# Fort Myers Beach Town Council

**Diamondhead Beach Resort**
**2000 Estero Blvd.**
**Fort Myers Beach, FL 33931**

**Agenda** **Monday, March 6, 2023** **9:00 AM**

## ORDER OF BUSINESS

**I. CALL TO ORDER**

**II. INVOCATION**

**III. PLEDGE OF ALLEGIANCE**

**IV. APPROVAL OF FINAL AGENDA**

**V. PUBLIC COMMENT**

**VI. PROCLAMATIONS**

A. Flood Awareness Week
**Flood Awareness Week**

**VII. LOCAL ACHIEVEMENTS AND RECOGNITIONS**

**VIII. ADVISORY COMMITTEES ITEMS / REPORTS / APPOINTMENTS**

A. Bay Oaks Recreational Campus Advisory Board Appointments
**Appoint Members to the FY2022-2023 Bay Oaks Recreational Campus Advisory Board (BORCAB)**

**IX. APPROVAL OF MINUTES**

A. Town Council - February 21, 2023

**X. CONSENT AGENDA**

A. Resolutions 23-18 and 23-19
**Resolutions 23-18 & 23-19 entitled: A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING AND EXTENDING THE PROCLAMATION THAT A STATE OF LOCAL EMERGENCY EXISTS BECAUSE OF THE CATASTROPHIC IMPACTS CAUSED BY HURRICANE IAN; PROVIDING FOR CONFLICTS; PROVIDING FOR SCRIVENER ERRORS, PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

B. Resolution 23-17; WCIND Law Enforcement Grant

**Resolution 23-17 entitled: A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA AUTHORIZING THE TOWN MANAGER OR DESIGNEE TO APPLY FOR, EXECUTE UPON AWARD, AND ADMINISTER A GRANT FROM THE WEST COAST INLAND NAVIGATIONAL DISTRICT PROGRAM FOR FUNDS IN THE AMOUNT NOT TO EXCEED $50,000 FOR ADDITIONAL MARINE PATROL AROUND ESTERO ISLAND; AUTHORIZING THE TOWN MANAGER OR DESIGNEE TO EXECUTE RELATED DOCUMENTS; AND PROVIDING AN EFFECTIVE DATE**

C. Recurring Special Event

**Recurring Special Event - Approval of a Reconstruction Center**

D. Special Event

**Sunset Celebration in Times Square**

## XI. PUBLIC HEARINGS

A. Ordinance 23-04; Pink Shell CPD Amendment

**2nd Reading and Public Hearing on proposed Ordinance 23-04 entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA REPLACING TOWN OF FORT MYERS BEACH RESOLUTION NO. 13-23, AND AMENDING THE SCHEDULE OF USES FOR THE COMMERCIAL PLANNED DEVELOPMENT ZONING FOR THE PROPERTY LOCATED AT 200 AND 275 ESTERO BLVD., FORT MYERS BEACH; PROVIDING FOR REVISIONS TO CONDITIONS OF APPROVAL, AND OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE. Open the second public hearing and approve CPD amendment ordinance.**

B. Ordinance 23-05; Temporary Placement of Governmental Uses and Mobile Homes in the Town

**1st Reading and Public Hearing on proposed Ordinance 23-05 entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AUTHORIZING THE PLACEMENT OF TEMPORARY HOUSING AND TEMPORARY GOVERNMENTAL USE FACILITIES IN SPECIFIED ZONING DISTRICTS OF THE TOWN, PROVIDING FOR CONFLICT OF LAW, SCRIVENER'S ERRORS, SEVERABILITY, SUNSETTING OF THIS ORDINANCE, AND PROVIDING FOR AN EFFECTIVE DATE. Open the first public hearing and schedule for second reading and final adoption on March 20, 2023 at 9:00 AM**

C. Ordinance 23-06; 6249 Estero Blvd - Carousel Residential Planned Development (RPD)

**1st Reading and Public Hearing on proposed Ordinance 23-06 entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA REPLACING TOWN OF FORT MYERS BEACH RESOLUTION NO. 18-11, AND AMENDING THE SCHEDULE OF USES FOR THE RESIDENTIAL PLANNED DEVELOPMENT ZONING FOR THE PROPERTY LOCATED AT 6249 ESTERO BLVD., FORT MYERS BEACH; PROVIDING FOR REVISIONS TO CONDITIONS OF APPROVAL, AND OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE. Open the first public hearing and schedule for second reading and final adoption on March 20, 2023 at 9:00 AM**

D. VAR20220018 - 8180 Lagoon Road

**Adopt Resolution 23-20 entitled: A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENY VARIANCE VAR20220108 TO ALLOW A POOL SETBACK VARIANCE OF ONE-FOOT FROM THE REQUIRED 15 FOOT SIDE STREET SETBACK FOR THE PROPERTY LOCATED AT 8180 LAGOON ROAD; AND PROVIDING FOR AN EFFECTIVE DATE**

E. SEZ-20220120; 6875 Estero Blvd

**Resolution 23-21 entitled: A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/DENYING APPLICATION SEZ-20220120, FOR A SPECIAL EXCEPTION APPROVAL FOR LIVE/WORK USE FOR THE PROPERTY LOCATED AT 6875 ESTERO BOULEVARD; AND PROVIDING FOR AN EFFECTIVE DATE.**

F. SEZ 20220104 - Texas Hold'em and Squeeze Me Inn Dune Walkover and Boardwalk

**Resolution 23-22 entitled: A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/DENYING SPECIAL EXCEPTION SEZ20220103 TO ALLOW THE USE OF A SHARED DUNE WALKOVER AND BOARDWALK AT 8150 AND 8170 ESTERO BOULEVARD; AND APPROVING/DENYING VARIANCE VAR20220104 TO ALLOW A ONE FOOT VARIANCE FROM THE MAXIMUM WIDTH OF THE STRUCTURE;AND PROVIDING FOR AN EFFECTIVE DATE**

**XII. ADMINISTRATIVE AGENDA**

**XIII. FINAL PUBLIC COMMENT**

**XIV. TOWN MANAGER'S ITEMS**

**XV. TOWN ATTORNEY'S ITEMS**

**XVI. COUNCILMEMBERS ITEMS AND REPORTS**

**XVII. ADJOURNMENT**

**NOTE: THIS MEETING IS STREAMED LIVE ON 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*
# *PROCLAMATION*

***WHEREAS,*** Fort Myers Beach has experienced severe weather in the past in the form of extreme rainfall or tropical system events resulting in flooding in, and this flooding has caused damage and flood losses to homes and buildings in all areas whether they are high-risk special flood hazard areas or low to moderate risk flood zones; and

***WHEREAS*,** Fort Myers Beach is a voluntary participant in the National Flood Insurance Program that provides residents with the opportunity to protect themselves against flood loss through the purchase of flood insurance at reduced insurance premium rates as well as setting higher regulatory standards to reduce the flood risk and potential flood damage to their property; and

***WHEREAS,*** the reduction of loss of life and property damage can be achieved when appropriate flood preparedness, control, and mitigation measures are taken before a flood; and

***WHEREAS,*** public education and awareness of potential weather hazards and methods of protection are critical to the health, safety and welfare of residents, the Florida Floodplain Managers Association (FFMA), have declared the week of March 12-18, 2023 as Flood Awareness Week to promote awareness and increase knowledge of flood risk, the availability of flood insurance, flood protection methods, and how to prepare for emergencies.

***NOW, therefore, be it proclaimed*** that the Town Council of the Town of Fort Myers Beach, Florida proclaims **the week of March 12-18, 2023** as

## *Flood Awareness Week*

Given under my hand and the seal of the office of the Mayor this 6th day of March 2023.

_____

Dan Allers, Mayor

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2023-946**

1. **Requested Motion:**

**Meeting Date: March 6, 2023**

Appoint Members to the FY2022-2023 Bay Oaks Recreational Campus Advisory Board (BORCAB)

**Why the action is necessary:**

There is one vacancy on the committee.

**What the action accomplishes:**

2. **Agenda:**
ADVISORY COMMITTEES ITEMS / REPORTS / APPOINTMENTS

3. **Requirement/Purpose:**
Other

4. **Submitter of Information:**

---

5. **Background:**

Per Sec. 2 of Ordinance 18-06:
Qualifications and Appointment of members

In addition to qualification, which may be specified for membership by state statues, charter, ordinance or resolution, a person appointed to an Agency, Board, Committee or Commission shall give preference to a registered voter within the Town's jurisdiction or a property owner within the Town's jurisdiction. Although no specific experience requirements shall be necessary as a prerequisite to appointment, consideration shall be given to applicants who have experience or who have shown interest in the subject matter. In the event that any member is no longer a qualified elector, or is convicted of a felony, an offense involving moral turpitude which in office or has unpaid fines or liens due to the Town of Fort Myers Beach, the Town Council shall terminate the appointment of such person as a member of the agency, board, committee or commission.

The purpose of Bay Oaks Recreational Campus Advisory Board (BORCAB) is to serve the Town as a community center and recreational facility providing individuals and groups passive and active recreational, social and community activities and events for both residents and visitors. BORCAB members shall work closely and in cooperation with the Parks and Recreation Director and advise the Town Council regarding matters concerning the Bay Oaks Recreational Campus and the Community Pool, or any other topics as assigned by the Town Council.

There are currently six members on BORCAB. One seat is still vacant.
Staff has notified the community of the upcoming vacancies on all Town advisory committees and boards and encouraged new members to apply. **The Town received three applications for BORCAB: Beth Cherry, John Dussliere and David Ennen.**

During the annual process of appointments to individual advisory committees, it is appropriate for Town Council to review the committee structure and consider opportunities to combine certain committees to increase effectiveness and reduce overlap.

**Attachments:**

1. Cherry, Beth
2. Dussliere, John
3. Ennen, David

**Financial Impact:**
None

6. **Alternative Action**
Do not appoint/reappoint members and advertise for the vacancies

7. **Management Recommendations:**
Appoint member to the committee

8. **Recommended Approval:**

| | |
|---|---|
| Eva Spychalski, Administrative Officer | Created/Initiated - 2/13/2023 |
| Amy Baker, Town Clerk | Approved - 2/27/2023 |
| John R Herin Jr, Town Attorney | Approved - 2/28/2023 |
| Amy Baker, Town Clerk | Approved - 2/28/2023 |
| Keith Wilkins , Interim Town Manager | Final Approval - 2/28/2023 |

FORT MYERS BEACH • ESTERO ISLAND

# *Town of Fort Myers Beach*

## Advisory Boards and Committees Application

Complete one form for each application/committee appointment. Your application will be a public record subject to disclosure on request.

**Please type or print clearly.** Do not leave blanks.

Today's Date: August 11, 2022

Name: Cherry (Last) Beth (First) A (Middle initial)

Telephone Number: 239-839-8528

Email Address: bcherry108@comcast.net

Home Address: 108 Bay Mar Drive FMB FL 33931

Mailing Address (if different from home address): same

Are you currently serving on any of the Town's committees? Yes ◉ No ○

If yes, which committee(s)? BORCAB

If yes, when is your term expiration? 10/22

I am applying for appointment to: (Check one)

- ○ Anchorage Advisory Committee
- ○ Audit Committee
- ◉ Bay Oaks Recreational Campus Advisory Board
- ○ Community Resource Advisory Board
- ○ Cultural and Environmental Learning Center Advisory Board
- ○ Historic Preservation Advisory Committee
- ○ Local Planning Agency
- ○ Marine Resources Task Force
- ○ Nuisance Abatement Board
- ○ Public Safety Committee

Have you been convicted of a felony, an offense involving moral turpitude while in office? Yes ○ No ◉

Do you have unpaid fines or liens due the Town? Yes ○ No ◉

Are you a registered voter within the Town's jurisdiction? Yes ◉ No ○

Are you a resident within the Town's jurisdiction? Yes ◉ No ○

Are you an owner of real property within the Town's jurisdiction? Yes ◉ No ○

Are you currently serving on a board, authority, committee or commission for another governmental agency? Yes ○ No ○

If yes, what board, etc., and since when?

Why are you seeking appointment to this board or committee?

I have been serving on this committee for several years and would love the opportunity to continue in this capacity.

Community Involvement:

On the Board and help run Ft Myers Beach Soccer (non profit)
Have kids that use the pool/bay oaks

Interests / Activities:

Youth sports
Photography

You may attach a resume in addition to the above information.

Do you qualify for Special Exemptions per § 119.071(4)(d)3., F.S. Yes ○ No ◉

If yes, fill out Public Records Exemption Request form and submit with the application.

I swear or affirm that all information on this form is true and accurate.

Signed Date 8/11/2022

Please return this form to the Town Clerk's Office, Town of Fort Myers Beach, 2525 Estero Boulevard, Fort Myers Beach, FL 33931 Amy@fmbgov.com

Office Use Only:

Appointed: Yes _____ No _____ DATE: _____

# *Town of Fort Myers Beach*

## Advisory Boards and Committees Application

Complete one form for each application/committee appointment. Your application will be a public record subject to disclosure on request.

**Please type or print clearly**. Do not leave blanks.

Today's Date: 2/1/2023

Name: Dussliere (Last) John (First) D (Middle initial)

Telephone Number: (949)636-3337

Email Address: jdswim67@gmail.com

Home Address: 238 Flamingo Street, Fort Myers Beach FL 33931

Mailing Address (if different from home address): 5565 Canvasback ct  Colorado Springs CO 80918

Are you currently serving on any of the Town's committees? Yes ○ No ◉

If yes, which committee(s)?

If yes, when is your term expiration?

I am applying for appointment to: (Check one)

- ○ Anchorage Advisory Committee
- ○ Audit Committee
- ◉ Bay Oaks Recreational Campus Advisory Board
- ○ Community Resource Advisory Board
- ○ Cultural and Environmental Learning Center Advisory Board
- ○ Historic Preservation Advisory Committee
- ○ Local Planning Agency
- ○ Marine and Environmental Resources Task Force
- ○ Nuisance Abatement Board
- ○ Public Safety Committee

Have you been convicted of a felony, an offense involving moral turpitude while in office? Yes ○ No ◉

Do you have unpaid fines or liens due the Town? Yes ○ No ◉

Are you a registered voter within the Town's jurisdiction? Yes ○ No ◉

Are you a resident within the Town's jurisdiction? Yes ○ No ●

Are you an owner of real property within the Town's jurisdiction? Yes ● No ○

Are you currently serving on a board, authority, committee or commission for another governmental agency? Yes ○ No ●

If yes, what board, etc., and since when?

Why are you seeking appointment to this board or committee?

Bay Oaks Rec Center and pool are an essential part of our island life and in the post hurricane rebuild, we have an enormous opportunity to build it back to become the towns greatest asset. I have 30+ years of experience in aquatics from owning and running my own swim school and swim team; to Coaching and leading every aspect of the sport of swimming from novice to the Olympics. This experience can serve our community well

Community Involvement:

I have served on local, regional and national committees as a member and chair, as you will see in my attached resume. It is an obligation, I believe, to serve the community that serves us.

Interests / Activities:

My interests include all things water sports, and the base of all water sports is personal safety and swimming proficiency. As you'll see in my experience; I have made my love for swimming into quite a career and keep pretty true to Olympic sports and supporting them. We have an opportunity to rebrand the town and serve new sectors of visitors. Bay Oaks can be instrumental in the build back of our town.

You may attach a resume in addition to the above information.

Do you qualify for Special Exemptions per § 119.071(4)(d)3., F.S. Yes ○ No ○

If yes, fill out Public Records Exemption Request form and submit with the application.

I swear or affirm that all information on this form is true and accurate.

Signed

Date 1/1/2023

Please return this form to the Town Clerk's Office, Town of Fort Myers Beach, 2525 Estero Boulevard, Fort Myers Beach, FL 33931 Amy@fmbgov.com

Office Use Only:

Appointed: Yes _____ No _____ DATE: _____

# John Dussliere

5565 Canvasback Court ◆ Colorado Springs, CO 80918 ◆ (949) 636-3337 ◆ jdswim67@gmail.com

## Sport Management, Coaching, & Coach Education Leadership Experience

US DEPARTMENT OF DEFENSE (Contractor)

*Head Swimming Coach / US Air Force & US Marine Corps Wounded Warrior Care Program / Feb 2017*-present

- Lead all aquatics programming for the Wounded Warrior Regiment program including learn-to-swim, aquatic therapy, and competitive team preparation for annual Warrior Games events and International Invictus Games for Team US.

USA TRIATHLON

*Technical Advisor for Swimming / December 2019-February 2021*

- Lead and direct all swimming preparation including training, technique, race strategy and mentor USAT resident coach.

DOLFIN SWIMWEAR

*Director of Sales and Team Sponsorship/Mountain States Region / March 2015-March 2017*

- Recruit USA Swimming and NCAA teams, high profile athletes, to the brand.
- Serve as Dolfin brand manufacturer's representative to local, national, and internet retail/team dealers.

COLORADO SPRINGS AQUATICS/FALFINS SWIM TEAM

*Senior Coach/Director of Coaching / March 2014-July 2015*

- Successfully redirected the culture of the team from participation centered to performance centered.
- Direct all aspects of coaching and coach mentoring for 500-member USA Swimming Team.

USA BOXING

*Sport Director / March 2013-January 2014*

- Wrote and designed the 80-page high performance plan used to set and articulate the principles, programs and services necessary to meet the mission of regained and sustained competitive excellence.
- **Designed coach education initiative on the USA Coach platform with USOPC coaching education.**
- **Direct all efforts and initiatives for athlete education, athlete evaluation, coach education, National Team Athlete and Coach selection, and coach-athlete-NGB communication.**
- Lead the performance assessment and evaluation process for all Olympic and National Team athletes.
- Direct all High Performance Plan programs focused on success at the 2016 Rio Olympic Games including training camps, clinics, resident program and competitions.
- Direct and manage all USOC services to the NGB including technology, Direct Athlete Support, Operation Gold, EAHI and other athlete support programs.
- Direction and support for key international competitions and USA Boxing hosted and organized events such as National Championships and team trials.
- Leadership of USA Boxing High Performance staff team.

RACECRAFT INC.

*Owner, Principal, Head Coach / December 2005-Present*

- Coaching, Coach Education, and Team Business Management services entity.
- Contracted with Santa Barbara Swim Club from December 2005-September 2012.
    - Produced the USA's first 10k Open Water Olympian(Mark Warkentin) for 2008 Beijing Olympic Games.
    - Swim America Swim School Program Director.
    - Built Team Size from 235 to 400+.
    - Club achieved USA Swimming Gold Medal and Level 4 achievement status from 2008 thru 2012.

- Placed every graduating high school senior into collegiate swimming program.
- Developed training exchange program between the U.S. Paralympics Resident Swim Team and Santa Barbara Swim Club 2010-2012.
- Invented innovative training tools and products including resistance training device currently used by the U.S. Paralympics Resident Program and a hydration delivery system for open water swimming being used by multiple nations over the past ten years that has become the standard for the sport.

MISSION VIEJO NADADORES SWIM TEAM

*Associate Head Coach / September 1998-December 2005*

- Produced top 16 swimmers in every Olympic Event including numerous Olympic Trials qualifiers and a 2005 National Junior Team member.
- Director of parent education for 900+ swimmers.
- Directed coach education for staff of over 40+.
- Director of visiting team (collegiate/international) training camps. Brought in 20-30 teams annually producing annual revenue in the 40-60k range.
- Developed quad plans that integrated sport science, swimming physiology and the MVN historical "Long Term Development" model for 900+ swimmer team for three Olympic cycles that resulted in Olympic Team nomination and medal winning performances:
  - 2000 – Chad Carvin: 400 freestyle, 800 freestyle relay (silver)
  - 2004 – Larsen Jensen: 400 freestyle, 1500 freestyle (silver & American Record)
  - 2008 – Chloe Sutton: 10k open water
- Developmental Coach of:
  - Jessica Hardy – 2012 Olympian: gold medalist in 400 medley relay, bronze medalist in 400 freestyle relay
  - Chad LaTourette – 2007 World University Games gold medalist 800 and 1500 freestyle events / 2009 World University Games gold medalist 800 freestyle / American Record holder 800 freestyle and 1650 freestyle events

LOS ALTOS MOUNTAIN VIEW AQUATIC CLUB

*Head Coach / September 1992-August 1998*

- Directed all aspects of team operations and grew program from 40 to 200+ swimmers during tenure.

STANFORD UNIVERSITY

*Volunteer Assistant Coach / September 1992-September 1998*

- Lead all video analysis/review and feedback to five-time NCAA Division I Championship teams.
- Assisted in all on-deck coaching for practices and meets including dual meets, conference championships, NCAA Championships. Additionally, coordinated NCAA preparation for athletes for two World Championships and thru two Olympic quadrenniums.

MOLINE BLUE MARLINS SWIM TEAM

*Head Coach / May 1988-August 1992*

- Coached athletes at all levels on 140+ team.
- Assistant Coach for Moline High School swim team.

ESPN SPORTS NETWORK

*Audio Utility & Videographer (Seasonal) / May 1988-Augusut 1992*

- Audio and video production for live coverage of Senior PGA Tour, NASCAR & College Football events.

## Certifications & Authorizations

***American Swim Coaches Association* – Level 5 Certified for Sr, International, NCAA Division 1**
*U.S. Masters Swimming* – Certified coach and club officer
*Colorado Association of Swimming Officials* – high school swimming & diving official
*Swim America* – director and license holder
*American Coaching Effectiveness Program* – general certification

## Honors & Appointments

***2017-2018 US Invictus Team (US MILITARY) Sydney, AUS Head Swim Coach***
*2013 FINA World Cup Open Water,* Eliat ISR, Head Coach, Team USA
***2008 Beijing Olympic Team,* Men's Head Coach, Open Water Swimming, Team USA**
*2008 FINA World Cup Open Water*, Santos BRA, Assistant Coach, Team USA
*2007 FINA World Cup Open Water*, Seville ESP, Head Coach, Team USA
*2007 FINA World Cup Open Water,* London GBR, Head Coach, Team USA
*2007 FINA World Championships,* Melbourne AUS, Assistant Coach, Indonesia

***2006 Doc Counsilman Creative Coaching Award,* inaugural recipient of award**
*2005 Junior Pan-Pacific Swimming Championships,* Assistant Coach, Team USA
*2005 Southeast Asian Games,* Manila PHI, Assistant Coach, Indonesia
***USA Swimming,*** Disability Swimming National Committee, 2014-2017
***USA Swimming,*** Olympic International Operations Committee, 2012-
2016 ***USA Swimming***, Club Development Committee – Chair, 2006-2010
***USA Swimming***, Club Development Committee – 2005-2013
***USA Swimming,*** Open Water Development Committee – 2010-2012
***USA Swimming,*** Open Water Steering Committee – 2010-2012
***USA Swimming,*** Western Zone Open Water Sanction & Safety Chair, 2010-2012
***Australian Swimming Coaches & Teachers Association,* Keynote Speaker – Annual Convention, 2009**
***NorCal Coaches Clinic,* Keynote Speaker – Annual Clinic, 2009**
***Southern California Swimming,* Board of Directors – Administrative Vice Chair, 2008-2012 ○ Designed and restructured coach education strategy for Southern California Swimming and implemented 2009-2012 coach education clinics**
***Southern California Swimming,*** Board of Directors – Senior Chair, 2004-2008
***Southern California Swimming,*** Board of Directors – Age Group Chair, 2000-2004
***Pacific Swimming,*** Board of Directors – Technical Planning, 1996-1998

## Specific Technology Experience & Skills

*Platforms*: Macintosh, Windows
Software; Adobe Creative Suite

*Sport Specific Applications:* Hy-Tek Team Manager, Hy-Tek Meet Manager, Race Analyzer, Dartfish and numerous video/sport performance analysis software applications

## Education

UNIVERSITY OF WISCONSIN EAU CLAIRE
**Eau Claire, WI**

SCOTT COMMUNITY COLLEGE
**Bettendorf, IA**

BLACKHAWK COLLEGE
**Moline, IL**

Town of Fort Myers Beach

JUL 29 2022

Received by:_____

# Town of Fort Myers Beach

## Advisory Boards and Committees Application

Complete one form for each application/committee appointment. Your application will be a public record subject to disclosure on request.

**Please type or print clearly**. Do not leave blanks.

Today's Date: 23 July 2022

Name: Ennen (Last) David (First) S (Middle initial)

Telephone Number: (515) 491-6064

Email Address: ennenusa@gmail.com

Home Address: 4421 Bay Beach Ln Apt 661 Fort Myers Beach 33931

Mailing Address (if different from home address): Same

Are you currently serving on any of the Town's committees? Yes ○ No ◉

If yes, which committee(s)?

If yes, when is your term expiration?

I am applying for appointment to: (Check one)

- ○ Anchorage Advisory Committee
- ○ Audit Committee
- ◉ Bay Oaks Recreational Campus Advisory Board
- ○ Community Resource Advisory Board
- ○ Cultural and Environmental Learning Center Advisory Board
- ○ Historic Preservation Advisory Committee
- ○ Local Planning Agency
- ○ Marine Resources Task Force
- ○ Nuisance Abatement Board
- ○ Public Safety Committee

Have you been convicted of a felony, an offense involving moral turpitude while in office? Yes ○ No ◉

Do you have unpaid fines or liens due the Town? Yes ○ No ◉

Are you a registered voter within the Town's jurisdiction? Yes ◉ No ○

Are you a resident within the Town's jurisdiction? Yes ◉ No ○

Are you an owner of real property within the Town's jurisdiction? Yes ◉ No ○

Are you currently serving on a board, authority, committee or commission for another governmental agency? Yes ○ No ○

If yes, what board, etc., and since when?

Why are you seeking appointment to this board or committee?

I wish to be involved at a greater level with the growth and development of Bay Oaks Recreational Campus. I am a regular user of the Bay Oaks facilities for exercise in the fitness center, pickle ball both indoors and out, and BOSS trips both as a participant and as a Volunteer. I have been very active with BOSS and am now a regular volunteer on many of these great outings.

Community Involvement:

Other than volunteering with Bay Oaks BOSS program, the extent of my community involvement includes various positions in committee work with our associations.
Prior to retiring and moving to FMB, I have a history of community involvement including such things as , Planning and Zoning commissioner, firefighters association treasurer, Fire code Board of appeals and firefighters grievance committee chairman.

Interests / Activities:

Social activity leads my primary interests in life which includes activities such as biking, boating, kayaking, pickle ball, bocce ball, swimming,beach activities and everything FMB has to offer.
I am increasingly involved in FMB city issues and seen any Oaks as one of the Town's gems and desire to be involved in its future.

You may attach a resume in addition to the above information.

Do you qualify for Special Exemptions per § 119.071(4)(d)3., F.S. Yes ○ No ◉

If yes, fill out Public Records Exemption Request form and submit with the application.

I swear or affirm that all information on this form is true and accurate.

Signed Date 23 July 2022

Please return this form to the Town Clerk's Office, Town of Fort Myers Beach, 2525 Estero Boulevard, Fort Myers Beach, FL 33931 www.fmbgov.com

Office Use Only:

Appointed: Yes _____ No _____ DATE: _____

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2023-964**

**Meeting Date: March 6, 2023**

1. **Requested Motion:**
Town Council - February 21, 2023

**Why the action is necessary:**

**What the action accomplishes:**

2. **Agenda:**
APPROVAL OF MINUTES

3. **Requirement/Purpose:**

4. **Submitter of Information:**

---

5. **Background:**

**Attachments:**
1. Draft 2.21.22 TC minutes

**Financial Impact:**

6. **Alternative Action**

7. **Management Recommendations:**

8. **Recommended Approval:**
Amy Baker, Town Clerk

Created/Initiated - 2/27/2023

# Fort Myers Beach Town Council

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

**Minutes** **Tuesday, February 21, 2023** **9:00 AM**

**ORDER OF BUSINESS**

## DRAFT

**I. CALL TO ORDER**

Members present: Mayor Allers, Vice Mayor Atterholt, Council Member King, Council Member Veach and Council Member Woodson.

**II. INVOCATION**

Town Clerk Baker.

**III. PLEDGE OF ALLEGIANCE**

**IV. APPROVAL OF FINAL AGENDA**

Council Member Veach moved to approve the final agenda with Item B. pulled for discussion; second by Council Member King.
Motion carried unanimously.

**V. PUBLIC COMMENT**

Town Clerk Baker noted that she forwarded an email from Tim Shadle and a handout from Dewitt and Christine Willis to Council Members.
Cindy Johnson, resident, noted that a window tint study was released that indicated any tint above 30% would disorient turtles. She commented that the town required a 45% window tint and suggested that residents install a 30% tint. She remarked that red tide was in the area and encouraged anyone who found sea turtles or other wildlife on the beach to call Turtle Time or FWC (Fish & Wildlife Conservation Commission).
Samantha Campbell, resident, reported that someone removed all the mangroves behind the Beach Theater at 5:30 a.m. She commented that debris from Charlie's Boathouse kept blowing into her mangroves and she could not access the area to remove the mess. She added that the owners did not clean out their coolers and the contents smelled awful.

**VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS**

DRAFT

Vice Mayor Atterholt recognized parents and the children who attended the beach school. He noted that the Lee County School Board is meeting on Wednesday to determine the school's future. He encouraged those who could not attend to email their school board members via the Lee County School District's website to voice support for the beach school.

Council Member Veach thanked Public Works staff for cleaning up the dead fish on the beach.

Council Member Woodson commented that the parents supported Option C regarding the beach school. She thanked Beach Talk Radio for reporting that supplies for the Lover's Key summer eco camps were stolen. As a result of their broadcast, funds were raised to replace the supplies.

Council Member King thanked the residents and town staff for their perseverance, hard work and dedication after Hurricane Ian.

Mayor Allers thanked John Henry from the Red Sox for inviting him, Interim Town Manager Wilkins and other families to the stadium. He thanked the staff for participating in the Edison Parade.

## VII. ADVISORY COMMITTEES ITEMS / REPORTS / APPOINTMENTS

Steve Johnson, Chair of the Marine and Environmental Resources Task Force (MERTF), thanked Council for expediting the reappointments. He reported that the friends of MERTF were donating items for the pop-up booth events. He requested approval to start meeting again in March. He provided an update on the mosquito board facilities and noted they intended to rebuild.

Chair Johnson received support to hold their meeting in March.

Anita Cereceda, Chair of the Local Planning Agency (LPA), requested a joint work session on March 9, 2023, at 9:00 a.m. with Town Council and the consultant for the LDC (Land Development Code) and the Comprehensive Plan. She noted the LPA made a list of items to discuss, including a definition of a public benefit. She added that she was available to present the LPA's perspective on the zoning cases before the Council.

## VIII. APPROVAL OF MINUTES

A. Town Council - February 6, 2023

Mayor Allers moved to approve the minutes; second by Council Member King.

Motion carried unanimously.

B. Management & Planning Session - February 9, 2023

Mayor Allers moved to approve the minutes; second by Council Member King.

Motion carried unanimously.

C. Town Council Special Meeting - February 9, 2023

Mayor Allers moved to approve the minutes; second by Council Member King.

Motion carried unanimously.

DRAFT

## IX. CONSENT AGENDA

A. International Fine Arts Studio Inc.

**Approve the construction contract between the Town of Fort Myers Beach and International Fine Arts Studio Inc. for repair services to the Mound House historic buildings and to authorize the Town Manager to execute the contract on behalf of the Town and waive the bond requirement per Code 2-484.c.(2) .**

Council Member Veach moved to approve the contract; second by Vice Mayor Atterholt.
Motion carried unanimously.

B. Scotts® Field Refurbishment Program Application

**Approve staff to apply for the Scotts® Field Refurbishment Program Application for enhancements to the ball fields at Bay Oaks Recreations Campus.**

Council Member Veach questioned whether participating in the program limited what could be done with the ball fields. Director of Culture, Parks and Recreation Alison Giesen replied that the fields would remain and the non-matching grant allowed the town to offset up to $50,000.00. If they applied, the deadline was February 28, 2023, and the town would know whether they were approved by the spring/summer. Enhancements will be completed by summer. She confirmed that the funds could be used for the small ball field since the larger field was planned to be relocated.
Interim Town Manager Wilkins indicated that FEMA (Federal Emergency Management Agency) would test and mitigate the soil where applicable. Director Giesen noted that chemicals would be applied to maintain the sod.

Council Member King moved to approve; second by Vice Mayor Atterholt.
Motion carried unanimously.

## X. PUBLIC HEARINGS

A. Ordinance 23-04; Pink Shell CPD Amendment

**1st Reading and Public Hearing on proposed Ordinance 23-04 entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA REPLACING TOWN OF FORT MYERS BEACH RESOLUTION NO. 13-23, AND AMENDING THE SCHEDULE OF USES FOR THE COMMERCIAL PLANNED DEVELOPMENT ZONING FOR THE PROPERTY LOCATED AT 200 AND 275 ESTERO BLVD., FORT MYERS BEACH; PROVIDING FOR REVISIONS TO CONDITIONS OF APPROVAL, AND OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE. Open the first public hearing and schedule for second reading and final adoption on March 6, 2023 at 9:00 AM.**

Mayor Allers read the title of the ordinance. Ex parte communications:
Council Member Veach spoke to the applicant and Mayor Allers drove by the

site. No disclosures from other members. Town Attorney Herin, Jr. swore in those providing testimony.

Community Development Planner Sarah Provost stated that the applicant requested an amendment to the Pink Shell CPD to allow liveaboard vessels in association with the submerged land lease from the FDEP (Florida Department of Environmental Protection). She noted the land lease was updated to allow liveaboard vessels because the Pink Shell provided facilities. She reviewed three new conditions and noted that staff and the LPA recommended approval to allow liveaboards with the conditions stated in the staff report.

Council Member Veach questioned whether density would be increased. Planner Propst replied that staff did not consider liveaboards density, although it could be viewed differently.

Bill Waichulis, applicant, stated that the slips were rented the same as a hotel unit with a nightly rate. He noted they had the right for 41 slips and described the required amenities. He indicated the docks were being welded offsite and would be floating by July. He stated that the FDEP determined anyone staying over five nights was considered a liveaboard, but the town did not define liveaboard. Mr. Waichulis requested that the language between the FDEP and the town be clarified.

Council Member Veach clarified that anyone who requested to stay for under five days was allowed to stay. Mr. Waichulis replied affirmatively but added that since the FDEP allowed them to stay more than five days, the Pink Shell would allow a couple of days longer if requested. He noted that the average stay was three days.

No public comment.

Vice Mayor Atterholt moved to adopt Ordinance 23-04 and move it to a second reading on March 6, 2023, at 9:00 a.m.; second by Council Member King.

Motion carried unanimously by roll call vote.

B. Ordinance 23-02; Corner Lot and Setback Regulations

**Second and Final reading, Public Hearing and adoption of proposed Ordinance 23-02 entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING CHAPTER 34, ARTICLE III., DIVISION 3, SECTION 34-638 MINIMUM SETBACKS, SECTION 34-2 DEFINITIONS, AND TABLE 34-3 DIMENSIONAL REGULATIONS IN CONVENTIONAL ZONING DISTRICTS; PROVIDING FOR SEVERABILITY; CODIFICATION; SCRIVENER'S ERRORS; CONFLICTS OF LAW AND AN EFFECTIVE DATE. Open second public hearing and then vote to approve the Ordinance.**

Mayor Allers read the title of the ordinance. Planner Propst noted the packet covered corner lots, porches, and stoop encroachments, decreased additional setbacks for houses over 65 feet in length based on the side street setback, removed the 15% side setback requirement, amended the Matanzas

10-foot side setback and allowed for new mechanical equipment encroachment. The approach agreed upon in June included a standard front setback of 25 feet, a decreased side street setback based on the lot width and a side setback and a rear setback. A property on Estero would be required to apply the front street setback of 25 feet to the Estero-facing side of the property. If a lot takes its road access from the narrower setback, the site plan must show how vehicles would not encroach into the right of way.
Lots greater than 75 feet have a 20-foot side street setback, lots greater than 50 feet up to 75 feet have a 15-foot side street setback and lots 50 feet or less have a 10-foot side street setback. The proposed language would allow porches, balconies and stoops to encroach half of the side street setback or 10 feet, whichever was less. The additional setback for houses that exceed 65 feet of frontage on a street has been decreased in proportion to the side street setback. For lots 50 feet or less wide, the additional setback would be 3 feet. For lots greater than 50 feet up to 85 feet wide, the additional setback would be 6 feet and for lots wider than 85 feet, the additional setback would be 12 feet. The proposed ordinance amendments would include a return to the 7.5-foot and 10-foot side yard setback. A 7.5 side yard setback for lots up to 75 feet wide and an increase in the side yard setback to 10 feet for lots greater than 75 feet wide was included. The 10-foot side setback for Matanzas Street and Matanzas Court was removed. The proposed language would also allow existing homes to install new equipment that encroaches up to 3 feet into side and side street setbacks. New homes would be required to meet side and side street setbacks.
Public comment:
John Elwood, realtor, questioned 3 feet additional for lots 50 feet and under. Planner Propost explained the proposed language.
Dave Sterman, owner of a construction company, requested clarification of setbacks for a particular sized lot on Gulf Road and Gulf Drive.
Public comment closed.
Planner Propst stated that she would review Mr. Sterman's issues.

Council Member Woodson moved to approve Ordinance 23-02; second by Mayor Allers.
Council Member Veach requested that Council reconsider using a 10% setback with a minimum of 7.5 feet for lots 100 feet or smaller.
Motion carried unanimously by roll call vote.

C. <u>Ordinance 23-03; Nonconforming Lots, Minimum Use Determinations and Administrative Variances</u>

**Second reading and Public Hearing of proposed Ordinance 23-03 entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING CHAPTER 34, ARTICLE V., DIVISION 4, SECTIONS 34-3273 GENERAL REQUIREMENTS FOR RESIDENTIAL USES ON NONCONFORMING LOTS, SECTION 34-3274 MINIMUM USE DETERMINATIONS, AND CHAPTER 34, ARTICLE II., DIVISION 6, SECTION 34-268 ADMINISTRATIVE SETBACK VARIANCES; PROVIDING**

**FOR SEVERABILITY; CODIFICATION; SCRIVENER'S ERRORS; CONFLICTS OF LAW AND AN EFFECTIVE DATE. Final adoption of ordinance 23-03**

Mayor Allers read the title of the ordinance. Planner Propst reviewed the changes in Sec. 34-3273, Sec. 34-3274 and Sec. 34-268 as stated on the blue sheet. Amendments to Secs. 34-3273 and 3274 expanded the lots that were considered non-conforming but may be built on. Amendments to Sec. 34-268 include limitations on how much variance could be granted administratively. The language has been modified to allow for a second story above flood within the same sized footprint previously built. The fire official stated that the access roads should be 20 feet unobstructed; however, they understood that 20 feet might not be appropriate and the official voiced support for working with the town.

LPA Chair Cereceda stated that the LPA supported allowing owners to rebuild what had been on their lot, but they did not discuss allowing them to expand that use. The LPA felt that if owners wanted to add another story or expand their space, they would have to request a variance. The LPA did not think the owners should be immediately vested with that right.

Vice Mayor Atterholt questioned whether the rights in the proposed ordinance would transfer to a new owner. Planner Propst replied that it would not be affected by ownership. Vice Mayor Atterholt questioned whether the 25-foot setback was measured from the center of Estero Blvd. Planner Propst replied that all setbacks started at the property line.

Council Member Woodson questioned whether the proposed ordinance affected primarily one area. Planner Propst replied affirmatively but added that it would apply to any non-conforming lot. Council Member Woodson questioned the cost and length of the variance process. Planner Propst noted the price was previously $1,300.00, but discussions about changing the process were ongoing.

Public comment:

John Elwood questioned how his client with a 40 x 65-foot lot would build a house.

Richard Durling, owner of Marvin Development Corp., explained his reasons for allowing a second story on small lots. He would like to see more flexibility to build back.

John Barrington, real estate developer, questioned combining 12 lots for a condominium three or four stories tall.

Kara Stewart supported allowing a second story administratively since there was no opposition.

Public comment closed.

Vice Mayor Atterholt questioned whether they were giving a special benefit to a small group of people or whether the situation was that unique. Planner Propst felt that they were granting this group something different than other groups, but it was based on a lot size issue of existing homes. She noted that by granting this, they were potentially increasing the likelihood of rebuilding a single-family residence rather than selling the lot. She added that the idea that someone would combine the lots to build a condominium would depend on the underlying zoning district.

Mayor Allers questioned the base flood elevation within the CCCL line, and planner Propst did not know. After a discussion regarding base flood elevation, she indicated that adding a story would not cause owners to be out of compliance with the zoning ordinance.
Council Member Veach commented that adding another floor created additional density. He felt that traffic would be worse, and he questioned where they stopped.
Council Member Woodson supported allowing a second floor so people would not sell their lots to a developer who wanted to build a condo.
Mayor Allers pointed out that whether they allowed a second floor or not, they could not predict whether the owners would sell their lots. He felt that Chair Cereceda made a good point that the owners would not have been able to build back what they had before Hurricane Ian. He stated there was an avenue for the owner to request a variance for a second floor.
Town Attorney Herin, Jr. pointed out that Sec. 34-3274 addressed minimum use determinations, not maximum use determinations.

Council Member Veach moved to pass Ordinance 23-03 as recommended by the LPA; second by Vice Mayor Atterholt.
Motion carried 4-1 by roll call vote with Council Member Woodson dissenting.

D. Resolution 23-17;237 Old San Carlos, SEZ20220095 for a permanent shared parking lot and VAR20220094 variance from landscape, design and location requirements

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/DENYING SPECIAL EXCEPTION SEZ20220095 AND VARIANCE VAR20220094 TO ALLOW THE USE OF PERMANENT SHARE PARKING WITH DIMENSIONAL AND DESIGN VARIANCES FOR THE PROPERTY LOCATED AT 237 OLD SAN CARLOS BOULEVARD; AND PROVIDING FOR AN EFFECTIVE DATE**

Mayor Allers read the title of the resolution. Ex parte communications: Vice Mayor Atterholt - previous conversation with the applicant; Council Member Woodson - conversation with the owner of the lot and Mayor Allers - drive by. No disclosures from other members. Town Attorney Herin, Jr. swore in those providing testimony.
Planner Propst noted that the applicant distributed a modified layout. She reviewed the request for a special exception and variances, as stated in the staff report. The LPA recommended approval of the special exception and variances with modifications. Staff felt the special exception request was appropriate if the location variance was granted. Staff recommended approval of variances 1, 2, 4, and 6 and recommended denial of variance 3. Staff recommended denial of variance 5; however, since the modified plan decreased the number of parking spaces, staff recommended approval of the parking space size if the lighting bollards could be moved towards the canal.
Mayor Allers questioned whether the town had compact car requirements.
Planner Propst replied negatively.

Sarah Spector of Roetzel & Andress represented the applicant. She stated that the modified parking plan showed 100 spaces and indicated there was an existing variance on the property that allowed what the applicant was asking for. She noted that she included a definition of compact spaces by another jurisdiction because the town did not define compact spaces. She referred to the pages in the distributed presentation. Page 2 described the property location; page 3 was the special exception variance allowed in 2014; page 4 contained a list of variances; page 5 displayed an overview of the site plan; page 6 was the downtown district; pages 7 and 8 set forth the pedestrian commercial designation and discussed redevelopment and page 9 removed buildings. She addressed the six variances and page 12 provided examples regarding the first landscape variance.

Greg Diserio, Registered Florida Landscape Architect with David M. Jones, Jr. & Associates Inc., displayed graphics of landscape plants to be installed in the parking lot.

Attorney Spector continued with the location variance and referred to Sec. 34-676(b) regarding off-street parking and commented that there was no building to park behind. She added there were no plans for redevelopment and there were no parking lots behind any of the buildings and no access points between 3rd Street and Estero Blvd., so parking interconnections were not needed.

She moved to page 18 regarding logistics and the variance for parking dimensions; page 19 displayed parking spaces in the location and only 29% of the spaces would be non-compliant; page 20 included the visibility triangle requirements; page 21 referred to Sec. 34-674 concerning building placement; page 22 addressed neighborhood compatibility; page 23 contemplated more parking in the area and page 24 comprised of staff recommendations or denials for variances with input from the LPA and concluded with a summary.

John Richard, applicant, stated that signs would be installed and he would participate in the parking app software. He intended to have an attendant and meters and explained the reason for exiting on 3rd St. Mr. Richard agreed to build the fence at any height the town requested.

Council Member Veach questioned Mr. Richard's long-term plans for the parking lot and noted that the area was a dead zone for pedestrians with nothing of interest. He mentioned that people complained that the road was very dark. Mr. Richard did not think it was a dead zone and commented that the street would be vibrant.

Council Member Woodson suggested signs could be installed near the Shipwreck store and liked the exit on 3rd St. She commented that the park-like parking lot could be an encouragement for other parking lots.

Mayor Allers agreed the landscape was nice and suggested incorporating parking for alternative vehicles and adding bike racks with water stations.

LPA Chair Cereceda stated the LPA unanimously recommended approval and noted there was a lot of discussion regarding the variances. She supported the changes made between the LPA meeting and today and

hoped that Mr. Richard's plan encouraged other parking lot owners to meet his standards. She added that his plan made the existing variance better. No public comment.
Planner Propst pointed out that the parking space sizes facing the canal contained bollards that limited the depth; therefore, staff did not concur with the breakdown number of compliant parking spaces. It appeared that 42 spaces were 18' x 8.5' plus four ADA (Americans with Disabilities Act) spaces. She noted it would be difficult for larger vehicles to fit adequately. She added that the visibility triangle at the exit would have to come in 5 feet and out 100 feet from the exit.
Attorney Spector displayed the bollards in a graphic and stated the applicant would be happy to remove them.

Vice Mayor Atterholt moved to approve granting the special exception and all six variances; second by Council Member King.
Motion carried unanimously by roll call vote.

## XI. ADMINISTRATIVE AGENDA

A. Resolution 23-16: Estero Island Emergency Berm

**Approve Resolution 23-16 entitled: A Resolution of the Town Council of the Town of Fort Myers Beach, Florida, Accepting the Ranking of Grubbs Emergency Services, LLC ("Grubbs") as the Top Ranked Responsible and Responsive Bidder to ITB-23-08-CD "Estero Island Emergency Berm"; Approving an Agreement Between the Town and Grubbs for the Construction of the Estero Island Beach Emergency Berm; Authorizing the Execution of the Agreement and Expenditure of Budgeted, Emergency, and/or Grant Funds by the Town Manager; and Providing an Effective Date**

Mayor Allers read the title of the resolution. Town Attorney Herin, Jr. stated that Bergeron withdrew their notice of intent to protest the bid.

Council Member Veach moved to approve Resolution 23-16; second by Council Member Woodson.
Motion carried unanimously.

## XII. FINAL PUBLIC COMMENT

No public comment.

## XIII. TOWN MANAGER'S ITEMS

Interim Town Manager Wilkins stated that they would review the Council's policy for selecting a Town Manager on March 9, 2023, at the Management and Planning session. He noted they were working on hiring a Utilities Manager and HR Manager and the Finance Director would be starting on March 13, 2023. The Town Hall commercial building appraisal was due back February 28, 2023. The compensation classification study was due on April 30, 2023. He was working on

modifying the HR employee manual and presenting an interim budget. FP&L (Florida Power & Light) was planning the Times Square project. The town received a $1 million grant from DOT (Department of Transportation) to install pavers in Times Square, which would happen in July. Interim Town Manager Wilkins noted that he received new language regarding the easements for the emergency berm that did not allow public access but did allow for the construction and monitoring for the next 15 years. Environmental Project Manager Chadd Chustz indicated that information regarding the easements was on the website and emails and direct mail would be sent to people. He added that staff would set a deadline for easements to be signed. Town Attorney Herin, Jr. summarized the new language in the easements.

## XIV. TOWN ATTORNEY'S ITEMS

Town Attorney Herin, Jr. stated the memo concerning pending lien foreclosures would be distributed later today. He indicated that there were no connections between the code lien of the Key Estero Shops property and the Sea Grape property. He commented that code enforcement would continue to enforce the town's rules and regulations. Owners who violated the property maintenance requirements would be cited for failing to maintain their property. Mayor Allers would like to direct the Town Attorney to draft a detailed process to inform residents of a deadline to remove debris. Council Member Veach suggested that people who could not remove debris due to insurance issues be required to fence off the area. Vice Mayor Atterholt suggested creating a process to require people to demonstrate efforts to remove debris to avoid potential fines.

## XV. COUNCILMEMBERS ITEMS AND REPORTS

Council Member King questioned whether La Ola would be cited and fined. Interim Town Manager Wilkins replied that conversations with FEMA and the DEM (Department of Emergency Management) were positive, and fines would be held.

Council Member King questioned the schedule for cleaning the porta-potties in Times Square. Interim Town Manager Wilkins replied that they were supposed to be cleaned daily. Council Member King suggested that something on a permanent basis be researched that would plug into the sewer system. Interim Town Manager Wilkins replied he would investigate. Council Member King questioned whether the town was citing people who were parking on private properties. Town Attorney Herin, Jr. noted that the town could not cite or remove vehicles parked on private property.

Council Member Woodson questioned how many easements were signed. Project Manager Chustz replied that around 50 or 60 out of 384 signed, but he felt more would sign after reading the new language. Interim Town Manager Wilkins indicated that responses to the legal counsel RFP were due on March 15, 2023.

Council Member Veach brought up tents on land and questioned what constituted a trailer or RV versus a tent. Town Attorney Herin, Jr. stated that tents were prohibited except in designated camping areas per the code. Council Member Veach requested an expedited discussion regarding plans for Times Square.

Community Development Director Steve Poposki reported that the Lee County Property Appraisers' valuation was now acceptable to FEMA.

Staff would not require a second appraisal if the first appraisal was more than 35% of the original. Vice Mayor Atterholt thanked the Mayor, the Interim Town Manager, the Town Attorney and Community Development Director for their hard work over the past week. Discussion was held regarding what would happen if FEMA decided to change its mind regarding accepting the Lee County Property Appraisers' valuation in the future.

## XVI. ADJOURNMENT

Council Member King moved to adjourn; second by Mayor Allers.
Motion carried unanimously.

The meeting was adjourned at 12:13 p.m.

DRAFT

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2023-961**

1. **Requested Motion:**

**Meeting Date: March 6, 2023**

Resolutions 23-18 & 23-19 entitled: A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING AND EXTENDING THE PROCLAMATION THAT A STATE OF LOCAL EMERGENCY EXISTS BECAUSE OF THE CATASTROPHIC IMPACTS CAUSED BY HURRICANE IAN; PROVIDING FOR CONFLICTS; PROVIDING FOR SCRIVENER ERRORS, PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

**Why the action is necessary:**

Extending the local state of emergency provides the Town with the needed flexibility to respond to the catastrophic disaster caused by Hurricane Ian and maintains the Town's eligibility for federal and state reimbursement funding for the costs of recovery.

**What the action accomplishes:**

Extends the Town's Declarion of state of local emergency.

2. **Agenda:**

CONSENT AGENDA

3. **Requirement/Purpose:**

4. **Submitter of Information:**

---

5. **Background:**

Hurricane Ian has caused a catastrophic disaster in the Town, causing extensive damage to public utilities, public buildings, public communication systems, public streets and roads, public drainage systems, commercial and residential buildings, and areas. Approving and ratifying these Resolutions will maintain in place the Town Declaration of State of Local Emergency originally adopted via Resolution 22-34.

**Attachments:**

1. 23-18, Extending Declaration of Local Emergency 3.6.23-3.12.23
2. 23-19, Extending Declaration of Local Emergency 3.13.23-3.19.23

**Financial Impact:**

6. **Alternative Action**

7. **Management Recommendations:**

8. **Recommended Approval:**

| | |
|---|---|
| Amy Baker, Town Clerk | Created/Initiated - 2/27/2023 |
| John R Herin Jr, Town Attorney | Approved - 2/28/2023 |
| Amy Baker, Town Clerk | Approved - 2/28/2023 |
| Keith Wilkins , Interim Town Manager | Final Approval - 2/28/2023 |

**RESOLUTION 23-18**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING AND EXTENDING THE PROCLAMATION THAT A STATE OF LOCAL EMERGENCY EXISTS BECAUSE OF THE CATASTROPHIC IMPACTS CAUSED BY HURRICANE IAN; PROVIDING FOR CONFLICTS; PROVIDING FOR SCRIVENER ERRORS, PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS,** Chapter 252, *Florida Statutes*, authorizes the waiver of procedures and formalities, otherwise required of municipalities, and to take whatever prudent action is necessary to ensure the health, safety, and welfare of the community in the event of a state of emergency; and

**WHEREAS,** Section 252.38 *Florida Statutes*, specifically authorizes municipalities to declare a state of local emergency and to waive the procedures and formalities otherwise required of political subdivisions required by law pertaining to performance of public work and taking whatever action is necessary to ensure the health, safety, and welfare of the community such as but not limited to entering into contracts; incurring obligations; employing permanent and temporary workers; utilizing volunteer workers; renting of equipment; acquiring and distributing supplies, materials and facilities with or without compensation, and appropriating and expending public funds; and

**WHEREAS,** the Town of Fort Myers Beach, Florida (Town), pursuant to its inherent home rule powers under Florida Constitution and otherwise has adopted certain emergency procedures set forth in Chapter 12, Article II – "Emergency and Disaster Planning" of the Code of Ordinances, Town of Fort Myers Beach, Florida ("Code"), and is otherwise authorized to activate the Town's emergency plan; and

**WHEREAS,** the State of Florida and Lee County have declared a state of local emergency due to the catastrophic impacts of Hurricane Ian to Lee County; and

**WHEREAS,** as defined in the Code, Hurricane Ian has caused a catastrophic disaster in the Town causing extensive damage to public utilities, public buildings, public communication systems, public streets and roads, public drainage systems, commercial and residential buildings, and areas; and

**WHEREAS,** Section 12-21 of the Code provides that where it is not possible to obtain a quorum to convene an emergency meeting to proclaim a state of local emergency, or extend or rescind such a proclamation, the Mayor, Vice-Mayor, or Town Manager are authorized to proclaim, extend, or rescind a local state of emergency.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:**

Section 1. The foregoing whereas clauses are true and correct and hereby adopted as the legislative and administrative findings of the Town Council and made a specific part of this Resolution; all exhibits attached hereto are incorporated herein and made a specific part of this Resolution.

Section 2. Hurricane Ian has caused a catastrophic disaster in the Town, damaging, or destroying over ninety percent (90%) of the Town's public utilities, public buildings, public communication systems, public streets and roads, public drainage systems, commercial and residential buildings, and areas and continues to pose a serious threat to the health, lives, property, and safety of the business owners and residents of the Town. Accordingly, the state of local emergency is hereby extended for seven (7) additional days *nun pro tunc* from 9:00 AM on the 6th day of March 2023.

Section 3. The amendment and extension of the proclamation of a state of local emergency set forth in Resolution 22-35 is an emergency measure necessary for the protection of the public safety, due to the catastrophic disaster caused by Hurricane Ian.

Section 4. As provided in Section 252.38(3)(a), *Florida Statutes* and Chapter 12, Article II of the Code, the Town hereby waives the procedures and formalities otherwise required by law of a municipality as set forth in said State law and the Code.

Section 5. The Town Manager or designee is hereby designated as the declaring official for purposes of implementing the emergency and disaster regulations of the Town. The Town Manager or designee will exercise all powers necessary to protect the health and safety of the public set forth in any Executive Order that may be issued by the Governor, Chapter 252, Fla. Stat., and Chapter 12, Article II of the Code. This proclamation also authorizes the Town Manager or designee to utilize government employees and volunteers to assist in securing private property to minimize the overall damage to the Town.

Section 6. The state of local emergency shall remain in effect until terminated as provided in Section 12-21 of the Code. However, The mandatory curfew and prohibition regarding the use of fresh water supplied by the County or local water company for any purpose other than cooking, drinking, or bathing set forth in Section 12-24 of the Code are hereby waived at this time.

Section 7. As provided in Section 12-21(a) of the Code, the Mayor, Vice-Mayor, or Town Manager may extend the proclamation of a state of local emergency as the "responsible official" of the Town.

Section 8. All resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

Section 9. Any scrivener or typographical errors that do not affect intent of this Resolution may be corrected with notice to and authorization of the Town Attorney and Town Manager without further process.

Section 10. If any clause, section, other part, or application of this Resolution is held by any court of competent jurisdiction to be unconstitutional or invalid, in part or application, it shall not affect the validity of the remaining portions or applications of this Resolution.

Section 11. This Resolution shall become effective upon the signature of the Mayor.

This Resolution was ADOPTED this 6th day of March 2023 upon the signature of the Mayor at 9:00 a.m.

TOWN OF FORT MYERS BEACH

_____
Dan Allers, Mayor

ATTEST:

_____
Amy Baker, Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE
AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:

_____
John R. Herin, Jr., Town Attorney

This Resolution was filed in the Office of the Town Clerk on this _____ day of March 2023.

**RESOLUTION 23-19**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING AND EXTENDING THE PROCLAMATION THAT A STATE OF LOCAL EMERGENCY EXISTS BECAUSE OF THE CATASTROPHIC IMPACTS CAUSED BY HURRICANE IAN; PROVIDING FOR CONFLICTS; PROVIDING FOR SCRIVENER ERRORS, PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS,** Chapter 252, *Florida Statutes*, authorizes the waiver of procedures and formalities, otherwise required of municipalities, and to take whatever prudent action is necessary to ensure the health, safety, and welfare of the community in the event of a state of emergency; and

**WHEREAS,** Section 252.38 *Florida Statutes*, specifically authorizes municipalities to declare a state of local emergency and to waive the procedures and formalities otherwise required of political subdivisions required by law pertaining to performance of public work and taking whatever action is necessary to ensure the health, safety, and welfare of the community such as but not limited to entering into contracts; incurring obligations; employing permanent and temporary workers; utilizing volunteer workers; renting of equipment; acquiring and distributing supplies, materials and facilities with or without compensation, and appropriating and expending public funds; and

**WHEREAS,** the Town of Fort Myers Beach, Florida (Town), pursuant to its inherent home rule powers under Florida Constitution and otherwise has adopted certain emergency procedures set forth in Chapter 12, Article II – "Emergency and Disaster Planning" of the Code of Ordinances, Town of Fort Myers Beach, Florida ("Code"), and is otherwise authorized to activate the Town's emergency plan; and

**WHEREAS,** the State of Florida and Lee County have declared a state of local emergency due to the catastrophic impacts of Hurricane Ian to Lee County; and

**WHEREAS,** as defined in the Code, Hurricane Ian has caused a catastrophic disaster in the Town causing extensive damage to public utilities, public buildings, public communication systems, public streets and roads, public drainage systems, commercial and residential buildings, and areas; and

**WHEREAS,** Section 12-21 of the Code provides that where it is not possible to obtain a quorum to convene an emergency meeting to proclaim a state of local emergency, or extend or rescind such a proclamation, the Mayor, Vice-Mayor, or Town Manager are authorized to proclaim, extend, or rescind a local state of emergency.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:**

Section 1. The foregoing whereas clauses are true and correct and hereby adopted as the legislative and administrative findings of the Town Council and made a specific part of this Resolution; all exhibits attached hereto are incorporated herein and made a specific part of this Resolution.

Section 2. Hurricane Ian has caused a catastrophic disaster in the Town, damaging, or destroying over ninety percent (90%) of the Town's public utilities, public buildings, public communication systems, public streets and roads, public drainage systems, commercial and residential buildings, and areas and continues to pose a serious threat to the health, lives, property, and safety of the business owners and residents of the Town. Accordingly, the state of local emergency is hereby extended for seven (7) additional days *nun pro tunc* from 9:00 AM on the 13th day of March 2023.

Section 3. The amendment and extension of the proclamation of a state of local emergency set forth in Resolution 22-35 is an emergency measure necessary for the protection of the public safety, due to the catastrophic disaster caused by Hurricane Ian.

Section 4. As provided in Section 252.38(3)(a), *Florida Statutes* and Chapter 12, Article II of the Code, the Town hereby waives the procedures and formalities otherwise required by law of a municipality as set forth in said State law and the Code.

Section 5. The Town Manager or designee is hereby designated as the declaring official for purposes of implementing the emergency and disaster regulations of the Town. The Town Manager or designee will exercise all powers necessary to protect the health and safety of the public set forth in any Executive Order that may be issued by the Governor, Chapter 252, Fla. Stat., and Chapter 12, Article II of the Code. This proclamation also authorizes the Town Manager or designee to utilize government employees and volunteers to assist in securing private property to minimize the overall damage to the Town.

Section 6. The state of local emergency shall remain in effect until terminated as provided in Section 12-21 of the Code. However, the mandatory curfew and prohibition regarding the use of fresh water supplied by the County or local water company for any purpose other than cooking, drinking, or bathing set forth in Section 12-24 of the Code are hereby waived at this time.

Section 7. As provided in Section 12-21(a) of the Code, the Mayor, Vice-Mayor, or Town Manager may extend the proclamation of a state of local emergency as the "responsible official" of the Town.

Section 8. All resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

Section 9. Any scrivener or typographical errors that do not affect intent of this Resolution may be corrected with notice to and authorization of the Town Attorney and Town Manager without further process.

Section 10. If any clause, section, other part, or application of this Resolution is held by any court of competent jurisdiction to be unconstitutional or invalid, in part or application, it shall not affect the validity of the remaining portions or applications of this Resolution.

Section 11. This Resolution shall become effective upon the signature of the Mayor.

This Resolution was ADOPTED this 6th day of March 2023 upon the signature of the Mayor at 9:00 a.m.

TOWN OF FORT MYERS BEACH

_____
Dan Allers, Mayor

ATTEST:

_____
Amy Baker, Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE
AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:

_____
John R. Herin, Jr., Town Attorney

This Resolution was filed in the Office of the Town Clerk on this _____ day of March 2023.

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2023-957**

1. **Requested Motion:**

**Meeting Date: March 6, 2023**

Resolution 23-17 entitled: A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA AUTHORIZING THE TOWN MANAGER OR DESIGNEE TO APPLY FOR, EXECUTE UPON AWARD, AND ADMINISTER A GRANT FROM THE WEST COAST INLAND NAVIGATIONAL DISTRICT PROGRAM FOR FUNDS IN THE AMOUNT NOT TO EXCEED $50,000 FOR ADDITIONAL MARINE PATROL AROUND ESTERO ISLAND; AUTHORIZING THE TOWN MANAGER OR DESIGNEE TO EXECUTE RELATED DOCUMENTS; AND PROVIDING AN EFFECTIVE DATE

**Why the action is necessary:**

Authorizes staff to apply for the WCIND Grant Requests and authorizes the Town Manager or his designee to execute the WCIND grant agreement.

**What the action accomplishes:**

Gives staff direction to apply for a grant through the WCIND for additional marine patrol around Estero Island and authorizes the grant execution.

2. **Agenda:**
CONSENT AGENDA

3. **Requirement/Purpose:**
Resolution

4. **Submitter of Information:**

---

5. **Background:**

The West Coast Inland Navigational District (WCIND) grant request cycle has opened and applications are due by March 2023.

The total grant request is $50,000; $25,000 Town Match and $25,000 Grant Request.

This grant cycle will coincide with the Town's Fiscal Year in which funds being requested will be available effective October 1, 2023.

The WCIND Grant provides funding for additional enforcement of waterways around Estero Island beyond the standard scheduled patrol.

**Attachments:**

1. 23-17, Resolution 23-17 re FY23-24 WCIND Grant Application and Execution(143179188.1)-C
2. DRAFT- WCIND 23-24 APPLICATION

**Financial Impact:**

6. **Alternative Action**

Do not approve or apply for the grant.

7. **Management Recommendations:**

Authorize the Town Manager or his designee to apply and execute agreement.

8. **Recommended Approval:**

Jason Freeman, Public Works Manager

Created/Initiated - 2/27/2023

| | |
|---|---|
| Jason Freeman, Public Works Manager | Approved - 2/27/2023 |
| John R Herin Jr, Town Attorney | Approved - 2/28/2023 |
| Amy Baker, Town Clerk | Approved - 2/28/2023 |
| Keith Wilkins , Interim Town Manager | Final Approval - 2/28/2023 |

**RESOLUTION NO. 23-17**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA AUTHORIZING THE TOWN MANAGER OR DESIGNEE TO APPLY FOR, EXECUTE UPON AWARD, AND ADMINISTER A GRANT FROM THE WEST COAST INLAND NAVIGATIONAL DISTRICT PROGRAM FOR FUNDS IN THE AMOUNT NOT TO EXCEED $50,000 FOR ADDITIONAL MARINE PATROL AROUND ESTERO ISLAND; AUTHORIZING THE TOWN MANAGER OR DESIGNEE TO EXECUTE RELATED DOCUMENTS; AND PROVIDING AN EFFECTIVE DATE**

**WHEREAS**, Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal service, and exercise any power for municipal purposes, except when expressly prohibited by law; and

**WHEREAS**, Article X of the Town Charter of the Town of Fort Myers Beach ("Town") empowers the Town to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

**WHEREAS**, the Town has an opportunity to apply for grant funding from the West Coast Inland Navigational District ("Grant") for additional marine patrol around Estero Island ("Project"); and

**WHEREAS**, the Town will commit funds (up to $25,000) to complete the match requirement, which funding will be requested in the 2023-2024 Fiscal Year Budget for the Project; and

**WHEREAS**, the Town desires to apply for the Grant in the amount of up to $50,000.00 to provide the Town with funds to complete the Project; and

**WHEREAS**, to apply for the Grant, a Resolution of the Town is required designating a "Liaison Agent," and authorizing the Liaison Agent to apply for and administer the Grant on behalf of the Town; and

**WHEREAS**, the Town desires to designate the Town Manager or designee as Liaison Agent and authorize the Town Manager or designee, to apply for, execute, and administer the Grant on behalf of the Town; and

**NOW, THEREFORE, BE IT HEREBY RESOLVED, BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA AS FOLLOWS:**

Section 1. The above recitals are true and correct, and incorporated herein by this reference and adopted as the legislative and administrative findings of the Town Council.

Section 2. The Town Council hereby designates the Town Manager or designee as Liaison Agent and authorizes the Town Manager or designee to apply for the Grant in the amount of up to $50,000.00 and upon award administer the grant on behalf of the Town, to be used for additional marine patrol around Estero Island. The Council also authorizes the budgeting of $25,000.00 in matching funds.

Section 3. This Resolution shall take effect immediately upon its adoption.

**THE FOREGOING RESOLUTION** was adopted by the Town Council upon a motion by _____ _____ and seconded by _____, and upon being put to a vote, the result was as follows:

| | |
|---|---|
| Dan Allers, Mayor | ___ |
| Jim Atterholt, Vice Mayor | ___ |
| John R. King, Council Member | ___ |
| Bill Veach, Council Member | ___ |
| Karen Woodson, Council Member | ___ |

ADOPTED this 6th day of March 2023 by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH

_____
Dan Allers, Mayor

ATTEST:

_____
Amy Baker, Town Clerk

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:**

_____
John R. Herin, Jr., Town Attorney

This Resolution was filed in the Office of the Town Clerk on this ____ day of _____2023.

143179188.1

**LEE COUNTY / WEST COAST INLAND NAVIGATION DISTRICT**
**FUNDING APPLICATION**

APPLICATION DATE: 2/22/2023

1. APPLICANT: Town of Fort Myers Beach

2. PROJECT CATEGORY:

   ☐ Public Navigation ☒ Marine Law Enforcement ☐ Environmental Education
   ☐ Boater Recreation ☐ Boating Safety & Education

3. PROJECT TITLE: Marine Law Enforcement - Additional

4. PROJECT DESCRIPTION AND PUBLIC BENEFIT (attach sheets if necessary):_____

   A. **PROJECT RANK IF MORE THAN ONE APPLICATION IS SUBMITTED_____**

5. IMPLEMENTATION BY THIRD-PARTY OPERATOR (TPO)? YES ☐ NO ☒
   IF YES, PROVIDE THE FOLLOWING:

| | | | |
|---|---|---|---|
| TPO NAME: | | TPO MANAGER: | |
| FEID: | | PHONE: | |
| ADDRESS: | | CITY: | |
| STATE: | | ZIP: | |

6. TYPE AND STATUS OF REQUIRED PERMITS, AUTHORIZATIONS, EASEMENTS OR LEASES NECESSARY FOR THE PROJECT:

| TYPE: | STATUS: |
|---|---|

| | |
|---|---|
| | |
| | |
| | |
| | |

7. ESTIMATED PROJECT START DATE: Oct. 1, 2023 COMPLETION DATE: Sept. 30, 2024

8. REQUIRED ATTACHMENTS:

   B. VICINITY MAP IF APPLICABLE
   C. SITE DEVELOPMENT PLAN IF APPLICABLE
   D. PERMITS IF APPLICABLE

9. WCIND FUNDS REQUESTED: $25,000 DOLLARS

10. COMPLETE ATTACHED BUDGET DETAIL - LIST AMOUNT(S) AND SOURCE(S) OF OTHER PROJECT FUNDS. CLEARLY IDENTIFY AND ENUMERATING THE AMOUNT AND SOURCE OF ALL MATCHING FUNDS. ACCORDING TO SECTION 374.976 F.S. AND RULE 66A-2, F.A.C., MATCHING FUNDS ARE REQUIRED FOR BOATING SAFETY AND EDUCATION, AND BOATER RECREATION PROJECTS.

11. ESTIMATED TOTAL PROJECT COST: $ 50,000 DOLLARS

12. APPLICANT IDENTIFICATION:

    PROJECT MANAGER: Jason Freeman, Public Works Director

    ADDRESS: 2525 Estero Boulevard, Fort Myers Beach, FL 33931

    TELEPHONE NO.: 239-765-0202 ext. 1700

    EMAIL.: JasonF@FMBGOV.COM

    FEID#: 65-0632342

13. SIGNATURE: _____

14. DATE: 2/22/2023

| BUDGET ESTIMATE DETAIL | Grant Funds | Matching Funds[1] | Total |
|---|---|---|---|
| Construction Expenses | | | |
| (specify) | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| Contractual Services | $ 25,000 | $25,000 | $ 50,000 |
| (specify) | | | |
| | | | |
| | | | |
| | | | |
| Materials | | | |
| (specify) | | | |
| | | | |
| | | | |
| | | | |
| Equipment | | | |
| (specify) | | | |
| | | | |
| | | | |
| | | | |
| Salaries[2] | | | |
| | | | |
| Other | | | |
| (specify) | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| GRAND TOTAL | $ 25,000 | $ 25,000 | $ 50,000 |

SOURCE(S) OF MATCHING FUNDS: Town of Fort Myers Beach

Additional Information: Matching funds will be requested in FY23 Fiscal Year's Budget, Town Council has authorized this grant application via Resolution 23-17

[1] Matching funds are **required** only for Boating Safety and Education, and Boater Recreation projects, but are encouraged for all projects.

[2] Salaries are **only** eligible as a grant expense for Marine Law Enforcement projects.

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2023-950**

**Meeting Date: March 6, 2023**

1. **Requested Motion:**
Recurring Special Event - Approval of a Reconstruction Center

**Why the action is necessary:**
Ordinance 20-17

**What the action accomplishes:**
Allows for this recurring event to happen

2. **Agenda:**
CONSENT AGENDA

3. **Requirement/Purpose:**
Ordinance

4. **Submitter of Information:**

5. **Background:**
ICS Disaster Recovery, LLC would like to open a reconstruction center for contractors at 5669/5689 Estero Blvd. They have leased the property from Cynthia Danks d/b/a Mid-Island Property, LLC. 7 days a week from 8 am- 8pm. Before a permit can be issued, we will need a copy of Liability Insurance naming the Town as certificate holder and a signed copy of letter to use the property from the property owner. The lease copy we have has no signatures. Also need approval from Environmental Services. (Environmental approval was received.)

**Attachments:**
1. 230606_Recontruction Center_App_02242023

**Financial Impact:**

6. **Alternative Action**

7. **Management Recommendations:**

8. **Recommended Approval:**

| | |
|---|---|
| Patty Prevost, Code Supervisor/STR Coordinator | Created/Initiated - 2/24/2023 |
| Steve Poposki, Community Development Director | Approved - 2/24/2023 |
| John R Herin Jr, Town Attorney | Approved - 2/28/2023 |
| Amy Baker, Town Clerk | Approved - 2/28/2023 |
| Keith Wilkins , Interim Town Manager | Final Approval - 2/28/2023 |

230606

# Town of Fort Myers Beach

2525 Estero Boulevard, Fort Myers Beach, Florida 33931
Tel: (239) 765-0202 Fax: (239) 765-0909 Email: Specialevents@fmbgov.com

Name of event: Fort Myer's Beach Reconstruction Center
Attach separate sheet of paper with detailed description of event

Date(s) and times of event: January 28, 2023 to January 27, 2024 7 days a week 8AM to 8PM

Address of event: 5669 Estero Blvd., Fort Myer's Beach 33930

Expected # of participants/attendees: 60-100 per day

Sponsoring Organization: ICS Disaster Recovery, LLC

Organization address: 9160 Forum Corporate Parkway, Suite 350, Fort Myers, FL 33905

Contact Person/Phone#: Jason Clark / 239-463-3529

E-mail: jason@floridacontractors.us

Amplified Music Y [ ] N [X] 500 Ft Notifications _____ Copy of Letter _____

Renting Town Property Y [ ] N [X] Renting Parking Spaces Y [ ] N [X]

How many Spaces? 60 How many hours 12

Extension of Premises? Y [ ] N [X] ABT Form _____ How many days? 365 (Over 3 days needs to go to Council)

Letters of Permission to use Property See attached Lease

Letters of Permission to use Parking N/A Parking Plan See Attached Drawing

Site Plan Yes Insurance Yes (Naming Town of FMB as Certificate Holder)

Requesting Water Y [X] N [ ] Electric Y [X] N [ ]

**Requires Council Approval:**
Waiver of open container Y [ ] N [ ] Waiver of Town parking fees Y [ ] N [ ]

Waiver of Noise Ordinance Y [ ] N [ ] Recurring Event Y [ ] N [ ]

Applicant Signature

Printed Name: Jason Clark

**This permit is subject to the applicant meeting all requirements contained in Fort Myers Beach Code of Ordinance Book Part 2 Chapter 22 and in compliance with all items in the special event application.**

## Applicant to Complete:

**Company managing trash removal:** Waste Management

**No. of dumpsters:** 1 **Type of dumpsters:** 8-CY

**Who is responsible for clean-up and payment:** ICS Disaster Recovery, LLC

**City right-of-way Parking Use:** N/A **Number of spaces:** N/A

**To be completed by Town Hall employees:**

**FMB Public Works:**

**Public Works remarks:** See attached

**Approval:** _____ **Date:** _____

**FMB Environment Science:** **Tel (239)765-0202** **Fax (239)765-0909**

**FMB Environmental Sciences remarks:** _____

**Approval:** _____ **Date:** _____

**Date:** 02/16/2023
**Permit #:** 230606
**Permit Date:** 01/19/2023
**Review Date:** 01/20/2023
**Permit Type:**
**Review Type:** SEP-Public Works Review
**Target Date:** 01/23/2023
**Scheduled Time:** 00:00
**Completed Date:**
**Description:**
**Review Status:** APPROVED
**Assigned To:** Martin Pitts
**Time In:** 00:00
**Time Out:** 00:00
**Hours:** 0.0

**Notes**

02/03/2023 No parking in town right of way.

**Property Information**

Parcel#: 334624W200300007A
MID ISLAND PROPERTY LLC
5669 ESTERO BLVD
Zoning: CRLot: 007ABlock: 00300

MID ISLAND PROPERTY LLC
5557 ESTERO BLVD
FORT MYERS BEACH, FL 33931

230606

**FORT MYERS BEACH FIRE DEPT**
**17891 San Carlos Blvd – 3rd Floor, Fort Myers Beach, FL 33931**
**Tel (239) 590-4210**
**Fax (239) 463-6761**

**Fire Guards: (how many?)** _____

**Fee:** See attached

**Flammable Vegetation:** _____

**First Aid Equipment:** _____

**Fire Extinguishing Equipment:** _____

**Special Arrangements:** _____

**Print Name** **Approval Signature** **Date**

prevention@fmbfire.org – **For Fire Department Handbook and additional application.**

**LEE COUNTY SHERIFF'S DEPT** **Tel (239)477-1830** **Fax (239)432-0268**
**15650 Pine Ridge Road, Fort Myers, FL 33908**

**Parking:** Parking in authorized areas only. The right-of-way must not be impeded.

**Deputies (how many?)** None required for this event.

**Traffic Control:**

If event traffic starts to impede the normal flow of traffic, traffic control detail may be required at vendor's expense.

**Fees:**

**Special Arrangements:**

Any amplified sound must adhere to Town fo Ft Myers Beach noise ordinance.

Unless indicated and requested through the LCSO Details Unit, event organizer will be repsonsible for securing venue.

David M. Lebid — **Print Name**
Cpt. David M. Lebid — **Approval Signature**
1/23/2023 — **Date**

September 27, 2021

**FORT MYERS BEACH FIRE DEPT**
**17891 San Carlos Blvd – 3rd Floor, Fort Myers Beach, FL 33931** **Tel (239) 590-4210**
**Fax (239) 463-6761**

**Fire Guards: (how many?)** N/A

**Fee:** Invoice Provided

**Flammable Vegetation** No permitted

**First Aid Equipment:** N/A

**Fire Extinguishing Equipment:** Fire Extinguishers are required to have current State of Florida Inspection Tags from licensed contractors. All extinguishers shall be mounted.

**Special Arrangements:**

Maximum number of occupants = 32

Jennifer Campbell — Jennifer Campbell — 1/23/2023
**Print Name** — **Approval Signature** — **Date**

prevention@fmbfire.org – **For Fire Department Handbook and additional application.**

**LEE COUNTY SHERIFF'S DEPT** **Tel (239)477-1830** **Fax (239)432-0268**
**15650 Pine Ridge Road, Fort Myers, FL 33908**

**Parking:**

**Deputies (how many?)**

**Traffic Control:**

**Fees:**

**Special Arrangements:**

**Print Name** — **Approval Signature** — **Date**

**September 27, 2021**

**Please forward the completed application and site plan along with the individual approval request to each identified agency below. Once complete return all to our office.**

**Florida DEP: DEP now provides an online application process for minor event approval**

Self Certification for CCCL Permit Guidance Document: http://www.dep.state.fl.us/beaches/

**FOR MAJOR EVENTS ONLY CONTACT**

**Kelly Cramer** **Tel (239)770-7502 Fax(850)412-0590**
**Email: kelly.cramer@floridadep.gov**

**Florida DEP remarks:** _____

_____

_____

**Check list: Application** _____ **Site Plan** _____ **Description** _____

**Florida DEP approval:** _____ **Date:** _____

**Turtle Time Inc.: Eve Haverfield** **Tel (239)481-5566 eve@turtletime.org**

**Turtle Season is May 1 through October 31**

**Turtle Time remarks:** _____

_____

**Turtle Time approval:** _____ **Date:** _____

ISC DISASTER RECOVERY, LLC

ICS Presents

# FORT MYERS BEACH
Reconstruction Center

## MISSION STATEMENT

ISC Disaster Recovery LLC will strive to provide one venue, for area residents affected by IAN, staffed by vetted local professionals and tradespersons who can assist in performing the scopes of work required to reconstruct interior and exterior home and businesses damaged by Hurricane Ian. Our Center will also provide local professionals who will be able guide our residents through concept, design, plans, plan review and permitting.

Our selected vendors will offer competitive pricing, which during post catastrophic condition elements, can be unbridled. The various trades will maintain professional representatives available to discuss individual consumer needs and provide qualified estimates.

Collectively we will endeavor to mitigate the known complications of recovery and make the individual experience, of rebuilding or reconstructing your home or office, less stressful and more coordinated by having the entire team under one roof.

Jason Clark
President

# LAND/GROUND LEASE AGREEMENT

This Land/Ground Lease Agreement (this "Agreement") is entered into as of the 5th day of January, 2023, (the "Effective Date") by and between Cynthia M. Danks, d/b/a Mid-Island Property, LLC, ("Landlord") and ICS Disaster Recovery, LLC ("Tenant"). Each Landlord and Tenant may be referred to in this Agreement individually as a "Party" and collectively as the "Parties."

For good and valuable consideration stated herein, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

**1. Agreement to Lease.** Landlord agrees to lease to Tenant and Tenant agrees to lease from Landlord, according to the terms and conditions set forth herein, the following real estate (the "Site"): Property; 5669 & 5689 Estero Blvd., Fort Myers, Beach, Florida 33931, located on the northeast side of Estero Blvd between Lazy Way and Sterling Avenue. Fort Myers, Beach, FLA.

**2. Purpose.** The Site may be used and occupied only for the following purpose (the "Permitted Use"): Erect Climate Controlled Tent. The operation and management of various construction experts.. Nothing herein shall give Tenant the right to use the Site for any other purpose without the prior written consent of Landlord. Landlord makes no representation or warranty regarding the legality of the Permitted Use, and Tenant will bear all risk of any adverse change in applicable laws.

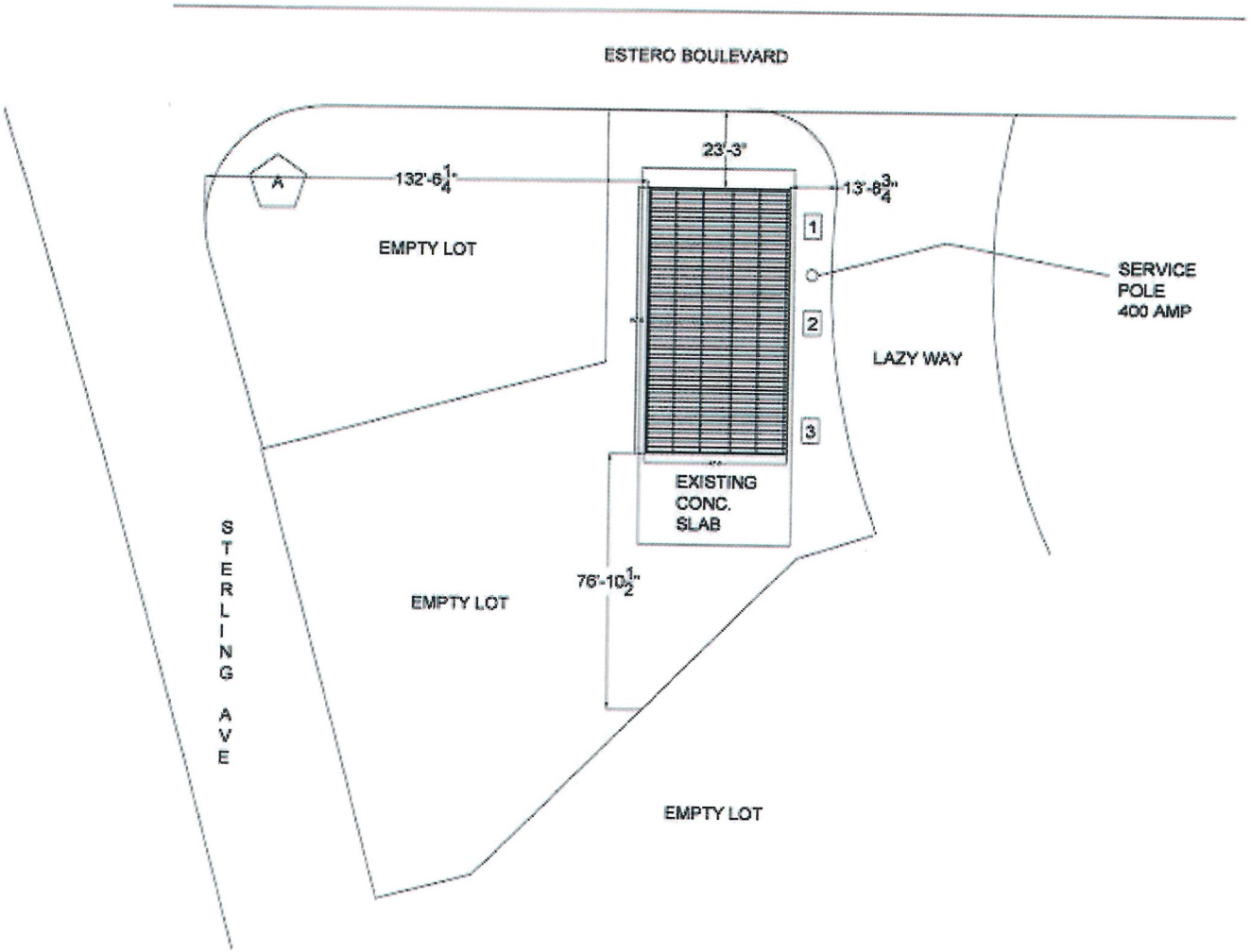
**3. Term.** This Agreement will be for a term beginning on January 12, 2023 and ending on February 12, 2024 (the "Term"). The Tenant may elect to extend this Agreement on a month-to-month lease basis, at the same monthly rate shown belo[redacted]n Item #4 for a period of 2 an additional months. The terms and conditions of any month-to-month Lease Agreement, will remain the same as detailed herein and are agreed upon and signed by the Parties below and noted in Item #11.

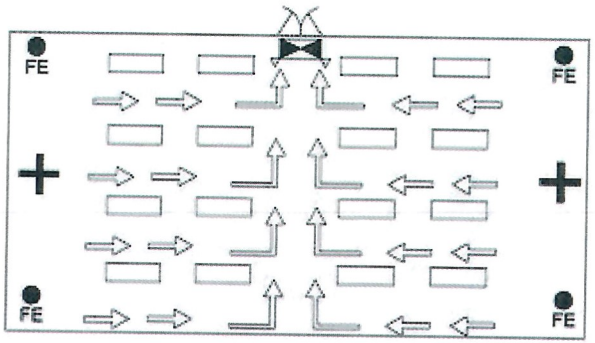
**4. Rent.** Tenant will pay Landlord rent in advanc[redacted]n monthly installments due on the 5th day of each month during the Term.

**5. Late Fee.** Rent paid after the 7th day of each month will be deemed as late; and if rent is not paid within five (5) days after such due date, Tenant agrees to pay a late charge o[redacted]

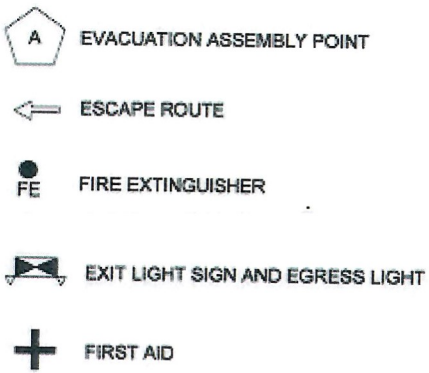
**6. Additional Rent.** There may be instances under this Agreement where Tenant may be required to pay additional charges to Landlord. All such charges are considered additional rent under this Agreement and will be paid with the next regularly scheduled rent payment. Landlord has the same rights and Tenant has the same obligations with respect to additional rent as they do with rent.

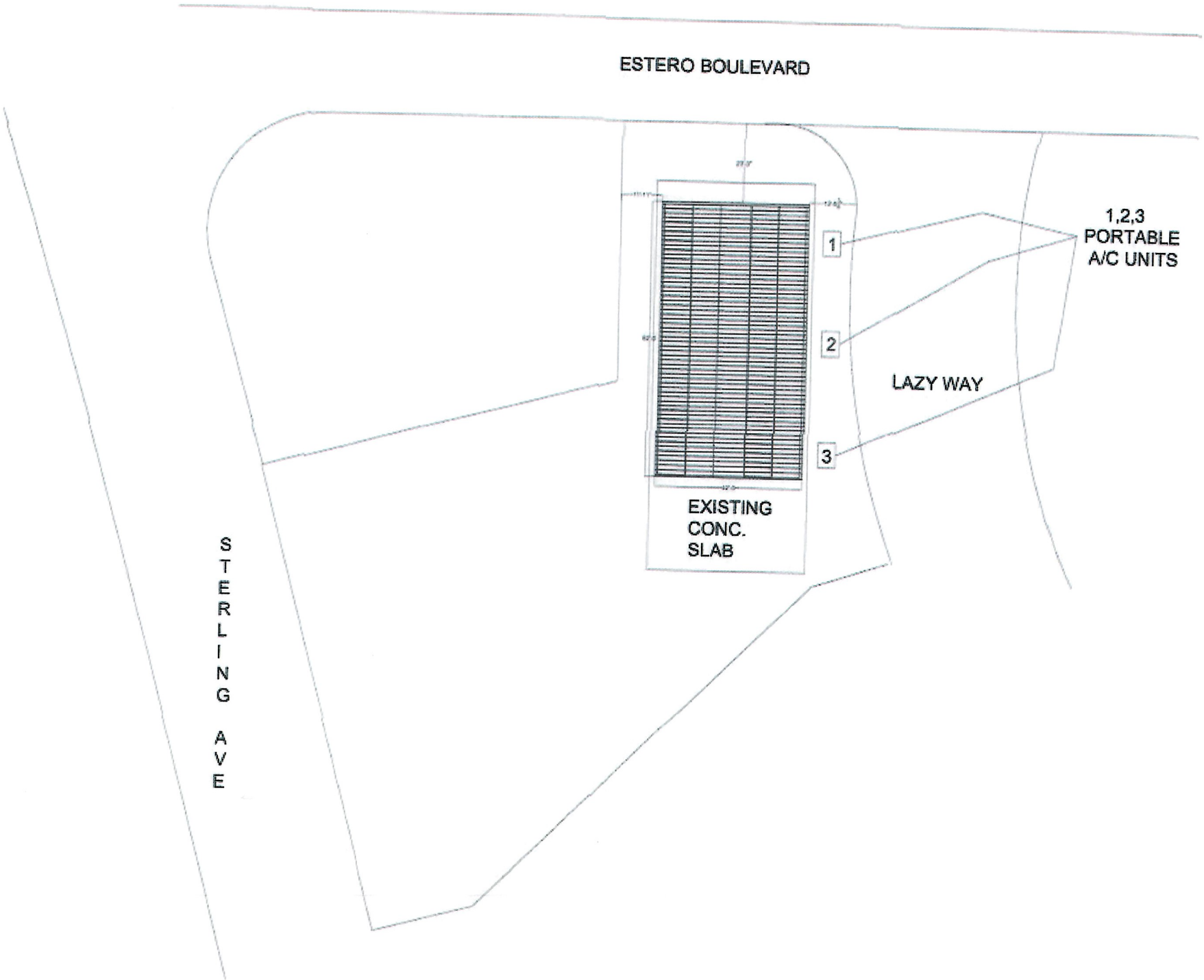
**7. Taxes.** Landlord shall pay all taxes or assessments which are levied or charged on the Site during the Term.

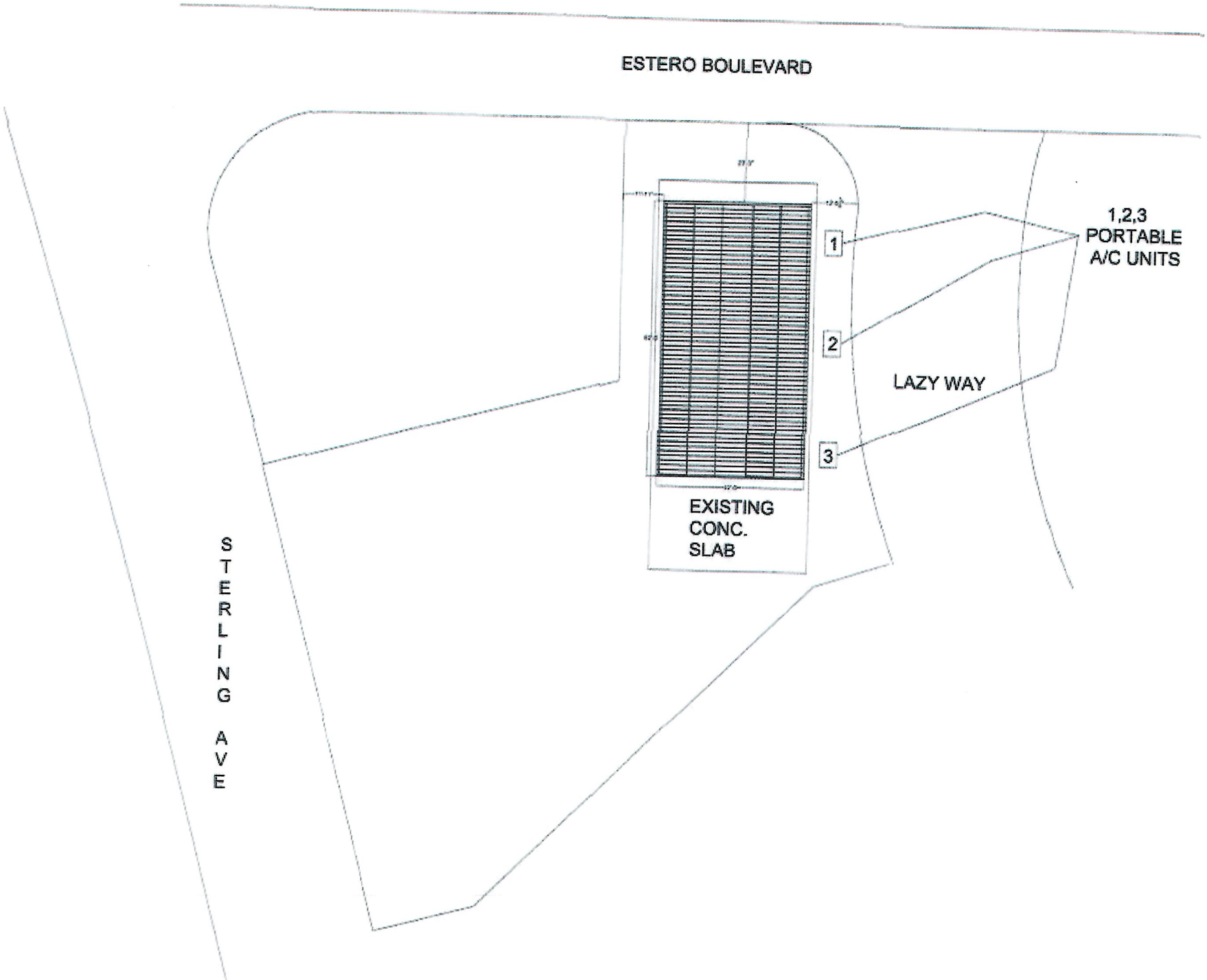


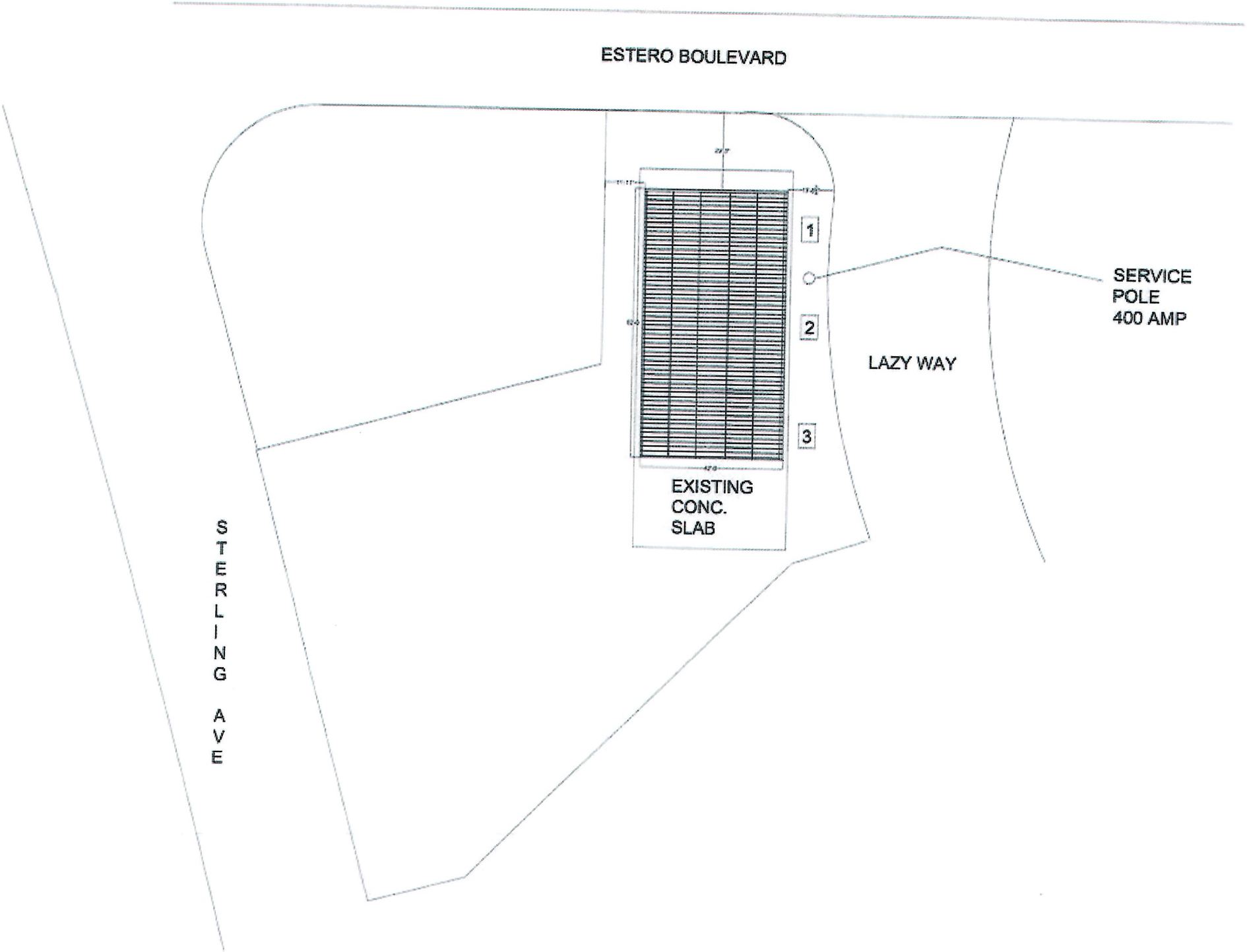



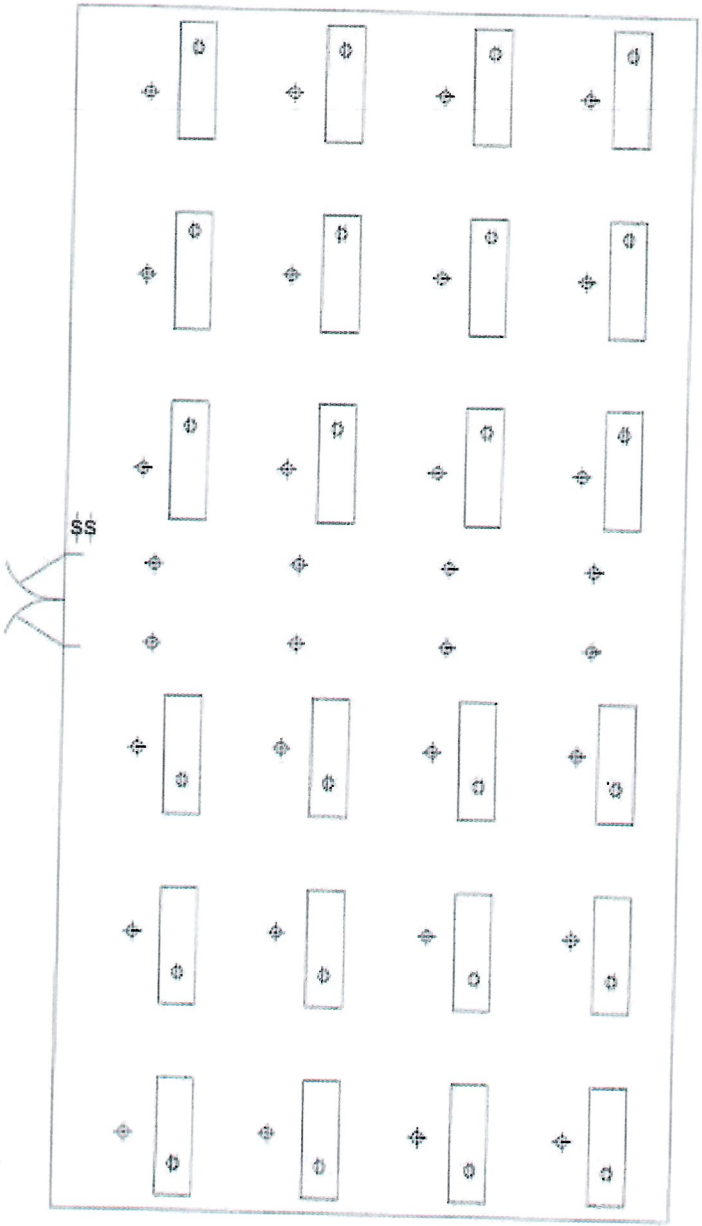

LIFE SAFETY PLAN




ESTERO BOULEVARD
1,2,3
PORTABLE
A/C UNITS
1
2
3
LAZY WAY
EXISTING
CONC.
SLAB
STERLING AVE


ESTERO BOULEVARD
1,2,3
PORTABLE
A/C UNITS
1
2
3
LAZY WAY
EXISTING
CONC.
SLAB
STERLING AVE


ESTERO BOULEVARD
1
2
3
SERVICE
POLE
400 AMP
LAZY WAY
EXISTING
CONC.
SLAB
STERLING AVE

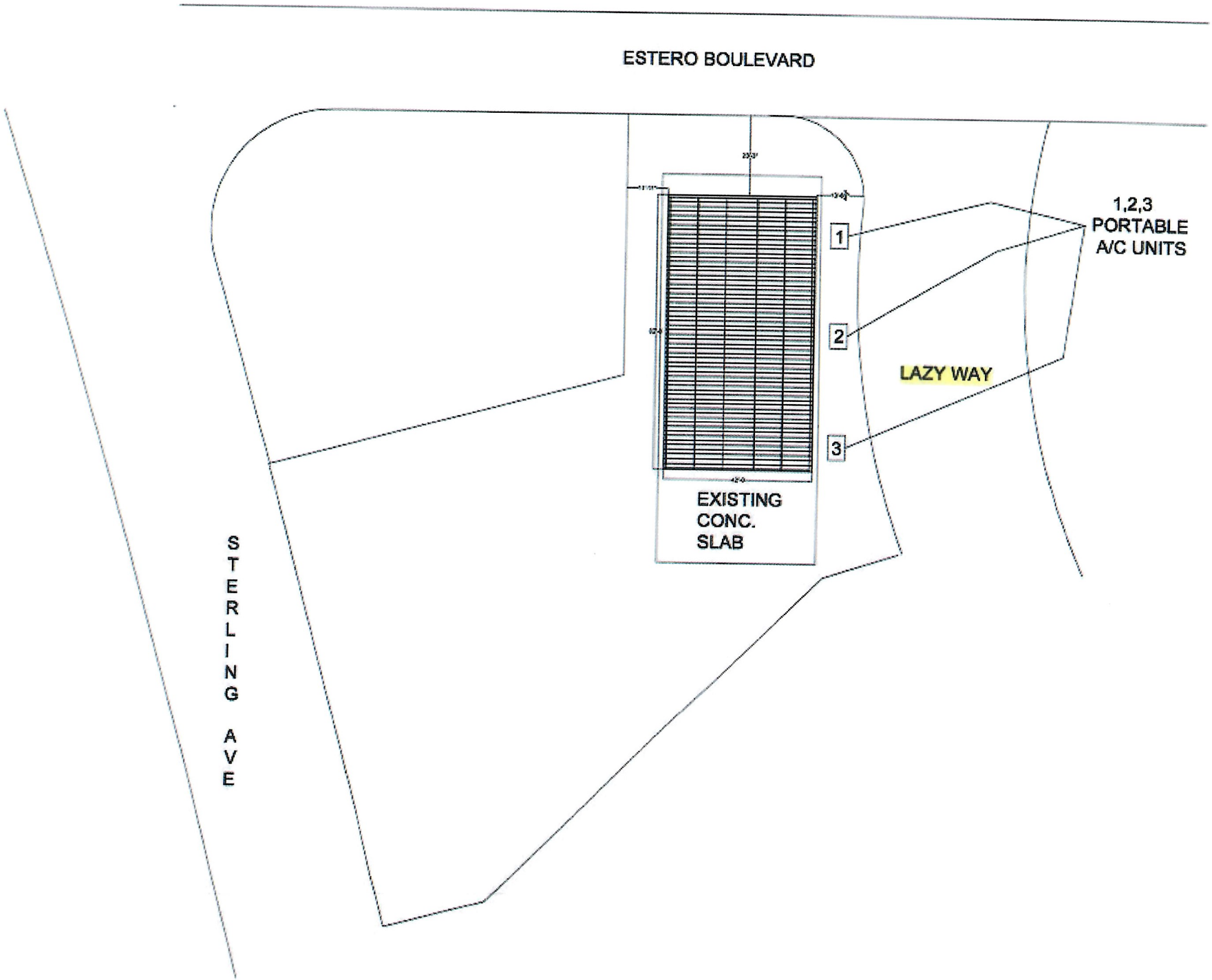


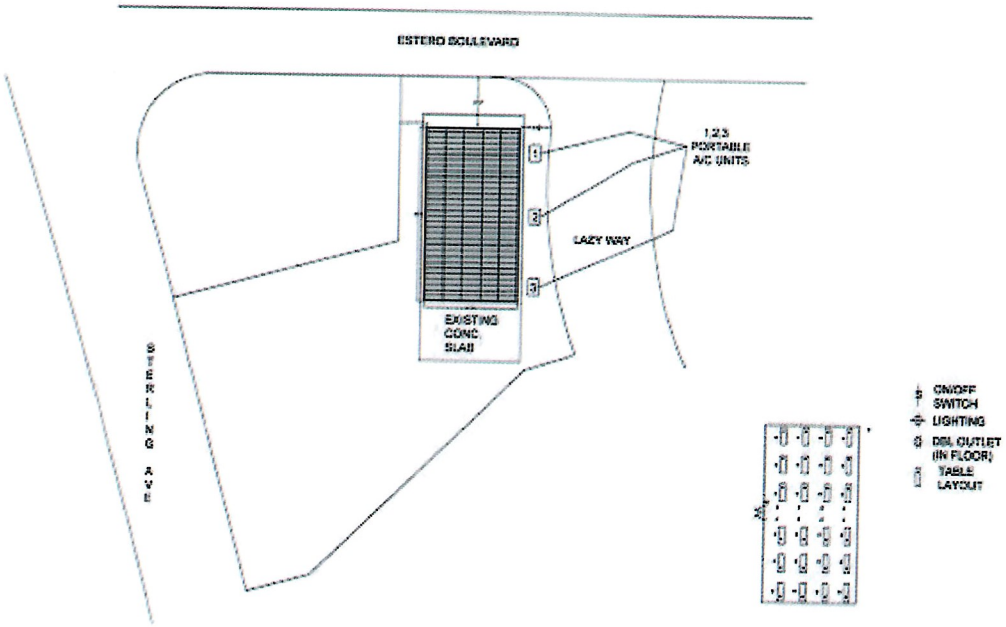

S ON/OFF SWITCH

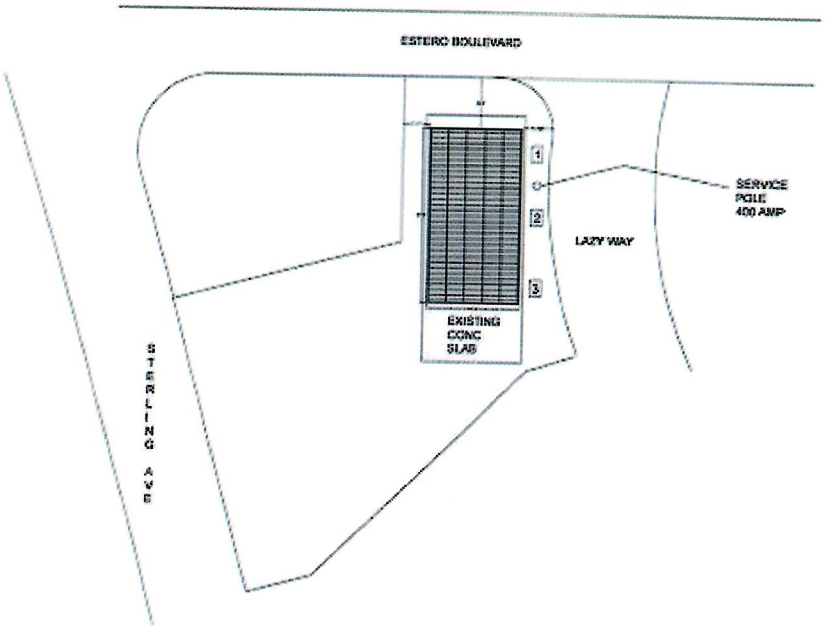
LIGHTING

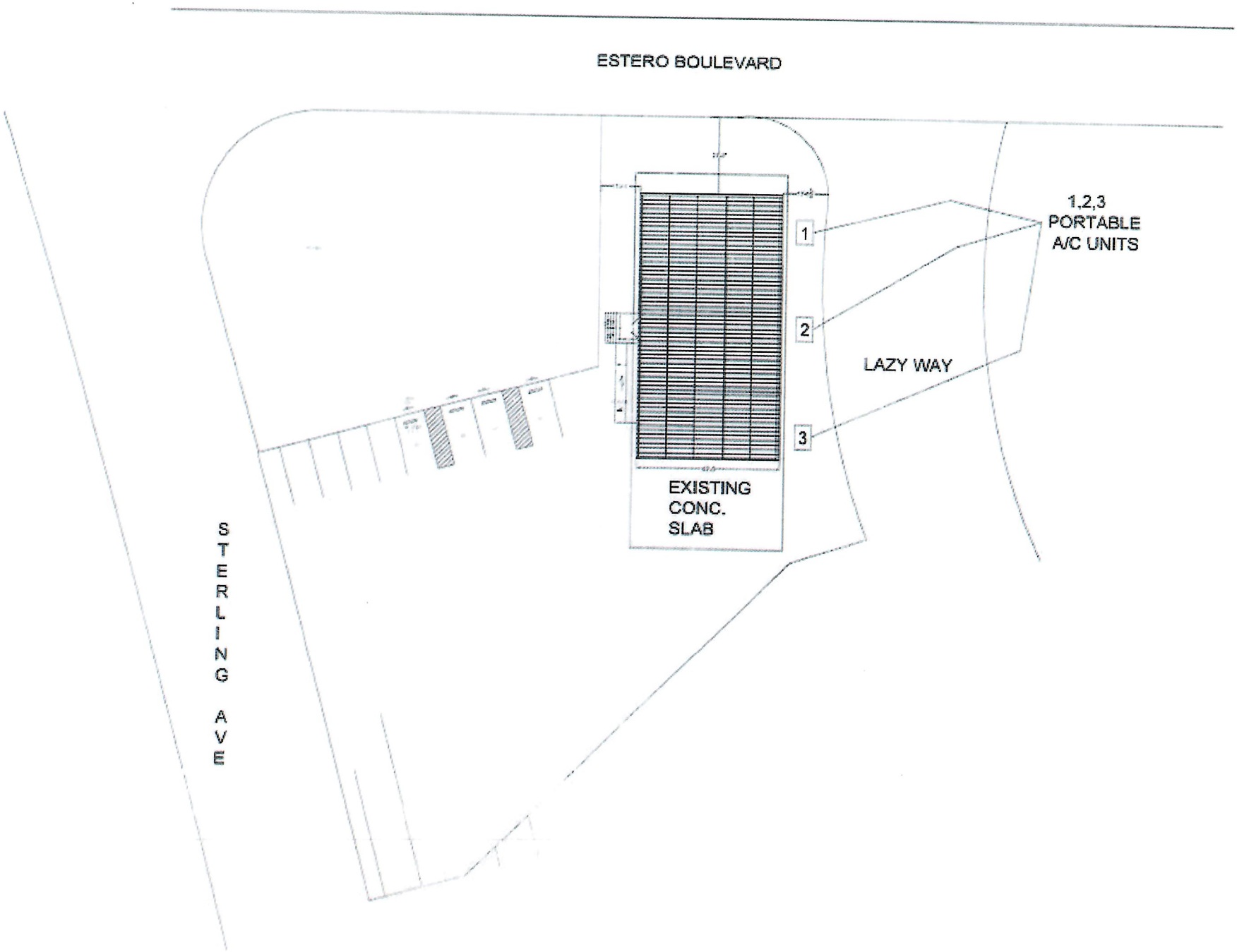
DBL OUTLET (IN FLOOR)

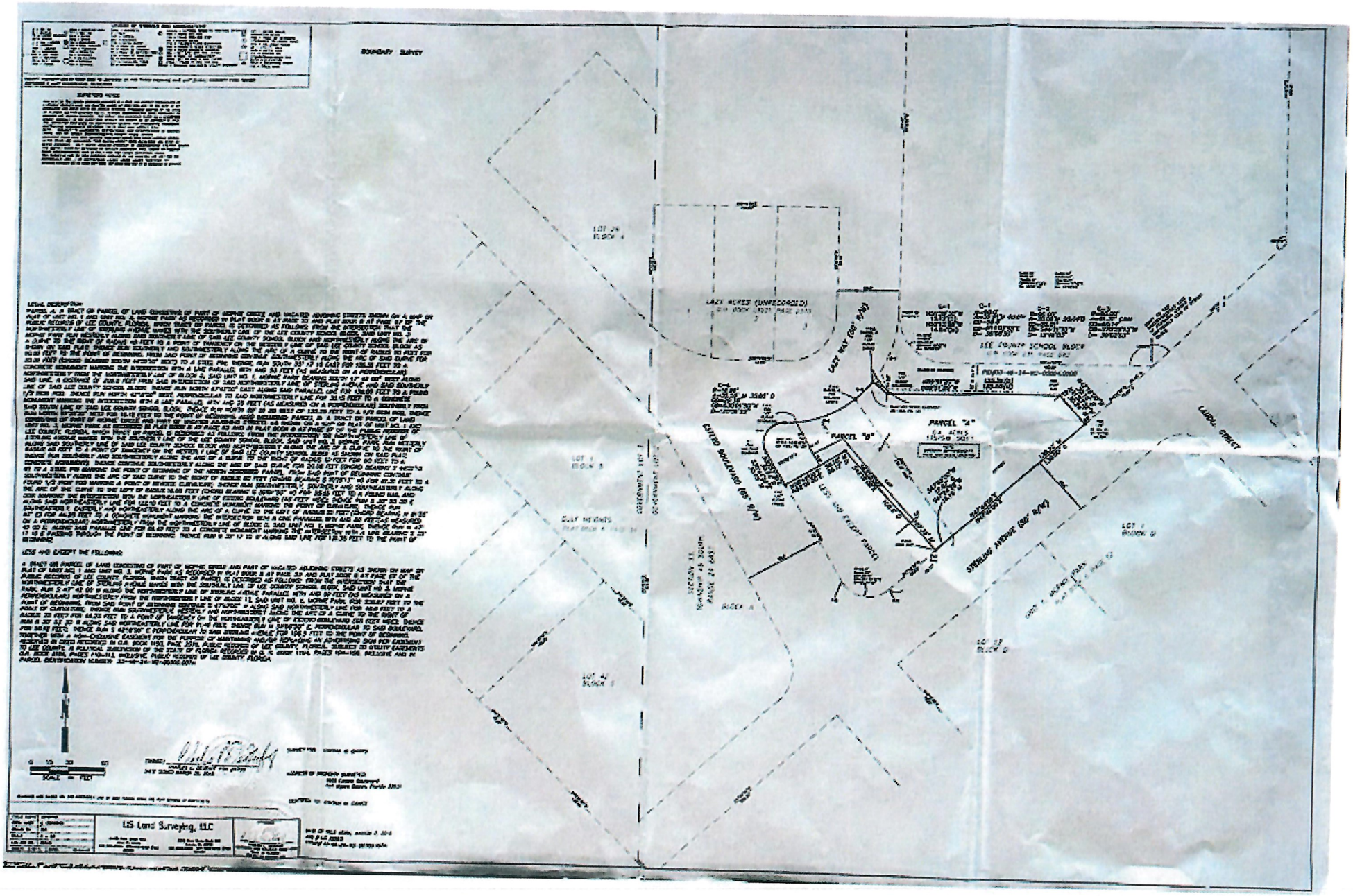
TABLE LAYOUT


ESTERO BOULEVARD
1,2,3
PORTABLE
A/C UNITS
1
2
3
LAZY WAY
EXISTING
CONC.
SLAB
STERLING AVE


ESTERO BOULEVARD
1,2,3
PORTABLE
A/C UNITS
LAZY WAY
EXISTING
CONC
SLAB
STERLING AVE
ON/OFF
SWITCH
LIGHTING
DBL OUTLET
(IN FLOOR)
TABLE
LAYOUT


ESTERO BOULEVARD
SERVICE
POLE
400 AMP
LAZY WAY
EXISTING
CONC
SLAB
STERLING AVE


ESTERO BOULEVARD
1,2,3
PORTABLE
A/C UNITS
1
2
3
LAZY WAY
EXISTING
CONC.
SLAB
STERLING AVE


BOUNDARY SURVEY
LEGAL DESCRIPTION
LESS AND EXCEPT THE FOLLOWING
LAZY ACRES (UNRECORDED)
LEE COUNTY SCHOOL BLOCK
PARCEL "A"
PARCEL "B"
STERLING AVENUE (50' R/W)
LAZY WAY (50' R/W)
LAURA STREET
LIS Land Surveying, LLC

TMG™ INDUSTRIAL

PRODUCT MANUAL

# 40Ft x 80Ft Dual Truss Prefab Shelter

**Model: TMG-DT4080**

**WARNING**

- Please read the product manual completely before assembly
- Check against the parts list to make sure all parts are received
- Wear proper safety goggles or other protective gears while in assembly

Missing parts or questions on assembly?
Please call: 1-877-761-2819 or email: cs@tmgindustrial.com
Do not return the product to dealer, they are not equipped to handle your requests

## Main Specifications :

- Assembly size : W12.2 x L24 x H6.4 (m) / 40 x 80 x 21 (ft)
- Outside width : 12.2 m / 40ft, inside width : 11.4 m / 37.4 ft, length : 24 m / 80 ft
- Ridge peak height : 6.4 m / 21 ft
- Peak clearance height : 5.8 m / 19 ft
- Front roll up door : 4.6 x 4.7 (m) / 15 x 15.4 (ft) (smaller door side)
- Rear roll up door : 6 x 4.2 (m) / 19.7 x 13.8 (ft) (wider door side)
- Shoulder wall clearance height : 3.5 m / 11.5 ft

  It is your option to pick and call the smaller door side as front or rear, then the wider door side will be called in an opposite way.

## Prior to assembly

Please go through the whole instruction manual completely. It is very important to follow your local safety regulations and industry standards during installation. Regulations may include but are not limited to:

- Safety helmets, protective eyewear, and clothing
- Safety harnesses for all elevated workers
- Proper ladder, cage, and safety operation

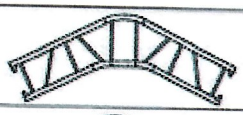
Check all components and parts before installation. All parts are marked with a part number, please refer to the parts list to ensure you have all parts.

Choose a day with low or no wind to install, it is hard to assemble with heavy wind. Do not make any alterations to the structure. Do not hang any weight on the frame during installation, including parts. We are not responsible for any damages or injuries caused by inappropriate installation, unauthorized modifications or extreme weather.

This building is not intended for human occupancy.

It is recommended to use heavy duty duct tapes to tape the tube connection joint spots to protect the cover from damage and worn. It will help to extend the cover life span.

Check the parts list below to make sure all parts are received prior to assembly.

| TMG-DT4080 Part List | | | | |
|---|---|---|---|---|
| Parts Code | Graphical | Description | Quantity | BOX |
| 1 |  | Peak arch tube (for 5 middle trusses ) | 7 | 2/3 |
| 1A | | Peak arch tube (for front and rear truss) | 2 | 2/3 |
| 2 | | Upper rafter tube (for middle truss) | 14 | 3/3 |
| 2A | | Up and low rafter tube (for front and rear truss) | 8 | 3/3 |
| 2B | | Lower rafter tube (for middle truss) | 14 | 3/3 |
| 3 | | Shoulder tube (for middle truss) | 14 | 1/3<br>2/3 |
| 3A | | Shoulder tube (front and rear truss) | 4 | 2/3 |
| 4 | | Sidewall tube (middle truss) | 14 | 1/3 |
| 4A | | Sidewall Tube (left and right for front truss and left for rear truss) | 3 | 1/3 |
| 4B | | Sidewall tube (right for rear truss ) | 1 | 1/3 |
| 5 | | Roof purl in (horizontal tube) | 72 | 1/3 |
| 5L | | Base plate for front and rear truss left corners | 2 | 2/3 |
| 5R | | Base plate for front and rear truss right corners | 2 | 2/3 |
| 6 | | Left base plate of rear door frame | 1 | 2/3 |
| 6L | | Left base plate of front door frame | 1 | 2/3 |
| 6R | | Right base plate of front and rear door frame | 2 | 2/3 |
| 7 | | Base plates for middle truss | 14 | 2/3 |

| | | | | |
|---|---|---|---|---|
| 7A | | Ratchets | 46 | 2/3 |
| 7B | | Expansion bolts ϕ 16x150mm | 84 | 2/3 |
| 8 | | Front door left column base plate | 1 | 2/3 |
| 8A | | Front door right column base plate | 1 | 2/3 |
| 9L | | Front vertical door rail (left side upper part) | 1 | 2/3 |
| 9R | | Front vertical door rail (right side upper part) | 1 | 2/3 |
| 10 | | Left lower vertical tubes for front trusses | 1 | 2/3 |
| 10A | | Right lower vertical tubes for front trusses | 1 | 2/3 |
| 10B | | Upper vertical tubes for front truss (connect to #10 and #10A) | 2 | 2/3 |
| 10L | | Front and rear vertical door rail (left side lower part) | 2 | 2/3 |
| 10R | | Front and rear vertical door rail(right side lower part) | 2 | 2/3 |
| 11L | | Rear vertical door rail (left side upper part) | 1 | 2/3 |
| 11R | | Rear vertical door rail (right side upper part) | 1 | 2/3 |
| 12 | | Front door cross tubes (left and right) | 4 | 2/3 |
| 12A | | Front door upper crossing tubes (connect #12 left and right) | 2 | 2/3 |
| 12B | | Front door lower crossing tubes (connect #12 left and right) | 2 | 2/3 |
| 12C | | Rear truss upper cross tubes (left and right) | 2 | 2/3 |
| 12D | | Rear truss lower cross tubes (left and right) | 2 | 2/3 |
| 13 | | Front door cross beam (left ) | 1 | 2/3 |
| 13A | | Front door cross beam (right) | 1 | 2/3 |

## Patty Prevost

**From:** Jason Smalley
**Sent:** Thursday, February 2, 2023 2:19 PM
**To:** Patty Prevost
**Subject:** FW: Sterling/Estero LPA Proposal

This email from a neighbor came in regarding the Special Event request you've been working on. Thanks

**Jason Smalley**
Senior Planner
Town of Fort Myers Beach
2525 Estero Boulevard
Fort Myers Beach, FL. 33931
Phone: (239) 765-0202 ext.1315
FMBgov.com

Please Note: Florida has very broad public records laws. Most written communications to and from Fort Myers Beach officials regarding Town business are public records available to the public and media upon request. Your email communications may be subject to public disclosure.

**From:** Bret Randle <bret@randleaccounting.com>
**Sent:** Sunday, January 29, 2023 11:33 AM
**To:** Jason Smalley <jsmalley@fmbgov.com>
**Subject:** Sterling/Estero LPA Proposal

Hi Jason,

My name is Bret Randle, and I own the property located at 5615 Lewis St. FMB, right near the old car wash. I watched the LPA meeting and saw the proposed activity center at the corner of Sterling and Estero and wanted to let you know that I support the activity center with some reconfigurations as suggested by the LPA and with the addition of my the natural property line that runs behind my house and my three neighbors next to me. This would create a natural property line that runs along the parcels on Estero and incorporate those properties already zoned for weekly renters, and comm/residential.

It's important to note that Lewis St is actually a privately owned Right of Way and not a publicly owned street, so incorporating the proposed line behind the properties on Lewis St would avoid any issues/delays and again follow the natural line already in place.

I would love to chat further about this with you and Sarah Propst if you have time, but at least know I'm in total support, with this only small change.

Hoping you agree,

Bret Randle
5615 Lewis St
Bret@RandleAccounting.com
917-575-6589

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2023-959**

**Meeting Date: March 6, 2023**

1. **Requested Motion:**
Sunset Celebration in Times Square

**Why the action is necessary:**
Ord.20-17

**What the action accomplishes:**
Allows for event to happen.

2. **Agenda:**
CONSENT AGENDA

3. **Requirement/Purpose:**
Ord. 20-17

4. **Submitter of Information:**

---

5. **Background:**
Ed Ryan would like to hold a Sunset Celebration in Times Square on March 18, 2023 from 3 pm to 8 pm. Set up time from 3 pm- 5pm, event from 5 pm-8 pm. This is a one-time event. If this event is requested again, we are requesting that the Town Manager be given authority to approve administratively, as long as it is not a recurring event. Event holder is requesting the use of Town property for live music, a stage and a generator. Dependent on receiving approval from LCSO and the Fire Department.

**Attachments:**
1. 231886- Sunset Celebration_App

**Financial Impact:**

6. **Alternative Action**

7. **Management Recommendations:**

8. **Recommended Approval:**

| | |
|---|---|
| Patty Prevost, Code Supervisor/STR Coordinator | Created/Initiated - 2/24/2023 |
| Steve Poposki, Community Development Director | Approved - 2/24/2023 |
| John R Herin Jr, Town Attorney | Approved - 2/28/2023 |
| Amy Baker, Town Clerk | Approved - 2/28/2023 |
| Keith Wilkins , Interim Town Manager | Final Approval - 2/28/2023 |

# Town of Fort Myers Beach

2525 Estero Boulevard, Fort Myers Beach, Florida 33931
Tel: (239) 765-0202 Email: Specialevents@fmbgov.com

23086

Rec'd 2.23.2023

Name of event Sunset Celebration in Times Square
Attach separate sheet of paper with detailed description of event

Date(s) and times of event March 18, 2023 5PM-8PM (setup at 3PM)

Address of event TIMES SQUARE (where the clock used to be)

Expected # of participants/attendees 100

Sponsoring Organization Beach Talk Radio

Organization address 12700 Vista Pine Circle

Contact Person/Phone# Ed Ryan

E-mail edryantheeditor@gmail.com

Amplified Music Y [X] N [ ] 500 Ft Notifications _____ Copy of Letter _____

Renting Town Property Y [ ] N [X] Renting Parking Spaces Y [ ] N [X]

How many Spaces? N/A How many hours N/A

Extension of Premises? Y [ ] N [ ] ABT Form _____ How many days? ____ (Over 3 days needs to go to Council)

Letters of Permission to use Property _____

Letters of Permission to use Parking _____ Parking Plan Attendees will use paid town parking spots

Site Plan _____ Insurance _____ (Naming Town of FMB as Certificate Holder)

Requesting Water Y [ ] N [ ] Electric Y [ ] N [ ]

**Requires Council Approval:**
Waiver of open container Y [ ] N [X] Waiver of Town parking fees Y [ ] N [ ]

Waiver of Noise Ordinance Y [ ] N [ ] Recurring Event Y [ ] N [X]

Applicant Signature Edward Ryan

Printed Name Edward Ryan

**This permit is subject to the applicant meeting all requirements contained in Fort Myers Beach Code of Ordinance Book Part 2 Chapter 22 and in compliance with all items in the special event application.**

**Applicant to Complete:**

**Company managing trash removal:** We will bag garbage and remove IF ANY

**No. of dumpsters:** _____ **Type of dumpsters:** _____

**Who is responsible for clean-up and payment:** ED RYAN / Beach TALK RADIO

**City right-of-way Parking Use:** NO **Number of spaces:** NO

**To be completed by Town Hall employees:**

**FMB Public Works:**

**Public Works remarks:** See attached

**Approval:** _____ **Date:** _____

**FMB Environment Science:** **Tel (239)765-0202**

**FMB Environmental Sciences remarks:** See attached

**Approval:** _____ **Date:** _____

- The event will be 3 hours of Live Music.
- We will have a Stage, a generator and attendees will be encouraged to bring lawn chairs.

Ed Ryan

**Date:** 02/24/2023
**Permit #:** 231886
**Permit Date:** 02/23/2023
**Review Date:** 02/23/2023
**Permit Type:**
**Review Type:** SEP-Public Works Review
**Target Date:** 02/24/2023
**Scheduled Time:** 00:00
**Completed Date:**
**Description:**
**Review Status:** APPROVED
**Assigned To:** Martin Pitts
**Time In:** 00:00
**Time Out:** 00:00
**Hours:** 0.0

**Property Information**

Parcel#: TIMESQUARE ROW ESTERO/ OLD SAN CARLOS

2525/2523 ESTERO BLVD
FORT MYERS BEACH, FL 33931

2525/2523 ESTERO BLVD
Zoning: 1S-1Lot: Block:

**Date:** 02/24/2023
**Permit #:** 231886
**Permit Date:** 02/23/2023
**Review Date:** 02/23/2023
**Permit Type:**
**Review Type:** SEP-Environmental
**Target Date:** 02/24/2023
**Scheduled Time:** 00:00
**Completed Date:** 02/23/2023
**Description:**
**Review Status:** REVIEWED W/CONDITIONS
**Assigned To:** Chadd Chustz
**Time In:** 00:00
**Time Out:** 00:00
**Hours:** 0.0

**Notes**

Special event permit holders are responsible for ensuring that the area where the event is held is free of all litter and debris within 24 hours of the time the special event ends. In the event this section is not complied with, the town manager has the authority to contract with a cleaning service and the cost of the cleanup will be the responsibility of the permit holder (Sec. 22-12).

02/23/2023

No person shall make, continue or cause to be made or continued any noise disturbance in accordance with Land Development Code Sec. 14-23. Noises resulting from a special event authorized pursuant to chapter 22 of the Land Development Code are excepted; provided, such noises are in compliance with any specific limitations as set forth within the special event permit. If no specific limitations are set forth in the special event permit, the provisions of Land Development Code Sec. 14-23 shall fully apply.

**Property Information**

Parcel#: TIMESQUARE ROW ESTERO/ OLD SAN CARLOS

2525/2523 ESTERO BLVD
Zoning: 1S-1Lot: Block:

2525/2523 ESTERO BLVD
FORT MYERS BEACH, FL 33931

**FORT MYERS BEACH FIRE DEPT**
**100 Voorhis Street · Fort Myers Beach, Florida 33931** **Tel (239) 590-4210**

**Fire Guards: (how many?)** _____

**Fee:** _____

**Flammable Vegetation:** _____

**First Aid Equipment:** _____

**Fire Extinguishing Equipment:** Yes. We will have a fire ext.

**Special Arrangements:** _____

_____

**Print Name** **Approval Signature** **Date**

prevention@fmbfire.org – **For Fire Department Handbook and additional application.**

**LEE COUNTY SHERIFF'S DEPT** **Tel (239)477-1830 Fax (239)432-0268**
**15650 Pine Ridge Road, Fort Myers, FL 33908**

**Parking:** _____

**Deputies (how many?)** N/A

**Traffic Control:** N/A

_____

**Fees:** _____

**Special Arrangements:** _____

_____

_____

**Print Name** **Approval Signature** **Date**

ACORD®

# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 02/23/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

**PRODUCER**

East Main Street Insurance Services, Inc.
Will Maddux
PO Box 1298
Grass Valley CA 95945

CONTACT NAME: Will Maddux
PHONE (A/C, No, Ext): (530) 477-6521 FAX (A/C, No):
E-MAIL ADDRESS: info@theeventhelper.com

| INSURER(S) AFFORDING COVERAGE | NAIC # |
|---|---|
| INSURER A : Lloyds Syndicate 2623 | AA-1128623 |
| INSURER B : Lloyds Syndicate 623 | AA-1126623 |
| INSURER C : | |
| INSURER D : | |
| INSURER E : | |
| INSURER F : | |

**INSURED**

Beach Talk Radio
Ed Ryan
12700 Vista Pine Circle
Fort Myers FL 33913

**COVERAGES** **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| INSR LTR | TYPE OF INSURANCE | ADDL INSD | SUBR WVD | POLICY NUMBER | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS | |
|---|---|---|---|---|---|---|---|---|
| A | [X] COMMERCIAL GENERAL LIABILITY<br>[X] CLAIMS-MADE [ ] OCCUR<br>[X] Host Liquor Liability<br>[ ] Retail Liquor Liability<br>GEN'L AGGREGATE LIMIT APPLIES PER:<br>[X] POLICY [ ] PRO-JECT [ ] LOC<br>OTHER: | Y | N | EH-771323-L3790930 | 03/18/2023 12:01 AM | 03/19/2023 12:01 AM | EACH OCCURRENCE | $ 1,000,000 |
| | | | | | | | DAMAGE TO RENTED PREMISES (other than fire) | $ 1,000,000 |
| | | | | | | | MED EXP (Any one person) | $ 5,000 |
| | | | | | | | PERSONAL & ADV INJURY | $ 1,000,000 |
| | | | | | | | GENERAL AGGREGATE | $ 2,000,000 |
| | | | | | | | PRODUCTS - COMP/OP AGG | $ 2,000,000 |
| | | | | | | | Deductible | $ 1,000 |
| | AUTOMOBILE LIABILITY<br>[ ] ANY AUTO<br>[ ] OWNED AUTOS ONLY [ ] SCHEDULED AUTOS<br>[ ] HIRED AUTOS ONLY [ ] NON-OWNED AUTOS ONLY | | | | | | COMBINED SINGLE LIMIT (Ea accident) | $ |
| | | | | | | | BODILY INJURY (Per person) | $ |
| | | | | | | | BODILY INJURY (Per accident) | $ |
| | | | | | | | PROPERTY DAMAGE (Per accident) | $ |
| | | | | | | | | $ |
| | [ ] UMBRELLA LIAB [ ] OCCUR<br>[ ] EXCESS LIAB [ ] CLAIMS-MADE<br>[ ] DED [ ] RETENTION $ | | | | | | EACH OCCURRENCE | $ |
| | | | | | | | AGGREGATE | $ |
| | | | | | | | | $ |
| | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY<br>ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N [ ]<br>(Mandatory in NH)<br>If yes, describe under DESCRIPTION OF OPERATIONS below | N/A | | | | | [ ] PER STATUTE [ ] OTH-ER | |
| | | | | | | | E.L. EACH ACCIDENT | $ |
| | | | | | | | E.L. DISEASE - EA EMPLOYEE | $ |
| | | | | | | | E.L. DISEASE - POLICY LIMIT | $ |

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES** (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Certificate holder listed below is named as additional insured per attached CG 20 26 07 04.
Attendance: 75, Event Type: Concerts - Country Music.

**CERTIFICATE HOLDER**

Town of Fort Myers Beach
Fort Myers Beach
1001 Estero Boulevard
Fort Myers Beach FL 33913

**CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

**AUTHORIZED REPRESENTATIVE**

© 1988-2015 ACORD CORPORATION. All rights reserved.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

# ADDITIONAL INSURED – DESIGNATED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

**SCHEDULE**

| Name Of Additional Insured Person(s) Or Organization(s) |
|---|
| Town of Fort Myers Beach<br>Fort Myers Beach<br>1001 Estero Boulevard<br>Fort Myers Beach, FL 33913 |
| Information required to complete this Schedule, if not shown above, will be shown in the Declarations. |

**Section II – Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

**A.** In the performance of your ongoing operations; or

**B.** In connection with your premises owned by or rented to you.



© ISO Properties, Inc., 2004

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2023-955**

1. **Requested Motion:**

**Meeting Date: March 6, 2023**

2nd Reading and Public Hearing on proposed Ordinance 23-04 entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA REPLACING TOWN OF FORT MYERS BEACH RESOLUTION NO. 13-23, AND AMENDING THE SCHEDULE OF USES FOR THE COMMERCIAL PLANNED DEVELOPMENT ZONING FOR THE PROPERTY LOCATED AT 200 AND 275 ESTERO BLVD., FORT MYERS BEACH; PROVIDING FOR REVISIONS TO CONDITIONS OF APPROVAL, AND OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE. Open the second public hearing and approve CPD amendment ordinance.

**Why the action is necessary:**

The request changes the uses in the CPD zoning district to allow live aboard vessels. The Town Council must read the ordinance at two public hearings.

**What the action accomplishes:**

Adopting the ordinance will allow the applicant to have live aboard vessels in the marina.

2. **Agenda:**
PUBLIC HEARINGS

3. **Requirement/Purpose:**
Ordinance.

4. **Submitter of Information:**

---

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. Ordinance 23-04
2. Staff Report TC
3. Exhibit A Uses and Conditions List
4. Exhibit B Resolution 13-23
5. Exhibit C Existing MCP
6. Exhibit D Submerged land lease mod approval
7. Exhibit E DEP Compliance Inspection
8. Exhibit F Pink Shell Application
9. Exhibit G Request to Withdraw Mobile Food Unit
10. Exhibit H Postcard to Adjacent Properties

**Financial Impact:**

unknown

6. **Alternative Action**

Amend the proposed ordinance.

7. **Management Recommendations:**

Approve and adopt the proposed ordinance 23-04.

8. **Recommended Approval:**

| | |
|---|---|
| Sarah Propst, Planning & Zoning | Created/Initiated - 2/22/2023 |
| Steve Poposki, Community Development Director | Approved - 2/22/2023 |
| John R Herin Jr, Town Attorney | Approved - 2/28/2023 |
| Amy Baker, Town Clerk | Approved - 2/28/2023 |
| Keith Wilkins , Interim Town Manager | Final Approval - 2/28/2023 |

**ORDINANCE 23-04**

**AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA REPLACING TOWN OF FORT MYERS BEACH RESOLUTION NO. 13-23, AND AMENDING THE SCHEDULE OF USES FOR THE COMMERCIAL PLANNED DEVELOPMENT ZONING FOR THE PROPERTY LOCATED AT 200 AND 275 ESTERO BLVD., FORT MYERS BEACH; PROVIDING FOR REVISIONS TO CONDITIONS OF APPROVAL, AND OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS,** Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal service, and exercise any power for municipal purposes, except when expressly prohibited by law; and

**WHEREAS,** Article X of the Town Charter of the Town of Fort Myers Beach empowers the Town to adopt, amend. or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

**WHEREAS,** JABO LLC ("Applicant"), the owner of the property generally located at 200 & 275 Estero Blvd. and identified by STRAP numbers 24-46-23-W1-00700.0330, 24-46-23-W1-00700.0340 & 24-46-23-W1-00700.037A ("Property"), filed an application to amend the Property's Commercial Planned Development ("CPD") to allow live aboard vessels at the existing docking facility; and

**WHEREAS,** the Property is in the Mixed Residential and Recreation Future Land Use Category of the Comprehensive Plan of the Town of Fort Myers Beach, and is under common control of the Applicant as listed in the public records of Lee County Property Appraiser; and

**WHEREAS,** a public hearing was held before the Local Planning Agency (LPA) on January 18, 2023, at which the LPA gave full and complete consideration of the request, recommendations by staff, the documents in the record, and the testimony of all interested persons, and the LPA voted 6-0 to recommend approval of the CPD amendment with conditions, and

**WHEREAS,** on February 21, 2023 the Town Council held a first reading of the proposed Ordinance and gave full and complete consideration to the request of the Applicant, the recommendation of the LPA, the recommendation of staff, the documents in the record, and the testimony of all interested persons, as required by Section 34-85 of the Fort Myers Beach Land Development Code ("LDC"); and

**WHEREAS,** the Town Council set a second reading of the proposed Ordinance and a public hearing on this matter to be legally advertised and held before the Town Council on March 6, 2023; at which time the Town Council gave full and complete consideration to the request of the Applicant,

the recommendation of the LPA, the recommendation of staff, including the consideration and findings in the staff report, the documents in the record, and the testimony of all interested persons, as required by Section 34-85 of the LDC; and

**WHEREAS,** the Town Council finds the proposed CPD amendment with conditions of approval are **consistent/not consistent** with the Town of Fort Myers Beach Comprehensive Plan and LDC and voted to **approve/approve with conditions/deny** the Application.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AS FOLLOWS:**

Section 1. The above recitals are true, correct, incorporated herein by this reference, and adopted as the legislative and administrative findings of the Town Council.

Section 2. The Town Council determines the Applicant **did/did not** meet its burden of proof that the requested zoning amendment **does/does not** meet the requirements of the Town Comprehensive Plan and LDC and approving the request to allow the use of live-aboard vessels with conditions **is/is not** in the best interest of the Town. Therefore, based upon the recommendations, testimony, and evidence presented by the Applicant, Town staff, and interested parties, the Town Council **APPROVES/DENIES** the requested amendment to the CPD zoning of the Property.

Section 3. Town Resolution 13-23 is repealed and replaced by this Ordinance and the schedule of uses and conditions of approval for the Property's CPD set forth in Exhibit A, attached hereto and incorporated herein by this reference is approved.

Section 4. Whenever the requirements or provisions of this Ordinance conflict with the requirements or provisions of any other lawfully adopted LDC or Town Code provision, ordinance, or statute, the most restrictive shall apply.

Section 5. Any typographical errors that do not affect the intent of this Ordinance may be corrected with notice to and authorization of the Town Manager without further process.

Section 9. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason, declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision will not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so declared.

Section 10. This Ordinance will take effect immediately upon adoption by the Town Council.

**THE FOREGOING ORDINANCE** was adopted by the Town Council upon a motion by ____ _____and seconded by _____, and upon being put to a vote, the result was as follows:

**DULY PASSED AND ADOPTED** on this ____day of May 2022.

Dan Allers, Mayor ___
Jim Atterholt, Vice Mayor ___
John R King, Council Member ___
Bill Veach, Council Member ___
Karen Woodson, Council Member ___

**TOWN OF FORT MYERS BEACH**

_____
Dan Allers, Mayor

**ATTEST:**

_____
Amy Baker, Town Clerk

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:**

_____
John R. Herin, Jr., Town Attorney

Exhibits
Exhibit B Schedule of Uses and Conditions of Approval

# 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** |
| **TOWN COUNCIL HEARING DATES:** | **March 6, 2023 at 9 AM**<br>**February 21, 2023 at 9 AM** |
| **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 C – 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)<br>Recreation |
| East: | COMMERCIAL PLANNED DEVELOPMENT (CPD) &<br>COMMERCIAL RESORT (CR)<br>Mixed Residential |
| West: | COMMERCIAL PLANNED DEVELOPMENT (CPD)<br>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 D).

