



Fort Myers Beach Local Planning Agency

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

Agenda

Tuesday, October 10, 2023

9:00 AM

ORDER OF BUSINESS

I. CALL TO ORDER

II. INVOCATION

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF MINUTES

- A. Approval of September 12, 2023 draft minutes

V. PUBLIC COMMENT

VI. PUBLIC HEARINGS

- A. Resolution 23-125, Variance 20230175- 5137 Estero Blvd
**APPROVE/ APPROVE WITH CONDITIONS/ DENY VARIANCE
VAR20230175 TO ALLOW A GARAGE CLOSER TO THE ESTERO
BOULEVARD STREET RIGHT-OF-WAY LINE THAN THE PRINCIPAL
BUILDING FOR THE PROPERTY LOCATED AT 5137 ESTERO BLVD**
- B. CPA-20220084, Small Scale Map Amendment for part of 21471 Widgeon
Terrace and adjacent common element of Flamingo Harbor Condominium
**ORDINANCE 23-16, AN ORDINANCE OF THE TOWN OF FORT MYERS
BEACH, FLORIDA AMENDING TOWN OF FORT MYERS BEACH
ADOPTED FUTURE LAND USE MAP DATED JANUARY 1, 1999, FOR A
PORTION OF THE PROPERTY LOCATED AT 21471 WIDGEON
TERRACE AND PART OF THE ADJACENT COMMON ELEMENT
PROPERTY OF FLAMINGO HARBOR CONDOMINIUM, FORT MYERS
BEACH; PROVIDING FOR CLARIFICATIONS AS NECESSARY;
PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS,
SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.**

VII. ADMINISTRATIVE AGENDA

A.

Approval of rezoning Town property for Fire District land swap

VIII. LPA MEMBERS ITEMS/REPORTS

IX. LPA ATTORNEY ITEMS/REPORTS

X. COMMUNITY DEVELOPMENT ITEMS/REPORTS

XI. ITEMS FOR NEXT MONTHS AGENDA

XII. ADJOURNMENT

NOTE: THIS MEETING IS STREAMED LIVE ON YOUTUBE.

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



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

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

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

Yellow Sheet Number: 2024-5

1. **Requested Motion:**

Meeting Date: October 10, 2023

Approval of September 12, 2023 draft minutes

Why the action is necessary:

What the action accomplishes:

2. **Agenda:**

APPROVAL OF MINUTES

3. **Requirement/Purpose:**

5. **Background:**

Attachments:

1. Draft minutes Sept 12, 2023

Financial Impact:

6. **Alternative Action**

7. **Staff Recommendations:**

8. **Recommended Approval:**



Fort Myers Beach Local Planning Agency

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

Minutes

Tuesday, September 12,
2023

9:00 AM

ORDER OF BUSINESS

I. CALL TO ORDER

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

II. INVOCATION

Chair Cereceda.

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF MINUTES

- A. Approval of August 8th draft minutes
LPA Member Plummer moved to approve the minutes; second by LPA Member Boan.
Motion carried unanimously.

V. PUBLIC COMMENT

Jim Ink, resident, commented on aspects of the Comprehensive Plan.

VI. PUBLIC HEARINGS

Town Clerk Baker swore in those providing testimony.

- A. EC Zoning District changes to allow repair of accessory structures by special exception and criteria for special exceptions.

Proposed amendments to Sections 34-652 and 6-366 to allow repair of accessory structures

Community Development Planner Sarah Propst reviewed the reason for the proposed amendment and stated the proposed language would allow an option for accessory structures to be repaired seaward of the CCCL (Coastal

Construction Control Line) as stated on the yellow sheet. LPA Member Vanasse suggested that "repair and/or redevelopment" be added to page 14, where redevelopment was stricken. Chair Cereceda was concerned regarding new development seaward of the CCCL. LPA Member Vanasse referred to other sections of the code and indicated that removing redevelopment was taking a right away. Planner Propst noted that the staff was not clear regarding what redevelopment meant. LPA Member Eckmann agreed. LPA Member Vanasse reviewed the relevant section of the code on page 16 concerning the process. LPA Member Eckmann suggested reconstruction rather than redevelopment. Community Development Planner Jason Green stated there was no PD (Planned Development) in the EC (Environmentally Critical) because they were two different zoning districts. LPA Member Vanasse cautioned against inadvertently changing a whole section of the code. Planner Green agreed that the language needed to be cleaned up because a PD should not appear in the EC section of the code. Planner Propst will change redevelopment to reconstruction for consistency. There were no changes to the additional regulations and considerations for special exception approval.

LPA Member Vanasse suggested removing the second D. and LPA Member Plummer concurred. A consensus was reached to remove the second D. Public comment:

Jim Ink suggested that accessory structures be allowed a 25% repair like primary structures.

Public comment closed.

Planner Propst was not sure that property owners could get an accurate assessment of an existing accessory structure and thought that the special exception process was less arduous.

LPA Member Sudduth moved to forward recommendations to the Town Council relative to the EC zoning changes; second by LPA Member Eckmann.

Motion carried unanimously.

- B. Variance requests to Sections 34-1744(b)(1) to increase fence height; 34-1742(c) allowing chain link fence in front yards; and 34-3131(b) limiting obstructions in visibility triangle

APPROVE/ APPROVE WITH CONDITIONS/ DENY VAR20230071 for 185 Jefferson Street which is requesting a variance of 2 feet of height to provide a 6-foot tall fence within the front 25-foot setback of the property, while the LDC limits fences to 4-feet in those areas; requesting a variance of 19-feet to allow a chain-link fence within the 25-foot front-yard setback; and a variance disallowing obstructions between 2-feet and 6-feet above grade within a visibility triangle.

Chair Cereceda filed the appropriate paperwork to recuse herself because the variance was for a fence on her property.

Vice Chair Plummer read the title of the variance. Ex parte communications: LPA Member Eckmann - drive by; LPA Member Plummer - conversations

with the applicant; LPA Member Vanasse - email from Kara Stewart; LPA Member Safford - email from Kara Stewart and familiar with the property and LPA Member Suddth was familiar with the property—no disclosures from other members.

Community Development Senior Planner Jason Smalley reviewed the variance request as stated on the yellow sheet. He noted that staff recommended denial because of a safety concern in the view corridor. Discussion was held regarding the view corridor in a low-traffic area without sidewalks. Vice Chair Plummer verified that the property had a fence since at least 2007 without an issue and the neighbor's landscaping stuck out further in the view triangle than the applicant's fence.

Kara Stewart represented the applicant. LPA members voted unanimously to qualify Ms. Stewart as an expert. Ms. Stewart stated that the structure has been on the property since 1926, but Ian destroyed the fence. Since the applicant was familiar with their ingress and egress, Ms. Stewart felt that the visibility triangle was not an issue. She requested that the proposed condition two be adjusted since the property was almost 100 years old and would require repairs. She explained that a six-foot fence was warranted for privacy since there was a two-and-a-half-foot difference in the grade between the pool deck and the front of her property.

LPA Member Vanasse presented alternate language for the proposed condition two on page 35 and Ms. Stewart agreed with the change. She added that they received three letters of support from neighbors.

No public comment.

Senior Planner Smalley will amend the language.

LPA Member Sudduth moved to approve the variance for the fence with the conditions that the homeowner shall plant a buffer to obscure at least 19 linear feet of the chain link fence on the east side within the 25-foot front yard setback; the variance will only apply to the fence and allow the town to make changes noted concerning alterations or repairs; second by LPA Member Boan.

Motion carried unanimously.

C. Amendment to the Administrative Setback Variance requirements to clarify the criteria required for cottage lot administrative variances

Proposed amendment to Sec. 34-268 Administrative Setback Variances

Planner Propst reviewed the proposed amendment to clarify the language. LPA Member Vanasse commented on giving relief to property owners regarding charging fees for minimum use determination (MUD) and variances. He suggested that the process be changed with a check box on the application and LPA members agreed.

No public comment.

LPA Member Sudduth moved to accept the recommendation with the amendment mentioned by LPA Member Vanasse with respect to the MUD amending the application process; second by LPA Member Plummer.

Motion carried unanimously.

D. First meeting to discuss comprehensive plan elements for transmittal
Comprehensive Plan Future Land Use Element, Future Land Use Map, and Housing Element

Chair Cereceda stated that the presentation was meant to be a preliminary discussion and the LPA will follow up in October. Planner Green indicated that they wanted recommendations today so they could have something ready next month. He added that the LPA would have 30 days to review each section. Chair Cereceda suggested that the Town Council receive the same information at the same time as the LPA. Planner Green agreed. Joe Corradina, President of the Corradino Group, introduced himself. Consultant Eddie Ng utilized PowerPoint for his presentation and the first slide reviewed Updates. Mr. Ng explained the Live Local Act, recently passed by the Florida legislation in July. He continued with the Proposed Future Land Use Map and described the changes. LPA Member Safford thought the LPA wanted a node where the Woman's Club and the carwash were located. LPA Member Eckmann believed that all three existing marinas would be part of the marina district. LPA Member Sudduth questioned the art association building off of Donora being included in the boulevard zone. Mr. Ng indicated he would remove the mosquito district and Woman's Club from the boulevard zone and designate the node as civic.

Mr. Ng reviewed changes to the Marina Land Use Type and commented that most regulations should be in the LDC and the Comprehensive Plan (Comp. Plan) should be as overarching as possible. Planner Green indicated that when Mr. Ng used the word nimble, he referred to uses and how they were allowed. LPA Member Vanasse described self-amending policies and suggested they be silent and address them in the LDC or set an upper limit or range. Planner Green noted that height was limited by the LDC but not by the Comp. Plan. He stated that there was no consensus on the issue of height. Some council members did not want to limit height and wanted to decide based on the project. Chair Cereceda responded that it created insecurity and unpredictability for the residents, developers and investors. She questioned the definition of the word special and that everyone needed to know what to expect.

Town Attorney Vose reviewed SB 250, section 14 and noted it was a provision that prohibited zoning restrictions that were more restrictive or burdensome than what currently existed. She will forward the information to LPA members.

Planner Green stated that Moss Marine's application included an amendment to the Comp. Plan and the LPA could not approve their request for an amendment and then adopt a new Comp. Plan that undoes any of the amendments. LPA Member Vanasse was concerned about making changes to the Comp. Plan without having data on housing and commercial inventory or a parking assessment. He noted that the LDC identified three parking garages downtown, but they changed the downtown provisions so parking was not allowed. He stated that they had to look at the reality on the ground

and create a density range for consistency with the Comp. Plan. He added that they needed something in the Comp. Plan to address nonconformities. Planner Green stated that all they needed was a policy stating all lots platted before _____ were vested. LPA Member Vanasse brought up the decreasing population over the years and the current low inventory.

Mr. Ng continued with the Buildback Policy. LPA Member Eckmann suggested referring to the Florida building codes and FEMA in the policy and Planner Green agreed. The following slide was Housing Development, Housing Affordability and Attainability, Workforce Housing Bonus and Non-Habitable Ground Floor - Ground Floor Parking. Planner Green requested that the LPA be careful about creating exemptions, and if they want a parking deck, allow them to have a higher FAR. Next up was the Recreation and Open Space, Schools, and Civic and Public Facilities, followed by Transportation.

Discussion was held regarding what someone could build under the Live Local Act. Density, workforce, affordable and employee housing were also discussed. Mr. Ng described auxiliary units.

Public comment:

Lee Harkins, resident, loved the idea of nodes, especially near the carwash, because so many people walked in the neighborhood.

John McClain, resident, appreciated the node aspect. He reported a community concern about increased density and the ability to get on and off the island. He thanked the LPA for all they were doing.

Public comment closed.

LPA Member Plummer discussed establishing a shuttle service to and from the airport.

Discussion was held concerning the cap for FAR. Chair Cereceda noted there is a document with the future land use map that shows what the FAR is for every zone and what the maximum FAR would be. She suggested it would be helpful to have that document for the conversation and LPA Member Boan agreed. LPA Member Plummer supported not counting the ground level and parking for FAR. LPA Member Vanasse supported an upper limit of 2.5 FAR through the CPD process in the downtown district and possibly exempting under-building parking. LPA Member Safford suggested a 2.5 cap downtown, 1.5 in the nodes and excluding calculating parking under base flood. He felt that a two-story parking garage would be a benefit. Chair Cereceda would like to see a system established to help eliminate the impact of traffic with increased development. She supported not calculating ground floor parking if it is open. She brought up alleviating parking requirements and Planner Green suggested the LPA should consider the idea. LPA Member Vanasse stated if the ground space is not usable, it should not be calculated in FAR. Planner Green questioned whether they should leave out or include height and stories. Chair Cereceda said they should leave out stories and have the height measured at base flood elevation. Planner Green commented that the cap on height might prevent property owners from getting their by-right FAR.

Planner Propst questioned whether they wanted parking garages open below in the downtown district.

VII. ADMINISTRATIVE AGENDA

No agenda.

VIII. LPA MEMBERS ITEMS/REPORTS

LPA Member Eckmann questioned whether policies regarding native plants and landscaping were in the Comp. Plan. Planner Green replied affirmatively. LPA Member Plummer questioned the status of properties that were scrapped. Planner Green was unsure but he thought insurance may be the reason. LPA Member Vanasse questioned the reason why the paperwork required when rebuilding a home without trying to get under the 50% rule was so burdensome. Planner Green will follow up with Community Development Director Poposki. Chair Cereceda stated that it would be helpful to have historical information available when CPDs come before the LPA. LPA Member Vanasse noted the strike-through and underlined document they had today was not the current language, but was Mr. Ng's work. Planner Propst apologized for the error. Planner Green cautioned people against unrealistic expectations regarding the permitting process for residents and developers. Consensus was reached to schedule a joint meeting with a format with the Town Council. Planner Green will try to coordinate a meeting. Chair Cereceda requested a copy of the future land use map, the existing land use map and the proposed future land use map. Planner Green will provide maps.

IX. LPA ATTORNEY ITEMS/REPORTS

No items.

X. COMMUNITY DEVELOPMENT ITEMS/REPORTS

No items.

XI. ITEMS FOR NEXT MONTHS AGENDA

Not discussed.

XII. ADJOURNMENT

LPA Member Plummer moved to adjourn; second by LPA Member **Vanasse**. Motion carried unanimously.

The meeting was adjourned at 1:48 p.m.

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

Yellow Sheet Number: **2024-2**

1. Requested Motion:

Meeting Date: October 10, 2023

APPROVE/ APPROVE WITH CONDITIONS/ DENY VARIANCE VAR20230175 TO ALLOW A GARAGE CLOSER TO THE ESTERO BOULEVARD STREET RIGHT-OF-WAY LINE THAN THE PRINCIPAL BUILDING FOR THE PROPERTY LOCATED AT 5137 ESTERO BLVD

Why the action is necessary:

The LPA is the recommending body to the Town Council for Variances.

What the action accomplishes:

The LPA recommendation will be forwarded to the Town Council. If approved, the variance will allow the construction of a single family residence further from the right of way than the existing garage.

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

Resolution

5. Background:

The subject property is a 75 foot wide by 200 foot deep lot in the RS zoning district. The property contained a single-family residence with a garage, prior to Hurricane Ian. Hurricane Ian destroyed the house but the garage survived. The Applicant is requesting a variance from LDC 34-1174(b) to allow the construction of a new single-family residence further from the right of way than the existing garage.

Attachments:

1. Res 23-125- 5137 Estero Blvd
2. 5137 Estero Blvd variance Staff Report
3. Exhibit A- Application Package - 5137 Estero
4. Exhibit B- 5137 Engineer Letter for compliance agreement
5. Exhibit C- Compliance Agreement signed Loughery
6. Exhibit D- LPA postcard 5137 Estero Blvd

Financial Impact:

Unknown

6. Alternative Action

Recommend approval/ approval with conditions

7. Staff Recommendations:

Recommends Denial

8. Recommended Approval:

Steve Poposki, Community Development Director

Date: October 04, 2023

Gretchen R.H. Vose, Town Attorney

Date: October 04, 2023

Date: October 04, 2023

RESOLUTION NUMBER 23-125

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING VARIANCE VAR20230175 TO ALLOW A GARAGE CLOSER TO THE ESTERO BOULEVARD STREET RIGHT-OF-WAY LINE THAN THE PRINCIPAL BUILDING FOR THE PROPERTY LOCATED AT 5137 ESTERO BLVD; PROVIDING FOR CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

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

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

WHEREAS, owners Ricky Loughery and Amy Lefebvre, are requesting a variance from LDC 3434-1174(b) which prohibits location of accessory structures, including garages, closer to the street right-of-way line than the principal building; and

WHEREAS, the STRAP number for the subject property is 28-46-24-W4-0020A.0040; and

WHEREAS, the Property is located in the "Low Density Residential" category of the Future Land Use Map of the Comprehensive Plan and the "Residential Single-Family" zoning district of the Official Zoning Map of the Town of Fort Myers Beach, Florida; and

WHEREAS, a public hearing on this matter was legally noticed and held before the Local Planning Agency (LPA) on October 10, 2023, and at said hearing the LPA gave full and complete consideration to the request of Applicant, recommendations of staff, the documents in the file, and the testimony of all interested persons, as required by Section 34-87 of the LDC. The LPA voted to recommend approval/ approval with conditions/ denial of the variance; and

WHEREAS, on November 6, 2023, the Town Council held a duly noticed public hearing to fully consider the request of the Applicant, the recommendations of Town staff and the LPA, the documents in the record, and testimony of all interested persons as required by 34-87 of the LDC; and

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

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

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

Section 2. The Town Council determines the Applicant did/ did not meet its burden of proof that the requested Variance does/ does not meet the requirements of the Town Comprehensive Plan and LDC and approving/ approving with conditions/ denying the Variance is in the best interest of the Town. Therefore, based upon the recommendations, testimony, and evidence presented by the Applicant, Town staff, interested parties and public, the Town Council APPROVES/ APPROVES WITH CONDITIONS/ DENIES the variance from LDC 34-1174(b) which prohibits location of accessory structures, including garages, closer to the street right-of-way line than the principal building in RS zoning district.

Section 3. In approving/ approving with conditions/ denying the Variance, the Town Council makes the following findings and conclusions in accordance with the requirements of Section 34-87 of the LDC:

- A. There are/ are not exceptional or extraordinary conditions or circumstances that are inherent to the property in question, and the request is/ is not for a de minimis variance under circumstances or conditions where rigid compliance is not essential to protect public policy.
- B. The conditions justifying approval of the variance are/ are not the result of actions of the Applicant taken after the adoption of the regulation in question.
- C. The variance is/ is not the minimum variance that will relieve the Applicant of an unreasonable burden caused by the application of the regulation to the Property.
- D. The granting of the variance will/ will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
- E. The conditions or circumstances on the Property are/ are not of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.

Section 4. If the Town Council approves the requested variance, the following conditions of approval are imposed on the Applicant and the Property:

- A. Approval of this variance does not give the Applicant an undeniable right to permit approval. Development or redevelopment of the Property must comply with all applicable requirements of the Fort Myers Beach Comprehensive Plan and LDC in effect at the time of permit approval, except as specifically modified herein.

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

Dan Allers, Mayor _____
Jim Atterholt, Vice Mayor _____
John R. King _____
Bill Veach _____
Karen Woodson _____

ADOPTED this ___ day of November 2023 by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL

Dan Allers, Mayor

ATTEST:

Amy Baker, Town Clerk

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

Gretchen R. H. Vose., Town Attorney

This Resolution was filed in the Office of the Town Clerk on this ___ day of November 2023.



Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

TYPE OF CASE: Variance

CASE NUMBER: VAR20230175

CASE NAME: 5137 Estero Blvd; requesting relief from LDC 34-1174(b) which prohibits location of accessory uses, including garages, closer to street right-of-way line than the principal building in RS zoning district.

LPA

HEARING DATE: October 10, 2023

STAFF

RECOMMENDATION: DENIAL

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

I. APPLICATION SUMMARY

Applicant/Owner: Ricky Loughery and Amy Lefebvre (Owner)

Request: Relief from LDC 34-1174(b) which prohibits location of accessory uses, including garages, closer to street right-of-way line than the principal building in RS zoning district.

The lot is 75 feet wide by 200 feet deep. The property contained a single-family residence with a garage, prior to Hurricane Ian. Hurricane Ian destroyed the house but the garage survived and the Applicant is requesting a variance from LDC 34-1174(b) to allow the construction of a new single-family residence further from Estero Blvd than the existing garage.

Subject property: See attached site plan

Physical Address: 5137 Estero Blvd

STRAP #: 28-46-24-W4-0020A.0040

FLU: Low Density Residential
Zoning: Residential Single-Family (RS)

Adjacent zoning and land uses:

North: LOW DENSITY RESIDENTIAL
Residential Single-Family (RS)

South: LOW DENSITY RESIDENTIAL
Residential Single-Family (RS)

East: Waterway/Canal

West: MIXED RESIDENTIAL
Residential Multi-Family (RM)

II. BACKGROUND AND ANALYSIS

Background:

Ricky Loughery and Amy Lefebvre, the applicant and owners of 5137 Estero Blvd, are requesting a variance from the Town's Land Development Code (LDC): Section 34-1174(b) prohibits location of accessory structures, including garages, closer to street right-of-way line than the principal building in RS zoning district.

Prior to Hurricane Ian, the property contained a single-family residence with a street setback of 86 feet and a garage with a street setback of 43 feet. No previous variances were found in the Town's record.

Analysis:

The purpose of the RS zoning district is to provide stable neighborhoods where single-family detached homes are the predominant land use. The subject property is 75 feet wide and 200 feet deep, it is a conforming lot. Prior to Hurricane Ian, the property contained a single-family residence with a garage 43 feet closer to the street right-of-way line than the main residence. Therefore, the garage was an existing non-conformity. The residence was destroyed during Ian, but the garage remains in safe and usable condition. As per the Town's LDC Section 34-3238, Post Disaster build-back, if a residence has experienced more than 50 percent damage and requires substantial improvements, the building must comply with current building, life safety, and accessibility codes. The Applicant is proposing construction of a three-story single-family residence behind the existing garage which is possible only upon approval of a variance from LDC 34-1174(b).

LDC 34-1174 (b) states that accessory structures, including garages, shall not be closer to a street right-of-way line or street easement than the principal building.

The Town's LDC requires a minimum 25-foot street setback and 7.5-foot side setback on each side for this 75-foot-wide property in the RS zoning district. The existing garage has a street setback of 43 feet and side setbacks of 7.5 feet to the north property line and 38 feet to the south property line. The garage location leaves almost 30 feet of buildable space between the existing garage and the southern property line. The Applicant, therefore, has the choice to construct the residence parallel with or closer to the street than the existing garage, which will be consistent with the requirements of Town's LDC. The need for this variance is the result of a design choice.

Neighborhood Compatibility:

The subject property is part of an older residential neighborhood. Prior to hurricane Ian, few properties along Estero Blvd appear to have had accessory structures closer to the street right-of-way line than the residences. This year, the Town of Fort Myers Beach approved a request to allow a pool, closer to Tarpon Rd than the principal building (Resolution 23-20 for 8180 Lagoon Rd). However, most of the properties within a mile radius of the subject property appear to comply with LDC 34-1174.

Findings and Conclusions:

LDC Sec. 34-87 sets forth the required findings and conclusions for the approval of a variance:

- a. *That there are/are not exceptional or extraordinary conditions or circumstances that are inherent to the property in question, or that the request is/is not for a de minimis variance under circumstances or conditions where rigid compliance is not essential to protect public policy.*

There are no exceptional or extraordinary conditions inherent to the property. The Applicant has the choice to construct the residence parallel with or closer to the street than the existing garage, which will be consistent with the requirements of Town's LDC. The side setbacks of the existing garage are 7.5 feet and 38 feet, leaving almost 30 feet width of buildable space after subtracting the 7.5 feet LDC required side setback for this 75-foot-wide property in RS zoning district. The need for this variance is the result of a design choice.

- b. *That the conditions justifying the variance are/are not the result of actions of the applicant taken after the adoption of the regulation in question.*

The conditions justifying the variance are the result of the actions of the Applicant. The large parcel has 30 feet of width beside the garage, the applicant has opted to design a home that is behind the garage and not compliant with Section 34-1174(b) of the Town's LDC.

- c. *That the variance granted is/is not the minimum variance that will relieve that applicant of an unreasonable burden caused by the application of the regulation in question to his property.*

The need for this variance is a result of a design choice and is subjective in nature. No unreasonable burden is caused by the application of this regulation to the subject property.

- d. *That the granting of the variance will/will not be injurious to the neighborhood or otherwise detrimental to the public welfare; and*

The granting of this variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare. Pre-Hurricane Ian, the subject property supported a single-family residence with a garage 43 feet closer to the street right-of-way line than the main residence. Using the aerial of that time, few properties in the area appear to have accessory structures closer to street right-of-way line than their respective residences. The Applicant is requesting this variance to construct a single family home in a similar location to Pre-Hurricane home.

- e. *That the conditions or circumstances on the specific piece of property for which the variance is sought are/are not of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.*

The conditions or circumstances on this specific property for which a variance is sought are not general in nature and do not warrant a code change.

IV. RECOMMENDATION

Staff has reviewed the request for a variance from LDC 3434-1174(b) which prohibits location of accessory structures, such as garages, closer to street right-of-way line than the principal building in RS zoning district and found that the variance request does not meet the requirements set-forth in sec. 34-87.

Therefore, staff recommends **DENIAL** of VAR20230175, to allow the existing garage closer to the street right of way line than the proposed single-family residence.

IV. CONDITIONS FOR APPROVAL

If the LPA chooses to recommend approval for this variance, the town's staff will recommend the following conditions.

- 1) Approval of this variance does not give the Applicant an undeniable right to permit approval. Development or redevelopment of the Property must comply with all applicable requirements of the Fort Myers Beach Comprehensive Plan and LDC in effect at the time of permit approval, except as specifically modified herein.

VI. EXHIBITS

Exhibit A: Complete Application Packet

Exhibit B: Preliminary Damage Assessment

Exhibit C: Compliance Agreement with the Town

Exhibit D: Postcards to Adjacent Property Owners



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: 5137 Estero Blvd

STRAP Number: 28-46-24-W4-0020A.0040

Applicant: Ricky Frances Loughery & Amy Jo Lefebvre Phone: 239-980-4666

Contact Name: Amy Lefebvre Phone: 239-980-4666

Email: loughreyamy@aim.com Fax: _____

Current Zoning District: RS

Future Land Use Map (FLUM) Category: Low Density

FLUM Density Range: 4 du/acre Platted Overlay: YES NO

ACTION REQUESTED

SUPPLEMENTAL FORM REQUIRED

- | | |
|---|--------------------------|
| <input type="checkbox"/> Special Exception | PH-A |
| <input checked="" type="checkbox"/> Variance | PH-B |
| <input type="checkbox"/> Conventional Rezoning | PH-C |
| <input type="checkbox"/> Planned Development <input type="checkbox"/> Commercial <input type="checkbox"/> Residential | PH-D |
| <input type="checkbox"/> Master Concept Plan Extension | PH-E |
| <input type="checkbox"/> Appeal of Administrative Action | PH-F |
| <input type="checkbox"/> Vacation of Platted Right-of-way and Easement | PH-G |
| <input type="checkbox"/> Other – cite LDC Section: _____ | attach on separate sheet |

PART I – General Information

A. Applicant*: Amy Jo Lefebvre Phone: 239-980-4666

**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: 5137 Estero Blvd

Email: loughreyamy@aim.com Fax: _____

Contact Name: Amy Lefebvre Phone: _____



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

B. Relationship of Applicant to subject property:

- | | | |
|---|---|--|
| <input checked="" type="checkbox"/> Owner* | <input type="checkbox"/> Land Trust* | <input type="checkbox"/> Partnership* |
| <input type="checkbox"/> Corporation* | <input type="checkbox"/> Association* | <input type="checkbox"/> Condominium* |
| <input type="checkbox"/> Subdivision* | <input type="checkbox"/> Timeshare Condo* | <input type="checkbox"/> Contract Purchaser* |
| <input type="checkbox"/> Authorized Representative* | <input type="checkbox"/> 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: Kara Stewart Phone: 239-770-4198
 Address: 13450 Electron Dr., FM
 Email: stewart.karalyn@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 34 - 1174 (b)
- Conventional Rezoning from _____ to _____
- Planned Development
- Rezoning from _____ to Commercial PD Residential PD
- Amendment. List the project number: _____
- Extension/reinstatement of Master Concept Plan. List project number: _____



**COMMUNITY DEVELOPMENT DEPARTMENT
APPLICATION for PUBLIC HEARING**

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

PART III - Waivers

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

- Code Section: _____ Description: _____

- Code Section: _____ Description: _____

- Code Section: _____ Description: _____

PART IV - Property Ownership (Single Owner)

- Single Owner (individual or husband and wife)
Name: Ricky Frances Loughery & Amy Jo Lefebvre Phone: _____
Mailing Address: 5137 Estero Blvd
Email: loughreyamy@aim.com Fax: _____

**AFFIDAVIT
APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT**

I, Amy Jo Lefebvre 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.

Amy Jo Lefebvre
Signature

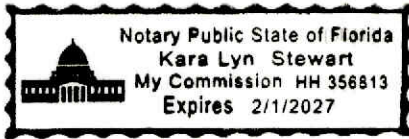
Amy Jo Lefebvre
Printed Name

STATE OF FL COUNTY OF Lee

The foregoing instrument was certified and subscribed before me by means of physical presence OR online notarization, this 10th day of Sept, 2023, by

Amy Jo Lefebvre who is personally known to me OR who has produced

_____ as identification.



Kara Lyn Stewart
Notary Public Signature

PART V

Property Ownership (Multiple Owners)

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

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

DISCLOSURE OF OWNERSHIP INTEREST

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

Name and Address	Percentage Ownership
_____	_____
_____	_____
_____	_____
_____	_____



**COMMUNITY DEVELOPMENT DEPARTMENT
APPLICATION for PUBLIC HEARING**

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

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

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

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

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

Name and Address	Percentage of Ownership
_____	_____
_____	_____
_____	_____
_____	_____

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

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



**COMMUNITY DEVELOPMENT DEPARTMENT
APPLICATION for PUBLIC HEARING**

Date of Contract: _____

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

Name	Address
_____	_____
_____	_____
_____	_____

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

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

Signature

Printed Name

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

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

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



COMMUNITY DEVELOPMENT DEPARTMENT
APPLICATION for PUBLIC HEARING

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

Signature

Title

Typed or Printed Name

Date

STATE OF COUNTY OF

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

Seal

Notary Public Signature

PART VI- Property Information

A. Legal Description:

STRAP: 28-46-24-W4-0020A.0040

Property Address: 5137 Estero Blvd., FMB

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: Holiday Heights

Book: 9 Page: 58 Unit: Block: Lot(s): 4

B. Boundary Survey:

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

C. Property Dimensions:

Width (please provide an average width if irregular in shape) 75 feet
Depth (please provide an average width if irregular in shape) 200 feet
Frontage on street: 75 feet. Frontage on waterbody: 75 feet
Total land area: 15000 acres square feet

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

Left over bridge

Attach Area Location Map as Exhibit 6-3

E. Property Restrictions (check applicable):

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

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

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

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

- | | |
|---|--|
| <input checked="" type="checkbox"/> Low Density | <input type="checkbox"/> Marina |
| <input type="checkbox"/> Mixed Residential | <input type="checkbox"/> Recreation |
| <input type="checkbox"/> Boulevard | <input type="checkbox"/> Wetlands |
| <input type="checkbox"/> Pedestrian Commercial | <input type="checkbox"/> Platted Overlay |



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

EXPLANATORY NOTES

Please do not print, copy and submit these instructions

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

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

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

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

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

Explanatory Notes – Part I

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

Explanatory Notes – Part II

Indicate the requested action.

