



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

To: Chairman and Planning Board Members

Through: Thaddeus Cohen, Planning Director

From: Ginny Haller, Planner II

Meeting Date: April 21, 2016

Agenda Item: **Exception for Outdoor Merchandise Display – 405 Fleming Street, Unit 101 (RE # 00006670-000000; AK #1006904)** - A request for exception for outdoor merchandise display on property located within the Historic Residential Office (HRO) Zoning District pursuant to Section 106-52 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

Request: The applicant is requesting an Exception for Outdoor Merchandise Display to allow the outdoor display of merchandise on a 12 square-foot cart sold in-store at the entrance of the business.

Applicant: Tropical Shell and Gifts, Inc. dba End of the Road

Property Owner: C&D Properties of Key West I, LLC

Location: 405 Fleming Street, Unit 101 (RE # 00006670-000000; AK #1006904)

Zoning: Historic Residential/Office (HRO)

Background:

The subject property is located on the corner of Fleming and Whitehead Streets, across from the courthouse and post office. The commercial retail use is a non-conforming use in the HRO zoning district. The store currently sells souvenir items such as postcards, key chains, magnets, etc. The applicant is requesting an outdoor cart to display merchandise sold in the store.

The cart with a display of conch shells and souvenirs is currently existing as shown by the attached photograph #1 dated April 7, 2016. A Code Compliance case exists that states the cart is in violation of Sec. 108-576(a). Also seen during the site visit was a freestanding cutout mural depicting the seven mile bridge with images of a conch shell and a rooster as shown by photograph #2. The cutout mural has **not** received an Exception for outdoor display, or HARC approval, and is a part of the Code case.

This Exception request is limited to the outdoor display of merchandise **only** on a 12 square-foot cart to be placed on the right side of the entrance of the business.

On February 4, 2015, the Planning Board approved an Exception to an outdoor display that was limited to a rooster sculpture on wheels in front of the left front window for the maximum allowed timeframe of sixty months (Resolution 2015-02).



Process:

Planning Board Meeting:

April 21, 2016

Analysis – Evaluation for Compliance with the Land Development Regulations:

The outdoor display of merchandise in the historic zoning districts of the City is prohibited unless an Exception is granted by the Planning Board, as provided in Section 106-52 of the City Code. Pursuant to Section 106-51 of the City Code, merchandise shall mean any good or product or sample or likeness of any good or product offered for sale by a business. Granting or denying on a case-by-case basis a proposed Exception gives the Planning Board the discretion to approve or deny proposed displays based on the following criteria:

(1) Factors favoring the Exception are as follows:

- a. The location of the proposed Exception, while outdoors, is an interior courtyard of a building or buildings, or is a space specifically designed and permitted for use by outdoor merchants.**

The proposed Exception is not located in an interior courtyard, but is located on the exterior entranceway of the business structure. The applicant is requesting to display conch shells and souvenirs on a cart with two wheels in front of the right front window next to the entranceway of the business.

- b. The Exception (for either the type of merchandise or the type of display) is compatible or in visual harmony with the character of the neighborhood.**

General retail sales is expressly excluded in the HRO zoning district along with warehousing and outdoor storage pursuant to Section 122-926 of the City Code. The commercial retail activity is a recognized non-conforming use.

- c. The Exception's visual incongruity with the historic character of the neighborhood is reduced by substantial setback from public places and rights-of-way.**

The current display of merchandise on the cart is located in front of the right front window. The proposed Exception would be visible from the public right-of-way; however, it is not located in the public right-of-way.

(2) Factors disfavoring the Exception are as follows:

a. Architecture contributing to the historical fabric or visual character of the neighborhood is obscured by the Exception.

When reviewing this specific request, the Planning Department coordinated with the City's Historic Preservation Planner and determined that the proposed Exception should not obscure architectural elements of the building or the historic character of the neighborhood. The applicant has proposed a cart on wheels to display conch shells and other souvenirs in front of the right front window, which limits obscuring the front façade of the structure.

b. The location of the proposed Exception abuts, with minimal setback, a street of the historic district, thus the Exception is visible from heavily used public places and rights-of-way.

The location of the proposed cart is minimally setback from the street. The Exception is highly visible from public areas and is located on highly pedestrian rights-of-way. The Exception is located on the corner of Whitehead and Fleming Streets with the Judge Jefferson B. Browne Courtroom Complex across Whitehead Street. The county courthouse is setback from the street with a tree canopy including Frangipani, Royal Poinciana and Kapok trees; and First State Bank is setback with a row of Christmas Tree palm trees along the front. There are no outdoor displays of merchandise along the entire length of Whitehead Street. The requested Exception is not in visual harmony with the character of the neighborhood.

c. The Exception presents a hazard to public safety.

The Fire Marshal has determined that the proposed Exception does not present a hazard to public safety as long as ingress and egress are maintained.

(3) Exceptions to Section 106-51 granted by the Planning Board shall be for a term of no more than 60 consecutive months, and may be granted subject to terms and conditions specified by the Board in order to protect the architectural heritage and visual character of the district. Applications for Exceptions shall be accompanied by a nonrefundable fee of \$100.00 to cover the costs to the City of processing the application and investigating the applicant.

Exceptions for Outdoor Merchandise Display do not run with the land, but instead, have very specific terms of expiration established upon approval by the Planning Board. The applicant has requested an Exception for Outdoor Merchandise Display for the maximum amount of time allowed under the Code for Exceptions to Outdoor Merchandise Display, or for sixty (60) consecutive months. It is important to note that the Planning Board has the authority to choose to approve the proposed Exception for a lesser term than the maximum amount of time that has been requested.