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 10-05[1])

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[2])
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 it's 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 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.*

<u>Analysis:</u>
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 D, 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 E).

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

At the LPA hearing on January 18th, 2023, the LPA recommended approval of the requested amendment with conditions. In addition to the staff proposed conditions the LPA recommended a condition requiring that boats must be removed when an evacuation order is in effect for the island. The applicant agreed to that condition and it has been included in the conditions listed below and the ordinance.

At the first LPA hearing on February 21, 2023 the Town Council unanimously approved the ordinance for a second hearing.

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 C.
3. The approved schedule of uses are limited to those detailed on the attached Exhibit A.
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.
7. All boats, docked at the Pink Shell marina, must be removed upon issuance of a warning for the Town of Ft. Myers Beach.

## V. APPROVED DEVIATIONS

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

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

# Exhibit A – List of Uses & Conditions

The Town Council APPROVES the applicant's request for an amendment to the existing Pink Shell CPD. Approval is subject to the Schedule of Allowable Uses and seven (7) Conditions of Approval, set forth with specificity below. Underline indicates language added during this amendment to the CPD, strikethrough indicates language removed during this amendment to the CPD.

Schedule of Allowable 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 10-05[1])

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[2])

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)
<u>Live aboard vessel mooring slips (in compliance with submerged land lease)</u>

**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 it's 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 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.*

Conditions of Approval: In approving the amendment to the CPD zoning of the Property, the following conditions of approval are imposed on the Applicant and the Property.

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 this document, ~~the attached~~ Exhibit A ~~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.
7. All boats, docked at the Pink Shell marina, must be removed upon issuance of a hurricane warning for the Town of Ft. Myers Beach.

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.*

**FINDINDS 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 | Joe Kosinski, Vice Mayor | AYE |
| Jo List | AYE | Bob Raymond | AYE |
| Dan Andre | AYE | | |

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

By: Alan Mandel
Alan Mandel, Mayor

Approved as to legal sufficiency:
By: Maureen Miller
Fowler White Boggs, P.A.
*Town Attorney*

ATTEST:
By: Michelle Mayher
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.

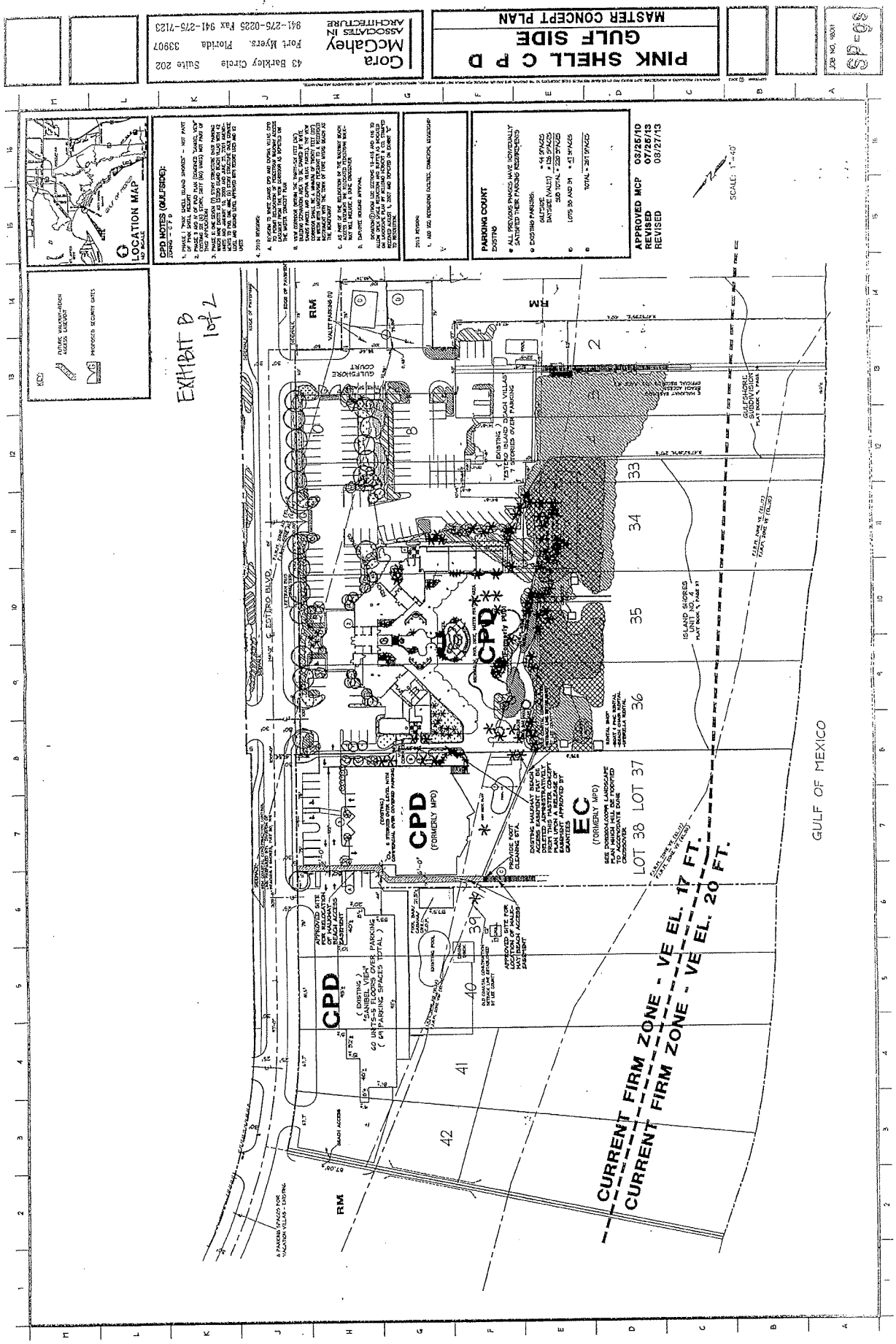
LESS ANY PORTION THEREOF LYING BELOW THE MEAN HIGH TIDE LINE OF THE MANTANZAS PASS AND THE EROSION CONTOL LINE OF THE GULF OF MEXICO.

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°2630"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.


PINK SHELL C P D
GULF SIDE
MASTER CONCEPT PLAN
Cora McGahey ASSOCIATES IN ARCHITECTURE
43 Barkley Circle Suite 202
Fort Myers, Florida 33907
941-275-0225 Fax 941-275-7123
LOCATION MAP
CPD NOTES (GULFSIDE):
PARKING COUNT
EXISTING
APPROVED MCP 03/26/10
REVISED 07/26/13
REVISED 08/27/13
SCALE: 1"=40'
EXHIBIT B
1 of 2
GULFSHORE COURT
EDISTO BLVD
CPD
(FORMERLY MPD)
EC
(FORMERLY MPD)
RM
LOT 38
LOT 37
LOT 36
LOT 35
LOT 34
LOT 33
LOT 42
LOT 41
LOT 40
LOT 39
GULF OF MEXICO
CURRENT FIRM ZONE - VE EL. 17 FT.
CURRENT FIRM ZONE - VE EL. 20 FT.

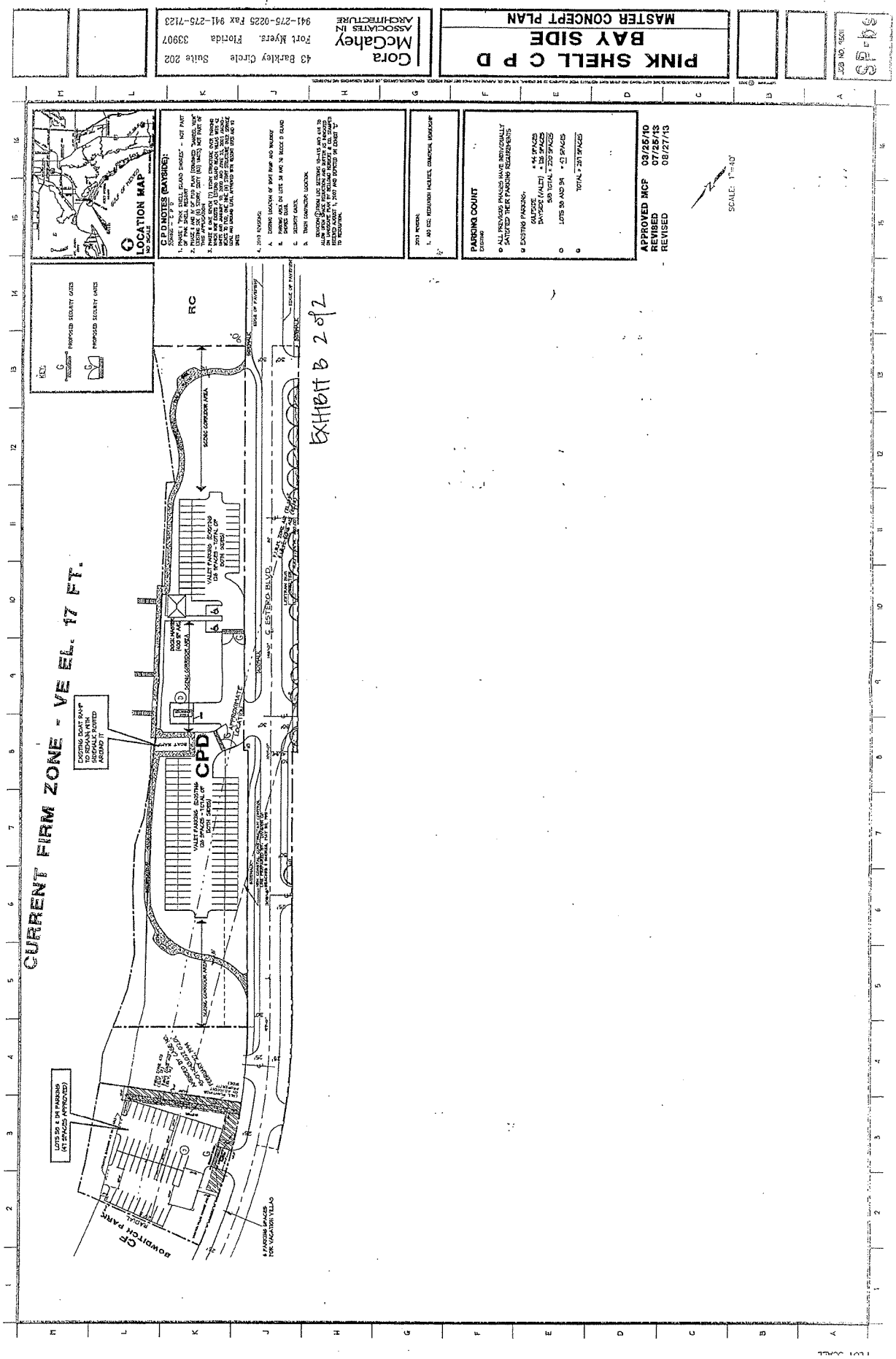

PINK SHELL C P D
BAY SIDE
MASTER CONCEPT PLAN
Cora McCahey ASSOCIATES IN ARCHITECTURE
43 Barkley Circle Suite 202
Fort Myers, Florida 33907
941-275-0225 Fax 941-275-7123
LOCATION MAP
C.P.D NOTES (BAYSIDE):
PARKING COUNT
APPROVED MCF 03/25/10
REVISED 07/25/13
REVISED 08/27/13
SCALE: 1"=40'
CURRENT FIRM ZONE - VE EL. 17 FT.
RC
CPD
ESTERO BLVD.
SCENIC CORRIDOR AREA
VALET PARKING
EXISTING BOAT RAMP TO REMAIN WITH SIDEWALK ROUTED AROUND IT
LOTS 50 & 94 PARKING (41 SPACES APPROVED)
BOWDITCH PARK
EXHIBIT B 2 of 2

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

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

Exhibit C - Adopted Master Concept Plan (1 of 2)

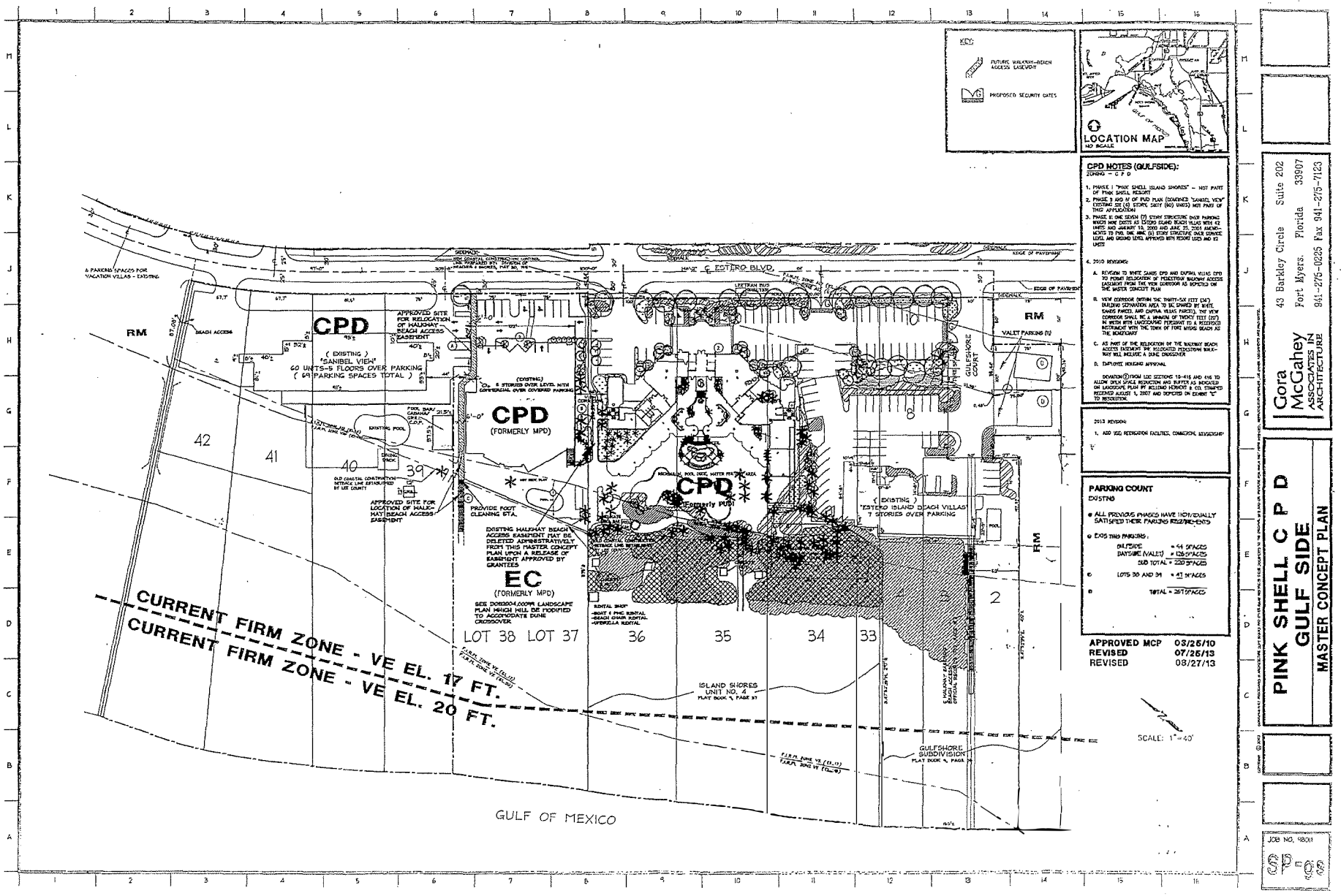
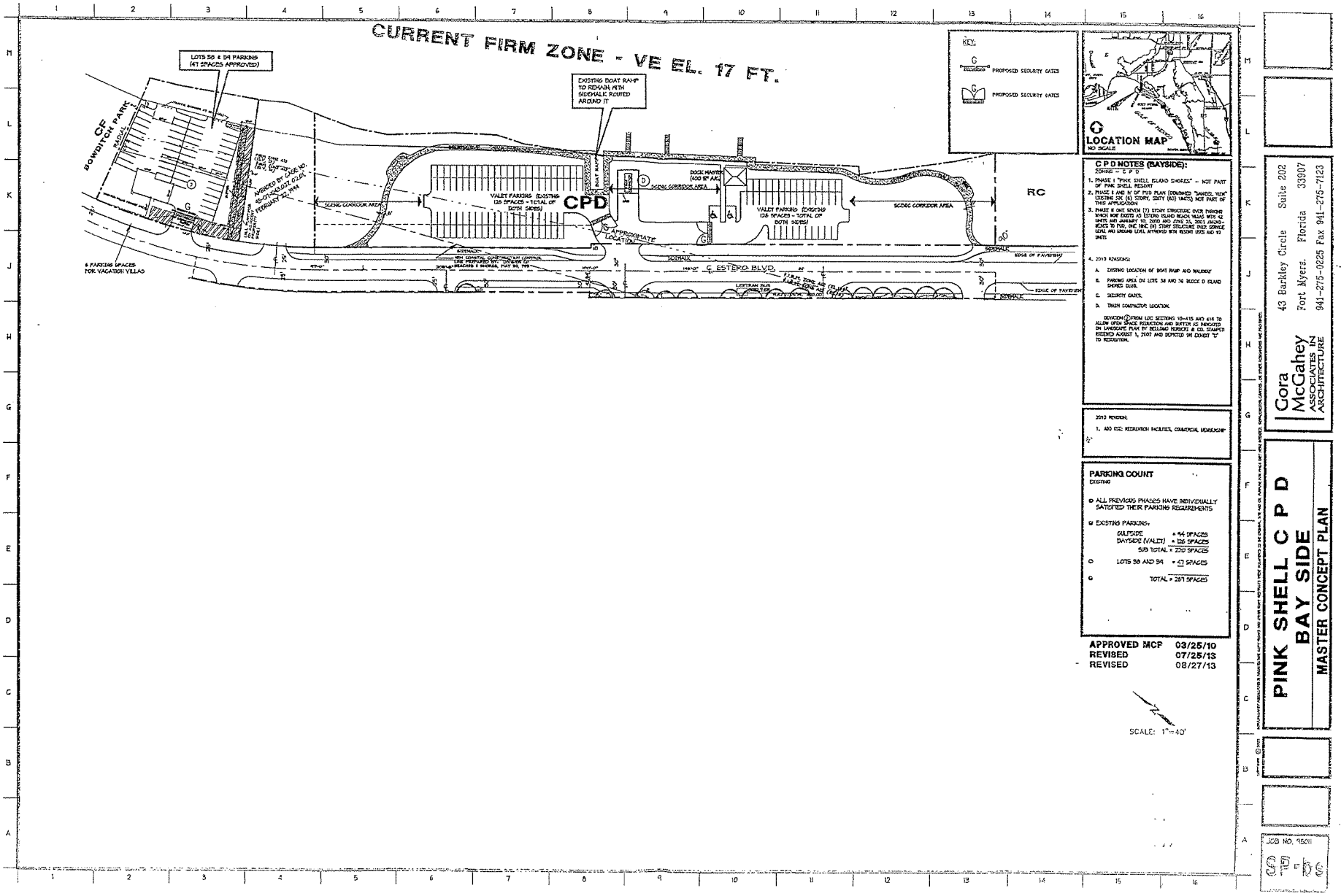


Exhibit A - Adopted Master Concept Plan (2 of 2)



# 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

10/25/2022

Jabo LLC- Pink Shell- Bill Waichulis
275/322 Estero Blvd
Fort Myers, FL 33931
BWaichulis@boykin.com

File No.: 0185701-008 EM, Lee County
Modification of Permit No(s): 0185701-005 EI
BOT File No: 360010245

Dear Jabo LLC- Pink Shell- Bill Waichulis :

Your request to modify the Permit No. 005 has been received and reviewed by Department staff.

The proposed permit modification is to:
Increase the desired number of liveaboards

After review by staff, the proposed modification is not expected to adversely affect water quality and will not be contrary to the public interest.

Modifications to the permit are shown as follows: deletions are struck through (i.e. ~~abc~~) and additions are underlined (i.e. abc).

Liveaboards shall be authorized at ~~17~~ 39 designated boat slips with permanent hard-piped connections to a fixed sewage pumpout facility connected to the Lee County Utilities wastewater treatment system. Each liveaboard slip shall be clearly designated as a liveaboard slip by a sign at each liveaboard slip that is visible to marina patrons. A liveaboard shall be defined as a vessel docked at the facility that is inhabited by person or persons for any five consecutive days or a total of ten days within a thirty-day period. Additional liveaboard slips at the permitted docking facility may be authorized by the Department through a modification to this permit if: (1) the permittee provides fixed, hard-piped sewage pumpout connections to those liveaboard slips; (2) the permittee provides written documentation from the appropriate public utility provider demonstrating that the public utility provider has adequate capacity to accept and treat the additional sewage generated by such additional liveaboard vessels; and (3) the permittee is in compliance with the permit.

0 Project drawings have been stamped void. 14 project drawings have been added.

Since the proposed modification(s) along with the above amended permit conditions and monitoring requirements are not expected to result in any adverse environmental impact and water quality degradation, the permit is hereby modified as requested. By copy of this letter and the attached drawings, we are notifying all necessary parties of the modification.

**This letter does not alter the permit other than as described above. This letter and referenced enclosures must be attached to the original permit. A copy of the original permit can be obtained here:**
https://depedms.dep.state.fl.us:443/Oculus/servlet/shell?command=getEntity&[guid=23.1124700.1]&[profile=Permitting_Authorization]

The final documents required to execute the modified sovereign submerged land lease will be sent to you by the Department's Division of State Lands for execution. The Department intends to issue the modified sovereign submerged land lease, upon satisfactory execution of those documents, including payment of required fees and compliance with the modified permit conditions above.

This action is final and effective on the date filed with the Clerk of the Department unless a petition for an administrative hearing is timely filed under Sections 120.569 and 120.57, F.S., before the deadline for filing a petition. On the filing of a timely and sufficient petition, this action will not be final and effective until further order of the Department. Because the administrative hearing process is designed to formulate final agency action, the hearing process may result in a modification of the agency action or even denial of the application.

Petition for Administrative Hearing
A person whose substantial interests are affected by the Department's action may petition for an administrative proceeding (hearing) under Sections 120.569 and 120.57, F.S. Pursuant to Rule 28-106.201, F.A.C., a petition for an administrative hearing must contain the following information:

(a) The name and address of each agency affected and each agency's file or identification number, if known;
(b) The name, address, any email address, any facsimile number, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests are or will be affected by the agency determination;
(c) A statement of when and how the petitioner received notice of the agency decision;
(d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;
(e) A concise statement of the ultimate facts alleged, including the specific facts that the petitioner contends warrant reversal or modification of the agency's proposed action;
(f) A statement of the specific rules or statutes that the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and

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

The petition must be filed (received by the Clerk) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000. Also, a copy of the petition shall be mailed to the applicant at the address indicated above at the time of filing.

Time Period for Filing a Petition

In accordance with Rule 62-110.106(3), F.A.C., petitions for an administrative hearing by the applicant must be filed within 14 days of receipt of this written notice. Petitions filed by any persons other than the applicant, and other than those entitled to written notice under Section 120.60(3), F.S., must be filed within 14 days of publication of the notice or within 14 days of receipt of the written notice, whichever occurs first. Under Section 120.60(3), F.S., however, any person who has asked the Department for notice of agency action may file a petition within 14 days of receipt of such notice, regardless of the date of publication. The failure to file a petition within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under Sections 120.569 and 120.57, F.S., or to intervene in this proceeding and participate as a party to it. Any subsequent intervention (in a proceeding initiated by another party) will be only at the discretion of the presiding officer upon the filing of a motion in compliance with Rule 28-106.205, F.A.C.

Extension of Time

Under Rule 62-110.106(4), F.A.C., a person whose substantial interests are affected by the Department's action may also request an extension of time to file a petition for an administrative hearing. The Department may, for good cause shown, grant the request for an extension of time. Requests for extension of time must be filed with the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, before the applicable deadline for filing a petition for an administrative hearing. A timely request for extension of time shall toll the running of the time period for filing a petition until the request is acted upon.

Mediation

Mediation is not available in this proceeding.

FLAWAC Review

The applicant, or any party within the meaning of Section 373.114(1)(a) or 373.4275, F.S., may also seek appellate review of this order before the Land and Water Adjudicatory Commission under Section 373.114(1) or 373.4275, F.S. Requests for review before the Land and Water Adjudicatory Commission must be filed with the Secretary of the Commission and served on the Department within 20 days from the date when this order is filed with the Clerk of the Department.

Judicial Review

Once this decision becomes final, any party to this action has the right to seek judicial review pursuant to Section 120.68, F.S., by filing a Notice of Appeal pursuant to Rules 9.110 and 9.190,

Florida Rules of Appellate Procedure, with the Clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, M.S. 35, Tallahassee, Florida 32399-3000; and by filing a copy of the Notice of Appeal accompanied by the applicable filing fees with the appropriate District Court of Appeal. The Notice of Appeal must be filed within 30 days from the date this action is filed with the Clerk of the Department.

Thank you for applying to the Submerged Lands and Environmental Resource Permit Program. If you have any questions regarding this matter, please contact Jeffrey Passerello at 239-344-5620 or by email at Jeffrey.Passerello@FloridaDEP.gov When referring to this project, please reference the file number listed above.

Executed in Orlando, Florida

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

Daniel Sensi
Environmental Administrator
South District

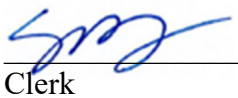
**CERTIFICATE OF SERVICE**

The undersigned duly designated deputy clerk hereby certifies that this document and authorization to use sovereignty submerged lands, including all copies, were sent to the addressee and to the following listed persons:

U.S. Army Corps of Engineers, Fort Myers
Kathy Griffin, Division of State Lands, BOT # 360010245, Kathy.Griffin@dep.state.fl.us
Lee County Property Appraiser, dataservices@leepa.org

FILING AND ACKNOWLEDGMENT

FILED, on this date, pursuant to Section 120.52(7), F.S., with the designated Department clerk, receipt of which is hereby acknowledged.



Clerk

October 25, 2022
Date

**Enclosures:**
14 New Project drawings

# SLIP MATRIX & LINE TABLE

| BOAT SLIP MATRIX | | 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' | YES |
| #8 | 18' x 50' | YES |
| #9 | 18' x 50' | YES |
| #10 | 18' x 50' | YES |
| #11 | 18' x 35' | YES |
| #12 | 28' x 35' | YES |
| #13 | 12' x 35' | YES |
| #14 | 12' x 27' | YES |
| #15 | 12' x 27' | YES |
| #16 | 12' x 35' | YES |
| #17 | 28' x 35' | YES |
| #18 | 18' x 50' | YES |
| #19 | 18' x 50' | YES |
| #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' | YES |
| #30 | 16' x 25' | YES |
| #31 | 16' x 40' | YES |
| #32 | 12' x 30' | YES |
| #33 | 12' x 30' | YES |
| #34 | 12' x 30' | YES |
| #35 | 12' x 30' | YES |
| #36 | 33' x 100' | YES |
| #37 | 33' x 100' | YES |
| #38 | 11' x 56' | NO |
| #39 | 20.5' x 56' | NO |
| #40 | 12' x 40' | YES |
| #41 | 12' x 40' | YES |

SURVEY CONSISTS OF SHEETS 1 THROUGH 13 AND IS NOT VALID WITHOUT COMPLETE SET

# SPECIFIC PURPOSE SURVEY

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

Pg 13 REVISED

Received Electronically
April 12, 2022
South District

Florida Department of Environmental Protection
Permit Number
0185701-008 EM
South District
Fort Myers

| 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' |

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) 275-8575
FAX: (239) 275-8457
www.metronfl.com

| FILE NAME: | FIELD BOOK/PAGE: | PROJECT NO.: | SHEET: |
|---|---|---|---|
| 10627ASBUILT.dwg | N/A | 10627 | 13 OF 13 |

| SKETCH DATE: | DRAWN BY: | SCALE: | CHECKED BY: | (S-T-R) |
|---|---|---|---|---|
| 3-22-13 | BUD | N/A | TLM | 24-46-23 |

# SPECIFIC PURPOSE SURVEY

OF

A PARCEL OF SUBMERGED LAND

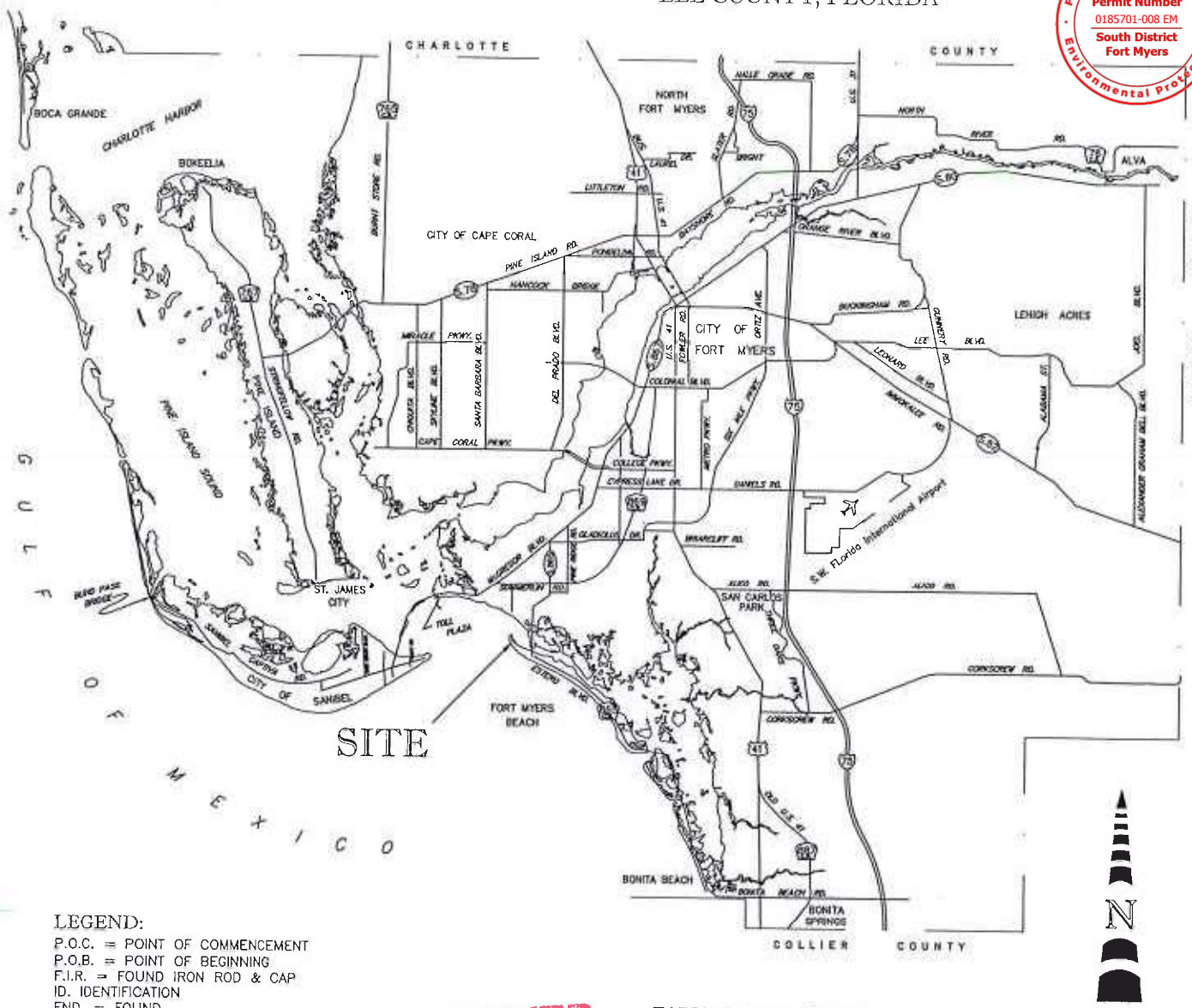
LYING IN

SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST,

LEE COUNTY, FLORIDA

SURVEY CONSISTS OF SHEETS 1 THROUGH 13 AND IS NOT VALID WITHOUT COMPLETE SET

Florida Department of Environmental Protection
Permit Number
0185701-008 EM
South District
Fort Myers




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
= ELECTRIC SERVICE
= CONCRETE PILING
= WOOD PILING
SPC = PUMP-OUT CONNECTION
= FIRE EXTINGUISHER
FV = FIRE VALVE
= GARBAGE RECEPTACLE
T = TRANSFORMER
= FIBERGLASS DECK BOX
= ALUMINUM LADDER
PC = SANITARY PUMP CONTROLS
FDC = FIRE DEPARTMENT CONNECTION
E = FREE-STANDING ELECTRIC METER
= SIGN

RECEIVED
AUG 28 2017
D.E.P. South District

TABLE OF CONTENTS


SHEET 1 .....COVER
SHEET 2 .....LEGAL DESCRIPTION
SHEET 3 .....UPLAND PROPERTY/PROPOSED KEY MAP
SHEETS 4-6 .....SKETCH OF LEASE & PROPOSED DETAILS
SHEET 7 .....ASBUILT KEY MAP
SHEETS 8-12 .....ASBUILT DETAILS
SHEET 13 .....BOAT SLIP MATRIX/LINE TABLE


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) 275-8575
FAX: (239) 275-8457
www.metronfl.com


| FILE NAME: | FIELD BOOK/PAGE: | PROJECT NO.: | SHEET: |
|---|---|---|---|
| 10627ASBUILT.dwg | N/A | 10627 | 1 OF 13 |

| SKETCH DATE: | DRAWN BY: | SCALE: | CHECKED BY: | (S-T-R) |
|---|---|---|---|---|
| 3-22-13 | BUD | N/A | TLM | 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

Florida Department of Environmental Protection
Permit Number
0185701-008 EM
South District
Fort Myers

## LEGAL DESCRIPTION

DESCRIPTION:
SUBMERGED LAND LEASE #1
SEE SHEET 4 OF 13 FOR SKETCH OF DESCRIPTION
(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 62.13 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 76.00 FEET; THENCE S.63°03'27"W. FOR A DISTANCE OF 133.19 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
SEE SHEET 5 OF 13 FOR SKETCH OF DESCRIPTION
(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 ½) OF LOT 28, BLOCK "D" OF UNIT No. 4 ISLAND SHORES AS RECORDED IN PLAT BOOK 9, PAGE 37 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 TO A POINT THE SOUTH LINE OF ISLAND SHORES CLUB SECTION AS RECORDED IN PLAT BBOK 9, PAGE 41 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE S.47°52'35"W. ALONG SAID PLAT LINE AND SAID RIGHT OF WAY FOR A DISTANCE OF 5.00 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 OF SAID ISLAND SHORES CLUB SECTION; 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 39.64 FEET; THENCE N.42°51'04"W. A DISTANCE OF 10.12 FEET; THENCE N.47°08'56"E. A DISTANCE OF 56.08 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°06'08"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 1.65 FEET; THENCE S.46°14'28"E. A DISTANCE OF 16.00 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°23'36"W. A DISTANCE OF 30.00 FEET; THENCE N.42°36'24"W. FOR A DISTANCE OF 17.00 FEET; THENCE S.47°23'36"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.53°54'24"W., ALONG SAID SEAWALL, 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°56'10"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)

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 (.14' NAVD 88) AS SHOWN HEREON WAS ESTABLISHED BY EXTENDING THE ELEVATION SHOWN AT MEAN HIGH WATER INTERPOLATION POINT NO. 872-5366.

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: 8-23-2017.

NOTE:
SEE SHEET 1 OF 13 FOR LEGEND.
SEE SHEET 4 OF 13 FOR SKETCH OF LEASE #1
SEE SHEET 5 OF 13 FOR SKETCH OF LEASE #2
SEE SHEET 13 OF 13 FOR LINE TABLE.

RECEIVED
AUG 28 2017
D.E.P. South District

FOR THE EXCLUSIVE USE OF:
- BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA

SURVEY CONSISTS OF SHEETS 1 THROUGH 13 AND IS NOT VALID WITHOUT COMPLETE SET

BY: _____
TIMOTHY LEE MANN
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA CERTIFICATE NO. LS# 5838

DATE SIGNED: 8-24-2017

REVISED 8/24/17 - UPDATE AS-BUILT DRAWINGS TO REFLECT CHANGES

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) 275-8575
FAX: (239) 275-8457
www.metronfl.com

| FILE NAME: | FIELD BOOK/PAGE: | PROJECT NO.: | SHEET: |
|---|---|---|---|
| 10627ASBUILT.dwg | N/A | 10627 | 2 OF 13 |

| SKETCH DATE: | DRAWN BY: | SCALE: | CHECKED BY: | (S-T-R) |
|---|---|---|---|---|
| 3-22-13 | BUD | N/A | TLM | 24-46-23 |

# SPECIFIC PURPOSE SURVEY

OF

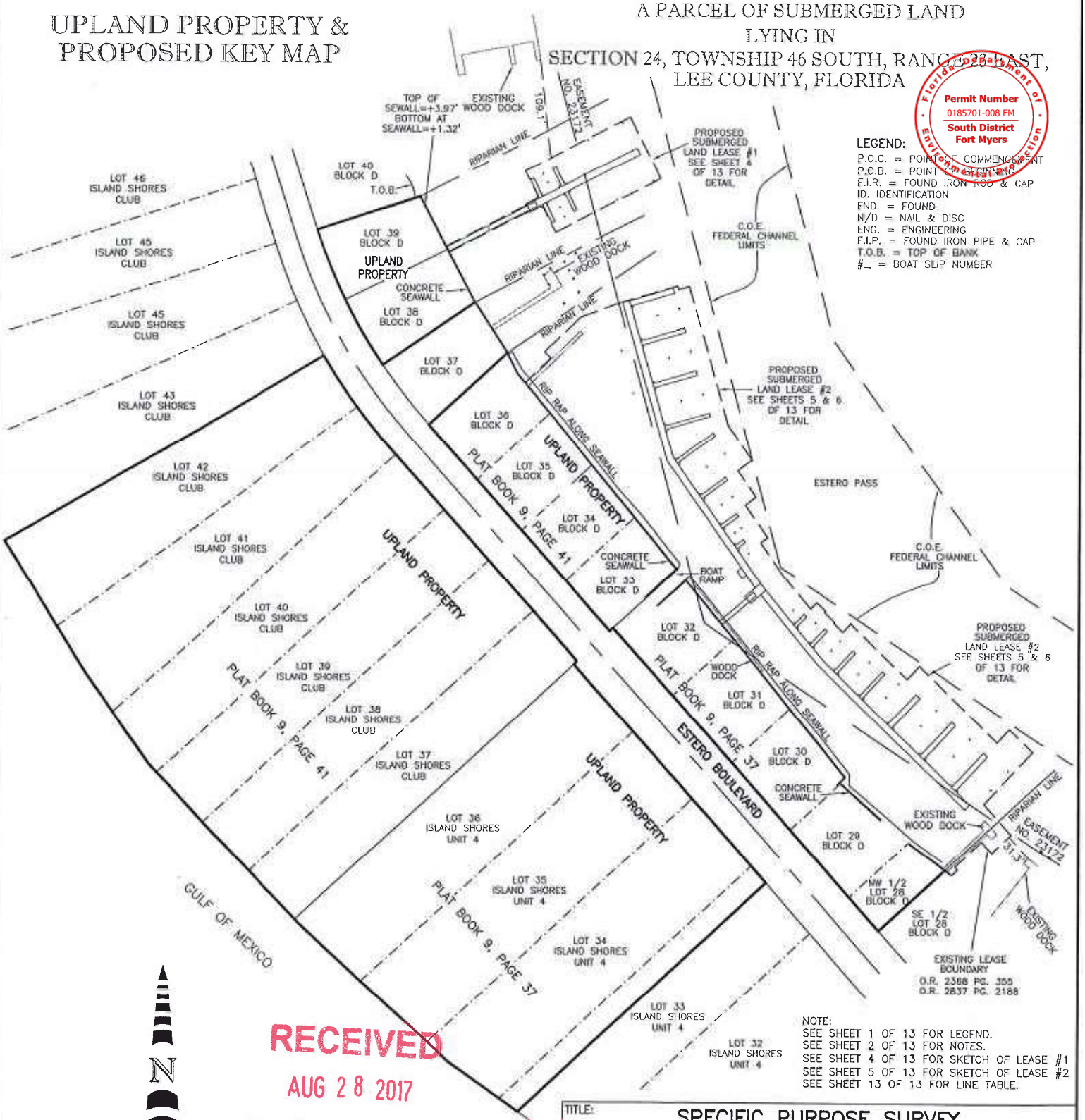
A PARCEL OF SUBMERGED LAND

LYING IN

SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST,

LEE COUNTY, FLORIDA

## UPLAND PROPERTY & PROPOSED KEY MAP




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

NOTE:
SEE SHEET 1 OF 13 FOR LEGEND.
SEE SHEET 2 OF 13 FOR NOTES.
SEE SHEET 4 OF 13 FOR SKETCH OF LEASE #1
SEE SHEET 5 OF 13 FOR SKETCH OF LEASE #2
SEE SHEET 13 OF 13 FOR LINE TABLE.

Florida Department of Environmental Protection
Permit Number
0185701-008 EM
South District
Fort Myers

RECEIVED
AUG 28 2017
D.E.P. South District

SURVEY CONSISTS OF SHEETS 1 THROUGH 13 AND IS NOT VALID WITHOUT COMPLETE SET

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) 275-8575
FAX: (239) 275-8457
www.metronfl.com

| FILE NAME: | FIELD BOOK/PAGE: | PROJECT NO.: | SHEET: |
|---|---|---|---|
| 10627ASBUILT.dwg | N/A | 10627 | 3 OF 13 |

| SKETCH DATE: | DRAWN BY: | SCALE: | CHECKED BY: | (S-T-R) |
|---|---|---|---|---|
| 3-22-13 | BUD | 1"= 150' | TLM | 24-46-23 |

# SPECIFIC PURPOSE SURVEY

OF

A PARCEL OF SUBMERGED LAND

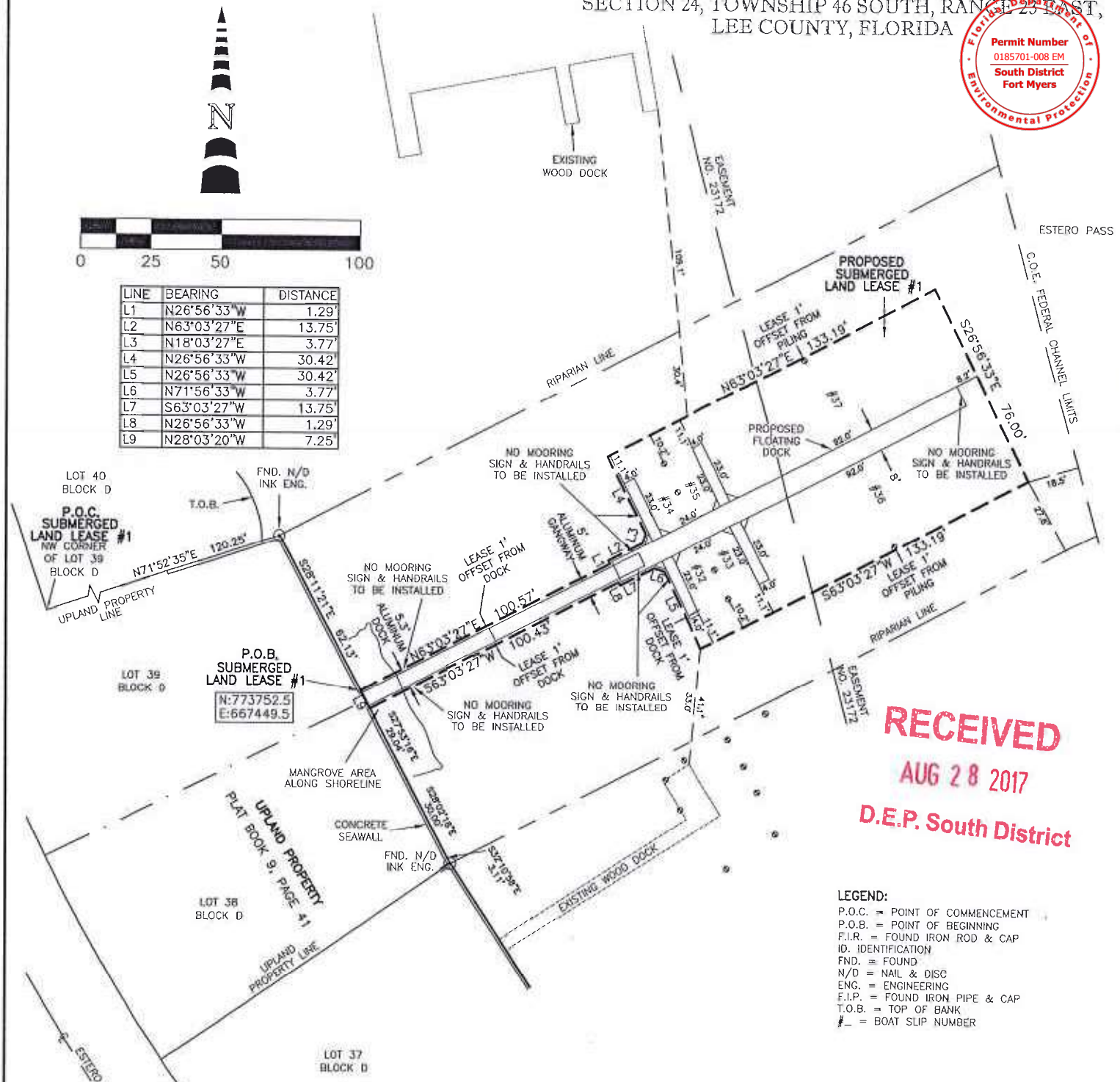
LYING IN

SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST,

LEE COUNTY, FLORIDA

## PROPOSED DETAIL SKETCH OF LEASE #1

Permit Number 0185701-008 EM
South District Fort Myers
Florida Department of Environmental Protection




| 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' |

RECEIVED
AUG 28 2017
D.E.P. South District

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

NOTE:
SEE SHEET 1 OF 13 FOR LEGEND.
SEE SHEET 2 OF 13 FOR NOTES.
SEE SHEET 13 OF 13 FOR LINE TABLE.

SURVEY CONSISTS OF SHEETS 1 THROUGH 13 AND IS NOT VALID WITHOUT COMPLETE SET

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) 275-8575
FAX: (239) 275-8457
www.metronfl.com

| FILE NAME: | FIELD BOOK/PAGE: | PROJECT NO.: | SHEET: |
|---|---|---|---|
| 10627ASBUILT.dwg | N/A | 10627 | 4 OF 13 |

| SKETCH DATE: | DRAWN BY: | SCALE: | CHECKED BY: | (S-T-R) |
|---|---|---|---|---|
| 3-22-13 | BUD | 1"= 50' | TLM | 24-46-23 |

# PROPOSED DETAIL SKETCH OF LEASE #2

# SPECIFIC PURPOSE SURVEY

OF

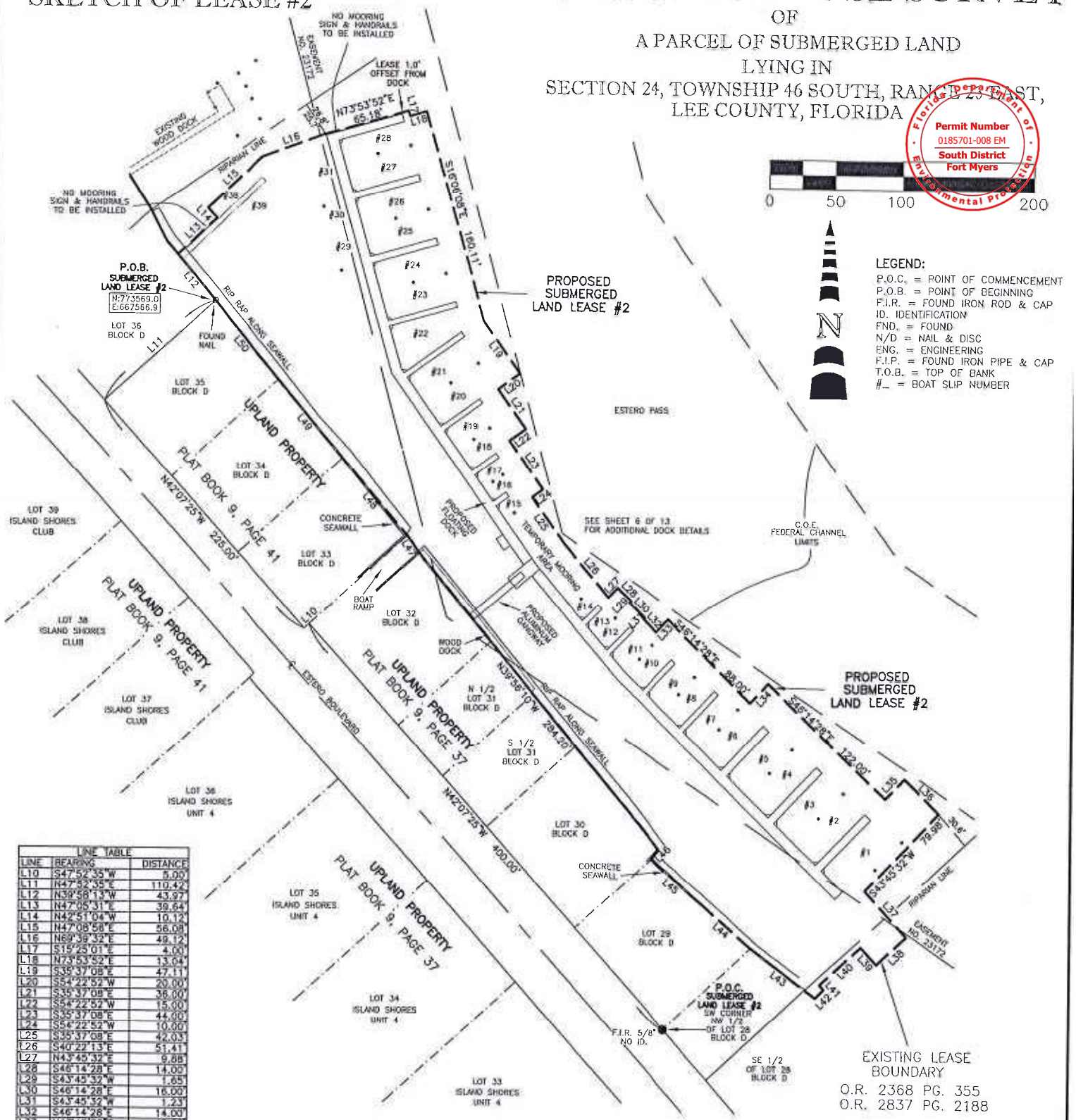
A PARCEL OF SUBMERGED LAND

LYING IN

SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST,

LEE COUNTY, FLORIDA

Florida Department of Environmental Protection
Permit Number
0185701-008 EM
South District
Fort Myers




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 TABLE

| LINE | BEARING | DISTANCE |
|---|---|---|
| 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°08'58"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 | 38.50' |
| 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°08'25"E | 4.66' |
| L42 | S45°50'35"W | 9.07' |
| L43 | N53°54'24"W | 80.91' |
| 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' |

RECEIVED
AUG 28 2017
D.E.P. South District

SURVEY CONSISTS OF SHEETS 1 THROUGH 13 AND IS NOT VALID WITHOUT COMPLETE SET

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) 275-8575
FAX: (239) 275-8457
www.metronfl.com

| FILE NAME: | FIELD BOOK/PAGE: | PROJECT NO.: | SHEET: |
|---|---|---|---|
| 10627ASBUILT.dwg | N/A | 10627 | 5 OF 13 |

| SKETCH DATE: | DRAWN BY: | SCALE: | CHECKED BY: | (S-T-R) |
|---|---|---|---|---|
| 3-22-13 | BUD | 1"= 100' | TLM | 24-46-23 |

# PROPOSED DETAIL

# SPECIFIC PURPOSE SURVEY

OF

A PARCEL OF SUBMERGED LAND

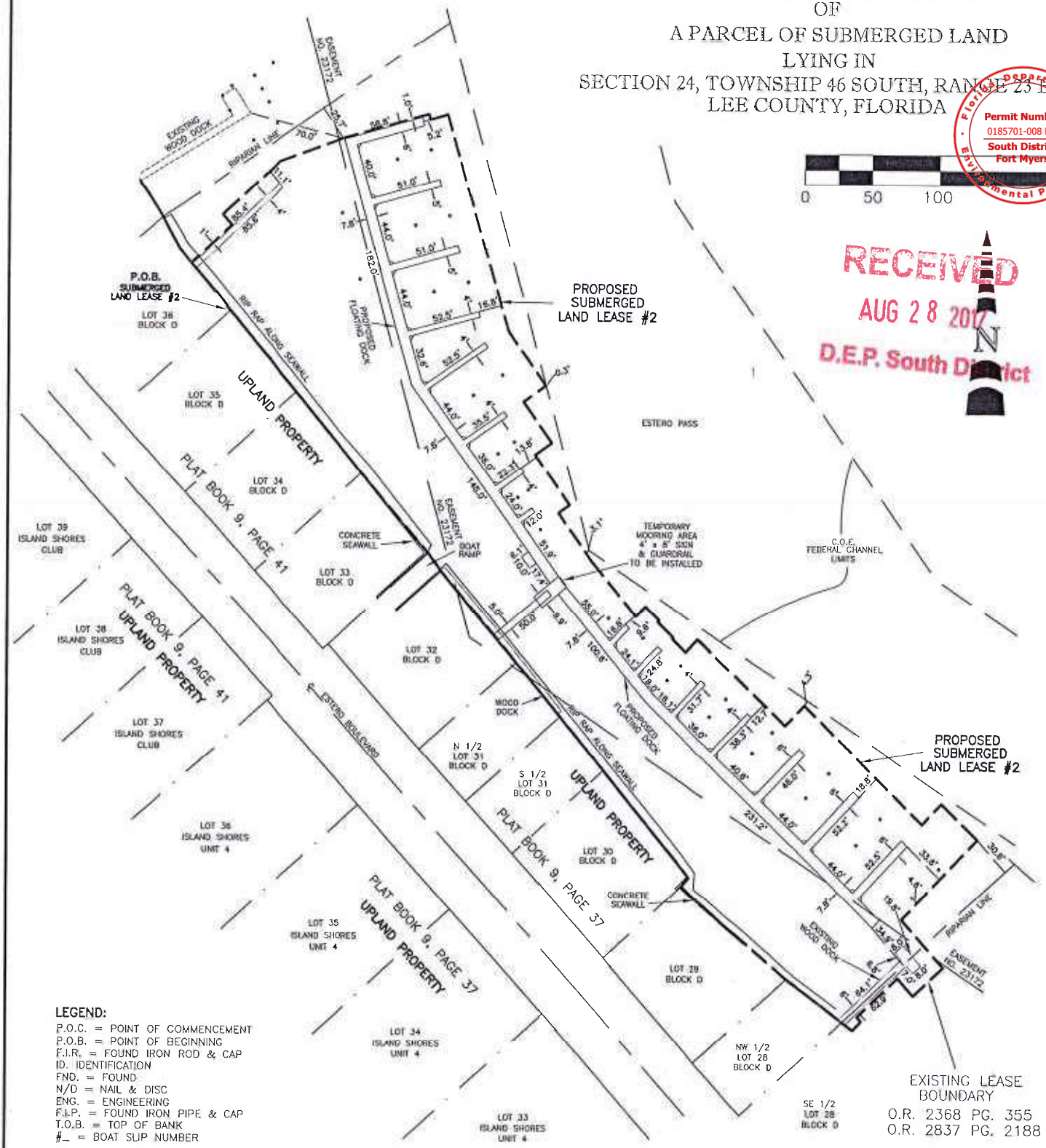
LYING IN

SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST,

LEE COUNTY, FLORIDA

Florida Department of Environmental Protection
Permit Number
0185701-008 EM
South District
Fort Myers

RECEIVED
AUG 28 2017
D.E.P. South District




**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

NOTE:
SEE SHEET 1 OF 13 FOR LEGEND.
SEE SHEET 2 OF 13 FOR NOTES.
SEE SHEET 4 OF 13 FOR SKETCH OF LEASE #1
SEE SHEET 5 OF 13 FOR SKETCH OF LEASE #2
SEE SHEET 13 OF 13 FOR LINE TABLE.

SURVEY CONSISTS OF SHEETS 1 THROUGH 13 AND IS NOT VALID WITHOUT COMPLETE SET

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) 275-8575
FAX: (239) 275-8457
www.metronfl.com

| FILE NAME: | FIELD BOOK/PAGE: | PROJECT NO.: | SHEET: |
|---|---|---|---|
| 10627ASBUILT.dwg | N/A | 10627 | 6 OF 13 |

| SKETCH DATE: | DRAWN BY: | SCALE: | CHECKED BY: | (S-T-R) |
|---|---|---|---|---|
| 3-22-13 | BUD | 1"= 100' | TLM | 24-46-23 |

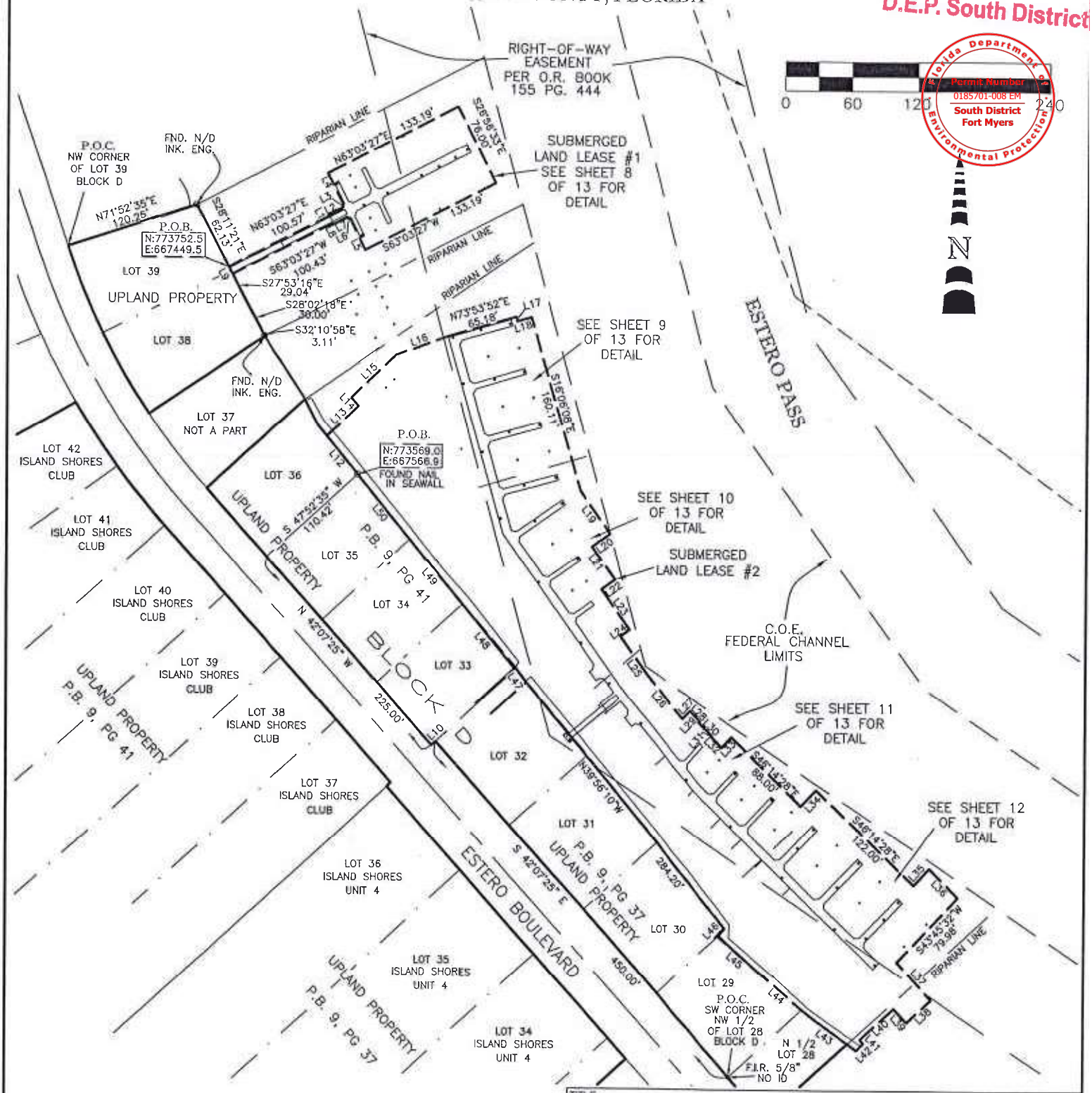
# ASBUILT KEY MAP

# SPECIFIC PURPOSE SURVEY

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

RECEIVED
AUG 28 2017
D.E.P. South District

Florida Department of Environmental Protection
Permit Number
0185701-008 EM
South District
Fort Myers




NOTE:
SEE SHEET 1 OF 13 FOR LEGEND.
SEE SHEET 2 OF 13 FOR LEGAL DESCRIPTION & NOTES.
SEE SHEET 4 OF 13 FOR SKETCH OF LEASE #1
SEE SHEET 5 OF 13 FOR SKETCH OF LEASE #2
SEE SHEET 13 OF 13 FOR LINE TABLE.

SURVEY CONSISTS OF SHEETS 1 THROUGH 13 AND IS NOT VALID WITHOUT COMPLETE SET

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) 275-8575
FAX: (239) 275-8457
www.metronfl.com

| FILE NAME: | FIELD BOOK/PAGE: | PROJECT NO.: | SHEET: |
|---|---|---|---|
| 10627ASBUILT.dwg | N/A | 10627 | 7 OF 13 |

| SKETCH DATE: | DRAWN BY: | SCALE: | CHECKED BY: | (S-T-R) |
|---|---|---|---|---|
| 03-15-13 | BUD | 1"= 120' | TLM | 24-46-23 |

# SPECIFIC PURPOSE SURVEY

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

## ASBUILT DETAIL

N

0 15 30 60

RIPARIAN LINE
RIGHT-OF-WAY
109.1'
30.4'
28.2'
28.8'
CHANNEL MARKER #12 RED
C.O.E. FEDERAL CHANNEL LIMITS
ESTERO PASS
LIMITS OF SUBMERGED LAND LEASE #1
1.0'
32.5'
NO MOORING SIGN & HANDRAIL
8.1'
#37
88.9'
8.0' DOCK
88.9'
18.5'
27.8'
#36
SUBMERGED LAND LEASE #1
2.1'
LADDER
10.9'
10.7'
11.6'
11.0'
19.9'
#35
4.0' DOCK
19.9'
4.5'
12.1'
1.1'
4.0' DOCK
#34
19.9'
17.5'
4.5'
NO MOORING SIGN & HANRAIL
1.1'
13.4'
FND. N/D INK. ENG.
17.5'
12.1'
12.0'
19.8'
#33
4.0' DOCK
19.8'
#32
19.8'
11.1'
11.2'
11.3'
LADDER
ALUM HANDRAIL
4.5' ALUM GANGWAY
ALUM HANDRAIL
13.4'
1.2'
1.0'
NO MOORING SIGN
1.0'
NO MOORING SIGN & HANRAIL
1.0'
RIPARIAN LINE
CONCRETE SEAWALL
PUMP STATION ON CONC
ALUM HANDRAIL
51.5'
5.3' DOCK
51.5'
ALUM HANDRAIL
1.0'
NO MOORING SIGN
1.0'
LOT 39
BLOCK D
ISLAND SHORES
P.O.B.
1.0'
RIGHT-OF-WAY NO. 23172 EASEMENT PER O.R. BOOK 155 PG. 444
41.1'
8.7'
8.9'
8.8'
26
LOT 38
BLOCK D
ISLAND SHORES
CONCRETE SEAWALL

RECEIVED
AUG 28 2017
D.E.P. South District

NOTE:
SEE SHEET 1 OF 13 FOR LEGEND.
SEE SHEET 2 OF 13 FOR LEGAL DESCRIPTION & NOTES.
SEE SHEET 4 OF 13 FOR SKETCH OF LEASE #1
SEE SHEET 5 OF 13 FOR SKETCH OF LEASE #2
SEE SHEET 13 OF 13 FOR LINE TABLE.

SURVEY CONSISTS OF SHEETS 1 THROUGH 13 AND IS NOT VALID WITHOUT COMPLETE SET

TITLE: SPECIFIC PURPOSE SURVEY

METRON
SURVEYING & MAPPING, LLC
LAND SURVEYORS · PLANNERS
LB# 7071
10728 SOUTH CLEVELAND AVENUE
UNIT #605
FORT MYERS, FLORIDA 33907
PHONE: (239) 275-8575
FAX: (239) 275-8457
www.metronfl.com

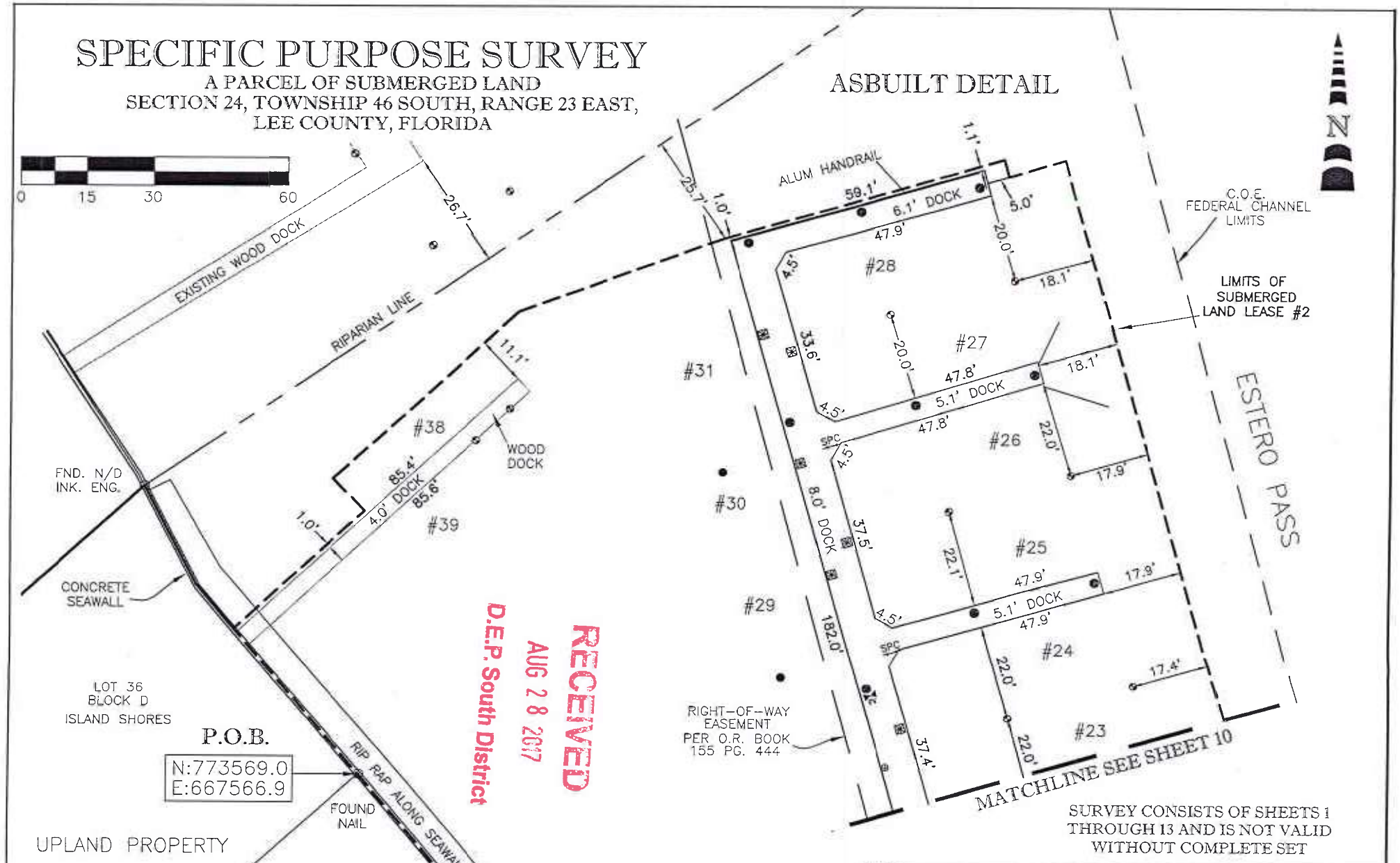
Environmental Protection · Environmental Permitting
Permit Number 0187701-008 EM
South District
Fort Myers

| FILE NAME: | FIELD BOOK/PAGE: | PROJECT NO.: | SHEET: |
|---|---|---|---|
| 10627ASBUILT.dwg | N/A | 10627 | 8 OF 13 |

| SKETCH DATE: | DRAWN BY: | SCALE: | CHECKED BY: | (S-T-R) |
|---|---|---|---|---|
| 03-15-13 | BUD | 1"= 30' | TLM | 24-46-23 |

# SPECIFIC PURPOSE SURVEY

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




RECEIVED
AUG 28 2017
D.E.P. South District

SURVEY CONSISTS OF SHEETS 1 THROUGH 13 AND IS NOT VALID WITHOUT COMPLETE SET

NOTE:
SEE SHEET 1 OF 13 FOR LEGEND.
SEE SHEET 2 OF 13 FOR LEGAL DESCRIPTION & NOTES.
SEE SHEET 4 OF 13 FOR SKETCH OF LEASE #1
SEE SHEET 5 OF 13 FOR SKETCH OF LEASE #2
SEE SHEET 13 OF 13 FOR LINE TABLE.

TITLE: SPECIFIC PURPOSE SURVEY


METRON
SURVEYING & MAPPING, LLC
LAND SURVEYORS · PLANNERS
LB# 7071
1989 SOUTH CLEVELAND AVENUE
UNIT #605
FORT MYERS, FLORIDA 33907
PHONE: (239) 275-8575
FAX: (239) 275-8457
www.metronfl.com


Environmental Protection
Permit Number 06970-008-EM
South District
Fort Myers

| FILE NAME: | FIELD BOOK/PAGE: | PROJECT NO.: | SHEET: |
|---|---|---|---|
| 10627ASBUILT.dwg | N/A | 10627 | 9 OF 13 |

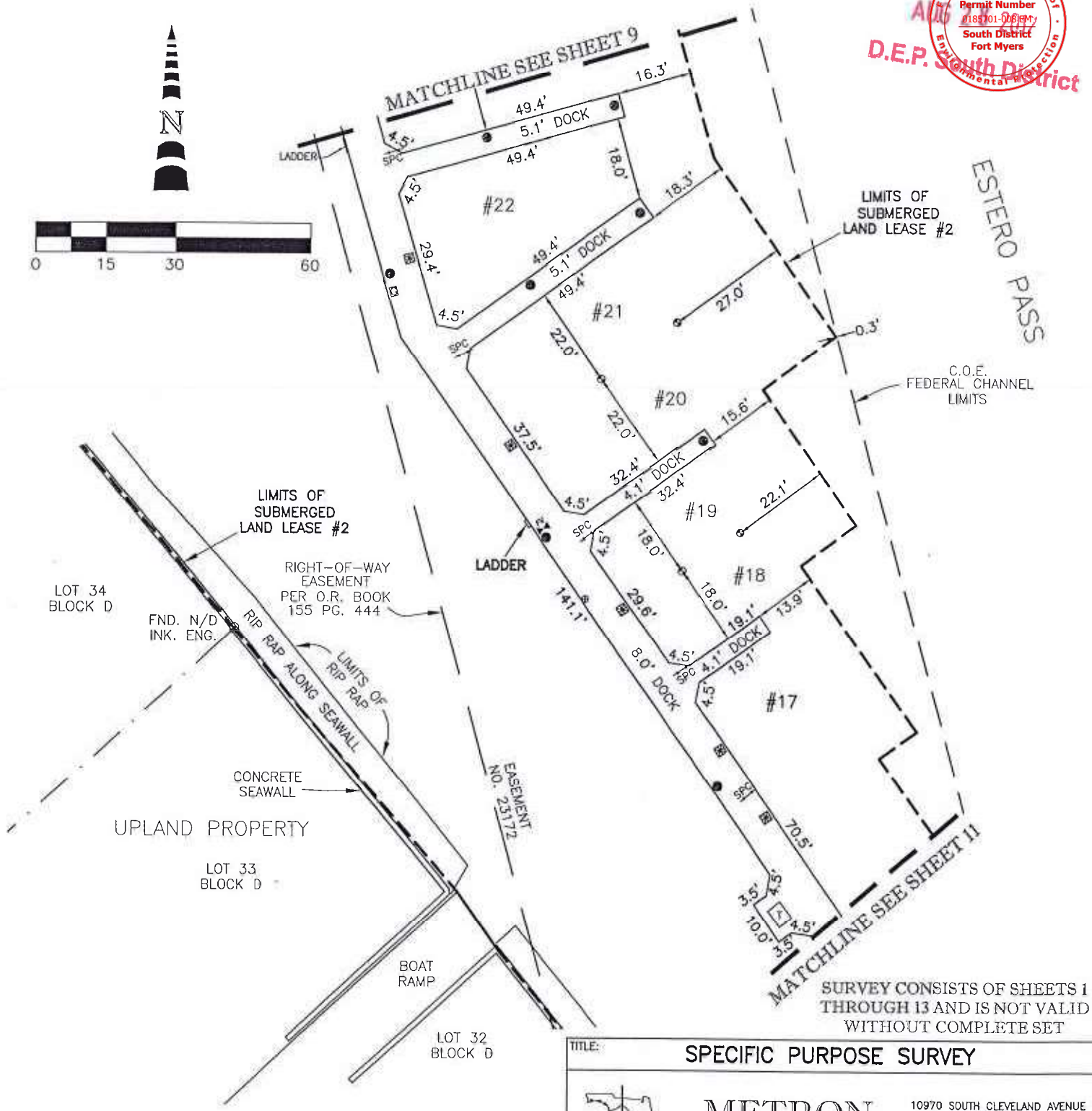
| SKETCH DATE: | DRAWN BY: | SCALE: | CHECKED BY: | (S-T-R) |
|---|---|---|---|---|
| 03-15-13 | BUD | 1"= 30' | TLM | 24-46-23 |

# SPECIFIC PURPOSE SURVEY

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

## ASBUILT DETAIL

RECEIVED
AUG 1 2013
D.E.P. South District
Florida Department of Environmental Protection
Permit Number
0185701-008EM
South District
Fort Myers




SURVEY CONSISTS OF SHEETS 1 THROUGH 13 AND IS NOT VALID WITHOUT COMPLETE SET

NOTE:
SEE SHEET 1 OF 13 FOR LEGEND.
SEE SHEET 2 OF 13 FOR LEGAL DESCRIPTION & NOTES.
SEE SHEET 4 OF 13 FOR SKETCH OF LEASE #1
SEE SHEET 5 OF 13 FOR SKETCH OF LEASE #2
SEE SHEET 13 OF 13 FOR LINE TABLE.

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) 275-8575
FAX: (239) 275-8457
www.metronfl.com

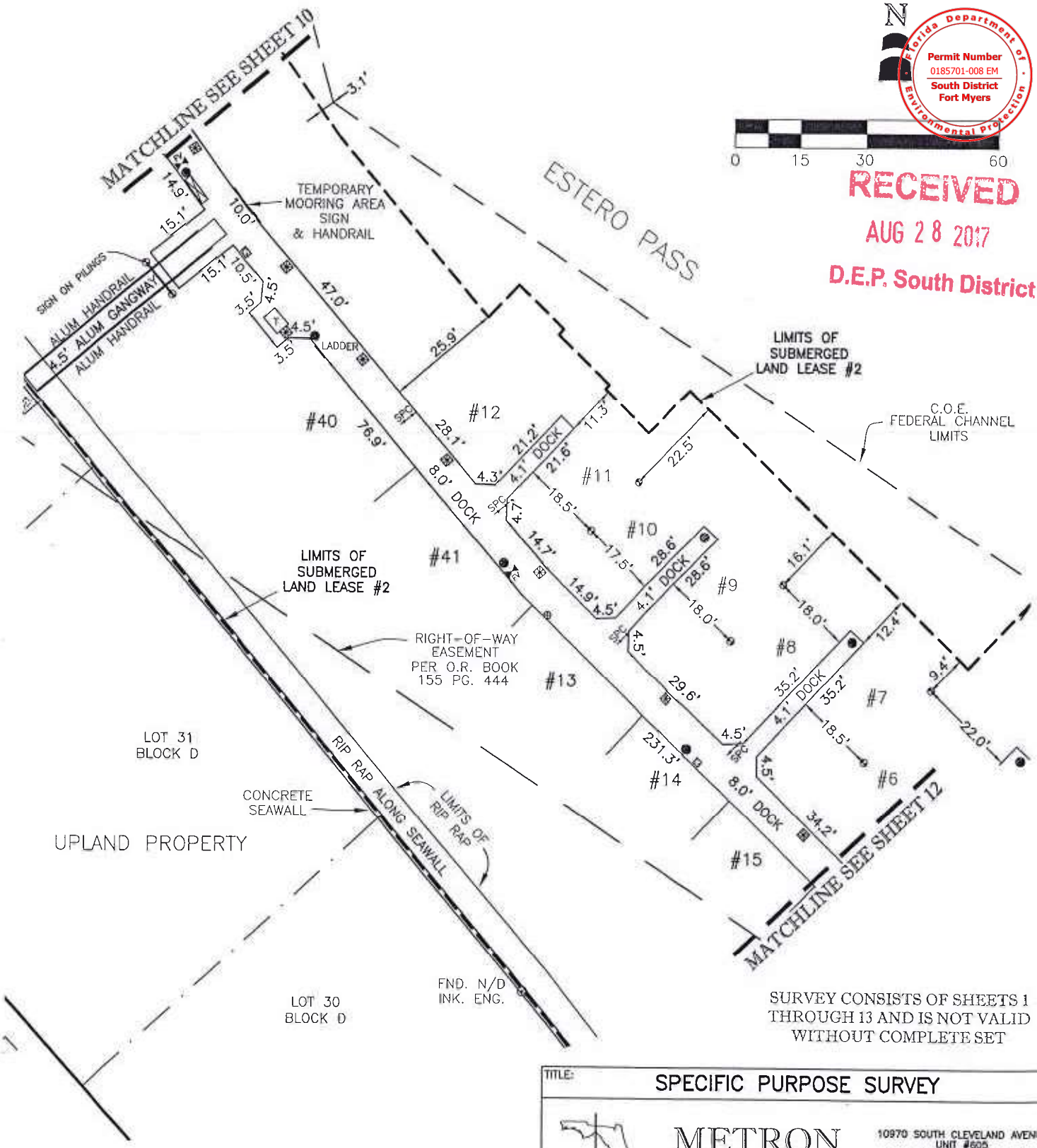
| FILE NAME: | FIELD BOOK/PAGE: | PROJECT NO.: | SHEET: |
|---|---|---|---|
| 10627ASBUILT.dwg | N/A | 10627 | 10 OF 13 |

| SKETCH DATE: | DRAWN BY: | SCALE: | CHECKED BY: | (S-T-R) |
|---|---|---|---|---|
| 03-15-13 | BUD | 1"= 30' | TLM | 24-46-23 |

# SPECIFIC PURPOSE SURVEY

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

## ASBUILT DETAIL




Florida Department of Environmental Protection
Permit Number 0185701-008 EM
South District Fort Myers

RECEIVED
AUG 28 2017
D.E.P. South District

SURVEY CONSISTS OF SHEETS 1 THROUGH 13 AND IS NOT VALID WITHOUT COMPLETE SET

NOTE:
SEE SHEET 1 OF 13 FOR LEGEND.
SEE SHEET 2 OF 13 FOR LEGAL DESCRIPTION & NOTES.
SEE SHEET 4 OF 13 FOR SKETCH OF LEASE #1
SEE SHEET 5 OF 13 FOR SKETCH OF LEASE #2
SEE SHEET 13 OF 13 FOR LINE TABLE.

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) 275-8575
FAX: (239) 275-8457
www.metronfl.com

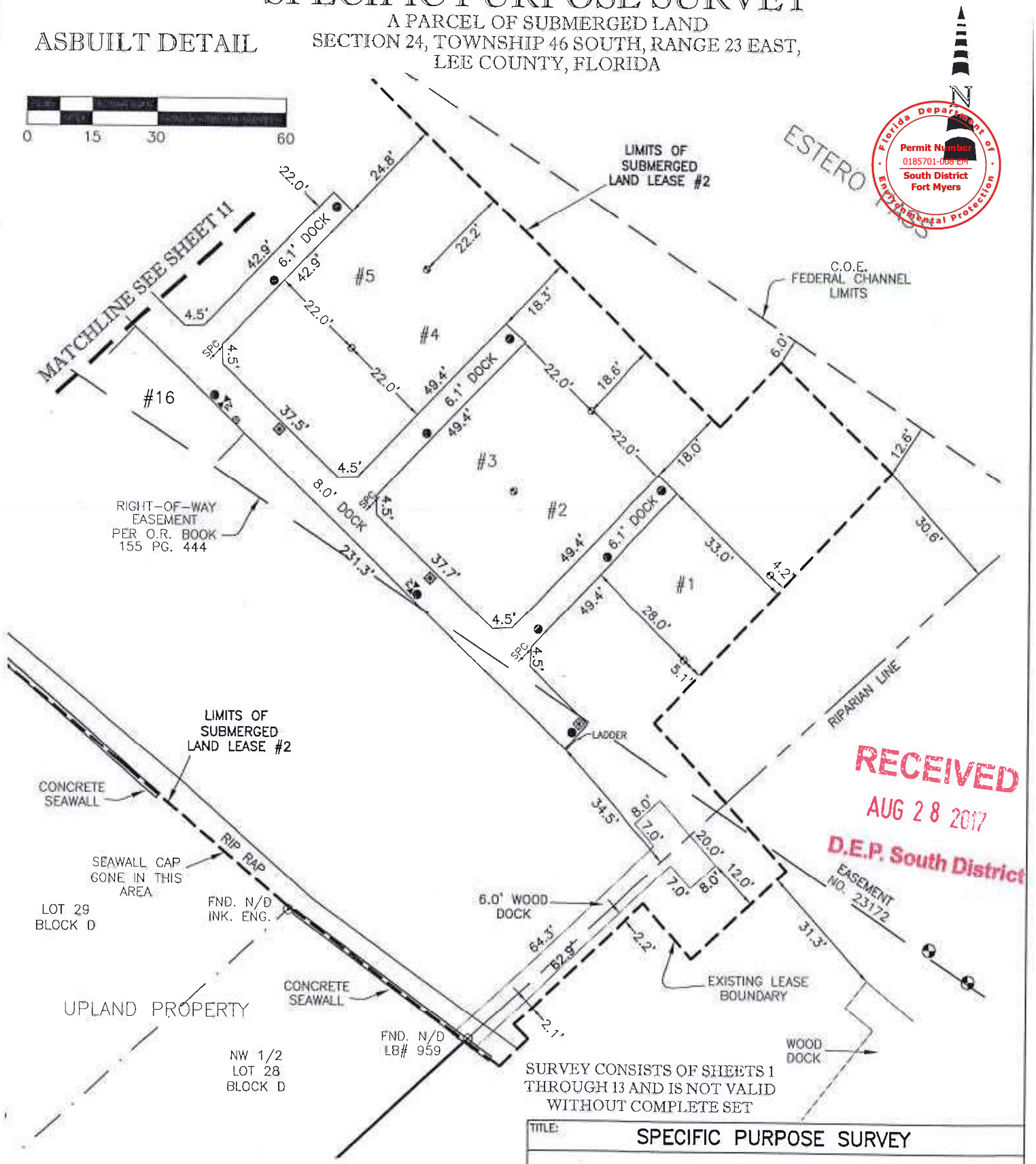
| FILE NAME: | FIELD BOOK/PAGE: | PROJECT NO.: | SHEET: |
|---|---|---|---|
| 10627ASBUILT.dwg | N/A | 10627 | 11 OF 13 |

| SKETCH DATE: | DRAWN BY: | SCALE: | CHECKED BY: | (S-T-R) |
|---|---|---|---|---|
| 03-15-13 | BUD | 1"= 30' | TLM | 24-46-23 |

# SPECIFIC PURPOSE SURVEY

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

## ASBUILT DETAIL




Florida Department of Environmental Protection
Permit Number 0185701-008 EM
South District Fort Myers

RECEIVED
AUG 28 2017
D.E.P. South District

SURVEY CONSISTS OF SHEETS 1 THROUGH 13 AND IS NOT VALID WITHOUT COMPLETE SET

NOTE:
SEE SHEET 1 OF 13 FOR LEGEND.
SEE SHEET 2 OF 13 FOR LEGAL DESCRIPTION & NOTES.
SEE SHEET 4 OF 13 FOR SKETCH OF LEASE #1
SEE SHEET 5 OF 13 FOR SKETCH OF LEASE #2
SEE SHEET 13 OF 13 FOR LINE TABLE.

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) 275-8575
FAX: (239) 275-8457
www.metronfl.com

| FILE NAME: | FIELD BOOK/PAGE: | PROJECT NO.: | SHEET: |
|---|---|---|---|
| 10627ASBUILT.dwg | N/A | 10627 | 12 OF 13 |

| SKETCH DATE: | DRAWN BY: | SCALE: | CHECKED BY: | (S-T-R) |
|---|---|---|---|---|
| 03-15-13 | BUD | 1"= 30' | TLM | 24-46-23 |

# SLIP MATRIX & LINE TABLE

| BOAT SLIP MATRIX | | 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 | 28' x 35' | NO |
| #13 | 12' x 35' | NO |
| #14 | 12' x 27' | NO |
| #15 | 12' x 27' | NO |
| #16 | 12' x 35' | NO |
| #17 | 28' 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 |
| #40 | 12' x 40' | NO |
| #41 | 12' x 40' | NO |

SURVEY CONSISTS OF SHEETS 1 THROUGH 13 AND IS NOT VALID WITHOUT COMPLETE SET

# 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' |

Florida Department of Environmental Protection
Permit Number
0185701-008 EM
South District
Fort Myers

RECEIVED
AUG 28 2017
D.E.P. South District

TITLE: SPECIFIC PURPOSE SURVEY

METRON
SURVEYING & MAPPING, LLC
LAND SURVEYORS·PLANNERS
LB# 7071

10970 SOUTH CLEVELAND AVENUE
UNIT #505
FORT MYERS, FLORIDA 33907
PHONE: (239) 275-8575
FAX: (239) 275-8457
www.metronfl.com

| FILE NAME: | FIELD BOOK/PAGE: | PROJECT NO.: | SHEET: |
|---|---|---|---|
| 10627ASBUILT.dwg | N/A | 10627 | 13 OF 13 |

| SKETCH DATE: | DRAWN BY: | SCALE: | CHECKED BY: | (S-T-R) |
|---|---|---|---|---|
| 3-22-13 | BUD | N/A | TLM | 24-46-23 |

# 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,

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:

**Attachments:**
☒ Photographs ☒ Surveys/Drawings ☐ Other:

## 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 Bvld., 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 aerials 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)? | X Yes | No | N/A | See Comments |
| **19.** What type of fueling is provided? | Gas | | Diesel | X None |
| **a.** Is it shown on the survey? | Yes | No | X N/A | See Comments |
| **20.** What type of sewage pump-out is provided? | X Portable | | X Fixed | None |
| **a.** If fixed pump-outs, are they shown on the survey? | Yes | No | X N/A | See Comments |
| **21.** Are **ALL** lease standard conditions in compliance? | X Yes | No | N/A | See Comments |
| **22.** Are **ALL** special lease conditions in compliance? | X Yes | No | N/A | See Comments |
| **23.** Details provided on any non-compliance indicated above: cc: Public Lands Administration on Any actions taken | Yes | No | X 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. | Yes | No | X N/A | See Comments |
| **25.** Are the fees current (verify with SUPRS/ILMS)? | X Yes | No | N/A | See Comments |
| **a.** If not current, has an invoice been provided to Lessee? | Yes | No | X N/A | See Comments |
| **26.** Are the revenue reports forms/slip certifications current? | X Yes | No | N/A | See Comments |
| **a.** If not current, was the Lessee provided the Forms? | Yes | No | X N/A | See Comments |
| **27.** Is there any indication as to whether slips are being sold (i.e. For Sale signs at slips, internet sites, flyers, other advertising)? | Yes | X No | N/A | See Comments |
| **a.** If yes, forward the information to BPLA recurring revenue section. Date sent: | | | | |

## 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.

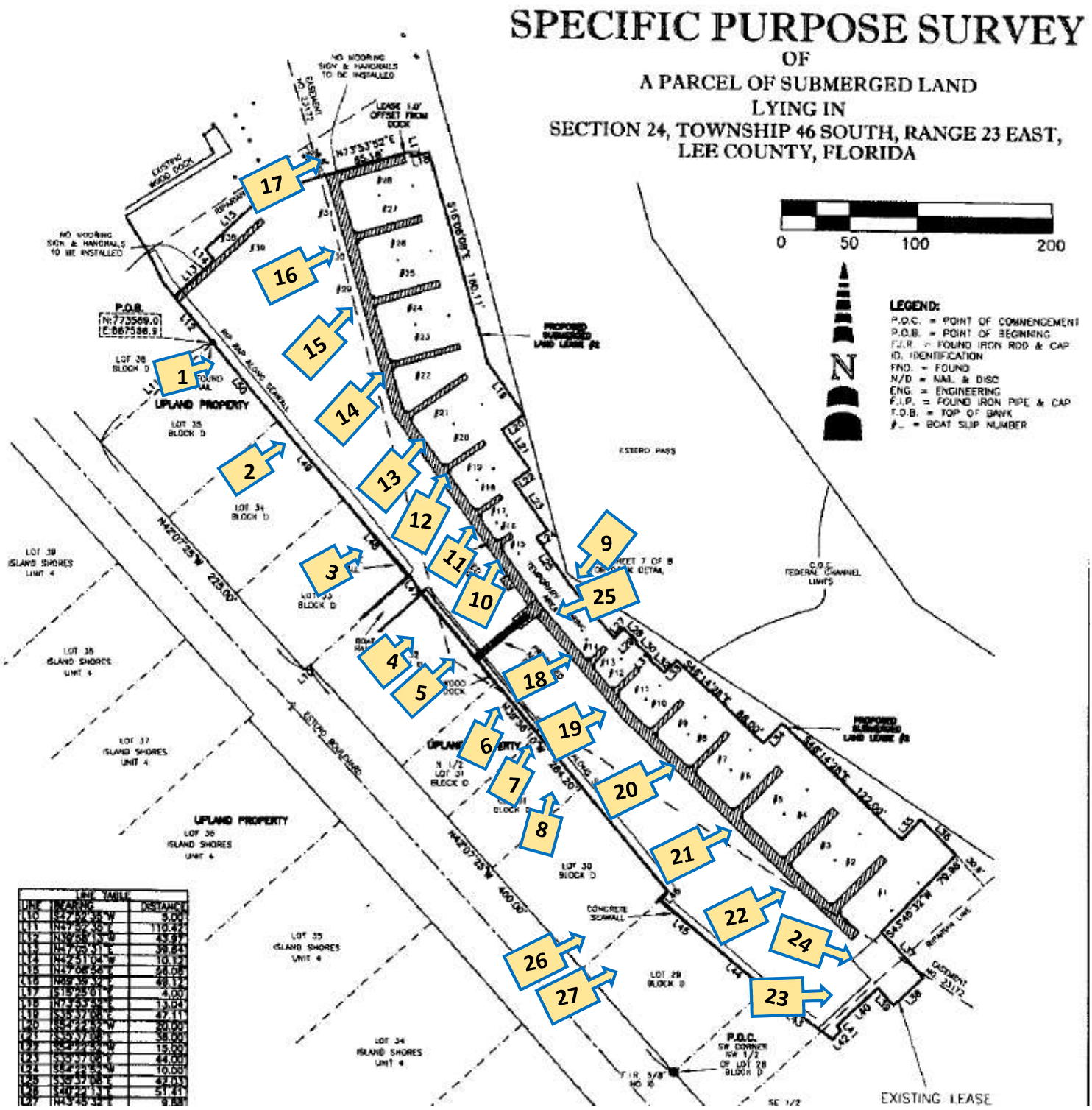
14). All permit conditions are in compliance.

15). All Annual Revenue Reports (ARR) and Fees are up to date.

FOR LESSOR

Lease is in compliance, please renew.

Inspector Signature: Gabrialla Zaharieff Digitally signed by Gabrialla 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'


SPECIFIC PURPOSE SURVEY
OF
A PARCEL OF SUBMERGED LAND
LYING IN
SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST,
LEE COUNTY, FLORIDA
0 50 100 200
N
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
P.O.B.
N:773569.0
E:867586.5
UPLAND PROPERTY
ESTERO PASS
PROPOSED SUBMERGED LAND LEASE #2
EXISTING LEASE
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

# SPECIFIC PURPOSE SURVEY

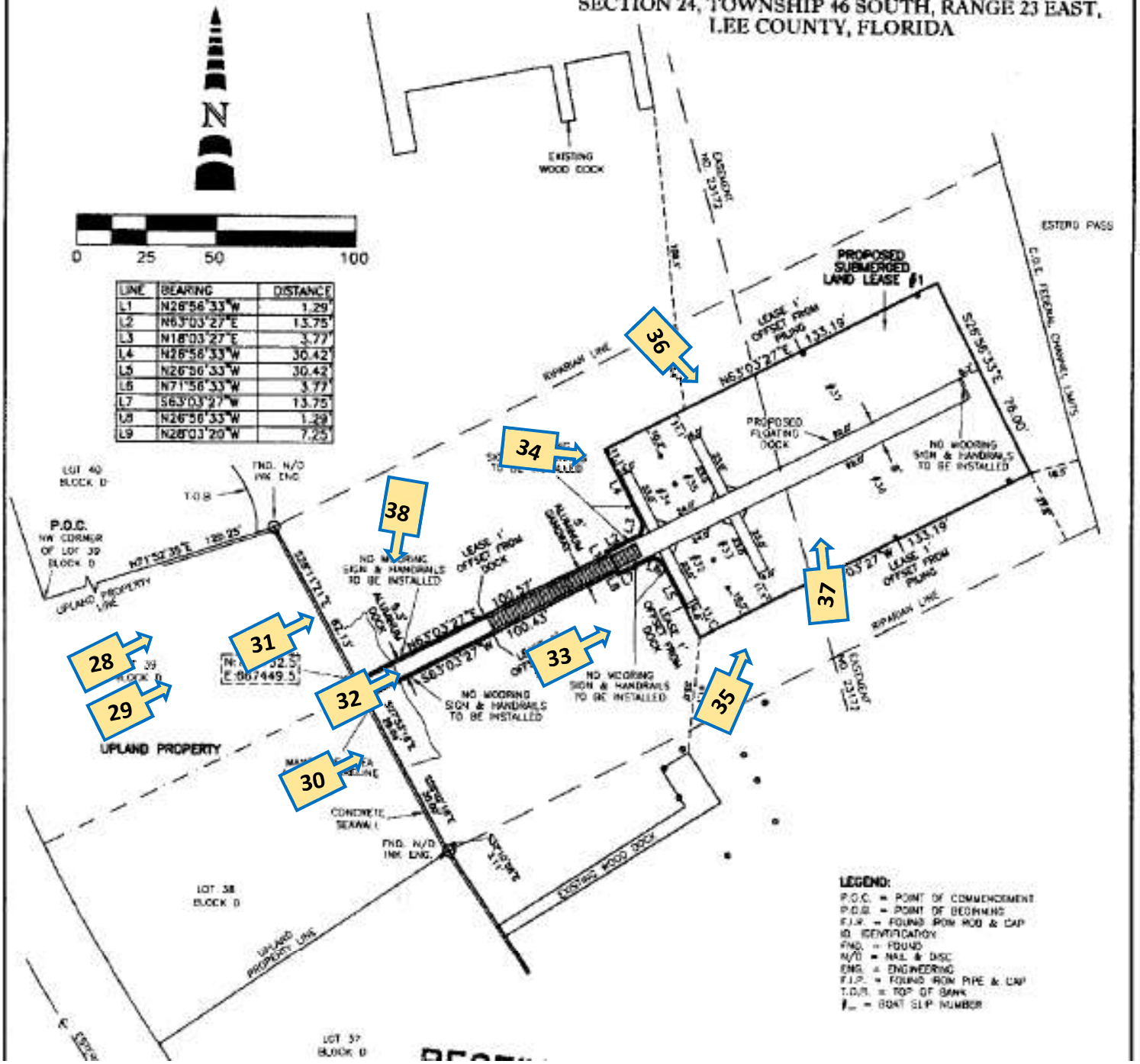
OF

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:**

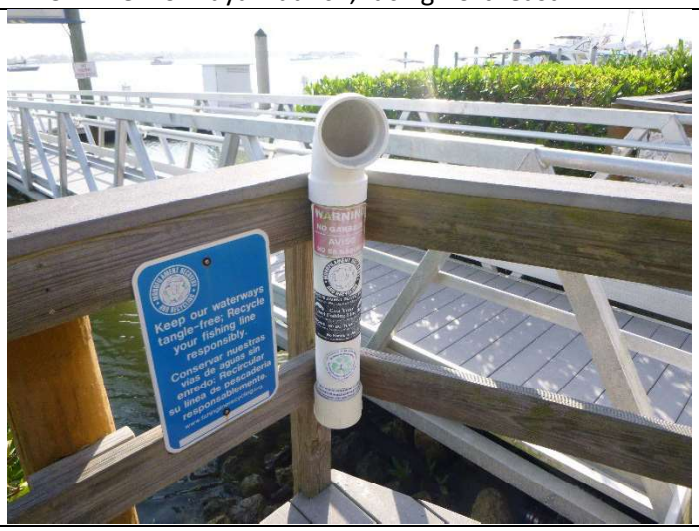
P.O.C. = POINT OF COMMENCEMENT
P.O.B. = POINT OF BEGINNING
F.I.R. = FOUND IRON ROD & CAP
ID. IDENTIFICATION
FND. = FOUND
N/D = NAIL & DISC
ENG. = ENGINEERING
F.I.P. = FOUND IRON PIPE & CAP
T.O.B. = TOP OF BANK
#_ = BOAT SLIP NUMBER

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

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

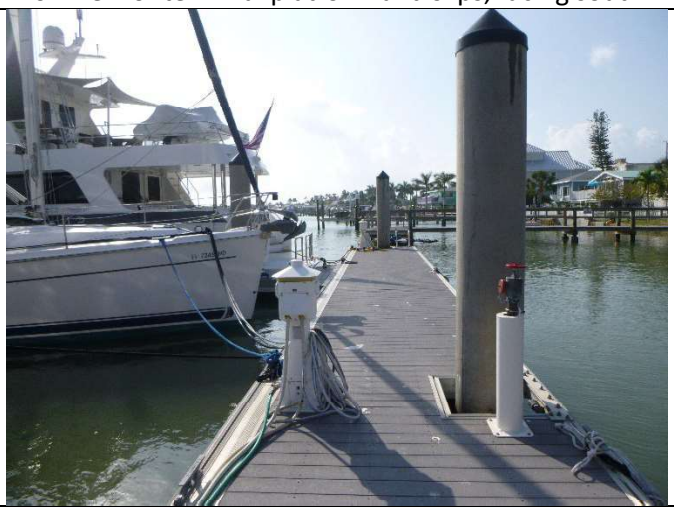
17. View of no mooring signs

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

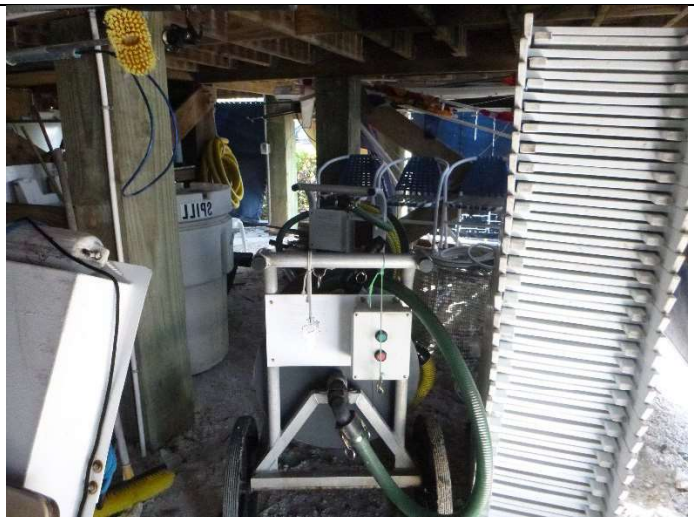


22. View of terminal platform and slips, facing south

23. View of no mooring signs, facing south

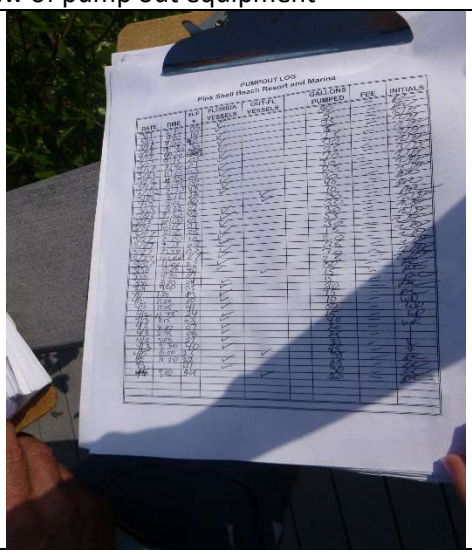
24. View of terminal platform, facing south

25. View of pump out sign facing west

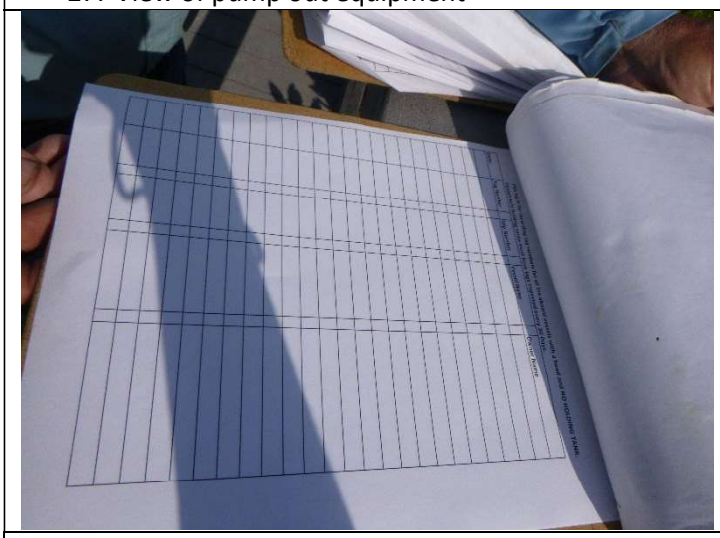


26. View of pump out equipment

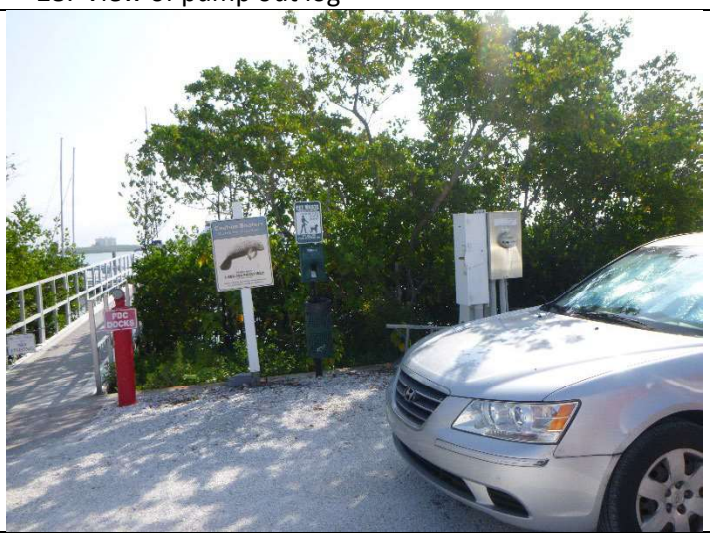
27. View of pump out equipment




28. View of pump out log



29. View of vessel log

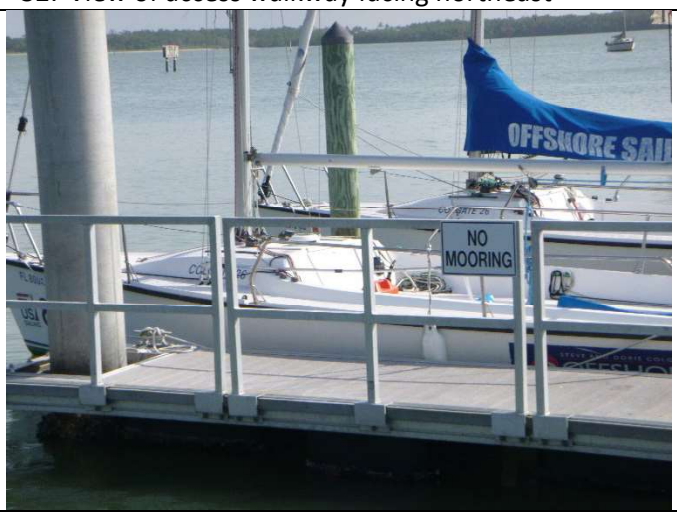



30. View of manatee educational sign

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

| | |
|---|---|
| | |
| | |

FL 4456 RN
EXPIRES
06-22
FLORIDA

06-22
FLORIDA

FL 5955 PL
US
SAILING
4

FL 4430 RR
US
SAILING
5

FL 6130 XT

# 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: bwaichulis@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 | SUPPLEMENTAL FORM REQUIRED |
|---|---|
| ☐ Special Exception | PH-A |
| ☐ Variance | PH-B |
| ☐ Conventional Rezoning | PH-C |
| ☑ Planned Development ■ Commercial ☐ Residential | PH-D |
| ☐ Master Concept Plan Extension | PH-E |
| ☐ Appeal of Administrative Action | PH-F |
| ☐ Vacation of Platted Right-of-way and Easement | PH-G |
| ☐ Other – cite LDC Section: _____ | 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 33931

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

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



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

# COMMUNITY DEVELOPMENT DEPARTMENT
## APPLICATION for PUBLIC HEARING

B. Relationship of Applicant to subject property:

- [x] Owner*
- [x] Corporation*
- [ ] Subdivision*
- [ ] Authorized Representative*
- [ ] Land Trust*
- [ ] Association*
- [ ] Timeshare Condo*
- [ ] Other* (please indicate)_____
- [ ] Partnership*
- [ ] Condominium*
- [ ] Contract Purchaser*

**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 _____
- [x] Planned Development
- [ ] Rezoning from _____ to [ ] Commercial PD [ ] Residential PD
- [x] Amendment. List the project number: Add mobile food truck and eliminate prohibition on liveaboards
- [ ] Extension/reinstatement of Master Concept Plan. List project number: _____



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

# 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;


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

# 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 General Manager, Pink Shell Resort & Marina  William Waichulis
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, 20 22, by BILL WAICHULIS, 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 |
|---|---|
| | |
| | |
| | |
| | |



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

# 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.


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

# COMMUNITY DEVELOPMENT DEPARTMENT
## APPLICATION for PUBLIC HEARING

JABO LLC

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

Signature

Manager

Title

WILLIAM WAICHULIS, GENERAL MANAGER

Typed or Printed Name

July , 2022

Date

**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 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



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

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** |



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

# 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.


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

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


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

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

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 |



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

Case # _____ Date Received: _____

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) |
| |
| |
| |
| |
| |
| |
| |
| |
| |
| |



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

## 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 |
| |
| |
| |
| |
| |
| |
| |
| |
| |
| |
| |
| |
| |



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

## 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" |
| |
| |
| |
| |
| |
| |
| |
| |
| |
| |
| |
| |



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

**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.


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

**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.


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

**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.



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

**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:

| | Future Land use Map (FLUM) | Zoning | Existing land uses |
|---|---|---|---|
| Northwest | Mixed Residential, then Recreation | RM (Residential Multi-Family, then CF (Community Facilities) | Sanibel View, Pink Shell Vacation Villas Condo, and Bowditch Park |
| Southeast | Mixed Residential | RM and CPD | High-rise condominiums, then cottages |
| Enclave: | Mixed Residential | CPD | Abaco Beach Property – Multi unit |
| Southwest: | Recreation | EC (Environmentally Critical) | Gulf of Mexico beach |
| Northeast: | 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
(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 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 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; 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 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,

POLICY 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 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:

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
X____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.

Signature _____ Date July , 2022

**Director's Decision** _____**Approved** _____**Denied**

**Comments:**

Signature _____ Date 7/25/22



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

18608905 _1

**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 liveaboards.

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

THE FLORIDA BAR BOARD CERTIFIED
CONDOMINIUM AND PLANNED DEVELOPMENT LAW

ROETZEL
Practical Advice. Real Solutions.
That's the Roetzel way.

**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: 1st hearing date February 21st 2023 , 2nd hearing date March 6th, 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 **Town Council** will review the application materials and hear testimony to make a **decision**. 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

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: 1st hearing date February 21st 2023 , 2nd hearing date March 6th, 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 Town Council will review the application materials and hear testimony to make a decision. 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

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: 1st hearing date February 21st 2023 , 2nd hearing date March 6th, 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 Town Council will review the application materials and hear testimony to make a decision. 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

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: 1st hearing date February 21st 2023 , 2nd hearing date March 6th, 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 Town Council will review the application materials and hear testimony to make a decision. 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
2525 Estero Blvd,
Fort Myers Beach, FL 33931

«OwnerName»
«MailAddress»
«MailCity», «MailState», «MailZip»«Next Record»

Town of Fort Myers Beach
2525 Estero Blvd,
Fort Myers Beach, FL 33931

«OwnerName»
«MailAddress»
«MailCity», «MailState», «MailZip»«Next Record»

Town of Fort Myers Beach
2525 Estero Blvd,
Fort Myers Beach, FL 33931

«OwnerName»
«MailAddress»
«MailCity», «MailState», «MailZip»«Next Record»

Town of Fort Myers Beach
2525 Estero Blvd,
Fort Myers Beach, FL 33931

«OwnerName»
«MailAddress»
«MailCity», «MailState», «MailZip»

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2023-958**

1. **Requested Motion:**

**Meeting Date: March 6, 2023**

1st Reading and Public Hearing on proposed Ordinance 23-05 entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AUTHORIZING THE PLACEMENT OF TEMPORARY HOUSING AND TEMPORARY GOVERNMENTAL USE FACILITIES IN SPECIFIED ZONING DISTRICTS OF THE TOWN, PROVIDING FOR CONFLICT OF LAW, SCRIVENER'S ERRORS, SEVERABILITY, SUNSETTING OF THIS ORDINANCE, AND PROVIDING FOR AN EFFECTIVE DATE. Open the first public hearing and schedule for second reading and final adoption on March 20, 2023 at 9:00 AM

**Why the action is necessary:**

Town Council directed staff to prepare an amendment to allow a temporary use for housing and governmental uses post-disaster.

**What the action accomplishes:**

Provide temporary housing options for property owners that wish to live on their property while they rebuild, as well as temporary governmental uses.

2. **Agenda:**
PUBLIC HEARINGS

3. **Requirement/Purpose:**
Ordinance

4. **Submitter of Information:**

5. **Background:**

The Town Council directed staff to prepare an Ordinance to permit recreational vehicles, travel trailers, and mobile homes as temporary housing post disaster, as well as temporary governmental uses post Hurricane Ian.

**Attachments:**

1. 23-05, Ordinance 23-05 re Temporary Placement of Governmental Uses and Mobile Homes in the Town(142395789.6)-C

**Financial Impact:**

6. **Alternative Action**

7. **Management Recommendations:**

Approve

8. **Recommended Approval:**

| | |
|---|---|
| Jason Smalley, Senior Planner | Created/Initiated - 2/28/2023 |
| Steve Poposki, Community Development Director | Approved - 2/28/2023 |
| John R Herin Jr, Town Attorney | Approved - 2/28/2023 |
| Amy Baker, Town Clerk | Approved - 2/28/2023 |
| Keith Wilkins , Interim Town Manager | Final Approval - 2/28/2023 |

# ORDINANCE 23-05

**AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AUTHORIZING THE PLACEMENT OF TEMPORARY HOUSING AND TEMPORARY GOVERNMENTAL USE FACILITIES IN SPECIFIED ZONING DISTRICTS OF THE TOWN, PROVIDING FOR CONFLICT OF LAW, SCRIVENER'S ERRORS, SEVERABILITY, SUNSETTING OF THIS ORDINANCE, AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS,** Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal service, and exercise any power for municipal purposes, except when expressly prohibited by law; and

**WHEREAS,** Article X of the Town Charter of the Town of Fort Myers Beach empowers the Town to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

**WHEREAS,** the Town recognizes that redevelopment of the Town, following hurricane Ian requires evaluation and updates to the Town's Codes and Ordinances; and

**WHEREAS,** a public hearing was held before the Local Planning Agency (LPA) on January 18, 2023, at which the LPA gave full and complete consideration of the request, recommendations by staff, the documents in the record, and the testimony of all interested persons, and the LPA voted 7-0, to recommend approval of this Ordinance; and

**WHEREAS,** on March 6, 2023, the Town Council held a first reading of the proposed Ordinance and gave full and complete consideration to the recommendation of staff, and the testimony of all interested persons; and

**WHEREAS,** the Town Council set a second reading of the proposed Ordinance and a public hearing on this matter to be legally advertised and held before the Town Council on March 20, 2023; at which time the Town Council gave full and complete consideration to the recommendation of staff, and the testimony of all interested persons; and

**WHEREAS**, the Town finds that it is in the best interests of the health, safety, and welfare of the Town's business owners, residents, and visitors to allow for the placement of temporary housing and temporary governmental use facilities in specified zoning districts of the Town.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AS FOLLOWS:** [1]

Section 1. The above recitals are true and correct, and incorporated herein by this reference and are hereby adopted as the legislative and administrative findings of the Town

[1]/ Additions to existing text are shown by underline, changes to existing text on second reading are shown by double underline, and deletions are shown as strikethrough.

Council.

Section 2. The Town Council determines that adoption of the following interim regulations is in the best interests of the health, safety, and welfare of the Town's business owners, residents, and visitors, which regulations shall read as follows:

**Temporary Placement of Emergency Uses, Manufactured Homes, Mobile Homes, Motor Homes, Recreational Vehicles Other Temporary Residential Dwelling or Temporary Moveable Commercial Units**

(1) An emergency governmental use, manufactured home, mobile home, motor home, recreational vehicle, or other temporary unit, may be permitted on a limited basis by the issuance of a temporary placement permit (TPP) by the Town.

(2) Unless otherwise provided in this Ordinance, an emergency governmental use, manufactured home, mobile home, motor home, recreational vehicle, or other temporary unit shall be removed from the site within thirty (30) days after issuance of a certificate of occupancy or certificate of use associated with the approved permit, or at the time of the expiration of the TPP, whichever is earlier.

A. A TPP may be granted as indicated below:

(i) Within any Commercial or Institutional Zoning District, a TPP may be issued for the purpose of providing an emergency governmental use to provide an essential governmental service adversely impacted due to adverse weather or other acts of God.

(ii) Within any Commercial, Institutional or Residential Zoning District, a TPP may be issued for the purposes of placing a manufactured home, mobile home, motor home, recreational vehicle, or other temporary unit for displaced owner-occupants or tenants if their existing living unit(s) has/have become uninhabitable due to adverse weather damage or other acts of God. Habitability of the existing residential unit(s) shall be determined by an inspection by the

City building official, Florida certified building inspector, architect, or engineer, and subject to the following requirements and restrictions:

(a) No more than one (1) manufactured home, mobile home, motor home, recreational vehicle, or other temporary unit shall be allowed per living unit, for single family and two-family homes. Additional units may only be allowed with approval of a waiver by the Town Council.

(b) The TPP shall only be allowed while the damaged living unit is uninhabitable and in the process of repair or a replacement living unit is in the process of being constructed.

(c) Placement of a manufactured home, mobile home, motor home, recreational vehicle, or other temporary unit on a site must meet all State requirements for tie-downs. Mobile homes shall be installed by a licensed mobile home contractor and in accordance with requirements of Florida Statutes and the Florida Building Code.

(d) Only verified residents of Fort Myers Beach may be granted a TPP.

(iii) The TPP shall be issued in increments of six (6) months by review of the Town and shall not be issued for a period exceeding eighteen (18) months from the date of this ordinance adoption. The Town may, however, grant extensions to a TPP permit exceeding eighteen (18) months if a TPP permit holder demonstrates that a significant hardship exists. The Town Manager or designee shall decide if a hardship exists based upon evidence provided by the permit holder that they have exercised all due diligence in obtaining permits either for repair or replacement of the affected structure. The Town Manager may consider whether the

applicant has had difficulties in completing insurance claims, obtaining an architect or engineer, obtaining construction materials, or obtaining a contractor, and if relevant, whether they have had difficulty in obtaining grants or loans to assist in repair or replacement of the affected structure.

(iv) The holder of the TPP shall apply for a building permit for the damaged or destroyed dwelling unit no later than six (6) months after the date of this ordinance adoption. The Town Manager or designee may, however, grant extensions to this deadline requirement based upon evidence provided by the property owner that they have exercised all due diligence in obtaining permits either for repair or replacement of the affected structure. The Town Manager may consider whether the applicant has had difficulties in completing insurance claims, obtaining an architect or engineer, obtaining construction materials, or obtaining a contractor, and if relevant, whether they have had difficulty in obtaining grants or loans to assist in repair or replacement of the affected structure.

(v) Noncompliance may result in revocation of the TPP.

(vi) The occupants of the manufactured home, mobile home, motor home, recreational vehicle, or other temporary residential unit must comply with all mandatory hurricane evacuation requirements. Failure to do so may result in the revocation of the TPP.

3. Submission Requirements:

A. A completed TPP application; and

B. Map or other documentation indicating the proposed location of the manufactured home, mobile home, motor home, recreational vehicle, or other temporary residential unit; and

C. State Department of Health, State Department of Environmental Protection, and Town permit(s) authorizing the connection of the manufactured home, mobile home, motor home, recreational vehicle, or other temporary residential unit to an on-site or existing community wastewater treatment system.

4. An appeal of any decision made under this Ordinance may be made pursuant to the provisions found in Section 34-86 of the Town's Land Development Code.

Section 3. Whenever the requirements or provisions of this Ordinance conflict with the requirements or provisions of any other lawfully adopted Town Code provision, ordinance. or statute, this Ordinance shall apply.

Section 4. Any typographical errors that do not affect the intent of this Ordinance may be corrected with notice to and authorization of the Town Manager without further process.

Section 5. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason, declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision will not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so declared.

Section 6. Absent extension of this Ordinance in accordance with State law and the Town Code this Ordinance shall terminate effective eighteen months (18) from its effective date and shall be of no further force or effect after such date.

Section 7. This Ordinance shall become effective upon adoption by the Town Council.

The foregoing Ordinance was adopted by the Town Council upon a motion by Council Member _____ and seconded by _____, and upon being put to a roll call vote, the result was as follows:

Dan Allers, Mayor ___
Jim Atterholt, Vice Mayor ___
John R. King, Council Member ___
Bill Veach, Council Member ___
Karen Woodson, Council Member ___

ADOPTED this ____ day of _____, 2023, by the Town Council of the Town of Fort Myers Beach, Florida.

**TOWN OF FORT MYERS BEACH**

_____
Dan Allers, Mayor

**ATTEST:**

_____
Amy Baker, Town Clerk

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:**

_____
John R. Herin, Jr., Town Attorney

This Ordinance was filed in the Office of the Town Clerk on this ___ day of _____, 2023.

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2023-951**

1. **Requested Motion:**

**Meeting Date: March 6, 2023**

1st Reading and Public Hearing on proposed Ordinance 23-06 entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA REPLACING TOWN OF FORT MYERS BEACH RESOLUTION NO. 18-11, AND AMENDING THE SCHEDULE OF USES FOR THE RESIDENTIAL PLANNED DEVELOPMENT ZONING FOR THE PROPERTY LOCATED AT 6249 ESTERO BLVD., FORT MYERS BEACH; PROVIDING FOR REVISIONS TO CONDITIONS OF APPROVAL, AND OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE. Open the first public hearing and schedule for second reading and final adoption on March 20, 2023 at 9:00 AM

**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 RPD 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

4. **Submitter of Information:**

---

5. **Background:**

The Carousel multifamily project, approved as Resolution 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. Ordinance 23-06
2. Staff Report
3. Exhibit A
4. Exhibit B Master Concept Plan
5. Exhibit C 18-11, DCI17-0008 Carousel Inn RPF
6. Exhibit D Application & Supporting Docs
7. Exhibit E Rendering
8. Exhibit F Postcards

**Financial Impact:**

6. **Alternative Action**

7. **Management Recommendations:**

Approve

8. **Recommended Approval:**

| | |
|---|---|
| Kendra Rosa, Zoning Coordinator/Planner 1 | Created/Initiated - 2/27/2023 |
| Steve Poposki, Community Development Director | Approved - 2/27/2023 |
| John R Herin Jr, Town Attorney | Approved - 2/28/2023 |
| Amy Baker, Town Clerk | Approved - 2/28/2023 |
| Keith Wilkins , Interim Town Manager | Final Approval - 2/28/2023 |

**ORDINANCE 23-06**

**AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA REPLACING TOWN OF FORT MYERS BEACH RESOLUTION NO. 18-11, AND AMENDING THE SCHEDULE OF USES FOR THE RESIDENTIAL PLANNED DEVELOPMENT ZONING FOR THE PROPERTY LOCATED AT 6249 ESTERO BLVD., FORT MYERS BEACH; PROVIDING FOR REVISIONS TO CONDITIONS OF APPROVAL, AND OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS,** Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal service, and exercise any power for municipal purposes, except when expressly prohibited by law; and

**WHEREAS,** Article X of the Town Charter of the Town of Fort Myers Beach empowers the Town to adopt, amend. or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

**WHEREAS,** Carousel Beach Redevelopment LLC ("Applicant"), the owner of the property generally located at 6230 & 6240 Estero Blvd. and identified by STRAP numbers 33-46-24-W3-00013.0020 & 33-46-24-W3-00013.0030 ("Property"), filed an application to amend the Property's Residential Planned Development ("RPD") to allow rooftop shade structures to extend no more than 10 feet above the allowed roof height of 45 feet above base flood elevation; and

**WHEREAS,** the Property is in the Mixed Residential and Recreation Future Land Use Category of the Comprehensive Plan of the Town of Fort Myers Beach, and is under common control of the Applicant as listed in the public records of Lee County Property Appraiser; and

**WHEREAS,** a public hearing was held before the Local Planning Agency (LPA) on January 18, 2023, at which the LPA gave full and complete consideration of the request, recommendations by staff, the documents in the record, and the testimony of all interested persons, and the LPA voted 6-0 to recommend approval of the CPD amendment with conditions, and

**WHEREAS,** on March 6, 2023 the Town Council held a first reading of the proposed Ordinance and gave full and complete consideration to the request of the Applicant, the recommendation of the LPA, the recommendation of staff, the documents in the record, and the testimony of all interested persons, as required by Section 34-85 of the Fort Myers Beach Land Development Code ("LDC"); and

**WHEREAS,** the Town Council set a second reading of the proposed Ordinance and a public hearing on this matter to be legally advertised and held before the Town Council on March 20, 2023; at which time the Town Council gave full and complete consideration to the request of the Applicant,

the recommendation of the LPA, the recommendation of staff, including the consideration and findings in the staff report, the documents in the record, and the testimony of all interested persons, as required by Section 34-85 of the LDC; and

**WHEREAS,** the Town Council finds the proposed RPD amendment with conditions of approval are **consistent/not consistent** with the Town of Fort Myers Beach Comprehensive Plan and LDC and voted to **approve/approve with conditions/deny** the Application.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AS FOLLOWS:**

Section 1. The above recitals are true, correct, incorporated herein by this reference, and adopted as the legislative and administrative findings of the Town Council.

Section 2. The Town Council determines the Applicant **did/did not** meet its burden of proof that the requested zoning amendment **does/does not** meet the requirements of the Town Comprehensive Plan and LDC and approving the request to allow accessory rooftop shade structures and an additional 10 feet of height above the allowed 45 feet above base flood elevation. Therefore, based upon the recommendations, testimony, and evidence presented by the Applicant, Town staff, and interested parties, the Town Council **APPROVES/DENIES** the requested amendment to the RPD zoning of the Property.

Section 3. Town Ordinance 18-11 is repealed and replaced by this Ordinance and the schedule of uses, deviations and conditions of approval for the Property's RPD set forth in Exhibit A, attached hereto and incorporated herein by this reference is approved.

Section 4. Whenever the requirements or provisions of this Ordinance conflict with the requirements or provisions of any other lawfully adopted LDC or Town Code provision, ordinance, or statute, the most restrictive shall apply.

Section 5. Any typographical errors that do not affect the intent of this Ordinance may be corrected with notice to and authorization of the Town Manager without further process.

Section 9. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason, declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision will not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so declared.

Section 10. This Ordinance will take effect immediately upon adoption by the Town Council.

**THE FOREGOING ORDINANCE** was adopted by the Town Council upon a motion by ____ _____and seconded by _____, and upon being put to a vote, the result was as follows:

**DULY PASSED AND ADOPTED** on this ___day of March 2022.

| | |
|---|---|
| Dan Allers, Mayor | ___ |
| Jim Atterholt, Vice Mayor | ___ |
| John R King, Council Member | ___ |
| Bill Veach, Council Member | ___ |
| Karen Woodson, Council Member | ___ |

**TOWN OF FORT MYERS BEACH**

_____
Dan Allers, Mayor

**ATTEST:**

_____
Amy Baker, Town Clerk

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:**

_____
John R. Herin, Jr., Town Attorney

Exhibits
Exhibit A Schedule of Conditions, Uses and Deviations
Exhibit B Master Concept Plan

# 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.** |
| **TOWN COUNCIL HEARING DATE:** | **March 6, 2023 at 9 AM** |
| **LPA HEARING DATE:** | **January 18, 2023 at 9 AM** |
| **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.

<u>Neighborhood Compatibility:</u>
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.

<u>Considerations, Findings and Conclusions:</u>
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. At the January 18, 2023 LPA Hearing, the LPA recommended approval of the request with the addition of a condition that the rooftop shade structures may not be enclosed.

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 – List of Conditions, Uses and Deviations
B –Master Concept Plan
C – Ordinance 18-11
D – Application Documents
E – Rendering of the Rooftop Amenity area
F – Letters to Adjacent Properties

**EXHIBIT A**

**Schedule of Conditions, Uses and Deviations**

**CONDITIONS**

1. The development of the project must be substantially consistent with Master Concept Plan (MCP) entitled Carousel Inn RPO Master Concept Plan received as part of the "response to insufficiency letter," which is dated March 29, 2018. The development must comply with all current requirements of the Ft. Myers Beach Land Development Code (LDC) at time of local development order approval, except as may be granted by deviation or condition as part of this residential planned development and MCP. If changes to the MCP are subsequently pursued, appropriate approvals will be necessary.

2. All conditions and approvals included with this MCP approval replace any previous approvals, including, but not limited to, all conditions and MCP or exhibits related to Resolution 05-10 and Resolution 18-11.

3. The MCP boundary shall include the area designated for dune restoration, but remain zoned EC. The Schedule of Uses does not apply to the EC and dune restoration area. The following provisions apply to the dune restoration area:

    a. A dune walkover for both the public access area and the owner's access may be required as part of the final dune restoration plan and are permitted as part of the MCP approval. Final design and location approval will be given by the Community Development Director based on compliance with local regulations. The proposed dune restoration detail provided in the MCP is not of sufficient detail to be approved at this time.

    b. Any dune walkovers shall be designed to be compatible with each other and the project. Prior to issuance of any temporary or Certificate of Completion or Occupancy for the project, the dune restoration and walkover(s) must be constructed.

    c. Plant quantities must be calculated on minimum 1-gallon container size plants, 3-foot on center. Plant quantities may be adjusted when larger container size plants are used.

    d. All plants shall be installed and maintained consistent with the Town's code and best management practices for dune restoration, including temporary irrigation.

4. The following uses apply to this project:

**Schedule of 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
Decking on rooftop and unenclosed rooftop shade structures

**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

5. Prior to commencement of Phase 2, the property owner will combine the property into one lot of record in accordance with LDC Section 10-217 and record the requisite deed.

6. Prior to issuance of a local development order for the project, the property owner will execute and record the appropriate legal instrument creating the five (5) foot wide perpetual pedestrian beach access easement in a form acceptable to the Town Attorney, and as indicated on the MCP. The easement shall be recorded prior to Town approval of a temporary certificate of occupancy. The ultimate design of the beach access will be agreed upon by the Community Development Director and the property owner prior to or during the development order review process. Improvements will be consistent with

all applicable ADA requirements. The beach access shall contain flags and public access signage and be numbered, a bollard rope shall be placed at the beach access along the Outrigger property line.

7. The storage shed shall be limited to a disposable structure, built with flood resilient materials, unfinished inside, and less than 100 square feet, to be used for storage only.

8. If the project and/or phases are not completed within the timeframes established ins. 34-220 (2) a and b, then the Town reserves its right to complete a rezoning to an appropriate district.

9. Approval of this zoning request does not give the Developer an undeniable right to receive local development order approval. Future development order approvals must satisfy the requirements of the Fort Myers Beach Comprehensive Plan ("Plan") and Land Development Code. Where deviations and conditions do not address specific issues, any local development order shall address requirements in place at the time of submittal.

10. Any violation of the RPD conditions of approval or deviations on the part of the applicant shall constitute an appealable to special magistrate $500 per day per incident civil violation.

11. Prior to filing a development order for phase 2, the applicant will confirm with Lee County whether subject property is appropriate location for transportation stop structure. If appropriate, the development order shall include a transit stop structure. If County plans do not include a transit stop, this condition is null and void.

12. <u>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.</u>

13. <u>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.</u>

14. <u>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.</u>

**DEVIATONS**

Rezoning to an RPD requires that the building placement, size, design, and all other property development regulations shall be the same as for the RM zoning district, unless the zoning resolution specifies otherwise. The MCP applied to this property includes one

deviation, which was previously approved with Resolution 05-10 and the applicant has revised the MCP and requested a deviation to that approved deviation.

1. Deviation from Table 34-3, which limits stories to three and height to 30 feet, and from previously approved deviation (Res 05-10) to limit stories to four and height to 45 feet above base flood elevation; to allow a limitation of five stories and 45 feet in height above base flood elevation. Unenclosed, uninhabitable shade structures on the rooftop are permitted no more than 10 additional feet above the 45 feet primary structure height.

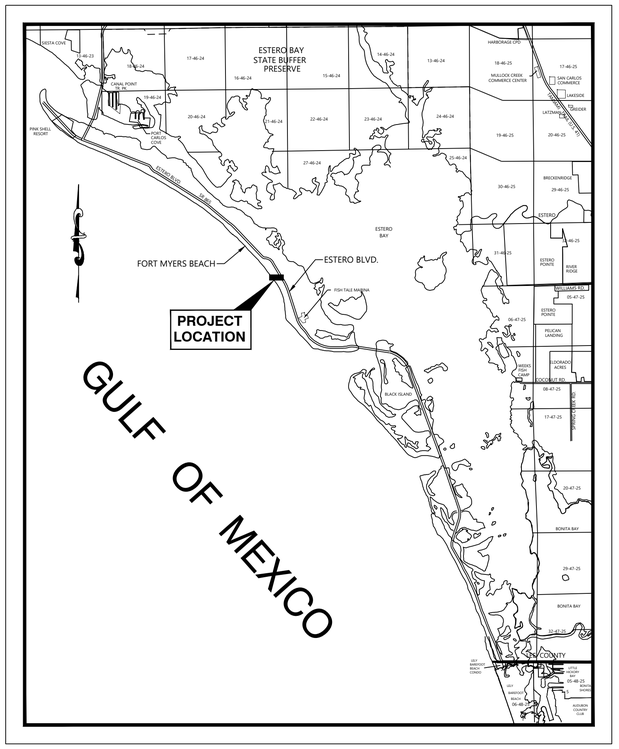
Exhibit B

MASTER CONCEPT PLAN FOR

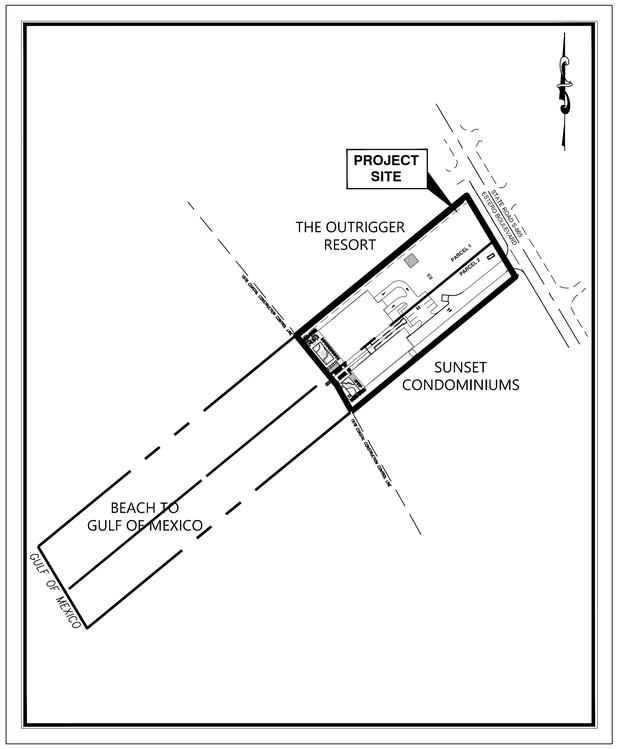
# CAROUSEL INN RPD

PART OF SECTION 33, TOWNSHIP 46 SOUTH, RANGE 24 EAST,
LEE COUNTY, FLORIDA

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




VICINITY MAP




PROJECT SITE

| # | REVISION | DRAWN | DATE |
|---|---|---|---|
| 1 | REVISED PER RAI COMMENT #1 | DLP | 03/22/18 |


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: 33 TWP: 46 RGE: 24E | DRAWN: DW |
| PROJECT NO.: 030020.01.P0 | |
| SHEET NUMBER: 1 OF 6 | |

*May 1, 2018 2:58 PM K:\2003\030020.01.00 Carousel Inn Property\001 General Consultation\CAD\Rev 01\03002001P0 CS.dwg*

# SCHEDULE OF USES

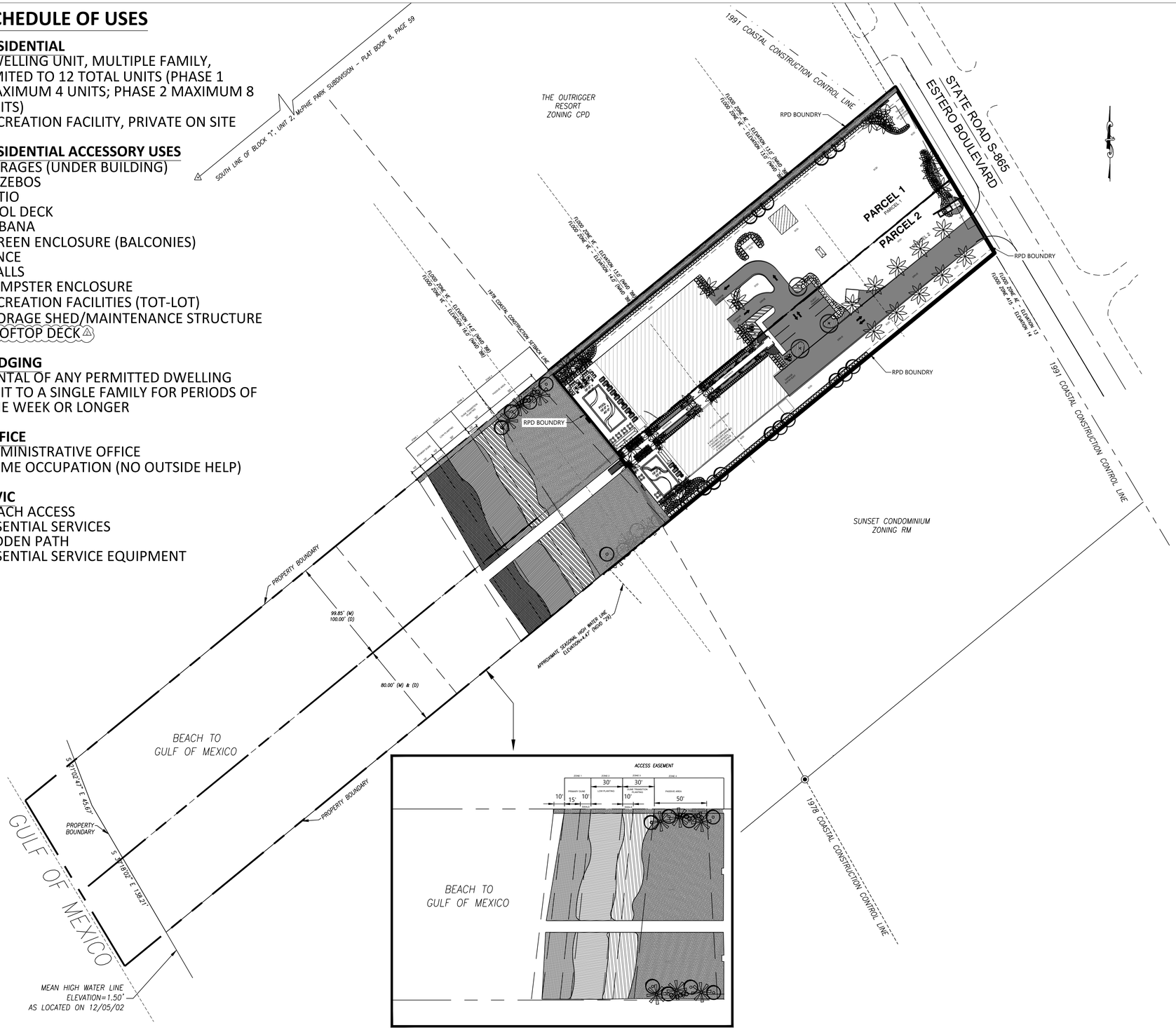
**RESIDENTIAL**
DWELLING UNIT, MULTIPLE FAMILY, LIMITED TO 12 TOTAL UNITS (PHASE 1 MAXIMUM 4 UNITS; PHASE 2 MAXIMUM 8 UNITS)
RECREATION FACILITY, PRIVATE ON SITE

**RESIDENTIAL ACCESSORY USES**
GARAGES (UNDER BUILDING)
GAZEBOS
PATIO
POOL DECK
CABANA
SCREEN ENCLOSURE (BALCONIES)
FENCE
WALLS
DUMPSTER ENCLOSURE
RECREATION FACILITIES (TOT-LOT)
STORAGE SHED/MAINTENANCE STRUCTURE
ROOFTOP DECK △

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

**OFFICE**
ADMINISTRATIVE OFFICE
HOME OCCUPATION (NO OUTSIDE HELP)

**CIVIC**
BEACH ACCESS
ESSENTIAL SERVICES
HIDDEN PATH
ESSENTIAL SERVICE EQUIPMENT




## DUNE RESTORATION DETAIL

SCALE: N.T.S.

## LEGAL DESCRIPTION

RPD PARCEL (RIGHT-OF-WAY LINE TO SETBACK LINE)

A LOT OR PARCEL OF LAND 180 FEET WIDE IN GOVERNMENT LOT 4, SECTION 33, TOWNSHIP 46 SOUTH, RANGE 24 EAST, EXTENDING FROM ESTERO BOULEVARD (STATE ROAD S-865) TO THE 1978 COASTAL CONSTRUCTION SETBACK LINE AS RECORDED IN ORDINANCE 76-3, 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 "1", 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 SOUTH 30°53'08" EAST, ALONG SAID RIGHT-OF-WAY LINE FOR 181.83 FEET, MORE OR LESS, TO AN INTERSECTION WITH A LINE 870 FEET SOUTHEASTERLY FROM AND PARALLEL WITH SAID SOUTHEASTERLY LINE OF BLOCK "1", UNIT 2, McPHIE PARK SUBDIVISION; THENCE RUN SOUTHWESTERLY ALONG SAID PARALLEL LINE 404.55' TO SAID 1978 COASTAL CONSTRUCTION SETBACK LINE; THENCE RUN NORTH 29°18'12" WEST, ALONG SAID SETBACK LINE, 56.90 FEET TO COASTAL CONSTRUCTION SETBACK LINE CONTROL MONUMENT "E-29"; THENCE RUN NORTH 39°10'40" WEST, ALONG SAID SETBACK LINE, 123.82 FEET TO AN INTERSECTION WITH A LINE THROUGH THE POINT OF BEGINNING, PARALLEL WITH SAID SOUTHEASTERLY LINE OF BLOCK "1"; THENCE RUN NORTHEASTERLY ALONG SAID PARALLEL LINE 420.67 FEET TO THE POINT OF BEGINNING; TOGETHER WITH ALL RIPARIAN RIGHTS APPURTENANT THERETO.

CONTAINING 1.690 ACRES MORE OR LESS.

SUBJECT TO EASEMENTS, RESTRICTIONS AND RESERVATIONS OF RECORD.

BEARINGS ARE GRID BEARINGS FLORIDA STATE PLANE WEST ZONE, NORTH AMERICAN DATUM OF 1986, 1990 ADJUSTMENT (NAD 83(90)).

