



Fort Myers Beach Local Planning Agency

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

Agenda

Tuesday, May 9, 2023

9:00 AM

ORDER OF BUSINESS

I. CALL TO ORDER

II. INVOCATION

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF MINUTES

- A. Approval of the April 11, 2023 draft minutes

V. PUBLIC COMMENT

- A. Side setback amendment

VI. PUBLIC HEARINGS

- A. Discussion regarding setbacks for houses in primarily nonresidential districts
Provide input regarding setbacks on residential uses in nonresidential districts.
- B. Sec. 26-71 Dock and Boat Ramp amendments to address multifamily docks.
Provide input on proposed Dock and Boat Ramp ordinance section amendments
- C. Ord. 18-04 Commercial Planned Development Amendment to Conditions of Approval for TPI-FMB (Margaritaville)
Approve/Approve with changes/Deny 1170, 1180/1192, 1204/1206 Estero Blvd -DCI 20230039 a request to amend Ordinance to modify conditions of approval
- D. Olde Seaport Place Amendment to the Master Concept Plan (Res 17-39) to add seating and extend the consumption on premises
Approve/Approve with Conditions/Deny 645 Old San Carlos- DCI 20230008, requested amendment to Commercial Planned Development (Olde Seaport Place) to add seating and extend the consumption on premises boundaries.

- VII. ADMINISTRATIVE AGENDA
- VIII. LPA MEMBERS ITEMS/REPORTS
- IX. LPA ATTORNEY ITEMS/REPORTS
- X. COMMUNITY DEVELOPMENT ITEMS/REPORTS
- XI. ITEMS FOR NEXT MONTHS AGENDA
 - A. Confirm upcoming LPA meeting dates
- XII. ADJOURNMENT

NOTE: THIS MEETING IS STREAMED LIVE THROUGH YOUTUBE.

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



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

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

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

Yellow Sheet Number: **2023-1065**

1. **Requested Motion:**

Meeting Date: May 9, 2023

Approval of the April 11, 2023 draft minutes

Why the action is necessary:

What the action accomplishes:

2. **Agenda:**

APPROVAL OF MINUTES

3. **Requirement/Purpose:**

5. **Background:**

Attachments:

1. April 11 draft minutes

Financial Impact:

6. **Alternative Action**

7. **Staff Recommendations:**

8. **Recommended Approval:**



Fort Myers Beach Local Planning Agency

DiamondHead Beach Resort
2525 Estero Blvd.
Fort Myers Beach, FL 33931

Minutes

Tuesday, April 11, 2023

9:00 AM

ORDER OF BUSINESS

I. CALL TO ORDER

Members present: Chair Cereceda, LPA Member Boan, LPA Member Eckmann, LPA Memberer Plummer, LPA Member Safford, LPA Member Sudduth and LPA Member Vanasse.

II. INVOCATION

Chair Cereceda.

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF MINUTES

- A. Approval of March 14, 2023 draft minutes
Correct the spelling of LPA Member **Boan**'s name.
LPA Member Plummer moved to approve the amended minutes; second by LPA Member Sudduth.
Motion carried unanimously.

V. PUBLIC COMMENT

No public comment.

VI. SUNSHINE LAW REFRESHER

Item removed from agenda.

VII. PUBLIC HEARINGS

- A. Parallelogram lot regulations
Provide input regarding proposed parallelogram lot code language.
Community Development Planner Sarah Propst reviewed the background as stated on the yellow sheet. She displayed an example of a parallelogram lot and proposed ordinance amendments. She noted that she did not reduce

the side setback because that would give special treatment to a specific shaped lot.

LPA Member Eckmann agreed that side setbacks should not be reduced.

LPA Member Sudduth was willing to consider a reduced side setback so people could build back the way they were.

LPA Member Vanasse agreed that the side setbacks needed to be addressed comprehensively, not just with parallelogram lots. He questioned when the lots were five feet, when they changed and how many lots were involved.

LPA Member Boan thought the diagram and language were a good solution and they should consider grandfathering the lots affected. Planner Propst did not support grandfathering.

Public comment:

Samir from Homebound appreciated the relief on the front and the back and noted that very few home plans would fit on the lots. He indicated that he would have to apply for variances of less than a foot if the side setbacks were not addressed. He provided examples of homes on Fairweather Lane that would need a 9-inch variance on each side. He added that administrative variances would be more efficient for his clients and the town. Planner Propst did not think there would be a problem allowing an administrative variance under a certain size.

LPA Member Sudduth favored setting a rule for parallelograms and letting people build back. He did not think a five-foot setback was unreasonable. Planner Propst questioned giving an advantage based on the shape of a lot. LPA Member Vanasse supported giving people five-foot setbacks on streets that historically had five-foot setbacks. LPA Member Plummer agreed. LPA Member Eckmann clarified how the lots were measured. He did not support reducing side setbacks.

Samir suggested defining the effective lot width to avoid side setbacks.

Planner Propst indicated that they could create a cutoff point for lots less than 50 feet to allow a five-foot setback and it would apply for all shaped lots.

Community Development Senior Planner Jason Smalley was not opposed to the idea. He questioned how they would limit stairs and pool equipment from propagating in side yards and affecting stormwater. He recommended elevating electrical and mechanical equipment in those areas to keep stormwater swales clear. He indicated that nothing in the code prevented people from returning after the fact to fill in the compensating area in LPA Member Vanasse's design. He added that the compensating area was in a 200 to 300-square-foot range and staff would have to track those lots in the future. LPA Member Vanasse responded that his intent was for principal structures and custom homes had to follow the existing rules.

Chair Cereceda summarized that the proposed code language would be LPA Member Vanasse's Sec. 34-269, the intent of the additional space was meant to be open, the effective lot width of less than 50 feet could go to five feet and apply to any shape and specifically state that there would be no encroachment into the five feet.

LPA Member Vanasse moved to approve the proposed language he provided with a clean diagram inserted for the front and rear setback measurements for parallelogram lots and no action today on the side setbacks; second by LPA Member Sudduth.

Chair Cereceda suggested that Planner Propst add language for lots less than 50 feet and send it directly to the Town Council. LPA Member Eckmann brought up roofs encroaching.

LPA Member Vanasse amended his motion to remove any mention of the side setbacks and address it in a separate motion; second by LPA Member Sudduth.

Motion carried unanimously.

LPA Member Vanasse moved for staff to create a definition of effective width and create language where lots less than 50 feet from an effective width standpoint, be changed to a five-foot setback and specifically state that there are no encroachments for mechanicals, porches, etc. and staff could take it directly to Town Council; second by LPA Member Sudduth.

Motion carried unanimously.

**B. Discussion regarding setbacks for houses in primarily nonresidential districts
Provide input regarding setbacks on residential uses in nonresidential districts.**

Planner Propst noted that residential structures could be built in any zoning district. She utilized PowerPoint to display Residential Setbacks in Commercial Districts and Two Options to Consider. She requested feedback.

LPA Member Vanasse asked for examples and Planner Propst displayed a zoning map. She pulled up LEEPA (Lee County Property Appraiser) to show lots on Ave. E. LPA Member Vanasse questioned whether there were residential lots on Estero Blvd. and supported having single-family homes consistent with commercial zoning on Estero. He also supported the build-to line on Second and Third. Chair Cereceda agreed and suggested giving the allowance of conventional residential with the option of both to those on the beach side off of Estero and all LPA members agreed.

No public comment.

Planner Propst will bring back language for the next meeting.

VIII. ADMINISTRATIVE AGENDA

No items.

IX. LPA MEMBERS ITEMS/REPORTS

LPA Member Safford met with hotel developers and staff and the issues discussed were parking and height restrictions, setbacks and FAR. Back-up parking was not allowed and if they allowed an extra story, several people could build back. One proposal regarding setbacks was to use the ratio of the building as compared to

the lot. He noted that it was almost impossible for small businesses to get close to a FAR (Floor Area Ratio). LPA Member Vanasse mentioned being flexible regarding calculating FAR to exclude parking under buildings. LPA Member Safford indicated that, in his case, he had nothing to give back if he wanted something. Chair Cereceda did not like the discussion of getting something for giving back something. She felt the town should decide what they wanted to see and thought the clearest way forward for smaller lots was a CPD (Commercial Planned Development). LPA Member Safford would like to make the CPD process easier and less expensive. Planner Propst agreed that a CPD was the easiest way if the FAR could work. LPA Member Vanasse brought up eliminating parking requirements for businesses and building a parking garage as Punta Gorda did. LPA Member Plummer discussed hotels offering a concierge service to and from the airport to help alleviate traffic. LPA Member Safford noted that another parking suggestion was to make some streets one-way to allow for angled parking. He indicated that the group would meet again to discuss solutions to issues.

LPA Member Plummer suggested that people rake their trash up and wash their trash cans. She mentioned using bungee cords to keep the lids secure to prevent raccoons from getting in the trash.

LPA Member Vanasse felt they should consider allowing people to request a different way to measure FAR by not including the parking. He suggested not counting parking under a building as a story; allowing architectural embellishments to be excluded from height calculations and looking at whether the architectural guidelines needed to be changed or updated.

Chair Cereceda suggested that the LPA discuss calculating from the base flood elevation (BFE) as opposed to parking as soon as possible since it affected many people. Planner Propst questioned whether there was an interest in adding an allowance for an additional story or to start counting the floors at base flood elevation, so if it is below base flood elevation it does not count for height or stories in commercial districts. LPA Member Vanasse addressed residential and was open to allowing additional storage but no increase in height. Chair Cereceda noted that she would not be in town in July and part of August.

No items from other members.

X. LPA ATTORNEY ITEMS/REPORTS

No items.

XI. COMMUNITY DEVELOPMENT ITEMS/REPORTS

Senior Planner Smalley indicated that many condo docks were destroyed or had to be repaired. He noted that the dock section in the code is geared toward single-family docks and lacked guidelines for multi-family docks. He could find out what existed before the hurricane, but the process in the code directed him to a development order, which was a long and expensive process, or a limited development order. He commented that most of the docks would be rebuilt under the direction of the US Army Corps of Engineers. LPA Member Eckmann described the process and which entities were involved with permits and rebuilding the docks. He noted that the town probably did not have the last word

on the docks.

XII. ITEMS FOR NEXT MONTHS AGENDA

Discussion about stories and parking per discussion by LPA Member Vanasse.

XIII. ADJOURNMENT

LPA Member Sudduth moved to adjourn; second by LPA Member Boan.
Motion carried unanimously.

The meeting was adjourned at 11:04 a.m.

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

Yellow Sheet Number: **2023-1049**

1. Requested Motion:

Meeting Date: May 9, 2023

Provide feedback regarding side setback amendments

Why the action is necessary:

This will ensure that the LPA is comfortable with the side setback decrease, considering the concerns of the Fire Department and Building Department.

What the action accomplishes:

The meeting will provide direction to staff.

2. Agenda:

PUBLIC COMMENT

3. Requirement/Purpose:

Ordinance if determined appropriate.

5. Background:

At the previous LPA meeting the LPA asked staff to recommend, to Council, a side setback decrease to 5 feet for lots less than 50 feet wide. To ensure no conflict, Staff contacted the Fire Department and the Building Department about the code modification for the narrower setback. The Fire Department stated it was important to ensure that adequate fire flow existed in these neighborhoods to protect the neighborhood in the instance of a fire. The Building Department was concerned that the allowed three-foot overhang would result in projections less than 40 inches from the property line, that are required to be fire rated. Due to these concerns, staff felt it was important to return this request to the LPA was still in support of this amendment.

Attachments:

1. Parallelogram lots memo
2. Ord No. 21-04 removing nonconforming lot min setbacks
3. Exhibit B Homebound Parallelogram Lot Proposal

Financial Impact:

unknown

6. Alternative Action

Provide input regarding the side setback amendment for narrower lots.

7. Staff Recommendations:

Provide feedback to staff regarding the previously requested setback amendment.

8. Recommended Approval:

Steve Poposki, Community Development Director

Date: May 01, 2023

John R Herin Jr, Town Attorney

Date: May 01, 2023

Amy Baker, Town Clerk

Date: May 04, 2023



**Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT**

To: LPA
From: Sarah Propst, Community Development
Date: May 9, 2023
Re: Parallelogram Lot Setbacks

BACKGROUND

The LPA asked that staff provide some options for quick fixes to codes, to resolve unnecessary conflicts. One item that was raised as an issue, at a previous LPA hearing, is reconstruction of homes on parallelogram lots. A code amendment was recommended to move forward to the Town Council for parallelogram lots. Along with the parallelogram lot ordinance, the LPA asked staff to recommend, to Council, a side setback decrease to 5 feet for lots less than 50 feet wide.

Staff contacted the Fire Department and the Building Department about the code modification for the narrower setback. The Fire Department stated it was important to ensure that adequate fire flow existed in these neighborhoods to protect the neighborhood in the instance of a fire. The Building Department was concerned that the allowed three-foot overhang would result in projections less than 40 inches from the property line, that are required to be fire rated.

Additionally, staff wanted to point out that at the previous meeting it was stated that in the past the code had allowed a five-foot side setback for lots less than 50 feet wide. For clarification, the prior version of the code had allowed nonconforming lots to have setbacks of five feet. This code impacted lots differently based on the zoning district they are in. For example, the RC zoning district minimum width is 45 feet, but the RS and RM zoning districts have a minimum width of 75 feet.

Due to these concerns, staff felt that it was important to return to the LPA with this information to ensure that the LPA was still in support of the request to decrease the side setbacks.

PROPOSED SOLUTIONS

There are many solutions to this issue, three are listed below.

The LPA can choose to continue with the simple request to decrease the side setback to five feet for lots less than 50 feet wide. It would be important for the Town to ensure that the neighborhoods all have adequate fire flow, as determined by the Fire Department. The Building Department would need to ensure that

FORT MYERS BEACH ESTERO ISLAND

P. 239-765-0202 | **F.** 239-765-0909 | 2525 Estero Boulevard, Fort Myers Beach, FL 33931



projections closer than 40 inches to the property line are fire rated.

To minimize this impact, the allowable encroachment for roof overhangs could be decreased to one foot for lots with five-foot setbacks. Other encroachments by equipment or stairs would not be allowed in the side yard.

Another option would be to allow the same roof overhang but to change the side setback to 6.5 feet for lots less than 50 feet wide. Encroachment by equipment or stairs would not be allowed in the side yard.

REQUESTED FEEDBACK

Please provide staff with your recommendation for side setbacks. You can choose from the staff proposed options above or make a different recommendation.

EXHIBITS

Exhibit A- Ordinance 21-04 amending the nonconforming lot language

Exhibit B- Homebound Parallelogram Lot Proposal

ORDINANCE 21-04

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING AN AMENDMENT TO TOWN OF FORT MYERS BEACH LAND DEVELOPMENT CODE, SECTION 34-268 ADMINISTRATIVE SETBACK VARIANCES AND SECTION 34-3273 GENERAL REQUIREMENTS FOR RESIDENTIAL USES ON NONCONFORMING LOTS; PROVIDING FOR SCRIVENER'S ERRORS AND 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 Council desires update the Fort Myers Beach Land Development Code to clarify, improve, and create consistency among sections; and

WHEREAS, the Town Council adopted Ordinance 20-19, Height and Setbacks, which amended multiple sections of the Land Development Code site development standards, including setbacks for residential structures that are occasionally repeated or duplicated in multiple section of the Code and require removal or amendments for consistency; and

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on April 13, 2021, 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 the requested amendment to Sec 34-3273 with an additional amendment to Sec 34-268 Administrative Setback Variances to add language more appropriate in Sec 34-3273, and

WHEREAS, on May 3, 2021 the Town Council held a first reading of the proposed Ordinance and gave full and complete consideration to the request of the proposed edits to the Land Development Code, the recommendation of the LPA, the recommendation of staff, the documents in the record, 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 May 17, 2021; at which time the Town Council gave full and complete consideration to the request, the recommendation of the LPA, the recommendation of staff, consistency with the Comprehensive Plan and Land Development Code, the documents in the record, and the testimony of all interested persons; and

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. Section 34-268 and Section 34-3273 of the Fort Myers Beach Land Development Code is hereby amended to read as follows:

CHAPTER 34 - ZONING DISTRICTS, DESIGN STANDARDS AND NONCONFORMITIES

Sec. 34-268. - Administrative setback variances.

(a) Upon written request using a form prepared by the director, the director is authorized to modify the setbacks in §§ 34-638, 34-1174—34-1176, and 34-1744 of this chapter under the following circumstances:

- (1) Street, rear, side, or waterbody setbacks may be modified to permit the remodeling of or additions to existing structures that are nonconforming with regard to a specific setback so long as the remodeling or addition will not result in:
 - a. An increase in the height of the structure; or
 - b. A further diminution of the setback. The director may approve bay windows, chimneys, and similar architectural features that may encroach further into the setback provided the encroachment does not protrude beyond the existing overhang of the building.
- (2) Street, rear, side, or waterbody setbacks may be modified to permit the construction of a handicapped access appurtenant to any existing structure.
- (3) Street, rear, side, or waterbody setbacks may be modified to allow the replacement of stairs or decking that provides access into an existing dwelling unit.
- (4) Street, rear, side, or waterbody setbacks may be modified to legitimize minor errors in setbacks at the time of construction.
- (5) Street, rear, or side setbacks may be modified for a residential lot with an unusual shape or orientation where, for instance, side and rear setbacks should be reversed.

- (6) Buildings or structures that are not in compliance with current setback regulations and which can be proven to have been permitted may also be reviewed by the director for consideration under this section.
- (7) Requirements for large satellite dishes may be modified as provided in § 34-1175(a)(6) of this chapter.
- (8) Certain nonconforming lots (see §34-3273) may qualify for an administrative setback variance.

(b) The director, prior to approving the modifications, must make the following findings of fact:

- (1) There are no apparent deleterious effects upon the adjoining property owners;
- (2) The modifications will not have an adverse impact on the public health, safety and welfare; and
- (3) The modifications will be the minimum required.

(c) Decisions by the director pursuant to this section are discretionary and may not be appealed in accordance with § 34-86 of this chapter.

Sec. 34-3273. - General requirements for residential uses on nonconforming lots.

Nonconforming lots may be developed subject to the following provisions:

- (1) All other regulations of this chapter shall be met, except as modified by this division.
- (2) A residential building may be placed on a single nonconforming lot provided the lot has at least 40 feet in width, 75 feet in depth, and 4,000 square feet in area.
- (3) ~~Minimum residential setbacks on nonconforming lots shall be as follows:~~
 - a. ~~Street and waterbody setbacks shall be as set forth in the regulations for the applicable zoning district.~~
 - b. ~~Side setbacks shall be ten percent of lot width, or five feet, whichever is greater.~~

- e. ~~Rear setbacks shall be 25 percent of lot depth, or 20 feet, whichever is smaller.~~
- d. ~~Certain nonconforming lots may qualify for an administrative setback variance (see § 34-268 of this chapter).~~

(34) Any development on nonconforming lots must comply with all density restrictions of the Fort Myers Beach Comprehensive Plan.

- a. Density computations shall be in accordance with § 34-632 of this chapter.
- b. If density computations do not allow even one dwelling unit on a nonconforming lot, one single-family residence may still be permitted if a minimum-use determination is obtained in accordance with § 34-3274, below.

(45) No division of any nonconforming lot may be permitted which creates a lot with width, depth, or area below the minimum requirements stated in this chapter, except for combinations and redivisions in accordance with § 34-3275 of this chapter.

(56) The burden of proof for demonstrating that a lot is a nonconforming lot in accordance with this division, and lawfully existed at the specified date, shall be with the owner.

(67) The remaining lot after condemnation shall be treated in accordance with § 34-3206 of this chapter.

Section 3. Whenever the requirements or provisions of this Ordinance are in 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 4. 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 5. Any typographical errors that do not affect intent may be corrected with notice to and authorization of the Town Manager without further process.

Section 6. 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 Veach and seconded by Vice Mayor Hosafros, and upon being put to a roll call vote, the result was as follows:

Raymond P. Murphy, Mayor	aye
Rexann Hosafros, Vice Mayor	aye
Dan Allers, Council Member	aye
Jim Atterholt, Council Member	aye
Bill Veach, Council Member	aye

ADOPTED this 7th day of June, 2021 by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH

Raymond P. Murphy, 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 _____, 2021.



**HB PROPOSAL FOR SETBACK
AMENDMENTS ON FORT MYERS BEACH
PARALLELOGRAM LOTS**

Date: 02/07/2023
Updated: 03/13/2023

EXISTING PROBLEM

Parallelogram shaped lots are relatively common across Fort Myers Beach and are adversely affected by the existing zoning code. Relative to a rectangular lot with identical dimensions, the skewed shape reduces lot width as the angle of the parallelogram increases beyond 90. The current code stops the reduction of side setbacks by lot width at 50' ($50' \times 15\% = 7.5'$) with the 7.5' minimum side setback. With some lots having an effective width of 46.5' or less, their effective buildable area is brought down to 31.5' or less. Similarly, buildable depth is significantly reduced on these lots with current front and rear setbacks; as houses are typically constructed with rectangular footprints, there becomes an unusable triangle of space at both the front and the rear. Not only does this severely constrain what can be rebuilt on these, but it is also inconsistent with the streetscape of these lots prior to Hurricane Ian. Figure 1 below shows the “sawtooth” front building line of houses along Fairweather Lane.



Figure 1

SITES AFFECTED BY PARALLELOGRAM SHAPED LOTS

There are several streets across the island of Fort Myers Beach containing lots fitting into the parallelogram classification. The degree of hardship varies based on how far the obtuse angle is beyond 90 degrees. The lots below range from approximately 102-112 degrees with 112 degree angle lots having the most restricted buildable area. The higher degree angle lots not only constrain the effective lot width more, but also create less usable depth due to the extended “leftover” triangles within the buildable footprint beyond a typical rectangle. The proposed solution below accounts for the variability in angle by providing less relief to a lower degree angle lot and more relief for a higher degree angle lot. The affected streets we have documented are listed below but not necessarily limited to these locations:

- Miramar Street (32)
- Fairweather Lane (37)
- Voorhis Street (7)
- Eucalyptus Court (19)
- Madison Court (8)
- Estero Boulevard (between Voorhis St and Madison Ct)(4)
- Hercules Drive (18)
- Coconut Drive (23)

In total, we are estimating that 148 lots on these streets are affected by this lot shape.

PROPOSED SOLUTION

Figures 2-6 below show some of the more typical lot types we are seeing on these streets with existing setbacks (red), compared to a rectangular lot of the same dimensions (green), and overlaying our proposed changes (blue) to see how the buildable footprint is affected. These figures also provide insight into the variability of the relief based on the different degree angle lots typical of each street. A few notes while reviewing the visual aids:

- The equivalent rectangular lot (green) is intended to set a control or base standard for buildable footprint as zoning codes are typically designed to standard rectangular lots. The buildable footprint should be compared to both the existing (red) and proposed changes (blue) to understand how the hardships are alleviated and not giving too much leeway for these lots.
- When comparing the existing (red) and proposed (blue) overlaid diagrams, note that the buildable footprint area remains virtually unchanged and is simply reallocating the area to be more rectangular and constructable.

FRONT AND REAR SETBACKS

Due to the skewed shape of the lot (and in turn, buildable footprint), it is very difficult for a house to make use of the leftover triangles at both front and back beyond a standard rectangle. Our proposal is to maintain a 25' setback from the front property line and 20' setback from the rear property line but rotate the setback line at its midpoint so it is perpendicular to the side property lines. The resulting buildable footprint is rectangular in shape, maintains the same buildable area on the lot, and mimics the existing "sawtooth" pattern of the streetscape where these parallelogram lots exist (see Figure 1).

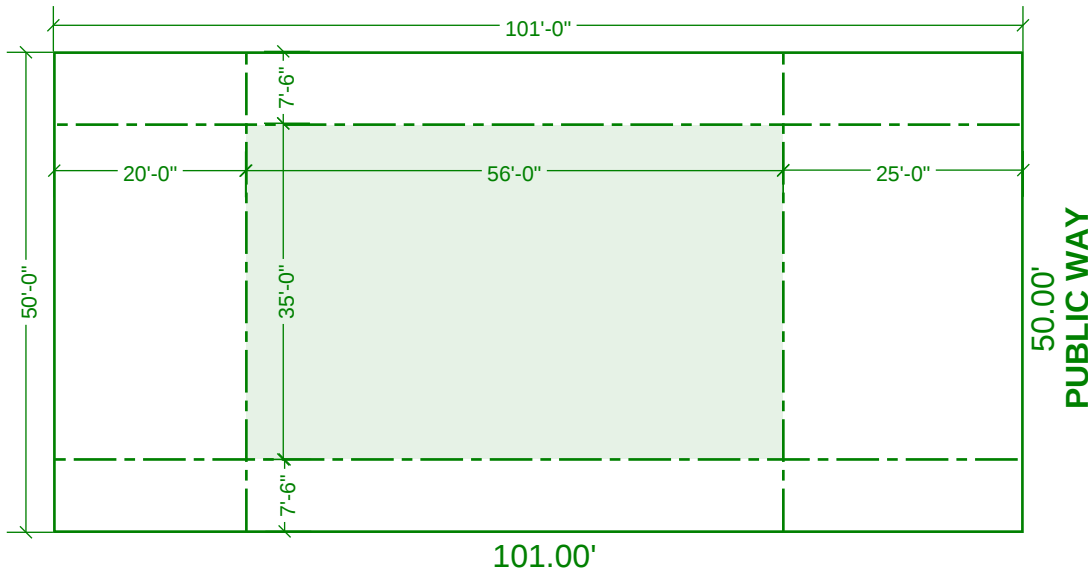
SIDE SETBACKS

Option A – The typical rules on side setbacks assumes minimum lot widths of 50' at which 15% of 50' = 7.5' setbacks and allows for a 35' buildable width. However, the parallelogram lots have 50' frontage and varying functional widths depending on the angle of the lot at which the 7.5' minimum becomes a hardship and limits the possible building width. The side setback based on lot width should be adjusted in a way that does not adversely affect the smallest or most constrained lots. Reducing the minimum side setback for parallelogram lots from 7.5' to 6' allows for functional lot widths of as little as 40' at which they would still have a buildable width of 28' (as opposed to 25' with the 7.5' minimum).

Option B - After reviewing the initial proposal with Patrick Vanasse, he requested historical perspective with regards to the side yard setbacks for potential precedent of side setbacks of less than 7.5'. In our research, we discovered Ordinance 21-04 from 6/10/2021 amending Fort Myers Beach Land Development Code for both Administrative Setback Variances and General Requirements on Nonconforming Lots. There were previously modifications to setbacks for nonconforming lots under Section 34-3273 with a minimum footprint of 40' wide by 75' depth allowing a reduction of side setbacks to 10% of lot width or 5' minimum (whichever is greater). Ordinance 21-04 removed this relief in lieu of Section 34-268 for where Administrative Setback Variances were defined for lots with "an unusual shape or orientation"; this route likely made sense at the time to review on a case-by-case basis as fewer permits were going through the city and nonconforming lots were typically rarer.

As the majority of Fort Myers Beach residents are rebuilding post Hurricane Ian, it makes sense to revert back to incorporating modifications to setbacks for smaller nonconforming lots into the Land Development Code to aid in homeowners to start rebuilding quicker. With the reduction to 10% of lot width or 5' minimum side setbacks in mind for lots below 50' wide, I would also argue that lot width measurement should be redefined as the "effective lot width" based on dimension between side property lines along a line perpendicular to the side property line as all of these parallelogram lots have smaller effective widths than the current definition by the street frontage or along the street setback line (see appendix for existing lot width measurement definitions).

FIGURE 2
209 MIRAMAR STREET



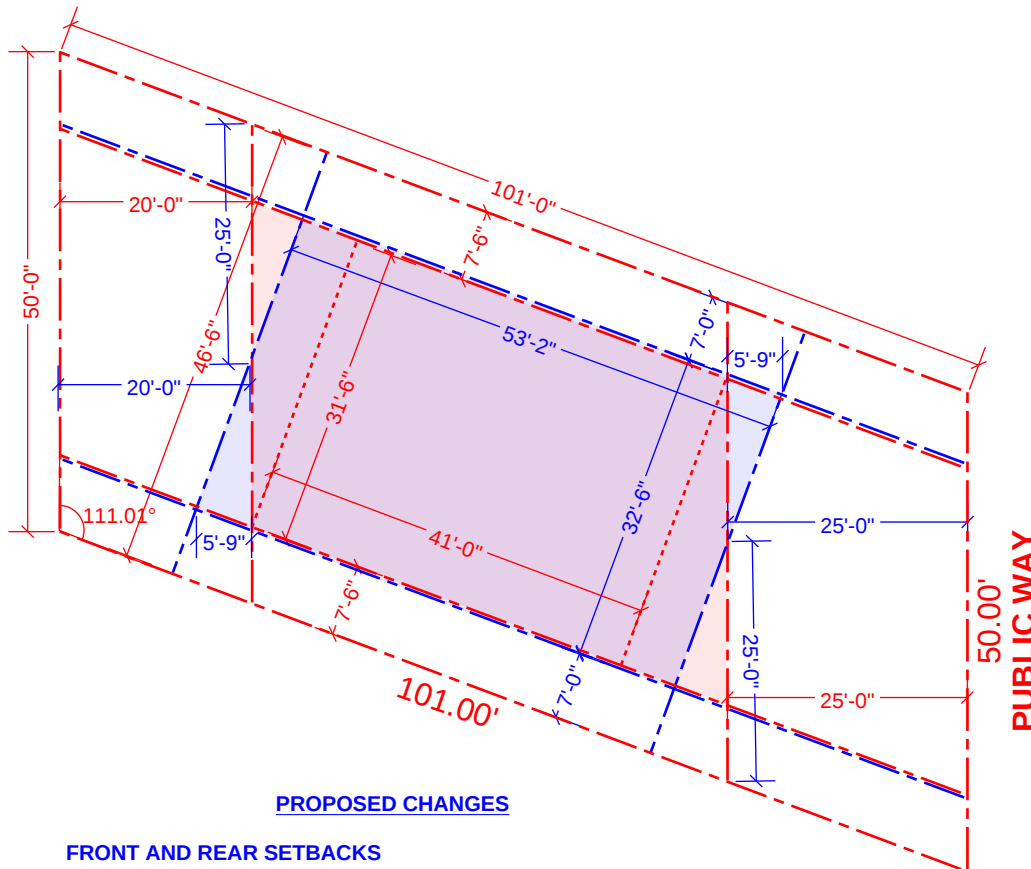
EXISTING RECTANGULAR LOT (50'W x 101'D)

FRONT SETBACK
25'

REAR SETBACK
20'

SIDE SETBACK
15% LOT WIDTH
OR 7.5' MIN.

BUILDABLE FOOTPRINT
35'-0" WIDE
56'-0" DEEP



EXISTING PARALLELOGRAM LOT (50'W x 101'D)

FRONT SETBACK
25'

REAR SETBACK
20'

SIDE SETBACK
15% LOT WIDTH
OR 7.5' MIN.

BUILDABLE FOOTPRINT
31'-6" WIDE
41'-0" DEEP

PROP. PARALLELOGRAM LOT (50'W x 101'D)

FRONT SETBACK
25' @ MIDPOINT OF LOT;
SETBACK LINE PERP. TO
SIDE PROPERTY LINES

REAR SETBACK
20' @ MIDPOINT OF LOT;
SETBACK LINE PERP. TO
SIDE PROPERTY LINES

SIDE SETBACK
15% LOT WIDTH
OR 6.0' MIN.

BUILDABLE FOOTPRINT
32'-6" WIDE (OPT. A)
36'-6" WIDE (OPT. B)
53'-2" DEEP

PROPOSED CHANGES

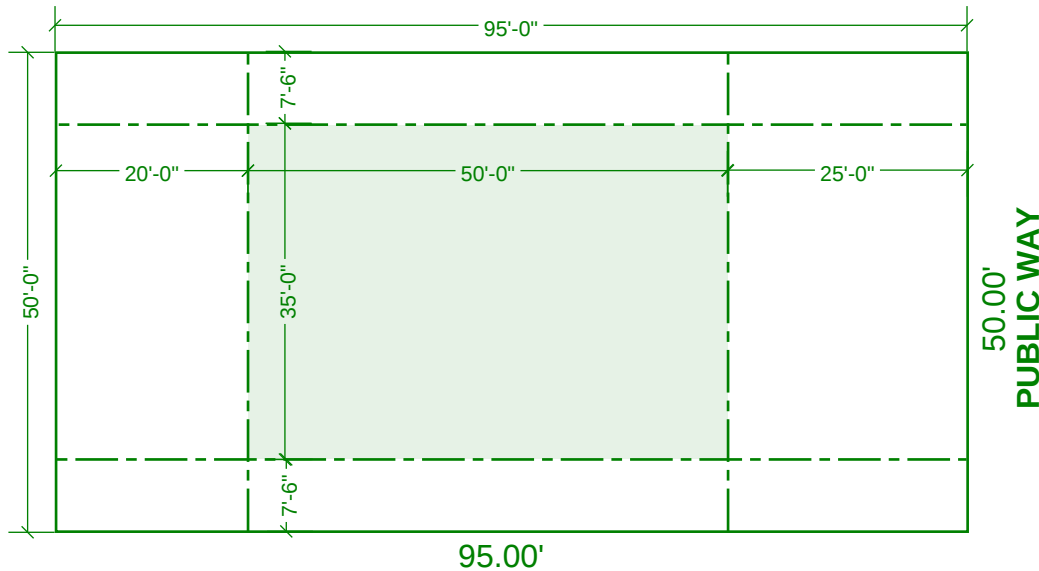
FRONT AND REAR SETBACKS

MEASURE 25' SETBACK; ROTATE LINE AT MIDPOINT PERPENDICULAR TO SIDE PROPERTY LINES TO EXTEND USABLE FOOTPRINT

SIDE SETBACKS

OPTION A - MAINTAIN 15% LOT WIDTH, BUT DECREASE MINIMUM TO 6'-0" MIN. SO BUILDABLE WIDTH NOT PUNISHED FOR SUB 50' LOT WIDTHS.
OPTION B - 10% LOT WIDTH, OR 5'-0", WHICHEVER IS GREATER.

FIGURE 3
223 FAIRWEATHER LANE



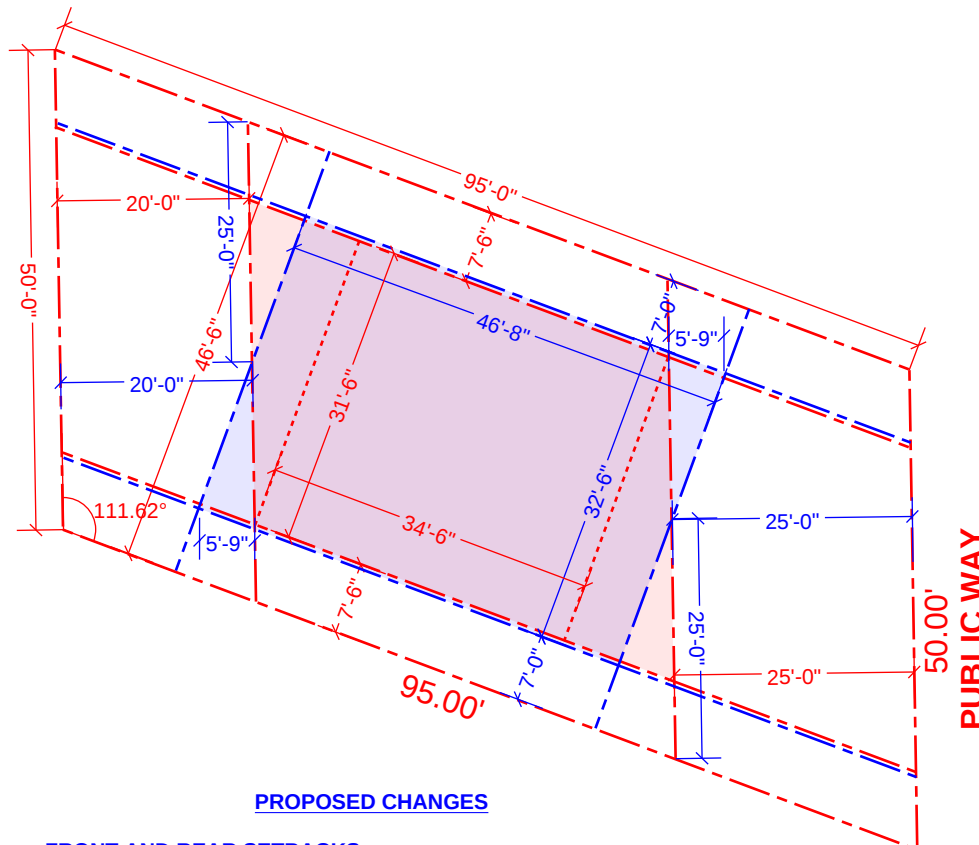
EXISTING RECTANGULAR LOT (50'W x 95'D)

FRONT SETBACK
25'

REAR SETBACK
20'

SIDE SETBACK
15% LOT WIDTH
OR 7.5' MIN.

BUILDABLE FOOTPRINT
35'-0" WIDE
50'-0" DEEP



EXISTING PARALLELOGRAM LOT (50'W x 95'D)

FRONT SETBACK
25'

REAR SETBACK
20'

SIDE SETBACK
15% LOT WIDTH
OR 7.5' MIN.

BUILDABLE FOOTPRINT
31'-6" WIDE
34'-6" DEEP

PROP. PARALLELOGRAM LOT (50'W x 95'D)

FRONT SETBACK
25' @ MIDPOINT OF LOT;
SETBACK LINE PERP. TO
SIDE PROPERTY LINES

REAR SETBACK
20' @ MIDPOINT OF LOT;
SETBACK LINE PERP. TO
SIDE PROPERTY LINES

SIDE SETBACK
15% LOT WIDTH
OR 6.0' MIN.

BUILDABLE FOOTPRINT
32'-6" WIDE (OPT. A)
36'-6" WIDE (OPT. B)
46'-8" DEEP

PROPOSED CHANGES

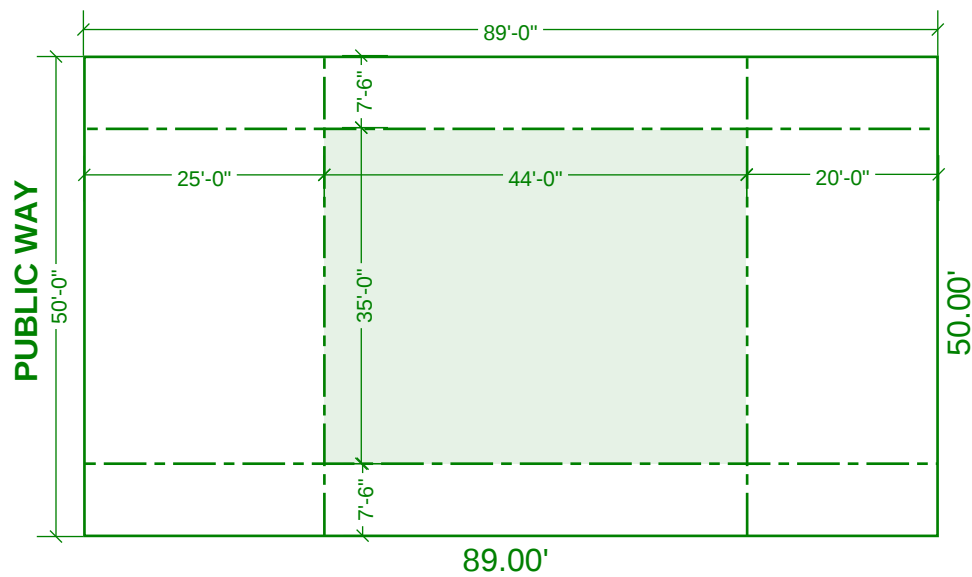
FRONT AND REAR SETBACKS

MEASURE 25' SETBACK; ROTATE LINE AT MIDPOINT PERPENDICULAR TO SIDE PROPERTY LINES TO EXTEND USABLE FOOTPRINT

SIDE SETBACKS

OPTION A - MAINTAIN 15% LOT WIDTH, BUT DECREASE MINIMUM TO 6'-0" MIN. SO BUILDABLE WIDTH NOT PUNISHED FOR SUB 50' LOT WIDTHS.
OPTION B - 10% LOT WIDTH, OR 5'-0", WHICHEVER IS GREATER.

