



Fort Myers Beach Local Planning Agency

Diamond Head Beach Resort
2000 Estero Blvd.
Fort Myers Beach, FL 33931

Agenda

Wednesday, January 18, 2023

9:00 AM

ORDER OF BUSINESS

I. CALL TO ORDER

II. INVOCATION

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF MINUTES

- A. December 21, 2022 minutes

V. PUBLIC COMMENT

VI. PUBLIC HEARINGS

- A. Carousel RPD Use Table and Maximum Height for a rooftop deck
20220100 6249 Estero Blvd- Amendment to Ord 18-11, Carousel Residential Planned Development (RPD) change to the Use Table and Maximum Height
- B. Pink Shell CPD Amendment DCI 20220032 to allow Live-Aboard Vessels use
Pink Shell CPD Amendment DCI 20220032-Amendment to the Pink Shell CPD to include Live-Aboard Vessels use
- C. VAR20220018 an 11 foot street setback reduction for a pool
VAR20220018, 8180 Lagoon Road - Variance for an 11 foot reduction of a pool street setback
- D. SEZ20220095 for a permanent shared parking lot and VAR20220094 variance from landscape, design and location requirements
SEZ20220095, VAR20220094 237 Old San Carlos - Special Exception for a permanent shared parking lot and variances from LDC requirement for landscaping, design and location
- E. VAR20220098 Side Setback Variance
VAR20220098 3780 Estero Blvd- Variance for the reduction of side setbacks by 1.5 feet.

- F. Text Amendment to LDC Sec 34-638 Minimum Setbacks, Table 34-3, and Sec 34-2 Definitions
Text Amendment to LDC Sec. 34-638 Minimum Setbacks, Table 34-3, and Sec 34-2 Definitions Setback and Corner Lot Regulations
- G. Proposed amendments to Sec. 34-3273 Residential Uses on Nonconforming Lots and Sec. 34-3274 Minimum Use Determinations
Text amendment to Sec. 34-3273 Residential Uses on Nonconforming Lots and Sec. 34-3274 Minimum Use Determinations
- H. Comprehensive Plan Future Land Use Element and Draft Future Land Use Map
11: 00 a.m. or later start - Discussion about Comprehensive Plan Future Land Use Element and Draft Future Land Use Map
- I. LDC Text Amendment for Temporary Use for travel trailers, mobile homes, and recreational vehicles for housing post disaster
LDC Text Amendment to permit travel trailers, mobile homes, and Recreational Vehicles as a Temporary Use for housing post disaster.

VII. ADMINISTRATIVE AGENDA

- A. Discussion - Public Hearing Process Simplification
Options to reduce time requirements in the public hearing process.

VIII. LPA MEMBERS ITEMS/REPORTS

IX. LPA ATTORNEY ITEMS/REPORTS

X. COMMUNITY DEVELOPMENT ITEMS/REPORTS

XI. ITEMS FOR NEXT MONTHS AGENDA

XII. ADJOURNMENT

NOTE: THIS MEETING IS STREAMED LIVE THROUGH YOUTUBE.

IF A PERSON DECIDES TO APPEAL A DECISION MADE BY THE COUNCIL IN ANY MATTER CONSIDERED AT THIS MEETING/HEARING, SUCH PERSONS MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDING IS MADE, TO INCLUDE THE TESTIMONY AND EVIDENCE UPON WHICH ANY SUCH APPEAL IS TO BE BASED.



**For special accommodations,
please notify the Town Clerk's
Office at least 72 hours in
advance. (239) 765-0202**

In accordance with the Americans with Disabilities Act (ADA), persons needing a special accommodation to participate in the Board's proceedings should contact the Town Clerk's Office not later than three days prior to the proceedings.

**Town of Fort Myers Beach
Agenda Item Summary**

Yellow Sheet Number: **2023-842**

1. **Requested Motion:**

December 21, 2022 minutes

Meeting Date: January 18, 2023

Why the action is necessary:

What the action accomplishes:

2. **Agenda:**

APPROVAL OF MINUTES

3. **Requirement/Purpose:**

5. **Background:**

Attachments:

1. Draft minumtes December 21 2022

Financial Impact:

6. **Alternative Action**

7. **Staff Recommendations:**

8. **Recommended Approval:**



Fort Myers Beach Local Planning Agency

**Council Chambers
2525 Estero Blvd.
Fort Myers Beach, FL 33931**

Minutes

**Wednesday, December 21,
2022**

9:00 AM

ORDER OF BUSINESS

I. CALL TO ORDER

Members present: Chair Plummer, LPA Member Cereceda, LPA Member Sudduth and LPA Member Vanasse.

Excused: LPA Member Bowen, LPA Member Eckmann and LPA Member Safford.

Chair Plummer moved to reverse roles with Vice Chair Cereceda; second by LPA Member Vanasse.

Motion passed 4-0 with LPA Members Bowen, Eckmann and Safford excused.

II. INVOCATION

Chair Plummer.

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF MINUTES

A. Draft minutes 12/6/2022

Minutes not distributed.

Chair Cereceda requested that a Public Comment section be added to the front end of the agenda. Town Attorney Herin, Jr. replied that it would be added to the next agenda.

V. PUBLIC HEARINGS

A. LDC Text Amendment - Building Codes and Floodplain Management
Floodplain Management Ordinance - Amend Article IV Floodplain Regulations to update various sections to comply with state and federal law; provide for higher standards within a Coastal A Zone; and to implement local flood regulations.

Chair Cereceda read the title of the ordinance. Community Development Director Jason Green reviewed the changes and noted that there would be additional edits as the building code changed. LPA Member Plummer clarified that work after lan when a permit was issued had to be inspected within six months and two extensions were available.

Director Green noted that some sections in the ordinance were removed because they were already in another code or document. He described which requirements were mandated by FEMA and which ones were optional. He stated that all requirements were optional if the community wanted to participate in the National Flood Insurance Program (NFIP), meaning that one could not get a federally-backed mortgage if the community did not participate in the NFIP. He explained the Community Rating System (CRS) and indicated the town's rating of 5 resulted in a 25% discount on flood insurance rates. He noted that much of the Coastal A zone overlapped the old V zone.

Director Green discussed items 1-4 on page 14 and noted that the items were intended to manage and discourage the conversion of spaces below flood. A discussion was held regarding keeping the area open versus allowing some enclosure for storage. Director Green stated that minimum standards had to be implemented to participate in the NFIP. He questioned whether they wanted to regulate the number of doors and windows to discourage conversion. Most LPA members did not think the number of windows or doors should be limited for architectural purposes only.

LPA Member Vanasse brought up stem wall construction and wondered how many homes built to that standard were still standing after lan. Director Green indicated that solid structures without the ability of water to pass underneath created push-off of the waves and diverted water to other structures. He added that structures could be designed to withstand below flood in a V zone, but they could not build them because of the insurance policy.

LPA Member Vanasse indicated that part of the beach school was registered as a historic building and suggested that any language in the ordinance that protected those structures should remain.

Director Green reviewed the changes in Exhibit B. He explained FEMA's flood insurance study and noted that the maps became effective on November 17, 2022. He added that the study was started about five years ago and was required by law.

Director Green explained that the elevation of the lowest level was checked before the structure was completed. A final elevation certificate covered other items and was a critical component of floodplain management. He noted that the town was graded on the accuracy of the certificates and was part of the CRS.

LPA Member Vanasse stated that modular and manufactured (mobile) homes had different standards. Director Green noted that mobile homes were limited by zoning and flooding, but they could be replaced if elevated to meet flood regulations. Chair Cereceda stated there was a 99% chance that the

Red Coconut would not exist in its former version. LPA Member Vanasse pointed out that a lower CRS number was better.

Director Green reviewed new definitions on page 39. Page 45 contained a change regarding market value. FEMA required that the adjustment factor be removed and only the property appraiser could set the numbers. Chair Cereceda questioned whether an appeal process was in place. Director Green did not know, but he indicated that most of the time, the letters from the property appraiser showed higher values than the town's adjustment factor. LPA Member Plummer questioned how the property appraiser determined the value. LPA Member Vanasse replied that they used three methodologies and had set standards. He noted there was an appeal process, but he was unsure of the details post-hurricane.

LPA Member Vanasse questioned the definition of an accessory structure on page 42. Director Green referred him to page 55 and noted the language could be modified.

Public comment:

Joe Gilberti stated that the floodplain maps would change after Ian and they should not adopt the ordinance. He questioned why engineers were not involved with the ordinance. He asked that Director Green's contract be terminated.

The recording skipped to a gentleman who addressed temperature control in areas under buildings. He noted that regulating owners determined to finish those areas was difficult. He mentioned allowing windows and doors on the ground floor. He clarified that homes could be on columns or piles and walls had to break away. He stated the stem walls were irrelevant because of elevation.

Dave Lay, resident, indicated he intended to elevate his home, but there was no room in his existing floor plan to move utilities upstairs. He requested that they go back to the 7.5-foot setback to allow him to build out.

Public comment closed.

Director Green explained two Coastal Construction Lines (CCL) for two different purposes. One was from 1978 concerning the EC (Environmentally Critical) zone and the other was determined by the Florida Department of Environmental Protection study (FDEP) in 1999, which superseded FEMA maps. He did not anticipate new FEMA maps after Ian.

LPA Member Vanasse recommended that when people who come in for permits and used to live in the V zone but now live in Coastal A be given the option to use pilings.

LPA Member Sudduth moved to remove the higher standards for Coastal A residential and modify and reduce or eliminate the standards of the below flood design criteria related to windows and doors and temperature control where not in conflict with state or federal law; second by LPA Member Plummer.

Motion passed 4-0 with LPA Members Bowen, Eckmann and Safford excused.

VI. ADMINISTRATIVE AGENDA

No items.

VII. LPA MEMBERS ITEMS/REPORTS

LPA Member Vanasse suggested that they have an LPA liaison with Beach Talk Radio. He accepted the nomination to be the liaison.

LPA Member Plummer mentioned the person with the cowboy hat who welcomed people coming over the bridge. No one knew his identity.

Chair Cereceda thanked all for working under extraordinary conditions.

No items from other members.

VIII. LPA ATTORNEY ITEMS/REPORTS

Town Attorney Heirn, Jr. explained the owner/builder statute regarding selling or leasing property within one year.

IX. COMMUNITY DEVELOPMENT ITEMS/REPORTS

A. Priority list for 2021

Community Development Planner Sarah Propst reviewed six areas of suggested code changes, including establishing a minimum seawall height; existing dock regulations; shortening the decision-making processes to allow the LPA to be the decision maker and reestablishing some administrative approvals; setbacks for homes in non-residential districts; looking at the residential stormwater requirements; and potentially increasing the height of houses along the beach.

Chair Cereceda suggested that the first priority be shortening the decision-making process. LPA Member Vanasee brought up non-conforming lots and setbacks. Chair Cereceda agreed and felt that discussion should probably come before everything else. Director Green listed items that will be on the next agenda.

LPA Member Vanasse suggested creating a list of long-term items and inviting the LDC (Land Development Code) consultant to a meeting. He proposed that a visual preference survey be set up with public input.

Director Green suggested that the future land use element be distributed to the LPA for review before discussing it. He mentioned holding a town hall meeting based on geography for commercial entities to explain the Comp Plan (Comprehensive Plan).

X. ITEMS FOR NEXT MONTHS AGENDA

Director Green stated that MUD (Minimum Use Determination), corner lots and setbacks, the process for public hearings and applications would be on the next agenda.

XI. PUBLIC COMMENT

Joe Gilberti, resident and professional engineer, emailed a document to the Town Council again regarding blocking a water supply from his farm in Sarasota. He discussed issues surrounding his water supply and asked that the town recognize his resource.

A teacher from Cypress Elementary and a resident discussed the expansion of the Snook Bite Marina and Bay Front Bistro years ago. She stated that the restaurant was not allowed to have outdoor music, but they were playing loud music and encroaching into the neighborhood. She filed a complaint and a code enforcement officer informed her that the Interim Town Manager told the restaurant that it was okay to play music. She listed all the people she reached out to and questioned what she needed to do to get the music to stop.

XII. ADJOURNMENT

LPA Member Sudduth moved to adjourn; second by LPA Member Plummer. The meeting was adjourned at 11:45 a.m.

**Town of Fort Myers Beach
Agenda Item Summary**

Yellow Sheet Number: **2023-896**

1. Requested Motion:

Meeting Date: January 18, 2023

20220100 6249 Estero Blvd- Amendment to Ord 18-11, Carousel Residential Planned Development (RPD) change to the Use Table and Maximum Height

Why the action is necessary:

The maximum height limit and approved uses are codified within the ordinance of the Residential Planned Development. In order to develop uses or exceed the height limit, an amendment to the ordinance is required.

What the action accomplishes:

Allows the property owner to develop a rooftop deck above the roofline of the approved building.

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

Ordinance

5. Background:

The Carousel multifamily project, approved as Ord. 18-11, is requesting the addition of a rooftop deck and an increase in the maximum height permitted within the development standards of the planned development. The maximum height does not change the height of the building, but allows for the use of the roof for a roof deck, which is above the maximum height originally permitted in the original ordinance.

Attachments:

1. Carousel RPD Amendment Staff Report
2. Application & Supporting Docs 090122

Financial Impact:

6. Alternative Action

7. Staff Recommendations:

Approve

8. Recommended Approval:

Jason Green, Community Development Services

Date: January 12, 2023

John R Herin Jr, Town Attorney

Date: January 12, 2023

Amy Baker, Town Clerk

Date: January 12, 2023



Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

TYPE OF CASE: PD Amendment

CASE NUMBER: MCP-20220100

CASE NAME: 6230 and 6240 Estero Boulevard; requesting an amendment to the use table and maximum permitted height for an existing residential PD (approved as a Master Concept Plan on June 18, 2018 and Ordinance 18-11) to allow accessory use of decking on the rooftop to support a private outdoor living/amenity area with shades and canopies extending no more than additional 10 feet.

LPA

HEARING DATE: January 18, 2023

STAFF

RECOMMENDATION: APPROVAL of the proposed accessory use and additional height request

**PREPARED/
SUBMITTED BY:** Jason Smalley/ Jason Green AICP

I. APPLICATION SUMMARY

Applicant/Owner: Matthew Arminio/ Carousel Beach Redevelopment LLC

Request: request for an amendment to the use table and maximum permitted height for an existing residential PD to allow accessory use of decking on the rooftop to support a private outdoor living/amenity area with shades and canopies extending no more than additional 10 feet.

Subject property: See attached site plan

Physical Address: 6230 and 6240 Estero Boulevard

STRAP #: 33-46-24-W3-00013.0020 and

33-46-24-W3-00013.0030

FLU: Mixed Residential and Recreational

Zoning: Residential Planned Development (RPD) and
Environmental Conservation (EC)

Adjacent zoning and land uses:

North:	COMMERCIAL RESORT (CR) Resort
South:	RESIDENTIAL MULTI-FAMILY (RM) Condominium complex
East:	COMMERCIAL BOULEVARD (CB) Restaurant
West:	Gulf of Mexico Open Space

II. BACKGROUND AND ANALYSIS

Background:

Carousel Beach Redevelopment LLC, owner of 6230 and 6240 Estero Blvd, Carousel Inn, is requesting an amendment to the existing Master Concept Plan, resolution 18-11 (Exhibit B), to allow two changes:

- 1) To allow accessory use of decking on the rooftop to support a private outdoor living/amenity area, and;
- 2) To increase the maximum permitted height of 45 feet above base flood elevation to allow shades and canopies extending no more than additional 10 feet on rooftop decking.

On June 18, 2018, the Fort Myers Beach Town Council approved the subject MCP, Carousel Inn, and adopted an ordinance (ordinance no. 18-11) to allow a two phased, 12-unit multifamily development with conditions and deviations.

The existing approved Master Concept Plan allows the following uses:

Residential

Principal:

Dwelling units: multi-family, limited to twelve (12)(Phase 1 maximum 4 units, Phase 2 maximum 8 units)
Storage Shed <100 sq. ft.
Recreation Facility, Private on -site

Accessory (for occupants and guests only):

Garages (under building) Gazebos
Patios
Pools (2)
Pool Deck(S)
Cabana
Screen Enclosure (balconies) Fence
Walls
Dumpster Enclosure
Tot lot

Lodging

Rental of any permitted dwelling unit to a single family for periods of one week or longer

Office

Administrative Office (to support the Association)
Home Occupation (no outside help)

Civic

Public Beach Access
Essential Services
Hidden Path
Essential Service
Equipment

Analysis:

The applicant proposes an accessory use of decking to utilize the roof of the existing building as an outdoor living and amenity area. The access will be limited to the residents and their guests, and the proposed use will provide an outdoor experience with rooftop views of the Gulf and town. This rooftop amenity area will consist of the following:

- Decorative decking,
- Sitting and lounging areas,
- Landscaping/landscape planters,
- Deck/patio umbrellas, shade sails/canopies, and/or pergola, with no shade or sail/canopy supports extending above the decking
- by more than 10 feet,
- Fire pits and other patio/deck accessories,
- Specialized ambient and accent lighting, and
- Architecturally integrated privacy walls between the outdoor living/amenity area and building infrastructure (AC units, etc.).

The existing multi-family structure is 44'-10" above the base flood elevation. The

Applicant is requesting additional height to allow shades and canopies extending no more than additional 10 feet on rooftop decking.

At this time, Applicant has proposed no commercial grade amplified sound system, outdoor kitchen or grill, water features, splash pool or whirlpool, or bathrooms for the rooftop amenity area. A rendering of the rooftop outdoor living/amenity area is provided as Exhibit D.

The proposed accessory use of decking not only repurposes the roof for recreation, but also, help reduce carbon footprint of the project by introducing landscaping on the roof. This change will, therefore, make the project more environment friendly.

Neighborhood Compatibility:

The proposed addition of decking on roof as an outdoor amenity area, will likely have little impact on adjacent uses and will not likely cause any additional negative impacts.

Considerations, Findings and Conclusions:

LDC Sec. 34-85 and 34-216 sets forth the required findings and conclusions for the approval of a Planned Development Ordinance Amendment:

Sec. 34-85. Considerations. In reaching its decision, the town council shall consider the following, whenever applicable:

(1) Whether there exists an error or ambiguity which must be corrected.

There is no error or ambiguity regarding the allowed uses for this development.

(2) Whether there exist changed or changing conditions which make approval of the request appropriate.

Decking on the roof and additional height of 10 feet for shade and canopy structures, will allow the Applicant multi-use of the roof as an outdoor living and amenity area for its residents and their guests. This will also enhance the user experience via views of the Gulf and the town.

(3) The impact of a proposed change on the intent of this chapter.

No additional impact of the proposed accessory use and height is anticipated.

(4) The testimony of any applicant.

To be heard at the public hearing.

(5) The recommendation of staff and of the local planning agency.

Provided in this staff report and associated presentation.

(6) The testimony of the public.

To be heard at the public hearing.

(7) Whether the request is consistent with the goals, objectives, policies, and intent, and with the densities, intensities, and general uses as set forth in the Fort Myers Beach Comprehensive Plan.

This proposed amendment is consistent with the goals, objectives, policies and intent of the Comprehensive Plan.

(8) Whether the request meets or exceeds all performance and locational standards set forth for the proposed use.

The proposed uses meet or exceed all environmental quality and creation of nuisance performance standards and locational standards.

(9) Whether urban services are, or will be, available and adequate to serve a proposed land use change.

Urban services are available and adequate for these uses.

(10) Whether the request will protect, conserve, or preserve environmentally critical areas and natural resources.

The request will not cause any damage to the environment or natural resources.

(11) Whether the request will be compatible with existing or planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.

The proposed uses are compatible with existing uses and will not cause damage, nuisance or other detriment.

(12) Whether the location of the request places an undue burden upon existing transportation or other services and facilities and will be served by streets with the capacity to carry traffic generated by the development.

The proposed uses are not anticipated to have any effect on transportation facility capacity.

The request is in compliance with the Town of Fort Myers Beach Comprehensive Plan and Land Development Code.

Sec. 34-216. The recommendation made to the town council must be supported by the guidelines set forth in Sec. 34-85 of this chapter. In addition, the findings must address whether the following criteria can be satisfied:

a. The proposed use or mix of uses is appropriate at the subject location;

The proposed decking will be limited to the roof of the existing building with access restricted to the residents and their guests. The proposed accessory use of decking not only repurposes the roof for recreation, but also, help reduce carbon footprint of the project by introducing landscaping on the roof. This change will, therefore, make the project more environment friendly.

b. Sufficient safeguards to the public interest are provided by the recommended special conditions to the concept plan or by other applicable regulations;

Conditions have been added to safeguard the public interest.

c. All recommended special conditions are reasonably related to the impacts on the public's interest created by or expected from the proposed development;

The proposed conditions are related to the visible impact of the use to the beach, from the right of way and any noise concerns associated with the proposed accessory use adjacent to residential properties.

d. The proposed use meets all specific requirements of the comprehensive plan that are relevant to the requested planned development, such as the following:

1. Policies 4-B-4 and 4-C-3 on commercial uses in the "mixed residential" category.

The proposed use is a minor modification to the existing multi-family use. The impacts of the decking will be extremely minor because it will be located on the roof of the existing building, and will be accessible only to the residents and their guests. There are no proposed changes to the height of the building

III. RECOMMENDATION

Staff finds that the amendment to the Master Concept Plan meets the required findings and conclusions for the approval of a Planned Development Ordinance Amendment found in Sec. 34-85 and 34-216 of the land development code. Staff recommends approval of MCP-20220100 to allow accessory use of decking on the rooftop to support a private outdoor living/amenity area with shades and canopies extending no more than additional 10 feet with the following conditions.

IV. CONDITIONS OF APPROVAL

1. The terms and conditions of all previous resolutions shall continue in full force except as expressly altered by this amendment.
2. All development must be consistent with the Master Concept Plan (MCP) titled "Carousel Inn" and marked with a revision date of June 18, 2018, attached as Exhibit A.

3. The Applicant must provide a floor plan for the layout of the roof for Town review that is in compliance with the approved MCP of Fort Myers Beach's LDC.
4. An exterior lighting plan that meets the lighting standards found in Chapter 34, Article IV Supplemental Regulations, Technical Standards for Lighting, must be submitted to the Town of Fort Myers Beach and approved. All lighting shall be sea turtle compliant and consistent with all local, state, and federal requirements.

V. APPROVED DEVIATIONS

Amending the deviation to the height limit specified within the RPD approval Ordinance. The amendment to the height is for a roof deck only. No changes to the building height are permitted.

Staff Report Exhibits:

- A – Approved Master Concept Plan
- B – Resolution 18-11
- C – Application Documents
- D – Rendering of the Rooftop Amenity area
- E – Letters to Adjacent Properties



September 1, 2022

Town of Fort Myers Beach
Community Development Department
2525 Estero Blvd.
Ft Myers Beach, FL 33931

Subject: Carousel Inn Residential Planned Development (RPD) - Amendment to a Planned Development – *Submittal #1*

Intake Team:

The Neighborhood Company is pleased to submit on behalf of our client, Carousel Beach Redevelopment LLC, an Application for a Planned Development Amendment associated with the subject property located at 6240 and 6230 Estero Blvd., Ft Myers, FL 33931. The proposed request is to seek the following:

- To allow for the accessory use of decking on the rooftop to support an outdoor living/amenity area for unit owner(s) and their guests.

Please find attached the following items to assist with the review and approval process based on the latest application submittal requirement checklist:

1. Application Filing Fee
2. Application for Public Hearing:
 - a) Exhibit 3-1 Application Waiver;
 - b) Disclosure of Interest Form
 - c) Exhibit 5-1 Property Owners List
 - d) Exhibit 5-2 Property Owners Map
 - e) Affidavit of Authorization & Letter of Authorization;
 - f) Exhibit 6-1 Legal Description;
 - g) Exhibit 6-2 Boundary Survey;
 - h) Exhibit 6-3 Area Location Map;
 - i) Exhibit 6-6 List of Surrounding Property Owners within 500’;
 - j) Exhibit 6-7 Surrounding Property Owners Map;
3. Supplement PH-D for Amending a Planned Development Zoning;
 - a) Request Narrative with Attachment(s);
 - b) Master Concept Plan – Amended;
 - c) Architectural Elevations;
 - d) Schedule of Uses



We look forward to your review and are available to answer questions related to this application.

Sincerely,

The Neighborhood Company

A handwritten signature in blue ink, appearing to read 'Kenrick Gallander', written in a cursive style.

Kenrick Gallander, AICP
Vice President, Partner

Attachments: Application Submittal Requirements (listed above)

cc: Matthew Arminio
Gavin Donaghy
File: #220011.01.02



Carousel Inn Residential Planned Development (RPD)
Planned Development Amendment
Filing Fee

Town Fee Schedule 2022:

- PD Amendment = \$6,500

TOTAL: \$6,500.00



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

This is a first part of a two-part application. Please be sure to fill out this form, which requires general information, as well as the Supplemental Form application specific to action requested for the subject property. Please submit a complete Public Hearing application with required, supplemental information, exhibits and documents to zoningpermits@fmbgov.com. Please do not submit the instructions at the end of the application.

Site Address: 6230 and 6240 Estero Blvd., Ft Myers, FL 33931

STRAP Number: 33-46-24-W3-00013.0030 and 33-46-24-W3-00013-0020

Applicant: CAROUSEL BEACH REDEVELOPMENT LLC Phone: 517-599-7723

Contact Name: Matthew Arminio Phone: _____

Email: matt@gulfsidetwelve.com Fax: _____

Current Zoning District: RPD

Future Land Use Map (FLUM) Category: Mixed Residential

FLUM Density Range: 12 Units Max Per RPD Platted Overlay: ☐ YES ☒ NO

ACTION REQUESTED

☐ Special Exception

☐ Variance

☐ Conventional Rezoning

☒ Planned Development ☐ Commercial ☒ Residential

☐ Master Concept Plan Extension

☐ Appeal of Administrative Action

☐ Vacation of Platted Right-of-way and Easement

☐ Other – cite LDC Section: _____

SUPPLEMENTAL FORM REQUIRED

PH-A

PH-B

PH-C

PH-D

PH-E

PH-F

PH-G

attach on separate sheet

PART I – General Information

A. Applicant*: CAROUSEL BEACH REDEVELOPMENT LLC Phone: 517-599-7723

**Applicant must submit a statement under oath that he/she is the authorized representative of the property owner.*

Please see PART III to complete the appropriate Affidavit form for the type of applicant.

Applicant Mailing Address: 815 N East Ave., Oak Park, IL 60302

Email: matt@gulfsidetwelve.com Fax: _____

Contact Name: Matthew Arminio Phone: 517-599-7723



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

B. Relationship of Applicant to subject property:

- | | | |
|---|---|---|
| ☒ Owner* | ☐ Land Trust* | ☐ Partnership* |
| ☐ Corporation* | ☐ Association* | ☐ Condominium* |
| ☐ Subdivision* | ☐ Timeshare Condo* | ☒ Contract Purchaser* |
| ☐ Authorized Representative* | ☐ Other* (please indicate) _____ | |

**Applicant must submit a statement under oath that he/she is the authorized representative of the property owner.
Please see PART III to complete the appropriate Affidavit form for the type of applicant.*

C. Authorized Agent(s). Please list the name of Agent authorized to receive correspondence Agents

Name: Kenrick Gallander, AICP Phone: 850-803-5621
Address: 5618 Whispering Willow Way, Ft Myers, FL 33908
Email: kg@theneighborhood.company Fax: _____

D. Other Agent(s). Please list the names of all Authorized Agents (attach extra sheets if necessary)

Name: _____ Phone: _____
Address: _____
Email: _____ Fax: _____

Name: _____ Phone: _____
Address: _____
Email: _____ Fax: _____

PART II – Nature of Request

Requested Action (each request requires a separate application)

- ☐ Special Exception
- ☐ Variance from LDC Section _____ - _____
- ☐ Conventional Rezoning from _____ to _____
- ☐ Planned Development
- ☐ Rezoning from _____ to ☐ Commercial PD ☐ Residential PD
- ☒ Amendment. List the project number: Not yet assigned.
- ☐ Extension/reinstatement of Master Concept Plan. List project number: _____



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

- ☐ Appeal of Administrative Action
- ☐ Vacation ☐ Right-of-Way ☐ Easement
- ☐ Other. Please Explain: _____
- _____
- _____

PART III – Waivers

Please indicate any specific submittal items that have been waived by the Director for the request. Attach a copy of the signed approval as Exhibit 3-1. (Use additional sheets if necessary)

Code Section: LDC Section 10-286 Description: TIS

Code Section: _____ Description: _____

Code Section: _____ Description: _____

PART IV – Property Ownership (Single Owner)

- ☐ Single Owner (individual or husband and wife)
- Name: N/A Phone: _____
- Mailing Address: _____
- Email: _____ Fax: _____

AFFIDAVIT APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

I, N/A swear or affirm under oath, that I am the owner or the authorized representative of the owner(s) of the property and that:

I have full authority to secure the approval(s) requested and to impose covenants and restrictions on the referenced property as a result of any action approved by the Town of Fort Myers Beach in accordance with this application and the Land Development Code;

All answers to the questions in this application and any sketches, data or other supplementary matter attached hereto and made a part of this application are honest and true;



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

I have authorized the staff of the Town of Fort Myers Beach Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made thru this application; and that

The property will not be transferred, conveyed, sold or subdivided unencumbered by the conditions and restrictions imposed by the approved action.

Signature

Printed Name

STATE OF _____ COUNTY OF _____

The foregoing instrument was certified and subscribed before me by means of ____ physical

presence OR ____ online notarization, this ____ day of _____, 20____, by

_____, ☐ who is personally known to me OR ☐ who has produced

_____ as identification.

(SEAL)

Notary Public Signature

PART V

Property Ownership (Multiple Owners)

☒ Multiple Owners (including corporation, partnership, trust, association, condominium, timeshare, or subdivision)

- ☒ Complete Disclosure of Interest Form (see below) **SEE ATTACHED**
- ☒ Attach list of property owners as Exhibit 5-1
- ☒ Attach map showing property owners interests as Exhibit 5-2 (for multiple parcels)
- ☐ For condominiums and timeshares see Explanatory Notes Part V - Exhibit 5-3
- ☐ Letter of Opinion - Exhibit 5-4

DISCLOSURE OF OWNERSHIP INTEREST

If the property is owned in fee simple by an INDIVIDUAL, tenancy by the entirety, tenancy in common, or joint tenancy, list all parties with an ownership interest as well as the percentage of such interest.

Name and Address

Percentage Ownership



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

If the property is owned by a CORPORATION, list the officers and stockholders and the percentage of stock owned by each.

Name, Address and Office

Percentage of Stock

_____	_____
_____	_____
_____	_____
_____	_____

If the property is in the name of a TRUSTEE, list the beneficiaries of the trust with percentage of interest.

Name and Address

Percentage of Interest

_____	_____
_____	_____
_____	_____
_____	_____

If the property is in the name of a GENERAL PARTNERSHIP OR LIMITED PARTNERSHIP, list the names of the general and limited partners.

Name and Address

Percentage of Ownership

_____	_____
_____	_____
_____	_____
_____	_____

If there is a CONTRACT FOR PURCHASE, whether contingent on this application or not, and whether a Corporation, Trustee, or Partnership, list the names of the contract purchasers below, including the officers, stockholders, beneficiaries, or partners.

Name, Address and Office

Percentage of Stock

_____	_____
_____	_____
_____	_____
_____	_____



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

Date of Contract: _____

If any contingency clause or contract terms involve additional parties, list all individuals or officers, if a corporation, partnership, or trust.

Name	Address
_____	_____
_____	_____
_____	_____
_____	_____

For any changes of ownership or changes in contracts for purchase subsequent to the date of the application, but prior to the date of final certificate of compliance, a supplemental disclosure of interest must be filed.

The above is a full disclosure of all parties of interest in this application, to the best of my knowledge and belief.

_____	_____
Signature	Printed Name

AFFIDAVIT

APPLICATION IS SIGNED BY A CORPORATION, LIMITED LIABILITY COMPANY (L.L.C.), LIMITED COMPANY (L.C.), PARTNERSHIP, LIMITED PARTNERSHIP, OR TRUSTEE

I, SEE ATTACHED (name), as _____ (title) of _____ (company), swear or affirm under oath, that I am the owner or the authorized representative of the owner(s) of the property and that:

1. I have full authority to secure the approval(s) requested and to impose covenants and restrictions on the referenced property as a result of any action approved by the Town of Fort Myers Beach in accordance with this application and the Land Development Code;
2. All answers to the questions in this application and any sketches, data or other supplementary matter attached hereto and made a part of this application are honest and true;
3. I have authorized the staff of Fort Myers Beach Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made thru this application; and that
4. The property will not be transferred, conveyed, sold or subdivided unencumbered by the conditions and restrictions imposed by the approved action.



**COMMUNITY DEVELOPMENT DEPARTMENT
APPLICATION for PUBLIC HEARING**

Name of Entity (corporation, partnership, LLP, LLC, etc)

Signature

Title

Typed or Printed Name

Date

STATE OF _____ COUNTY OF _____

The foregoing instrument was certified and subscribed before me by means of ____ physical presence OR ☐ online notarization, this ____ day of _____, 20____, by _____, ☐ who is personally known to me OR ☐ who has produced _____ as identification.

Seal

Notary Public Signature

PART VI- Property Information

A. Legal Description:

STRAP: 33-46-24-W3-00013.0030 and 33-46-24-W3-00013-0020

Property Address: 6230 and 6240 Estero Blvd., Ft Myers, FL 33931

Is the subject property within a platted subdivision recorded in the official Plat Books of Lee County? ☒ No. Attach a legible copy of the legal description as Exhibit 6-1.

☐ Yes. Property identified in subdivision: _____

Book: _____ Page: _____ Unit: _____ Block: _____ Lot(s): _____

B. Boundary Survey:

☒ Attach a Boundary Survey of the property meeting the minimum standards of Chapter 61G17-6 of the Florida Administrative Code. A Boundary Survey must bear the raised seal and original signature of a Professional Surveyor and Mapper licensed to practice Surveying and Mapping by the State of Florida. Attach and label as Exhibit 6-2.



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

C. Property Dimensions:

Width (please provide an average width if irregular in shape) 181.5+/- feet

Depth (please provide an average width if irregular in shape) 1,052.5+/- feet

Frontage on street: 181+/- feet. Frontage on waterbody: 182+/- feet

Total land area: 4.34+/- ☒ acres ☐ square feet

D. General Location of Subject Property (from Sky Bridge or Big Carlos Pass Bridge):

Approximately 2 miles west of Big Carlos Pass Bridge on Estero Blvd.

☒ Attach Area Location Map as Exhibit 6-3

E. Property Restrictions (check applicable):

☒ There are no deed restrictions and/or covenants on the subject property.

☐ A list of deed restrictions and/or covenants affecting the subject property is attached as Exhibit 6-4.

☐ A narrative statement detailing how the restrictions/covenants may or may not affect the request is attached as Exhibit 6-5.

F. Surrounding Property Owners (these items can be obtained from the Lee County Property Appraiser):

☒ Attach a list of surrounding property owners within 500 feet as Exhibit 6-6.

☒ Attach a map showing the surrounding property owners as Exhibit 6-7.

☒ Provide Staff with two (2) sets of surrounding property owner mailing labels.

G. Future Land Use Category (see Future Land Use Map):

☐ Low Density

☒ Mixed Residential

☐ Boulevard

☐ Pedestrian Commercial

☐ Marina

☐ Recreation

☐ Wetlands

☐ Platted Overlay



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

EXPLANATORY NOTES

Please do not print, copy and submit these instructions

Please submit required applications, supplemental information, exhibits and documents to zoningpermits@fmbgov.com.

Application fees are set by resolution of the Town Council of the Town of Fort Myers Beach and must be paid before any materials submitted will be considered an application.

The applicant is responsible for the accuracy and completeness of this application. Time delays or additional expenses necessitated by submitting inaccurate or incomplete information will be the responsibility of the applicant. Decisions regarding requests to waive submittal requirements are at the discretion of the Community Development Director and may not be appealed.

All information submitted with the application becomes a part of the public record and will be a permanent part of the file.

All attachments and exhibits must be legible, suitable for recording, and of a size that will fit or conveniently fold into a letter size (8 ½ by 11) folder.

Explanatory Notes – Part I

- A. Applicant's name: The applicant may be the landowner or an authorized agent.
- B. Relationship of applicant to property: Indicate if the applicant is the property owner, and if so, the type of ownership. If the applicant is not the owner of the property, indicate the relationship of the applicant to the owner and submit a notarized authorization from the owner(s) to the applicant.
- C. Agent's name: If the applicant will have others representing him/her in processing the application, indicate name, address, and phone number.
- D. Other agents: Provide contact information for any other agents that may be involved in the request.

Explanatory Notes – Part II

Indicate the requested action.

Explanatory Notes – Part III

If waiver of any application requirement has been approved by the Community Development Director, attach a copy of the approval. Please request waivers prior to applying. Exhibit 3-1

Explanatory Notes – Part IV

- A. If the property owner is an individual or husband and wife, check the box and provide the information.



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

Explanatory Notes – Part V

- A. If there are multiple property owners exhibit 5-1, complete the disclosure form and include the names and mailing addresses of all persons or entities having an ownership interest in the property, including the names of all stockholders and trust beneficiaries. Disclosure is not required of any entity whose interests are solely equity interests that are regularly traded on an established securities market in the United States or another country.
- B. If more than one parcel is involved, submit a list of all property owners and their mailing addresses. Provide a map keyed to the list of property owners showing their interests. The applicant is responsible for the accuracy of the list and map Exhibit 5-2
- C. Where the property is a condominium or timeshare condominium, the application must be initiated by both the condominium association and no less than 75% of the total number of unit owners. To verify ownership, the list of property owners must be identified by unit number and/or timeshare period as applicable, along with proof that the owners who did not join in the application were given actual written notice of the application by the applicants, who must verify the list and the notice by sworn affidavit. Attach this affidavit as Exhibit 5-3.
- D. In addition, a letter of opinion from an attorney licensed to practice law in the State of Florida addressing the considerations in LDC Section 34-201(a)(1)b.3. must be attached as Exhibit 5-4.

Explanatory Notes – Part VI

- A. Include the street address of the subject property. List STRAP number. If more than one parcel is involved, list all STRAP numbers. If you don't know the STRAP number, you can look up the property in the records of the Lee County Property Appraiser at <http://www.leepa.org>. If the application includes only one or more undivided platted lots within a subdivision officially recorded in the Plat Books of Lee County, Florida, identify the property by lot number(s), block if applicable, subdivision unit if applicable, subdivision name, and plat book number and page number. If the property is not one or more undivided platted lots or is in an "unrecorded" subdivision, attach a metes and bounds legal description giving accurate bearings and distances for each course. If multiple parcels are involved, the metes and bounds legal description must describe the perimeter of the entire property subject to the request. The initial point in the description must be related to at least one established identifiable real property corner, such as a government corner or a recorded corner. The bearings used in the description must be clearly referenced to a well-established and monumented line. Exhibit 6-1
- B. Submit a Boundary Survey meeting the minimum technical standards for surveying set out in Chapter 61G17-6 of the Florida Administrative Code. Make sure that the surveyor is aware of any specific needs of the survey (location of Coastal Construction Lines, locations of existing structures, locations of easements, etc) that are relevant to your request. The perimeter boundary of the entire subject property should be indicated clearly with a heavy



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

line. Exhibit 6-2

- C. Provide the property dimensions or the approximate dimensions if the property is not a regular quadrilateral.
- D. Describe how to get to the property starting from either the Sky Bridge or the Big Carlos Pass Bridge (specify which). Exhibit 6-3
- E. If there are any deed restrictions or covenants that might affect the requested action, provide the information. Exhibit 6-4
- F. A narrative statement detailing how the restrictions/covenants may or may not affect the request is attached as Exhibit 6-5
- G. Attach a list of the surrounding property owners within 500 feet of the perimeter of the area of the request. Also include two sets of mailing labels providing the names and addresses of the owners on this list, and a map showing the parcel boundaries within the 500-foot radius Exhibit 6-6. This information can be acquired for a small fee by requesting a “variance report” from the Map Sales Office at the Lee County Property Appraiser’s Office. Contact information for the Property Appraiser can be found at <http://www.leepa.org>.
- H. Indicate the Future Land Use Map category or categories of the property as shown on the Fort Myers Beach Comprehensive Plan’s Future Land Use Map, and whether the property is located in the “platted overlay” on the map.
- I. Indicate the current zoning of the property. In most cases the current zoning is shown on the official zoning map of the Town of Fort Myers Beach, as adopted by ordinance. If zoning actions affecting the subject property have been taken since March 2004, call Town Hall to verify the current zoning.

Explanatory Notes – Part IV & V

The applicant must sign and submit either of the affidavits in Part V & VI, as applicable.



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Application for Waiver of Submittal Requirements

Submit a request for waiver of submittal requirements prior to submitting an application for public hearing or administrative action. Requesting a waiver of submittal requirements simultaneously with an application may delay your application. The request and the director's response will become part of the application file.

Waiver is requested for items required for:

Public Hearing

- ☒ General Requirements
- ☐ DRI
- ☒ Planned Development
- ☐ Conventional Rezoning
- ☐ Special Exception
- ☐ Variance
- ☐ Appeal
- ☐ Other

Administrative Action

- ☐ General Requirements
- ☐ Planned Dev. Amendment
- ☐ Commercial Antenna
- ☐ Consumption on Premises
- ☐ Forced Relocation of a Business
- ☐ Interpretation of LDC
- ☐ Minimum Use Determination
- ☐ Setback Variance
- ☐ Other

Name of Project: Carousel Inn Residential Planned Development
Applicant: Carousel Beach Redevelopment LLC
Strap Number: 33-46-24-W3-00013.0030; 33-46-24-W3-00013-0020
Street Address: 6240 Estero Blvd., Ft Myers, FL 33931
Phone Number: 850-803-5621
Email: kg@theneighborhood.company



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Application for Waiver of Submittal Requirements

Specific requirements from which waiver is sought

Section Number	Requirement
10-286	TIS

Scope of project and reasons for request

Explain the nature of the project and give reasons why you think specific requirements are inapplicable or otherwise should be waived.

See attached Waiver Narrative.

I hereby state that the information provided above is accurate to the best of my knowledge. I recognize that if my project changes from what is described above approval of this waiver request may no longer be valid.

Kenrick S. Gallander

Digitally signed by Kenrick S. Gallander
Date: 2022.07.22 15:06:30 -0400

Signature

Date

Director's Decision ☒ Approved ☐ Denied

Comments:

Signature

Date

Revised 1/6/2017

Town of Fort Myers Beach
2525 Estero Blvd., Fort Myers Beach, Florida 33931
Phone: 239-765-0202 Permits@FortMyersBeachFL.gov Fax: 239-765-0909

Page 2 of 2

SUBMIT



**Carousel Inn Residential Planned Development (RPD)
Planned Development Amendment
WAIVER JUSTIFICATION NARRATIVE**

On June 18, 2018, the Fort Myers Beach Town Council unanimously adopted Ordinance No. 18-11 approving a Master Concept Plan (MCP) for a property located at 6230 and 6240 Estero Boulevard in Fort Myer Beach Florida that is partially zoned Residential Planned Development (RPD) (1.69+/- acres) to allow for a two-phased, 12-unit multifamily residential development with conditions and deviations.

The proposed planned development amendment request to be submitted is to allow for the amenitized use of the rooftops for unit owner(s) and their guests by amending the Master Concept Plan, Schedule of Uses, and Deviation #1 to seek additional height over the current 45 feet maximum allowed over base flood elevation. The Neighborhood Company, on behalf of our client, Carousel Beach Redevelopment LLC, is submitting a Waiver Request for the following submittal requirement to the Planned Development Amendment application requirements:

- LDC 10-286 – Traffic Impact Statement (TIS)

The waiver is requested due to the fact the proposed amendment does not increase the density of the project as approved under the conditions within DCI17-0008 Therefore, there will be no impact on the roadway level of service and the project will remain consistent with DCI17-0008 with regards to roads level of service standards.



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

I have authorized the staff of the Town of Fort Myers Beach Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made thru this application; and that

The property will not be transferred, conveyed, sold or subdivided unencumbered by the conditions and restrictions imposed by the approved action.

Signature

Printed Name

STATE OF _____ COUNTY OF _____

The foregoing instrument was certified and subscribed before me by means of ____ physical

presence OR ____ online notarization, this ____ day of _____, 20____, by

_____, ☐ who is personally known to me OR ☐ who has produced

_____ as identification.

(SEAL)

Notary Public Signature

PART V

Property Ownership (Multiple Owners)

☒ Multiple Owners (including corporation, partnership, trust, association, condominium, timeshare, or subdivision)

- ☒ Complete Disclosure of Interest Form (see below)
- ☒ Attach list of property owners as Exhibit 5-1
- ☒ Attach map showing property owners interests as Exhibit 5-2 (for multiple parcels)
- ☐ For condominiums and timeshares see Explanatory Notes Part V - Exhibit 5-3
- ☐ Letter of Opinion - Exhibit 5-4

DISCLOSURE OF OWNERSHIP INTEREST

If the property is owned in fee simple by an INDIVIDUAL, tenancy by the entirety, tenancy in common, or joint tenancy, list all parties with an ownership interest as well as the percentage of such interest.

Name and Address

Percentage Ownership



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

If the property is owned by a CORPORATION, list the officers and stockholders and the percentage of stock owned by each.

Name, Address and Office	Percentage of Stock
_____	_____
_____	_____
_____	_____
_____	_____

If the property is in the name of a TRUSTEE, list the beneficiaries of the trust with percentage of interest.

Name and Address	Percentage of Interest
_____	_____
_____	_____
_____	_____
_____	_____

If the property is in the name of a GENERAL PARTNERSHIP OR LIMITED PARTNERSHIP, list the names of the general and limited partners.

Name and Address	Percentage of Ownership
<u>Carousel Beach Redevelopment LLC</u>	<u>Parent Florida LLC</u>
<u>CBR Limited Partners LLC</u>	<u>75%</u>
<u>CBR Developers LLC</u>	<u>25%</u>
<u>Address: 815 N East Ave, Oak Park, IL 60302</u>	_____

If there is a CONTRACT FOR PURCHASE, whether contingent on this application or not, and whether a Corporation, Trustee, or Partnership, list the names of the contract purchasers below, including the officers, stockholders, beneficiaries, or partners.

Name, Address and Office	Percentage of Stock
<u>Carousel Beach Redevelopment LLC</u>	<u>Purchased by Parent FL LLC</u>
<u>Matthew Arminio, Managing Member of LLC</u>	_____
<u>Vito DiMaso, Officer of LLC</u>	_____
<u>CBR Limited Partners LLC</u>	<u>75%</u>
<u>CBR Developers LLC</u>	<u>25%</u>
<u>Address: 815 N East Ave, Oak Park, IL 60302</u>	_____



COMMUNITY DEVELOPMENT DEPARTMENT

APPLICATION for PUBLIC HEARING

Date of Contract: 10/08/2021

If any contingency clause or contract terms involve additional parties, list all individuals or officers, if a corporation, partnership, or trust.

Name	Address
6230 Carousel, LLC a Delaware limited liability company	174 West Street, Suite 212, Litchfield, CT 06759
_____	_____
_____	_____
_____	_____

For any changes of ownership or changes in contracts for purchase subsequent to the date of the application, but prior to the date of final certificate of compliance, a supplemental disclosure of interest must be filed.

The above is a full disclosure of all parties of interest in this application, to the best of my knowledge and belief.

dotloop verified 08/10/22 2:29 PM CDT DSFE-LPNV-RCSK-RLHD	_____ Signature
---	--------------------

_____ Printed Name	Managing Member, Carousel Beach Redevelopment LLC
-----------------------	--

AFFIDAVIT

APPLICATION IS SIGNED BY A CORPORATION, LIMITED LIABILITY COMPANY (L.L.C.), LIMITED COMPANY (L.C.), PARTNERSHIP, LIMITED PARTNERSHIP, OR TRUSTEE

I, SEE ATTACHED (name), as _____ (title)
 of _____ (company), swear or affirm under oath, that I am the
 owner or the authorized representative of the owner(s) of the property and that:

1. I have full authority to secure the approval(s) requested and to impose covenants and restrictions on the referenced property as a result of any action approved by the Town of Fort Myers Beach in accordance with this application and the Land Development Code;
2. All answers to the questions in this application and any sketches, data or other supplementary matter attached hereto and made a part of this application are honest and true;
3. I have authorized the staff of Fort Myers Beach Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made thru this application; and that
4. The property will not be transferred, conveyed, sold or subdivided unencumbered by the conditions and restrictions imposed by the approved action.



Carousel Inn Residential Planned Development (RPD)

Planned Development Amendment

EXHIBIT 5-1: Property Owner List

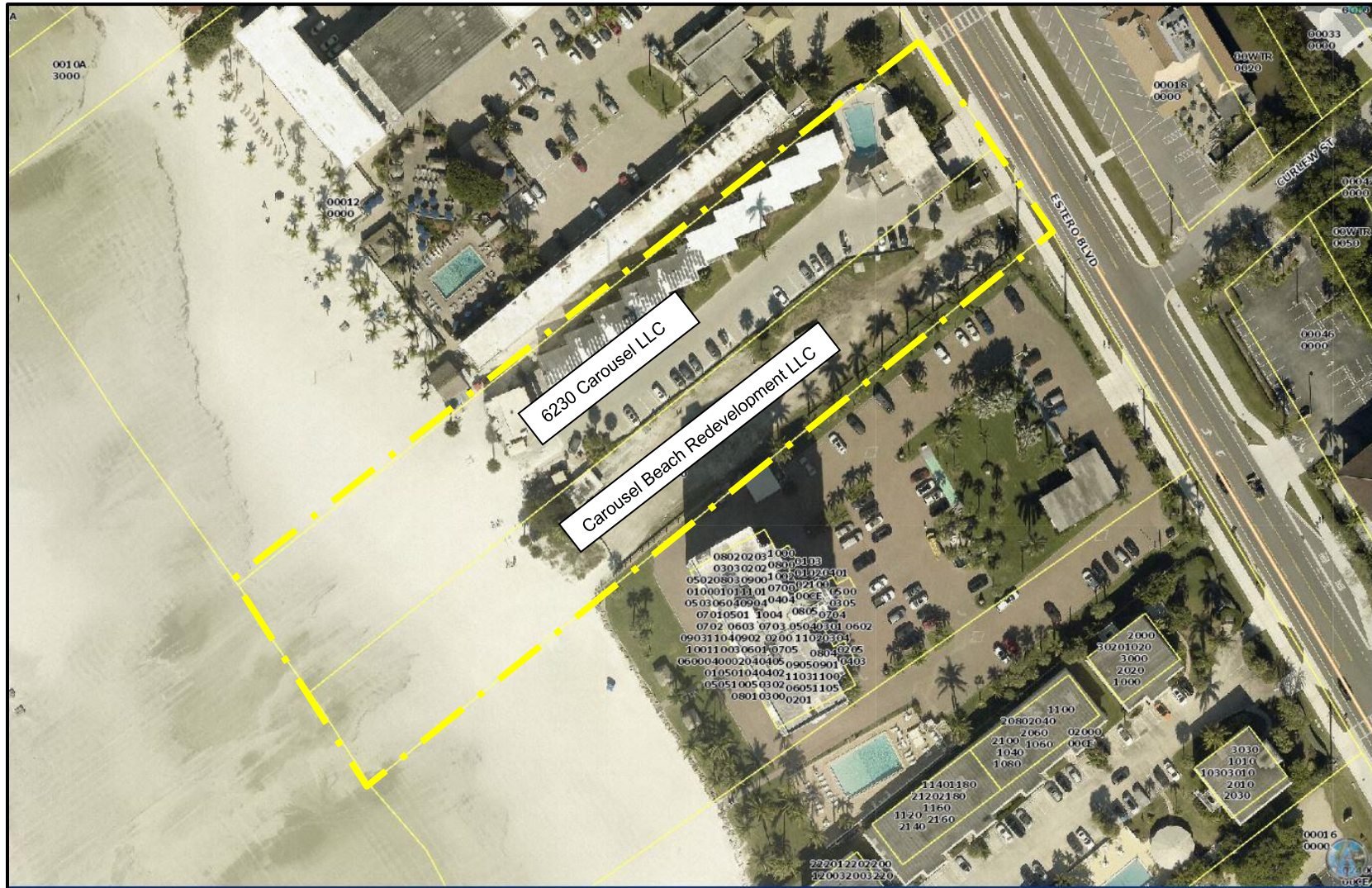
STRAP#:

- 33-46-24-W3-00013.0030 – Carousel Beach Redevelopment LLC
- 33-46-24-W3-00013-0020 – 6230 Carousel LLC



THE NEIGHBORHOOD COMPANY

Carousel Inn Residential Planned Development (RPD) Planned Development Amendment EXHIBIT 5-2: Property Owner Map





COMMUNITY DEVELOPMENT DEPARTMENT
APPLICATION for PUBLIC HEARING

PART V

AFFIDAVIT

APPLICATION IS SIGNED BY A CORPORATION, LIMITED LIABILITY COMPANY (L.L.C.),
LIMITED COMPANY (L.C.), PARTNERSHIP, LIMITED PARTNERSHIP, OR TRUSTEE

I, Matthew Arminio (name), as Manager (title)
of Carousel Beach Redevelopment LLC (company), swear or affirm under oath, that I am the
owner or the authorized representative of the owner(s) of the property and that:

1. I have full authority to secure the approval(s) requested and to impose covenants and restrictions on the referenced property as a result of any action approved by the Town of Fort Myers Beach in accordance with this application and the Land Development Code;
2. All answers to the questions in this application and any sketches, data or other supplementary matter attached hereto and made a part of this application are honest and true;
3. I have authorized the staff of Fort Myers Beach Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made thru this application; and that
4. The property will not be transferred, conveyed, sold or subdivided unencumbered by the conditions and restrictions imposed by the approved action.

Carousel Beach Redevelopment LLC

Name of Entity (corporation, partnership, LLP, LLC, etc)

Signature

Matthew Arminio

Typed or Printed Name

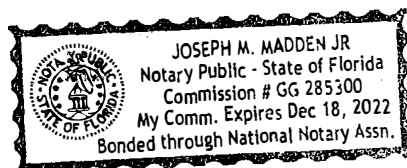
Manager

Title

Date

STATE OF FL COUNTY OF Lee

The foregoing instrument was certified and subscribed before me by means of ☒ physical
presence OR ☐ online notarization, this 18 day of April 2022 by
MATTHEW ARMINIO ☒ who is personally known to me OR ☐ who has produced
_____ as identification.



Notary Public Signature

LETTER OF AUTHORIZATION

TO TOWN OF FORT MYERS BEACH COMMUNITY DEVELOPMENT

I, Michael P. Keilty, as authorized member of 6230 CAROUSEL, LLC, owner of 6230 Estero Boulevard, Fort Myers Beach, Florida, STRAP No. 33-46-24-W3-00013.0020, hereby authorizes CAROUSEL BEACH REDEVELOPMENT, LLC to represent 6230 CAROUSEL, LLC regarding the above-referenced property for an amendment to Carousel Inn Residential Planned Development (RPD) to add the use of roof-top deck (The Use) as set forth in Exhibit A attached hereto and related amendment to the MCP to add The Use.

6230 CAROUSEL, LLC, a Delaware limited liability company

By: Michael P. Keilty
Print Name: Michael P. Keilty
Title: Member

STATE OF Connecticut
COUNTY OF Litchfield

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 29th day of August, 2022 by Michael P. Keilty, as Member of 6230 CAROUSEL, LLC, a Delaware limited liability company, on behalf of the company, who ☒ is personally known to me OR ☐ has produced a(n) _____ driver's license as identification.

[NOTARY SEAL/STAMP]

Tania L. Drobny
Notary Public, State of Connecticut
Print Name: Tania L. Drobny
My Commission Expires: 11/30/2023



EXHIBIT A

**THE NEIGHBORHOOD
COMPANY**

**Carousel Inn Residential Planned Development (RPD)
Planned Development Amendment
Schedule of Uses**

Schedule of Uses

Residential

Dwelling units: multiple-family, limited to twelve (12)(Phase 1 maximum 4 units, Phase 2 maximum 8 units)

Storage Shed <100 sq. ft.

Recreation Facility, Private on-site

Residential Accessory Uses (for occupants and guests only)

Garages (under building) Gazebos

Patios

Pools (2)

Pool Deck(s)

Cabana

Screen Enclosure (balconies) Fence

Walls

Dumpster Enclosure

Tot lot

Rooftop Deck

Lodging

Rental of any permitted dwelling unit to a single family for periods of one week or longer

Office

Administrative Office (to support the Association)

Home Occupation (no outside help)

Civic

Public Beach Access

Essential Services

Hidden Path

Essential Service Equipment

Page 1 of 1

5618 Whispering Willow Way, Fort Myers, FL 33908 | 239.398.2016
www.theneighborhoodcompany.com



**Carousel Inn Residential Planned Development (RPD)
Planned Development Amendment
LEGAL DESCRIPTION**

PARCEL 1:

A LOT OR PARCEL OF LAND 100 FEET WIDE IN GOVERNMENT LOT 4, SECTION 33, TOWNSHIP 46 SOUTH, RANGE 24 EAST, EXTENDING FROM ESTERO BOULEVARD (STATE ROAD S-865) TO THE WATERS OF THE GULF OF MEXICO, WHICH LOT OR PARCEL IS DESCRIBED AS FOLLOWS:

BEGINNING AT THE POINT OF INTERSECTION OF A LINE 690 FEET, MEASURED ON A PERPENDICULAR SOUTHEASTERLY FROM AND PARALLEL WITH THE SOUTHEASTERLY LINE OF BLOCK "I", UNIT 2, McPHIE PARK SUBDIVISION, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN PLAT BOOK 8, PAGE 59, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, WITH THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF SAID STATE ROAD NO. S-865 RUN SOUTHEASTERLY ALONG SAID RIGHT-OF-WAY LINE FOR 101.06 FEET, MORE OR LESS, TO AN INTERSECTION WITH A LINE 790 FEET SOUTHEASTERLY FROM AND PARALLEL WITH SAID SOUTHEASTERLY LINE OF BLOCK "I", UNIT 2, McPHIE PARK SUBDIVISION; THENCE RUN SOUTHWESTERLY ALONG SAID PARALLEL LINE TO THE WATERS OF THE GULF OF MEXICO; THENCE RUN NORTHWESTERLY ALONG SAID WATERS TO AN INTERSECTION WITH A LINE THROUGH THE POINT OF BEGINNING, PARALLEL WITH SAID SOUTHEASTERLY LINE OF BLOCK "I"; THENCE RUN NORTHEASTERLY ALONG SAID PARALLEL LINE TO THE POINT OF BEGINNING; TOGETHER WITH ALL RIPARIAN RIGHTS APPURTENANT THERETO.

PARCEL 2:

A LOT OR PARCEL OF LAND 80 FEET WIDE IN GOVERNMENT LOT 4, SECTION 33, AND GOVERNMENT LOT 1, SECTION 34, TOWNSHIP 46 SOUTH, RANGE 24 EAST, EXTENDING FROM ESTERO BOULEVARD (STATE ROAD S-865) TO THE WATERS OF THE GULF OF MEXICO, WHICH LOT OR PARCEL IS DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT OF INTERSECTION OF A LINE 790 FEET (MEASURED ON A PERPENDICULAR) SOUTHEASTERLY FROM AND PARALLEL WITH THE SOUTHEASTERLY LINE OF BLOCK "I", UNIT 2, McPHIE PARK SUBDIVISION, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN PLAT BOOK 8, PAGE 59, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, WITH THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF SAID STATE ROAD NO. S-865 RUN SOUTHEASTERLY ALONG SAID RIGHT-OF-WAY LINE FOR 80.87 FEET TO AN INTERSECTION WITH A LINE 870 FEET SOUTHEASTERLY FROM AND PARALLEL WITH SAID SOUTHEASTERLY LINE OF BLOCK "I", UNIT 2, McPHIE PARK SUBDIVISION; THENCE RUN SOUTHWESTERLY ALONG SAID PARALLEL LINE TO THE WATERS OF THE GULF OF MEXICO; THENCE RUN NORTHWESTERLY ALONG SAID WATERS TO AN INTERSECTION WITH A LINE PARALLEL WITH SAID SOUTHEASTERLY LINE OF BLOCK "I", UNIT 2, McPHIE PARK SUBDIVISION PASSING THROUGH THE POINT OF BEGINNING; THENCE RUN NORTHEASTERLY ALONG SAID PARALLEL LINE TO THE POINT OF BEGINNING; TOGETHER WITH ALL RIPARIAN RIGHTS APPURTENANT THERETO.

*Taken from Boundary Survey by D&W dated 12/18



July 25, 2022

Air Photos: 2022 Hi-Res (4 inch)

--- County Boundary
 Major Roads Medium
 I - 75

US 41
 Other Highways
 Other Roads

Parcels Far

1:53,325
 0 2,450 4,900 9,800 ft
 0 700 1,400 2,800 m

This map is NOT a legal land survey and should not be used or relied upon as such.
 No warranties, express or implied, are provided with the data, use, accuracy or interpretation.

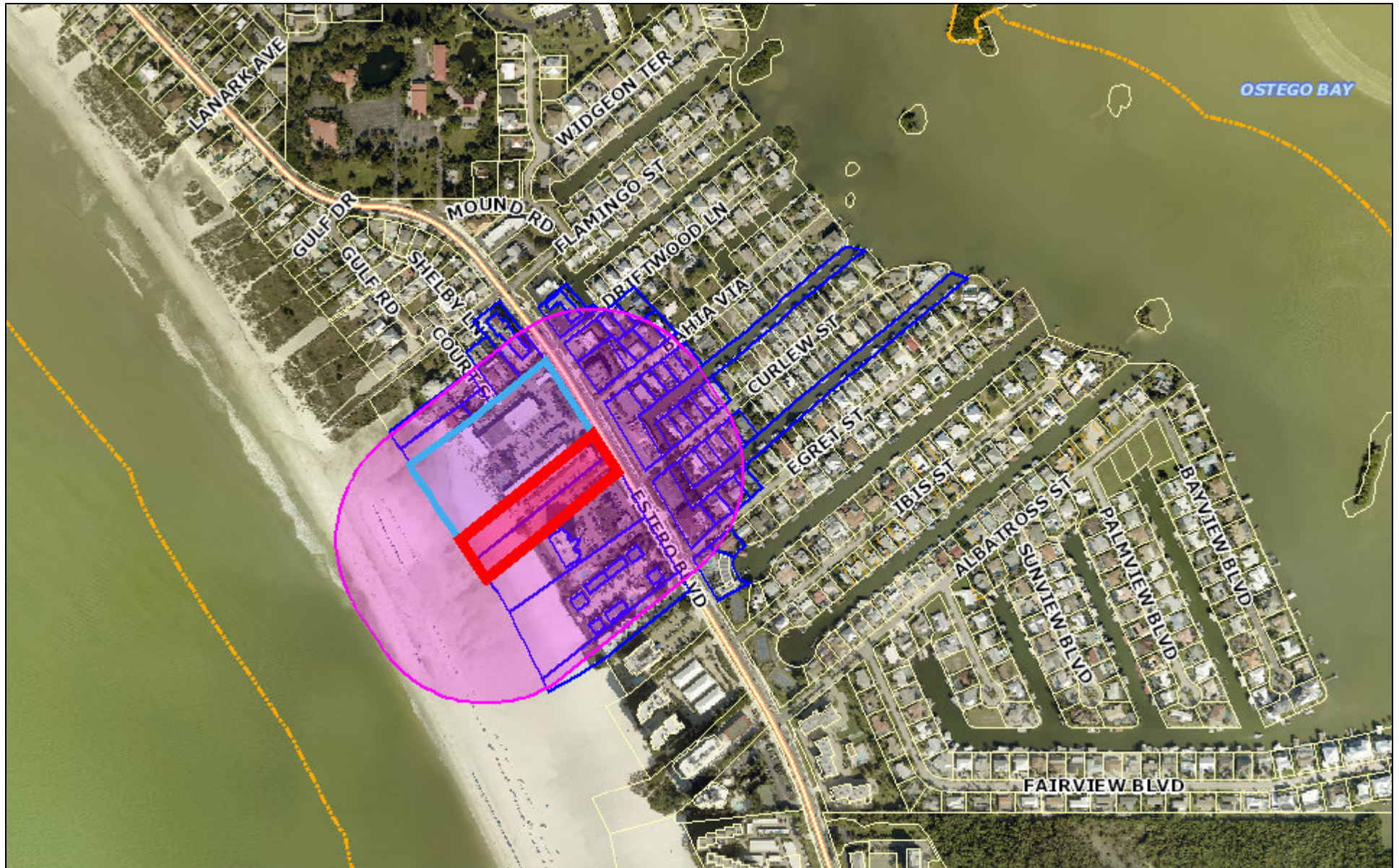
FOLIO	OWNER NAME	ADDRESS1	CITY	STATE	ZIP
10230714	COLORADO SOUTHERN INC	6200 ESTERO BLVD	Fort Myers Beach	FL	33931
10230715	SOUTHLAND CORPORATION	2711 N HASKELL AVE	DALLAS	TX	75204
10230716	6231 ESTERO LLC	500 KINGS TOWN DR	NAPLES	FL	34102
10230717	6230 CAROUSEL LLC	174 WEST ST #212	LITCHFIELD	CT	6759
10230718	CAROUSEL BEACH REDEVELOPMENT L	815 N EAST AVE	OAK PARK	IL	60302
10230719	ESTERO 4148 LLC	4517 BRYNWOOD DR	NAPLES	FL	34119
10230722	KLEDZIK CARY & LAURA	2006 STIERS CT	BATAVIA	IL	60510
10230723	JOHNSON DIANNE D TR	6160 COURT ST	FORT MYERS BEACH	FL	33931
10230724	JOHNSON DIANNE D TR	6160 COURT CT	FORT MYERS BEACH	FL	33931
10230725	OSFS REAL ESTATE TRUST	2200 KENTMERE PKWY	WILMINGTON	DE	19806
10230727	STEVENS FAMILY VENTURES LP	1170 MASSEY ST	NAPLES	FL	34120
10230779	FELDMANN GARY	3 TIMBERLINE DR	ALEXANDRIA	KY	41001
10230780	LUCAS MORRIS D & MISTY	4124 RAINTREE BLVD	GREENWOOD	IN	46143
10230781	WIMBERLY & WIMBERLY	PO BOX 694	RICHMOND	KY	40476
10230782	ZAPP DAVID P &	1626 BELFIELD ST	INDIANAPOLIS	IN	46217
10230783	HAWLEY BRUCE &	6500 ESTERO BLVD #A301	FORT MYERS BEACH	FL	33931
10230784	ROWE DONN A TR	220 LOOP AVE	MANSON	WA	98831
10230785	BELFORD JAMES R TR	526 PINEHURST LN	SCHERERVILLE	IN	46375
10230786	LEFRANCE JANICE S TR	6500 ESTERO BLVD #C115	FORT MYERS BEACH	FL	33931
10230787	IMMKE JAMES L	11989 PRINCESS GRACE CT	CAPE CORAL	FL	33991
10230788	O'CONNELL JOHN & JEAN	27 GREEN BRIAR DRIVE	SUFFIELD	CT	6078
10230789	RASH BRENDA L TR	5726 E 800 N	SYRACUSE	IN	46567
10230790	BREDBERG DOUGLAS J &	7785 CLYDESDALE SE	ADA	MI	49301
10230791	M&D FLORIDA LLC	1687 SUGARMAPLE DR	COLUMBUS	OH	43229
10230792	WALTMAN MICHAEL & JEAN	6500 ESTERO BLVD #C219	FORT MYERS BEACH	FL	33931
10230793	TAYLOR WILLIAM DAVID &	1885 OAKES BLVD	NAPLES	FL	34119
10230794	RUDY MARLENE Y & JOEL	19 ROXBURY DR	ATHENS	OH	45701
10230795	HOUBLER NEIL E & SHERRY T	231 STECKLER RD	STONEBORO	PA	16153
10230796	SMITH RICHARD R TR	3420 CTH NN	WEST BEND	WI	53095
10230797	WILKERSON ALAN R & RHONDA M	4310 N RIVERSIDE DR	COLUMBUS	IN	47203
10230798	MARTIN JOHN D & MARY A TR	6877 HARDWOOD DR	GALLOWAY	OH	43119
10230799	JEWETT HAROLD D TR	10932 SHIREGREEN LN	FORT WAYNE	IN	46814
10230800	KIRSCH HAROLD A + DIANE S TR	47165 JAMES DR	MACOMB	MI	48044
10230801	WYSKIEL JEAN & STEPHANIE	608 STANLEY BLVD	BIRMINGHAM	MI	48009
10230802	KRUSE STACY & NORMAN	9351 KIOWA TRAIL	CHANHASSEN	MN	55317
10230803	OSUCHOWSKI WILLIAM & SHARON	300 EUCLID AVE STE 12	SYRACUSE	NY	13210
10230804	BARACUTEY LLC	3958 ASHENTREE CT	FORT MYERS	FL	33916
10230805	WALSH TERRENCE A &	6679 N HIAWATHA	CHICAGO	IL	60646
10230806	HOLZENDOFT RUTH EVANS TR	756 HOLLAND LANE	ROMEOVILLE	IL	60446
10230807	SNEDDON JOY B TR	4790 GOEBLE RD	FORT MYERS	FL	33905
10230808	WIEN DAVID P & JANICE K	708 GREENBANK RD	WILMINGTON	DE	19808
10230809	HOSKINS BRIAN K & SUSAN B	801 W COLISEUM BLVD	FORT WAYNE	IN	46808
10230810	HENRY KATHRYN & TED	16176 LAKESIDE AVE SE	PRIOR LAKE	MN	55372
10230811	3RC BUTTERCUP LLC	404 EAST COLUMBUS ST	CRAWFORDSVILLE	IA	52621
10230812	GENZINK RETHA	2085 112TH AVE	HOLLAND	MI	49424
10230813	PELLETIER SCOTT & JUDY TR	11802 FAR EDGE PATH	COLUMBIA	MD	21044
10230814	BARTLETT ROBERT M & LILA F	3396 MAPLE LEAF LOOP SOUTH	FARGO	ND	58104
10230815	FLORY SUSAN E TR	6500 ESTERO BLVD #G108	FORT MYERS BEACH	FL	33931
10230816	WALLIS LISA S TR	28270 INSULAR WAY	BONITA SPRINGS	FL	34135
10230817	RICHARDSON JACK D & DONNA L	8303 MERLOT LN	LAUREL	MD	20723
10230818	SCHMIDT MARTIN S	1307 SHORELINE DRIVE	WAYZATA	MN	55391
10230819	DELANEY GARY L + KATHRYN TR	112 PRAIRIE DR	MINOOKA	IL	60447
10230820	ALVES A DACOSTA & SANDRA J	4543 CATALINA LANE	BONITA SPRINGS	FL	34134
10230821	KNIBBE DAVID J & GAYLE E	2530 W G AVE	KALAMAZOO	MI	49009
10230822	RUSSELL WILLIAM G IV &	119 COMMERCE ST	CLINTON	CT	6413
10230823	BROUGHER DOUGLAS E &	1220 HALF MOON LN	CICERO	IN	46034
10230824	GIERSEWSKI STEPHEN T	6500 ESTERO BLVD #H202	FORT MYERS BEACH	FL	33931

10230825 ZDEB DIANE D TR	1697 WHITCOMB AVE	DES PLAINES	IL	60018
10230826 GREIG LUCIA	10737 FIRST LINE NASSEGEWAYA	MILTON	ON	LOP 1J0
10230828 SUNSET 100 LLC	PO BOX 30	DECATUR	IN	46733
10230829 MCCARTY RONALD G + JENNIFER TR	18292 DEEP PASSAGE LN	FORT MYERS BEACH	FL	33931
10230830 RUSSELL ROBERT M &	3 WYCLIFFE RD	EAST WALPOLE	MA	2032
10230831 FANCHER SHANE R &	4160 S LAKE CT	DECATUR	IL	62521
10230832 STONER JONATHAN & LEESA	3631 SILVER BROOK LN	GAINESVILLE	GA	30506
10230833 PARRISH GREGG S & KAREN	11809 EAGLE VIEW CT	FORT WAYNE	IN	46814
10230834 BAKER CARL & NELDA	43440 MARIETTA RD	CALDWELL	OH	43724
10230835 JOHNSON JAMES N	6754 GRAND OAKS CT	MASON	OH	45040
10230836 DOWNEN JERRY L & MARY ANNE TR	402 N ALTON ST	FREEBURG	IL	62243
10230837 CARRICO EMIDO G &	215 JUNIPER DR	YORKTOWN HEIGHTS	NY	10598
10230838 SPAKE KAREN J	220 LANE 440 LAKE JAMES	ANGOLA	IN	46703
10230839 DANIEL DOUGLAS R & PATSY L	406 POLK ST	IOWA FALLS	IA	50126
10230840 BAKER TERRY L & NANCY L	2848 E 550TH N	DECATUR	IN	46733
10230841 SCHRIER LARRY E &	742 HOMESTEAD WY	BROWNSBURG	IN	46112
10230842 KLUESNER REAL ESTATE LLC	501 TAHOE CT	FARLEY	IA	52046
10230843 SEMEL EVELYN B	14323 PATTY BERG DR	FORT MYERS	FL	33919
10230844 DAWSON TODD A & JAN	205 EMS T34C LN	LEESBURG	IN	46538
10230845 SCOTT A DRAKE TRUST +	81 EMS T32C LN	LEESBURG	IN	46538
10230846 WALZ STEPHEN N + CHERYL S	6400 ESTERO BLVD #400	FORT MYERS BEACH	FL	33931
10230847 AMARAL LOUISE J	324 FRONT ST #3	MARION	MA	2738
10230848 PARADISE POINT PROPERTIES LLC	1706 HIDDEN VALLEY DR	IOWA FALLS	IA	50126
10230849 LORIS RENTAL LLC	77E 550N	CRAWFORDSVILLE	IN	47933
10230850 CARDWELL DOUGLAS F TR	6400 ESTERO BLVD #404	FORT MYERS BEACH	FL	33931
10230851 VIECELI DAVID A & DONNA L	6400 ESTERO BLVD #405	FORT MYERS BEACH	FL	33931
10230852 RAWAS MAHMOUD & FADIA	8160 GLENMILL CT	CINCINNATI	OH	45249
10230853 JENNER CAROLINE J	6400 ESTERO BLVD # 501	FORT MYERS BEACH	FL	33931
10230854 CLAWSON MICHAEL R &	3308 GLENVIEW AVE	AUSTIN	TX	78703
10230855 HOWARD STACY & RHONDA	1600 SOUTH LEE AVENUE	MORTON	IL	61550
10230856 HARVEY JANICE L	PO BOX 700	EAST AMHERST	NY	14051
10230857 DANGELO CRAIG M &	3333 CRAIG DR	NORTH TONAWANDA	NY	14120
10230858 NIEDOSIK DENNIS L/E	PO BOX 823	GRANGER	IN	46530
10230859 FRIEDMAN ABIGAIL TR	4919 S DORCHESTER AVE	CHICAGO	IL	60615
10230860 HOFMAN KYE P & SHERI L	11497 S 450 E	HAUBSTADT	IN	47639
10230861 MCGUIRK JOHN F TRUST	PO BOX 1250	INDIAN RIVER	MI	49749
10230862 KIMBERLY A TORTORA TRUST +	17199 N LAUREL PARK DR STE 100	LIVONIA	MI	48152
10230863 GRAFF NANCY W +	123 HAZEL ST	KITTANNING	PA	16201
10230864 HINTZ LARRY J TR	43W219 TALL PINES RD	ELGIN	IL	60124
10230865 MUNTEAN ANTOINETTE A TR	7604 SCENICVIEW DR	INDEPENDENCE	OH	44131
10230866 MONTGOMERY RICKY G &	3 FIRESIDE CT	FRANKFORT	IN	46041
10230867 FALK DONALD E & NANCY J	1725 W 4TH ST	RED WING	MN	55066
10230868 ALI MEDIAN & JNEIDI MUNA	10324 APPLE PARK CT	DAYTON	OH	45458
10230869 MUSTO RICHARD W & JOANN G	2050 JAMIESON AVENUE	ALEXANDRIA	VA	22314
10230870 VIECELI DAVID A + DONNA L	6400 ESTERO BLVD # 405	FORT MYERS BEACH	FL	33931
10230871 JONES DEBRA L TR	PO BOX 88	WAITSFIELD	VT	5673
10230872 LLOYD R SHROYER TRUST +	3700 E FOREST GLEN AVE	LEESBURG	IN	46538
10230873 HICKLING NANCY WHITE	24 LOCHAN LANE BOX 1239	BOBCAYGEON	ON	KOM 1A0
10230874 TENNESSEA LLC	655 N EAST END	STRAWBERRY PLAINS	TN	37871
10230875 MOCKLER JAMES P TR	2703 JUNONIA CT	FORT MYERS	FL	33908
10230876 FANCHER MICHELLE L	4160 S LAKE CT	DECATUR	IL	62521
10230877 BUCCELLI PHILIP J &	47 WOOD ST	WOBURN	MA	1801
10230878 SHORT TINA	16555 N MCCAULEY LN	MOUNT VERNON	IL	62864
10230879 ISLE PROPERTY INVESTMENTS LLC	1842 TOSSING MANE CT	DAYTON	OH	45458
10230880 HILTON MARK E & DIANA L	23 AGNELL CT	SACRAMENTO	CA	95835
10230881 BELLINA SUSAN A TR	5980 ESTERO BLVD	FORT MYERS BEACH	FL	33931
10230882 FORT MYERS BEACHSIDE LLC	10900 N DANA DR	PEORIA	IL	61615
10230883 GOLDENBERG ALAN L/E	6400 ESTERO BLVD #1001	FORT MYERS BEACH	FL	33931

10230884	POPPALARDO PHYLLIS A +	909 RANDOLPH RD	MIDDLETOWN	CT	6457
10230885	CHIPS AND QUESO TRUST	9951 WOODLANDS DR	FISHERS	IN	46037
10230886	LINTON DIANE E + DAVID H TR	110 WHITE TAIL LN	LANCASTER	MA	1523
10230887	DEME JACK + MARIE	6400 ESTERO BLVD #1005	FORT MYERS BEACH	FL	33931
10230888	TAYLOR LYNNE C	6966 OVERLOOK DR	FORT MYERS	FL	33919
10230889	SUNSET 1101 LLC	731 NE 7TH AVE	FORT LAUDERDALE	FL	33304
10230890	BRADY STEVE A & JULIE A	1128 PLUM TREE LN	PALATINE	IL	60067
10230891	BP SUNSET PROPERTIES LLC	1105 TURFRUNNER CT	FLORISSANT	MO	63034
10230892	WEBB FLORENCE +	508 E 1ST ST	AUBURN	IN	46706
10230893	PAYETTE MARY MULCAHY TR	579 HOLLY LN N	OAKDALE	MN	55128
10230895	6100 ESTERO BLVD LLC	200 EXCUTIVE WAY STE 200	PONTE VEDRA BEACH	FL	32082
10230896	COQUINA CONDOMINIUM ASSOC	2180 W SR 434 STE 5000	LONGWOOD	FL	32779
10230897	SWEENEY TIMOTHY J &	2445 EDGERTON ST	LITTLE CANADA	MN	55117
10230898	WITTEKIND RAYMOND E JR &	11311 SOUTH MILLARD	CHICAGO	IL	60655
10230899	GUIX FAMILY LLC	16855 DRAKE CT	BROOKFIELD	WI	53005
10230900	PECK ROBERT & SARAH B	75 BUFFALO AVE	MEDFORD	NY	11763
10230901	SIMS FRANCIS C +	10545 S RIDGEWAY AVE	CHICAGO	IL	60655
10230902	OREILLY MICHAEL J +	10615 S BELL AVE	CHICAGO	IL	60643
10230903	KINSINGER CHERYL L TR	1109 WESTMINSTER DR	WASHINGTON	IL	61571
10230904	JEFFREY F SHAW TRUST +	4437 XERXES AVE S	MINNEAPOLIS	MN	55410
10230905	FINLAYSON JAMES R TR	2157 W 110TH ST	CHICAGO	IL	60643
10230906	MURRAY MICHAEL M TR	6100 ESTERO BLVD #3D	FORT MYERS BEACH	FL	33931
10230907	MURPHY DONNA RABBIT +	1307 ROBERTSON DR	CRESTWOOD	KY	40014
10230908	LARSON STEPHEN P & DEBRA J	6100 ESTERO BLVD #3F	FORT MYERS BEACH	FL	33931
10230909	GREISSINGER GARY S	6100 ESTERO BLVD #4A	FORT MYERS BEACH	FL	33931
10230910	LESKI WALTER +	9229 N HORIZAN TRAIL	FOUNTAIN HILLS	AZ	85268
10230911	CURRAN KATHLEEN TR	9236 TANDRAGEE DR	ORLAND PARK	IL	60462
10230912	GARY L BROOKS TRUST +	29 RAVEN GLASS LN	BLUFFTON	SC	29909
10230913	MAHONEY JOHN J & MAUREEN T	10635 S MAPLEWOOD AVE	CHICAGO	IL	60655
10230914	KEARNEY ERIC E	629 CAPE CORAL PKWY E	CAPE CORAL	FL	33904
10230915	LIKENS JO LYNN	907 COUNTRY CLUB DR	WARSAW	IN	46580
10230916	NORRIS CECELIA E TR	26 HIGHRIDGE RD	WILLOWBROOK	IL	60527
10230917	CURRAN BARBARA L TR	8914 CREST OAK LN	SAINT LOUIS	MO	63126
10230918	TEMPLES KATHLEEN A L/E	6100 ESTERO BLVD #5D	FORT MYERS BEACH	FL	33931
10230919	COLEMAN BRIAN P &	3724 ARMOUR CT	WOODRIDGE	IL	60517
10230921	EGELUS GERALD A +	87 WILLOW RD CIR	WAYNESVILLE	NC	28786
10230922	VANWECHEL CHRISTY A &	41947 MATSON POINT ROAD	PELICAN RAPIDS	MN	56572
10230923	STONE JENNIFER L	6151 ESTERO BLVD #3	FORT MYERS BEACH	FL	33931
10230924	DEMPSEY KURT & ANGELA	10664 SNYDER CHURCH RD	BALTIMORE	OH	43105
10230925	DANZI REAL ESTATE VENTURES LLC	1352 SHEFIELD WAY	FORT MYERS	FL	33919
10230926	DANZI REAL ESTATE VENTURES LLC	1352 SHEFIELD WAY	FORT MYERS	FL	33919
10230927	LANGONE KARINA	6350 NW 95TH LN	PARKLAND	FL	33076
10230928	MORGAN JEFFREY R & SIRENA S	8136 E CHEROKEE RD	SYRACUSE	IN	46567
10230929	CRITCHLEY JOSPEH & TANIA	9 HIGHLAND AVE	RED BANK	NJ	7701
10230988	MAGUIRK JOHN & BETH ANN	134 DRIFTWOOD LN	FORT MYERS BEACH	FL	33931
10230989	SKAGGS STEPHEN P & LISA A	135 BAHIA VIA	FORT MYERS BEACH	FL	33931
10230990	CHOMEL JEFFREY & CATHY	2201 LINCOLN AVE	CONNERSVILLE	IN	47331
10230991	MORGADO DAVID R TR +	144 DRIFTWOOD LN	FORT MYERS BEACH	FL	33931
10230992	HAINBUCHNER ERONIM PATRIK	200 NEW COURT	NOVI	MI	48377
10230993	MARTIN ANGELO MICHAEL	10111 STATE RD	NORTH ROYALTON	OH	44133
10230999	BROWN GEORGE KEITH	PO BOX 4	LA CROSSE	WI	54602
10231001	COLORADO SOUTHERN INC	6200 ESTERO BLVD	FORT MYERS BEACH	FL	33931
10231002	MURPHY TERRANCE P &	110 BAHIA VIA	FORT MYERS BEACH	FL	33931
10231003	BARTOW MARTIN J &	130 BAHIA VIA	FORT MYERS BEACH	FL	33931
10231004	BAHIA VIA LLC	4180 BRIGADOON DR	SHOREVIEW	MN	55126
10231005	DIMURRO JOHN	150 BAHIA VIA	FORT MYERS BEACH	FL	33931
10231006	2626187 ONTARIO INC	138 UNIVERSITY RD	DOURO DUMMER	ON	K9J 6Y1
10231018	CAMPBELL ROBERT E & PHYLLIS	3627 HUBBARD MIDDLESEX	WEST MIDDLESEX	PA	16159

10231019 3RD GEN LLC	6334 STATE RT 48	LAWRENCEBURG	IN	47025
10231020 ROSCREA LLC	2013 DES PLAINES AVE	PARK RIDGE	IL	60068
10231021 CUMMINGS JOHN L	4 PETERS BROOK DR	HOOKSETT	NH	3106
10231022 SCHWIRTZ MARK J & SHEILA L	507 ABBEY WAY	MENDOTA HEIGHTS	MN	55120
10231035 SOUTHERN LATITUDE RETREAT LLC	E 19885 COUNTY RD ND	AUGUSTA	WI	54722
10231036 KILBURG JUDITH R TR	150 CURLEW ST	FORT MYERS BEACH	FL	33931
10231046 PHILLIPS TIMOTHY SCOTT &	120 CURLEW ST	FORT MYERS BEACH	FL	33931
10231047 HAINBUCHNER ERONIM PATRIK &	200 NEW CT	NOVI	MI	48377
10231048 YANAKEFF DAVID &	9560 WALDRON RD	JEROME	MI	49249
10231052 ESTERO 4148 LLC	4517 BRYNWOOD DR	NAPLES	FL	34119
10231053 CAVANAUGH JOHN F	222 MADISON ST	LAKE GENEVA	WI	53147
10231054 DUNLAP JAMES E & MICHELE L	10087 IDLE PINE LN	ESTERO	FL	34135
10231055 GAERTNER MARK A +	3273 COSTA DR	VADNAIS HEIGHTS	MN	55127
10231154 UNKNOWN HEIRS OF	915 S 28TH ST	SOUTH BEND	IN	46615
10462861 PRIVATEER OF FT MYERS BEACH	6500 ESTERO BLVD	FORT MYERS BEACH	FL	33931
10462862 SUNSET CONDO	6400 ESTERO BLVD	FORT MYERS BEACH	FL	33931
10462863 ISLAND BREEZE CONDO	6151 ESTERO BLVD	FORT MYERS BEACH	FL	33931
10462868 RTJP INVESTMENTS INC	17 DORAL CT	MATTOON	IL	61938
10611100 SANTINI CROSS CANAL	2480 THOMPSON ST	FORT MYERS	FL	33901
10611101 SANTINI CROSS CANAL	2480 THOMPSON ST	FORT MYERS	FL	33901

GeoView Map



July 25, 2022

Air Photos: 2022 Hi-Res (4 inch)

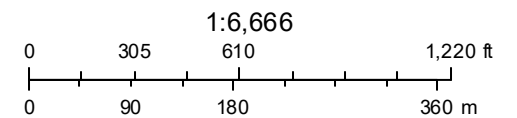
 Hospital Locations

 Library Locations

School Locations

 School Locations

 Police Locations



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Supplement PH-D

Additional Required Information for a Planned Development Application

This is the second part of a two-part application. This part requests specific information for a planned development rezoning or an amendment to an approved planned development. Include this form with the Request for Public Hearing form.

Fee in the amount of \$8000.00 up to 1 acre +1000.00 per additional acre
 \$2000.00 PD Amendment minor (< acre total property area)
 \$4000.00 PD Reinstatement or \$6500.00 PD Amendment

Project Name: Carousel Inn RPD - PD Amendment
Authorized Applicant: Matt Arminio, Managing Member
STRAP Number(s): 33-46-24-W3-00013.0030 and 33-46-24-W3-00013-0020

Current Property Status: Vacant/Under Construction and Hotel/Motel
Current Zoning: RPD
Future Land Use Map (FLUM) Category: Mixed Residential
Platted Overlay? ☐ yes, ☒ no FLUM Density Range: Max. 6 du/acre

Requested Action:

☐	DRI (with rezoning)
☐	Planned Development (also check below)
☐	Rezoning from: _____ to: _____
☒	Amendment to Master Concept Plan/attendant documentation

PART I Narrative Statements

A. Comprehensive Plan Amendments (check one)

☒	There are NO Comprehensive Plan Amendments pending that could affect the future use of this property.
☐	The following Comprehensive Plan Amendments ARE pending and could affect the future use of this property (list the amendment and give a brief explanation of its possible effect)

B. Phasing of Construction

☐	The development is to be constructed in a single phase.
☒	The development is to be constructed in phases as follows: (describe proposed phasing below)
Phase 1 - 4 units in Building 1	
Phase 2 - 8 units in Building 2	



Explain how the proposed development complies with applicable Goals, Objectives, and Policies of the Fort Myers Beach Comprehensive Plan.

[illegible]

For projects required to meet Commercial Design Standards, explain how the proposed development complies with the design standards set forth in LDC Sections 34-991 through 34-997.

[illegible]



Explain how the proposed development complies with the guidelines for decision-making embodied in LDC Section 34-85.

[illegible]

Provide a list of the requested deviations keyed to the Master Concept Plan and provide a written justification for each deviation. The location of each deviation should be indicated on the Master Concept Plan.

[illegible]



For amendments to an approved Master Concept Plan, indicate the specific amendments that could not be approved administratively as set forth in LDC Section 34-219.