Explanatory Notes – Part III

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

Explanatory Notes – Part IV

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

Explanatory Notes – Part V

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

Explanatory Notes – Part VI

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

line. Exhibit 6-2

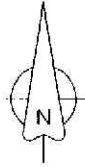
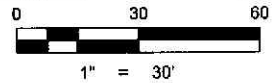
- C. Provide the property dimensions or the approximate dimensions if the property is not a regular quadrilateral.
- D. Describe how to get to the property starting from either the Sky Bridge or the Big Carlos Pass Bridge (specify which). Exhibit 6-3
- E. If there are any deed restrictions or covenants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

Explanatory Notes - Part IV & V

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

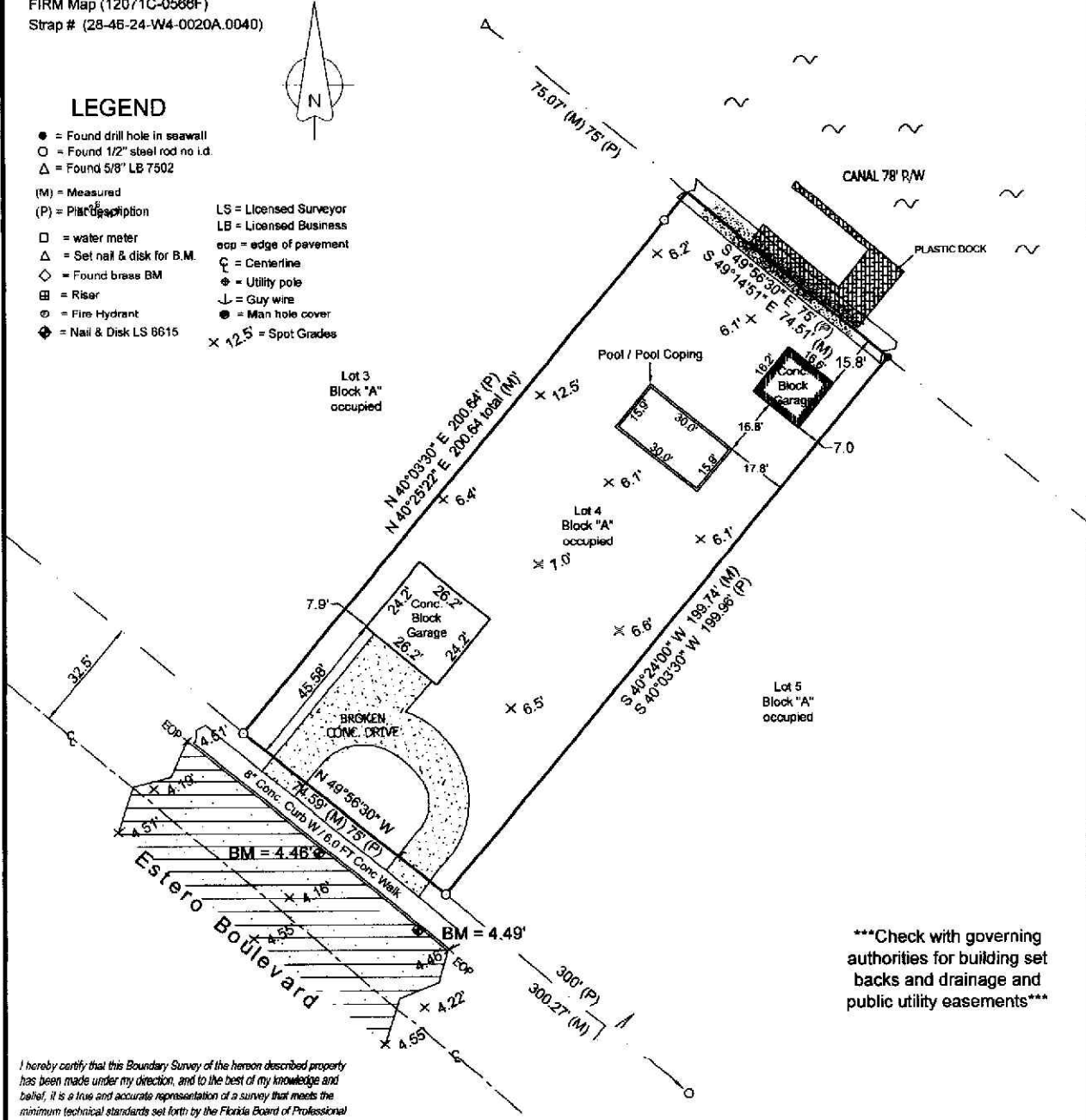
EXHIBIT 6-2

Flood Zone (AE / VE)
 Flood Elevation 13.0'
 Vertical Datum (NAVD 88)
 FIRM Map (12071C-0586F)
 Strap # (28-46-24-W4-0020A.0040)



LEGEND

- = Found drill hole in seawall
- = Found 1/2" steel rod no I.d.
- △ = Found 5/8" LB 7502
- (M) = Measured
- (P) = Plat description
- = water meter
- △ = Set nail & disk for B.M.
- ◇ = Found brass BM
- ⊕ = Riser
- ⊙ = Fire Hydrant
- ⊕ = Nail & Disk LS 8615
- LS = Licensed Surveyor
- LB = Licensed Business
- ocp = edge of pavement
- ⊕ = Centerline
- ⊕ = Utility pole
- ⊕ = Guy wire
- ⊕ = Man hole cover
- ⊕ = Spot Grades



Check with governing authorities for building set backs and drainage and public utility easements

I hereby certify that this Boundary Survey of the heron described property has been made under my direction, and to the best of my knowledge and belief, it is a true and accurate representation of a survey that meets the minimum technical standards set forth by the Florida Board of Professional Surveyors & Mappers in Chapter 5A-17 of the Florida Administrative Code.

BEARINGS BASED UPON THE Found monuments along th NE R/W of Estero Blvd BEING THE RECORDED PLAT BEARING OF N 49°58'30" W

REAL PROPERTY DESCRIPTION
 BOUNDARY SURVEY 04/03/2022 REVISION: 11/09/2022
 LOTS 4 BLOCK "A" HOLIDAY HEIGHTS, AS RECORDED IN
 PLAT BOOK 008 PAGES 058, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA

CERTIFIED TO: Ricky Francis Loughrey
 Amy Jo Lefebvre

SURVEYORS NOTES:

- * THIS PLAT OF THE HERON DESCRIBED PROPERTY IS A TRUE AND CORRECT REPRESENTATION OF A RECENT SURVEY MADE AND PLATTED UNDER MY DIRECT SUPERVISION AND TO THE BEST OF MY KNOWLEDGE AND BELIEF MEETS THE MINIMUM TECHNICAL STANDARDS ADOPTED BY THE STATE OF FLORIDA AS PER CHAPTER 5A-17, FLORIDA ADMINISTRATIVE CODE PURSUANT TO CHAPTER 47, FLORIDA STATUTES.
- * THIS SURVEY WAS PERFORMED BASED UPON A DESCRIPTION ISSUED VERBALLY BY THE CLIENT AND WITHOUT BENEFIT OF AN ABSTRACT OF TITLE. THE SURVEYOR HAS MADE NO INDEPENDENT SEARCH FOR EASEMENTS, OWNERSHIP, RESTRICTIVE COVENANTS OR OTHER FACTS THAT MAY AFFECT TITLE.
- * NOTE: SUBJECT TO EASEMENTS OR RESTRICTIONS OF RECORD.
- * THERE ARE NO VISIBLE ENCROACHMENTS EXCEPT THOSE SHOWN.
- * THIS SURVEY IS NOT COVERED BY PROFESSIONAL LIABILITY INSURANCE.
- * THIS SURVEY DOES NOT DETERMINE OR REFLECT OWNERSHIP, TITLE, ZONING OR FREEDOM FROM ENCUMBRANCES AND IS ONLY FOR THE LANDS DESCRIBED ABOVE.
- * THIS SURVEY IS FOR THE SOLE PURPOSES INTENDED BY THE SURVEYOR AND ONLY FOR THE INDIVIDUALS AND/OR INSTITUTIONS LISTED ABOVE / UNDER "CERTIFIED TO".
- * COMMERCIAL HIGH RISK LINEAR: 1 FOOT IN 10,000 F.S.E. | SUBURBAN LINEAR: 1 FOOT IN 7,500 F.S.E. | RURAL LINEAR: 1 FOOT IN 5,000 F.S.E.

J. Blanton Land Surveying, LLC
 PROFESSIONAL SURVEYOR & MAPPER 6615
 202 W 7th Street, Suite 113
 London, Ky. 40741
 FL. Office (239) 222 - 7315
 KY. Office (606) 260 - 8169

James D Blanton
 PSM 6615 State of Florida

Digitally signed by James D Blanton PSM
 6615 State of Florida
 Date: 2022.11.15
 14:33:35 -05'00'

BENCHMARK DESCRIPTION IN REFERENCE TO FDOT RINEX Project ID: EdisonAve5137



Case # _____ Date Received: _____

Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Supplement PH-B

Additional Required Information for a Variance Application

This is the second part of a two-part application. This part requests specific information for a variance. Include this form with the Request for Public Hearing form.

Case Number:
Project Name: 5137 Estero Blvd Garage
Authorized Applicant: Amy Jo Lefebvre
LeePA STRAP Number: 28-46-24-W4-0020A.0040

Current Property Status: Accessory structures and pool; house under permitting
Current Zoning: RS
Future Land Use Map (FLUM) Category: Low Density
Comp Plan Density: 4du/acre Platted Overlay? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Variance is requested from:

LDC Section Number

Title of Section or Subsection

34-1174 (b)	Location and setbacks generally

Complete the narrative statements below for EACH variance requested.



Case # _____

Date Received: _____

Explain the possible effect the variance, if granted, would have on surrounding properties:

There will be no effect on the surrounding properties. The location of the accessory structure places it 7.9 to the sideyard (the required side yard setback is 7.5), the front street setback is 45.58 (the required front setback is 25) Visibility is not an issue the setbacks are greater than required. The property will be required to have an approved drainage plan under the principle structure review.

Explain the hardship (what is unique about the property) that justifies relief from the regulation:

The structure survived Hurricane Ian as an accessory structure; to demolish this structure would be a tremendous burden to place on the owner.



Case # _____

Date Received: _____

Explain how the property qualifies for a variance. Direct this explanation to the guidelines for decision-making in LDC Section 34-87.

See attached addendum "A"

Addendum A - Criteria for Decision Making

1. Exceptional and extraordinary circumstances:

The remaining accessory structure is the result of Hurricane Ian removing the principle structure from the property. The location of the existing structure which remains today is such that the replacement of the principle structure can only be permitted and constructed behind it, placing it closer to the Street Right of way than the principle structure. The accessory structure has been looked at by Engineers and has been established to be structurally sound and does not require removal. Not allowing this structure to remain and requiring it to be demolished would create an extraordinary burden on the property owner.

2. The conditions justifying the variance are not the result of the applicant.

Hurricane Ian removed the principle structure. As long time homestead residents of Fort Myers Beach the owners would like to remain on Island. Constructing a replacement principle structure on the lot while leaving the existing accessory structure is the way to do this. The design of the new principle structure places the home detached behind the remaining structure.

3. Minimum variance needed by the applicant to relieve them from an unreasonable burden.

Allowing the accessory structure to remain so that it is closer to the street right of way than the principle structure is the minimum variance needed. LDC 34-1174 (d)(1)(d) requires waterfront lot side setbacks to be equal to principle structure setbacks. We are maintaining 7.9' to the side yard, requirement is 7.5'. Front setback requirement is 25', we are maintaining 45.48'. Sight visibility is in compliance as well.

4. Granting this variance will not be injurious to the neighboring properties.

The issuance of this variance will not be injurious to the neighboring properties. The location of this accessory structure complies with all other setbacks. The structure has been in existence on the property since 2019. In addition to complying with all other setback requirements, the visibility and drainage requirements are also being met.

5. Are the conditions so common as to amend the LDC.

These conditions are unique and individual to this property and does not represent any prevailing issue on FMB

Exhibit 6-8

GENERAL SITE NOTES

1. THE CONTRACTOR VERIFY THE SITE LAYOUT AND NOTIFY THE DESIGNER OF ANY DISCREPANCIES BEFORE CONSTRUCTION.
2. THE CONTRACTOR SHALL PROVIDE CONDUIT UNDER PAVED AREAS FOR IRRIGATION, TELEPHONE, ELECTRIC, TV & GAS AS REQUIRED.
3. REFER TO LANDSCAPE/DRAINAGE ENGINEER PLANS FOR GRADING AND WATER RUNOFF INFORMATION.
4. REFER TO LANDSCAPE/DRAINAGE ENGINEER PLANS FOR DETAILED INFORMATION ON POOL DECK, WALKWAYS AND DRIVEWAYS.
5. ALL A/C EQUIPMENT TO BE ABOVE BASE FLOOD ELEVATION.

IMPERVIOUS AREA CALCULATIONS

BUILDING FOOTPRINT	3,258 S.F.
DRIVE WALK AREAS	1,297 S.F.
EXISTING POOL/PATIO AREAS	1,363 S.F.
EXISTING GARAGE-REAR LOT	318 S.F.
TOTAL IMPERVIOUS	6,236 S.F.
LOT AREA	14,924 S.F.
IMPERVIOUS AREA	45.78%

LEGAL DESCRIPTION

SECONDARY SURVEY 04032022
 LOT 4 BLOCK 'A', AS RECORDED IN PLAT BOOK 008 PAGES 056, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA

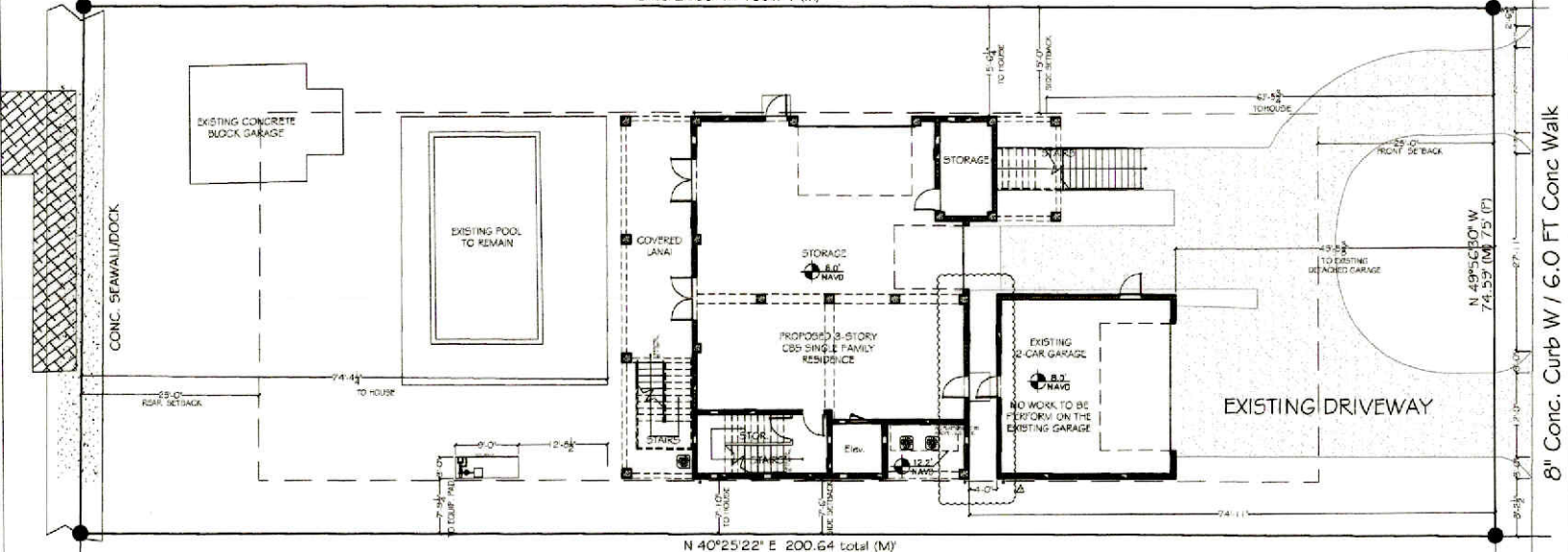
LOT COVERAGE CALCULATIONS

3,258 S.F. BUILDING FOOTPRINT /
31' 6" S.F. EXIST' DETACHED B.G.
14,924 LOT SQ. FT. = 23.35%

BUILDING LOCATION PLAN
 FOR PLACEMENT PURPOSES ONLY.
 CERTIFIED SURVEYOR TO VERIFY SETBACKS AND BUILDING PLACEMENT

LOT 5
 BLOCK 'A'
 OCCUPIED

S 40°24'00" W 199.74' (M)



N 40°25'22" E 200.64 total (M)

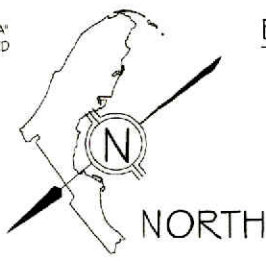
AVERAGE CROWN OF ROAD ELEVATION

AVERAGE CROWN OF ROAD ELEVATION	- 4.26
AVERAGE NATURAL GRADE ELEVATION	- 7.6
FINISHED FLOOR LIVING ELEVATION	- 20.5
LOWEST HORIZONTAL STRUCTURAL MEMBER	- 18.0

FEMA DATA

COMMUNITY NUMBER	120675
EFFECTIVE DATE	1/11/2022 PANEL 0556
SUFFIX	G FLOOD ZONE: AE-1 COASTAL A
NOTE	ALL ELEVATIONS BASED UPON N.A.V.D. 88 DATUM.

LOT 3
 BLOCK 'A'
 OCCUPIED



BUILDING LOCATION PLAN
 SCALE: 1/8" = 1'0"

300' (P)
 300.27' (M)

EOP

8' Conc. Curb W / 6.0 FT Conc Walk

ESTERO BOULEVARD

EOP



LOUGHREY RESIDENCE
 5137 Estero Blvd
 Fort Myers Beach, FL 33991

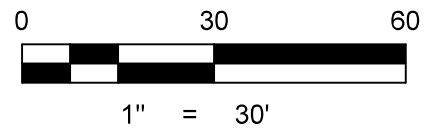
REVISIONS

NO.	DATE	DESCRIPTION
1		ISSUED FOR PERMITS

JOB NO: A22-5103
 DATE: 05/12/2023
 DRAWN BY: FL
 CHECK BY:
 BUILDING LOCATION PLAN

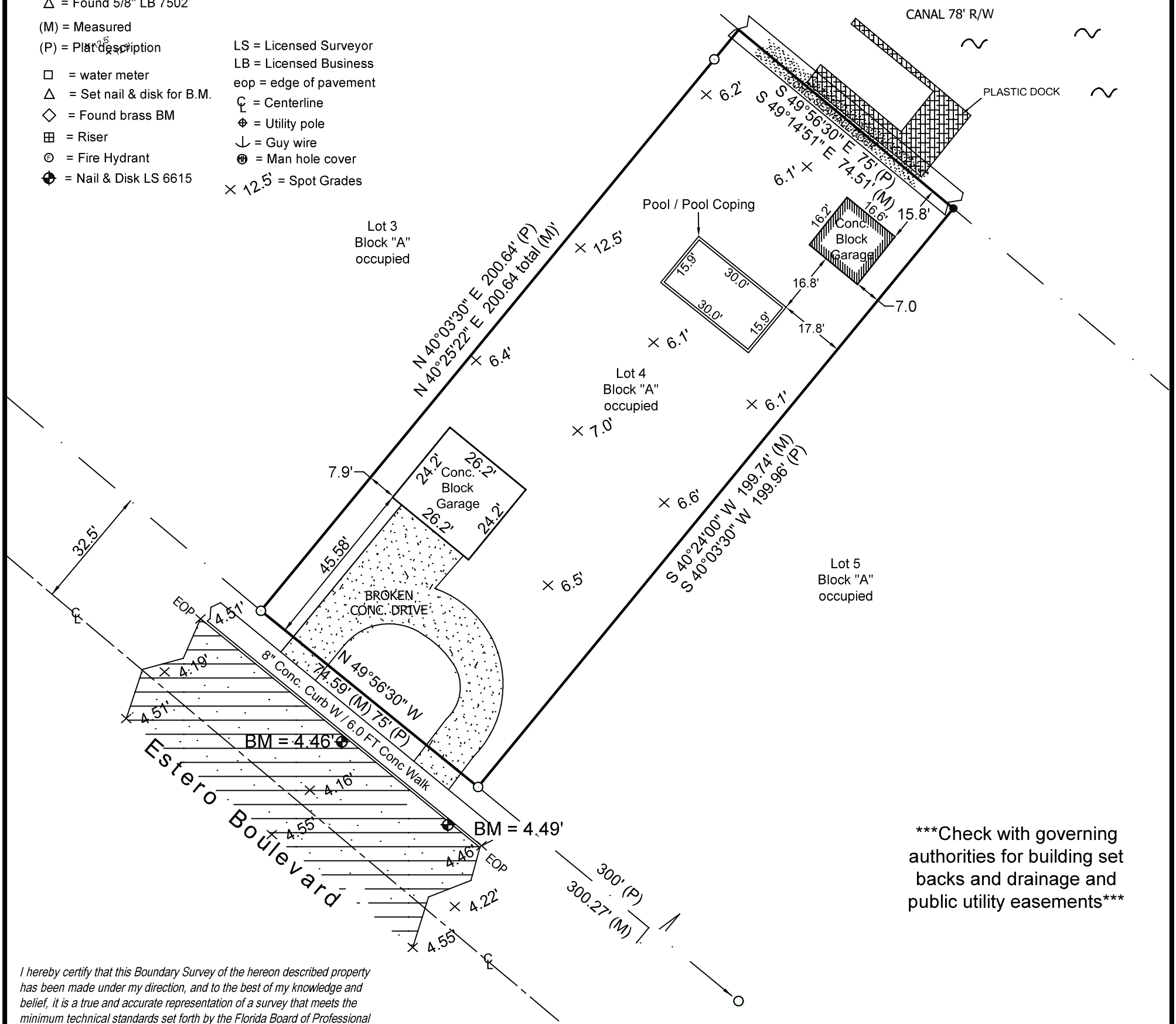
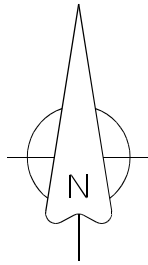
SHEET NUMBER
 LP

Flood Zone (AE / VE)
 Flood Elevation 13.0'
 Vertical Datum (NAVD 88)
 FIRM Map (12071C-0566F)
 Strap # (28-46-24-W4-0020A.0040)



LEGEND

- = Found drill hole in seawall
- = Found 1/2" steel rod no i.d.
- △ = Found 5/8" LB 7502
- (M) = Measured
- (P) = Plat description
- = water meter
- △ = Set nail & disk for B.M.
- ◇ = Found brass BM
- ▣ = Riser
- ⊙ = Fire Hydrant
- ⊕ = Nail & Disk LS 6615
- LS = Licensed Surveyor
- LB = Licensed Business
- eop = edge of pavement
- ⊙ = Centerline
- ⊕ = Utility pole
- ↓ = Guy wire
- ⊕ = Man hole cover
- × 12.5' = Spot Grades



I hereby certify that this Boundary Survey of the hereon described property has been made under my direction, and to the best of my knowledge and belief, it is a true and accurate representation of a survey that meets the minimum technical standards set forth by the Florida Board of Professional Surveyors & Mappers in Chapter 5J-17 of the Florida Administrative Code.

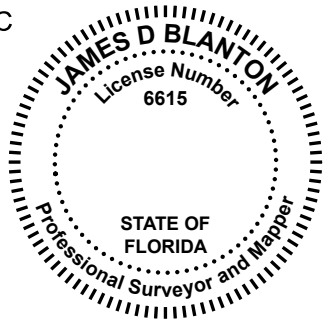
BEARINGS BASED UPON THE Found monuments along th NE R/W of Estero Blvd BEING THE RECORDED PLAT BEARING OF N 49°56'30" W

REAL PROPERTY DESCRIPTION

BOUNDARY SURVEY 04/03/2022 REVISION: 11/09/2022
 LOTS 4 BLOCK "A" HOLIDAY HEIGHTS, AS RECORDED IN
 PLAT BOOK 009 PAGES 058, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA

CERTIFIED TO: **Ricky Francis Loughrey**
Amy Jo Lefebvre

J. Blanton Land Surveying, LLC
 PROFESSIONAL SURVEYOR & MAPPER 6615
 202 W 7th Street, Suite 113
 London, Ky. 40741
 FL. Office (239) 222 - 7315
 KY. Office (606) 260 - 8169



SURVEYORS NOTES:

- * THIS PLAT OF THE HEREON DESCRIBED PROPERTY IS A TRUE AND CORRECT REPRESENTATION OF A RECENT SURVEY MADE AND PLATTED UNDER MY DIRECT SUPERVISION AND TO THE BEST OF MY KNOWLEDGE AND BELIEF MEETS THE MINIMUM TECHNICAL STANDARDS ADOPTED BY THE STATE OF FLORIDA AS PER CHAPTER 61G17 FLORIDA ADMINISTRATIVE CODE PURSUANT TO CHAPTER 427 FLORIDA STATUTES.
- * THIS SURVEY WAS PERFORMED BASED UPON A DESCRIPTION ISSUED VERBALLY BY THE CLIENT AND WITHOUT BENEFIT OF AN ABSTRACT OF TITLE. THE SURVEYOR HAS MADE NO INDEPENDENT SEARCH FOR EASEMENTS, OWNERSHIP, RESTRICTIVE COVENANTS OR OTHER FACTS THAT MAY AFFECT TITLE.
- * NOTE: SUBJECT TO EASEMENTS OR RESTRICTIONS OF RECORD.
- * THERE ARE NO VISIBLE ENCROACHMENTS EXCEPT THOSE SHOWN.
- * THIS SURVEY IS NOT COVERED BY PROFESSIONAL LIABILITY INSURANCE.
- * THIS SURVEY DOES NOT DETERMINE OR REFLECT OWNERSHIP, TITLE, ZONING OR FREEDOM FROM ENCUMBRANCES AND IS ONLY FOR THE LANDS DESCRIBED ABOVE.
- * THIS SURVEY IS FOR THE SOLE PURPOSES INTENDED BY THE SURVEYOR AND ONLY FOR THE INDIVIDUAL(S) AND/OR INSTITUTIONS LISTED ABOVE / UNDER "CERTIFIED TO".
- * COMMERCIAL HIGH RISK LINEAR: 1 FOOT IN 10,000 FEET * SUBURBAN LINEAR: 1 FOOT IN 7,500 FEET
 RURAL LINEAR: 1 FOOT IN 5,000 FEET

BENCHMARK DESCRIPTION IN REFERENCE TO FDOT RINEX

Project ID: **EdisonAve5137**



ASHMORE
[design]

FL Architecture AA#26003726
FL Engineering CO#34484

27499 RIVERVIEW CENTER BLVD
BONITA SPRINGS, FL 34134
239.444.5780
contact@ashmorellc.com

ASHMORE DESIGN, LLC HEREBY RESERVES ITS
COMMON LAW COPYRIGHT AND OTHER PROPERTY
RIGHTS IN THESE PLANS, DESIGNS, ARRANGEMENTS
AND IDEAS. THESE IDEAS, PLANS AND DESIGNS ARE
NOT TO BE REPRODUCED, CHANGED OR COPIED IN
ANY FORM OR MANNER WHATSOEVER, NOR ARE THEY
TO BE ASSIGNED TO ANY THIRD PARTY WITHOUT FIRST
OBTAINING THE EXPRESS WRITTEN PERMISSION FROM
ASHMORE DESIGN, LLC. WRITTEN DIMENSIONS ON
THESE DRAWINGS HAVE PRECEDENCE OVER SCALE.
DIMENSIONS CONTRACTORS SHALL VERIFY AND BE
RESPONSIBLE FOR ALL DIMENSIONS AND CONDITIONS
OF THE JOB. ASHMORE DESIGN, LLC SHALL BE
NOTIFIED IN WRITING OF ANY VARIATIONS OR
DISCREPANCIES FROM THE DIMENSIONS, CONDITIONS
AND SPECIFICATIONS SHOWN BY THESE DRAWINGS.

LOUGHREY RESIDENCE
5137 Estero Blvd
Fort Myers Beach, FL 33931

REVISIONS		
MK	DATE	DESCRIPTION
Δ	6/29/23	BLDG REQ.

JOB NO: A22-5103
DATE: 05/12/2023
DRAWN BY: FL
CHKD BY:

BUILDING LOCATION
PLAN

SHEET NUMBER

LP

GENERAL SITE NOTES	
1.	THE CONTRACTOR VERIFY THE SITE LAYOUT AND NOTIFY THE DESIGNER OF ANY DISCREPANCIES BEFORE CONSTRUCTION
2.	THE CONTRACTOR SHALL PROVIDE CONDUIT UNDER PAVED AREAS FOR IRRIGATION, TELEPHONE, ELECTRIC, TV & GAS AS REQUIRED.
3.	REFER TO LANDSCAPE/ DRAINAGE ENGINEER PLANS FOR GRADING AND WATER RUNOFF INFORMATION.
4.	REFER TO LANDSCAPE/ DRAINAGE ENGINEER PLANS FOR DETAILED INFORMATION ON POOL DECK, WALKWAYS AND DRIVEWAYS.
5.	ALL A/C EQUIPMENT TO BE ABOVE BASE FLOOD ELEVATION.

