Fort Myers Beach Local Planning Agency

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

Agenda **Tuesday, November 14, 2023** **9:00 AM**

ORDER OF BUSINESS

I. CALL TO ORDER

II. INVOCATION

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF MINUTES

A. Approval of October 10, 2023 draft minutes

V. PUBLIC COMMENT

VI. PUBLIC HEARINGS

A. Special Exception to allow reconstruction of major accessory structures in the EC zoning district.

RESOLUTION 23-149: A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/APPROVING WITH CONDITIONS/DENYING SPECIAL EXCEPTION SEZ20230189 TO ALLOW RECONSTRUCTION OF A POOL, DECK AREAS, WALKWAYS, STEPS, FENCE AND TWO FOOT RINSE STATIONS, IN THE ENVIRONMENTALLY CRITICAL (EC) ZONING DISTRICT, WITH CONDITIONS, FOR THE PROPERTY LOCATED AT 7002 ESTERO BOULEVARD; PROVIDING FOR SCRIVENER'S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE.

B. VAR20230187 FOR 3580 ESTERO BLVD- TO ALLOW A GARAGE CLOSER TO THE ESTERO BOULEVARD STREET RIGHT-OF-WAY LINE THAN THE PRINCIPAL BUILDING AND TO ALLOW A GARAGE CLOSER TO THE SIDE PROPERTY LINE THAN THE MINIMUM SIDE SETBACK ON WATERFRONT LOTS

RESOLUTION NUMBER 23-152
A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/ APPROVING WITH

CONDITIONS/ DENYING VARIANCE VAR20230187 TO ALLOW A GARAGE CLOSER TO THE ESTERO BOULEVARD STREET RIGHT-OF-WAY LINE THAN THE PRINCIPAL BUILDING AND TO ALLOW A GARAGE CLOSER TO THE SIDE PROPERTY LINE THAN THE MINIMUM SIDE SETBACK ON WATERFRONT LOTS FOR THE PROPERTY LOCATED AT 3580 ESTERO BLVD; PROVIDING FOR CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

C. VAR20230205 a variance from Sec. 34-2020(d)(2)h.2. for parking spaces and Sec. 34-675(b)(2) for building height and stories.

RESOLUTION 23-154 A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING VARIANCE VAR20230205 TO DECREASE THE NUMBER OF REQUIRED PARKING SPACES BY 37 SPACES, AND TO ALLOW FOR A THREE-STORY BUILDING WITH ENCLOSED SPACE ON THE GROUND FLOOR, AND TO ALLOW FOR A BUILDING HEIGHT OF 36 FEET ABOVE FLOOD ELEVATION, FOR THE PROPERTY AT 1249 ESTERO BLVD; PROVIDING FOR SCRIVENER'S ERRORS, SEVERABILITY, PROVIDING FOR AN EFFECTIVE DATE.

D. Post Disaster Buildback code amendment discussion

Post Disaster Buildback

E. Update and amend flood code requirements to meet NFIP standards

Approve/Approve with Conditions/Deny- Update and amend flood code requirements to meet NFIP standards

F. VAR20230142 for a third-floor porch in the front setback and variance to allow 2-percent more building coverage than allowed, for 923 Third Street

APPROVE/ APPROVE WITH CONDITIONS/ DENY FOR 923 THIRD STREET; A VARIANCE FROM LDC SECTION 34-638 TABLE 34-3 DIMENSIONAL REGULATIONS IN CONVENTIONAL ZONING DISTRICTS FOR THE SIDE AND REAR SETBACKS IN THE RS ZONING DISTRICT; AND ALLOW 2% OF ADDITIONAL BUILDING COVERAGE OVER THE MAXIMUM ALLOWED.

G. Variance from the street setback and rear setback for a new residence

RESOLUTION NUMBER 23-155
A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING VARIANCE VAR20230198 49/51 POMPANO ST; REQUESTING A VARIANCE FROM LDC SECTION 34-638 TABLE 34-3 DIMENSIONAL REGULATIONS IN CONVENTIONAL ZONING DISTRICTS FOR THE STREET AND REAR SETBACKS IN THE RM ZONING DISTRICT; PROVIDING FOR CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

VII. ADMINISTRATIVE AGENDA

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 FACEBOOK AND 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 accommodation, 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:**2024-1309**

1. **Requested Motion:** **Meeting Date: November 14, 2023**

Approval of October 10, 2023 draft minutes

Why the action is necessary:

What the action accomplishes:

2. **Agenda:** 3. **Requirement/Purpose:**

APPROVAL OF MINUTES

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5. **Background:**

Attachments:

1. Draft minutes October 10 2023-1

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, October 10, 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, LPA Member Sudduth and LPA Member Vanasse.

II. INVOCATION

Chair Cereceda.

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF MINUTES

A. Approval of September 12, 2023 draft minutes

LPA Member Sudduth moved to approve the minutes; second by LPA Member Plummer.

Motion carried unanimously.

V. PUBLIC COMMENT

No 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

Town Attorney Vose reviewed the quasi-judicial process. Ex parte communications: LPA Member Vanasse - spoke to the applicants, went to the house, looked at the site and talked to the consultant; LPA Member Plummer

DRAFT

- has been to the site and knows the property well; and LPA Member Safford - knows the property well. No disclosures from other members. Town Attorney Vose swore in those providing testimony.
Community Development Planner Sarah Propst reviewed the variance request as stated on the yellow sheet.
Kara Stewart represented the applicants. She stated that the structure would be 15 feet from the side property line and the home would be located behind the existing accessory structure.
No public comment.

LPA Member Plummer moved to approve the variance, including the condition for approval, and noted it met the findings and conclusions; second by LPA Member Sudduth.
Motion carried unanimously by roll call vote.

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.

Town Attorney Vose read the title of the ordinance. Community Development Planner Jason Green reviewed the background of the small scale map amendment and why it was requested, as noted on the yellow sheet. The staff recommended approval based on the DEP (Department of Environmental Protection) study. Planner Green described the process of changing the wetland line.
Sarah Spector, attorney from Roetzel & Andress, represented the applicant. She stated that the DEP provided a letter stating no wetlands were on the site. She requested that the map be designated as mixed residential.
No public comment.

LPA Member Sudduth moved to recommend approval; second by LPA Member Vanasse.
Motion carried unanimously.

VII. ADMINISTRATIVE AGENDA

A.

Approval of rezoning Town property for Fire District land swap

Planner Propst stated the item was pulled from the agenda for lack of notice.

VIII. LPA MEMBERS ITEMS/REPORTS

LPA Member Vanasse brought up fees associated with variances. He recommended that a permit for a house on a non-conforming lot that creates the need for three variances be considered as one application. For example, a fence setback that creates two variances should be considered as one application because one fence on one property is the same review process. Chair Cereceda stated that the fence references were about her fence. She noted that the variances cost $2,800.00 and her fence was $6,000.00. On top of those fees, she has to apply for a permit, which will add to the total cost. She indicated it was a very cumbersome and expensive process. She also felt that the fee for a fence variance should not be the same as a height variance. Chair Cereceda suggested that if the fee schedule is changed, it should be retroactive to Hurricane Ian.
No items from other members.

IX. LPA ATTORNEY ITEMS/REPORTS

LPA Member Plummer nominated Anita Cereceda as chair; second by LPA Member Eckmann.
Motion carried unanimously by roll call vote.
LPA Member Boan nominated Jane Plummer as Vice Chair; second by LPA Member Eckmann.
Motion carried unanimously by roll call vote.

No items from Town Attorney Vose.

X. COMMUNITY DEVELOPMENT ITEMS/REPORTS

Planner Propst noted that the Historic Preservation Board (HPB) had not met in a long time and questioned how the LPA wanted to handle the situation. Planner Green responded that the LPA was the HPB per the LDC (Land Development Code) and the LPA chose to create the Historic Preservation Advisory Board (HPAB) to advise the LPA on specific topics. Since Ian, the question was whether any historical homes were left to be saved. He questioned whether the LPA was interested in getting the HPAB started again or whether the LPA preferred to deal with items directly. LPA Member Vanasse indicated that before the hurricane, it was difficult to get a quorum with the HPAB and the LPA discussed whether the number of seats could be reduced. He mentioned keeping the HPAB intact as an option, but if they could not meet a quorum, the items would go straight to the HPB. Chair Cereceda suggested adding the HPAB to an agenda to discuss where to go.

XI. ITEMS FOR NEXT MONTHS AGENDA

Planner Propst indicated the special exception for the fire district may be on the agenda next month. LPA Member Sudduth stated he would not be in town for the next meeting, but he will participate remotely.

XII. ADJOURNMENT

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

The meeting was adjourned at 9:44 a.m.

Town of Fort Myers Beach
Agenda Item Summary Yellow Sheet Number:**2024-1310**

1. **Requested Motion:** **Meeting Date: November 14, 2023**

RESOLUTION 23-149: A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/APPROVING WITH CONDITIONS/DENYING SPECIAL EXCEPTION SEZ20230189 TO ALLOW RECONSTRUCTION OF A POOL, DECK AREAS, WALKWAYS, STEPS, FENCE AND TWO FOOT RINSE STATIONS, IN THE ENVIRONMENTALLY CRITICAL (EC) ZONING DISTRICT, WITH CONDITIONS, FOR THE PROPERTY LOCATED AT 7002 ESTERO BOULEVARD; PROVIDING FOR SCRIVENER'S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE.

Why the action is necessary:
The LPA provides a recommendation to the Town Council for special exception requests.

What the action accomplishes:
The LPA recommendation will be forwarded to the Town Council.

2. **Agenda:**
PUBLIC HEARINGS

3. **Requirement/Purpose:**
Resolution

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5. **Background:**
The applicant is proposing the replacement/repair of a pool, paver decks, walkways, fence, stairs and two foot rinse stations, partially or fully within the Environmentally Critical (EC) zoning district. All of these features are part of the common element for the Island Reef Condominium and were in existence in the proposed locations, prior to Hurricane Ian. These structures are considered major accessory structures and can be replaced in the EC zoning district with approval of a special exception, per Section 34-652 (e) of the land development code. The EC zoning district starts at the 1978 Coastal Construction Control Line (CCCL) and extends seaward to the water.

Attachments:
1. Exhibit A Resolution 23-149
2. Staff Report
3. Exhibit B Site Plan
4. Exhibit C SEZ Application Packet
5. Exhibit D Survey
6. Exhibit E - Postcards

Financial Impact:
unknown

6. **Alternative Action**
Approve with conditions

7. **Staff Recommendations:**
Recommend denial

8. **Recommended Approval:**

Date: November 02, 2023

Frankie Kropacek, Operations & Compliance Director

Date: November 02, 2023

Gretchen R.H. Vose, Town Attorney

Date: November 02, 2023

Amy Baker, Town Clerk

RESOLUTION NUMBER 23-149

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/APPROVING WITH CONDITIONS/DENYING SPECIAL EXCEPTION SEZ20230189 TO ALLOW RECONSTRUCTION OF A POOL, DECK AREAS, WALKWAYS, STEPS, FENCE AND TWO FOOT RINSE STATIONS, IN THE ENVIRONMENTALLY CRITICAL (EC) ZONING DISTRICT, WITH CONDITIONS, FOR THE PROPERTY LOCATED AT 7002 ESTERO BOULEVARD; PROVIDING FOR SCRIVENER'S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE.

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

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

WHEREAS, applicant Island Reef Condominium Association is requesting a special exception for the reconstruction of major accessory structures that were destroyed during hurricane Ian, including a pool, deck areas, steps to the beach, walkways, a fence, and two foot rinse stations in the Environmentally Critical zoning district; and

WHEREAS, the STRAP number for the subject property is 03-47-24-W1-02300.00CE

WHEREAS, the Property is located in the "Recreation" category of the Future Land Use Map of the Comprehensive Plan and the "Environmentally Critical" zoning district of the Official Zoning Map of the Town of Fort Myers Beach, Florida; and

WHEREAS, a public hearing on this matter was legally noticed and held before the Local Planning Agency (LPA) on November 14, 2023, and at said hearing the LPA gave full and complete consideration to the request of Applicant, recommendations of staff, the documents in the file, and the testimony of all interested persons, as required by Section 34-88 of the LDC. The LPA voted #-# to recommend **denial/approval/approval with conditions** of the special exception; and

WHEREAS, on December 4, 2023 the Town Council held a duly noticed public hearing to fully consider the request of the Applicant, the recommendations of Town staff and the LPA, the documents in the record, and testimony of all interested persons as required by Section 34-88 of the LDC; and

WHEREAS, the Town Council determined it **is/is not** in the best interest of the Town to approve the request.

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

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

Section 2. The Town Council determines the Applicant **did/did not** meet its burden of proof that the requested Special Exception **does/does not** meet the requirements of the Town Comprehensive Plan and LDC, and approving the Special Exception is in the best interest of the Town to approve. Therefore, based upon the recommendations, testimony, and evidence presented by the Applicant, Town staff, and interested parties and public, the Town Council **APPROVES/DENIES** the special exception for the use of permanent shared parking in the Downtown zoning district.

Section 3. In approving the Special Exception, the Town Council makes the following findings and conclusions in accordance with the requirements of Section 34-88 of the LDC:

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

In accordance with the additional regulations and considerations found in Section 6-366 of the LDC:

A. Any repairs must comply with all relevant local and state floodplain regulations.
B. Repairs may not damage existing dunes or dune vegetation.
C. Repairs, other than those limited to emergency repairs to enclose a damaged structure, may not be completed during sea turtle nesting season.
D. A new special exception must be applied for each time the structure is repaired.

Section 4. If the Town Council approves/denies the requested special exception and the following conditions of approval are imposed on the Applicant and the Property:

A. Additional repairs to major structures in the EC zoning district will require a new special exception.

B. Approval of this special exception does not give the Applicant an undeniable right

to permit approval. Development or redevelopment of the Property must comply with all applicable requirements of the Fort Myers Beach Comprehensive Plan and LDC in effect at the time of permit approval, except as specifically modified herein.

C. The applicant must apply for and receive all state and local permits required for the reconstruction of all proposed structures.

D. Any violation of the conditions of approval shall render the special exception null and void.

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 4th day of December 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 December 2023.

Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

TYPE OF CASE:	**Special Exception**
CASE NUMBER:	**SEZ20230189**
CASE NAME:	**Special Exception for the replacement/repair of a pool, pool deck, fence, stairs and walkway fully or partially in the EC zoning.**
LPA HEARING DATE:	**November 14, 2023 at 9:00 AM**
STAFF RECOMMENDATION:	**Deny Special Exception request**
PREPARED/ SUBMITTED BY:	**Sarah Propst AICP, PMP/ Jason Green AICP, CFM**

I. APPLICATION SUMMARY

Applicant/Owner:	Island Reef Condominium Association
Requests:	To return the pool to pre-Ian condition; reinstallation of steps to beach; reinstallation of two, foot rinse stations; reinstallation of the fencing on the seawall, side property line and around the pool; reinstallation of walkways; reinstallation of the decks using pavers in lieu of concrete.
Physical Address:	7002 Estero Blvd
STRAP #:	03-47-24-W1-02300.00CE
FLU:	Recreation
Zoning:	Environmentally Critical

Adjacent zoning and land uses:

North:	Environmentally Critical (EC)/Recreation Common Element of Sand Caper Condominium

South:	Environmentally Critical (EC)/Recreation Common Element of Terra Mar Condominium
East:	Residential Multifamily (RM)/Mixed Residential Common Element of Island Reef Club Condominium
West:	Environmentally Critical (EC)/Recreation Beach

II. BACKGROUND AND ANALYSIS

Background:

The applicant is proposing the repair/replacement of a pool, paver decks, walkways, fence, stairs and two foot rinse stations, partially or fully within the Environmentally Critical (EC) zoning district. All of these features are part of the common element for the Island Reef Condominium and were in existence in the proposed locations, prior to Hurricane Ian.

These structures are considered major accessory structures and can be replaced in the EC zoning district with approval of a special exception, per Section 34-652 (e) of the land development code. The EC zoning district starts at the 1978 Coastal Construction Control Line (CCCL) and extends seaward to the water. The attached siteplan indicates the CCCL as the dashed line running through the back portion of the condominium building and through the pool.

Per a letter provided from the applicant's attorney, the pool, fence, and foot rinse stations were built in or around 1971. This would mean that they were built before the implementation of the 1978 CCCL.

With the reconstruction, the applicant will moved the pool equipment, which was previously within the EC, to the RM portion of the property. Additionally, the proposed foot rinse station located near the proposed steps will be above the seawall, not on the beach.

Analysis:

The condominium structure was built in 1971, per Lee Property Appraiser. Staff does not have a copy of the original development order to verify that the pool was built at the same time as the condominium, however it likely was part of the original design and therefore built prior to the creation of the 1978 CCCL.

The condominium has met the application criteria of providing notice to the condominium ownership of this special exception application and staff has received signed letters of acknowledgement from more than the code required 75% of owners.

The LDC was recently updated to allow major primary and accessory structures to be repaired in the EC zoning district with the approval of a special exception. Prior to the code change, only single-family residences could be repaired in the EC zoning district.

Neighborhood Compatibility:
A review of the aerials up and down the beach indicate that there are likely less than ten primary and accessory structure that extend over the 1978 CCCL. The aerials are not precise so that may be an over or under estimate of the number. These developments may request to repair the primary and accessory structure in the same location or may choose to move the structures landward of the CCCL.

Findings and Conclusions:
Section 6-366(b)(3) Regulations and Considerations
LDC Section 6-366 includes additional regulations and considerations for special exception approval of repairs in the EC zoning district:

a. *Any repairs must comply with all relevant local and state floodplain regulations.*

   The applicant has been coordinating with the Floodplain Administrator to ensure compliance.

b. *Repairs may not damage existing dunes or dune vegetation.*

   The repairs are proposed landward of the seawall. No dunes or native vegetation will be impacted.

c. *Repairs, other than those limited to emergency repairs to enclose a damaged structure may not be completed during sea turtle nesting season.*

   Sea turtle nesting season ended on October 31st .

d. *A new special exception must be applied for each time the structure is repaired.*

   This will be a condition of the special exception approval.

Special Exception Findings
LDC Sec. 34-88(b) sets forth the required findings and conclusions for the approval of a special exception:

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

   The pool and all facilities in the EC were destroyed or severely damaged during Ian. Construction seaward of the EC is likely to be damaged by storm surge in

the future. Increasing storm surge potential makes approval of this request inappropriate.

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

Policy 5-D-1 states: Development (other than minor structures) shall not be allowed seaward of the 1978 Coastal Construction Control Line. Development seaward of the 1991 Coastal Construction Control Line may be permitted provided it complies with this comprehensive plan and all state and local permitting requirements.

This proposed redevelopment does not create any new development or change the location from what previously existed on the site. Therefore staff believes that this proposed request does not fall within the definition of development in the Town's code of ordinance:

- The LDC defines *Development* as (1) A subdivision, as defined in this chapter; or (2) Any improvement to land, as defined in this chapter.
- The LDC defines *Improvement* to land as any change to land or to any structure on the land, and shall include any movement or grading of land, except grading which is incidental to the removal of exotic vegetation and which is not prohibited by ch. 22 of this LDC; clearing of indigenous plant communities; and the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; provided, however, that any change to a building which does not involve a change in the building floor area shall not be deemed an improvement to land.

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

The request will comply with local, state, and federal air, noise and water pollution standards. It will not adversely affect water quality and it will not create a nuisance to adjacent properties.

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

The request will maintain what was previously constructed on this property. It will not have an additional negative impact.

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

There is no anticipated negative impact or injury to surrounding properties.

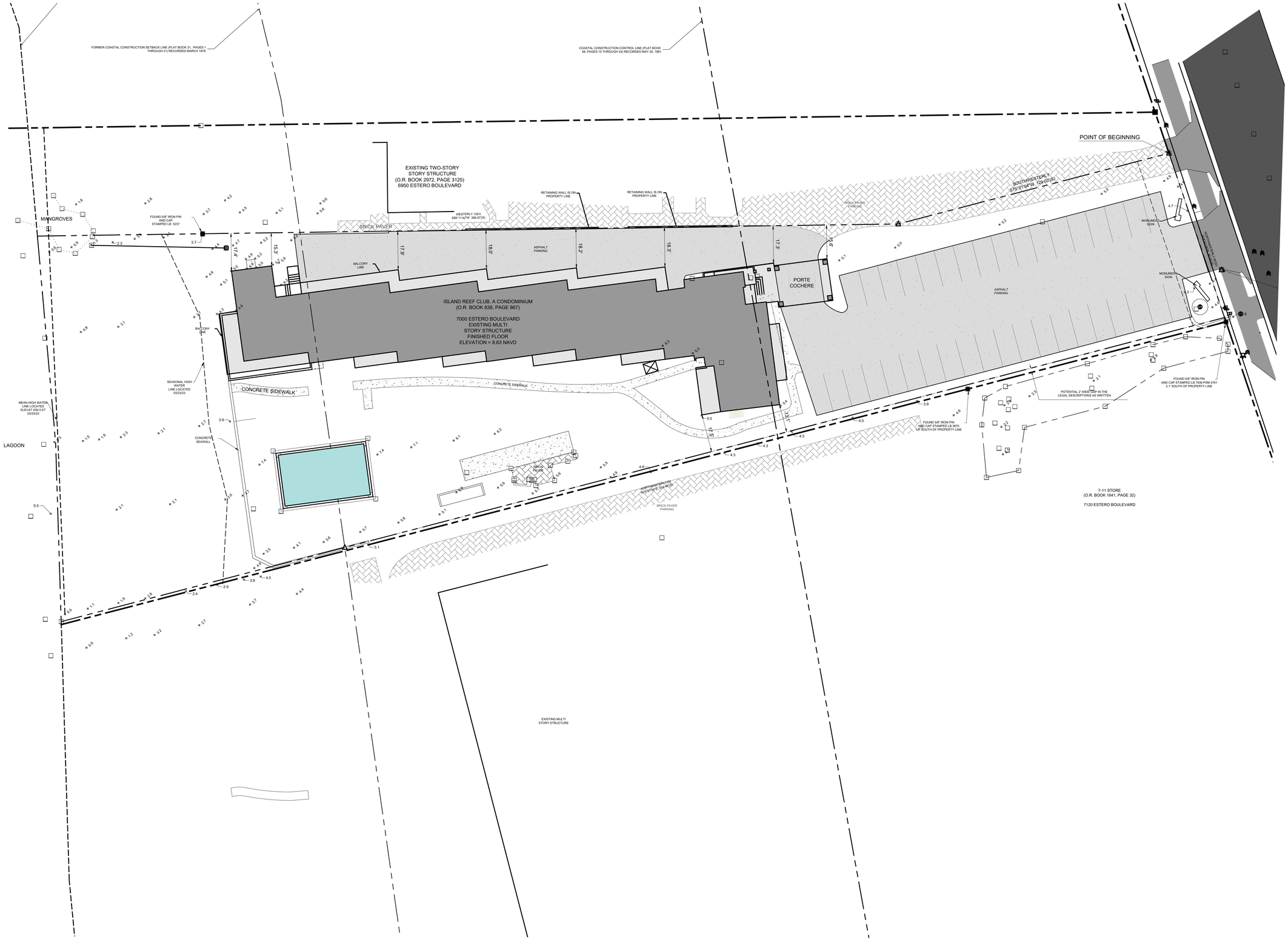
6) *Whether a requested use will be in compliance with the applicable general zoning provisions and supplemental regulations set forth in Chapter 34 of the Land Development Code.*

   The EC zoning district allows only passive, movable structures, no new major structures of any kind are allowed, other than dune walkovers through a special exception. Prior to the recent code change, only repairs to primary structures were permitted through a special exception. The recent code amendment allows replacement of major accessory structures also.

III. RECOMMENDATION

Staff finds that the special exception for reconstruction of several major accessory structures in the EC zoning district is not in compliance with item Sec. 34-88(b)(1). Therefore, staff recommends **DENIAL** of SEZ20230189 for the reconstruction of a pool, deck areas, walkways, steps, fence and two foot rinse stations.