[illegible]

All applications for a planned development must submit fourteen (14) copies of this application form and all applicable exhibits.

Public Hearing Request Form
Supplement Form PH-D
Master Concept Plan
Traffic Impact Statement
Architectural Elevations
Schedule of Uses
Fee in the amount of \$8000.00 up to 1 acre +1000.00 per additional acre
\$2000.00 PD Amendment minor (< acre total property area)
\$4000.00 PD Reinstatement or \$6500.00 PD Amendment

For DRI: A Binding letter of interpretation from DCA or a complete and sufficient ADA.

Guide to Filing Supplement PH-D for Planned Developments

Amendments Applications for amendments to an approved Master Concept Plan or its attendant documentation will require as much information as is needed to describe the changes requested, to specify the incremental change in impacts expected from the amendment, and to detail the changes in surrounding land uses that have occurred since the original application. Some amendments can be approved administratively as provided in LDC Section 34-219, but all other amendments must proceed through the public hearing process.

Through a pre-application meeting with Community Development staff, prospective applicants can determine whether proposed amendments will require a public hearing, and can request waivers from any submittal requirements that are not necessary to specify the changes requested.

All other planned developments All other applications must complete and submit the Request for Public Hearing and Supplement PH-D, along with all required documents. Refer also to the instructions for the Request for Public Hearing form.

Case Number will be inserted by Community Development staff.

Project Name must be the same as the name used on the Request for Public Hearing form.

Authorized Applicant must be the same as on the Request for Public Hearing form.

STRAP numbers must be the same as on the Request for Public Hearing form.

Current status of property must be the same as on the Request for Public Hearing form.

Requested Action: Indicate whether the request is a DRI (Development of Regional Impact) that requires rezoning, a Planned Development, or an amendment to a Planned Development.

Part 1 Narrative Statements:

Comprehensive Plan Amendments

If Comprehensive Plan Amendments are pending that might affect the future use of the property, explain the amendments' possible effects.

Construction Phasing

If the project is to be constructed in multiple phases, describe the ordering and timing of the proposed phasing. In the absence of a phasing plan, phasing of development would be governed by the limitations of LDC Section 34-220.

Comprehensive Plan Compliance

Explain how the proposed development complies with the Fort Myers Beach Comprehensive Plan. Address the Future Land Use Map category or categories applicable to the subject property and any other relevant policies.

Design Standards Compliance

For properties and/or projects as described in LDC Section 34-992, explain how the proposed development will comply with the standards in LDC Sections 34-991 through 34-997.

Decision-making compliance

Explain how the proposed development will comply with the standards for decision-making in LDC Section 34-85.

Schedule of deviations and written justification

Identify the deviations from the requirements of the Land Development Code that are requested for the proposed development and justify them in relation to the guidance in LDC Section 34-932(b).

Administrative amendments

If the request is for an amendment to a planned development, indicate which of the requested changes could not be approved administratively as allowed by LDC Section 34-219.

Part 2 Submittal Requirements

Public Hearing Application Form. Applications for rezoning, including Planned Developments and Planned Development amendments for which public hearing is required, consist of the Public Hearing form and the supplemental form PH-D. Both parts of the application form must be completed and submitted.

Master Concept Plan. The master concept plan consists of maps, graphic illustrations, and written statements concerning the development. Space has

been provided on this form for many of the required narrative statements, though they can be attached on separate sheets. A master concept plan must include the following required information:

- a. The general size, configuration, and location of each development phase, and a description of the phasing of construction, unless the development is to be constructed in a single phase.
- b. The maximum height of any proposed buildings or structures, using the Land Development Code's method of measuring building height (see LDC Section 34-631).
- c. Proposed principal and accessory uses, identified using the terminology employed in the Land Development Code. Employ the groupings of uses in Tables 34-1 and 34-2 of the Land Development Code, or specify individual uses if necessary.
- d. The density and intensity of the proposed uses, in terms of dwelling units by type, or through conversion factors for hotel/motel units. Provide gross square footages for types of commercial uses, and maximum Floor-Area Ratio.
- e. The minimum width and composition of proposed buffers along the perimeter of the property. References to the types of buffers required by LDC chapter 10 are acceptable.
- f. The location of any environmentally sensitive land and water, based on standard environmental data capable of verification by Town staff. Developments larger than one acre in size may require a protected species survey under LDC Section 10-473.
- g. The exact location of all points of vehicular ingress and egress from existing easements or rights-of-way into the development, with distances from other existing or planned rights-of-way or access points.
- h. Access and facilities for public transit, if applicable.
- i. The general location of stormwater management areas.
- j. The specific locations of requested deviations, including sample detail drawings illustrating their effects if applicable.
- k. The exact location of existing rights-of-way and easements, whether or not those easements are recorded.
- l. Proposed dedications, if any, including beach access, boat ramps, park or recreation areas, open space, or other easements.

Traffic Impact Statement. A traffic impact statement in the same format and to the same degree of detail required for development orders (LDC Section 10-286).

Architectural Elevations. Architectural elevations or three-dimensional renderings that show at minimum all building façades adjoining public streets. These drawings will serve for the sketch requirement of LDC Section 34-202(b)(5) as well. If aspects of the proposed design will not comply with the commercial design standards of LDC Sections 34-991 through 34-997 (if required), the applicant may request deviations from those standards.

Schedule of uses. A list of all proposed principal and accessory uses. Identify these uses by reference to the groups of uses in Tables 34-1 and 34-2 of the Land Development Code unless greater specificity is necessary. For amendments to planned developments that were approved under different regulations, the enumeration of uses in the schedule of uses supplied for the amendment must be specific enough to explain what uses were previously approved without future reference to prior regulations or approvals.



Carousel Inn Residential Planned Development (RPD)

Planned Development Amendment

Narrative of Request

Background & Request:

On June 18, 2018, the Fort Myers Beach Town Council unanimously adopted Ordinance No. 18-11 approving a Master Concept Plan (MCP) for a property located at 6230 and 6240 Estero Boulevard in Fort Myer Beach Florida that is partially zoned Residential Planned Development (RPD) (1.69+/- acres) and Environmentally Critical (EC) (2.50 +/- acres) to allow for a two-phased, 12-unit multifamily residential development with conditions and deviations.

The Neighborhood Company, on behalf of our client, Carousel Beach Redevelopment LLC, is submitting a Planned Development Amendment to request the following:

- To allow for the accessory use of decking on the rooftop to support an outdoor living/amenity area for unit owner(s) and their guests.

Utilizing the rooftop as an outdoor living/amenity area is a logical and appropriate request for this luxury residential redevelopment project currently under construction. It provides residents and their guests an outdoor element that will allow for experiencing views of the Gulf and town in a relaxed open air environment. This rooftop amenity area will consist of the following:

- Decorative decking,
- Sitting and lounging areas,
- Landscaping/landscape planters,
- Deck/patio umbrellas, shade sails/canopies, and/or pergola.
 - No shade or sail/canopy supports will extend above the decking by more than 10 feet.
- Fire pits and other patio/deck accessories,
- Specialized ambient and accent lighting, and
 - All lighting will be compliant with Town lighting regulations, specifically associated with Chapter 32, Article V – Sea Turtle Conservation.
- Architecturally integrated privacy walls between the outdoor living/amenity area and building infrastructure (AC units, etc.).



The following are not proposed for the rooftop outdoor living/amenity area:

- No commercial grade integrated amplified sound system.
- No outdoor kitchen or grill.
- No water features.
- No splash pool or whirlpool, and
- No bathroom.

A rendering of the rooftop outdoor living/amenity area is provided as Attachment A to this narrative.

Under the approved Master Concept Plan (MCP) per Ordinance No. 18-11, a list of Schedule of Uses is provided. The current Schedule of Uses identifies a variety of amenity accessory uses anticipated for the project, such as, patios, pool decks, cabanas, and screen enclosures to support the residential units. Using the rooftop as an amenity area was not previously anticipated. With the evolution and finalization of the building's architectural design and the sales interest for the luxury units, it was determined that providing for an accessory rooftop outdoor living/amenity area use is desired. To ensure this use is clearly identified as an accessory amenity to support the residential use, the Applicant is proposing to include "Rooftop Deck" as a permitted "Residential Accessory Uses (for occupants and guest only)."

There is no increase in density, allowed height or changes to the site development regulations associated with this request. Additionally, the approved Master Concept Plan under Ordinance No. 18-11 provides for approved deviations. Deviation #1, states,

REVISED DEVIATION FROM APPROVED DEVIATION LIMITATION IN RESOLUTION 05-10 OF 45 FEET ABFE WITH 3 STORIES OVER PARKING TO ALLOW FOR 4 STORIES OVER PARKING NOT TO EXCEED 45 FEET (AS MEASURED FROM BASE ELEVATION (BFE) TO THE TOP OF STRUCTURAL MEMBERS THAT SERVE AS THE CEILING FOR THE HIGHEST HABITABLE STORY OF THE BUILDING).

The building, as approved and under construction at this time, will remain consistent with the deviation language above and other applicable regulations for building height set forth under Ord. No. 20-19, "Building Height."



Included with this submittal are the proposed amended schedule of uses document and revised Master Concept Plan reflecting the proposed rooftop decking use. The proposed Master Concept Plan maintains the Council-approved density, approved interior square footage, and all other development standards.

LDC Section 34-217 – Effect of planned development zoning provides in sub-section (c):

(c) The terms and conditions of the planned development zoning approval (other than the master concept plan as set forth in §34-220 of this chapter) run with the land and remain effective in perpetuity or until a new zoning action is approved by the Town Council. All developments must remain in compliance with the terms and conditions of the zoning approval.

Based on this section, Resolution 18-11 remains valid and effective in perpetuity. All the findings made by the Town Council in Resolution 05-10 regarding consistency with the Town's Comprehensive Plan and consistency with LDC Section 34-85 - Rezoning, have been met, resulting in the approval remaining valid and in effect. The request for adding "Rooftop Deck" as an accessory use to the residential units under the existing approved Schedule of Uses does not raise any issues, pursuant to the Town's Comprehensive Plan, as the primary residential use remains consistent with Policy 4-B-4 – "Mixed Residential", nor the Land Development Code. A "Rooftop Deck", accessory to the residential uses as outlined, described above and visually rendered will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

LDC Section 34-214, which addresses amendments to a planned development. There are no newly constructed buildings built on-site. The building for Phase 1 has been permitted and is under construction at this time. No new deviations are proposed with this amendment. The proposed amendment is consistent with the current Land Development Code and uncodified ordinances.



DEVELOPED BY:
6240 HOLDINGS, LLC.
174 WEST STREET, #212
LITCHFIELD, CT 06759

[illegible]

RWA
ENGINEERING

Florida Certificates of Authorization EB 7663 LB 6952
6610 Willow Park Drive, Suite 200 | Naples, FL 34109
Office: 239.597.0575 Fax: (239) 597-0578
www.consult-rwa.com

CLIENT:	6240 HOLDINGS, LLC.
PROJECT:	CAROUSEL
TITLE	COVER SHEET

DATE: APR, 2018		DESIGNED: MCP	
SEC: TWP: RGE:	33 46 24E	DRAWN:	DW
PROJECT NO: 030020.01.P0			
SHEET NUMBER: 1 OF 6			

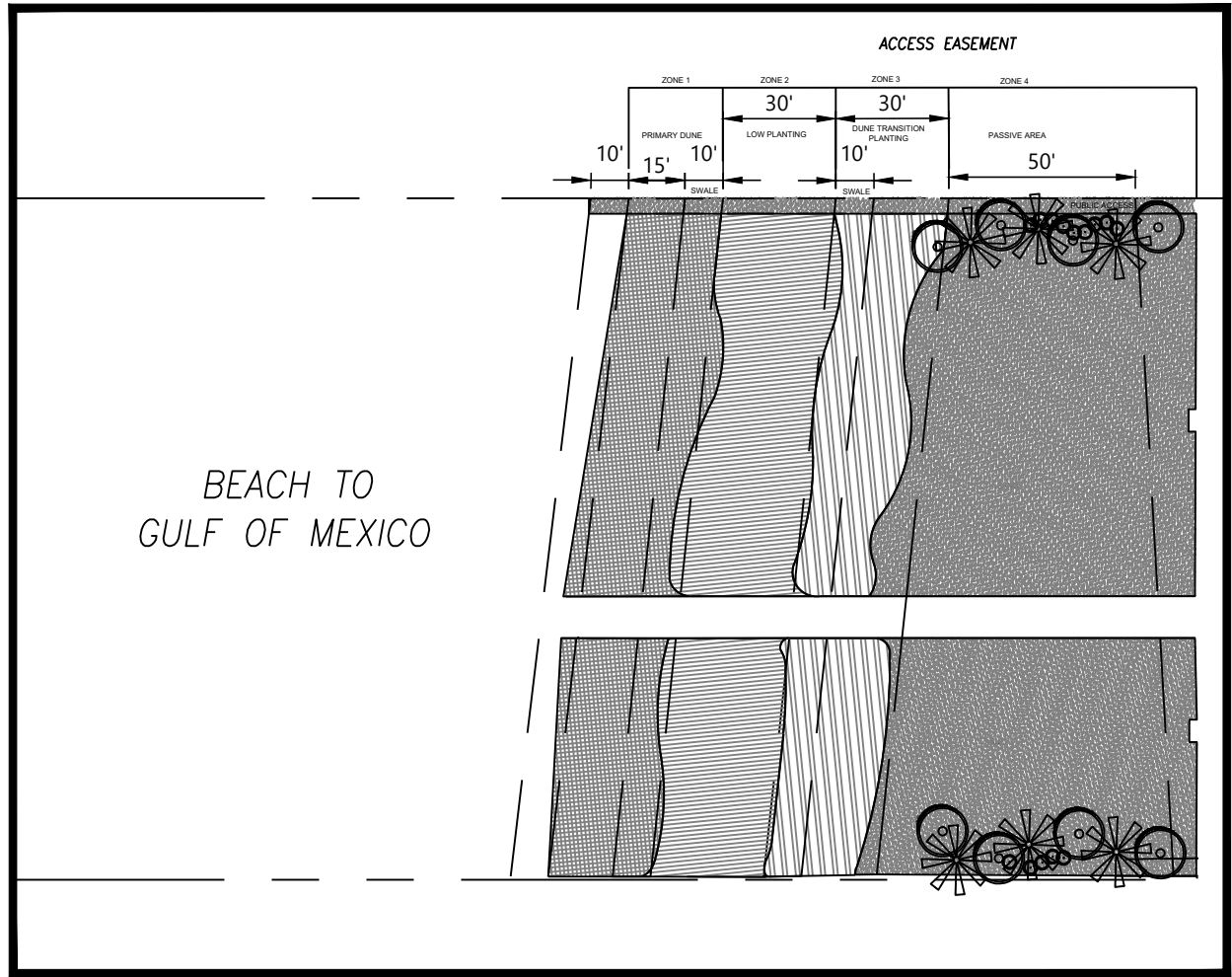
RESIDENTIAL
DWELLING UNIT, MULTIPLE FAMILY,
LIMITED TO 12 TOTAL UNITS (PHASE 1
MAXIMUM 4 UNITS; PHASE 2 MAXIMUM 8
UNITS)
RECREATION FACILITY, PRIVATE ON SITE

GARAGES (UNDER BUILDING)
 GAZEBO
 PATIO
 POOL DECK
 CABANA
 SCREEN ENCLOSURE (BALCONIES)
 FENCE
 WALLS
 DUMPSTER ENCLOSURE
 RECREATION FACILITIES (TOT-LOT)
 STORAGE SHED/MAINTENANCE STRUCTURE
 ROOFTOP DECK

RENTAL OF ANY PERMITTED DWELLING UNIT TO A SINGLE FAMILY FOR PERIODS OF ONE WEEK OR LONGER

ADMINISTRATIVE OFFICE
HOME OCCUPATION (NO OUTSIDE HELP)

BEACH ACCESS
ESSENTIAL SERVICES
HIDDEN PATH
ESSENTIAL SERVICE EQUIPMENT



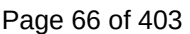
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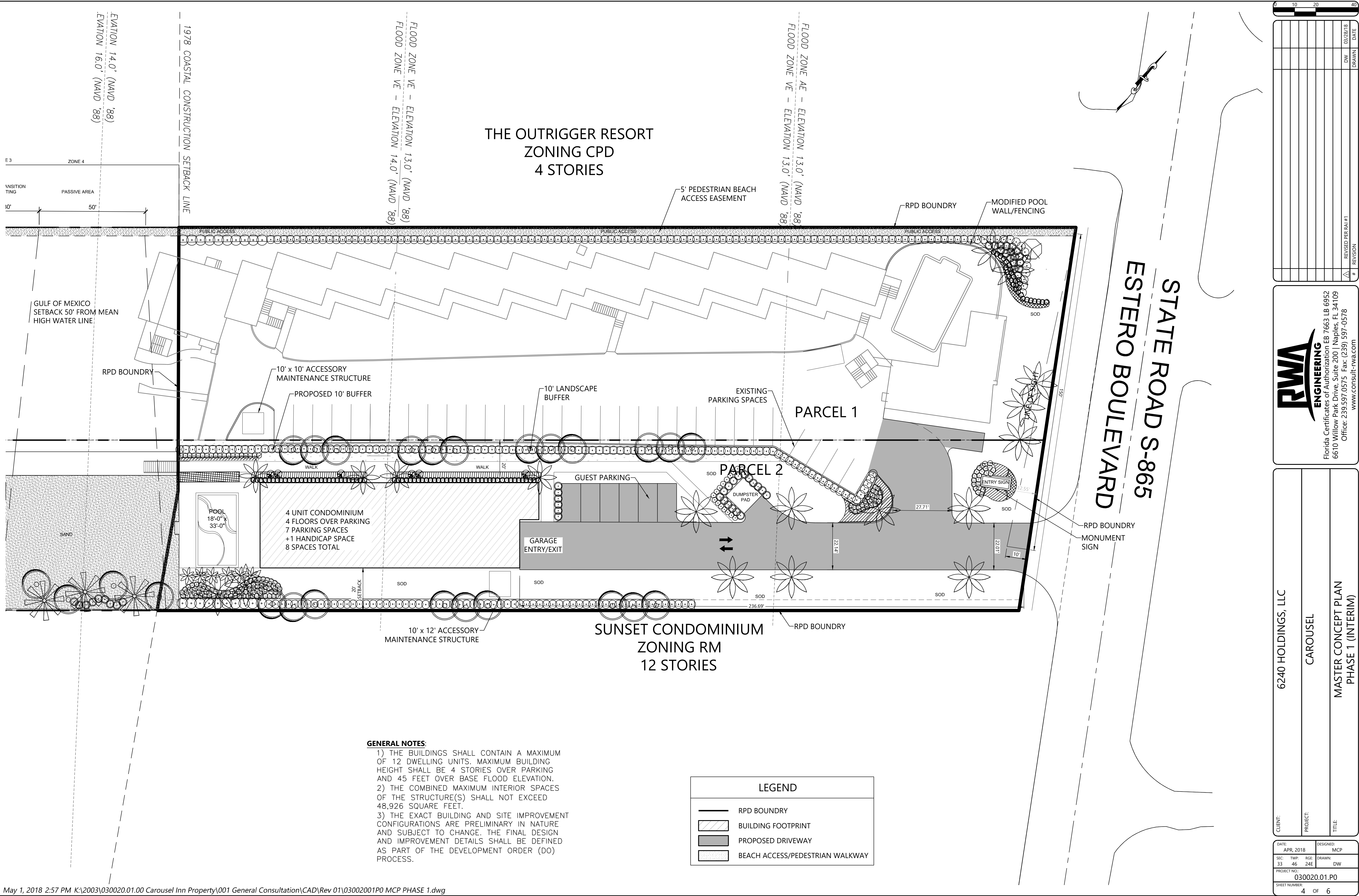
BEGINNING AT A POINT OF INTERSECTION OF A LINE 790 FEET (MEASURED ON A PERPENDICULAR) SOUTHEASTERLY FROM AND PARALLEL WITH THE SOUTHEASTERLY LINE OF BLOCK "I", UNIT 2, MCPHIE PARK SUBDIVISION, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN PLAT BOOK 8, PAGE 59, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, WITH THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF SAID STATE ROAD NO. 5-865 RUN SOUTHEASTERLY ALONG SAID RIGHT-OF-WAY LINE FOR 80.87 FEET TO AN INTERSECTION WITH A LINE 870 FEET SOUTHEASTERLY FROM AND PARALLEL WITH SAID SOUTHEASTERLY LINE OF BLOCK "I", UNIT 2, MCPHIE SUBDIVISION; THENCE RUN SOUTHWESTERLY ALONG SAID PARALLEL LINE TO THE WATERS OF THE GULF OF MEXICO; THENCE RUN NORTHWESTERLY ALONG SAID WATERS TO AN INTERSECTION WITH A LINE PARALLEL WITH SAID SOUTHEASTERLY LINE OF BLOCK "I", UNIT 2, MCPHIE PARK SUBDIVISION PASSING THROUGH THE POINT OF BEGINNING; THENCE RUN NORTHEASTERLY ALONG SAID PARALLEL LINE TO THE POINT OF BEGINNING; TOGETHER WITH ALL RIPARIAN RIGHTS APPURTENANT THERETO.

RWA
ENGINEERING

Florida Certificates of Authorization EB 7663 LB 6952
6610 Willow Park Drive, Suite 200 | Naples, FL 34109
Office: 239.597.0575 Fax: (239) 597-0578
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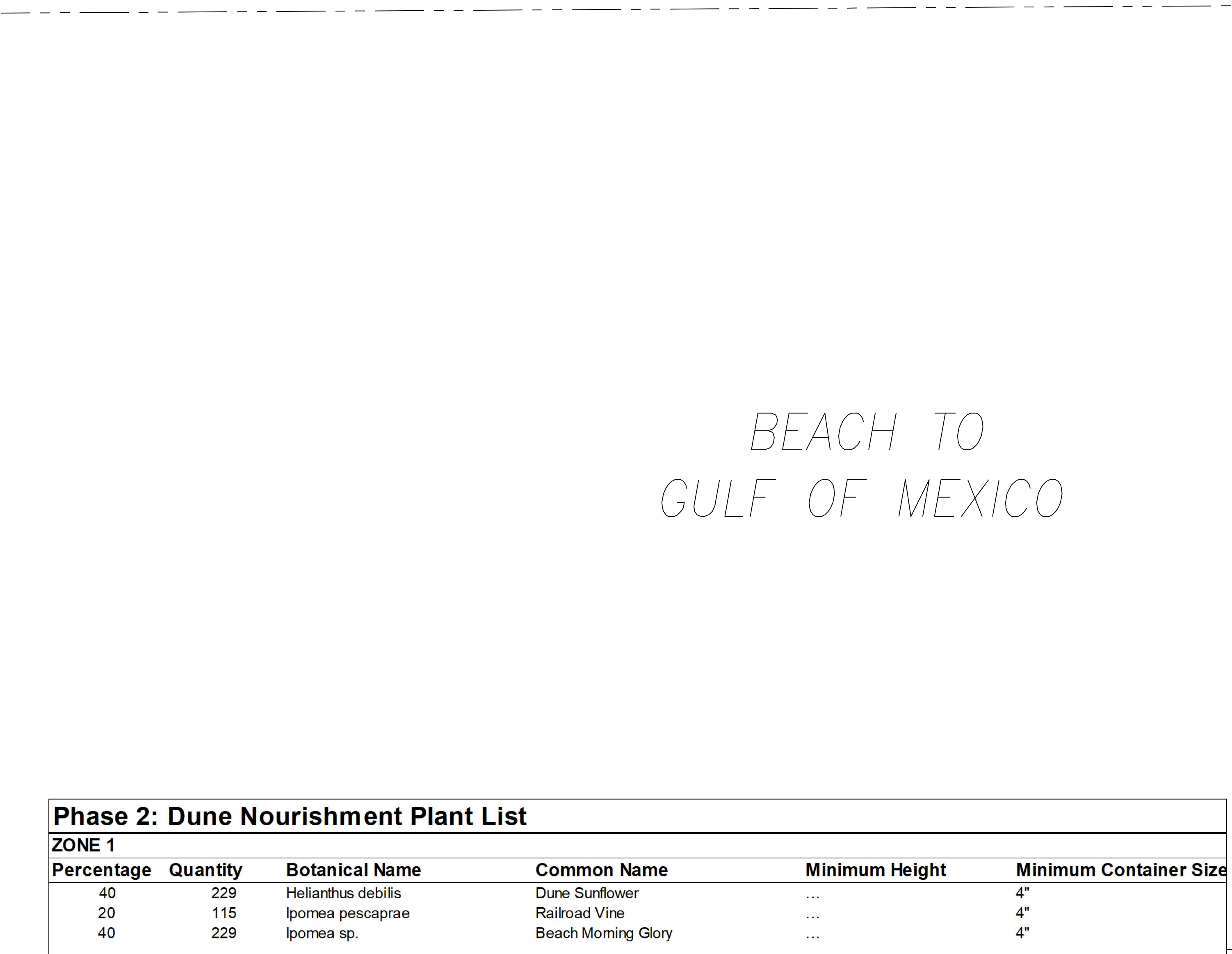
DATE: APR, 2018	DESIGNED: MCP
SEC: TWP: RGE: 33 46 24E	DRAWN: DLP
PROJECT NO.: 030020.01.P0	
SHEET NUMBER: 2 OF 6	

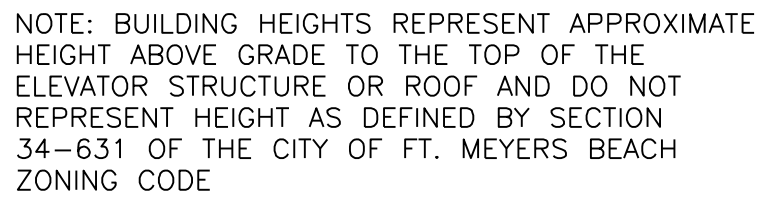




BEACH TO GULF OF MEXICO					
Phase 2: Dune Nourishment Plant List					
ZONE 1					
Percentage	Quantity	Botanical Name	Common Name	Minimum Height	Minimum Container Size
40	229	Helianthus debilis	Dune Sunflower	...	4"
20	115	Ipomea pescaprae	Railroad Vine	...	4"
40	229	Ipomea sp.	Beach Morning Glory	...	4"

1, 2018 2:57 PM K:\2003\030020.01.00 Carousel Inn Property\001 General Consultation\CAD\Rev 01\03002001P0 LP.dwg

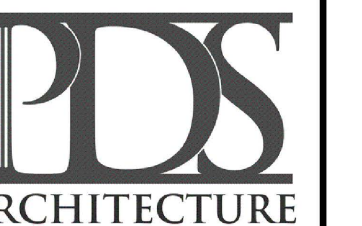




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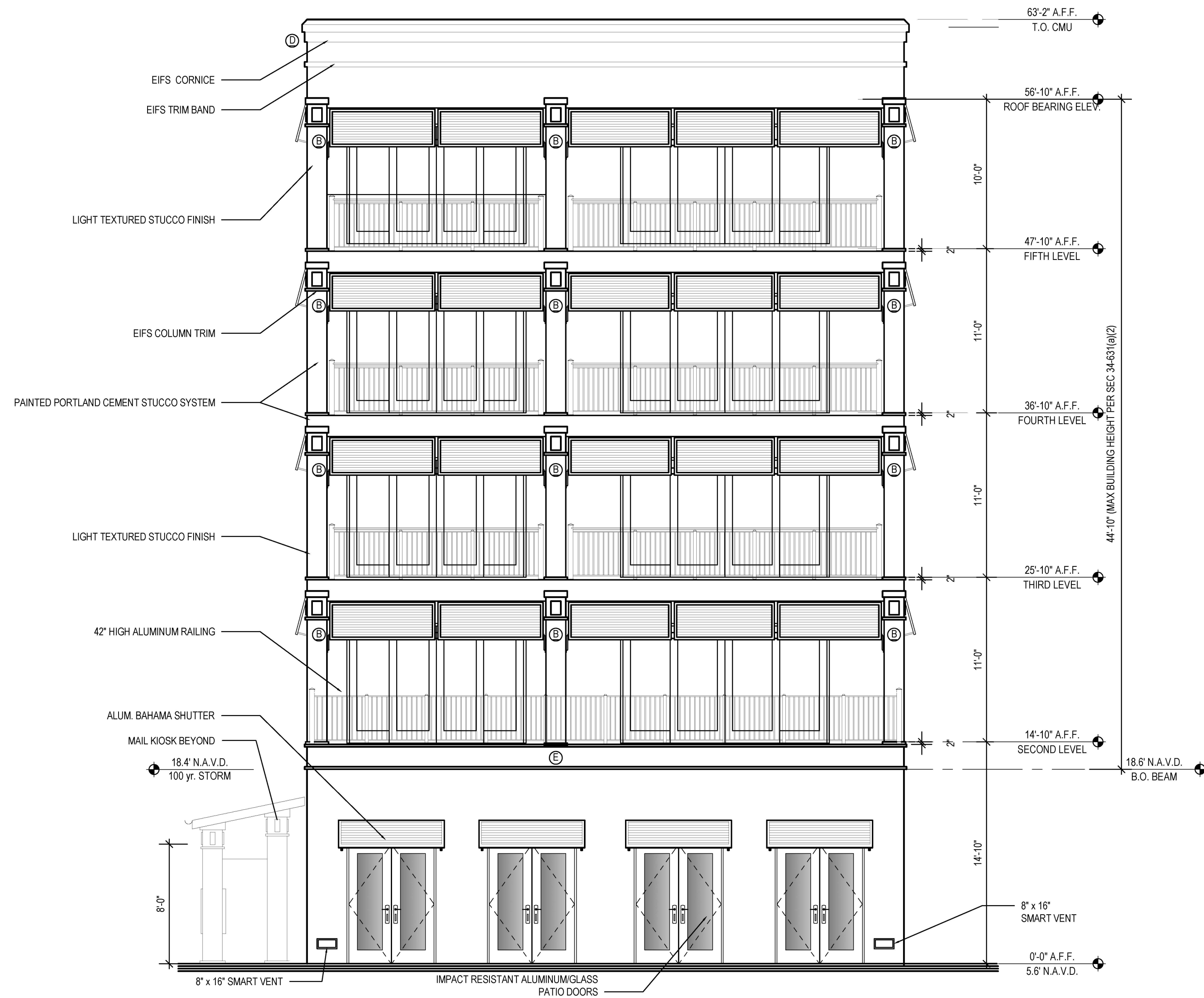
CONSTRUCTION DOCUMENTS FOR
GULFSIDE 6240 CONDOMINIUM
6230 ESTERO BLVD. FORT MYERS BEACH, FL
TDKL ENTERPRISES

PDS ARCHITECTURE INC.
PH: 239.437.8090
FX: 855.835.2733
INFO@PDSinonline.com
12800 UNIVERSITY DR. SUITE 402
FT MYERS, FL 33907
FL LICENSE # AA26002474



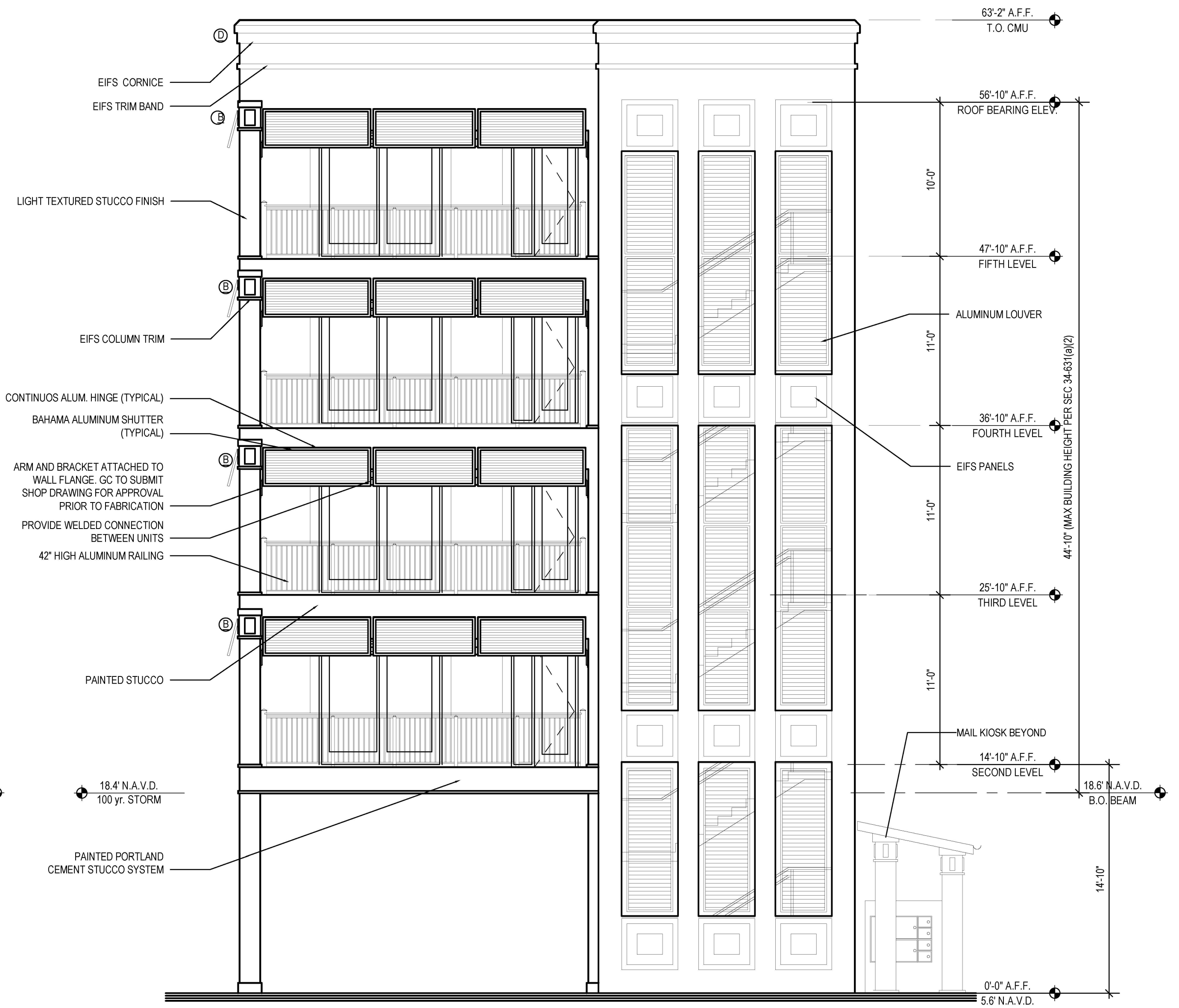
DATE:	11-23-21
TITLE:	ELEVATION

A4.1



SOUTH WEST ELEVATION

SCALE: 3/16" = 1'-0"



NORTHEAST ELEVATION
SCALE: 3/16" = 1'-0"

REVIEWED FOR COMPLIANCE WITH
THE FLORIDA BUILDING CODE



ROGER W. SANDERS - PX 651
ECS FLORIDA, LLC



Carousel Inn Residential Planned Development (RPD)
Planned Development Amendment
Schedule of Uses

Schedule of Uses

Residential

Dwelling units: multiple-family, limited to twelve (12)(Phase 1 maximum 4 units, Phase 2 maximum 8 units)

Storage Shed <100 sq. ft.

Recreation Facility, Private on -site

Residential Accessory Uses (for occupants and guests only)

Garages (under building) Gazebos

Patios

Pools (2)

Pool Deck(S)

Cabana

Screen Enclosure (balconies) Fence

Walls

Dumpster Enclosure

Tot lot

Rooftop Deck

Lodging

Rental of any permitted dwelling unit to a single family for periods of one week or longer

Office

Administrative Office (to support the Association)

Home Occupation (no outside help)

Civic

Public Beach Access

Essential Services

Hidden Path

Essential Service Equipment

**Town of Fort Myers Beach
Agenda Item Summary**

Yellow Sheet Number: **2023-891**

1. Requested Motion:

Meeting Date: January 18, 2023

Pink Shell CPD Amendment DCI 20220032-Amendment to the Pink Shell CPD to include Live-Aboard Vessels use

Why the action is necessary:

The request changes the uses in the CPD zoning district. LPA makes recommendations in use changes to zoning.

What the action accomplishes:

The action will allow the applicant to have live aboard vessels in the marina.

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

This will be an ordinance.

5. Background:

JABO LLC, owner of 200 and 275 Estero Blvd, Pink Shell, is requesting an amendment to the existing CPD, resolution 13-23 (Exhibit B), to allow the mooring of live aboard vessels at the existing docks, in compliance with the submerged land lease.

Attachments:

1. Staff Report live aboard only
2. Exhibit A Existing MCP
3. Exhibit B Resolution 13-23
4. Exhibit C Submerged land lease
5. Exhibit D DEP Compliance Inspection
6. Exhibit E Use List
7. Exhibit F Pink Shell Application
8. Exhibit G Request to Withdraw Mobile Food Unit
9. Exhibit H Postcards to Properties

Financial Impact:

unknown

6. Alternative Action

Recommend amendment or additional conditions or denial.

7. Staff Recommendations:

Recommend approval of request to Town Council.

8. Recommended Approval:

Jason Green, Community Development Services

Date: January 11, 2023

John R Herin Jr, Town Attorney

Date: January 12, 2023

Amy Baker, Town Clerk

Date: January 12, 2023



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT STAFF REPORT

TYPE OF CASE: Commercial Planned Development Amendment

CASE NUMBER: DCI Rezoning, 20220032

CASE NAME: 200 and 275 Estero Blvd, amend the existing Commercial Planned Development to allow live-aboard mooring slips at the marina

LPA

HEARING DATE: January 18, 2023 at 9:00 AM

STAFF

RECOMMENDATION: Approve with conditions

**PREPARED/
SUBMITTED BY:** Sarah Propst, AICP, PMP/ Jason Green AICP, CFM

I. APPLICATION SUMMARY

Applicant/Owner: JABO LLC, Bill Waichulis

Request: The applicant is requesting an amendment to the existing CPD to allow live-aboard vessels in association with the submerged land lease.

Subject property: Exhibit A – Adopted Master Concept Plan

Physical Address: 200 & 275 Estero Blvd

STRAP #: 24-46-23-W1-00700.0330, 24-46-23-W1-00700.0340 &
24-46-23-W1-00700.037A

FLU: Mixed Residential & Recreation

Zoning: Commercial Planned Development

Adjacent zoning and land uses:

North: Bay, Matanzas Pass

South:	ENVIRONMENTALLY CRITICAL (EC) Recreation
East:	COMMERCIAL PLANNED DEVELOPMENT (CPD) & COMMERCIAL RESORT (CR) Mixed Residential
West:	COMMERCIAL PLANNED DEVELOPMENT (CPD) Mixed Residential

II. BACKGROUND AND ANALYSIS

Background:

JABO LLC, owner of 200 and 275 Estero Blvd, Pink Shell, is requesting an amendment to the existing CPD, resolution 13-23 (Exhibit B), to allow the mooring of live aboard vessels at the existing docks, in compliance with the submerged land lease (Exhibit C).

The Pink Shell CPD has a long history, starting with the original rezoning in 1982 (Z-82-170). Staff was able to locate 15 resolutions adopted by Lee County and the Town of Fort Myers Beach, which enable the current development and uses. Because of the large number of resolutions adopted by the County and the Town and the myriad property descriptions and addresses, staff is recommending a condition that would require the applicant to provide a master ordinance that clarifies all associated addresses, parcel IDs, applicable conditions, uses, and deviations.

The existing approved CPD resolution allows the following uses:

Residential

Principal:

- Dwelling unit, single-family (one existing cottage only)
- Dwelling unit, two family (one existing cottage only)
- Dwelling unit, multi-family (92 existing units in White Sands Villas only)
- Group Quarters (See condition 6 Resolution 10-05¹)

Accessory:

- Residential accessory uses

Lodging

Principal:

- Hotel/motel (43 existing guest units in Captiva Villas only)
- Rental of any permitted dwelling unit for periods of one day or longer
- Resort
- Timeshare Units

Accessory:

- Resort accessory uses, including:
 - Parking
 - Rental of beach furniture and cabanas

Boat rental
Charter and tour boats
Personal watercraft operations office
Parasailing operations office
Sailing office
Docks for use by water taxi or water shuttle (See condition 7 Resolution 10-06²)
Meeting space
Kids camp and crafts
Signs
Business center

Subordinate commercial uses

Office

Principal:

NONE

Accessory:

Administrative Office

Home occupation (no outside help) Commercial accessory use

Retail

Principal:

Recreational facilities - commercial. in conjunction with a membership

Subordinate commercial uses including restaurant, personal services, retail store (small)

Accessory:

ATM

On-premises and package sale for off-premises consumption of alcoholic beverage

Marine

Principal:

NONE

Accessory:

Dock (for lease to non-occupants of the principal use)

Dock (for use by resort occupants)

Civic

Principal:

Beach or bay access

Essential services

Essential service equipment

Park, neighborhood

¹ Resolution 10-05, Condition 6. *Any lawfully existing dwelling unit, guest unit, or timeshare unit within the subject property may be used as group quarters for employee housing without regard for occupancy time limitations applicable to guests as set forth in LDC Section 34-1801(b)(4). Occupancy of group quarters is limited solely to bona fide employees of the Pink Shell Resort, including the*

businesses lawfully operating on the subject property in compliance with this zoning resolution and all other applicable regulations. Under no circumstances may occupancy of any dwelling unit, guest unit, or timeshare unit exceed the lawful occupancy established by applicable building, fire, and life-safety codes. If no building, fire, or life-safety code provisions are more restrictive, the number of occupants of any individual living unit used for group quarters must not exceed four adults, or one family, whichever is larger. The term "family" is defined in LDC Section 34-2, as may be amended from time to time.

² Resolution 10-06, Condition 7. *Boat rentals, charter boat, and tour boat operations and all other uses of leased submerged lands are limited in accordance with the most recent submerged land lease from the State of Florida (Recorded in Official Record Book 3718, Page 2242, Public Records of Lee County, Florida). A maximum of forty-one (41) boat slips currently are allowed by the state submerged land lease. Use of submerged land must comply with all applicable local, state, and federal regulations. No live-aboard uses are permitted. Cruise ships are prohibited as provided by LDC Sections 34-620(f). Dock structures located upon leased submerged lands adjacent to the subject property have existed since prior to the adoption of the Fort Myers Beach Comprehensive Plan and its Future Land Use Map. This amendment shall not be interpreted as a finding as to consistency or inconsistency of these docks, and/or their uses, the Mixed Residential Future Land Use Map category or any other provision of the Fort Myers Beach Comprehensive Plan. Any expansion of the uses of leased submerged lands adjacent to the subject property, including increase to the number of boat slips, and/or the number and/or size of charter boats and/or tour boats, will require an amendment to this planned development and its MCP through the public hearing process for zoning actions.*

Analysis:

The applicant proposes the removal of the prohibition on liveaboard boats at the existing docks. This prohibition is explained in the note ², above. The Pink Shell property has a submerged land lease for the docks and the prohibition on liveaboards was included in the original DEP Submerged Land Leases in the past. That prohibition was removed from the 2017 renewal and allowed 17 liveaboard slips, the 2022 approved modification to the DEP Submerged Land Lease, attached as Exhibit C, indicates that DEP has approved 39 designated boat slips for liveaboards.

A liveaboard is defined as a vessel docked at that facility and inhabited by a person or persons for any five consecutive days or a total of ten days within a thirty-day period. Per the DEP permit, in no event shall such liveaboards status exceed six months within any 12-month period, nor shall any such vessel constitute a legal or primary residence.

The existing docks, pump out facility and all state requirements are in compliance with the submerged land lease, as indicated by the attached DEP compliance inspection report (Exhibit D).

Neighborhood Compatibility:

The proposed addition of mooring slips for live-aboard vessels at the existing marina will be unlikely to negatively impact adjacent properties. In order to decrease the

likelihood that nearby residences are affected by additional noise that may be associated with a live-aboard guests, a condition has been added which would not allow live-aboard vessels to moor at the four slips numbered 4, 3, 2, and 1, which are closest to 309 Estero Boulevard.

Considerations, Findings and Conclusions:

LDC Sec. 34-85 and 34-216 sets forth the required findings and conclusions for the approval of a Planned Development Ordinance Amendment:

Sec. 34-85. Considerations. In reaching its decision, the town council shall consider the following, whenever applicable:

(1) Whether there exists an error or ambiguity which must be corrected.

There is no error or ambiguity regarding the allowed uses for this development.

(2) Whether there exist changed or changing conditions which make approval of the request appropriate.

- The submerged land lease has changed and now allows the mooring of live-aboard vessels and the marina facility meets all code requirements for live-aboard vessels.

(3) The impact of a proposed change on the intent of this chapter.

No impact beyond those experienced by the resort, are anticipated.

(4) The testimony of any applicant.

To be heard at the public hearing.

(5) The recommendation of staff and of the local planning agency.

Provided in this staff report and associated presentation.

(6) The testimony of the public.

To be heard at the public hearing.

(7) Whether the request is consistent with the goals, objectives, policies, and intent, and with the densities, intensities, and general uses as set forth in the Fort Myers Beach Comprehensive Plan.

This proposed amendment is consistent with the goals, objectives, policies and intent of the Comprehensive Plan.

(8) Whether the request meets or exceeds all performance and locational standards set forth for the proposed use.

The proposed uses meet or exceed all environmental quality and creation of nuisance performance standards and locational standards.

(9) Whether urban services are, or will be, available and adequate to serve a proposed land use change.

Urban services are available and adequate for these uses.

(10) Whether the request will protect, conserve, or preserve environmentally critical areas and natural resources.

The request will not cause any damage to the environment or natural resources.

(11) Whether the request will be compatible with existing or planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.

The proposed uses are compatible with existing uses and will not cause damage, nuisance or other detriment. To ensure no negative impacts from live-aboard vessels to adjacent properties, a condition has been included to disallow the mooring of live-aboard vessels nearest the residential properties to the west of the marina.

(12) Whether the location of the request places an undue burden upon existing transportation or other services and facilities and will be served by streets with the capacity to carry traffic generated by the development.

The proposed uses are not anticipated to have any effect on transportation facility capacity.

The request is in compliance with the Town of Fort Myers Beach Comprehensive Plan and Land Development Code.

Sec. 34-216. The recommendation made to the town council must be supported by the guidelines set forth in Sec. 34-85 of this chapter. In addition, the findings must address whether the following criteria can be satisfied:

a. The proposed use or mix of uses is appropriate at the subject location;

The live-aboard vessels will be at a facility that provides the necessary services for live-aboard vessels and will not be allowed near the residential property to the west.

b. Sufficient safeguards to the public interest are provided by the recommended special conditions to the concept plan or by other applicable regulations;

Conditions have been added to safeguard the public interest.

c. All recommended special conditions are reasonably related to the impacts on the public's interest created by or expected from the proposed development;

The proposed conditions are related to any noise concerns associated with the live-aboard use adjacent to residential properties.

d. The proposed use meets all specific requirements of the comprehensive plan that are relevant to the requested planned development, such as the following:

1. Policies 4-B-4 and 4-C-3 on commercial uses in the "mixed residential" category.

The proposed use is a minor modification to the existing resort use. The marina use is existing and live-aboard vessels will not be allowed closest to the Commercial Resort property to the east.

III. RECOMMENDATION

Staff finds that the amendment to the CPD meets the required findings and conclusions for the approval of a Planned Development Ordinance Amendment found in Sec. 34-85 and 34-216 of the land development code. Staff recommends approval of DCI20220032 to allow the live-aboard vessels at the Pink Shell Resort, with the attached conditions.

IV. CONDITIONS OF APPROVAL

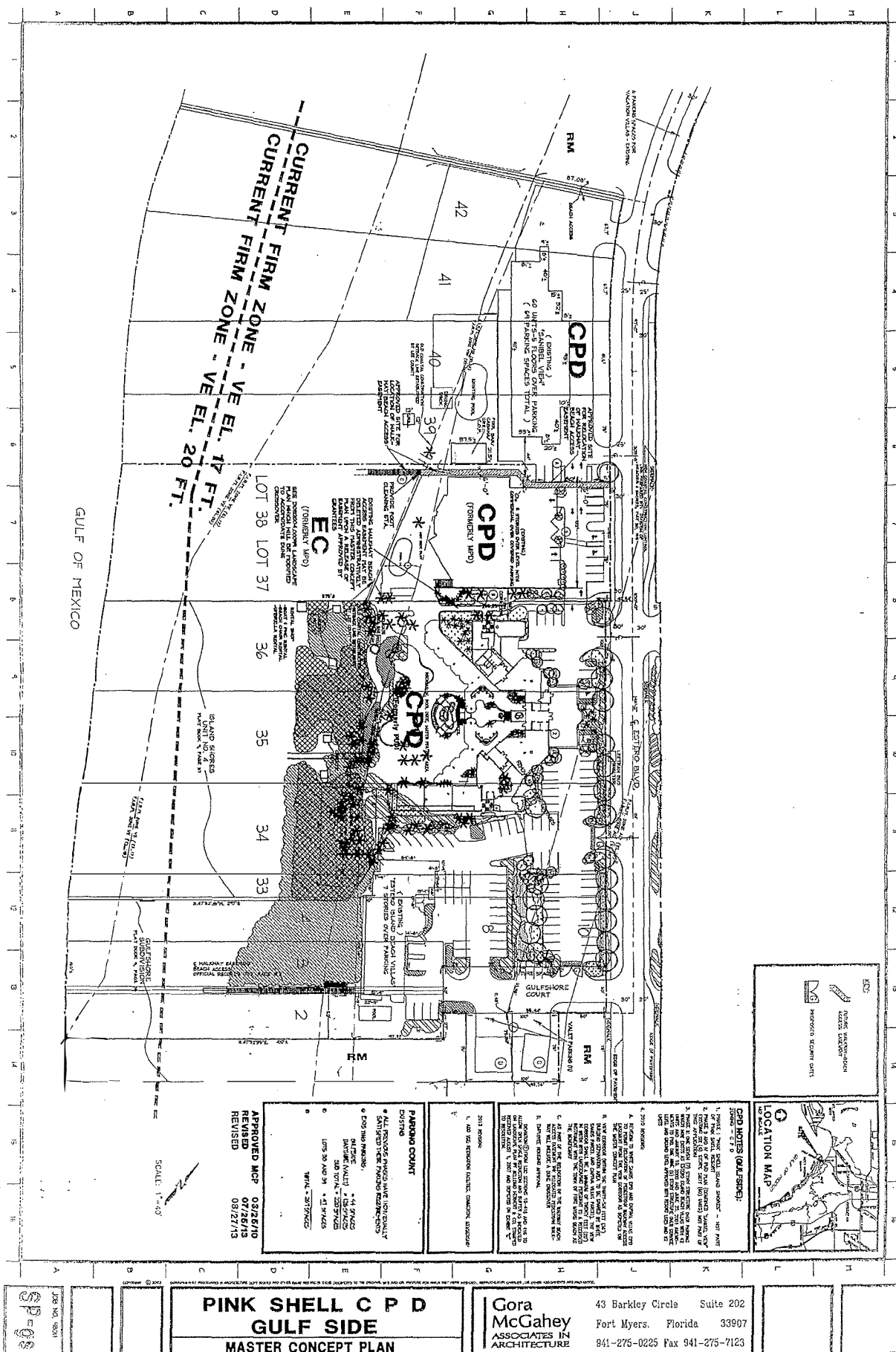
1. The terms and conditions of all previous resolutions shall continue in full force except as expressly altered by this amendment.
2. All development must be consistent with the Master Concept Plan (MCP) titled "Pink Shell CPD Gulf Side" or "Pink Shell CPD Bay Side" and marked with a revision date of August 27, 2013 attached as Exhibit A.
3. The approved schedule of uses are limited to those detailed on the attached Exhibit F.
4. (Condition 7 of Resolution 10-06, amended as follows) Boat rentals, charter boat, and tour boat operations and all other uses of leased submerged lands are limited in accordance with the most recent submerged land lease from the State of Florida (Recorded in Official Record Book 3718, Page 2242, Public Records of Lee County, Florida). A maximum of forty-one (41) boat slips currently are allowed by the state submerged land lease. Use of submerged land must comply with all applicable local, state, and federal regulations. ~~No live-aboard uses are permitted.~~ Cruise ships are prohibited as provided by LDC Section 34-620(f). Dock structures located upon leased submerged lands adjacent to the subject property have existed since prior to the adoption of the Fort Myers Beach Comprehensive Plan and its Future Land Use Map. This amendment shall not be interpreted as a finding as to consistency or inconsistency of these docks, and/or their uses, with the Mixed Residential Future Land Use Map category or any other provision of the Fort Myers Beach Comprehensive Plan. Any expansion to the uses of leased submerged lands adjacent to the subject property, including increase to the number of boat slips, and/or the number and/or size of charter boats and/or tour boats, will require an amendment to this planned development and its MCP through the public hearing process for zoning actions.
5. Slip numbers 1, 2, 3 and 4 may not be used as live-aboard vessel mooring slips as long as 309 Estero Blvd is under separate ownership from JABO LLC.
6. The applicant must coordinate the clarification of the existing CPD ownership, addresses and parcel IDs, conditions and deviations to clarify which properties are included and which are excluded from the regulations created by the multiple ordinances bearing the Pink Shell Resort name, starting with Z-82-170. The applicant shall create a new master ordinance that contains all approved uses for each property that has been included in Pink Shell rezonings and amendments, clarifying any properties that have been withdrawn from the CPD.

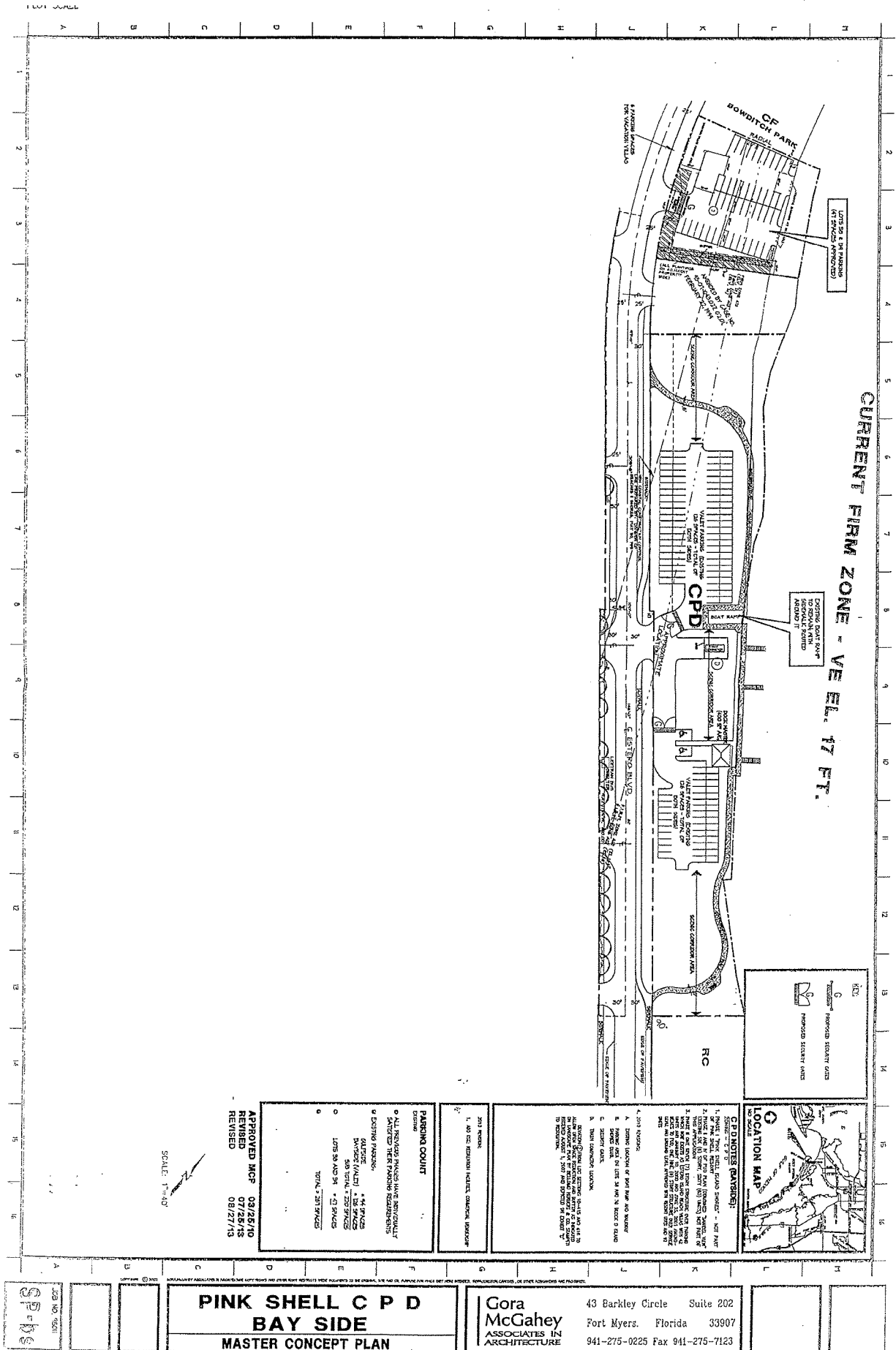
V. APPROVED DEVIATIONS

No deviations have been requested associated with this amendment. All previously approved deviations apply.

Staff Report Exhibits:

- A – Approved Master Concept Plan
- B – Resolution 13-23
- C – Submerged Land Lease
- D – DEP Compliance Inspection
- E – List of Uses
- F – Application Documents
- G – Request to withdraw mobile food unit use
- H – Postcards to Adjacent Properties





**PINK SHELL C P D
BAY SIDE
MASTER CONCEPT PLAN**

**Gora
McGahey
ASSOCIATES IN
ARCHITECTURE**

43 Barkley Circle Suite 202
Fort Myers, Florida 33907
941-275-0225 Fax 941-275-7123

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH FLORIDA
RESOLUTION NUMBER 13-23
DCI2013-0002 Pink Shell CPD Amendment

WHEREAS, Beverly Grady, Esq., authorized agent for New Pink Shell, LLC, owner of property located at 171-191, 200, 251-281 & 275/322 Estero Boulevard Fort Myers Beach, Florida has requested an amendment to the existing CPD, known as the Pink Shell CPD, to add 'Recreation, Commercial with membership' to the approved schedule of uses and allow the use of the parking areas on Lots 38 & 39 for parking for employees, guests and members; and

WHEREAS, the subject property is located in both the Mixed Residential and Recreation Future Land Use Category of the Comprehensive Plan of the Town of Fort Myers Beach; and

WHEREAS, the STRAP numbers are 24-46-23-W1-00700.0320, 24-46-23-W1-00700.0330, 24-46-23-W1-00700.0290, 24-46-23-W1-00700.0340, 24-46-23-W1-00700.037A; and

WHEREAS, the legal description for the subject property is attached as *Exhibit A*; and

WHEREAS, a public hearing on this matter was legally advertised and held before the Local Planning Agency (LPA) on September 17, 2013; and

WHEREAS, at the hearing the LPA gave full and complete consideration to the request of Applicant, recommendations of staff, the documents in the file, and the testimony of all interested persons, as required by Fort Myers Beach Land Development Code (LDC) Section 34-212.

WHEREAS, a public hearing on this matter was legally advertised and held before the Town Council on October 21, 2013, at which time the Town Council gave full and complete consideration to the request of Applicant, LPA Resolution 2013-013, the recommendations of Staff, the documents in the file, and the testimony of all interested persons, as required by Fort Myers Beach Land Development Code (LDC) Section 34-212.

IT IS HEREBY RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, as follows:

Based upon the presentations by the applicant, staff, and other interested persons at the hearing, and review of the application, LPA Resolution 2013-013 and the standards for granting variances, the Town Council makes the following findings of fact, and reaches the following conclusions:

The Town Council **APPROVES** the applicant's request for an amendment to an existing Commercial Planned Development to add 'Recreation, Commercial with membership' to the approved schedule of uses and enable the use of the parking areas on Lots 38 & 39 for parking for employees, guests and members subject to the following conditions:

CONDITIONS OF APPROVAL

1. *The terms and conditions of all previous resolutions shall continue in full force except as expressly altered by this amendment.*
2. *All development must be consistent with the Master Concept Plan (MCP) titled "Pink Shell CPD Gulf Side" or "Pink Shell CPD Bay Side" and marked with a revision date of August 27, 2013 attached as Exhibit B.*

3. *The definition of 'Recreational, Commercial with membership' will be as follows: Includes but not limited to resort accessory uses, subordinate commercial uses including food and beverage services, personal services, fitness facility, pools, beach access and docks.*
4. *The approved schedule of uses are limited to those detailed on the attached Exhibit G*
5. *The total number of commercial memberships is not to exceed 350.*

APPROVED DEVIATIONS

All previously approved deviations have been consolidated into one document, attached as *Exhibit F*.

FINDINGS AND CONCLUSIONS

Based upon an analysis of the application and the standards for approval of a planned development rezoning found in Section 34-85 and 34-216 of the LDC, LPA recommends that the Town Council make the following findings and conclusions:

1. *Whether there exists an error or ambiguity which must be corrected.*
No error or ambiguity exists on the subject property; the application is to request amendments to the approved schedule of uses to allow 'Recreation, Commercial with membership' and to allow parking for employees, guests and members on Lots 38 & 39. (see *Exhibit B* for the Master Concept Plan). **APPROVE**
2. *Whether there exist changed or changing conditions which make approval of the request appropriate.*
The applicant is requesting a change in the existing schedule of uses for the Pink Shell Resort. This request change the conditions of the approved CPD requires an amendment to the CPD. The applicant suggests that additions of 'Recreation, Commercial with membership' and modifications to parking on Lots 38 & 39 will not result in any negative impacts and will operate essentially in the same manner as currently exists on the subject property. However, Staff remains concerned about the undefined number of memberships and the total number of parking spaces provided. **APPROVE**
3. *The impact of a proposed change on the intent of this chapter.*
The proposed amendment to the CPD will implement the provisions found in Section 34-214, procedure for amending planned developments. The application and request, therefore, are consistent with the provisions found within Chapter 34 of the Land Development Code. **APPROVE**
4. *Whether the request is consistent with the goals, objectives, policies, and intent, and with the densities, intensities, and general uses as set forth in the Fort Myers Beach Comprehensive Plan.*
As discussed in the analysis section of this report, the requested amendment is consistent with the Comprehensive Plan, particularly with the provisions within both the Recreation and Mixed Residential future land use categories that require commercial zoning changes to comply with the planned development zoning process. **APPROVE**
5. *Whether the request meets or exceeds all performance and locational standards set forth for the proposed use.*
The request to amend the CPD for the Pink Shell Resort to include 'Recreation, Commercial with membership' ad to modify allowable parking on Lots 38 & 39 generally meets all performance and locational standards for the proposed uses. No new structures or

substantial improvements are proposed, nor are any deviations from LDC regulations requested. **APPROVE**

6. *Whether urban services are, or will be, available and adequate to serve a proposed land use change.*

The applicant has indicated that urban services are available and adequate to serve the proposed changes. **APPROVE**

7. *Whether the request will protect, conserve, or preserve environmentally critical areas and natural resources.*

The request to amend the schedule of uses and modify parking will have no impact on environmentally critical areas or natural resources. However, any lighting visible from the beach and/or included on any future plans development order plans will be required to meet all applicable environmental codes including, but not limited to, Sea Turtle lighting requirement as found in LDC Section 14-79. **APPROVE**

8. *Whether the request will be compatible with existing or planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.*

The request to amend the CPD for the Pink Shell Resort to include 'Recreation, Commercial with membership' and to modify allowable parking on Lots 38 & 39 is compatible with surrounding uses. The applicant is not requesting any new uses just the ability to offer the recreation facilities already existing on the subject property on a commercial membership level. This is compatible with existing or planned uses and will not cause damage, hazard, nuisance, or other detriment to persons or property. **APPROVE**

9. *Whether the location of the request places an undue burden upon existing transportation or other services and facilities and will be served by streets with the capacity to carry traffic generated by the development.*

The existing trolley stop and sidewalk from the resort to the trolley stop is consistent with the standards set forth in LDC Section 10-442. **APPROVE**

The foregoing Resolution was adopted by the Town Council upon a motion by Vice Mayor Kosinski and seconded by Council Member List, and upon being put to a vote, the result was as follows:

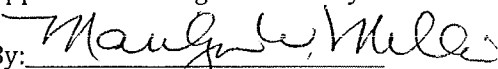
Alan Mandel, Mayor	AYE
Jo List	AYE
Dan Andre	AYE

Joe Kosinski, Vice Mayor	AYE
Bob Raymond	AYE

DULY PASSED AND ADOPTED THIS **21st** day of **OCTOBER, 2013**.

By: 
Alan Mandel, Mayor

Approved as to legal sufficiency:

By: 
Fowler White Boggs, P.A.
Town Attorney

ATTEST:

By: 
Michelle Mayher
Town Clerk

EXHIBIT A

LEGAL DESCRIPTION:

A TRACT OR PARCEL OF LAND LYING IN SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

LOTS 2,3,4,5,6,8,9 AND 10 OF GULFSHORE, A SUBDIVISION AS RECORDED IN PLAT BOOK 9, PAGE 88, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA;

LOTS 34,35, AND 36 AND NORTHWESTERLY 25 FEET OF LOT 33 OF UNIT NO. 4, ISLAND SHORES, A SUBDIVISION AS RECORDED IN PLAT BOOK 9, PAGE 37, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

LOTS 29 THROUGH 32 AND THE NORTHWEST 1/2 OF LOT 28, OF BLOCK "D", UNIT NO. 4, ISLAND SHORES, A SUBDIVISION AS RECORDED IN PLAT BOOK 9, PAGE 37 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA. LOTS 33,34,35,36,38 AND 39, BLOCK "D", ISLAND SHORES CLUB SECTION, A SUBDIVISION, AS RECORDED IN PLAT BOOK 9, PAGE 41 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

LOTS 37 THROUGH 42 OF ISLAND SHORES CLUB SECTION, A SUBDIVISION AS RECORDED IN PLAT BOOK 9, PAGE 41 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

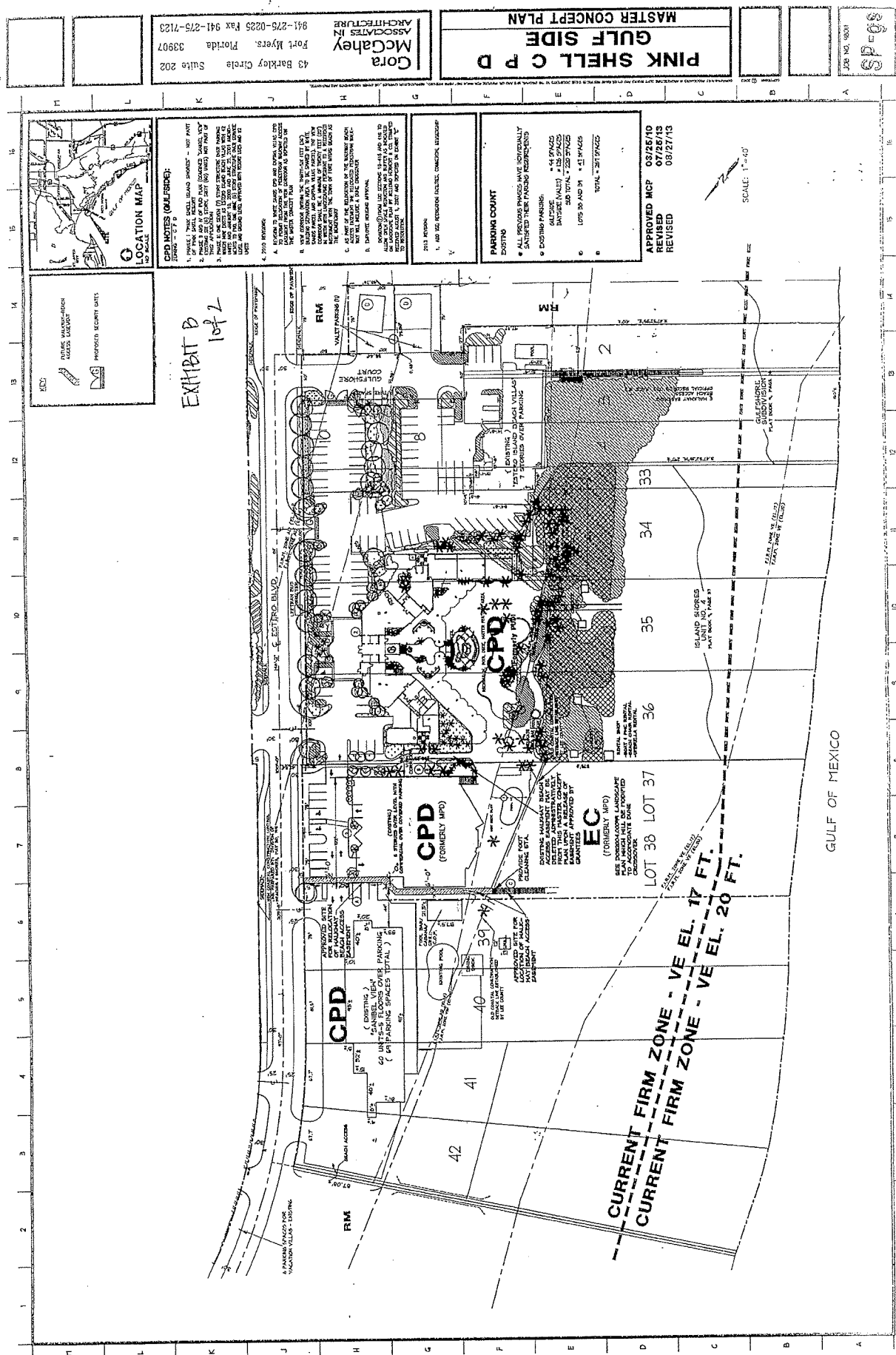
LESS ANY PORTION THEREOF LYING BELOW THE MEAN HIGH TIDE LINE OF THE MANTANZAS PASS AND THE EROSION CONTROL LINE OF THE GULF OF MEXICO.

LESS AND EXCEPT THE FOLLOWING:

A TRACT OR PARCEL OF LAND LYING IN SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA ALSO BEING PART OF LOTS 2,3,4,8 AND 9 OF GULFSHORE SUBDIVISION, PLAT BOOK 9, PAGE 88 ALSO PART OF LOTS 33 AND 34 OF ISLAND SHORES UNIT NO. 4, PLAT BOOK 9, PAGE 37 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA WHICH IS DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEASTERLY CORNER OF LOT 2 OF SAID GULFSHORE SUBDIVISION; THENCE N.42°07'25"W. FOR 77.00 FEET ALONG THE SOUTHWESTERLY RIGHT OF WAY OF GULFSHORE COURT; THENCE N.47°52'35"E. FOR 76.76 FEET ALONG THE NORTHWESTERLY RIGHT OF WAY OF GULFSHORE COURT; THENCE N.42°07'25"W. FOR 24.00 FEET; THENCE S.47°52'35"W. FOR 2.50 FEET; THENCE N.42°07'25"W. FOR 43.54 FEET; THENCE N.47°52'35"E. FOR 2.50 FEET; THENCE N.42°07'25"W. FOR 50.00 FEET; THENCE N.40°31'28"E. FOR 14.49 FEET; THENCE N.50°19'25"W. FOR 27.57 FEET; THENCE N.59°22'01"W. FOR 20.23 FEET; THENCE S.39°40'35"W. FOR 31.50 FEET; THENCE S.59°17'28"E. FOR 2.30 FEET; THENCE S.30°21'33"W. FOR 15.24 FEET; THENCE N.58°42'37"W. FOR 3.31 FEET; THENCE S.29°58'13"W. FOR 29.45 FEET; THENCE S.48°42'33"W. FOR 77.19 FEET; THENCE S.40°09'10"E. FOR 31.53 FEET; THENCE S.07°36'21"E. FOR 57.08 FEET; THENCE S.47°52'35"W. FOR 233.95 FEET TO A POINT ON THE EROSION CONTROL LINE AS RECORDED IN PLAT BOOK 70, PAGE 25 OF THE PUBLIC RECORDS OF LEE, COUNTY, FLORIDA; THENCE S.34°48'21"E. ALONG SAID EROSION CONTROL LINE FOR 40.76 FEET; THENCE S.37°26'30"E. FOR 108.35 FEET TO THE SOUTHEREASTERLY LINE OF SAID LOT 2; THENCE N.47°52'35"E. ALONG SAID SOUTHEASTERLY LINE FOR 351.39 FEET TO THE POINT OF BEGINNING.

ALSO LESS AND EXCEPT SANIBEL VIEW VILLAS, A CONDOMINIUM AS RECORDED IN O.R. 3559, PAGE 222 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA AND WHITE SAND VILLAS, A CONDOMINIUM AS RECORDED IN O.R. 4203, PAGE 2100 OF SAID PUBLIC RECORDS.



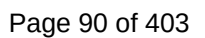


EXHIBIT F

Deviations – 2001 Captiva Villas – Resolution 01-26

1. Deviation from LDC Section 34-940 which requires Mixed Use Planned Developments to have at least 300 or more dwelling units and either 100,000 square feet of commercial floor area or be located on a parcel of 10 or more acres, to allow the requested intensities.
2. Deviation from LDC Section 34-935e(4) which requires buildings be separated a distance of one-half the sum of the building heights, to allow separation of 36 feet instead of 82 feet, and to allow a separation 44 feet instead of 59 feet.
3. Deviation from LDC Section 34-802 to allow hotel units with a maximum of 750 square feet and 1300 square feet. At least 14 of the 43 units are limited to a maximum of 750 square feet. In no case will the total area of the 43 units exceed 28,219 square feet.
4. Deviation from LDC Section 34-2175 which states buildings may not exceed 25 feet in height above base flood elevation to allow a building 83 feet in height above base flood elevation. No more than 7 floors over one ground floor of parking only will be developed.
5. Deviation from Land Development Code 34-2017(a) which requires parking lot aisles and spaces have a paved, dust free, all weather surface, to allow an unpaved surface (no parking lots with the following conditions:
 1. The alternative parking surface must be a stabilized surface of clean (washed) angular gravel or other similar porous material over a well-drained base. The surface will be continually maintained in a dust free manner. Stabilization may be accomplished by turf blocks or proprietary cellular or modular porous paving systems installed in accordance with manufacturer's specifications.
 2. The disabled parking spaces must be provided with a smooth surface without gaps or holes which would create a danger to the user.
 3. Parking stripes will not be required on the alternative surface, however, parking bumpers must be used to identify the required number of parking spaces.

B. DEVIATIONS – 2010 Gulfside – Resolution 10-05

Deviation #1. Withdrawn

Deviation #2. Deviation from LDC Sections 10-415 and 10-416 is to allow open space reduction and buffer reductions as indicated on the Landscape Plan prepared by Bellomo Herbert & Co. for case numbers DC12006-0001 and DC12006-0002, stamped received August 1, 2007. This request for a deviation was partially withdrawn by the applicant on September 25, 2009. The

Exhibit B - Ordinance 13-23 (8 of 9)

remaining reductions in required buffers and open space are depicted on the attached "Exhibit C". Town Council APPROVES Deviation #2.

B. DEVIATIONS – 2010 Bayside – Resolution 10-06

Deviation #1. Withdrawn

Deviation #2. Deviation from LDC Sections 10-415 and 10-416 is to allow open space reduction and buffer reductions as indicated on the Landscape Plan prepared by Bellomo Herbert & Co. for case numbers DC12006-0001 and DC12006-0002, stamped received August 1, 2007. This request for a deviation was partially withdrawn by the applicant on September 25, 2009. The remaining reductions in required buffers and open space are depicted on the attached "Exhibit C". The Town Council states that its approval does not include the requested 16-foot-wide opening in the buffer along the Estero Boulevard right-a-way for access to the proposed trash compacter. Town Council APPROVES deviation #2 as modified.

EXHIBIT 4

SCHEDULE OF USES
(Underling depicts new uses)

Residential

Principal:

Dwelling unit, single-family (one existing cottage only)
Dwelling unit, two family (on existing cottage only)
Dwelling unit, multi-family (92 existing units in White Sands Villas only)
Group Quarters (See condition 6 Resolution 10-05)

Accessory:

Residential accessory uses

Lodging

Principal:

Hotel/motel (43 existing guest units in Captiva Villas only)
Rental of any permitted dwelling unit for periods of one day or longer
Resort
Timeshare units

Accessory:

Resort accessory uses, including:

Parking
Rental of beach furniture and cabanas
Boat rental
Charter and tour boats
Personal watercraft operations office
Parasailing operations office
Sailing office
Docks for use by water taxi or water shuttle (See Condition 7 Resolution 10-06)
Meeting space
Kids camp and crafts
Signs
Business center
Subordinate commercial uses

Office

Principal:

NONE

Accessory:

Administrative Office
Home occupation (no outside help)
Commercial accessory uses

Retail

Principal:

Recreational facilities – commercial, in conjunction with a membership*
Subordinate commercial uses including restaurant, personal services, retail store (small)

Accessory:

ATM
On-premises and package sale for off-premise consumption of alcoholic beverages

Marine

Principal:

NONE

Accessory:

Dock (for lease to non-occupants of the principal use)
Dock (for use by resort occupants)

Civic

Principal:

Beach or bay access
Essential services
Essential service equipment
Park, neighborhood

**Document Type: Current Submerged Land Lease
[CSL Coversheet]**

DM ID# _____

Instrument Desc.	RENEWAL		
Lease #	360010245		
Permit Application #	36-0185701-005 & 36-0185701-006		
Document Date	11/30/2017		
Water Body	ESTERO PASS / MATANZAS PASS		
Original County	LEE		
Section(s)	24		
Township(s)	46S		
Range(s)	23E		
Total Area	2.55	Area Unit	(A) Acre(s)
Recording County	B:	P:	O
Recording County Instrument #			I
Lessee	JABO LLC		
Comments:			

Date prepped:
3/19/2019

Electronic images provided by the Bureau of Public Land Administration (BPLA). The information on this page was collected during the prep phase of scanning and is an aid for data entry. Please refer to the document for actual information.



FLORIDA DEPARTMENT OF Environmental Protection

Marjory Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, FL 32399

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Noah Valenstein
Secretary

MEMORANDUM

TO: TITLE & LAND RECORD FILE
FROM: KAREN McMILLAN, PLANNING MANAGER
SUBJECT: PAPERLESS INITIATIVE
DATE: 3/22/2019

All backup documentation may not have been included in the transmittal of this document or file. If any other information is needed, please contact the following people:

NAME:		BUREAU	
Celeda Wallace		BPLA	
Cheryl McCall		BPLA	

This Instrument Prepared By:
Celeda Wallace
Action No. 33753
Bureau of Public Land Administration
3900 Commonwealth Boulevard
Mail Station No. 125
Tallahassee, Florida 32399

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND
OF THE STATE OF FLORIDA

SOVEREIGNTY SUBMERGED LANDS LEASE RENEWAL

BOT FILE NO. 360010245

THIS LEASE is hereby issued by the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida, hereinafter referred to as the Lessor.

WITNESSETH: That for and in consideration of payment of the annual lease fees hereinafter provided and the faithful and timely performance of and compliance with all terms and conditions stated herein, the Lessor does hereby lease to Jabo LLC, a Delaware limited liability company, hereinafter referred to as the Lessee, the sovereignty lands described as follows:

A parcel of sovereignty submerged land in Section 24, Township 46 South, Range 23 East, in Matanzas Pass, Lee County, Florida, containing 111,144 square feet, more or less, as is more particularly described and shown on Attachment A, dated March 29, 2012.

TO HAVE THE USE OF the hereinabove described premises from June 27, 2017, the effective date of this lease renewal, through June 27, 2022, the expiration date of this lease renewal. The terms and conditions on and for which this lease renewal is granted are as follows:

1. **USE OF PROPERTY:** The Lessee is hereby authorized to operate a 41-slip commercial docking facility and a boat ramp to be used exclusively for mooring of recreational vessels, rental vessels, commercial fishing guide and tour vessels and up to 2 commercial parasail vessels in conjunction with an upland resort hotel, without fueling facilities, with a sewage pumpout facility if it meets the regulatory requirements of the State of Florida Department of Environmental Protection or State of Florida Department of Health, whichever agency has jurisdiction, and with liveaboards as defined in paragraph 26, as shown and conditioned in Attachment A, and the State of Florida Department of Environmental Protection Consolidated Environmental Resource Permit No. 36-0185701-005, dated September 3, 2010, and the State of Florida Department of Environmental Protection Modified Consolidated Environmental Resource Permit No. 36-0185701-006, dated June 4, 2012, incorporated herein and made a part of this lease by reference. All of the foregoing subject to the remaining conditions of this lease.

2. **LEASE FEES:** The Lessee hereby agrees to pay to the Lessor an annual lease fee of \$19,366.18, plus sales tax pursuant to Section 212.031, Florida Statutes, if applicable, within 30 days of the date of receipt of the invoice. The annual fee for the remaining years of this lease shall be adjusted pursuant to provisions of Rule 18-21.011, Florida Administrative Code. The State of Florida Department of Environmental Protection, Division of State Lands (the "Division") will notify the Lessee in writing of the amount and the due date of each subsequent annual lease payment during the remaining term of this lease. All lease fees due hereunder shall be remitted to the Division as agent for the Lessor.

[06]

3. WET SLIP RENTAL CERTIFICATION/SUPPLEMENTAL PAYMENT: (A) The Lessee shall provide upon request by the Lessor any and all information in a certified form needed to calculate the lease fee specified in paragraph two (2) above, including the income, as defined in subsection 18-21.003(31), Florida Administrative Code, derived directly or indirectly from the use of sovereignty submerged lands on an annual basis. When six percent (6%) of said annual income exceeds the base fee or minimum annual fee established pursuant to Rule 18-21.011, Florida Administrative Code, for any lease year during the term of this lease, the Lessor shall send the Lessee a supplemental invoice for the difference in the amounts for that lease year. (B) The instrument or agreement used by the Lessee to transfer or assign the right to use a wet slip at the docking facility to a third party shall include a provision that clearly notifies the wet slip renter/user/holder that if the wet slip renter/user/holder subsequently transfers his right to use said wet slip to another party, the instrument or agreement used to transfer said wet slip shall contain a provision that requires six percent (6%) of the annual gross income derived from said instrument or agreement for the use of said wet slip be paid to the Lessee who, upon receipt, shall report and transmit said amount to the Lessor. The instrument or agreement used by the Lessee to transfer a wet slip shall also include a provision that clearly notifies the wet slip renter/user/holder that no interest in said wet slip may be further transferred unless a substantially similar provision to the one contained in the preceding sentence is placed in each succeeding instrument or agreement used to transfer said wet slip to each new wet slip renter/user/holder. (C) The Lessee shall submit to the Lessor each instrument or agreement used by the Lessee to transfer or assign the right to use a wet slip at the docking facility to a third party annually at the same time the Lessee submits the required Annual Wet Slip Revenue Report to the Lessor. Any breach of this lease condition shall constitute a default under this lease.

4. LATE FEE ASSESSMENTS: The Lessee shall pay a late payment assessment for lease fees or other charges due under this lease which are not paid within 30 days after the due date. This assessment shall be computed at the rate of twelve percent (12%) per annum, calculated on a daily basis for every day the payment is late.

5. EXAMINATION OF LESSEE'S RECORDS: For purposes of this lease renewal, the Lessor is hereby specifically authorized and empowered to examine, for the term of this lease renewal including any extensions thereto plus three (3) additional years, at all reasonable hours, the books, records, contracts, and other documents confirming and pertaining to the computation of annual lease payments as specified in paragraph two (2) above.

6. MAINTENANCE OF LESSEE'S RECORDS: The Lessee shall maintain separate accounting records for: (i) gross revenue derived directly from the use of the leased premises, (ii) the gross revenue derived indirectly from the use of the leased premises, and (iii) all other gross revenue derived from the Lessee's operations on the riparian upland property. The Lessee shall secure, maintain and keep all records for the entire term of this lease renewal plus three (3) additional years. This period shall be extended for an additional two (2) years upon request for examination of all records and accounts for lease verification purposes by the Lessor.

7. AGREEMENT TO EXTENT OF USE: This lease is given to the Lessee to use or occupy the leased premises only for those activities specified herein and as conditioned by the permits referenced in paragraph 1 of this lease. The Lessee shall not (i) change or add to the approved use of the leased premises as defined herein (e.g., from commercial to multi-family residential, from temporary mooring to rental of wet slips, from rental of wet slips to contractual agreement with third party for docking of cruise ships, from rental of recreational pleasure craft to rental or temporary mooring of charter/tour boats, from loading/offloading commercial to rental of wet slips, etc.); (ii) change activities in any manner that may have an environmental impact that was not considered in the original authorization or regulatory permit; or (iii) change the type of use of the riparian uplands or as permitted by the Lessee's interest in the riparian upland property that is more particularly described in Attachment B without first obtaining a regulatory permit/modified permit, if applicable, the Lessor's written authorization in the form of a modified lease, the payment of additional fees, if applicable, and, if applicable, the removal of any structures which may no longer qualify for authorization under the modified lease.

8. PROPERTY RIGHTS: The Lessee shall make no claim of title or interest to said lands hereinbefore described by reason of the occupancy or use thereof, and all title and interest to said land hereinbefore described is vested in the Lessor. The Lessee is prohibited from including, or making any claim that purports to include, said lands described or the Lessee's leasehold interest in said lands into any form of private ownership, including but not limited to any form of condominium or cooperative ownership. The Lessee is further prohibited from making any claim, including any advertisement, that said land, or the use thereof, may be purchased, sold, or re-sold.

9. INTEREST IN RIPARIAN UPLAND PROPERTY: During the term of this lease renewal, the Lessee shall maintain satisfactory evidence of sufficient upland interest as required by paragraph 18-21.004(3)(b), Florida Administrative Code, in the riparian upland property that is more particularly described in Attachment B and by reference made a part hereof together with the riparian rights appurtenant thereto. If such interest is terminated or the Lessor determines that such interest did not exist on the effective date of this lease, this lease may be terminated at the option of the Lessor. If the Lessor terminates this lease, the Lessee agrees not to assert a claim or defense against the Lessor arising out of this lease. Prior to sale and/or termination of the Lessee's interest in the riparian upland property, the Lessee shall inform any potential buyer or transferee of the Lessee's interest in the riparian upland property and the existence of this lease and all its terms and conditions and shall complete and execute any documents required by the Lessor to effect an assignment of this lease, if consented to by the Lessor. Failure to do so will not relieve the Lessee from responsibility for full compliance with the terms and conditions of this lease which include, but are not limited to, payment of all fees and/or penalty assessments incurred prior to such act.

10. ASSIGNMENT OF LEASE RENEWAL: This lease renewal shall not be assigned or otherwise transferred without prior written consent of the Lessor or its duly authorized agent. Such assignment or other transfer shall be subject to the terms, conditions and provisions of this lease, current management standards and applicable laws, rules and regulations in effect at that time. Any assignment or other transfer without prior written consent of the Lessor shall be null and void and without legal effect.

11. INDEMNIFICATION/INVESTIGATION OF ALL CLAIMS: The Lessee shall investigate all claims of every nature arising out of this lease at its expense, and shall indemnify, defend and save and hold harmless the Lessor and the State of Florida from all claims, actions, lawsuits and demands arising out of this lease renewal.

12. NOTICES/COMPLIANCE/TERMINATION: The Lessee binds itself, its successors and assigns, to abide by the provisions and conditions herein set forth, and said provisions and conditions shall be deemed covenants of the Lessee, its successors and assigns. In the event the Lessee fails or refuses to comply with the provisions and conditions herein set forth, or in the event the Lessee violates any of the provisions and conditions herein set forth, and the Lessee fails or refuses to comply with any of said provisions or conditions within twenty (20) days of receipt of the Lessor's notice to correct, this lease may be terminated by the Lessor upon thirty (30) days written notice to the Lessee. If canceled, all of the above-described parcel of land shall revert to the Lessor. All notices required to be given to the Lessee by this lease or applicable law or administrative rules shall be sufficient if sent by U.S. Mail to the following address:

Jabo LLC
8015 West Kenton Circle, Suite 220
Huntersville, NC 28078

The Lessee shall notify the Lessor by certified mail of any change to this address at least ten (10) days before the change is effective.

13. TAXES AND ASSESSMENTS: The Lessee shall assume all responsibility for liabilities that accrue to the subject property or to the improvements thereon, including any and all drainage or special assessments or taxes of every kind and description which are now or may be hereafter lawfully assessed and levied against the subject property during the effective period of this lease renewal.

14. NUISANCES OR ILLEGAL OPERATIONS: The Lessee shall not permit the leased premises or any part thereof to be used or occupied for any purpose or business other than herein specified unless such proposed use and occupancy are consented to by the Lessor and the lease is modified accordingly, nor shall Lessee knowingly permit or suffer any nuisances or illegal operations of any kind on the leased premises.

15. MAINTENANCE OF FACILITY /RIGHT TO INSPECT: The Lessee shall maintain the leased premises in good condition, keeping the structures and equipment located thereon in a good state of repair in the interests of public health, safety and welfare. The leased premises shall be subject to inspection by the Lessor or its designated agent at any reasonable time.

16. NON-DISCRIMINATION: The Lessee shall not discriminate against any individual because of that individual's race, color, religion, sex, national origin, age, handicap, or marital status with respect to any activity occurring within the area subject to this lease renewal or upon lands adjacent to and used as an adjunct of the leased area.