IMPERVIOUS AREA CALCULATIONS	
BUILDING FOOTPRINT	3,259 S.F.
DRIVE/ WALK AREAS	1,897 S.F.
EXISTING POOL/ PATIO AREAS	1,363 S.F.
EXISTING GARAGE-REAR LOT	316 S.F.
TOTAL IMPERVIOUS	6,835 S.F.
LOT AREA	14,924 S.F.
IMPERVIOUS AREA	45.79%

LEGAL DESCRIPTION
BOUNDARY SURVEY 04/03/2022
LOT 4 BLOCK "A", AS RECORDED IN PLAT
BOOK 009 PAGES 058, OF THE PUBLIC
RECORDS OF LEE COUNTY, FLORIDA

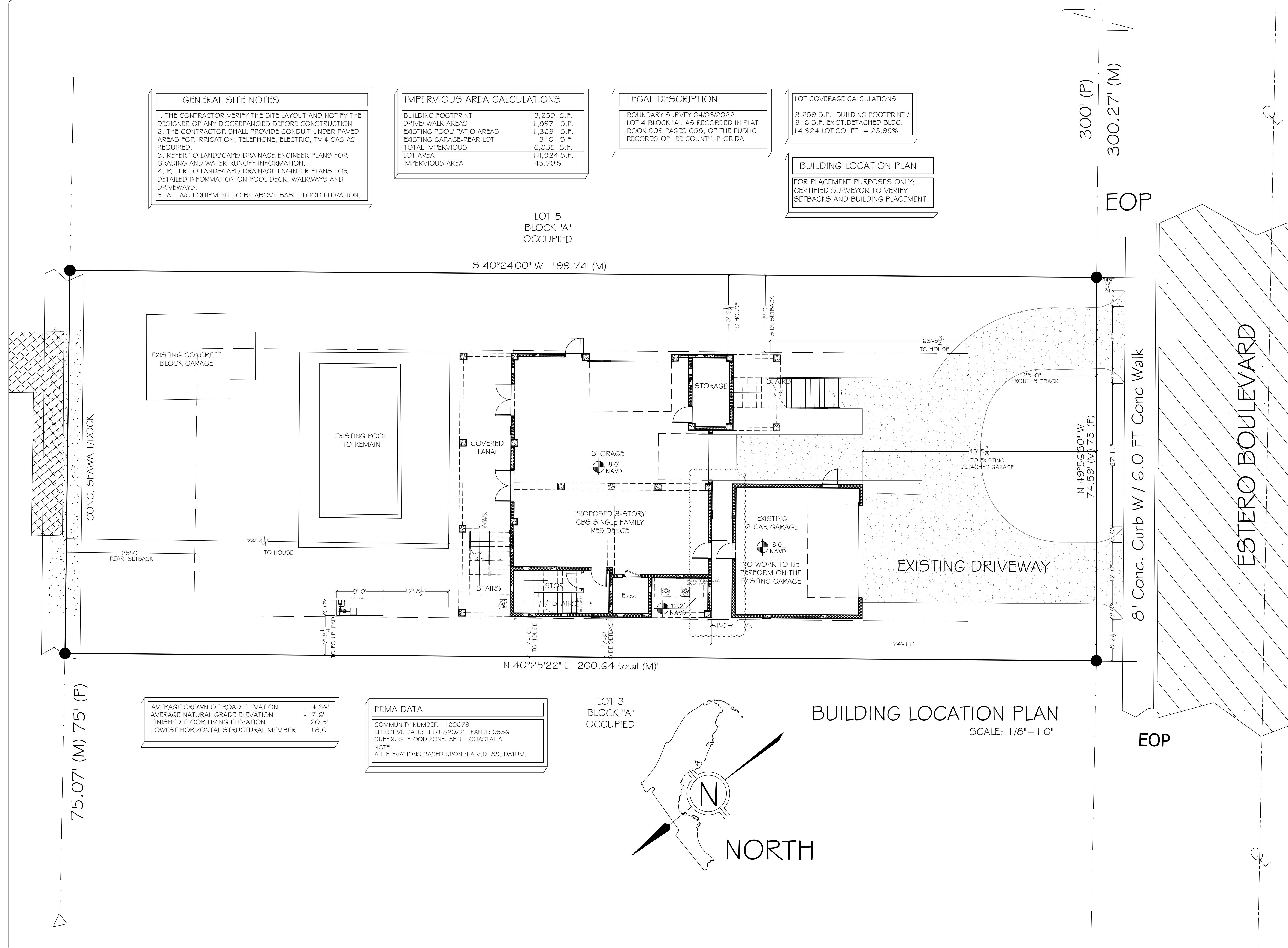
LOT COVERAGE CALCULATIONS	
3,259 S.F. BUILDING FOOTPRINT /	
316 S.F. EXIST. DETACHED BLDG.	
14,924 LOT SQ. FT. =	23.95%

BUILDING LOCATION PLAN
FOR PLACEMENT PURPOSES ONLY;
CERTIFIED SURVEYOR TO VERIFY
SETBACKS AND BUILDING PLACEMENT

LOT 5
BLOCK "A"
OCCUPIED

S 40°24'00" W 199.74' (M)

N 40°25'22" E 200.64 total (M')



AVERAGE CROWN OF ROAD ELEVATION	- 4.36'
AVERAGE NATURAL GRADE ELEVATION	- 7.6'
FINISHED FLOOR LIVING ELEVATION	- 20.5'
LOWEST HORIZONTAL STRUCTURAL MEMBER	- 18.0'

FEMA DATA	
COMMUNITY NUMBER :	120673
EFFECTIVE DATE :	11/17/2022
PANEL :	0556
SUFFIX :	G FLOOD ZONE: AE-11 COASTAL A
NOTE:	ALL ELEVATIONS BASED UPON N.A.V.D. 88. DATUM.

LOT 3
BLOCK "A"
OCCUPIED



BUILDING LOCATION PLAN

SCALE: 1/8" = 1'0"

8" Conc. Curb W / 6.0 FT Conc Walk

300' (P)
300.27' (M)

EOP

EOP

75.07' (M) 75' (P)

Addendum A - Criteria for Decision Making

1. Exceptional and extraordinary circumstances:

The remaining accessory structure is the result of Hurricane Ian removing the principle structure from the property. The location of the existing structure which remains today is such that the replacement of the principle structure can only be permitted and constructed behind it, placing it closer to the Street Right of way than the principle structure. The accessory structure has been looked at by Engineers and has been established to be structurally sound and does not require removal. Not allowing this structure to remain and requiring it to be demolished would create an extraordinary burden on the property owner.

2. The conditions justifying the variance are not the result of the applicant.

Hurricane Ian removed the principle structure. As long time homestead residents of Fort Myers Beach the owners would like to remain on Island. Constructing a replacement principle structure on the lot while leaving the existing accessory structure is the way to do this. The design of the new principle structure places the home detached behind the remaining structure.

3. Minimum variance needed by the applicant to relieve them from an unreasonable burden.

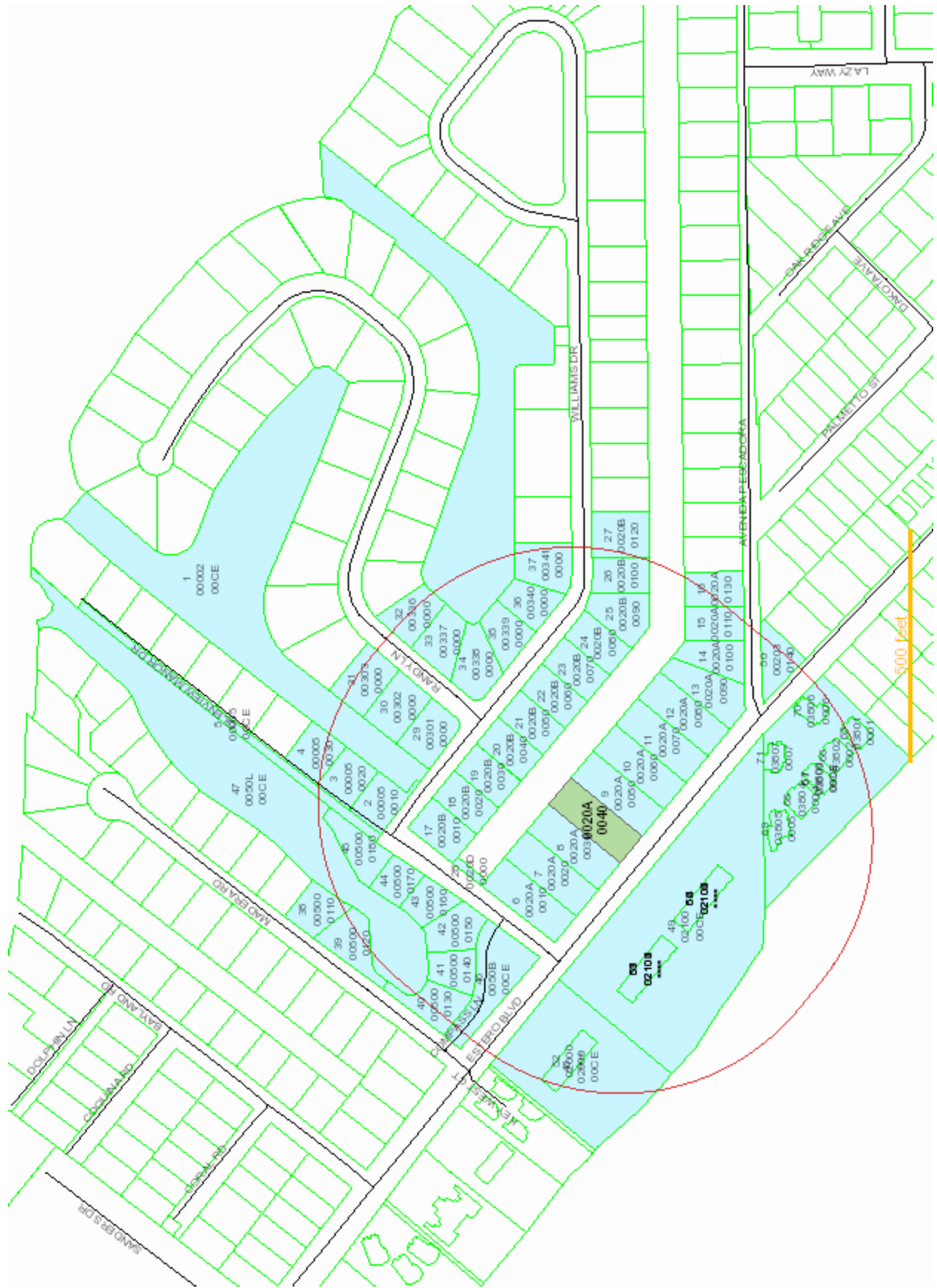
Allowing the accessory structure to remain so that it is closer to the street right of way than the principle structure is the minimum variance needed. LDC 34-1174 (d)(1)(d) requires waterfront lot side setbacks to be equal to principle structure setbacks. We are maintaining 7.9' to the side yard, requirement is 7.5'. Front setback requirement is 25', we are maintaining 45.48'. Sight visibility is in compliance as well.

4. Granting this variance will not be injurious to the neighboring properties.

The issuance of this variance will not be injurious to the neighboring properties. The location of this accessory structure complies with all other setbacks. The structure has been in existence on the property since 2019. In addition to complying with all other setback requirements, the visibility and drainage requirements are also being met.

5. Are the conditions so common as to amend the LDC.

These conditions are unique and individual to this property and does not represent any prevailing issue on FMB



GLENWOOD OWNERS ASSN
RANDY LN
FORT MYERS BEACH FL 33931

SCKOROPAD ALAIN &
1 GLENVIEW MANOR DR
FORT MYERS BEACH FL 33931

GREY JOHN M & PATRICIA TR
2 GLENVIEW MANOR DR
FORT MYERS BEACH FL 33931

KENNEDY TIMOTHY P & WENDY L
42 PARKER ST
ROCHDALE MA 01542

GLENVIEW MANOR HOMEOWNERS
10 GLENVIEW MANOR DR
FORT MYERS BEACH FL 33931

MORRISON LARRY K & KIM P
5100 WILLIAMS DR
FORT MYERS BEACH FL 33931

SHEA JANICE MATHEWS
5117 ESTERO BLVD
FORT MYERS BEACH FL 33931

FUHR ACHIM A & MARIANNE TR
5127 ESTERO BLVD
FORT MYERS BEACH FL 33931

PG INVESTMENTS LLC
44345 PREMIER PLZ STE 120
ASHBURN VA 20147

DOU SHUI YING TR
854 SANTA MARIA DR
NAPERVILLE IL 60540

SEBASTIAN NANCY E +
8801 STONEBROOK LN
COLUMBIA MD 21046

MAES THOMAS ALBERT &
5177 ESTERO BLVD
FORT MYERS BEACH FL 33931

FARRIS GEORGE & MAUREEN
5195 ESTERO BLVD
FORT MYERS BEACH FL 33931

BETTY M CORNELL TRUST
5199 AVENIDA PESCADORA
FORT MYERS BEACH FL 33931

DONOVAN CHRISTOPHER R SR +
8 VINLAND DR
SOUTH DENNIS MA 02660

ROBERT L SOWINSKI TRUST +
13675 PARK CIRCLE NORTH
ELM GROVE WI 53122

LEIBOWITZ GAIL L
40 I ST
SEASIDE PARK NJ 08752

SCHWARTZ ROBERT E
5120 WILLIAMS DR
FORT MYERS BEACH FL 33931

BURROW KELLY
12318 E 196TH ST
NOBLESVILLE IN 46060

HARTMAN KELLY +
10894 BRIXTON LANE
FISHERS IN 46037

ROBINSON WILLIAM A &
5146 WILLIAMS DR
FORT MYERS BEACH FL 33931

STEWART DONALD J & JANICE E
37 BARNARD RD
OSTERVILLE MA 02655

LTE 5090 LLC
2200 COUNTY RD C W #2205
SAINT PAUL MN 55113

SKOCZEN KIMBERLY E & ARTUR
5433 YACHTSMAN LANE
GAINESVILLE GA 30504

REDENIUS RICHARD R &
5218 WILLIAMS DR
FORT MYERS BEACH FL 33931

DADDERS ESTATES LLC +
1921 PEACE AVE
SHAKOPEE MN 55379

OFARRELL KEVIN F &
5252 WILLIAMS DR
FORT MYERS BEACH FL 33931

MORRISON LARRY K & KIM P
5100 WILLIAMS DR
FORT MYERS BEACH FL 33931

PRARAZ BUILDERS LLC
4110 CENTER POINTE DR #210
FORT MYERS FL 33916

SHAW ROBERT A & DOROTHY J
241 RANDY LN
FORT MYERS BEACH FL 33931

BRAZDAU ALIN &
11373 WILLOW WOOD LN
PLYMOUTH MI 48170

LENTINI JOHN & MARIE D
374 SHERWOOD RD
UNION NJ 07083

POLLACK JUDITH M
6401 EDGEWATER DR
ERIE MI 48133

VOT COASTAL PROPERTIES LLC
260 CLARIDGE CIR
BOLINGBROOK IL 60440

JONES MARC A & JULIE W
4070 E BEACHVIEW CT
MARTINSVILLE IN 46151

DEPAUW SCOTT & DEBRA
242 PILGRIMS PATH
GURNEE IL 60031

GILLESPIE LLC
421 WEST MARKET ST
LOUISVILLE KY 40202

GROSSE RICHARD E & KAREN L TR
W1658 SANDSTONE AVE
RIPON WI 54971

SECAPT LLC
415 E 37TH ST APT 11G
NEW YORK NY 10016

CURTIS J GANO TRUST +
17391 LAKE BEACH DR
SPRING LAKE MI 49456

HANEY MICHAEL H & JANE M
5015 COMPASS LN
FORT MYERS BEACH FL 33931

TWEHUES STEPHEN J
247 RIVERSIDE PKWY
FORT THOMAS KY 41075

PRATER WANDA M
4101 SHELBYVILLE RD
SHELBYVILLE KY 40065

WILUTIS MARK A & DEBORAH A
3183 EDEN TRL
BRIGHTON MI 48114

REICHLIN JAMES M & DAWN L
5043 WILLIAMS DR
FORT MYERS BEACH FL 33931

YACHTSMANS COVE HOMEOWNERS
CARRIE DOINE
21611 MADERA RD
FORT MYERS BEACH FL 33931

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CARRIE DOINE
21611 MADERA RD
FORT MYERS BEACH FL 33931

POINTE SOUTH CONDO
5000 ESTERO BLVD
FORT MYERS BEACH FL 33931

SMUGGLERS COVE CONDO
ASSOCIATION
5100 ESTERO BLVD
FORT MYERS BEACH FL 33931

FLORIDA VACATION RENTALS LLC
4717 RIVERVIEW BLVD
BRADENTON FL 34209

TURTLE WALK OF FORT MYERS BEAC

S AND J RENTALS LLC
7690 RANIER LANE N
MAPLE GROVE MN 55311

NEPJUK TIMOTHY MICHAEL &
93 FRANKLIN WRIGHT BLVD
LAKE ORION MI 48362

SHEA LOUISE F
PO BOX 423
MADISON CT 06443

GIORDANO ROBERT J &
27 CHELSEA DR
OAK RIDGE NJ 07438

RWP LEASING LLC
3224 NAVARRE RD SW
CANTON OH 44706

OVINGTON POINTE SOUTH LLC
3224 GATESHEAD DR
NAPERVILLE IL 60564

CK9819 LLC
9543 KARLBERG WAY
PARKLAND FL 33076

THOMASSON DONNA J
6825 GRENADIER BLVD APT 505
NAPLES FL 34108

BACKENSTOES BRENT & AMY
5357 MEMORIAL RD
GERMANSVILLE PA 18053

BACKENSTOES BRENT A & AMY
5357 MEMORIAL RD
GERMANSVILLE PA 18053

LANGE JOHN J TR
418 HAWTHORNE AV
S MILWAUKEE WI 53172

NEVERMAN RANDY H
11947 ISLAND AVE
MATLACHA FL 33993

VICKERS JACK R & VIRGINIA R
5139 RICH CREEK VALLEY RD
PETERSTOWN WV 24963

WINTER MARVIN & MARYELLEN
3946 SHIRLEY RD
NORTH COLLINS NY 14111

PATON JAMES J & ROBIN L
3206 ROYAL FOX DR
SAINT CHARLES IL 60174

COOK WILLIAM E JR &
1307 WALDEN DR
FORT MYERS FL 33901

LINDEN DUANE B TR
1786 RIBBON FAN LN
NAPLES FL 34119

PARADISE ISLAND RESORT L P
9 UPPER RIDGE CT
MARKHAM ON L3S 3W6
CANADA

ELLIOTT PATRINA B TR
3885 STATE ROAD 529 E
CARDINGTON OH 43315

DVORCHAK JAMES M +
11S511 WHITTINGTON LANE
NAPERVILLE IL 60564

THOMAS DAVID A & LISA K TR
3216 ROYAL OAK CT
EDGEWOOD KY 41017

HOWELL CHRISTINE E TRUST
407 E AVENIDO DEL RIO
CLEWISTON FL 33440

WILLIAMS DENIS M & JILL A TR
761 SAINT ANNES DR
HOLLAND OH 43528

PAWKETT MARY J
43 SUNNYSIDE RD
SCOTIA NY 12302

PIPPIN JACQUELINE J TR
5000 ESTERO BLVD #404
FORT MYERS BEACH FL 33931

TRUDEL DAVID R & JUDITH B TR
1807 SETTLERS RESERVE WAY
WESTLAKE OH 44145

TANNER MARK D & JUDITH A
1848 N 225 E
ATTICA IN 47918

BLUE EARTH LODGING LLC
901 E 1ST ST
SIOUX CENTER IA 51250

KROESE ROXANNE D
16855 MARBLE AVE
LE MARS IA 51031

LYB LLC
4193 GRANT AVE
SIOUX CENTER IA 51250

SODERSTROM SUSAN
11 ROCKYPOINT RD
OLD SAYBROOK CT 06475

KROESE ROBERT J TR
16624 N INNER LN
SPIRIT LAKE IA 51360

PBW505 LLC
5748 NICKLAUS DR
FORT COLLINS CO 80528

LS DEN HERDER SD LLC
2410 LAKESIDE AVE
MILFORD IA 51351

LAY CHARLES T +
480 WATTERS RD
HACKETTSTOWN NJ 07840

WISOR DAVID L
3 BRIANS LN
FAIRFIELD OH 45014

NICHOLS JOSEPH W &
3811 PEBBLE COURT
CONYERS GA 30012

GRECO JAMES T
19 A EDGEWOOD AVE
FARMINGVILLE NY 11738

HAHN ARTHUR A
9708 UTICA RD S
BLOOMINGTON MN 55437

HUGHES MICHAEL D
19815 GOVERNORS HIGHWAY SUITE 11
FLOSSMOOR IL 60422

BOCA LLC
4422 DARNLEY CT
FORT WAYNE IN 46814

CHESLEY GERALDINE A TR
21557 S LAKE GEORGE DR NW
CEDAR MN 55011

RODEN BRADLEY D & MARY KAY
121 N 59TH ST
SUPERIOR WI 54880

MORGAN WALTER J JR L/E
2685 STAR AVE
NILES MI 49120

GARCIA DANIEL & HELEN
5237 SOUTH NEWCASTLE
CHICAGO IL 60638

LOWELL REBECA & VICTOR
10321 SW 82ND CT
MIAMI FL 33156

SCHLETZ STEVE F & REBECCA J
1848 SUMMIT LN
MENDOTA HEIGHTS MN 55118

WEIDIG BRETT T &
11030 EDEN PARK DR
CHARDON OH 44024

L + R LLC
ROBERT PAULSON
5868 N PINE LAKE RD
DULUTH MN 55811

VARTANIAN JAMES
9 PEBBLE BEACH ROAD
WEBSTER MA 01570

CARRICO EMIDIO & CAROL
78 S LAKE SHORE DR
BROOKFIELD CT 06804

KEREN ORNA TR
14380 RIVA DEL LAGO DR #903S
FORT MYERS FL 33907

DEE CHARLES C TR +
3304 NATHAN LN
HOLMEN WI 54636

STEPHENS JAMES B &
392 W CLINTON ST
DANVILLE IN 46122

RANDOLPHS PROPERTIES LLC
1630 MADDY LN
KEEGO HARBOR MI 48320

CENTRAL PROPERTIES INC
PO BOX 759
HOCKESSIN DE 19707

DAYUS SHERYL
12942 RIVERSIDE DR E
TECUMSEH ON N8N 1A8
CANADA

BRECHA DIANE +
87 JOHN CT
DANVILLE IN 46122

FILIAK DONALD G & ELAINE TR
12250 WOODCREST
TAYLOR MI 48180

FERRUCCI CAROL LEE
300 WESTFIELD RD
MERIDEN CT 06450

LIBERATORE MANAGEMENT GROUP II
3984 BURKE PKWY
BLASDELL NY 14219

DIEMER CHARLES A & JUDY A
128 KING EIDER CT
DAYTONA BEACH FL 32119

WHAT ME WORRY LLC
5950 N NAVARRE AVE
CHICAGO IL 60631

MONTGOMERY RONALD O &
5377 W TWIN BEACH LANE
BRAZIL IN 47834

WHARTON ROBERT A SR TR
4845 MULBERRY DR
MARIETTA GA 30068

JONES JAMES R & SONDRAS
6844 COTTONWOOD DR
PLAINFIELD IN 46168

MARKER ALL SEASONS LLC
739 ALLISON RD
BELLEFONTAINE OH 43311

POST WILLIAM C JR TR
136 CAMBRIDGE CT
INDIALANTIC FL 32903

DOWNEY SANDRA E & EDWARD J TR
N68W5671 BRIDGE COMMONS CT
CEDARBURG WI 53012

GULFVIEW PROPERTIES LLC
305 SHADY TREE CT
CLAYTON OH 45315

D + S INVESTMENTS
4890 SOUTH HWY 45
OSHKOSH WI 54902

SCHNABEL GAIL E TR
4216 DEER RUN CT
MAUMEE OH 43537

ESSMRS LLC
4640 DUCKHORN LN
LAFAYETTE IN 47909

PAYNE THOMAS E & JANE B
33 MOUNTAINEER DR
MURPHY NC 28906

SJG CONDO LLC
3927 STATE ROUTE 4
HUDSON FALLS NY 12839

HAHN ARTHUR A
9708 UTICA RD S
BLOOMINGTON MN 55437

AHEARN ELISE M
19 MAYAPPLE RD
WILTON CT 06897

DEE CHARLES C & DONNA M TR
3304 NATHAN LN
HOLMEN WI 54636

SZEWczyk THADDEUS Z JR &
5749 N MULLIGAN AVE
CHICAGO IL 60646

4A3 PARADISE RENTALS LLC
8288 DALEVIEW RD
CINCINNATI OH 45247

HANSON BRUCE D TR
4211 DREW AVE N
ROBBINSDALE MN 55422

CZERWINSKI DENNIS L
16827 CECELIA LN
SPRING LAKE MI 49456

WITTENBERG MARK T &
2487 LAKERIDGE CT
SAUKVILLE WI 53080

PRATER WANDA M TR
4101 SHELBYVILLE RD
SHELBYVILLE KY 40065

BRUEWER GERTRUD A
2139 CLIFF RD
NORTH BEND OH 45052

ORANGE VIKING LLC
4948 RUSTIC OAKS CIR
NAPLES FL 34105

WALLRAB WILLIAM TR
2920 KNOLLCREST DR
BURLINGTON WI 53105

DAVIS GEORGE E III TR
7962 BUTLER HILL DR
CONCORD TOWNSHIP OH 44077

MOST STEVE
3900 GALT OCEAN DR APT 1602
FORT LAUDERDALE FL 33308

OSUCHOWSKI JOHN M & LAURIE
7 SERENITY LN
MEREDITH NH 03253

YOUNG LYNDA TR
9284 TRIESTE DR
FORT MYERS FL 33913

LOGAN SHARON P +
716 GASKILL ST
ATLANTA GA 30316

SCHLITT DONALD W +
12790 KELLY GREENS BLVD
FORT MYERS FL 33908

PRUDENTE CYNTHIA
15730 CALOOSA CREEK CIR
FORT MYERS FL 33908

WILMA L LAHAM TRUST
3070 HOLLY HALL
HOUSTON TX 77054

MADONNA J CLARK TRUST
1996 SPRINGTREE DR
MARYLAND HEIGHTS MO 63043

SYSTEMS MANAGEMENT LLC
PO BOX 526
LAVONIA GA 30553

BLACKVILLE LLC
109 KING ST
GROVELAND MA 01834

GAIL E SCHNABEL TRUST +
4216 DEER RUN CT
MAUMEE OH 43537

RUNDLE VIVIANNE & DOUGLAS
14 BAYBERRY RD
MONO ON L9W 6G6
CANADA

LAM THI THU HANG
1854 IVORY CANE POINT
NAPLES FL 34119

ROBISON WILLIAM L
10555 WEST BERRY DR
LITTLETON CO 80127

SMUGGLERS COVE 5B5 LLC
8135 CHERRY LAUREL DR
LIBERTY TOWNSHIP OH 45044

HUGHES FLORIDA PROPERTY TRUST
19815 GOVERNORS HWY STE#11
FLOSSMOOR IL 60422

VAN PELT PETER & SANDRA
45 MACURO CT
FORT MYERS FL 33912

MASSOUD HANNA & MICHELE
37150 DUNDEE ST
STERLING HEIGHTS MI 48310

ULFERS BERNHARD G & KAY S TR
15072 BALMORAL LOOP
FORT MYERS FL 33919

OCCHIALINI DAVID +
31 OCCHIALINI CT
NEWINGTON CT 06111

ELLIOTT ROBERT M TR
5100 ESTERO BLVD #6A4
FORT MYERS BEACH FL 33931

WASKOM RICHARD D TR
6136 PALOMINO CIR
UNIVERSITY PARK FL 34201

FREIWALD JOHN T & JUDITH L
11191 BENT PINE DR
FORT MYERS FL 33913

BURNS RICHARD W + PAMELA A
573 WEDGEWOOD DR
VALPARAISO IN 46385

AHEARN FRANCIS E + MARY TR
830 W PLACITA DE LA COTONIA
GREEN VALLEY AZ 85622

MANDOLINI LORRAINE V TR
6597 NICHOLAS BLVD # 1101
NAPLES FL 34108

SACCO CARMINE
4591 BAY BEACH LN #191
FORT MYERS BEACH FL 33931

COAN JOSEPH TR +
24 ROLLING VIEWS DR
WEST PATERSON NJ 07424

HEHR JOSEPH T & JOY S L/E
116 OAKLEY MEADOW LANE
TIFFIN OH 44883

RICHARD D MASON TRUST +
1 LAKEVIEW TER BLVD
WACONIA MN 55387

MOST STEPHEN
3900 GALT OCEAN DR APT 1602
FORT LAUDERDALE FL 33308

TREGUNNO DARLENE
12511 VITTORIA WAY
FORT MYERS FL 33912

GARY L DAVIS TRUST +
1000 TIMBERLINE DR
TRENTON IL 62293

SZUBA SUSAN MCCRAITH TR
7255 NORTON AVE
CLINTON NY 13323

HUFFMASTER KIMBER L TR
9755 PINE KNOB ROAD
CLARKSTON MI 48348

WEBER ROBERT F JR &
5748 NICKLAUS DR
FORT COLLINS CO 80528

ELLIOTT KEVIN A TR
2973 HILLCREST DR
WEST BRANCH MI 48661

KISTER NANCY F TR
1444 MORTON DR
ASHTABULA OH 44004

Michael D. Stewart, PE, LLC.

Phone: 239-292-7670

Email: MStewart@MStewartPE.com

October 12, 2022

Loughrey Ricky Francis +
Lefebvre Amy Jo
5137 Estero Blvd
Fort Myers Beach FL 33931

Project Address: 5137 Estero Boulevard, Fort Myers Beach, FL, 33931

On Wednesday September 28th, 2022, Hurricane Ian, a Category-4 major hurricane, made landfall with the Southwest coast of Florida. The storm delivered sustained winds of 155mph and gusts of 190mph. Storm surge in excess of 15ft devastated Lee County in several locations, with Fort Myers Beach being one of the most affected localities.