- (4) **Exceptions to Section 106-51 may be revoked by the Planning Board after notice and hearing on grounds that:**
- a. **The applicant has failed to comply with terms and conditions specified pursuant to the grant of an Exception in this section;**
 - b. **The Exception was granted pursuant to mistaken or misleading information;**
or
 - c. **The Exception is not compatible, or in visual harmony, with development of the neighborhood occurring subsequent to grant of this Exception.**
- (5) **The City Manager or the Planning Board upon written petition by any City resident may cause issuance of a notice of hearing on revocation of an Exception, which notice shall be issued by the City Clerk.**

RECOMMENDATION:

Based on the criteria established by the Comprehensive Plan and the Land Development Regulations, the Planning Department recommends the request for Exception to the Outdoor Merchandise Display at 405 Fleming Street, Unit 101 (RE # 00006670-000000; AK #1006904) be **denied**.

Application

Application for Exception for Outdoor Merchandise Display
City of Key West Planning Department
3140 Flagler Avenue, Key West, FL 33040
(305) 809-3720

RECEIVED

FEB 08



CITY OF KEY WEST
PLANNING DEPT.

Please completely fill out this application and attach all necessary documents. This will help our staff to process your request quickly and obtain necessary information without delay. If you have any questions please call 305-809-3720 to schedule an appointment with a Planner. This application is pursuant to Section 106-51 & 52 City of Key West Land Development Regulations.

Applicant's Name Donald L. Craig, The Spottswood Law Firm
Address of Proposed Display 405 Fleming Street.
RE# of Property AK# 1006904
Business Name Tropical Shell and Gifts, Inc.
Business Address 202 Front Street, Key West FL 33040
Applicant's Mailing Address 500 Fleming Street, Key West FL 33040
Telephone 305 294 9556 Email drcraig@Spottswoodlaw.com
Telephone 305 924 0249
Name of Property Owner C9D Properties of Key West 1 LLC
Mailing Address P.O. Box 4125
Telephone _____ Email _____

Located in or on:

- a porch, patio, or other attached portion of an adjacent permanent structure.
 an arcade, gazebo, or other temporary structure.
 a cart or movable booth. (Must have received or obtained HARC approval)
 a portable table, rack, or other non-permanent equipment.

Describe the specific merchandise to be displayed and business conducted.

See attached letter, description and photos
of proposed cart with 12 sq. ft. of display
area.

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City of Key West Planning Department
3140 Flagler Avenue, Key West, FL 33040
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Describe the structure and equipment used in the display in detail, including any seating.

How far is the display from the street? 15' From Fleming + 20 Ft. From Whitehead
How far is the display from the sidewalk? 5' Feet
Length of time exception will be needed (no more than 60 months) 60 months

PLEASE PROVIDE THE FOLLOWING TO COMPLETE YOUR APPLICATION:

1. Provide fee of \$100.00. There are additional fees of \$50.00 for fire department review and \$100.00 for advertising and noticing. For a total of \$250.00. Please, make check payable to the City of Key West.
2. **Photographs** of the existing area and proposed display
3. A **site sketch** showing general lay out and location of the display relative to visibility from the public right-of-way
4. Copy of the **Warranty Deed**
5. Completed **Authorization and Verification** forms as necessary
6. Recent **Property Boundary Survey**
7. **Property Appraisers** information (www.mcpafl.org)

The information furnished above is true and accurate to the best of my knowledge.

Signature

A handwritten signature in black ink, consisting of a large, stylized 'A' followed by a horizontal line and a diagonal stroke.

Date Feb. 02, 2016

Application for Exception for Outdoor Merchandise Display
City of Key West Planning Department
3140 Flagler Avenue, Key West, FL 33040
(305) 809-3720



Sec. 106-51. - Prohibited.

The outdoor display of merchandise in the historic zoning districts of the city is prohibited unless an exception is granted by the planning board, as provided in section 106-52. Merchandise shall mean any good or product or sample or likeness of any good or product offered for sale by a business. Outdoor display shall mean the placement of merchandise on the exterior of a business structure, including a wall, roof, overhang, entranceway or window, or within a required setback area. For a cart, booth or arcade, outdoor display shall mean the placement of merchandise, either freestanding or by draping it, on the exterior or beyond the vertical plane of the cart, booth or arcade. In no event shall outdoor display be permitted in the public right-of-way. The prohibitions of this section shall not apply to automotive, bicycle and moped rentals and sales and to plant sales and shall not apply to art festivals or other special events duly permitted by the city commission.

(Ord. No. 97-10, § 1(3-16.1(C)(1)), 7-3-1997, Ord. No. 08-04, § 16, 5-20-2008)

Sec. 106-52. - Exceptions.

Exceptions to section 106-51 may be granted by the Planning Board as follows:

(1) Factors favoring the exception are as follows:

- a. The location of the proposed exception, while outdoors, is an interior courtyard of a building or buildings, or is a space specifically designed and permitted for use by outdoor merchants.
- b. The exception (for either the type of merchandise or the type of display) is compatible or in visual harmony with the character of the neighborhood.
- c. The exception's visual incongruity with the historic character of the neighborhood is reduced by substantial setback from public places and rights-of-way.

(2) Factors disfavoring the exception are as follows.

- a. Architecture contributing to the historical fabric or visual character of the neighborhood is obscured by the exception.
- b. The location of the proposed exception abuts, with minimal setback, a street of the historic district, thus the exception is visible from heavily used public places and rights-of-way.
- c. The exception presents a hazard to public safety.

