

**THE CITY OF KEY WEST
PLANNING BOARD
Staff Report**



To: Chairman and Planning Board Members

From: Brendon Cunningham

Through: Donald L. Craig, AICP, Planning Director

Meeting Date: January 19, 2012

Agenda Item: **Variance - 400 South Street (RE# 00036390-000000)** - A request for a variance to the maximum allowed wall height of six feet to the requested eleven feet proposed within the coastal construction control line on a property located within the HCT zoning district per Section 122-1148 (2) and 122-1183 of the Land Development Regulations of the Code of Ordinances of the City of Key West.

Request: A request to construct an additional three feet of concrete wall on an existing non-conforming eight foot tall wall for a total wall height of eleven feet.

Applicant: Wayne Larue Smith

Property Owner: J. Seward Johnson

Location: 400 South Street (RE# 00036390-000000)

Zoning: Historic Commercial Tourist (HCT) zoning district

Background: The property is adjacent on two sides to the Atlantic Ocean. As such it is subject to periodic storm surges. The property experiences occasional damage due to its proximity to the water and subsequent storm activity. The property was extensively damaged during Hurricane Wilma. There is currently a wall on top of a bulkhead that is approximately eight feet in height as measured from crown of road, the standard in the LDR's.

The applicant previously applied for a similar variance to increase the wall height. This previous variance involved the same portion of the wall. The variance was denied by the Board of Adjustment through Resolution 07-247 on July 5, 2007.

The applicant, as part of this application, applied for a Certificate of Appropriateness before HARC and was denied on the grounds that the wall would exceed the allowed height of six feet. The applicant then appealed the HARC decision to the Special Magistrate. The Special

Magistrate upheld the HARC decision pending review by the Planning Board. If the Planning Board approves the application request, the Magistrate will revisit his decision.

In the previous review of the application the applicant was informed that State FDEP and US Army Corps of Engineers approval would be needed. A copy of the FDEP permit exemption dated May 31, 2007 is attached. There is no evidence in the record or application that the exemption has or will expire. There is no evidence in the file that this project qualifies for an exemption to US Army Corps of Engineers (USACOE) requirements for a permit. However, in most circumstances when projects are exempt from FDEP permitting, they are also exempt from the USACOE permitting requirements.

Notwithstanding the requirements of Section 110-182 (c) (4) pertaining to the necessary evidence of state and federal permits prior to applying for City approval of new structures within the City's Coastal Construction control zone, which is where the proposed addition to the existing wall is located, the proposal is exempt from the Coastal Control Regulations of Article IV of Chapter 110 of the LDR's, Section 110-192 (a) (5) provides this exemption for fences (walls) where there is no fill involved and there is no impediment to navigation.

Request: The applicant is requesting variances to allow the wall to be increased from its current approximate non-conforming eight foot height to a total of eleven feet within the construction control line. The applicant has contacted the neighbors as part of the "good neighbor policy".

Process:

Development Review Committee Meeting:	March 25, 2010
HARC, denied:	April 13, 2010
Special Magistrate, postponed:	October 27, 2010
Planning Board:	December 5, 2011, postponed January 19, 2012

Analysis – Evaluation for Compliance With The Land Development Regulations:

The criteria for evaluating a variance are listed in Section 90-395 of the City Code. The Planning Board before granting a variance must find all of the following:

- 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.**

The property abuts the Atlantic Ocean. There are other properties that share this characteristic. Therefore no special circumstances exist that are peculiar to the land involved.

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

The request is the design of the applicant.

- 3. Special privileges not conferred. That granting the variance 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.**

Granting the variance request will confer upon the applicant special privileges denied to other lands, buildings or structures in the same zoning district.

- 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.**

No hardship conditions exist. Without the approval of this variance request the homeowners would still have reasonable use of the land. The applicant's desire to construct an eleven foot wall does not constitute a hardship.

- 5. Only minimum variance granted. That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.**

The variances requested are the minimum variances needed to create the desired wall height.

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

The proposed wall may affect neighbor's view of the ocean. Therefore the wall does appear to be detrimental to the public welfare.

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

This request is not based on existing conditions on surrounding properties.

The Planning Board shall make factual findings regarding the following:

- 1. That the standards established by Section 90-395 of the City Code have been met by the applicant for a variance.**

The applicant does not meet all of the standards established by the City Code of Ordinances for a variance.

2. **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.**

The department is not aware of any neighborhood objections to date.

Concurrency Facilities and Other Utilities or Service (Section 108-233):

No changes are proposed to the site.

RECOMMENDATION:

The Planning Department, based on the criteria established by the Comprehensive Plan and the Land Development Regulations, recommends the request for variance be **denied**. However, if the Planning Board chooses to approve the variance, the Department recommends the following condition:

That a Certificate of Appropriateness is obtained for the wall in accordance with Code Sections 102-152 and 122-1183(a).

Draft Resolution

**PLANNING BOARD RESOLUTION
2012-**

A RESOLUTION OF THE KEY WEST PLANNING BOARD FOR A VARIANCE APPROVAL FOR AN 11' FENCE IN THE SIDE YARD OF PROPERTY LOCATED AT 400 SOUTH STREET IN THE HCT ZONING DISTRICT PER SECTION 90-391, SECTION AND SECTION 122-1183(D.)(1.(C) OF THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES OF THE CITY OF KEY WEST.

WHEREAS, Section 122-1183(d)(1)(c) of the Code of Ordinances provides that the maximum height of a fence may be 6' in height if the top 2' has openings of at least 50% or more; and

WHEREAS, the applicant requested a variance to the fence height restrictions to allow for an 11' fence in the side yard; and

WHEREAS, this matter came before the Planning Board at a duly noticed public hearing on January 19, 2012; and

WHEREAS, the Planning Board finds 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 district; and

_____ Chairman
_____ Planning Director

WHEREAS, the Planning Board finds that the special conditions do not result from the action or negligence of the applicant; and

WHEREAS, the Planning Board finds that granting the variance 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; and

WHEREAS, the Planning Board finds 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; and

WHEREAS, the Planning Board finds that the variances granted are the minimum variances that will make possible the reasonable use of the land, building or structure; and

WHEREAS, the Planning Board finds that the granting of the variances will be in harmony with the general intent and purpose of the land development regulations and that such variance will not be injurious to the area involved or otherwise detrimental to the public interest or welfare; and

WHEREAS, the Planning Board finds that no nonconforming use of neighboring lands,

structures, or buildings in the same district, and no permitted use of lands, structures or buildings in other districts shall be considered grounds for the issuance of any variance; and

WHEREAS, the Planning Board finds that the applicant has demonstrated a “good neighbor policy” by contacting or making a reasonable attempt to contact all noticed property owners who have objected to the variance application, and by addressing the objections expressed by those neighbors;

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. An approval for a resolution of the Key West Planning Board for a variance to allow an 11' fence in the side yard of property located at 400 South Street (RE# 00036390-000000) in the HCT zoning district per Section 122-1148(2) and Section 122-1183(d)(1)(c) of the Land Development Regulations of the Code of Ordinances of the City of Key West. See plan set dated March 10, 2010, with the following condition:

_____ Chairman
_____ Planning Director

That a Certificate of Appropriateness is obtained for the wall in accordance with HARC guidelines

Section 3. It is a condition of these variances that full, complete, and final application for all conditions of this approval for any use and occupancy for which these variances are wholly or partly necessary, shall be submitted in their entirety within two years after the date hereof; and further, that no application or shall be made after expiration of the two-year period without the applicant obtaining an extension from the Planning Board and demonstrating that no change of circumstances to the property or its underlying zoning has occurred.

Section 4. The failure to fully and completely apply the conditions of approval for permits for use and occupancy pursuant to these variances in accordance with the terms of the as described in Section 3 hereof, shall immediately operate to terminate these variances, which variances shall be of no force or effect.

Section 5. These variances do 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 6. This Resolution shall go into effect immediately upon its passage and adoption

_____ Chairman

_____ Planning Director

and authentication by the signatures of the presiding officer and the Clerk of the Commission.

Section 7. 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 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 regularly scheduled meeting held this 19th day of January, 2012.

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

Richard Klitenick
Planning Board Chairman

_____ Date

Attest:

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Resolution Number 2012-

_____ Chairman

_____ Planning Director

Donald Leland Craig, AICP, Planning Director

Date

Filed with the Clerk:

Cheryl Smith, City Clerk

Date

draft

_____ Chairman

_____ Planning Director

Application

**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**

Amended Variance Application

City of Key West
Planning Department



Please print or type a response to the following:

1. Site Address 400 South Street, Key West, Florida 33040
2. Name of Applicant Wayne Larue Smith, The Smith Law Firm
3. Applicant is: Owner _____ Authorized Representative x
(attached Authorization Form must be completed)
4. Address of Applicant 333 Fleming Street, Key West, Florida 33040
5. Phone # of Applicant 305-296-0029 Mobile# _____ Fax# 305-296-9172
6. E-Mail Address tslf@thesmithlawfirm.com
7. Name of Owner, if different than above J. Seward Johnson
8. Address of Owner 400 South Street, Key West, Florida 33040
9. Phone Number of Owner 305-294-1490 Fax# _____
10. Email Address _____
11. Zoning District of Parcel HCT RE# 00036390-000000
12. Description of Proposed Construction, Development, and Use

Increase of protective Atlantic Ocean boundary wall height from current nonconforming height to 10.9 feet. See attached document for a complete description of the variance requested, standards for granting a zoning variance, and the documents in support of granting this variance.

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

	Required	Existing	Requested
Front Setback	5'	5'	
Side Setback	5'	5'	
Side Setback	5'	5'	
Rear Setback	10'	50'	
Building Coverage	50%	19%	
Open Space Requirements	20%	24%	
Impervious Surface	70%	57.5%	

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 _____ HARC # _____

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. _____

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.

See attached addendum to this application for the
response to question 1.

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

See attached addendum to this application for the
response to question 2.

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.

See attached addendum to this application for the
response to question 3.

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.

See attached addendum to this application for the
response to question 4.

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.

See attached addendum to this application for the
response to question 5.

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.

See attached addendum to this application for the
response to question 6.

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.

See attached addendum to this application for the
response to question 7.

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.



ADDENDUM TO AMENDED VARIANCE APPLICATION OF
400 SOUTH STREET, KEY WEST, FL 33040

The Applicant owns the property located at 400 South Street, Key West, Florida 33040 (“property”). The property is uniquely situated along the southern coastline of Key West and abuts the Atlantic Ocean along the property’s southern (rear) and southwestern (side) boundaries. A zoning map of Key West specifying the location of the Applicant’s property is attached as **Exhibit “A.”** Currently, there is a non-conforming wall erected along the property’s southwestern boundary (the “wall”) which varies in height between 8.5 feet and 10.9 feet above the crown of the road. The average height of the crown of the road in front of the property is 3.6 feet.

During storms, salt water surges over the wall into the Applicant’s property and causes damage to the Applicant’s home. The damage to Applicant’s home is illustrated by the photographs attached as **Exhibit “B.”** Those photographs depict the destruction that occurred during one such storm. In order to prevent future damage to his property, the Applicant seeks to increase the height of the wall so that the entire wall is 10.9 feet above the average height of the crown of the road, the existing height of the wall at its Southwestern point.

Section 122-1183 of the City Code of Key West allows a maximum wall height of 6 feet above the crown of the road. Applicant has obtained a specific purpose sketch from Lynn O’Flynn, Inc. (“O’Flynn”) to show the elevation of the road and wall at 400 South Street. The surveyor’s sketch is attached as **Exhibit “C.”** O’Flynn determined that the height of the crown of the road varies in four locations in front of the Applicant’s property. The varying heights of the crown of the road are between 3.3 feet to 3.9 feet. The average is 3.55 feet, which the Applicant suggests should be rounded to 3.6 feet and utilized as the height of the crown of the road.

If 3.6 feet is used as the crown of the road measurement, then the existing non-conforming wall varies from 8.5 feet to 10.9 feet above the crown of the road. Approximately 20% of the wall is currently at 10.9 feet above the crown of the road. The Applicant seeks to raise the remaining 80% of the wall to the same existing 10.9 foot height. This, of course, requires a variance. The Applicant meets the requirements necessary for a variance as illustrated below.

In order to find justification for a variance, Section 90-395 of the City Code of Key West, requires that all of the following standards must be met before a variance may be granted (each articulated standard is followed by an explanation of how the standard is met in this case):

- (a) Standards for considering variances. Before any variance may be granted, the planning board must find all of the following:
 - (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.

The property, 400 South Street, is located in a unique coastline configuration that is the only one of its kind within its zoning district. The Applicant's property abuts the Atlantic Ocean on the Southern (rear) and on the Southwesterly boundary (side). As a result of the property's unique location and configuration, special conditions exist in that waves from the South and Southwestern boundaries of Applicant's property intensify in a manner unique to this location only and cause severe salt water intrusion and resulting damage into Applicant's home. This condition is unique to Applicant's property and is not present for anyone else in the zoning district. Please see the report by Coastal Engineer Paul C. Lin, Ph.D. for a detailed description of the special circumstances that exist with

respect to this “one of a kind” parcel of property. Dr. Lin’s report is attached as Exhibit “D.”

- (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 present on Applicant’s property are natural conditions. These special natural conditions do not arise and were not created as a result of any action or negligent act of the Applicant. The conditions arise exclusively on Applicant’s property as a result of the property’s unique physical location, and the conditions cannot be detected until a weather event with heavy winds occurs.

- (3) Special privileges not conferred. That granting the variance 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.

The subject property is the only property in its zoning district (HCT) whose residential structure suffers a Southwestern exposure to extreme salt water damage and extreme salt water intrusion from its unique proximity to the Southern and Southwestern coastlines. Granting the variance to raise the height of the wall will merely confer the same privilege that other parcels in the zoning district presently enjoy, to wit, protection from salt water intruding into the property's residential structure. Please refer to Exhibit D, the report of Coastal Engineer Paul C. Lin, Ph.D., for an additional detailed description of the manner in which this unique configuration deprives the Applicant of the same privileges enjoyed by other parcels.

- (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.

As stated above, the subject property is the only property in its zoning district (HCT) whose residential structure suffers a Southwestern exposure to extreme salt water intrusion due to its proximity to the Southern and Southwestern coastlines. The present land development regulations prevent the Applicant from raising the height of his wall. In order to protect Applicant's home and property from extreme salt water intrusion, the wall must be increased to 10.9 feet above the crown of the road, which is the current height of approximately 20% of the wall. Please refer to both attached reports labeled, Exhibit C and D respectively, which are the specific purpose sketch to show the elevation of the road and wall at 400 South Street and the report by Coastal Engineer Paul C. Lin, Ph.D.

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

Raising the height of the wall to 10.9 feet above the crown of the road would be the least variance possible that will protect the subject property from extreme salt water intrusion. The requested variance is not inconsistent with the land development regulations as it is limited to the minimum necessary for adequate protection of the property. Allowing the Applicant to raise the height of the wall will allow the Applicant reasonable use of his home without continuing the regular extreme damage from salt water intrusion such as that illustrated in Exhibit B.

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

Granting the proposed height variance would be in harmony with the general intent and purpose of the land development regulations as it would promote the public interest

and welfare by protecting the subject property from unreasonably magnified storm damage. The Applicant obtained a specific purpose sketch to illustrate the elevations of the porch and windows of the Applicant's neighbors who live adjacent to Applicant. In the sketch, which was prepared by O'Flynn as well, attached as Exhibit "E," O'Flynn determined that the height of Applicant's neighbors' porches (401 and 405 South Street) is 6.6 and 6.8 feet high respectively. The front windows in both homes are 9.0 and 9.1 feet above the crown of the road. If an average sized person were to stand on the porches or look out of the windows of these two homes, it is unlikely their view would be diminished in any fashion by the requested increase in the height of the wall.

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

The Applicant's property's configuration is one of a kind. There are no other properties in the zoning district that are at risk of severe salt water intrusion and damage from waves approaching from the Southwest. Additionally, there are no other residential properties in the zoning district that are as close to the coastline as the Applicant's home. The request for the increase in height of Applicant's barrier wall is independent of any non-conforming uses that may exist in the zoning district. This is because there are no other homes in the zoning district that encounter the same hazards from extreme salt water intrusion as the Applicant's property does.

The above analysis is a simplified version of the elements courts look at in determining whether a property owner is entitled to a variance. To restate the elements, the authorities are uniform on the proposition that the difficulties or hardships relied on must be (1) unique to the

parcel involved in the application for the variance and peculiar to that particular property; (2) that a variance is the minimum necessary to alleviate the hardship; (3) that the need for a variance is not the result of the actions of the property owner; (4) that a variance would not create a detriment to adjacent and nearby properties or the public in general; (5) that the variance will not substantially diminish property values or alter the general character of the area; and (6) that the effect of the variance is in harmony with the intent of the relevant area. Miami Beach v. Burns, 179 So. 2d 380 (Fla. 3rd DCA 1965). Thus some exceptional and undue hardship to the individual land owner, unique to that parcel of property and not shared by property owners in the area, is an essential prerequisite to the granting of a variance. Elwyn v. City of Miami, 113 So.2d 849, 851 (Fla. 3rd DCA 1959).

Courts have held that zoning “restrictions on private property must be kept within the limits of necessity for the public welfare.” Forde v. Miami Beach, 146 Fla. 676, 684 (Fla. 1941). Furthermore, when property, restricted by a zoning ordinance, “changes its physical character from natural causes to the extent that it is no longer adaptable to the use it is zoned for, then it becomes the duty of the zoning board to relax its restrictions.” Taylor v. Jacksonville, 101 Fla. 1241 (Fla. 1931).