17. ENFORCEMENT OF PROVISIONS: No failure, or successive failures, on the part of the Lessor to enforce any provision, nor any waiver or successive waivers on its part of any provision herein, shall operate as a discharge thereof or render the same inoperative or impair the right of the Lessor to enforce the same upon any renewal thereof or in the event of subsequent breach or breaches.

18. PERMISSION GRANTED: Upon expiration or cancellation of this lease renewal all permission granted hereunder shall cease and terminate.

19. RENEWAL PROVISIONS: Renewal of this lease shall be at the sole option of the Lessor. Such renewal shall be subject to the terms, conditions and provisions of management standards and applicable laws, rules and regulations in effect at that time. In the event that the Lessee is in full compliance with the terms of this lease, the Lessor will begin the renewal process. The term of any renewal granted by the Lessor shall commence on the last day of the previous lease term. In the event the Lessor does not grant a renewal, the Lessee shall vacate the leased premises and remove all structures and equipment occupying and erected thereon at its expense. The obligation to remove all structures authorized herein upon termination of this lease renewal shall constitute an affirmative covenant upon the Lessee's interest in the riparian upland property more particularly described in Attachment B, which shall run with the title to the Lessee's interest in said riparian upland property and shall be binding upon the Lessee and the Lessee's successors in title or successors in interest.

20. REMOVAL OF STRUCTURES/ADMINISTRATIVE FINES: If the Lessee does not remove said structures and equipment occupying and erected upon the leased premises after expiration or cancellation of this lease renewal, such structures and equipment will be deemed forfeited to the Lessor, and the Lessor may authorize removal and may sell such forfeited structures and equipment after ten (10) days written notice by certified mail addressed to the Lessee at the address specified in Paragraph 12 or at such address on record as provided to the Lessor by the Lessee. However, such remedy shall be in addition to all other remedies available to the Lessor under applicable laws, rules and regulations including the right to compel removal of all structures and the right to impose administrative fines.

21. REMOVAL COSTS/LIEN ON RIPARIAN UPLAND PROPERTY: Subject to the noticing provisions of Paragraph 20 of this lease, any costs incurred by the Lessor in removal of any structures and equipment constructed or maintained on state lands shall be paid by Lessee and any unpaid costs and expenses shall constitute a lien upon the Lessee's interest in the riparian upland property that is more particularly described in Attachment B. This lien on the Lessee's interest in the riparian upland property shall be enforceable in summary proceedings as provided by law.

22. RIPARIAN RIGHTS/FINAL ADJUDICATION: In the event that any part of any structure authorized hereunder is determined by a final adjudication issued by a court of competent jurisdiction to encroach on or interfere with adjacent riparian rights, Lessee agrees to either obtain written consent for the offending structure from the affected riparian owner or to remove the interference or encroachment within 60 days from the date of the adjudication. Failure to comply with this paragraph shall constitute a material breach of this lease renewal agreement and shall be grounds for immediate termination of this lease renewal agreement at the option of the Lessor.

23. AMENDMENTS/MODIFICATIONS: This lease renewal is the entire and only agreement between the parties. Its provisions are not severable. Any amendment or modification to this lease renewal must be in writing, must be accepted, acknowledged and executed by the Lessee and Lessor, and must comply with the rules and statutes in existence at the time of the execution of the modification or amendment. Notwithstanding the provisions of this paragraph, if mooring is authorized by this lease, the Lessee may install boatlifts within the leased premises without formal modification of the lease provided that (a) the Lessee obtains any state or local regulatory permit that may be required; and (b) the location or size of the lift does not increase the mooring capacity of the docking facility.

24. ADVERTISEMENT/SIGNS/NON-WATER DEPENDENT ACTIVITIES/ADDITIONAL ACTIVITIES/MINOR STRUCTURAL REPAIRS: No permanent or temporary signs directed to the boating public advertising the sale of alcoholic beverages shall be erected or placed within the leased premises. No restaurant or dining activities are to occur within the leased premises. The Lessee shall ensure that no permanent, temporary or floating structures, fences, docks, pilings or any structures whose use is not water-dependent shall be erected or conducted over sovereignty submerged lands without prior written consent from the Lessor. No additional structures and/or activities including dredging, relocation/realignment or major repairs or renovations to authorized structures, shall be erected or conducted on or over sovereignty, submerged lands without prior written consent from the Lessor. Unless specifically authorized in writing by the Lessor, such activities or structures shall be considered unauthorized and a violation of Chapter 253, Florida Statutes, and shall subject the Lessee to administrative fines under Chapter 18-14, Florida Administrative Code. This condition does not apply to minor structural repairs required to maintain the authorized structures in a good state of repair in the interests of public health, safety or welfare; provided, however, that such activities shall not exceed the activities authorized by this agreement.

25. COMPLIANCE WITH FLORIDA LAWS: On or in conjunction with the use of the leased premises, the Lessee shall at all times comply with all Florida Statutes and all administrative rules promulgated thereunder. Any unlawful activity which occurs on the leased premises or in conjunction with the use of the leased premises shall be grounds for the termination of this lease by the Lessor.

26. LIVEABOARDS: The term "liveaboard" is defined as a vessel docked at the facility and inhabited by a person or persons for any five (5) consecutive days or a total of ten (10) days within a thirty (30) day period. If liveaboards are authorized by paragraph one (1) of this lease, in no event shall such "liveaboard" status exceed six (6) months within any twelve (12) month period, nor shall any such vessel constitute a legal or primary residence.

27. GAMBLING VESSELS: During the term of this lease and any renewals, extensions, modifications or assignments thereof, Lessee shall prohibit the operation of or entry onto the leased premises of gambling cruise ships, or vessels that are used principally for the purpose of gambling, when these vessels are engaged in "cruises to nowhere," where the ships leave and return to the state of Florida without an intervening stop within another state or foreign country or waters within the jurisdiction of another state or foreign country, and any watercraft used to carry passengers to and from such gambling cruise ships.

28. FINANCIAL CAPABILITY: To assure the Lessor that the Lessee has the financial capability to undertake and operate the project authorized by this lease, the Lessee certifies to the Lessor as follows: (i) the Lessee is not the subject of a pending bankruptcy proceeding that would prohibit the Lessee from paying its lease fees, on or before the due date, with or without, as applicable, approval from the bankruptcy court or, if appointed, the bankruptcy trustee; (ii) the Lessee has no unsatisfied judgments entered against it that would impair the Lessee's financial capability to undertake and operate the project authorized by this lease; (iii) the Lessee has no delinquent state and local taxes for which it is responsible and that remain outstanding and not in dispute; and (iv) to the best of the Lessee's knowledge, there are no other matters pending or threatened against or affecting the Lessee or the Lessee's interest in the riparian upland property that would impair the Lessee's financial capability to undertake and operate the project authorized by this lease. Any breach of this lease condition shall constitute a default under this lease.

29. SPECIAL LEASE CONDITIONS:

A. During the term of this lease and all subsequent renewals or modifications, Lessee shall maintain the manatee informational display and manatee awareness signs as required by State of Florida Department of Environmental Protection Environmental Resource Permit No. 36-0185701-005, dated September 3, 2010.

B. The Lessee shall provide and make available to all vessels utilizing the docking facility operational and well-maintained sewage pumpout facilities acceptable to the State of Florida Department of Environmental Protection or State of Florida Department of Health, whichever agency has jurisdiction.

C. Any vessel moored at the docking facility, on either a temporary or permanent basis, shall be wholly located within its designated wet slip as depicted on Attachment A and no portion of a vessel may extend beyond the leased premises. Vessel length shall be measured as overall length including all parts and accessories such as outboard motors, bow pulpits, and swim platforms.

D. The Lessee shall prohibit any mooring, on either a temporary or permanent basis, to the following locations depicted on Attachment A:

- a. Along both sides of the landward 117 feet of the access dock within that portion of the leased premises identified as "Proposed Submerged Land Lease #1" on Attachment A that is connected to the common boundary line between upland Lots 38 and 39, Block D, Island Shores Club Section Subdivision, according to the plat thereof recorded in Plat Book 9, Page 41, Public Records of Lee County, Florida;
- b. Along the landward side of the proposed 25-foot-long finger piers landward of slip no. 32 and slip no. 34 within that portion of the leased premises identified as "Proposed Submerged Land Lease #1" on Attachment A that is connected to the common boundary line between upland Lots 38 and 39, Block D, Island Shores Club Section Subdivision, according to the plat thereof recorded in Plat Book 9, Page 41, Public Records of Lee County, Florida;
- c. At the waterward end of the proposed 92.2 foot long wood dock within that portion of the leased premises identified as "Proposed Submerged Land Lease #1" on Attachment A;
- d. Along the northwest side of the landward 39.64 feet of the dock within that portion of the leased premises identified as "Proposed Submerged Land Lease #2" on Attachment A connected to upland Lot 36, Block D, Island Shores Club Section Subdivision, according to the plat thereof recorded in Plat Book 9, Page 41, Public Records of Lee County, Florida (landward of slip no. 40);
- e. Along the north side of the 65.18 foot long finger pier on the north end of that portion of the leased premises identified as "Proposed Submerged Land Lease #2" on Attachment A (northerly of slip no. 28); and
- f. Along the southeast side of the landward 62.9 feet of the 6-foot-wide existing wood dock within that portion of the leased premises identified as "Proposed Submerged Land Lease #2" on Attachment A that is connected to Lot 28, Block D, Island Shores, Unit No. 4, according to the plat thereof recorded in Plat Book 9, Page 37, Public Records of Lee County, Florida.

E. For vessels with functional heads without holding tanks, the Lessee shall affix an approved seal (e.g., the type used on water meters) on the closed sea cock of each liveaboard vessel that will remain in the wet slip for more than seven consecutive days. The Lessee shall inspect these seals each 30 days (to assure that the sea cock remains closed) and record this in a log which will remain available for inspection by regulatory agencies, during normal working hours.

The log entries shall include the following:

- a. date of inspection;
- b. an entry that the seal has remained intact;
- c. identification of the vessel (e.g., name, number); and
- d. signature of the inspector.

F. The Lessee shall inform all wet slip occupants in writing of the availability and requirement to use the sewage pumpout facilities provided at the sewage pumpout slip. The Lessee shall also advise all wet slip occupants that no overboard discharges of trash, human or animal waste, including fish carcasses, shall occur at the leased premises at any time. Discharge from any holding tank or marine sanitation device, including those approved by the United States Coast Guard is strictly prohibited within the leased premises.

G. The Lessee shall install and maintain, during the term of this lease and all subsequent renewal terms, reflective markers and lighted aids to navigation at all distant corners of the facility. The lighted aides are required to be on at night and during limited visibility conditions.

H. Vessels that either do not possess a current vessel registration and title as required by Chapters 327 and 328, Florida Statutes, or do not have a current vessel registration and title as required in another state or country are prohibited within the leased premises.

I. All vessels that moor, dock, or otherwise use the leased premises shall be maintained in a fully operational condition

J. In addition to allowing boats to moor within the leased premises for the purposes set forth in paragraph I. of this lease, the Lessee may also allow boats to moor within the leased premises during private or public events such as fishing tournaments. The Lessee shall comply with the following requirements for each public or private event:

- a. The Lessee shall provide written notice to the State of Florida Department of Environmental Protection, South District Office, P.O. Box 2549, Fort Myers, Florida 33902-2549, and to the State of Florida Department of Environmental Protection, Bureau of Public Lands Administration, 3900 Commonwealth Boulevard, Carr Building, M.S. 130, Tallahassee, Florida 32399-3000 ("DEP"), at least 30 days prior to each planned event date. The written notice shall identify the private entity or the not-for-profit organization or charity and state whether the event is open to the general public. The Lessee shall also provide written notice to DEP if the planned event date changes or if the event is cancelled.
- b. Within 14 days after the private or public event has occurred, the Lessee shall provide written notice to DEP that the event did occur and shall provide to DEP financial records associated with the event. Those financial records include, but shall not be limited to, the books, records, contracts and other documents pertaining to the income derived from the event, operating expenses incurred by the Lessee in holding the event, and the net income derived from the event. Income means the gross revenue derived directly or indirectly from the use of sovereignty submerged lands, including but not limited to food and beverage sales and equipment rental fees, and shall include any ancillary user charges, such as admission fees required for and directly attributable to the use of the structures or activities on sovereignty, submerged lands. However, gross revenue shall not include taxes and fees passed through to persons attending the event that were not revenue generating for the Lessee, such as sales tax and third party tent rental fees and band fees. In addition to the foregoing, for all public events, the Lessee shall also submit financial records that disclose the amount of gross revenue and the value of the goods and services the Lessee donated to the not-for-profit organization or charity. All financial records submitted to DEP must be certified by a certified public accountant.
- c. Within 30 days of receiving an invoice from DEP requiring payment of 6% of the income generated by the private or public event, the Lessee shall provide such payment to DEP. The check shall be made payable to the State of Florida Department of Environmental Protection and the lease number shall be included on the check.
- d. The Lessee shall coordinate with Lee County and the Town of Fort Myers Beach for specific local requirements related to any private or public event.

K. The Lessee shall install and maintain signage at the temporary mooring area shown on Attachment A that notifies docking facility users that the temporary mooring area may only be used for mooring parallel to the dock during sewage pumpout and/or resort registration. Any other use of the temporary mooring area is strictly prohibited.

L. Throughout the term of this lease and all subsequent renewals or modifications, Lessee shall use a State of Florida Department of Environmental Protection approved wet slip user agreement to assign or transfer the right to use a wet slip at the docking facility to a third party. The wet slip user agreement shall include provisions acceptable to the State of Florida Department of Environmental Protection.

IN WITNESS WHEREOF, the Lessor and the Lessee have executed this instrument on the day and year first above written.

WITNESSES:

M. Sue Jones
Original Signature

M. Sue Jones
Print/Type Name of Witness

Kathy C Griffin
Original Signature

Kathy C Griffin
Print/Type Name of Witness

BOARD OF TRUSTEES OF THE INTERNAL
IMPROVEMENT TRUST FUND OF THE STATE
OF FLORIDA

BY: Cheryl C McCall (SEAL)
Cheryl C. McCall, Chief, Bureau of Public Land Administration,
Division of State Lands, State of Florida Department of
Environmental Protection, as agent for and on behalf of the
Board of Trustees of the Internal Improvement Trust Fund of the
State of Florida

"LESSOR"

STATE OF FLORIDA
COUNTY OF LEON

The foregoing instrument was acknowledged before me this 30th day of November, 2017, by
Cheryl C. McCall, Chief, Bureau of Public Land Administration, Division of State Lands, State of Florida Department of
Environmental Protection, as agent for and on behalf of the Board of Trustees of the Internal Improvement Trust Fund of the State
of Florida. She is personally known to me.

APPROVED SUBJECT TO PROPER EXECUTION:

[Signature] 10/26/2017
DEP Attorney Date

[Signature]
Notary Public, State of Florida

Printed, Typed or Stamped Name

My Commission Expires

Commission/Serial No.



WITNESSES:

[Signature]
Original Signature

Tian Lay
Typed/Printed Name of Witness

[Signature]
Original Signature

Michael Zachmond
Typed/Printed Name of Witness

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me this 15 day of November, 2012, by Robert W. Boykin, who is the Manager of Jabo, LLC, a Delaware limited liability company, on behalf of the limited liability company. He is personally known to me, or has produced _____, as identification.

My Commission Expires:

July 1 2021
Commission/Serial No. CC078354

Jabo LLC, a Delaware limited liability company (SEAL)

BY: [Signature]
Original Signature of Executing Authority

Robert W. Boykin
Typed/Printed Name of Executing Authority

Manager
Title of Executing Authority

"LESSEE"

[Signature]
Signature of Notary Public

Notary Public, State of Florida

Robbinn Jorden
Printed, Typed or Stamped Name



DESCRIPTION:

SUBMERGED LAND LEASE #1

(AS PREPARED BY THIS FIRM)

A PARCEL OF SUBMERGED LAND LYING IN THE STATE OF FLORIDA, COUNTY OF LEE, IN SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST, PART OF ESTERO PASS BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF LOT 39, BLOCK "D" OF ISLAND SHORES CLUB SECTION AS RECORDED IN PLAT BOOK 9, PAGE 41 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE N.71°52'35"E. ALONG THE NORTHERLY LINE OF SAID LOT 39 FOR A DISTANCE OF 120.25 FEET TO THE WET FACE OF A CONCRETE SEAWALL; THENCE S.28°11'21"E. ALONG SAID SEAWALL FOR A DISTANCE OF 82.13 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED SUBMERGED LAND LEASE; THENCE N.63°03'27"E. FOR A DISTANCE OF 100.57 FEET; THENCE N.26°56'33"W. FOR A DISTANCE OF 1.29 FEET; THENCE N.63°03'27"E. FOR A DISTANCE OF 13.75 FEET; THENCE N.18°03'27"E. FOR A DISTANCE OF 3.77 FEET; THENCE N.26°56'33"W. FOR A DISTANCE OF 30.42 FEET; THENCE N.63°03'27"E. FOR A DISTANCE OF 133.19 FEET; THENCE S.26°56'33"E. FOR A DISTANCE OF 78.00 FEET; THENCE S.63°03'27"W. FOR A DISTANCE OF 133.10 FEET; THENCE N.26°56'33"W. FOR A DISTANCE OF 30.42 FEET; THENCE N.71°56'33"W. FOR A DISTANCE OF 3.77 FEET; THENCE S.63°03'27"W. FOR A DISTANCE OF 13.75 FEET; THENCE N.26°56'33"W. FOR A DISTANCE OF 1.29 FEET; THENCE S.63°03'27"W. FOR A DISTANCE OF 100.43 FEET TO AN INTERSECTION WITH THE WET FACE OF A CONCRETE SEAWALL; THENCE N.28°03'20"W. ALONG SAID SEAWALL FOR A DISTANCE OF 7.25 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 11,019 SQUARE FEET OR 0.25 ACRES, MORE OR LESS.

PARCEL SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY (RECORDED AND UNRECORDED, WRITTEN AND UNWRITTEN)

AND ALSO

SUBMERGED LAND LEASE #2

(AS PREPARED BY THIS FIRM)

A PARCEL OF SUBMERGED LAND LYING IN THE STATE OF FLORIDA, COUNTY OF LEE, IN SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST, PART OF ESTERO PASS BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE NORTHWEST HALF (NW 1/2) OF LOT 28, BLOCK "D" OF ISLAND SHORES CLUB SECTION AS RECORDED IN PLAT BOOK 9, PAGE 41 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE N.42°07'25"W. ALONG THE NORTHERLY RIGHT OF WAY LINE OF ESTERO BOULEVARD FOR A DISTANCE OF 400.00 FEET; THENCE S.47°52'35"W. ALONG SAID RIGHT OF WAY FOR A DISTANCE OF 9.00 FEET; THENCE N.42°07'25"W. ALONG SAID RIGHT OF WAY FOR A DISTANCE OF 225.00 FEET TO THE SOUTHEAST CORNER OF LOT 35; THENCE N.47°52'35"E. LEAVING SAID RIGHT OF WAY ALONG THE NORTHERLY PROPERTY LINE OF SAID LOT 35 FOR A DISTANCE OF 110.42 FEET TO AN INTERSECTION WITH THE WET FACE OF A CONCRETE SEAWALL AND THE POINT OF BEGINNING OF THE HEREIN DESCRIBED SUBMERGED LAND LEASE; THENCE N.39°58'13"W. A DISTANCE OF 43.97 FEET; THENCE N.47°05'31"E. A DISTANCE OF 39.84 FEET; THENCE N.42°51'04"W. A DISTANCE OF 10.12 FEET; THENCE N.47°08'58"E. A DISTANCE OF 58.06 FEET; THENCE N.69°39'32"E. A DISTANCE OF 49.12 FEET; THENCE N.73°53'52"E. A DISTANCE OF 65.18 FEET; THENCE S.15°25'01"E. A DISTANCE OF 4.00 FEET; THENCE N.73°53'52"E. A DISTANCE OF 13.04 FEET; THENCE S.16°08'08"E. A DISTANCE OF 160.11 FEET; THENCE S.35°37'08"E. A DISTANCE OF 47.11 FEET; THENCE S.54°22'52"W. A DISTANCE OF 20.00 FEET; THENCE S.35°37'08"E. A DISTANCE OF 36.00 FEET; THENCE S.54°22'52"W. A DISTANCE OF 15.00 FEET; THENCE S.35°37'08"E. A DISTANCE OF 44.00 FEET; THENCE S.54°22'52"W. A DISTANCE OF 10.00 FEET; THENCE S.35°37'08"E. A DISTANCE OF 42.03 FEET; THENCE S.40°22'13"E. A DISTANCE OF 51.41 FEET; THENCE N.43°45'32"E. A DISTANCE OF 9.88 FEET; THENCE S.46°14'28"E. A DISTANCE OF 14.00 FEET; THENCE S.43°45'32"W. A DISTANCE OF 1.85 FEET; THENCE S.46°14'28"E. A DISTANCE OF 18.00 FEET; THENCE S.43°45'32"W. A DISTANCE OF 1.23 FEET; THENCE S.46°14'28"E. A DISTANCE OF 14.00 FEET; THENCE N.43°45'32"E. A DISTANCE OF 13.03 FEET; THENCE S.46°14'28"E. A DISTANCE OF 88.00 FEET; THENCE N.43°45'32"E. A DISTANCE OF 20.00 FEET; THENCE S.46°14'28"E. A DISTANCE OF 122.00 FEET; THENCE N.43°45'32"E. A DISTANCE OF 20.55 FEET; THENCE S.46°14'28"E. A DISTANCE OF 36.50 FEET; THENCE S.43°45'32"W. A DISTANCE OF 79.98 FEET; THENCE S.42°36'24"E. A DISTANCE OF 45.89 FEET; THENCE S.47°23'38"W. A DISTANCE OF 30.00 FEET; THENCE N.42°38'24"W. FOR A DISTANCE OF 17.00 FEET; THENCE S.47°23'38"W. FOR A DISTANCE OF 41.27 FEET; THENCE S.44°09'25"E. FOR A DISTANCE OF 4.66 FEET; THENCE S.45°50'35"W. FOR A DISTANCE OF 9.07 FEET TO AN INTERSECTION WITH THE WET FACE OF A CONCRETE SEAWALL; THENCE N.33°54'24"W. A DISTANCE OF 60.91 FEET; THENCE N.49°50'45"W. ALONG SAID SEAWALL A DISTANCE OF 50.46 FEET; THENCE N.50°01'33"W. ALONG SAID SEAWALL A DISTANCE OF 50.48 FEET; THENCE N.42°51'10"E. ALONG SAID SEAWALL A DISTANCE OF 9.27 FEET; THENCE N.39°58'13"W. ALONG SAID SEAWALL A DISTANCE OF 284.20 FEET; THENCE N.35°38'49"W. ALONG SAID SEAWALL A DISTANCE OF 15.29 FEET; THENCE N.40°59'55"W. ALONG SAID SEAWALL A DISTANCE OF 75.01 FEET; THENCE N.39°58'41"W. ALONG SAID SEAWALL A DISTANCE OF 75.05 FEET; THENCE N.39°58'13"W. ALONG SAID SEAWALL A DISTANCE OF 75.05 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 100,125 SQUARE FEET OR 2.30 ACRES, MORE OR LESS.

PARCEL SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY (RECORDED AND UNRECORDED, WRITTEN AND UNWRITTEN)

REVISION: 3-28-12 TO MODIFY SUBMERGED LAND LEASE BOUNDARY RY
 REVISION: 8-02-10 ADD NO MOORING & HAND RAIL NOTE SHEET 5 TLM
 REVISION: 7-13-10 TO MODIFY SUBMERGED LAND LEASE BOUNDARY RY
 REVISION: 8-11-10 TO MODIFY SUBMERGED LAND LEASE BOUNDARY RY
 REVISION: 1-18-10 TO MODIFY SUBMERGED LAND LEASE BOUNDARY RY

SPECIFIC PURPOSE SURVEY

OF

A PARCEL OF SUBMERGED LAND

LYING IN

SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST,
LEE COUNTY, FLORIDA

NOTES:

THIS IS A FIELD SURVEY.

THE PURPOSE OF THIS SURVEY IS TO SHOW THE SUBMERGED LAND LEASE PROPERTY AND ALL EXISTING AND PROPOSED LOCATION LYING WITHIN.

BEARINGS BASED ON THE NORTH RIGHT OF WAY LINE OF ESTERO BOULEVARD AS BEARING N.42°07'25"W.

COORDINATES SHOWN HEREON WERE DERIVED FROM DEPARTMENT OF NATURAL RESOURCES REFERENCE MONUMENT R179 AND ARE STATE PLANE FOR THE FLORIDA WEST ZONE NAD 83/1990 ADJUSTMENT.

THE MEAN HIGH WATER ELEVATION (1.4' NAVD 88) AS SHOWN HEREON WAS ESTABLISHED BY EXTENDING THE ELEVATION SHOWN AT MEAN HIGH WATER INTERPOLATION POINT NO. 872-5368.

ABOVE GROUND OR UNDERGROUND IMPROVEMENTS, UTILITIES AND/OR FOUNDATIONS WERE NOT LOCATED UNLESS OTHERWISE NOTED.

THIS PLAT PREPARED AS A SPECIFIC PURPOSE SURVEY AND IS NOT INTENDED TO DELINEATE THE JURISDICTION OR JURISDICTIONAL AREAS OF ANY FEDERAL, STATE, REGIONAL OR LOCAL AGENCY, BOARD, COMMISSION OR OTHER ENTITY.

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHT-OF-WAY (RECORDED AND UNRECORDED, WRITTEN AND UNWRITTEN).

ELEVATIONS SHOWN HEREON ARE BASED ON NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 88).

THE LINEAR FOOTAGE OF SHORELINE AREA = 1,751'±

TOTAL SUBMERGED LAND LEASE AREA IS 111,144 SQUARE FEET, MORE OR LESS.

ALL DIMENSIONS PLAT AND FIELD VERIFIED, UNLESS OTHERWISE SHOWN.

DATE OF LAST FIELD WORK: 7-21-2009.

FOR THE EXCLUSIVE USE OF:

RECEIVED

- BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA

APR 04 2012

D.E.P. South District

SURVEY CONSISTS OF SHEETS 1
THROUGH 8 AND IS NOT VALID
WITHOUT COMPLETE SET

BY:

TIMOTHY LEE MOON
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA CERTIFICATE NO. LS# 5838

DATE SIGNED: 29 Mar 2012

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

TITLE: SPECIFIC PURPOSE SURVEY			
 METRON SURVEYING & MAPPING, LLC LAND SURVEYORS-PLANNERS LB# 7071		10970 SOUTH CLEVELAND AVENUE UNIT #605 FORT MYERS, FLORIDA 33907 PHONE: (239) 275-6375 FAX: (239) 275-8457 www.metronfl.com	
FILE NAME:	10627SL.dwg	FIELD BOOK/PAGE:	N/A
PROJECT NO.:	10627	SHEET:	1 OF 8
DATE:	11-18-09	DRAWN BY:	RY
SCALE:	N/A	CHECKED BY:	TLM
		(8-1-8)	24-46-23

SPECIFIC PURPOSE SURVEY

OF
A PARCEL OF SUBMERGED LAND
LYING IN
SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST,
LEE COUNTY, FLORIDA



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D.E.P. South District

SURVEY CONSISTS OF SHEETS 1
THROUGH 8 AND IS NOT VALID
WITHOUT COMPLETE SET

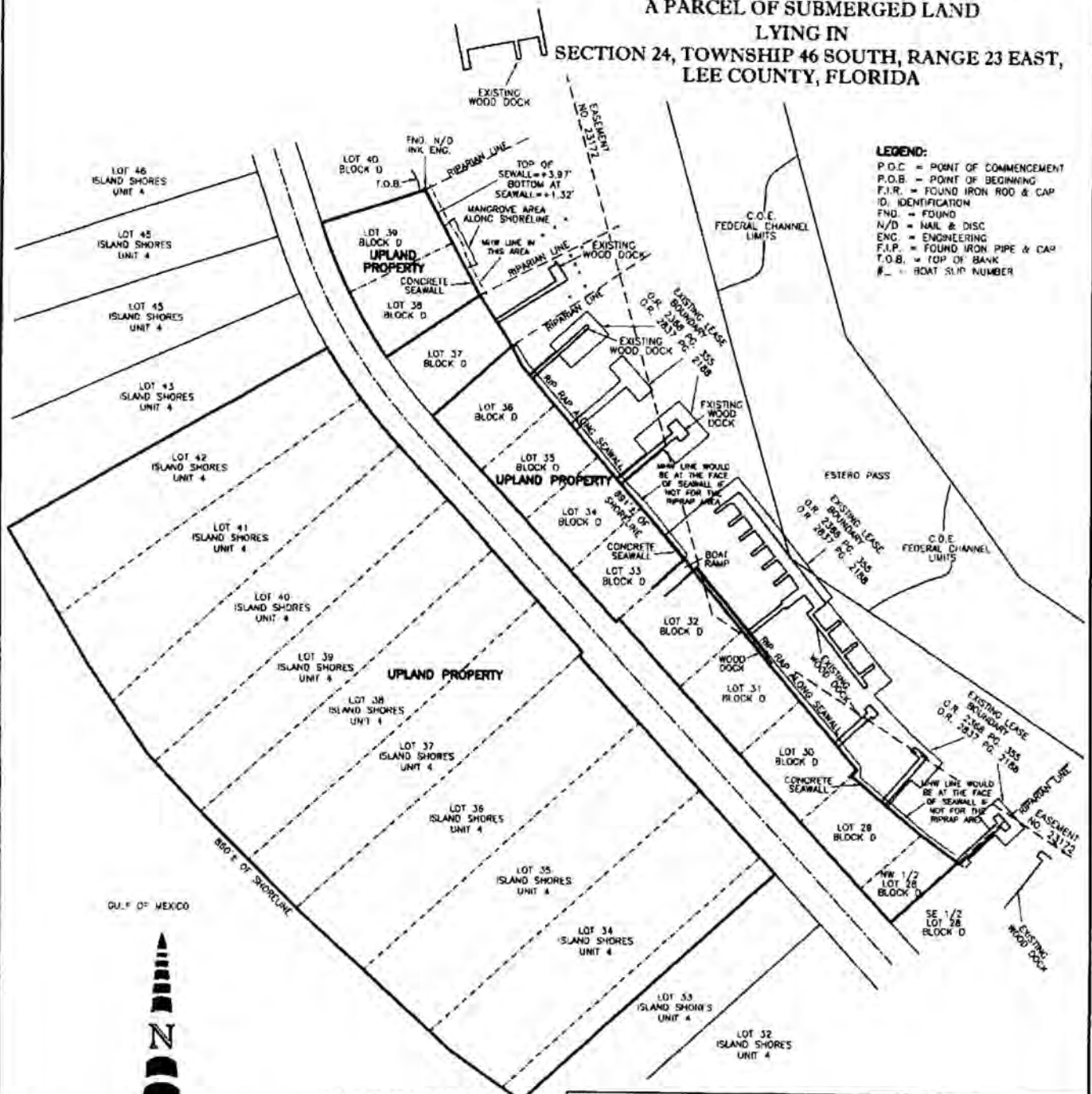
TITLE: SPECIFIC PURPOSE SURVEY			
		METRON SURVEYING & MAPPING, LLC LAND SURVEYORS-PLANNERS L.R.# 7071	
10870 SOUTH CLEVELAND AVENUE UNIT 8005 FORT MYERS, FLORIDA 33907 PHONE: (239) 273-8373 FAX: (239) 273-8457 www.metronfl.com			
FILE NAME: 10827SL.dwg	FIELD BOOK/PAGE: N/A	PROJECT NO.: 10827	SHEET: 2 OF 8
DRAWN BY: 11-15-09	DATE: RY	SCALE: N/A	CHECKED BY: TLM (3-7-09)
			24-46-23

SPECIFIC PURPOSE SURVEY

OF
A PARCEL OF SUBMERGED LAND

LYING IN
SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST,
LEE COUNTY, FLORIDA

LEGEND:
P.O.C. = POINT OF COMMENCEMENT
P.O.B. = POINT OF BEGINNING
F.I.R. = FOUND IRON ROD & CAP
I.D. = IDENTIFICATION
FND. = FOUND
N/D = NAIL & DISC
ENG. = ENGINEERING
F.I.P. = FOUND IRON PIPE & CAP
T.O.B. = TOP OF BANK
= BOAT SLIP NUMBER



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APR 04 2012

2nd South District

SURVEY CONSISTS OF SHEETS 1
THROUGH 8 AND IS NOT VALID
WITHOUT COMPLETE SET

TITLE: SPECIFIC PURPOSE SURVEY



METRON
SURVEYING & MAPPING, LLC
LAND SURVEYORS-PLANNERS
LEW 7071

10670 SOUTH CLEVELAND AVENUE
UNIT 1005
FORT MYERS, FLORIDA 33907
PHONE: (239) 275-6575
FAX: (239) 275-8457

www.metronfl.com

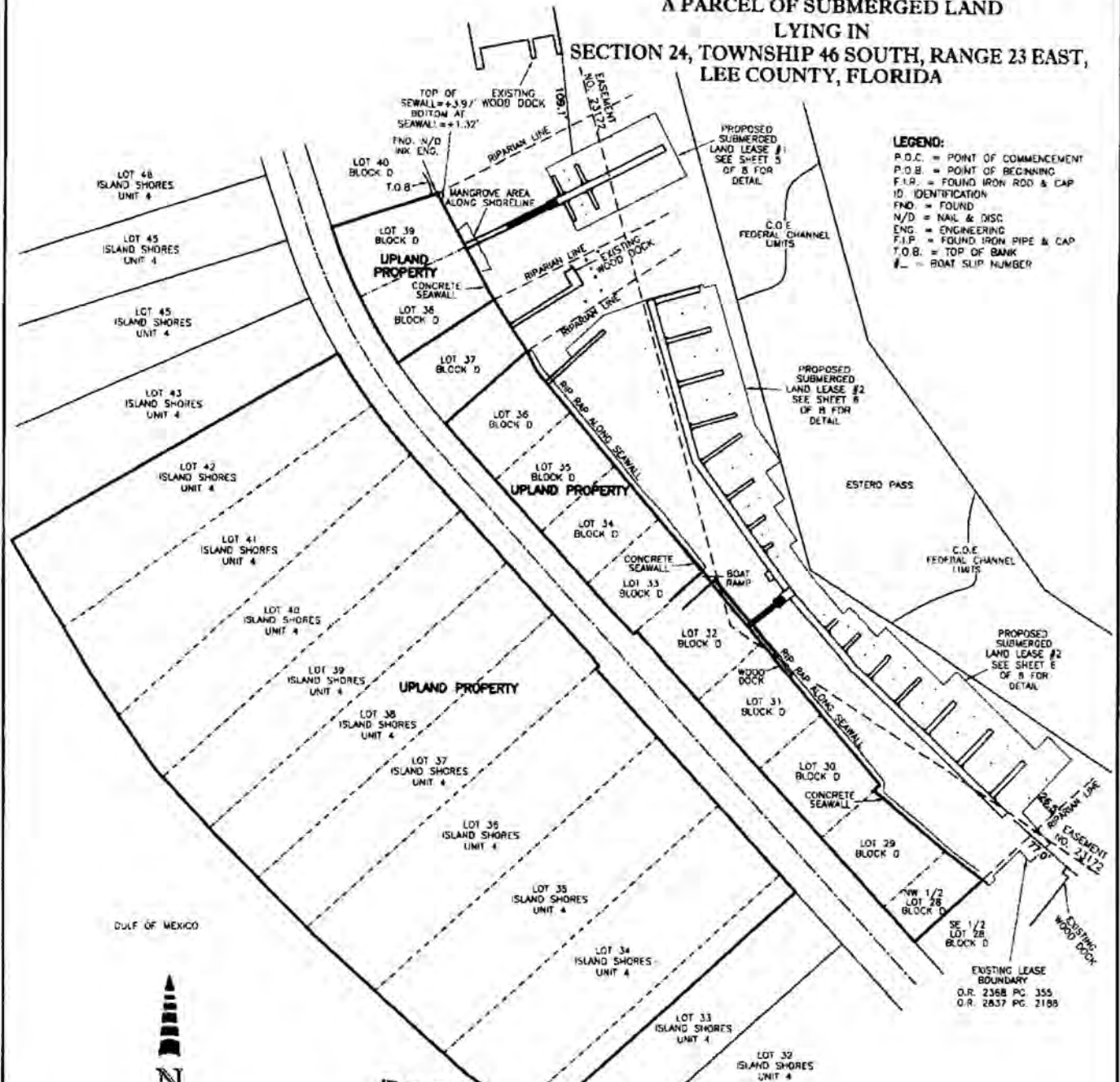
FILE NAME: 10627SL.dwg	FIELD BOOK/PRICE: N/A	PROJECT NO.: 10627	SHEET: 3 OF 8
SKETCH DATE: 11-16-09	DRAWN BY: RY	SCALE: 1" = 150'	CHECKED BY: TLM
			(3-1-10) 24-46-23

SPECIFIC PURPOSE SURVEY

OF
A PARCEL OF SUBMERGED LAND

LYING IN

SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST,
LEE COUNTY, FLORIDA



LEGEND:
P.O.C. = POINT OF COMMENCEMENT
P.O.B. = POINT OF BEGINNING
F.I.P. = FOUND IRON ROD & CAP
I.D. = IDENTIFICATION
F.N.D. = FOUND
N/D = NAIL & DISC
ENG. = ENGINEERING
F.I.P. = FOUND IRON PIPE & CAP
T.O.B. = TOP OF BANK
= BOAT SLIP NUMBER

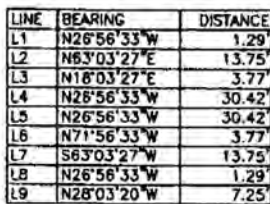
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APR 04 2012

D.E.P. South District

SURVEY CONSISTS OF SHEETS 1
THROUGH 8 AND IS NOT VALID
WITHOUT COMPLETE SET

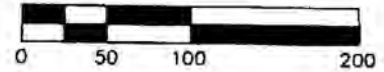
TITLE: SPECIFIC PURPOSE SURVEY			
		10870 SOUTH CLEVELAND AVENUE UNIT #603 FORT MYERS, FLORIDA 33907 PHONE: (239) 275-8575 FAX: (239) 275-8457 www.metronfl.com	
FILE NAME: 10627SL.dwg	FIELD BOOK/PAGE: N/A	PROJECT NO: 10627	SHEET: 4 OF 8
DRAWN BY: RY	SCALE: 1" = 150'	CHECKED BY: TLM	(B-T-R) 24-46-23

SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST,
LEE COUNTY, FLORIDA

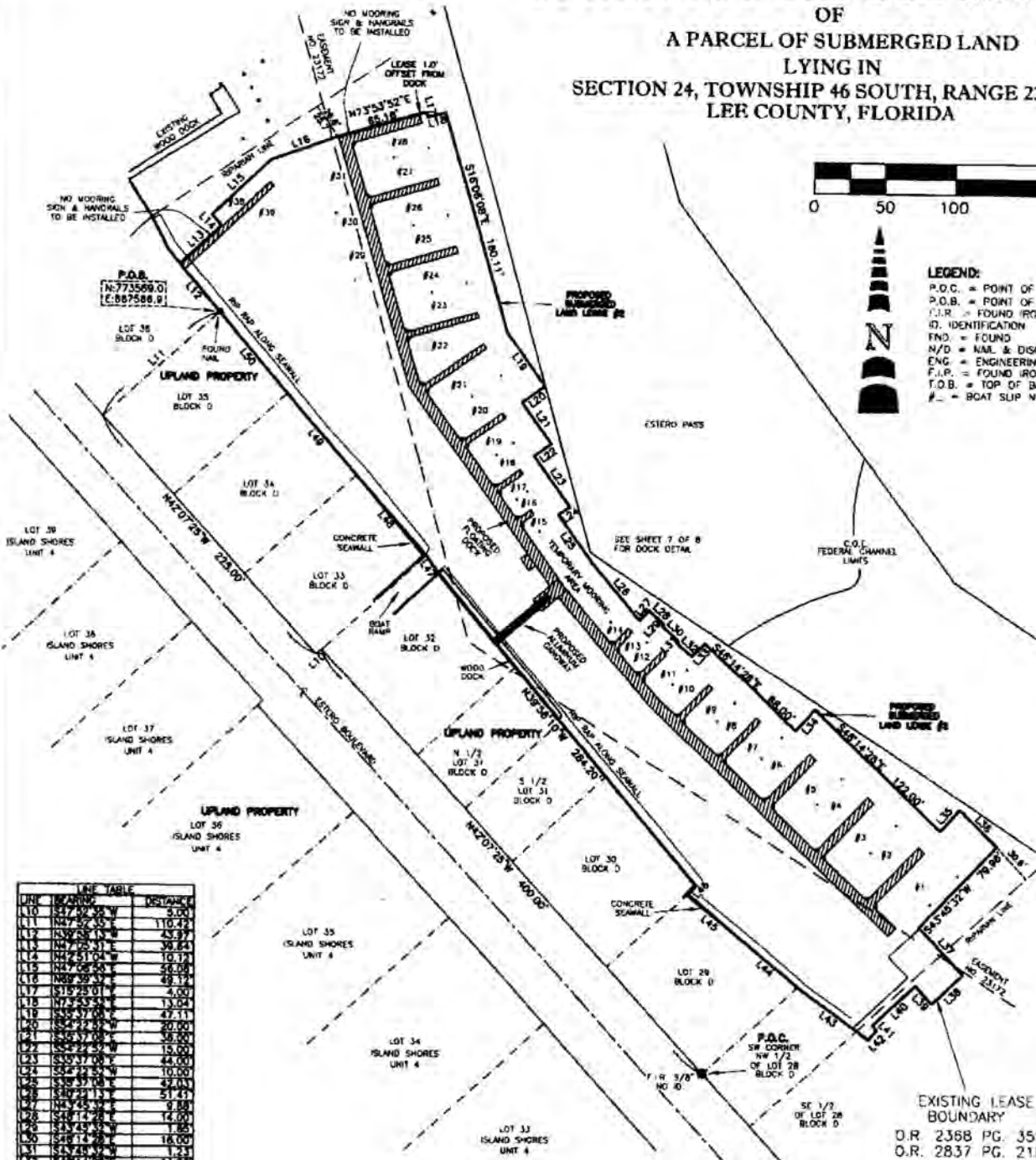


SPECIFIC PURPOSE SURVEY

OF
A PARCEL OF SUBMERGED LAND
LYING IN
SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST,
LEE COUNTY, FLORIDA



LEGEND:
P.O.C. = POINT OF COMMENCEMENT
P.O.B. = POINT OF BEGINNING
F.I.R. = FOUND IRON ROD & CAP
ID. IDENTIFICATION
FND. = FOUND
N/D. = NAIL & DISC
ENG. = ENGINEERING
F.I.P. = FOUND IRON PIPE & CAP
T.O.B. = TOP OF BANK
= BOAT SLIP NUMBER



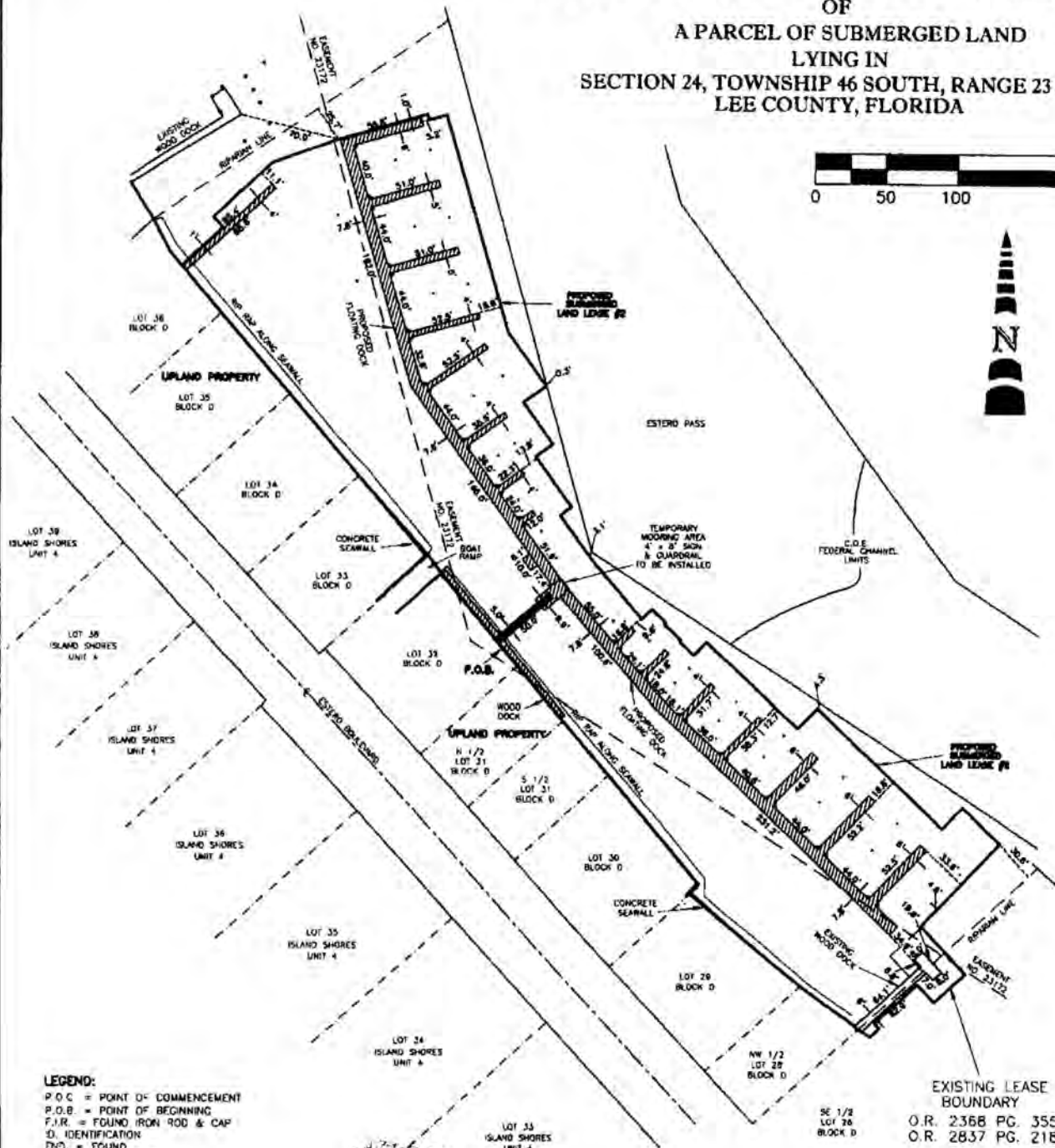
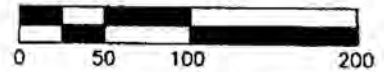
LINE	BEARING	DISTANCE
10	N 77° 55' 00" W	5.00
11	N 77° 55' 00" W	110.42
12	N 77° 55' 00" W	45.97
13	N 77° 55' 00" W	36.84
14	N 77° 55' 00" W	10.17
15	N 77° 55' 00" W	56.88
16	N 77° 55' 00" W	48.19
17	S 15° 25' 01" E	4.00
18	N 77° 55' 00" W	13.04
19	S 85° 37' 08" E	47.11
20	S 85° 37' 08" E	20.00
21	S 85° 37' 08" E	38.50
22	S 85° 37' 08" E	44.00
23	S 85° 37' 08" E	10.00
24	S 85° 37' 08" E	42.00
25	S 85° 37' 08" E	17.00
26	S 85° 37' 08" E	4.89
27	S 85° 37' 08" E	1.85
28	S 85° 37' 08" E	16.00
29	S 85° 37' 08" E	1.25
30	S 85° 37' 08" E	14.00
31	N 77° 55' 00" W	13.03
32	N 77° 55' 00" W	20.00
33	N 77° 55' 00" W	46.50
34	N 77° 55' 00" W	25.88
35	N 77° 55' 00" W	30.00
36	N 77° 55' 00" W	17.00
37	N 77° 55' 00" W	41.37
38	N 77° 55' 00" W	4.89
39	N 77° 55' 00" W	8.07
40	N 77° 55' 00" W	60.91
41	N 77° 55' 00" W	20.45
42	N 77° 55' 00" W	50.48
43	N 77° 55' 00" W	50.48
44	N 77° 55' 00" W	15.23
45	N 77° 55' 00" W	25.01
46	N 77° 55' 00" W	25.01
47	N 77° 55' 00" W	25.01
48	N 77° 55' 00" W	25.01
49	N 77° 55' 00" W	25.01
50	N 77° 55' 00" W	25.01

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APR 04 2012
S.E.P. South District
SURVEY CONSISTS OF SHEETS 1
THROUGH 8 AND IS NOT VALID
WITHOUT COMPLETE SET

TITLE: SPECIFIC PURPOSE SURVEY			
		10870 SOUTH CLEVELAND AVENUE UNIT 800 FORT MYERS, FLORIDA 33907 PHONE: (239) 275-8575 FAX: (239) 275-8457 www.metronllc.com	
FILE NAME:	FIELD BOOK/PAGE:	PROJECT NO.:	SHEET:
10627SL.dwg	N/A	10627	8 OF 8
DRAWN BY:	CHECKED BY:	SCALE:	DATE:
RY	TLM	1" = 100'	24-46-23

SPECIFIC PURPOSE SURVEY

OF
A PARCEL OF SUBMERGED LAND
LYING IN
SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST,
LEE COUNTY, FLORIDA



LEGEND:
P.O.C. = POINT OF COMMENCEMENT
P.O.B. = POINT OF BEGINNING
F.I.R. = FOUND IRON ROD & CAP
D. IDENTIFICATION
TND. = TOUND
N/D. = NAIL & DISC
ENG. = ENGINEERING
F.I.P. = FOUND IRON PIPE & CAP
T.O.B. = TOP OF BANK
#... = BOAT SLIP NUMBER

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D.E.P. South District

SURVEY CONSISTS OF SHEETS 1
THROUGH 8 AND IS NOT VALID
WITHOUT COMPLETE SET

EXISTING LEASE
BOUNDARY
O.R. 2368 PG. 355
O.R. 2837 PG. 2188

TITLE: SPECIFIC PURPOSE SURVEY			
		METRON SURVEYING & MAPPING, LLC LAND SURVEYORS-PLANNERS LBN 7071	
10970 SOUTH CLEVELAND AVENUE UNIT #505 FORT MYERS, FLORIDA 33907 PHONE: (239) 275-8575 FAX: (239) 275-8467 www.metronfl.com			
FILE NAME: 10627SL.dwg	FIELD BOOK/PHOTO: N/A	PROJECT NO.: 10527	SHEET: 7 OF 8
SKETCH DATE: 11-16-09	DRAWN BY: RY	SCALE: 1" = 100'	CHECKED BY: TLM
		(8-7-8) 24-45-23	

BOAT SLIP TABLE		LIVEABOARDS ALLOWED
SLIP #	SLIP SIZE	
#1	28' x 70'	YES
#2	22' x 70'	YES
#3	22' x 70'	YES
#4	22' x 70'	YES
#5	22' x 70'	YES
#6	22' x 70'	YES
#7	18' x 50'	NO
#8	18' x 50'	NO
#9	18' x 50'	NO
#10	18' x 50'	NO
#11	18' x 35'	NO
#12	12' x 35'	NO
#13	12' x 35'	NO
#14	12' x 27'	NO
#15	12' x 27'	NO
#16	12' x 35'	NO
#17	12' x 35'	NO
#18	18' x 50'	NO
#19	18' x 50'	NO
#20	22' x 70'	YES
#21	22' x 70'	YES
#22	18' x 50'	YES
#23	22' x 70'	YES
#24	22' x 68'	YES
#25	22' x 68'	YES
#26	22' x 68'	YES
#27	22' x 68'	YES
#28	18' x 68'	YES
#29	16' x 25'	NO
#30	16' x 25'	NO
#31	16' x 40'	NO
#32	12' x 30'	NO
#33	12' x 30'	NO
#34	12' x 30'	NO
#35	12' x 30'	NO
#36	33' x 100'	YES
#37	33' x 100'	YES
#38	11' x 56'	NO
#39	20.5' x 56'	NO

SPECIFIC PURPOSE SURVEY

A PARCEL OF SUBMERGED LAND

LYING IN

SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST,
LEE COUNTY, FLORIDA

LINE	BEARING	DISTANCE
L1	N26°56'33"W	1.29'
L2	N63°03'27"E	13.75'
L3	N18°03'27"E	3.77'
L4	N26°56'33"W	30.42'
L5	N26°56'33"W	30.42'
L6	N71°56'33"W	3.77'
L7	S63°03'27"W	13.75'
L8	N26°56'33"W	1.29'
L9	N28°03'20"W	7.25'
L10	S47°52'35"W	5.00'
L11	N47°52'35"E	110.42'
L12	N39°58'13"W	43.97'
L13	N47°05'31"E	39.64'
L14	N42°51'04"W	10.12'
L15	N47°08'56"E	56.08'
L16	N69°39'32"E	49.12'
L17	S15°25'01"E	4.00'
L18	N73°53'52"E	13.04'
L19	S35°37'08"E	47.11'
L20	S54°22'52"W	20.00'
L21	S35°37'08"E	36.00'
L22	S54°22'52"W	15.00'
L23	S35°37'08"E	44.00'
L24	S54°22'52"W	10.00'
L25	S35°37'08"E	42.03'
L26	S40°22'13"E	51.41'
L27	N43°45'32"E	9.88'
L28	S46°14'28"E	14.00'
L29	S43°45'32"W	1.65'
L30	S46°14'28"E	16.00'
L31	S43°45'32"W	1.23'
L32	S46°14'28"E	14.00'
L33	N43°45'32"E	13.03'
L34	N43°45'32"E	20.00'
L35	N43°45'32"E	20.55'
L36	S46°14'28"E	36.50'
L37	S42°36'24"E	45.89'
L38	S47°23'36"W	30.00'
L39	N42°36'24"W	17.00'
L40	S47°23'36"W	41.27'
L41	S44°09'25"E	4.66'
L42	S45°50'35"W	9.07'
L43	N53°54'24"W	60.91'
L44	N49°50'45"W	50.46'
L45	N50°01'33"W	50.48'
L46	N42°51'10"E	9.27'
L47	N35°38'49"W	15.29'
L48	N40°59'55"W	75.01'
L49	N39°58'41"W	75.05'
L50	N39°58'13"W	75.05'

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APR 04 2012

SURVEY CONSISTS OF SHEETS J
THROUGH 8 AND IS NOT VALID South District
WITHOUT COMPLETE SET

TITLE: SPECIFIC PURPOSE SURVEY			
 METRON SURVEYING & MAPPING, LLC LAND SURVEYORS - PLANNERS L.B.# 7071		10870 SOUTH CLEVELAND AVENUE UNIT #005 FORT MYERS, FLORIDA 33907 PHONE: (239) 275-0575 FAX: (239) 275-8457 www.metronfl.com	
FILE NAME: 10627SL.dwg	FIELD BOOK/PHONE: N/A	PROJECT NO.: 10627	SHEET: 8 OF 8
DRAWN BY: 11-18-08	CHECKED BY: RY	SCALE: N/A	DATE: 24-46-23

This instrument prepared by
and return to:

Kathleen S. O'Connor

BAKER & HOSTETLER RETURN TO:

3200 National City Center FIDELITY NATIONAL TITLE

1900 East 9th Street INSURANCE COMPANY

Cleveland, OH 44114 ATTN: JENNIE CLAYTON

(216) 861-7328 5690 W. Cypress St., Ste A

Tampa, FL 33607

NAPS / FNT File No

NT05-0270

Parcel Identification No's.: See attached Exhibit "C"

SPECIAL WARRANTY DEED

(2)
This SPECIAL WARRANTY DEED, made and given this 21st day of September, 2006, by Boykin Hotel Properties, L.P., an Ohio limited partnership ("Grantor") whose address is c/o Boykin Lodging Company, Guildhall Building, 45 W. Prospect Ave., Suite 1500, Cleveland, OH 44115 to JABO, LLC, a Delaware limited liability company, whose address is Guildhall Building, 45 W. Prospect Ave., Suite 1500, Cleveland, OH 44115 (hereinafter referred to as the "Grantee").

WITNESSETH:

That the Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration to said Grantor, in hand paid by the Grantee, the receipt of which is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the Grantee, all that certain piece, parcel or tract of land lying and being in the County of Lee, State of Florida, more particularly described as follows:

See Exhibit "A" attached hereto and incorporated herein by this reference.

This conveyance is also subject to the following:

See Exhibit "B" attached hereto and incorporated herein by reference.

TOGETHER with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

TO HAVE AND TO HOLD the same in fee simple forever.

AND the Grantor will defend the same against the lawful claims of all claiming by, through or under any of the Grantor.

[Signature Page Follows]

IN WITNESS WHEREOF, Grantor has caused these presents to be executed the day and year first above written.

Signed sealed and delivered in the presence of: BHP:

Mindy M. TOTH
Signature of Witness
MINDY M. TOTH
Print Name

Boykin Hotel Properties L.P., an Ohio limited partnership

By: Boykin Lodging Company, an Ohio corporation, its general partner

By: Shawn P. Dineen
Its: Exec. VP and Chief
Financial & Investment Officer

Signed sealed and delivered in the presence of:

Mary Hagg
Signature of Witness
MARY HAGG
Print Name

State of Ohio)
County of Cuyahoga) ss.

The foregoing instrument was acknowledged before me this 14 day of September, 2006, by Shawn P. Dineen, as Exec. VP & CFO of Boykin Lodging Company, an Ohio corporation, as the General Partner of Boykin Hotel Properties, L.P., an Ohio limited partnership, on behalf of the corporation and the limited partnership. He is personally known to me or has produced _____ as identification.

Mindy M. TOTH
(Notary Signature)

(NOTARY SEAL)



(Notary Name Printed)
NOTARY PUBLIC
Commission No. _____

MINDY M.T. TOTH
Notary Public, State of Ohio, Cuy. Cty.
My commission expires May 2, 2008

EXHIBIT "A"

Legal Description

PARCEL 1:

Lots 5 and 6, GULFSHORE SUBDIVISION as recorded in Plat Book 9, page 88, of the Public Records of Lee County, Florida.

PARCEL 2: White Sands Underlying Parcel:

Part of Lots 8 and 9, and Lot 10 of Gulfshore Subdivision as recorded in Plat Book 9, page 88, of the Public Records of Lee County, Florida, and part of Lots 33 through 36 of Unit No. 4, Island Shores, as recorded in Plat Book 9, page 37, of said Public Records more particularly described as follows:

Begin at the Northwest corner of Lot 36 of said Unit No. 4, Island Shores also being a point on the Southwesterly right of way of Estero Boulevard 30 feet from the centerline; thence South 42°07'25" East along said right of way for 400.00 feet to the Northwesterly right of way of Gulfshore Court; thence South 47°52'35" West along said right of way of Gulfshore Court for 98.24 feet; thence North 42°07'25" West for 24 feet; thence South 47°52'35" West for 2.50 feet; thence North 42°07'25" West for 43.54 feet; thence North 47°52'35" East for 2.50 feet; thence North 42°07'25" West for 50.00 feet; thence North 40°31'28" East for 14.49 feet; thence North 50°19'25" west for 27.57 feet; thence North 59°22'01" West for 20.23 feet; thence South 39°40'35" West for 31.50 feet; thence South 59°17'28" East for 2.30 feet; thence South 30°21'33" West for 15.24 feet; thence North 58°42'37" West for 3.31 feet; thence South 29°58'13" West for 29.45 feet; thence South 48°42'33" West for 77.19 feet; thence South 40°09'10" East for 31.53 feet; thence South 07°36'21" East for 37.85 feet; thence North 40°26'54" West for 312.86 feet to the Northwesterly line of Lot 36 of said Unit. No. 4, Island Shores Club Section; thence North 47°52'35" East along said Lot 36 for 258.36 feet to the Point of Beginning.

TOGETHER WITH PARCEL 3:

Part of Block "D", Unit 4, Island Shores, as recorded in Plat Book 9, page 37, of said Public Records more particularly described as follows:

The Northwest half of Lot 28, ALL of Lot 29, ALL of Lot 30, and the Southeast 20 feet of Lot 31 of said Block "D", Unit 4, Island Shores.

TOGETHER WITH PARCEL 4:

Part of Block "D", Island Shores Club Section, as recorded in Plat Book 9, page 41, of said Public Records more particularly described as follows:

The Northwest 17 feet of Lot 32, of said Block "D" Island Shores Club Section.

ALL of Lot 33, Lot 34, and Lot 35, and the Southeast 50 feet of Lot 36, INDIAN SHORES CLUB SECTION, as recorded in Plat book 9, page 41, of the Public records of Lee County, Florida.

Exhibit "A"
Legal Description

LESS AND EXCEPT THE FOLLOWING FROM PARCELS 2, 3 AND 4:

White Sand Villas, a condominium, lying in Section 24, Township 46 South, Range 23 East, Lee County, Florida, more particularly described as follows:

PARCEL 1 of White Sand Villas:

Commence at the intersection of the Northwest corner of Lot 36 of Unit No. 4, Island Shores, as recorded in Plat Book 9, page 37, of the Public Records of Lee County, Florida and the Southerly right of way of Estero Boulevard, 30 feet from the centerline; thence South 47°52'35" West along the Northwesterly line of said Lot 36 for 86.39 feet; thence South 42°07'25" East for 17.46 feet to the Point of Beginning; thence South 42°07'25" East for 25.27 feet; thence South 47°52'35" West for 33.58 feet; thence South 42°07'25" East for 5.99 feet; thence South 87°07'25" East for 19.12 feet; thence South 02°52'35" West for 8.82 feet; thence South 87°07'25" East for 4.54 feet; thence North 02°52'35" East for 2.33 feet; thence South 87°07'25" East for 3.16 feet; thence North 02°52'35" East for 25.44 feet; thence South 87°07'25" East for 37.85 feet; thence South 42°07'25" East for 7.55 feet; thence North 47°52'35" East for 8.08 feet; thence South 42°07'25" East for 7.00 feet; thence South 47°52'35" West for 6.75 feet; thence South 42°07'25" East for 13.17 feet; thence North 47°52'35" East for 1.50 feet; thence South 42°07'25" East for 34.67 feet; thence South 47°52'35" West for 1.50 feet; thence South 42°07'25" East for 13.17 feet; thence North 47°52'35" East for 6.75 feet; thence South 42°07'25" East for 7.00 feet; thence South 47°52'35" West for 8.08 feet; thence South 42°07'25" East 7.55 feet; thence South 02°52'35" West for 37.85 feet; thence North 87°07'25" West for 5.44 feet; thence South 02°52'35" West for 3.16 feet; thence North 87°07'25" West for 2.33 feet; thence South 02°52'35" West for 4.54 feet; thence South 87°07'25" East for 6.07 feet; thence South 02°52'35" West for 3.77 feet; thence South 42°07'25" East for 5.73 feet; thence South 47°52'35" West for 2.08 feet; thence South 42°07'25" East for 13.06 feet; thence North 47°52'35" East for 26.75 feet; thence South 42°07'25" East for 25.27 feet; thence South 47°52'35" West for 3.22 feet; thence South 77°52'35" West for 5.94 feet; thence South 47°52'35" West for 15.16 feet; thence South 42°07'25" East for 2.97 feet; thence South 47°52'35" West for 104.13 feet; thence North 42°07'25" West for 9.13 feet; thence North 47°52'35" East for 2.75 feet; thence North 42°07'25" West for 24.83 feet; thence North 47°52'35" East for 22.98 feet; thence North 02°52'35" East for 33.76 feet; thence South 87°07'25" East for 23.38 feet; thence North 47°52'35" East for 7.38 feet; thence North 42°07'25" West for 20.76 feet; thence North 87°07'25" West for 13.93 feet; thence North 02°52'35" East for 8.27 feet; thence South 87°07'25" East for 11.58 feet; thence North 02°52'35" East for 3.61 feet; thence South 87°07'25" East for 6.96 feet; thence North 02°52'35" East for 14.82 feet; thence North 42°07'25" West for 704 feet; thence North 47°52'35" East for 8.04 feet; thence North 02°52'35" East for 3.63 feet; thence North 47°52'35" East for 16.75 feet; thence North 42°07'25" West for 43.37 feet; thence South 47°52'35" West for 27.36 feet; thence North 42°07'25" West for 8.94 feet; thence North 87°07'25" West for 4.15 feet; thence North 02°52'35" East for 18.21 feet; thence North 87°07'25" West for 6.13 feet;

Exhibit "A"
Legal Description

thence North 02°52'35" East for 2.33 feet; thence North 87°07'25" West for 4.54 feet; thence South 02°52'35" West for 15.82 feet; thence South 87°07'25" East for 0.65 feet; thence South 02°52'35" West for 7.00 feet; thence North 87°07'25" West for 4.25 feet; thence South 02°52'35" West for 16.27 feet; thence North 87°07'25" West for 8.27 feet; thence North 02°52'35" East for 16.27 feet; thence North 87°07'25" West for 12.17 feet; thence North 42°07'25" West for 23.04 feet; thence South 47°52'35" West for 9.92 feet; thence North 42°07'25" West for 7.00 feet; thence North 47°52'35" East for 9.92 feet; thence North 42°07'25" West for 13.49 feet; thence South 47°52'35" West for 26.58 feet; thence North 42°07'25" West for 8.27 feet; thence North 47°52'35" East for 87.67 feet to the Point of Beginning.

TOGETHER WITH

PARCEL 2 of White Sand Villas:

Commence at the intersection of the Northwest corner of Lot 36 of Unit 4, Island Shores, as recorded in Plat Book 9, page 37, of the Public Records of Lee County, Florida; thence South 47°52'35" West, along the Northwesterly line of said Lot 36 for 27.60 feet; thence South 42°07'25" East for 87.96 feet to the Point of Beginning; thence South 42°07'25" East for 30.20 feet; thence North 87°07'25" East for 3.67 feet; thence South 42°07'25" East for 10.68 feet; thence South 02°52'35" West for 3.67 feet; thence South 42°07'25" East for 30.20 feet; thence South 47°52'35" West for 7.17 feet; thence North 42°07'25" West for 76.27 feet; thence North 47°52'35" East for 7.17 feet to the Point of Beginning.

TOGETHER WITH

PARCEL 3 THRU 12 of White Sand Villas

Commence at the intersection of the Northwest corner of Lot 36 of Unit No. 4, Island Shores, as recorded in Plat Book 9, page 37, of the Public Records of Lee County, Florida and the Southerly right of way of Estero Boulevard 30 feet from the centerline; thence South 47°52'35" West along the Northwesterly line of said Lot 36 for 189.40 feet; thence South 42°07'25" East for 35.67 feet to the Point of Beginning of Parcel 3; thence South 02°52'35" West for 7.17 feet; thence North 87°07'25" West for 8.27 feet; thence North 02°52'35" East for 7.17 feet; thence South 87°07'25" East for 8.27 feet to the Point of Beginning; from said Point of Beginning thence South 49°00'56" East for 16.82 feet to the Point of Beginning of Parcel 4; thence North 02°52'35" East for 23.11 feet; thence South 87°07'25" East for 8.27 feet; thence South 02°52'35" West for 23.11 feet; thence North 87°07'25" West for 8.27 feet to the Point of Beginning; from said Point of Beginning thence South 87°07'25" East for 24.17 feet to the Point of Beginning of Parcel 5; thence North 02°52'35" East for 21.11 feet; thence South 87°07'25" East for 8.27 feet; thence South 02°52'35" West for 21.11 feet; thence North 87°07'25" West for 8.27 feet to the Point of Beginning; from said Point of Beginning thence South 38°09'36" East for 38.83 feet to the Point of Beginning of Parcel 6; thence South 02°52'35" West for 8.67 feet;

Exhibit "A"
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thence North 87°07'25" West for 7.92 feet; thence North 02°52'35" East for 8.67 feet; thence South 87°07'25" East for 7.92 feet to the Point of Beginning; from said Point of Beginning thence South 42°07'25" East for 35.73 feet to the Point of Beginning of Parcel 7; thence South 02°52'35" West for 7.92 feet; thence North 87°07'25" West for 8.67 feet; thence North 02°52'35" East for 7.92 feet; thence North 87°07'25" West for 8.67 feet to the Point of Beginning; from said Point of Beginning thence North 65°45'36" East for 42.24 feet to the Point of Beginning of Parcel 8; thence North 47°52'35" East for 7.00 feet; thence South 42°07'25" East for 7.00 feet; thence South 47°52'35" West for 7.00 feet; thence North 42°07'25" West for 7.00 feet to the Point of Beginning; from said Point of Beginning thence North 03°41'47" East for 29.30 feet to the Point of Beginning of Parcel 9; thence North 42°07'25" West for 8.50 feet; thence North 47°52'35" East for 7.50 feet; thence South 42°07'25" East for 8.50 feet; thence South 47°52'35" West for 7.50 feet to the Point of Beginning; from said Point of Beginning thence North 67°59'23" West for 32.13 feet to the Point of Beginning of Parcel 10; thence South 47°52'35" West a distance of 7.00 feet; thence North 42°07'25" West for 7.00 feet; thence North 47°52'35" East for 7.00 feet; thence South 42°07'25" East for 7.00 feet to the Point of Beginning; from said Point of Beginning; thence South 26°25'30" East for 21.35 feet to the Point of Beginning of Parcel 11; thence South 47°52'35" West for 17.42 feet; thence North 42°07'25" West for 8.27 feet; thence North 47°52'35" East for 17.42 feet; thence South 42°07'25" East for 8.27 feet to the Point of Beginning; thence South 42°07'25" East for 8.23 feet to the Point of Beginning of Parcel 12; thence South 42°07'25" East for 8.27 feet; thence South 47°52'35" West for 17.42 feet; thence North 47°52'35" East for 17.42 feet to the Point of Beginning.

TOGETHER WITH:

All air space and structural building components located at elevation 21.67 feet NGVD and above more particularly described as follows:

From the Point of Beginning of said Parcel 2; thence South 42°07'25" East for 28.21 feet; thence South 87°07'25" East for 5.79 feet; thence South 42°07'25" East for 11.65 feet; thence South 02°52'35" West for 5.79 feet; thence South 42°07'25" East for 28.21 feet; thence South 47°52'35" West of 33.24 feet; thence South 42°07'25" East for 6.91 feet; thence South 02°52'35" West for 37.85 feet; thence North 87°07'25" West for 21.70 feet; thence South 02°52'35" West for 11.47 feet; thence South 42°07'25" East for 5.73 feet; thence South 47°52'35" West for 2.08 feet; thence South 42°07'25" East for 18.06 feet; thence North 47°52'35" East for 26.75 feet; thence South 42°07'25" East for 4.14 feet; thence South 87°07'25" East for 2.36 feet; thence North 42°07'25" East for 13.66 feet; thence South 02°52'35" West for 2.36 feet; thence South 42°07'25" East for 4.14 feet; thence South 47°52'35" West for 3.22 feet; thence South 77°52'35" West for 3.27 feet; thence South 47°52'35" West for 17.47 feet; thence South 42°07'25" East for 1.63 feet; thence South 47°52'35" West for 101.38 feet; thence North 42°52'35" West for 101.38 feet; thence North 42°07'25" West for 33.97 feet; thence North 47°52'35" East for 19.79 feet; thence North 02°52'35" East for 60.19 feet; thence North 87°07'25" West for 5.30 feet; thence North 42°07'25" West for 56.72 feet; thence North 02°52'35" East for 5.30 feet; thence North 87°07'25" West, 66.96 feet;

Exhibit "A"
Legal Description

thence North 42°07'25" West for 19.23 feet; thence North 02°52'35" East for 8.93 feet; thence South 47°52'35" East for 15.93 feet; thence North 42°07'25" West for 3.63 feet; thence North 47°52'35" East for 87.67 feet; thence South 42°07'25" East for 4.14 feet; thence South 87°07'25" East for 2.36 feet; thence South 42°07'25" East for 13.66 feet; thence South 02°52'35" West for 2.36 feet; thence South 42°07'25" East for 4.14 feet; thence South 47°52'35" West for 27.41 feet; thence South 42°07'25" East for 12.16 feet; thence South 87°07'25" East for 18.09 feet; thence North 02°52'35" East for 18.96 feet; thence South 87°07'25" East for 37.85 feet; thence South 42°07'25" East for 6.91 feet; thence North 47°52'35" East for 33.24 feet to the Point of Beginning.

TOGETHER WITH:

All air space and monumental stairs located at elevation 6.67 feet NGVD to 21.67 feet NGVD more particularly described as follows:

Commence at the intersection of the Northwest corner of Lot 36 of Unit No. 4, Island Shores, as recorded in Plat Book 9, page 37, of the Public Records of Lee County, Florida and the Southerly right of way of Estero Boulevard, 30 feet from the centerline; thence South 47°52'35" West along the Northwesterly line of said Lot 36 for 180.93 feet; thence South 42°07'25" East for 102.89 feet to the Point of Beginning; thence South 87°07'25" East for 27.64 feet; thence South 87°07'25" East for 27.64 feet; thence North 47°52'35" East for 8.70 feet; thence South 42°07'25" East for 7.33 feet; thence South 47°52'35" West for 8.70 feet; thence South 02°52'35" West for 27.64 feet; thence North 87°07'25" West for 7.50 feet; thence North 02°52'35" East for 16.90 feet; thence North 42°07'25" West for 11.92 feet; thence North 87°07'25" West for 16.90 feet; thence North 02°52'35" East for 7.50 feet to the Point of Beginning.

PARCEL 5:

Lots 34, 35, 36 and the Northwesterly 25 feet of Lot 33, Unit No. 4, ISLAND SHORES, according to the plat thereof filed in Plat Book 9, page 37, of the Public records of Lee County Florida,

Lot 4, GULFSHORE, according to the plat thereof as filed in Plat Book 9, page 88, of the Public records of Lee County, Florida.

LESS any of those portions as described in the White Sands Underlying Parcel as described above;

AND LESS any portions described as the common areas of the ESTERO BEACH VILLAS, a condominium pursuant to the Declaration of Condominium recorded in Official Record Book 2574, page 734, of the Public Records of Lee County, Florida.

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PARCEL 6:

Lots 39, 40, 41 and 42, Unit No. 4. ISLAND SHORES, according to the plat thereof filed in Plat Book 9, page 41, of the Public records of Lee County Florida,

LESS any portion which lies within the property pursuant to the Declaration of Condominium for Sanibel View Villas, a Condominium, according to the Declaration of Condominium thereof recorded in Official Record Book 3559, page 222, of the Public Records of Lee County, Florida.

PARCEL 7:

Lot 31, LESS the South 20 feet, Block "D", Unit 4, Island Shores, as recorded in Plat Book 9, page 37 of the Public records of Lee County, Florida.

Lots 32, LESS the Northwest 17 feet, Block "D", Unit 4, Island Shores, according to the plat thereof as filed in Plat Book 9, page 37, and Lots 36, LESS the Southeast 50 feet, and Lots 38 and 39, Block D, ISLAND SHORES CLUB SECTION, according to the plat thereof as filed in Plat Book 9, page 41, of the Public Records of Lee County, Florida.

PARCEL 8:

INTENTIONALLY OMITTED

PARCEL 9:

Units CU-101, CU-201, CU-401, CU-501 and CU-E1, Sanibel View Villas, a Condominium, according to the Declaration of Condominium thereof recorded in Official Record Book 3559, page 222, of the Public Records of Lee County, Florida.

EXHIBIT "B"

1. All assessments and taxes for the year 2006; and all subsequent years which are not yet due and payable.
2. Reservation of one-half interest in oil, gas and mineral rights as reserved in those Deeds recorded in Official Record Book 481, page 617; in Official Record Book 309, page 568; and in Official Record Book 428, page 384, of the Public Records of Lee County, Florida.
3. Covenant of Unified Control recorded December 4, 1984 in Official Record Book 1757, page 3235, of the Public Records of Lee County, Florida.
4. Covenant of Unified Control recorded November 7, 1995 in Official Record Book 2649, page 2689, of the Public Records of Lee County, Florida.
5. Easement in favor of Lee County dated February 27, 1984, recorded May 6, 1985 in Official Record Book 1782, page 1812, of the Public Records of Lee County, Florida.
6. Easement in favor of Lee County dated February 27, 1984, recorded May 6, 1985 in Official Record Book 1782, page 1814, of the Public Records of Lee County, Florida.
7. Easement in favor of Florida Power & Light Company dated July 13, 1977, recorded December 30, 1977 in Official Record Book 1243, page 446, of the Public Records of Lee County, Florida.
8. Reservation for easement in that certain Deed dated March 30, 1956, recorded April 3, 1956 in Deed Book 254, page 553, of the Public Records of Lee County, Florida.
9. Terms and conditions in the Sovereignty Submerged Lands Lease recorded March 11, 1993 in Official Record Book 2368, page 355, as renewed in Official Record Book 2837, page 2188, as modified by the Sovereignty Submerged Lands Lease Modification to Reflect Change in Ownership recorded July 5, 2000 in Official Record Book 3275, page 3014, as modified in the Sovereignty Submerged Lands Lease Renewal and Modification to Change Description of Use recorded September 3, 2002 in Official Record Book 3718, page 2242, all of the Public Records of Lee County, Florida.
10. Terms and conditions in that certain Dock Agreement dated April 28, 1993, recorded in Official Record Book 2399, page 1164, of the Public Records of Lee County, Florida.
11. Terms and conditions in the Agreement Regarding Walkway Easement by and between Florida Income Fund III, Limited Partnership, and Fred R. Bushnell, Jr., and Mary B. Bushnell dated January 25, 1994, recorded March 9, 1994 in Official Record Book 2479, page 1923, of the Public Records of Lee County, Florida.
12. Standard Easement Agreement in favor of South Florida Cable Television Corporation recorded January 26, 1989 in Official Record Book 2045, page 436, of the Public Records of Lee County, Florida.

13. Grant of Parking Easement by and between Florida Income Fund III, Limited Partnership, and Pink Shell Vacation Villas Condominium Association, Inc., dated December 15, 1989, recorded December 18, 1989 in Official Record Book 2116, page 145, of the Public Records of Lee County, Florida.
14. Terms, conditions, restrictions, covenants, easements and assessments, if any, in the Declaration of Condominium for Sanibel View Villas, a condominium, recorded January 15, 2002, in Official Record Book 3559, page 222, as amended by the First Amendment to Declaration of Condominium Sanibel View Villas, a condominium, recorded September 19, 2003 in Official Record Book 4065, page 2629; all of the Public Records of Lee County, Florida.
15. Terms, conditions, restrictions, covenants, easements and assessments, if any, in the Condominium of Pink Shell Vacation Villas recorded December 20, 1976 in Official Record Book 1173, page 1496, of the Public Records of Lee County, Florida.
16. Easement in favor of Florida Power & Light Company dated January 30, 1995, recorded February 1, 1995 in Official Record Book 2572, page 1188, of the Public Records of Lee County, Florida.
17. Right-of-way Easement in favor of Lee County Electric Cooperative, Inc., dated August 1, 1975, recorded August 7, 1975 in Official Record Book 1121, page 1358, of the Public Records of Lee County, Florida.
18. Terms, conditions, restrictions, covenants and easements in the Covenants of Unified Control and Declaration of Dedications, Covenants and Restrictions recorded July 25, 2000 in Official Record Book 3283, page 2363, of the Public Records of Lee County, Florida.
19. Perpetual Beach Storm Damage Reduction Easement in favor of Lee County dated February 7, 2000, recorded March 14, 2001 in Official Record Book 3376, page 1330, of the Public Records of Lee County, Florida.
20. Perpetual Beach Storm Damage Reduction Easement in favor of Lee County dated February 7, 2000, recorded March 14, 2001 in Official Record Book 3376, page 1334, of the Public Records of Lee County, Florida.
21. Terms, conditions, restrictions, covenants and easements in the Declaration of Use Rights and Easement recorded January 15, 2002 in Official Record Book 3559, page 196, of the Public Records of Lee County, Florida.
22. Notice of Development Order Approval recorded May 15, 2002 in Official Record Book 3646, page 850, of the Public Records of Lee County, Florida.
23. Reciprocal Easement Agreement by and between Sanibel View Villas Condominium Association, Inc., and Boykin Hotel Properties, L.P., dated September 8, 2003, recorded September 19, 2003 in Official Record Book 4065, page 2672, of the Public Records of Lee County, Florida.
24. Easement Grant and Covenant to Build and Maintain by and between Boykin Hotel Properties, L.P., Captiva Villas Development and Lee County recorded August 6, 2004 in Official Record Book 4393, page 474, and re-recorded in Official Record Book 4396, page 1005, all of the Public Records of Lee County, Florida.

25. Easements as shown in the Plat of ISLAND SHORES UNIT NO. 4, as recorded in Plat Book 9, Page 37, of the Public Records of Lee County, Florida.
 26. Easements shown in the Plat of ISLAND SHORES CLUB SECTION, as recorded in Plat Book 9, Page 41, of the Public Records of Lee County, Florida.
 27. Easements shown in the Plat of GULFSHORE, as recorded in Plat Book 9, Page 88, of the Public Records of Lee County, Florida.
 28. Riparian rights are neither guaranteed nor insured.
 29. The rights of the United States of America in and to any portion of the subject property lying in what was formerly navigable waters.
 30. The rights, if any, of the public to use as a public beach or recreation area any part of the land lying between the body of water abutting the subject property and the natural line of vegetation, the bulkhead line, the most extreme high water line or any other legally established boundary line separating the publicly used area from the upland private area.
 31. Subject to any and all residual royalty rights of Coastal Petroleum Company, or its assigns, resulting from any agreements with the Trustees of the Internal Improvement Trust Fund of Florida.
 32. The premises herein described being artificially filled-in land in what was formerly navigable waters, this binder/policy is subject to the rights of the United States Government and the State of Florida, arising by reason of the United States Government's control over navigable waters in the interest of navigation and commerce, and the inalienable rights of the State of Florida, in the lands and/or waters of such character.
- NOTE: Attention is called to Chapter 161, Florida Statutes, regarding coastal construction and excavation within 50 feet of the mean high water line at any riparian coastal location and all applicable county regulations regarding construction, excavation and establishment of coastal construction control lines and bulkhead lines.
33. Terms and conditions as set forth in Declaration of Condominium of WHITE SAND VILLAS, a condominium, according to the Declaration of Condominium thereof recorded in Official Record Book 4203, page 2100, as amended by the First Amendment to Declaration of Condominium of White Sands, a Condominium, recorded in Official Record Book 4479, page 3305, all of the Public Records of Lee County, Florida, including the by-laws, rules and regulations, easements, restrictions, reservations, maintenance agreements, leases and all matters made a part thereof, together with such additions and amendments as from time to time may be made.
 34. Easement Grant and Covenant to Build and Maintain by and between Boykin Hotel Properties, L.P., Captiva Villas Development and Lee County recorded August 6, 2004 in Official Record Book 4393, page 474, of the Public Records of Lee County, Florida.
 35. Easement Relocation View Corridor Agreement by and between Boykin Hotel Properties, L.P., Captiva Villas Development, LLC, and the Town of Fort Myers Beach, Florida, recorded August 8, 2004 in Official Record Book 4394, page 3212, of the Public Records of Lee County, Florida.

EXHIBIT "C"

Parcel Identification Numbers

24-46-23-W1-00700.0290
24-46-23-W1-00700.0320
24-46-23-W1-00700.0330
24-46-23-W1-00700.0340
24-46-23-W1-02100.4350
24-46-23-W1-037CU.00E1
24-46-23-W1-037CU.0101
24-46-23-W1-037CU.0201
24-46-23-W1-037CU.0301
24-46-23-W1-037CU.0401
24-46-23-W1-037CU.0501



FLORIDA DEPARTMENT OF Environmental Protection

South District
PO Box 2549
Fort Myers FL 33902-2549
SouthDistrict@FloridaDEP.gov

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Shawn Hamilton
Secretary

April 29, 2022

Jabo LLC
c/o Bill Waichulis
275 Estero Blvd.
Fort Myers Beach, FL 33931
BWaichulis@boykin.com

Re: In Compliance Letter
The Pink Shell Resort
Site No. 185701 / Project No. 332293
ERP Permit Nos. 36-0185701-005 & 36-0185701-006
BOT Lease No. 360010245
Estero Pass, Class II Waters
Parcel No. 244623W1007000340 - 275 Estero Blvd., Fort Myers Beach, FL 33931
Lee County – SLERC

Dear Mr. Waichulis:

Department personnel conducted a Lease inspection of the above-referenced facility on April 7, 2022. Based on the information provided during the inspection, the facility was determined to be in compliance. A copy of the inspection report is attached for your records.

The Department appreciates your compliance efforts. Should you have any questions or comments, please contact Gabriella Zaharieff at (239) 344-5640 or by via e-mail at:
Gabriella.Zaharieff@floridadep.gov

Sincerely,

A handwritten signature in blue ink, appearing to read "Elizabeth Sweigert".

Elizabeth "Liz" Sweigert
Environmental Administrator
Compliance Assurance Program

ES/gz

Enclosure: Inspection Report

STATE LANDS LEASE INSPECTION

IN COMPLIANCE?	☒ YES ☐ NO	BOT Number:	360010245
ERPce Project #:	332293	Requested by:	Kathy Griffin
ERPce Site #:	185701	Date Requested:	
Property ID#:	244623W1007000340	Date Sent to DSL:	
Term:	5 years	Date of Inspection:	April 7, 2022
Issued:	June 27, 2017	Inspector Name:	Gabriella Zaharieff
Expiration:	June 27, 2022	Telephone #:	239-344-5640

Type of Inspection:

☒ Renewal	☐ Assignment	☐ Modification	☐ Mid-Term	☐ Other: _____
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Attachments:

☒ Photographs	☒ Surveys/Drawings	☐ Other: _____
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SITE/CONTACT INFORMATION:

Lessee:	Jabo LLC	AKA/FKA/ADA:	
Current Owner:	Jabo LLC	Email:	BWaichulis@boykin.com
Contact Person:	Bill Waichulis	Title:	Senior VP of Operations
Telephone #:	239-463-8601	County:	Lee
Facility Address:	275 Estero Blvd., Fort Myers Beach, FL 33931		
Waterbody:	Estero Pass	Class:	☐ I ☒ II ☐ III ☐ IV ☐ V
Aquatic Preserve?	N/A		
OFW ?	☐ Yes ☐ No		
Is the lessee information correct?	☒ Yes ☐ No		

SLIP INFORMATION:

1. Number of slips authorized in lease & Number observed:	41/41
2. Number of wetslips for public rental on state lands:	0
3. Are 90% open to the public?	☐ Yes ☐ No ☒ N/A ☐ See Comments
4. Number of wetslips on privately owned land:	0
5. Number of upland dry storage units/slips:	0
6. Does there appear to be liveaboards within the lease area?	☒ Yes ☐ No ☐ N/A ☐ See Comments
7. Is ALL mooring within the lease boundaries?	☒ Yes ☐ No ☐ N/A ☐ See Comments
8. Were past aerals reviewed for mooring compliance?	☒ Yes ☐ No ☐ N/A ☐ See Comments

LEASE INFORMATION

9. What is the current upland use?	Resort Hotel
a. Has the upland use changed?	☐ Yes ☒ No ☐ N/A ☐ See Comments
10. Number of upland residential units:	
11. What is the linear footage of shoreline owned by the applicant immediately adjacent to sovereign submerged lands?	400 ft
12. Are the docking structures in good condition?	☒ Yes ☐ No ☐ N/A ☐ See Comments
13. Were the dock dimensions field verified?	☒ Yes ☐ No ☐ N/A ☐ See Comments
14. Are there any over water roofed structures?	☐ Yes ☒ No ☐ N/A ☐ See Comments
15. Are there any non-water dependent uses: i.e., ship stores; gazebos; Sundecks; harbor master office; wet bar; etc.?	☐ Yes ☒ No ☐ N/A ☐ See Comments
16. Have there been any dock modifications or additions?	☐ Yes ☒ No ☐ N/A ☐ See Comments
17. Does the lease allow for mooring of "cruise to nowhere" vessels?	☐ Yes ☒ No ☐ N/A ☐ See Comments
a. If yes, is "cruise to nowhere gambling"?	☐ Yes ☐ No ☒ N/A ☐ See Comments

18. Is the lease area used for special events (i.e. boat shows, fishing tournaments or celebrations)?

19. What type of fueling is provided?

a. Is it shown on the survey?

20. What type of sewage pump-out is provided?

a. If fixed pump-outs, are they shown on the survey?

21. Are ALL lease standard conditions in compliance?

22. Are ALL special lease conditions in compliance?

23. Details provided on any non-compliance indicated above: cc:
Public Lands Administration on Any actions taken

☒	Yes	☐	No	☐	N/A	☐	See Comments
☐	Gas	☐		☐	Diesel	☒	None
☐	Yes	☐	No	☒	N/A	☐	See Comments
☒	Portable	☐		☒	Fixed	☐	None
☐	Yes	☐	No	☒	N/A	☐	See Comments
☒	Yes	☐	No	☐	N/A	☐	See Comments
☒	Yes	☐	No	☐	N/A	☐	See Comments
☐	Yes	☐	No	☒	N/A	☐	See Comments

ADDITIONAL INFORMATION:

24. Is the marina designated as a clean marina or clean boatyard?

If yes, please send a copy of this inspection to

Brenda.Leonard@dep.state.fl.us.

25. Are the fees current (verify with SUPRS/ILMS)?

a. If not current, has an invoice been provided to Lessee?

26. Are the revenue reports forms/slip certifications current?

a. If not current, was the Lessee provided the Forms?