The building owner has contracted Michael D. Stewart, P.E., LLC to enter the epicenter of the disaster zone and provide a preliminary damage assessment of the structure. The primary scope of work was to determine the current condition of the structure and to advise if the structure is safe enough for repairs crews to begin debris removal. All observations were made from the ground level. Observation of the structure's electrical system is not in the scope of this assessment. A licensed electrician shall inspect the building's electrical systems prior to connecting to the electrical service.

This is a preliminary damage assessment for the primary building elements, which is only based on what is observable and does not include windows, doors, garages, roofing membrane, mechanical, electrical, or plumbing. Prior to replacement of all building elements, building permits shall be obtained. In all cases, a licensed engineer or architect will be required to provide repair plans that illustrate the scope of the replacement, as well as any additional uncovered damage. Repair and replacement documents are not in the scope of this assessment.

Findings:

The foundation slab has been undermined in multiple locations, for the main house structure and the accessory structure in the backyard. The back portion of the main house structure has suffered significant structural damage to both the roof and the load bearing walls and columns. This condition should be shored by a general contractor prior to any work on the building. Further evaluation of the structural elements will be required prior to any reconstruction and repair of the building. The garage structure is in adequate condition.

Photos:



The above picture shows the front elevation of the house. There is significant amount of debris in front of the house. All portions of the house EXCEPT the garage have significant structural damage.



The above picture shows the back left view of the garage and the destroyed house behind it. The garage appears to be in adequate structural condition, while the house is not.



The above picture shows a side view of the house. The foundation slab has been undermined. The back wall has been entirely compromised due to the storm surge and flooding in of debris. This condition should be shored by a general contractor prior to any work on the building. Further evaluation of the structural elements will be required prior to any reconstruction and repair of the building.



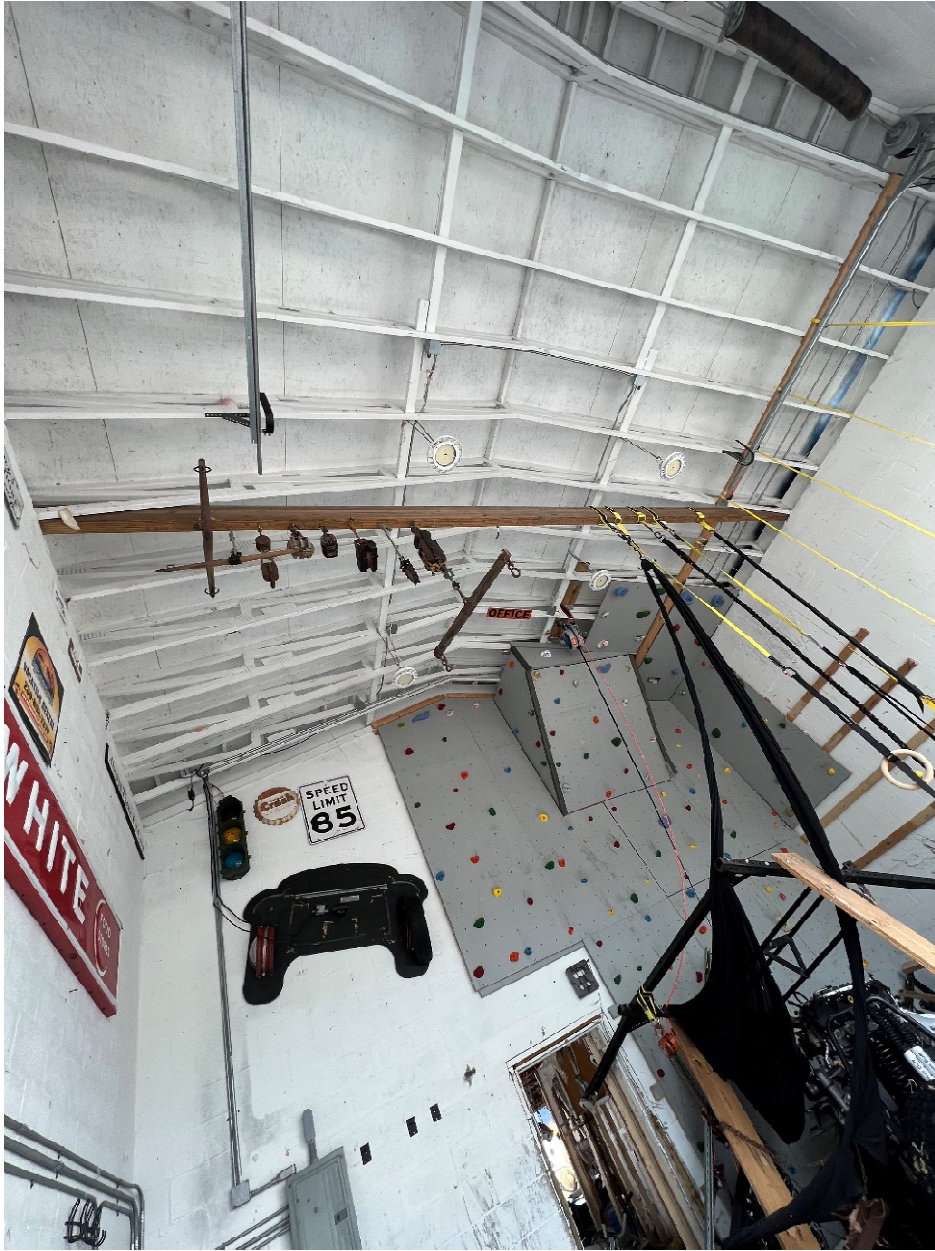
The above picture shows a side view of the shed. While it does have foundation washout, the building otherwise seems to be in adequate structural condition.



The above picture shows an shed accessory structure in the back yard of the property. The foundation slab has been undermined. Otherwise, the structure appears to be in adequate condition.



The above picture shows the interior of the garage structure. There is debris which has floated in. The garage is comprised of exterior masonry walls and pre-engineered parallel truss chords. The structure appears to be in adequate condition.



The above picture shows the roof framing of the garage structure. The structure appears to be in adequate condition.



The above picture shows a rear view of the house. The roof of the rear portion of the house has collapsed and multiple supporting columns/walls have collapsed as well. This condition should be shored by a general contractor prior to any work on the building. Further evaluation of the structural elements will be required prior to any reconstruction and repair of the building.

Alexandra P. (Reid) Lundblad, P.E.
FLA REG# 94181

OWNER: Ricky Frances Loughrey + Amy Jo Lefebvre-Loughrey
MAILING ADDRESS: 5137 Estero Blvd. Ft Myers Beach FL 33931
CITY: Ft Myers Beach STATE: FL ZIP CODE: 33931
SITE ADDRESS: 5137 Estero Blvd. Ft Myers Beach FL 33931
PARCEL/STRAP #: 28-46-24-04-0020A 0040

COMPLIANCE AGREEMENT

This compliance agreement is entered into on this 28th day of August, 2023, by the Town of Fort Myers Beach (the Town), and Ricky Francis Loughrey + Amy Jo Lefebvre (Property Owner), in reference to allowing the garage at 5137 Estero Blvd., Fort Myers Beach, FL 33931 to remain.

The Town must follow floodplain regulations and building codes that govern construction throughout the State of Florida, as well as through FEMA. Since the Town has agreed to be a participating community in the National Flood Insurance Program, which reduces flood insurance costs for residents, consistently following the rules is critical to maintain the Town's good standing.

Maintaining the Town's good standing impacts post-disaster FEMA funding and mortgage availability for all residents. The state and federal agencies that watch over these programs pay very close attention to the Town's adherence to their rules.

It is hereby agreed by and between The Town and the Property Owner that the garage will be treated as a separate, independent structure and must remain an independent structure with the following conditions in place:

1. Structural evaluation of the remaining structure to confirm it is sound is to be submitted to the Town.
2. Obtain a variance for the setback requirements for accessory structures located closer to a street right-of-way line or street easement than the principal structure.
3. The remaining non-conforming structure, constructed in 2019, is to be retrofitted with flood openings to comply with Zone AE requirements that were in effect when it was permitted.
4. Property Owner is to sign a nonconversion agreement to maintain that the structure be used for parking, storage, or access only.
5. Property Owner is to obtain permits for all repairs to the structure including repairs that have already been made that did not have a permit.

All conditions must be satisfied by the time the certificate of occupancy is issued for the house that will be built on the parcel. If conditions are not met, the Property Owner will be required to remove the

garage. Failure to comply with this agreement will result in code enforcement action taken upon the property owner, which can result in the creation of a lien on the property that can lead to the declaration of a 1316 on the property.

1316 Property Declarations and Rescissions

Section 1316 of the National Flood Insurance Act of 1968, as amended, states that no new flood insurance coverage shall be provided for any property that FEMA finds has been declared by a duly constituted state or local zoning authority or other authorized public body to be in violation of state or local laws, regulations, or ordinances that are intended to discourage or otherwise restrict land development or occupancy in floodprone areas. Insurance availability is restored once the violation is corrected, and the 1316 Declaration has been rescinded by FEMA.

By signing below, the property owner agrees to the above terms and conditions.

Property Owner Signature: Paul Loughrey Printed Name: Ricky Frances Loughrey
Amy Jo Loughrey Amy Jo Lefebvre-Loughrey

Witness Signature: Kara Stewart Printed Name: Kara Stewart

Town Staff Signature: _____ Printed Name: _____



Town of Fort Myers Beach
Community Development Services - Planning Division
2525 Estero Blvd,
Fort Myers Beach, FL 33931

NOTICE TO PROPERTY OWNERS WITHIN 500 FEET

Notice is hereby given that the Local Planning Agency of the Town of Fort Myers Beach will hold a public hearing which will take place at DiamondHead Beach Resort, 2000 Estero Boulevard, Fort Myers Beach, Florida, 33931.

TIME: 9 AM
DATE: October 10, 2023
CASE: VAR20230175
ADDRESS: 5137 Estero Blvd
APPLICANT: Amy Lefebvre
REQUEST: The applicant is requesting a variance from LDC 34-1174 (b), to allow an existing garage closer to the right-of-way than the principle structure in the RS zoning district.

TOWN CONTACT: SARAH PROPST SARAH.PROPST@FMBGOV.COM

You may appear in person, through counsel, or through an authorized agent and provide testimony, legal argument, or other evidence. At this hearing the **Local Planning Agency** will review the application materials and hear testimony to make a **recommendation**. Complete records or transcripts of the proceedings are not provided by the Town.

Copies of the application and staff report are available for viewing at Fort Myers Beach Town Hall. Call 239-765-0202 for more information. Town Hall is open between the hours of 8:30 AM and 4:30 PM. Reasonable accommodations will be made in accordance with the Americans with Disabilities Act. If you need reasonable accommodation, contact Town Hall at 239-765-0202.



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

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

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

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

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

Town of Fort Myers Beach
2525 Estero Blvd,
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«OwnerName»
«MailAddress»
«MailCity», «MailState», «MailZip»«Next Record»

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

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

Yellow Sheet Number: 2024-3

1. Requested Motion:

Meeting Date: October 10, 2023

ORDINANCE 23-16, AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING TOWN OF FORT MYERS BEACH ADOPTED FUTURE LAND USE MAP DATED JANUARY 1, 1999, FOR A PORTION OF THE PROPERTY LOCATED AT 21471 WIDGEON TERRACE AND PART OF THE ADJACENT COMMON ELEMENT PROPERTY OF FLAMINGO HARBOR CONDOMINIUM, FORT MYERS BEACH; PROVIDING FOR CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Why the action is necessary:

LPA makes recommendations to the Town Council for Small Scale Map Amendments.

What the action accomplishes:

The LPA recommendation will be forwarded to the Town Council. The small scale map amendment, if approved, will allow the applicant to add a pool in the rear yard of the existing single-family residence.

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

Ordinance 23-16

5. Background:

The applicant for 21471 Widgeon Terrace and Flamingo Harbor Condo Association, is requesting a small-scale Future Land Use Map Amendment for a part of the subject property from Wetland to Mixed Residential to allow a new pool for the existing single-family residence.

In 2001, a similar case was approved in the same neighborhood, for the property located at 21491 Widgeon Terrace (Resolution number: 01-06a, ADD2000-00152) where the Applicant was requesting an administrative interpretation to relocate the boundary for Wetland Future Land Use designation to the existing riprap line and designate mixed residential future land use to the remainder of the land.

The Applicant originally applied for an Administrative Interpretation to relocate the wetland line on the subject property. The Applicant did not meet the time requirement to rectify the factual error in the wetland boundary and FLUM amendments cannot be approved administratively. Therefore, the Applicant was required to apply for a small-scale map amendment.

Attachments:

1. Ordinance 23-16, Small Scale Map Amendment for Widgeon Terrace
2. Staff report
3. Exhibit A - Application package
4. Exhibit B - LPA postcard

Financial Impact:

Unknown

6. Alternative Action

Approve with conditions/ Deny

7. **Staff Recommendations:**

Approval

8. **Recommended Approval:**

Steve Poposki, Community Development Director

Date: October 04, 2023

Gretchen R.H. Vose, Town Attorney

Date: October 04, 2023

Amy Baker, Town Clerk

Date: October 04, 2023

ORDINANCE 23-16

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING TOWN OF FORT MYERS BEACH ADOPTED FUTURE LAND USE MAP DATED JANUARY 1, 1999, FOR A PORTION OF THE PROPERTY LOCATED AT 21471 WIDGEON TERRACE AND PART OF THE ADJACENT COMMON ELEMENT PROPERTY OF FLAMINGO HARBOR CONDOMINIUM, FORT MYERS BEACH; PROVIDING FOR CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

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

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

WHEREAS, Beverly Grady ("Applicant"), on behalf of owners, John A. Didier and Lisa A. Didier, of the property generally located at 21471 Widgeon Terrace and Flamingo Harbor Condo Association, owners for part of the adjacent common element property of Flamingo Harbor Condominium identified by STRAP number 34-46-24-W1-0220E.0000 ("Property"), filed an application for a small scale future land use map amendment from Wetlands to Mixed Residential future land use to support a new pool for the existing single-family residence; and

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

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on October 10, 2023, at which the LPA gave full and complete consideration of the request, recommendations by staff, the documents in the record, and the testimony of all interested persons, and the LPA voted to recommend approval/ approval with conditions/ denial to the small scall map amendment request, and

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

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

Applicant, the recommendation of the LPA, the recommendation of staff, including the consideration and findings in the staff report, the documents in the record, and the testimony of all interested persons, as required by Section 34-92 of the LDC and Policy 4-C-10 of the 1999 Comprehensive Plan (1999); and

WHEREAS, the Town Council finds the proposed small-scale map amendment request is **consistent/not consistent** with the Town of Fort Myers Beach Comprehensive Plan and LDC and voted to **approve/approve with conditions/deny** the Application.

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

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

Section 2. The Town Council determines the Applicant **did/did not** meet its burden of proof that the requested small scale map amendment request **does/does not** meet the requirements of the Town Comprehensive Plan and LDC and approving the request for a small-scale Future Land Use Map Amendment from Wetland to Mixed Residential to support a new pool for the existing single-family residence is in the best interest of the Town. Therefore, based upon the recommendations, testimony, and evidence presented by the Applicant, Town staff, and interested parties, the Town Council **APPROVES/DENIES** the requested small scale future land use map amendment of the Property.

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

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

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

Section 6. The proposed action does not result in a more restrictive or burdensome amendment to the Town's Comprehensive Plan or Land Development Code.

Section 7. Disclaimer: Issuance of a development permit by the Town does not create any right to obtain a permit from a State or Federal agency and does not create any liability on the part of the Town for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a State or Federal agency or undertakes actions that result in a violation of State or Federal law. **Permit Condition:** All other State or Federal permits must be obtained before commencement of the project.

Section 8. The effective date of this plan amendment shall be the earliest date permitted under Section 163. 3187, Florida Statutes.

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

DULY PASSED AND ADOPTED on this ____ day of November 2023.

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

TOWN OF FORT MYERS BEACH

Dan Allers, Mayor

ATTEST:

Amy Baker, Town Clerk

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

Gretchen R. H. Vose., Town Attorney

This Resolution was filed in the Office of the Town Clerk on this ____ day of November 2023.

- Exhibits
Exhibit A Existing Future Land Use Map
Exhibit B Proposed Future Land Use Map



Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

TYPE OF CASE: Small scale map Amendment

CASE NUMBER: CPA-20220084

CASE NAME: Request for a small scale Future Land Use Map Amendment from Wetland to Mixed Residential for part of the property located at 21471 Widgeon Terrace and a portion of the land between 21471 and the Bay.

LPA HEARING DATE: October 10, 2023, at 9:00 AM

STAFF RECOMMENDATION: Approve

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

I. APPLICATION SUMMARY

Applicant/Owner: Beverly Grady, Roetzel and Andress LPA/ John A. and Lisa A. Didier

Request: The applicant is requesting a small-scale Future Land Use Map Amendment for a part of the property located at 21471 Widgeon Terrace and a portion of the land between 21471 and the Bay from Wetland to Mixed Residential to support a new pool for the existing single-family residence.

Physical Address: 21471 Widgeon Terrace and a portion of the land between 21471 and the riprap line along the Bay.

STRAP #: 34-46-24-W1-0220E.0000

FLU: MIXED RESIDENTIAL and WETLANDS

Zoning: RC, Residential Conservation

Adjacent zoning and land uses:

North:	MIXED RESIDENTIAL RC, Residential conservation
South:	MIXED RESIDENTIAL RC, Residential conservation
East:	WETLANDS EC, Environmental Conservation
West:	WETLANDS EC, Environmental Conservation

II. BACKGROUND

Beverly Grady, the applicant for 21471 Widgeon Terrace and Flamingo Harbor Condo Association, is requesting a small-scale Future Land Use Map Amendment for a part of the subject property from Wetland to Mixed Residential to support a new pool for the existing single-family residence.

The subject property is Unit E of the Flamingo Harbor subdivision, recorded in Lee County's official Records Book in 1979. The property currently supports a single-family residence built in 1999. In 2001, a similar case was approved in the same neighborhood, for the property located at 21491 Widgeon Terrace (Resolution number: 01-06a, ADD2000-00152) where the Applicant was requesting an administrative interpretation to relocate the boundary for Wetland Future Land Use designation to the existing riprap line and designate mixed residential future land use to the remainder of the land.

The Applicant originally applied for an Administrative Interpretation for relocating of the wetland line on the subject property. As per Policy 6-D-2 of the Town's Comprehensive Plan, If the Future Land Use Map is incorrect due to a clear factual error, an administrative process is contained in Chapter 15 to establish the precise boundary of any wetland. The Applicant did not meet the time requirement to rectify the factual error in wetland boundary and FLUM amendments cannot be approved administratively. Therefore, the Applicant was required to apply for a small-scale map amendment.

III. ANALYSIS

The subject property currently supports a single-family residence situated in Flamingo Harbor Subdivision. It is a 90 feet wide and 100 feet deep, oddly shaped lot with approximately 81 feet of street frontage and 104 feet wide waterbody frontage, respectively. The Applicant is proposing to change the Future Land Use designation from Wetland to Mixed Residential for a part of the property located at 21471

Widgeon Terrace and a portion of the land between 21471 and the Bay. This request pertains to a specific site to support a new pool with the existing Single-Family residence. The subject property is also not located within an area of critical state concern. As a result, the proposed land use change is consistent with the criteria and process for adoption of small-scale comprehensive plan amendments set forth in F.S 163.3187.

COMPREHENSIVE PLAN COMPATIBILITY:

The Applicant is proposing a Future Land Use Amendment for part of the subject property from Wetlands to Mixed Residential. Wetland future land use is a conservation district applied to all remaining wetlands at the time of adoption of the Town's Comprehensive Plan. The maximum density of residential development here is 1 dwelling unit per 20 acres. Unlike the Wetlands Future Land Use designation, the Mixed Residential Future Land Use designation permits mixed housing types with low impact uses like offices and motels. The proposed amendment, if approved, will also make the subject property consistent with the underlying Residential Conservation zoning district and allow the Applicant to add a pool in the rear yard of the existing single-family residence. Mixed Residential future land use allows a density of 6 dwelling units per acre.

As per the existing conditions mapped on site through the environmental study, the wetlands are not present or have shifted further towards the Bay. The proposed development of a new pool is an accessory use to the existing single-family residential and will not place any undue burden upon the Town's existing transportation or other services and facilities.

Staff found that the proposed small scale Future Land Use Map Amendment is consistent with the following goal, objective, and policies of the Town's Comprehensive Plan.

FLUE Policy 4-A-5

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

Staff Finding #1: The subject property is not a critical state concern. The Applicant is proposing a small-scale map amendment for that part of the subject property where the wetlands are not present or have relocated further towards the Bay. The property currently supports a single-family residence and this application, if approved, will allow them to add a pool in their rear yard. To ensure preservation of the Wetlands to the East of the property, any proposed development will be required to maintain appropriate buffers from the existing wetlands during the permit process.

FLUE Policy 4-C-10: Map Amendments

The intensity and density levels allowed by the Future Land Use Map may be increased through formal amendment to this plan if such increases are clearly in the public interest, not just in the private interest of a petitioning landowner. Petitions from landowners will be accepted annually. The Town Council may accept applications more frequently at its sole discretion.

CE OBJECTIVE 6-D Wetlands –

Preserve all remaining wetlands; protect them from further degradation; and improve their condition and natural functions.

CE POLICY 6-D-2

The Future Land Use Map provides a close approximation of wetland boundaries. Wetland regulations in this plan and in the land development regulations include all wetlands, even in not specifically shown on the Future Land Use Map, that are identified as wetlands in accordance with F.S. 373.019 (17) through the use of the unified state delineation methodology described in FAC Chapter 62-340, as ratified and amended by F.S. 373 4211. If the Future Land Use Map is incorrect due to a clear factual error, an administrative process is contained in Chapter 15 to establish the precise boundary of any wetland.

Staff CE Finding #2: The conditions on the subject property have changed since the adoption of the Town’s Comprehensive Plan. The original intent of Wetland future land use designation was to conserve existing wetlands in the Town and since the wetlands are not present or have shifted further towards the Bay, it is in public interest to eliminate factual error and amend the Future Land Use to depict more current circumstances.

The Applicant did not meet the time frame set forth in Chapter 15 to rectify the factual erroring wetland boundary and FLUM amendments cannot be approved administratively. As a result, the Applicant has applied for this small-scale Future Land Use map amendment.

IV. RECOMMENDATION

Staff finds that the request does meet the required findings and conclusions for the approval of a small-scale Amendment by Town and State regulations. In addition, the subject parcel is compatible with adjacent future land uses and meets all applicable policies of the Comprehensive Plan. Therefore, staff recommends **APPROVAL** of CPA20220084 to allow a small-scale Future Land Use Amendment for the property located at 21471 Widgeon Terrace from Wetlands to Mixed Residential to support a new pool for the existing single-family residence.

Staff Report Exhibits:

- A – Complete Application
- B – Letter to Adjacent Property Owners



March 17, 2021

Ms. Amy Baker, Town Clerk
Town of Fort Myers Beach
2525 Estero Boulevard
Fort Myers Beach, FL 33931

VIA E-MAIL ONLY (Amy@fmbgov.com) and
FEDERAL EXPRESS

RE: Relocation of Future Land Use Map Wetland Line to correct error

Dear Ms. Baker:

This is an administrative application for approval of Administrative Interpretation for relocation of the Wetland Line as depicted on the Future Land Use Map of the Town of Fort Myers Beach and to replace that designation with Mixed Residential. The Application is to be filed with the Town Clerk pursuant to the Comprehensive Plan. The Comprehensive Plan Chapter 15, Administrative Interpretation, A. 1. and 2. authorizes the Town Attorney to approve a revision in the Wetland Line on the Future Land Use Map.


Enclosed is our application supporting that change in designation to Mixed Residential.

In addition, we have cited a prior case where the Town concurred and approved a parcel two (2) lots from this Subject Property had the Wetland Line demarcation in error and redesignated as Mixed Residential. Flamingo Harbour which is located along Widgeon Terrace is a man-made peninsula and therefore the land requested for redesignation is not and never has been wetlands.

We look forward to hearing from you with regard to this process and relocation of the Wetland Line due to a clear factual error.

Very truly yours,

ROETZEL & ANDRESS, LPA


Beverly Grady

BG/ro

Enclosure:

-Application for Administrative Action (original and 2 copies)

cc: Jason Green (via e-mail only w/enc.)
John R. Herin, Jr., Esquire (via e-mail only w/enc.)



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

APPLICATION for ADMINISTRATIVE ACTION

This is a two part application. Please be sure to fill out this form, which requires general information, as well as the Supplemental Form application specific to action requested for the subject property. Please submit *two paper copies* and *one digital/electronic copy* of all required applications, supplemental information, exhibits and documents.

PROJECT NUMBER: _____ DATE: _____

Site Address: 21471 WIDGEON TERRACE, FORT MYERS BEACH, FL

STRAP Number: 34-46-24-W1-0220E.0000

Applicant: ROETZEL & ANDRESS Phone: (239) 338-4207

Contact Name: BEVERLY GRADY Phone: _____

Email: bgrady@ralaw.com Fax: (239) 337-0970

Current Zoning District: RC

Future Land Use Map (FLUM) Category: Wetlands and Mixed Residential

FLUM Density Range: 6 dupa Platted Overlay: YES NO

ACTION REQUESTED

SUPPLEMENTAL FORM REQUIRED

- | | |
|---|--------------------------|
| <input type="checkbox"/> Amendment to Planned Development | AA-A |
| <input type="checkbox"/> Commercial Antenna | AA-B |
| <input type="checkbox"/> Consumption on Premises (COP) | AA-C |
| <input type="checkbox"/> Forced Relocation of Business | AA-D |
| <input type="checkbox"/> Interpretation of Land Development Code | AA-E |
| <input type="checkbox"/> Minimum Use Determination | AA-F |
| <input type="checkbox"/> Setback Variance | AA-G |
| <input type="checkbox"/> Accessory Apartment Determination | AA-H |
| <input checked="" type="checkbox"/> Other – cite LDC Section: <u>see attached Exhibit 1</u> | attach on separate sheet |

PART I – General Information

A. Applicant*: ROETZEL & ANDRESS (Contact: Beverly Grady) Phone: (239) 338-4207

**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: 2320 FIRST ST, FORT MYERS, FL 33901

Email: bgrady@ralaw.com Fax: (239) 337-0970

Contact Name: BEVERLY GRADY Phone: (239) 338-4207

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 names of all Authorized Agents (attach extra sheets if necessary)

Name: _____ Phone: _____

Address: _____

Email: _____ Fax: _____

D. Nature of Request: Request to revise location of wetland line on Unit E and limited common element to Mixed Residential for land landward of riprap line. Exhibit D depicts location of existing wetland line. Exhibit E depicts location of riprap. Request designation of all land landward of riprap to be designated Mixed Residential.

E. Is this request specific to a particular tract of land?

YES* NO **If yes, complete PART II of this form*

PART II – Property Information

A. Is the action requested a result of a Code Violation or Notice of Violation?

YES NO If yes, please provide the date of notice: _____

Specific nature of the Violation: _____

B. Property Owner(s): John A. and Lisa A. Didier Phone: (260) 438-2806 cell

Property Owner Mailing Address: 2010 Timberale Court, Fort Wayne, IN 46845

Email: john.a.didier@gmail.com Fax: n/a

C. Legal Description:

STRAP: 34-46-24-W1-0220E.0000

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.

Yes. Property identified in subdivision: Unit E, Flamingo Harbour Condominium

Book: 7 (condo) Page: 104 Unit: _____ Block: _____ Lot(s): _____

D. Subject Property Dimensions:

Width (please provide an average width if irregular in shape) 90 feet

Depth (please provide an average width if irregular in shape) 100 feet

Frontage on street: 80.65 feet. Frontage on waterbody: over 104 feet

Total land area: appx. 8500 SF plus LCE acres square feet
assigned to Unit E

E. 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.

F. Property Restrictions (check applicable):

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

There are deed restrictions and/or covenants on the subject property. Please attach a separate document listing the restrictions and/or covenants and including a narrative statement detailing how the restrictions/covenants may affect the request.

PART III
AFFIDAVIT
APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

I, BEVERLY GRADY, ROETZEL & ANDRESS LPA swear or affirm under oath, that I am the owner or the authorized representative of the owner(s) of the property and that:

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

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

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

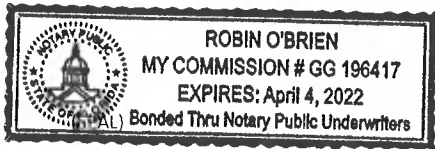
The property will not be transferred, conveyed, sold or subdivided unencumbered by the conditions and restrictions imposed by the approved action.

Beverly Grady
Signature of owner or authorized agent

BEVERLY GRADY, ROETZEL & ANDRESS LPA
Printed Name

STATE OF FLORIDA)
COUNTY OF LEE)

Subscribed and sworn to (or affirmed) before me this 17 day of MARCH,
20 21, by BEVERLY GRADY.



Robin O'Brien
Notary Public Signature

ROBIN O'BRIEN
Notary Printed Name

Personally Known X or Produced Identification _____

Type of Identification Produced: _____ My Commission Expires: _____

EXPLANATORY NOTES

General – Page One

The applicant is responsible for the accuracy and completeness of this application. Time delays or additional expenses necessitated by submitting inaccurate or incomplete information will be the responsibility of the applicant.

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

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

Any oversized site plans, drawings, pictures, and similar materials (larger than 11 x 17) should be submitted in both paper and electronic format.

Place a check mark next to the type of action being requested.

1. Applications for an administrative amendment to a Commercial Planned Development (CPD) or Residential Planned Development (RPD) must include this form and Supplemental form AA-A.
2. Applications for administrative approval of Commercial Antenna placement must include this form and Supplemental form AA-B.
3. Applications for administrative approval of alcoholic beverage Consumption on Premises (COP) must include this form and Supplemental form AA-C. (Contact Staff at 239-765-0202 to determine whether your request can be processed administratively or if it requires a Special Exception application).
4. Applications for an administrative approval of a Forced Relocation of a Business must include this form and Supplemental form AA-D.
5. Applications for an Administrative Interpretation of the Land Development Code must include this form and Supplemental form AA-E.
6. Applications for a Minimum Use Determination must include this form and Supplemental form AA-F.
7. Applications for an administrative Setback Variance must include this form and Supplemental form AA-G. (Contact Staff at 239-765-0202 to determine whether your request can be processed administratively or if it requires a public hearing variance application).
8. Applications for an Accessory Apartment Determination must fill out this form and Supplemental form AA-H.
9. Applications for a Vacation of Right-of-Way and/or Easement must include this form and Supplemental form AA-I.
- x 10. Other administrative applications, such as for deviations from LDC Chapter 10 or LDC Chapter 26, may require additional information. Relocation FLUM wetland line to Mixed Residential - Chapter 15, Comprehensive Plan

Part I

- A. Applicant's name: The applicant may be the landowner or an authorized agent.
- B. Relationship of applicant to owner: If the applicant is not the owner of the property state the relationship of the applicant to the owner (option holder, contract purchaser, lessee, trustee, agent, etc.) and submit a notarized authorization from the owner(s) to the applicant.
- C. Authorized Agent's name: If the applicant will have others representing him/her in processing the application, indicate name, address, and phone number.
- D. Nature of request: State, in general terms, the purpose of the request.
- E. Specific property: If the request is specific to a particular tract of land, complete Part II of the form.