Staff Report Exhibits:
A – Resolution 23-149
B – Site Layout Plan
C – SEZ Application Packet
D - Survey
E – Postcard to Adjacent Property Owners



L:\23-020 7000 Estero Blvd - Island Reef Condo\ALD-Dwgs\23-020 - 0d.dwg, Plotted on 07.25.2023 / 11:27 AM by Phil McHenry
L:\23-020 7000 Estero Blvd - Island Reef Condo\ALD-Dwgs\23-020 - 0d.dwg, 8/4/2023 4:25:40 PM, phil
Any deviations or inaccuracies need to be brought to the attention of the Owner immediately. * All base information has been provided by others, verification of setbacks, property lines, etc. need to be provided by others. * It is the Contractors responsibility to verify that he has the most current plan. * Contractor shall not scale from plan, use dimensions only. * These plans are the property of Architectural Land Design and may not be used or reproduced without authorization.
This Document contains information proprietory to ARCHITECTURAL LAND DESIGN and no part of this drawing shall be reproduced or disclosed to others or used for any purpose other than for which it was furnished, without prior written permission from ARCHITECTURAL LAND DESIGN.

Contractor shall verify that he has the most up to date plans, and that they have been approved and accepted by the Owner before commencing construction.

Contractor to confirm quantities and materials selections with the owner before construction.
Contractor to verify property lines and setbacks before construction.
Contractor must have property lines staked and located,
and must verify plan dimensions and field conditions are consistent.
Any Inconsistencies w/ these plans need to be reported to ALD and the Owner.
Contractor shall verify that he has the most up to date plans, and that they have been approved and accepted by the Owner before commencing construction.

ARCHITECTURAL LAND DESIGN INCORPORATED
LANDSCAPE ARCHITECTURE
2780 S. Horseshoe Drive Suite 5
Naples, FL 34104
(239) 430-1661
Design@ALDinc.net
License LC26000259

Christian Andrea
REGISTERED LANDSCAPE ARCHITECT CHRISTIAN ANDREA LA 0001178 STATE OF FLORIDA
Digitally signed by Christian Andrea RLA LA0001178
Date: 2023.08.04 10:35:51 -04'00'

Copyright Architectural Land Design ©

Island Reef

7000 Estero Boulevard Fort Myers Beach

DEP EXISTING CONDITIONS PLAN

▲1 Adj Fence, AC pads, Walk layout... YAC 07.12.23
Drawing Date: PM 06.12.23

Scale: 1"=20'-0"

23-020

N

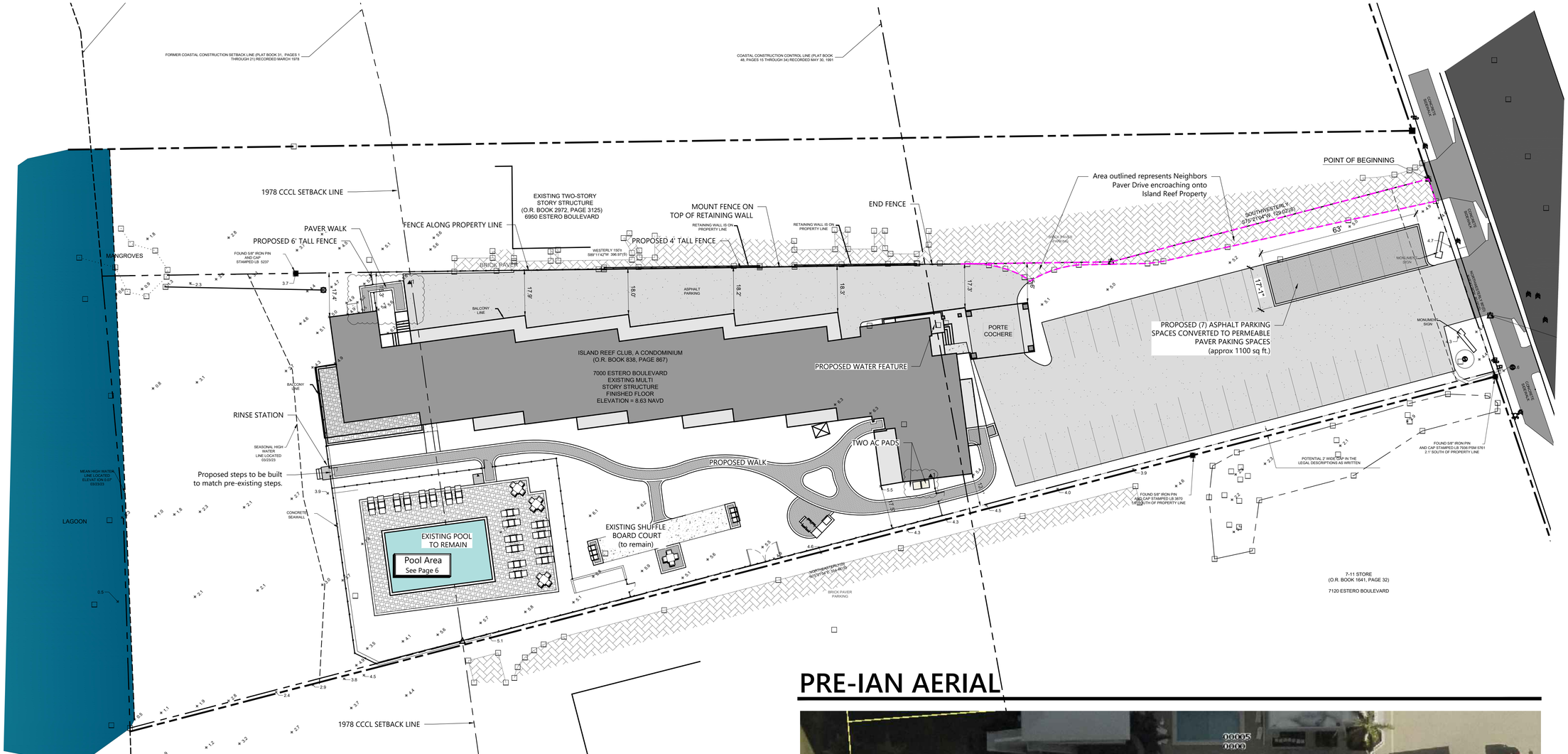
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Architectural Information Provided By:
Company Name: ----
File Name: ----
Date: ----

Site Information Provided By:
Company Name: ----
File Name: ----
Date: ----

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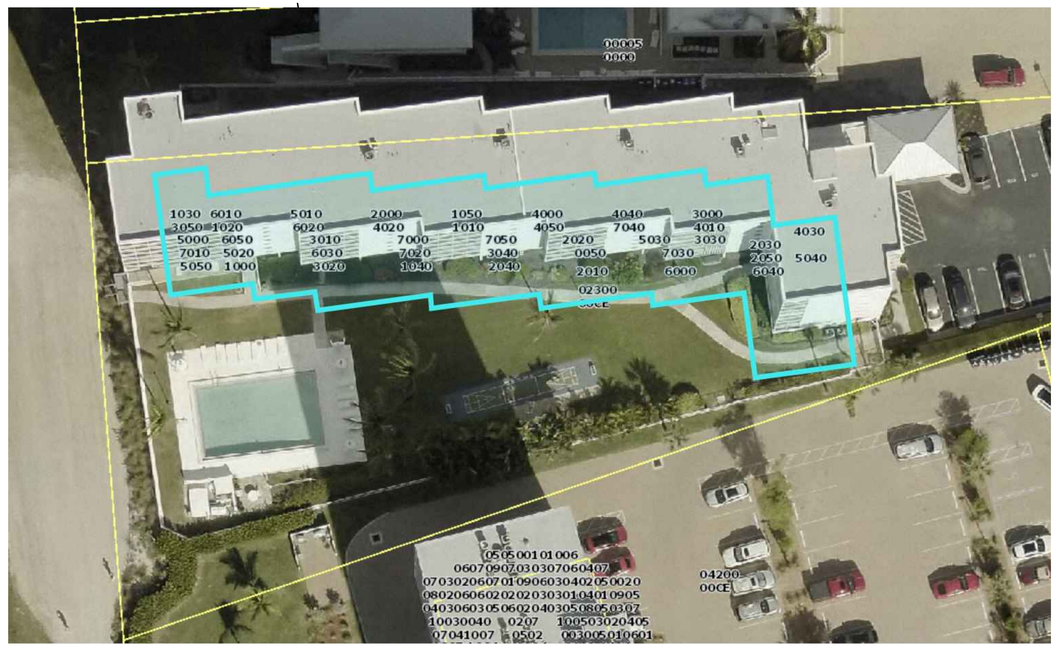
PRE-IAN POOL COMMON AREA IMAGES







PRE-IAN AERIAL



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OVERALL SITE PLAN

▲1 Adj Fence, AC pads, Walk layout... YAC 07.12.23
Drawing Date: PM 06.12.23

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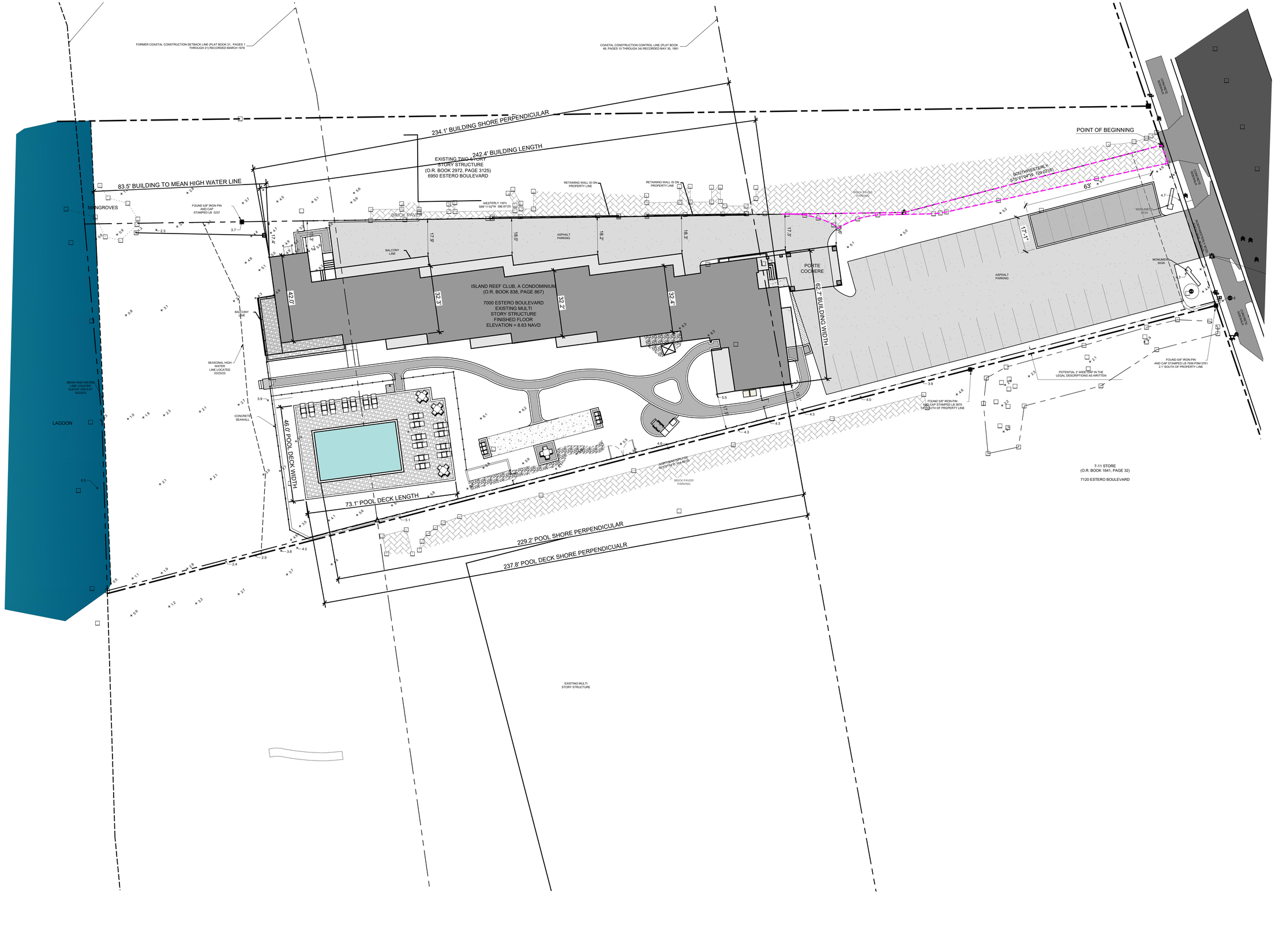
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DEP CCCL SITE DIMENSION PLAN

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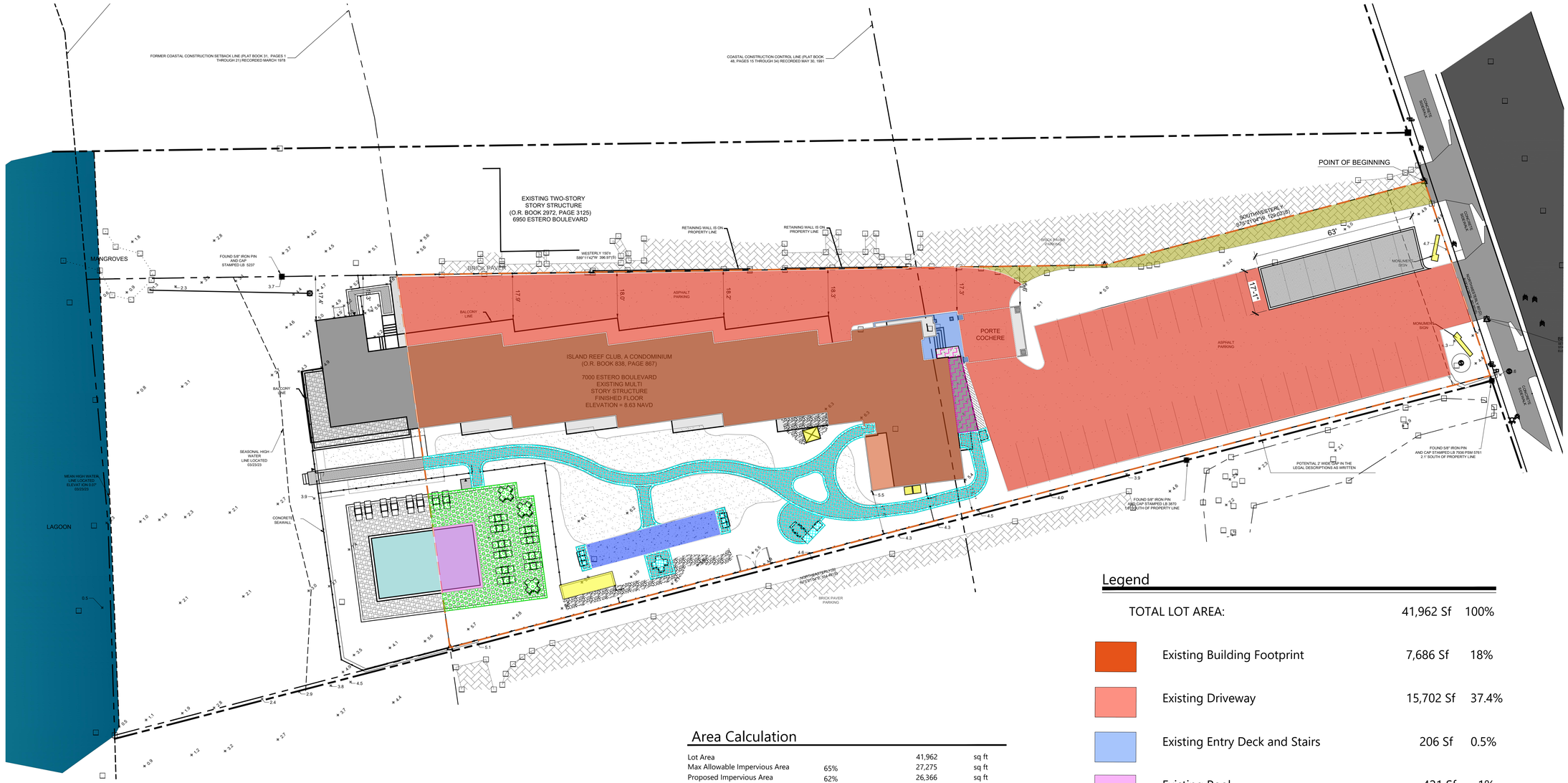
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1a



Legend

	TOTAL LOT AREA:	41,962 Sf	100%
	Existing Building Footprint	7,686 Sf	18%
	Existing Driveway	15,702 Sf	37.4%
	Existing Entry Deck and Stairs	206 Sf	0.5%
	Existing Pool	421 Sf	1%
	Existing Neighbor Driveway (To be removed and replaced w/ Gravel)	959 Sf	2.3%
	Existing Shuffle Board	509 Sf	1%
	Utility Area	201 Sf	0.3%
	Ramp	226 Sf	0.5%
	Pool Deck (Stone Deck)	1,415 Sf	3.4%
	Walk/ParkingConversion (Permeable Pavers)	3,258 Sf	7.7%

Area Calculation

Lot Area		41,962	sq ft
Max Allowable Impervious Area	65%	27,275	sq ft
Proposed Impervious Area	62%	26,366	sq ft

	Impervious	Pervious	
Existing Building Footprint	7686		sq. ft.
Existing Driveway	15702		sq. ft.
Existing Entry Deck & Stairs	206		sq. ft.
Existing Pool	421		sq. ft.
Neighbor Driveway Convert to Gravel		959	sq. ft.
Existing Shuffle Board	509		sq. ft.
Utility Area	201		sq. ft.
Ramp	226		sq. ft.
Pool Deck	1415		sq. ft.
Side Walk		3258	sq. ft.
Open Space		11560	sq. ft.
			sq. ft.
Total	26366	15777	sq. ft.

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LOT COVERAGE AREA

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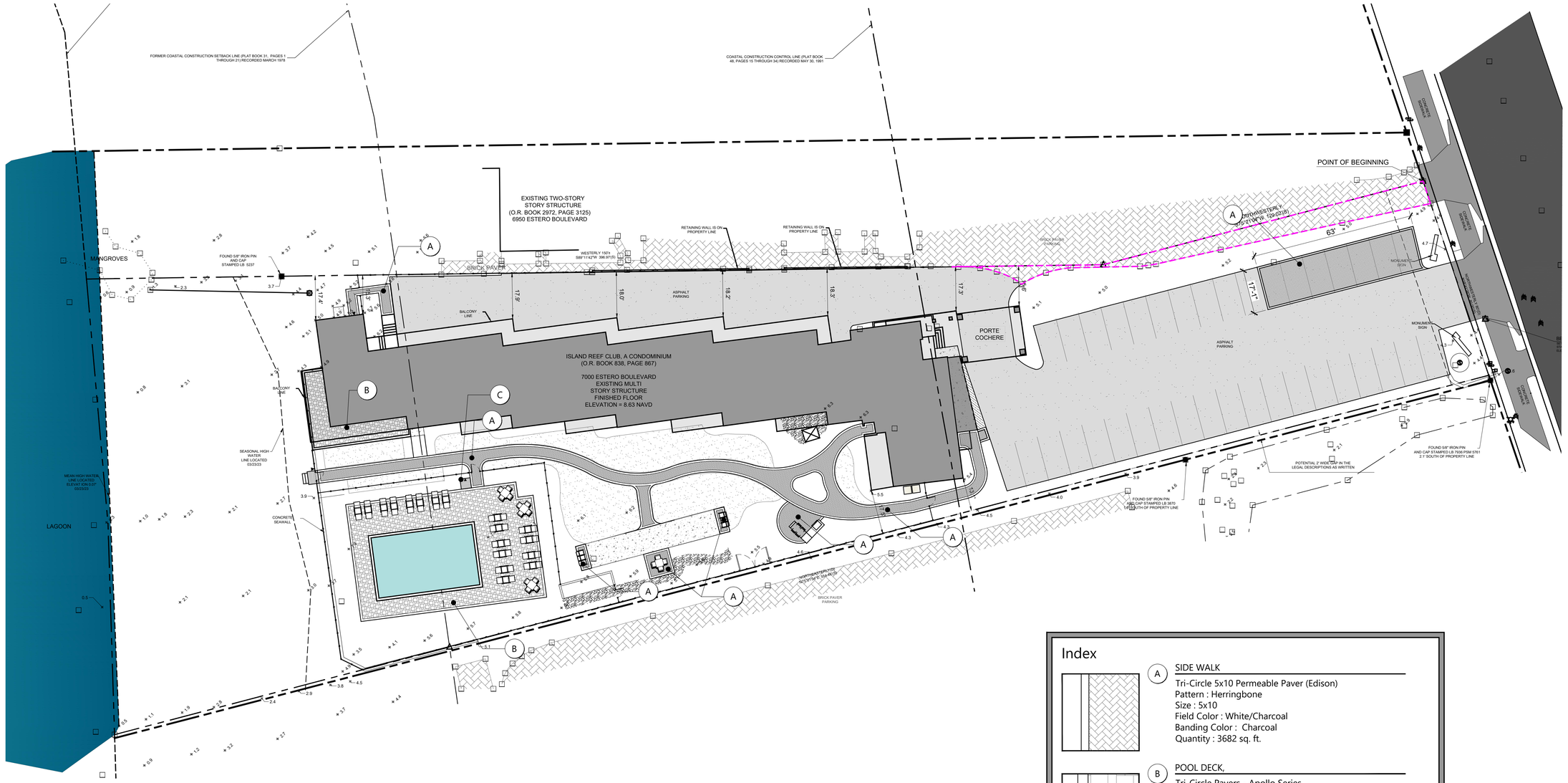
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Index

A — SIDE WALK

Tri-Circle 5x10 Permeable Paver (Edison)
Pattern : Herringbone
Size : 5x10
Field Color : White/Charcoal
Banding Color : Charcoal
Quantity : 3682 sq. ft.

B — POOL DECK,

Tri-Circle Pavers - Apollo Series
Pattern : Fench - 3 Peice
Size : 8x8, 8x16, 16x16
Banding Size : TBD
Field Color : White/Charcoal
Quantity : 2710 sq. ft.