27. Is there any indication as to whether slips are being sold (i.e. For Sale signs at slips, internet sites, flyers, other advertising)?

a. If yes, forward the information to BPLA recurring revenue section. Date sent:

☐	Yes	☐	No	☒	N/A	☐	See Comments
--------------------------	-----	--------------------------	----	-------------------------------------	-----	--------------------------	--------------

☒	Yes	☐	No	☐	N/A	☐	See Comments
☐	Yes	☐	No	☒	N/A	☐	See Comments
☒	Yes	☐	No	☐	N/A	☐	See Comments
☐	Yes	☐	No	☒	N/A	☐	See Comments
☐	Yes	☒	No	☐	N/A	☐	See Comments

STAFF REMARKS:

On Site Observations

- 1). Department staff observed manatee educational signs pursuant to special lease condition 29. A and Permit No. 36-0185701-005.
- 2). Department staff observed a well maintained sewage pump out and sewage pump out log pursuant to special lease condition 29 B.
- 3). Department staff observed that all vessels moored were wholly within the designated slips pursuant to special lease condition 29 C.
- 4). Pursuant to special condition D no vessels were moored in the locations listed in a through f.
- 5). None of the vessels currently moored had a functional head and no holding tank therefore no entries in the log were recording.
- 6). Department staff observed lights and navigation aids along the dock pursuant to special lease condition 29 G.
- 7). Department staff observed that all vessels moored had up to date registrations pursuant to special lease condition 29 H.
- 8). Department staff observed all vessels were in operational condition pursuant to special lease condition 29 I.
- 9). Department staff observed temporary mooring signs pursuant to special lease condition 29 K.
- 10). Department staff observed all pilings were wrapped pursuant to permits Nos. 36-0185701-005 & 36-0185701-006.
- 11). Department staff observed slips 1,2,3,4,5,6,20,21,22,23,24,25,26,27,28,36,37 as live aboard slips with a fixed sewage pump out.
- 12). Department staff observed that the marine management plan was in compliance.
- 13). All standard and special lease conditions are in compliance.
- 14). All permit conditions are in compliance.
- 15). All Annual Revenue Reports (ARR) and Fees are up to date.

FOR LESSOR

Lease is in compliance, please renew.

Inspector Signature: Gabriella Zaharieff

Digitally signed by
Gabriella Zaharieff
Date: 2022.04.27 13:35:27
-04'00'

Manager Signature (if needed): Elizabeth Sweigert

Digitally signed by Elizabeth
Sweigert
Date: 2022.04.28 16:18:27
-04'00'

Page 128 of 403

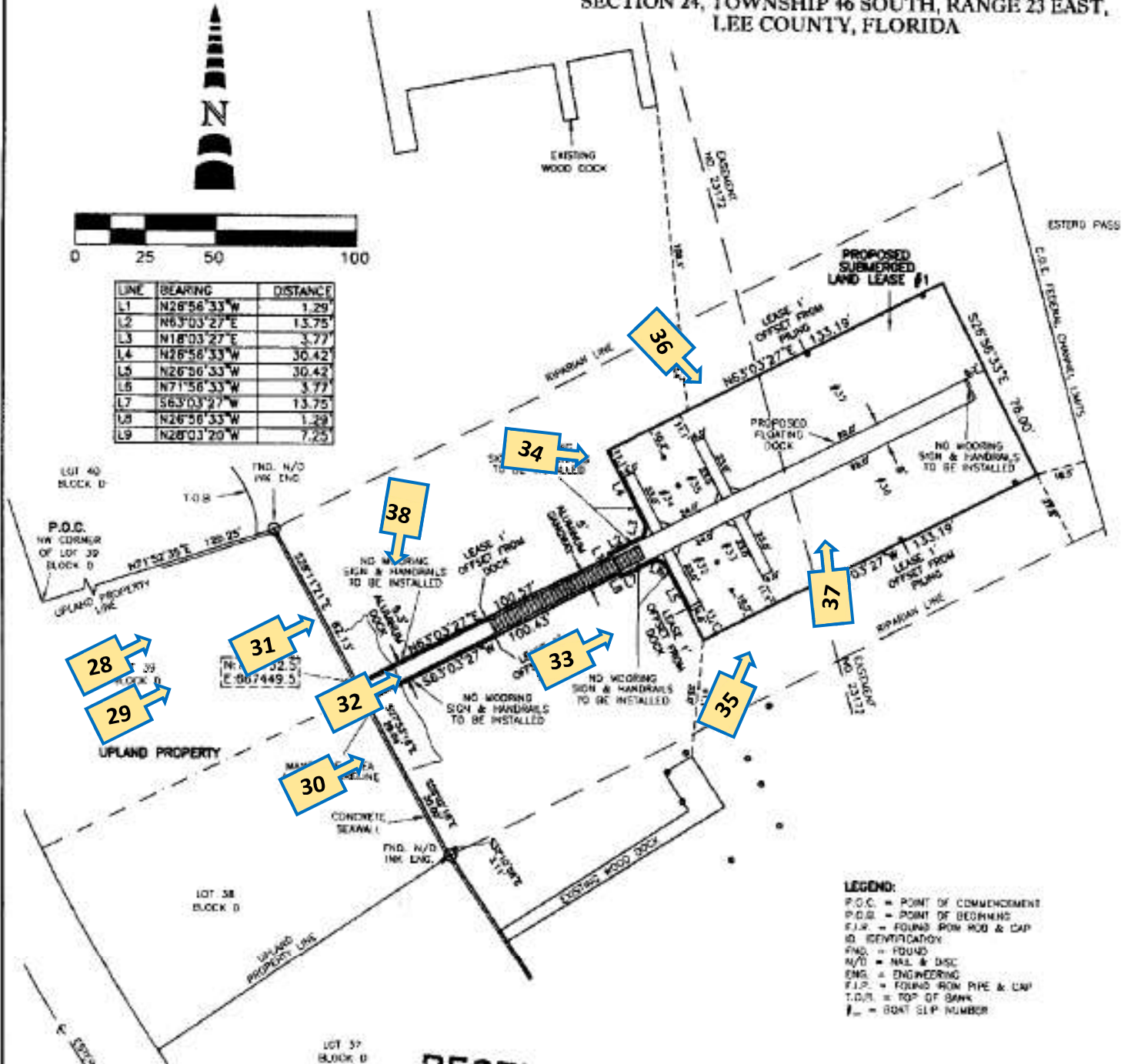
SPECIFIC PURPOSE SURVEY

OF
A PARCEL OF SUBMERGED LAND

LYING IN
SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST,
LEE COUNTY, FLORIDA



LINE	BEARING	DISTANCE
L1	N26°56'33" W	1.29'
L2	N63°03'27" E	13.75'
L3	N18°03'27" E	3.77'
L4	N26°56'33" W	30.42'
L5	N26°56'33" W	30.42'
L6	N71°56'33" W	3.77'
L7	S63°03'27" W	13.75'
L8	N26°56'33" W	1.29'
L9	N28°03'20" W	7.25'



LEGEND:
P.O.C. = POINT OF COMMENCEMENT
P.O.B. = POINT OF BEGINNING
F.I.P. = FOUND FROM ROD & CAP
ID = IDENTIFICATION
FND. = FOUND
N/D = NAIL & DISC
ENG. = ENGINEERING
F.I.P. = FOUND FROM PIPE & UNP
T.O.B. = TOP OF BANK
I = BOAT SLIP NUMBER



1. View of white mangroves, healthy, trimmed to a height of 6 ft. Facing Northeast



2. View of mangroves, facing north



3. View of Kayak launch, facing northeast



4. View of Mangroves, facing north



5. View of monofilament receptacle facing northeast



6. View of environmental awareness (graywater) signs facing northeast



7. View of manatee educational signs, facing north east



8. View of access walkway facing northeast



9. View of sign directing boaters to pump out station



10. View of terminal platform and boat slips facing North



11. View of wrapped pilings



12. View of terminal platform facing North



13. View of slips facing North



14. View of terminal platform and slips facing North



15. View of terminal platform and slips facing North



16. View of finger pier facing northeast



17. View of no mooring signs



18. View of terminal platform facing south



19. View of terminal platform and slips, facing south



20. View of terminal platform and slips, facing south



21. View of terminal platform and slips, facing south



22. View of terminal platform and slips, facing south



23. View of no mooring signs, facing south



24. View of terminal platform, facing south



25. View of pump out sign facing west



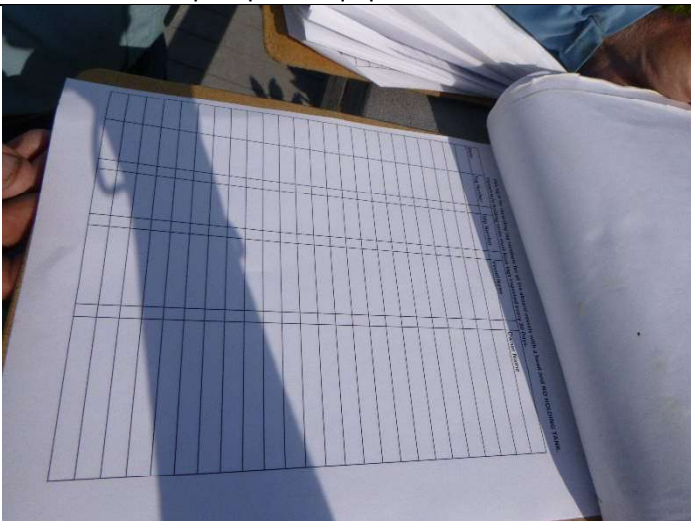
26. View of pump out equipment



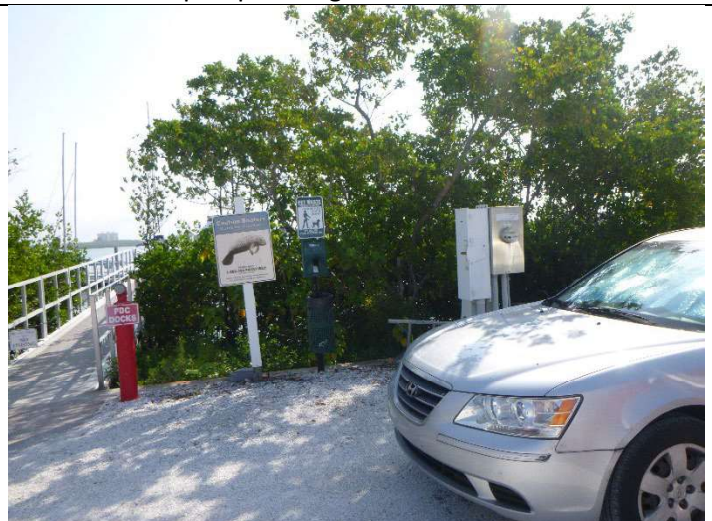
27. View of pump out equipment



28. View of pump out log



29. View of vessel log



30. View of manatee educational sign



31. View of pump out station



32. View of access walkway facing northeast



33. View of finger pier and no mooring signs facing northeast



34. View of finger pier and no mooring signs



35. View of finger pier facing south



36. View of finger pier facing north



37. View of dock facing east



38. View of access walkway and healthy untrimmed mangroves 10+ ft in height, facing west

Vessel registration photos





List of Pink Shell CPD Uses
(underline indicates new uses)

Residential

Principal:

Dwelling unit, single-family (one existing cottage only)
Dwelling unit, two family (one existing cottage only)
Dwelling unit, multi-family (92 existing units in White Sands Villas only)
Group Quarters (See condition 6 Resolution 10-05¹)

Accessory:

Residential accessory uses

Lodging

Principal:

Hotel/motel (43 existing guest units in Captiva Villas only)
Rental of any permitted dwelling unit for periods of one day or longer
Resort
Timeshare Units

Accessory:

Resort accessory uses, including:

Parking
Rental of beach furniture and cabanas
Boat rental
Charter and tour boats
Personal watercraft operations office
Parasailing operations office
Sailing office
Docks for use by water taxi or water shuttle (See condition 7 Resolution 10-06²)
Meeting space
Kids camp and crafts
Signs
Business center
Mobile food unit

Subordinate commercial uses

Office

Principal:

NONE

Accessory:

Administrative Office
Home occupation (no outside help) Commercial accessory use

Retail

Principal:

Recreational facilities - commercial. in conjunction with a membership

Subordinate commercial uses including restaurant, personal services, retail store (small)

Accessory:

ATM

On-premises and package sale for off-premises consumption of alcoholic beverage

Marine

Principal:

NONE

Accessory:

Dock (for lease to non-occupants of the principal use)

Dock (for use by resort occupants)

Live aboard vessel mooring slips (in compliance with submerged land lease)

Civic

Principal:

Beach or bay access

Essential services

Essential service equipment

Park, neighborhood

¹ Resolution 10-05, Condition 6. *Any lawfully existing dwelling unit, guest unit, or timeshare unit within the subject property may be used as group quarters for employee housing without regard for occupancy time limitations applicable to guests as set forth in LDC Section 34-1801(b)(4). Occupancy of group quarters is limited solely to bona fide employees of the Pink Shell Resort, including the businesses lawfully operating on the subject property in compliance with this zoning resolution and all other applicable regulations. Under no circumstances may occupancy of any dwelling unit, guest unit, or timeshare unit exceed the lawful occupancy established by applicable building, fire, and life-safety codes. If no building, fire, or life-safety code provisions are more restrictive, the number of occupants of any individual living unit used for group quarters must not exceed four adults, or one family, whichever is larger. The term "family" is defined in LDC Section 34-2, as may be amended from time to time.*

² Resolution 10-06, Condition 7. *Boat rentals, charter boat, and tour boat operations and all other uses of leased submerged lands are limited in accordance with the most recent submerged land lease from the State of Florida (Recorded in Official Record Book 3718, Page 2242, Public Records of Lee County, Florida). A maximum of forty-one (41) boat slips currently are allowed by the state submerged land lease. Use of submerged land must comply with all applicable local, state, and federal regulations. No live-aboard uses are permitted. Cruise ships are prohibited as provided by LDC Sections 34-620(f). Dock structures located upon leased submerged lands adjacent to the subject property have existed since prior to the adoption of the Fort Myers Beach Comprehensive Plan and its Future Land Use Map. This amendment shall not be interpreted as a finding as to consistency or inconsistency of these docks, and/or their uses, the Mixed Residential*

Exhibit F – List of Uses

Future Land Use Map category or any other provision of the Fort Myers Beach Comprehensive Plan. Any expansion of the uses of leased submerged lands adjacent to the subject property, including increase to the number of boat slips, and/or the number and/or size of charger boats and/or tour boats, will require an amendment to this planned development and it's MCP through the public hearing process for zoning actions.



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

This is a first part of a two-part application. Please be sure to fill out this form, which requires general information, as well as the Supplemental Form application specific to action requested for the subject property. Please submit a complete Public Hearing application with required, supplemental information, exhibits and documents to zoningpermits@fmbgov.com. Please do not submit the instructions at the end of the application.

Site Address: 200 and 275 ESTERO BOULEVARD

STRAP Number: 24-46-23-W1-00700.0330, 24-46-23-W1-00700.0340 and 24-46-23-W1-00700.037A

Applicant: JABO LLC Phone: (239) 463-8601

Contact Name: BILL WAICHULIS, GENERAL MANAGER Phone: (239) 463-8601

Email: bwaichulls@boykin.com Fax: (239) 463-8640

Current Zoning District: CPD

Future Land Use Map (FLUM) Category: Mixed Residential; Recreation

FLUM Density Range: Six (6) DUPA Platted Overlay: ☐ YES ☒ NO

ACTION REQUESTED

☐ Special Exception

☐ Variance

☐ Conventional Rezoning

☒ Planned Development ☒ Commercial ☐ Residential

☐ Master Concept Plan Extension

☐ Appeal of Administrative Action

☐ Vacation of Platted Right-of-way and Easement

☐ Other – cite LDC Section: _____

SUPPLEMENTAL FORM REQUIRED

PH-A

PH-B

PH-C

PH-D

PH-E

PH-F

PH-G

attach on separate sheet

PART I – General Information

A. Applicant*: JABO LLC Phone: (239) 463-8601

**Applicant must submit a statement under oath that he/she is the authorized representative of the property owner.
Please see PART III to complete the appropriate Affidavit form for the type of applicant.*

Applicant Mailing Address: 275 ESTERO BOULEVARD, FORT MYERS BEACH, FL 33901

Email: bwaichulls@boykin.com Fax: (239) 463-8640

Contact Name: BILL WAICHULIS, GENERAL MANAGER Phone: (239) 463-8601



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

B. Relationship of Applicant to subject property:

- | | | |
|---|---|--|
| ☒ Owner* | ☐ Land Trust* | ☐ Partnership* |
| ☒ Corporation* | ☐ Association* | ☐ Condominium* |
| ☐ Subdivision* | ☐ Timeshare Condo* | ☐ Contract Purchaser* |
| ☐ Authorized Representative* | ☐ Other* (please indicate) _____ | |

*Applicant must submit a statement under oath that he/she is the authorized representative of the property owner.
Please see PART III to complete the appropriate Affidavit form for the type of applicant.

C. Authorized Agent(s). Please list the name of Agent authorized to receive correspondence Agents

Name: _____ Phone: _____

Address: _____

Email: _____ Fax: _____

D. Other Agent(s). Please list the names of all Authorized Agents (attach extra sheets if necessary)

Name: _____ Phone: _____

Address: _____

Email: _____ Fax: _____

Name: _____ Phone: _____

Address: _____

Email: _____ Fax: _____

PART II – Nature of Request

Requested Action (each request requires a separate application)

- ☐ Special Exception
- ☐ Variance from LDC Section _____ - _____
- ☐ Conventional Rezoning from _____ to _____
- ☒ Planned Development
- ☐ Rezoning from _____ to ☐ Commercial PD ☐ Residential PD
- ☒ Amendment. List the project number: Add mobile food truck and eliminate prohibition on liveboards
- ☐ Extension/reinstatement of Master Concept Plan. List project number: _____



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

☐ Appeal of Administrative Action

☐ Vacation

☐ Right-of-Way

☐ Easement

☐ Other. Please Explain: _____

PART III – Waivers

Please indicate any specific submittal items that **have** been waived by the Director for the request. Attach a copy of the signed approval as **Exhibit 3-1**. (Use additional sheets if necessary)

Code Section: 34-202(a)(2) Description: Boundary Survey

Code Section: 34-202(b)(5); 34-212(5) Description: Sketch of proposed building;
Architectural elevation

Code Section: _____ Description: _____

PART IV – Property Ownership (Single Owner)

☐ Single Owner (Individual or husband and wife)

Name: _____ Phone: _____

Mailing Address: _____

Email: _____ Fax: _____

AFFIDAVIT

APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

I, WILLIAM WAICHULIS, GENERAL MANAGER swear or affirm under oath, that I am the owner or the authorized representative of the owner(s) of the property and that:

I have full authority to secure the approval(s) requested and to impose covenants and restrictions on the referenced property as a result of any action approved by the Town of Fort Myers Beach in accordance with this application and the Land Development Code;

All answers to the questions in this application and any sketches, data or other supplementary matter attached hereto and made a part of this application are honest and true;



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

I have authorized the staff of the Town of Fort Myers Beach Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made thru this application; and that

The property will not be transferred, conveyed, sold or subdivided unencumbered by the conditions and restrictions imposed by the approved action.

William Walchulis

Signature **General Manager, Pink Shell Resort & Marina** Printed Name

STATE OF FLORIDA COUNTY OF LEE

The foregoing instrument was certified and subscribed before me by means of X physical presence OR _____ online notarization, this _____ day of July, 2022, by

BILL WALCHULIS, GENERAL MANAGER, ☐ who is personally known to me OR ☐ who has produced

_____ as identification.

(SEAL)

Notary Public Signature

PART V

Property Ownership (Multiple Owners)

☐ Multiple Owners (including corporation, partnership, trust, association, condominium, timeshare, or subdivision)

- ☐ Complete Disclosure of Interest Form (see below)
- ☐ Attach list of property owners as Exhibit 5-1
- ☐ Attach map showing property owners interests as Exhibit 5-2 (for multiple parcels)
- ☐ For condominiums and timeshares see Explanatory Notes Part V - Exhibit 5-3
- ☐ Letter of Opinion - Exhibit 5-4

DISCLOSURE OF OWNERSHIP INTEREST

If the property is owned in fee simple by an INDIVIDUAL, tenancy by the entirety, tenancy in common, or joint tenancy, list all parties with an ownership interest as well as the percentage of such interest.

Name and Address

Percentage Ownership



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

If the property is owned by a CORPORATION, list the officers and stockholders and the percentage of stock owned by each.

Name, Address and Office

Percentage of Stock

JABO LLC

Robert Boykin, John Boykin

100%

If the property is in the name of a TRUSTEE, list the beneficiaries of the trust with percentage of interest.

Name and Address

Percentage of Interest

If the property is in the name of a GENERAL PARTNERSHIP OR LIMITED PARTNERSHIP, list the names of the general and limited partners.

Name and Address

Percentage of Ownership

If there is a CONTRACT FOR PURCHASE, whether contingent on this application or not, and whether a Corporation, Trustee, or Partnership, list the names of the contract purchasers below, including the officers, stockholders, beneficiaries, or partners.

Name, Address and Office

Percentage of Stock



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

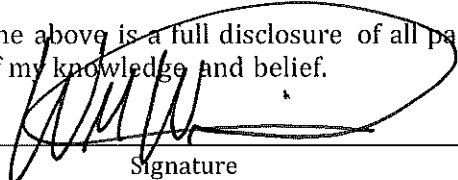
Date of Contract: _____

If any contingency clause or contract terms involve additional parties, list all individuals or officers, if a corporation, partnership, or trust.

Name	Address
_____	_____
_____	_____
_____	_____
_____	_____

For any changes of ownership or changes in contracts for purchase subsequent to the date of the application, but prior to the date of final certificate of compliance, a supplemental disclosure of interest must be filed.

The above is a full disclosure of all parties of interest in this application, to the best of my knowledge and belief.



Signature

William Waichulis, Officer of JABO LLC

Printed Name

AFFIDAVIT

APPLICATION IS SIGNED BY A CORPORATION, LIMITED LIABILITY COMPANY (L.L.C.), LIMITED COMPANY (L.C.), PARTNERSHIP, LIMITED PARTNERSHIP, OR TRUSTEE

I, WILLIAM WAICHULIS (name), as General Manager of Pink Shell (title) of JABO LLC (company), swear or affirm under oath, that I am the owner or the authorized representative of the owner(s) of the property and that:

1. I have full authority to secure the approval(s) requested and to impose covenants and restrictions on the referenced property as a result of any action approved by the Town of Fort Myers Beach in accordance with this application and the Land Development Code;
2. All answers to the questions in this application and any sketches, data or other supplementary matter attached hereto and made a part of this application are honest and true;
3. I have authorized the staff of Fort Myers Beach Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made thru this application; and that
4. The property will not be transferred, conveyed, sold or subdivided unencumbered by the conditions and restrictions imposed by the approved action.



COMMUNITY DEVELOPMENT DEPARTMENT
APPLICATION for PUBLIC HEARING

JABO LLC

Name of Entity (corporation, partnership, LLP, LLC, etc)

Signature

WILLIAM WAICHULIS, GENERAL MANAGER

Typed or Printed Name

Manager

Title

July, 2022

Date

STATE OF FLORIDA COUNTY OF LEE

The foregoing instrument was certified and subscribed before me by means of ☒ physical presence OR ☐ online notarization, this ____ day of July, 2022, by WILLIAM WAICHULIS, GENERAL MANAGER ☐ who is personally known to me OR ☐ who has produced _____ as identification.

Seal

Notary Public Signature

PART VI- Property Information

A. Legal Description:

STRAP: 24-46-23-W1-00700.0330, 24-46-23-W1-00700.0340 and 24-46-23-W1-00700.037A

Property Address: 200 and 275 ESTERO BOULEVARD

Is the subject property within a platted subdivision recorded in the official Plat Books of Lee County? ☒ No. Attach a legible copy of the legal description as Exhibit 6-1.

☐ Yes. Property identified in subdivision: _____

Book: _____ Page: _____ Unit: _____ Block: _____ Lot(s): _____

B. Boundary Survey:

☐ Attach a Boundary Survey of the property meeting the minimum standards of Chapter 61G17-6 of the Florida Administrative Code. A Boundary Survey must bear the raised seal and original signature of a Professional Surveyor and Mapper licensed to practice Surveying and Mapping by the State of Florida. Attach and label as Exhibit 6-2.

WAIVER IS ATTACHED

4/30/2021

Town of Fort Myers Beach 2525 Estero Blvd Fort Myers Beach, Florida 33931
Phone: 239-765-0202 zoningpermits@fmbgov.com Fax: 239-765-0909

Page 7 of 11



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

C. Property Dimensions:

Width (please provide an average width if irregular in shape) parcels of varying width feet
Depth (please provide an average width if irregular in shape) parcels of varying width feet
Frontage on street: _____ feet. Frontage on waterbody: _____ feet
Total land area: See maps and legal description ☐ acres ☐ square feet

D. General Location of Subject Property (from Sky Bridge or Big Carlos Pass Bridge):

from Sky Bridge go north on Estero Boulevard one mile. Pink Shell Resort is
located on both sides of Estero Boulevard

☒ Attach Area Location Map as Exhibit 6-3

E. Property Restrictions (check applicable):

- ☐ There are no deed restrictions and/or covenants on the subject property.
☐ A list of deed restrictions and/or covenants affecting the subject property is attached as Exhibit 6-4.
☒ A narrative statement detailing how the restrictions/covenants may or may not affect the request is attached as Exhibit 6-5.

F. Surrounding Property Owners (these items can be obtained from the Lee County Property Appraiser):

- ☒ Attach a list of surrounding property owners within 500 feet as Exhibit 6-6.
☒ Attach a map showing the surrounding property owners as Exhibit 6-7.
☒ Provide Staff with two (2) sets of surrounding property owner mailing labels.

G. Future Land Use Category (see Future Land Use Map):

- | | |
|---|--|
| ☐ Low Density | ☐ Marina |
| ☒ Mixed Residential | ☒ Recreation |
| ☐ Boulevard | ☐ Wetlands |
| ☐ Pedestrian Commercial | ☐ Platted Overlay |



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

EXPLANATORY NOTES

Please do not print, copy and submit these instructions

Please submit required applications, supplemental information, exhibits and documents to zoningpermits@fmbgov.com.

Application fees are set by resolution of the Town Council of the Town of Fort Myers Beach and must be paid before any materials submitted will be considered an application.

The applicant is responsible for the accuracy and completeness of this application. Time delays or additional expenses necessitated by submitting inaccurate or incomplete information will be the responsibility of the applicant. Decisions regarding requests to waive submittal requirements are at the discretion of the Community Development Director and may not be appealed.

All information submitted with the application becomes a part of the public record and will be a permanent part of the file.

All attachments and exhibits must be legible, suitable for recording, and of a size that will fit or conveniently fold into a letter size (8 ½ by 11) folder.

Explanatory Notes – Part I

- A. Applicant's name: The applicant may be the landowner or an authorized agent.
- B. Relationship of applicant to property: Indicate if the applicant is the property owner, and if so, the type of ownership. If the applicant is not the owner of the property, indicate the relationship of the applicant to the owner and submit a notarized authorization from the owner(s) to the applicant.
- C. Agent's name: If the applicant will have others representing him/her in processing the application, indicate name, address, and phone number.
- D. Other agents: Provide contact information for any other agents that may be involved in the request.

Explanatory Notes – Part II

Indicate the requested action.

Explanatory Notes – Part III

If waiver of any application requirement has been approved by the Community Development Director, attach a copy of the approval. Please request waivers prior to applying. Exhibit 3-1

Explanatory Notes – Part IV

- A. If the property owner is an individual or husband and wife, check the box and provide the information.



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

Explanatory Notes – Part V

- A. If there are multiple property owners exhibit 5-1, complete the disclosure form and include the names and mailing addresses of all persons or entities having an ownership interest in the property, including the names of all stockholders and trust beneficiaries. Disclosure is not required of any entity whose interests are solely equity interests that are regularly traded on an established securities market in the United States or another country.
- B. If more than one parcel is involved, submit a list of all property owners and their mailing addresses. Provide a map keyed to the list of property owners showing their interests. The applicant is responsible for the accuracy of the list and map Exhibit 5-2
- C. Where the property is a condominium or timeshare condominium, the application must be initiated by both the condominium association and no less than 75% of the total number of unit owners. To verify ownership, the list of property owners must be identified by unit number and/or timeshare period as applicable, along with proof that the owners who did not join in the application were given actual written notice of the application by the applicants, who must verify the list and the notice by sworn affidavit. Attach this affidavit as Exhibit 5-3.
- D. In addition, a letter of opinion from an attorney licensed to practice law in the State of Florida addressing the considerations in LDC Section 34-201(a)(1)b.3. must be attached as Exhibit 5-4.

Explanatory Notes – Part VI

- A. Include the street address of the subject property. List STRAP number. If more than one parcel is involved, list all STRAP numbers. If you don't know the STRAP number, you can look up the property in the records of the Lee County Property Appraiser at <http://www.leepa.org>. If the application includes only one or more undivided platted lots within a subdivision officially recorded in the Plat Books of Lee County, Florida, identify the property by lot number(s), block if applicable, subdivision unit if applicable, subdivision name, and plat book number and page number. If the property is not one or more undivided platted lots or is in an "unrecorded" subdivision, attach a metes and bounds legal description giving accurate bearings and distances for each course. If multiple parcels are involved, the metes and bounds legal description must describe the perimeter of the entire property subject to the request. The initial point in the description must be related to at least one established identifiable real property corner, such as a government corner or a recorded corner. The bearings used in the description must be clearly referenced to a well-established and monumented line. Exhibit 6-1
- B. Submit a Boundary Survey meeting the minimum technical standards for surveying set out in Chapter 61G17-6 of the Florida Administrative Code. Make sure that the surveyor is aware of any specific needs of the survey (location of Coastal Construction Lines, locations of existing structures, locations of easements, etc) that are relevant to your request. The perimeter boundary of the entire subject property should be indicated clearly with a heavy



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

line. Exhibit 6-2

- C. Provide the property dimensions or the approximate dimensions if the property is not a regular quadrilateral.
- D. Describe how to get to the property starting from either the Sky Bridge or the Big Carlos Pass Bridge (specify which). Exhibit 6-3
- E. If there are any deed restrictions or covenants that might affect the requested action, provide the information. Exhibit 6-4
- F. A narrative statement detailing how the restrictions/covenants may or may not affect the request is attached as Exhibit 6-5
- G. Attach a list of the surrounding property owners within 500 feet of the perimeter of the area of the request. Also include two sets of mailing labels providing the names and addresses of the owners on this list, and a map showing the parcel boundaries within the 500-foot radius Exhibit 6-6. This information can be acquired for a small fee by requesting a "variance report" from the Map Sales Office at the Lee County Property Appraiser's Office. Contact information for the Property Appraiser can be found at <http://www.leepa.org>.
- H. Indicate the Future Land Use Map category or categories of the property as shown on the Fort Myers Beach Comprehensive Plan's Future Land Use Map, and whether the property is located in the "platted overlay" on the map.
- I. Indicate the current zoning of the property. In most cases the current zoning is shown on the official zoning map of the Town of Fort Myers Beach, as adopted by ordinance. If zoning actions affecting the subject property have been taken since March 2004, call Town Hall to verify the current zoning.

Explanatory Notes – Part IV & V

The applicant must sign and submit either of the affidavits in Part V & VI, as applicable.



Case # _____ Date Received: _____

Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT
Supplement PH-D

**Additional Required Information for a Planned Development
Application**

This is the second part of a two-part application. This **part** requests specific information for a planned development rezoning or an **amendment** to an approved planned development. Include this form **with the** Request for Public Hearing form.

Fee in the amount of \$8000.00 up to 1 acre +1000.00 per **additional** acre
\$2000.00 PD Amendment minor (< acre total property **area**)
\$4000.00 PD Reinstatement or \$6500.00 PD Amendment

Project Name: PINK SHELL AMENDMENT
Authorized Applicant: JABO LLC
STRAP Number(s):
24-46-23-W1-00700.0330, 24-46-23-W1-00700.0340 and 24-46-23-W1-00700.037A

Current Property Status: CPD
Current Zoning: CPD
Future Land Use Map (FLUM) Category: Mixed Residential; Recreation
Platted Overlay? ☐ yes, ☒ no FLUM Density Range: Six (6) DUPA

Requested Action:

☐	DRI (with rezoning)
☒	Planned Development (also check below)
☐	Rezoning from: _____ to: _____
☐	Amendment to Master Concept Plan/attendant documentation

PART I
Narrative Statements

A. Comprehensive Plan Amendments (check one)

[illegible]

B. Phasing of Construction

[illegible]



Case # _____ Date Received: _____

C. Comprehensive Plan Compliance.

Explain how the proposed development complies with applicable Goals, Objectives, and Policies of the Fort Myers Beach Comprehensive Plan.

SEE ATTACHED NARRATIVE EXHIBIT "A"

D. Design Standards Compliance

For projects required to meet Commercial Design Standards, explain how the proposed development complies with the design standards set forth in LDC Sections 34-991 through 34-997.

Not applicable - the change is internal and has no external change to design



Case # _____ Date Received: _____

E. Decision-making Compliance

Explain how the **proposed** development complies with the guidelines for decision-making embodied in LDC Section 34-85.

SEE ATTACHED NARRATIVE EXHIBIT "A"

F. Schedule of deviations and written justification

Provide a list of the requested deviations **keyed** to the Master Concept Plan and provide a written justification for each deviation. The location of each deviation should be indicated on the Master Concept Plan.

SEE ATTACHED NARRATIVE EXHIBIT "A"



Case # _____ Date Received: _____

G. Administrative amendments to approved Master Concept Plan

For amendments to an approved Master Concept Plan, indicate the specific amendments that could not be approved administratively as set forth in LDC Section 34-219.

NOT APPLICABLE

PART 2 Submittal Requirements

All applications for a planned development must submit fourteen (14) copies of this application form and all applicable exhibits.

Required Items

- Public Hearing Request Form - **X**
- Supplement Form PH-D - **X**
- Master Concept Plan - **X**
- Traffic Impact Statement - **X**
- Architectural Elevations - **WAIVER**
- Schedule of Uses - **X**
- Fee in the amount of \$8000.00 up to 1 acre +1000.00 per additional acre
- \$2000.00 PD Amendment minor (< acre total property area)
- \$4000.00 PD Reinstatement or \$6500.00 PD Amendment

For DRI: A Binding letter of interpretation from DCA or a complete and sufficient ADA.



Case # _____ Date Received: _____

Guide to Filing Supplement PH-D for Planned Developments

Amendments Applications for amendments to an approved Master Concept Plan or its attendant documentation will **require** as much information as is needed to describe the changes requested, to specify **the** incremental change in impacts expected from the amendment, and to detail **the** changes in surrounding land uses that have occurred since the original application. Some amendments can be approved administratively as provided in LDC Section 34-219, but all other amendments must proceed through the public hearing process.

Through a pre-application meeting with Community Development staff, prospective applicants can determine whether proposed amendments will require a public hearing, and can request waivers from any submittal requirements that are not necessary to specify the changes requested.

All other planned developments All other applications must complete and submit the Request for Public Hearing and Supplement PH-D, **along** with all required documents. Refer also to the instructions for the Request for Public Hearing form.

Case Number will be inserted by Community Development staff.

Project Name must be the same as the name used on the Request for Public Hearing form.

Authorized Applicant must be the same as on the Request for Public Hearing form.

STRAP numbers must be the same as on the Request for Public Hearing form.

Current status of property must be the same as on the Request for Public Hearing form.

Requested Action: Indicate whether the request is a DRI (Development of Regional Impact) that requires rezoning, a Planned Development, **or** an amendment to a Planned Development.

Part 1 Narrative Statements:

Comprehensive Plan Amendments

If Comprehensive Plan Amendments are pending that might affect **the** future use of the property, explain the amendments' possible effects.



Case # _____ Date Received: _____

Construction Phasing

If the project is to be constructed in multiple phases, describe the ordering and timing of the proposed phasing. In the absence of a phasing plan, phasing of development would be governed by the limitations of LDC Section 34-220.

Comprehensive Plan Compliance

Explain how the proposed development complies with the Fort Myers Beach Comprehensive Plan. Address the Future Land Use Map category or categories applicable to the subject property and any other relevant policies.

Design Standards Compliance

For properties and/or projects as described in LDC Section 34-992, explain how the proposed development will comply with the standards in LDC Sections 34-991 through 34-997.

Decision-making compliance

Explain how the proposed development will comply with the standards for decision-making in LDC Section 34-85.

Schedule of deviations and written justification

Identify the deviations from the requirements of the Land Development Code that are requested for the proposed development and justify them in relation to the guidance in LDC Section 34-932(b).

Administrative amendments

If the request is for an amendment to a planned development, indicate which of the requested changes could not be approved administratively as allowed by LDC Section 34-219.

Part 2 Submittal Requirements

Public Hearing Application Form. Applications for rezoning, including Planned Developments and Planned Development amendments for which public hearing is required, consist of the Public Hearing form and the supplemental form PH-D. Both parts of the application form must be completed and submitted.

Master Concept Plan. The master concept plan consists of maps, graphic illustrations, and written statements concerning the development. Space has

been provided on this form for many of the required narrative statements, though they can be attached on separate sheets. A master concept plan must include the following required information:

- a. The general size, configuration, and location of each development phase, and a description of the phasing of construction, unless the development is to be constructed in a single phase.
- b. The maximum height of any proposed buildings or structures, using the Land Development Code's method of measuring building height (see LDC Section 34-631).
- c. Proposed principal and accessory uses, identified using the terminology employed in the Land Development Code. Employ the groupings of uses in Tables 34-1 and 34-2 of the Land Development Code, or specify individual uses if necessary.
- d. The density and intensity of the proposed uses, in terms of dwelling units by type, or through conversion factors for hotel/motel units. Provide gross square footages for types of commercial uses, and maximum Floor-Area Ratio.
- e. The minimum width and composition of proposed buffers along the perimeter of the property. References to the types of buffers required by LDC chapter 10 are acceptable.
- f. The location of any environmentally sensitive land and water, based on standard environmental data capable of verification by Town staff. Developments larger than one acre in size may require a protected species survey under LDC Section 10-473.
- g. The exact location of all points of vehicular ingress and egress from existing easements or rights-of-way into the development, with distances from other existing or planned rights-of-way or access points.
- h. Access and facilities for public transit, if applicable.
- i. The general location of stormwater management areas.
- j. The specific locations of requested deviations, including sample detail drawings illustrating their effects if applicable.
- k. The exact location of existing rights-of-way and easements, whether or not those easements are recorded.
- l. Proposed dedications, if any, including beach access, boat ramps, park or recreation areas, open space, or other easements.



Case # _____ Date Received: _____

Traffic Impact Statement. A traffic impact statement in the same format and to the same degree of detail required for development orders (LDC Section 10-286).

Architectural Elevations. Architectural elevations or three-dimensional renderings that show at minimum all building façades adjoining public streets. These drawings will serve for the sketch requirement of LDC Section 34-202(b)(5) as well. If aspects of the proposed design will not comply with the commercial design standards of LDC Sections 34-991 through 34-997 (if required), the applicant may request deviations from those standards.

Schedule of uses. A list of all proposed principal and accessory uses. Identify these uses by reference to the groups of uses in Tables 34-1 and 34-2 of the Land Development Code unless greater specificity is necessary. For amendments to planned developments that were approved under different regulations, the enumeration of uses in the schedule of uses supplied for the amendment must be specific enough to explain what uses were previously approved without future reference to prior regulations or approvals.

NARRATIVE
EXHIBIT "A" TO SUPPLEMENT PH-D

Pink Shell Resort and Marina (hereinafter referred to as "Pink Shell"). JABO, LLC is filing this request to amend the Pink Shell Resort CPD to (a) add use of mobile food truck; and (b) revise condition on marine use (requires revision to Resolution 10-06 Condition 7).

Pink Shell Resort is designated as Mixed Residential and Recreation as the Future Land Use designations, which pertinent Comprehensive Plan policies are set forth in Exhibit 1. Pink Shell has a zoning designation of CPD (formerly PUD) on the Bayside CPD; a designation of CPD for White Sands (formerly PUD); and CPD for Captiva Villas (formerly MPD). Current uses include resort, guest units and residential dwelling units and assorted resort accessory uses including a marina and spa that are already approved.

The Mixed Residential designation in this area contains a number of resorts, hotels and high rise multi-family units. Immediately north of Pink Shell Resort is a regional beach park owned by Lee County which provides beach access to the Gulf of Mexico and the bay to Fort Myers Beach and Lee County residents and tourists. Fort Myers Beach is highly promoted by the Visitor, Tourist and Convention Bureau as a destination for families to enjoy the assets of the Gulf lifestyle. Pink Shell has always served families traveling to Fort Myers Beach.

Adjacent properties:

<u>Future Land use Map (FLUM)</u>	<u>Zoning</u>	<u>Existing land uses</u>	
<u>Northwest</u>	Mixed Residential, then Recreation	RM (Residential Multi-Family, then CF (Community Facilities)	Sanibel View, Pink Shell Vacation Villas Condo, and Bowditch Park
<u>Southeast</u>	Mixed Residential	RM and CPD	High-rise condominiums, then cottages
<u>Enclave:</u>	Mixed Residential	CPD	Abaco Beach Property – Multi unit
<u>Southwest:</u>	Recreation	EC (Environmentally Critical)	Gulf of Mexico beach
<u>Northeast:</u>	Tidal Water	None	San Carlos Bay

North Estero Boulevard runs between the "Bay side" parcels of the Pink Shell Resort and the "Gulf side" parcels, from southeast to northwest and terminates in a cul-de-sac at Bowditch Regional Beach Park.

Over the past decade a major financial commitment has been invested by Pink Shell into the Town of Fort Myers Beach with the construction of White Sands and with the construction of Captiva Villas, including wonderful recreation enhancements with aesthetic and creative pools,

excellent food and beverage service, and beautiful beaches. The new marina has increased boaters' interest in the asset of the Town of Fort Myers Beach.

Pink Shell always has been approved for resort use. Resort is defined by the Land Development Code Section 34-2 as:

Resort means a mixed-use facility that accommodates transient guests or vacationers as well as longer-term residents. Resorts contain at least one hotel/motel and at least 50 total units, which include a combination of dwelling units and guest units and may also include timeshare units, and provide food service, outdoor recreational activities, and/or conference facilities for their guests.

The resort infrastructure includes the marina, pools and pool deck, beach and beach chairs, wave runners, skiffs, spa, and food and beverage services while having less impact than the existing commercial square footage.

The resort uses have been found to be consistent with the Comprehensive Plan and the Land Development Code and compatible with the neighborhood of multi-family, hotel and resort uses. Pink Shell is a lovely and intimate resort with capacity to share its amenities with residents of Lee County as well as tourists - international and out-of-state.

The purpose of this amendment is to request approval of the following use:

(a) Add use of mobile food truck. Schedule of Uses has been amended to add the use of mobile food truck which is to provide service solely within the boundaries of Pink Shell. In the same way where it is important to have employment in proximity to housing, it is important to have available services and amenities in proximity to the guests of Pink Shell. By providing opportunities to include service of a mobile food truck that adds variety of food and beverages and reduces any need to travel from the site by vehicle to another location.

(b) The approved Schedule of Uses already provides for dock use for non-occupants of the principal use and for use by Resort occupants. However, in Condition 7 attached to Resolution 10-06 there needs to be a modification to eliminate the prohibition on live-aboards. Condition 7 requires compliance with the requirements of the Submerged Land Lease and the Submerged Land Lease with the State of Florida which lease permits use of docks for overnight stays. Therefore, Condition 7 of Resolution 10-06 should be modified as follows:

7. Boat rentals, charter boat, and tour boat operations and all other uses of leased submerged lands are limited in accordance with the most recent submerged land lease from the State of Florida (Recorded in Official Record Book 3718, Page 2242, Public Records of Lee County, Florida). A maximum of forty-one (41) boat slips currently are allowed by the state submerged land lease. Use of submerged land must comply with all applicable local, state, and federal regulations. ~~No live-aboard uses are permitted.~~ Cruise ships are prohibited as provided by LDC Section 34-620(f). Dock structures located upon leased submerged lands adjacent to the subject property have existed since prior to the adoption of the Fort Myers Beach Comprehensive Plan and its Future Land Use Map. This amendment shall not be interpreted as a finding as to consistency or inconsistency of these docks, and/or their uses, with the Mixed Residential Future Land Use Map

category or any other provision of the Fort Myers Beach Comprehensive Plan. Any expansion to the uses of leased submerged lands adjacent to the subject property, including increase to the number of boat slips, and/or the number and/or size of charter boats and/or tour boats, will require an amendment to this planned development and its MCP through the public hearing process for zoning actions.

Pink Shell uses and operations have been found consistent with the Town's Comprehensive Plan, including the Mixed Residential Future Land Use map designation and policy. This Amendment (a) and (b) are also consistent with the Town's Comprehensive Plan policies.

A mobile food truck would be internal to the Resort and have no exterior impacts. It would be appropriately stored in time of storm events. It provides another food and beverage opportunity.

The change to Condition 7 of Resolution 10-06 makes it consistent with the Submerged Land Lease. It encourages participation in other island opportunities. It will have no external impacts.

We respectfully submit that the request proposes minor changes to the Pink Shell Resort and we request staff recommendation of approval to the LPA and Town Council.

GOALS - OBJECTIVES - POLICIES

Based on the analysis of land use issues in this element, the following goals, objectives, and policies are adopted into the Fort Myers Beach Comprehensive Plan:

GOAL 4: To keep Fort Myers Beach a healthy and vibrant "small town," while capitalizing on the vitality and amenities available in a beach-resort environment and minimizing the damage that a hurricane could inflict.

OBJECTIVE 4-A SMALL-TOWN CHARACTER — Maintain the small-town character of Fort Myers Beach and the pedestrian-oriented "public realm" that allows people to move around without their cars even in the midst of peak-season congestion..

POLICY 4-A-1 Maintaining the town's current "human scale" is a fundamental redevelopment principle. Fort Myers Beach is best enjoyed from outside a car; new buildings should be designed to encourage use or admiration by people on foot or bicycle, rather than separating them with gates, walls, deep setbacks, or unnecessary building heights.

POLICY 4-A-2 The Town of Fort Myers Beach values its vibrant economy and walkable commercial areas. Through this plan, the town will ensure that new commercial activities, when allowed, will contribute to the pedestrian-oriented public realm.

POLICY 4-A-3 The town shall protect residential neighborhoods from intrusive commercial activities (see Policies 4-C-2 and 4-C-3 below).

POLICY 4-A-4 Easy walking access to the beach is a key element of the town's human scale. Development trends that inhibit this access are undesirable (including traffic improvements to Estero Boulevard that would make it a barrier to the beach for pedestrians).

POLICY 4-A-5 The town contains many important natural resources despite its urbanized character. Preservation of those resources is of the highest importance and is a frequent theme throughout this plan.

POLICY 4-A-6 The beaches provide incomparable recreational and environmental benefits to the town; careful management of the beach, including renourishment when necessary, can increase both. Frequent beach accesses are essential to the town's character and shall be maintained and expanded where possible.

POLICY 4-A-7 Estero Bay also provides great benefits to the town and can be enhanced by improving public access and reversing the decline in water quality. The Conservation and Coastal Management Elements of this plan outline the town's efforts on these matters.

POLICY 4-A-8 The town shall establish clear and consistent rules and processes that govern private and public development. They shall be incorporated into an illustrated Land Development Code that:

- i. defines the permitted uses and illustrates the dimensions needed to implement this comprehensive plan;
- ii. illustrates the types and dimensions of allowable signs that will identify businesses and other destinations with-

EXHIBIT

1
(7 PAGES)

POLICY 4-B-3

“LOW DENSITY”: designed for existing subdivisions with an established low-density character (primarily single-family homes). For new development, the maximum density is 4 dwelling units per acre, and commercial activities are limited to home occupations as described in the Land Development Code (limited to incidental uses by the dwelling unit’s occupant that do not attract customers or generate additional traffic).

POLICY 4-B-4

“MIXED RESIDENTIAL”: designed for older subdivisions with mixed housing types on smaller lots, newer high-rise buildings, and mobile home and RV parks. This category will ensure that Fort Myers Beach retains a variety of neighborhoods and housing types. For new development, the maximum density is 6 dwelling units per acre (except where the Future Land Use Map’s “platted overlay” indicates a maximum density of 10 units per acre for legally existing dwelling units). Commercial activi-

ties are limited to lower-impact uses such as offices, motels, churches, and public uses, and must be sensitive to nearby residential uses, complement any adjoining commercial uses, contribute to the public realm as described in this comprehensive plan, and meet the design concepts of this plan and the Land Development Code. These qualities and overall consistency with this comprehensive plan shall be evaluated by the town through the planned development rezoning process. Non-residential uses (including motels and churches) now comprise 7.9% of the land in this category, and this percentage shall not exceed 12%.

POLICY 4-B-5

“BOULEVARD”: a mixed-use district along portions of Estero Boulevard, including less intense commercial areas, historic cottages, and mixed housing types. This category is not intended to allow commercial uses on all properties; its mixed-use nature is intended to remain permanently. For new residential development, the maximum density is 6 dwelling units per acre (except where the Future Land Use Map’s “platted overlay” indicates a maximum density of 10 units per acre for legally existing dwelling units). To obtain approval for new or expanded commercial activities, proposals must be sensitive to nearby residential uses, complement any adjoining commercial uses, contribute to the public realm as described in this comprehensive plan, and meet the design concepts of this plan and the Land Development Code. These qualities and overall consistency with this comprehensive plan shall be evaluated by the town through the planned develop-

ment rezoning process. Non-residential uses (including motels and churches) now comprise 46.9% of the land in this category, and this percentage shall not exceed 70%.

POLICY 4-B-6

“PEDESTRIAN COMMERCIAL”: a primarily commercial district applied to the intense activity centers of Times Square (including Old San Carlos and nearby portions of Estero Boulevard) and the area around the Villa Santini Plaza. For new development, the maximum density is 6 dwelling units per acre (except where the Future Land Use Map’s “platted overlay” indicates a maximum density of 10 units per acre for affordable units consistent with the adopted redevelopment plan). Commercial activities must contribute to the pedestrian-oriented public realm as described in this comprehensive plan and must meet the design concepts of this plan and the Land Development Code. Where commercial uses are permitted, residential uses are encouraged in upper floors. All “Marina” uses in Policy 4-B-7 are also allowed on parcels that were zoned for marinas prior to adoption of this plan. Non-residential uses (including motels and churches) now comprise 58.9% of the land in this category, and this percentage shall not exceed 90%.

POLICY 4-B-7

“MARINA”: designed for prime sites that can provide access to the valuable waters around Fort Myers Beach. This category provides services for recreational boating, including related accessory uses provided that don’t displace recreational marina services. Cruise ships and similar uses that

draw large amounts of vehicular traffic are not permitted in this category. Specific regulations will be placed in the Land Development Code.

POLICY 4-B-8

"RECREATION": applied to public parks, schools, undevelopable portions of Bay Beach, and those parts of Gulf beaches that lie seaward of the 1978 coastal construction control line. Additional accretions of beach, whether by natural causes or through beach renourishment, will automatically be assigned to this category. No new residential development is permitted (although several existing buildings were legally constructed partially seaward of the 1978 control line). The maximum density of residential development here is 1 dwelling units per 20 acres, with all dwelling units to be constructed outside this category. Allowable uses are parks, schools, libraries, bathing beaches, beach access points, and related public facilities. Non-recreational uses (such as the elementary school) now comprise 2.7% of the land in this category; additional school sites and public buildings shall not increase this percentage beyond 6%.

POLICY 4-B-9

"WETLANDS": a conservation district applied to all remaining wetlands. The maximum density of residential development here is 1 dwelling units per 20 acres. Other allowable uses, if compatible with wetland functions, are passive recreation, walking access to tidal waters (boardwalks and docks), and restoration of degraded habitats. Prohibited activities include placement of fill material; dredging of boat basins and channels; place-

ment of seawalls or other shoreline stabilization; and removal of native vegetation.

POLICY 4-B-10

"TIDAL WATER": applied to all saltwater canals and all waters surrounding Estero Island that lie within the municipal boundary (out 1,000 feet). No residential development is permitted. Allowable uses are water sports, boating, swimming, fishing, and similar uses. Also allowed are fixed structures for water access provided they comply with Land Development Code provisions designed to avoid impeding navigation and to minimize environmental damage and interference with aesthetic enjoyment of surrounding waters.

POLICY 4-B-11

PLATTED OVERLAY: This is not a separate category on the Future Land Use Map, but is applied in addition to one of the eight categories listed above. Allowable land uses are the same as in the underlying category, but the maximum residential density is 10 units per acre. This density level applies in the Pedestrian Commercial category only for affordable units consistent with the adopted redevelopment plan; in other categories it applies only to recognize existing dwelling units that were built legally but which would be non-conforming under a density cap of 6 units per acre.

POLICY 4-B-12

LAND-USE TYPES DEFINED: For purposes of this comprehensive plan, land uses are divided into the following types:

- i. **Residential uses** include detached homes, accessory apartments (see Policy 4-C-7), home occupations (see Policy 4-B-3), mobile homes, apartments, and condominiums, provided that no

in the Land Development Code will encourage more intense commercial uses only in the "Pedestrian Commercial" category. The Land Development Code shall specify maximum commercial intensities using floor-area-ratios (the total floor area of the building divided by the area of the site in the category allowing commercial uses). The Land Development Code may allow floor-area-ratios in the "Pedestrian Commercial" category as high as 2.5, and in other categories as high as 1.5,

COMMERCIAL LOCATIONS: When evaluating proposals for new or expanded commercial uses in categories where they are permitted, the following principles shall apply:

- i. No rezonings for commercial uses shall be allowed in the "Low Density" category.
- ii. Where new or expanded commercial uses are encouraged, as in the "Pedestrian Commercial" category, the Land Development Code shall specify its permitted form and extent and provide a streamlined approval process. Landowners may also use the planned development rezoning process to seek approval of other forms of commercial development in that category.
- iii. In the "Mixed Residential" category, commercial uses are limited to lower-impact uses such as offices, motels, and public uses, and must be sensitive to nearby residential uses, complement any adjoining commercial uses, contribute to the public realm as described in this comprehensive plan, and meet the design

concepts of this plan and the Land Development Code. Landowners may seek commercial rezoning only through the planned development process.

- iv. In the "Boulevard" category, where mixed-use development including some commercial uses may be permissible, landowners may seek commercial rezoning only through the planned development process. Proposals must be sensitive to nearby residential uses, complement any adjoining commercial uses, contribute to the public realm as described in this comprehensive plan, and meet the design concepts of this plan and the Land Development Code.
- v. The following principles shall be considered by the town when evaluating requests for new commercial uses:
 - a. Shopping and services for residents and overnight guests are strongly preferred over shopping and services that will attract additional day visitors during peak-season congestion.
 - b. Shopping and services that contribute to the pedestrian character of the town are strongly preferred over buildings designed primarily for vehicular access.
- vi. The neighborhood context of proposed commercial uses is of paramount importance. The sensitivity of a proposed commercial activity to nearby residential areas can be affected by:

POLICY 4-C-3

- a. the type of commercial activities (such as traffic to be generated, hours of operation, and noise);
 - b. its physical scale (such as the height, and bulk of proposed buildings); and
 - c. the orientation of buildings and parking).
- Commercial activities that will intrude into residential neighborhoods because of their type, scale, or orientation shall not be approved.

POLICY 4-C-4 BUILDING HEIGHTS:

The Land Development Code shall limit the height of new buildings under most conditions to two stories above flood elevation (exceptions may include the buildback situations (see Policies 4-D-1 and 4-E-1), and different heights may be applied to officially designated redevelopment areas such as Times Square, Red Coconut/Gulf View Colony, and Villa Santini Plaza). In those few cases where individual parcels of land are so surrounded by tall buildings on lots that are contiguous (or directly across a street) that this two-story height limit would be unreasonable, landowners may seek relief through the planned development rezoning process, which requires a public hearing and notification of adjacent property owners. The town will approve, modify, or deny such requests after evaluating the level of unfairness that would result from the specific circumstances and the degree the specific proposal conforms with all aspects of this comprehensive plan, including its land-use and design policies, pedestrian orientation, and natural resource criteria. Particular attention would be paid to any permanent view corridors to Gulf or Bay waters that could be provided in exchange for allowing a building to be taller than two stories. In each case, the town shall balance the public benefits

of the height limit against other public benefits that would result from the specific proposal.

POLICY 4-C-5

DENSITY: This plan establishes density levels as the maximum number of residential dwelling units allowed per acre of land (DU/acre). This acreage includes all residential land plus land within the development to be used for street and utility rights-of-way, recreation and open space, water management, and existing lakes that are entirely contained within the residential development. Commercial and other non-residential land shall not be included in this acreage; however, where mixed uses are permitted in a single building, residential densities will be computed without regard for commercial uses located on lower floors. When computing densities on existing subdivisions where lots are smaller than 15,000 square feet, one-half the width of adjoining streets and canals may be included in the acreage, and computed densities greater than 1.50 DU/acre may be rounded up to two dwelling units where multiple dwelling are permitted.

POLICY 4-C-6

MOTEL DENSITIES: The Land Development Code shall specify equivalency factors between guest units (which include motel rooms) and full dwelling units. These factors may vary based on size of guest unit and on land-use categories on the Future Land Use Map. They may vary between a low of one guest unit and a high of three guest units for each dwelling unit. (These factors would apply only where guest units are already permitted.) In order to implement the 1999 Old San Carlos Boulevard / Crescent Street Master Plan that encourages mixed-use buildings with second and third floors over shops on Old San Carlos, hotel rooms may be substituted for otherwise allowable office space in that situation and location

only without using the equivalency factors that apply everywhere else in the town. This alternate method for capping the number of hotel rooms applies only to properties between Fifth to First Streets that lie within 200 feet east and west of the centerline of Old San Carlos Boulevard. Hotel rooms built under this alternate method must have at least 250 square feet per rentable unit, and under no circumstances shall buildings they are located in exceed four stories (with the ground level counted as the first story).

POLICY 4-C-7 ACCESSORY APARTMENTS: Accessory apartments are common at Fort Myers Beach and may be legal under several circumstances:

- i. If the apartment is in a building that meets all requirements (including density limits in this plan); or
- ii. If the apartment was built prior to zoning in 1962 and has been in continuous use, it may qualify as a "legally non-conforming use" and can continue in use until taken out of service; or
- iii. If the apartment was built between 1962 and 1984 and complies with all requirements except the density cap of 6 dwelling units per acre and the floodplain elevation requirements (both of which took effect in 1984); or
- iv. If a single existing apartment is in an owner-occupied home, it is not considered an independent dwelling unit and may be allowed under certain conditions as specified in the Land Development Code.

POLICY 4-C-8 DENSITY TRANSFERS: The Town Council may, at its discretion, permit the transfer of residential and hotel/motel development rights from one parcel to another if the following conditions are met:

- i. the transfer is clearly in the public interest, as determined by the Town Council;
- ii. the parcels affected by the transfer are in close proximity to each other;
- iii. the density of residential or hotel/motel units being transferred is based upon allowable density levels in the category from which the density is being transferred;
- iv. the transfer is approved through the planned development rezoning process; and
- v. binding permanent restrictions are placed on the property from which development rights have been transferred to guarantee the permanence of the transfer.

POLICY 4-C-9 UTILITY SERVICES: Utility services may be constructed in any category on the Future Land Use Map provided all development regulations are met including proper zoning.

POLICY 4-C-10 MAP AMENDMENTS: The intensity and density levels allowed by the Future Land Use Map may be increased through formal amendments to this plan if such increases are clearly in the public interest, not just in the private interest of a petitioning landowner. Petitions from landowners will be accepted annually. The Town Council may accept applications more frequently at its sole discretion.

POLICY 4-C-11 SANTOS ROAD: The town is interested in considering land-use alternatives for parcels bordering Palermo Circle, Santos Road, and Estero Boulevard. Alternatives may include: Santos Road being added into the pedestrian zone; limited retail on the ground floor along Santos, with shared off-site parking; better buffering of existing parking and refuse areas; and a clear separation between all commercial uses and the residential areas on Palermo



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Application for Waiver of Submittal Requirements

Submit a request for waiver of submittal requirements prior to submitting an application for public hearing or administrative action. Requesting a waiver of submittal requirements simultaneously with an application may delay your application. The request and the director's response will become part of the application file.

Waiver is requested for items required for:

Public Hearing

- ☐ General Requirements
- ☐ DRI
- ☒ Planned Development
- ☐ Conventional Rezoning
- ☐ Special Exception
- ☐ Variance
- ☐ Appeal
- ☐ Other

Administrative Action

- ☐ General Requirements
- ☐ Planned Dev. Amendment
- ☐ Commercial Antenna
- ☐ Consumption on Premises
- ☐ Forced Relocation of a Business
- ☐ Interpretation of LDC
- ☐ Minimum Use Determination
- ☐ Setback Variance
- ☐ Other

Name of Project: PINK SHELL AMENDMENT

Applicant: JABO LLC c/o Bill Waichulis, General Manager of Pink Shell Resort & Marina

Strap Number: 24-46-23-W1-00700.0330, 24-46-23-W1-00700.0340 and 24-46-23-W1-00700.037A

Street Address: 200 and 275 ESTERO BOULEVARD

Phone Number: (239) 463-8601

Email: bwaichulis@boykin.com



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Application for Waiver of Submittal Requirements

Specific requirements from which waiver is sought

Section Number	Requirement
34-202(a)(2)	Boundary survey
34-202(b)(5); 34-212(5)	Sketch of proposed building; Architectural elevation

Scope of project and reasons for request

Explain the nature of the project and give reasons why you think specific requirements are inapplicable or otherwise should be waived.

The request is an Amendment to the Pink Shell Resort CPD to add mobile food truck to the approved uses, and eliminate prohibition of live-aboards (consistent with the FDEP approval).
Boundary surveys have been previously filed with the Town and accepted. Waiver to this item previously approved.
There will be no exterior changes viewable to the public by these amendments.
Since there is no change in the footprint, there is no reason to provide a survey when the Town has it on file.

I hereby state that the information provided above is accurate to the best of my knowledge. I recognize that if my project changes from what is described above approval of this waiver request may no longer be valid.

_____, July _____, 2022

Signature

Date

Director's Decision _____ Approved _____ Denied

Comments:

Signature

Date

Revised 1/6/2017

Town of Fort Myers Beach
2525 Estero Blvd., Fort Myers Beach, Florida 33931
Phone: 239-765-0202 Permits@FortMyersBeachFL.gov Fax: 239-765-0909

Page 2 of 2

SUBMIT

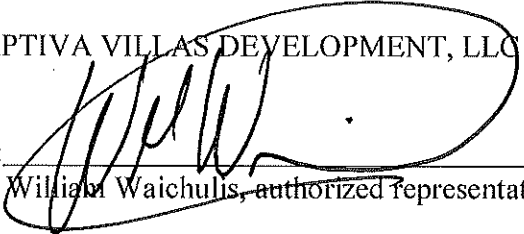
LETTER OF AUTHORIZATION

TO TOWN OF FORT MYERS BEACH COMMUNITY DEVELOPMENT

The undersigned on behalf of Captiva Villas Development, LLC does hereby swear or affirm that it is the owner of the property known as STRAP No. 24-46-23-W1-00700.037A, Estero Boulevard, Fort Myers Beach, Florida 33931.

The undersigned hereby authorizes and designates JABO, LLC, including Bill Waichulis, General Manager of Pink Shell Resort & Marina, to be the Applicant and represent it with the Town of Fort Myers Beach including the Community Development Department regarding the Application for Public Hearing involving above-referenced property.

CAPTIVA VILLAS DEVELOPMENT, LLC

By: 
William Waichulis, authorized Representative

From: [Spector, Sarah](#)
To: [Sarah Propst](#)
Cc: [Bill Waichulis - PSR](#)
Subject: Pink Shell CPD Amendment (DCI 20220032)
Date: Monday, January 9, 2023 4:03:16 PM

Good afternoon, Sarah-

Please accept this email as a formal request to withdraw the portion of the above-referenced request relative to the placement of a mobile food cart on the Gulf side of the property.

With the removal of the mobile food cart request, the request will be limited to one to remove the prohibition against liveboards.

Should you need anything further to process this request, please do not hesitate to let me know.

Thank you very much for your assistance with this matter.

Sarah E. Spector, Esq.
Roetzel & Andress, LPA
2320 First Street, Suite 1000
Ft. Myers, FL 33901
Direct: 239.338.4213
Main: 239.337.3850
Fax: 239.337.0970
E-mail: sspector@ralaw.com
www.ralaw.com



Akron - Chicago - Cincinnati - Cleveland
Columbus - Ft. Myers - Naples - Toledo

Both Sarah Spector and Roetzel & Andress intend that this message be used exclusively by the addressee(s). This message may contain information that is privileged, confidential and exempt from disclosure under applicable law. Unauthorized disclosure or use of this information is strictly prohibited. If you have received this communication in error, please permanently dispose of the original message and notify Sarah Spector immediately at 239.338.4213. Thank you.

Note: Florida has a very broad public records law. Most communication(s) to or from Fort Myers Beach officials regarding Town business are public records available to the public and media upon request. Your email communications and email address may be subject to public

disclosure.



Exhibit H

Town of Fort Myers Beach
Community Development Services - Planning Division
2525 Estero Blvd,
Fort Myers Beach, FL 33966

NOTICE TO PROPERTY OWNERS WITHIN 500 FEET

Notice is hereby given that the Town Council of the Town of Fort Myers Beach will hold a public hearing which will take place at DiamondHead Beach Resort, 2000 Estero Boulevard, Fort Myers Beach, Florida, 33931.

TIME: 9 AM
DATE: January 18th, 2023
CASE: DCI Rezoning 20220032
ADDRESS: 200 and 275 Estero Blvd
APPLICANT: JABO LLC, Bill Waichulis
REQUEST: The applicant is requesting an amendment to the existing CPD to allow live-aboard vessels in association with the submerged land lease.

TOWN CONTACT: SARAH PROPST SARAH.PROPST@FMBGOV.COM

You may appear in person, through counsel, or through an authorized agent and provide testimony, legal argument, or other evidence. At this hearing the Local Planning Agency will review the application materials and hear testimony to make a recommendation. Complete records or transcripts of the proceedings are not provided by the Town.

Copies of the application and staff report are available for viewing at Fort Myers Beach Town Hall. Call 239-765-0202 for more information. Town Hall is open between the hours of 8:30 AM and 4:30 PM. Reasonable accommodations will be made in accordance with the Americans with Disabilities Act. If you need reasonable accommodation, contact Town Hall at 239-765-0202.



Town of Fort Myers Beach
Community Development Services - Planning Division
2525 Estero Blvd,
Fort Myers Beach, FL 33966

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Town of Fort Myers Beach
Community Development Services - Planning Division
2525 Estero Blvd,
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Town of Fort Myers Beach
Community Development Services - Planning Division
2525 Estero Blvd,
Fort Myers Beach, FL 33966

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Town of Fort Myers Beach
2525 Estero Blvd,
Fort Myers Beach, FL 33931

Town of Fort Myers Beach
2525 Estero Blvd,
Fort Myers Beach, FL 33931

«OwnerName»
«MailAddress»
«MailCity», «MailState», «MailZip»«Next Record»

«OwnerName»
«MailAddress»
«MailCity», «MailState», «MailZip»«Next Record»

Town of Fort Myers Beach
2525 Estero Blvd,
Fort Myers Beach, FL 33931

Town of Fort Myers Beach
2525 Estero Blvd,
Fort Myers Beach, FL 33931

«OwnerName»
«MailAddress»
«MailCity», «MailState», «MailZip»«Next Record»

«OwnerName»
«MailAddress»
«MailCity», «MailState», «MailZip»

**Town of Fort Myers Beach
Agenda Item Summary**

Yellow Sheet Number: **2023-897**

1. **Requested Motion:**

Meeting Date: January 18, 2023

VAR20220018, 8180 Lagoon Road - Variance for an 11 foot reduction of a pool street setback

Why the action is necessary:

The LPA is the recommending body to the Town Council for variances.

What the action accomplishes:

The recommendation will be forwarded to the Town Council. This variance will allow the applicant to build a pool closer than 25 feet to the right of way property line.

2. **Agenda:**

PUBLIC HEARINGS

3. **Requirement/Purpose:**

Resolution

5. **Background:**

Christopher DeCosta, the applicant for 8180 Lagoon Road, is requesting a variance from the Town's Land Development Code (LDC) Table 34-3 which requires that development in the RS zoning district provide street setbacks equal to 25 feet. The applicant is requesting a reduction of 11 feet to the street setback.

Attachments:

1. 8180 Lagoon Road- Street Setback Variance
2. Exhibit A Variance Application 8180 Lagoon Rd

Financial Impact:

unknown

6. **Alternative Action**

Recommend approval

7. **Staff Recommendations:**

recommend denial

8. **Recommended Approval:**

Jason Green, Community Development Services

Date: January 12, 2023

John R Herin Jr, Town Attorney

Date: January 12, 2023

Amy Baker, Town Clerk

Date: January 12, 2023



Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

TYPE OF CASE: Variance

CASE NUMBER: VAR20220108

CASE NAME: 8180 Lagoon Road; requesting relief from LDC Table 34-3 which requires that a single-family home in the RS zoning district provide street setbacks equal to 25 feet.

LPA

HEARING DATE: January 18, 2023

STAFF

RECOMMENDATION: DENY variance of street setback by 11 feet

**PREPARED/
SUBMITTED BY:** Sarah Propst/ Jason Green AICP

I. APPLICATION SUMMARY

Applicant/Owner: Christopher DeCosta

Request: Relief from LDC Table 34-3 which requires that a single-family home in the RS zoning district provide street setbacks equal to 25 feet.

The Applicant is requesting a variance of 11 feet from the required street setback to accommodate expansion of a pool to a non-frontage corner lot.

Subject property: See attached site plan

Physical Address: 8180 Lagoon Road

STRAP #: 03-47-24-W3-00105.0070

FLU: Low Density

Zoning: Residential Single-Family (RS)

Adjacent zoning and land uses:

North:	RESIDENTIAL SINGLE FAMILY (RS) Single-Family Residence
South:	RESIDENTIAL SINGLE FAMILY (RS) Single-Family Residence
East:	RESIDENTIAL SINGLE FAMILY (RS) Single-Family Residence
West:	RESIDENTIAL SINGLE FAMILY (RS) Single-Family Residence

II. BACKGROUND AND ANALYSIS

Background:

Christopher DeCosta, the applicant for 8180 Lagoon Road, is requesting a variance from the Town's Land Development Code (LDC) Table 34-3 which requires that a development in the RS zoning district provide street setbacks equal to 25 feet.

Analysis:

The purpose of the RS zoning district is to provide stable neighborhoods where single-family detached homes are the predominant land use. The subject property is a corner lot with two street frontages along Lagoon Road and Tarpon Road . The property currently supports a single family home and a pool as an accessory structure. The existing house does not meet the code required street setback of 25 feet,the house has an existing setback of 11.4 feet from the east right of way property line, while the existing pool has a setback of 25 feet from the east property line along tarpon road.

As per LDC table 34-3, a single-family home in the RS zoning district shall provide street setbacks equal to 25 feet. Along the Tarpon Road street frontage, the applicant is proposing a street setback of 14 feet and requesting a variance of 11 feet street setback to allow expansion of the pool.

The Applicant argues that the code does not differentiate between street setback to principal structure and accessory structure, and pool being an accessory structure, the requirement should vary. The new pool will be further from the right of way than the principal structuremaking it consistent to LDC 34-1174 (b) which requires *No accessory use, building or structure to be located closer to a street right-of-way line or street easement than the principal building*. No pool cage is proposed at this time.

Neighborhood Compatibility:

Most of the single family homes in the neighborhood, specifically corner lots, appear to be consistent with the regulation in question. However, the property to the south of the subject property appears to have a pool and a pool cage extending to the building line of its principal structure along Tarpon Road.

Findings and Conclusions:

LDC Sec. 34-87 sets forth the required findings and conclusions for the approval of a variance:

- a. *That there are/**are not** exceptional or extraordinary conditions or circumstances that are inherent to the property in question, or that the request **is/is not** for a de minimis variance under circumstances or conditions where rigid compliance is not essential to protect public policy.*

There are no exceptional or extraordinary conditions that are inherent to the property. The property is a corner lot, with two street frontages.

- b. *That the conditions justifying the variance **are/are not** the result of actions of the applicant taken after the adoption of the regulation in question.*

The subject property currently supports a single-family residence and a pool compliant with the land development code. While the home has a setback of 11.4 feet, the pool is setback 25 feet from Tarpon Road property line.

- c. *That the variance granted **is/is not** the minimum variance that will relieve that applicant of an unreasonable burden caused by the application of the regulation in question to this property.*

The circumstances leading to this variance are a result of a design choice and are subjective in nature.

- d. *That the granting of the variance will/**will not** be injurious to the neighborhood or otherwise detrimental to the public welfare; and*

The granting of this variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

- e. *That the conditions or circumstances on the specific piece of property for which the variance is sought are/**are not** of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.*

The subject property is a corner lot with two street frontages- Lagoon Road and Tarpon Road, respectively . The circumstances on this property are somewhat common and the corner lot regulations are being considered for amendments.

III. RECOMMENDATION

Staff has reviewed the request for a variance *from LDC Table 34-3 which requires that a single-family home in the RS zoning district provide street setbacks equal to 25 feet* and found that the variance request does not meet the requirements set-forth in sec. 34-87. Expansion of the pool is a design choice and the site/ circumstances are not unique to the site.

Therefore, staff recommends **DENIAL** of VAR20220108, a request for variance of 11 feet from the required street setback to accommodate expansion of a pool to a non-frontage corner lot.

Attachments

Exhibit A - Application

Christopher J. DeCosta, Esquire*
Elias M. Mahshie, Esquire
David K. Oaks, Esquire, Of Counsel**
Sven L. Smith, Esquire, Of Counsel

MAHSHIE & DECOSTA

ATTORNEYS AT LAW

*ALSO ADMITTED IN MA, NY, RI
**ALSO ADMITTED IN NC

1560 Matthew Drive, Suite E,
Fort Myers, Florida 33907
Telephone: 239.931.7566

695 Tarpon Bay Road, Unit 13,
Sanibel, Florida 33957
Telephone: 239.312.4056

407 E. Marion Avenue, Suite 101,
Punta Gorda, Florida 33950
Telephone: 941.639.7627

www.md-lawfirm.com

October 14, 2022

Town of Fort Myers Beach

2525 Estero Blvd.

Fort Myers Beach, FL 33931

Submitted via Facsimile: 239 765 0909

Submitted via email: zoningpermits@fmbgov.com; kendra@fmbgov.com

RE: Application for Variance

Janell Schoonover as Trustee of Janell Schoonover Living Trust

8180 Lagoon Road, Fort Myers Beach, FL 33931

Case No.:	
Project Name:	Ed & Janell Schoonover – Pool Renovation
Applicant:	Christopher J. DeCosta, Esquire
STRAP No.:	03-47-24-W3-00105.0070
Current Status of Property:	District AE, Low Density
Variance request section:	LDC Section No.: 34-638
Property address:	8180 Lagoon Road, Fort Myers Beach, FL



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

This is a first part of a two-part application. Please be sure to fill out this form, which requires general information, as well as the Supplemental Form application specific to action requested for the subject property. Please submit a complete Public Hearing application with required, supplemental information, exhibits and documents to zoningpermits@fmbgov.com. Please do not submit the instructions at the end of the application.

Site Address: 8180 Lagoon Road, Fort Myers Beach, FL

STRAP Number: 03-47-24-W3-00105.0070

Applicant: Christopher J. DeCosta, Esq.

Phone: 239 931 7566

Contact Name: Christopher DeCosta, Esq.

Phone: _____

Email: chris@md-lawfirm.com

Fax: 239 931 7560

Current Zoning District: AE

Future Land Use Map (FLUM) Category: Low Density

FLUM Density Range: N/A

Platted Overlay:

☒ YES

☐ NO

ACTION REQUESTED

☐ Special Exception

☒ Variance

☐ Conventional Rezoning

☐ Planned Development ☐ Commercial ☐ Residential

☐ Master Concept Plan Extension

☐ Appeal of Administrative Action

☐ Vacation of Platted Right-of-way and Easement

☐ Other – cite LDC Section: _____

SUPPLEMENTAL FORM REQUIRED

PH-A

PH-B

PH-C

PH-D

PH-E

PH-F

PH-G

attach on separate sheet

PART I – General Information

A. **Applicant***: Christopher J. DeCosta, Esq.

Phone: 239 931 7566

**Applicant must submit a statement under oath that he/she is the authorized representative of the property owner.*

Please see PART III to complete the appropriate Affidavit form for the type of applicant.

Applicant Mailing Address: 1560 Matthew Drive, Suite E, Fort Myers, FL 33907

Email: chris@md-lawfirm.com; paige@md-lawfirm.com

Fax: 239 931 7560

Contact Name: Christopher DeCosta

Phone: 239 931 7566



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

B. Relationship of Applicant to subject property:

- | | | |
|--|---|--|
| ☐ Owner* | ☐ Land Trust* | ☐ Partnership* |
| ☐ Corporation* | ☐ Association* | ☐ Condominium* |
| ☐ Subdivision* | ☐ Timeshare Condo* | ☐ Contract Purchaser* |
| ☒ Authorized Representative* | ☐ Other* (please indicate) _____ | |

**Applicant must submit a statement under oath that he/she is the authorized representative of the property owner.
Please see PART III to complete the appropriate Affidavit form for the type of applicant.*

C. Authorized Agent(s). Please list the name of Agent authorized to receive correspondence Agents

Name: _____ Phone: _____
Address: _____
Email: _____ Fax: _____

D. Other Agent(s). Please list the names of all Authorized Agents (attach extra sheets if necessary)

Name: _____ Phone: _____
Address: _____
Email: _____ Fax: _____

Name: _____ Phone: _____
Address: _____
Email: _____ Fax: _____

PART II - Nature of Request

Requested Action (each request requires a separate application)

- ☐ Special Exception
- ☒ Variance from LDC Section 34 638; 1174; 1176
- ☐ Conventional Rezoning from _____ to _____
- ☐ Planned Development
- ☐ Rezoning from _____ to ☐ Commercial PD ☐ Residential PD
- ☐ Amendment. List the project number: _____
- ☐ Extension/reinstatement of Master Concept Plan. List project number: _____



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

- ☐ Appeal of Administrative Action
- ☐ Vacation ☐ Right-of-Way ☐ Easement
- ☐ Other, Please Explain: _____
- _____
- _____

PART III – Waivers

Please indicate any specific submittal items that have been waived by the Director for the request. Attach a copy of the signed approval as Exhibit 3-1. (Use additional sheets if necessary)

Code Section: _____ Description: _____

Code Section: _____ Description: _____

Code Section: _____ Description: _____

PART IV – Property Ownership (Single Owner)

- ☒ Single Owner (individual or husband and wife)
Janell Schoonover, Trustee of the Janell Schoonover Trust & Ed
Name: Schoonover Phone: _____
- Mailing Address: 8180 Lagoon Road, Fort Myers Beach, FL 33931
- Email: _____ Fax: _____

AFFIDAVIT

APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

I, Christopher J. DeCosta, Esq. swear or affirm under oath, that I am the owner or the authorized representative of the owner(s) of the property and that:

I have full authority to secure the approval(s) requested and to impose covenants and restrictions on the referenced property as a result of any action approved by the Town of Fort Myers Beach in accordance with this application and the Land Development Code;

All answers to the questions in this application and any sketches, data or other supplementary matter attached hereto and made a part of this application are honest and true;



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

I have authorized the staff of the Town of Fort Myers Beach Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made thru this application; and that
The property will not be transferred, conveyed, sold or subdivided unencumbered by the conditions and restrictions imposed by the approved action.

Signature

Christopher DeCosta

Printed Name

STATE OF FL COUNTY OF Lee

The foregoing instrument was certified and subscribed before me by means of X physical presence OR _____ online notarization, this 14 day of October, 2022, by _____, ☒ who is personally known to me OR ☐ who has produced _____ as identification.

Notary Public Signature



PART V

Property Ownership (Multiple Owners)

☐ Multiple Owners (including corporation, partnership, trust, association, condominium, timeshare, or subdivision)

- ☐ Complete Disclosure of Interest Form (see below)
- ☐ Attach list of property owners as Exhibit 5-1
- ☐ Attach map showing property owners interests as Exhibit 5-2 (for multiple parcels)
- ☐ For condominiums and timeshares see Explanatory Notes Part V - Exhibit 5-3
- ☐ Letter of Opinion - Exhibit 5-4

DISCLOSURE OF OWNERSHIP INTEREST

If the property is owned in fee simple by an INDIVIDUAL, tenancy by the entirety, tenancy in common, or joint tenancy, list all parties with an ownership interest as well as the percentage of such interest.

Name and Address

Percentage Ownership

Janell Schoonover as Trustee of the Janell Schoonover Trust
- 8180 Lagoon Road, Fort Myers Beach, FL

100%



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

If the property is owned by a CORPORATION, list the officers and stockholders and the percentage of stock owned by each.

Name, Address and Office

Percentage of Stock

_____	_____
_____	_____
_____	_____
_____	_____

If the property is in the name of a TRUSTEE, list the beneficiaries of the trust with percentage of interest.

Name and Address

Percentage of Interest

Joshua Westphal - 8180 Lagoon Rd., Fort Myers Beach, FL

33%

Jordan Westphal - 8180 Lagoon Rd., Fort Myers Beach, FL

33%

Jacob Westphal - 8180 Lagoon Rd., Fort Myers Beach, FL

33%

If the property is in the name of a GENERAL PARTNERSHIP OR LIMITED PARTNERSHIP, list the names of the general and limited partners.

Name and Address

Percentage of Ownership

_____	_____
_____	_____
_____	_____
_____	_____

If there is a CONTRACT FOR PURCHASE, whether contingent on this application or not, and whether a Corporation, Trustee, or Partnership, list the names of the contract purchasers below, including the officers, stockholders, beneficiaries, or partners.

Name, Address and Office

Percentage of Stock

_____	_____
_____	_____
_____	_____
_____	_____



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

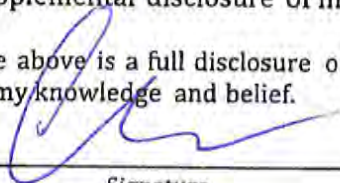
Date of Contract: _____

If any contingency clause or contract terms involve additional parties, list all individuals or officers, if a corporation, partnership, or trust.

Name	Address
_____	_____
_____	_____
_____	_____
_____	_____

For any changes of ownership or changes in contracts for purchase subsequent to the date of the application, but prior to the date of final certificate of compliance, a supplemental disclosure of interest must be filed.

The above is a full disclosure of all parties of interest in this application, to the best of my knowledge and belief.



Signature

Christopher J. DeCosta

Printed Name

AFFIDAVIT

APPLICATION IS SIGNED BY A CORPORATION, LIMITED LIABILITY COMPANY (L.L.C.), LIMITED COMPANY (L.C.), PARTNERSHIP, LIMITED PARTNERSHIP, OR TRUSTEE
Trustee of Janell Schoonover Living

I, Janell Schoonover (name), as Trust (title)
of _____ (company), swear or affirm under oath, that I am the
owner or the authorized representative of the owner(s) of the property and that:

1. I have full authority to secure the approval(s) requested and to impose covenants and restrictions on the referenced property as a result of any action approved by the Town of Fort Myers Beach in accordance with this application and the Land Development Code;
2. All answers to the questions in this application and any sketches, data or other supplementary matter attached hereto and made a part of this application are honest and true;
3. I have authorized the staff of Fort Myers Beach Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made thru this application; and that
4. The property will not be transferred, conveyed, sold or subdivided unencumbered by the conditions and restrictions imposed by the approved action.



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

Janell Schoonover as Trustee of the Janell Schoonover Living Trust

Name of Entity (corporation, partnership, LLP, LLC, etc)

Signature

Janell Schoonover

Typed or Printed Name

Trustee

Title

10/14/2022

Date

STATE OF FL COUNTY OF LEE

The foregoing instrument was certified and subscribed before me by means of ☒ physical presence OR ☐ online notarization, this 14 day of October, 2022, by FLDI ☐ who is personally known to me OR ☒ who has produced FLDI as identification.



Notary Public Signature

PART VI- Property Information

A. Legal Description:

STRAP: 03-47-24-W3-00105.0070

Property Address: 8180 Lagoon Road Fort Myers Beach FL 33931

Is the subject property within a platted subdivision recorded in the official Plat Books of Lee County? ☒ No. Attach a legible copy of the legal description as Exhibit 6-1.

☐ Yes. Property identified in subdivision: _____

Book: _____ Page: _____ Unit: _____ Block: _____ Lot(s): _____

B. Boundary Survey:

☒ Attach a Boundary Survey of the property meeting the minimum standards of Chapter 61G17-6 of the Florida Administrative Code. A Boundary Survey must bear the raised seal and original signature of a Professional Surveyor and Mapper licensed to practice Surveying and Mapping by the State of Florida. Attach and label as Exhibit 6-2.



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

C. Property Dimensions:

Width (please provide an average width if irregular in shape) _____ 75 feet
Depth (please provide an average width if irregular in shape) _____ 129.5 feet
Frontage on street: _____ 204.5 feet. Frontage on waterbody: _____ N/A feet
Total land area: _____ 9,262.50 ☐ acres ☒ square feet

D. General Location of Subject Property (from Sky Bridge or Big Carlos Pass Bridge):

Subject property is located 0.7 miles northwest from the Big Carlos Pass Bridge via Estero Blvd.

☒ Attach Area Location Map as Exhibit 6-3

E. Property Restrictions (check applicable):

- ☒ There are no deed restrictions and/or covenants on the subject property.
☐ A list of deed restrictions and/or covenants affecting the subject property is attached as Exhibit 6-4.
☐ A narrative statement detailing how the restrictions/covenants may or may not affect the request is attached as Exhibit 6-5.

F. Surrounding Property Owners (these items can be obtained from the Lee County Property Appraiser):

- ☒ Attach a list of surrounding property owners within 500 feet as Exhibit 6-6.
☒ Attach a map showing the surrounding property owners as Exhibit 6-7.
☒ Provide Staff with two (2) sets of surrounding property owner mailing labels.

G. Future Land Use Category (see Future Land Use Map):

- | | |
|---|--|
| ☒ Low Density | ☐ Marina |
| ☐ Mixed Residential | ☐ Recreation |
| ☐ Boulevard | ☐ Wetlands |
| ☐ Pedestrian Commercial | ☐ Platted Overlay |



Case # _____ Date Received: _____

Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Supplement PH-B

Additional Required Information for a Variance Application

This is the second part of a two-part application. This part requests specific information for a variance. Include this form with the Request for Public Hearing form.

Case Number:
Project Name: Ed & Janell Schoonover - Pool Renovation
Authorized Applicant: Christopher J. DeCosta, Esq.
LeePA STRAP Number: 03-47-24-W3-00105.0070

Current Property Status:	
Current Zoning: District AE	
Future Land Use Map (FLUM) Category: Low Density	
Comp Plan Density: N/A	Platted Overlay? ☒ Yes ☐ No

Variance is requested from:

LDC Section Number

Title of Section or Subsection

34-638	Minimum setbacks

Complete the narrative statements below for EACH variance requested.



Case # _____ Date Received: _____

PART I
Narrative Statements

Request for variance from 34-638 **(LDC Section number)**

Explain the specific regulation contained in this section from which relief is sought:

The street setback set forth in Table 34-3, for a non-frontage corner lot.

Reasons for request

Explain why the variance is needed:

(See attached Statement.)



Case # _____ Date Received: _____

Explain the possible effect the variance, if granted, would have on surrounding properties:

None. See attached Statement.

Explain the hardship (what is unique about the property) that justifies relief from the regulation:

The variance is needed to accommodate a new pool. The boundary for the new pool is no closer to the street than the principal building. See attached Statement.



Case # _____ Date Received: _____

Explain how the property qualifies for a variance. Direct this explanation to the guidelines for decision-making in LDC Section 34-87.

See attached Statement.



Case # _____ Date Received: _____

PART 2 Submittal Requirements

All applications for a variance must be submitted electronically through our Iworq portal - [iworq \(talktomycity.com\)](http://iworq.talktomycity.com)

Required Items

- Public Hearing Request Form
- Supplemental form PH-B
- Site Plan (to scale) including the current use of all existing structures on the site, and those on adjacent properties within 100 feet of the perimeter; and a clear illustration of the proposed variance
- Fee in the amount of \$1800.00 (residential)/Additional Variance \$500.00
- Variance (non-residential) \$2800.00/ Additional Variance \$700.00

Guide to filing PH-B Additional Required Information for a Variance Application

Cover page

Case Number will be inserted by Community Development staff.

Project Name must be the same as the name used on the Request for Public Hearing form.

Applicant must be the same as on the Request for Public Hearing form.

STRAP numbers must be the same as on the Request for Public Hearing form.

Current status of property must be the same as on the Request for Public Hearing form.

"Variance is requested from..." Provide the section number and title of each section of the Fort Myers Beach Land Development Code from which a variance is being sought.

Narrative statements

If the application is for multiple variances, complete all of the narrative statements for each variance that is requested.



Case # _____

Date Received: _____

Site plan

The site plan must show all existing structures on the site; all existing structures within 100 feet of the perimeter boundary of the site; and a clear illustration of the proposed variance.