Part II

Part II must be completed for all applications in which a particular tract or parcel of land is involved. Applications for administrative interpretations of ordinances that do not affect only a particular parcel do not need to complete this part.

- A. If the request is due to a notice of violation, please indicate the date it was issued, the type of notice (building code, zoning, etc.) and what the violation was.
- B. If the owner is the applicant, write "same as applicant."
- C. If the application includes only one or more undivided platted lots within a subdivision officially recorded in the Plat Books of Lee County, Florida, identify the property by lot number(s), block if applicable, subdivision unit if applicable, subdivision name, and plat book number and page number. If the property is not one or more undivided platted lots or is in an "unrecorded" subdivision, attach a metes and bounds legal description giving accurate bearings and distances for each course. The initial point in the description must be related to an established identifiable real property corner, such as a government corner or a recorded corner. The bearings in the description must be referenced to a well- established and monumented line.
- D. Provide the dimensions of the subject property, including frontage on streets and/or waterways. Also include total land area in square feet or acres.
- E. Submit a Boundary Survey meeting the minimum technical standards for surveying set out in Chapter 61G17-6 of the Florida Administrative Code. Make sure that the surveyor is aware of any specific needs of the survey (location of Coastal Construction Lines, locations of existing structures, locations of easements, locations of wetlands, etc) that are relevant to your request.
- F. If there are any deed restrictions or covenants that might affect the requested action, provide the information.

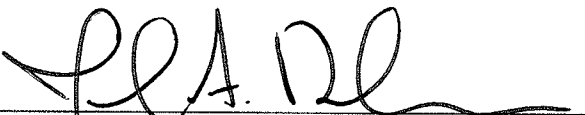
LETTER OF AUTHORIZATION

TO TOWN OF FORT MYERS BEACH COMMUNITY DEVELOPMENT

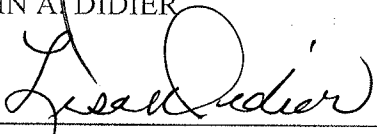
The undersigned do hereby swear or affirm that they are the owners of the property known as Unit E, Flamingo Harbour Condominium, STRAP No. 34-46-24-W1-0220E.0000 located at 21471 Widgeon Terrace, Fort Myers Beach, Florida 33931, and that they have exclusive use of the Limited Common Element adjacent to Unit E.

The undersigned hereby designate the firm of ROETZEL & ANDRESS, LPA, including BEVERLY GRADY, to execute the application to relocate the FLUM wetland line and to see approval for pool / pool deck and to represent them with the Town of Fort Myers Beach regarding the above-referenced property.

Dated this 10 day of Feb, 2021.



JOHN A. DIDIER



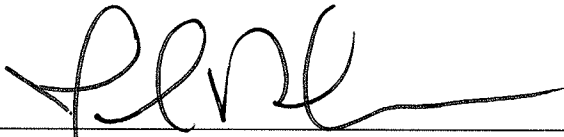
LISA A. DIDIER

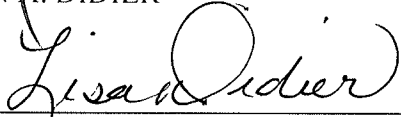
LETTER OF AUTHORIZATION

TO TOWN OF FORT MYERS BEACH COMMUNITY DEVELOPMENT

We, JOHN A. DIDIER and LISA A. DIDIER, swear or affirm that we are the owners of 21471 Widgeon Terrace, Fort Myers Beach, Florida, Unit E of Condominium Plat Book 5, Page 372, STRAP No. 34-46-24-W1-0220E.0000, and have exclusive use of that portion of Limited Common Element adjacent to Unit E (Subject Property) and we hereby authorize ROETZEL & ANDRESS, LPA, including BEVERLY GRADY, to be the Applicant for a revision in the designation of Wetland to Mixed Residential Future Land Use designation and any other land use applications necessary for approval of a pool/pool deck on the Subject Property and authorize the staff of the Town of Fort Myers Beach Community Development to enter upon the Subject Property normal working hours for the purpose of investigating and evaluating the request made through 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.

Dated this 1st day of March, 2021.



JOHN A. DIDIER


LISA A. DIDIER

EXHIBIT 1 TO
APPLICATION FOR ADMINISTRATIVE ACTION

Page 1 of 7: ACTION REQUESTED

Other - cite LDC Section:

Administrative action request. Request for administrative approval to revise location of Town of Fort Myers Beach Future Land Use Map Wetland line designation on Unit E and limited common element in Flamingo Harbour Condominium Subdivision from its current location to the existing riprap line. The area landward of the riprap line will be designated Mixed Residential Future Land Use Map designation pursuant to Chapter 15, Town of Fort Myers Beach Comprehensive Plan.

NARRATIVE IN SUPPORT OF ADMINISTRATIVE INTERPRETATION TO CHANGE
LAND USE DESIGNATION FROM WETLAND TO MIXED USE

This is a request pertaining to Unit E and the Limited Common Element of Flamingo Harbour Condominium Subdivision (Subject Property) to change that portion land landward of the riprap from Wetland Future Land Use Map (FLUM) designation to Mixed-Residential Future Land Use designation pursuant to Chapter 15 of the Comprehensive Plan.

This determination for a change to the FLUM on the landward side of the riprap has already been determined and approved in Case ADD2000-00152. It was recognized that the Flamingo Harbour Condominium Subdivision exists on a peninsula of land that was filled from adjacent dredging to create home sites. The owner of Unit C, Charles F. Lieske, requested a change in the Future Land Use Map designation from Wetland to Mixed Residential due to clear factual error. Mr. Lieski wanted to place a pool in the area that had been incorrectly designated as Wetland. Unit C's address is 21491 Widgeon Terrace. In ADD2000-00152, Community Development recommended approval of changing the designation of the land west of the riprap to Mixed-Residential Future Land Use category, with the portion east (waterward) of the riprap remaining in the Wetlands category. Attached as Exhibit A is the Staff Report dated February 5, 2001 prepared for the LPA hearing on February 13, 2001. Some of the attachments to the Staff Report according to the Town of Fort Myers Beach were not retained with the original file. Also included is a memorandum prepared by Division of Planning, Department of Community Development Deputy Director Rick Joyce to Town of Fort Myers Beach Planner Dan Faulk in support of correcting the designation (which has an incorrect date of January 13, 2017) but was part of ADD2000-00152. Attached as Exhibit B are the minutes of the February 13, 2001 LPA meeting and LPA Resolution 2001-04. Exhibit C is the minutes and Resolution No. 01-06a of Town Council approving the change in the designation from Wetland to Mixed Residential.

The owner of the Subject Property retained Affordable Surveys to locate the Wetland line on the Future Land Use Map of the Town of Fort Myers Beach, which area is designated in a light gray on Exhibit D. Exhibit E is a survey by Affordable Surveys which depicts the mean high water line and location of the 7-foot wide riprap. The request is to designate everything west (landward) of the riprap line (area marked "x" to show approximate location) to Mixed Residential and retain everything east of the riprap line to remain Wetland.

The owner desires to add a pool to the single-family residence and the proposed site plan is attached as Exhibit F. The request to modify Wetlands to Mixed Residential and the site plan depicting the proposed pool has been submitted to the Flamingo Harbour Condominium Association. The condominium plat for Flamingo Harbour is attached as Exhibit G and depicts Unit E and its Limited Common Element, the Subject Property. The proposed pool is partially located in Unit E's Limited Common Element. Enclosed is the pertinent portion of the Declaration of Condominium, Section 4.H. which defines Limited Common Element - to include those portions of the common elements which are reserved for the use of a certain unit or units to the exclusion of other units (emphasis added) (Exhibit H). Only Unit E has the right to use and improve the Limited Common Element for Unit E, which use has been approved by the Condominium Association.

Included as Exhibit I are several pictures of the existing backyard. Also included is an aerial view of the Subject Property and surrounding neighborhood.

Attached as Exhibit K is the Condominium Association authorization and approval of relocation of FLUM designation and approval of the pool and pool deck and related permits.

The current house was constructed in 1999 and the Didiers purchased the Subject Property in March 2020. In the same manner as Unit C, two lots to the south, Subject Property is a man-made filled area which is not now and has not been wetlands. The area requesting the change to Mixed Residential is a typical backyard as the wetlands designation is an error. The official zoning map zones the entire Subject Property as RC and does not designate any portion of the Subject Property in the zoning category of EC.

The Administrative Interpretation procedures as set forth in Section B, Procedures for Administrative Interpretation, authorize the LPA attorney to review the application and issue a written administrative interpretation to change the Wetland designation to Mixed Residential, or may refer the request to the Local Planning Agency. We believe the Town's decision and history established in ADD2000-00152 for Unit C provides an established basis for an administrative approval of the request to designate the land landward of the riprap line as Mixed Residential.

We request that an interpretation be approved that the land west of the riprap as depicted in Exhibits E and F be designated Mixed Residential.

Attachments:

- Exhibit A: 02/05/2001 ADD2000-00152 staff report
- Exhibit B: 02/13/2001 ADD2000-00152 LPA meeting minutes and resolution
- Exhibit C: Council Minutes and Resolution approving ADD2000-00152
- Exhibit D: Survey w/proposed location of existing Wetland line
- Exhibit E: Survey depicting area to be designated Mixed Residential on FLUM (see "xxx")
(west of riprap location)
- Exhibit F: Proposed site plan with improvements
- Exhibit G: Condominium plat for Flamingo Harbour
- Exhibit H: Portion of Flamingo Harbour Declaration of Condominium regarding LCE
- Exhibit I: Pictures of existing backyard
- Exhibit J: Aerial
- Exhibit K: Condominium Association authorization and approval



FT. MYERS BEACH, FLORIDA
DEVELOPMENT SERVICES DIVISION
STAFF REPORT

TYPE OF CASE: Administrative Interpretation

CASE NUMBER: ADD2000-00152

FORT MYERS BEACH LPA DATE: February 13, 2001

TIME: 12:00 Noon

I. APPLICATION SUMMARY:

- A. **Applicant:** Charles F. Lieske Residential Pool Construction
- B. **Request:** An Administrative Interpretation of the Town of Fort Myers Beach Comprehensive Plan whether a portion of the subject property has been (or should have been) designated "Wetlands" on the basis of a clear factual error as set forth in Chapter 15, page 3, Section A-1.
- C. **Location:** The subject property is located at 21491 Widgeon Terrace (Estero Blvd. turn East on Mound Street, turn left on Widgeon Terr.), Ft. Myers Beach, in S34-T46S-R24E, Lee County, FL. (District #3)
- D. **Land Use Plan Designation:** Mixed Residential
- E. **Surrounding Land Use:**

<u>Existing Use & Zoning</u>	<u>Future Land Use Map</u>
North: Single family & duplex zoned RM-2	Mixed Residential
East: Estero Bay	
South: Single family & duplex zoned RM-2 & TFC-2	Mixed Residential
West: Mangrove, then Bay Village condominiums zoned RM-2	Wetlands Mixed Residential

II. BACKGROUND INFORMATION AND RECOMMENDATION:

- A. **Recommendation:** The property west of the Rip Rap should be placed within the Mixed Residential future land use category, and the portion east of the Rip Rap should remain in the Wetlands category.
 1. Prior to construction of any accessory structures, an Opinion of Title confirming the legal authority to build within the "Limited Common

Element" of Flamingo Harbour Condominium must be reviewed and accepted by the Town of Fort Myers Beach.

Findings & Conclusions

Based upon an analysis of the application and the standards for approval of an administrative interpretation, staff makes the following findings and conclusions:

1. A change to Mixed Residential is consistent with background data, other policies, and objectives of the plan as a whole.
2. The interpretation is the first requested within Flamingo Harbour Condominium and therefore cannot be compared with prior interpretations.

B. Rationale:

Introduction/Synopsis

The request is for an interpretation of whether an area has been designated "Wetlands" on the Future Land Use Map on the basis of a clear factual error. The subject lot is Unit C of the Flamingo Harbour land condominium, recorded in the Official Records Book in 1979. The property has an existing single family residence built in 1983 and has 100 feet of depth. A "Limited Common Element" was also created directly adjacent, along the east side of the 13 units of Flamingo Harbour to extend from the lot line to the mean high tide line. The applicant wishes to construct a swimming pool on the rear of the subject lot which would encroach into the limited common element. The applicant has provided an opinion from Richard T. Cotter, Attorney at Law, stating the property owner of Unit C, Flamingo Harbour Condominium has the right to the exclusive use to the adjacent common element and can make improvements on the property. Approval of the land use amendment would enable the applicant to pursue a pool permit on the portion of the lot in question.

Land Use Designation

The adoption of the Town's Comprehensive Plan in 1999 changed the property's designation from Suburban to Mixed Residential and Wetlands. Staff has attempted to show the approximate boundary between the Mixed Residential and Wetlands category on the attached survey (Attachment B). Staff measured the location of the boundary on the adopted future land use map and then scaled the same location onto the survey. There is a clear discrepancy in the location of Widgeon Terrace as shown on the Future Land Use Map (Attachment C) and the Zoning Map (Attachment A) maintained by the Property Appraiser's Office. The Zoning Map and property survey show the 25-foot wide Widgeon Terrace located within a 25-foot roadway easement across the subject property, while the land use map shows 60± foot road located adjacent to the subject lot.

Policy 6-D-2 and Chapter 15 of the Town's Plan provides an administrative process for correction of the Future Land Use Map based on a clear factual error.

Section 15.A.1 requires a field check to be made prior to issuance of the interpretation. A field check was performed by Rick Joyce, Deputy Director of the Lee County Division of Planning. The field check confirmed that the portion of the lot west of the rip rap is filled upland and should be designated Mixed Residential, while the portion east of the rip rap is Mangroves and should remain in the Wetlands land use category.

Conclusion

Based on the field check, it is clear that the portion of the subject property which lies west of the top of the rip rap has been incorrectly designated Wetlands based on a clear factual error. Staff recommends this portion of the subject property be reclassified as Mixed Residential. The subject lot is a lot of record created prior to the adoption of the Lee County comprehensive plan and the Town of Fort Myers Beach comprehensive plan. Approval of the land use amendment will not allow additional dwelling units and will therefore have no impact on the existing permitted density of the Flamingo Harbour subdivision. It appears that the width and location of Widgeon Terrace on the Land Use Map are not consistent with that shown on the Property Appraiser's records. This condition is not unique to the subject property but all of the lots within Flamingo Harbour subdivision.

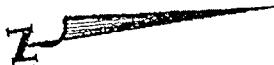
III. SUBJECT PROPERTY

- A. STRAP:** The applicant indicates the STRAP number is: 34-46-24-W1-0220C.0000.
- B. LEGAL DESCRIPTION:** Unit C, FLAMINGO HARBOUR CONDOMINIUM SUBDIVISION, as recorded in Plat Book 1357, Page 1122, of the Public Records of Lee County, Florida, lying in Section 34, Township 46 South, Range 24 East, Lee County, FL.

IV. ATTACHMENTS

- A. Map of Surrounding Zoning
- B. Survey with Land Use Designation
- C. Town's Future Land Use Map

cc: Applicant
Town of Fort Myers Beach LPA
Zoning File



SCALE
1" = 30'

ADD 2000-00152

RECEIVED
JAN 18 2001

PERMIT COUNTER

LEGAL DESCRIPTION

(AS FURNISHED)

1/4 ROD & CAP
SS # 6386

UNIT "C", FLAMINGO HARBOUR CONDOMINIUM, 1/4 ROD
TO THE DECLARATION OF CONDOMINIUM, AS
OFFICIAL RECORDS BOOK 1357, PAGE 1122, (1/4)
RECORDS OF LEE COUNTY, FLORIDA.

CURVE # 1

RADIUS = 180.00'
ARC = 43.33'
CENTRAL ANGLE = 13°47'33"
CHORD BEARING = N 15°13'42" E
CHORD DISTANCE = 43.23'

CURVE # 2

RADIUS = 80.00'
ARC = 19.26'
CENTRAL ANGLE = 13°47'33"
CHORD BEARING = S 15°13'42" W
CHORD DISTANCE = 19.21'

THIS BOUNDARY SURVEY PREPARED FOR:

CHARLES F. LIESKI

NOTES:

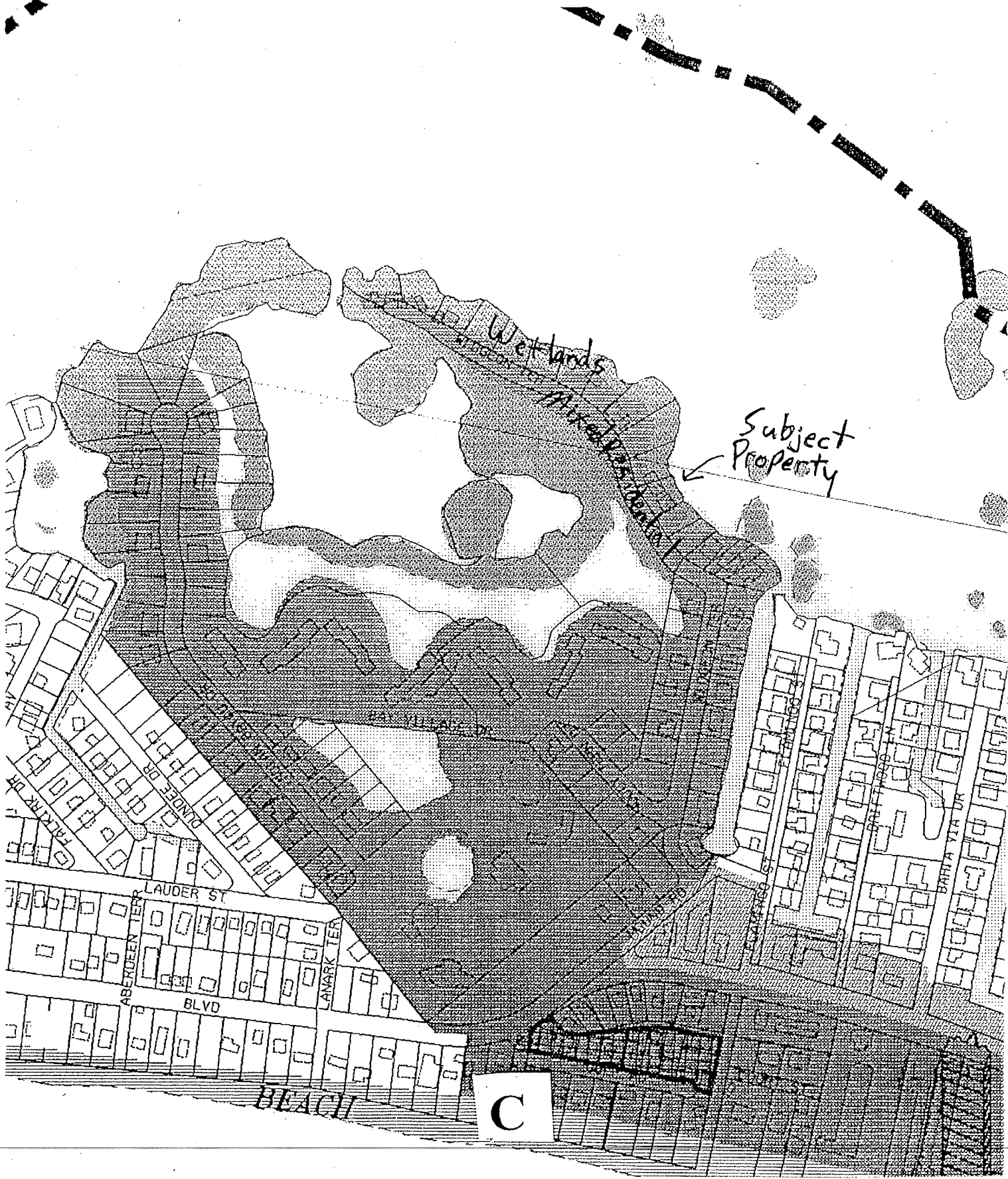
1. BEARINGS ARE FOR UNIT C, BEING
2. UNDERGROUND
3. SUBJECT TO
4. PARCEL LIES 125124 044
5. THIS CERTIFICATE IS NOT AN ENCUMBRANCE
6. NOT VALID WITHOUT SEAL OF A SURVEYOR
7. ADDITIONS OTHER THAN WRD LANE, SUITE 218 BUSINESS No. 6427
8. ALL BEARINGS, FLORIDA 33907 OTHERWISE S

PROJECT NO.	00-1496		
SURVEY DATE:	NOVEMBER 30, 2000		
STREET ADDRESS	21491 WIDGEON TERRACE FORT MYERS BEACH, FLORIDA		
REVISIONS:			
NO.	DATE	DESCRIPTION	BY
1.	1-2-00	ADD DIMENSION TO MEAN HIGH TIDE LINE	R.J.O.

SURVEYORS & ASSOCIATES, INC.
SURVEYORS and MAPPERS
 BUSINESS No. 6427
 WRD LANE, SUITE 218
 FLORIDA 33907
 FAX (941) 278-4799

MICHAEL C. SELPH
 PROFESSIONAL LAND SURVEYOR
 LICENSE NO. 5067

Future Land Use Map



**MEMORANDUM
FROM THE
DEPARTMENT OF COMMUNITY DEVELOPMENT
DIVISION OF PLANNING**

DATE: January 13, 2017

TO: Dan Folke, Planner
Division of Development Services

FROM: Rick K. Joyce, Deputy Director

RE: **Charles F. Lieske and Candi L. Gullinger
Comprehensive Plan Amendment, Case # ADD2000-00152
21491 Widgeon Terrace, Town Fort Myers Beach
Strap # 34-46-24-W1-0220C-0000**

In response to your request, Division of Planning, Environmental Sciences (ES) Program staff have reviewed and inspected the above referenced site. ES staff confirmed that the mangrove wetland boundary extends landward to the existing riprap rock revetment along the Estero Bay shoreline. The upland/wetland line is clearly defined by the top of rock revetment.

The Flamingo Harbour Condominium subdivision exists on a peninsula of land that was filled from adjacent dredging to create home sites. A mangrove tree wetland fringe was retained along the shoreline of Estero Bay. ES staff has been involved in the permitting of many single-family docks and a few shoreline structures along this area of Estero Bay. The uplands that are rear of the house on the site are typical of backyards in much of South Florida. Citrus trees, palms, a few ornamental plants and mowed turfgrass are the primary vegetation. A wooden walkway traverses the uplands to the reach the access walkway of the existing dock.

The mangrove tree dominated wetland fringe has been severely pruned over the years. The mangrove trees appear to be maintained at approximately 6 feet in height. A few remnant larger sized mangrove trees exist near the property boundaries along the fringe that have been pruned by lifting up from the bottom of the tree crown. The dock access walkway traverses through the mangrove tree fringe.

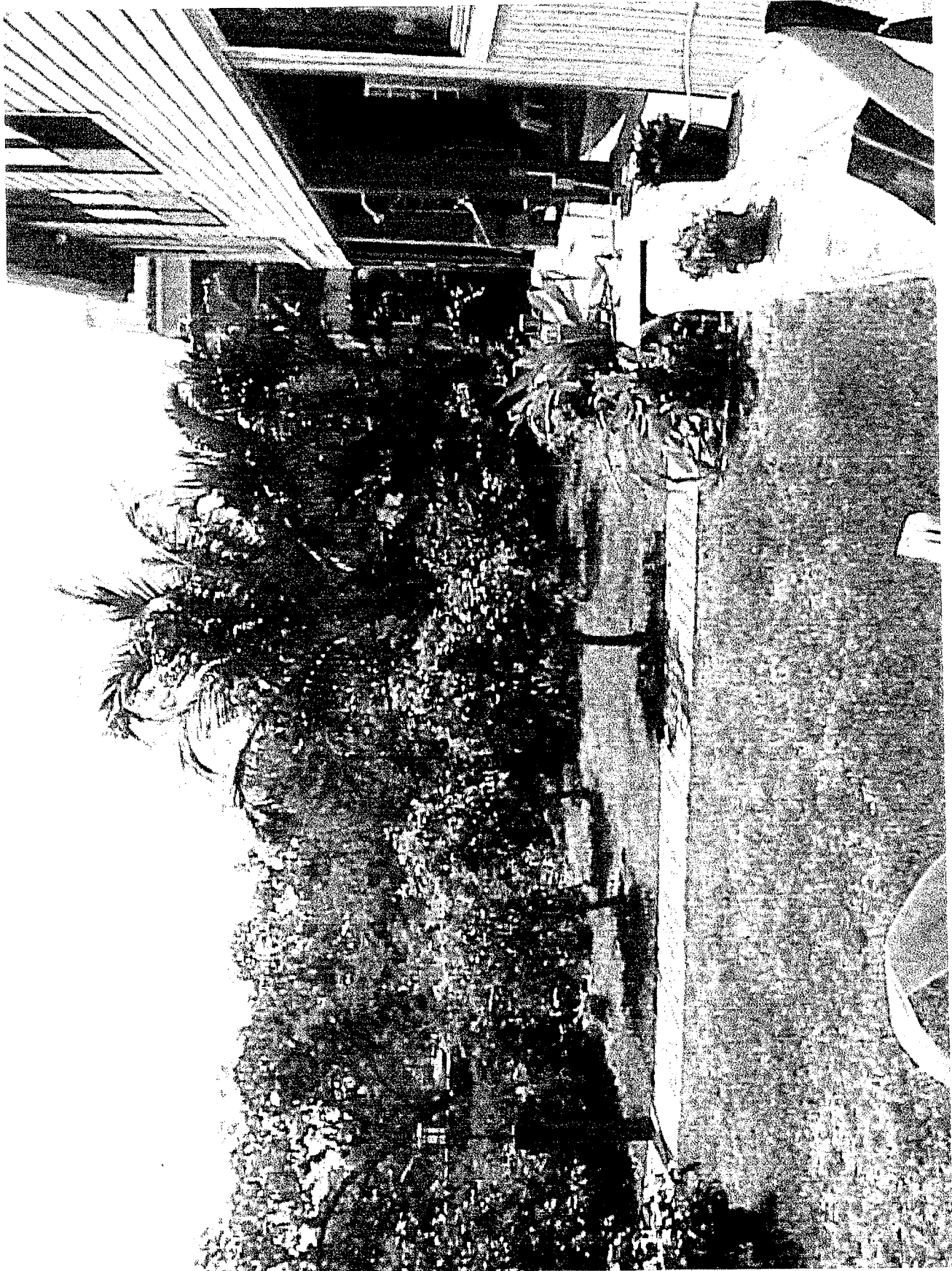
ES staff recommends the following conditions for this amendment:

1. During the proposed pool construction that a turbidity (silt) screen be properly installed and maintained along the top of the existing rock revetment to insure that soil is not washed into Estero Bay.
2. Once the pool and decking construction is completed, any fill slopes must be stabilized with vegetation to eliminate future soil erosion.

Thank you for the opportunity to review this submittal. If you any further questions, please call me at 479-8182.

Copy: Pam Houck, Service Delivery Coordinator/Town of Fort Myers Beach







**FORT MYERS BEACH
LOCAL PLANNING AGENCY MEETING
FEBRUARY 13, 2001
NationsBank, Council Chambers
2523 Estero Boulevard
FORT MYERS BEACH, FLORIDA**

I. CALL TO ORDER

The meeting of the LPA was opened by Chairman Roxie Smith on Tuesday, February 13, 2000, at 12:00 noon with eight members present.

Present at the meeting were: LPA members Linda Beasley, Jodi Hester, Harold Huber, Jennifer Kaestner, Jane Plummer, Betty Simpson, and Dave Smith and Roxie Smith.

Excused absence from meeting: Bill Van Duzer

Staff present at meeting: Town Manager Marsha Segal-George, Pam Houck.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

Roxie Smith gave the invocation. All assembled recited the Pledge of Allegiance.

III. PUBLIC COMMENT ON AGENDA ITEMS

None.

Announced was that today was Betty Simpson's birthday, which was greeted with a round of applause.

IV. APPROVAL OF MINUTES: SEPTEMBER 12, 2000 (partial minutes, tape malfunction); NOVEMBER 28, 2000

MOTION: Moved by Betty Simpson and seconded by Jane Plummer to approve minutes of September 12, 2000 with corrections.

Corrections and changes to minutes:

1. On page 4 the time of adjournment was 2:25 p.m.

Motion passed unanimously.

MOTION: Moved by Linda Beasley and seconded by Harold Huber to approve minutes of November 28, 2000. Passed unanimously.

V. CASE #ADD2000-00152 CHARLES F. LIESKE RESIDENTIAL POOL CONSTRUCTION.

A request for an administrative interpretation of the Town of Fort Myers Beach Comprehensive Plan whether a portion of the subject property has been (or should have been) designated "Wetlands" on the basis of a clear factual error as set forth in Chapter 15, Page 1 Section A-1. The subject property is located at 211491 Widgeon Terrace. A Staff Report on this case is available for review at Town Hall.

Jeff Mangum, representing the applicant, said the applicant would like to change zoning to mixed-residential so that he could install a pool in his back yard.

Dan Faulk, Planner with Lee County Department of Community Development, prepared the staff report in our packets. Staff has recommended approval to the amendment of the future Land Use Map.

The recommended condition is that prior to construction of any accessory structures in the opinion of title confirming the legal authority to build within the limited common element of Flamingo Harbor, Condominium must be reviewed and accepted by the Town of Fort Myers Beach.

He has provided an environmental sciences memorandum from from Rick Joyce, deputy director of the Planning Division, that confirms what was stated in the staff report as far as the findings. He has added two recommended conditions which again relate to any eventual construction on the property: 1) that a turbidity silk screen be properly installed and maintained along the top of the existing rock (?) to ensure that soil is not washed into Estero Bay. 2) Once the pool and deck construction is completed, any fill slopes must be stabilized with vegetation to eliminate future soil erosion.