C — OUTDOOR SHOWER DECK

Trex Decking
Decking Size : 1x6"
Supporting Structure : PT Wood Framed with 57 Stone Drain Field
Quantity : 16 sq. ft. (contractor to verify)

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MATERIAL SELECTION PLAN

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EXISTING TWO-STORY
STORY STRUCTURE
(O.R. BOOK 2972, PAGE 3125)
6950 ESTERO BOULEVARD

ISLAND REEF CLUB, A CONDOMINIUM
(O.R. BOOK 838, PAGE 867)

7000 ESTERO BOULEVARD
EXISTING MULTI
STORY STRUCTURE
FINISHED FLOOR
ELEVATION = 8.63 NAVD

ND 5/8" IRON PIN
AND CAP
MPED LB 5237

PAVER WALK ▲1
PROPOSED 6' TALL FENCE
PROPOSED 3' WIDE GATE
FENCE ALONG PROPERTY LINE ▲1
BRICK PAVER
WESTERLY 150'±
S89°11'42"W 396.97'(S)
PROPOSED 4' TALL FENCE ▲1
220'-9½"
RETAINING WALL IS ON
PROPERTY LINE
MOUNT FENCE ON
TOP OF RETAINING WALL ▲1
RETAINING WALL IS ON
PROPERTY LINE
Area outlined represents
Pavers to be removed and
replaced with gravel. ▲1
PROPOSED FOOT
WASH STATION ▲1
15'-4½"
BALCONY
LINE
ASPHALT
PARKING
BALCONY
LINE
COMMON AREA DECK
(concrete pavers)
RAMP TO BE REINSTALLED
TO PRE-IAN STANDARD
PROPOSED LOCATION FOR
FUTURE WATER FEATURE
PORTE
COCHERE
4'-10½"
RINSE STATION ▲1
SHIFT ALIGNMENT OF WALK
TO SEAWALL SOUTH
(future of deck connection
to grade to be determined)
8'-1⅛"
PROPOSED 3' WIDE GATE
PROPOSED 3' WIDE GATE
(aluminum, self-latching)
16'-9⅜"
3'-9⅜"
5' WIDE PAVER WALK
R3'
R59'-11½"
R54'-11½"
Proposed steps to be built
to match pre-existing steps ▲1
60'-4½"
25'-3¼"
3'-4"
5'
TURF AREA
R41'-2¾"
R51'-9⅝"
PROPOSE WIDENING
RAMP TO ENTRY
29'-4½"
PAVER LANDING
R18'-5"
R13'-6"
PAVER LANDING
(connection to parking tbd)
3'-4⅛"
CONCRETE
SEAWALL
5'-1⅛"
14'-2⅜"
POOL DECK
14'-2⅜"
PROPOSED LOCATION
FOR OUTDOOR SHOWER
5'-11½"
FENCE TO BE INSTALLED
AROUND THE POOL AREA
PAVER WALK TO
SHUFFLEBOARD COURT
TURF AREA
SEATING AREA
FOR BENCH
SHIFT FENCE FROM
FACE OF BUILDING
TWO AC PADS
EXISTING SEAWALL
TO REMAIN
PROPOSED 4' TALL POOL FENCE
TO BE INSTALLED ON
TOP OF SEAWALL
39'-8½"
8'-1½"
25'-2⅝"
EXISTING POOL
TO REMAIN
23'-9⅜"
65'-5½"
47'-10¾"
40'-2"
SEATING AREA
FOR BENCH
EXISTING SHUFFLE
BOARD COURT
(tor remain)
SEATING AREA
FOR TABLE WITH
UMBRELLA
10'
9'-11"
PLANTER
R13'-6"
R46'-11"
PAVER NODE
5' WIDE PAVER WALK
PROPOSED 3' WIDE GATE
PROPOSE PAVER DECK
BE INSTALLED FLUSH WITH
POOL COPING
73'-1½"
8'-2⅜"
POOL DECK
21'-4"
9'-3⅜"
5'-8"
1'-9½"
3'-4"
20'
7'-1"
65'-3"
OUTDOOR GRILLING STATION
NORTHEASTERLY(D)
N75°21'04"E. 554.46'(S)
48'-5⅝"
12'-4"
PROPERTY LINE
PROPOSED 12' WIDE GATE
PROPOSED LOCATION
FOR POOL EQUIPMENT
1'-10"
PROPOSED 3' WIDE GATE
(aluminum, self-latching)
PROPOSED 4' TALL POOL FENCE
(aluminum, color TBD by owner)
BRICK PAVER
PARKING
9'-1⅝"
103'-7"

Contractor shall verify that he has the most up to date plans, and that they have been approved and accepted by the Owner before commencing construction.

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DEP AMENITY DIMENSION PLAN

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ND 5/8" IRON PIN
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S89°11'42"W 396.97'(S)
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RETAINING WALL IS ON
PROPERTY LINE
Area outlined represents
Pavers to be removed and
replaced with gravel. ▲1
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COMMON AREA DECK
(concrete pavers)
RAMP TO BE REINSTALLED
TO PRE-IAN STANDARD
AL HIGH
ER
RINSE STATION ▲1
SHIFT ALIGNMENT OF WALK
TO SEAWALL SOUTH
(future of deck connection
to grade to be determined)
Proposed steps to be built
to match pre-existing steps. ▲1
5' WIDE PAVER WALK
PROPOSED 3' WIDE GATE
TURF AREA
PROPOSE WIDENING
RAMP TO ENTRY
PAVER LANDING
PAVER LANDING
(connection to parking tbd)
CONCRETE
SEAWALL
POOL DECK
PROPOSED LOCATION
FOR OUTDOOR SHOWER
TURF AREA
FENCE TO BE INSTALLED
AROUND THE POOL AREA
5' WIDE PAVER WALK
PAVER WALK TO
SHUFFLEBOARD COURT
SHIFT FENCE FROM
FACE OF BUILDING
TWO AC PADS
EXISTING SEAWALL
TO REMAIN
PROPOSED 4' TALL POOL FENCE
TO BE INSTALLED ON
TOP OF SEAWALL
SEATING AREA
FOR BENCH
TURF AREA
SEATING AREA
FOR BENCH
PLANTER
EXISTING SHUFFLE
BOARD COURT
(tor remain)
SEATING AREA
FOR TABLE WITH
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EXISTING POOL
TO REMAIN
PAVER NODES
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BE INSTALLED FLUSH WITH
POOL COPING
POOL DECK
OUTDOOR GRILLING STATION
PROPOSED 3' WIDE GATE
NORTHEASTERLY(D)
N75°21'04"E 554.46'(S)
PROPERTY LINE
PROPOSED 12' WIDE GATE
PROPOSED LOCATION
FOR POOL EQUIPMENT
BRICK PAVER
PARKING

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DEP AMENITY GARDING PLAN

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COMMON AREA DECK

SHIFT ALIGNMENT OF WALK TO SEAWALL SOUTH (future of deck connection to grade to be determined)

RINSE STATION

37'-10⅞"

5'-4½"

31'-2⅞"

R54'-11½"

R59'-11½"

16'-6½"

5' WIDE PAVER WALK

5'-0½"

STAIRS TO BE REINSTALLED TO PRE-IAN STANDARD

Proposed steps to be built to match pre-existing steps.

PROPOSED 4' TALL POOL FENCE

89'-0⅛"

R23'

R23'

PROPOSED PAVER WALK CONNECTION

5' WIDE PAVER WALK

4'

5'

PROPOSED LOCATION FOR OUTDOOR SHOWER

4'

67'-0⅜"

5'-11½"

6'

6'

5'-11½"

R34'-10"

R39'-10"

EXISTING SEAWALL TO REMAIN

PROPOSE PAVER DECK BE INSTALLED FLUSH WITH POOL COPING

14'-2¾"

POOL DECK

8'-11½"

39'-8⅜"

25'-2⅝"

POOL DECK

47'-10½"

PROPOSED 4' TALL POOL FENCE

PROPOSED 4' TALL POOL FENCE TO BE INSTALLED ON TOP OF SEAWALL

23'-8⅜"

EXISTING POOL TO REMAIN

65'-5½"

POOL DECK

8'-1½"

POOL DECK

SEATING AREA FOR BENCH

4'

9'-8⅜"

5'-8"

21'-4"

5'

20'

7'-1½"

7'-1"

PROPOSED LOCATION FOR POOL EQUIPMENT

PROPOSED 4' TALL POOL FENCE

152'-0⅝"

PROPERTY LINE

PROPOSED 4' TALL POOL FENCE

5.1

ALL GRADES REPRESENT NAVD ELEVATIONS

All grades Represent Finished Grades Unless Otherwise Noted (ie. 'Slab')

GRADES REPRESENT NAVD ELEVATIONS. TO OBTAIN NGVD ELEVATIONS ADD 1.2' TO NAVD.

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DEP POOL DECK ENLARGEMENT

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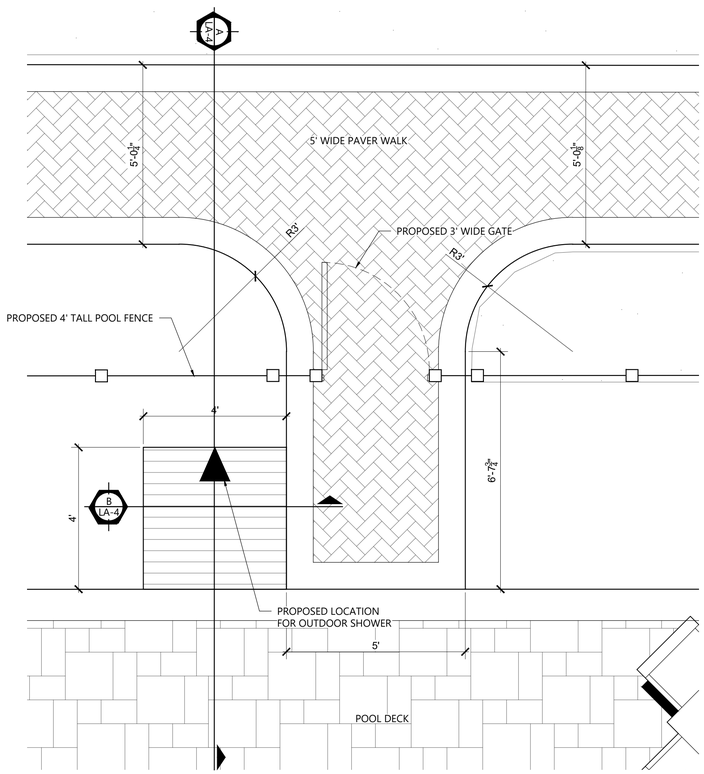
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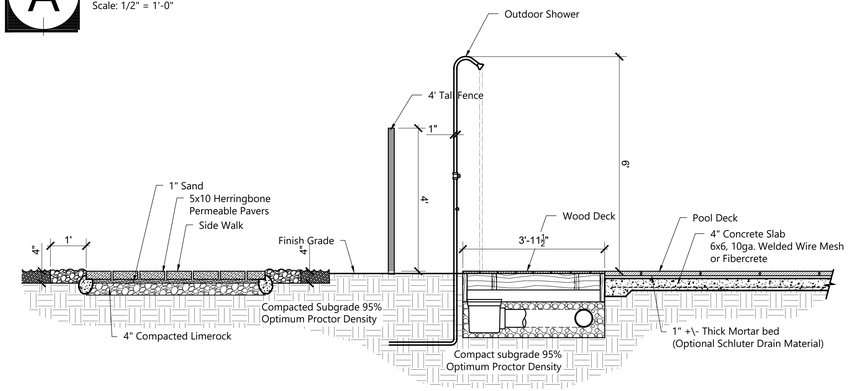
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Outdoor Shower Enlargement



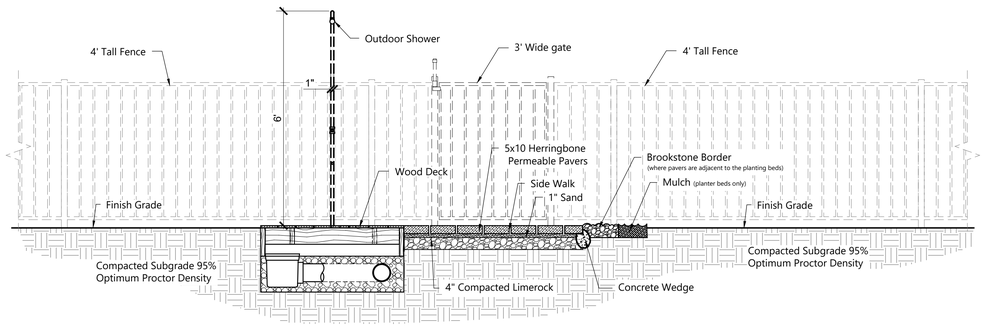
A Outdoor Shower Section

Scale: 1/2" = 1'-0"



B Outdoor Shower Elevation

Scale: 1/2" = 1'-0"



All grades Represent Finished Grades
Unless Otherwise Noted (ie. 'Slab')

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OUTDOOR SHOWER ENLARGEMENT PLAN

▲1 Adj Fence, AC pads, Walk layout... YAC 07.12.23
Drawing Date: PM 06.12.23

Scale: ##########

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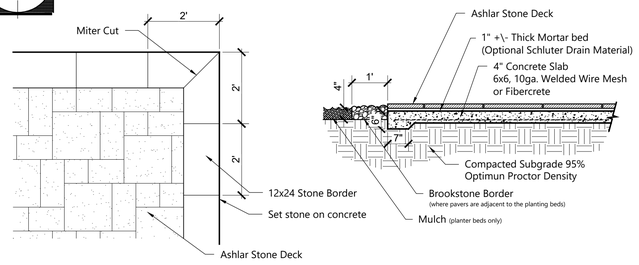
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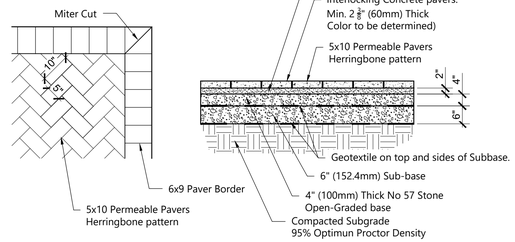
A Stone Paver Detail

Scale: 1/2" = 1'-0"



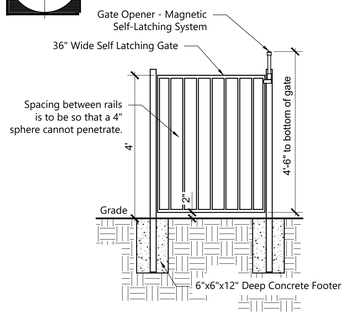
B Permeable Paver Detail

Scale: 1/2" = 1'-0"



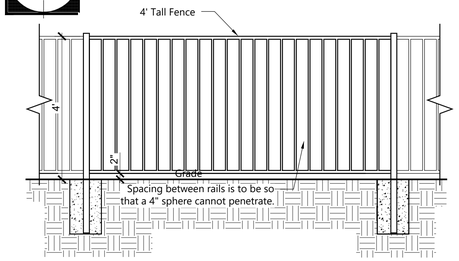
C Pool Gate Detail

Scale: 1/2" = 1'-0"



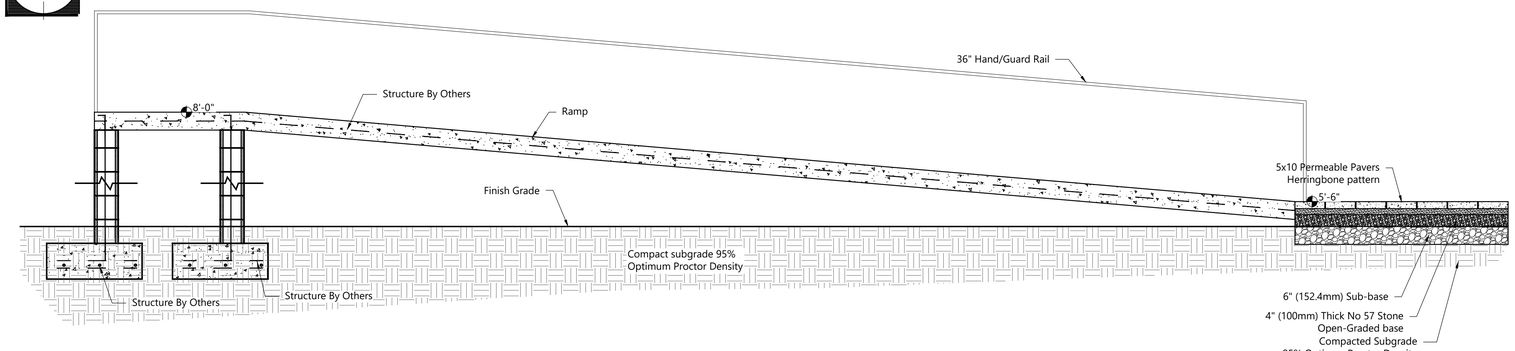
D Fence Detail

Scale: 1/2" = 1'-0"



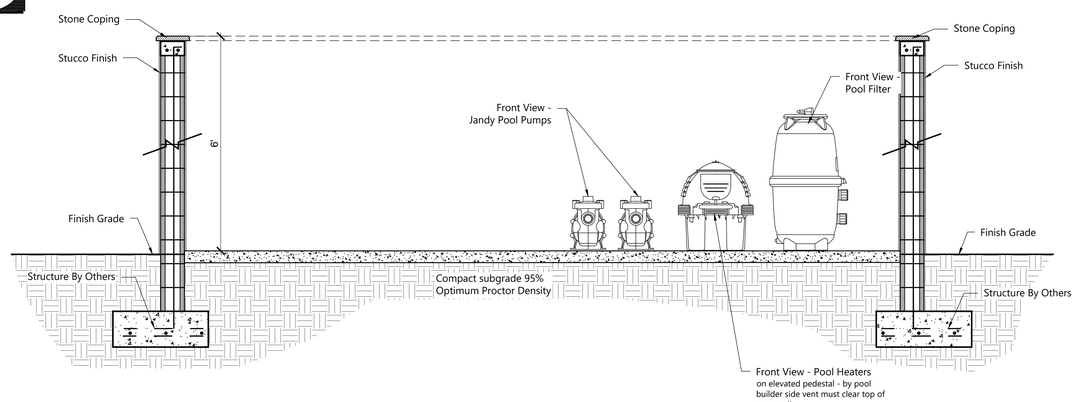
E Ramp Section

Scale: 1/2" = 1'-0"



F Pool Equipment Section

Scale: 1/2" = 1'-0"



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HARDSCAPE DETAILS

▲1 Adj Fence, AC pads, Walk layout... YAC 07.12.23
Drawing Date: PM 06.12.23

Scale: As Noted

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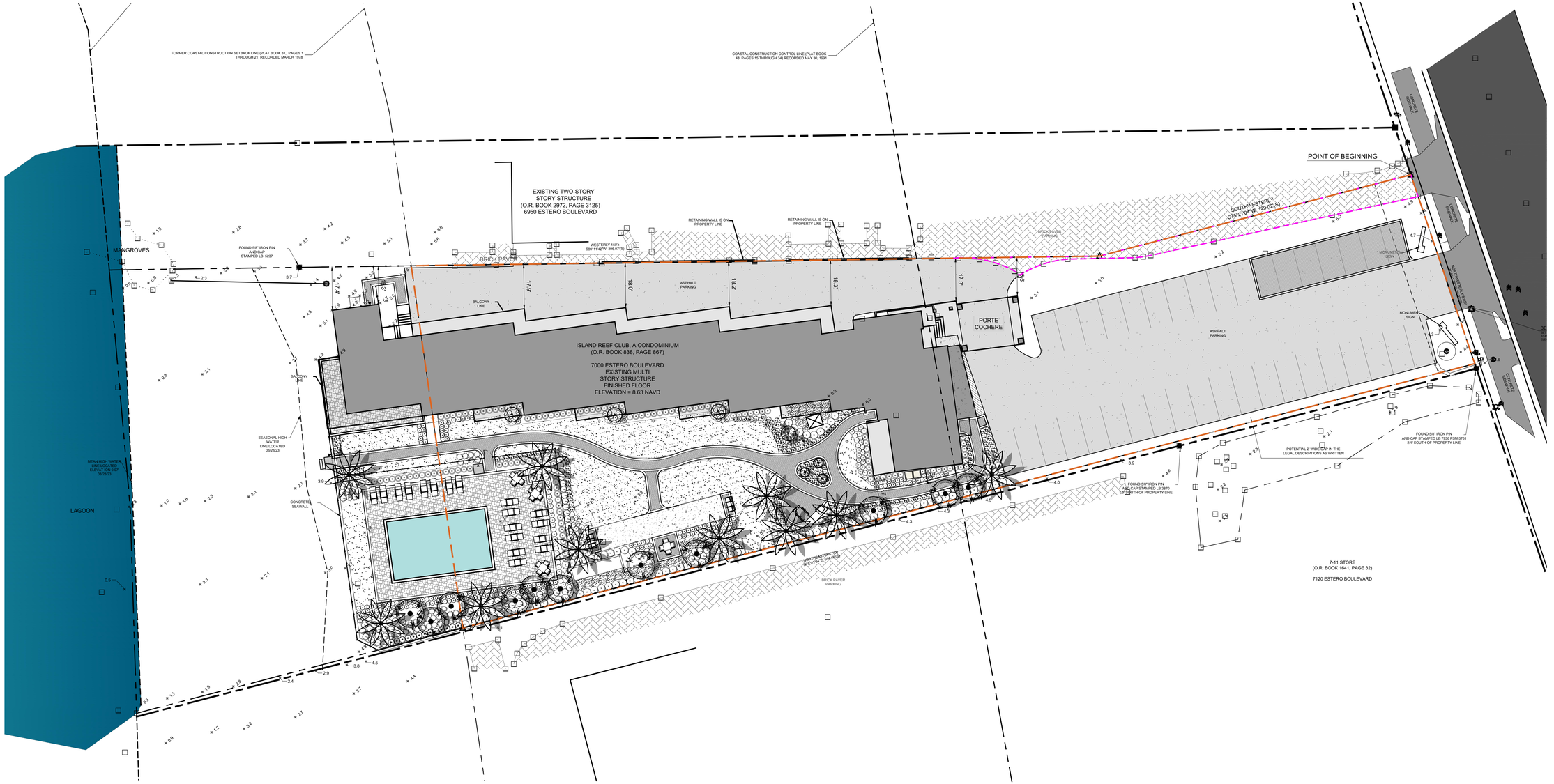
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8

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OVERALL SITE PLANTING PLAN

▲1 Adj Fence, AC pads, Walk layout... YAC 07.12.23
Drawing Date: PM 06.12.23

Scale: 1"=20'-0"

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9

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EXISTING TWO-STORY
STORY STRUCTURE
(O.R. BOOK 2972, PAGE 3125)
6950 ESTERO BOULEVARD

BRICK PAVER

RETAINING WALL IS ON PROPERTY LINE

RETAINING WALL IS ON PROPERTY LINE

BALCONY LINE

ASPHALT PARKING

BALCONY LINE

ISLAND REEF CLUB, A CONDOMINIUM
(O.R. BOOK 838, PAGE 867)

7000 ESTERO BOULEVARD
EXISTING MULTI
STORY STRUCTURE
FINISHED FLOOR
ELEVATION = 8.63 NAVD

PORTE COCHERE

EXISTING SHUFFLE BOARD COURT (tor remain)

BRICK PAVER PARKING

SOD4 241 sf
FIM7 16
CHRG3 14
FIM7 10
SOD4 205 sf
FIM7 10
LEU 6A 1
CHRG3 17
LEU 6A 1
FIM7 13
CHRG3 6
ZAMFUR 8
FIM7 13
LEU 6A 1
CHRG3 17
SOD4 1 248 sf
CAR3 8
CAR3 16
CN10 1
MUH3 11
CHRG3 18
SOD4 373 sf
CN10 1
MUH3 9
BOU3 23
CAR3 54
ALPV7 8
LEU 6A 1
CLU10 10
CN10 3
SOD4 659 sf
SOD4 788 sf
CAR3 29
CHRG3 27
MUH3 20
CN10 1
BOU3 22
SOD4 142 sf
BOU3 21
CHRG3 14
FIM7 30
CHRG3 14
LIR1 57
CAR3 6
CAR3 17
CAR3 32
CHA10a 3
ALPV7 8
SP11 2
MUH3 18
CN10 1
SP11 1
CLU10 32
CAR3 35
CN10 1
FIM7 33
MUH3 4
SP11 1
MUH3 11
MUH3 3
FIM7 9
SP11 1
CLU10 16
SP11 3
CLU10 39
MUH3 30
CN10 1
SP11 3
ZAMFUR 27
COC7 13
CN10 1
MUH3 24
FIM7 99

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AMENITY PLANTING PLAN

▲1 Adj Fence, AC pads, Walk layout... YAC 07.12.23
Drawing Date: PM 06.12.23

Scale: 1" = 10'

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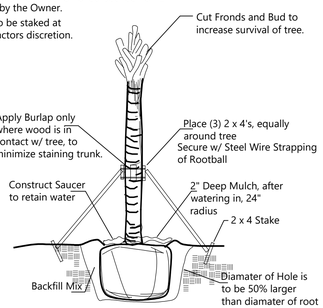
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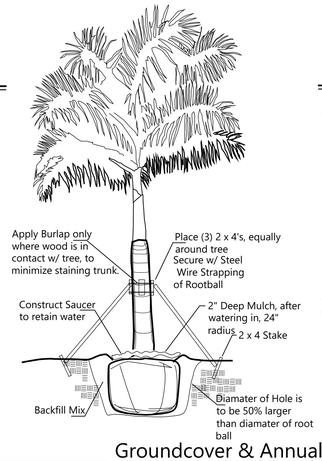
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Palm Tree Staking Detail

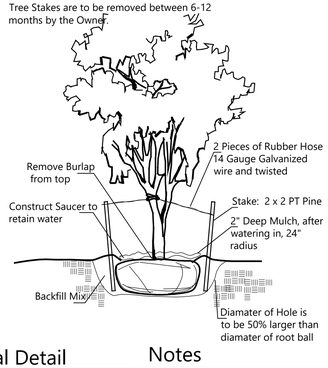
Tree Stakes are to be removed between 6-12 months by the Owner.