LDC Section 34-87

The guidelines for decision-making regarding a request for a variance are as follows:

1. Whether there are exceptional or extraordinary conditions or circumstances that are inherent to the property in question, or whether the request is for a *de minimis* variance under circumstances or conditions where rigid compliance is not necessary to protect public policy;
2. Whether the exceptional or extraordinary conditions justifying the variance are or are not the result of actions of the applicant taken after the adoption of the regulation in question;
3. Whether the requested variance is the minimum variance to relieve the applicant of an unreasonable burden caused by the application of the regulation in question;
4. Whether granting the variance would be injurious to the neighborhood or otherwise detrimental to the public welfare;
5. Whether the conditions or circumstances of the specific piece of property or the intended use of the property for which the variance is sought are of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.



POOL DIMENSIONS
FEET - INCHES

POOL SPECIFICATIONS

SIZE: 20' x 41'	DEPTH: 3' to 6'
PERIMETER: 114'	APPROX. VOLUME: 14,500 gallons
SURFACE AREA: 822 sq. ft.	TURNOVER RATE: 8 hrs

SPA SPECIFICATIONS

SIZE: 7 x 17" DEPTH: 3"
PERMIETER: 364" APPROX. VOLUME: 1,450 gallons

EQUIPMENT
PUMP #1: JAWCY V52 2.7 HP - CIRCULATION & SPA JETS
PUMP #2: JAWCY V52 2.7 HP - SPA AND RAISED FOUNTAIN SPRINKS
PUMP #3: JAWCY V52 2.7 HP - W/TERFALL
FILTER: OVAO CARTRIDGE FE 75P
C/C: ORNATOR: RAINGLOW 300
AUTOMATIC CONTROL S: JAWCY RUPES
(1) 50W-LED POOL LIGHT
(1) 25W-LED SPA LIGHT

PLUMBING
 01 SPARKS IN POOL FLOOR
 02 CHIMNEY, COYAMA SPA FLOOR
 03 CHIMNEY, COYAMA SPA FLOOR
 04 WALL INLETS IN POOL
 05 FLOOR INLETS IN RAISED FOUNTAIN
 06 FLOOR INLETS IN POOL
 07 FLOOR INLETS IN SPA
 08 DOWNER
 09 VAC LINE
 10 VAC LINE
 11 ANTIFOL
 12 SPARKS IN TRIPLE SET FACED

TRINCES
MARBLE FANTASTIC ROYALE COPIES (FRENCH PATTERN)
AMERICAN MOSAIC, HUNTER, OYX BLACK 1/2 TILE
PEBBLE TEO INTERIOR FINISH, MIDNIGHT BLUE LEVEL 4

TESTS
10M M/L SAND SET PAVERS
245 M/L MUD SET PAVERS ON CONCRETE BASE

ADDITIONAL
BOOKS BY THE AUTHOR

SIXTY-SEVEN • FOODS FOR A HEALTHY HEART
 The following information is provided for informational purposes only. It is not intended to be a substitute for professional medical advice. Always consult your physician before starting any diet or exercise program.

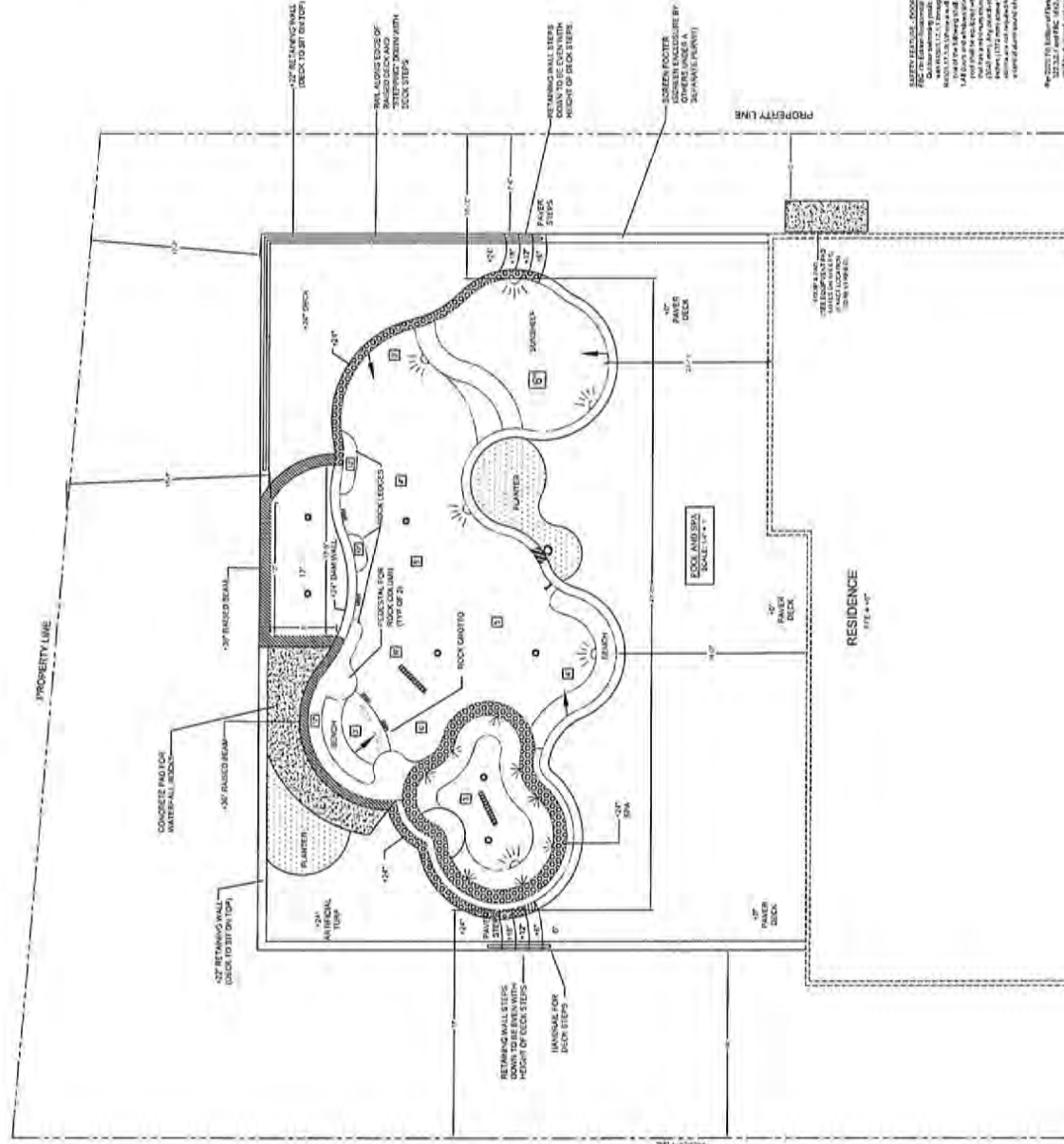
[illegible]

EXHIBIT
Site Plan

Legal Description

Lot 7, Block 5, UNIT NO. 1 LAGUNA SHORES, according to the Plat thereof, recorded in Plat Book 9, Page(s) 29 and 30, of the Public Records of Lee County, Florida.

Parcel Identification Number: 03-47-24-W3-00105.0070



BOUNDARY AND TOPOGRAPHIC SURVEY LYING IN SECTION 3, TOWNSHIP 47 SOUTH, RANGE 24 EAST LEE COUNTY, FLORIDA

LEGAL DESCRIPTION

LOTS 7, BLOCK 5, UNIT NUMBER 1,
LAGUNA SHORES, ACCORDING TO
THE PLAT THEREOF, AS RECORDED
IN PLAT BOOK 9, PAGES 29 AND
30, OF THE PUBLIC RECORDS OF
LEE COUNTY, FLORIDA.

LEGEND

FCM FOUND CONCRETE MONUMENT
FIRC FOUND IRON ROD AND CAP
N&D NAIL AND DISK
DESC DESCRIPTION
ID. IDENTIFICATION
F.B. FIELD BOOK
PG. PAGE
R/W RIGHT-OF-WAY
L.B. LICENSED BUSINESS
P.S.M. PROFESSIONAL SURVEYOR
AND MAPPER
P.L.S. PROFESSIONAL
LAND SURVEYOR
NO. NUMBER
S-T-R SECTION, TOWNSHIP
AND RANGE
D.U.E. DRAINAGE AND
UTILITY EASEMENT
ELEV. ELEVATION
MHWL MEAN HIGH WATER LINE
WIT. WITNESS
CONC. CONCRETE
FND. FOUND
COR. CORNER
E.O.P. EDGE OF PAVEMENT
(P) PLAT
(F) FIELD
(C) CALCULATED
(C&P) CALCULATED AND PLAT
(F&P) FIELD AND PLAT
P.P. POWER POLE
I.C.V. IRRIGATION CONTROL VALVE
W.V. WATER VALVE
W.P.B. WIRE PULL BOX
P.L. POWER LINES
G.S. GROUND SHOTS
C.L. CENTERLINE

NOTE:

ELEVATIONS ARE BASED ON
NORTH AMERICAN VERTICAL
DATUM 1988 (NAVD 1988)

NOTES:

BEARING ARE BASED ON STATE PLANE, FLORIDA WEST ZONE WITH THE NORTH LINE OF LOT 7,
BLOCK 5 HAVING A BEARING OF S 89° 17' 25" W.

THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A CERTIFIED TITLE REPORT AND IS
NOT A CERTIFICATE OF TITLE, ZONING OR FREEDOM FROM ENCUMBRANCES.

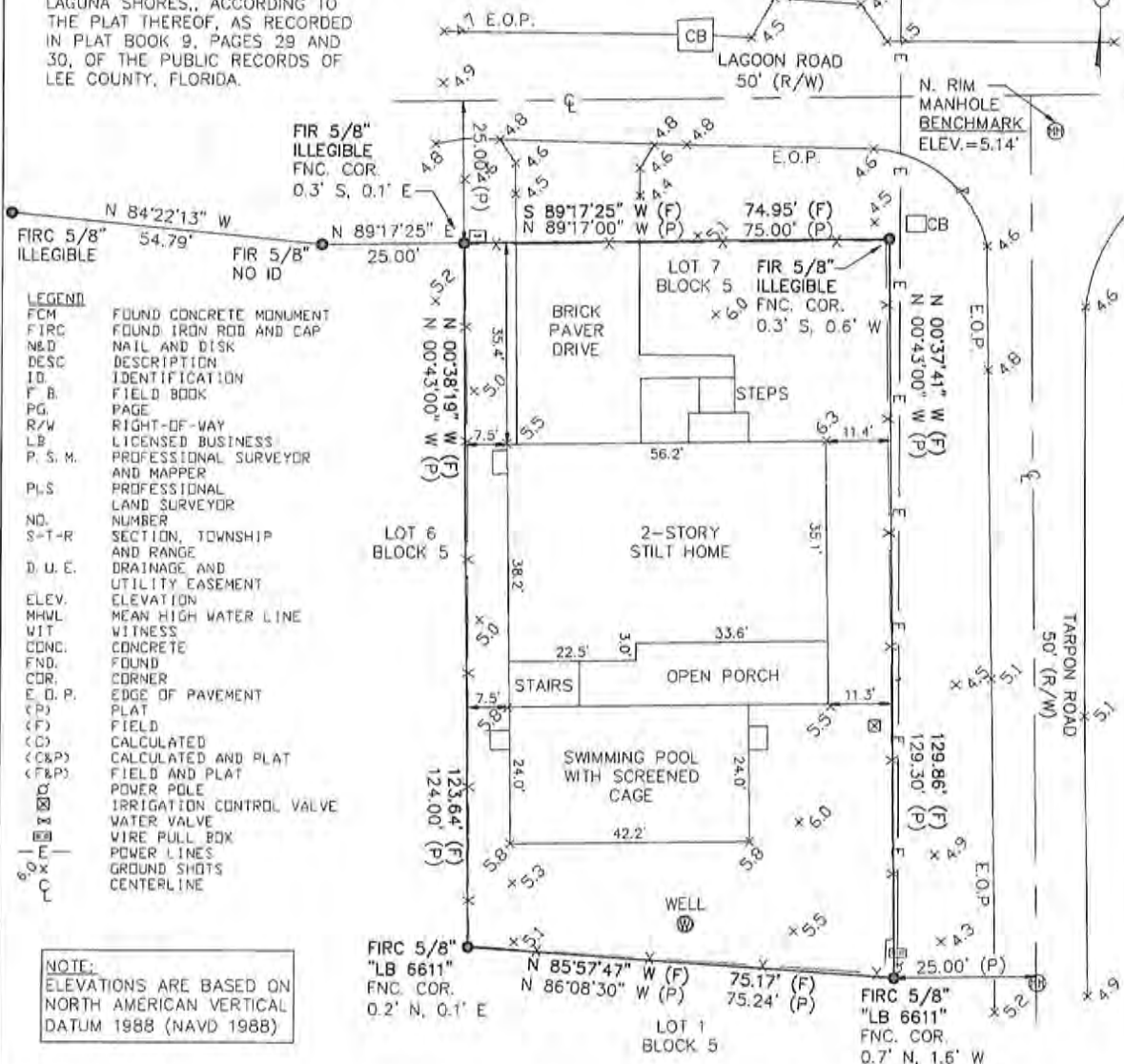
UNDERGROUND IMPROVEMENTS, OTHER THAN SHOWN, IF ANY, WERE NOT LOCATED.

PARCEL LIES IN FLOOD ZONE VE, WITH A BASE FLOOD ELEVATION OF 14 FEET, AS SHOWN ON
FEDERAL EMERGENCY MANAGEMENT AGENCY MAP 12071C0569F, EFFECTIVE DATE:
08/28/2008.

PARCEL SUBJECT TO ALL EASEMENTS, RIGHTS OF WAY AND RESTRICTIONS OF RECORD.

THE FLORIDA DEPARTMENT OF TRANSPORTATION PERMANENT CONTROL NETWORK WAS UTILIZED
ON THIS BOUNDARY SURVEY AND THE DATUM IS NORTH AMERICAN DATUM
NAD(83)-(2011)-(EPOCH 2017.000). THE STATED HORIZONTAL ACCURACY IS 1-2
CENTIMETER. THE STATED VERTICAL ACCURACY IS 2-3 CENTIMETER.

0 20 40



CERTIFIED TO:

JANELLE AND ED SCHOONOVER
LUCAS LAGOONS DESIGN CENTER

SURVEYOR'S CERTIFICATION:

I HEREBY CERTIFY TO THE BEST OF MY
KNOWLEDGE THAT THIS SURVEY OF THE
HEREON DESCRIBED PROPERTY IS A
TRUE REPRESENTATION OF A FIELD
SURVEY MADE UNDER MY DIRECTION
AND CONFORMS TO THE STANDARDS OF
PRACTICE FOR PROFESSIONAL
SURVEYORS AND MAPPERS AS
OUTLINED IN CHAPTER SJ-17, FLORIDA
ADMINISTRATIVE CODE.



ADDRESS: 8180 LAGOON ROAD, FORT MYERS BEACH, FL 33931

LAST FIELD DATE: 03/26/2021

PROJECT No: 21-0065

PROJECT Desc: BOUNDARY SURVEY

F.B. 13

PG. 36

S-T-R 3-47-24

COUNTY LEE

STRAP: 03-47-24-W3-00105.0070

KP Surveying, Inc.
LB NUMBER 8152
2802 W. Cypress Avenue S.E.
Fort Myers, Florida 33905
(239) 462-1901

FIELD DATE: 03/26/21
DRAWN BY: KP
DATE DRAWN: 03/28/21
CAD FILE: 21-0065

NOT VALID WITHOUT THE
SIGNATURE AND THE
ORIGINAL RAISED SEAL OF
A FLORIDA LICENSED
SURVEYOR AND MAPPER
OR A DIGITAL SIGNATURE.

KENNETH PUFAHL
Ken Pufahl, P.S.M.
PROFESSIONAL SURVEYOR & MAPPER
FLORIDA CERTIFICATE NUMBER 6126

Digitally signed by KENNETH PUFAHL
Date: 2021.03.27 11:31:00 -0400

DATE

tabbles

EXHIBIT
6-2

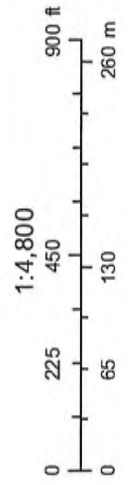
GeoView Map



September 23, 2022

Air Photos: 2022 Hi-Res (4 inch)

-  Hospital Locations
-  Library Locations
- School Locations**
 -  School Locations



This map is NOT a legal land survey and should not be used or relied upon as such. All information herein is provided as is, without warranty, and is not intended to constitute an offer of insurance or any other financial product.



Date of Report: October 14, 2022

Buffer Distance: 500 feet

Parcels Affected: 68

Subject Parcel: 03-47-24-W3-00105.0070

[Click here to download the map image, \(5161\) and CSV formatted information.](#)

To change, add or remove subject parcels please change the parcel selection in [GeoView](#)

OWNER NAME AND ADDRESS	STRAP AND LOCATION	LEGAL DESCRIPTION	MAP INDEX
TIITF STATE OF FLORIDA 3900 COMMONWEALTH BLVD TALLAHASSEE FL 32399	03-47-24-W3-00026.0000 SUBMERGED FORT MYERS BEACH FL 33931	SUBMERGED LAND IN SEC 03 TWP 47 RNG 24	1
GOUSE WARREN T TR GOUSES FURNITURE 24081 S TAMiami TRL BONITA SPRINGS FL 34134	03-47-24-W3-00101.0220 8075 LAGOON RD FORT MYERS BEACH FL 33931	LAGUNA SHORES UNIT 1 BLK 1 PB 9 PG 29 LOT 22	2
BERRA ELLEN ELIZABETH TR 3 CLAYTON ESTATES DR SAINT LOUIS MO 63131	03-47-24-W3-00101.0230 8085 LAGOON RD FORT MYERS BEACH FL 33931	LAGUNA SHORES UNIT 1 BLK 1 PB 9 PG 30 LOT 23	3
BEES LAGOON LLC W18917 COUNTY RD ZZ BIRNAMWOOD WI 54414	03-47-24-W3-00101.0240 8095 LAGOON RD FORT MYERS BEACH FL 33931	LAGUNA SHORES UNIT 1 BLK 1 PB 9 PG 29 LOTS 24 + 25 + THAT	4
SPRATT WILLIAM C III & 8125 LAGOON RD FORT MYERS BEACH FL 33931	03-47-24-W3-00101.0260 8125 LAGOON RD FORT MYERS BEACH FL 33931	LAGUNA SHORES UNIT 1 BLK 1 PB 9 PG 29 LOT 26	5
MARIA C LOFFRENO TRUST + 8002 ESTERO BLVD	03-47-24-W3-00101.0270 8153 LAGOON RD	LAGUNA SHORES UNIT 1 BLK 1 PB 9 PG 29	6

FORT MYERS BEACH FL 33931	FORT MYERS BEACH FL 33931	LOT 27	
TAMPLIN JACK SCOTT & LISA 8155 LAGOON RD FORT MYERS BEACH FL 33931	03-47-24-W3-00101.0280 8155 LAGOON RD FORT MYERS BEACH FL 33931	LAGUNA SHORES UNIT 1 BLK 1 PB 9 PG 30 LOT 28	7
HOWSER JAMES E TR 8157 LAGOON RD FORT MYERS BEACH FL 33931	03-47-24-W3-00101.0290 8157 LAGOON RD FORT MYERS BEACH FL 33931	LAGUNA SHORES UT 1 BLK 1 PB 9 PG 30 LOT 29	8
LURIE SAMUEL L TR PO BOX 6221 FORT MYERS BEACH FL 33932	03-47-24-W3-00101.0300 8163 LAGOON RD FORT MYERS BEACH FL 33931	LAGUNA SHORES UNIT 1 BLK 1 PB 9 PG 29 LOT 30	9
HEDRICH N LEE 10981 BONITA BEACH RD BONITA SPRINGS FL 34135	03-47-24-W3-00101.0310 8179 LAGOON RD FORT MYERS BEACH FL 33931	LAGUNA SHORES UNIT 1 BLK 1 PB 9 PG 30 LOT 31	10
POSILICO VINCENZO & 145 HARVARD ST WESTBURY NY 11590	03-47-24-W3-00102.0010 201 REDFISH RD FORT MYERS BEACH FL 33931	LAGUNA SHORES UNIT 1 BLK 2 PB 9 PG 29 30 LOT 1	11
WOOD SCOTT C 17 SMITH RD RIDGE NY 11961	03-47-24-W3-00102.0020 7951 BUCCANEER DR FORT MYERS BEACH FL 33931	LAGUNA SHORES UNIT 1 BLK 2 PB 9 PG 29 LOT 2	12
MARTIN ERIC & YANIET 16312 SW 67 TERRACE MIAMI FL 33193	03-47-24-W3-00102.0030 7947 BUCCANEER DR FORT MYERS BEACH FL 33931	LAGUNA SHORES UNIT 1 BLK 2 PB 9 PG 29 LOT 3	13
BAKER SCOTT ERIC TR 180 STARFISH CIR FORT MYERS BEACH FL 33931	03-47-24-W3-00102.0040 180 STARFISH CIR FORT MYERS BEACH FL 33931	LAGUNA SHORES UNIT 1 BLK 2 PB 9 PG 29 LOT 4	14
TURGEON HENRY J & 190 STARFISH CIR FORT MYERS BEACH FL 33931	03-47-24-W3-00102.0050 190 STARFISH CIR FORT MYERS BEACH FL 33931	LAGUNA SHORES UNIT 1 BLK 2 PB 9 PG 29 LOT 5	15
WARREN GULF COAST REALTY LLC 222 HOUGHTONS MILL RD LUNENBURG MA 01462	03-47-24-W3-00102.0060 200 STARFISH CIR FORT MYERS BEACH FL 33931	LAGUNA SHORES UT 1 BLK 2 PB 9 PG 29 LOTS 6 + 7 + PT LTS 8 20 21 + 22	16
SCHIAFONE BLAKE & IRINA 8060 LAGOON RD FORT MYERS BEACH FL 33931	03-47-24-W3-00102.0220 8060 LAGOON RD FORT MYERS BEACH FL 33931	LAGUNA SHORES UNIT 1 BLK 2 PB 9 PG 30 LOT 22 + PT 21 DESC OR 1700 PG 4030	17
SPITZER KIM I 8070 LAGOON RD FORT MYERS BEACH FL 33931	03-47-24-W3-00102.0230 8070 LAGOON RD FORT MYERS BEACH FL 33931	LAGUNA SHORES UNIT 1 BLK.2 PB 9 PG 30 LOT 23	18
GROUT DARCY J & JEFFREY P 8080 LAGOON RD FORT MYERS BEACH FL 33931	03-47-24-W3-00102.0240 8080 LAGOON RD FORT MYERS BEACH FL 33931	LAGUNA SHORES UNIT 1 BLK 2 PB 9 PG 30 LOT 24	19
PARNHAM ROBERT NORMAN & 543 PARNHAM FARM LN SMITHFIELD PA 15478	03-47-24-W3-00102.0250 8100 LAGOON RD FORT MYERS BEACH FL 33931	LAGUNA SHORES UNIT 1 BLK.2 PB 9 PG 29 LOT 25	20
JONES TIMOTHY D & 211 REDFISH RD FORT MYERS BEACH FL 33931	03-47-24-W3-00102.0260 211 REDFISH RD FORT MYERS BEACH FL 33931	LAGUNA SHORES UNIT 1 BLK 2 PB 9 PG 29 LOTS 26 + 27	21
AMES JON Q TR 207 REDFISH RD FORT MYERS BEACH FL 33931	03-47-24-W3-00102.0280 207 REDFISH RD FORT MYERS BEACH FL 33931	LAGUNA SHORES UNIT 1 BLK 2 PB 9 PG 30 LOT 28	22
HALL STEVEN A & CARISA R 7934 BUCCANEER DR FORT MYERS BEACH FL 33931	03-47-24-W3-00103.0340 7934 BUCCANEER DR FORT MYERS BEACH FL 33931	LAGUNA SHORES UNIT 1 BLK 3 PB 9 PG 30 LOT 34	23
LEMARO INC 449 HARVEST RD DUNDAS ON L9H 5E2 CANADA	03-47-24-W3-00103.0350 7940 BUCCANEER DR FORT MYERS BEACH FL 33931	LAGUNA SHORES UNIT 1 BLK 3 PB 9 PG 30 LOT 35	24
WINN ELEANOR 7950 BUCCANEER DR FORT MYERS BEACH FL 33931	03-47-24-W3-00103.0360 7950 BUCCANEER DR FORT MYERS BEACH FL 33931	LAGUNA SHORES UNIT 1 BLK 3 PB 9 PG 30 LOT 36	25

BENES OLDRICH & 181 REDFISH RD FORT MYERS BEACH FL 33931	03-47-24-W3-00103.0370 181 REDFISH RD FORT MYERS BEACH FL 33931	LAGUNA SHORES UNIT 1 BLK 3 PB 9 PG 29-30 LOT 37	26
BEZON JOAN F L/E 8081 ESTERO BLVD FORT MYERS BEACH FL 33931	03-47-24-W3-00103.0380 8081 ESTERO BLVD FORT MYERS BEACH FL 33931	LAGUNA SHORES UNIT 1 BLK.3 PB 9 PG 29 LOT 38	27
MCNULTY WALTER M 5471 W 7TH CT HIALEAH FL 33012	03-47-24-W3-00104.0010 8175 ESTERO BLVD FORT MYERS BEACH FL 33931	LAGUNA SHORES UNIT 1 BLK.4 PB 9 PG 30 LOT 1	28
3 PALMS LLC 7333 93RD ST SW HOWARD LAKE MN 55349	03-47-24-W3-00104.0020 8151 ESTERO BLVD FORT MYERS BEACH FL 33931	LAGUNA SHORES UNIT 1 BLK.4 PB 9 PG 29 LOT 2	29
TORRES CANDY CONSTANZA & 13621 SW 16TH ST DAVIE FL 33325	03-47-24-W3-00104.0030 8141 ESTERO BLVD FORT MYERS BEACH FL 33931	LAGUNA SHORES UNIT 1 BLK 4 PB 9 PG 29 LOT 3	30
PAYNE CYNTHIA GRACE 170 REDFISH RD FORT MYERS BEACH FL 33931	03-47-24-W3-00104.0040 170 REDFISH RD FORT MYERS BEACH FL 33931	LAGUNA SHORES UNIT 1 BLK.4 PB 9 PG 29 LOT 4	31
COAKE ROBERT V & SUSAN C TR 180 REDFISH RD FORT MYERS BEACH FL 33931	03-47-24-W3-00104.0050 180 REDFISH RD FORT MYERS BEACH FL 33931	LAGUNA SHORES UNIT 1 BLK 4 PB 9 PG 29 LOT 5	32
ESCUE MARY E L/E 8000 BUCCANEER DR FORT MYERS BEACH FL 33931	03-47-24-W3-00104.0060 8000 BUCCANEER DR FORT MYERS BEACH FL 33931	LAGUNA SHORES UNIT 1 BLK 4 PB 9 PG 29 LOT 6	33
OHLIN DOUGLAS J & SUSAN 8010 BUCCANEER DR FORT MYERS BEACH FL 33931	03-47-24-W3-00104.0070 8010 BUCCANEER DR FORT MYERS BEACH FL 33931	LAGUNA SHORES UNIT 1 BLK 4 PB 9 PG 29 LOT 7	34
RAMBOW ERIC & KEREN 1333 PARKRIDGE PL CINCINNATI OH 45208	03-47-24-W3-00104.0080 8014 BUCCANEER DR FORT MYERS BEACH FL 33931	LAGUNA SHORES UNIT 1 BLK 4 PB 9 PG 30 LOT 8	35
FOERSTER ROSA + 8016 BUCCANEER DR FORT MYERS BEACH FL 33931	03-47-24-W3-00104.0090 8016 BUCCANEER DR FORT MYERS BEACH FL 33931	LAGUNA SHORES UNIT 1 BLK 4 PB 9 PG 30 LOT 9	36
TJOSVOLD YVONNE 8015 BUCCANEER DR FORT MYERS BEACH FL 33931	03-47-24-W3-00105.0010 8015 BUCCANEER DR FORT MYERS BEACH FL 33931	LAGUNA SHORES UNIT 1 BLK.5 PB 9 PG 29 LOT 1	37
GULINO JOHN & JEANNE 82 WOODLOT RD RIDGE NY 11961	03-47-24-W3-00105.0020 8007 BUCCANEER DR FORT MYERS BEACH FL 33931	LAGUNA SHORES UNIT 1 BLK 5 PB 9 PG 29 LOT 2	38
MASON RANDY & LYNN M 8003 BUCCANEER DR FORT MYERS BEACH FL 33931	03-47-24-W3-00105.0030 8003 BUCCANEER DR FORT MYERS BEACH FL 33931	LAGUNA SHORES UNIT 1 BLK.5 PB 9 PG 29 LOT 3	39
GREEN BRADLEY G & SHELIA A TR 8001 BUCCANEER DR FORT MYERS BEACH FL 33931	03-47-24-W3-00105.0040 8001 BUCCANEER DR FORT MYERS BEACH FL 33931	LAGUNA SHORES UNIT 1 BLK 5 PB 9 PG 29 LOT 4	40
BROCK KEVIN CURTIS + 210 REDFISH ROAD FORT MYERS BEACH FL 33931	03-47-24-W3-00105.0050 210 REDFISH RD FORT MYERS BEACH FL 33931	LAGUNA SHORES UNIT 1 BLK.5 PB 9 PG 29 LOT 5	41
POHLMAN PAMELA & WILLIAM 8170 LAGOON RD FORT MYERS BEACH FL 33931	03-47-24-W3-00105.0060 8170 LAGOON RD FORT MYERS BEACH FL 33931	LAGUNA SHORES UNIT 1 BLK.5 PB 9 PG 29 LOT 6	42
TATARIAN GERALD & MARY L 8357 LAGOON RD FORT MYERS BEACH FL 33931	03-47-24-W3-00201.0000 8357 LAGOON RD FORT MYERS BEACH FL 33931	LAGUNA SHORES UNIT 2 PB 9 PG 84 LOT 1	43
POFF MICHAEL J & KATHY M 8367 LAGOON RD FORT MYERS BEACH FL 33931	03-47-24-W3-00202.0000 8367 LAGOON RD FORT MYERS BEACH FL 33931	LAGUNA SHORES UNIT 2 PB 9 PG 84 LOT 2	44
SCHULTZ THOMAS H TR	03-47-24-W3-00203.0000	LAGUNA SHORES UNIT 2	45

PO BOX 131 DE FOREST WI 53532	8371 LAGOON RD FORT MYERS BEACH FL 33931	PB 9 PG 84 LOT 3	
HAMILTON LARRY J & 8375 LAGOON RD FORT MYERS BEACH FL 33931	03-47-24-W3-00204.0000 8375 LAGOON RD FORT MYERS BEACH FL 33931	LAGUNA SHORES UNIT 2 PB 9 PG 84 LOT 4	46
BUTCHER DAVID B & DIANE M 8385 LAGOON RD FORT MYERS BEACH FL 33931	03-47-24-W3-00205.0000 8385 LAGOON RD FORT MYERS BEACH FL 33931	LAGUNA SHORES UNIT 2 PB 9 PG 84 LOT 5	47
SLAVENS DAVID R TR 8411 LAGOON RD FORT MYERS BEACH FL 33931	03-47-24-W3-00206.0000 8411 LAGOON RD FORT MYERS BEACH FL 33931	LAGUNA SHORES UNIT 2 PB 9 PG 84 LOT 6	48
DUTTON JAMES & DEBORAH 112 SAND DOLLAR DR FORT MYERS BEACH FL 33931	03-47-24-W3-00222.0000 112 SAND DOLLAR DR FORT MYERS BEACH FL 33931	LAGUNA SHORES UNIT 2 PB 9 PG 84 LOT 22	49
BROWER RUSSELL & MELINDA 116 SAND DOLLAR DR FORT MYERS BEACH FL 33931	03-47-24-W3-00223.0000 116 SAND DOLLAR DR FORT MYERS BEACH FL 33931	LAGUNA SHORES UNIT 2 PB 9 PG 84 LOT 23	50
LUKACEK GARY S TR 120 SAND DOLLAR DR FORT MYERS BEACH FL 33931	03-47-24-W3-00224.0000 120 SAND DOLLAR DR FORT MYERS BEACH FL 33931	LAGUNA SHORES UNIT 2 PB 9 PG 84 LOT 24	51
MAITZ CORY J & EMILIA P 124 SAND DOLLAR DR FORT MYERS BEACH FL 33931	03-47-24-W3-00225.0000 124 SAND DOLLAR DR FORT MYERS BEACH FL 33931	LAGUNA SHORES UNIT 2 PB 9 PG 84 LOT 25	52
CLARK STEPHEN R & LARENNE S 125 SAND DOLLAR DR FORT MYERS BEACH FL 33931	03-47-24-W3-00226.0000 125 SAND DOLLAR DR FORT MYERS BEACH FL 33931	LAGUNA SHORES UNIT 2 PB 9 PG 84 LOT 26	53
THOMPSON RUSSELL & PATTI 4930 DEFIANCE TRAIL DELPHOS OH 45833	03-47-24-W3-00227.0000 121 SAND DOLLAR DR FORT MYERS BEACH FL 33931	LAGUNA SHORES UNIT 2 PB 9 PG 84 LOT 27	54
SCAFIDI DAVID C 117 SAND DOLLAR DR FORT MYERS BEACH FL 33931	03-47-24-W3-00228.0000 117 SAND DOLLAR DR FORT MYERS BEACH FL 33931	LAGUNA SHORES UNIT 2 PB 9 PG 84 LOT 28	55
PARNHAM ROBERT N & LILLY E 543 PARNHAM FARM LN SMITHFIELD PA 15478	03-47-24-W3-00229.0000 8338 LAGOON RD FORT MYERS BEACH FL 33931	LAGUNA SHORES UNIT 2 PB 9 PG 84 LOT 29	56
BRONDYKE HOWARD & PATRICIA TR 6392 HIDDEN PONDS DR HOLLAND MI 49423	03-47-24-W3-00230.0000 8336 LAGOON RD FORT MYERS BEACH FL 33931	LAGUNA SHORES UNIT 2 PB 9 PG 84 LOT 30	57
KUJAWA WIESLAWA & ROMAN 6 TWENTY SEVENTH ST ETOBICOKE ON M8W 2X3 CANADA	03-47-24-W3-00231.0000 8324 LAGOON RD FORT MYERS BEACH FL 33931	LAGUNA SHORES UNIT 2 PB 9 PG 84 LOT 31	58
RE-BUILD PROPERTIES LLC TR 7741 N MILITARY TRL STE 1 PALM BEACH GARDENS FL 33410	03-47-24-W3-00232.0000 190 TARPON RD FORT MYERS BEACH FL 33931	LAGUNA SHORES UNIT 2 PB 9 PG 84 LOT 32	59
STEELE JAMES H 170 TARPON RD FORT MYERS BEACH FL 33931	03-47-24-W3-00233.0000 170 TARPON RD FORT MYERS BEACH FL 33931	LAGUNA SHORES UNIT 2 PB 9 PG 84 LOT 33	60
SALVAGGIO JOSEPH R 150 TARPON RD FORT MYERS BEACH FL 33931	03-47-24-W3-00234.0000 150 TARPON RD FORT MYERS BEACH FL 33931	LAGUNA SHORES UNIT 2 PB 9 PG 84 LOT 34	61
GULINO JOHN & JEANNE 82 WOODLOT RD RIDGE NY 11961	03-47-24-W3-00235.0000 130 TARPON RD FORT MYERS BEACH FL 33931	LAGUNA SHORES UNIT 2 PB 9 PG 84 LOT 35	62
GULINO ANTHONY & LISA TR 84 WOOD LOT RD RIDGE NY 11961	03-47-24-W3-00236.0000 110 TARPON RD FORT MYERS BEACH FL 33931	LAGUNA SHORES UNIT 2 PB 9 PG 84 LOT 36	63
MIGLIORATTI PHILIP & LISA M	03-47-24-W3-00237.0000	LAGUNA SHORES UNIT 2	64

382 LAKE RD WEBSTER NY 14580	100 TARPON RD FORT MYERS BEACH FL 33931	PB 9 PG 84 LOT 37	
JACKSON PHILIP & CATHY 1998 OGLEBAY DR WHEELING WV 26003	03-47-24-W3-00238.0000 8211 ESTERO BLVD FORT MYERS BEACH FL 33931	LAGUNA SHORES UNIT 2 PB 9 PG 84 LOT 38	65
8223 ESTERO LLC 8415 LAGOON ROAD FORT MYERS BEACH FL 33931	03-47-24-W3-00239.0000 8223 ESTERO BLVD FORT MYERS BEACH FL 33931	LAGUNA SHORES UNIT 2 PB 9 PG 84 LOT 39	66
ECKHARDT ROSS A & ASHLEY N 8235 ESTERO BLVD FORT MYERS BEACH FL 33931	03-47-24-W3-00240.0000 8235 ESTERO BLVD FORT MYERS BEACH FL 33931	LAGUNA SHORES UNIT 2 PB 9 PG 84 LOT 40	67
8247 ESTERO LLC 5359 N RD 400 W BARGERSVILLE IN 46106	03-47-24-W3-00241.0000 8247 ESTERO BLVD FORT MYERS BEACH FL 33931	LAGUNA SHORES UNIT 2 PB 9 PG 84 LOT 41	68

GeoView Map



September 23, 2022

Hospital Locations	School Locations	County Boundary
Library Locations	School Locations	Major Roads
	CCC Parks	Medium
		1-75

EXHIBIT 6-7

Parcels Near

1:1,280

This map is NOT a legal land survey and should not be used or relied upon as such. An inaccurate survey or invalid use associated with this data may constitute a tortious act.

STATEMENT IN SUPPORT OF VARIANCE

Petitioners, Janell Schoonover, Trustee of the Janell Schoonover Living Trust, and Ed Schoonover, pursuant to FM-LDC 34-87, respectfully request a variance with respect to the placement of a new pool at their residence located at 8180 Lagoon Road Fort Myers Beach, FL 33931 (the "Property"). Specifically, they are seeking a variance of the minimum setbacks set forth in LDC 34-638, 34-1174 and 34-1176, with respect to a proposed new pool, which will abut Tarpon Road.

I. Summary Description of the Property

The Property is a residential home located at the corner of Lagoon Road and Tarpon Road. Petitioners acquired the Property in 2018. The existing home is 2238 sq. ft. GLA and was built in 2015. The home currently has an enclosed pool in the rear of the Property, which was built at the same time as the existing home. The current configuration has the east wall of the home approximately 11.3' from the east lot line that runs along Tarpon Rd. The easternmost edge of the pool lies approximately 25' from the east lot line. (See Figure 1).

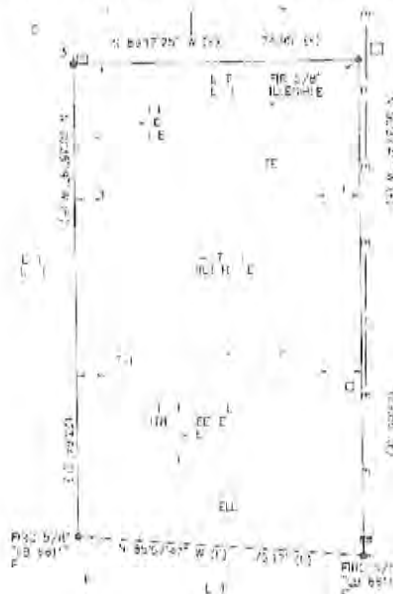


Figure 1

II. The Proposed Modification

Petitioners propose an expansion of the pool which will not significantly expand its footprint. The proposed plan would move the east edge of the pool patio/deck eastward to 14' from the east lot line. (Figure 2) The east edge of the pool deck would still be farther away from the east lot line than the east wall of the principal structure. If the standard street setbacks are applicable, it would result in a technical encroachment of 11 feet. It should be noted that unlike the existing pool, the planned modification does not include a pool cage.

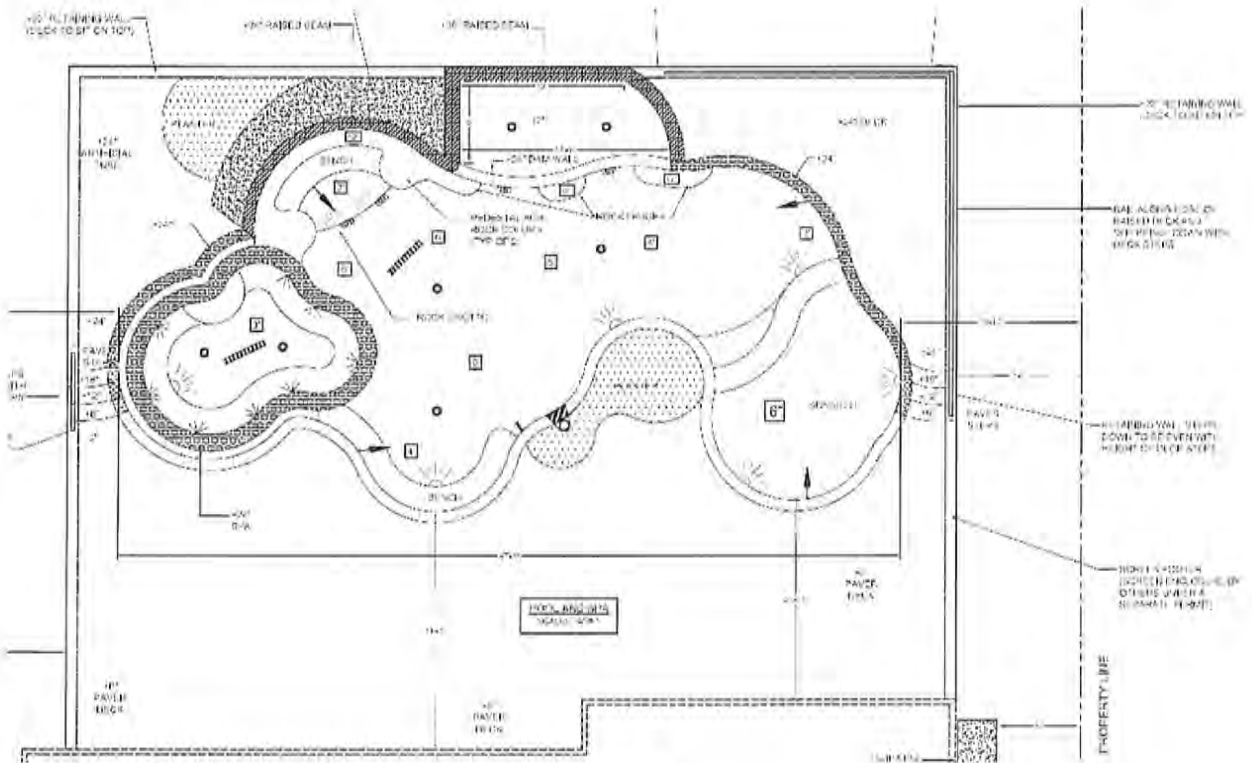


Figure 2

III. Applicable LDC Provisions

The purpose of this application is to gain approval for the proposed new pool. Petitioners have been advised by staff that the east edge of the pool deck as envisioned would encroach into the minimum setback for the east lot line. It is staff's position that as a corner lot, the minimum setback would be the street setback

established in Table 34-3, which is 25 feet. However, this setback appears to apply to principal buildings and not accessory buildings such as a pool. See 34-638(b)(1)a¹. A review of the code does not show any specific street setback for an accessory structure.

Applying the LDC accessory building setback requirements, pursuant to 34-1174(b), there is only one limitation: the pool could not be closer to the street than the home. The proposed pool would not encroach because as planned, the pool will actually be farther away from the street than the home.

As it has been represented to the Petitioners, staff's position is that the street setback applicable to the proposed pool is 25 feet, which is the same as what it is for the home, the principal building on the Property. However, there is no authority for treating a pool as a principal building for the purpose of determining setbacks. A principal building is defined as a "building in which is conducted the main or principal use of the premises on which the building is situated."² In contrast, an accessory structure is "customarily incidental and subordinate to a principal building or to the principal use of the premises and located on the same premises." Id. The undersigned has been advised that staff does not rely on any specific provision in the code for the 25 ft. setback other than its "interpretation" that the street setbacks for principal buildings are applicable to accessory buildings, such as pools.

It also worthy to note that the setbacks for the principal building are not without ambiguity. It is the undersigned's understanding that staff's position is based on its assessment that a corner lot, such as the Property, has two front lot lines such that the non-facing side would be subject to the same street setbacks as the facing side. However, there is no specific provision in the LDC which specifically states this. As such, there is ambiguity as to

¹ According to this section, the minimum setbacks for principal buildings in conventional zoning districts is Table 34-3, for accessory buildings, it is 34-1174 – 34-1176.

² LDC 34-2

whether the side setback of 5% of lot width or 25-foot street setback applies.

Adding to the confusion is the fact that if the street setback applies to the east lot line, the principal building currently encroaches into the setback. The building was approved and occupied in 2015 without any apparent acknowledgement or concern about the encroachment.

IV. Petitioner Meets the Criteria for Approval of Setback Variance

Petitioner meets all of the requirements for a variance to the setback requirements applicable to the proposed pool. Pursuant to LDC 34-87(c), to grant the variance, the town council must find that all of the following exist:

- (1) That there are exceptional or extraordinary conditions or circumstances that are inherent to the property in question, or that the request is for a *de minimis* variance under circumstances or conditions where rigid compliance is not essential to protect public policy;
- (2) That the conditions justifying the variance are not the result of actions of the applicant taken after the adoption of the regulation in question;
- (3) That the variance granted is the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the regulation in question to his property;
- (4) That the granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare; and
- (5) That the conditions or circumstances on the specific piece of property for which the variance is sought are not of so general or recurrent a nature as to make it

more reasonable and practical to amend the regulation in question.

A. There are exceptional or extraordinary conditions or circumstances that are inherent to the property in question, or that the request is for a *de minimis* variance under circumstances or conditions where rigid compliance is not essential to protect public policy

There are extraordinary circumstances present which support the granting of a variance. First, as set forth above, there are substantial ambiguities regarding which setback applies to the proposed pool and whether a variance would be necessary. Second, the current configuration is considered by staff to be encroaching into the setback despite the fact that the property was just built seven years ago. The setbacks applicable at the time of the construction of the principal building were the same as they are now³. Third, even with the eastward expansion of the pool deck, the proposed pool will still not be closer to the east lot line than the principal building, and as such, it will not run afoul of the accessory building setbacks set forth in 34-1174.

B. The conditions justifying the variance are not the result of actions of the applicant taken after the adoption of the regulation in question

Petitioners have done nothing to create the instant situation. The configuration of the Property was the result of prior building and prior approval by the building authority, apparently under the same setback requirements as the current. Petitioners purchased the property under the reasonable assumption that the location of the principal building was conforming. Whether the prior approval

³ LDC 34-87 states that "Setback, height, and similar variances granted to accommodate an existing building will expire when the building is removed. Redevelopment of the site must then comply with the setback and height regulations in effect at the time of redevelopment." Here, it is not clear that the expansion of the pool is akin to a removal, which would bring into play any new regulations.

of the property was erroneous does not change the fact that Petitioners have no responsibility for the current condition.

C. The requested variance is the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the regulation in question to his property

Petitioners are requesting a variance no greater than what is required to accommodate the new pool. Indeed, Petitioners have revised their original plans to reduce the potential encroachment from 15 feet to 11 feet.

D. The granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare

On its face, the proposed variance cannot be injurious to the neighborhood or detrimental to the public welfare. The result will be a beautiful outdoor pool which is an attractive enhancement to the Property. As stated above, the edge of the pool will still be farther away from the east lot line than the east wall of the principal building. There is no impact to traffic or interference with any neighbor's property or rights.

Moreover, the proximity of the east edge of the pool to the roadway is not uncommon on Fort Myers Beach. A review of the area surrounding the Property shows a number of residences with similar configurations. See Appendix 2.

E. That the conditions or circumstances on the specific piece of property for which the variance is sought are not of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question

The problem here is somewhat limited to the Property. The current configuration of the Property is only 7 years old. In 2015, the building authority apparently believed that the street setback

was not an issue. Otherwise, the previous owner would not have received a building permit and a certificate of occupancy.

V. Conclusion

Pursuant to 34-87, Petitioners meet the requirements for a setback variance for their proposed pool. The proposed construction is very limited expansion of the existing pool which will not impact the neighborhood and is consistent with the general character of the area.

Respectfully submitted,

/s/ Christopher DeCosta
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Fort Myers, FL 33907
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paige@md-lawfirm.com

*Attorneys for Petitioners, Ed and
Janell Schoonover*

Appendix 1 – Photographs of Current Configuration

Stou Lagoon



11/14/2022

Lat: 26.4058871 Long: -81.8896497 | Lee County, FL Imagery Date: 01/14/2022







Appendix 2 – Comparable Properties

- 1. 8001 Buccaneer (Photo attached)**
- 2. 8015 Buccaneer (Photo attached)**
- 3. 201 Redfish (Photo attached)**

0001 BUCCANEER



11/14/2022

Lat: 26.405646 Long: -81.890309 | Lee County, FL Imagery Date: 01/14/2022

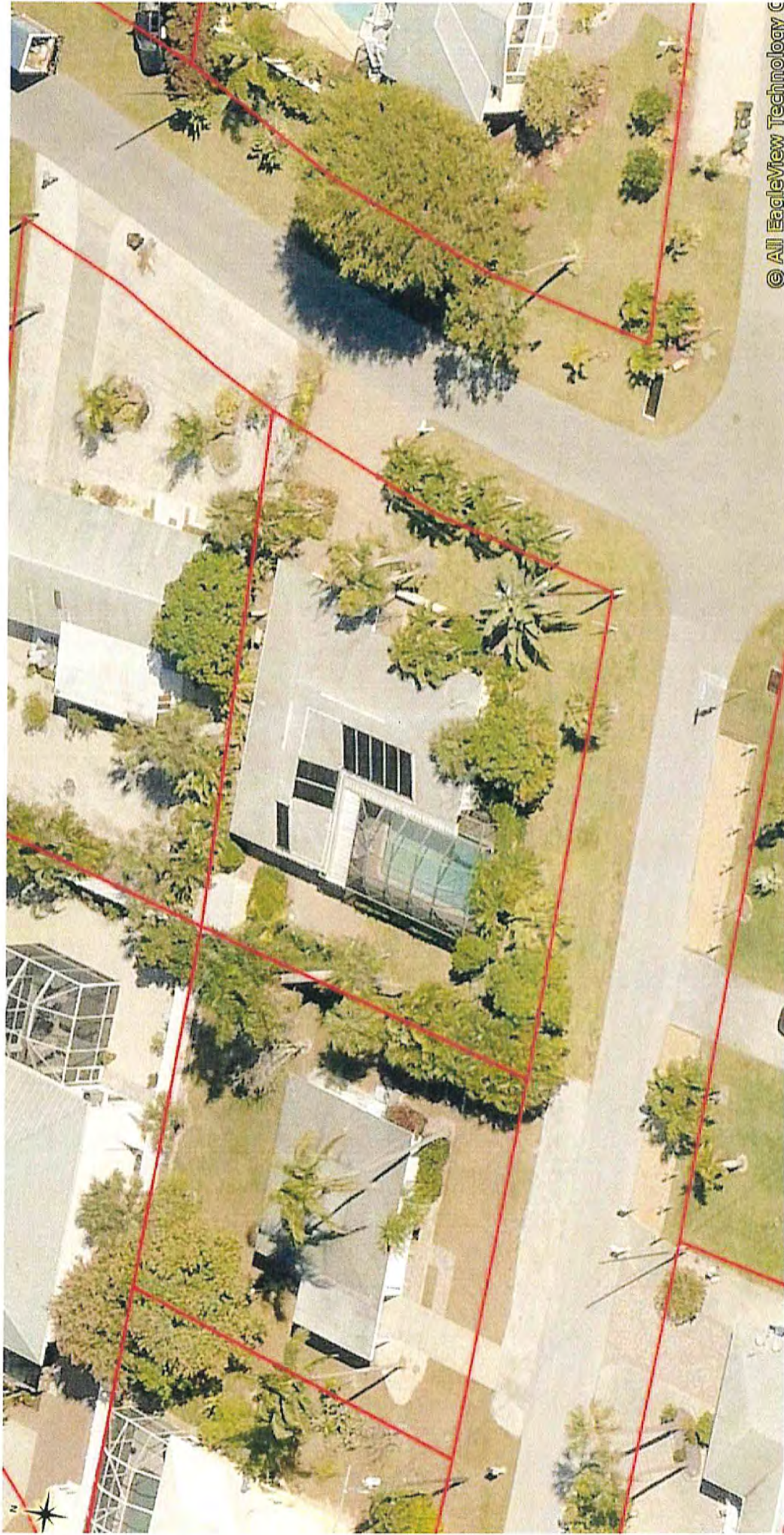
0010 BUCCANEER



11/14/2022

Lat: 26.405576 Long: -81.889605 | Lee County, FL Imagery Date: 01/14/2022

201 Realism



11/14/2022

Lat: 26.405551 Long: -81.890694 | Lee County, FL Imagery Date: 01/14/2022

**Town of Fort Myers Beach
Agenda Item Summary**

Yellow Sheet Number: **2023-893**

1. Requested Motion:

Meeting Date: January 18, 2023

SEZ20220095, VAR20220094 237 Old San Carlos - Special Exception for a permanent shared parking lot and variances from LDC requirement for landscaping, design and location

Why the action is necessary:

The LPA is the recommending body to the Council for Special Exceptions and for Variances.

What the action accomplishes:

The LPA recommendation will be forwarded to the Town Council.

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

This will be a resolution.

5. Background:

The applicant is proposing the expansion of an existing permanent shared parking lot located at 237 Old San Carlos, to the north and west of the Shipwreck building. A portion of this property was approved for a permanent shared parking lot in 2014 by SEZ2013-0006 (Exhibit A), the entire parcel was not included in the approval and the applicant is requesting that the use is allowed on additional areas of the parcel. A permanent shared parking lot is an allowed primary use in the Downtown zoning district only with an approval of a Special Exception.

Permanent, Shared Parking lots are subject to the location, design and landscaping criteria in the Land Development Code (LDC). The applicant is requesting variances from perimeter buffers, internal landscaping, interconnectivity, location, pedestrian crosswalks, dimensions, and the visibility triangle.

Attachments:

1. Staff Report
2. Exhibit A SEZ2013 00006 Shipwreck
3. Exhibit B VAR2013-00007 Shipwreck
4. Exhibit C Complete SEZ Application
5. Exhibit D Additional documents for VAR Application

Financial Impact:

unknown

6. Alternative Action

Recommend approval

7. Staff Recommendations:

Recommend denial

8. Recommended Approval:

Jason Green, Community Development Services

Date: January 11, 2023

Date: January 12, 2023

John R Herin Jr, Town Attorney

Date: January 12, 2023

Amy Baker, Town Clerk



Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

TYPE OF CASE: Special Exception & Variance

CASE NUMBER: SEZ20220095
VAR20220094

CASE NAME: Special Exception for the expansion of previously approved permanent shared parking lot.

Variances from

- Sec. 10-416(c)(2), Internal parking lot landscaping
- Sec. 10-416(d), Table 10-8 and Sec. 34-677(b)(3) perimeter buffer
- Sec. 34-676(b) Parking lot location
- Sec. 34-676(c) Parking lot interconnections
- Sec. 34-2015(7) Pedestrian system
- Sec. 34-2016(1) & (2) Aisle and parking space sizes
- Sec. 34-3131 Visibility Triangle

LPA

HEARING DATE: January 18, 2023 at 9:00 AM

STAFF

RECOMMENDATION: Deny Special Exception request
Deny Variance request

**PREPARED/
SUBMITTED BY:** Sarah Propst AICP, PMP/ Jason Green AICP, CFM

I. APPLICATION SUMMARY

Applicant/Owner: John W. Richard

Requests: Special exception request for the expansion of a previously approved permanent shared parking lot located at 237 Old San Carlos Boulevard.

Variances in conjunction with the special exception:
1) Buffer Between Parking and ROW (10-416(c)(2));

- 2) Perimeter Buffering (10-416(d), Table 10-8, and 34-677(b)(3));
- 3) Parking Lot Location (34-676(b));
- 4) Parking Lot Interconnection (34-676(c));
- 5) Pedestrian System (34-2015(7));
- 6) Parking Dimensions (34-2016(1) and (2));
- 7) Visibility Triangle (34-3131)

Physical Address: 237 Old San Carlos
STRAP #: 24-46-23-W3-0050A.0080
FLU: Pedestrian Commercial
Zoning: Downtown

Adjacent zoning and land uses:

North:	DOWNTOWN Retail Store
South:	DOWNTOWN Retail Store
East:	DOWNTOWN Retail Store, Restaurant
West:	RESIDENTIAL CONSERVATION (RC) Single-Family Dwelling

II. BACKGROUND AND ANALYSIS

Background:

The applicant is proposing the expansion of an existing permanent shared parking lot located at 237 Old San Carlos, to the north and west of the Shipwreck building. A portion of this property was approved for a permanent shared parking lot in 2014 by SEZ2013-0006 (Exhibit A), the entire parcel was not included in the approval and the applicant is requesting that the additional area, shown in green, in Figure 1., be allowed the permanent shared parking use. Figure 2. Is the aerial of this parcel.



Figure 1.



Figure 2.

A permanent shared parking lot is an allowed primary use in the Downtown zoning district only with an approval of a Special Exception.

Permanent, Shared Parking lots are subject to the location, design and landscaping criteria in the Land Development Code (LDC). The original Special Exception for the permanent, shared parking lot was accompanied by a variance from several of the LDC requirements. VAR2013-0007 (Exhibit B) approved the following variances: allowing the parking lot to be located in the front and side yard; allowing a 2.5 foot wide, 42 inch tall buffer; not requiring a rear yard connection to adjacent parking; not requiring the visibility triangle; a decrease in the parking and aisle dimensions; not requiring internal landscaping and trees.

Analysis:

Based on a review of aeriels in the Lee County GIS, this area appears to have been used as a parking lot, in some capacity, since the early 2000s.

A review of the previous variance VAR2013-0007 found two conditions that are germane to this request:

#2 Applicant may utilize the parking dimensions described in variance #5 above, however, at the time of redevelopment or the application of a building permit for the subject property, the parking space dimensions must come into compliance with all provisions of Section 34-2016.

#3 At the time of redevelopment the parking lot variance allowing a front and side parking lot must come into compliance and be relocated to the rear of the subject property.

The proposed development is a redevelopment of the site. Based on the previously approved variance condition #3, the approvals limited the location of the permanent, shared parking use to be located at the rear of the subject property. The current request conflicts with that prior location approval and restrictions. The previously

approved variance prohibited the permanent, shared parking from being located at the corner.

In addition, the site was required per conditions of approval to come into compliance with dimensional requirements at the time of redevelopment. The applicant has also requested a variance from the dimensional requirements.

Internal landscaping variance request.

The applicant is requesting a variance from:

- *Sec. 10-416(c)(2)a. provide trees internal to the parking lot.*
- *Sec. 10-416(c)(2)b. provide 10% landscaping area internal to the parking lot.*
- *Sec. 10-416(c)(2)c & d. minimum 10-foot-wide landscaping islands and islands between every 10 spaces.*
- *Sec. 10-416(c)(2)e. median divider with trees every 40 feet.*
- *Sec. 10-416(c)(2)f. groundcover in interior landscaped areas.*
- *Sec. 10-416(c)(2)g. optional tree grates in up to half of the required trees.*

The applicant proposes that these landscaping requirements be waived.

Perimeter buffer variance request.

The applicant is requesting a variance from:

- *Sec. 10-416(d) and Table 10-8 requires a type D buffer: 15 feet wide, with five trees per 100 linear feet and a three-foot tall double staggered row of hedges.*
- *Sec. 34-677(b)(3) Open space and buffers. There are no minimum open space and buffer requirements in the Downtown district comparable to the standards found in ch. 10 of this LDC, except in three instances: (3) Buffers are required between any off-street parking lot and a public street in accordance with the buffer requirements of ch. 10 of this code.*

The applicant proposes a four-foot-tall white picket fence with landscaping. No landscaping buffer depth or plantings are specified.

Parking lot location variance request.

The applicant is requesting a variance from:

- *Sec. 34-676(b) Parking lot locations. Off-street parking lots shall be placed in rear yards (in the Downtown District.)*

The applicant proposes that off-street parking in the Downtown zoning district should be permitted in this location which is a side and front yard.

Parking lot interconnection variance request.

The applicant is requesting a variance from:

- *Sec. 34-676(c) Parking lot interconnections. Rear-yard parking lots on properties fronting along Old San Carlos Boulevard shall be interconnected to eliminate or minimize driveways to Old San Carlos Boulevard.*

The applicant proposes that cross access should not be required because the adjacent property is developed.

Pedestrian system variance request.

The applicant is requesting a variance from:

- *Sec. 34-2015(7) Pedestrian system. In any parking lot where more than one tier of parking spaces is to be developed, walkways must be provided which accommodate safe and convenient pedestrian movement.*

The applicant proposes that no pedestrian walkways be provided.

Parking Space Size variance request.

The applicant is requesting a variance from:

- *Sec. 34-2016(1) & (2) the required aisle and parking space sizes, for 90° spaces 8.5' x 18', one-way aisles 20 feet and two-way aisles 22 feet.*

The applicant plan proposes all 90° spaces at 8' x 16', with 18' one-way aisles and 20' two-way aisles.

Visibility triangle variance request.

The applicant is requesting a variance from:

- *Sec. 34-3131 the requirement that there shall be no obstruction within the triangle starting at the driveway, extending five feet internal to the lot perpendicular to the property line and connection 100 feet from the driveway along the street property line.*

The applicant proposes no visibility triangle along Third Street to match San Carlos Boulevard, where the visibility triangle is not required.

Neighborhood Compatibility:

Review of existing uses, prior to Ian, found the subject property is located within an area that includes many at-grade parking lots. In a cursory review of the area, parking lots appear to cover more area of the downtown, than any other land use. Some of those parking lots are for specific uses, several of them are for paid parking. Many of the parking lots were developed without the inclusion of landscaping buffers or internal landscaping. It is unknown whether these parking lots meet the dimensional requirements contained within the code.

Findings and Conclusions:

Special Exception Findings

LDC Sec. 34-88 sets forth the required findings and conclusions for the approval of a special exception:

- a. *Whether there exist changed or changing conditions which make approval of the request appropriate.*

There are many potential changes to the downtown. Development of additional parking lots may be needed, however, there is no clear indication of this, at this time. The proposed use developed consistent with the Town's design requirements may provide a future benefit to redevelopment of nearby properties.

- b. *Whether the request is consistent with the goals, objectives, policies, and intent of the Fort Myers Beach Comprehensive Plan.*

Several policies in the Fort Myers Beach comprehensive plan encourage the development of permanent, shared parking. The comprehensive plan also encourages street trees, walking paths and locating parking lots behind buildings. Thus, the location is inconsistent with the Goals, Objectives, and Policies as presented.

- c. *Whether the request meets or exceeds all performance and locational standards for the proposed use.*

The request, as proposed does not meet the location or design standards set forth in the Town's LDC. It is proposed in a front and side yard, rather than a rear yard. The proposed site plan does not include many of the design elements required by the LDC.

- d. *Whether the request will protect, conserve, or preserve environmentally critical areas and natural resources.*

The request does not impact the EC zoning district or natural resources.

- e. *Whether the request will be compatible with existing or planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.*

There is no anticipated negative impact or injury to surrounding properties as the permanent, shared parking lot use is like other uses within the Old San Carlos corridor. The way it is designed and constructed may result in nuisance and hazard impacts to persons or property.

- f. *Whether a requested use will be in compliance with the applicable general zoning provisions and supplemental regulations set forth in Chapter 34 of the Land Development Code.*

The request for the permanent, shared parking lot special exception is accompanied by several variances. The shared parking lot, as proposed will

not be in compliance with the applicable zoning and supplemental regulations, including site design criteria and location criteria.

Variance Findings

LDC Sec. 34-87 sets forth the required findings and conclusions for the approval of a variance:

- a. That there are/**are not** exceptional or extraordinary conditions or circumstances that are inherent to the property in question, or that the request is/**is not** for a de minimis variance under circumstances or conditions where rigid compliance is not essential to protect public policy.*

The parcel is a standard parcel in the downtown zoning district. The locational requirement for parking lots is the only requirement, which, because of the parcel location/condition, would be very difficult to meet. The request is contrary to past approvals for the special exception and variances for this parcel.

- b. That the conditions justifying the variance **are**/are not the result of actions of the applicant taken after the adoption of the regulation in question.*

A parking lot could be developed to meet the requirements of the code.

- c. That the variance granted is/**is not** the minimum variance that will relieve that applicant of an unreasonable burden caused by the application of the regulation in question to his property.*

The applicant has requested the elimination of several items required by the code, including trees and landscaping. This is not the minimum variance that could allow the development of the parking lot. Typically permanent, shared parking lots provide an alternative design element that resolve specific site conflicts rather than blanket waivers.

- d. That the granting of the variance **will**/will not be injurious to the neighborhood or otherwise detrimental to the public welfare; and*

The granting of these variances does not safe guard the welfare of the public, two items included in the requests are for public safety, the visibility triangle and the pedestrian crosswalks. Additionally, trees and landscaping improve the appearance of parking lots and reduce the heat produced by large asphalt parking areas. These requirements are identified in the Town's Comprehensive Plan Goals, Objectives, and Policies.

- e. That the conditions or circumstances on the specific piece of property for which the variance is sought are/**are not** of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.*

Changes to the code made this variance request necessary and further changes to the code would not be warranted to address this particular situation. These requests are unique and specific to this site and the needs of this applicant.

III. RECOMMENDATION

Staff finds that the special exception for a permanent, shared parking lot may be appropriate for this location if designed appropriately. However, the requested variances would result in a parking lot which is not compatible with the land development code or typical development patterns of nearby properties. Additionally, it appears that the previous approved variance implemented conditions which will not allow the approval of the variance to the location requirement or approval of the variance for the parking space and aisle dimension.

Therefore, staff recommends **DENIAL** of SEZ20220095 for the expansion of a permanent shared parking lot and VAR20220094 for the variance to perimeter buffers, internal landscaping, interconnectivity, location, pedestrian crosswalks, dimensions, and the visibility triangle.

Staff Report Exhibits:

A – Special Exception SEZ2013-0006

B – Variance VAR2013-0007

C – Complete SEZ Application Packet

D – Additional Documents for VAR Application Packet

E – Postcard to Adjacent Property Owners

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 14-07
SEZ2013-0006 – Shipwreck Special Exception

WHEREAS, Beverly Grady, authorized agent for the owner of property located at 237, 245, 309, 320, and 330 Old San Carlos Boulevard Fort Myers Beach, Florida has requested a special exception to add 'Retail Store, large,' 'Wholesale,' and 'Parking lot, shared permanent' to the North parcel of the subject property and 'Parking lot, shared permanent' and 'Retail Store, large' to the South parcel of the subject property as permitted uses on the subject property; and

WHEREAS, the subject property is located in the Pedestrian Commercial Future Land Use Category of the Comprehensive Plan of the Town of Fort Myers Beach; and

WHEREAS, the STRAP numbers for the subject property are 24-46-23-W3-00203.0020 and 24-46-23-W3-0050A.0080 and the legal description is attached as *Exhibit A*; and

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on November 12, 2013; and

WHEREAS, at the November LPA hearing the applicant requested and was granted a continuance of case SEZ2013-0006 to a date certain of the January 14, 2014 LPA meeting; and

WHEREAS, a public hearing was held before the LPA on January 14, 2014; and

WHEREAS, at the hearing the LPA gave full and complete consideration of the request, recommendations by staff, the documents in the file, and the testimony of all interested persons, as required by the Fort Myers Beach Land Development Code Section 34-88;

WHEREAS, a public hearing on this matter was legally advertised and held before the Town Council on March 3, 2014, at which time the Town Council gave full and complete consideration to the request of Applicant, LPA Resolution 2013-019, the recommendations of Staff, the documents in the file, and the testimony of all interested persons, as required by Fort Myers Beach Land Development Code (LDC) Section 34-88.

IT IS HEREBY RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, as follows:

Based upon the presentations by the applicant, staff, and other interested persons at the hearing, and review of the application, LPA Resolution 2013-019 and the standards for granting special exceptions, the Town Council makes the following findings of fact, and reaches the following conclusions:

The Town Council **APPROVES** the request for a Special Exception to allow 'Retail Store, large,' 'Wholesale,' and 'Parking lot, shared permanent' for the North parcel of the subject property and 'Parking lot, shared permanent' and 'Retail Store, large' for the South parcel of the subject property as permitted uses.

FINDINGS AND CONCLUSIONS:

In accordance with the requirements of LDC Sections 34-84 and 34-88 regarding approval of special exceptions, the Town Council reaches the following findings and conclusions:

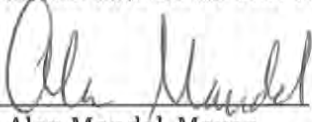
1. Changed or changing conditions **do** exist that make the requested approval, as conditioned, appropriate;
2. The requested special exception, as conditioned, **is** consistent with the goals, objectives, policies, and intent of the Fort Myers Beach Comprehensive Plan;
3. The requested special exception, as conditioned, **meets or exceeds** all performance and locational standards set forth for the proposed use;
4. The requested special exception, as conditioned, **will** protect, conserve, or preserve environmentally critical areas and natural resources;
5. The requested special exception, as conditioned, **will** be compatible with existing or planned uses and **will not** cause damage, hazard, nuisance or other detriment to persons or property;
6. The requested special exception, as conditioned, **will** be in compliance with the applicable general zoning provisions and supplemental regulations pertaining to the use set forth in LDC Chapter 34.

The foregoing Resolution was adopted by the Town Council upon a motion by Vice Mayor Kosinski and seconded by Council Member Andre, and upon being put to a vote, the result was as follows:

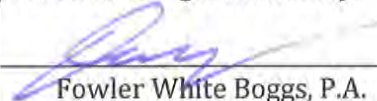
Alan Mandel, Mayor AYE
Jo List AYE
Dan Andre AYE

Joe Kosinski, Vice Mayor AYE
Bob Raymond AYE

DULY PASSED AND ADOPTED THIS **3rd** day of **MARCH, 2014**.

By: 
Alan Mandel, Mayor

Approved as to legal sufficiency:

By: 
Fowler White Boggs, P.A.
Town Attorney

ATTEST:

By: 
Michelle Mayher
Town Clerk

Exhibit A

Legal Description

Lots 2 through 6, 22 & 23, Block 3, Business Center Subdivision, and the Northerly $\frac{1}{2}$ of Vacated Fourth Street, according to the Map or Plat thereof as recorded in Plat Book 9, Pages 9 and 10, Public Records of Lee County, Florida.

AND

Lots 3 through 12, Block A, Island Shores Unit 2, according to the Map or Plat thereof as recorded in Plat Book 9, Page 25, Public Records of Lee County, Florida,

AND

Beginning at the Southwest Corner of Lot 9, Block A, Island Shores Subdivision, Unit No. 2, as recorded in Plat Book 9 at Page 25 of the Public Records of Lee County, Florida; thence run N $63^{\circ}58'21''$ W, 11.82 feet to the outer face of a seawall; thence run N $29^{\circ}45'28''$ E, 50.11 feet to the outer face of a second seawall; thence run N $26^{\circ}01'39''$ E, 58.50 feet along said second seawall to a point of curve to the left in said second seawall; said curve having a radius of 10 feet; thence run along said seawall and curve an arc distance of 6.39 feet thru a delta angle of $36^{\circ}37'27''$ to a point which bears S $71^{\circ}01'39''$ W, 14.90 feet from the Northwest corner of Lot 5, Block A, of said subdivision; thence run S $26^{\circ}01'39''$ W, 125.00 feet to the Point of Beginning. Said parcel contains 1120.6 square feet more or less.

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 14-08
VAR2013-0007 – Shipwreck Variance

WHEREAS, Beverly Grady, authorized agent for the owner of property located at 237, 245, 309, 320, and 330 Old San Carlos Boulevard Fort Myers Beach, Florida has requested the following variances from the following LDC sections:

1. Section 34-676(b) parking lot location, to permit off-street parking in the front and side yards as depicted on the site plan in *Exhibit E*.
2. Table 10-8 Type D buffer, Section 34-677(b)(3) requiring a buffer between off street parking and a ROW, and Section 10-416(d) requiring buffer between parking and ROW to allow a 2.5' buffer with a 41" minimum height.
3. Section 34-676(c) parking lot location, to allow no rear yard connection between subject property and adjacent property.
4. A variance from Section 34-622 (b) and 34-3131, visibility triangle, to allow reduced visibility triangle for access to Third Street due to Town approval of SOB structure in right of way.
5. A variance from Section 34-2016 (1) and (2) parking dimensions to allow the following:

Angle	Parking Dim.	One-Way	Two-Way
45°	8' x 16'	10'	20'
60°	8' x 16'	12'	20'
75°	8' x 16'	15'	20'
90°	8' x 16'	18'	20'
6. A variance from LDC Section 10-416 (c) internal landscaping requirements for parking lots to allow no internal landscape parking lot improvements to include 2(a) no tree requirement; 2(b) no internal landscape islands; 2(c) no 10' landscape island width; 2(d) no landscape every 10 space requirement; 2(e) no median required; 2(f) no interior landscape of sod and grass and 2(g) no tree grates; and

WHEREAS, the subject property is located in the Pedestrian Commercial Future Land Use Category of the Comprehensive Plan of the Town of Fort Myers Beach; and

WHEREAS, the STRAP number for the subject property is 24-46-23-W3-00203.0020 and the legal description is attached as *Exhibit A*; and

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on November 12, 2013; and

WHEREAS, at the November LPA hearing the applicant requested and was granted a continuance of case VAR2013-0007 to a date certain of the January 14, 2014 LPA meeting; and

WHEREAS, a public hearing was held before the LPA on January 14, 2014; and

WHEREAS, at the hearing the LPA gave full and complete consideration of the request, recommendations by staff, the documents in the file, and the testimony of all interested persons, as required by the Fort Myers Beach Land Development Code Section 34-87;

WHEREAS, a public hearing on this matter was legally advertised and held before the Town Council on March 3, 2014, at which time the Town Council gave full and complete consideration to the request of Applicant, LPA Resolution 2013-020, the recommendations of Staff, the documents in the file, and the testimony of all interested persons, as required by Fort Myers Beach Land Development Code (LDC) Section 34-87.

IT IS HEREBY RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, as follows:

The Town Council hereby **APPROVES** the following variances:

1. A variance from Section 34-676(b) parking lot location, to permit off-street parking in the front and side yards as depicted on the site plan in *Exhibit E*.
2. A variance from Table 10-8 Type D buffer; a variance from Section 34-677(b)(3), requiring a buffer between off street parking and a ROW, and a variance from Section 10-416(d) requiring buffer between parking and ROW to allow a 2.5' buffer with a 41" minimum height, said buffer to be installed within two (2) years of the granting of this variance.
3. A variance from Section 34-676(c) parking lot location, to allow no rear yard connection between subject property and adjacent property.
4. A variance from Section 34-622 (b) and 34-3131, visibility triangle, to allow reduced visibility triangle for access to Third Street due to Town approval of SOB structure in right of way.
5. A variance from Section 34-2016 (1) and (2) parking dimensions to allow the following for not more than fifty percent (50%) of the parking spaces:

Angle	Parking Dim.	One-Way	Two-Way
45°	8' x 16'	10'	20'
60°	8' x 16'	12'	20'
75°	8' x 16'	15'	20'
90°	8' x 16'	18'	20'

The remaining fifty percent (50%) of the parking spaces must comply with current LDC requirements.

6. A variance from LDC Section 10-416 (c) internal landscaping requirements for parking lots to allow no internal landscape parking lot improvements to include 2(a) no tree requirement; 2(b) no internal landscape islands; 2(c) no 10' landscape island width; 2(d) no landscape every 10 space requirement; 2(e) no median required; 2(f) no interior landscape of sod and grass and 2(g) no tree grates.

CONDITIONS OF APPROVAL:

1. The applicant shall install a 2.5' wide buffer with a minimum height of 41 inches within two (2) years from the approval of the variance.
2. Applicant may utilize the parking dimensions described in variance #5 above, however, at the time of redevelopment or the application of a building permit for the subject property, the parking space dimensions must come into compliance with all provisions of Section 34-2016.
3. At the time of redevelopment, the parking lot variance allowing a front and side parking lot must come into compliance and be relocated to the rear of the subject property
4. A building overhang extending up to 12' into the right-of-way is hereby approved.

FINDINGS AND CONCLUSIONS:

In accordance with the requirements of LDC Sections 34-84 and 34-87 regarding approval of variance requests, the Town Council reaches the following findings and conclusions:

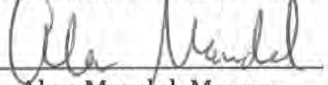
- a. There **are** exceptional or extraordinary conditions or circumstances that are inherent to the property in question, and the request **is** for a de minimis variance under circumstances or conditions where rigid compliance is not essential to protect public policy.
- b. The conditions justifying the variance **are not** the result of actions of the applicant taken after the adoption of the regulation in question.
- c. The variance granted **is** the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the regulation to the property in question.
- d. The granting of the variance **will not** be injurious to the neighborhood or otherwise detrimental to the public welfare.
- e. The conditions or circumstances on the specific piece of property for which the variance is sought **are not** of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.

The foregoing Resolution was adopted by the Town Council upon a motion by Vice Mayor Kosinski and seconded by Council Member List, and upon being put to a vote, the result was as follows:

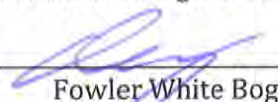
Alan Mandel, Mayor AYE
Jo List AYE
Dan Andre AYE

Joe Kosinski, Vice Mayor AYE
Bob Raymond AYE

DULY PASSED AND ADOPTED THIS 3rd day of **MARCH, 2014.**

By: 
Alan Mandel, Mayor

Approved as to legal sufficiency:

By: 
Fowler White Boggs, P.A.
Town Attorney

ATTEST:

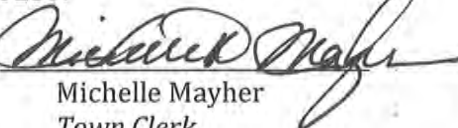
By: 
Michelle Mayher
Town Clerk

Exhibit A

Legal Description

Lots 2 through 6, 22 & 23, Block 3, Business Center Subdivision, and the Northerly $\frac{1}{2}$ of Vacated Fourth Street, according to the Map or Plat thereof as recorded in Plat Book 9, Pages 9 and 10, Public Records of Lee County, Florida.

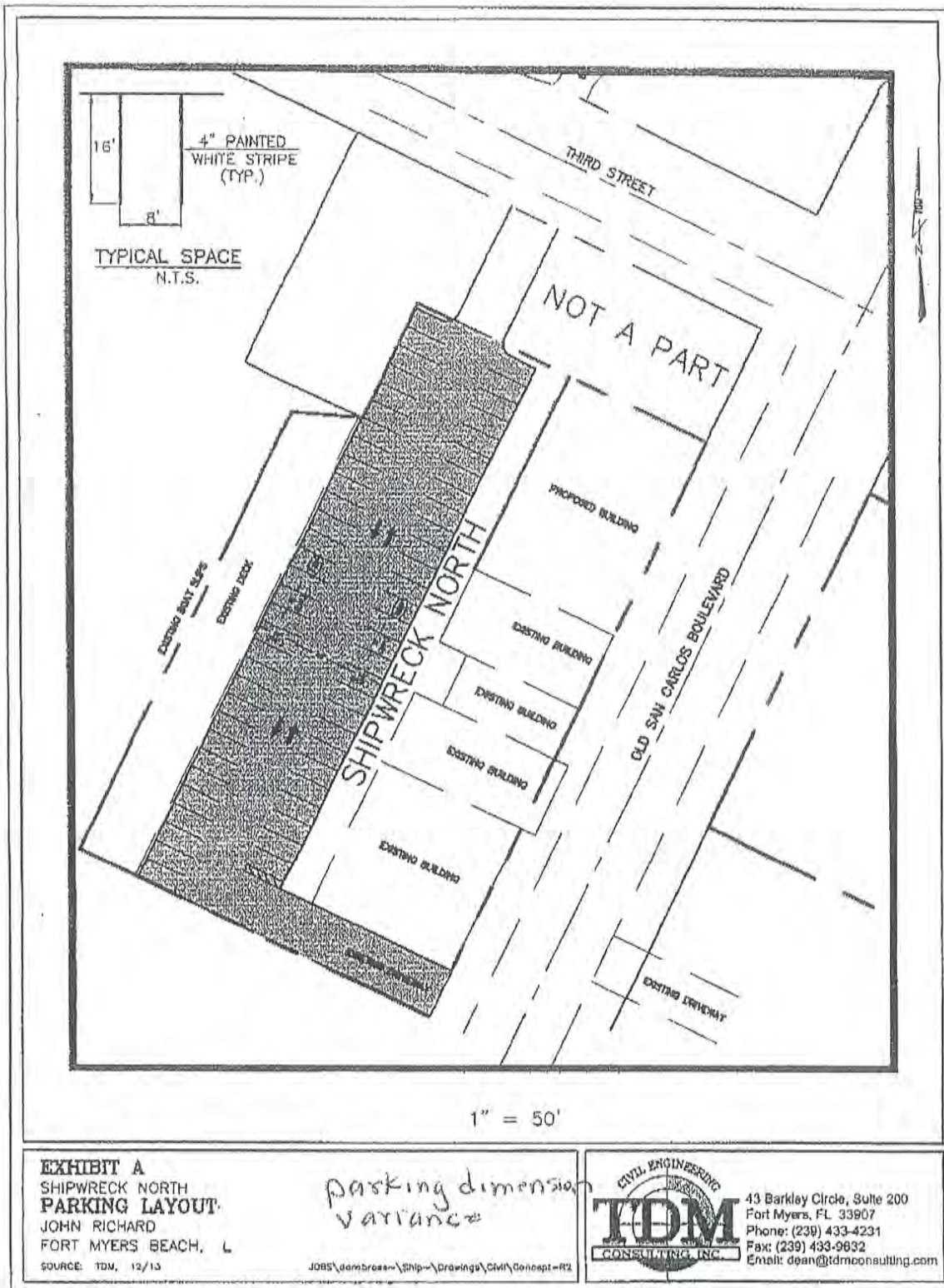
AND

Lots 3 through 12, Block A, Island Shores Unit 2, according to the Map or Plat thereof as recorded in Plat Book 9, Page 25, Public Records of Lee County, Florida,

AND

Beginning at the Southwest Corner of Lot 9, Block A, Island Shores Subdivision, Unit No. 2, as recorded in Plat Book 9 at Page 25 of the Public Records of Lee County, Florida; thence run N $63^{\circ}58'21''$ W, 11.82 feet to the outer face of a seawall; thence run N $29^{\circ}45'28''$ E, 50.11 feet to the outer face of a second seawall; thence run N $26^{\circ}01'39''$ E, 58.50 feet along said second seawall to a point of curve to the left in said second seawall; said curve having a radius of 10 feet; thence run along said seawall and curve an arc distance of 6.39 feet thru a delta angle of $36^{\circ}37'27''$ to a point which bears S $71^{\circ}01'39''$ W, 14.90 feet from the Northwest corner of Lot 5, Block A, of said subdivision; thence run S $26^{\circ}01'39''$ W, 125.00 feet to the Point of Beginning. Said parcel contains 1120.6 square feet more or less.

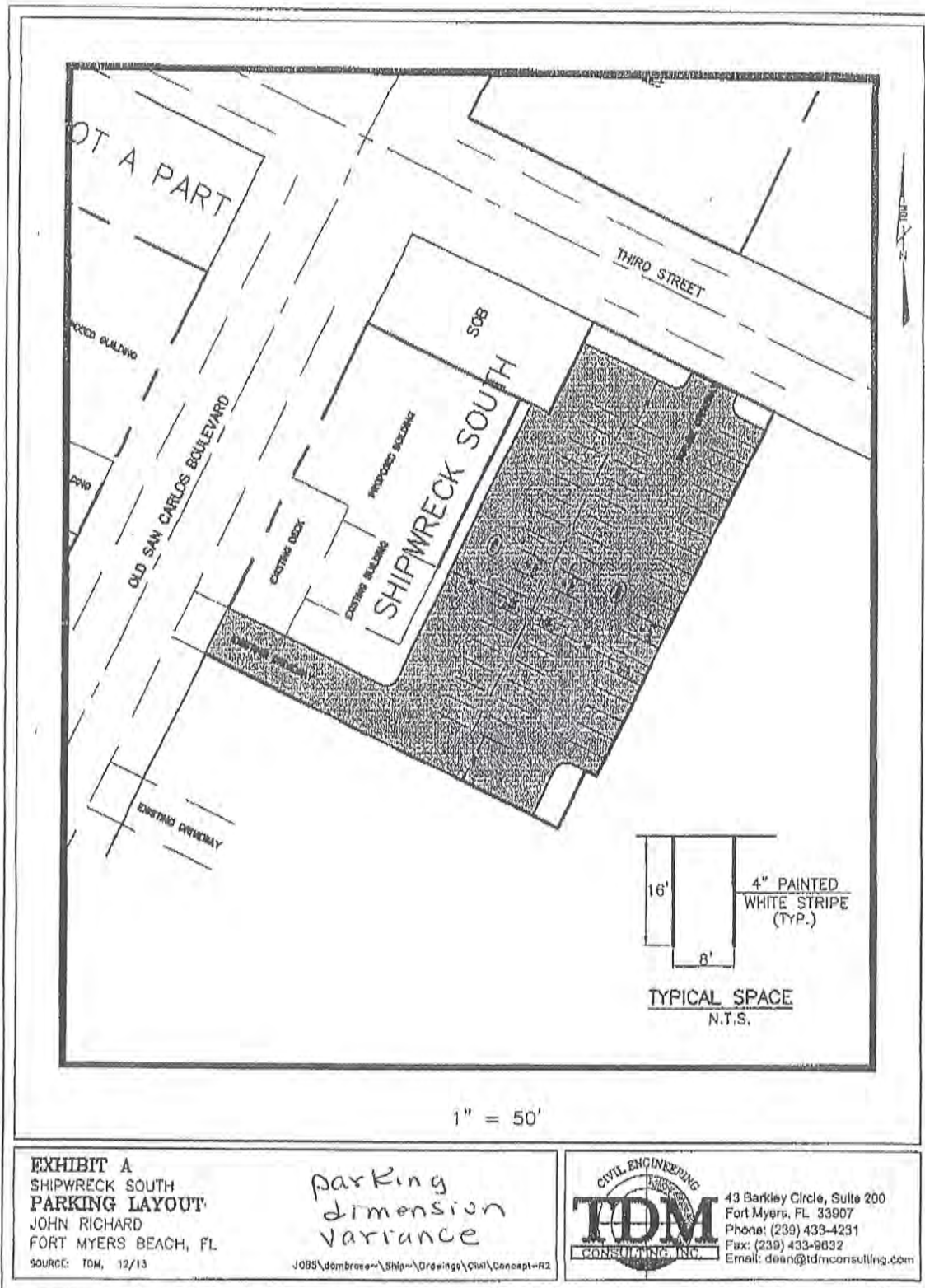
Exhibit E



variance, 3+4

9

Exhibit E



Variance 4

4



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

This is a first part of a two-part application. Please be sure to fill out this form, which requires general information, as well as the Supplemental Form application specific to action requested for the subject property. Please submit a complete Public Hearing application with required, supplemental information, exhibits and documents to zoningpermits@fmbgov.com. Please do not submit the instructions at the end of the application.