Attachment B of the staff report is a survey that was submitted. He included Attachment C as an official land use map. He scaled off the measurement from the future land use map then measured onto the survey and added a line to show how it divides the property between mixed residential and (?). A portion of what's designated wetlands is actually where the house sits today. So clearly there was an error in the establishment of the wetlands line.

The parcel itself is a 100-ft. parcel with 100 feet of depth. Beyond the actual platted parcel is a limited common element which was included in the condominium plat. From the rear of the house to the edge of the riff raff has obviously been filled and there are no mangroves located on that portion. Mr. Mangum said he had photographs for us to look at in our packets. Approval has been recommended with the conditions.

The common element goes from the lot line to the mean high tide line and it varies from lot to lot.

Any accessory structure closer than five feet to the top of the riff raff would require a variance.

When building the pool, there has to be a legal determination as to the opinion (?) of the building within that limited common element.

MOTION: Moved by Jane Plummer and seconded by Dave Smith to approve the changing of the wetlands to mixed-residential with the three conditions that the staff has recommended.

Discussion:

Stated was that what Dan requested was it said from the top of the riff raff and this should be added to the motion. Jane Plummer said this was included in the three conditions.

Motion passes unanimously.

~~VI. CASE #DC12000-00059 EDWARD F. STREIT, TR., IN REF. TO DOCKSIDE INN. A request to Rezone from Commercial (C-1) to Commercial Planned Development (CPD) to permit a maximum of 34 hotel units, 2,600 square feet of retail, 2,510 square feet of restaurant, 250 square feet of bar/cocktail lounge, consumption on premises and a caretaker's residence not to exceed 35 feet in height above base flood elevation, on 0.57 +/- total acres of land. The subject property is located at 1130 First Street (Corners of First St., Second St., and Old San Carlos Blvd.). A Staff Report on this case is available for review at Town Hall.~~

~~Dave Smith, the applicant, was asked to come forward. Mr. Smith stated that he was going to briefly discuss what he was going to do. We are proposing a re-development of the existing Dockside Sports Pub. We would like to add a second floor to the existing building that sits on the site and then add a new building on Old San Carlos Blvd., which would be a three-story building. The new development on the site would be a combination of two and three story buildings. The ground floor in the new section would be mostly parking, except for the corner of~~

RESOLUTION OF THE LOCAL PLANNING AGENCY OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 2001- 04

A RESOLUTION OF THE LOCAL PLANNING AGENCY OF FORT MYERS BEACH

WHEREAS, Chares F. Lieske has made a requests for Administrative Interpretation of the Town of Fort Myers Beach Comprehensive Plan of whether a portion of the subject property has been (or should have been) designated "Wetlands" on the basis of a clear factual error as set forth in Chapter 15, page 3, Section A.1.and

WHEREAS, the subject property is located at 21491 Widgeon Terrace, Ft. Myers Beach, in S34-T26S-R24E, Lee County, FL.; and

WHEREAS, the applicant has indicated the property's current STRAP number is: 34-26-24-W1-0220C.0000; and

WHEREAS, a public hearing was legally advertised and held before the Local Planning Agency (LPA) on February 13, 2001; and

WHEREAS, the LPA gave full and complete consideration to the recommendations of the Staff, the documents in the file, and the testimony of all interested persons.

NOW, THEREFORE BE IT RESOLVED BY THE LPA OF THE TOWN OF FORT MYERS BEACH, FLORIDA as follows:

The LPA based upon an analysis of the application and the standards for approval of an administrative interpretation makes the following findings and conclusions:

- 1] A change to Mixed Residential is consistent with background data, other policies, and objectives of the plan as a whole.
- 2] The interpretation is the first requested within Flamingo Harbor Condominium and therefore cannot be compared with prior interpretations.

Based upon these findings and conclusions, the LPA recommends the property west of the top of the Rip Rap should be placed within the Mixed Residential future land use category, and the portion east of the top of the Rip Rap should remain in the Wetlands category subject to the following conditions:

1. Prior to construction of any accessory structures, an Opinion of Title confirming the legal authority to building within the "Limited Common Element" of Flamingo Harbor Condominium must be reviewed and accepted by the Town of Fort Myers Beach.
2. During the proposed pool construction that a turbidity (silt) screen be properly installed and maintained along the top of the existing rock revetment to insure that soil is not washed into Estero Bay.

3. Once the pool and decking construction is completed, any fill slopes must be stabilized with vegetation to eliminate future soil erosion.

The foregoing Resolution was adopted by the LPA upon a motion by LPA Member Plummer and seconded by LPA Member D. Smith, and upon being put to a vote, the result was as follows:

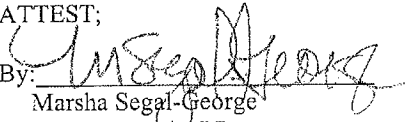
Jennifer Kaestner	yes
Dave Smith	yes
Betty Simpson	yes
Roxie Smith	yes
Bill Van Duzer	absent
Jodi Hester	yes
Linda Beasley	yes
Harold Huber	yes
Jane Plummer	yes

DULY PASSED AND ADOPTED THIS 13th day of February, 2001.

DULY PASSED AND ADOPTED THIS 13th day of February 2001.

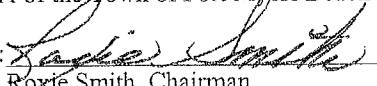
ATTEST;

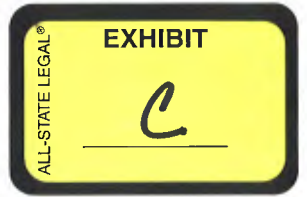
By:


Marsha Segal-George
Secretary to the LPA

LPA of the Town of Fort Myers Beach

By:


Roxie Smith, Chairman



FORT MYERS BEACH TOWN COUNCIL

ZONING HEARING

Monday, March 12, 2001

Page

ADD2000-00152

Charles F. Lieske Residential Pool Construction

2

**FORT MYERS BEACH
TOWN COUNCIL MEETING
MARCH 12, 2001
LAND USE HEARING
Town Hall - Council Chambers
2523 Estero Boulevard
FORT MYERS BEACH, FLORIDA**

I. CALL TO ORDER

The Land Use Hearing of March 12, 2001 was opened by Mayor Daniel Hughes on Monday, March 12, 2001, at 9:00 a.m.

Council members present at the meeting: Mayor Daniel Hughes, Howard Rynearson - Council, Garr Reynolds - Council, Terry Cain - Councilwoman. A quorum is present.

Excused absence from meeting: Vice Mayor Ray Murphy

Staff present at meeting: Town Manager Marsha Segal-George, Deputy Town Manager John Gucciardo, Pam Houck, Dick Roosa (Town Attorney) and Dan Folke (Lee County Planner)

II. PLEDGE OF ALLEGIANCE

All assembled and recited the Pledge of Allegiance.

III. PUBLIC COMMENT

None.

IV. DISCUSSION: BAY BEACH - WATERSIDE GUEST SUITES

Attorney Ciccarone is representing the Town of Fort Myers Beach regarding the case of Stardial vs. Town of Fort Myers Beach. It was to their understanding the case was settled. The development order for the construction of Waterside was issued. A dispute arose when it came time to issue the building permit, as to whether Waterside IV as designed had 58 or 60 dwelling units. There are two areas within Waterside IV, as there are in the first three buildings, which consist of two rooms approximately 12x12 with an adjoining bath. It appears that these are treated as common area amenities and are available to the guests of condominium owners. These must be reserved in advance and are charged a \$45.00 a day housekeeping fee. The question is whether the two guest suites are dwelling units or not dwelling units. The settlement allows Stardial to have up to 58 dwelling units. The plans that were on file for Waterside IV were to be approved as part of the settlement. As far as he is aware the building plans were the plans on file. The County, as the Town's staff in this case, has issued instructions to Stardial's architect to designate these two units as something else or the permit cannot be issued. Stardial takes the position that this sort of conditional approval of its building permit is not consistent with the settlement, and therefore the case is not settled.

MOTION: Made by Mayor Daniel Hughes and seconded by Councilman Howard Rynearson to direct the staff to refer to the LPA the issue of treatment of guest suites and similar type of rooms that Town Manager Segal-George referred to earlier for purposes of considering amendment to the Land Development Code. This would be to determine the difference between a residential unit, hotel unit or a dwelling unit. They are evoking Smith vs. Clearwater. **Mayor Daniel Hughes withdrew this motion.**

MOTION: Made by Mayor Daniel Hughes and seconded by Councilman Howard Rynearson to direct staff to consider guest rooms and similar type of units as a dwelling unit pending a reference of this matter to the LPA in a public hearing thereon and a reference back to the Town Council, so that the doctrine of Smith vs. Clearwater will be in effect during this interim period. Motion passes unanimously.

- V. PUBLIC HEARING: CASE NUMBER ADD2000-00152.** Charles F. Lieske Residential Pool Construction. An Administrative Interpretation of the Comprehensive Plan whether a portion of the subject property has been (or should have been) designated "Wetlands" on the basis of a clear factual error as set forth in Chapter 15, page 3, Section A-1. This property is located at 21491 Widgeon Terrace.

Mayor Hughes reviewed that the issue is whether or not a portion of this property has been or should have been designated a "Wetlands" on a basis of a clear factual error. He asked if any of the Council members had any ex parte communications on this matter. No Council members indicating ex parte communications.

Mayor Hughes asked for the applicant or representative of the applicant to come forward. No one was present. Mayor Hughes asked for the staff to make their presentation.

Dan Folke, Planner with Lee County Community Development, came forward and stated that he had reviewed the request before Council. Staff has recommended approval of amending the Town's future Land Use Map. Three conditions were recommended. One is contained in the staff report and the others were recommended in the memorandum from Rick Joyce regarding his review of the property. All three conditions were included in the recommendation from the LPA, and are listed in the resolution provided in their packet.

Attachment B of the staff report clearly summarizes the issue. This is a survey of the property. The designation is incorrect. Staff has recommended that the line between the mixed residential and the wetlands portion be defined as the portion west of the top of the rip wrap and the portion east of the rip wrap should remain in the "Wetlands". He provided some photographs that were taken. This request is simply to change the Land Use Category. The three conditions pertain to the anticipated permit for the pool. They are recommending approval.

MOTION: Made by Mayor Daniel Hughes and seconded by Councilwoman Terry Cain to adopt the resolution as set forth in the package to approve the interpretation as recommended by staff. On the second page of the resolution, strike the words modified or reversed, and it would then read " the interpretation of the Local Planning is affirmed". **(Side A of Tape 1 ends)** which included the conditions as set forth by the staff that prior to construction the opinion of title on building within the limited common area, and the LPA added that the silk screen be installed during the pool construction to ensure that soil will not be washed into Estero Bay, and on completion any fill slopes must be stabilized with vegetation to eliminate soil erosion. Motion passes unanimously.

~~VI. BEACH RENOURISHMENT PROJECT WORKSHOP~~

~~Steve Keen with Coastal Planning and Engineering came forward to state that they are putting together the permit and the design of the Estero and Lover's Key Beach Restoration Project. He referred to some pictures and slides that were before the Council for review.~~

~~There are five components to the project. The Core of Engineers, when they had designed the project, had come up with a sand source 15 miles away. They were able to do an investigation and found two other nearby areas. They are designing and trying to get permits for three segments of the project. The main segment is the almost 5 mile stretch along north Estero Island. The other segments would be south Estero Island and another is Lover's Key. They have extended the project by approximately 1 ½ miles, added 500,000 cubic yards and the cost has been decreased approximately 2 million dollars. The total project cost is about 8.1 million at the present time. The renourishment interval has been increased from 3 years to 8 years. If the project performs as design there will be 8 years on average between the time that more sand will need to be added to the project. This means less disruption in the long run.~~

~~He indicated that their design for the project is 40 feet. This means if they continue to erode at 3 feet per year for 8 years they will be back to the 40-foot design width at the 8-year point. When the project is initially built it will be over 100 feet wide, in some cases 150 feet. Some of the sand must slip offshore to build the foundation. They will end up with about 64 feet. This will be 40 foot for the design width plus 24 feet of sacrificial sand for erosion over the next 8 years. All of the beach will not uniformly erode at 3 feet a year. There will be several areas that will erode faster and many areas will stay very healthy throughout the time. If a renourishment is needed in 8 years it will probably be just the areas that erode at the faster rate.~~

~~They have found two new borrow areas or sand sources closer to the project. They are less than 2 miles away. They have looked into whether there is good sand at these sand sources and if there will be any effect on the shoreline. The sand is very similar to the sand on the beach today and the color is roughly the same color. Their research shows that no impact will effect the shoreline for either of the borrow areas.~~

~~He referred to the Great Lakes Dredge and Dock/ Dredge Alaska. He stated that they hope this is the type of dredge they would like to attract to the project. If this~~

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 01-06a

WHEREAS, Chares F. Lieske has made a requests for Administrative Interpretation of the Town of Fort Myers Beach Comprehensive Plan of whether a portion of the subject property has been (or should have been) designated "Wetlands" on the basis of a clear factual error as set forth in Chapter 15, page 3, Section A.1.; and,

WHEREAS, the subject property is located at 21491 Widgeon Terrace, Ft. Myers Beach, and the applicant has indicated the property's current STRAP number is: 34-26-24-W1-0220C.0000; and,

WHEREAS, a public hearing was legally advertised and held before the Local Planning Agency on February 13, 2001, after which they issued an administrative interpretation; and,

WHEREAS, the applicant has appealed that decision to the Town Council; and,

WHEREAS, the Town Council in reviewing such an appeal shall consider only information submitted in the administrative interpretation process and shall review only whether the proper standards set forth in this plan have been applied to the facts presented with no additional evidence to be considered by the Town Council; and,

WHEREAS, the Council may adopt the administrative interpretation being appealed, or may overrule it, with a written decisions to be rendered by the Town Clerk in writing within thirty days after the date of the hearing.

NOW THEREFORE BE IT RESOLVED THAT:

IT IS THE FINDING of this council that this appeal is of a nature properly brought to the Council for decision and considering the intent of the ordinance being interpreted and the effect the ruling will have when applied generally, the Council in reviewing the interpretation of the Local Planning Agency finds:

The administrative interpretation was/ ~~was not~~ determined under the following standards:

1. Interpretations which would be confiscatory, arbitrary, capricious, unreasonable, or which would deny all economically viable use of property shall be avoided;
2. Interpretations should be consistent with background data, other policies, and objectives of the plan as a whole; and
3. Interpretations should, to the extent practical, be consistent with comparable prior interpretations.

THE INTERPRETATION of the Local Planning Agency is affirmed/~~modified~~/~~reversed~~.

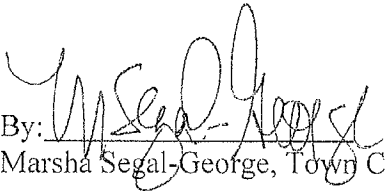
The foregoing resolution was adopted by the Fort Myers Beach Town Council upon being put to a vote, the result was as follows:

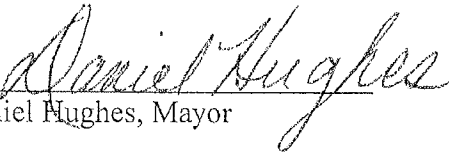
Daniel Hughes	aye
Garr Reynolds	aye
Ray Murphy	absent
Terry Cain	aye
Howard Rynearson	aye

APPROVED this 12th day of March, 2001.

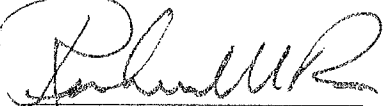
ATTEST:

TOWN OF FORT MYERS BEACH

By: 
Marsha Segal-George, Town Clerk

By: 
Daniel Hughes, Mayor

Approved as to form by:


Richard V.S. Roosa, Town Attorney

**BOUNDARY AND LOCATION SURVEY OF
21471 WIDGEON TERRACE
FORT MYERS BEACH, FLORIDA 33931**

LEGAL DESCRIPTION:

UNIT E OF FLAMINGO HARBOUR CONDOMINIUM, A CONDOMINIUM ACCORDING TO THE DECLARATION OF CONDOMINIUM THEREOF, RECORDED IN OFFICIAL RECORDS BOOK 1357, PAGE 1089, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, AND ANY AMENDMENTS THERETO, TOGETHER WITH ITS UNDIVIDED SHARE IN THE COMMON ELEMENTS.

- | | | | |
|-------|----------------------------------|--------|-----------------------------|
| A/C | AIR CONDITIONER | NCF | NO CORNER FOUND |
| B.M. | BENCHMARK | OH/W | OVER-ALL |
| (C) | CALCULATED | P.C.P. | PERMANENT CONTROL POINT |
| CB | CABLE BOX | (P) | PLAT |
| CLF | CHAIN LINK FENCE | PL | POOL EQUIPMENT |
| CONC | CONCRETE | POB | POINT OF BEGINNING |
| CSW | CONCRETE SIDEWALK | POC | POINT OF COMMENCEMENT |
| (D) | DEED | R/W | RIGHT OF WAY |
| DRIVE | DRAINAGE EASEMENT | SIR | SET 1/2" IRON ROD WITH CAP- |
| EB | DRAINAGE PUBLIC UTILITY EASEMENT | SND | SET NAIL AND DISK LB 6912 |
| EDW | ELECTRIC BOX | TOB | TOP OF BANK |
| EP | EDGE OF PAVEMENT | TOS | TOP OF SLOPE |
| FCIR | FIR CAPPED | TP | TELEPHONE PEDESTAL |
| FCM | FOUND CONC MONUMENT | UE | UTILITY EASEMENT |
| FIR | FOUND IRON PIPE | WM | WATER METER |
| FIR | FOUND IRON ROD | WV | WATER VALVE |
| FND | FOUND NAIL AND DISK | WDF | WOOD FENCE |
| FXC | FOUND X CUT | | |
| LP | LIGHT POLE | | |
| (M) | MEASURED | | |
| (MH) | MANHOLE | | |

- | | |
|-----------------------------|-----------------------------|
| NO CORNER FOUND | NO. CORNER FOUND |
| OVER-ALL | OVER-ALL |
| PERMANENT CONTROL POINT | PERMANENT CONTROL POINT |
| PLAT | PLAT |
| POOL EQUIPMENT | POOL EQUIPMENT |
| POINT OF BEGINNING | POINT OF BEGINNING |
| POINT OF COMMENCEMENT | POINT OF COMMENCEMENT |
| RIGHT OF WAY | RIGHT OF WAY |
| SET 1/2" IRON ROD WITH CAP- | SET 1/2" IRON ROD WITH CAP- |
| SET NAIL AND DISK LB 6912 | SET NAIL AND DISK LB 6912 |
| TOP OF BANK | TOP OF BANK |
| TOP OF SLOPE | TOP OF SLOPE |
| TELEPHONE PEDESTAL | TELEPHONE PEDESTAL |
| UTILITY EASEMENT | UTILITY EASEMENT |
| WATER METER | WATER METER |
| WATER VALVE | WATER VALVE |
| WOOD FENCE | WOOD FENCE |



LAND USE LEGEND:

- WETLAND
- MIXED RESIDENTIAL



**FEMA MAP - 120673 / 12071C0567F
FLOOD ZONE - AE
BASE ELEV. - 10' NAVD88**

- COVERED ENTRANCE
- SCREEN ENCLOSED AREA
- SCREEN ENCLOSED WITH POOL

(C) 2020 BASIS OF BEARINGS IS R/W LINE (USING PLAT BEARING OR ASSUMED) UNLESS NOTED OTHERWISE
FLORIDA ADMINISTRATIVE CODE STATES IF LOCATION OF EASEMENTS OR RIGHTS OF WAY OF RECORD, OTHER THAN THOSE ON RECORD PLATS IS REQUIRED, THIS INFORMATION MUST BE FURNISHED TO THE SURVEYOR - IF FENCES ARE SHOWN, DISTANCES INDICATE APPROXIMATE DISTANCE ON OR OFF PROPERTY - OVERHANGS AND UNDERGROUND FOUNDATIONS OR UTILITIES HAVE NOT BEEN LOCATED AS PART OF THIS SURVEY.
(1) UNLESS STATED OTHERWISE THIS SURVEY IS AN AS-BUILT SURVEY SHOWING VISIBLE IMPROVEMENTS IN RELATION TO SURVEY MARKERS FOUND

**AFFORDABLE
SURVEYS
239-283-1518**

8366 STRINGFELLOW ROAD
ST JAMES CIT, FL 33956

CERTIFIED EXCLUSIVELY TO:
JOHN A & LISA A DIDIER

I HEREBY CERTIFY THAT THIS SURVEY IS A TRUE AND CORRECT USING FIELD SURVEY PREPARED UNDER MY DIRECTION AND IS NOT VALID WITHOUT AN AUTHENTICATED ELECTRONIC SIGNATURE AND SEAL OR A RAISED EMBOSSED SEAL AND SIGNATURE.

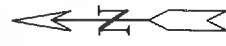
DATE OF FIELD SURVEY
BILL HYATT
Surveyor & Mapper Number 4636
LB 6912

FLORIDASURVEYOR@AOL.COM
727-415-8305

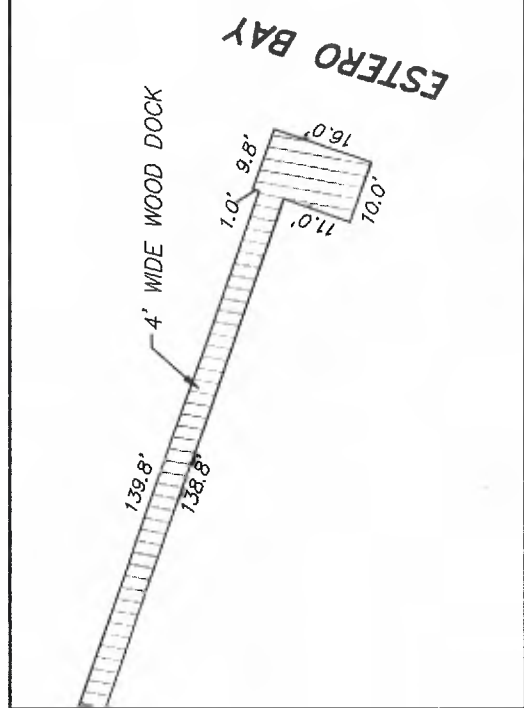
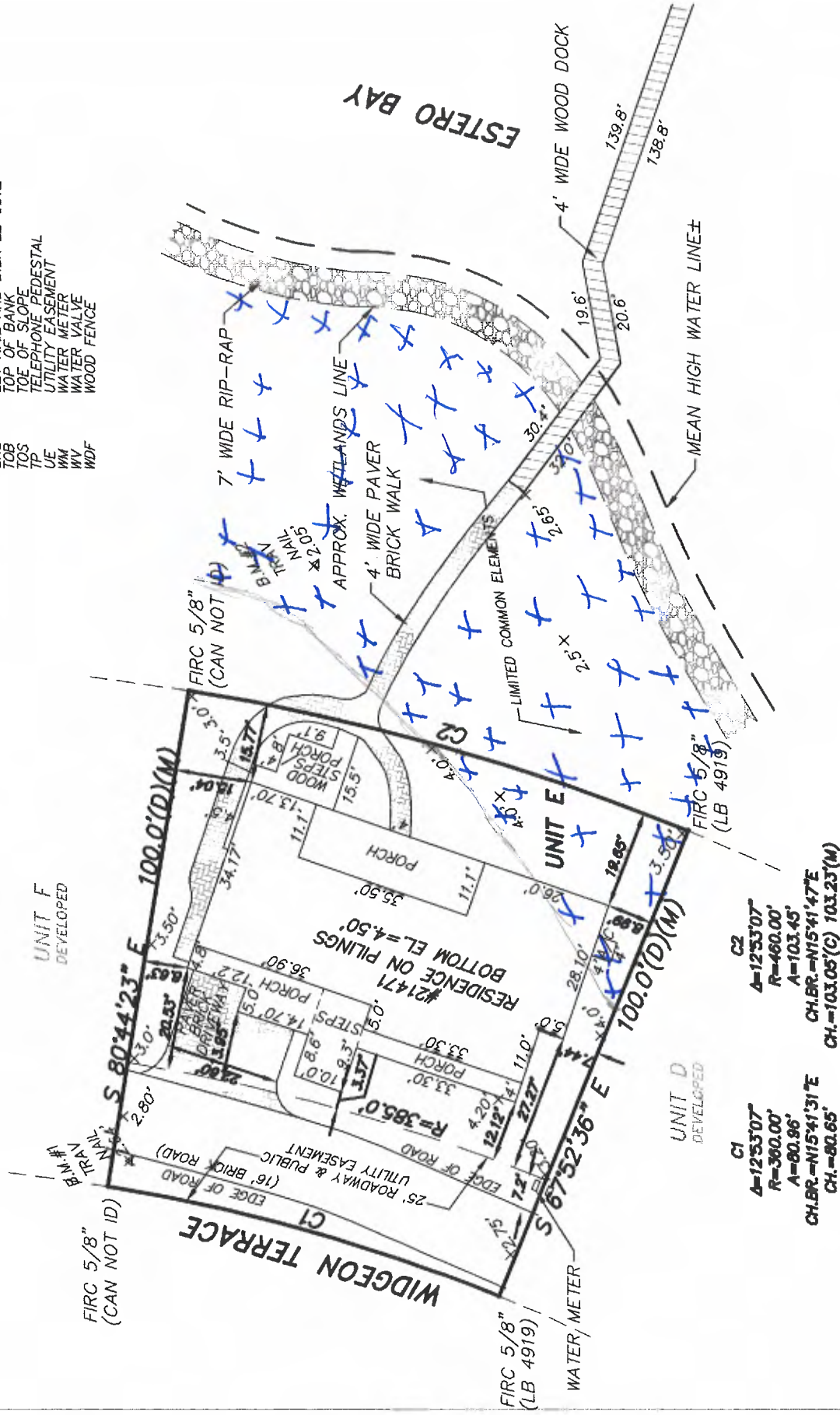
**BOUNDARY AND LOCATION SURVEY OF
21471 WIDGEON TERRACE
FORT MYERS BEACH, FLORIDA 33931**

LEGAL DESCRIPTION:

UNIT E OF FLAMINGO HARBOUR CONDOMINIUM, A CONDOMINIUM ACCORDING TO THE DECLARATION OF CONDOMINIUM THEREOF, RECORDED IN OFFICIAL RECORDS BOOK 1357, PAGE 1089, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, AND ANY AMENDMENTS THERETO, TOGETHER WITH ITS UNDIVIDED SHARE IN THE COMMON ELEMENTS.



- | | |
|--------|--------------------------------------|
| A/C | AIR CONDITIONER |
| B.M. | BENCHMARK |
| (C) | CALCULATED |
| CB | CABLE BOX |
| CLF | CHAIN LINK FENCE |
| CONC | CONCRETE |
| CSW | CONCRETE SIDEWALK |
| (D) | DEED |
| DE | DRAINAGE EASEMENT |
| DPUE | DRAINAGE/PUBLIC UTILITY EASEMENT |
| EB | ELECTRIC BOX |
| EW | EDGE OF WATER |
| EP | EDGE OF PAVEMENT |
| FCR | FIR CAPPED |
| FCM | FOUND CONC MONUMENT |
| FIP | FOUND IRON PIPE |
| FIR | FOUND IRON ROD |
| FN | FOUND NAIL AND DISK |
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**FEMA MAP - 120673 / 12071C0567F
FLOOD ZONE - AE
BASE ELEV. - 10' NAVD88**

- COVERED ENTRANCE
- SCREEN ENCLOSED AREA
- SCREEN ENCLOSED WITH POOL



(C) 2020 BASIS OF BEARINGS IS R/W LINE (USING PLAT BEARING OR ASSUMED) UNLESS NOTED OTHERWISE. FLORIDA ADMINISTRATIVE CODE STATES IF LOCATION OF EASEMENTS OR RIGHTS OF WAY OF RECORD, OTHER THAN THOSE ON RECORD PLATS IS REQUIRED, THIS INFORMATION MUST BE FURNISHED TO THE SURVEYOR - IF FENCES ARE SHOWN, DISTANCES INDICATE APPROXIMATE DISTANCE ON OR OFF PROPERTY - OVERHANGS AND UNDERGROUND FOUNDATIONS OR UTILITIES HAVE NOT BEEN LOCATED AS PART OF THIS SURVEY.

(1) UNLESS STATED OTHERWISE THIS SURVEY IS AN AS-BUILT SURVEY SHOWING VISIBLE IMPROVEMENTS IN RELATION TO SURVEY MARKERS FOUND

**AFFORDABLE
SURVEYS
239-283-1518**

3366 STRINGFELLOW ROAD
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CERTIFIED EXCLUSIVELY TO:
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I HEREBY CERTIFY THAT THIS SURVEY IS A TRUE AND CORRECT USING FIELD SURVEY PREPARED UNDER MY DIRECTION AND IS NOT VALID WITHOUT AN AUTHENTICATED ELECTRONIC SIGNATURE AND SEAL, OR A RAISED EMBOSSED SEAL AND SIGNATURE.