## LEGAL DESCRIPTION

ENVIROMENTALLY CRITICAL PARCEL (EC)

A LOT OR PARCEL OF LAND 180 FEET WIDE IN GOVERNMENT LOT 4, SECTION 33, TOWNSHIP 46 SOUTH, RANGE 24 EAST, EXTENDING FROM THE 1978 COASTAL CONSTRUCTION SETBACK LINE AS RECORDED IN ORDINANCE 76-3, TO THE WATERS OF THE GULF OF MEXICO, WHICH LOT OR PARCEL IS DESCRIBED AS FOLLOWS:

COMMENCING AT THE POINT OF INTERSECTION OF A LINE 690 FEET, MEASURED ON A PERPENDICULAR SOUTHEASTERLY FROM AND PARALLEL WITH THE SOUTHEASTERLY LINE OF BLOCK "1", 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 SOUTH 30°53'08" EAST, ALONG SAID RIGHT-OF-WAY LINE FOR 181.83 FEET, MORE OR LESS, TO AN INTERSECTION WITH A LINE 870 FEET SOUTHEASTERLY FROM AND PARALLEL WITH SAID SOUTHEASTERLY LINE OF BLOCK "1", UNIT 2, McPHIE PARK SUBDIVISION; THENCE RUN SOUTHWESTERLY ALONG SAID PARALLEL LINE 404.55 FEET TO SAID 1978 COASTAL CONSTRCTION SETBACK LINE AND THE POINT OF BEGINNING; THENCE CONTINUE ALONG SAID PARALLEL LINE 603.69 FEET MORE OR LESS TO THE WATERS OF THE GULF OF MEXICO; THENCE RUN NORTH 30°18'02" WEST, ALONG SAID WATERS, 138.21 FEET; THENCE NORTH 21°02'47" WEST, ALONG SAID WATERS, TO AN INTERSECTION WITH A LINE THROUGH THE POINT OF COMMENCEMENT, PARALLEL WITH SAID SOUTHEASTERLY LINE OF BLOCK "1"; THENCE RUN NORTHEASTERLY ALONG SAID PARALLEL LINE 577.91 FEET TO SAID 1978 COASTAL CONSTRUCTION SETBACK LINE; THENCE SOUTH 39°10'40" EAST, ALONG SAID SETBACK LINE, 123.82 FEET TO 1978 COASTAL CONSTRUCTION SETBACK LINE CONTROL MONUMENT "E-29"; THENCE SOUTH 29°18'12" EAST, ALONG SAID SETBACK LINE, 56.90 FEET TO THE POINT OF BEGINNING; TOGETHER WITH ALL RIPARIAN RIGHTS APPURTENANT THERETO.

CONTAINING 2.466 ACRES MORE OR LESS.

SUBJECT TO EASEMENTS, RESTRICTIONS AND RESERVATIONS OF RECORD.

BEARINGS ARE GRID BEARINGS FLORIDA STATE PLANE WEST ZONE, NORTH AMERICAN DATUM OF 1986, 1990 ADJUSTMENT (NAD 83(90)).

## 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 FORM 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 "1", 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 "1", 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 THROUGH THE POINT OF BEGINNING, PARALLEL WITH SAID SOUTHEASTERLY LINE OF BLOCK "1"; 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:

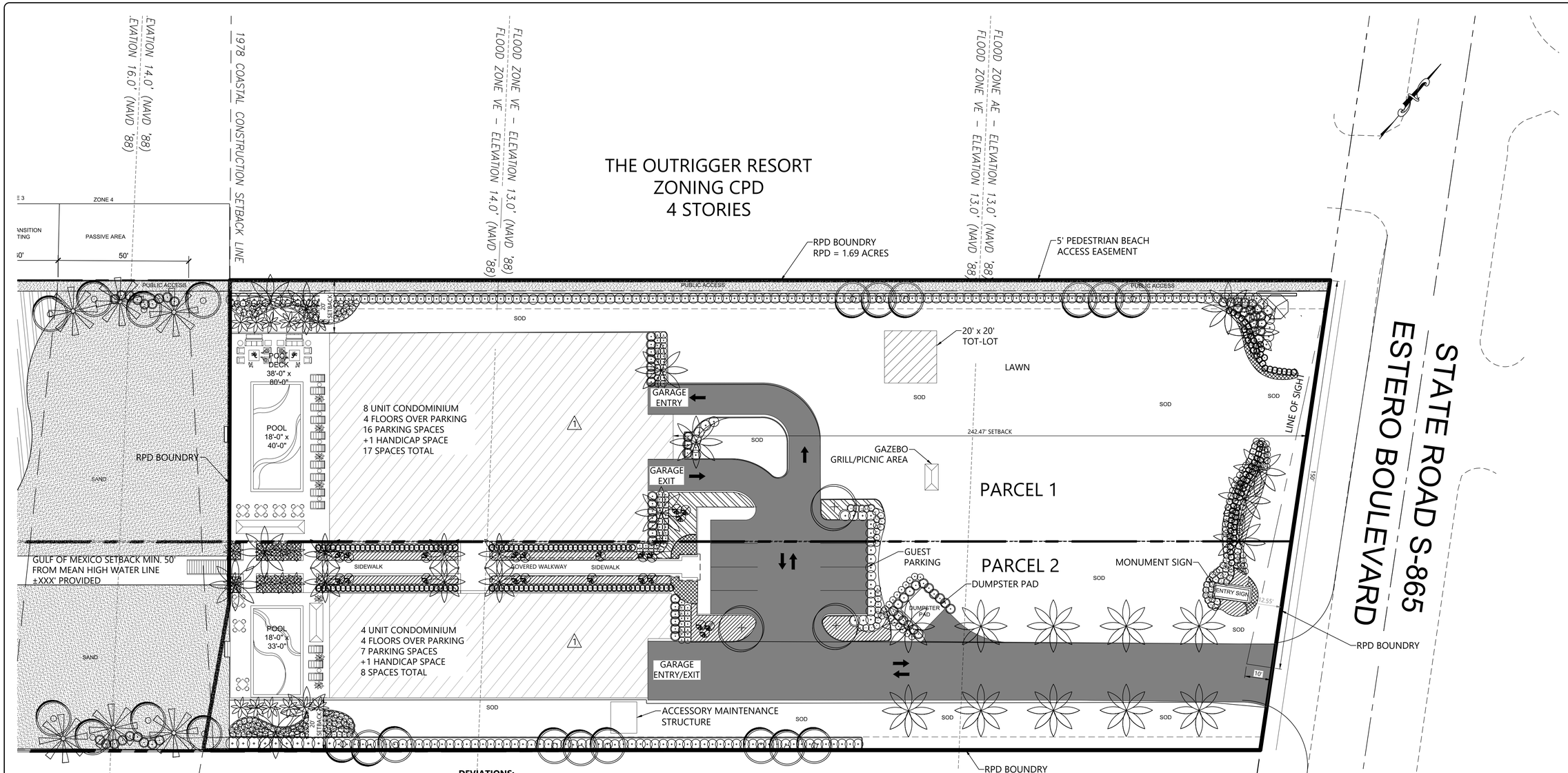
BEGINNING AT A POINT OF INTERSECTION OF A LINE 790 FEET (MEASURED ON A PERPENDICULAR) SOUTHEASTERLY FROM AND PARALLEL WITH THE SOUTHEASTERLY LINE OF BLOCK "1", UNIT 2, McPHIE PARK SUBDIVISION, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN PLAT BOOK 8, PAGE 59, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, 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 "1", 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 "1", 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.

| # | REVISION | DRAWN | DATE |
|---|---|---|---|
| △ | REVISED PER PD AMENDMENT | DW | 03/28/18 |
| △ | REVISED PER RAI #1 | DW | 03/28/18 |


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: PLAN VIEW OF PARCEL OWNERSHIP, RPD BOUNDRY & DUNE RESTORATION

DATE: APR, 2018 | DESIGNED: MCP
SEC: 33 | TWP: 46 | RGE: 24E | DRAWN: DLP
PROJECT NO.: 030020.01.P0
SHEET NUMBER: 2 OF 6




**SITE DEVELOPMENT REGULATIONS***

**MINIMUM SETBACKS:**

| | |
|---|---|
| STREET: | 80 FEET |
| SIDE: | 20 FEET |
| REAR: | 35 FEET ** |
| GULF OF MEXICO: | 50 FEET ** |

**MINIMUM LOT DIMENSIONS:**

| | |
|---|---|
| LOT WIDTH: | 180 FEET |
| LOT DEPTH: | 400 FEET |
| LOT AREA: | 1.69 ACRES [SEE CONDITION 3] |

**MAXIMUM DENSITY:**
12 DWELLING UNITS ***

**BUILDING HEIGHT**
45 FEET ABFE/4 STORIES OVER PARKING

* ALL OTHER DEVELOPMENT STANDARDS SHALL BE AS SET FORTH IN LDC CHAPTER 34 OR OTHER APPLICABLE PROVISIONS OF THE LDC.
** AN ENCROACHMENT OF NO MORE THAN 13.5 INCHES SHALL BE ALLOWED FOR PHASE 1 ONLY.
*** PROJECT WILL BE DEVELOPED IN TWO PHASES.

**DEVIATIONS:**

1 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). 1

**GENERAL NOTES**:

1) THE BUILDINGS SHALL CONTAIN A MAXIMUM OF 12 DWELLING UNITS. MAXIMUM BUILDING HEIGHT SHALL BE 4 STORIES OVER PARKING AND 45 FEET OVER BASE FLOOD ELEVATION.

2) THE COMBINED MAXIMUM INTERIOR SPACES OF THE STRUCTURE(S) SHALL NOT EXCEED 48,926 SQUARE FEET.

3) THE EXACT BUILDING AND SITE IMPROVEMENT CONFIGURATIONS ARE PRELIMINARY IN NATURE AND SUBJECT TO CHANGE. THE FINAL DESIGN AND IMPROVEMENT DETAILS SHALL BE DEFINED AS PART OF THE DEVELOPMENT ORDER (DO) PROCESS.

LEGEND

- RPD BOUNDRY
- BUILDING FOOTPRINT
- DRIVEWAY
- BEACH ACCESS/PEDESTRIAN WALKWAY

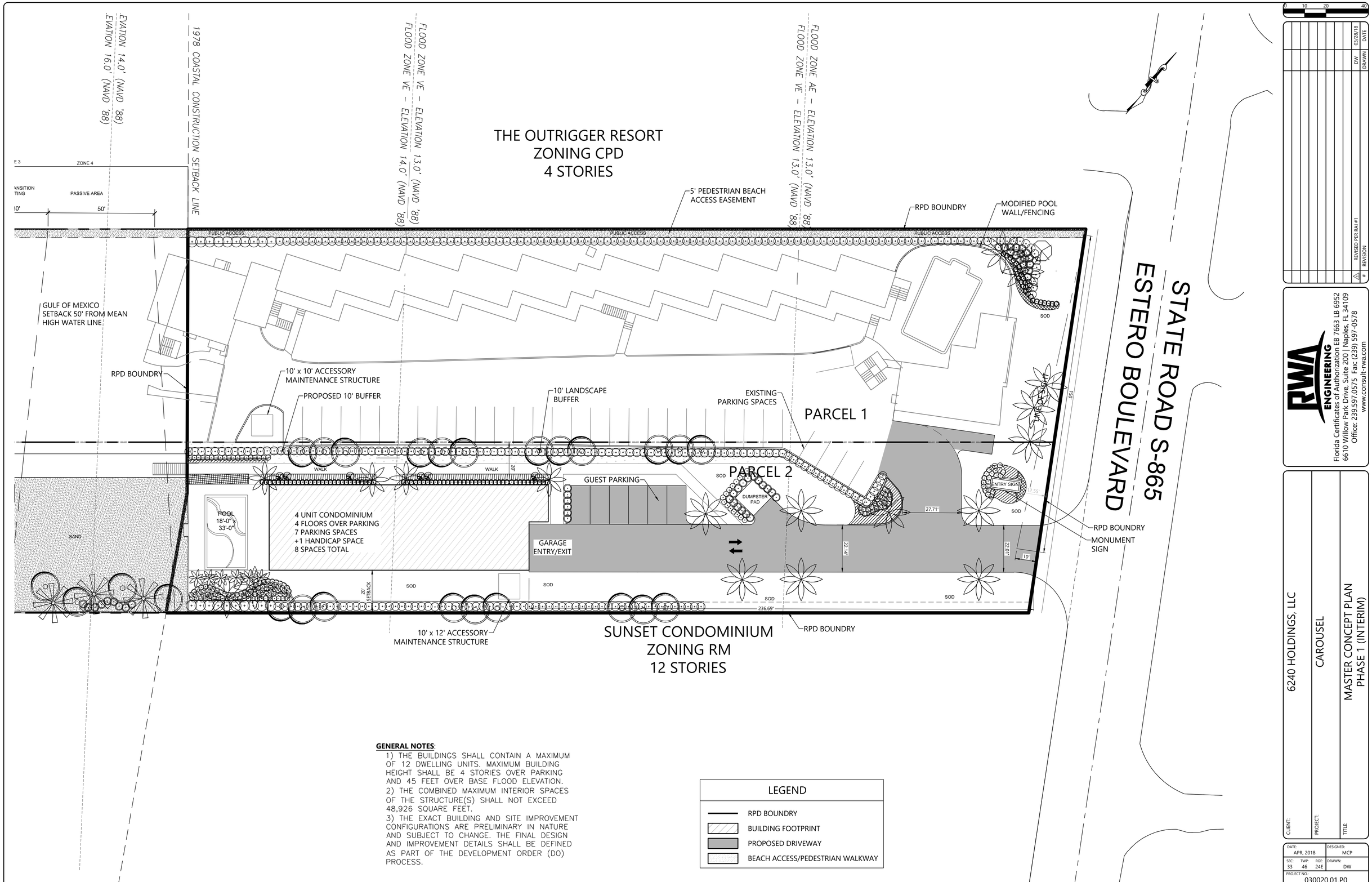
| # | REVISION | DRAWN | DATE |
|---|---|---|---|
| 1 | REVISED PER RAI #1 | DW | 03/28/18 |

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: MASTER CONCEPT PLAN PHASE 2 (BUILDOUT)

| | |
|---|---|
| DATE: APR, 2018 | DESIGNED: MCP |
| SEC: 33 TWP: 46 RGE: 24E | DRAWN: DLP |
| PROJECT NO.: 030020.01.P0 | |
| SHEET NUMBER: 3 OF 6 | |

April 19, 2022 12:13 PM K:\2003\030020.01.00 Carousel Inn Property\001 General Consultation\CAD\Rev 01\03002001P0 MCP REV06.dwg




**GENERAL NOTES**:

1) THE BUILDINGS SHALL CONTAIN A MAXIMUM OF 12 DWELLING UNITS. MAXIMUM BUILDING HEIGHT SHALL BE 4 STORIES OVER PARKING AND 45 FEET OVER BASE FLOOD ELEVATION.
2) THE COMBINED MAXIMUM INTERIOR SPACES OF THE STRUCTURE(S) SHALL NOT EXCEED 48,926 SQUARE FEET.
3) THE EXACT BUILDING AND SITE IMPROVEMENT CONFIGURATIONS ARE PRELIMINARY IN NATURE AND SUBJECT TO CHANGE. THE FINAL DESIGN AND IMPROVEMENT DETAILS SHALL BE DEFINED AS PART OF THE DEVELOPMENT ORDER (DO) PROCESS.

LEGEND

- RPD BOUNDRY
- BUILDING FOOTPRINT
- PROPOSED DRIVEWAY
- BEACH ACCESS/PEDESTRIAN WALKWAY

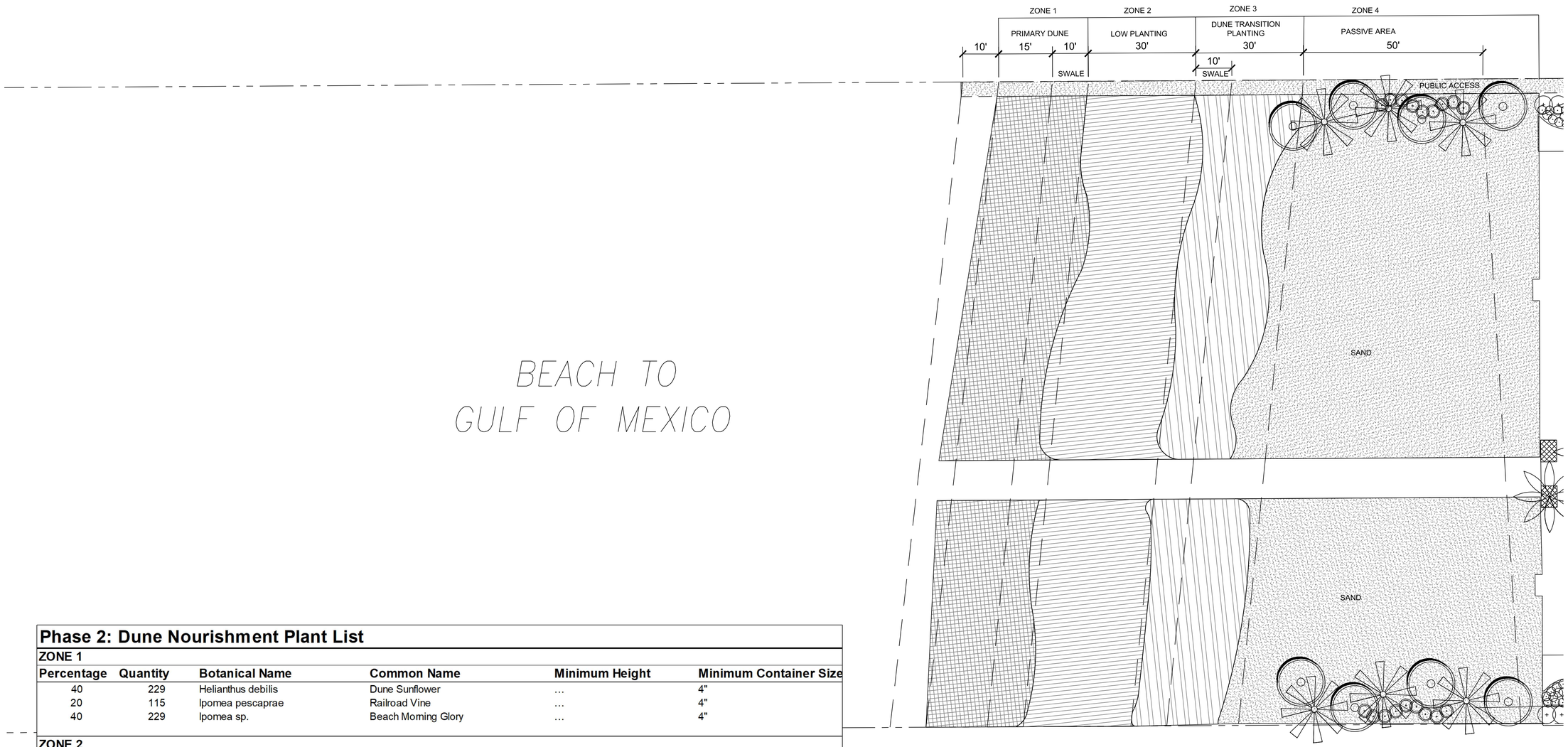
| # | REVISION | DRAWN | DATE |
|---|---|---|---|
| 1 | REVISED PER RAI #1 | DW | 03/28/18 |

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: MASTER CONCEPT PLAN PHASE 1 (INTERIM)

| DATE: APR, 2018 | | | DESIGNED: MCP |
|---|---|---|---|
| SEC: 33 | TWP: 46 | RGE: 24E | DRAWN: DW |
| PROJECT NO.: 030020.01.P0 | | | |
| SHEET NUMBER: 4 OF 6 | | | |

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




## 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" |

**ZONE 2**

| Percentage | Quantity | Botanical Name | Common Name | Minimum Height | Minimum Container Size |
|---|---|---|---|---|---|
| 20 | 137 | Helianthus debilis | Dune Sunflower | … | 4" |
| 10 | 69 | Ipomea sp. | Beach Morning Glory | … | 4" |
| 20 | 137 | Ipomea pescaprae | Railroad Vine | … | 4" |
| 50 | 343 | Uniola paniculata | Sea Oats | 12" | 4" |

**ZONE 3**

| Percentage | Quantity | Botanical Name | Common Name | Minimum Height | Minimum Container Size |
|---|---|---|---|---|---|
| 30 | 134 | Iva imbricata | Dune Marsh-Elder | … | 1 gallon |
| 35 | 156 | Spartina patens | Salt Meadow Cordgrass | 12" | 4" |
| 35 | 156 | Uniola paniculata | Sea Oats | 12" | 4" |

**ZONE 4**

| Percentage | Quantity | Botanical Name | Common Name | Minimum Height | Minimum Container Size |
|---|---|---|---|---|---|
| … | 3 | Coccothrinax argentata | Silver Thatch Palm | 3'-5' wood | 3 gallon |
| … | 9 | Coccoloba uvifera | Sea Grape | 2" | 1 gallon |
| … | 4 | Sabal Palmetto | Cabbage Palm | 3' c.t. | 3 gallon |

**The plants listed above are calculated separately from the plants in phase 1*

| # | REVISION | DRAWN | DATE |
|---|---|---|---|

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: DUNE RESTORATION LANDSCAPE PLAN

DATE: APR, 2018 | DESIGNED: MCP
SEC: 33 TWP: 46 RGE: 24E | DRAWN: DW
PROJECT NO: 030020.01.P0
SHEET NUMBER: 5 OF 6

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

**TO THE NORTH** ← **PROJECT SITE** → **TO THE SOUTH**

FLAMINGO INN - HOTEL
6090 ESTERO BLVD.
2 STORIES - ESTIMATED HEIGHT: 25'

COQUINA - CONDOMINIUM
6100 ESTERO BLVD.
5 STORIES - ESTIMATED HEIGHT: 60'

THE OUTRIGGER - HOTEL
6200 ESTERO BLVD.
3 STORIES - ESTIMATED HEIGHT: 30'

CAROUSEL - HOTEL
2 STORIES - ESTIMATED HEIGHT: 25'

SUNSET - CONDOMINIUM
6400 ESTERO BLVD.
12 STORIES - ESTIMATED HEIGHT: 140'

PRIVATEER - CONDOMINIUM
6500 ESTERO BLVD.
2 STORIES - ESTIMATED HEIGHT: 35'

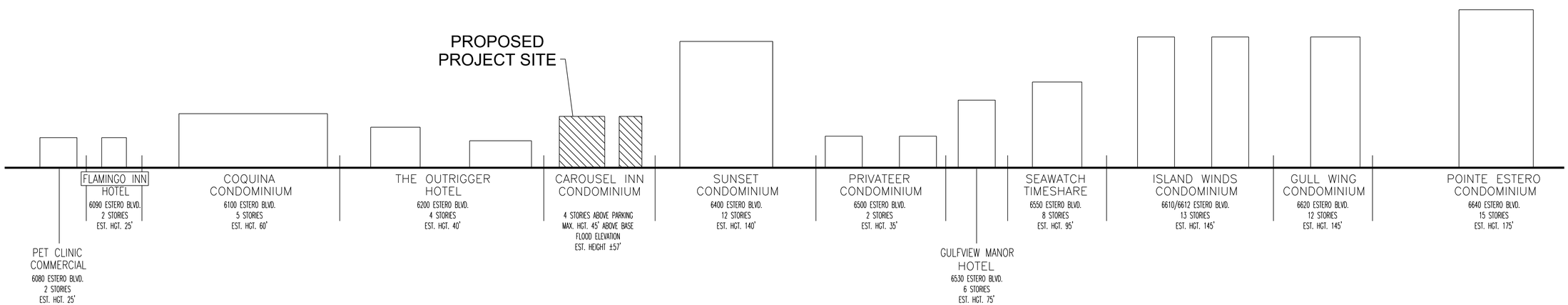
GULFVIEW MANOR - HOTEL
6530 ESTERO BLVD.
6 STORIES - ESTIMATED HEIGHT: 75'

SEAWATCH - TIMESHARE
6550 ESTERO BLVD.
8 STORIES - ESTIMATED HEIGHT: 95'

ISLAND WINDS - CONDOMINIUM
6610/6612 ESTERO BLVD.
13 STORIES - ESTIMATED HEIGHT: 145'

GULL WING - CONDOMINIUM
6620 ESTERO BLVD.
12 STORIES - ESTIMATED HEIGHT: 145'

PET CLINIC - COMMERCIAL
6080 ESTERO BLVD.
2 STORIES - ESTIMATED HEIGHT: 25'




# DIAGRAM VIEW FROM GULF SIDE

NOTE: BUILDING HEIGHTS REPRESENT APPROXIMATE HEIGHT ABOVE GRADE TO THE TOP OF THE ELEVATOR STRUCTURE OR ROOF AND DO NOT REPRESENT HEIGHT AS DEFINED BY SECTION 34-631 OF THE CITY OF FT. MEYERS BEACH ZONING CODE

| # | REVISION | DRAWN | DATE |
|---|---|---|---|


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: PARAGON ACQUISITION GROUP, LLC
PROJECT: CAROUSEL INN
TITLE: EXHIBIT DRAWING

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

# GULFSIDE 6240 CONDOMINIUM

## 4 - UNIT CONDOMINIUM PROJECT

This item has been electronically signed and sealed by Kenneth P. Schoenfeld, R.A., On the date specified using a *SHA-1* authentication code.

Printed copies of this document are not considered signed and sealed and the *SHA-1* authentication code must be verified on any electronic copies.

**Kenneth Schoenfeld, R.A.**

Digitally signed by Kenneth Schoenfeld, Architect
DN: c=US, st=Florida, l=Fort Myers, o=Kenneth Schoenfeld, Architect, cn=Kenneth Schoenfeld, Architect, email=ken@pdsinconline.com
Date: 2022.03.08 11:51:56 -05'00'

REVIEWED FOR COMPLIANCE WITH THE FLORIDA BUILDING CODE

ROGER W. SANDERS - PX 651
ECS FLORIDA, LLC

JOB: 21-0083

| REVISIONS |
|---|
| 2/23/2022 |

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


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


PDS ARCHITECTURE

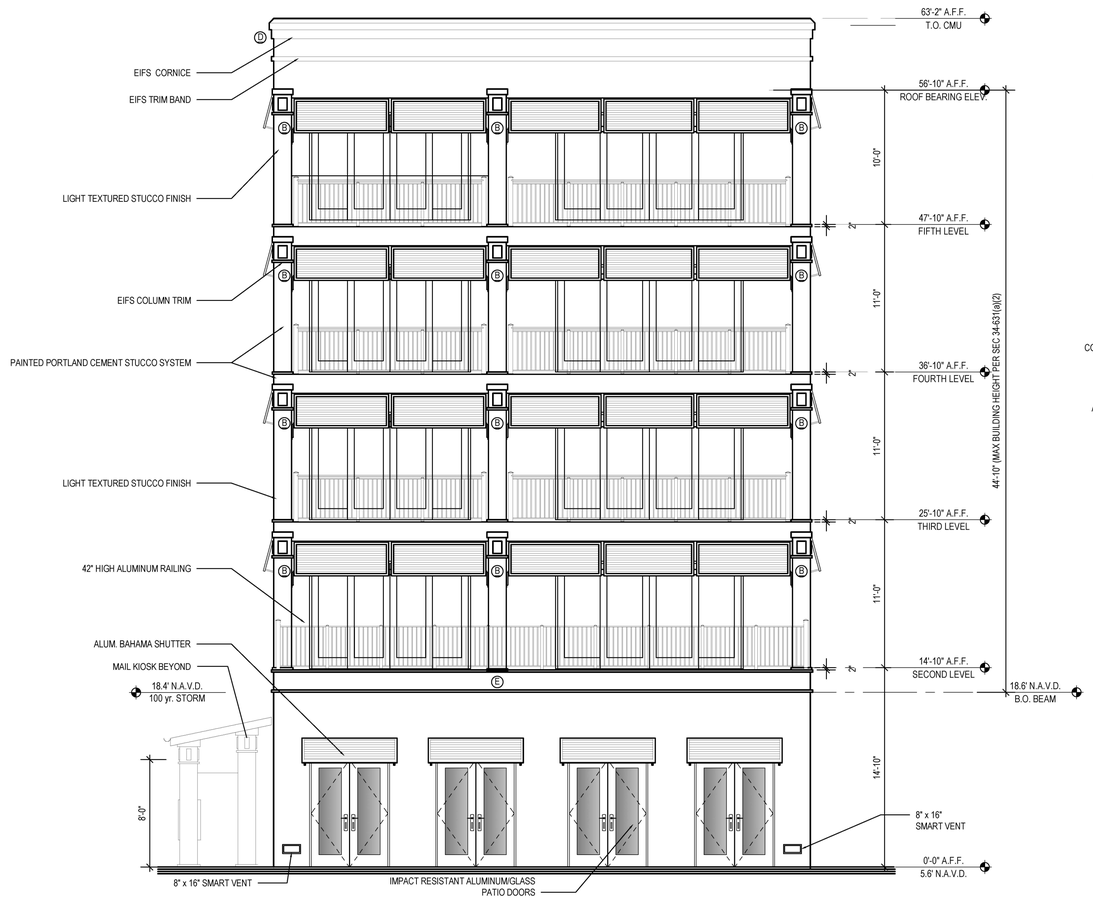
DATE: 11-23-21
TITLE: COVER SHEET

KENNETH P SCHOENFELD
FLORIDA REG. # AR97143

KENNETH P SCHOENFELD
FLORIDA REG. # AR97143
STATE OF FLORIDA
KENNETH P. SCHOENFELD
AR97143
REGISTERED ARCHITECT

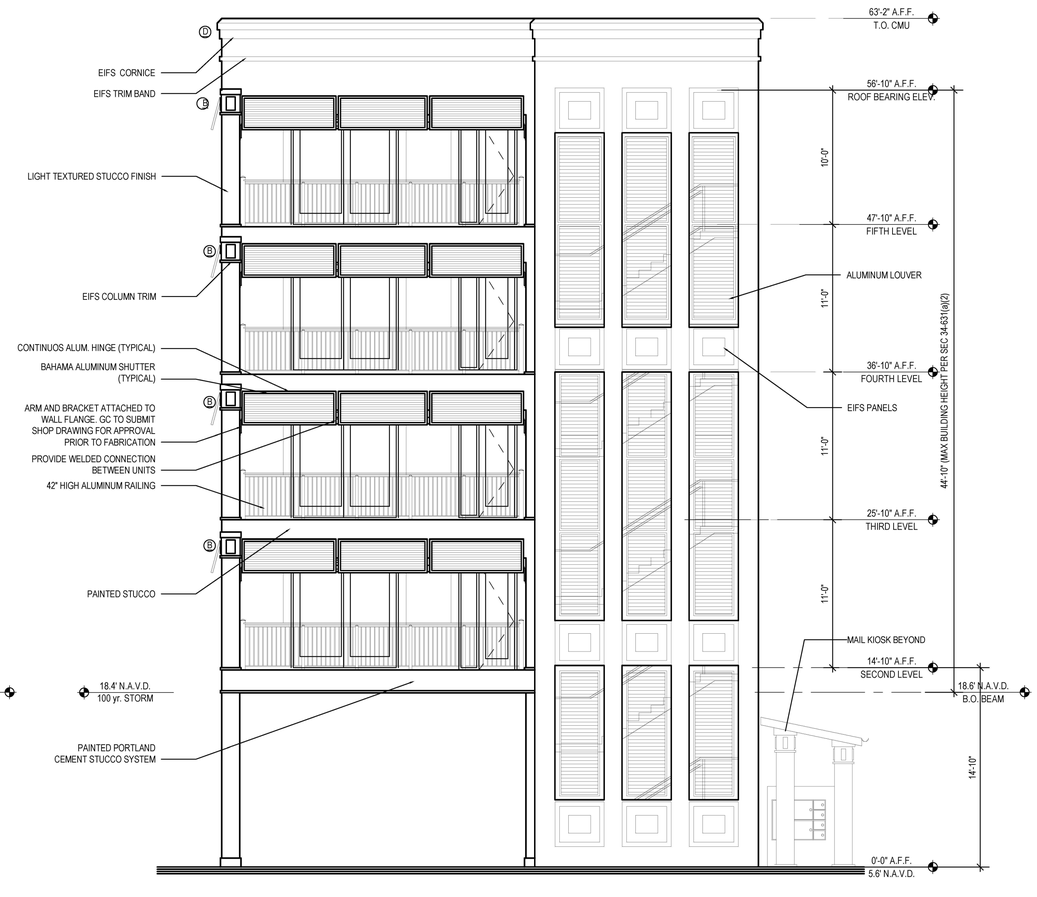
SHEET NO.
AT


ALL IDEAS, DESIGNS, AND PLANS INDICATED OR REPRESENTED BY THESE DOCUMENTS, ARE, OWNERSHIP AND ARE PROPERTY OF PDS ARCHITECTURE, INC. PDS ARCHITECTURE, INC. RESERVES ITS COPYRIGHT AND OTHER PROPERTY RIGHTS IN THESE DOCUMENTS. THESE PLANS AND DRAWINGS ARE NOT TO BE REPRODUCED, CHANGED OR COPIED IN ANY FORM OR MANNER WHATSOEVER WITHOUT FIRST OBTAINING THE EXPRESS WRITTEN PERMISSION AND CONSENT OF PDS ARCHITECTURE, INC. NOR ARE THEY TO BE ASSIGNED TO ANY PARTY WITHOUT FIRST OBTAINING SAID WRITTEN CONSENT. © PDS ARCHITECTURE, INC.




## 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

| JOB: | 21-0083 |
|---|---|

| REVISIONS |
|---|
| 2/23/2022 |

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

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

| DATE: | 11-23-21 |
|---|---|
| TITLE: | ELEVATION |

SHEET NO.
A4.1

ALL IDEAS, DESIGNS, AND PLANS INDICATED ON OR REPRESENTED BY THESE DOCUMENTS ARE OWNED BY AND ARE PROPERTY OF PDS ARCHITECTURE INC. PDS ARCHITECTURE INC. HEREBY EXPRESSLY RESERVES ITS COPYRIGHT AND OTHER PROPERTY RIGHTS IN THESE DOCUMENTS. THESE PLANS AND DRAWINGS ARE NOT TO BE REPRODUCED, CHANGED OR COPIED IN ANY FORM OR MANNER WHATSOEVER WITHOUT FIRST OBTAINING THE EXPRESS WRITTEN PERMISSION AND CONSENT OF PDS ARCHITECTURE INC. NOR ARE THEY TO BE ASSIGNED TO ANY PARTY WITHOUT FIRST OBTAINING SAID WRITTEN CONSENT. © PDS ARCHITECTURE INC.

# ORDINANCE 18-11

**AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, ADOPTING A MASTER CONCEPT PLAN FOR A PROPERTY LOCATED AT 6230 AND 6240 ESTERO BOULEVARD FORT MYERS BEACH ZONED RESIDENTIAL PLANNED DEVELOPMENT (RPD) FOR A TWO PHASED, TWELVE UNIT MULTIFAMILY DEVELOPMENT WITH CONDITIONS AND WITH DEVIATIONS TO THE LDC LIMITS OF HEIGHT AND STORIES; CONTAINING 1.69+/- ACRES (RPD), GENERALLY IDENTIFIED AS STRAP NUMBERS 33-46-24-W3-00013.0020 AND 33-46-24-W3-00013.0030; PETITION DCI17-0008; PROVIDING FOR SCRIVENER'S ERRORS AND AN EFFECTIVE DATE.**

**WHEREAS**, 6240 Holdings, LLC, applicant filed application for a Master Concept Plan for the property currently zoned RPD with an expired Master Concept Plan (MCP), in order to develop a twelve-unit multifamily development of two buildings; and

**WHEREAS,** the request includes a schedule of uses and a requested deviation to stories, where the requested height deviation is consistent with the previously approved MCP (Res 05-10), but the request for five stories is one greater than previously approved; and

**WHEREAS,** the project consists of 1.69+/- acres of land zoned RPD, as provided in Exhibit A, while the remaining 2.5+/- acres will remain zoned as EC; and

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

**WHEREAS**, the subject property is under control of 6230 Carousel, LLC and 6240 Holdings, LLC, listed in the public records of Lee County Property Appraiser; and

**WHEREAS**, a public hearing was held before the Local Planning Agency (LPA) on May 8, 2018; and

**WHEREAS**, at the May 8, 2018 public hearing the LPA gave full and complete consideration of the request, recommendations by staff, the documents in the record, and the testimony of all interested persons; and

**WHEREAS**, at the May 24, 2018 public hearing the LPA again gave consideration to the applicants request and voted 7-0 to recommend approval of the Master Concept Plan, schedule of uses, and deviation to allow five stories, four of which are over parking and within a height of 45 feet above base flood elevation; and

**WHEREAS**, on June 4th, 2018 the Town Council held a first reading of the proposed Ordinance and gave full and complete consideration to the request of the

Applicant, the recommendation of the LPA, the recommendation of staff, the documents in the record, and the testimony of all interested persons, as required by Fort Myers Beach Land Development Code (LDC) Section 34-85; and

**WHEREAS**, the Town Council set a second reading of the proposed Ordinance and a public hearing on this matter to be legally advertised and held before the Town Council on June 18th, 2018; at which time the Town Council gave full and complete consideration to the request of the Applicant, the recommendation of the LPA, the recommendation of staff, the documents in the record, and the testimony of all interested persons, as required by Fort Myers Beach Land Development Code (LDC) Section 34-85; and

**WHEREAS**, the Town Council considered all relevant factors and made formal findings and conclusions based on the findings and conclusions outlined in the staff report for items 1 a-c and 2 a-g before its final decision on the requested application;

**NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AS FOLLOWS:**

The Town Council votes to **APPROVE** the request to approve an MCP for the RPD zoning district, subject to the deviations and conditions set forth with specificity.

**CONDITIONS**

1. The development of the project must be substantially consistent with Master Concept Plan (MCP) entitled Carousel Inn RPD Master Concept Plan received as part of the "response to insufficiency letter," which is dated March 29, 2018. The development must comply with all current requirements of the Ft. Myers Beach Land Development Code (LDC) at time of local development order approval, except as may be granted by deviation or condition as part of this residential planned development and MCP. If changes to the MCP are subsequently pursued, appropriate approvals will be necessary.

2. All conditions and approvals included with this MCP approval replace any previous approvals, including, but not limited to, all conditions and MCP or exhibits related to Resolution 05-10.

3. The MCP boundary shall include the area designated for dune restoration, but remain zoned EC. The Schedule of Uses does not apply to the EC and dune restoration area. The following provisions apply to the dune restoration area:

    a. A dune walkover for both the public access area and the owner's access may be required as part of the final dune restoration plan and are permitted as part of the MCP approval. Final design and location approval will be given by the Community Development Director based on compliance with

local regulations. The proposed dune restoration detail provided in the MCP is not of sufficient detail to be approved at this time.

b. Any dune walkovers shall be designed to be compatible with each other and the project. Prior to issuance of any temporary or Certificate of Completion or Occupancy for the project, the dune restoration and walkover(s) must be constructed.

c. Plant quantities must be calculated on minimum 1-gallon container size plants, 3-foot on center. Plant quantities may be adjusted when larger container size plants are used.

d. All plants shall be installed and maintained consistent with the Town's code and best management practices for dune restoration, including temporary irrigation.

4. The following uses apply to this project:

**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

**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

5. Prior to commencement of Phase 2, the property owner will combine the property into one lot of record in accordance with LDC Section 10-217 and record the requisite deed.

6. Prior to issuance of a local development order for the project, the property owner will execute and record the appropriate legal instrument creating the five (5) foot wide perpetual pedestrian beach access easement in a form acceptable to the Town Attorney, and as indicated on the MCP. The easement shall be recorded prior to Town approval of a temporary certificate of occupancy. The ultimate design of the beach access will be agreed upon by the Community Development Director and the property owner prior to or during the development order review process. Improvements will be consistent with all applicable ADA requirements. The beach access shall contain flags and public access signage and be numbered, a bollard rope shall be placed at the beach access along the Outrigger property line.

7. The storage shed shall be limited to a disposable structure, built with flood resilient materials, unfinished inside, and less than 100 square feet, to be used for storage only.

8. If the project and/or phases are not completed within the timeframes established in s. 34-220 (2) a and b, then the Town reserves its right to complete a rezoning to an appropriate district.

9. Approval of this zoning request does not give the Developer an undeniable right to receive local development order approval. Future development order approvals must satisfy the requirements of the Fort Myers Beach Comprehensive Plan ("Plan") and Land Development Code. Where deviations and conditions do not address specific issues, any local development order shall address requirements in place at the time of submittal.

10. Any violation of the RPD conditions of approval or deviations on the part of the applicant shall constitute an appealable to special magistrate $500 per day per incident civil violation.

11. Prior to filing a development order for phase 2, the applicant will confirm with Lee County whether subject property is appropriate location for transportation stop structure. If appropriate, the development order shall include a transit stop structure. If County plans do not include a transit stop, this condition is null and void.

**DEVIATIONS:**

Rezoning to an RPD requires that the building placement, size, design, and all other property development regulations shall be the same as for the RM zoning district, unless the zoning resolution specifies otherwise. The MCP applied to this property includes one deviation, which was previously approved with Resolution 05-10 and the applicant has revised the MCP and requested a deviation to that approved deviation.

1. Deviation from Table 34-3, which limits stories to three and height to 30 feet, and from previously approved deviation (Res 05-10) to limit stories to four and height to 45 feet above base flood elevation; to allow a limitation of five stories and 45 feet in height above base flood elevation.

**CODIFICATION AND SCRIVENER'S ERRORS.**

Upon second reading approval, the Town Council intends that this ordinance will not be made part of the Fort Myers Beach Code of Ordinances. Typographical errors that do not affect the intent can be corrected with the authorization of the Town Manager or designee, without the need for a public hearing. Only the specific deviations granted by the Town Council and associated plan sheets reflecting those approvals with or without conditions are so incorporated.

**EFFECTIVE DATE.**

This ordinance becomes effective immediately upon its adoption.

**THE FOREGOING ORDINANCE** was enacted by the Town Council upon a motion by Vice Mayor Shamp and seconded by Council Member Cereceda and, upon being put to a roll call vote, the result was as follows:

| | | | |
|---|---|---|---|
| Tracey Gore, Mayor | AYE | Bruce Butcher | AYE |
| Anita Cereceda | AYE | Joanne Shamp, Vice Mayor | AYE |
| Dennis Boback | AYE | | |

**DULY PASSED AND ENACTED** this 18TH day of June, 2018.

**ATTEST:**

By: _____
Michelle D. Mayher, Town Clerk

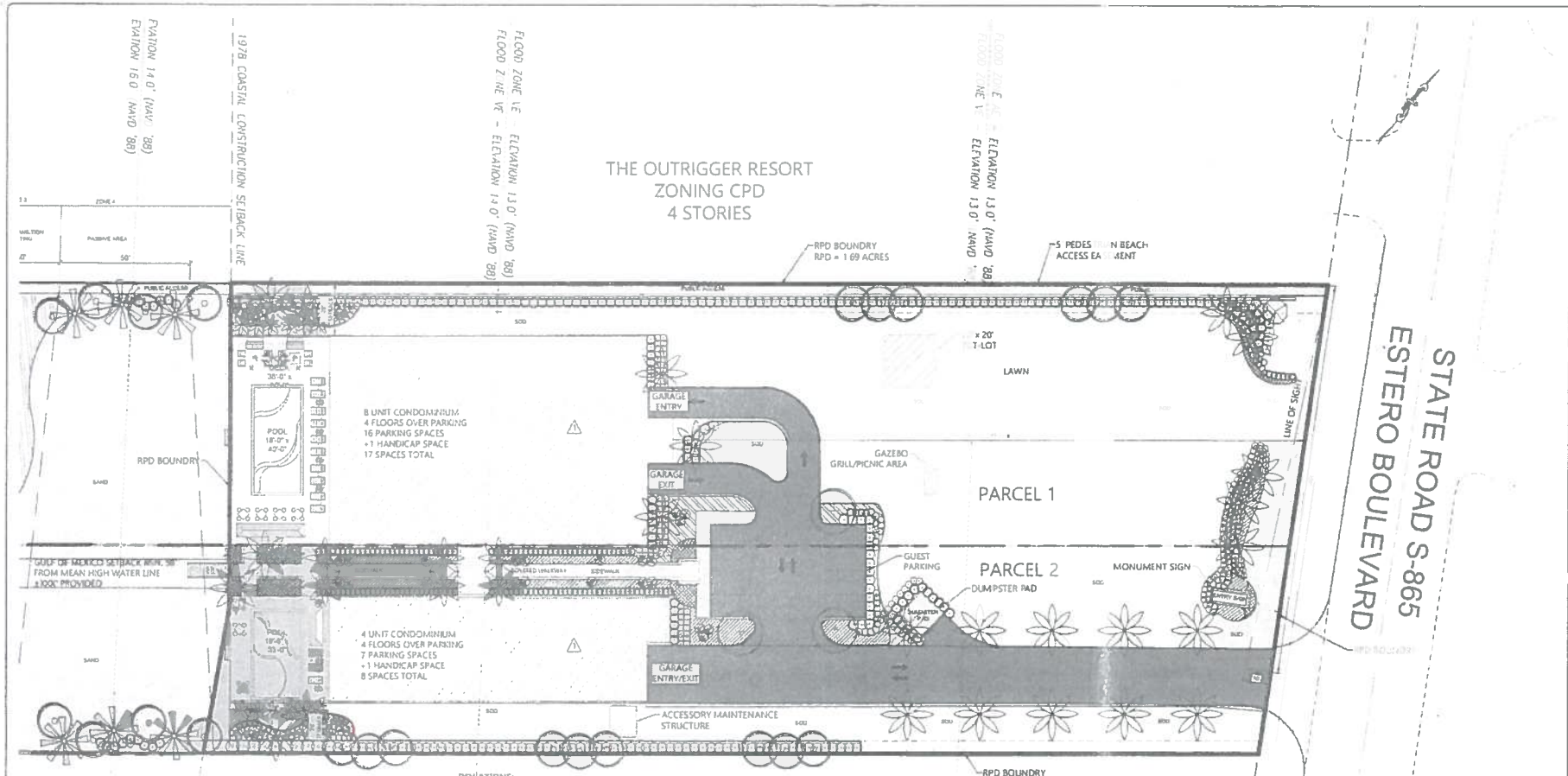
**TOWN OF FORT MYERS BEACH**

By: _____
Tracey Gore, Mayor

Approved as to form by:

By: _____
Peterson Law Group, Town Attorney

EXHIBIT A




**SITE DEVELOPMENT REGULATIONS***

**MINIMUM SETBACKS:**

| | |
|---|---|
| STREET | 80 FEET |
| SIDE: | 20 FEET |
| REAR: | 35 FEET |
| GULF OF MEXICO | 50 FEET |

**MINIMUM LOT DIMENSIONS:**

| | |
|---|---|
| LOT WIDTH | 160 FEET |
| LOT DEPTH: | 400 FEET |
| LOT AREA | 1.69 ACRES (SEE CONDITION 3) |

**MAXIMUM DENSITY:**
12 DWELLING UNITS ***

**BUILDING HEIGHT**
45 FEET ABFE/4 STORIES OVER PARKING

* ALL OTHER DEVELOPMENT STANDARDS SHALL BE AS SET FORTH IN LDC CHAPTER 34 OR OTHER APPLICABLE PROVISIONS OF THE LDC
*** PROJECT WILL BE DEVELOPED IN TWO PHASES

**DEVIATIONS:**

⚠ REVISED DEVIATION FROM APPROVED DEVIATION [illegible] MITIGATION [illegible] SOLUTION [illegible] 10.0 [illegible] 45 [illegible] ABFE [illegible] 3 STORIES OVER PARKING [illegible] 4 STORIES OVER PARKING NOT EXCEED 45 [illegible] AS MEASURED FROM BASE FLOOD ELEVATION (BFE) [illegible] OF STRUCTURAL MEMBERS [illegible] AS SERVE AS [illegible] CONTINGENT [illegible] STORY [illegible] BUILDING)

**GENERAL NOTES**

1) THE BUILDINGS SHALL CONTAIN A MAXIMUM OF 12 DWELLING UNITS. MAXIMUM BUILDING HEIGHT SHALL BE 4 STORIES OVER PARKING AND 45 FEET OVER BASE FLOOD ELEVATION.

2) THE COMBINED MAXIMUM INTERIOR SPACES OF THE STRUCTURE(S) SHALL NOT EXCEED 48,926 SQUARE FEET.

3) THE EXACT BUILDING AND SITE IMPROVEMENT CONFIGURATIONS ARE PRELIMINARY IN NATURE AND SUBJECT TO CHANGE. THE FINAL DESIGN AND IMPROVEMENT DETAILS SHALL BE DEFINED AS PART OF THE DEVELOPMENT ORDER (DO) PROCESS.

March 28, 2018 1:59 PM K:\2003\030020.01.00 Carousel Inn Property\001 General Consultation\CAD\Rev 01\030020001P0 MCP REV06.dwg

RWA ENGINEERING
Florida Certificate 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

6240 HOLDINGS, LLC

CAROUSEL

MASTER CONCEPT PLAN
PHASE 2 (BUILDOUT)

THE NEIGHBORHOOD COMPANY

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 LCC, 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



5618 Whispering Willow Way, Fort Myers, FL 33908 | 239.398.2016
www.theneighborhood.company

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

Sincerely,
**The Neighborhood Company**

Kenrick Gallander, AICP
Vice President, Partner

Attachments: Application Submittal Requirements (listed above)

cc: Matthew Arminio
Gavin Donaghy
File: #220011.01.02



5618 Whispering Willow Way, Fort Myers, FL 33908 | 850.803.5621
www.theneighborhood.company

# 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 | SUPPLEMENTAL FORM REQUIRED |
|---|---|
| ☐ Special Exception | PH-A |
| ☐ Variance | PH-B |
| ☐ Conventional Rezoning | PH-C |
| ☑ Planned Development ☐ Commercial ■ Residential | PH-D |
| ☐ Master Concept Plan Extension | PH-E |
| ☐ Appeal of Administrative Action | PH-F |
| ☐ Vacation of Platted Right-of-way and Easement | PH-G |
| ☐ Other – cite LDC Section: _____ | 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



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

B. Relationship of Applicant to subject property:

- [x] Owner*
- [ ] Land Trust*
- [ ] Partnership*
- [ ] Corporation*
- [ ] Association*
- [ ] Condominium*
- [ ] Subdivision*
- [ ] Timeshare Condo*
- [x] 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
- [x] Amendment. List the project number: Not yet assigned.
- [ ] Extension/reinstatement of Master Concept Plan. List project number: _____

☐ 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;

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 |
|---|---|
| | |
| | |
| | |
| | |



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

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 |
|---|---|
| | |
| | |
| | |
| | |



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

# 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.



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

_____
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.



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

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



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

### 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.



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

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


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

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

# 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**

X ___General Requirements
_____DRI
X ___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 -04'00'

Signature Date

**Director's Decision** X **Approved** _____ **Denied**

**Comments:**

Signature 7/27/2022

Date

*Revised 1/6/2017*



SUBMIT

THE NEIGHBORHOOD COMPANY

**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.



5618 Whispering Willow Way, Fort Myers, FL 33908 | 239.398.2016
www.theneighborhood.company

dotloop signature verification: dtlp.us/8WEy-OlVQ-0pxm

# 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 |
|---|---|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |



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

dotloop signature verification: dtlp.us/8WEy-OlVQ-0pxm

# 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 |
|---|---|
| Carousel Beach Redevelopment LLC | Parent Florida LLC |
| CBR Limited Partners LLC | 75% |
| CBR Developers LLC | 25% |
| Address: 815 N East Ave, Oak Park, IL 60302 | |

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 |
|---|---|
| Carousel Beach Redevelopment LLC | Purchased by Parent FL LLC |
| Matthew Arminio, Managing Member of LLC | |
| Vito DiMaso, Officer of LLC | |
| CBR Limited Partners LLC | 75% |
| CBR Developers LLC | 25% |
| Address: 815 N East Ave, Oak Park, IL 60302 | |



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

dotloop signature verification: dtlp.us/8WEy-OlVQ-0pxm

# 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<br>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.

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

Signature

Matthew Arminio

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.



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

# Carousel Inn Residential Planned Development (RPD)

## Planned Development Amendment

EXHIBIT 5-1: Property Owner List

**STRAP#:**

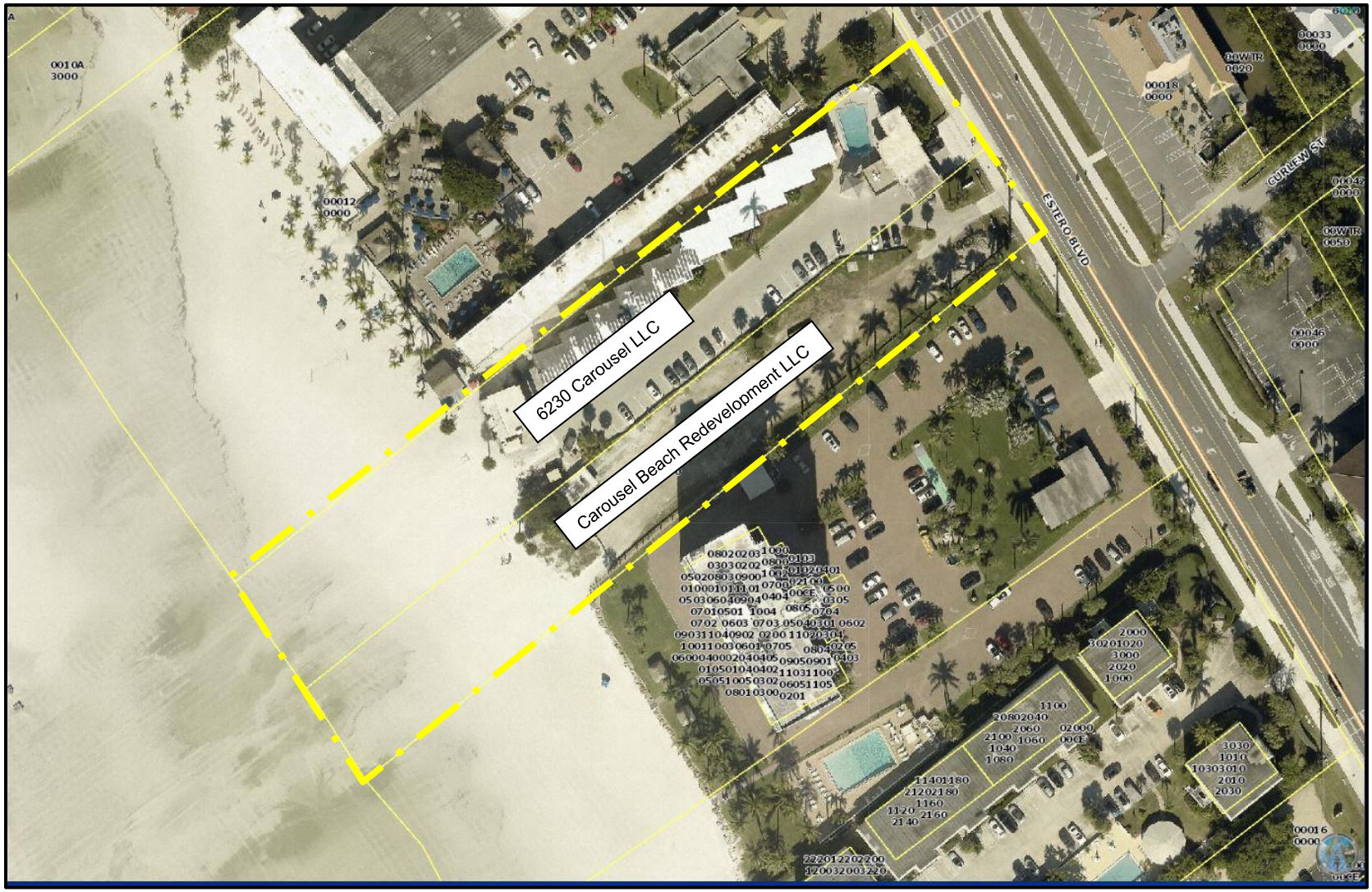
- 33-46-24-W3-00013.0030 – Carousel Beach Redevelopment LLC
- 33-46-24-W3-00013-0020 – 6230 Carousel LLC

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 | Manager
Title

Matthew Arminio
Typed or Printed Name | 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.

JOSEPH M. MADDEN JR
Notary Public - State of Florida
Commission # GG 285300
My Comm. Expires Dec 18, 2022
Bonded through National Notary Assn.

Notary Public Signature



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

**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: _____

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]

_____

Notary Public, State of Connecticut

Print Name: Tania L. Drobnis

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



5618 Whispering Willow Way, Fort Myers, FL 33908 | 239 398 2016
www.theneighborhood.company

THE NEIGHBORHOOD COMPANY

# 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 SDUTHEASTERLY 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 SDUTHEASTERLY 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 INTERSECT 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 ROAO 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



5618 Whispering Willow Way, Fort Myers, FL 33908 | 239.398.2016
www.theneighborhood.company

# MAP OF BOUNDARY & TOPOGRAPHIC SURVEY OF A PARCEL OF LAND CURRENTLY KNOWN AS THE CAROUSEL HOTEL LYING IN SECTIONS 33 & 34, TOWNSHIP 46 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA

## LEGEND

- = BENCHMARK, SET PK NAIL AND DISK – "LB 6896"
- = CCCL PRM – FOUND BRASS DISK STAMPED AS SHOWN
- = FOUND DRILL HOLE IN CONCRETE – NO IDENTIFICATION
- = FOUND PK NAIL IN SEAWALL – NO IDENTIFICATION
- = SET 5/8" REBAR AND CAP – "MIT COR LB 6896"
- = CCSBL PRM – FOUND 3" ROUND CONCRETE MONUMENT STAMPED AS SHOWN
- = FOUND 1/4" REBAR – NO IDENTIFICATION
- = FOUND 4" X 4" CONCRETE MONUMENT WITH 1/4" REBAR
- = FOUND 3"X3" CONCRETE MONUMENT – NO IDENTIFICATION
- (D) = LEGAL DESCRIPTION DATA
- (M) = FIELD MEASURED DATA
- PRM = PERMANENT REFERENCE MONUMENT
- CCCL = COASTAL CONSTRUCTION CONTROL LINE
- CCSBL = COASTAL CONSTRUCTION SETBACK LINE
- = SPOT ELEVATION, NAVD 1988
- = WOOD UTILITY POLE
- = CONCRETE UTILITY POLE
- = WATER METER
- = BACKFLOW PREVENTER
- = SANITARY SEWER CLEAN-OUT
- = CATCH BASIN WITH GRATE INLET
- = DECORATIVE LIGHT POLE
- = PALM TREE

## SURVEYOR'S NOTES

1. BEARINGS SHOWN HEREON ARE GRID BEARINGS BASED UPON THE NORTH AMERICAN DATUM OF 1983, 1990 ADJUSTMENT (NAD83/90) FLORIDA EAST ZONE. DISTANCES SHOWN ARE GROUND DISTANCES MEASURED IN FEET. COORDINATES SHOWN ARE GRID COORDINATES. DATUM BASED UPON DEPARTMENT OF NATURAL RESOURCES CONTROL MONUMENTS 12–83–A34–2 (1988) AND 12–83–A35–2 (1988) HAVING NAD83/90 GRID COORDINATES AS SHOWN CALCULATED FROM THE COASTAL CONSTRUCTION CONTROL LINE PLAT RECORDED IN PLAT BOOK BOOK 48, PAGE 15, PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

2. NO UNDERGROUND IMPROVEMENTS OR FOUNDATIONS WERE LOCATED UNDER THE SCOPE OF THIS SURVEY. UNDERGROUND UTILITIES SHOWN HEREON ARE BASED UPON SURFACE EVIDENCE AND MARKS LEFT BY OTHERS. NO UTILITIES WERE EXCAVATED FOR THIS SURVEY. ALL UNDERGROUND UTILITIES SHOWN HEREON ARE SUBJECT TO FIELD VERIFICATION.

3. ELEVATIONS SHOWN HEREON ARE REFERENCED TO THE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 1988). ELEVATIONS ARE BASED UPON BENCHMARK "J–245 1965" HAVING A RECORD ELEVATION OF 2.90' (NAVD 1988) AS PUBLISHED BY THE NATIONAL GEODETIC SURVEY (NGS).

4. THIS PARCEL LIES IN FLOOD ZONE "A", ZONES ARE BASED ON LEE COUNTY SPATIAL INFORMATION SYSTEM LYING IN FLOOD INSURANCE RATE MAP 12071C0566F & 12071C0567F, DATED AUGUST 28, 2008.

5. BOUNDARY INFORMATION SHOWN HEREON IS BASED UPON THE RECORD PLAT AND LEGAL DESCRIPTION PROVIDED, NO SEARCH OF THE PUBLIC RECORD WAS PERFORMED BY THIS SURVEYOR. THE SURVEY SHOWS THE LOCATION AND IDENTIFIES BY O.R./PLAT BOOK AND PAGE AND CIRCLED TITLE EXCEPTION NUMBER, TO THE EXTENT THAT SUCH MATTERS CAN BE LOCATED, ALL EASEMENTS AND RIGHTS–OF–WAY SHOWN AS EXCEPTIONS ON THE MORTGAGEE TITLE INSURANCE ORDER #4015140 6LA WRITTEN BY TITLE COMPANY.

6. THE 1991 COASTAL CONSTRUCTION CONTROL LINE SHOWN HEREON IS AS RECORDED IN PLAT BOOK 48, PAGES 15, AND FILED IN OFFICIAL RECORDS BOOK 2224, PAGES 1010–1041 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA ON MAY 30, 1991

7. THE 1978 COASTAL CONSTRUCTION SETBACK LINE SHOWN HEREON IS AS RECORDED BY ORDINANCE 76–3 RECORDED APRIL 17, 1978 IN THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

8. THIS SURVEY IS FOR THE USE OF THE PARTIES LISTED IN THE CERTIFICATION BOX. SURVEYOR SHALL NOT BE LIABLE FOR ANY USE OF THIS SURVEY BY OTHERS NOT LISTED. THIS MAP ACCURATELY REFLECTS A FIELD SURVEY WHICH COMPLIES WITH THE REQUIREMENTS OF RULE 62B–33.009, FLORIDA ADMINISTRATIVE CODE.

9. THE STREET ADDRESS IS:
6230 ESTERO BOULEVARD
FORT MYERS BEACH, FLORIDA 33931

10. PARCELS 1 AND 2 ARE CONTIGUOUS PARCELS OF LAND THAT FORM ONE PARCEL OF LAND AS SHOWN HEREON.

## 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.

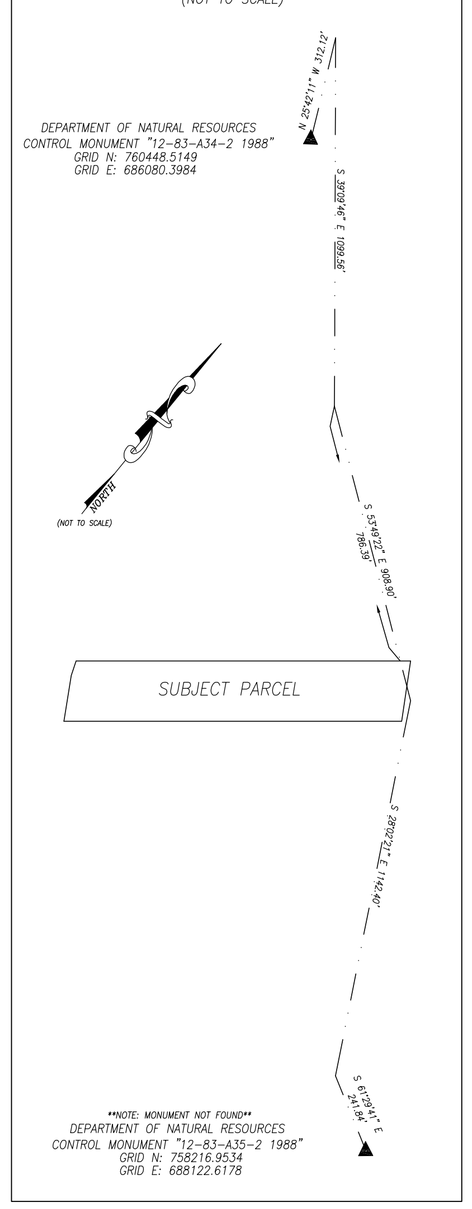
PARCEL 2:

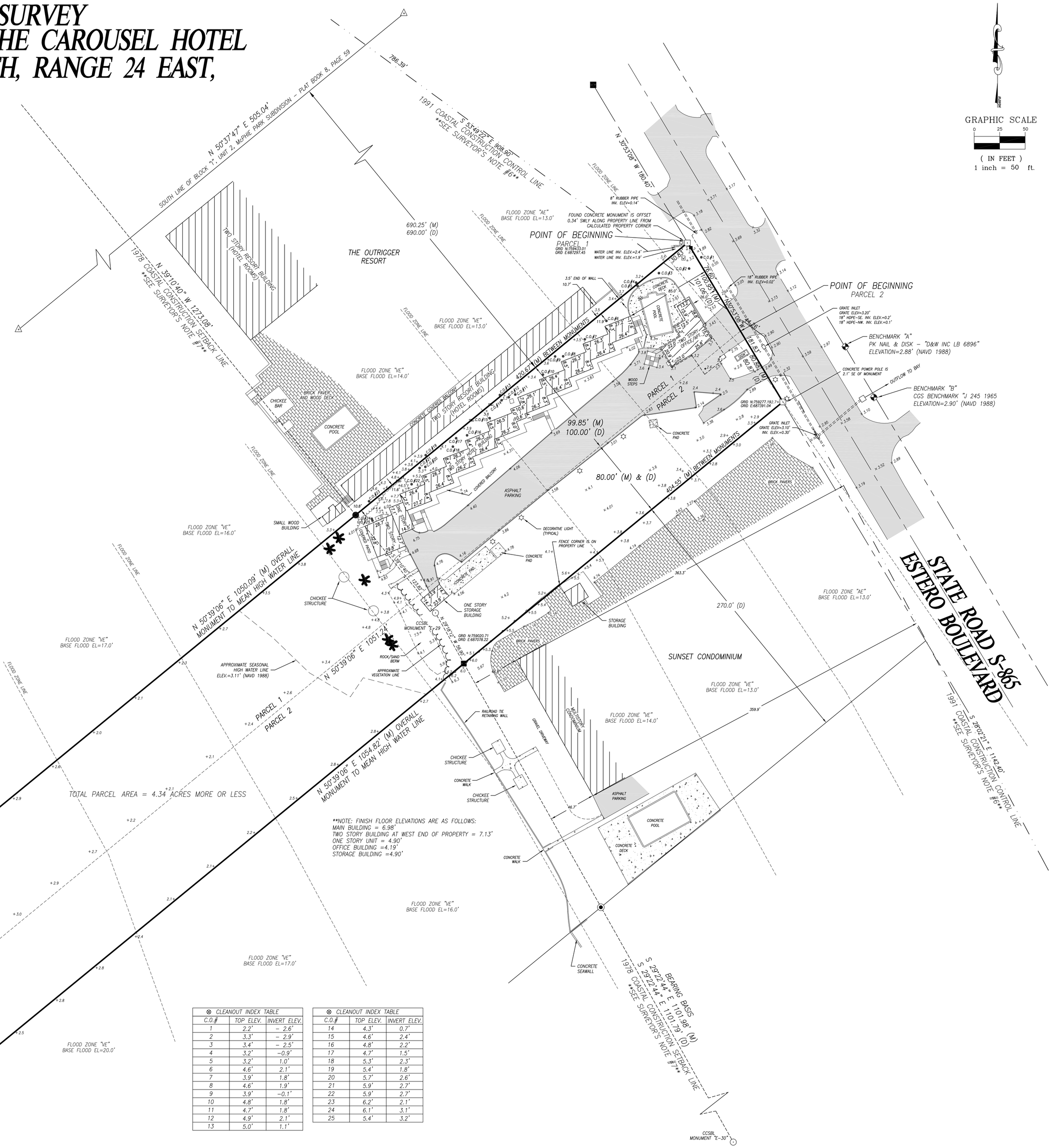
A LOT OR PARCEL OF LAND 80 FEET WIDE IN GOVERNMENT LOT 4, SECTION 33, AND GOVERNMENT LOT 1, SECTION 34, TOWNSHIP 46 SOUTH, RANGE 24 EAST, EXTENDING FROM ESTERO BOULEVARD (STATE ROAD S–865) TO THE WATERS OF THE GULF OF MEXICO, WHICH LOT OR PARCEL IS DESCRIBED AS FOLLOWS:

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.

## TIES TO DEPARTMENT OF NATURAL RESOURCES REFERENCE MONUMENTS A 34-2 & A 35-2

(NOT TO SCALE)




| ⊗ CLEANOUT INDEX TABLE | | |
|---|---|---|
| C.O.# | TOP ELEV. | INVERT ELEV. |
| 1 | 2.2' | – 2.6' |
| 2 | 3.3' | – 2.9' |
| 3 | 3.4' | – 2.5' |
| 4 | 3.2' | –0.9' |
| 5 | 3.2' | 1.0' |
| 6 | 4.6' | 2.1' |
| 7 | 3.9' | 1.8' |
| 8 | 4.6' | 1.9' |
| 9 | 3.9' | –0.1' |
| 10 | 4.8' | 1.8' |
| 11 | 4.7' | 1.8' |
| 12 | 4.9' | 2.1' |
| 13 | 5.0' | 1.1' |

| ⊗ CLEANOUT INDEX TABLE | | |
|---|---|---|
| C.O.# | TOP ELEV. | INVERT ELEV. |
| 14 | 4.3' | 0.7' |
| 15 | 4.6' | 2.4' |
| 16 | 4.8' | 2.2' |
| 17 | 4.7' | 1.5' |
| 18 | 5.3' | 2.3' |
| 19 | 5.4' | 1.8' |
| 20 | 5.7' | 2.6' |
| 21 | 5.9' | 2.7' |
| 22 | 5.9' | 2.7' |
| 23 | 6.2' | 2.1' |
| 24 | 6.1' | 3.1' |
| 25 | 5.4' | 3.2' |

JOB NO.: 15–045
SHEET NO.: 1 OF 1

CERTIFIED TO: 6230 ESTERO, LLC, A FLORIDA LIMITED LIABILITY COMPANY; 6240 ESTERO, LLC, A FLORIDA LIMITED LIABILITY COMPANY; 6230 HOLDINGS, LLC, A DELAWARE LIMITED LIABILITY COMPANY; 6240 HOLDINGS, LLC, A DELAWARE LIMITED LIABILITY COMPANY; FIDELITY NATIONAL TITLE INSURANCE COMPANY; BUCHANAN INGERSOLL & ROONEY PC;

DRAWN BY: TIM
CHECKED BY: DSD
FIELD BOOK: N/A


D&W DAGOSTINO & WOOD, INC.
Professional Surveying & Mapping
5415 Jaeger Road Suite A Naples, FL 34109
Phone: (239) 352-6085 Website: www.dwsurveys.com


DRAWING SCALE: 1"=50'
REVISION DATE:
REVISED BY:

COMPUTER FILE: 16264 11–29–18
SURVEY DATE: 12–4–18
SIGNATURE DATE: 12/17/18

DAVID S. DAGOSTINO, PSM
Professional Surveyor & Mapper Fla. License No.5762

This map prepared by:
CERTIFICATE OF AUTHORIZATION NO. LB 6896
NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER

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.

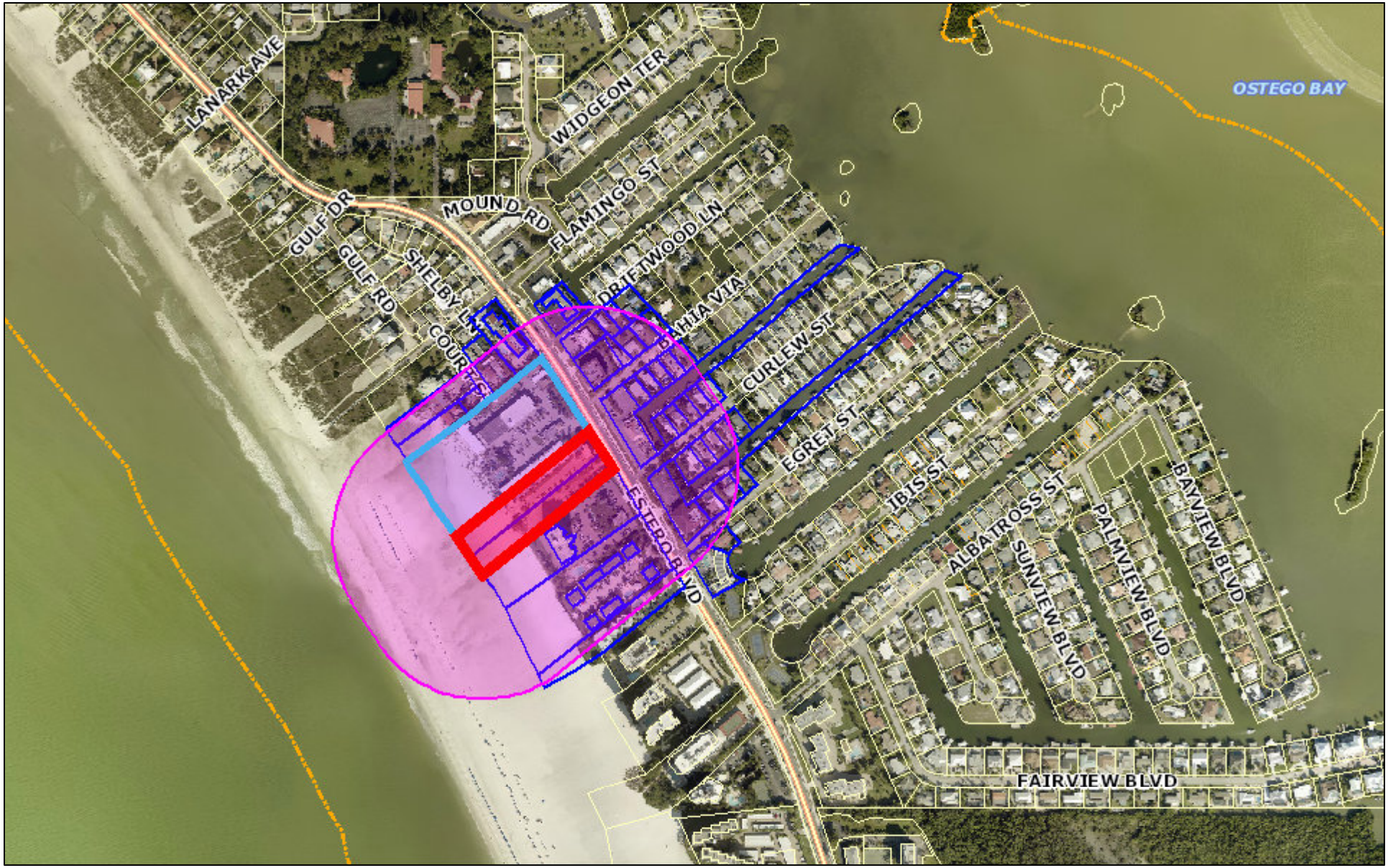
| FOLIO | OWNER NAME | ADDRESS1 | CITY | STATE | ZIP |
|---|---|---|---|---|---|
| 10230714 | COLORADO SOUTHERN INC | 6200 ESTERO BLVD | Fort Myers Beach | FL | 33931 |
| 10230715 | SOUTHLAND CORPORATION | 2711 N HASKELL AVE | DALLAS | TX | 75204 |
| 10230716 | 6231 ESTERO LLC | 500 KINGS TOWN DR | NAPLES | 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 | HOOBLER 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 | GIERSZEWSKI 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 | L0P 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 | K0M 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 | LESKIW 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 SHEFFIELD 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 | MAGOUIRK 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)

1:6,666

0 305 610 1,220 ft

0 90 180 360 m

HospitalLocations

Library Locations

**School Locations**

School Locations

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 reliability of.

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:** | 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 |



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

Case # _____ Date Received: _____

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 |
| |
| |
| |
| |
| |
| |
| |
| |


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

C. **Comprehensive Plan Compliance.**

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

| |
|---|
| Please see attached request narrative. |
| |
| |
| |
| |
| |
| |
| |
| |
| |
| |
| |
| |
| |
| |

**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 as the approved development is a multi family residential use. |
| Approved use is not changing. |
| |
| |
| |
| |
| |
| |
| |
| |
| |
| |
| |

**E. Decision-making Compliance**

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

| |
|---|
| Please see attached request narrative. |
| |
| |
| |
| |
| |
| |
| |
| |
| |
| |
| |
| |
| |
| |

**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.

| |
|---|
| N/A |
| |
| |
| |
| |
| |
| |
| |
| |
| |
| |
| |
| |
| |

**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.

| |
|---|
| Due to amending the Schedule of Uses as provided on the approved MCP, |
| it was determined the proposed request could not be processed administratively. |
| |
| |
| |
| |
| |
| |
| |
| |
| |
| |
| |
| |

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
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.).



5618 Whispering Willow Way, Fort Myers, FL 33908 | 239.398.2016
www.theneighborhood.company

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."



5618 Whispering Willow Way, Fort Myers, FL 33908 | 850.803.5621
www.theneighborhood.company

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 - Rezonings, 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.



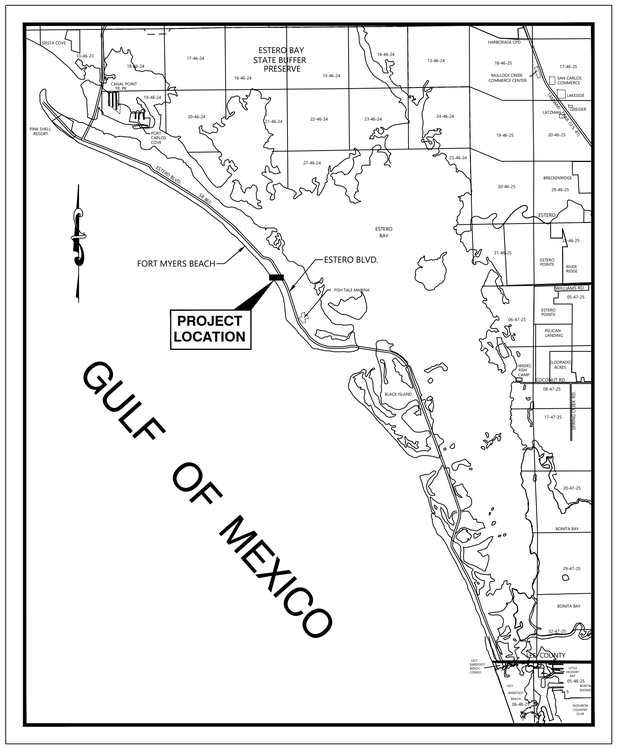
5618 Whispering Willow Way, Fort Myers, FL 33908 | 850.803.5621
www.theneighborhood.company

MASTER CONCEPT PLAN FOR

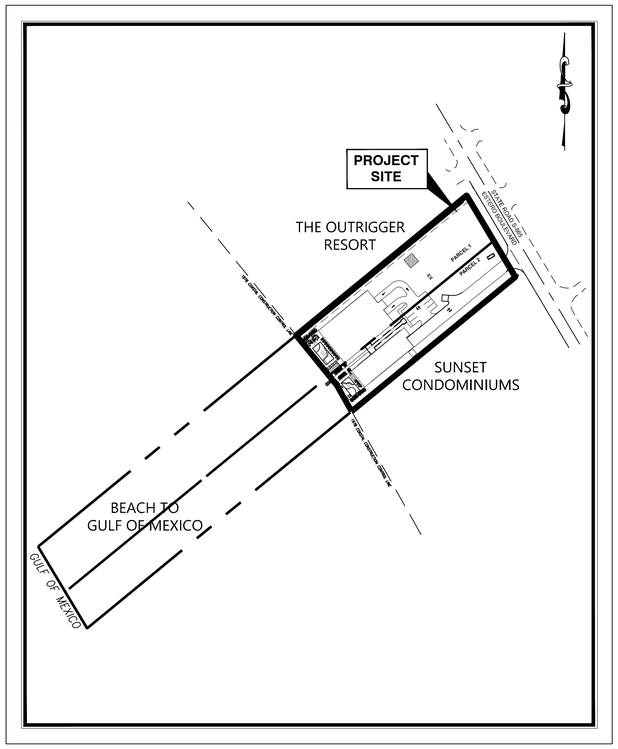
# CAROUSEL INN RPD

PART OF SECTION 33, TOWNSHIP 46 SOUTH, RANGE 24 EAST,
LEE COUNTY, FLORIDA

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




VICINITY MAP




PROJECT SITE

| # | REVISION | DRAWN | DATE |
|---|---|---|---|
| 1 | REVISED PER RAI COMMENT #1 | DLP | 03/22/18 |


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: 33 | TWP: 46 | RGE: 24E | DRAWN: DW
PROJECT NO.: 030020.01.P0
SHEET NUMBER: 1 OF 6

*May 1, 2018 2:58 PM K:\2003\030020.01.00 Carousel Inn Property\001 General Consultation\CAD\Rev 01\03002001P0 CS.dwg*

# SCHEDULE OF USES

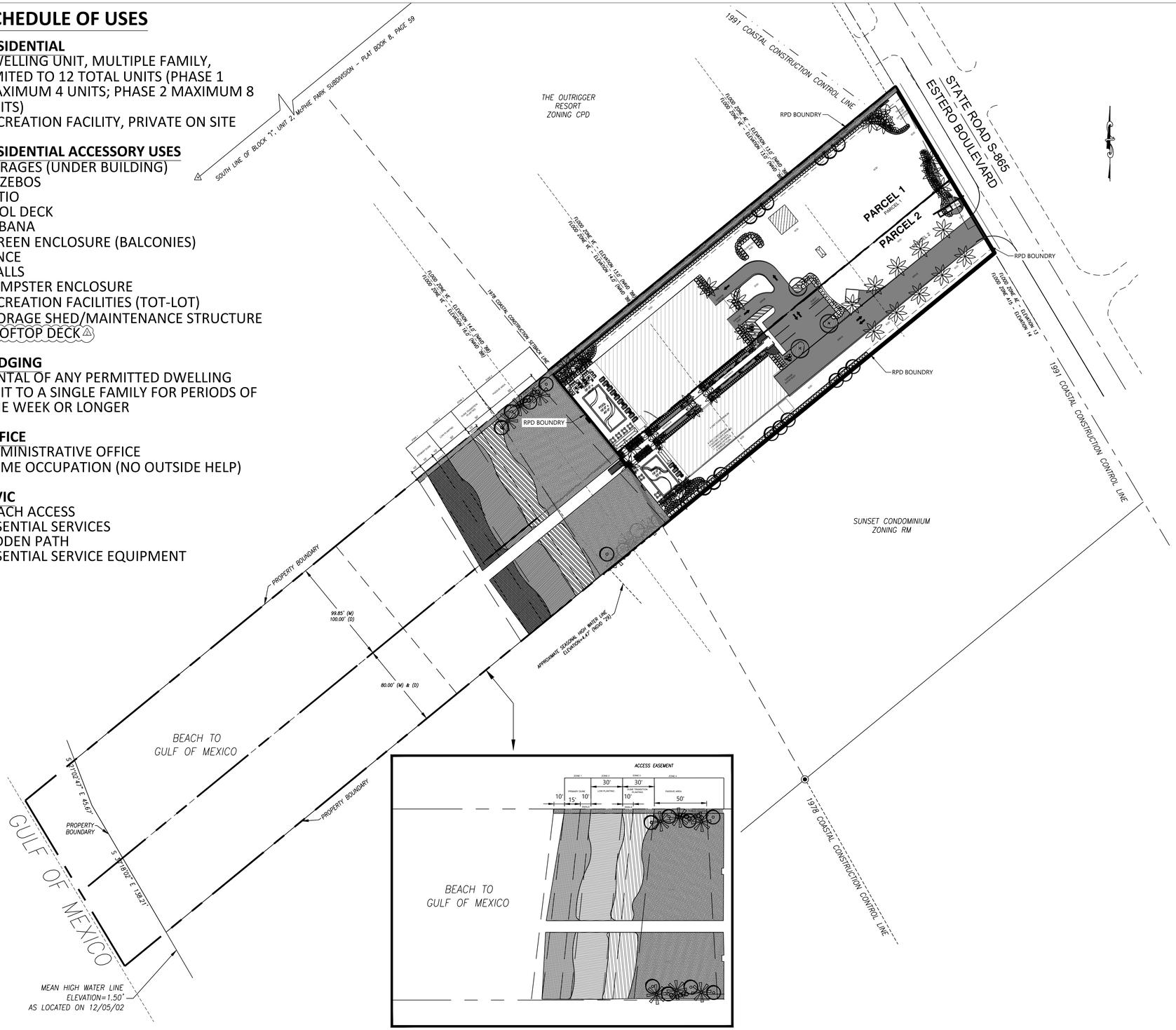
**RESIDENTIAL**
DWELLING UNIT, MULTIPLE FAMILY, LIMITED TO 12 TOTAL UNITS (PHASE 1 MAXIMUM 4 UNITS; PHASE 2 MAXIMUM 8 UNITS)
RECREATION FACILITY, PRIVATE ON SITE

**RESIDENTIAL ACCESSORY USES**
GARAGES (UNDER BUILDING)
GAZEBOS
PATIO
POOL DECK
CABANA
SCREEN ENCLOSURE (BALCONIES)
FENCE
WALLS
DUMPSTER ENCLOSURE
RECREATION FACILITIES (TOT-LOT)
STORAGE SHED/MAINTENANCE STRUCTURE
ROOFTOP DECK △1

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

**OFFICE**
ADMINISTRATIVE OFFICE
HOME OCCUPATION (NO OUTSIDE HELP)

**CIVIC**
BEACH ACCESS
ESSENTIAL SERVICES
HIDDEN PATH
ESSENTIAL SERVICE EQUIPMENT




## DUNE RESTORATION DETAIL

SCALE: N.T.S.

## LEGAL DESCRIPTION

RPD PARCEL (RIGHT-OF-WAY LINE TO SETBACK LINE)

A LOT OR PARCEL OF LAND 180 FEET WIDE IN GOVERNMENT LOT 4, SECTION 33, TOWNSHIP 46 SOUTH, RANGE 24 EAST, EXTENDING FROM ESTERO BOULEVARD (STATE ROAD S-865) TO THE 1978 COASTAL CONSTRUCTION SETBACK LINE AS RECORDED IN ORDINANCE 76-3, 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 "1", 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 SOUTH 30°53'08" EAST, ALONG SAID RIGHT-OF-WAY LINE FOR 181.83 FEET, MORE OR LESS, TO AN INTERSECTION WITH A LINE 870 FEET SOUTHEASTERLY FROM AND PARALLEL WITH SAID SOUTHEASTERLY LINE OF BLOCK "1", UNIT 2, McPHIE PARK SUBDIVISION; THENCE RUN SOUTHWESTERLY ALONG SAID PARALLEL LINE 404.55' TO SAID 1978 COASTAL CONSTRUCTION SETBACK LINE; THENCE RUN NORTH 29°18'12" WEST, ALONG SAID SETBACK LINE, 56.90 FEET TO COASTAL CONSTRUCTION SETBACK LINE CONTROL MONUMENT "E-29"; THENCE RUN NORTH 39°10'40" WEST, ALONG SAID SETBACK LINE, 123.82 FEET TO AN INTERSECTION WITH A LINE THROUGH THE POINT OF BEGINNING, PARALLEL WITH SAID SOUTHEASTERLY LINE OF BLOCK "1"; THENCE RUN NORTHEASTERLY ALONG SAID PARALLEL LINE 420.67 FEET TO THE POINT OF BEGINNING; TOGETHER WITH ALL RIPARIAN RIGHTS APPURTENANT THERETO.

CONTAINING 1.690 ACRES MORE OR LESS.

SUBJECT TO EASEMENTS, RESTRICTIONS AND RESERVATIONS OF RECORD.

BEARINGS ARE GRID BEARINGS FLORIDA STATE PLANE WEST ZONE, NORTH AMERICAN DATUM OF 1986, 1990 ADJUSTMENT (NAD 83(90)).

## LEGAL DESCRIPTION

ENVIROMENTALLY CRITICAL PARCEL (EC)

A LOT OR PARCEL OF LAND 180 FEET WIDE IN GOVERNMENT LOT 4, SECTION 33, TOWNSHIP 46 SOUTH, RANGE 24 EAST, EXTENDING FROM THE 1978 COASTAL CONSTRUCTION SETBACK LINE AS RECORDED IN ORDINANCE 76-3, TO THE WATERS OF THE GULF OF MEXICO, WHICH LOT OR PARCEL IS DESCRIBED AS FOLLOWS:

COMMENCING AT THE POINT OF INTERSECTION OF A LINE 690 FEET, MEASURED ON A PERPENDICULAR SOUTHEASTERLY FROM AND PARALLEL WITH THE SOUTHEASTERLY LINE OF BLOCK "1", 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 SOUTH 30°53'08" EAST, ALONG SAID RIGHT-OF-WAY LINE FOR 181.83 FEET, MORE OR LESS, TO AN INTERSECTION WITH A LINE 870 FEET SOUTHEASTERLY FROM AND PARALLEL WITH SAID SOUTHEASTERLY LINE OF BLOCK "1", UNIT 2, McPHIE PARK SUBDIVISION; THENCE RUN SOUTHWESTERLY ALONG SAID PARALLEL LINE 404.55 FEET TO SAID 1978 COASTAL CONSTRCTION SETBACK LINE AND THE POINT OF BEGINNING; THENCE CONTINUE ALONG SAID PARALLEL LINE 603.69 FEET MORE OR LESS TO THE WATERS OF THE GULF OF MEXICO; THENCE RUN NORTH 30°18'02" WEST, ALONG SAID WATERS, 138.21 FEET; THENCE NORTH 21°02'47" WEST, ALONG SAID WATERS, TO AN INTERSECTION WITH A LINE THROUGH THE POINT OF COMMENCEMENT, PARALLEL WITH SAID SOUTHEASTERLY LINE OF BLOCK "1"; THENCE RUN NORTHEASTERLY ALONG SAID PARALLEL LINE 577.91 FEET TO SAID 1978 COASTAL CONSTRUCTION SETBACK LINE; THENCE SOUTH 39°10'40" EAST, ALONG SAID SETBACK LINE, 123.82 FEET TO 1978 COASTAL CONSTRUCTION SETBACK LINE CONTROL MONUMENT "E-29"; THENCE SOUTH 29°18'12" EAST, ALONG SAID SETBACK LINE, 56.90 FEET TO THE POINT OF BEGINNING; TOGETHER WITH ALL RIPARIAN RIGHTS APPURTENANT THERETO.

CONTAINING 2.466 ACRES MORE OR LESS.

SUBJECT TO EASEMENTS, RESTRICTIONS AND RESERVATIONS OF RECORD.

BEARINGS ARE GRID BEARINGS FLORIDA STATE PLANE WEST ZONE, NORTH AMERICAN DATUM OF 1986, 1990 ADJUSTMENT (NAD 83(90)).

## 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 FORM 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 "1", 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 "1", 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 THROUGH THE POINT OF BEGINNING, PARALLEL WITH SAID SOUTHEASTERLY LINE OF BLOCK "1"; 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 "1", 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 "1", 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 "1", 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.

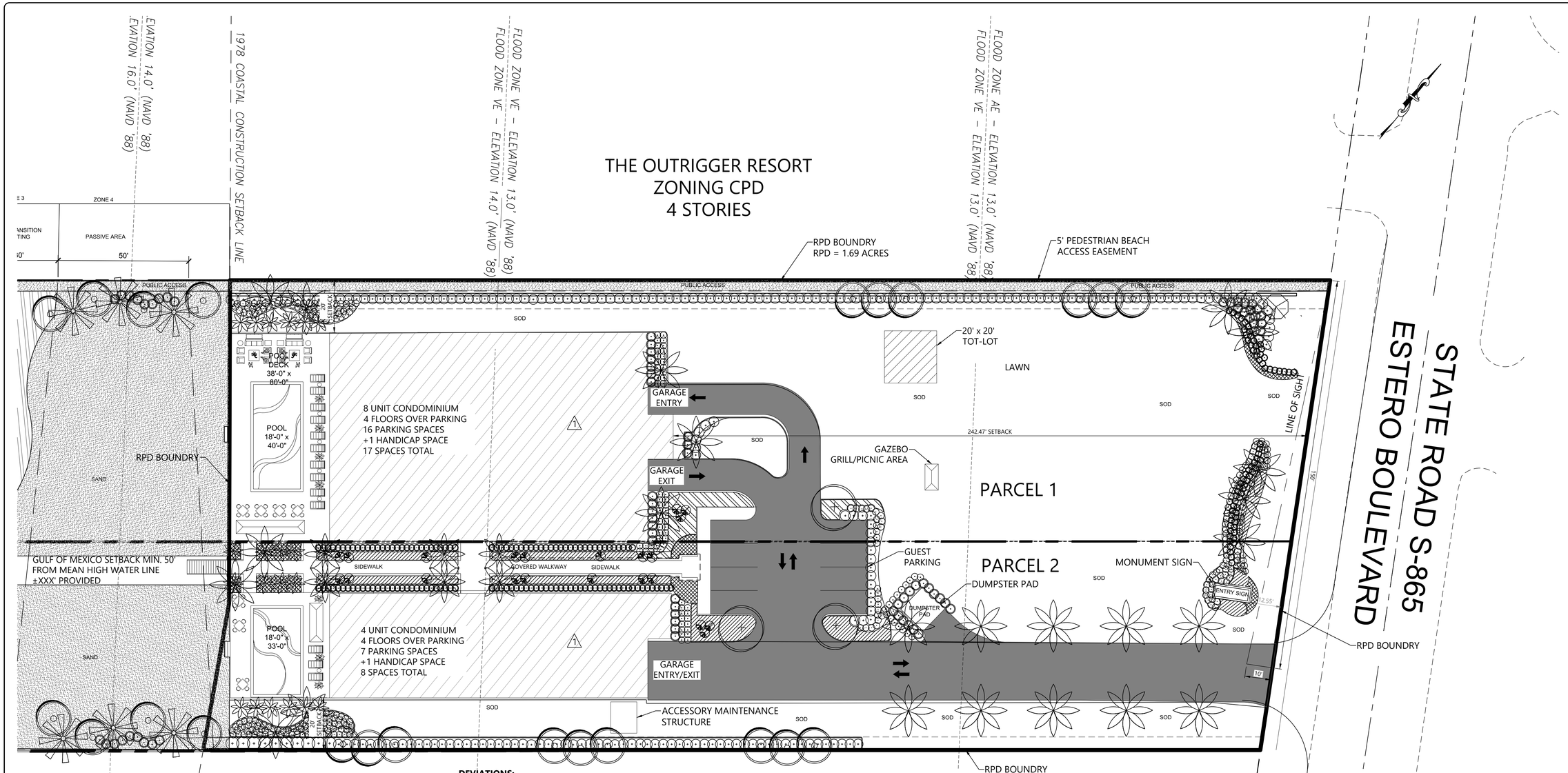
0 30 60 120

| # | REVISION | DRAWN | DATE |
|---|---|---|---|
| △1 | REVISED PER PD AMENDMENT | DW | 03/28/18 |
| △1 | REVISED PER RAI #1 | DW | 03/28/18 |


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: PLAN VIEW OF PARCEL OWNERSHIP, RPD BOUNDRY & DUNE RESTORATION

| DATE: APR, 2018 | DESIGNED: MCP |
|---|---|
| SEC: 33 TWP: 46 RGE: 24E | DRAWN: DLP |
| PROJECT NO.: 030020.01.P0 | |
| SHEET NUMBER: 2 OF 6 | |




**SITE DEVELOPMENT REGULATIONS***

**MINIMUM SETBACKS:**

| | |
|---|---|
| STREET: | 80 FEET |
| SIDE: | 20 FEET |
| REAR: | 35 FEET ** |
| GULF OF MEXICO: | 50 FEET ** |

**MINIMUM LOT DIMENSIONS:**

| | |
|---|---|
| LOT WIDTH: | 180 FEET |
| LOT DEPTH: | 400 FEET |
| LOT AREA: | 1.69 ACRES [SEE CONDITION 3] |

**MAXIMUM DENSITY:**
12 DWELLING UNITS ***

**BUILDING HEIGHT**
45 FEET ABFE/4 STORIES OVER PARKING

* ALL OTHER DEVELOPMENT STANDARDS SHALL BE AS SET FORTH IN LDC CHAPTER 34 OR OTHER APPLICABLE PROVISIONS OF THE LDC.
** AN ENCROACHMENT OF NO MORE THAN 13.5 INCHES SHALL BE ALLOWED FOR PHASE 1 ONLY.
*** PROJECT WILL BE DEVELOPED IN TWO PHASES.

**DEVIATIONS:**

1 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). 1

**GENERAL NOTES**:

1) THE BUILDINGS SHALL CONTAIN A MAXIMUM OF 12 DWELLING UNITS. MAXIMUM BUILDING HEIGHT SHALL BE 4 STORIES OVER PARKING AND 45 FEET OVER BASE FLOOD ELEVATION.

2) THE COMBINED MAXIMUM INTERIOR SPACES OF THE STRUCTURE(S) SHALL NOT EXCEED 48,926 SQUARE FEET.

3) THE EXACT BUILDING AND SITE IMPROVEMENT CONFIGURATIONS ARE PRELIMINARY IN NATURE AND SUBJECT TO CHANGE. THE FINAL DESIGN AND IMPROVEMENT DETAILS SHALL BE DEFINED AS PART OF THE DEVELOPMENT ORDER (DO) PROCESS.

LEGEND

- RPD BOUNDRY
- BUILDING FOOTPRINT
- DRIVEWAY
- BEACH ACCESS/PEDESTRIAN WALKWAY

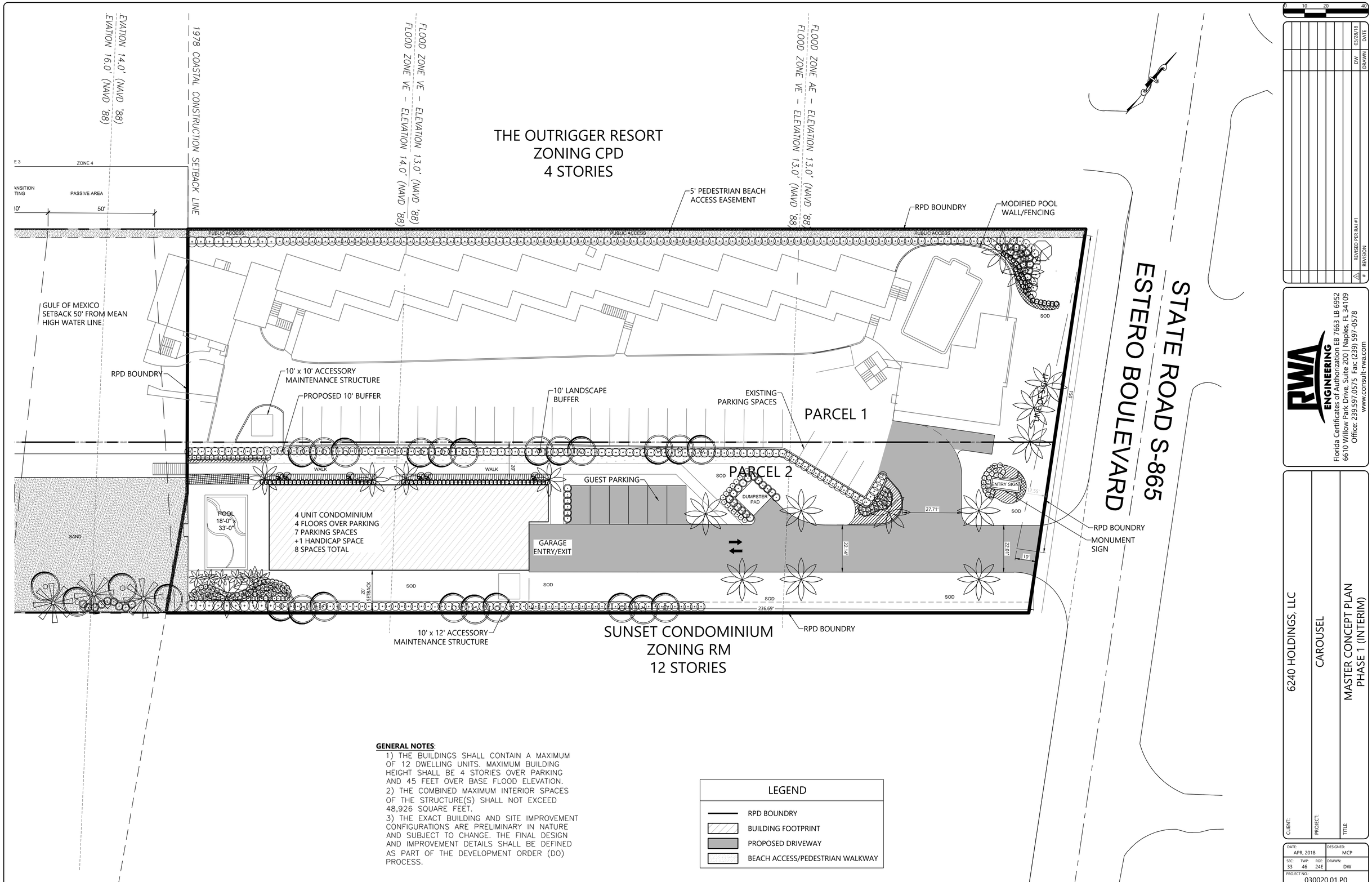
| # | REVISION | DRAWN | DATE |
|---|---|---|---|
| 1 | REVISED PER RAI #1 | DW | 03/28/18 |

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: MASTER CONCEPT PLAN PHASE 2 (BUILDOUT)

| | |
|---|---|
| DATE: APR, 2018 | DESIGNED: MCP |
| SEC: 33 TWP: 46 RGE: 24E | DRAWN: DLP |
| PROJECT NO.: 030020.01.P0 | |
| SHEET NUMBER: 3 OF 6 | |

April 19, 2022 12:13 PM K:\2003\030020.01.00 Carousel Inn Property\001 General Consultation\CAD\Rev 01\03002001P0 MCP REV06.dwg




**GENERAL NOTES**:

1) THE BUILDINGS SHALL CONTAIN A MAXIMUM OF 12 DWELLING UNITS. MAXIMUM BUILDING HEIGHT SHALL BE 4 STORIES OVER PARKING AND 45 FEET OVER BASE FLOOD ELEVATION.
2) THE COMBINED MAXIMUM INTERIOR SPACES OF THE STRUCTURE(S) SHALL NOT EXCEED 48,926 SQUARE FEET.
3) THE EXACT BUILDING AND SITE IMPROVEMENT CONFIGURATIONS ARE PRELIMINARY IN NATURE AND SUBJECT TO CHANGE. THE FINAL DESIGN AND IMPROVEMENT DETAILS SHALL BE DEFINED AS PART OF THE DEVELOPMENT ORDER (DO) PROCESS.

LEGEND

- RPD BOUNDRY
- BUILDING FOOTPRINT
- PROPOSED DRIVEWAY
- BEACH ACCESS/PEDESTRIAN WALKWAY

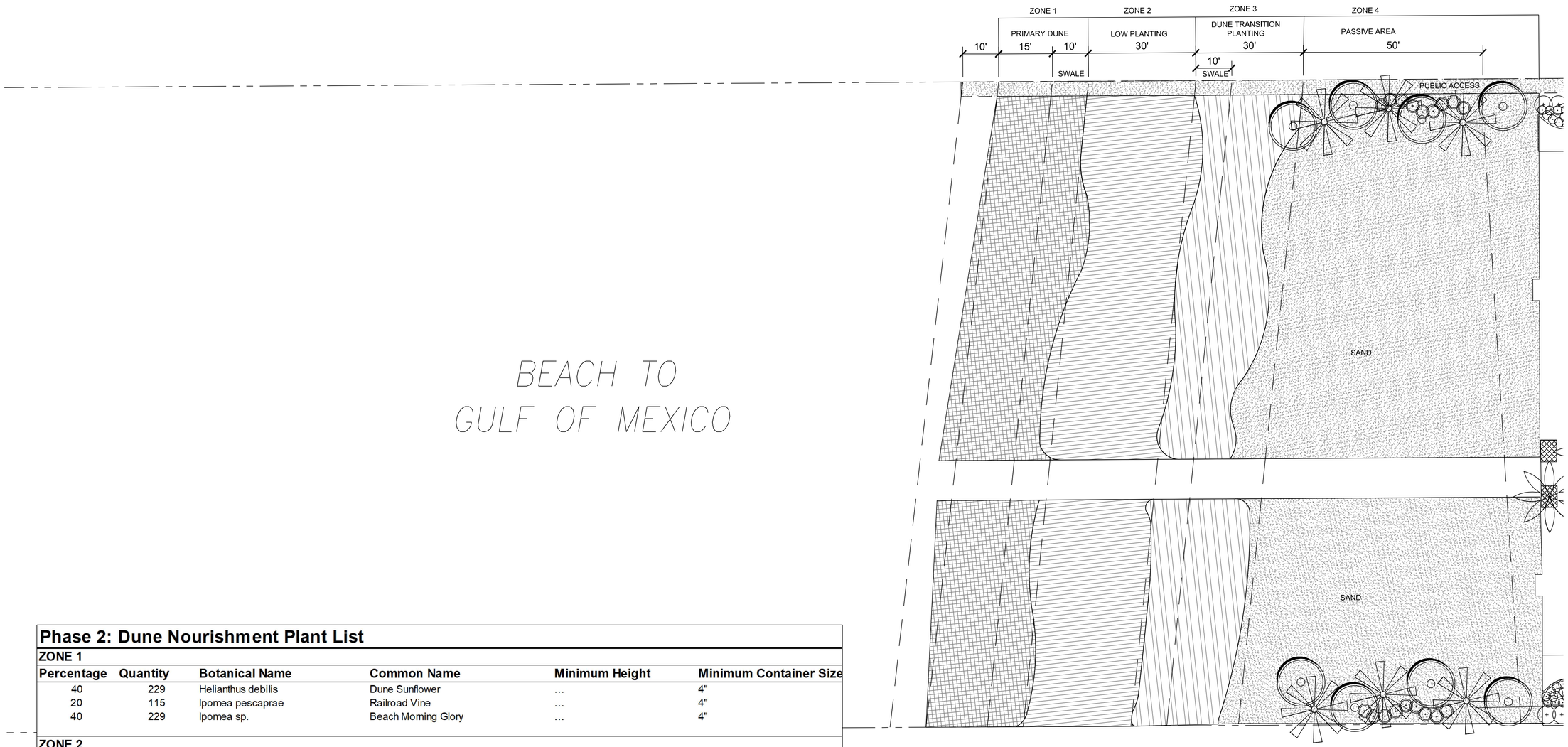
| # | REVISION | DRAWN | DATE |
|---|---|---|---|
| 1 | REVISED PER RAI #1 | DW | 03/28/18 |

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: MASTER CONCEPT PLAN PHASE 1 (INTERIM)

| DATE: APR, 2018 | | | DESIGNED: MCP |
|---|---|---|---|
| SEC: 33 | TWP: 46 | RGE: 24E | DRAWN: DW |
| PROJECT NO.: 030020.01.P0 | | | |
| SHEET NUMBER: 4 OF 6 | | | |

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




## 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" |

**ZONE 2**

| Percentage | Quantity | Botanical Name | Common Name | Minimum Height | Minimum Container Size |
|---|---|---|---|---|---|
| 20 | 137 | Helianthus debilis | Dune Sunflower | … | 4" |
| 10 | 69 | Ipomea sp. | Beach Morning Glory | … | 4" |
| 20 | 137 | Ipomea pescaprae | Railroad Vine | … | 4" |
| 50 | 343 | Uniola paniculata | Sea Oats | 12" | 4" |

**ZONE 3**

| Percentage | Quantity | Botanical Name | Common Name | Minimum Height | Minimum Container Size |
|---|---|---|---|---|---|
| 30 | 134 | Iva imbricata | Dune Marsh-Elder | … | 1 gallon |
| 35 | 156 | Spartina patens | Salt Meadow Cordgrass | 12" | 4" |
| 35 | 156 | Uniola paniculata | Sea Oats | 12" | 4" |

**ZONE 4**

| Percentage | Quantity | Botanical Name | Common Name | Minimum Height | Minimum Container Size |
|---|---|---|---|---|---|
| … | 3 | Coccothrinax argentata | Silver Thatch Palm | 3'-5' wood | 3 gallon |
| … | 9 | Coccoloba uvifera | Sea Grape | 2" | 1 gallon |
| … | 4 | Sabal Palmetto | Cabbage Palm | 3' c.t. | 3 gallon |

**The plants listed above are calculated separately from the plants in phase 1*

| # | REVISION | DRAWN | DATE |
|---|---|---|---|

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: DUNE RESTORATION LANDSCAPE PLAN

DATE: APR, 2018
DESIGNED: MCP
SEC: 33 TWP: 46 RGE: 24E
DRAWN: DW
PROJECT NO: 030020.01.P0
SHEET NUMBER: 5 OF 6

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

**TO THE NORTH** ← **PROJECT SITE** → **TO THE SOUTH**

FLAMINGO INN - HOTEL
6090 ESTERO BLVD.
2 STORIES - ESTIMATED HEIGHT: 25'

COQUINA - CONDOMINIUM
6100 ESTERO BLVD.
5 STORIES - ESTIMATED HEIGHT: 60'

THE OUTRIGGER - HOTEL
6200 ESTERO BLVD.
3 STORIES - ESTIMATED HEIGHT: 30'

CAROUSEL - HOTEL
2 STORIES - ESTIMATED HEIGHT: 25'

SUNSET - CONDOMINIUM
6400 ESTERO BLVD.
12 STORIES - ESTIMATED HEIGHT: 140'

PRIVATEER - CONDOMINIUM
6500 ESTERO BLVD.
2 STORIES - ESTIMATED HEIGHT: 35'

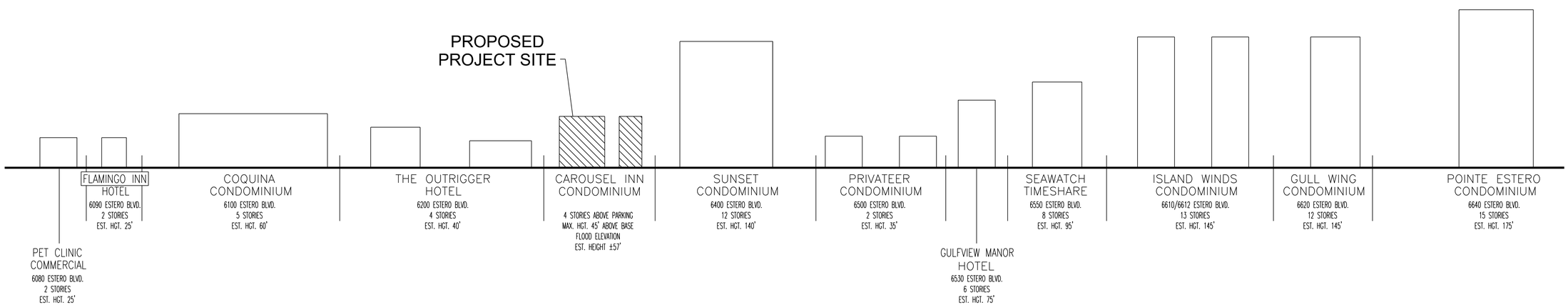
GULFVIEW MANOR - HOTEL
6530 ESTERO BLVD.
6 STORIES - ESTIMATED HEIGHT: 75'

PET CLINIC - COMMERCIAL
6080 ESTERO BLVD.
2 STORIES - ESTIMATED HEIGHT: 25'

GULL WING - CONDOMINIUM
6620 ESTERO BLVD.
12 STORIES - ESTIMATED HEIGHT: 145'

ISLAND WINDS - CONDOMINIUM
6610/6612 ESTERO BLVD.
13 STORIES - ESTIMATED HEIGHT: 145'

SEAWATCH - TIMESHARE
6550 ESTERO BLVD.
8 STORIES - ESTIMATED HEIGHT: 95'




# DIAGRAM VIEW FROM GULF SIDE

NOTE: BUILDING HEIGHTS REPRESENT APPROXIMATE HEIGHT ABOVE GRADE TO THE TOP OF THE ELEVATOR STRUCTURE OR ROOF AND DO NOT REPRESENT HEIGHT AS DEFINED BY SECTION 34-631 OF THE CITY OF FT. MEYERS BEACH ZONING CODE

| # | REVISION | DRAWN | DATE |
|---|---|---|---|


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: PARAGON ACQUISITION GROUP, LLC
PROJECT: CAROUSEL INN
TITLE: EXHIBIT DRAWING

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

May 1, 2018 2:57 PM K:\2003\030020.01.00 Carousel Inn Property\001 General Consultation\CAD\Rev 01\3002001X002.dwg

# GULFSIDE 6240 CONDOMINIUM

## 4 - UNIT CONDOMINIUM PROJECT

This item has been electronically signed and sealed by Kenneth P. Schoenfeld, R.A., On the date specified using a *SHA-1* authentication code.

Printed copies of this document are not considered signed and sealed and the *SHA-1* authentication code must be verified on any electronic copies.

**Kenneth Schoenfeld, R.A.**

Digitally signed by Kenneth Schoenfeld, Architect
DN: c=US, st=Florida, l=Fort Myers, o=Kenneth Schoenfeld, Architect, cn=Kenneth Schoenfeld, Architect, email=ken@pdsinconline.com
Date: 2022.03.08 11:51:56 -05'00'

REVIEWED FOR COMPLIANCE WITH THE FLORIDA BUILDING CODE

ROGER W. SANDERS - PX 651
ECS FLORIDA, LLC

JOB: 21-0083

| REVISIONS |
|---|
| 2/23/2022 |

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


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


PDS ARCHITECTURE

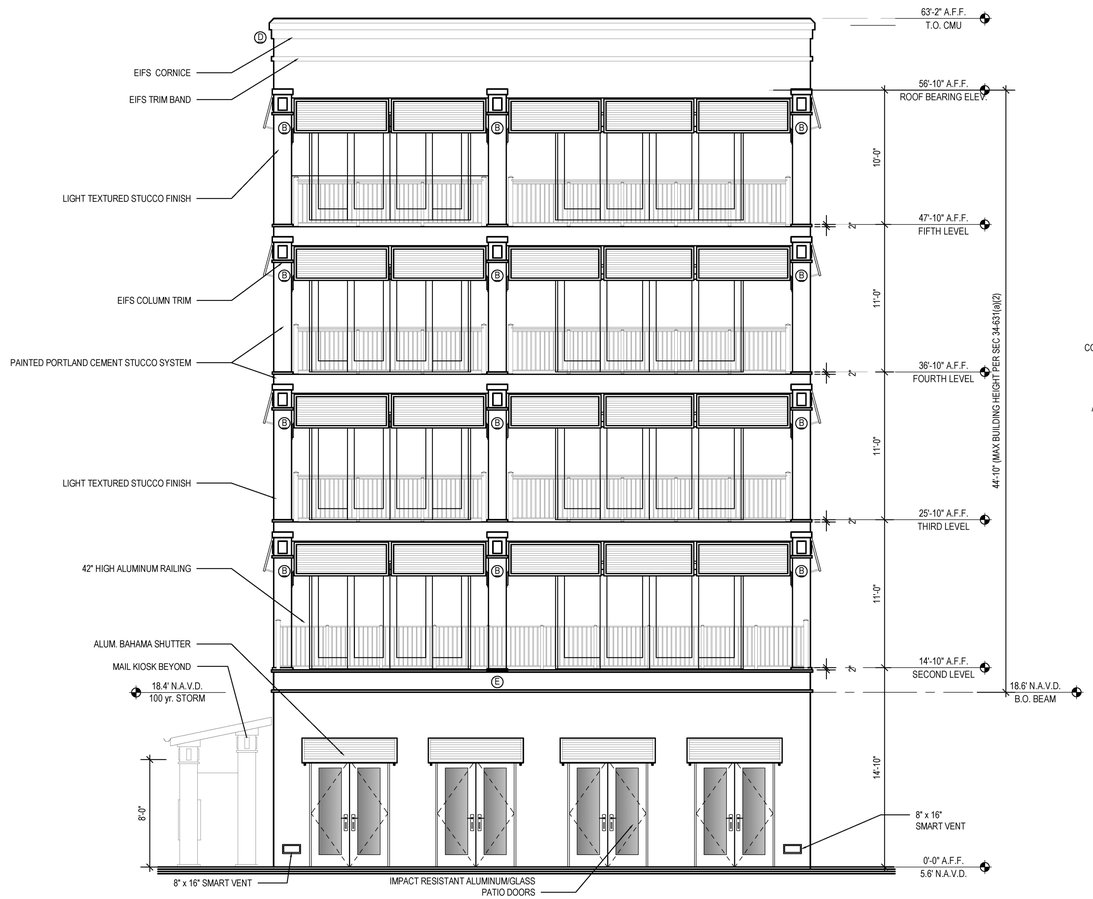
DATE: 11-23-21
TITLE: COVER SHEET

KENNETH P SCHOENFELD
FLORIDA REG. # AR97143

KENNETH P SCHOENFELD
FLORIDA REG. # AR97143
STATE OF FLORIDA
KENNETH P. SCHOENFELD
AR97143
REGISTERED ARCHITECT

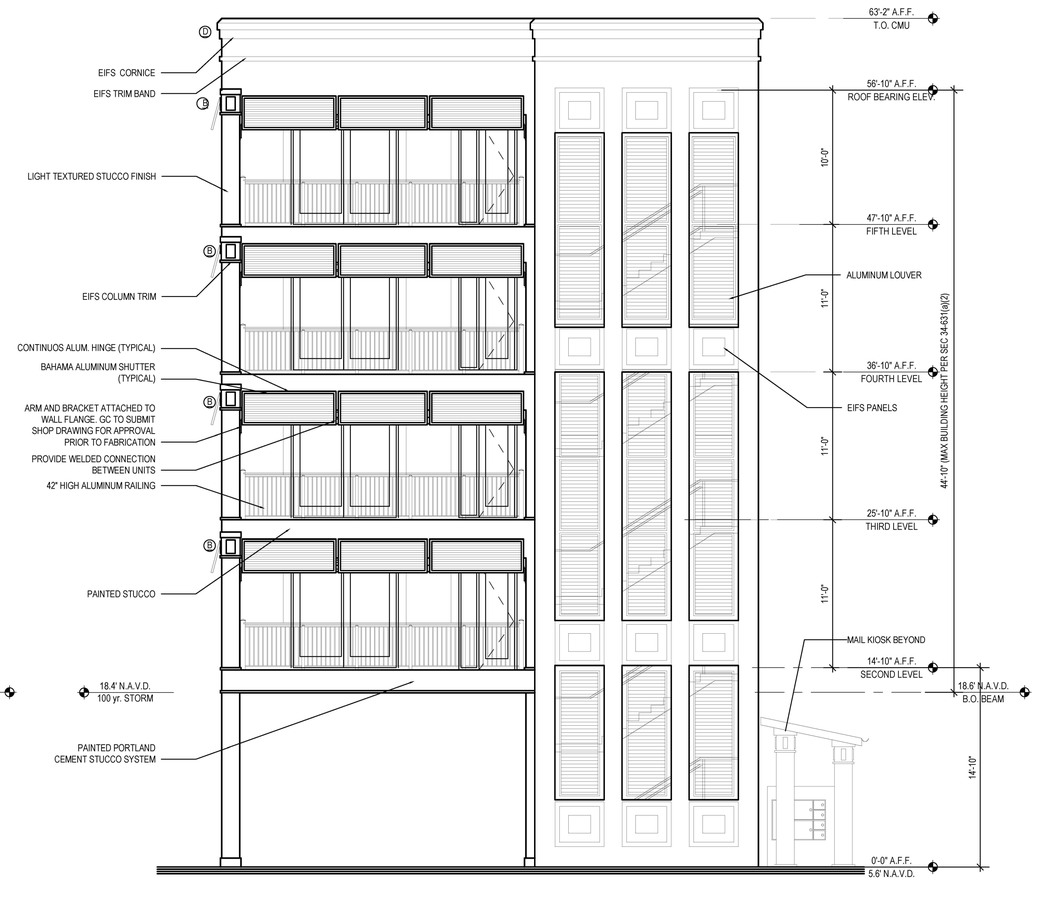
SHEET NO.
AT


ALL IDEAS, DESIGNS, AND PLANS INDICATED OR REPRESENTED BY THESE DOCUMENTS, ARE, OWNERSHIP AND ARE PROPERTY OF PDS ARCHITECTURE, INC. PDS ARCHITECTURE INC. RESERVES ITS COPYRIGHT AND OTHER PROPERTY RIGHTS IN THESE DOCUMENTS. THESE PLANS AND DRAWINGS ARE NOT TO BE REPRODUCED, CHANGED OR COPIED IN ANY FORM OR MANNER WHATSOEVER WITHOUT FIRST OBTAINING THE EXPRESS WRITTEN PERMISSION AND CONSENT OF PDS ARCHITECTURE INC. NOR ARE THEY TO BE ASSIGNED TO ANY PARTY WITHOUT FIRST OBTAINING SAID WRITTEN CONSENT. © PDS ARCHITECTURE INC.




## 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

JOB: 21-0083

| REVISIONS |
|---|
| 2/23/2022 |

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

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

DATE: 11-23-21
TITLE: ELEVATION

SHEET NO.
A4.1

ALL IDEAS, DESIGNS, AND PLANS INDICATED ON OR REPRESENTED BY THESE DOCUMENTS ARE OWNED BY AND ARE PROPERTY OF PDS ARCHITECTURE INC. PDS ARCHITECTURE INC. HEREBY EXPRESSLY RESERVES ITS COPYRIGHT AND OTHER PROPERTY RIGHTS IN THESE DOCUMENTS. THESE PLANS AND DRAWINGS ARE NOT TO BE REPRODUCED, CHANGED OR COPIED IN ANY FORM OR MANNER WHATSOEVER WITHOUT FIRST OBTAINING THE EXPRESS WRITTEN PERMISSION AND CONSENT OF PDS ARCHITECTURE INC. NOR ARE THEY TO BE ASSIGNED TO ANY PARTY WITHOUT FIRST OBTAINING SAID WRITTEN CONSENT. © PDS ARCHITECTURE INC.

# 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



5618 Whispering Willow Way, Fort Myers, FL 33908 | 239.398.2016
www.theneighborhood.company

**Exhibit E**

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: 1st hearing date March 6, 2023 , 2nd hearing date March 20, 2023**
**CASE: PD Amendment 20220100**
**ADDRESS: 6240 Estero Blvd**
**APPLICANT: Matthew Arminio**
**REQUEST: The applicant is requesting 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.**

**TOWN CONTACT: Jason Smalley jsmalley@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 **Town Council** will review the application materials and hear testimony to make a **decision**. 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

## 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: 1st hearing date March 6, 2023 , 2nd hearing date March 20, 2023**
**CASE: PD Amendment 20220100**
**ADDRESS: 6240 Estero Blvd**
**APPLICANT: Matthew Arminio**
**REQUEST: The applicant is requesting 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.**

**TOWN CONTACT: Jason Smalley jsmalley@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 **Town Council** will review the application materials and hear testimony to make a **decision**. 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

## 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: 1st hearing date March 6, 2023 , 2nd hearing date March 20, 2023**
**CASE: PD Amendment 20220100**
**ADDRESS: 6240 Estero Blvd**
**APPLICANT: Matthew Arminio**
**REQUEST: The applicant is requesting 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.**

**TOWN CONTACT: Jason Smalley jsmalley@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 **Town Council** will review the application materials and hear testimony to make a **decision**. 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

## 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: 1st hearing date March 6, 2023 , 2nd hearing date March 20, 2023**
**CASE: PD Amendment 20220100**
**ADDRESS: 6240 Estero Blvd**
**APPLICANT: Matthew Arminio**
**REQUEST: The applicant is requesting 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.**

**TOWN CONTACT: Jason Smalley jsmalley@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 **Town Council** will review the application materials and hear testimony to make a **decision**. 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
2525 Estero Blvd,
Fort Myers Beach, FL 33931

«OwnerName»
«MailAddress»
«MailCity», «MailState», «MailZip»«Next Record»

Town of Fort Myers Beach
2525 Estero Blvd,
Fort Myers Beach, FL 33931

«OwnerName»
«MailAddress»
«MailCity», «MailState», «MailZip»«Next Record»

Town of Fort Myers Beach
2525 Estero Blvd,
Fort Myers Beach, FL 33931

«OwnerName»
«MailAddress»
«MailCity», «MailState», «MailZip»«Next Record»

Town of Fort Myers Beach
2525 Estero Blvd,
Fort Myers Beach, FL 33931

«OwnerName»
«MailAddress»
«MailCity», «MailState», «MailZip»

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2023-952**

1. **Requested Motion:**

**Meeting Date: March 6, 2023**

Adopt Resolution 23-20 entitled: A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENY VARIANCE VAR20220108 TO ALLOW A POOL SETBACK VARIANCE OF ONE-FOOT FROM THE REQUIRED 15 FOOT SIDE STREET SETBACK FOR THE PROPERTY LOCATED AT 8180 LAGOON ROAD; AND PROVIDING FOR AN EFFECTIVE DATE

**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 15 feet to the side street, right of way property line.

2. **Agenda:**
PUBLIC HEARINGS

3. **Requirement/Purpose:**
Resolution

4. **Submitter of Information:**

---

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 side street setbacks equal to 15 feet. The applicant is requesting a reduction of 1 foot to the side street setback.

**Attachments:**

1. Resolution 23-20-C
2. Staff Report
3. Exhibit A Variance Application 8180 Lagoon Rd

**Financial Impact:**

unknown

6. **Alternative Action**

Recommend approval

7. **Management Recommendations:**

recommend denial

8. **Recommended Approval:**

| | |
|---|---|
| Kendra Rosa, Zoning Coordinator/Planner 1 | Created/Initiated - 2/28/2023 |
| Steve Poposki, Community Development Director | Approved - 2/28/2023 |
| John R Herin Jr, Town Attorney | Approved - 3/1/2023 |
| Amy Baker, Town Clerk | Approved - 3/1/2023 |
| Keith Wilkins , Interim Town Manager | Final Approval - 3/1/2023 |

**RESOLUTION NUMBER 23-20**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENY VARIANCE VAR20220108 TO ALLOW A POOL SETBACK VARIANCE OF ONE-FOOT FROM THE REQUIRED 15 FOOT SIDE STREET SETBACK FOR THE PROPERTY LOCATED AT 8180 LAGOON ROAD; AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal service, and exercise any power for municipal purposes, except when expressly prohibited by law; and

**WHEREAS**, Article X of the Town Charter of the Town of Fort Myers Beach empowers the Town to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

**WHEREAS**, applicant Christopher DeCosta, on behalf of owner Jane Schoonover Trust, is requesting a variance from Table 34-3 Dimensional Regulations in Conventional Zoning Districts; and

**WHEREAS**, the STRAP number for the subject property is 03-47-24-W3-00105.0070; and

**WHEREAS**, the Property is located in the "Low Density" category of the Future Land Use Map of the Comprehensive Plan and the "Residential Single-Family" zoning district of the Official Zoning Map of the Town of Fort Myers Beach, Florida; and

**WHEREAS**, a public hearing on this matter was legally noticed and held before the Local Planning Agency (LPA) on January 18, 2023, and at said 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 Section 34-87 of the LDC. The LPA voted 5-0 to recommend approval of the variance; and

**WHEREAS**, on March 6, 2023 the Town Council held a duly noticed public hearing to fully consider the request of the Applicant, the recommendations of Town staff and the LPA, the documents in the record, and testimony of all interested persons as required by 34-87 of the LDC; and

**WHEREAS**, the Town Council determined it is in the best interest of the Town to approve/ approve with conditions/ deny the request.

**NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AS FOLLOWS:**

Section 1. The above recitals are true, correct, incorporated herein by this reference, and adopted as the legislative and administrative findings of the Town Council.

Section 2. The Town Council determines the Applicant did/ did not meet its burden of proof that the requested Variance do/ do not meet the requirements of the Town Comprehensive Plan and LDC, and approving/ approving with conditions/ denying the Variance is in the best interest of the Town to approve/ approve with conditions/ deny. Therefore, based upon the recommendations, testimony, and evidence presented by the Applicant, Town staff, and interested parties and public, the Town Council APPROVES/ APPROVES WITH CONDITIONS/ DENIES the variance from Table 34-3 Dimensional Regulations in Conventional Zoning Districts.

Section 3. In approving/ approving with conditions/ denying the Variance, the Town Council makes the following findings and conclusions in accordance with the requirements of Section 34-87 of the LDC:

A. There are/ are not 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 approval of the variance are/ are not the result of actions of the Applicant taken after the adoption of the regulation in question.

C. The variance is/ is not the minimum variance that will relieve the Applicant of an unreasonable burden caused by the application of the regulation to the Property.

D. The granting of the variance will/ will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

E. The conditions or circumstances on the Property 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 foregoing Resolution was adopted by the Town Council upon a motion by Council Member Allers and seconded by Council Member Atterholt, and upon being put to a vote, the result was as follows:

| | |
|---|---|
| Dan Allers, Mayor | ___ |
| Jim Atterholt, Vice Mayor | ___ |
| John R. King | ___ |
| Bill Veach | ___ |
| Karen Woodson | ___ |

ADOPTED this 6th day of March, 2023 by the Town Council of the Town of Fort Myers Beach, Florida.

**FORT MYERS BEACH TOWN COUNCIL**

_____
Dan Allers, Mayor

**ATTEST:**

_____
Amy Baker, Town Clerk

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:**

_____
John R. Herin, Jr., Town Attorney

This Resolution was filed in the Office of the Town Clerk on this ___ day of March 2023.

# Town of Fort Myers Beach

## COMMUNITY DEVELOPMENT DEPARTMENT
## STAFF REPORT

| | |
|---|---|
| **TYPE OF CASE:** | **Variance** |
| **CASE NUMBER:** | **VAR20220108** |
| **CASE NAME:** | **8180 Lagoon Road; requesting 1 foot relief from LDC Table 34-3 which requires that a single-family home in the RS zoning district provide a street setback equal to 15 feet.** |
| **TOWN COUCIL HEARING DATE:** | **March 6, 2023 at 9 AM** |
| **LPA HEARING DATE:** | **January 18, 2023 at 9 AM** |
| **STAFF RECOMMENDATION:** | **DENY variance of street setback by 1 foot** |
| **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 side street setbacks equal to 15 feet.<br><br>The Applicant is requesting a variance of 1 foot from the required side 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 side street setbacks equal to 15 feet. When the applicant applied for this variance, the required setback from the street was 25 feet and the requested setback variance was for 11 feet. The new variance request, with adopted amendments to the ordinance for corner lot setbacks, is for a 1-foot variance to allow a pool 14 feet from the side street property line.

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 side street setbacks equal to 15 feet. Along the Tarpon Road street frontage, the applicant is proposing a street setback of 14 feet and requesting a variance of 1 foot 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 structure making 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 side street setbacks equal to 15 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 1 foot from the required street setback to accommodate expansion of a pool to a non-frontage corner lot.

At the January 18th LPA Hearing the LPA recommended approval of the request, which at that time was for a variance of 11 feet from the 25 foot side setback.

## Attachments

Exhibit A - Application

Christopher J. DeCosta, Esquire*
Elias M. Mahshie, Esquire
David K. Oaks, Esquire, Of Counsel**
Sven L. Smith, Esquire, Of Counsel

*ALSO ADMITTED IN MA, NY, RI
**ALSO ADMITTED IN NC

# MAHSHIE & DECOSTA
ATTORNEYS AT LAW

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: [x] YES [ ] NO

| ACTION REQUESTED | SUPPLEMENTAL FORM REQUIRED |
|---|---|
| [ ] Special Exception | PH-A |
| [x] Variance | PH-B |
| [ ] Conventional Rezoning | PH-C |
| [ ] Planned Development ☐ Commercial ☐ Residential | PH-D |
| [ ] Master Concept Plan Extension | PH-E |
| [ ] Appeal of Administrative Action | PH-F |
| [ ] Vacation of Platted Right-of-way and Easement | PH-G |
| [ ] Other – cite LDC Section: | 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: _____



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

# 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)

[X] Single Owner (individual or husband and wife)

Name: Janell Schoonover, Trustee of the Janell Schoonover Trust & Ed 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 _____, [X] who is personally known to me OR [ ] who has produced _____ as identification.

PAIGE RYAN
Notary Public, State of Florida
Commission No. HH 101337
Commission Expires 03/07/2025

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% |
| | |
| | |
| | |

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**

I, Janell Schoonover (name), as Trustee of Janell Schoonover Living 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.



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

# 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)

Janell Schoonover — Trustee

Signature — Title

Janell Schoonover — 10/14/2022

Typed or Printed Name — Date

**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, 20 22, by _____, ☐ who is personally known to me OR ☒ who has produced FLDL as identification.

PAIGE RYAN
Notary Public, State of Florida
Commission No. HH 101337
Commission Expires 03/07/2025

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.

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
☐ Mixed Residential
☐ Boulevard
☐ Pedestrian Commercial
☐ Marina
☐ Recreation
☐ Wetlands
☐ Platted Overlay



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

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?** | [x] **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)

**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.

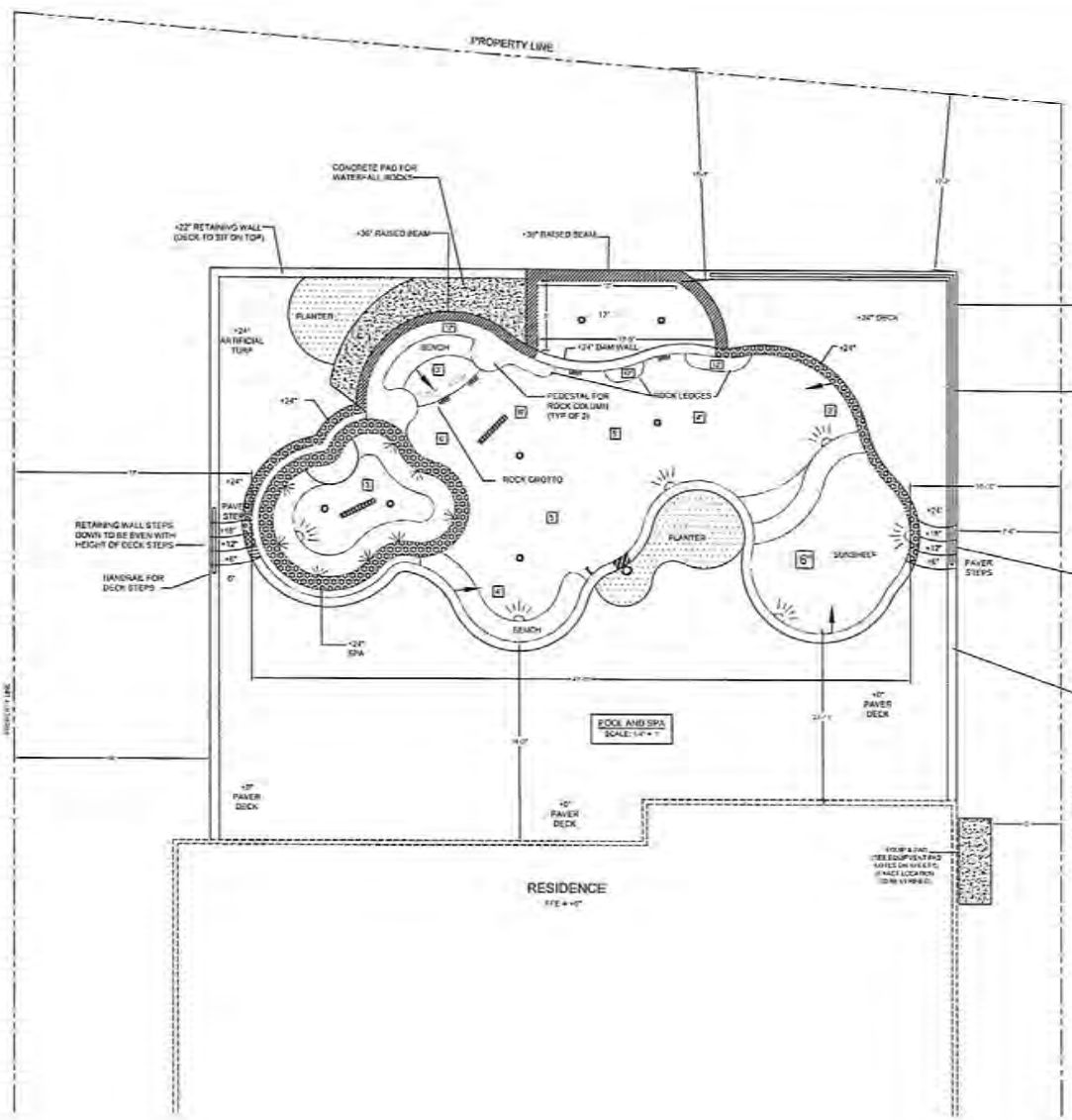
**Site plan**

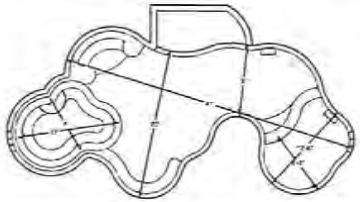
The site plan must show all existing structures on the site; all existing structures within 100 feet of the perimeter boundary of the site; and a clear illustration of the proposed variance.

**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.



POOL DIMENSIONS
SCALE: 1/8" = 1'

**POOL SPECIFICATIONS**

SIZE: 20' x 41'
PERIMETER: 144'
SURFACE AREA: 522 sq ft.
DEPTH: 3' to 6'
APPROX. VOLUME: 14,000 gallons
TURNOVER RATE: 6 hrs

**SPA SPECIFICATIONS**

SIZE: 7' x 13'
PERIMETER: 38'-4"
SURFACE AREA: 50 sq ft.
DEPTH: 3'
APPROX. VOLUME: 1,450 gallons
TURNOVER RATE: .5 hrs

**EQUIPMENT**
PUMP #1: JANDY VSP 2.7 hp - CIRCULATION & SPA JETS
PUMP #2: JANDY VSP 2.7 hp - SPA AND RAISED FOUNTAIN SPILLS
PUMP #3: JANDY VSP 2.7 hp - WATERFALL
FILTER: CV340 CARTRIDGE FILTER
CHLORINATOR: RAINBOW 300
AUTOMATIC CONTROLS: JANDY RSPS9
(1) 50w LED POOL LIGHT
(1) 25w LED SPA LIGHT
(5) 12w LED NICHELESS POOL LIGHTS
2hp JET BLOWER FOR SPA JETS

**PLUMBING**
(3) CHANNEL DRAINS IN POOL FLOOR
(1) CHANNEL DRAIN IN SPA FLOOR
(4) WALL INLETS IN POOL
(2) FLOOR INLETS IN RAISED FOUNTAIN
(3) FLOOR INLETS IN POOL
(2) FLOOR INLETS IN SPA
SKIMMER
VAC LINE
WATERFALL LINE
AUTOFILL
(8) SPA JETS (2 TRIPLE JET PACK)

**FINISHES**
MARBLE FANTASTIC ROYALE COPING (FRENCH PATTERN)
AMERICAN MOSAIC, HURON, ONYX BLACK 1x2 TILE
PEBBLE TEC INTERIOR FINISH, MIDNIGHT BLUE LEVEL 4

**DECK**
1014 sq.ft. SAND SET PAVERS
245 sq ft. MUD SET PAVERS ON CONCRETE BASE
130 sq ft. ARTIFICIAL TURF

**ADDITIONAL**
ROCK WATERFALL

SAFETY FEATURE - DOOR/WINDOW ALARMS
FBC (In Effect Regarding R4001.17.1) Outdoor Swimming Pools: Outdoor swimming pools shall be provided with a barrier complying with R4001.17.1.1 through R4001.17.1.14.
R4001.17.1.9.1: Where a wall of a dwelling serves as part of the barrier, one of the following shall apply:
1. All doors and windows providing direct access from the home to the pool shall be equipped with an alarm complying with UL 2017 that has a minimum sound pressure rating of 85 dba at 10 feet (3048 mm). Any door with either a fixed or sliding screen or with a 54-inches (1372 mm) above the threshold of the access. Separate alarms are not required for each door or window if a single audible alarm of sufficient sound when contact is broken is heard anywhere in the dwelling.

Per 2020 7th Edition of Florida Building Code sections FBC R 327.3.2.7 and FBC 1612.4 Peak In Ground High Hazard assist shall be designed and constructed in accordance with ASCE 24-3. Per FBC 1612.4.1 An Occupiable or Habitable Equipment for pools, spas and water features shall be permitted below the elevation required in Table 2-1, provided it is elevated to the extent practical, is anchored to prevent flotation and could float if inundated, and is supplied by branch circuits that have ground-fault circuit-interrupter protection with the source above BFE.
This pool is structural and constructed to remain in the ground without connecting flow into and out from structure to any structure and be structurally independent. This pool is designed to be structurally independent of building or structure.