Site Address: 237 Old San Carlos
 STRAP Number: 24-46-23-W3-0050A.0080
 Applicant: John W. Richard Phone: 239-565-9554
 Contact Name: John Richard/Kara Stewart Phone: 239-770-4198
 Email: jwr237@gmail.com/stewart.karalyn@gmail.com Fax: _____
 Current Zoning District: Downtown
 Future Land Use Map (FLUM) Category: Pedestrian Commercial
 FLUM Density Range: _____ Platted Overlay: ☐ YES ☒ NO

ACTION REQUESTED

- ☒ Special Exception
☒ Variance
☐ Conventional Rezoning
☐ Planned Development ☐ Commercial ☐ Residential
☐ Master Concept Plan Extension
☐ Appeal of Administrative Action
☐ Vacation of Platted Right-of-way and Easement
☐ Other - cite LDC Section: _____

SUPPLEMENTAL FORM REQUIRED

PH-A
 PH-B
 PH-C
 PH-D
 PH-E
 PH-F
 PH-G
 attach on separate sheet

PART I - General Information

A. Applicant*: John W. Richard Phone: 239-565-9554
**Applicant must submit a statement under oath that he/she is the authorized representative of the property owner. Please see PART III to complete the appropriate Affidavit form for the type of applicant.*
 Applicant Mailing Address: 237 Old San Carlos Blvd
 Email: jwr237@gmail.com Fax: _____
 Contact Name: John W. Richard Phone: 239-565-9554



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

B. Relationship of Applicant to subject property:

- | | | |
|---|---|--|
| ☐ Owner* | ☒ Land Trust* | ☐ Partnership* |
| ☐ Corporation* | ☐ Association* | ☐ Condominium* |
| ☐ Subdivision* | ☐ Timeshare Condo* | ☐ Contract Purchaser* |
| ☐ Authorized Representative* | ☐ Other* (please indicate) _____ | |

**Applicant must submit a statement under oath that he/she is the authorized representative of the property owner.
Please see PART III to complete the appropriate Affidavit form for the type of applicant.*

C. Authorized Agent(s). Please list the name of Agent authorized to receive correspondence Agents

Name: Sarah Spector/ Roetzel& Andress Phone: 239-338-4213
Address: 2320 First St #1000, Fort Myers, FL 33901
Email: Sspector@ralaw.com Fax: _____

D. Other Agent(s). Please list the names of all Authorized Agents (attach extra sheets if necessary)

Name: Kara Stewart Phone: 239-770-4198
Address: 13450 Electron Dr
Email: stewart.karalyn@gmail.com Fax: _____

Name: _____ Phone: _____
Address: _____
Email: _____ Fax: _____

PART II - Nature of Request

Requested Action (each request requires a separate application)

- ☒ Special Exception
- ☒ Variance from LDC Section _____ - see attached
- ☐ Conventional Rezoning from _____ to _____
- ☐ Planned Development
- ☐ Rezoning from _____ to ☐ Commercial PD ☐ Residential PD
- ☐ Amendment. List the project number: _____
- ☐ Extension/reinstatement of Master Concept Plan. List project number: _____



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

☐ Appeal of Administrative Action

☐ Vacation

☐ Right-of-Way

☐ Easement

☐ Other. Please Explain: _____

PART III - Waivers

Please indicate any specific submittal items that have been waived by the Director for the request. Attach a copy of the signed approval as Exhibit 3-1. (Use additional sheets if necessary)

Code Section: _____ Description: _____

Code Section: _____ Description: _____

Code Section: _____ Description: _____

PART IV - Property Ownership (Single Owner)

☐ Single Owner (individual or husband and wife)

Name: _____ Phone: _____

Mailing Address: _____

Email: _____ Fax: _____

AFFIDAVIT

APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

I, *John W. Pelt* swear or affirm under oath, that I am the owner or the authorized representative of the owner(s) of the property and that:

I have full authority to secure the approval(s) requested and to impose covenants and restrictions on the referenced property as a result of any action approved by the Town of Fort Myers Beach in accordance with this application and the Land Development Code;

All answers to the questions in this application and any sketches, data or other supplementary matter attached hereto and made a part of this application are honest and true;



COMMUNITY DEVELOPMENT DEPARTMENT

APPLICATION for PUBLIC HEARING

I have authorized the staff of the Town of Fort Myers Beach Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made thru this application; and that

The property will not be transferred, conveyed, sold or subdivided unencumbered by the conditions and restrictions imposed by the approved action.

[Signature]
Signature

John W. Richard
Printed Name

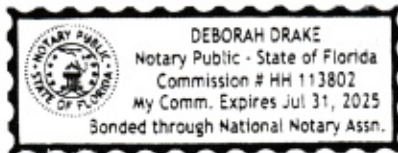
STATE OF FL COUNTY OF LEE

The foregoing instrument was certified and subscribed before me by means of X physical

presence OR online notarization, this 24 day of AUGUST, 2022, by

JOHN W. RICHARD, ☒ who is personally known to me OR ☐ who has produced

 as identification.



[Signature]
Notary Public Signature

PART V

Property Ownership (Multiple Owners)

☒ Multiple Owners (including corporation, partnership, trust, association, condominium, timeshare, or subdivision)

- ☒ Complete Disclosure of Interest Form (see below)
- ☐ Attach list of property owners as Exhibit 5-1
- ☐ Attach map showing property owners interests as Exhibit 5-2 (for multiple parcels)
- ☐ For condominiums and timeshares see Explanatory Notes Part V - Exhibit 5-3
- ☐ Letter of Opinion - Exhibit 5-4

DISCLOSURE OF OWNERSHIP INTEREST

If the property is owned in fee simple by an INDIVIDUAL, tenancy by the entirety, tenancy in common, or joint tenancy, list all parties with an ownership interest as well as the percentage of such interest.

Name and Address

Percentage Ownership



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

If the property is owned by a CORPORATION, list the officers and stockholders and the percentage of stock owned by each.

Name, Address and Office

Percentage of Stock

_____	_____
_____	_____
_____	_____
_____	_____

If the property is in the name of a TRUSTEE, list the beneficiaries of the trust with percentage of interest.

Name and Address

Percentage of Interest

John W. Richard

100%

_____	_____
_____	_____
_____	_____
_____	_____

If the property is in the name of a GENERAL PARTNERSHIP OR LIMITED PARTNERSHIP, list the names of the general and limited partners.

Name and Address

Percentage of Ownership

_____	_____
_____	_____
_____	_____
_____	_____

If there is a CONTRACT FOR PURCHASE, whether contingent on this application or not, and whether a Corporation, Trustee, or Partnership, list the names of the contract purchasers below, including the officers, stockholders, beneficiaries, or partners.

Name, Address and Office

Percentage of Stock

_____	_____
_____	_____
_____	_____
_____	_____



COMMUNITY DEVELOPMENT DEPARTMENT
APPLICATION for PUBLIC HEARING

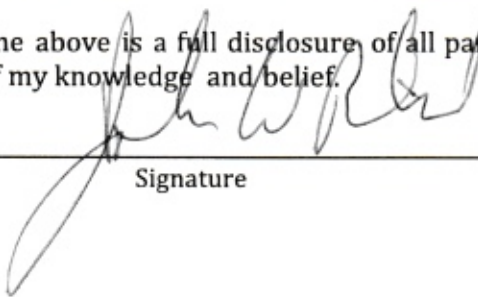
Date of Contract: _____

If any contingency clause or contract terms involve additional parties, list all individuals or officers, if a corporation, partnership, or trust.

Name	Address
_____	_____
_____	_____
_____	_____
_____	_____

For any changes of ownership or changes in contracts for purchase subsequent to the date of the application, but prior to the date of final certificate of compliance, a supplemental disclosure of interest must be filed.

The above is a full disclosure of all parties of interest in this application, to the best of my knowledge and belief.



Signature

John W. Richard, Trustee

Printed Name
GADD-1 237 Old San Carlos
Blvd Trust, a Florida Land Trust

AFFIDAVIT

**APPLICATION IS SIGNED BY A CORPORATION, LIMITED LIABILITY COMPANY (L.L.C.),
LIMITED COMPANY (L.C.), PARTNERSHIP, LIMITED PARTNERSHIP, OR TRUSTEE**

I, John W. Richard (name), as trustee (title)
of see below* (company), swear or affirm under oath, that I am the
owner or the authorized representative of the owner(s) of the property and that:

1. I have full authority to secure the approval(s) requested and to impose covenants and restrictions on the referenced property as a result of any action approved by the Town of Fort Myers Beach in accordance with this application and the Land Development Code;
2. All answers to the questions in this application and any sketches, data or other supplementary matter attached hereto and made a part of this application are honest and true;
3. I have authorized the staff of Fort Myers Beach Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made thru this application; and that
4. The property will not be transferred, conveyed, sold or subdivided unencumbered by the conditions and restrictions imposed by the approved action.

***GADD-1 237 Old San Carlos Blvd Land Trust, a Florida Land Trust**

4/30/2021

Town of Fort Myers Beach 2525 Estero Blvd Fort Myers Beach, Florida 33931
Phone: 239-765-0202 zoningpermits@fmbgov.com Fax: 239-765-0909

Page 6 of 11



COMMUNITY DEVELOPMENT DEPARTMENT
APPLICATION for PUBLIC HEARING

GADD-1 237 Old San Carlos Blvd Land Trust, a Florida Land Trust

Name of Entity (corporation, partnership, LLP, LLC, etc)

Signature

John W. Richard

Typed or Printed Name

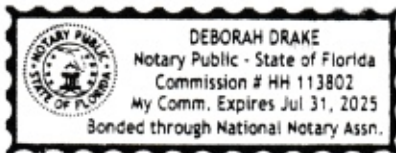
Trustee

Title

Date

STATE OF FL COUNTY OF LEE

The foregoing instrument was certified and subscribed before me by means of ☒ physical presence OR ☐ online notarization, this 24 day of AUGUST, 2022, by John W. Richard ☒ who is personally known to me OR ☐ who has produced _____ as identification.



Deborah Drake
Notary Public Signature

PART VI- Property Information

A. Legal Description:

STRAP: 24-46-23-W3-0050A.0080

Property Address: 237 Old San Carlos Blvd

Is the subject property within a platted subdivision recorded in the official Plat Books of Lee County? ☐ No. Attach a legible copy of the legal description as Exhibit 6-1.

☒ Yes. Property identified in subdivision: Please see attached

Book: _____ Page: _____ Unit: _____ Block: _____ Lot(s): _____

B. Boundary Survey:

☒ Attach a Boundary Survey of the property meeting the minimum standards of Chapter 61G17-6 of the Florida Administrative Code. A Boundary Survey must bear the raised seal and original signature of a Professional Surveyor and Mapper licensed to practice Surveying and Mapping by the State of Florida. Attach and label as Exhibit 6-2.

**COMMUNITY DEVELOPMENT DEPARTMENT
APPLICATION for PUBLIC HEARING**

PART VI – PROPERTY INFORMATION (CONT'D)

A. Legal Description:

STRAP: 24-46-23-W3-0050A.0080

Property Address: 237 Old San Carlos Blvd

Is the subject property within a platted subdivision recorded in the official Plat Books of Lee County? ☐ No. Attach a legible copy of the legal description as Exhibit 6-1.

☒ Yes. Property identified in subdivision:

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12, Block A, Unit No 2 Island Shores, recorded in Plat Book 9, Page 25, Public Records of Lee County, Florida

Portion of vacated lagoon right-of-way, Unit No 2 Island Shores, recorded in Plat Book 9, Page 25, Public Records of Lee County, Florida, as more particularly described in Official Records Book 2736, Page 3705 *et seq.* and Official Records Book 2858, Page 1394, both of the Public Records of Lee County, Florida

Lot 1, Block B, Matanzas View, recorded in Plat Book 9, Page 40, Public Records of Lee County, Florida

18693076 _1



**COMMUNITY DEVELOPMENT DEPARTMENT
APPLICATION for PUBLIC HEARING**

C. Property Dimensions:

Width (please provide an average width if irregular in shape) 250 feet
Depth (please provide an average width if irregular in shape) 150 + feet
Frontage on street: 250 & 175 feet. Frontage on waterbody: 190 feet
Total land area: 44,936 +/- ☐ acres ☒ square feet

D. General Location of Subject Property (from Sky Bridge or Big Carlos Pass Bridge):
Old San Carlos Blvd

☒ Attach Area Location Map as Exhibit 6-3

E. Property Restrictions (check applicable):

- ☒ There are no deed restrictions and/or covenants on the subject property.
☐ A list of deed restrictions and/or covenants affecting the subject property is attached as Exhibit 6-4.
☐ A narrative statement detailing how the restrictions/covenants may or may not affect the request is attached as Exhibit 6-5.

F. Surrounding Property Owners (these items can be obtained from the Lee County Property Appraiser):

- ☒ Attach a list of surrounding property owners within 500 feet as Exhibit 6-6.
☒ Attach a map showing the surrounding property owners as Exhibit 6-7.
☒ Provide Staff with two (2) sets of surrounding property owner mailing labels.

G. Future Land Use Category (see Future Land Use Map):

- | | |
|---|--|
| ☐ Low Density | ☐ Marina |
| ☐ Mixed Residential | ☐ Recreation |
| ☐ Boulevard | ☐ Wetlands |
| ☒ Pedestrian Commercial | ☐ Platted Overlay |



Case# _____

Date Received: _____

Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Supplement PH-A

Additional Required Information for a Special Exception Application

This is the second part of a two-part application. This part requests specific information for a special exception. Include this form with the Request for Public Hearing form.

Project Name: 237 Parking Lot
Authorized Applicant: John W. Richard/ Kara Stewart
LEPA STRAP Number(s): 24-46-23-W3.0050A.0080

Current Property Status: Developed
Current Zoning: Downtown
Future Land Use Map (FLUM) Category: Pedestrian Commercial
Platted Overlay? ☐ yes ☒ no FLUM Density Range:

Requested Action:

☐	Use of premises in the EC (Environmentally Critical) zoning district for:
☒	Use of premises in the <u>Downtown</u> zoning district for:
	Expansion of previously approved Permanent Shared Parking Lot
	(SEZ2013-0006)

PART I

Narrative Statements

A. Request for: (indicate the proposed use that requires a special exception)

This is a request for the extension of an existing permanent shared parking
lot to the portion of 237 Old San Carlos (Lot 1 and 2, Block A, Unit No 2 Island
Shores, recorded in Plat Book 9, Page 25, and Lot 1, Block B, Matanzas View,
recorded in Plat Book 9, Page 40, both of the Public Records of Lee County,
Florida) not previously approved in SEZ2013-0006 - Shipwreck Special Exception.
LDC Table 34-1 indicates the need for a special exception when a permanent
shared parking lot is requested.
Please see attached additional narrative statement.

B. Reasons for request: (state how the property qualifies for a special exception and what impact granting the request could have on surrounding properties. Direct these statements toward the guidelines in LDC Section 34-88)

The property qualifies for a Special Exception because:
The Town is experiencing continuing growth and, with it, a great need for parking
in the downtown area. Allowing for the extension of an existing permanent shared
parking lot will not hamper the surrounding land uses or businesses. Instead, it
will benefit those businesses and the Town in general by allowing people to park
and walk to multiple destinations, taking traffic off the street. The request is
consistent with the goals, objectives, and policies and intent of the Comprehensive
Plan and exceeds all performance and locational standards for a permanent
shared parking lot. There are no environmentally critical areas or natural resources
that will be impacted. The request will be compatible with existing and planned
uses and will not cause damage, hazard, nuisance, or other detriment to persons.
The use will be in compliance with applicable general zoning provisions and
supplemental regulations pertaining to the use set forth in Chapter 34 of the LDC.

Granting the requested Special Exception could impact surrounding properties as follows:
The permanent shared parking lot on the portion of 237 Old San Carlos
approved by Town Council through the adoption of Resolution 14-07
(SEZ2013-0006) has been operating pursuant to the terms of the Resolution
since it was approved on March 3, 2014. The approved use has not had any
adverse impacts on surrounding properties and it is not anticipated that the
requested extension of the special exception to allow for use of the remainder of
237 San Carlos as a permanent shared parking lot will have any adverse impacts.
Rather, as set forth above, it is anticipated that approval of the request will
provide a benefit to surrounding uses and the Town in general.

PART 2

Submittal Requirements

All applications for a special exception must submit fourteen (14) copies of this application form and all applicable exhibits.

Required Items

- Public Hearing Request Form
- Supplemental form PH-A
- Site Plan (to scale) including the current use of all existing structures on the site, and those on adjacent properties within 100 feet of the perimeter; all proposed structures and uses for the site; and any proposed fencing and screening.
- Fee in the amount of \$3800.00/\$3300.00 for an amendment

For New Communication Towers:

- a. Lee County Application for Communication Tower
- b. Shared-Use Plan Agreement

For Consumption of Alcoholic Beverages (COP) license approval:

- a. Notarized authorization from the Property Owner to apply for permit
- b. A statement indicating the type of establishment, the type of state license to be acquired, and the planned hours of operation. Also indicate if the request includes outdoor seating areas and indicate the seating areas and capacity on the site plan.
- c. A map showing the locations of other properties within 500 feet of the request where consumption-on-premises uses are already in operation.
- d. The site plan must include the public entrances and exits to the building, the floor area and proposed seating capacity, and floor area and seating capacity of any areas within the building subdivided between restaurant and bar/lounge areas. The site plan should also indicate the parking area, including the spacing and the locations of entrances and exits.

For transit terminals:

The site plan must indicate the location of the bus stalls; commuter parking areas, if provided; taxi waiting stalls; circulation pattern for buses including the entrances and exits; and the location of any building(s) housing the terminal and waiting areas.

For use of the EC zoning district:

- a. If the location of the request is in the portion of the EC zoning district between Estero Boulevard and the Gulf of Mexico, provide a survey meeting the requirements of Chapter 62B-33.0081 of the Florida Administrative Code, also including the precise location of the (1978) Coastal Construction Setback Line for Estero Island recorded in Plat Book 33, Page 3, of the Official Records of Lee County, Florida.
- b. The site plan must indicate the precise location of the request on the subject property and any related details of the existing conditions or planned improvements to the subject property. For areas in the EC zoning district between Estero Boulevard and the Gulf of Mexico, the precise location of the request in relation to the (1978) Coastal Construction Setback Line must be shown on the site plan.

Guide to Filing Supplement PH-A for Special Exceptions

Case Number will be inserted by Community Development staff.

Project Name must be the same as the name used on the Request for Public Hearing form.

Authorized Applicant must be the same as on the Request for Public Hearing form.

STRAP numbers must be the same as on the Request for Public Hearing form.

Current status of property must be the same as on the Request for Public Hearing form.

Requested Action: Indicate the nature of the request and include the current zoning of the property.

Part 1 Narrative Statements:

“Request for...”

Indicate the nature of the request that requires a special exception, and explain why it requires a special exception. Describe the relationship of the requested use to any existing use(s) of the property, if applicable.

“The property qualifies for a special exception because...”

Explain why the request and the subject property qualify for a special exception. Address the standards for decision-making for special exceptions that are provided in the Land Development Code, as follows:

- Whether there exist changed or changing conditions which make approval of the request appropriate.
- Whether the request is consistent with the goals, objectives, policies, and intent of the Fort Myers Beach Comprehensive Plan.
- Whether the request meets or exceeds all performance and locational standards for the proposed use.
- Whether the request will protect, conserve, or preserve environmentally critical areas and natural resources.

- Whether the request will be compatible with existing or planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.
- Whether a requested use will be in compliance with the applicable general zoning provisions and supplemental regulations set forth in Chapter 34 of the Land Development Code.

“Granting the requested special exception could impact surrounding properties as follows...”

Explain how this request, if granted for the subject property, could affect the surrounding properties and the existing or planned uses on those properties.

Submittal Requirements Check List and Filing Guide



A completed Public Hearing Application Form.



A completed Supplemental form PH-A.

Site Plan. The site plan should be to scale and should indicate the location of the request on the property. Existing buildings and other improvements (such as swimming pools, fences, decks, or parking lots) should also be shown on the site plan. The site plan should also indicate the existing uses on adjacent properties. Also include any additional relevant detail related to the specific request.

Guide to Filing Supplement PH-A for Special Exceptions

Case Number will be inserted by Community Development staff.

Project Name must be the same as the name used on the Request for Public Hearing form.

Authorized Applicant must be the same as on the Request for Public Hearing form.

STRAP numbers must be the same as on the Request for Public Hearing form.

Current status of property must be the same as on the Request for Public Hearing form.

Requested Action: Indicate the nature of the request and include the current zoning of the property.

Part 1 Narrative Statements: "Request for..."

Indicate the nature of the request that requires a special exception, and explain why it requires a special exception. Describe the relationship of the requested use to any existing use(s) of the property, if applicable.

"The property qualifies for a special exception because..."

Explain why the request and the subject property qualify for a special exception. Address the standards for decision-making for special exceptions that are provided in the Land Development Code, as follows:

- Whether there exist changed or changing conditions which make approval of the request appropriate.
- Whether the request is consistent with the goals, objectives, policies, and intent of the Fort Myers Beach Comprehensive Plan.
- Whether the request meets or exceeds all performance and locational standards for the proposed use.
- Whether the request will protect, conserve, or preserve environmentally critical areas and natural resources.
- Whether the request will be compatible with existing or planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.
- Whether a requested use will be in compliance with the applicable general zoning provisions and supplemental regulations set forth in Chapter 34 of the Land Development Code.

"Granting the requested special exception could impact surrounding properties as follows..."

Explain how this request, if granted for the subject property, could affect the surrounding properties and the existing or planned uses on those properties.

EXPLANATORY NOTES

Please do not print, copy and submit these instructions

Please submit required applications, supplemental information, exhibits and documents to zoningpermits@fmbgov.com.

Application fees are set by resolution of the Town Council of the Town of Fort Myers Beach and must be paid before any materials submitted will be considered an application.

The applicant is responsible for the accuracy and completeness of this application. Time delays or additional expenses necessitated by submitting inaccurate or incomplete information will be the responsibility of the applicant. Decisions regarding requests to waive submittal requirements are at the discretion of the Community Development Director and may not be appealed.

All information submitted with the application becomes a part of the public record and will be a permanent part of the file.

Explanatory Notes – Part I

- A. Applicant's name: The applicant may be the landowner or an authorized agent.
- B. Relationship of applicant to property: Indicate if the applicant is the property owner, and if so, the type of ownership. If the applicant is not the owner of the property, indicate the relationship of the applicant to the owner and submit a notarized authorization from the owner(s) to the applicant.
- C. Agent's name: If the applicant will have others representing him/her in processing the application, indicate name, address, and phone number.
- D. Other agents: Provide contact information for any other agents that may be involved in the request.

Explanatory Notes – Part II

Indicate the requested action.

Explanatory Notes – Part III

If waiver of any application requirement has been approved by the Community Development Director, attach a copy of the approval. Please request waivers prior to applying. Exhibit 3-1

Explanatory Notes – Part IV

- A. If the property owner is an individual or husband and wife, check the box and provide the information.

Explanatory Notes – Part V

- A. If there are multiple property owners exhibit 5-1, complete the disclosure form and include the names and mailing addresses of all persons or entities having an ownership interest in the property, including the names of all stockholders and trust beneficiaries. Disclosure is not required of any entity whose interests are solely equity interests that are regularly traded on an established securities market in the United States or another country.
- B. If more than one parcel is involved, submit a list of all property owners and their mailing addresses. Provide a map keyed to the list of property owners showing their interests. The applicant is responsible for the accuracy of the list and map Exhibit 5-2
- C. Where the property is a condominium or timeshare condominium, the application must be initiated by both the condominium association and no less than 75% of the total number of unit owners. To verify ownership, the list of property owners must be identified by unit number and/or timeshare period as applicable, along with proof that the owners who did not join in the application were given actual written notice of the application by the applicants, who must verify the list and the notice by sworn affidavit. Attach this affidavit as Exhibit 5-3.
- D. In addition, a letter of opinion from an attorney licensed to practice law in the State of Florida addressing the considerations in LDC Section 34-201(a)(1)b.3. must be attached as Exhibit 5-4.

Explanatory Notes – Part VI

- A. Include the street address of the subject property. List STRAP number. If more than one parcel is involved, list all STRAP numbers. If you don't know the STRAP number, you can look up the property in the records of the Lee County Property Appraiser at <http://www.leepa.org>. If the application includes only one or more undivided platted lots within a subdivision officially recorded in the Plat Books of Lee County, Florida, identify the property by lot number(s), block if applicable, subdivision unit if applicable, subdivision name, and plat book number and page number. If the property is not one or more undivided platted lots or is in an "unrecorded" subdivision, attach a metes and bounds legal description giving accurate bearings and distances for each course. If multiple parcels are involved, the metes and bounds legal description must describe the perimeter of the entire property subject to the request. The initial point in the description must be related to at least one established identifiable real property corner, such as a government

- corner or a recorded corner. The bearings used in the description must be clearly referenced to a well-established and monumented line. Exhibit 6-1
- B. Submit a Boundary Survey meeting the minimum technical standards for surveying set out in Chapter 61G17-6 of the Florida Administrative Code. Make sure that the surveyor is aware of any specific needs of the survey (location of Coastal Construction Lines, locations of existing structures, locations of easements, etc) that are relevant to your request. The perimeter boundary of the entire subject property should be indicated clearly with a heavy line. Exhibit 6-2
 - C. Provide the property dimensions or the approximate dimensions if the property is not a regular quadrilateral.
 - D. Describe how to get to the property starting from either the Sky Bridge or the Big Carlos Pass Bridge (specify which). Exhibit 6-3
 - E. If there are any deed restrictions or covenants that might affect the requested action, provide the information. Exhibit 6-4
 - F. A narrative statement detailing how the restrictions/covenants may or may not affect the request is attached as Exhibit 6-5
 - G. Attach a list of the surrounding property owners within 500 feet of the perimeter of the area of the request. Also include two sets of mailing labels providing the names and addresses of the owners on this list, and a map showing the parcel boundaries within the 500-foot radius Exhibit 6-6. This information can be acquired for a small fee by requesting a “variance report” from the Map Sales Office at the Lee County Property Appraiser’s Office. Contact information for the Property Appraiser can be found at <http://www.leepa.org>.
 - H. Indicate the Future Land Use Map category or categories of the property as shown on the Fort Myers Beach Comprehensive Plan’s Future Land Use Map, and whether the property is located in the “platted overlay” on the map.
 - I. Indicate the current zoning of the property. In most cases the current zoning is shown on the official zoning map of the Town of Fort Myers Beach, as adopted by ordinance. If zoning actions affecting the subject property have been taken since March 2004, call Town Hall to verify the current zoning.

Explanatory Notes – Part IV & V

The applicant must have either of the affidavits in Part V & VI, notarized, signed and submit, as applicable.

COMMUNITY DEVELOPMENT DEPARTMENT
Supplement PH-A
Additional Required Information for a Special Exception Application

PART I

Narrative Statements

This is a request for the extension of a previously approved permanent shared parking lot located at 237 Old San Carlos Boulevard (the “Property”). A special exception allowing for use of the majority of the Property as a permanent shared parking was approved on March 3, 2014 by Town Council’s adoption of Resolution Number 14-07 (approving SEZ2013-0006 – Shipwreck Special Exception) (the “Special Exception Resolution”). The Property consists of the following, with the property highlighted in yellow being the portion of the Property to which the previous special exception applies, and the property highlighted in green being the portion of the Property that is the subject of this request:

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12, Block A, Unit No 2 Island Shores, recorded in Plat Book 9, Page 25, Public Records of Lee County, Florida (the “Island Shores Plat”)

Portion of vacated lagoon right-of-way, Unit No 2 Island Shores, recorded in Plat Book 9, Page 25, Public Records of Lee County, Florida, as more particularly described in Official Records Book 2736, Page 3705 *et seq.* and Official Records Book 2858, Page 1394, both of the Public Records of Lee County, Florida

Lot 1, Block B, Matanzas View, recorded in Plat Book 9, Page 40, Public Records of Lee County, Florida (the “Matanzas Plat”)

Similarly, the property highlighted in yellow below identifies the area included in the previous approval, and the property highlighted in green below identifies the area that is the subject of this request (with the picture on the left being a snippet from the Island Shores Plat and the picture on the right being a snippet from the Matanzas Plat):



The Special Exception Resolution allows for the establishment of 62 parking spaces. The applicant is looking to increase the number of parking spaces by 40 by extending the special exception approval and demolishing the following structures shown on the survey included with this request:

1. The structure labeled “Commercial Building” on Lots 3, 4, 5 and 6, Block A of the Island Shores Plat
2. A portion of the structure labeled “Commercial Building” on Lots 6 and 7, Block A of the Island Shores Plat
3. The structure labeled “2 Story Wood Frame” on Lots 11 and 12, Block A of the Island Shores Plat.

Parking for the public is a necessary and desired use in the Downtown zoning district. Providing parking for the public provides the ability to implement the Town’s “park once” philosophy. A visitor or resident of the Town can park in the Downtown district and from that location enjoy the Town’s assets, including the beach, restaurants, retail, and the bay, so that a number of amenities offered by the Downtown are visited without having to relocate the vehicle.

Consistent with Section 34-2015, *Location and design*, of the Town of Fort Myers Beach Land Development Code (“LDC”), the parking lot has been designed in accordance with the buffer, landscaping, drainage, and other requirements of the LDC. Additionally, the design incorporates sufficient maneuvering room so that exiting vehicles can leave the parking lot in a forward motion. The parking lot is and will be paved for high turnover use.

The subject property is located in the Pedestrian Commercial Future Land Use designation which is defined as follows:

POLICY 4-B-6 “PEDESTRIAN COMMERCIAL”: a primarily commercial district applied to the intense activity centers of Times Square (including Old San Carlos and nearby portions of Estero Boulevard) and the area around the Villa Santini Plaza. For new development, the maximum density is 6 dwelling units per acre (except where the Future Land Use Map’s “platted overlay” indicates a maximum density of 10 units per acre for affordable units consistent with the adopted redevelopment plan). Commercial activities must contribute to the pedestrian-oriented public realm as described in this comprehensive plan and must meet the design concepts of this plan and the Land Development Code. Where commercial uses are permitted, residential uses are encouraged in upper floors. All “Marina” uses in Policy 4-B-7 are also allowed on parcels that were zoned for marinas prior to adoption of this plan. Non-residential uses (including motels and churches) now comprise 58.9% of the land in this category, and this percentage shall not exceed 90%. (emphasis supplied).

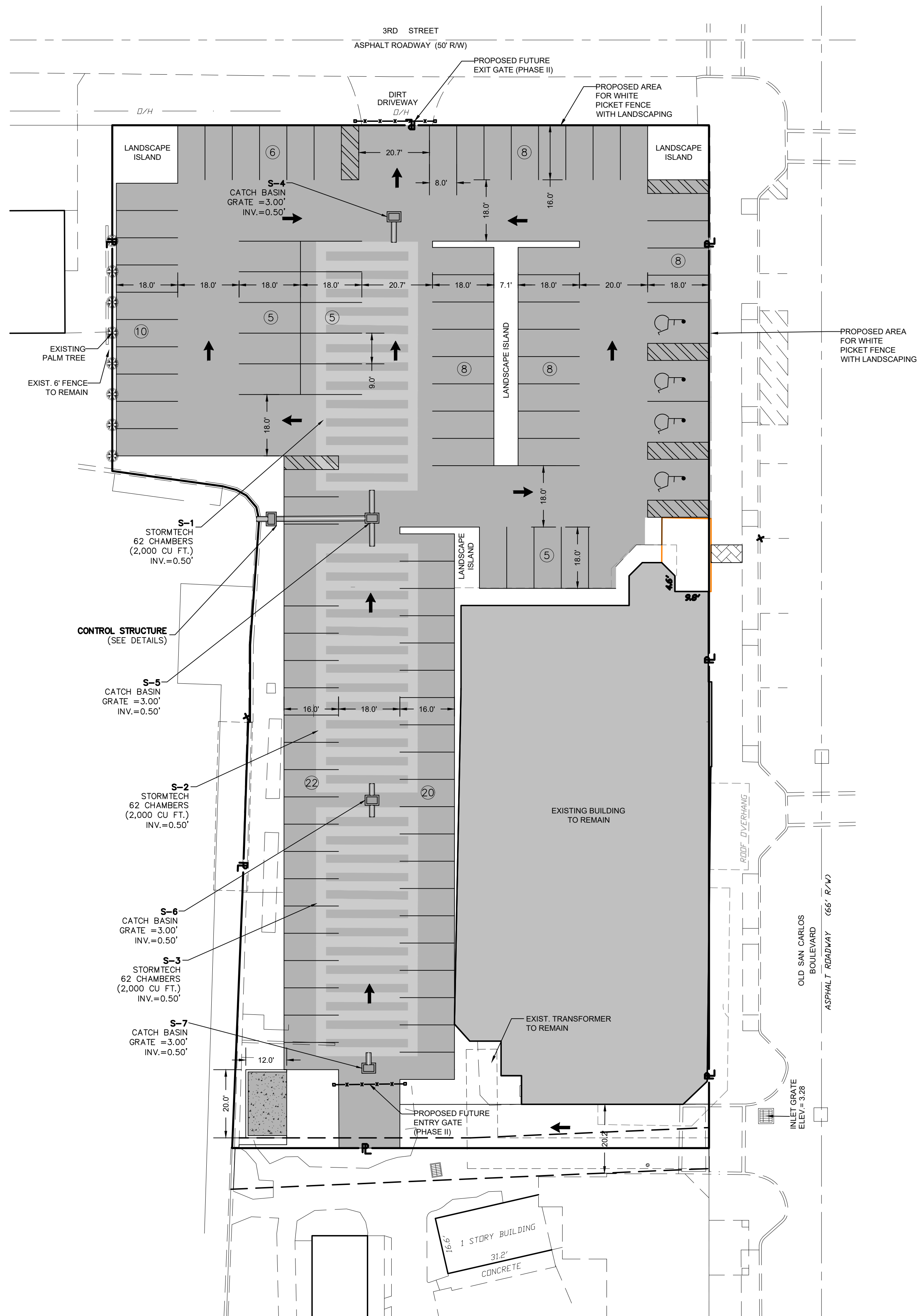
Shared and permanent parking is a use consistent with the Pedestrian Commercial designation. The request meets or exceeds all performance and locational standards. The use of the Property as a permanent shared parking lot will have no impact on environmentally critical or natural resources.

While the Property has not yet been put into use as a permanent shared parking lot, it has operated in conformance with Section 34-2019(a) of the LDC.¹ Additionally, the property identified as 318/320 Old San Carlos Boulevard (STRAP Number 24-46-23-W3-00203.0020) has been in continuous use as a permanent shared parking lot since the Town Council approved Town of Fort Myers Beach Resolution Number 99-40 on October 11, 1999 and has operated within the same parameters being requested herein since the Special Exception Resolution was approved in 2014. Since the use has been in operation, it has had no adverse impact on the surrounding properties. In fact, parking in proximity to surrounding uses is a positive impact. The property immediately to the south is a restaurant use; the use to the north, across Third Street, is a mix of residential, commercial, and parking uses; the use to the west is the lagoon and residential uses; and the use to the east is Old San Carlos Boulevard and retail, restaurant, and accessory parking uses.

The site plan submitted with the request shows the location of the existing “permanent and shared parking” and, as required, also illustrates existing buildings that are to remain and other improvements.

18693157_1

¹ Section 34-2019(a) of the LDC specifically provides that “[p]arking spaces that are not in daily use and are located in parking lots having ten or more parking spaces and meeting the other requirements of this division may be rented to the general public during peak periods.”



237 OLD SAN CARLOS BOULEVARD
FORT MYERS BEACH, FL 33931

[illegible]

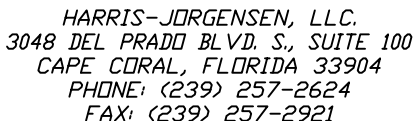
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ENGINEERING
Professional Engineers, Planners, & Land Surveyors
Serving The State Of Florida

10511 SIX MILE CYPRESS PARKWAY
FORT MYERS, FLORIDA 33966
PHONE: (239) 939-5490 FAX: (239) 939-2523
ENGINEERING LICENSE # EB 6469
SURVEY LICENSE # LB 6690
WWW.BANKSENG.COM

PRELIMINARY SITE PLAN
237 OLD SAN CARLOS BLVD
FORT MYERS BEACH, FLORIDA

DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE	SHEET
6/1/2022	8699_OSB	PSP	KG	KG		1"=20'	01

SEE EXHIBIT "A", SHEET 2 OF 2 FOR DESCRIPTION



DESCRIPTION TO ACCOMPANY SKETCH
EXHIBIT "A"

DESCRIPTION:

A PARCEL OF LAND BEING LOTS 1 THROUGH 12, BLOCK "A" AND A PORTION OF LAGOON RIGHT-OF-WAY, ISLAND SHORES UNIT No. 2, AS RECORDED IN PLAT BOOK 9, PAGE 25 AND LOT 1, BLOCK "B", MATANZAS VIEW, AS RECORDED IN PLAT BOOK 9, PAGE 40, ALL IN THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEASTERLY CORNER OF THE AFORESAID LOT 1, BLOCK "A"; THENCE RUN S.22°30'00"W. ALONG THE NORTHWESTERLY RIGHT-OF-WAY LINE OF OLD SAN CARLOS BOULEVARD (66 FEET WIDE) FOR 250.00 FEET; THENCE RUN S.67°30'00"E. ALONG THE SOUTHWESTERLY LINE OF THE AFORESAID LOT 12 AND THE EXTENSION THEREOF FOR 139.85 FEET TO THE WATERS EDGE FACE OF A CONCRETE SEAWALL; THENCE RUN ALONG THE WATERS EDGE FACE OF CONCRETE SEAWALL THE FOLLOWING BEARING AND DISTANCES, N.28°20'28"E. FOR 75.06 FEET; THENCE RUN N.24°23'34"E. FOR 50.03 FEET; THENCE RUN S.67°30'00"E. FOR 0.54 FEET; THENCE RUN N.22°35'43"E. FOR 22.54 FEET; THENCE RUN N.26°36'54"E. FOR 36.74 FEET; THENCE RUN N.10°22'34"E. FOR 3.82 FEET; THENCE RUN N.17°33'47"W. FOR 4.55 FEET; THENCE RUN N.38°25'35"W. FOR 3.39 FEET; THENCE RUN N.52°39'47"W. FOR 4.13 FEET; THENCE RUN N.59°39'05"W. FOR 32.66 FEET; THENCE LEAVING SAID WATERS EDGE FACE OF CONCRETE SEAWALL RUN N.22°30'00"E. ALONG THE NORTHWESTERLY LINE OF THE AFORESAID LOT 1, BLOCK "B" AND THE EXTENSION THEREOF FOR 101.42 FEET TO A POINT ON THE SOUTHWESTERLY LINE OF 3RD STREET (50 FEET WIDE); THENCE RUN S.67°30'00"E. ALONG SAID SOUTHWESTERLY RIGHT-OF-WAY LINE FOR 175.00 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 44887.736 SQUARE FEET OR 1.030 ACRES, MORE OR LESS.

BEARINGS ARE BASED ON THE NORTHWESTERLY RIGHT-OF-WAY LINE OF OLD SAN CARLOS BOULEVARD AS BEING S.22°30'00"W.

PHILLIP M MOULD
LS6515
AUGUST 1, 2022

NOTE:

THIS MAP/PLAT IS CONSIDERED SIGNED USING A DIGITAL SEAL IN ACCORDANCE WITH THE APPLICABLE STATE LAWS AND STATUTES FS 668.001-006; FS 668.50; FS 472.025; 5J-17.062, FLORIDA ADMINISTRATIVE CODE, STATE OF FLORIDA.

SHEET 2 OF 2

DESCRIPTION:

A PARCEL OF LAND BEING LOTS 1 THROUGH 12, BLOCK "A" AND A PORTION OF LAGOON RIGHT-OF-WAY, ISLAND SHORES UNIT No. 2, AS RECORDED IN PLAT BOOK 9, PAGE 25 AND LOT 1, BLOCK "B", MATANZAS VIEW, AS RECORDED IN PLAT BOOK 9, PAGE 40, ALL IN THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEASTERLY CORNER OF THE AFORESAID LOT 1, BLOCK "A"; THENCE RUN S.22°30'00"W. ALONG THE NORTHWESTERLY RIGHT-OF-WAY LINE OF OLD SAN CARLOS BOULEVARD (66 FEET WIDE) FOR 250.00 FEET; THENCE RUN S.67°30'00"E. ALONG THE SOUTHWESTERLY LINE OF THE AFORESAID LOT 12 AND THE EXTENSION THEREOF FOR 139.85 FEET TO THE WATERS EDGE FACE OF A CONCRETE SEAWALL; THENCE RUN ALONG THE WATERS EDGE FACE OF CONCRETE SEAWALL THE FOLLOWING BEARING AND DISTANCES, N.28°20'28"E. FOR 75.06 FEET; THENCE RUN N.24°23'34"E. FOR 50.03 FEET; THENCE RUN S.67°30'00"E. FOR 0.54 FEET; THENCE RUN N.22°35'43"E. FOR 22.54 FEET; THENCE RUN N.26°36'54"E. FOR 36.74 FEET; THENCE RUN N.10°22'34"E. FOR 3.82 FEET; THENCE RUN N.17°33'47"W. FOR 4.55 FEET; THENCE RUN N.38°25'35"W. FOR 3.39 FEET; THENCE RUN N.52°39'47"W. FOR 4.13 FEET; THENCE RUN N.59°39'05"W. FOR 32.66 FEET; THENCE LEAVING SAID WATERS EDGE FACE OF CONCRETE SEAWALL RUN N.22°30'00"E. ALONG THE NORTHWESTERLY LINE OF THE AFORESAID LOT 1, BLOCK "B" AND THE EXTENSION THEREOF FOR 101.42 FEET TO A POINT ON THE SOUTHWESTERLY LINE OF 3RD STREET (50 FEET WIDE); THENCE RUN S.67°30'00"E. ALONG SAID SOUTHWESTERLY RIGHT-OF-WAY LINE FOR 175.00 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 44887.736 SQUARE FEET OR 1.030 ACRES, MORE OR LESS.

BEARINGS ARE BASED ON THE NORTHWESTERLY RIGHT-OF-WAY LINE OF OLD SAN CARLOS BOULEVARD AS BEING S.22°30'00"W.



EXHBIT 6-6

OLD SEAPORT PLACE INC
JAMES FIGUERADO
489 MADISON CT
FORT MYERS BEACH FL 33931

LALLO JOHN W & DEBORAH L
14526 RIVERSIDE DR
FORT MYERS FL 33905

KALYMNOUS PARTNERSHIP LLP
1001 ESTERO BLVD
FORT MYERS BEACH FL 33931

LEE COUNTY
PO BOX 398
FORT MYERS FL 33902

RICHARD JOHN W TR
237 OLD SAN CARLOS BLVD
FORT MYERS BEACH FL 33931

OLD SEAPORT PLACE INC
JAMES FIGUERADO
489 MADISON CT
FORT MYERS BEACH FL 33931

FREELAND FL HOLDINGS LLC
5333 HICKORY HOLLOW PKWY
ANTIOCH TN 37013

OLD SEAPORT PLACE INC
JAMES FIGUERADO
489 MADISON CT
FORT MYERS BEACH FL 33931

FREELAND FL HOLDINGS LLC
BERNARD G FREELAND
5333 HICKORY HOLLOW PKWY
ANTIOCH TN 37013

FIRST STREET RESTAURANTS INC
440 OLD SAN CARLOS BLVD
FORT MYERS BEACH FL 33931

ESTERO BAY HOTEL COMPANY
416 CRESCENT ST
FORT MYERS BEACH FL 33931

HOUSEBOAT LLC
237 OLD SAN CARLOS BLVD
FORT MYERS BEACH FL 33931

HOUSEBOAT LLC
237 OLD SAN CARLOS BLVD
FORT MYERS BEACH FL 33931

MERSCHMAN I LLC
1421 E LAKE SHORE DR
SPRINGFIELD IL 62712

HOUSEBOAT LLC
237 OLD SAN CARLOS BLVD
FORT MYERS BEACH FL 33931

ALN BEACHVIEW LLC
615 CAPE CORAL PKWY W # 104
CAPE CORAL FL 33914

ALN BEACHVIEW LLC
151 MATANZAS ST UPSTAIRS
FORT MYERS BEACH FL 33931

ESTERO BAY HOTEL COMPANY
416 CRESCENT ST
FORT MYERS BEACH FL 33931

ESTERO BAY HOTEL COMPANY
416 CRESCENT ST
FORT MYERS BEACH FL 33931

PIERHOUSE-FT MYERS BEACH LTD
1000 ESTERO BLVD
FORT MYERS BEACH FL 33931

HOUSEBOAT LLC
237 OLD SAN CARLOS BLVD
FORT MYERS BEACH FL 33931

SOB INC
340 OLD SAN CARLOS BLVD
FORT MYERS BEACH FL 33931

RICHARD JOHN W TR
237 OLD SAN CARLOS BLVD
FORT MYERS BEACH FL 33931

LIGHTHOUSE ISLAND RESORT INC
1051 5TH ST
FORT MYERS BEACH FL 33931

STINGRAYS RAW BAR INC
250 OLD SAN CARLOS BLVD
FORT MYERS BEACH FL 33931

HOLLAND DENNIS TR
570 KULAIWI DR
WAILUKU HI 96793

LIGHTHOUSE ISLAND RESORT INC
1051 FIFTH ST
FORT MYERS BEACH FL 33931

TPI-FMB LLC
103 15TH AVE NW STE 200
WILLMAR MN 56201

LEE COUNTY
PO BOX 398
FORT MYERS FL 33902

TOWN OF FORT MYERS BEACH
2525 ESTERO BLVD
FORT MYERS BEACH FL 33931

TPI-FMB LLC
103 15TH AVE NW STE 200
WILLMAR MN 56201

150 SAN CARLOS BLVD CORP
OMG INC
408 BROADWAY
NEW YORK NY 10013

TOWN OF FORT MYERS BEACH
FINANCE DEPT
2525 ESTERO BLVD
FORT MYERS BEACH FL 33931

CHAVEZ CARLOS L TR
991 AQUA LN
FORT MYERS FL 33919

CHAVEZ CARLOS L TR
991 AQUA LN
FORT MYERS FL 33919

BENSON BRADFORD J TR
927 PRESCOTT ST
FORT MYERS BEACH FL 33931

TOWN OF FORT MYERS BEACH
FINANCE DEPT
2525 ESTERO BLVD
FORT MYERS BEACH FL 33931

KLC SURF LLC
8201 MOCCASIN TRAIL DR
RIVERVIEW FL 33578

BIRKART HANS
151 MATANZAS ST
FORT MYERS BEACH FL 33932

RFN CORP
2401 ESTERO BLVD
FORT MYERS BEACH FL 33931

FREEMAN WILLIAM T &
15341 KILBIRNIE DR
FORT MYERS FL 33912

FREEMAN WILLIAM T &
15341 KILBIRNIE DR
FORT MYERS FL 33912

INTERNATIONAL CAPITAL
20 N MARTINGALE RD STE 180
SCHAUMBURG IL 60173

ANDERSON BRENT KORY &
13302 COACHFORD AVE
ROSEMOUNT MN 55068

MOSTEIRO CHRISTOPHER C +
923 THIRD ST
FORT MYERS BEACH FL 33931

HOULIHAN MARY N TR
917 THIRD ST
FORT MYERS BEACH FL 33931

DUDDY KATHLEEN & BRIAN TR
14 STETSON PL
DUXBURY MA 02332

CASEY KATHLEEN M +
32917 PEACH TREE LN
LEWES DE 19958

GREGG LEAH
253 PALERMO CIR
FORT MYERS BEACH FL 33931

URIAN JULIE A TR
432 BONITA ST
FORT MYERS BEACH FL 33931

FREELAND FL HOLDINGS LLC
BERNARD G FREELAND
5333 HICKORY HOLLOW PKWY
ANTIOCH TN 37013

TOMAILOLO FRANKLIN L &
934 THIRD ST
FORT MYERS BEACH FL 33931

932 THIRD STREET LLC
932 THIRD ST
FORT MYERS BEACH FL 33931

DUDDY BRIAN PATRICK TR
14 STETSON PL
DUXBURY MA 02332

FOSTER STEPHEN ALLEN
914 THIRD ST
FORT MYERS BEACH FL 33931

TYRELL PETER +
6 BURLEIGH ROAD
HEMEL HEMPSTEAD HP2 4PT
UNITED KINGDOM

KOSTER RODNEY A & THERESA A
880 THIRD ST
FORT MYERS BEACH FL 33931

KOSTER RODNEY A & THERESA A
880 THIRD ST
FORT MYERS BEACH FL 33931

TAMIA SA
949 STRATFORD DR
ENCINITAS CA 92024

WOODSON MARK T + KAREN K
820 THIRD ST
FORT MYERS BEACH FL 33931

KADO KELLY +
2560 ESTERO BLVD #6A
FORT MYERS BEACH FL 33931

KOSTER RODNEY A & THERESE A
880 THIRD ST
FORT MYERS BEACH FL 33931

PHELPS MICHAEL +
329 MEADOW RD
FARMINGTON CT 06032

PHELPS MICHAEL +
329 MEADOW RD
FARMINGTON CT 06032

LISAY CATHERINE MARY
435 BONITA ST
FORT MYERS BEACH FL 33931

ASHLAND PROPERTIES
10940 S PARKER RD #512
PARKER CO 80134

KIMYABAYKI SOROUGH +
91 PRINCESS DIANA DR
MARKHAM ON L6C 0H2
CANADA

GRIFFIS LLC
9051 E CHICAGO RD
JEROME MI 49249

BAHAN SUZANNE E +
169 OLD SAN CARLOS BLVD
FORT MYERS BEACH FL 33931

ZOZO INVESTMENTS LLC
173 OLD SAN CARLOS BLVD
FORT MYERS BEACH FL 33931

JENKINS CARROLL ANNE
3063 NORFOLK CR 23 RR6
TILLSONBURG ON N4G 4G9
CANADA

151 OLD SAN CARLOS LLC
17840 SAN CARLOS BLVD
FORT MYERS BEACH FL 33931

BENSON BRADFORD J II TR
927 PRESCOTT ST
FORT MYERS BEACH FL 33931

HOLIDAY COURT MOTEL LLC
PO BOX 1118
LABELLE FL 33975

HOLBROOK LESLIE E +
PO BOX 206
GALION OH 44833

PURTELL JAMES F TR
855 LAGOON ST
FORT MYERS BEACH FL 33931

BOYD TODD & JULIE
SOMERS WHARF
16 WATER ST UNIT L
ST GEORGES GE 04
BERMUDA

DULLARD ROBERT TR +
PO BOX 2695
FT MYERS BCH FL 33932

BLOCD AHL LEASING LLC
3538 TIMBER RIDGE TRL
CEDAR RAPIDS IA 52411

ISLAND GEM LLC
8044 ESTERO BLVD
FORT MYERS BEACH FL 33931

SOUTHLAND CORPORATION
CORPORATE TAX DEPT
2711 N HASKELL AVE
DALLAS TX 75204

COURTNEY S MARK & DEBORAH S TR
83 CRANBERRY RD
GROVE CITY PA 16127

PAINE FRED
823 LAGOON ST
FORT MYERS BEACH FL 33931

ARTRIP BARBARA K TR
850 LAGOON ST
FORT MYERS BEACH FL 33931

SCHWARTZ DEREK & KRISTEN
3329 ROSA AVE
NEW SMYRNA BEACH FL 32168

SAND CASTLE BEACH CLUB CONDO
905 ESTERO BLVD
FORT MYERS BEACH FL 33931

SAND CASTLE BEACH CLUB CONDO A
905 ESTERO BLVD
FORT MYERS BEACH FL 33931

MARINA VILLAGE AT SNUG HARBOR
PO BOX 2430
FORT MYERS BEACH FL 33932

HARBOUR HOUSE AT THE INN CONDO

L & R PROPERTIES OF SOUTHWEST
798 CYPRESS LAKE CIR
FORT MYERS FL 33919

L & R PROPERTIES OF SOUTHWEST
798 CYPRESS LAKE CIRCLE
FORT MYERS FL 33919

JENKINS FMB LLC
4407 SE 19TH PL
CAPE CORAL FL 33904

FIVE MILE STRETCH
2480 SHIPS WATCH CT
VIRGINIA BEACH VA 23451

BENNETT CHAD & LINDY
214 SANGRIA DR
VINE GROVE KY 40175

BEACH AT HARBOUR HOUSE LLC
2770 REYNOLDSBURG NEW ALBANY RD
BLACKLICK OH 43004

STUDE INVESTMENTS LLC
483 LUNA BELLA LANE
NEW SMYRNA BEACH FL 32168

PMS PROPERTY MANAGEMENT LLC
2478 ALEXANDRIA DR
LIMA OH 45805

FRASCHETTI EDWARD TR
450 OLD SAN CARLOS BLVD #312
FORT MYERS BEACH FL 33931

FRASCHETTI EDWARD TR
450 OLD SAN CARLOS BLVD #312
FORT MYERS BEACH FL 33931

FLORIDA CONFERENCE ASSOCIATION
351 S STATE ROAD 434
ALTAMONTE SPRINGS FL 32714

BUTCHER JEFFERY S
1114 N COURT ST # 189
MEDINA OH 44256

BOWLING LARRY L +
1691 BATTLESBURG ST SE
EAST SPARTA OH 44626

PMS PROPERTY MANAGEMENT LLC
PO BOX 161
DELPHOS OH 45833

SERRA LUIGI
5490 PRINCE EDWARD AVE # 30
NIAGARA FALLS ON L2G 0G5
CANADA

BLAIN GAIL
450 OLD SAN CARLOS BLVD #216
FORT MYERS BEACH FL 33931

HARBOUR HOUSE AT THE INN CONDO
PO BOX 152047
CAPE CORAL FL 33915

LETS JUST DO IT LLC
1331 N LELA LN
GREENFIELD IN 46140

SOLANS ENRIC & ANTOINETTE TR
1821 BOULDER DR
MOUNT PROSPECT IL 60056

DIVITO JAMES & LAURIE
27 RUSHMORE RD
FOX LAKE IL 60020

WEBER ROBERT & LINDA
798 CYPRESS LAKE CIR
FORT MYERS FL 33919

KNISELY JAMES E & DEBRA M
322 BOWERS AVE NW
NEW PHILADELPHIA OH 44663

ENTRUST FREEDOM LLC
6410 COPPERLEAF CT
HOLLAND MI 49423

FINCH WADE J + REBECCA J
711 1ST AVE NW
BRITT IA 50423

CONTINENTAL LAND MANAGEMENT IN
24545 WILLOWBY AVENUE
EASTPOINTE MI 48021

RUFENACHT RICHARD F TR
W6379 WALD RD
MONROE WI 53566

BUTCHER JEFFERY S &
1114 N COURT ST UNIT 189
MEDINA OH 44256

BUCHINGER DAVID
465 S WEST ST # 8
VASSAR MI 48768

FRASCHETTI EDWARD TR
450 OLD SAN CARLOS BLVD #312
FORT MYERS BEACH FL 33931

IMPACT USA INC
KENNETH W HELMS
506 VENETIAN DR
SANDUSKY OH 44870

IMPACT USA INC
KENNETH W HELMS
506 VENETIAN DR
SANDUSKY OH 44870

DJURIN GORAN & BRANKICA
8954 ELSMERE DR
PARMA OH 44130

LETS JUST DO IT LLC
1331 N LELA LANE
GREENFIELD IN 46140

CALLAHAN DANIEL A TR
105 110TH ST
SEATON IL 61476

TCB PROPERTIES
112 MILLER ROAD
SPRING MILLS PA 16875

T + J HOMES SWFL LLC
450 OLD SAN CARLOS BLVD #G101
FORT MYERS BEACH FL 33931

LARSEN DANIEL S TR
2810 ESTERO BLVD UNIT 711
FORT MYERS BEACH FL 33931

LARSEN DANIEL S TR
2810 ESTERO BLVD UNIT 711
FORT MYERS BEACH FL 33931

HARBOR HOUSE AT THE INN
PO BOX 152047
CAPE CORAL FL 33915

HARBOUR HOUSE AT THE INN CONDO
PO BOX 152047
CAPE CORAL FL 33915

LAVALLE TAYLOR
640 ESTERO BLVD
FORT MYERS BEACH FL 33931

OLD SAN CARLOS INN DEVELOPMENT
416 CRESCENT ST
FORT MYERS BEACH FL 33931

TITUS VINCENT E & JESSICA L
300 SEMINOLE WAY
FORT MYERS BEACH FL 33931

ESTERO BAY HOTEL COMPANY
414 CRESCENT ST
FORT MYERS BEACH FL 33931

ESTERO BAY HOTEL COMPANY
416 CRESCENT ST
FORT MYERS BEACH FL 33931

OLD SEAPORT PLACE INC
JAMES FIGUERADO
489 MADISON CT
FORT MYERS BEACH FL 33931

OLD SEAPORT PLACE INC
JAMES FIGUERADO
489 MADISON CT
FORT MYERS BEACH FL 33931

OLD SEAPORT PLACE INC
JAMES FIGUERADO
489 MADISON CT
FORT MYERS BEACH FL 33931

MARINA VILLAGE AT SNUG HARBOR
645 OLD SAN CARLOS BLVD #2
FORT MYERS BEACH FL 33931

MARINA VILLAGE AT SNUG HARBOR
645 OLD SAN CARLOS BLVD
FORT MYERS BEACH FL 33931

Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Supplement PH-B

Additional Required Information for a Variance Application

This is the second part of a two-part application. This part requests specific information for a variance. Include this form with the Request for Public Hearing form.

Case Number:
Project Name: 237 Parking Lot
Authorized Applicant: John W. Richard
LeePA STRAP Number: 24-46-23-W3-0050A.0080

Current Property Status: Developed
Current Zoning: Downtown
Future Land Use Map (FLUM) Category: Pedestrian Commercial
Comp Plan Density: Platted Overlay? ☐ Yes ☒ No

Variance is requested from:

LDC Section Number

Title of Section or Subsection

Pls see attached narrative supplement

Complete the narrative statements below for EACH variance requested.

PART I
Narrative Statements

Request for variance from 34-676 (b)(1) **(LDC Section number)**

Explain the specific regulation contained in this section from which relief is sought:
Pls see attached narrative

Reasons for request

Explain why the variance is needed:
Pls see attached narrative



Case # _____

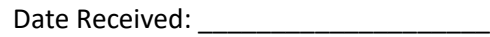
Date Received: _____

Explain the possible effect the variance, if granted, would have on surrounding properties:

Pls see attached narrative

Explain the hardship (what is unique about the property) that justifies relief from the regulation:

Pls see attached narrative



Pls see attached narrative

PART 2

Submittal Requirements

All applications for a variance must be submitted electronically through our Iworq portal - [iworq \(talktomycity.com\)](http://iworq.talktomycity.com)

Required Items

- Public Hearing Request Form
- Supplemental form PH-B
- Site Plan (to scale) including the current use of all existing structures on the site, and those on adjacent properties within 100 feet of the perimeter; and a clear illustration of the proposed variance
- Fee in the amount of \$1800.00 (residential)/Additional Variance \$500.00
- Variance (non-residential) \$2800.00/ Additional Variance \$700.00

Guide to filing PH-B Additional Required Information for a Variance Application

Cover page

Case Number will be inserted by Community Development staff.

Project Name must be the same as the name used on the Request for Public Hearing form.

Applicant must be the same as on the Request for Public Hearing form.

STRAP numbers must be the same as on the Request for Public Hearing form.

Current status of property must be the same as on the Request for Public Hearing form.

“Variance is requested from...” Provide the section number and title of each section of the Fort Myers Beach Land Development Code from which a variance is being sought.

Narrative statements

If the application is for multiple variances, complete all of the narrative statements for each variance that is requested.

Site plan

The site plan must show all existing structures on the site; all existing structures within 100 feet of the perimeter boundary of the site; and a clear illustration of the proposed variance.

LDC Section 34-87

The guidelines for decision-making regarding a request for a variance are as follows:

1. Whether there are exceptional or extraordinary conditions or circumstances that are inherent to the property in question, or whether the request is for a *de minimis* variance under circumstances or conditions where rigid compliance is not necessary to protect public policy;
2. Whether the exceptional or extraordinary conditions justifying the variance are or are not the result of actions of the applicant taken after the adoption of the regulation in question;
3. Whether the requested variance is the minimum variance to relieve the applicant of an unreasonable burden caused by the application of the regulation in question;
4. Whether granting the variance would be injurious to the neighborhood or otherwise detrimental to the public welfare;
5. Whether the conditions or circumstances of the specific piece of property or the intended use of the property for which the variance is sought are of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.

COMMUNITY DEVELOPMENT DEPARTMENT
Supplement PH-B
Additional Required Information for a Variance Application

PART I
Narrative Statements

This variance request is submitted in conjunction with a request for the extension of a previously approved permanent shared parking lot located at 237 Old San Carlos Boulevard (STRAP Number 24-46-23-W3-0050A.0080) (the “Property”). In order to accommodate the special exception request being made, variances from the following Town of Fort Myers Beach Land Development Code (“LDC”) provisions are needed:

1. Buffer Between Parking and ROW (10-416(c)(2))
2. Perimeter Buffering (10-416(d), Table 10-8, and 34-677(b)(3))
3. Parking Lot Location (34-676(b))
4. Parking Lot Interconnection (34-676(c))
5. Pedestrian System (34-2015(7))
6. Parking Dimensions (34-2016(1) and (2))
7. Visibility Triangle (34-3131)

The requests made herein are identical to the requests that were made as to the previously approved permanent shared parking lot for a portion of the Property. The special exception was approved with the adoption of Fort Myers Beach Resolution Number 14-07 (the “Special Exception Resolution”) and the associated variances were approved with the adoption of Fort Myers Beach Resolution Number 14-08 (the “Variance Resolution”), both of which were adopted on March 3, 2014 (collectively referred to hereinafter as the “Existing Approvals”).

The following identifies the portion of the Property with Existing Approvals (highlighted in yellow) and the portion that is the subject of this request (highlighted in green):

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12, Block A, Unit No 2 Island Shores, recorded in Plat Book 9, Page 25, Public Records of Lee County, Florida (the “Island Shores Plat”)

Portion of vacated lagoon right-of-way, Unit No 2 Island Shores, recorded in Plat Book 9, Page 25, Public Records of Lee County, Florida, as more particularly described in Official Records Book 2736, Page 3705 *et seq.* and Official Records Book 2858, Page 1394, both of the Public Records of Lee County, Florida

Lot 1, Block B, Matanzas View, recorded in Plat Book 9, Page 40, Public Records of Lee County, Florida (the “Matanzas Plat”)

Similarly, the property highlighted in **yellow** below identifies the area subject to Existing Approvals, and the property highlighted in **green** below identifies the area that is the subject of this request (with the picture on the left being a snippet from the Island Shores Plat and the picture on the right being a snippet from the Matanzas Plat):



The variance requests set forth in this document are meant to apply to the property highlighted in **green**. Though the portion of the Property highlighted in **yellow** received the necessary approvals, it has not been put into use as a permanent shared parking lot, instead operating in conformance with Section 34-2019(a) of the LDC.¹ With the approval of this request to extend the previously approved variances to the remainder of the Property, the intention is to put the entire Property into operation as one cohesive permanent shared parking lot.

The permanent shared parking lot has been designed to operate in the same manner as the permanent shared parking lot located directly across Old San Carlos Boulevard at what is now identified as 318/320 Old San Carlos Boulevard (STRAP Number 24-46-23-W3-00203.0020). In the way of background, 318/320 Old San Carlos Boulevard was identified in the Existing Approvals as the “South Parcel,” while the area highlighted in yellow above was identified as the “North Parcel.” As applied to the South Parcel, the Existing Approvals were meant to carry forward a use that was first permitted by Town of Fort Myers Beach Resolution Number 99-40, adopted by the Town Council on October 11, 1999. This use was again permitted when the Town Council approved Town of Fort Myers Beach Resolution Number 01-03 on January 22, 2001, which rezoned the North Parcel and the South Parcel from a commercial conventional district to Commercial Planned

¹ Section 34-2019(a) of the LDC specifically provides that “[p]arking spaces that are not in daily use and are located in parking lots having ten or more parking spaces and meeting the other requirements of this division may be rented to the general public during peak periods.”

Development (CPD) with “parking, commercial” and “parking, accessory” as approved uses on the South Parcel.

When the Existing Approvals were granted, the Town Council also approved another rezoning of the North Parcel and the South Parcel. That is, the Town Council approved Fort Myers Beach Resolution Number 14-06 (the “Rezoning Resolution”), which changed the zoning on both parcels from CPD to the Downtown conventional zoning district. Without the benefit of uses specified in the Rezoning Resolution itself, the applicant obtained the Existing Approvals to allow for the continued operation of the permanent shared parking lot on the South Parcel by way of the special exception process required for conventional zoning districts. At the same time, the use was also permitted on the North Parcel. The South Parcel has been in continuous use as a permanent shared parking lot since the original approval in 1999 and has operated with the same variances being requested herein since the Existing Approvals were granted in 2014.

Consistent with Section 34-2015 of the LDC, *Location and design*, the permanent shared parking lot to be operated on the Property has been designed with sufficient maneuvering room so that existing vehicles can leave the parking lot in a forward motion. The parking lot is and will be paved for high turnover use. In a general sense, the variances requested herein are the *de minimis* variance under the circumstances and rigid compliance is not essential to protect public policy. Rather, parking on Old San Carlos Boulevard, specifically, and in the Downtown district, generally, is difficult to secure given the abundance of commercial enterprises but lack of real property. The Town has recognized this predicament in the Transportation Element of its Comprehensive Plan where shared parking lots are encouraged as follows:

It has been widely demonstrated that parking lots serving a variety of land uses require much less space than separate on-site lots for each business. Fort Myers Beach can make walking more pleasant by wasting as little land as possible on parking lots. Shared parking lots are ideal when businesses are relatively small, clustered together, and have different busy periods (as at Times Square).

The same Transportation Element specifically references the suggestion made by a parking analysis performed by the Estero Island CRA in 1993 to provide shared parking along Old San Carlos Boulevard:

In addition to the new on-street spaces, the CRA study suggested creating a reservoir of shared parking behind businesses along Old San Carlos Boulevard. Storefronts would be built up to the right-of-way line of Old San Carlos, improving the pedestrian character of the street by replacing individual front parking lots with continuous storefronts. The result would be a high-quality urban streetscape similar to Los Olas Boulevard and Celebration as described above.

These same sentiments are carried forward in Policy 7-F-1 and Policy 7-F-2 of the Transportation Element.

It is important to note that the proposed site plan submitted with this request is in large part consistent with Figure 22 found in Appendix A to the Transportation Element, except that, to maximize parking available, one of the variances being requested is to allow for parking on the side of the building in addition to being located behind the building located on the Property. In fact, two of the existing buildings will be demolished to provide the additional space needed. The following is a comparison of Figure 22 (left), which is from the Core Area Master Plan prepared by Wallace, Roberts & Todd (WRT) in December 1995, to the proposed site plan (right):

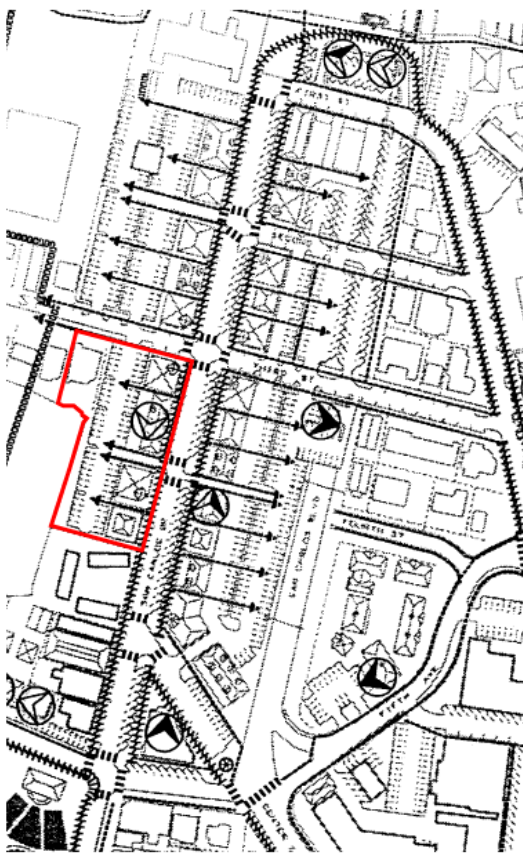
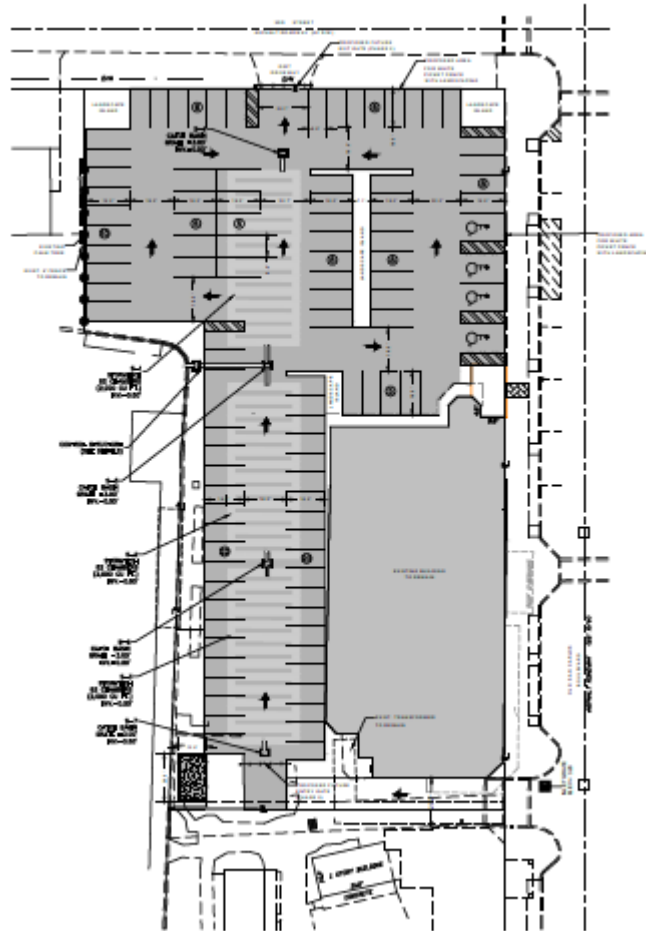


Figure 22, WRT master plan, with arrows showing access from Old San Carlos to shared parking lots behind buildings



By granting these variances, which the Town recognizes are needed to accommodate additional parking in light of conventional parking requirements², additional parking will be provided for those visiting the Town of Fort Myers Beach. This can be done without the need for parking garages suggested by the Comprehensive Plan, though it is also important to point out that properties in this area have been identified as potential locations for mid-block parking garages through the Old San Carlos Boulevard/Crescent Street Master Plan. The following Figure 34-8 from the LDC identifies these locations (shown as black squares) as compared to the Property (outlined in red):



Figure 34-8

Approval of this request, as well as the concurrent Special Exception request, will provide additional parking in this area at no expense to the Town. Accordingly, granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare. Instead it will provide a much needed resource. Given its location in the Old San Carlos area of the Downtown district, which is greatly limited in size, the conditions of the Property are not of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.

² The “Implementing Shared Parking” section of Appendix A to the Transportation Element provides the following:

The redevelopment overlay district adopted by the town provides some relief, and some businesses have obtained variances from the conventional parking requirements. Without a clearer path during this interim period, however, the town may lose some opportunities to see its redevelopment plan move forward with private financing. Some alternatives are:

- Modifying development regulations to make it easier for businesses to substitute private arrangements they may be able to make for nearby (but not on-site) parking.
- If a parking garage is built, businesses could purchase some of its capacity (not necessarily specific parking spaces) for their customers.
- The town could act as a catalyst for the WRT shared parking concept. This could be done by requiring new development along Old San Carlos to design their sites to accommodate shared parking, or by actually acquiring key easements, or even building public parking lots in the suggested configuration.

Rather, the variance is the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the conventional parking requirements to the Property.

These same general arguments are meant to justify each of the variance requests discussed in further detail below.

I. Internal Landscaping - 10-416(c)(2)

The applicant requests a variance from Section 10-416(c)(2), *Internal landscaping*, relative to internal landscaping requirements for parking lots, to allow for no internal landscape parking lot improvements, including the following:

- A. No tree requirement (10-416(c)(2)a.);
- B. No internal landscape islands (10-416(c)(2)b.);
- C. No 10' wide internal landscaped area (10-416(c)(2)c.);
- D. No landscape interruption by divider median (10-416(c)(2)d.);
- E. No divider median (10-416(c)(2)e.);
- F. No interior landscape with grass, groundcover, shrubs, or other approved landscaping materials (10-416(c)(2)f.); and
- G. No tree grates (10-416(c)(2)g.).

Section 10-416(c)(2) of the LDC provides a landscaping requirement for internal improvements to parking lots. Basically, it appears this provision was taken from the Lee County Land Development Code, which recognizes that parking is typically placed along the front of the parcel between the right-of-way and the principal structure. Therefore, landscaping is part of the public view area.

The specific design requirements for the Downtown core, and specifically Old San Carlos, provide that buildings be built with a zero foot (0') build-to line along the Old San Carlos street right-of-way. Thus, there will not be permanent parking lots along Old San Carlos that require internal landscaping.

Also, the criteria initially adopted by Lee County was likely drafted to apply to larger parcels than one would find in the Downtown core of Fort Myers Beach. Therefore, parking on a relatively small parcel compared to the application of these criteria on large tracts affects the ability to provide parking.

The variance will be a benefit not only to the property owner, but to the Town, allowing for the maximization of parking consistent with the strategies developed and adopted by the Town Council for Times Square and Old San Carlos.

II. Perimeter Buffering - 10-416(d), Table 10-8, and 34-677(b)(3)

Pursuant to Table 10-8 of the LDC, a Type D buffer is required between a parking use and a right-of-way. The applicant requests a variance from this requirement to allow, in its place, a four foot (3') white picket fence with landscaping. We respectfully submit that a variance should be granted from this provision of the LDC where Old San Carlos and Third Street have unique "build-to lines" and due to the required access with visibility triangles on side streets and Old San Carlos for entrance and exit.

Section 34-676 provides support for the Town's "Park Once" district. Although future goals include the Town providing additional parking, the Town should support maintaining existing parking and support additional parking to be provided by the private sector.

As to the buffer between the parking and ROW, we specifically submit that other provisions of the LDC reflect that this should not be a requirement along Old San Carlos. The buffer provision applies to the entire Downtown zoning district. But the LDC **requires** that **ONLY** on Old San Carlos the build-to-line must be a zero foot (0') setback. Thus, the LDC requires that the building be a zero setback and any buffer would be required to be removed. The Code does not require a needless act; approval of the variance is the appropriate relief rather than amending the Code.

Also, the build-to-line along Third Street is zero feet (0') to five feet (5'). See Section 34-674(a)(1)b of the LDC. A fifteen foot buffer along one lot line is a fifteen foot (15') taking of parking.

This is the minimum variance and is identical to the variances granted by the Town Council's approval of the Variance Resolution.

III. Parking Lot Location - 34-676(b)

As noted above, the applicant is requesting a variance to allow for off-street parking in the front and side yards as depicted on the proposed site plan. The request is the minimum variance to allow for a permanent shared parking lot where a portion is along Old San Carlos and the side street right-of-way. The granting of the variance will not injure or be detrimental. To the contrary, the off-street parking is an asset to the Downtown district. This use provides parking for the core area of the Downtown District, which is Times Square and Old San Carlos.

Much of Old San Carlos is developed with existing buildings. Therefore, a variance related to the location of parking lots along Old San Carlos is appropriate for recognition of the existing parking use along Old San Carlos and Third Street, adjacent to the Shipwreck building rather than behind it. Because development is unique along Old San Carlos, it is not practical to amend the regulation that applies to the remainder of the Downtown district.

IV. Parking Lot Interconnection - 34-676(c)

The Downtown Zoning District provisions require rear-yard parking lots on properties fronting along Old San Carlos Boulevard to be interconnected to eliminate or minimize driveways to Old San Carlos Boulevard. This request to allow no interconnection with adjacent property is essentially a request to avoid liability. Additionally, the adjacent property, which is also owned by the

applicant, is developed and does not currently allow for vehicular access or parking, so there is nothing to connect to.

V. Pedestrian System - 34-2015(7)

This provision of the LDC requires that walkways must be provided which accommodate safe and convenient pedestrian movement in any parking lot where more than one tier of parking spaces is to be developed. The applicant is requesting a variance to eliminate this requirement. As has been noted previously, this request is simply to extend an existing parking lot, operating in conformance with Section 34-2019(a) of the LDC, to the entire Property, which will then be operated as a permanent shared parking lot pursuant to Section 34-2011(2) of the LDC. The existing parking lot on the South Parcel does not have a pedestrian walkway and there have been no incidents involving a pedestrian-vehicle accident in the time it has been operating in that manner.

VI. Parking Dimensions - 34-2016(1) and (2)

This is a request for a variance from Land Development Code Section 34-2016(1) and (2), Dimensions, to permit the following parking dimensions:

Angle	Parking Spaces	One-Way Aisle	Two-Way Aisle
45°	8' x 16'	10'	20'
60°	8' x 16'	12'	20'
75°	8' x 16'	15'	20'
90°	8' x 16'	18'	20'

The identical relief was granted by the Town Council's approval of the Variance Resolution. Parking has operated safely and efficiently on the South Parcel with these dimensions. These are appropriate dimensions for the size of the vehicles that typically use the parking.

VII. Visibility Triangle - 34-3131

The applicant is requesting a variance from Section 34-3131 of the LDC to eliminate the required visibility triangle for the access on Third Street. An on-site visibility triangle provides no benefit and is not necessary for ingress or egress to the parking area. A visibility triangle will not provide increased visibility in this location. These statements are supported by the fact that Section 34-3131(a) of the LDC provides an exception from the prohibition against structures or plantings between two feet (2') and six feet (6') above the average grade of each street within the visibility triangle when applied to Old San Carlos Boulevard.

18708982_2

**Town of Fort Myers Beach
Agenda Item Summary**

Yellow Sheet Number: **2023-894**

1. Requested Motion:

Meeting Date: January 18, 2023

VAR20220098 3780 Estero Blvd- Variance for the reduction of side setbacks by 1.5 feet.

Why the action is necessary:

The LPA is the recommending body for variances.

What the action accomplishes:

The LPA recommendation will be forwarded to the Town Council.

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

This will be a resolution.

5. Background:

The applicant for 3780 Estero Boulevard, is requesting a variance from the Town's Land Development Code (LDC) Side Setbacks: sec. 34-638(d)(6)a. (including Note 10) which requires that a single-family home in the RC District provide side setbacks equal to 15% of the lot width. The lot is 77 feet wide, which would require side setbacks of 11.5 feet. The applicant requested a DEP zoning letter prior to the LDC update changing the side setbacks to 15%.

Attachments:

1. 3780 estero blvd- setback variance
2. Exhibit A Complete Variance Application

Financial Impact:

unknown

6. Alternative Action

Recommend Approval

7. Staff Recommendations:

Recommend denial of variance request.

8. Recommended Approval:

Jason Green, Community Development Services

Date: January 12, 2023

John R Herin Jr, Town Attorney

Date: January 12, 2023

Amy Baker, Town Clerk

Date: January 12, 2023



Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

TYPE OF CASE: Variance

CASE NUMBER: VAR20220098

CASE NAME: 3780 Estero Boulevard; requesting relief from LDC 34-638(d)(6)(a) including note 10) which requires that a single-family home in the RC zoning district provide side setbacks equal to 15%, but not less than 7.5 feet on each side.

LPA

HEARING DATE: January 18, 2023

STAFF

RECOMMENDATION: DENIAL for reduction of both side setbacks

**PREPARED/
SUBMITTED BY:** Sarah Propst / Jason Green AICP

I. APPLICATION SUMMARY

Applicant/Owner: Fred Drovdlc, AICP (Applicant)/ Mathew L Davis & Kristi A Davis (Owner)

Request: Relief from LDC 34-638(d)(6)a. (including Note 10) which requires that a single-family home in the RC District provide side setbacks equal to 15% of the lot width, but not less than 7.5 feet on each side.

The lot is 77 feet wide. 15% of the lot width is equal to a setback of 11.5 feet on both the eastern and western boundaries. The request is to allow a 10-foot setback or a variance of 1.5 feet on both sides.

Subject property: See attached site plan

Physical Address: 3780 Estero Boulevard

STRAP #: 29-46-24-W1-00181.0010

FLU: Mixed Residential and Recreational

Zoning: Residential Conservation (RC) and Environmental Conservation (EC)

Adjacent zoning and land uses:

North: RESIDENTIAL CONSERVATION (RC)
Single-Family Residence

South: RESIDENTIAL CONSERVATION (RC)
Single-Family Residence

East: INSTITUTIONAL (IN)
Church

West: Gulf of Mexico
Open Space

II. BACKGROUND AND ANALYSIS

Background:

Fred Drovdic, AICP, the applicant for 3780 Estero Boulevard, is requesting a variance from the Town's Land Development Code (LDC):

1. Side Setbacks: sec. 34-638(d)(6)a. (including Note 10) which requires that a single-family home in the RC District provide side setbacks equal to 15% of the lot width, but not less than 7.5 feet on each side.

Analysis:

The width of the lot and the minimum setbacks in the LDC guide the development of a home. On January 07, 2022, the Applicant was provided an affirmative government approval by the city staff through a FDEP Setback Letter for their plans. The plan approved at that time, was designed per the previous code, requiring a 10 feet wide side setback on both sides of the property. On Feb 07, 2022, the Fort Myers Beach Town Council revised the side setback regulations dictated by LDC 34-638 (d) (6), to require a side setback equal to 15% of the lot width or 11.5 feet for the Applicant.

The Applicant is requesting a variance of 1.5 feet from the required 11.5 feet to allow a 10-foot side setback on both sides of the property

Neighborhood Compatibility:

Although, the proposed scale of the house is generally larger than most of the existing homes, there are two to three homes (including the property on the North) supporting even larger building footprint with lesser side setbacks in the neighborhood.

Findings and Conclusions:

LDC Sec. 34-87 sets forth the required findings and conclusions for the approval of a variance:

- a. *That there are/**are not** exceptional or extraordinary conditions or circumstances that are inherent to the property in question, or that the request **is/is not** for a de minimis variance under circumstances or conditions where rigid compliance is not essential to protect public policy.*

The applicant's lot is 77 feet wide and 246 feet deep. There are no exceptional or extraordinary conditions that are inherent to the property and restrict its substantial use. There are, however, existing residences of larger scale in the neighborhood supporting lesser setbacks making the proposed house consistent with the neighborhood. Therefore, rigid compliance of the code is not essential to protect public policy.

- b. *That the conditions justifying the variance **are/are not** the result of actions of the applicant taken after the adoption of the regulation in question.*

The homeowner could feasibly reduce the width of the proposed structure and could meet the more restrictive side/ rear-yard setbacks in effect as of this application.

- c. *That the variance granted **is/is not** the minimum variance that will relieve that applicant of an unreasonable burden caused by the application of the regulation in question to his property.*

Prior to the code change, the applicant was given an affirmative government action on January 7, 2022 in the form of a DEP zoning letter. Based on the approved plan, the proposed construction would constitute the minimum development necessary to meet the wants and needs of the applicant. If the variance is granted, it will relieve the applicant of a burden caused by code revisions after the government action was issued.

- d. *That the granting of the variance will/**will not** be injurious to the neighborhood or otherwise detrimental to the public welfare; and*

The granting of this variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

- e. *That the conditions or circumstances on the specific piece of property for which the variance is sought **are/are not** of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.*

Changes to the code made this variance request necessary and staff is proposing further changes to the code per a request by the LPA.

III. RECOMMENDATION

Staff has reviewed the request for a variance *from LDC 34-638(d)(6)a. (including Note 10) which requires that a single-family home in the RC District provide side setbacks equal to 15% of the lot width, but not less than 7.5 feet on each side* and found that the variance request does not meet the requirements set-forth in sec. 34-87.

Therefore, staff recommends **DENIAL** of VAR20220098, to construct a single-family home with ten-foot setbacks from both side property lines.

Attachments

Exhibit A - Application



August 19, 2022

Town of Fort Myers Beach
Planning and Zoning Division
2525 Estero Boulevard
Fort Myers, Florida 33931

**RE: 3780 ESTERO BOULEVARD VARIANCE
Variance Application**

Community Development Reviewer:

On behalf of Matt Davis ("Applicant") RVI Planning and Landscape Architecture is pleased to submit the enclosed variance petition requesting a side setback variance for a new single-family home on 3780 Estero boulevard ("Property").

HISTORY/BACKGROUND

The Property is a 0.424± acre parcel, or 18,460 sf. There are no improvements found above or below ground. The Property is generally located 2.2 miles south of Times Square on the Gulf side of Estero Boulevard near intersection of St. Peters Drive and Bay Mar Drive in the Town of Fort Myers Beach, Florida. An aerial exhibit depicting the project location is attached to this application as Exhibit 5-3.

The Property is zoned Residential Conservation (RC) and Environmentally Critical (EC) and is within the Mixed Residential (MR) future land use category. The property has approximately 77+/- feet of frontage on Estero Boulevard and 246+/- feet of depth.

The current owners wish to construct a single-family home designed by Potter Homes. The rendering of the proposed residence is an Exhibit 5-3. Potter Homes was engaged in 2021 and submitted building plans to the Town staff in late 2021.

REQUEST

Relief from LDC 34-638(d)(6)a. (including Note 10) which requires that a single-family home in the RC District provide side setbacks equal to 15% of the lot width, but not less than 7.5 feet on each side. The request is to allow a 10-foot setback on each side. The lot is 77 feet wide. 15% of the lot width is equal to a setback of 11.6 feet on both the eastern and western boundaries (abutting the residences next to the subject property). Therefore, the variance request is:

- Relief from LDC 34-638(d)(6)a. (including Note 10) that requires an 11.6 foot setback on both sides of the property, to allow setbacks of 10 feet – a variance of 1.6 feet on both sides.

JUSTIFICATION:

A letter of setback compliance was issued January 7, 2022. The statement from the document is, "Based on the provided plans, the proposed single-family dwelling and pool fit within the setbacks for RC-Residential Conservation zoning district."

The code was changed after receiving preliminary approval of site plans in January 2022. The code was changed February 7, 2022 affecting the setbacks of this property by adding 1.6 feet to the previously established 10 foot side setbacks.

VARIANCE CRITERIA:

The following is a detailed analysis of this request's compliance with the variance review criteria set forth in LDC Section 34-87:

1. Whether there are exceptional or extraordinary conditions or circumstances that are inherent to the property in question, or whether the request is for a de minimis variance under circumstances or conditions where rigid compliance is not necessary to protect public policy;

The Applicant's request is de minimis in nature to realize the building plans that were approved prior to the code change. Setbacks under the new code can be as little as 7.5 feet on smaller lots.

2. Whether the exceptional or extraordinary conditions justifying the variance are or are not the result of actions of the applicant taken after the adoption of the regulation in question;

The variance request is not the result of action taken by the current property owner, who received a letter of setback compliance for the active building permit review one month prior the setback code being changed. The Town Council changed the code, not the applicant.

3. Whether the requested variance is the minimum variance to relieve the applicant of an unreasonable burden caused by the application of the regulation in question;

The Applicant's request is de minimis in nature to realize the building plans that were approved prior to the code change.

4. Whether granting the variance would be injurious to the neighborhood or otherwise detrimental to the public welfare;

The granting of this variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare. Prior to the code change the setbacks were met as the code was stated during review. The 10-foot setback is more than the revised code allows as it is a sliding scale based on lot width allowing a possible setback of 7.5 feet.

5. Whether the conditions or circumstances of the specific piece of property or the intended use of the property for which the variance is sought are of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.

This variance request is not recurrent but unique to this property and circumstance in time.

Based upon the above analysis, the Applicant respectfully requests approval of this variance petition. The approval will uphold the intent of the Land Development Code and Comprehensive Plan. The request complies with the variance review criteria, and will not negatively impact compatibility, public health, safety or welfare.

If you have any further questions, please do not hesitate to contact me directly at (239) 318-6707 or fdrovdlic@rviplanning.com.

Sincerely,

RVi Planning + Landscape Architecture



Fred Drovdlis, AICP
Planning Director

PROJECT NUMBER:

DATE:



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

APPLICATION for PUBLIC HEARING

This is a two part application. Please be sure to fill out this form, which requires general information, as well as the Supplemental Form application specific to action requested for the subject property. Please submit *one ORIGINAL paper copy, fourteen (14) copies* of all required applications, supplemental information, exhibits and documents. Please do not print and copy the instructions at the end of the application. In addition to application fees, the applicant is required to pay for (2) sets of mailings to neighboring property owners within 500', and all advertising fees.

Site Address: 3780 Estero Boulevard, Fort Myers Beach, FL 33931

STRAP Number: 29-46-24-W1-00181.0010

Applicant: Matt Davis Phone: 239-318-6707

Contact Name: Matt Davis Phone: _____

Email: mattlogandavis@gmail.com Fax: NA

Current Zoning District: Residential Conservation (RC) and Environmental Conservation (EC)

Future Land Use Map (FLUM) Category: Mixed Residential (MR)

FLUM Density Range: 6 du/acre Platted Overlay: ☐ YES ☐ NO

ACTION REQUESTED

☐ Special Exception

☒ Variance

☐ Conventional Rezoning

☐ Planned Development ☐ Commercial ☐ Residential

☐ Master Concept Plan Extension

☐ Appeal of Administrative Action

☐ Vacation of Platted Right-of-way and Easement

☐ Other – cite LDC Section: _____

SUPPLEMENTAL FORM REQUIRED

PH-A

PH-B

PH-C

PH-D

PH-E

PH-F

PH-G

attach on separate sheet

PROJECT NUMBER:

DATE:

PART I – General Information

A. Applicant*: Matt Davis Phone: _____

**Applicant must submit a statement under oath that he/she is the authorized representative of the property owner. Please see PART III to complete the appropriate Affidavit form for the type of applicant.*

Applicant Mailing Address: 415 MACKENZIE CT, SAINT PETER, MN 56082

Email: mattlogandavis@gmail.com Fax: N/A

Contact Name: Matt Davis Phone: _____

B. Relationship of Applicant to subject property:

- | | | |
|---|---|--|
| ☒ Owner* | ☐ Land Trust* | ☐ Partnership* |
| ☐ Corporation* | ☐ Association* | ☐ Condominium* |
| ☐ Subdivision* | ☐ Timeshare Condo* | ☐ Contract Purchaser* |
| ☐ Authorized Representative* ☐ Other* (please indicate) _____ | | |

**Applicant must submit a statement under oath that he/she is the authorized representative of the property owner. Please see PART III to complete the appropriate Affidavit form for the type of applicant.*

C. Authorized Agent(s). Please list the name of Agent authorized to receive correspondence Agents

Name: Fred Drovdlc, AICP Phone: 239-318-6707

Address: Waldrop Engineering, 1514 Broadway #201, Fort Myers, FL 34195

Email: fdrovdlc@rviplanning.com Fax: 239-405-7899

D. Other Agent(s). Please list the names of all Authorized Agents (attach extra sheets if necessary)

Name: Nate Johnson Phone: 239-233-6064

Address: Potter Homes, 3525 Bonita Beach R.,d Suite 11,2 Bonita Springs, FL 34134

Email: Nate@potterhomesinc.com Fax: _____

Name: _____ Phone: _____

Address: _____

Email: _____ Fax: _____

PROJECT NUMBER:

DATE:

Name: _____

Phone: _____

Address: _____

Email: _____

Fax: _____

PART II – Nature of Request

Requested Action (each request requires a separate application)

☐ Special Exception

☒ Variance from LDC Section LDC 34-638(d)(6)a.(Note 10) - Side setbacks

☐ Conventional Rezoning from _____ to _____

☐ Planned Development

☐ Rezoning from _____ to ☐ Commercial PD ☐ Residential PD

☐ Amendment. List the project number: _____

☐ Extension/reinstatement of Master Concept Plan. List project number: _____

☐ Appeal of Administrative Action

☐ Vacation ☐ Right-of-Way ☐ Easement

☐ Other. Please Explain: _____

PART III – Waivers N/A

Please indicate any specific submittal items that have been waived by the Director for the request.
Attach a copy of the signed approval as Exhibit 3-1. (Use additional sheets if necessary)

Code Section: _____

Description: _____

Code Section: _____

Description: _____

Code Section: _____

PROJECT NUMBER:

DATE:

Description: Relief from LDC 34-638(d)(6)a. (Note 10) where SF home in RC District must provide side setbacks equal to 15% of the lot width; to allow a 10-foot setback on each side

PART IV – Property Ownership

☒ Single Owner (individual or husband and wife)

Name: SAME AS APPLICANT

Phone: _____

Mailing Address: _____

Email _____

Fax: _____

☐ Multiple Owners (including corporation, partnership, trust, association, condominium, timeshare, or subdivision)

☐ Complete Disclosure of Interest Form (see below)

☐ Attach list of property owners as Exhibit 4-1

☐ Attach map showing property owners interests as Exhibit 4-2 (for multiple parcels)

☐ For condominiums and timeshares see Explanatory Notes Part IV (Page 11)

DISCLOSURE OF OWNERSHIP INTEREST

SEE ATTACHED.