FIGURE 4
270 FAIRWEATHER LANE



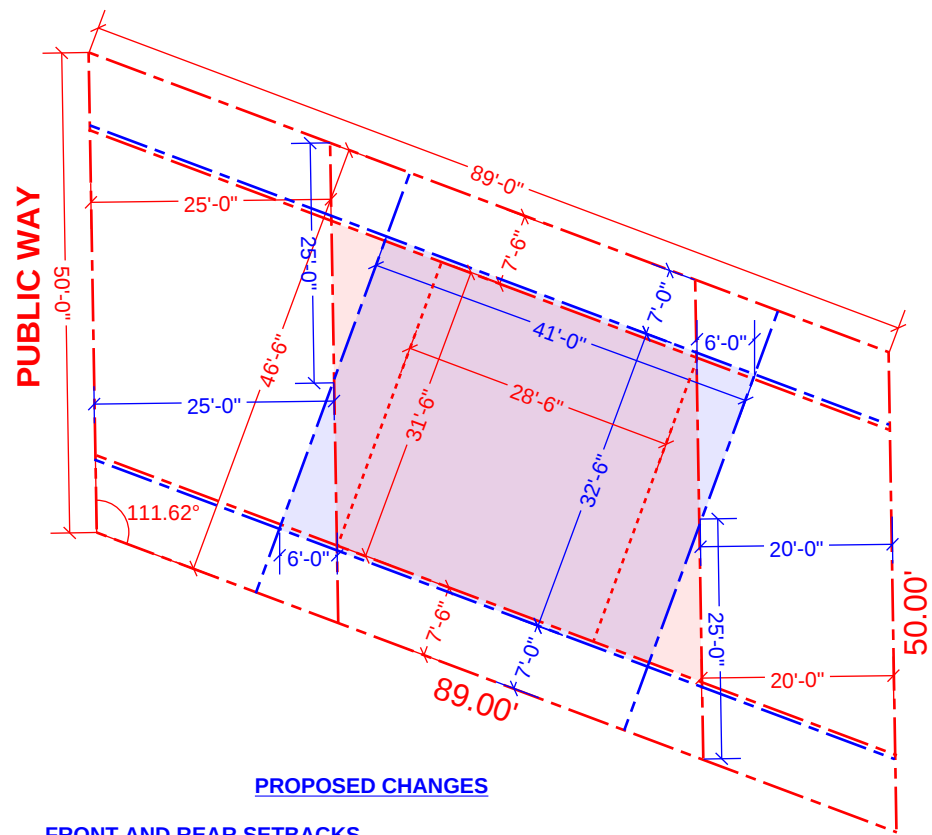
EXISTING RECTANGULAR LOT (50'W x 89'D)

FRONT SETBACK
25'

REAR SETBACK
20'

SIDE SETBACK
15% LOT WIDTH
OR 7.5' MIN.

BUILDABLE FOOTPRINT
35'-0" WIDE
44'-0" DEEP



EXISTING PARALLELOGRAM LOT (50'W x 89'D)

FRONT SETBACK
25'

REAR SETBACK
20'

SIDE SETBACK
15% LOT WIDTH
OR 7.5' MIN.

BUILDABLE FOOTPRINT
31'-6" WIDE
28'-6" DEEP

PROP. PARALLELOGRAM LOT (50'W x 89'D)

FRONT SETBACK
25' @ MIDPOINT OF LOT;
SETBACK LINE PERP. TO
SIDE PROPERTY LINES

REAR SETBACK
20' @ MIDPOINT OF LOT;
SETBACK LINE PERP. TO
SIDE PROPERTY LINES

SIDE SETBACK
15% LOT WIDTH
OR 6.0' MIN.

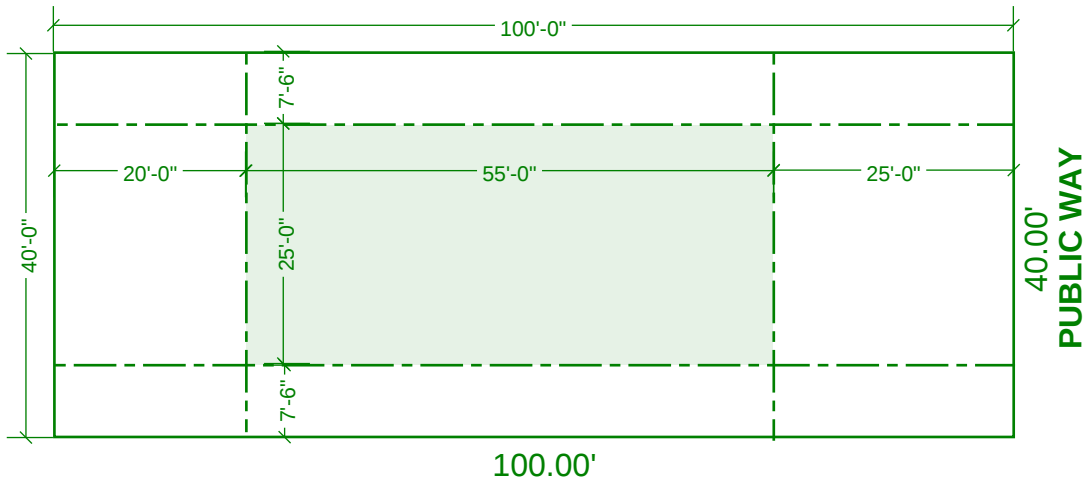
BUILDABLE FOOTPRINT
32'-6" WIDE (OPT. A)
36'-6" WIDE (OPT. B)
41'-0" DEEP

PROPOSED CHANGES

FRONT AND REAR SETBACKS
MEASURE 25' SETBACK; ROTATE LINE AT MIDPOINT
PERPENDICULAR TO SIDE PROPERTY LINES TO EXTEND
USABLE FOOTPRINT

SIDE SETBACKS
OPTION A - MAINTAIN 15% LOT WIDTH, BUT DECREASE
MINIMUM TO 6'-0" MIN. SO BUILDABLE WIDTH NOT
PUNISHED FOR SUB 50' LOT WIDTHS.
OPTION B - 10% LOT WIDTH, OR 5'-0", WHICHEVER IS
GREATER.

FIGURE 5
151 MADISON COURT



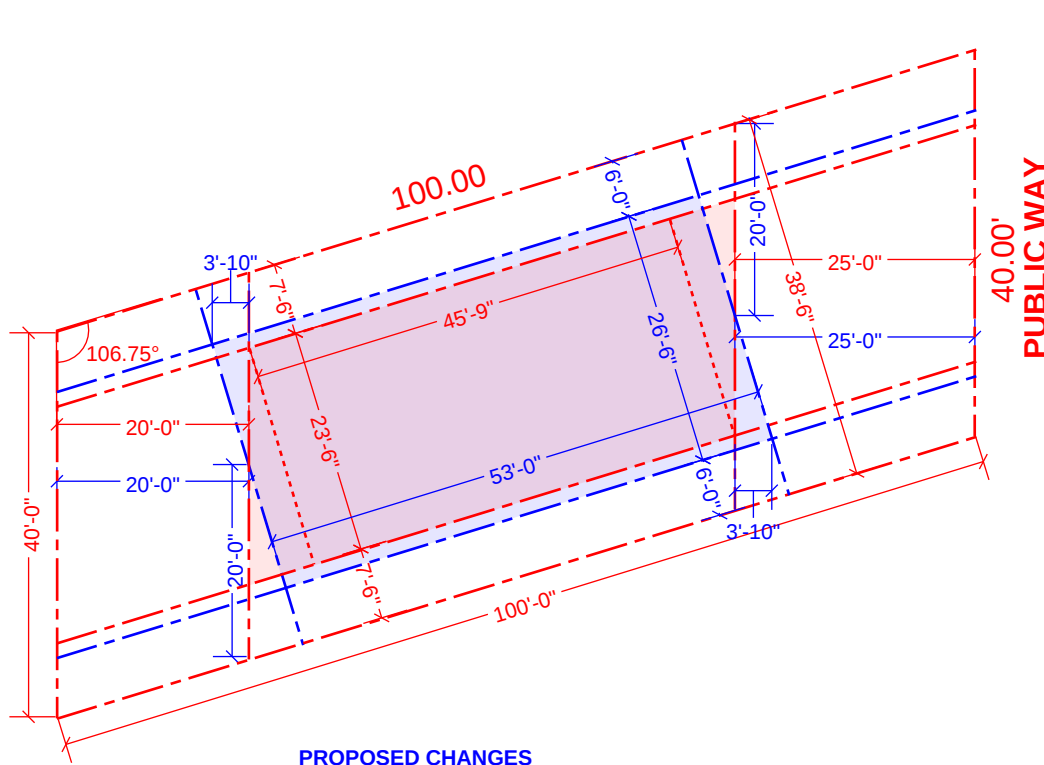
EXISTING RECTANGULAR LOT (40'W x 100'D)

FRONT SETBACK
25'

REAR SETBACK
20'

SIDE SETBACK
15% LOT WIDTH
OR 7.5' MIN.

BUILDABLE FOOTPRINT
25'-0" WIDE
55'-0" DEEP



EXISTING PARALLELOGRAM LOT (50'W x 101'D)

FRONT SETBACK
25'

REAR SETBACK
20'

SIDE SETBACK
15% LOT WIDTH
OR 7.5' MIN.

BUILDABLE FOOTPRINT
23'-6" WIDE
45'-9" DEEP

PROP. PARALLELOGRAM LOT (50'W x 101'D)

FRONT SETBACK
25' @ MIDPOINT OF LOT;
SETBACK LINE PERP. TO
SIDE PROPERTY LINES

REAR SETBACK
20' @ MIDPOINT OF LOT;
SETBACK LINE PERP. TO
SIDE PROPERTY LINES

SIDE SETBACK
15% LOT WIDTH
OR 6.0' MIN.

BUILDABLE FOOTPRINT
26'-6" WIDE (OPT. A)
28'-6" WIDE (OPT. B)
53'-0" DEEP

PROPOSED CHANGES

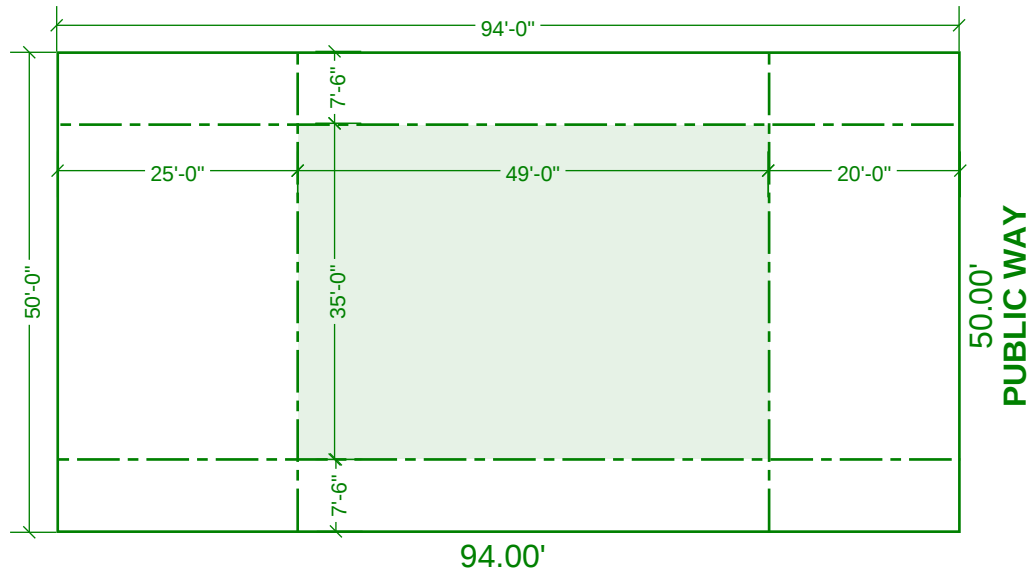
FRONT AND REAR SETBACKS

MEASURE 25' SETBACK; ROTATE LINE AT MIDPOINT
PERPENDICULAR TO SIDE PROPERTY LINES TO EXTEND
USABLE FOOTPRINT

SIDE SETBACKS

OPTION A - MAINTAIN 15% LOT WIDTH, BUT DECREASE
MINIMUM TO 6'-0" MIN. SO BUILDABLE WIDTH NOT
PUNISHED FOR SUB 50' LOT WIDTHS.
OPTION B - 10% LOT WIDTH, OR 5'-0", WHICHEVER IS
GREATER.

FIGURE 6
135 COCONUT DRIVE



EXISTING RECTANGULAR LOT (50'W x 94'D)

FRONT SETBACK

25'

REAR SETBACK

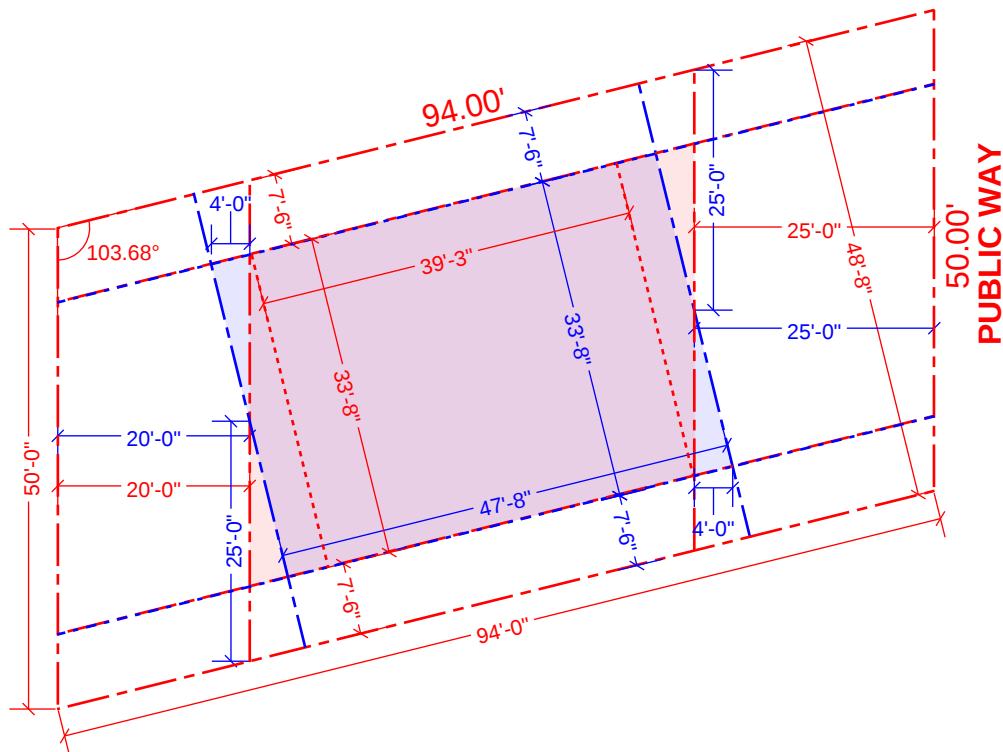
20'

SIDE SETBACK

15% LOT WIDTH
OR 7.5' MIN.

BUILDABLE FOOTPRINT

35'-0" WIDE
49'-0" DEEP



EXISTING PARALLELOGRAM LOT (50'W x 94'D)

FRONT SETBACK

25'

REAR SETBACK

20'

SIDE SETBACK

15% LOT WIDTH
OR 7.5' MIN.

BUILDABLE FOOTPRINT

33'-8" WIDE
39'-3" DEEP

PROPOSED CHANGES

FRONT AND REAR SETBACKS

MEASURE 25' SETBACK; ROTATE LINE AT MIDPOINT PERPENDICULAR TO SIDE PROPERTY LINES TO EXTEND USABLE FOOTPRINT

SIDE SETBACKS

OPTION A - MAINTAIN 15% LOT WIDTH, BUT DECREASE MINIMUM TO 6'-0" MIN. SO BUILDABLE WIDTH NOT PUNISHED FOR SUB 50' LOT WIDTHS.
OPTION B - 10% LOT WIDTH, OR 5'-0", WHICHEVER IS GREATER.

PROP. PARALLELOGRAM LOT (50'W x 94'D)

FRONT SETBACK

25' @ MIDPOINT OF LOT;
SETBACK LINE PERP. TO
SIDE PROPERTY LINES

REAR SETBACK

20' @ MIDPOINT OF LOT;
SETBACK LINE PERP. TO
SIDE PROPERTY LINES

SIDE SETBACK

15% LOT WIDTH
OR 6.0' MIN.

BUILDABLE FOOTPRINT

33'-8" WIDE (OPT. A)
38'-8" WIDE (OPT. B)
47'-8" DEEP

APPENDIX

Lot Width Measurement Definition

1. Per Section 34-2 Definitions, Lot measurement, width.

- For lots lawfully created prior to January 28, 1983, width of a lot shall be considered to be the average distance between straight lines connecting front and rear lot lines at each side of the lot, measured as straight lines between the foremost points of the side lot lines in front (where they intersect with the street line) and the rearmost points of the side lot lines in the rear.
- For lots lawfully created after January 28, 1983, width of a lot shall be considered to be the distance between the side lot lines (or a front and side lot line for corner lots) as measured along the minimum required street setback line. See § 34-637(c) of this chapter for exceptions.

2. Per Section 34-638 Minimum Setbacks, Lot width is measured from the property line adjacent to the right-of-way. Where the property is a corner lot, the front will be the side of the property that is deemed the front based on the setbacks (in relation to where the front setback, rear setback, and side setbacks are applied).

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

Yellow Sheet Number: **2023-1018**

1. **Requested Motion:**

Meeting Date: May 9, 2023

Provide input regarding setbacks on residential uses in nonresidential districts.

Why the action is necessary:

The LPA must make recommendations on ordinances to the Town Council.

What the action accomplishes:

A recommendation to the Council will move the ordinance amendment forward to Town Council.

2. **Agenda:**

PUBLIC HEARINGS

3. **Requirement/Purpose:**

This will become an ordinance.

5. **Background:**

Residential single-family and two-family homes are permitted in the Downtown, Santini, Commercial Boulevard and Commercial Resort zoning districts. These district dimensional regulations were created, primarily, with commercial developments in mind. The Downtown zoning district contains many residential properties and the LPA asked that the code be amended to allow flexibility for the setbacks of these properties.

Attachments:

1. Commercial vs Residential Setbacks LPA 2
2. Exhibit A Downtown_Zoning_District

Financial Impact:

unknown

6. **Alternative Action**

Recommend changes to the proposed language.

7. **Staff Recommendations:**

Recommend approval of the code language to Town Council

8. **Recommended Approval:**

Steve Poposki, Community Development Director

Date: April 24, 2023

John R Herin Jr, Town Attorney

Date: April 26, 2023

Amy Baker, Town Clerk

Date: May 04, 2023



**Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT**

To: Town Council
From: Sarah Propst, Community Development
Date: May 9, 2023
Re: Setbacks for Houses in Primarily Non-Residential Districts

BACKGROUND

At the April 11th LPA meeting the LPA provided feedback regarding residential construction in commercial districts. Currently, residential single-family and two-family homes are permitted in the Downtown, Santini, Commercial Boulevard and Commercial Resort zoning districts. These district dimensional regulations were created, primarily, with commercial developments in mind. The Downtown, Santini and Commercial Boulevard districts all have build-to lines, which require that a structure is built between 0 and 10 feet from the adjacent rights of way. The Commercial Resort district allows a 10-foot front setback and requires a 20-foot side setback.

The Downtown district has quite a few single family and two family properties, primarily along the secondary streets on the beach side. The LPA felt that it was important to provide flexibility to design these homes in the way that made the most sense for each property. Some properties may be able to build to the street and others may need to set the house back further, to develop the property.

PROPOSED SOLUTIONS

Staff proposes to amend the Downtown Zoning district language to allow a build-to line between 0 and 25 feet, and a side setback of 7.5 feet for single family and two-family residential structures, on secondary streets on the beach side of Estero Boulevard. This gives owners the flexibility to build anywhere between the right of way property line and the typical single-family setback, found in the RS and RC zoning districts an implements the standard side setback to allow visibility of the beach.

The proposed language is attached as Exhibit A.

REQUEST

Provide staff feedback regarding this approach. Recommend approval to the Town Council.

FORT MYERS BEACH ESTERO ISLAND

P. 239-765-0202 | **F.** 239-765-0909 | 2525 Estero Boulevard, Fort Myers Beach, FL 33931

Subdivision II. - Downtown Zoning District

Sec. 34-671. - Purpose.

The purpose of the Downtown district is create the desired quality and character for the center of pedestrian-oriented commercial activities within the town. New commercial buildings are expected to accommodate pedestrians by providing storefronts near sidewalks and by offering shade and shelter along major streets. Old San Carlos Boulevard will serve as the town's "Main Street" and will be anchored by pedestrian plazas at each end.

Sec. 34-672. - District map and applicability.

- (a) The area indicated on Figure 34-7 is the outer perimeter of the Downtown district. Properties that have been zoned into a planned development (PD) district are governed by the terms of the PD zoning resolution rather than the requirements of the Downtown district, even if the property is shown on Figure 34-7.
- (b) Streets have been categorized into primary streets, secondary streets, and pedestrian plazas to guide the regulations for properties fronting each type of street.

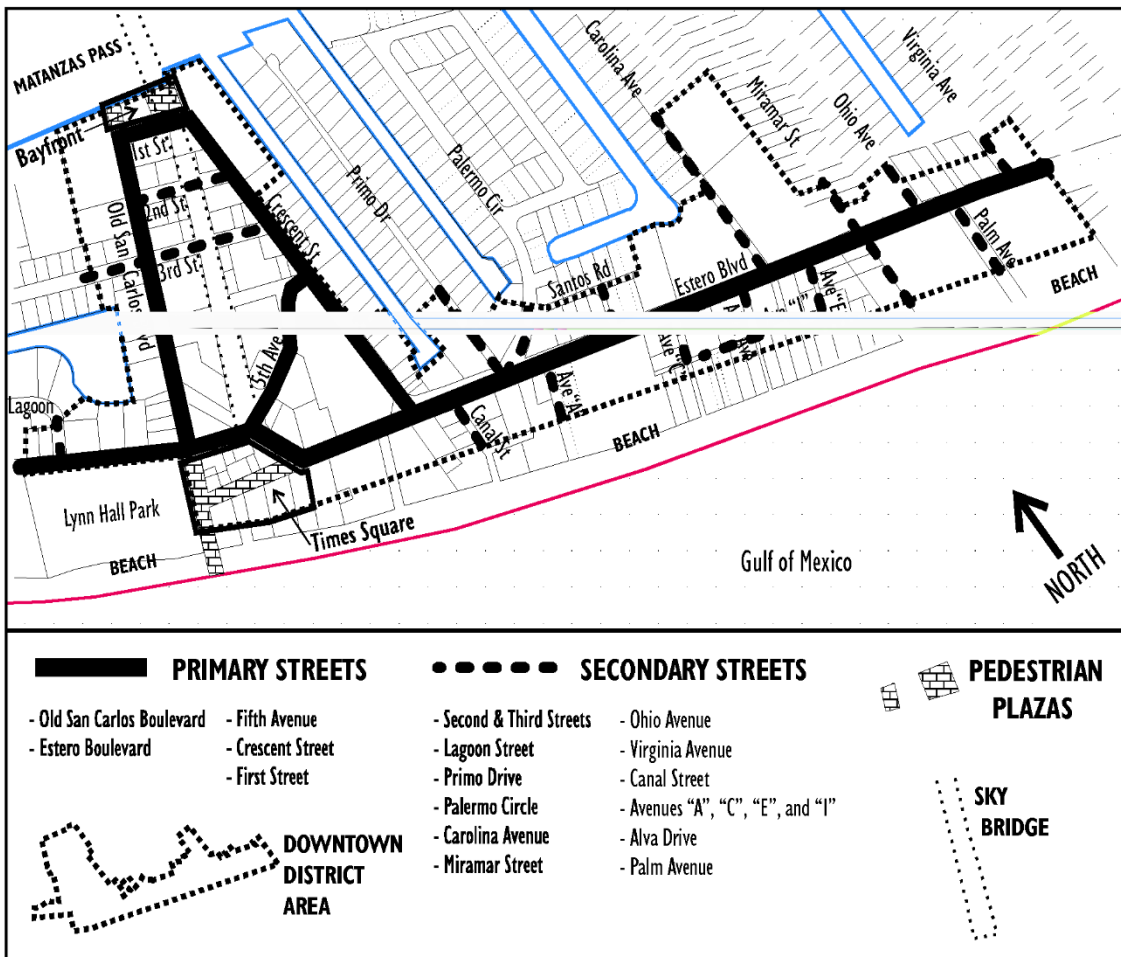


Figure 34-7

Sec. 34-673. - Allowable uses.

In the Downtown district, allowable uses are defined in Table 34-2, § 34-676(f), and § 34-678 of this LDC.

Sec. 34-674. - Building placement.

(a) *Build-to lines established.* Build-to lines (see § 34-662 of this chapter) vary according to the streets and street types designated on Figure 34-7.

(1) Build-to lines for all streets are five feet to ten feet from front property lines, except:

- a. Build-to lines are 0 feet for Old San Carlos Boulevard, all properties facing the Times Square and Bayfront pedestrian plazas, and Estero Boulevard west of the Sky Bridge.
- b. Built-to lines are 0 to five feet for all of First, Second, Third, and Fifth, and the south side of Estero Boulevard from the Sky Bridge to Miramar Street.

c. Build to lines are 0-25 feet for single family and two family residential construction on secondary streets on the beach side of Estero Blvd.

(2) The adjustments to build-to lines to maintain visibility that are required by § 34-662(b)(4) of this chapter do not apply:

- a. To building fronts facing the Times Square or Bayfront pedestrian plazas; or
- b. To building fronts along Old San Carlos Boulevard, where wide sidewalks and on-street parking lanes will allow the necessary visibility.

(3) Awnings, canopies, and marquees over sidewalks and pedestrian walkways are encouraged by the commercial design standards (§§ 34-991—34-1010 of this chapter) and are required along Old San Carlos Boulevard.

(4) Enclosed habitable space may also be allowed over a public right-of-way if located over an arcade or colonnade that shades a public sidewalk (see § 34-995(e)(6) of this chapter), provided that specific permission is granted by the Town of Fort Myers Beach.

(b) *Setback lines established.* Setback lines (see § 34-662 of this chapter) are established as follows:

(1) *For principal buildings:*

a. Minimum rear setbacks are 25 feet from rear property lines, except as follows:

1. In Times Square, as defined on Figure 34-6, the minimum rear setback is ten feet.
2. In areas where parking garages could be built, as defined on Figure 34-8, buildings shall be placed so as not to preclude future parking garages from being built on the interiors of these blocks. Along Old San Carlos Boulevard blocks with potential parking garages, this requirement means that principal buildings shall not extend further to the rear of lots than 50 feet back from the right-of-way for Old San Carlos Boulevard.

b. Minimum side setbacks are five feet from side property lines, except: ~~Minimum side setbacks are five feet from side property lines, except they~~

1. For properties fronting on Old San Carlos, Estero Boulevard, and in Times Square they may be 0 feet for properties fronting on Old San Carlos, Estero Boulevard, and in Times Square.
2. For single family and two family residential construction on secondary streets on the beach side of Estero Boulevard, side setbacks are 7.5 feet.

c. Minimum setbacks from waterbodies are set forth in § 34-638(d)(3) of this chapter.

d. Minimum setbacks along those portions of properties abutting the town-owned parking lot between Old Carlos Boulevard and the Sky Bridge that had been platted as "Center Street" in Plat Book 9, Page 9 shall be the same as if those properties abutted any other private property.

- (2) For accessory structures, minimum setbacks are set forth in §§ 34-1171—34-1176.

Sec. 34-675. - Building size.

- (a) *Building frontage.* Building frontage limits (see § 34-663 of this chapter) vary according to the street types designated on Figure 34-7:
- (1) For pedestrian plazas and primary streets except for Crescent Street and for Fifth Avenue east of the Sky Bridge, building frontages shall be at least 70 percent of the lot frontage.
 - (2) For all other streets, building frontages shall be at least 35 percent of the lot frontage.
 - (3) For multiple adjoining lots under single control, or for a single lot with multiple buildings, the percentages above apply to the combination of lot(s) and building(s).
 - (4) *Exception for properties between Estero Boulevard and the Gulf:* The required building frontage percentage may be reduced to 35 percent for properties between Estero Boulevard and the Gulf of Mexico provided that the open space thus created allows open views to the Gulf of Mexico.
- (b) *Building height.* Building heights (see § 34-631 of this chapter) shall be limited to:
- (1) For properties that front on the following streets, a maximum of 30 feet above base flood elevation and no taller than two stories:
 - a. Times Square and Bayfront pedestrian plazas (see Figure 34-7);
 - b. North side of First Street;
 - c. South side of Estero Boulevard between Old San Carlos Boulevard and the main pedestrian crossing;
 - d. Carolina Avenue.
 - (2) For properties that front on the following streets, a maximum of 30 feet above base flood elevation and no taller than two stories, except that an elevated building without enclosed space on the first story may be three stories tall (but still limited to 30 feet above base flood elevation):
 - a. Lagoon Street;
 - b. Crescent Street;
 - c. First, Second, Third, and Fifth (east of the Sky Bridge only);
 - d. North side of Estero Boulevard west of Old San Carlos Boulevard and east of Crescent Street;
 - e. Primo Drive;
 - f. Palermo Circle;
 - g. Miramar Street, north of Estero;
 - h. Ohio Avenue;
 - i. Virginia Avenue.
 - (3) For properties that front on the following streets, a maximum of 40 feet above base flood elevation and no taller than three stories:
 - a. Old San Carlos Boulevard between Fifth and First Streets;
 - b. South side of First and both sides of Second and Third (west of the Sky Bridge only);
 - c. South side of Estero Boulevard east of the main pedestrian crossing;
 - d. Canal Street;
 - e. Avenues A, C, E, and I;

- f. Alva Drive;
 - g. Miramar Street, south of Estero;
 - h. Palm Avenue.
- (c) *Floor area ratio (FAR)*. Floor area ratios (see § 34-633 of this chapter) shall not exceed:
- (1) 1.8 for properties fronting on Old San Carlos between Fifth and First Streets and fronting on the Times Square pedestrian plaza (see Figure 34-7).
 - (2) 1.4 for properties fronting on Estero Boulevard and fronting on the Bayfront pedestrian plazas.
 - (3) 1.0 for all other properties in the Downtown district.
- (d) *Hotel rooms*.
- (1) Along both sides of Old San Carlos Boulevard (properties between Fifth and First Streets that lie within 200 feet east and west of the centerline of Old San Carlos only), a property owner may substitute hotel rooms for allowable office space on upper floors without the limitations otherwise provided by the hotel-room equivalency factor found in § 34-1802 of this chapter. However, these hotel rooms must have at least 250 square feet per rentable unit.
 - (2) In all other properties in the Downtown district, the number of hotel rooms are limited by the hotel-room equivalency factor found in § 34-1802 of this chapter.

Sec. 34-676. - Circulation and parking.

- (a) *Off-street parking reductions*. The Downtown district is planned as a "park-once" district, with preference given to pedestrian movement within the district. On-street parking will be provided by the town along Old San Carlos Boulevard and other public parking is available under the Sky Bridge. For these reasons, substantial reductions are allowed to the normal off-street parking requirements found in § 34-2020 of this chapter. The follow percentages shall be multiplied by the number of off-street parking spaces normally required by § 34-2020 of this chapter to determine the adjusted off-street parking requirements along various streets in the Downtown district:
- (1) Old San Carlos Boulevard, multiply by 50 percent.
 - (2) Bayfront pedestrian plazas (see Figure 34-7), multiply by 50 percent. No parking spaces may be provided in the Bayfront pedestrian plaza, but the required spaces must be located within 750 feet in single-purpose, shared, or joint-use parking lots (see division 26 of this chapter).
 - (3) Times Square pedestrian plazas (see Figure 34-7), multiply by 0 percent.
 - (4) All other streets in the Downtown district, and all land on Crescent Street regardless of zoning district, multiply by 67 percent.
- (b) *Parking lot locations*. Off-street parking lots shall be placed in rear yards (see Figure 34-5).
- (1) Off-street parking lots are not permitted in front yards or side yards, except they may be placed in the side yards of buildings on properties that front the beach side of Estero Boulevard if the unbuilt area thus created allows open views to the Gulf of Mexico.
 - (2) Off-street parking may be provided under commercial or mixed-use buildings along Old San Carlos Boulevard, provided that all under-building parking spaces are separated from sidewalks by usable commercial space at least 20 feet deep that meets all commercial building design guidelines in §§ 34-991—34-1010 of this chapter. Off-street parking may be provided under commercial or mixed-use buildings at other locations in accordance with § 34-992(c) of this chapter.
- (c) *Parking lot interconnections*. Rear-yard parking lots on properties fronting along Old San Carlos Boulevard shall be interconnected to eliminate or minimize driveways to Old San Carlos Boulevard.

- (1) To ensure the effective use of these connections, the first to develop shall be required to make an irrevocable offer of cross-access to the adjacent parcel (prior to issuance of a development order), and must design and build the parking lot to accommodate cross-access.
 - (2) When adjacent owners seek development orders, they will also be required to reciprocate with a similar cross-access agreements and then must complete the physical connection.
 - (3) Individual property owners shall control all rights to the use of their own parking spaces, but may choose to allow wider use of these spaces for a fee of their choosing or through reciprocal arrangements with other parties.
- (d) *Driveway connections.*
- (1) *Properties fronting on Estero Boulevard.* Existing driveways and parking spaces shall be relocated from Estero Boulevard to secondary streets, and new driveways shall connect only to secondary streets, except where these requirements would prohibit all reasonable access to a property.
 - (2) *Properties fronting on other primary streets.*
 - a. For properties fronting primary streets other than Estero Boulevard, driveways should be connected to secondary streets whenever possible.
 - b. When a driveway onto a primary street is unavoidable, the driveway shall be shared with an adjoining property if that property also has access only to that primary street. Otherwise, the driveway shall be spaced as far as practical from other driveways or intersections.
 - (3) *Properties fronting only on secondary streets.* Driveways may be connected to secondary streets, existing easements, or alleys.
 - (4) *Properties adjoining pedestrian plazas.* Driveways and other vehicular access shall not be provided from pedestrian plazas.
- (e) *Parking garages.* The town has identified three potential locations for mid-block parking garages through its Old San Carlos Boulevard/Crescent Street Master Plan.
- (1) Each potential location is indicated in black on Figure 34-8. Construction of these parking garages is not required by this code, but the regulations for the Downtown district are designed to place new buildings on these sites so that they will not block a parking garage from being built there in the future.

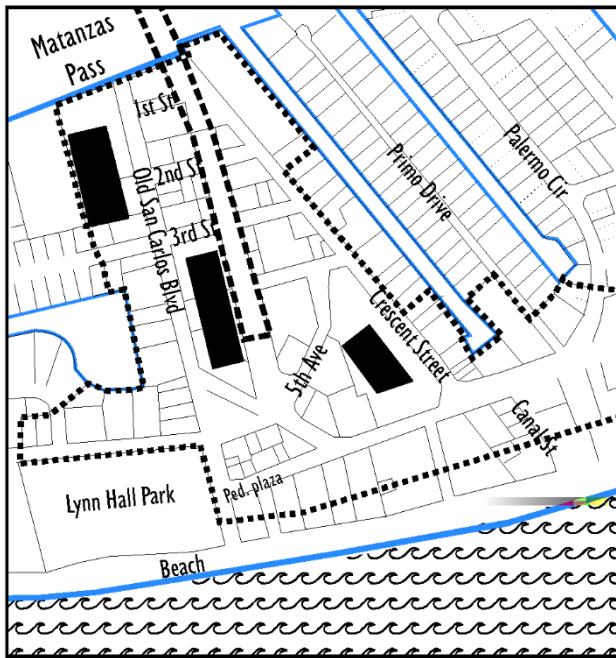
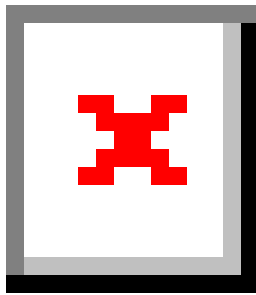


Figure 34-8

- (2) All levels of parking garages must be separated from primary streets and pedestrian plazas by a liner building that provides usable building space at least 20 feet deep (see Figure 34-9).
 - a. Liner buildings must be two stories or more in height and must be at least as tall as the parking garage.
 - b. Liner buildings may be detached from or attached to the parking garage.
 - c. Parking garages and their liner buildings are required to meet the commercial design standards (see §§ 34-991—34-1010 of this chapter).

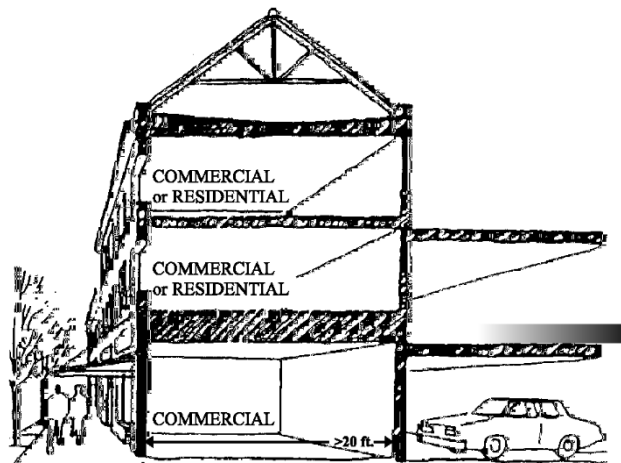
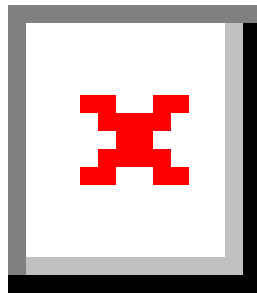


Figure 34-9

- (3) Access to a parking garage may be provided as follows:
 - a. Access to a secondary street or road easement is preferred.
 - b. Access to a primary street is not permitted except in unusual circumstances where no other access is feasible and when approved as a variance or deviation to this code.
 - c. Access may not be provided across a pedestrian plaza.
- (4) Parking garages can be approved only by rezoning to the Commercial Planned Development zoning district.
- (f) *Drive-through lanes.* Drive-through lanes are generally not allowed in the Downtown district because traffic generated by drive-through lanes harms a pedestrian environment. The only exception to this rule is that Type 1 drive-throughs (see definition in § 34-2 of this LDC) may be approved by special exception on the north side of Estero Boulevard east of Palermo Circle. In this situation, the number of drive-through lanes is limited to two lanes, and they shall not be accessed directly, for either entrance or exit, from a separate driveway on Estero Boulevard; they may be accessed from any of the secondary streets or from a shared driveway on Estero Boulevard.

Sec. 34-677. - Additional requirements.

- (a) *Commercial design standards.* The commercial design standards (§§ 34-991—34-1010 of this chapter) shall apply to all commercial and mixed-use buildings, or portions thereof, that are being newly built, and to "substantial improvements" to such buildings as defined in § 6-405 of this LDC.
- (b) *Open space and buffers.* There are no minimum open space and buffer requirements in the Downtown district comparable to the standards found in ch. 10 of this LDC, except in three instances:
 - (1) Portions of properties that lie east of Palermo Circle and more than 300 feet beyond the north edge of the Estero Boulevard right-of-way shall retain 50 percent of that portion as open space. This open space may be a stabilized sodded area useable for overflow parking.
 - (2) Residential buffers are required between commercial or mixed-use buildings and single-family residential lots for properties on the north side of Estero Boulevard east of Palermo Circle. These buffers shall be constructed in accordance with the buffer requirements of ch. 10 of this code.
 - (3) Buffers are required between any off-street parking lot and a public street in accordance with the buffer requirements of ch. 10 of this code.
- (c) *Core area overlay district.* An optional core area overlay district was adopted by the town by Ordinance No. 96-20. That district was replaced with the Downtown zoning district by Ordinance No. 03-03. Landowners who chose to be governed by the core area overlay district agreed in writing to be bound by its provisions for ten years. Compliance with this code, including all requirements of the Downtown zoning district, is deemed by the town as satisfying those agreements. However, all provisions of those agreements relating to off-site parking remain in full effect.

Sec. 34-678. - Outdoor display and sales of merchandise and food.

