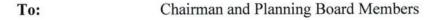
THE CITY OF KEY WEST PLANNING BOARD





From: Amy Kimball-Murley, AICP, Planning Director

November 18, 2010 **Meeting Date:**

Conditional Use Extension - 2832 North Roosevelt Blvd (RE# Agenda Item:

> 00065380-000000) - A request for an extension to a conditional use approval per Planning Board Resolution 2009-048 for a wireless facility in the Commercial General (CG) zoning district per Section 122-63(e) of the Land Development Regulations of the

Code of Ordinances of the City of Key West, Florida..

To extend Planning Board Resolution 2009-048, approving a Request:

Conditional Use for a wireless facility in the CG zoning district.

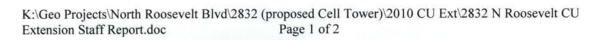
Keys WiFi, Inc. Applicant:

Property Owner: Carl M. Herman Revocable Living Trust

Location: 2832 N. Roosevelt Blvd.

Zoning: General Commercial (CG)





Background:

On November 19, 2009, the Planning Board approved a Conditional Use for a 145' wireless facility and associated equipment structures. The resolution became effective on December 30, 2009, upon receipt of a waiver from the Department of Community Affairs. On October 12, 2010, the authorized representative for the property owner made a timely request for a one year extension to the approval in order to seek an approval for a height variance necessary for facility construction. The applicant's original request for the height variance was denied by the Board of Adjustment; a second height variance request for a 125' tower is now pending.

Request:

The applicant is requesting to extend Planning Board Resolution 2009-048 for 12 additional months.

Section 122-63 (e) of the Code provides that "a Conditional Use shall expire if construction has not commenced within 12 months of approval A conditional use may be extended only one time for 12 months by a favorable vote of the Planning Board or City Commission, when the project is a major development, if the applicant submits a petition for such extension prior to the development plan's expiration and demonstrated reasonable cause for the extension. The burden of proof in justifying reasonable cause shall rest with the applicant."

Process:

Planning Board Meeting:

November 18, 2010

Factors for review of the Extension include the following (Section 122-63 (e):

1. The applicant submitted the request for the Extension prior to the development plan's expiration.

The applicant submitted a request for the Conditional Use Extension prior to the expiration of the Conditional Use approval, on December 30, 2010.

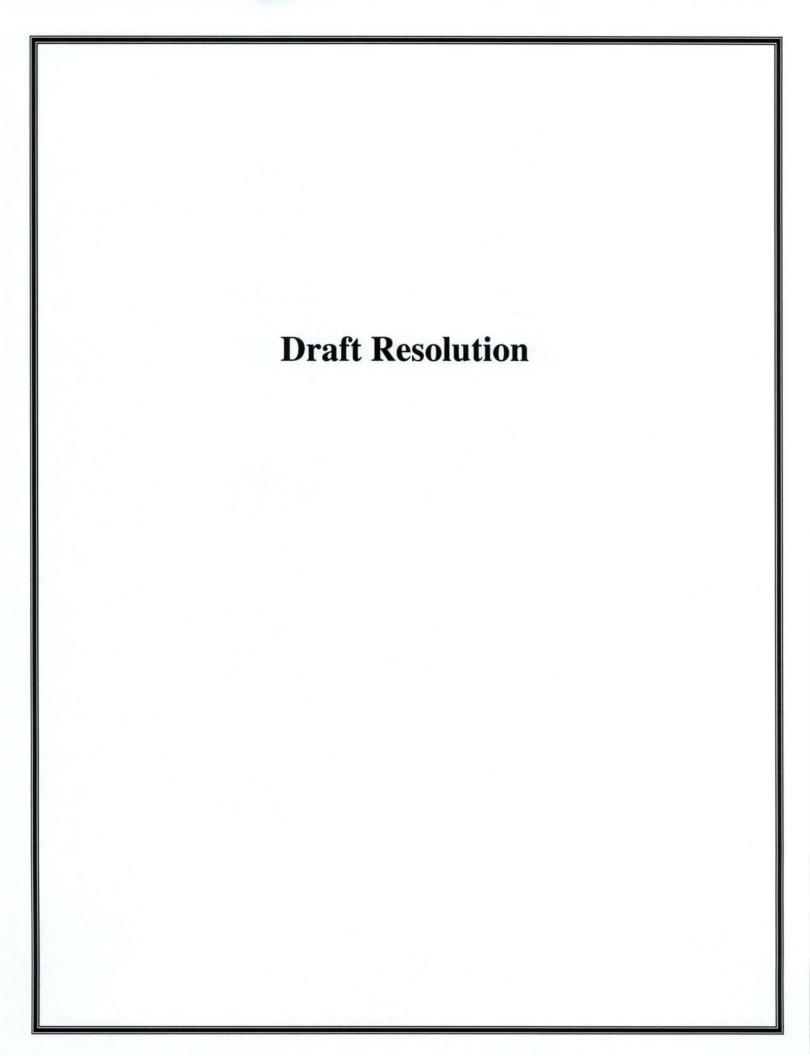
2. The applicant has submitted reasonable cause for the Extension.

The applicant has requested the extension in order to process a request for the height variance necessary for the facility construction.

RECOMMENDATION:

The Planning Department, based on the criteria established by the Comprehensive Plan and the Land Development Regulations, recommends the request for Conditional Use Extension be approved without modification to original conditions.

K:\Geo Projects\North Roosevelt Blvd\2832 (proposed Cell Tower)\2010 CU Ext\2832 N Roosevelt CU Extension Staff Report.doc Page 2 of 2



RESOLUTION NUMBER 2010-

A RESOLUTION OF THE KEY WEST PLANNING BOARD TO ALLOW A ONE-YEAR EXTENSION FROM THE EFFECTIVE DATE OF THE ORIGINAL CONDITIONAL USE APPROVAL GRANTED IN RESOLUTION NUMBER 2009-048 FOR PROPERTY LOCATED AT 2832 NORTH ROOSEVELT BOULEVARD (RE#00065380-000000), KEY WEST FLORIDA; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 122-63(e) provides that a conditional use may be extended only one time for 12 months by a favorable vote of the Planning Board or City Commission, when the project is a major development; and

WHEREAS, the Planning Board approved Resolution 2009-048 on November 19, 2009 allowing a conditional use for the construction of wireless telecommunications facility; and

WHEREAS, the applicant has requested a 12 month extension to the conditional use approval; and

WHEREAS, the effective date of the approving resolution is December 30, 2009, per the Department of Community Affairs waiver letter; and

Page 1 Resolution Number 2010-

 Chairman
Planning Director

WHEREAS, the applicant submitted a timely request for extension and demonstrated that there are no changes to circumstances regarding the original conditional use approval; and

WHEREAS, the granting of the conditional use extension will be in harmony with the general purpose and intent of the Land Development Regulations, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

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

Section 1. That the conditional use approval and associated conditions granted by the Planning Board in Resolution No. 2009-048, allowing for the construction of a wireless telecommunications facility in the General Commercial (CG) Zoning District, under the Code of Ordinances of the City of Key West, Florida, are hereby extended for one-year until December 30, 2011, for property located at 2832 North Roosevelt (RE# 00065380-000000), see attached Resolution 2009-048, with the following conditions:

- 1. The applicant must receive a height variance from the Key West Board of Adjustment;
- The site plan package, including general notes, shelter notes and tower notes are fully incorporated into this approval and constitute conditions of approval;
- Storage of containers or other debris will cease upon issuance of a building permit and the parcel will be kept in a clean and orderly state, provided however, that any use or

Page 2 Resolution Number 2010-

-	Chairman
	Planning Director

future development of this site shall be conducted in accordance with all applicable regulations;

- 4. The applicant will provide one parking space for maintenance vehicles; and,
- A landscape buffer consisting of six foot tall shrubs (at the time of installation) will be provided and maintained on the perimeter of the fence line of the leasehold area.