Tree Staking Detail

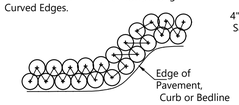
Tree Stakes are to be removed between 6-12 months by the Owner.



Shrub & Groundcover Planting Detail

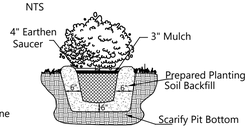
NTS

Note: All Shrubs And Groundcovers Shall Be Triangular Spaced Along Straight Edges And Will Be Planted In Parallel Rows Along Curved Edges.



SHRUB DETAIL

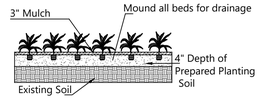
NTS



Groundcover & Annual Detail

NTS

NOTE: Annuals Are To Be Planted As Per Groundcover Detail Excluding Mulch.



Notes

All Plants shall be Florida No.1
Contractor Shall be familiar w/ the Landscape code and shall comply with all of its applicable requirements.
Contractor shall verify all quantities indicated at time of bid. Contractor shall provide unit prices at time of bid. All contractors working on the project shall be licensed and fully insured as required.
Tree and palm staking shall be removed between 6 and 12 months after planting.

Planting Specifications

QUALITY: All plants shall be Florida No.1 or better as given in Grades & Standards for Nursery Plants, Parts I and II, latest edition published by the Florida Department of Consumer Services.

RESEARCH : Contractor shall research plans and site to determine present location of utilities and obstructions before commencing work. Contractor shall ensure that before he commences work that all necessary permits have been obtained.

The contractor shall personally examine the project site and fully acquaint himself with all of the existing conditions in order that no misunderstanding may occur.

No Additional compensation will be granted, after bid has been let for any hardships the contractor may encounter in the performance of his duty. Any discrepencies or errors not addressed at the time of bid.

DRAWINGS : Drawings are part of thhis contract. Any discrepencies between the drawings and specifications shall be brought to the attention of the owner at time of bid.

SCOPE : Under this contract, the work consists of furnishing all labor, material, equipment, transportation, etc., to complete all landscaping work as shown on the Drawings, as included in the Plant List and as herein specified. Work shall include all construction and maintenance/watering of all planting areas of this Contract until accepted by the Owner.

The contractor shall be responsible for all planting/ maintenance of plants until acceptance by Owner. Contractor shall protect all existing structure, plants etc., from damage during the construction process.

All damage shall be repaired at the contractors expense

WARRANTY: All trees shall be warrantied for a period of 1 year. All shrubs and groundcovers shall be warrantied for a period of 90 days, and sod shall be warrantied for a period of 30 days. Warranty begins at time of acceptance. All warranties shall be provided to the owner.

REPLACEMENT: All plant replacements shall be done with the same size and species of plant that was specified.

SAMPLES: Samples of any landscape material may be required for approval on the site or as otherwise determined by the Owner. Upon approval of samples (i.e. mulch, planting soil, plant varieties, etc.) by the Owner, delivery of material may begin. Approved samples shall be stored on the site and protected until furnishing of materials is completed. Plant samples be planted in permanent positions, but labeled as samples.

SUBSTITUTIONS : Any substitutions made for any reason must be approved by the owner.

WATER : It is the contractors responsibility to obtain and adequately water the plants during the duration of the installation phase. All plants shall be freshly dug,healthy and be well branched, free form disease and insects.

CONTAINER GROWN MATERIAL : All container grown materials shall be healthy vigorous, well rooted plants, and established in the container so that the root mass will retain its shape and hold together when removed from the container.

PALMS : Only a minimum numer of fronds shall be removed from the crown of palm trees to facilitate moving and handling. Cabbage palm heads shall be tied with a burlap strip per the following procedure: The first (inside) row of fronds contiguous to bud shall be removed. The next 3-4 rows shall be tied to bud for support. The remaining (lower) fronds shall be removed. Tied fronds and bud tip shall not be clipped. Burlap strip shall be left in place until the tree is well established.

PALMS : Clear trunk (c.t.) shall be measured from the ground at time of installation to the point where the mature aged trunk joins the immature green portion of the tree. Caliper shall be measured at breast height. Overall height (OA) shall be measured from the ground at the time of installation to a point one-quarter the length of the unopened bud below the bud tip.

SHADE TREES : Height shall be measured from the gorund to the avg. height of canopy. Spread shall be measured to the average outer edge. Single trunk trees shall be free from low-crotches.

SHRUBS: Height shall be measured from the ground to the average point where mature plant growth stops. Spread shall be measured to the end of branching equally across the shrub mass. Measurements are not to include any terminal growth.

SOD: Sod shall be measured on the basis of square footage. Contractor shall be responsible for coverage of the square footage shown on the plans.

SOD: Time delivery so that sod will be placed within 24 hours after.

MULCH: Apply 3" Pine Straw mulch to all planting areas. Keep mulch from piling up along the base of the tree and shrubs. Mulch to be measured after compaction.

FINE GRADING
The landscape contractor shall be responsible for fine grading of the site. This means that the site shall be brought within 1" of final grade so that the landscape contractor will be able to perform final grading. All landscape areas, sod areas, are to be fine graded.

PLANT LAYOUT: All bed areas shall have planting laid out prior to planting.
The Landscape Architect shall review all layout prior to planting. If the bed and shrub layout is not inspected prior to planting, the Landscape Architect reserves the right to relocate the plants.

SOIL

Planting beds shall contain good soil, complete with organic sand mix. There shall be no construction debris, rock larger than 1" within bed areas. Soil shall be dark grey-brown in organic color and shall have good drainage characteristics.
Soil within planting beds shall not be compacted.
All compacted sub-base/ shell is to be removed from all landscape areas.

BACKFILL/SOIL MIX	ANNUALS
50% decomposed organic matter (muck)	100% Potting Soil
50% existing soil	
pH: 5.5 - 7.0	

FERTILIZER : Two fertilizers shall be used in all types of plantings except palms. Granular fertilizer shall be uniform in composition, dry and free flowing.
This fertilizer shall be 6-6-6 Nitrogen-Phosphorous-Potassium. Tablet Fertilizer (Agriform or equal) in 21 gr size, shall meet the following requirements: 20% Nitrogen, 10% Phosphorous, 10% Potassium.
The two fertilizers will be applied at the following rates:

1. PLANT SIZE	6-6-6 "AGRIFORM" TABLET (21 GRAM)	
1 gal.	1/4 lb.	1
3 gal.	1/3 lb.	2
7-15 gal.	1/2 lb.	4
1"-6" caliper	2 lbs./1" cal.	2/1" caliper
6" and larger	3 lbs./1" cal.	2/1" caliper

2. Magnesium sulfate or "Palm Special" will be applied to all palms at installation at a rate of 1/2 lb. per inch of trunk caliper.

PRUNING: Each plant shll be pruned to complement the natural character of the tree. All dead and brown fronds, leaves, branches shall be removed.

TREE GUYING AND BRACING : Firmly stake or guy all trees in accordance with the plans and planting details immediately after planting to prevent wind damage.

WEED CONTROL: All landscape areas shall be free of nut grass, torpedo grass, and other noxious weeds.

PLANT MAINTENANCE: Contractor shall maintain all plants until final acceptance by owner.

CLEAN-UP: Contractor shall clean site area every day. The site shall be devoid of all rubbish, landscape debris, containers.

PLANT SCHEDULE

PALMS	CODE	QTY	COMMON / BOTANICAL NAME	CONTAINER	CALIPER	SIZE		REMARKS
	CHA10a	3	European Fan Palm / Chamaerops humilis	10 gallon	Single Trunk	4` x 3` oa		
	CN10	10	Maypan Coconut Palm / Cocos nucifera `Maypan`	10` - 15` ct (27` - 32` oa), Field grown				
	LEU 6A	4	Key Thatch Palm / Leucothrinax morrisii	6`-8` oa, Single				
	SP11	11	Cabbage Palmetto / Sabal palmetto	12` 15` 18` ct	16-18"			
SHRUBS	CODE	QTY	COMMON / BOTANICAL NAME	CONTAINER	SPACING	SIZE		REMARKS
	ALPV7	16	Variegated Shell Ginger / Alpinia zerumbet `Variegata`	7 Gallon 30"				Remove Dead Leaves maintain 36" - 60"
	BOU3	91	Bougainvillea / Bougainvillea spectabilis `Helen Johnson`	3 gallon 16"				
	CAR3	219	Emerald Blanket Carissa / Carissa macrocarpa `Emerald Blanket`	3 gallon 12"				Maintain 6-8" ht
	CHRG3	128	Green Cocoplum / Chrysobalanus icaco	3 gallon 24"				Maintain 48"-72""
	CLU10	97	Small-Leaf Clusia / Clusia guttifera	10 gallon				Maintain 36"-60"
	COC7	13	Sea Grape / Coccoloba uvifera	7 gal 36"				Maintain 36"-60"
	FIM7	236	Green Island Ficus / Ficus microcarpa `Green Island`	7 gallon 18" x 18"				
	MUH3	130	Pink Muhly / Muhlenbergia capillaris	3 gal 20"				
	ZAMFUR	35	Cardboard Palm / Zamia furfuracea	3 gallon 18"				
GROUND COVERS	CODE	QTY	COMMON / BOTANICAL NAME	CONTAINER	SPACING	SIZE	SPACING	REMARKS
	LIR1	57	Evergreen Giant Border Grass / Liriope muscari `Evergreen Giant`	1 gallon 12"			12" o.c.	Remove dead leaves
AGGREGATE	CODE	QTY	COMMON / BOTANICAL NAME	CONTAINER	SPACING	SIZE	SPACING	REMARKS
	SHELL	393 sf	Crushed Shell / Aggregate Shell Shell	3" Min depth, set on black filter fabric				
SOD/SEED	CODE	QTY	COMMON / BOTANICAL NAME	CONTAINER	SPACING	SIZE	SPACING	REMARKS
	SOD4	3 912 sf	Empire Zoysia / Zoysia japonica `Empire`	sod				Certify Disease and insect free

Notes

1. All Plants shall be Florida No. 1 or Better.
2. Landscape Contractor shall review plans and indicate any availability problems at time of bid. Landscape contractor shall be responsible bidding and installing all plantings as they are drawn on the plan, and shall verify the accuracy of the plant list vs the drawn plan, at the time of bid.
3. All plants indicated in zones, C or S, are susceptible to damage from cold temperatures.
4. Contractor shall maintain all plantings until acceptance by Owner.
5. All beds shall be weed free until acceptance by owner. Wherever weeds are present in turf beds or landscape beds, a round application to kill these weeds before sodding or planting shall be required.
6. All Trees and Palms shall be warranted for a period of 6 months. All Shrubs shall be warranted for a period of 90 days. All Sod shall be warranted for a period of 30 days. Warranty begins at time of acceptance of project.
7. All Sod shall be warranted for 30 days.
8. It is the landscape contractor's responsibility to coordinate w/ the Irrigation contractor to ensure adequate coverage exists.
9. Contractor shall install a Bio Barrier Fabric around all palms within 4' of pavement or planter walls, and all large canopy trees within 10' of a sidewalk.
10. Contractor shall be licensed and insured.
11. Contractor shall maintain site in a clean fashion and shall remove any waste that he creates.
12. Landscape Contractor shall have a pre-construction review of plans w/ Landscape Architect prior to ordering plant material, to verify plans are current, and that no changes are necessary. Contractor shall also schedule a walk thru to allow Landscape Architect to review flagging and placement of all plant material prior to installation. These above mentioned meetings are important to the quality control of the project. Landscape contractor understands that if work commences without these meetings, that the owner and Landscape Architect have the ability to make field changes to the plans at the Landscape Contractors expense.
13. General Contractor / Site contractor shall make certain that all soil for planting areas shall be of suitable landscape quality fill. Soil shall be comprised of a sandy base, and have good organic and good percolation qualities.
14. General Contractor / Site contractor shall make certain all limerock, and excessively compacted soils shall be removed from planting beds.
15. Landscape Contractor shall make certain that the site conditions meet to their satisfaction before installing plant material.
16. If Landscape contractor has any concerns over the survivability of plant materials, he must inform the owner immediately.
17. Contractor to confirm any pest (Deer, Rabbit, etc) issues prior to planting and provide appropriate solution to alleviate issue; ie, incorporate deterrents, or suggest alternate plant materials.

Contractor shall verify that he has the most up to date plans, and that they have been approved and accepted by the Owner before commencing construction.

ARCHITECTURAL LAND DESIGN INCORPORATED
LANDSCAPE ARCHITECTURE
2780 S. Horseshoe Drive Suite 5
Naples, FL 34104
(239) 430-1661
Design@ALDinc.net
License LC26000259

Christian Andrea Digitally signed by Christian Andrea RLA LA0001178 Date: 2023.08.04 16:41:37 -04'00'

License No. LA0001178

Copyright Architectural Land Design ©

Island Reef

7000 Estero Boulevard Fort Myers Beach

PLANTING SCHEDULE & NOTES

▲1 Adj Fence, AC pads, Walk layout... YAC 07.12.23
Drawing Date: PM 06.12.23

Scale: N/S

23-020

N

File Name: 23-020 - 2.0.dwg

Architectural Information Provided By:
Company Name: ----
File Name: ----
Date: ----

Site Information Provided By:
Company Name: ----
File Name: ----
Date: ----

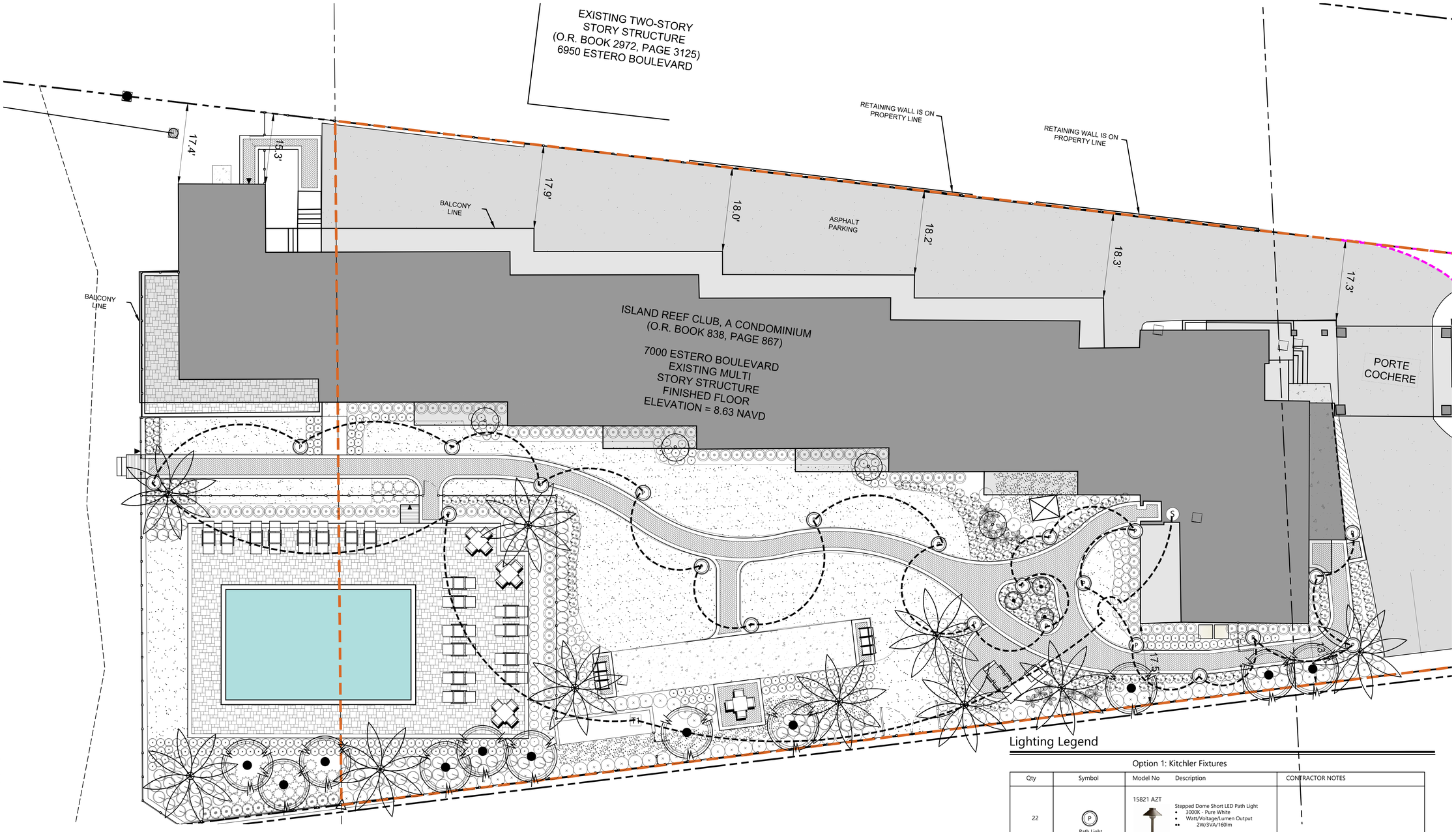
11

L:\23-020 7000 Estero Blvd - Island Reef Condo\ALD-Dwgs\23-020 - 2.0.dwg, 8/4/2023 4:12:43 PM, phil

Any deviations or inaccuracies need to be brought to the attention of the Owner immediately. * All base information has been provided by others, verification of setbacks, property lines, etc. need to be provided by others. * It is the Contractors responsibility to verify that he has the most current plan. * Contractor shall not scale from plan, use dimensions only. * These plans are the property of Architectural Land Design and may not be used or reproduced without authorization.

L:\23-020 7000 Estero Blvd - Island Reef Condo\ALD-Dwgs\23-020 - 2.0.dwg, Plotted on 07.26.2023 / 02:09 PM by Phil McHenry

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Contractor to verify property lines and setbacks before construction.
Contractor must have property lines staked and located,
and must verify plan dimensions and field conditions are consistent.
Any Inconsistencies w/ these plans need to be reported to ALD and the Owner.
Contractor shall verify that he has the most up to date plans, and that they have
been approved and accepted by the Owner before commencing construction.

Lighting Legend

Option 1: Kitchler Fixtures

Qty	Symbol	Model No Description	CONTRACTOR NOTES
22	P Path Light	15821 AZT  Stepped Dome Short LED Path Light • 3000K - Pure White • Watt/Voltage/Lumen Output •• 2W/3VA/160lm	
1	T1	900 Watts Transformer with S/S Multitap Capabilities	
1	S	Light Switch. Location to be determined by owner	
		12 volt wire	

Notes:

All Wire to be 12 Ga. Connectors to be used. All lights to be controlled by Photocell On, Timer off System or from switches inside home.
Landscape lighting contractor to stake locations of proposed lights before installing. Locations to be confirmed by Landscape Architect.

- Provide option of placing wire in conduit
- Contractor to verify light control w/owner.
- All lighting to be installed as per manufacturer's specifications including recommended installation accessories.
- Contractor responsible for providing a complete operating lighting system.
- Owner to provide power outlet at all Transformer locations.

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Christian Andrea
Digitally signed by Christian Andrea RLA LA0001178
Date: 2023.08.04 16:42:30 -04'00'

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Island Reef

7000 Estero Boulevard Fort Myers Beach

LANDSCAPE LIGHTING PLAN

▲1 Adj Fence. AC pads, Walk layout... YAC 07.12.23
Drawing Date: PM 06.12.23

Scale: 1"=10'-0"

23-020

N

File Name: 23-020 - 2.0.dwg

Architectural Information Provided By:
Company Name: ----
File Name: ----
Date: ----

Site Information Provided By:
Company Name: ----
File Name: ----
Date: ----

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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: 7000 / 7002 Estero Blvd Fort Myers Beach FL 33931

STRAP Number: 03-47-24-W1-02300.00CE

Applicant: Island Reef Association Phone: 239-444-1701

Contact Name: Paul Yearwood - HOA President Phone: 248-321-1001

Email: PEY6465@OUTLOOK.COM Fax: _____

Current Zoning District: RM

Future Land Use Map (FLUM) Category: _____

FLUM Density Range: _____ Platted Overlay: ☐ YES ☐ NO

ACTION REQUESTED		SUPPLEMENTAL FORM REQUIRED
☑	Special Exception	PH-A
☐	Variance	PH-B
☐	Conventional Rezoning	PH-C
☐	Planned Development ☐ Commercial ☐ Residential	PH-D
☐	Master Concept Plan Extension	PH-E
☐	Appeal of Administrative Action	PH-F
☐	Vacation of Platted Right-of-way and Easement	PH-G
☐	Other – cite LDC Section: _____	attach on separate sheet

PART I – General Information

A. Applicant*: Paul Yearwood - HOA President Phone: 248-321-1001

**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: 27499 Riverview Center Suite 229 Bonita Beach FL 34134

Email: dtaliaferro@detaliassociates.com Fax: 239-444-1701

Contact Name: Debi Taliaferro - Property Mgmt Phone: 239-470-4679

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

COMMUNITY DEVELOPMENT DEPARTMENT
APPLICATION for PUBLIC HEARING

B. Relationship of Applicant to subject property:

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

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

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

Name: BRUCE DEWEY Phone: 239-532-4552

Address: 7000 ESTERO BLVD #403 FORT MYERS BEACH, FL 33931

Email: BPDEWEY@GMAIL.COM Fax: _____

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

Name: YVONNE LAMBERT Phone: 262-442-3492

Address: 7000 ESTERO BLVD #204 FORT MYERS BEACH, FL 33931

Email: LAMBERTFOUR@YAHOO.COM Fax: _____

Name: BRENDA RYAN Phone: 416-786-2036

Address: 7000 ESTERO BLVD #100 FORT MYERS BEACH, FL 33931

Email: BRENDALEERYAN@HOTMAIL.COM Fax: _____

PART II – Nature of Request

Requested Action (each request requires a separate application)

- ☑ Special Exception
- ☐ Variance from LDC Section _____ - _____
- ☐ Conventional Rezoning from _____ to _____
- ☐ Planned Development
- ☐ Rezoning from _____ to ☐ Commercial PD ☐ Residential PD
- ☐ Amendment. List the project number: _____
- ☐ Extension/reinstatement of Master Concept Plan. List project number: _____

☐ Appeal of Administrative Action

☐ Vacation ☐ Right-of-Way ☐ Easement

☐ Other. Please Explain: _____

_____

_____

PART III – Waivers

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

Code Section: _____ Description: _____

_____

Code Section: _____ Description: _____

_____

Code Section: _____ Description: _____

_____

PART IV – Property Ownership (Single Owner)

☐ Single Owner (individual or husband and wife)

Name: _____ Phone: _____

Mailing Address: _____

Email: _____ Fax: _____

AFFIDAVIT
APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

I, Paul Yearwood 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.

Paul Yearwood
Signature

Paul Yearwood
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 22 day of Sept, 2023, by ____, ☑ who is personally known to me OR ☐ who has produced ____ as identification.

Krystal Smith
Notary Public Signature

KRYSTAL SMITH
Notary Public - State of Florida
Commission # GG 965873
My Comm. Expires Mar 4, 2024
Bonded through National Notary Assn.

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
Each owner owns 2.3255% of the common area	
List of owners attached	

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: 09/22/23

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.