In City of Coral Gables v. Geary, 383 So. 2d 1127, a similar case involving a wall height variance, the Third District Court of Appeals had to determine whether a triangular shaped property that was unique and one-of-a-kind in the City of Coral Gables was entitled to a variance for wall height limitations and set-back requirements. City of Coral Gables v. Geary, 383 So. 2d 1127 (Fla. 3d DCA 1980). It was certain that the property’s peculiar physical characteristic constituted a “classic hardship unique to [the] individual owner.” Id. at 1128. The court held that the property was unique and that the hardship to the owner arose “from circumstances

peculiar to the realty alone.” Id. at 1128. The city argued that the property owner knew the property was unique and that by purchasing the property, the owner created the hardship on himself. The court struck down this argument and held that a variance was required.

Applicant’s request is analogous to the Geary case. Applicant’s property is one-of-a-kind, and is no doubt peculiar to his neighborhood. The Applicant’s property is the only parcel on the island of Key West that has perpendicular boundaries on two ocean front sides. This unique configuration results in a unique amplification of ocean waves on the Southwestern boundary, which in turn causes extraordinary salt water intrusion at velocities higher than anywhere else on the island.

A variance is justified in Applicant’s situation because Applicant did not create the hardship, and the requested variance is the minimum necessary to alleviate the hardship. Additionally, as stated in Forde and Taylor, the purpose of zoning ordinances is for the public’s welfare and should be kept within those confines, but when natural events occur that makes the ordinance no longer adaptable then it is the duty of the planning board to relax those restrictions. The apparent purpose of the ordinance on restricting wall heights is to protect the value of properties and to serve an aesthetic purpose. However, this purpose was intended for traditional parcels of land that have neighboring properties on either side and behind such parcel. The natural events that occur to Applicant’s property are so unique that they make the ordinance inadaptable. As in Geary, it is the duty of the planning board to relax the restrictions in the least possible way in order to alleviate the natural causes that pose a hardship on Applicant’s property.

After the Planning Board makes factual findings regarding the above subsections, the board must then determine under subsection (b)(2):

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.

Two of Applicant's neighbors have expressed objections to Applicant's proposed height increase when the Applicant previously requested a similar variance. The neighbors' objections were based on their belief that the increase in height would reduce their light and air flow from Applicant's property to theirs, and it would diminish their view of the Atlantic Ocean. In response to those objections, Applicant will incorporate hurricane proof glass as the cap on the wall. The increase in the wall's height will be made entirely of glass that will withstand hurricane force winds and will be resistant to projectile impacts and salt water intrusion. This modification will allow unobstructed views to the Atlantic Ocean, while providing the needed protection to the Applicant's property from extreme salt water intrusion.

Under Florida property law, it has been long held that a "property owner has no right to unobstructed light and air from the adjoining land." Fontainebleau Hotel Corp. v. Forty-Five Twenty-Five, Inc., 114 So. 2d 357 (Fla. 3rd DCA 1959) (stating that "it is universally held that where a structure serves a useful and beneficial purpose, it does not give rise to a cause of action . . . even though it causes injury to another by cutting off light and air and interferes with the view that would otherwise be available over adjoining land in its natural state"). This principle has been upheld consistently in the State of Florida. See White v. Buckwalter, 971 So. 2d 853 (Fla. 3rd DCA 2007), Messett v. Cohen, 741 So. 2d 619, 622 (Fla. 5th DCA 1999) (finding that "a claim of 'obstructed view' does not constitute a 'legally recognizable interest'"); Calusa Golf, Inc. v. Carlson, 464 So. 2d 1271, 1271 (Fla. 3d DCA 1985) (finding that, "even though another purpose may have partially motivated the construction of the fence," an

injunction preventing the construction was inappropriate where the fence would "serve a useful purpose by protecting the [property] from trespass and vandalism").

In the case of Fontainebleau Hotel Corp., Fontainebleau was building an addition to their hotel on South Beach and the neighboring hotel, the Eden Roc, filed a lawsuit to prevent the Fontainebleau from constructing their addition on the grounds that the Eden Roc had an implied easement to light and air. Fontainebleau Hotel Corp. v. Forty-Five Twenty-Five, Inc., 114 So. 2d 357 (Fla. 3rd DCA 1959). The addition to the Fontainebleau was going to cast a shadow on the Eden Roc's beach and pool area, severely diminishing the value of Eden Roc's property and depriving Eden Roc's guests of sunlight. Eden Roc's main argument was that they had enjoyed an implied easement to the light and air that was granted by the Fontainebleau and their predecessors in title. Eden Roc further argued that the Fontainebleau's purpose for the addition was solely driven by malice and ill will on the part of the president of Fontainebleau towards the president of Eden Roc. The court ultimately held that although it was unfortunate that the underlying reasoning for the addition may have been out of spite for Fontainebleau's neighbor, nonetheless, Eden Roc had no legal right to prevent the Fontainebleau from utilizing their property to its highest and best use.

In Calusa Golf, Inc., a Miami golf course attempted to increase the height of the walls surrounding its course. Calusa Golf, Inc. v. Carlson, 464 So. 2d 1271 (Fla. 3d DCA 1985). The surrounding neighbors filed suit against the golf course in an attempt to prevent Calusa from building the increase in wall height on the grounds that the wall would restrict their light and airflow. The court concluded that the increase in height would serve the useful purpose of protecting the property from trespassers and vandalism, because there was a useful purpose, preventing the golf course from increasing the height of the wall would be inappropriate. The

court made this determination even though it was likely that the increase in the wall was intended to spite the neighbors.

In the two cases above, the parties seeking to build on their properties were doing so spitefully with the purpose of cutting off their neighbors' air and light. This is not the case with Applicant's request. Applicant wishes to enjoy his property to the same extent as others in his zoning district, but is mindful of how this would affect his neighbors. As stated above, Applicant wishes to increase the height of his protective sea wall using hurricane proof glass in order to preserve the scenic view that the neighbors value.

The Applicant wishes to demonstrate that he has the best interest of his community in mind, and is willing to do whatever is possible in order to satisfy his neighbors' concerns, while still being able to enjoy the reasonable use of his property in the same manner his neighbors enjoy theirs, to wit, without fear of continuing extreme salt water intrusion.

Applicant has demonstrated that he is entitled to a variance based on the uniqueness of his property and the severe hardship incurred by extreme salt water intrusion. The Applicant has worked with his neighbors and demonstrated his good will by offering the most compromising resolution possible to protect his property and to address his neighbors' stated concerns.

Z:\1440\02\06-14-11 400 South St Variance Application.docx



Verification Form



3) Explain why this is the minimum variance necessary to make reasonable use of your property.

This request is for an increase in height to an already-existing wall on the property bordering the Atlantic Ocean. The small increase in the walls height will prevent a significant damage to the property. An engineers report will be provided at the time of the hearing to support this.

Verification Form

Please note, variances are quasi-judicial hearings and it is improper to speak to a City Commissioner 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, Wayne LaRue Smith, 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:

400 South Street, Key West, FL 33040

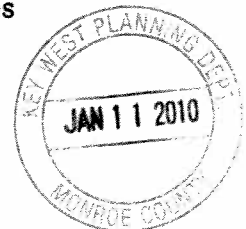
Street Address and Commonly Used Name if any

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.

Wayne LaRue Smith
Signature of Owner/Legal Representative

Signature of Joint/Co-owner

Subscribed and sworn to (or affirmed) before me on April 2, 2007 (date) by
Wayne LaRue Smith (name). He/She is personally known to me or has





Authorization Form



presented _____ as identification.

Chunta City Saetres
Notary's Signature and Seal

_____ Name of Acknowledger typed, printed or stamped

_____ Title or Rank _____ Commission Number, if any

Authorization Form

Please note, variances are quasi-judicial hearings and it is improper to speak to a City Commissioner 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, J. SEWARD JOHNSON, JR + JOYCE H. JOHNSON authorize
Please Print Name(s) of Owner(s)

Wayne LeRue Smith
Please Print Name of Representative

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

Liz Lear as POA for
J. Seward Johnson
Signature of Owner J. SEWARD JOHNSON

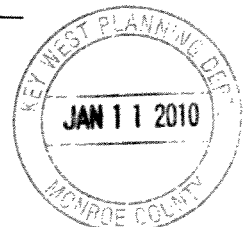
Liz Lear as POA for
Joyce Johnson
Signature of Joint/Co-owner if applicable

BY HIS ATTORNEY IN FACT
LIZ LEAR

JOYCE H. JOHNSON, HER
ATTORNEY IN FACT

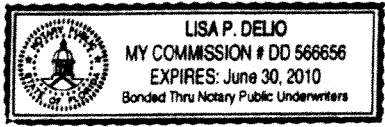
Subscribed and sworn to (or affirmed) before me on 12.27.06 (date) by

Please Print Name of Affiant



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

Lisa P. Delio
Notary's Signature and Seal



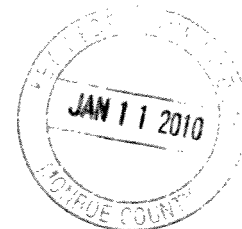
_____ Name of Acknowledger printed or stamped

_____ Title or Rank

_____ Commission Number, if any



SPECIAL POWER OF ATTORNEY



We, J Seward Johnson, Jr, and Joyce H. Johnson, both residing at 400 South Street, Key West, Florida 33040, hereby appoint Liz Leat of 2903 Harris Ave, Key West, Florida 33040, as our attorney-in-fact ("Agent") to exercise the powers and discretions described below.

Our agent shall have full power and authority to act on my behalf but only to the extent permitted by this Special Power of Attorney. Our Agent's powers shall include the power to:

1. Manage, insure, improve, repair, collect rents, execute leases, or take any other action that a landlord might take, with respect to any interest of mine in real estate (whether currently owned or later acquired).
2. Sign any documents or certificates required by the City of Key West, Monroe County and/or the State of Florida in connection with the renovation of my property.

We hereby grant to our Agent the full right, power, and authority to do every act, deed, and thing necessary or advisable to be done regarding the above powers, as fully as we could do if personally present and acting.

Any power or authority granted to our Agent under this document shall be limited to the extent necessary to prevent this Power of Attorney from causing, (i) our income to be taxable to our Agent, (ii) our assets to be subject to a general power of appointment by our Agent, or (iii) our Agent to have any incidents of ownership with respect to any life insurance policies that we may own on the life of our Agent.

Our Agent shall not be liable for any loss that results from a judgment error that was made in good faith. However, our Agent shall be liable for willful misconduct or the failure to act in good faith while acting under the authority of this Power of Attorney. A successor Agent shall not be liable for acts of a prior Agent.

No person who relies in good faith on the authority of our Agent under this instrument shall incur any liability to us, our estate or our personal representative. We authorize our Agent to indemnify and hold harmless any third party who accepts and acts under this document.

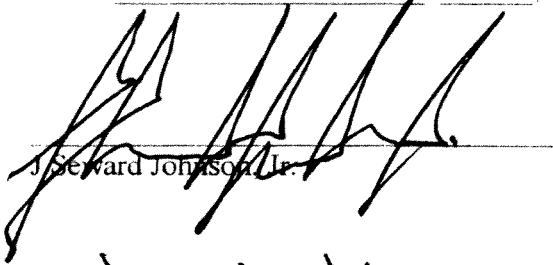
If any part of any provision of this instrument shall be invalid or unenforceable under applicable law, such part shall be ineffective to the extent of such invalidity only, without in any way affecting the remaining parts of such provision or the remaining provisions of this instrument.

Our Agent shall be entitled to reasonable compensation for any services provided as our Agent. Our Agent shall be entitled to reimbursement of all reasonable expenses incurred as a result of carrying out any provision of this Power of Attorney.

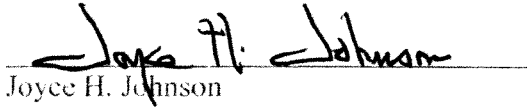
Our Agent shall provide an accounting for all funds handled and all acts performed as our Agent, but only if we so request or if such a request is made by any authorized personal representative or fiduciary acting on our behalf.

This Power of Attorney shall become effective immediately, and shall not be affected by either of our disability or lack of mental competence, except as may be provided otherwise by an applicable state statute. This is a Durable Power of Attorney. This Power of Attorney shall continue effective until December 31, 2007. This Power of Attorney may be revoked by either of us at any time by providing written notice to our Agent.

Dated _____, at Key West, Florida



J. Seward Johnson, Jr.



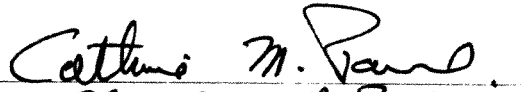
Joyce H. Johnson

Witness Signature:

Name:

City:

State:



CATHERINE M. PAUL

Witness Signature:

Name:

City:

State:



Neil M. FARLANE



STATE OF FLORIDA, COUNTY OF MONROE _____ SS:

The foregoing instrument was acknowledged before me this 8th day of
FEBRUARY 2006 by J Seward Johnson, Jr, AND Joyce H. Johnson who
is personally known to me or who has produced _____
as identification.

Deems Webster

Signature of person taking acknowledgment

Name typed, printed, or stamped



Deems Webster
Commission # DD312254
Expires: APRIL 20, 2008
Bonded Thru
Atlantic Bonding Co., Inc.



Deed

This Indenture.

Wherever used herein, the term "party" shall include the heirs, personal representatives, necessary and/or assigns of the respective parties hereto; the use of the singular number shall include the plural, and the plural the singular; the use of any gender shall include all genders; and, if used, the term "note" shall include all the notes herein described if more than one.

17 + 2.50

Made this 20th day of January, A. D. 1994

Between THE HONORARY CONCH CORPORATION, a Florida Corporation whose mailing address is: 723 Washington Street, Key West, FL 33040 a corporation existing under the laws of the State of Florida party of the first part, and

J. SEWARD JOHNSON, JR. and JOYCE H. JOHNSON, his wife whose mailing address is: 606 Battle Rd Princeton NJ, of the County of and State of New Jersey 08540 party of the second part,

Witnesseth, that the said party of the first part, for and in consideration of the sum of _____ DOLLARS AND OTHER GOOD AND VALUABLE CONSIDERATION Dollars, in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, has remised, released and quitclaimed, and by these presents does remise, release and quitclaim unto the said party of the second part all the right, title, interest claim and demand which the said party of the first part has in and to the following described lot, piece or parcel of land, situate lying and being in the County of Monroe State of Florida, to wit:

SEE ATTACHED EXHIBIT "A"

94 JAN 28 PM 3:17
KEY WEST FLORIDA
JAN 11 2010
MONROE COUNTY

Property Appraiser's Identification Number: 00036380 and 00036390

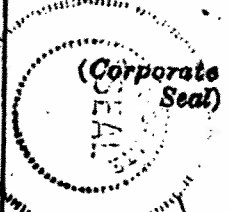
To Have and to Hold the same, together with all and singular the appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest and claim whatsoever of the said party of the first part, either in law or equity, to the only proper use, benefit and behoof of the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

In Witness Whereof, the said party of the first part has

OFF REC 1291 PAGE 1029
822043
THIS INSTRUMENT WAS PREPARED WITHOUT BENEFIT OF ABSTRACT OR TITLE SEARCH AND IS BASED SOLELY ON THE FACTS PROVIDED BY THE PARTIES HEREIN.

right, title, interest and claim whatsoever of the said party of the first part, either in law or equity, to the only proper use, benefit and behoof of the said party of the second part.

In Witness Whereof, the said party of the first part has caused these presents to be signed in its name by its President, and its corporate seal to be affixed, attested by its President the day and year above written.



THE HONORARY CONCH CORPORATION,

By [Signature]
Seward Johnson, Jr. President.

Attest: [Signature]
Joyce H. Johnson, Secretary

Signed, Sealed and Delivered in Our Presences:

X [Signature]
witness: [Signature]
X [Signature]
witness: [Signature]

*acknowledgement on next page

822043 OFF REC 1291 FILE 1030



State of ~~Florida~~ NEW YORK
County of Mercer

I Herby Certify, That on this 26th day of January A. D. 1994, before me personally appeared J. SEWARD JOHNSON, JR. and JOYCE H. JOHNSON, respectively President and Secretary of THE HONORARY CONCH CORPORATION, a corporation under the laws of the State of Florida, to me known to be the persons described in and who executed the foregoing conveyance to

J. SEWARD JOHNSON, JR. and JOYCE H. JOHNSON, his wife and severally acknowledged the execution thereof to be their free act and deed as such officers, for the uses and purposes therein mentioned; and that they affixed thereto the official seal of said corporation, and the said instrument is the act and deed of said corporation.

Witness my signature and official seal at New Jersey in the County of Mercer and State of Florida, the day and year last aforesaid.

My Commission Expires Dec. 9, 1997

Judith A. Granat
Notary Public

Judith A. Granat
Printed name of Notary Public

JUDITH A. GRANAT
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires Dec. 9.1997

822043 OFF REC 1291 PAGE 1031

Date

TO

Quit-Claim Deed
FROM CORPORATION



EXHIBIT "A"

On the Island of Key West and known on William A. Whitehead's map delineated in February, A.D. 1829 as Part of Tract 16, but now better known and described as part of Lots 1 and 3 and all of Lots 2 and 4 of Square 6 of said Tract 16 according to diagram recorded December 16th, A.D. 1885, in Deed Record N, at Page 476, of the Public records of Monroe County, Florida, and is described by metes and bounds as follows:

OFF REC 1291 PAGE 1032

822043

Commencing at a point on the Southeasterly line (side) of South Street, said point being distant 195.5 feet Southwesterly, along the said Southeasterly line of South Street, from the intersection of the said Southeasterly line of South Street with the Southwesterly line (side) of Duval Street (the azimuth of said Southeasterly line of South Street is South 55 degrees 39 minutes 36 seconds west), thence South 55° 39' 36" W., along the said Southeasterly line of South Street, a distance of 201.03 feet; thence at an angle to the right of 92° 21' in azimuth South 31° 59' 24" E a distance of 103.73 feet; thence at an angle to the right of 116° 02' in azimuth N 84° 02' 36" E a distance of 225.2 feet; thence at an angle to the right of 148° 34' in azimuth N 52° 36' 36" E a distance of 7.27 feet thence at an angle to the right of 93° 03' in azimuth N 34° 20' 24" W, a distance of 210.4 feet to the point of commencement.

