through mangroves. – The proposed project involves the construction of an elevated walkway through mangroves to a viewing platform over Biscayne Bay. The walkway has be designed to minimize impacts to mangroves and will be mitigated as set forth in Number 1 above.

Objective 1/Policy 1D - Protection and maintenance of mangrove forests and related natural vegetational communities. - The proposed project is not reasonably expected to adversely affect mangrove forests and related natural vegetational communities as set forth in Number 1 above.

Objective 1/Policy 1E - Mitigation for the degradation and destruction of coastal wetlands. Monitoring and maintenance of mitigation areas. – Although the proposed project will result in the removal of mangrove and green buttonwood canopy, the work is not reasonably expected to result in the degradation or destruction of coastal wetlands. In addition, the impacts will be mitigated as set forth in Number 1 above.

Objective 1/Policy 1G - Prohibition on dredging or filling of grass/algal flats, hard bottom or other viable benthic communities, except as provided for in Chapter 24 of the Code of Miami-Dade County, Florida. – The proposed project does not involve dredging or filling of grass/algal flats, hard bottom, or other viable benthic communities.

Objective 2/Policies 2A, 2B - Beach restoration and renourishment objectives. - The proposed project does not involve beach restoration or renourishment.

Objective 3/Policies 3E, 3F - Location of new cut and spoil areas for proper stabilization and minimization of damages. - The proposed project does not involve the development or identification of new cut or spoil areas.

Objective 4/Policy 4A, 4C, 4E, 4F – Protection of endangered or threatened animal species. – The proposed project is not reasonably expected to result in impacts to endangered or threatened species as set forth in Number 1 above.

Objective 5/Policy 5B - Existing and new areas for water-dependent uses. - The proposed project includes a new private water-dependent use.

Objective 5/Policy 5D - Consistency with Chapter 33D, Miami-Dade County Code. (shoreline access, environmental compatibility of shoreline development) – The proposed project does not meet the thresholds for review by the Miami-Dade County Shoreline Development Review Committee.

Objective 5/Policy 5F - The siting of water dependent facilities. - The proposed project is consistent with the criteria for the creation of new water dependent facilities.

28. **Conformance with Chapter 33B, Code of Miami-Dade County** (East Everglades Zoning Overlay Ordinance) – The proposed project is not located within the East Everglades Area.

29. **Conformance with Miami-Dade County Ordinance 81-19** (Biscayne Bay Management Plan Sections 33D-1 through 33D-4 of the Code of Miami-Dade County) - The proposed project is in conformance with the Biscayne Bay Management Plan.

30. **Conformance with the Miami-Dade County Manatee Protection Plan** - The proposed project was evaluated for consistency with the Miami-Dade County Manatee Protection Plan (MPP). The project site is located in an area designated by the MPP as essential habitat for *Trichechus manatus* (West Indian Manatee). The proposed work is not reasonably expected to adversely affect manatees, and the Class I permit will require that all standard construction permit conditions regarding manatees be followed during all in-water operations.

31. **Consistency with Miami-Dade County Criteria for Lake Excavation** – The proposed project does not involve lake excavation.

32. **Municipality Recommendation** – Pursuant to Section 24-48.2(II)(B)(7) of the Code of Miami-Dade County, Florida, a substantiating letter from the Village of Key Biscayne stating that the proposed project does not violate any zoning laws, or a plan approval, will be submitted prior to permit issuance. .

33. **Coastal Resources Management Line** - A coastal resources management line was not required for the proposed project, pursuant to Section 24-48.2(II)(B)(10)(b) of the Code of Miami-Dade County.

34. **Maximum Protection of a Wetland's Hydrological and Biological Functions** – The proposed project will result in the removal of mangrove and green buttonwood canopy; however, the impacts to wetlands have been minimized and shall be mitigated as set forth in Number 1 above.

35. **Class I Permit Applications Proposing to Exceed the Boundaries Described in Section D-5.03(2)(a) of the Miami-Dade County Public Works Manual** – Not applicable.

The proposed project was also evaluated for compliance with the standards contained in Sections 24-48.3(2),(3), and (4) of the Code of Miami-Dade County, Florida. The following is a summary of how the standards relate to the proposed project:

24-48.3 (2) Dredging and Filling for Class I Permit – Not applicable.

24-48.3 (3) Minimum Water Depth Required for Boat Slips Created by the Construction or Placement of Fixed or Floating Docks and Piers, Piles and Other Structures Requiring a Permit Under Article IV, Division 1 of Chapter 24 of the Code of Miami-Dade County - Not applicable – the use of the viewing platform by vessels is prohibited.

24-48.3 (4) Clean Fill in Wetlands – Not applicable.

BASED ON THE FOREGOING, IT IS RECOMMENDED THAT A CLASS I PERMIT BE APPROVED.

Pamela Sweeney, Manager
Coastal and Wetlands Resources Section

Lourdes Barrelli, Biologist II
Coastal and Wetlands Resources Section

MEMORANDUM

(Revised)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: July 6, 2016

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 5(N)

Please note any items checked.

_____	**"3-Day Rule" for committees applicable if raised**
_____	**6 weeks required between first reading and public hearing**
_____	**4 weeks notification to municipal officials required prior to public hearing**
_____	**Decreases revenues or increases expenditures without balancing budget**
_____	**Budget required**
_____	**Statement of fiscal impact required**
_____	**Statement of social equity required**
_____	**Ordinance creating a new board requires detailed County Mayor's report for public hearing**
✓	**No committee review**
_____	**Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous _____) to approve**
_____	**Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 5(N)
7-6-16

RESOLUTION NO. _____

RESOLUTION TAKING ACTION ON A CLASS I PERMIT APPLICATION BY TIMOTHY BRYAN TO TRIM MANGROVE TREES IN A COASTAL BAND COMMUNITY FOR THE CREATION AND MAINTENANCE OF A VIEWING CORRIDOR AND CONSTRUCTION OF A VIEWING PLATFORM, AND TAKING ACTION ON A RESTRICTIVE COVENANT RUNNING WITH THE LAND IN FAVOR OF MIAMI-DADE COUNTY AT 820 MASHTA PLACE IN THE VILLAGE OF KEY BISCAYNE, FLORIDA

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board having considered all the applicable factors contained within Section 24-48.3 of the Code of Miami-Dade County, hereby approves the application by Timothy Bryan for a Class I permit to trim mangrove trees in a coastal band community for the creation and maintenance of a viewing corridor and construction of a viewing platform, and authorizes the acceptance of a restrictive covenant running with the land in favor of Miami-Dade County at 820 Mashta Place in the Village of Key Biscayne, Miami-Dade County, subject to the conditions set forth in the accompanying memorandum from the Miami-Dade County Department of Regulatory and Economic Resources, which is incorporated herein by reference. The issuance of this approval does not relieve the applicant from obtaining all applicable Federal, State, and local permits.

The foregoing resolution was offered by Commissioner , who moved its adoption. The motion was seconded by Commissioner and upon being put to a vote, the vote was as follows:

Jean Monestime, Chairman
Esteban L. Bovo, Jr., Vice Chairman

Bruno A. Barreiro	Daniella Levine Cava
Jose "Pepe" Diaz	Audrey M. Edmonson
Sally A. Heyman	Barbara J. Jordan
Dennis C. Moss	Rebeca Sosa
Sen. Javier D. Souto	Xavier L. Suarez
Juan C. Zapata	

The Chairperson thereupon declared the resolution duly passed and adopted this 6th day of July, 2016. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By:_____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Abbie Schwaderer-Raurell