- (a) *Generally.* Merchandise, food, and beverages may be displayed or sold outdoors in the Downtown zoning district only in accordance with this section.
- (b) *Purpose.* The purpose of these regulations is to enhance the pedestrian environment of the town's business district through the creative use of outdoor spaces by providing businesses the opportunity to display a sample of their products and to sell food and beverages in a manner that enhances the public realm, creates an interesting and comfortable shopping and dining district, and maintains and improves the town's sense of place and property values.
 - (1) Outdoor display of merchandise allows retailers an opportunity to inform and interest the public by offering a small sample of the products that are available inside. Outdoor display can also be appropriate for small retail products that are meant to be used outside, such as garden ornaments, windsocks and beach toys.
 - (2) Outdoor display of merchandise is not intended to expand retail space or to assist in liquidating clearance or discarded items. The principal purpose of outdoor display in the Downtown district is to enliven sidewalks and pedestrian plazas by promoting pedestrian-oriented businesses, not to expand businesses or provide locations for freestanding businesses or for mobile vendors (which are regulated in § 34-3002).
 - (3) Outdoor dining may be permitted between a restaurant and a street and is regulated by this section. The sale of alcoholic beverages outdoors is also regulated by state liquor laws and by § 34-1264 of this code.
 - (4) See separate regulations for temporary outdoor displays during special events at § 34-2441 et seq.
- (c) *Allowable locations for outdoor activities.* Table 34-4 summarizes the allowable locations for outdoor display of merchandise and outdoor dining in the Downtown zoning district.

Table 34-4—Outdoor Activities in the Downtown Zoning District

Location	PRIVATE PROPERTY (between store & street)	PUBLIC PROPERTY (Times Square Pedestrian Plaza & Old San Carlos)
----------	--	---

Display Type	On porch	On patio	see (g)
MERCHANDISE, as further limited by other provisions of § 34-678:			
Vending carts	no	no	no
Clothing racks - see (e)(1)	YES	no	no
Specialized displays - see (e)(2)	YES	no	no
Mannequins - see (e)(3)	YES	no	no
Tables/shelves - see (e)(4)	YES	YES	no
Freestanding displays - see (e)(5)	YES	no	no
DINING:			
Vending carts	no	no	no
Dining tables - see (e)(6)	YES	YES	YES

- (d) *Enclosed merchandise areas.* Enclosed merchandise areas are exempt from this section except for the requirement that all merchandise and materials must be removed from the adjacent accessory area into the conventional building within 12 hours of issuance of a tropical storm or hurricane watch that includes the Downtown district. Retail store and personal services uses (permitted uses in the Downtown district) are permitted in the enclosed merchandise area.
- (e) *Types of outdoor displays.*
- (1) *Clothing racks* are limited to one support rod up to six feet long on which clothing is hung. Similar displays whose principle function is for the display of clothing, swim wear, and other garments shall be considered a clothing rack. Clothing racks are often mounted on wheels.
 - (2) *Specialized display racks* are unique displays for a specific type of product. An example is a rack to hold beach toys or accessory items.
 - (3) *Freestanding mannequins* are used to display clothing or swim wear.
 - (4) *Tables or freestanding shelves* are limited to a two-foot by eight-foot area or a four-foot by four-foot area, and may not be more than three feet in height.
 - (5) *Freestanding product displays* can be used for products such as lawn and garden accessories or windsocks that are appropriately displayed on their own.
 - (6) *Dining tables* are used to serve food and beverages to the public.
- (f) *Private property; location, and types of outdoor displays and dining tables.* Retail businesses may sell their regular merchandise outdoors on private property between their stores and a street right-of-way only if the merchandise is placed on a raised porch (but not on a patio).

- (1) *Porches and patios.* Subsection (c) also indicates whether the outdoor display is permitted on a porch, patio, or either.
- (2) *Permitted merchandise and types of outdoor display.* The following types of merchandise may be displayed outdoors using the display types described in subsection (e):
 - a. Art;
 - b. Bathing suits and swim wear;
 - c. Beach accessories (umbrellas, chairs, etc.); rental of beach equipment on the beach is regulated in § 14-5 of this code;
 - d. Beach towels;
 - e. Beach toys, rafts and floats;
 - f. Clothing;
 - g. Clothing accessories (jewelry, purses, etc.);
 - h. Kites and windsocks;
 - i. Lawn and garden accessories;
 - j. Small retail items (souvenirs, suntan lotion, flowers, books, etc.).
- (3) *Personal services* including tattoos, temporary tattoos, hair braiding, and hair wrapping are not permitted outdoors.
- (4) *Additional rules for outdoor displays of merchandise.*
 - a. A retail store wishing to display merchandise outdoors in the Downtown zoning district must obtain a permit for this use (see subsection (f)(6)) in addition to meeting all other requirements of this code.
 - b. Merchandise that is displayed outdoors must be available for sale inside the store and the point of sale must be indoors.
 - c. All outdoor displays must be brought indoors during any hours that the business is not open.
 - d. Outdoor display may not be subleased to a separate business and is only allowed for the principal tenant of the building.
 - e. Outdoor displays may contain no business or product identification signage whatsoever, each display may have one four-inch by six-inch sign to display prices.
 - f. All outdoor displays must be non-motorized and movable by hand and may be no taller than ten feet.
 - g. Merchandise may not be attached to the building or to a railing unless incorporated into an approved type of outdoor display, such as a specialized display rack, mannequin, or freestanding product display (see subsection (e)).
- (5) *Outdoor dining.* A restaurant wishing to provide outdoor seating between the restaurant and a street must obtain a permit for this use (see subsection (f)(6)) in addition to meeting all other requirements of this code. The seating must be located on a porch or patio as defined in this subsection. The sale of alcoholic beverages outdoors is regulated by state liquor laws and by § 34-1264 of this code.
- (6) *Permit required.* A permit is required for each business wishing to display merchandise outdoors or to place outdoor seating in conformance with this section.
 - a. Permits may be issued for up to one year and shall expire each year on September 30.
 - b. Permit applications may be filed at any time using forms available from Town Hall. Applications should be accompanied by photographs or drawings that clearly indicate the

type, character, number, and size of outdoor displays or dining tables that are being proposed.

- c. Permits may be issued by the town manager. The town manager may also choose to refer an application to the town council for its consideration in lieu of administrative issuance or rejection.
 - d. Permits may include modifications to the standards in this section to better accomplish the purposes set forth in subsection (b). Other reasonable conditions may also be imposed regarding the layout and physical design of porches, patios, specialized display racks, shelves, tables, and umbrellas.
- (g) *Public property.* No merchandise may be displayed outdoors on public property. Restaurants may extend their operations onto public sidewalks and plazas only as follows:
- (1) *General location.* These provisions are limited to the Times Square Pedestrian Plaza (see Figure 34-6) and other locations if explicitly approved by the town council.
 - (2) *Who may operate.* Vending rights are available only to the owner of the private property that immediately abuts the sidewalk or pedestrian plaza, or in the case of leased property, only to the primary lessee; vending rights may not be further subleased.
 - (3) *Specific location.* Vending rights can be used only in the area directly in front of the private property and lying between 90-degree extensions of the side property lines. Vending rights may extend onto public property only as far as specified in the annual permit and may be further modified by the town as necessary to provide adequate room for pedestrian movement and to ensure fair treatment for restaurants located on opposite sides of the Time Square Pedestrian Plaza.
 - (4) *Outdoor dining.* No fixed or moveable equipment may be placed on a public sidewalk or plaza to sell or serve food except that tables, umbrellas, and chairs may be placed by restaurants for the use of their customers; no signage is permitted.
 - (5) *Permit required.* Vending rights for dining on public property may be exercised only upon issuance of a permit by the town that sets forth the conditions of private use of a public sidewalk or plaza, including:
 - a. Additional restrictions on the degree which tables, umbrellas, chairs and carts may interfere with pedestrian movement;
 - b. Restrictions on the extent to which food not available in the abutting business may be sold;
 - c. Requirements for keeping the area surrounding the tables or carts from debris and refuse at all times;
 - d. Insurance requirements;
 - e. Payment of fees established by the town for vending rights;
 - f. Limitations on leasing of vending rights, if any; and
 - g. Other reasonable conditions as determined by the town, including full approval right over the design of umbrellas, carts, tables, etc.

Permitting procedures and enforcement shall be the same as provided in subsection (f)(6).

- (h) *Existing nonconforming outdoor display businesses.* Businesses located in the Downtown zoning district that were in existence on or before January 1, 2014, and did not meet the technical requirements for an outdoor display permit shall be permitted to continue in business regardless of whether they previously or currently meet the specific requirements for outdoor display outlined above, subject to the following conditions:
- (1) The business must demonstrate that it was in existence at its current location on or before January 1, 2014;

- (2) The business must apply for and be issued and pay for an annual permit;
- (3) The business must remain at its current location and may only move or relocate to a legally conforming location;
- (4) The business can only be sold or transferred to another person or entity if the business is relocated to a conforming location and otherwise meets all requirements for outdoor display;
- (5) The business cannot increase in area or number of displays; and
- (6) If the business is closed or ceases to do business for a period of six months or more, the business can only re-open in a conforming location.

(Ord. No. 14-05, § 2(Exh. A), 11-17-2014)

Secs. 34-679—34-680. - Reserved.

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

Yellow Sheet Number: **2023-1051**

1. **Requested Motion:**

Meeting Date: May 9, 2023

Provide input on proposed Dock and Boat Ramp ordinance section amendments

Why the action is necessary:

The LPA provides recommendations to the Council for ordinance amendments.

What the action accomplishes:

LPA input will assist Council in making a decision about the code amendment.

2. **Agenda:**

PUBLIC HEARINGS

3. **Requirement/Purpose:**

ordinance

5. **Background:**

The LPA asked that staff provide some options for quick fixes to codes to resolve unnecessary conflicts. One item that was raised as an issue by staff at a previous LPA hearing was that Section 26-71. Dock and Boat Ramps does not provide review criteria for the number or length for docks associated with a multifamily development.

Staff is proposing minor changes to Section 26-71. Dock and Boat Ramps. These changes address only multifamily docks.

Attachments:

1. Boat Dock LPA Memo
2. Exhibit A Sec.26_71. LPA 5.9.23

Financial Impact:

unknown

6. **Alternative Action**

Propose language modifications and recommend approval to Town Council.

7. **Staff Recommendations:**

Recommend approval of proposed language to Town Council.

8. **Recommended Approval:**

Steve Poposki, Community Development Director

Date: May 01, 2023

John R Herin Jr, Town Attorney

Date: May 04, 2023

Amy Baker, Town Clerk

Date: May 04, 2023



**Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT**

To: LPA
From: Sarah Propst, Community Development
Date: May 9, 2023
Re: Multifamily Boat Dock Code Amendment

BACKGROUND

The LPA asked that staff provide some options for quick fixes to codes to resolve unnecessary conflicts. One item that was raised as an issue by staff at a previous LPA hearing was that Section 26-71. Dock and Boat Ramps does not provide review criteria for the number or length for docks associated with a multifamily development.

PROPOSED SOLUTIONS

Staff is proposing minor changes to Section 26-71. Dock and Boat Ramps, in Exhibit A. These changes address only multifamily docks. To accomplish this, the language for determining the number of docks for a multifamily development is included. Also, the reference to single family, has been removed. By removing the reference to single family, any dock whether it belongs to a single family, two family, or multifamily development, must meet the maximum dimensions and setbacks already contained in the code, as long as the dock is no more than one, two slip, private dock. If the dock is a multi-slip dock, the setbacks for multi-slip or marina docks (Section 26-71(4)a), will be applicable.

In this way, dock setbacks and size will be based on the criteria applicable to the type of dock not the upland use.

Through the process of looking at this code to address this single issue, a variety of additional code concerns were raised by staff:

- The boathouse and flexible covering requirements do not match up with the dock requirements, which causes conflict if a dock is built and then later the property owner wants to add a boat covering or boat house.
- The code breaks down setbacks and length, based on whether it is on a natural or manmade waterway. It is not always possible to determine if a shoreline is natural or manmade, additionally, it doesn't seem pertinent to location or length of the dock. Longer docks should be allowed where

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it is necessary because of water depth or environmental conditions and where the waterway width allows it.

- The agreement letter between neighbors, to allow setback encroachments, is problematic. Neighbors change and encroachment on the setback may impact the ability of future owners to develop a dock.
- The code is unclear regarding whether a dock can be built back where it was previously built, regardless of the current code. Most of the docks on the natural waterbodies do not meet the code required setbacks. Should these be built back in the same place or should they come into compliance with the current regulations. If there is a desire to require docks to be built back where they were previously allowed, the code may need to be amended to match more closely with what was existing.
- Should development of multifamily docks require an LDO. Currently, the code does not speak to the appropriate process.
- There are very few canal end lots that are able to meet the code requirements. Providing more setback guidance from riparian lines may improve the ability of property owners to utilize their shoreline for docks and boat slips.

REQUESTED FEEDBACK

Please provide feedback on staff's proposed language and provide input regarding whether additional code changes should be considered at this time.

EXHIBITS

Exhibit A- Proposed Code Language

Sec. 26-71. - Docks and boat ramps.

Docks and boat ramps will be permitted only in accordance with the following regulations:

(1) *Number of docks and slips.*

- a. No more than one, two-slip private ~~single-family~~ dock is permitted to extend from each lot into a natural waterbody, except that a shared property line dock can be approved for up to four slips.
- b. Handrails may be required to prohibit the mooring of watercraft in any area not designated as a slip. Handrails must be permanently maintained.
- c. Multifamily properties may be approved for up to one slip per legal residential unit. All required setbacks must be met.

(2) *Length of docks.* No private ~~single-family~~ dock, including its tie-up area, may be permitted or constructed in a natural or artificial waterbody exceeding the following lengths:

- a. Twenty-five percent of the navigable channel width, up to a maximum of 200 feet in length; or up to a maximum of 300 feet in length if the director, in his sole discretion, finds that:
 1. The proposed dock has been approved by all applicable state and federal agencies;
 2. The increased length will not result in a hazard to navigation;
 3. The proposed dock is compatible with docks or other structures and uses on adjoining lots; and
 4. The increase in length will lessen the dock's impacts on seagrass beds or other marine resources.
- b. All measurements are from the mean high-water line seaward. Tie-up areas that are waterward of the dock will be deemed ten feet in width.

(3) *Maximum dimensions of docks.*

- a. Private ~~single-family~~ docks in natural waterbodies must comply with the following maximum dimensional requirements:
 1. Access walkway - Four feet wide;
 2. Terminal platform - 160 square feet;
 3. Finger piers - Three feet wide The application of these regulations is illustrated in Figure 26-1.
- b. ~~Single-family~~ residential boat ramps can not exceed 15 feet in width.

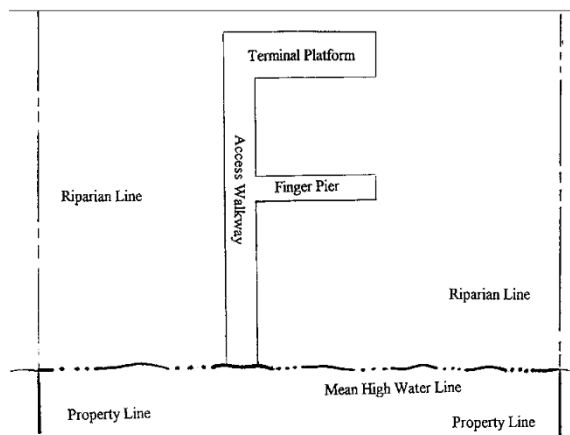


Figure 26-1 Private ~~Single-Family~~ Structure Plan View

(4) *Setbacks.*

- a. Multi-slip and marina docks, except boat davits, in or adjacent to natural waterbodies must be set back a minimum of 25 feet from all adjoining side lot lines.
- b. Private ~~single-family~~ docks in natural waterbodies must be set back from all adjoining side lot and side riparian lines as follows:
 - 1. Marginal docks - At least ten feet.
 - 2. All other docks - At least 25 feet.
- c. Private ~~single-family~~ docks in artificial waterbodies must be set back at least five feet from all adjoining side lot and side riparian lines.
- d. Side setback requirements for docks can be reduced if:
 - 1. Adjoining property owners propose a single dock for their joint use, or if they execute a written agreement in recordable form agreeing to a setback less than that required; and
 - 2. Placement of such dock(s) will not result in greater environmental impacts than compliance with the regulations set forth in this subsection.
- e. The director, in his discretion, may permit administrative deviations from the dock setbacks required by this subsection if the structure is located as close to the required setback as possible and:
 - 1. The width of the subject parcel is not wide enough to permit construction of a ~~single-family~~ dock perpendicular to the shoreline at the midpoint of the shoreline property line without a deviation; or
 - 2. If moving the structure closer to a property line than normally allowed would minimize damage to wetland vegetation or other environmental resources.

The director's decision under this subsection can be appealed through the procedure set forth in § 34-86 of this LDC or the applicant may seek a variance in accordance with § 34-87 of this LDC.
- f. All boat ramps must set back at least ten feet from all adjoining side lot and side riparian lines.

(5) *Location.*

- a. Docks, tie-up areas, and moored watercraft cannot be located in a manner that will create a hazard to navigation in natural or artificial waterbodies.
- b. Boat ramps cannot be located in a manner that will result in a horizontal change in the mean high-water line.
- c. The director has the discretion to require reconfiguration of a proposed dock or boat ramp to reduce impacts to the riparian rights of adjacent properties.

(6) *Minimum water depths.*

- a. There must be a minimum depth of three feet below mean low-water for all slips on private ~~single-family~~ docks in natural waterbodies.
- b. Water depths adjacent to and within a multi-slip dock or a marina must ensure that a minimum one foot clearance is provided between the deepest draft of a vessel and the bottom at mean low-water or the top of marine resources (e.g., seagrasses).

- (7) *Dock boxes.* Dock boxes on private ~~single-family~~ docks may not exceed three feet in height and 100 cubic feet in volume. Such dock boxes do not require building or marine facility permits.

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

Yellow Sheet Number: **2023-1054**

1. Requested Motion:

Meeting Date: May 9, 2023

Approve/Approve with changes/Deny 1170, 1180/1192, 1204/1206 Estero Blvd -DCI 20230039
a request to amend Ordinance to modify conditions of approval

Why the action is necessary:

The property owner has submitted an application requesting an amendment to conditions of approval for the Margaritaville / TPI development.

What the action accomplishes:

Approval of the amendment will modify the conditions of approval. A new ordinance is required.

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

Ordinance

5. Background:

The property owner has submitted a request to amend two conditions of approval in Ordinance 18-04, the Commercial Planned Development which approved the TPI-FMB project, now known as Margaritaville. The applicant has submitted a revised narrative requesting amendments to conditions 14 and 20 to address their concern about a conservation easement and restrictive covenants in addition to the adopted ordinance and conditions of approval.

Any changes to the master concept plan are limited by the Town's Land Development Code and further restricted by conditions of approval within Ordinance 18-04. It appears that the conditions of approval were adopted in a manner that limits even administrative amendments afforded under the Town's LDC.

Attachments:

1. Revised Narrative - CPD Amendment 4-26-23
2. 14922319-TPI-FMB - CPD Amd App Pkg WITH ORD 18-04

Financial Impact:

6. Alternative Action

Approve, Approve with changes, Deny

7. Staff Recommendations:

8. Recommended Approval:

Steve Poposki, Community Development Director

Date: May 03, 2023

John R Herin Jr, Town Attorney

Date: May 04, 2023

Amy Baker, Town Clerk

Date: May 04, 2023

Narrative

According to LDC Section 34-1(a) the purpose and intent of the Land Development Code is:

... to encourage and promote, in accordance with present and future needs, the safety, health, order, convenience, prosperity, and general welfare of the citizens of the Town of Fort Myers Beach, to recognize and promote real property rights, and to provide:

- (1) For efficiency and economy in the process of development;
- (2) For the appropriate and best use of land; ...

(Emphasis supplied).

According to LDC Section 34-85(b), when considering rezonings, the Town Council shall consider (among others):

Whether there exists an error or ambiguity which must be corrected;
and

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

TPI submits that there are changed circumstances arising from Hurricane Ian and its impacts on the local economy and due to the devastation to the local community which require that these changed/changing circumstance be taken into account to assess what changes to the Margaritaville CPD might be appropriate. This is especially true in light of how this development may serve to anchor and inspire future redevelopment of this part of Fort Myers Beach. These are changed circumstances and ambiguities in the language of Condition #14 which it is appropriate to address. TPI submits that the impact of the proposed change to Condition 14 will promote the intent of LDC Chapter 34 and give the Town greater flexibility to allow future development and redevelopment to be consistent with future changes to the community that are reflected in future changes to the Land Development Code and the Town of Fort Myers Beach Comprehensive Plan.

Condition 14 calls for a restrictive covenant that states that the CPD:

“...has consumed all allowable density and intensity on parcels 1, 2, 3, and 5, and that no additional development may occur beyond that which is approved by this CPD.”

Due to the changed circumstances and the redevelopment planning required to address the future needs of the Town, the foregoing requirement does not further the purpose and intent in the LDC calling for efficiency and economy of development and for the appropriate and best use of the land. Instead, it unnecessarily restricts the Town Council with regard to redevelopment at a time when the Council may need flexibility and creativity to address the needs of the future. Moreover, the restrictive covenant is not necessary. No additional development may occur beyond that approved by the CPD unless the Town Council receives an application and reviews it under the regulations in effect at that time. No development can occur beyond the CPD unless the Town Council reviews and approves it. A restrictive covenant that prohibits development simply ties the hands of future Councils without consideration for future circumstances.

TPI submits that under this very new post-Hurricane Ian environment, it no longer makes any sense to completely eliminate all flexibility or future opportunities for modifications in perpetuity. That is counterproductive to the Town's desire to be certain that all development must be compatible with, and cohesively mesh with, the future framework of Town redevelopment. There must be opportunities available to future Town Councils to accommodate changing circumstances (like from Hurricane Ian).

Condition 9 specifically anticipates redevelopment and future uses on the subject property and requires that they be consistent with the Master Concept Plan approved by Town Council. The prohibition in Condition 14 against even considering any future changes on Parcels 2 and 3 is inconsistent with Condition 9. Condition 14 appears intended to bind future Town Councils from even considering any redevelopment or changes that might increase density or intensity, regardless of whether those future changes would be consistent and compatible with future development and regulations in the Town.

Condition 14 also has an inherent ambiguity because it says that the intent is to:

“...limit in perpetuity the density and intensity of Parcels 2 and 3 to that which is approved by the CPD and maintain all areas on which buildings and pavement are not constructed..., only for outdoor

recreation area on Parcel 2 and a single-level surface parking lot on Parcel 3,

(Emphasis supplied.)

Maintaining the open area (“on which buildings and pavement are not constructed”) on parcel 3 “only for... a single-level surface parking lot...” is internally inconsistent and ought to be clarified. At the same time that clarification takes place, TPI proposes these changes to Condition 14:

~~Prior to the Town issuing any development orders for demolition, site work, or new buildings on Parcel 2 the landowner must execute and record a restrictive covenant in favor of and enforceable by the Town in perpetuity that acknowledges that this CPD approval has consumed all allowable density and intensity on Parcels 1, 2, 3, and 5 and that no **No** additional development may occur beyond that which is approved by this CPD **without prior approval of the Town Council**. Prior to issuance of a temporary or final certificate of completion on Parcel 2 (but not later than 36 months after commencing construction), the landowner must convey to the Town a perpetual conservation easement in a form acceptable to the Town Attorney, which after acceptance will be recorded in the Public Records of Lee County, over those portions of Parcels 2 and 3 on which structures or pavement are not constructed or proposed to be constructed under the Master Concept Plan adopted as part of this CPD. **The intent of this condition is to limit in perpetuity the density and intensity of Parcels 2 and 3 to that which is approved by this CPD and to maintain all areas on which buildings and pavement are not constructed and as shown on the Master Concept Plan, only for outdoor recreation area on Parcel 2 and a single-level surface parking lot on Parcel 3, but specifically excluding any additional parking facilities, buildings, and other similar structures or any additional improvements** **require that any future changes to this CPD must comply with the Fort Myers Beach Plan and LDC in effect at the time of any future application.**~~

[Clean Version – Clarified Condition 14]:

14. No additional development may occur beyond that which is approved by this CPD without prior approval of the Town Council. The intent of this condition is to require that any future changes to this CPD must comply with the Fort Myers Beach Plan and LDC in effect at the time of any future application.

For consistency, Condition #20 mentions the reference to the conservation easement in #14 and should be amended as well (~~Strike-through deletion~~):

20. In order to provide an additional view corridor along the approach to the Town from the Matanzas Pass Bridge, the applicant has offered, and the Town has accepted the following changes to the Master Concept Plan:
- a. No buildings will be constructed on Parcel 3 in perpetuity. Parcel 3 shall remain as a 21-space surface parking lot for the resort because all development rights on Parcel 3 are being used on Parcels 1 and 2. ~~Parcel 3 will be included in the covenants and conservation easement described in Condition 14.~~ Landscape buffers shall be done in accordance with MCP X-504-RW.02.
 - b. No buildings will be constructed on Parcel 4 by the applicant and the existing building will be removed. Parcel 4 will be donated by the applicant to the Town for civic, public purposes and will include a reverter in the event the parcel is not used for such civic, public purposes. The demolition and re-grading of the property will be completed no later than September 30th, 2018. The Town shall receive Parcel 4 within 60 calendar days of the issuance of all necessary approvals related to the development order and approvals of the pedestrian bridge. After the existing building is removed by the applicant and the property transfer is completed, Parcel 4 will no longer be subject to any requirements of this CPD. Demolition of Parcel 4 may be completed prior to the development order being issued.

[Clean Version #20:

20. In order to provide an additional view corridor along the approach to the Town from the Matanzas Pass Bridge, the applicant has offered, and the Town has accepted the following changes to the Master Concept Plan:
- a. No buildings will be constructed on Parcel 3 in perpetuity. Parcel 3 shall remain as a 21-space surface parking lot for the resort because all development rights on Parcel 3 are being used on Parcels 1 and 2. Landscape buffers shall be done in accordance with MCP X-504-RW.02.
 - b. No buildings will be constructed on Parcel 4 by the applicant and the existing building will be removed. Parcel 4 will be donated by the applicant to the Town for civic, public purposes and will include a reverter in the event the parcel is not used for such civic, public purposes. The demolition and re-grading of the property will be completed no later than September 30th,

2018. The Town shall receive Parcel 4 within 60 calendar days of the issuance of all necessary approvals related to the development order and approvals of the pedestrian bridge. After the existing building is removed by the applicant and the property transfer is completed, Parcel 4 will no longer be subject to any requirements of this CPD. Demolition of Parcel 4 may be completed prior to the development order being issued.



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: 1170, 1180/1192, 1204/1206 Estero Blvd., portions of Estero Blvd. right-of-way and portions of the 5th Street right-of-way, more or less (See attached location map.)

STRAP Number: Parcel 2 (collectively): 24-46-23-W3-00009.0000, 19-46-24-W4-0140B.0070, 19-46-24-W4-U0491.2610, 19-46-24-W4-U0494.2609, 19-46-24-W4-U0496.2608, 19-46-24-W4-U0498.2607; AND Parcel 3: 24-46-23-W3-00205.0070

Applicant: TPI-FMB, LLC - Steven C. Hartsell, Authorized Applicant Phone: 239-336-6244

Contact Name: c/o Steven C. Hartsell, Esquire Phone: 239-336-6244

Email: stevehartsell@paveselaw.com Fax: 239-332-2243

Current Zoning District: Commercial Planned Development (CPD)

Future Land Use Map (FLUM) Category: Pedestrian Commercial FLU

FLUM Density Range: See Ordinance #18-04 Platted Overlay: ☐ YES ☒ NO

ACTION REQUESTED

☐ Special Exception

☐ Variance

☐ Conventional Rezoning

☒ Planned Development ☒ Commercial ☐ Residential

☐ Master Concept Plan Extension

☐ Appeal of Administrative Action

☐ Vacation of Platted Right-of-way and Easement

☐ Other – cite LDC Section: _____

SUPPLEMENTAL FORM REQUIRED

PH-A

PH-B

PH-C

PH-D

PH-E

PH-F

PH-G

attach on separate sheet

PART I – General Information

A. Applicant*: TPI-FMB, LLC - Steven C. Hartsell, Authorized Applicant Phone: 239-336-6244

**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: Post Office Drawer 1507, Fort Myers, FL 33902-1507

Email: stevehartsell@paveselaw.com Fax: 239-332-2243

Contact Name: Steven C. Hartsell, Esquire Phone: 239-336-6244



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: Steven C. Hartsell, Esquire Phone: 239-336-6244
Address: Pavese Law Firm, Post Office Drawer 1507, Fort Myers, FL 33902-1507
Email: stevehartsell@paveselaw.com Fax: 239-332-2243

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: _____ 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: DCI17-001
- ☐ Extension/reinstatement of Master Concept Plan. List project number: _____



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

☐ Appeal of Administrative Action

☐ Vacation

☐ Right-of-Way

☐ Easement

☐ Other. Please Explain: _____

PART III – Waivers

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

Code Section: _____ Description: _____

Code Section: _____ Description: _____

Code Section: _____ Description: _____

PART IV – Property Ownership (Single Owner)

☐ Single Owner (individual or husband and wife)

Name: _____ Phone: _____

Mailing Address: _____

Email: _____ Fax: _____

AFFIDAVIT

APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

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

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

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

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

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

Signature

Printed Name

STATE OF _____ COUNTY OF _____

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

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

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

_____ as identification.

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
TPI-FMB, LLC, a Florida limited liability corporation, Owned by:	
Torgerson Properties, Inc., a Minnesota for profit corporation	80.9%
Thomas R. Torgerson, Manager	
103 15th Ave. NW #200, Willmar, MN 56201	
John Damermann, 100% owner of Torgerson Properties, Inc.	
TPI-FMB, LLC, a Florida limited liability corporation, Owned by:	19.1%
TPI-FMB Investment, LLC, a Florida limited liability corporation	
Thomas R. Torgerson, Manager	
103 15th Ave. NW #200, Willmar, MN 56201	
Thomas R. Torgerson, 100% owner of TPI-FMB Investment, LLC	

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**

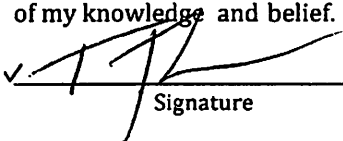
Date of Contract: _____

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

TPI-FMB, LLC, a Florida limited liability company
Thomas R. Torgerson, Manager

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, Thomas R. Torgerson (name), as Manager (title)
of TPI-FMB, LLC, a Florida Limited Liability Corp. (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.

4/30/2021

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

Page 6 of 11



COMMUNITY DEVELOPMENT DEPARTMENT

APPLICATION for PUBLIC HEARING

TPI-FMB, LLC, a Florida limited liability corporation

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

[Signature]
Signature

Manager

Title

Thomas R. Torgerson

Typed or Printed Name

3-24-23

Date

STATE OF Minnesota COUNTY OF Hendry

The foregoing instrument was certified and subscribed before me by means of ☒ physical presence OR ☐ online notarization, this 24th day of March, 2023, by Thomas R. Torgerson, ☒ who is personally known to me OR ☐ who has produced _____ as identification.



[Signature]
Notary Public Signature

PART VI- Property Information

A. Legal Description:

Parcel 2 (collectively): 24-46-23-W3-00009.0000, 19-46-24-W4-0140B.0070, 19-46-24-W4-U0491.2610, STRAP: 19-46-24-W4-U0494.2609, 19-46-24-W4-U0496.2608, 19-46-24-W4-U0498.2607; AND Parcel 3: 24-46-23-W3-00205.0070

Property Address: 1170, 1180/1192, 1204/1206 Estero Blvd., portions of Estero Blvd. right-of-way and portions of the 5th Street right-of-way, more or less (See attached location map.)

Is the subject property within a platted subdivision recorded in the official Plat Books of Lee

County? ☒ No. Attach a legible copy of the legal description as Exhibit 6-1.

☐ Yes. Property identified in subdivision: _____

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

B. Boundary Survey:

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

C. Property Dimensions:

Width (please provide an average width if irregular in shape) _____ Parcel 2: +/- 457.94
Parcel 3: +/- 78.31 feet

Depth (please provide an average width if irregular in shape) Parcel 2: +/-161.03 avg.; Parcel 3: +/-124.06 feet

Frontage on street: Parcel 2: +/-459.95
Parcel 3: +/-199.15 feet. Frontage on waterbody: _____ 0.00 feet

Total land area: Parcel 2: +/-1.47 Acres; Parcel 3: +/-0.21 Acres ☒ acres ☐ square feet

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

West on San Carlos Blvd. across the Sky Bridge. Parcel 3 is on the left side of San Carlos Blvd. just before you
get to the Fifth Street on-ramp. Continue on San Carlos Blvd. until it curves left, transitioning into Estero Blvd.

Parcel 2 is on the right-hand side of Estero Blvd. just beyond the pedestrian overpass for the Margaritaville
resort currently under construction.

☒ 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

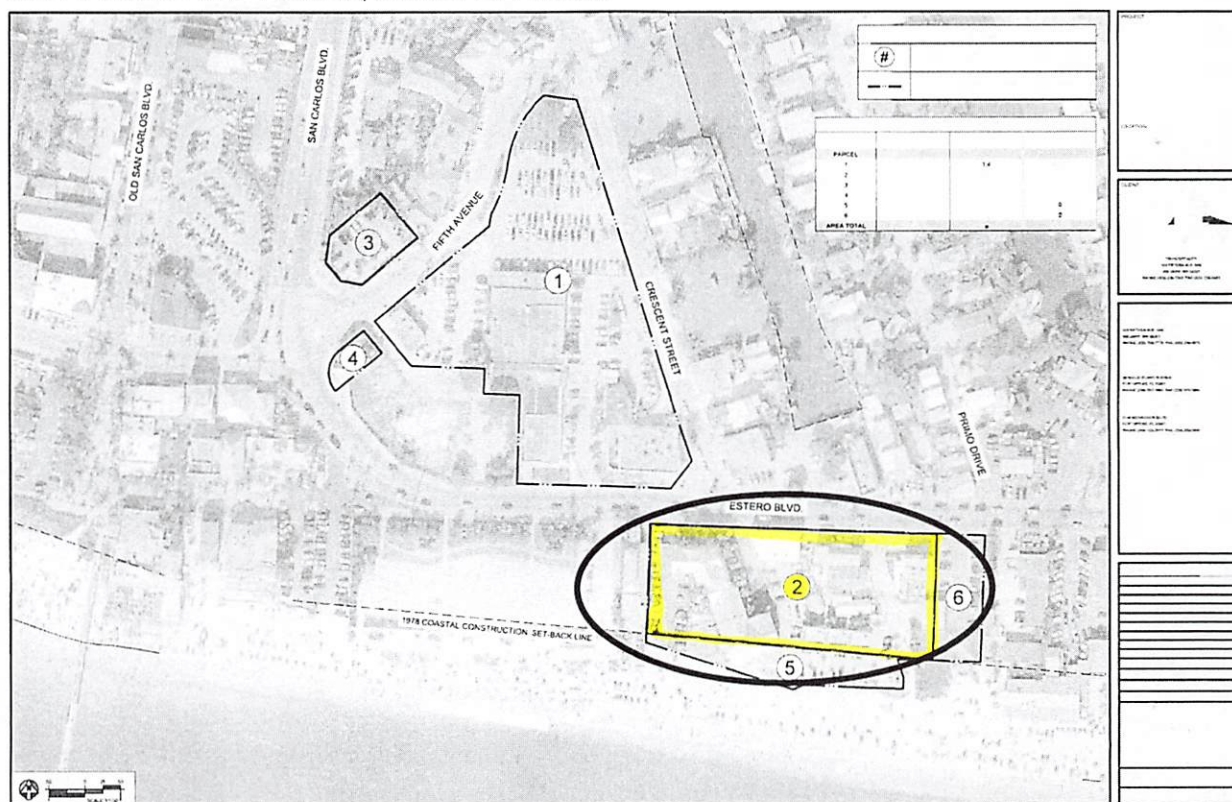
☐ Platted Overlay

DESCRIPTION - PARCEL NO. 2

PARCEL OF LAND LYING IN PARTIALLY IN SECTION 19, TOWNSHIP 46 SOUTH, RANGE 24 EAST, AND PARTIALLY IN SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA, SAID PARCEL ENCOMPASSING UNPLATTED LANDS, PORTIONS OF "CRESCENT PARK", INCLUDING A PORTION OF CANAL STREET AND THE 12-FOOT-WIDE STRIP OF LAND SHOWN ALONG THE WEST SIDE OF LOTS 2, 3, 6, AND 7, BLOCK B, ON SAID PLAT OF "CRESCENT PARK", AS RECORDED IN PLAT BOOK 4, PAGE 39, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWESTERLY CORNER OF BLOCK "E", CRESCENT PARK ADDITION, AS RECORDED IN PLAT BOOK 4, PAGE 46, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, SAID CORNER LYING AT THE INTERSECTION OF THE SECTION LINE COMMON TO SAID SECTIONS 19 AND 24 AND THE NORTHERLY RIGHT-OF-WAY LINE OF ESTERO BOULEVARD AS SHOWN ON THE SAID PLAT OF "BUSINESS CENTER"; THENCE S.0°41'08"E. ALONG THE SAID SECTION LINE, A DISTANCE OF 53.15 FEET TO AN INTERSECTION WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID ESTERO BOULEVARD AND THE POINT-OF-BEGINNING OF THIS DESCRIPTION; THENCE S.70°35'51"E. A DISTANCE OF 270.05 FEET TO A POINT ON THE NORTH LINE OF LOT 4, BLOCK "A" OF SAID "CRESCENT PARK"; THENCE S.19°24'09"W. A DISTANCE OF 174.90 FEET TO A POINT ALONG THE COASTAL CONSTRUCTION SET-BACK LINE AS DESCRIBED IN PLAT BOOK 31, PAGE 1 THROUGH 21, INCLUSIVE, PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE N.67°11'13"W ALONG SAID SET-BACK LINE, FOR A DISTANCE OF 393.39 FEET; THENCE N.19°24'24"E. FOR A DISTANCE OF 151.50 FEET TO AN INTERSECTION WITH THE SAID SOUTHERLY RIGHT-OF-WAY LINE OF ESTERO BOULEVARD; THENCE S.70°35'51"E. ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 122.63 FEET TO THE SAID POINT-OF-BEGINNING OF THIS DESCRIPTION.

CONTAINING 1.47 ACRES, MORE OR LESS.