(3) Exceptions to section 106-51 granted by the Planning Board shall be for a term of no more than 60 consecutive months and may be granted subject to terms and conditions

Application for Exception for Outdoor Merchandise Display
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specified by the board in order to protect the architectural heritage and visual character of the district. Applications for exceptions shall be accompanied by a nonrefundable fee of \$100.00 to cover the costs to the city of processing the application and investigating the applicant.

- (4) Exceptions to section 106-51 may be revoked by the Planning Board after notice and hearing on grounds that:
- a. The applicant has failed to comply with terms and conditions specified pursuant to the grant of an exception in this section;
 - b. The exception was granted pursuant to mistaken or misleading information; or
 - c. The exception is not compatible, or in visual harmony, with development of the neighborhood occurring subsequent to grant of the exception.
- (5) The city manager or the planning board, upon written petition by any city resident, may cause issuance of a notice of hearing on revocation of an exception, which notice shall be issued by the city clerk.

(Ord. No. 97-10, § 1(3-16.1(C)(2)), 7-3-1997; Ord. No. 06-09, § 1, 5-2-2006; Ord. No. 08-04, § 17, 5-20-2008)

SPOTTSWOOD, SPOTTSWOOD & SPOTTSWOOD, PLLC
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KEY WEST, FLORIDA 33040

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JOHN M. SPOTTSWOOD (1920 - 1975,
ROBERT A. SPOTTSWOOD (of Counsel)
DONALD L. CRAIG (Director of Planning)

February 3, 2016

Mr. Thaddeus Cohen
Planning Director
City of Key West
3140 Flagler Avenue
Key West, Florida 33040

Subject: 405 Fleming Street – Outdoor Display Exception

Dear Thaddeus:

I have attached to this letter an application for an Outdoor Display exception for an outdoor cart at 405 Fleming Street.

The attached application contains all the necessary materials to allow you to thoroughly review the request, however, I thought it prudent to provide some background and history of the project location.

The use of the property for a gift shop dates back to early 2013 when the City denied the conversion of the property to a trolley stop and gift shop. The reason for the denial was that the trolley stop would have been an increase in the intensity of a non conforming use in the HRO zoning district. The decision by the Planning Director was appealed to the City Commission, and continued several times. In November of that year a settlement was reached. A copy of the Settlement Agreement is attached to this letter and to the application.

The basis for the settlement was that the applicant at that time was able to provide proof that retail activity, properly approved many years ago had been continuously in existence. The Settlement Agreement was supported by the Planning Director because he suggested the historic research and required traffic analysis for the planned improved retail use, which could not be a trolley stop. The Settlement Agreement also contains a list of conditions which were negotiated by the property owner's attorney and the Planning Director. The conditions remain in effect today and as long as the legally non conforming use remains.

The Settlement Agreement was approved by the Planning and Legal Departments and the appeal was dismissed.

In 2015 after the improvements to the interior and exterior of the building were made, the lessee of the property who runs the gift shop obtained approval for the first outdoor display of two sculptures, a "rooster" and the "seven-mile bridge".

In late 2015 an application for a cart was made in order to display materials for sale in the gift shop which had previously received all the necessary City approvals. The type of application made was in error, and this application is the correct one for that which is proposed.

At the time of the application for the cart, a determination was made by the City that the cart would not be allowed because it was an increase in intensity of the use at the property which would be in conflict with condition 4 of the Settlement Agreement, which states "*The retail sales is subject to the existing level of intensity. The property owner's existing businesses, Florida Keys Offset Printing & Publishing, Inc., Florida Keys Wholesales, Inc. and the Blackwell Family property management offices may continue at their current location;*". The asterisk refers to a footnote which states "Subject to the traffic study". The traffic study completed by KBP Consulting was attached to the Settlement Agreement as Exhibit D.

The City has maintained in the past two months that the addition of the cart to display goods to be sold is an increase in intensity of the site. It is our very strong opinion that this determination is **incorrect** for the following reasons:

1. Section 86-9 of the Land Development Regulations defines intensity thusly: "*Intensity means the floor area ratio as defined in this section.*" Floor area is defined in this section as "*Floor area ratio means the total floor area of the buildings on any lot, parcel or site divided by the area of the lot, parcel or site.*"

It is important to note that these definitions refer to buildings, which is defined as "*Building means any structure used or intended for supporting or sheltering any use or occupancy.*" This definition in turn refers to structures which are defined as "*Structure means anything built, constructed or assembled with a fixed location on the ground.*" Among other things, structures include buildings, mobile homes, walls, fences, signs and poster panels, driveways, pools, and ponds."

Nothing in these definitions refers to a moveable cart as "floor area", a "structure" or a "building". Because a thing must be one or more of these three defined items in order to be classified as having "intensity", it is not possible to use the Land Development Regulations, or any interpretation of them to determine that a moveable cart used for the display of merchandise as a change of intensity of use.

2. Having personally negotiated the Settlement Agreement with the owner's Attorney, I can attest that its intent was to focus on the use of the building, the floor area on the interior of the building and to maintain the parking on the site. Not one portion of the Settlement Agreement refers to a use outdoors other than the parking areas and the prohibition on a trolley use at that location. The only other requirement for any outside use is that it have HARC Approval. The clear intent of the requirement is that unnamed exterior improvements other than those prohibited could be allowed subject to HARC approval. An example is the two sculptures which received approval as an outdoor display on February 4, 2015 by a unanimous vote of the six members of the Planning Board present. The package of materials (attached) considered by the Planning Board at that time contained a copy of the Settlement Agreement and nothing in the staff

report referred to any inconsistency of the proposed outdoor display with the Settlement Agreement.