EXCEPT

On the Island of Key West and known on William A. Whitehead's map delineated in February, A.D. 1829 as part of Tract 16, but better known and described as a Part of Lots 1, 2, 3 and 4 of Square 6 of said Tract 16, according to a diagram recorded December 16th, A.D. 1885, in Deed Record N., at Page 476, of the Public Records of Monroe County, Florida, and is described by metes and bounds as follows:

Commencing at a point on the Southeasterly line (side) of South Street, said point being distant 195.5 feet Southwesterly, along the Southeasterly line of South Street, from the intersection of the Southeasterly line of South Street with the Southwesterly line of Duval Street (the azimuth of said Southeasterly line of South Street is South 55° 39' 36" W), thence South 55° 39' 36" W along the said Southeasterly line of South Street a distance of 75 feet; thence South 34° 20' 24" E a distance of 174 feet to a point on a concrete sea wall; thence North 84° 09' 36" E a distance of 77.05 feet thence N 52° 36' 36" E a distance of 7.27 feet; thence N 34° 20' 24" W a distance of 210.4 feet to the point of commencement.

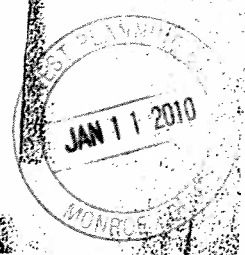
Together with all the tenements, hereditaments, appurtenances and riparian and littoral rights thereunto belonging or in anywise appertaining.

ALSO

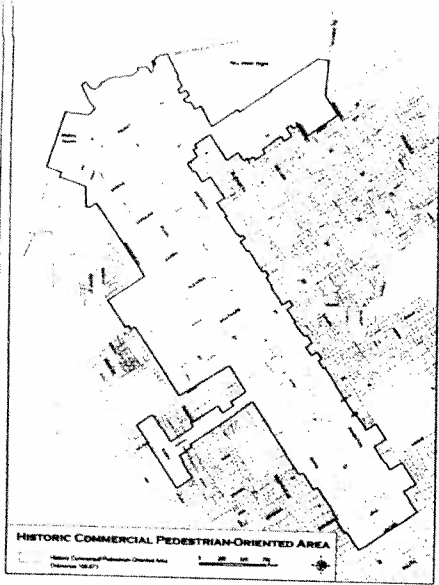
Beginning at a point on the Northeasterly side of Whitehead Street extended Southeasterly distance 105.94 feet from the Southeasterly side of South Street; thence continuing in a Southeasterly direction and along the Northeasterly side of Whitehead Street Extended Southeasterly a distance of 382.25 feet; thence at right angles and in a Northeasterly direction of distance of 125 feet; thence at right angles and in a Northwesterly direction a distance of 314.71 feet to a concrete retaining wall; thence in a Westerly direction along said concrete retaining wall a distance of 142.03 feet more or less to the point of beginning. Containing one (1) acre, more or less.

SAVING AND RESERVING UNTO the Trustees of the Internal Improvement Fund of the State of Florida, and their successors, title to an undivided three-fourths of all phosphate, minerals and metals, and title to an undivided one-half of all petroleum that may be in, on or under the above described land, with the privilege to mine and develop the same.

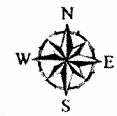
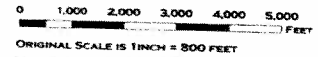
Recorded in Official Records
in Monroe County, Florida
DANIEL J. FORBACH
Chief Circuit Court



Survey



Location of Petitioner's Parcel



OFFICIAL ZONING MAP OF THE CITY OF KEY WEST, FLORIDA

LEGEND		Zoning districts based on Future Land Use Map (FLUM)	
A	Residential	MDD-1	Medium Density Residential
C-OW	Concentration-Food/Beverage/Arts	MDD-2	Medium Density Residential
C-OW	Concentration-Existing Historic District	MDD-3	Medium Density Residential
C-OW	Concentration-High Historic District	MDD-4	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-5	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-6	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-7	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-8	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-9	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-10	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-11	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-12	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-13	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-14	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-15	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-16	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-17	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-18	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-19	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-20	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-21	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-22	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-23	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-24	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-25	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-26	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-27	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-28	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-29	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-30	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-31	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-32	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-33	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-34	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-35	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-36	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-37	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-38	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-39	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-40	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-41	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-42	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-43	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-44	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-45	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-46	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-47	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-48	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-49	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-50	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-51	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-52	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-53	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-54	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-55	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-56	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-57	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-58	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-59	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-60	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-61	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-62	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-63	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-64	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-65	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-66	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-67	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-68	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-69	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-70	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-71	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-72	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-73	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-74	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-75	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-76	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-77	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-78	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-79	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-80	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-81	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-82	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-83	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-84	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-85	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-86	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-87	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-88	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-89	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-90	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-91	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-92	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-93	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-94	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-95	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-96	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-97	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-98	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-99	Medium Density Residential
C-OW	Concentration-Light Industrial	MDD-100	Medium Density Residential

The City of Key West International Airport has special land use and height restrictions imposed on areas close which are shaded gray. Please consult with the airport authority for more information.

Original map created by G. Sullivan Grant with the City of Key West Planning Department dated 1981

1996 Revisions provided by the City of Key West Planning Department

2004 Revisions provided by the City of Key West Planning Department based on ordinances 96-10, 96-14, and 93-04

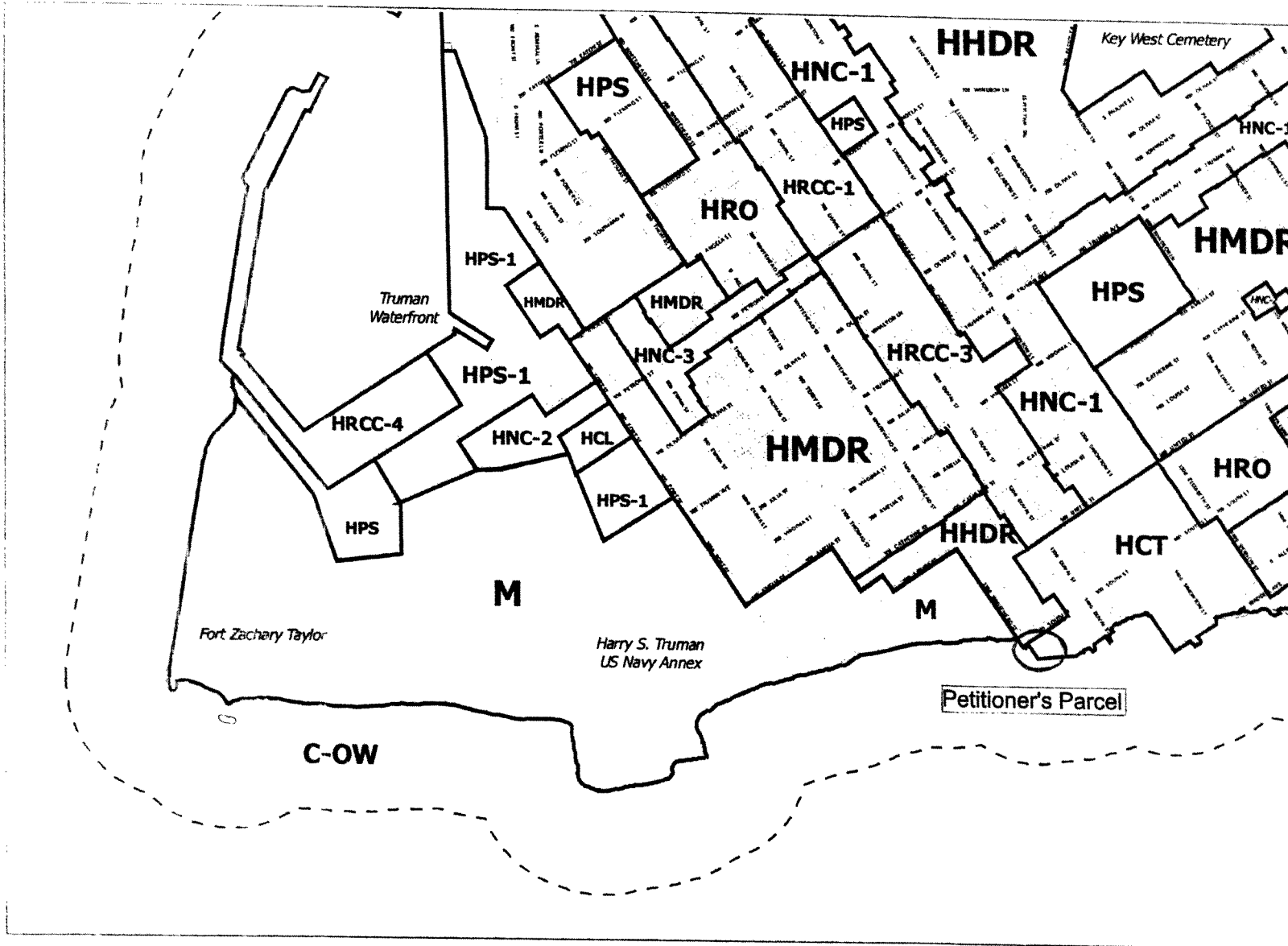
Base map provided by the Monroe County Property Appraiser

Parcel map updated on June 24, 2004

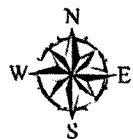
Plot prepared on December 14, 2004

This map is a reproduction of the original map and does not constitute an official map of the City of Key West. It is provided for informational purposes only. The City of Key West is not responsible for any errors or omissions in this map. The City of Key West is not responsible for any actions taken based on this map.

ATTENDED:
 City of Key West
 Planning Department



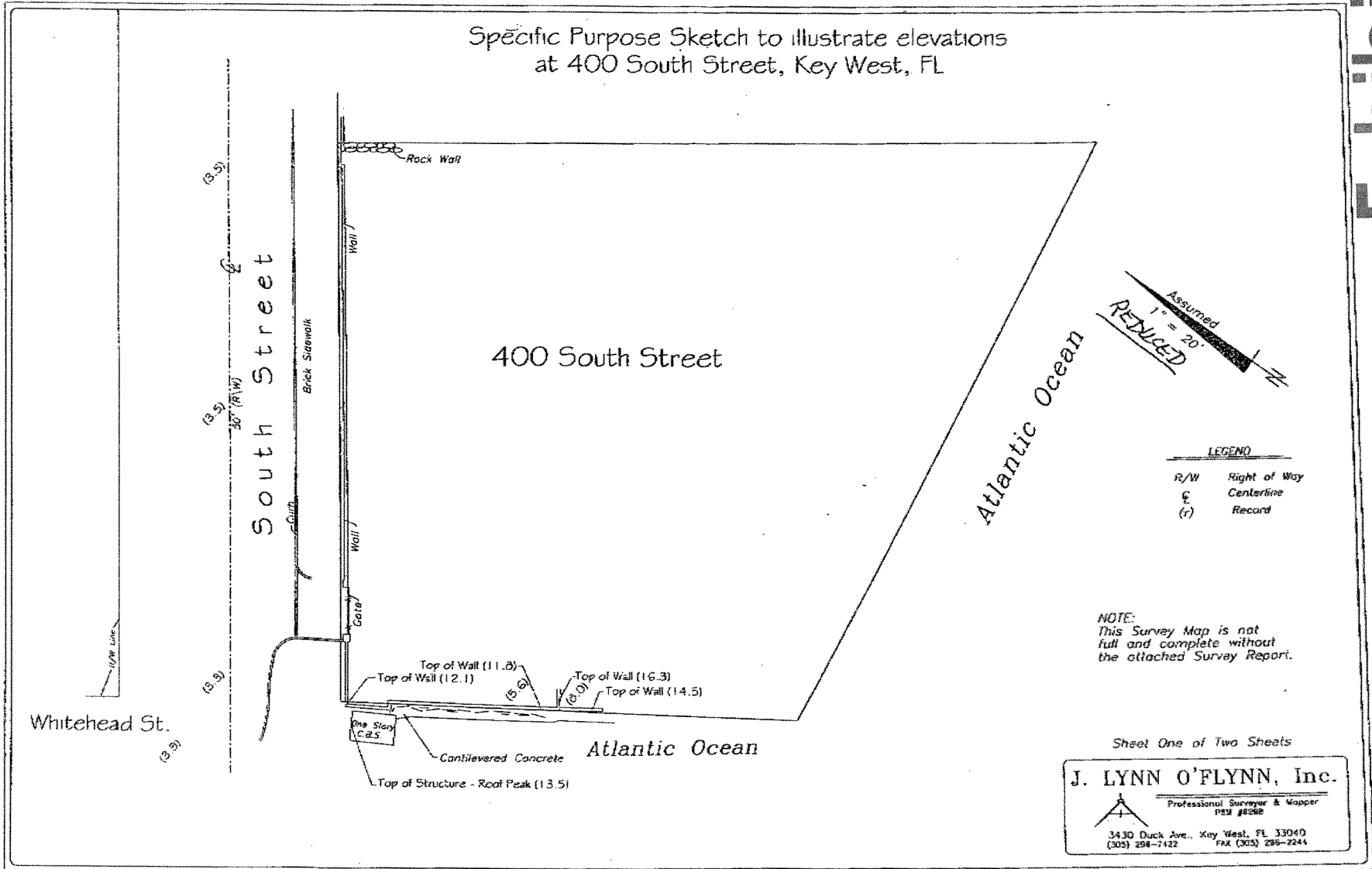
0 500 1,000 1,500
 Feet



**Zoning Map of the City of Key West
 Plate 2 of 8.**

Not official version. Please contact the Planning Department or City Clerk for the official version.

Specific Purpose Sketch to illustrate elevations
at 400 South Street, Key West, FL



Specific Purpose Sketch to illustrate elevations
at 400 South Street, Key West, FL

NOTES:


1. The legal description shown hereon was furnished by the client.
2. Underground foundations and utilities were not located.
3. All angles are 90° (Measured & Record) unless otherwise noted.
4. Street address: 400 South Street, Key West, FL.
5. This survey is not valid without the signature and the original raised seal of a Florida licensed surveyor and mapper.
6. Lands shown hereon were not abstracted for rights-of-way, easements, ownership, or other instruments of record.
7. North Arrow is assumed and based on the legal description.
8. Adjoiners are not furnished.
9. Elevations are shown in parenthesis, and refer to Mean Sea Level, N.G.V.D. 1929 Datum.
10. Date of Field Work: May 24, 2011
11. This Sketch does not represent a field boundary survey.