Section 2. It is a condition of this conditional use extension that full, complete, and final application for all permits required for which this resolution is wholly or partly necessary, shall be submitted in its entirety within one year of the effective date of the approval.

Section 3. This conditional use extension does not constitute a finding as to ownership or right to possession of the property, and assumes, without finding, the correctness of applicant's assertion of legal authority respecting the property.

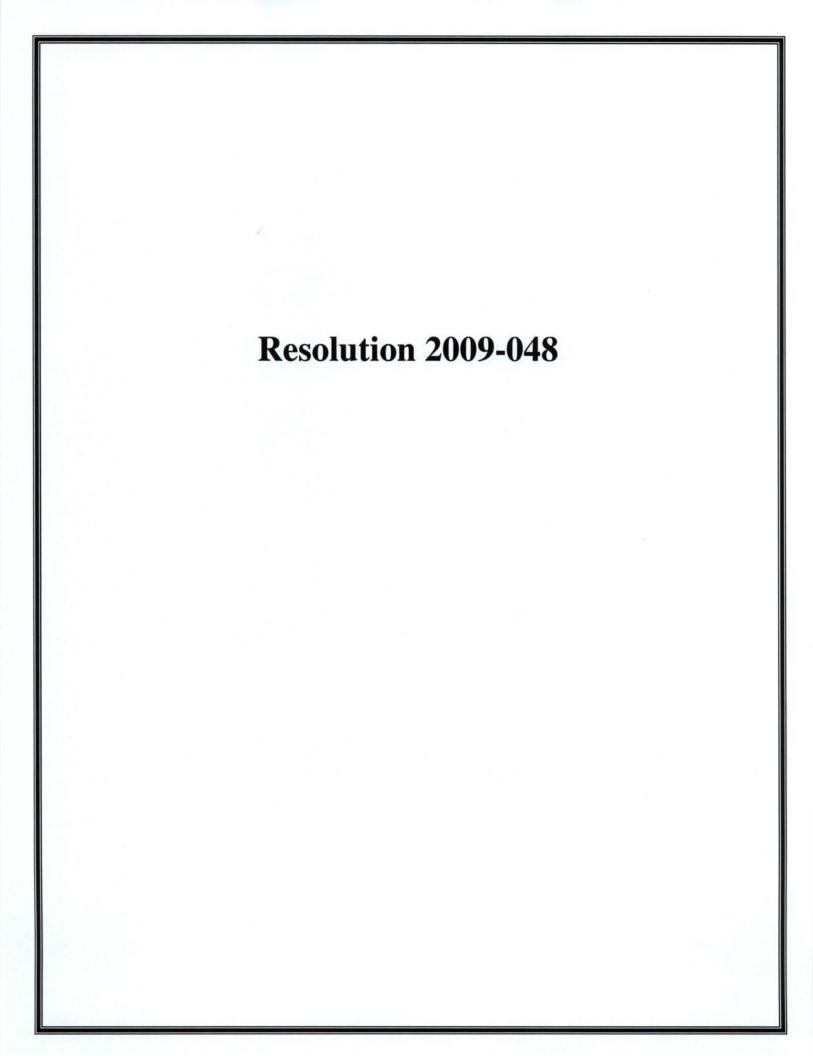
Section 4. This resolution shall go into effect immediately upon its passage and adoption and authentication by the signatures of the presiding officer and the Clerk of the Commission.

Section 5. 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 will be rendered to the Florida Department of Community Affairs. Pursuant to Chapter 9J-1, F.A.C., this permit 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 to the Florida Land and Water Adjudicatory Commission; and that such an appeal stays the effectiveness of

Page 3 Resolution Number 2010-

 Chairman
Planning Directo

the permit until the appeal is resolved by agreement or order.	
Read and passed on first reading at a regular meeting held this 18th day of	of November, 2010.
Authenticated by the Chairman of the Planning Board and the Planning I	Director.
Rickard Klitenick, Chairman Key West Planning Board	Date
Attest:	
Amy Kimball-Murley, AICP, Planning Director	Date
Filed with the Clerk:	
Cheryl Smith, City Clerk	Date
Page 4 Resolution Number 2010-	
	Chairman
	Planning Director



RESOLUTION NUMBER 2009-048

A RESOLUTION OF THE KEY WEST PLANNING BOARD GRANTING A CONDITIONAL USE APPROVAL PER SECTION 122-62 AND 122-63 OF THE CODE OF ORDINANCES FOR A WIRELESS TELECOMMUNICATIONS FACILITY AS A PRIVATE UTILITY TO BE LOCATED AT 2832 NORTH ROOSEVELT BOULEVARD (RE# 00065380-000000), IN THE COMMERCIAL GENERAL (CG) ZONING DISTRICT, UNDER THE LAND DEVELOPMENT REGULATIONS OF THE CITY OF KEY WEST, FLORIDA, PURSUANT TO SECTION 122-418(9) OF THE CODE OF ORDINANCES; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 122-418(9) of the Code of Ordinances provides that public and private utilities are allowed as a conditional use within the Commercial General (CG) zoning district; and

WHEREAS, Section 86-9 of the Code of Ordinances defines public and private utilities as "use of land which is customary and necessary to the maintenance and operation of essential public services, such as electricity and gas transmissions systems; water distribution, collection and disposal; communication; and similar services and facilities"; and

WHEREAS, wireless telecommunication facilities are considered essential public communications services in the community; and

WHEREAS, the subject property is located in the Commercial General (CG) zoning district;

Page 1 Resolution Number 2009-048

Vice-Chairman

Planning Director

and

WHEREAS, the applicant filed a Conditional Use Application for a wireless

telecommunications facility and provided an amended application on Octoberr19, 2009; and

WHEREAS, this matter came before the Planning Board at a duly noticed public hearing on

November 19, 2009; and

WHEREAS, the Planning Board found that the proposed development complies with the

criteria in Section 122-62; and

WHEREAS, the Planning Board determined that granting of the Conditional Use will be in

harmony with the general purpose and intent of the Land Development Regulations, and will not be

injurious to the neighborhood, or otherwise detrimental to the public welfare; 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. That a Conditional Use Application, under the Code of Ordinances of the City of

Key West, Florida, is hereby granted as follows: ALLOWING A WIRELESS

TELECOMMUNICATIONS FACILITY BE CONSTRUCTED AT 2832 NORTH ROOSEVELT

Page 2 Resolution Number 2009-048

Can Planning Director

 $BOULEVARD\,(RE\#\,00065380\text{-}000000), KEY\,WEST\,FLORIDA, PER\,THE\,ATTACHED\,PLANS$

with the following conditions:

1. The applicant must receive a height variance from the Key West Board of Adjustment;

2. The site plan package, including general notes, shelter notes and tower notes are fully

incorporated into this approval and constitute conditions of approval;

3. Storage of containers or other debris will cease upon issuance of a building permit and

the parcel will be kept in a clean and orderly state, provided however, that any use or

future development of this site shall be conducted in accordance with all applicable

regulations;

4. The applicant will provide one parking space for maintenance vehicles;

5. A landscape buffer consisting of six foot tall shrubs (at the time of installation) will be

provided and maintained on the perimeter of the fence line of the leasehold area.