3. During my tenure as Planning Director of nearly four years, and based on my research of previous decisions by the Planning Board, there has never been an occasion when the outdoor display of merchandise has been considered Floor Area as defined by the Land Development Regulations.
4. The fact that merchandise is displayed on a cart is irrelevant to the question of whether the display is equivalent to Floor Area. The goods for sale could as easily be on a wire, wood or metal rack or even a sculpture of a different type, none of which have ever been considered floor area by the City in the past. Moreover, the City has never considered a moveable cart, vehicle, commercial trailer, rack, wagon, shelf, bin, plastic container, hanger, peg or hook displaying goods for sale outside as floor area, nor is such definition found in the Land Development Regulations.
5. The traffic study completed by KBP Consulting, which has completed traffic studies accepted by the City for other projects, identifies that the trip generation rate for the specialty retail which is the present use of the property at its highest rate per 1000 square feet of floor area is 44.32 trips per weekday. This trip generation is well below the maximum threshold of 50 trips per 1000 square feet of gross leasable area within the HRO zoning district.

Even if by any stretch of the imagination, the cart display proposed were considered floor area, 12 square feet of area would not increase the trips generated or intensity of the site. The trips generated are;

$$12 \text{ sq. ft. divided by } 1000 \text{ sq. ft.} = 0.012 \times 44.42 \text{ trips per } 1000 \text{ sq. ft.} = 0.53 \text{ trips}$$

Because one trip is defined as having both an arrival and departure from the same site, and because statistically the trips generated by 12 sq. ft. (0.53) is below the margin of error, there is no increase in trips or by definition, intensity.

Given this set of facts, please process the attached application for an Outdoor Display Exception, without any reference to the cart being tantamount to floor area or an increase in intensity of use of the site. Once the Planning Board approval is obtained an application to HARC for approval of the cart will be made.

I thank you for your cooperation.

Sincerely and Respectfully,

Donald Leland Craig, AICP
Land Use Director

Enclosures: Application for Outdoor Display Exception, Previously Approved Application for Outdoor Display Exception, Site Photos and Settlement Agreement dated November 2013 inclusive of Traffic Impact Analysis

Cc: ED Swift, III, Erica Sterling, Billy Spottswood

Verification

**City of Key West
Planning Department**



Verification Form

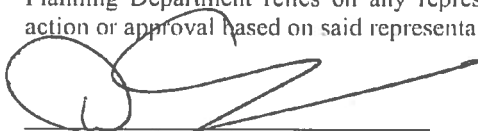
(Where Authorized Representative is an entity)

I, Donald Craig, in my capacity as Land Use Director
(print name) *(print position; president, managing member)*
of Spottswood, Spottswood and Spottswood PLLC
(print name of entity serving as Authorized Representative)

being duly sworn, depose and say that I am the Authorized Representative of the Owner (as appears on the deed), for the following property identified as the subject matter of this application:

405 Fleming Street, Key West, Florida
Street Address of subject property

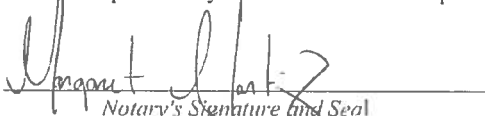
All of the answers to the above questions, drawings, plans and any other attached data which make up the application, are true and correct to the best of my knowledge and belief. In the event the City or the Planning Department relies on any representation herein which proves to be untrue or incorrect, any action or approval based on said representation shall be subject to revocation.


Signature of Authorized Representative

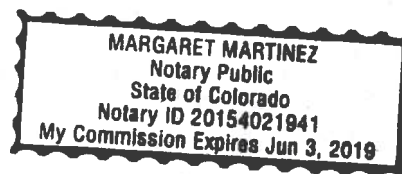
Subscribed and sworn to (or affirmed) before me on this Feb. 03, 2016 by
date

Donald Heland Craig
Name of Authorized Representative

He/She is personally known to me or has presented Driver's License as identification.


Notary's Signature and Seal

MARGARET MARTINEZ
Name of Acknowledger typed, printed or stamped



2015 40 21941
Commission Number, if any

City of Key West
Planning Department



Verification Form

(Where Authorized Representative is an entity)

I, CAROLYN BLACKWELL in my capacity as PRESIDENT/BOARD MEMBER
(print name) (print position, president/managing member)
of CHD PROPERTIES OF KEY WEST I LLC
(print name of entity serving as Authorized Representative)

being duly sworn, depose and say that I am the Authorized Representative of the Owner (as appears on the deed), for the following property identified as the subject matter of this application:

405 FLEMING ST, KEY WEST, FL
Street Address of subject property

All of the answers to the above questions, drawings, plans and any other attached data which make up the application, are true and correct to the best of my knowledge and belief. In the event the City or the Planning Department relies on any representation herein which proves to be untrue or incorrect, any action or approval based on said representation shall be subject to revocation.

[Signature]
Signature of Authorized Representative

Subscribed and sworn to (or affirmed) before me on this 12/7/14 by
date

Name of Authorized Representative

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

[Signature]
Notary's Signature and Seal

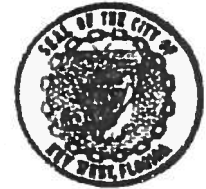


Name of Acknowledger typed, printed or stamped

Commission Number, if any

Authorization

City of Key West
Planning Department



Authorization Form
(Where Owner is a Business Entity)

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

I, Carolyn A. Blackwell as
Please Print Name of person with authority to execute documents on behalf of entity

Managing Member of C&D properties of Key West I, L
Name of office (President, Managing Member) Name of owner from deed

authorize Don Craig/SPOTTSWOOD Law Firm
Please Print Name of Representative

to be the representative for this application and act on my/our behalf before the City of Key West.