LUCAS | LAGOONS CONSTRUCTION
7300 N. PALM AVENUE
SARASOTA, FLORIDA 34243
CGC 1516 [illegible]

SCHOONOVER RESIDENCE
[illegible] ROAD
VENICE, FLORIDA
33931
JOB NO. SGLC20401

LEGAL: LOT 7, BLOCK 5
UNIT NUMBER 1
LAGUNA SHORES

REVISIONS:
[illegible]

DATE: 04/05/22
SHEET:
2 of 5
LAYOUT AND SPECIFICATIONS
ALL DETAILS ARE 1/8" = 1' SCALE UNLESS OTHERWISE NOTED

SEALED ON 04/15/22
[illegible]
Matthew Sorrels, P.E. (SA 3016)
[illegible]

EXHIBIT
tabbies Site Plan

# Legal Description

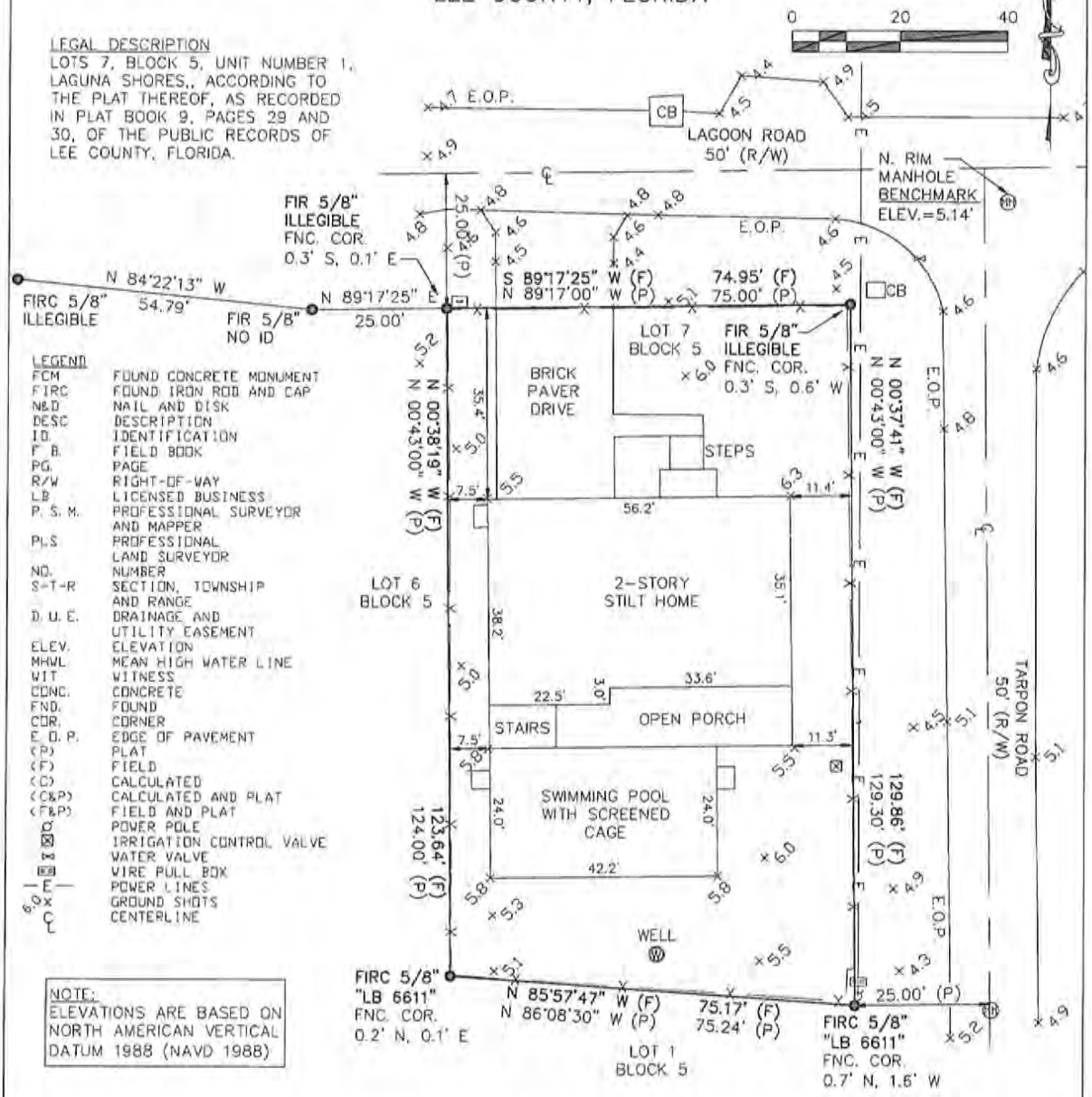
Lot 7, Block 5, UNIT NO. 1 LAGUNA SHORES, according to the Plat thereof, recorded in Plat Book 9, Page(s) 29 and 30, of the Public Records of Lee County, Florida.

Parcel Identification Number: 03-47-24-W3-00105.0070

EXHIBIT
6-1

# 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 |
| LB | LICENSED BUSINESS |
| P. S. M. | PROFESSIONAL SURVEYOR AND MAPPER |
| PLS | 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 |
| | POWER POLE |
| | IRRIGATION CONTROL VALVE |
| | WATER VALVE |
| | WIRE PULL BOX |
| —E— | POWER LINES |
| 6.0x | GROUND SHOTS |
| ℄ | 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.

CERTIFIED TO:
JANELL 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 5J-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. 38 |
| 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 Digitally signed by KENNETH PUFAHL Date: 2021.03.27 11:31:00 -04'00'
Ken Pufahl, P.S.M
PROFFESIONAL SURVEYOR & MAPPER
FLORIDA CERTIFICATE NUMBER 6126
DATE

tabbies
EXHIBIT 6-2

# GeoView Map

September 23, 2022

Air Photos: 2022 Hi-Res (4 inch)

1:4,800

0 225 450 900 ft

0 65 130 260 m

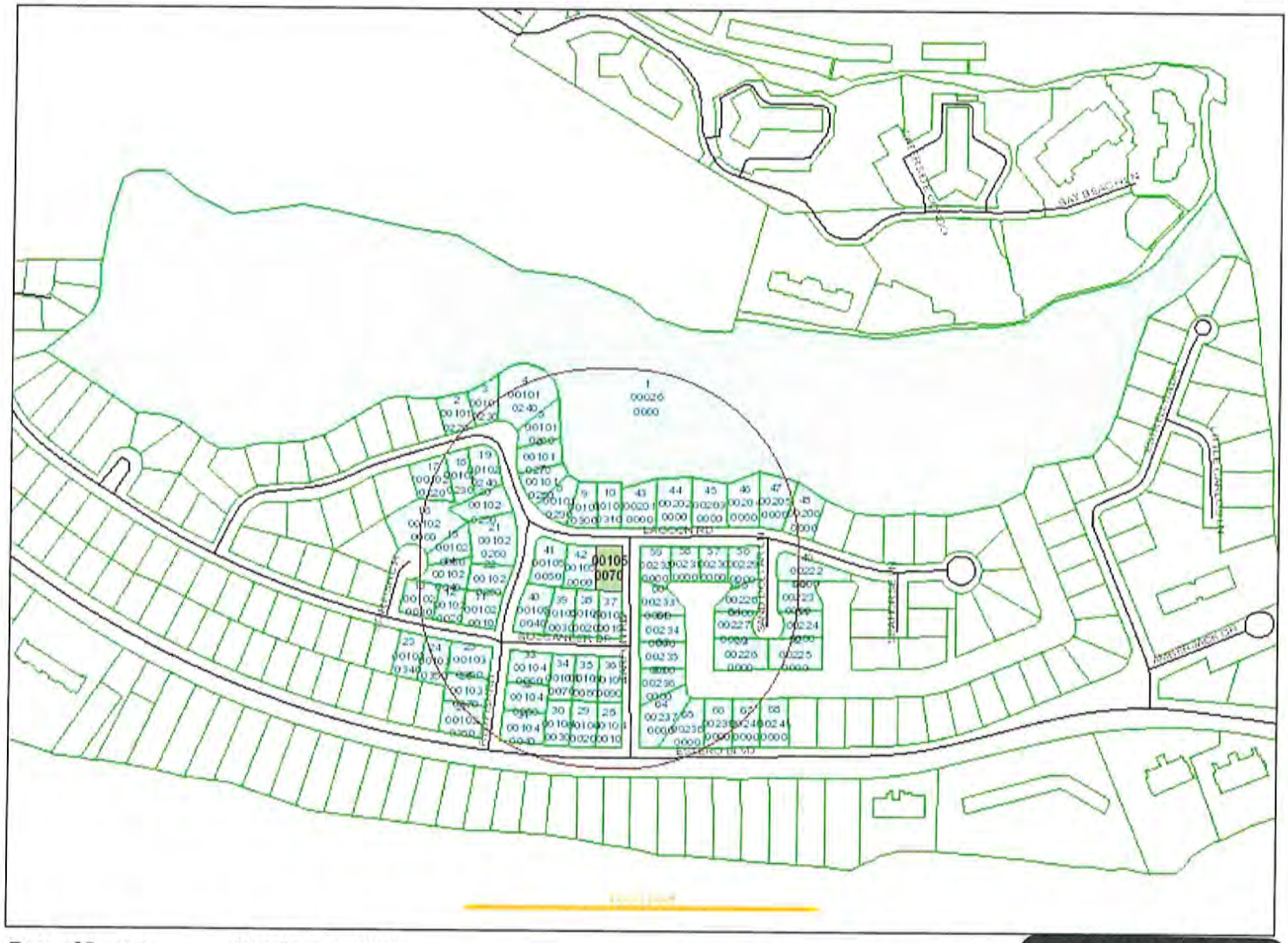
- HospitalLocations
- Library Locations

**School Locations**

- School Locations

EXHIBIT 6-3

This map is NOT a legal land survey and should not be used or relied upon as such.



Date of Report: October 14, 2022

Buffer Distance: 500 feet Rerun

Parcels Affected: 68

Subject Parcel: **03-47-24-W3-00105.0070**

Click here to download the map image, 5161) and CSV formatted information.

EXHIBIT 6-6

To change, add or remove subject parcels please change the parcel selection in Geo View

| OWNER NAME AND ADDRESS | STRAP AND LOCATION | LEGAL DESCRIPTION | MAP INDEX |
|---|---|---|---|
| TIITF STATE OF FLORIDA<br>3900 COMMONWEALTH BLVD<br>TALLAHASSEE FL 32399 | **03-47-24-W3-00026.0000**<br>SUBMERGED<br>FORT MYERS BEACH FL 33931 | SUBMERGED LAND IN SEC 03<br>TWP 47 RNG 24 | 1 |
| GOUSE WARREN T TR<br>GOUSES FURNITURE<br>24081 S TAMIAMI TRL<br>BONITA SPRINGS FL 34134 | **03-47-24-W3-00101.0220**<br>8075 LAGOON RD<br>FORT MYERS BEACH FL 33931 | LAGUNA SHORES UNIT 1<br>BLK 1 PB 9 PG 29<br>LOT 22 | 2 |
| BERRA ELLEN ELIZABETH TR<br>3 CLAYTON ESTATES DR<br>SAINT LOUIS MO 63131 | **03-47-24-W3-00101.0230**<br>8085 LAGOON RD<br>FORT MYERS BEACH FL 33931 | LAGUNA SHORES UNIT 1<br>BLK 1 PB 9 PG 30<br>LOT 23 | 3 |
| BEES LAGOON LLC<br>W18917 COUNTY RD ZZ<br>BIRNAMWOOD WI 54414 | **03-47-24-W3-00101.0240**<br>8095 LAGOON RD<br>FORT MYERS BEACH FL 33931 | LAGUNA SHORES UNIT 1<br>BLK 1 PB 9 PG 29<br>LOTS 24 + 25 + THAT | 4 |
| SPRATT WILLIAM C III &<br>8125 LAGOON RD<br>FORT MYERS BEACH FL 33931 | **03-47-24-W3-00101.0260**<br>8125 LAGOON RD<br>FORT MYERS BEACH FL 33931 | LAGUNA SHORES UNIT 1<br>BLK 1 PB 9 PG 29<br>LOT 26 | 5 |
| MARIA C LOFFRENO TRUST +<br>8002 ESTERO BLVD | **03-47-24-W3-00101.0270**<br>8153 LAGOON RD | LAGUNA SHORES UNIT 1<br>BLK 1 PB 9 PG 29 | 6 |

| | | | |
|---|---|---|---|
| FORT MYERS BEACH FL 33931 | FORT MYERS BEACH FL 33931 | LOT 27 | |
| TAMPLIN JACK SCOTT & LISA<br>8155 LAGOON RD<br>FORT MYERS BEACH FL 33931 | **03-47-24-W3-00101.0280**<br>8155 LAGOON RD<br>FORT MYERS BEACH FL 33931 | LAGUNA SHORES UNIT 1<br>BLK 1 PB 9 PG 30<br>LOT 28 | 7 |
| HOWSER JAMES E TR<br>8157 LAGOON RD<br>FORT MYERS BEACH FL 33931 | **03-47-24-W3-00101.0290**<br>8157 LAGOON RD<br>FORT MYERS BEACH FL 33931 | LAGUNA SHORES UT 1<br>BLK 1 PB 9 PG 30<br>LOT 29 | 8 |
| LURIE SAMUEL L TR<br>PO BOX 6221<br>FORT MYERS BEACH FL 33932 | **03-47-24-W3-00101.0300**<br>8163 LAGOON RD<br>FORT MYERS BEACH FL 33931 | LAGUNA SHORES UNIT 1<br>BLK 1 PB 9 PG 29<br>LOT 30 | 9 |
| HEDRICH N LEE<br>10981 BONITA BEACH RD<br>BONITA SPRINGS FL 34135 | **03-47-24-W3-00101.0310**<br>8179 LAGOON RD<br>FORT MYERS BEACH FL 33931 | LAGUNA SHORES UNIT 1<br>BLK 1 PB 9 PG 30<br>LOT 31 | 10 |
| POSILLICO VINCENZO &<br>145 HARVARD ST<br>WESTBURY NY 11590 | **03-47-24-W3-00102.0010**<br>201 REDFISH RD<br>FORT MYERS BEACH FL 33931 | LAGUNA SHORES UNIT 1<br>BLK 2 PB 9 PG 29 30<br>LOT 1 | 11 |
| WOOD SCOTT C<br>17 SMITH RD<br>RIDGE NY 11961 | **03-47-24-W3-00102.0020**<br>7951 BUCCANEER DR<br>FORT MYERS BEACH FL 33931 | LAGUNA SHORES UNIT 1<br>BLK 2 PB 9 PG 29<br>LOT 2 | 12 |
| MARTIN ERIC & YANIET<br>16312 SW 67 TERRACE<br>MIAMI FL 33193 | **03-47-24-W3-00102.0030**<br>7947 BUCCANEER DR<br>FORT MYERS BEACH FL 33931 | LAGUNA SHORES UNIT 1<br>BLK 2 PB 9 PG 29<br>LOT 3 | 13 |
| BAKER SCOTT ERIC TR<br>180 STARFISH CIR<br>FORT MYERS BEACH FL 33931 | **03-47-24-W3-00102.0040**<br>180 STARFISH CIR<br>FORT MYERS BEACH FL 33931 | LAGUNA SHORES UNIT 1<br>BLK 2 PB 9 PG 29<br>LOT 4 | 14 |
| TURGEON HENRY J &<br>190 STARFISH CIR<br>FORT MYERS BEACH FL 33931 | **03-47-24-W3-00102.0050**<br>190 STARFISH CIR<br>FORT MYERS BEACH FL 33931 | LAGUNA SHORES UNIT 1<br>BLK 2 PB 9 PG 29<br>LOT 5 | 15 |
| WARREN GULF COAST REALTY LLC<br>222 HOUGHTONS MILL RD<br>LUNENBURG MA 01462 | **03-47-24-W3-00102.0060**<br>200 STARFISH CIR<br>FORT MYERS BEACH FL 33931 | LAGUNA SHORES UT 1 BLK 2<br>PB 9 PG 29 LOTS 6 + 7 +<br>PT LTS 8 20 21 + 22 | 16 |
| SCHIAFONE BLAKE & IRINA<br>8060 LAGOON RD<br>FORT MYERS BEACH FL 33931 | **03-47-24-W3-00102.0220**<br>8060 LAGOON RD<br>FORT MYERS BEACH FL 33931 | LAGUNA SHORES UNIT 1<br>BLK 2 PB 9 PG 30 LOT 22 +<br>PT 21 DESC OR 1700 PG 4030 | 17 |
| SPITZER KIM I<br>8070 LAGOON RD<br>FORT MYERS BEACH FL 33931 | **03-47-24-W3-00102.0230**<br>8070 LAGOON RD<br>FORT MYERS BEACH FL 33931 | LAGUNA SHORES UNIT 1<br>BLK.2 PB 9 PG 30<br>LOT 23 | 18 |
| GROUT DARCY J & JEFFREY P<br>8080 LAGOON RD<br>FORT MYERS BEACH FL 33931 | **03-47-24-W3-00102.0240**<br>8080 LAGOON RD<br>FORT MYERS BEACH FL 33931 | LAGUNA SHORES UNIT 1<br>BLK 2 PB 9 PG 30<br>LOT 24 | 19 |
| PARNHAM ROBERT NORMAN &<br>543 PARNHAM FARM LN<br>SMITHFIELD PA 15478 | **03-47-24-W3-00102.0250**<br>8100 LAGOON RD<br>FORT MYERS BEACH FL 33931 | LAGUNA SHORES UNIT 1<br>BLK.2 PB 9 PG 29<br>LOT 25 | 20 |
| JONES TIMOTHY D &<br>211 REDFISH RD<br>FORT MYERS BEACH FL 33931 | **03-47-24-W3-00102.0260**<br>211 REDFISH RD<br>FORT MYERS BEACH FL 33931 | LAGUNA SHORES UNIT 1<br>BLK 2 PB 9 PG 29<br>LOTS 26 + 27 | 21 |
| AMES JON Q TR<br>207 REDFISH RD<br>FORT MYERS BEACH FL 33931 | **03-47-24-W3-00102.0280**<br>207 REDFISH RD<br>FORT MYERS BEACH FL 33931 | LAGUNA SHORES UNIT 1<br>BLK 2 PB 9 PG 30<br>LOT 28 | 22 |
| HALL STEVEN A & CARISA R<br>7934 BUCCANEER DR<br>FORT MYERS BEACH FL 33931 | **03-47-24-W3-00103.0340**<br>7934 BUCCANEER DR<br>FORT MYERS BEACH FL 33931 | LAGUNA SHORES UNIT 1<br>BLK 3 PB 9 PG 30<br>LOT 34 | 23 |
| LEMARO INC<br>449 HARVEST RD<br>DUNDAS ON L9H 5E2<br>CANADA | **03-47-24-W3-00103.0350**<br>7940 BUCCANEER DR<br>FORT MYERS BEACH FL 33931 | LAGUNA SHORES UNIT 1<br>BLK 3 PB 9 PG 30<br>LOT 35 | 24 |
| WINN ELEANOR<br>7950 BUCCANEER DR<br>FORT MYERS BEACH FL 33931 | **03-47-24-W3-00103.0360**<br>7950 BUCCANEER DR<br>FORT MYERS BEACH FL 33931 | LAGUNA SHORES UNIT 1<br>BLK 3 PB 9 PG 30<br>LOT 36 | 25 |

| | | | |
|---|---|---|---|
| BENES OLDRICH &<br>181 REDFISH RD<br>FORT MYERS BEACH FL 33931 | **03-47-24-W3-00103.0370**<br>181 REDFISH RD<br>FORT MYERS BEACH FL 33931 | LAGUNA SHORES UNIT 1<br>BLK 3 PB 9 PG 29-30<br>LOT 37 | 26 |
| BEZON JOAN F L/E<br>8081 ESTERO BLVD<br>FORT MYERS BEACH FL 33931 | **03-47-24-W3-00103.0380**<br>8081 ESTERO BLVD<br>FORT MYERS BEACH FL 33931 | LAGUNA SHORES UNIT 1<br>BLK.3 PB 9 PG 29<br>LOT 38 | 27 |
| MCNULTY WALTER M<br>5471 W 7TH CT<br>HIALEAH FL 33012 | **03-47-24-W3-00104.0010**<br>8175 ESTERO BLVD<br>FORT MYERS BEACH FL 33931 | LAGUNA SHORES UNIT 1<br>BLK.4 PB 9 PG 30<br>LOT 1 | 28 |
| 3 PALMS LLC<br>7333 93RD ST SW<br>HOWARD LAKE MN 55349 | **03-47-24-W3-00104.0020**<br>8151 ESTERO BLVD<br>FORT MYERS BEACH FL 33931 | LAGUNA SHORES UNIT 1<br>BLK.4 PB 9 PG 29<br>LOT 2 | 29 |
| TORRES CANDY CONSTANZA &<br>13621 SW 16TH ST<br>DAVIE FL 33325 | **03-47-24-W3-00104.0030**<br>8141 ESTERO BLVD<br>FORT MYERS BEACH FL 33931 | LAGUNA SHORES UNIT 1<br>BLK 4 PB 9 PG 29<br>LOT 3 | 30 |
| PAYNE CYNTHIA GRACE<br>170 REDFISH RD<br>FORT MYERS BEACH FL 33931 | **03-47-24-W3-00104.0040**<br>170 REDFISH RD<br>FORT MYERS BEACH FL 33931 | LAGUNA SHORES UNIT 1<br>BLK.4 PB 9 PG 29<br>LOT 4 | 31 |
| COAKE ROBERT V & SUSAN C TR<br>180 REDFISH RD<br>FORT MYERS BEACH FL 33931 | **03-47-24-W3-00104.0050**<br>180 REDFISH RD<br>FORT MYERS BEACH FL 33931 | LAGUNA SHORES UNIT 1<br>BLK 4 PB 9 PG 29<br>LOT 5 | 32 |
| ESCUE MARY E L/E<br>8000 BUCCANEER DR<br>FORT MYERS BEACH FL 33931 | **03-47-24-W3-00104.0060**<br>8000 BUCCANEER DR<br>FORT MYERS BEACH FL 33931 | LAGUNA SHORES UNIT 1<br>BLK 4 PB 9 PG 29<br>LOT 6 | 33 |
| OHLIN DOUGLAS J & SUSAN<br>8010 BUCCANEER DR<br>FORT MYERS BEACH FL 33931 | **03-47-24-W3-00104.0070**<br>8010 BUCCANEER DR<br>FORT MYERS BEACH FL 33931 | LAGUNA SHORES UNIT 1<br>BLK 4 PB 9 PG 29<br>LOT 7 | 34 |
| RAMBOW ERIC & KEREN<br>1333 PARKRIDGE PL<br>CINCINNATI OH 45208 | **03-47-24-W3-00104.0080**<br>8014 BUCCANEER DR<br>FORT MYERS BEACH FL 33931 | LAGUNA SHORES UNIT 1<br>BLK 4 PB 9 PG 30<br>LOT 8 | 35 |
| FOERSTER ROSA +<br>8016 BUCCANEER DR<br>FORT MYERS BEACH FL 33931 | **03-47-24-W3-00104.0090**<br>8016 BUCCANEER DR<br>FORT MYERS BEACH FL 33931 | LAGUNA SHORES UNIT 1<br>BLK 4 PB 9 PG 30<br>LOT 9 | 36 |
| TJOSVOLD YVONNE<br>8015 BUCCANEER DR<br>FORT MYERS BEACH FL 33931 | **03-47-24-W3-00105.0010**<br>8015 BUCCANEER DR<br>FORT MYERS BEACH FL 33931 | LAGUNA SHORES UNIT 1<br>BLK.5 PB 9 PG 29<br>LOT 1 | 37 |
| GULINO JOHN & JEANNE<br>82 WOODLOT RD<br>RIDGE NY 11961 | **03-47-24-W3-00105.0020**<br>8007 BUCCANEER DR<br>FORT MYERS BEACH FL 33931 | LAGUNA SHORES UNIT 1<br>BLK 5 PB 9 PG 29<br>LOT 2 | 38 |
| MASON RANDY & LYNN M<br>8003 BUCCANEER DR<br>FORT MYERS BEACH FL 33931 | **03-47-24-W3-00105.0030**<br>8003 BUCCANEER DR<br>FORT MYERS BEACH FL 33931 | LAGUNA SHORES UNIT 1<br>BLK.5 PB 9 PG 29<br>LOT 3 | 39 |
| GREEN BRADLEY G & SHELIA A TR<br>8001 BUCCANEER DR<br>FORT MYERS BEACH FL 33931 | **03-47-24-W3-00105.0040**<br>8001 BUCCANEER DR<br>FORT MYERS BEACH FL 33931 | LAGUNA SHORES UNIT 1<br>BLK 5 PB 9 PG 29<br>LOT 4 | 40 |
| BROCK KEVIN CURTIS +<br>210 REDFISH ROAD<br>FORT MYERS BEACH FL 33931 | **03-47-24-W3-00105.0050**<br>210 REDFISH RD<br>FORT MYERS BEACH FL 33931 | LAGUNA SHORES UNIT 1<br>BLK.5 PB 9 PG 29<br>LOT 5 | 41 |
| POHLMAN PAMELA & WILLIAM<br>8170 LAGOON RD<br>FORT MYERS BEACH FL 33931 | **03-47-24-W3-00105.0060**<br>8170 LAGOON RD<br>FORT MYERS BEACH FL 33931 | LAGUNA SHORES UNIT 1<br>BLK.5 PB 9 PG 29<br>LOT 6 | 42 |
| TATARIAN GERALD & MARY L<br>8357 LAGOON RD<br>FORT MYERS BEACH FL 33931 | **03-47-24-W3-00201.0000**<br>8357 LAGOON RD<br>FORT MYERS BEACH FL 33931 | LAGUNA SHORES UNIT 2<br>PB 9 PG 84<br>LOT 1 | 43 |
| POFF MICHAEL J & KATHY M<br>8367 LAGOON RD<br>FORT MYERS BEACH FL 33931 | **03-47-24-W3-00202.0000**<br>8367 LAGOON RD<br>FORT MYERS BEACH FL 33931 | LAGUNA SHORES UNIT 2<br>PB 9 PG 84<br>LOT 2 | 44 |
| SCHULTZ THOMAS H TR | **03-47-24-W3-00203.0000** | LAGUNA SHORES UNIT 2 | 45 |

| | | | |
|---|---|---|---|
| PO BOX 131<br>DE FOREST WI 53532 | 8371 LAGOON RD<br>FORT MYERS BEACH FL 33931 | PB 9 PG 84<br>LOT 3 | |
| HAMILTON LARRY J &<br>8375 LAGOON RD<br>FORT MYERS BEACH FL 33931 | **03-47-24-W3-00204.0000**<br>8375 LAGOON RD<br>FORT MYERS BEACH FL 33931 | LAGUNA SHORES UNIT 2<br>PB 9 PG 84<br>LOT 4 | 46 |
| BUTCHER DAVID B & DIANE M<br>8385 LAGOON RD<br>FORT MYERS BEACH FL 33931 | **03-47-24-W3-00205.0000**<br>8385 LAGOON RD<br>FORT MYERS BEACH FL 33931 | LAGUNA SHORES UNIT 2<br>PB 9 PG 84<br>LOT 5 | 47 |
| SLAVENS DAVID R TR<br>8411 LAGOON RD<br>FORT MYERS BEACH FL 33931 | **03-47-24-W3-00206.0000**<br>8411 LAGOON RD<br>FORT MYERS BEACH FL 33931 | LAGUNA SHORES UNIT 2<br>PB 9 PG 84<br>LOT 6 | 48 |
| DUTTON JAMES & DEBORAH<br>112 SAND DOLLAR DR<br>FORT MYERS BEACH FL 33931 | **03-47-24-W3-00222.0000**<br>112 SAND DOLLAR DR<br>FORT MYERS BEACH FL 33931 | LAGUNA SHORES UNIT 2<br>PB 9 PG 84<br>LOT 22 | 49 |
| BROWER RUSSELL & MELINDA<br>116 SAND DOLLAR DR<br>FORT MYERS BEACH FL 33931 | **03-47-24-W3-00223.0000**<br>116 SAND DOLLAR DR<br>FORT MYERS BEACH FL 33931 | LAGUNA SHORES UNIT 2<br>PB 9 PG 84<br>LOT 23 | 50 |
| LUKACEK GARY S TR<br>120 SAND DOLLAR DR<br>FORT MYERS BEACH FL 33931 | **03-47-24-W3-00224.0000**<br>120 SAND DOLLAR DR<br>FORT MYERS BEACH FL 33931 | LAGUNA SHORES UNIT 2<br>PB 9 PG 84<br>LOT 24 | 51 |
| MAITZ CORY J & EMILIA P<br>124 SAND DOLLAR DR<br>FORT MYERS BEACH FL 33931 | **03-47-24-W3-00225.0000**<br>124 SAND DOLLAR DR<br>FORT MYERS BEACH FL 33931 | LAGUNA SHORES UNIT 2<br>PB 9 PG 84<br>LOT 25 | 52 |
| CLARK STEPHEN R & LARENNE S<br>125 SAND DOLLAR DR<br>FORT MYERS BEACH FL 33931 | **03-47-24-W3-00226.0000**<br>125 SAND DOLLAR DR<br>FORT MYERS BEACH FL 33931 | LAGUNA SHORES UNIT 2<br>PB 9 PG 84<br>LOT 26 | 53 |
| THOMPSON RUSSELL & PATTI<br>4930 DEFIANCE TRAIL<br>DELPHOS OH 45833 | **03-47-24-W3-00227.0000**<br>121 SAND DOLLAR DR<br>FORT MYERS BEACH FL 33931 | LAGUNA SHORES UNIT 2<br>PB 9 PG 84<br>LOT 27 | 54 |
| SCAFIDI DAVID C<br>117 SAND DOLLAR DR<br>FORT MYERS BEACH FL 33931 | **03-47-24-W3-00228.0000**<br>117 SAND DOLLAR DR<br>FORT MYERS BEACH FL 33931 | LAGUNA SHORES UNIT 2<br>PB 9 PG 84<br>LOT 28 | 55 |
| PARNHAM ROBERT N & LILLY E<br>543 PARNHAM FARM LN<br>SMITHFIELD PA 15478 | **03-47-24-W3-00229.0000**<br>8338 LAGOON RD<br>FORT MYERS BEACH FL 33931 | LAGUNA SHORES UNIT 2<br>PB 9 PG 84<br>LOT 29 | 56 |
| BRONDYKE HOWARD & PATRICIA TR<br>6392 HIDDEN PONDS DR<br>HOLLAND MI 49423 | **03-47-24-W3-00230.0000**<br>8336 LAGOON RD<br>FORT MYERS BEACH FL 33931 | LAGUNA SHORES UNIT 2<br>PB 9 PG 84<br>LOT 30 | 57 |
| KUJAWA WIESLAWA & ROMAN<br>6 TWENTY SEVENTH ST<br>ETOBICOKE ON M8W 2X3<br>CANADA | **03-47-24-W3-00231.0000**<br>8324 LAGOON RD<br>FORT MYERS BEACH FL 33931 | LAGUNA SHORES UNIT 2<br>PB 9 PG 84<br>LOT 31 | 58 |
| RE-BUILD PROPERTIES LLC TR<br>7741 N MILITARY TRL STE 1<br>PALM BEACH GARDENS FL 33410 | **03-47-24-W3-00232.0000**<br>190 TARPON RD<br>FORT MYERS BEACH FL 33931 | LAGUNA SHORES UNIT 2<br>PB 9 PG 84<br>LOT 32 | 59 |
| STEELE JAMES H<br>170 TARPON RD<br>FORT MYERS BEACH FL 33931 | **03-47-24-W3-00233.0000**<br>170 TARPON RD<br>FORT MYERS BEACH FL 33931 | LAGUNA SHORES UNIT 2<br>PB 9 PG 84<br>LOT 33 | 60 |
| SALVAGGIO JOSEPH R<br>150 TARPON RD<br>FORT MYERS BEACH FL 33931 | **03-47-24-W3-00234.0000**<br>150 TARPON RD<br>FORT MYERS BEACH FL 33931 | LAGUNA SHORES UNIT 2<br>PB 9 PG 84<br>LOT 34 | 61 |
| GULINO JOHN & JEANNE<br>82 WOODLOT RD<br>RIDGE NY 11961 | **03-47-24-W3-00235.0000**<br>130 TARPON RD<br>FORT MYERS BEACH FL 33931 | LAGUNA SHORES UNIT 2<br>PB 9 PG 84<br>LOT 35 | 62 |
| GULINO ANTHONY & LISA TR<br>84 WOOD LOT RD<br>RIDGE NY 11961 | **03-47-24-W3-00236.0000**<br>110 TARPON RD<br>FORT MYERS BEACH FL 33931 | LAGUNA SHORES UNIT 2<br>PB 9 PG 84<br>LOT 36 | 63 |
| MIGLIORATTI PHILIP & LISA M | **03-47-24-W3-00237.0000** | LAGUNA SHORES UNIT 2 | 64 |

| | | | |
|---|---|---|---|
| 382 LAKE RD<br>WEBSTER NY 14580 | 100 TARPON RD<br>FORT MYERS BEACH FL 33931 | PB 9 PG 84<br>LOT 37 | |
| JACKSON PHILIP & CATHY<br>1998 OGLEBAY DR<br>WHEELING WV 26003 | **03-47-24-W3-00238.0000**<br>8211 ESTERO BLVD<br>FORT MYERS BEACH FL 33931 | LAGUNA SHORES UNIT 2<br>PB 9 PG 84<br>LOT 38 | 65 |
| 8223 ESTERO LLC<br>8415 LAGOON ROAD<br>FORT MYERS BEACH FL 33931 | **03-47-24-W3-00239.0000**<br>8223 ESTERO BLVD<br>FORT MYERS BEACH FL 33931 | LAGUNA SHORES UNIT 2<br>PB 9 PG 84<br>LOT 39 | 66 |
| ECKHARDT ROSS A & ASHLEY N<br>8235 ESTERO BLVD<br>FORT MYERS BEACH FL 33931 | **03-47-24-W3-00240.0000**<br>8235 ESTERO BLVD<br>FORT MYERS BEACH FL 33931 | LAGUNA SHORES UNIT 2<br>PB 9 PG 84<br>LOT 40 | 67 |
| 8247 ESTERO LLC<br>5359 N RD 400 W<br>BARGERSVILLE IN 46106 | **03-47-24-W3-00241.0000**<br>8247 ESTERO BLVD<br>FORT MYERS BEACH FL 33931 | LAGUNA SHORES UNIT 2<br>PB 9 PG 84<br>LOT 41 | 68 |

# GeoView Map

September 23, 2022 Air Photos: 2022 Hi-Res (4 inch)

1:1,280

0 60 120 240 ft

0 15 30 60 m

HospitalLocations

Library Locations

**School Locations**

School Locations

CCC_Parks

County Boundary

**Major Roads Medium**

I - 75

Parcels Near

EXHIBIT 6-7

This map is NOT a legal land survey and should not be used or relied upon as such.

## 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).

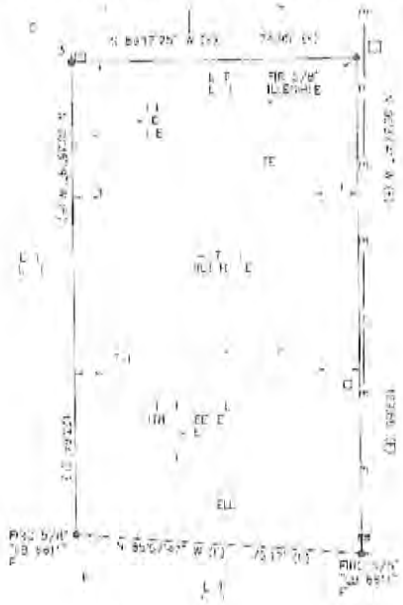


*Figure 1*

## 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.

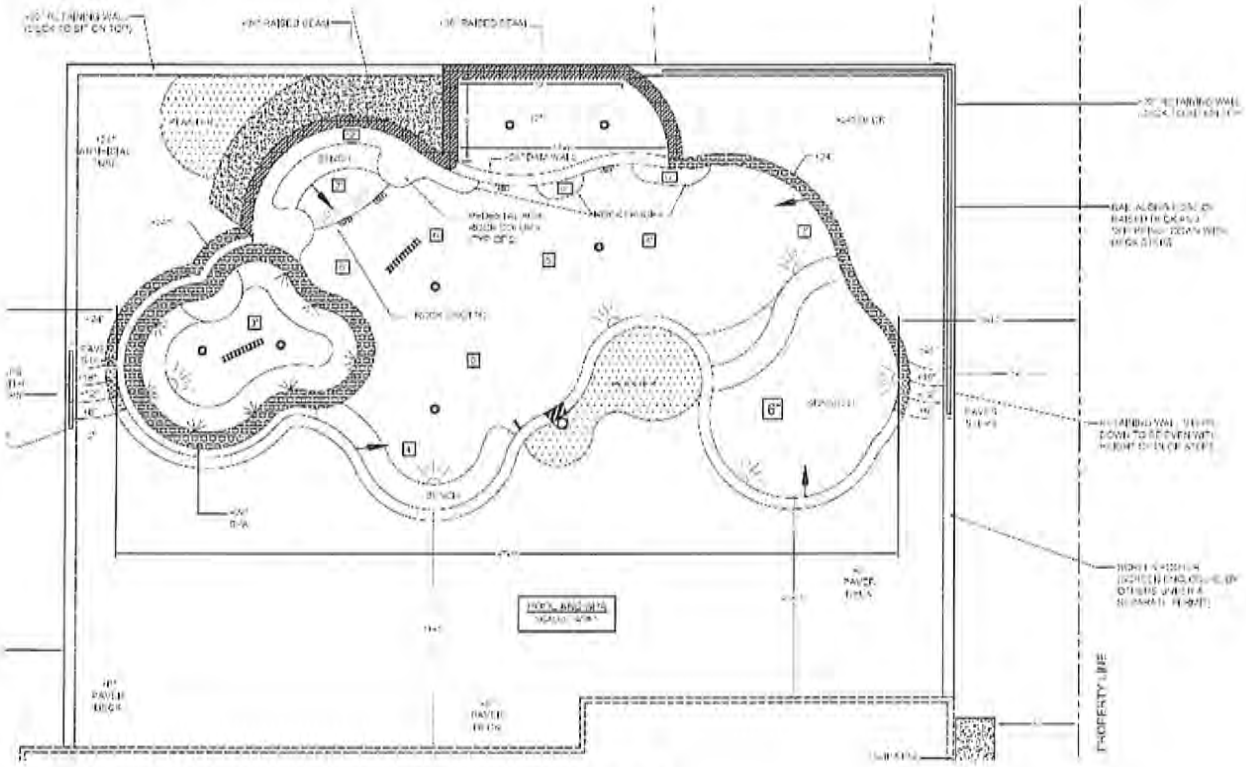



Figure 2

## 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)a[1]. 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 now[3]. 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
Christopher J. DeCosta, Esq.
Florida Bar No.: 271410
Mahshie & DeCosta, P.A.
1560 Matthew Drive, Suite E
Fort Myers, FL 33907
chris@md-lawfirm.com
paige@md-lawfirm.com

*Attorneys for Petitioners, Ed and Janell Schoonover*

## Appendix 1 – Photographs of Current Configuration

# 8180 Lagoon

01/14/2022

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)**

# 8001 Buccaneer

01/14/2022

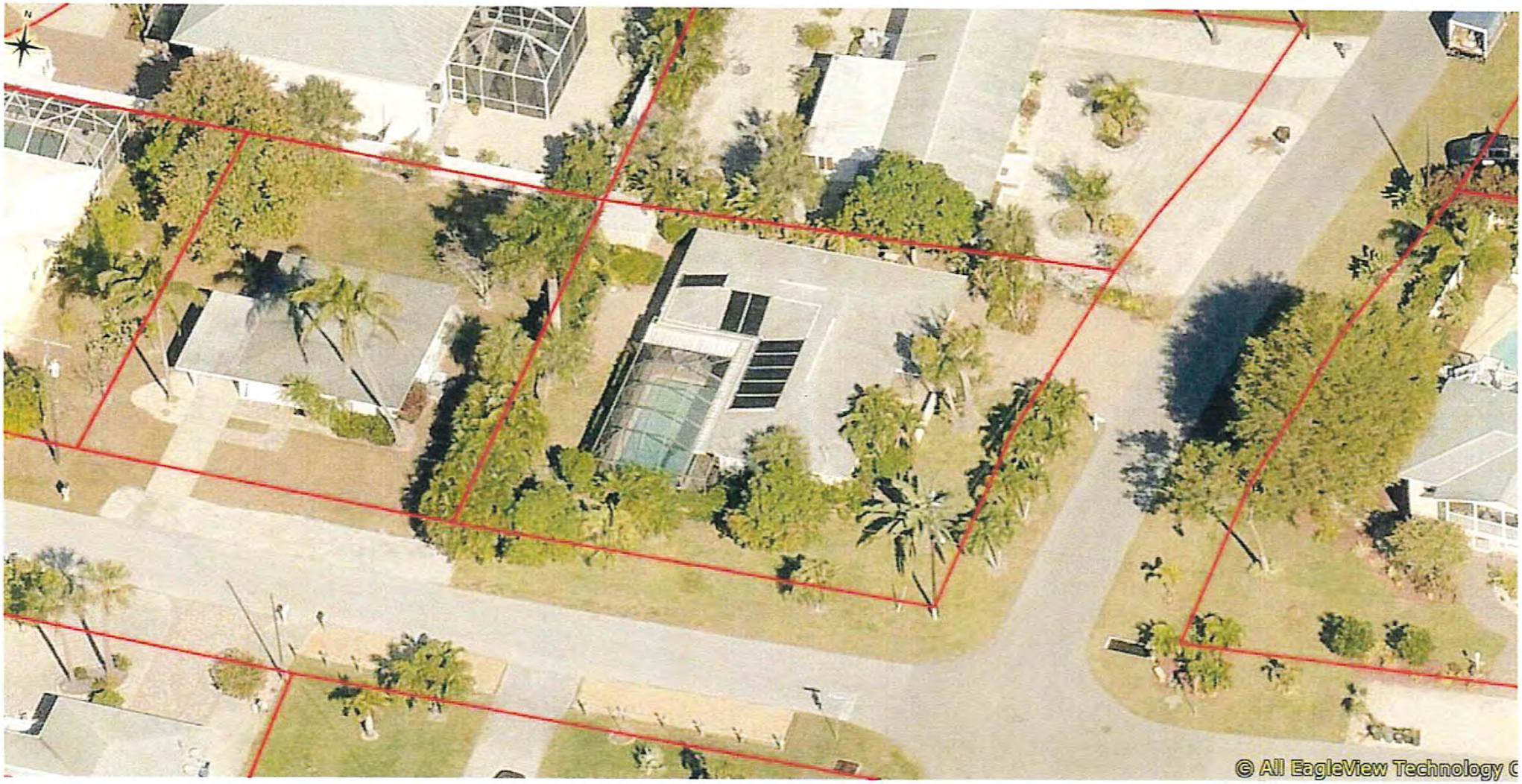
Lat: 26.405646 Long: -81.890309 | Lee County, FL Imagery Date: 01/14/2022

# 8015 Buccaneer

01/14/2022

Lat: 26.405576 Long: -81.889605 | Lee County, FL Imagery Date: 01/14/2022

# 201 Redfish




01/14/2022

Lat: 26.405551 Long: -81.890694 | Lee County, FL Imagery Date: 01/14/2022

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2023-953**

1. **Requested Motion:**

**Meeting Date: March 6, 2023**

Resolution 23-21 entitled: A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/DENYING APPLICATION SEZ-20220120, FOR A SPECIAL EXCEPTION APPROVAL FOR LIVE/WORK USE FOR THE PROPERTY LOCATED AT 6875 ESTERO BOULEVARD; AND PROVIDING FOR AN EFFECTIVE DATE.

**Why the action is necessary:**

The use of the building as both the applicant's place of business and private residence requires a Special Exception per Tables 34-1 & 34-2 and sec. 34-1774 of the Town's Land Development Code.

**What the action accomplishes:**

Granting the special exception will allow the applicant to use the lot for both commercial and residential uses, rehabilitating a structure which has been unoccupied for many years.

2. **Agenda:**

PUBLIC HEARINGS

3. **Requirement/Purpose:**

Per Tables 34-1 & 34-2 and sec. 34-1774 of the Town's Land Development Code, a special exception is required for the mixed use proposed by the applicant.

4. **Submitter of Information:**

---

5. **Background:**

Applicant has requested a Special Exception to allow the use of an existing building for both their commercial office and the addition of an additional floor to develop their single-family residence at 6875 Estero Blvd, formerly a medical arts building.

**Attachments:**

1. Resolution 23-21-C
2. SEZ_20220120_6875 Estero_Interiors Unlimited Live_Work_02102023_jas_sp_TC copy
3. 13775096-Special Exception Narrative Statement
4. 13774980-Architectural Plans
5. Interiors Unlimited_Exterior 1
6. Interiors Unlimited_Exterior 2
7. 13882984-REVISED Civil Engineering Plans
8. 6875 Estero Blvd_Topo Survey
9. 6875 Estero Blvd_Application Package

**Financial Impact:**

N/A

6. **Alternative Action**

7. **Management Recommendations:**

N/A

8. **Recommended Approval:**

| | |
|---|---|
| Kendra Rosa, Zoning Coordinator/Planner 1 | Created/Initiated - 2/28/2023 |
| Steve Poposki, Community Development Director | Approved - 2/28/2023 |
| John R Herin Jr, Town Attorney | Approved - 2/28/2023 |
| Amy Baker, Town Clerk | Approved - 3/1/2023 |
| Keith Wilkins , Interim Town Manager | Final Approval - 3/1/2023 |

**RESOLUTION NUMBER 23-21**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA REGARDING APPLICATION SEZ-20220120, FOR A SPECIAL EXCEPTION APPROVING/ APPROVING WITH CONDITIONS/ DENYING A WORK/ LIVE USE FOR THE PROPERTY LOCATED AT 6875 ESTERO BOULEVARD; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal service, and exercise any power for municipal purposes, except when expressly prohibited by law; and

**WHEREAS**, Article X of the Town Charter of the Town of Fort Myers Beach empowers the Town to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

**WHEREAS**, Ahmad R. Kareh, on behalf of applicant Lemos Unlimited, LLC ("Applicant"), owner of the property located 6875 Estero Boulevard, is requesting a Special Exception approval for Work/ Live use pursuant to Section 34-88 of the Fort Myers Beach Land Development Code ("LDC"); and

**WHEREAS**, the STRAP number for the subject property is 03-47-24-W1-00002.0020 and the legal description of the subject property ("Property") is attached as *Exhibit A*; and

**WHEREAS**, the Property is in in the "Commercial Office" zoning district on the Official Zoning Map and "Mixed Residential" category of the Future Land Use Map of the Comprehensive Plan of the Town of Fort Myers Beach, Florida; and

**WHEREAS**, a public hearing on this matter was legally noticed and held before the Local Planning Agency (LPA) on February 14, 2023, at which 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 Section 34-88 of the LDC.

**WHEREAS**, on February 21, 2023, the Town Council held a duly noticed public hearing to fully consider the request of the Applicant, the recommendations of Town staff and the LPA, the documents in the record, and testimony of all interested persons as required by Section 34-88 and 34-87 of the LDC; and

**WHEREAS**, the Town Council determined it is in the best interest of the Town to approve/ approve with conditions/ deny the special exception.

**NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AS FOLLOWS:**

Section 1. The above recitals are true, correct, incorporated herein by this reference, and adopted as the legislative and administrative findings of the Town Council.

Section 2. The Town Council determines the Applicant did/did not meet its burden of proof that the requested Variance do/do not meet the requirements of the Town Comprehensive Plan and LDC and approving/approving with conditions/denying the Special Exception is in the best interest of the Town to approve/approve with conditions/deny. Therefore, based upon the recommendations, testimony, and evidence presented by the Applicant, Town staff, and interested parties and public, the Town Council APPROVES/APPROVES WITH CONDITIONS/DENIES the special exception for the use of the Property for Work/ Live use pursuant to Section 34-88 of the Fort Myers Beach Land Development Code ("LDC")

Section 3. In approving/denying the Special Exception, the Town Council makes the following findings and conclusions in accordance with the requirements of Section 34-88 of the LDC:

A. Changed or changing conditions which make approval/approval with conditions/denial of the request appropriate.
B. The request is/is not consistent with the goals, objectives, policies, and intent of the Fort Myers Beach Comprehensive Plan.
C. The request meets/does not meet or exceeds all performance and locational standards for the proposed use.
D. The request will/will not protect, conserve, or preserve environmentally critical areas and natural resources.
E. The request will be compatible/incompatible with existing or planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.
F. The requested use will/will not be in compliance with the applicable general zoning provisions and supplemental regulations set forth in Chapter 34 of the Land Development Code.

Section 4. If the Town Council approves/approves with conditions the requested special exception, the following conditions of approval are imposed on the Applicant and the Property:

A. The applicant must provide Community Development staff a buffer-planting plan, prior to issuance of building permits, which maintains and improves the existing greenspace and trees, while increasing the buffer/ screening areas which are adjacent to the multi-family properties on the North, East and South-East property lines.

B. Outdoor storage shall not be allowed.

C. Manufacturing, assembly, and other intensifications which would change the approved use as General Office will not be allowed.

D. No deliveries are allowed outside of generally established business hours of 7:30 AM to 5:30 PM Monday through Friday

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

| | |
|---|---|
| Dan Allers, Mayor | ___ |
| Jim Atterholt, Vice Mayor | ___ |
| John R. King | ___ |
| Bill Veach | ___ |
| Karen Woodson | ___ |

ADOPTED this 6th day of March 2023 by the Town Council of the Town of Fort Myers Beach, Florida.

**FORT MYERS BEACH TOWN COUNCIL**

_____
Dan Allers, Mayor

**ATTEST:**

_____
Amy Baker, Town Clerk

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:**

_____
John R. Herin, Jr., Town Attorney

This Resolution was filed in the Office of the Town Clerk on this ___ day of March 2023.

# Town of Fort Myers Beach

## COMMUNITY DEVELOPMENT DEPARTMENT
## STAFF REPORT

| | |
|---|---|
| **TYPE OF CASE:** | **Special Exception** |
| **CASE NUMBER:** | **SEZ—Special Exception, 20220120** |
| **CASE NAME:** | **6875 Estero Blvd, allow for Work/ Live use within existing building.** |
| **TOWN COUNCIL HEARING DATE:** | **March 6, 2023 at 9.00 AM** |
| **STAFF RECOMMENDATION:** | **Approve with conditions** |
| **PREPARED/ SUBMITTED BY:** | **Jason Smalley/ Jason Green AICP, CFM** |

**LPA OUTCOME**

The LPA discussed rehab of the site and the inclusion of additional buffer material and what –if any—negative affects on the surrounding condominium residents' quality of life by allowing a single-family home to be constructed above the existing commercial building.

By a vote of 6 – 0 – 1 abstention the application was recommended for approval with the four (4) listed conditions of approval.

## I. APPLICATION SUMMARY

| | |
|---|---|
| Applicant/Owner: | Haley Ward Inc./Lemos Unlimited, LLC. |
| Request: | The applicant is requesting Special Exception described in sec. 34-1774 to redevelop an existing commercial building and add a second floor as a primary residence for the applicant and family. |
| Subject property: | See attached site plan |
| Physical Address: | 6875 Estero Blvd. |
| STRAP #: | 03-47-24-W1-00002.0020 |
| FLU: | Mixed Residential |
| Zoning: | Commercial Office |

Adjacent zoning and land uses:

| | |
|---|---|
| North: | RESIDENTIAL Planned Development (RPD)<br>Multi-Family Condominiums |
| South: | Residential Multi-Family (RM)<br>Residential-Family Condominiums |
| East: | Residential Multi-Family (RM)<br>Residential-Family Condominiums |
| West: | Residential Multi-Family (RM)<br>Residential-Family Condominiums |

## II. BACKGROUND AND ANALYSIS

Background:
Ahmad Kareh, the applicant's representative for 6875 Estero Blvd, *Interiors Unlimited*, is requesting a Special Exception to develop a General Office which will serve administrative, storage and customer meeting space. The hours of operation for the office are 8 am to 4 pm, Monday through Friday.

The lot's current use as Commercial Office will continue to exist and will not measurably affect the wider neighborhood's character. The rehabilitation of the lot and building will serve to correct historical complaints that the unoccupied lot collected trash and the landscaping was overgrown. The addition of a residential unit will not greatly increase intensity considering that private vehicles will be stored within the building and limitations to the type of activity that can be done on-site will not create noise or visual nuisances. Additional conditions have been recommended by staff to address impacts of the General Office use.

Analysis:
Interiors Unlimited has been a business on Fort Myers Beach for almost 20 years. The property was previously used as a medical office but has been unoccupied for many years. The applicant wishes to refresh the exterior and add a second floor to accommodate a primary residence and customary accessory uses including a garage, covered decks, spa and an elevator.

The structure has a ground-floor footprint of 8,272-square feet, and a proposed second level footprint of 7,651-square feet for a total floor area of 15,923-square feet. The garage is proposed to be separated into use for the residential unit as well as storage to serve the commercial activities, the applicant has assured staff that the storage area wouldn't be utilized for manufacturing or construction purposes to retain the office nature of the project.

The recommendations of staff for developing buffer plantings and limitations on activities which may reasonably create excessive noise or outdoor storage can be found in this staff report under the headings "Conditions of Approval." No additional deviations are proposed.

Neighborhood Compatibility:
In review of the aerial photography of the neighborhood, staff found the property is situated among multi-family housing but isn't out of place considering that the previous use as a medical office had existed there for many years with minimal disruption to the peaceful residential use of the wider area. The lot has been cited for dilapidated awnings in 2016 and abandoned signage in 2017, but there have been no other compliance actions since.

Findings and Conclusions:
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 condition which make approval of the request appropriate*

   The property will continue to be used for commercial purposes while the addition of the residential use is generally compatible with the surrounding uses.

b. *Whether the request is consistent with the goals, objectives, policies, and intent of the Fort Myers Beach Comprehensive Plan.*

   The request is consistent with goals, objectives, policies, and intent of the Fort Myers Beach Comprehensive Plan and the Future Land Use Map (Mixed Residential).

c. *Whether the request meets or exceeds all performance and locational standards for the proposed use*

   The request meets performance and location standards if approved

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

   The request will have no impact on protection, conservation, or preservation of environmentally critical areas and 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 property was previously used as an office and all storage will be indoors.

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 Town's Land Development Code.*

   The request will be in compliance with the applicable zoning provisions and supplemental regulations.

## III. RECOMMENDATION

Staff finds that the request for a Work/ Live Special Exception meets the criteria set forth in Section 34-88 of the LDC.

Therefore, staff recommends that the LPA recommend **APPROVAL WITH CONDITIONS** for SEZ-20220120, to allow use of the building as both General Office and Residential.

## IV. CONDITIONS OF APPROVAL

1. The applicant must provide Community Development staff a buffer-planting plan, prior to issuance of building permits, which maintains and improves the existing greenspace and trees, while increasing the buffer/ screening areas

which are adjacent to the multi-family properties on the North, East and South-East property lines.

2. Outdoor storage shall not be allowed.
3. Manufacturing, assembly, and other intensifications which would change the approved use as General Office will not be allowed.
4. No deliveries are allowed outside of generally established business hours of 7:30 AM to 5:30 PM Monday through Friday

Staff Report Exhibits:

A – Site Plan

B – Architectural Plans

C – Complete Application

HALEY WARD

ENGINEERING | ENVIRONMENTAL | SURVEYING

**INTERIORS UNLIMITED**

# SPECIAL EXCEPTION NARRATIVE STATEMENT

**FOR**

**LEMOS UNLIMITED, LLC**
**7205 ESTERO BOULEVARD, SUITE 702**
**FORT MYERS BEACH, FLORIDA 33931**
**PHONE: (239) 463-5320**

HALEY WARD PROJECT NUMBER
2011380.001(22-12)

**December 20, 2022**

**Prepared By**:
Haley Ward, Inc.
13041 McGregor Boulevard
Fort Myers, FL 33919
(239) 481-1331

AHMAD RAGHEB KAREH
LICENSE
No. 43324
STATE OF FLORIDA
PROFESSIONAL ENGINEER

cn=Ahmad R. Kareh, State of Florida, Professional Engineer, License No. 43324, o=Printed copies of this document are not considered signed and sealed and the signature must be verified on any electronic copies., ou=This item has been digitally signed and sealed by Ahmad R. Kareh on the date indicated here., email=akareh@cesincusa.com, c=US
2022.12.20 12:30:49 -05'00'

Ahmad R. Kareh, P.E., M.S.C.E.
Florida License Number 43324
Certificate of Authorization Numbers
EB32664 & LB8267

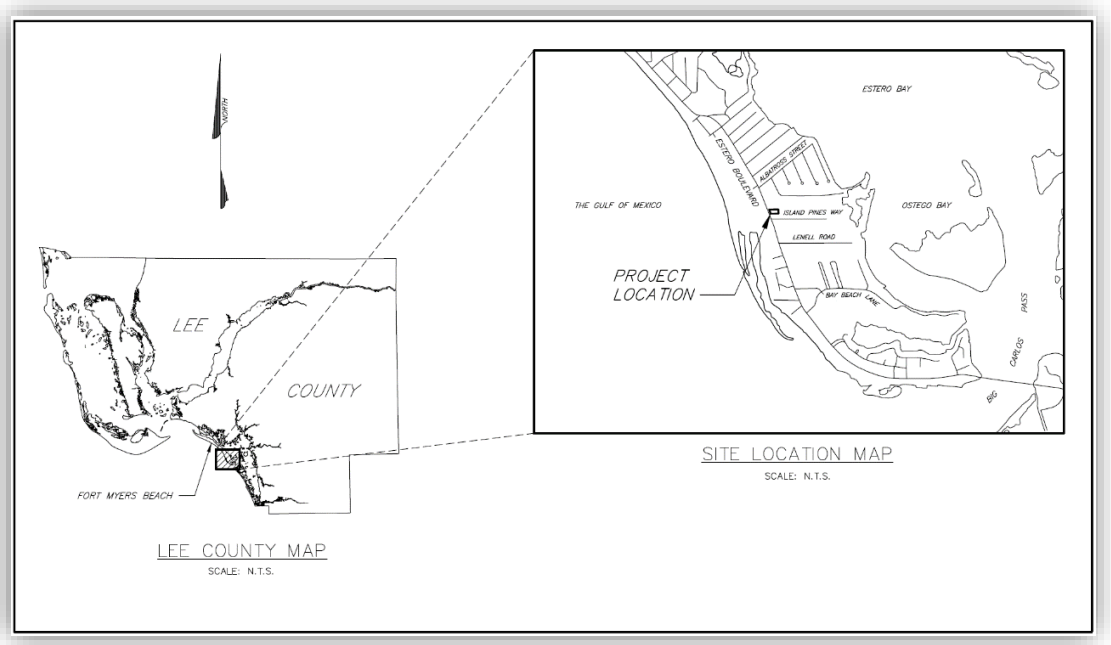
# Table of Contents


| SECTION | | PAGE |
|---|---|---|
| **Table of Contents** | | **2** |
| **1.0** | **Project Narrative** | **3** |
| 1.1 | Location | 3 |
| 1.2 | History & Project Summary | 3 |
| 1.3 | Zoning & Future Land Use | 3 |
| 1.4 | Special Exception Request Intent | 3 |
| 1.5 | Special Exception Considerations | 4 |
| **2.0** | **Special Exception Justification** | **5** |
| 2.1 | Changing Conditions | 5 |
| 2.2 | Applicant Testimony | 5 |
| 2.3 | Staff Recommendation | 5 |
| 2.4 | Public Testimony | 5 |
| 2.5 | Comprehensive Plan Consistency | 5 |
| 2.6 | Performance and Location Standards | 6 |
| 2.7 | Conservation | 6 |
| 2.8 | Compatibility | 6 |
| 2.9 | LDC Compliance | 6 |
| **3.0** | **Conclusion** | **7** |
| 3.1 | Summary of Request Intent | 7 |
| 3.2 | Summary of Qualifications for Special Exception | 7 |
| 3.3 | Special Exception Request | 7 |

# 1.0 Project Narrative

## 1.1 Location

The subject parcel is located in Section 3, Township 47 South, Range 24 East, Town of Fort Myers Beach, Lee County, Florida. The general location of the subject parcel is shown in the context Map below:




## 1.2 History & Project Summary

The subject parcel encompasses an existing vacant commercial medical offices building. The scope of work proposes to renovate the existing building and add a second floor to create a two-story Work/Live building with a retail space on the ground floor and a residential unit on the second floor, along with refurbishing the existing parking lot and adding landscaping and a water management system.

## 1.3 Zoning & Future Land Use

This subject parcel is currently zoned Commercial Office (CO) Zoning District, which will allow Work/Live uses as a Special Exception per LDC Tables 34-1 & 34-2. The project falls within the Mixed Residential Future Land Use.

## 1.4 Special Exception Request Intent

The intent of this Request for Special Exception is to allow the Work/Live Use within the Commercial Office Zoning District.

## 1.5 Special Exception Considerations

The Special Exception review requires consideration of the following items, as described in LDC Section 34-88. - Special exceptions.

Sections 2.1 - 2.9 of this narrative statement provides justification for each item listed below:

*(1) Whether there exist changed or changing conditions which make approval of the request appropriate.*
*(2) The testimony of any applicant.*
*(3) The recommendation of staff and of the local planning agency.*
*(4) The testimony of the public.*
*(5) Whether the request is consistent with the goals, objectives, policies and intent of the Fort Myers Beach Comprehensive Plan.*
*(6) Whether the request meets or exceeds all performance and locational standards set forth for the proposed use.*
*(7) Whether the request will protect, conserve, or preserve environmentally critical areas and natural resources.*
*(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.*
*(9) Whether a requested use will be in compliance with applicable general zoning provisions and supplemental regulations pertaining to the use set forth in this chapter.*

## 2.0 Special Exception Justification

### 2.1 Changing Conditions

This Special Exception request is appropriate at this time because as the traffic within the Town of Fort Myers Beach only continues to get busier as more residents and tourists flock to experience the Island charm (not considering the aftermath of Hurricane Ian), a Work/Live unit eliminates all commuting trips that would otherwise be associated with this residence & business.

### 2.2 Applicant Testimony

Forthcoming.

### 2.3 Staff Recommendation

Forthcoming in the Staff Report.

### 2.4 Public Testimony

Forthcoming during the Public Hearings.

### 2.5 Comprehensive Plan Consistency

The Comprehensive Plan outlines the roadmap for the future of the Town of Fort Myers Beach. The subject site falls within the "Mixed Residential" Future Land Use, which the Plan describes as follows:

*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 activities are limited to lower-impact uses…*

As a residence with a limited retail commercial use on the ground floor, the proposed development will move this property closer to its intended future use by converting a high activity medical office (allowed use) into a small retail and residential Work/Live development.

## 2.6 Performance and Locational Standards

The proposed project encompasses an improvement onto an existing development, where access will stay the same and the site will receive a multitude of improvements.

## 2.7 Conservation

This is a redevelopment of an existing commercial use instead of developing a vacant or environmentally critical area. There are no natural resources existing on the subject site. Moreover, the proposed stormwater management system will provide runoff treatment to improve water quality on the island.

## 2.8 Compatibility

The proposed change from Medical Offices to Work/Live moves this property towards greater compatibility with the condominium residential uses that are adjacent to the subject site. Having direct access to Estero Boulevard makes this parcel a perfect candidate for retaining a limited commercial use along with a residential unit in a Work/Live arrangement.

## 2.9 LDC Compliance

The Land Development Code provides more specific criteria relevant to this case.

LDC Section 34-647. - CO (Commercial Office) Zoning District describes the purpose of the district as "*The purpose of the CO zoning district is to allow office uses on land that is visible to the traveling public or on land that can serve as a transition between commercial and residential uses*."

Furthermore, LDC Section *34-1774. - Work/Live dwelling unit is defined as "a single dwelling unit in a ….commercial building, where the predominate use of the unit is commercial….parking spaces shall be in accordance with the commercial parking standards in § 34-2020 of this chapter, plus two spaces for the dwelling unit. Commercial uses in Work/Live units are limited to …. retail store, small".*

The proposed use is a limited retail use with a single dwelling unit within one (1) building, which falls squarely within the prescribed limits of the existing zoning and definition of a Work/Live use.

## 3.0 Conclusion

### 3.1 Summary of Request Intent

The intent of this Request for Special Exception is to allow the Work/Live Use within the Commercial Office Zoning District.

### 3.2 Summary of Qualifications for Special Exception

The request for Special Exception is qualified by its compatibility and compliance with the Comprehensive Plan, and the Land Development Code to the extent possible (considering that this is an existing development). Furthermore, the proposed development falls squarely within the prescribed limits of the existing zoning and definition of a Work/Live use. As outlined in LDC Tables 34-1 & 34-2, this use requires approval through the Special Exception public hearing process.

### 3.3 Special Exception Request

The information contained in this Narrative Statement clearly shows that the proposed Special Exception request meets or exceeds all of the requirements of the Comprehensive Plan, and the Land Development Code.

With this in mind, Lemos Unlimited, LLC respectfully requests that the Town Staff and Local Planning Agency members duly consider evidence set forth in the Narrative Statement above in support of this Special Exception Request when considering whether the request is consistent with the goals, objectives, policies and intent of the Comprehensive Plan, and whether the request is in compliance with the Land Development Code.

# ADDITIONS and RENOVATIONS
for
# 6875 ESTERO

6875 ESTERO BOULEVARD
CITY OF FORT MYERS BEACH
FORT MYERS BEACH, FLORIDA 33931

NOT FOR CONSTRUCTION

## 50% DESIGN DEVELOPMENT DOCUMENTS
## 20.DECEMBER.2022

PRINTED COPIES OF THIS DOCUMENT ARE NOT CONSIDERED SIGNED AND SEALED AND THE SIGNATURE MUST BE VERIFIED ON ANY ELECTRONIC COPIES.

STUDIO 2 ARCHITECTURE PLANNING llc
530 CYPRESS WAY EAST
NAPLES, FLORIDA 34110

ROCCO J COSTA III (QUALIFYING AGENT) 239.877.6973
LAZARO HERNANDEZ 239.272.7087

FLORIDA QUALIFYING AGENT LICENSE NO. AR0015837

## AGENCY HAVING JURISDICTION

TOWN OF FORT MYERS BEACH / LEE COUNTY

## PROJECT DESCRIPTION

PER THE PROJECT REQUIREMENTS THE STRUCTURE, EXTERIOR WALLS AND FOUNDATION WILL REMAIN. THE EXISTING ROOF STRUCTURE AND EXISTING INTERNAL BEARING WALLS AND OR COLUMNS WILL BE REMOVED TO ALLOW THE DEVELOPMENT OF A NEW TWO-STORY BUILDING.

THEREFORE, THE PROJECT SHALL CONSIST OF THE RECONSTRUCTION OF THE SINGLE-STORY EXISTING STRUCTURE AT 6875 ESTERO BOULEVARD. THE PROJECT UPON COMPLETION SHALL BE A TWO-STORY BUILDING HOUSING ON THE GROUND FLOOR INTERIORS UNLIMITED A MERCANTILE SPACE WITH THE RESIDENTIAL COMPONENT, FOYER AND RESIDENTIAL GARAGE FOR THE RESIDENCE ABOVE. THE SECOND FLOOR SHALL BE A SINGLE-FAMILY RESIDENCE FOR THE OWNER'S OF INTERIORS UNLIMITED.

IT IS UNDERSTOOD BY THE ARCHITECT THAT THIS PROJECTS MEETS THE REQUIREMENTS SET FORTH THROUGH THE SPECIAL EXEMPTION AS APPROVED ON 00.00.0000

## APPLICABLE CODES

ALL PROPOSED TENANT IMPROVEMENTS SHALL BE DESIGNED UNDER CURRENT CODES, SPECIFICALLY:

FLORIDA EXISTING BUILDING CODE 2020, 7TH EDITION, FLORIDA BUILDING CODE 2020, 7TH EDITION AND ALL ASSOCIATED / REFERENCED VOLUMES.

THIS REVIEW HAS BEEN PERFORMED USING THE FLORIDA FIRE PREVENTION CODE 2020, 7TH EDITION, INCORPORATING NFPA 101, LIFE SAFETY CODE, AND ADOPTED BY THE STATE OF FLORIDA ON DECEMBER 31, 2020.

SEE ALSO STRUCTURAL, PLUMBING, MECHANICAL AND ELECTRICAL DRAWING DOCUMENTS FOR OTHER APPLICABLE CODES.

## BUILDING OCCUPANCY CLASSIFICATION

BUILDING OCCUPANCY CLASSIFICATION PER FBC, CHAPTER 5, SECTION 508, EACH PORTION OF A BUILDING SHALL BE INDIVIDUALLY CLASSIFIED IN ACCORDANCE WITH SECTION 302.1. WHERE A BUILDING CONTAINS MORE THAN ONE OCCUPANCY GROUP OR PORTION THEREOF SHALL COMPLY WITH THE APPLICABLE PROVISIONS OF SECTION 508.2, 508.3 OR 508.4, OR A COMBINATION OF THESE SECTIONS.

IT IS UNDERSTOOD BY THE ARCHITECT THAT THE GROUND FLOOR SHALL BE CONSIDERED MERCANTILE "M".

THEREFORE:

| FLOOR LEVEL | OCCUPANCY CLASSIFICATION |
|---|---|
| FIRST FLOOR | MERCANTILE "M" |
| SECOND FLOOR | RESIDENTIAL "R-3" |

IT IS UNDERSTOOD BY THE ARCHITECT THAT THE SECOND FLOOR SINGLE RESIDENTIAL UNIT SHALL BE CONSIDERED RESIDENTIAL "R-3". PER SECTION 508.4, THE REQUIRED SEPARATION BETWEEN OCCUPANCIES SHALL BE 1-HOUR.

THE LOAD CALCULATIONS ARE AS FOLLOWS:

OCCUPANCY LOAD CALCULATED BY USE:
FBC SECTION 1004, TABLE 1004.5

| | | | | |
|---|---|---|---|---|
| MERCANTILE "M" | ( 60 GROSS) | 4,506 SF GROSS | | 72 PERSONS |
| RESIDENTIAL "R-3" | (200 GROSS) | 6,077 SF GROSS | | 31 PERSONS |
| TOTAL NUMBER OF PERSONS | | | | 103 PERSONS |

OCCUPANCY LOAD CALCULATED BY USE: (MOST RESTRICTIVE)
PER FFPC TABLE 101:7.3.1.2 OCCUPANT LOAD FACTOR

| | | | | |
|---|---|---|---|---|
| MERCANTILE (SALES ON GRADE) | ( 30 GROSS) | 4,506 SF GROSS | | 151 PERSONS |
| RESIDENTIAL | (200 GROSS) | 6,077 SF GROSS | | 31 PERSONS |
| TOTAL NUMBER OF PERSONS | | | | 182 PERSONS |

## CONSTRUCTION TYPE

PER FBC, SECTION 602.5 TYPE V-B; UNPROTECTED WITH AUTOMATIC SPRINKLER SYSTEM

## ALLOWABLE HEIGHTS AND AREAS

PER FBC, TABLE 504.3a ALLOWABLE BUILDING HEIGHT IN FEET ABOVE GRADE
BASED ON TYPE V-B, SPRINKLED, MOST RESTRICTIVE HEIGHT PROVIDED.

BUILDING HEIGHT ALLOWED: 40'-0"

BUILDING HEIGHT PROPOSED: 34'-8 3/4"

PER FBC TABLE 504.4 ALLOWABLE NUMBER OF STORIES ABOVE GRADE PLANE
BASED ON TYPE V-B, SPRINKLED, MOST RESTRICTIVE PROVIDED.

NUMBER OF STORIES ALLOWED: 2-STORIES

NUMBER OF STORIES PROPOSED: 2-STORIES

FBC, TABLE 506.2 ALLOWABLE AREAS IN SQUARE FEET, NO AREA MODIFICATION REQUESTED.
BASED ON TYPE V-B, SPRINKLED MULTI-STORY "SM", MOST RESTRICTIVE AREA PROVIDED.

FLOOR AREA ALLOWED: 27,000 SF

FLOOR AREA PROPOSED: 15,923 SF

BUILDING AREA BREAKDOWN IS AS FOLLOWS:

| GROUND LEVEL PLAN | | SECOND LEVEL PLAN | |
|---|---|---|---|
| AIR-CONDITIONED SPACE | | AIR-CONDITIONED SPACE | |
| SHOWROOM | 4,998 SF | RESIDENTIAL | 5,655 SF |
| RESIDENTIAL LOBBY | 422 SF | | |
| SUB-TOTAL | 5,420 SF | SUB-TOTAL | 5,655 SF |
| NON-CONDITIONED SPACE | | NON-CONDITIONED SPACE | |
| ARCADE | 565 SF | OPEN AIR DECK (FRONT) | 215 SF |
| COVERED AREAS | 435 SF | COVERED DECK (FRONT) | 1,101 SF |
| RESIDENTIAL GARAGE | 1,834 SF | OPEN AIR DECK (REAR) | 173 SF |
| DECORATIVE WALL BUMP-OUTS | 18 SF | COVERED DECK (REAR) | 507 SF |
| SUB-TOTAL | 2,852 SF | SUB-TOTAL | 1,996 SF |
| TOTAL AREA (GROUND LEVEL) | 8,272 SF | TOTAL AREA (SECOND LEVEL) | 7,651 SF |

## MIXED OCCUPANCY REQUIREMENTS

FBC, SECTION 506.2.4 MIXED-OCCUPANCY, MULTISTORY BUILDINGS

EACH STORY OF A MIXED-OCCUPANCY BUILDING WITH MORE THAN ONE STORY ABOVE GRADE PLANE SHALL INDIVIDUALLY COMPLY WITH THE APPLICABLE REQUIREMENTS OF SECTION 508.1. ~~FOR BUILDINGS WITH MORE THAN THREE STORIES ABOVE GRADE PLANE, THE TOTAL BUILDING AREA SHALL BE SUCH THAT THE AGGREGATE SUM OF THE RATIOS OF THE ACTUAL AREA OF EACH STORY DIVIDED BY THE ALLOWABLE AREA OF SUCH STORIES, DETERMINED IN ACCORDANCE WITH EQUATION 5-3 BASED ON THE APPLICABLE PROVISIONS OF SECTION 508.1, SHALL NOT EXCEED THREE.~~ (STRIKE-THROUGH TEXT IS NOT APPLICABLE TO THIS PROJECT).

## FIRE RATINGS OF STRUCTURAL ELEMENTS

PER FBC, TABLE 601 FIRE-RESISTANCE RATING REQUIREMENTS FOR BUILDING ELEMENTS
BASED ON TYPE V-B, MOST RESTRICTIVE PROVIDED.

| BUILDING ELEMENT | ALLOWABLE | PROPOSED |
|---|---|---|
| STRUCTURAL FRAME | 0 HOUR | 0 HOUR |
| BEARING WALLS | | |
| EXTERIOR$_d$ X≥30' | 0 HOUR | 0 HOUR |
| INTERIOR | 0 HOUR | 0 HOUR |
| NONBEARING WALLS | | |
| EXTERIOR >30' | 0 HOUR | 0 HOUR |
| NONBEARING WALLS AND PARTITIONS | | |
| INTERIOR$_g$ | 0 HOUR | 0 HOUR |
| FLOOR CONSTRUCTION | | |
| (SEE COMPONENT ELEMENTS BELOW) | 0 HOUR | 1 HOUR |
| ROOF CONSTRUCTION | 0 HOUR | 0 HOUR |

NOTES:
d. NOT LESS THAN THE FIRE-RESISTANCE RATING REQUIRED BY OTHER SECTIONS OF THIS CODE.
e. NOT LESS THAN THE FIRE-RESISTANCE RATING BASED ON FIRE SEPARATION DISTANCE (SEE TABLE 602).
f. NOT LESS THAN THE FIRE-RESISTANCE RATING AS REFERENCED IN SECTION 704.10.

## FIRE RATINGS OF COMPONENT ELEMENTS

| COMPONENT | REQUIRED SEPARATION (HOURS) | MINIMUM FIRE DOOR (HOURS) |
|---|---|---|
| SHAFTS (FBC 713.4) | 1-HOUR | N/A |
| CORRIDOR WALLS | N/A | N/A |
| FIRE PARTITION (FBC SECTION 708.1 ITEM 1) (OCCUPANCY SEPARATION FBC 508.4) | 1-HOUR | 1-HOUR |
| HORIZONTAL SEPARATION (FBC SECTION 711) | 1-HOUR | N/A |
| FIRE BARRIER (FBC TABLE 707.3.10) | N/A | N/A |

PER FBC 420.3 HORIZONTAL SEPARATION
~~FLOOR ASSEMBLIES SEPARATING DWELLING UNITS IN THE SAME BUILDINGS, FLOOR ASSEMBLIES SEPARATING SLEEPING UNITS IN THE SAME BUILDING AND~~ FLOOR ASSEMBLIES SEPARATING DWELLING OR SLEEPING UNITS FROM OTHER OCCUPANCIES CONTIGUOUS TO THEM IN THE SAME BUILDING SHALL BE CONSTRUCTED AS HORIZONTAL ASSEMBLIES IN ACCORDANCE WITH SECTION 711.

PER FBC SECTION711 FLOOR AND ROOF ASSEMBLIES
711.1 GENERAL
HORIZONTAL ASSEMBLIES SHALL COMPLY WITH SECTION 711.2. NON FIRE-RESISTANCE-RATED FLOOR AND ROOF ASSEMBLIES SHALL COMPLY WITH SECTION 711.3.

711.2 HORIZONTAL ASSEMBLIES
HORIZONTAL ASSEMBLIES SHALL COMPLY WITH SECTIONS 711.2.1 THROUGH 711.2.6.

711.2.1 MATERIALS
ASSEMBLIES SHALL BE OF MATERIALS PERMITTED BY THE BUILDING TYPE OF CONSTRUCTION.

711.2.2 CONTINUITY
ASSEMBLIES SHALL BE CONTINUOUS WITHOUT VERTICAL OPENINGS, EXCEPT AS PERMITTED BY THIS SECTION AND SECTION 712.

711.2.3 SUPPORTING CONSTRUCTION
THE SUPPORTING CONSTRUCTION SHALL BE PROTECTED TO AFFORD THE REQUIRED FIRE-RESISTANCE RATING OF THE HORIZONTAL ASSEMBLY SUPPORTED.

EXCEPTION: IN BUILDINGS OF TYPE ~~III, IIIB~~ OR VB CONSTRUCTION, THE CONSTRUCTION SUPPORTING THE HORIZONTAL ASSEMBLY IS NOT REQUIRED TO BE FIRE-RESISTANCE RATED AT THE FOLLOWING:

1. HORIZONTAL ASSEMBLIES AT THE SEPARATIONS OF INCIDENTAL USES AS SPECIFIED BY TABLE 509 PROVIDED THE REQUIRED FIRE-RESISTANCE RATING DOES NOT EXCEED 1 HOUR.
2. HORIZONTAL ASSEMBLIES AT THE SEPARATIONS OF DWELLING UNITS AND SLEEPING UNITS AS REQUIRED BY SECTION 420.3.
3. HORIZONTAL ASSEMBLIES AT SMOKE BARRIERS CONSTRUCTED IN ACCORDANCE WITH SECTION 709.

711.2.4.1 SEPARATING MIXED OCCUPANCIES
WHERE THE HORIZONTAL ASSEMBLY SEPARATES MIXED OCCUPANCIES, THE ASSEMBLY SHALL HAVE A FIRE-RESISTANCE RATING OF NOT LESS THAN THAT REQUIRED BY SECTION 508.4 BASED ON THE OCCUPANCIES BEING SEPARATED.

## FPPC MULTIPLE OCCUPANCIES SEPARATION REQ.

PER FPPC 101:6.1.14 MULTIPLE OCCUPANCIES, FPPC 101:6.1.14.1 MULTIPLE OCCUPANCIES, SHALL COMPLY WITH THE REQUIREMENTS OF FPPC 101:6.1.14.1 AND ONE OF THE FOLLOWING
(1) MIXED OCCUPANCIES
(2) SEPARATED OCCUPANCIES

IT IS UNDESRATOOD BY THE ARCHITECT THAT THIS PROJECT SHALL BE CONSIDERED SEPARATE OCCUPANCIES PER FPPC 6.1.14.4 AND THE FOLLOWING:

PER FPPC TABLE 101:6.1.4.4.1(a) AND TABLE 101:6.1..4.4.1 (b) REQUIRED SEPARATION OF OCCUPANCIES (HOURS)

REDUCTION IN RATING INDICATED DUE TO PRESENCE OF SPRINKLERS IN ACCORDANCE WITH NFPA 101:9.7.1.1 (1) AND SUPERVISED IN ACCORDANCE WITH NFPA 101:9.7.2

| OCCUPANCY TYPE | SINGLE-FAMILY RESIDENTIAL | STORAGE LOW & ORDINARY |
|---|---|---|
| MERCANTILE | 1-HOUR | N/A |

## MAXIMUM AREA OF EXTERIOR WALL OPENINGS

PER FBC TABLE 705.8 MAXIMUM AREA OF EXTERIOR WALL OPENINGS BASED ON FIRE SEPARATION DISTANCE AND DEGREE OF OPENING PROTECTION

| FIRE SEPARATION DISTANCE (FEET) | DEGREE OF OPENING PROTECTION | ALLOWABLE AREA |
|---|---|---|
| 30 OR GREATER | UNPROTECTED, SPRINKLERED | NL |

NOTE:
1. THE AREA OF UNPROTECTED AND PROTECTED OPENINGS SHALL NOT BE LIMITED FOR GROUP R-3 OCCUPANCIES, WITH A FIRE SEPARATION DISTANCE OF 5 FEET OR GREATER.

## EGRESS REQUIREMENTS

| MERCANTILE "M" OCCUPANCY | ALLOWABLE | PROPOSED |
|---|---|---|
| EXIT ACCESS TRAVEL DISTANCE (FBC TABLE 1017.2) | 250 FT. | 87.58 FT. |
| DEAD END CORRIDOR (FBC SECTION 1020.4) | 50 FT. | N/A |
| MINIMUM CORRIDOR WIDTH (FBC TABLE 1020.2) | 44 IN. | N/A |
| MINIMUM NUMBER OF EXITS (FBC TABLE 1006.3.2) | 2 | 3 |
| COMMON PATH OF TRAVEL (FBC TABLE 1006.2.1) | 75 FT. | 21.58 FT. |

| RESIDENTIAL "R-3" OCCUPANCY | ALLOWABLE | PROPOSED |
|---|---|---|
| EXIT ACCESS TRAVEL DISTANCE (FBC TABLE 1017.2) | 250 FT. | 194.42 FT. |
| DEAD END CORRIDOR (FBC SECTION 1020.4) | N/A | N/A |
| MINIMUM CORRIDOR WIDTH (FBC TABLE 1020.2) | 36 IN. | 48 IN. |
| MINIMUM NUMBER OF EXITS (FBC TABLE 1006.3.2 ITEMS 4&5) | 1 | 1 |
| COMMON PATH OF TRAVEL (FBC TABLE 1006.2.1) | 125 FT. | 69.25 FT. |

PER FBC SECTION 1030 EMERGENCY ESCAPE AND RESCUE (STRIKE-THROUGH TEXT IS NOT APPLICABLE TO THIS PROJECT).

1030.1GENERAL
IN ADDITION TO THE MEANS OF EGRESS REQUIRED BY THIS CHAPTER, PROVISIONS SHALL BE MADE FOR EMERGENCY ESCAPE AND RESCUE OPENINGS IN ~~GROUP R-2 OCCUPANCIES IN ACCORDANCE WITH TABLES 1006.3.3(1) AND 1006.3.3(2) AND~~ GROUP R-3 OCCUPANCIES. BASEMENTS AND SLEEPING ROOMS BELOW THE FOURTH STORY ABOVE GRADE PLANE SHALL HAVE AT LEAST ONE EXTERIOR EMERGENCY ESCAPE AND RESCUE OPENING IN ACCORDANCE WITH THIS SECTION. ~~WHERE BASEMENTS CONTAIN ONE OR MORE SLEEPING ROOMS, EMERGENCY ESCAPE AND RESCUE OPENINGS SHALL BE REQUIRED IN EACH SLEEPING ROOM, BUT SHALL NOT BE REQUIRED IN ADJOINING AREAS OF THE BASEMENT. SUCH OPENINGS SHALL OPEN DIRECTLY INTO A PUBLIC WAY OR TO A YARD OR COURT THAT OPENS TO A PUBLIC WAY.~~

1030.2 MINIMUM SIZE
EMERGENCY ESCAPE AND RESCUE OPENINGS SHALL HAVE A MINIMUM NET CLEAR OPENING OF 5.7 SQUARE FEET (0.53 M2).

~~EXCEPTION: THE MINIMUM NET CLEAR OPENING FOR GRADE-FLOOR EMERGENCY ESCAPE AND RESCUE OPENINGS SHALL BE 5 SQUARE FEET (0.46 M2).~~

1030.2.1 MINIMUM DIMENSIONS
THE MINIMUM NET CLEAR OPENING HEIGHT DIMENSION SHALL BE 24 INCHES (610 MM). THE MINIMUM NET CLEAR OPENING WIDTH DIMENSION SHALL BE 20 INCHES (508 MM). THE NET CLEAR OPENING DIMENSIONS SHALL BE THE RESULT OF NORMAL OPERATION OF THE OPENING.

1030.3 MAXIMUM HEIGHT FROM FLOOR
EMERGENCY ESCAPE AND RESCUE OPENINGS SHALL HAVE THE BOTTOM OF THE CLEAR OPENING NOT GREATER THAN 44 INCHES (1118 MM) MEASURED FROM THE FLOOR.

1030.4 OPERATIONAL CONSTRAINTS
EMERGENCY ESCAPE AND RESCUE OPENINGS SHALL BE OPERATIONAL FROM THE INSIDE OF THE ROOM WITHOUT THE USE OF KEYS OR TOOLS. BARS, GRILLES, GRATES OR SIMILAR DEVICES ARE PERMITTED TO BE PLACED OVER EMERGENCY ESCAPE AND RESCUE OPENINGS PROVIDED THE MINIMUM NET CLEAR OPENING SIZE COMPLIES WITH SECTION 1030.2 AND SUCH DEVICES SHALL BE RELEASABLE OR REMOVABLE FROM THE INSIDE WITHOUT THE USE OF A KEY, TOOL OR FORCE GREATER THAN THAT WHICH IS REQUIRED FOR NORMAL OPERATION OF THE EMERGENCY ESCAPE AND RESCUE OPENING. WHERE SUCH BARS, GRILLES, GRATES OR SIMILAR DEVICES ARE INSTALLED IN EXISTING BUILDINGS, SMOKE ALARMS SHALL BE INSTALLED IN ACCORDANCE WITH SECTION 907.2.11 REGARDLESS OF THE VALUATION OF THE ALTERATION.

## FINISH REQUIREMENTS

FINISH REQUIREMENT FBC TABLE 803.11; WITH AUTOMATIC SPRINKLER SYSTEM

| GROUP | INTERIOR EXIST STAIRWAYS AND RAMPS AND EXIT PASSAGEWAYS | CORRIDORS AND ENCLOSURE FOR EXIT ACCESS STAIRWAYS AND RAMPS | ROOMS AND ENCLOSED SPACES |
|---|---|---|---|
| M | B | C | C |
| R-3 | C | C | C |

## METAL FRAMING

PER FBC SECTION 2211.1 STRUCTURAL FRAMING

FOR COLD-FORMED STEEL LIGHT-FRAME CONSTRUCTION, THE DESIGN AND INSTALLATION OF THE FOLLOWING STRUCTURAL FRAMING SYSTEMS, INCLUDING THEIR MEMBERS AND CONNECTIONS, SHALL BE IN ACCORDANCE WITH AISI S240 AND SECTIONS 2211.1.1 THROUGH 2211.1.3, AS APPLICABLE:

1. FLOOR AND ROOF SYSTEMS,
2. STRUCTURAL WALLS,
3. SHEAR WALLS, STRAP BRACED WALLS AND DIAPHRAGMS TO RESIST IN-PLANE LATERAL LOADS, AND
4. TRUSSES

PER FBC SECTION 2211.2 NONSTRUCTURAL MEMBERS

FOR COLD-FORMED STEEL LIGHT-FRAME CONSTRUCTION, THE DESIGN AND INSTALLATION OF NONSTRUCTURAL MEMBERS AND CONNECTIONS SHALL BE IN ACCORDANCE WITH AISI S220.

IN ADDITION REFER TO STRUCTURAL ENGINEERING DOCUMENTS FOR ADDITIONAL CODE REQUIREMENTS.

## PLUMBING FIXTURE COUNT

PER FBC, BUILDING, CHAPTER 29, TABLE 2902.1

MERCANTILE "M" OCCUPANCY, OCCUPANCY LOAD = 72 PERSONS

| FIXTURE TYPE | REQUIRED | PROVIDED |
|---|---|---|
| WATER CLOSET (1/500): | 1 | 2 |
| LAVATORY (1/750): | 1 | 2 |
| DRINKING FOUNTAINS (1/1000): | 1 | 1 (HI-LOW) |
| SERVICE SINK | 1 | 1 |

RESIDENTIAL "R-3" OCCUPANCY, OCCUPANCY LOAD = 31 PERSONS

| FIXTURE TYPE | REQUIRED | PROVIDED |
|---|---|---|
| WATER CLOSET (1 PER DWELLING): | 1 | 6 |
| LAVATORY (1/10): | 4 | 8 |
| DRINKING FOUNTAINS (N/A): | N/A | N/A |
| BATHTUB OR SHOWER (1 PER DWELLING) | 1 | 6 |
| KITCHEN SINK (1 PER DWELLING) | 1 | 1 |
| CLOTHES WASHER (1 PER DWELLING) | 1 | 1 |

## MISC. REQUIREMENTS

1. THE CONTRACTOR SHALL MEET THE REQUIREMENTS OF APPENDIX F AS IT PERTAINS TO RODENT PROOFING, VERMIN CONTROL AND SECTION 1816 TERMITE PROTECTION, (IF APPLICABLE).
2. ALL HANDRAILS, GUARDRAILS, GRAB BARS AND THE SUCH SHALL MEET FBC SECTION 1607.8 WITH SUBSECTIONS 1607.8.1.1 AND (OR) 1607.8.2.
3. THIS PROJECT SHALL HAVE FIRE EXTINGUISHERS PER NFPA 10.
4. THE CONTRACTOR SHALL BE AWARE THAT A SEPARATE PERMIT SHALL BE REQUIRED FOR THE FOLLOWING:
   A. SIGNS

## PRIVATE SWIMMING POOL

THIS PROJECT SHALL HAVE PROVIDED ON THE SECOND FLOOR OUTDOOR DECK AND WITHIN THE RESIDENTIAL OCCUPANCY, A PRIVATE SPA. THIS SPA SHALL MEET THE REQUIREMENTS SET FORTH WITHIN THE FBC CODE SECTION 454.2 "PRIVATE SWIMMING POOLS "PRIVATE".

IN ADDITION,

PER SECTION 454.2.17 RESIDENTIAL SWIMMING BARRIER REQUIREMENT
RESIDENTIAL SWIMMING POOLS SHALL COMPLY WITH SECTIONS 454.2.17.1 THROUGH 454.2.17.3.

EXCEPTION: A SWIMMING POOL WITH AN APPROVED SAFETY POOL COVER COMPLYING WITH ASTM F1346.

454.2.17.1 OUTDOOR SWIMMING POOLS
OUTDOOR SWIMMING POOLS SHALL BE PROVIDED WITH A BARRIER COMPLYING WITH SECTIONS 454.2.17.1.1 THROUGH 454.2.17.1.14.

454.2.17.1.9
WHERE A WALL OF A DWELLING SERVES AS PART OF THE BARRIER, ONE OF THE FOLLOWING SHALL APPLY:

1. ALL DOORS AND WINDOWS PROVIDING DIRECT ACCESS FROM THE HOME TO THE POOL SHALL BE EQUIPPED WITH AN EXIT ALARM COMPLYING WITH UL 2017 THAT HAS A MINIMUM SOUND PRESSURE RATING OF 85 DBA AT 10 FEET (3048 MM). ANY DEACTIVATION SWITCH SHALL BE LOCATED AT LEAST 54 INCHES (1372 MM) ABOVE THE THRESHOLD OF THE ACCESS. SEPARATE ALARMS ARE NOT REQUIRED FOR EACH DOOR OR WINDOW IF SENSORS WIRED TO A CENTRAL ALARM SOUND WHEN CONTACT IS BROKEN AT ANY OPENING.

EXCEPTIONS:
1. SCREENED OR PROTECTED WINDOWS HAVING A BOTTOM SILL HEIGHT OF 48 INCHES (1219 MM) OR MORE MEASURED FROM THE INTERIOR FINISHED FLOOR AT THE POOL ACCESS LEVEL.
2. WINDOWS FACING THE POOL ON THE FLOOR ABOVE THE FIRST STORY.
3. SCREENED OR PROTECTED PASS-THROUGH KITCHEN WINDOWS 42 INCHES (1067 MM) OR HIGHER WITH A COUNTER BENEATH.
4. ALL DOORS PROVIDING DIRECT ACCESS FROM THE HOME TO THE POOL MUST BE EQUIPPED WITH A SELFCLOSING, SELF-LATCHING DEVICE WITH POSITIVE MECHANICAL LATCHING/LOCKING INSTALLED A MINIMUM OF 54 INCHES (1372 MM) ABOVE THE THRESHOLD, WHICH IS APPROVED BY THE AUTHORITY HAVING JURISDICTION.
5. A SWIMMING POOL ALARM THAT, WHEN PLACED IN A POOL, SOUNDS AN ALARM UPON DETECTION OF AN ACCIDENTAL OR UNAUTHORIZED ENTRANCE INTO THE WATER. SUCH POOL ALARM MUST MEET AND BE INDEPENDENTLY CERTIFIED TO ASTM F2208, TITLED "STANDARD SAFETY SPECIFICATION FOR RESIDENTIAL POOL ALARMS," WHICH INCLUDES SURFACE MOTION, PRESSURE, SONAR, LASER, AND INFRARED ALARMS. FOR PURPOSES OF THIS PARAGRAPH, THE TERM "SWIMMING POOL ALARM" DOES NOT INCLUDE ANY SWIMMING PROTECTION ALARM DEVICE DESIGNED FOR INDIVIDUAL USE, SUCH AS AN ALARM ATTACHED TO A CHILD THAT SOUNDS WHEN THE CHILD EXCEEDS A CERTAIN DISTANCE OR BECOMES SUBMERGED IN WATER.

## FPPC REHABILITATION CLASSIFICATION

PER THE PROJECT REQUIREMENTS THE STRUCTURE, EXTERIOR WALLS AND FOUNDATION WILL ONLY REMAIN. THE EXISTING ROOF STRUCTURE AND EXISTING INTERNAL BEARING WALLS AND OR COLUMNS WILL BE REMOVED TO ALLOW THE DEVELOPMENT OF A NEW TWO-STORY BUILDING HOUSING INTERIORS UNLIMITED AT THE GROUND FLOOR AND A SINGLE-FAMILY RESIDENTIAL UNIT LOCATED ON THE SECOND FLOOR OF THE BUILDING.

IN ACCORDANCE WITH FPPC 101:43.5.2 EXTENSIVE MODIFICATIONS

PER FPPC 101:43.5.2.1 THE MODIFICATION OF AN ENTIRE BUILDING OR AN ENTIRE OCCUPANCY WITHIN A BUILDING SHALL BE CONSIDERED AS A RECONSTRUCTION AN SHALL COMPLY WITH THE REQUIREMENTS OF SECTION 43.6 FOR THE APPLICABLE OCCUPANCY. ~~UNLESS OTHERWISE SPECIFIED IN 101:43.5.2.2.~~ (STRIKE-THROUGH TEXT IS NOT APPLICABLE TO THIS PROJECT).

THEREFORE, THE CLASSIFICATION OF REHABILITATION WORK IS PER SHALL BE CONSIDERED "RECONSTRUCTION".

THE PROJECT SHALL MEET APPLICABLE CODES AS STATED WITHIN "APPLICABLE CODES" SECTION OF THE BUILDING REQUIREMENTS.

## FPPC MISC. OCCUPANCY REQUIREMENTS

PER FPPC 101 CHAPTER 24 ONE- AND TWO-FAMILY DWELLINGS

PER FPPC 101:24.1.3 MULTIPLE OCCUPANCY
SOLE MEANS OF EGRESS IS THROUGH RESIDENTIAL OCCUPANCY ONLY; WHICH IS SEPARATED FROM NON-RESIDENTIAL OCCUPANCY BY A 1-HOUR SEPARATION WALL PER CODE AND NOTED WITHIN "FIRE RATINGS OF COMPONENT ELEMENTS", THIS PAGE, AND WITH AUTOMATIC SPRINKLER SYSTEM.

PER FPPC 101:24.2 MEANS OF ESCAPE REQUIREMENTS, THIS RESIDENCE SHALL HAVE ONE (1) PRIMARY MEANS OF ESCAPE PER FPPC 101:24.2.2.2.

PER FPPC 101:24.2.2.1.2 A SECONDARY MEANS OF ESCAPE SHALL NOT BE REQUIRED WHERE ONE OF THE FOLLOWING CONDITIONS IS MET:
1. ~~THE BEDROOM OR LIVING AREA HAS A DOOR LEADING DIRECTLY TO THE OUTSIDE OF THE BUILDING AT OR TO THE FINISH GROUND LEVEL.~~
2. THE DWELLING UNIT IS PROTECTED THROUGHOUT BY AN APPROVED AUTOMATIC SPRINKLER SYSTEM IN ACCORDANCE WITH 24.3.5.

PER FPPC CHAPTER 36 NEW MERCANTILE OCCUPANCIES

PLEASE NOTE PER FPPC 36.1.2.2 SUB-CLASSIFICATION OF OCCUPANCY THE SUB-CLASSIFICATION SHALL BE CONSIDERED CLASS "B" PER FPPC 101:36.1.2.2.1 (2)(a).

## ZONING

ZONING CLASSIFICATION;

| | ALLOWABLE | PROPOSED |
|---|---|---|
| SITE REQUIREMENTS | | |
| MIN. LOT SQ. FOOTAGE | 7,000 SF | 28,468 SF |
| MIN. LOT WIDTH | 75 FT | 123.74 FT |
| MIN. LOT DEPTH | 100 FT | 210.13 FT |
| FLOOR AREA RATIO | 1.2 % | .55 % |
| SETBACKS | | |
| FRONT STREET | 10 FT | 10 FT |
| SIDE NON-WATERFRONT | 7 FT | 7 FT |
| REAR | 20 FT | 20 FT |
| HEIGHTS | | |
| MAX. BUILDING HEIGHT | 30 FT (SEC. 34-631a(2) | 31 FT 4 INCHES |
| MAX. STORIES | 3 | 2 |

## FOLIO ID

--

## STRAP NUMBER

--

## FLOOD ZONE

FLOOD ZONE ZONE AE (EL 11)

VERSION NUMBER 2.4.3.5

MAP NUMBER: 12071C0567G

PANEL NUMBER: 567 OF 685

MAP REVISION DATE: NOVEMBER 17, 2022

## LEGAL DESCRIPTION

--

## STANDARD INDUSTRIAL CLASSIFICATION CODE

STANDARD INDUSTRIAL CLASSIFICATION (SIC) CODE:

IT IS UNDERSTOOD THAT THESE SPACES HOUSE BUSINESS SERVICES AND REMODELING COMPANY WITH A STANDARD INDUSTRIAL CLASSIFICATION (SIC) CODE OF 1521 AND OR 7389.

NOT FOR CONSTRUCTION

# BUILDING CODE REQUIREMENTS


STUDIO 2 ARCHITECTURE PLANNING

STUDIO 2 ARCHITECTURE PLANNING llc
530 CYPRESS WAY EAST
NAPLES, FLORIDA 34110
239.877.6973
239.272.7087
FL REGISTRATION NO. AA26001299



I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY REGISTERED ARCHITECT UNDER THE LAWS OF THE STATE OF FLORIDA.

DESIGNS HEREIN EXPRESSLY RESERVES HIS COPYRIGHT AND OTHER PROPERTY RIGHTS IN THESE PLANS. THESE PLANS AND DRAWINGS ARE NOT TO BE REPRODUCED, CHANGED, OR COPIED IN ANY FORM OR MANNER WHATSOEVER WITHOUT FIRST OBTAINING WRITTEN PERMISSION AND CONSENT OF STUDIO 2 ARCHITECTURE PLANNING, LLC. NOR ARE THEY TO BE ASSIGNED TO ANY PARTY WITHOUT FIRST OBTAINING SAID WRITTEN PERMISSION AND CONSENT.


ADDITIONS and RENOVAT'S.
6875 ESTERO

6875 ESTERO BOULEVARD
CITY OF FORT MYERS BEACH
FORT MYERS BEACH, FL 33931

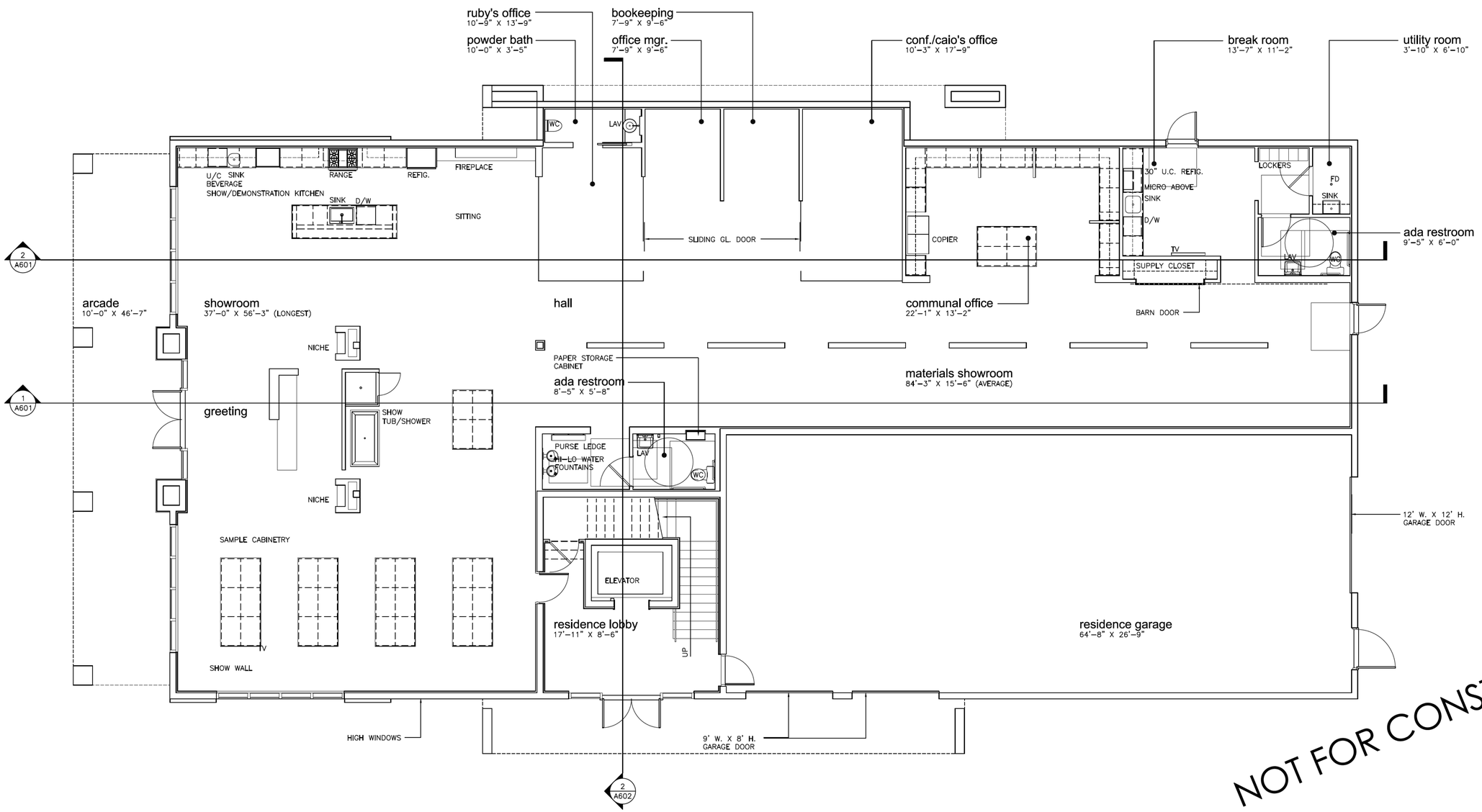
| NO. | REVISION DESCRIPTION | DATE |
|---|---|---|

PROJECT NO.: 22_6785ESTEROD
ISSUE DATE: 15.DECEMBER.2022
SHEET:

LIFE SAFETY PLAN
DATA AND DETAILS

A002

DESIGN DEVELOPMENT DOCUMENTS




NOT FOR CONSTRUCTION

GROUND LEVEL FLOOR PLAN (NOTATIONAL)

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

AREA CALCULATIONS

FLOOR AREA CALCULATIONS

MINIMUM PLUMBING FIXTURES

STUDIO 2
ARCHITECTURE
PLANNING

STUDIO 2 ARCHITECTURE PLANNING llc
530 CYPRESS WAY EAST
NAPLES, FLORIDA 34110

ROCCO J COSTA III (QUALIFYING AGENT) 239.877.6973
LAZARO HERNANDEZ 239.272.7087

FLORIDA QUALIFYING AGENT LICENSE NO. AR0015837

I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY REGISTERED ARCHITECT UNDER THE LAWS OF THE STATE OF FLORIDA.

DESIGNER HEREBY EXPRESSLY RESERVES HIS COPYRIGHT AND OTHER PROPERTY RIGHTS IN THESE PLANS. THESE PLANS AND DRAWINGS ARE NOT TO BE REPRODUCED, CHANGED, OR COPIED IN ANY FORM OR MANNER WHATSOEVER WITHOUT FIRST OBTAINING WRITTEN PERMISSION AND CONSENT OF STUDIO 2 ARCHITECTURE PLANNING, LLC. NOR ARE THEY TO BE ASSIGNED TO ANY PARTY WITHOUT FIRST OBTAINING SAID WRITTEN PERMISSION AND CONSENT.

PRINTED COPIES OF THIS DOCUMENT ARE NOT CONSIDERED SIGNED AND SEALED AND THE SIGNATURE MUST BE VERIFIED ON ANY ELECTRONIC COPIES.

ADDITIONS
and
RENOVAT'S.
6875 ESTERO

6875 ESTERO BOULEVARD
CITY OF FORT MYERS BEACH
FORT MYERS BCH, FL 33931

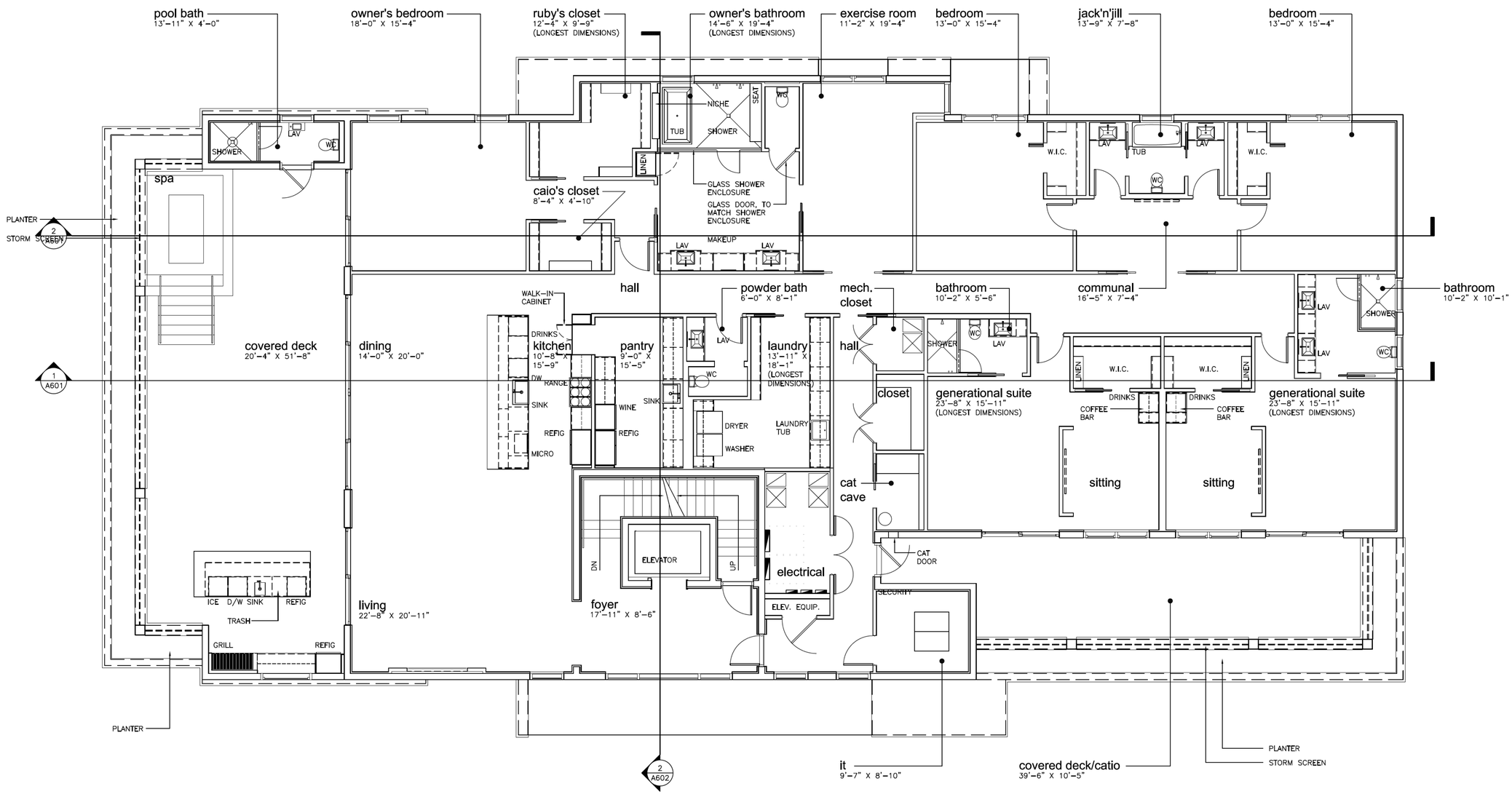
| NO. | REVISION DESCRIPTION | DATE |
|---|---|---|

PROJECT NO.: 22_6875ESTERO
ISSUE DATE: 15.DECEMBER.2022
SHEET:

GROUND LEVEL
FLOOR PLAN
(NOTATIONAL)

A201b

DESIGN DEVELOPMENT DOCUMENTS




## SECOND LEVEL FLOOR PLAN (NOTATIONAL)

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

| AREA CALCULATIONS | OWNER'S BATHROOM (OPTION 01) | OWNER'S BATHROOM (OPTION 02) | NOT USED |
|---|---|---|---|
| | SCALE: 3/16"=1'-0" | SCALE: 3/16"=1'-0" | 1 SCALE: |

NOT FOR CONSTRUCTION

STUDIO 2 ARCHITECTURE PLANNING

STUDIO 2 ARCHITECTURE PLANNING llc
530 CYPRESS WAY EAST
NAPLES, FLORIDA 34110

ROCCO J COSTA III (QUALIFYING AGENT) 239.877.6973
LAZARO HERNANDEZ 239.272.7087

FLORIDA QUALIFYING AGENT LICENSE NO. AR0015837

I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY REGISTERED ARCHITECT UNDER THE LAWS OF THE STATE OF FLORIDA.

DESIGNER HEREBY EXPRESSLY RESERVES HIS COPYRIGHT AND OTHER PROPERTY RIGHTS IN THESE PLANS. THESE PLANS AND DRAWINGS ARE NOT TO BE REPRODUCED, CHANGED, OR COPIED IN ANY FORM OR MANNER WHATSOEVER WITHOUT FIRST OBTAINING WRITTEN PERMISSION AND CONSENT OF STUDIO 2 ARCHITECTURE PLANNING, LLC. NOR ARE THEY TO BE ASSIGNED TO ANY PARTY WITHOUT FIRST OBTAINING SAID WRITTEN PERMISSION AND CONSENT.

PRINTED COPIES OF THIS DOCUMENT ARE NOT CONSIDERED SIGNED AND SEALED AND THE SIGNATURE MUST BE VERIFIED ON ANY ELECTRONIC COPIES.

ADDITIONS
and
RENOVAT'S.
6875 ESTERO

6875 ESTERO BOULEVARD
CITY OF FORT MYERS BEACH
FORT MYERS BCH, FL 33931

| NO. | REVISION DESCRIPTION | DATE |
|---|---|---|

PROJECT NO.: 22_6875ESTERO
ISSUE DATE: 15.DECEMBER.2022
SHEET:

SECOND LEVEL
FLOOR PLAN
(NOTATIONAL)

A202b

DESIGN DEVELOPMENT DOCUMENTS

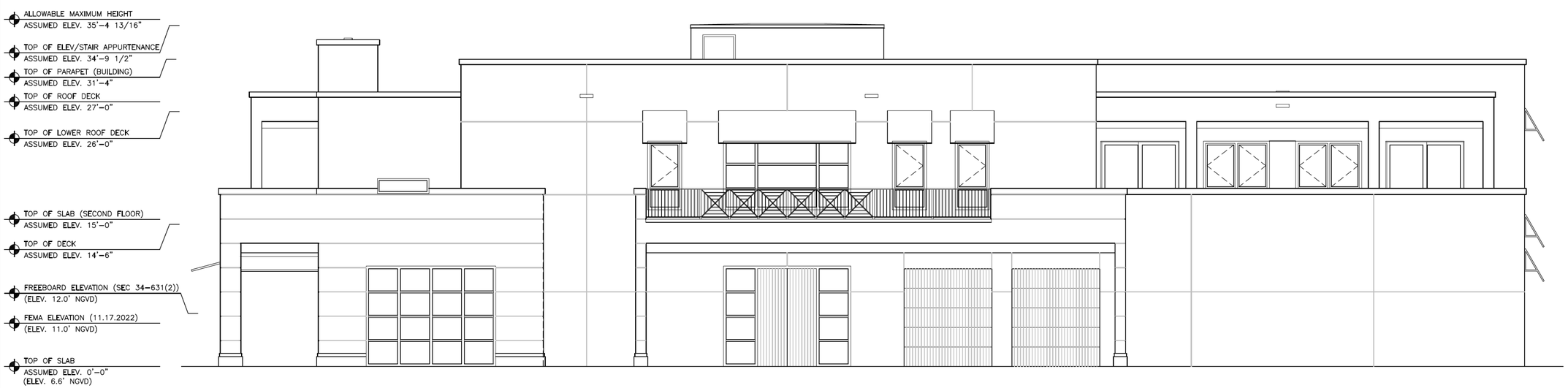
1 NOT USED

SCALE:

2 FRONT (WEST) ELEVATION

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

NOT FOR CONSTRUCTION




3 SIDE (SOUTH) ELEVATION

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

STUDIO 2 ARCHITECTURE PLANNING

STUDIO 2 ARCHITECTURE PLANNING llc
530 CYPRESS WAY EAST
NAPLES, FLORIDA 34110

ROCCO J COSTA III (QUALIFYING AGENT) 239.877.6973
LAZARO HERNANDEZ 239.272.7087

FLORIDA QUALIFYING AGENT LICENSE NO. AR0015837

I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY REGISTERED ARCHITECT UNDER THE LAWS OF THE STATE OF FLORIDA.

DESIGNER HEREBY EXPRESSLY RESERVES HIS COPYRIGHT AND OTHER PROPERTY RIGHTS IN THESE PLANS. THESE PLANS AND DRAWINGS ARE NOT TO BE REPRODUCED, CHANGED, OR COPIED IN ANY FORM OR MANNER WHATSOEVER WITHOUT FIRST OBTAINING WRITTEN PERMISSION AND CONSENT OF STUDIO 2 ARCHITECTURE PLANNING, LLC. NOR ARE THEY TO BE ASSIGNED TO ANY PARTY WITHOUT FIRST OBTAINING SAID WRITTEN PERMISSION AND CONSENT.

PRINTED COPIES OF THIS DOCUMENT ARE NOT CONSIDERED SIGNED AND SEALED AND THE SIGNATURE MUST BE VERIFIED ON ANY ELECTRONIC COPIES.

ADDITIONS and RENOVAT'S.
6875 ESTERO

6875 ESTERO BOULEVARD
CITY OF FORT MYERS BEACH
FORT MYERS BCH, FL 33931

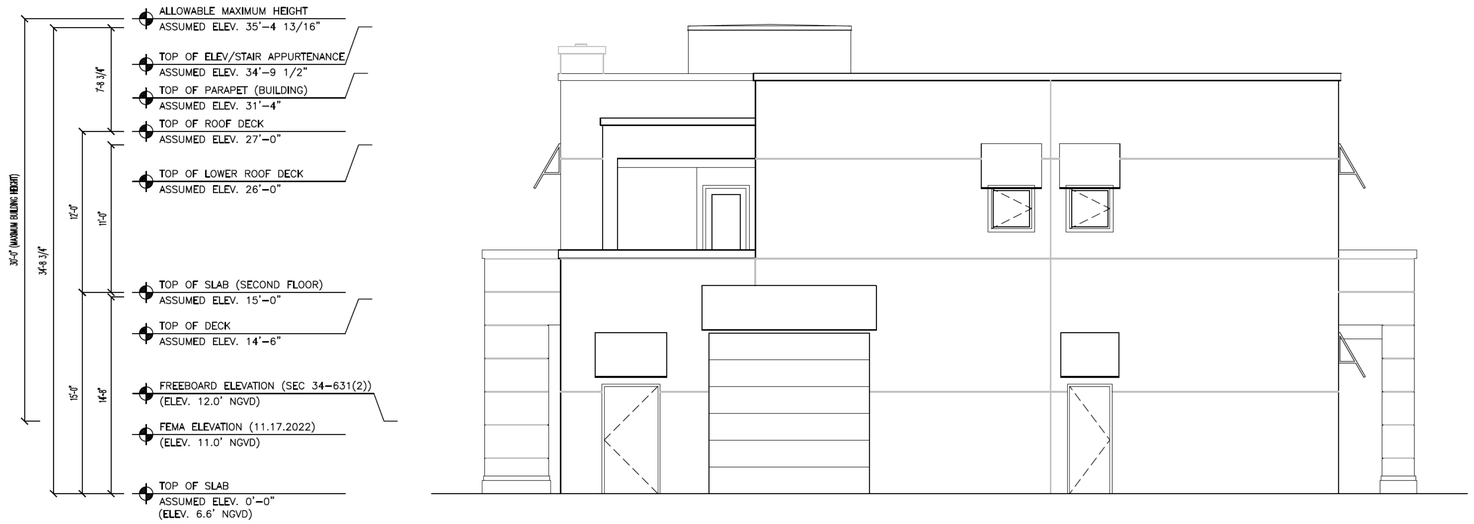
| NO. | REVISION DESCRIPTION | DATE |
|---|---|---|

PROJECT NO.: 22_6875ESTERO
ISSUE DATE: 15.DECEMBER.2022
SHEET:

BUILDING ELEVATIONS

A501

DESIGN DEVELOPMENT DOCUMENTS




1 NOT USED

SCALE:

2 REAR (EAST) ELEVATION

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

3 SIDE (NORTH) ELEVATION

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

NOT FOR CONSTRUCTION

STUDIO 2 ARCHITECTURE PLANNING

STUDIO 2 ARCHITECTURE PLANNING llc
530 CYPRESS WAY EAST
NAPLES, FLORIDA 34110

ROCCO J COSTA III (QUALIFYING AGENT) 239.877.6973
LAZARO HERNANDEZ 239.272.7087

FLORIDA QUALIFYING AGENT LICENSE NO. AR0015837

I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY REGISTERED ARCHITECT UNDER THE LAWS OF THE STATE OF FLORIDA.

DESIGNER HEREBY EXPRESSLY RESERVES HIS COPYRIGHT AND OTHER PROPERTY RIGHTS IN THESE PLANS. THESE PLANS AND DRAWINGS ARE NOT TO BE REPRODUCED, CHANGED, OR COPIED IN ANY FORM OR MANNER WHATSOEVER WITHOUT FIRST OBTAINING WRITTEN PERMISSION AND CONSENT OF STUDIO 2 ARCHITECTURE PLANNING, LLC. NOR ARE THEY TO BE ASSIGNED TO ANY PARTY WITHOUT FIRST OBTAINING SAID WRITTEN PERMISSION AND CONSENT.

PRINTED COPIES OF THIS DOCUMENT ARE NOT CONSIDERED SIGNED AND SEALED AND THE SIGNATURE MUST BE VERIFIED ON ANY ELECTRONIC COPIES.

ADDITIONS and RENOVAT'S. 6875 ESTERO

6875 ESTERO BOULEVARD
CITY OF FORT MYERS BEACH
FORT MYERS BCH, FL 33931

| NO. | REVISION DESCRIPTION | DATE |
|---|---|---|

PROJECT NO.: 22_6875ESTERO
ISSUE DATE: 15.DECEMBER.2022
SHEET:

BUILDING ELEVATIONS

A502

DESIGN DEVELOPMENT DOCUMENTS

# SPECAL EXCEPTION & DEVELOPMENT ORDER

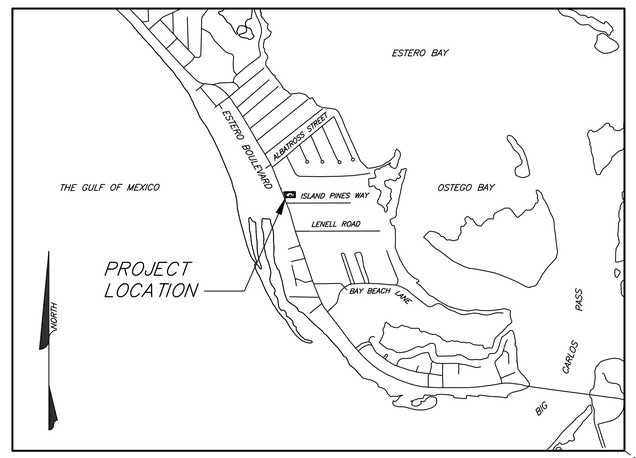
# FOR

# INTERIORS UNLIMITED

SECTION 03, TOWNSHIP 47 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA

## DRAWING INDEX:


| | |
|---|---|
| | COVER SHEET |
| C-1 | DEMOLITION PLAN |
| C-2 | SITE PLAN |
| | SURVEY |


SITE LOCATION MAP

SCALE: N.T.S.

## OWNER & DEVELOPER:

LEMOS UNLIMITED, LLC
7205 ESTERO BOULEVARD, SUITE 702
FORT MYERS BEACH, FLORIDA 33931
PHONE: (239) 463-5320

## PROJECT INFORMATION:

HALEY WARD PROJECT NUMBER: 2011380
(22-12)
PROJECT NAME: INTERIORS UNLIMITED

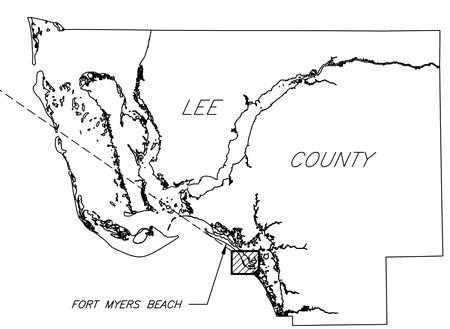
6875 ESTERO BOULEVARD
FORT MYERS BEACH, FLORIDA 33931
SECTION 3, T 47S, R 24E
PARCEL STRAP NUMBER:
03-47-24-W1-00002.0020

**LIST OF UTILITY PROVIDERS:**

| | |
|---|---|
| WATER | TOWN OF FORT MYERS BEACH<br>2525 ESTERO BOULEVARD<br>FORT MYERS BEACH, FLORIDA 33931<br>PHONE: 239-463-9914 |
| SEWER | LEE COUNTY UTILITIES<br>7391 COLLEGE PARKWAY<br>FORT MYERS, FLORIDA 33907<br>PHONE: 239-533-8845 |
| ELECTRIC | LEE COUNTY ELECTRIC COOPERATIVE, INC.<br>4941 BAYLINE DRIVE<br>NORTH FORT MYERS, FLORIDA 33917<br>PHONE: 800-599-2356 |
| CABLE | COMCAST DIGITAL CABLE<br>12641 CORPORATE LAKES DRIVE<br>FORT MYERS, FLORIDA 33913<br>PHONE: 800-934-6489 |
| TELEPHONE | CENTURYLINK<br>8441 LITTLETON ROAD<br>NORTH FORT MYERS, FLORIDA 33903<br>PHONE: 239-225-0206 |
| FIRE | FORT MYERS BEACH FIRE CONTROL DISTRICT<br>17891 SAN CARLOS BOULEVARD<br>FORT MYERS BEACH, FLORIDA 33931<br>PHONE: 239-590-4210 |
| REFUSE COLLECTION | WASTE MANAGEMENT<br>17101 PINE RIDGE ROAD<br>FORT MYERS BEACH, FL 33931<br>PHONE: 239-334-1224 |

## ENGINEER & SURVEYOR:


HALEY WARD, INC.
ENGINEERING | ENVIRONMENTAL | SURVEYING
13041 MCGREGOR BOULEVARD, FORT MYERS, FLORIDA 33919
FLORIDA CERTIFICATE OF AUTHORIZATION NUMBERS EB32664 & LB8267
PHONE: (239) 481-1331 | WWW.HALEYWARD.COM


LEE COUNTY MAP

SCALE: N.T.S.

AHMAD R. KAREH
STATE OF FLORIDA
PROFESSIONAL ENGINEER
LICENSE NO. 43324

DATE:

cn=Ahmad R. Kareh, State of Florida, Professional Engineer, License No. 43324, o=Printed copies of this document are not considered signed and sealed and the signature must be verified on any electronic copies., ou=This item has been digitally signed and sealed by Ahmad R. Kareh on the date indicated here., email=akareh@ceincusa.com, c=US
2023.01.08 21:07:20 -05'00'

LOCATION P:\FL\2011380-LEMOS_UNLIMITED_LLC\001-6875 ESTERO BOULEVARD FM-INTERIOR UNLIMITED-ARK\02-CAD_FILES\CIVIL\2011380 INTERIORS UNLIMITED.DWG\C-0_CS plotted 23/01/06 12:50:58 PM, adelpozo

2011380 INTERIORS UNLIMITED

**OWNER/PROPERTY INFORMATION:**

OWNER: LEMOS UNLIMITED, LLC
7205 ESTERO BOULEVARD, SUITE 702
FORT MYERS BEACH, FLORIDA 33931

PROPERTY ADDRESS: 6875 ESTERO BOULEVARD
FORT MYERS BEACH, FLORIDA 33931

**ELEVATIONS NOTE:**

ALL ELEVATIONS ARE IN FEET AND BASED ON THE N.A.V.D. 1988 (NORTH AMERICAN VERTICAL DATUM OF 1988), AND N.G.S. BENCHMARK BOOB2.

**FEDERAL EMERGENCY MANAGEMENT AGENCY**
NATIONAL FLOOD INSURANCE PROGRAM
FLOOD INSURANCE RATE MAP INFORMATION

| | |
|---|---|
| COMMUNITY NUMBER | 120673 |
| MAP NUMBER | 12071C 0567G |
| DATE OF FIRM INDEX | 11-17-2022 |
| FIRM ZONE | AE & VE |
| BASE FLOOD ELEVATION | 11' & 12' N.A.V.D. |

**GENERAL NOTES:**

1. BOUNDARY AND TOPOGRAPHIC INFORMATION WAS OBTAINED FROM A SURVEY PERFORMED BY HALEY WARD, INC. DATED MAY 19, 2022.
2. PER THE CURRENT FLOOD MAPS, THE PARCEL FLOOD ZONES ARE AE & VE WITH BASE FLOOD ELEVATIONS OF 11' & 12' N.A.V.D. FLOOD INFORMATION MUST BE VERIFIED WITH ALL PERMITTING REGULATORY ENTITIES PRIOR TO COMMENCING ANY WORK OR APPLICATION DEPENDENT ON SAID FLOOD INFORMATION.
3. INFORMATION ON THE EXISTING WATER AND SEWER SERVICES LOCATIONS IN THE VICINITY OF THE PROJECT HAVE BEEN PROVIDED BY THE TOWN OF FORT MYERS BEACH WATER AND LEE COUNTY UTILITIES.
4. THERE ARE STRUCTURES AND AN EXISTING BUILDING ON THIS PARCEL.
5. THERE WILL BE NO POTENTIAL IMPACTS TO GROUND AND SURFACE WATERS.
6. ELEVATIONS SHOWN ARE IN FEET ABOVE NORTH AMERICAN VERTICAL DATUM (N.A.V.D.) OF 1988, & BASED ON NGS BENCHMARK NUMBER BOOB2.
7. THIS PROPERTY DOES NOT LIE WITHIN AN ARCHAEOLOGICAL SENSITIVITY ZONE.
8. ALL PERVIOUS AND DISTURBED AREAS ARE TO BE PROTECTED BY VEGETATIVE COVER.
9. FOR MINIMUM BURIAL DEPTH FOR ALL UTILITY LINES, SEE UTILITY DETAILS.
10. SITE SOILS CLASSIFICATION IS BASED ON U.S.S.C.S., SOIL SURVEY OF LEE COUNTY, FLORIDA DATED AUGUST 25TH, 2021. SOIL TYPES ARE 7 – MATLACHA GRAVELLY FINE SAND–URBAN LAND COMPLEX, 59 – URBAN LAND, AND 118 – KESSON FINE SAND–TIDAL–URBAN LAND COMPLEX.
11. ALL CONSTRUCTION WITHIN THE COUNTY RIGHT-OF-WAYS (IF ANY) SHALL CONFORM TO THE FEDERAL MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES (MUTCD), THE F.D.O.T.'S ROADWAY AND TRAFFIC DESIGN STANDARDS, THE F.D.O.T. STANDARD SPECIFICATIONS FOR ROAD AND BRIDGE CONSTRUCTION.
12. THERE ARE NO APPARENT FLOWING WELLS ON THIS SITE.
13. FORTUITOUS FINDS: DURING CONSTRUCTION, IF ANY HISTORICAL OR ARCHAEOLOGICAL FINDS ARE OBSERVED, ALL WORK SHALL CEASE IN THE AREA. THE DEVELOPER, OWNER, CONTRACTOR, OR AGENT THEREOF MUST NOTIFY THE TOWN OF FORT MYERS BEACH DEPARTMENT OF PUBLIC WORKS IMMEDIATELY IF HISTORIC, OR PREHISTORIC ARTIFACTS, REMAINS, OR FEATURES ARE FOUND DURING CONSTRUCTION. EXAMPLES MAY INCLUDE FRAGMENTS OF STONE TOOLS, SHELLS, SHELL TOOLS, POTTERY, GLASS, BOTTLES, ANIMAL BONES, BUILDING FOUNDATIONS, SHELL MOUNDS, OR SAND MOUNDS. THE TOWN OF FORT MYERS BEACH, DEPARTMENT OF PUBLIC WORKS WILL ASSESS THE SIGNIFICANCE OF THE FINDS IN A TIMELY MANNER.
14. UNMARKED HUMAN BURIALS: IF ANY HUMAN SKELETAL REMAINS ARE FOUND, ALL WORK IN THE AREA MUST STOP, AND THE NEAREST LAW ENFORCEMENT OFFICE SHOULD BE CONTACTED IMMEDIATELY. ACCORDING TO STATE LAW (F.S. 872.05), IT IS UNLAWFUL TO DAMAGE, OR DESTROY A HUMAN BURIAL. THE TOWN OF FORT MYERS BEACH, DEPARTMENT OF PUBLIC WORKS MUST ALSO BE NOTIFIED.

**DEMOLITION NOTES:**

1. CONTRACTOR SHALL BE RESPONSIBLE FOR DAMAGES TO EXISTING UTILITIES.
2. MAINTENANCE OF TRAFFIC SHALL FOLLOW F.D.O.T. STANDARD PLANS INDEX NO. 102 (CURRENT EDITION), INCLUDING FLAGGING.
3. CONTRACTOR SHALL BE RESPONSIBLE FOR ALL HAZARDOUS MATERIAL SPILLS OR ILLEGAL POLLUTION CAUSED BY HIS FORCES OR SUBCONTRACTORS.
4. CONTRACTOR IS RESPONSIBLE FOR DETERMINING ACTUAL SITE CONDITIONS PRIOR TO COMMENCING DEMOLITION.
5. ANY DISCREPANCIES ON THE DRAWINGS SHALL BE BROUGHT TO THE ATTENTION OF THE ENGINEER BEFORE COMMENCING DEMOLITION.
6. THE CONTRACTOR SHALL CONTACT ALL CONCERNED UTILITIES AT LEAST 48 HOURS IN ADVANCE OF DEMOLITION OPERATIONS.
7. NO FIELD CHANGES OR DEVIATIONS FROM PLANS WILL BE MADE WITHOUT PRIOR APPROVAL OF THE ENGINEER.
8. CONTRACTOR SHALL HAVE AVAILABLE AT THE JOB SITE, AT ALL TIMES, ONE (1) COMPLETE COPY OF THE CONTRACT DOCUMENTS, INCLUDING PLANS, SPECIFICATIONS, SPECIAL PROVISIONS, AND COPIES OF ALL REQUIRED PERMITS.
9. CONTRACTOR SHALL BE RESPONSIBLE FOR ALL TRADE PERMITS. CONTRACTOR SHALL REVIEW REQUIRED PERMITS PRIOR TO COMMENCING DEMOLITION.
10. ANY EXISTING MONUMENTATION SHALL BE PROTECTED. IF MONUMENTATION IS DISTURBED OR DESTROYED, IT SHALL BE REPLACED AFTER CONSTRUCTION IS COMPLETE, TO REQUIRED ACCURACY, BY A FLORIDA LICENSED P.S.M. IF MONUMENTATION IS IN DANGER OF BEING DISTURBED OR DESTROYED, IT SHALL BE REFERENCED AND REPLACED AFTER CONSTRUCTION IS COMPLETE, BY FLORIDA LICENSED P.S.M.
11. CONTRACTOR IS RESPONSIBLE FOR MAINTENANCE OF TRAFFIC.

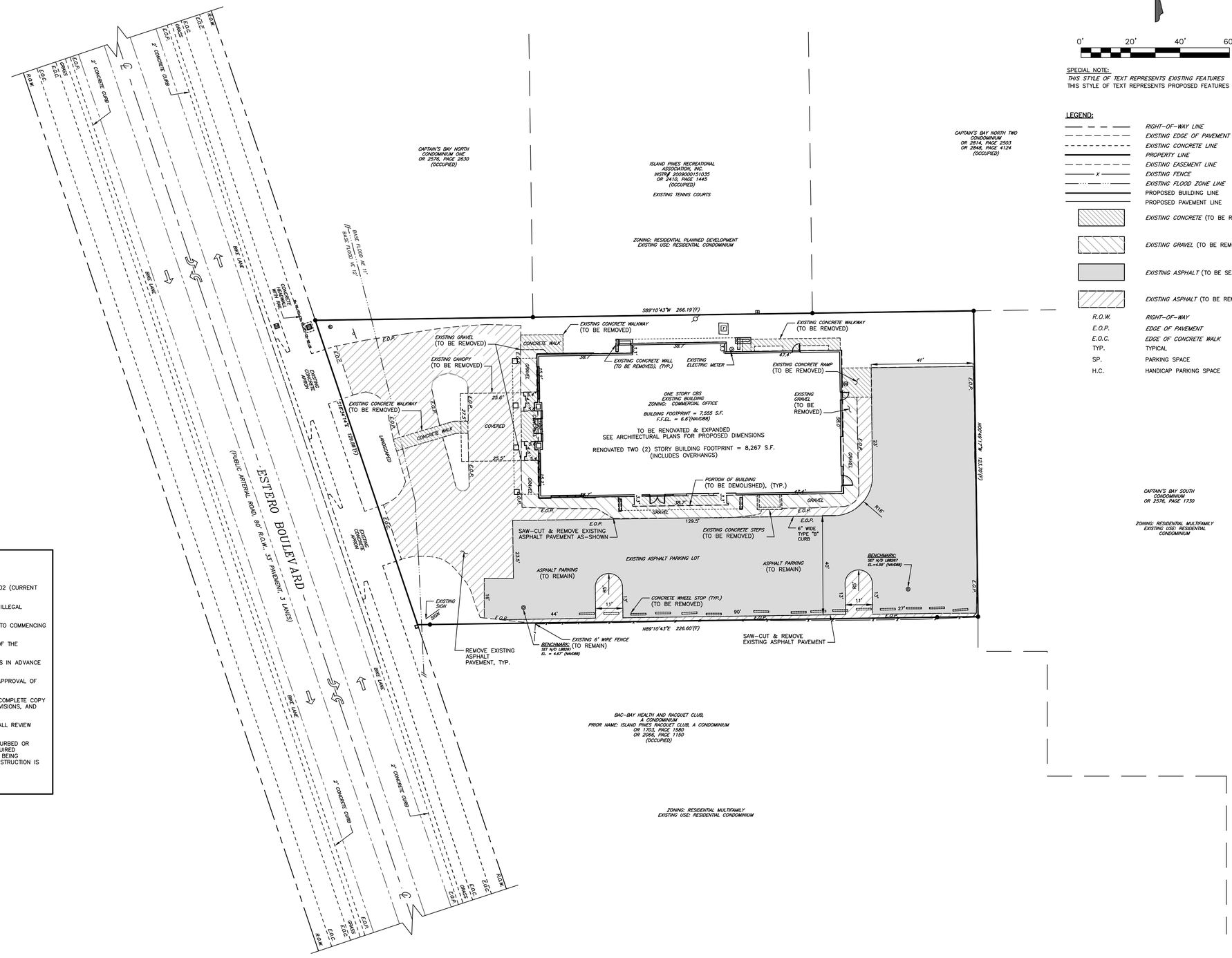
811 Know what's below. Call before you dig.

**EXCAVATION NOTE:**

PRIOR TO ANY WORK, CONTRACTOR SHALL CONTACT "SUNSHINE STATE ONE CALL OF FLORIDA" AT 1-800-432-4770 TO LOCATE ALL EXISTING UTILITY LINES WITHIN THE LIMITS OF CONSTRUCTION TO AVOID ANY CONFLICT OR INTERRUPTION OF SERVICE.

**PRE-DEVELOPMENT SITE DATA**

| | AREA (S.F.) | PERCENTAGE (%) |
|---|---|---|
| PARCEL AREA | 30,479 | 100.00 |
| EXISITING BUILDING | 7,555 | 24.79 |
| EXISITING ASPHALT PARKING | 16,471 | 54.04 |
| EXISTING CONCRETE WALKWAYS & RAMP | 750 | 2.46 |
| EXISITING GRAVEL | 1,177 | 3.86 |
| TOTAL EXISITING IMPERVIOUS AREA | 25,953 | 85.15 |
| PERVIOUS AREA | 4,526 | 14.85 |




**LEGEND:**

| | |
|---|---|
| | RIGHT-OF-WAY LINE |
| | EXISTING EDGE OF PAVEMENT |
| | EXISTING CONCRETE LINE |
| | PROPERTY LINE |
| | EXISTING EASEMENT LINE |
| x | EXISTING FENCE |
| | EXISTING FLOOD ZONE LINE |
| | PROPOSED BUILDING LINE |
| | PROPOSED PAVEMENT LINE |
| | EXISTING CONCRETE (TO BE REMOVED) |
| | EXISTING GRAVEL (TO BE REMOVED) |
| | EXISTING ASPHALT (TO BE SEALCOATED) |
| | EXISTING ASPHALT (TO BE REMOVED) |
| R.O.W. | RIGHT-OF-WAY |
| E.O.P. | EDGE OF PAVEMENT |
| E.O.C. | EDGE OF CONCRETE WALK |
| TYP. | TYPICAL |
| SP. | PARKING SPACE |
| H.C. | HANDICAP PARKING SPACE |

SPECIAL NOTE:
*THIS STYLE OF TEXT REPRESENTS EXISTING FEATURES*
THIS STYLE OF TEXT REPRESENTS PROPOSED FEATURES

| | |
|---|---|
| REVISIONS PER CLIENT'S REQUEST – 01/06/2023 | |
| REVISIONS PER ARCHITECT'S CHANGES – 12/30/2022 | |
| STATUS | |

AHMAD R. KAREH, STATE OF FLORIDA, PROFESSIONAL ENGINEER, LICENSE NO. 43324

DATE:

LEMOS UNLIMITED, LLC
7205 ESTERO BOULEVARD, SUITE 702
FORT MYERS BEACH, FLORIDA 33931
PHONE: (239) 463-5320

# INTERIORS UNLIMITED

SITE ADDRESS: 6875 ESTERO BOULEVARD, FORT MYERS BEACH, FLORIDA 33931
SECTION 03, T 47S, R 24E, LEE COUNTY, FLORIDA

HALEY WARD, INC.
ENGINEERING | ENVIRONMENTAL | SURVEYING
13041 McGREGOR BOULEVARD, FORT MYERS, FLORIDA 33919
WWW.HALEYWARD.COM
PHONE: (239) 481-1351 | FLORIDA CERTIFICATE OF AUTHORIZATION NUMBERS EB32664 & LB8267

| | | | |
|---|---|---|---|
| DRAFTING BY: A.G. DEL POZO | DESIGNED BY: A.G. DEL POZO | APPROVED BY: A.R. KAREH | |
| PROJECT NO.: 2011380.001(22-12) | START DATE: JULY 08, 2022 | SCALE: 1" = 20' | |

DEMOLITION PLAN

SHEET C-1

FILE: 03-47-24

LOCATION: P:\FL\2011380-LEMOS_UNLIMITED_LLC\001-6875 ESTERO BOULEVARD FM-INTERIOR UNLIMITED-ARK\02-CAD_FILES\CIVIL\2011380 INTERIORS UNLIMITED.DWG\C-1_DEMO plotted 23\01\06 12:51:01 PM, adelpozo

**OWNER/PROPERTY INFORMATION:**

OWNER: LEMOS UNLIMITED, LLC
7205 ESTERO BOULEVARD, SUITE 702
FORT MYERS BEACH, FLORIDA 33931

PROPERTY ADDRESS: 6875 ESTERO BOULEVARD
FORT MYERS BEACH, FLORIDA 33931

811 Know what's below. Call before you dig.

**EXCAVATION NOTE:**

PRIOR TO ANY WORK, CONTRACTOR SHALL CONTACT "SUNSHINE STATE ONE CALL OF FLORIDA" AT 1-800-432-4770 TO LOCATE ALL EXISTING UTILITY LINES WITHIN THE LIMITS OF CONSTRUCTION TO AVOID ANY CONFLICT OR INTERRUPTION OF SERVICE.

**OFFSITE FEATURES NOTE:**

MANY OF THE FEATURES OUTSIDE OF THE PROPERTY LINES ARE DERIVED FROM LEE COUNTY AERIAL IMAGERY AND PICTURES OF THE AREA, AND ARE SHOWN FOR CONTEXT PURPOSES ONLY.

**ELEVATIONS NOTE:**

ALL ELEVATIONS ARE IN FEET AND BASED ON THE N.A.V.D. 1988 (NORTH AMERICAN VERTICAL DATUM OF 1988), AND N.G.S. BENCHMARK BOOB2.