STRAP: 29-46-24-W1-00181.0010

If the property is owned in fee simple by an INDIVIDUAL, tenancy by the entirety, tenancy in common, or joint tenancy, list all parties with an ownership interest as well as the percentage of such interest.

Name and Address

Percentage Ownership

Matt Davis

100%

415 MACKENZIE CT, SAINT PETER, MN 56082

If the property is owned by a CORPORATION, list the officers and stockholders and the percentage of stock owned by each.

PROJECT NUMBER:

DATE:

Name, Address and Office

Percentage of Stock

If the property is in the name of a TRUSTEE, list the beneficiaries of the trust with percentage of interest.

Name and Address

Percentage of Interest

If the property is in the name of a GENERAL PARTNERSHIP OR LIMITED PARTNERSHIP, list the names of the general and limited partners.

Name and Address

Percentage of Ownership

PROJECT NUMBER:

DATE:

If there is a CONTRACT FOR PURCHASE, whether contingent on this application or not, and whether a Corporation, Trustee, or Partnership, list the names of the contract purchasers below, including the officers, stockholders, beneficiaries, or partners.

Name, Address and Office

Percentage of Stock

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Date of Contract:

If any contingency clause or contract terms involve additional parties, list all individuals or officers, if a corporation, partnership, or trust.

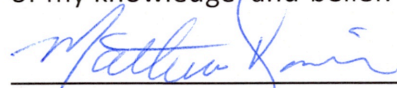
Name

Address

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

For any changes of ownership or changes in contracts for purchase subsequent to the date of the application, but prior to the date of final certificate of compliance, a supplemental disclosure of interest must be filed.

The above is a full disclosure of all parties of interest in this application, to the best of my knowledge and belief.


Signature

Matt Davis Mathew Davis
Printed Name

SIGN HERE

PROJECT NUMBER:

DATE:

**STATE OF FLORIDA)
COUNTY OF LEE)**

Subscribed and sworn to (or affirmed) before me this _____ day of _____,
20_____, by _____.

Notary Public Signature

(SEAL)

Notary Printed Name

Personally Known _____ or Produced Identification _____

Type of Identification Produced: _____ My Commission Expires: _____

PART V – Property Information

A. Legal Description:

STRAP: 29-46-24-W1-00181.0010

Property Address: 3780 Estero Boulevard, Fort Myers Beach, FL 33931

Is the subject property within a platted subdivision recorded in the official Plat Books of Lee County? ☐ No. Attach a legible copy of the legal description as Exhibit 5-1.

☒ Yes. Property identified in subdivision: Case Subdivision

Book: 1 Page: 58 Unit: _____ Block: 00181 Lot(s): 0010

B. Boundary Survey:

☒ Attach a Boundary Survey of the property meeting the minimum standards of Chapter 61G17-6 of the Florida Administrative Code. A Boundary Survey must bear the raised seal and original signature of a Professional Surveyor and Mapper licensed to practice Surveying and Mapping by the State of Florida. Attach and label as Exhibit 5-2.

C. Property Dimensions:

Width (please provide an average width if irregular in shape) 81+/- feet

PROJECT NUMBER:

DATE:

Depth (please provide an average width if irregular in shape) 246+/- feet

Frontage on street: 77' Estero feet. Frontage on waterbody: 77+/- feet

Total land area: 0.424+/- ☒ acres ☐ square feet

D. General Location of Subject Property (from Sky Bridge or Big Carlos Pass Bridge):

The Property is generally located 2.2 miles south of Sky Bridge

– a little more than 4 miles to Big Carlos Path Bridge on the Gulf side of

Estero Boulevard near cross roads St. Peters Drive and Bay Mar Drive

in the Town of Fort Myers Beach, Florida

☒ Attach Area Location Map as Exhibit 5-3

E. Property Restrictions (check applicable):

☒ There are no deed restrictions and/or covenants on the subject property.

☐ A list of deed restrictions and/or covenants affecting the subject property is attached as Exhibit 5-4.

☐ A narrative statement detailing how the restrictions/covenants may or may not affect the request is attached as Exhibit 5-5.

F. Surrounding Property Owners (these items can be obtained from the Lee County Property Appraiser):

☒ Attach a list of surrounding property owners within 500 feet as Exhibit 5-6.

☒ Attach a map showing the surrounding property owners as Exhibit 5-7.

☒ Provide Staff with two (2) sets of surrounding property owner mailing labels.

G. Future Land Use Category (see Future Land Use Map):

☐ Low Density

☐ Marina

☒ Mixed Residential

☐ Recreation

☐ Boulevard

☐ Wetlands

☐ Pedestrian Commercial

☐ Platted Overlay

H. Zoning (see official Zoning Map):

☐ RS (Residential Single-family)

☐ CF (Community Facilities)

☒ RC (Residential Conservation)

☐ IN (Institutional)

PROJECT NUMBER:

DATE:

- | | |
|--|--|
| ☐ RM (Residential Multifamily) | ☐ BB (Bay Beach) |
| ☐ RPD (Residential Planned Development) | ☐ EC (Environmentally Critical) |
| ☐ CM (Commercial Marina) | ☐ DOWNTOWN |
| ☐ CO (Commercial Office) | ☐ SANTOS |
| ☐ CB (Commercial Boulevard) | ☐ VILLAGE |
| ☐ CR (Commercial Resort) | ☐ SANTINI |
| ☐ CPD (Commercial Planned Development) | |

PART VI SEE ATTACHED.

AFFIDAVIT

APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

I, Matt Davis swear or affirm under oath, that I am the owner or the authorized representative of the owner(s) of the property and that:

I have full authority to secure the approval(s) requested and to impose covenants and restrictions on the referenced property as a result of any action approved by the Town of Fort Myers Beach in accordance with this application and the Land Development Code;

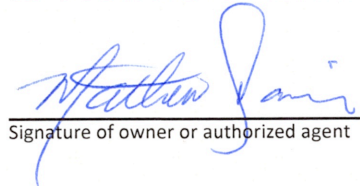
All answers to the questions in this application and any sketches, data or other supplementary matter attached hereto and made a part of this application are honest and true;

PROJECT NUMBER:

DATE:

I have authorized the staff of the Town of Fort Myers Beach Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made thru this application; and that

The property will not be transferred, conveyed, sold or subdivided unencumbered by the conditions and restrictions imposed by the approved action.



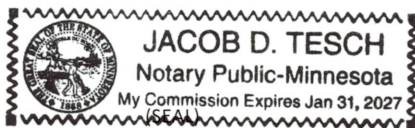
Signature of owner or authorized agent

8-26-2022

Date

STATE OF FLORIDA)
COUNTY OF LEE)

Subscribed and sworn to (or affirmed) before me this 26th day of August,
2022, by Mathew Davis.





Notary Public Signature

Jacob Tesch

Notary Printed Name

Personally Known x or Produced Identification _____

Type of Identification Produced: Driver's License My Commission Expires: Jan 31, 2027



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Supplement PH-B

Additional Required Information for a Variance Application

This is the second part of a two-part application. This part requests specific information for a variance. Include this form with the Request for Public Hearing form.

Case Number: To be provided by Staff
Project Name: 3780 Estero Boulevard
Authorized Applicant: RVi Planning + Landscape Architecture
LeePA STRAP Number: 29-46-24-W1-00181.0010

Current Property Status: Vacant Residential
Current Zoning: Residential Singlefamily (RC) and Environmental Conservation (EC)
Future Land Use Map (FLUM) Category: Mixed Residential (MR)
Comp Plan Density: 6 du/ac Platted Overlay? ☐ Yes ☒ No

Variance is requested from:

LDC Section Number

Title of Section or Subsection

– a little more than 4 miles to Big Carlos Path Bridge on the Gulf side of
Estero Boulevard near cross roads St. Peters Drive and Bay Mar Drive
in the Town of Fort Myers Beach, Florida

Complete the narrative statements below for EACH variance requested.

Explain the possible effect the variance, if granted, would have on surrounding properties:
Please refer to the attached LETTER OF INTENT, which outlines the variance request in detail.
This variance would not have any impact on surrounding properties.

Explain the hardship (what is unique about the property) that justifies relief from the regulation:

Please refer to the attached LETTER OF INTENT, which outlines the variance request in detail.

Explain how the property qualifies for a variance. Direct this explanation to the guidelines for decision-making in LDC Section 34-87.

Please refer to the attached LETTER OF INTENT, which outlines the variance request in detail.

PART 2 Submittal Requirements

All applications for a variance must submit fourteen (14) copies of this application form and all applicable exhibits.

Required Items

- Public Hearing Request Form
- Supplemental form PH-B
- Site Plan (to scale) including the current use of all existing structures on the site, and those on adjacent properties within 100 feet of the perimeter; and a clear illustration of the proposed variance

Guide to filing PH-B Additional Required Information for a Variance Application

Cover page

Case Number will be inserted by Community Development staff.

Project Name must be the same as the name used on the Request for Public Hearing form.

Applicant must be the same as on the Request for Public Hearing form.

STRAP numbers must be the same as on the Request for Public Hearing form.

Current status of property must be the same as on the Request for Public Hearing form.

“Variance is requested from...” Provide the section number and title of each section of the Fort Myers Beach Land Development Code from which a variance is being sought.

Narrative statements

If the application is for multiple variances, complete all of the narrative statements for each variance that is requested.

Site plan

The site plan must show all existing structures on the site; all existing structures within 100 feet of the perimeter boundary of the site; and a clear illustration of the proposed variance.

LDC Section 34-87

The guidelines for decision-making regarding a request for a variance are as follows:

1. Whether there are exceptional or extraordinary conditions or circumstances that are inherent to the property in question, or whether the request is for a *de minimis* variance under circumstances or conditions where rigid compliance is not necessary to protect public policy;
2. Whether the exceptional or extraordinary conditions justifying the variance are or are not the result of actions of the applicant taken after the adoption of the regulation in question;
3. Whether the requested variance is the minimum variance to relieve the applicant of an unreasonable burden caused by the application of the regulation in question;
4. Whether granting the variance would be injurious to the neighborhood or otherwise detrimental to the public welfare;
5. Whether the conditions or circumstances of the specific piece of property or the intended use of the property for which the variance is sought are of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.



Town of Fort Myers Beach

2525 Estero Blvd Fort Myers Beach, Florida 33931

Phone: (239) 765-0202 Fax: (239) 765-0909

January 7, 2022

Humiston and Moore Engineers
5679 Strand Ct
Naples, FL, 34110

Regarding: 3780 Estero Blvd Fort Myers Beach, 33931

Dear Humiston and Moore Engineers,

As the local government having jurisdiction over local development permitting, the Town of Fort Myers Beach is required to review construction, excavation, and other activities proposed seaward of the 1991 Coastal Construction Control Line (CCCL). Your project identified herein, may be subject to the Florida Department of Environmental Protection permitting requirements:

Location: 3780 Estero Blvd

Proposed Activity: The construction of a new single-family dwelling and pool

Agent: Humiston and Moore Engineers

Owner/Applicant: Mathew and Kristi Davis

Prior to commencement of construction, you should obtain notice of the Department of Environmental Protection's final action to either permit or exempt the proposed development activity.

The Town of Fort Myers Beach Community Development staff reviewed the provided plans for the proposed development activity, but review is limited for the purposes of the FDEP setback consistency.

Based on the provided plans, the proposed single-family dwelling and pool fit within the setbacks for *RC-Residential Conservation* zoning district.

If it is determined that any information that was provided as part of this review was inaccurate or may cause a change in the review, then this letter shall be deemed null and void. Any changes in the Comprehensive Plan or Land Development Code may impact the validity of this letter.

This letter of setback consistency does not supersede or operate to exempt the proposed development activity from any Town of Fort Myers Beach development and permitting



Town of Fort Myers Beach

2525 Estero Blvd Fort Myers Beach, Florida 33931

Phone: (239) 765-0202 Fax: (239) 765-0909

requirements, or state or federal regulations that may apply to the proposed activity or become applicable to the subject property as a result of the proposed activity.

Please be aware that the information provided herein is based on current regulations and is subject to change with the enactment or amendment of ordinances. If you have any further questions, feel free to contact the Community Development Department.

Sincerely,

Carl Bengé
Assistant Community Development Director
Community Development

DAVIS RESIDENCE

3780 ESTERO BLVD.
FORT MYERS BEACH, FLORIDA

APPROVED PLAN AS PERMITTED
BY THE DIVISION OF WATER RESOURCE MANAGEMENT
FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
APPROVED CONSTRUCTION AND ANY OTHER AUTHORIZED ACTIVITIES MUST
COMPLY WITH ALL CONDITIONS OF THE PERMIT. CONSTRUCTION AND
ACTIVITIES ARE STRICTLY LIMITED TO THOSE NOTED SHOWN ON THE APPROVED
PLANS AND LISTED IN THE PROJECT DESCRIPTION. THIS PERMIT IS ISSUED
PURSUANT TO CH. 163, F.S. AND OTHER PERMITS MAY BE REQUIRED.

Reviewed By: *[Signature]* Date: June 17, 2022



REVISIONS

DAVIS RESIDENCE
3780 ESTERO BLVD.
FORT MYERS BEACH, FLORIDA

POTTER
HOMES

IRWIN
DESIGN CO.

D.P. PERMIT
DATE: 3-15-22
A1

SITE REQUIREMENTS & INFO
SETBACKS: FRONT SETBACK: 10'-0" REAR SETBACK: 10'-0" & C/C/L LINE SIDE SETBACKS: 10'-0"
MAXIMUM BUILDING HEIGHT: 35 FEET
LOT COVERAGE: LOT SIZE: 10,000 SQ. FT. PERMITTED LOT COVERAGE: 1,000 SQ. FT. (10%) LOT COVERAGE PROPOSED: 1,000 SQ. FT. (10%)
MUNICIPALITY: TOWN OF FORT MYERS BEACH, FLORIDA TOWN OF FT. MYERS BEACH WATER & SEWER

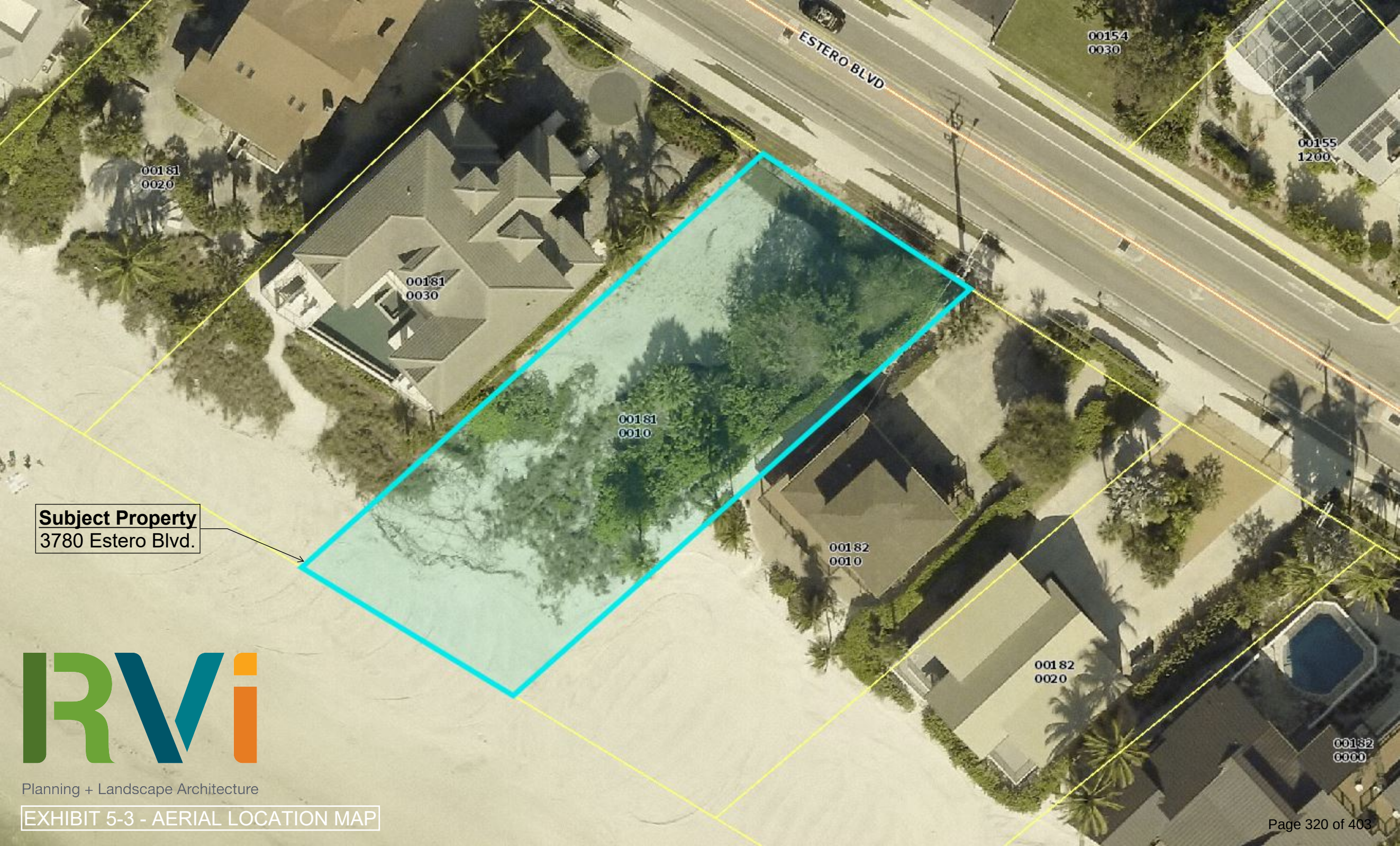
GENERAL NOTES
1. DO NOT SCALE THESE DRAWINGS. IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO CHECK ALL DIMENSIONS AND VERIFY THE BUILDING POSITION WITHIN THE SETBACK LINES PRIOR TO COMMENCING CONSTRUCTION.
2. FOR ARCHITECTURAL REFERENCES, ELEVATIONS SHOWN HEREAFTER ARE BASED ON +E.L. 0'-0" (10'-0" N.A.V.D.) (FIRST FLOOR HABITABLE SLAB).
3. ALL INFORMATION SHOWN HEREON IS TAKEN FROM A SURVEY BY: COASTAL ENGINEERING CONSULTANTS INC. DATED: 10/1/21. IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO FAMILIARIZE HIMSELF WITH ALL EXISTING CONDITIONS. ALL EXISTING CONDITIONS ARE NOT NECESSARILY SHOWN HEREON.
4. ALL TRADES SHALL BE RESPONSIBLE TO READ ALL DETAILS AND SPECIFICATIONS, AND PLANS—ARCHITECTURAL, STRUCTURAL, MECHANICAL, ETC. FOR PROPER COORDINATION. IF ANY CONFLICTS EXIST, THAT TRADE SHALL NOTIFY THE CONTRACTOR OF THE SAME, PRIOR TO CONSTRUCTION.
5. THE CONTRACTOR SHALL DISRECT ANY DISCREPANCIES TO THE DESIGNER PRIOR TO CONSTRUCTION, AND THE CONTRACTOR SHALL BE RESPONSIBLE FOR WORK WHICH PROCEEDS WITHOUT DUE COURSE AND COORDINATION.
6. SMOKE DETECTORS ARE SHOWN ON THE ELECTRICAL PLANS (SHEET 10, 11 & 12).
7. ACCESSIBILITY REQUIREMENTS: ACCESSIBLE BATHROOM DOORS SHALL HAVE A 32" CLEAR OPENING. A 34" DOOR PROVIDES A 32" CLEAR OPENING. ALL BATHROOMS ARE ACCESSIBLE IN THE FLOOR PLAN.
8. EGRESS WINDOWS ARE SHOWN ON FLOOR PLANS.

BUILDING DATA
1. WIND LOAD DATA: BASED ON DRAWINGS BY STRUCTURAL ENGINEER
2. ELEVATION OF FIRST HABITABLE FLOOR IS 10'-0" N.A.V.D.
3. ELEVATION OF LOWEST HORIZONTAL STRUCTURE 10'-0" N.A.V.D.
4. APPLICABLE FLOOD ZONE: VE 10'-0" N.A.V.D.
5. TOWN OF FT. MYERS BEACH ZONING: "R-C"
6. SQUARE FOOTAGE CALCULATIONS:
GROUND FLOOR (LOBBY) A/C 399 SQ. FT.
FIRST FLOOR A/C 1,000 SQ. FT.
SECOND FLOOR A/C 1,000 SQ. FT.
TOTAL UNDER A/C SQ. FT. 2,400 SQ. FT.
COVERED ENTRY 108 SQ. FT.
GARAGE 3,300 SQ. FT.
POOL STORAGE (BELOW POOL) 1,000 SQ. FT.
COVERED TERRACE 860 SQ. FT.
OUTDOOR LIVING & DINING 860 SQ. FT.
MASTER BALCONY 108 SQ. FT.
LOUNGE BALCONY 108 SQ. FT.
COVERED BALCONY 108 SQ. FT.
SQ. FT. TOTAL NON A/C 5,000 SQ. FT.
GROSS SQ. FT. TOTAL 7,400 SQ. FT.

DRAWING INDEX
A1 COVER SHEET
A2 SITE PLAN
A3a GROUND FLOOR NOTE PLAN
A3b GROUND FLOOR DIMENSION PLAN
A4a FIRST FLOOR NOTE PLAN
A4b FIRST FLOOR DIMENSION PLAN
A5a SECOND FLOOR NOTE PLAN
A5b SECOND FLOOR DIMENSION PLAN
A6 FIRST FLOOR DECK PLAN
A7 LOWER ROOF PLAN
A8 UPPER ROOF PLAN
A9 FRONT (NORTHEAST) ELEVATION
A10 REAR (SOUTHWEST) ELEVATION
A11 RIGHT SIDE (NORTHWEST) ELEVATION
A12 LEFT SIDE (SOUTHEAST) ELEVATION
A13 BUILDING SECTION 1

CONTACT INFORMATION
DESIGNER: IRWIN DESIGN COMPANY 200 COUNTRY DAY CIR. FORT MYERS, FL 33903 CONTACT: JAKE BOWEN PHONE: (813) 414-0000
GENERAL CONTRACTOR: POTTER HOMES 2900 BONITA BEACH RD SW #100 BONITA SPRING, FL 33434 CONTACT: NATE JOHNSON PHONE: (813) 414-0000
STRUCTURAL ENGINEER: HARRIS ENGINEERING GROUP LLC 801 LAS PALMAS WAY NAPLES, FL 34109 CONTACT: JIM HARRIS PHONE: (813) 414-0000
LANDSCAPE ARCHITECT: O.P.L. OUTDOOR PRODUCTIONS INC. 3400 TAYLORVILLE CIRCLE, SUITE 100 NAPLES, FL 34110 CONTACT: PAT TREFF PHONE: (813) 414-0000

RESIDENTIAL CODE INFORMATION
ALL RESIDENTIAL CONSTRUCTION SHALL COMPLY WITH 2020 FLORIDA BUILDING CODE, BUILDING, PLUMBING, MECHANICAL, PUEL GAS. THE CODE IS COMPILED WITH THE 2020 ADDITION OF THE NATIONAL ELECTRICAL CODE ADOPTED BY REFERENCE. THE NATIONAL ELECTRICAL CODE IS REFINED STANDARD NFPA-70A.
RESIDENTIAL POOL SAFETY ACT—CHAPTER 4 OF THE 2020 FLORIDA BUILDING CODE
• ALL DOORS AND WINDOWS PROVIDING DIRECT ACCESS FROM THE HOME SHALL MEET THE RESIDENTIAL POOL SAFETY ACT.
• ALL SCREEN DOORS ARE TO BE SELF LATCHING AND SELF CLOSING. LATCH MECHANISM SHALL BE MOUNTED AT 54" A.F.F.
• ALARMS SHALL BE INSTALLED ON SCREEN DOORS.
• THE G.C. IS TO VERIFY THAT ALL ACCESS TO THE POOL AREA MEET THE SWIMMING POOL SAFETY ACT.



Subject Property
3780 Estero Blvd.



Planning + Landscape Architecture

EXHIBIT 5-3 - AERIAL LOCATION MAP



2.2 Miles to
Times Square

Subject Property
3780 Estero Blvd.

4 Miles to San
Carlos Pass

Prepared by and return to:

Randy Nathan
Attorney at Law
Frank, Weinberg & Black, P.L.
7805 SW 6th Court
Plantation, FL 33324
954-474-8000
File Number: 13725.021A
Will Call No.:

Parcel Identification No. 29-46-24-W1-00181.0010

_____[Space Above This Line For Recording Data]_____

Warranty Deed

(STATUTORY FORM - SECTION 689.02, F.S.)

This Indenture made this 23 day of **October, 2015** between **Patrick J. Keane and Eithne Keane, husband and wife** whose post office address is 5500 Coastal Drive, Boca Raton, FL 33487 of the County of **Palm Beach, State of Florida**, grantor*, and **Mathew L. Davis, a married man** whose post office address is **415 MacKenzie Court, Saint Peter, MN 56082** of the County of **Nicollet, State of Minnesota**, grantee*,

Witnesseth that said grantor, for and in consideration of the sum of **TEN AND NO/100 DOLLARS (\$10.00)** and other good and valuable considerations to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, has granted, bargained, and sold to the said grantee, and grantee's heirs and assigns forever, the following described land, situate, lying and being in **Lee County, Florida**, to-wit:

See Attached Exhibit "A" for Legal Description.

Subject to taxes for 2015 and subsequent years; covenants, conditions, restrictions, easements, reservations and limitations of record, if any.

This property is vacant land. Grantor warrants that at the time of this conveyance, the subject property is not the Grantor's homestead within the meaning set forth in the constitution of the state of Florida, nor is it contiguous to or a part of homestead property. Grantor's residence and homestead address is: 5500 Coastal Drive, Boca Raton, FL 33487.

and said grantor does hereby fully warrant the title to said land, and will defend the same against lawful claims of all persons whomsoever.

* "Grantor" and "Grantee" are used for singular or plural, as context requires.

In Witness Whereof, grantor has hereunto set grantor's hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

JoAnn Zangle
Witness Name: JoAnn Zangle

Patrick J. Keane (Seal)
Patrick J. Keane

Maria Spiliopoulos
Witness Name: MARIA SPILIOPOULOS

Eithne Keane (Seal)
Eithne Keane

JoAnn Zangle
Witness Name: JoAnn Zangle

Maria Spiliopoulos
Witness Name: MARIA SPILIOPOULOS

State of Florida
County of Palm Beach

The foregoing instrument was acknowledged before me this 23 day of October, 2015 by Patrick J. Keane and Eithne Keane, who ☐ are personally known or ☒ have produced a driver's license as identification.

[Notary Seal]

JoAnn Zangle
Notary Public

Printed Name: JoAnn Zangle

My Commission Expires: _____



EXHIBIT A

Parcel B of the real property described as follows:

The following Parcels "A" and "B" constitute a subdivision of property described in Official Records Book 2353, Page 1032, Public Records of Lee County, Florida; said parcels being a part of Lot 81, Case Subdivision, according to the plat thereof recorded in the office of the Clerk of the Circuit Court of Lee County, Florida, in Plat Book 1, Page 58, as replaced by that plat of Case Subdivision, recorded in Deed Book 131, Pages 300-304, inclusive and ratified and confirmed by the Final Judgment in the case of McDorman vs. Lee County and Harold C. Case and Eleanor Grace Case, Case No. 71-1392, which Final Judgment is recorded in Official Records Book 803, Page 373, Public Records of Lee County, Florida.

Parcel A

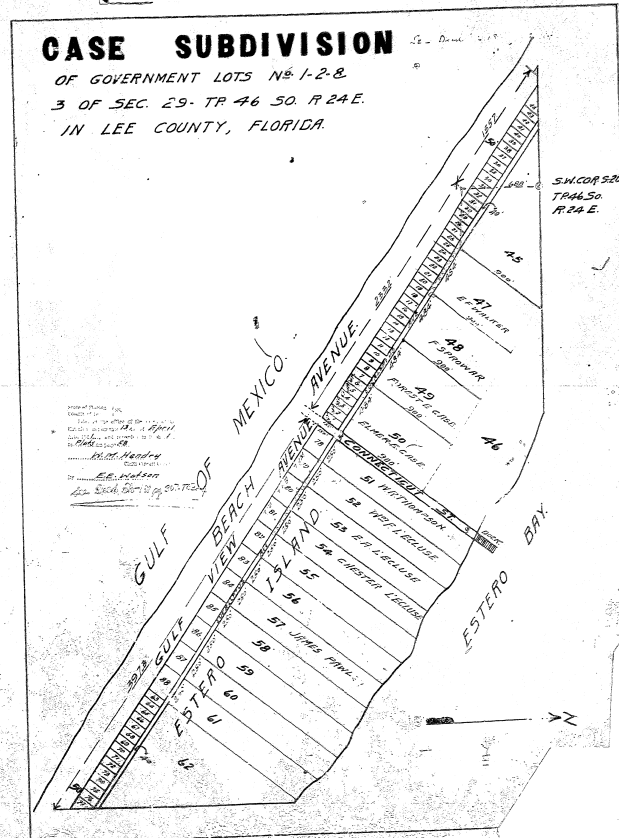
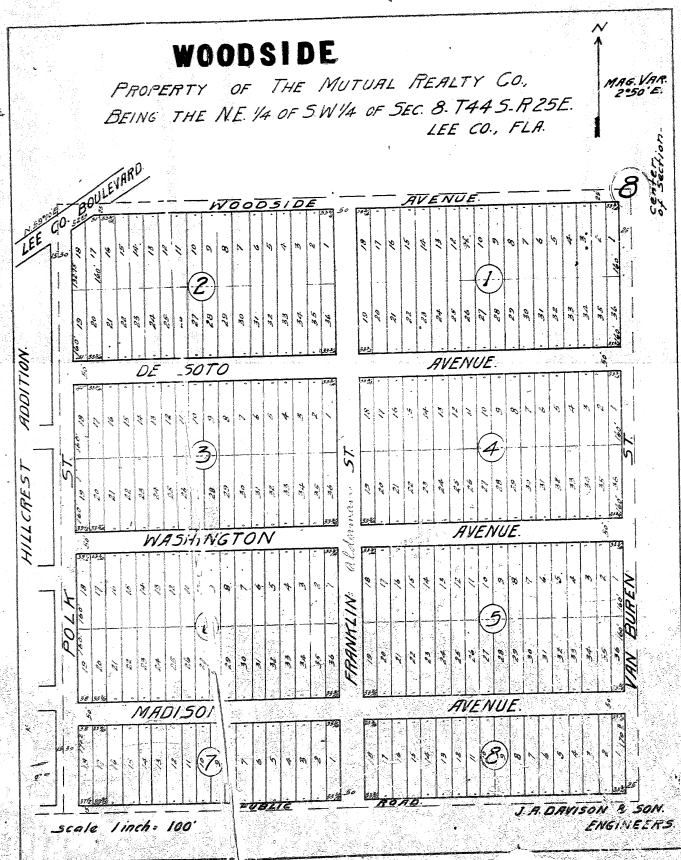
From a concrete monument marking most northerly corner of Lot 81, Case Subdivision, according to the plat thereof recorded in the office of the Clerk of the Circuit Court of Lee County, Florida, in Plat Book 1, Page 58, as replaced by that plat of Case Subdivision, recorded in Deed Book 131, Pages 300-304, inclusive and ratified and confirmed by the Final Judgment in the case of McDorman vs. Lee County and Harold C. Case and Eleanor Grace Case, Case No. 71-1392, in the Circuit Court of the Twentieth Judicial Circuit in and for Lee County, Florida, proceed S 57 degrees 31' 19" E, 90.37 feet along the Southerly right of way of Estero Blvd. to a corner common to Parcel A and the Westerly 90.37 feet of Lot 81, as described in Official Records Book 1791, Page 262, point of beginning; thence proceed along said right of way S 57 degrees 31' 19" E, 84.97 feet to a corner common to Parcels A and B; thence proceed S 47 degrees 31' 32" W along said common line to the main high water line of the Gulf of Mexico; thence proceed Northwesterly along the mean high water line of the Gulf of Mexico to a line bearing N 47 degrees 27' 47" E and passing through the point of beginning; thence from the mean high water line of the Gulf of Mexico N 47 degrees 27' 47" E to the point of beginning.

Including an ingress/egress easement across Parcel B described as follows: From the corner common to parcels A and B and the Estero Blvd. right of way, point of beginning; proceed S 57 degrees 31' 19" E, 10.00 feet; thence proceed S 47 degrees 31' 32" W, 12.00 feet; thence proceed N 57 degrees 31' 32" W, 10.00 feet to the line common to Parcels A and B; thence proceed N 47 degrees 31' 32" E, 12.00 feet to the point of beginning.

Parcel B

From a concrete monument marking most northerly corner of Lot 81, Case Subdivision, according to the plat thereof recorded in the office of the Clerk of the Circuit Court of Lee County, Florida, in Plat Book 1, Page 58, as replaced by that plat of Case Subdivision, recorded in Deed Book 131, Pages 300-304, inclusive and ratified and confirmed by the Final Judgment in the case of McDorman vs. Lee County and Harold C. Case and Eleanor Grace Case, Case No. 71-1392, in the Circuit Court of the Twentieth Judicial Circuit in and for Lee County, Florida, proceed S 57 degrees 31' 19" E, 175.34 feet to a corner marking the corner common to Parcel A and B, point of beginning; thence proceed S 57 degrees 31' 19" E, 77.66 feet along the Southerly right of way of Estero Blvd. to a concrete monument marking corner common to Lots 81 and 82, Case Subdivision; thence proceed S 47 degrees 31' 32" W, to the mean high water line of the Gulf of Mexico; thence Northwesterly along the mean high water line of the Gulf of Mexico to a line bearing North 47 degrees 31' 32" W and passing through the point of beginning; thence from the mean high water line of the Gulf of Mexico N 47 degrees 31' 32" W to the point of beginning.

Including an ingress/egress easement across Parcel A described as follows: From the corner common to parcels A and B and the Estero Blvd. right of way, point of beginning; proceed N 57 degrees 31' 19" W, 10.00 feet; thence proceed S 47 degrees 31' 32" W, 12.00 feet; thence proceed S 57 degrees 31' 32" E, 10.00 feet to the line common to Parcels A and B; thence proceed N 47 degrees 31' 32" E, 12.00 feet to the point of beginning.



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BY E.M. COLLINS, JR.

STRAP	OwnerName	OwnerName2	MailAddress	MailCity	MailState	MailZip	SiteNumber	SiteStreet	SiteCity	SiteZip	Legal
29-46-24-W1-00181.0010	DAVIS MATHEW L & KRISTI A		415 MACKENZIE CT	SAINT PETER	MN	56082	3780	ESTERO BLVD	FORT MYERS BEACH	33931	CASES SUBD<CR>PB 1 PG 58<CR>LOT PT 81
29-46-24-W1-00152.8010	JDDJ INVESTMENTS LLC		215 NORTH MAIN ST	MOUNT PLEASANT	MI	48858	3725/3729	ESTERO BLVD	FORT MYERS BEACH	33931	CASES SUBD<CR>PB 1 PG 58<CR>LOT PT OF 52
29-46-24-W1-00152.8020	BODNAR BECKY S &		100 ANDREMAR	FORT MYERS BEACH	FL	33931	100/102	ANDRE MAR DR	FORT MYERS BEACH	33931	CASES SUBD<CR>PB 1 PG 58<CR>LOT PT OF 52
29-46-24-W1-00152.8030	104 106 ANDRE MAR LLC		17513 E PONDILLILY DR	PARKER	CO	80134	104/106	ANDRE MAR DR	FORT MYERS BEACH	33931	CASES SUBD<CR>PB 1 PG 58<CR>LOT PT OF 52
29-46-24-W1-00152.8040	DAGOSTINO JOSEPH		10604 PISTOIA DR	FORT MYERS	FL	33913	108	ANDRE MAR DR	FORT MYERS BEACH	33931	CASES SUBD<CR>PB 1 PG 58<CR>LOT PT OF 52
29-46-24-W1-00153.0010	CHESTER A NIESEL TRUST +		2823 W GULF DR	SANIBEL	FL	33957	3737/3741	ESTERO BLVD	FORT MYERS BEACH	33931	BEG SW COR LT53 CASE S/D<CR>DESC OR1641/79 AKA BLK A<CR>LTS1+2 ANCHORAGE ESTATES<CR>CASES SUBD PB 1 PG 58
29-46-24-W1-00153.0050	HAMILTON JAMES D		9214 STONY CREEK	YPSILANTI	MI	48197	125/127	ANCHORAGE ST	FORT MYERS BEACH	33931	CASE SUBD<CR>PB 1 PG 58<CR>LOT PT 53
29-46-24-W1-00153.0160	SAWYER JERRY R		111 ANCHORAGE ST	FORT MYERS BEACH	FL	33931	111/113	ANCHORAGE ST	FORT MYERS BEACH	33931	FR SWLY COR OF LOT 53 CASE<CR>SUBD ON ESTERO BLVD RUN<CR>NELY ALG DIVISION LI
29-46-24-W1-00153.0170	HANNA CHRISTINE L TR		3748 N SHEFFIELD AVE APT 1	CHICAGO	IL	60613	101	ANCHORAGE ST	FORT MYERS BEACH	33931	CASES SUBD<CR>PB 1 PG 58<CR>PT LT 3+4 BLK A UNREC C
29-46-24-W1-00153.0310	CAPTAINS QUARTERS FORT MYERS L		772 PKWY DR	NORTH SALT LAKE	UT	84054	3749	ESTERO BLVD	FORT MYERS BEACH	33931	ANCHORAGE ESTATES SUB U/R DESC OR 1768 PG 4591 BEING A RESUB OF LOT 53 CASES SUBD<CR>PT LOT 1 BLK B DESC IN INST #2018000195963
29-46-24-W1-00153.0320	GUZY STEVEN C +		4572 GENTWOOD DR	WILLIAMSVILLE	NY	14221	100	ANCHORAGE ST	FORT MYERS BEACH	33931	ANCHORAGE ESTATES SUB U/R DESC OR 1768 PG 4591 BEING A RESUB OF LOT 53 CASES SUBD<CR>PT LOT 2 BLK B DESC IN INST #2018000195962
29-46-24-W1-00179.0010	HOTKA DEBORAH A		3670 ESTERO BLVD	FORT MYERS BEACH	FL	33931	3670	ESTERO BLVD	FORT MYERS BEACH	33931	CASES SUBD PB 1/58 BEG NE<CR>COR LT79 TH NW123 SW147 TH<CR>SE TO SW LI LT79 NE TO POB
29-46-24-W1-00180.0010	DOSMANN LLC		1421 E LAKE SHORE	SPRINGFIELD	IL	62712	3730	ESTERO BLVD	FORT MYERS BEACH	33931	CASES SUBD<CR>PB 1 PG 58<CR>PT LT 80.
29-46-24-W1-00180.0020	CHESTER A NIESEL TRUST +		2823 W GULF DR	SANIBEL	FL	33957	3700	ESTERO BLVD	FORT MYERS BEACH	33931	CASES SUBD<CR>B 1 PG 58<CR>PT LOT 80
29-46-24-W1-00180.0030	CHRISTOPHER A RAYBURN TRUST +		1821 PINE ACRE AV	DAVENPORT	IA	52803	3720	ESTERO BLVD	FORT MYERS BEACH	33931	CASES SUBD.<CR>PB 1 PG 58 PT LOT 80<CR>DESC IN OR 0412 PG 0075
29-46-24-W1-00181.0020	DSSBW LLC		233 WOODBOURNE DR	SAINT LOUIS	MO	63141	3750	ESTERO BLVD	FORT MYERS BEACH	33931	CASES SUBD<CR>PB 1 PG 58<CR>PT LOT 81
29-46-24-W1-00181.0030	DOSMANN SHARON E TR		3770 ESTERO BLVD	FORT MYERS BEACH	FL	33931	3770	ESTERO BLVD	FORT MYERS BEACH	33931	CASES SUBD<CR>PB 1 PG 58<CR>PT LT 81
29-46-24-W2-00153.0020	GIESEY BRYCE E TR		5658 MOUNTAIN IRIS CT	LOVELAND	CO	80537	126	ANCHORAGE ST	FORT MYERS BEACH	33931	LOT 3 + PT LT 2 BLK B ANCHORAGE ESTATES SUB U/R DESC DB 235/535 + DB 250/157 BEING A RESUB LOT 53 CASES SUBD
29-46-24-W2-00153.0060	HAMM ENE		136 ANCHORAGE ST	FORT MYERS BEACH	FL	33931	136/138	ANCHORAGE ST	FORT MYERS BEACH	33931	LOT 4 + WLY 10 FT LOT 5 BLK B ANCHORAGE ESTATES SUB U/R DESC OR 1770 PG 1087 BEING A RESUB OF LT 53 CASES SUBD
29-46-24-W2-00153.0070	HOUSTON SUN LLC		6320 RUCKER RD STE E	INDIANAPOLIS	IN	46220	135/137	ANCHORAGE ST	FORT MYERS BEACH	33931	CASES SUBD PB1 PG 58<CR>PT LT53 FR SW COR LT53 TH<CR>NELY 361 TO POB
29-46-24-W2-00153.0100	LARSON PAUL A & THERESE H		146 ANCHORAGE ST	FORT MYERS BEACH	FL	33931	146	ANCHORAGE ST	FORT MYERS BEACH	33931	CASES SUBD<CR>PB 1 PG 58<CR>PT LOT 53
29-46-24-W2-00153.0120	154 ANCHORAGE STREET LLC		815 PONCE DE LEON BLVD, 3RD FL	CORAL GABLES	FL	33134	154-158	ANCHORAGE ST	FORT MYERS BEACH	33931	CASES SUBD<CR>PB 1 PG 58 PART OF LT 53<CR>AKA ELY 50 FT LOT 6 + WLY 30 FT LOT 7 BLK B ANCHORAGE ESTATES U/R
29-46-24-W2-00154.0030	ST PETER EVANGELICAL LUTHERAN		3751 ESTERO BLVD	FORT MYERS BEACH	FL	33931	3751	ESTERO BLVD	FORT MYERS BEACH	33931	CASES SUBD PB 1/58<CR>LT PT OF 54 AND PARL<CR>DESC 1045-121
29-46-24-W2-00155.1010	DEFEO WILLIAM G TR		100 BAY MAR DR	FORT MYERS BEACH	FL	33931	100/102	BAY MAR DR	FORT MYERS BEACH	33931	CASES SUBD<CR>PT LOT 55 PB 1 PG 58<CR>BEG SELY COR OF LOT 55 RUN
29-46-24-W2-00155.1060	CHERRY BETH A & TIM I		108 BAY MAR DR	FORT MYERS BEACH	FL	33931	104	BAY MAR DR	FORT MYERS BEACH	33931	CASES SUBD<CR>PT LOT 55 PB 1 PG 58<CR>FR SE COR LOT 55 RUN NWLY
29-46-24-W2-00155.1110	KRAMER MARDIS KELLEY		3895 OAKVIEW DR	BEAVERCREEK	OH	45430	117/119	BAY MAR DR	FORT MYERS BEACH	33931	CASES SUBD<CR>PB 1 PG 58<CR>PT LOT 55 FR SE COR OF LOT
29-46-24-W2-00155.1130	DRUMM DAVID		123 BAY MAR DR	FORT MYERS BEACH	FL	33931	123	BAY MAR DR	FORT MYERS BEACH	33931	CASES SUBD PB 1 PG 58<CR>PT LOT 55 AKA LT 6 BLK A MARSH UNREC
29-46-24-W2-00155.1140	STEWART RICHARD L &		116 BAY MAR DR	FORT MYERS BEACH	FL	33931	116	BAY MAR DR	FORT MYERS BEACH	33931	CASES SUBD<CR>PB 1 PG 58 PT LOT 55<CR>DESC IN OR 1311 PG 1420
29-46-24-W2-00155.1170	WHITMER EDWARD R &		115 BAY MAR DR	FORT MYERS BEACH	FL	33931	115	BAY MAR DR	FORT MYERS BEACH	33931	CASES SUBD<CR>PG 1 PG 58<CR>FR SLY COR LOT 55 RUN NWLY
29-46-24-W2-00155.1190	SHADLE TIMOTHY J		105 BAY MAR DR	FORT MYERS BEACH	FL	33931	103-107	BAY MAR DR	FORT MYERS BEACH	33931	CASE SUB PB 1 PG 58FR SLY COR LOT 55 RUN NWLY 152.40FT THENCE DEFLECT 105D TO THE R AND RUN NELY ALONG NWLY LINE
29-46-24-W2-00155.1200	GOTHAM ROBERT M + DONNA S TR		101 BAY MAR DR	FORT MYERS BEACH	FL	33931	101	BAY MAR DR	FORT MYERS BEACH	33931	FR SELY COR OF LOT 55<CR>CASES SUBD RUN NWLY ALG<CR>R/L LI OF ESTERO BLVD
29-46-24-W2-00155.1210	REED JAMES S JR & REBECCA L		112 BAY MAR DR	FORT MYERS BEACH	FL	33931	112	BAY MAR DR	FORT MYERS BEACH	33931	FR SLY COR OF LOT 55 CASE<CR>SUBD DB 131 PG 300 + TH<CR>NELY R/W LI OF ESTERO BLVD
29-46-24-W2-00155.1250	CHERRY TIM I & BETH A		108 BAY MAR DR	FORT MYERS BEACH	FL	33931	108	BAY MAR DR	FORT MYERS BEACH	33931	FR TH SLY COR OF LOT 55<CR>CASE SUBD + NELY R/W LI OF<CR>ESTERO BLVD RUN NWLY ALG
29-46-24-W2-00155.1260	111 BAY MAR LLC		11985 BAY OAK DR	FORT MYERS	FL	33913	111	BAY MAR DR	FORT MYERS BEACH	33931	CASES SUBD<CR>PB 1 PG 58<CR>PT LOT 55 BEG SELY COR LOT
29-46-24-W2-00182.0000	ESTERO BEACH REAL ESTATE LLC		11455 FAIRPORT CIRCLE	INDIANAPOLIS	IN	46236	3830	ESTERO BLVD	FORT MYERS BEACH	33931	CASES SUBD<CR>PB 1 PG 58<CR>LOT 82 LESS TH WLY 150 FT
29-46-24-W2-00182.0010	SMITH RONALD	BRENDA J SMITH	3440 S BAY DR	JONESBORO	GA	30236	3800	ESTERO BLVD	FORT MYERS BEACH	33931	CASES SUBD<CR>PB 1 PG 58<CR>PT OF LOT 82 TH WLY 75 FT
29-46-24-W2-00182.0020	PAUGH JOHN N		4020 WEST 73RD ST	ANDERSON	IN	46011	3810	ESTERO BLVD	FORT MYERS BEACH	33931	CASES SUBD<CR>PB 1 PG 58<CR>LOT 82 PART OF BEG NW COR
29-46-24-W2-00183.0010	SCHAEFER JOSEPH +		3850 ESTERO BLVD	FORT MYERS BEACH	FL	33931	3850	ESTERO BLVD	FORT MYERS BEACH	33931	CASES SUBD.<CR>PB 1 PG 58<CR>LOT PT 83 AKA WLY 1/4
29-46-24-W2-00183.0020	VANDERBIE THOMAS J		399 COVE DR SE	CALEDONIA	MI	49316	3860	ESTERO BLVD	FORT MYERS BEACH	33931	CASES SUBD<CR>PB 1 PG 58<CR>LOT PT 83
29-46-24-W2-00183.0030	PERSAUD PROPERTIES FL INVESTME		361 SEMINOLE WAY	FORT MYERS BEACH	FL	33931	3870	ESTERO BLVD	FORT MYERS BEACH	33931	CASES SUBD<CR>PB 1 PG 58<CR>LOT PT 83
29-46-24-W2-00184.0010	REITZ LAWRENCE A & CAROL		3880 ESTERO BLVD	FORT MYERS BEACH	FL	33931	3880	ESTERO BLVD	FORT MYERS BEACH	33931	CASES SUBD<CR>PB 1 PG 58<CR>LOT PT 84
29-46-24-W2-01434.0000	GARCIA MARK +		131 HIBISCUS DR	FORT MYERS BEACH	FL	33931	131	HIBISCUS DR	FORT MYERS BEACH	33931	LEILANI<CR>PB 14 PG 21<CR>LOT 34
29-46-24-W2-01436.0000	BEDNARZ ANTHONY P &		121 HIBISCUS DR	FORT MYERS BEACH	FL	33931	121	HIBISCUS DR	FORT MYERS BEACH	33931	LEILANI<CR>PB 14 PG 21<CR>LOT 36
29-46-24-W2-01438.0000	MSV-HOLDING TRUST CORP		24890 EBRO CT	BONITA SPRINGS	FL	34135	117	HIBISCUS DR	FORT MYERS BEACH	33931	LEILANI<CR>PB 14 PG 21<CR>LOT 38
29-46-24-W2-01439.0000	MAY SHAWN WILLIAM		106 HIBISCUS DR	FORT MYERS BEACH	FL	33931	112	HIBISCUS DR	FORT MYERS BEACH	33931	LEILANI<CR>PB 14 PG 21<CR>LOT 39
29-46-24-W2-01440.0000	TROENDLY RICHARD ANTHONY +		2337 WEST PARK AVE	NAPA	CA	94558	111	HIBISCUS DR	FORT MYERS BEACH	33931	LEILANI<CR>PB 14 PG 21<CR>LOT 40
29-46-24-W2-01441.0000	LISZAK-MAY JACQUELYN TR		106 HIBISCUS DR	FORT MYERS BEACH	FL	33931	106	HIBISCUS DR	FORT MYERS BEACH	33931	LEILANI<CR>PB 14 PG 21<CR>LOT 41
29-46-24-W2-01442.0000	TROPICAL BEACH PROPERTIES LLC		110870 CANDLEWOOD CT	MARSHFIELD	WI	54449	101	HIBISCUS DR	FORT MYERS BEACH	33931	LEILANI<CR>PB 14 PG 21<CR>LOT 42

JDDJ INVESTMENTS LLC
215 NORTH MAIN ST
MOUNT PLEASANT MI 48858

BODNAR BECKY S &
100 ANDREMAR
FORT MYERS BEACH FL 33931

104 106 ANDRE MAR LLC
17513 E PONDILLY DR
PARKER CO 80134

DAGOSTINO JOSEPH
10604 PISTOIA DR
FORT MYERS FL 33913

CHESTER A NIESEL TRUST +
2823 W GULF DR
SANIBEL FL 33957

HAMILTON JAMES D
9214 STONY CREEK
YPSILANTI MI 48197

SAWYER JERRY R
111 ANCHORAGE ST
FORT MYERS BEACH FL 33931

HANNA CHRISTINE L TR
3748 N SHEFFIELD AVE APT 1
CHICAGO IL 60613

CAPTAINS QUARTERS FORT MYERS L
772 PKWY DR
NORTH SALT LAKE UT 84054

GUZY STEVEN C +
4572 GENTWOOD DR
WILLIAMSVILLE NY 14221

HOTKA DEBORAH A
3670 ESTERO BLVD
FORT MYERS BEACH FL 33931

3730 ESTERO LLC
1421 E LAKE SHORE
SPRINGFIELD IL 62712

CHESTER A NIESEL TRUST +
2823 W GULF DR
SANIBEL FL 33957

CHRISTOPHER A RAYBURN TRUST +
1821 PINE ACRE AV
DAVENPORT IA 52803

DSSBW LLC
233 WOODBOURNE DR
SAINT LOUIS MO 63141

DOSMANN SHARON E TR
3770 ESTERO BLVD
FORT MYERS BEACH FL 33931

GIESEY BRYCE E TR
5658 MOUNTAIN IRIS CT
LOVELAND CO 80537

HAMM ENE
136 ANCHORAGE ST
FORT MYERS BEACH FL 33931

HOUSTON SUN LLC
6320 RUCKER RD STE E
INDIANAPOLIS IN 46220

LARSON PAUL A & THERESE H
146 ANCHORAGE ST
FORT MYERS BEACH FL 33931

154 ANCHORAGE STREET LLC
815 PONCE DE LEON BLVD 3RD FLOOR
CORAL GABLES FL 33134

ST PETER EVANGELICAL LUTHERAN
3751 ESTERO BLVD
FORT MYERS BEACH FL 33931

DEFEO WILLIAM G TR
100 BAY MAR DR
FORT MYERS BEACH FL 33931

CHERRY BETH A & TIM I
108 BAY MAR DR
FORT MYERS BEACH FL 33931

KRAMER MARDIS KELLEY
3895 OAKVIEW DR
BEAVERCREEK OH 45430

DRUMM DAVID
123 BAY MAR DR
FORT MYERS BEACH FL 33931

STEWART RICHARD L &
116 BAY MAR DR
FORT MYERS BEACH FL 33931

WHITMER EDWARD R &
115 BAY MAR DR
FORT MYERS BEACH FL 33931

SHADLE TIMOTHY J
105 BAY MAR DR
FORT MYERS BEACH FL 33931

GOTHAM ROBERT M + DONNA S TR
101 BAY MAR DR
FORT MYERS BEACH FL 33931

REED JAMES S JR & REBECCA L
112 BAY MAR DR
FORT MYERS BEACH FL 33931

CHERRY TIM I & BETH A
108 BAY MAR DR
FORT MYERS BEACH FL 33931

111 BAY MAR LLC
11985 BAY OAK DR
FORT MYERS FL 33913

ESTERO BEACH REAL ESTATE LLC
11455 FAIRPORT CIRCLE
INDIANAPOLIS IN 46236

SMITH RONALD
BRENDA J SMITH
3440 S BAY DR
JONESBORO GA 30236

PAUGH JOHN N
4020 WEST 73RD ST
ANDERSON IN 46011

SCHAEFER JOSEPH +
3850 ESTERO BLVD
FORT MYERS BEACH FL 33931

VANDERBIE THOMAS J
399 COVE DR SE
CALEDONIA MI 49316

PERSAUD PROPERTIES FL INVESTME
361 SEMINOLE WAY
FORT MYERS BEACH FL 33931

REITZ LAWRENCE A & CAROL
3880 ESTERO BLVD
FORT MYERS BEACH FL 33931

GARCIA MARK +
131 HIBISCUS DR
FORT MYERS BEACH FL 33931

BEDNARZ ANTHONY P &
121 HIBISCUS DR
FORT MYERS BEACH FL 33931

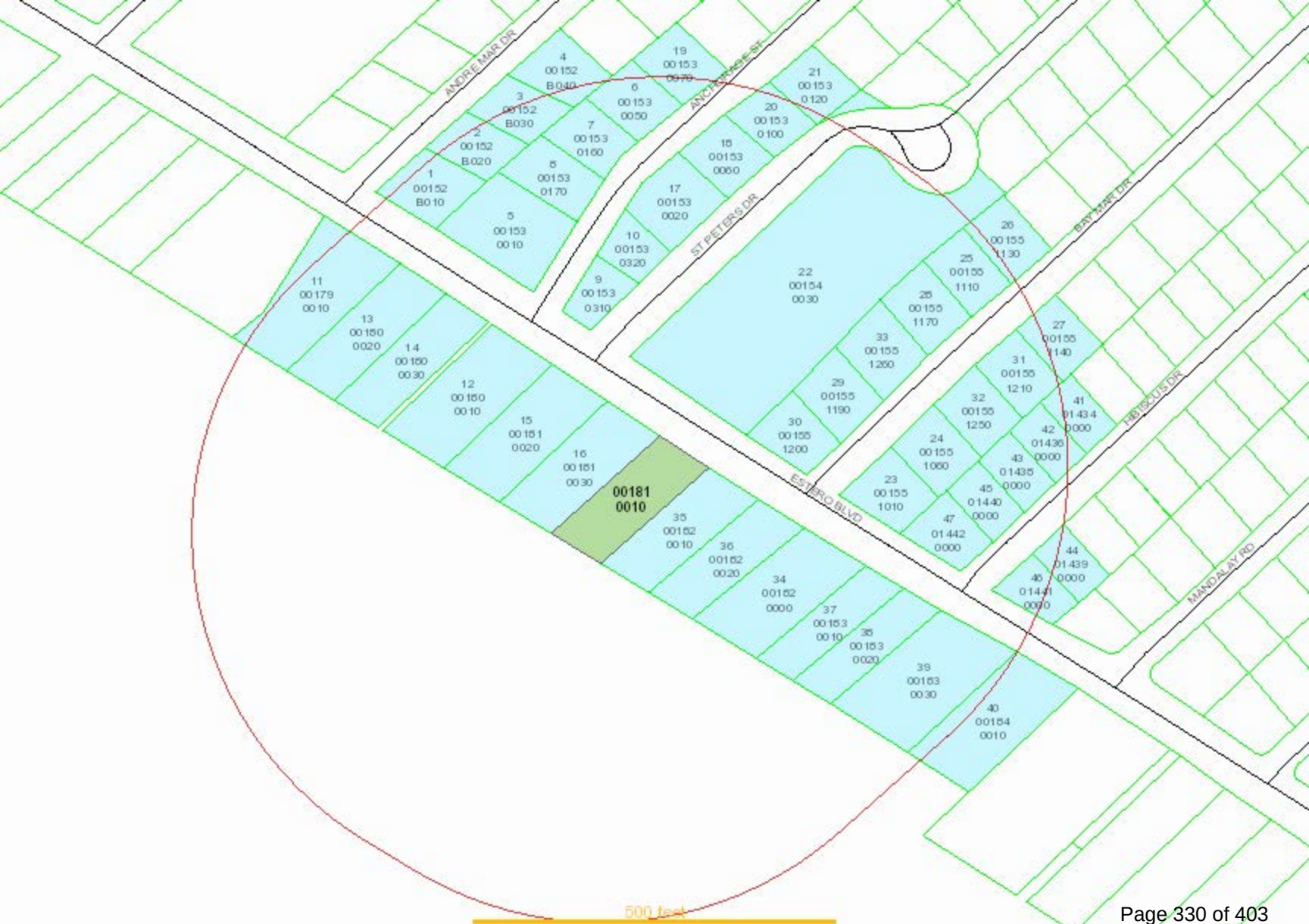
MSV-HOLDING TRUST CORP
24890 EBRO CT
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NAPA CA 94558

LISZAK-MAY JACQUELYN TR
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FORT MYERS BEACH FL 33931

TROPICAL BEACH PROPERTIES LLC
110870 CANDLEWOOD CT
MARSHFIELD WI 54449



**Town of Fort Myers Beach
Agenda Item Summary**

Yellow Sheet Number: **2023-843**

1. Requested Motion:

Meeting Date: January 18, 2023

Text Amendment to LDC Sec. 34-638 Minimum Setbacks, Table 34-3, and Sec 34-2 Definitions Setback and Corner Lot Regulations

Why the action is necessary:

The LPA makes recommendations to the Town Council regarding LDC amendments.

What the action accomplishes:

The LPA recommendations will be moved forward to the Town Council for consideration.

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

This will be an ordinance.

5. Background:

A large number of the variance requests, submitted to the Town, are to allow development on corner lots. The LDC currently requires corner lots to provide a right of way setback, of 25 feet, from both rights of way, a side setback that is 15% of the width of the lot, and a rear setback, of 20 or 25 feet. Often it is difficult to design a home on a lot with all of those setbacks. Staff was tasked with providing options to amend the code that would alleviate some of the common issues. At the Dec. 6th LPA meeting a variety of options were discussed for amending the code to allow more flexible development on corner lots. These options have been incorporated into the proposed code language attached as Exhibit A and Exhibit B.

Attachments:

1. Jan LPA Memo
2. Exhibit A Code Language
3. Exhibit B Zoning Setback Table

Financial Impact:

unknown

6. Alternative Action

Recommend modified language to the Town Council.

7. Staff Recommendations:

Recommend language to Town Council.

8. Recommended Approval:

Jason Green, Community Development Services

Date: January 04, 2023

John R Herin Jr, Town Attorney

Date: January 04, 2023

Amy Baker, Town Clerk

Date: January 05, 2023



**Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT**

To: LPA
From: Sarah Propst, Community Development
Date: January 18, 2023
Re: Corner Lot Setbacks

BACKGROUND

A large number of the variance requests, submitted to the Town, are to allow development on corner lots. The LDC currently requires corner lots to provide a right of way setback, of 25 feet, from both rights of way, a side setback that is 15% of the width of the lot, and a rear setback, of 20 or 25 feet. Often it is difficult to design a home on a lot with all of those setbacks. Staff was tasked with providing options to amend the code that would alleviate some of the common issues.

At a meeting with the Town Council, in June, three different ways to address corner lots were discussed. The option of Front and Side Street Setbacks, Two Fronts and Two Sides, and Minimum Buildable Width. The Council voiced support for providing a combination of Front and Side Street Setbacks with some of the Minimum Buildable Width language included.

At the December 6th LPA meeting there were a variety of ideas and options discussed, including:

- Sliding scale for side street setback based on lot width. Side street setbacks as narrow as 10 feet for lots 50 feet, or less.
- Primary street setback from Estero Boulevard for any corner lots on Estero Boulevard.
- Porches and stoops may encroach up to half of the required setback where there is a reduced side street setback.
- Design must show parked cars within the narrow side street setback will not encroach into the right of way.
- Reduction of the additional setback for houses with more than 65 feet of frontage along a narrow side street setback.
- Eliminate the 15% side setback and returning to the 7.5-foot and 10-foot side setback.
- Allow for mechanical equipment to encroach up to four feet into side yard setback if it is elevated. Allowing for a ladder for access.

FORT MYERS BEACH ESTERO ISLAND

P. 239-765-0202 | **F.** 239-765-0909 | 2525 Estero Boulevard, Fort Myers Beach, FL 33931



PROPOSED SOLUTION

The proposed ordinance changes which would apply to residentially zoned corner lots. All corner lots would have a front and a side street setback. Which side is the front and which is the side could be determined by the owner/developer of the lot, except all lots on Estero Boulevard would have a front street setback from Estero Boulevard. The table below shows the side street setback and the side setback on different lot sizes.

Lot Width	40	45	50	55	60	65	70	75	80	85
Side Street	10	10	10	15	15	20	20	20	25	25
Side Setback	7.5	7.5	7.5	7.5	7.5	7.5	7.5	10	10	10
Buildable Width	22.5	27.5	32.5	32.5	37.5	37.5	42.5	45	45	50

Porches would be allowed to encroach on the side street setback 10 feet or half the width of the setback, whichever is less.

The additional street setback for houses exceeding 65 feet along a side street, would be decreased from 12 feet to accommodate narrower corner lots.

The 15% side setback is removed and replaced with the previous 7.5-foot or 10-foot side setback (Exhibit B).

Per the proposed language, mechanical equipment encroachment would be permitted up to four feet in the rear, waterbody and side yard setback of the primary structure. Equipment would be allowed in the side yard only if elevated. The topic of allowing equipment in the side yard was discussed at previous council meetings, noise, visibility and access around equipment were mentioned as concerns to any changes to the regulations. The proposed language requires the equipment to be cantilevered 10 feet above grade, to allow access under the equipment. However, 10 feet may be higher than the first floor of many homes on the island. It may be most appropriate to allow only replacement equipment and generators to be installed in the side yard setback. Allowance for generators may preserve life and safety in the event of a power outage but other new, non-replacement equipment in the side yard may negatively impact neighbors.



Summary

All items discussed at the December 6th LPA meeting have been included in the proposed language. Please review the language (Exhibit A) and setback table (Exhibit B) to ensure that all requested changes have been included as desired and that they are appropriate for incorporation into the code.

ATTACHMENTS

Exhibit A – Proposed code language

Exhibit B – Proposed setback table changes

Sec. 34-638. - Minimum setbacks.

- (a) *Generally.* Most zoning districts require minimum setbacks between all buildings and structures and the street, the side lot line, the rear lot line, and any waterbody.
- (1) Setbacks are minimum horizontal distances between a property line and the nearest point of all structures that ensure a minimum area without buildings. Detailed definitions are provided under "setback" in § 34-2 of this LDC.
- a. Where an unusual lot configuration or orientation makes it unclear which property lines are street, side, or rear lot lines, the director will establish street, side, and rear lot lines for setback purposes after taking into account existing buildings on the same block as well as the intent of this code. Where access is provided by a shared driveway rather than a street, the director may determine that no street setback applies to that lot.
- b. Once established through this process, the same setbacks will be applied by the director to other lots on that block.
- (2) There are two types of side setbacks:
- a. *Side setbacks - waterfront lots.* Larger side setbacks are required for waterfront lots, defined as lots that immediately adjoin a tidally influenced body of water, whether artificial or natural (see definitions in § 34-2 of this LDC).
- b. *Side setbacks - non-waterfront lots.* Smaller side setbacks are required for all other lots.
- (3) The distinction between street setback lines and build-to lines is explained in § 34-662 of this chapter.
- (4) *Corner Lot Street Setbacks.* Corner lots, as defined in 34-2, shall have two street setbacks which may vary depending on lot width. a standard side setback and a standard rear setback shall apply, as defined in Table 34-3 – Dimensional Regulations in Conventional Zoning Districts.
- a. Front Street Setback. The front street setback will be the typical required street setback as defined in Table 34-3. Any corner lot on Estero Boulevard, must treat the Estero Boulevard frontage as the front street setback. Any corner lot not on Estero Boulevard may choose the front street which best allows development of the property and meets all other code requirements. The rear setback shall be opposite of the front street setback
- b. Side Street Setback. The side street setback may vary depending on the width of the lot, measured from the side street property line and the side property line (opposite from the side street property line). See Sec. 34-638(d)(6)
- (45) Certain exceptions to minimum setbacks are provided in subsection (d) below.
- (b) *Where to find minimum setback dimensions.* Minimum setback dimensions are specified as follows:
- (1) *For principal buildings:*
- a. For all conventional zoning districts, see Table 34-3.
- b. For redevelopment zoning districts, as described for the individual districts in division 5 of this article.
- c. For RPD districts, see § 34-943 of this chapter.
- d. For CPD districts, see § 34-953 of this chapter.
- (2) *For accessory buildings,* see §§ 34-1174—34-1176 of this chapter.
- (c) *Additional wetlands buffers.* New development must maintain a 75-foot separation between wetlands and buildings or other impervious surfaces, in accordance with Policy 4-C-12 of the Fort Myers Beach Comprehensive Plan.
- (1) This requirement does not apply to lawfully existing subdivided lots.

- (2) This requirement also does not apply to a previously approved development order to the extent it cannot reasonably be modified to comply with this requirement (see ch. 15 of the Fort Myers Beach Comprehensive Plan for details).
- (d) *Exceptions to setbacks and dimensions.* In addition to the following general exceptions to minimum setbacks, commercial buildings that are subject to the commercial design standards may encroach into certain setbacks as provided in §§ 34-991—34-1010 of this chapter.
- (1) *Exceptions to all setbacks.*
- a. *Administrative setback variances.* Under certain limited circumstances, administrative variances can be granted to minimum setbacks as provided in § 34-268 of this chapter.
 - b. *Overhangs.* An overhang which is part of a building may be permitted to encroach into any setback as long as the overhang does not extend more than three feet into the setback and does not permit any balcony, porch, or living space located above the overhang to extend into the setback.
 - c. *Shutters.* A shutter which is attached to a building may be permitted to encroach one foot into the setbacks.
 - d. *Awnings and canopies.*
 - 1. Awnings and canopies which are attached to a building may be permitted to encroach three feet into the setbacks, as long as their location does not interfere with traffic, ingress and egress, or life safety equipment.
 - 2. For purposes of this section, awnings and canopies may be attached to a nonconforming building and shall not be considered an extension or enlargement of a nonconformity, as long as the building is properly zoned for its use and the conditions as set forth in this section are met.
 - e. *Essential services.* Essential services and essential service equipment shall not be required to meet the minimum setbacks for the district wherein located (see § 34-1617 of this chapter).
 - f. *Two-family dwelling units.* If a two-family dwelling unit is on a lot of sufficient size to allow it to be subdivided into a separate lot under each dwelling unit (see Table 34-3), the side setback regulations in this section shall not be interpreted to forbid such subdivision. Existing two-family buildings that are being subdivided must be separated by not less than one-hour fire resistance.
 - g. *Mechanical equipment.* Mechanical equipment such as air conditioners pool equipment and generators may encroach up to three-four feet into rear and waterbody primary structure setbacks but must meet the same street and side setbacks as the building it serves. Equipment encroaching in side yard setbacks must be elevated, see 34-638(d)g2, below. These requirements apply to new buildings and to new mechanical equipment but will not apply to replacement of mechanical equipment on existing buildings if the equipment was installed in conformance with prior regulations.
 - 1. On lots where the side setbacks are not equal on both sides, mechanical equipment may not be placed on the side of the house with the smaller setback unless the smaller setback is 20 feet wide or more.
 - 2. Mechanical equipment may extend four feet into the required side yard setback if the equipment is elevated a minimum of 10 feet above grade with no ground supports encroaching into the setback. An access ladder may be installed which encroaches no more than 3 feet into the side yard setback and is removable or movable.
- (2) *Exceptions to street setbacks.* Certain structures are exempt from the street setback requirements as follows. See also § 34-1174 of this chapter.
- a. *Build-to lines.* Some zoning districts do not have any street setback requirements but instead have build-to lines, as described in § 34-662 of this chapter. Awnings, canopies, balconies,

bay windows, porches, stoops, arcades, and colonnades may extend forward of the build-to line provided that they comply with the commercial design standards (see § 34-995(e) of this chapter).

- b. *Porches, balconies and stoops.* Porches, balconies and stoops may encroach into the street setback extend up to ten feet or half the width of the street setback, whichever is less, into the 25-foot street setback on the first living level of residential buildings, provided that:
 - 1. Any walls, screened areas, or railings in the setback zone extend no higher than 42 inches above the floor of the porch, balcony or stoop; and
 - 2. ~~No portion of a porch or balcony and no walls or screened areas may be closer than ten feet to the edge of any street right-of-way or street easement.~~
 - 3. Porches, balconies and stoops, which extend into the ~~front~~ street setback, may not exceed 35 feet in width.
- c. *Mail and newspaper delivery boxes.* Mail and newspaper delivery boxes may be placed in accordance with U.S. Postal Service regulations; however, the support for a mail or newspaper delivery box must be of a suitable breakaway or yielding design, and any mail or newspaper delivery box placed in an unsafe or hazardous location can be removed by the government agency with jurisdiction over the right-of-way at the property owner's expense.
- d. *Bus shelters, bus stop benches and bicycle racks.* Bus shelters, bus stop benches, and bicycle racks may be located in any district without regard for minimum setbacks, provided the location of the structure is approved by the town manager. No advertising is permitted on bus stop benches.
- e. *Telephone booths.* Telephone booths and pay telephone stations may be located in any zoning district that permits multifamily or commercial uses without regard for minimum setbacks; provided that the location shall be approved by the director.

(3) *Waterbody setbacks.*

- a. *Gulf of Mexico.* Except as provided in this section or elsewhere in this code, no building or structure shall be placed closer to the Gulf of Mexico than set forth in ch. 6, articles III and IV of this LDC, or 50 feet from mean high-water, whichever is the most restrictive. See also special regulations for the EC zoning district in § 34-652 of this chapter and the coastal zone restrictions in § 34-1575 of this chapter.
- b. *Other bodies of water.* Except as provided in this section or elsewhere in this chapter, no building or structure shall be placed closer than 25 feet to a property line adjacent to a canal, bay, or other waterbody. For purposes of measuring setbacks from a canal, bay, or other body of water, the following will also be used:
 - 1. If the body of water is subject to tidal changes, the setback will be measured from the mean high-water line.
 - 2. If the body of water is not subject to tidal changes, the setback will be measured from the control elevation of the body of water if known, or from the ordinary high-water line if unknown.
 - 3. In addition to the property line setback, if the property has a seawall, a minimum setback of five feet will be measured from the seaward side of the seawall, not including the seawall cap.
 - 4. If property lines encroach into the waterbody, then no more than five feet shall be applied to the setback measurement.
 - 5. If plats or legal descriptions of property reference water bodies as boundaries, the mean high-water line shall be utilized, unless otherwise stated in those legal descriptions or survey.

- c. *Exceptions for certain accessory structures.* Certain accessory buildings and structures may be permitted closer to a body of water as follows:
 - 1. *Fences and walls.* See division 17 of this article.
 - 2. *Shoreline structures.* See § 34-1863 and ch. 26 of this LDC.
 - 3. *Nonroofed structures.* Swimming pools, tennis courts, patios, decks, and other nonroofed accessory structures or facilities which are not enclosed, except by fence, or which are enclosed on at least three sides with open-mesh screening from a height of 3½ feet above grade to the top of the enclosure, shall be permitted up to but not closer than:
 - (i) Five feet from a seawalled canal or seawalled natural body of water;
 - (ii) Ten feet from a nonseawalled artificial body of water; or
 - (iii) Twenty-five feet from a nonseawalled natural body of water;whichever is greater. Enclosures with any two or more sides enclosed by opaque material shall be required to comply with the setbacks set forth in subsections (d)(3)a. and (d)(3)b. of this section.
 - 4. *Roofed structures.*
 - (i) Accessory structures with roofs intended to be impervious to weather and which are structurally built as part of the principal structure shall be required to comply with the setbacks set forth in subsections (a) and (b) of this section.
 - (ii) Accessory structures with roofs intended to be impervious to weather and which are not structurally built as part of the principal structure may be permitted up to but not closer than 25 feet to a natural body of water, and ten feet to an artificial body of water.
- (4) *Exceptions for certain nonconforming lots.*
 - a. Certain nonconforming mobile home lots in the village zoning district are subject to the modified side and rear setback requirements that are found in § 34-694 of this chapter.
 - b. Certain nonconforming commercial lots are subject to the modified side and rear setback requirements that are found in § 34-3277 of this chapter.
- (5) *Additional street setbacks for single-family and two-family homes exceeding 65 feet in width in the RS, RC and RM zoning district.*
 - a. Single-family and two-family homes exceeding 65 feet in width, shall have additional street setback requirements.
 - 1. No more than 65 feet of the structure may be constructed between the street setback line (25 feet from right-of-way property line) and 37 feet from the street property line. Any portion of the structure exceeding 65 feet in width shall be set back an additional 12 feet (37 feet from the right-of-way property line).
 - (i) For corner lots, the additional 12-foot setback requirement applies to the front street setback.
 - (ii) For corner lots, the additional setback may be reduced for the side street setback. The side street additional setback shall apply to the length of the home, exceeding 65 feet, that fronts on the side street. The additional setback from the side street shall be based on the width of the lot from the side street property line to the opposite side property line.
Properties 50 feet or less in width shall have an additional setback of 3 feet.

Properties greater than 50 feet in width to 85 feet in width shall have an additional setback of 6 feet.

Properties greater than 85 feet in width shall have an additional setback of 12 feet.

2. No more than 80 percent of the portion of the structure between the street setback line (25 feet from right-of-way property line) and 37 feet from the street property line may be taller than one story above flood elevation. Any portion of the building behind the 37-foot front setback may be built to the maximum buildable height for that zoning district.
3. The 65 feet of building between the 25-foot street setback and 37 feet from the street property line, must be constructed as at least two separate projections. The front façade may not be a continuous wall without setback changes. See Figure 34-2.

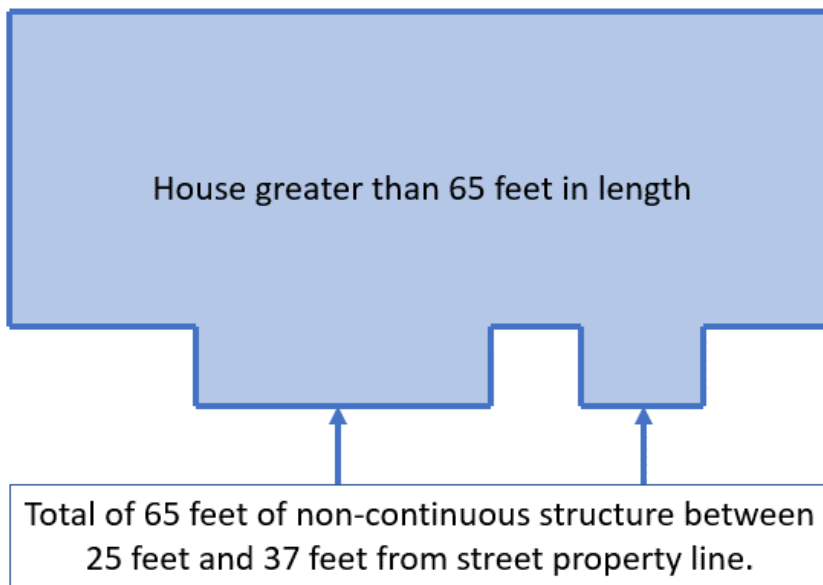


Figure 34-2

- b. *Exemption from additional setbacks for open ground level.* A residential structure greater than 65 feet in width will be exempt from the additional front and side setback requirements found in § 34-638(d)(5), if the ground-level enclosed or screened area is limited to no more than 30 feet in width, as viewed from the ROW. The enclosed area may extend the full depth of the house but limited in width to 30 feet.
- (6) *Side setback requirement for single-family and two-family homes in the RS, RC and RM zoning districts.*
 - a. ~~Single-family and two-family homes must provide side setbacks equal to 15 percent of the lot width, but not less than 7.5 feet, on each side.~~
 1. ~~Lot width is measured from the property line adjacent to the right-of-way. Where the property is a corner lot, the front will be the side of the property that is deemed the front based on the setbacks (in relation to where the front setback, rear setback, and side setbacks are applied).~~
 2. ~~The cumulative total of the side setbacks shall be 30 percent of the parcel width, however, the setbacks do not have to be equal on both sides. No side setback shall be less than ten percent of the parcel width or a minimum of 7.5 feet, whichever is greater.~~

- ~~(i) Mechanical equipment may not be located on the side of the house with a smaller setback unless the smaller setback is 20 feet wide or more.~~

~~3. The setback measurement shall be rounded to the nearest half-foot.~~

(6) Corner Lot Street Setbacks. Corner lots, as defined in 34-2, shall have two street setbacks which may vary depending on lot width. a standard side setback and a standard rear setback shall apply, as defined in Table 34-3 – Dimensional Regulations in Conventional Zoning Districts.

a. Front Street Setback - for single-family and two-family homes in the RS, RC and RM zoning districts will be 25 feet. Any corner lot on Estero Boulevard, must treat the Estero Boulevard frontage as the front street setback. Any corner lot not on Estero Boulevard may choose the front and side street which best allows development of the property and meets all other code requirements. The rear setback shall be opposite of the front street setback

b. Side Street Setback - for single-family and two-family homes in the RS, RC and RM zoning districts.

The side street setback will vary between 10 feet and 25 feet depending on the width of the lot, measured from the side street property line and the side property line (opposite from the side street property line).

1. Properties that measure 50 feet or less shall have a 10-foot side street setback.

- (i) Proposed layout must indicate how parked cars will be maintained out of the right of way, if this is where the property will be accessed.

2. Properties that measure greater than 50 feet up to 60 feet shall have a 15-foot side street setback.

- (i) Proposed layout must indicate how parked cars will be maintained out of the right of way, if this is where the property will be accessed.

3. Properties that measure greater than 60 feet up to 75 feet shall have a 20-foot side street setback.

4. Properties that are greater than 75 feet shall have a 25-foot side street setback.

([Ord. No. 20-08](#) , § 2, 4-6-2020; Ord. No. [20-19](#) , § 4, 1-19-2021; Ord. No. [22-01](#) , § 2, 2-7-2022)

Definitions:

Lot, corner means: (1) A lot located at the intersection of two or more streets where the corner interior angle formed by the intersection of the two streets is 135 degrees or less; or (2) A lot abutting a curved street if straight lines drawn between the intersections of the side lot lines and the street right-of-way or easement to the foremost point of the lot form an interior angle of less than 135 degrees. A corner lot will have a primary and a secondary street setback.

Lot line, front means the lot line which separates the lot from a street right-of-way or easement.

Lot line means a line which delineates the boundary of a lot.

Exhibit A – Proposed Code Language

Lot line, front means the lot line which separates the lot from a street right-of-way or easement

Lot line, rear means that lot line which is parallel to or concentric with and most distant from the front lot line of the lot. In the case of an irregular or triangular lot, a line 20 feet in length, entirely within the lot, parallel to or concentric with and at the maximum possible distance from the front lot line, shall be considered to be the rear lot line. In the case of a through lot, there shall be no rear lot line. In the case of a double-frontage lot, the line directly opposite from the front line shall be designated as either a rear line or a side line depending upon the designation of the adjacent property. In the case of corner lots, the rear lot line shall be the line most nearly parallel to or concentric with and most distant from the front lot line most prevalent along the block.

Setback means the minimum horizontal distance required between a specified line and the nearest point of a building or structure. See also "build-to" lines in [§ 34-662](#) and setback exceptions in [§ 34-638\(d\)](#) of this chapter.

Street setback means the setback extending across the front of a lot measured from the edge of an existing street right-of-way or street easement. See definition of "*Lot line, front*" and [§ 34-638](#) of this chapter. Corner lots will have two street setbacks, a primary street setback and a side street setback, see Sec. 34-638(a)(4) for additional explanation.

Street setback, front means the street setback, on a corner lot, that is the opposite of the rear setback and is the full required depth of the street setback. Corner lots located on Estero Boulevard must have the front street setback from Estero Boulevard.

Street setback, side means the street setback, on a corner lot, that is opposite of the side setback and may be less than the full required depth of the street setback. See Sec. 34-638(d)(6) for additional explanation.

Side setback means the setback, extending from the required street setback to the required rear lot line, or opposing street setback in the case of a double-frontage lot, measured from the side lot line. There are two types of side setbacks, those applying to waterfront lots and those applying to non-waterfront lots. See definition of "*Lot line, side*" and [§ 34-638](#) of this chapter.

Rear setback means the setback, extending across the rear of a lot, measured from the rear lot line. See definition of "*Lot line, rear*" and [§ 34-638](#) of this chapter.

Waterbody setback means the setback measured from the mean high-water line (MHWL), or the control elevation line if applicable, of a waterbody. See [§ 34-638](#) of this chapter.

Table 34-3— Dimensional Regulations in Conventional Zoning Districts														
	street	side - waterfront lot	side - non-waterfront	rear	water body (1)	Gulf of Mexico (2)	area	width	depth	ratio	percentage		feet	stories
ZONING DISTRICT	Setbacks (see § 34-638 for explanations and exceptions)						Lot size (see § 34-637 for explanations and			F.A.R. §34-633	Building Coverage § 34-634	Density § 34-632	Height (see § 34-631)	
<i>RS Residential Single-family</i>	25(9)	15% of lot width <u>7.5 or 10</u> (8) (9)/(10)	15% of lot width <u>7.5 or 10</u> (8) (9)/(10)	20	25	50	7,500	75	100	-	40%	(3), (4)	30	3
<i>RC Residential Conservation</i>	25(9)	15% of lot <u>7.5 or 10</u> (10) width (10)	15% of lot <u>7.5 or 10</u> (10) width (10)	20	25	50	4,000	45	80	-	40%	(3), (4), (5)	30	3

Exhibit B - Proposed Setback Table Changes

<i>RM Residential Multifamily</i>	25(9)	20 (6) (10)	20 (6)	20	25	50	7,500	75	100	1.2	-/	(3), (4), (5)	35	3
<i>CR Commercial Resort</i>	10	20	15	20	25	50	20,000	100	100	1.2	-	(3)	30	3
<i>CM Commercial Marina</i>	20	20	20	20	0	50	20,000	100	100	1.0	-	-	35	3
<i>CO Commercial Office</i>	10	10	7	20	25	50	7,500	75	100	1.2	-	(3), (4), (5)	30	3
<i>Santos</i>	10	7	5	20	25	50	5,000	50	100	0.6	-	(3), (4), (5)	25	3
<i>IN Institutional</i>	20	10	7	20	25	50	7,500	75	100	0.8	-	(3)	35	3
<i>CF Community Facilities</i>	20	15	10	20	25	50	N/A	N/A	N/A	0.1	-	(3)	35	3
<i>BB Bay Beach</i>	— see § 34-651(b) —													

Exhibit B - Proposed Setback Table Changes

<i>EC Environmentally Critical</i>	20	25	-	25	20	50	(7)	N/A	N/A	0.01	-	(3), (7)	25	2
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Note (1): An additional wetland buffer is required for new development; see § 34-638(c). Note (2): See § 34-638(d)(3)a.

Note (3): Maximum densities are established by the Fort Myers Beach Comprehensive Plan; see Section 34-632

Note (4): Accessory apartments are allowed in owner-occupied homes under certain conditions; see Section 34-1178.

Note (5): A second dwelling unit or accessory apartment may be allowed on larger lots; for details, see Section 34-632, 34-1177, and 34-1178

Note (6): Single-family and two-family homes in the RM zoning district must maintain only a side setback of 15% of the lot width, but not less than a 7.5-foot side setback for lots less than 75 feet and 10 feet for lots 75 feet or wider.

Note (7): See Section 34-652(e)(3).

Note (8): For all RS lots fronting on Matanzas Street and Matanzas Court, all side setbacks shall be at least 10 feet.

Note (9): Maximum 65 feet of house may be built to the 25-foot front setback. Any house frontage exceeding 65 feet in length shall ~~be built 37 feet from the front~~ be subject to additional setbacks from the street property line. See Section 34-638(d)(5)a.

Note (10): ~~Each side setbacks shall be 15% of the lot width, but not less than 7.5 feet.~~ Each side setback shall be 7.5 feet for lots less than 75 feet wide and 10 feet for lots 75 feet or wider.

**Town of Fort Myers Beach
Agenda Item Summary**

Yellow Sheet Number: **2023-889**

1. Requested Motion:

Meeting Date: January 18, 2023

Text amendment to Sec. 34-3273 Residential Uses on Nonconforming Lots and Sec. 34-3274 Minimum Use Determinations

Why the action is necessary:

The LPA recommends LDC amendments to the Town Council.

What the action accomplishes:

The amendments to the code will allow these small lots to be rebuilt.

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

This will be an ordinance.

5. Background:

The LPA has asked that staff address these issues to ensure that these very small "cottage lots" are able to be rebuilt. These "cottage lots" are typically almost square and between 40 and 55 feet wide and long. There are two sections of the code that impact the ability to build on the "cottage lots": Sec. 34-3273 General requirements for residential uses on nonconforming lots, and Sec. 34-3274 Minimum use determinations. Minor amendments to these sections will allow these lots to be buildable.

Attachments:

1. Nonconforming and MUD LPA Memo
2. Exhibit A
3. Exhibit B

Financial Impact:

unknown

6. Alternative Action

Recommend modifications to the proposed language to the Town Council.

7. Staff Recommendations:

Recommend language to the Town Council.

8. Recommended Approval:

Jason Green, Community Development Services

Date: January 11, 2023

John R Herin Jr, Town Attorney

Date: January 12, 2023

Amy Baker, Town Clerk

Date: January 12, 2023



**Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT**

To: LPA
From: Sarah Propst, Community Development
Date: January 18, 2023
Re: Minimum Use and Nonconforming Lots

BACKGROUND

As the Town begins to rebuild from Hurricane Ian, some properties have been identified as potentially unbuildable due to the size and arrange of the lot. The LPA has asked that staff address these issues to ensure that these very small “cottage lots” are able to be rebuilt. These “cottage lots” are typically almost square and between 40 and 55 feet wide and long.