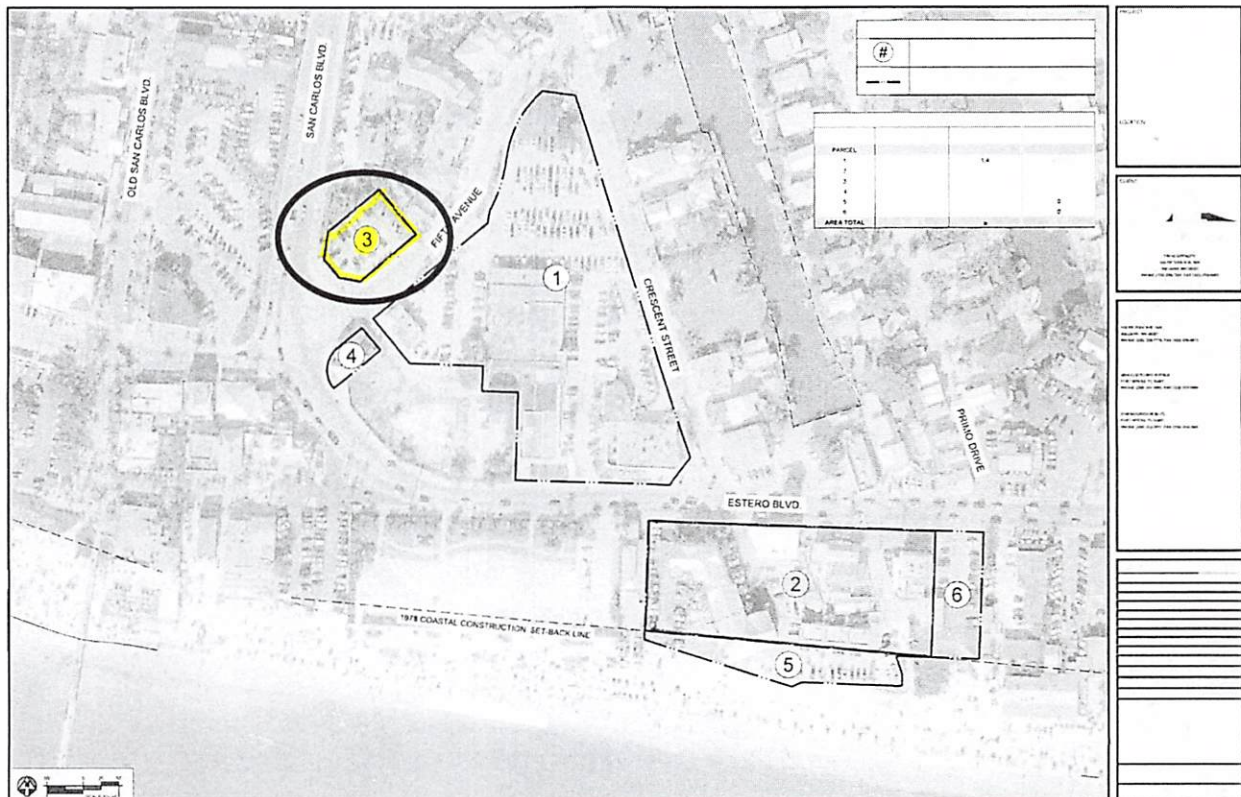


DESCRIPTION - PARCEL NO. 3

LOTS 7, 8, AND 9, BLOCK 5, BUSINESS CENTER SUBDIVISION, AS RECORDED IN PLAT BOOK 9, PAGE 9, PUBLIC RECORDS OF LEE COUNTY, FLORIDA. (SAID LOT 7 IS LESS ROAD RIGHT-OF-WAY TAKEN BY FLORIDA DEPARTMENT OF TRANSPORTATION FOR S.R. 865, RECORDED IN OFFICIAL RECORDS BOOK 1164, PAGE 129, PUBLIC RECORDS OF LEE COUNTY, FLORIDA), SAID PARCEL 3 BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 9, BLOCK 5; THENCE S.67°39'08"W. ALONG THE SOUTH LINES OF SAID LOTS 7, 8, AND 9, BLOCK 5, A DISTANCE OF 101.00 FEET TO THE SOUTHEAST CORNER OF SAID RIGHT-OF-WAY ACQUISITION PARCEL RECORDED IN OFFICIAL RECORDS BOOK 1164, PAGE 129; THENCE N.61°53'00"W. ALONG THE BOUNDARY OF SAID ACQUISITION PARCEL, A DISTANCE OF 29.83 FEET TO AN INTERSECTION WITH THE WESTERLY LINE OF SAID LOT 7, BLOCK 5; THENCE N.22°19'38"W. ALONG THE SAID WESTERLY LINE OF LOT 7, A DISTANCE OF 32.39 FEET TO THE MOST SOUTHERLY CORNER OF THE MOST NORTHERLY PORTION OF SAID RIGHT-OF-WAY ACQUISITION PARCEL RECORDED IN OFFICIAL RECORDS BOOK 1164, PAGE 129; THENCE N.26°00'15"E. ALONG THE BOUNDARY OF SAID ACQUISITION PARCEL, A DISTANCE OF 37.02 FEET TO AN INTERSECTION WITH THE NORTHERLY LINE OF SAID LOT 7, BLOCK 5; THENCE N.67°39'08"E. ALONG THE NORTH LINE OF SAID LOTS 7, 8, AND 9, A DISTANCE OF 92.35 FEET TO THE NORTHEASTERLY CORNER OF SAID LOT 9; THENCE S.22°19'38"E. ALONG THE EASTERLY LINE OF SAID LOT 9, A DISTANCE OF 80.00 FEET TO THE SAID POINT-OF-BEGINNING OF THIS DESCRIPTION.

CONTAINING 0.21 ACRE, MORE OR LESS.



DESCRIPTION
PARCEL NO. 1

PARCEL OF LAND LYING IN SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST, TOWN OF FORT MYERS BEACH, ESTERO ISLAND, LEE COUNTY, FLORIDA, SAID PARCEL ENCOMPASSING UNPLATTED PORTIONS OF "BUSINESS CENTER" INCLUDING PART OF CENTER STREET, ESTERO BOULEVARD, AS SHOWN ON PLAT OF SAID "BUSINESS CENTER," RECORDED IN PLAT BOOK 8, PAGES 9 AND 10, AND THE RIGHT-OF-WAY TACKING, RECORDED IN OFFICIAL RECORDS BOOK 1164, PAGE 129, PARCEL NO. 1 BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWESTERLY CORNER OF BLOCK "E," CRESCENT PARK ADDITION, AS RECORDED IN PLAT BOOK 4, PAGE 46, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, SAID CORNER LYING AT THE INTERSECTION OF THE SECTION LINE COMMON TO SAID SECTIONS 19 AND 24 AND THE NORTHERLY RIGHT-OF-WAY LINE OF ESTERO BOULEVARD AS SHOWN ON THE SAID PLAT OF "BUSINESS CENTER," THENCE N 70°35'51"W, ALONG SAID NORTHERLY RIGHT-OF-WAY LINE OF ESTERO BOULEVARD, A DISTANCE OF 77.73 FEET TO THE POINT-OF-BEGINNING OF THIS DESCRIPTION OF PARCEL NO. 1, THENCE CONTINUE N 70°35'51"W, ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 211.46 FEET, THENCE S 8°19'35"E, A DISTANCE OF 122.83 FEET, THENCE N 47°33'29"W, A DISTANCE OF 58.56 FEET, THENCE N 18°23'53"E, A DISTANCE OF 35.05 FEET TO THE MOST SOUTHERLY CORNER OF LOT 7, BLOCK 8, OF SAID "BUSINESS CENTER," THENCE S 7°12'42"W, ALONG THE REAR LOT LINE OF LOT 8 AND 7, OF SAID BLOCK 8, A DISTANCE OF 100.00 FEET TO THE SOUTHWESTERLY CORNER OF SAID LOT 6, THENCE N 27°18'14"W, ALONG THE SOUTHWESTERLY LINE OF SAID LOT 6, BEING ALSO THE NORTHEASTERLY LINE OF LOT 4, SAID BLOCK 8, A DISTANCE OF 82.54 FEET TO AN INTERSECTION WITH THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF FIFTH AVENUE, AS SHOWN ON SAID PLAT OF "BUSINESS CENTER," THENCE S 47°17'33"E, ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 254.87 FEET, THENCE N 26°11'29"E, CONTINUING ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 14.4 FEET TO THE MOST SOUTHERLY CORNER OF TRACT 9, AS DESCRIBED IN SAID OFFICIAL RECORDS BOOK 1164, PAGE 129, OF SAID LEE COUNTY PUBLIC RECORDS, THENCE ALONG THE EASTERLY BOUNDARY OF SAID RIGHT-OF-WAY TAKING FOR THE NEXT TWO COURSES NORTHEASTERLY ALONG AN ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 70.85 FEET, A CENTRAL ANGLE OF 20°34'29", AND WHOSE CHORD BEARS N 35°34'53"E, FOR A DISTANCE OF 74.45 FEET, HAVING AN ARC LENGTH OF 75.05 FEET TO A POINT-OF-REVERSE CURVATURE OF A CURVE TO THE RIGHT, THENCE ALONG AN ARC OF SAID CURVE, HAVING A RADIUS OF 75.05 FEET, A CENTRAL ANGLE OF 41°02'22" AND WHOSE CHORD BEARS N 45°47'52"E, FOR A DISTANCE OF 105.74 FEET, HAVING AN ARC LENGTH OF 102.87 FEET TO AN INTERSECTION WITH THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF FOURTH STREET, AS SHOWN ON SAID PLAT OF "BUSINESS CENTER," THENCE S 49°17'52"E, ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 47.46 FEET TO AN INTERSECTION WITH THE WESTERLY LINE OF SAID RIGHT-OF-WAY TAKING TRACT 9 AS DESCRIBED IN OFFICIAL RECORDS BOOK 1235, PAGE 178, OF THE SAID LEE COUNTY PUBLIC RECORDS, THENCE SOUTHERLY ALONG THE SAID WESTERLY BOUNDARY OF TRACT 9 FOR THE NEXT FIVE (5) COURSES, S 87°46'40"E, A DISTANCE OF 48.80 FEET, THENCE S 70°59'21"W, A DISTANCE OF 184.77 FEET, THENCE S 20°29'24"E, A DISTANCE OF 141.23 FEET, THENCE S 2°40'35"E, A DISTANCE OF 123.79 FEET, THENCE S 54°20'26"N, A DISTANCE OF 48.19 FEET TO THE SAID POINT-OF-BEGINNING OF THIS DESCRIPTION, CONTAINING 2.71 ACRES, MORE OR LESS.

DESCRIPTION
PARCEL NO. 2

PARCEL OF LAND LYING IN PARTIALLY IN SECTION 19, TOWNSHIP 46 SOUTH, RANGE 24 EAST, AND PARTIALLY IN SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA, SAID PARCEL ENCOMPASSING UNPLATTED PORTIONS OF "CRESCENT PARK," INCLUDING A PORTION OF CANAL STREET AND THE 12 FOOT WIDE STRIP OF LAND SHOWN ALONG THE WEST SIDE OF LOTS 2, 3, 6 AND 7, BLOCK 8, ON SAID PLAT OF "CRESCENT PARK," AS RECORDED IN PLAT BOOK 4, PAGE 38, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWESTERLY CORNER OF BLOCK "E," CRESCENT PARK ADDITION, AS RECORDED IN PLAT BOOK 4, PAGE 46, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, SAID CORNER LYING AT THE INTERSECTION OF THE SECTION LINE COMMON TO SAID SECTIONS 19 AND 24 AND THE NORTHERLY RIGHT-OF-WAY LINE OF ESTERO BOULEVARD AS SHOWN ON THE SAID PLAT OF "BUSINESS CENTER," THENCE S 0°41'06"E, ALONG THE SAID SECTION LINE, A DISTANCE OF 53.15 FEET TO AN INTERSECTION WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID ESTERO BOULEVARD AND THE POINT-OF-BEGINNING OF THIS DESCRIPTION, THENCE S 72°35'51"E, A DISTANCE OF 370.05 FEET TO A POINT ON THE NORTH LINE OF LOT 4, BLOCK "A" OF SAID "CRESCENT PARK," THENCE S 1°24'20"N, A DISTANCE OF 174.86 FEET TO A POINT ALONG THE COASTAL CONSTRUCTION SET-BACK LINE AS DESCRIBED IN PLAT BOOK 25, PAGE 1 THROUGH 21, INCLUSIVE, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, THENCE N 67°11'17"W, ALONG SAID SET-BACK LINE, FOR A DISTANCE OF 383.38 FEET, THENCE N 18°24'24"E, FOR A DISTANCE OF 151.30 FEET TO AN INTERSECTION WITH THE SAID SOUTHERLY RIGHT-OF-WAY LINE OF ESTERO BOULEVARD, THENCE S 72°35'51"E, ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 122.83 FEET TO THE SAID POINT-OF-BEGINNING OF THIS DESCRIPTION, CONTAINING 1.47 ACRES, MORE OR LESS.

DESCRIPTION
PARCEL NO. 3

LOTS 7, 8 AND 9, BLOCK 5, BUSINESS CENTER SUBDIVISION, AS RECORDED IN PLAT BOOK 8, PAGE 9, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, (AND LOT 18 LIES ROAD RIGHT-OF-WAY TAKEN BY FLORIDA DEPARTMENT OF TRANSPORTATION FOR S.R. 865, RECORDED IN OFFICIAL RECORDS BOOK 1164, PAGE 129, PUBLIC RECORDS OF LEE COUNTY, FLORIDA), SAID PARCEL 1 BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 9, BLOCK 5, THENCE S 87°30'39"W, ALONG THE SOUTH LINES OF SAID LOTS 7, 8, AND 9, BLOCK 5, A DISTANCE OF 101.91 FEET TO THE SOUTHWEST CORNER OF SAID RIGHT-OF-WAY ACQUISITION PARCEL, RECORDED IN OFFICIAL RECORDS BOOK 1164, PAGE 129, THENCE N 41°33'20"W, ALONG THE BOUNDARY OF SAID ACQUISITION PARCEL, A DISTANCE OF 29.83 FEET TO AN INTERSECTION WITH THE WESTERLY LINE OF SAID LOT 7, BLOCK 5, THENCE S 22°19'59"W, ALONG THE SAID WESTERLY LINE OF LOT 7, A DISTANCE OF 22.39 FEET TO THE MOST SOUTHERLY CORNER OF THE MOST NORTHERLY PORTION OF SAID RIGHT-OF-WAY ACQUISITION PARCEL, RECORDED IN OFFICIAL RECORDS BOOK 1164, PAGE 129, THENCE N 26°10'51"E, ALONG THE BOUNDARY OF SAID ACQUISITION PARCEL, A DISTANCE OF 37.25 FEET TO AN INTERSECTION WITH THE NORTHERLY LINE OF SAID LOT 7, BLOCK 5, THENCE N 67°18'18"E, ALONG THE NORTH LINE OF SAID LOT 7, 8, AND 9, A DISTANCE OF 82.35 FEET TO THE NORTHEASTERLY CORNER OF SAID LOT 9, THENCE S 27°23'05"E, ALONG THE EASTERLY LINE OF SAID LOT 9, A DISTANCE OF 40.20 FEET TO THE SAID POINT-OF-BEGINNING OF THIS DESCRIPTION, CONTAINING 0.21 ACRE, MORE OR LESS.

DESCRIPTION
PARCEL NO. 4

LOT 5, BLOCK 6, BUSINESS CENTER SUBDIVISION, AS RECORDED IN PLAT BOOK 8, PAGE 9, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, LESS ROAD RIGHT-OF-WAY TAKEN BY FLORIDA DEPARTMENT OF TRANSPORTATION, RECORDED IN OFFICIAL RECORDS BOOK 1164, PAGE 129 AND BOOK 1164, PAGE 129, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, CONTAINING 0.07 ACRES, MORE OR LESS.

DESCRIPTION
PARCEL NO. 5

PARCEL OF LAND LYING IN PARTIALLY IN SECTION 19, TOWNSHIP 46 SOUTH, RANGE 24 EAST, AND PARTIALLY IN SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA, SAID PARCEL ENCOMPASSING UNPLATTED PORTIONS OF "CRESCENT PARK," INCLUDING A PORTION OF CANAL STREET AND THE 12 FOOT WIDE STRIP OF LAND SHOWN ALONG THE WEST SIDE OF LOTS 2, 3, 6 AND 7, BLOCK 8, ON SAID PLAT OF "CRESCENT PARK," AS RECORDED IN PLAT BOOK 4, PAGE 38, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWESTERLY CORNER OF BLOCK "E," CRESCENT PARK ADDITION, AS RECORDED IN PLAT BOOK 4, PAGE 46, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, SAID CORNER LYING AT THE INTERSECTION OF THE SECTION LINE COMMON TO SAID SECTIONS 19 AND 24 AND THE NORTHERLY RIGHT-OF-WAY LINE OF ESTERO BOULEVARD AS SHOWN ON THE SAID PLAT OF "BUSINESS CENTER," THENCE S 0°41'06"E, ALONG THE SAID SECTION LINE, A DISTANCE OF 53.15 FEET TO AN INTERSECTION WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID ESTERO BOULEVARD, THENCE S 72°35'51"E, A DISTANCE OF 137.10 FEET TO THE NORTHEAST CORNER OF LOT 3, BLOCK "A" OF SAID "CRESCENT PARK," THENCE S 8°24'09"W, ALONG THE EASTERLY LINES OF SAID LOT 3 AND LOT 7, OF SAID BLOCK "A," A DISTANCE OF 175.23 FEET TO THE SOUTHEASTERLY CORNER OF SAID LOT 7, THENCE N 70°35'51"W, ALONG THE SOUTH LINE OF SAID LOT 7 AND LOT 6, A DISTANCE OF 87.00 FEET TO THE POINT-OF-BEGINNING OF THIS DESCRIPTION, THENCE CONTINUING N 72°35'51"W, ALONG THE SOUTH LINE OF SAID LOT 8 AND ITS NORTHEASTERLY EXTENSION, ACROSS THE RIGHT-OF-WAY OF SAID CANAL STREET FOR A DISTANCE OF 40.24 FEET TO THE NORTHEAST CORNER OF LOT 4, BLOCK "B" OF SAID "CRESCENT PARK," THENCE SOUTHERLY ALONG THE EASTERLY LINE OF SAID LOT 9 FOR THE NEXT TWO COURSES, S 0°41'06"E, A DISTANCE OF 36.89 FEET, THENCE S 70°35'51"W, A DISTANCE OF 16.41 FEET TO AN INTERSECTION WITH THE SOUTHEASTERLY EXTENSION OF THE SEAWALL FACE OF AN EXISTING CONCRETE RETAINING WALL, THENCE ALONG THE SAID SEAWALL FACE AND ITS NORTHEASTERLY EXTENSION FOR THE NEXT EIGHT (8) COURSES, N 89°51'54"W, A DISTANCE OF 1.82 FEET, THENCE N 89°51'54"W, FOR A DISTANCE OF 1.34 FEET, THENCE N 71°18'47"W, A DISTANCE OF 7.35 FEET, THENCE N 54°54'20"W, A DISTANCE OF 1.35 FEET, THENCE N 72°42'41"W, A DISTANCE OF 47.63 FEET, THENCE N 68°59'57"W, A DISTANCE OF 74.43 FEET, THENCE S 44°21'17"W, A DISTANCE OF 15.85 FEET, THENCE N 64°54'18"W, A DISTANCE OF 211.47 FEET, THENCE N 18°24'24"E, LEAVING SAID SEAWALL FACE OF THE CONCRETE SEAWALL, A DISTANCE OF 12.72 FEET TO AN INTERSECTION WITH THE COASTAL CONSTRUCTION SET-BACK LINE AS DESCRIBED IN PLAT BOOK 25, PAGE 1 THROUGH 21, INCLUSIVE, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, THENCE S 87°11'15"E, ALONG SAID COASTAL CONSTRUCTION CONTROL LINE, A DISTANCE OF 383.38 FEET, THENCE LEAVING SAID SET-BACK LINE, N 18°24'24"E, FOR A DISTANCE OF 5.34 FEET TO THE SAID POINT-OF-BEGINNING OF THIS DESCRIPTION, CONTAINING 0.33 ACRES, MORE OR LESS.

DESCRIPTION
PARCEL NO. 6

PARCEL OF LAND LYING IN SECTION 19, TOWNSHIP 46 SOUTH, RANGE 24 EAST, SAID PARCEL ENCOMPASSING ALL OF LOTS 4 AND 7, AND PORTIONS OF LOTS 4 AND 5, BLOCK "A," CRESCENT PARK, AS RECORDED IN PLAT BOOK 4, PAGE 38, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWESTERLY CORNER OF BLOCK "E," CRESCENT PARK ADDITION, AS RECORDED IN PLAT BOOK 4, PAGE 46, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, SAID CORNER LYING AT THE INTERSECTION OF THE SECTION LINE COMMON TO SAID SECTIONS 19 AND 24 AND THE NORTHERLY RIGHT-OF-WAY LINE OF ESTERO BOULEVARD AS SHOWN ON THE SAID PLAT OF "BUSINESS CENTER," THENCE S 0°41'06"E, ALONG THE SAID SECTION LINE, A DISTANCE OF 53.15 FEET TO AN INTERSECTION WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID ESTERO BOULEVARD, THENCE ALONG SAID RIGHT-OF-WAY, S 72°35'51"E, A DISTANCE OF 370.05 FEET TO A POINT ON THE NORTH LINE OF LOT 4, BLOCK "A" OF SAID "CRESCENT PARK," AND THE POINT-OF-BEGINNING OF THIS DESCRIPTION, THENCE CONTINUING S 72°35'51"E, FOR A DISTANCE OF 87.00 FEET TO THE NORTHEAST CORNER OF SAID LOT 3, THENCE S 70°34'09"W, A DISTANCE OF 175.23 FEET TO SOUTHEAST CORNER OF SAID LOT 7, THENCE N 72°35'51"W, ALONG THE SOUTH LINE OF LOT 7 AND LOT 6, FOR A DISTANCE OF 87.00 FEET, THENCE N 18°24'24"E, FOR A DISTANCE OF 113.23 FEET TO AN INTERSECTION WITH THE SAID SOUTHERLY RIGHT-OF-WAY LINE OF ESTERO BOULEVARD AND THE SAID POINT-OF-BEGINNING OF THIS DESCRIPTION, CONTAINING 0.27 ACRES, MORE OR LESS.

SURVEYORS NOTES:

THE DESCRIPTIONS SHOWN HEREON ARE NEW.

SURVEYS BASED ON DESCRIPTIONS PROVIDED BY THE CLIENT AND THE RECORDED PLAT OF "BUSINESS CENTER," AS RECORDED IN PLAT BOOK 4, PAGES 38 AND 39, CRESCENT PARK SUBDIVISION, AS RECORDED IN PLAT BOOK 4, PAGE 38, ALL OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

THIS SURVEY WAS PREPARED WITHOUT BENEFIT OF A CURRENT TITLE SEARCH, ALL EASEMENTS AND RIGHT-OF-WAY TACKINGS, AND OTHER ENCUMBRANCES SHOWN HEREON ARE BASED ON PREVIOUS SURVEYS AND TITLE DOCUMENTS.

THIS MAP IS NOT A CERTIFICATION OF TITLE, ZONING, SETBACKS OR FREEDOM OF ENCUMBRANCES.

PARCELS ARE SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS OF WAY OF RECORD.

ORIENTATION BASED ON THE EASTERLY LINE OF SECTION 24, T. 46 S. R. 23 E. AS BEARING N 00°41'06" W.

COORDINATES SHOWN HEREON ARE BASED ON FLORIDA GRID, NAD 83 ZONE, NAD 83 160.

THE EXISTENCE OF UNRECORDED OR NON-VISIBLE IMPROVEMENTS WAS NOT INVESTIGATED, UNLESS OTHERWISE SHOWN.

ACCORDING TO FIRM MAP NO. 1027602004F, EFFECTIVE DATE OF AUGUST 28, 2008, THESE PARCELS OF LAND ARE LOCATED IN FLOOD ZONE VE, WITH BASE FLOOD ELEVATIONS THAT VARY FROM ELE. 11 TO ELE. 17, NAVD83. SEE DRAWING FOR BASE FLOOD BOUNDARIES.

CERTIFICATE OF AUTHORIZATION LICENSE BUSINESS NO. 6891.

DATE OF LAST FIELD WORK: 10-11-2017 IN FIELD BOOK 97, PAGE 33.

UNLESS IT BEARS THE ORIGINAL SIGNATURE AND RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER, AND ALL SHEETS ARE INCLUDED, THIS MAP IS NOT VALID.

PREPARED BY:

MARK A. HATHFIELD P.S.M.
FLORIDA CERT. NO. 4155

DATE

PROJECT

A PROPOSED FMB/TPI
JOINT EFFORT TO
RESTORE AND TO
REINVIGORATE THE
DOWNTOWN BEACH
AREA

LOCATION

FORT MYERS BEACH
FLORIDA

CLIENT

TPI
HOSPITALITY
100% Employee Owned

TPI HOSPITALITY
102 FIFTEEN AVE. NW
WILMINGTON, MS 39201
PHONE (202) 236-7207 FAX (202) 236-6845

CONSULTANTS

ARCHITECT
WIMBER TERRY
BARNARD & ASSOCIATES, INC.
1601 PETER AVE. NW
WILMINGTON, MS 39201
PHONE (202) 236-1775 FAX (202) 236-9675

PLANNING, CIVIL, SURVEY &
LANDSCAPE ARCHITECTURE

2861 CENTER FORTE DRIVE, UNIT 100
FORT MYERS, FL 33901
PHONE (239) 331-3065 FAX (239) 331-3066

TRANSPORTATION

DAVID RUMMER & ASSOCIATES
2144 MCGREGOR BLVD.
FORT MYERS, FL 33901
PHONE (239) 333-0617 FAX (239) 333-3466



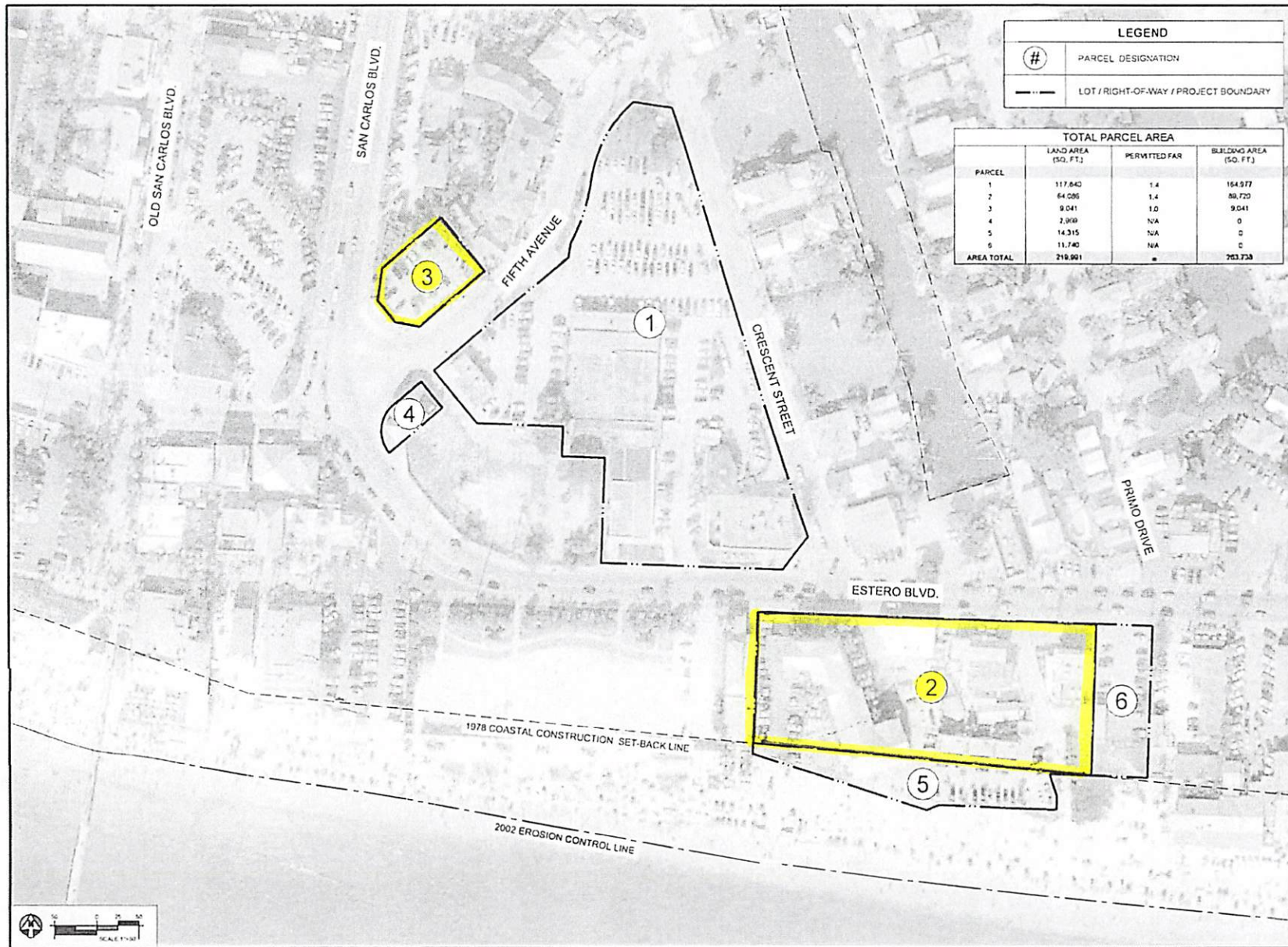
REVISION

PROJECT

DRAWING BY: BMH
JURISDICTION: TOWN OF FORT MYERS BEACH
DATE: 04.30.2018
SHEET TITLE:

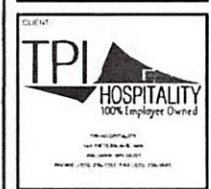
BOUNDARY SURVEY

SHEET NUMBER: X-102-BNDY.00
JOB/FILE NUMBER: 15069-14



PROJECT
TPI-FMB CPD

LOCATION
FORT MYERS BEACH
FLORIDA



CONSULTANTS
ARCHITECT
ARCHITECT & LANDSCAPE INC.
10000 BAYVIEW BLVD. SUITE 100
FORT MYERS, FL 33907
PHONE: (239) 335-1000 FAX: (239) 335-1001

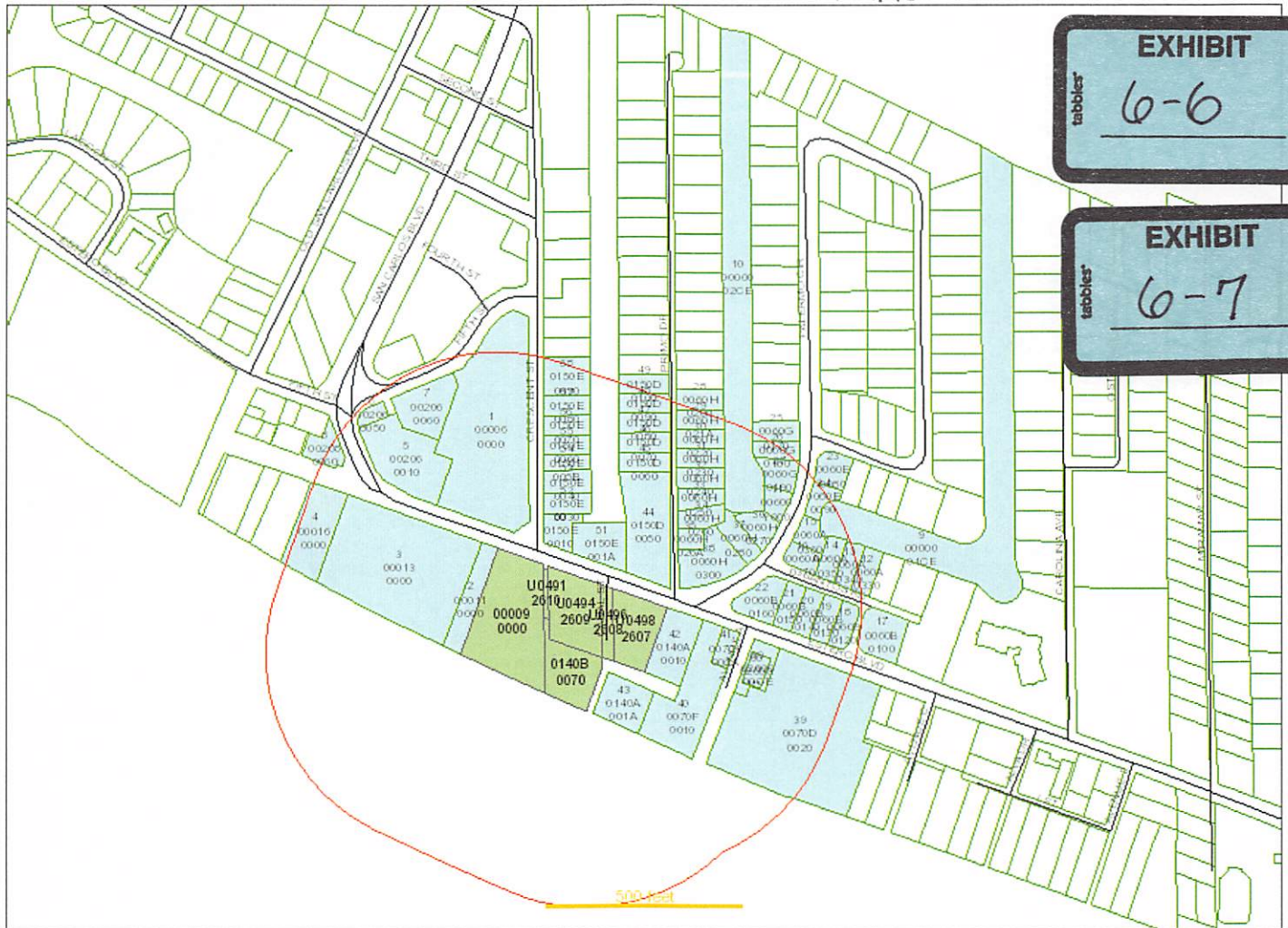
PLANNING, CIVIL, SURVEY & LANDSCAPE ARCHITECTURE
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REVISIONS	DATE



PARCEL 2



Date of Report: March 21, 2023

Buffer Distance: 500 feet

Parcels Affected: 69

Subject Parcels: 19-46-24-W4-0140B.0070, 19-46-24-W4-U0491.2610, 19-46-24-W4-U0494.2609, 19-46-24-W4-U0496.2608, 19-46-24-W4-U0498.2607, 24-46-23-W3-00009.0000

To change, add or remove subject parcels please change the parcel selection in [GeoView](#)

[Click here to download the map image, mailing labels \(Avery 5161\) and CSV formatted information.](#)

OWNER NAME AND ADDRESS	STRAP AND LOCATION	LEGAL DESCRIPTION	MAP INDEX
TPI-FMB LLC 103 15TH AVE NW STE 200 WILLMAR MN 56201	24-46-23-W3-00006.0000 251 CRESCENT ST FORT MYERS BEACH FL 33931	BUSINESS CTR PHILLIPS PB 9 PG 9 LOTS 10 THRU 15 + OR 587/198 LESS R/W 2353/3036	1
CLOWNFISH RESTAURANT HOLDINGS 11201 COOPERATE CIRCLE N SAINT PETERSBURG FL 33716	24-46-23-W3-00011.0000 1154 ESTERO BLVD FORT MYERS BEACH FL 33931	BEG SW COR BLK E CRESCENT PARK ADD ON E LI SEC 24 S ALG E LI SEC 53.24 FT TO S	2
LEE COUNTY PO BOX 398 FORT MYERS FL 33902	24-46-23-W3-00013.0000 1100 ESTERO BLVD FORT MYERS BEACH FL 33931	PARL IN SE 1/4 SEC 24 TWN 46 R 23 S OF ESTERO BLVD AS DESC IN INST #'S 201000023675 + 201000023676	3
PRESAUD PROPERTIES FL 361 SEMINOLE WAY FORT MYERS BEACH FL 33931	24-46-23-W3-00016.0000 1046 ESTERO BLVD FORT MYERS BEACH FL 33931	FROM SW COR BLK E CRESCENT PK ADD ON E LI SEC 24 RUN S ALG SD LI TO S LI CO RD	4

LEE COUNTY PO BOX 398 FORT MYERS FL 33902	24-46-23-W3-00206.0010 1113 ESTERO BLVD FORT MYERS BEACH FL 33931	BUSINESS CENTER BLK 6 PB9 PG9 LTS 1-4 LESS R/W + DESC OR 1904/4451	5
TOWN OF FORT MYERS BEACH 2525 ESTERO BLVD FORT MYERS BEACH FL 33931	24-46-23-W3-00206.0050 1054 FIFTH ST FORT MYERS BEACH FL 33931	BUSINESS CENTER BLK 6 PB 9 PG 9 LOT 5 R/W OR 1154 PG 1510	6
TPI-FMB LLC 103 15TH AVE NW STE 200 WILLMAR MN 56201	24-46-23-W3-00206.0060 1150 FIFTH ST FORT MYERS BEACH FL 33931	BUSINESS CENTER BLK 6 PB 9 PG 9 LOTS 6 THRU 9	7
KLC SURF LLC CHRISTOPHER PRIMEAU 4625 W EUCLID AVE TAMPA FL 33629	24-46-23-W3-00208.0060 1035 ESTERO BLVD FORT MYERS BEACH FL 33931	BUSINESS CENTER BLK.8 PB 9 PG 9 LT 7 + LOT 6 LESS WLY 6 FT LESS ROW OR3539 PG3351	8
VENETIAN GARDENS CANAL PALERMO CIR FORT MYERS BEACH FL 33931	19-46-24-W4-00000.01CE SUBMERGED FORT MYERS BEACH FL 33931	VENETIAN GARDENS PB 6 PG 70 RIO DEL LIDO CANAL	9
VENETIAN GARDENS CANAL PALERMO CIR FORT MYERS BEACH FL 33931	19-46-24-W4-00000.02CE SUBMERGED FORT MYERS BEACH FL 33931	VENETIAN GARDENS PB 6 PG 70 CANAL GRANDE CANAL	10
VAN BURGESS ROBERT PO BOX 2717 FORT MYERS BEACH FL 33932	19-46-24-W4-00600.Y000 125/127 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK Y PB 6 PG 70 ALL BLK Y EXC NLY 11 FT	11
AULLS TRICIA M 7241 BERGAMO WAY UNIT 101 FORT MYERS FL 33966	19-46-24-W4-0060A.0330 1351 SANTOS RD FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK A PB 6 PG 70 LOT 33	12
WILCOX LANCE 1339 SANTOS RD FORT MYERS BEACH FL 33931	19-46-24-W4-0060A.0340 1339 SANTOS RD FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK.A PB 6 PG 70 LOT 34	13
PARILLA DAVID R TR 1335 SANTOS RD FORT MYERS BEACH FL 33931	19-46-24-W4-0060A.0350 1335 SANTOS RD FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK A PB 6 PG 70 LOT 35	14
CONNER CHARLES R & GAIL D 53 POMPAÑO ST FORT MYERS BEACH FL 33931	19-46-24-W4-0060A.0360 126 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK A PB 6 PG 70 LOT 36 + S 1/2 OF BLK X LESS THE N 20 FT	15
PARILLA DAVID R TR 1335 SANTOS RD FORT MYERS BEACH FL 33931	19-46-24-W4-0060A.0370 1321 SANTOS RD FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK.A PB 6 PG 70 LOT 37	16
KLC SURF LLC CHRISTOPHER PRIMEAU 4625 W EUCLID AVE TAMPA FL 33629	19-46-24-W4-0060B.0100 1397 ESTERO BLVD FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK B PB 6 PG 70 W 1/2 LOT 9 LOTS 10 + 11	17
KLC SURF LLC CHRISTOPHER PRIMEAU 4625 W EUCLID AVE TAMPA FL 33629	19-46-24-W4-0060B.0120 1365/1375 ESTERO BLVD FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK B PB 6 PG 70 LOT 12	18
LANI KAI LP ROBERT G CONIDARIS 1400 ESTERO BLVD FORT MYERS BEACH FL 33931	19-46-24-W4-0060B.0130 1345 ESTERO BLVD FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK B PB 6 PG 70 LOT 13	19
LANI KAI LP ROBERT G CONIDARIS 1400 ESTERO BLVD FORT MYERS BEACH FL 33931	19-46-24-W4-0060B.0140 1331 ESTERO BLVD FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK B PB 6 PG 70 LOT 14	20
LANI KAI LP ROBERT G CONIDARIS 1400 ESTERO BLVD FORT MYERS BEACH FL 33931	19-46-24-W4-0060B.0150 1325 ESTERO BLVD FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK B PB 6 PG 70 LOTS 15	21