Section 3. Full, complete, and final application for all permits required for which this

resolution is wholly or partly necessary, shall be submitted in its entirety within 12 months after the

date hereof.

Section 4. This Conditional Use Permit does not constitute a finding as to ownership or right

to possession of the property, and assumes, without finding, the correctness of applicant's assertion

of legal authority respecting the property.

Page 3 Resolution Number 2009-048

Vice-Chairman

Welanning Director

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

Section 6. This resolution is subject to appeal periods as provided by the City of Key West Code of Ordinances (including the Land Development Regulations). After the City appeal period has 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 regular meeting held November 19, 2009.

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

Tim Root, Vice-Chairman

Key West Planning Board

12.3.09

Date

Page 4 Resolution Number 2009-048

The Vice-Chairman

Planning Director

Attest: A7/	2
I Valley Mus Mus	12/03/09
Amy Kimball-Murley, AICP Planning Director	Date

Filed with the Clerk: Smith

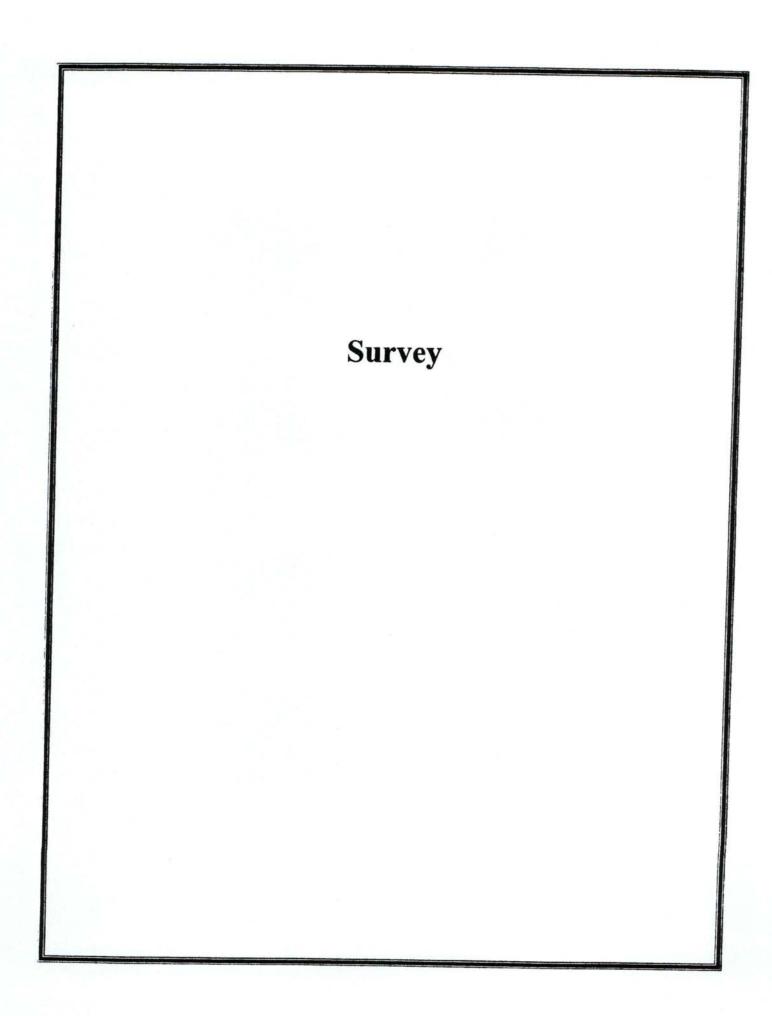
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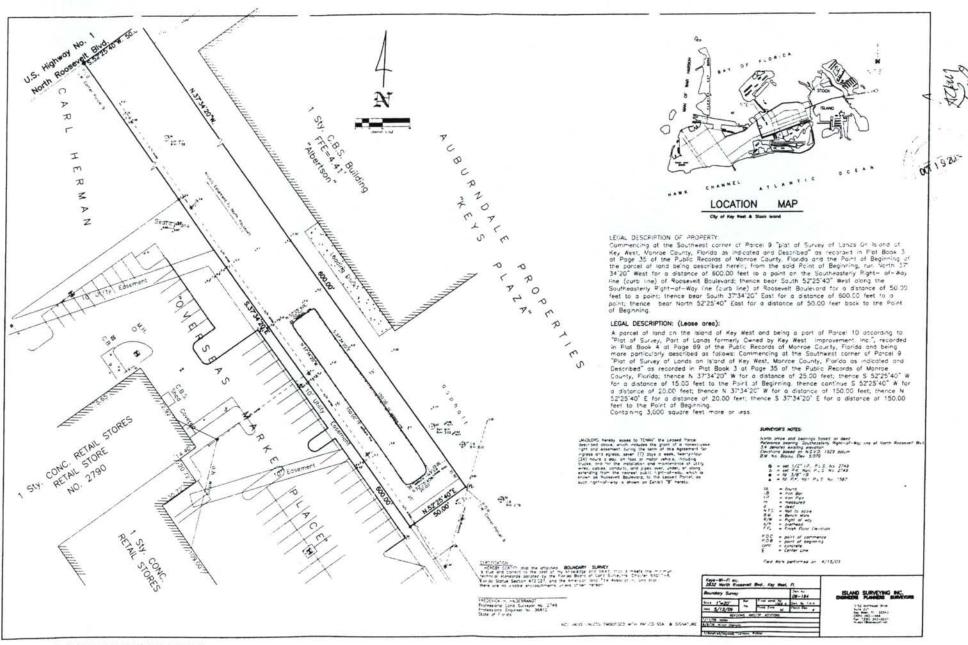
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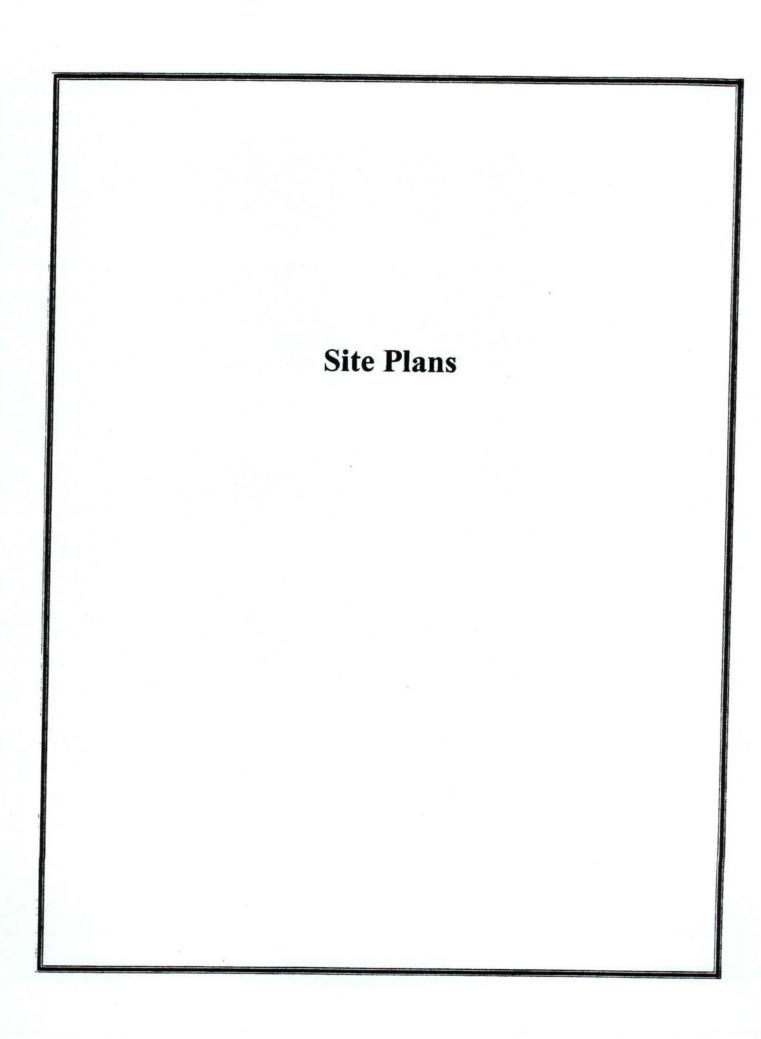
Page 5 Resolution Number 2009-048

