

**PLANNING BOARD
RESOLUTION NO. 2012-01**

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.

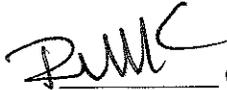
WHEREAS, Section 122-1183(d)(1)(c) of the Code of Ordinances provides that the maximum height of a fence may be 6' in height if the top 2' has openings of at least 50% or more; and

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

WHEREAS, the Planning Board finds that the special conditions do not result from the



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action or negligence of the applicant; and

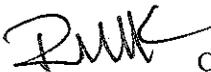
WHEREAS, the Planning Board finds that granting the variance requested will not confer upon the applicant any special privileges denied by the land development regulations to other lands, buildings or structures in the same zoning district; and

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


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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 by resolution of the Key West Planning Board for a variance to allow an 11' fence / wall on 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 with the following condition:

- That the addition to the existing wall be constructed of clear glass panels rather than the concrete proposed as discussed and determined by the Planning Board.

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

 Chairman

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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 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



Chairman

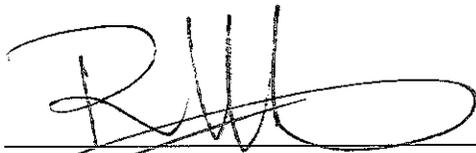


Planning Director

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

1/26/2012
Date

Attest:

_____ Chairman

 _____ Planning Director



Donald Leland Craig, AICP, Planning Director

1.29.12

Date

Filed with the Clerk:



Cheryl Smith, City Clerk

1-27-12

Date

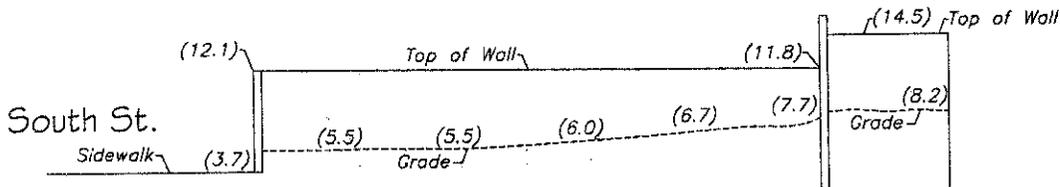


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Specific Purpose Sketch to illustrate elevations
at 400 South Street, Key West, FL



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.

RMK
DC

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.

[Signature]
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) 298-7422 FAX (305) 298-4244