7-ELEVEN INC CORP INCOME TAX DEPT 3200 HYACKBERRY RD IRVING TX 75063	19-46-24-W4-0060B.0160 1301 ESTERO BLVD FORT MYERS BEACH FL 33931	VENETAIN GARDENS BLK B PB 6 PG 70 LOTS 16 + 17	22
GNIRCK RAPHAEL + AM MUEHLBERG 39A BAD HOMBURG VD HOEHE 61348 GERMANY	19-46-24-W4-0060E.0080 581 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK.E PB 6 PG 70 LOT 8 + LOT PT 9	23
STRICK RICHARD A & 5804 PARK RIDGE CT FORT COLLINS CO 80528	19-46-24-W4-0060E.0090 130 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS PB 6/70 BLK E S 1/2 OF LOT 9 + ALL OF BLK X LESS S 20 FT	24
DAY BILLY WAYNE 3708 SHANNON RUN TRL LOUISVILLE KY 40299	19-46-24-W4-0060G.0170 155 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK G PB 6 PG 70 LOT 17	25
LUMP THOMAS F & ANN C 145 PALERMO CIR FORT MYERS BEACH FL 33931	19-46-24-W4-0060G.0180 145 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK.G PB 6 PG 70 LOT 18	26
SLOMSKI STEVEN A & PO BOX 2428 PMB 25382 PENSACOLA FL 32513	19-46-24-W4-0060G.0190 139 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK G PB 6 PG 70 LOT 19 NLY 11 FT BLK Y	27
BAILEY JAMES P & LANA C 162 PRIMO DR FORT MYERS BEACH FL 33931	19-46-24-W4-0060H.0200 162 PRIMO DR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK H PB 6 PG 70 LT 20	28
SANDY BEACH L L C 1892 SANDY BEACH RD CLARION IA 50525	19-46-24-W4-0060H.021A 150 PRIMO DR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK H PB 6 PG 70 LOT 21	29
NEUMANN SHEILA 146 PRIMO DR FORT MYERS BEACH FL 33931	19-46-24-W4-0060H.0220 146 PRIMO DR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK H PB 6 PG 70 LOT 22	30
140 PRIMO LLC SHEILA NEUMANN 146 PRIMO DR FORT MYERS BEACH FL 33931	19-46-24-W4-0060H.0230 140 PRIMO DR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK H PB 6 PG 70 LOT 23	31
SEABIRD RESIDENTIAL LLC 1709 SW 47TH TER CAPE CORAL FL 33914	19-46-24-W4-0060H.0240 136 PRIMO DR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK H PB 6 PG 70 LOT 24	32
HIGHLEY JAY E & MARY B 124 PRIMO DR FORT MYERS BEACH FL 33931	19-46-24-W4-0060H.0250 124 PRIMO DR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK H PB 6 PG 70 LOT 25	33
HIGHLEY MARY BETH TR 6620 ESTERO BLVD #1006 FORT MYERS BEACH FL 33931	19-46-24-W4-0060H.0260 122 PRIMO DR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK H PB 6 PG 70 PT LOT 26	34
KWSH RE LLC 2601 MULBERRY AVE MUSCATINE IA 52761	19-46-24-W4-0060H.026A 120 PRIMO DR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK H PB 6 PG 70 PT LOTS 26 31 32	35
ARLINGTON GREEN HOMES LLC 44 ALGONQUIN CT MARCO ISLAND FL 34145	19-46-24-W4-0060H.0270 121 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK.H PB 6 PG 70 LOT 27	36
KALIDINDI RAMA USHA + 44354 APACHE CIR ASHBURN VA 20147	19-46-24-W4-0060H.0280 117 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK H PB 6 PG 70 LOT 28 + PT LOTS 26 + 29	37
1249 ESTERO ADVENTURES LLC 290 BAHIA VIA FORT MYERS BEACH FL 33931	19-46-24-W4-0060H.0300 1249 ESTERO BLVD FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK H PB 6 PG 70 LOTS 30 31+32 + PT LT 29 OR2414/2433	38
LANI KAI LP ROBERT G CONIDARIS 1400 ESTERO BLVD FORT MYERS BEACH FL 33931	19-46-24-W4-0070D.0020 1400 ESTERO BLVD FORT MYERS BEACH FL 33931	CRESCENT BEACH PB 4 PG 45 BLKS D + E + VAC R/W DESC OR 1293 PG 1208	39

COLORADO EAST LLC DANA GOSFORD 6529 BRANDON PARK WAY FRANKLIN TN 37064	19-46-24-W4-0070F.0010 1250 ESTERO BLVD FORT MYERS BEACH FL 33931	CRESCENT PARK LTS 1 + 2 + ESTRY 2.5 FT LT 3 + CRESCENT BEACH LTS 1-5 BLK F LESS ESTRLY 45FT OF NRTHLY 2.7 LT 3	40
OUR BEACH SAND LLC 12483 SUMMERWOOD DR FORT MYERS FL 33908	19-46-24-W4-0070F.001A 1270 ESTERO BLVD FORT MYERS BEACH FL 33931	CRESCENT BEACH BLK F PB 4 PG 45 PT LOTS 1 2 & 3 DESC IN OR 1319 PG 1459	41
GANIM PROPERTIES LLC 4666 MAIN ST BRIDGEPORT CT 06606	19-46-24-W4-0140A.0010 1240 ESTERO BLVD FORT MYERS BEACH FL 33931	CRESCENT PARK PB 4 PG 39 BLK A LOTS 1 + 2 + 8 + 9	42
GANIM PROPERTIES LLC 4666 MAIN ST BRIDGEPORT CT 06606	19-46-24-W4-0140A.001A 200 CANAL ST FORT MYERS BEACH FL	CRESCENT PARK PB 4 PG 39 BLK C LOT 3 LESS E 2.5 FT	43
TPI-FMB SUITES LLC 1207 ESTERO BLVD FORT MYERS BEACH FL 33931	19-46-24-W4-0150D.0050 1207 ESTERO BLVD FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK D PB 4 PG 46 LOTS 1 THRU 5	44
BISCHOFF JEAN B TR JEFF MAAAS 20468 ARDORE LN ESTERO FL 33928	19-46-24-W4-0150D.0060 141 PRIMO DR FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK D PB 4 PG 46 LT 6 + VAC R/W + LAND ADJ CANAL	45
GRIFFIS LLC 9051 E CHICAGO RD JEROME MI 49249	19-46-24-W4-0150D.0070 143 PRIMO DR FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK D PB 4 PG 46 LT 7 + VAC R/W + LAND ADJ CANAL	46
PATTON THOMAS D & 153 PRIMO DR FORT MYERS BEACH FL 33931	19-46-24-W4-0150D.0080 153 PRIMO DR FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK D PB 4 PG 46 LT 8 + VAC R/W + LAND ADJ CANAL	47
ALMEIDA ROBERT M + 163 PRIMO DR FORT MYERS BEACH FL 33931	19-46-24-W4-0150D.0090 163 PRIMO DR FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK D PB 4 PG 46 LT 9 + VAC R/W + LAND ADJ CANAL	48
BRIODY SUSAN S 167 PRIMO DR FORT MYERS BEACH FL 33931	19-46-24-W4-0150D.0100 167 PRIMO DR FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK D PB 4 PG 46 LT 10 + VAC R/W + LAND ADJ CANAL	49
RICHARD JOHN W TR 237 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	19-46-24-W4-0150E.0010 1161/1165 ESTERO BLVD FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK E PB 4 PG 46 PT LTS 1 + 2 OR0545/43LESR/W 2353/3036	50
DEEP DISH DOUGH LLC 328 BUCKLIN ST LA SALLE IL 61301	19-46-24-W4-0150E.001A 1167 ESTERO BLVD FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK E PB 4 PG 46 BEG ON NLY SI CO RD 80 FT	51
MILLER CONRAD RE LLC PO BOX 80490 FORT WAYNE IN 46898	19-46-24-W4-0150E.0030 108/116 CRESCENT ST FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK E PB 4 PG 46 LT 3	52
INVESTMENTS OF FMB LLC MARK DEIFT 560 NW 118 AVE PLANTATION FL 33325	19-46-24-W4-0150E.0040 118/122 CRESCENT ST FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK E PB 4 PG 46 LT 4 + S10 FT LOT 5 LES R/W2353/3036	53
RICHARD JOHN W TR 237 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	19-46-24-W4-0150E.005B 140 CRESCENT ST FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK E PB 4 PG 46 N 40 FT OF LOT 5 + 32.67 FT ADJ + VAC + ADJ CANAL LESS R/W OR2353/3036	54
RICHARD JOHN W TR 237 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	19-46-24-W4-0150E.0060 150 CRESCENT ST FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK E PB 4 PG 46 LOT 6 + 32.67 FT ADJ + VAC + ADJ CANAL LESS R/W OR2353/3036	55
RICHARD JOHN W + 152 CRESCENT ST FORT MYERS BEACH FL 33931	19-46-24-W4-0150E.0070 152 CRESCENT ST FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK E PB 4 PG 46 LOT 7 +	56

		VAC R/W + LAND ADJ LESR/WOR2353/3036	
RICHARD JOHN W TR 237 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	19-46-24-W4-0150E.0080 170 CRESCENT ST FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK E PB 4 PG 46 LOT 8 + VAC R/W + LAND ADJ LESR/WOR2353/3036	57
RICHARD JOHN W TR 237 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	19-46-24-W4-0150E.0090 202 CRESCENT ST FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK E PB 4 PG 46 LOTS 9 10 + VAC + LAND ADJ LESR/W2353/3036	58
CRESCENT SHORE CONDO ASSOC PO BOX 2990 FORT MYERS BEACH FL 33932	19-46-24-W4-02600.00CE CRESCENT SHORE C/E FORT MYERS BEACH FL 33931	A CONDO LOCATED IN SEC 19 TWP 46 RGE 24 AS DESC IN OR 1464 PG 445 COMMON ELEMENTS	59
1300 ESTERO BLVD LLC 32 BAYVIEW BLVD FORT MYERS BEACH FL 33931	19-46-24-W4-02600.1010 1300 ESTERO BLVD #101 FORT MYERS BEACH FL 33931	CRESCENT SHORE CONDO OR 1464 PG 445 UNITS 101 102 + 103	60
BEYER TAMMY E TR 9656 HALYARDS CT # 24 FORT MYERS FL 33919	19-46-24-W4-02600.1040 1300 ESTERO BLVD #104 FORT MYERS BEACH FL 33931	CRESCENT SHORE CONDO OR 1464 PG 445 UNIT 104	60
ANDRESEN EDWIN TR 7960 PRESERVATION DR INDIANAPOLIS IN 46278	19-46-24-W4-02600.1050 1300 ESTERO BLVD #105 FORT MYERS BEACH FL 33931	CRESCENT SHORE CONDO OR 1464 PG 445 UNIT 105	60
BOCELLA SALVATORE 4 POINT VIEW CT SICKLERVILLE NJ 08081	19-46-24-W4-02600.1060 1300 ESTERO BLVD #106 FORT MYERS BEACH FL 33931	CRESCENT SHORE CONDO OR 1464 PG 445 UNIT 106	60
JOHNSON NANCY ANN L/E 9 NANCY LN FORT MYERS BEACH FL 33931	19-46-24-W4-02600.2010 1300 ESTERO BLVD #201 FORT MYERS BEACH FL 33931	CRESCENT SHORE CONDO OR 1464 PG 445 UNIT 201	60
HECK LLC 15561 CATALPA COVE DR FORT MYERS FL 33908	19-46-24-W4-02600.2020 1300 ESTERO BLVD #202 FORT MYERS BEACH FL 33931	CRESCENT SHORE CONDO OR 1464 PG 445 UNIT 202	60
CONANT DONNA TR 8122 S FOREST HILL CIR FRANKLIN WI 53132	19-46-24-W4-02600.2030 1300 ESTERO BLVD #203 FORT MYERS BEACH FL 33931	CRESCENT SHORE CONDO OR 1464 PG 445 UNIT 203	60
DENNIS R + CYNTHIA L LOKEN TRU 106 ICHABOD LN MANKATO MN 56001	19-46-24-W4-02600.2040 1300 ESTERO BLVD #204 FORT MYERS BEACH FL 33931	CRESCENT SHORE CONDO OR 1464 PG 445 UNIT 204	60
LANDOLFI STEVEN J 22 VETO ST PROVIDENCE RI 02908	19-46-24-W4-02600.2050 1300 ESTERO BLVD #205 FORT MYERS BEACH FL 33931	CRESCENT SHORE CONDO OR 1464 PG 445 UNIT 205	60
NIEMEIER RYAN & SUMMER 106 S WALNUT ST LA CRESCENT MN 55947	19-46-24-W4-02600.2060 1300 ESTERO BLVD #206 FORT MYERS BEACH FL 33931	CRESCENT SHORE CONDO OR 1464 PG 445 UNIT 206	60

TPI-FMB LLC
 103 15TH AVE NW STE 200
 WILLMAR MN 56201

CLOWNFISH RESTAURANT HOLDINGS
 11201 COORPORATE CIRCLE N
 SAINT PETERSBURG FL 33716

LEE COUNTY
 PO BOX 398
 FORT MYERS FL 33902

PRESAUD PROPERTIES FL
 361 SEMINOLE WAY
 FORT MYERS BEACH FL 33931

LEE COUNTY
 PO BOX 398
 FORT MYERS FL 33902

TOWN OF FORT MYERS BEACH
 2525 ESTERO BLVD
 FORT MYERS BEACH FL 33931

TPI-FMB LLC
 103 15TH AVE NW STE 200
 WILLMAR MN 56201

KLC SURF LLC
 CHRISTOPHER PRIMEAU
 4625 W EUCLID AVE
 TAMPA FL 33629

VENETIAN GARDENS CANAL
 PALERMO CIR
 FORT MYERS BEACH FL 33931

VENETIAN GARDENS CANAL
 PALERMO CIR
 FORT MYERS BEACH FL 33931

VAN BURGESS ROBERT
 PO BOX 2717
 FORT MYERS BEACH FL 33932

AULLS TRICIA M
 7241 BERGAMO WAY UNIT 101
 FORT MYERS FL 33966

WILCOX LANCE
 1339 SANTOS RD
 FORT MYERS BEACH FL 33931

PARILLA DAVID R TR
 1335 SANTOS RD
 FORT MYERS BEACH FL 33931

CONNER CHARLES R & GAIL D
 53 POMPAÑO ST
 FORT MYERS BEACH FL 33931

PARILLA DAVID R TR
 1335 SANTOS RD
 FORT MYERS BEACH FL 33931

KLC SURF LLC
 CHRISTOPHER PRIMEAU
 4625 W EUCLID AVE
 TAMPA FL 33629

KLC SURF LLC
 CHRISTOPHER PRIMEAU
 4625 W EUCLID AVE
 TAMPA FL 33629

LANI KAI LP
 ROBERT G CONIDARIS
 1400 ESTERO BLVD
 FORT MYERS BEACH FL 33931

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LANI KAI LP
ROBERT G CONIDARIS
1400 ESTERO BLVD
FORT MYERS BEACH FL 33931

7-ELEVEN INC
CORP INCOME TAX DEPT
3200 HYACKBERRY RD
IRVING TX 75063

GNIRCK RAPHAEL +
AM MUEHLBERG 39A
BAD HOMBURG VD HOEHE 61348
GERMANY

STRICK RICHARD A &
5804 PARK RIDGE CT
FORT COLLINS CO 80528

DAY BILLY WAYNE
3708 SHANNON RUN TRL
LOUISVILLE KY 40299

LUMP THOMAS F & ANN C
145 PALERMO CIR
FORT MYERS BEACH FL 33931

SLOMSKI STEVEN A &
PO BOX 2428 PMB 25382
PENSACOLA FL 32513

BAILEY JAMES P & LANA C
162 PRIMO DR
FORT MYERS BEACH FL 33931

SANDY BEACH L L C
1892 SANDY BEACH RD
CLARION IA 50525

NEUMANN SHEILA
146 PRIMO DR
FORT MYERS BEACH FL 33931

140 PRIMO LLC
SHEILA NEUMANN
146 PRIMO DR
FORT MYERS BEACH FL 33931

SEABIRD RESIDENTIAL LLC
1709 SW 47TH TER
CAPE CORAL FL 33914

HIGHLEY JAY E & MARY B
124 PRIMO DR
FORT MYERS BEACH FL 33931

HIGHLEY MARY BETH TR
6620 ESTERO BLVD #1006
FORT MYERS BEACH FL 33931

KWSH RE LLC
2601 MULBERRY AVE
MUSCATINE IA 52761

ARLINGTON GREEN HOMES LLC
44 ALGONQUIN CT
MARCO ISLAND FL 34145

KALIDINDI RAMA USHA +
44354 APACHE CIR
ASHBURN VA 20147

1249 ESTERO ADVENTURES LLC
290 BAHIA VIA
FORT MYERS BEACH FL 33931

LANI KAI LP
ROBERT G CONIDARIS
1400 ESTERO BLVD
FORT MYERS BEACH FL 33931

COLORADO EAST LLC
DANA GOSFORD
6529 BRANDON PARK WAY
FRANKLIN TN 37064

OUR BEACH SAND LLC
12483 SUMMERWOOD DR
FORT MYERS FL 33908

GANIM PROPERTIES LLC
4666 MAIN ST
BRIDGEPORT CT 06606

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TPI-FMB SUITES LLC
1207 ESTERO BLVD
FORT MYERS BEACH FL 33931

BISCHOFF JEAN B TR
JEFF MAAAS
20468 ARDORE LN
ESTERO FL 33928

GRIFFIS LLC
9051 E CHICAGO RD
JEROME MI 49249

PATTON THOMAS D &
153 PRIMO DR
FORT MYERS BEACH FL 33931

ALMEIDA ROBERT M +
163 PRIMO DR
FORT MYERS BEACH FL 33931

BRIODY SUSAN S
167 PRIMO DR
FORT MYERS BEACH FL 33931

RICHARD JOHN W TR
237 OLD SAN CARLOS BLVD
FORT MYERS BEACH FL 33931

DEEP DISH DOUGH LLC
328 BUCKLIN ST
LA SALLE IL 61301

MILLER CONRAD RE LLC
PO BOX 80490
FORT WAYNE IN 46898

INVESTMENTS OF FMB LLC
MARK DEIFT
560 NW 118 AVE
PLANTATION FL 33325

RICHARD JOHN W TR
237 OLD SAN CARLOS BLVD
FORT MYERS BEACH FL 33931

RICHARD JOHN W TR
237 OLD SAN CARLOS BLVD
FORT MYERS BEACH FL 33931

RICHARD JOHN W +
152 CRESCENT ST
FORT MYERS BEACH FL 33931

RICHARD JOHN W TR
237 OLD SAN CARLOS BLVD
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1300 ESTERO BLVD LLC
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9656 HALYARDS CT # 24
FORT MYERS FL 33919

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INDIANAPOLIS IN 46278

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FRANKLIN WI 53132

DENNIS R + CYNTHIA L LOKEN TRU
106 ICHABOD LN
MANKATO MN 56001

LANDOLFI STEVEN J
22 VETO ST
PROVIDENCE RI 02908

NIEMEIER RYAN & SUMMER
106 S WALNUT ST
LA CRESCENT MN 55947

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 FORT COLLINS CO 80528

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 FORT MYERS BEACH FL 33931

140 PRIMO LLC
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JEROME MI 49249

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FORT MYERS BEACH FL 33931

ALMEIDA ROBERT M +
163 PRIMO DR
FORT MYERS BEACH FL 33931

BRIODY SUSAN S
167 PRIMO DR
FORT MYERS BEACH FL 33931

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FORT WAYNE IN 46898

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560 NW 118 AVE
PLANTATION FL 33325

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237 OLD SAN CARLOS BLVD
FORT MYERS BEACH FL 33931

RICHARD JOHN W TR
237 OLD SAN CARLOS BLVD
FORT MYERS BEACH FL 33931

RICHARD JOHN W +
152 CRESCENT ST
FORT MYERS BEACH FL 33931

RICHARD JOHN W TR
237 OLD SAN CARLOS BLVD
FORT MYERS BEACH FL 33931

RICHARD JOHN W TR
237 OLD SAN CARLOS BLVD
FORT MYERS BEACH FL 33931

CRESCENT SHORE CONDO ASSOC
PO BOX 2990
FORT MYERS BEACH FL 33932

1300 ESTERO BLVD LLC
32 BAYVIEW BLVD
FORT MYERS BEACH FL 33931

PARCEL 3



Date of Report: March 21, 2023

Buffer Distance: 500 feet

Parcels Affected: 60

Subject Parcel: 24-46-23-W3-00205.0070

To change, add or remove subject parcels please change the parcel selection in [GeoView](#)

[Click here to download the map image, mailing labels \(Avery 5161\) and CSV formatted information.](#)

OWNER NAME AND ADDRESS	STRAP AND LOCATION	LEGAL DESCRIPTION	MAP INDEX
TPI-FMB LLC 103 15TH AVE NW STE 200 WILLMAR MN 56201	24-46-23-W3-00006.0000 251 CRESCENT ST FORT MYERS BEACH FL 33931	BUSINESS CTR PHILLIPS PB 9 PG 9 LOTS 10 THRU 15 + OR 587/198 LESS R/W 2353/3036	1
1005 ESTERO LLC 1005 ESTERO BLVD FORT MYERS BEACH FL 33931	24-46-23-W3-00007.0000 1005 ESTERO BLVD FORT MYERS BEACH FL 33931	FRM SW COR BLK E CRESCENT PK ADD ON E LI SEC 24 46 23 RUN NWLY AT INC	2
KALYMNIOUS PARTNERSHIP LLP 1001 ESTERO BLVD FORT MYERS BEACH FL 33931	24-46-23-W3-00008.0000 1001 ESTERO BLVD FORT MYERS BEACH FL 33931	FRM SW COR BLK E CRESCENT PK ADD ON E LI SEC 24 RUN NW 69 DEG 54 MIN WITH SEC	3
CLOWNFISH RESTAURANT HOLDINGS 11201 COOPERATE CIRCLE N SAINT PETERSBURG FL 33716	24-46-23-W3-00011.0000 1154 ESTERO BLVD FORT MYERS BEACH FL 33931	BEG SW COR BLK E CRESCENT PARK ADD ON E LI SEC 24 S ALG E LI SEC 53.24 FT TO S	4
LEE COUNTY PO BOX 398 FORT MYERS FL 33902	24-46-23-W3-00013.0000 1100 ESTERO BLVD FORT MYERS BEACH FL 33931	PARL IN SE 1/4 SEC 24 TWN 46 R 23 S OF ESTERO BLVD AS DESC IN INST #'S 201000023675 + 201000023676	5

PRESAUD PROPERTIES FL 361 SEMINOLE WAY FORT MYERS BEACH FL 33931	24-46-23-W3-00016.0000 1046 ESTERO BLVD FORT MYERS BEACH FL 33931	FROM SW COR BLK E CRESCENT PK ADD ON E LI SEC 24 RUN S ALG SD LI TO S LI CO RD	6
PERSAUD PROPERTIES FL INVESTME 361 SEMINOLE WAY FORT MYERS BEACH FL 33931	24-46-23-W3-00017.0000 1028 ESTERO BLVD FORT MYERS BEACH FL 33931	FROM SW COR BLK E CRES PK ADD ON E LI SEC 24 RUN S ALG SD LI TO S LI CO RD TH	7
BENCIN ENTERPRISES INC 927 PRESCOTT ST FORT MYERS BEACH FL 33931	24-46-23-W3-00018.0000 1010 ESTERO BLVD FORT MYERS BEACH FL 33931	A PAR AS DESC IN OR 1234 PG 1371	8
WHITAKER WILLIAM D & 15820 SAN ANTONIO CT FORT MYERS FL 33908	24-46-23-W3-00021.0000 1000 ESTERO BLVD FORT MYERS BEACH FL 33931	PARL IN SE1/4 SEC 24 S OF ESTERO BLVD+E OFSAN CARLOS DR DESC OR 1547 PG 1077	9
LEE COUNTY PO BOX 398 FORT MYERS FL 33902	24-46-23-W3-00022.0000 10 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	BEG NW COR BLK 8 BUSINESS CTR SUBD RUN NWLY ALG EXTENED N LINE PIER ONLY	10
LEE COUNTY PO BOX 398 FORT MYERS FL 33902	24-46-23-W3-00023.0000 950 ESTERO BLVD FORT MYERS BEACH FL 33931	BEG NW COR BLK 8 BUSINESS CTR SUB RUN NWLY ALG EXTEN NLI PIER ON 22.0000	11
RICHARD JOHN W TR 237 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	24-46-23-W3-00024.0000 201 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	FROM NWLY COR BLK 8 BUSINESS CENTER SUBD RUN NWLY ALG PROLONGATION OF	12
HOUSEBOAT LLC 237 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	24-46-23-W3-00202.0020 430 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	BUSINESS CENTER BLK 2 PB 9 PG 9 LOTS 2 THRU 5	13
MERSCHMAN I LLC 1421 E LAKE SHORE DR SPRINGFIELD IL 62712	24-46-23-W3-00202.0060 1011 THIRD ST #1-4 FORT MYERS BEACH FL 33931	BUSINESS CENTER BLK.2 PB 9 PG 9 LOT 6	14
HOUSEBOAT LLC 237 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	24-46-23-W3-00202.0090 1037/1039 THIRD ST FORT MYERS BEACH FL 33931	BUSINESS CENTER BLK 2 PB 9 PG 9 LOTS 9 + 10	15
ALN BEACHVIEW LLC 615 CAPE CORAL PKWY W # 104 CAPE CORAL FL 33914	24-46-23-W3-00202.0110 1041 THIRD ST FORT MYERS BEACH FL 33931	BUSINESS CENTER BLK 2 PB 9 PG 9 LOT 11	16
ALN BEACHVIEW LLC 151 MATANZAS ST UPSTAIRS FORT MYERS BEACH FL 33931	24-46-23-W3-00202.0120 1051 THIRD ST FORT MYERS BEACH FL 33931	BUSINESS CENTER BLK.2 PB 9 PG 9 LOT 12 LESS OR2325/0292	17
SOB INC 340 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	24-46-23-W3-00203.0010 340 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	BUSINESS CENTER BLK.3 PB 9 PG 9 LOT 1	18
RICHARD JOHN W TR 237 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	24-46-23-W3-00203.0020 318/320 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	BUSINESS CENTER BLK 3 PB 9 PG 9 LOTS 2 THRU 6 + LTS 22 +23 + POR OF VAC ST	19
LIGHTHOUSE ISLAND RESORT INC 1051 5TH ST FORT MYERS BEACH FL 33931	24-46-23-W3-00203.0150 1060 THIRD ST FORT MYERS BEACH FL 33931	BUSINESS CENTER BLK.3 PB 9 PG 9 LOT 15 LES R/W OR2353/3036	20
STINGRAYS RAW BAR INC 250 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	24-46-23-W3-00204.0010 250 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	BUSINESS CTR LTS 1 + 2 BLK 4 LOTS 1 THRU 5 BLK 5 W OF ST RD 865 R/W + POR OF VAC ST	21
DIANNE HOLLAND TRUST + 570 KULAIWI DR WAILUKU HI 96793	24-46-23-W3-00204.0030 200 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	BUSINESS CENTER BLK 4 PB 9 PG 9 LTS 3 THRU 7 PT 8 + 9 + PT VAC ALLY	22
LIGHTHOUSE ISLAND RESORT INC 1051 FIFTH ST FORT MYERS BEACH FL 33931	24-46-23-W3-00205.0060 1051 FIFTH ST FORT MYERS BEACH FL 33931	PORTION OF BUSINESS CENTER BLK 3 & 5 PB 9 PG 9 AND A PORTION OF VACATED FOURTH ST AND PORTION OF	23

		VACATED 5TH AVE IN SEC 24 TWP 46 RNG 23	
LEE COUNTY PO BOX 398 FORT MYERS FL 33902	24-46-23-W3-00206.0010 1113 ESTERO BLVD FORT MYERS BEACH FL 33931	BUSINESS CENTER BLK 6 PB9 PG9 LTS 1-4 LESS R/W + DESC OR 1904/4451	24
TOWN OF FORT MYERS BEACH 2525 ESTERO BLVD FORT MYERS BEACH FL 33931	24-46-23-W3-00206.0050 1054 FIFTH ST FORT MYERS BEACH FL 33931	BUSINESS CENTER BLK 6 PB 9 PG 9 LOT 5 R/W OR 1154 PG 1510	25
TPI-FMB LLC 103 15TH AVE NW STE 200 WILLMAR MN 56201	24-46-23-W3-00206.0060 1150 FIFTH ST FORT MYERS BEACH FL 33931	BUSINESS CENTER BLK 6 PB 9 PG 9 LOTS 6 THRU 9	26
150 SAN CARLOS BLVD CORP OMG INC 408 BROADWAY NEW YORK NY 10013	24-46-23-W3-00207.0000 150 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	BUSINESS CENTER BLK 7 PB 9 PG 9 ALL BLK 7	27
TOWN OF FORT MYERS BEACH FINANCE DEPT 2525 ESTERO BLVD FORT MYERS BEACH FL 33931	24-46-23-W3-00207.1000 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	BUSINESS CENTER R/W OF CENTER STREET LYING BETWEEN BLK 7 BLK 7 PB 9 PG 9	28
CHAVEZ CARLOS L TR 991 AQUA LN FORT MYERS FL 33919	24-46-23-W3-00208.0010 80 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	BUSINESS CENTER BLK.8 PB 9 PG 9 LOTS 1 + 2 LESS THE W 44	29
CHAVEZ CARLOS L TR 991 AQUA LN FORT MYERS FL 33919	24-46-23-W3-00208.002A 50 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	BUSINESS CENTER BLK 8 PB 9 PG 9 LOT PT 2	30
BENSON BRADFORD J TR 927 PRESCOTT ST FORT MYERS BEACH FL 33931	24-46-23-W3-00208.0040 1021 ESTERO BLVD FORT MYERS BEACH FL 33931	BUSINESS CENTER BLK.8 PB 9 PG 9 PT LOT 4 + ALL LOT 5	31
TOWN OF FORT MYERS BEACH FINANCE DEPT 2525 ESTERO BLVD FORT MYERS BEACH FL 33931	24-46-23-W3-00208.004A EASEMENT FORT MYERS BEACH FL 33931	PT LOT 4 AREA 2 SE 1/4 BUSINESS CENTER PB 9 PG 9 IN OR 297 P 427	32
KLC SURF LLC CHRISTOPHER PRIMEAU 4625 W EUCLID AVE TAMPA FL 33629	24-46-23-W3-00208.0060 1035 ESTERO BLVD FORT MYERS BEACH FL 33931	BUSINESS CENTER BLK.8 PB 9 PG 9 LT 7 + LOT 6 LESS WLY 6 FT LESS ROW OR3539 PG3351	33
BC III MASTERPIECE LLC 151 MATANZAS ST FORT MYERS BEACH FL 33931	24-46-23-W3-00208.0080 1028 FIFTH ST FORT MYERS BEACH FL 33931	BUSINESS CENTER BLK 8 PB 9 PG 9 LOTS 8 + 9	34
RFN CORP 2401 ESTERO BLVD FORT MYERS BEACH FL 33931	24-46-23-W3-00208.0100 1018 FIFTH ST FORT MYERS BEACH FL 33931	BUSINESS CENTER BLK 8 PB 9 PG 9 LOT 10	35
RICHARD JOHN W TR 237 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	24-46-23-W3-0050A.0080 237 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	ISLAND SHORES UNIT 2 BLK A PB 9 PG 25 LOTS 1 THRU 12 + VAC LAGOON R/W OR2858/1391 + OR2660/2863 +2736/3702 + BLK B PB 9 PG 40 LOT 1	36
BAHAN SUZANNE E + 169 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	24-46-23-W3-0050A.0130 185 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	ISLAND SHORES UNIT 2 BLK A PB 9 PG 25 LOT 13 + PT LOT 14	37
ZOZO INVESTMENTS LLC 173 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	24-46-23-W3-0050A.0140 163 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	ISLAND SHORES UNIT 2 BLK A PB 9 PG 25 PT LOT 14 + LOT 15	38
JENKINS CARROLL ANNE 3063 NORFOLK CR 23 RR6 TILLSONBURG ON N4G 4G9 CANADA	24-46-23-W3-0050A.016A 159/161 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	ISLAND SHORES UNIT 2 BLK.A PB 9 PG 25 LOTS 16 + PT OF LT 17	39

151 OLD SAN CARLOS LLC 17840 SAN CARLOS BLVD FORT MYERS BEACH FL 33931	24-46-23-W3-0050A.018A 151 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	ISLAND SHORES UNIT 2 BLK.A PB 9 PG 25 LOTS PT 18 + 19	40
BENSON BRADFORD J II TR 938 DEEP LAGOON LN FORT MYERS FL 33919	24-46-23-W3-0050A.018B 959/963 ESTERO BLVD FORT MYERS BEACH FL 33931	ISLAND SHORES UNIT 2 BLK A PT LOTS 17 18 + 19	41
HOLIDAY COURT MOTEL LLC PO BOX 1118 LABELLE FL 33975	24-46-23-W3-0050A.0200 925 ESTERO BLVD FORT MYERS BEACH FL 33931	ISLAND SHORES UNIT 2 BLK A PB 9 PG 25 LOTS 20 THRU 26	42
BRIODY SUSAN S 167 PRIMO DR FORT MYERS BEACH FL 33931	19-46-24-W4-0150D.0100 167 PRIMO DR FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK D PB 4 PG 46 LT 10 + VAC R/W + LAND ADJ CANAL	43
TOWNLEY ARTHUR JAMES III PO BOX 2452 FORT MYERS BEACH FL 33932	19-46-24-W4-0150D.0110 171 PRIMO DR FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK D PB 4 PG 46 LT 11 + VAC R/W + LAND ADJ CANAL	44
TOWNLEY ARTHUR J III PO BOX 2452 FORT MYERS BEACH FL 33932	19-46-24-W4-0150D.0120 191 PRIMO DR FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK D PB 4 PG 46 LOTS 12 + VAC R/W + LAND ADJ CANAL	45
RICHARD JOHN W TR 237 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	19-46-24-W4-0150E.0010 1161/1165 ESTERO BLVD FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK E PB 4 PG 46 PT LTS 1 + 2 OR0545/43LESR/W 2353/3036	46
MILLER CONRAD RE LLC PO BOX 80490 FORT WAYNE IN 46898	19-46-24-W4-0150E.0030 108/116 CRESCENT ST FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK E PB 4 PG 46 LT 3	47
INVESTMENTS OF FMB LLC MARK DEIFT 560 NW 118 AVE PLANTATION FL 33325	19-46-24-W4-0150E.0040 118/122 CRESCENT ST FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK E PB 4 PG 46 LT 4 + S10 FT LOT 5 LES R/W2353/3036	48
RICHARD JOHN W TR 237 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	19-46-24-W4-0150E.005B 140 CRESCENT ST FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK E PB 4 PG 46 N 40 FT OF LOT 5 + 32.67 FT ADJ + VAC + ADJ CANAL LESS R/W OR2353/3036	49
RICHARD JOHN W TR 237 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	19-46-24-W4-0150E.0060 150 CRESCENT ST FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK E PB 4 PG 46 LOT 6 + 32.67 FT ADJ + VAC + ADJ CANAL LESS R/W OR2353/3036	50
RICHARD JOHN W + 152 CRESCENT ST FORT MYERS BEACH FL 33931	19-46-24-W4-0150E.0070 152 CRESCENT ST FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK E PB 4 PG 46 LOT 7 + VAC R/W + LAND ADJ LESR/WOR2353/3036	51
RICHARD JOHN W TR 237 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	19-46-24-W4-0150E.0080 170 CRESCENT ST FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK E PB 4 PG 46 LOT 8 + VAC R/W + LAND ADJ LESR/WOR2353/3036	52
RICHARD JOHN W TR 237 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	19-46-24-W4-0150E.0090 202 CRESCENT ST FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK E PB 4 PG 46 LOTS 9 10 + VAC + LAND ADJ LESR/W2353/3036	53
250 FMB LLC 4517 BRYWOOD DR NAPLES FL 34119	19-46-24-W4-0150E.0110 250 CRESCENT ST FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK E PB 4/46 LT 11 + VAC R/W + LAND ADJ CANAL LESS R/W	54
TORGERSON ASHLEE MICHELLE PO BOX 5088 FORT MYERS BEACH FL 33932	19-46-24-W4-0150E.0120 270 CRESCENT ST FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK E PB 4/46 LT 12 VAC R/W + LAND ADJ CANAL LESS R/W DESC IN OR 2319/4512	55
GRANT JOSEPH H & DORIS M 320 CRESCENT ST	19-46-24-W4-0150E.0130 300 CRESCENT ST	CRESCENT PARK ADD BLK E PB 4 PG 46 LOT13+E40 FT LT	56

FORT MYERS BEACH FL 33931	FORT MYERS BEACH FL 33931	14+VAC LES R/W OR2366/2077	
GRANT JOE H 320 CRESCENT ST FORT MYERS BEACH FL 33931	19-46-24-W4-0150E.014B 320 CRESCENT ST FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK E PB 4 PG 46 W 60 FT LT 14 + LT 15 + VAC R/W + ADJ LESS R/W DESC IN OR 2363/1290	57
LIGHTHOUSE ISLAND RESORT INC 1051 5TH ST FORT MYERS BEACH FL 33931	19-46-24-W4-0150E.016A 332 CRESCENT ST FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK E PB 4 PG 46 LOT16+VAC R/W +LAND ADJ CANAL	58
REICH EUGENE E TR 6115 POND VIEW DR EXCELSIOR MN 55331	19-46-24-W4-0150E.0170 340 CRESCENT ST FORT MYERS BEACH FL 33931	CRESCENT PK ADD BLK E PB 4/46 LT 17 + S 20 FT OF LT 18 + VAC R/W LESS ROAD OR 2328/3484	59
CHIPPEWA LAND LLC 11577 HIBNER HARTLAND MI 48353	19-46-24-W4-0150E.0190 402/406 CRESCENT ST FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK E PB 4 PG 46 N 30 FT LOTS 18 + 19 + S 30 FT LOT 20 LESS R/W 2353/3036 LESS R/W OR 2370/0201	60

TPI-FMB LLC
 103 15TH AVE NW STE 200
 WILLMAR MN 56201

1005 ESTERO LLC
 1005 ESTERO BLVD
 FORT MYERS BEACH FL 33931

KALYMNOUS PARTNERSHIP LLP
 1001 ESTERO BLVD
 FORT MYERS BEACH FL 33931

CLOWNFISH RESTAURANT HOLDINGS
 11201 COORPORATE CIRCLE N
 SAINT PETERSBURG FL 33716

LEE COUNTY
 PO BOX 398
 FORT MYERS FL 33902

PRESAUD PROPERTIES FL
 361 SEMINOLE WAY
 FORT MYERS BEACH FL 33931

PERSAUD PROPERTIES FL INVESTME
 361 SEMINOLE WAY
 FORT MYERS BEACH FL 33931

BENCIN ENTERPRISES INC
 927 PRESCOTT ST
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WHITAKER WILLIAM D &
 15820 SAN ANTONIO CT
 FORT MYERS FL 33908

LEE COUNTY
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 FORT MYERS FL 33902

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RICHARD JOHN W TR
 237 OLD SAN CARLOS BLVD
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HOUSEBOAT LLC
 237 OLD SAN CARLOS BLVD
 FORT MYERS BEACH FL 33931

MERSCHMAN I LLC
 1421 E LAKE SHORE DR
 SPRINGFIELD IL 62712

HOUSEBOAT LLC
 237 OLD SAN CARLOS BLVD
 FORT MYERS BEACH FL 33931

ALN BEACHVIEW LLC
 615 CAPE CORAL PKWY W # 104
 CAPE CORAL FL 33914

ALN BEACHVIEW LLC
 151 MATANZAS ST UPSTAIRS
 FORT MYERS BEACH FL 33931

SOB INC
 340 OLD SAN CARLOS BLVD
 FORT MYERS BEACH FL 33931

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STINGRAYS RAW BAR INC
250 OLD SAN CARLOS BLVD
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DIANNE HOLLAND TRUST +
570 KULAIWI DR
WAILUKU HI 96793

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NEW YORK NY 10013

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FORT MYERS FL 33919

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CHRISTOPHER PRIMEAU
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TAMPA FL 33629

BC III MASTERPIECE LLC
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BAHAN SUZANNE E +
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FORT MYERS BEACH FL 33931

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3063 NORFOLK CR 23 RR6
TILLSONBURG ON N4G 4G9
CANADA

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LABELLE FL 33975

BRIODY SUSAN S
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EXCELSIOR MN 55331

CHIPPEWA LAND LLC
11577 HIBNER
HARTLAND MI 48353



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: TPI-FMB CPD Amendment
Authorized Applicant: Steven C. Hartsell, Esquire
STRAP Number(s): Parcel 2 (collectively): 24-46-23-W3-00009.0000, 19-46-24-W4-0140B.0070, 19-46-24-W4-U0491.2610, 19-46-24-W4-U0494.2609, 19-46-24-W4-U0496.2608, 19-46-24-W4-U0498.2607; AND Parcel 3: 24-46-23-W3-00205.0070

Current Property Status: Under construction			
Current Zoning: Commercial Planned Development (CPD)			
Future Land Use Map (FLUM) Category: Pedestrian Commercial FLU			
Platted Overlay?	☐	yes,	☒ no FLUM Density Range: See Ordinance #18-04

Requested Action:

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



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)
<i>No change proposed. See Ordinance #18-04</i>	



Case # _____ Date Received: _____

C. Comprehensive Plan Compliance.

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

<i>No change proposed. See Ordinance #18-04</i>

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.