[Signature]
Signature of person with authority to execute documents on behalf on entity owner

Subscribed and sworn to (or affirmed) before me on this 11-26-16 by
date

Don Craig/SPOTTSWOOD Law Firm
Name of Authorized Representative

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

[Signature]
Notary's Signature and Seal



Name of Acknowledger typed, printed or stamped

Commission Number, if any

Deed

This instrument prepared by:
Karleen A. Grant, Esq.
1033 Flagler Avenue
Key West, Florida 33040

Parcel I.D. No: See Ex. A

Doc# 1872292 02/29/2012 11:26AM
Filed & Recorded in Official Records of
MONROE COUNTY DANNY L. KOLHAGE

02/29/2012 11:26AM
DEED DOC STAMP CL. DS

\$0.70

Doc# 1872292
Bk# 2557 Pg# 1725

(Space reserved for recording)

QUIT CLAIM DEED

THIS INDENTURE

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

Made this 30 day of December, 2011

CAROLYN A. BLACKWELL, a single woman, and **DIANE A. CROCKETT**, a married woman, whose addresses are, respectively, 21 Cypress Avenue, and 3320 Riviera Drive, Key West, Monroe County, Florida 33040, party of the first part, and **C & D PROPERTIES OF KEY WEST I, LLC**, a Wyoming Limited Liability Company which has an address of P.O. BOX 4125, Key West, Monroe County, Florida 33041, party of the second part.

WITNESSETH

That the said party of the first part, for and in consideration of **Ten and No/100 (\$10.00) Dollars**, and other good and valuable consideration, 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 lots, pieces or parcels of land, situate lying and being in the County of Monroe, State of Florida, to wit:

**SEE EXHIBIT "A" ATTACHED HERETO AND
INCORPORATED HEREIN BY REFERENCE**

The purpose of this deed is to vest the entire ownership in the above-referenced properties to the Grantee.

This property is not the Homestead of Grantors, nor does it abut their constitutional homesteads which are located at the addresses shown above.

This document was prepared without benefit of title search or abstract examination and is based solely on facts provided by either of the parties or his agent.

TO HAVE AND TO HOLD the same, together with all and singular the appurtenances thereunto

Exhibit "A"

On the Island of Key West, and known on William A. Whitehead's map of said Island, delineated in February, A.D., 1829, as part of Lot 3 in Square Fifteen (15).

COMMENCING at a point Sixty-One (61) feet from the corner of Greene and New Streets, and running thence along Greene Street in a Southwesterly direction Thirty-Four (34) feet; thence at right angles in a Southeasterly direction One Hundred and Thirty Four (134) feet; thence at right angles in a Northeasterly direction Thirty-Four (34) feet; thence at right angles in a Northeasterly direction thirty-four (34) feet; thence at right angles in a Northwesterly direction One hundred and Thirty Four (134) feet to the Place of Beginning.

Commonly known as 408 Greene Street
Alt Key: 1001554

Doc# 1872292
Bk# 2557 Pg# 1727

AND

In the City of Key West, situated at the corner of Whitehead and Fleming Streets, being Part of Lot Four (4) in Square Thirty Eight (38) according to the Map or Plan of said City by Wm. A Whitehead, delineated in February 1928. Said piece of land having a front on Whitehead Street of Fifty-Two (52) feet and a front on Fleming Street of Sixty-Five (65) feet and Eleven (11) inches, more or less.

Commonly known as 405 Fleming Street
Alt. Key: 1006904

AND

(Old Sears Roebuck store) On the Island of Key West, Monroe County, Florida, and known on Wm. A. Whitehead's Map of said Island delineated in February, A.D. 1829, as a part of Lot Four (4) in Square Thirty-Six (36).

Commencing at the corner of Simonton and Fleming Streets and running thence along the Northeast side of Simonton Street in a Northwesterly direction 45 feet; thence at right angles in a Northeasterly direction 80 feet; thence at right angles in a Southeasterly direction 45 feet out to Fleming Street; thence at right angles along the line of Fleming Street in a Southwesterly direction 80 feet to the Place of Beginning. Together with building and improvements thereon.

LESS:

On the Island of Key West, Monroe County, Florida, and known on William A. Whitehead's Map of said Island, delineated in February, A.D. 1829, as a part of Lot Four in Square Thirty-Six. Commencing on Fleming Street distant Forty-three feet from the corner of Simonton and Fleming Streets thence Thirty-six feet and 21 inches in a Northeast direction, thence in a Northwesterly direction Forty-five feet, thence in a Southwesterly direction Thirty-six feet and 21 inches, thence along a common wall Southeasterly Forty-five feet to the point of beginning.