**FEDERAL EMERGENCY MANAGEMENT AGENCY**
NATIONAL FLOOD INSURANCE PROGRAM
FLOOD INSURANCE RATE MAP INFORMATION

| | |
|---|---|
| COMMUNITY NUMBER | 120673 |
| MAP NUMBER | 12071C 0567G |
| DATE OF FIRM INDEX | 11-17-2022 |
| FIRM ZONE | AE & VE |
| BASE FLOOD ELEVATION | 11' & 12' N.A.V.D. |

**C.O. PROPERTY DEVELOPMENT REGULATIONS:**

| | |
|---|---|
| MINIMUM LOT SIZE | = 7,500 S.F. |
| MINIMUM LOT WIDTH | = 75 FEET |
| MINIMUM LOT DEPTH | = 100 FEET |
| MAXIMUM HEIGHT (3 STORIES) | = 30 FEET ABOVE BASE FLOOD ELEVATION PER SECTION 34-631. OF THE TOWN OF FORT MYERS BEACH LAND DEVELOPMENT CODE |
| MAXIMUM FLOOR AREA RATIO | = 1.2 |

**SCHEDULE OF USES:**

- DWELLING UNITS, OTHER RETAIL OR BUSINESS ESTABLISHMENTS (WORK/LIVE)

SETBACKS TABLE

| | MINIMUM REQUIRED (FT.) | MINIMUM PROVIDED (FT.) |
|---|---|---|
| FRONT | 10.0 | 63.0 |
| SIDE | 7.0 | 9.4 |
| REAR | 20.0 | 54.0 |

BUFFERS TABLE

| | MINIMUM REQUIRED | MINIMUM EXISTING | MINIMUM PROVIDED |
|---|---|---|---|
| FRONT | 15' TYPE "D" | 15' | 15' TYPE "D" |
| NORTH SIDE | 15' TYPE "C" | VARIES (MIN. 3') | VARIES (MIN. 5') (NO WALL) |
| SOUTH SIDE | 15' TYPE "C" | 0' | VARIES (MIN. 2') (NO WALL) |
| REAR | 15' TYPE "C" | 0' | 0' |

**SITE INFORMATION:**

| | |
|---|---|
| PARCEL SIZE | = 0.70 ACRES |
| CURRENT ZONING | = COMMERCIAL OFFICE (C.O.) |
| FUTURE LAND USE MAP | = MIXED RESIDENTIAL |

POST-DEVELOPMENT SITE DATA

| | AREA (S.F.) | PERCENTAGE (%) |
|---|---|---|
| *PARCEL AREA* | *30,479* | *100.00* |
| REMODELED BUILDING | 7,306 | 23.97 |
| MODIFIED ASPHALT PARKING | 9,864 | 32.36 |
| PROPOSED CONCRETE PAVERS AND TURF DRIVE | 3,001 | 9.85 |
| PROPOSED CONCRETE | 2,658 | 8.72 |
| TOTAL PROPOSED IMPERVIOUS AREA | 22,829 | 74.90 |
| PERVIOUS AREA | 7,650 | 25.10 |

**PARKING CALCULATIONS:**

COMMERCIAL USES: OFFICES:

PER SECTION [34-2020.(d)(2)f.] OF THE TOWN OF FORT MYERS BEACH LAND DEVELOPMENT CODE.

PROPOSED OFFICE AREA = 668 S.F.

REQUIRED NUMBER OF PARKING SPACES = 668 S.F. X $(\frac{2}{1,000})$ = 1.3 PARKING SPACES

COMMERCIAL USES: OTHER RETAIL OR BUSINESS ESTABLISHMENTS:

PER SECTION [34-2020.(d)(2)i.2] OF THE TOWN OF FORT MYERS BEACH LAND DEVELOPMENT CODE.

PROPOSED RETAIL/ BUSINESS AREA = 2,286 S.F.

REQUIRED NUMBER OF PARKING SPACES = 2,286 S.F. X $(\frac{3}{1,000})$ = 6.9 PARKING SPACES

PROPOSED STORAGE AREA = 2,234 S.F.

REQUIRED NUMBER OF PARKING SPACES = 2,234 S.F. X $(\frac{2}{1,000})$ = 4.5 PARKING SPACES

TOTAL REQUIRED NUMBER OF PARKING SPACES = 13 PARKING SPACES

TOTAL PROVIDED NUMBER OF PARKING SPACES = 18 PARKING SPACES

RESIDENTIAL USES: DWELLING UNITS WITH COMMON PARKING LOTS:

PER SECTION [34-2020.(d)(1)b.5] OF THE TOWN OF FORT MYERS BEACH LAND DEVELOPMENT CODE, THE MINIMUM REQUIREMENT IS PLUS 2.0 PARKING SPACES FOR THE DWELLING UNIT.

PROPOSED NUMBER OF RESIDENTIAL UNITS = 1 UNIT

REQUIRED NUMBER OF PARKING SPACES = 1 UNIT X 2 = 2 PARKING SPACES

PROVIDED NUMBER OF PARKING SPACES = 2 PARKING SPACES (GARAGE)

PROPOSED BICYCLE RACK 1 SPACE WITH FIVE (5) SLOTS

OVERALL PROPOSED PARKING SPACES 20 SPACES (INCLUDES 1 HANDICAP SPACE)

**LEGEND:**

RIGHT-OF-WAY LINE
EXISTING EDGE OF PAVEMENT
CENTER LINE
PROPERTY LINE
EXISTING CONCRETE LINE
EXISTING EASEMENT LINE
EXISTING FENCE
EXISTING LOT LINE
EXISTING FLOOD ZONE LINE
PROPOSED BUILDING LINE
PROPOSED PAVEMENT LINE

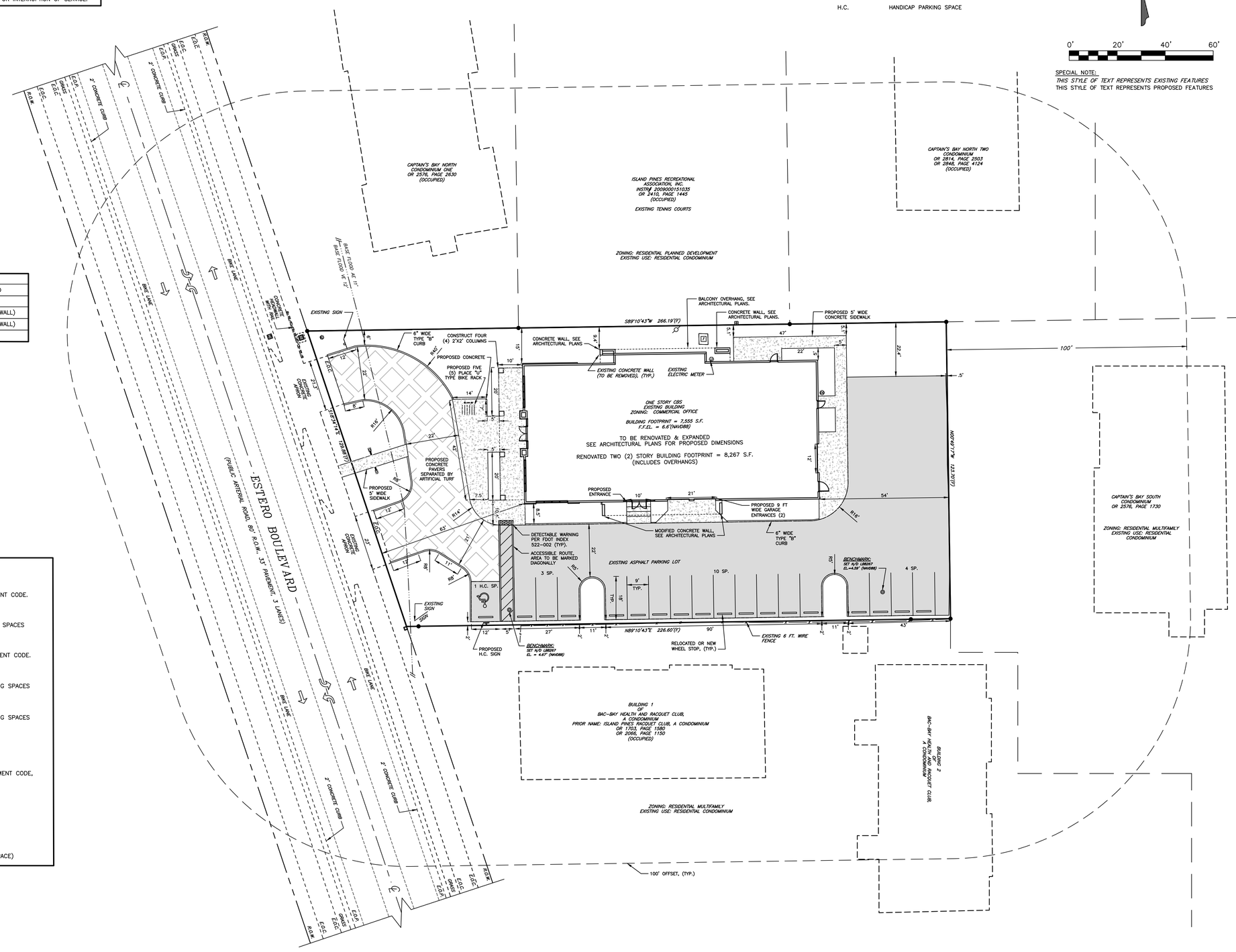
EXISTING ASPHALT (TO BE SEAL COATED)
PROPOSED CONCRETE

R.O.W. RIGHT-OF-WAY
E.O.P. EDGE OF PAVEMENT
E.O.C. EDGE OF CONCRETE WALK
TYP. TYPICAL
SP. PARKING SPACE
H.C. HANDICAP PARKING SPACE

NORTH

0' 20' 40' 60'

SPECIAL NOTE:
*THIS STYLE OF TEXT REPRESENTS EXISTING FEATURES*
THIS STYLE OF TEXT REPRESENTS PROPOSED FEATURES




| | |
|---|---|
| REVISIONS PER CLIENT'S REQUEST - 01/06/2023 | |
| REVISIONS PER ARCHITECT'S CHANGES - 12/30/2022 | |
| STATUS | |

AHMAD R. KAREH, STATE OF FLORIDA, PROFESSIONAL ENGINEER, LICENSE NO. 43324

DATE:

LEMOS UNLIMITED, LLC
7205 ESTERO BOULEVARD, SUITE 702
FORT MYERS BEACH, FLORIDA 33931
PHONE: (239) 463-5320

# INTERIORS UNLIMITED

SITE ADDRESS: 6875 ESTERO BOULEVARD, FORT MYERS BEACH, FLORIDA 33931
SECTION 03, T 47S, R 24E, LEE COUNTY, FLORIDA

HALEY WARD, INC.
ENGINEERING | ENVIRONMENTAL | SURVEYING
13041 McGREGOR BOULEVARD, FORT MYERS, FLORIDA 33919
WWW.HALEYWARD.COM
PHONE: (239) 481-1351 | FLORIDA CERTIFICATE OF AUTHORIZATION NUMBERS EB32664 & LB2267

DRAFTING BY: A.G. DEL POZO | DESIGNED BY: A.G. DEL POZO | APPROVED BY: A.R. KAREH
PROJECT NO.: 2011380.001(22-12) | START DATE: JULY 08, 2022 | SCALE: 1" = 20'

SITE PLAN

SHEET C-2

FILE: 03-47-24

LOCATION: P:\FL\2011380-LEMOS_UNLIMITED_LLC\001-6875 ESTERO BOULEVARD FM-INTERIOR UNLIMITED-ARK\02-CAD_FILES\CIVIL\2011380 INTERIORS UNLIMITED.DWG\C-2_SITE plotted 23/01/06 12:51:06 PM, adelpozo

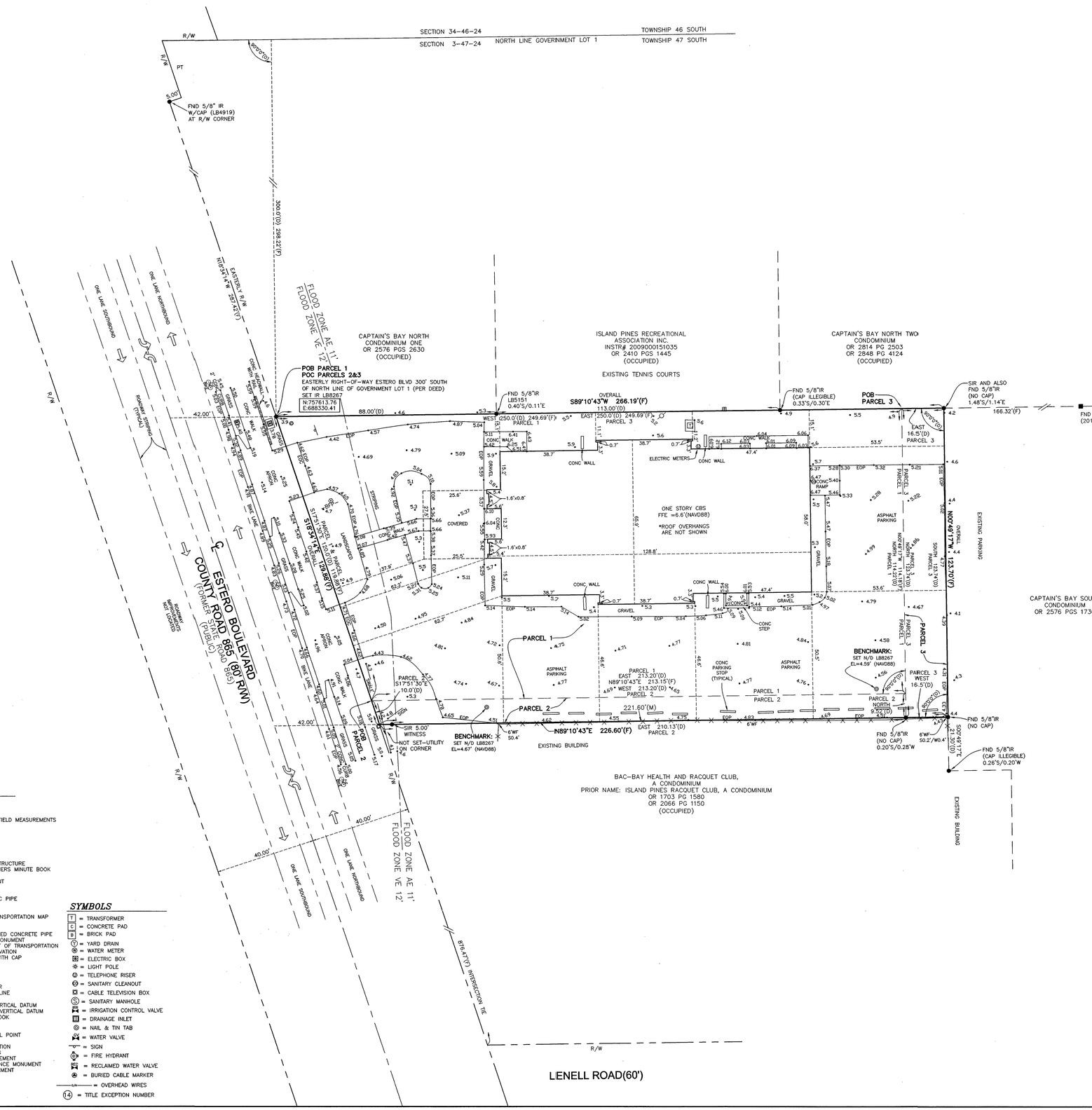
# SURVEY PLAT

OF

A PARCEL OF LAND
LYING IN GOVERNMENT LOT 1,
SECTION 3, TOWNSHIP 47 SOUTH, RANGE 24 EAST,
TOWN OF FORT MYERS BEACH, LEE COUNTY, FLORIDA

N

60' 40' 20' 0'




**DESCRIPTION PER LEE COUNTY INSTRUMENT NUMBER 2022000025567:**

PARCEL 1:
A TRACT OR PARCEL OF LAND BEING A PART OF GOVERNMENT LOT 1, SECTION 3, TOWNSHIP 47 SOUTH, RANGE 24 EAST, ESTERO ISLAND, LEE COUNTY, FLORIDA AND DESCRIBED AS FOLLOWS:
BEGINNING AT A CONCRETE MONUMENT IN THE EASTERLY RIGHT OF WAY LINE OF ESTERO BOULEVARD (80 FEET WIDE) KNOWN AS STATE ROAD 865, WHICH POINT IS 300.0 FEET, MEASURED AT RIGHT ANGLES, SOUTH OF THE NORTH LINE OF SAID GOVERNMENT LOT 1; THENCE RUN SOUTH 17 DEGREES 51' 30" EAST ALONG SAID EASTERLY RIGHT OF WAY LINE OF ESTERO BOULEVARD FOR 120.00 FEET; THENCE RUN EAST, PARALLEL TO THE NORTH LINE OF SAID GOVERNMENT LOT I FOR 213.20 FEET; THENCE NORTH, AT RIGHT ANGLES FOR 114.22 FEET; THENCE WEST PARALLEL TO AND 300 FEET, MEASURED AT RIGHT ANGLES, SOUTH OF THE NORTH LINE OF SAID GOVERNMENT LOT I FOR A DISTANCE OF 250.0 FEET TO THE POINT OF BEGINNING.
AND
PARCEL 2:
A TRACT OR PARCEL OF LAND BEING A PART OF GOVERNMENT LOT 1, SECTION 3, TOWNSHIP 47 SOUTH, RANGE 24 EAST, ESTERO ISLAND, LEE COUNTY, FLORIDA AND DESCRIBED AS FOLLOWS:
COMMENCING AT A CONCRETE MONUMENT IN THE EASTERLY RIGHT OF WAY LINE OF ESTERO BOULEVARD (80 FEET WIDE) KNOWN AS STATE ROAD 865, WHICH POINT IS 300.0 FEET, MEASURED AT RIGHT ANGLES, SOUTH OF THE NORTH LINE OF SAID GOVERNMENT LOT 1; THENCE RUN SOUTH 17 DEGREES 51' 30" EAST ALONG SAID EASTERLY RIGHT OF WAY OF ESTERO BOULEVARD FOR 120.0 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 17 DEGREES 51' 30" EAST 10.0 FEET; THENCE RUN EAST, PARALLEL TO THE NORTH LINE OF SAID GOVERNMENT LOT 1 FOR 210.13 FEET; THENCE NORTH AT RIGHT ANGLES FOR 9.52 FEET; THENCE WEST 213.20 FEET TO THE POINT OF BEGINNING.
AND
PARCEL 3:
A TRACT OR PARCEL OF LAND BEING A PART OF GOVERNMENT LOT 1, SECTION 3, TOWNSHIP 47 SOUTH, RANGE 24 EAST, ESTERO ISLAND, LEE COUNTY, FLORIDA AND DESCRIBED AS FOLLOWS:
COMMENCING AT A CONCRETE MONUMENT IN THE EASTERLY RIGHT OF WAY LINE OF ESTERO BOULEVARD (80 FEET WIDE) KNOWN AS STATE ROAD 865, WHICH POINT IS 300.0 FEET, MEASURED AT RIGHT ANGLES, SOUTH OF THE NORTH LINE OF SAID GOVERNMENT LOT L; THENCE RUN EAST, PARALLEL TO AND 300.0 FEET SOUTH OF THE NORTH LINE OF SAID GOVERNMENT LOT I FOR 250.0 FEET TO A POINT OF BEGINNING; THENCE CONTINUE EAST 16.5 FEET; THENCE RUN SOUTH AT RIGHT ANGLES FOR 123.74 FEET; THENCE RUN WEST AT RIGHT ANGLES FOR 16.5 FEET; THENCE RUN NORTH AT RIGHT ANGLES FOR 123.74 FEET TO THE POINT OF BEGINNING.

**NOTES:**
SURVEY BASED ON THE DESCRIPTION SHOWN HEREON, AND FOUND MONUMENTATION.

BEARINGS BASED ON THE STATE PLANE CO-ORDINATE SYSTEM (FLORIDA WEST ZONE-NAD 83/07 ADJUSTMENT) WITH THE EASTERLY RIGHT-OF-WAY LINE OF ESTERO BOULEVARD AS BEARING S18°34'14"E.

DIMENSIONS ARE IN FEET AND DECIMAL PARTS THEREOF.

ELEVATIONS ARE BASED ON NAVD OF 1988 AND NGS BENCHMARK BOOB2.

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

THIS PARCEL LIES IN FLOOD ZONES AE AND VE WITH BASE FLOOD ELEVATIONS OF 11' AND 12' (NAVD 1988) AS SHOWN HEREON PER FLOOD INSURANCE RATE MAP NUMBER 12071C0567G, EFFECTIVE DATE 11-17-22 AND INDEX DATE BEING 11-17-22 (COMMUNITY NAME: TOWN OF FORT MYERS BEACH AND COMMUNITY NUMBER 120673). THIS PARCEL LIES WITHIN A FEMA DESIGNATED LIMWA ZONE (LIMIT OF MODERATE WAVE ACTION).

THE F.E.M.A. FLOOD ZONE INFORMATION INDICATED HEREON IS BASED ON MAPS SUPPLIED BY THE FEDERAL GOVERNMENT. THIS FLOOD INFORMATION MUSTT BE VERIFIED WITH ALL PERMITTING REGULATORY ENTITIES PRIOR TO COMMENCING ANY WORK OR APPLICATION DEPENDENT ON SAID FLOOD INFORMATION.

PARCEL LIES LANDWARD OF THE COASTAL CONSTRUCTION CONTROL LINE.

IRON RODS "SET" ARE 5/8" X 18" REBAR WITH YELLOW CAP BEARING CORPORATION NO. LB8267.

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

WETLANDS, IF ANY, WERE NOT LOCATED. LANDSCAPING IS NOT SHOWN.

THIS PLAT PREPARED AS A BOUNDARY 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.

PARCEL CONTAINS 0.70 ACRES (30,479 SQUARE FEET), MORE OR LESS.

SURVEY MEETS OR EXCEEDS THE ACCURACY STANDARDS OF AN URBAN SURVEY (1:15,000).

SITE ADDRESS: 6875 ESTERO BOULEVARD, FORT MYERS BEACH, FL 33931.

PARCEL STRAP NUMBER: 03-47-24-W1-00002.0020

DATE OF LAST FIELD WORK: 12-19-2022

***ABBREVIATIONS***

(C) = CALCULATED
(D) = DEED
(F) = CALCULATED FROM FIELD MEASUREMENTS
(M) = MEASURED
(NR) = NON RADIAL
(P) = PLAT
(R) = RADIAL
A/C = AIR CONDITIONER
BM = BENCH MARK
CBS = CONCRETE BLOCK STRUCTURE
CCMB = COUNTY COMMISSIONERS MINUTE BOOK
CLF = CHAINLINK FENCE
CM = CONCRETE MONUMENT
CONC = CONCRETE
COR = CORNER
CPP = CORRUGATED PLASTIC PIPE
DE = DRAINAGE EASEMENT
D/H = DRILL HOLE
DOT = DEPARTMENT OF TRANSPORTATION MAP
ELEV = ELEVATION
EOP = EDGE OF PAVEMENT
ERCP = ELLIPTICAL REINFORCED CONCRETE PIPE
FCM = FOUND CONCRETE MONUMENT
FDOT = FLORIDA DEPARTMENT OF TRANSPORTATION
FFE = FINISHED FLOOR ELEVATION
FIRC = FOUND IRON ROD WITH CAP
FND = FOUND
IE = INVERT ELEVATION
IR = IRON ROD
IRC = IRON ROD & CAP
INSTR = INSTRUMENT NUMBER
MHW = MEAN HIGH WATER LINE
N/D = NAIL & DISK
NAVD = NORTH AMERICAN VERTICAL DATUM
NGVD = NATIONAL GEODETIC VERTICAL DATUM
OR = OFFICIAL RECORD BOOK
PB = PLAT BOOK
PC = POINT OF CURVE
PCP = PERMANENT CONTROL POINT
PG = PAGE
PI = POINT OF INTERSECTION
POB = POINT OF BEGINNING
POC = POINT OF COMMENCEMENT
PRM = PERMANENT REFERENCE MONUMENT
PUE = PUBLIC UTILITY EASEMENT
R/W = RIGHT-OF-WAY
TOB = TOP OF BANK
TOE = TOE OF SLOPE
UE = UTILITY EASEMENT

***SYMBOLS***

T = TRANSFORMER
C = CONCRETE PAD
B = BRICK PAD
= YARD DRAIN
= WATER METER
= ELECTRIC BOX
= LIGHT POLE
= TELEPHONE RISER
= SANITARY CLEANOUT
= CABLE TELEVISION BOX
S = SANITARY MANHOLE
= IRRIGATION CONTROL VALVE
= DRAINAGE INLET
= NAIL & TIN TAB
= WATER VALVE
= SIGN
= FIRE HYDRANT
= RECLAIMED WATER VALVE
= BURIED CABLE MARKER
= OVERHEAD WIRES
14 = TITLE EXCEPTION NUMBER

Stephen F. Shawles II, P.S.M.

Digitally signed by Stephen F. Shawles II, P.S.M.
DN: cn=Stephen F. Shawles II, P.S.M., o=CES, INC., ou=LB8267, email=shawles@ceinsusa.com, c=US
Date: 2022.12.19 10:51:33 -05'00'

*NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
HALEY WARD, INC.

STEPHEN F. SHAWLES II, P.S.M., NO. LS6419
PROFESSIONAL SURVEYOR & MAPPER
STATE OF FLORIDA

- THIS CERTIFICATION IS ONLY FOR THE LANDS DESCRIBED HEREON.
- IT IS NOT A CERTIFICATION OF TITLE, ZONING, SETBACKS, OR FREEDOM OF ENCUMBRANCES.
- THIS SURVEY WAS PREPARED WITHOUT BENEFIT OF ABSTRACT OF TITLE AND ALL MATTERS OF TITLE SHOULD BE REFERRED TO AN ATTORNEY AT LAW.

LEMOS UNLIMITED, LLC
6875 ESTERO BOULEVARD-BOUNDARY SURVEY

HALEY WARD
Engineering | Environmental | Surveying
13041 McGREGOR BOULEVARD, FORT MYERS, FLORIDA 33919 PH (239) 481-1331
2011380.001SR.DWG FLORIDA@HALEYWARD.COM FLORIDA CERTIFICATE OF AUTHORIZATION NUMBERS EB32664 & LB8267

| DATE | PROJECT NO. | DRAWN BY | SCALE | SHEET | FILE NO. (S-T-R) |
|---|---|---|---|---|---|
| 12-19-22 | 1380.001 | SFS | 1"= 20' | 1 OF 1 | 03-47-24 |

REVISED 12-19-22: UPDATE FLOOD INFORMATION

HALEY WARD

ENGINEERING | ENVIRONMENTAL | SURVEYING

FORMERLY: CES INC

December 20, 2022 ***VIA E-MAIL ONLY zoningpermits@fmbgov.com***

Mr. Jason Smalley, Senior Planner ***VIA E-MAIL ONLY jsmalley@fmbgov.com***
Planning & Zoning Division
Department of Community Development
Town of Fort Myers Beach
2523 Estero Boulevard
Fort Myers Beach, FL 33931

RE: Interiors Unlimited
Haley Ward Project Number 2011380.001(22-12)

Dear Mr. Smalley:

Per our pre-application meeting on July 7th, 2022, attached herewith is an Application for Public Hearing for the above referenced project. In addition, the following is a list of the submitted items in support of this application.

1. A check for the review fee in the amount of $3,800.00.
2. Application for Public Hearing.
3. Supplement PH-A.
4. Affidavit.
5. Disclosure of Ownership Interest form.
6. Letter of Authorization.
7. Letter of Ownership.
8. Copy of the Warranty Deed.
9. Copy of the Title Insurance Policy.
10. Site Location Map.
11. Variance Report including a map, list of surrounding property owners and two (2) sets of mailing labels within 500 feet of the subject parcel.
12. Special Exception Narrative Statement.
13. Legal Description & Sketch of the subject parcel.
14. Architectural Plans including Floor Plans, Elevations, and Colored Rendering.
15. Boundary & Topographic Survey.
16. Civil Engineering Plans.



13041 McGregor Boulevard, Fort Myers, FL 33919
T: 239.481.1331 | HALEYWARD.COM

If you should have any questions regarding any of the above, please do not hesitate to call me.

Very truly yours,

HALEY WARD, INC.

Ahmad Kareh

Ahmad R. Kareh, P.E., M.S.C.E.
Senior Vice President & Regional Engineering Manager
ARK/js

cc: Ms. Ruby C. Pessotti, Authorized Member
Lemos Unlimited, LLC
w/enclosures

# 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: 6875 Estero Boulevard Fort Myers Beach, FL 33931

STRAP Number: 03-47-24-W1-00002.0020

Applicant: Haley Ward Inc. Phone: (239) 481-1331

Contact Name: Ahmad R. Kareh, P.E. Phone: (239) 214-0397

Email: akareh@haleyward.com Fax: (239) 481-1073

Current Zoning District: Commerial Office (C.O.)

Future Land Use Map (FLUM) Category: Mixed Residential

FLUM Density Range: 1-6 Platted Overlay: ☐ YES ☑ NO

| ACTION REQUESTED | SUPPLEMENTAL FORM REQUIRED |
|---|---|
| ☑ Special Exception | PH-A |
| ☐ Variance | PH-B |
| ☐ Conventional Rezoning | PH-C |
| ☐ Planned Development ☐ Commercial ☐ Residential | PH-D |
| ☐ Master Concept Plan Extension | PH-E |
| ☐ Appeal of Administrative Action | PH-F |
| ☐ Vacation of Platted Right-of-way and Easement | PH-G |
| ☐ Other – cite LDC Section: _____ | attach on separate sheet |

### PART I – General Information

A. Applicant*: Haley Ward, Inc. Phone: (239) 481-1331

**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: 13041 McGregor Boulevard Fort Myers, FL 33919

Email: akareh@haleyward.com Fax: (239) 481-1073

Contact Name: Ahmad Kareh, P.E. Phone: (239) 214-0397

# 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: Haley Ward, Inc. c/o Ahmad R. Kareh, P.E. Phone: (239) 481-1331

Address: 13041 McGregor Boulevard Fort Myers, FL 33919

Email: akareh@haleyward.com Fax: (239) 481-1073

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

Name: N/A Phone: _____

Address: _____

Email: _____ Fax: _____

Name: N/A 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: _____
- ☐ Extension/reinstatement of Master Concept Plan. List project number: _____



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

☐ 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: N/A Description: _____

Code Section: N/A Description: _____

Code Section: N/A 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, Ahmad R. Kareh 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.

Ahmad Kareh — Ahmad R. Kareh, P.E.

Signature — 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 20th day of December, 2022, by Ahmad R. Kareh, ☑ who is personally known to me OR ☐ who has produced N/A as identification.

(SEAL)

Colleen M. Farris
Notary Public Signature

Notary Public State of Florida
Colleen M. Farris
My Commission
HH 264377
Exp. 8/1/2026

### 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 |
|---|---|
| N/A | |
| | |
| | |
| | |



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

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 |
|---|---|
| Lemos Unlimited, LLC | 100% |
| 7205 Estero Boulevard, Suite 702 Fort Myers Beach, FL 33931 | |
| Ruby C. Pessotti | 50% |
| Caio A. Pessotti | 50% |

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 |
|---|---|
| N/A | |
| | |
| | |
| | |

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 |
|---|---|
| N/A | |
| | |
| | |
| | |

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 |
|---|---|
| N/A | |
| | |
| | |
| | |


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

# 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 |
|---|---|
| N/A | |
| | |
| | |
| | |

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.

SEE ATTACHED EXECUTED FORM
Signature

Ruby C. Pessotti, Authorized Member
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, Ruby C. Pessotti (name), as Authorized Member (title) of Lemos Unlimited, 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.


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

# COMMUNITY DEVELOPMENT DEPARTMENT
## APPLICATION for PUBLIC HEARING

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

SEE ATTACHED EXECUTED FORM
Signature

Authorized Member
Title

Ruby C. Pessotti
Typed or Printed Name

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 December, 20 22, by Ruby C. Pessotti, ☐ who is personally known to me OR ☐ who has produced _____ as identification.

Seal

Notary Public Signature

### PART VI– Property Information

A. Legal Description:

STRAP: 03-47-24-W1-00002.0020

Property Address: 6875 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 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.



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

C. Property Dimensions:

Width (please provide an average width if irregular in shape) 126.79 Average feet

Depth (please provide an average width if irregular in shape) 246.40 Average feet

Frontage on street: 129.88 feet. Frontage on waterbody: 0 feet

Total land area: 30,479 ☐ acres ☑ square feet

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

From the Sky Bridge keep driving on Estero Boulevard. The subject parcel lies on the east side of Estero Boulevard north from Island Pines Way.

☑ 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



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

# 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.


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

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


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

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

# COMMUNITY DEVELOPMENT DEPARTMENT
## APPLICATION for PUBLIC HEARING

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

I, **Ruby C. Pessotti** (name), as **Authorized Member** (title) of **Lemos Unlimited, 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.

**Lemos Unlimited, LLC**
Name of Entity (corporation, partnership, LLP, LLC, etc)

Ruby Pessotti
Signature

**Authorized Agent**
Title

**Ruby C. Pessotti**
Typed or Printed Name

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 12th day of **December**, 20**22** by **Ruby C. Pessotti**, ☑ who is personally known to me OR ☐ who has produced _____ as identification.

Shelly McNeel
Notary Public Signature

Shelly L. McNeel
Notary Public
State of Florida
Comm# HH274548
Expires 6/25/2026

FLORIDA NOTARY ASSOCIATION SINCE 1978



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

# COMMUNITY DEVELOPMENT DEPARTMENT
## APPLICATION for PUBLIC HEARING

### 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 |
|---|---|
| | |
| | |
| | |
| | |

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 |
|---|---|
| **Lemos Unlimited, LLC** | **100%** |
| **7205 Estero Boulevard** | |
| **Fort Myers Beach, FL 33931** | |
| **Ruby C. Pessotti** | **50%** |
| **Caio A. Pessotti** | **50%** |

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 |
|---|---|
| | |
| | |
| | |
| | |



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

# COMMUNITY DEVELOPMENT DEPARTMENT
## APPLICATION for PUBLIC HEARING

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.

Ruby Pessotti
Signature

**Ruby C. Pessotti, Authorized Member**
Printed Name
**Lemos Unlimited, LLC**

STATE OF FLORIDA)
COUNTY OF LEE)

The foregoing instrument was acknowledged before me this _____day of December , 2022 by **Ruby C. Pessotti** who is personally known to me or has produced _____ (type of identification) as identification.

_____
Signature of Notary Public

_____
Printed Name of Notary Public





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

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:** | Interiors Unlimited |
| **Authorized Applicant:** | Haley Ward, Inc. / Ahmad Kareh, P.E. |
| **LEEPA STRAP Number(s):** | 03-47-24-W1-00002.0020 |
| | |

| | |
|---|---|
| **Current Property Status:** | Developed / Vacant Medical Offices Building |
| **Current Zoning:** | Commercial Office |
| **Future Land Use Map (FLUM) Category:** | Mixed Residential |
| **Platted Overlay?** ☐ yes ☑ no | **FLUM Density Range:** 1-6 |

**Requested Action:**

| | |
|---|---|
| ☐ | Use of premises in the EC (Environmentally Critical) zoning district for: |
| | N/A |
| | |
| | |
| ☑ | Use of premises in the Commercial Office zoning district for: |
| | Work/Live under Section 34-1774 |
| | |
| | |



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

Case# _____ Date Received: _____

PART I

Narrative Statements

A. **Request for:** (indicate the proposed use that requires a special exception)

| |
|---|
| The proposed project will encompass renovating and expanding into an existing |
| building where the first floor will be converted & utilized for a retail enterprise |
| (Interiors Unlimited) in addition to a retail storage space with a portion of the first |
| floor to be utilized for a residential garage & lobby to serve the new/added second |
| floor which will be the live portion of the Work/Live proposed use. |
| |
| Based on Table 34-1, this proposed use will require a Special Exception. |
| |
| |
| |
| |
| |
| |

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:** |
|---|
| |
| SEE THE ATTACHED SPECIAL EXCEPTION NARRATIVE STATEMENT |
| |
| |
| |
| |
| |
| |
| |
| |
| |



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

| Granting the requested Special Exception could impact surrounding properties as follows: |
|---|
| |
| A . Provide a low impact and appropriate use for the vacant building. |
| B. Increase green space and buffers on the subject parcel. |
| C. Add landscaping on the subject parcel. |
| D. Add water management system on the subject parcel. |
| |
| |
| |
| |
| |
| |
| |
| |
| |

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:** N/A

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:** N/A

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:** N/A

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.

Case# _____ Date Received: _____

## 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: SEE ATTACHMENT

**"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.


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

- Whether the request will be compatible with existing or planned uses ad 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 ad 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.

**LEMOS UNLIMITED, LLC**
**7205 ESTERO BOULEVARD, SUITE 702**
**FORT MYERS BEACH, FL 33931**

**PHONE NUMBER: (239) 463-5320**

TO WHOM IT MAY CONCERN:

RE: **INTERIORS UNLIMITED**

I, **RUBY C. PESSOTTI**, THE **AUTHORIZED MEMBER** OF **LEMOS UNLIMITED, LLC**, THE OWNER OF THE ABOVE REFERENCED PROPERTY, HEREBY AUTHORIZE HALEY WARD, INC., TO ACT ON OUR BEHALF IN MATTERS RELATIVE TO THE PERMITTING OF THE ABOVE REFERENCED PROPERTY.

Ruby Pessotti
**RUBY C. PESSOTTI, AUTHORIZED MEMBER**
**LEMOS UNLIMITED, LLC**

12/13/22
**DATE**

STATE OF FLORIDA
COUNTY OF LEE

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS 13th DAY OF December 2022, BY **RUBY C. PESSOTTI**, WHO IS PERSONALLY KNOWN TO ME AND WHO DID NOT TAKE AN OATH.

Shelly McNeel
NOTARY PUBLIC, STATE OF FLORIDA

**Shelly L. McNeel**
**Notary Public**
**State of Florida**
**Comm# HH274548**
**Expires 6/25/2026**

Shelly McNeel
PRINTED NAME OF NOTARY PUBLIC

MY COMMISSION EXPIRES:

*2011380.001(22-12)AUTHORIZATION TO HALEY WARD, INC. 12.12.2022*

**LEMOS UNLIMITED, LLC**
**7205 ESTERO BOULEVARD, SUITE 702**
**FORT MYERS BEACH, FL 33931**

**PHONE NUMBER: (239) 463-5320**

TO WHOM IT MAY CONCERN:

RE: **INTERIORS UNLIMITED**

I, **RUBY C. PESSOTTI**, THE **AUTHORIZED MEMBER** OF **LEMOS UNLIMITED, LLC**, DO HEREBY SWEAR AND AFFIRM THAT **LEMOS UNLIMITED, LLC** IS THE OWNER OF THE FOLLOWING DESCRIBED PROPERTY:

PARCEL STRAP NUMBER: 03-47-24-W1-00002.0020

Ruby Pessotti
**RUBY C. PESSOTTI, AUTHORIZED MEMBER**
**LEMOS UNLIMITED, LLC**

12-12-22
**DATE**

STATE OF FLORIDA
COUNTY OF LEE

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS 12th DAY OF December 2022, BY **RUBY C. PESSOTTI**, WHO IS PERSONALLY KNOWN TO ME AND WHO DID NOT TAKE AN OATH.

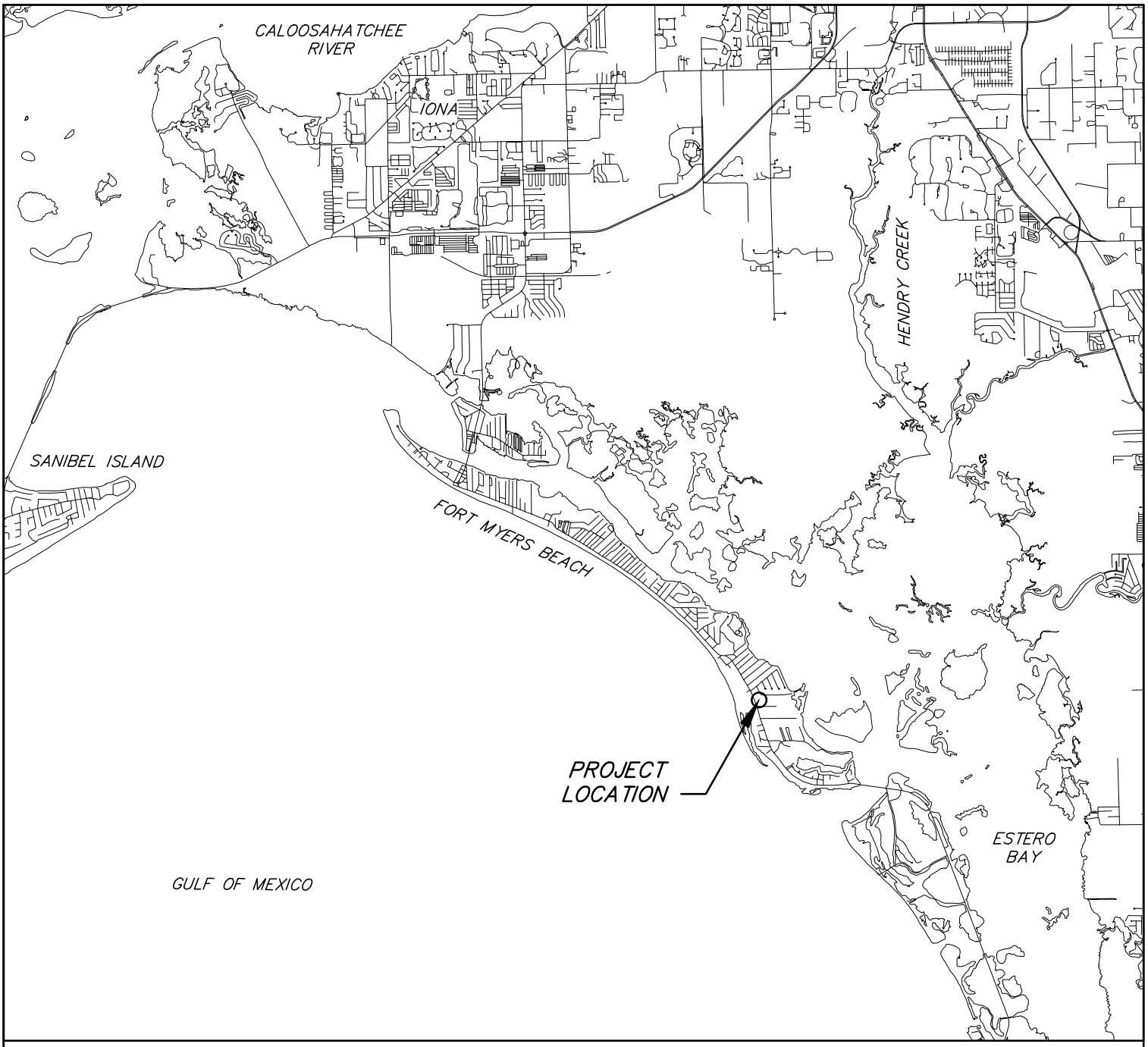
Shelly McNeel
NOTARY PUBLIC, STATE OF FLORIDA

Shelly McNeel
PRINTED NAME OF NOTARY PUBLIC

FLORIDA NOTARY ASSOCIATION SINCE 1978
**Shelly L. McNeel**
**Notary Public**
**State of Florida**
**Comm# HH274548**
**Expires 6/25/2026**

MY COMMISSION EXPIRES:

*2011380.001(22-12)OWNERSHIP LETTER 12.12.2022*




SITE LOCATION MAP

SCALE: N.T.S.

PARCEL STRAP NUMBER:

STRAP: 03-47-24-W1-00002.0020

PARCEL ADDRESS:

6875 ESTERO BOULEVARD FORT MYERS BEACH, FLORIDA 3393

INTERIORS UNLIMITED

SECTION 03, TOWNSHIP 47 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA

LOCATION P:\FL\2011380-LEMOS_UNLIMITED_LLC\001-6875 ESTERO BOULEVARD FM-INTERIOR UNLIMITED-ARK\02-CAD_FILES\CIVIL\VARIANCE REPORT\UNLIMITED INTERIORS VARIANCE COVER MAP.DWG/A1_COVER plotted 22/12/14 10:50:57 AM, bhoffland

# Old Republic National Title Insurance Company

*OWNER'S POLICY*
**Schedule A**

Policy No.:
OF6-9003311

Date of Policy:
January 24, 2022 @ 04:32 PM

Agent's File Reference:
JDS 39988-1

Amount of Insurance: $1,700,000.00

Premium: $6,825.00

Address Reference: 6875 Estero Blvd, Fort Myers Beach, FL 33931

1. Name of Insured: Lemos Unlimited, LLC, a Florida limited liability company

2. The estate or interest in the Land that is insured by this policy is: Fee Simple as shown by instrument recorded under Instrument Number 2022000025567 of the Public Records of Lee County, Florida.

3. Title is vested in: Lemos Unlimited, LLC, a Florida limited liability company

4. The Land referred to in this policy is described as follows:

Parcel 1:
A tract or parcel of land being a part of Government Lot 1, Section 3, Township 47 South, Range 24 East, Estero Island, Lee County, Florida and described as follows:
Beginning at a concrete monument in the Easterly right of way line of Estero Boulevard (80 feet wide) known as State Road 865, which point is 300.0 feet, measured at right angles, South of the North line of said Government Lot 1; thence run South 17 degrees 51' 30" East along said Easterly right of way line of Estero Boulevard for 120.00 feet; thence run East, parallel to the North line of said Government Lot 1 for 213.20 feet; thence North, at right angles for 114.22 feet; thence West parallel to and 300 feet, measured at right angles, South of the North line of said Government Lot 1 for a distance of 250.0 feet to the Point of Beginning.
AND

**Old Republic National Title Insurance Company**

, (612) 371-1111

Agent No.: **200**

Issuing Agent:

**Henderson, Franklin, Starnes & Holt, P.A. (B)**
**3451 Bonita Bay Blvd.**
**Suite 206**
**Bonita Springs, FL 34134**

Agent's Signature
**John D. Spear, Esq.**

# Old Republic National Title Insurance Company

*OWNER'S POLICY*

**Schedule A (Continued)**

Policy No.:
OF6-9003311

Agent's File Reference:
JDS 39988-1

Parcel 2:
A tract or parcel of land being a part of Government Lot 1, Section 3, Township 47 South, Range 24 East, Estero Island, Lee County, Florida and described as follows:
Commencing at a concrete monument in the Easterly right of way line of Estero Boulevard (80 feet wide) known as State Road 865, which point is 300.0 feet, measured at right angles, South of the North line of said Government Lot 1; thence run South 17 degrees 51' 30" East along said Easterly right of way of Estero Boulevard for 120.0 feet to the Point of Beginning; thence continue South 17 degrees 51' 30" East 10.0 feet; thence run East, parallel to the North line of said Government Lot 1 for 210.13 feet; thence North at right angles for 9.52 feet; thence West 213.20 feet to the Point of Beginning.
AND
Parcel 3:
A tract or parcel of land being a part of Government Lot 1, Section 3, Township 47 South, Range 24 East, Estero Island, Lee County, Florida and described as follows:
Commencing at a concrete monument in the Easterly right of way line of Estero Boulevard (80 feet wide) known as State Road 865, which point is 300.0 feet, measured at right angles, South of the North line of said Government Lot 1; thence run East, parallel to and 300.0 feet South of the North line of said Government Lot 1 for 250.0 feet to a Point of Beginning; thence continue East 16.5 feet; thence run South at right angles for 123.74 feet; thence run West at right angles for 16.5 feet; thence run North at right angles for 123.74 feet to the Point of Beginning.

# Old Republic National Title Insurance Company

*OWNER'S POLICY*
**Schedule B**

Policy No.:
OF6-9003311

Agent's File Reference:
JDS 39988-1

This policy does not insure against loss or damage, and the Company will not pay costs, attorneys' fees, or expenses that arise by reason of:

1. General or special taxes and assessments required to be paid in the year 2022 and subsequent years.
2. Rights or claims of parties in possession not recorded in the Public Records.
3. Any encroachment, encumbrance, violation, variation or adverse circumstance that would be disclosed by an inspection or an accurate and complete land survey of the Land and inspection of the Land.
4. Easements or claims of easements not recorded in the Public Records.
5. Any lien, or right to a lien, for services, labor or material furnished, imposed by law and not recorded in the Public Records.
6. Any adverse ownership claim by the State of Florida by right of sovereignty to any portion of the Land(s) insured hereunder, including submerged, filled and artificially exposed lands, and lands accreted to such lands.
7. Lee County Ordinance No. 86-14 recorded November 30, 1990, in O.R. Book 2189, Page 3281; and amended by Ordinance No. 86-38 in O.R. Book 2189, Page 3334, Public Records of Lee County, Florida.
8. Exceptions 2-5 are hereby deleted.
9. Mortgage in the sum of $3,530,000.00 from LEMOS UNLIMITED LLC, a Florida limited liability company to First Horizon Bank dated 1/21/2022 and recorded under Instrument Number 2022000025568 of the Public Records of Lee County, Florida.

STATE OF FLORIDA
# LEE COUNTY PROPERTY APPRAISER

**Mailing Address:**
P.O. Box 1546
Fort Myers, Florida 33902-1546

**Physical Address:**
2480 Thompson Street
Fort Myers, Florida 33901-3074

**Telephone:** (239) 533-6100 -- (866) 673-2868 (From anywhere in continental US/Canada/Florida except 239 area code)
**Facsimile:** (239) 533-6160 -- **Website:** www.leepa.org

## VARIANCE REPORT

Date: 12/9/2022 12:00:00 AM
Buffer: 500
Affected: 495

**SUBJECT PARCEL:**

| OWNER NAME AND ADDRESS | STRAP & LOCATION | LEGAL DESCRIPTION |
|---|---|---|
| LEMOS UNLIMITED LLC<br>7205 ESTERO BLVD STE 702<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-00002.0020<br>6875 ESTERO BLVD<br>FORT MYERS BEACH 33931 | BEG ON E R/W LI SR 865 300 FT S OF NLY LI GOVT LOT 1 TH S ALG ELY R/W LI SD SR |

**AFFECTED PARCELS:**

| OWNER NAME AND ADDRESS | STRAP & LOCATION | LEGAL DESCRIPTION | INDEX |
|---|---|---|---|
| KLINE KEVIN EDWARD &<br>10 FAIRVIEW BLVD<br>FORT MYERS BEACH FL 33931 | 34-46-24-W4-00400.0050<br>10 FAIRVIEW BLVD<br>FORT MYERS BEACH 33931 | FAIRVIEW ISLES UNIT 3 PB 10 PG 123 LOT 5 | 1 |
| TURNER DOUGLAS W SR<br>12 FAIRVIEW BLVD<br>FORT MYERS BEACH FL 33931 | 34-46-24-W4-00400.0060<br>12 FAIRVIEW BLVD<br>FORT MYERS BEACH 33931 | FAIRVIEW ISLES UNIT 3 PB 10 PG 123 LOT 6 | 2 |
| JONES FRANK C II & MARSHA A TR<br>1632 36TH AVE CT<br>GREELEY CO 80634 | 34-46-24-W4-00400.0070<br>14 FAIRVIEW BLVD<br>FORT MYERS BEACH 33931 | FAIRVIEW ISLES UNIT 3 PB 10 PG 123 LOT 7 | 3 |
| 36 MIMI LLC<br>16 FAIRVIEW BLVD<br>FORT MYERS BEACH FL 33931 | 34-46-24-W4-00400.0080<br>16 FAIRVIEW BLVD<br>FORT MYERS BEACH 33931 | FAIRVIEW ISLES UNIT 3 PB 10 PG 123 LOT 8 | 4 |
| ROMANIUK ALEXANDER &<br>22 VALLEYVIEW CT<br>KLEINBURG ON L0J 1C0 CANADA | 34-46-24-W4-00400.0090<br>18 FAIRVIEW BLVD<br>FORT MYERS BEACH 33931 | FAIRVIEW ISLES UNIT 3 PB 10 PG 123 LOT 9 | 5 |
| OBOYLE DANIEL F & JULIE<br>635 W LAKESIDE AVE<br>CLEVELAND OH 44113 | 34-46-24-W4-00400.0100<br>20 FAIRVIEW BLVD<br>FORT MYERS BEACH 33931 | FAIRVIEW ISLES UNIT 3 PB 10 PG 123 LOT 10 | 6 |

| | | | |
|---|---|---|---|
| HUBER THOMAS W TR<br>3745 NATHAN LN N<br>PLYMOUTH MN 55441 | 34-46-24-W4-00400.0130<br>17 FAIRVIEW BLVD<br>FORT MYERS BEACH 33931 | FAIRVIEW ISLES UNIT 3 PB 10 PG 123 LOT 13 | 7 |
| ISLAND TIMES ESTATE LLC<br>15 FAIRVIEW BLVD<br>FORT MYERS BEACH FL 33931 | 34-46-24-W4-00400.0140<br>15 FAIRVIEW BLVD<br>FORT MYERS BEACH 33931 | FAIRVIEW ISLES UNIT 3 PB 10 PG 123 LOT 14 | 8 |
| BREWSTER KATHERINE F<br>13 FAIRVIEW BLVD<br>FORT MYERS BEACH FL 33931 | 34-46-24-W4-00400.0150<br>13 FAIRVIEW BLVD<br>FORT MYERS BEACH 33931 | FAIRVIEW ISLES UNIT 3 PB 10 PG 123 LOT 15 | 9 |
| FAIRVIEW ISLES CONDO ASSN<br>6655 ESTERO BLVD<br>FORT MYERS BEACH FL 33931 | 34-46-24-W4-02300.00CE<br>6659 ESTERO BLVD<br>FORT MYERS BEACH 33931 | FAIRVIEW ISLES CONDO COMMON AREA OR 1439 PG 180 | 10 |
| POINTE ESTERO CONDO<br>6640 ESTERO BLVD<br>FORT MYERS BEACH FL 33931 | 34-46-24-W4-02500.00CE<br>6642 ESTERO BLVD<br>FORT MYERS BEACH 33931 | POINTE ESTERO CONDO COMMON AREA DESC OR BK 1775 PG 4765 + OR BK 1854 PG 0395 | 11 |
| DRK VENTURES LLC<br>980 NORTH HILL LN<br>CINCINNATI OH 45224 | 03-47-24-W1-00001.0020<br>ACCESS UNDETERMINED<br>FORT MYERS BEACH | PARL IN N 600 FT G L 1 AS DESC OR 2039 PG 1571 LESS INST#2007000329210 + 2007000329211 | 12 |
| ISLAND PINES RECREATIONAL UNIT #248<br>22676 ISLAND PINES WAY<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-00001.00CE<br>6675 ESTERO BLVD<br>FORT MYERS BEACH 33931 | NW 1/4 S ALY E SIDE OF ESTERO BLV FOR 315.19 E 88 FT TO POB TENNIS CTS OR 2410 PG 1445 | 13 |
| ISLAND PINES RECREATIONAL MYERS BRETTHOLZ AND CO PA<br>12671 WHITEHALL DR<br>FORT MYERS FL 33907 | 03-47-24-W1-00001.03CE<br>ISLAND PINES RECREATIONAL C/E FORT MYERS BEACH 33931 | PARL IN N 600 FT G L 1 AS DESC INST#2007000329210 + 2007000329211 | 14 |
| TIITF/SOVEREIGNTY LANDS DEPT OF ENVIR PROTECTION<br>3900 COMMONWEALTH BLVD<br>TALLAHASSEE FL 32399 | 03-47-24-W1-00001.1000<br>ACCESS UNDETERMINED<br>FORT MYERS BEACH | ISLAND LOCATED IN SECS 3 4 + 10 TWP 47 RGE 24 | 15 |
| ISLAND PINES RECREATIONAL ASSN MYERS BRETHOLTZ + CO<br>12671 WHITEHALL DR<br>FORT MYERS FL 33907 | 03-47-24-W1-00002.00CE<br>ISLAND PINES RECREATIONAL C/E FORT MYERS BEACH 33931 | 600 FT OF N L SWC 03 595.83 E OF ESTERO BLV AKA REC # 6 | 16 |
| FMBH LLC<br>501 GOODLETTE RD N STE D100<br>NAPLES FL 34102 | 03-47-24-W1-00003.0010<br>6890 ESTERO BLVD<br>FORT MYERS BEACH 33931 | S 460 FT OF N 1060 FT OF GOVT LOT 1 LYING WLY OF ESTERO BLVD | 17 |

| | | | |
|---|---|---|---|
| ISLAND PINES RECREATIONAL<br>UNIT #248<br>22676 ISLAND PINES WAY<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-0000A.00CE<br>6661 ESTERO BLVD<br>6691 FORT MYERS BEACH<br>33931 | LAND RES FUT DEV PT OF<br>CAPTAINS BAY NORTH DESC OR<br>2501 PG 3794 GREEN AREA<br>LESS OR 2814 PG 2503 | 18 |
| SANDARAC I<br>6666 ESTERO BLVD<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-02800.00CE<br>6666 ESTERO BLVD<br>FORT MYERS BEACH 33931 | SANDARAC 1 COMMON AREA<br>OR 1163 P 856 THRU 897 | 19 |
| SANDARAC ASSOCIATION INC SANDARAC<br>II ASSOCIATION INC<br>6666 ESTERO BLVD<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-03800.00CE<br>SANDARAC 2 C/E<br>FORT MYERS BEACH 33931 | SANDARAC II COMMON AREA<br>DESC OR 1339 PG 1713 | 20 |
| BAC-BAY HEALTH +RACQUET CLUB<br>SENTRY MANAGEMENT INC<br>2180 W SR 434 STE 5000<br>LONGWOOD FL 32779 | 03-47-24-W1-05100.00CE<br>22796/772 ISLAND PINES<br>WAY FORT<br>MYERS BEACH 33931 | BAC-BAY + ADMIRAL BAY PH-1<br>OR 1703 PG 1580 + OR 2066 PG<br>1150 COMMON ELEMENTS | 21 |
| ESTERO COVE CONDOMINIUM ASSOCI<br>6891 ESTERO BLVD<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-05500.00CE<br>6889 ESTERO BLVD<br>FORT MYERS BEACH 33931 | ESTERO COVE CONDO DESC OR<br>1765 PG 2993 COMMON<br>ELEMENTS + UNIT 312 | 22 |
| CAPTAINS BAY NORTH ONE ASSN SENTRY<br>MANAGEMENT INC<br>2180 W SR 434 STE 5000<br>LONGWOOD FL 32779 | 03-47-24-W1-06800.00CE<br>CAPTAINS BAY NORTH C/E<br>FORT MYERS BEACH 33931 | CAPTAINS BAY NORTH CONDO<br>ONE OR 2526 PG 2630<br>CE:POOL+TENNIS | 23 |
| CAPTAINS BAY SOUTH CONDOMINIUM<br>22748 ISLAND PINES WAY #502<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-06900.00CE<br>22704 ISLAND PINES WAY<br>FORT MYERS BEACH 33931 | CAPTAINS BAY SOUTH CONDO<br>DESC OR 2576 PG 1730 C/E-<br>POOL + TENNIS | 24 |
| CAPTAINS BAY NORTH TWO ASSN SENTRY<br>MANAGEMENT INC<br>2180 W SR 434 STE 5000<br>LONGWOOD FL 32779 | 03-47-24-W1-07300.00CE<br>CAPTAINS BAY NORTH TWO<br>CONDO C/E<br>FORT MYERS BEACH 33931 | CAPTAIN'S BAY NORTH TWO<br>CONDO OR 2814 PG 2503 + OR<br>2848 PG 4124 COMMON<br>ELEMENTS | 25 |
| PYNE ELIZABETH B<br>6655-111 ESTERO BLVD<br>FORT MYERS BEACH FL 33931 | 34-46-24-W4-02300.1110<br>6655 ESTERO BLVD<br>111 FORT MYERS BEACH<br>33931 | FAIRVIEW ISLES CONDO OR<br>1439 PG 180 UNIT 111 | 26 |
| RIZZUTO ANTHONY N TR<br>1013 W DOUGLAS AVE<br>NAPERVILLE IL 60540 | 34-46-24-W4-02300.1120<br>6655 ESTERO BLVD<br>112 FORT MYERS BEACH<br>33931 | FAIRVIEW ISLES CONDO OR<br>1439 PG 180 UNIT 112 | 26 |
| FASULO KAREN M & JOSEPH<br>12 HERRICK DR<br>OLD TAPPAN NJ 7675 | 34-46-24-W4-02300.1130<br>6655 ESTERO BLVD<br>113 FORT MYERS BEACH<br>33931 | FAIRVIEW ISLES CONDO OR<br>1439 PG 180 UNIT 113 | 26 |
| UNKNOWN HEIRS OF<br>10333 MAYFIELD AVE APT 1 N<br>OAK LAWN IL 60453 | 34-46-24-W4-02300.1140<br>6655 ESTERO BLVD<br>114 FORT MYERS BEACH<br>33931 | FAIRVIEW ISLES CONDO OR<br>1439 PG 180 UNIT 114 | 26 |

| | | | |
|---|---|---|---|
| SCHEIDER MARY F TR<br>4778 W EMPIRE RD<br>FREEPORT IL 61032 | 34-46-24-W4-02300.1150<br>6655 ESTERO BLVD<br>115 FORT MYERS BEACH<br>33931 | FAIRVIEW ISLES CONDO OR<br>1439 PG 180 UNIT 115 | 26 |
| KRIETEMEYER STEPHEN L &<br>20572 ROAD 23-T<br>FORT JENNINGS OH 45844 | 34-46-24-W4-02300.1160<br>6655 ESTERO BLVD<br>116 FORT MYERS BEACH<br>33931 | FAIRVIEW ISLES CONDO OR<br>1439 PG 180 UNIT 116 | 26 |
| BURSTAD CHARLENE A +<br>46 LANG ST<br>CONCORD MA 1742 | 34-46-24-W4-02300.2110<br>6655 ESTERO BLVD<br>211 FORT MYERS BEACH<br>33931 | FAIRIVEW ISLES CONDO OR<br>1439 PG 180 UNIT 211 | 26 |
| SCHMIDT ERICH & GERTRUDE<br>6655 ESTERO BLVD #212<br>FORT MYERS FL 33931 | 34-46-24-W4-02300.2120<br>6655 ESTERO BLVD<br>212 FORT MYERS BEACH<br>33931 | FAIRVIEW ISLES CONDO OR<br>1439 PG 180 UNIT 212 | 26 |
| MATHENY MARY T TR<br>6655 ESTERO BLVD #213<br>FORT MYERS BEACH FL 33931 | 34-46-24-W4-02300.2130<br>6655 ESTERO BLVD<br>213 FORT MYERS BEACH<br>33931 | FAIRVIEW ISLES CONDO OR<br>1439 PG 180 UNIT 213 | 26 |
| LOKEN TIMOTHY LEE +<br>5235 NORTH ARM DR<br>MOUND MN 55364 | 34-46-24-W4-02300.2140<br>6655 ESTERO BLVD<br>214 FORT MYERS BEACH<br>33931 | FAIRVIEW ISLES CONDO OR<br>1439 PG 180 UNIT 214 | 26 |
| FLOCO FMB LLC<br>4336 N DAYTON ST UNIT 2<br>CHICAGO IL 60613 | 34-46-24-W4-02300.2150<br>6655 ESTERO BLVD<br>215 FORT MYERS BEACH<br>33931 | FAIRVIEW ISLES CONDO OR<br>1439 PG 180 UNIT 215 | 26 |
| METCALFE MARIA L TR<br>18 HALL RD<br>STONEHAM MA 2180 | 34-46-24-W4-02300.2160<br>6655 ESTERO BLVD<br>216 FORT MYERS BEACH<br>33931 | FAIRVIEW ISLES CONDO OR<br>1439 PG 180 UNIT 216 | 26 |
| FINN WILLIAM SHAWN & KIM D<br>S 16 W 32570 LUTERBACH CT<br>DELAFIELD WI 53018 | 34-46-24-W4-02300.3110<br>6655 ESTERO BLVD<br>311 FORT MYERS BEACH<br>33931 | FAIRVIEW ISLES CONDO OR<br>1439 PG 180 UNIT 311 | 26 |
| SHARP COMPANY +<br>6103 SPRINGSIDE AVE<br>DOWNERS GROVE IL 60516 | 34-46-24-W4-02300.3120<br>6655 ESTERO BLVD<br>312 FORT MYERS BEACH<br>33931 | FAIRVIEW ISLES CONDO OR<br>1439 PG 180 UNIT 312 | 26 |
| CURTIS KATHERINE M<br>7519 FOREST BEACH RD<br>WATERVLIET MI 49098 | 34-46-24-W4-02300.3130<br>6655 ESTERO BLVD<br>313 FORT MYERS BEACH<br>33931 | FAIRVIEW ISLES CONDO OR<br>1439 PG 180 UNIT 313 | 26 |
| JORDAN RICHARD +<br>31 DONCASTER ST<br>ROSLINDALE MA 2131 | 34-46-24-W4-02300.3140<br>6655 ESTERO BLVD<br>314 FORT MYERS BEACH<br>33931 | FAIRVIEW ISLES CONDO OR<br>1439 PG 180 UNIT 314 | 26 |

| | | | |
|---|---|---|---|
| ROBERT D MCCOWEN TRUST +<br>4237 FAIRWAY LANE<br>JACKSON MI 49201 | 34-46-24-W4-02300.3150<br>6655 ESTERO BLVD<br>315 FORT MYERS BEACH<br>33931 | FAIRVIEW ISLES CONDO OR<br>1439 PG 180 UNIT 315 | 26 |
| SCHMELING RANDY W &<br>1512 RIVER DR<br>MANDAN ND 58554 | 34-46-24-W4-02300.3160<br>6655 ESTERO BLVD<br>316 FORT MYERS BEACH<br>33931 | FAIRVIEW ISLES CONDO OR<br>1439 PG 180 UNIT 316 | 26 |
| RIEDEL CURT W & CATHERINE E L/<br>6665 ESTERO BLVD #121<br>FORT MYERS BEACH FL 33931 | 34-46-24-W4-02300.1210<br>6665 ESTERO BLVD<br>121 FORT MYERS BEACH<br>33931 | FAIRVIEW ISLES CONDO OR<br>1439 PG 180 UNIT 121 | 27 |
| GIUFFRE JOSEPH J & CAROL J<br>6665 ESTERO BLVD #122<br>FORT MYERS BEACH FL 33931 | 34-46-24-W4-02300.1220<br>6665 ESTERO BLVD<br>122 FORT MYERS BEACH<br>33931 | FAIRVIEW ISLES CONDO OR<br>1439 PG 180 UNIT 122 | 27 |
| BRIERLEY HERBERT F &<br>10606 RED HAWK LN<br>SPRING GROVE IL 60081 | 34-46-24-W4-02300.1230<br>6665 ESTERO BLVD<br>123 FORT MYERS BEACH<br>33931 | FAIRVIEW ISLES CONDO OR<br>1439 PG 180 UNIT 123 | 27 |
| KRONENBERGER JOHN E &<br>14111 S 87TH AVE<br>ORLAND PARK IL 60462 | 34-46-24-W4-02300.1240<br>6665 ESTERO BLVD<br>124 FORT MYERS BEACH<br>33931 | FAIRVIEW ISLES CONDO OR<br>1439 PG 180 UNIT 124 | 27 |
| CARROLL DENNIS L & TAMARA A<br>111 WOODFIELD PL<br>DANVILLE IN 46122 | 34-46-24-W4-02300.1250<br>6665 ESTERO BLVD<br>125 FORT MYERS BEACH<br>33931 | FAIRVIEW ISLES CONDO OR<br>1439 PG 180 UNIT 125 | 27 |
| SMITH MICHAEL L &<br>50 MONTROSE CRES<br>MARKHAM ON L3R 7Z5 CANADA | 34-46-24-W4-02300.1260<br>6665 ESTERO BLVD<br>126 FORT MYERS BEACH<br>33931 | FAIRVIEW ISLES CONDO OR<br>1439 PG 180 UNIT 126 | 27 |
| MALONE RONALD P SR<br>513 W CHESTER ST<br>LONG BEACH NY 11561 | 34-46-24-W4-02300.2210<br>6665 ESTERO BLVD<br>221 FORT MYERS BEACH<br>33931 | FAIRVIEW ISLES CONDO OR<br>1439 PG 180 UNIT 221 | 27 |
| CALVELAGE BILLY J & DEBRA S<br>21838 ROAD R<br>FORT JENNINGS OH 45844 | 34-46-24-W4-02300.2220<br>6665 ESTERO BLVD<br>222 FORT MYERS BEACH<br>33931 | FAIRVIEW ISLES CONDO OR<br>1439 PG 180 UNIT 222 | 27 |
| CODY MAUREEN A TR<br>6665 ESTERO BLVD #223<br>FORT MYERS BEACH FL 33931 | 34-46-24-W4-02300.2230<br>6665 ESTERO BLVD<br>223 FORT MYERS BEACH<br>33931 | FAIRVIEW ISLES CONDO OR<br>1439 PG 180 UNIT 223 | 27 |
| PARKER BRUCE D & ANNETTE R<br>35018 N KNOLLWOOD DR<br>INGLESIDE IL 60041 | 34-46-24-W4-02300.2240<br>6665 ESTERO BLVD<br>224 FORT MYERS BEACH<br>33931 | FAIRVIEW ISLES CONDO OR<br>1439 PG 180 UNIT 224 | 27 |

| | | | |
|---|---|---|---|
| VENTURO GENNARO L/E<br>6 DUQUETTE DR<br>HAVERHILL MA 1830 | 34-46-24-W4-02300.2250<br>6665 ESTERO BLVD<br>225 FORT MYERS BEACH<br>33931 | FAIRVIEW ISLES CONDO OR<br>1439 PG 180 UNIT 225 | 27 |
| TOUCHETTE DENNIS P TR<br>981 CLAYTONBROOK DR<br>BALLWIN MO 63011 | 34-46-24-W4-02300.2260<br>6665 ESTERO BLVD<br>226 FORT MYERS BEACH<br>33931 | FAIRVIEW ISLES CONDO OR<br>1439 PG 180 UNIT 226 | 27 |
| SULLIVAN PATRICK &<br>6620 OAKLAND AVE<br>INDIANAPOLIS IN 46220 | 34-46-24-W4-02300.3210<br>6665 ESTERO BLVD<br>321 FORT MYERS BEACH<br>33931 | FAIRVIEW ISLES CONDO OR<br>1439 PG 180 UNIT 321 | 27 |
| MIKEL TODD P & DAWN L<br>13117 N EASTSHORE DR<br>SYRACUSE IN 46567 | 34-46-24-W4-02300.3220<br>6665 ESTERO BLVD<br>322 FORT MYERS BEACH<br>33931 | FAIRVIEW ISLES CONDO OR<br>1439 PG 180 UNIT 322 | 27 |
| SULLIVAN REAL ESTATE<br>13322 W SHERBERN DR<br>CARMEL IN 46032 | 34-46-24-W4-02300.3230<br>6665 ESTERO BLVD<br>323 FORT MYERS BEACH<br>33931 | FAIRVIEW ISLES CONDO OR<br>1439 PG 180 UNIT 323 | 27 |
| KRIETEMEYER STEVEN L &<br>20572 RD 23T<br>FORT JENNINGS OH 45844 | 34-46-24-W4-02300.3240<br>6665 ESTERO BLVD<br>324 FORT MYERS BEACH<br>33931 | FAIRVIEW ISLES CONDO OR<br>1439 PG 180 UNIT 324 | 27 |
| JNC ESCAPES LLC<br>9156 AERIE LAKE ROAD<br>ALBORN MN 55702 | 34-46-24-W4-02300.3250<br>6665 ESTERO BLVD<br>325 FORT MYERS BEACH<br>33931 | FAIRVIEW ISLES CONDO OR<br>1439 PG 180 UNIT 325 | 27 |
| KRIETEMEYER STEPHEN L &<br>20572 ROAD 23T<br>FORT JENNINGS OH 45844 | 34-46-24-W4-02300.3260<br>6665 ESTERO BLVD<br>326 FORT MYERS BEACH<br>33931 | FAIRVIEW ISLES CONDO OR<br>1439 PG 180 UNIT 326 | 27 |
| LEBEN MARY C L/E<br>6670 ESTERO BLVD UNIT A101<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-0280A.1010<br>6670 ESTERO BLVD<br>A101 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A101 | 28 |
| ZANIK CORPORATION MIKE MOLTER<br>4001 E 900 S<br>LAFAYETTE IN 47909 | 03-47-24-W1-0280A.1020<br>6670 ESTERO BLVD<br>A102 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A102 | 28 |
| MORELLI FRED M JR & MARIA A<br>403 W GALENA BLVD PO BOX 1406<br>AURORA IL 60506 | 03-47-24-W1-0280A.1040<br>6670 ESTERO BLVD<br>A104 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A104 | 28 |
| HERBERT EDWARD J & BETSY L<br>2310 KINGSLEY DR<br>GRAND PRAIRIE TX 75050 | 03-47-24-W1-0280A.1050<br>6670 ESTERO BLVD<br>A105 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A105 | 28 |

| | | | |
|---|---|---|---|
| LOGAN DAVID L & MARY A<br>PO BOX 3383<br>DECATUR IL 62524 | 03-47-24-W1-0280A.2010<br>6670 ESTERO BLVD<br>A201 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A201 | 28 |
| PLATTEN ARLENE M TR<br>7413 WAKE ROBIN DR<br>PARMA OH 44130 | 03-47-24-W1-0280A.2020<br>6670 ESTERO BLVD<br>A202 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A202 | 28 |
| CURTIS RONALD<br>6670 ESTERO BLVD #A203<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-0280A.2030<br>6670 ESTERO BLVD<br>A203 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A203 | 28 |
| BANKS THEODORE J JR +<br>598 DECKERS POINT RD<br>MARION CENTER PA 15759 | 03-47-24-W1-0280A.2040<br>6670 ESTERO BLVD<br>A204 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A204 | 28 |
| TICE MATTHEW P TR<br>9940 WINSTON ROAD<br>PINCKNEY MI 48169 | 03-47-24-W1-0280A.2050<br>6670 ESTERO BLVD<br>A205 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A205 | 28 |
| KLUNE MICHAEL E +<br>5508 BREMER RD<br>MC FARLAND WI 53558 | 03-47-24-W1-0280A.3010<br>6670 ESTERO BLVD<br>A301 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A301 | 28 |
| KLINT THOMAS A & DENISE A<br>12162 KERRY ST<br>COON RAPIDS MN 55433 | 03-47-24-W1-0280A.3020<br>6670 ESTERO BLVD<br>A302 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A302 | 28 |
| ABALLAVATE LLC<br>3 NEW ENGLAND WAY<br>LINCOLN RI 2865 | 03-47-24-W1-0280A.3030<br>6670 ESTERO BLVD<br>A303 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A303 | 28 |
| CYNTHIA J PIERCE TRUST +<br>223 EMS T46 LN<br>LEESBURG IN 46538 | 03-47-24-W1-0280A.3040<br>6670 ESTERO BLVD<br>A304 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A304 | 28 |
| RANDALL L YOUTS TRUST +<br>68760 S SHORE DR<br>EDWARDSBURG MI 49112 | 03-47-24-W1-0280A.3050<br>6670 ESTERO BLVD<br>A305 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A305 | 28 |
| PORTER MARY E<br>14 ARTHUR LANE<br>YARMOUTH PORT MA 2675 | 03-47-24-W1-0280A.4010<br>6670 ESTERO BLVD<br>A401 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A401 | 28 |
| STEELE TWILLA M<br>4926 CHAUCER RD<br>FORT WAYNE IN 46835 | 03-47-24-W1-0280A.4020<br>6670 ESTERO BLVD<br>A402 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A402 | 28 |

| | | | |
|---|---|---|---|
| DBW LLC<br>14335 MILLCHESTER CIR<br>CHESTERFIELD MO 63017 | 03-47-24-W1-0280A.4030<br>6670 ESTERO BLVD<br>A403 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A403 | 28 |
| MORA DANAE<br>18251 SW 25TH ST<br>MIRAMAR FL 33029 | 03-47-24-W1-0280A.4040<br>6670 ESTERO BLVD<br>A404 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A404 | 28 |
| LEMKE DOLORES E TR +<br>9650 250TH ST W<br>LAKEVILLE MN 55044 | 03-47-24-W1-0280A.4050<br>6670 ESTERO BLVD<br>A405 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A405 | 28 |
| HARRIS J GEORGE TR<br>1204 BEDDINGTON PARK<br>NASHVILLE TN 37215 | 03-47-24-W1-0280A.5010<br>6670 ESTERO BLVD<br>A501 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A501 | 28 |
| CONRAD CHARLES N & CATHY P<br>6670 ESTERO BLVD #A502<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-0280A.5020<br>6670 ESTERO BLVD<br>A502 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A502 | 28 |
| 6670 ESTERO LLC<br>105 WAUGH ST<br>COLUMBIA MO 65201 | 03-47-24-W1-0280A.5030<br>6670 ESTERO BLVD<br>A503 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A503 | 28 |
| DBW LLC<br>14335 MILLCHESTER CIR<br>CHESTERFIELD MO 63017 | 03-47-24-W1-0280A.5040<br>6670 ESTERO BLVD<br>A504 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A504 | 28 |
| KOHAN ANDREA<br>115 LOUISE AVE<br>SAULT STE MARIE ON P6A 6A5 CANADA | 03-47-24-W1-0280A.5050<br>6670 ESTERO BLVD<br>A505 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT<br>A505/PS#A505 | 28 |
| SMITH GREGORY L<br>3020 JORDON GROVE<br>WEST DES MOINES IA 50265 | 03-47-24-W1-0280A.6010<br>6670 ESTERO BLVD<br>A601 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A601 | 28 |
| SMART STEPHEN D & JILL B<br>5420 CHALLEN PL<br>DOWNERS GROVE IL 60515 | 03-47-24-W1-0280A.6020<br>6670 ESTERO BLVD<br>A602 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A602 | 28 |
| PELICANS HIDEAWAY LLC CYNTHIA<br>JEFFCOTT<br>4700 MICASA CT<br>FORT MYERS FL 33901 | 03-47-24-W1-0280A.6030<br>6670 ESTERO BLVD<br>A603 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A603 | 28 |
| PEREZ SAM & SUSAN M<br>403 QUEEN ST S<br>HAMILTON ON L8P 3T8 CANADA | 03-47-24-W1-0280A.6040<br>6670 ESTERO BLVD<br>A604 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A604 | 28 |

| | | | |
|---|---|---|---|
| MCCONNELL KATHY ANN TR<br>7311 W CHESTER RD<br>WEST CHESTER OH 45069 | 03-47-24-W1-0280A.6050<br>6670 ESTERO BLVD<br>A605 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A605 | 28 |
| VRANEY GILBERT G & LINDA K TR<br>603 RIVERVIEW DR<br>THIENSVILLE WI 53092 | 03-47-24-W1-0280A.7010<br>6670 ESTERO BLVD<br>A701 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A701 | 28 |
| P5 OF LEE COUNTY INC<br>5905 TARPON GARDENS CIR # 201<br>CAPE CORAL FL 33914 | 03-47-24-W1-0280A.7020<br>6670 ESTERO BLVD<br>A702 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A702 | 28 |
| K4 OF LEE COUNTY INC<br>5905 TARPON GNDS CIR<br>#201 CAPE<br>CORAL FL 33914 | 03-47-24-W1-0280A.7030<br>6670 ESTERO BLVD<br>A703 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A703 | 28 |
| AIC HOLDINGS INC<br>205 ALTA<br>AMHERSTBURG ON N9V 3R3 CANADA | 03-47-24-W1-0280A.7040<br>6670 ESTERO BLVD<br>A704 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A704 | 28 |
| COMPTON BETH ANN<br>8722 HEATHERSTONE PL<br>ZIONSVILLE IN 46077 | 03-47-24-W1-0280A.8010<br>6670 ESTERO BLVD<br>A801 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A801 | 28 |
| FISCHER SUSAN D TR<br>2316 W 141ST ST<br>LEAWOOD KS 66224 | 03-47-24-W1-0280A.8020<br>6670 ESTERO BLVD<br>A802 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A802 | 28 |
| RUBLE BRYAN R TR<br>7030 E MORNING VISTA LN<br>SCOTTSDALE AZ 85266 | 03-47-24-W1-0280A.8030<br>6670 ESTERO BLVD<br>A803 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A803 | 28 |
| SWIGART FAMILY LP<br>405 N SWIFT ST<br>WINNEBAGO IL 61088 | 03-47-24-W1-0280A.9010<br>6670 ESTERO BLVD<br>A901 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A901 | 28 |
| SWIGART JAMES L TR<br>405 NORTH SWIFT ST<br>WINNEBAGO IL 61088 | 03-47-24-W1-0280A.9020<br>6670 ESTERO BLVD<br>A902 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A902 | 28 |
| KABELE RICHARD W TR<br>137 GRANTWOOD DR<br>HOLLY SPRINGS NC 27540 | 03-47-24-W1-0280A.1060<br>6672 ESTERO BLVD<br>A106 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A106 | 29 |
| SIZEMORE ROGER L +<br>15908 HILLTOP DR<br>LOWELL IN 46356 | 03-47-24-W1-0280A.1070<br>6672 ESTERO BLVD<br>A107 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A107 | 29 |

| | | | |
|---|---|---|---|
| BLUE ELLEN J TR<br>6893 GARLAND LANE NORTH<br>MAPLE GROVE MN 55311 | 03-47-24-W1-0280A.1080<br>6672 ESTERO BLVD<br>A108 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A108 | 29 |
| PHELAN THOMAS W<br>6672 ESTERO BLVD #A109<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-0280A.1090<br>6672 ESTERO BLVD<br>A109 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A109 | 29 |
| OBRIEN JILL TR<br>6672 ESTERO BLVD #A110<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-0280A.1100<br>6672 ESTERO BLVD<br>A110 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A110 | 29 |
| ASSINK NORMA JEAN TR<br>13395 TYLER ST<br>HOLLAND MI 49424 | 03-47-24-W1-0280A.1110<br>6672 ESTERO BLVD<br>A111 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A111 | 29 |
| STEARNS NANCY A TR<br>6672 ESTERO BLVD #A206<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-0280A.2060<br>6672 ESTERO BLVD<br>A206 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A206 | 29 |
| POWERS BERNARD SHAUN &<br>55 E ERIE ST #4705<br>CHICAGO IL 60611 | 03-47-24-W1-0280A.2070<br>6672 ESTERO BLVD<br>A207 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A207 | 29 |
| PLATTEN JANE M<br>1777 W 30TH ST<br>CLEVELAND OH 44113 | 03-47-24-W1-0280A.2080<br>6672 ESTERO BLVD<br>A208 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A208 | 29 |
| MICHAEL DIANNE<br>621 E MEHRING WAY UNIT 2109<br>CINCINNATI OH 45202 | 03-47-24-W1-0280A.2090<br>6672 ESTERO BLVD<br>A209 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A209 | 29 |
| SWIGART JAMES +<br>405 N SWIFT ST<br>WINNEBAGO IL 61088 | 03-47-24-W1-0280A.2100<br>6672 ESTERO BLVD<br>A210 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A210 | 29 |
| MCGRATH MICHAEL J<br>4815 TRITON CT W<br>CAPE CORAL FL 33904 | 03-47-24-W1-0280A.2110<br>6672 ESTERO BLVD<br>A211 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A211 | 29 |
| BRODERICK CYNTHIA S TR<br>9115 WHISPERINGHILL DR<br>CINCINNATI OH 45242 | 03-47-24-W1-0280A.3060<br>6672 ESTERO BLVD<br>A306 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A306 | 29 |
| KOVACS WILLIAM F & KAREN S<br>25 KNUTSEN DR<br>WEST ORANGE NJ 7052 | 03-47-24-W1-0280A.3070<br>6672 ESTERO BLVD<br>A307 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A307 | 29 |

| | | | |
|---|---|---|---|
| FENNEMAN + BROWN FLORIDA LLC<br>2902 E MORGAN ST<br>MARTINSVILLE IN 46151 | 03-47-24-W1-0280A.3080<br>6672 ESTERO BLVD<br>A308 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A308 | 29 |
| RICHTER FAMILY LTD PRTNRSP #2<br>142 OAKMONT CT<br>LAWRENCEBURG IN 47025 | 03-47-24-W1-0280A.3090<br>6672 ESTERO BLVD<br>A309 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A309 | 29 |
| PETROFF SANDRA L TR<br>6672 ESTERO BLVD # A310<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-0280A.3100<br>6672 ESTERO BLVD<br>A310 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 UNIT A 310 | 29 |
| HOLM MICHAEL J TR<br>6672 ESTERO BLVD #A311<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-0280A.3110<br>6672 ESTERO BLVD<br>A311 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A311 | 29 |
| ST PIERRE PAUL & KRISTIN<br>3037 ALDWYCH CT<br>GREENWOOD IN 46143 | 03-47-24-W1-0280A.4060<br>6672 ESTERO BLVD<br>A406 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A406 | 29 |
| DIMATTEO ROSE<br>6672-A407 ESTERO BLVD<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-0280A.4070<br>6672 ESTERO BLVD<br>A407 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A407 | 29 |
| SARAYU LLC<br>10894 BRIXTON LN<br>FISHERS IN 46037 | 03-47-24-W1-0280A.4080<br>6672 ESTERO BLVD<br>A408 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A408 | 29 |
| GATES DANIEL W + KAREN R<br>248 SHEEDY RD<br>VESTAL NY 13850 | 03-47-24-W1-0280A.4090<br>6672 ESTERO BLVD<br>A409 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A409 | 29 |
| VANCURA BRADLEY R TR<br>6176 NE KENSINGTON<br>LEES SUMMIT MO 64064 | 03-47-24-W1-0280A.4100<br>6672 ESTERO BLVD<br>A410 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A410 | 29 |
| VANDERBILT KAREN<br>213 ROUTE 87<br>COLUMBIA CT 6237 | 03-47-24-W1-0280A.4110<br>6672 ESTERO BLVD<br>A411 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A411 | 29 |
| AUSTIN JUDY TR<br>PO BOX 595<br>OCCOQUAN VA 22125 | 03-47-24-W1-0280A.5060<br>6672 ESTERO BLVD<br>A506 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A506 | 29 |
| MALLOY MATTHEW THOMAS &<br>400 ARMY NAVY DR APT #1511<br>ARLINGTON VA 22202 | 03-47-24-W1-0280A.5070<br>6672 ESTERO BLVD<br>A507 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A507 | 29 |

| | | | |
|---|---|---|---|
| GANOSELLIS SUSAN +<br>6672 ESTERO BLVD #A508<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-0280A.5080<br>6672 ESTERO BLVD<br>A508 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A508 | 29 |
| HARTMAN KELLY<br>10894 BRIXTON LANE<br>FISHERS IN 46037 | 03-47-24-W1-0280A.5090<br>6672 ESTERO BLVD<br>A509 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A509 | 29 |
| MCCONNELL MATTHEW J &<br>1066 WESTCHESTER WAY<br>CINCINNATI OH 45244 | 03-47-24-W1-0280A.5100<br>6672 ESTERO BLVD<br>A510 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A510 | 29 |
| COOK SHARON LEE TR<br>6672 ESTERO BLVD APT 511A<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-0280A.5110<br>6672 ESTERO BLVD<br>A511 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A511 | 29 |
| POWERS GERALD J II<br>1650 IVERNESS DR UNIT 11<br>BILLINGS MT 59105 | 03-47-24-W1-0280A.6060<br>6672 ESTERO BLVD<br>A606 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A606 | 29 |
| LOMAS PENELOPE C TR<br>23630 WATERSIDE DR<br>ESTERO FL 34134 | 03-47-24-W1-0280A.6070<br>6672 ESTERO BLVD<br>A607 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A607 | 29 |
| CLARK RICHARD & GHIORZI BOB<br>6672 ESTERO BLVD #A608<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-0280A.6080<br>6672 ESTERO BLVD<br>A608 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A608 | 29 |
| FRANCIS LOLA J L/E<br>9605 MELBOURNE AVE<br>ALLEN PARK MI 48101 | 03-47-24-W1-0280A.6090<br>6670 ESTERO BLVD<br>A609 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A609 | 29 |
| CIRILLA ALFRED J JR<br>2474 TURK HILL RD<br>VICTOR NY 14564 | 03-47-24-W1-0280A.6100<br>6672 ESTERO BLVD<br>A610 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A610 | 29 |
| YOUNG GEORGE ELMER III TR<br>1064 YELLOW JASMINE CT<br>LONGS SC 29568 | 03-47-24-W1-0280A.6110<br>6672 ESTERO BLVD<br>A611 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A611 | 29 |
| WARRINGTON SUSAN M TR<br>6672 ESTERO BLVD<br>#A706 FORT<br>MYERS BEACH FL 33931 | 03-47-24-W1-0280A.7060<br>6672 ESTERO BLVD<br>A706 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A706 | 29 |
| KAISER EDWARD J & DOLORES J<br>2043 FAIRWAY BLVD<br>HUDSON OH 44236 | 03-47-24-W1-0280A.7070<br>6672 ESTERO BLVD<br>A707 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A707 | 29 |

| | | | |
|---|---|---|---|
| COSSU SERGIO F & AILEEN R<br>279 COBBLESTONE LN<br>BETHLEHEM PA 18020 | 03-47-24-W1-0280A.7080<br>6672 ESTERO BLVD<br>A708 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A708 | 29 |
| TJ3 HOLDINGS LLC<br>1416 MEGGIN MELANNE LN<br>NEWARK OH 43055 | 03-47-24-W1-0280A.7090<br>6672 ESTERO BLVD<br>A709 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A709 | 29 |
| PRAWER ADAM J +<br>721 SUWANNEE CT NE<br>SAINT PETERSBURG FL 33702 | 03-47-24-W1-0280A.7100<br>6672 ESTERO BLVD<br>A710 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A710 | 29 |
| CONROY YOLONDE L<br>3566 HEATHERWOOD AVE<br>SPRINGFIELD OH 45503 | 03-47-24-W1-0280A.7110<br>6672 ESTERO BLVD<br>A711 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A711 | 29 |
| WARRINGTON SUSAN M TR<br>6672 ESTERO BLVD UNIT A706<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-0280A.8060<br>6672 ESTERO BLVD<br>A806 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A806 | 29 |
| KINNISH KATHLEEN R TR<br>9321 W RAVEN PL<br>TINLEY PARK IL 60487 | 03-47-24-W1-0280A.8070<br>6672 ESTERO BLVD<br>A807 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A807 | 29 |
| RICCOBONO ANGELO<br>6672 ESTERO BLVD UNIT A808<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-0280A.8080<br>6672 ESTERO BLVD<br>A808 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A808 | 29 |
| QUINN FAMILY LLC BRIAN J QUINN<br>3672 WINDBER BLVD<br>PALM HARBOR FL 34685 | 03-47-24-W1-0280A.8090<br>6672 ESTERO BLVD<br>A809 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A809 | 29 |
| BARBIERI CAROL<br>53 BROAD ST<br>FLEMINGTON NJ 8822 | 03-47-24-W1-0280A.8100<br>6672 ESTERO BLVD<br>A810 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A810 | 29 |
| SWIGART JAMES L TR<br>405 N SWIFT ST<br>WINNEBAGO IL 61088 | 03-47-24-W1-0280A.9060<br>6672 ESTERO BLVD<br>A906 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A906 | 29 |
| KIRBY MARTY & TAMMIE<br>311 N ABBEY RD<br>URBANA IL 61802 | 03-47-24-W1-0280A.9070<br>6672 ESTERO BLVD<br>A907 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A907 | 29 |
| ST PIERRE PAUL & KRISTIN<br>3037 ALDWYCH CT<br>GREENWOOD IN 46143 | 03-47-24-W1-0280A.9080<br>6672 ESTERO BLVD<br>A908 FORT MYERS BEACH<br>33931 | THE SANDARAC I CONDO OR<br>1163 PG 856 APT A908 | 29 |

| | | | |
|---|---|---|---|
| BISHOP R LARRY &<br>6660 ESTERO BLVD<br>#101 FORT<br>MYERS BEACH FL 33931 | 03-47-24-W1-03800.1010<br>6660 ESTERO BLVD<br>101 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 101 | 30 |
| HICKS DONNA REED<br>6660 ESTERO BLVD #102<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-03800.1020<br>6660 ESTERO BLVD<br>102 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 102 | 30 |
| FAIRBANKS APARTMENTS LLC<br>PO BOX 148<br>RICHMOND KY 40476 | 03-47-24-W1-03800.1040<br>6660 ESTERO BLVD<br>104 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 104 | 30 |
| YODER TODD & MICHELLE<br>1520 OAK ST<br>WYANDOTTE MI 48192 | 03-47-24-W1-03800.1050<br>6660 ESTERO BLVD<br>105 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 105 | 30 |
| FREEMAN ALBERT W &<br>265 EIGHT MILE POINT RD<br>DRO-MEDONTE ON L3V 0X2 CANADA | 03-47-24-W1-03800.2010<br>6660 ESTERO BLVD<br>201 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 201 | 30 |
| ASSINK BONNIE K TR<br>13275 TYLER ST<br>HOLLAND MI 49424 | 03-47-24-W1-03800.2020<br>6660 ESTERO BLVD<br>202 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 202/PS#7 | 30 |
| GENARD CATHY A<br>1114 BAUGHMAN HOLLOW RD<br>GREENSBURG PA 15601 | 03-47-24-W1-03800.2030<br>6660 ESTERO BLVD<br>203 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 203 | 30 |
| KETELHUT RONALD D & ANN L<br>42900 CARDINAL WAY<br>NOVI MI 48375 | 03-47-24-W1-03800.2040<br>6660 ESTERO BLVD<br>204 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 204 | 30 |
| GATES DANIEL L JR<br>3514 MISHAWAKA AVE<br>SOUTH BEND IN 46615 | 03-47-24-W1-03800.2050<br>6660 ESTERO BLVD<br>205 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 205 | 30 |
| OTT JAMES P TR<br>9106 CHERRY POINT RD<br>MANITOU BEACH MI 49253 | 03-47-24-W1-03800.3010<br>6660 ESTERO BLVD<br>301 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 301 | 30 |
| KLIEMAN JENNIFER & MICHAEL<br>13400 30 MILE RD<br>WASHINGTON MI 48095 | 03-47-24-W1-03800.3020<br>6660 ESTERO BLVD<br>302 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 302 | 30 |
| FRANZ SIGRID E & HELMUT TR<br>6660 ESTERO BLVD APT 303B<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-03800.3030<br>6660 ESTERO BLVD<br>303 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 303 | 30 |

| | | | |
|---|---|---|---|
| MARINO JOSEPH & WANDA T<br>30 HIGH POINT LN<br>SCARSDALE NY 10583 | 03-47-24-W1-03800.3040<br>6660 ESTERO BLVD<br>304 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 304 | 30 |
| BARNEY MARVIN A & ARLENE N<br>218 PALMER CIR NE<br>WARREN OH 44484 | 03-47-24-W1-03800.3050<br>6660 ESTERO BLVD<br>305 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 305 | 30 |
| RICKEN DAVE M & LORID<br>2720 S LAKEVIEW DR<br>CLEAR LAKE IA 50428 | 03-47-24-W1-03800.4010<br>6660 ESTERO BLVD<br>401 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 401 | 30 |
| SCHOENFELDT MARK TR<br>1508 POPLAR LANE<br>WAUSAU WI 54403 | 03-47-24-W1-03800.4020<br>6660 ESTERO BLVD<br>402 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 402 | 30 |
| VAN FOSSEN JODY &<br>12860 SCHOOL LANE RD<br>CROTON OH 43013 | 03-47-24-W1-03800.4030<br>6660 ESTERO BLVD<br>403 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNTI 403 | 30 |
| HERNANDEZ ALAIN RODOLFO &<br>11328 LAKELAND CIR<br>FORT MYERS FL 33913 | 03-47-24-W1-03800.4040<br>6660 ESTERO BLVD<br>404 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 404 | 30 |
| GERVOLINO COLLEEN &<br>151 SUTTON AVE<br>TOTOWA NJ 7512 | 03-47-24-W1-03800.4050<br>6660 ESTERO BLVD<br>405 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 405 | 30 |
| BELLISSIMO VINCENT S &<br>34 BUCK DR<br>POUGHQUAG NY 12570 | 03-47-24-W1-03800.5010<br>6660 ESTERO BLVD<br>501 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 501 | 30 |
| KLEDZIK CARY & LAURA<br>2006 STIERS CT<br>BATAVIA IL 60510 | 03-47-24-W1-03800.5020<br>6660 ESTERO BLVD<br>502 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 502 | 30 |
| AMY AVJEAN TRUST + AMY FRASER<br>AVJEAN<br>2576 LEACH DR<br>NAPERVILLE IL 60564 | 03-47-24-W1-03800.5030<br>6660 ESTERO BLVD<br>503 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 503 | 30 |
| STRYCKER KATHERINE A TR<br>W240N2361 RANGE LINE CT#A<br>PEWAUKEE WI 53072 | 03-47-24-W1-03800.5040<br>6660 ESTERO BLVD<br>504 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 504 | 30 |
| LUCY CAROLYN S<br>4755 LIBERTY RD<br>DOLPHIN VA 23843 | 03-47-24-W1-03800.5050<br>6660 ESTERO BLVD<br>505 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 505 | 30 |

| | | | |
|---|---|---|---|
| BARR JANIS E<br>6319 COLONIAL DR<br>WHITESTOWN IN 46075 | 03-47-24-W1-03800.6010<br>6660 ESTERO BLVD<br>601 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 601 | 30 |
| SCHIEMANN JEFFREY J TR<br>845 HANOVER RD<br>GATES MILLS OH 44040 | 03-47-24-W1-03800.6020<br>6660 ESTERO BLVD<br>602 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 602 | 30 |
| NEAL TERRY L/E<br>6660 ESTERO BLVD<br>#603 FORT<br>MYERS BEACH FL 33931 | 03-47-24-W1-03800.6030<br>6660 ESTERO BLVD<br>603 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 603 | 30 |
| SCHIEMANN LIMITED LIABILITY CO<br>845 HANOVER RD<br>GATES MILLS OH 44040 | 03-47-24-W1-03800.6040<br>6660 ESTERO BLVD<br>604 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 604 | 30 |
| BUDIL PAUL C<br>6660 ESTERO BLVD #605<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-03800.6050<br>6660 ESTERO BLVD<br>605 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 605 | 30 |
| BOWMAN JERRY L & JUDITH M +<br>EASTERN VIRGINIA LAW GROUP<br>130 W PLUME ST<br>NORFOLK VA 23510 | 03-47-24-W1-03800.7010<br>6660 ESTERO BLVD<br>701 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 701 | 30 |
| SEMLING FAYE A TR<br>1201C HERITAGE CT<br>MERRILL WI 54452 | 03-47-24-W1-03800.7020<br>6660 ESTERO BLVD<br>702 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 702 | 30 |
| CACCAMO FRANK M & GLORIA C<br>599 6TH AVE<br>EAST NORTHPORT NY 11731 | 03-47-24-W1-03800.7030<br>6660 ESTERO BLVD<br>703 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 703 | 30 |
| WILLIAMS THOMAS E & CAROL J<br>15052 BASS LAKE RD<br>MAPLE GROVE MN 55311 | 03-47-24-W1-03800.7040<br>6660 ESTERO BLVD<br>704 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 704 | 30 |
| SHANNON JANET A TR<br>6660 ESTERO BLVD #705<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-03800.7050<br>6660 ESTERO BLVD<br>705 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 705 | 30 |
| GABEL HELEN J TR<br>9130 CHERRY POINT RD<br>MANITOU BEACH MI 49253 | 03-47-24-W1-03800.8010<br>6660 ESTERO BLVD<br>801 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 801 | 30 |
| GABEL HELEN J TR<br>9130 CHERRY POINT RD<br>MANITOU BEACH MI 49253 | 03-47-24-W1-03800.8020<br>6660 ESTERO BLVD<br>802 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 802 | 30 |

| | | | |
|---|---|---|---|
| MURPHY MARY A L/E<br>PO BOX 7455<br>NEW BEDFORD MA 2742 | 03-47-24-W1-03800.8030<br>6660 ESTERO BLVD<br>803 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 803 | 30 |
| LIROT CHRISTOPHER E &<br>1376 BALMORAL CT<br>AURORA IL 60502 | 03-47-24-W1-03800.8040<br>6660 ESTERO BLVD<br>804 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 804 | 30 |
| SOMEWHERE IN THE SUN LLC<br>8221 VOLTAIRE CT<br>WAYNESVILLE OH 45068 | 03-47-24-W1-03800.9010<br>6660 ESTERO BLVD<br>901 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 901 | 30 |
| MACHOCK JAMES E &<br>9624 FOXWOOD PASSAGE<br>FORT WAYNE IN 46835 | 03-47-24-W1-03800.9020<br>6660 ESTERO BLVD<br>902 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 902 | 30 |
| COHEN JEFFREY LOUIS<br>2417 DOGWOOD SEASON DR<br>CHATTANOOGA TN 37421 | 03-47-24-W1-03800.9030<br>6660 ESTERO BLVD<br>903 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 903 | 30 |
| SIMONS WILLARD & MARIE<br>355 N SHORE RD<br>CUBA NY 14727 | 03-47-24-W1-03800.1060<br>6662 ESTERO BLVD<br>106 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 106 | 31 |
| BREDESON GORDON W TR<br>27 GREENWAY GABLES<br>MINNEAPOLIS MN 55403 | 03-47-24-W1-03800.1070<br>6662 ESTERO BLVD<br>107 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 107 | 31 |
| HEAT PROPERTIES LLC<br>4200 CANTERA DR UNIT 208<br>WARRENVILLE IL 60555 | 03-47-24-W1-03800.1080<br>6662 ESTERO BLVD<br>108 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 108 | 31 |
| FAIRCLOUGH NEVILLE D &<br>22 WINDY RIDGE DRIVE<br>SCARBOROUGH ON M1M 1H5 CANADA | 03-47-24-W1-03800.1090<br>6662 ESTERO BLVD<br>109 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 109 | 31 |
| SCHMID TIMOTHY V & DEBORAH +<br>2728 GRANT<br>EVANSTON IL 60201 | 03-47-24-W1-03800.1100<br>6662 ESTERO BLVD<br>110 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 110 | 31 |
| STOCK PAULA L & FRANCIS L<br>4535 LINE 26 RR 2<br>ST PAULS STATION ON N0K 1V0 CANADA | 03-47-24-W1-03800.1110<br>6662 ESTERO BLVD<br>111 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 111 | 31 |
| WILLIAMS CHRISTI M TR<br>331 DIAMOND ST UNIT B<br>ARCADIA CA 91006 | 03-47-24-W1-03800.2060<br>6662 ESTERO BLVD<br>206 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 206 | 31 |

| | | | |
|---|---|---|---|
| GENTRY CAROLYN J TR<br>6545 146TH AVE<br>HOLLAND MI 49423 | 03-47-24-W1-03800.2070<br>6662 ESTERO BLVD<br>207 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 207 | 31 |
| DECHANT THELMA M TR<br>15965 WEST RD<br>OBERLIN OH 44074 | 03-47-24-W1-03800.2080<br>6662 ESTERO BLVD<br>208 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 208 | 31 |
| KMC SANDARAC CO LLC<br>9605 PARAGON ST APT 108<br>MIDDLETON WI 53562 | 03-47-24-W1-03800.2090<br>6662 ESTERO BLVD<br>209 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 209 | 31 |
| DEIFEL JON H & BARBARA L TR<br>2279 QUAIL RUN FARM LANE<br>CINCINNATI OH 45233 | 03-47-24-W1-03800.2100<br>6662 ESTERO BLVD<br>210 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 210 | 31 |
| PURTILL DONALD L &<br>397 SANDHURST DR<br>HIGHLAND HEIGHTS OH 44143 | 03-47-24-W1-03800.2110<br>6662 ESTERO BLVD<br>211 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 211 | 31 |
| NELSON SHERRY TR<br>611 LAUREL AVE<br>WILMETTE IL 60091 | 03-47-24-W1-03800.3060<br>6662 ESTERO BLVD<br>306 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 306 | 31 |
| ONEAL LARRY W & VIKKI C<br>2628 LONGWOOD DR<br>LAKELAND FL 33811 | 03-47-24-W1-03800.3070<br>6662 ESTERO BLVD<br>307 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 307 | 31 |
| TREEHOUSE PROPERTIES LLC<br>9666 HALSEY DR<br>INDIANAPOLIS IN 46256 | 03-47-24-W1-03800.3080<br>6662 ESTERO BLVD<br>308 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 308 | 31 |
| BUDCHUK GARY E TR<br>38397 HURON POINTE DRIVE<br>HARRISON TOWNSHIP MI 48045 | 03-47-24-W1-03800.3090<br>6662 ESTERO BLVD<br>309 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 309 | 31 |
| BUTORAC TERRY M TR<br>2169 125TH LN NW<br>COON RAPIDS MN 55448 | 03-47-24-W1-03800.3100<br>6662 ESTERO BLVD<br>310 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 310 | 31 |
| STOCK FRANCIS LEO &<br>RR 2 LINE # 26 911 # 4535<br>ST PAULS ON N0K 1V0 CANADA | 03-47-24-W1-03800.3110<br>6662 ESTERO BLVD<br>311 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 311 | 31 |
| RICKEN DAVID M & LORI D<br>2720 S LAKEVIEW DR<br>CLEAR LAKE IA 50428 | 03-47-24-W1-03800.4060<br>6662 ESTERO BLVD<br>406 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 406 | 31 |

| | | | |
|---|---|---|---|
| CATES RONALD EDWIN &<br>710 SOUTH 500 WEST<br>MARION IN 46953 | 03-47-24-W1-03800.4070<br>6662 ESTERO BLVD<br>407 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 407 | 31 |
| ALCON LLC<br>3023 BEALS BRANCH DR<br>LOUISVILLE KY 40206 | 03-47-24-W1-03800.4080<br>6662 ESTERO BLVD<br>408 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 408 | 31 |
| SPENCER ROBERT BRUCE TR<br>4265 VINTAGE DR<br>PROVO UT 84604 | 03-47-24-W1-03800.4090<br>6662 ESTERO BLVD<br>409 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 409 | 31 |
| KREIE MERIDETH & PAUL<br>821 N CHESTNUT AVE<br>ARLINGTON HEIGHTS IL 60004 | 03-47-24-W1-03800.4100<br>6662 ESTERO BLVD<br>410 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 410 | 31 |
| FUN SHINE LIMITED COMPANY + LESLIE DYBALA<br>7958 HIDDEN HARBOUR DR E<br>HOLLAND OH 43528 | 03-47-24-W1-03800.4110<br>6662 ESTERO BLVD<br>411 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 411 | 31 |
| VONDERHARR BRIAN ALAN &<br>4427 ST ANDREWS DRIVE<br>BLAINE MN 55449 | 03-47-24-W1-03800.5060<br>6662 ESTERO BLVD<br>506 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 506 | 31 |
| BABIAK EDMUND J<br>4804 SYLVAN PRAIRIE CT<br>SYLVANIA OH 43560 | 03-47-24-W1-03800.5070<br>6662 ESTERO BLVD<br>507 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 507 | 31 |
| BRAY MYNA J TR<br>1514 RIDGEPOINTE PLACE DR<br>LAKE SAINT LOUIS MO 63367 | 03-47-24-W1-03800.5080<br>6662 ESTERO BLVD<br>508 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 508 | 31 |
| COVINO MAURICE<br>6662 ESTERO BLVD<br>#509 FORT<br>MYERS BEACH FL 33931 | 03-47-24-W1-03800.5090<br>6662 ESTERO BLVD<br>509 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 509 | 31 |
| SINATRA RANDALL P &<br>1024 CAYUGA DR<br>NIAGARA FALLS NY 14304 | 03-47-24-W1-03800.5100<br>6662 ESTERO BLVD<br>510 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 510 | 31 |
| PIERCE DAVID T +<br>1511 WILDERNESS WAY<br>LONGVIEW TX 75604 | 03-47-24-W1-03800.5110<br>6662 ESTERO BLVD<br>511 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 511 | 31 |
| FMB CONDO LLC<br>19436 LA SERENA<br>FORT MYERS FL 33967 | 03-47-24-W1-03800.6060<br>6662 ESTERO BLVD<br>606 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 606 | 31 |

| | | | |
|---|---|---|---|
| KOHART SHARYN L & JERRY P<br>275 LN 220 LAKE GAGE<br>ANGOLA IN 46703 | 03-47-24-W1-03800.6070<br>6662 ESTERO BLVD<br>607 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 607 | 31 |
| MEEKER LYNDA S TR<br>27461 COUNTRY CLUB DR<br>BONITA SPRINGS FL 34134 | 03-47-24-W1-03800.6080<br>6662 ESTERO BLVD<br>608 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 608 | 31 |
| KAVANAUGH JOYCE C +<br>340 BOSTON POST RD<br>EAST LYME CT 6333 | 03-47-24-W1-03800.6090<br>6662 ESTERO BLVD<br>609 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 609 | 31 |
| KLAUSNER ARNO & DORIS<br>HAUPTSTRASSE 68<br>9871 SEEBODEN AUSTRIA | 03-47-24-W1-03800.6100<br>6662 ESTERO BLVD<br>610 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 610 | 31 |
| JOHNSON LUCY S TR KEITH E JOHNSON JR<br>212 SADDLE CREEK CT<br>MACON GA 31210 | 03-47-24-W1-03800.6110<br>6662 ESTERO BLVD<br>611 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 611 | 31 |
| BALL DONALD W SR TR<br>6662 ESTERO BLVD #807B<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-03800.7060<br>6662 ESTERO BLVD<br>706 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 706 | 31 |
| MROZINSKI GERALD LEE<br>4848 OAK GROVE CT NE<br>CEDAR RAPIDS IA 52411 | 03-47-24-W1-03800.7070<br>6662 ESTERO BLVD<br>707 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 707 | 31 |
| CARLSON BRYAN J TR<br>PO BOX 468<br>ERIE IL 61250 | 03-47-24-W1-03800.7080<br>6662 ESTERO BLVD<br>708 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 708 | 31 |
| DEJEAN TRACEY TR<br>308 PINETREE CRES<br>BEACONSFIELD QC H9W 5E1 CANADA | 03-47-24-W1-03800.7090<br>6662 ESTERO BLVD<br>709 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 709 | 31 |
| LOLLAR JAMES WAYMON &<br>20155 SOUTHAMTON DR<br>LIVONIA MI 48152 | 03-47-24-W1-03800.7100<br>6662 ESTERO BLVD<br>710 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 710 | 31 |
| PAUK LAUREL R<br>6662 ESTERO BLVD #711<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-03800.7110<br>6662 ESTERO BLVD<br>711 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 711 | 31 |
| BALL DONALD W SR TR<br>6662 ESTERO BLVD #807B<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-03800.8060<br>6662 ESTERO BLVD<br>806 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 806 | 31 |

| | | | |
|---|---|---|---|
| WHITE LISA FEDDER +<br>1401 SE 8TH ST<br>DEERFIELD BEACH FL 33441 | 03-47-24-W1-03800.8070<br>6662 ESTERO BLVD<br>807 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 807 | 31 |
| VALLEY PROPERTY SERVICES LLC<br>PO BOX 2872<br>APPLETON WI 54912 | 03-47-24-W1-03800.8080<br>6662 ESTERO BLVD<br>808 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 808 | 31 |
| WEISENSTEIN TERRY P &<br>1740 STONEYBROOK WAY<br>BLACKLICK OH 43004 | 03-47-24-W1-03800.8090<br>6662 ESTERO BLVD<br>809 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 809 | 31 |
| PHYLLIS JOAN ELIZABETH STEELE<br>33 SWIFT WATERS RD<br>BROCKVILLE ON K6V 5S9 CANADA | 03-47-24-W1-03800.8100<br>6662 ESTERO BLVD<br>810 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 810 | 31 |
| ERIKS RONALD E & SHARON M L/E<br>13300 LAKE SHORE DR UNIT 302<br>CEDAR LAKE IN 46303 | 03-47-24-W1-03800.8110<br>6662 ESTERO BLVD<br>811 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 811 | 31 |
| KING BRIAN L TR<br>6662 ESTERO BLVD #906<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-03800.9060<br>6662 ESTERO BLVD<br>906 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 906 | 31 |
| MULLETT DAVID B &<br>123 CARTER CT<br>VIENNA VA 22180 | 03-47-24-W1-03800.9070<br>6662 ESTERO BLVD<br>907 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 907 | 31 |
| HASTINGS CHARLES M TR ROBERT ALEX<br>HASTINGS<br>SONNENRAIN 2<br>DIETLIKON 8305 SWITZERLAND | 03-47-24-W1-03800.9080<br>6662 ESTERO BLVD<br>908 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 908 | 31 |
| COOK BRIAN & JODI<br>16181 KINSALE DR<br>WESTFIELD IN 46062 | 03-47-24-W1-03800.9090<br>6662 ESTERO BLVD<br>909 FORT MYERS BEACH<br>33931 | SANDARAC 2 CONDO OR 1339<br>PG 1713 UNIT 909 | 31 |
| SHANDY HOLDINGS LLC<br>20636 STATE ROUTE BB<br>MEMPHIS MO 63555 | 03-47-24-W1-05101.1110<br>22796 ISLAND PINES WAY<br>111 FORT MYERS BEACH<br>33931 | BAC-BAY HEALTH AND<br>RACQUET CLUB DESC OR2066<br>PG1150 BLDG 1 UNIT 111 | 32 |
| BOYER SHELLY M<br>201 S WASHINGTON ST<br>MEMPHIS MO 63555 | 03-47-24-W1-05101.1120<br>22796 ISLAND PINES WAY<br>112 FORT MYERS BEACH<br>33931 | BAC-BAY HEALTH AND<br>RACQUET CLUB DESC OR2066<br>PG1150 BLDG 1 UNIT 112 | 32 |
| ANTRIM MARY P<br>430 HIGHSPIRE RD<br>GLENMOORE PA 19343 | 03-47-24-W1-05101.1130<br>22796 ISLAND PINES WAY<br>113 FORT MYERS BEACH<br>33931 | BAC-BAY HEALTH AND<br>RACQUET CLUB DESC OR2066<br>PG1150 BLDG 1 UNIT 113 | 32 |

| | | | |
|---|---|---|---|
| PICCERILL LOUISE +<br>2374 E 72ND ST<br>BROOKLYN NY 11234 | 03-47-24-W1-05101.1140<br>22796 ISLAND PINES WAY<br>114 FORT MYERS BEACH<br>33931 | BAC-BAY HEALTH AND<br>RACQUET CLUB DESC OR2066<br>PG1150 BLDG 1 UNIT 114 | 32 |
| JAMES E + SUSAN D CAVANAUGH TR<br>103 SEGSBURY ROAD<br>AMHERST NY 14221 | 03-47-24-W1-05101.1210<br>22796 ISLAND PINES WAY<br>121 FORT MYERS BEACH<br>33931 | BAC-BAY HEALTH AND<br>RACQUET CLUB DESC OR2066<br>PG1150 BLDG 1 UNIT 121 | 32 |
| JAMES H + SUSAN D CAVANAUGH TR<br>103 SEGSBURY RD<br>AMHERST NY 14221 | 03-47-24-W1-05101.1220<br>22796 ISLAND PINES WAY<br>122 FORT MYERS BEACH<br>33931 | BAC-BAY HEALTH AND<br>RACQUET CLUB DESC OR2066<br>PG1150 BLDG 1 UNIT 122 | 32 |
| DKW INVESTMENTS INC<br>974 GRAND AV W<br>CHATHAM ON N7L 5H6 CANADA | 03-47-24-W1-05101.1230<br>22796 ISLAND PINES WAY<br>123 FORT MYERS BEACH<br>33931 | BAC-BAY HEALTH AND<br>RACQUET CLUB DESC OR2066<br>PG1150 BLDG 1 UNIT 123 | 32 |
| FIGUEROA CANDIDO R &<br>7920 NW 67TH ST<br>MIAMI FL 33166 | 03-47-24-W1-05101.1240<br>22796 ISLAND PINES WAY<br>124 FORT MYERS BEACH<br>33931 | BAC-BAY HEALTH AND<br>RACQUET CLUB DESC OR2066<br>PG1150 BLDG 1 UNIT 124 | 32 |
| LEASK LEO & ANN<br>175 ANN MARIE<br>MONROE MI 48162 | 03-47-24-W1-05102.2110<br>22772 ISLAND PINES WAY<br>211 FORT MYERS BEACH<br>33931 | BAC-BAY HEALTH AND<br>RACQUET CLUB DESC OR2066<br>PG1150 BLDG 2 UNIT 211 | 33 |
| FIGUEROA CANDIDO &<br>7920 NW 67TH ST<br>MIAMI FL 33166 | 03-47-24-W1-05102.2120<br>22772 ISLAND PINES WAY<br>212 FORT MYERS BEACH<br>33931 | BAC-BAY HEALTH AND<br>RACQUET CLUB DESC OR2066<br>PG1150 BLDG 2 UNIT 212 | 33 |
| ZVANOVEC ROBERT & DEBORAH<br>10456 169TH ST<br>LAKEVILLE MN 55044 | 03-47-24-W1-05102.2130<br>22772 ISLAND PINES WAY<br>213 FORT MYERS BEACH<br>33931 | BAC-BAY HEALTH AND<br>RACQUET CLUB DESC OR2066<br>PG1150 BLDG 2 UNIT 213 | 33 |
| ANDERSON LEWIS L +<br>695 E WESTERN RESERVE RD<br>TROTTERS CHASE # 504<br>POLAND OH 44514 | 03-47-24-W1-05102.2140<br>22772 ISLAND PINES WAY<br>214 FORT MYERS BEACH<br>33931 | BAC-BAY HEALTH AND<br>RACQUET CLUB DESC OR2066<br>PG1150 BLDG 2 UNIT 214 | 33 |
| MIDAAS PROPERTIES LLC<br>5930 WATERVILLE MONCLOVA RD<br>WATERVILLE OH 43566 | 03-47-24-W1-05102.2210<br>22772 ISLAND PINES WAY<br>221 FORT MYERS BEACH<br>33931 | BAC-BAY HEALTH AND<br>RACQUET CLUB DESC OR2066<br>PG1150 BLDG 2 UNIT 221 | 33 |
| SINATRA RYAN T & PATRICIA J<br>5307 ELM DR<br>LEWISTON NY 14092 | 03-47-24-W1-05102.2220<br>22772 ISLAND PINES WAY<br>222 FORT MYERS BEACH<br>33931 | BAC-BAY HEALTH AND<br>RACQUET CLUB DESC OR2066<br>PG1150 BLDG 2 UNIT 222 | 33 |
| GONZALEZ ANN M TR<br>502 N FINDLAY RD<br>HASKINS OH 43525 | 03-47-24-W1-05102.2230<br>22772 ISLAND PINES WAY<br>223 FORT MYERS BEACH<br>33931 | BAC-BAY HEALTH AND<br>RACQUET CLUB DESC OR2066<br>PG1150 BLDG 2 UNIT 223 | 33 |

| | | | |
|---|---|---|---|
| SQUIRES JOSEPH JOHN &<br>12458 HICKORY AVE<br>GREENE IA 50636 | 03-47-24-W1-05102.2240<br>22772 ISLAND PINES WAY<br>224 FORT MYERS BEACH<br>33931 | BAC-BAY HEALTH AND<br>RACQUET CLUB DESC OR2066<br>PG1150 BLDG 2 UNIT 224 | 33 |
| CROFTS WILLIAM T +<br>1308 N AUDUBON RD<br>INDIANAPOLIS IN 46219 | 03-47-24-W1-05500.1110<br>6897 ESTERO BLVD<br>111 FORT MYERS BEACH<br>33931 | ESTERO COVE PH V UNIT 111<br>OR 1765 PG 2993 | 34 |
| DEGRYSE ROBERT P & MARIA A<br>3940 LEEWARD PASSAGE CT #103<br>BONITA SPRINGS FL 34134 | 03-47-24-W1-05500.1120<br>6897 ESTERO BLVD<br>112 FORT MYERS BEACH<br>33931 | ESTERO COVE PH V UNIT 112<br>OR 1765 PG 2993 | 34 |
| STERLING MARYANN<br>6897 ESTERO BLVD #113<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-05500.1130<br>6897 ESTERO BLVD<br>113 FORT MYERS BEACH<br>33931 | ESTERO COVE PH V UNIT 113<br>OR 1765 PG 2993 | 34 |
| SHEETS DENNIS D<br>43 GETTYSBURG<br>COATESVILLE IN 46121 | 03-47-24-W1-05500.1140<br>6897 ESTERO BLVD<br>114 FORT MYERS BEACH<br>33931 | ESTERO COVE PH V UNIT 114<br>OR 1765 PG 2993 | 34 |
| MCNICHOLS DANIEL A +<br>4908 N MERRIMACK AV<br>CHICAGO IL 60630 | 03-47-24-W1-05500.1150<br>6897 ESTERO BLVD<br>115 FORT MYERS BEACH<br>33931 | ESTERO COVE PH V UNIT 115<br>OR 1765 PG 2993 | 34 |
| NIXON DOUGLAS E TR<br>1524 CARLSON DR<br>GARDNERVILLE NV 89410 | 03-47-24-W1-05500.1160<br>6897 ESTERO BLVD<br>116 FORT MYERS BEACH<br>33931 | ESTERO COVE PH V UNIT 116<br>OR 1765 PG 2993 | 34 |
| RAO FORTUNATO +<br>60 GLEN LONG AV<br>TORONTO ON M6B 2M2 CANADA | 03-47-24-W1-05500.1210<br>6897 ESTERO BLVD<br>121 FORT MYERS BEACH<br>33931 | ESTERO COVE PH V UNIT 121<br>OR 1765 PG 2993 | 34 |
| MILLER CHARLES E + GINA L+<br>191 E MAIN ST<br>BATAVIA OH 45103 | 03-47-24-W1-05500.1220<br>6897 ESTERO BLVD<br>122 FORT MYERS BEACH<br>33931 | ESTERO COVE PH V UNIT 122<br>OR 1765 PG 2993 | 34 |
| LISCIO LEONARDO<br>46 FORESTER CRES<br>MARKHAM ON L6C 1W2 CANADA | 03-47-24-W1-05500.1230<br>6897 ESTERO BLVD<br>123 FORT MYERS BEACH<br>33931 | ESTERO COVE PH V UNIT 123<br>OR 1765 PG 2993 | 34 |
| GROSSO TONY +<br>46 FORESTER CRES<br>MARKHAM ON L6C 1W2 CANADA | 03-47-24-W1-05500.1240<br>6897 ESTERO BLVD<br>124 FORT MYERS BEACH<br>33931 | ESTERO COVE PH V UNIT 124<br>OR 1765 PG 2993 | 34 |
| SCHMEICHEL DONALD & GLORIA<br>781 VIMY RD<br>WINNIPEG MB R2Y 0T4 CANADA | 03-47-24-W1-05500.1250<br>6897 ESTERO BLVD<br>125 FORT MYERS BEACH<br>33931 | ESTERO COVE PH V UNIT 125<br>OR 1765 PG 2993 | 34 |

| | | | |
|---|---|---|---|
| WHITE ROGER C L/E<br>6897 ESTERO BLVD #126<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-05500.1260<br>6897 ESTERO BLVD<br>126 FORT MYERS BEACH<br>33931 | ESTERO COVE PH V UNIT 126<br>OR 1765 PG 2993 | 34 |
| COLLINS DENNIS F +<br>10401 MENARD AVE APT 109<br>OAK LAWN IL 60453 | 03-47-24-W1-05500.1310<br>6897 ESTERO BLVD<br>131 FORT MYERS BEACH<br>33931 | ESTERO COVE PH V UNIT 131<br>OR 1765 PG 2993 | 34 |
| PARSONS RICARDO &<br>6586 HYPOLUXO RD UNIT 184<br>LAKE WORTH FL 33467 | 03-47-24-W1-05500.1320<br>6897 ESTERO BLVD<br>132 FORT MYERS BEACH<br>33931 | ESTERO COVE PH V UNIT 132<br>OR 1765 PG 2993 | 34 |
| KREIGEL HAZEL J TR<br>2034 OLMSTEAD DR<br>WOODSTOCK IL 60098 | 03-47-24-W1-05500.1330<br>6897 ESTERO BLVD<br>133 FORT MYERS BEACH<br>33931 | ESTERO COVE PH V UNIT 133<br>OR 1765 PG 2993 | 34 |
| GREEN LINDA<br>6897 ESTERO BLVD<br>UNIT 134<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-05500.1340<br>6897 ESTERO BLVD<br>134 FORT MYERS BEACH<br>33931 | ESTERO COVE PH V UNIT 134<br>OR 1765 PG 2993 | 34 |
| MILLER HARRY R & DAWN<br>19861 COUNTY RD 272<br>MEMPHIS MO 63555 | 03-47-24-W1-05500.1350<br>6897 ESTERO BLVD<br>135 FORT MYERS BEACH<br>33931 | ESTERO COVE PH V UNIT 135<br>OR 1765 PG 2993 | 34 |
| COSTELLO KEVIN M &<br>461 EAST ST<br>WESTWOOD MA 2090 | 03-47-24-W1-05500.1360<br>6897 ESTERO BLVD<br>136 FORT MYERS BEACH<br>33931 | ESTERO COVE PH V UNIT 136<br>OR 1765 PG 2993 | 34 |
| LALIMA KAECKER ROSALIE TR<br>1313 42ND ST<br>BROOKLYN NY 11219 | 03-47-24-W1-05500.1410<br>6897 ESTERO BLVD<br>141 FORT MYERS BEACH<br>33931 | ESTERO COVE PH V UNIT 141<br>OR 1765 PG 2993 | 34 |
| BULA JAMES & NANCY LEE<br>15 PERCHERON RD<br>MANALAPAN NJ 7726 | 03-47-24-W1-05500.1420<br>6897 ESTERO BLVD<br>142 FORT MYERS BEACH<br>33931 | ESTERO COVE PH V UNIT 142<br>OR 1765 PG 2993 | 34 |
| EVANS NEIL & JENNIFER<br>11434 SOUTH SAWYER<br>CHICAGO IL 60655 | 03-47-24-W1-05500.1430<br>6897 ESTERO BLVD<br>143 FORT MYERS BEACH<br>33931 | ESTERO COVE PH V UNIT 143<br>OR 1765 PG 2993 | 34 |
| TANGNEY BERNARD P TR<br>6897 ESTERO BLVD #144<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-05500.1440<br>6897 ESTERO BLVD<br>144 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH V UNIT 144 | 34 |
| JOHNSON STEVEN L + BEVERLY J<br>1510 HABERSHAM GATE DR<br>CUMMING GA 30041 | 03-47-24-W1-05500.1450<br>6897 ESTERO BLVD<br>145 FORT MYERS BEACH<br>33931 | ESTERO COVE PH V UNIT 145<br>OR 1765 PG 2993 | 34 |

| | | | |
|---|---|---|---|
| POLLOCK PAMELA +<br>6897 ESTERO BLVD #146<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-05500.1460<br>6897 ESTERO BLVD<br>146 FORT MYERS BEACH<br>33931 | ESTERO COVE PH V UNIT 146<br>OR 1765 PG 2993 | 34 |
| PALL JANINE M TR<br>42578 N ADDISON LN<br>ANTIOCH IL 60002 | 03-47-24-W1-05500.1510<br>6897 ESTERO BLVD<br>151 FORT MYERS BEACH<br>33931 | ESTERO COVE PH V UNIT 151<br>OR 1765 PG 2993 | 34 |
| ALVAREZ HERMAN & CLARA<br>13 COBB CT<br>HUNTINGTON NY 11743 | 03-47-24-W1-05500.1520<br>6897 ESTERO BLVD<br>152 FORT MYERS BEACH<br>33931 | ESTERO COVE PH V UNIT 152<br>OR 1765 PG 2993 | 34 |
| ZOCOLO LORI A<br>1617 MAPLE ROAD<br>CLEVELAND OH 44121 | 03-47-24-W1-05500.1530<br>6897 ESTERO BLVD<br>153 FORT MYERS BEACH<br>33931 | ESTERO COVE PH V UNIT 153<br>OR 1765 PG 2993 | 34 |
| CROFTS WILLIAM T +<br>1308 N AUDUBON RD<br>INDIANAPOLIS IN 46219 | 03-47-24-W1-05500.1540<br>6897 ESTERO BLVD<br>154 FORT MYERS BEACH<br>33931 | ESTERO COVE PH V UNIT 154<br>OR 1765 PG 2993 | 34 |
| SLACK JERALD D TR<br>6897 ESTERO BLVD #155<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-05500.1550<br>6897 ESTERO BLVD<br>155 FORT MYERS BEACH<br>33931 | ESTERO COVE PH V UNIT 155<br>OR 1765 PG 2993 | 34 |
| ALLEN TERRY W & JULIE M<br>6897 ESTERO BLVD #156<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-05500.1560<br>6897 ESTERO BLVD<br>156 FORT MYERS BEACH<br>33931 | ESTERO COVE PH V UNIT 156<br>OR 1765 PG 2993 | 34 |
| RAHRIG RANDALL L TR<br>8926 SW 85TH LOOP<br>OCALA FL 34481 | 03-47-24-W1-05500.1610<br>6897 ESTERO BLVD<br>161 FORT MYERS BEACH<br>33931 | ESTERO COVE PH V UNIT 161<br>OR 1765 PG 2993 | 34 |
| COSTELLO JOHN F +<br>6897 ESTERO BLVD #162<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-05500.1620<br>6897 ESTERO BLVD<br>162 FORT MYERS BEACH<br>33931 | ESTERO COVE PH V UNIT 162<br>OR 1765 PG 2993 | 34 |
| DAVID ANDERSON TRUST +<br>41787 N LOTUS AVE<br>ANTIOCH IL 60002 | 03-47-24-W1-05500.1630<br>6897 ESTERO BLVD<br>163 FORT MYERS BEACH<br>33931 | ESTERO COVE PH V UNIT 163<br>OR 1765 PG 2993 | 34 |
| MACDONNELL FREDERICK M TR<br>85 ACADEMY ST<br>BRAINTREE MA 2184 | 03-47-24-W1-05500.1640<br>6897 ESTERO BLVD<br>164 FORT MYERS BEACH<br>33931 | ESTERO COVE PH V UNIT 164<br>OR 1765 PG 2993 | 34 |
| DITROIA RAYMOND & NANCY +<br>8 OLIVER ST<br>SALEM MA 1970 | 03-47-24-W1-05500.1650<br>6897 ESTERO BLVD<br>165 FORT MYERS BEACH<br>33931 | ESTERO COVE PH V UNIT 165<br>OR 1765 PG 2993 | 34 |

| | | | |
|---|---|---|---|
| YZAGUIRRE CYNTHIA O<br>PO BOX 5307<br>IMMOKALEE FL 34143 | 03-47-24-W1-05500.1660<br>6897 ESTERO BLVD<br>166 FORT MYERS BEACH<br>33931 | ESTERO COVE PH V UNIT 166<br>OR 1765 PG 2993 | 34 |
| TIMOTHY M FARRELL TRUST +<br>2813 STONEY CREEK DR<br>ELGIN IL 60124 | 03-47-24-W1-05500.2110<br>6899 ESTERO BLVD<br>211 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2293<br>UNIT 211 | 35 |
| DUCKSTEIN GEORGE M & LORI L<br>707 LARUEL ST<br>CLEWISTON FL 33440 | 03-47-24-W1-05500.2120<br>6899 ESTERO BLVD<br>212 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>UNIT 212 | 35 |
| PIETKIEWICZ CATHLEEN HURLEY &<br>6899 ESTERO BLVD #213<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-05500.2130<br>6899 ESTERO BLVD<br>213 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>UNIT 213 | 35 |
| PETERSON PAUL C &<br>6899 ESTERO BLVD # 214<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-05500.2140<br>6899 ESTERO BLVD<br>214 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>UNIT 214 | 35 |
| OREILLY PATRICK & CONSTANCE<br>10527 S AVERS AVE<br>CHICAGO IL 60655 | 03-47-24-W1-05500.2150<br>6899 ESTERO BLVD<br>215 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>UNIT 215 | 35 |
| SCHABERT MICHAEL<br>20409 S HUNTER DR<br>FRANKFORT IL 60423 | 03-47-24-W1-05500.2160<br>6899 ESTERO BLVD<br>216 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>UNIT 216 | 35 |
| RICCI VINCENT III &<br>1 DIXWELL RD<br>NEW CITY NY 10956 | 03-47-24-W1-05500.2210<br>6899 ESTERO BLVD<br>221 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>UNIT 221 | 35 |
| DAVID E BICKES TRUST +<br>PO BOX 300975<br>WATERFORD MI 48330 | 03-47-24-W1-05500.2220<br>6899 ESTERO BLVD<br>222 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>UNIT 222 | 35 |
| RIZZO GUY A<br>2627 MOUNTAINCREST AVE<br>NIAGARA FALLS ON L2J 4H8 CANADA | 03-47-24-W1-05500.2230<br>6899 ESTERO BLVD<br>223 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>UNIT 223 | 35 |
| LEFORT BRIAN TR<br>60 HOFFMAN RD<br>ELLINGTON CT 6029 | 03-47-24-W1-05500.2240<br>6899 ESTERO BLVD<br>224 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>UNIT 224 | 35 |
| CAREL VIRGINIA A<br>12165 JASON AVE<br>HASTINGS MN 55033 | 03-47-24-W1-05500.2250<br>6899 ESTERO BLVD<br>225 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>UNIT 225 | 35 |

| | | | |
|---|---|---|---|
| BARLOW PATRICK & SANDRA<br>2992 MARCEL ST<br>OTTAWA ON K1V 8H7 CANADA | 03-47-24-W1-05500.2260<br>6899 ESTERO BLVD<br>226 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>UNIT 226 | 35 |
| DEMICK RICHARD L & DEBORAH<br>3308 COVENTRY CT<br>JOLIET IL 60431 | 03-47-24-W1-05500.2310<br>6899 ESTERO BLVD<br>231 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>UNIT 231 | 35 |
| CHANG LORA G<br>6899 ESTERO BLVD #232<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-05500.2320<br>6899 ESTERO BLVD<br>232 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>UNIT 232 | 35 |
| COSTA GILBERT W TR<br>162B PETTEY LANE<br>WESTPORT MA 2790 | 03-47-24-W1-05500.2330<br>6899 ESTERO BLVD<br>233 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>UNIT 233 | 35 |
| CASWELL MARK S & LESLIE J<br>6212 RIVER POINTE DR<br>LOUISVILLE KY 40258 | 03-47-24-W1-05500.2340<br>6899 ESTERO BLVD<br>234 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>UNIT 234 | 35 |
| LAGROW WALTER L &<br>3956 WATERSTONE WAY<br>SPRINGFIELD IL 62711 | 03-47-24-W1-05500.2350<br>6899 ESTERO BLVD<br>235 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>UNIT 235 | 35 |
| ENSKAT ELIZABETH TR<br>6899 ESTERO BLVD #236<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-05500.2360<br>6899 ESTERO BLVD<br>236 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>UNIT 236 | 35 |
| VINSON GEORGE S L/E<br>5570 NORTH SHORE DR<br>CLARKLAKE MI 49234 | 03-47-24-W1-05500.2410<br>6899 ESTERO BLVD<br>241 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>UNIT 241 | 35 |
| ALVES NORMAN A & NATALIE<br>6899 ESTERO BLVD #242<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-05500.2420<br>6899 ESTERO BLVD<br>242 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>UNIT 242 | 35 |
| BURNETT ROBERT & ALICE<br>52 S 1ST ST<br>SURF CITY NJ 8008 | 03-47-24-W1-05500.2430<br>6899 ESTERO BLVD<br>243 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>UNIT 243 | 35 |
| DAVID JOHN GARNEY TRUST +<br>2S151 KENT RD<br>GLEN ELLYN IL 60137 | 03-47-24-W1-05500.2440<br>6899 ESTERO BLVD<br>244 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>UNIT 244 | 35 |
| HARRIS CHARLES M & PAULA D<br>2525 CRYSTAL DR<br>JOLIET IL 60435 | 03-47-24-W1-05500.2450<br>6899 ESTERO BLVD<br>245 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>UNIT 245 | 35 |

| | | | |
|---|---|---|---|
| GUIDO VINCENTN A +<br>1 ASHLEY TER<br>MALVERNE NY 11565 | 03-47-24-W1-05500.2460<br>6899 ESTERO BLVD<br>246 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>UNIT 246 | 35 |
| GOSE MANFRED +<br>50 NEBO RD<br>HAMILTON ON L8W 2E3 CANADA | 03-47-24-W1-05500.2510<br>6899 ESTERO BLVD<br>251 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>UNIT 251 | 35 |
| DEMPSEY DAVID J &<br>6899 ESTERO BLVD #252<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-05500.2520<br>6899 ESTERO BLVD<br>252 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>UNIT 252 | 35 |
| MAHONEY JAMES TIMOTHY &<br>243 WETZEL HOLLOW LN<br>MAURERTOWN VA 22644 | 03-47-24-W1-05500.2530<br>6899 ESTERO BLVD<br>253 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>UNIT 253 | 35 |
| SURICK FRANK MICHAEL &<br>6899 ESTERO BLVD #254<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-05500.2540<br>6899 ESTERO BLVD<br>254 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>UNIT 254 | 35 |
| RANOUS JAMES S & BARBARA A<br>3 WEST DRIVE<br>BALLSTON LAKE NY 12019 | 03-47-24-W1-05500.2550<br>6899 ESTERO BLVD<br>255 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>UNIT 255 | 35 |
| VENTRONE MARTIN J & KAREN L TR<br>219 WOODRIDGE DR<br>CRANBERRY TOWNSHIP PA 16066 | 03-47-24-W1-05500.2560<br>6899 ESTERO BLVD<br>256 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>UNIT 256 | 35 |
| ALDERTON JUDITH A +<br>6899 ESTERO BLVD #261<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-05500.2610<br>6899 ESTERO BLVD<br>261 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>UNIT 261 | 35 |
| KINGSBURY WALLACE G &<br>6899 ESTERO BLVD #262<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-05500.2620<br>6899 ESTERO BLVD<br>262 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>UNIT 262 | 35 |
| PRENTIS STEPHEN J & JOANN<br>229 M ST<br>SOUTH BOSTON MA 2127 | 03-47-24-W1-05500.2630<br>6899 ESTERO BLVD<br>263 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>UNIT 263 | 35 |
| WILLIAM JAMES GROUP LLC<br>12027 IVA ST<br>GRETNA NE 68028 | 03-47-24-W1-05500.2640<br>6899 ESTERO BLVD<br>264 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>UNIT 264 | 35 |
| SALLO ANTHONY A +<br>309 W SAWISSVALE AVE<br>PITTSBURGH PA 15218 | 03-47-24-W1-05500.2650<br>6899 ESTERO BLVD<br>265 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>UNIT 265 | 35 |

| | | | |
|---|---|---|---|
| KRUK VOLODYMYR &<br>406 VAUGHN CIR<br>AURORA IL 60502 | 03-47-24-W1-05500.2660<br>6899 ESTERO BLVD<br>266 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>UNIT 266 | 35 |
| WILLIAMS ROBERT L & DIANE<br>866 TULIP LN<br>NAPERVILLE IL 60540 | 03-47-24-W1-05500.4110<br>6893 ESTERO BLVD<br>411 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-II UNIT 411 | 36 |
| STEPHANY CHARLES & RUTH<br>60 TETON CT<br>LAFAYETTE IN 47905 | 03-47-24-W1-05500.4120<br>6893 ESTERO BLVD<br>412 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-II UNIT 412 | 36 |
| ENGLEHARDT WILLIAM +<br>21 GRAHAM AVE<br>WAYNE NJ 7470 | 03-47-24-W1-05500.4130<br>6893 ESTERO BLVD<br>413 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-II UNIT 413 | 36 |
| TAVE DENNIS & LINDA Y TR<br>81 KENNARD RD<br>MAHOPAC NY 10541 | 03-47-24-W1-05500.4140<br>6893 ESTERO BLVD<br>414 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-II UNIT 414 | 36 |
| RENNA ANTHONY & SHARON A<br>6893 ESTERO BLVD #415<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-05500.4150<br>6893 ESTERO BLVD<br>415 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-II UNIT 415 | 36 |
| INTERRANTE SAM I<br>6893 ESTERO BLVD UNIT 416<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-05500.4160<br>6893 ESTERO BLVD<br>416 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-II UNIT 416 | 36 |
| DARIN GENE V<br>6893 ESTERO BLVD # 421<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-05500.4210<br>6893 ESTERO BLVD<br>421 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-II UNIT 421 | 36 |
| PIETRUS TINA M +<br>6893 ESTERO BLVD #422<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-05500.4220<br>6893 ESTERO BLVD<br>422 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-II UNIT 422 | 36 |
| WOLF THOMAS H & DEBORAH L<br>N4863 COUNTY ROAD F<br>BONDUEL WI 54107 | 03-47-24-W1-05500.4230<br>6893 ESTERO BLVD<br>423 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-II UNIT 423 | 36 |
| BOSMAN JOHANNA C +<br>544 MENZCEL CRESCENT<br>NEWMARKET ON L3X 2P2 CANADA | 03-47-24-W1-05500.4240<br>6893 ESTERO BLVD<br>424 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-II UNIT 424 | 36 |
| DAVIS SHAWN R & CHRYSTAL<br>9675 EL CAMINO LN<br>PLAIN CITY OH 43064 | 03-47-24-W1-05500.4250<br>6893 ESTERO BLVD<br>425 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-II UNIT 425 | 36 |

| | | | |
|---|---|---|---|
| WHITTY THOMAS A & WENDY R<br>14 TRUMAN DR<br>NORTH EASTON MA 2356 | 03-47-24-W1-05500.4260<br>6893 ESTERO BLVD<br>426 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-II UNIT 426 | 36 |
| HANNA TIMOTHY R & JOY C TR<br>13679 WILDFLOWER WAY NE<br>PRIOR LAKE MN 55372 | 03-47-24-W1-05500.4310<br>6893 ESTERO BLVD<br>431 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-II UNIT 431 | 36 |
| REYNOLDS ROBERT K TR<br>2600 SONNINGTON DR<br>DUBLIN OH 43016 | 03-47-24-W1-05500.4320<br>6893 ESTERO BLVD<br>432 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-II UNIT 432 | 36 |
| BARLOW HARRY +<br>1118 STOKES DR<br>CORNWALL ON K6J 5J5 CANADA | 03-47-24-W1-05500.4330<br>6893 ESTERO BLVD<br>433 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-II UNIT 433 | 36 |
| RIZZO GUY<br>2627 MOUNTAINCREST AVE<br>NIAGARA FALLS ON L2J 4H8 CANADA | 03-47-24-W1-05500.4340<br>6893 ESTERO BLVD<br>434 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-II UNIT 434 | 36 |
| ROMAINE JOHN R TR<br>346 PROSPECT AVE<br>DUMONT NJ 7628 | 03-47-24-W1-05500.4350<br>6893 ESTERO BLVD<br>435 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-II UNIT 435 | 36 |
| MALATESTINIC NICHOLAS<br>245 E 87TH ST APT 15F<br>NEW YORK NY 10128 | 03-47-24-W1-05500.4360<br>6893 ESTERO BLVD<br>436 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-II UNIT 436 | 36 |
| HURLEY THOMAS F II<br>16 BRENRIDGE DR<br>EAST AMHERST NY 14051 | 03-47-24-W1-05500.4410<br>6893 ESTERO BLVD<br>441 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-II UNIT 441 | 36 |
| BROCK MARINA L +<br>87 CALWELL DR<br>PORT PERRY ON L9L 1T7 CANADA | 03-47-24-W1-05500.4420<br>6893 ESTERO BLVD<br>442 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-II UNIT 442 | 36 |
| PINTO ARLANDO & ZULMIRA<br>59 BLOSSOM DR<br>TOMS RIVER NJ 8753 | 03-47-24-W1-05500.4430<br>6893 ESTERO BLVD<br>443 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-II UNIT 443 | 36 |
| WERNER CARL R + CYNTHIA K WERNER<br>2116 HARBORVIEW BLVD<br>LORAIN OH 44052 | 03-47-24-W1-05500.4440<br>6893 ESTERO BLVD<br>444 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-II UNIT 444 | 36 |
| KENNEDY JOHN A & CARRIE M<br>6946 GARNER RD<br>NIAGARA FALLS ON L2E 6S5 CANADA | 03-47-24-W1-05500.4450<br>6893 ESTERO BLVD<br>445 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-II UNIT 445 | 36 |