SPECIFIC PURPOSE SKETCH TO SHOW ELEVATIONS AT THE
FOLLOWING DESCRIBED PROPERTY

400 South Street
Key West, FL 33040

SPECIFIC PURPOSE SKETCH FOR: J. Seward Johnson;

J. LYNN O'FLYNN, INC.


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

THIS SKETCH
IS NOT
ASSIGNABLE

May 24, 2011

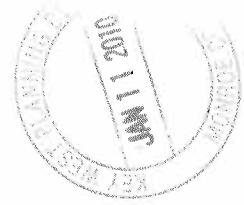
Sheet Two of Two Sheets

J. LYNN O'FLYNN, Inc.

Professional Surveyor & Mapper
FSM #6036



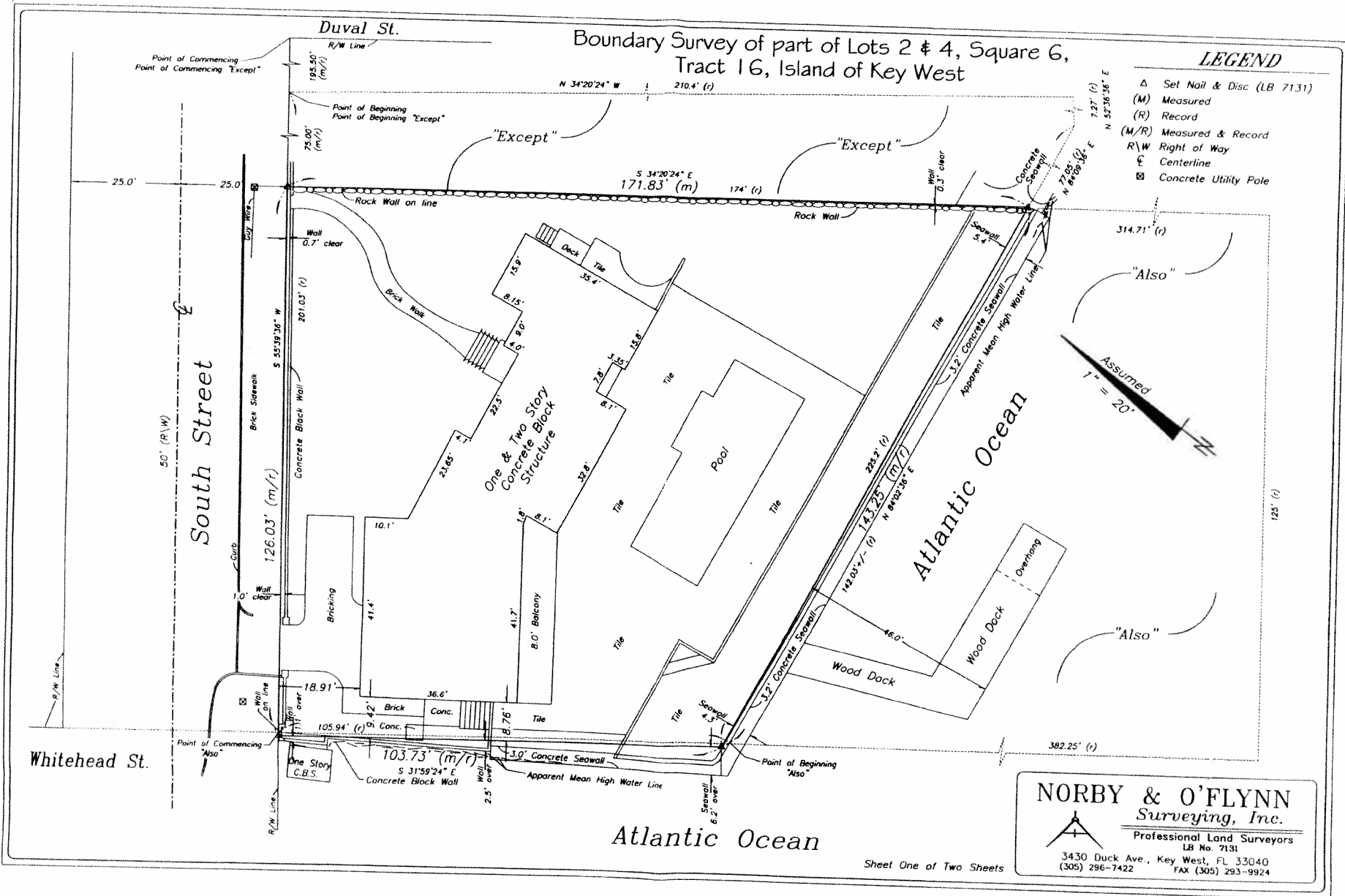
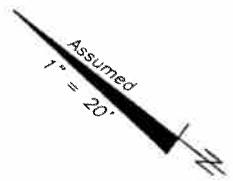
3430 Buck Ave., Key West, FL 33040
(305) 236-7422 FAX (305) 236-2244



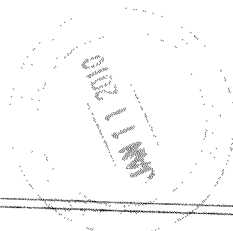
Boundary Survey of part of Lots 2 & 4, Square 6, Tract 1 G, Island of Key West

LEGEND

- Δ Set Nail & Disc (LB 7131)
- (M) Measured
- (R) Record
- (M/R) Measured & Record
- R/W Right of Way
- € Centerline
- ☒ Concrete Utility Pole



NORBY & O'FLYNN
Surveying, Inc.
Professional Land Surveyors
LB No. 7131
3430 Duck Ave., Key West, FL 33040
(305) 296-7422 FAX (305) 293-9924



NOTES:

1. The legal descriptions shown hereon were 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: 400 South Street, Key West, FL.
5. This survey is not valid without the signature and the original raised seal of a Florida licensed surveyor and mapper.
6. Lands shown hereon were not abstracted for rights-of-way, easements, ownership, or other instruments of record.
7. Bearings are based on SE'y R/W line of South Street, as S 55°39'36" W, as per legal description.
8. Error of closure exceeds one part in 10,000.
9. Date of field work: October 29, 2003.
10. Ownership of fences is undeterminable, unless otherwise noted.
11. Adjoiners are not furnished.
12. The legal description labeled "Also" (Submerged lands) was not surveyed and is shown for graphical purposes only.
13. This Survey Report is not full and complete without the attached Survey Map.

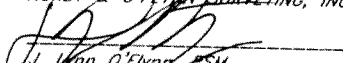
BOUNDARY SURVEY OF: On the Island of Key West and known on William A. Whitehead's map delineated in February, A.D. 1829 as Part of Tract 16, but now better known and described as part of Lots 1 and 3 and all of Lots 2 and 4 of Square 6 of said Tract 16 according to diagram recorded December 16th, A.D. 1885, in Deed Record N, at Page 476, of the Public Records of Monroe County, Florida, and is described by metes and bounds as follows: COMMENCING at a point on the Southeastery line (side) of South Street, said point being distant 195.5 feet Southwesterly, along the said Southeastery line of South Street, from the intersection of the said Southeastery line of South Street with the Southwesterly line (side) of Duval Street (the azimuth of said Southeastery line of South Street is South 55 degrees 39 minutes 36 seconds West), thence South 55°39'36" W, along the said Southeastery line of South Street, a distance of 201.03 feet; thence at an angle to the right of 92°21' in azimuth South 31°59'24" E a distance of 103.73 feet; thence at an angle to the right of 116°02' in azimuth N 84°02'36" E a distance of 225.2 feet; thence at an angle to the right of 148°34' in azimuth N 52°36'36" E a distance of 7.27 feet; thence at an angle to the right of 93°03' in azimuth N 34°20'24" W, a distance of 210.4 feet to the Point of Commencement.

EXCEPT:
On the Island of Key West and known on William A. Whitehead's map delineated in February, A.D. 1829 as Part of Tract 16, but now better known and described as part of Lots 1, 2, 3 and 4 of Square 6 of said Tract 16 according to diagram recorded December 16th, A.D. 1885, in Deed Record N, at Page 476, of the Public Records of Monroe County, Florida, and is described by metes and bounds as follows: COMMENCING at a point on the Southeastery line (side) of South Street, said point being distant 195.5 feet Southwesterly, along the Southeastery line of South Street, from the intersection of the Southeastery line of South Street with the Southwesterly line of Duval Street (the azimuth of said Southeastery line of South Street is South 55° 39'36" W), thence South 55°39'36" W along the said Southeastery line of South Street a distance of 75 feet; thence South 34°20'24" E a distance of 174 feet to a point on a concrete sea wall; thence North 84°09'36" E a distance of 77.05 feet; thence N 52°36'36" E a distance of 7.27 feet; thence N 34°20'24" W a distance of 210.4 feet to the Point of Commencement.

ALSO: (This parcel was not surveyed and is shown for graphical purposes only)
Beginning at a point on the Northeastery side of Whitehead Street extended Southeastery distance 105.94 feet from the Southeastery side of South Street; thence continuing in a Southeastery direction and along the Northeastery side of Whitehead Street extended Southeastery a distance of 382.25 feet; thence at right angles and in a Northeastery direction of distance of 125 feet; thence at right angles and in a Northwestery direction a distance of 314.71 feet to a concrete retaining wall; thence in a Westerly direction along said concrete retaining wall a distance of 142.03 feet more or less to the Point of Beginning.

BOUNDARY SURVEY FOR: J. Seward Johnson, Sr. and Joyce H. Seward;

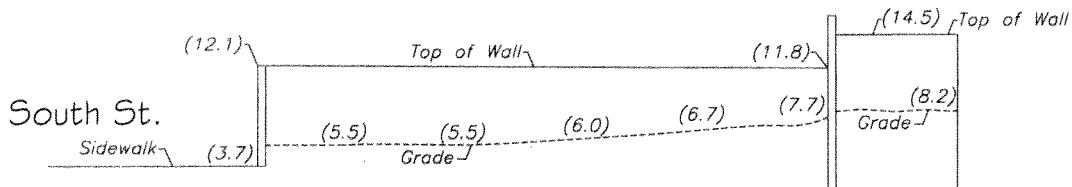
NORBY & O'FLYNN SURVEYING, INC.


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

November 3, 2003

NORBY & O'FLYNN
Surveying, Inc.
Professional Land Surveyors
LB No. 7131
3430 Duck Ave., Key West, FL 33040
(305) 296-7422 FAX (305) 293-9924

Specific Purpose Sketch to illustrate elevations
at 400 South Street, Key West, FL



SOUTHWEST ELEVATION

NOTES:

1. Grade elevations shown hereon are located along the Northeasterly face of existing wall.
2. Underground foundations and utilities were not located.
3. All angles are 90° (Measured & Record) unless otherwise noted.
4. Street address: 400 South Street, Key West, FL.
5. This survey is not valid without the signature and the original raised seal of a Florida licensed surveyor and mapper.
6. Lands shown hereon were not abstracted for rights-of-way, easements, ownership, or other instruments of record.
7. This Sketch does not represent a field boundary survey.
8. Adjoiners are not furnished.
9. Elevations are shown in parenthesis, and refer to Mean Sea Level, N.G.V.D. 1929 Datum.
10. Date of Field Work: September 28, 2011.

SPECIFIC PURPOSE SKETCH TO SHOW ELEVATIONS AT THE
FOLLOWING DESCRIBED PROPERTY

400 South Street
Key West, FL 33040

SPECIFIC PURPOSE SKETCH FOR: J. Seward Johnson;

J. LYNN O'FLYNN, INC.

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

THIS SKETCH
IS NOT
ASSIGNABLE



October 3, 2011

J. LYNN O'FLYNN, Inc.



Professional Surveyor & Mapper
PSM #6298

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

Elevation Certificate

ELEVATION CERTIFICATE

Important: Read the instructions on pages 1 - 7.

SECTION A - PROPERTY OWNER INFORMATION			For Insurance Company Use:
BUILDING OWNER'S NAME Johnson		Policy Number	
BUILDING STREET ADDRESS (Including Apt., Unit, Suite, and/or Bldg. No.) OR P.O. ROUTE AND BOX NO. 400 South Street			Company NAIC Number
CITY Key West	STATE FL	ZIP CODE 33040	
PROPERTY DESCRIPTION (Lot and Block Numbers, Tax Parcel Number, Legal Description, etc.)			

BUILDING USE (e.g., Residential, Non-residential, Addition, Accessory, etc. Use a Comments area, if necessary.)
Residential

LATITUDE/LONGITUDE (OPTIONAL) (##° - ##' - ##.###" or ###.####")

HORIZONTAL DATUM: NAD 1927 NAD 1983

SOURCE: GPS (Type): _____
 USGS Quad Map Other: _____

SECTION B - FLOOD INSURANCE RATE MAP (FIRM) INFORMATION

B1. NFIP COMMUNITY NAME & COMMUNITY NUMBER City of Key West 120168		B2. COUNTY NAME Monroe		B3. STATE FL	
B4. MAP AND PANEL NUMBER 1516	B5. SUFFIX K	B6. FIRM INDEX DATE 2/18/05	B7. FIRM PANEL EFFECTIVE/REVISED DATE 2/18/05	B8. FLOOD ZONE(S) VE	B9. BASE FLOOD ELEVATION(S) (Zone AO, use depth of flooding) 12

B10. Indicate the source of the Base Flood Elevation (BFE) data or base flood depth entered in B9.
 FIS Profile FIRM Community Determined Other (Describe): _____

B11. Indicate the elevation datum used for the BFE in B9: NGVD 1929 NAVD 1988 Other (Describe): _____

B12. Is the building located in a Coastal Barrier Resources System (CBRS) area or Otherwise Protected Area (OPA)? Yes No Designation Date _____

SECTION C - BUILDING ELEVATION INFORMATION (SURVEY REQUIRED)

C1. Building elevations are based on: Construction Drawings* Building Under Construction* Finished Construction

*A new Elevation Certificate will be required when construction of the building is complete.

C2. Building Diagram Number 1 (Select the building diagram most similar to the building for which this certificate is being completed - see pages 6 and 7. If no diagram accurately represents the building, provide a sketch or photograph.)

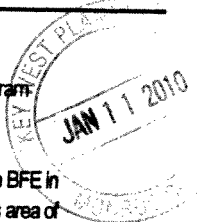
C3. Elevations - Zones A1-A30, AE, AH, A (with BFE), VE, V1-V30, V (with BFE), AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO

Complete items C3.-a-l below according to the building diagram specified in item C2. State the datum used. If the datum is different from the datum used for the BFE in Section B, convert the datum to that used for the BFE. Show field measurements and datum conversion calculation. Use the space provided or the Comments area of Section D or Section G, as appropriate, to document the datum conversion.

Datum _____ Conversion/Comments _____

Elevation reference mark used local Does the elevation reference mark used appear on the FIRM? Yes No

- a) Top of bottom floor (including basement or enclosure) 8.1 ft.(m)
- b) Top of next higher floor 8.3 ft.(m)
- c) Bottom of lowest horizontal structural member (V zones only) NA ft.(m)
- d) Attached garage (top of slab) 5.5 ft.(m)
- e) Lowest elevation of machinery and/or equipment servicing the building (Describe in a Comments area) 6.2 ft.(m)
- f) Lowest adjacent (finished) grade (LAG) 5.0 ft.(m)
- g) Highest adjacent (finished) grade (HAG) 5.3 ft.(m)
- h) No. of permanent openings (flood vents) within 1 ft. above adjacent grade 2
- i) Total area of all permanent openings (flood vents) in C3.h 700+- sq. in. (sq. cm)



License Number, Embossed Seal, Signature, and Date

[Signature]
3-23-05

SECTION D - SURVEYOR, ENGINEER, OR ARCHITECT CERTIFICATION

This certification is to be signed and sealed by a land surveyor, engineer, or architect authorized by law to certify elevation information.
I certify that the information in Sections A, B, and C on this certificate represents my best efforts to interpret the data available.
I understand that any false statement may be punishable by fine or imprisonment under 18 U.S. Code, Section 1001.

CERTIFIER'S NAME J. Lynn O'Flynn LICENSE NUMBER 6298

TITLE Professional Land Surveyor COMPANY NAME J. Lynn O'Flynn, Inc.

ADDRESS 3430 Duck Avenue CITY Key West STATE FL ZIP CODE 33040

SIGNATURE *[Signature]* DATE 3/23/05 TELEPHONE (305) 296-7422

IMPORTANT: In these spaces, copy the corresponding information from Section A.

BUILDING STREET ADDRESS (Including Apt, Unit, Suite, and/or Bldg. No.) OR P.O. ROUTE AND BOX NO.

400 South Street

CITY

Key West

STATE
FL

ZIP CODE
33040

For Insurance Company Use:

Policy Number

Company NAIC Number

SECTION D - SURVEYOR, ENGINEER, OR ARCHITECT CERTIFICATION (CONTINUED)

Copy both sides of this Elevation Certificate for (1) community official, (2) insurance agent/company, and (3) building owner.

COMMENTS

C3. e) - Central Air Conditioner Unit

Check here if attachments

SECTION E - BUILDING ELEVATION INFORMATION (SURVEY NOT REQUIRED) FOR ZONE AO AND ZONE A (WITHOUT BFE)

For Zone AO and Zone A (without BFE), complete items E1 through E4. If the Elevation Certificate is intended for use as supporting information for a LOMA or LOMR-F, Section C must be completed.

- E1. Building Diagram Number ___ (Select the building diagram most similar to the building for which this certificate is being completed - see pages 6 and 7. If no diagram accurately represents the building, provide a sketch or photograph.)
- E2. The top of the bottom floor (including basement or enclosure) of the building is ___ ft.(m) ___ in.(cm) above or below (check one) the highest adjacent grade. (Use natural grade, if available).
- E3. For Building Diagrams 6-8 with openings (see page 7), the next higher floor or elevated floor (elevation b) of the building is ___ ft.(m) ___ in.(cm) above the highest adjacent grade. Complete items C3.h and C3.i on front of form.
- E4. The top of the platform of machinery and/or equipment servicing the building is ___ ft.(m) ___ in.(cm) above or below (check one) the highest adjacent grade. (Use natural grade, if available).
- E5. For Zone AO only: If no flood depth number is available, is the top of the bottom floor elevated in accordance with the community's floodplain management ordinance?
 Yes No Unknown. The local official must certify this information in Section G.

SECTION F - PROPERTY OWNER (OR OWNER'S REPRESENTATIVE) CERTIFICATION

The property owner or owner's authorized representative who completes Sections A, B, C (items C3.h and C3.i only), and E for Zone A (without a FEMA-issued or community-issued BFE) or Zone AO must sign here. The statements in Sections A, B, C, and E are correct to the best of my knowledge.

PROPERTY OWNER'S OR OWNER'S AUTHORIZED REPRESENTATIVE'S NAME

ADDRESS

CITY

STATE

ZIP CODE

SIGNATURE

DATE

TELEPHONE

COMMENTS

Check here if attachments

SECTION G - COMMUNITY INFORMATION (OPTIONAL)

The local official who is authorized by law or ordinance to administer the community's floodplain management ordinance can complete Sections A, B, C (or E), and G of this Elevation Certificate. Complete the applicable item(s) and sign below.

- G1. The information in Section C was taken from other documentation that has been signed and embossed by a licensed surveyor, engineer, or architect who is authorized by state or local law to certify elevation information. (Indicate the source and date of the elevation data in the Comments area below.)
- G2. A community official completed Section E for a building located in Zone A (without a FEMA-issued or community-issued BFE) or Zone AO.
- G3. The following information (items G4-G9) is provided for community floodplain management purposes.