There are two sections of the code that impact the ability to build on the “cottage lots”: Sec. 34-3273 General requirements for residential uses on nonconforming lots, and Sec. 34-3274 Minimum use determinations. There is one code section that would allow administrative variances for very small lots: Sec. 34-268 Administrative setback variances. This is provided for discussion so that the LPA can see how all of the pieces could work together. Staff believes this piece should be considered further at the next meeting before recommendation to the Town Council.

PROPOSED SOLUTION

The code sections 34-3273 and 34-3274 include provisions that would make certain previously developed lots, unbuildable. These include requirements for lots to be at least 75 feet deep and to have direct access to a right of way. The proposed language, attached as Exhibit A, replaces these requirements with other requirements that address the issue which was resolved by the existing language.

The code section 34-268 addresses the ability to administratively approve a variance request. Under paragraph a, the numbered items identified the allowed administrative variances, including stairs to encroach, construction of ramps for accessibility and approval of minor construction errors. Proposed modifications to this section include limiting construction error administrative variances to one foot.

FORT MYERS BEACH ESTERO ISLAND

P. 239-765-0202 | **F.** 239-765-0909 | 2525 Estero Boulevard, Fort Myers Beach, FL 33931



Under paragraph b. is the list of findings that must be made for the administrative variance to be approved. Modifications to this section include a variety of limitations to ensure that that administrative variances are used in very strict circumstances, similar to the “cottage lots” being rebuilt and not in instances where a full variance is appropriate. Staff asks that the LPA consider the language provided in this section and provide feedback for the next hearing, rather than recommend this language move forward to Town Council at this time.

Summary

Staff requests that the LPA provide feedback and a recommendation to Town Council for Sections 34-3273 and 34-3274, Exhibit A.

Staff requests that the LPA consider and provide feedback on Section 34-268 for staff to bring back at the next meeting. This section is not ready to be moved to Town Council but is being included so the LPA is able to see how all of the pieces could fit together.

ATTACHMENTS

Exhibit A – Sections 34-3273 and 34-3274 with amendments

Exhibit B – Section 34-268 with amendments for consideration

Sec. 34-3273. - General requirements for residential uses on nonconforming lots.

Nonconforming lots may be developed subject to the following provisions:

- (1) All other regulations of this chapter shall be met, except as modified by this division.
- (2) A residential building may be placed on a single nonconforming lot provided the lot receives an affirmative minimum use determination per Sec. 34-3274 ~~has at least 40 feet in width, 75 feet in depth.~~
- (3) Any development on nonconforming lots must comply with all density restrictions of the Fort Myers Beach Comprehensive Plan.
 - a. Density computations shall be in accordance with § 34-632 of this chapter.
 - b. If density computations do not allow even one dwelling unit on a nonconforming lot, one single-family residence may still be permitted if a minimum-use determination is obtained in accordance with § 34-3274, below.
- (4) No division of any nonconforming lot may be permitted which creates a lot with width, depth, or area below the minimum requirements stated in this chapter, except for combinations and redivisions in accordance with § 34-3275 of this chapter.
- (5) The burden of proof for demonstrating that a lot is a nonconforming lot in accordance with this division, and lawfully existed at the specified date, shall be with the owner.
- (6) The remaining lot after condemnation shall be treated in accordance with § 34-3206 of this chapter.

(Ord. No. [21-04](#), § 2, 6-7-2021)

Sec. 34-3274. - Minimum use determinations.

- (a) A single-family residence may be constructed on a nonconforming lot which does not comply with the density requirements of the Fort Myers Beach Comprehensive Plan, provided the owner receives a favorable administrative interpretation of the single-family residence provision (also known as a minimum use determination) in accordance with ch. 15 of the Fort Myers Beach Comprehensive Plan, and the criteria included in subsection 34-3274(b). Density created through this process may not be transferred to any other property.
- (b) To qualify for a minimum use determination, the following additional requirements must be met:
 - (1) *Minimum lot requirements:*
 - a. The property is a legally platted, recorded lot; and
 - b. The property has ~~direct access~~ to a developed, public right-of-way by an improved access easement; and
 - c. The property has access to and will be connected to utilities; and
 - d. The lot is located within a future land use and zoning district that permits construction of a single-family residence.
 - (2) *Unplatted lot (a lot that is described in metes and bounds only and does not exist as part of a recorded subdivision) requirements:*
 - a. The owner of any unplatted lot must provide evidence of the lot's existence prior to town incorporation, (January 1, 1996), and the lot's current legal description must match the lot's legal description prior to incorporation;
 - b. The property has ~~direct access~~ to a developed, public right-of-way by an improved access easement ; and

- c. The property has access to and will be connected to utilities.
- (c) Lots qualifying for a minimum use determination may not place the home, accessory structures, or driveways on any land in the "wetlands" or "recreation" category on the future land use map of the comprehensive plan.
- (d) The rights granted by a minimum use determination run with the lot and are available to any subsequent owner if the lot is transferred in its entirety.
- (e) Applications for a minimum use determination shall be filed with the town clerk in accordance with ch. 15 of the comprehensive plan. Complete applications will be reviewed by the legal counsel for the local planning agency (see § 34-124(3) of this chapter) and may be referred to the local planning agency for a decision (see § 34-120(6) of this chapter).

([Ord. No. 20-01](#), § 2, 2-18-2020)

Sec. 34-268. - Administrative setback variances.

- (a) Upon written request using a form prepared by the director, the director is authorized to modify the setbacks in §§ 34-638, 34-1174—34-1176, and 34-1744 of this chapter under the following circumstances:
- (1) Street, rear, side, or waterbody setbacks may be modified to permit the remodeling of or additions to existing structures that are nonconforming with regard to a specific setback so long as the remodeling or addition will not result in:
 - a. An increase in the height of the structure; or
 - b. A further diminution of the setback. The director may approve bay windows, chimneys, and similar architectural features that may encroach further into the setback provided the encroachment does not protrude beyond the existing overhang of the building.
 - (2) Street, rear, side, or waterbody setbacks may be modified to permit the construction of a handicapped access appurtenant to any existing structure.
 - (3) Street, rear, side, or waterbody setbacks may be modified to allow the replacement of stairs or decking that provides access into an existing dwelling unit.
 - (4) Street, rear, side, or waterbody setbacks may be modified to legitimize minor errors, not exceeding 1 foot, in setbacks at the time of construction.
 - (5) Street, rear, or side setbacks may be modified for a residential lot with an unusual shape or orientation where, for instance, side and rear setbacks should be reversed.
 - (6) Buildings or structures that are not in compliance with current setback regulations and which can be proven to have been permitted may also be reviewed by the director for consideration under this section.
 - (7) Requirements for large satellite dishes may be modified as provided in § 34-1175(a)(6) of this chapter.
 - (8) Certain nonconforming lots (see § 34-3273) may qualify for an administrative setback variance.
- (b) The director, prior to approving the modifications, must make the following findings of fact:
- (1) There are no apparent deleterious effects upon the adjoining property owners;
 - (2) The modifications will not have an adverse impact on the public health, safety and welfare including safe access to the subject property or properties which utilize a common access easement; and
 - (3) The modifications will be the minimum required to allow a home with a footprint of 1,000 square feet and one story in height and no enclosure below base flood elevation.
 - (4) Modified setbacks may not be less than 5 feet except in instances where homes share a common wall, such as a duplex or townhome.
 - (5) Modified setbacks may not be encroached by mechanical equipment or structures.
- (c) Decisions by the director pursuant to this section are discretionary and may not be appealed in accordance with § 34-86 of this chapter.

(Ord. No. [21-04](#), § 2, 6-7-2021)

**Town of Fort Myers Beach
Agenda Item Summary**

Yellow Sheet Number: **2023-895**

1. **Requested Motion:**

Meeting Date: January 18, 2023

11: 00 a.m. or later start - Discussion about Comprehensive Plan Future Land Use Element and Draft Future Land Use Map

Why the action is necessary:

What the action accomplishes:

2. **Agenda:**

PUBLIC HEARINGS

3. **Requirement/Purpose:**

5. **Background:**

The Town consultant working on the Comprehensive Plan update has prepared a draft Future Land Use Element (FLUE) and Future Land Use Map (FLUM). The proposed edits provide new and revised Goals, Objectives, and Policies for future development patterns and managing growth on the island. The consultant will present the draft text and map for discussion. The next steps include receiving direction and feedback from the LPA prior to completing the package of edits to the remaining elements and submitting them for the formal public hearing process.

Attachments:

1. Fort Myers Beach - Land Use Discussion
2. FMB January 2023
3. FLU Element GOP
4. FMB FLUM Draft

Financial Impact:

6. **Alternative Action**

7. **Staff Recommendations:**

Requesting review and feedback on the Goals, Objectives, and Policies; and the Future Land Use Map for the updated Comprehensive Plan.

8. **Recommended Approval:**

Jason Green, Community Development Services

Date: January 12, 2023

John R Herin Jr, Town Attorney

Date: January 12, 2023

Amy Baker, Town Clerk

Date: January 12, 2023

Fort Myers Beach Comprehensive Plan Update:

Discussion of proposed future land use changes.

Evaluation of the comprehensive plan and the Town of Fort Myers Beach's history have previously provided insight on critical issues facing the town now and in future. These issues include housing attainability; community design, including viewsheds, scale, density, and walkability; transportation and parking; and resiliency and conservation. These importantly stem from and feed into land use concern. While Hurricane Ian affects the implementation of the plans as a whole, as a long-range plan, the past provides lessons for the vision of how to rebuild.

In discussion, therefore, we recommend that in setting a vision for the comprehensive plan for the Town's future. The following summarizes initial patterns and, as applicable, some courses of recommended actions that when combined, provides for the proposed revised future land use map enclosed. The revised map creates new districts to direct increased density and intensity, that:

- Encourages mixed-use developments consisting of commercial and residential uses that are compatible and harmonious with the surrounding neighborhood
- Increases allowable density
- Amends floor area ratio for commercial uses
- Encourages workforce affordable housing
- Introduces design principles that enhance pedestrian and transit-oriented uses
- Increases resiliency on the island.

It does so by merging categories of land use into a more appropriate mixed-use category, with 5 core mixed use districts with varying intensity, while maintaining single family areas and medium density multifamily units currently in existence. The proposed changes are compatible with recommendations to move towards a more form-based code.

Land Use and Community Design

Balance between residential and tourism aspects of the Town is critical to its future. The Town has been a destination, and once rebuilt, it will be destination in the future as well. Having a balanced economic base also provides benefits for neighborhood preservation while ensuring that locals have access to quality-of-life amenities and local jobs, as commercial properties need a critical mass of consumer activity to survive. The town has previously had issues as well being able to approve daily/necessity uses such as bank branches due to code restrictions. As the Town recovers, it should consider how overly strict use-based regulations, as opposed to form-based regulations, may hinder recovery.

Viewsheds, along with height considerations, are also among concerns previously heard in the process. Density of areas across the Town should be managed, with land use controls accounting for beach views, as well as preventing a mismatch of tall buildings next to single family residences. At the same time, housing affordability was and continues to be an issue on the island. It is also recommended that land use be structured in the future to provide for regular points of access to the beach, approximately 0.5 miles apart, including for ease of nearby access for all residents.

The provision of attainable housing in the future, for most communities, involves providing for additional housing stock. This may be beneficial, though not the only solution for Fort Myers Beach, which must take a comprehensive approach to truly address housing attainability. One method is to provide for additional density, but as an opt-in bonus with covenants for affordable and workforce housing. The housing stock also requires diversity in style and type in order to provide different price points, but the lot sizes, existing density, and other regulations provide disincentives for housing affordability over time. Density is a critical limiting factor for future housing affordability. While the Town can provide for methods utilized in other island communities such as Accessory Dwelling Units in its land development regulations, its future land use designations and associated qualities would render such regulations unattainable in practical application, and the proposed revisions account for the need to address this. Further, prior to Hurricane Ian, there was also an emerging trend of lot combining and removal of housing in order to convert to larger properties with McMansion-like development. This trend is expected to accelerate in light of the effects of Hurricane Ian, which provides more opportunities for lot assembly. Multiple approaches are necessary to address housing issues in the future.

The effects of tourism and community balance also merits further discussion due to prior trends. The current rules constrain what can be built by hotels and motels provides for less maneuverability to provide price competitive transient housing. Tourism demand has to abate by restricting hotel and motel space; rather, signs indicate that a combination of available cash and low mortgage interest rates allowed for the purchase of AirBnbs and for those vacation rentals to be cost competitive. Prior to Hurricane Ian, there were reports of increases of homes being used as AirBnbs, and trends indicated that there were many homes being bought for the purpose for being turned into a rental, while demand for regularly housing simultaneously rose. Previously, we reported that the Town's long range projections provided by outside agencies also indicated that while population remained steady, the number of houses in the Town would continue to rise. Generally, trends of this nature indicate second homes; however, local anecdotal evidence indicates that vacation rentals were a heavy factor that intruded into existing neighborhoods. AirBnbs occupy a niche market to begin with, due to consumer preference; however, the level of cost competitiveness is what allows them to be successful as investment properties. Loosening regulations regarding ratios, including by switching to a FAR system and removing the existing preset transient housing ratios, may allow a restructure economically to provide for competitive price points, and counter intuitively, may be conducive here for neighborhood protection.

Transportation and Parking

People will not walk or bicycle beyond certain thresholds. If the distance is greater than 0.10 to 0.25 miles for pedestrians and 1.5 to 2 miles for bicyclists, generally, people are more likely to drive. Thus, land use patterns, specifically, the location of destinations such as the market, restaurants, banks, and other daily needs affect choice of transportation mode.

The Town's current land use patterns provide for concentrations of commercial activity at either end for the island, and this has contributed to increased travel, specifically vehicle miles. In other cities, this traffic is dispersed because there are parallel routes; however, because Fort Myers Beach has one major roadway, all the traffic concentrates and results in heightened congestion. Merely adding bicycle and

pedestrian infrastructure, while part of the solution, will not solve this issue because proximity of origins (where one lives) and destinations (where one shops/plays) do not align well in Fort Myers Beach.

Part of the future development strategy therefore is to disperse activities across the island through small nodes, allowing for easier access. The distribution of these nodes are approximately one mile apart, allowing for both bicycling and walking thresholds to be met across the island.

Parking is another issue that was often cited as a concern in prior meetings. Parking structures should be recommended for the mixed-use nodes in the north and south portion of the island, to reduce the potential circulation and free up land, a vital resource, for other, more socially valuable and aesthetically pleasing uses than surface parking. Central locations will encourage people to park and get out and walk. These decks also serve as refuge in other cities for vehicle storage in cases of emergencies like hurricanes and contribute to post disaster recovery.

Additionally, because the intent is to provide for further growth at the entrance of the Town in order to balance Town wide demand, supportive policies for the widening of the right-of-way for San Carlos Boulevard should be considered in any land use regulations in conjunction with mixed-use district policies.

Resiliency and Conservation

Much of resiliency and conservation are relegated to land development codes. However, critical elements remain in a comprehensive plan, including the need to designate areas of conservation status, such as wetlands. Limiting beach development and providing for additional heights to raise buildings are considerations the Town should enact into its comprehensive plan and land development code.

Future Considerations

Buildback and Incentive Policies

It is clear from recent review that post Hurricane Ian, new development will be created on properties. It is expected that for those building back, incentives may be needed for to encourage a higher quality of redevelopment given existing entitlements.

It is important to realize that while discussion of specific functions, incentives or bonus are only applicable in light of specific goals. Incentives can be crafted for a variety of reasons, and code flexibility options depend on the priorities of the town, as well as baseline considerations that have not been determined. Therefore, incentives and other such items are determined after other priorities have been provided.

In other cities, incentives are provided to go above the “norm” in exchange for tangible public benefits including, but not limited to:

- Affordable and workforce housing
- Additional Parks and open space above what is required
- Multimodal facility enhancement
- Public Art
- Public facilities such as community centers, police stations, etc.
- Hardening for future resiliency

- Ensuring actual mixed-use development.

In return, some intrinsic value is provided to the development, ranging from expedited and fee waivers to predetermined density and height bonuses based on community preferences. The weight and value of these items vary based on prioritization of need by the community. Before incentives are discussed, it is best to definitively determine for what outcome is the incentive being provided. Incentives should generally be utilized as a last resort – primary aspects of the code should always be aligned towards the community’s desired visual and land use outcomes.

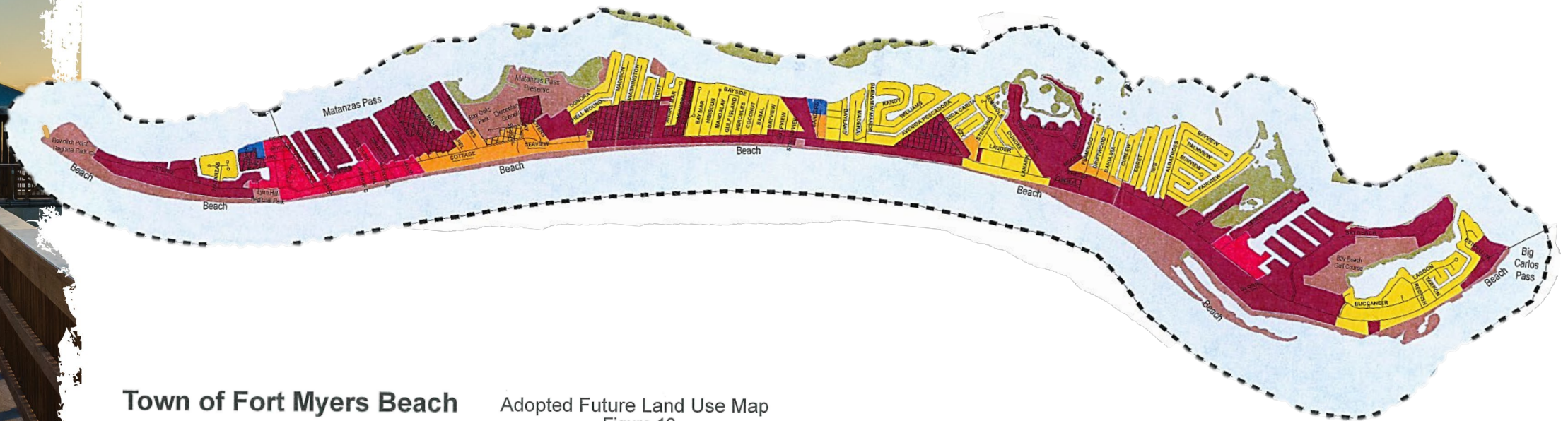
TOWN OF FORT MYERS BEACH



January 2018

THE CORRADINO GROUP

FUTURE LAND USE MAP



Town of Fort Myers Beach

Adopted Future Land Use Map
Figure 16

Legend	
	City Limits
	Platted Overlay
	Boulevard
	Low Density
	Marina
	Mixed Residential
	Pedestrian Commercial
	Recreation
	Tidal Water
	Wetlands



0 1,000 2,000 4,000
Feet

January 1, 1999

As Amended Through May 20, 2010

Originally Prepared by Spikowski Planning Associates
and Lee County Property Appraiser's Office
Updated and Maintained by Fort Myers Beach
Community Development Department



COMPREHENSIVE PLAN & LAND DEVELOPMENT REGULATIONS

Create new districts to direct increased density and intensity, that:

- Encourage mixed-use developments consisting of commercial and residential uses that are compatible with the surrounding neighborhood
- Increase allowable density
- Amend floor area ratio for commercial uses
- Encourage workforce affordable housing
- Introduce design principles that integrate design principles that enhance pedestrian and transit-oriented use.

CURRENT COMPREHENSIVE PLAN POLICIES

COMMERCIAL USES: involve the sale or rental of goods or services, including businesses such as retail stores, offices, restaurants/bars, service/craft/rental businesses, RV parks, and hotels/motels/resorts; churches and civic buildings are also included in this category.

- Shopping and services for residents and overnight guests are strongly preferred
- Shopping and services that contribute to the pedestrian character of the town are strongly preferred

BUILDING HEIGHTS: height of new buildings under most conditions limited to two stories above flood elevation. Different heights may be applied to officially designated redevelopment areas. Individual parcels of land surrounded by tall buildings on lots that are contiguous (or directly across a street) may seek relief through the planned development rezoning process for compatible heights with .

MOTEL DENSITIES: vary between a low of one guest unit and a high of three guest units for each dwelling unit.

PROPOSED COMPREHENSIVE PLAN POLICIES

COMMERCIAL USES:

- Distinguish permitted uses between personal services and general commercial
- Introduce limited commercial uses regulated by floor area or intensity

BUILDING HEIGHTS:

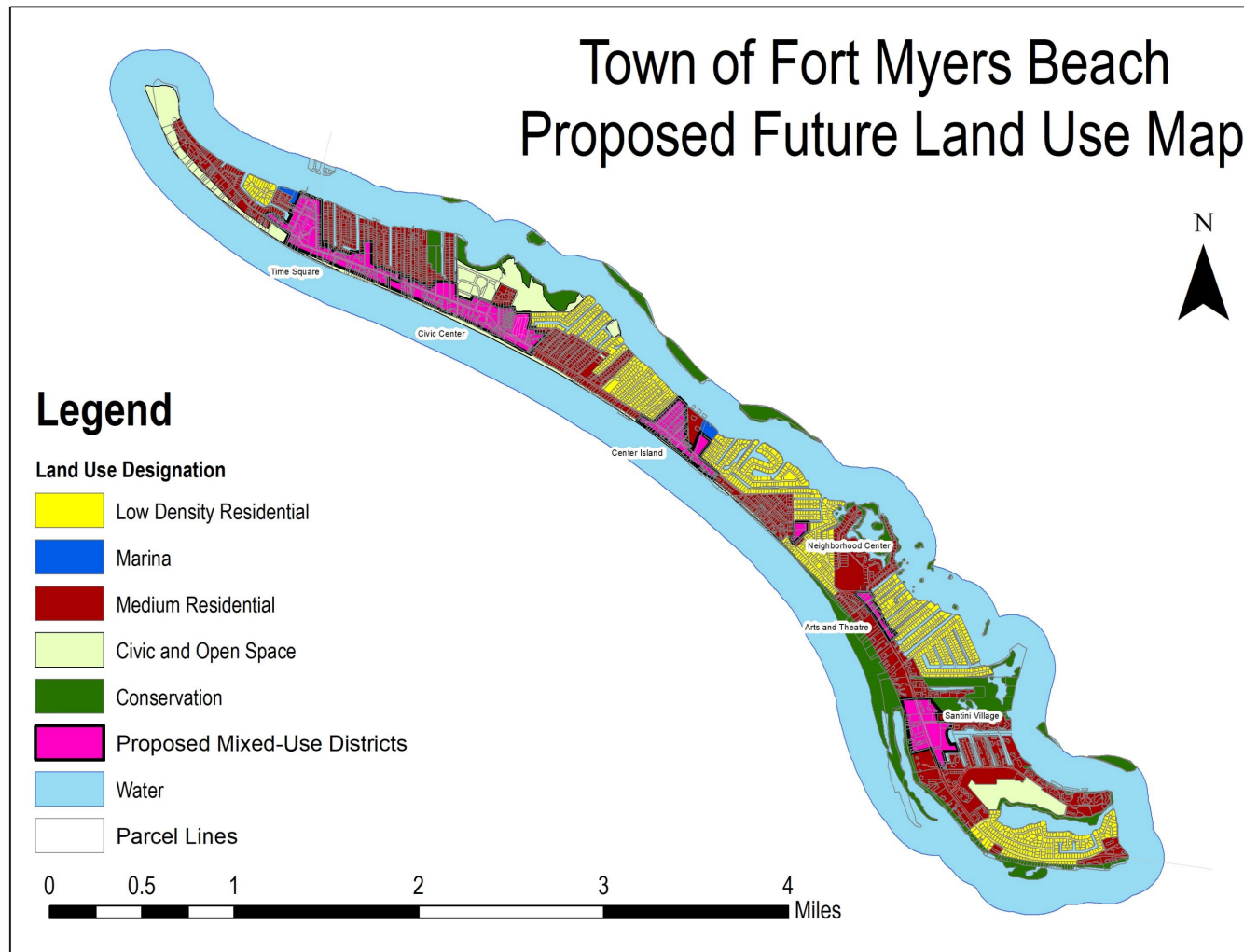
- Height of new buildings under most conditions limited to three stories above flood elevation, except for additional stories for affordable workforce housing (maximum of 2 stories)
- Facilitate infill to effectuate consistent development of Individual parcels of land surrounded by tall buildings, consistent with existing policy
- Different heights designated to redevelopment areas
- Edges or portions of districts abutting single-family residential have setbacks to regulate height, additional landscape buffer standards, and restriction of uses allowed

MOTEL DENSITIES: Tied to FAR instead

MODIFIED RESIDENTIAL DENSITIES FOR SPECIAL DISTRICTS:

- **7, 10, 18 Units per Acre**

FUTURE LAND USE MAP



Changes:

- Civic and Open Space
- Mixed Residential -> Medium Residential
- Wetlands -> conservation
- Mixed-Use Districts: Commercial, Pedestrian Boulevard, some Mixed Residential
- Overlay removal





PROPOSED DISTRICTS



TIME SQUARE MIXED-USE DISTRICT

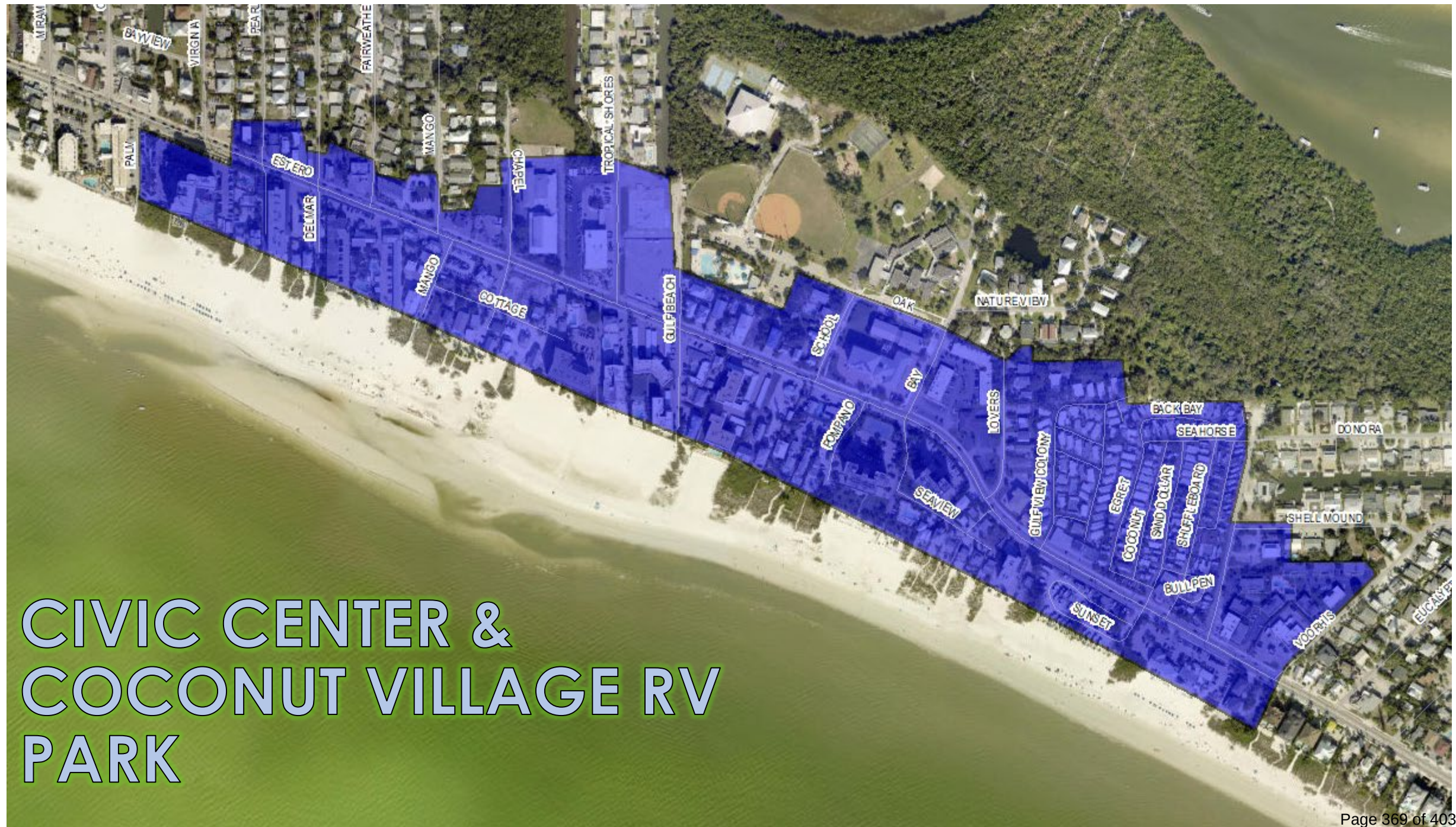
- Building Heights:
 - North of Estero Boulevard and west of San Carlos Boulevard, the maximum building height is five (5) stories or 70 FT, measured from Base Flood Elevation, and with a maximum FAR of 4.0.
 - North of Estero and east of San Carlos Boulevard, the maximum building height is three (3) stories or 45 FT, measured from Base Flood Elevation, and with a maximum non-residential FAR of 3.0.
 - South of Estero Boulevard the maximum building height is two (2) stories or 25 FT, measured from BFE. The maximum non-residential FAR west of Estero is 2.0.
- Uses Permitted: no residential on gulf-side of Estero Blvd. multifamily residential, lodging/hotels, medical offices, professional offices, personal services, general commercial
 - Ground floor commercial required for development abutting Estero Blvd.

Non residential FAR as noted above, 12 Units per Acre, up to 18 Units with workforce housing

CIVIC CENTER & COCONUT VILLAGE RV PARK

- Building Heights:
 - South of Estero Boulevard the maximum building height is three (3) stories or 45 FT.
 - North of Estero Boulevard the maximum building height is four (4) stories or 55 FT, except a maximum height of five (5) stories (or 70 FT) when workforce or affordable housing is provided.
- Uses Permitted: no residential on gulf side of Estero Blvd. single and multifamily residential, medical offices, professional offices, personal services, general commercial
 - Ground floor commercial required for development abutting Estero Blvd with 60% fenestration required
- Encourage new development to coordinate with beach access and provide improvements (signage, ADA accessibility)
- 3 FAR, except transient residential FAR restricted to 1.0 as a conditional use, 10 Units per Acre

CIVIC CENTER & COCONUT VILLAGE RV PARK



PUBLIX COMMERCIAL PARCEL

- Building Heights:
 - South of Estero Boulevard the maximum building height is three (2) stories or 35 FT. Consideration for taller building heights shall be provided for infill development.
 - North of Estero Boulevard the maximum building height is five (5) stories or 65 FT, measured from BFE.
 - Code shall have height gradients to protect surrounding residential properties.
- Uses Permitted: multifamily residential, professional offices, personal services, limited retail/business
(regulate through use or floor area)
 - Ground floor commercial required for development abutting Estero Blvd.
- 3 FAR, 18 Units per Acre

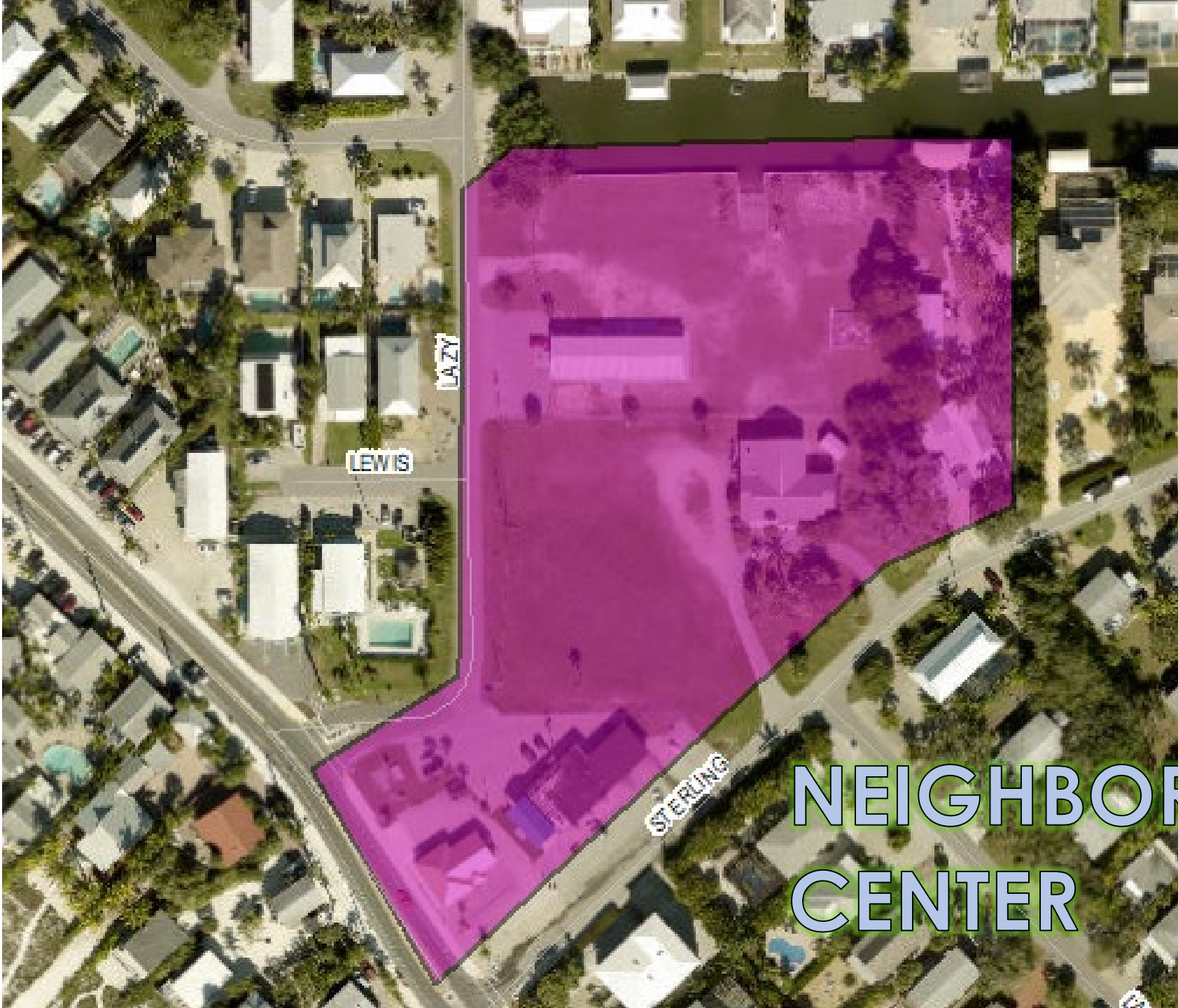


PUBLIX COMMERCIAL PARCEL



NEIGHBORHOOD CENTER

- Building Heights:
 - The maximum building height is three (3) stories or 45 FT above BFE. One (1) additional story or 10 FT of height can be built when workforce or affordable housing is provided. The maximum FAR for non-residential development is 1.0.
- Uses Permitted: multifamily residential, professional offices, personal services, limited commercial, live/work spaces
 - Ground floor commercial or live/work space required for development abutting Estero Blvd.
- *1 FAR, 8 Units per Acre*



NEIGHBORHOOD CENTER

THEATRE & ARTS DISTRICT

- Building Heights:
 - The maximum building height for the district is three (3) stories or 45 FT above Base Floor Elevation. A maximum height of four (4) stories is allowed when workforce housing is provided.
- Uses Permitted: multifamily residential, professional offices, personal services, limited commercial, live/work spaces, community facilities
 - Ground floor commercial or live/work space required for development abutting Estero Blvd.
- *3 FAR, 10 Units per Acre*



THEATRE & ARTS DISTRICT





SANTINI VILLAGE

- Building Heights:
 - The maximum building height is thirteen (13) stories, except a maximum height of fifteen (15) stories when workforce or affordable housing is provided. All building heights are measure from Base Flood Elevation. The maximum non-residential FAR for the district is 5.0. Consideration for taller building heights shall be provided for infill development throughout the District.
- Uses Permitted: multifamily residential, professional offices, personal services, general commercial
 - Ground floor commercial required for development abutting Estero Blvd.
- Encourage public plazas, open-air retail spaces
- *5 FAR, 18 Units per Acre*



SANTINI VILLAGE



GOALS - OBJECTIVES - POLICIES

Based on the analysis of land use issues in this element, the following goals, objectives, and policies are adopted into the Fort Myers Beach Comprehensive Plan:

GOAL 4FLU-1: To keep Fort Myers Beach a healthy and vibrant “small town,” while capitalizing on the vitality and amenities available in a beach–resort environment and minimizing the damage to the natural and built environment that a hurricane, sea-level rise, and coastal erosion could inflict.

OBJECTIVE 4-FLU-1-A SMALL-TOWN CHARACTER — Maintain the small-town character of Fort Myers Beach and the pedestrian-oriented “public realm” that allows people to move throughout the island around without their the need of cars even in the midst of peak-season congestion.

POLICY 4FLU-1-A-1: Maintaining the town’s current “human scale” is a fundamental redevelopment principle. Fort Myers Beach is best enjoyed from outside a car; n New buildings should be designed to encourage use or admiration by people on foot or bicycle, rather than separating them with gates, walls, deep setbacks, or unnecessary building heights. The Land Development Regulations shall ensure that improvements which potentially impact the appearance of Estero Boulevard, as well as major activity centers such as Times Square and Villa Santini, the mixed-use districts, the town’s shoreline, scenic views of the waterfront and tidal waters, public parks and other public grounds and institutions are managed and enhanced through application of the site plan review process.

Community character is reflected in Floor to Area Ratios (FAR), lot sizes, house sizes, site placement, height, architectural features and existing vegetation. The Town shall strive to stabilize and preserve neighborhoods and establish urban design standards which protect and promote quality of life, in order to prevent teardowns, encourage re-use, infill and new development.

POLICY 4FLU-1-A-2: The Town of Fort Myers Beach values its vibrant economy and walkable commercial areas. Through this plan, the town will ensure that new commercial activities, when allowed, will contribute to the pedestrian-oriented public realm. All new development is encouraged to provide for amenities that enhance the public realm, including art, benches, bike racks, trash receptacles, etc.

POLICY FLU-14-A-3: The Ttown shall protect residential neighborhoods from intrusive commercial activities (see Policies 4-C-2 and 4-C-3 below). Stable residential areas shall be protected from encroachment by incompatible development. However, within residential areas, the Land Development Regulations shall allow home-based businesses that do not detract from the residential quality of the neighborhood. These regulations shall incorporate criteria for determining compatible home occupation uses, and standards to ascertain that no negative impacts on adjoining properties result.

POLICY FLU-1-A-4: Easy walking access to the beach is a key element of the town's human scale. Development trends that inhibit this access are undesirable. ~~(including traffic improvements to Estero Boulevard that would make it a barrier to the beach for pedestrians).~~ The Town shall not vacate, diminish, or otherwise impair publicly owned pathways, sidewalks, roads, ends of roads, parking areas, docks or boat launching facilities, and other access points currently used, or susceptible to use, by the public to access the shorelines, consistent with Comprehensive Plan unless there is documented evidence that physical public access is destabilizing unaltered shorelines. Further, the Town shall not abandon any right-of-way, improved or unimproved, which terminates on a body of water.

POLICY FLU-1-A-X: The Town shall explore opportunities to provide innovative parking solutions on the Island to meet future demands. The town shall maximize efficient use of land, minimize gaps in the urban landscape, and improve urban form by: encouraging redevelopment of existing surface parking lots; discouraging creation of new surface lots; consolidate parking in strategically located parking structures; and manage parking as a system. The Town shall consider/encourage the use of shared parking.

POLICY FLU-1-A-5: The town contains many important natural resources ~~despite its urbanized character~~. Preservation of those resources is of the highest importance and is a frequent theme throughout this plan. Efforts shall be made to update the Town's land development regulations to address development in floodplains, shoreline protection, wetlands protection, water quality, urban forestry and habitats for listed protected or endangered species.

POLICY FLU-1-A-6: The beaches provide incomparable recreational and environmental benefits to the town; careful management of the beach, including renourishment when necessary, can increase both. Frequent beach accesses are essential to the town's character and shall be maintained and expanded where possible.

Policy FLU-1-A-X: ~~The Town, together with the private sector, shall consider proactive steps and pilot programs to adapt for sea level rise and storm surges, including but not limited to preserving transportation options, increasing residential building resiliency, preserving landscaping and residential building aesthetics, and preserving water quality.~~

POLICY FLU-14-A-7: Estero Bay also provides great benefits to the town and can be enhanced by improving public access and reversing the decline in water quality. The Conservation and Coastal/ Management Elements of this plan outline the town's efforts on these matters.

POLICY FLU-14-A-8: The town shall establish clear and consistent rules and processes that govern private and public development. They ~~Town~~ shall ~~be~~ consider the need to incorporated ~~into an illustrated portions of the~~ Land Development Code that:

- i. Defines the permitted uses and illustrates the dimensions needed to implement this comprehensive plan;

- ii. illustrates the types and dimensions of allowable signs that will identify businesses and other destinations without damaging the aesthetic qualities of the town;
- iii. resolves inconsistencies between current zoning and land development regulations and this comprehensive plan using the guidelines found in Chapter 15;
- iv. encourages the conservation and re-use of historic buildings as described in the Historic Preservation Element;
- v. in existing subdivisions, controls the scale of new homes to avoid the replacement of existing homes with excessively large structures; and
- vi.
- ~~vii.~~ ensures the availability of public facilities at the levels of service specified in this plan concurrently with the impacts of development (see Capital Improvements Element for a summary of these levels of service plus guidelines for the town's Concurrency Management System).

~~viii-vii.~~ ensures that the approval of all development shall be subject to the availability of adequate levels of service for all facilities and services that are subject to concurrency management requirements.

POLICY FLU-14-A-9: Many amenities available to local residents are the result of the local tourist economy and would diminish if hotels and motels were displaced. Landowners may redevelop hotels and motels for other uses, but special incentives of this plan such as post-disaster and pre-disaster buildback (Objectives 4-D and 4-E) only apply if the current use is maintained.

POLICY FLU-14-A-10 Hotels and motels may be constructed or converted to condominium ownership provided they are operated as hotels or motels. The Land Development Code shall provide detailed regulations that distinguish hotels and motels from residential uses and other types of lodging.

OBJECTIVE FLU-14-B FUTURE LAND USE MAP CATEGORIES

Reduce the potential for further overbuilding through a new Future Land Use Map that protects and enhances the remaining natural and historic resources, preserves the small-town character of Fort Myers Beach, and protects residential neighborhoods against commercial intrusions.

~~POLICY 4-B-1 OVERBUILDING: Judicious planning could have avoided the kind of overbuilding found at Fort Myers Beach by limiting construction to match road capacity and the physical environment. Since such planning came too late, the town must deal with today's congestion plus the impacts of future development that has vested rights to proceed. These conditions have shaped the vision of this plan, as~~

development rights once granted are not easily or lightly reversed; great care has been taken in this plan to balance important public and private rights.

POLICY FLU-1-4-B-2 **MAP ADOPTION:** The Town of Fort Myers Beach hereby adopts a Future Land Use Map (~~Figure 16~~) to govern further subdivision and development within its municipal boundary. The entire town is located within the coastal high-hazard area, as shown on the Coastal High Hazard Areas map ~~Figure 17~~ which is part of the adopted Future Land Use Map series. This map advances the principles of this comprehensive plan by assigning one of eight categories to all land and water, based on its location, condition, and existing uses.

POLICY FLU-1-B-3 LAND USE CATEGORIES

The following Future Land Use designations shall be applied to the Future Land Use Map:

- POLICY 4-B-3** **"LOW DENSITY RESIDENTIAL":** ~~d~~Designed for existing subdivisions with an established low-density character (primarily single-family homes). For new development, the maximum density is 4 dwelling units per acre, except that developments located on parcels less than 0.375 acres in size shall be allowed one additional accessory dwelling unit (ADU), assessed as 0.5 dwelling units, attached or detached, in addition to the primary residence, provided that either the ADU or the primary residence is owner occupied, the development is consistent with the land development regulations, and the development is compatible with surrounding uses. ~~and c~~Commercial activities are limited to home occupations as described in the Land Development Code (limited to incidental uses by the dwelling unit's occupant that do not attract customers or generate additional traffic).
- POLICY 4-B-4** **"MIXED MEDIUM RESIDENTIAL":** ~~designed for older subdivisions with mixed housing types on smaller lots, newer high-rise buildings, and mobile home and RV parks. This category will ensure that Fort Myers Beach retains a variety of neighborhoods and housing types. For new development, the maximum density is 6 dwelling units per acre (except where the Future Land Use Map's "platted overlay" indicates a maximum density of 10 units per acre for legally existing dwelling units).~~ except that developments with workforce and affordable housing shall be allowed up to 10 dwelling units per acre, provided that at least 2 units per acre is dedicated towards workforce and affordable housing and such development is compatible with surrounding uses. Commercial activities are limited to lower impact uses such as offices, motels, churches, and public uses, and must be sensitive to nearby residential uses, complement any adjoining commercial uses, contribute to the

public realm as described in this comprehensive plan, and meet the design concepts of this plan and the Land Development Code. These qualities and overall consistency with this comprehensive plan shall be evaluated by the town through the planned development rezoning process. ~~Non-residential uses (including motels and churches) now comprise 7.9% of the land in this category, and this percentage shall not exceed 12%.~~

"MIXED-USE": This land use designation is designed for portions of the Town along Estero Boulevard to allow for commercial and multifamily residential development. Each mixed-use district is prescribed a maximum density and intensity. To obtain approval for new or expanded commercial activities, proposals must be sensitive to nearby residential uses, contribute to the public realm as described in this comprehensive plan, and meet the design concepts of this plan and the Land Development Code. These qualities and overall consistency with this comprehensive plan shall be evaluated by the Town. Where commercial uses are permitted, residential uses are encouraged in upper floors. Within the Mixed-Use land use category, all existing "Marina" uses described shall be preserved and allowed to remain on parcels that were zoned for marinas prior to adoption of this plan.

The following provides for the specific Mixed-Use Districts

a. TIME SQUARE MIXED-USED (TS-MU) DISTRICT

Purpose: The Time Square Mixed-Use District serves as the Town's main tourist destination. The district is located at the Town's northern gateway and is generally bounded by San Carlos Boulevard to Estero Boulevard, and from Old San Carlos Boulevard to Virginia Avenue. The district shall encourage mixed-uses and compact urban design that enhances the pedestrian experience and limits the use of vehicles. The Town shall encourage the preservation of existing housing east of Estero Boulevard. Properties abutting Estero Boulevard shall be developed to primarily meet the needs of visitors.

Uses which may be permitted: Development on Estero Boulevard shall be only in a mixed-use context with commercial uses required on the ground floor. Development shall encourage preservation or enhancement of existing hotel/motel and multifamily densities east of Estero Boulevard. Uses permitted include, general retail, personal services, restaurants/bars (including outdoor dining), take-out and outdoor walk-up facilities, marine-dependent and marine related uses, lodging/hotel accommodations, and live entertainment venues. New surface parking lots as a principal use are discouraged. The land development regulations shall prescribe and limit the permitted uses in this district.

Intensity: North of Estero Boulevard and west of San Carlos Boulevard, the maximum building height is five (5) stories or 70 FT, measured from Base Flood Elevation, and with a maximum FAR of 4.0. North of Estero and east of San Carlos Boulevard, the maximum building height is three (3) stories or 45 FT, measured from Base Flood Elevation, and with a maximum non-residential FAR of 3.0. South of Estero Boulevard the maximum building height is two (2) stories or 25 FT, measured from BFE. The maximum non-residential FAR west of Estero is 2.0. Transient residential (hotel and motel) shall be counted as non-residential development and subject to rules on FAR.

Density: The permitted density is twelve (12) units per acre. Permitted density may be increased to eighteen (18) units per acre provided that at least 10% of the development is for affordable or workforce housing.

b. **COCONUT VILLAGE MIXED-USE (CV-MU) DISTRICT**

Purpose: The Coconut Village Mixed-Use District includes the properties adjacent to Estero Boulevard from Virginia Street to Voorhis Street. The district includes the properties east of Estero Boulevard, the existing Red Coconut RV Park and Gulf View Colony Mobile Home Park properties and the municipal properties west of the Boulevard. The CV-MU District's core, approximately bounded by Mango Street and Bay Road, is envisioned to support a mix of housing options and neighborhood-serving retail uses for the immediate residential cluster. The town shall encourage the collocation of any redeveloped or new municipal services and educational facilities within the district. Encroachment into the adjacent low-density residential districts shall be prohibited. The use of landscaping, increased setbacks and reduced building heights shall be employed to serve as a transition between the land use categories.

Uses which may be permitted: As limited by the land development regulations, permitted uses shall include civic/municipal uses, business and professional offices (including emergency, medical and dental), retail sales and personal service establishments, restaurants (including outdoor dining). Hotel/motel uses shall be conditional. Compact residential developments that support various housing types for permanent residents of the Island is encouraged in this district, including but not limited to Workforce Housing. Properties along Estero Boulevard shall be redeveloped in a mixed-use context only with retail or commercial uses required on the ground floor.

Intensity: South of Estero Boulevard the maximum building height is three (3) stories or 45 FT. North of Estero Boulevard the maximum building height is four (4) stories or 55 FT, except a maximum height of five (5) stories (or 70 FT) when workforce or affordable housing is provided. All building heights are measured

from Base Floor Elevation. The maximum FAR for the district is 3.0, with transient residential FAR restricted to 1.0 as a conditional use.

Density: The permitted density is ten (10) units per acre.

c. CENTER ISLAND MIXED-USE (CI-MU) DISTRICT

Purpose: The Center Island Mixed-Use District's general boundaries are from Estero Bay to the Gulf, and from Coconut Drive to Madera Road. The Center Island Mixed-Use District is envisioned as a lifestyle retail center with a mix of uses that supports the existing marina. The intent of this district is to provide development opportunities for existing and new medium-intensity commercial uses to serve the Town.

Uses which may be permitted: As limited by the land development regulations, permitted uses include various types of commercial business and professional offices (including medical and dental), retail sales and personal service establishments, restaurants (including outdoor dining), and residential (only in mixed-use context). Marine-related and marine-dependent uses that support an active waterfront and marina are highly encouraged. Elimination or reduction of the marina use is prohibited.

Intensity: South of Estero Boulevard the maximum building height is three (2) stories or 35 FT. Consideration for taller building heights shall be provided for infill development. North of Estero Boulevard the maximum building height is five (5) stories or 65 FT, measured from BFE. The maximum FAR for the CI-MU district is 3.0.

Density: The permitted density is eighteen (18) units per acre.

d. NEIGHBORHOOD CENTER MIXED-USE DISTRICT

Purpose: The Neighborhood Center Mixed-Use District is envisioned as a redevelopment opportunity with limited residential and commercial uses. New development in the NC-MU District is intended to serve the needs of residents predominately living near the center the island. The general district boundaries are Estero Boulevard to west, Sterling Avenue to the South and Lazy Way to the North. The redevelopment of this site shall provide for limited residential development in context with limited retail and office. Adjacent to any residential properties, redevelopment within the district shall provide a twenty (20) feet, landscape buffer. Views of the adjacent waterways shall be maintained and/or enhanced.

Uses which may be permitted: Retail, personal services, and office uses limited to a maximum floor area of 1800 SF. Daycares and educational facilities are permitted. Surface parking lots as a principal use is prohibited. The City's

land development regulations shall further prescribe and limit the permitted uses in this district.

Intensity: The maximum building height is three (3) stories or 45 FT above BFE. One (1) additional story or 10 FT of height can be built when workforce or affordable housing is provided. The maximum FAR for non-residential development is 1.0.

Density: The permitted density is eight (8) units per acre.

e. THEATRE ARTS MIXED-USE DISTRICT

Purpose: The Theatre Arts Mixed- Use District is envisioned as the cultural, theater, and arts district for the Island. The TA-MU District is composed of the properties abutting Estero Boulevard to the west, from Mound Road to Ibis Street, and includes the Beach Theatre site. The Town shall encourage the preservation of the theatre.

Uses which may be permitted: Uses that support and enhance the Town's cultural assets are encouraged in the TA-MU District. Permitted uses, as limited by the land development regulations, includes commercial recreation, retail, restaurants (including outdoor dining), venue spaces, theaters, artisanal retail, art galleries, music and dance studios, arts education, and live/work units. Live/work units are permitted on the ground level. Exclusively residential uses are permitted only above the ground floor.

Intensity: The maximum building height for the district is three (3) stories or 45 FT above Base Floor Elevation. A maximum height of four (4) stories is allowed when workforce housing is provided. The maximum FAR is 3.0.

Density: The permitted density is ten (10) units per acre.

f. THE SANTINI VILLAGE MIXED-USE DISTRICT

Purpose: Santini Village Mixed-Use District is the tallest and most dense district on the island with tourist supporting services and commercial uses. It is also envisioned as a redevelopment opportunity with more entertainment, tourist and neighborhood commercial uses at the southern gateway of the Island. The SV-MU District includes the existing Santini Marina Plaza Shops. The general boundaries include the properties east and west of Estero Boulevard from Island Pines Way south to Bella Lago Drive. The City's redevelopment plan for Santini Plaza, prepared by Dover, Kohl & Partners established a vision for this area. The plan shall serve as a guide to the District's redevelopment. Special consideration shall be given to the existing marina. The marina site shall be redeveloped in a mixed-use context to promote an active waterfront with a mix of uses. The marina use shall not be eliminated by the site's redevelopment.

Uses which may be permitted: Uses shall serve the needs of residents and visitors, as limited by the land development regulations. Permitted uses include general retail, amusement centers, bars, restaurants (including outdoor dining), residential, personal services, professional offices (including dental and medical), assisted living facilities, hotel/lodging accommodations, and marine-related/dependent uses. For properties abutting Estero Boulevard, commercial development is required on the ground floor.

Intensity: The maximum building height is thirteen (13) stories, except a maximum height of fifteen (15) stories when workforce or affordable housing is provided. All building heights are measure from Base Flood Elevation. The maximum non-residential FAR for the district is 5.0.

Density: The permitted density is eighteen (18) units per acre.

POLICY B-X “COMMERCIAL”: This designation is designed for existing land within the Town currently used for commercial purposes only. Existing or less intense uses are permitted on properties with this designation. No residential uses are permitted. Auto-centric uses or uses that generate high traffic volumes are encouraged on property designated “Commercial” on the future land use map. Uses which may be permitted include automobile service stations, hotel, lodging, general retail, professional, medical offices.

POLICY 4-B-5 — “BOULEVARD”: a mixed-use district along portions of Estero Boulevard, including less intense commercial areas, historic cottages, and mixed housing types. This category is not intended to allow commercial uses on all properties; its mixed-use nature is intended to remain permanently. For new residential development, the maximum density is 6 dwelling units per acre (except where the Future Land Use Map’s “platted overlay” indicates a maximum density of 10 units per acre for legally existing dwelling units). To obtain approval for new or expanded commercial activities, proposals must be sensitive to nearby residential uses, complement any adjoining commercial uses, contribute to the public realm as described in this comprehensive plan, and meet the design concepts of this plan and the Land Development Code. These qualities and overall consistency with this comprehensive plan shall be evaluated by the town through the planned development rezoning process. Non-residential uses (including motels and churches) now comprise 46.9% of the land in this category, and this percentage shall not exceed 70%.

POLICY 4-B-6 — “PEDESTRIAN COMMERCIAL”: a primarily commercial district applied to the intense activity centers of Times Square (including Old San Carlos and nearby portions of Estero Boulevard) and the area around the Villa Santini Plaza. For new development, the maximum density is 6 dwelling units per acre (except where the Future Land Use Map’s “platted overlay” indicates a maximum density of 10 units per acre for affordable units consistent with the adopted redevelopment plan). Commercial activities must contribute to the pedestrian-oriented public realm as described in this

comprehensive plan and must meet the design concepts of this plan and the Land Development Code. Where commercial uses are permitted, residential uses are encouraged in upper floors. All "Marina" uses in Policy 4-B-7 are also allowed on parcels that were zoned for marinas prior to adoption of this plan. Non-residential uses (including motels and churches) now comprise 58.9% of the land in this category, and this percentage shall not exceed 90%.

POLICY 4-B-7 — "MARINA": designed for prime sites that can provide access to the valuable waters around Fort Myers Beach. This category provides services for recreational boating, including related accessory uses provided that don't displace recreational marina services. Cruise ships and similar uses that draw large amounts of vehicular traffic are not permitted in this category. Specific regulations will be placed in the Land Development Code.

POLICY FLU-1-B-7 "MARINA": existing Marinas are prime sites that can provide access to the valuable waters around Fort Myers Beach. This category shall prioritize services for limited industrial and recreational boating, including related accessory uses. The redevelopment of existing Marinas shall encourage a working waterfront with mixed-use development, inclusive of commercial and residential uses, provided the uses do not displace marina dependent and related services. Specific regulations will be placed in the Land Development Code.

POLICY 4-B-8 — "RECREATION CIVIC AND OPEN SPACE": This designation provides for applied to public parks, schools, and civic infrastructure, including but not limited to Town Hall, libraries, police, fire rescue, and public utilities, undevelopable portions of Bay Beach, and those parts of Gulf beaches that lie seaward of the 1978 coastal construction control line. Additional accretions of beach, whether by natural causes or through beach renourishment, will automatically be assigned to this category. No new residential development is permitted (although several existing buildings were legally constructed partially seaward of the 1978 control line).

The maximum density of residential development here is 1 dwelling units per 20 acres, with all dwelling units to be constructed outside this category. Allowable uses are parks, schools, libraries, bathing beaches, beach access points, and related public facilities.

Non-recreational uses (such as the elementary school) now comprise 2.7% of the land in this category; additional school sites and public buildings shall not increase this percentage beyond 6%.

POLICY 4-B-9 — "WETLANDS": a conservation district applied to all remaining wetlands. The maximum density of residential development here is 1 dwelling units per 20 acres. Other allowable uses, if compatible with wetland functions, are passive recreation, walking access to tidal waters (boardwalks and docks), and restoration of degraded habitats. Prohibited activities include placement of fill material; dredging of boat basins and channels; placement of seawalls or other shoreline stabilization; and removal of native vegetation.

POLICY 4-B-10 "TIDAL WATER": applied to all saltwater canals and all waters surrounding Estero Island that lie within the municipal boundary (out 1,000 feet). No residential development is permitted. Allowable uses are water sports, boating, swimming, fishing, and similar uses. Also allowed are fixed structures for water access provided they comply with Land Development Code provisions designed to avoid impeding navigation and to minimize environmental damage and interference with aesthetic enjoyment of surrounding waters.

Policy FLU-1-B-XX "CONSERVATION": Conservation areas are intended to protect water supply, environmentally sensitive lands, wildlife habitat and the natural environment.

This shall be applied to wetlands, environmentally sensitive lands the Town wishes to protect, undevelopable portions of Bay Beach, and those parts of Gulf beaches that lie seaward of the 1978 coastal construction control line. Additional accretions of beach, whether by natural causes or through beach renourishment, will automatically be assigned to this category. No new residential development is permitted (although several existing buildings were legally constructed partially seaward of the 1978 control line).

Allowable uses are limited by the land development regulations. Prohibited activities include placement of fill material; dredging of boat basins and channels; placement of seawalls or other shoreline stabilization; and removal of native vegetation.

POLICY 4-B-11 PLATTED OVERLAY: This is not a separate category on the Future Land Use Map, but is applied in addition to one of the eight categories listed above. Allowable land uses are the same as in the underlying category, but the maximum residential density is 10 units per acre. This density level applies in the Pedestrian Commercial category only for affordable units consistent with the adopted redevelopment plan; in other categories it applies only to recognize existing dwelling units that were built legally but which would be non-conforming under a density cap of 6 units per acre.

POLICY FLU-1-4-B-12 LAND-USE TYPES DEFINED: For purposes of this comprehensive plan, land uses are divided into the following types:

- i. Residential uses include detached homes, accessory apartments (see Policy 4-C-7), home occupations (see Policy 4-B-3), mobile homes, assisted living facilities, apartments, live-work units, accessory dwelling units for commercial structures, and condominiums, provided that no dwellings are rented for periods shorter than one week month.
- ii. Commercial uses involve the sale or rental of goods or services, including businesses such as art galleries, art/music/dance/theater studios, retail stores, offices (including medical), urgent care facilities, restaurants/bars,

Commented [EN1]: The following uses are permitted within the Conservation land use category: Passive outdoor recreational uses such as wildlife sanctuaries and feeding stations, nature centers and trails, outdoor research stations and walkways. Uses which do not impair the natural environment or disturb the natural ecosystem of the area and which are not in conflict with any applicable contractual agreement or management policies of the federal, state regional, county, municipal or non-profit agency which manages the area. City approved outdoor events.

- service/craft/rental businesses, RV parks, and hotels/motels/resorts; churches and civic buildings are also included in this category.
- iii. Marina uses involve the use of prime waterfront sites to support a mix of uses, including residential, commercial, recreational boating, such as wet or dry boat storage, sales/rentals of boats and supplies, and boat repair.
 - iv. Industrial uses such as manufacturing, seafood processing, and warehousing are not permitted in the Town of Fort Myers Beach, except for dry storage of boats at approved marinas.
 - v. Recreational uses include beaches, parks, playgrounds, and similar uses.
 - vi. Mixed uses means some combination of the above land-use types in a single building, or on a single site, or on different sites within a single category on the Future Land Use Map, depending on the context.

~~POLICY 4-B-13 PUBLIC FACILITIES: Most public facilities such as parks, schools, libraries, fire stations, and government buildings will continue be located within the "Recreation" category (but only park non-habitable structures are allowed seaward of the 1978 Coastal Construction Control Line). When no suitable sites can be found in the "Recreation Conservation" category, public facilities may also be located in "Mixed Residential," "Boulevard," and "Pedestrian Commercial" "Mixed-Use" categories as may be allowed by the Land Development Code.~~

~~POLICY 4-B-14 SCHOOLS: Public and private schools may be located in the following categories on the future land use map: Mixed Residential, Boulevard, Pedestrian Commercial "Mixed-Use", or Recreation Conservation (but never seaward of the 1978 coastal construction control line). The maximum intensity of new or expanded schools shall not exceed a floor-area-ratio of 0.50 (the total floor area of the building divided by the buildable area of the site). Governmental agencies providing parks, libraries and community centers are strongly encouraged to locate them near schools.~~

OBJECTIVE FLU-1-4-C APPLYING THE FUTURE LAND USE

MAP — The Future Land Use Map shall be interpreted in accordance with the following policies.

POLICY FLU-1-4-C-1 LEGAL EFFECT: The density limits and land-use restrictions described above for each category are legally binding immediately upon adoption of this comprehensive plan. During the preparation of the new Land Development Code that will fully implement this plan, conflicts may arise with previous regulations and zoning districts. Chapter 15 of this plan describes how such conflicts will be resolved.

POLICY FLU-1-4-C-2 COMMERCIAL INTENSITY: The maximum intensity of allowable commercial development in any category may be controlled by height and Floor to Area Ratio (FAR) regulations (see Policy 4-C-4) or by other provisions of this plan and the Land Development Code. Standards in the Land Development Code will encourage more intense commercial uses on properties with frontage on Estero Boulevard and only in the "Pedestrian Commercial" "Mixed-Use" and "Commercial"

~~category categories. The Land Development Code shall specify maximum commercial intensities using floor-area ratios (the total floor area of the building divided by the area of the site in the category allowing commercial uses). The Land Development Code may allow floor-area ratios in the "Pedestrian Commercial" category as high as 2.5, and in other categories as high as 1.5,~~

POLICY FLU-1-4-C-3 COMMERCIAL LOCATIONS: When evaluating proposals for new or expanded commercial uses in categories where they are permitted, the following principles shall apply:

- i. No rezonings for purely commercial uses shall be allowed in the "Low Density Residential" category.
- ii. Where new or expanded commercial uses are encouraged, ~~as in the "Pedestrian Commercial" category,~~ the Land Development Code shall specify its permitted form and extent and provide a streamlined approval process. Landowners may also use the planned development rezoning process to seek approval of other forms of commercial development in that category.
- iii. In the "Mixed Residential" category, commercial uses are limited to lower impact uses such as offices, motels, and public uses, and must be sensitive to nearby residential uses, complement any adjoining commercial uses, contribute to the public realm as described in this comprehensive plan, satisfy concurrency requirements for public facilities, and meet the design concepts of this plan and the Land Development Code. ~~Landowners may seek commercial rezoning only through the planned development process.~~
- iv. In the "Boulevard Mixed-Use" category, where mixed-use development including some commercial and residential uses may be are permissible, ~~landowners may seek commercial rezoning only through the planned development process.~~ Proposals must be sensitive to nearby residential uses, ~~complement any adjoining commercial uses,~~ contribute to the public realm as described in this comprehensive plan, and meet the design concepts of this plan and the Land Development Code.
- v. ~~The following principles shall be considered by the town w~~When evaluating requests for new commercial uses: shopping
 - a. ~~Shopping and services for residents and overnight guests are strongly preferred over shopping and services that will attract additional day visitors during peak season congestion.~~
 - b. Shopping and services that contribute to the pedestrian character of the town are strongly preferred over buildings designed primarily for vehicular access.
- vi. The neighborhood context of proposed commercial uses is of paramount importance. The sensitivity of a proposed commercial activity to nearby residential areas can be affected by:
 - a. the type of commercial activities (such as traffic to be generated, hours of operation, and noise);

- b. its physical scale (such as the height, and bulk of proposed buildings); and
- c. the orientation of buildings and parking). Commercial activities that will intrude into residential neighborhoods because of their type, scale, or orientation shall not be approved.

POLICY FLU-1--C-4 BUILDING HEIGHTS: The Land Development Code shall limit the height of new buildings under most conditions to ~~two~~ three stories or 45 feet above flood elevation except where otherwise noted in this Comprehensive Plan Land Use categories and to provide for workforce housing units protected by a minimum 30-year covenant. ~~(exceptions may include the buildback situations (see Policies 4-D-1 and 4-E-1), and different heights may be applied to officially designated redevelopment~~ Mixed-Use areas such as Times Square, Red Coconut/Gulf View Colony, and Villa Santini Plaza). The town shall encourage taller building heights in the mixed-use districts. Mixed-use district regulations shall include provisions to limit heights or provide for additional buffers when the development is located within 100 ft of detached single family residences. In those few cases where individual parcels of land are so surrounded by tall buildings on lots that are contiguous ~~(or directly across a street)~~ that this ~~two~~ three-story height limit would be unreasonable, landowners may seek relief through the planned development rezoning process, which requires a public hearing and notification of adjacent property owners. The town will approve, modify, or deny such requests after evaluating the level of unfairness that would result from the specific circumstances and the degree the specific proposal conforms with all aspects of this comprehensive plan, including its land-use and design policies, pedestrian orientation, and natural resource criteria. One additional story or 10 FT of height may be provided in lieu of the provision of workforce housing units or other contribution to affordable housing.

Particular attention would be paid to any permanent view corridors to Gulf or Bay waters that could be provided in exchange for allowing a building to be taller than ~~two~~ three stories. The ground floor for developments along the Gulf side of Estero Boulevard shall be encouraged to provide non-habitable uses that enhance the view corridors to the Gulf. In each case, the town shall balance the public benefits of the height limit against other public benefits that would result from the specific proposal.

POLICY FLU-1-4-C-5 DENSITY: This plan establishes density levels as the maximum number of residential dwelling units allowed per acre of land (DU/acre). This acreage includes all residential land plus land within the development to be used for street and utility rights-of-way, recreation and open space, water management, and existing lakes that are entirely contained within the residential development. Commercial and other non-residential land shall not be included in this acreage; however, where mixed uses are permitted in a single building, residential densities will be computed without regard for commercial uses located on lower floors. ~~When computing densities on existing subdivisions where lots are smaller than 15,000 square feet, one-half the width of adjoining streets and canals may be included in the acreage,~~

and computed densities greater than 1.50 DU/acre may be rounded up to two dwelling units where multiple dwelling are permitted.

POLICY FLU-1-4-C-6 MOTEL-TRANSIENT DENSITIES: The Land Development Code shall provide for the usage of commercial, mixed-use, or transient residential FAR, whichever is the most restrictive, and minimum hotel/motel unit sizes as the basis for calculating transient residential unit. ~~specify equivalency factors between guest transient units (which include motel rooms) and full permanent dwelling units. These factors may vary based on size of guest unit and on land use categories on the Future Land Use Map. They may vary between a low of one guest unit and a high of three guest units for each dwelling unit. (These factors would apply only where guest units are already permitted.)~~ In order to implement the 1999 Old San Carlos Boulevard / Crescent Street Master Plan that encourages mixed-use buildings with second and third floors over shops on Old San Carlos, hotel rooms may be substituted for otherwise allowable office space in that situation and location only without using the equivalency factors that apply everywhere else in the town. This alternate method for capping the number of hotel rooms applies only to properties between Fifth to First Streets that lie within 200 feet east and west of the centerline of Old San Carlos Boulevard. Hotel rooms built under this alternate method must have at least 250 square feet per rentable unit, and under no circumstances shall buildings they are located in exceed four stories (with the ground level counted as the first story).

POLICY FLU-1-4-C-7 ACCESSORY DWELLING UNITS APARTMENTS: Accessory apartments are common provide an option for inclusive housing in at Fort Myers Beach and may be legal under several circumstances. ~~For the purposes of density calculation, accessory dwelling units shall be counted as 0.5 units.~~

- i. ~~If the apartment is in a building that meets all requirements (including density limits in this plan); or~~
- ii. ~~If the apartment was built prior to zoning in 1962 and has been in continuous use, it may qualify as a "legally non-conforming use" and can continue in use until taken out of service; or~~
- iii. ~~If the apartment was built between 1962 and 1984 and complies with all requirements except the density cap of 6 dwelling units per acre and the floodplain elevation requirements (both of which took effect in 1984); or~~
- iv. ~~If a single existing apartment is in an owner-occupied home, it is not considered an independent dwelling unit and may be allowed under certain conditions as specified in the Land Development Code.~~

POLICY FLU-1--CX: AUXILIARY DWELLING UNITS FOR COMMERCIAL PROPERTIES: The Town shall explore and provide for land development regulations that provide accessory dwelling units in existing commercial structures, while maintaining commercial uses on the ground floor. The Town shall explore density transfer of existing transient units in properties designated Commercial, to facilitate the

development of auxiliary dwelling units on properties with a land use designation of Commercial.

POLICY FLU-1-4-C-8 DENSITY TRANSFERS: The Town Council may, at its discretion, permit the transfer of residential and transient (including hotel/motel) development rights from one parcel to another if the following conditions are met:

- i. the transfer is clearly in the public interest, as determined by the Town Council;
- ii. ~~the parcels affected by the transfer are in close proximity to each other;~~
- iii. the density of residential or hotel/motel units being transferred is based upon allowable density levels in the category from which the density is being transferred;
- iv. the transfer is approved through the planned development rezoning process; and
- v. binding permanent restrictions are placed on the property from which development rights have been transferred to guarantee the permanence of the transfer.

POLICY FLU-1-4-C-9 UTILITY SERVICES: Utility services may be constructed in any category on the Future Land Use Map provided all development regulations are met including proper zoning.

POLICY FLU-1-4-C-10 MAP AMENDMENTS: The intensity and density levels allowed by the Future Land Use Map may be increased through formal amendments to this plan if such increases are clearly in the public interest, not just in the private interest of a petitioning landowner. Petitions from landowners will be accepted annually. The Town Council may accept applications more frequently at its sole discretion.

~~POLICY 4-C-11 SANTOS ROAD: The town is interested in considering land use alternatives for parcels bordering Palermo Circle, Santos Road, and Estero Boulevard. Alternatives may include: Santos Road being added into the pedestrian zone; limited retail on the ground floor along Santos, with shared off-site parking; better buffering of existing parking and refuse areas; and a clear separation between all commercial uses and the residential areas on Palermo Circle. These options would be explored by a privately funded but town-initiated planning process, with full involvement of affected and nearby landowners.~~

POLICY FLU-1-4-C-12 WETLAND BUFFERS: Upland development shall maintain a 75-foot separation between wetlands and buildings or other impervious surfaces. This requirement shall not apply to platted lots, or to a previously approved development order to the extent it cannot reasonably be modified to comply with this requirement (see Chapter 15 of this plan for details).

OBJECTIVE FLU-1-4-D POST-DISASTER REDEVELOPMENT —

Provide for the organized and healthy reconstruction of Fort Myers Beach after a major storm by showcasing successful local examples of flood-proofing, by requiring redevelopment activities to meet stricter standards for flood- and wind-resistance, and by improving the current post-disaster buildback policy.

POLICY 4-D-1 POST-DISASTER BUILDBACK POLICY:

Following a natural disaster, land may be redeveloped in accordance with the Future Land Use Map or, at the landowner's option, in accordance with the following "buildback policy" begun by Lee County in 1989. This policy applies only where development is damaged by fire, hurricane or other natural disaster, and allows the following options:

- i. Buildings/development ~~with non-substantial damage~~ damaged less than 50% of their replacement cost (measured at the time of damage) can be rebuilt to their original condition, subject only to current building and life safety codes.
- ii. Buildings/development ~~more~~ less than ~~250%~~ of their replacement cost can be rebuilt to their legally documented actual use, density, intensity, size, and style provided the new construction complies with:
 - a. federal requirements for elevation above the 100-year flood level;
 - b. any building code requirements for floodproofing;
 - c. current building and life safety codes;
 - d. Coastal Construction Control Line requirements; and
 - e. any required zoning or other development regulations (other than density or intensity), except where compliance with such regulations would preclude reconstruction otherwise intended by this policy.
- iii. Redevelopment of damaged property is not allowed for a more intense use or at a density higher than the original lawful density except where such higher density is permitted under this plan and the town's land development regulations. To further implement this policy, the town may establish blanket reductions in non-vital development regulations (e.g. buffering, open space, side setbacks, etc.) to minimize the need for individual variances or compliance determinations prior to reconstruction. The Land Development Code may also establish procedures to document actual uses, densities, and intensities, and compliance with regulations in effect at the time of construction, through such means as photographs, diagrams, plans, affidavits, permits, appraisals, tax records, etc.

OBJECTIVE FLU-1-4-E HAZARD MITIGATION — Mitigate the potential effects of storm surges, flooding, sea-level rise, coastal erosion, and hurricanes by easing regulations that impede the strengthening of existing buildings, by encouraging the relocation of vulnerable structures and facilities, and by allowing the upgrading or replacement of grandfathered structures without first awaiting their destruction in a storm.

POLICY FLU-1-4-E-1 PRE-DISASTER BUILDBACK POLICY: Owners of existing developments that exceed the current density or height limits may also be permitted to replace for the same use it at up to the existing lawful density and intensity (up to the original square footage) prior to a natural disaster. Landowners may request this option through the planned development rezoning process, which requires a public hearing and notification of adjacent property owners. The town will approve, modify, or deny such a request based on the conformance of the specific proposal with this comprehensive plan, including its land-use and design policies, pedestrian orientation, and natural resource criteria. Such development shall be deemed legally non-conforming where applicable. The Town may require that the new building be built to a higher resiliency standard as a condition to allow the non-conformity, including adherence to FEMA regulations and the Florida Building Code. ~~The Town Council may approve additional enclosed square footage only if an existing building is being elevated on property that allows commercial uses; dry flood-proofed commercial space at ground level could be permitted in addition to the replacement of the pre-existing enclosed square footage.~~

POLICY FLU-1-4-E-2 COASTAL SETBACKS: To protect against future storm damage and to maintain healthy beaches, the Town of Fort Myers Beach wishes to see all buildings relocated landward of the 1978 Coastal Construction Control Line. This line has been used on the Future Land Use Map to delineate the edge of land-use categories allowing urban development. Some existing buildings lie partially seaward of this line; when these buildings are reconstructed (either before or after a natural disaster), they shall be rebuilt landward of this line. Exceptions to this rule may be permitted by the town only where it can be scientifically demonstrated that the 1978 line is irrelevant because of more recent changes to the natural shoreline. The town shall seek the opinion of the Florida Department of Environmental Protection in evaluating any requests for exceptions. (Exceptions must also comply with all state laws and regulations regarding coastal construction.)

POLICY FLU-1-4-E-3 NATIONAL FLOOD INSURANCE

PROGRAM: The town will continually maintain a floodplain ordinance that reduces future damage from flooding and qualifies landowners for the National Flood Insurance Program. The town shall modify its current floodplain ordinance in accordance with this comprehensive plan through measures such as:

- i. not counting costs of strengthening buildings as “improvements” that are limited to 50% of a building’s value; and
- ii. minimizing the negative effects of the 50% rule on historic buildings; and
- iii. adjusting the time period for calculating the 50% rule to encourage healthy redevelopment in this plan’s ~~“Pedestrian Commercial”~~ “Mixed-Use” category; and

- iv. ~~providing reasonable alternatives for determining the value of older buildings.~~

POLICY FLU-1-4-E-4 FLOODPROOFING OF COMMERCIAL BUILDINGS: Where commercial development is allowed by this comprehensive plan, full-height dry floodproofing is the most desirable alternative for providing ground-level commercial space in pedestrian areas.

~~POLICY 4-E-5 COASTAL BUILDING REGULATIONS: The town shall request state approval of an island-wide (rather than parcel-by-parcel) approach to limiting obstructions below flood elevation if this change is needed to avoid the loss of pedestrian activity near Times Square.~~

OBJECTIVE FLU-1-4-F REDEVELOPMENT — Take positive steps to redevelop areas that are reaching obsolescence or beginning to show blight by designing and implementing public improvements near Times Square to spur private redevelopment there, by supporting the conversion of the Villa Santini Plaza into a pedestrian precinct, by providing an opportunity for landowners to replace vulnerable mobile homes and recreational vehicles with permanent structures in the Gulfview Colony/Red Coconut area, the proposed Arts and Neighborhood Districts, and by providing building code relief for historic buildings.

POLICY FLU-1-4-F-1 HISTORIC BUILDINGS: The protection of historic buildings is of great importance to the town, and shall be aided by implementing the policies set forth in other elements of this comprehensive plan.

POLICY 4-F-2 SPECIFIC REDEVELOPMENT PLANS: This comprehensive plan anticipates substantial redevelopment over the coming years. Specific concepts have been developed for three specific areas designated "Mixed-Use" by the Future Land Use Map:

- i. ~~Times Square — The Estero Island CRA's plan for the Times Square area is reflected in this plan, bounded by the "Pedestrian Commercial" category at Times Square. Implementation of that plan will be on-going as discussed through this comprehensive plan and in accordance with the specific regulations provided in the Land Development Code. The Times Square redevelopment plan is described in Community Design Policies 3-D-1 through 3-D-13.~~
- ii. ~~Villa Santini Plaza — This area is shown as "Pedestrian Commercial" the Future Land Use Map. Existing land uses may continue. If landowners wish to redevelop part or all of this property, the following concepts shall apply:~~
 - a. ~~buildings are brought closer to the street;~~
 - b. ~~drainage has been placed underground to make room for wide sidewalks, street trees, and some on-street parking (once passive traffic calming activities have reduced speeding on Estero Boulevard);~~
 - c. ~~the shopping center is reconfigured with a central green plaza and better ties to the marina to the rear; and~~

- d. ~~off-street loading areas are provided for delivery vehicles; This redevelopment plan can only be accomplished through a public-private partnership as described in Community Design Policies 3-C-1 and 3-C-2.~~
- iii. ~~Gulfview Colony/Red Coconut~~ This area is shown as "Mixed Residential" and "Boulevard" the Future Land Use Map. If landowners wish to redevelop part or all of this property, the following concepts are encouraged, and shall form the basis for a pre-approved redevelopment option in the Land Development Code:
 - a. ~~traditional neighborhood design emphasizing porches on the front; primary entrances visible from the street; and cars to the rear (except for on-street parking);~~
 - b. ~~detached houses or cottages (with optional accessory apartments) abutting existing single-family homes;~~
 - c. ~~low-rise townhouses or apartments allowed toward the center;~~
 - d. ~~walkable narrow streets with shade trees that double as view corridor to the Preserve and Gulf;~~
 - e. ~~substantial open space with views to be maintained from Estero Boulevard to the Gulf;~~
 - f. ~~mixed commercial and residential uses along the Bay side of Estero Boulevard;~~
 - g. ~~quiet internal street connections to the north and south;~~
 - h. ~~significantly reduced density from the existing level of 27 RV/mobile homes per acre at the Red Coconut to a maximum level of 15 dwelling units per acre;~~
 - i. ~~provision for a publicly acquired access point to the Matanzas Pass Preserve.~~

This redevelopment plan is described in Community Design Policies 3-A-5 and 3-A-6. Different redevelopment concepts that are consistent with this comprehensive plan may also be proposed for any of these areas through the planned development rezoning process.

Policy FLU-1-F-9 Workforce Housing Density

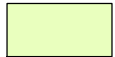
The Town shall implement a workforce housing policy to allow additional density and building heights in the mixed-use areas. To qualify, developers shall provide a minimum of 10% of workforce housing unless otherwise noted in the Land Use Designations in this Comprehensive Plan. Additional building height can be achieved in lieu of the provision of workforce housing. Each mixed-use district provides the guidelines for additional building height.

Town of Fort Myers Beach Proposed Future Land Use Map

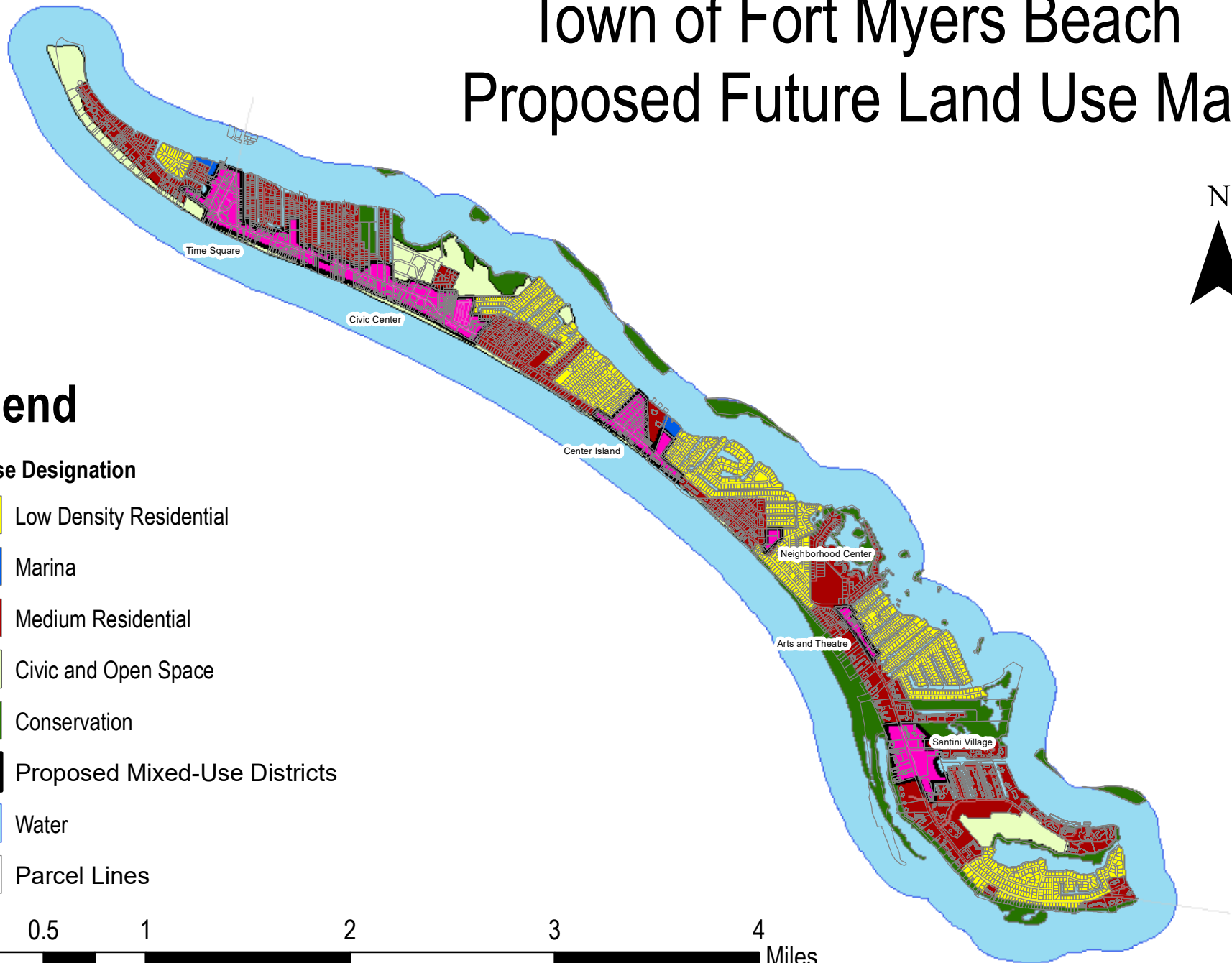


Legend

Land Use Designation

-  Low Density Residential
-  Marina
-  Medium Residential
-  Civic and Open Space
-  Conservation
-  Proposed Mixed-Use Districts
-  Water
-  Parcel Lines

0 0.5 1 2 3 4 Miles



**Town of Fort Myers Beach
Agenda Item Summary**

Yellow Sheet Number: **2023-898**

1. Requested Motion:

Meeting Date: January 18, 2023

LDC Text Amendment to permit travel trailers, mobile homes, and Recreational Vehicles as a Temporary Use for housing post disaster.

Why the action is necessary:

Town Council directed staff to prepare an amendment to allow a temporary use for housing post-disaster.

What the action accomplishes:

Provide temporary housing options for property owners that wish to live on their property while they rebuild.

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

Ordinance

5. Background:

The Town Council directed staff to allow and prepare a text amendment of the LDC to permit recreational vehicles, travel trailers, and mobile homes as temporary housing post disaster. The Town Council directed the Temporary Use for housing to be allowed for up to 18 months from approval.

Town staff will provide the backup and draft Ordinance at the meeting.

Attachments:

Financial Impact:

6. Alternative Action

7. Staff Recommendations:

Approve

8. Recommended Approval:

Jason Green, Community Development Services

Date: January 12, 2023

John R Herin Jr, Town Attorney

Date: January 12, 2023

Amy Baker, Town Clerk

Date: January 12, 2023

**Town of Fort Myers Beach
Agenda Item Summary**

Yellow Sheet Number: **2023-888**

1. Requested Motion:

Meeting Date: January 18, 2023

Options to reduce time requirements in the public hearing process.

Why the action is necessary:

The LPA's input and recommendation will assist staff in providing options to the Town Council.

What the action accomplishes:

The LPA's input will assist staff in identifying preferred options.

2. Agenda:

ADMINISTRATIVE AGENDA

3. Requirement/Purpose:

This will result in an ordinance
to amend the public hearing
process.

5. Background:

Currently the LPA is the recommending body to the Town Council on many cases. The LPA hears variances, special exceptions, rezonings, proposed amendments to the Land Development Code and Comprehensive Plan updates. That LPA recommendation is then passed along to the Town Council which hears those same cases at least one time, two times in the case of an ordinance change or rezoning, and the Town Council makes the final decision.

This process of multiple hearings by different boards is time consuming and can add additional expense for property owners. There are several options available under Florida law that can simplify the process. Based on the recommendations from this discussion, staff will draft amendments to the Land Development Code and bring them forward to the LPA and Town Council for consideration and adoption.

Attachments:

1. LPA Memo

Financial Impact:

unknown

6. Alternative Action

Recommend preferred method of simplifying the public hearing process.

7. Staff Recommendations:

Provide input regarding the preferred approach to reducing the number of public hearings required.

8. Recommended Approval:

Jason Green, Community Development Services

Date: January 10, 2023

John R Herin Jr, Town Attorney

Date: January 12, 2023

Date: January 12, 2023



**Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT**

To: LPA
From: Sarah Propst, Community Development
Date: January 18, 2023
Re: Hearing Process Modifications

BACKGROUND

Staff was directed to provide some options that might shorten or simplify the Hearing Processes. Currently the LPA is the recommending body to the Town Council on many cases. The LPA hears variances, special exceptions, rezonings, proposed amendments to the Land Development Code and Comprehensive Plan updates. That LPA recommendation is then passed along to the Town Council which hears those same cases at least one time, two times in the case of an ordinance change or rezoning, and the Town Council makes the final decision.

This process of multiple hearings by different boards is time consuming and can add additional expense for property owners. There are several options available under Florida law that can simplify the process.

PROPOSED SOLUTIONS

Option 1: The LPA can be the decision-making body for variances and for special exceptions. This would eliminate the need for additional hearings before the Town Council for many cases. If the applicant was unhappy with the outcome of the hearing they would be able to appeal the decision to the Town Council.

Option 2: The Town can hire a Hearing Examiner (HEX). The HEX must be a member of the bar and can hear and decide certain quasi-judicial cases. This lightens the case load for the LPA and the Town Council and removes political influence from the process. Local municipalities that have a HEX, include: Lee County, Hillsborough, Collier County and Cape Coral. Each of those communities has a different process, so there is some flexibility in how the HEX can be used.



Option 3: The Town can eliminate the LPA hearings for variances, special exceptions and rezonings. The Town Council would decide these cases without a recommendation from the LPA. Two Town Council hearings would still be required to adopt ordinances.

SUMMARY

The Town has the option to change some processes to shorten the timeframe by eliminating some of the required hearings. The variance and special exception process can be reduced to a single hearing and those cases do not have to be decided by the Town Council.