| | | | |
|---|---|---|---|
| SCHULTZ JOHN G SR &<br>12872 S BRIAN PL<br>PALOS PARK IL 60464 | 03-47-24-W1-05500.4460<br>6893 ESTERO BLVD<br>446 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-II UNIT 446 | 36 |
| SCHULTZ JOHN G SR TR<br>12872 S BRIAN PL<br>PALOS PARK IL 60464 | 03-47-24-W1-05500.4510<br>6893 ESTERO BLVD<br>451 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-II UNIT 451 | 36 |
| HAWKE JON D & KRISTINE S<br>905 KIEFFER ST<br>WOOSTER OH 44691 | 03-47-24-W1-05500.4520<br>6893 ESTERO BLVD<br>452 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-II UNIT 452 | 36 |
| MARTIN KAREN M & JOSEPH T<br>8601 MORRIS RD<br>HILLIARD OH 43026 | 03-47-24-W1-05500.4530<br>6893 ESTERO BLVD<br>453 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-II UNIT 453 | 36 |
| CECCARELLI GLORIA +<br>2958 WILSON LN<br>GLENVIEW IL 60026 | 03-47-24-W1-05500.4540<br>6893 ESTERO BLVD<br>454 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-II UNIT 454 | 36 |
| HURLEY THOMAS F II<br>16 BRENRIDGE DR<br>EAST AMHERST NY 14051 | 03-47-24-W1-05500.4550<br>6893 ESTERO BLVD<br>455 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-II UNIT 455 | 36 |
| BOLE GARRY L & CHERYL E<br>8180 RIVER BAY DR E<br>INDIANAPOLIS IN 46240 | 03-47-24-W1-05500.4560<br>6893 ESTERO BLVD<br>456 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-II UNIT 456 | 36 |
| DUBICKI DIANNE M<br>3759 BENNETT ST<br>DEARBORN MI 48124 | 03-47-24-W1-05500.4610<br>6893 ESTERO BLVD<br>461 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-II UNIT 461 | 36 |
| STEIER SANDRA J TR #532 AT LEXINGTON SQUARE<br>400 W BUTTERFIELD RD<br>ELMHURST IL 60126 | 03-47-24-W1-05500.4620<br>6893 ESTERO BLVD<br>462 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-II UNIT 462 | 36 |
| SHAFFER JAMES L TR<br>6893 ESTERO BLVD #463<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-05500.4630<br>6893 ESTERO BLVD<br>463 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-II UNIT 463 | 36 |
| MICCO ROBERT C<br>399 BARTZ RD<br>VALPARAISO IN 46383 | 03-47-24-W1-05500.4640<br>6893 ESTERO BLVD<br>464 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-II UNIT 464 | 36 |
| MUNIZ EDUARDO &<br>10265 SW 93RD TER<br>MIAMI FL 33176 | 03-47-24-W1-05500.4650<br>6893 ESTERO BLVD<br>465 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-II UNIT 465 | 36 |

| | | | |
|---|---|---|---|
| SPIESS GWEN NADINE TR<br>4606 LAKESHORE ROAD<br>FORT GRATIOT MI 48059 | 03-47-24-W1-05500.4660<br>6893 ESTERO BLVD<br>466 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-II UNIT 466 | 36 |
| ARNDT MICHAEL J & DENISE C<br>3385 GRANDVIEW CT<br>SHELBY TWP MI 48316 | 03-47-24-W1-05500.5110<br>6895 ESTERO BLVD<br>511 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-III UNIT 511 | 37 |
| NICOTRA JOSEPH & NANCY E TR<br>6895 ESTERO BLVD #512<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-05500.5120<br>6895 ESTERO BLVD<br>512 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-III UNIT 512 | 37 |
| LALIMA KAECKER ROSALIE TR<br>1313 42ND ST<br>BROOKLYN NY 11219 | 03-47-24-W1-05500.5130<br>6895 ESTERO BLVD<br>513 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-III UNIT 513 | 37 |
| SCHULTZ KEITH & BRENDA +<br>1703 WAMPLERS LAKE RD<br>BROOKLYN MI 49230 | 03-47-24-W1-05500.5140<br>6895 ESTERO BLVD<br>514 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-III UNIT 514 | 37 |
| BRIER KENNETH LEO TR<br>14870 CURB BIT LANE<br>COLORADO SPRINGS CO 80921 | 03-47-24-W1-05500.5150<br>6895 ESTERO BLVD<br>515 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-III UNIT 515 | 37 |
| DALZIEL SANDRA F<br>6895 ESTERO BLVD<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-05500.5160<br>6895 ESTERO BLVD<br>516 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1756 PG 2993<br>PH-III UNIT 516 | 37 |
| DONNIE M SNOW TRUST +<br>2980 SNOW RD<br>BURLINGTON KY 41005 | 03-47-24-W1-05500.5210<br>6895 ESTERO BLVD<br>521 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-III UNIT 521 | 37 |
| PETERSON DEAN K & SANDRA L<br>6895 ESTERO BLVD #522<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-05500.5220<br>6895 ESTERO BLVD<br>522 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-III UNIT 522 | 37 |
| FABER STEVEN GLEN &<br>N10436 WATER ST RD<br>LOMIRA WI 53048 | 03-47-24-W1-05500.5230<br>6895 ESTERO BLVD<br>523 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-III UNIT 523 | 37 |
| BARBARA J SNOW TRUST +<br>2980 SNOW RD<br>BURLINGTON KY 41005 | 03-47-24-W1-05500.5240<br>6895 ESTERO BLVD<br>524 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-III UNIT 524 | 37 |
| LOWNEY MARK P SR +<br>66 CONVERSE RD<br>MARION MA 2738 | 03-47-24-W1-05500.5250<br>6895 ESTERO BLVD<br>525 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-III UNIT 525 | 37 |

| | | | |
|---|---|---|---|
| REXHEPI REXHEP & ZIFE +<br>1347 JAMESWAY<br>FORT ATKINSON WI 53538 | 03-47-24-W1-05500.5260<br>6895 ESTERO BLVD<br>526 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-III UNIT 526 | 37 |
| MASCARO PETER & LAURA TR<br>7019 JOANN CIR<br>NIAGARA FALLS NY 14304 | 03-47-24-W1-05500.5310<br>6895 ESTERO BLVD<br>531 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-III UNIT 531 | 37 |
| WIERTEL JAMES MARK &<br>3012 BEAVER DAM DR<br>MONROE NC 28110 | 03-47-24-W1-05500.5320<br>6895 ESTERO BLVD<br>532 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-III UNIT 532 | 37 |
| KNICKLE JAMES G & ELLEN A<br>6895 ESTERO BLVD # 533<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-05500.5330<br>6895 ESTERO BLVD<br>533 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-III UNIT 533 | 37 |
| KARAGEORGIS ATHANASIOS KONSTAN<br>801 FOREST PINE CT<br>SENECA SC 29672 | 03-47-24-W1-05500.5340<br>6895 ESTERO BLVD<br>534 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-III UNIT 534 | 37 |
| KAECKER R J &<br>6895 ESTERO BLVD #535<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-05500.5350<br>6895 ESTERO BLVD<br>535 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-III UNIT 535 | 37 |
| POLKA JOHN J JR & JULIE A<br>6920 SUNNYDALE DR<br>NIAGARA FALLS NY 14304 | 03-47-24-W1-05500.5360<br>6895 ESTERO BLVD<br>536 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-III UNIT 536 | 37 |
| SILVA ROY & SUSAN<br>24 BRAYTON RD<br>SMITHFIELD RI 2917 | 03-47-24-W1-05500.5410<br>6895 ESTERO BLVD<br>541 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-III UNIT 541 | 37 |
| HERMAN KATHLEEN A L/E<br>550 HALL RD<br>ELMA NY 14059 | 03-47-24-W1-05500.5420<br>6895 ESTERO BLVD<br>542 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-III UNIT 542 | 37 |
| BRUCKNER KATHERINE<br>6895 ESTERO BLVD #543<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-05500.5430<br>6895 ESTERO BLVD<br>543 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-III UNIT 543 | 37 |
| BOOKMAN SUSAN J +<br>51 COOSEBERRY HILL<br>WETHERSFIELD CT 6109 | 03-47-24-W1-05500.5440<br>6895 ESTERO BLVD<br>544 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-III UNIT 544 | 37 |
| HARTER JOHANN TR JOHN F HARTER<br>8345 W MADISON CT<br>NILES IL 60714 | 03-47-24-W1-05500.5450<br>6895 ESTERO BLVD<br>545 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-III UNIT 545 | 37 |

| | | | |
|---|---|---|---|
| GRIFFIN DANIEL J &<br>3914 W 102ND PL<br>CHICAGO IL 60655 | 03-47-24-W1-05500.5460<br>6895 ESTERO BLVD<br>546 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-III UNIT 546 | 37 |
| ALEXANDER ANNILE R & JEAN M<br>58 CLAIRE DR<br>BRIDGEWATER NJ 8807 | 03-47-24-W1-05500.5510<br>6895 ESTERO BLVD<br>551 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-III UNIT 551 | 37 |
| PEDERSEN LINDA M +<br>PO BOX 99543<br>SEATTLE WA 98139 | 03-47-24-W1-05500.5520<br>6895 ESTERO BLVD<br>552 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-III UNIT 552 | 37 |
| GRICUS ROBERT W & KAREN L TR<br>5746 S MAYFIELD AVE<br>CHICAGO IL 60638 | 03-47-24-W1-05500.5530<br>6895 ESTERO BLVD<br>553 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-III UNIT 553 | 37 |
| O'FARRELL MARGARET E TR<br>6895 ESTERO BLVD #554<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-05500.5540<br>6895 ESTERO BLVD<br>554 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-III UNIT 554 | 37 |
| OBERMEIER MAUREEN<br>209 N LOUISIANA AVE<br>MICHIGAN CITY IN 46360 | 03-47-24-W1-05500.5550<br>6895 ESTERO BLVD<br>555 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-III UNIT 555 | 37 |
| BERTHOLET KELLY<br>2801 BERTHOLET BLVD STE 101<br>VALPARAISO IN 46383 | 03-47-24-W1-05500.5560<br>6895 ESTERO BLVD<br>556 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-III UNIT 556 | 37 |
| BARTOLUCCI MASSIMO & INA L/E<br>43581 NAVES CT<br>CLINTON TWP MI 48038 | 03-47-24-W1-05500.5610<br>6895 ESTERO BLVD<br>561 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-III UNIT 561 | 37 |
| BOBAY ANDREW V &<br>7879 SUDELEY CT<br>WESTERVILLE OH 43081 | 03-47-24-W1-05500.5620<br>6895 ESTERO BLVD<br>562 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-III UNIT 562 | 37 |
| BISIGNANO DOMINIC J +<br>6895 ESTERO BLVD #563<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-05500.5630<br>6895 ESTERO BLVD<br>563 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-III UNIT 563 | 37 |
| REXHEPI BURIM<br>1347 JAMESWAY<br>FORT ATKINSON WI 53538 | 03-47-24-W1-05500.5640<br>6895 ESTERO BLVD<br>564 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-III UNIT 564 | 37 |
| LUERS BERND-RUDIGER &<br>8621 77TH AVE<br>GLENDALE NY 11385 | 03-47-24-W1-05500.5650<br>6895 ESTERO BLVD<br>565 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-III UNIT 565 | 37 |

| | | | |
|---|---|---|---|
| PUFFER TOM & BARBARA W TR<br>6895 ESTERO BLVD # 566<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-05500.5660<br>6895 ESTERO BLVD<br>566 FORT MYERS BEACH<br>33931 | ESTERO COVE OR 1765 PG 2993<br>PH-III UNIT 566 | 37 |
| TOMLANOVICH MICHAEL +<br>575 S WATER ST<br>MARINE CITY MI 48039 | 03-47-24-W1-06800.1010<br>6661 ESTERO BLVD<br>101 FORT MYERS BEACH<br>33931 | CAPTAINS BAY NORTH CONDO<br>ONE OR 2526 PG 2635 UNIT<br>101 | 38 |
| MCGRAVEY VINCENT J TR<br>13 MT AIRY CT<br>ORCHARD PARK NY 14127 | 03-47-24-W1-06800.1020<br>6661 ESTERO BLVD<br>102 FORT MYERS BEACH<br>33931 | CAPTAINS BAY NORTH CONDO<br>ONE OR 2526 PG 2635 UNIT<br>102 | 38 |
| LEONARD RHONDA LS +<br>3387 WATER ST<br>MUSCATINE IA 52761 | 03-47-24-W1-06800.1030<br>6661 ESTERO BLVD<br>103 FORT MYERS BEACH<br>33931 | CAPTAINS BAY NORTH CONDO<br>ONE OR 2526 PG 2635 UNIT<br>103 | 38 |
| SCHAFER TANN R &<br>1739 WARMINGTON CT<br>BALLWIN MO 63021 | 03-47-24-W1-06901.1010<br>22748 ISLAND PINES WAY<br>101 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR 2576 PG 1724 PHASE<br>III BLDG 1 UNIT 101 | 39 |
| LALIME JANE E TR<br>4 EDINBURGH DR<br>NASHUA NH 3062 | 03-47-24-W1-06901.1020<br>22748 ISLAND PINES WAY<br>102 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR 2576 PG 1724 PHASE<br>III BLDG 1 UNIT 102 | 39 |
| MUSTONE ANTONIO L &<br>1 WINTERBERRY LN N<br>NORTH READING MA 1864 | 03-47-24-W1-06901.1030<br>22748 ISLAND PINES WAY<br>103 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR 2576 PG 1724 PHASE<br>III BLDG 1 UNIT 103 | 39 |
| STANKOV GEORGE S &<br>56434 SHOREBROOK CT<br>UTICA MI 48316 | 03-47-24-W1-06901.2010<br>22748 ISLAND PINES WAY<br>201 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR 2576 PG 1724 PHASE<br>III BLDG 1 UNIT 201 | 39 |
| HAWLEY KEVIN & AIMEE<br>2371 BLUESTONE DR<br>FINDLAY OH 45840 | 03-47-24-W1-06901.2020<br>22748 ISLAND PINES WAY<br>202 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR 2576 PG 1724 PHASE<br>III BLDG 1 UNIT 202 | 39 |
| MADALENO CONRAD G &<br>9780 ALHAMBRA LN<br>BONITA SPRINGS FL 34135 | 03-47-24-W1-06901.2030<br>22748 ISLAND PINES WAY<br>203 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR 2576 PG 1724 PHASE<br>III BLDG 1 UNIT 203 | 39 |
| PRYZBEK MICHAEL JOSEPH<br>RR3 10 FIRELANE 2A<br>NIAGARA ON THE LAKE ON L0Z 1J0<br>CANADA | 03-47-24-W1-06901.3010<br>22748 ISLAND PINES WAY<br>301 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR 2576 PG 1724 PHASE<br>III BLDG 1 UNIT 301 | 39 |
| WRIGHT DONALD E + GAYLE M<br>1324 S SHORE DR<br>ERIE PA 16505 | 03-47-24-W1-06901.3020<br>22748 ISLAND PINES WAY<br>302 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR 2576 PG 1724 PHASE<br>III BLDG 1 UNIT 302 | 39 |

| | | | |
|---|---|---|---|
| OCONNOR JANE & JOSEPH<br>5415 PARKSIDE<br>LANSING MI 48917 | 03-47-24-W1-06901.3030<br>22748 ISLAND PINES WAY<br>303 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR 2576 PG 1724 PHASE<br>III BLDG 1 UNIT 303 | 39 |
| VERDIGLIONE ROBERT J +<br>21457 SHERIDAN RUN<br>ESTERO FL 33928 | 03-47-24-W1-06901.4010<br>22748 ISLAND PINES WAY<br>401 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR 2576 PG 1724 PHASE<br>III BLDG 1 UNIT 401 | 39 |
| CRNJAK DANIEL THOMAS TR<br>10734 S MAPLEWOOD AVE<br>CHICAGO IL 60655 | 03-47-24-W1-06901.4020<br>22748 ISLAND PINES WAY<br>402 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR 2576 PG 1724 PHASE<br>III BLDG 1 UNIT 402 | 39 |
| PLOWCHA CAROLE R +<br>22748 ISLAND PINES WAY #403<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-06901.4030<br>22748 ISLAND PINES WAY<br>403 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR 2576 PG 1724 PHASE<br>III BLDG 1 UNIT 403 | 39 |
| SCHWEIZER EBERHARD TR<br>1099 PROSPECT AV<br>MOUNTAINSIDE NJ 7092 | 03-47-24-W1-06901.5010<br>22748 ISLAND PINES WAY<br>501 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR 2576 PG 1724 PHASE<br>III BLDG 1 UNIT 501 | 39 |
| WAGNER KARL H +<br>32 HILLSIDE AVE<br>FLORHAM PARK NJ 7932 | 03-47-24-W1-06901.5020<br>22748 ISLAND PINES WAY<br>502 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR 2576 PG 1724 PHASE<br>III BLDG 1 UNIT 502 | 39 |
| TOMPOROWSKI SANDRA A TR<br>22748 ISLAND PINES WAY #503<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-06901.5030<br>22748 ISLAND PINES WAY<br>503 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR 2576 PG 1724 PHASE<br>III BLDG 1 UNIT 503 | 39 |
| PICKERT JOHN A & MARGARET A TR<br>3800 W 109TH PL<br>CHICAGO IL 60655 | 03-47-24-W1-06902.1010<br>22736 ISLAND PINES WAY<br>101 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR 2576 PG 1724 PH III-B<br>BLDG 2 UNIT 101 | 40 |
| SPRING ANDREW J & BERNICE A<br>22736 ISLAND PINES WAY #102<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-06902.1020<br>22736 ISLAND PINES WAY<br>102 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR 2576 PG 1724 PH III-B<br>BLDG 2 UNIT 102 | 40 |
| WOOD PAUL C & JUDITH A<br>11 WATERSIDE PL<br>PITTSBURGH PA 15222 | 03-47-24-W1-06902.1030<br>22736 ISLAND PINES WAY<br>103 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR 2576 PG 1724 PH III-B<br>BLDG 2 UNIT 103 | 40 |
| LEOTTA ROSARIO +<br>22736 ISLAND PINES WAY #201<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-06902.2010<br>22736 ISLAND PINES WAY<br>201 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR 2576 PG 1724 PH III-B<br>BLDG 2 UNIT 201 | 40 |
| PENSA FRANK +<br>6 NOBLE CT<br>LONG VALLEY NJ 7853 | 03-47-24-W1-06902.2020<br>22736 ISLAND PINES WAY<br>202 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR 2576 PG 1724 PH III-B<br>BLDG 2 UNIT 202 | 40 |

| | | | |
|---|---|---|---|
| PERISIN JAMES J & KIMBERLY<br>22160 CLARY SAGE DR<br>FRANKFORT IL 60423 | 03-47-24-W1-06902.2030<br>22736 ISLAND PINES WAY<br>203 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR 2576 PG 1724 PH III-B<br>BLDG 2 UNIT 203 | 40 |
| MCALLISTER THOMAS D<br>3752 CROFTON CT<br>FORT MYERS FL 33916 | 03-47-24-W1-06902.3010<br>22736 ISLAND PINES WAY<br>301 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR 2576 PG 1724 PH III-B<br>BLDG 2 UNIT 301 | 40 |
| KELLER JILL B<br>308 CHIP SHOT COVE<br>OWENSBORO KY 42303 | 03-47-24-W1-06902.3020<br>22736 ISLAND PINES WAY<br>302 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR 2576 PG 1724 PH III-B<br>BLDG 2 UNIT 302 | 40 |
| HOBBS BEVERLY P TR<br>1310 OAK PARK RD<br>COUNCIL BLUFFS IA 51503 | 03-47-24-W1-06902.3030<br>22736 ISLAND PINES WAY<br>303 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR 2576 PG 1724 PH III-B<br>BLDG 2 UNIT 303 | 40 |
| MURPHY KEVIN J & MARGARET M<br>5450 W 108TH PL<br>OAK LAWN IL 60453 | 03-47-24-W1-06902.4010<br>22736 ISLAND PINES WAY<br>401 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR 2576 PG 1724 PH III-B<br>BLDG 2 UNIT 401 | 40 |
| CIRCELLI S MIKE +<br>14 UPLANDS DR<br>LONDON ON N5X 3V6 CANADA | 03-47-24-W1-06902.4020<br>22736 ISLAND PINES WAY<br>402 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR 2576 PG 1724 PH III-B<br>BLDG 2 UNIT 402 | 40 |
| STOKES KARLEY R<br>6895 ESTERO BLVD<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-06902.4030<br>22736 ISLAND PINES WAY<br>403 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR 2576 PG 1724 PH III-B<br>BLDG 2 UNIT 403 | 40 |
| DUGAN DANIEL F JR TR<br>22736 ISLAND PINES WAY #501<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-06902.5010<br>22736 ISLAND PINES WAY<br>501 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR 2576 PG 1724 PH III-B<br>BLDG 2 UNIT 501 | 40 |
| CIRCELLI SALVATORE & ANNA +<br>14 UPLANDS DR<br>LONDON ON N5X 3V6 CANADA | 03-47-24-W1-06902.5020<br>22736 ISLAND PINES WAY<br>502 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR 2576 PG 1724 PH III-B<br>BLDG 2 UNIT 502 | 40 |
| LUGINBUHL JOANN<br>5 BENJAMIN DR<br>ELLINGTON CT 6029 | 03-47-24-W1-06902.5030<br>22736 ISLAND PINES WAY<br>503 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR 2576 PG 1724 PH III-B<br>BLDG 2 UNIT 503 | 40 |
| PARKER PETER LAWRENCE<br>25 JOYCE BLVD<br>STOUFFVILLE ON L4A 4N4 CANADA | 03-47-24-W1-06903.1010<br>22700 ISLAND PINES WAY<br>101 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR BK 2576 PG 1724 PH III-<br>C BLDG 3 UNIT 101 | 41 |
| CHURCHILL PROPERTY SERVICES NEIL<br>HASTIE + KEELY HASTIE<br>8711 BELLE MEADE DRIVE<br>FORT MYERS FL 33908 | 03-47-24-W1-06903.1020<br>22700 ISLAND PINES WAY<br>102 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR BK 2576 PG 1724 PH III-<br>C BLDG 3 UNIT 102 | 41 |

| | | | |
|---|---|---|---|
| 22604 ISLAND PINE WAY LLC<br>12913 ARBOR CT<br>PALOS PARK IL 60464 | 03-47-24-W1-06903.1030<br>22700 ISLAND PINES WAY<br>103 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR BK 2576 PG 1724 PH III-<br>C BLDG 3 UNIT 103 | 41 |
| KAZIK JOHN S TR<br>19 EASTINGS WAY<br>BARRINGTON IL 60010 | 03-47-24-W1-06903.2010<br>22700 ISLAND PINES WAY<br>201 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR BK 2576 PG 1724 PH III-<br>C BLDG 3 UNIT 201 | 41 |
| MICHAEL GIOIA TRUST<br>22700 ISLAND PINES WAY #202<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-06903.2020<br>22700 ISLAND PINES WAY<br>202 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR BK 2576 PG 1724 PH III-<br>C BLDG 3 UNIT 202 | 41 |
| MARTZ JUDY<br>2327 FLAGSTONE DR<br>FLUSHING MI 48433 | 03-47-24-W1-06903.2030<br>22700 ISLAND PINES WAY<br>203 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR BK 2576 PG 1724 PH III-<br>C BLDG 3 UNIT 203 | 41 |
| TARDUCCI MARNA M<br>39000 COUNTRY CLUB DR<br>FARMINGTON HILLS MI 48331 | 03-47-24-W1-06903.3010<br>22700 ISLAND PINES WAY<br>301 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR BK 2576 PG 1724 PH III-<br>C BLDG 3 UNIT 301 | 41 |
| HOOT PAULINE V TR<br>6811 WHITEFIELD ST<br>DEARBORN HEIGHTS MI 48127 | 03-47-24-W1-06903.3020<br>22700 ISLAND PINES WAY<br>302 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR BK 2576 PG 1724 PH III-<br>C BLDG 3 UNIT 302 | 41 |
| SAUDER DANNY L TR<br>3028 STATE ROUTE 430<br>MANSFIELD OH 44903 | 03-47-24-W1-06903.3030<br>22700 ISLAND PINES WAY<br>303 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR BK 2576 PG 1724 PH III-<br>C BLDG 3 UNIT 303 | 41 |
| MCANDREWS ELEANOR R<br>3603 MCROBERTS RD # 202<br>PITTSBURGH PA 15234 | 03-47-24-W1-06903.4010<br>22700 ISLAND PINES WAY<br>401 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR BK 2576 PG 1724 PH III-<br>C BLDG 3 UNIT 401 | 41 |
| MCMULLEN LINDA J TR<br>8081 CAMPBELL AVE<br>HALE MI 48739 | 03-47-24-W1-06903.4020<br>22700 ISLAND PINES WAY<br>402 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR BK 2576 PG 1724 PH III-<br>C BLDG 3 UNIT 402 | 41 |
| KOPP KEVIN T & SUSAN J<br>252 OAK KNOLL DR<br>CHIPPEWA FALLS WI 54729 | 03-47-24-W1-06903.4030<br>22700 ISLAND PINES WAY<br>403 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR BK 2576 PG 1724 PH III-<br>C BLDG 3 UNIT 403 | 41 |
| OHERN DIANE J TR<br>22700 ISLAND PINES WAY #501<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-06903.5010<br>22700 ISLAND PINES WAY<br>501 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR BK 2576 PG 1724 PH III-<br>C BLDG 3 UNIT 501 | 41 |
| SICILIANO LOUIS E & BETTINA TR<br>824 BRYANT AVE<br>NEW HYDE PARK NY 11040 | 03-47-24-W1-06903.5020<br>22700 ISLAND PINES WAY<br>502 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR BK 2576 PG 1724 PH III-<br>C BLDG 3 UNIT 502 | 41 |

| | | | |
|---|---|---|---|
| PETERNEL JACOB R +<br>3345 WOODWIND DR<br>JEFFERSON HILLS PA 15025 | 03-47-24-W1-06903.5030<br>22700 ISLAND PINES WAY<br>503 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR BK 2576 PG 1724 PH III-<br>C BLDG 3 UNIT 503 | 41 |
| BISHOP NANCY L L/E<br>6300 TALLMADGE RD<br>ROOTSTOWN OH 44272 | 03-47-24-W1-06904.0101<br>22724 ISLAND PINES WAY<br>101 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR 2576 PG 1724 BLDG 4<br>UNIT 101 | 42 |
| SMACIARZ DAVID J & GINA M<br>22724 ISLAND PINES WAY<br>#102 FORT<br>MYERS BEACH FL 33931 | 03-47-24-W1-06904.0102<br>22724 ISLAND PINES WAY<br>102 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR 2576 PG 1724 BLDG 4<br>UNIT 102 | 42 |
| HAJDUK FRANCOIS &<br>52 COUNTRY SQUIRE RD<br>PALOS HEIGHTS IL 60463 | 03-47-24-W1-06904.0103<br>22724 ISLAND PINES WAY<br>103 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR 2576 PG 1724 BLDG 4<br>UNIT 103 | 42 |
| NIKSIC JEREMY & KATHLEEN<br>9750 S CENTRAL PARK<br>EVERGREEN PARK IL 60805 | 03-47-24-W1-06904.0201<br>22724 ISLAND PINES WAY<br>201 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR 2576 PG 1724 BLDG 4<br>UNIT 201 | 42 |
| MADDEN FRANK E & JEANETTE A<br>90 TIMBERLINE DR<br>LEMONT IL 60439 | 03-47-24-W1-06904.0202<br>22724 ISLAND PINES WAY<br>202 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR 2576 PG 1724 BLDG 4<br>UNIT 202 | 42 |
| FULKERSON KIMBERLY S<br>6579 EAST HARROLD RD<br>CHURUBUSCO IN 46723 | 03-47-24-W1-06904.0203<br>22724 ISLAND PINES WAY<br>203 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR 2576 PG 1724 BLDG 4<br>UNIT 203 | 42 |
| O'ROURKE MICHAEL F TR<br>15 WILLOW DR<br>CHARLESTON MO 63834 | 03-47-24-W1-06904.0301<br>22724 ISLAND PINES WAY<br>301 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR 2576 PG 1724 BLDG 4<br>UNIT 301 | 42 |
| JULIANO ALBERT G & ANGELA C<br>1805 SLITTING MILL RD<br>GLEN MILLS PA 19342 | 03-47-24-W1-06904.0302<br>22724 ISLAND PINES WAY<br>302 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR 2576 PG 1724 BLDG 4<br>UNIT 302 | 42 |
| FAHRNER LEE M & MARY H<br>11664 LOMBARDY COURT<br>PINCKNEY MI 48169 | 03-47-24-W1-06904.0303<br>22724 ISLAND PINES WAY<br>303 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR 2576 PG 1724 BLDG 4<br>UNIT 303 | 42 |
| HOLMES SHAWN R & LAURA E<br>4 CALLENDER RD<br>ROAMING SHORES OH 44085 | 03-47-24-W1-06904.0401<br>22724 ISLAND PINES WAY<br>401 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR 2576 PG 1724 BLDG 4<br>UNIT 401 | 42 |
| SHEARER NANCY L TR<br>3604 TUDOR DR<br>BUTLER PA 16001 | 03-47-24-W1-06904.0402<br>22724 ISLAND PINES WAY<br>402 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR 2576 PG 1724 BLDG 4<br>UNIT 402 | 42 |

| | | | |
|---|---|---|---|
| BEECHAM ROBERT J & LINDA R<br>PO BOX 563<br>TREMONT IL 61568 | 03-47-24-W1-06904.0403<br>22724 ISLAND PINES WAY<br>403 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR 2576 PG 1724 BLDG 4<br>UNIT 403 | 42 |
| MATH STEVEN P<br>3113 12TH AVE<br>MOLINE IL 61265 | 03-47-24-W1-06904.0501<br>22724 ISLAND PINES WAY<br>501 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR 2576 PG 1724 BLDG 4<br>UNIT 501 | 42 |
| EMERY STEPHEN F & JACKIE L<br>22724 ISLAND PINES WAY #502<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-06904.0502<br>22724 ISLAND PINES WAY<br>502 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR 2576 PG 1724 BLDG 4<br>UNIT 502 | 42 |
| URRUTIA DIEGO<br>13 SOUTHLAND DR<br>HILLSBOROUGH NJ 8844 | 03-47-24-W1-06904.0503<br>22724 ISLAND PINES WAY<br>503 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR 2576 PG 1724 BLDG 4<br>UNIT 503 | 42 |
| BAUER ERIN K TR<br>833 W 37TH ST<br>CHICAGO IL 60609 | 03-47-24-W1-06905.0101<br>22712 ISLAND PINES WAY<br>101 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR 2576 PG 1724 BLDG 5<br>UNIT 101 | 43 |
| CROSS RUBIA JUCIANE &<br>1119 STATE ROUTE 707<br>ROCKFORD OH 45882 | 03-47-24-W1-06905.0102<br>22712 ISLAND PINES WAY<br>102 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR 2576 PG 1724 BLDG 5<br>UNIT 102 | 43 |
| KERR THOMAS & DONNA +<br>17004 ODELL AVE<br>TINLEY PARK IL 60477 | 03-47-24-W1-06905.0103<br>22712 ISLAND PINES WAY<br>103 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR 2576 PG 1724 BLDG 5<br>UNIT 103 | 43 |
| WARBURTON ROBERT H & GAIL L<br>10 W FARMINGTON ST<br>FENWICK ISLAND DE 19944 | 03-47-24-W1-06905.0201<br>22712 ISLAND PINES WAY<br>201 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR 2576 PG 1724 BLDG 5<br>UNIT 201 | 43 |
| WALERY LOIS T TR<br>13350 S OAK HILLS PKWY<br>PALOS HEIGHTS IL 60463 | 03-47-24-W1-06905.0202<br>22712 ISLAND PINES WAY<br>202 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR 2576 PG 1724 BLDG 5<br>UNIT 202 | 43 |
| SPALLETTA MARY ROSE<br>22712 ISLAND PINES WAY # 203<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-06905.0203<br>22712 ISLAND PINES WAY<br>203 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR 2576 PG 1724 BLDG 5<br>UNIT 203 | 43 |
| POPONICK JANET M<br>601 DADE LN<br>RICHMOND HEIGHTS OH 44143 | 03-47-24-W1-06905.0301<br>22712 ISLAND PINES WAY<br>301 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR 2576 PG 1724 BLDG 5<br>UNIT 301 | 43 |
| ANTON BRIAN J & SHARON C<br>5630 GRIFFITH DR<br>BRIGHTON MI 48116 | 03-47-24-W1-06905.0302<br>22712 ISLAND PINES WAY<br>302 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR 2576 PG 1724 BLDG 5<br>UNIT 302 | 43 |

| | | | |
|---|---|---|---|
| JOHNSON KEITH E & CORINNA M<br>6050 LOCHMORE DR<br>COMMERCE TOWNSHIP MI 48382 | 03-47-24-W1-06905.0303<br>22712 ISLAND PINES WAY<br>303 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR 2576 PG 1724 BLDG 5<br>UNIT 303 | 43 |
| ROSLAN DALE R &<br>22712 ISLAND PINES WAY #401<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-06905.0401<br>22712 ISLAND PINES WAY<br>401 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR 2576 PG 1724 BLDG 5<br>UNIT 401 | 43 |
| GRAF GENE A & MARY J L/E<br>8220 MILL CREEK DRIVE<br>MADISON WI 53719 | 03-47-24-W1-06905.0402<br>22712 ISLAND PINES WAY<br>402 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR 2576 PG 1724 BLDG 5<br>UNIT 402 | 43 |
| CONNOR WILLIAM<br>22712 ISLAND PINES WAY #403<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-06905.0403<br>22712 ISLAND PINES WAY<br>403 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR 2576 PG 1724 BLDG 5<br>UNIT 403 | 43 |
| MPU SOUTHBOUND LLC<br>6750 S LOOMIS RD<br>DEWITT MI 48820 | 03-47-24-W1-06905.0501<br>22712 ISLAND PINES WAY<br>501 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR 2576 PG 1724 BLDG 5<br>UNIT 501 | 43 |
| MCGUIRE THOMAS F & KAREN M<br>22712 ISLAND PINES WAY #502<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-06905.0502<br>22712 ISLAND PINES WAY<br>502 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR 2576 PG 1724 BLDG 5<br>UNIT 502 | 43 |
| KNIGHTLY JAMES PATRICK TR<br>3720 W 111TH ST #403<br>CHICAGO IL 60655 | 03-47-24-W1-06905.0503<br>22712 ISLAND PINES WAY<br>503 FORT MYERS BEACH<br>33931 | CAPTAIN'S BAY SOUTH CONDO<br>DESC OR 2576 PG 1724 BLDG 5<br>UNIT 503 | 43 |
| RUTLEDGE RUTH &<br>712 S TOWAMENEIN AVE<br>LANSDALE PA 19446 | 03-47-24-W1-07300.1010<br>6691 ESTERO BLVD<br>101 FORT MYERS BEACH<br>33931 | CAPTAINS BAY NORTH TWO<br>CONDO OR2814/2503 +<br>OR2848/4124 UNIT 101 | 44 |
| WENDLANDT DAVID C &<br>29907 NORTH PARK CT<br>NEW BOSTON MI 48164 | 03-47-24-W1-07300.1020<br>6691 ESTERO BLVD<br>102 FORT MYERS BEACH<br>33931 | CAPTAINS BAY NORTH TWO<br>CONDO OR2814/2503 +<br>OR2848/4124 UNIT 102 | 44 |
| CHRISTOFOROU ANDREAS &<br>376 WHITNEY AVE<br>HAMILTON ON L8S 2H4 CANADA | 03-47-24-W1-07300.1030<br>6691 ESTERO BLVD<br>103 FORT MYERS BEACH<br>33931 | CAPTAINS BAY NORTH TWO<br>CONDO OR2814/2503 +<br>OR2848/4124 UNIT 103 | 44 |
| STEFANOWSKI RICK & POLA<br>5 KEW GARDENS<br>RICHMON HILL ON L4B 1R4 CANADA | 03-47-24-W1-07300.2010<br>6691 ESTERO BLVD<br>201 FORT MYERS BEACH<br>33931 | CAPTAINS BAY NORTH TWO<br>CONDO OR2814/2503<br>OR2848/4124 UNIT 201 | 44 |
| MCDERMOTT LAURA K +<br>PLASTICSLAAN 1<br>BERGEN OP ZOOM 4612 PX<br>NETHERLANDS | 03-47-24-W1-07300.2020<br>6691 ESTERO BLVD<br>202 FORT MYERS BEACH<br>33931 | CAPTAINS BAY NORTH TWO<br>CONDO OR2814/2503<br>OR2848/4124 UNIT 202 | 44 |

| | | | |
|---|---|---|---|
| SIMON JOHN C & LINDA<br>7911 REDONDO LN<br>ORLAND PARK IL 60462 | 03-47-24-W1-07300.2030<br>6691 ESTERO BLVD<br>203 FORT MYERS BEACH<br>33931 | CAPTAINS BAY NORTH TWO<br>CONDO OR2814/2503<br>OR2848/4124 UNIT 203 | 44 |
| BURKE NEIL & JAMIE<br>90 MAYFAIR RD<br>POUGHQUAG NY 12570 | 03-47-24-W1-07300.3010<br>6691 ESTERO BLVD<br>301 FORT MYERS BEACH<br>33931 | CAPTAINS BAY NORTH TWO<br>CONDO OR2814/2503<br>OR2848/4124 UNIT 301 | 44 |
| DENKHAUS DAVID G & DIANE L TR<br>7879 BRIGHTON RD<br>BRIGHTON MI 48116 | 03-47-24-W1-07300.3020<br>6691 ESTERO BLVD<br>302 FORT MYERS BEACH<br>33931 | CAPTAINS BAY NORTH TWO<br>CONDO OR2814/2503<br>OR2848/4124 UNIT 302 | 44 |
| COREA EDWARD V JR &<br>6691 ESTERO BLVD #303<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-07300.3030<br>6691 ESTERO BLVD<br>303 FORT MYERS BEACH<br>33931 | CAPTAINS BAY NORTH TWO<br>CONDO OR2814/2503<br>OR2848/4124 UNIT 303 | 44 |
| RYAN MICHAEL J TR<br>W11424 READ CEDAR DR<br>LODI WI 53555 | 03-47-24-W1-07300.4010<br>6691 ESTERO BLVD<br>401 FORT MYERS BEACH<br>33931 | CAPTAINS BAY NORTH TWO<br>CONDO OR2814/2503<br>OR2848/4124 UNIT 401 | 44 |
| HEALY MARILYN<br>45 S CANTERBURY RD<br>AURORA IL 60506 | 03-47-24-W1-07300.4020<br>6691 ESTERO BLVD<br>402 FORT MYERS BEACH<br>33931 | CAPTAINS BAY NORTH TWO<br>CONDO OR2814/2503<br>OR2848/4124 UNIT 402 | 44 |
| ROUSE FREDERICK F & ANN T<br>2380 W HILL DR<br>MADISON WI 53711 | 03-47-24-W1-07300.4030<br>6691 ESTERO BLVD<br>403 FORT MYERS BEACH<br>33931 | CAPTAINS BAY NORTH TWO<br>CONDO OR2814/2503<br>OR2848/4124 UNIT 403 | 44 |
| DENKHAUS DAVID G & DIANE L TR<br>7879 BRIGHTON RD<br>BRIGHTON MI 48116 | 03-47-24-W1-07300.5010<br>6691 ESTERO BLVD<br>501 FORT MYERS BEACH<br>33931 | CAPTAINS BAY NORTH TWO<br>CONDO OR2814/2503<br>OR2848/4124 UNIT 501 | 44 |
| WENDLANDT DAVID C &<br>29907 NORTH PARK CT<br>NEW BOSTON MI 48164 | 03-47-24-W1-07300.5020<br>6691 ESTERO BLVD<br>502 FORT MYERS BEACH<br>33931 | CAPTAINS BAY NORTH TWO<br>CONDO OR2814/2503<br>OR2848/4124 UNIT 502 | 44 |
| UNDHJEM KJETIL<br>295 HAMPTON ST UNIT 204<br>HAMPTON VIC 3188 AUSTRALIA | 03-47-24-W1-07300.5030<br>6691 ESTERO BLVD<br>503 FORT MYERS BEACH<br>33931 | CAPTAINS BAY NORTH TWO<br>CONDO OR2814/2503<br>OR2848/4124 UNIT 503 | 44 |

STATE OF FLORIDA
# LEE COUNTY PROPERTY APPRAISER

**Mailing Address:**
P.O. Box 1546
Fort Myers, Florida 33902-1546

**Physical Address:**
2480 Thompson Street
Fort Myers, Florida 33901-3074

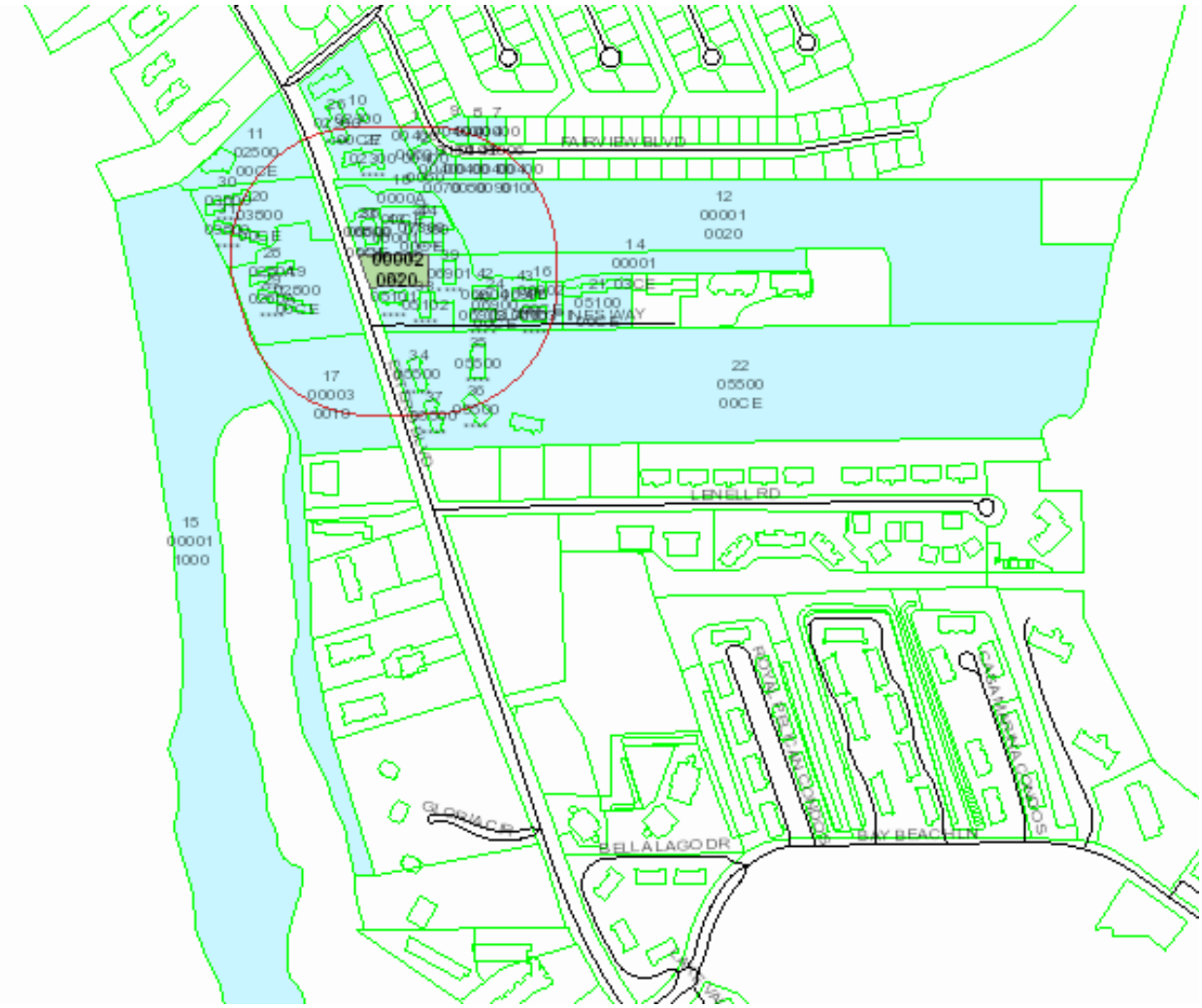
**Telephone:** (239) 533-6100 -- (866) 673-2868 (From anywhere in continental US/Canada/Florida except 239 area code)
**Facsimile:** (239) 533-6160 -- **Website:** www.leepa.org

## VARIANCE REPORT MAP

Date: 12/9/2022 12:00:00 AM
Buffer: 500
Affected: 495

**SUBJECT PARCEL:**

| OWNER NAME AND ADDRESS | STRAP & LOCATION | LEGAL DESCRIPTION |
|---|---|---|
| LEMOS UNLIMITED LLC<br>7205 ESTERO BLVD STE 702<br>FORT MYERS BEACH FL 33931 | 03-47-24-W1-00002.0020<br>6875 ESTERO BLVD<br>FORT MYERS BEACH 33931 | BEG ON E R/W LI SR 865 300 FT S OF NLY LI GOVT LOT 1 TH S ALG ELY R/W LI SD SR |



INSTR. # 2022000025567, Doc Type D, Pages 3, Recorded 1/24/2022 at 4:32 PM, Deputy Clerk ALUCKEY
Rec Fees: $27.00 Deed Doc: $11,900.00

Prepared by and return to:
**John D. Spear, Esq.**

**Henderson, Franklin, Starnes & Holt, P.A. (B)**
**3451 Bonita Bay Blvd. Suite 206**
**Bonita Springs, FL 34134**
**239-344-1100**
File Number: **JDS 39988-1**

[Space Above This Line For Recording Data]

# Warranty Deed

**This Warranty Deed** made this **21st** day of **January, 2022** between **Piyush Bhatnagar** whose post office address is **1675 Flowers Crossing Dr., Grand Rapids, MI 49525**, grantor, and **LEMOS UNLIMITED LLC, a Florida limited liability company** whose post office address is **7205 Estero Blvd., Suite 702, Fort Myers Beach, FL 33931**, grantee:

(Whenever used herein the terms "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives, and assigns of individuals, and the successors and assigns of corporations, trusts and trustees)

**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:

**Parcel 1:**
**A tract or parcel of land being a part of Government Lot 1, Section 3, Township 47 South, Range 24 East, Estero Island, Lee County, Florida and described as follows:**
**Beginning at a concrete monument in the Easterly right of way line of Estero Boulevard (80 feet wide) known as State Road 865, which point is 300.0 feet, measured at right angles, South of the North line of said Government Lot 1; thence run South 17 degrees 51' 30" East along said Easterly right of way line of Estero Boulevard for 120.00 feet; thence run East, parallel to the North line of said Government Lot 1 for 213.20 feet; thence North, at right angles for 114.22 feet; thence West parallel to and 300 feet, measured at right angles, South of the North line of said Government Lot 1 for a distance of 250.0 feet to the Point of Beginning.**
**AND**
**Parcel 2:**
**A tract or parcel of land being a part of Government Lot 1, Section 3, Township 47 South, Range 24 East, Estero Island, Lee County, Florida and described as follows:**
**Commencing at a concrete monument in the Easterly right of way line of Estero Boulevard (80 feet wide) known as State Road 865, which point is 300.0 feet, measured at right angles, South of the North line of said Government Lot 1; thence run South 17 degrees 51' 30" East along said Easterly right of way of Estero Boulevard for 120.0 feet to the Point of Beginning; thence continue South 17 degrees 51' 30" East 10.0 feet; thence run East, parallel to the North line of said Government Lot 1 for 210.13 feet; thence North at right angles for 9.52 feet; thence West 213.20 feet to the Point of Beginning.**
**AND**
**Parcel 3:**
**A tract or parcel of land being a part of Government Lot 1, Section 3, Township 47 South, Range 24 East, Estero Island, Lee County, Florida and described as follows:**
**Commencing at a concrete monument in the Easterly right of way line of Estero Boulevard (80 feet wide) known as State Road 865, which point is 300.0 feet, measured at right angles, South of the North line of said Government Lot 1; thence run East, parallel to and 300.0 feet South of the North line of said Government Lot 1 for 250.0 feet to a Point of Beginning; thence continue East 16.5 feet;**

**thence run South at right angles for 123.74 feet; thence run West at right angles for 16.5 feet; thence run North at right angles for 123.74 feet to the Point of Beginning.**

**Parcel Identification Number: 03-47-24-W1-00002.0020**

**Subject to taxes for 2022 and subsequent years; covenants, conditions, restrictions, easements, reservations and limitations of record, if any.**

**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 in Michigan.**

**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 hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes accruing subsequent to **December 31, 2021**.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.

**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:

Witness Name: Amanda Anderson

Witness Name: Alicia Hill

Piyush Bhatnagar (Seal)

State of Michigan
County of Kent

The foregoing instrument was acknowledged before me by means of [X] physical presence or [_] online notarization, this 18 day of January, 2022 by Piyush Bhatnagar, who [_] is personally known or [X] has produced a driver's license as identification.

[Notary Seal]

RYAN SHEFFER
Notary Public - State of Michigan
County of Kent
My Commission Expires Aug 28, 2022
Acting in the County of Kent

Notary Public

Printed Name: Ryan Sheffer

My Commission Expires: August 28, 2022

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2023-963**

1. **Requested Motion:**

**Meeting Date: March 6, 2023**

Resolution 23-22 entitled: A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/DENYING SPECIAL EXCEPTION SEZ20220103 TO ALLOW THE USE OF A SHARED DUNE WALKOVER AND BOARDWALK AT 8150 AND 8170 ESTERO BOULEVARD; AND APPROVING/DENYING VARIANCE VAR20220104 TO ALLOW A ONE FOOT VARIANCE FROM THE MAXIMUM WIDTH OF THE STRUCTURE;AND PROVIDING FOR AN EFFECTIVE DATE

**Why the action is necessary:**

Special Exception and Variance applications are required to be heard by the LPA and a recommendation provided to the Town Council. The meeting is a public hearing where the applicant, staff, and the public may present findings and information. The LPA made a recommendation for approval with conditions 6-1 on February 14, 2023.

**What the action accomplishes:**

The Town Council will decide approval, approval with conditions or denial based on information presented.

2. **Agenda:**
PUBLIC HEARINGS

3. **Requirement/Purpose:**
Resolution

4. **Submitter of Information:**

---

5. **Background:**

Texas Hold'em LLC and Squeeze Me Inn LLC have submitted an application for a Special Exception for a dune walkover and boardwalk within the EC zoning district; and an application for a variance from Section 34-652 f.2.c of the LDRs regarding the maximum width of proposed structures in the EC zoning district. The owner's properties are located at 8150 and 8170 Estero Boulevard.

An application for a Special Exception by the same applicants was denied by the Town Council in 2019. Town staff recommended denial of that request and the LPA forwarded a recommendation of approval to the Town Council. The applicants have submitted another application for Special Exception and a variance for the structure width on September 22, 2022.

Town staff have reviewed the joint application. The staff opinion is that the applicants have failed to provide sufficient information to determine if they are in compliance with the technical standards of the Town's LDC. Staff has also provided a review of the application materials relevant to the criteria outlined in LDC Sec. 34-88 - Special Exceptions and LDC Sec. 34-652 - Variances. In summary, the request is not consistent with the Town's LDC or relevant Comprehensive Plan policies. Additional details are provided in both the Staff Report and the Sufficiency/Review letter in the packet.

The LPA found that the request meets the criteria of LDC Sec 34-88 and is consistent with the LDC and Comprehensive Plan and recommended approval of the Special Exception for the dune walkover and boardwalk with conditions in a 6-1 vote. Those conditions were as follows:
1. Engage the neighbors for cross access easement(s) to provide access to the structure;
2. The applicant is to report to Town Council what the legal structure of that access or agreement will be;
3. Supplement documentation that was discussed with the LPA, including all environmental

permits and leases with the State; plans for the boardwalk; items presented for criteria compliance that were addressed verbally to be submitted in writing to supplement the record.

The LPA found that the Variance request of 1 foot, from maximum four feet to five feet, meets the criteria of LDC 34-87. The LPA recommended approval of the Variance 6-1.

**Attachments:**

1. 23-22, Resolution 23-22 re Texas Hold'em and Squeeze Me Inn Dune Walkover Special Exception.(143235627.1)-C
2. SEZ_20220103 VAR 20220104 Texas Holdem Squeeze Me Inn Dune Walkover_TC
3. 1-Application for public hearing - Shared Walkover 9-13-2022
4. 2 -PH-A Supplement Shared Dune Walkover 9-13-2022
5. 3- Variance Supplement PH-B 9-13-2022
6. Dunewalkover Special Excp and Variance presentation by applicant

**Financial Impact:**

N/A

6. **Alternative Action**

Approve/Deny/Approve with conditions

7. **Management Recommendations:**

8. **Recommended Approval:**

| | |
|---|---|
| Jason Green, Community Development Services | Created/Initiated - 2/28/2023 |
| Steve Poposki, Community Development Director | Approved - 2/28/2023 |
| John R Herin Jr, Town Attorney | Approved - 3/1/2023 |
| Amy Baker, Town Clerk | Approved - 3/1/2023 |
| Keith Wilkins , Interim Town Manager | Final Approval - 3/1/2023 |

**RESOLUTION NUMBER 23-22**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/DENYING SPECIAL EXCEPTION SEZ20220103 TO ALLOW THE USE OF A SHARED DUNE WALKOVER AND BOARDWALK AT 8150 AND 8170 ESTERO BOULEVARD; AND APPROVING/DENYING VARIANCE VAR20220104 TO ALLOW A ONE FOOT VARIANCE FROM THE MAXIMUM WIDTH OF THE STRUCTURE;AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal service, and exercise any power for municipal purposes, except when expressly prohibited by law; and

**WHEREAS**, Article X of the Town Charter of the Town of Fort Myers Beach empowers the Town to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

**WHEREAS**, applicant Texas Hold'em LLC and Squeeze Me Inn LLC is requesting a special exception for the use of a dune walkover and boardwalk in the EC zoning district; and a variance from: Sec. 34-652 f.2.c, to allow for a maximum width of five feet. and

**WHEREAS**, the STRAP number for the subject property is 03-47-24-W3-00300.0190 & 03-47-24-W3-00300.0200

**WHEREAS**, the Property is in the "Recreation" category of the Future Land Use Map of the Comprehensive Plan and the "Environmentally Critical" zoning district of the Official Zoning Map of the Town of Fort Myers Beach, Florida; and

**WHEREAS**, a public hearing on this matter was legally noticed and held before the Local Planning Agency (LPA) on February 14, 2023, and at said 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 Section 34-88 (Special Exception) and Section 34-87 (Variance) of the LDC. The LPA voted 6-1 to recommend approval with conditions of the special exception; and 6-1 to recommend approval of the variance; and

**WHEREAS**, on March 6, 2023, the Town Council held a duly noticed public hearing to fully consider the request of the Applicant, the recommendations of Town staff and the LPA, the documents in the record, and testimony of all interested persons as required by Section 34-88 and 34-87 of the LDC; and

**WHEREAS**, the Town Council determined it is in the best interest of the Town to approve/deny the request.

**NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AS FOLLOWS:**

Section 1. The above recitals are true, correct, incorporated herein by this reference, and adopted as the legislative and administrative findings of the Town Council.

Section 2. The Town Council determines the Applicant did/did not meet its burden of proof that the requested Special Exception and Variance do/do not meet the requirements of the Town Comprehensive Plan and LDC and approving/denying the Special Exception and Variance is in the best interest of the Town. Therefore, based upon the recommendations, testimony, and evidence presented by the Applicant, Town staff, and interested parties and public, the Town Council APPROVES/DENIES the Special Exception for the use of a shared dune walkover and boardwalk in the Environmentally Critical zoning district and a 1 foot Variance from Sec. 34-652 f.2.c to LDC to allow a maximum width of five feet of the shared dune walkover and boardwalk.

Section 3. In approving/denying the Special Exception, the Town Council makes the following findings and conclusions in accordance with the requirements of Section 34-88 of the LDC:

A. Changed or changing conditions which make approval/denial of the request appropriate.
B. The request is/is not consistent with the goals, objectives, policies, and intent of the Fort Myers Beach Comprehensive Plan.
C. The request meets/does not meet or exceeds all performance and locational standards for the proposed use.
D. The request will/will not protect, conserve, or preserve environmentally critical areas and natural resources.
E. The request will be compatible/incompatible with existing or planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.
F. The requested use will/will not be in compliance with the applicable general zoning provisions and supplemental regulations set forth in Chapter 34 of the Land Development Code.

In approving/denying the Variance, the Town Council makes the following findings and conclusions in accordance with the requirements of Section 34-87 of the LDC:

A. There are/are not 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 approval of the variance are/are not the result of actions of the Applicant taken after the adoption of the regulation in question.

C. The variance is/is not the minimum variance that will relieve the Applicant of an unreasonable burden caused by the application of the regulation to the Property.

D. The granting of the variance will/will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

E. The conditions or circumstances on the Property are/are not of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.

Section 4. If the Town Council approves the requested Special Exception, the following conditions of approval are imposed on the Applicant and the Property:

A. Approval of this Special Exception does not give the Applicant an undeniable right to permit approval. Development or redevelopment of the Property must comply with all applicable requirements of the Fort Myers Beach Comprehensive Plan and LDC in effect at the time of permit approval, except as specifically modified herein.

B. Engage the neighbors for cross access easement(s) to provide access to the structure.

C. The Applicant shall report to Town Council what the legal documentation of the access agreement or easement will be.

D. Supplement documentation that was discussed with the LPA, including all environmental permits and leases with the State; plans for the boardwalk; items presented for criteria compliance that were addressed verbally to be submitted in writing to supplement the record.

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

| | |
|---|---|
| Dan Allers, Mayor | ___ |
| Jim Atterholt, Vice Mayor | ___ |
| John R. King | ___ |
| Bill Veach | ___ |
| Karen Woodson | ___ |

ADOPTED this 6th day of March 2023 by the Town Council of the Town of Fort Myers Beach, Florida.

**FORT MYERS BEACH TOWN COUNCIL**

_____

Dan Allers, Mayor

143235627.1

**ATTEST:**

_____
Amy Baker, Town Clerk

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:**

_____
John R. Herin, Jr., Town Attorney

This Resolution was filed in the Office of the Town Clerk on this ___ day of March 2023.

# Town of Fort Myers Beach

## COMMUNITY DEVELOPMENT DEPARTMENT
## STAFF REPORT

| | |
|---|---|
| **TYPE OF CASE:** | **Special Exception and Variance** |
| **CASE NUMBER:** | **SEZ—Special Exception, 20220103 VAR 20220104** |
| **CASE NAME:** | **8150 and 8170 Estero Boulevard** |
| **LPA HEARING DATE:** | **February 14, 2023 at 9:00 AM** |
| **TOWN COUNCIL HEARING DATE:** | **March 6, 2023 at 9:00 AM** |
| **STAFF:** | **Denial** |
| **LPA RECOMMENDATION:** | **Approval with conditions (SEZ) and approval (VAR)** |
| **PREPARED/ SUBMITTED BY:** | **Jason Green AICP, CFM** |

## I. APPLICATION SUMMARY

| | |
|---|---|
| Applicant/Owner: | Texas Hold'em LLC and Squeeze Me Inn, LLC |
| Request: | The applicant is requesting Special Exception to construct a dune walkover and boardwalk within the EC Zoning District. The application also includes a request for a 1 foot variance from 34-652 f.2.c to allow a five feet instead of four feet dune walkover width. |
| Physical Address: | 8150 and 8170 Estero Boulevard |
| STRAP #: | 03-47-24-W3-00300.0190 & 03-47-24-W3-00300.0200 |
| FLU: | Recreation |
| Zoning: | Environmentally Critical |

Adjacent zoning and land uses:

| | |
|---|---|
| North: | Estero Boulevard, RS (Single-family) zoning; Low Density FLUM; Single-family dwellings |
| South: | Critical Wildlife Area; Lagoon; Gulf of Mexico/Beach |
| East: | Residential Single-family (RS) zoning; Low Density and Environmentally Critical FLUM; Single-family dwellings |
| West: | Residential Single-family (RS) zoning; Low Density and Environmentally Critical FLUM; Single-family dwellings |

## II. BACKGROUND AND ANALYSIS

The subject property is located at the southern end of the island, near the intersection of Estero Boulevard and Tarpon Road. The applicant(s) have requested approval of a dune walkover with associated boardwalk within the Environmentally Critical (EC) zoning district. The proposed location of the boardwalk will connect to two single-family lots within the RS zoning district. The applicants are requesting to share access to the boardwalk and dune walkover between 8150 and 8170 Estero Boulevard. A portion of the proposed structures run along shared property lines towards the Gulf of Mexico. The proposed structure turns in a southeastern direction approximately halfway from the terminus of the proposed project. The proposed length is not clear, and dimensions of the proposed structure weren't provided on the applicants' submitted site plan. The end of the dune walkover ends prior to the area labeled on the applicants' plan as dune and sand (it shows the dune walkover ending in an area of buttonwood mangroves)

The application has provided a survey dated 2017, a preliminary site plan showing only the layout of what is labeled as a dune walkover and boardwalk; and narrative supplementing the applications for the special exception and variance request. The applicant has also included the FDEP Consolidated Final Order that found the proposed structure will not adversely impact public health, safety, or welfare. However, those findings are not based on the Town's Special Exception criteria and evaluation process, which the FDEP Consolidated Final Order states the applicant must comply with.

The applicant provided additional data and images through a presentation to the LPA on February 14, 2023. The LPA voted to recommend approval with conditions in a 6-1 vote based on the additional information and data provided at the meeting.

Special Exception Use

The LDC Chapter 34 defines the term special exception use as follows:

> *Use, special exception means a use or certain specified departures from the regulations of this chapter that may not be appropriate generally or without*

*restriction throughout a zoning district, but which, when controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, welfare, order, comfort, convenience, appearance, or prosperity, and may be permitted, in accordance with all applicable regulations.*

The language used in the definition of a Special Exception is a critical component to the LPA and Town Council's consideration of this application, and any other special exception application. The applicant has stated their opinion that the proposed use and structure(s) complies with the Comprehensive Plan and Land Development Code policies and regulations, respectively; and therefore, should be approved. The definition provided in the LDC goes beyond a check list of policies and regulations or technical standards to be met. In staff's opinion it directs the Town to consider the overall impact and promotion of health, safety, and welfare of the general public. The definition clearly states the purpose of the special exception process is to determine if "controlled as to number, area, location, or relation to the neighborhood." If a request promotes these elements, then it may be permitted in accordance with all applicable regulations. However, compliance with the technical regulations in of itself does not confirm compliance with the purpose and intent of the definition elements mentioned above.

A similar application for the same use at the same properties was considered by the Town Council in 2019. During that review, staff recommended denial based on the application materials presented for review. The Town Council determined that the proposed use and structure were not consistent with the Town's Land Development Code and Comprehensive Plan. This current application was submitted September 22nd, 2022, and has been reviewed for sufficiency and compliance with the Land Development Code and Comprehensive Plan.

The applicant states the purpose of the request is to protect the existing dune system while providing access to the beach and gulf from their private property. They provide statements that Mr. Rood is a disabled person by definition of the American Disabilities Act and has difficulties walking and requires mobility and assistance devices including cane, sit-down power scooter, Segway, and wheelchair for access to the public beach.

The applicant's narrative further explains that the dune walkover will be designed to comply with the Town's regulations and "eliminate any impacts to the surrounding natural resources and prevent any negative impacts to the surrounding properties and residents." The applicant has provided responses to each of the Town's LDC Sec. 34-88, items 1-9.

Staff has provided responses to each of those items also, based on our review of the Town's LDC, Comprehensive Plan, in the public record, and the materials submitted by the applicant. Those responses can be found below in the Findings and Conclusions section of this staff report. In summary, the applicant has not provided sufficient or relevant documentation to address the Town's criteria. The application fails to

provide details, specifics, or recent data that helps understand what is proposed and how it may or may not have an impact to the public and community. A copy of the sufficiency and review letter has been provided as part of this public hearing packet. Additionally, the applicant has selected a few policies from the Comprehensive Plan and misapplied or misstated their intent. More detail is provided below.

During the LPA hearing on February 14, 2023, the LPA voted 6-1 that the application and request were consistent with the following findings and conclusions from LDC Sec. 34-88.

Findings and Conclusions:

LDC Sec. 34-88 sets forth the required findings and conclusions for the approval of a special exception:

1. *Whether there exist changed or changing condition which make approval of the request appropriate*

The applicant's narrative attempts to identify two justifications, (1) the proposed dune walkover as a necessary use due to the accretion along the shoreline; and (2) the LDC allows dune walkovers so they should be permitted to have one. Both assumptions are incorrect. The first assumption, based on accretion, is why the Special Exception process exists. The intent is to evaluate location, type of construction, environmental and community features that may support or not support the location of a use and structure(s). The simple occurrence of accretion doesn't support the approval of a Special Exception. If anything, the amount, nature, and type of accretion are important factors in deciding placement of a dune walkover or any other structure. Substantial accretion may very well be the reason not to locate a structure in a certain location. The applicant has not provided sufficient documentation of recent changes to the shoreline and subject properties since 2017 and post Ian. Secondly, the assumption that the LDC (and Comprehensive Plan) speak to encouraging dune walkovers is removed from context. The LDC and Comprehensive Plan identify due walkovers to protect dune systems. The applicant states "homeowners currently traverse this dune system on foot with some difficulty." However, since the proposed structure(s) is for private use between two property owners, the difficult conditions to traverse will remain in place for adjacent property owners. This proposal does not address or resolve that issue; therefore, and does not set forth a comprehensive strategy to address potential dune and vegetation impacts.

2. *Testimony of the applicant*
3. *The recommendation of staff and the local planning agency*
4. *Tetstimony of the public*
5. *Whether the request is consistent with the goals, objectives, policies, and intent of the Fort Myers Beach Comprehensive Plan.*

The applicant's response to this section provides several incorrect analyses of the Town's Comprehensive Plan.

i. Future Land Use Element Policy 4-A-6 refers to beach accesses as an essential part of the Town's character. They shall be maintained and expanded whenever possible. The applicant seems to indicate that their private access qualifies under this policy when all other references to beach access points within the Comprehensive Plan are in reference to publicly owned, maintained, and operated. Generally the policies and data and analysis are referring to the public right-of-way that dead end into the beach where the Town has a history of providing parking and access for the public to the beach. This public realm component is evident in Table 10-1, Table 11-3, Table 14-1, Policy 1-A-2, reference to beach access point as a public amenity on page 4-25, providing additional access for visitors and residents to the beach via additional beach access on page 5-21, Table 5-9 identifying the 46 public beach access points, Policy 5-E-1 stating the use of public funds to provide continued maintenance to beach access points, Table 7-A-5 Parking Spaces at Beach Access Points, pedestrian crossings at beach access points on page 7-A-44, a reference to "the beach accesses" on page 14-2.

ii. Policies 4-B-8 and 4-B-9 don't address the applicant's request. They are simply stating where the recreation category will be located; and what allowable uses are allowed in the wetland category, which the subject property is not, respectively.

iii. Coastal Management Element Policy 5-D-1-ii refers to the protection of sand dunes. The applicant claims their application directly supports their request yet no plans, documents, or other evidence has been provided other than a narrative that states they intend to protect the dune and natural vegetation.

iv. Coastal Management Element Policy 6-E-1 requires all new development approved after the adoption of this Plan and for public beach areas within the town at appropriate crossing points require a dune walkover. The applicant has not proposed "new development" other than the construction of a proposed structure. The single-family lots were platted or created prior to adoption of the plan and the upland homes were built years ago. The intent of the policy is to direct new development to identify where and how pedestrians are going to access the beach through their property. The policies intent is clearly to provide direction to projects that have the potential to create substantial foot traffic and to plan for that traffic appropriately. The applicant's proposal only serves their two properties.

6. *Whether the request meets or exceeds all performance and locational standards for the proposed use*

The applicant's analysis indicates that their application meets the requirements set forth in LDC Sec. 34-652 f.2. a-g; however, the applicant has provided no documentation showing compliance of any of items a-e, or g. Furthermore, they claim to be compliant with side setbacks of the EC zoning district (25 feet, Table 34-3), yet clearly show a

proposed structure on a shared property line with a portion of the proposed structure on each property.

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

The applicant claims to have provided sufficient evidence and documentation to show proof that the proposed structure will protect, conserve, or preserve environmentally critical areas and natural resources; yet no plans, documents, or other evidence has been provided other than a narrative that demonstrate the project will protect, conserve, or preserve environmentally critical areas and natural resources.

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 applicant claims to have provided sufficient evidence and documentation to show proof that the proposed structure will be compatible with existing or planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property; yet no plans, documents, or other evidence has been provided other than a narrative that demonstrate the project is compatible, and will not cause nuisance or harm to the surrounding natural environment.

9. *Whether a requested use will be in compliance with the applicable general zoning provisions and supplemental regulations set forth in Chapter 34 of the Town's Land Development Code.*

The only analysis provided by the applicant indicates previous rulings within the FDEP Consolidated Final Order that found that the proposed structure will not adversely impact public health, safety or welfare. However, those findings are not based on the Town's Special Exception criteria and evaluation process. Furthermore, the applicant hasn't provided any relevant data or analysis, studies, or expert findings related to the proposed location of the structure and how the current conditions may or not be impacted. It should be noted that the DEP Consolidated Final Order specifically states that the proposed dune walkover is subject to compliance with all local government regulations.

The analysis for Item 9 also fails to provide sufficient evidence that the proposed structure is compliant with Chapter 34 of the Town's Land Development Code.

During the LPA hearing on February 14, 2023, the LPA voted 6-1 that the application and request were consistent with the following findings and conclusions from LDC Sec. 34-87.

<u>Variance Findings</u>
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 has not provided any documentation that the additional width is necessary, a best management practice, or a technical requirement for compliance with other competing regulations.

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 applicant has chosen to request a five feet wide structure.

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 not provided any justification of how the standard width is an unreasonable burden.

d. *That the granting of the variance will/**will not** be injurious to the neighborhood or otherwise detrimental to the public welfare; and*

   It doesn't appear that the structure is proposed for the general welfare and the required width would not have an impact based on what was presented.

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.*

   No evidence or documentation has been provided that shows any reason to amend the regulations.

## III. STAFF RECOMMENDATION

Staff finds that the request for a Special Exception does not meet the criteria set forth in Section 34-88 of the LDC. Staff finds that the request for a Variance from the dune walkover width does not meet the criteria set forth in Section 34-87 of the LDC.

Therefore, staff recommends that the Town Council recommend **DENIAL** for SEZ-20220103, to construct a dune walkover and boardwalk for two private properties used primarily as single-family residential within the EC zoning district. Staff also recommends DENIAL of the Variance VAR 20220104.

## IV. LPA RECOMMENDATION

The LPA recommended approval with conditions for SEZ 20220103 based on findings of compliance with LDC Sec. 34-88.

The LPA recommended approval of VAR 20220104 based on findings of compliance with LDC Sec. 34-87. that the request for a Special Exception does not meet the criteria set forth in Section 34-88 of the LDC. Staff finds that the request for a Variance from the dune walkover width does not meet the criteria set forth in Section 34-87 of the LDC.

## V. LPA RECOMMENDED CONDITIONS OF APPROVAL

The LPA recommended approval of SEZ 20220103 with the following conditions.

1. Engage the neighbors for cross access easement(s) to provide access to the structure;
2. The applicant is to report to Town Council what the legal structure of that access or agreement will be;
3. Supplement documentation that was discussed with the LPA, including all environmental permits and leases with the State; plans for the boardwalk; items presented for criteria compliance that were addressed verbally to be submitted in writing to supplement the record.

# 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: 8150 & 8170 Estero Blvd. Fort Myers Beach, FL

STRAP Number: 03-47-24-W3-00300.0190 & 03-47-24-W3-00300.0200.

Applicant: TEXAS HOLD'EM & SQUEEZE ME Phone: 817-320-5851

Contact Name: EDWARD ROOD/KURT KROEMER. Phone: 317-694-2133

Email: INFO@SQUEEZEMEINN.COM Fax: _____

Current Zoning District: RS & EC

Future Land Use Map (FLUM) Category: LOW DENSITY / RECREATION

FLUM Density Range: N/A Platted Overlay: ☑ YES ☐ NO

| ACTION REQUESTED | SUPPLEMENTAL FORM REQUIRED |
|---|---|
| ☑ Special Exception | PH-A |
| ☑ Variance | PH-B |
| ☐ Conventional Rezoning | PH-C |
| ☐ Planned Development ☐ Commercial ☐ Residential | PH-D |
| ☐ Master Concept Plan Extension | PH-E |
| ☐ Appeal of Administrative Action | PH-F |
| ☐ Vacation of Platted Right-of-way and Easement | PH-G |
| ☐ Other – cite LDC Section: _____ | attach on separate sheet |

### PART I – General Information

A. Applicant*: SQUEEZE ME INN/TEXAS HOLD'EM. Phone: 317-694-2133

**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: 5353 S700E WHITESTOWN, IN 46075.

Email: INFO@SQUEEZEMEINN.COM Fax: _____

Contact Name: KURT KROEMER / ED ROOD. Phone: 317-694-2133



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

B. Relationship of Applicant to subject property:

- [x] 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: NELSON MARINE Phone: 239-992-4443

Address: 10923 ENTERPRISE AVE. BONITA SPRINGS, FL

Email: INFO@NELSONMARINE.COM Fax: 239-992-0765

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

Name: AMY PETRICK ESQ. Phone: 561-640-0820

Address: 360 SOUTH ROSEMARY AVE S1100, WEST PALM BEACH.

Email: APETRICK@LLW-LAW.COM Fax: _____

Name: _____ Phone: _____

Address: _____

Email: _____ Fax: _____

## PART II – Nature of Request

Requested Action (each request requires a separate application)

- [x] Special Exception
- [x] Variance from LDC Section 34 - 652 f.2.c
- [ ] 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

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, _____ 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;

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 |
|---|---|
| | |
| | |
| | |
| | |



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

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 |
|---|---|
| KURT & MARY KROEMER. | 42.46% |
| KAYLENE HERNANDEZ | 19.18% |
| Barbara Schroeder | 19.18% |
| Alexandra Kroemer | 19.18% |

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 |
|---|---|
| | |
| | |
| | |
| | |




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

# 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, KURT KROEMER (name), as MANAGING MEMBER (title) of SQUEEZE ME INN 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.


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

# COMMUNITY DEVELOPMENT DEPARTMENT
## APPLICATION for PUBLIC HEARING

SQUEEZE ME INN LLC

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

Signature

MANAGING MEMB

Title

KURT D KROEMER

Typed or Printed Name

9/9/2022

Date

**STATE OF** IN **COUNTY OF** BOONE

The foregoing instrument was certified and subscribed before me by means of X physical presence OR ☐ online notarization, this 9th day of September, 2022, by Kurt D Kroemer ☐ who is personally known to me OR ☒ who has produced INDIANA DRIVERS LICENSE as identification.

NICHOLAS R RENTSCHLER
NOTARY PUBLIC - SEAL
Seal STATE OF INDIANA
COMMISSION NUMBER NP0723871
MY COMMISSION EXPIRES DEC 02, 2027

Nicholas R Rentschler

Notary Public Signature

### PART VI– Property Information

A. Legal Description:

STRAP: 03-47-24-W3-00.300 & 03-47-24-W3-00300.0200

Property Address: 8150 & 8170 ESTERO 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: GRAND OLE MAN

Book: 29 Page: 26&: 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.

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 |
|---|---|
| Edward Rood | 50% |
| Reily Rood | 50% |
| | |
| | |

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 |
|---|---|
| | |
| | |
| | |
| | |




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

# 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, Edward Rood (name), as MANAGING MEMBER. (title) of Texas Hold'em 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.


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

# COMMUNITY DEVELOPMENT DEPARTMENT
## APPLICATION for PUBLIC HEARING

Texas Hold'em
Name of Entity (corporation, partnership, LLP, LLC, etc)

Signature

MANAGING MEMB
Title

Edward Rood
Typed or Printed Name

8-30-2022
Date

STATE OF Texas COUNTY OF Hemphill

The foregoing instrument was certified and subscribed before me by means of ✓ physical presence OR ☐ online notarization, this 30 day of August, 2022, by Edward Rood, ☒ who is personally known to me OR ☐ who has produced _____ as identification.

REBECCA LYNN BLACK
Notary Public, State of Texas
Notary ID# 1225373-1
My Commission Expires 02-23-2025

Rebecca Lynn Black
Notary Public Signature

### PART VI– Property Information

A. Legal Description:

STRAP: 03-47-24-W3-00.300 & 03-47-24-W3-00300.0200

Property Address: 8150 & 8170 ESTERO 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: GRAND OLE MAN

Book: 29 Page: 26& 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.


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

C. Property Dimensions:

Width (please provide an average width if irregular in shape) 75 + 75 = 150 TOTAL feet

Depth (please provide an average width if irregular in shape) 830 feet

Frontage on street: 150 feet. Frontage on waterbody: 183 feet

Total land area: 2.8 ☑ acres ☐ square feet

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

THE RESIDENTIAL PROPERTIES ARE LOCATED ON THE SOUTH SIDE OF ESTERO BLVD, FRONTING THE GULF OF MEXICO, APPROXIMATELY 0.40 MILE WEST OF BIG CARLOS PASS BRIDGE

☑ 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



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

# Exhibit 5 – 1

Owners Mailing Addresses

Strap: 03-47-24-W3-00300.0190

Owner: Texas Hold'em LLC

8150 Estero Blvd

Fort Myers Beach, FL 33931

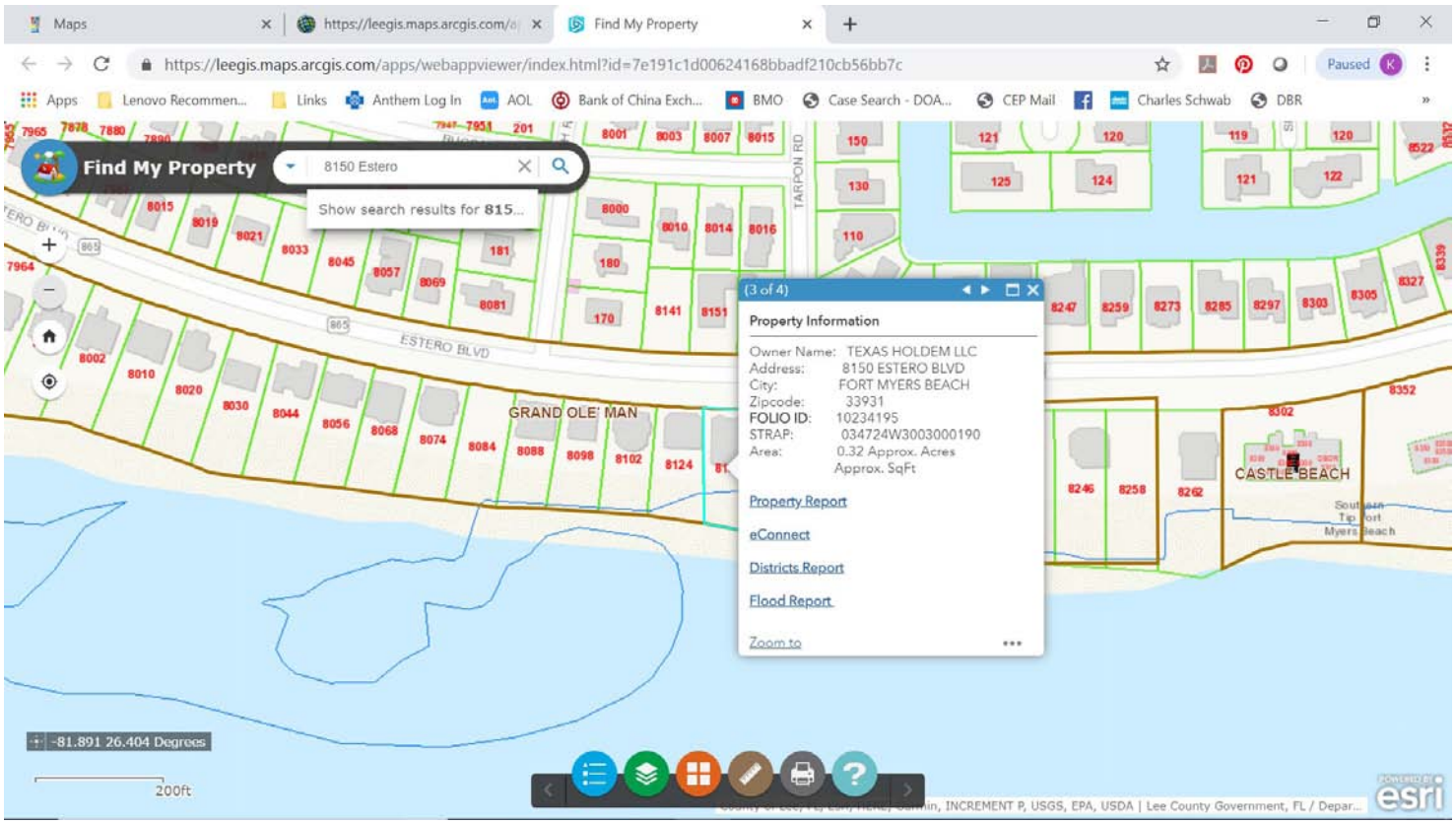
Strap: 03-47-24-W3-00300.0200

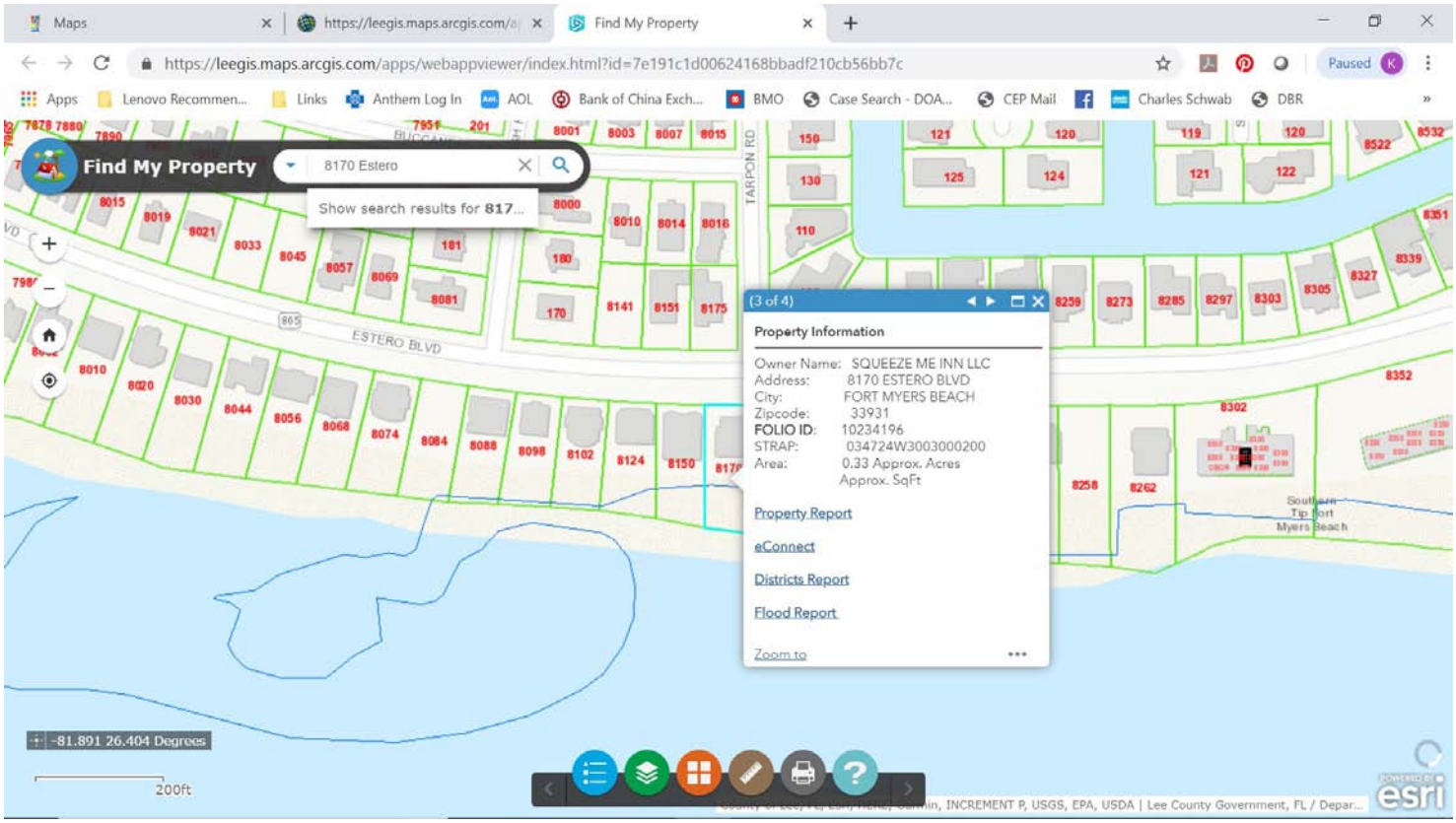
Owner: Squeeze Me Inn, LLC

5353 S 700 E

Whitestown, IN 46075

# Property Ownership Exhibit 5-2



SMI-TH-19-000001

# EXHIBIT 6-2A

## LEGEND OF SYMBOLS AND ABBREVIATIONS

Δ = DELTA
D = DEGREE
D.E. = DRAINAGE EASEMENT
CH = CHORD
L = ARC LENGTH
R = RADIUS
GAR = GARAGE
RR = RAILROAD
GUY = GUY WIRE
PB = PLAT BOOK
PG = PLAT PAGE
FND = FOUND
R/W = RIGHT-OF-WAY
B.L. = BUILDING LINE
BLDG = BUILDING
BM = BENCHMARK
CLF = CHAIN LINK FENCE
PVMT = PAVEMENT
PM = PROPERTY
M = MEASURED
CONC = CONCRETE
SV = SEAWALL
CBSC = CONCRETE BLOCK STUCCO
VLV.D. = MATERIAL GEODETIC VERTICAL DATUM
TYP = TYPICAL
DEC = DECIDUOUS
CTR = CENTER POINT
PC = POINT OF CURVATURE
PT = POINT OF TANGENT
PI = POINT OF INTERSECTION
EOP = EDGE OF PAVEMENT
CLF = CHAIN LINK FENCE
SS = SANITARY SEWER
CB = CATCH BASIN
FDN = FOUNDATION
FFE = FINISHED FLOOR ELEVATION
FES = FOUND ELECTRIC SERVICE
SIR = SET 5/8" IRON ROD LB4706
RSC = POINT OF CONNECTIONS
FPKD = FOUND PK NAIL AND DISK LB4706
FPKS = FOUND PK NAIL AND SHINER
D.U.E. = DRAINAGE AND PUBLIC UTILITY EASEMENT
VV = WATER VALVE
WM = WATER METER
POB = POINT OF BEGINNING
CTV=CABLE TELEVISION RISER
A/C = AIR CONDITIONER
UP = UTILITY POLE
W = WELL RISER
C/L = CENTERLINE
XFRMR=TRANSFORMER PAD
FPL = FLORIDA POWER & LIGHT
TELE = TELEPHONE RISER
F.D. = FIELD BOOK

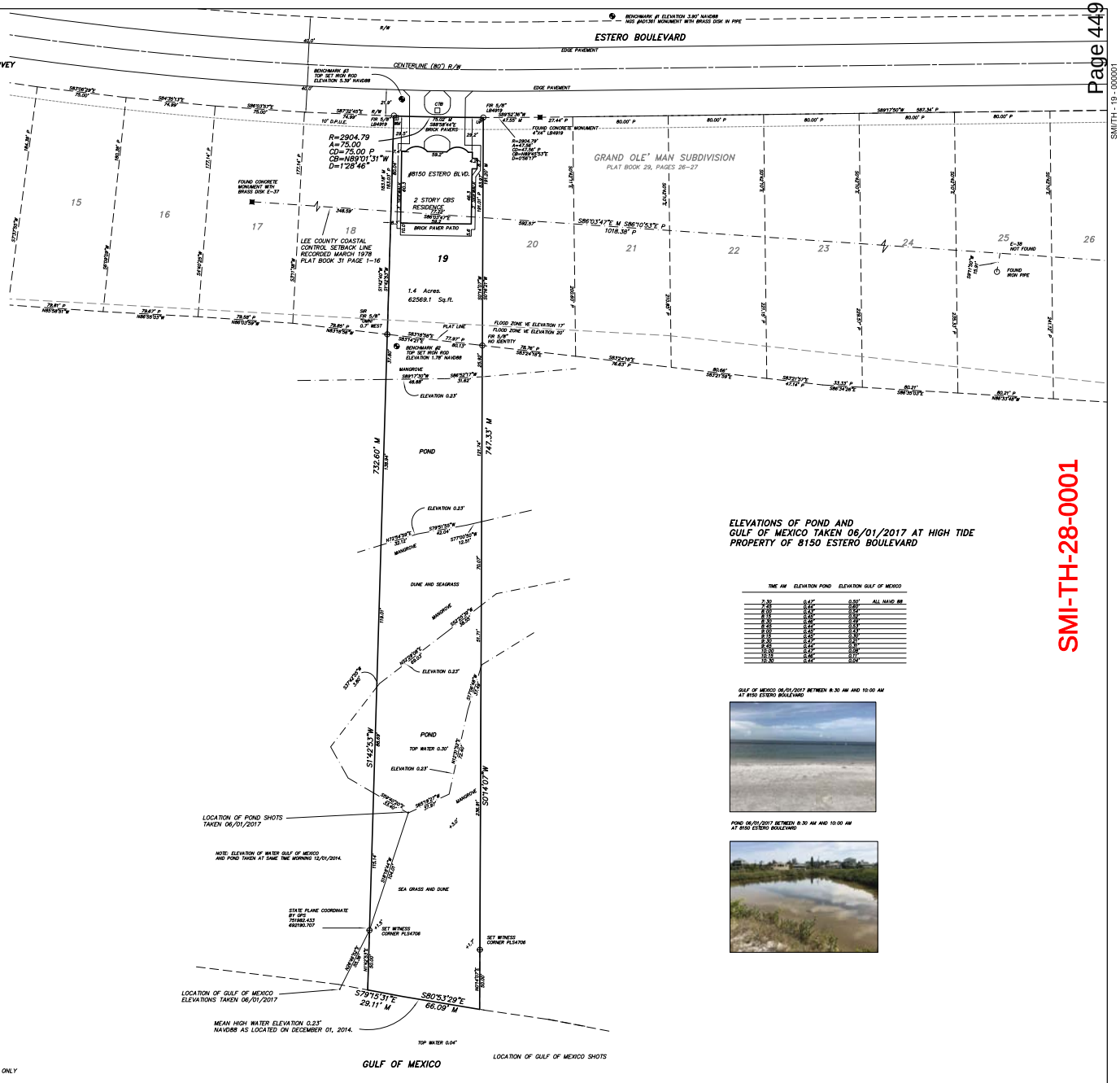
SUBJECT PROPERTY LIES IN FLOOD ZONE VE, ELEVATION 17, PER "FLOOD INSURANCE RATE MAP" (F.I.R.M.) COMMUNITY PANEL NUMBER 120673 0569 F, LAST REVISION DATE: 06/28/2008.

## SURVEYORS NOTES

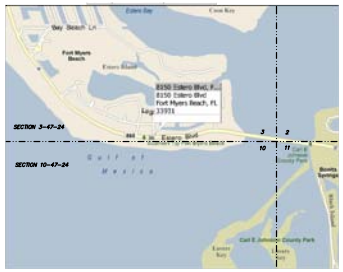
THIS PLAT OF THE HEREIN DESCRIBED PROPERTY IS A TRUE AND CORRECT PRESENTATION OF A RECENT SURVEY MADE AND PLATTED UNDER MY DIRECTION AND, TO THE BEST OF MY KNOWLEDGE AND BELIEF MEETS THE MINIMUM TECHNICAL STANDARDS ADOPTED BY THE STATE OF FLORIDA AS PER CHAPTER 5J-17, FLORIDA ADMINISTRATIVE CODE PURSUANT TO CHAPTER 472, FLORIDA STATUTES. THIS SURVEY WAS PERFORMED BASED ON A DESCRIPTION ISSUED VERBALLY BY THE CLIENT AND WITHOUT THE BENEFIT OF AN ABSTRACT OF TITLE. THE SURVEYOR HAS MADE NO INDEPENDENT SEARCH FOR EASEMENTS, OWNERSHIP, OR ENCUMBRANCES. THIS SURVEY IS SUBJECT TO ANY EASEMENTS OF RECORD.
NOTE: SUBJECT TO EASEMENTS, RESTRICTIONS, AND RESERVATIONS OF RECORD.
THERE ARE NO VISIBLE ENCROACHMENTS EXCEPT THOSE SHOWN.
ELEVATIONS SHOWN HAVE BEEN SURVEYED FROM DATA DERIVED FROM NORTH AMERICAN VERTICAL DATUM (NAVD 88) MONUMENTS (1988 DATUM) EXCEPT WHEN ELEVATIONS ARE NOTED AS BEING ASSUMED. ONLY IF ABOVE GROUND EVIDENCE OF UNDERGROUND UTILITIES SHOWN. THIS SURVEY IS NOT VALID WITHOUT THE ORIGINAL SIGNATURE AND ORIGINAL RAISED SEAL FROM THE UNDERSIGNED AND IS ONLY FOR THE USE OF LANDS DESCRIBED ABOVE.
THIS SURVEY IS FOR THE SOLE PURPOSES INTENDED BY THE SURVEYOR AND ONLY FOR THE INDIVIDUALS AND / OR INSTITUTIONS LISTED ABOVE UNDER "CERTIFIED TO".
MEASURED DISTANCES DO NOT MATCH ONLY WHERE THEY DIFFER FROM PLAT (S) OR CALCULATED (C) DISTANCES.

1. THIS MEAN HIGH WATER LINE SURVEY COMPLIES WITH CHAPTER 177, PART II.
2. THE PROCEDURE FOR DETERMINING ELEVATION OF MEAN HIGH WATER WAS PROVIDED BY THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION WITH INSTRUCTION TO USE +0.23 FEET NAVD AS THE MEAN HIGH WATER ELEVATION FOR THIS SITE.
3. BENCHMARK #1 IS NGS TIDAL BENCHMARK A01381 ELEVATION 3.90 FEET NAVD 88 METAL DISK IN PIPE 56' NORTH CENTERLINE ESTERO BOULEVARD AND 28' EAST CENTERLINE TAMPON
5. ELEVATIONS SHOWN ARE GROUND SPOT ELEVATION DESIGNATED THUS +X.X
6. THE 1978 LEE COUNTY COASTAL CONSTRUCTION SETBACK LINE WAS ESTABLISHED FROM FOUND MONUMENTS "B0108-2" AND "E-37".

## BOUNDARY AND MEAN HIGH WATER SURVEY




LOCATION MAP
NO SCALE




## ELEVATIONS OF POND AND GULF OF MEXICO TAKEN 06/01/2017 AT HIGH TIDE PROPERTY OF 8150 ESTERO BOULEVARD

| TIME AM | ELEVATION POND | ELEVATION GULF OF MEXICO | |
|---|---|---|---|
| 7:30 | 0.47' | 0.50' | ALL NAVD 88 |
| 7:45 | 0.47' | 0.60' | |
| 8:00 | 0.47' | 0.50' | |
| 8:15 | 0.47' | 0.50' | |
| 8:30 | 0.46' | 0.49' | |
| 8:45 | 0.46' | 0.49' | |
| 9:00 | 0.45' | 0.50' | |
| 9:15 | 0.45' | 0.50' | |
| 9:30 | 0.45' | 0.47' | |
| 9:45 | 0.44' | 0.5' | |
| 10:00 | 0.44' | 0.08' | |
| 10:15 | 0.44' | 0.11' | |
| 10:30 | 0.44' | 0.04' | |

GULF OF MEXICO 06/01/2017 BETWEEN 8:30 AM AND 10:00 AM AT 8150 ESTERO BOULEVARD



POND 06/01/2017 BETWEEN 8:30 AM AND 10:00 AM AT 8150 ESTERO BOULEVARD



SMI-TH-28-0001

## LEGAL DESCRIPTION:

Lot 19, GRAND OLE' MAN, a subdivision in Sections 3 and 10, Township 47 South, Range 24, East, Estero Island, according to the plat thereof as recorded in Plat Book 29, Page 26, Records of the Clerk of the Circuit Court, Lee County, Florida.

SCALE IN FEET: 0 20 40 80

(SIGNED) Charles L. DeGraff
CHARLES L. DEGRAFF PSM #4706
DATE SIGNED DECEMBER 18, 2014 MEAN HIGH WATER SURVEY
DATE SIGNED JUNE 02, 2017 TIDAL COMPARISON STUDY ONLY

BEARINGS ARE BASED ON THE SOUTH RIGHT-OF-WAY OF ESTERO BOULEVARD BEING THE PLAT BEARING OF N89°17'50"E.

SURVEY FOR: Texas Holdem LLC
Mr. Eddie Rood
2817 Carriage Lane
Carrollton, Texas 75006

ADDRESS OF PROPERTY SURVEYED:
8150 Estero Boulevard
Fort Myers Beach, Florida 33931

CERTIFIED TO: Florida Department of Environmental Protection
City of Fort Myers Beach, Florida
Texas Holdem LLC
Eddie Rood

CHARLES DEGRAFF LAND SURVEYOR
Land Surveyors and Mappers
301 Hazeltine Drive, Debary, Florida 32713
Phone (239) 699-8572
Email charles.degraff@gmail.com
Web www.surveycapecoral.com

DATE OF FIELD WORK, JUNE 01, 2017 TIDAL COMPARISON STUDY ONLY
JOB # 1337
STRAP# 03-47-24-W3-00300.0190
FIELD BOOK 1402 PAGE 40-49 FIELD BOOK 2015-1, PAGE 2,3,5-9 MHW ONLY
REVISED 06/02/2017 ADD TIDAL COMPARISON STUDY POND AND GULF OF MEXICO

EXHIBIT 6-2B

## LEGEND OF SYMBOLS AND ABBREVIATIONS

Δ = DELTA
CB = CHORD BEARING
CH = CHORD
L = ARC LENGTH
R = RADIUS
GAR = GARAGE
RR = RAILROAD
OV = OVER HEAD WIRE
FF = FIN. FLOOR
FG = FIN. GRADE
FND = FOUND
E/V = RIGHT-OF-WAY
BLK = BLOCK
BNG = BANGE
BM = BENCHMARK
TWP = TOWNSHIP
HM = MONUMENT
R = MEASURED
P = PLATTED
MB = MANHOLE
SV = SCAWALL
CONC = CONCRETE
PVC = PLASTIC
TYP = TYPICAL
DEC = DECIDUOUS
STA = STATION POINT
PT = POINT OF TANGENT
PI = POINT OF INTERSECTION
SW = SIDE OF PAVEMENT
PC = POINT OF CURVATURE
CLF = CHAINLINK FENCE
SS = SANITARY SEWER
NAVD = NATIONAL GEODETIC VERTICAL DATUM
FCM = FOUND CONC. MON.
FIR = FOUND IRON ROD 5/8"
PK = PARKER KALON
FFE = FINISHED FLOOR ELEVATION
FGE = FINISHED GARAGE ELEVATION
FCM = FOUND CONCRETE MONUMENT
IRR = SET 5/8" IRON ROD LB4706
PCC = POINT OF COMMENCEMENT
FPRC = FOUND PK NAIL AND DISK LB4706
FPRS = FOUND PK NAIL AND DISK 3320
DP/UE = DRAINAGE AND PUBLIC UTILITY EASEMENT
VV = WATER VALVE
WM = WATER METER
HB = POINT OF BEGINNING
CTV=CABLE TELEVISION RISER
A/C = AIR CONDITIONER
UP = UTILITY POLE
WP = WOOD POLE
C/L = CENTER LINE
PTRANS=TRANSFORMER PAD
CO = CLEAN OUT
TELR = TELEPHONE RISER
F.B. = FIELD BOOK

FWC = FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION

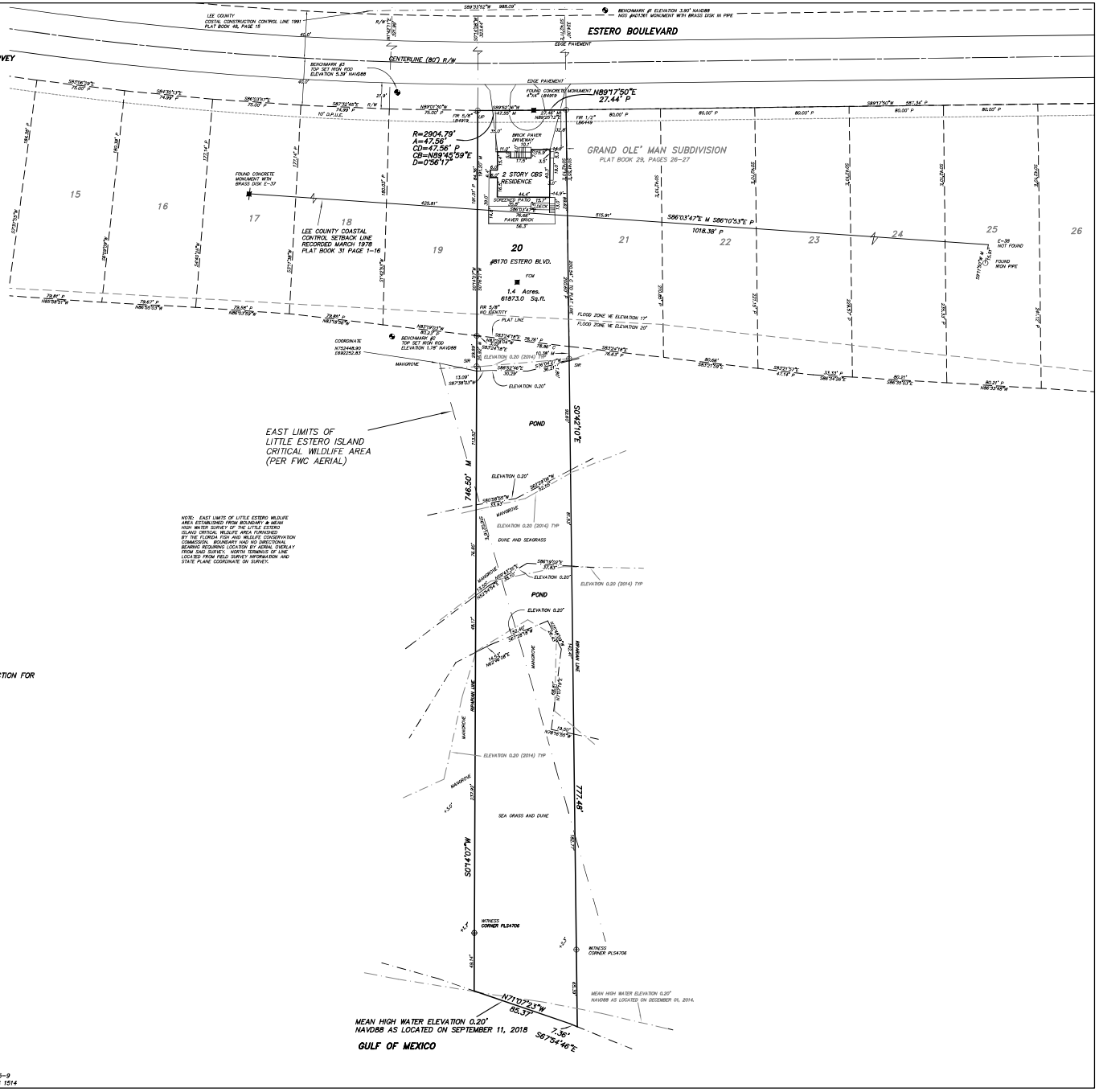
SUBJECT PROPERTY LIES IN FLOOD ZONE VE, ELEVATION 17', PER "FLOOD INSURANCE RATE MAP" (F.I.R.M.) COMMUNITY PANEL NUMBER 120673 0569 F, LAST REVISION DATE: 08/28/2008.

## SURVEYORS NOTES

THIS PLAT OF THE HEREIN DESCRIBED PROPERTY IS A TRUE AND CORRECT PRESENTATION OF A RECENT SURVEY MADE AND PLATTED UNDER MY DIRECTION AND TO THE BEST OF MY KNOWLEDGE AND BELIEF MEETS THE MINIMUM TECHNICAL STANDARDS ADOPTED BY THE STATE OF FLORIDA AS PER CHAPTER 5J-17, FLORIDA ADMINISTRATIVE CODE PURSUANT TO CHAPTER 472, FLORIDA STATUTES. THIS SURVEY WAS PERFORMED BASED ON A DESCRIPTION ISSUED VERBALLY BY THE CLIENT AND WITHOUT THE BENEFIT OF AN ABSTRACT OF TITLE. THE SURVEYOR HAS MADE NO INDEPENDENT SEARCH FOR EASEMENTS, OWNERSHIP, ENCUMBRANCES OR OTHER MATTERS OF RECORD. THIS SURVEY IS NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
NOTE: SUBJECT TO EASEMENTS, RESTRICTIONS, AND RESERVATIONS OF RECORD.
THERE ARE NO VISIBLE ENCROACHMENTS EXCEPT THOSE SHOWN.
ELEVATIONS SHOWN HAVE BEEN SURVEYED FROM DATA DERIVED FROM NORTH AMERICAN VERTICAL DATUM (NAVD 88) MONUMENTS (TMM DATUM) EXCEPT WHEN ELEVATIONS ARE NOTED AS BEING ASSUMED. ANY ELEVATIONS ON THIS SURVEY ARE OF UNDERSIGNED UTILITIES SHOWN, BUT DO NOT CERTIFY TO THE ACCURACY OR VERIFY THE ABSENCE OR FREEDOM FROM ENCUMBRANCES AND IS ONLY FOR THE LANDS DESCRIBED ABOVE.
THIS SURVEY IS FOR THE SOLE PURPOSES INTENDED BY THE SURVEYOR AND ONLY FOR THE INDIVIDUALS AND / OR INSTITUTIONS LISTED ABOVE UNDER "CERTIFIED TO".
MEASURED DISTANCES ON ARC NOTED ONLY WHEN NOT OFFSET FROM PLAT TO BE CALCULATED TO DISTANCES.

1. THIS MEAN HIGH WATER LINE SURVEY COMPLIES WITH CHAPTER 177, PART II.
2. THE PROCEDURE FOR DETERMINING ELEVATION OF MEAN HIGH WATER WAS PROVIDED BY THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION WITH INSTRUCTION TO USE +0.20 FEET NAVD 88 AS THE MEAN HIGH WATER ELEVATION FOR THIS SITE.
3. BENCHMARK #1 IS NGS TIDAL BENCHMARK A01361 ELEVATION 3.90 FEET NAVD 88 METAL DISK IN PIPE 36" NORTH CENTERLINE ESTERO BOULEVARD AND 28' EAST CENTERLINE TAMPON
5. ELEVATIONS SHOWN ARE GROUND SPOT ELEVATION DESIGNATED THUS +X.X
6. THE 1978 LEE COUNTY COASTAL CONSTRUCTION SETBACK LINE WAS ESTABLISHED FROM FOUND MONUMENTS "B0308-2" AND "E-37".

## BOUNDARY AND MEAN HIGH WATER SURVEY



NOTE: EAST LIMITS OF LITTLE ESTERO WILDLIFE AREA ESTABLISHED FROM BOUNDARY & MEAN HIGH WATER SURVEY OF THE LITTLE ESTERO ISLAND CRITICAL WILDLIFE AREA FURNISHED BY THE FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION. BOUNDARY HAD NO DIRECTIONAL BEARING REQUIRING LOCATION BY AERIAL OVERLAY ONTO SURVEY. ALL NORTH BEARINGS TO LINE LOCATED FROM FIELD SURVEY BY SEARCHER AND STATE PLANE COORDINATE ON SURVEY.

LEGAL DESCRIPTION:

Lot 20, GRAND OLE' MAN, a subdivision in Sections 3 and 10, Township 47 South, Range 24, East, Estero Island, according to the plat thereof as recorded in Plat Book 29, Page 26, Records of the Clerk of the Circuit Court, Lee County, Florida.

NOTE: THE MEAN MEAN HIGH WATER ELEVATION 0.20' NAVD 1988 WAS PROVIDED BY THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION FOR MEAN HIGH WATER SURVEY FILE NUMBER 5661. THIS MEAN HIGH WATER SURVEY IS AN UPDATE TO CURRENT DATE FOR THAT SURVEY.

CHARLES LYMAN DEGRAFF CERTIFICATE NO. 4706 STATE OF FLORIDA REGISTERED LAND SURVEYOR

0 20 40 80
SCALE IN FEET

Charles L DeGraff
(SIGNED)
CHARLES L. DEGRAFF PSM #4706

BEARINGS ARE BASED ON THE SOUTH RIGHT-OF-WAY OF ESTERO BOULEVARD BEING THE PLAT BEARING OF N89°17'50"E.

The seal appearing on this document was authorized by Charles DeGraff PSM 4706 on September 13, 2018.

SURVEY FOR: Squeeze Me Inn, LLC
711 Franklin Trace
Zionsville, IN 46077

ADDRESS OF PROPERTY SURVEYED:
8170 Estero Boulevard
Fort Myers Beach, Florida 33931

CERTIFIED TO: Florida Department of Environmental Protection
City of Fort Myers Beach, Florida
Squeeze Me Inn, LLC

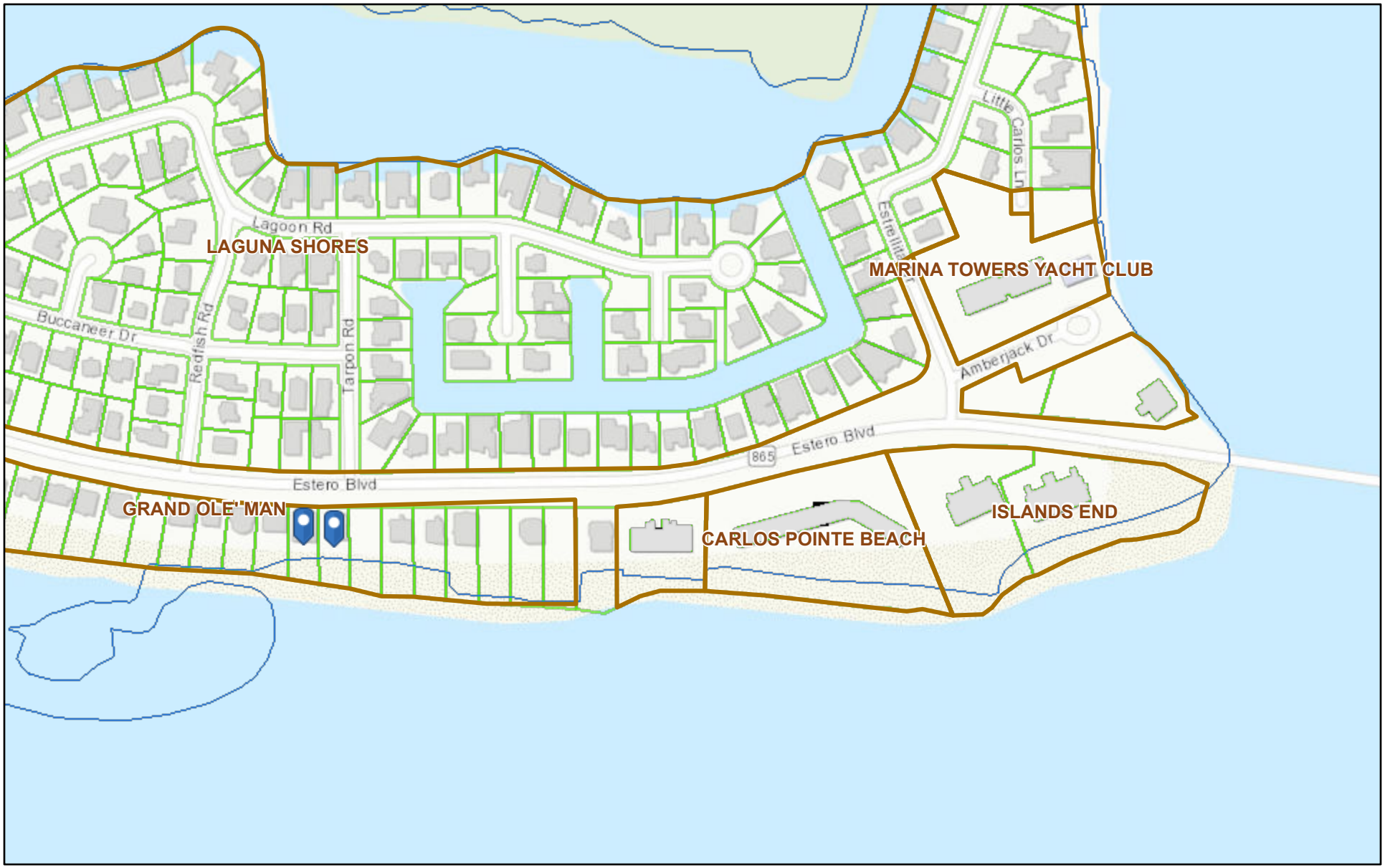

CHARLES DEGRAFF LAND SURVEYOR
Land Surveyors and Mappers
301 Hazelthe Drive, Debary, Florida 32713
Phone (239) 699-8572
Email charles.degraff@gmail.com
Web www.surveycapecoral.com


DATE OF FIELD WORK, SEPTEMBER 11, 2018.
JOB # 1515
STRAP# 03-47-24-W3-00300.0200
FIELD BOOK 1402 PAGE 40-49 FIELD BOOK 2015-1, PAGE 2,3,5-9
ELECTRONIC FIELD BOOK /XCBS/2018/ESTERO ISLAND/1514/NOTES 1514

SHEET 1 OF 1

Exhibit 6 -3

# Lee County




6/9/2019, 10:46:43 AM

1:4,514

0 0.03 0.07 0.13 mi

0 0.05 0.1 0.2 km

Subdivisions | CondoFootprints | Mobile Home Lot | Coastline

Parcel | Condo | County Boundary | City Boundary

Boundary

Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS,

Lee County GIS

County of Lee, FL, Esri, HERE, Garmin, INCREMENT P, USGS, EPA, USDA | Lee County Government, FL / Department of Community Development | Lee County Sheriff's Office | Lee County Government | Lee County E9-1-1/Addressing |

Subjects: 1

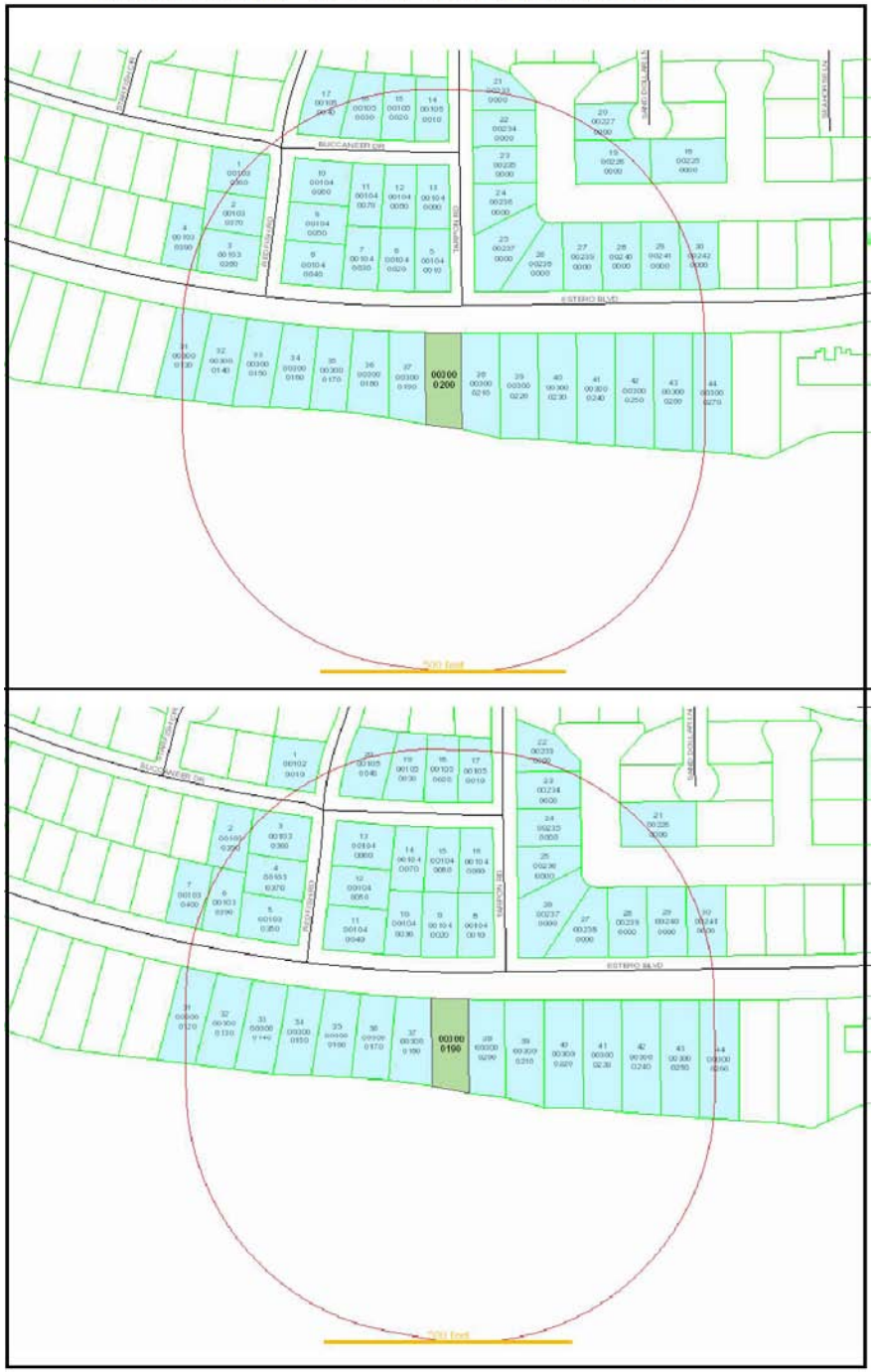
**EXHIBIT 6-6 LIST OF PROPERTY OWNERS 500 FT FROM BOTH PROPERTIES:**

Date: 8/23/2022 12:00:00 AM

List Size: 48

| FolioId | STRAP | OwnerName | OwnerNar | MailAddress | MailAddre | MailCity | MailState | MailZip | MailCount | SiteNumb | SiteStreet | SiteUnit | SiteCity | SiteZip | Legal |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 10234196 | 03-47-24-W3-00300.0200 | SQUEEZE ME INN LLC | | 711 FRANKLIN TRACE | | ZIONSVILL | IN | 46077 | | 8170 | ESTERO BLVD | | FORT MYE | 33931 | GRAND OLE MAN<CR>PB 29 PG 27<CR>LOT 20 |
| 10234195 | 03-47-24-W3-00300.0190 | TEXAS HOLDEM LLC | | 2817 CARRIAGE LN | | CARROLLT | TX | 75006 | | 8150 | ESTERO BLVD | | FORT MYE | 33931 | GRAND OLE MAN<CR>PB 29 PG 27<CR>LOT 19<CR>+ ACCRETED LANDS |
| 10234065 | 03-47-24-W3-00103.0360 | WINN ELEANOR | | 7950 BUCCANEER DR | | FORT MYE | FL | 33931 | | 7950 | BUCCANEER DR | | FORT MYE | 33931 | LAGUNA SHORES UNIT 1<CR>BLK 3 PB 9 PG 30<CR>LOT 36 |
| 10234066 | 03-47-24-W3-00103.0370 | BENES OLDRICH & | | 181 REDFISH RD | | FORT MYE | FL | 33931 | | 181 | REDFISH RD | | FORT MYE | 33931 | LAGUNA SHORES UNIT 1<CR>BLK 3 PB 9 PG 29-30<CR>LOT 37 |
| 10234067 | 03-47-24-W3-00103.0380 | BEZON JOAN F L/E | | 8081 ESTERO BLVD | | FORT MYE | FL | 33931 | | 8081 | ESTERO BLVD | | FORT MYE | 33931 | LAGUNA SHORES UNIT 1<CR>BLK.3 PB 9 PG 29<CR>LOT 38 |
| 10234068 | 03-47-24-W3-00103.0390 | HARRIS BLAIR J & VALERIE J | | 8069 ESTERO BLVD | | FORT MYE | FL | 33931 | | 8069 | ESTERO BLVD | | FORT MYE | 33931 | LAGUNA SHORES UNIT 1<CR>BLK.3 PB 9 PG 29<CR>LOT 39 |
| 10234079 | 03-47-24-W3-00104.0010 | MCNULTY WALTER M | | 5471 W 7TH CT | | HIALEAH | FL | 33012 | | 8175 | ESTERO BLVD | | FORT MYE | 33931 | LAGUNA SHORES UNIT 1<CR>BLK.4 PB 9 PG 30<CR>LOT 1 |
| 10234080 | 03-47-24-W3-00104.0020 | PETERSON ERICK & | | 7333 93RD ST SW | | HOWARD | MN | 55349 | | 8151 | ESTERO BLVD | | FORT MYE | 33931 | LAGUNA SHORES UNIT 1<CR>BLK.4 PB 9 PG 29<CR>LOT 2 |
| 10234081 | 03-47-24-W3-00104.0030 | TORRES CANDY CONSTANZA & | | 13621 SW 16TH ST | | DAVIE | FL | 33325 | | 8141 | ESTERO BLVD | | FORT MYE | 33931 | LAGUNA SHORES UNIT 1<CR>BLK 4 PB 9 PG 29<CR>LOT 3 |
| 10234082 | 03-47-24-W3-00104.0040 | PAYNE CYNTHIA GRACE | | 170 REDFISH RD | | FORT MYE | FL | 33931 | | 170 | REDFISH RD | | FORT MYE | 33931 | LAGUNA SHORES UNIT 1<CR>BLK.4 PB 9 PG 29<CR>LOT 4 |
| 10234083 | 03-47-24-W3-00104.0050 | COAKE ROBERT V & SUSAN C TR | | 180 REDFISH RD | | FORT MYE | FL | 33931 | | 180 | REDFISH RD | | FORT MYE | 33931 | LAGUNA SHORES UNIT 1<CR>BLK 4 PB 9 PG 29<CR>LOT 5 |
| 10234084 | 03-47-24-W3-00104.0060 | ESCUE MARY E L/E | | 8000 BUCCANEER DR | | FORT MYE | FL | 33931 | | 8000 | BUCCANEER DR | | FORT MYE | 33931 | LAGUNA SHORES UNIT 1<CR>BLK 4 PB 9 PG 29<CR>LOT 6 |
| 10234085 | 03-47-24-W3-00104.0070 | OHLIN DOUGLAS J & SUSAN | | 8010 BUCCANEER DR | | FORT MYE | FL | 33931 | | 8010 | BUCCANEER DR | | FORT MYE | 33931 | LAGUNA SHORES UNIT 1<CR>BLK 4 PB 9 PG 29<CR>LOT 7 |
| 10234086 | 03-47-24-W3-00104.0080 | RAMBOW ERIC & KEREN | | 1333 PARKRIDGE PL | | CINCINNA | OH | 45208 | | 8014 | BUCCANEER DR | | FORT MYE | 33931 | LAGUNA SHORES UNIT 1<CR>BLK 4 PB 9 PG 30<CR>LOT 8 |
| 10234087 | 03-47-24-W3-00104.0090 | FOERSTER ROSA + | | 8016 BUCCANEER DR | | FORT MYE | FL | 33931 | | 8016 | BUCCANEER DR | | FORT MYE | 33931 | LAGUNA SHORES UNIT 1<CR>BLK 4 PB 9 PG 30<CR>LOT 9 |
| 10234088 | 03-47-24-W3-00105.0010 | TJOSVOLD YVONNE | | 8015 BUCCANEER DR | | FORT MYE | FL | 33931 | | 8015 | BUCCANEER DR | | FORT MYE | 33931 | LAGUNA SHORES UNIT 1<CR>BLK.5 PB 9 PG 29<CR>LOT 1 |
| 10234089 | 03-47-24-W3-00105.0020 | GULINO JOHN & JEANNE | | 82 WOODLOT RD | | RIDGE | NY | 11961 | | 8007 | BUCCANEER DR | | FORT MYE | 33931 | LAGUNA SHORES UNIT 1<CR>BLK 5 PB 9 PG 29<CR>LOT 2 |
| 10234090 | 03-47-24-W3-00105.0030 | MASON RANDY & LYNN M | | 8003 BUCCANEER DR | | FORT MYE | FL | 33931 | | 8003 | BUCCANEER DR | | FORT MYE | 33931 | LAGUNA SHORES UNIT 1<CR>BLK.5 PB 9 PG 29<CR>LOT 3 |
| 10234091 | 03-47-24-W3-00105.0040 | GREEN BRADLEY G & SHELIA A TR | | 8001 BUCCANEER DR | | FORT MYE | FL | 33931 | | 8001 | BUCCANEER DR | | FORT MYE | 33931 | LAGUNA SHORES UNIT 1<CR>BLK 5 PB 9 PG 29<CR>LOT 4 |
| 10234119 | 03-47-24-W3-00225.0000 | MAITZ CORY J & EMILIA P | | 124 SAND DOLLAR DR | | FORT MYE | FL | 33931 | | 124 | SAND DOLLAR DR | | FORT MYE | 33931 | LAGUNA SHORES UNIT 2<CR>PB 9 PG 84<CR>LOT 25 |
| 10234120 | 03-47-24-W3-00226.0000 | CLARK STEPHEN R & LARENNE S | | 125 SAND DOLLAR DR | | FORT MYE | FL | 33931 | | 125 | SAND DOLLAR DR | | FORT MYE | 33931 | LAGUNA SHORES UNIT 2<CR> PB 9 PG 84<CR>LOT 26 |
| 10234121 | 03-47-24-W3-00227.0000 | THOMPSON RUSSELL & PATTI | | 4930 DEFIANCE TRAIL | | DELPHOS | OH | 45833 | | 121 | SAND DOLLAR DR | | FORT MYE | 33931 | LAGUNA SHORES UNIT 2<CR>PB 9 PG 84<CR>LOT 27 |
| 10234127 | 03-47-24-W3-00233.0000 | STEELE JAMES H | | 170 TARPON RD | | FORT MYE | FL | 33931 | | 170 | TARPON RD | | FORT MYE | 33931 | LAGUNA SHORES UNIT 2<CR>PB 9 PG 84<CR>LOT 33 |
| 10234128 | 03-47-24-W3-00234.0000 | SALVAGGIO JOSEPH R | | 150 TARPON RD | | FORT MYE | FL | 33931 | | 150 | TARPON RD | | FORT MYE | 33931 | LAGUNA SHORES UNIT 2<CR> PB 9 PG 84<CR>LOT 34 |
| 10234129 | 03-47-24-W3-00235.0000 | GULINO JOHN & JEANNE | | 82 WOODLOT RD | | RIDGE | NY | 11961 | | 130 | TARPON RD | | FORT MYE | 33931 | LAGUNA SHORES UNIT 2<CR> PB 9 PG 84<CR>LOT 35 |
| 10234130 | 03-47-24-W3-00236.0000 | GULINO ANTHONY & LISA TR | | 84 WOOD LOT RD | | RIDGE | NY | 11961 | | 110 | TARPON RD | | FORT MYE | 33931 | LAGUNA SHORES UNIT 2<CR>PB 9 PG 84<CR>LOT 36 |
| 10234131 | 03-47-24-W3-00237.0000 | MIGLIORATTI PHILIP & LISA M | | 382 LAKE RD | | WEBSTER | NY | 14580 | | 100 | TARPON RD | | FORT MYE | 33931 | LAGUNA SHORES UNIT 2<CR> PB 9 PG 84<CR>LOT 37 |
| 10234132 | 03-47-24-W3-00238.0000 | JACKSON PHILIP & CATHY | | 1998 OGLEBAY DR | | WHEELING | WV | 26003 | | 8211 | ESTERO BLVD | | FORT MYE | 33931 | LAGUNA SHORES UNIT 2<CR> PB 9 PG 84<CR>LOT 38 |
| 10234133 | 03-47-24-W3-00239.0000 | 8223 ESTERO LLC | | 8415 LAGOON ROAD | | FORT MYE | FL | 33931 | | 8223 | ESTERO BLVD | | FORT MYE | 33931 | LAGUNA SHORES UNIT 2<CR> PB 9 PG 84<CR>LOT 39 |
| 10234134 | 03-47-24-W3-00240.0000 | ECKHARDT ROSS A & ASHLEY N | | 8235 ESTERO BLVD | | FORT MYE | FL | 33931 | | 8235 | ESTERO BLVD | | FORT MYE | 33931 | LAGUNA SHORES UNIT 2<CR> PB 9 PG 84<CR>LOT 40 |
| 10234135 | 03-47-24-W3-00241.0000 | ESTERO 3 LLC | | 5359 N RD 400 W | | BARGERSV | IN | 46106 | | 8247 | ESTERO BLVD | | FORT MYE | 33931 | LAGUNA SHORES UNIT 2<CR> PB 9 PG 84<CR>LOT 41 |
| 10234136 | 03-47-24-W3-00242.0000 | WENSTRUP LAWRENCE F & | | 8259 ESTERO BLVD | | FORT MYE | FL | 33931 | | 8259 | ESTERO BLVD | | FORT MYE | 33931 | LAGUNA SHORES UNIT 2<CR>PB 9 PG 84<CR>LOT 42 |
| 10234189 | 03-47-24-W3-00300.0130 | MARRONE GEORGE C & MAY L | | 8074 ESTERO BLVD | | FORT MYE | FL | 33931 | | 8074 | ESTERO BLVD | | FORT MYE | 33931 | GRAND OLE MAN<CR>PB 29 PG 27<CR>LOT 13 |
| 10234190 | 03-47-24-W3-00300.0140 | CORTINAS ANGEL A & | | 7370 SW 153RD ST | | PALMETTC | FL | 33157 | | 8084 | ESTERO BLVD | | FORT MYE | 33931 | GRAND OLE MAN<CR> PB 29 PG 27<CR>LOT 14 |
| 10234191 | 03-47-24-W3-00300.0150 | BOURGON TAMMY RAE TR | | 8088 ESTERO BLVD | | FORT MYE | FL | 33931 | | 8088 | ESTERO BLVD | | FORT MYE | 33931 | GRAND OLE MAN<CR>PB 29 PG 27<CR>LOT 15 |
| 10234192 | 03-47-24-W3-00300.0160 | CAMERON JOHN F | | 18452 CUTLASS DR | | FORT MYE | FL | 33931 | | 8098 | ESTERO BLVD | | FORT MYE | 33931 | GRAND OLE MAN<CR>PB 29 PG 27<CR>LOT 16 |
| 10234193 | 03-47-24-W3-00300.0170 | CRENSHAW ELIZABETH MARIE + | | 51785 SKIS DR | | SOUTH LY | MI | 48178 | | 8102 | ESTERO BLVD | | FORT MYE | 33931 | GRAND OLE MAN<CR>PB 29 PG 27<CR>LOT 17 |
| 10234194 | 03-47-24-W3-00300.0180 | PROCK DENNIS M | | 8124 ESTERO BLVD | | FORT MYE | FL | 33931 | | 8124 | ESTERO BLVD | | FORT MYE | 33931 | GRAND OLE MAN<CR> PB 29 PG 27<CR>LOT 18 |
| 10234195 | 03-47-24-W3-00300.0190 | TEXAS HOLDEM LLC | | 2817 CARRIAGE LN | | CARROLLT | TX | 75006 | | 8150 | ESTERO BLVD | | FORT MYE | 33931 | GRAND OLE MAN<CR>PB 29 PG 27<CR>LOT 19<CR>+ ACCRETED LANDS |
| 10234197 | 03-47-24-W3-00300.0210 | LARRY DEN HERDER TRUST + | | 8180 ESTERO BLVD | | FORT MYE | FL | 33931 | | 8180 | ESTERO BLVD | | FORT MYE | 33931 | GRAND OLE MAN<CR> PB 29 PG 27<CR>LOT 21 |
| 10234198 | 03-47-24-W3-00300.0220 | DRENTH JENNIFER L TR | | 8540 STONEGATE CT | | SAINT JOH | IN | 46373 | | 8200 | ESTERO BLVD | | FORT MYE | 33931 | GRAND OLE MAN<CR>PB 29 PG 27<CR>LOT 22 |
| 10234199 | 03-47-24-W3-00300.0230 | TYLER FLORA | | 8214 ESTERO BLVD | | FORT MYE | FL | 33931 | | 8214 | ESTERO BLVD | | FORT MYE | 33931 | GRAND OLE MAN<CR>PB 29 PG 27<CR>LOT 23 |
| 10234200 | 03-47-24-W3-00300.0240 | GAC PROPERTIES LLC | | 6051 HOLATEE TRL | | SOUTHWE | FL | 33330 | | 8222 | ESTERO BLVD | | FORT MYE | 33931 | GRAND OLE MAN<CR>PB 29 PG 27<CR>LOT 24 |
| 10234201 | 03-47-24-W3-00300.0250 | NIGHT HERON LLC | | 116 PROSPECT AVE | | GUILFORD | CT | 6437 | | 8236 | ESTERO BLVD | | FORT MYE | 33931 | GRAND OLE MAN<CR> PB 29 PG 27<CR>LOT 25 |
| 10234202 | 03-47-24-W3-00300.0260 | CAMERON JAMES A | | 47 FAIRVIEW BLVD | | FORT MYE | FL | 33931 | | 8246 | ESTERO BLVD | | FORT MYE | 33931 | GRAND OLE MAN<CR>PB 29 PG 27<CR>LOT 26 |
| 10234203 | 03-47-24-W3-00300.0270 | ESTERO 3 LLC | | 5359 N 400 W | | BARGERSV | IN | 46106 | | 8258 | ESTERO BLVD | | FORT MYE | 33931 | GRAND OLE MAN<CR> PB 29 PG 27<CR>LOT 27 |
| 10234064 | 03-47-24-W3-00103.0350 | LEMARO INC | | 449 HARVEST RD | | DUNDAS | ON | L9H 5E2 | CANADA | 7940 | BUCCANEER DR | | FORT MYE | 33931 | LAGUNA SHORES UNIT 1<CR>BLK 3 PB 9 PG 30<CR>LOT 35 |
| 10234069 | 03-47-24-W3-00103.0400 | MCHUGH JONATHAN E & | | 8057 ESTERO BLVD | | FORT MYE | FL | 33931 | | 8057 | ESTERO BLVD | | FORT MYE | 33931 | LAGUNA SHORES UNIT 1<CR>BLK 3 PB 9 PG 30<CR>LOT 40 |
| 10234025 | 03-47-24-W3-00102.0010 | POSILLICO VINCENZO & | | 145 HARVARD ST | | WESTBUR | NY | 11590 | | 201 | REDFISH RD | | FORT MYE | 33931 | LAGUNA SHORES UNIT 1<CR>BLK 2 PB 9 PG 29 30<CR>LOT 1 |

## EXHIBIT 6-7 MAP OF PROPERTY OWNERS 500 FT.



Case #_____ Date Received_____
Planner_____ Date of Sufficiency/Completeness_____

# 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:** | SHARED DUNE WALKOVER |
| **Authorized Applicant:** | SQUEEZE ME INN & TEXAS HOLD'EM LLC |
| **LeePA STRAP Number(s):** | |
| | 03-47-24-W3-00300.0190 & 03-47-24-W3-00300.0200 |

| | |
|---|---|
| **Current Property Status:** | SINGLE FAMILY RESIDENTIAL / 01 |
| **Current Zoning:** | RS & EC |
| **Future Land Use Map (FLUM) Category:** | LOW DENSITY RESIDENTIAL |
| **Platted Overlay?** ☐ **yes** ☑ **no** | **FLUM Density Range:** N/A |

**Requested Action:**

| | |
|---|---|
| ☑ | Use of premises in the EC (Environmentally Critical) zoning district for: |
| | SHARED DUNE WALKOVER |
| | |
| | |
| ☐ | Use of premises in the _____ zoning district for: |
| | |
| | |
| | |

# PART I
## Narrative Statements

A. **Request for:** (indicate the proposed use that requires a special exception)

| |
|---|
| The property is developed with two homes between Estero Blvd and the Gulf of |
| Mexico. A single shared walkover is proposed to protect the dune system. This |
| request is to allow the dune walkover as a special exception under the provisions |
| of a minor structure under the town's land development code section 34-652 (e).6. |
| |
| The applicant, Mr. Rood, is a disabled person as defined by |
| the Americans with Disabilities Act, requires the special exception |
| to construct the walkover as a reasonable accommodation for him to access |
| the beach on the rear of his property. |
| Because of his disability involving limitations on walking, Mr. Rood requires, |
| and will require, mobility and assistive devices including a cane, |
| sit-down power scooter, Segway, and wheelchair to enable him to access the public |
| the public beach. |

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:** |
|---|
| |
| |
| |
| |
| Please see attached project narrative. |
| |
| |
| |
| |
| |
| |
| |

| **Granting the requested Special Exception could impact surrounding properties as follows:** |
|---|
| The proposed improvement will increase the resiliency of the dune located on the |
| property by minimizing foot traffic over the native vegetation, thereby enhancing |
| the protection of the surrounding properties. There will be no other notable impacts to surrounding |
| properties. |
| |
| |
| |
| |
| |
| |
| |
| |
| |
| |

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.

**For New Communication Towers:**

a. Lee County Application for Communication Tower
b. Shared-Use Plan Agreement

# Project Narrative and Special Exception Standards Analysis

In Support of the Application for a Dune Walkover at
8150 and 8170 Estero Boulevard, Fort Myers Beach, FL

## I. REQUEST

Texas Hold'em, LLC and Squeeze Me Inn, LLC (the "Applicants") make this request for approval of a Special Exception to allow a dune walkover as an accessory to the two residential homes located at 8150 and 8170 Estero Boulevard (the "Subject Property").

## II. SUBJECT PROPERTY AND PROPOSED DUNE WALKOVER DETAILS

The Subject Property is located on the south side of Estero Boulevard, adjacent to the Gulf of Mexico. The Subject Property has a land use designation of "Low Density Residential" along Estero Boulevard and "Recreation" for the remainder of the property as it extends towards the Gulf. The zoning is likewise split between "Residential Single Family (RS)" along Estero Boulevard, and "Environmentally Critical (EC)" adjacent to the Gulf.

The residences located on the Subject Property are separated from the waters of the Gulf of Mexico by a dune system consisting of low-lying dunes covered with native vegetation, and a shallow non-tidal lagoon. The proposed dune walkover has been designed to: conform to the Town's Comprehensive Plan and Land Development Code (the "LDC"), eliminate any impacts to the surrounding natural resources, and prevent any negative impacts to the surrounding properties and residents.

The proposed dune walkover consists of an approximately 298-foot long wooden structure, supported by wooden pilings. An initial design was elevated and had handrails running along both sides. In coordination with the State permitting agencies, the handrails were removed, the walkover was made narrower, and the elevation was lowered to the lowest level permitted by applicable regulations. Steps from the boardwalk at the waterward end have been replaced by a shallow ramp. The walkover begins at the centerline of the two residential properties, continuing out perpendicular to the shoreline. The walkway makes one minor deflection to the east in order to prevent any intrusion into the Little Estero Island Critical Wildlife Area (the "LEICWA").

## III. EXISTING STATE PERMITS

To construct the proposed dune walkover, the Applicants filed: 1) an application for an Environmental Resource Permit (ERP); 2) an application for a letter of consent easement for the use of sovereignty submerged lands (SSL Authorization); 3) a petition for waiver from Florida Administrative Code Rules 62B-33.008(3)(c) and (d) to allow for completion and consideration of an application for a Coastal Construction Control Line (CCCL) permit (CCCL Waiver); and 4) an application for a CCCL permit (CCCL Permit).

The requested environmental permits were all issued for the project, but were challenged by the Town and another third party. A hearing was held before an Administrative Law Judge on September 18, 2018. A Consolidated Final Order was issued on May 9th, 2019 by the Florida Department of Environmental Protection which upheld and approved the issuance of all the permits requested. Citations to that Final Order will be noted herein as (Order, p. #).

## IV. SPECIAL EXCEPTION STANDARDS

Section 34-88 of the LDC provides the considerations to be taken into account upon reviewing a request for a special exception. The following narrative details the compliance with those considerations, as applicable.

> **"Sec. 34-88 – Special Exceptions**
> **(b) *Considerations*. In reaching its decision, the town council shall consider the following whenever applicable:"**
>
> **"(1) Whether there exist changed or changing conditions which make approval of the request appropriate."**

***Analysis:*** The Applicants' request for the dune walkover is to allow for access to the Gulf of Mexico, without impacting the accreted dune system. Changed conditions are evident in the significant accretion that has occurred, creating a large dune system separating the Subject Property from the Gulf of Mexico. Evidence was established during the Administrative Hearings on the environmental permits that "over the last 50 plus years…and especially within the last ten to 15,…this shoreline has been accreting." (Order, p. 12.)