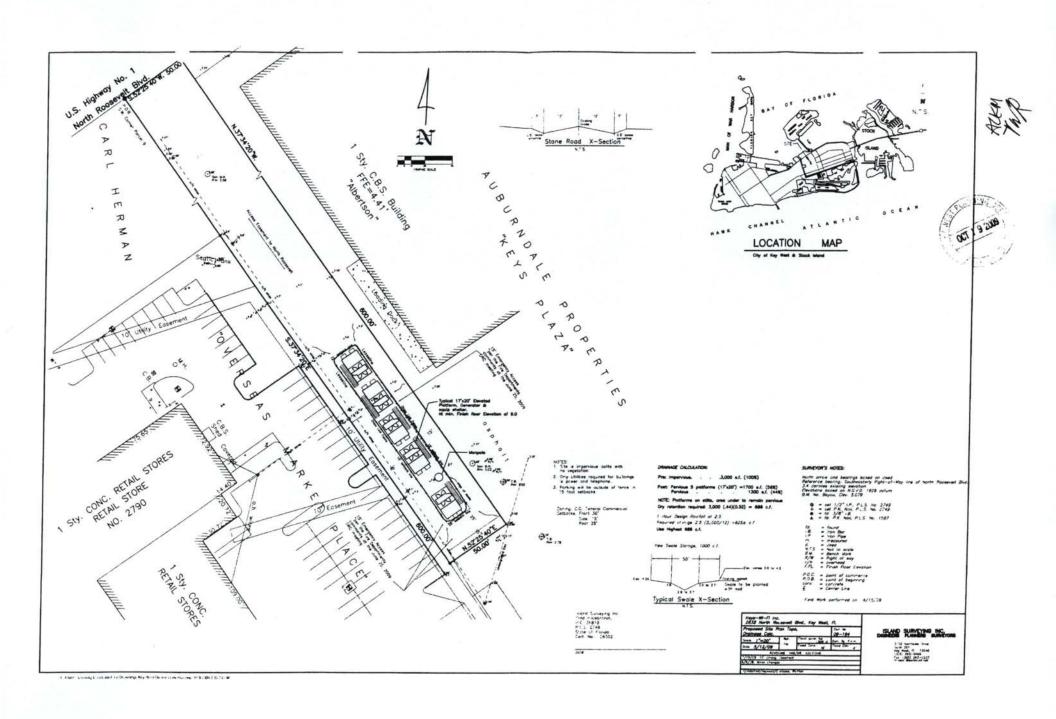
Vice-Chairman

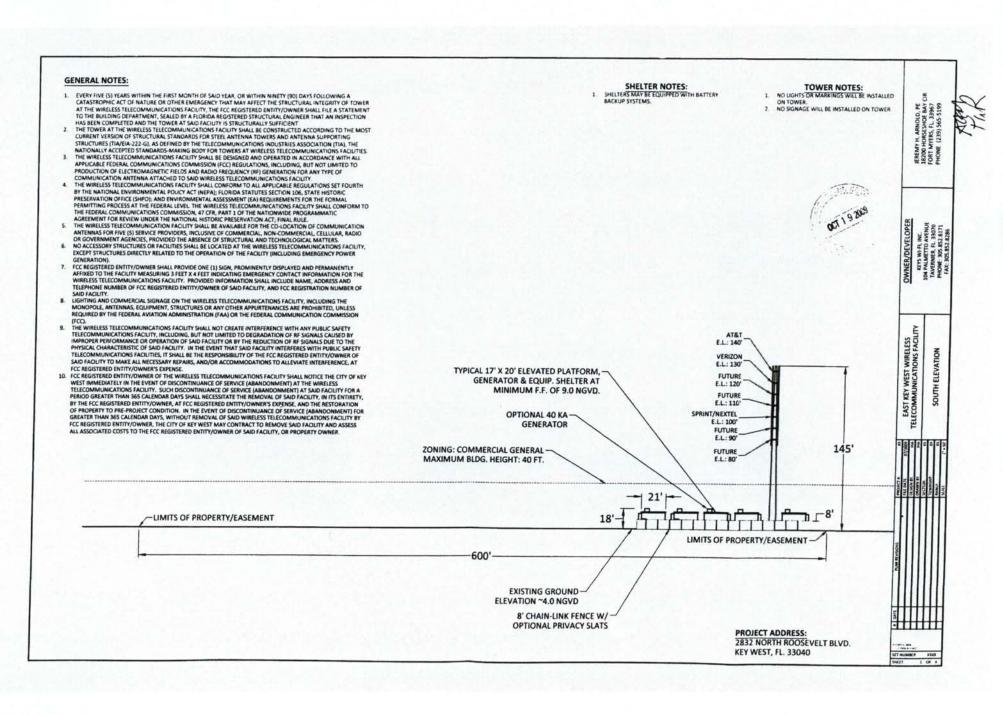
Alam Planning Director

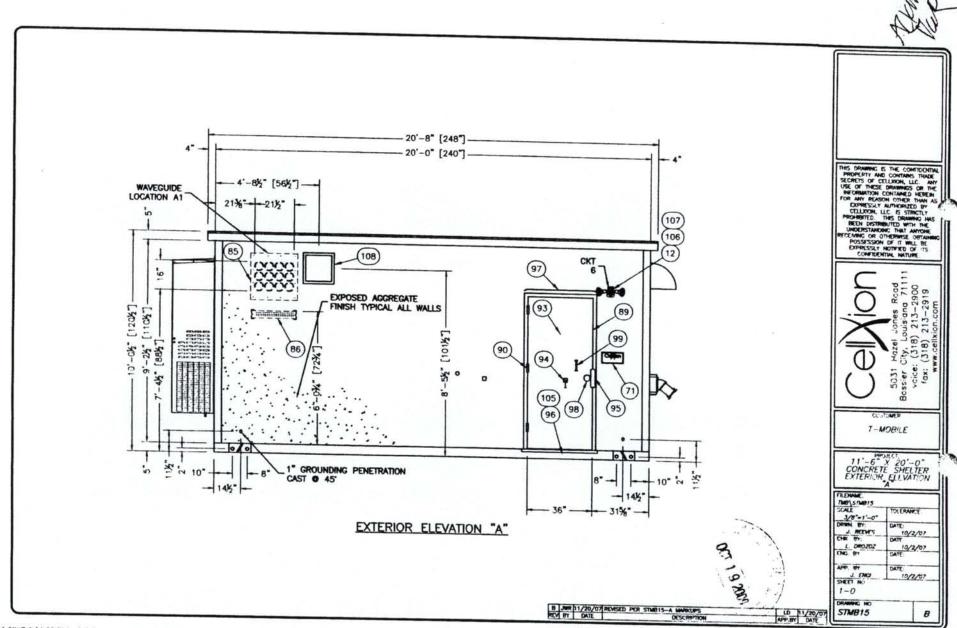




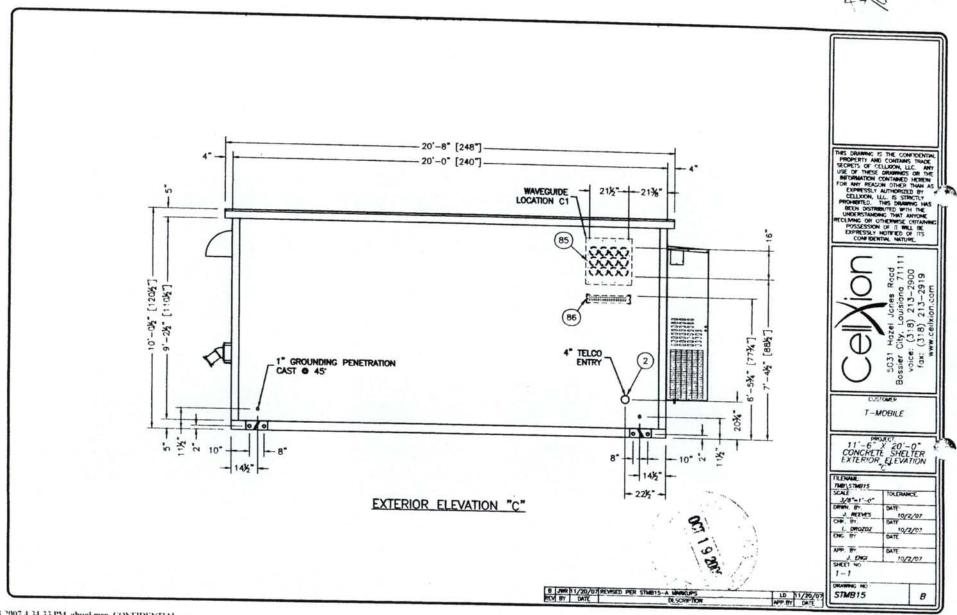




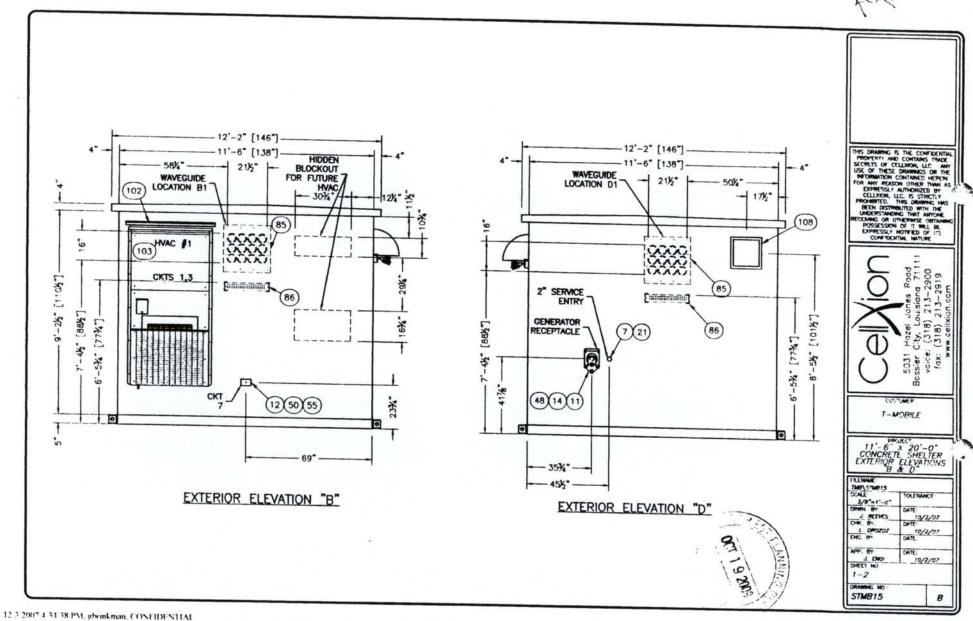




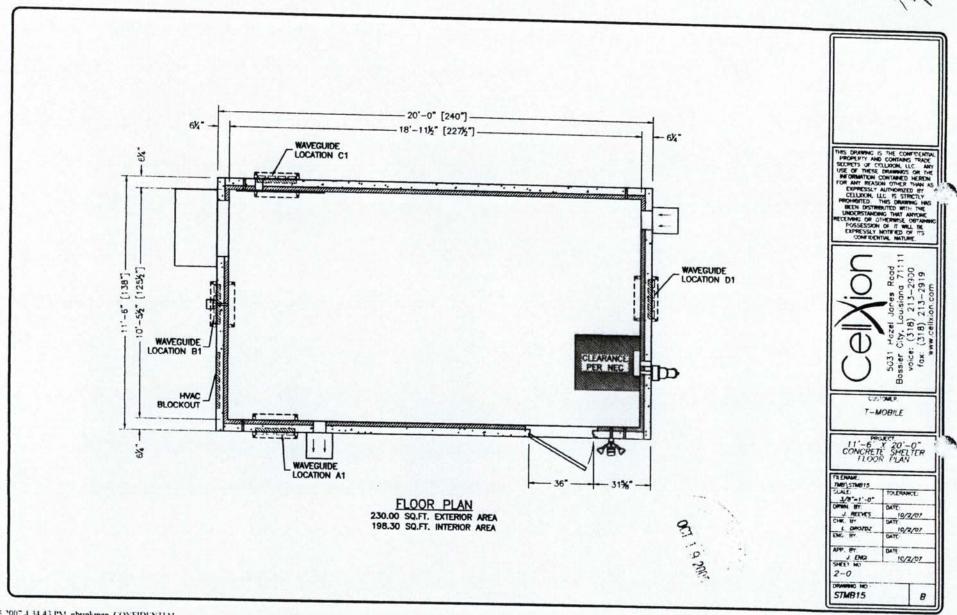


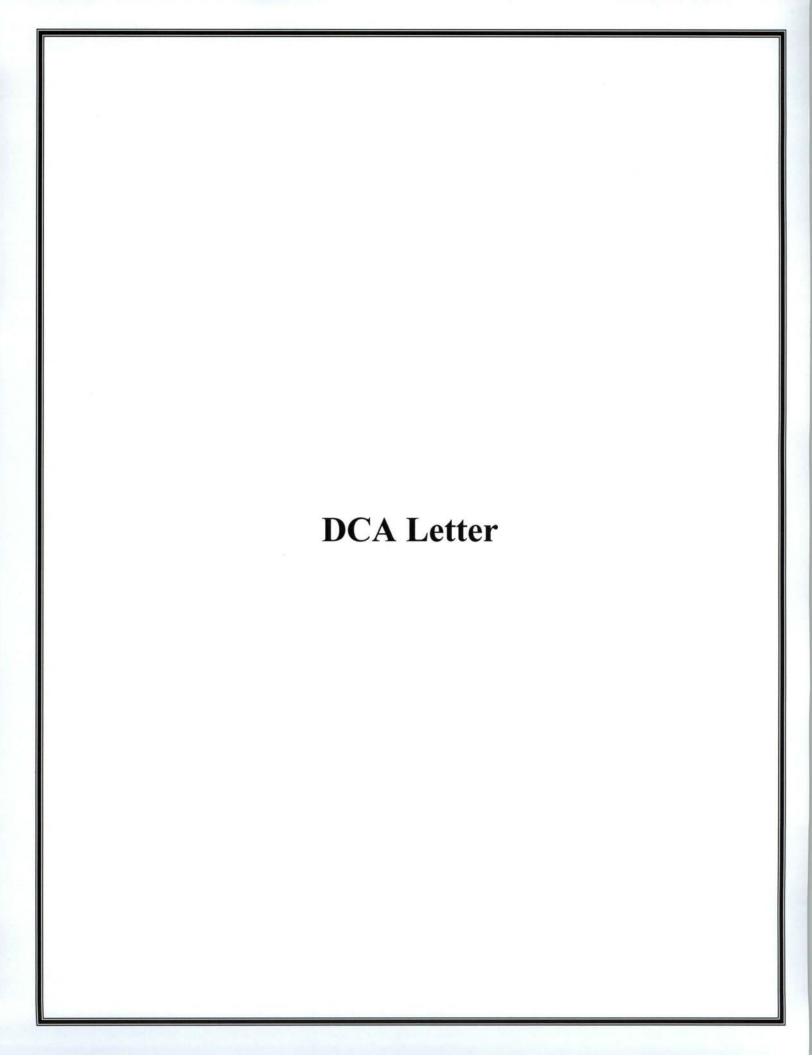














DEPARTMENT OF COMMUNITY AFFAIRS

"Dedicated to making Florida a better place to call home"