Paul Yearwood
Signature

Paul Yearwood
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, Paul Yearwood (name), as Board President (title) of Island Reef Condominium Associa (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

Island Reef Condominium Association

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

Paul Yearwood — Signature

Board President — Title

Paul Yearwood — Typed or Printed Name

09/22/23 — Date

STATE OF Florida **COUNTY OF** LEE

The foregoing instrument was certified and subscribed before me by means of ✓ physical presence OR ☐ online notarization, this 22 day of Sept, 2023, by _____, ☑ who is personally known to me OR ☐ who has produced _____ as identification.

KRYSTAL SMITH
Notary Public State of Florida
Commission # GG 965873
My Comm. Expires Mar 4, 2024
Bonded through National Notary Assn.

Notary Public Signature

PART VI– Property Information

A. Legal Description:

STRAP: 03-47-24-W1-02300.00CE

Property Address: 7000 / 7002 Estero Blvd Fort Myers Beach FL 33931

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

☑ No. Attach a legible copy of the legal description as Exhibit 6-1.

☐ Yes. Property identified in subdivision: _____

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

B. Boundary Survey:

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

C. Property Dimensions:

Width (please provide an average width if irregular in shape) pls see survey feet

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

Frontage on street: _____ feet. Frontage on waterbody: _____ feet

Total land area: _____ ☐ acres ☐ square feet

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

The property is 1.6 miles to the North of Big Carlos Pass

☑ Attach Area Location Map as Exhibit 6-3

E. Property Restrictions (check applicable):

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

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

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

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

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

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

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

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

☐ Low Density
☑ Mixed Residential
☐ Boulevard
☐ Pedestrian Commercial
☐ Marina
☐ Recreation
☐ Wetlands
☐ Platted Overlay

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

EXPLANATORY NOTES

Please do not print, copy and submit these instructions

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

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

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

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

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

Explanatory Notes – Part I

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

Explanatory Notes – Part II

Indicate the requested action.

Explanatory Notes – Part III

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

Explanatory Notes – Part IV

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

Explanatory Notes – Part V

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

Explanatory Notes – Part VI

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

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

line. Exhibit 6-2

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

Explanatory Notes – Part IV & V

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

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

Case# _____ Date Received: _____

Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Supplement PH-A

Additional Required Information for a Special Exception Application

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

Project Name: Island Reef Post Hurricane Ian Repairs
Authorized Applicant: Paul Yearwood - HOA President
LEEPA STRAP Number(s): 03-47-24-W1-02300.00CE

Current Property Status:
Current Zoning: RM
Future Land Use Map (FLUM) Category:
Platted Overlay? ☐ **yes** ☐ **no** **FLUM Density Range:**

Requested Action:

☑ Use of premises in the EC (Environmentally Critical) zoning district for:
Repair of our pool which is an accessory major structure
partially situated in the EC zone. Our pool has been used as an amenity for
owners and guests since 1971 and is protected by a seawall.
☐ Use of premises in the _____zoning district for:

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

PART I
Narrative Statements

A. **Request for:** (indicate the proposed use that requires a special exception)

Please see attachment...

B. **Reasons for request:** (state how the property qualifies for a special exception and what impact granting the request could have on surrounding properties. Direct these statements toward the guidelines in LDC Section 34-88)

The property qualifies for a Special Exception because:
Please see attachment...

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

Granting the requested Special Exception could impact surrounding properties as follows:
Please see attachment...

PART 2
Submittal Requirements

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

Required Items

- Public Hearing Request Form
- Supplemental form PH-A
- Site Plan (to scale) including the current use of all existing structures on the site, and those on adjacent properties within 100 feet of the perimeter; all proposed structures and uses for the site; and any proposed fencing and screening.
- Fee in the amount of $3800.00/$3300.00 for an amendment

For New Communication Towers:

a. Lee County Application for Communication Tower
b. Shared-Use Plan Agreement

For Consumption of Alcoholic Beverages (COP) license approval:

a. Notarized authorization from the Property Owner to apply for permit
b. A statement indicating the type of establishment, the type of state license to be acquired, and the planned hours of operation. Also indicate if the request includes outdoor seating areas and indicate the seating areas and capacity on the site plan.
c. A map showing the locations of other properties within 500 feet of the request where consumption-on-premises uses are already in operation.
d. The site plan must include the public entrances and exits to the building, the floor area and proposed seating capacity, and floor area and seating capacity of any areas within the building subdivided between restaurant and bar/lounge areas. The site plan should also indicate the parking area, including the spacing and the locations of entrances and exits.

For transit terminals:

The site plan must indicate the location of the bus stalls; commuter parking areas, if provided; taxi waiting stalls; circulation pattern for buses including the entrances and exits; and the location of any building(s) housing the terminal and waiting areas.

For use of the EC zoning district:

a. If the location of the request is in the portion of the EC zoning district between Estero Boulevard and the Gulf of Mexico, provide a survey meeting the requirements of Chapter 62B-33.0081 of the Florida Administrative Code, also including the precise location of the (1978) Coastal Construction Setback Line for Estero Island recorded in Plat Book 33, Page 3, of the Official Records of Lee County, Florida.
b. The site plan must indicate the precise location of the request on the subject property and any related details of the existing conditions or planned improvements to the subject property. For areas in the EC zoning district between Estero Boulevard and the Gulf of Mexico, the precise location of the request in relation to the (1978) Coastal Construction Setback Line must be shown on the site plan.

Case# _____ Date Received: _____

Guide to Filing Supplement PH-A for Special Exceptions

Case Number will be inserted by Community Development staff.
Project Name must be the same as the name used on the Request for Public Hearing form.
Authorized Applicant must be the same as on the Request for Public Hearing form.
STRAP numbers must be the same as on the Request for Public Hearing form.
Current status of property must be the same as on the Request for Public Hearing form.
Requested Action: Indicate the nature of the request and include the current zoning of the property.

Part 1 Narrative Statements:

"Request for…"
Indicate the nature of the request that requires a special exception, and explain why it requires a special exception. Describe the relationship of the requested use to any existing use(s) of the property, if applicable.

"The property qualifies for a special exception because…"
Explain why the request and the subject property qualify for a special exception. Address the standards for decision-making for special exceptions that are provided in the Land Development Code, as follows:

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

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

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

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

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

- Whether a requested use will be in compliance with the applicable general zoning provisions and supplemental regulations set forth in Chapter 34 of the Land Development Code.

"Granting the requested special exception could impact surrounding properties as follows…"
Explain how this request, if granted for the subject property, could affect the surrounding properties and the existing or planned uses on those properties.

Submittal Requirements Check List and Filing Guide

☑ **A completed Public Hearing Application Form.**

☐ **A completed Supplemental form PH-A.**

☑ **Site Plan**. The site plan should be to scale and should indicate the location of the request on the property. Existing buildings and other improvements (such as swimming pools, fences, decks, or parking lots) should also be shown on the site plan. The site plan should also indicate the existing uses on adjacent properties. Also include any additional relevant detail related to the specific request.

Guide to Filing Supplement PH-A for Special Exceptions

Case Number will be inserted by Community Development staff.
Project Name must be the same as the name used on the Request for Public Hearing form.
Authorized Applicant must be the same as on the Request for Public Hearing form.
STRAP numbers must be the same as on the Request for Public Hearing form.
Current status of property must be the same as on the Request for Public Hearing form.
Requested Action: Indicate the nature of the request and include the current zoning of the property.

Part 1 Narrative Statements: "Request for…"

Indicate the nature of the request that requires a special exception, and explain why it requires a special exception. Describe the relationship of the requested use to any existing use(s) of the property, if applicable.

"The property qualifies for a special exception because…"

Explain why the request and the subject property qualify for a special exception. Address the standards for decision-making for special exceptions that are provided in the Land Development Code, as follows:

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

"Granting the requested special exception could impact surrounding properties as follows…"

Explain how this request, if granted for the subject property, could affect the surrounding properties and the existing or planned uses on those properties.

EXPLANATORY NOTES

Please do not print, copy and submit these instructions

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

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

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

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

Explanatory Notes – Part I

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

Explanatory Notes – Part II

Indicate the requested action.

Explanatory Notes – Part III

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

Explanatory Notes – Part IV

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

Explanatory Notes – Part V

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

Explanatory Notes – Part VI

A. Include the street address of the subject property. List STRAP number. If more than one parcel is involved, list all STRAP numbers. If you don't know the STRAP number, you can look up the property in the records of the Lee County Property Appraiser at http://www.leepa.org. If the application includes only one or more undivided platted lots within a subdivision officially recorded in the Plat Books of Lee County, Florida, identify the property by lot number(s), block if applicable, subdivision unit if applicable, subdivision name, and plat book number and page number. If the property is not one or more undivided platted lots or is in an "unrecorded" subdivision, attach a metes and bounds legal description giving accurate bearings and distances for each course. If multiple parcels are involved, the metes and bounds legal description must describe the perimeter of the entire property subject to the request. The initial point in the description must be related to at least one established identifiable real property corner, such as a government

corner or a recorded corner. The bearings used in the description must be clearly referenced to a well-established and monumented line. Exhibit 6-1

B. Submit a Boundary Survey meeting the minimum technical standards for surveying set out in Chapter 61G17-6 of the Florida Administrative Code. Make sure that the surveyor is aware of any specific needs of the survey (location of Coastal Construction Lines, locations of existing structures, locations of easements, etc) that are relevant to your request. The perimeter boundary of the entire subject property should be indicated clearly with a heavy line. Exhibit 6-2
C. Provide the property dimensions or the approximate dimensions if the property is not a regular quadrilateral.
D. Describe how to get to the property starting from either the Sky Bridge or the Big Carlos Pass Bridge (specify which). Exhibit 6-3
E. If there are any deed restrictions or covenants that might affect the requested action, provide the information. Exhibit 6-4
F. A narrative statement detailing how the restrictions/covenants may or may not affect the request is attached as Exhibit 6-5
G. Attach a list of the surrounding property owners within 500 feet of the perimeter of the area of the request. Also include two sets of mailing labels providing the names and addresses of the owners on this list, and a map showing the parcel boundaries within the 500-foot radius Exhibit 6-6. This information can be acquired for a small fee by requesting a "variance report" from the Map Sales Office at the Lee County Property Appraiser's Office. Contact information for the Property Appraiser can be found at http://www.leepa.org.
H. Indicate the Future Land Use Map category or categories of the property as shown on the Fort Myers Beach Comprehensive Plan's Future Land Use Map, and whether the property is located in the "platted overlay" on the map.
I. Indicate the current zoning of the property. In most cases the current zoning is shown on the official zoning map of the Town of Fort Myers Beach, as adopted by ordinance. If zoning actions affecting the subject property have been taken since March 2004, call Town Hall to verify the current zoning.

Explanatory Notes – Part IV & V

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

7000/7002 Estero Blvd Fort Myers Beach, FL 34228

Supplement PH-A

Part 1

Narrative Statements

Request for: (indicate proposed use that requires a Special Exception)

Please accept this narrative as an overview of the request for special exception for the property located at 7000/7002 Estero Blvd to allow repairs in the EC zoning district. Specifically, Island Reef Condominium Association is requesting flexibility to repair and, if needed, replace our existing pool shell which is partially in the EC Zoning district.

Additionally, we are seeking permission to make like-for-like repairs to our stairs to the beach, perimeter fence to secure our property, pool deck in pavers, courtyard walkway in pavers, ramp, and 2 foot rinse stations. We have hired an experienced pool contractor, licensed landscape architect, and environmental engineer to guide us in these repairs.

The area of our property in the EC Zone has been used as an amenity space for our owners since 1971 and is protected by a seawall.

Reason for Request:

Our repair of a major accessory structure qualifies for Special Exception under the (anticipated) newly amended Ordinance 20-02. As a result, we are applying for Post-Hurricane Ian property repairs in the EC Zoning District as we are currently experiencing a “loss of use” of our entire pool courtyard. Moving our pool to the East of the CCCL would create an economic hardship for our owners. We are however proposing to move our pool equipment out of the EC Zone as shown in our landscape plan.

While our building survived, our property grounds in the EC Zone require like-for-like repairs. We hired a pool contractor, licensed landscape architect and environmental engineer (all from the immediate area) to ensure we are following Local and State policies and objectives.

Granting the requested Special Exception could impact surrounding properties as follows:

The proposed repairs will not negatively impact surrounding property owners as this is a like-for-like project. Our pool area and courtyard has been an amenity space since 1971.

Our like-for-like repairs positivity impact the neighboring properties by adding value to the area, improving the aesthetic compared to the current condition, and will ultimately bring back our owner group who will support local businesses such as: 7-11, Santini

Plaza, the Marina, and CVS. By allowing us to restore our property to a Pre-Hurricane Ian condition we are confident Island Reef would once again be fully occupied with eager supporters of the Fort Myers Beach local economy.

Thank you for your consideration.

Aloia, Roland, Lubell & Morgan, PLLC
2222 Second Street
Fort Myers, FL 33901

Phone: (239) 791-7950
Facsimile: (239) 791-7951
JMorgan@lawdefined.com

September 22, 2022

Town of Fort Myers Beach
2525 Estero Boulevard
Fort Myers Beach, Florida, 33931

Re: **OPINION LETTER**
Island Reef Association, Incorporated/Town of Fort Myers Beach Municipal Ordinance 20-02 Special Exemption

To Whom It May Concern:

We serve as counsel to Island Reef Association, Incorporated, (hereinafter "Island Reef") in connection with their request for a special exemption from Fort Myers Beach Municipal Ordinance Section 20-02 ("the Ordinance"). It is Island Reef's position that the Ordinance does not permit Island Reef to repair their condominium complex's pool, surrounding fence and foot wash structures, as the Environmentally Critical (EC) Zoning Line runs through the complex's currently erected structures. Thus, they are requesting a Special Exemption to the Fort Myers Beach Municipal Ordinance Section 20-02 pursuant to the procedures afforded in Fort Myers Beach Municipal Ordinance Section 34-201(a)(1)(b).

This opinion letter has been prepared and is to be construed in accordance with the Fort Myers Beach Municipal Ordinance Section 34-201(a)(1)(b)(3), the Laws of the State of Florida, and the Laws of the United States in rendering the following opinions. We have made no assumptions other than those set forth by Island Reef.

In basing the opinions set forth in this opinion on "our knowledge", the words "our knowledge" signify that, in the course of our representation of Island Reef, no facts have come to our attention that would give us actual knowledge or actual notice that any such opinions or other matters are not accurate. Except as otherwise stated in this opinion, we have undertaken no investigation or verification of such matters. Further, the words "our knowledge" as used in this opinion are intended to be limited to the actual knowledge of the attorneys within our firm who have been directly involved in representing Island Reef in any capacity, including but not limited to, in connection with the special exemption application.

1. For purposes of this Opinion Letter, we have examined Island Reef Association, Inc. By-Laws and Declaration of Condominium, the Ordinances of the Town of Fort Myers Beach, the Laws of the State of Florida, and the Laws of the United States.

2. We have assumed the authenticity of all documents pertaining to the application submitted to us for review and that such documents constitute a valid application for a Special Exemption of the Ordinance.

3. Subject to the qualifications set forth in subsequent portions of this opinion letter, it is our opinion that:

(a) Island Reef Association, Incorporated, is a corporation duly formed, validly existing and in good standing under the laws of the State of Florida (the "State").

(b) Island Reef has all requisite authority and legal rights to proceed unilaterally with repair work on the common areas of the Condominium as presently conducted, which includes the ability to file a Special Exemption regarding the Ordinance to obtain permitting for the repair of the Condominium's pool, surrounding fence and foot wash structures.

(c) Island Reef has placed at least seventy-five percent (75%) of all applicable Unit Owners on notice of this action/application. Further, though not required, Island Reef has received affirmative support for this action/application from over seventy-five percent (75%) of their applicable Unit Owners.

(d) The execution of this Special Exemption Application would not be prohibited by Fla. Stat. § 161.053. As the statute states,

> "This section does not apply … to structures existing or under construction before the establishment of the Coastal Construction Control Line if the structures are not materially altered except as provided in subsection (4)."

The existing pool, surrounding fence and foot wash structures were built in or around 1971 and therefore existed well before the implementation of the Coastal Construction Control Line in 1978.

(e) The Town of Fort Myers Beach Municipal Ordinance 20-02 states that the Coastal Construction Control Line depicted on the Future Land Use Map is also the landward edge of the Environmentally Critical zoning district. Thereby, pursuant to Fla. Stat § 161.053, Island Reef should be allowed repairs to existing structures, so long as the repairs do not materially alter the original design of the structure.

(f) The Ordinance also expressly allows for repairs to primary structures, in the EC zoning district, if the repairs do not exceed twenty-five percent (25%) of the value of the structure. The Ordinance does not specify what is a primary structure but does list pools and bathhouses under the definition of a major structure. Thereby, Island Reef should be allowed to repair the pool, surrounding fence and foot wash structures past the Coastal Construction Control Line, so long as they do not materially alter the original design of such structures.

(g) Even if such structures are classified as accessory structures under the Ordinance, in which no repairs in the EC Zoning District are allowed, the City should give a special exemption since the premises were built before the implementation of the Coastal Construction Control Line. If the town were to deny the exemption and force Island Reef to reconstruct the pool in a different area of the property such denial would cause Island Reef to incur significantly larger construction bills.

4. Island Reef has complied with all regulatory/ordinance requirements necessary to apply for a Special Exemption under the Fort Myers Beach Municipal Ordinance 20-02 and under Fort Myers Beach Municipal Ordinance 34-201(a)(1)(b); and that the Island Reef is authorized to repair the Condominium Complex common areas under the Island Reef Association By-laws and Declaration of Condominium.

We express no opinion in this letter as to any consent, approval, authorization or other action or filing necessary for future assertions by Island Reef.

We express no opinion as to the laws of any jurisdiction other than the laws of the State of Florida and the laws of the United States of America. The opinions expressed above concern only the effect of the laws (excluding the principles of conflict of laws) of the State of Florida and the United States of America as currently in effect. We assume no obligation to supplement this opinion if any applicable laws change after the date of this opinion, or if we become aware of any facts that might change the opinions expressed above after the date of this opinion.

5. This opinion is given solely for the use and benefit only of the Town of Fort Myers Beach and is limited in its use to reliance by the Town of Fort Myers Beach in the determination of the Special Exemption application and may not be relied upon by any other parties, furnished to any other party, quoted or otherwise used without the prior express written consent of the undersigned firm. This opinion is as of the date hereof and we disclaim any obligation to advise you of any change which hereafter may be brought to our attention.

Sincerely,

ALOIA ROLAND LUBELL & MORGAN, PLLC



Jack C. Morgan, III
For the Firm

JCM/jb

To the Owners of Island Reef Condominiums
September 19, 2023
RE: Notice of Special Exception Application

The Town of Fort Myers Beach requires our condominium association to apply for a Special Exception application in order to be permitted to do our repairs west of the Coastal Construction Control Line, which includes the pool, fence and the beach stairs. The onus is on the Island Reef board of directors to inform owners that this application is being submitted on your behalf. You are required to sign that you have been informed of this application and are in agreement with its submission. This application for Special Exception requires a public hearing. The town needs to see 75% acknowledgment from our owners to process the special exception application.

The relevant code sections are as follows.

Sec.34-201 (a) (1) (b) Where the property is a condominium...an application or petition may be initiated by both the condominium association and no less that 75 percent of the total number of condominium unit owners.
(2) In order to verify ownership, the applicant shall furnish the town, as part of their application, a complete list of all unit owners, identified by unit number...as applicable, along with proof that all unit owners who did not join in the application were given actual written notice thereof by the applicants who shall verify the list and fact of notice by sworn affidavit.

Along with the application, we will have an attorney submit the required letter:
(3) So as to protect the legal rights of non-participation unit owners, the application shall be accompanied by a letter of opinion from a licensed Florida attorney, who shall attest that he has examined the declaration of condominium, the bylaws of the condominium association, and all other relevant legal documents, as applicable, and concluded that the act of applying or petitioning to the town violates none of the provisions or any federal or state law regulating condominiums...or the rights of any of the nonparticipating unit owners, as derived from such documents and laws, and that approval of the requested act by the town would violate no such rights.

We need your acknowledgement that you have been informed of this application and are in agreement with its submission. Please sign below and return as soon as possible to Detali & Associates by "signing" and submitting this agreement.

I (Owner/Owners Names) cynthia ballantyne of unit number 400 hereby acknowledge that I/we have been informed by the applicants (Island Reef Condominium Association) for the Special Exception application that this application is being submitted on behalf of the unit owners of Island Reef Condominiums dated 09/20/23.

I (Owner/Owners Names) cynthia ballantyne of unit number 400 hereby agree to the Special Exception application submitted by the Island Reef Condominium Association to the Town of Fort Myers Beach on my behalf dated 09/20/23.

Signature: cynthia ballantyne
cynthia ballantyne (Sep 20, 2023 08:12 EDT)

Email: ballantyneg@sbcglobal.net

To the Owners of Island Reef Condominiums
September 19, 2023
RE: Notice of Special Exception Application

The Town of Fort Myers Beach requires our condominium association to apply for a Special Exception application in order to be permitted to do our repairs west of the Coastal Construction Control Line, which includes the pool, fence and the beach stairs. The onus is on the Island Reef board of directors to inform owners that this application is being submitted on your behalf. You are required to sign that you have been informed of this application and are in agreement with its submission. This application for Special Exception requires a public hearing. The town needs to see 75% acknowledgment from our owners to process the special exception application.

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(2) In order to verify ownership, the applicant shall furnish the town, as part of their application, a complete list of all unit owners, identified by unit number...as applicable, along with proof that all unit owners who did not join in the application were given actual written notice thereof by the applicants who shall verify the list and fact of notice by sworn affidavit.

Along with the application, we will have an attorney submit the required letter:
(3) So as to protect the legal rights of non-participation unit owners, the application shall be accompanied by a letter of opinion from a licensed Florida attorney, who shall attest that he has examined the declaration of condominium, the bylaws of the condominium association, and all other relevant legal documents, as applicable, and concluded that the act of applying or petitioning to the town violates none of the provisions or any federal or state law regulating condominiums...or the rights of any of the nonparticipating unit owners, as derived from such documents and laws, and that approval of the requested act by the town would violate no such rights.

We need your acknowledgement that you have been informed of this application and are in agreement with its submission. Please sign below and return as soon as possible to Detali & Associates by "signing" and submitting this agreement.

I (Owner/Owners Names) Randell Baremor/Rami Ghaffari of unit number 303 hereby acknowledge that I/we have been informed by the applicants (Island Reef Condominium Association) for the Special Exception application that this application is being submitted on behalf of the unit owners of Island Reef Condominiums dated 09/20/23.

I (Owner/Owners Names) Randell Baremor/Rami Ghaffari of unit number 303 hereby agree to the Special Exception application submitted by the Island Reef Condominium Association to the Town of Fort Myers Beach on my behalf dated 09/20/23.

Signature: *Randell Baremor*

Email: rbaremor@gmail.com

To the Owners of Island Reef Condominiums
September 19, 2023
RE: Notice of Special Exception Application

The Town of Fort Myers Beach requires our condominium association to apply for a Special Exception application in order to be permitted to do our repairs west of the Coastal Construction Control Line, which includes the pool, fence and the beach stairs. The onus is on the Island Reef board of directors to inform owners that this application is being submitted on your behalf. You are required to sign that you have been informed of this application and are in agreement with its submission. This application for Special Exception requires a public hearing. The town needs to see 75% acknowledgment from our owners to process the special exception application.

The relevant code sections are as follows.

Sec.34-201 (a) (1) (b) Where the property is a condominium...an application or petition may be initiated by both the condominium association and no less that 75 percent of the total number of condominium unit owners.
(2) In order to verify ownership, the applicant shall furnish the town, as part of their application, a complete list of all unit owners, identified by unit number...as applicable, along with proof that all unit owners who did not join in the application were given actual written notice thereof by the applicants who shall verify the list and fact of notice by sworn affidavit.