While homeowners currently traverse this dune system on foot with some difficulty, the LDC discourages this in recognition of negative impacts this can cause. Section 34-1575 (c) "*No development will be permitted which alters the dune system, except for narrow pathways as permitted by § 34-652(d)(10) of this LDC* ***and excavations for the installation of pilings necessary for the construction of elevated structures as permitted by the state department of environmental protection****".* Accordingly, the LDC establishes the appropriateness of this Special Exception in view of the dune system that has developed adjacent to the Subject Property.

> **"(2) The testimony of any applicant."**

***Analysis:*** The Applicants provide this written testimony, and will provide testimony at all public hearings to address any issues or questions as may arise from staff and the hearing boards.

> **"(3) The recommendation of staff and of the local planning agency."**

***Analysis:*** Applicants will work with staff and the local planning agency to address any questions they may have in preparation of their recommendations.

> **"(4) The testimony of the public."**

***Analysis:*** Applicants will attend all public hearings to address any questions that may arise from the public concerning the request.

> **"(5) Whether the request is consistent with the goals, objectives, policies, and intent of the Fort Myers Beach Comprehensive Plan."**

***Analysis:*** The request for a dune walkover at the Subject Property is consistent with the goals, objectives, policies, and intent of the Fort Myers Beach Comprehensive Plan.

Future Land Use Element, Policy 4-A-6 states: "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."

The special exception request for the dune walkover represents an expanded beach access, while protecting the vegetation and dune system as it exists today.

Future Land Use Element, Policy 4-B-8 states in part: "'RECREATION': … Additional accretions of beach, whether by natural causes or through beach renourishment, will automatically be assigned to this category… Allowable uses are parks, schools, libraries, bathing beaches, beach access points, and related public facilities."

The proposed dune walkover supports the use of the portions of the Subject Property with a "Recreation" Future Land Use designation as a bathing beach and for a beach access point as permitted by this Policy.

Future Land Use Element, Policy 4-B-9 regarding wetlands states in part, "Other allowable uses, if compatible with wetland functions, are passive recreation, walking access to tidal waters (boardwalks and docks), and restoration of degraded habitats."

While not technically within the "Wetland" Future Land Use category, the shallow non-tidal lagoon has apparently led Town staff to conclude that wetland requirements may be implicated. The proposed dune walkover perfectly aligns with this permitted use for wetland locations, as addressed by this Policy.

Coastal Management Element, Policy 5-D-1-ii states, "Sand dunes should be protected and recreated wherever they have been removed. Native dune plants should be protected and non-native exotics removed. Dune walkovers should be constructed where they do not exist and existing structures should be maintained."

This Policy directly supports the Applicants' position that the proposed walkover will protect the dune system and the vegetation found there. The Consolidated Final Order specifically found evidence that bolsters the Town's Policy as it relates to the proposed dune walkover, stating, "…there was no reasonable alternative to the proposed dune walkover, other than the more disruptive and destructive means of providing access to the Gulf of Mexico currently in use." (Order, p. 40.)

Conservation Element, Policy 6-E-1 states, "For any beachfront development approved after the adoption of this plan and for all public beach areas within the town, state-approved dune walk-over structures shall be required at appropriate crossing points. These same structures are also encouraged wherever pedestrians will be crossing dune areas."

This Policy strongly reflects the importance the Town has placed on utilizing dune walkovers to protect the dune and beach system. This Policy requires all future beachfront development to provide a dune walkover, and these structures are to be "encouraged wherever pedestrians will be crossing dune areas." The Applicants' proposal expressly meets this Policy of the Town's Comprehensive Plan by providing a dune walkover where pedestrian activity currently exists.

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

***Analysis:*** The dune walkover as proposed meets all performance and locational standards found in the LDC:

- Walkovers must be placed perpendicular to the dune or no more than 30 degrees from perpendicular. New walkovers cannot be placed closer than 150 feet to the nearest walkover. (Sec. 34-652 f.2.a.)
- Walkovers must be supported on posts embedded to a sufficient depth to provide structural stability. These posts may not be encased in concrete. (Sec. 34-652 f.2.b.)
- Walkovers cannot exceed four feet in width when serving single-family homes or six feet in width otherwise. Alternate widths require a variance. (See Variance with this application) (Sec. 34-652 f.2.c)
- Walkovers must be elevated at least two feet, and no more than three feet, above the highest point of the dune and dune vegetation and must extend to the seaward toe of any existing dune and dune vegetation. (See design note on boundary survey) (Sec. 34-652 f.2.d.)
- Walkovers must be constructed in a manner that minimizes short-term disturbance of the dune system. Any dune vegetation destroyed during construction must be replaced with similar native vegetation that is suitable for beach and dune stabilization and increases either plant density or area of plantings. (Sec. 34-652 f.2.e)
- Walkovers may not be constructed during the sea turtle nesting season (May 1 through October 31) (Sec. 34-652 f.2.f)
- Walkovers may not be attached to any other structures. (Sec 34-652 f.2.g.)
- The dune walkover is to be constructed within the riparian extensions of the Subject Property. (Sec. 26-43.a.1.)
- The dune walkover meets the side setback in the EC zoning district of 25 feet. (Sec. 34-652; Table 34-3)

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

***Analysis:*** Both the Town's Comprehensive Plan and the LDC recognize the fact that a dune walkover provides a benefit to the ecological community and is the preferred method for protecting the dune system and vegetation. As noted above, the Coastal Management Element states, "Dune walkovers should be constructed where they do not exist and existing structures should be maintained." (Policy 5-D-1-ii.) The Conservation Element likewise provides that dune walkovers should be "encouraged wherever pedestrians will be crossing dune areas." (Policy 6-E-1).

LDC Sec 34-652 e.6 Perpendicular dune walkovers on property, when required to protect indigenous plant communities and when elevation change exists, in accordance with § 10-415(b) and subsection (f).

In summarizing the findings of the Administrative Law Judge, the Consolidated Final Order made several findings concerning the impacts of the dune walkover to the dune system. These findings include:

> "…by a preponderance of the competent, substantial, and persuasive evidence in the record, that the proposed dune walkover will pose no demonstrable environmental or social costs." (Order, p. 38.)
>
> "…the proposed dune walkover will have no effect on the use of the beach, shorebirds, or the LEICWA." (Order, p. 38.)
>
> "…that there was no reasonable alternative to the proposed dune walkover, other than the more disruptive and destructive means of providing access to the Gulf of Mexico currently in use." (Order, p. 40.)

As such, the factual findings in the administrative hearing on this project have conclusively established that the proposed dune walkover will protect and preserve the environmentally critical areas and natural resources.

> **"(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."**

***Analysis:*** The proposed dune walkover will be compatible with the existing and planned uses and will not cause damage, hazard, nuisance, or other detriment. The design of the dune walkover has been modified to minimize its impacts through making it lower, narrower, removing any handrails, and otherwise limiting its scale. The design, consistent with the Town's regulations, and the State environmental permit requirements, will insure no hazards or damage will accrue to persons or property.

> **"(9) Whether a requested use will be in compliance with applicable general zoning provisions and supplemental regulations pertaining to the use set forth in this chapter."**

***Analysis:*** The proposed dune walkover will be in compliance with the applicable general zoning provisions and supplemental regulations pertaining to the use. Sec. 34-88 (d)(1) states:

> "The town council shall grant the special exception unless it finds that granting the special exception is contrary to the public interest and the health, safety, comfort, convenience, and welfare of the citizens of the town, or that the request is in conflict with the criteria in this section."

In the Consolidated Final Order, several conclusions of law were reached based upon the evidence presented. These findings include, "The dune walkover will have a beneficial effect on the native vegetation in its immediate area." (Order, p. 18); "Shorebirds, whether or not they are protected species, will not be impacted by the Project." (Order, p. 22); and that there was no finding of "adverse impacts to quarter quality." (Order, p. 23)

Furthermore, the Consolidated Final Order found that there was no evidence that the dune walkover will "adversely affect the public health, safety, or welfare or the property of others. (Order, p. 28).

## V. CONCLUSION

As the Applicants have amply demonstrated through their application, plans, narrative, and the acquisition of required State environmental permits, the proposed dune walkover will comply with all Town zoning regulations, protect the natural resources in the area, and will generate no negative impacts on surrounding properties or the community at large. Accordingly, we respectfully request the issuance of the Special Exception for the Subject Property.

## LEGEND OF SYMBOLS AND ABBREVIATIONS

D = DELTA
R = RADIUS
CB = CHORD BEARING
CH = CHORD
L = ARC LENGTH
T = TANGENT
GAR = GARAGE
RW = RAILROAD
CONC = CONCRETE
SEC = SECTION
PB = PLAT BOOK
FND = FOUND

R/W = RIGHT-OF-WAY
TT = TIN TAB
BLK = BLOCK
RNG = RANGE
BM = BENCHMARK
FH = FIRE HYDRANT
TWP = TOWNSHIP
PK = PARKER KALON
P = PLAT
C = CALCULATED
MH = MANHOLE
SV = SEAVALL

NGVD = NATIONAL GEODETIC VERTICAL DATUM
CONC = CONCRETE
P = PLAT
TYP = TYPICAL
OCC = OCCUPIED
CTB = CATCH BASIN
PC = POINT OF CURVE
PT = POINT OF TANGENT
PI = POINT OF INTERSECTION
OHW = OVERHEAD WIRE
OU = OVERHEAD UTILITY
CLF = CHAINLINK FENCE
SS = SANITARY SEWER

FCN = FOUND CUT NAIL
FIR = FOUND IRON ROD 5/8"
PK = PARKER KALON
FFE = FINISHED FLOOR ELEVATION
CBS = CONCRETE BLOCK STRUCTURE
FCM = FOUND CONCRETE MONUMENT
SIR = SET 5/8" IRON ROD LS4706
SNC = SET NAIL & DISK LS4706
SPKD = SET PK NAIL & DISK LS4706
FPKD = FOUND PK NAIL AND DISK
D.E./U.E. = DRAINAGE AND PUBLIC UTILITY EASEMENT

VV = VATER VALVE
WM=VATER METER
POB = POINT OF BEGINNING
CTV=CABLE TELVISION RISER
A/C = AIR CONDITIONER
UP = UTILITY POLE
W/M = WATER MAIN
C/L = CENTERLINE
PTRAN=TRANSFORMER PAD
ELEV = ELEVATION
TELR = TELEPHONE RISER
F.B. = FIELD BOOK

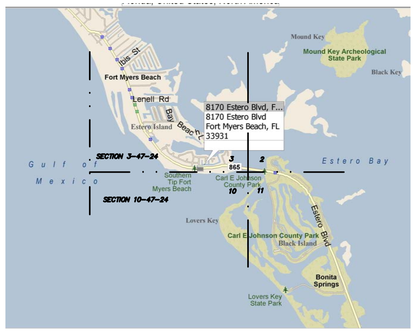
SUBJECT PROPERTY LIES IN FLOOD ZONE VE, ELEVATION 17', PER "FLOOD INSURANCE RATE MAP" (F.I.R.M.) COMMUNITY PANEL NUMBER 120673 0569 F, LAST REVISION DATE: 08/28/2008.

# BOUNDARY AND MEAN HIGH WATER SURVEY

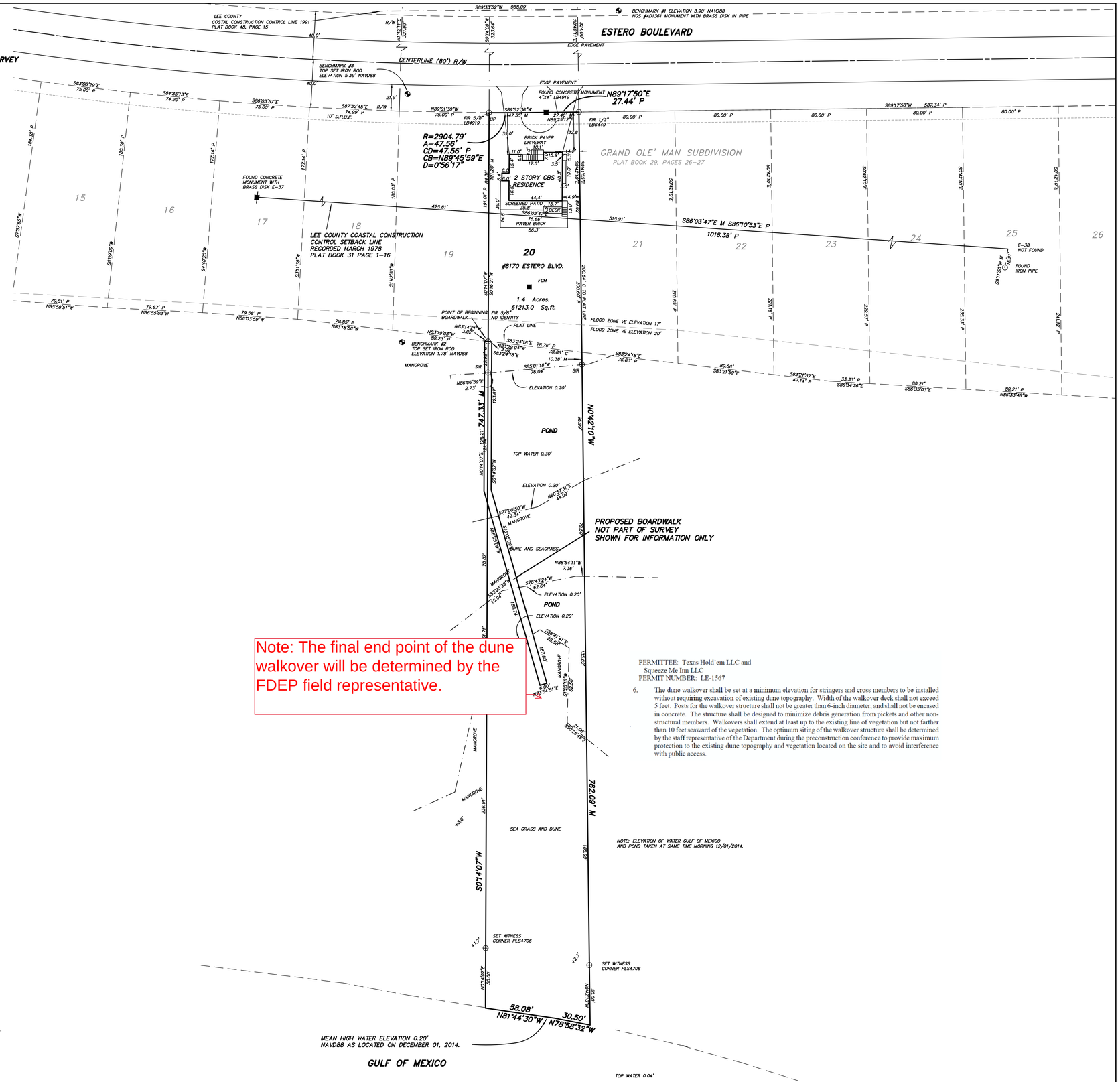
### SURVEYORS NOTES

THIS PLAT OF THE HEREIN DESCRIBED PROPERTY IS A TRUE AND CORRECT PRESENTATION OF A RECENT SURVEY MADE AND PLATTED UNDER MY DIRECTION AND TO THE BEST OF MY KNOWLEDGE AND BELIEF MEETS THE MINIMUM TECHNICAL STANDARDS ADOPTED BY THE STATE OF FLORIDA AS PER CHAPTER 5J-17, FLORIDA ADMINISTRATIVE CODE PURSUANT TO CHAPTER 427, FLORIDA STATUTES. THIS SURVEY WAS PERFORMED BASED ON A DESCRIPTION ISSUED VERBALLY BY THE CLIENT AND WITHOUT THE BENEFIT OF AN ABSTRACT OF TITLE. THE SURVEYOR HAS MADE NO INDEPENDENT SEARCH FOR EASEMENTS, OWNERSHIP, RESTRICTIVE COVENANTS OR OTHER FACTS THAT MAY AFFECT TITLE.
NOTE: SUBJECT TO EASEMENTS, RESTRICTIONS, AND RESERVATIONS OF RECORD.
THERE ARE NO VISIBLE ENCROACHMENTS EXCEPT THOSE SHOWN.
ELEVATIONS SHOWN HAVE BEEN SURVEYED FROM DATA DERIVED FROM NORTH AMERICAN VERTICAL DATUM (NAVD 88) MONUMENTS (1988 DATUM) EXCEPT WHEN ELEVATIONS ARE NOTED AS BEING ASSUMED. ONLY ABOVE GROUND EVIDENCE OF UNDERGROUND UTILITIES SHOWN.
THIS SURVEY DOES NOT DETERMINE OR REFLECT OWNERSHIP, TITLE, ZONING OR FREEDOM FROM ENCUMBRANCES AND IS ONLY FOR THE LANDS DESCRIBED ABOVE.
THIS SURVEY IS FOR THE SOLE PURPOSES INTENDED BY THE SURVEYOR AND ONLY FOR THE INDIVIDUALS AND / OR INSTITUTIONS LISTED ABOVE UNDER "CERTIFIED TO".
MEASRED DISTANCES (M) ARE NOTED ONLY WHERE THEY DIFFER FROM PLAT (P) OR CALCULATED (C) DISTANCES.

NORTH
LOCATION MAP
NO SCALE




1. THIS MEAN HIGH WATER LINE SURVEY COMPLIES WITH CHAPTER 177, PART II.
2. THE PROCEDURE FOR DETERMINING ELEVATION OF MEAN HIGH WATER WAS PROVIDED BY THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION WITH INSTRUCTION TO USE +0.20 FEET NAVD 88 AS THE MEAN HIGH WATER ELEVATION FOR THIS SITE.
3. BENCHMARK #1 IS NGS TIDAL BENCHMARK AD1361 ELEVATION 3.90 FEET NAVD 88 METAL DISK IN PIPE 56' NORTH CENTERLINE ESTERO BOULEVARD AND 28' EAST CENTERLINE TARPON
5. ELEVATIONS SHOWN ARE GROUND SPOT ELEVATION DESIGNATED THUS +3.5
6. THE 1978 LEE COUNTY COASTAL CONSTRUCTION SETBACK LINE WAS ESTABLISHED FROM FOUND MONUMENTS "B008-2" AND "E-37".




Note: The final end point of the dune walkover will be determined by the FDEP field representative.

PERMITTEE: Texas Hold'em LLC and
Squeeze Me Inn LLC
PERMIT NUMBER: LE-1567

6. The dune walkover shall be set at a minimum elevation for stringers and cross members to be installed without requiring excavation of existing dune topography. Width of the walkover deck shall not exceed 5 feet. Posts for the walkover structure shall not be greater than 6-inch diameter, and shall not be encased in concrete. The structure shall be designed to minimize debris generation from pickets and other non-structural members. Walkovers shall extend at least up to the existing line of vegetation but not farther than 10 feet seaward of the vegetation. The optimum siting of the walkover structure shall be determined by the staff representative of the Department during the preconstruction conference to provide maximum protection to the existing dune topography and vegetation located on the site and to avoid interference with public access.

### LEGAL DESCRIPTION:

Lot 20, GRAND OLE' MAN, a subdivision in Sections 3 and 10, Township 47 South, Range 24, East, Estero Island, according to the plat thereof as recorded in Plat Book 29, Page 26, Records of the Clerk of the Circuit Court, Lee County, Florida.

CHARLES LYMAN DEGRAFF
CERTIFICATE
NO. 4706
STATE OF
FLORIDA
REGISTERED LAND SURVEYOR

0 20 40 80
SCALE IN FEET

(SIGNED) CHARLES L. DEGRAFF PSM #4706

BEARINGS ARE BASED ON THE SOUTH RIGHT-OF-WAY OF ESTERO BOULEVARD BEING THE PLAT BEARING OF N89°17'50"E.

The seal appearing on this document was authorized by Charles DeGraff PSM 4706 on August 10, 2017

SURVEY FOR: Squeeze Me Inn, LLC
711 Franklin Trace
Zionsville, IN 46077

ADDRESS OF PROPERTY SURVEYED:
8170 Estero Boulevard
Fort Myers Beach, Florida 33931

CERTIFIED TO: Florida Department of Environmental Protection
City of Fort Myers Beach, Florida
Squeeze Me Inn, LLC


CHARLES DEGRAFF LAND SURVEYOR
Land Surveyors and Mappers
301 Hazeltine Drive, Debary, Florida 32713
Phone (239) 699-8572
Email charles.degraff@gmail.com
Web www.surveycapecoral.com


DATE OF FIELD WORK, DECEMBER 18, 2014
JOB # 14-0182
STRAP# 03-47-24-W3-00300.0200
FIELD BOOK 1402 PAGE 40-49 FIELD BOOK 2015-1, PAGE 2,3,5-9

## LEGEND OF SYMBOLS AND ABBREVIATIONS

D = DELTA
R = RADIUS
CB = CHORD BEARING
CH = CHORD
L = ARC LENGTH
T = TANGENT
GAR = GARAGE
RR = RAILROAD
CONC = CONCRETE
SEC = SECTION
PB = PLAT BOOK
FND = FOUND

R/W = RIGHT-OF-WAY
TT = TIN TAB
BLK = BLOCK
RNG = RANGE
BM = BENCHMARK
FH = FIRE HYDRANT
TWP = TOWNSHIP
PK = PARDKER
P = PLATTED
C = CALCULATED
MH = MANHOLE
SV = SEAVALL

NGVD = NATIONAL GEODETIC VERTICAL DATUM
CONC = CONCRETE
P = PLAT
TYP = TYPICAL
OCC = OCCUPIED
CTB = CATCH BASIN
PC = POINT OF CURVE
PT = POINT OF TANGENT
PI = POINT OF INTERSECTION
OHW = OVERHEAD WIRES
OU = OVERHEAD UTILITY
CLF = CHAINLINK FENCE
SS = SANITARY SEWER

FCN = FOUND CUT NAIL
FIR = FOUND IRON ROD 5/8"
PK = PARKER KALON
FFE = FINISHED FLOOR ELEVATION
CBS = CONCRETE BLOCK STRUCTURE
FCM = FOUND CONCRETE MONUMENT
SIR = SET 5/8" IRON ROD LS4706
PCP = PERMANENT CONTROL POINT
SPKD = SET PK NAIL & DISK LS4706
FPKD = FOUND PK NAIL AND DISK
D.E. = DRAINAGE AND PUBLIC UTILITY EASEMENT

VV = VATER VALVE
WM=VATER METER
POB = POINT OF BEGINNING
CTV=CABLE TELVISION RISER
A/C = AIR CONDITIONER
UP = UTILITY POLE
W/M = WATER MAIN
C/L = CENTERLINE
PTRAN=TRANSFORMER PAD
ELEV = ELEVATION
TELR = TELEPHONE RISER
F.B. = FIELD BOOK

SUBJECT PROPERTY LIES IN FLOOD ZONE VE, ELEVATION 17', PER "FLOOD INSURANCE RATE MAP" (F.I.R.M.) COMMUNITY PANEL NUMBER 120673 0569 F, LAST REVISION DATE: 08/28/2008.

## SURVEYORS NOTES

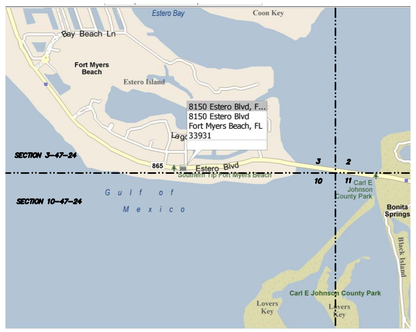
THIS PLAT OF THE HEREIN DESCRIBED PROPERTY IS A TRUE AND CORRECT PRESENTATION OF A RECENT SURVEY MADE AND PLATTED UNDER MY DIRECTION AND TO THE BEST OF MY KNOWLEDGE AND BELIEF MEETS THE MINIMUM TECHNICAL STANDARDS ADOPTED BY THE STATE OF FLORIDA AS PER CHAPTER 5J-17, FLORIDA ADMINISTRATIVE CODE PURSUANT TO CHAPTER 427, FLORIDA STATUTES. THIS SURVEY WAS PERFORMED BASED ON A DESCRIPTION ISSUED VERBALLY BY THE CLIENT AND WITHOUT THE BENEFIT OF AN ABSTRACT OF TITLE. THE SURVEYOR HAS MADE NO INDEPENDENT SEARCH FOR EASEMENTS, OWNERSHIP, RESTRICTIVE COVENANTS OR OTHER FACTS THAT MAY AFFECT TITLE.
NOTE: SUBJECT TO EASEMENTS, RESTRICTIONS, AND RESERVATIONS OF RECORD. THERE ARE NO VISIBLE ENCROACHMENTS EXCEPT THOSE SHOWN.
ELEVATIONS SHOWN HAVE BEEN SURVEYED FROM DATA DERIVED FROM NORTH AMERICAN VERTICAL DATUM (NAVD 88) MONUMENTS (1988 DATUM) EXCEPT WHEN ELEVATIONS ARE NOTED AS BEING ASSUMED. ONLY ABOVE GROUND EVIDENCE OF UNDERGROUND UTILITIES SHOWN. THIS SURVEY DOES NOT DETERMINE OR REFLECT OWNERSHIP, TITLE, ZONING OR FREEDOM FROM ENCUMBRANCES AND IS ONLY FOR THE LANDS DESCRIBED ABOVE. THIS SURVEY IS FOR THE SOLE PURPOSES INTENDED BY THE SURVEYOR AND ONLY FOR THE INDIVIDUALS AND / OR INSTITUTIONS LISTED ABOVE UNDER "CERTIFIED TO". MEASURED DISTANCES (M) ARE NOTED ONLY WHERE THEY DIFFER FROM PLAT (P) OR CALCULATED (C) DISTANCES.

1. THIS MEAN HIGH WATER LINE SURVEY COMPLIES WITH CHAPTER 177, PART II.
2. THE PROCEDURE FOR DETERMINING ELEVATION OF MEAN HIGH WATER WAS PROVIDED BY THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION WITH INSTRUCTION TO USE +0.23 FEET NAVD 88 AS THE MEAN HIGH WATER ELEVATION FOR THIS SITE.
3. BENCHMARK #1 IS NGS TIDAL BENCHMARK AD1361 ELEVATION 3.90 FEET NAVD 88 METAL DISK IN PIPE 56' NORTH CENTERLINE ESTERO BOULEVARD AND 28' EAST CENTERLINE TARPON
5. ELEVATIONS SHOWN ARE GROUND SPOT ELEVATION DESIGNATED THUS +3
6. THE 1978 LEE COUNTY COASTAL CONSTRUCTION SETBACK LINE WAS ESTABLISHED FROM FOUND MONUMENTS "B008-2" AND "E-39".

## BOUNDARY AND MEAN HIGH WATER SURVEY

NORTH

LOCATION MAP
NO SCALE




LEGAL DESCRIPTION:

Lot 19, GRAND OLE' MAN, a subdivision in Sections 3 and 10, Township 47 South, Range 24, East, Estero Island, according to the plat thereof as recorded in Plat Book 29, Page 26, Records of the Clerk of the Circuit Court, Lee County, Florida.

NOTE: THIS DRAWING IS A COPY OF A MEAN HIGH WATER SURVEY, THE FIELD WORK BEING DONE DECEMBER 18, 2014, WITH THE PROPOSED BOARDWALK LOCATION SHOWN ALONG WITH AN UNDERLAY OF THE .PDF COPY OF THE LIMITS OF THE LITTLE ESTERO ISLAND CRITICAL WILDLIFE AREA AS PROVIDED TO ME BY THE FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION OF THE STATE OF FLORIDA. THE ORIGINAL MEAN HIGH WATER SURVEY IS FILED WITH THE STATE FDEP UNDER FILE NUMBER 5663.

CHARLES LYMAN DEGRAFF
CERTIFICATE
NO. 4706
STATE OF
FLORIDA
REGISTERED LAND SURVEYOR

0 20 40 80
SCALE IN FEET

(SIGNED) _____
CHARLES L. DEGRAFF PSM #4706

BEARINGS ARE BASED ON THE SOUTH RIGHT-OF-WAY OF ESTERO BOULEVARD BEING THE PLAT BEARING OF N89°17'50"E.

The seal appearing on this document was authorized by Charles DeGraff PSM 4706 on August 24, 2018.

SURVEY FOR: Texas Holdem LLC
Mr. Eddie Rood
2817 Carriage Lane
Carrollton, Texas 75006

ADDRESS OF PROPERTY SURVEYED:
8150 Estero Boulevard
Fort Myers Beach, Florida 33931

CERTIFIED TO: Florida Department of Environmental Protection
City of Fort Myers Beach, Florida
Texas Holdem LLC
Eddie Rood

DATE OF FIELD WORK, DECEMBER 18, 2014
JOB # 14-0171
STRAP# 03-47-24-W3-00300.0190
FIELD BOOK 1402 PAGE 40-49 FIELD BOOK 2015-1, PAGE 2,3,5-9


CHARLES DEGRAFF LAND SURVEYOR
Land Surveyors and Mappers
301 Hazeltine Drive, Debary, Florida 32713
Phone (239) 699-8572
Email charles.degraff@gmail.com
Web www.surveycapecoral.com

**STATE OF FLORIDA**
**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

| | | |
|---|---|---|
| **FLORIDA AUDUBON SOCIETY, INC.,** | ) | |
| | ) | |
| **Petitioner,** | ) | |
| | ) | |
| **v.** | ) | **OGC CASE NO. 16-1346** |
| | ) | **DOAH CASE NO. 16-7148** |
| **TEXAS HOLD'EM, LLC; SQUEEZE ME INN, LLC; AND DEPARTMENT OF ENVIRONMENTAL PROTECTION,** | ) | |
| | ) | |
| **Respondents.** | ) | |
| | ) | |
| **TOWN OF FORT MYERS BEACH, FLORIDA,** | ) | |
| | ) | |
| **Petitioner,** | ) | |
| | ) | |
| **v.** | ) | **OGC CASE NO. 16-1343** |
| | ) | **DOAH CASE NO. 16-7149** |
| **TEXAS HOLD'EM, LLC; SQUEEZE ME INN, LLC; AND DEPARTMENT OF ENVIRONMENTAL PROTECTION,** | ) | |
| | ) | |
| **Respondents.** | ) | |
| | ) | |
| **FLORIDA AUDUBON SOCIETY, INC., AND TOWN OF FORT MYERS BEACH, FLORIDA,** | ) | |
| | ) | |
| **Petitioners,** | ) | |
| | ) | **OGC CASE NOS. 17-0959** |
| **v.** | ) | **18-0214** |
| | ) | **DOAH CASE NOS. 18-1451** |
| **TEXAS HOLD'EM, LLC; SQUEEZE ME INN, LLC; AND DEPARTMENT OF ENVIRONMENTAL PROTECTION,** | ) | **18-2141** |
| | ) | |
| **Respondents.** | ) | |
| | / | |

**CONSOLIDATED FINAL ORDER**

An Administrative Law Judge (ALJ) with the Division of Administrative Hearings (DOAH) on March 20, 2019, submitted a Recommended Order (RO) to the Department of Environmental Protection (DEP or Department) in the above captioned administrative proceeding. A copy of the RO is attached hereto as Exhibit A. DEP timely filed exceptions on April 4, 2019. Texas Hold'em, LLC (Texas Hold'em), and Squeeze Me Inn, LLC (Squeeze Me Inn), collectively the Applicants, timely filed exceptions on April 4, 2019. The Petitioner Florida Audubon Society, Inc., (Audubon or Petitioners) timely filed one exception on April 9, 2019. No party filed responses to the exceptions.

This matter is now before the Secretary of the Department for final agency action.

## BACKGROUND

These consolidated cases involve agency actions related to a "dune walkover" (dune walkover or Project) proposed by the applicants, Texas Hold'Em, LLC, and Squeeze Me Inn, LLC (the Applicants). To construct the proposed dune walkover, the Applicants filed: 1) an application for an Environmental Resource Permit (ERP); 2) an application for a letter of consent easement for the use of sovereignty submerged lands (SSL Authorization); 3) a petition for waiver from Florida Administrative Code Rules 62B-33.008(3)(c) and (d) to allow for completion and consideration of an application for a Coastal Construction Control Line (CCCL) permit (CCCL Waiver); and 4) an application for a CCCL permit (CCCL Permit).

On September 29, 2016, the Department of Environmental Protection (the Department or DEP), in its own capacity, and in its capacity as staff to the Board of Trustees of the Internal Improvement Trust Fund (BTIITF or BOT), issued Consolidated Environmental Resource Permit No. 36-0320034-001 and Letter of Consent Easement to Use Sovereign Submerged

Lands No. 360239365 (collectively the Consolidated Permit) to the Applicants for the construction of a 1,491.5 square-foot beach boardwalk.

On November 4, 2016, Petitioners, Audubon and the Town of Fort Myers Beach (Town), each filed an Amended Petition for Administrative Hearing challenging the Consolidated Permit. The Amended Petitions were transmitted to DOAH, assigned as Case Nos. 16-7148 and 16-7149, respectively, consolidated for hearing, and initially set to be heard on June 12 through 16, 2017.

The hearing on the Consolidated Permit cases was continued, and the cases placed in abeyance to allow for the associated CCCL Permit application to be processed by DEP.

On May 3, 2017, the Applicants amended their application to relocate the boardwalk outside of the established limits of the Little Estero Island Critical Wildlife Area (LEICWA). DEP reviewed the proposed changes and determined that the project, as amended, continued to meet the criteria for issuance of the Consolidated Permit, and transmitted the revised Notice of Intent and Revised Draft Environmental Resources Permit and State Owned Submerged Lands Authorization to DOAH on May 10, 2017.

DEP has established a CCCL for Little Estero Island. A permit is required before any person may conduct construction activities seaward of the CCCL. On May 4, 2017, after having determined that the proposed dune walkover was, in whole or in part, seaward of the CCCL, the Applicants applied for the CCCL Permit. On June 8, 2017, DEP issued a request for marine turtle impact review to the Florida Fish and Wildlife Conservation Commission (FFWCC). On July 27, 2017, FFWCC responded to the request with two recommended CCCL Permit conditions: that no construction occur during nesting season (May 1 through October 31); and that all vehicles be operated in accordance with FFWCC's Best Management Practices for Operating Vehicles on the Beach. Both conditions were accepted by the Applicants.

On August 11, 2017, the Applicants filed their Petition for Waiver of Rules 62B-33.008(3)(c) and (d), which was supplemented on October 3, 2017, and amended on November 9, 2017. The CCCL Waiver has the effect of allowing the required evidence of ownership of the property encompassed by the CCCL Permit application, and the written evidence that the proposed dune walkover does not violate local setback requirements or zoning codes to be submitted after issuance of the CCCL Permit, with a permit condition requiring submission of the information prior to DEP issuing a Notice to Proceed, which would authorize the Applicants to commence construction.

On September 29, 2017, the Applicants submitted revised construction and site plans for the proposed dune walkover that reduced its overall footprint from six to five feet across; lowered its height from three feet, ten inches to two feet, six inches above the sand; replaced steps with a ramp; and removed the 3-foot handrails.

On February 7, 2018, DEP issued a Final Order Granting Petition for Waivers, File No. LE-1567V, which granted the CCCL Waiver.

On March 2, 2018, Audubon and the Town each filed a Petition for Administrative Hearing challenging the CCCL Waiver. The Petitions were transmitted to DOAH, consolidated by the DOAH Clerk's office and assigned as Case No. 18-1451.

On March 30, 2018, DEP issued the proposed Permit for Construction or Other Activities Pursuant to Section 161.053, Florida Statutes, No. LE-1567, which authorized the construction of the dune walkover seaward of the CCCL.

On April 20, 2018, Audubon and the Town each filed a Petition for Administrative Hearing challenging the CCCL Permit. The Petitions were transmitted to DOAH, consolidated by DOAH Clerk's office and assigned as Case No. 18-2141.

On May 10, 2018, Case Nos. 16-7148, 16-7149, 18-1451, and 18-2141 were consolidated for hearing, and the final hearing on the consolidated cases was scheduled for September 18 through 21, 2018.

On June 28, 2018, DEP and the Applicants filed a Joint Notice of Revisions to Draft Environmental Resource Permit and State Owned Submerged Lands Authorization (Joint Notice), which incorporated the September 29, 2017, modifications into the Consolidated Permit. Audubon and the Town each filed a Petition for Formal Administrative Hearing, which were accepted as their Second Amended Petitions to challenge the Consolidated Permit as modified by the Joint Notice.

On September 11, 2018, the parties filed their Joint Prehearing Stipulation and an Amended Joint Prehearing Stipulation (JPS). The JPS contained 39 stipulations of fact and law, and eight stipulations of law, each of which is adopted and incorporated herein, if not specifically, then by reference. The list of stipulated facts provided a comprehensive listing of the various applications, submissions, amendments, petitions, and the like.

The statement of the issues of fact remaining for disposition provided by the parties did little to narrow the real issues in dispute. Having been provided with little to no limitation on the issues in dispute, the ALJ stated that he would attempt to address the permitting standards as comprehensively as possible.

The hearing convened on September 18, 2018, as scheduled.

The ERP under review, having been issued under the authority of chapter 373, Florida Statutes, was subject to the modified burden of proof established in section 120.569(2)(p), Florida Statutes. The SSL Authorization was issued under the authority of chapter 253, Florida Statutes; the CCCL Permit under the authority of chapter 161, Florida Statutes; and the CCCL

Waiver under the authority of section 120.542, Florida Statutes. Thus, the burden remained with the Applicants to demonstrate entitlement to those elements. To simplify the order of presentation, the Applicants and DEP presented their cases in full, with Petitioners' standing witnesses taken out of order for the witnesses' convenience.

Joint Exhibits 1 through 13, consisting of the Consolidated Permit file; the CCCL Permit file; the CCCL Waiver file; various surveys, sketches, and aerials related to the proposed dune walkover; the June 28 Revised Notice of Intent for the ERP/Consent and attached documents; and the resumes of DEP witnesses Tony McNeal, Megan Mills, and Richard Malloy, were received in evidence by stipulation of the parties.

The Applicants called the following witnesses: Kurt Kroemer, managing member of Squeeze Me Inn, LLC; Edward Rood, managing member of Texas Hold'Em, LLC; Robert Case, P.E., who was tendered and accepted as an expert in civil engineering; Michael Dombrowski, P.E., who was tendered and accepted as an expert in coastal engineering; and Shane Johnson, who was tendered and accepted as an expert in zoology and ecology. Applicants' Exhibits 4 through 7, 9, 10, 13 through 23, 25, and 72 through 74 were received in evidence. Applicants' Exhibit 73 consisted of the deposition testimony of Charles DeGraff, an expert in surveying, who was more than 100 miles from the hearing location on the date of the hearing. His deposition was accepted pursuant to Florida Rule of Civil Procedure 1.330 and was given the same weight as though the deponent testified in person.

DEP called Megan Mills, its ERP program administrator; and Tony McNeal, P.E., its CCCL program administrator, and offered Joint Exhibits 1 through 13.

Audubon called Julie Brashears Wraithmell, its president; and Brad Cornell, both on the issue of standing. The Town called Roger Hernsteadt, its manager; Jason Green, its community

development director; and Rae Burns, its environmental technician, on the issue of standing. Petitioners jointly called Ms. Burns; Dr. Robert Young, who was accepted as an expert in coastal geology and coastal management; and Nancy Douglass, an employee of the FFWCC. Petitioners' Exhibits 1, 2, 7, 25, 33, 42 through 44, 47, 49, 62, 64, and 72 were received in evidence.

A three-volume Transcript of the final hearing was filed on November 6, 2018. The parties were allowed 20 days from the filing of the Transcript within which to file their proposed recommended orders. Petitioners moved for a further extension of time to file their proposed recommended orders until December 10, 2018, which was granted. DEP moved to enlarge the page limit for the proposed recommended orders to 70 pages, which was also granted. All parties timely filed Proposed Recommended Orders, each of which was considered in the ALJ's preparation of his Recommended Order.

## SUMMARY OF THE RECOMMENDED ORDER

### The Parties

Squeeze Me Inn, LLC, is a limited liability corporation incorporated in the State of Florida. Kurt Kroemer is its managing member. Squeeze Me Inn, LLC, owns a single-family home at 8170 Estero Boulevard in Fort Myers Beach, Florida, and pays taxes on the property. Mr. Kroemer purchased the property through Squeeze Me Inn, LLC, based on his enjoyment of the beach. He visits the property five times per year on average and intends to retire there. (RO ¶ 1).

Texas Hold'Em, LLC, is a limited liability company incorporated in the State of Florida. Edward Rood is its managing member. Texas Hold'Em, LLC, owns a single-family home at 8150 Estero Boulevard in Fort Myers Beach, Florida, and pays taxes on the property. Mr. Rood

uses the home four to five times per year. He enjoys visiting the Gulf of Mexico and the adjacent beach area behind his house. (RO ¶ 2).

DEP is an agency of the State of Florida, pursuant to section 20.255, Florida Statutes. DEP is the permitting authority in this proceeding and issued the Consolidated Permit, the CCCL Waiver, and the CCCL Permit at issue in this proceeding to the Applicants. DEP performs staff duties and functions on behalf of the BTIITF related to the review of applications for authorization to use sovereignty submerged lands necessary for an activity regulated under chapter 373, part IV, Florida Statutes, for which DEP has permitting responsibility. § 253.002(1), Fla. Stat. DEP has been delegated the authority to take action, without any input from the BTIITF, on applications for authorization to use sovereignty submerged lands necessary for an activity regulated under chapter 373, part IV, Florida Statutes, for which DEP has permitting responsibility. § 253.002(1), Fla. Stat. (2018); Fla. Admin. Code R. 18-21.0051(2). (RO ¶¶ 3-4).

Audubon is an organization incorporated in the State of Florida. Audubon has roughly 20,000 members statewide, and 5,000 members in Southwest Florida, some of whom it contends are in the "direct vicinity" of the project. Audubon's mission statement is to protect birds and their habitat for the benefit of people and wildlife. (RO ¶ 5).

The Town is an incorporated municipality located on the west coast of Florida along the Gulf of Mexico. The proposed dune walkover is within the Town limits. (RO ¶ 6).

Standing

Audubon considers the LEICWA and its surrounding areas important, because it is "important to the birds." Audubon was involved in the process of establishing the LEICWA, and its members volunteer to help monitor and manage the LEICWA. The LEICWA is a renowned bird-watching site. Audubon members have assisted in "posting for nesting birds, as well as

fielding volunteers who are bird stewards. They chaperone the colony to protect it from disturbance, especially on busy beach going weekends." The interest in areas outside of the LEICWA is less apparent, though Audubon alleged that the areas around the LEICWA are important to the birds and, thus, Audubon's members, since "birds unfortunately don't recognize boundaries." In addition, Audubon alleged that the dune walkover would irreparably harm the lagoon and the coastal habitat seaward of it, which is important habitat for imperiled species that are critical for the enjoyment of Audubon's members. Audubon's interest in contesting the CCCL and the CCCL Waiver is tied to the reasons for its ERP and SSL standing. (RO ¶¶ 7-8).

The Town's interest in the Consolidated Permit and the CCCL Permit was related to the importance of the Ft. Myers Beach beaches, including those in the LEICWA, to the Town's economy from ecotourism. The Town's interest in shorebirds is that they contribute to the Town's economy by "draw[ing] people to select to visit Fort Myers Beach versus other areas of the state." The Town spends money for beach maintenance to compete for tourism dollars, but does not track the number of visitors to the beach where the Project would be located. The Town's interest in challenging the CCCL Waiver was that "it goes outside the normal process" and "creates confusion among applicants and the public." However, the CCCL Waiver would have no effect on the Town's processing of development orders. In addition, the Town was concerned that the boardwalk, as a frangible structure, could cause damage to the property of nearby private individuals. The interest in that regard was not to the property or resources of the Town, but to "[o]ur residents and our property owners." (RO ¶¶ 9-10).

The Project Area

Little Estero Island is part of a barrier island system that has developed over decades through the gradual accretion of sand onto the shoreline. (RO ¶ 12).

The proposed dune walkover is proposed to be constructed on property just west of Big Carlos Pass, a maintained navigational channel that connects inland coastal waters to the Gulf of Mexico. Big Carlos Pass is a tidally dominated inlet, which results in a very dynamic shoreline in its immediate vicinity. (RO ¶ 13).

Creation and Fate of the "Lagoon" and Current Shoreline

Fort Myers Beach experiences offshore sediment transport that transfers sand along the shoreline from Estero Island towards Big Carlos Pass. In addition, movement of water through Big Carlos Pass agitates and suspends sand, creating an "ebb shoal" at the Gulf side of the pass. Currents generated by wave action transport sand from the ebb shoal offshore along the shoreline on both sides of the pass. The sediment transport results in the development of shoals and swash bars offshore from the Project site. Those features are gradually pushed towards the shore, and eventually "weld" onto the shoreline. (RO ¶ 14).

Big Carlos Pass was recently (after the October 20, 2015, issuance of the authorizing permit) dredged to maintain, realign, and straighten the inlet channel. The dredged material, consisting of approximately 350,000 cubic yards of sand, was deposited along 4,500 linear feet just offshore to the west of the Project vicinity. (RO ¶ 15).

The process of accretion, and the "welding" of a shoreward-moving sandbar has resulted in the creation of an enclosed and shrinking body of water between the shoreline and the upland. What was previously the shoreline of the Gulf of Mexico is, for now, the landward shoreline of the "lagoon." (RO ¶ 16).

During significant storm events, the area can experience overwash, when storm-driven tides and waves overtop the existing Gulf shoreline, spilling into the lagoon. The overwash pushes sand into the lagoon, creating "fans" of sand and sediment, in a process by which the

lagoon is continually filled in and narrowed. As established by Mr. Dombrowski, the Applicants' coastal engineer, "what we would anticipate over time is that you keep on getting this over-topping of sand that keeps on filling in on the back side of the lagoon which will eventually fill in with sand." (RO ¶ 17).

In addition to overwash, rain and stormwater can fill the lagoon, which can result in the creation of temporary drainage outlets. For example, the area was impacted by Tropical Storm Alberto on Memorial Day 2018. Ms. Burns visited the area after the storm, in June 2018, and observed more water in the lagoon and in surrounding areas, including the sandy areas within the LEICWA. By July 18, 2018, at which time the photographs that comprise Petitioners' Exhibit 7 were taken, the water levels in the lagoon were lower. During a visit nearer to the date of the hearing, there was less water in the lagoon due to diminished rainfall, and water no longer flowed through the remnants of the drainage channels. Thus, stormwater drainage, rather than tidal connection, is the most likely cause of the swashes observed in the series of photographs taken on July 18, 2018. (RO ¶ 18).

For the lagoon to be considered "tidal," there would have to be an established connection between the lagoon and the Gulf of Mexico to allow for the regular periodic exchange of waters through tidal ebbs and flows. Mr. DeGraff took a series of "water shots" of the levels in the lagoon and the Gulf of Mexico. Whereas water levels in the Gulf of Mexico changed with the tides, the water levels in the lagoon remained constant, which supports that there is no connection between the two water bodies. (RO ¶ 19).

Overwash and storm events may temporarily open one-way connections and outfalls of water between the lagoon and the Gulf of Mexico as a result of accumulation of water in the back-barrier environment. If enough water is pushed into the lagoon, it will find an exit, but the

flow is "not back and forth again through a particular cut," as would be the case with an established and regular tidal connection. (RO ¶ 20).

The ALJ concluded that the preponderance of the evidence demonstrates that the "lagoon" is not tidally connected to the Gulf of Mexico but is, rather, a feature that experiences no tidal ebb and flow and is, under normal conditions, disconnected from the Gulf of Mexico. (RO ¶ 21).

The big picture view of the process of shoaling, welding, filling, and narrowing of the "lagoon," and ultimate reestablishment of the previously existing shoreline is depicted in Petitioners' Exhibit 44, which the ALJ found to be a fascinating and visually compelling time-lapse of the Petitioners' Exhibit 44 images at https://earthengine.google.com /timelapse/#v=26.40708,-81.89551,11.491,latLng&t=0.00. (RO ¶ 22).

The persistent narrowing of the temporary lagoon is depicted in Petitioners' Exhibit 43. The ALJ found that exhibit 43, consisting of a series of aerial photographs, demonstrates convincingly the accretional nature of the area in front of the Applicants' property, and offers support for evidence that "over the last 50 plus years . . . and especially within the last ten to 15, is that this shoreline has been accreting." Competent, substantial evidence establishes that the accretional trend will naturally continue and may be further influenced by the deposition of dredged spoil from Big Carlos Pass, and supports the testimony of Mr. Dombrowski that the lagoon will naturally fill in with the cycle, at some future time, repeating itself. (RO ¶ 23).

In the area of the Project, the shoreline has been accreting at a rate of around 28 feet (or more) per year between 1999 and 2011. In the last 52 years, the shoreline to the east of the Project area has grown by more than 600 feet. To the west of the Project area, within the

LEICWA, overwash events and alluvial fans associated with such events demonstrate the accretional nature of the shoreline. (RO ¶ 24).

Mr. Kroemer owns a Hobie Wave Runner sailboat, which requires about 12 inches of water, and two kayaks, which require two to three inches of water that he uses in the Gulf of Mexico. To access the Gulf, Mr. Kroemer paddles or pushes the boats - depending on the season - through the lagoon and then takes them over land to the Gulf. The water levels in the lagoon are not sufficient to allow for the sailboat to traverse year-round. (RO ¶ 25).

The ALJ found that the greater weight of the evidence supports a finding that the water area over which the dune walkover is proposed will, as a process of accretion, fill with sand creating an unimpeded pathway to the Gulf of Mexico, as was the case prior to the most recent accretionally welded sand bar. The suggestion that the shoreline will erode and ultimately become open water is not supported by the evidence. (RO ¶ 26).

Vegetation

The vegetation in the vicinity of the proposed dune walkover and surrounding the lagoon include mangroves; shrubby plants, including bay cedar and marsh elder; and facultative grass species, such as hurricane grass. The Project area is becoming increasingly more vegetated, with plant communities pioneering at the ground cover level, followed by shrubs and small trees. The area is generally undergoing natural ecological succession. The vegetation in the areas over which the proposed dune walkover is to be constructed, including the ground cover, is too thick to be conducive for shorebird nesting, which generally occurs in areas that are open, and sandy or shelly. The mangroves that fringe the lagoon range from five to seven feet in height, and the shrubby vegetation in the Project area can be up to four feet in height. (RO ¶¶ 27-28).

Wildlife

The beaches in the area are used by shorebirds and migratory birds for nesting, foraging, and loafing. Birds that have been observed in the general vicinity of the LEICWA include Snowy Plovers, Wilson's Plovers, American Oystercatchers, Black Skimmers, and Least Terns. (RO ¶ 29).

Snowy Plovers, American Oystercatchers, Black Skimmers, and Least Terns are designated by the FFWCC as threatened bird species. Those species are also identified by DEP as "Listed Wildlife Species that are Aquatic or Wetland Dependent and that Use Upland Habitats for Nesting or Denning" in A.H. Table 10.2.7-1, with Snowy Plovers and Least Terns listed as "State-designated Threatened," and American Oystercatchers and Black Skimmers listed as "State Species of Special Concern." Wilson's Plovers are not a species listed as threatened, of special concern, or of any other protected classification by the FFWCC or DEP. (RO ¶¶ 30-31).

Snowy Plovers, American Oystercatchers, Black Skimmers, and Least Terns prefer clear, open sand for nesting. They lay their eggs on the sand or in shallow "scrapes" or depressions in the sand. The eggs generally match the substrate, and the coloration of the chicks allows them to blend in with the sand, providing a camouflaging defense against predators. Those species are colony nesters, nesting in groups as a reproductive strategy. Wilson's Plovers also prefer open sandy areas, but will occasionally nest in nearby sparsely vegetated areas, referred to by Mr. Johnson as "salt and pepper" coverage, which have pockets of open sand. Such areas exist waterward of the proposed terminus of the dune walkover. Wilson's Plovers are solitary nesters. Shorebirds will typically not nest in areas with vegetative cover. Mangroves and other tall, woody species of plants create perching opportunities for crows and other avian predators, while

ground-dwelling predators like snakes can move through vegetation and predate shorebird nests. (RO ¶¶ 32-34).

Applicants' Exhibits 6 and 9 depict the extent of shorebird utilization, including nesting, of habitat in the immediate Project vicinity based on a series of 2017 and 2018 site visits, historic aerial photographs, and FFWCC shorebird data. Applicants' Exhibit 6 provides a visual representation of the wide utilization of the open raked beach area east of the Project for nesting, with only scattered use of "salt and pepper" vegetated areas by non-threatened Wilson's Plovers. Applicants' Exhibits 6 and 9, in combination with Mr. Johnson's testimony and field notes, is found to be the most accurate and representative depiction of the utilization of the Project area by shorebirds. (RO ¶ 35).

There have been shorebird sightings on the sandy shoreline waterward of the terminus of the proposed dune walkover. The closest recorded bird sighting to the Project area, involving a Wilson's Plover nest scrape and, subsequently, a nesting female at that location, was approximately 150 feet southwest of the waterward terminus of the dune walkover in an area of "salt and pepper" vegetation. During his site visits in 2017, Mr. Johnson observed considerable pedestrian traffic along the shoreline waterward of the Project area. It was in this general area that he had noted the presence of Wilson's Plovers. He explained that Wilson's Plovers can tolerate pedestrian traffic as long as it does not "get right up on" their nests. When nesting areas are roped off, Wilson's Plovers can tolerate pedestrian traffic up to the protective barrier as long as it does not encroach into the protected area. (RO ¶¶ 36-37).

Sea turtles also have the potential to nest just above the high tide mark in the dunes waterward of the proposed dune walkover. A staked sea turtle nest west of the Project area was observed by Ms. Burns during her July 2018 visit to the area. Sea turtles do not typically nest in

vegetated areas. Given both the distance to and vegetative cover at the waterward terminus of the dune walkover, sea turtles would be unlikely to migrate to the Project area to excavate a nest. There was no evidence that pedestrian access to the location at which Ms. Burns observed the staked sea turtle nest was restricted. Rather, the evidence establishes that pedestrian traffic is allowable and common along the shoreline. People walking along the shore could easily happen upon the staked area, just as Ms. Burns did, and just as Mr. Johnson did during his visits to the area. In that regard, the Applicants, even if they were to take a longer and more circuitous route to the shoreline, would not be restricted in walking along the shoreline in the vicinity of the nest. The ALJ concluded that the preponderance of the evidence establishes that the proposed dune walkover will have no adverse effect on nesting sea turtles in the area. (RO ¶¶ 38-39).

The LEICWA

Property to the west of the proposed dune walkover has been designated by the State of Florida as the LEICWA. The LEICWA includes some vegetated land adjacent and parallel to the footprint of the proposed dune walkover. The proposed dune walkover is not within the boundary of the LEICWA. At times, portions of the LEICWA are roped off by the FFWCC to demarcate shorebird nests and nesting colonies, and to channel pedestrian access through the LEICWA. The ALJ concluded that there was no persuasive evidence that pedestrian traffic through the LEICWA is disruptive to the birds using the LEICWA or to their nesting patterns. (RO ¶¶ 40-41).

Posted and roped-off areas are not intended to identify the geographic extent of the LEICWA, and are often not specific to shorebird nest sightings, but instead represent larger areas "to allow the birds to have more availability to choose where they're going to nest." (RO ¶ 42).

Roughly 300 feet east of the Project area and the LEICWA boundary (as scaled using Petitioner's Exhibit 6) is a large raked, sandy area which is maintained free of vegetation. A large number of shorebirds and shorebird nests have been documented on the open, sandy area. The open, sandy area is directly abutted to its north by homes and by what appear to be larger multi-family structures. In addition, the open area is "preferred by a lot of beach goers to have open sand to walk through instead of walking through vegetation. So it's been manipulated mechanically to be open." The ALJ concluded that there was no evidence that the direct proximity of such residential structures, their inhabitants, and beachgoers have any disruptive affect on the large nesting colonies inhabiting that area. (RO ¶ 43).

A four-foot-high, three-foot-wide education kiosk placed by the FFWCC is located on the shore side of the LEICWA. A roughly seven-foot-high, 15-inch-wide sign, educating beachgoers about the LEICWA and of the needs of the birds that frequent the area has been placed at the edge of the LEICWA. Neither of the signs incorporate any features designed to discourage their use as perches. Both of the signs provide an elevated and unobstructed vantage point into the LEICWA's primary nesting area. The signs, which are much greater in height and nearer to the LEICWA's preferred shorebird nesting habitat than the proposed dune walkover "can serve as perches" for predatory birds in the area. Although there was evidence that Petitioners' members and employees monitor the signs for evidence that they are being used as perches, there was no evidence to suggest what might happen if they were. (RO ¶ 44).

Although the dune walkover is not within the boundary of the LEICWA, Ms. Wraithmell testified that "[t]he birds unfortunately don't recognize boundaries." The ALJ concluded that while birds may not recognize boundaries, regulators must. Standards that apply within a designated critical wildlife area do not apply outside of a critical wildlife area, even within feet

of the boundary. That is why boundaries, including legal descriptions, are set. Since the proposed dune walkover is not within the boundary of the LEICWA, the ALJ concluded that standards applicable within critical wildlife areas cannot be applied. (RO ¶ 45).

The Proposed Dune Walkover

The dune walkover is proposed as a 1,491.50 square-foot (298.3 feet in length by 5 feet in width) piling-supported wooden walkway five feet in width. Its original six-foot width was reduced to five feet, which remains adequate to accommodate the anticipated need for the use of a wheelchair or mobility device by one of the Applicants. The steps at the waterward end of the proposed dune walkover were replaced with ramps, also for use by a wheelchair or similar device. The replacement of the initially proposed stairs with a ramp will also reduce "lift" forces in the event of a storm. (RO ¶ 46).

The dune walkover will serve to minimize foot traffic on the native dune vegetation, and channel the foot traffic from its terminus to the shore of the Gulf of Mexico. As such, the dune walkover will have a beneficial effect on the native vegetation in its immediate area. (RO ¶ 47).

As originally proposed, the dune walkover was to have been three feet, ten inches above the ground surface, with three-foot-high handrails. To address the concerns posed by others, particularly the FFWCC, the height was lowered to two feet, six inches above the ground surface, which is the maximum height for a structure to be built without handrails. The handrails were removed in their entirety, and the design does not contain any pickets or other "non-structural members." Thus, the proposed dune walkover is, at its highest point, two feet, six inches above the ground surface. Mangroves in the vicinity of the dune walkover are generally from five to seven feet in height, and commonly occurring shrubby vegetation of four feet in height was observed in the area. Thus, the dune walkover is well below the elevation of the

surrounding vegetation. The dune walkover, as currently proposed, has no value as a perch or vantage point for avian predators. (RO ¶ 48).

The posts that support the structure will be round, six inches in diameter, and installed five feet deep into the sand. The posts will not be encased in concrete, but will be wrapped to prevent leaching of any potentially toxic compounds into the environment. The walking surface of the dune walkover will be made of slatted decking, with a one-half inch space between each deck board. The proposed ERP indicated that gaps will allow sufficient light penetration to maintain the underlying vegetative habitat. The ALJ concluded that there was no persuasive evidence to the contrary. (RO ¶ 49).

In its final configuration, the proposed dune walkover is fully compliant with, though substantially smaller and less intrusive than, the generally acceptable siting, design, and elevation provisions set forth in the DEP Beach and Dune Walkover Guidelines. The construction plans do not require the use of vehicles, other than to deliver the material to the site. There will be no placement of fill. There will be no lighting, either in construction or in operation. (RO ¶¶ 50, 52).

As mitigation for the minimal impacts associated with the crossing of the lagoon, and at DEP's direction, the Applicants purchased 0.01 saltwater forest and 0.1 saltwater herbaceous mitigation credits in the Pine Island Mitigation Bank, to offset for any remaining impacts not avoided through the design modifications. The ALJ concluded that the evidence established, by a preponderance of the competent, substantial, and persuasive evidence adduced at the hearing, that the proposed mitigation was sufficient to offset any environmental impacts resulting from the proposed Project, even before its width was decreased from six feet to five feet. (RO ¶ 53).

The alterations to the proposed dune walkover as described herein were largely made to address the concerns expressed by the FFWCC in its comments of August 27, 2015; July 20, 2016; and July 27, 2017, and the proposed ERP and CCCL Permit incorporates all of the conditions requested by the FFWCC. It was established that the Applicants have addressed and met the FFWCC's concerns regarding the proposed Project. (RO ¶ 54).

Environmental Resource Permit

The issuance or denial of an ERP is generally governed by section 373.414, Florida Statutes, chapter 62-330, Florida Administrative Code, and the Environmental Resource Permit Applicant's Handbook, Volume I (A.H.). Section 373.4131(1) requires DEP to adopt statewide environmental resource permitting rules. DEP has done so through the adoption of rules 62-330.301 and 62-330.302, Florida Administrative Code. (RO ¶¶ 55-56).

The Applicants met their burden of demonstrating they met all applicable standards and were entitled to issuance of the ERP by entering the application and DEP's notice of intent of issue the ERP in evidence. Therefore, a finding that there was insufficient evidence introduced by Petitioners to rebut the prima facie case is sufficient to establish that the grounds for issuance have been met. (RO ¶ 57).

Based on the entirety of the record of this proceeding, the ALJ concluded that the Applicants provided reasonable assurances that the proposed dune walkover meets the requirements for the ERP. (RO ¶ 58).

Rule 62-330.301(1)

Rule 62-330.301(1), Florida Administrative Code, provides that an applicant for an ERP must provide reasonable assurance that the permitted activity will not cause adverse affects. The standards established by rule are further described in the A.H. (RO ¶ 59)

Water quantity impacts: Rule 62-330.301(1)(a) and A.H. Section 10.2.2.4

Piling supported structures do not typically impact a water body's depth or flow. The ALJ concluded that the evidence introduced by Petitioners in this case was not sufficient or persuasive to support a finding that the piling-supported dune walkover would reduce the depth, duration, or frequency of inundation or saturation in the lagoon; would increase the depth, duration, or frequency of inundation through changing the rate or method of discharge of water to the lagoon or by impounding water in the lagoon; or could have the effect of altering water levels in the lagoon. To the contrary, the ALJ found there was substantial testimony that the proposed dune walkover will not cause adverse water quantity impacts to receiving waters and adjacent lands. (RO ¶ 60).

Adverse flooding: Rule 62-330.301(1)(b)

The ALJ concluded that the evidence introduced by Petitioners in this case was not sufficient or persuasive to support a finding that the proposed dune walkover will cause adverse flooding to on-site or off-site property. (RO ¶ 61).

Adverse impacts to existing surface water storage and conveyance capabilities: Rule 62-330.301(1)(c)

The ALJ concluded that the evidence introduced by Petitioners in this case was not sufficient or persuasive to support a finding that the proposed dune walkover will cause adverse impacts to existing surface water storage and conveyance capabilities. (RO ¶ 62).

Adverse impacts to the value of functions provided to fish and wildlife and listed species by wetlands and other surface waters: Rule 62-330.301(1)(d) and A.H. Section 10.2.2

The A.H. provides that "[i]n evaluating whether an applicant has provided reasonable assurances under these provisions, de minimis effects shall not be considered adverse for the purposes of this section." In accordance with the A.H., DEP provided information to the

FFWCC and solicited comments on the proposed dune walkover in its various configurations. The ALJ found that the Applicants met every listed substantive concern expressed by the FFWCC in its comments of August 27, 2015; July 20, 2016; and July 27, 2017. The proposed ERP incorporates all of the conditions requested by the FFWCC. (RO ¶ 63).

The A.H. section 10.2.2 also provides that "[t]he need for a wildlife survey will depend upon the likelihood that the site is used by listed species and the bald eagle, considering site characteristics and the range and habitat needs of such species, and whether the proposed activity will impact that use." In its August 27, 2015, comments, the FFWCC requested that the Applicants provide an assessment of anticipated impacts to wildlife. Thereafter, on December 2, 2015, Mr. Rood provided information to DEP explaining the densely vegetated nature of the proposed dune walkover location, and its lack of value to nesting shorebirds. He noted the general distance, i.e., 100 to 150 yards, from the terminus of the proposed dune walkover to the nearest shorebird nesting area and "roped off nesting areas." (RO ¶ 64).

The A.H. provides that "[t]he need for a wildlife survey will depend upon the likelihood that the site is used by listed species and the bald eagle, considering site characteristics and the range and habitat needs of such species." As a result of Mr. Rood's explanation of the characteristics of the Project location, on December 11, 2015, the FFWCC withdrew its request for the survey and wildlife assessment. (RO ¶ 65).

The ALJ concluded that the preponderance of the competent, substantial, and persuasive evidence demonstrates that there will be no adverse impacts to the value of functions provided to any species of concern provided by the lagoon and associated wetlands that will result from the construction and use of the proposed dune walkover. Shorebirds, whether or not they are protected species, will not be impacted by the Project. The ALJ found that there was no

evidence to support a finding that wading birds foraging in the lagoon, as depicted in photographs taken by Ms. Burns, would be affected in any way. (RO ¶ 66).

Water quality impacts: Rule 62-330.301(1)(e) and A.H. Section 10.2.4

An ERP applicant must provide reasonable assurance that a project will not adversely affect the quality of receiving waters such that State water quality standards will be violated. (RO ¶ 67).

DEP required turbidity control to address short-term water quality issues attendant with construction. Best management practices to minimize construction-related turbidity are required. The sand in the area is coarse, with a small percentage of sands and clays, further minimizing the potential for turbidity. The pilings are required to be wrapped to prevent any chemicals used to treat the pilings from leaching into the soil or water. The structure will be constructed outward from the boardwalk deck, thus, minimizing impacts to surrounding vegetation and surface waters. The ERP is conditioned on adherence to Best Management Practices to ensure that oils, greases, gasoline, or other pollutants are not released into the wetlands or surface waters. (RO ¶ 68).

The ALJ concluded that the preponderance of the competent, substantial, and persuasive evidence demonstrates that there will be no adverse impacts on water quality associated with the construction or use of the proposed dune walkover. The evidence introduced by Petitioners was not sufficient or persuasive to support a finding that the proposed dune walkover will cause adverse impacts to water quality. (RO ¶ 69).

Secondary impacts: Rule 62-330.301(1)(f) and A.H. Sections 10.1.1(f) and 10.2.7

An ERP applicant must provide reasonable assurance that the Project will not cause adverse secondary impacts. The secondary impact criterion consists of four parts as established in A.H. section 10.2.7(a) through (d). (RO ¶ 70).

The proposed dune walkover will not have any lighting so as to impact turtle nesting and will not use vehicles except as necessary to deliver building supplies. Other secondary impacts identified in A.H. section 10.2.7(a) are not applicable. (RO ¶ 71).

The ALJ concluded that the preponderance of the competent, substantial, and persuasive evidence in this proceeding established that the area in which the proposed dune walkover is to be constructed will not adversely impact the ecological value of uplands for any listed bird species of concern for nesting or foraging as set forth in A.H. section 10.2.7(b). The Project area is thickly vegetated, which is not conducive for use by shorebirds that frequent the LEICWA. The nearest documented shorebird presence is well removed from the dune walkover terminus. (RO ¶ 72).

The evidence established that the pedestrian traffic resulting from the use of the dune walkover will not disturb Wilson's Plovers, which is the only observed species that uses the "salt and pepper" vegetation between the dune walkover and the Gulf of Mexico. Any nests would, as are existing nests in the area, be marked. Wilson's Plovers are tolerant of pedestrian traffic as long as it does not directly encroach into their nesting area. (RO ¶ 73).

The suggestion that the Applicants' use of the proposed dune walkover will disrupt the habits of shorebirds observed near its terminus disregards the fact that the area is already used by the Applicants to access the beach. Furthermore, the beach itself, which is much nearer to observed bird sightings, is popular and frequently used, without restriction, by beachgoers other

than the Applicants. There was no evidence that such pedestrian access along the beach adversely affects shorebirds. (RO ¶ 74).

Pedestrian access is allowed directly through areas of the LEICWA that are more thickly populated with nests of shorebird species less tolerant of pedestrian traffic than the Wilson's Plovers. There was no evidence that such pedestrian access through the LEICWA adversely affects shorebirds. (RO ¶ 75).

The open, sandy area to the east of the Project area is extensively used for nesting by large colonies of various protected shorebird species. That area is directly bounded by single and multi-family residences and is a popular area for beach access. The ALJ found that there was no evidence that human presence near, and pedestrian access through, the areas used by colonies of shorebirds adversely affected those shorebirds. (RO ¶ 76).

The Applicants presently drag their Hobie sailboat and kayaks across the lagoon and through the dunes. The dune walkover will allow them to simply wheel or carry those vessels across the lagoon and dunes without further impact. The ALJ found that the evidence in this case does not support a finding that the existing pedestrian access will be increased by the dune walkover but, to the contrary, suggests that the walkover will allow access in a much less disruptive and destructive manner. (RO ¶ 77).

A.H. sections 10.2.7(c) and (d), governing, respectively, associated activities that have the potential to cause impacts to significant historical and archaeological resources and future project phases or activities, are not applicable to the proposed dune walkover. (RO ¶ 78).

The ALJ concluded that the preponderance of the competent, substantial, and persuasive evidence demonstrates that there will be no adverse secondary impacts associated with the construction or use of the proposed dune walkover. The evidence introduced by Petitioners was

not sufficient or persuasive to support a finding that the proposed dune walkover will cause adverse secondary impacts. (RO ¶ 79).

Adverse impacts to the maintenance of Minimum Flows and Levels: Rule 62-330.301(1)(g)

The ALJ concluded that the evidence introduced by Petitioners in this case was not sufficient or persuasive to support a finding that the proposed dune walkover will cause adverse impacts to the maintenance of surface or groundwater levels or surface water flows. (RO ¶ 80).

Adverse impacts to a Work of the District: Rule 62-330.301(1)(h)

The ALJ concluded that the evidence introduced by Petitioners in this case was not sufficient or persuasive to support a finding that the proposed dune walkover will cause adverse impacts to a Work of the District. (RO ¶ 81).

Capable of performing and functioning as proposed: Rule 62-330.301(1)(i)

The ALJ concluded that the evidence introduced by Petitioners in this case was not sufficient or persuasive to support a finding that the proposed dune walkover will not be capable of performing and functioning as proposed. (RO ¶ 82).

Conducted by a person with the financial, legal and administrative capability of ensuring that the activity will be undertaken in accordance with the terms and conditions of the permit: Rule 62-330.301(1)(j)

The ALJ concluded that the evidence introduced by Petitioners in this case was not sufficient or persuasive to support a finding that the proposed dune walkover will not be conducted by persons with the financial, legal, and administrative capability of ensuring that the proposed dune walkover will be constructed in accordance with the terms and conditions of the ERP. The legal ability to undertake the activities that are encompassed by the SSL Authorization, CCCL Permit, and CCCL Waiver are being decided herein, and their lack of finality does not constitute a failure to meet this ERP permitting criteria. (RO ¶ 83).

Comply with any applicable special basin or geographic area criteria: Rule 62-330.301(1)(k)

The ALJ concluded that the evidence introduced by Petitioners in this case was not sufficient or persuasive to support a finding that the proposed dune walkover will not comply with any applicable special basin or geographic area criteria. (RO ¶ 84).

Public Interest Test - Section 373.414(1), Florida Statutes, Rule 62-330.302(1)(a), and A.H. Section 10.2.3

Section 373.414(1) provides that an applicant for an ERP must provide reasonable assurance that the permitted activity will not cause violations of state water quality standards and that such activity is not contrary to the public interest. (RO ¶ 85).

As set forth in the discussion of rule 62-330.301(1)(e) and A.H. section 10.2.4 above, the Applicants demonstrated that the proposed dune walkover will not cause violations of state water quality standards. The ALJ concluded that the evidence introduced by Petitioners in this case was not sufficient or persuasive to support a finding that the proposed dune walkover will cause violations of state water quality standards. (RO ¶ 86).

The seven factors that constitute the public interest test are established in section 373.414(1)(a), Florida Statutes, reiterated in rule 62-330.302(1)(a), and explained in greater detail in A.H. section 10.2.3. As set forth previously, some of the criteria would appear to have no relevance to this case. However, since Petitioners failed to provide any substantive narrowing of the issues in the JPS, that ALJ found it necessary to go through each and every factor to ensure that some element of the ERP analysis required "pursuant to all applicable rules and statutes" does not go unaddressed. (RO ¶ 87).

Whether the activity will adversely affect the public health, safety, or welfare or the property of others: Section 373.414(1)(a)1.; Rule 62-330.302(1)(a)1.; A.H. Section 10.2.3.1

The evaluation of the factors for consideration under this element of the public interest test include environmental issues such as "mosquito control; proper disposal of solid, hazardous, domestic or industrial waste; aids to navigation; hurricane preparedness or cleanup; environmental remediation, enhancement or restoration; and similar environmentally related issues." The evaluation also includes impacts to shellfish harvesting areas; flooding or the alleviation of flooding on the property of others; and affects on the water table that could result in the drainage of off-site wetlands or other surface waters. (RO ¶ 88).

The ALJ concluded that the evidence introduced by Petitioners in this case was not sufficient or persuasive to support a finding that the proposed dune walkover will adversely affect the public health, safety, or welfare or the property of others. (RO ¶ 89).

Whether the activity will adversely affect the conservation of fish and wildlife, including endangered or threatened species, or their habitats: Section 373.414(1)(a)2.; Rule 62-330.302(1)(a)2.; A.H. Section 10.2.3.2

A.H. section 10.2.3.2 provides that the "fish and wildlife" element of the public interest test is to be evaluated as follows:

> The Agency's public interest review of that portion of a proposed activity in, on, or over wetlands and other surface waters for impacts to 'the conservation of fish and wildlife, including endangered or threatened species, or their habitats' is encompassed within the required review of the entire activity under section 10.2.2, above.

(RO ¶ 90).

As set forth herein, the ALJ concluded that the preponderance of the competent, substantial, and persuasive evidence demonstrates that the proposed dune walkover will not adversely affect the conservation of fish and wildlife, including endangered or threatened species, or their habitats. (RO ¶ 91).

Moreover, the ALJ concluded that the Petitioners did not prove by a preponderance of competent and substantial evidence that the Applicants failed to meet the standards set forth in section 373.414(1)(a)2.Florida Statutes, rule 62-330.302(1)(a)2., Florida Administrative Code, and A.H. section 10.2.3.3. (RO ¶ 92).

Whether the activity will adversely affect navigation or the flow of water or cause harmful erosion or shoaling: Section 373.414(1)(a)3.; Rule 62-330.302(1)(a)3.; A.H. Section 10.2.3.3

With regard to this element of the public interest test, A.H. section 10.2.3.3 provides, in pertinent part, that:

> In reviewing and balancing the criterion on navigation, erosion and shoaling in section 10.2.3(c), above, the Agency will evaluate whether the regulated activity located in, on or over wetlands or other surface waters will:
>
> (a) Significantly impede navigability or enhance navigability. The Agency will consider the current navigational uses of the surface waters and will not speculate on uses that may occur in the future. Applicants proposing to construct bridges or other traversing works must address adequate horizontal and vertical clearance for the type of watercraft currently navigating the surface waters . . . .
>
> (b) Cause or alleviate harmful erosion or shoaling . . . .
>
> (c) Significantly impact or enhance water flow . . . .

(RO ¶ 93).

The only evidence of any form of vessels using the lagoon was the Applicants' act of paddling or dragging the Hobie sailboat and kayaks across the lagoon to access the navigable waters of the Gulf of Mexico. Such does not constitute "current navigational uses of the surface waters." The ALJ concluded that the preponderance of the evidence in this case establishes that there is no "current" navigational use of the lagoon. No testimony or evidence was elicited that the lagoon supported any form of boating or other navigational use. No person owning property abutting the lagoon that might be affected by some restriction on their navigational rights objected to the proposed dune walkover. The ALJ concluded that the evidence introduced by

Petitioners in this case was not sufficient or persuasive to support a finding that the proposed dune walkover will significantly impede navigability. (RO ¶ 94).

Ms. Mills testified that "piling supported structures are used in dynamic systems all the time. Specifically, you know, because they don't really have an effect on the movement of sand." The ALJ found that her testimony, combined with that of the Applicants' expert witnesses regarding the nature of the area, was sufficient to establish that the proposed dune walkover will not cause harmful erosion or shoaling. Accordingly, the ALJ concluded that the evidence introduced by Petitioners in this case was not sufficient or persuasive to support a finding that the proposed dune walkover will cause erosion or shoaling. (RO ¶ 95).

The ALJ found that the evidence introduced by Petitioners in this case was not sufficient or persuasive to support a finding that the proposed dune walkover will significantly impact or enhance water flow. (RO ¶ 96).

The ALJ concluded that the Petitioners did not prove by a preponderance of competent and substantial evidence that the Applicants failed to meet the standards set forth in section 373.414(1)(a)3. Florida Statutes; rule 62-330.302(1)(a)3., Florida Administrative Code; and A.H. section 10.2.3.3. (RO ¶ 97).

Whether the activity will adversely affect the fishing or recreational values or marine productivity in the vicinity of the activity: Section 373.414(1)(a)4.; Rule 62-330.302(1)(a)4.; A.H. Section 10.2.3.4

The evaluation of the factors for consideration under this element of the public interest test include adverse effects to sport or commercial fisheries or marine productivity, including the elimination or degradation of fish nursery habitat, change in ambient water temperature, change in normal salinity regime, reduction in detrital export, change in nutrient levels, or other adverse effects on populations of native aquatic organisms. (RO ¶ 98).

The evidence introduced by Petitioners in this case was not sufficient or persuasive to support a finding that the proposed dune walkover will adversely affect sport or commercial fisheries or marine productivity. The public interest evaluation under these regulatory provisions also includes effects on "existing recreational uses of a wetland or other surface water," which could include impacts to "the current use of the waterway for boating." (RO ¶¶ 99-100).

Other than evidence that the Applicants had to paddle or push their shallow draft sailboat and kayaks across the lagoon to reach the Gulf, there was no evidence to establish that the lagoon has any recreational use. The DEP determined that it does not, based on the fact that the lagoon is not of a permanent depth to support navigation and was intermittently (at best) connected to the Gulf of Mexico. The ALJ found that Ms. Mills' testimony to that effect was persuasive, and consistent with that of Mr. Kroemer's testimony. (RO ¶ 101).

The standards applicable to impacts to recreational uses are directed to "existing" and "current" uses. There was no evidence of anyone currently using the lagoon for recreational boating. Mr. Rood indicated that he had never seen anyone boating in the lagoon. There was no evidence that anyone else along the lagoon even had a boat. Mr. Kroemer, when asked if his neighbors could use the dune walkover to portage their boats across the lagoon testified that "I'm not aware that they have boats." No property owners with homes along the lagoon objected to the proposed dune walkover. (RO ¶ 102).

The ALJ concluded that the evidence in this case establishes that the proposed dune walkover will not adversely affect fishing or recreational values, or marine productivity in the vicinity of the proposed Project. (RO ¶ 103).

Whether the activity will be of a temporary or permanent nature: Section 373.414(1)(a)5.; Rule 62-330.302(1)(a)5.; A.H. Section 10.2.3.5

The proposed dune walkover is intended to provide permanent access to the Gulf of Mexico, as opposed to being a temporary structure. This finding should not be conflated with whether the proposed dune walkover is an "expendable structure" for purposes of the CCCL Permit, as will be discussed herein. (RO ¶ 104).

Whether the activity will adversely affect or will enhance significant historical and archaeological resources: Section 373.414(1)(a)6.; Rule 62-330.302(1)(a)6.; A.H. Section 10.2.3.6

The ALJ found there was no evidence introduced by Petitioners in this case to support a finding that the proposed dune walkover will affect significant historical and archaeological resources in any manner. (RO ¶ 105).

The current condition and relative value of functions being performed by areas affected by the proposed activity: Section 373.414(1)(a)7.; Rule 62-330.302(1)(a)7.; A.H. Section 10.2.3.7

The ALJ concluded that the evidence introduced by Petitioners in this case was not sufficient or persuasive to support a finding that the proposed dune walkover will adversely affect the current condition and relative value of functions being performed by the waters of and wetlands surrounding the lagoon. (RO ¶ 106).

The evidence in this case was almost entirely directed to nesting and feeding habitat of shorebirds frequenting the LEICWA. The ALJ concluded that the preponderance of the evidence established that the areas affected by the proposed dune walkover are not conducive for nesting, feeding, or loafing by Snowy Plovers, American Oystercatchers, Black Skimmers, or Least Terns. The Applicants' Exhibit 6, which was relied upon by each of the parties, showed no observed sightings of those species near the lagoon or the smaller water feature. There was one observed sighting of a non-threatened Wilson's Plover near the edge of the smaller water feature,

though not directly affected by the proposed dune walkover, and no observed sightings of any of the identified species of concern near the lagoon or in the waters of either water body. Moreover, there was no evidence that the proposed dune walkover would affect the wading birds or shorebirds photographed by Ms. Burns. (RO ¶¶ 107-108).

The ALJ concluded that the Petitioners did not prove by a preponderance of competent and substantial evidence that the Applicants failed to meet the standards set forth in section 373.414(1)(a)7., Florida Statutes; rule 62-330.302(1)(a)7., Florida Administrative Code; and A.H. section 10.2.3.7. (RO ¶ 109).

Cumulative Impacts: Section 373.414(8); Rule 62-330.302(1)(b); A.H. Sections 10.1.1(g) and 10.2.8

A.H. section 10.2.8 provides, in pertinent part, that:

> The impact on wetlands and other surface waters shall be reviewed by evaluating the impacts to water quality as set forth in section 10.1.1(c), above, and by evaluating the impacts to functions identified in section 10.2.2, above. If an applicant proposes to mitigate these adverse impacts within the same drainage basin as the impacts, and if the mitigation fully offsets these impacts, then the Agency will consider the regulated activity to have no unacceptable cumulative impacts upon wetlands and other surface waters, and consequently, the condition for issuance in section 10.1.1(g) will be satisfied.

(RO ¶ 110).

Section 373.4136, Florida Statutes, establishes that the use of mitigation credits is sufficient to offset adverse impacts for an activity in the mitigation bank service area, and provides, in pertinent part, that:

> (6) The department or water management district shall establish a mitigation service area for each mitigation bank permit . . . . Except as provided herein, mitigation credits may be withdrawn and used only to offset adverse impacts in the mitigation service area. The boundaries of the mitigation service area shall depend upon the geographic area where the mitigation bank could reasonably be expected to offset adverse impacts . . . .

> (a) In determining the boundaries of the mitigation service area, the department or the water management district shall consider . . . at a minimum, the extent to which the mitigation bank:
>
> * * *
>
> 3. Will provide for the long-term viability of endangered or threatened species or species of special concern; [and]
>
> * * *
>
> 5. Can reasonably be expected to offset specific types of wetland impacts within a specific geographic area. . . .
>
> * * *
>
> (c) Once a mitigation bank service area has been established by the department or a water management district for a mitigation bank, such service area shall be accepted by all water management districts, local governments, and the department.

(RO ¶ 111).

The Applicants have proposed mitigation in the form of the purchase of 0.01 saltwater forested mitigation bank credits and 0.01 saltwater herbaceous mitigation bank credits from the Pine Island Mitigation Bank. The proposed dune walkover is within the service area established for the Pine Island Mitigation Bank. The mitigation credits, which were initially calculated based on a six-foot-wide dune walkover, are more than sufficient to offset any adverse impacts of the proposed five-foot-wide dune walkover on the wetlands and surface waters in the Project area. (RO ¶ 112).

Ms. Mills testified that the proposed dune walkover would have "[n]o adverse cumulative impacts because the project would be doing mitigation, with mitigation bank credits within the surface area established for the mitigation bank." Her testimony established that the statutory offset criteria is applied when a project (and a mitigation bank such as the Pine Island Mitigation Bank) is on a barrier island which, because there is no "drainage" except to the Gulf of Mexico,

is not within a "drainage basin." The ALJ concluded that her testimony was persuasive, meets the statutory criteria in section 373.4136, and was accepted. (RO ¶ 113).

There are no existing permits or pending applications for similar dune walkovers in the area. Given the presence of the LEICWA to the west, applications for similar walkovers within its boundary are unlikely and, if made, would have to comply with critical wildlife area restrictions. (RO ¶ 114).

The evidence in this case establishes that the proposed dune walkover will not result in unacceptable cumulative impacts upon wetlands and other surface waters. Furthermore, the ALJ concluded that the Petitioners did not prove by a preponderance of competent and substantial evidence that the Applicants failed to meet the standards set forth in section 373.414(1)(a)7., Florida Statutes; rule 62-330.302(1)(a)7., Florida Administrative Code; and A.H. section 10.2.3.7. (RO ¶ 115).

Elimination or Reduction of Impacts: A.H. Section 10.2.1

A.H. section 10.2.1 provides, in pertinent part, that:

> The following factors are considered in determining whether an application will be approved by the Agency: the degree of impact to wetland and other surface water functions caused by a proposed activity; whether the impact to these functions can be mitigated; and the practicability of design modifications for the site that could eliminate or reduce impacts to these functions, including alignment alternatives for a proposed linear system.

(RO ¶ 116).

A.H. section 10.2.1.1 provides, in pertinent part, that:

> The term 'modification' shall not be construed as including the alternative of not implementing the activity in some form, nor shall it be construed as requiring a project that is significantly different in type or function . . . .

(RO ¶ 117).

A.H. section 10.2.1.2 provides, in pertinent part, that:

> The Agency will not require the applicant to implement practicable design modifications to reduce or eliminate impacts when:
>
> * * *
>
> b. The applicant proposes mitigation that implements all or part of a plan that provides regional ecological value and that provides greater long term ecological value than the area of wetland or other surface water to be adversely affected.

(RO ¶ 118).

As set forth previously, the Applicants proposed mitigation in the form of the purchase of 0.01 saltwater forested mitigation bank credits and 0.01 saltwater herbaceous mitigation bank credits from the Pine Island Mitigation Bank. The Project area is within the service area established for the Pine Island Mitigation Bank. Ms. Mills testified that "any habitat can be used for nesting and denning, I think any impacts have been offset by the mitigation." The ALJ credited her testimony. The ALJ concluded that the evidence was also sufficient to establish that the mitigation was in an amount that offsets the impacts of the proposed dune walkover on the lagoon, provides regional ecological value, and provides greater long-term ecological value than the area of the lagoon affected. Based on the Findings of Fact set forth herein, and as supported by a preponderance of the persuasive evidence adduced at the hearing, the ALJ concluded that the Applicants were under no requirement to implement practicable design modifications to reduce or eliminate impacts from the proposed dune walkover. (RO ¶ 119).

Despite having no obligation to do so, the Applicants did implement practicable design modifications, resulting in a realignment of the dune walkover to eliminate any encroachment on the LEICWA, the reduction of the width of the Project from six feet to five feet, and the elimination of features that resulted in a much lower and unobtrusive structure. The Applicants

also agreed to permit conditions to implement construction methodologies to reduce impacts, and eliminate lighting that could affect adjacent habitats. (RO ¶ 120).

In addition to the foregoing, the ALJ found that Ms. Mills testified convincingly that the boardwalk in this area would serve to minimize unrestricted and unchanneled foot traffic, and direct traffic so that people are not "using other manners that aren't specifically defined causing more adverse impacts" through natural and sandy areas. (RO ¶ 121).

The ALJ concluded that the Petitioners did not prove by a preponderance of competent and substantial evidence that the Applicants failed to meet the standards set forth in A.H. sections 10.2.1 and 10.2.1.2. (RO ¶ 122).

Environmental Resource Permit - Ultimate Finding of Fact

The ALJ concluded that a preponderance of the competent, substantial evidence in this case establishes that the Applicants demonstrated their entitlement to the issuance of the ERP, meeting the standards established in section 373.414, Florida Statutes, rules 62-330.301 and 62-330.302, Florida Administrative Code, and the applicable sections of the A.H. The ALJ concluded that the Petitioners did not meet their burden of demonstrating that the ERP should not be issued. (RO ¶ 123).

SSL Authorization

The sovereignty lands at issue in this case are those that were under state ownership prior to the landward migration and attachment of the sandbar. *See* Fla. Admin. Code R. 18-21.003(61). The Applicants did not dispute that a SSL Authorization was appropriate. (RO ¶ 124).

The standards for issuance of an SSL Authorization, including a Letter of Consent Easement, are generally established in Rule 18-21.004, Florida Administrative Code.(RO ¶ 125).

Based on the entirety of the record of this proceeding, the ALJ concluded that the Applicants provided reasonable assurances that the proposed dune walkover meets the requirements for the SSL Authorization. (RO ¶ 126).

Rule 18-21.004(1)(a) - Contrary to the public interest

Rule 18-21.004(1)(a) provides that "activities on sovereignty lands must be not contrary to the public interest." (RO ¶ 127).

As established by DEP:

> Rule 18-21.004(1)(a) requires an applicant to demonstrate that an activity proposed to be conducted on sovereignty submerged lands will not be contrary to the public interest. . . . [T]o meet this standard, it is not necessary that the applicant show that the activity is affirmatively in the 'public interest,' as that term is defined in rule 18-21.003(51), Florida Administrative Code. Rather, it is sufficient that the applicant show that there are few, if any, 'demonstrable environmental, social, and economic costs' of the proposed activity.

Defenders of Crooked Lake, Inc. v. Krista Howard and Dep't of Envt'l Prot., DOAH Case No. 17-5328, FO at 26 (Fla. DOAH July 5, 2018; Fla. DEP Aug. 16, 2018). (RO ¶ 128).

The ALJ concluded that the Applicants have demonstrated, by a preponderance of the competent, substantial, and persuasive evidence in the record, that the proposed dune walkover will pose no demonstrable environmental or social costs. (RO ¶ 129).

The ALJ found that the suggestion that the construction of the proposed dune walkover will adversely affect the economic viability of the LEICWA or the Town is, under the facts of this case, simply implausible. The facts stipulated by the parties provide that "the beach and the ecotourism generated by the potential for birdwatching is important for the Town's economy." However, the ALJ concluded that the preponderance of the evidence demonstrates that the proposed dune walkover will have no effect on the use of the beach, shorebirds, or the LEICWA. (RO ¶ 130).

The fact that the proposed dune walkover is a private structure does not militate against its meeting the public interest test. As stated by Ms. Mills, "it's not contrary to the Board's public interest test because the Board has outlined through its rule a procedure for a private homeowner to get consent through an easement to use Sovereign Submerged Lands." The ALJ credited her testimony. (RO ¶ 131).

For the reasons set forth herein, the ALJ concluded that the Applicants met the provisions of the "public interest test" established in rule 18-21.004(1)(a), Florida Administrative Code. (RO ¶ 132).

Rule 18-21.004(2) - Resource management

Rule 18-21.004(2)(a) provides, in pertinent part, that:

> All sovereignty lands shall be considered single use lands and shall be managed primarily for the maintenance of essentially natural conditions, propagation of fish and wildlife, and traditional recreational uses such as fishing, boating, and swimming. Compatible secondary purposes and uses which will not detract from or interfere with the primary purpose may be allowed.
>
> (b) Activities which would result in significant adverse impacts to sovereignty lands and associated resources shall not be approved unless there is no reasonable alternative and adequate mitigation is proposed.
>
> * * *
>
> (i) Activities on sovereignty lands shall be designed to minimize or eliminate adverse impacts on fish and wildlife habitat, and other natural or cultural resources. Special attention and consideration shall be given to endangered and threatened species habitat.

(RO ¶ 133).

By providing a means of channeling and making the Applicants' existing access across sovereignty lands less disruptive and damaging to the lagoon, dunes, and bird species, the proposed dune walkover meets the principles that the sovereignty lands be maintained in their essentially natural conditions, and that they be conducive to the propagation of fish and wildlife.

The proposed dune walkover involves use of sovereignty lands to facilitate access to the waters of the Gulf of Mexico for traditional uses such as fishing, boating, and swimming. (RO ¶¶ 134-135).

The testimony of the Applicants was sufficient to demonstrate that there was no reasonable alternative to the proposed dune walkover, other than the more disruptive and destructive means of providing access to the Gulf of Mexico currently in use. The ALJ found that though a strong argument can be made that the proposed dune walkover has fewer impacts and is more protective of sovereignty lands than the Applicants' existing (and lawful) means of access, the Applicants provided sufficient mitigation as described herein. (RO ¶ 136).

The Project, by virtue of steps taken to minimize its footprint to the minimum necessary to allow access by wheelchair or mobility device, to remove handrails, and by construction methods, including construction from the decking, has been designed to minimize destruction of wetland vegetation on sovereignty lands. (RO ¶ 137).

The modifications to the Project, including the lowering of the dune walkover; elimination of handrails; the agreement to forego lighting; the steps taken to eliminate effects on water quality; and the termination of the dune walkover in a densely vegetated area not favored by shorebirds, have minimized adverse impacts on fish and wildlife habitat, including habitat for endangered and threatened species of shorebirds and marine turtles. (RO ¶ 138).

For the reasons set forth herein, the ALJ concluded that the Applicants met the provisions of the "resource management" provisions established in rule 18-21.004(2), Florida Administrative Code. (RO ¶ 139).

Rule 18-21.004(3) - Riparian rights

Rule 18-21.004(3), Florida Administrative Code, provides that activities undertaken on sovereignty lands be conducted so as not to unreasonably infringe upon traditional, common law riparian rights of upland property owners adjacent to sovereignty submerged lands. (RO ¶ 140).

Section 253.141, Florida Statutes, provides that "[t]he land to which the owner holds title must extend to the ordinary high watermark of the navigable water in order that riparian rights may attach." Neither the Applicants nor their neighbors hold title to the mean high water (MHW) mark of the Gulf of Mexico. (RO ¶¶ 141-142).

The MHW line, as of December 1, 2014, was at what is generally depicted as the shoreline of the Gulf of Mexico. The two more upland water features, i.e., the lagoon and the smaller body, both labeled as "Pond" on the 2014 mean high water survey, were well landward of the MHW. (RO ¶ 143).

The lagoon, which is normally isolated from the Gulf of Mexico, is not of a depth to be routinely navigable in fact, and frequently has so little water as to require that even kayaks be dragged across, is simply not a navigable water body. (RO ¶ 144).

Pursuant to section 253.141, Florida Statutes, neither the Applicants nor their neighbors currently have riparian rights to the lagoon or the smaller feature. (RO ¶ 145).

Even if it were to be determined that the Applicants' neighbors had riparian rights to the lagoon, any restriction or infringement on traditional rights of ingress, egress, boating, bathing, and fishing would not be "unreasonable." The evidence established that adjacent upland property owners did not have vessels that would be expected to use the lagoon. There was no suggestion that the ability to traverse the lagoon to access the navigable waters of the Gulf of Mexico, much as the Applicants do now, would be affected. The proposed dune walkover would

not restrict bathing or fishing, and the photographic and testimonial evidence established not only that such activities are not engaged in as a matter of fact, but that the shallow, isolated body of water is not conducive to such activities. Finally, in determining whether any restriction on riparian rights -- even if they existed -- was "unreasonable," it is not inconsequential that no property owners fronting the lagoon objected to or challenged the proposed Project. (RO ¶ 146).

The ALJ found that the evidence in this case established that the lagoon is not a navigable body of water. The MHW line is waterward of the lagoon, and the property lines of the Applicants and their neighbors do not extend to the MHW line. Thus, proximity to that water feature does not serve to confer "riparian" rights on them. Even if the adjacent upland property owners had riparian rights to the lagoon, under the facts of this case, any restriction on such rights created by the proposed dune walkover would not be "unreasonable." Finally, the mechanism for enforcing such rights would be with the adjacent upland owners, not Petitioners. (RO ¶ 147).

For the reasons set forth above, the ALJ concluded that the Applicants met the "riparian rights" provisions established in rule 18-21.004(3), Florida Administrative Code. (RO ¶ 148).

Rule 18-21.004(7) - General conditions

As established by a preponderance of the evidence, the ALJ found that the proposed dune walkover has been designed, and is subject to conditions as to its construction, that will avoid and minimize adverse impacts to sovereignty submerged lands and resources. Thus, the ALJ concluded that the Applicants met the standards for issuance of the SSL Authorization established in rule 18-21.004(7)(d), Florida Administrative Code. (RO ¶ 149).

As established by a preponderance of the evidence, the ALJ found that the proposed dune walkover has been designed, is subject to conditions as to its construction, and is intended for use

in a manner that will not adversely affect shorebirds or sea turtles. Thus, the ALJ concluded that the Applicants met the standards for issuance of the SSL Authorization established in rule 18-21.004(7)(e), Florida Administrative Code. (RO ¶ 150).

As established by a preponderance of the evidence, the ALJ found that the lagoon is not a navigable body of water. Furthermore, even if it were navigable, any restriction created by the proposed dune walkover will not be "unreasonable." Finally, if the adjacent upland owners holding such riparian rights believe such rights to have been infringed, despite their not having heretofore objected to the proposed Project, and a court of competent jurisdiction determines that riparian rights have been unlawfully affected, DEP has the authority to require that the SSL Authorization be modified in accordance with the court's decision. Thus, the ALJ concluded that the Applicants met the standards for issuance of the SSL Authorization established in rule 18-21.004(7)(f), Florida Administrative Code. (RO ¶ 151).

As established by a preponderance of the evidence, the ALJ concluded that the proposed dune walkover will not create a navigational hazard. Unlike the "public interest" navigational standards for obtaining an ERP, the "navigational hazard" standard for obtaining a SSL Authorization pursuant to rule 18-21.004(7), though not defined, includes such things as unsafe conditions adjacent to docks and boat slips. *Pirtle v. Voss and Dep't of Envtl. Prot.*, Case No. 13-0515 (Fla. DOAH Sep. 23, 2013; Fla. DEP Dec. 26, 2013). A mere inconvenience does not constitute the type of navigational hazard contemplated by the rule. *Woolshlager v. Rockman and Dep't of Envtl. Prot.*, Case No. 06-3296 (Fla. DOAH May 5, 2007; Fla. DEP June 22, 2007). Since there is no proven "navigation" in the lagoon – other than dragging or, when water levels allow, paddling small boats and kayaks across on the way to accessing the navigable waters of the Gulf of Mexico -- there is no navigational hazard created by the proposed dune walkover.

Thus, the ALJ concluded that the Applicants met the standards for issuance of the SSL Authorization established in rule 18-21.004(7)(g), Florida Administrative Code. (RO ¶ 152).

Finally, as established by a preponderance of the evidence, the ALJ concluded that the proposed dune walkover has been designed, is subject to conditions as to its construction, and is intended for the water dependent purpose of traversing the lagoon to allow access to the Gulf of Mexico. Thus, the ALJ concluded that the Applicants met the standards for issuance of the SSL Authorization established in rule 18-21.004(7)(i)., Florida Administrative Code. (RO ¶ 153).

SSL Authorization - Ultimate Finding of Fact

The ALJ concluded that a preponderance of the competent, substantial evidence in this case establishes that the Applicants demonstrated their entitlement to the issuance of the Letter of Consent Easement, meeting the standards established in chapter 253, Florida Statutes, and rule 18-21, Florida Administrative Code. (RO ¶ 154).

CCCL Permit

The ALJ found that DEP has established a CCCL on Little Estero Island. A CCCL permit is required before a person may conduct construction activities beyond that line. (RO ¶ 155).

Permitting Procedures

In the Joint Prehearing Stipulation, Petitioners asserted that "the applicable and relevant procedures for granting a coastal construction control line permit application were not appropriately followed." However, the ALJ concluded that the Petitioners failed to present competent, substantial, and persuasive evidence of any failure by DEP to follow its CCCL permitting procedures. Conversely, the ALJ concluded that DEP established that the project met

all of the applicable siting and design criteria, and that DEP complied with statutory and rule criteria and procedures for reviewing and issuing the CCCL Permit. (RO ¶ 156).

Petitioners have argued that the CCCL Permit should have been procedurally denied because the CCCL Waiver was timely challenged. DEP included special conditions requiring the Applicants to relinquish the CCCL Permit if the CCCL Waiver was denied. In addition, the CCCL Permit does not become final until a Notice to Proceed is issued, which is also conditioned on the CCCL Waiver becoming final. (RO ¶ 157).

The ALJ concluded that based on the fact that construction of the dune walkover cannot commence until all permits and authorizations are issued, there was no material error in procedure arising from DEP sequentially issuing the CCCL Waiver and the CCCL Permit, thus, allowing for their consolidation and litigation without unnecessary delay and duplication. (RO ¶ 158).

Permitting Standards

The ALJ concluded that the Applicants have provided reasonable assurances that the proposed dune walkover meets the requirements for a permit for construction seaward of the coastal construction control line established in section 161.053, Florida Statutes, and chapter 62B-33, Florida Administrative Code. (RO ¶ 159).

The ALJ found that the proposed dune walkover meets the requirements established by rule as a minor structure and was designed in accordance with DEP's Beach and Dune Walkover Guidelines. It is designed to be expendable. The size, height, and elimination of concrete anchors were proposed to minimize resistance to forces associated with high frequency storms, and to allow the dune walkover to break away when subjected to such forces. It meets every

condition proposed by the DEP and the FFWCC. Its minimal size and design is expected to have a minor impact on the beach and dune system. (RO ¶ 160).

The ALJ concluded that a preponderance of the evidence established that the proposed dune walkover will not cause a measurable interference with the natural functioning of the coastal system. (RO ¶ 161).

The ALJ also concluded that a preponderance of the evidence established that the Project, as a result of its size, profile, and location, will have no measurable affect on the existing shoreline change rate. (RO ¶ 162).

The ALJ concluded that a preponderance of the evidence further established that the proposed dune walkover is not reasonably expected to significantly interfere with the ability of the coastal system to recover from a coastal storm. (RO ¶ 163).

Moreover, the ALJ concluded that a preponderance of the evidence established that the Project would have no measurable effect of the topography or the vegetation of the area. As such, there is no evidence to suggest that the proposed dune walkover would render the dune system unstable or subject to catastrophic failure, or that the protective value of the dune system will be significantly lowered. To the contrary, by lessening pedestrian traffic through the dunes, and channeling traffic at its waterward point of termination, the proposed dune walkover will be protective of the dune system and the coastal system. In that regard, DEP generally encourages dune walkovers to protect the beach and dune system. (RO ¶ 164).

As a result of the elimination of lighting, of the restriction on construction during turtle nesting season, and of the Applicants' agreement to all conditions suggested by the FFWCC, the ALJ concluded that the evidence firmly established that the proposed dune walkover will not, by any reasonable measure, result in death or injury to marine turtles, and will result in no

significant habitat modification or degradation that kills or injures marine turtles by significantly impairing essential behavioral patterns, such as breeding, feeding, or sheltering. (RO ¶ 165).

The Project will not result in the removal or destruction of native vegetation. The evidence was sufficient to demonstrate that the Project will not destabilize the beach and dune system. The ALJ found that the greater weight of the evidence establishes that the dune walkover will provide greater protection of the beach and dune system than the Applicants' existing means of access across the lagoon and dunes. The ALJ concluded that the construction of the dune walkover will cause no significant adverse impact, as defined in rule 62B-33.002(26), Florida Administrative Code, to the beach and dune system due to increased erosion by wind or water. (RO ¶ 166).

The proposed dune walkover does not require any excavation. There will be no net excavation or removal of in situ sandy soils of the beach and dune system, and no net excavation of the in situ sandy soils seaward of the control line or 50-foot setback. (RO ¶ 167).

The proposed dune walkover does not include any water directing devices. The ALJ concluded that the preponderance of the competent substantial evidence established that the project will not direct discharges of water seaward in a manner that would result in significant adverse impacts. The evidence established that the proposed Project will result in no erosion-induced surface water runoff within the beach and dune system. (RO ¶ 168).

The evidence establishes that, as a general matter, piling-supported structures do not have an effect on the flow of water. However, in extreme events, water encountering an obstacle can cause the movement of sand around the obstacle. The expendability of a structure and its ability to break away prevents scour from occurring and is designed to minimize impacts. The ALJ concluded that the preponderance of the competent, substantial, and persuasive evidence

establishes that the Project will not increase scour so as to cause a significant adverse impact, and that any effect of the Project on the coastal processes of the area would be, at most, de minimis. (RO ¶ 169).

The design of the proposed dune walkover minimizes the amount of materials that might create debris in the event of a storm. The Applicants removed the handrails, decreased the width of the dune walkover from six feet to five feet, and eliminated pickets and non-structural members. The lowering of the dune walkover, and replacement of the stairs with a ramp that minimizes lift forces, have sufficiently reduced the potential for wind and waterborne missiles. The ALJ concluded that the suggestion that the dune walkover will, in the event of a high frequency storm, form destructive airborne missiles is simply not credible. (RO ¶ 170).

The proposed dune walkover is designed to break apart in the face of destructive storm forces. The ALJ concluded that if every piece of storm-generated debris was a sufficient basis upon which to deny a CCCL permit, then minor structures would be prohibited, since all minor structures are designed to be expendable and to break away in a high-frequency storm. The ALJ concluded that some degree of reason must be applied. The Applicants in this case demonstrated that the proposed dune walkover would not itself be such to create significant adverse impacts if subjected to the destructive forces of such a storm. (RO ¶ 171).

The ALJ concluded that the proposed dune walkover terminates more than 260 feet from the Gulf of Mexico and will not interfere with the public's right to laterally traverse the sandy beach of the Gulf of Mexico. (RO ¶ 172).

The ALJ concluded that the Project area is in a cycle of accretion, has historically accreted, is currently accreting at roughly 28 feet per year, and is expected to continue accreting. (RO ¶ 173).

The ALJ concluded that the suggestion that, within 15 years, the shoreline of the Gulf of Mexico waterward of the Applicants' properties will retreat, and that the proposed dune walkover would thence reach into the Gulf, blocking pedestrian access to the shoreline, was not supported by quantitative analyses, and was not sufficient to outweigh evidence to the contrary presented by the Applicants. The Applicants offered an assessment and report based on past and current conditions at the monument level, which included modeling and sediment budgets showing projected changes of the Project area, none of which support a finding that the shoreline will erode or retreat, or that the proposed dune walkover would be expected to interfere with public access to the shoreline. (RO ¶ 174).

As set forth previously herein, the ALJ concluded that the Project's proposed design, location, and construction methods provide reasonable assurance that there will be no adverse impact to marine turtles, or the coastal system. (RO ¶ 175).

The ALJ concluded that the Applicants provided sufficient evidence of ownership, in that they are the upland owners and the recipients of the SSL Authorization, being addressed concurrently herewith. (RO ¶ 176).

CCCL Permit - Ultimate Finding of Fact

The ALJ concluded that the preponderance of the competent, substantial evidence in this case establishes that the Applicants demonstrated their entitlement to the issuance of the CCCL Permit, meeting the standards established in chapter 161, Florida Statutes, and chapter 62B-33, Florida Administrative Code. (RO ¶ 177).

Final Order Granting Petition for CCCL Waiver

The CCCL Waiver at issue affects the timing requirements of the submission of ownership and land use approvals. The CCCL Waiver does not waive the submission of the

documents, or the requirement that the documents be provided prior to any construction of the proposed dune walkover. The ALJ concluded that a preponderance of the competent substantial evidence establishes that the underlying purpose of chapter 161, Florida Statutes, and rule 62B-33.008, Florida Administrative Code, will be met because construction cannot begin until the Applicants satisfy all substantive requirements for the CCCL Permit. (RO ¶ 178).

At the time the CCCL Petition for Waiver was requested, the Consolidated Permit was being litigated (DOAH Case Nos. 16-7148 and 16-7149), as was the Town's denial of the land use letter requested by the Applicants to comply with the CCCL Permit application requirement. Strict adherence to the requirement that the documents at issue be submitted at the time of the application would have required the Applicants to sequentially litigate issues related to the proposed dune walkover, increasing the time and expense of litigation on all involved. (RO ¶ 179).

The ALJ found that the Petitioners presented no evidence demonstrating how allowing the Applicants to submit the documents prior to being given a Notice to Proceed would adversely affect the Department's ability to carry out the objective of the underlying statutes, or their substantial interests in ensuring the legality of the proposed dune walkover. (RO ¶ 180).

The ALJ concluded that the timing requirement for evidence of ownership and local government approval was appropriately waived to allow for the efficient and cost-effective litigation of all issues related to the proposed dune walkover. To piecemeal the litigation would unnecessarily increase the time, cost, and administrative burden of litigation for no meaningful or substantive reason, and would provide the challengers with an unwarranted litigation advantage. (RO ¶ 181).

The CCCL Waiver affects no substantive or substantial interests of any party to this case. The CCCL Waiver final order neither lessens the necessary indicia of ownership and control required of the Applicants, nor affects the Town's ability to lawfully enforce its local zoning codes. The ALJ found that the waiver to the timing requirements allows for the substantive permitting requirements to be met, without frustrating the Applicants' right to a timely final decision on the Consolidated Permit and CCCL Permit. (RO ¶ 182).

The CCCL Final Order Granting Petition for Waivers does not allow for any construction to begin without Applicants first meeting both the ownership requirement and the local government zoning confirmation requirement. Therefore, the ALJ concluded that the CCCL Petition for Waivers is consistent with the purpose and intent of the governing statutes and rules and results in no injury to Petitioners' legitimate interests. (RO ¶ 183).

CCCL Final Order Granting Petition for Waivers - Ultimate Finding of Fact

The ALJ concluded that the preponderance of the competent, substantial evidence in this case establishes that the CCCL Waiver serves to avoid substantial hardship to the Applicants, and advance principles of fairness by maintaining a fair, equal, and cost-effective forum for litigation between the parties regarding the proposed dune walkover. As such, the ALJ concluded that the Applicants demonstrated their entitlement to issuance of the CCCL Final Order Granting Petition for Waivers, meeting the standards established in section 120.542, Florida Statutes. (RO ¶ 184).

## STANDARDS OF REVIEW OF DOAH RECOMMENDED ORDERS

Section 120.57(1)(l), Florida Statutes, prescribes that an agency reviewing a recommended order may not reject or modify the findings of fact of the ALJ "unless the agency first determines from a review of the entire record, and states with particularity in the order, that

the findings of fact were not based on competent substantial evidence." § 120.57(1)(l), Fla. Stat. (2018); *Charlotte County v. IMC Phosphates Co.*, 18 So. 3d 1079, 1082 (Fla. 2d DCA 2009); *Wills v. Fla. Elections Comm'n*, 955 So. 2d 61, 62 (Fla. 1st DCA 2007). The term "competent substantial evidence" does not relate to the quality, character, convincing power, probative value or weight of the evidence. Rather, "competent substantial evidence" refers to the existence of some evidence as to each essential element and as to its admissibility under legal rules of evidence. *See e.g.*, *Scholastic Book Fairs, Inc. v. Unemployment Appeals Comm'n*, 671 So. 2d 287, 289 n.3 (Fla. 5th DCA 1996); *Nunez v. Nunez*, 29 So. 3d 1191, 1192 (Fla. 5th DCA 2010).

A reviewing agency may not reweigh the evidence presented at a DOAH final hearing, attempt to resolve conflicts therein, or judge the credibility of witnesses. *See, e.g.*, *Rogers v. Dep't of Health*, 920 So. 2d 27, 30 (Fla. 1st DCA 2005); *Belleau v. Dep't of Envtl. Prot.*, 695 So. 2d 1305, 1307 (Fla. 1st DCA 1997); *Dunham v. Highlands County School Bd.*, 652 So. 2d 894, 896 (Fla. 2d DCA 1995). If there is competent substantial evidence to support an ALJ's findings of fact, it is irrelevant that there may also be competent substantial evidence supporting a contrary finding. *See, e.g.*, *Arand Constr. Co. v. Dyer*, 592 So. 2d 276, 280 (Fla. 1st DCA 1991); *Conshor, Inc. v. Roberts*, 498 So. 2d 622, 623 (Fla. 1st DCA 1986).

The ALJ's decision to accept the testimony of one expert witness over that of another expert is an evidentiary ruling that cannot be altered by a reviewing agency, absent a complete lack of any competent substantial evidence of record supporting this decision. *See, e.g.*, *Peace River/Manasota Reg'l Water Supply Authority v. IMC Phosphates Co.*, 18 So. 3d 1079, 1088 (Fla. 2d DCA 2009); *Collier Med. Ctr. v. State, Dep't of HRS*, 462 So. 2d 83, 85 (Fla. 1st DCA 1985); *Fla. Chapter of Sierra Club v. Orlando Utils. Comm'n*, 436 So. 2d 383, 389 (Fla. 5th DCA 1983). In addition, an agency has no authority to make independent or supplemental

findings of fact. *See, e.g.*, *North Port, Fla. v. Consol. Minerals*, 645 So. 2d 485, 487 (Fla. 2d DCA 1994*); Fla. Power & Light Co. v. Fla. Siting Bd.*, 693 So. 2d 1025, 1026-1027 (Fla. 1st DCA 1997).

Section 120.57(1)(l), Florida Statutes, authorizes an agency to reject or modify an ALJ's conclusions of law and interpretations of administrative rules "over which it has substantive jurisdiction." *See Barfield v. Dep't of Health*, 805 So. 2d 1008, 1012 (Fla. 1st DCA 2001); *L.B. Bryan & Co. v. Sch. Bd. of Broward County*, 746 So. 2d 1194, 1197 (Fla. 1st DCA 1999); *Deep Lagoon Boat Club, Ltd. v. Sheridan*, 784 So. 2d 1140 1141-42 (Fla. 2d DCA 2001). However, the agency should not label what is essentially an ultimate factual determination as a "conclusion of law" to modify or overturn what it may view as an unfavorable finding of fact. *See, e.g., Stokes v. State, Bd. of Prof'l Eng'rs*, 952 So. 2d 1224, 1225 (Fla. 1st DCA 2007). Furthermore, agency interpretations of statutes and rules within their regulatory jurisdiction do not have to be the only reasonable interpretations. It is enough if such agency interpretations are "permissible" ones. *See, e.g.*, *Suddath Van Lines, Inc. v. Dep't of Envtl. Prot.*, 668 So. 2d 209, 212 (Fla. 1st DCA 1996).

Agencies do not have jurisdiction, however, to modify or reject rulings on the admissibility of evidence. Evidentiary rulings of the ALJ that deal with "factual issues susceptible to ordinary methods of proof that are not infused with [agency] policy considerations," are not matters over which the agency has "substantive jurisdiction." *See Martuccio v. Dep't of Prof'l Reg.*, 622 So. 2d 607, 609 (Fla. 1st DCA 1993); *Heifetz v. Dep't of Bus. Reg.*, 475 So. 2d 1277, 1281 (Fla. 1st DCA 1985). Evidentiary rulings are matters within the ALJ's sound "prerogative . . . as the finder of fact" and may not be reversed on agency review. *See Martuccio*, 622 So. 2d at 609.

## RULINGS ON EXCEPTIONS

In reviewing a recommended order and any written exceptions, the agency's final order "shall include an explicit ruling on each exception." *See* 120.57(1)(k), Fla. Stat. (2018). However, the agency need not rule on an exception that "does not clearly identify the disputed portion of the recommended order by page number or paragraph, that does not identify the legal basis for the exception, or that does not include appropriate and specific citations to the record." *Id.*

A party that files no exceptions to certain findings of fact "has thereby expressed its agreement with, or at least waived any objection to, those findings of fact." *Envtl. Coal. of Fla., Inc. v. Broward County*, 586 So. 2d 1212, 1213 (Fla. 1st DCA 1991); *see also Colonnade Med. Ctr., Inc. v. State of Fla., Agency for Health Care Admin.*, 847 So. 2d 540, 542 (Fla. 4th DCA 2003). However, an agency head reviewing a recommended order is free to modify or reject any erroneous conclusions of law over which the agency has substantive jurisdiction, even when exceptions are not filed. *See* § 120.57(1)(l), Fla. Stat. (2018); *Barfield,* 805 So. 2d at 1012; *Fla. Public Employee Council, v. Daniels,* 646 So. 2d 813, 816 (Fla. 1st DCA 1994).

### RULINGS ON AUDUBON'S EXCEPTIONS

**Audubon's Exception No. 1 regarding Paragraph (d) of the Recommendation Section**

Audubon takes exception to paragraph (d) of the Recommendation Section of the RO, in which the ALJ recommends that the Department "d. issue a Notice to Proceed authorizing the Applicants to commence construction of the proposed dune walkover." (RO, p. 98). Audubon contends that paragraph (d) should be stricken, because CCCL Permit No. LE 1567 and the Final Order Granting Petition for Waivers from conditions of the CCCL permit, No. LE-1567V, specify that a Notice to Proceed authorizing the Applicants to commence construction cannot be

issued by the Department until the Applicants provide the Department with "[a] statement by the Town of Ft. Myers Beach that the project does not contravene local setback requirements or zoning codes." Specific Condition 21 of CCCL Permit No. LE-1567. The CCCL Permit requires that the terms of the CCCL Waiver be satisfied before issuance of the notice to proceed. In addition, the CCCL Waiver prohibits construction until the notice to proceed is issued. Upon reviewing the CCCL Permit, and the CCCL Waiver, the Department agrees with Audubon's conclusion. For the abovementioned reasons, Audubon's exception to paragraph (d) of the Recommendation Section of the RO is granted, and paragraph "d" is stricken.

Based on the foregoing reasons, Audubon's Exception No. 1 is accepted.

RULINGS ON THE APPLICANTS' EXCEPTIONS

**The Applicants' Exception No. 1 regarding Paragraphs 124, 135, 142, 143, 145, and 147**

The Applicants take exception to the findings of fact in paragraphs 124, 135, 142, 143, 145, and 147 (second and third sentences) of the RO, alleging that each paragraph contains statements that adjudicate title and boundary of real property, which is beyond the jurisdiction of both DOAH and the Department. *Miller v. Dep't of Business Reg.*, 504 So. 2d 1325, 1327 (Fla. 1st DCA 1987)(Circuit courts have exclusive jurisdiction to adjudicate all actions involving the title and boundaries of real property. Administrative agencies do not, by their nature, have jurisdiction to decide issues inherent in private property impacts.); *Hageman v. Carter*, 17 F.A.L.R. 3684, 3690 (Fla. Dep't. of Envtl. Prot. 1995)("The circuit courts of this state have exclusive jurisdiction over 'all actions involving titles of boundaries or right of possession of real property' *See* Art. V, Sec. 20(c)(3), Fla. Const.; Section 26.012(2)(g), Florida Statutes.").

The Applicants allege that on at least three occasions, the ALJ concluded that land ownership and title could not be adjudicated in this case. The Applicants note that the ALJ's

Order dated May 23, 2017, dened a motion to intervene by a third-party who alleged that he has "sole and superior title" to property identified as sovereign land within the Project area. In denying the motion to intervene, the ALJ held that "issues of title are exclusively within the jurisdiction of the circuit courts." The ALJ further noted that interest in title to land over which the Project will traverse is not the type or nature of interest designed to be protected by these proceedings, and "are not within the substantive jurisdiction of the Division of Administrative Hearings." Order Denying Motion for Intervention (DOAH May 23, 2017). Moreover, the Applicants noted that in response to their Joint Motion for Protective Order, Motion in Limine and Incorporated Memorandum of Law filed on May 26, 2017, the Petitioners advised the ALJ that "precise ownership of portions of the accreted beachfront are unresolved between DEP and the upland owner" and "title to these lands remains unclear." Respondents' Joint Motion for Protective Order, Motion in Limine and Incorporated Memorandum of Law (DOAH May 26, 2017). The Applicants pointed out to the ALJ that given this uncertainty, the Letter of Consent Easement was only being sought over the Project area to the extent of state ownership. *Id.*

**Paragraph 124 of the RO:**

Regarding paragraph 124 of the RO, the Applicants do not dispute the RO's statement that "[t]he Applicants did not dispute that a SSL Authorization was appropriate." (RO ¶ 124). In fact, the Applicants agree with this finding, stating that they had already stated in the record that they had agreed to obtain a SSL authorization in lieu of a dispute over land title. Respondents' Joint Motion for Protective Order, Motion in Limine and Incorporated Memorandum of Law (DOAH May 26, 2017). However, the Applicants filed an exception to the first sentence in paragraph 124 of the RO. They object to the ALJ's statement that "the sovereignty lands at issue in this case are those that were under state ownership prior to the landward migration and

attachment of the sandbar. *See* Fla. Admin. Code R. 18-21.003(61)," asserting that the statement is confusing and internally inconsistent. They note that "agreement to undergo administrative permitting processes is not the same as agreeing to the factual boundaries of the properties." Applicants' Exception No. 1, p. 7.

When challenging a finding of fact in a RO, the challenging party must allege that the finding is not supported by competent substantial evidence or that the proceeding did not comply with the essential requirements of the law. § 120.57(1)(l), Fla. Stat. (2018); *Charlotte County*, 18 So. 3d at 1087; *Wills*, 955 So. 2d at 62. The Applicant failed to allege either basis for challenging the findings of fact in paragraph 124 of the RO. Moreover, the Department does not find the sentence at issue to be confusing. Following the sentence at issue, the RO cites to rule 18-21.003(61), Florida Administrative Code, which contains the BOT's definition of "sovereignty submerged lands." The definition reads, in pertinent part, that " '[s]overeignty submerged lands' means those lands . . . to which the State of Florida acquired title on March 3, 1985, by virtue of statehood." This BOT definition implies that the ALJ was referring to the fact that sovereignty submerged lands are those lands that the State of Florida acquired title on March 3, 1985. The ALJ in paragraph 124 does not attempt to determine ownership to such lands or riparian boundaries, which are within the exclusive jurisdiction of the circuit courts. For the abovementioned reasons, the Applicants' exception to paragraph 124 of the RO is rejected.

**Paragraph 135 of the RO:**

Next, the Applicant's take exception to the findings of fact in paragraph 135 of the RO, alleging that no evidence was provided regarding ownership of the lands within the Project area. Paragraph 135 reads, in totality, that [t]he proposed dune walkover involves use of sovereignty lands to facilitate access to the waters of the Gulf of Mexico for traditional uses such as fishing,

boating, and swimming." The Applicant contends that "[p]aragraph 135 should be rejected as outside the scope of DEP's jurisdiction and not a matter that can properly be determined in this proceeding." Applicant's Exception No. 1, p. 9.

The Department concludes that paragraph 135 of the RO contains mixed findings of fact and conclusions of law. The Department concludes that neither DOAH nor the Department has jurisdiction to determine issues of title, which are exclusively within the jurisdiction of the circuit courts. As noted by the ALJ in his Order Denying Motion to Intervene dated May 23, 2017, interest in title to land over which the Project will traverse is not the type or nature of interest designed to be protected by these proceedings, and "are not within the substantive jurisdiction of the Division of Administrative Hearings." Order Denying Motion to Intervene (DOAH May 23, 2017); *Miller*, 504 So.2d at 1327. For the abovementioned reasons, the Applicants' exception to paragraph 135 is granted, and paragraph 135 of the RO is stricken.

**Paragraph 142 of the RO:**

The Applicants take exception to paragraph 142 of the RO, which reads, in totality, that "[n]either the Applicants nor their neighbors hold title to the mean high water ("MHW") mark of the Gulf of Mexico." RO ¶ 142. The Applicants object that paragraph 142 of the RO purports to establish the mean high waterline in the vicinity of the Project, and to adjudicate boundary of the Applicants' property, the state's property and the property of the Applicants' neighbors who were not even parties to these proceedings. The Applicants contend that neither DOAH nor the Department has jurisdiction to adjudicate title to or boundaries of real property; thus, they contend the paragraph should be rejected.

The Department concludes that paragraph 142 of the RO is actually a conclusion of law. Moreover, the Department agrees that neither DOAH nor the Department has jurisdiction to

adjudicate title to or boundaries of real property, which are exclusively within the jurisdiction of the circuit courts. *Miller*, 504 So.2d at 1327. For the abovementioned reasons, the Applicants' exception to paragraph 142 is granted, and paragraph 142 of the RO is stricken.

**Paragraph 143 of the RO:**

The Applicants take exception to paragraph 143 of the RO, which reads as follows:

> The MHW line, as of December 1, 2014, was at what is generally depicted as the shoreline of the Gulf of Mexico. The two more upland water features, i.e., the lagoon and the smaller body, both labeled as 'Pond' on the 2014 mean high water survey, were well landward of the MHW.

RO ¶ 143. The Applicants contend that paragraph 143 of the RO "contain[s] statements that adjudicate title and boundary of real property, which is beyond the jurisdiction of either DOAH or the Department"; and thus, the paragraph should be stricken. Applicants Exception No. 1, pp. 4-5.

The Department concludes that paragraph 143 of the RO contains mixed findings of fact and conclusions of law. Moreover, the Department agrees that neither DOAH nor the Department has jurisdiction to adjudicate title to or boundaries of real property, which are exclusively within the jurisdiction of the circuit courts. *Miller*, 504 So.2d at 1327. For the abovementioned reasons, the Applicants' exception to paragraph 143 is granted, and paragraph 143 of the RO is stricken.

**Paragraph 145 of the RO:**

The Applicants take exception to paragraph 145 of the RO, which reads, in totality, that "[p]ursuant to section 253.141, neither the Applicants nor their neighbors currently have riparian rights to the lagoon or the smaller feature." RO ¶ 145. The Applicants object that paragraph 145 of the RO again purports to adjudicate title to real property, which is outside the jurisdiction of both DOAH and the Department. As a result, they contend the paragraph should be rejected.

The Department concludes that paragraph 145 of the RO contains mixed findings of fact and conclusions of law. Moreover, the Department agrees that neither DOAH nor the Department has jurisdiction to adjudicate title to or boundaries of real property, which are exclusively within the jurisdiction of the circuit courts. *Miller*, 504 So.2d at 1327. For the abovementioned reasons, the Applicants' exception to paragraph 145 is granted, and paragraph 145 of the RO is stricken.

**Paragraph 147 of the RO:**

The Applicants take exception to the second and third sentences in paragraph 147 of the RO, which read that "[t]he MHW line is waterward of the lagoon, and the property lines of the Applicants and their neighbors do not extend to the MHW line. Thus, proximity to that water feature does not serve to confer "riparian" rights on them." RO ¶ 147. The Applicants object that the second and third sentences of paragraph 147 of the RO establish the location of the mean high water line and adjudicate the location of the property lines of both the Applicants and properties of neighbors who did not even participate in this proceeding. As a result, they contend these two sentences should be rejected.

The Department concludes that paragraph 147 of the RO contains mixed findings of fact and conclusions of law. Moreover, the Department agrees that neither DOAH nor the Department has jurisdiction to adjudicate title to or boundaries of real property, which are exclusively within the jurisdiction of the circuit courts. *Miller*, 504 So.2d at 1327. For the abovementioned reasons, the Applicants' exception to paragraph 147 is granted, and the second and third sentences in paragraph 147 of the RO are stricken.

Based on the foregoing reasons, the Applicants' Exception No. 1, taking exception to paragraphs 124, 135, 142, 143, 145 and 147 of the RO, is denied in part, and granted in part, as set forth above.

**The Applicants' Exception No. 2 regarding Paragraph 155**

The Applicants take exception to the findings of fact in paragraph 155 of the RO, alleging that the paragraph contains a scrivener's error. Paragraph 155 of the RO states that "DEP has established a CCCL on Little Estero Island."

When challenging a finding of fact in a RO, the challenging party must allege that the finding is not supported by competent substantial evidence or that the proceeding did not comply with the essential requirements of the law. § 120.57(1)(l), Fla. Stat. (2018); *Charlotte County*, 18 So. 3d at 1087; *Wills*, 955 So. 2d at 62. The Applicants fail to allege either basis for challenging the findings of fact in paragraph 155 of the RO. Even if the Applicant had alleged that the findings in paragraph 155 were not supported by competent substantial evidence, their argument still would fail. The Applicant's findings of fact in paragraph 155 are supported by competent substantial evidence in the form of expert testimony. (McNeal, T. Vol. 2, p. 102; DEP Ex. 9, p. DEP-987). For the abovementioned reasons, the Applicants' exception to paragraph 155 of the RO is rejected.

Based on the foregoing reasons, the Applicants' Exception No. 2 is denied.

RULINGS ON DEP'S EXCEPTIONS

**DEP's Exception No. 1 regarding Paragraph 141**

DEP takes exception to the findings of fact in paragraph 141 of the RO, alleging that paragraph 141 is a mislabeled conclusion of law. Paragraph 141 of the RO reads, in totality, that "Section 253.141 provides that '[t]he land to which the owner holds title must extend to the

ordinary high watermark of the navigable water in order that riparian rights may attach.'" The Department agrees that paragraph 141 of the RO is a mislabeled conclusion of law. However, since it is a correct quotation of section 253.141, Florida Statutes, the Department accepts the quotation as a correct citation of law. For the abovementioned reasons, DEP's exception to paragraph 141 of the RO is rejected.

Based on the foregoing reasons, DEP's Exception No. 1 is denied.

**DEP's Exception No. 2 regarding Paragraph 143**

DEP takes exception to the findings in paragraph 143 of the RO, which reads as follows:

> The MHW line, as of December 1, 2014, was at what is generally depicted as the shoreline of the Gulf of Mexico. The two more upland water features, i.e., the lagoon and the smaller body, both labeled as 'Pond' on the 2014 mean high water survey, were well landward of the MHW.

RO ¶ 143. DEP contends that the term "'mean high water line' is a term of legal significance relative to the issue of ownership of state lands, as it denotes the boundary between sovereign lands and private property." Moreover, DEP cites rule 18-21.003(38), Florida Administrative Code, which defines "mean high water line," in pertinent part, as follows:

> [T]he intersection of the local elevation of mean high water with the shore. Mean high water line along the shore of land immediately bordering on navigable waters is recognized and declared to be the boundary between the foreshore owned by the State of Florida in its sovereign capacity and the uplands subject to private ownership . . . .

Fla. Admin. Code R. 18-21.003(38)(2018).

DEP proceeds to provide a lengthy discussion regarding the facts of the case, alleging that the findings of fact in paragraph 143 of the RO are immaterial and irrelevant, and not based on evidence in the case. Without delving into the extensive evidentiary details in the case, the Department finds that paragraph 143 of the RO should be stricken for the initial reason inferred by DEP.

The Department concludes that paragraph 143 contains mixed findings of fact and conclusions of law, based on the RO's reference to a 2014 mean high water survey prepared by Charles DeGraff, whose deposition was admitted in evidence in lieu of live testimony. During Mr. DeGraff's deposition, the parties stipulated that to the extent Mr. DeGraff used the term "mean high water line" in his testimony, he was not making a statement regarding ownership, but merely explaining the lines on his surveys and sketches. Applicants' Ex. No. 73, SMI-TH-73-0031. However, paragraph 143 of the RO purports to establish the mean high waterline in the vicinity of the Project, including in relation to the lagoon and the "pond." As explained above, DEP contends that the term "mean high water line" is a legal term that delineates ownership of state lands, since it denotes the boundary between sovereign lands and private property. As fully articulated in other DEP exceptions to the RO, neither DOAH nor the Department has jurisdiction to adjudicate title to or boundaries of real property; thus, paragraph 143 should be rejected.

The Department concludes that paragraph 143 delineates ownership of state lands. Neither DOAH nor the Department has jurisdiction to adjudicate title to or boundaries of real property, which are exclusively within the jurisdiction of the circuit courts. *Miller*, 504 So.2d at 1327. For the abovementioned reasons, DEP's exception to paragraph 143 is granted, and paragraph 143 of the RO is stricken.

Based on the foregoing reasons, DEP's Exception No. 2 is approved.

**DEP's Exception No. 3 regarding Paragraph 142**

DEP takes exception to the findings in paragraph 142 of the RO, which reads, in totality, that "[n]either the Applicants nor their neighbors hold title to the mean high water ("MHW") mark of the Gulf of Mexico." RO ¶ 142. DEP objects that paragraph 142 of the RO purports to

make a legal determination of who owns title over the lagoon. As previously discussed by DEP, neither DOAH nor the Department has jurisdiction to adjudicate title to or boundaries of real property; and therefore, paragraph 142 should be stricken. DEP Exception No. 3, p. 10.

The Department concludes that paragraph 142 of the RO is actually a conclusion of law. Moreover, the Department agrees that neither DOAH nor the Department has jurisdiction to adjudicate title to or boundaries of real property, which are exclusively within the jurisdiction of the circuit courts. *Miller*, 504 So.2d at 1327. For the abovementioned reasons, DEP's exception to paragraph 142 is granted, and paragraph 142 of the RO is stricken.

Based on the foregoing reasons, DEP's Exception No. 3 is approved.

**DEP's Exception No. 4 regarding Paragraph 144**

DEP takes exception to the findings of fact in paragraph 144 of the RO, alleging that the testimony in the hearing regarding whether the lagoon was a navigable water body was in the context of the ERP regulatory permit and not the SSL authorization. However, paragraph 144 of the RO is in the RO's section regarding SSL rule 18-21, Florida Administrative Code (Riparian Rights), and not the section regarding ERP permitting.

When challenging a finding of fact in a RO, the challenging party must allege that the finding is not supported by competent substantial evidence or that the proceeding did not comply with the essential requirements of the law. § 120.57(1)(l), Fla. Stat. (2018); *Charlotte County*, 18 So. 3d at 1087; *Wills*, 955 So. 2d at 62. DEP contends that the findings in paragraph 144 of the RO are not supported by competent substantial evidence. Contrary to DEP's exception, the findings of fact in paragraph 144 of the RO are supported by competent substantial evidence in the form of expert testimony. (Mills, T. Vol. 2, pp. 24-26). For the abovementioned reasons, DEP's exception to the findings of fact in paragraph 144 is rejected.

DEP also contends that the ALJ's statement that the lagoon is not navigable is a conclusion of law, based on incomplete evidence. DEP contends that the "determination of navigability for the purposes of determining title, is to be made as of 1845, the date Florida became a state. *Bd. Of Trustees of Internal Imp. Tr. Fund v. Florida Pub. Utilities Co.*, 599 2d 1356, 1357 (Fla. 1st DCA 1992)." DEP Exception No. 4, p. 11.

The Department concludes that the ALJ in paragraph 144 of the RO merely made a finding of fact that the subject water is *currently* not navigable. *See* RO ¶ 25, and Mills, T. Vol. 2, pp. 24-26.

Based on the foregoing reasons, DEP's Exception No. 4 is rejected.

**DEPs Exception No. 5 regarding Paragraph 145**

DEP takes exception to paragraph 145 of the RO, which reads, in totality, that "[p]ursuant to section 253.141, neither the Applicants nor their neighbors currently have riparian rights to the lagoon or the smaller feature." RO ¶ 145. DEP objects that paragraph 145 of the RO purports to adjudicate title to real property, which is outside the jurisdiction of both DOAH and the Department. As a result, they contend the paragraph should be rejected.

The Department concludes that paragraph 145 of the RO contains mixed findings of fact and conclusions of law. Moreover, the Department agrees that neither DOAH nor the Department has jurisdiction to adjudicate title to or boundaries of real property, which are exclusively within the jurisdiction of the circuit courts. *Miller*, 504 So.2d at 1327. For the abovementioned reasons, the Applicants' exception to paragraph 145 is granted, and paragraph 145 of the RO is stricken.

**DEP's Exception No. 6 regarding Paragraph 147**

DEP takes exception to paragraph 147 of the RO, alleging that this paragraph should be rejected for the same reasons explained in their exceptions to paragraphs 142, 143, 144, and 145.

The Department concludes that paragraph 147 of the RO contains mixed findings of fact and conclusions of law; and grants DEP's exception in part and rejects it in part. The Department agrees with the Applicants analysis articulated above, in which they took exception only to the second and third sentences in paragraph 147 of the RO, which read that "[t]he MHW line is waterward of the lagoon, and the property lines of the Applicants and their neighbors do not extend to the MHW line. Thus, proximity to that water feature does not serve to confer 'riparian' rights on them." RO ¶ 147. The Applicants' objected that the second and third sentences of paragraph 147 of the RO establish the location of the mean high water line and adjudicate the location of the property lines of both the Applicants and properties of neighbors who did not even participate in this proceeding. As a result, they contend these two sentences should be rejected. The Department concludes that the remainder of paragraph 147 of the RO should not be rejected, because it is a conclusion of law or a finding of fact supported by competent substantial evidence in the form of expert testimony. (Mills, T. Vol. 1, pp. 24-26).

The Department concludes that paragraph 147 of the RO contains mixed findings of fact and conclusions of law. Moreover, the Department concludes that neither DOAH nor the Department has jurisdiction to adjudicate title to or boundaries of real property, which are exclusively within the jurisdiction of the circuit courts. *Miller*, 504 So.2d at 1327. For the abovementioned reasons, DEP's exception to paragraph 147 is granted in part and denied in part.

Based on the foregoing reasons, DEP's Exception No. 6 is accepted in part and rejected in part; and accordingly, the second and third sentences in paragraph 147 of the RO are stricken.

**DEP's Exception No. 7 regarding Paragraph 219**

DEP takes exception to the conclusion of law in paragraph 219 of the RO, alleging that the paragraph's reference to section 161.053(6)(b), Florida Statutes, is a scrivener's error. Upon reviewing section 161.053, Florida Statutes, the Department finds that it does not contain a section 161.053(6)(b); and thus, the reference to section 161.053(6)(b), Florida Statutes, must be a scrivener's error.

Paragraph 291 of the RO quotes section 161.053(6)(b), Florida Statutes, in pertinent part, to read that a "'Minor structure' means pile-supported, elevated dune and beach walkover structure. . . . It shall be a characteristic of minor structures that they are considered to be expendable under design wind, wave, and storm forces." DEP contends that the correct reference is to rule 62B-33.002(55)(b), Florida Administrative Code. However, while rule 62B-33.002(55)(b) does define "Minor Structures," the definition is not identical to the definition in paragraph 219 of the RO. Upon reviewing the statutes and rules applicable to the CCCL program, the Department finds that the citation intended by the ALJ was section 161.54(6)(b), Florida Statutes.

For the abovementioned reasons, DEP's exception to paragraph 219 is granted, in part and rejected in part. The Department agrees that the RO's reference in paragraph 219 to section 161.053(6)(b), Florida Statutes, is a scrivener's error; and thus, the Department accepts that portion of DEP's Exception No. 7. However, the Department rejects DEP's conclusion that the ALJ intended to cite to rule 62B-33.002(55)(b), Florida Administrative Code.

Based on the foregoing reasons, the Applicants' Exception No. 7 is accepted in part and denied in part. In addition, the scrivener's error in paragraph 291 of the RO is corrected to cite to Section 161.54(6)(b), Florida Statutes.

**DEP's Exception No. 8 regarding Paragraph (d) of the Recommendation Section**

DEP takes exception to paragraph "d" of the Recommendation Section of the RO, in which the ALJ recommends that the Department "d. issue a Notice to Proceed authorizing the Applicants to commence construction of the proposed dune walkover." (RO, p. 98). DEP contends that paragraph "d" should be stricken or reworded, because the CCCL Permit requires that the terms of the CCCL Waiver be satisfied before issuance of the notice to proceed. In addition, the Department notes that the CCCL Waiver prohibits construction until the notice to proceed is issued. Upon reviewing the CCCL Permit, and the CCCL Waiver, the Department agrees with DEP's conclusion. For the abovementioned reasons, DEP's exception to paragraph "d" of the Recommendation Section is granted.

Based on the foregoing reasons, DEP's Exception No. 8 is granted, and paragraph "d" of the Recommendation Section of the RO is stricken.

## CONCLUSION

Having considered the applicable law in light of the rulings on the above Exceptions, and being otherwise duly advised, it is

ORDERED that:

A. The Recommended Order (Exhibit A) is adopted, except as modified by the above rulings on Exceptions, and is incorporated by reference herein;

B. Consolidated Environmental Resource Permit No. 36-0320034-001 and Letter of Consent Easement to use Sovereign Submerged Lands No. 360239365 is APPROVED, subject to the general and specific conditions set forth therein;

C. Permit for Construction or Other Activities Pursuant to Section 161.053, Florida Statutes, No. LE-1567, is APPROVED, subject to the general and specific conditions set forth therein;

D. Final Order Granting Petition for Waivers, No. LE-1567V, is APPROVED, subject to the conditions set forth therein; and

E. The petitions for hearing filed by the Town of Fort Myers Beach in each of these consolidated cases are dismissed with prejudice for lack of standing, in accordance with the recommendations of the RO.

## JUDICIAL REVIEW

Any party to this proceeding has the right to seek judicial review of the Final Order pursuant to Section 120.68, Florida Statutes, by the filing of a Notice of Appeal pursuant to Rule 9.110, Florida Rules of Appellate Procedure, with the clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, M.S. 35, Tallahassee, Florida 32399-3000; and by filing a copy of the Notice of Appeal accompanied by the applicable filing fees with the

appropriate District Court of Appeal. The Notice of Appeal must be filed within 30 days from the date this Final Order is filed with the clerk of the Department.

DONE AND ORDERED this 9th day of May, 2019, in Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

NOAH VALENSTEIN
Secretary

Marjory Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

FILED ON THIS DATE PURSUANT TO § 120.52, FLORIDA STATUTES, WITH THE DESIGNATED DEPARTMENT CLERK, RECEIPT OF WHICH IS HEREBY ACKNOWLEDGED.