CHARLIE CRIST Governor

THOMAS G. PELHAM Secretary

December 30, 2009

Mrs. Amy Kimball-Murley, AICP akimball@keywestcity.com
City of Key West Planning Director
P.O. Box 1409
Key West, Florida 33041

Re: Res# 2009-048 2832 N. Roosevelt Blvd.

The Area of Critical State Concern program has received and reviewed the above referenced permit in accordance with Section 380.07, Florida Statutes. The permit would authorize a wireless telecommunication facility. The Department will not appeal the proposed development or development order as issued.

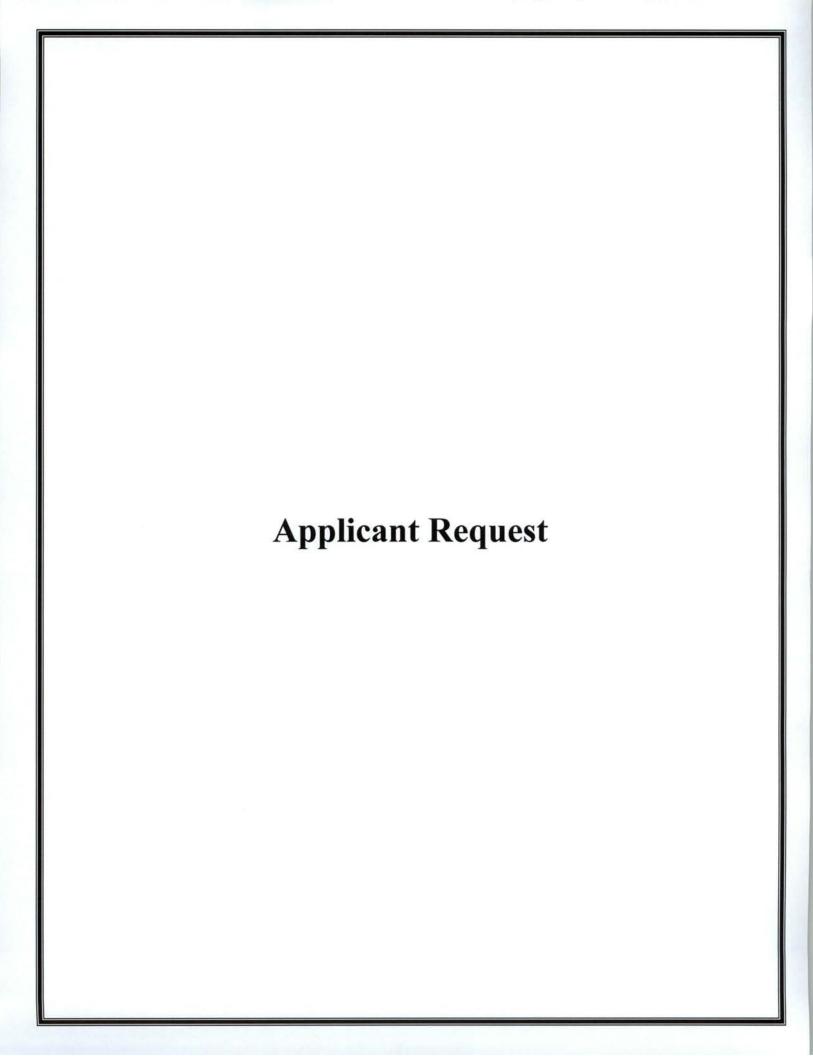
This letter is not intended to constitute, and shall not be construed as constituting, a verification of compliance with the Comprehensive Plan and Land Development Regulations, and shall not be relied upon as a precedent or a waiver of rights regarding any other development order or other growth management laws or statutes.