Along with the application, we will have an attorney submit the required letter:
(3) So as to protect the legal rights of non-participation unit owners, the application shall be accompanied by a letter of opinion from a licensed Florida attorney, who shall attest that he has examined the declaration of condominium, the bylaws of the condominium association, and all other relevant legal documents, as applicable, and concluded that the act of applying or petitioning to the town violates none of the provisions or any federal or state law regulating condominiums...or the rights of any of the nonparticipating unit owners, as derived from such documents and laws, and that approval of the requested act by the town would violate no such rights.

We need your acknowledgement that you have been informed of this application and are in agreement with its submission. Please sign below and return as soon as possible to Detail & Associates by "signing" and submitting this agreement.

I (Owner/Owners Names) Joe Brac of unit number # 701 hereby acknowledge that I/we have been informed by the applicants (Island Reef Condominium Association) for the Special Exception application that this application is being submitted on behalf of the unit owners of Island Reef Condominiums dated 9/20/23.

I (Owner/Owners Names) Phyllis Bran Frost of unit number # 701 hereby agree to the Special Exception application submitted by the Island Reef Condominium Association to the Town of Fort Myers Beach on my behalf dated 9/20/23.

To the Owners of Island Reef Condominiums
September 19, 2023
RE: Notice of Special Exception Application

The Town of Fort Myers Beach requires our condominium association to apply for a Special Exception application in order to be permitted to do our repairs west of the Coastal Construction Control Line, which includes the pool, fence and the beach stairs. The onus is on the Island Reef board of directors to inform owners that this application is being submitted on your behalf. You are required to sign that you have been informed of this application and are in agreement with its submission. This application for Special Exception requires a public hearing. The town needs to see 75% acknowledgment from our owners to process the special exception application.

The relevant code sections are as follows.

Sec.34-201 (a) (1) (b) Where the property is a condominium...an application or petition may be initiated by both the condominium association and no less that 75 percent of the total number of condominium unit owners.
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Along with the application, we will have an attorney submit the required letter:
(3) So as to protect the legal rights of non-participation unit owners, the application shall be accompanied by a letter of opinion from a licensed Florida attorney, who shall attest that he has examined the declaration of condominium, the bylaws of the condominium association, and all other relevant legal documents, as applicable, and concluded that the act of applying or petitioning to the town violates none of the provisions or any federal or state law regulating condominiums...or the rights of any of the nonparticipating unit owners, as derived from such documents and laws, and that approval of the requested act by the town would violate no such rights.

We need your acknowledgement that you have been informed of this application and are in agreement with its submission. Please sign below and return as soon as possible to Detali & Associates by "signing" and submitting this agreement.

I (Owner/Owners Names) John and Linda Burke of unit number 201 hereby acknowledge that I/we have been informed by the applicants (Island Reef Condominium Association) for the Special Exception application that this application is being submitted on behalf of the unit owners of Island Reef Condominiums dated 09/20/23.

I (Owner/Owners Names) John and Linda Burke of unit number 201 hereby agree to the Special Exception application submitted by the Island Reef Condominium Association to the Town of Fort Myers Beach on my behalf dated 09/20/23.

Signature: John T Burke
John T Burke (Sep 20, 2023 08:41 EDT)

Email: jburke@burkeagency.com

To the Owners of Island Reef Condominiums
September 19, 2023
RE: Notice of Special Exception Application

The Town of Fort Myers Beach requires our condominium association to apply for a Special Exception application in order to be permitted to do our repairs west of the Coastal Construction Control Line, which includes the pool, fence and the beach stairs. The onus is on the Island Reef board of directors to inform owners that this application is being submitted on your behalf. You are required to sign that you have been informed of this application and are in agreement with its submission. This application for Special Exception requires a public hearing. The town needs to see 75% acknowledgment from our owners to process the special exception application.

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(2) In order to verify ownership, the applicant shall furnish the town, as part of their application, a complete list of all unit owners, identified by unit number...as applicable, along with proof that all unit owners who did not join in the application were given actual written notice thereof by the applicants who shall verify the list and fact of notice by sworn affidavit.

Along with the application, we will have an attorney submit the required letter:
(3) So as to protect the legal rights of non-participation unit owners, the application shall be accompanied by a letter of opinion from a licensed Florida attorney, who shall attest that he has examined the declaration of condominium, the bylaws of the condominium association, and all other relevant legal documents, as applicable, and concluded that the act of applying or petitioning to the town violates none of the provisions or any federal or state law regulating condominiums...or the rights of any of the nonparticipating unit owners, as derived from such documents and laws, and that approval of the requested act by the town would violate no such rights.

We need your acknowledgement that you have been informed of this application and are in agreement with its submission. Please sign below and return as soon as possible to Detali & Associates by "signing" and submitting this agreement.

I (Owner/Owners Names) Chet chapin of unit number 205 hereby acknowledge that I/we have been informed by the applicants (Island Reef Condominium Association) for the Special Exception application that this application is being submitted on behalf of the unit owners of Island Reef Condominiums dated 09/20/23.

I (Owner/Owners Names) Chet chapin of unit number 205 hereby agree to the Special Exception application submitted by the Island Reef Condominium Association to the Town of Fort Myers Beach on my behalf dated 09/20/23.

Signature: Chet chapin (Sep 20, 2023 16:54 EDT)

Email: chapin1966@hotmail.com

To the Owners of Island Reef Condominiums
September 19, 2023
RE: Notice of Special Exception Application

The Town of Fort Myers Beach requires our condominium association to apply for a Special Exception application in order to be permitted to do our repairs west of the Coastal Construction Control Line, which includes the pool, fence and the beach stairs. The onus is on the Island Reef board of directors to inform owners that this application is being submitted on your behalf. You are required to sign that you have been informed of this application and are in agreement with its submission. This application for Special Exception requires a public hearing. The town needs to see 75% acknowledgment from our owners to process the special exception application.

The relevant code sections are as follows.

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(2) In order to verify ownership, the applicant shall furnish the town, as part of their application, a complete list of all unit owners, identified by unit number...as applicable, along with proof that all unit owners who did not join in the application were given actual written notice thereof by the applicants who shall verify the list and fact of notice by sworn affidavit.

Along with the application, we will have an attorney submit the required letter:
(3) So as to protect the legal rights of non-participation unit owners, the application shall be accompanied by a letter of opinion from a licensed Florida attorney, who shall attest that he has examined the declaration of condominium, the bylaws of the condominium association, and all other relevant legal documents, as applicable, and concluded that the act of applying or petitioning to the town violates none of the provisions or any federal or state law regulating condominiums...or the rights of any of the nonparticipating unit owners, as derived from such documents and laws, and that approval of the requested act by the town would violate no such rights.

We need your acknowledgement that you have been informed of this application and are in agreement with its submission. Please sign below and return as soon as possible to Detali & Associates by "signing" and submitting this agreement.

I (Owner/Owners Names) JASC LLC / Steve & Paula Cook of unit number 101 hereby acknowledge that I/we have been informed by the applicants (Island Reef Condominium Association) for the Special Exception application that this application is being submitted on behalf of the unit owners of Island Reef Condominiums dated 09/19/23.

I (Owner/Owners Names) JASC LLC/ Steve & Paula Cook of unit number 101 hereby agree to the Special Exception application submitted by the Island Reef Condominium Association to the Town of Fort Myers Beach on my behalf dated 09/19/23.

Signature: Steve Cook - Paula Cook
steve Cook - Paula Cook (Sep 19, 2023 20:40 CDT)

Email: cookproperty@aol.com

To the Owners of Island Reef Condominiums
September 19, 2023
RE: Notice of Special Exception Application

The Town of Fort Myers Beach requires our condominium association to apply for a Special Exception application in order to be permitted to do our repairs west of the Coastal Construction Control Line, which includes the pool, fence and the beach stairs. The onus is on the Island Reef board of directors to inform owners that this application is being submitted on your behalf. You are required to sign that you have been informed of this application and are in agreement with its submission. This application for Special Exception requires a public hearing. The town needs to see 75% acknowledgment from our owners to process the special exception application.

The relevant code sections are as follows.

Sec.34-201 (a) (1) (b) Where the property is a condominium...an application or petition may be initiated by both the condominium association and no less that 75 percent of the total number of condominium unit owners.
(2) In order to verify ownership, the applicant shall furnish the town, as part of their application, a complete list of all unit owners, identified by unit number...as applicable, along with proof that all unit owners who did not join in the application were given actual written notice thereof by the applicants who shall verify the list and fact of notice by sworn affidavit.

Along with the application, we will have an attorney submit the required letter:
(3) So as to protect the legal rights of non-participation unit owners, the application shall be accompanied by a letter of opinion from a licensed Florida attorney, who shall attest that he has examined the declaration of condominium, the bylaws of the condominium association, and all other relevant legal documents, as applicable, and concluded that the act of applying or petitioning to the town violates none of the provisions or any federal or state law regulating condominiums...or the rights of any of the nonparticipating unit owners, as derived from such documents and laws, and that approval of the requested act by the town would violate no such rights.

We need your acknowledgement that you have been informed of this application and are in agreement with its submission. Please sign below and return as soon as possible to Detali & Associates by "signing" and submitting this agreement.

I (Owner/Owners Names) Jeff cross of unit number 103 hereby acknowledge that I/we have been informed by the applicants (Island Reef Condominium Association) for the Special Exception application that this application is being submitted on behalf of the unit owners of Island Reef Condominiums dated 09/20/23.

I (Owner/Owners Names) Jeff cross of unit number 103 hereby agree to the Special Exception application submitted by the Island Reef Condominium Association to the Town of Fort Myers Beach on my behalf dated 09/20/23.

Signature: Jeff cross (Sep 20, 2023 08:58 EDT)

Email: jhcross18@hotmail.com

To the Owners of Island Reef Condominiums
September 19, 2023
RE: Notice of Special Exception Application

The Town of Fort Myers Beach requires our condominium association to apply for a Special Exception application in order to be permitted to do our repairs west of the Coastal Construction Control Line, which includes the pool, fence and the beach stairs. The onus is on the Island Reef board of directors to inform owners that this application is being submitted on your behalf. You are required to sign that you have been informed of this application and are in agreement with its submission. This application for Special Exception requires a public hearing. The town needs to see 75% acknowledgment from our owners to process the special exception application.

The relevant code sections are as follows.

Sec.34-201 (a) (1) (b) Where the property is a condominium...an application or petition may be initiated by both the condominium association and no less that 75 percent of the total number of condominium unit owners.
(2) In order to verify ownership, the applicant shall furnish the town, as part of their application, a complete list of all unit owners, identified by unit number...as applicable, along with proof that all unit owners who did not join in the application were given actual written notice thereof by the applicants who shall verify the list and fact of notice by sworn affidavit.

Along with the application, we will have an attorney submit the required letter:
(3) So as to protect the legal rights of non-participation unit owners, the application shall be accompanied by a letter of opinion from a licensed Florida attorney, who shall attest that he has examined the declaration of condominium, the bylaws of the condominium association, and all other relevant legal documents, as applicable, and concluded that the act of applying or petitioning to the town violates none of the provisions or any federal or state law regulating condominiums...or the rights of any of the nonparticipating unit owners, as derived from such documents and laws, and that approval of the requested act by the town would violate no such rights.

We need your acknowledgement that you have been informed of this application and are in agreement with its submission. Please sign below and return as soon as possible to Detali & Associates by "signing" and submitting this agreement.

I (Owner/Owners Names) David A. Daniels/Linda J Daniels of unit number 402 hereby acknowledge that I/we have been informed by the applicants (Island Reef Condominium Association) for the Special Exception application that this application is being submitted on behalf of the unit owners of Island Reef Condominiums dated 09/20/23.

I (Owner/Owners Names) David A. Daniels/Linda J Daniels of unit number 402 hereby agree to the Special Exception application submitted by the Island Reef Condominium Association to the Town of Fort Myers Beach on my behalf dated 09/20/23.

Signature: David A Daniels/Linda J Daniels
David A Daniels/Linda J Daniels (Sep 20, 2023 08:13 CDT)

Email: dvdnls@aol.com

To the Owners of Island Reef Condominiums
September 19, 2023
RE: Notice of Special Exception Application

The Town of Fort Myers Beach requires our condominium association to apply for a Special Exception application in order to be permitted to do our repairs west of the Coastal Construction Control Line, which includes the pool, fence and the beach stairs. The onus is on the Island Reef board of directors to inform owners that this application is being submitted on your behalf. You are required to sign that you have been informed of this application and are in agreement with its submission. This application for Special Exception requires a public hearing. The town needs to see 75% acknowledgment from our owners to process the special exception application.

The relevant code sections are as follows.

Sec.34-201 (a) (1) (b) Where the property is a condominium...an application or petition may be initiated by both the condominium association and no less that 75 percent of the total number of condominium unit owners.
(2) In order to verify ownership, the applicant shall furnish the town, as part of their application, a complete list of all unit owners, identified by unit number...as applicable, along with proof that all unit owners who did not join in the application were given actual written notice thereof by the applicants who shall verify the list and fact of notice by sworn affidavit.

Along with the application, we will have an attorney submit the required letter:
(3) So as to protect the legal rights of non-participation unit owners, the application shall be accompanied by a letter of opinion from a licensed Florida attorney, who shall attest that he has examined the declaration of condominium, the bylaws of the condominium association, and all other relevant legal documents, as applicable, and concluded that the act of applying or petitioning to the town violates none of the provisions or any federal or state law regulating condominiums...or the rights of any of the nonparticipating unit owners, as derived from such documents and laws, and that approval of the requested act by the town would violate no such rights.

We need your acknowledgement that you have been informed of this application and are in agreement with its submission. Please sign below and return as soon as possible to Detali & Associates by "signing" and submitting this agreement.

I (Owner/Owners Names) Maureen B Daw of unit number 605 hereby acknowledge that I/we have been informed by the applicants (Island Reef Condominium Association) for the Special Exception application that this application is being submitted on behalf of the unit owners of Island Reef Condominiums dated 09/20/23.

I (Owner/Owners Names) Maureen B Daw of unit number 605 hereby agree to the Special Exception application submitted by the Island Reef Condominium Association to the Town of Fort Myers Beach on my behalf dated 09/20/23.

Signature: Maureen B Daw
Maureen B Daw (Sep 20, 2023 07:49 EDT)

Email: mbdaw711@aol.com

To the Owners of Island Reef Condominiums
September 19, 2023
RE: Notice of Special Exception Application

The Town of Fort Myers Beach requires our condominium association to apply for a Special Exception application in order to be permitted to do our repairs west of the Coastal Construction Control Line, which includes the pool, fence and the beach stairs. The onus is on the Island Reef board of directors to inform owners that this application is being submitted on your behalf. You are required to sign that you have been informed of this application and are in agreement with its submission. This application for Special Exception requires a public hearing. The town needs to see 75% acknowledgment from our owners to process the special exception application.

The relevant code sections are as follows.

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(2) In order to verify ownership, the applicant shall furnish the town, as part of their application, a complete list of all unit owners, identified by unit number...as applicable, along with proof that all unit owners who did not join in the application were given actual written notice thereof by the applicants who shall verify the list and fact of notice by sworn affidavit.

Along with the application, we will have an attorney submit the required letter:
(3) So as to protect the legal rights of non-participation unit owners, the application shall be accompanied by a letter of opinion from a licensed Florida attorney, who shall attest that he has examined the declaration of condominium, the bylaws of the condominium association, and all other relevant legal documents, as applicable, and concluded that the act of applying or petitioning to the town violates none of the provisions or any federal or state law regulating condominiums...or the rights of any of the nonparticipating unit owners, as derived from such documents and laws, and that approval of the requested act by the town would violate no such rights.

We need your acknowledgement that you have been informed of this application and are in agreement with its submission. Please sign below and return as soon as possible to Detali & Associates by "signing" and submitting this agreement.

I (Owner/Owners Names) DeMuth Trust of unit number 503 hereby acknowledge that I/we have been informed by the applicants (Island Reef Condominium Association) for the Special Exception application that this application is being submitted on behalf of the unit owners of Island Reef Condominiums dated 09/21/23.

I (Owner/Owners Names) N/a of unit number N/a hereby agree to the Special Exception application submitted by the Island Reef Condominium Association to the Town of Fort Myers Beach on my behalf dated 09/21/23.

Signature: DeMuth Trust - Richard DeMuth Trustee
DeMuth Trust - Richard DeMuth Trustee (Sep 21, 2023 12:43 CDT)

Email: DMJDEMUTH@HOTMAIL.COM

To the Owners of Island Reef Condominiums
September 19, 2023
RE: Notice of Special Exception Application

The Town of Fort Myers Beach requires our condominium association to apply for a Special Exception application in order to be permitted to do our repairs west of the Coastal Construction Control Line, which includes the pool, fence and the beach stairs. The onus is on the Island Reef board of directors to inform owners that this application is being submitted on your behalf. You are required to sign that you have been informed of this application and are in agreement with its submission. This application for Special Exception requires a public hearing. The town needs to see 75% acknowledgment from our owners to process the special exception application.

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(2) In order to verify ownership, the applicant shall furnish the town, as part of their application, a complete list of all unit owners, identified by unit number...as applicable, along with proof that all unit owners who did not join in the application were given actual written notice thereof by the applicants who shall verify the list and fact of notice by sworn affidavit.

Along with the application, we will have an attorney submit the required letter:
(3) So as to protect the legal rights of non-participation unit owners, the application shall be accompanied by a letter of opinion from a licensed Florida attorney, who shall attest that he has examined the declaration of condominium, the bylaws of the condominium association, and all other relevant legal documents, as applicable, and concluded that the act of applying or petitioning to the town violates none of the provisions or any federal or state law regulating condominiums...or the rights of any of the nonparticipating unit owners, as derived from such documents and laws, and that approval of the requested act by the town would violate no such rights.

We need your acknowledgement that you have been informed of this application and are in agreement with its submission. Please sign below and return as soon as possible to Detali & Associates by "signing" and submitting this agreement.

I (Owner/Owners Names) Bruce & Pat Dewey (Estero Reef LLC) of unit number 403 hereby acknowledge that I/we have been informed by the applicants (Island Reef Condominium Association) for the Special Exception application that this application is being submitted on behalf of the unit owners of Island Reef Condominiums dated 09/20/23.

I (Owner/Owners Names) Bruce & Pat Dewey (Estero Reef LLC) of unit number 403 hereby agree to the Special Exception application submitted by the Island Reef Condominium Association to the Town of Fort Myers Beach on my behalf dated 09/20/23.

Signature: Bruce Dewey
Bruce Dewey (Sep 20, 2023 12:06 EDT)

Email: bpdewey1@gmail.com

To the Owners of Island Reef Condominiums
September 19, 2023
RE: Notice of Special Exception Application

The Town of Fort Myers Beach requires our condominium association to apply for a Special Exception application in order to be permitted to do our repairs west of the Coastal Construction Control Line, which includes the pool, fence and the beach stairs. The onus is on the Island Reef board of directors to inform owners that this application is being submitted on your behalf. You are required to sign that you have been informed of this application and are in agreement with its submission. This application for Special Exception requires a public hearing. The town needs to see 75% acknowledgment from our owners to process the special exception application.

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(2) In order to verify ownership, the applicant shall furnish the town, as part of their application, a complete list of all unit owners, identified by unit number...as applicable, along with proof that all unit owners who did not join in the application were given actual written notice thereof by the applicants who shall verify the list and fact of notice by sworn affidavit.

Along with the application, we will have an attorney submit the required letter:
(3) So as to protect the legal rights of non-participation unit owners, the application shall be accompanied by a letter of opinion from a licensed Florida attorney, who shall attest that he has examined the declaration of condominium, the bylaws of the condominium association, and all other relevant legal documents, as applicable, and concluded that the act of applying or petitioning to the town violates none of the provisions or any federal or state law regulating condominiums...or the rights of any of the nonparticipating unit owners, as derived from such documents and laws, and that approval of the requested act by the town would violate no such rights.

We need your acknowledgement that you have been informed of this application and are in agreement with its submission. Please sign below and return as soon as possible to Detali & Associates by "signing" and submitting this agreement.

I (Owner/Owners Names) Stephen Diagostino of unit number 600 hereby acknowledge that I/we have been informed by the applicants (Island Reef Condominium Association) for the Special Exception application that this application is being submitted on behalf of the unit owners of Island Reef Condominiums dated 09/20/23.

I (Owner/Owners Names) Robert Jauch of unit number 600 hereby agree to the Special Exception application submitted by the Island Reef Condominium Association to the Town of Fort Myers Beach on my behalf dated 09/20/23.

Signature: Stephen J Diagostino
Stephen J Diagostino (Sep 20, 2023 11:49 EDT)

Email: diagostino@comcast.net

To the Owners of Island Reef Condominiums
September 19, 2023
RE: Notice of Special Exception Application

The Town of Fort Myers Beach requires our condominium association to apply for a Special Exception application in order to be permitted to do our repairs west of the Coastal Construction Control Line, which includes the pool, fence and the beach stairs. The onus is on the Island Reef board of directors to inform owners that this application is being submitted on your behalf. You are required to sign that you have been informed of this application and are in agreement with its submission. This application for Special Exception requires a public hearing. The town needs to see 75% acknowledgment from our owners to process the special exception application.

The relevant code sections are as follows.

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Along with the application, we will have an attorney submit the required letter:
(3) So as to protect the legal rights of non-participation unit owners, the application shall be accompanied by a letter of opinion from a licensed Florida attorney, who shall attest that he has examined the declaration of condominium, the bylaws of the condominium association, and all other relevant legal documents, as applicable, and concluded that the act of applying or petitioning to the town violates none of the provisions or any federal or state law regulating condominiums...or the rights of any of the nonparticipating unit owners, as derived from such documents and laws, and that approval of the requested act by the town would violate no such rights.

We need your acknowledgement that you have been informed of this application and are in agreement with its submission. Please sign below and return as soon as possible to Detali & Associates by "signing" and submitting this agreement.

I (Owner/Owners Names) John Dugan of unit number 200 hereby acknowledge that I/we have been informed by the applicants (Island Reef Condominium Association) for the Special Exception application that this application is being submitted on behalf of the unit owners of Island Reef Condominiums dated 09/19/23.

I (Owner/Owners Names) John Dugan of unit number 200 hereby agree to the Special Exception application submitted by the Island Reef Condominium Association to the Town of Fort Myers Beach on my behalf dated 09/19/23.

Signature: John H Dugan
John H Dugan (Sep 19, 2023 23:54 EDT)

Email: jdugan6715@gmail.com

To the Owners of Island Reef Condominiums
September 19, 2023
RE: Notice of Special Exception Application

The Town of Fort Myers Beach requires our condominium association to apply for a Special Exception application in order to be permitted to do our repairs west of the Coastal Construction Control Line, which includes the pool, fence and the beach stairs. The onus is on the Island Reef board of directors to inform owners that this application is being submitted on your behalf. You are required to sign that you have been informed of this application and are in agreement with its submission. This application for Special Exception requires a public hearing. The town needs to see 75% acknowledgment from our owners to process the special exception application.

The relevant code sections are as follows.

Sec.34-201 (a) (1) (b) Where the property is a condominium...an application or petition may be initiated by both the condominium association and no less that 75 percent of the total number of condominium unit owners.
(2) In order to verify ownership, the applicant shall furnish the town, as part of their application, a complete list of all unit owners, identified by unit number...as applicable, along with proof that all unit owners who did not join in the application were given actual written notice thereof by the applicants who shall verify the list and fact of notice by sworn affidavit.

Along with the application, we will have an attorney submit the required letter:
(3) So as to protect the legal rights of non-participation unit owners, the application shall be accompanied by a letter of opinion from a licensed Florida attorney, who shall attest that he has examined the declaration of condominium, the bylaws of the condominium association, and all other relevant legal documents, as applicable, and concluded that the act of applying or petitioning to the town violates none of the provisions or any federal or state law regulating condominiums...or the rights of any of the nonparticipating unit owners, as derived from such documents and laws, and that approval of the requested act by the town would violate no such rights.