G4. PERMIT NUMBER	G5. DATE PERMIT ISSUED	G6. DATE CERTIFICATE OF COMPLIANCE/OCCUPANCY ISSUED
-------------------	------------------------	---

G7. This permit has been issued for: New Construction Substantial Improvement

G8. Elevation of as-built lowest floor (including basement) of the building is:

___ ft.(m)

Datum: ___

G9. BFE or (in Zone AO) depth of flooding at the building site is:

___ ft.(m)

Datum: ___

LOCAL OFFICIAL'S NAME

TITLE

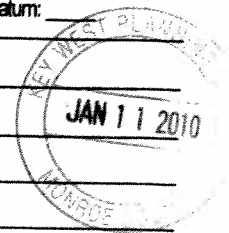
COMMUNITY NAME

TELEPHONE

SIGNATURE

DATE

COMMENTS



Check here if attachments

Engineer's Report

Paul Lin & Associates

12386 S.W. 82 Avenue, Miami, FL 33156
tel: (305) 969-2177 / Paul_Lin@bellsouth.net

45900

June 26, 2009

The Smith Law Firm
333 Fleming Street
Key West, Florida 33040

**RE: COASTAL ENGINEERING EVALUATION RELATIVE TO STORM WAVE OVERTOPPING
PROBLEMS AT 400 SOUTH STREET, KEY WEST, FLORIDA**

Dear Sir:

This letter report summarizes our engineering evaluation and findings relative to the problems associated with wave overtopping at the above referenced property. Specifically, an area that is located at the northwest corner of the subject property has been experiencing severe water damages caused by wave overtopping during storm events. Large waves often overtop the seawall at this particular area pushing tremendous amount of waters into the property, impacting the adjacent residential building and scouring its foundation. An engineering analysis is conducted to explore alternatives that would address the issue and stop the wave overtopping problems.

1. **Site Characteristics:** The subject property is located at 400 South Street, Key West and lies at the southwest side of the Key West mainland, as shown in Figures 1 and 2. Most of the coastline in the region is protected by seawall or rock revetment (Photos 1 to 2) from storm wave impact and potential beach erosion.

The area of concern (“corner spot”) as shown in Figure 3 is located at the intersection corner of discontinued, armored coastlines fronting the Atlantic Ocean. The unique coastline configuration at this particular spot (the only kind within its zoning district) has caused waves to intensify, especially when they approach from the south and southwest directions. Specifically, the waves that encounter the seawall along the west side of the subject property would be reflected northward toward the corner spot meeting other reflected waves coming from the adjacent rock revetment shoreline (Figures 3 and 4). As the waves converge from both sides of the coastline toward the corner spot, the waters would pile up (Photo 3), creating larger waves that would often overtop the seawall and damage the adjacent building.

The area of concern currently consists of a vinyl sheet pile wall (Photo 4 and 5), which spans 38 feet in length (Figure 5). Since this area is located at the west side of the property, there is limited side setback, and the residential building and driveway on the subject property are situated within 10 feet from the seawall. There is no sufficient open space to allow the

Coastal, Environmental, Engineering and Management

Exhibit D

overtopped water to dissipate its energy before impacting the building. Once overtopped, the waters would hit the building and scouring its foundation, threatening the integrity of the structure. In addition, the overtopped waters would also damage the driveway, parked vehicles and landscape (Photo 6).

The primary flooding source at the project area occurs from the Atlantic Ocean as delineated by FEMA's Transect No. 2 with a 100-year stillwater elevation of +7.6 feet National Geodetic Vertical Datum (as reported by the FEMA Monroe County Flood Insurance Study, 2005). From the current Flood Insurance Rate Map (FIRM, No. 12087C1516K, Feb. 2005), the project site lies within a VE flood zone with a base flood elevation of 12 feet NGVD, as shown in Figure 6.

- 2. Wave Runup and Overtopping Analysis:** To stop the storm wave overtopping at the area of concern, an analysis of wave runup and overtopping was performed using established FEMA (2000), USACE (U.S. Army Corps of Engineers, 1984) and NFEC (1982) methodology and site-specific data. The analysis was based on the hydraulic model studies which simulated wave runup and overtopping as it encountered a coastal structure such as a seawall. The wave processes are governed by parameters such as water depth, wave steepness (wave height over wave length), coastal structure's slope and type.

In this evaluation, the analysis is conducted using a 100-year stillwater elevation of +7.6 feet NGVD (Figure 7) as reposted by FEMA's 2005 Flood Insurance Study for Transect No. 2. The 100-year flood is the standard design criterion FEMA used in establishment of the nationwide Flood Insurance Rate Map (FIRM). The FEMA Transect No. 2 is located approximately 350 feet west of the project site. During a storm, large waves would propagate and converge toward the corner spot, then break in front of the seawall (vinyl sheet pile wall), causing wave runup and overtopping.

The height of the storm waves at the toe of the seawall would be depth limited and is calculated to be 6.7 feet. As waves encounter the vertical vinyl sheet pile wall, the waters would runup the wall and overtop if the wall is not high enough. Based on the calculated wave steepness and water depth to wave height ratio, the wave runup at the seawall is calculated to be 7.0 feet (Figure 7). In other words, the waves would reach the highest elevation of +14.6 feet NGVD during a 100-year flood event. That is 2.9 feet above the existing top wall. The wave runup calculation details are presented in Attachment-A.

- 3. Results:** Based on the evaluation, it was found that the area of concern is situated at a corner spot where the southerly and southwesterly waves tend to converge and intensify as a result of its unique coastline configuration. Due to the limited side setback, the nearby residential building on the subject property has been subject to severe water damages including wave

45900
The Smith Law Firm
June 26, 2009
Page 3

pounding and foundation scouring caused by wave overtopping. The damages have threatened the integrity of the building structure.

The results of the Wave Runup and Overtopping Analysis indicate that the current seawall at the area of concern is not sufficient to prevent wave overtopping during a storm event, as evidenced by occurrence of recent hurricanes (Photo 6). It also shows that the top wall needs to be raised up for 2.9 feet in order to stop wave overtopping and provide adequate protection to the adjacent building (Figure 7).

Should you have any questions, please do not hesitate to contact me.

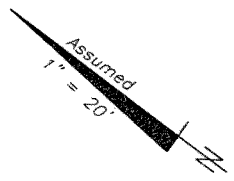
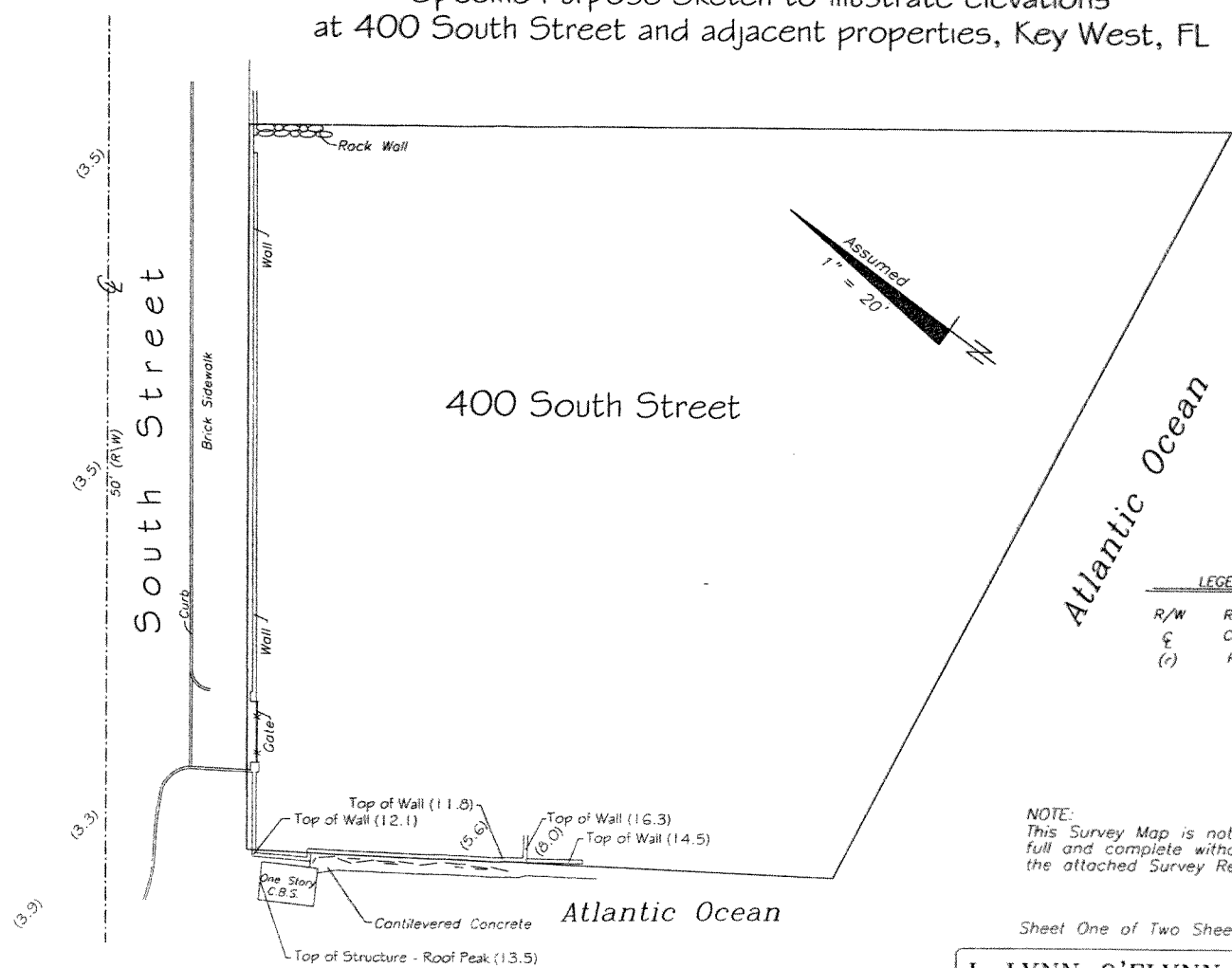
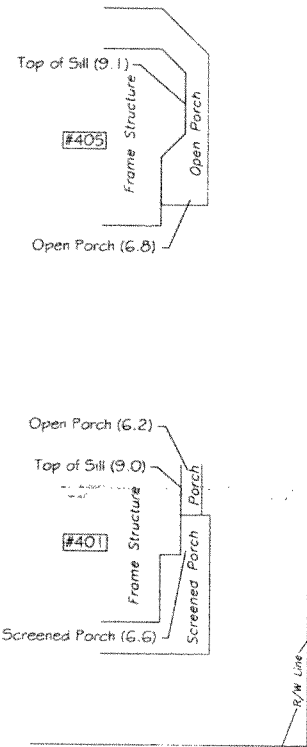
Sincerely,



Paul C. Lin, Ph.D., P.E.
President
Florida Registered License #42636

Enclosures

Specific Purpose Sketch to illustrate elevations
at 400 South Street and adjacent properties, Key West, FL



LEGEND

R/W	Right of Way
±	Centerline
(-)	Record

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

Sheet One of Two Sheets

J. LYNN O'FLYNN, Inc.
Professional Surveyor & Mapper
PSM #8298
3430 Duck Ave. Key West, FL 33040
(305) 296-7422 FAX (305) 296-2244

Whitehead St.

400 South Street

Atlantic Ocean

Atlantic Ocean

Specific Purpose Sketch to illustrate elevations
at 400 South Street and adjacent properties, Key West, FL

NOTES:

1. The legal description shown hereon was furnished by the client.
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3. All angles are 90° (Measured & Record) unless otherwise noted.
4. Street address: 400 South Street, Key West, FL.
5. This survey is not valid without the signature and the original raised seal of a Florida licensed surveyor and mapper.
6. Lands shown hereon were not abstracted for rights-of-way, easements, ownership, or other instruments of record.
7. North Arrow is assumed and based on the legal description.
8. Adjoiners are not furnished.
9. Elevations are shown in parenthesis, and refer to Mean Sea Level, N.G.V.D. 1929 Datum.
10. Date of Field Work: May 24, 2011 & July 6, 2011.
11. This Sketch does not represent a field boundary survey.
12. Building Locations are approximate.

SPECIFIC PURPOSE SKETCH TO SHOW ELEVATIONS AT THE
FOLLOWING DESCRIBED PROPERTY

400 South Street
Key West, FL 33040

SPECIFIC PURPOSE SKETCH FOR: J. Seward Johnson;

J. LYNN O'FLYNN, INC.

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

THIS SKETCH
IS NOT
ASSIGNABLE

May 24, 2011
Revised 7/11/11

Sheet Two of Two Sheets

J. LYNN O'FLYNN, Inc.



Professional Surveyor & Mapper
PSM #6298

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

Paul Lin, Ph.D., P.E.

12386 S.W. 82 Avenue
Miami, FL 33156
tel: (305) 969-2177, email: Paul_Lin@bellouth.net

JOB: 400 SOUTH STREET, KEY WEST
DATE: 03/10/2010 JOB NO: #45900
CALC. BY: TS
CHECKED BY: PL
SHEET NO: 1 OF 5

I. STORM WAVE LOADING ON THE STORM WALL:

DEPTH, $d_s = 7.6' - (-1.0') = 8.6'$
BASED ON THE WAVE RUN-UP CALCULATION
WAVE RUN-UP ELEVATION = +14.6' NGVD

1). DYNAMIC FORCE:

MAX. WAVE PRESSURE, $P = C_p \omega d_s = 2.84 \times 64 \times 8.6$
 $= 1,560 \text{ psf} = 1.56 \text{ ksf}$
 $0.5 \times 1.56 \text{ ksf} \times 15.6' = 12.2 \text{ kips/ft}$
DYNAMIC FORCE FOR ENTIRE SEAWALL AND STORM WALL = 12.2 kips/ft
 $1.56 \text{ ksf} \times 5.4' / 7.0' = 1.2 \text{ ksf}$
DYNAMIC FORCE FOR THE 5.4' HIGH STORM WALL, $F_d = 0.5 \times (14.6' - 9.2') \times 1.20 = 3.2 \text{ kips/ft}$

2). HYDROSTATIC FORCE:

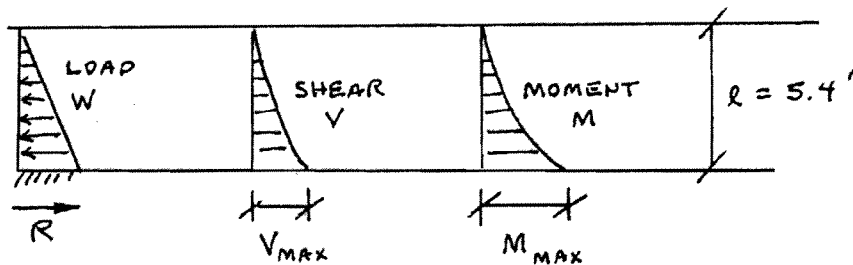
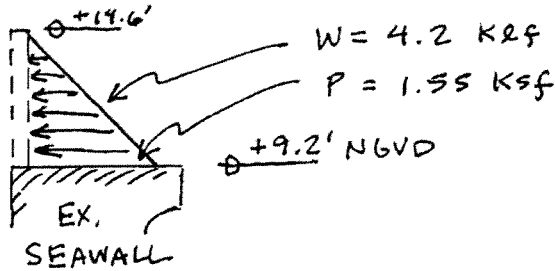
$64 \times (14.6' + 1.0') = 998 \text{ psf} = 1.0 \text{ ksf}$
 $0.5 \times 1.0 \text{ ksf} \times 15.6' = 7.8 \text{ kips/ft}$
HYDROSTATIC FORCE FOR ENTIRE SEAWALL AND STORM WALL = 7.8 kips/ft
 $1.0 \text{ ksf} \times 5.4' / 15.6' = 0.35 \text{ ksf}$
HYDROSTATIC FORCE FOR THE 5.4' HIGH STORM WALL, $F_h = 0.5 \times (14.6 - 9.2) \times 0.35 = 1.0 \text{ kips/ft}$

3). TOTAL STORM IMPACT FORCE ON THE STORM WALL:

$F = F_d + F_h = 3.2 \text{ kips/ft} + 1.0 \text{ kips/ft} = 4.2 \text{ kips/ft}$

STRUCTURAL CALCULATIONS FOR WALL EXTENSION

1. WAVE FORCES



$W = 4.2 \text{ krf}$
 $R = W = 4.2 \text{ krf}$
 $V_{\text{MAX}} = W = 4.2 \text{ krf}$

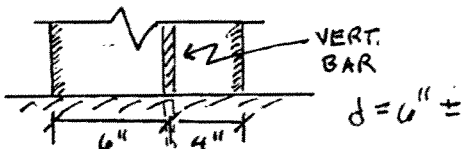
$M_{\text{MAX}} = Wl/3 = (4.2)(5.4)/3$
 $= 7.56 \text{ k-ft/lf}$

2. STEEL REINFORCEMENT

- A.C.I. FACTORED LOADS
- LIVE LOAD \rightarrow x1.6 SAFETY FACTOR

$V'_{\text{MAX}} = (4.2)(1.6) = 6.72 \text{ krf}$
 $M'_{\text{MAX}} = (7.56)(1.6) = 12.10 \text{ k-ft/lf}$

- NEW WALL 10" THICK



$A_s^* = \frac{M'_{\text{MAX}}}{3.8d} = \frac{(12.10)}{3.8(6)} = 0.53 \frac{\text{in}^2}{\text{lf}}$

* FOR 60 KSI STEEL

#7 BARS @ 10" o.c.,

$$\rightarrow \frac{12''}{10''} (0.60 \text{ in}^2) = 0.72 \text{ in}^2/\text{ef}$$

$$> 0.53 \text{ in}^2/\text{ef} \quad \checkmark \text{ OK}$$

- CHECK BAR SHEAR:

$$V_{\text{ALLOW}} \#7 = 9.18 \text{ K/BAR}$$

$$\rightarrow \frac{12''}{10''} (9.18) = 11.02 \text{ K/ef}_{(\text{ALLOW})}$$

$$> 6.72 \text{ K/ef} \quad \checkmark \text{ OK}$$

- HORIZ. REIN:

- TEMPERATURE STEEL

$$A_s = \frac{200 b d}{60 \text{ KSI}} = \frac{200 (65'') (6'')}{60 \text{ KSI}}$$

$$A_s = 1.3 \text{ in}^2$$

USING #5 BARS HORIZONTAL:

$$1.3 \text{ in}^2 / 0.307 \text{ in}^2 = 4.2 \approx 5 \text{ BARS MIN.}$$

3. EPOXY DOWEL CAPACITY

- "SIMPSON SET" EPOXY (2009 CAT. P. 39-53)

FOR #7 REBAR DOWELED 13" ± EMBEDMENT

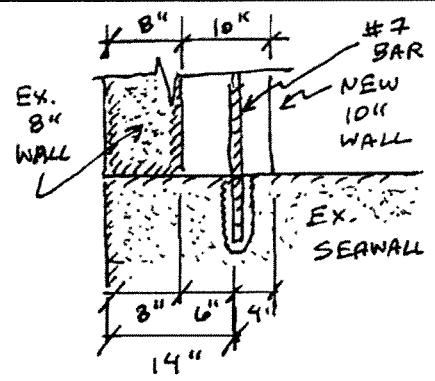
TENSION, $T_{\text{ALLOW}} = 20.39 \text{ K}$ FOR EPOXY BOND
 $T_{\text{ALLOW}} = 14.40 \text{ K}$ FOR #7 REBAR

SHEAR, $V_{\text{ALLOW}} = 11.76 \text{ K}$ FOR EPOXY BOND
 $V_{\text{ALLOW}} = 9.18 \text{ K}$ FOR #7 REBAR

- SIMPSON ADJUSTMENT FACTORS:

- SHEAR: SPACING (10") → 0.96
 EDGE (14") → 1.00

- TENSION: SPACING (10") → 0.91
 EDGE (14") → 0.85



- ADJUST EPOXY BOND STRENGTHS:
 (ALLOWABLE LOADS)

$$V'_{ALLOW} = (11.76K)(0.96)(1.0) = 11.29K$$

$$T'_{ALLOW} = (20.39K)(0.91)(0.85) = 15.77K$$

BOTH VALUES EXCEED
 REBAR ALLOWABLE
 SHEAR & TENSION ✓ OK

REBAR ALLOWABLE
 LOADS CONTROL
 DESIGN

- CHECK ACTUAL LOADING PER BAR:

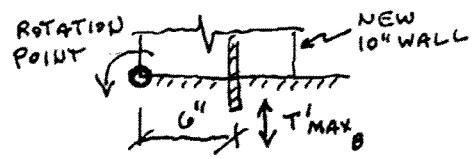
[NOTE: THESE ARE UN-FACTORED
 LOADS BASED ON ALLOWABLE STRESS
 DESIGN (ASD) FOR EPOXY DOWELS]

FROM SECT. 2: $V'_{MAX} = 4.20 K/ft$
 $M'_{MAX} = 7.56 K-ft/ft$

PER BAR: $V'_{MAX_B} = \left(\frac{10''}{12}\right) 4.20 = 3.50 K$
 (@ 10" O.C.)

$M'_{MAX_B} = \left(\frac{10''}{12}\right) 7.56 = 6.30 K-ft$

- CONVERT MOMENT TO TENSILE LOAD ON REBAR:



$\sqrt{M} = 6.3 K-ft = (0.5') (T'_{MAX_B})$

$T'_{MAX_B} = 12.60 K$

- CHECK REBAR ALLOWABLE SHEAR & TENSION:

$$V_{ALLOW \#7} = 9.18 \text{ K} \gg V'_{MAX B} (3.5 \text{ K}) \quad \checkmark \text{ OK}$$

$$T_{ALLOW \#7} = 14.40 \text{ K} \gg T'_{MAX B} (12.6 \text{ K}) \quad \checkmark \text{ OK}$$

- CHECK COMBINED SHEAR & TENSION:

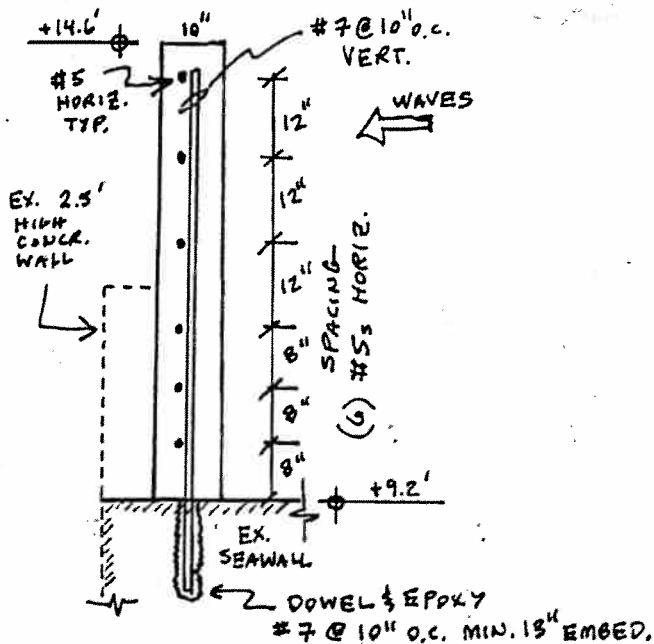
$$\left(\frac{V_{design}}{V_{allow}} \right)^{5/3} + \left(\frac{T_{design}}{T_{allow}} \right)^{5/3} \leq 1.0 \quad \leftarrow \text{FROM SIMPSON CAT. 2009}$$

$$\left(\frac{V'_{MAX B}}{V_{allow \#7}} \right)^{5/3} + \left(\frac{T'_{MAX B}}{T_{allow \#7}} \right)^{5/3} \leq 1.0$$

$$\left(\frac{3.5 \text{ K}}{9.18 \text{ K}} \right)^{1.667} + \left(\frac{12.6 \text{ K}}{14.4 \text{ K}} \right)^{1.667} = 0.20047 + 0.80047$$

$$= 1.000 \leq 1.0 \quad \checkmark \text{ OK}$$

4. STRUCTURAL DESIGN SECTION



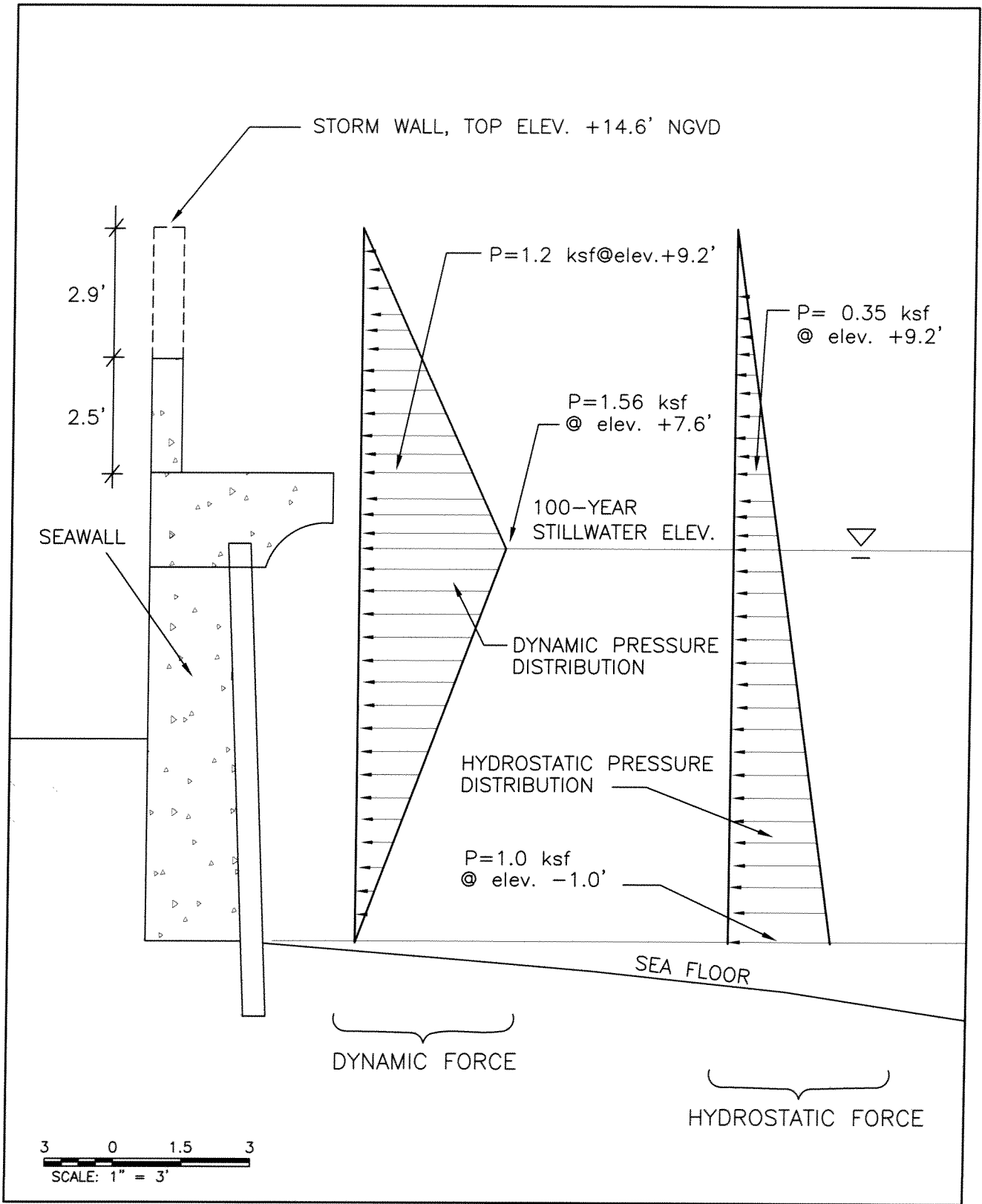


FIGURE 1
STORM WAVE LOADING DISTRIBUTION

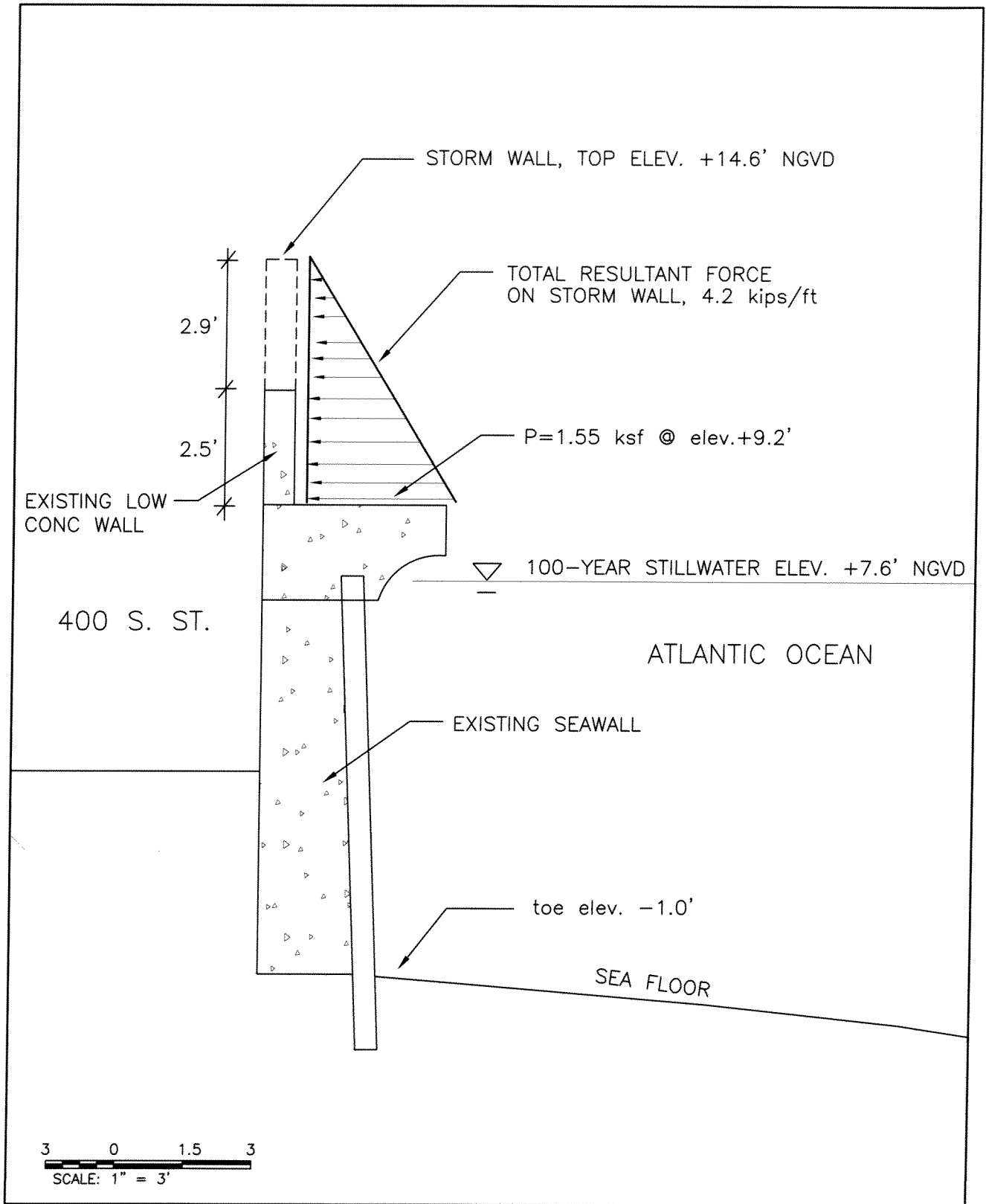
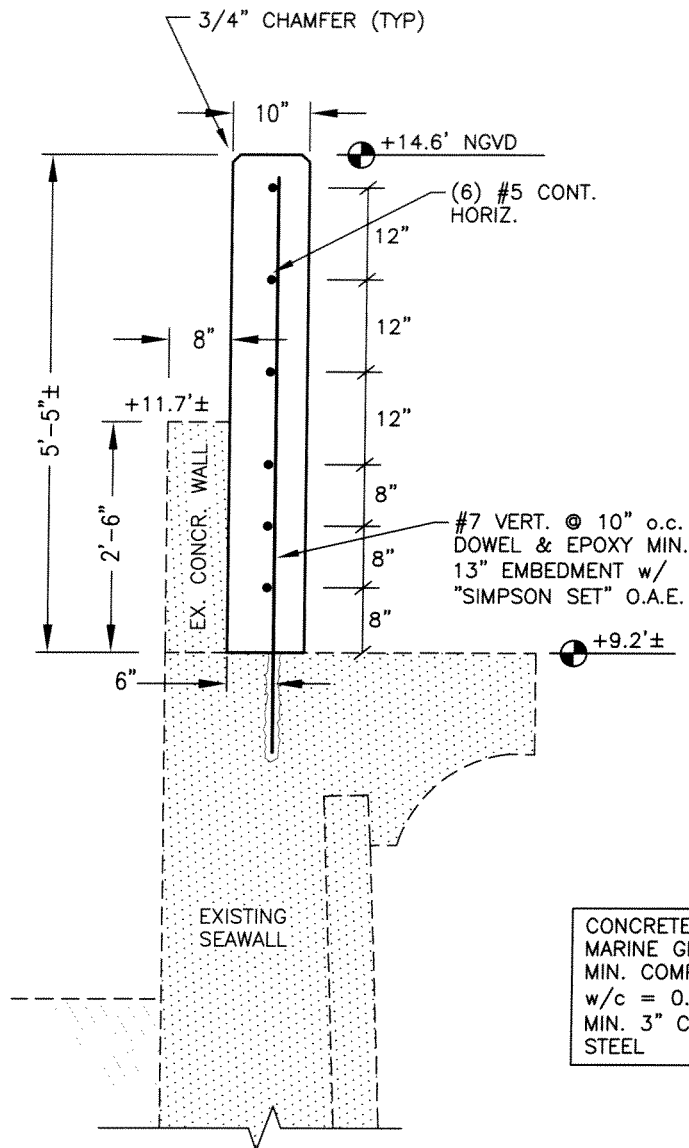


FIGURE 2
STORM WAVE LOADING ON STORM WALL



CONCRETE:
 MARINE GRADE 5 ksi
 MIN. COMPR. STRENGTH
 w/c = 0.4 OR LESS
 MIN. 3" COVER ON ALL
 STEEL

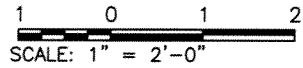


FIGURE 3
 STRUCTURAL DESIGN OF STORM WALL

FDEP Approval



Florida Department of Environmental Protection

South District Marathon Branch
2796 Overseas Highway Suite 221
Marathon, FL 33050

Charlie Crist
Governor

Jeff Labropoulos
Lt. Governor

Michael W. Sade
Secretary

May 31, 2007

Seward and Joyce Johnson
c/o The Smith Law Firm
Attn.: Wayne Larue Smith
333 Fleming Street
Key West, FL 33040

Re: Monroe County - ERP
File No. 44-0176067-005
400 South Street
Key West

Dear Mr. Johnson:

Thank you for your application to increase the height of an existing seawall within footprint adjacent to the Atlantic Ocean in Section 01, Township 01 South, Range 01 East, Monroe County. This type of activity may require authorization for construction and operation of the project (regulatory authorization), unless otherwise exempt by statute or rule, and an authorization to use state-owned submerged lands (proprietary authorization). Your request has been reviewed for both authorizations. The authorizations you have been granted are listed below. Please read each section carefully. Your project **MAY NOT** have qualified for both authorizations. If your project did not qualify for one or more of the authorizations, then that specific section will advise you how to obtain it. You may **NOT** commence your project without both authorizations. **If you change the project from what you submitted, the authorization(s) granted may no longer be valid at the time of commencement of the project. Please contact us prior to beginning your project if you wish to make any changes.**

REGULATORY REVIEW - APPROVED

Based on the information you sent to us, we have determined that **your project is exempt from the need for an Environmental Resource Permit (ERP)**. You must comply with the criteria and limiting conditions in accordance with Section 40E-4.051(4)(b), Florida Administrative Code.