<i>No change proposed. See Ordinance #18-04</i>

E. Decision-making Compliance

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

<i>SEE ATTACHED NARRATIVE</i>

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.

<i>No change proposed. See Ordinance #18-04</i>

TPI-FMB CPD AMENDMENT

Narrative

According to LDC Section 34-1(a) the purpose and intent of the Land Development Code is:

... to encourage and promote, in accordance with present and future needs, the safety, health, order, convenience, prosperity, and general welfare of the citizens of the Town of Fort Myers Beach, to recognize and promote real property rights, and to provide:

- (1) For efficiency and economy in the process of development;
- (2) For the appropriate and best use of land; ...

(Emphasis supplied).

According to LDC Section 34-85(b), when considering rezonings, the Town Council shall consider (among others):

Whether there exists an error or ambiguity which must be corrected;
and

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

TPI submits that there are changed circumstances arising from Hurricane Ian and its impacts on the local economy and due to the devastation to the local community which require that these changed/changing circumstance be taken into account to assess what changes to the Margaritaville CPD might be appropriate. This is especially true in light of how this development may serve to anchor and inspire future redevelopment of this part of Fort Myers Beach. These are changed circumstances and ambiguities in the language of Condition #14 which it is appropriate to address. TPI submits that the impact of the proposed change to Condition 14 will promote the intent of LDC Chapter 34 and give the Town greater flexibility to allow future development and redevelopment to be consistent with future changes to the community that are reflected in future changes to the Land Development Code and the Town of Fort Myers Beach Comprehensive Plan.

Condition 14 calls for a restrictive covenant that states that the CPD:

"...has consumed all allowable density and intensity on parcels 1, 2, 3, and 5, and that no additional development may occur beyond that which is approved by this CPD."

Due to the changed circumstances and the redevelopment planning required to address the future needs of the Town, the foregoing requirement does not further the purpose and intent in the LDC calling for efficiency and economy of development and for the appropriate and best use of the land. Instead, it unnecessarily restricts the Town Council with regard to redevelopment at a time when the Council may need flexibility and creativity to address the needs of the future. Moreover, the restrictive covenant is not necessary. No additional development may occur beyond that approved by the CPD unless the Town Council receives an application and reviews it under the regulations in effect at that time. No development can occur beyond the CPD unless the Town Council reviews and approves it. A restrictive covenant that prohibits development simply ties the hands of future Councils without consideration for future circumstances.

TPI submits that under this very new post-Hurricane Ian environment, it no longer makes any sense to completely eliminate all flexibility or future opportunities for modifications in perpetuity. That is counterproductive to the Town's desire to be certain that all development must be compatible with, and cohesively mesh with, the future framework of Town redevelopment. There must be opportunities available to future Town Councils to accommodate changing circumstances (like from Hurricane Ian).

Condition 9 specifically anticipates redevelopment and future uses on the subject property and requires that they be consistent with the Master Concept Plan approved by Town Council. The prohibition in Condition 14 against even considering any future changes on Parcels 2 and 3 is inconsistent with Condition 9. Condition 14 appears intended to bind future Town Councils from even considering any redevelopment or changes that might increase density or intensity, regardless of whether those future changes would be consistent and compatible with future development and regulations in the Town.

Condition 14 also has an inherent ambiguity because it says that the intent is to:

"...limit in perpetuity the density and intensity of Parcels 2 and 3 to that which is approved by the CPD and maintain all areas on which buildings and pavement are not constructed..., only for outdoor

recreation area on Parcel 2 and a single-level surface parking lot on Parcel 3,

(Emphasis supplied.)

Maintaining the open area ("on which buildings and pavement are not constructed") on parcel 3 "only for... a single-level surface parking lot..." is internally inconsistent and ought to be clarified. At the same time that clarification takes place, TPI proposes these changes to Condition 14:

~~*Prior to the Town issuing any development orders for demolition, site work, or new buildings on Parcel 2 the landowner must execute and record a restrictive covenant in favor of and enforceable by the Town in perpetuity that acknowledges that this CPD approval has consumed all allowable density and intensity on Parcels 1, 2, 3, and 5 and that no **No** additional development may occur beyond that which is approved by this CPD without prior approval of the Town Council. Prior to issuance of a temporary or final certificate of completion on Parcel 2 (but not later than 36 months after commencing construction), the landowner must convey to the Town a perpetual conservation easement in a form acceptable to the Town Attorney, which after acceptance will be recorded in the Public Records of Lee County, over those portions of Parcels 2 and 3 on which structures or pavement are not constructed or proposed to be constructed under the Master Concept Plan adopted as part of this CPD. The intent of this condition is to limit in perpetuity the density and intensity of Parcels 2 and 3 to that which is approved by this CPD and to maintain all areas on which buildings and pavement are not constructed and as shown on the Master Concept Plan, only for outdoor recreation area on Parcel 2 and a single-level surface parking lot on Parcel 3, but specifically excluding any additional parking facilities, buildings, and other similar structures or any additional improvements require that any future changes to this CPD must comply with the Fort Myers Beach Plan and LDC in effect at the time of any future application.*~~

[Clean Version – Clarified Condition 14]:

14. No additional development may occur beyond that which is approved by this CPD without prior approval of the Town Council. The intent of this condition is to require that any future changes to this CPD must comply with the Fort Myers Beach Plan and LDC in effect at the time of any future application.



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.

<i>NOT APPLICABLE</i>

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.....*No Change Proposed; See Ordinance #18-04*

Traffic Impact Statement*No Change Proposed; See Ordinance #18-04*

Architectural Elevations.....*No Change Proposed; See Ordinance #18-04*

Schedule of Uses.....*No Change Proposed; See Ordinance #18-04*

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.

ORDINANCE 18-04

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING A COMMERCIAL PLANNED DEVELOPMENT TO THE CURRENT ZONING MAP FOR A PROPERTY LOCATED AT 1160 ESTERO BOULEVARD FORT MYERS BEACH AND OTHER ADDRESSES FROM COMMERCIAL PLANNED DEVELOPMENT (CPD), DOWNTOWN, AND ENVIRONMENTALLY CRITICAL (EC) ZONING DISTRICTS TO COMMERCIAL PLANNED DEVELOPMENT (CPD) (4.4+/- ACRES) AND ENVIRONMENTALLY CRITICAL (EC) (0.33+/- ACRES) WITH A MASTER CONCEPT PLAN (5.1+/- ACRES) FOR A 254 UNIT HOTEL, AQUATIC VENUE AND BEACH CLUB, RESTAURANTS, TIKI BAR, RETAIL, ACCESSORY HOTEL USES, CONSUMPTION ON PREMISE, AND DEVIATIONS TO THE LDC LIMITS ON HEIGHT, NUMBER OF STORIES, HOTEL EQUIVALENCY FACTOR, AND FLOOR AREA RATIO (FAR); CONTAINING 5.1+/- ACRES GENERALLY IDENTIFIED AS STRAP NUMBERS 24-46-23-W3-00006.000, 24-46-23-W3-00206.0060, 24-46-23-W3-00206.0050, 24-46-23-W3-00009.0000, 19-46-24-W4-0140B.0070, 19-46-24-W4-014B.0020, 19-46-24-W4-0140B.0010, 19-46-24-W4-0140B.0040, 19-46-24-W4-0140B.0050, 19-46-24-W4-0140A.0030, 24-46-23-W3-00205.0070, PORTIONS OF 5TH STREET RIGHT-OF-WAY, PORTIONS OF ESTERO BOULEVARD RIGHT-OF-WAY, MORE OR LESS; PETITION DCI17-0001; PROVIDING FOR SCRIVENER'S ERRORS AND AN EFFECTIVE DATE.

WHEREAS, Tom Torgerson and Tina Ekblad of Morris-Depew Associates, Inc., applicants and agents for the property owners, filed applications to rezone the property from the Commercial Planned Development (CPD), Downtown, and Environmentally Critical (EC) zoning districts to CPD with Master Concept Plan (MCP) in order to develop a hotel resort and associated facilities, on 5.1+/- acres more or less property, located at 1160 Estero Boulevard and other addresses in the Town of Fort Myers Beach; and

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

WHEREAS, with the exception of portions of Town or County right-of-way, the applicant has indicated the subject property is under common control and Tom Torgerson serves as the managing member for each ownership listed in the public records of Lee County Property Appraiser; and

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on February 13, 2018; and

WHEREAS, at the February 13, 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, as required by Town Land Development Code (LDC) s. 34-85; and

WHEREAS, at the February 13, 2018 public hearing the LPA recommended approval by a 5-2 vote, subject to certain conditions; and

WHEREAS, on April 9th, 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 voted to have a second reading of the proposed Ordinance and a public hearing on this matter was legally advertised and held before the Town Council on May 21 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 applicant has resolved and is current on any outstanding fees associated with notice, advertisement, and consulting services required by the Town; and

WHEREAS, with the following terms, conditions and requirements which the Town Council finds to be in the public health, safety, and welfare, all of which are in compliance with the comprehensive plan and the Land Development Code; and

WHEREAS, Exhibit A provides the approved property development regulations for this CPD to be used during the permitting process; while Exhibit B provides the approved conditions of approval; and

WHEREAS, the Town Council finds that this rezoning is a unique and individual application which does not set precedent for future development or rezoning applications.

Deviation #1

Deviation from LDC Section 34-1803(a) which establishes equivalency factors for converting allowable dwelling units to hotel rooms. The equivalency remains at three, a total of 254 hotel rooms (224 rooms on Parcel 1 and 30 rooms on Parcel 2) per the revised Master Concept Plan pages dated 5/2018 are authorized due to exceptional circumstances and unique public benefit on record to include view corridor and permanent perpetual transfer of density and development rights from the VE zone to the AE zone.

Deviation #2

Deviation from LDC Section 34-675(b) which limits building heights as follows: 3 stories and 30 feet along Crescent Street and Fifth Street; 3 stories and 40 feet along the south side of Estero Boulevard; to allow the main resort building which fronts on Estero, Crescent and Fifth to be 4 stories and 38 feet, 10 inches feet above average base flood elevation and along the south side of Estero Boulevard of 4 stories, and other buildings to be at the lesser heights as shown on the Master Concept Plan.

Deviation #3

Deviations from LDC Section 34-675(c) which limits floor area ratio (FAR) to 1.4 for properties fronting on Estero Boulevard and to 1.0 for all other properties in the CPD to allow a FAR of 1.55 on Parcel 1 and Parcel 2 and Parcel 3.

Deviation #4

Deviation from the LDC Section 10-416(d)(2) which requires a Type D buffer (15 feet wide with 5 trees and staggered hedges to form a 3-foot visual screen between parking and a right-of-way) – to replace the Type D buffer with the buffer and sidewalk plan for Estero Boulevard, Crescent Street, and Fifth Street as shown on the Master Concept Plan.

Findings for the rezoning:

WHEREAS, the Town Council considered all relevant factors and made the following formal findings before making its final decision on the requested rezoning to Commercial Planned Development (see LDC 34-85 and 34-216):

- a. Minor ambiguities were resolved through the deviation process.
- b. Long-standing blighted conditions on the subject property can be ameliorated through approval of this rezoning.
- c. The rezoning would carry out the policies and requirements of the Comprehensive Plan and Land Development Code.
- d. The Town Council carefully considered the testimony of the applicant, the recommendations of staff and of the local planning agency, and testimony from the public.
- e. The rezoning would be consistent with the goals, objectives, policies, and intent, and with the densities, intensities, and general uses in the Comprehensive Plan.
- f. The rezoning would meet or exceed all performance and locational standards set forth for the proposed use.
- g. Urban services are available and adequate to serve the proposed use.
- h. The rezoning would protect, conserve, or preserve environmentally critical areas and natural resources.

- i. The rezoning would be compatible with existing and planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.
- j. The rezoning would not place 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.
- k. The rezoning, with the mitigating factors volunteered by the applicant and the special conditions imposed by the Town Council, is consistent with the Fort Myers Beach Comprehensive Plan, Land Development Code, and other applicable town ordinances or codes.
- l. The proposed use or mix of uses is appropriate at the subject location.
- m. Sufficient safeguards to the public interest are provided by the recommended special conditions to the master concept plan and by other applicable regulations.
- n. All recommended special conditions are reasonably related to the impacts on the public's interest created by or expected from the proposed development.
- o. The rezoning meets all specific requirements of the Comprehensive Plan that are relevant to the request, including the following:
 - Policy 4-C-4 on building heights taller than the standard height limit
 - Policy 4-C-6 on hotel/motel densities
 - Policy 4-C-8 on density transfers
 - Policy 7-J-2 on traffic impact analyses and potential design improvements that could offset traffic impacts

WHEREAS, the Town Council made the following formal findings before making final decisions on the four requested deviations from "by-right" requirements of the Land Development Code (see LDC 34-216 and 34-1803):

- 1. Deviations #1, #2, and #3 are being partially approved only due to the exceptional circumstances presented by the coordinated redevelopment of several critical parcels in the downtown zoning district in furtherance of policies in the Comprehensive Plan and design guidance provided by the Old San Carlos Boulevard / Crescent Street Master Plan. Key public benefits offered by the applicant include a perpetual view corridor along 324 feet of the beach side Estero Boulevard across the beach club resulting from a permanent transfer of density and development rights from the VE zone to the AE zone; and a second perpetual view corridor at the foot of the Matanzas Pass Bridge resulting from the permanent transfer of density and development rights, no buildings on Parcel 3, and the donation of Parcel 4 to the Town of Fort Myers Beach.
- 2. All aspects of the proposed development, as limited by the special conditions being imposed by the Town Council, are compatible with the surrounding area, including building height, traffic flow, and intensity of use.
- 3. The proposed development, as modified by these deviations, clearly exceeds all standards of the Fort Myers Beach Comprehensive Plan.

4. The proposed development, with the modified deviations being approved, does not exceed any maximum intensities contained in the Fort Myers Beach Comprehensive Plan.
5. Granting these deviations will enhance the achievement of the objectives of the proposed development.
6. The general intent of the LDC to protect the public health, safety, and welfare will be preserved and promoted with these deviations.
7. These deviations operate to the benefit, or at least not to the detriment, of the public interest.
8. These deviations are consistent with the Fort Myers Beach Comprehensive Plan; and

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 rezone a portion of the subject property to CPD with the remainder to remain Downtown and EC per MCP X-103-BDNY.01 Boundary Survey and MCP X-102-BDNY.00 Boundary Survey with a Master Concept Plan, subject to the deviations and conditions set forth with specificity. The special conditions imposed for approval are found in Exhibit B. The first four special conditions provide the decisions on each deviation.

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 Joanne Shamp and seconded by Council Member Anita Cereceda and, upon being put to a roll call vote, the result was as follows:

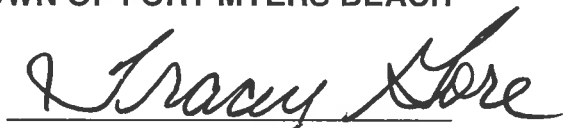
Tracey Gore, Mayor	aye	Bruce Butcher, Council Member	aye
Anita Cereceda, Council Member	aye	Joanne Shamp, Vice Mayor	aye
Dennis Boback, Council Member	aye		

DULY PASSED AND ENACTED this 21ST day of May, 2018.

ATTEST:

TOWN OF FORT MYERS BEACH

By: 
Michelle D. Mayher, Town Clerk

By: 
Tracey Gore, Mayor

Approved as to form by:

By: 
Peterson Law Group, Town Attorney

Exhibit B CONDITIONS OF APPROVAL

This project area includes six (6) parcels as demonstrated in MCP X-103-BNDY.01 Boundary Survey. Parcels 1, 2 and 3 are to be rezoned to Commercial Planned Development (CPD). Parcels 4, 5, and 6 will retain their existing zoning classifications. All parcels are included in the Master Concept Plan and subject to the conditions as outlined below:

- 1** Parcels 1, 2, and 3 are authorized for a maximum of 254 hotel rooms. Parcel 1 is approved for a maximum of 224 hotel rooms. Parcel 2 is approved for a maximum of 30 hotel rooms. Parcel 3 is approved for surface parking only and no other improvements or hotel rooms, other than an accessory surface parking lot, is permitted. The transfer of density and development rights of Parcel 3 is permanent and binding.
- 2** The CPD is authorized to allow building heights as follows, with these heights measured in accordance with 34-631 of the LDC, as depicted on the Master Concept Plan, and as described:
 - a. The main resort building on Parcel 1 may be up to 4 stories and up to 38 feet, 10 inches above base flood elevation, provided that the highest points of the roofline and any architectural features across the property shall not exceed 52 feet from 4.5 feet above mean sea level elevation.
 - b. The larger building on Parcel 2 may be up to 4 stories, provided that the highest points of the roofline and any architectural features shall be a height of 52 feet, 4 inches or less, above existing typical ground level. Approved building heights for all buildings on Parcel 2 are shown in the Master Concept Plan.
 - c. No buildings or vertical structures are permitted on Parcel 3. The transfer of density and developments rights on Parcel 3 is permanent and binding.
- 3** The CPD is authorized to allow floor area ratios as follows, measured in accordance with 34-633 of the LDC. The total land area of Parcel 1, 2, and 3 may be utilized for the floor area ratio calculation of 1.55. The square footage of the proposed buildings may be clustered as depicted on the Master Concept Plan and includes:
 - a. The constructed floor area ratio on Parcel 3 and 5 shall be 0.0. Buildings, or any other improvements other than improvements associated with an at surface grade parking lot on Parcel 3 and a pool security fence on Parcel 5, are prohibited on these parcels.
- 4** The CPD is authorized to replace the Type D buffer required by 10-416(d)(2) of the LDC with the buffer and sidewalk plan for Estero Boulevard, Crescent Street, and Fifth Street as shown on Sheets X-502-RW.00 through X-504-RW.02 of the Master Concept Plan as revised through May 2018, subject to the following requirements:

- a. Prior to obtaining any development orders, the landowner will dedicate to the town/public a perpetual public sidewalk easement to accommodate a sidewalk of seven (7) feet in width on the south side of Fifth Street where the MCP shows portions of the proposed sidewalk on private land.
- b. The landowner will construct the sidewalks, curbs, and tree yards and will plant the lawn and street trees, as shown on the Master Concept Plan, prior to the issuance of any temporary certificates of occupancy including for adjoining buildings. These improvements must meet technical specifications of the Town of Fort Myers Beach along Fifth Street and Crescent Street and of Lee County along Estero Boulevard, except for such deviations as granted by the Town when reviewing and approving the Master Concept Plan. The landowner will maintain the tree yards and street trees in perpetuity.
- c. The street trees shown along Estero Boulevard will be located closer to the curb if, prior to approval of the Development Order, but no later than January 2019 and with appropriate documentation of coordination, FDOT and Lee County approves the new 1.5-foot lateral offset standard alignment of the Florida Department of Transportation.
- d. Prior to Development Order application, the landowner will document their efforts to the Town to seek approval from Lee County to re-route stormwater from the existing drainage inlet on Estero Boulevard into the resort's stormwater system so that roots from street trees on this block cannot interfere with any underground exfiltration trench. The conveyance of the Estero Boulevard drainage into the resort stormwater system will only be constructed if there are no adverse impacts or backflow into the existing system.
- e. No buffer vegetation may be planted in any public right-of-way or any sidewalk easement other than depicted on the Town approved Master Concept Plan.
- f. While the Town approved Master Concept Plan provides conceptual approval of under-building screening of parking areas, as required by LDC 34-992 (d)(1); a compliance and enforcement determination of the materials, technical specifications, and minimum opacity of the latticework around the ground story are subject to approval of the Town Manager or designee, as required by 34-992(c) and 34-992(d)(2) of the LDC. At the concurrence of the land owner, the Town Manager may allow occasional segments of latticework to be replaced by an opaque screen to allow works of art to be displayed in place of climbing vegetation.
- g. If at the end of the one (1) year plant establishment period from the end of the Temporary Certificate of Occupancy, the buffer plantings and climbing vegetation planted on the latticework do not visually

screen activities in the ground story, the Town Manager will require corrective action. Corrective actions may include, but are not limited to, different vegetation, different management techniques, and supplemental screening behind the latticework, among other practices. The property owner will take corrective action within 30-days of written notification from the Town regarding the deficiencies in the buffer. Failure to respond to any 30-day written notice shall constitute an appealable \$500 per incident per day civil violation.

- 5 The approved property development regulations for this CPD are presented in the attached Exhibit A, which will be substituted during the permitting process for the property development regulations that the LDC provides for the DOWNTOWN zoning district.
- 6 The approved schedule of uses for this CPD is limited to the following:

Parcel 1 (Bay Side)	Parcel 2 (Gulf Side)	Parcel 3
LODGING use group: Hotel Uses Accessory to ATM Administrative Offices Consumption on Premises, outdoor service and seating limited to locations on Sheets X-505- COP.01 & X-506- COP.02 Parking Lot, Accessory Subordinate Uses Temporary Uses, if permitted by Ch. 34 MARINE use group No Marina Uses	LODGING use group: Hotel RETAIL use group: Recreation Facilities, Commercial (limited to 325 total people per day who are not staying at the hotel) Restaurant Commercial Accessory Uses: ATM Administrative Offices Consumption on Premises, outdoor service and seating limited to locations on Sheets X-506-COP.01 & X- 507-COP.02 Subordinate Commercial Water-oriented Rentals MARINE use group: (if permitted by Chapter 27) Parasailing Operations Office Personal Watercraft Operations Office	LODGING use group: Uses Accessory to Parking Lot, Accessory (the only use per- mitted on Parcel 3)

7. The property owner is responsible for accounting and enforcement of the per day limitation of 325 non-resort guests at the aquatic venue or lesser number based upon Fire Department occupancy limitations; and, if requested, for providing records to the Town on demand for verification. Failure to provide records or limit non-hotel guests and/or hotel guests to the approved maximum limits per day shall constitute a \$500 per day per incident civil violation.
- 8 This CPD approves structures up to the following square-footage maximum on Parcels 1 and 2 which are entirely landward of the 1978 coastal construction control line and within the CPD zoning district boundary:
 - a. **Hotel**
 1. 250,783 SF, of which up to 96,085 SF could be guest units and up to 95,751 SF could be ground-story parking.
 2. 224 guest units to be on bay-side Parcel 1 (above parking) and up to 84,745 square feet could be guest units.
 3. 30 guest units to be on gulf-side Parcel 2 and up to 11,340 square feet.
 - b. **Restaurant on Parcel 2**
 1. 15,870 SF for a restaurant, of which 1,514 SF would be a bar; plus, an additional 1,364 SF for outdoor seating and an additional 2,000 SF for indoor storage
 - c. **Beach Club on Parcel 2**
 1. 3,786 SF for an ancillary restaurant
 2. 2,508 SF in an existing building for ancillary restrooms and lockers
 - d. **Pedestrian Bridges between Parcels 1– 2 if approved by Lee County**
 1. 2,691 SF for the access area required for a publicly accessible pedestrian bridge;
 2. 1,380 SF for the pedestrian bridge that is not included in the FAR.
- 9 Redevelopment and future uses on the subject property must be consistent with the attached Master Concept Plan as approved by the Town Council as part of this request. All prior Master Concept Plans, CPD zoning approvals, special conditions, and development agreements for the subject property are no longer valid. All development activities and future uses must comply with all the requirements of the Town of Fort Myers Beach Land Development Code at the time of Development Order approval, except as explicitly modified by this CPD approval. Lot lines

shown on existing plats must be vacated or replatted, as appropriate and as administratively determined by the Town Attorney, prior to issuance of Development Orders. If changes to this approval are requested, they will be reviewed as requests to formally modify this CPD. This CPD's new Master Concept Plan consists of these 26 sheets:

- a. X-G01 — Cover Sheet
- b. X-101-FLU — Future Land Use and Project Boundary
- c. X-103-BNDY.00 — Boundary Survey (1 of 2)
- d. X-103-BNDY.01 — Boundary Survey (2 of 2)
- e. X-104-DA — Developable Area Exhibit
- f. X-105-MCP.00 — *Floor Area Ratio* First Floor
- g. X-106-MCP.01 — Floor Area Ratio Second Floor
- h. X-107-MCP.02 — Floor Area Ratio Third Floor
- i. X-108-MCP.03 — Floor Area Ratio Fourth Floor
- j. X-109-MCP.00 — Master Concept Plan First Floor
- k. X-110-MCP.01 — Master Concept Plan Second Floor
- l. X-111-MCP.02 — Master Concept Plan Third Floor
- m. X-112-MCP.03 — Master Concept Plan Fourth Floor
- n. X-113-MCP.04 — Master Concept Plan Deviations and Notes
- o. X-114-MCP.05 — Master Concept Plan Building Height
- p. X-A201 — Exterior Elevations
- q. X-A202 — Exterior Elevations
- r. X-A203 — Exterior Elevations
- s. X-A301 — Building Sections
- t. X-501 — Parking Locations and Calculations
- u. X-502-RW.00 — Right-of-way and sidewalk/buffer plan
- v. X-503-RW.01 — Right-of-way and sidewalk/buffer plan
- w. X-504-RW.02 — Right-of-way and sidewalk/buffer plan
- x. X-505-COP.01 — Consumption on Premises Diagrams
- y. X-506-COP.02 — Consumption on Premises Diagrams Pedestrian Circulation
- z. X-507-VT — Visibility Triangles

- 10** A pedestrian bridge across Estero Boulevard is shown on the Master Concept Plan. Conceptual approval of this bridge is subject to the following requirements for design, approval, and operation:

- a. The pedestrian bridge must be constructed simultaneously with the buildings it connects.
- b. The elevated terrace on the second story of the main resort building on Parcel 1 must include a public ADA compliant access for public use.
- c. Visible publicly accessible stairwells and elevators on both sides of Estero Boulevard must connect the sidewalks to each end of the pedestrian bridge. The stairwell on Parcel 2 must provide access to publicly accessible restrooms in the restaurant building, with clear signage indicating the public's access and rights to use these restrooms and pedestrian bridge, if approved, without a fee or charge.
- d. In order to guarantee the general public's permanent right to use the bridge and the adjoining stairways, elevators, and restrooms, the landowner must execute an instrument that guarantees this access in a form suitable to the Town Attorney.
- e. Before constructing the bridge over Estero Boulevard, the landowner must obtain review and approval from Lee County and must enter into a formal agreement with Lee County regarding design, maintenance, liability, operations, future changes, and other relevant details. The bridge design must allow and not interfere with nor prevent all elements necessary for a traffic signal and grade level pedestrian crosswalk at the Estero Boulevard-Crescent Street intersection. If necessary, FDOT review and approval must be obtained.
- f. All FDOT and Lee County approvals must be received by the applicant prior to approval by the Town. The Town's approval shall be limited to aesthetic and non-structural design.

11 Sheet X-109-MCP.00 of the Master Concept Plan identifies certain important features on Parcels 2 and 6 (the beach-side parcels) that will require separate critical actions by the Town and by the landowner at a later date. This sheet is being included in the Master Concept Plan with these understandings:

- a. As shown on Sheet X-105, the landowner intends to request the vacation of a narrow right-of way at the end of Crescent Street, plus the first 185 feet of Canal Street south of Estero Boulevard which is part of Town-maintained Beach Access #36. Understanding that the Town's Comprehensive Plan strictly limits vacations of rights-of-way in order to preserve future access to the water, the landowner has agreed to provide a net increase in public access by donating Parcel 6 to the Town and constructing on it a new public street replacing Canal Street. The new public street will also be providing beach access and public parking spaces on 67 feet wide new rectangular

right-of-way beginning at Estero Boulevard. The Town Manager or designee shall be responsible for design approval of the new street. The new street will be completed on or before twelve (12) months following the issuance of a Development Order.

- b. The landowner has also agreed to construct and dedicate a five-foot wide perpetual public access easement for a new pedestrian beach access at the "north" end of Parcel 2 that meets ADA accessibility requirements and the Town Manager's specifications as to design, surfacing and signage. The easement shall be constructed, completed, and open to the public on or before twenty-four (24) months following the issuance of the associated Development Order. During construction of the project the property owner shall maintain a minimum of one 25' wide ADA accessible beach access from Estero to the end of the property at or near the water.
- c. The landowner will execute instruments to complete donations, the easement(s) for new pedestrian beach access easement and Parcel 6, in a form suitable to the Town Attorney and will provide them to the Town Attorney, who will not record either instrument unless the Town Council formally vacates the two existing rights-of-way shown on Sheet X-105; and:
 - i. The landowner either completes the construction of the new street or allows continued public use of Canal Street or Temporary Beach Access until the new street is completed.
 - ii. The Town will not issue development orders for demolition, site work, or new buildings on Parcels 1 or 2 unless the Town agrees to vacate both rights-of-way and related or associated property transfers are executed.
 - iii. After the new street is constructed by the applicant and turned over to the Town, Parcel 6 will no longer be subject to any requirements of this CPD.

12 The beach club on Parcel 2 must meet these additional requirements:

- a. To allow the reduced building frontage on the south side of Estero Boulevard (see LDC 34-675), development order plans must demonstrate three view corridors from Estero Boulevard to the beach (two totaling 319 feet; one totaling five feet) that total at least 324 feet along Estero Boulevard.
- b. Any perimeter fence on the beach side of Estero Boulevard must be at least 80 percent transparent, must be placed within a landscaped planting area at least five (5) feet wide, and shall be maintained at a height of three (3) feet. If the Florida Building Code requires a taller fence at this location, the Fort Myers Beach Building Official shall adjust the fence height accordingly.

- c. A detailed lighting plan, including any lit signage, must be provided with the development order application for the beach club; this plan must comply with LDC requirements in 10-154(8) and 14-76 for sea turtle conservation.
 - d. A detailed landscaping plan showing the location and type of all plantings, including beach plantings adjacent to the existing retaining wall, must be provided with the development order application for the beach club.
 - e. Directional signage approved by the Town as to design, installation methodology, and location shall be erected along Estero Boulevard that advises the public of both new public beach accesses.
 - f. The beach club and its ancillary uses may operate only from 7am to one hour after sunset, but never later than 9 pm. That is the Beach Clubs hours of operation unless otherwise temporarily altered in the Town's special event use regulations in Section 34-1264 of the LDC.
 - g. To implement the applicant's commitment to limit access to the beach club to 325 people per day who are not staying at the hotel, the resort will be required to submit monthly reports to the Town within 10 days after the end of each month showing the number of non-guest admissions for each day; and shall provide such information on demand and allow Town officials immediate access to this information for the current day at a designated location in the resort.
 - h. The beach club and aquatic venue shall provide no less than one security personnel per 200 guests.
 - i. All necessary dune plantings and walkovers shall be provided in compliance with Town codes and ordinances.
- 13** The following transportation and access features are shown on the Master Concept Plan and are an integral part of this approval:
- a. All existing vehicular access points on Estero Boulevard shall be closed except the access to the one new public street on Parcel 6.
 - b. The one and only access point on Crescent Street will be an entrance-only driveway near the intersection with Fifth Street, which will be the main entrance for resort guests.
 - c. Access points on Fifth Street are limited to the one main exit for resort guests and a separate entrance and exit for service vehicles on Parcel 1, plus two existing driveways to the surface parking lot on Parcel 3.
- 14** Prior to the Town issuing any development orders for demolition, site work, or new buildings on Parcel 2, the landowner must execute and record a restrictive covenant in favor of and enforceable by the Town in perpetuity that acknowledges that this CPD approval has consumed all

allowable density and intensity on Parcels 1, 2, 3, and 5 and that no additional development may occur beyond that which is approved by this CPD. Prior to issuance of a temporary or final certificate of completion on Parcel 2 (but not later than 36 months after commencing construction), the landowner must convey to the Town a perpetual conservation easement in a form acceptable to the Town Attorney, which after acceptance will be recorded in the Public Records of Lee County, over those portions of Parcels 2 and 3 on which structures or pavement are not constructed or proposed to be constructed under the Master Concept Plan adopted as part of this CPD. The intent of this condition is to limit in perpetuity the density and intensity of Parcels 2 and 3 to that which is approved by this CPD and to maintain all areas on which buildings and pavement are not constructed and as shown on the Master Concept Plan, only for outdoor recreation area on Parcel 2 and a single-level surface parking lot on Parcel 3, but specifically excluding any additional parking facilities, buildings, and other similar structures or any additional improvements.

- 15 Development order plans must identify the location of 359 off-street parking spaces within the area now identified for parking on Parcels 1 and 3. The public parking spaces to be constructed on Parcel 6 cannot be counted toward the 359 spaces reserved for resort parking.
 - a. None of the 359 spaces are eligible for joint-use agreements or sharing agreements that would allow any of these spaces to substitute for off-street parking that is required by the LDC for businesses located outside this CPD's Master Concept Plan.
 - b. Prior to the issuance of a Temporary Certificate of Occupancy, the applicant will also construct or provide 75 dedicated parking spaces at an off-site location along the trolley route from the Beach Park & Ride facility to be available for the entire resorts parking needs within 2.8 miles of Parcel 1.
 - c. Three or more years after issuance of the resort's certificate of occupancy, the applicant may request to modify this condition to eliminate some or all of these off-site parking spaces upon a convincing showing that this condition requires more parking spaces than are needed for the entire resorts parking needs.
 - d. Identify to the Town if any shared use parking agreements are currently in existence and will be terminated to meet to meet this CPD condition.
- 16 Development order plans must demonstrate that vehicles can be accommodated by a multi-vehicle parking mechanism per parking spot. Valet parking must be managed so that vehicles are never stacked on Crescent Street or 5th Street waiting to access the valet area. The property owner shall install No Stop/Stand signs on Crescent and 5th Street.

- 17 Individual signs may be placed on this site during and after development as may be allowed by the LDC regulations that are in effect at that time. Murals are permitted in compliance with LDC regulations.
- 18 Service of alcoholic beverages for on-premises consumption is approved at the locations shown on Sheets X-505-COP.01 and X-506-COP.02 of the Master Concept Plan, subject to these limitations:
 - a. Service to outdoor seating is permitted on the second story outdoor terrace on Parcel 1, in the public restaurant on Parcel 2, and in the beach club on Parcel 2 provided service remains in substantial compliance with the COP diagrams on Sheets X-506-COP.01 and X-507-COP.02. Beverages purchased in approved indoor or outdoor service areas on Parcels 1 or 2 shall not be carried across the pedestrian bridge. The designated service areas shall be identified separately from areas where consumption is permitted, but not part of a service and/or seating area.
 - b. Alcoholic beverages and amplified music in the beach club are limited to 7:00 a.m. to one hour after sunset, but not later than 9:00 p.m. Expansion of COP onto the sandy beach seaward of the seawall is prohibited.
 - c. Amplified music on the outdoor terrace on Parcel 1 is limited 7:00 a.m. to one hour after sunset, but not later than 9:00 p.m.
 - d. Amplified music in unenclosed hotel restaurant and bar on Parcel 2 are limited to 7:00 a.m. to midnight.
 - e. Alcoholic beverages may not be served at locations other than those shown on the Master Concept Plan unless approved by special use permit, special exception or by administrative approval, as provided in 34-1264 of the LDC.
- 19 Prior to applying for a permit for the stormwater management system from the SFWMD, the landowner shall evaluate the receiving of drainage from the intersection of Crescent and Fifth for suitability and consistency with SFWMD requirements. Provided these two components can be combined under those requirements, the landowner will design and construct the project to receive stormwater from the intersection of Crescent Street and Fifth Street into and through the project's stormwater system, including cost of upsizing the project stormwater system. In order to be considered feasible, any routing of stormwater from the intersection of Crescent and Fifth Streets must accommodate the project's design as approved by this CPD and it shall be borne by the property owner. The property owner will provide copies of the SFWMD permit application, and all subsequent responses to requests for additional information, to the Town's stormwater consultant for review and concurrent with filing with the SFWMD.

- 20** In order to provide an additional view corridor along the approach to the Town from the Matanzas Pass Bridge, the applicant has offered and the Town has accepted the following changes to the Master Concept Plan:
- a. No buildings will be constructed on Parcel 3 in perpetuity. Parcel 3 shall remain as a 21-space surface parking lot for the resort because all development rights on Parcel 3 are being used on Parcels 1 and 2. Parcel 3 will be included in the covenants and conservation easement described in Condition 14. Landscape buffers shall be done in accordance with MCP X-504-RW.02.
 - b. No buildings will be constructed on Parcel 4 by the applicant and the existing building will be removed. Parcel 4 will be donated by the applicant to the Town for civic, public purposes and will include a reverter in the event the parcel is not used for such civic, public purposes. The demolition and re-grading of the property will be completed no later than September 30th, 2018. The Town shall receive Parcel 4 within 60 calendar days of the issuance of all necessary approvals related to the development order and approvals of the pedestrian bridge. After the existing building is removed by the applicant and the property transfer is completed, Parcel 4 will no longer be subject to any requirements of this CPD. Demolition of Parcel 4 may be completed prior to development order being issued.
- 21** Barring a direct hurricane or other Acts of God and governmental-related delays, Parcel 1 and the Parcel 1 main hotel shall be completed and open for operation within three years of the issuance of a development order approval. All other portions, phases, and uses shall be in operation within five years of issuance of a development order approval. A Development Order application for development of Parcel 1 shall be submitted no later than 270 calendar days from effective date of the rezoning ordinance.
- 22** Additional approvals of special events are allowed. Application for such special event approvals shall be submitted through the Town's adopted Special Event processes and may temporarily alter hours of operation, amplified music limits, and public user capacity, among other items.
- 23** Bicycle racks for public use will be provided as shown on the Master Concept Plan. All bicycles and similar alternative transportation options shall be provided within the approved development footprint. Operations of any bicycle loan business or operation shall require the returning of bicycles to the CPD properties on a daily basis; as well as comply with Town Codes, and provide education materials about Town codes and regulations to bicycle users.
- 24** Construction staging shall be authorized when in compliance with all applicable Town codes, except that concrete delivery/pumping for the building's foundations and terrace may occur no earlier than 4:00 am. No staging shall be permitted on Parcel 4 or Parcel 6 after donation to the

Town. No other approvals are inferred from approval of the CPD. The landowner or developer shall be responsible for submittal of any requests for additional staging or construction management approvals from the Town Council.

- 25 Any violation of the CPD conditions of approval or deviations shall constitute a \$500 per day per incident civil violation.
- 26 The applicant has offered to provide residents of the Fort Myers Beach community a "Discount Plan," which provides a 25 percent discount on food, alcohol and non-alcohol beverages, Family Beach Club Admission, and retail store purchases, to anyone with a valid FL Driver's License with a home address in zip code 33931.
- 27 Per LDC Section 34-216(b)(5), the revised Master Concept Plan must be submitted to the director reflecting all modifications to the deviations and conditions as made herein by the Town Council.

Findings Regarding the Conditions

- 1. All recommended special conditions are reasonably related to the impacts on the public interest created by or expected from the proposed development.

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

Yellow Sheet Number: **2023-1057**

1. Requested Motion:

Meeting Date: May 9, 2023

Approve/Approve with Conditions/Deny 645 Old San Carlos- DCI 20230008, requested amendment to Commercial Planned Development (Olde Seaport Place) to add seating and extend the consumption on premises boundaries.

Why the action is necessary:

The applicant has submitted a request to amend the master concept plan.

What the action accomplishes:

Recommendation of approval or denial will go to the Town Council for consideration.

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

Ordinance

5. Background:

The property owner has submitted an application requesting an amendment to the Master Concept Plan that proposes to add seating and extend the consumption on premise area. They have included a revised plan and parking calculations as part of their application.

The adopted resolution identifies Parcel #1 as 645 Old San Carlos Blvd. and the conditions of approval designate it with uses of consumption on premise and restaurants. Parcel #2 is identified as the submerged land lease area. The applicant's request expands the service and seating areas in the master concept plan. The applicant has not proposed an amendment to any other conditions of approval.