We need your acknowledgement that you have been informed of this application and are in agreement with its submission. Please sign below and return as soon as possible to Detali & Associates by "signing" and submitting this agreement.

I (Owner/Owners Names) CzeslawGabrys of unit number 405 hereby acknowledge that I/we have been informed by the applicants (Island Reef Condominium Association) for the Special Exception application that this application is being submitted on behalf of the unit owners of Island Reef Condominiums dated 09/20/23.

I (Owner/Owners Names) Czeslaw Gabrys of unit number 405 hereby agree to the Special Exception application submitted by the Island Reef Condominium Association to the Town of Fort Myers Beach on my behalf dated 09/20/23.

Signature: Czeslaw Gabrys
Czeslaw Gabrys (Sep 20, 2023 07:47 EDT)

Email: protemp60525@yahoo.com

To the Owners of Island Reef Condominiums
September 19, 2023
RE: Notice of Special Exception Application

The Town of Fort Myers Beach requires our condominium association to apply for a Special Exception application in order to be permitted to do our repairs west of the Coastal Construction Control Line, which includes the pool, fence and the beach stairs. The onus is on the Island Reef board of directors to inform owners that this application is being submitted on your behalf. You are required to sign that you have been informed of this application and are in agreement with its submission. This application for Special Exception requires a public hearing. The town needs to see 75% acknowledgment from our owners to process the special exception application.

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Sec.34-201 (a) (1) (b) Where the property is a condominium...an application or petition may be initiated by both the condominium association and no less that 75 percent of the total number of condominium unit owners.
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Along with the application, we will have an attorney submit the required letter:
(3) So as to protect the legal rights of non-participation unit owners, the application shall be accompanied by a letter of opinion from a licensed Florida attorney, who shall attest that he has examined the declaration of condominium, the bylaws of the condominium association, and all other relevant legal documents, as applicable, and concluded that the act of applying or petitioning to the town violates none of the provisions or any federal or state law regulating condominiums...or the rights of any of the nonparticipating unit owners, as derived from such documents and laws, and that approval of the requested act by the town would violate no such rights.

We need your acknowledgement that you have been informed of this application and are in agreement with its submission. Please sign below and return as soon as possible to Detali & Associates by "signing" and submitting this agreement.

I (Owner/Owners Names) Stephen R. Good of unit number 401 hereby acknowledge that I/we have been informed by the applicants (Island Reef Condominium Association) for the Special Exception application that this application is being submitted on behalf of the unit owners of Island Reef Condominiums dated 09/20/23.

I (Owner/Owners Names) Suzanne L. Good of unit number 401 hereby agree to the Special Exception application submitted by the Island Reef Condominium Association to the Town of Fort Myers Beach on my behalf dated 09/20/23.

Signature: Stephen R. Good
Stephen R. Good (Sep 20, 2023 08:47 EDT)

Email: stephen.good@mckenziecorp.com

To the Owners of Island Reef Condominiums
September 19, 2023
RE: Notice of Special Exception Application

The Town of Fort Myers Beach requires our condominium association to apply for a Special Exception application in order to be permitted to do our repairs west of the Coastal Construction Control Line, which includes the pool, fence and the beach stairs. The onus is on the Island Reef board of directors to inform owners that this application is being submitted on your behalf. You are required to sign that you have been informed of this application and are in agreement with its submission. This application for Special Exception requires a public hearing. The town needs to see 75% acknowledgment from our owners to process the special exception application.

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We need your acknowledgement that you have been informed of this application and are in agreement with its submission. Please sign below and return as soon as possible to Detali & Associates by "signing" and submitting this agreement.

I (Owner/Owners Names) Keith & Lisa Heldt of unit number 304 hereby acknowledge that I/we have been informed by the applicants (Island Reef Condominium Association) for the Special Exception application that this application is being submitted on behalf of the unit owners of Island Reef Condominiums dated 09/20/23.

I (Owner/Owners Names) Keith & Lisa Heldt of unit number 304 hereby agree to the Special Exception application submitted by the Island Reef Condominium Association to the Town of Fort Myers Beach on my behalf dated 09/20/23.

Signature: Keith & Lisa Heldt
Keith & Lisa Heldt (Sep 20, 2023 06:33 CDT)

Email: heldt15@gmail.com

To the Owners of Island Reef Condominiums
September 19, 2023
RE: Notice of Special Exception Application

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We need your acknowledgement that you have been informed of this application and are in agreement with its submission. Please sign below and return as soon as possible to Detali & Associates by "signing" and submitting this agreement.

I (Owner/Owners Names) Pete Heyd of unit number 501 hereby acknowledge that I/we have been informed by the applicants (Island Reef Condominium Association) for the Special Exception application that this application is being submitted on behalf of the unit owners of Island Reef Condominiums dated 09/21/23.

I (Owner/Owners Names) Peter Heyd of unit number 501 hereby agree to the Special Exception application submitted by the Island Reef Condominium Association to the Town of Fort Myers Beach on my behalf dated 09/21/23.

Signature: Pete Heyd (Sep 21, 2023 06:46 EDT)

Email: dheyd@aol.com

To the Owners of Island Reef Condominiums
September 19, 2023
RE: Notice of Special Exception Application

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(2) In order to verify ownership, the applicant shall furnish the town, as part of their application, a complete list of all unit owners, identified by unit number...as applicable, along with proof that all unit owners who did not join in the application were given actual written notice thereof by the applicants who shall verify the list and fact of notice by sworn affidavit.

Along with the application, we will have an attorney submit the required letter:
(3) So as to protect the legal rights of non-participation unit owners, the application shall be accompanied by a letter of opinion from a licensed Florida attorney, who shall attest that he has examined the declaration of condominium, the bylaws of the condominium association, and all other relevant legal documents, as applicable, and concluded that the act of applying or petitioning to the town violates none of the provisions or any federal or state law regulating condominiums...or the rights of any of the nonparticipating unit owners, as derived from such documents and laws, and that approval of the requested act by the town would violate no such rights.

We need your acknowledgement that you have been informed of this application and are in agreement with its submission. Please sign below and return as soon as possible to Detali & Associates by "signing" and submitting this agreement.

I (Owner/Owners Names) Michael Hinterschied of unit number 602 hereby acknowledge that I/we have been informed by the applicants (Island Reef Condominium Association) for the Special Exception application that this application is being submitted on behalf of the unit owners of Island Reef Condominiums dated 09/20/23.

I (Owner/Owners Names) Alice Hinterschied of unit number 602 hereby agree to the Special Exception application submitted by the Island Reef Condominium Association to the Town of Fort Myers Beach on my behalf dated 09/20/23.

Signature: Michael Hinterschied
Michael Hinterschied (Sep 20, 2023 08:34 EDT)

Email: michael@cabledepot.com

To the Owners of Island Reef Condominiums
September 19, 2023
RE: Notice of Special Exception Application

The Town of Fort Myers Beach requires our condominium association to apply for a Special Exception application in order to be permitted to do our repairs west of the Coastal Construction Control Line, which includes the pool, fence and the beach stairs. The onus is on the Island Reef board of directors to inform owners that this application is being submitted on your behalf. You are required to sign that you have been informed of this application and are in agreement with its submission. This application for Special Exception requires a public hearing. The town needs to see 75% acknowledgment from our owners to process the special exception application.

The relevant code sections are as follows.

Sec.34-201 (a) (1) (b) Where the property is a condominium...an application or petition may be initiated by both the condominium association and no less that 75 percent of the total number of condominium unit owners.
(2) In order to verify ownership, the applicant shall furnish the town, as part of their application, a complete list of all unit owners, identified by unit number...as applicable, along with proof that all unit owners who did not join in the application were given actual written notice thereof by the applicants who shall verify the list and fact of notice by sworn affidavit.

Along with the application, we will have an attorney submit the required letter:
(3) So as to protect the legal rights of non-participation unit owners, the application shall be accompanied by a letter of opinion from a licensed Florida attorney, who shall attest that he has examined the declaration of condominium, the bylaws of the condominium association, and all other relevant legal documents, as applicable, and concluded that the act of applying or petitioning to the town violates none of the provisions or any federal or state law regulating condominiums...or the rights of any of the nonparticipating unit owners, as derived from such documents and laws, and that approval of the requested act by the town would violate no such rights.

We need your acknowledgement that you have been informed of this application and are in agreement with its submission. Please sign below and return as soon as possible to Detali & Associates by "signing" and submitting this agreement.

I (Owner/Owners Names) Mark Hunter of unit number 102 hereby acknowledge that I/we have been informed by the applicants (Island Reef Condominium Association) for the Special Exception application that this application is being submitted on behalf of the unit owners of Island Reef Condominiums dated 09/20/23.

I (Owner/Owners Names) NA of unit number 102 hereby agree to the Special Exception application submitted by the Island Reef Condominium Association to the Town of Fort Myers Beach on my behalf dated 09/20/23.

Signature: Mark Hunter
Mark Hunter (Sep 20, 2023 07:22 EDT)

Email: jousterman9@hotmail.com

To the Owners of Island Reef Condominiums
September 19, 2023
RE: Notice of Special Exception Application

The Town of Fort Myers Beach requires our condominium association to apply for a Special Exception application in order to be permitted to do our repairs west of the Coastal Construction Control Line, which includes the pool, fence and the beach stairs. The onus is on the Island Reef board of directors to inform owners that this application is being submitted on your behalf. You are required to sign that you have been informed of this application and are in agreement with its submission. This application for Special Exception requires a public hearing. The town needs to see 75% acknowledgment from our owners to process the special exception application.

The relevant code sections are as follows.

Sec.34-201 (a) (1) (b) Where the property is a condominium...an application or petition may be initiated by both the condominium association and no less that 75 percent of the total number of condominium unit owners.
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Along with the application, we will have an attorney submit the required letter:
(3) So as to protect the legal rights of non-participation unit owners, the application shall be accompanied by a letter of opinion from a licensed Florida attorney, who shall attest that he has examined the declaration of condominium, the bylaws of the condominium association, and all other relevant legal documents, as applicable, and concluded that the act of applying or petitioning to the town violates none of the provisions or any federal or state law regulating condominiums...or the rights of any of the nonparticipating unit owners, as derived from such documents and laws, and that approval of the requested act by the town would violate no such rights.

We need your acknowledgement that you have been informed of this application and are in agreement with its submission. Please sign below and return as soon as possible to Detali & Associates by "signing" and submitting this agreement.

I (Owner/Owners Names) Robert Kane of unit number 601 hereby acknowledge that I/we have been informed by the applicants (Island Reef Condominium Association) for the Special Exception application that this application is being submitted on behalf of the unit owners of Island Reef Condominiums dated 09/20/23.

I (Owner/Owners Names) Candice Kane of unit number 601 hereby agree to the Special Exception application submitted by the Island Reef Condominium Association to the Town of Fort Myers Beach on my behalf dated 09/20/23.

Signature: Robert Kane CandiceKane
Robert Kane CandiceKane (Sep 20, 2023 08:48 EDT)

Email: bkane62751@aol.com

To the Owners of Island Reef Condominiums
September 19, 2023
RE: Notice of Special Exception Application

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Along with the application, we will have an attorney submit the required letter:
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We need your acknowledgement that you have been informed of this application and are in agreement with its submission. Please sign below and return as soon as possible to Detali & Associates by "signing" and submitting this agreement.

I (Owner/Owners Names) Yvonne Lambert of unit number 204 hereby acknowledge that I/we have been informed by the applicants (Island Reef Condominium Association) for the Special Exception application that this application is being submitted on behalf of the unit owners of Island Reef Condominiums dated 09/19/23.

I (Owner/Owners Names) Yvonne Lambert of unit number 204 hereby agree to the Special Exception application submitted by the Island Reef Condominium Association to the Town of Fort Myers Beach on my behalf dated 09/19/23.

Signature: Yvonne Lambert (Sep 19, 2023 21:39 EDT)

Email: lambertfour@yahoo.com

To the Owners of Island Reef Condominiums
September 19, 2023
RE: Notice of Special Exception Application

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We need your acknowledgement that you have been informed of this application and are in agreement with its submission. Please sign below and return as soon as possible to Detali & Associates by "signing" and submitting this agreement.

I (Owner/Owners Names) Alyce Lenertz of unit number 505 hereby acknowledge that I/we have been informed by the applicants (Island Reef Condominium Association) for the Special Exception application that this application is being submitted on behalf of the unit owners of Island Reef Condominiums dated 09/20/23.

I (Owner/Owners Names) Alyce Lenertz of unit number 505 hereby agree to the Special Exception application submitted by the Island Reef Condominium Association to the Town of Fort Myers Beach on my behalf dated 09/20/23.

Signature: Alyce Lenertz
Alyce Lenertz (Sep 20, 2023 10:11 CDT)

Email: alycelenertz@hotmail.com

To the Owners of Island Reef Condominiums
September 19, 2023
RE: Notice of Special Exception Application

The Town of Fort Myers Beach requires our condominium association to apply for a Special Exception application in order to be permitted to do our repairs west of the Coastal Construction Control Line, which includes the pool, fence and the beach stairs. The onus is on the Island Reef board of directors to inform owners that this application is being submitted on your behalf. You are required to sign that you have been informed of this application and are in agreement with its submission. This application for Special Exception requires a public hearing. The town needs to see 75% acknowledgment from our owners to process the special exception application.

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Along with the application, we will have an attorney submit the required letter:
(3) So as to protect the legal rights of non-participation unit owners, the application shall be accompanied by a letter of opinion from a licensed Florida attorney, who shall attest that he has examined the declaration of condominium, the bylaws of the condominium association, and all other relevant legal documents, as applicable, and concluded that the act of applying or petitioning to the town violates none of the provisions or any federal or state law regulating condominiums...or the rights of any of the nonparticipating unit owners, as derived from such documents and laws, and that approval of the requested act by the town would violate no such rights.

We need your acknowledgement that you have been informed of this application and are in agreement with its submission. Please sign below and return as soon as possible to Detali & Associates by "signing" and submitting this agreement.

I (Owner/Owners Names) Michael J. McGovern of unit number 603 hereby acknowledge that I/we have been informed by the applicants (Island Reef Condominium Association) for the Special Exception application that this application is being submitted on behalf of the unit owners of Island Reef Condominiums dated 09/20/23.

I (Owner/Owners Names) Rosalie McGovern of unit number 603 hereby agree to the Special Exception application submitted by the Island Reef Condominium Association to the Town of Fort Myers Beach on my behalf dated 09/20/23.

Signature: Michael J. McGovern
Michael J. McGovern (Sep 20, 2023 09:38 EDT)

Email: mikemcgovern1@gmail.com

To the Owners of Island Reef Condominiums
September 19, 2023
RE: Notice of Special Exception Application

The Town of Fort Myers Beach requires our condominium association to apply for a Special Exception application in order to be permitted to do our repairs west of the Coastal Construction Control Line, which includes the pool, fence and the beach stairs. The onus is on the Island Reef board of directors to inform owners that this application is being submitted on your behalf. You are required to sign that you have been informed of this application and are in agreement with its submission. This application for Special Exception requires a public hearing. The town needs to see 75% acknowledgment from our owners to process the special exception application.

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Along with the application, we will have an attorney submit the required letter:
(3) So as to protect the legal rights of non-participation unit owners, the application shall be accompanied by a letter of opinion from a licensed Florida attorney, who shall attest that he has examined the declaration of condominium, the bylaws of the condominium association, and all other relevant legal documents, as applicable, and concluded that the act of applying or petitioning to the town violates none of the provisions or any federal or state law regulating condominiums...or the rights of any of the nonparticipating unit owners, as derived from such documents and laws, and that approval of the requested act by the town would violate no such rights.

We need your acknowledgement that you have been informed of this application and are in agreement with its submission. Please sign below and return as soon as possible to Detali & Associates by "signing" and submitting this agreement.

I (Owner/Owners Names) Brian Middendorf of unit number 604 hereby acknowledge that I/we have been informed by the applicants (Island Reef Condominium Association) for the Special Exception application that this application is being submitted on behalf of the unit owners of Island Reef Condominiums dated 09/19/23.

I (Owner/Owners Names) Kristie Middendorf of unit number 604 hereby agree to the Special Exception application submitted by the Island Reef Condominium Association to the Town of Fort Myers Beach on my behalf dated 09/19/23.

Signature: Brian Middendorf

Email: bmiddendorf@hiawathabank.com

To the Owners of Island Reef Condominiums
September 19, 2023
RE: Notice of Special Exception Application

The Town of Fort Myers Beach requires our condominium association to apply for a Special Exception application in order to be permitted to do our repairs west of the Coastal Construction Control Line, which includes the pool, fence and the beach stairs. The onus is on the Island Reef board of directors to inform owners that this application is being submitted on your behalf. You are required to sign that you have been informed of this application and are in agreement with its submission. This application for Special Exception requires a public hearing. The town needs to see 75% acknowledgment from our owners to process the special exception application.

The relevant code sections are as follows.

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Along with the application, we will have an attorney submit the required letter:
(3) So as to protect the legal rights of non-participation unit owners, the application shall be accompanied by a letter of opinion from a licensed Florida attorney, who shall attest that he has examined the declaration of condominium, the bylaws of the condominium association, and all other relevant legal documents, as applicable, and concluded that the act of applying or petitioning to the town violates none of the provisions or any federal or state law regulating condominiums...or the rights of any of the nonparticipating unit owners, as derived from such documents and laws, and that approval of the requested act by the town would violate no such rights.

We need your acknowledgement that you have been informed of this application and are in agreement with its submission. Please sign below and return as soon as possible to Detali & Associates by "signing" and submitting this agreement.

I (Owner/Owners Names) Frank Miesmer of unit number 700 hereby acknowledge that I/we have been informed by the applicants (Island Reef Condominium Association) for the Special Exception application that this application is being submitted on behalf of the unit owners of Island Reef Condominiums dated 09/20/23.

I (Owner/Owners Names) Sandra Miesmer of unit number 700 hereby agree to the Special Exception application submitted by the Island Reef Condominium Association to the Town of Fort Myers Beach on my behalf dated 09/20/23.

Signature: S. Miesmer
Sandra Miesmer (Sep 20, 2023 11:26 EDT)

Email: smiesmer@gmail.com

To the Owners of Island Reef Condominiums
September 19, 2023
RE: Notice of Special Exception Application

The Town of Fort Myers Beach requires our condominium association to apply for a Special Exception application in order to be permitted to do our repairs west of the Coastal Construction Control Line, which includes the pool, fence and the beach stairs. The onus is on the Island Reef board of directors to inform owners that this application is being submitted on your behalf. You are required to sign that you have been informed of this application and are in agreement with its submission. This application for Special Exception requires a public hearing. The town needs to see 75% acknowledgment from our owners to process the special exception application.

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Along with the application, we will have an attorney submit the required letter:
(3) So as to protect the legal rights of non-participation unit owners, the application shall be accompanied by a letter of opinion from a licensed Florida attorney, who shall attest that he has examined the declaration of condominium, the bylaws of the condominium association, and all other relevant legal documents, as applicable, and concluded that the act of applying or petitioning to the town violates none of the provisions or any federal or state law regulating condominiums...or the rights of any of the nonparticipating unit owners, as derived from such documents and laws, and that approval of the requested act by the town would violate no such rights.

We need your acknowledgement that you have been informed of this application and are in agreement with its submission. Please sign below and return as soon as possible to Detali & Associates by "signing" and submitting this agreement.

I (Owner/Owners Names) Maria Montie of unit number 302 hereby acknowledge that I/we have been informed by the applicants (Island Reef Condominium Association) for the Special Exception application that this application is being submitted on behalf of the unit owners of Island Reef Condominiums dated 09/20/23.

I (Owner/Owners Names) Maria Montie of unit number 302 hereby agree to the Special Exception application submitted by the Island Reef Condominium Association to the Town of Fort Myers Beach on my behalf dated 09/20/23.

Signature: Maria Montie
Maria Montie (Sep 20, 2023 08:19 EDT)

Email: mmontie@hotmail.com

To the Owners of Island Reef Condominiums
September 19, 2023
RE: Notice of Special Exception Application

The Town of Fort Myers Beach requires our condominium association to apply for a Special Exception application in order to be permitted to do our repairs west of the Coastal Construction Control Line, which includes the pool, fence and the beach stairs. The onus is on the Island Reef board of directors to inform owners that this application is being submitted on your behalf. You are required to sign that you have been informed of this application and are in agreement with its submission. This application for Special Exception requires a public hearing. The town needs to see 75% acknowledgment from our owners to process the special exception application.

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We need your acknowledgement that you have been informed of this application and are in agreement with its submission. Please sign below and return as soon as possible to Detali & Associates by "signing" and submitting this agreement.

I (Owner/Owners Names) Margaret Eiluned Morgan of unit number 301 hereby acknowledge that I/we have been informed by the applicants (Island Reef Condominium Association) for the Special Exception application that this application is being submitted on behalf of the unit owners of Island Reef Condominiums dated 09/20/23.

I (Owner/Owners Names) Margaret Eiluned Morgan of unit number 301 hereby agree to the Special Exception application submitted by the Island Reef Condominium Association to the Town of Fort Myers Beach on my behalf dated 09/20/23.

Signature: Margaret Eiluned Morgan
Margaret Eiluned Morgan (Sep 20, 2023 06:40 EDT)

Email: mcemorgan@msn.com

To the Owners of Island Reef Condominiums
September 19, 2023
RE: Notice of Special Exception Application

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I (Owner/Owners Names) LETITIA MURGESAN of unit number 704 hereby acknowledge that I/we have been informed by the applicants (Island Reef Condominium Association) for the Special Exception application that this application is being submitted on behalf of the unit owners of Island Reef Condominiums dated Sept 20, 2023 —

I (Owner/Owners Names) _____ of unit number _____ hereby agree to the Special Exception application submitted by the Island Reef Condominium Association to the Town of Fort Myers Beach on my behalf dated _____.

To the Owners of Island Reef Condominiums
September 19, 2023
RE: Notice of Special Exception Application

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I (Owner/Owners Names) Thomas nevers of unit number 09/24/2023 hereby acknowledge that I/we have been informed by the applicants (Island Reef Condominium Association) for the Special Exception application that this application is being submitted on behalf of the unit owners of Island Reef Condominiums dated 09/20/23.

I (Owner/Owners Names) Traci Cole of unit number 90/24/2023 hereby agree to the Special Exception application submitted by the Island Reef Condominium Association to the Town of Fort Myers Beach on my behalf dated 09/20/23.

Signature: Thomas NEVERS (Sep 20, 2023 07:01 CDT)

Email: TRACI@COLEOIL.NET

To the Owners of Island Reef Condominiums
September 19, 2023
RE: Notice of Special Exception Application

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(3) So as to protect the legal rights of non-participation unit owners, the application shall be accompanied by a letter of opinion from a licensed Florida attorney, who shall attest that he has examined the declaration of condominium, the bylaws of the condominium association, and all other relevant legal documents, as applicable, and concluded that the act of applying or petitioning to the town violates none of the provisions or any federal or state law regulating condominiums...or the rights of any of the nonparticipating unit owners, as derived from such documents and laws, and that approval of the requested act by the town would violate no such rights.

We need your acknowledgement that you have been informed of this application and are in agreement with its submission. Please sign below and return as soon as possible to Detali & Associates by "signing" and submitting this agreement.

I (Owner/Owners Names) Rajaquette of unit number 203 hereby acknowledge that I/we have been informed by the applicants (Island Reef Condominium Association) for the Special Exception application that this application is being submitted on behalf of the unit owners of Island Reef Condominiums dated 09/20/23.

I (Owner/Owners Names) Rajaquette of unit number 203 hereby agree to the Special Exception application submitted by the Island Reef Condominium Association to the Town of Fort Myers Beach on my behalf dated 09/20/23.