If additional information is needed, please call Rebecca Jetton @ (850) 922-1766.

Sincerely,

Rebecca Jetton, Administrator Florida Keys Area of Critical State Concern

RJ/kj

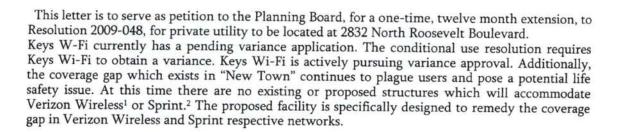


October 12, 2010

Ms. Amy Kimball-Murley, AICP Planning Director, City of Key West 525 Angela Street Key West, FL 63040

RE: Conditional Use 2009-048 / Application for Extension

Dear Ms. Kimball-Murley:



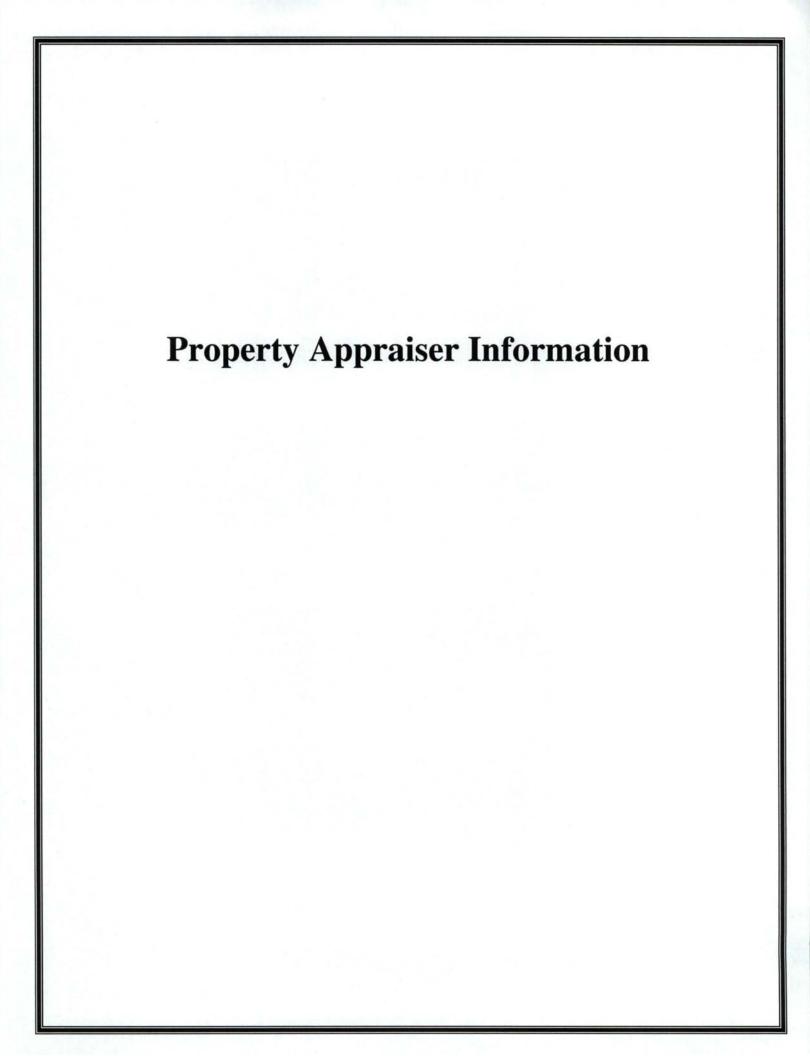
OCT 13 201

High Regards,

Rick Richter

² Sprint is the #3 in market share in the United States

Verizon Wireless is # 1 in market share in the United States



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

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

Thursday - November 11, 2010, the Monroe County Property

Property Record View

Alternate Key: 1068080 Parcel ID: 00065380-000000

Ownership Details

Mailing Address:

HERMAN CARL M REV LIV TR DTD 07/19/02 1809 VENETIA ST KEYWEST, FL 33040

Property Details

PC Code: 99 - NON AG ACREAGE 5 AC OR MORE

Millage Group: 10KW Affordable Housing: No Section-Township-

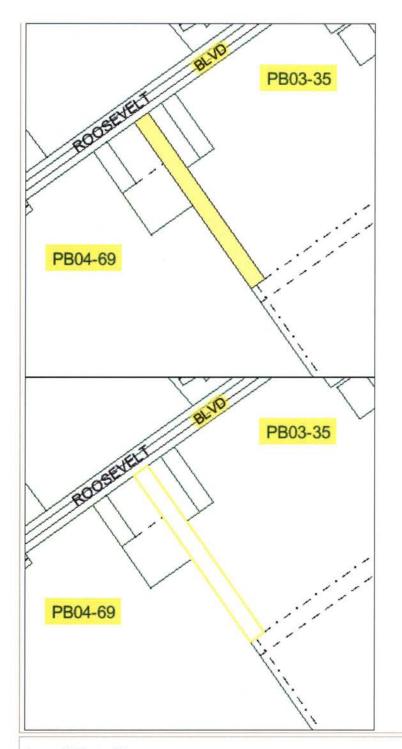
Range: 33-67-25

Property Location: VACANT LAND 2832 N ROOSEVELT BLVD KEYWEST

Legal Description: KW A PARCEL OF LAND LYING SE'LY OF N ROOSEVELT BLVD & NWLY & ADJACENT TO TR 9 OF PB3-35

G66-364 OR607-192/193R/S OR991-604D/C OR2137-2353/2354

Parcel Map



Land Details

Land Use Code	Frontage	Depth	Land Area	
000E - EASEMENT	50	600	0.50 LT	

Appraiser Notes

EASEMENT NEXT TO KEY PLAZA (BEHIND ALBERTSONS). - JEN

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 Taxab Value
2010	0	0	25	25	25	0	25
2009	0	0	25	25	25	0	25
2008	0	0	25	25	25	0	25
2007	0	0	25	25	25	0	25
2006	0	0	1,350,000	16,500	16,500	0	16,500
2005	0	0	1,350,000	16,500	16,500	0	16,500
2004	0	0	16,500	16,500	16,500	0	16,500
2003	0	0	16,500	16,500	16,500	0	16,500
2002	0	0	16,500	16,500	16,500	0	16,500
2001	0	0	16,500	16,500	16,500	0	16,500
2000	0	0	16,500	16,500	16,500	0	16,500
1999	0	0	16,500	16,500	16,500	0	16,500
1998	0	0	16,500	16,500	16,500	0	16,500
1997	0	0	16,500	16,500	16,500	0	16,500
1996	0	0	16,500	16,500	16,500	0	16,500
1995	0	0	16,500	16,500	16,500	0	16,500
1994	0	0	16,500	16,500	16,500	0	16,500
1993	0	0	16,500	16,500	16,500	0	16,500
1992	0	0	16,500	16,500	16,500	0	16,500
1991	0	0	16,500	16,500	16,500	0	16,500
1990	0	0	16,500	16,500	16,500	0	16,500
1989	0	0	16,500	16,500	16,500	0	16,500
1988	0	0	16,500	16,500	16,500	0	16,500
1987	0	0	16,485	16,485	16,485	0	16,485
1986	0	0	16,485	16,485	16,485	0	16,485
1985	0	0	16,485	16,485	16,485	0	16,485
1984	0	0	16,485	16,485	16,485	0	16,485
1983	0	0	16,485	16,485	16,485	0	16,485
1982	0	0	16,485	16,485	16,485	0	16,485

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.