Commonly known as 601 Fleming Street
Alt. Key: 1006572

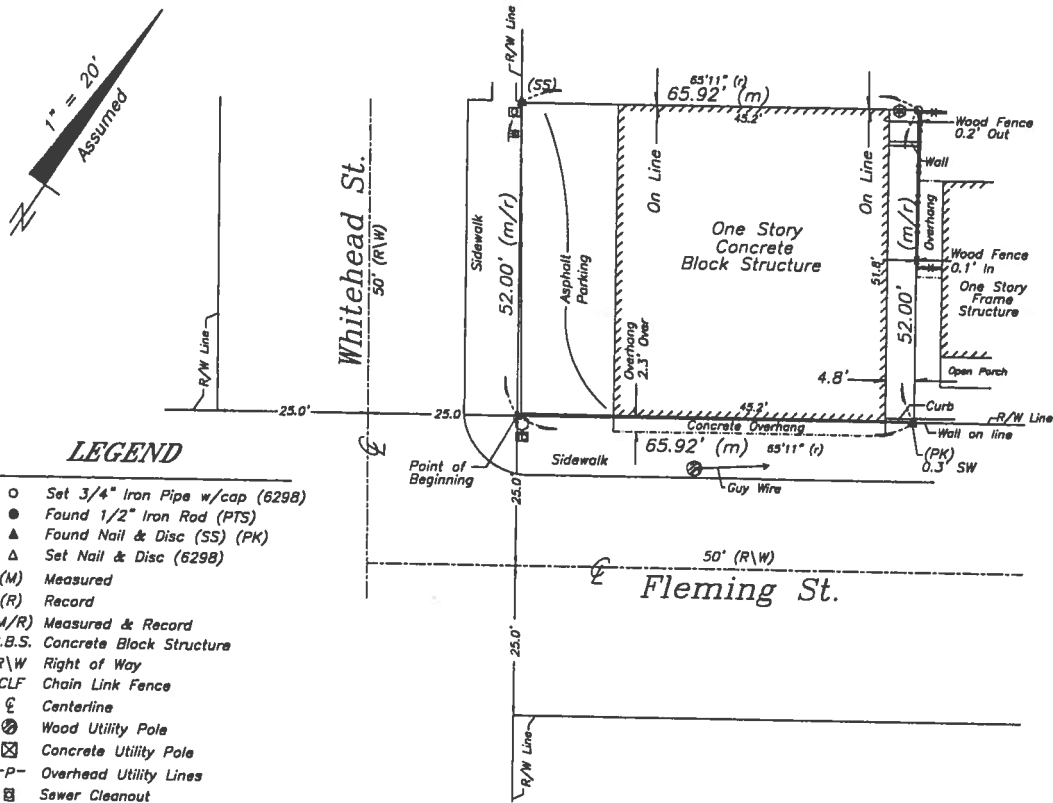
(TDD)C:\KAGIC\CLIENTS\ARTMAN FAMI\QCD11

3

MONROE COUNTY
OFFICIAL RECORDS

Survey

Boundary Survey Map of Part of Lot 4, Square 38 Island of Key West, Florida



LEGEND

- Set 3/4" Iron Pipe w/cap (6298)
- Found 1/2" Iron Rod (PTS)
- ▲ Found Nail & Disc (SS) (PK)
- △ Set Nail & Disc (6298)
- (M) Measured
- (R) Record
- (M/R) Measured & Record
- C.B.S. Concrete Block Structure
- R\W Right of Way
- CLF Chain Link Fence
- ⊕ Centerline
- ⊙ Wood Utility Pole
- ⊠ Concrete Utility Pole
- P- Overhead Utility Lines
- ⊠ Sewer Cleanout
- ⊠ Water Meter
- ⊠ Traffic Control Lid
- ⊙ Light Post
- Traffic Light Post

NOTES:

1. The legal description shown hereon was furnished by the client or their agent.
2. Underground foundations and utilities were not located.
3. All angles are 90° (Measured & Record) unless otherwise noted.
4. Street address: 405 Fleming 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. Date of field work: March 13, 2014.
9. Ownership of fences is undeterminable, unless otherwise noted.
10. Adjoiners are not furnished.

BOUNDARY SURVEY OF: In the City of Key West, situated at the corner of Whitehead and Fleming Streets, being Part of Lot Four (4) in Square Thirty-Eight (38) according to the Map or Plan of said City by Wm. A Whitehead, delineated in February 1928. Said piece of land having a front on Whitehead Street of Fifty-Two (52) feet and a front on Fleming Street of Sixty-Five (65) feet and Eleven (11) inches, more or less.

BOUNDARY SURVEY FOR: C & D Properties of Key West, LLC.