Attachments:

1. Snug Harbor Staff Report LPA 5-9-23
2. CPD cover letter 2023
3. Adopted RES 17-39
4. Master Concept Plan Proposed
5. Schedule of Uses
6. Snug Parking - Proposed Parking Calculations
7. Part I - C - Comp Plan
8. Part I - D - Design Stds
9. Part I - E - Decision making
10. PH Application
11. PD PH-D form
12. Ex 6-2a 2018 Boundary survey
13. Ex 6-2b Updated Survey
14. Ex 6-3 Area Location Map

Financial Impact:

6. Alternative Action

Approve, Approve with Conditions, Deny

7. Staff Recommendations:

8. **Recommended Approval:**

Steve Poposki, Community Development Director

Date: May 04, 2023

John R Herin Jr, Town Attorney

Date: May 04, 2023

Amy Baker, Town Clerk

Date: May 04, 2023



Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

TYPE OF CASE: Commercial Planned Development Amendment

CASE NUMBER: DCI Rezoning, 2023008

CASE NAME: 645 Old San Carlos Blvd., amend the existing Commercial Planned Development to additional seating and expand the consumption on premise.

LPA

HEARING DATE: May 9, 2023 at 9.00 AM

STAFF

RECOMMENDATION: Consistent with the LDC and CPD

**PREPARED/
SUBMITTED BY:** Jason Green AICP, CFM

I. APPLICATION SUMMARY

Applicant/Owner: Jim Figuerado / David McKee

Request: The applicant is requesting an amendment to the existing CPD (Res 17-39) master concept plan to allow expanded seating areas and consumption on premise area.

Subject property: See attached site plan

Physical Address: 645 Old San Carlos Blvd

STRAP #: 24-46-23-W3-00026.0000

FLU: Pedestrian

Zoning: Commercial Planned Development

Adjacent zoning and land uses:

North:	Matanzas Pass Submerged Land Lease
South:	CPD and Downtown Marina Village at Snug Harbor; Restaurant and Parking lot; Harbour House at the Inn (SE)
East:	Downtown Old Seaport Place Inc.
West:	Commercial Mixed Moss Marina

II. BACKGROUND AND ANALYSIS

Background:

The property was approved for an amendment to the CPD in 2017 (Res 17-39) to allow an expansion of restaurant, seating and service area, and amend several elements of the master concept plan. The previous request included a submerged land lease area that is also included with the proposed amendment to the master concept plan. Several of the approved components of the master concept plan have been constructed and are operational.

Previous issues concerning the amendment from 2017 includes hours of operations and noise issues related to the use. The Town Council approved conditions of approval for service hours.

Analysis:

The proposed changes include a seating and service area that will have a canvas or other “soft” cover. The area of expansion include a covered paver walkway from the dock to the street; an additional consumption on premise (COP) and restaurant service area of 3,451 square feet between the building and water/submerged land area; and an 8x10 covered hostess stand adjacent to the driveway and Old San Carlos Boulevard right-of-way; a new 25’x25’ chikee within the proposed COP area; additional 7.5 x 29 feet walkway within proposed COP area; and an additional covered seating area of 14’x65’ within proposed COP area.

Neighborhood Compatibility:

The existing and proposed areas for restaurant and COP service share the grounds with an existing residential condominium building. Residents previously expressed concerns about noise and late-night alcohol consumption.

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 with the current use and consumption on premises is existing. The materials provided by the applicant don't appear to address any changing conditions; however, they have provided a summary of how the request, located within the Pedestrian Commercial category, is consistent with the primarily commercial nature of the category.

- b. Whether the request is consistent with the goals, objectives, policies, and intent of the Fort Myers Beach Comprehensive Plan.*

The applicant has provided documentation expressing how the request is consistent with goals, objectives, policies, and intent of the Fort Myers Beach Comprehensive Plan, including how the Pedestrian Commercial category primary use is commercial activity.

- c. Whether the request meets or exceeds all performance and locational standards for the proposed use*

The commercial use and activity have already been approved for the location. The property owner wishes to expand that activity, including restaurant seating and COP service areas.

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

The applicant provides no indication of environmentally critical areas being impacted.

- 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.*

The business is already in operation and the request is for an expansion of area.

- 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. The property is zoned CPD and the use of restaurant and consumption on premise is approved for the identified areas. The proposal is to expand within those same areas. The applicant has provided a parking analysis to show compliance with the LDC for the expansion area.

III. RECOMMENDATION

Staff finds that the amendment to the CPD meets the criteria set forth in Section 34-88 of the LDC.

Therefore, staff recommends that the LPA recommend **APPROVAL WITH CONDITIONS** for DCI2023008, to modify the master concept plan by expanding the restaurant and consumption on premises service areas within those areas already permitted to have both uses. Previously approved conditions have been updated to reflect current versions. All deviations are proposed to remain. The final approval shall be provided in the form of an Ordinance to the Town Council.

IV. CONDITIONS OF APPROVAL

1. Development must be consistent with the master concept plan (MCP) titled “Olde Seaport of Fort Myers Beach” for case DCI 2023008, last revised 1/10/2023, except as modified by conditions or deviations as discussed herein.
2. The following limits apply to the project and uses:
 - a. Schedule of uses:
 - i. Parcel #1 (North Parcel – 645 Old San Carlos Blvd.)
 1. Consumption on Premises
 2. Personal Services
 3. Restaurants
 4. Seating areas
 5. Retail store, small
 - ii. Parcel #2 (Submerged Land Lease)
 1. Boat slips
 2. Docks
 3. Marina and related activities
 4. Seating areas (in connection with adjacent parcels restaurants and food preparation areas)
 - iii. Parcel #3 (South Parcel – 441/445 Old San Carlos Blvd.)
 1. Parking lot, shared permanent
 - iv. Parcel #4 (Butler Act property)
 1. Seating areas (in conjunction with adjacent

Accessory uses on all parcels:
Bay access if available
Essential services
Essential service equipment

3. Nothing in this rezoning, including any of the attached conditions, may be construed as a variance from the provisions of LDC Chapter 6, Article IV Floodplain regulations.
4. Approval of this rezoning does not give the developer an undeniable right to local development order approval. Development or redevelopment of the subject property must comply with all applicable requirements of the Fort Myers Beach Comprehensive Plan and Land Development Code in effect at the time of the development order approval and permitting, except as specifically modified herein.
5. The development must comply with LDC Sec. 14-76 requirements for sea turtle conservation applicable to new development.
6. No structure may be placed in or over, and no work may occur in, any navigable waters of the United States unless property authorization by the United States Army Corps of Engineers or its designee.
7. No stormwater management system, dam, impoundment, reservoir, appurtenant work, or works may be constructed or altered on the subject property, including submerged lands and riparian leased areas, without property permit or exemption, and unless in compliance with all conditions of such permit or exemption, from the South Florida Water Management District or Florida Department of Environmental Protection, as applicable. Stormwater Management for the property must comply with all applicable requirements of the Land Development Code at the time of development order approval and must provide for the capture and retention of all stormwater on the site.
8. Approval of the rezoning does not address compliance or noncompliance of proposed building elevations with the commercial design standards included in LDC Chapter 34, Article III, Division 7. Development of the subject property must meet the commercial design standards effective at the time of the local development order approval.
9. Docks for use by occupants of principal uses on the subject property, docks for lease to non-occupants of principal uses on the subject property, and docks used by water taxi or water shuttle are limited to areas within the existing submerged land lease described in Exhibit A. These docks are and must remain accessory to the principal use(s) of the subject property. The number of slips within the area of the submerged land lease may not exceed the number authorized by that lease without proper approval. Construction of additional or replacement docks must comply with all applicable requirements of the LDC and all applicable state and federal regulations at the time of permitting. No live-aboard units allowed.

10. Hours of operation:

All restaurants and outdoor seating areas may operate from 8:00AM to 10:00 PM.

- Consumption on Premises in conjunction with outdoor seating shall be from 11:30AM-10:00PM. Live entertainment permitted only inside the buildings,

limited to non- amplified, acoustical music.

11. Steamers must be located outside of the Marina Village at Snug Harbor Condominium building.
12. No deliveries will be permitted between 9:00PM and 7:00AM.
13. Commercial garbage collection must be provided six days a week (excluding Sundays).
14. Parking lot must be reconfigured to allow vehicular traffic flow without dead-ends.
15. Public restroom facilities must be provided in Unit C of the Marina Village at Snug Harbor Condominium building.
16. Upon the completion of the street side restaurant on parcel #1 (issuance of certificate of occupancy) no beach parking of any kind (Single-purpose Parking Lots only) shall be permitted on the subject properties at any time, all designated parking spaces shall be used for the uses established in this resolution.

David E. McKee, Florida P.E. #38347
5848 Kaylee Ann Drive, Granite Falls, NC 28630
239/898-4008 mckeeeng@gmail.com

January 28, 2023

Submitted by email to: zoningpermits@fmbgov.com

Town of Fort Myers Beach
2523 Estero Blvd.
Fort Myers Beach, FL 33931

Re: Request for CPD Amendment via Public Hearing for COP/Seating Area Extension – Olde Seaport of Fort Myers Beach; Zoning Resolution #17-39 (DCI17-0005)

Ladies and Gentlemen:

Please find attached a complete Public Hearing Amendment application for the above referenced project. The application is being submitted by Mr. Jim Figuerado Of Old Seaport Place., Inc, the current property owner, with this office acting as an Authorized Agent. This application generally encompasses the same properties as the original approval, as follows:

- Strap No. 24-46-23-W3-00026.0000; 645 Old San Carlos Blvd. (parcel #1)
- Strap No. 24-46-23-W3-00026.0030; 441/445 Old San Carlos Blvd. (parcel #3)
- A Butler Act parcel lying north of 645 Old San Carlos Blvd., as designated on an earlier boundary survey, which has been included for reference. The area was the location of the old Snug Harbor Restaurant until it was demolished (parcel #4). It now is part of the covered seating for the Snug Harbor Restaurant facility. It was unstrapped at the time of the 2017 zoning request but is now strapped as 24-46-23-W2-00000.0000
- A portion of a submerged land lease lying north of 645 Old San Carlos Blvd. (parcel #2). This parcel, since the original rezoning approval in November 2017, has been modified with an approximate 14 ft wide portion now being a Butler Act parcel as shown on the recorded deed and updated survey accompanying this application. This Butler Act parcel is strapped; 24-46-23-W2-00000.0020, and its' designation as a Butler Act parcel allows the area to be covered.

No changes/modifications are proposed on parcel #3 but it provides part of the required parking so it is included in this application and maintains consistency with the original approval . Similarly, no changes are proposed on Butler Act Parcel #4. It has the 1600 sf of covered seating (with COP) and a 390 sf walkway service area (1990 sf total) as was approved in 2017.

Proposed amendments on the other two parcels are as follows:

Parcel #1: An extension of the COP/seating area, as shown in detail on Detail "A" on sheet 2 of 2 of the MCP. Within this extension area the construction of a Chickee Hut (max 25' x 25') and a rail seating area along the north side of the parcel are proposed (the rail is presently existing but will be upgraded and the seating will be added in an area not exceeding 210 sf). Additionally a covered walkway area (max. 2190 sf) and covered hostess station (max 8' x 10') with signage is proposed. The last two facilities are not included in the proposed COP extension area.

Parcel #2: An additional 14 ft x 65 ft area, or 910 sf is proposed for covered seating/COP usage to the east of the current seating areas. This is all within the 2018 Butler Act property, which allows for the covered seating. An adjacent 7.5 ft x 29 ft area along the existing dock is proposed for a pedestrian walkway and includes COP usage. The COP usage designation allows patrons to walk through the area while carrying an alcoholic beverage from the waiting area on Parcel #1 waiting area to a dining table on Parcels #2 or #4.

As a point of clarification the current 900 sf of open dining area on parcel #2 does not allow a permanent covered area since it is a submerged land lease area. However, a temporary cover such as a canvas or tent type structure is permitted.

The accompanying Master Concept Plan specifically identifies these changes via revision clouds and notes are provided outlining these proposed requests. Please note that sheet 2 of 2 provides for additional details that could not be clearly shown on the overall Master Concept Plan. All other facets of the rezoning approved in 2017 remain the same. Note that the overall COP/seating extension areas total 3451 sf on parcels #1 and #2 as shown Detail "A" on sheet 2.

In requesting this CPD Amendment it is understood that the Conditions of Approval outlined in the current Zoning Resolution 17-39 will be extended. Item #1 will obviously reflect a new Master Plan approval and item #16 is already in effect given the completion of the Street Side Restaurant. Uses, operation times and conditions and all other criteria remain the same. The area known as Parcel #2/ Submerged Land Lease is now bisected by a Butler Act parcel, said parcel allowing the construction of permanent roof/coverage structure.

The application includes the following:

- This cover letter
- Completed application for Public Hearing and related Supplement PH-D for the proposed changes with Mr. Figuerado providing the proper signature pages in paper form.
- Master Concept Plan, including a detail sheet (two sheet MCP)
- Updated Parking Calculations
- A separate Part I/Section C; Comprehensive Plan Compliance narrative
- A separate Part I/Section D; Design Standards Compliance narrative
- A separate part I/Section E; Decision Making Compliance narrative
- Schedule of Uses
- Variance report with map, property owners list and mailing labels (aka Exhibits 6-6 & 6-7)
- Area Location map (aka Exhibit 6-3)
- 2018 Butler Act property documentation
- Boundary surveys (aka Exhibit 6-2a, the earlier survey with parcel designations and Exhibit 6-2b, an updated survey showing the 2018 Butler Act Property over the submerged land lease)
- Copy of RES17-39 for reference

We have not provided an updated TIS as the roadway capacities have not changed during the course of this project's development. All road segments are currently failing. Additionally, renderings of the proposed facilities have not been provided. They will follow the same architectural theme as the current facilities, including the thatched roof design of Wahoo Willies (the "street side restaurant"), and will be provided at time of the Development Order activities for review and approval.

Town of Fort Myers Beach

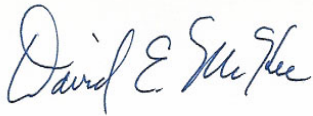
January 28, 2023

Page 3

All documents are provided in electronic form via email as directed by the Application instructions. Mr. Figuerado, the Owner and applicant, will submit directly to the Town original paper copies of the required signature sheets and a check for the required \$6500 application fee.

Should you have any questions regarding this application or require additional information, please contact me at 239/898-4008 or by email at: mckeeeng@gmail.com

Very Truly Yours,

A handwritten signature in blue ink that reads "David E. McKee". The signature is written in a cursive style with a large, stylized 'D' and 'M'.

David E. McKee, PE

RESOLUTION 17-39
THE TOWN OF FORT MYERS BEACH FLORIDA
DCI17-0005 – OLDE SEAPORT COMMERCIAL
PLANNED DEVELOPMENT AMENDMENT

WHEREAS, applicant Robert Fowler, authorized agent for Olde Seaport Place Inc. is requesting an amendment to an already approved Master Concept Plan consistent with Section 34-214 of the Town of Fort Myers Beach Land Development Code; and

WHEREAS, the applicant has indicated that the STRAP numbers for the subject property are 24-46-23-W3-00026.0000, 24-46-23-W3-00026.0030, and 24-46-23-W2-000000.0000 and the legal description of the subject property is attached as *Exhibit A*; and

WHEREAS, the subject property is located at 645 Old San Carlos Boulevard Fort Myers Beach, FL 33931, zoned Commercial Planned Development on the Official Zoning Map and is located in the Pedestrian Commercial and Tidal Water categories 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 advertised and held before the Local Planning Agency (LPA) on October 10, 2017; 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 34-85.

WHEREAS, the Town Council determined it is in the best interest of the Town to approve the request.

NOW THEREFORE, BE IT ORDAINED by the Town Council of the Town of Fort Myers Beach, Florida, as follows:

1. Determination.

Based upon the recommendations, testimony, and evidence presented by Town staff, LPA, applicant, and interested parties, the Town Council APPROVES the following:

- a. An amendment to an already approved Master Concept Plan. The request amends the approval as follows: Within Parcel #1 replace the 4,020 square feet of Open Air Shops with a 3,744 square foot restaurant (with up to 800 square feet of bar area) with COP (4COPSRX); Within Parcel #2 the 1,140 square feet of History House/Public Use area is replaced by 900 square feet of open restaurant seating that will be served by "on land" facilities; Within Parcel #4 reduce the amount of Butler Act property utilized from 2,697 square feet to 1,600 square feet (with COP) of covered seating and 390 square feet of walk-way service area (1,990 square feet total).

2. Findings and Conclusions of Law:

In accordance with the requirements of LDC Section 34-85 for granting a rezoning, the Town Council make the following findings and reach the following conclusions:

- A. There **exist** changed or changing conditions which make approval of the request appropriate.
- B. The request **is consistent** with the goals, objectives, policies and intent of the Fort Myers Beach Comprehensive Plan.
- C. The request **meets or exceeds** all performance and locational standards set forth for the proposed use.
- D. The request **will** protect, conserve, or preserve environmentally critical areas and natural resources.
- E. The request **will** be compatible with existing or planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.
- F. The requested use **will** be in compliance with applicable general zoning provisions and supplemental regulations pertaining to the use set forth in the Land Development Code including Chapter 34.

3. Conditions of Approval

1. Development must be consistent with the master concept plan (MCP) titled "Olde Seaport of Fort Myers Beach" (Exhibit C) for case DCI17-0005, last revised 8/3/17, except as modified by conditions or deviations discussed herein. In accordance with LDC Section 34216(b)(5), the MCP must be updated to reflect the deviations and conditions approved by Town Council. If changes to the MCP are subsequently pursued, appropriate approvals will be required.

2. The following limits apply to the project and uses:

Schedule of Uses:

Parcel #1 (North Parcel – 645 Old San Carlos Blvd.)

Consumption on Premises
Single-purpose Parking Lot
Personal Services
Restaurants
Seating areas

Parcel #2 (Submerged Land Lease)

Boat slips

Docks

Marina & accessory uses

Seating areas (in connection with adjacent parcels, restaurants and food preparation areas see Exhibit B for restaurant square footages and parking calculations)

Consumption on Premises

Parcel #3 (South Parcel – 441/445 Old San Carlos Blvd.)

Single-purpose Parking Lot

Parcel #4 (Butler Act property)

Seating areas (in connection with adjacent parcels restaurants and food preparation areas)
Consumption on Premises

Accessory uses on all parcels:

Bay access if available

Essential services

Essential services equipment

3. Nothing in this rezoning, including any of the attached conditions, may be construed as a variance from the provisions of LDC Chapter 6, Article IV Floodplain regulations.
4. Approval of this rezoning does not give the developer an undeniable right to local development order approval. Development or redevelopment of the subject property must comply with all applicable requirements of the Fort Myers Beach Comprehensive Plan and Land Development Code in effect at the time of development order approval and permitting, except as specifically modified herein.
5. The development must comply with LDC Sec. 14-76 requirements for sea turtle conservation applicable to new development.
6. No structure may be placed in or over, and no work may occur in, any navigable water of the United States unless properly authorized by the United States Army Corps of Engineers or its designee.
7. No stormwater management system, dam, impoundment, reservoir, appurtenant work, or works may be constructed or altered on the subject property, including submerged lands and riparian leased areas, without property permit or exemption, and unless in compliance with all conditions of such permit or exemption, from the South Florida Water Management District or Florida Department of Environmental Protection, as applicable. Stormwater management for the subject property must comply with all applicable requirements of the Land Development Code at the time of development order approval and must provide for the capture and retention of all stormwater on the site.

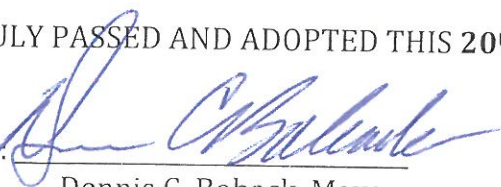
8. Approval of this rezoning does not address the compliance or noncompliance of proposed building elevations with the commercial design standards included in LDC Chapter 34, Article III, Division 7. Development of the subject property must meet the commercial design standards effective at the time of local development order approval.
9. Docks for use by occupants of principal uses on the subject property, docks for lease to non-occupants of principal uses on the subject property, and docks for use by water taxi or water shuttle are limited to the areas within the existing submerged land leases and submerged land described in Exhibit A. These docks are and must remain accessory to the principal use(s) of the subject property. The number of slips within the area of a submerged land lease may not exceed the number authorized by that lease without proper approval. Construction of additional or replacement docks must comply with all applicable requirements of the LDC and all applicable state and federal regulations at the time of permitting. No live-aboard units are allowed.
10. Hours of operation:
- All restaurants and outdoor seating areas may operate from 8:00AM to 10:00 PM.
 - Consumption on Premises in conjunction with outdoor seating shall be from 11:30AM-10:00PM. Live entertainment permitted only inside the buildings, limited to non-amplified, acoustical music.
11. Steamers must be located outside of the Marina Village at Snug Harbor Condominium building.
12. No deliveries will be permitted between 9:00PM and 7:00AM.
13. Commercial garbage collection must be provided six days a week (excluding Sundays).
14. Parking lot must be reconfigured to allow vehicular traffic flow without dead-ends.
15. Public restroom facilities must be provided in Unit C of the Marina Village at Snug Harbor Condominium building.
16. Upon the completion of the street side restaurant on parcel #1 (issuance of certificate of occupancy) no beach parking of any kind (Single-purpose Parking Lots only) shall be permitted on the subject properties at any time, all designated parking spaces shall be used for the uses established in this resolution.

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

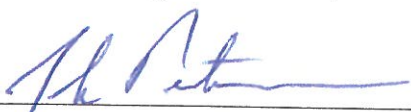
Dennis Boback, Mayor	AYE
Bruce Butcher, Member	AYE
Joanne Champ, Member	AYE

Tracey Gore, Vice Mayor	AYE
Anita Cereceda, Member	AYE

DULY PASSED AND ADOPTED THIS 20th day **NOVEMBER, 2017.**

By: 
Dennis C. Boback, Mayor

Approved as to legal sufficiency:

By: 
Peterson Law Group
Town Attorney

ATTEST:

By: 
Michelle Mayher
Town Clerk

EXHIBIT B

Olde Seaport of Fort Myers Beach

Parking Calculations with big boat at 136 total, Parcel 1 outdoor seating (Full Belly Deli) removed, lobby and finished utility areas in Nervous Nellies added (10,127 sf total in facility) and 132 parking spaces actually available: 11/27/17

Building/Description	Unit	QTY.	Calculated Parking	Gross Total	Downtown Reduction	Required	Provided
Existing "Nervous Nellie's" - Food Service	SF	9127	8 per 1000 SF	73.0	0.5	36.5	36.5
Existing "Nervous Nellie's" - Bar Area	SF	1000	13 per 1000 SF	13.0	0.5	6.5	6.5
FMB Princess Cruise Ship (150 capacity)	per patron	136	0.3333333333 per patron	45.3	0.5	22.7	22.7
Outdoor & Covered Seating*	SF	3350	8 per 1000 sf	26.8	0.5	13.4	13.4
Parcel 1 street side Restaurant	SF	2944	8 per 1000 sf	23.6	0.5	11.8	11.8
Street side Restaurant Bar Area	SF	800	13 per 1000 sf	10.4	0.5	5.2	5.2
Ticket sales/Boat rentals - Condo Unit B**	SF	840	3 per 1000 sf	2.5	0.5	1.3	1.3
Bathrooms - Condo Unit C**	SF	400	8 per 10000 sf	3.2	0.5	1.6	1.6
Kitchen/Food preparation - Condo Unit D**	SF	600	8 per 1000 sf	4.8	0.5	2.4	2.4
Boat Slips (see breakdown below)	per slip	21	0.5 per slip	10.5	0.5	5.3	5.3
TOTAL REQUIRED SPACES						106.6	106.6

The actual number of existing spaces is 132 so sufficient parking exists

* includes all parcel 2 and 4 seating areas as well as 850 sf for Covered Food Preparation area on parcel 1

** each of the Commercial Condo units is about 1200 sf. Only a portion of the area in each is used with the rest of the area empty or dead storage. Units C&D are part of the restaurant operations so the same parking requirements were used. For Unit B "other retail or business" space calcs are used

Boat Slip breakdown (21 total, including Princess Cruise Ship):

Use by Marina Village - 1

Open slips for use by diners coming by boat - 8

Slips for rental boats (by Olde Seaport) -7

Slips rented to boatowners that keep their boats moored -5

EXHIBIT C

NOTES

1. THIS PUBLIC HEARING AMENDMENT TO CPD, RES. 15-01 REQUEST INCLUDES THE SAME FOUR PARCELS OF LAND AS THE ORIGINAL REQUEST WITH CHANGES ONLY BEING MADE TO PARCELS #2 AND #4), AS FOLLOWS:

- STRAP NO. 24-46-23-W3-00026 0000 (645 OLD SAN CARLOS BLVD), ALSO SHOWN AS NORTH PARCEL #1 ON THE ACCOMPANYING SURVEY
- STRAP NO. 24-46-23-W3-00026 0030 (441445 OLD SAN CARLOS BLVD), ALSO SHOWN AS SOUTH PARCEL #3 ON THE ACCOMPANYING SURVEY
- AVOID SUBMERGED LAND LEASE
- PARCEL #4 ON THE ACCOMPANYING SURVEY
- NO PARCEL #2 IS IDENTIFIED ON THE SURVEY FOR THE PURPOSE OF THIS AMENDMENT REQUEST. THE SUBMERGED LAND LEASE WILL BE DESIGNATED AS PARCEL #2 (ALSO NOT STRAPPED)

THE RESTAURANT KNOWN AS NERVOUS NELLIES LOCATED TO THE EAST WHILE NOT PART OF THIS CPD, UTILIZES A PORTION OF THE PARKING ON THESE PARCELS AND IS INCLUDED ON THE PARKING CALCULATIONS.

2. CURRENT LAND USE ZONING

PARCELS 1 & 3 LAND USE: PEDESTRIAN COMMERCIAL ZONING: PER CURRENT APPROVAL (RES. 15-01)

PARCELS 2 & 4 LAND USE: TIDAL WATER ZONING: PER CURRENT APPROVAL (RES. 15-01)

3. DESCRIPTION OF PROPOSED DEVELOPMENT ON EACH PARCEL:

- PARCEL #1:
 - COVERED FOOD PREPARATION AREA (LOBSTER POT), 850 SF - SUPPORTED BY KITCHEN OPERATIONS OUT OF UNIT D
 - RESTAURANT W/COOP: MAX. 3744 SF (300 SEATS)
 - PARKING: 49 SPACES

PARCEL #2:

- OPEN SEATING (AWNING PERMITTED) AREA W/COOP: 900 SF (75 SEATS)

PARCEL #3: NO CHANGES PROPOSED (REMAINS AS 74 SPACE PARKING LOT)

PARCEL #4:

- COVERED SEATING W/COOP: 1600 SF (125 SEATS)
- WALKWAY: 390 SF AREA FOR SEATING ACCESS/SERVICE AREA

4. SITE DATA AND DEVELOPMENT REGULATIONS:

- PARCEL #1/NORTH PARCEL: TOTAL AREA = 35,768 SF
 - FOOD PREPARATION AREA: 850 SF (MIN. 3 FT SET-BACK, MAX. HEIGHT = 25 FT ABOVE EX. GRADE)
 - RESTAURANT W/COOP: 3744 SF (0 FT SET-BACK TO STREET, MAX. HEIGHT = 30 FT ABOVE EX. GRADE)

PARCEL #2/SUBMERGED LAND LEASE

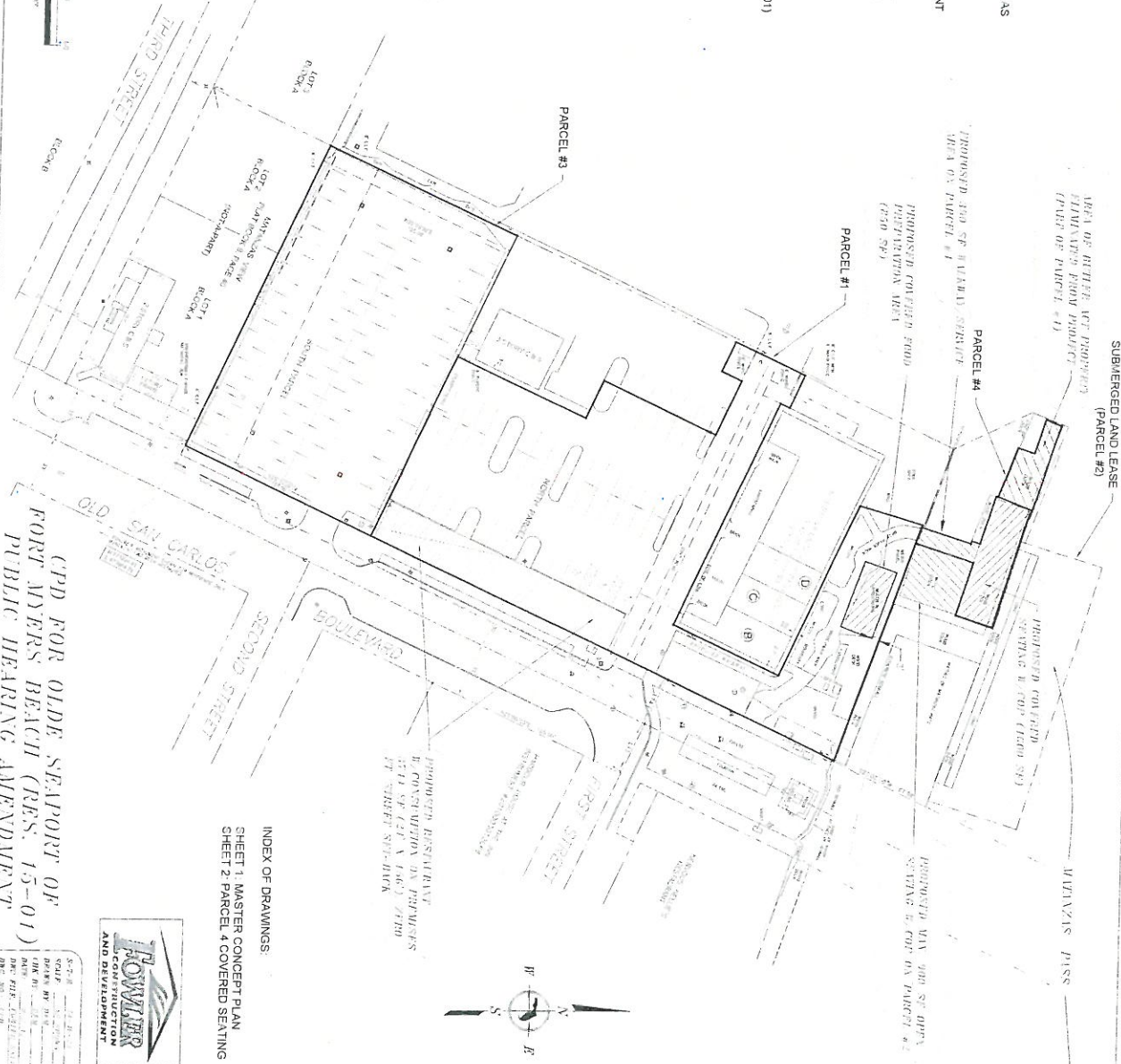
- OPEN SEATING AREA W/COOP: 900 SF (0 FT SET-BACK)

PARCEL #3/SOUTH PARCEL: TOTAL AREA = 23,000 SF (NO CHANGES)

- PARCEL #4/BUTLER ACT PARCEL: TOTAL AREA = 3025 SF
 - COVERED SEATING AREA W/COOP: 1600 SF (0 FT SET-BACK, MAX. HEIGHT = 20 FT ABOVE CURRENT DOCK LEVEL)
 - 390 SF WALKWAY/SERVICE AREA
 - REMAINING AREA REMOVED FROM CPD

5. UNLESS OTHERWISE NOTED, EXISTING DOCKS AND WALKWAYS WILL REMAIN AND CONTINUE TO BE USED IN THE SAME MANNER.

6. UNITS "B", "C", AND "D" IN THE MARINA VILLAGE AT SNUG HARBOR, A CONDOMINIUM, ARE OWNED BY THE APPLICANT BUT ARE NOT PART OF THIS RESOLVING REQUEST. THE ZONING OF MARINA VILLAGE IS "TOWNHOMES" AND ALL PROPOSED USES ARE CONSISTENT WITH THE CURRENT ZONING.



CPD FOR OLDE SEAPORT OF
FORT MYERS BEACH (RES. 15-01)
PUBLIC HEARING AMENDMENT

SCALE	1" = 20'
DRAWN BY	DAVID E. WARR
CHECKED BY	DAVID E. WARR
DATE	12/7/17
PROJECT	CPD



INDEX OF DRAWINGS:
SHEET 1 MASTER CONCEPT PLAN
SHEET 2 PARCEL 4 COVERED SEATING

McKee Engineering Consultants, Inc.
Engineering Planning Land Development
5230 Stonecrest Lane Suite 100, Fort Myers, FL 33903
Phone (239) 858-8000 Fax (239) 858-8001
www.mckeeengineering.com

PROJECT: MASTER CONCEPT PLAN
OLD SEAPORT PLACE, INC.
2532 EDGEMO BLVD., UNIT 504
FORT MYERS BEACH, FL 33931

12/7/17 - remove parcel 1 from "A" lot, add 1 outdoor seating per hearing agreement

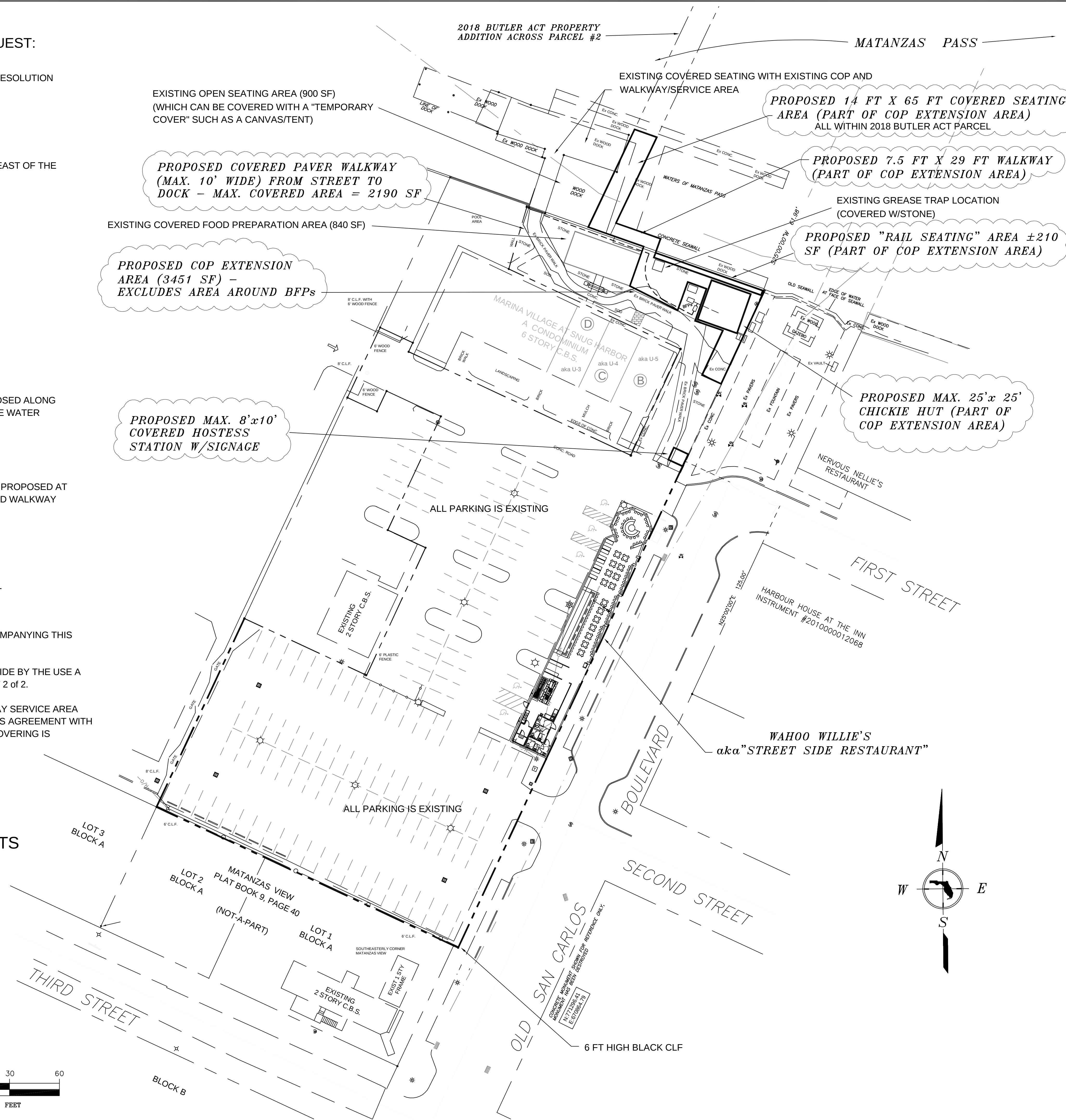
1. ALL IMPROVEMENTS TO DATE AND CURRENT OPERATIONS ARE CONSISTENT WITH TOWN COUNCIL RESOLUTION 17-39/DCI17-0005. THIS REQUEST IS TO EXTEND THE COP AREA BY 3451 SF AND ADD A NUMBER OF IMPROVEMENTS/FACILITIES TO THE SITE.

- AN ADDITIONAL 14 FT X 65 FT (910 SF) COVERED SEATING/COP AREA IS PROPOSED FOR THE AREA EAST OF THE CURRENT FACILITIES IN THE 2018 BUTLER ACT PROPERTY:
 - SET-BACKS TO THE PROPERTY LINE AND WATER; 0 FT
 - COVERAGE; MAX 910 SF
 - MAX. HEIGHT; 20 FT ABOVE CURRENT DOCK LEVEL

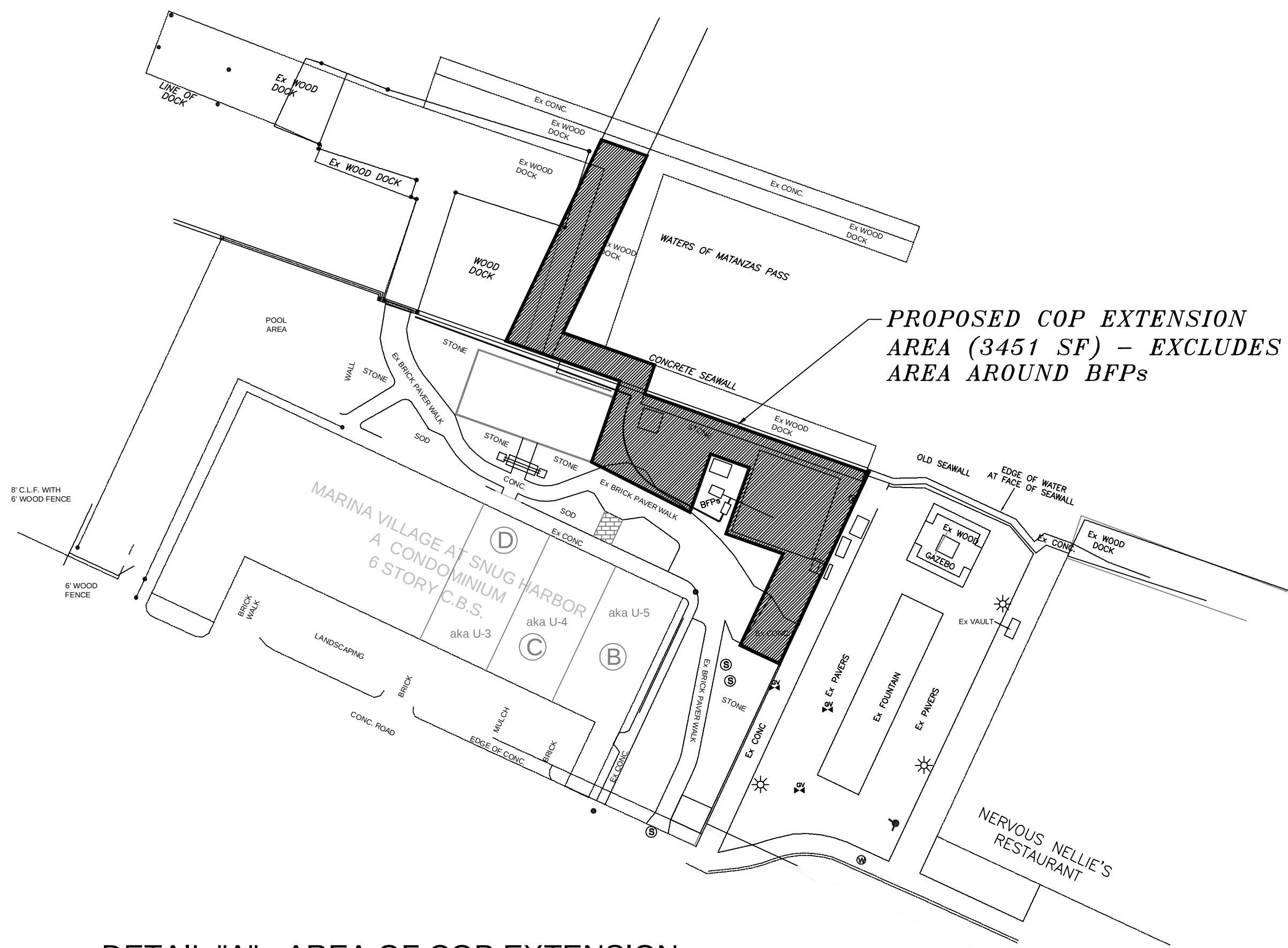
- NOTE: THE TOTAL PROPOSED COP EXTENSION AREA IS 3451 SF. SEE SHEET 2 OF 2 FOR THE OVERALL DESIGNATED AREA.