There are no sales to display for this parcel.

This page has been visited 57,235 times.

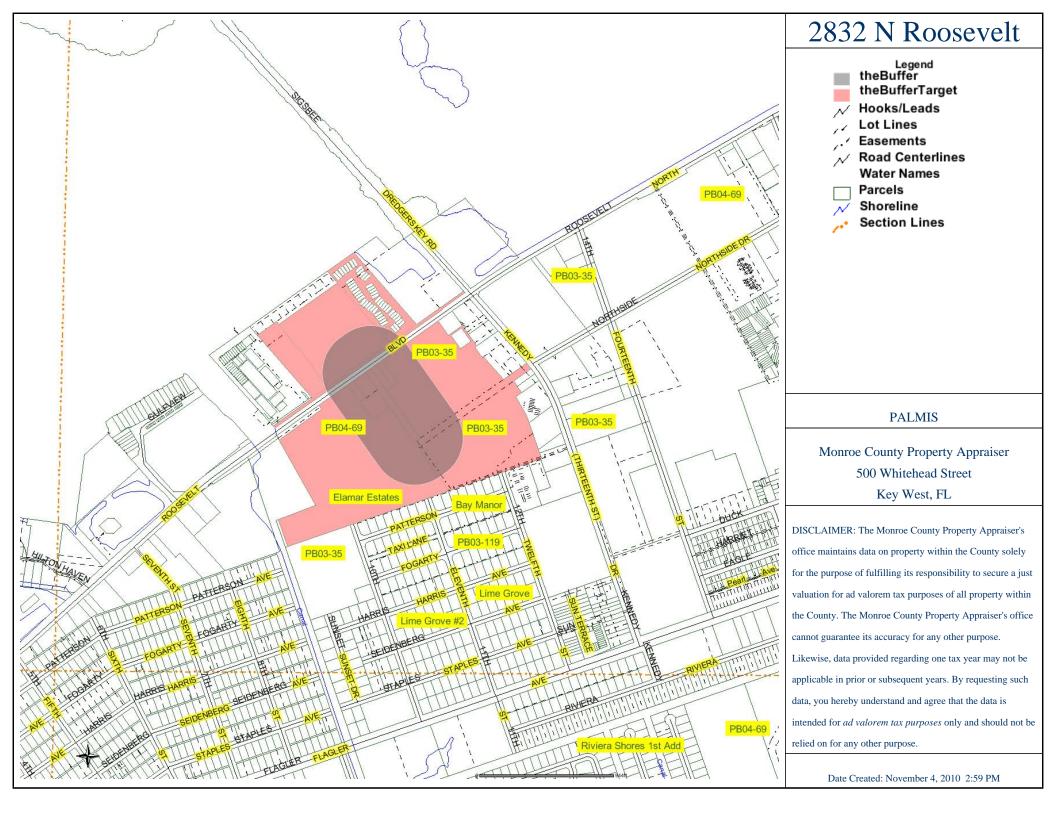
Monroe County Property Appraiser Ervin A. Higgs, CFA P.O. Box 1176 Key West, FL 33041-1176

Public Notices (radius map & mailing list)	

The Key West Planning Board will hold a public hearing <u>at 6:00 p.m., November 18, 2010, at Old City Hall, 510 Greene Street</u>, Key West, Florida, (Behind Sloppy Joe's Bar). The purpose of the hearing will be to consider a request for:

Conditional Use Extension – 2832 North Roosevelt Blvd (RE# 00065380-000000) - A request for an extension to a conditional use approval per Planning Board Resolution 2009-048 for a wireless facility in the Commercial General (CG) zoning district per Section 122-63(e) of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

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: Conditional Use Extension - 2832 North Roosevelt Blvd (RE# 00065380-000000) - A request for an extension

to a conditional use approval per Planning Board Resolution 2009-048 for a wireless facility in the Commercial General (CG) zoning district per Section 122-63(e) of the Land Development Regulations of the Code of Ordi-

nances of the City of Key West, Florida .

Applicant: Keys Wi-Fi, Inc. Owner: Carl M. Herman Revocable Living Trust

Project Location: 2832 N. Roosevelt Blvd Date of Hearing: Thursday, November 18, 2010

Time of Hearing: 6:00 PM Location of Hearing: Old City Hall – City Commission Chambers, 510 Greene St

Interested parties may appear at the public hearing(s) and be heard with respect to the applications. 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. Packets can be viewed online at www.keywestcity.com. Click on City Board & Committee Agendas.

Please provide written comments to the Planning Department, PO Box 1409, Key West, FL 33041-1409, by FAX (305) 809-3978 or by email 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: If you are a person with a disability who needs special accommodations in order to participate in this proceeding, please contact the ADA Coordinator at 305-809-3951 between the hours of 8:00 a.m. and 5:00 p.m., or information on access available to individuals with disabilities. To request materials in accessible format, a sign language interpreter or other assistance (5 days advance notice required), please call 305-809-1000 for assistance.

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Request: Conditional Use Extension - 2832 North Roosevelt Blvd (RE# 00065380-000000) - A request for an extension

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AUBURNDALE PROPERTIES LLC SUCC TRUSTEE 50 TICE BLVD WOODCLIFF LAKE, NJ 07675

CARRAWAY CHRISTINA 3029 N ROOSEVELT BLVD KEY WEST, FL 33040 HERMAN CARL M REV LIV TR DTD 07/19/02 1809 VENETIA ST KEY WEST, FL 33040

KEY COVE HOMEOWNER'S ASSOC INC 201 FRONT ST KEY WEST, FL 33040 KEY HOME INVESTORS LLC 2115 LINWOOD AVE FORT LEE, NJ 07024 ROSCOE JENNIFER G 926 TRUMAN AVE KEY WEST, FL 33040

SAVIANO DENNIS P TRUST 5/18/1993 11498 HEATHERWOOD CT SHELBY TOWNSHIP, MI 48315 SK II INC 506 FLEMING ST KEY WEST, FL 33040 SOMMERS ANDREW W 3029 N ROOSEVELT BLVD KEY WEST, FL 33040

WINGO TURNER SUC TR ESTATE OF T A COX PO BOX 901 DEERFIELD, IL 60015