Deputy CLERK 5/9/19 DATE

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Final Order has been sent by electronic mail to:

| | |
|---|---|
| Andrew J. Baumann, Esquire<br>Amy Taylor Petrick, Esquire<br>Telsula Christy Morgan, Esquire<br>Seth Behn, Esquire<br>Rachael B. Santana, Esquire<br>Lewis, Longman and Walker, P.A.<br>515 North Flagler Drive, Suite 1500<br>West Palm Beach, Florida 33401<br>abaumann@llw-law.com<br>apetrick@llw-law.com<br>tmorgan@llw-law.com<br>sbehn@llw-law.com<br>rsantana@llw-law.com | Marianna Sarkisyan, Esquire<br>Matthew J. Knoll, Esquire<br>Department of Environmental Protection<br>3900 Commonwealth Blvd., MS 35<br>Tallahassee, Florida 32399-3000<br>Marianna.Sarkisyan@FloridaDEP.gov<br>Matthew.Knoll@FloridaDEP.gov |
| Martha Collins, Esquire<br>Collins Law Group<br>1110 North Florida Avenue<br>Tampa, Florida 33602<br>mcollins@collins-lawgroup.com | Pamela Jo Hatley, Esquire<br>Pamela Jo Hatley, P.A.<br>1110 North Florida Avenue<br>Tampa, Florida 33602<br>pamela@pamelajohatley.com |
| John S. Turner, Esquire<br>Peterson Law Group<br>2525 Estero Boulevard<br>Fort Myers, Florida 33931<br>jtpetersonpa@gmail.com | William Ward, Esquire<br>The William Ward Law Group, PLLC<br>606 Riviera Dunes Way<br>Palmetto, Florida 34221<br>wwlg.william@gmail.com |
| and by U.S. Mail to:<br><br>Allen Bills Marine, Inc.<br>3853 East River Drive<br>Fort Myers, Florida 33916 | <br><br>Texas Hold'Em, LLC<br>2817 Carriage Lane<br>Carrollton, Texas 75006 |
| Squeeze Me Inn, LLC<br>711 Franklin Trace<br>Zionsville, Indiana 46077 | |

this 9 day of May, 2019.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Stacey D. Cowley

STACEY D. COWLEY
Administrative Law Counsel

3900 Commonwealth Blvd., MS 35
Tallahassee, FL 32399-3000
Telephone 850/245-2242

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

FLORIDA AUDUBON SOCIETY, INC.,

Petitioner,

vs. Case No. 16-7148

TEXAS HOLD'EM, LLC; SQUEEZE ME INN, LLC; AND DEPARTMENT OF ENVIRONMENTAL PROTECTION,

Respondents.
_____/

TOWN OF FORT MYERS BEACH, FLORIDA,

Petitioner,

vs. Case No. 16-7149

TEXAS HOLD'EM, LLC; SQUEEZE ME INN, LLC; AND DEPARTMENT OF ENVIRONMENTAL PROTECTION,

Respondents.
_____/

FLORIDA AUDUBON SOCIETY, INC., AND TOWN OF FORT MYERS BEACH, FLORIDA,

Petitioner,

vs. Case Nos. 18-1451
18-2141

TEXAS HOLD'EM, LLC; SQUEEZE ME INN, LLC; AND DEPARTMENT OF ENVIRONMENTAL PROTECTION,

Respondents.
_____/

Exhibit A

## RECOMMENDED ORDER

Pursuant to notice, a final hearing was held in this case on September 18 through 20, 2018, in Fort Myers, Florida, before E. Gary Early, a designated Administrative Law Judge of the Division of Administrative Hearings ("DOAH").

## APPEARANCES

For Petitioner Florida Audubon Society:

Martha Collins, Esquire
Collins Law Group
1110 North Florida Avenue
Tampa, Florida 33602

For Petitioner Town of Fort Myers Beach, Florida:

William Ward, Esquire
The William Ward Law Group, PLLC
Suite 505
606 Riviera Dunes Way
Palmetto, Florida 34221

For Respondents Texas Hold'Em, LLC; and Squeeze Me Inn, LLC:

Andrew J. Baumann, Esquire
Seth Behn, Esquire
Telsula Christy Morgan, Esquire
Amy Taylor Petrick, Esquire
Rachael B. Santana, Esquire
Lewis, Longman and Walker, P.A.
Suite 1500
515 North Flagler Drive
West Palm Beach, Florida 33401

For Respondent Department of Environmental Protection:

Marianna Sarkisyan, Esquire
Matthew J. Knoll, Esquire
Department of Environmental Protection
Mail Station 35
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

## PRELIMINARY STATEMENT

These consolidated cases involve agency actions related to a "dune walkover"[1/] ("dune walkover" or "Project") proposed by the applicants, Texas Hold'Em, LLC, and Squeeze Me Inn, LLC (the "Applicants"). In order to construct the proposed dune walkover, the Applicants have filed: 1) an application for an Environmental Resource Permit ("ERP"); 2) an application for a letter of consent easement for the use of sovereignty submerged lands ("SSL Authorization"); 3) petitions for waivers from Florida Administrative Code Rule 62B-33.008(3)(c) and (d) to allow for completion and consideration of an application for a Coastal Construction Control Line ("CCCL") permit ("CCCL Waivers"); and 4) an application for a CCCL permit ("CCCL Permit").

On September 29, 2016, the Department of Environmental Protection (the "DEP"), in its own capacity, and in its capacity as staff to the Board of Trustees of the Internal Improvement Trust Fund ("BTIITF"), issued Consolidated Environmental Resource Permit No. 36-0320034-001 and Letter of Consent Easement to Use Sovereign Submerged Lands No. 360239365 (collectively the "Consolidated Permit") to the Applicants for the construction of a 1,491.5 square-foot beach boardwalk.

On November 4, 2016, Petitioners, Florida Audubon Society, Inc. ("Audubon"), and Town of Fort Myers Beach, Florida

("Town"), each filed an Amended Petition for Administrative Hearing challenging the Consolidated Permit. The Amended Petitions were transmitted to DOAH, assigned as Case Nos. 16-7148 and 16-7149, respectively, consolidated for hearing, and initially set to be heard on June 12 through 16, 2017.

The hearing on the Consolidated Permit cases was continued, and the cases placed in abeyance to allow for the associated CCCL Permit application to be processed by DEP. Procedural motions and their disposition are contained on the docket of Case Nos. 16-7148 and 16-7149.

On May 3, 2017, the Applicants amended their application to relocate the boardwalk outside of the established limits of the Little Estero Island Critical Wildlife Area ("LEICWA"). DEP reviewed the proposed changes and determined that the project, as amended, continued to meet the criteria for the issuance of the Consolidated Permit, and transmitted the revised Notice of Intent and Revised Draft Environmental Resources Permit and State Owned Submerged Lands Authorization to DOAH on May 10, 2017.

DEP has established a CCCL for Little Estero Island. A permit is required before any person may conduct construction activities seaward of the CCCL. On May 4, 2017, after having determined that the proposed dune walkover was, in whole or in

part, seaward of the CCCL, the Applicants applied for the CCCL Permit. On June 8, 2017, DEP issued a request for marine turtle impact review to the Florida Fish and Wildlife Conservation Commission ("FFWCC"). On July 27, 2017, FFWCC responded to the request with two recommended CCCL Permit conditions: that no construction occur during nesting season (May 1 through October 31); and that all vehicles be operated in accordance with FFWCC's Best Management Practices for Operating Vehicles on the Beach. Both conditions were accepted by the Applicants.

On August 11, 2017, the Applicants filed their Petition for Waiver of Rules 62B-33.008(3)(c) and (d), which was supplemented on October 3, 2017, and amended on November 9, 2017. The CCCL Waivers would have the effect of allowing the required evidence of ownership of the property encompassed by the CCCL Permit application, and the written evidence that the proposed dune walkover does not violate local setback requirements or zoning codes to be submitted after the issuance of the CCCL Permit, with a permit condition requiring submission of the information prior to DEP issuing a Notice to Proceed, which would authorize the Applicants to commence construction.

On September 29, 2017, the Applicants submitted revised construction and site plans for the proposed dune walkover that reduced its overall footprint from six to five feet across; lowered its height from three feet, ten inches to two feet, six

inches above the sand; replaced steps with a ramp; and removed the 3-foot handrails.

On February 7, 2018, DEP issued proposed Final Order Granting Petitions for Waivers, File No. LE-1567V, which granted the CCCL Waivers.

On March 2, 2018, Audubon and the Town each filed a Petition for Administrative Hearing challenging the CCCL Waivers. The Petitions were transmitted to DOAH, consolidated by the DOAH Clerk's office and assigned as Case No. 18-1451.

On March 30, 2018, DEP issued the proposed Permit for Construction or Other Activities Pursuant to Section 161.053, Florida Statutes, No. LE-1567, which authorized the construction of the dune walkover seaward of the CCCL.

On April 20, 2018, Audubon and the Town each filed a Petition for Administrative Hearing challenging the CCCL Permit. The Petitions were transmitted to DOAH, consolidated by DOAH Clerk's office and assigned as Case No. 18-2141.

On May 10, 2018, Case Nos. 16-7148, 16-7149, 18-1451, and 18-2141 were consolidated for hearing, and the final hearing on the consolidated cases was scheduled for September 18 through 21, 2018.

On June 28, 2018, DEP and the Applicants filed a Joint Notice of Revisions to Draft Environmental Resource Permit and State Owned Submerged Lands Authorization ("Joint Notice"),

which incorporated the September 29, 2017, modifications into the Consolidated Permit. Audubon and the Town each filed a Petition for Formal Administrative Hearing, which were accepted as their Second Amended Petitions to challenge the Consolidated Permit as modified by the Joint Notice.

In the period leading up to the final hearing, a number of motions were filed, disposition of which is reflected on the docket.

On September 11, 2018, the parties filed their Joint Prehearing Stipulation and an Amended Joint Prehearing Stipulation ("JPS"). The JPS contained 39 stipulations of fact and law, and eight stipulations of law, each of which is adopted and incorporated herein, if not specifically, then by reference. The list of stipulated facts provided a comprehensive listing of the various applications, submissions, amendments, petitions, and the like.

The statement of the issues of fact remaining for disposition provided by the parties did little to narrow the real issues in dispute. For example, Petitioners identified the issues of fact remaining for disposition as:

> 1. Whether the Applicants, Squeeze Me Inn, LLC and Texas Holdem, LLC are entitled to issuance of the challenged Environmental Resources Permit and authorization to use sovereignty submerged lands pursuant to all applicable rules and statutes.

> 2. Whether the Applicants, Squeeze Me Inn, LLC and Texas Holdem, LLC, are entitled to issuance of the challenged Permit for Construction or Other Activities Pursuant to Section 161.053, Florida Statutes, and all other CCCL applicable rules and statutes.
>
> 3. Whether the Applicants, Squeeze Me Inn LLC and Texas Holdem LLC, are entitled to issuance of the Final Order Granting Petition for Waivers, pursuant to all applicable rules and statutes.

Similarly, DEP identified the issues as:

> 1. Whether Petitioner Town of Fort Myers Beach, Florida has sufficient standing to challenge each of the three proposed agency actions.
>
> 2. Whether Petitioner Florida Audubon Society has sufficient standing to challenge each of the three proposed agency actions.
>
> 3. Whether the Applicants, Squeeze Me Inn, LLC and Texas Holdem, LLC are entitled to issuance of the challenged Environmental Resources Permit and authorization to use sovereignty submerged lands.
>
> 4. Whether the Applicants, Squeeze Me Inn, LLC and Texas Holdem, LLC, are entitled to issuance of the challenged Permit for Construction or Other Activities Pursuant to Section 161.053, Florida Statutes.
>
> 5. Whether the Applicants, Squeeze Me Inn LLC and Texas Holdem LLC, are entitled to issuance of the Final Order Granting Petition for Waivers.

The list provided by the Applicants provided greater detail and specificity as to the issues in dispute, but nonetheless served more as an expanded listing of the regulatory requirements than

a limitation. Having been provided with no limitation on the issues in dispute, the undersigned will attempt to address the permitting standards as comprehensively as possible.

The hearing convened on September 18, 2018, as scheduled.

The ERP under review, having been issued under the authority of chapter 373, Florida Statutes, that element of the hearing was subject to the modified burden of proof established in section 120.569(2)(p), Florida Statutes. The SSL Authorization was issued under the authority of chapter 253, Florida Statutes; the CCCL Permit under the authority of chapter 161, Florida Statutes; and the CCCL Waiver under the authority of section 120.542, Florida Statutes. Thus, the burden remained with the Applicants to demonstrate entitlement to those elements. The burden of proof provisions are discussed in the Conclusions of Law herein. In order to simplify the order of presentation, the Applicants and DEP presented their cases in full, with Petitioners' standing witnesses taken out of order for the witnesses' convenience.

Joint Exhibits 1 through 13, consisting of the Consolidated Permit file; the CCCL Permit file; the CCCL Waiver file; various surveys, sketches, and aerials related to the proposed dune walkover; the June 28 Revised Notice of Intent for the ERP/Consent and attached documents; and the resumes of DEP

witnesses Tony McNeal, Megan Mills, and Richard Malloy,[2/] were received in evidence by stipulation of the parties.

The Applicants called the following witnesses: Kurt Kroemer, managing member of Squeeze Me Inn, LLC; Edward Rood, managing member of Texas Hold'Em, LLC; Robert Case, P.E., who was tendered and accepted as an expert in civil engineering; Michael Dombrowski, P.E., who was tendered and accepted as an expert in coastal engineering; and Shane Johnson, who was tendered and accepted as an expert in zoology and ecology. Applicants' Exhibits 4 through 7, 9, 10, 13 through 23, 25, and 72 through 74 were received in evidence. Applicants' Exhibit 73 consisted of the deposition testimony of Charles DeGraff, an expert in surveying, who was more than 100 miles from the hearing location on the date of the hearing. His deposition was accepted pursuant to Florida Rule of Civil Procedure 1.330 and will be given the weight as though the deponent testified in person.

DEP called Megan Mills, its ERP program administrator; and Tony McNeal, P.E., its CCCL program administrator, and offered no exhibits beyond Joint Exhibits 1 through 13.

Audubon called Julie Brashears Wraithmell, its president; and Brad Cornell, both on the issue of standing. The Town called Roger Hernsteadt, its manager; Jason Green, its community development director; and Rae Burns, its environmental

technician, on the issue of standing. Petitioners jointly called Ms. Burns; Dr. Robert Young, who was tendered and accepted as an expert in coastal geology and coastal management; and Nancy Douglass, an employee of the FFWCC. Petitioners' Exhibits 1, 2, 7, 25, 33, 42 through 44, 47, 49, 62, 64, and 72 were received in evidence.

A three-volume Transcript of the final hearing was filed on November 6, 2018. The parties were allowed 20 days from the filing of the Transcript within which to file their proposed recommended orders. Petitioners moved for a further extension of time for filing their proposed recommended orders until December 10, 2018, which was granted. DEP moved to enlarge the page limit for the proposed recommended orders to 70 pages, which was also granted. All parties timely filed Proposed Recommended Orders, each of which has been considered in the preparation of this Recommended Order.

The law in effect at the time DEP takes final agency action on the applications being operative, references to statutes are to their current versions, unless otherwise noted. Lavernia v. Dep't of Prof'l Reg., 616 So. 2d 53 (Fla. 1st DCA 1993).

## FINDINGS OF FACT

Based upon the demeanor and credibility of the witnesses, the stipulations of the parties, and the evidentiary record of this proceeding, the following Findings of Fact are made:

The Parties

1. Squeeze Me Inn, LLC, is a limited liability corporation incorporated in the State of Florida. Kurt Kroemer is its managing member. Squeeze Me Inn, LLC, owns a single-family home at 8170 Estero Boulevard in Fort Myers Beach, Florida, and pays taxes on the property. Mr. Kroemer purchased the property through Squeeze Me Inn, LLC, based on his enjoyment of the beach. He visits the property five times per year on average, and intends to retire there.

2. Texas Hold'Em, LLC, is a limited liability company incorporated in the State of Florida. Edward Rood is its managing member. Texas Hold'Em, LLC, owns a single-family home at 8150 Estero Boulevard in Fort Myers Beach, Florida, and pays taxes on the property. Mr. Rood uses the home four to five times per year. He enjoys visiting the Gulf of Mexico and the adjacent beach area behind his house.

3. DEP is an agency of the State of Florida, pursuant to section 20.255, Florida Statutes. DEP is the permitting authority in this proceeding and has issued the Consolidated Permit, the CCCL Waiver, and the CCCL Permit at issue in this proceeding to the Applicants.

4. DEP performs staff duties and functions on behalf of the BTIITF related to the review of applications for authorization to use sovereignty submerged lands necessary for

an activity regulated under chapter 373, part IV, for which DEP has permitting responsibility. § 253.002(1), Fla. Stat. DEP has been delegated the authority to take action, without any input from BTIITF, on applications for authorization to use sovereignty submerged lands necessary for an activity regulated under chapter 373, part IV, for which DEP has permitting responsibility. § 253.002(1), Fla. Stat.; Fla. Admin. Code R. 18-21.0051(2).

5. Audubon is an organization incorporated in the State of Florida. Audubon has roughly 20,000 members statewide, and 5,000 members in Southwest Florida, some of whom it contends are in the "direct vicinity" of the project. Audubon's mission statement is to protect birds and their habitat for the benefit of people and wildlife.

6. The Town is an incorporated municipality located on the west coast of Florida along the Gulf of Mexico. The proposed dune walkover is within the Town limits.

Standing[3/]

7. Audubon considers the LEICWA and its surrounding areas important, because it is "important to the birds." Audubon was involved in the process of establishing the LEICWA, and its members volunteer to help monitor and manage the LEICWA. The LEICWA is a renowned bird-watching site. Audubon members have assisted in "posting for nesting birds, as well as fielding

volunteers who are bird stewards. They chaperone the colony to protect it from disturbance, especially on busy beach going weekends." The interest in areas outside of the LEICWA is less apparent, though Audubon alleged that the areas around the LEICWA are important to the birds and, thus, Audubon's members, since "birds unfortunately don't recognize boundaries." In addition, Audubon alleged that the dune walkover would irreparably harm the lagoon and the coastal habitat seaward of it, which is important habitat for imperiled species that are critical for the enjoyment of Audubon's members.

8. Audubon's interest in contesting the CCCL and the Waiver is tied to the reasons for its ERP and SSL standing.

9. The Town's interest in the Consolidated Permit and the CCCL Permit was related to the importance of the Ft. Myers Beach beaches, including those in the LEICWA, to the Town's economy from ecotourism. The Town's interest in shorebirds is that they contribute to the Town's economy by "draw[ing] people to select to visit Fort Myers Beach versus other areas of the state." The Town spends money for beach maintenance to compete for tourism dollars, but does not track the number of visitors to the beach where the Project would be located.[4/]

10. The Town's interest in challenging the CCCL Waiver was that "it goes outside the normal process" and "creates confusion among applicants and the public." However, the CCCL Waiver

would have no effect on the Town's processing of development orders. In addition, the Town was concerned that the boardwalk, as a frangible structure, could cause damage to the property of nearby private individuals. The interest in that regard was not to the property or resources of the Town, but to "[o]ur residents and our property owners."

11. Both the Town and Audubon participate in a program that coordinates volunteer efforts to educate beachgoers on nesting birds in the general vicinity of the proposed dune walkover.

The Project Area

12. Little Estero Island is part of a barrier island system that has developed over decades through the gradual accretion of sand onto the shoreline.

13. The proposed dune walkover is proposed to be constructed on property just west of Big Carlos Pass, a maintained navigational channel that connects inland coastal waters to the Gulf of Mexico. Big Carlos Pass is a tidally dominated inlet, which results in a very dynamic shoreline in its immediate vicinity.

Creation and Fate of the "Lagoon" and Current Shoreline

14. Fort Myers Beach experiences offshore sediment transport that transfers sand along the shoreline from Estero Island towards Big Carlos Pass. In addition, movement of water

through Big Carlos Pass agitates and suspends sand, creating an "ebb shoal" at the Gulf side of the pass. Currents generated by wave action transport sand from the ebb shoal offshore along the shoreline on both sides of the pass. The sediment transport results in the development of shoals and swash bars offshore from the Project site. Those features are gradually pushed towards the shore, and eventually "weld" onto the shoreline.

15. Big Carlos Pass was recently (after the October 20, 2015, issuance of the authorizing permit) dredged to maintain, realign, and straighten the inlet channel. The dredged material, consisting of approximately 350,000 cubic yards of sand, was deposited along 4,500 linear feet just offshore to the west of the Project vicinity.

16. The process of accretion, and the "welding" of a shoreward-moving sandbar has resulted in the creation of an enclosed and shrinking body of water between the shoreline and the upland. What was previously the shoreline of the Gulf of Mexico is, for now, the landward shoreline of the "lagoon."

17. During significant storm events, the area can experience overwash, when storm-driven tides and waves overtop the existing Gulf shoreline, spilling into the lagoon. The overwash pushes sand into the lagoon, creating "fans" of sand and sediment, in a process by which the lagoon is continually filled in and narrowed. As established by Mr. Dombrowski, "what

we would anticipate over time is that you keep on getting this over-topping of sand that keeps on filling in on the back side of the lagoon which will eventually fill in with sand."

18. In addition to overwash, rain and stormwater can fill the lagoon, which can result in the creation of temporary drainage outlets. For example, the area was impacted by Tropical Storm Alberto on Memorial Day 2018. Ms. Burns visited the area after the storm, in June 2018, and observed more water in the lagoon and in surrounding areas, including the sandy areas within the LEICWA. By July 18, 2018, at which time the photographs that comprise Petitioners' Exhibit 7 were taken, the water levels in the lagoon were lower. During a visit nearer to the date of the hearing, there was less water in the lagoon due to diminished rainfall, and water no longer flowed through the remnants of the drainage channels. Thus, stormwater drainage, rather than tidal connection, is the most likely cause of the swashes observed in the series of photographs taken on July 18, 2018.

19. In order for the lagoon to be considered "tidal," there would have to be an established connection between the lagoon and the Gulf of Mexico to allow for the regular periodic exchange of waters through tidal ebbs and flows. Mr. DeGraff took a series of "water shots" of the levels in the lagoon and the Gulf of Mexico. Whereas water levels in the Gulf of Mexico

changed with the tides, the water levels in the lagoon remained constant, which supports that there is no connection between the two.

20. Overwash and storm events may temporarily open one-way connections and outfalls of water between the lagoon and the Gulf of Mexico as a result of accumulation of water in the back barrier environment. If enough water is pushed into the lagoon, it will find an exit, but the flow is "not back and forth again through a particular cut," as would be the case with an established and regular tidal connection.

21. The preponderance of the evidence demonstrates that the "lagoon" is not tidally connected to the Gulf of Mexico but is, rather, a feature that experiences no tidal ebb and flow and is, under normal conditions, disconnected from the Gulf of Mexico.

22. The "big picture" view of the process of shoaling, welding, filling, and narrowing of the "lagoon," and ultimate reestablishment of the previously existing shoreline is depicted in Petitioners' Exhibit 44, which images can be viewed as a fascinating and visually compelling time-lapse of the Petitioners' Exhibit 44 images at https://earthengine.google.com /timelapse/#v=26.40708,-81.89551,11.491,latLng&t=0.00.

23. The persistent narrowing of the temporary lagoon is well-depicted in Petitioners' Exhibit 43. That exhibit,

consisting of a series of aerial photographs, demonstrates convincingly the accretional nature of the area in front of the Applicants' property, and offers support for evidence that "over the last 50 plus years . . . and especially within the last ten to 15, is that this shoreline has been accreting." Competent, substantial evidence establishes that the accretional trend will naturally continue and may be further influenced by the deposition of dredged spoil from Big Carlos Pass, and supports the testimony of Mr. Dombrowski that the lagoon will naturally fill in with the cycle, at some future time, repeating itself.

24. In the area of the Project, the shoreline has been accreting at a rate of around 28 feet (or more) per year between 1999 and 2011. In the last 52 years, the shoreline to the east of the Project area has grown by more than 600 feet. To the west of the Project area, within the LEICWA, overwash events and alluvial fans associated with such events demonstrate the accretional nature of the shoreline.

25. Mr. Kroemer owns a Hobie Wave Runner sailboat, which requires about 12 inches of water, and two kayaks, which require two to three inches of water that he uses in the Gulf of Mexico. To access the Gulf, Mr. Kroemer paddles or pushes the boats - depending on the season - through the lagoon and then takes them over land to the Gulf. The water levels in the lagoon are not sufficient to allow for the sailboat to traverse year round.

26. The greater weight of the evidence supports a finding that the water area over which the dune walkover is proposed will, as a process of accretion, fill with sand creating an unimpeded pathway to the Gulf of Mexico, as was the case prior to the most recent accretionally welded sand bar. The suggestion that the shoreline will erode and ultimately become open water is not supported by the evidence.

Vegetation

27. The vegetative species in the vicinity of the proposed dune walkover and surrounding the lagoon include mangroves; shrubby plants, including bay cedar and marsh elder; and facultative grass species, such as hurricane grass. The Project area is becoming increasingly more vegetated, with plant communities pioneering at the ground cover level, followed by shrubs and small trees. The area is generally undergoing natural ecological succession.

28. The vegetation in the areas over which the proposed dune walkover is to be constructed, including the ground cover, is too thick to be conducive for shorebird nesting, which generally occurs in areas that are open, and sandy or shelly. The mangroves that fringe the lagoon range from five to seven feet in height, and the shrubby vegetation in the Project area can be up to four feet in height.

Wildlife

29. The beaches in the area are used by shorebirds and migratory birds for nesting, foraging, and loafing. Birds that have been observed in the general vicinity of the LEICWA include Snowy Plovers, Wilson's Plovers, American Oystercatchers, Black Skimmers, and Least Terns.

30. Snowy Plovers, American Oystercatchers, Black Skimmers, and Least Terns are designated by the FFWCC as threatened bird species. Those species are also identified by DEP as "Listed Wildlife Species that are Aquatic or Wetland Dependent and that Use Upland Habitats for Nesting or Denning" in A.H. Table 10.2.7-1, with Snowy Plovers and Least Terns listed as "State-designated Threatened," and American Oystercatchers and Black Skimmers listed as "State Species of Special Concern."

31. Wilson's Plovers are not a species listed as threatened, of special concern, or of any other protected classification by the FFWCC or DEP.

32. Snowy Plovers, American Oystercatchers, Black Skimmers, and Least Terns prefer clear, open sand for nesting. They lay their eggs on the sand or in shallow "scrapes" or depressions in the sand. The eggs generally match the substrate, and the coloration of the chicks allows them to blend in with the sand, providing a camouflaging defense against

predators. Those species are colony nesters, nesting in groups as a reproductive strategy.

33. Wilson's Plovers also prefer open sandy areas, but will occasionally nest in nearby sparsely vegetated areas, referred to by Mr. Johnson as "salt and pepper" coverage, which have pockets of open sand. Such areas exist waterward of the proposed terminus of the dune walkover. Wilson's Plovers are solitary nesters.

34. Shorebirds will typically not nest in areas with vegetative cover. Mangroves and other tall, woody species of plants create perching opportunities for crows and other avian predators, while ground-dwelling predators like snakes can move through vegetation and predate shorebird nests.

35. Applicants' Exhibits 6 and 9 depict the extent of shorebird utilization, including nesting, of habitat in the immediate Project vicinity based on a series of 2017 and 2018 site visits, historic aerial photographs, and FFWCC shorebird data. Applicants' Exhibit 6 provides a visual representation of the wide utilization of the open raked beach area east of the Project for nesting, with only scattered use of "salt and pepper" vegetated areas by non-threatened Wilson's Plovers. Applicants' Exhibits 6 and 9, in combination with Mr. Johnson's testimony and field notes, is found to be the most accurate and

representative depiction of the utilization of the Project area by shorebirds.

36. There have been shorebird sightings on the sandy shoreline waterward of the terminus of the proposed dune walkover. The closest recorded bird sighting to the Project area, involving a Wilson's Plover nest scrape and, subsequently, a nesting female at that location, was approximately 150 feet southwest of the waterward terminus of the dune walkover in an area of "salt and pepper" vegetation.

37. During his site visits in 2017, Mr. Johnson observed considerable pedestrian traffic along the shoreline waterward of the Project area. It was in this general area that he had noted the presence of Wilson's Plovers. He explained that Wilson's Plovers can tolerate pedestrian traffic as long as it does not "get right up on" their nests. When nesting areas are roped off, Wilson's Plovers can tolerate pedestrian traffic up to the protective barrier as long as it does not encroach into the protected area.

38. Sea turtles also have the potential to nest just above the high tide mark in the dunes waterward of the proposed dune walkover. A staked sea turtle nest west of the Project area was observed by Ms. Burns during her July 2018 visit to the area. Sea turtles do not typically nest in vegetated areas. Given both the distance to and vegetative cover at the waterward

terminus of the dune walkover, sea turtles would be unlikely to migrate to the Project area to excavate a nest.

39. There was no evidence that pedestrian access to the location at which Ms. Burns observed the staked sea turtle nest was restricted. Rather, the evidence establishes that pedestrian traffic is allowable and common along the shoreline. People walking along the shore could easily happen upon the staked area, just as Ms. Burns did, and just as Mr. Johnson did during his visits to the area. In that regard, the Applicants, even if they were to take a longer and more circuitous route to the shoreline, would not be restricted in walking along the shoreline in the vicinity of the nest. The preponderance of the evidence establishes that the proposed dune walkover will have no adverse effect on nesting sea turtles in the area.

The LEICWA

40. Property to the west of the proposed dune walkover has been designated by the State of Florida as the LEICWA. The LEICWA includes some vegetated land adjacent and parallel to the footprint of the proposed dune walkover. The proposed dune walkover is not within the boundary of the LEICWA.

41. At times, portions of the LEICWA are roped off by the FFWCC to demarcate shorebird nests and nesting colonies, and to channel pedestrian access through the LEICWA. There was no persuasive evidence that pedestrian traffic through the LEICWA

is disruptive to the birds using the LEICWA or to their nesting patterns.

42. Posted and roped-off areas are not intended to identify the geographic extent of the LEICWA, and are often not specific to shorebird nest sightings, but instead represent larger areas "to allow the birds to have more availability to choose where they're going to nest."

43. Roughly 300 feet east of the Project area and the LEICWA boundary (as scaled using Petitioner's Exhibit 6) is a large raked, sandy area which is maintained free of vegetation. A large number of shorebirds and shorebird nests have been documented on the open, sandy area. The open, sandy area is directly abutted to its north by homes and by what appear to be larger multi-family structures. In addition, the open area is "preferred by a lot of beach goers to have open sand to walk through instead of walking through vegetation. So it's been manipulated mechanically to be open." There was no evidence that the direct proximity of such residential structures, their inhabitants, and beachgoers have any disruptive affect on the large nesting colonies inhabiting that area.

44. A four-foot-high, three-foot-wide education kiosk placed by the FFWCC is located on the shore side of the LEICWA. A roughly seven-foot-high, 15-inch-wide sign, educating beachgoers about the LEICWA and of the needs of the birds that

frequent the area has been placed at the edge of the LEICWA. Neither of the signs incorporate any features designed to discourage their use as perches. Both of the signs provide an elevated and unobstructed vantage point into the LEICWA's primary nesting area. The signs, which are much greater in height and nearer to the LEICWA's preferred shorebird nesting habitat than the proposed dune walkover "can serve as perches" for predatory birds in the area. Although there was evidence that Petitioners' members and employees monitor the signs for evidence that they are being used as perches, there was no evidence to suggest what might happen if they were.

45. Although the dune walkover is not within the boundary of the LEICWA, Ms. Wraithmell testified that "[t]he birds unfortunately don't recognize boundaries." While birds may not recognize boundaries, regulators must. Standards that apply within a designated critical wildlife area do not apply outside of a critical wildlife area, even within feet of the boundary. That is why boundaries, including legal descriptions, are set. Since the proposed dune walkover is not within the boundary of the LEICWA, standards applicable within critical wildlife areas cannot be applied.

<u>The Proposed Dune Walkover</u>

46. The dune walkover is proposed as a 1,491.50 square-foot (298.3 feet in length by 5 feet in width) piling-supported

wooden walkway five feet in width. Its original six-foot width was reduced to five feet, which remains adequate to accommodate an anticipated need for the use of a wheelchair or mobility device by one of the Applicants. The steps at the waterward end of the proposed dune walkover were replaced with ramps, also for use by a wheelchair or similar device. The replacement of the initially proposed stairs with a ramp will also reduce "lift" forces in the event of a storm.

47. The dune walkover will serve to minimize foot traffic on the native dune vegetation, and will channel the foot traffic from its terminus to the shore of the Gulf of Mexico. As such, the dune walkover will have a beneficial effect on the native vegetation in its immediate area.

48. As originally proposed, the dune walkover was to have been three feet, ten inches above the ground surface, with three-foot-high handrails. In order to meet the concerns posed by others, particularly the FFWCC, the height was lowered to two feet, six inches above the ground surface, which is the maximum height for a structure to be built without handrails. The handrails were removed in their entirety, and the design does not contain any pickets or other "non-structural members." Thus, the proposed dune walkover is, at its highest point, two feet, six inches above the ground surface. Mangroves in the vicinity of the dune walkover are generally from five to seven

feet in height, and commonly occurring shrubby vegetation of four feet in height was observed in the area. Thus, the dune walkover is well below the elevation of the surrounding vegetation. The dune walkover, as currently proposed, has no value as a perch or vantage point for avian predators.

49. The posts that support the structure will be round, six inches in diameter, and installed five feet deep into the sand. The posts will not be encased in concrete, and will be wrapped to prevent leaching of any potentially toxic compounds into the environment. The walking surface of the dune walkover will be made of slatted decking, with a one-half inch space between each deck board. The proposed ERP indicated that gaps will allow sufficient light penetration to maintain the underlying vegetative habitat. There was no persuasive evidence to the contrary.

50. In its final configuration, the proposed dune walkover is fully compliant with, though substantially smaller and less intrusive than, the generally acceptable siting, design, and elevation provisions set forth in the DEP Beach and Dune Walkover Guidelines.

51. As originally proposed, the dune walkover would have crossed the LEICWA boundary, though in an area of minimal value to shorebird nesting or feeding. Nonetheless, in order to address the concerns expressed by others, including the FFWCC,

the Applicants modified the configuration of the proposed dune walkover so that it is now completely outside of the boundary of the LEICWA.

52. The construction plans do not require the use of vehicles, other than to deliver the material to the site. There will be no placement of fill. There will be no lighting, either in construction or in operation.

53. As mitigation for the minimal impacts associated with the crossing of the lagoon, and at DEP's direction, the Applicants purchased 0.01 saltwater forest and 0.1 saltwater herbaceous mitigation credits in the Pine Island Mitigation Bank, to offset for any remaining impacts not avoided through the design modifications. It was established, by a preponderance of the competent, substantial, and persuasive evidence adduced at the hearing, that the proposed mitigation was sufficient to offset any environmental impacts resulting from the proposed Project, even before its width was decreased from six feet to five feet.

54. The alterations to the proposed dune walkover as described herein were largely made to address the concerns expressed by the FFWCC in its comments of August 27, 2015; July 20, 2016; and July 27, 2017, and the proposed ERP and CCCL Permit incorporates all of the conditions requested by the

FFWCC. It was established that the Applicants have addressed and met the FFWCC's concerns regarding the proposed Project.

Environmental Resource Permit

55. The issuance or denial of an ERP is generally governed by section 373.414, chapter 62-330, and the Environmental Resource Permit Applicant's Handbook, Volume I ("A.H.").

56. Section 373.4131(1) requires DEP to adopt statewide environmental resource permitting rules. DEP has done so through the adoption of rules 62-330.301 and 62-330.302.

57. Under the burden of proof discussed in the Conclusions of Law herein, the Applicants met their burden of demonstrating that they met all applicable standards and were entitled to issuance of the ERP by entering the application and DEP's notice of intent of issue the ERP in evidence. Therefore, a finding that there was insufficient evidence introduced by Petitioners to rebut the prima facie case is sufficient to establish that the grounds for issuance have been met.

58. Based on the entirety of the record of this proceeding, the Applicants provided reasonable assurances that the proposed dune walkover meets the requirements for the ERP.

Rule 62-330.301(1)

59. Rule 62-330.301(1) provides that an applicant for an ERP must provide reasonable assurance that the permitted

activity will not cause adverse affects. The standards established by rule are further described in the A.H.

Water quantity impacts: Rule 62-330.301(1)(a) and A.H. Section 10.2.2.4

60. Piling supported structures do not typically impact a water body's depth or flow. The evidence introduced by Petitioners in this case was not sufficient or persuasive to support a finding that the piling-supported dune walkover would reduce the depth, duration, or frequency of inundation or saturation in the lagoon; would increase the depth, duration, or frequency of inundation through changing the rate or method of discharge of water to the lagoon or by impounding water in the lagoon; or could have the effect of altering water levels in the lagoon. To the contrary, there was substantial testimony, and it is found, that the proposed dune walkover will not cause adverse water quantity impacts to receiving waters and adjacent lands.

Adverse flooding: Rule 62-330.301(1)(b)

61. The evidence introduced by Petitioners in this case was not sufficient or persuasive to support a finding that the proposed dune walkover will cause adverse flooding to on-site or off-site property.

Adverse impacts to existing surface water storage and conveyance capabilities: Rule 62-330.301(1)(c)

62. The evidence introduced by Petitioners in this case was not sufficient or persuasive to support a finding that the proposed dune walkover will cause adverse impacts to existing surface water storage and conveyance capabilities.

Adverse impacts to the value of functions provided to fish and wildlife and listed species by wetlands and other surface waters: Rule 62-330.301(1)(d) and A.H. Section 10.2.2

63. The A.H. provides that "[i]n evaluating whether an applicant has provided reasonable assurances under these provisions, de minimis effects shall not be considered adverse for the purposes of this section." In accordance with the A.H., DEP provided information to the FFWCC and solicited comments on the proposed dune walkover in its various configurations. The Applicants met every listed substantive concern expressed by the FFWCC in its comments of August 27, 2015; July 20, 2016; and July 27, 2017. The proposed ERP incorporates all of the conditions requested by the FFWCC.

64. The A.H. section 10.2.2 also provides that "[t]he need for a wildlife survey will depend upon the likelihood that the site is used by listed species and the bald eagle, considering site characteristics and the range and habitat needs of such species, and whether the proposed activity will impact that use." In its August 27, 2015, comments, the FFWCC requested

that the Applicants provide an assessment of anticipated impacts to wildlife. Thereafter, on December 2, 2015, Mr. Rood provided information to DEP explaining, accurately, the densely vegetated nature of the proposed dune walkover location, and its lack of value to nesting shorebirds. He correctly noted the general distance, i.e., 100 to 150 yards, from the terminus of the proposed dune walkover to the nearest shorebird nesting area and "roped off nesting areas."

65. The A.H. provides that "[t]he need for a wildlife survey will depend upon the likelihood that the site is used by listed species and the bald eagle, considering site characteristics and the range and habitat needs of such species." As a result of Mr. Rood's explanation of the characteristics of the Project location, on December 11, 2015, the FFWCC withdrew its request for the survey and wildlife assessment.

66. As set forth herein, the preponderance of the competent, substantial, and persuasive evidence demonstrates that there will be no adverse impacts to the value of functions provided to any species of concern provided by the lagoon and associated wetlands that will result from the construction and use of the proposed dune walkover. Shorebirds, whether or not they are protected species, will not be impacted by the Project. There was no evidence to support a finding that wading birds

foraging in the lagoon, as depicted in photographs taken by Ms. Burns, would be affected in any way.

Water quality impacts: Rule 62-330.301(1)(e) and A.H. Section 10.2.4

67. An ERP applicant must provide reasonable assurance that the project will not adversely affect the quality of receiving waters such that State water quality standards will be violated.

68. DEP required turbidity control to address short-term water quality issues attendant with construction. Best management practices to minimize construction-related turbidity are required. The sand in the area is coarse, with a small percentage of sands and clays, further minimizing the potential for turbidity. The pilings are required to be wrapped to prevent any chemicals used to treat the pilings from leaching into the soil or water. The structure will be constructed outward from the boardwalk deck, thus, minimizing impacts to surrounding vegetation and surface waters. The ERP is conditioned on adherence to Best Management Practices to ensure that oils, greases, gasoline, or other pollutants are not released into the wetlands or surface waters.

69. The preponderance of the competent, substantial, and persuasive evidence demonstrates that there will be no adverse impacts on water quality associated with the construction or use

of the proposed dune walkover. The evidence introduced by Petitioners was not sufficient or persuasive to support a finding that the proposed dune walkover will cause adverse impacts to water quality.

Secondary impacts: Rule 62-330.301(1)(f) and A.H. Sections 10.1.1(f) and 10.2.7

70. An ERP applicant must provide reasonable assurance that the Project will not cause adverse secondary impacts. The secondary impact criterion consists of four parts as established in A.H. section 10.2.7(a) through (d).

71. The proposed dune walkover will not have any lighting so as to impact turtle nesting, and will involve no vehicles except as necessary to deliver building supplies. Other secondary impacts identified in A.H. section 10.2.7(a) are not applicable.

72. The preponderance of the competent, substantial, and persuasive evidence in this proceeding established that the area in which the proposed dune walkover is to be constructed will not adversely impact the ecological value of uplands for any listed bird species of concern for nesting or foraging as set forth in A.H. section 10.2.7(b). The Project area is thickly vegetated which, as discussed previously, is not conducive for

use by shorebirds that frequent the LEICWA. The nearest documented shorebird presence is well removed from the dune walkover terminus.

73. The evidence established that the pedestrian traffic resulting from the use of the dune walkover will not disturb Wilson's Plovers, which is the only observed species that uses the "salt and pepper" vegetation between the dune walkover and the Gulf of Mexico. Any nests would, as are existing nests in the area, be marked. Wilson's Plovers are tolerant of pedestrian traffic as long as it does not directly encroach into their nesting area.

74. The suggestion that the Applicants' use of the proposed dune walkover will disrupt the habits of shorebirds observed near its terminus disregards the fact that the area is already used by the Applicants to access the beach. Furthermore, the beach itself, which is much nearer to observed bird sightings, is popular and frequently used, without restriction, by beachgoers other than the Applicants. There was no evidence that such pedestrian access along the beach adversely affects shorebirds.

75. Pedestrian access is allowed directly through areas of the LEICWA that are more thickly populated with nests of shorebird species less tolerant of pedestrian traffic than the

Wilson's Plovers. There was no evidence that such pedestrian access through the LEICWA adversely affects shorebirds.

76. As indicated previously, the open, sandy area to the east of the Project area is extensively used for nesting by large colonies of various protected shorebird species. That area is directly bounded by single and multi-family residences, and is a popular area for beach access. There was no evidence that human presence near, and pedestrian access through, the areas used by colonies of shorebirds adversely affected those shorebirds.

77. The Applicants presently drag their Hobie sailboat and kayaks across the lagoon and through the dunes. The dune walkover will allow them to simply wheel or carry those vessels across the lagoon and dunes without further impact. The evidence in this case does not support a finding that the existing pedestrian access will be increased by the dune walkover but, to the contrary, suggests that the walkover will allow access in a much less disruptive and destructive manner.

78. A.H. sections 10.2.7(c) and (d), governing, respectively, associated activities that have the potential to cause impacts to significant historical and archaeological resources and future project phases or activities, are not applicable to the proposed dune walkover.

79. The preponderance of the competent, substantial, and persuasive evidence demonstrates that there will be no adverse secondary impacts associated with the construction or use of the proposed dune walkover. The evidence introduced by Petitioners was not sufficient or persuasive to support a finding that the proposed dune walkover will cause adverse secondary impacts.

Adverse impacts to the maintenance of Minimum Flows and Levels: Rule 62-330.301(1)(g)

80. The evidence introduced by Petitioners in this case was not sufficient or persuasive to support a finding that the proposed dune walkover will cause adverse impacts to the maintenance of surface or groundwater levels or surface water flows.

Adverse impacts to a Work of the District: Rule 62-330.301(1)(h)

81. The evidence introduced by Petitioners in this case was not sufficient or persuasive to support a finding that the proposed dune walkover will cause adverse impacts to a Work of the District.

Capable of performing and functioning as proposed: Rule 62-330.301(1)(i)

82. The evidence introduced by Petitioners in this case was not sufficient or persuasive to support a finding that the proposed dune walkover will not be capable of performing and functioning as proposed.

Conducted by a person with the financial, legal and administrative capability of ensuring that the activity will be undertaken in accordance with the terms and conditions of the permit: Rule 62-330.301(1)(j)

83. The evidence introduced by Petitioners in this case was not sufficient or persuasive to support a finding that the proposed dune walkover will not be conducted by persons with the financial, legal, and administrative capability of ensuring that the proposed dune walkover will be constructed in accordance with the terms and conditions of the ERP. The legal ability to undertake the activities that are encompassed by the SSL Authorization, CCCL Permit, and CCCL Waivers are being decided herein, and their lack of finality does not constitute a failure to meet this ERP permitting criteria.

Comply with any applicable special basin or geographic area criteria: Rule 62-330.301(1)(k)

84. The evidence introduced by Petitioners in this case was not sufficient or persuasive to support a finding that the proposed dune walkover will not comply with any applicable special basin or geographic area criteria.

Public Interest Test - Section 373.414(1), Florida Statutes, Rule 62-330.302(1)(a), and A.H. Section 10.2.3

85. Section 373.414(1) provides that an applicant for an ERP must provide reasonable assurance that the permitted

activity will not cause violations of state water quality standards and that such activity is not contrary to the public interest.

86. As set forth in the discussion of rule 62-330.301(1)(e) and A.H. section 10.2.4 above, the Applicants demonstrated that the proposed dune walkover will not cause violations of state water quality standards. Furthermore, the evidence introduced by Petitioners in this case was not sufficient or persuasive to support a finding that the proposed dune walkover will cause violations of state water quality standards.

87. The seven factors that constitute the public interest test are established in section 373.414(1)(a), reiterated in rule 62-330.302(1)(a), and explained in greater detail in A.H. section 10.2.3. As set forth previously, some of the criteria would appear to have no relevance to this case. However, since Petitioners failed to provide any substantive narrowing of the issues in the JPS, it is necessary to go through each and every factor to ensure that some element of the ERP analysis required "pursuant to all applicable rules and statutes" does not go unaddressed.[5/]

Whether the activity will adversely affect the public health, safety, or welfare or the property of others: Section 373.414(1)(a)1.; Rule 62-330.302(1)(a)1.; A.H. Section 10.2.3.1

88. The evaluation of the factors for consideration under this element of the public interest test include environmental issues such as "mosquito control; proper disposal of solid, hazardous, domestic or industrial waste; aids to navigation; hurricane preparedness or cleanup; environmental remediation, enhancement or restoration; and similar environmentally related issues." The evaluation also includes impacts to shellfish harvesting areas; flooding or the alleviation of flooding on the property of others; and affects on the water table that could result in the drainage of off-site wetlands or other surface waters.

89. The evidence introduced by Petitioners in this case was not sufficient or persuasive to support a finding that the proposed dune walkover will adversely affect the public health, safety, or welfare or the property of others.

Whether the activity will adversely affect the conservation of fish and wildlife, including endangered or threatened species, or their habitats: Section 373.414(1)(a)2.; Rule 62-330.302(1)(a)2.; A.H. Section 10.2.3.2

90. A.H. section 10.2.3.2 provides that the "fish and wildlife" element of the public interest test is to be evaluated as follows:

> The Agency's public interest review of that portion of a proposed activity in, on, or over wetlands and other surface waters for impacts to "the conservation of fish and wildlife, including endangered or threatened species, or their habitats" is encompassed within the required review of the entire activity under section 10.2.2, above.

91. As set forth herein, the preponderance of the competent, substantial, and persuasive evidence demonstrates that the proposed dune walkover will not adversely affect the conservation of fish and wildlife, including endangered or threatened species, or their habitats.

92. Petitioners did not prove by a preponderance of competent and substantial evidence that the Applicants failed to meet the standards set forth in section 373.414(1)(a)2., rule 62-330.302(1)(a)2., and A.H. section 10.2.3.3.

> <u>Whether the activity will adversely affect navigation or the flow of water or cause harmful erosion or shoaling: Section 373.414(1)(a)3.; Rule 62-330.302(1)(a)3.; A.H. Section 10.2.3.3</u>

93. With regard to this element of the public interest test, A.H. section 10.2.3.3 provides, in pertinent part, that:

> In reviewing and balancing the criterion on navigation, erosion and shoaling in section 10.2.3(c), above, the Agency will evaluate whether the regulated activity located in, on or over wetlands or other surface waters will:
>
> (a) Significantly impede navigability or enhance navigability. The Agency will consider the current navigational uses of the surface waters and will not speculate on

> uses that may occur in the future. Applicants proposing to construct bridges or other traversing works must address adequate horizontal and vertical clearance for the type of watercraft currently navigating the surface waters . . . .
>
> (b) Cause or alleviate harmful erosion or shoaling . . . .
>
> (c) Significantly impact or enhance water flow . . . .

94. The only evidence of any form of vessels using the lagoon was the Applicants' act of paddling or dragging the Hobie sailboat and kayaks across the lagoon to access the navigable waters of the Gulf of Mexico. Such does not constitute "current navigational uses of the surface waters." The preponderance of the evidence in this case establishes that there is no "current" navigational use of the lagoon. No testimony or evidence was elicited that the lagoon supported any form of boating or other navigational use. No person owning property abutting the lagoon that might be affected by some restriction on their navigational rights objected to the proposed dune walkover. The evidence introduced by Petitioners in this case was not sufficient or persuasive to support a finding that the proposed dune walkover will significantly impede navigability.

95. Ms. Mills testified that "piling supported structures are used in dynamic systems all the time. Specifically you know, because they don't really have an effect on the movement

of sand." Her testimony is credited. Her testimony, combined with that of the Applicants' expert witnesses regarding the nature of the area, was sufficient to establish that the proposed dune walkover will not cause harmful erosion or shoaling. Furthermore, the evidence introduced by Petitioners in this case was not sufficient or persuasive to support a finding that the proposed dune walkover will cause erosion or shoaling.

96. The evidence introduced by Petitioners in this case was not sufficient or persuasive to support a finding that the proposed dune walkover will significantly impact or enhance water flow.

97. Petitioners did not prove by a preponderance of competent and substantial evidence that the Applicants failed to meet the standards set forth in section 373.414(1)(a)3.; rule 62-330.302(1)(a)3.; and A.H. section 10.2.3.3.

Whether the activity will adversely affect the fishing or recreational values or marine productivity in the vicinity of the activity: Section 373.414(1)(a)4.; Rule 62-330.302(1)(a)4.; A.H. Section 10.2.3.4

98. The evaluation of the factors for consideration under this element of the public interest test include adverse effects to sport or commercial fisheries or marine productivity, including the elimination or degradation of fish nursery habitat, change in ambient water temperature, change in normal

salinity regime, reduction in detrital export, change in nutrient levels, or other adverse effects on populations of native aquatic organisms.

99. The evidence introduced by Petitioners in this case was not sufficient or persuasive to support a finding that the proposed dune walkover will adversely affect sport or commercial fisheries or marine productivity.

100. The public interest evaluation under these regulatory provisions also includes effects on "existing recreational uses of a wetland or other surface water, which could include impacts to "the current use of the waterway for boating."

101. Other than evidence that the Applicants had to paddle or push their shallow draft sailboat and kayaks across the lagoon to reach the Gulf, there was no evidence to establish that the lagoon has any recreational use. The DEP determined that it does not, based on the fact that the lagoon is not of a permanent depth to support navigation and was intermittently (at best) connected to the Gulf of Mexico. Ms. Mills' testimony to that effect was persuasive, consistent with that of Mr. Kroemer, and is credited.

102. The standards applicable to impacts to recreational uses are directed to "existing" and "current" uses. There was no evidence of anyone currently using the lagoon for recreational boating. Mr. Rood indicated that he had never seen

anyone boating in the lagoon. There was no evidence that anyone else along the lagoon even had a boat. Mr. Kroemer, when asked if his neighbors could use the dune walkover to portage their boats across the lagoon testified that "I'm not aware that they have boats." No property owners with homes along the lagoon objected to the proposed dune walkover.

103. The evidence in this case establishes that the proposed dune walkover will not adversely affect fishing or recreational values, or marine productivity in the vicinity of the proposed Project.

Whether the activity will be of a temporary or permanent nature: Section 373.414(1)(a)5.; Rule 62-330.302(1)(a)5.; A.H. Section 10.2.3.5

104. The proposed dune walkover is intended to provide permanent access to the Gulf of Mexico, as opposed to being a temporary structure. This finding should not be conflated with whether the proposed dune walkover is an "expendable structure" for purposes of the CCCL Permit, as will be discussed herein.

Whether the activity will adversely affect or will enhance significant historical and archaeological resources: Section 373.414(1)(a)6.; Rule 62-330.302(1)(a)6.; A.H. Section 10.2.3.6

105. There was no evidence introduced by Petitioners in this case to support a finding that the proposed dune walkover will affect significant historical and archaeological resources in any manner.

The current condition and relative value of functions being performed by areas affected by the proposed activity: Section 373.414(1)(a)7.; Rule 62-330.302(1)(a)7.; A.H. Section 10.2.3.7

106. The evidence introduced by Petitioners in this case was not sufficient or persuasive to support a finding that the proposed dune walkover will adversely affect the current condition and relative value of functions being performed by the waters of and wetlands surrounding the lagoon.

107. The evidence in this case was almost entirely directed to nesting and feeding habitat of shorebirds frequenting the LEICWA. The preponderance of the evidence established that the areas affected by the proposed dune walkover are not conducive for nesting, feeding, or loafing by Snowy Plovers, American Oystercatchers, Black Skimmers, or Least Terns. The Applicants' Exhibit 6, which was relied upon by each of the parties, showed no observed sightings of those species near the lagoon or the smaller water feature. There was one observed sighting of a non-threatened Wilson's Plover near the edge of the smaller water feature, though not directly affected by the proposed dune walkover, and no observed sightings of any of the identified species of concern near the lagoon or in the waters of either water body.

108. There was no evidence that the proposed dune walkover would affect the wading birds or shorebirds photographed by Ms. Burns.

109. Petitioners did not prove by a preponderance of competent and substantial evidence that the Applicants failed to meet the standards set forth in section 373.414(1)(a)7.; rule 62-330.302(1)(a)7.; and A.H. section 10.2.3.7.

Cumulative Impacts: Section 373.414(8); Rule 62-330.302(1)(b); A.H. Sections 10.1.1(g) and 10.2.8

110. A.H. section 10.2.8 provides, in pertinent part, that:

> The impact on wetlands and other surface waters shall be reviewed by evaluating the impacts to water quality as set forth in section 10.1.1(c), above, and by evaluating the impacts to functions identified in section 10.2.2, above. If an applicant proposes to mitigate these adverse impacts within the same drainage basin as the impacts, and if the mitigation fully offsets these impacts, then the Agency will consider the regulated activity to have no unacceptable cumulative impacts upon wetlands and other surface waters, and consequently, the condition for issuance in section 10.1.1(g) will be satisfied.

111. Section 373.4136 establishes that the use of mitigation credits is sufficient to offset adverse impacts for an activity in the mitigation bank service area, and provides, in pertinent part, that:

> (6) The department or water management district shall establish a mitigation

> service area for each mitigation bank permit . . . . Except as provided herein, mitigation credits may be withdrawn and used only to offset adverse impacts in the mitigation service area. The boundaries of the mitigation service area shall depend upon the geographic area where the mitigation bank could reasonably be expected to offset adverse impacts . . . .
>
> (a) In determining the boundaries of the mitigation service area, the department or the water management district shall consider . . . at a minimum, the extent to which the mitigation bank:
>
> * * *
>
> 3. Will provide for the long-term viability of endangered or threatened species or species of special concern; [and]
>
> * * *
>
> 5. Can reasonably be expected to offset specific types of wetland impacts within a specific geographic area. . . .
>
> * * *
>
> (c) Once a mitigation bank service area has been established by the department or a water management district for a mitigation bank, such service area shall be accepted by all water management districts, local governments, and the department.

112. The Applicants have proposed mitigation in the form of the purchase of 0.01 saltwater forested mitigation bank credits and 0.01 saltwater herbaceous mitigation bank credits from the Pine Island Mitigation Bank. The proposed dune walkover is within the service area established for the Pine

Island Mitigation Bank. The mitigation credits, which were initially calculated based on a six-foot-wide dune walkover, are more than sufficient to offset any adverse impacts of the proposed five-foot-wide dune walkover on the wetlands and surface waters in the Project area.

113. Ms. Mills testified that the proposed dune walkover would have "[n]o adverse cumulative impacts because the project would be doing mitigation, with mitigation bank credits within the surface area established for the mitigation bank." Her testimony established that the statutory offset criteria is applied when a project (and a mitigation bank such as the Pine Island Mitigation Bank) is on a barrier island which, because there is no "drainage" except to the Gulf of Mexico, is not within a "drainage basin." Her testimony was persuasive, meets the statutory criteria in section 373.4136, and is accepted.

114. There are no existing permits or pending applications for similar dune walkovers in the area. Given the presence of the LEICWA to the west, applications for similar walkovers within its boundary are unlikely and, if made, would have to comply with critical wildlife area restrictions.

115. The evidence in this case establishes that the proposed dune walkover will not result in unacceptable cumulative impacts upon wetlands and other surface waters. Furthermore, Petitioners did not prove by a preponderance of

competent and substantial evidence that the Applicants failed to meet the standards set forth in section 373.414(1)(a)7.; rule 62-330.302(1)(a)7.; and A.H. section 10.2.3.7.

Elimination or Reduction of Impacts: A.H. Section 10.2.1

116. A.H. section 10.2.1 provides, in pertinent part, that:

> The following factors are considered in determining whether an application will be approved by the Agency: the degree of impact to wetland and other surface water functions caused by a proposed activity; whether the impact to these functions can be mitigated; and the practicability of design modifications for the site that could eliminate or reduce impacts to these functions, including alignment alternatives for a proposed linear system.

117. A.H. section 10.2.1.1 provides, in pertinent part, that:

> The term "modification" shall not be construed as including the alternative of not implementing the activity in some form, nor shall it be construed as requiring a project that is significantly different in type or function . . . .

118. A.H. section 10.2.1.2 provides, in pertinent part, that:

> The Agency will not require the applicant to implement practicable design modifications to reduce or eliminate impacts when:

* * *

> b. The applicant proposes mitigation that implements all or part of a plan that provides regional ecological value and that provides greater long term ecological value than the area of wetland or other surface water to be adversely affected.

119. As set forth previously, the Applicants have proposed mitigation in the form of the purchase of 0.01 saltwater forested mitigation bank credits and 0.01 saltwater herbaceous mitigation bank credits from the Pine Island Mitigation Bank. The Project area is within the service area established for the Pine Island Mitigation Bank. Ms. Mills testified that "any habitat can be used for nesting and denning, I think any impacts have been offset by the mitigation." Her testimony is credited. The evidence was also sufficient to establish that the mitigation was in an amount that offsets the impacts of the proposed dune walkover on the lagoon, provides regional ecological value, and provides greater long-term ecological value than the area of the lagoon affected. Based on the Findings of Fact set forth herein, and as supported by a preponderance of the persuasive evidence adduced at the hearing, the Applicants were under no requirement to implement practicable design modifications to reduce or eliminate impacts from the proposed dune walkover.

120. Despite having no obligation to do so, the Applicants did implement practicable design modifications, resulting in a

realignment of the dune walkover to eliminate any encroachment on the LEICWA, the reduction of the width of the Project from six feet to five feet, and the elimination of features that resulted in a much lower and unobtrusive structure. The Applicants also agreed to permit conditions to implement construction methodologies to reduce impacts, and eliminate lighting that could affect adjacent habitats.

121. In addition to the foregoing, Ms. Mills testified convincingly that the boardwalk in this area would serve to minimize unrestricted and unchanneled foot traffic, and direct traffic so that people are not "using other manners that aren't specifically defined causing more adverse impacts" through natural and sandy areas. Her testimony is credited.

122. Petitioners did not prove by a preponderance of competent and substantial evidence that the Applicants failed to meet the standards set forth in A.H. sections 10.2.1 and 10.2.1.2.

Environmental Resource Permit - Ultimate Finding of Fact

123. A preponderance of the competent, substantial evidence in this case establishes that the Applicants demonstrated their entitlement to the issuance of the ERP, meeting the standards established in section 373.414, rules 62-330.301 and 62-330.302, and the applicable sections of the A.H.

Petitioners did not meet their burden of demonstrating that the ERP should not be issued.

SSL Authorization

124. The sovereignty lands at issue in this case are those that were under state ownership prior to the landward migration and attachment of the sandbar. See Fla. Admin. Code R. 18-21.003(61). The Applicants did not dispute that a SSL Authorization was appropriate.

125. The standards for issuance of an SSL Authorization, including a Letter of Consent Easement, are generally established in Florida Administrative Code Rule 18-21.004.

126. Based on the entirety of the record of this proceeding, the Applicants provided reasonable assurances that the proposed dune walkover meets the requirements for the SSL Authorization.

18-21.004(1)(a) - Contrary to the public interest

127. Rule 18-21.004(1)(a) provides that "activities on sovereignty lands must be not contrary to the public interest."

128. As established by the DEP:

> Rule 18-21.004(1)(a) requires an applicant to demonstrate that an activity proposed to be conducted on sovereignty submerged lands will not be contrary to the public interest. . . . [T]o meet this standard, it is not necessary that the applicant show that the activity is affirmatively in the "public interest, " as that term is defined in rule 18-21.003(51), Florida Administrative Code.

> Rather, it is sufficient that the applicant show that there are few, if any, "demonstrable environmental, social, and economic costs" of the proposed activity.

Defenders of Crooked Lake, Inc. v. Krista Howard and Dep't of Envt'l Prot., DOAH Case No. 17-5328, FO at 26 (Fla. DOAH July 5, 2018; Fla. DEP Aug. 16, 2018).

129. As set forth in detail previously herein, the Applicants have demonstrated, by a preponderance of the competent, substantial, and persuasive evidence in the record, that the proposed dune walkover will pose no demonstrable environmental or social costs.

130. The suggestion that the construction of the proposed dune walkover will adversely affect the economic viability of the LEICWA or the Town is, under the facts of this case, simply implausible. The facts stipulated by the parties provide that "the beach and the ecotourism generated by the potential for birdwatching is important for the Town's economy." However, the preponderance of the evidence demonstrates that the proposed dune walkover will have no effect on the use of the beach, shorebirds, or the LEICWA.

131. The fact that the proposed dune walkover is a private structure does not militate against its meeting the public interest test. As stated by Ms. Mills, "it's not contrary to the Board's public interest test because the Board has outlined

through its rule a procedure for a private homeowner to get consent through an easement to use Sovereign Submerged Lands." Her testimony is credited.

132. For the reasons set forth herein, the Applicants met the provisions of the "public interest test" established in rule 18-21.004(1)(a).

18-21.004(2) - Resource management

133. Rule 18-21.004(2)(a) provides, in pertinent part, that:

> All sovereignty lands shall be considered single use lands and shall be managed primarily for the maintenance of essentially natural conditions, propagation of fish and wildlife, and traditional recreational uses such as fishing, boating, and swimming. Compatible secondary purposes and uses which will not detract from or interfere with the primary purpose may be allowed.
>
> (b) Activities which would result in significant adverse impacts to sovereignty lands and associated resources shall not be approved unless there is no reasonable alternative and adequate mitigation is proposed.
>
> * * *
>
> (i) Activities on sovereignty lands shall be designed to minimize or eliminate adverse impacts on fish and wildlife habitat, and other natural or cultural resources. Special attention and consideration shall be given to endangered and threatened species habitat.

134. By providing a means of channeling and making the Applicants' existing access across sovereignty lands less disruptive and damaging to the lagoon, dunes, and bird species, the proposed dune walkover meets the principles that the sovereignty lands be maintained in their essentially natural conditions, and that they be conducive to the propagation of fish and wildlife.

135. The proposed dune walkover involves use of sovereignty lands to facilitate access to the waters of the Gulf of Mexico for traditional uses such as fishing, boating, and swimming.

136. The testimony of the Applicants was sufficient to demonstrate that there was no reasonable alternative to the proposed dune walkover, other than the more disruptive and destructive means of providing access to the Gulf of Mexico currently in use. Though a strong argument can be made that the proposed dune walkover has fewer impacts, and is more protective of sovereignty lands than the Applicants' existing (and lawful) means of access, sufficient mitigation was provided as described herein.

137. The Project, by virtue of steps taken to minimize its footprint to the minimum necessary to allow access by wheelchair or mobility device, to remove handrails, and by construction

methods, including construction from the decking, has been designed to minimize destruction of wetland vegetation on sovereignty lands.

138. The modifications to the Project, including the lowering of the dune walkover; elimination of handrails; the agreement to forego lighting; the steps taken to eliminate effects on water quality; and the termination of the dune walkover in a densely vegetated area not favored by shorebirds, have minimized adverse impacts on fish and wildlife habitat, including habitat for endangered and threatened species of shorebirds and marine turtles.

139. For the reasons set forth herein, the Applicants met the provisions of the "resource management" provisions established in rule 18-21.004(2).

18-21.004(3) - Riparian rights

140. Rule 18-21.004(3) provides that activities undertaken on sovereignty lands be conducted so as to not unreasonably infringe upon traditional, common law riparian rights of upland property owners adjacent to sovereignty submerged lands.

141. Section 253.141 provides that "[t]he land to which the owner holds title must extend to the ordinary high watermark of the navigable water in order that riparian rights may attach."

142. Neither the Applicants nor their neighbors hold title to the mean high water ("MHW") mark of the Gulf of Mexico.[6/]

143. The MHW line, as of December 1, 2014, was at what is generally depicted as the shoreline of the Gulf of Mexico. The two more upland water features, i.e., the lagoon and the smaller body, both labeled as "Pond" on the 2014 mean high water survey, were well landward of the MHW.

144. The lagoon, which is normally isolated from the Gulf of Mexico, is not of a depth to be routinely navigable in fact, and frequently has so little water as to require that even kayaks be dragged across, is simply not a navigable water body.

145. Pursuant to section 253.141, neither the Applicants nor their neighbors currently have riparian rights to the lagoon or the smaller feature.

146. Even if it were to be determined that the Applicants' neighbors had riparian rights to the lagoon, any restriction or infringement on traditional rights of ingress, egress, boating, bathing, and fishing would not be "unreasonable." The evidence established that adjacent upland property owners did not have vessels that would be expected to use the lagoon. There was no suggestion that the ability to traverse the lagoon to access the navigable waters of the Gulf of Mexico, much as the Applicants do now, would be affected. The proposed dune walkover would not restrict bathing or fishing, and the photographic and

testimonial evidence established not only that such activities are not engaged in as a matter of fact, but that the shallow, isolated body of water is not conducive to such activities. Finally, in determining whether any restriction on riparian rights -- even if they existed -- was "unreasonable," it is not inconsequential that no property owners fronting the lagoon objected to or challenged the proposed Project.

147. The evidence in this case established that the lagoon is not a navigable body of water. The MHW line is waterward of the lagoon, and the property lines of the Applicants and their neighbors do not extend to the MHW line. Thus, proximity to that water feature does not serve to confer "riparian" rights on them. Even if the adjacent upland property owners had riparian rights to the lagoon, under the facts of this case, any restriction on such rights created by the proposed dune walkover would not be "unreasonable." Finally, the mechanism for enforcing such rights would be with the adjacent upland owners, not Petitioners.

148. For the reasons set forth herein, the Applicants met the provisions of the "riparian rights" provisions established in rule 18-21.004(3).

18-21.004(7) - General conditions

149. As established by a preponderance of the evidence, and as previously set forth in the Findings of Fact herein, the

proposed dune walkover has been designed, and is subject to conditions as to its construction, that will avoid and minimize adverse impacts to sovereignty submerged lands and resources. Thus, the Applicants met the standards for issuance of the SSL Authorization established in rule 18-21.004(7)(d).

150. As established by a preponderance of the evidence, and as previously set forth in the Findings of Fact herein, the proposed dune walkover has been designed, is subject to conditions as to its construction, and is intended for use in a manner that will not adversely affect shorebirds or sea turtles. Thus, the Applicants met the standards for issuance of the SSL Authorization established in rule 18-21.004(7)(e).

151. As established by a preponderance of the evidence, and as previously set forth in the Findings of Fact herein, the lagoon is not a navigable body of water. Furthermore, even if it were navigable, any restriction created by the proposed dune walkover will not be "unreasonable." Finally, if the adjacent upland owners holding such riparian rights believe such rights to have been infringed, despite their not having heretofore objected to the proposed Project, and a court of competent jurisdiction determines that riparian rights have been unlawfully affected, the DEP has the authority to require that it be modified in accordance with the court's decision. Thus,

the Applicants met the standards for issuance of the SSL Authorization established in rule 18-21.004(7)(f).

152. As established by a preponderance of the evidence, and as previously set forth in the Findings of Fact herein, the proposed dune walkover will not create a navigational hazard. Unlike the "public interest" navigational standards for obtaining an ERP, the "navigational hazard" standard for obtaining a SSL Authorization pursuant to rule 18-21.004(7), though not defined, includes such things as unsafe conditions adjacent to docks and boat slips. Pirtle v. Voss and Dep't of Envtl. Prot., Case No. 13-0515 (Fla. DOAH Sep. 23, 2013; Fla. DEP Dec. 26, 2013). A mere inconvenience does not constitute the type of navigational hazard contemplated by the rule. Woolshlager v. Rockman and Dep't of Envtl. Prot., Case No. 06-3296 (Fla. DOAH May 5, 2007; Fla. DEP June 22, 2007). Since there is no proven "navigation" in the lagoon -- other than dragging or, when water levels allow, paddling small boats and kayaks across on the way to accessing the navigable waters of the Gulf of Mexico -- there is no navigational hazard created by the proposed dune walkover. Thus, the Applicants met the standards for issuance of the SSL Authorization established in rule 18-21.004(7)(g).

153. Finally, as established by a preponderance of the evidence, and as previously set forth in the Findings of Fact

herein, the proposed dune walkover has been designed, is subject to conditions as to its construction, and is intended for the water dependent purpose of traversing the lagoon to allow access to the Gulf of Mexico. Thus, the Applicants met the standards for issuance of the SSL Authorization established in rule 18-21.004(7)(i).

SSL Authorization - Ultimate Finding of Fact

154. A preponderance of the competent, substantial evidence in this case establishes that the Applicants demonstrated their entitlement to the issuance of the Letter of Consent Easement, meeting the standards established in chapter 253 and rule 18-21.

CCCL Permit

155. DEP has established a CCCL on Little Estero Island. A CCCL permit is required before a person may conduct construction activities beyond that line.

Permitting Procedures

156. In the Joint Prehearing Stipulation, Petitioners asserted that "the applicable and relevant procedures for granting a coastal construction control line permit application were not appropriately followed." However, Petitioners failed to present competent, substantial, and persuasive evidence of any failure by DEP to follow its CCCL permitting procedures. Conversely, DEP established that the project met all of the

applicable siting and design criteria, and that DEP complied with statutory and rule criteria and procedures for reviewing and issuing the CCCL Permit.

157. Petitioners have argued that the CCCL Permit should have been procedurally denied because the CCCL Waiver was timely challenged. DEP included special conditions requiring the Applicants to relinquish the CCCL Permit if the CCCL Waivers were denied. In addition, the CCCL Permit does not become final until a Notice to Proceed is issued, which is also conditioned on the CCCL Waivers becoming final.

158. Based on the fact that construction of the dune walkover cannot commence until all permits and authorizations are issued, there was no material error in procedure arising from DEP sequentially issuing the CCCL Waivers and the CCCL Permit, thus, allowing for their consolidation and litigation without unnecessary delay and duplication.

Permitting Standards

159. The Applicants have provided reasonable assurances that the proposed dune walkover meets the requirements for a permit for construction seaward of the coastal construction control line established in section 161.053, Florida Statutes, and Florida Administrative Code Chapter 62B-33.

160. The proposed dune walkover meets the requirements established by rule as a minor structure, and was designed in

accordance with DEP's Beach and Dune Walkover Guidelines. It is designed to be expendable. The size, height, and elimination of concrete anchors were proposed to minimize resistance to forces associated with high frequency storms, and to allow the dune walkover to break away when subjected to such forces. It meets every condition proposed by the DEP and the FFWCC. Its minimal size and design is expected to have a minor impact on the beach and dune system.

161. A preponderance of the evidence established that the proposed dune walkover will not cause a measurable interference with the natural functioning of the coastal system.

162. A preponderance of the evidence established that the Project, as a result of its size, profile, and location, will have no measurable affect on the existing shoreline change rate.

163. A preponderance of the evidence further established that the proposed dune walkover is not reasonably expected to significantly interfere with the ability of the coastal system to recover from a coastal storm.

164. A preponderance of the evidence established that the Project would have no measurable effect of the topography or the vegetation of the area. As such, there is no evidence to suggest that the proposed dune walkover would render the dune system unstable or subject to catastrophic failure, or that the protective value of the dune system will be significantly

lowered. To the contrary, by lessening pedestrian traffic through the dunes, and channeling traffic at its waterward point of termination, the proposed dune walkover will be protective of the dune system and the coastal system. In that regard, DEP generally encourages dune walkovers to protect the beach and dune system.

165. As a result of the elimination of lighting, of the restriction on construction during turtle nesting season, and of the Applicants' agreement to all conditions suggested by the FFWCC, the evidence firmly established that the proposed dune walkover will not, by any reasonable measure, result in death or injury to marine turtles, and will result in no significant habitat modification or degradation that kills or injures marine turtles by significantly impairing essential behavioral patterns, such as breeding, feeding, or sheltering.

166. The Project will not result in the removal or destruction of native vegetation. The evidence was sufficient to demonstrate that the Project will not destabilize the beach and dune system. As set forth herein, the greater weight of the evidence establishes that the dune walkover will provide greater protection of the beach and dune system than the Applicants' existing means of access across the lagoon and dunes. The construction of the dune walkover will cause no significant

adverse impact, as defined in rule 62B-33.002(26), to the beach and dune system due to increased erosion by wind or water.

167. The proposed dune walkover does not require any excavation. There will be no net excavation or removal of in situ sandy soils of the beach and dune system, and no net excavation of the in situ sandy soils seaward of the control line or 50-foot setback.

168. The proposed dune walkover does not include any water directing devices. The preponderance of the competent substantial evidence established that the project will not direct discharges of water seaward in a manner that would result in significant adverse impacts. The evidence established that the proposed Project will result in no erosion-induced surface water runoff within the beach and dune system.

169. The evidence establishes that, as a general matter, piling-supported structures do not have an effect on the flow of water. However, in extreme events, water encountering an obstacle can cause the movement of sand around the obstacle. The expendability of a structure and its ability to break away prevents scour from occurring and is designed to minimize impacts. The preponderance of the competent, substantial, and persuasive evidence establishes that the Project will not increase scour so as to cause a significant adverse impact, and

that any effect of the Project on the coastal processes of the area would be, at most, de minimis.

170. The design of the proposed dune walkover minimizes the amount of materials that might create debris in the event of a storm. The Applicants removed the handrails, decreased the width of the dune walkover from six feet to five feet, and eliminated pickets and non-structural members. The lowering of the dune walkover, and replacement of the stairs with a ramp that minimizes lift forces, have sufficiently reduced the potential for wind and waterborne missiles. The suggestion that the dune walkover will, in the event of a high frequency storm, form destructive airborne missiles is simply not credible.

171. Granted, the proposed dune walkover is designed to break apart in the face of destructive storm forces. If every piece of storm-generated debris was a sufficient basis upon which to deny a CCCL permit, then minor structures would be prohibited, since all minor structures are designed to be expendable and to break away in a high-frequency storm. Some degree of reason must be applied. The Applicants in this case demonstrated that the proposed dune walkover would not itself be such to create significant adverse impacts if subjected to the destructive forces of such a storm.

172. The proposed dune walkover terminates more than 260 feet from the Gulf of Mexico, and will not interfere with

the public's right to laterally traverse the sandy beach of the Gulf of Mexico.

173. The Project area is in a cycle of accretion, has historically accreted, is currently accreting at roughly 28 feet per year, and is expected to continue accreting.

174. The suggestion that, within 15 years, the shoreline of the Gulf of Mexico waterward of the Applicants' properties will retreat, and that the proposed dune walkover would thence reach into the Gulf, blocking pedestrian access to the shoreline, was not supported by quantitative analyses, and was not sufficient to outweigh evidence to the contrary presented by the Applicants. The Applicants offered an assessment and report based on past and current conditions at the monument level, which included modeling and sediment budgets showing projected changes of the Project area, none of which support a finding that the shoreline will erode or retreat, or that the proposed dune walkover would be expected to interfere with public access to the shoreline.

175. As set forth previously herein, the Project's proposed design, location, and construction methods provide reasonable assurance that there will be no adverse impact to marine turtles, or the coastal system.

176. The Applicants provided sufficient evidence of ownership, in that they are the upland owners and the recipients of the SSL Authorization, being addressed concurrently herewith.

CCCL Permit - Ultimate Finding of Fact

177. A preponderance of the competent, substantial evidence in this case establishes that the Applicants demonstrated their entitlement to the issuance of the CCCL Permit, meeting the standards established in chapter 161 and chapter 62B-33.

CCCL Waivers

178. The CCCL Waivers at issue affect the timing requirements of the submission of ownership and land use approvals. The CCCL Waivers do not waive the submission of the documents, or the requirement that the documents be provided prior to any construction of the proposed dune walkover. A preponderance of the competent substantial evidence establishes that the underlying purpose of chapter 161 and rule 62B-33.008, will be met because construction cannot begin until the Applicants satisfy all substantive requirements for the CCCL Permit.

179. At the time the CCCL Waivers were requested, the Consolidated Permit was being litigated (DOAH Case Nos. 16-7148 and 16-7149), as was the Town's denial of the land use letter requested by the Applicants to comply with the CCCL Permit

application requirement. Strict adherence to the requirement that the documents at issue be submitted at the time of the application would have required the Applicants to sequentially litigate issues related to the proposed dune walkover, increasing the time and expense of litigation on all involved.

180. Petitioners presented no evidence demonstrating how allowing the Applicants to submit the documents prior to being given a Notice to Proceed would adversely affect the Department's ability to carry out the objective of the underlying statutes, or their substantial interests in ensuring the legality of the proposed dune walkover.

181. The timing requirement for evidence of ownership and local government approval was appropriately waived to allow for the efficient and cost-effective litigation of all issues related to the proposed dune walkover. To piecemeal the litigation would unnecessarily increase the time, cost, and administrative burden of litigation for no meaningful or substantive reason, and would provide the challengers with an unwarranted litigation advantage.

182. The CCCL Waivers affect no substantive or substantial interests of any party to this case. They neither lessen the necessary indicia of ownership and control required of the Applicants, nor affect the Town's ability to lawfully enforce its local zoning codes. The waiver to the timing requirements

allows for the substantive permitting requirements to be met, without frustrating the Applicants' right to a timely final decision on the Consolidated Permit and CCCL Permit.

183. The CCCL Waiver does not allow for any construction to begin without Applicants first meeting both the ownership requirement and the local government zoning confirmation requirement. Therefore, the CCCL Waivers are consistent with the purpose and intent of the governing statutes and rules, and result in no injury to Petitioners' legitimate interests.

CCCL Waivers - Ultimate Finding of Fact

184. A preponderance of the competent, substantial evidence in this case establishes that the CCCL Waivers serve to avoid substantial hardship to the Applicants, and advance principles of fairness by maintaining a fair, equal, and cost-effective forum for litigation between the parties regarding the proposed dune walkover. As such, the Applicants demonstrated their entitlement to the issuance of the CCCL Waivers, meeting the standards established in section 120.542.

## CONCLUSIONS OF LAW

Jurisdiction

185. The Division of Administrative Hearings has jurisdiction over the parties to and the subject matter of this proceeding. §§ 120.569 and 120.57, Fla. Stat.

Standing

186. Section 120.52(13) defines a "party," in pertinent part, as a person "whose substantial interests will be affected by proposed agency action, and who makes an appearance as a party." Section 120.569(1) provides, in pertinent part, that "[t]he provisions of this section apply in all proceedings in which the substantial interests of a party are determined by an agency."

187. Standing under chapter 120 is guided by the two-pronged test established in the seminal case of Agrico Chemical Corporation v. Department of Environmental Regulation, 406 So. 2d 478 (Fla. 2d DCA 1981). In that case, the court held that:

> We believe that before one can be considered to have a substantial interest in the outcome of the proceeding, he must show 1) that he will suffer an injury in fact which is of sufficient immediacy to entitle him to a section 120.57 hearing and 2) that his substantial injury is of a type or nature which the proceeding is designed to protect. The first aspect of the test deals with the degree of injury. The second deals with the nature of the injury.

Id. at 482.

188. Agrico was not intended as a barrier to the participation in proceedings under chapter 120 by persons who are affected by the potential and foreseeable results of agency action. Rather, "[t]he intent of Agrico was to preclude parties from intervening in a proceeding where those parties'

substantial interests are totally unrelated to the issues that are to be resolved in the administrative proceedings." Mid-Chattahoochee River Users v. Fla. Dep't of Envtl. Prot., 948 So. 2d 794, 797 (Fla. 1st DCA 2006)(citing Gregory v. Indian River Cnty., 610 So. 2d 547, 554 (Fla. 1st DCA 1992)).

189. The standing requirement established by Agrico has been refined, and now stands for the proposition that standing to initiate an administrative proceeding is not dependent on proving that the proposed agency action would violate applicable law. Instead, standing requires proof that the petitioner has a substantial interest and that the interest reasonably could be affected by the proposed agency action. Whether the effect would constitute a violation of applicable law is a separate question.

> Standing is "a forward-looking concept" and "cannot 'disappear' based on the ultimate outcome of the proceeding." . . . When standing is challenged during an administrative hearing, the petitioner must offer proof of the elements of standing, and it is sufficient that the petitioner demonstrate by such proof that his substantial interests "could reasonably be affected by . . . [the] proposed activities."

Palm Beach Cnty. Envtl. Coal. v. Fla. Dep't of Envtl. Prot., 14 So. 3d 1076, 1078 (Fla. 4th DCA 2009) (citing Peace River/Manasota Reg'l Water Supply Auth. v. IMC Phosphates Co., 18 So. 3d 1079, 1083 (Fla. 2d DCA 2009); and Hamilton Cnty. Bd.

of Cnty. Comm'rs v. State, Dep't of Envtl. Reg., 587 So. 2d 1378 (Fla. 1st DCA 1991)); see also St. Johns Riverkeeper, Inc. v. St. Johns River Water Mgmt. Dist., 54 So. 3d 1051, 1055 (Fla. 5th DCA 2011) ("Ultimately, the ALJ's conclusion adopted by the Governing Board that there was no proof of harm or that the harm would be offset went to the merits of the challenge, not to standing.").

190. Audubon alleged that it has standing since the activities proposed will have detrimental effects on the LEICWA, which it has been involved in since its creation, and which its members frequent, enjoy, and provide volunteer services.

191. Audubon's interest in threatened shorebird species that frequent the area would, as alleged, be adversely affected by the potential impacts of the dune walkover. Whether such impacts have been proven goes to the merits of this proceeding, and not to the bare issue of standing.

192. Audubon meets the second prong of the Agrico test, that is, this proceeding is designed to protect it and its members from potential adverse impacts on the public interest, including wildlife and threatened species, water quality and other alleged adverse effects caused by the proposed dune walkover, impacts that are reasonably within the ambit of chapters 373, 253, and 161, and the rules adopted thereunder.

193. The question for determination as to the first prong of the Agrico test is whether Audubon alleged injuries in fact of sufficient immediacy as a result of the proposed Project to entitle it to a section 120.57 hearing. "[T]he injury-in-fact standard is met by a showing that the petitioner has sustained actual or immediate threatened injury at the time the petition was filed, and '[t]he injury or threat of injury must be both real and immediate, not conjectural or hypothetical.'" S. Broward Hosp. Dist. v. Ag. for Health Care Admin., 141 So. 3d 678, 683 (Fla. 1st DCA 2014)(citing Vill. Park Mobile Home Ass'n v. Dep't of Bus. & Prof'l Reg., 506 So. 2d 426, 433 (Fla. 1st DCA 1987)).

194. Audubon has alleged standing as an association acting on behalf of the interests of its members. The evidence adduced at the hearing is sufficient to demonstrate its associational standing under Florida Home Builders Association v. Department of Labor and Employment Security, 412 So. 2d 351 (Fla. 1982), and its progeny.

195. As a result of the facts supporting standing, there is sufficient evidence to demonstrate that, if the adverse impacts of the proposed agency action were proven, Audubon would be adversely affected by final agency action consistent with that proposed.

196. Audubon has sufficiently alleged and offered proof of an "injury in fact which is of sufficient immediacy to entitle [it] to a section 120.57 hearing." Although Audubon's standing as to the CCCL Waiver is much more tenuous, since it has no substantive bearing on whether or when construction of the dune walkover might be allowed, it is sufficiently related to the CCCL Permit as to establish standing under a broad construction of the concept that is appropriate in this case.

197. Contrary to the environmental and natural resource issues identified by Audubon, the Town based its standing on the Town's economic dependency on tourism and ecotourism which could be disrupted by impact to the LEICWA, as well as its budget for maintenance of the beach and LEICWA. The Town's witnesses also indicated that the Town was affected by the Waiver because the DEP's proposed procedure for issuance of the CCCL Permit went "outside the normal process and could create confusion among applicants and the public," though no specific example of such was provided.

198. A municipality "must demonstrate that its substantial interests will be affected just as a natural person must." As such, the Town "must demonstrate that it will suffer an injury-in-fact which is of sufficient immediacy to entitle it to a hearing, and that the injury is within the 'zone of interest' which the proceeding is designed to protect." Furthermore, the

Town "must demonstrate that its interest exceeds the general interest of its citizens." Hamilton Cnty. v. TSI Southeast, Inc., Case No. 89-6824 (Fla. DOAH July 24, 1990; Fla. DER Sept. 7, 1990), aff'd, Hamilton Cnty. v. Dep't of Envtl. Reg., 587 So. 2d 1378 (Fla. 1st DCA 1991). The doctrine of *parens patriae* does not serve to confer standing on a municipality to participate in an environmentally based proceeding on behalf of its citizens. See Atlantic Civil, Inc. v. Fla. Power and Light Co. and Dep't of Envt'l Prot., Case No. 15-1746, FO at 25-26 (Fla. DOAH Feb. 15, 2016; Fla. DEP Apr. 21, 2016).

199. The Town did not demonstrate actual injury-in-fact or a real and immediate threat of direct injury to interests that are protected in this type of environmental permitting proceeding. Issues of economic dependency on tourism and ecotourism, and unquantified budgeting matters are not within the zone of interests to be protected in this proceeding. See Vill. of Key Biscayne v. Dep't of Envtl. Prot., 206 So. 3d 788, 791 (Fla. 3d DCA 2016); Mid-Chattahoochee River Users v. Dep't of Envtl. Prot., 948 So. 2d at 798; Agrico Chem. Co., 406 So. 2d at 482. Furthermore, issues of compliance with or confusion about the Town's zoning or land use procedures are not within the zone of interests protected by this type of proceeding. See, e.g., Council of Lower Keys v. Charley Toppino

& Sons, Inc., 429 So. 2d 67, 68 (Fla. 3d DCA 1983); Taylor v. Cedar Key Special Water and Sewerage Dist., 590 So. 2d 481 (Fla. 1st DCA 1991).

200. As a result of the foregoing, the Town has failed to demonstrate that it has standing to participate as a party to this proceeding based on the standards and precedent cited above.

201. Respondents/Applicants, Texas Hold'Em, LLC, and Squeeze Me Inn, LLC, have standing as the applicants for the permits and authorizations at issue. Ft. Myers Real Estate Holdings, LLC v. Dep't of Bus. & Prof'l Reg., 53 So. 3d 1158, 1162 (Fla. 1st DCA 2011); Maverick Media Group v. Dep't of Transp., 791 So. 2d 491, 492-493 (Fla. 1st DCA 2001).

Nature of the Proceeding

202. This is a de novo proceeding, intended to formulate final agency action and not to review action taken earlier and preliminarily. Young v. Dep't of Cmty. Aff., 625 So. 2d 831, 833 (Fla. 1993); Hamilton Cnty. Bd. of Cnty. Comm'rs v. Dep't of Envtl. Reg., 587 So. 2d at 1387; McDonald v. Dep't of Banking & Fin., 346 So. 2d 569, 584 (Fla. 1st DCA 1977).

Burden and Standard of Proof

203. Section 120.569(2)(p) provides that:

> For any proceeding arising under chapter 373, chapter 378, or chapter 403, if a nonapplicant petitions as a third party to

> challenge an agency's issuance of a license, permit, or conceptual approval, the order of presentation in the proceeding is for the permit applicant to present a prima facie case demonstrating entitlement to the license, permit, or conceptual approval, followed by the agency. This demonstration may be made by entering into evidence the application and relevant material submitted to the agency in support of the application, and the agency's staff report or notice of intent to approve the permit, license, or conceptual approval. Subsequent to the presentation of the applicant's prima facie case and any direct evidence submitted by the agency, the petitioner initiating the action challenging the issuance of the permit, license, or conceptual approval has the burden of ultimate persuasion and has the burden of going forward to prove the case in opposition to the license, permit, or conceptual approval through the presentation of competent and substantial evidence.

204. The Applicants made their prima facie case of entitlement to the ERP by entering into evidence the complete application files and supporting documentation and the DEP's Consolidated Notice of Intent to Issue Environmental Resource Permit and Letter of Consent Easement to Use Sovereign Submerged Lands. In addition, the Applicants presented the testimony of expert witnesses in support of their application. With the Applicants having made their prima facie case, the burden of ultimate persuasion is on Petitioners to prove their case in opposition to the ERP by a preponderance of the competent and

substantial evidence, and thereby prove that the Applicants failed to provide reasonable assurance that the standards for issuance of the ERP were met.

205. The SSL Authorization is governed by chapter 253. The CCCL Permit is governed by chapter 161. The CCCL Waiver is subject to chapter 120. As such, none of those forms of regulatory approval constitute a "license, permit, or conceptual approval" under chapters 373, 378, or 403. Therefore, the modified burden of proof established in section 120.569(2)(p) does not apply to the SSL Authorization, the CCCL Permit, or the CCCL Waiver. Thus, the Applicants bear the burden of demonstrating, by a preponderance of the evidence, entitlement to those authorizations. Fla. Dep't of Transp. v. J.W.C. Co., 396 So. 2d 778, 788 (Fla. 1st DCA 1981); Save Our Creeks, Inc. v. Fla. Fish & Wildlife Conser. Comm'n, Case No. 12-3427 (Fla. DOAH July 3, 2013; Fla. DEP Jan. 14, 2014).

206. The standard of proof is preponderance of the evidence. § 120.57(1)(j), Fla. Stat.

Reasonable Assurance Standard

207. Issuance of the proposed Consolidated Permit and CCCL Permit is dependent upon there being reasonable assurance that the activities authorized will meet applicable standards.

208. Reasonable assurance means "a substantial likelihood that the project will be successfully implemented."

Metro. Dade Cnty. v. Coscan Fla., Inc., 609 So. 2d 644, 648 (Fla. 3d DCA 1992). Reasonable assurance does not require absolute guarantees that the applicable conditions for issuance of a permit have been satisfied. Furthermore, speculation or subjective beliefs are not sufficient to carry the burden of presenting contrary evidence or proving a lack of reasonable assurance necessary to demonstrate that a permit should not be issued. FINR II, Inc. v. CF Indus., Inc., Case No. 11-6495 (Fla. DOAH Apr. 30, 2012; Fla. DEP June 8, 2012).

ERP Permitting Standards

209. Section 373.414(1) provides, as pertinent to the issues in this proceeding, that:

> As part of an applicant's demonstration that an activity regulated under this part will not be harmful to the water resources or will not be inconsistent with the overall objectives of the district, . . . the department shall require the applicant to provide . . . reasonable assurance that such activity in, on, or over surface waters or wetlands, as delineated in s. 373.421(1), is not contrary to the public interest . . . .
>
> (a) In determining whether an activity, which is in, on, or over surface waters or wetlands, as delineated in s. 373.421(1), and is regulated under this part, is not contrary to the public interest . . . the department shall consider and balance the following criteria:
>
> 1. Whether the activity will adversely affect the public health, safety, or welfare or the property of others;

> 2. Whether the activity will adversely affect the conservation of fish and wildlife, including endangered or threatened species, or their habitats;
>
> 3. Whether the activity will adversely affect navigation or the flow of water or cause harmful erosion or shoaling;
>
> 4. Whether the activity will adversely affect the fishing or recreational values or marine productivity in the vicinity of the activity;
>
> 5. Whether the activity will be of a temporary or permanent nature;
>
> 6. Whether the activity will adversely affect or will enhance significant historical and archaeological resources under the provisions of s. 267.061; and
>
> 7. The current condition and relative value of functions being performed by areas affected by the proposed activity.

210. Pursuant to its rulemaking authority, DEP adopted rules 62-330.301 and 62-330.302, which establishes the standards applicable to this proceeding.

211. Rule 62-330.301(1) provides, in pertinent part, that:

> (1) To obtain an individual or conceptual approval permit, an applicant must provide reasonable assurance that the construction, alteration, operation, maintenance, removal, or abandonment of the projects regulated under this chapter:
>
> (a) Will not cause adverse water quantity impacts to receiving waters and adjacent lands;
>
> (b) Will not cause adverse flooding to on-site or off-site property;

(c) Will not cause adverse impacts to existing surface water storage and conveyance capabilities;

(d) Will not adversely impact the value of functions provided to fish and wildlife and listed species by wetlands and other surface waters;

(e) Will not adversely affect the quality of receiving waters such that the state water quality standards . . . will be violated;

(f) Will not cause adverse secondary impacts to the water resources . . . . ;

(g) Will not adversely impact the maintenance of surface or ground water levels or surface water flows established pursuant to section 373.042, F.S.;

(h) Will not cause adverse impacts to a Work of the District established pursuant to section 373.086, F.S.;

(i) Will be capable, based on generally accepted engineering and scientific principles, of performing and functioning as proposed;

(j) Will be conducted by a person with the financial, legal and administrative capability of ensuring that the activity will be undertaken in accordance with the terms and conditions of the permit, if issued; and

(k) Will comply with any applicable special basin or geographic area criteria . . . .

212. Rule 62-330.302(1) provides, in pertinent part, that:

(1) In addition to the conditions in rule 62-330.301, F.A.C., to obtain an individual or conceptual approval permit under this chapter, an applicant must provide

reasonable assurance that the construction, alteration, operation, maintenance, repair, removal, and abandonment of a project:

(a) Located in, on, or over wetlands or other surface waters will not be contrary to the public interest, . . . as determined by balancing the following criteria as set forth in sections 10.2.3 through 10.2.3.7 of Volume I:

1. Whether the activities will adversely affect the public health, safety, or welfare or the property of others;

2. Whether the activities will adversely affect the conservation of fish and wildlife, including endangered or threatened species, or their habitats;

3. Whether the activities will adversely affect navigation or the flow of water or cause harmful erosion or shoaling;

4. Whether the activities will adversely affect the fishing or recreational values or marine productivity in the vicinity of the activity;

5. Whether the activities will be of a temporary or permanent nature;

6. Whether the activities will adversely affect or will enhance significant historical and archaeological resources under the provisions of section 267.061, F.S.; and

7. The current condition and relative value of functions being performed by areas affected by the proposed activities.

(b) Will not cause unacceptable cumulative impacts upon wetlands and other surface waters as set forth in sections 10.2.8 through 10.2.8.2 of Volume I.

213. The A.H. has been adopted for use by DEP and the state's five water management districts. Fla. Admin. Code R. 62-330.010(4). The A.H. was developed "to help persons understand the rules, procedures, standards, and criteria that apply to the environmental resource permit (ERP) program under Part IV of Chapter 373 of the Florida Statutes (F.S.)." A.H. § 1.0.[7/]

ERP Conclusion

214. For the reasons set forth in the Findings of Fact herein, a preponderance of the competent, substantial evidence in this case establishes that the Applicants demonstrated their entitlement to the issuance of the ERP, meeting the standards established in the cited provisions of section 373.414, rules 62-330.301 and 62-330.302, and the A.H. Petitioners did not meet their burden of demonstrating that the ERP should not be issued.

SSL Authorization Standards

215. Pursuant to its rulemaking authority, the BTIITF adopted rule 18-21.004,[8/] which establishes the applicable standards for issuance of the SSL Authorization as follows:

> The following management policies, standards, and criteria shall be used in determining whether to approve, approve with conditions or modifications, or deny all requests for activities on sovereignty submerged lands, except activities associated with aquaculture. The management

policies, standards, criteria, and fees for aquacultural activities conducted on or over sovereignty submerged lands are provided in Rules 18-21.020 through 18-21.022, F.A.C.

(1) General Proprietary.

(a) For approval, all activities on sovereignty lands must be not contrary to the public interest . . . .

* * *

(2) Resource Management.

(a) All sovereignty lands shall be considered single use lands and shall be managed primarily for the maintenance of essentially natural conditions, propagation of fish and wildlife, and traditional recreational uses such as fishing, boating, and swimming. Compatible secondary purposes and uses which will not detract from or interfere with the primary purpose may be allowed.

* * *

(i) Activities on sovereignty lands shall be designed to minimize or eliminate adverse impacts on fish and wildlife habitat, and other natural or cultural resources. Special attention and consideration shall be given to endangered and threatened species habitat.

* * *

(3) Riparian Rights.

(a) None of the provisions of this rule shall be implemented in a manner that would unreasonably infringe upon the traditional, common law riparian rights, as defined in section 253.141, F.S., of upland property owners adjacent to sovereignty submerged lands.

* * *

(c) All structures and other activities must be designed and conducted in a manner that will not unreasonably restrict or infringe upon the riparian rights of adjacent upland riparian owners.

* * *

(7) General Conditions for Authorizations. All authorizations granted by rule . . . shall be subject to the general conditions as set forth in paragraphs (a) through (i) below . . . .

* * *

(d) Structures or activities shall be constructed and used to avoid or minimize adverse impacts to sovereignty submerged lands and resources.

(e) Construction, use, or operation of the structure or activity shall not adversely affect any species which is endangered, threatened or of special concern, as listed in rules 68A-27.003, 68A-27.004 and 68A-27.005, F.A.C.

(f) Structures or activities shall not unreasonably interfere with riparian rights. When a court of competent jurisdiction determines that riparian rights have been unlawfully affected, the structure or activity shall be modified in accordance with the court’s decision.

(g) Structures or activities shall not create a navigational hazard.

* * *

(i) Structures or activities shall be constructed, operated, and maintained solely for water dependent purposes, or for non-

> water dependent activities authorized under paragraph 18-21.004(1)(g), F.A.C., or any other applicable law.

SSL Authorization Conclusion

216. As established in the Findings of Fact herein, a preponderance of the competent, substantial evidence in this case demonstrates that the Applicants' proposed dune walkover is not contrary to the public interest, and does not violate standards established in chapter 253 and chapter 18-21. The evidence presented by Petitioners was not sufficient to overcome the greater weight of the evidence received from the Applicants.

CCCL Standards

217. The CCCL is a line established pursuant to provisions of section 161.053, which defines that portion of the beach-dune system subject to severe fluctuations based on a 100-year storm event. Section 161.053 authorizes CCCL lines in order to protect beach-dune systems from "imprudent construction which can jeopardize the stability of the beach-dune system, accelerate erosion, provide inadequate protection to upland structures, endanger adjacent properties, or interfere with public beach access."

218. Pursuant to section 161.053(5)(b), DEP "may not issue a permit for any structure, other than a . . . minor structure, . . . which is proposed for a location that, based on the department's projections of erosion in the area, will be seaward

of the seasonal high water line within 30 years after the date of application for the permit."

219. Section 161.053(6)(b) provides, in pertinent part, that a "'Minor structure' means pile-supported, elevated dune and beach walkover structures . . . . It shall be a characteristic of minor structures that they are considered to be expendable under design wind, wave, and storm forces." As set forth in the Findings of Fact herein, the proposed dune walkover is a "minor structure."

220. The proposed CCCL Permit is not prohibited by section 161.053(5)(b).

221. Rule 62B-33.005(2) requires an applicant to provide DEP with "sufficient information pertaining to the proposed project to show that adverse and other impacts associated with the construction have been minimized and that the construction will not result in a significant adverse impact."

222. Rule 62B-33.002(26) provides, in pertinent part, that:

> "Impacts" are those effects, whether direct or indirect, short or long term, which are expected to occur as a result of construction and are defined as follows:
>
> (a) "Adverse Impacts" are impacts to the coastal system that may cause a measurable interference with the natural functioning of the coastal system.

> (b) "Significant Adverse Impacts" are adverse impacts of such magnitude that they may:
>
> 1. Alter the coastal system by:
>
> a. Measurably affecting the existing shoreline change rate,
>
> b. Significantly interfering with its ability to recover from a coastal storm,
>
> c. Disturbing topography or vegetation such that the dune system becomes unstable or suffers catastrophic failure or the protective value of the dune system is significantly lowered, or
>
> 2. Cause a take, as defined in section 379.2431(1), F.S., unless the take is incidental pursuant to section 379.2431(1)(h), F.S.

223. The Applicants have demonstrated, by a preponderance of the competent, substantial, and persuasive evidence that the proposed dune walkover will not result in any significant adverse impacts.

224. Rule 62B-33.005(4) requires DEP to issue a permit for construction which an applicant has shown to be clearly justified by demonstrating that all standards, guidelines, and other requirements of chapter 161, part I, Florida Statutes, and chapter 62B-33 have been met, including:

> (a) The construction will not result in removal or destruction of native vegetation which will either destabilize a frontal, primary, or significant dune or cause a

significant adverse impact to the beach and dune system due to increased erosion by wind or water;

(b) The construction will not result in removal or disturbance of in situ sandy soils of the beach and dune system to such a degree that a significant adverse impact to the beach and dune system would result from either reducing the existing ability of the system to resist erosion during a storm or lowering existing levels of storm protection to upland properties and structures;

(c) The construction will not direct discharges of water or other fluids in a seaward direction and in a manner that would result in significant adverse impacts. For the purposes of this rule section, construction shall be designed so as to minimize erosion induced surface water runoff within the beach and dune system and to prevent additional seaward or off-site discharges associated with a coastal storm event;

(d) The construction will not result in the net excavation of the in situ sandy soils seaward of the control line or 50-foot setback;

(e) The construction will not cause an increase in structure-induced scour of such magnitude during a storm that the structure-induced scour would result in a significant adverse impact;

(f) The construction will minimize the potential for wind and waterborne missiles during a storm;

(g) The activity will not interfere with public access, as defined in Section 161.021, F.S.; and

> (h) The construction will not cause a significant adverse impact to marine turtles, or the coastal system.

225. The evidence firmly established that the Project would result in de minimis -- if any -- impacts to the beach and dune system. Finally, the project has been revised multiple times to minimize impacts associated with construction.

CCCL Permit Conclusion

226. As established in the Findings of Fact herein, a preponderance of the competent, substantial evidence in this case demonstrates that the Applicants' proposed dune walkover complies with the standards established in chapter 161, part I, and chapter 62B-33. The evidence presented by Petitioners was not sufficient to overcome the greater weight of the evidence received from the Applicants.

CCCL Waivers

227. Rule 62B-33.008(1)(b) and (c)[9/] provides that any person applying for a permit for construction seaward of the CCCL shall provide the following information:

> (b) Sufficient evidence of ownership including the legal description of the property for which the permit is requested. . . . Other documents submitted as evidence of ownership will be reviewed by the staff and shall be rejected if found not to be sufficient . . . .
>
> (c) Written evidence, provided by the appropriate local governmental entity having jurisdiction over the activity, that the

> proposed activity, as submitted to the Department, does not contravene local setback requirements or zoning codes.

228. Rule 62B-33.002(2)[10/] defines "Applicant" to include "the owner of record, agent, leaseholder, or holder of any legal instrument which gives the holder legal authority to undertake the construction for which a permit is sought." A SSL Authorization is a sufficient interest in property to authorize issuance of a CCCL Permit.

229. Section 120.542 provides, in pertinent part, that:

> (1) Strict application of uniformly applicable rule requirements can lead to unreasonable, unfair, and unintended results in particular instances. The Legislature finds that it is appropriate in such cases to adopt a procedure for agencies to provide relief to persons subject to regulation. . . .
>
> (2) Variances and waivers shall be granted when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means by the person and when application of a rule would create a substantial hardship or would violate principles of fairness. For purposes of this section, "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance or waiver. For purposes of this section, "principles of fairness" are violated when the literal application of a rule affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the rule.

230. The Applicants cannot provide the information required by rule 62B-33.008(1)(b) and (c) due to the litigation challenging the SSL Authorization brought by Petitioners, and due to litigation regarding the determination by Petitioner, Town of Fort Myers Beach, that the proposed dune walkover does not comply with the Town's Land Development Code.

231. The Applicants demonstrated that the purpose of chapter 161, by ensuring that all approvals have been obtained before construction authorized by a CCCL Permit may be undertaken, will be achieved under the conditions imposed by the CCCL Waivers. The CCCL Waivers prohibit the commencement of construction of the proposed dune walkover until evidence is received by DEP of proof of ownership and that the Project will not contravene local zoning, and the DEP issues a Notice to Proceed. Thus, the CCCL Waivers authorize no specific activity, affecting only the timing of the submission of information.

232. Strict application of the ownership and local government approval requirements in this instance would work a hardship and violate principles of fairness by allowing an active challenger to a permitted activity to prevent substantive, efficient, timely, and cost-effective disposition of the applicant's permit application and, through unnecessary delay and sequential litigation, provide an unwarranted litigation advantage to one party over the other.

233. As indicated, the various approvals at issue in this case were consolidated for purposes of fairness and efficiency. Requiring sequential litigation is substantially prejudicial to the Applicants, creating a substantial hardship, and places too great an advantage with Petitioners, thus violating principles of fairness.

CCCL Waivers Conclusion

234. As established in the Findings of Fact herein, a preponderance of the competent, substantial evidence in this case demonstrates that the issuance of the CCCL Waivers of the timing requirements of rule 62B-33.008(1)(b) and (c) protect the Applicants from a substantial hardship, limit an unfair and unwarranted advantage being provided to Petitioners, and meet the standards established in section 120.542.

Conclusion

235. Audubon alleged sufficient facts that, if proven, would establish that it will suffer an injury in fact as a result of the construction of the proposed dune walkover which is of sufficient immediacy to entitle it to a section 120.57 hearing and that its substantial injury is of a type or nature which the proceeding is designed to protect. Audubon, thus, has standing to maintain this proceeding.

236. The Town failed to allege that its substantial injury, which was limited to economic effects of the proposed

dune walkover on the Town and its budget, is of a type or nature which the proceeding is designed to protect. As a result, the Town does not have standing to maintain this proceeding.

237. Applying the standards of reasonable assurance to the Findings of Fact in this case, it is concluded that Petitioners did not meet their burden of ultimate persuasion that the proposed dune walkover, as permitted, will not meet all standards applicable to the ERP.

238. Applying the standards of reasonable assurance to the Findings of Fact in this case, it is concluded that the Applicants met their burden of demonstrating, by a preponderance of the evidence, the proposed dune walkover, as permitted, meets all standards applicable to the SSL Authorization.

239. Applying the standards of reasonable assurance to the Findings of Fact in this case, it is concluded that the Applicants met their burden of demonstrating, by a preponderance of the evidence, the proposed dune walkover, as permitted, meets all standards applicable to the CCCL Permit.

240. Applying the standards of reasonable assurance to the Findings of Fact in this case, it is concluded that the Applicants met their burden of demonstrating, by a preponderance of the evidence, that they met the standards applicable to the CCCL Waivers.

## RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is RECOMMENDED that the Department of Environmental Protection;

a. enter a final order approving the Consolidated Environmental Resource Permit No. 36-0320034-001 and Letter of Consent Easement to Use Sovereign Submerged Lands No. 360239365, subject to the general and specific conditions set forth therein;

b. enter a final order approving the Permit for Construction or Other Activities Pursuant to Section 161.053, Florida Statutes, No. LE-1567, subject to the general and specific conditions set forth therein;

c. enter a final order approving the Final Order Granting Petitions for Waivers, File No. LE-1567V;

d. issue a Notice to Proceed authorizing the Applicants to commence construction of the proposed dune walkover; and

e. dismiss the petitions for hearing filed by the Town of Fort Myers Beach in each of these consolidated cases.

DONE AND ENTERED this 20th day of March, 2019, in Tallahassee, Leon County, Florida.

E. GARY EARLY
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060
(850) 488-9675
Fax Filing (850) 921-6847
www.doah.state.fl.us

Filed with the Clerk of the
Division of Administrative Hearings
this 20th day of March, 2019.

ENDNOTES

[1/] The structure at issue has been referred to variously as a beach boardwalk, a dune walkover, an access walkway, etc. However, the ERP, SSL Authorization, CCCL Waiver, and CCCL Permit all pertain to the same structure.

[2/] Mr. Malloy was listed by DEP as a rebuttal witness, and ultimately did not testify.

[3/] The Applicants challenge Audubon and the Town's standing only as to the CCCL Waiver. DEP challenges Audubon and the Town's standing as to each of the permits and approvals at issue.

[4/] The Town also identified its ownership and interest in its stormwater management system, and indicated that it "would not like to see that all get flooded and/or further damaged due to any change in the current paradigm." Impacts to the Town's stormwater management system was not pled, was not identified in the JPS, and was not argued in the Town's post-hearing submittal.

[5/] Section 373.414(1)(a) requires that DEP "shall consider and balance" seven factors, one of which includes adverse effects on navigation. An adverse impact for one of the seven factors does

not necessarily require a determination that the Project is contrary to the public interest. Rather, all of the seven factors must be collectively considered to determine whether, on balance, a proposed project satisfies the public interest test. 1800 Atlantic Developers v. Dep't of Envtl. Reg., 552 So. 2d 946, 953, 957 (Fla. 1st DCA 1989); Last Stand, Inc. v. Fury Mgmt., Inc. and Dep't of Envtl. Prot., Case No. 12-2574 (Fla. DOAH Dec. 31, 2012; Fla. DEP Feb. 7, 2013)("Section 373.414(1)(a) directs the Department to consider and balance the following [seven] criteria.").

[6/] Properly, ordinary high water ("OHW") refers to non-tidal fresh water and mean high water ("MHW") refers to tidal marine water. As a general matter, the terms OHW and MHW are frequently used interchangeably. See, e.g. Broward Cnty. v. S. Fla. Water Mgmt. Dist. and Dep't of Envtl. Reg., DOAH Case No. 80-1048 (Fla. DOAH Oct. 13, 1982, Endnote 13; Fla. DER Jan. 20, 1983.).

[7/] The A.H. has been adopted by reference and is, therefore, a "rule" in and of itself.

[8/] Rule 18-21.004 is not cited in the JPS or in either of Petitioners' proposed recommended orders, thus leaving it to the imagination of the undersigned to decipher from the combined 140 pages of proposed findings and conclusions whether that seemingly important rule is even at issue.

[9/] Rule 62B-33.008(3)(c) and (d) was renumbered, without substantive change, to rule 62B-33.008(1)(b) and (c), effective November 28, 2018. Since the rules in effect at the time of final action on a permit are applicable, the current rule numbers will be used.

[10/] Rule 62B-33.002(4) was renumbered, without substantive change, to rule 62B-33.002(2), effective November 28, 2018.

COPIES FURNISHED:

Allen Bills Marine, Inc.
3853 East River Drive
Fort Myers, Florida 33916

Marianna Sarkisyan, Esquire
Department of Environmental Protection
Mail Stop 35
3900 Commonwealth Boulevard
Tallahassee, Florida 32399
(eServed)

William Ward, Esquire
The William Ward Law Group, PLLC
Suite 505
606 Riviera Dunes Way
Palmetto, Florida 34221
(eServed)

Andrew J. Baumann, Esquire
Lewis, Longman and Walker, P.A.
Suite 1500
515 North Flagler Drive
West Palm Beach, Florida 33401
(eServed)

Amy Taylor Petrick, Esquire
Lewis, Longman & Walker, P.A.
Suite 1500
515 North Flagler Drive
West Palm Beach, Florida 33401
(eServed)

Martha Collins, Esquire
Collins Law Group
1110 North Florida Avenue
Tampa, Florida 33602
(eServed)

Pamela Jo Hatley, Esquire
Pamela Jo Hatley, P.A.
1110 North Florida Avenue
Tampa, Florida 33602
(eServed)

Seth Behn, Esquire
Lewis Longman & Walker, P.A.
Suite 1500
515 North Flagler Drive
West Palm Beach, Florida 33401
(eServed)

John S. Turner, Esquire
Peterson Law Group
Post Office Box 670
Fort Myers, Florida 33902
(eServed)

Rachael B. Santana, Esquire
Lewis, Longman & Walker, P.A.
Suite 1500
515 North Flagler Drive
West Palm Beach, Florida 33401
(eServed)

Matthew J. Knoll, Esquire
Department of Environmental Protection
Mail Station 35
3900 Commonwealth Boulevard
Tallahassee, Florida 32399
(eServed)

Telsula Christy Morgan, Esquire
Lewis Longman & Walker, P.A.
Suite 1500
515 North Flagler Drive
West Palm Beach, Florida 33401
(eServed)

Texas Holdem, LLC
2817 Carriage Lane
Carrollton, Texas 75006

Squeeze Me Inn, LLC
711 Franklin Trace
Zionsville, Indiana 46077

Lea Crandall, Agency Clerk
Department of Environmental Protection
Douglas Building, Mail Station 35
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000
(eServed)

Justin G. Wolfe, Interim General Counsel
Department of Environmental Protection
Legal Department, Suite 1051-J
Douglas Building, Mail Station 35
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000
(eServed)

Noah Valenstein, Secretary
Department of Environmental Protection
Douglas Building
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000
(eServed)

## NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the Final Order in this case.

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:** | Shared Dune Walkover |
| **Authorized Applicant:** | Squeeze Me Inn / Texas Hold'em |
| **LeePA STRAP Number:** | 03-47-24-w3-00300.0190 & 03-47-24-w3-00300.0200 |
| | |

| | | | |
|---|---|---|---|
| **Current Property Status:** | | | |
| **Current Zoning:** | RS & EC | | |
| **Future Land Use Map (FLUM) Category:** | Low Density / Recreation | | |
| **Comp Plan Density:** | **Platted Overlay?** | ☑ **Yes** | ☐ **No** |

**Variance is requested from:**

| **LDC Section Number** | **Title of Section or Subsection** |
|---|---|
| 34-652 f. 2. c | Environmentally Critical (EC) zoning district |
| | |
| | |
| | |
| | |
| | |

Complete the narrative statements below for EACH variance requested.

Case # _____ Date Received: _____

PART I

Narrative Statements

**Request for variance from** 34-652 f. 2. c **(LDC Section number)**

| **Explain the specific regulation contained in this section from which relief is sought:** |
|---|
| Walkovers cannot exceed four feet in width when |
| serving single-family homes |
| |
| |
| |
| |
| |
| |
| |
| |
| |
| |

**Reasons for request**

| **Explain why the variance is needed:** |
|---|
| The applicant, because of his disability involving limitations on walking, Mr. Rood requires, |
| and will require, mobility and assistive devices including a cane. |
| A 5 foot wide walkover allows various mobility devices such as wheelchairs or |
| scooters to turn around and change direction when needed. |
| As this walkover is also designed to be shared, the additonal width allows passing, |
| expecially if and when a mobility device is being used. |
| |
| |
| |
| |
| |
| |

| **Explain the possible effect the variance, if granted, would have on surrounding properties:** |
|---|
| The requested 5 ft width would be a benefit to surrounding properties that use the |
| walkover giving additional foot of safety when passing, especially if Mr. Rood |
| is crossing while in a mobility device. |
| |
| |
| |
| |
| |
| |
| |
| |
| |
| |

| **Explain the hardship (what is unique about the property) that justifies relief from the regulation:** |
|---|

| |
|---|
| Unique to this walkover design, the FDEP & FWC requested the hand rails to be re |
| removed as a deterrent for predatory birds to use the walkover as a perch. |
| Thus, the added foot gives additional safety to users without walkover hand rails. |
| |
| |
| |
| |
| |
| |
| |
| |
| |
| |
| |

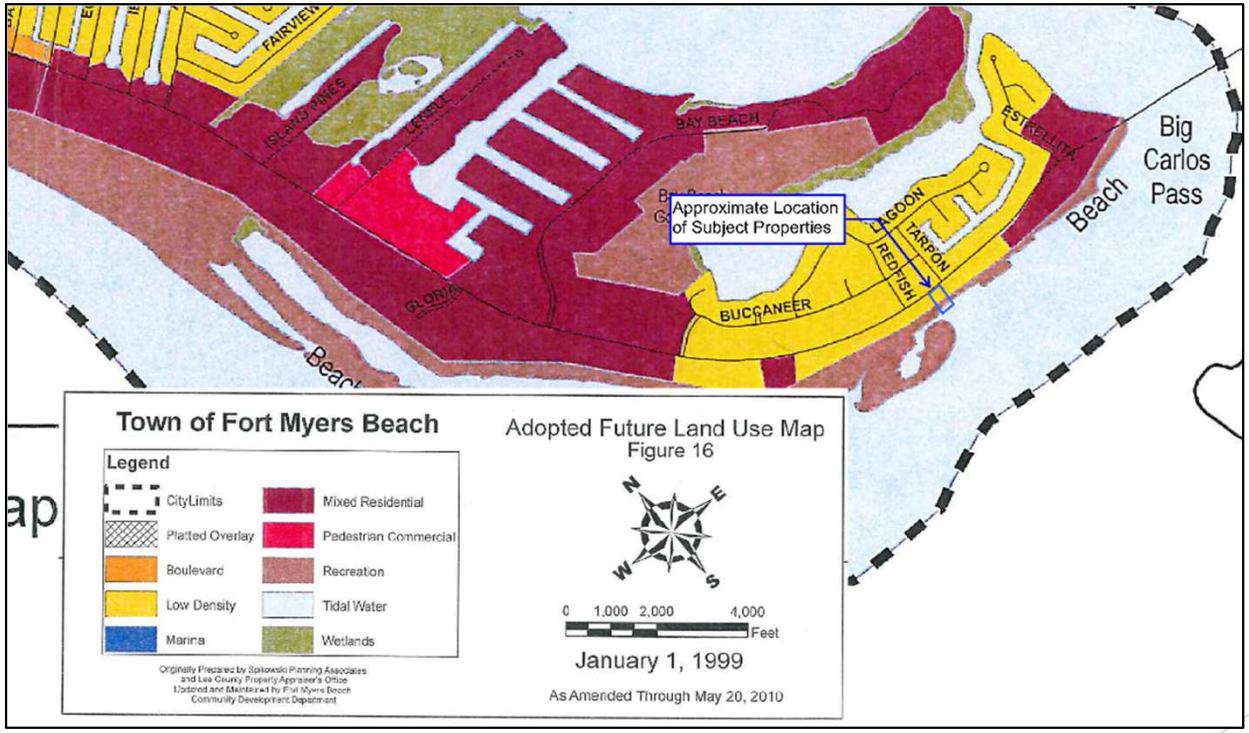
Case # _____ Date Received: _____

| **Explain how the property qualifies for a variance. Direct this explanation to the guidelines for decision-making in LDC Section 34-87.** |
|---|
| No exceptional or extraordinary conditions or circumstances are inherent to the property owned by the applicants |
| The request for the variance to allow a 5-foot-wide walkover, |
| rather than the 4-foot or 6-foot-wide walkover required by the ordinance is de minimus, |
| as rigid compliance is not essential to protect public policy. |
| The request for this variance has not been caused by any action by the applicants taken after the adoption of the regulation. |
| |
| The requested variance is the minimum variance that would relieve the applicant, Mr. Rood, |
| unreasonable burden caused by the application of the regulation in question to his property |
| considering his disability. |
| |
| The granting of the requested variance will not be injurious nor detrimental to the neighborhood |
| or the public welfare. Considering the FDEP/FWC requested that the handrails be removed, |
| the requested 5-foot width will provide an extra level of safety for everyone using the walkover. |
| |
| The request for the variance is specific to this property considering Mr. Roods disabilities |
| and the request of the FWC to remove the handrails from the walkover. |
| |
| It is our opinion that it is not so general or of a recurrent nature that the regulation be amended. |
| |
| |
| |
| |
| |
| |
| |
| |
| |
| |
| |
| |

# Special Exception/Variance Application

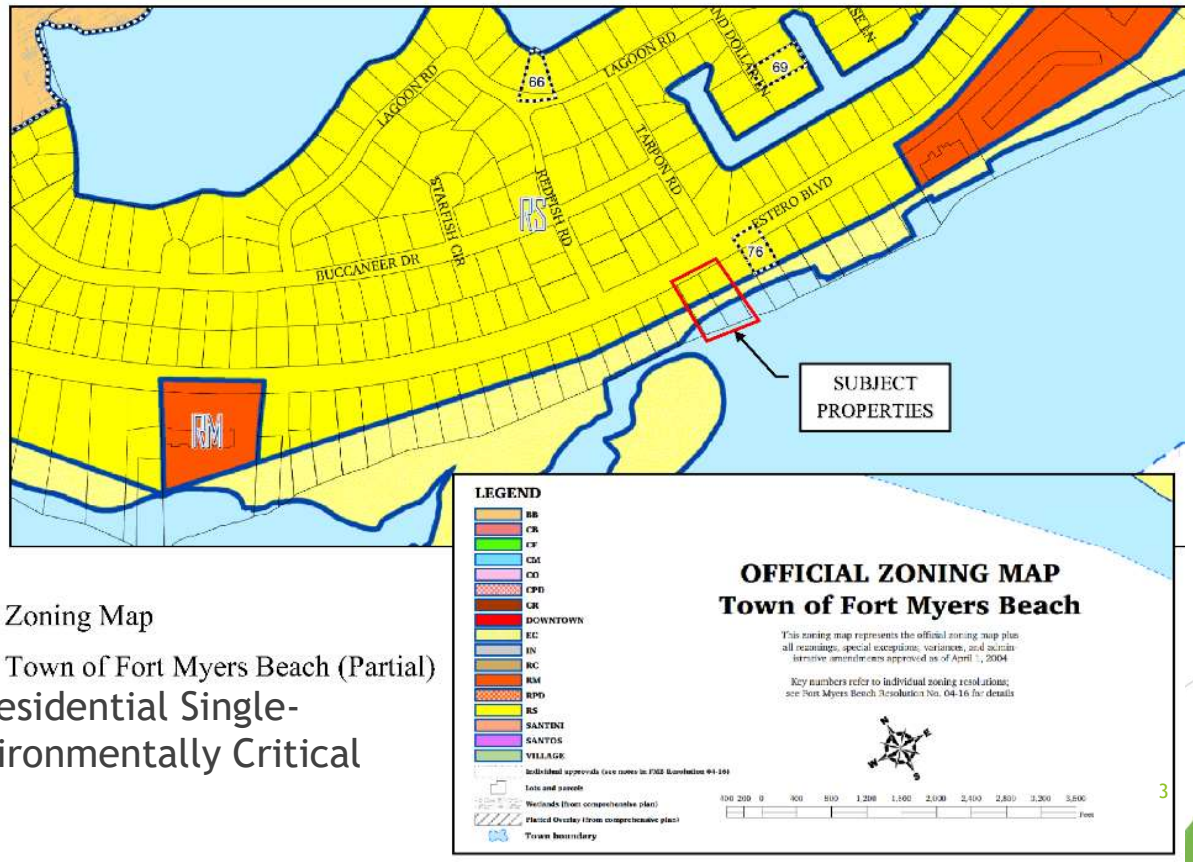
| | |
|---|---|
| Applicants: | Texas Hold'Em, LLC and Squeeze Me Inn, LLC |
| Addresses: | 8150 and 8170 Estero Boulevard |
| Case Number: | SEZ2202104 |
| LPA Hearing Date: | February 14, 2023 |

# Special Exception Application
# Case No. SEZ2202104




- FLU: Low Density Residential/Recreation

# Special Exception Application
# Case No. SEZ2202104




Zoning Map

Town of Fort Myers Beach (Partial)

- Zoning: Residential Single-Family/Environmentally Critical

# Special Exception Application
# Case No. SEZ2202104

Green – original design

Brown – state approved design

- Current Use: Residential.

# Special Exception Application
# Case No. SEZ2202104

- Adjacent Zoning & Land Uses:

North – Low Density FLUM. SFD.

South – Lagoon, Gulf of Mexico. The CWA is **not** directly South of the property or the project.

East: RS zoning, Low Density and EC.

West: RS zoning, Low Density, and EC.

# Special Exception Application
# Case No. SEZ2202104

**2023**

**2018**

Conditions are largely the same.

# Special Exception Application
# Case No. SEZ2202104

Mr. Eddie Rood
8150 Estero Boulevard
Fort Myers Beach, Florida 33931

2/12/2023

**Hello Mr. Rood,**

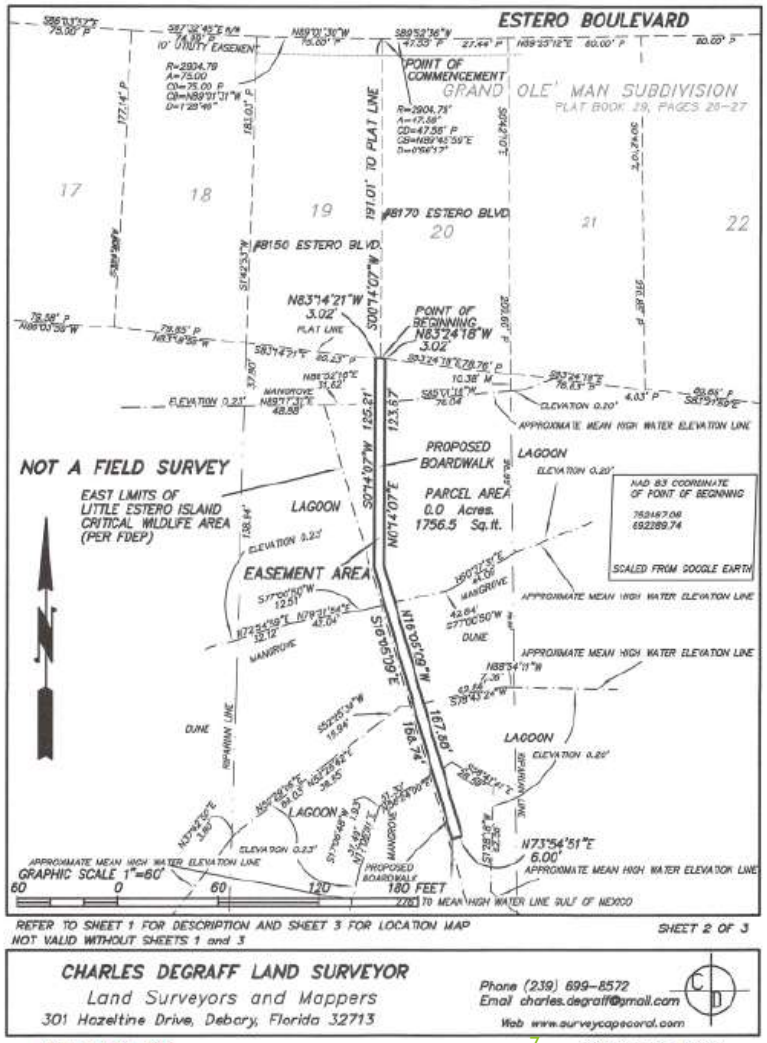
This letter is to notify you that our survey field crew has completed the stakeout for the permitted walkway as depicted on Florida Department of Environmental Protection Permit Number 36-0320034-001. There has been no significant changes to the pond and accretions caused by Hurricane Ian that would cause the walkway to be relocated. Points in the field were set at the point number locations shown on the attached screen shot of the permit.

Regards

Charles DeGraff

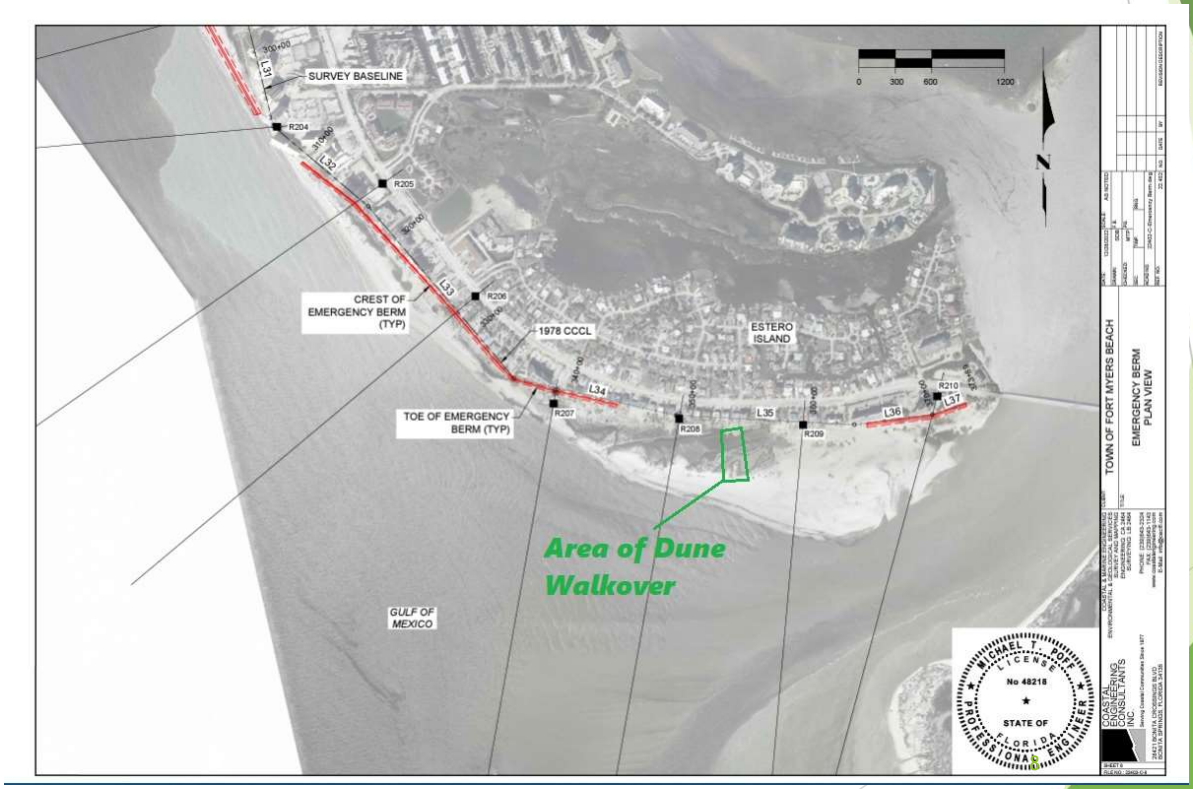
Digitally signed by Charles DeGraff
DN: c=US, st=Florida, l=Debary, o=Charles DeGraff Land Surveyor, cn=Charles DeGraff, email=charles.degraff@gmail.com
Date: 2023.02.12 15:34:59 -05'00'

Charles DeGraff



# Special Exception Application Case No. SEZ2202104

Town consultants do not identify this area as requiring emergency beach renourishment after the most recent hurricane.



# Special Exception Application
# Case No. SEZ2202104

- Special Exception Use:
  - Uses that may not be appropriate generally or without restrictions throughout a zoning district but which when controlled as to number, area, location, or relation to neighborhood would promote the public health, safety, welfare, order, comfort, convenience, appearance, or prosperity and may be permitted
- *Considerations.* In reaching its decision, the town council shall consider the following, *whenever applicable:*
- (1) Whether there exist changed or changing conditions which make approval of the request appropriate.
- (5) Whether the request is consistent with the goals, objectives, policies and intent of the Fort Myers Beach Comprehensive Plan.
- (6) Whether the request meets or exceeds all performance and locational standards set forth for the proposed use.
- (7) Whether the request will protect, conserve, or preserve environmentally critical areas and natural resources.
- (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.
- (9) Whether a requested use will be in compliance with applicable general zoning provisions and supplemental regulations pertaining to the use set forth in this chapter.

# Special Exception Application
# Case No. SEZ2202104

Special Exception Considerations:

- Whether there exist changed or changing conditions which make approval of the request appropriate.
- Changed Conditions:
  - The shoreline is accreting.

The ALJ found that exhibit 43, consisting of a series of aerial photographs, demonstrates convincingly the accretional nature of the area in front of the Applicants' property, and offers support for evidence that "over the last 50 plus years . . . and especially within the last ten to 15, is that this shoreline has been accreting." Competent, substantial evidence establishes that the

...

In the area of the Project, the shoreline has been accreting at a rate of around 28 feet (or more) per year between 1999 and 2011. In the last 52 years, the shoreline to the east of the

Consolidated Order, p. 12

# Special Exception Application
# Case No. SEZ2202104

Special Exception Considerations:

- The shoreline is accreting. (December, 2003 – February, 2017)(Town's Exhibit 43).

# Special Exception Application
# Case No. SEZ2202104

Special Exception Considerations:

- Whether there exist changed or changing conditions which make approval of the request appropriate.
- Changed Conditions:
  - Practical access was blocked by a neighbor in 2015.

# Special Exception Application
# Case No. SEZ2202104

Special Exception Considerations:

- Whether there exist changed or changing conditions which make approval of the request appropriate.
- Changed Conditions:
  - One of the homeowners has a disability under the Federal Americans with Disabilities Act that requires accommodation through the installation of the walkover.

# Special Exception Application
# Case No. SEZ2202104

- (5) Whether the request is consistent with the goals, objectives, policies and intent of the Fort Myers Beach Comprehensive Plan.
- The Comprehensive Plan encourages dune walkovers:
- Future Land Use Element, Policy 4-B-6 states: "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."
- Coastal Management Element, Policy 5-D-1-ii states, "Sand dunes should be protected and recreated wherever they have been removed. Native dune plants should be protected and non-native exotics removed. Dune walkovers should be constructed where they do not exist and existing structures should be maintained."
- Conservation Element, Policy 6-E-1 states, "For any beachfront development approved after the adoption of this plan and for all public beach areas within the town, state-approved dune walk-over structures shall be required at appropriate crossing points. These same structures are also encouraged wherever pedestrians will be crossing dune areas."

# Special Exception Application
# Case No. SEZ2202104

Staff suggests that the dune walkover will not address foot traffic in a way that supports these policies. FDEP has found otherwise.

> The dune walkover will serve to minimize foot traffic on the native dune vegetation, and channel the foot traffic from its terminus to the shore of the Gulf of Mexico. As such, the dune walkover will have a beneficial effect on the native vegetation in its immediate area. (RO ¶ 47).

> across the lagoon and dunes without further impact. The ALJ found that the evidence in this case does not support a finding that the existing pedestrian access will be increased by the dune walkover but, to the contrary, suggests that the walkover will allow access in a much less disruptive and destructive manner. (RO ¶ 77).

Consolidated Final Order, pp. 18, 25.

# Special Exception Application
# Case No. SEZ2202104

Staff suggests that the dune walkover will not address foot traffic in a way that supports these policies. FDEP has found otherwise.

> In addition to the foregoing, the ALJ found that Ms. Mills testified convincingly that the boardwalk in this area would serve to minimize unrestricted and unchanneled foot traffic, and direct traffic so that people are not "using other manners that aren't specifically defined causing more adverse impacts" through natural and sandy areas. (RO ¶ 121).

Consolidated Final Order, p. 37.

# Special Exception Application
# Case No. SEZ2202104

Staff suggests that the dune walkover will not protect the dune. Again, FDEP has found otherwise. In FDEP 2017 Guidance, called “Building Back the Sand Dunes” FDEP offers 3 strategies to protect sand dunes. The First strategy identified is Dune Walkovers.

1:36 PM Mon Feb 13 floridadep.gov 97%

3 of 4

## 3 Things You Can Do to Protect Sand Dunes

**Use Dune Walkovers and Designated Beach Access Points to Cross the Dunes.** Without dune vegetation, sand dunes become unstable. Dune plants tolerate harsh beach conditions including wind, salt spray, storms, scarce nutrients, limited fresh water, and intense sunlight and heat. However, they cannot withstand the pounding of feet and vehicles.

**Restore Damaged Sand Dunes** – Established sand

# Special Exception Application Case No. SEZ2202104

- (6) Whether the request meets or exceeds all performance and locational standards set forth for the proposed use.
- 34-652(e) – the Town may approve with or without conditions the following structures, uses:
  - (6) perpendicular walkovers on property when required to protect indigenous plant communities and when elevation change exists in accordance with 10-415(b) and (f) below.
- 10-415(b)(2) – dune vegetation.
  - (a) Where pedestrians need to cross dune vegetation, perpendicular dune walkovers may be constructed in this open space at intervals of at least 150 feet to protect the vegetation.
  - **The proposed walkover meets this criteria.**

# Special Exception Application Case No. SEZ2202104

- (6) Whether the request meets or exceeds all performance and locational standards set forth for the proposed use.
- 34-652(f) (2) must be state approved (**the Applicants obtained state permits)** and constructed per the following:
  - a) Must be perpendicular (not more than 30 degrees) and not more than 150 feet from nearest walkover. – **Walkover is less than 30 degrees deflection and not within 150 feet of another walkover.**
  - b) embedded posts sufficient for stability. Not encased in concrete. **Already part of CCCL permit.**
  - c) Cannot exceed 4 feet for single family homes, 6 feet otherwise. **This serves multiple homes, meets the 6 foot requirement. Width planned to meet ADA requirements. The Town requested that the applicants submit a variance application to accommodate the width. That is part of this application.**

# Special Exception Application Case No. SEZ2202104

- (6) Whether the request meets or exceeds all performance and locational standards set forth for the proposed use.
- 34-652(f)(2) must be state approved and constructed per the following:
  - d) Elevated at least 2 feet not more than 3 feet from highest elevation point and must extend to seaward toe of existing dune and dune vegetation.
  - Already Permit Requirements.

PERMITTEE: Texas Hold'em LLC and
Squeeze Me Inn LLC
PERMIT NUMBER: LE-1567

6. The dune walkover shall be set at a minimum elevation for stringers and cross members to be installed without requiring excavation of existing dune topography. Width of the walkover deck shall not exceed 5 feet. Posts for the walkover structure shall not be greater than 6-inch diameter, and shall not be encased in concrete. The structure shall be designed to minimize debris generation from pickets and other non-structural members. Walkovers shall extend at least up to the existing line of vegetation but not farther than 10 feet seaward of the vegetation. The optimum siting of the walkover structure shall be determined by the staff representative of the Department during the preconstruction conference to provide maximum protection to the existing dune topography and vegetation located on the site and to avoid interference with public access.

# Special Exception Application Case No. SEZ2202104

- (6) Whether the request meets or exceeds all performance and locational standards set forth for the proposed use.
- 34-652(f)(2) must be state approved and constructed per the following:
  - e) Constructed in a manner that minimizes short term disturbance to dune system. **CCCL permit already requires this.** Replacement of disturbed vegetation. **CCCL permit already requires this.**
  - f) Not constructed during turtle nesting season. **CCCL permit already requires this.**
  - g) Not attached to other structures. **Plan does not require walkover to be attached to other structures.**

# Special Exception Application Case No. SEZ2202104

- (7) Whether the request will protect, conserve, or preserve environmentally critical areas and natural resources.
- **FDEP has already made this finding. The Town was a party and is bound by these findings.**

The dune walkover will serve to minimize foot traffic on the native dune vegetation, and channel the foot traffic from its terminus to the shore of the Gulf of Mexico. As such, the dune walkover will have a beneficial effect on the native vegetation in its immediate area. (RO ¶ 47).

across the lagoon and dunes without further impact. The ALJ found that the evidence in this case does not support a finding that the existing pedestrian access will be increased by the dune walkover but, to the contrary, suggests that the walkover will allow access in a much less disruptive and destructive manner. (RO ¶ 77).

# Special Exception Application
# Case No. SEZ2202104

**(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."**

**Boardwalks are compatible with the dune system generally and with this area in particular.**

- **The Town Code and Comprehensive Plan encourages dune walkovers.**
- **DEP guidelines encourage dune walkover.**
- **The Final Order found that it would not harm persons or property, because it complies with the CCCL Beach and Dune Walkover Construction Guidelines**

# Special Exception Application
# Case No. SEZ2202104

**Boardwalks are compatible with the dune system generally and with this area in particular. There are examples elsewhere in the EC District.**

Matanzas Pass Preserve
Fort Myers Beach

# Special Exception Application
# Case No. SEZ2202104

**Boardwalks are compatible with the dune system generally and with this area in particular. There are examples elsewhere in the E/C District.**

Lynn Hall
Memorial Park
Dune Walkover
Improvement
Project – 2019

# Special Exception Application
# Case No. SEZ2202104

(9) Whether a requested use will be in compliance with applicable general zoning provisions and supplemental regulations pertaining to the use set forth in this chapter.

The proposed use complies with the zoning district supplemental regulations, techniques for dune management recognized by the Town's Comprehensive Plan and Zoning Code, as well as the state's construction management guidelines, as set forth above.

# Special Exception Application
# Case No. SEZ2202104

## Staff Comments

Side setbacks. The dune walkover is proposed on property to which title is currently claimed by the state and the Applicants have proceeded under the state's proprietary authorization.

The graphics show the Applicants' property lines drawn to the water, but the walkover is proposed on property to which the State currently claims title. Therefore, it is inappropriate to apply setbacks by drawing the property lines all the way out to the water.

# Special Exception Application
# Case No. SEZ2202104

- **Variance Request -**
- At the Town's request, the applicant included a request for a variance from 4 feet for the walkover width (intended to serve a single family home) to 5 feet. The Final Order found that the 5 foot width is required to accommodate a wheelchair. (Final Order p. 18).
- Criteria – Code 34-87
- (C)(1) – exceptional or extraordinary conditions or circumstances inherent to the property and the variance is de minimis.
  - The specific variance here is increasing from 4 feet to 5 feet in order to accommodate a wheelchair.
  - That extra 1 foot is de minimis, as the code itself establishes a possible range of 4 to 6 feet depending on the use supported.

# Special Exception Application
# Case No. SEZ2202104

- Variance Request –
- (C)(2) – need for the variance is not the result of the applicant's actions.
  - Here, the applicant's disability is the reason for the variance. It is not a self-inflicted hardship.
- (C)(3) – the requested variance is the minimum to relieve the applicant of an unreasonable burden.
  - Here, the applicant is asking for 5 feet, not the maximum 6 feet permissible for some uses by the code. 5 feet is the minimum to accommodate assistive walking devices.
- (C)(4) – the requested variance will not be injurious to the neighborhood.
  - The FDEP already found that a 5 foot boardwalk will not damage other persons, property in the proposed design and configuration.
- (C)(5) – condition is not so general or recurrent as to require general regulation.
  - This is an individual person's disability. The properties are unique with respect to beach access. There is no likelihood that general regulation would address the problem more efficiently.

# Special Exception Application
# Case No. SEZ20190049

Conclusion –

- The parties here have spent several years and many thousands of dollars litigating the issue of whether the proposed boardwalk would cause environmental harm. The conclusive decision of FDEP was that it will not cause harm, but instead will benefit the dune system by limiting foot traffic through the lagoon and mangroves.

- Your Code and Comprehensive Plan not only allow but also encourage dune walkovers and the proposal meets code requirements with the requested ADA variance.

- The walkover will accommodate the ADA-protected rights of one of the homeowners and avoid further litigation regarding contested ownership of land in this area.

***We respectfully request that you vote to recommend approval of the walkover.***