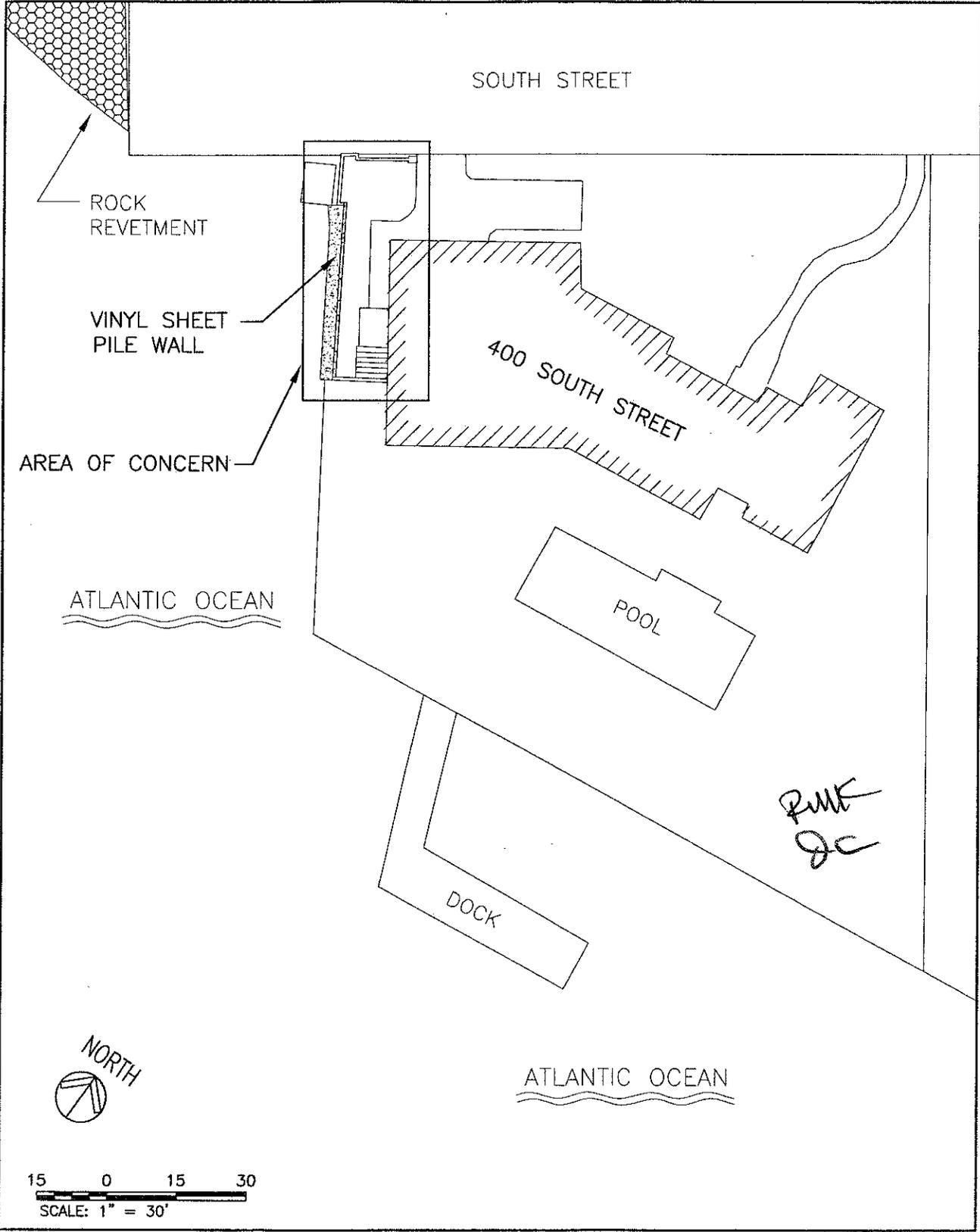


FIGURE 4
SITE PLAN

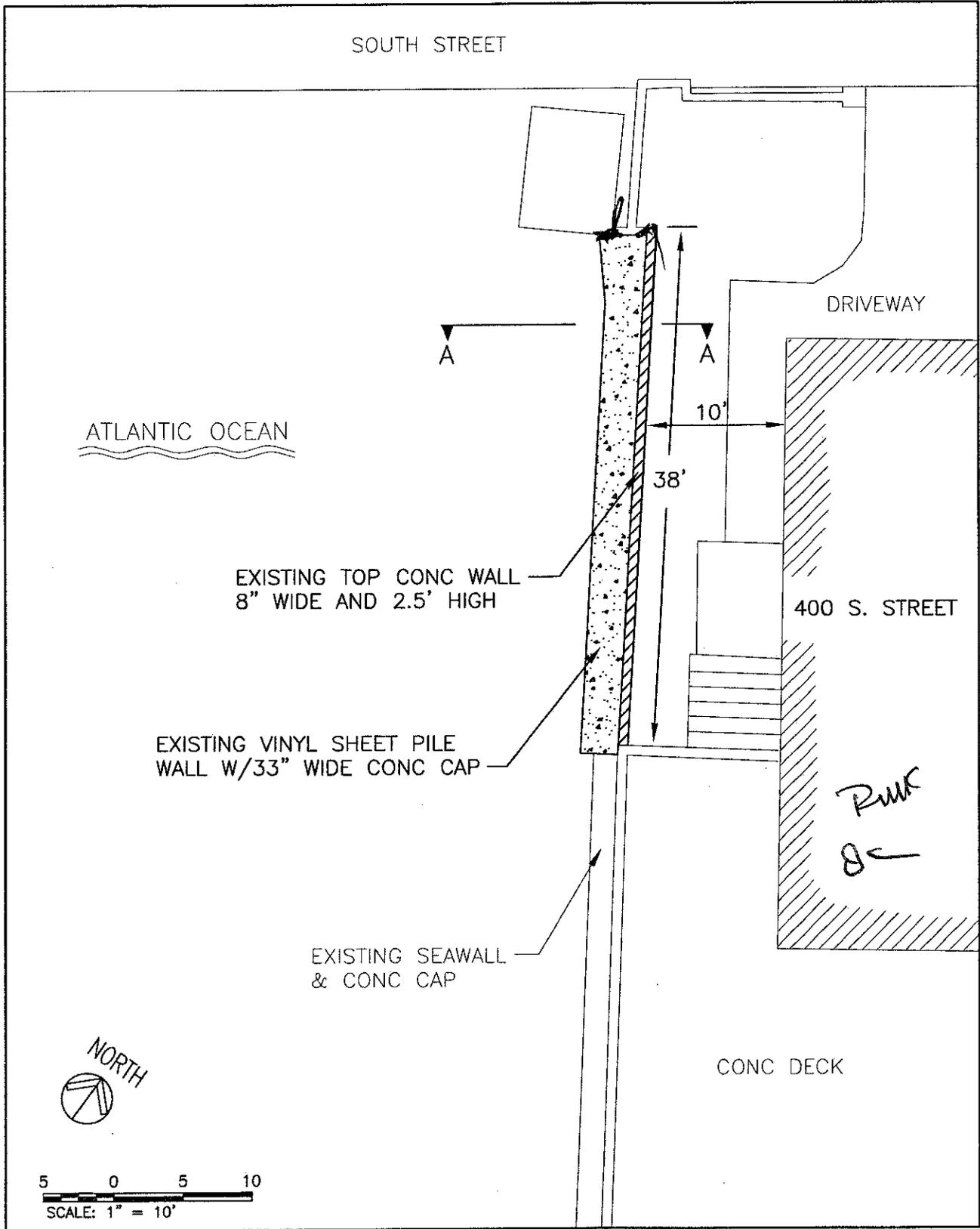


FIGURE 5