PROPRIETARY REVIEW - NOT REQUIRED

The Department of Environmental Protection has reviewed the location of the proposed project as described in the above referenced application and has determined that the project, as described, does not involve the use of sovereign submerged lands.

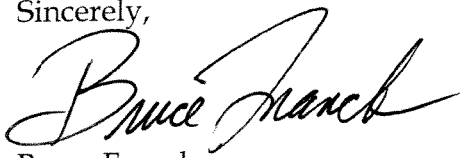
Accordingly, no further authorization will be required from the Submerged Lands and Environmental Resources Program, designated agent to the Board of Trustees of the Internal Improvement Trust Fund, pursuant to Chapter 253.77, F.S.

A copy of your notice also has been sent to the U.S. Army Corps of Engineers (USACOE) for review. The USACOE may require a separate permit. **Failure to obtain this authorization prior to construction could subject you to enforcement action by that agency.** For further information, you should contact the USACOE at (305) 526-7181.

This notice constitutes final agency action and is subject to the provisions of Chapter 120, F.S.

If you have any questions, please contact me at the letterhead address, by telephone at (305) 289-2310, or by email at Bruce.Franck@dep.state.fl.us. When referring to this project, please reference the file number listed above.

Sincerely,



Bruce Franck
Environmental Manager
Submerged Lands and Environmental Resource Program

Enclosures:

Rights of Affected Parties
Notice of Determination of Exemption

cc: U.S. Army Corps of Engineers, Miami

RIGHTS OF AFFECTED PARTIES

To: Seward Johnson

Date: May 31, 2007

File No. 44-0176067-005

This letter acknowledges that the proposed activity is exempt from ERP permitting requirements under Section 40E-4.051(4)(b), Florida Administrative Code. This determination is final and effective on the date filed with the Clerk of the Department unless a sufficient petition for an administrative hearing is timely filed under Sections 120.569 and 120.57 of the Florida Statutes as provided below. If a sufficient petition for an administrative hearing is timely filed, this determination automatically becomes only proposed agency action subject to the result of the administrative review process. Therefore, on the filing of a timely and sufficient petition, this action will not be final and effective until further order of the Department. The procedures for petitioning for a hearing are set forth in the attached notice.

This determination is based on the information you provided the Department and the Statutes and Rules in effect when the application was submitted and is effective only for the specific activity proposed. This determination shall automatically expire if site conditions materially change or the governing statutes or rules are amended. In addition, any substantial modifications in your plans should be submitted to the Department for review, as changes may result in a permit being required. In any event, this determination shall expire after one year.

Be advised that your neighbors and other parties who may be substantially affected by the proposed activity allowed under this determination of exemption have a right to request an administrative hearing on the Department's decision that the proposed activity qualifies for this exemption. Because the administrative hearing process is designed to redetermine final agency action on the application, the filing of a petition for an administrative hearing may result in a final determination that the proposed activity is not authorized under the exemption established under Section 40E-4.051(4)(b), Florida Administrative Code.

The Department will not publish notice of this determination. Publication of this notice by you is optional and is not required for you to proceed. However, in the event that an administrative hearing is held and the Department's determination is reversed, proceeding with the proposed activity before the time period for requesting an administrative hearing has expired would mean that the activity was conducted without the required permit.

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
NOTICE OF DETERMINATION OF EXEMPTION

The Department of Environmental Protection gives notice that extending the height of an existing seawall within footprint adjacent to the Atlantic Ocean in Section 01, Township 01 South, Range 01 East, Monroe County has been determined to be exempt from requirements to obtain an Environmental Resource Permit.

A person whose substantial interests are affected by the Department's action may petition for an administrative proceeding (hearing) under Sections 120.569 and 120.57 of the Florida Statutes. The petition must contain the information set forth below and must be filed (received by the clerk) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000.

Mediation is not available.

If a timely and sufficient petition for an administrative hearing is filed, other persons whose substantial interests will be affected by the outcome of the administrative process have the right to petition to intervene in the proceeding. Intervention will be permitted only at the discretion of the presiding officer upon the filing of a motion in compliance with Rule 28-106.205 of the Florida Administrative Code.

In accordance with Rule 62-110.106(3), petitions for an administrative hearing must be filed within 21 days of publication of the notice or receipt of written notice, whichever occurs first. Under Rule 62-110.106(4) of the Florida Administrative Code, a person whose substantial interests are affected by the Department's action may also request an extension of time to file a petition for an administrative hearing. The Department may, for good cause shown, grant the request for an extension of time. Requests for extension of time must be filed with the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000 prior to the applicable deadline. A timely request for extension of time shall toll the running of the time period for filing a petition until the request is acted upon. Upon motion by the requesting party showing that the failure to file a request for an extension of time before the deadline was the result of excusable neglect, the Department may also grant the requested extension of time.

The petitioner shall mail a copy of the petition to the applicant at the address indicated above at the time of filing. The failure of any person to file a petition for an administrative hearing within the appropriate time period shall constitute a waiver of that right.

A petition that disputes the material acts on which the Department's action is based must contain the following information:

(a) The name and address of each agency affected and each agency's file or identification number, if known;

(b) The name, address and telephone number of the petitioner; the name, address and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests are or will be affected by the agency determination;

(c) A statement of when and how the petitioner received notice of the agency decision;

(d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;

(e) A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action;

(f) A statement of the specific Rules or Statutes that the petitioner contends require reversal or modification of the agency's proposed action; and

(g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wishes the agency to take with respect to the agency's proposed action.

A petition that does not dispute the material facts on which the Department's action is based shall state that no such facts are in dispute and otherwise shall contain the same information as set forth above, as required by Rule 28-106.301.

Under Sections 120.569(2)(c) and (d) of the Florida Statutes, a petition for administrative hearing shall be dismissed by the agency if the petition does not substantially comply with the above requirements or is untimely filed.

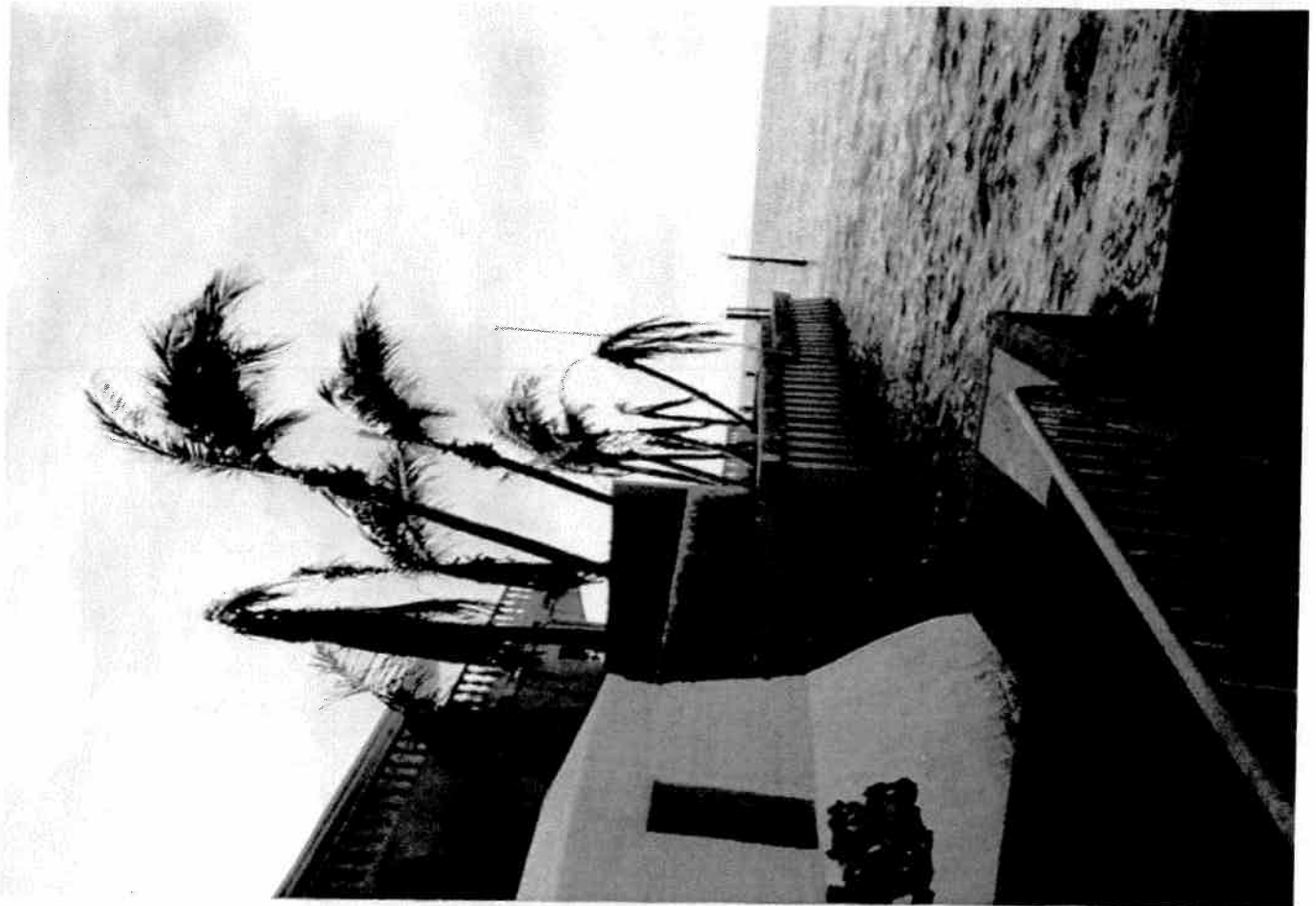
Complete copies of all documents relating to this determination of exemption are available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, at Department of Environmental Protection, South District Branch Office, 2796 Overseas Highway, Suite 221, Marathon, Florida 33050.

Photos
Storm Damage



Exhibit B





DRC Minutes

Mrs. Wittenberg thanked the Planning Department for their hard work and patience.

- b. Variances – 1509 South Street (RE# 00043350-000000) – A variance request for building coverage and impervious surface ratio in the Single Family zoning district per Sections 122-238 (4)(a), and 122-238 (4)(b)(1) of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.**

Mrs. Monnier gave members an overview of the updated variance request. She stated that members were concerned about life safety issues at the previous DRC meeting, as well as a potential illegal unit issue. The plans have been revised to address those concerns. No longer is the applicant requesting a variance for detached habitable space. The applicant proposes to demolish the structure and rebuild it in its existing footprint. In addition, the applicant proposes to add a second floor to the structure, which will be used as a bedroom.

Mr. Averette did a walkthrough with the Fire Marshall and the current plans meet fire codes.

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

Mr. Torrence requested that the property address be clearly visible from the street.

Mr. Woodson asked for clarification on the structure. Mrs. Monnier stated the building is attached and ingress and egress are from within the main house.

Mrs. Kimball-Murley asked the applicant if the second unit has been eliminated. The applicant informed Mrs. Murley that there is not a second unit. Mrs. Kimball-Murley expressed her concern and stressed that an unrecognized unit can not be condoned.

The following member of the public spoke on the matter:

Dan Metzler, 1511 South St.

Mrs. Kimball-Murley addressed the speaker's concern and reminded the applicant that the variance criteria strongly encourages exercising the good neighbor policy.

The applicant informed members that Mrs. Domenech-Coogle approved the removal of a tree.

Mrs. Cowart stated that Keys Energy had no objections.

- c. Variance – 400 South Street (RE# 00036390-000000) – A variance to the allowed wall height and location within the coastal construction control line on a property located within the Historic Commercial Tourist (HCT) zoning district per Section 122-1183 and 122-1148 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.**

Mr. Cunningham gave members an overview of the variance request.

The applicant's representative, Christian Cruz with the Smith Law Firm, stated that he will provide the EPA approved wall height variance.

Mrs. Kimball-Murley informed the applicant that he would need to resolve if the structure is a coastal protection structure, a wall, or a bulkhead since it may trigger other aspects of the code.

Mr. Averette inquired about the height of the south sea wall compared to the west sea wall. The applicant stated that the west wall will remain at its current height.

March 25, 2010

Approved April 22, 2010

Mrs. Wittenberg inquired what the projection forecast is for the Army Corps of Engineers. The applicant stated that their forecast standard is a 100 year storm.

Mrs. Torregrosa informed the applicant that she will need more information regarding the 10ft setback from the front property line listed on Figure 5. She then inquired if the height proposed was measured from the existing ground of the building or from the right-of-way. The applicant stated it is measured from the crown of the road. Mrs. Torregrosa stated that HARC approval will be required.

Mr. Bowman requested an elevation survey. Mrs. Kimball-Murley requested that the elevation on the land side of the bulkhead be shown on the survey.

Mr. Torrence urged the applicant to be more prepared since this is the second time this has come before DRC.

Mr. Woodson suggested that they obtain Army Corps of Engineer approval. Mrs. Kimball-Murley stated that the Federal Corps of Engineer had jurisdiction.

- d. Conditional Use – 1010 Kennedy Drive (RE# 00065650-000500) – A conditional use for proposed cellular telephone facility with ground level utility pole and three rooftop equipment shelters in the CG zoning district per Section 122-418 (9) of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.**

Mr. Cunningham gave members an overview of the conditional use and variance request for 1010 Kennedy Drive. He stated that the application had been modified to reflect the new design.

The applicant's representative, Elizabeth Newland, informed members that they have held three public meetings. She handed members copies of the advertised meetings. She then stated that she met with Mrs. Domenech-Coogle regarding landscaping; changes will increase the pervious area.

Mr. Averette asked the applicant what would be stored in the equipment room. The AT&T representative, Alfredo Amoedo, stated that fuel and generators will not be stored inside the equipment room just radio equipment.

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

Mr. Torrence stated that police cruisers often encounter dead spots in the area and are unable to use their mobile data system.

Mr. Woodson stated there are a lot of dropped calls in the area.

The following member of the public spoke on the matter:

Liz Lair, 400 South Street

Rick Richter, 104 Palmetto Drive

Mr. Amoedo addressed Mr. Richter's comment, stating that additional generators for outages are a good idea.

Mrs. Cowart stated that Keys Energy had no objections.

- e. Variance – 1010 Kennedy Drive (RE# 00065650-000500) – A Variance for height of 85 ft. above the allowed 40 ft. with a total of 125 ft. in height for a cellular telephone tower in the Commercial General (CG) zoning district per Sections 122-420 (3) & 122-1149 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.**

Property Appraiser Information

Karl D. Borglum
Property Appraiser
Monroe County, Florida

office (305) 292-3420
fax (305) 292-3501
Website tested on
Internet Explorer

GIS Mapping requires Adobe Flash 10.3 or higher.

Property Record View

Alternate Key: 1037222 Parcel ID: 00036380-000000

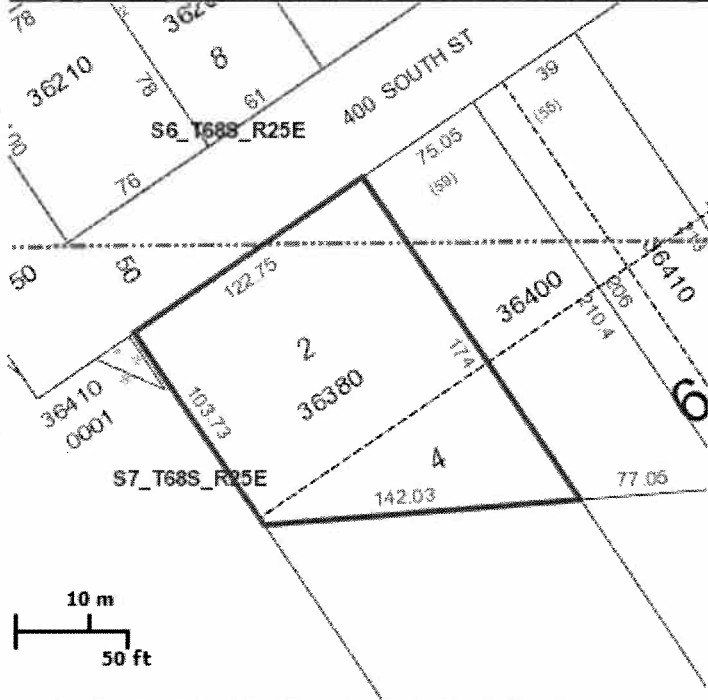
Ownership Details

Mailing Address:
JOHNSON J SEWARD JR AND JOYCE H
C/O MATTHEWS AND CO
270 MADISON AVE
NEW YORK, NY 10016

Property Details

PC Code: 01 - SINGLE FAMILY
Millage Group: 10KW
Affordable Housing: No
Section-Township-Range: 06-68-25
Property Location: 400 SOUTH ST KEY WEST
Legal Description: KW FILER BOYLE SUB N-476 PT LOTS 2-4 SQR 6 TR 16 OR295-204/5 OR452-518/520 OR914-1274/1275
Description: OR1134-1380/1381 OR1179-1306L/P/MARSHALL OR1223-1621/22L/P/MARSHALL OR1253-598/600 OR1253-601/03Q/C OR1253-621/24/AFF OR1291-1029/32Q/C

Parcel Map (Click to open dynamic parcel map)



Land Details

Land Use Code	Frontage	Depth	Land Area
010W - RES WATERFRONT	123	150	17,243.00 SF

Building Summary

Number of Buildings: 1
 Number of Commercial Buildings: 0

Total Living Area: 4008
Year Built: 1958

Building 1 Details

Building Type R2
Effective Age 12
Year Built 1958
Functional Obs 0

Condition G
Perimeter 464
Special Arch 0
Economic Obs 0

Quality Grade 760
Depreciation % 13
Grnd Floor Area 4,008

Inclusions: R2 includes 2 3-fixture baths and 2 kitchens.