4. THE COP EXTENSION AREA WILL BE SEPARATED FROM THE ADJACENT STREET ROW ON THE EAST SIDE BY THE USE A BARRIER SIMILAR TO WHAT IS PRESENTLY LOCATED ON THE SITE. SEE DETAILS ON MCP DETAIL SHEET 2 of 2.

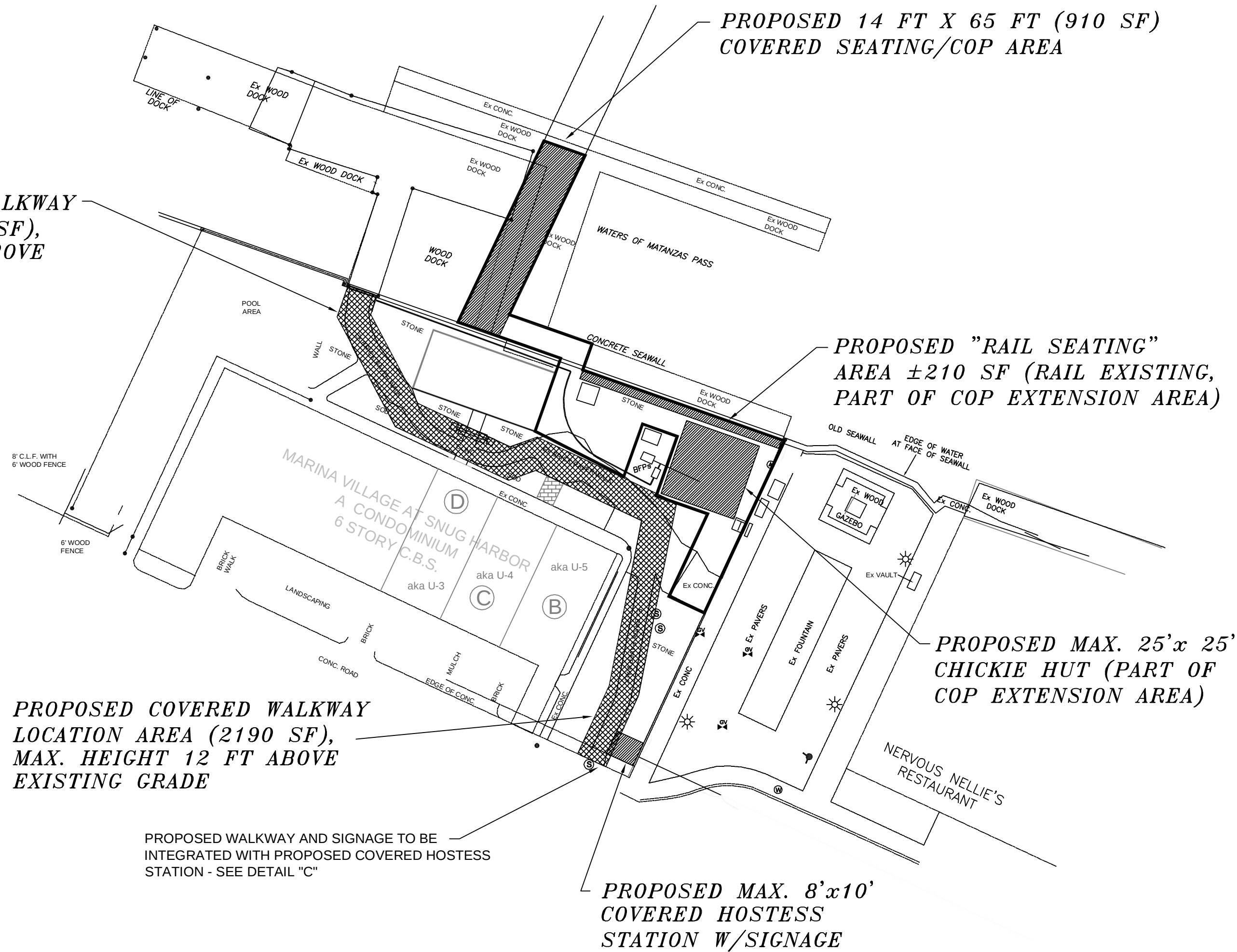
SEE SHEET MCP 2 of 2 FOR DETAILS OF THE PROPOSED
COP EXTENSION AREA AND ASSOCIATED IMPROVEMENTS



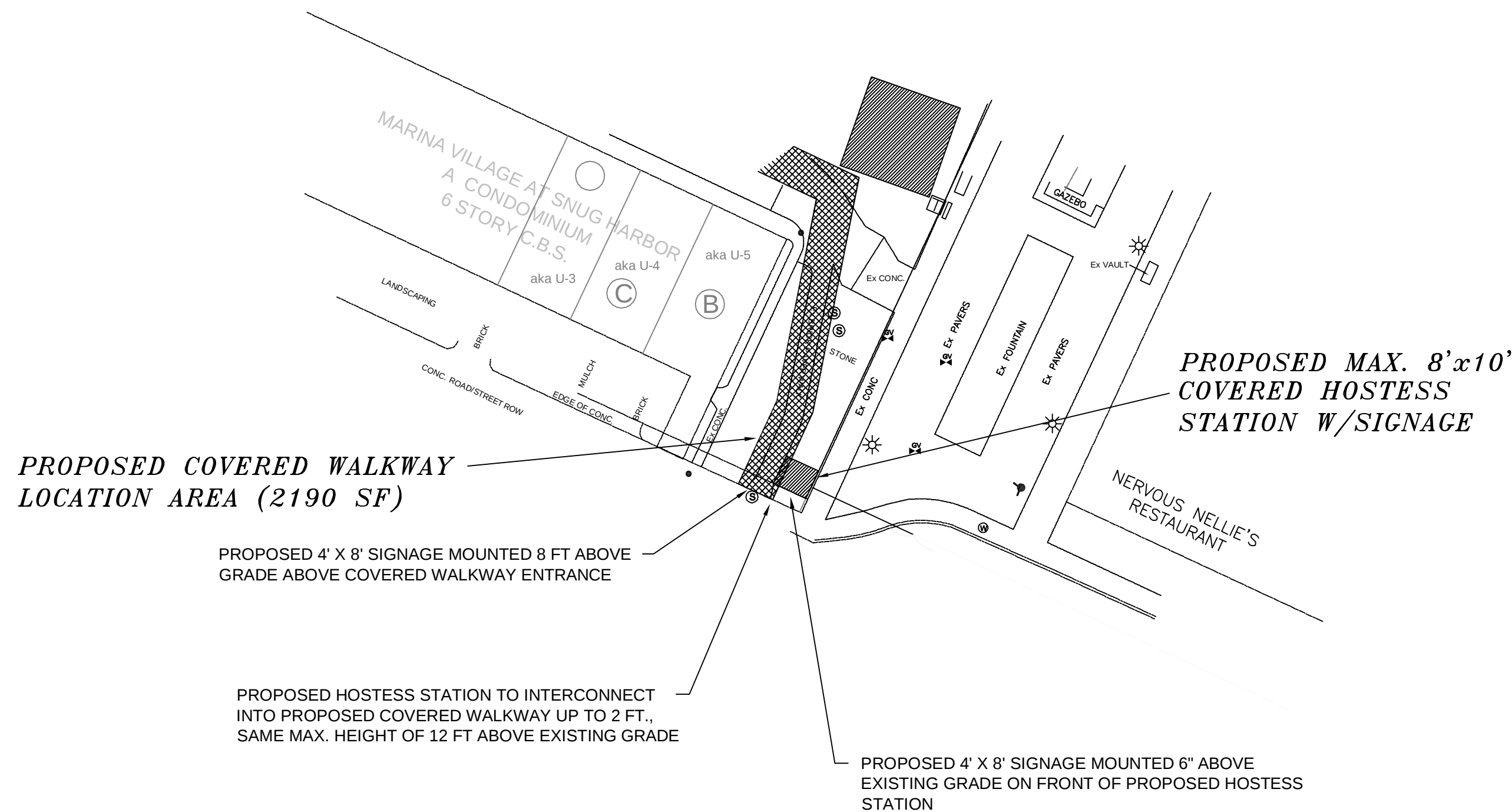
SCALE: 1" = 30'	PROJECT: Oldse Seaport	
	SHEET: MCP	DESIGN BY: DEM DRAWN BY: DEM CHECKED BY: DEM DATE: 1/10/2023
DAVID E. MCKEE, PE PROFESSIONAL ENGINEER P.E. 38347, STATE OF FLORIDA		
David E McKee, PE Engineering — Permitting — Land Development 5848 Kaylee Ann Drive Granite Falls, NC 28630 22180 Tallwood Court, #804 Estero, FL 33928 Phone (239) 898-4008 email: dmckeeeng@gmail.com		
OLDE SEAPORT PLACE, INC. OVERALL MASTER CONCEPT PLAN Old Seaport Place, Inc. 489 Madison Court Fort Myers Beach, FL 33931		
DATE _____ REVISIONS: _____ _____A_____ _____A_____ _____A_____ _____A_____ _____A_____ _____A_____		
SITE PLAN		



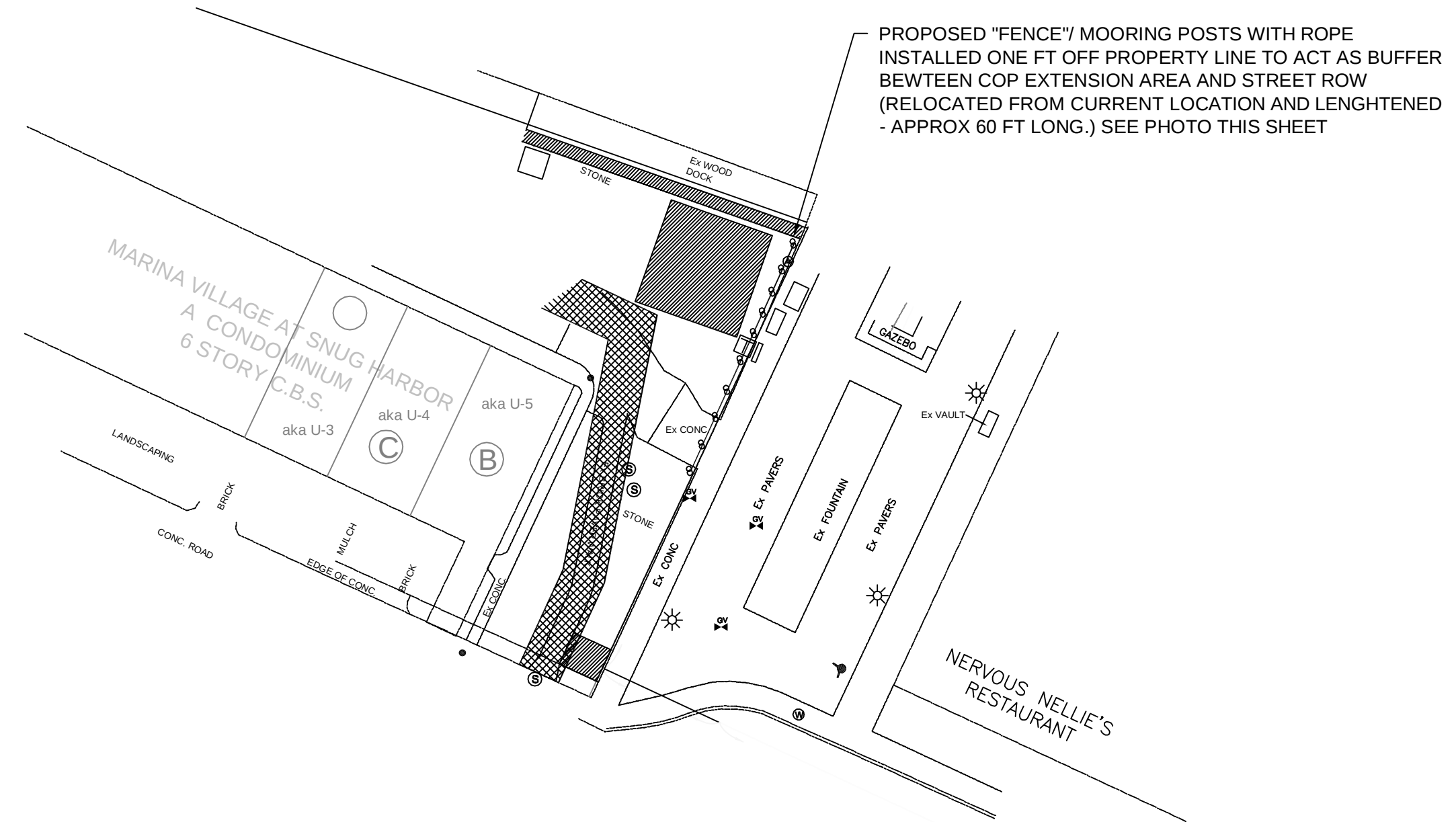
DETAIL "A" - AREA OF COP EXTENSION



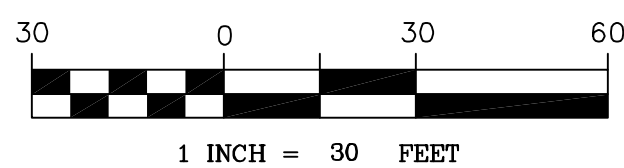
DETAIL "B" - LOCATION OF PROPOSED FACILITIES



DETAIL "C" - HOSTESS STATION/WALKWAY ENTRY SIGNAGE



DETAIL "D" - BUFFERING BETWEEN PROPOSED COP EXTENSION AREA AND STREET ROW



REVISIONS:	
DATE	REVISIONS

SITE PLAN	

OLDE SEAPORT PLACE, INC. MASTER CONCEPT PLAN DETAILS Old Seaport Place, Inc. 489 Madison Court Fort Myers Beach, FL 33931

David E McKee, PE Engineering — Permitting — Land Development 5548 Koyee Ann Drive Granite Falls, NC 28630 22180 Tallwood Court, #804 Estero, FL 33928 Phone (239) 898-4008 email: mckeeeng@gmail.com

DAVID E. MCKEE, PE PROFESSIONAL ENGINEER P.E. 38347, STATE OF FLORIDA

SCALE: 1" = 20'	CAD FILE: Old Seaport	DESIGN BY: DEM	CHECKED BY: DEM	DATE: 11/10/2023
SHEET: MCP	2 of 2			

**Olde Seaport of Fort Myers Beach
Commercial Planned Development**

Schedule of Uses

Parcel #1 (North Parcel – 645 Old San Carlos Blvd.)

Consumption on Premises
Parking Lot, shared permanent
Personal Services
Restaurants
Covered Seating areas
Retail store, small

Parcel #2 (2018 Butler Act Parcel/Submerged Land Lease)

Boat slips
Docks
Marina & related activities
Seating areas (in connection with adjacent parcels, restaurants and food preparation areas) with covered seating in 2018 Butler Act Parcel area
Consumption on Premises

Parcel #3 (South Parcel – 441/445 Old San Carlos Blvd.)

Parking Lot, shared permanent

Parcel #4 (Butler Act property)

Covered Seating areas (in connection with adjacent parcels restaurants and food preparation areas)
Consumption On Premises

Accessory uses on all parcels:

Bay access
Essential services
Essential services equipment

Olde Seaport of Fort Myers Beach - Rezoning Request

Parking Calculations with two passenger ships at a total of 98 patrons, expansion of seating/COP Area (this request), lobby and finished utility areas in Nervous Nellies added (10,127 sf total in facility) and 132 parking spaces actually available: 1/10/23

Building/Description	Unit	QTY.	Calculated Parking	Gross Total	Downtown Reduction	Required	Provided
Existing "Nervous Nellie's" - Food Service	SF	9127	8 per 1000 SF	73.0	0.5	36.5	36.5
Existing "Nervous Nellie's" - Bar Area	SF	1000	13 per 1000 SF	13.0	0.5	6.5	6.5
Two 49 passenger tour boats	per patron	98	0.333333333 per patron	32.7	0.5	16.3	16.3
Outdoor & Covered Seating*	SF	3350	8 per 1000 sf	26.8	0.5	13.4	13.4
Additional seating/COP Area" - 1/10/23	SF	3451	8 per 1000 sf	27.6	0.5	13.8	13.8
Parcel 1 street side Restaurant	SF	2944	8 per 1000 sf	23.6	0.5	11.8	11.8
Street side Restaurant Bar Area	SF	800	13 per 1000 sf	10.4	0.5	5.2	5.2
Ticket sales/Boat rentals - Condo Unit B**	SF	840	3 per 1000 sf	2.5	0.5	1.3	1.3
Bathrooms - Condo Unit C**	SF	400	8 per 10000 sf	3.2	0.5	1.6	1.6
Kitchen/Food preparation - Condo Unit D**	SF	600	8 per 1000 sf	4.8	0.5	2.4	2.4
Boat Slips (see breakdown below)	per slip	10	0.5 per slip	5.0	0.5	2.5	2.5
TOTAL REQUIRED SPACES						111.3	111.3

The number of existing parking spaces is 132 so a 3451 SF Extension of the seating/COP Area is possible

* includes all parcel 2 and 4 seating areas as well as 850 sf for Covered Food Preparation area on parcel 1

** each of the Commercial Condo units is about 1200 sf. Only a portion of the area in each is used with the rest of the area empty or dead storage.
Units C&D are part of the restaurant operations so the same parking requirements were used. For Unit B "other retail or business" space calcs are used

Boat Slip breakdown (21 total minus the two Passenger tour boats = 19 others available):

Open slips for use by diners coming by boat - 9 (do not require parking spaces)
Slips for rental boats (by Olde Seaport) - 8
Slips rented to boatowners that keep their boats moored -2

**Olde Seaport of Fort Myers Beach
CPD: Resolution #17-39
Public Hearing Amendment Request**

Part I – C – Comprehensive Plan Compliance

The requests being made are generally an extension of previously approved uses and activities. Additional covered seating and extended COP areas along with “customer comforts” such as a covered walkway and highly visible hostess station with signage are being requested. The project, as previously zoned/approved, is in compliance with the Comprehensive Plan and will continue to be since there are no new uses or activities being requested.

Future Land Use Classifications for the properties where the use/extensions are being requested are Pedestrian Commercial and Tidal Water. The two land parcels (parcels #1 and #3), which are strapped and addressed, are Pedestrian Commercial and permit a wide array of commercial uses. The original Butler Act property (parcel #4) and the submerged land lease and 2018 Butler Act property (parcel #2) are within the Tidal Water Land Use and require that the activities generally be “water dependent”. The activities permitted by the two land use classifications are inter-related and dependent upon each other, as discussed herein, and continue to promote the overall development concept that has previously been undertaken.

Policy 4-B-6 of the Town of Fort Myers Beach Comprehensive Plan states the Pedestrian Commercial Land Use is “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 Villa Santini Plaza)”. The proposed uses within the Pedestrian Commercial area under this rezoning request, which are discussed below, are consistent with this Future Land Use criteria:

- Parcel #3, also known as the South parcel located at 441/445 Old San Carlos Blvd., is a 74 space parking lot that provides part the required parking for all the proposed uses requested by this application. No changes are being proposed.
- Parcel #1, also known as the North parcel located at 645 Old San Carlos Blvd., fronts Matanzas Pass. The parcel presently contains the covered food preparation area and the street side restaurant/Wahoo Willies, as approved by the previous zoning, and the parking and associated use of Unit D in the adjacent Marina Village Condo. An extension of the project COP/seating area is proposed. Within this extension area the construction of a Chickee Hut (max 25’ x 25’) and a rail seating area along the north side of the parcel are proposed (the rail is presently existing but will be upgraded and the seating will be added in an area not exceeding 210 sf). Additionally a covered walkway area (max. 2190 sf) and covered hostess station (max 8’ x 10’) with signage is proposed. The last two facilities are not included in the proposed COP extension area.

Policy 4-B-10 of the Comprehensive Plan defines Tidal Water as being “applied to all saltwater canals and all waters surrounding Estero Island that lie within the municipal boundary (out 1,000 feet)”. Allowable uses are water dependent such as water sports, boating, swimming and fishing. Fixed structures for water access are also permitted as long as they comply with LDC standards. The proposed uses within the Tidal Water Future Land Use Classification under this rezoning, which are discussed below, are consistent with this Future Land Use criteria:

- The previously designated Submerged Land Lease parcel, also known as Parcel #2 and located north of 645 Old San Carlos Blvd., was modified in 2018 by the designation of a portion of the property as Butler Act property (see below). The submerged land lease portion is will continue to be used for open seating w/COP, as approved by the previous zoning and the use of the existing docks for boating, fishing/charter activities and water related special events in connection with the use of this area will continue and be enhanced. One small adjacent area of walkway/dock is being proposed for COP usage. Note that the open seating area can be covered as well as long as a non-structural roof/covering is utilized.
- Parcel #2/2018 Butler Act parcel: An extension of covered seating/COP usage is proposed, 14 ft x 65 ft (910 sf), and will be utilized in the same manner as Parcel #4 is being used.
- The Butler Act parcel, also known as Parcel #4 and located north of 645 Old San Carlos Blvd. resulted from the fact that a former restaurant occupied the site prior to 1951. As such FDEP has no jurisdiction regarding the use of the property and it is subject to local criteria. This area now contains covered seating with COP usage and a service walkway from the upland property, as was approved by the previous zoning.

**Olde Seaport of Fort Myers Beach
CPD: Resolution #17-39
Public Hearing Amendment Request**

Part I – D – Design Standards Compliance

All facilities will be designed to be consistent with current architectural features. Final design/construction plans for the proposed improvements will not be prepared until the Development Order phase and it is understood final approval must be obtained for the architectural plans prior to building permit application.

This application does not include any true building structures since there will be no new enclosed air conditioned space constructed. All proposed structures are roof only type facilities or partially enclosed areas where the walls are non-structural in nature and/or are used to enhance the theme of the area through the design. In this case, the Olde Seaport theme creates facilities that are reminiscent of the Caribbean ports of the 1800's.

**Olde Seaport of Fort Myers Beach
CPD: Resolution #17-39
Public Hearing Amendment Request**

Part I – E – Decision–Making Compliance

This proposed development complies with the decision-making process in the LDC in the following manner:

- There are no errors or ambiguities in the current CPD (RES 17-19) that needs to be corrected.
- There exists changed conditions that make the approval of this request appropriate. The designation of a portion of the Submerged land lease as Butler Act property allows the additional covered seating with COP to be requested. The project has been in operation for some time and has shown itself to be a well operated facility. This track record supports the request for an extension of the COP area. Similarly, the operating history has shown the need for additional covered area for customer comfort and a better access point to improve operations.
- 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.
- The request meets or exceeds all performance and locational standards set forth for the proposed uses.
- Urban services are available and adequate to serve the proposed development.
- The proposed development will not have any impact on the environment or natural resources.
- The request is compatible with existing and other planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.
- The request will not place an undue burden upon existing transportation or other services and facilities. Additionally, the expansion of the development encourages the use of additional access by water and it has been planned to attract existing pedestrian traffic to the area.



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: 441/445, 645 Old San Carlos Blvd, FMB and adj. Butler Act & submerged lands

STRAP Number: 24-46-23-W3-00026.0000/.0030/W2-00000.0000/.0020 & unstrapped SSL

Applicant: Jim Figuerado Phone: 239/707-4687

Contact Name: David McKee Phone: 239/898-4008

Email: marinaman181@aol.com/mckeeeng@gmail.com Fax: _____

Current Zoning District: CPD (Resolution 17-39)

Future Land Use Map (FLUM) Category: Pedestrian Commercial & Tidal Water

FLUM Density Range: (see resolution) Platted Overlay: ☒ YES ☐ NO

ACTION REQUESTED

☐ Special Exception

☐ Variance

☐ Conventional Rezoning

☒ Planned Development ☒ Commercial ☐ Residential

☐ Master Concept Plan Extension

☐ Appeal of Administrative Action

☐ Vacation of Platted Right-of-way and Easement

☐ Other – cite LDC Section: _____

SUPPLEMENTAL FORM REQUIRED

PH-A

PH-B

PH-C

PH-D

PH-E

PH-F

PH-G

attach on separate sheet

PART I – General Information

A. Applicant*: Jim Figuerado Phone: 239/707-4687

**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: 489 Madison Court, Fort Myers Beach, FL 33931

Email: marinaman181@aol.com Fax: _____

Contact Name: same as applicant Phone: _____



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: David McKee, PE Phone: 239/898-4008
Address: 5848 Kaylee Ann Drive, Granite Falls, NC 28630
Email: mckeeeng@gmail.com Fax: _____

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

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

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

PART II – Nature of Request

Requested Action (each request requires a separate application)

- ☐ Special Exception
- ☐ Variance from LDC Section _____ - _____
- ☐ Conventional Rezoning from _____ to _____
- ☐ Planned Development
- ☐ Rezoning from _____ to ☐ Commercial PD ☐ Residential PD
- ☒ Amendment. List the project number: CPD/Resolution 17-39/Olde Seaport CPD
- ☐ Extension/reinstatement of Master Concept Plan. List project number: _____



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

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

PART III – Waivers

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

Code Section: _____ Description: _____

Code Section: _____ Description: _____

Code Section: _____ Description: _____

PART IV – Property Ownership (Single Owner)

☐ Single Owner (individual or husband and wife)

Name: _____ Phone: _____

Mailing Address: _____

Email: _____ Fax: _____

AFFIDAVIT APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

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

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

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

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

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

Signature

Printed Name

STATE OF _____ COUNTY OF _____

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

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

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

_____ as identification.

(SEAL)

Notary Public Signature

PART V Property Ownership (Multiple Owners)

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

- ☒ Complete Disclosure of Interest Form (see below)
- ☐ 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
James Figuerado, President	100%
489 Madison Court	
Fort Myers Beach, FL 33931	
(for Olde Seaport Place, Inc.)	

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

Name and Address	Percentage of Interest

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

Name and Address	Percentage of Ownership

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

Name, Address and Office	Percentage of Stock



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

Date of Contract: _____

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

Name	Address
_____	_____
_____	_____
_____	_____
_____	_____

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

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

_____	James Figuerado
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, James Figuerado (name), as President (title)
of Olde Seaport Place, Inc. (company), swear or affirm under oath, that I am the owner or the authorized representative of the owner(s) of the property and that:

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



COMMUNITY DEVELOPMENT DEPARTMENT
APPLICATION for PUBLIC HEARING

Olde Seaport Place, Inc.

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

President

Signature

Title

James Figuerado

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 _____, 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: 24-46-23-W3-00026.0000/.0030/W2-00000.0000/.0020 and adj. submerged land lease

Property Address: 441/445, 645 Old San Carlos Blvd, FMB 33931 and adj. property

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

☐ Yes. Property identified in subdivision: _____

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

B. Boundary Survey:

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

C. Property Dimensions:

Width (please provide an average width if irregular in shape) 310 feet
Depth (please provide an average width if irregular in shape) 210 feet
Frontage on street: 310 feet. Frontage on waterbody: 151 feet
Total land area: 35,753 ☐ acres ☒ square feet

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

after coming across Sky Bridge, take first right onto Fifth Street and then turn right
onto Old San Carlos Blvd. Subject property is located at north end of Old San
Carlos Blvd. on left/west side

☒ 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

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: Olde Seaport Place CPD - COP/Seating Extension
Authorized Applicant: James Figuerado
STRAP Number(s): 24-46-23-W3-00026.0000/,0030(upland parcels), 24-46-23-W2-00000.0000/0.0020 (Butler Act parcels) and adj. submerged land lease (no strap)

Current Property Status: developed, "street side restaurant" recently completed
Current Zoning: CPD/Resolution 17-39
Future Land Use Map (FLUM) Category: Pedestrian Commercial and Tidal Water
Platted Overlay? ☒ yes, ☐ no FLUM Density Range:

Requested Action:

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

PART I Narrative Statements

A. Comprehensive Plan Amendments (check one)

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

B. Phasing of Construction

☐	The development is to be constructed in a single phase.
☒	The development is to be constructed in phases as follows: (describe proposed phasing below)
1 -	on land site work to be done to allow for extended COP area/seating
2 -	2018 Butler Act property to be covered & COP area/seating
3 -	Existing walkway cover to be installed
4 -	Hostess station to be constructed
5 -	Chickee Hut to be constructed
Note: Phases may be constructed in an order other than listed above and some phases may be combined.	

C. Comprehensive Plan Compliance.

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

(see separate document)

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.

(see separate document)



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

[illegible]

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

[illegible]

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.

The full request to extend the COP and seating areas can not be approved
administratively as they increase the size of the project and the associated
intensity. They also require added parking (see calculations), which is available.

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.

SPECIFIC PURPOSE SURVEY

OF A PARCEL OF LAND

LYING IN

SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST,
TOWN OF FORT MYERS BEACH, LEE COUNTY, FLORIDA

DISCLAIMER PARCEL
INSTR #2018000296813

SPECIAL NOTE:
THE INFORMATION REGARDING BOUNDARIES OF RIPARIAN RIGHTS REPRESENTS THE GENERALLY ACCEPTED METHODOLOGY FOR DETERMINING SUCH RIPARIAN LINES. HOWEVER, A BINDING DETERMINATION OF RIPARIAN BOUNDARIES CAN ONLY BE MADE BY AGREEMENTS OF THE AFFECTED PARTIES OR BY A FINAL ADJUDICATION OF A COURT OF COMPETENT JURISDICTION. ACCEPTANCE OF THIS SURVEY AND ISSUANCE OF A PERMIT DOES NOT CONSTITUTE A BINDING DETERMINATION OF RIPARIAN BOUNDARIES. THE BOUNDARY LINE SHOWN ALONG THE FREELAND LINE IS BASED ON THE EXECUTED SETTLEMENT AGREEMENT. THE ACTUAL UP-AND-OWNERS RELATIVE TO THIS RIPARIAN LINE ARE FREELAND AND MARINA VILLAGE AT SNUG HARBOR. SEE RIPARIAN LINE AGREEMENT IN INSTR #2017000136103

0' 40' 80' 120'

LINE	BEARING	DISTANCE
L1	N17°44'02"E	38.69
L2	S72°15'58"W	33.50
L3	N17°44'02"E	23.38
L4	N72°55'17"W	52.73
L5	S19°29'00"W	8.53
L6	S73°02'04"E	9.63
L7	S70°33'16"E	3.77
L8	S70°33'16"E	1.37
L9	S18°00'15"W	1.57
L10	S19°19'32"W	20.00
L11	S70°40'26"E	42.20
L12	S28°00'00"W	62.33
L13	N69°26'24"W	1.75
L14	N17°44'02"E	5.19
L15	N72°15'58"W	30.03
L16	N02°32'17"E	1.33
L17	N69°40'55"W	1.16
L18	S19°19'32"W	6.14
L19	S67°13'47"W	12.88
L20	S70°40'26"E	49.21
L21	N17°50'44"E	31.10
L22	N70°33'16"W	27.11
L23	S72°15'58"E	32.15
L24	S25°24'07"W	37.84
L25	S72°15'58"E	1.35
L26	N17°44'02"E	10.04
L27	N17°44'02"E	13.34
L28	N70°33'16"W	14.08

DETAIL
LEASE
PARCEL 1B

LEASE
PARCEL 1C
5,721 SF.
(0.131 ACRES ±)

QUIT CLAIM DEED OF
PORTION OF
BUTLER ACT
DISCLAIMER PARCEL
2017000136104
FREELAND

LEASE
PARCEL 1B
1,381 Sq. Feet
(0.032 ACRES ±)

LEASE PARCEL 1A
1,100 SF. (0.025 ACRES ±)

(O.R. BOOK 2280, PAGE 2267)

GEORGE FREELAND
INSTRUMENT #2008000332366

BENCH MARK
PK & Disk LB4919
Elev. 3.70
(NAVD 1988)

WEST
UPLAND PARCEL
OLD SEAPORT PLACE, INC.
24-48-23-W3-00028.0000
645 OLD SAN CARLOS
BOULEVARD

PARCEL 1
INSTR.#2016000083457

MARINA VILLAGE AT SNUG
HARBOR
O.R. BOOK 2280, PAGE 2271
(NOT-A-PART)

WEST
UPLAND PARCEL
PARCEL 3
INSTR.#2016000083457

LEASE
PARCEL 1D
14,485 Sq. Feet
(0.333 ACRES ±)

THIS AREA SUBJECT TO
SETTLEMENT AGREEMENT
RECORDED IN
INSTR#2017000136103

LEASE
PARCEL 2
12,609 Sq. Feet
(0.290 ACRES ±)

EAST
UPLAND PARCEL 2
OLD SEAPORT PLACE, INC.
24-48-23-W3-00004.0000
1131 FIRST STREET
PARCEL 2
INSTR.#2018000083467

P.O.C.
WEST LEASE AREA
PARCEL 1A, PARCEL 1B,
PARCEL 1C, PARCEL 1D
NW CORNER
BLOCK 1 BUSINESS CENTER
PB 9, PAGE 10

P.O.C.
LEASE PARCEL 2
SW CORNER
LOT 26, BLOCK "E"
CRESCENT PARK
ADDITION P.B. 4, PAGE 46

- LEGEND**
- (C) = CALCULATED
 - (D) = DEED
 - INSTR. = INSTRUMENT
 - M.H.W.L. = MEAN HIGH WATER LINE
 - O.R. = OFFICIAL RECORD
 - R/W = RIGHT-OF-WAY
 - P.O.B. = POINT OF BEGINNING
 - P.O.C. = POINT OF COMMENCEMENT
 - R = RADIUS
 - Δ = DELTA ANGLE
 - L = LENGTH
 - C = CHORD
 - CB = CHORD BEARING
 - P.B. = PLAT BOOK
 - PG. = PAGE

SUBMERGED LAND LEASE AREA
OLD SEAPORT PLACE, INC.

BWLK | CESINC

Engineers • Environmental Scientists • Surveyors

13041 MCGREGOR BOULEVARD, FORT MYERS, FLORIDA 33919 PH (238) 481-1331

SR43081_SLL.DWG	DATE	PROJECT NO.	DRAWN BY	SCALE	SHEET	FILE NO. (S-T-R)
	07-28-17	43081	RLC	1" = 80'	2 OF 13	24-46-23

AREA TABLE:

PARCEL 1A = 1,100 S.F.
PARCEL 1B = 1,381 S.F.
PARCEL 1C = 5,721 S.F.
PARCEL 1D = 14,485 S.F.
PARCEL 2 = 12,609 S.F.
TOTAL LEASE AREA = 35,296 S.F. (0.810 ACRES)

SKETCH OF LEASE PARCELS

Attachment A
Page 11 of 24 Pages
SSLL NO. 360421085

LEGEND

SPC = STATE PLANE COORDINATE SYSTEM
 FLW = FLORIDA WEST ZONE
 □ = ELECTRIC BOX
 R/W = RIGHT-OF-WAY
 O.R. = OFFICIAL RECORD
 * = LIGHT POLE
 P.B. = PLAT BOOK
 + = UNKNOWN UTILITY
 + = PILE 8"-10"
 + = BOAT CLEAT
 P.B. = PLAT BOOK
 INSTR. = INSTRUMENT
 FND. = FOUND
 PG. = PAGE
 T.U.A.E. = TEMPORARY UPLAND ACCESS EASEMENT
 T.W. = TOP OF WALL
 B.W. = BOTTOM OF WALL

SPECIFIC PURPOSE SURVEY

OF A PARCEL OF SUBMERGED LAND
 LYING IN

SECTION 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST,
 TOWN OF FORT MYERS BEACH, LEE COUNTY, FLORIDA

MATANZAS PASS

DETAIL
 LEASE
 PARCEL 1B

R/W OF FEDERAL CHANNEL
 FROM DEPARTMENT OF THE ARMY
 EXAMINATION SURVEY 11 AND 12-FOOT
 PROJECT BY FIBURN & COOM, INC.
 DATED APRIL 1993
 WITH D.O. FILE NO. 57-36.585

MATCH LINE
 SEE SHEET 3

QUIT CLAIM DEED OF
 PORTION OF
 BUTLER ACT
 DISCLAIMER PARCEL
 INSTR# 2017000135104
 (AREA WEST OF RIPARIAN LINE)

LEASE
 PARCEL 1C
 5,721 SF. (0.131 ACRES ±)

SPECIAL NOTE:
 THIS AREA SUBJECT TO
 SETTLEMENT AGREEMENT
 RECORDED IN
 INSTR# 2017000136103

LEASE
 PARCEL 1D
 14,485 SF. (0.333 ACRES ±)

DETAIL
 POB LEASE
 PARCEL 1B

MATCH LINE SEE SHEET 5

LINE	BEARING	DISTANCE
1	N77°44'02"E	35.60
2	S72°12'58"W	35.60
3	N77°44'02"E	23.30
4	N72°58'17"W	24.73
5	S19°29'00"W	6.33
6	S73°04'04"E	6.33
7	S79°33'18"E	1.77
8	S59°33'18"E	1.77
9	S16°42'15"W	1.57
10	S19°18'32"W	20.20
11	S70°40'28"E	42.70
12	S25°00'00"W	62.33
13	N68°26'24"W	1.75
14	N17°44'02"E	6.18
15	N72°15'58"W	30.03
16	N69°32'19"E	1.30
17	N68°30'55"W	1.18
18	S19°18'32"W	6.64
19	S57°13'47"W	12.85
20	S70°40'28"E	49.21
21	N17°40'44"E	31.10
22	N70°33'16"W	27.11
23	S72°15'58"W	32.15
24	S25°02'07"W	37.84

P.O.B.
 LEASE
 PARCEL 1B
 N:771740.48
 E:670815.20

SPC FLW 83/90
 SEE DETAIL

Attachment A
 Page 12 of 24 Pages
 SSLL NO. 360421085

SCALE 1"=30'

SUBMERGED LAND LEASE AREA
 OLD SEAPORT PLACE, INC.

BWLK **CESINC**

Engineers • Environmental Scientists • Surveyors

13041 Mcgregor Boulevard, Fort Myers, Florida 33919

PH (239) 401-1331

SR43091_SLL.DWG

DATE	PROJECT NO.	DRAWN BY	SCALE	SHEET	FILE NO. (S-T-R)
07-28-17	43091	RLC	1"=30'	4 OF 13	24-46-23

LINE	BEARING	DISTANCE
128	S72°15'58"E	1.35
129	N17°44'02"E	10.04
131	N17°44'02"E	13.34
132	N70°33'16"W	14.08

LOT 1
 BLOCK A

P.O.C.
 NW CORNER
 BLOCK
 BUSINESS
 CENTER
 PB 8, PAGE 10



Exhibit 6-3

David E. McKee, PE

Engineering Permitting Land Development
5848 Kaylee Ann Drive Granite Falls, NC 28630
Phone (239) 898-4008 Fax (239) 495-5008
email: mckeeeng@gmail.com

PROJECT

Area Location Map
Olde Seaport of Fort Myers Beach
441/445 & 645 Old San Carlos Blvd, FMB 33931

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

Yellow Sheet Number: **2023-1058**

1. **Requested Motion:**

Meeting Date: May 9, 2023

Meeting dates

Why the action is necessary:

What the action accomplishes:

2. **Agenda:**

ITEMS FOR NEXT MONTHS
AGENDA

3. **Requirement/Purpose:**

5. **Background:**

Attachments:

Financial Impact:

6. **Alternative Action**

7. **Staff Recommendations:**

8. **Recommended Approval:**