J. LYNN O'FLYNN, INC.

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

March 14, 2014

THIS SURVEY
IS NOT
ASSIGNABLE

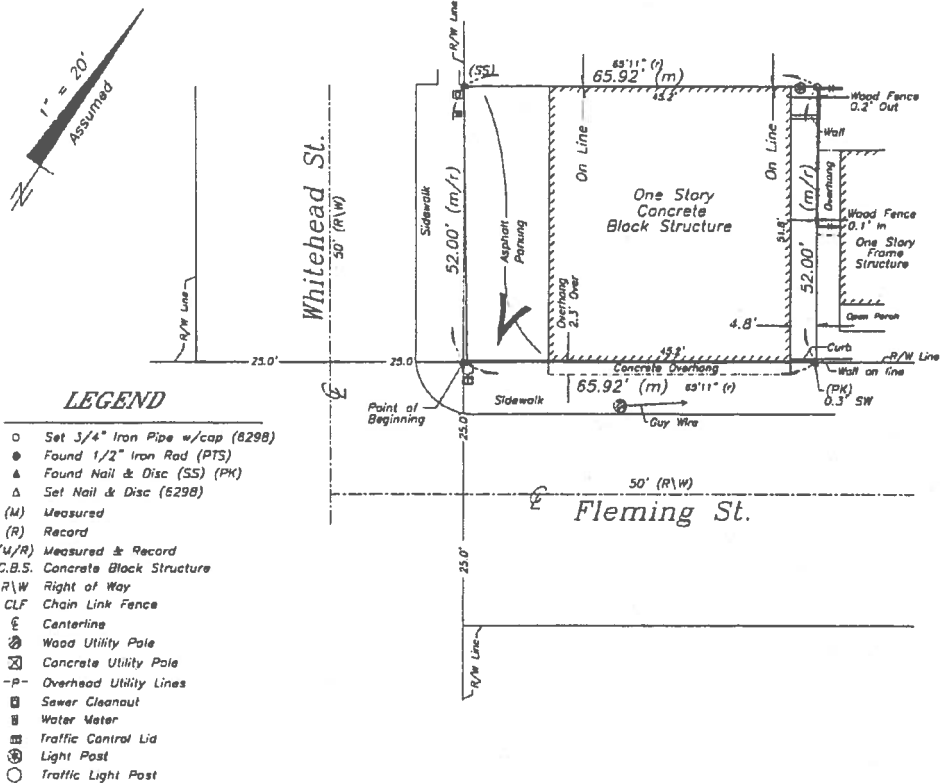
J. LYNN O'FLYNN, Inc.



Professional Surveyor & Mapper
PSM #6298

3430 Duck Ave., Key West, FL 33040
(305) 298-7422 FAX (305) 298-2244

Boundary Survey Map of Part of Lot 4, Square 38 Island of Key West, Florida



- NOTES:**
1. The legal description shown hereon was furnished by the client or their agent.
 2. Underground foundations and utilities were not located.
 3. All angles are 90° (Measured & Record) unless otherwise noted.
 4. Street address: 405 Fleming Street, Key West, FL.
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 8. Date of field work: March 13, 2014.
 9. Ownership of fences is undeterminable, unless otherwise noted.
 10. Adjoiners are not furnished.

BOUNDARY SURVEY OF: In the City of Key West, situated at the corner of Whitehead and Fleming Streets, being Part of Lot Four (4) in Square Thirty-Eight (38) according to the Map or Plan of said City by Wm A Whitehead, delineated in February 1828. Said piece of land having a front on Whitehead Street of Fifty-Two (52) feet and a front on Fleming Street of Sixty-Five (65) feet and Eleven (11) inches, more or less.

BOUNDARY SURVEY FOR C & D Properties of Key West, LLC.

J. LYNN O'FLYNN, INC.

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

March 14, 2014

THIS SURVEY
IS NOT
ASSIGNABLE

J. LYNN O'FLYNN, Inc.



Professional Surveyor & Mapper
PSM #6396

3430 Duck Ave., Key West, FL 33040
(305) 298-7422 FAX (305) 298-2244

Site Plans

Photograph # 1



Photograph # 2





Property Appraiser Information



Scott P. Russell, CFA
Property Appraiser
Monroe County, Florida

Key West (305) 292-3420
Marathon (305) 289-2550
Plantation Key (305) 852-7130

Property Record Card -
Maps are now launching the new map application version.

Website tested on IE8,
IE9 & Firefox.
Requires Adobe Flash
10.3 or higher

Alternate Key: 1006904 Parcel ID: 00006670-000000

Ownership Details

Mailing Address:
C & D PROPERTIES OF KEY WEST I LLC
PO BOX 4125
KEY WEST, FL 33041-4125

Property Details

PC Code: 11 - STORES ONE STORY
Millage Group: 10KW
Affordable Housing: No
Section-Township-Range: 06-68-25
Property Location: 405 FLEMING ST UNIT: 102 KEY WEST
405 FLEMING ST UNIT: 101 KEY WEST
Legal Description: KW PT LOT 4 SQR 38 G11-475 OR975-1535 OR2557-1725/27

Click Map Image to open interactive viewer



Land Details

Land Use Code	Frontage	Depth	Land Area
100D - COMMERCIAL DRY	52	66	3,428.00 SF

Building Summary

Number of Buildings: 1
 Number of Commercial Buildings: 1

Total Living Area: 2250
Year Built: 1958

Building 1 Details

Building Type
Effective Age 13
Year Built 1958
Functional Obs 0

Condition G
Perimeter 190
Special Arch 0
Economic Obs 0

Quality Grade 350
Depreciation % 15
Grnd Floor Area 2,250

Inclusions:

Roof Type
Heat 1
Heat Src 1

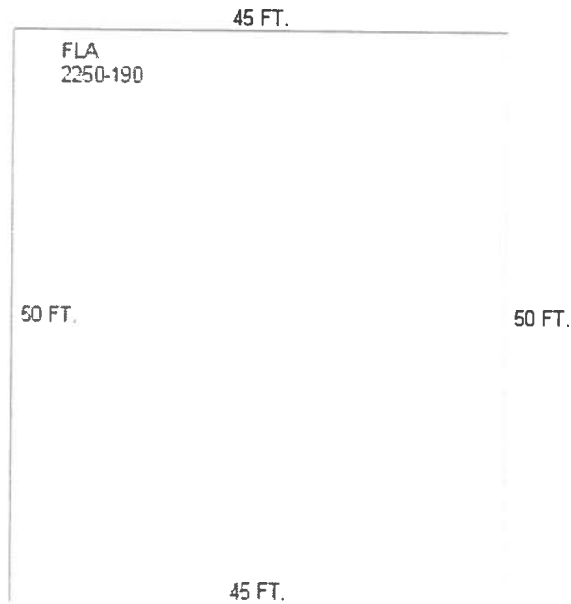
Roof Cover
Heat 2
Heat Src 2

Foundation
Bedrooms 0

Extra Features:

2 Fix Bath 0
3 Fix Bath 1
4 Fix Bath 0
5 Fix Bath 0
6 Fix Bath 0
7 Fix Bath 0
Extra Fix 0

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



Sections:

Nbr	Type	Ext Wall	# Stories	Year Built	Attic	A/C	Basement %	Finished Basement %	Area
1	FLA		1	1957					2,250

Interior Finish:

Section Nbr	Interior Finish Nbr	Type	Area %	Sprinkler	A/C
	1662	1 STY STORE-B	100	Y	Y

Exterior Wall:

Interior Finish Nbr	Type	Area %
454	C.B.S.	100

Misc Improvement Details

Nbr	Type	# Units	Length	Width	Year Built	Roll Year	Grade	Life
1	PT2:BRICK PATIO	795 SF	0	0	2014	2015	3	50

Appraiser Notes

FLORIDA KEYS PRINTING

Building Permits

Bldg Number	Date Issued	Date Completed	Amount	Description	Notes
14-1145	04/01/2014	10/06/2014	6,000	Commercial	REPLACE EXISTING ASPHALT PARKING SPACES WITH BRICK PAVERS 795SF .
14-0936	06/12/2014	10/06/2014	0	Commercial	EXISTING BUILDING RENOVATION INCLUDING NEW STOREFRONT AND ENTRY DOORS, 2 CANVAS AWNINGS, BRICK PAVERS, EXTERIOR PAINT, AND SIGNAGE
14-1913	05/29/2014	10/06/2014	85,000	Commercial	BUILD OUT OF SPACE. INSTALL NEW STORE FRONT WINDOWS AND DOORS.
1 96-2921	07/01/1996	11/01/1996	900	Commercial	PAINTING
2 98-1323	04/23/1998	01/01/1999	1,300	Commercial	BLD PARTITION WALL
3 98-3946	12/14/1998	08/13/1999	2,000	Commercial	REPL PARAPET FLASHING
4 99-0176	01/15/1999	08/13/1999	500	Commercial	SMOKE DETECTORS
5 99-1337	04/27/1999	08/13/1999	4,000	Commercial	REPAIR SPALLING CONCRETE
6 00-2967	09/25/2000	10/09/2001	25,000	Commercial	REPAIR TIEBEAM/PAINT
7 01-2970	08/27/2001	10/09/2001	10,000	Commercial	REMODELING/ADD DOORS
8 07-1478	03/27/2007	06/06/2007	1,025	Commercial	REPLACE EXISTING CAST IRON PIPING
9 07-3912	08/15/2007	02/04/2008	4,000	Commercial	REPLACE 200 SQ FT SPALLING ON BUILDING
07-4158	08/31/2007	02/04/2008	14,000		REPLACE 2200SF OF SINGLE PLY ROOF
07-4576	10/02/2007	02/04/2008	800		FILL IN WINDOW WITH METAL FRAMING AND STUCCO

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
2015	245,418	8,308	585,393	839,119	772,821	0	839,119
2014	127,313	600	567,099	695,012	695,012	0	695,012
2013	127,313	600	543,318	671,231	671,231	0	671,231
2012	133,013	600	543,318	676,931	676,931	0	676,931
2011	133,013	600	603,686	737,299	656,157	0	737,299
2010	140,614	600	455,293	596,507	596,507	0	596,507
2009	140,614	600	470,672	611,886	611,886	0	611,886
2008	146,315	600	423,444	570,359	570,359	0	570,359
2007	92,275	600	445,640	538,515	538,515	0	538,515
2006	147,337	660	274,240	422,237	422,237	0	422,237
2005	107,245	720	233,104	341,069	341,069	0	341,069
2004	107,241	780	233,104	341,125	341,125	0	341,125
2003	122,561	840	130,264	253,665	253,665	0	253,665
2002	122,561	900	130,264	253,725	253,725	0	253,725
2001	122,561	960	130,264	253,785	253,785	0	253,785
2000	122,561	561	119,980	243,102	243,102	0	243,102
1999	107,241	594	119,980	227,815	227,815	0	227,815
1998	71,661	627	119,980	192,268	192,268	0	192,268
1997	71,661	660	109,696	182,017	182,017	0	182,017
1996	65,146	693	109,696	175,535	175,535	0	175,535
1995	65,146	726	109,696	175,568	175,568	0	175,568
1994	65,146	759	109,696	175,601	175,601	0	175,601
1993	65,146	0	109,696	174,842	174,842	0	174,842
1992	65,146	0	109,696	174,842	174,842	0	174,842
1991	65,146	0	109,696	174,842	174,842	0	174,842
1990	55,448	0	83,129	138,577	138,577	0	138,577
1989	55,448	0	82,272	137,720	137,720	0	137,720
1988	50,278	0	61,704	111,982	111,982	0	111,982
1987	59,515	0	41,993	101,508	101,508	0	101,508
1986	55,194	0	41,136	96,330	96,330	0	96,330
1985	70,588	0	19,908	90,496	90,496	0	90,496
1984	46,531	0	19,908	66,439	66,439	0	66,439
1983	46,531	0	19,908	66,439	66,439	0	66,439
1982	39,291	0	19,908	59,199	59,199	0	59,199

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
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12/30/2011	2557 / 1725	100	QC	11
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Monroe County Property Appraiser
Scott P. Russell, CFA
P.O. Box 1176 Key West, FL 33041-1176