Roof Type IRR/CUSTOM
Heat 1 NONE
Heat Src 1 NONE

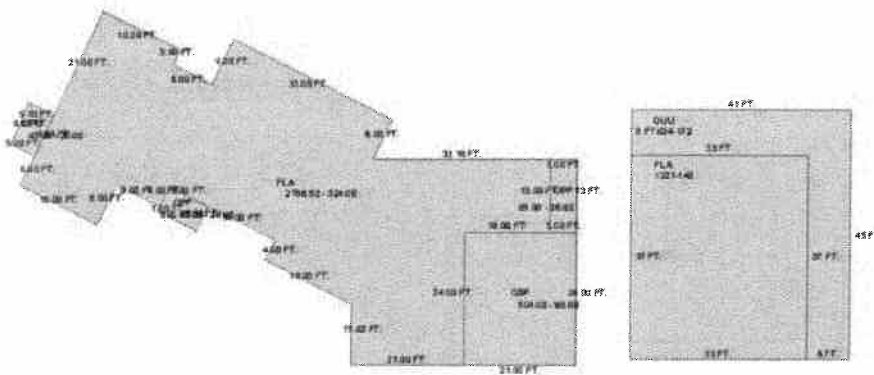
Roof Cover METAL
Heat 2 NONE
Heat Src 2 NONE

Foundation CONCR FTR
Bedrooms 5

Extra Features:

2 Fix Bath 1
3 Fix Bath 4
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 1
Dishwasher 0



Sections:

Nbr	Type	Ext Wall	# Stories	Year Built	Attic	A/C	Basement %	Finished Basement %	Area
1	FLA	5:C.B.S.	1	1958	N	Y	0.00	0.00	2,787
2	OPU		1	1958			0.00	0.00	40
3	OPF		1	1958			0.00	0.00	40
4	GBF	5:C.B.S.	1	1958	N	N	0.00	0.00	504
5	OPF		1	1958			0.00	0.00	65
6	FLA	5:C.B.S.	1	1958	N	Y	0.00	0.00	1,221

7	OUU	1	1958	0.00	0.00	624
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Misc Improvement Details

Nbr	Type	# Units	Length	Width	Year Built	Roll Year	Grade	Life
1	PO4:RES POOL	1,016 SF	50	20	2000	2001	1	50
2	TK2:TIKI	120 SF	12	10	1988	1989	4	40
3	EL2:RES ELEVATOR	1 UT	0	0	1983	1984	3	60
4	WD2:WOOD DECK	140 SF	7	20	1995	1996	2	40
5	PT2:BRICK PATIO	210 SF	21	10	1995	1996	2	50
6	FN3:WROUGHT IRON	91 SF	13	7	1979	1980	4	60
7	SW2:SEAWALL	1,930 SF	0	0	2006	2007	3	60
8	DK4:WOOD DOCKS	551 SF	0	0	2007	2008	5	40
9	PT3:PATIO	4,790 SF	0	0	2006	2007	5	50
10	FN2:FENCES	1,080 SF	270	4	2006	2007	3	30
11	FN2:FENCES	294 SF	49	6	2006	2007	3	30

Appraiser Notes

SKETCH CORRECTED - ADDED ANGLES ON HOUSE 11/22/05 - NAT

2007-02-02- TWO TRANSIENT LICESES TRANSFERED FROM 807-811 WASHINGTON ST. TO 400 SOUTH ST

Building Permits

Bldg Number	Date Issued	Date Completed	Amount	Description	Notes
05-5855	12/16/2005	08/14/2006	2,100	Residential	HURRICANE REPAIRS - REPLACE DOCK LIGHTING
05-5870	12/21/2005	08/14/2006	32,000	Residential	REPLACE 49' X 6' CONCRETE WALL.
05-5868	12/27/2005	08/14/2006	12,000	Residential	HURRICANE REPAIRS - REPLACE SLIDING DOORS & FLOORS
06-0149	12/27/2005	08/14/2006	6,500	Residential	HURRICANE DAMAGE - REPLACE 3 CONDENSING UNITS
06-2758	05/05/2006	08/14/2006	21,500	Residential	REPLACE CONCRETE DECK
06-5560	10/10/2006	12/18/2006	26,500	Residential	REPAIR SPALLING & REPLACE DOORS
17 06-6380	11/29/2006	12/18/2006	1,800	Residential	INSTALL DEDUCT METE FOR IRRIGATION & POOL SERVICE
14 05-5239	11/29/2005	08/14/2006	28,000	Residential	HURRICANE WILMA DAMAGE*REPAIR EXISTING BLOCK WALL 270'FT.
07-1923	04/19/2007	02/25/2008	7,500		SEAWALL REPAIR WILMA DAMAGE
1 E950549	02/01/1995	09/01/1995	2,300	Residential	ALARM SYSTEM
2 95-0004	12/01/1995	12/01/1996	1	Residential	REPAIR DOCKS
3 96-3508	08/01/1996	12/01/1996	1	Residential	WOOD DECKING, REPLACE
4 97-1331	04/01/1997	12/01/1997	600	Residential	ELECTRICAL
5 98-0480	03/04/1998	12/31/1998	3,400	Residential	REPLACE DECKING ON PIER
6 98-4038	01/08/1998	08/04/1999	8,000	Residential	REPAIR DOCK
7 99-0143	01/13/1999	08/04/1999	1,200	Residential	POOL LIGHTS

8	99-3409	10/04/1999	11/19/1999	7,500	Residential	REPLACE DECK
9	99-3581	10/22/1999	08/07/2000	53,056	Residential	ROOF
10	99-3628	10/29/1999	08/07/2000	6,150	Residential	RESURFACE POOL
11	01-3291	10/04/2001	11/06/2001	5,300	Residential	INSTALL SHUTTERS
12	02-3038	11/25/2002	12/05/2002	1,875	Residential	8 POOL LIGHTS
13	02-3399	12/18/2002	10/22/2004	35,000	Residential	REPAIR SEAWALL AS PER HARC
15	06-5713	10/16/2006	12/18/2006	2,000	Residential	REMOVE HURRICANE DAMAGED WHITE GUTERS AND REPLACE
16	06-5865	11/08/2006	12/18/2006	48,150	Residential	REPAIR AND REPLACE EXISTING DOCK 850SF

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
2011	718,124	254,278	1,488,433	2,460,835	2,144,895	0	2,460,835
2010	726,285	260,285	963,335	1,949,905	1,949,905	0	1,949,905
2009	816,050	266,281	1,482,053	2,564,384	2,564,384	0	2,564,384
2008	758,169	271,704	2,396,777	3,426,650	3,426,650	0	3,426,650
2007	919,585	213,679	1,896,730	3,029,994	3,029,994	0	3,029,994
2006	815,847	86,751	2,069,160	2,645,419	2,645,419	0	2,645,419
2005	875,230	111,615	1,474,277	2,461,122	2,461,122	0	2,461,122
2004	729,360	114,548	1,638,085	2,481,993	2,481,993	0	2,481,993
2003	920,127	117,676	1,017,337	2,055,140	2,055,140	0	2,055,140
2002	883,578	120,892	1,017,337	2,021,807	2,021,807	0	2,021,807
2001	811,582	123,961	1,017,337	1,952,880	1,952,880	0	1,952,880
2000	811,582	133,870	637,991	1,583,444	1,583,444	0	1,583,444
1999	620,265	110,153	637,991	1,368,409	1,368,409	0	1,368,409
1998	660,226	99,853	637,991	1,398,070	1,398,070	0	1,398,070
1997	555,500	105,988	603,505	1,264,994	1,264,994	0	1,264,994
1996	476,143	93,466	603,505	1,173,114	1,173,114	0	1,173,114
1995	488,047	98,368	754,381	1,340,796	1,340,796	0	1,340,796
1994	436,465	90,252	754,381	1,281,097	1,281,097	0	1,281,097
1993	436,465	92,738	754,381	1,283,583	1,283,583	25,000	1,258,583
1992	436,465	94,943	754,381	1,285,789	1,285,789	25,000	1,260,789
1991	436,465	97,309	754,381	1,288,155	1,288,155	0	1,288,155
1990	410,967	29,489	521,601	962,056	962,056	25,000	937,056
1989	373,606	27,521	517,290	918,417	918,417	25,000	893,417
1988	352,276	22,346	431,075	805,697	805,697	25,000	780,697
1987	348,242	23,011	284,510	655,763	655,763	25,000	630,763
1986	349,839	23,594	284,510	657,943	657,943	0	657,943
1985	109,523	24,229	279,337	413,089	413,089	0	413,089

1984	102,773	21,034	279,337	403,144	403,144	0	403,144
1983	72,446	21,460	124,743	218,649	218,649	0	218,649
1982	44,613	16,873	124,743	186,229	186,229	0	186,229

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
4/1/1994	1253 / 598	1,550,000	WD	M
6/1/1990	1134 / 1380	1,750,000	WD	M
6/1/1984	914 / 1274	600,000	WD	M

This page has been visited 61,564 times.

Monroe County Property Appraiser
 Karl D. Borglum
 P.O. Box 1176
 Key West, FL 33041-1176

Public Notices
(radius map & mailing list)

Public Meeting Notice

The Key West Planning Board will hold a public hearing at 6:00 p.m., December 5, 2011 at Old City Hall, 510 Greene Street, Key West, Florida, (Behind Sloppy Joe's Bar). The purpose of the hearing will be to consider a request for:

Variance - 400 South Street (RE# 00036390-000000) - A request for a variance to the maximum allowed wall height of six feet to the requested eleven feet proposed within the coastal construction control line on a property located within the HCT zoning district per Section 122-1148 (2) and 122-1183 of the Land Development Regulations of the Code of Ordinances of the city of Key West.

If you wish to see the application or have any questions, you may visit the Planning Department during regular office hours at 3140 Flagler Avenue call 809-3720 or visit our website at www.keywestcity.com.

YOU ARE WITHIN 300 FEET OF THE SUBJECT PROPERTY

The City of Key West Planning Board will be holding a Public Hearing:

Request: Variance - 400 South Street (RE# 00036390-000000) - A request for a variance to the maximum allowed wall height of six feet to the requested eleven feet proposed within the coastal construction control line on a property located within the HCT zoning district per Section 122-1148 (2) and 122-1183 of the Land Development Regulations of the Code of Ordinances of the City of Key West.

Applicant:	The Smith Law Firm	Owner:	J. Seward Johnson
Project Location:	400 South	Date of Hearing:	Monday, December 5, 2011
Time of Hearing:	6:00 PM	Location of Hearing:	Old City Hall, 510 Greene City Commission Chambers

Interested parties may appear at the public hearing(s) and be heard with respect to the applications. Packets can be viewed online at www.keywestcity.com. Packets will be available online the week of November 28th. Click on City Board & Committee Agendas. A copy of the corresponding application is available from the City of Key West Planning Department located at 3140 Flagler Avenue, Key West, Florida, Monday through Friday between the hours of 8:00 am and 5:00 pm.

Please provide written comments to the Planning Department, PO Box 1409, Key West, FL 33041-1409 , by FAX (305) 809-3978 or by email to Carlene Cowart at ccowart@keywestcity.com .

Pursuant to Section 286.0105, Florida Statutes, if a person decides to appeal any decision made by the Planning Commission or the City Commission with respect to any matter considered at such hearing or meeting, one will need a record of the proceedings and for such purpose that person may need to ensure that a verbatim record of the proceedings is made; such record includes the testimony and evidence upon which the appeal is to be based.

ADA Assistance: It is the policy of the City of Key West to comply with all requirements of the Americans with Disabilities Act (ADA). Please call the TTY number at 305-809-1000 or the ADA Coordinator at 305-809-3951 at least five business days in advance for sign language interpreters, assistive listening devices, or materials in accessible format.

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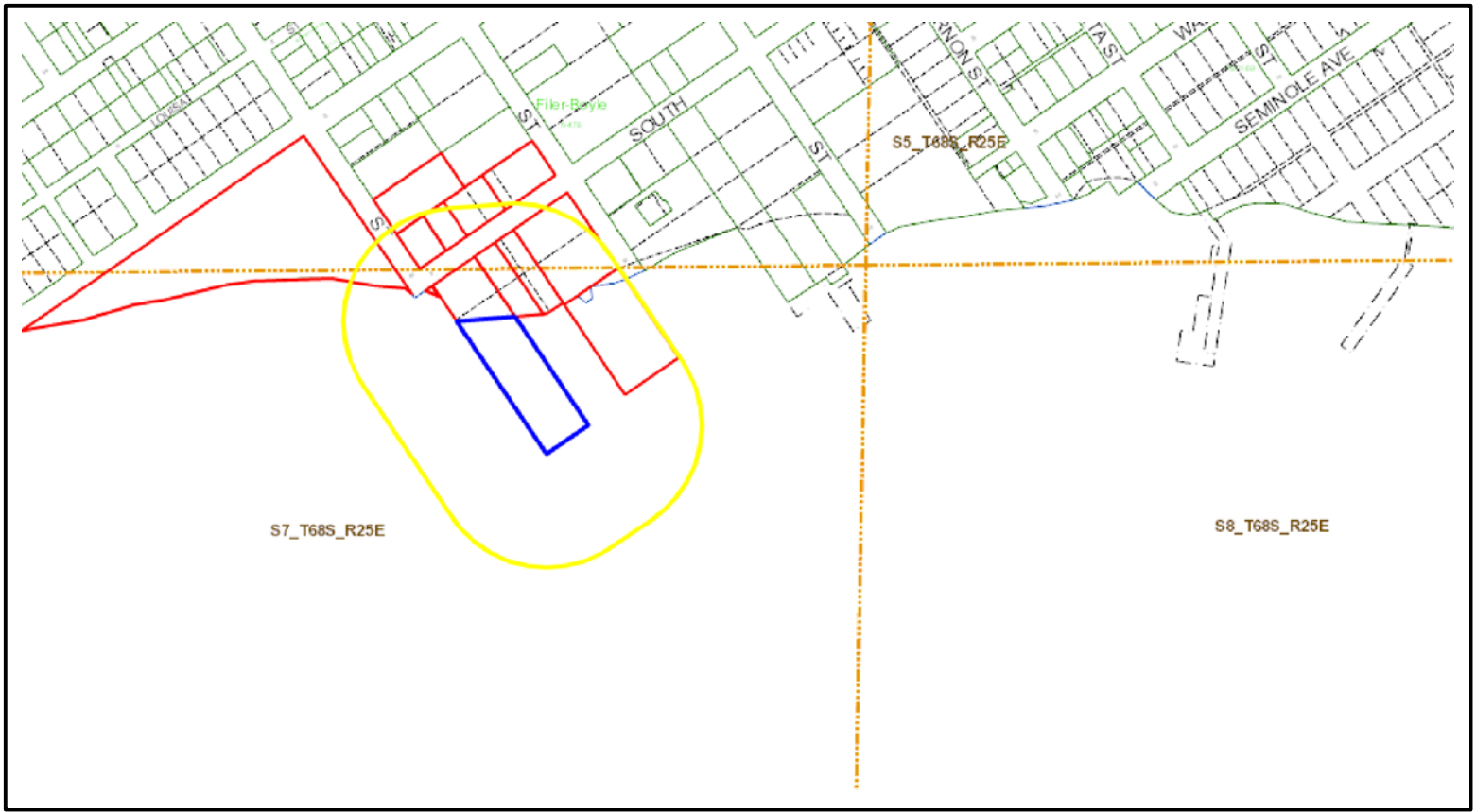
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Monroe County, Florida

400 South

Printed: Nov 16, 2011



DISCLAIMER: The Monroe County Property Appraiser's office maintains data on property within the County solely for the purpose of fulfilling its responsibility to secure a just valuation for ad valorem tax purposes of all property within the County. The Monroe County Property Appraiser's office cannot guarantee its accuracy for any other purpose. Likewise, data provided regarding one tax year may not be applicable in prior or subsequent years. By requesting such data, you hereby understand and agree that the data is intended for ad valorem tax purposes only and should not be relied on for any other purpose.



	NAME	ADDRESS	UNIT	CITY	STATE	ZIP	COUNTRY
1	SANTIAGO RAMONA LOUISE AND INOCENTE	1327 DUVAL ST		KEY WEST	FL	33040	
2	RAMOS MATILDE GENEROSA REV TRUST 05/25/2007	1401 DUVAL ST		KEY WEST	FL	33040	
3	RAMOS MATILDE GENEROSA REV TRUST 5/25/2007	209 DUVAL ST	FL 2ND	KEY WEST	FL	33040	
4	JOHNSON J SEWARD JR AND JOYCE H	270 MADISON AVE		NEW YORK	NY	10016	
5	JOHNSON J SEWARD JR & JOYCE H	331 MADISON AVE 8TH FL		NEW YORK	NY	10017	
6	LEWIS SARAH JONES	401 SOUTH ST		KEY WEST	FL	33040	
7	MORGAN HUGH J	404 SOUTH ST		KEY WEST	FL	33040	
8	MORGAN HUGH J AND YADIRA	404 SOUTH ST		KEY WEST	FL	33040-3138	
9	CASTILLO RITVA DEC TR UNDER AG 10/8/1996	405 SOUTH ST		KEY WEST	FL	33040	
10	SANTIAGO FAMILY PARTNERSHIP LTD	407 SOUTH ST		KEY WEST	FL	33040	
11	SOUTHWHITEHEAD LC	PO BOX 1146		KEY WEST	FL	33041-1146	