DATE OF FIELD SURVEY
BILL HYATT
Surveyor & Mapper Number 4636
LB 6912

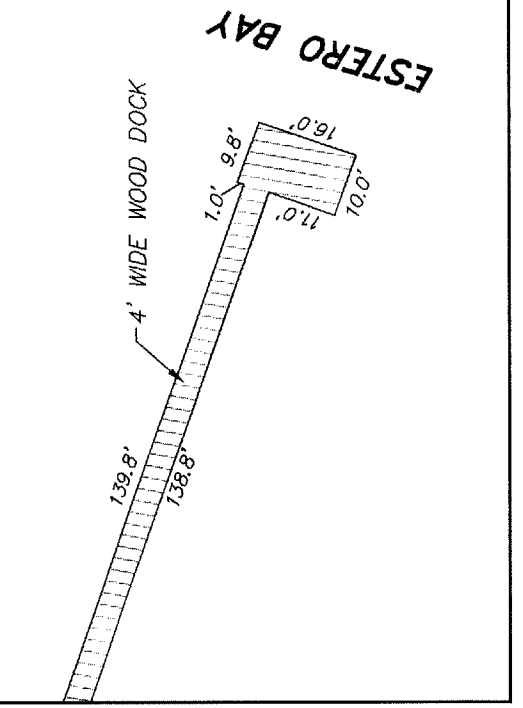
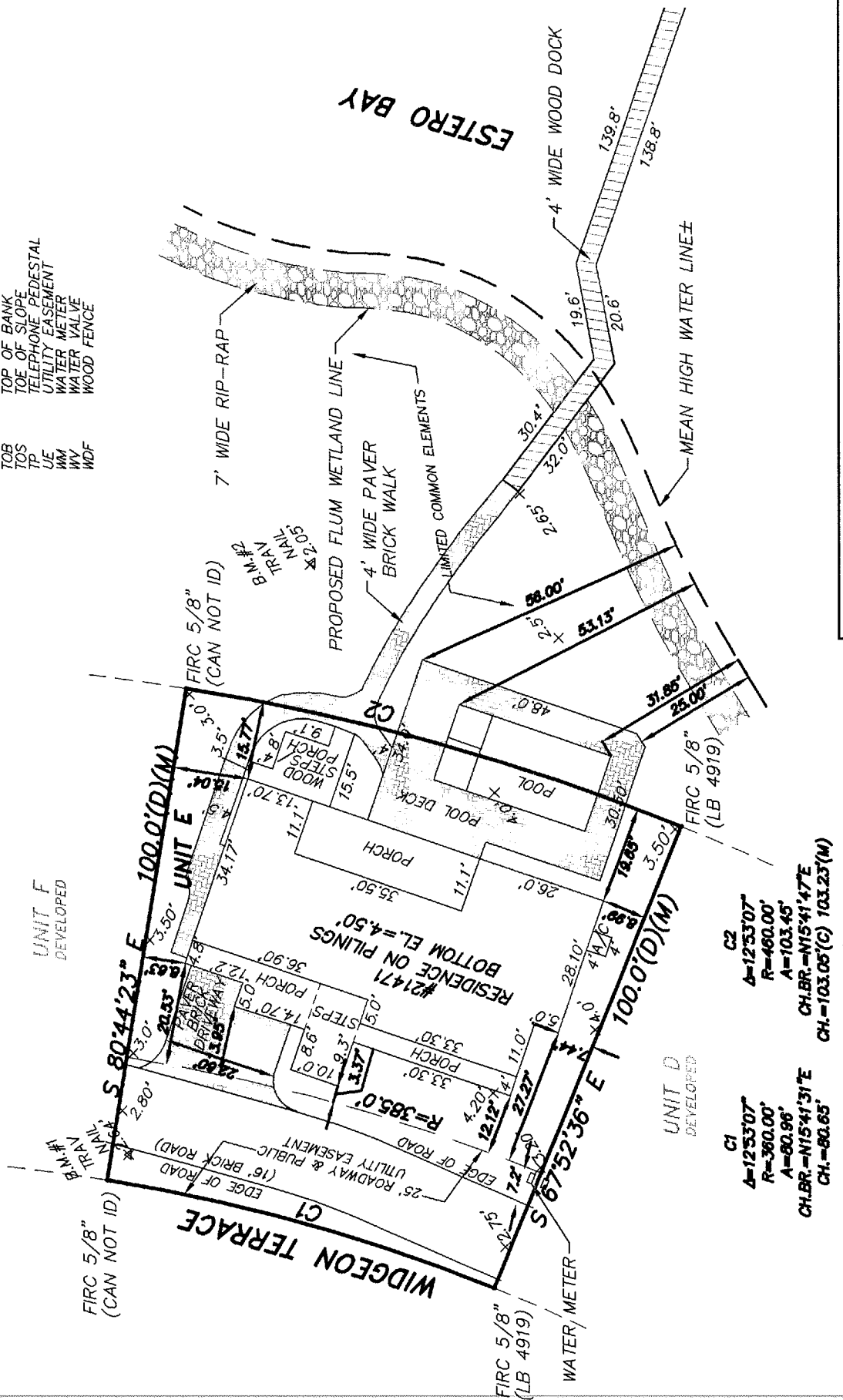
FLORIDASURVEYOR@AOL.COM
727-415-8305

**BOUNDARY AND LOCATION SURVEY OF
21471 WIDGEON TERRACE
FORT MYERS BEACH, FLORIDA 33931**

LEGAL DESCRIPTION:

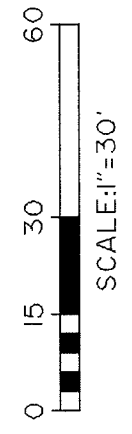
UNIT E OF FLAMINGO HARBOUR CONDOMINIUM, A CONDOMINIUM ACCORDING TO THE DECLARATION OF CONDOMINIUM THEREOF, RECORDED IN OFFICIAL RECORDS BOOK 1357, PAGE 1089, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, AND ANY AMENDMENTS THERETO, TOGETHER WITH ITS UNDIVIDED SHARE IN THE COMMON ELEMENTS.

- | | |
|--------|--------------------------------------|
| A/C | AIR CONDITIONER |
| B.M. | BENCHMARK |
| (C) | CALCULATED |
| CB | CABLE BOX |
| CLF | CHAIN LINK FENCE |
| CONC | CONCRETE |
| CSW | CONCRETE SIDEWALK |
| (D) | DEED |
| DE | DRAINAGE EASEMENT |
| DPUE | DRAINAGE/PUBLIC UTILITY EASEMENT |
| EB | ELECTRIC BOX |
| EDW | EDGE OF WATER |
| EP | EDGE OF PAVEMENT |
| FCIR | FIR CAPPED |
| FCM | FOUND CONC MONUMENT |
| FIP | FOUND IRON PIPE |
| FIR | FOUND IRON ROD |
| FN | FOUND NAIL |
| FND | FOUND NAIL AND DISK |
| FXC | FOUND X CUT |
| LP | LIGHT POLE |
| (M) | MEASURED |
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| P.C.P. | PERMANENT CONTROL POINT |
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| TP | TELEPHONE PEDESTAL |
| UF | UTILITY EASEMENT |
| WM | WATER METER |
| WV | WATER VALVE |
| WDF | WOOD FENCE |



**FEMA MAP - 120673 / 12071C0567F
FLOOD ZONE - AE
BASE ELEV. - 10' NAVD88**

- COVERED ENTRANCE
- SCREEN ENCLOSED AREA
- SCREEN ENCLOSED WITH POOL



(C) 2020 BASIS OF BEARINGS IS R/W LINE (USING PLAT BEARING OR ASSUMED) UNLESS NOTED OTHERWISE. FLORIDA ADMINISTRATIVE CODE STATES IF LOCATION OF EASEMENTS OR RIGHTS OF WAY OF RECORD, OTHER THAN THOSE ON RECORD PLATS IS REQUIRED, THIS INFORMATION MUST BE FURNISHED TO THE SURVEYOR - IF FENCES ARE SHOWN, DISTANCES INDICATE APPROXIMATE DISTANCE ON OR OFF PROPERTY - OVERHANGS AND UNDERGROUND FOUNDATIONS OR UTILITIES HAVE NOT BEEN LOCATED AS PART OF THIS SURVEY.

(1) UNLESS STATED OTHERWISE THIS SURVEY IS AN AS-BUILT SURVEY SHOWING VISIBLE IMPROVEMENTS IN RELATION TO SURVEY MARKERS FOUND

**AFFORDABLE
SURVEYS
239-283-1518**

3366 STRINGFELLOW ROAD
ST JAMES CIT, FL 33956

CERTIFIED EXCLUSIVELY TO:
JOHN A & LISA A DIDIER

I HEREBY CERTIFY THAT THIS SURVEY IS A TRUE AND CORRECT USING FIELD SURVEY PREPARED UNDER MY DIRECTION AND IS NOT VALID WITHOUT AN AUTHENTICATED ELECTRONIC SIGNATURE AND SEAL, OR A RAISED EMBOSSED SEAL AND SIGNATURE.

DATE OF FIELD SURVEY
BILL HYATT
Surveyor & Mapper Number 4636
LB 6912

FLORIDASURVEYOR@AOL.COM
727-415-8305

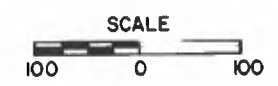
02-10-21

FLAMINGO HARBOUR CONDOMINIUM

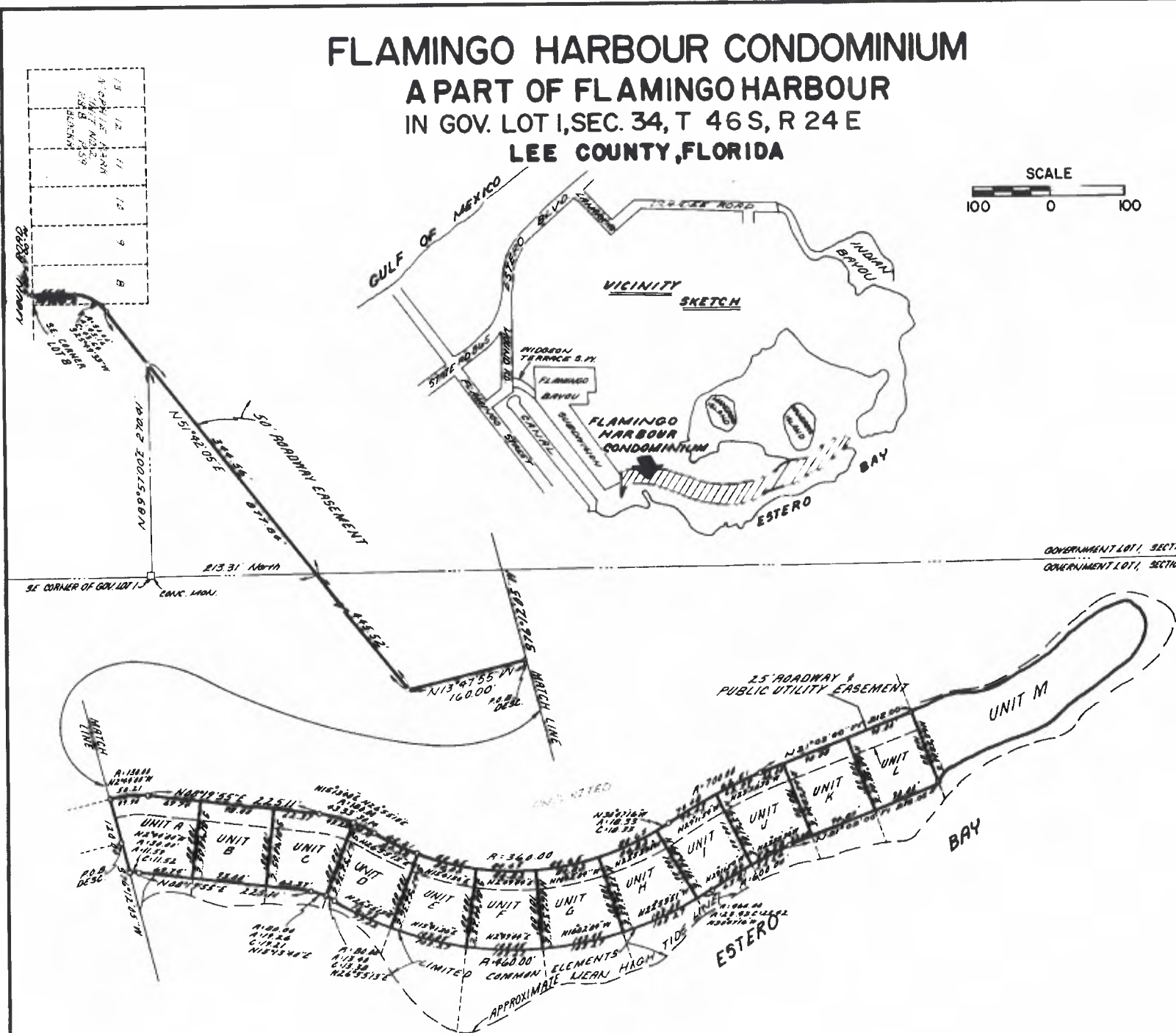
A PART OF FLAMINGO HARBOUR

IN GOV. LOT 1, SEC. 34, T 46 S, R 24 E

LEE COUNTY, FLORIDA



DESCRIPTION OF LIMITED COMMON ELEMENTS
 All those lands lying East of the platted unit line and West of the Mean High Tide Line along Estero Bay.



SURVEYOR'S CERTIFICATE

The undersigned, a surveyor duly authorized to practice under the laws of the State of Florida, hereby certifies that the construction of the improvements is substantially complete so that the material, together with the provisions of the Declaration describing the condominium property, is an accurate representation of the location and dimensions of the improvements, and that the identification, location, and dimensions of the common elements and of each unit can be determined from these materials.
 CERTIFIED TO FLAMINGO BAYOU, INC., dated this 12 day of June, 1979.

Duane Hall
 Duane Hall
 Registered Land Surveyor
 Florida Certificate #1415

DESCRIPTION: A tract of land lying in Government Lot 1, Section 34, Township 46 South, Range 24 East, Estero Island, Florida, which tract is described as follows: From the southeast corner of Lot 8, Block H., Unit 2, McPhie Park, according to the plat recorded in Plat Book 8 at page 59 of the public records of Lee County, Florida, run westerly along the south line of said Lot 8 for 10 feet; thence run northerly perpendicular to said south line and along the east line of a roadway easement 50 feet wide for 55.54 feet to a point of curvature; thence run northeasterly along the southeasterly line of said roadway easement along the arc of a curve to the right with a radius of 50 feet (said curve having a central angle of 51°45'05") for 45.16 feet to a point of tangency; thence run N 51°42'05" E along said southeasterly line of said roadway easement along a line 295 feet (as measured on a perpendicular) northwesterly of and parallel with the northwesterly line of Block C of Flamingo Park (now the centerline of Flamingo Street) as shown on the plat recorded in Plat Book 9 at page 66 of said public records for 877.84 feet; thence run N 13°47'55" W along the northeasterly line of said roadway easement for 160 feet to the point of beginning of the lands herein

described. From said point of beginning run S 76°12'05" W for 60 feet; thence run northwesterly, northerly and northeasterly along the westerly line of a roadway easement 25 feet wide along the arc of a curve to the right having a radius of 130 feet (chord bearing N 2°44'00" W - chord distance 49.90 feet) for 50.21 feet to a point of tangency; thence run N 8°19'55" E along said westerly line of said roadway easement for 225.11 feet to a point of curvature; thence run northeasterly along said westerly line of said roadway easement along the arc of a curve to the right having a radius of 180.00 feet (chord bearing N 20°01'28" E - chord distance 72.96 feet) for 73.47 feet to a point of reverse curvature; thence run northeasterly, northerly and northwesterly along said westerly line of said roadway easement along the arc of a curve to the left having a radius of 360.00 feet (chord bearing N 0°15'53" E - chord distance 381.35 feet) for 401.89 feet to a point of reverse curvature; thence

run northwesterly along the arc of a curve to the right having a radius of 700.00 feet (chord bearing N 26°28'24" W - chord distance 136.78 feet) for 137.00 feet to a point of tangency; thence run N 21°02'00" W along said westerly line of said roadway easement for 212.00 feet; thence run S 0°68'58" W for 10 feet more or less to the waters of Flamingo Harbor; thence run northwesterly, northerly and northeasterly along said waters to the waters of Estero Bay; thence run in a southerly direction along said waters to an intersection with a line bearing N 76°12'05" E passing through the point of beginning; thence run S 76°12'05" W along said line to the point of beginning. TOGETHER WITH the hereinabove described roadway easement 50 feet wide extending from Mound Road to the southerly line of the hereinabove described parcel.

DUANE HALL & ASSOCIATES, INC.
 CIVIL ENGINEERS - LAND SURVEYORS - LAND PLANNERS
 P.O. BOX 8790 FORT MYERS FLORIDA 33901

Date: 6-3-79 Drawn by: A.O. Checked by: _____
 Proj. No. 22265 File No. _____

135

1212327

THIS INSTRUMENT PREPARED
RICHARD D. DEBOEST
ATTORNEY AT LAW
P. O. BOX 1450
FORT MYERS, FLORIDA 33902

DECLARATION OF CONDOMINIUM

OF SECTION 1357 PLAT 1089

FLAMINGO HARBOUR CONDOMINIUM

Flamingo Bayou, Inc., a Florida corporation, herein called "developer" on behalf of itself, its successors, grantees and assigns, to its grantees and assigns and their heirs, successors and assigns hereby make this Declaration of Condominium:

1. SUBMISSION TO CONDOMINIUM - The lands located in Lee County, Florida, owned by Developer and described in attached Exhibit "D", are submitted to the condominium form of ownership.

2. NAME AND SCOPE - The name of the condominium is FLAMINGO HARBOUR CONDOMINIUM, and will consist of 13 residential units consisting of land only (a Land Condominium).

3. NAME - ASSOCIATION - The name of the condominium association is FLAMINGO HARBOUR CONDOMINIUM ASSOCIATION, INC. This association shall be incorporated as a non-profit Florida corporation.

4. DEFINITIONS - The terms used herein shall have the meanings stated in the Condominium Act (Florida Statutes, Chapter 718) and as follows unless the context otherwise requires:

- A. UNIT - A part of the condominium property which is subject to exclusive ownership.
- B. UNIT OWNER - The owner of a Condominium parcel.
- C. UNIT NUMBER - The letter, number, or combination thereof which is designated upon the surveyor plans, and which is used as the identification of a unit.
- D. ASSESSMENT - Means a share of the funds required for the payment of common expenses which from time to time is assessed against the unit owner.
- E. ASSOCIATION - The corporation responsible for the operation of the condominium.

ALLEN, KNUDSEN,
SWARTZ,
DEBOEST, RHOADS,
& EDWARDS, P. A.
ATTORNEYS AT LAW
P. O. BOX 1450
COLLIER ARCADE
FORT MYERS, FLORIDA

RECORD VERIFIED - S&L CLERK
BY G. WORKMAN DC

F. BOARD OF ADMINISTRATION - means the Board of Directors responsible for administration of the association.

G. COMMON ELEMENTS - The portions of the condominium property not included in the units as defined in Florida Statute 718.108, including:

(.1) Those portions of the land that do not constitute the units.

(.2) Improvements which are not included within the units.

(.3) Easements.

(.4) Installations for the furnishing of services to more than one unit or to the common elements, such as electricity, gas, water and sewer.

(.5) Personal property - tangible personal property may be purchased, sold, leased, replaced and otherwise dealt with by the association, through its Board of Directors, on behalf of the members of the association, without the necessity of any joinder by the members.

H. LIMITED COMMON ELEMENTS - means and includes those portions of the common elements which are reserved for the use of a certain unit or units to the exclusion of other units.

I. COMMON EXPENSES - All expenses and assessments properly incurred by the association for the condominium.

J. COMMON SURPLUS - means the excess of all receipts of the association including but not limited to assessments, rents, profits and revenues on account of the common elements over the amount of the common expenses.

K. PERSON - means an individual, corporation, trustee, or other legal entity capable of holding title to real property.

L. SINGULAR, PLURAL, GENDER - Whenever the context so permits, the use of the plural shall include the singular, the plural, and use of any gender shall be deemed to include all genders.

ALLEN, KNUDSEN,
SWARTZ,
DEBOEST, RHOADS
& EDWARDS, P.A.
ATTORNEYS AT LAW
P.O. BOX 1480
COLLIER ARCADE
PORT MYERS, FLORIDA

Exhibit I

The vast majority of the backyard consists of mowed lawn. Manicured landscape beds with deliberately planted shrubbery and other typical landscape plantings surround the lawn at the periphery of the property.



Looking West, from LCE toward house. Proposed pool to be on the left side, against the house.



Looking North, down on the proposed pool area



Landscape beds along the South property line.



Looking South, down on the proposed pool area and beyond to neighbor's dock.



Looking Northeast across majority of backyard and LCE.



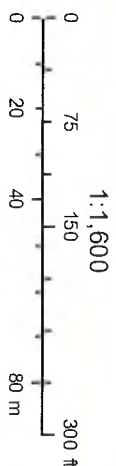
Looking South, at the proposed pool area.

GeoView Map



December 4, 2020 Air Photos: 2020 Hi-Res (4 inch)

- Hospital Locations
- School Locations
- Library Locations
- CCC_Parks
- County Boundary
- US 41
- Parcels Near
- Major Roads
- Medium Roads
- Other Highways
- Other Roads



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



**FLAMINGO HARBOUR CONDOMINIUM
ASSOCIATION, LLC**
Widgeon Terrace, Fort Myers Beach, FL 33931

March 2, 2021

The Board of Directors of Flamingo Harbour Condominium Association, Inc. has reviewed, and does not object to, an application to correct the Town of Fort Myers Beach Future Land Use designation from Wetland to Mixed Residential for that portion of Unit E and the associated Limited Common Element that serves Unit E landward of the rip-rap line.

In addition, as currently submitted, the proposed improvements within the Limited Common Element and on Unit E were reviewed and the Board does not object to improvements if allowed and approved by the Town of Fort Myers Beach.

The Board supports any land use variances needed for approval of the attached site plan and the Association joins in the request to re-designate the Future Land Use designation landward of the rip-rap line.

FLAMINGO HARBOUR CONDOMINIUM, INC.

By: Bob Carlin

Print Name: Bob Carlin

Its: President

ATTEST:

By: David C. Roller

Print Name: David C. Roller

Its: Secretary

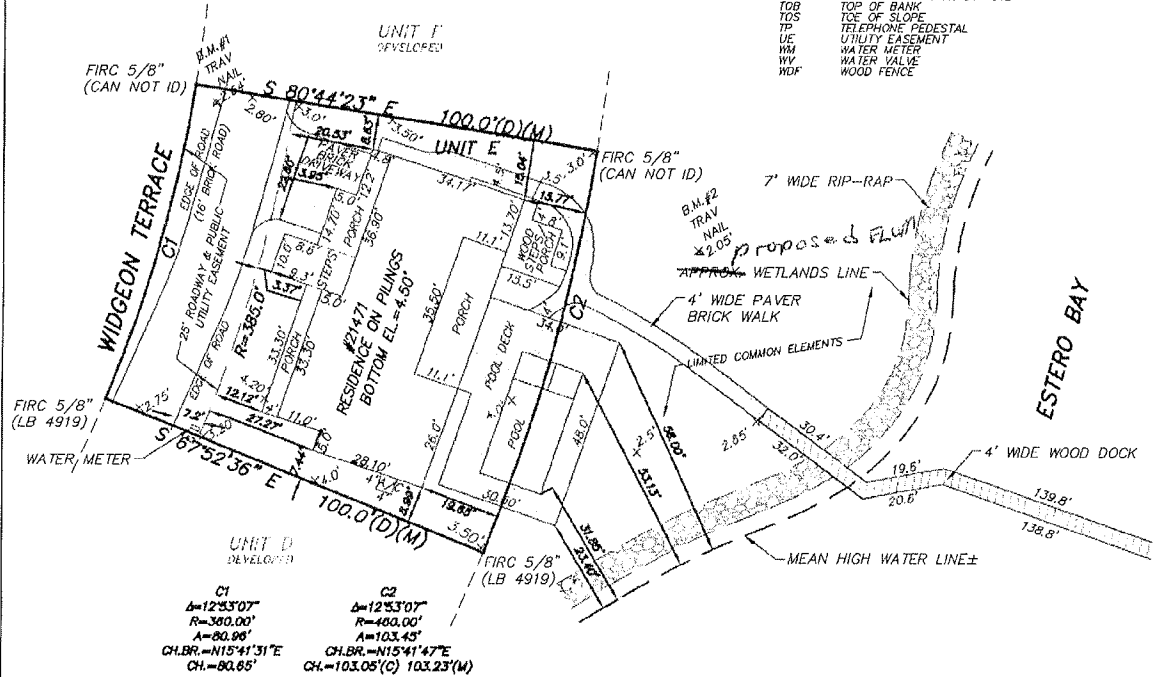
**BOUNDARY AND LOCATION SURVEY OF
21471 WIDGEON TERRACE
FORT MYERS BEACH, FLORIDA 33931**



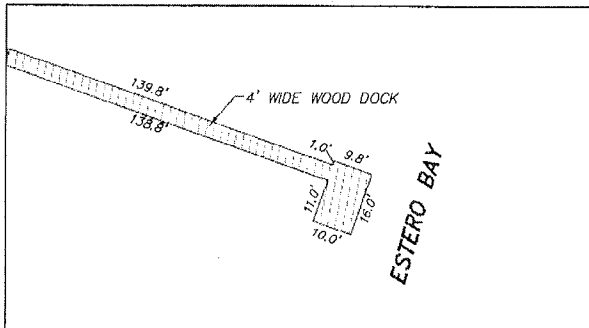
LEGAL DESCRIPTION:

UNIT E OF FLAMINGO HARBOUR CONDOMINIUM, A CONDOMINIUM ACCORDING TO THE DECLARATION OF CONDOMINIUM THEREOF, RECORDED IN OFFICIAL RECORDS BOOK 1357, PAGE 1089, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, AND ANY AMENDMENTS THERETO, TOGETHER WITH ITS UNDIVIDED SHARE IN THE COMMON ELEMENTS.

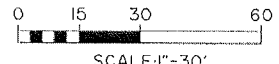
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- SND SET NAIL AND DISK LB 6912
- TOB TOP OF BANK
- TOS TOE OF SLOPE
- TP TELEPHONE PEDESTAL
- UE UTILITY EASEMENT
- WM WATER METER
- WV WATER VALVE
- WDF WOOD FENCE



UNIT D DEVELOPER
 C1 Δ=1253'07" R=300.00' A=80.96' CH.BR.=N15°41'31"E CH.=80.85'
 C2 Δ=1253'07" R=400.00' A=103.43' CH.BR.=N15°41'47"E CH.=103.05'(C) 103.23'(M)



FEMA MAP - 120673 / 12071C0567F
 FLOOD ZONE - AE
 BASE ELEV. - 10' NAVD88



(C) 2020 BASIS OF BEARINGS IS R/W LINE (USING PLAT BEARING OR ASSUMED) UNLESS NOTED OTHERWISE
 FLORIDA ADMINISTRATIVE CODE STATES IF LOCATION OF EASEMENTS OR RIGHTS OF WAY OF RECORD, OTHER THAN THOSE ON RECORD PLATS IS REQUIRED, THIS INFORMATION MUST BE FURNISHED TO THE SURVEYOR - IF FENCES ARE SHOWN, DISTANCES INDICATE APPROXIMATE DISTANCE ON OR OFF PROPERTY - OVERHANGS AND UNDERGROUND FOUNDATIONS OR UTILITIES HAVE NOT BEEN LOCATED AS PART OF THIS SURVEY.
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**AFFORDABLE
SURVEYS**
239-283-1518

3366 STRINGFELLOW ROAD
ST JAMES CIT, FL 33956

CERTIFIED EXCLUSIVELY TO:
JOHN A & LISA A DIDIER

I HEREBY CERTIFY THAT THIS SURVEY IS A TRUE AND CORRECT USING FIELD SURVEY PREPARED UNDER MY DIRECTION AND IS NOT VALID WITHOUT AN AUTHENTICATED ELECTRONIC SIGNATURE AND SEAL, OR A RAISED EMBOSSED SEAL AND SIGNATURE.

DATE OF FIELD SURVEY
BILL HYATT
Surveyor & Mapper Number 4636
LB 6912

FLORIDASURVEYOR@AOL.COM
727-415-8305

LEGAL DESCRIPTION:

A PARCEL OF LAND LYING IN GOVERNMENT LOT 1, SECTION 34, TOWNSHIP 46 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF UNIT E, FLAMINGO HARBOUR CONDOMINIUM, AS RECORDED IN CONDOMINIUM PLAT BOOK 5, PAGE 372, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE NORTHERLY, ALONG THE EASTERLY LINE OF SAID UNIT E AND THE ARC OF A CURVE CONCAVE TO THE WEST (RADIUS = 460.00 FEET, INTERIOR ANGLE = 12°51'47", CHORD BEARING AND DISTANCE = N15°41'31"E, 103.05 FEET) FOR 103.27 FEET TO THE NORTHEAST CORNER OF AFORESAID UNIT E; THENCE S80°44'23"E, ALONG THE EASTERLY PROLONGATION OF THE NORTHERLY LINE OF SAID UNIT E FOR 81.02 FEET TO A NON-TANGENT POINT OF CURVATURE; THENCE SOUTHERLY, ALONG THE ARC OF A CURVE CONCAVE TO THE EAST (RADIUS = 99.03 FEET, INTERIOR ANGLE = 10°58'54", CHORD BEARING AND DISTANCE = S10°08'49"W, 18.95 FEET) FOR 18.98 FEET TO A NON-TANGENT POINT OF REVERSE CURVATURE; THENCE SOUTHWESTERLY, ALONG THE ARC OF A CURVE CONCAVE TO THE NORTHWEST (RADIUS = 46.50 FEET, INTERIOR ANGLE = 65°48'43", CHORD BEARING AND DISTANCE = S29°08'53"W, 50.53 FEET) FOR 53.42 FEET TO A NON-TANGENT POINT OF COMPOUND CURVATURE; THENCE SOUTHWESTERLY, ALONG THE ARC OF A CURVE CONCAVE TO THE NORTHWEST (RADIUS = 175.17 FEET, INTERIOR ANGLE = 6°55'36", CHORD BEARING AND DISTANCE = S65°31'51"W, 21.16 FEET) FOR 21.18 FEET TO A NON-TANGENT POINT OF REVERSE CURVATURE; THENCE SOUTHWESTERLY, ALONG THE ARC OF A CURVE CONCAVE TO THE SOUTHEAST (RADIUS = 205.17 FEET, INTERIOR ANGLE = 7°57'39", CHORD BEARING AND DISTANCE = S64°10'21"W, 28.48 FEET) FOR 28.51 FEET TO A POINT OF NON-TANGENCY; THENCE S59°24'50"W FOR 19.14 FEET TO A POINT ON THE EASTERLY PROLONGATION OF THE SOUTHERLY LINE OF AFORESAID UNIT E; THENCE N67°52'36"W, ALONG SAID EASTERLY PROLONGATION FOR 19.98 FEET TO THE POINT OF BEGINNING. CONTAINING 6997 SQUARE FEET MORE OR LESS.

SUBJECT TO EASEMENTS, RESTRICTIONS AND RESERVATIONS OF RECORD.

BEARINGS ARE BASED ON THOSE SHOWN ON THE PLAT OF FLAMINGO HARBOUR CONDOMINIUM.

From: [Amy Baker](#)
To: [O'Brien, Robin](#)
Cc: [Jason Green](#); jherin@foxrothschild.com; [Grady, Beverly](#)
Subject: RE: 21471 Widgeon Terrace-Application for Administrative Action
Date: Wednesday, March 17, 2021 3:20:00 PM
Attachments: [image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[image007.png](#)
[image008.png](#)

Thank you Robin,

We are in receipt of your Application for Administrative Action for 21471 Widgeon Terrace.