VINYL SHEET PILE WALL PLAN

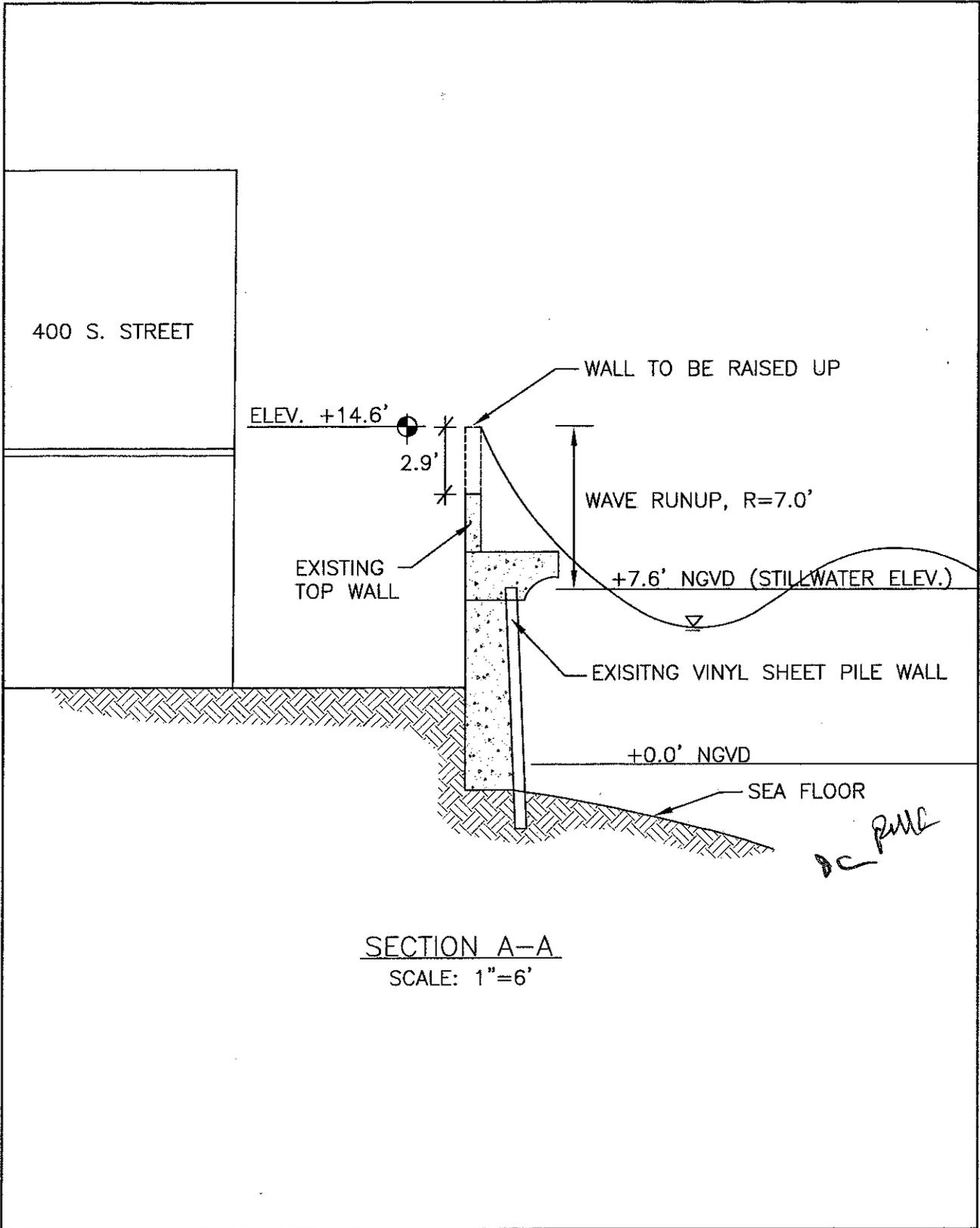


FIGURE 7
SEAWALL AND BUILDING SECTION