Amy Baker

Town Clerk
Town of Fort Myers Beach
2525 Estero Boulevard
Fort Myers Beach, FL. 33931
Phone: (239) 765-0202 ext.1400



Think Green. Please print this e-mail only if necessary.

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

From: O'Brien, Robin <RObrien@ralaw.com>
Sent: Wednesday, March 17, 2021 3:18 PM
To: Amy Baker <Amy@fmbgov.com>
Cc: Jason Green <jasongreen@axiscompanies.com>; jherin@foxrothschild.com; Grady, Beverly <BGrady@ralaw.com>
Subject: 21471 Widgeon Terrace-Application for Administrative Action

Hi Amy.

On behalf of Beverly Grady, attached please find an Application for Administrative Action for 21471 Widgeon Terrace.

Please note the original Application, together with copies, will be forwarded to you via Federal Express.

Robin O'Brien

Assistant to Sean M. Ellis, Beverly Grady, and Ashley L. Suarez



2320 First Street, Suite 1000

Ft. Myers, FL 33901
Direct Phone No.: 239.338-4254
Main Phone No: 239.337.3850
Fax No.: 239.337.0970
Email: robrien@ralaw.com
www.ralaw.com
Roetzel & Andress, A Legal Professional Association

Both Robin O'Brien and Roetzel & Andress intend that this message be used exclusively by the addressee(s). This message may contain information that is privileged, confidential and exempt from disclosure under applicable law. Unauthorized disclosure or use of this information is strictly prohibited. If you have received this communication in error, please permanently dispose of the original message and notify Robin O'Brien immediately at 239-338-4254. Thank you.

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June 29, 2022

VIA E-MAIL ONLY (Green@fmbgov.com)

Jason Green, Community Development Director
Town of Fort Myers Beach
2525 Estero Boulevard
Fort Myers, FL 33931

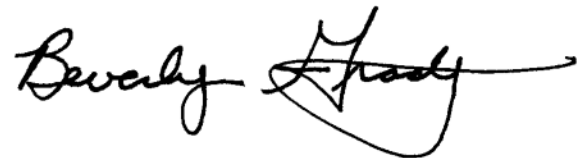
RE: Widgeon Terrace Map Amendment (FLUM)

Dear Mr. Green:

As requested, please find enclosed a copy of the current Future Land Use Map, (a) two copies in color and (b) one copy in black-and-white where we have located the Subject Property with an arrow. Also as requested please enclosed Exhibit 3 an 8.5x11 enlarged version of the Future Land Use Map. Also enclosed is the proposed map amendment Exhibit 4 showing the area that would become Mixed Residential and the new Wetlands Future Land Use Map designation.

Very truly yours,

ROETZEL & ANDRESS, LPA



Beverly Grady

BG

Enclosures:

- Exhibit 1: Color Future Land Use Map
- Exhibit 2: Black-and-white Future Land Use Map
- Exhibit 3: 8.5x11 current Land Use Map for Subject Property
- Exhibit 4: Proposed map amendment for Subject Property

**BOUNDARY AND LOCATION SURVEY OF
21471 WIDGEON TERRACE
FORT MYERS BEACH, FLORIDA 33931**

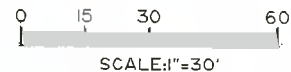
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LP	LIGHT POLE		
(M)	MEASURED		
MH	MANHOLE		



LAND USE LEGEND:



COVERED ENTRANCE SCREEN ENCLOSED AREA SCREEN ENCLOSED WITH POOL

**FEMA MAP - 120873 / 12071C0587F
FLOOD ZONE - AE
BASE ELEV. - 10' NAVD88**

(C) 2020 BASIS OF BEARINGS IS R/W LINE (USING PLAT BEARING OR ASSUMED) UNLESS NOTED OTHERWISE. FLORIDA ADMINISTRATIVE CODE STATES IF LOCATION OF EASEMENTS OR RIGHTS OF WAY OF RECORD, OTHER THAN THOSE ON RECORD PLATS IS REQUIRED, THIS INFORMATION MUST BE FURNISHED TO THE SURVEYOR - IF FENCES ARE SHOWN, DISTANCES INDICATE APPROXIMATE DISTANCE ON OR OFF PROPERTY.

CERTIFIED EXCLUSIVELY TO:
JOHN A & LISA A DIDIER

I HEREBY CERTIFY THAT THIS SURVEY IS A TRUE AND CORRECT USING FIELD SURVEY PREPARED UNDER MY DIRECTION AND IS NOT VALID WITHOUT AN AUTHENTICATED ELECTRONIC SIGNATURE AND SEAL OR A RAISED EMBOSSED SEAL AND SIGNATURE.

DATE OF FIELD SURVEY
BILL HYATT
Surveyor & Mapper Number 4636
LB 6912

FLORIDASURVEYOR@AOL.COM
727-415-8305

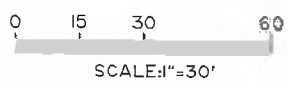
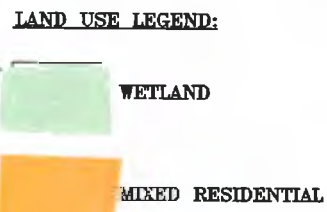
Existing
Ex 3

**BOUNDARY AND LOCATION SURVEY OF
21471 WIDGEON TERRACE
FORT MYERS BEACH, FLORIDA 33931**

LEGAL DESCRIPTION:

UNIT E OF FLAMINGO HARBOUR CONDOMINIUM, A CONDOMINIUM ACCORDING TO THE DECLARATION OF CONDOMINIUM THEREOF, RECORDED IN OFFICIAL RECORDS BOOK 1357, PAGE 1089, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, AND ANY AMENDMENTS THERETO, TOGETHER WITH ITS UNDIVIDED SHARE IN THE COMMON ELEMENTS.

A/C	AIR CONDITIONER	NO	NO CORNER FOUND
B.M.	BENCHMARK	OHW	OVERHEAD WIRE
(C)	CALCULATED	O/A	OVER-ALL
CB	CABLE BOX	P.C.P.	PERMANENT CONTROL POINT
CLF	CHAIN LINK FENCE	PLAT	PLAT
CONC	CONCRETE	PE	POOL EQUIPMENT
CSW	CONCRETE SIDEWALK	PP	POWER POLE
(D)	DEED	POB	POINT OF BEGINNING
DE	DRAINAGE EASEMENT	POC	POINT OF COMMENCEMENT
DRUE	DRAINAGE/PUBLIC UTILITY EASEMENT	ROD	RIGHT OF WAY
EB	ELECTRIC BOX	R/W	SET 1/2" IRON ROD WITH CAP
EF	EDGE OF FASUREMENT	SUR	SET 1/2" IRON ROD WITH CAP
EQW	EDGE OF WATER	SND	SET NAIL AND DISK
EP	EDGE OF PAVEMENT	TDB	TOP OF BANK
FOIR	PIPE CAPPED	TDS	TIDE OF BANK
FOA	FOUND CONC MONUMENT	TDS	TIDE OF BANK
FOP	FOUND IRON PIPE	TP	TELEPHONE TOWER
FOR	FOUND IRON ROD	UE	UTILITY EASEMENT
FN	FOUND NAIL	WM	WATER METER
FND	FOUND NAIL AND DISK	WV	WATER VALVE
FXC	FOUND X CUT	WPF	WOOD FENCE
LP	LIGHT POLE		
(M)	MEASURED		
MR	MANHOLE		



- COVERED ENTRANCE
- SCREEN ENCLOSED AREA
- SCREEN ENCLOSED WITH POOL

**FEMA MAP - 120673 / 12071C0567F
FLOOD ZONE - AE
BASE ELEV. - 10' NAVD88**

(C) 2020 BASIS OF BEARINGS IS R/W LINE (USING PLAT BEARING OR ASSUMED) UNLESS NOTED OTHERWISE
FLORIDA ADMINISTRATIVE CODE STATES IF LOCATION OF EASEMENTS OR RIGHTS OF WAY OF RECORD, OTHER THAN THOSE ON RECORD PLATS IS REQUIRED, THIS INFORMATION MUST BE FURNISHED TO THE SURVEYOR - IF FENCES ARE SHOWN, DISTANCES INDICATE APPROXIMATE DISTANCE ON OR OFF PROPERTY BOUNDARIES OR UTILITIES HAVE NOT BEEN LOCATED AS PART OF THIS SURVEY.
AN AS-BUILT SURVEY SHOWING VISIBLE IMPROVEMENTS IN RELATION TO SURVEY MARKERS FOUND

**PROPOSED
FLUM
E x L**

CERTIFIED EXCLUSIVELY TO:
AN A & LISA A DIDIER

I HEREBY CERTIFY THAT THIS SURVEY IS A TRUE AND CORRECT USING FIELD SURVEY PREPARED UNDER MY DIRECTION AND IS NOT VALID WITHOUT AN AUTHENTICATED ELECTRONIC SIGNATURE AND SEAL OR A RAISED EMBOSSED SEAL AND SIGNATURE.

DATE OF FIELD SURVEY
BILL HYATT
Surveyor & Mapper Number 4636
LB 6912



Marine Engineers and Environmental Consultants

September 14, 2021

John and Lisa Didier
2010 Timberale Court
Ft. Wayne, Indiana 46845

Subject: 21471 Widgeon Terrace – Wetland Line Evaluation

Dear Mr. & Mrs. Didier

During September of 2021, Hans Wilson & Associates (HWA) conducted an environmental assessment of the current wetlands at the subject site at 21471 Widgeon Terrace, Ft. Myers Beach, Florida 33931. The site is within Section 34, Township 46 South, Range 24 East, in Lee County, Florida. This environmental assessment includes the following elements:

- Review of soil types mapped within the site boundaries;
- Review of current & historical wetland lines

SOILS

According to the Soil Survey of Lee County, Florida, prepared by the U.S. Department of Agriculture (USDA), Natural Resource Conservation Service (NRCS), two (2) soil types exist within the subject site. These soil types include the following:

- **St. Augustine organic substratum-urban land complex, 0 to 2 percent slopes (#25)**
- **Wulfert muck, tidal-urban land complex, 0 to 1 percent slopes (#140)**

The Florida Association of Environmental Soil Scientists (FAESS) considers the main components of the Wulfert muck soil type associated with the property to be **hydric** in nature. Additionally, the FAESS considers inclusions existing within the St. Augustine soil type associated with the property to be **hydric** in nature. This information can be found in the Hydric Soils of Florida Handbook, Fourth Edition, March 2007.

Wetland Line Review:

While the soil map (**Figure 4**), shows the soil found on the easter portion of the property to be a hydric, muck soil type, but this is no longer accurate. The last time the soils were mapped in Lee County Florida, was in 1981. Since then, development and infrastructure has taken over county wide. Refer to attached images one, two, and three to the see the soil that was discovered in three different soil pit locations. Within the soil cores, no muck, mucky mineral, or organic material/soil types were discovered in any of the soil cores. The only location of muck was at the vegetation line where the mangroves are located, which is clear on the aerials.

The only location that matched soils, hydrology, and vegetation to consider it a wetland according to F.A.C. 62-340 was the far east boundary where the mangroves are located (**Figure 5**). In the subject area where the pool is being proposed, no soils, hydrology, or vegetation was present to be able to delineate it as a wetland.

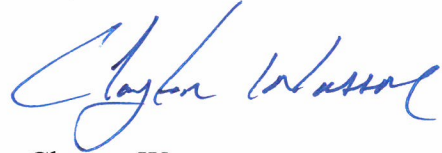
The 1999 Future Land Use Map (FLUM) wetland evaluation of the project site appears incorrect for its time, and not up to date for 2021. Referring to the 1990 historic aerial (**Figure 6**) one can see a clear vegetation break from the wetland mangroves to the uplands. This was before any development was on the subject site, and the clear vegetation break matches the 2021 delineation line almost exactly.

Looking at the 1999 Historic Aerial (**Figure 7**), it is clear the FLUM wetland line (is too high and incorrect not only for its time, but especially in 2021. Evaluating the historic aerial, and the 2021 wetland delineation, once again the vegetation break follows the 2021 delineation line. The subject site in 1999 already had the addition of a single-family structure, which cleared the lot up to the vegetation break, which in turn, matches the 2021 wetland delineation.

Considering the 2021 site evaluation, there are no wetlands where the owner is proposing the pool construction. No soils, vegetation or hydrology was present in that area and cannot be considered a wetland according to F.A.C. 62-340. Along with the 2021 evaluation, historic aerials show the wetland line consistent throughout the years matching what was recently delineated, and further showing that the FLUM is outdated and incorrect. The proposed pool construction is located completely in uplands and should have no environmental limitations regarding wetland impacts.

The environmental limitations described in this document are based on observations and technical information available on the date of the on-site evaluation. This report is for general planning purposes only. The limits of any on-site wetlands/surface waters can only be determined and verified through field delineation and/or on-site review by the associated regulatory agencies. Should you have any questions or require any additional information, please do not hesitate to contact our office at (239)-334-6870. Thank you.

Regards,




Clayton Wasson
Environmental Specialist

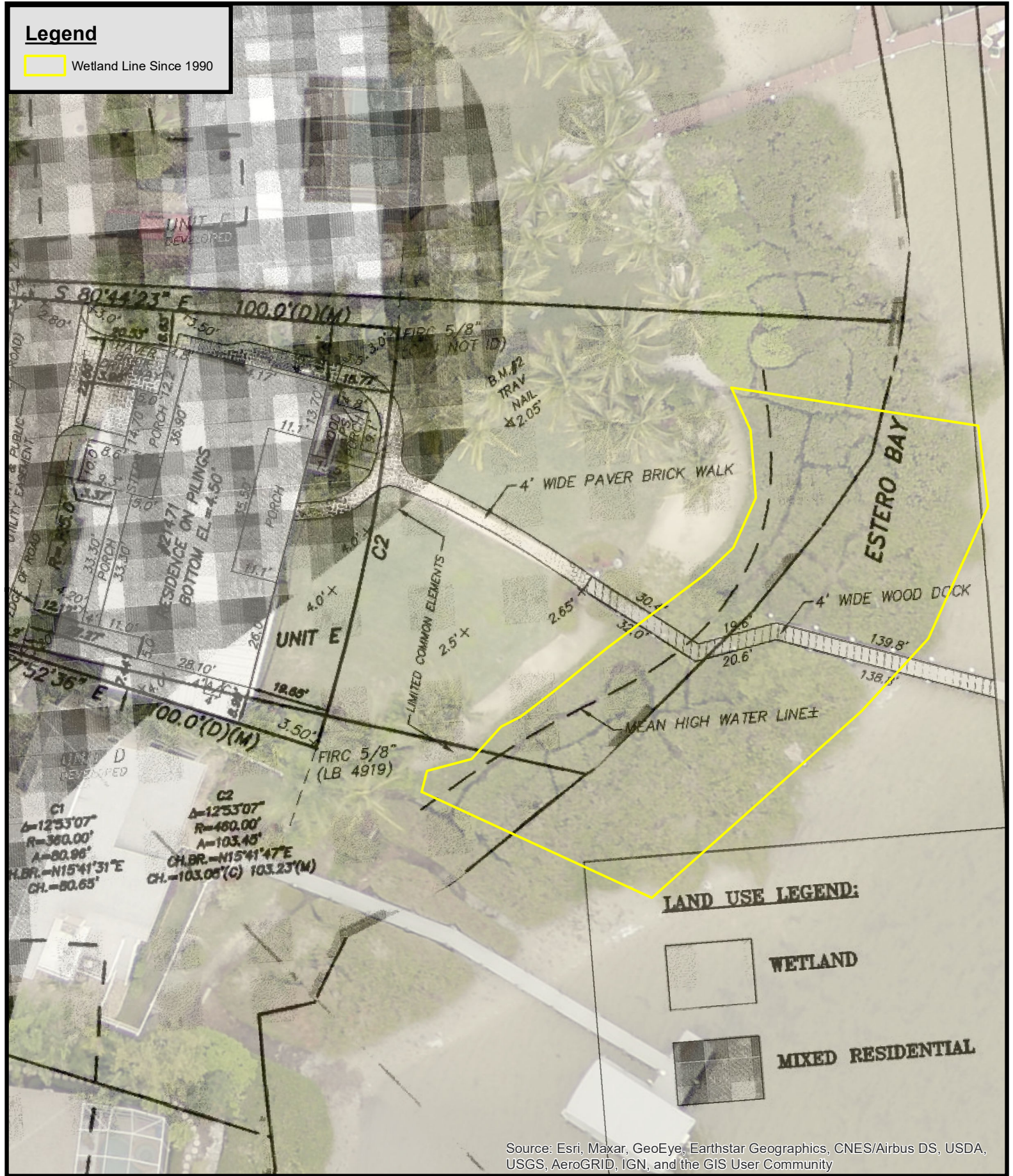


Hans Wilson
President & Principal Engineer

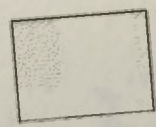

Enclosures: Standard Business Terms & Conditions, Method of Compensation

Legend

 Wetland Line Since 1990



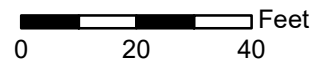
LAND USE LEGEND:

-  WETLAND
-  MIXED RESIDENTIAL

Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community



21417 Widgeon Terrace
 Lee County, Florida
 Figure #8
 FLUM Determination Overlay



Project: Didier1
 Produced By: CAW
 Date: 11/5/2021
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FT. MYERS BEACH FUTURE LAND USE MAP



STERLING AVE

FALKIRK ST

DUNDEE RD

INDIAN BAYOU DR

LANARK AVE

INDIAN BAYOU DR

BAY VILLAGE DR

GULF RD

FLAMINGO ST

MOUND RD

WIDGEON TER

WIDGEON TER

FLAMINGO ST

DRIFTWOOD LN

BAHIA VIA

CURLEW ST

EGRET ST

IBIS ST

ESTERO BLVD

CLEARVIEW BLVD

SUNVIEW BLVD

PALMVIEW BLVD

ALBATROSS ST

BAVVIEW BLVD

FAIRVIEW BLVD


ESTERO BLVD

ISLAND PINES WAY

ESTERO BLVD

FIGURES

Legend

 21417 Widgeon Terrace



Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, (c) OpenStreetMap contributors, and the GIS User Community



21417 Widgeon Terrace
Lee County, Florida
Figure #1
Location Map



0 625 1,250 Feet

Project: Didier1
Produced By: CAW
Date: 9/27/2021

Legend

-  21417 Widgeon Terrace
-  Lee County Parcel Boundary



Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community


21417 Widgeon Terrace
Lee County, Florida
Figure #2
2021 Aerial



0 40 80 Feet

Project: Didier1
Produced By: CAW
Date: 9/27/2021

Legend

 21417 Widgeon Terrace

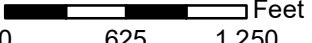


Copyright: © 2013 National Geographic Society, i-cubed



21417 Widgeon Terrace
Lee County, Florida
Figure #3
USGS Topographic Map



 Feet
0 625 1,250

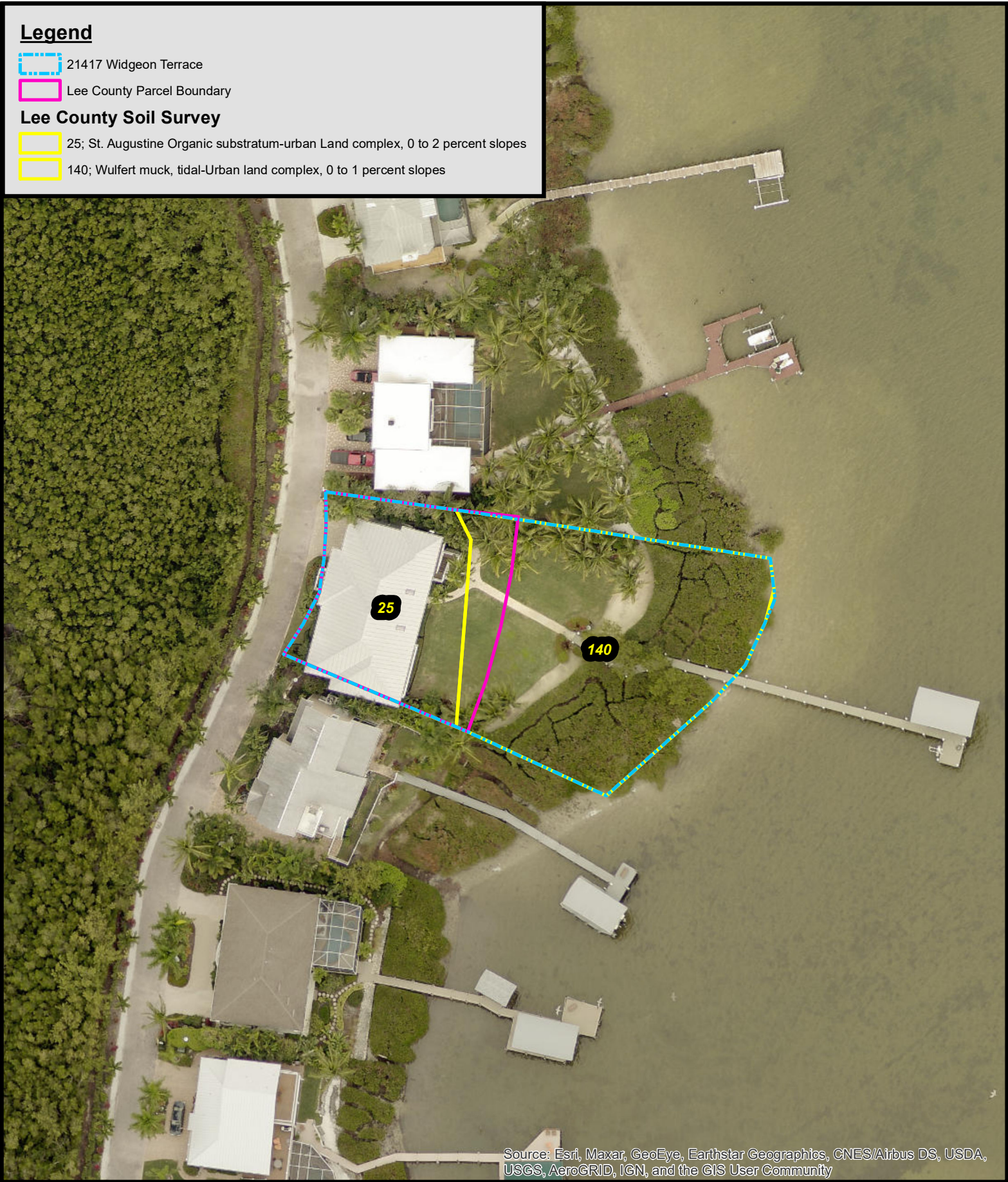
Project: Didier1
Produced By: CAW
Date: 9/27/2021

Legend

- 21417 Widgeon Terrace
- Lee County Parcel Boundary

Lee County Soil Survey

- 25; St. Augustine Organic substratum-urban Land complex, 0 to 2 percent slopes
- 140; Wulfert muck, tidal-Urban land complex, 0 to 1 percent slopes



Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

21417 Widgeon Terrace
Lee County, Florida
Figure #4
Lee County Soils Map



0 40 80 Feet

Project: Didier1
Produced By: CAW
Date: 9/27/2021

Legend

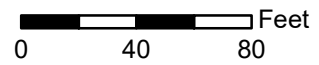
- 21417 Widgeon Terrace
- Lee County Parcel Boundary
- Wetland Lince Since 1990



Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community






21417 Widgeon Terrace
Lee County, Florida
Figure #5
Wetland Delineation



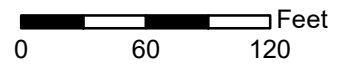
Project: Didier1
Produced By: CAW
Date: 9/27/2021
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Legend

-  21417 Widgeon Terrace
-  Lee County Parcel Boundary
-  Wetland Lince Since 1990



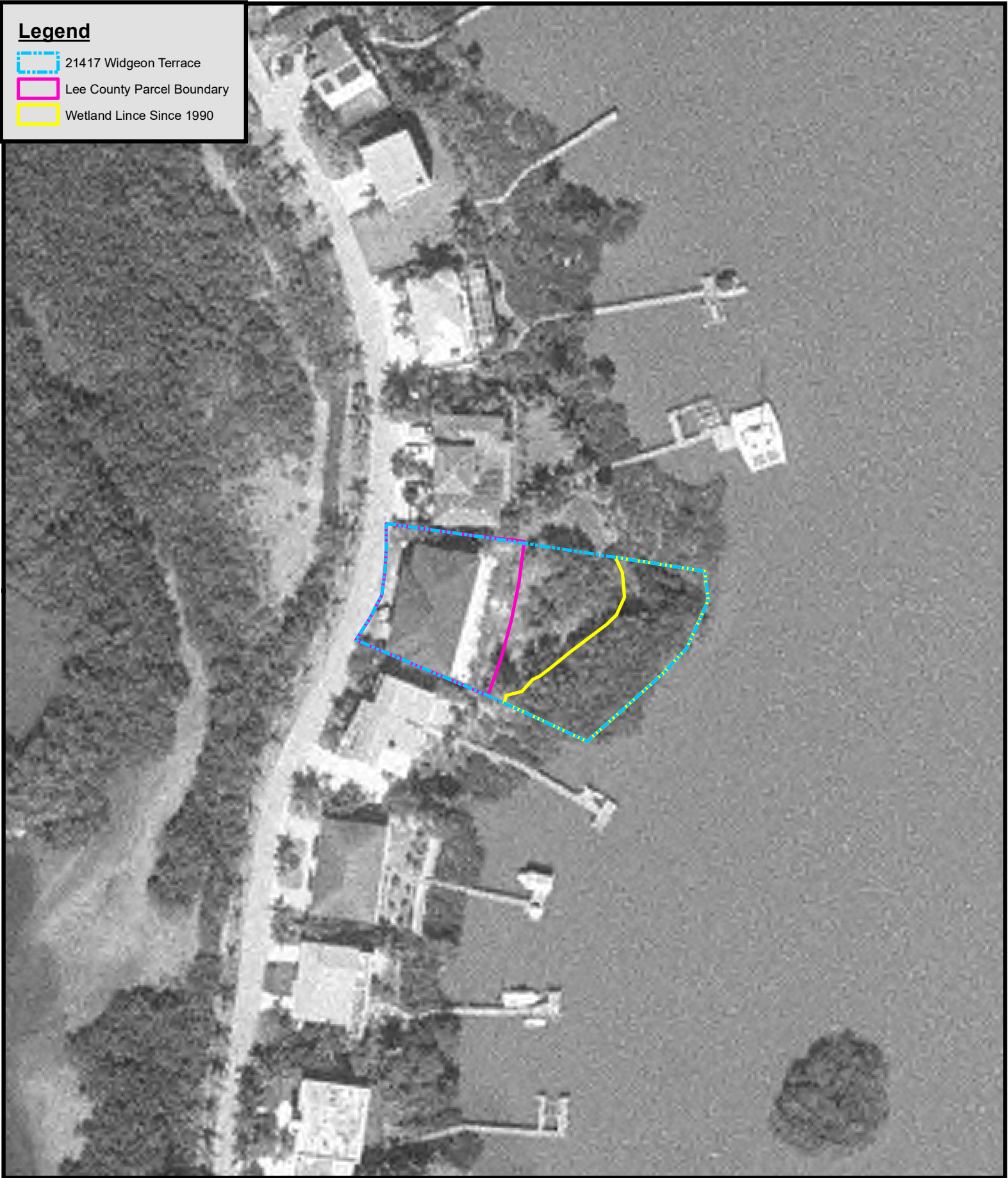
21417 Widgeon Terrace
Lee County, Florida
Figure #6
1990 Historic Aerial



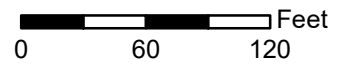
Project: Didier1
Produced By: CAW
Date: 9/27/2021
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Legend

- 21417 Widgeon Terrace
- Lee County Parcel Boundary
- Wetland Lince Since 1990



21417 Widgeon Terrace
Lee County, Florida
Figure #7
1999 Historic Aerial



Project: Didier1
Produced By: CAW
Date: 9/27/2021
Page 142 of 149

IMAGES

SOIL CORE #1 SOIL RESULTS



SOIL CORE #2 SOIL RESULTS



SOIL CORE #3 SOIL RESULTS





Town of Fort Myers Beach
Community Development Services - Planning Division
2525 Estero Blvd,
Fort Myers Beach, FL 33931

NOTICE TO PROPERTY OWNERS WITHIN 500 FEET

Notice is hereby given that the Local Planning Agency of the Town of Fort Myers Beach will hold a public hearing which will take place at DiamondHead Beach Resort, 2000 Estero Boulevard, Fort Myers Beach, Florida, 33931.

TIME: 9 AM
DATE: October 10, 2023
CASE: CPA2020084
ADDRESS: 21471 Widgeon Ter
APPLICANT: Roetzel & Andress
REQUEST: The applicant is requesting a small scale future land use map amendment to change a Wetland district designation to Mixed Residential for a portion of the property located at 21471 Widgeon Terrace and part of the adjacent common element property of Flamingo Harbor Condominium.

TOWN CONTACT: SARAH PROPST SARAH.PROPST@FMBGOV.COM

You may appear in person, through counsel, or through an authorized agent and provide testimony, legal argument, or other evidence. At this hearing the **Local Planning Agency** will review the application materials and hear testimony to make a **recommendation**. Complete records or transcripts of the proceedings are not provided by the Town.

Copies of the application and staff report are available for viewing at Fort Myers Beach Town Hall. Call 239-765-0202 for more information. Town Hall is open between the hours of 8:30 AM and 4:30 PM. Reasonable accommodations will be made in accordance with the Americans with Disabilities Act. If you need reasonable accommodation, contact Town Hall at 239-765-0202.



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Community Development Services - Planning Division
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Town of Fort Myers Beach
2525 Estero Blvd,
Fort Myers Beach, FL 33931

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

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

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

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

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

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

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

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

Yellow Sheet Number: **2024-1288**

Meeting Date: October 10, 2023

1. **Requested Motion:**

Approval of rezoning Town property for Fire District land swap

Why the action is necessary:

What the action accomplishes:

2. **Agenda:**

ADMINISTRATIVE AGENDA

3. **Requirement/Purpose:**

5. **Background:**

Attachments:

Financial Impact:

6. **Alternative Action**

7. **Staff Recommendations:**

8. **Recommended Approval:**