Signature: Richard Rajaquette (Sep 20, 2023 08:56 EDT)

Email: rjaquette@sbcglobal.net

To the Owners of Island Reef Condominiums
September 19, 2023
RE: Notice of Special Exception Application

The Town of Fort Myers Beach requires our condominium association to apply for a Special Exception application in order to be permitted to do our repairs west of the Coastal Construction Control Line, which includes the pool, fence and the beach stairs. The onus is on the Island Reef board of directors to inform owners that this application is being submitted on your behalf. You are required to sign that you have been informed of this application and are in agreement with its submission. This application for Special Exception requires a public hearing. The town needs to see 75% acknowledgment from our owners to process the special exception application.

The relevant code sections are as follows.

Sec.34-201 (a) (1) (b) Where the property is a condominium...an application or petition may be initiated by both the condominium association and no less that 75 percent of the total number of condominium unit owners.
(2) In order to verify ownership, the applicant shall furnish the town, as part of their application, a complete list of all unit owners, identified by unit number...as applicable, along with proof that all unit owners who did not join in the application were given actual written notice thereof by the applicants who shall verify the list and fact of notice by sworn affidavit.

Along with the application, we will have an attorney submit the required letter:
(3) So as to protect the legal rights of non-participation unit owners, the application shall be accompanied by a letter of opinion from a licensed Florida attorney, who shall attest that he has examined the declaration of condominium, the bylaws of the condominium association, and all other relevant legal documents, as applicable, and concluded that the act of applying or petitioning to the town violates none of the provisions or any federal or state law regulating condominiums...or the rights of any of the nonparticipating unit owners, as derived from such documents and laws, and that approval of the requested act by the town would violate no such rights.

We need your acknowledgement that you have been informed of this application and are in agreement with its submission. Please sign below and return as soon as possible to Detali & Associates by "signing" and submitting this agreement.

I (Owner/Owners Names) Susanne and Larry Rowe of unit number 300 hereby acknowledge that I/we have been informed by the applicants (Island Reef Condominium Association) for the Special Exception application that this application is being submitted on behalf of the unit owners of Island Reef Condominiums dated 09/19/23.

I (Owner/Owners Names) Susanne and Larry Rowe of unit number 300 hereby agree to the Special Exception application submitted by the Island Reef Condominium Association to the Town of Fort Myers Beach on my behalf dated 09/19/23.

Signature: SMRowe
Susanne Rowe (Sep 19, 2023 21:59 EDT)

Email: moorman.rowe@gmail.com

To the Owners of Island Reef Condominiums
September 19, 2023
RE: Notice of Special Exception Application

The Town of Fort Myers Beach requires our condominium association to apply for a Special Exception application in order to be permitted to do our repairs west of the Coastal Construction Control Line, which includes the pool, fence and the beach stairs. The onus is on the Island Reef board of directors to inform owners that this application is being submitted on your behalf. You are required to sign that you have been informed of this application and are in agreement with its submission. This application for Special Exception requires a public hearing. The town needs to see 75% acknowledgment from our owners to process the special exception application.

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Along with the application, we will have an attorney submit the required letter:
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We need your acknowledgement that you have been informed of this application and are in agreement with its submission. Please sign below and return as soon as possible to Detali & Associates by "signing" and submitting this agreement.

I (Owner/Owners Names) Brenda and John Ryan of unit number 100 hereby acknowledge that I/we have been informed by the applicants (Island Reef Condominium Association) for the Special Exception application that this application is being submitted on behalf of the unit owners of Island Reef Condominiums dated 09/19/23.

I (Owner/Owners Names) Brenda and John Ryan of unit number 100 hereby agree to the Special Exception application submitted by the Island Reef Condominium Association to the Town of Fort Myers Beach on my behalf dated 09/19/23.

Signature: brenda ryan (Sep 19, 2023 21:51 EDT)

Email: brendaleeryan@hotmail.com

To the Owners of Island Reef Condominiums
September 19, 2023
RE: Notice of Special Exception Application

The Town of Fort Myers Beach requires our condominium association to apply for a Special Exception application in order to be permitted to do our repairs west of the Coastal Construction Control Line, which includes the pool, fence and the beach stairs. The onus is on the Island Reef board of directors to inform owners that this application is being submitted on your behalf. You are required to sign that you have been informed of this application and are in agreement with its submission. This application for Special Exception requires a public hearing. The town needs to see 75% acknowledgment from our owners to process the special exception application.

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Along with the application, we will have an attorney submit the required letter:
(3) So as to protect the legal rights of non-participation unit owners, the application shall be accompanied by a letter of opinion from a licensed Florida attorney, who shall attest that he has examined the declaration of condominium, the bylaws of the condominium association, and all other relevant legal documents, as applicable, and concluded that the act of applying or petitioning to the town violates none of the provisions or any federal or state law regulating condominiums...or the rights of any of the nonparticipating unit owners, as derived from such documents and laws, and that approval of the requested act by the town would violate no such rights.

We need your acknowledgement that you have been informed of this application and are in agreement with its submission. Please sign below and return as soon as possible to Detali & Associates by "signing" and submitting this agreement.

I (Owner/Owners Names) Thomas and Laraine Soltysiak of unit number 202 hereby acknowledge that I/we have been informed by the applicants (Island Reef Condominium Association) for the Special Exception application that this application is being submitted on behalf of the unit owners of Island Reef Condominiums dated 09/20/23.

I (Owner/Owners Names) Thomas and Laraine Soltysiak of unit number 202 hereby agree to the Special Exception application submitted by the Island Reef Condominium Association to the Town of Fort Myers Beach on my behalf dated 09/20/23.

Signature: Thomas Soltysiak (Sep 20, 2023 07:23 EDT)

Email: tmsolty@gmail.com

To the Owners of Island Reef Condominiums
September 19, 2023
RE: Notice of Special Exception Application

The Town of Fort Myers Beach requires our condominium association to apply for a Special Exception application in order to be permitted to do our repairs west of the Coastal Construction Control Line, which includes the pool, fence and the beach stairs. The onus is on the Island Reef board of directors to inform owners that this application is being submitted on your behalf. You are required to sign that you have been informed of this application and are in agreement with its submission. This application for Special Exception requires a public hearing. The town needs to see 75% acknowledgment from our owners to process the special exception application.

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(2) In order to verify ownership, the applicant shall furnish the town, as part of their application, a complete list of all unit owners, identified by unit number...as applicable, along with proof that all unit owners who did not join in the application were given actual written notice thereof by the applicants who shall verify the list and fact of notice by sworn affidavit.

Along with the application, we will have an attorney submit the required letter:
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We need your acknowledgement that you have been informed of this application and are in agreement with its submission. Please sign below and return as soon as possible to Detali & Associates by "signing" and submitting this agreement.

I (Owner/Owners Names) Julie Steenberg of unit number 305 hereby acknowledge that I/we have been informed by the applicants (Island Reef Condominium Association) for the Special Exception application that this application is being submitted on behalf of the unit owners of Island Reef Condominiums dated 09/20/23.

I (Owner/Owners Names) Julie Steenberg of unit number 305 hereby agree to the Special Exception application submitted by the Island Reef Condominium Association to the Town of Fort Myers Beach on my behalf dated 09/20/23.

Signature: Julie Steenberg (Sep 20, 2023 15:27 CDT)

Email: julessteenberg@gmail.com

To the Owners of Island Reef Condominiums
September 19, 2023
RE: Notice of Special Exception Application

The Town of Fort Myers Beach requires our condominium association to apply for a Special Exception application in order to be permitted to do our repairs west of the Coastal Construction Control Line, which includes the pool, fence and the beach stairs. The onus is on the Island Reef board of directors to inform owners that this application is being submitted on your behalf. You are required to sign that you have been informed of this application and are in agreement with its submission. This application for Special Exception requires a public hearing. The town needs to see 75% acknowledgment from our owners to process the special exception application.

The relevant code sections are as follows.

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(2) In order to verify ownership, the applicant shall furnish the town, as part of their application, a complete list of all unit owners, identified by unit number...as applicable, along with proof that all unit owners who did not join in the application were given actual written notice thereof by the applicants who shall verify the list and fact of notice by sworn affidavit.

Along with the application, we will have an attorney submit the required letter:
(3) So as to protect the legal rights of non-participation unit owners, the application shall be accompanied by a letter of opinion from a licensed Florida attorney, who shall attest that he has examined the declaration of condominium, the bylaws of the condominium association, and all other relevant legal documents, as applicable, and concluded that the act of applying or petitioning to the town violates none of the provisions or any federal or state law regulating condominiums...or the rights of any of the nonparticipating unit owners, as derived from such documents and laws, and that approval of the requested act by the town would violate no such rights.

We need your acknowledgement that you have been informed of this application and are in agreement with its submission. Please sign below and return as soon as possible to Detali & Associates by "signing" and submitting this agreement.

I (Owner/Owners Names) Susan truitt of unit number 105 hereby acknowledge that I/we have been informed by the applicants (Island Reef Condominium Association) for the Special Exception application that this application is being submitted on behalf of the unit owners of Island Reef Condominiums dated 09/20/23.

I (Owner/Owners Names) Timothy truitt of unit number 105 hereby agree to the Special Exception application submitted by the Island Reef Condominium Association to the Town of Fort Myers Beach on my behalf dated 09/20/23.

Signature: Tim truitt (Sep 20, 2023 07:26 EDT)

Email: TRUITTSUSIE@GMAIL.COM

To the Owners of Island Reef Condominiums
September 19, 2023
RE: Notice of Special Exception Application

The Town of Fort Myers Beach requires our condominium association to apply for a Special Exception application in order to be permitted to do our repairs west of the Coastal Construction Control Line, which includes the pool, fence and the beach stairs. The onus is on the Island Reef board of directors to inform owners that this application is being submitted on your behalf. You are required to sign that you have been informed of this application and are in agreement with its submission. This application for Special Exception requires a public hearing. The town needs to see 75% acknowledgment from our owners to process the special exception application.

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Along with the application, we will have an attorney submit the required letter:
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We need your acknowledgement that you have been informed of this application and are in agreement with its submission. Please sign below and return as soon as possible to Detali & Associates by "signing" and submitting this agreement.

I (Owner/Owners Names) Melanie Truitt of unit number 005 hereby acknowledge that I/we have been informed by the applicants (Island Reef Condominium Association) for the Special Exception application that this application is being submitted on behalf of the unit owners of Island Reef Condominiums dated 09/20/23.

I (Owner/Owners Names) Melanie Truitt of unit number 005 hereby agree to the Special Exception application submitted by the Island Reef Condominium Association to the Town of Fort Myers Beach on my behalf dated 09/20/23.

Signature: Mel Truitt (Sep 20, 2023 07:13 EDT)

Email: meltruitt@gmail.com

To the Owners of Island Reef Condominiums
September 19, 2023
RE: Notice of Special Exception Application

The Town of Fort Myers Beach requires our condominium association to apply for a Special Exception application in order to be permitted to do our repairs west of the Coastal Construction Control Line, which includes the pool, fence and the beach stairs. The onus is on the Island Reef board of directors to inform owners that this application is being submitted on your behalf. You are required to sign that you have been informed of this application and are in agreement with its submission. This application for Special Exception requires a public hearing. The town needs to see 75% acknowledgment from our owners to process the special exception application.

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We need your acknowledgement that you have been informed of this application and are in agreement with its submission. Please sign below and return as soon as possible to Detali & Associates by "signing" and submitting this agreement.

I (Owner/Owners Names) Sandra Walker of unit number 104 hereby acknowledge that I/we have been informed by the applicants (Island Reef Condominium Association) for the Special Exception application that this application is being submitted on behalf of the unit owners of Island Reef Condominiums dated 09/20/23.

I (Owner/Owners Names) Robert Terry Walker of unit number 104 hereby agree to the Special Exception application submitted by the Island Reef Condominium Association to the Town of Fort Myers Beach on my behalf dated 09/20/23.

Signature: Sandra Walker and Robert Walker
Sandra Walker and Robert Walker (Sep 20, 2023 07:50 EDT)

Email: brokergpp@comcast.net

To the Owners of Island Reef Condominiums
September 19, 2023
RE: Notice of Special Exception Application

The Town of Fort Myers Beach requires our condominium association to apply for a Special Exception application in order to be permitted to do our repairs west of the Coastal Construction Control Line, which includes the pool, fence and the beach stairs. The onus is on the Island Reef board of directors to inform owners that this application is being submitted on your behalf. You are required to sign that you have been informed of this application and are in agreement with its submission. This application for Special Exception requires a public hearing. The town needs to see 75% acknowledgment from our owners to process the special exception application.

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We need your acknowledgement that you have been informed of this application and are in agreement with its submission. Please sign below and return as soon as possible to Detali & Associates by "signing" and submitting this agreement.

I (Owner/Owners Names) Paul Yearwood of unit number 500 hereby acknowledge that I/we have been informed by the applicants (Island Reef Condominium Association) for the Special Exception application that this application is being submitted on behalf of the unit owners of Island Reef Condominiums dated 09/20/23.

I (Owner/Owners Names) Paul Yearwood of unit number 500 hereby agree to the Special Exception application submitted by the Island Reef Condominium Association to the Town of Fort Myers Beach on my behalf dated 09/20/23.

Signature: Paul Yearwood
Paul Yearwood (Sep 20, 2023 11:36 EDT)

Email: PEY6465@OUTLOOK.COM

ISLAND REEF ASSOCIATION INC

OWNER SUMMARY AS OF 09/18/23

(H)=Owner (P)=Prev Owner (R)=Renter (V)=Developer (*)=No Owner

ACCOUNT NUMBER	STREET ADDRESS	LOT/UNIT NUMBER	DATE SETTLED
005	7000 ESTERO BLVD # 005 MELANIE K TRUITT (H)	005	
100	7000 ESTERO BLVD # 100 JOHN & BRENDA RYAN (H) PO BOX 222; BRACERIDGE, ONTARIO P1L 1T6 CANADA	100	
101	7000 ESTERO BLVD # 101 JASC PROPERTY, LLC (H) 6081 WILLOW BROOK DR; ASBURY, IA 52002	101	
102	7000 ESTERO BLVD # 102 MARK HUNTER (H) 94820 DRIVE A; LAWTON, MI 49065	102	
103	7000 ESTERO BLVD # 103 JEFFREY H. & DENISE L. CROSS (H) 2328 SHAWNEE BLVD; SPRINGFIELD, OH 45504	103	
104	7000 ESTERO BLVD # 104 ROBERT T. & SANDRA J. WALKER (H)	104	
105	7000 ESTERO BLVD # 105 SUSAN & TIMOTHY TRUITT (H) 4771 WAYCROSS ROAD; FORT MYERS BEAC, FL 33931	105	
200	7000 ESTERO BLVD # 200 JOHN DUGAN (H) 4513 LAUDER LANE; SKANEATELES, NY 13152	200	
201	7000 ESTERO BLVD # 201 JOHN & LINDA BURKE (H)	201	

OWNER SUMMARY AS OF 09/18/23

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ACCOUNT NUMBER	STREET ADDRESS	LOT/UNIT NUMBER	DATE SETTLED
201	JOHN & LINDA BURKE (H) 7000 ESTERO BLVD # 201 12884 BAYOU CT; WAYLAND, MI 49348	201	
202	7000 ESTERO BLVD # 202 THOMAS & LARAINE SOLTYSIAK (H) 15768 PROSPECT POINT DR.; SPRING LAKE, MI 49456	202	
203	7000 ESTERO BLVD # 203 RICHARD JAQUETTE (H) 5479 BAYSHORE ROAD; OREGON, OH 43616	203	
204	7000 ESTERO BLVD # 204 YVONNE MARIE LAMBERT (H) 749 NORTON STREET; LONGBOAT KEY, FL 34228	204	
205	7000 ESTERO BLVD # 205 CHET & SHERRY CHAPIN (H) 1422 COPPER BEECH RUN; FORT WAYNE, IN 46814	205	
300	7000 ESTERO BLVD # 300 LARRY R & SUSANNE M. ROWE (H) 8414 KILLEEN RUN; FORT WAYNE, IN 46835	300	
301	7000 ESTERO BLVD # 301 MCE MORGAN, TRUSTEE (H)	301	
302	7000 ESTERO BLVD # 302 GERALD & MARIA MONTIE (H)	302	
303	7000 ESTERO BLVD # 303 RANDELL S BAREMOR (H) 11162 BOWELS AVE; GARDEN GROVE, CA 92841	303	

OWNER SUMMARY AS OF 09/18/23

(H)=Owner (P)=Prev Owner (R)=Renter (V)=Developer (*)=No Owner

ACCOUNT NUMBER	STREET ADDRESS	LOT/UNIT NUMBER	DATE SETTLED
304	7000 ESTERO BLVD # 304 KEITH R. & LISA C. HELDT (H) 24416 S. CENTER ROAD; FRANKFORT, IL 60423	304	03/15/23
305	7000 ESTERO BLVD # 305 JULIE STEENBERG (H) 1545 ARBORETUM DR #114; OSH KOSH, WI 54901	305	
400	7000 ESTERO BLVD # 400 GEORGE & CYNTHIA BALLANTYNE (H)	400	
401	7000 ESTERO BLVD # 401 STEPHEN R. GOOD (H) 916 OLD HICKORY ROAD; PITTSBURGH, PA 15243	401	
402	7000 ESTERO BLVD # 402 DAVID & LINDA DANIELS (H) 2554 HUEBNER RD; OCONOMOWOC, WI 53066	402	
403	7000 ESTERO BLVD # 403 ESTERO REEF, LLC (H) BRUCE DEWEY; 9506 TREETOP DR. GALESBURG, MI 49053	403	
404	7000 ESTERO BLVD # 404 CHARLES & SIBYL TURNER (H) 12201 QUINCE VALLEY DR.; NORTH PATOMAC, MD 20878-4723	404	
405	7000 ESTERO BLVD # 405 GABRYS CZESLAW (H) 3226 CERRITO CT; NAPLES, FL 34109	405	10/29/21
500	7000 ESTERO BLVD # 500	500	04/30/21

OWNER SUMMARY AS OF 09/18/23

(H)=Owner (P)=Prev Owner (R)=Renter (V)=Developer (*)=No Owner

ACCOUNT NUMBER	STREET ADDRESS	LOT/UNIT NUMBER	DATE SETTLED
500	7000 ESTERO BLVD # 500 PAUL E. & CYNTHIA A. YEARWOOD (H) 2028 REGAN DR.; ROCHESTER, MI 48309	500	04/30/21
501	7000 ESTERO BLVD # 501 DELORES & PETER HEYD (H)	501	
502	7000 ESTERO BLVD # 502 SUSAN KRAJEWSKI TRUST (H) 14700 STONEHENGE DR; RUSSELL, OH 44072	502	
503	7000 ESTERO BLVD # 503 DEMUTH TRUST (H)	503	
504	7000 ESTERO BLVD # 504 PAUL & MARIA STONIKAS (H) 1809 71ST ST; DARIEN, IL 60561-3536	504	
505	7000 ESTERO BLVD # 505 ALYCE LENERTZ (H) 1425 E 39TH ST APT 9; DAVENPORT, IA 52807	505	
600	7000 ESTERO BLVD # 600 STEPHEN DIAGOSTINO (H) 8119 CONARROE RD; INDIANAPOLIS, IN 46278	600	
601	7000 ESTERO BLVD # 601 ROBERT & CANDICE KANE (H) 268 BEATTIE AVE; LOCKPORT, NY 14094	601	
602	7000 ESTERO BLVD # 602 MICHAEL & ALICE HINTERSCHIED (H) 361 CHASTAIN MANOR DR; NORCROSS. GA 30071	602	

OWNER SUMMARY AS OF 09/18/23

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ACCOUNT NUMBER	STREET ADDRESS	LOT/UNIT NUMBER	DATE SETTLED
	NORCROSS, GA 30071		
603	7000 ESTERO BLVD # 603 MICHAEL & ROSALIE MCGOVERN (H) 1630 QUEEN STREET EAST; SUITE 604 TORONTO, ON M4L IG3	603	
604	7000 ESTERO BLVD # 604 BRIAN & KRISTIE MIDDENDORF (H) 6309 MICHAEL DR NE; CEDAR RAPIIDS, IA 52411	604	
605	7000 ESTERO BLVD # 605 MAUREEN B DAW (H) 10207 SO. SAWYER; EVERGREEN PARK, IL 60805	605	
700	7000 ESTERO BLVD # 700 FRANK & SANDRA MIESMER (H) 5389 OLD CASTLE ROAD; TECUMSEH, ON N0R 1L0 CANADA,	700	
701	7000 ESTERO BLVD # 701 JOHN & PHYLIS BRANHAM (H) 39235 HAWTHORNE DR; AVON, OH 44011	701	
702	7000 ESTERO BLVD # 702 ALAN L SMITH (H)	702	
703	7000 ESTERO BLVD # 703 THOMAS P. NEVERS (H) PO BOX 103; SLINGER, WI 53086	703	05/23/22
704	7000 ESTERO BLVD # 704 LETITIA MURESAN (H) 12345 PLACE ST. GERMAIN; MONTREAL, QC H4J 2AS	704	

OWNER SUMMARY AS OF 09/18/23

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ACCOUNT NUMBER	STREET ADDRESS	LOT/UNIT NUMBER	DATE SETTLED
704	7000 ESTERO BLVD # 704 CANADA	704	
705	7000 ESTERO BLVD # 705 LARRY & ANGELA GATTO (H)	705	

Total Properties Listed: 43

Special Exception Application Agents

7000 Estero Blvd Fort Myers Beach 33931

Additional Authorized Agents:

Mark Hunter
7000 Estero Blvd #103 Fort Myers Beach FL 33931
Phone: 269-598-4911
Email: jousterman9@hotmail.com

John Burke
7000 Estero Blvd #201 Fort Myers Beach FL 33931
Phone: 616-291-1060
jburke@burkeagency.com

George Ballantyne
7000 Estero Blvd #400 Fort Myers Beach FL 33931
Phone: 574-309-2051
ballantyneg@sbcglobal.net

GENERAL NOTES

1. ■ = FOUND 4"X4" CONCRETE MONUMENT NO I.D.
2. ● = FOUND 5/8" IRON PIN AS NOTED.
3. △ = SET PK NAIL AND DISC STAMPED CEC LB 2464.
4. BEARINGS BASED ON A GRID BEARING OF N18°41'26"W ON THE NORTHWESTERLY RIGHT OF WAY LINE OF ESTERO BOULEVARD.
5. DESCRIBED PROPERTY LIES IN FLOOD ZONE VE, ELEVATION 13, PER F.I.R.M. COMMUNITY PANEL NO. 120673 MAP NO. 12071C 0567G, DATED 11-17-2022.
6. ELEVATIONS SHOWN HEREON ARE RELATIVE TO NORTH AMERICAN VERTICAL DATUM 1988 (N.A.V.D. 88).
7. ELEVATIONS AND DISTANCES SHOWN HEREON ARE IN FEET AND DECIMALS THEREOF.
8. THIS SURVEY IS CERTIFIED TO THE DATE OF THE FIELD SURVEY, NOT THE DATE OF SIGNATURE.

LEGAL DESCRIPTION

A TRACT OR PARCEL OF LAND IN GOVERNMENT LOTS 1 AND 2, SECTION 3, TOWNSHIP 47 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, DESCRIBED AS FOLLOWS: BEGINNING AT A CONCRETE MONUMENT MARKING THE INTERSECTION OF THE NORTH LINE OF THE SOUTH 60 FEET OF SAID GOVERNMENT LOT 1 WITH THE WESTERLY LINE RIGHT-OF-WAY OF THE COUNTY ROAD, CONVEYED BY DEED IN DEED BOOK 189, PAGE 161 AND 162, PUBLIC RECORDS OF LEE COUNTY , FLORIDA; THENCE RUN SOUTHEASTERLY ALONG SAID RIGHT-OF-WAY LINE FOR 20 FEET TO THE POINT OF BEGINNING OF THE LAND DESCRIBED HEREIN; THENCE DEFLECT 94°02'30" AND RUN SOUTHWESTERLY TO THE POINT OF INTERSECTION WITH A LINE WHICH IS 10 FEET NORTH FROM AND PARALLEL TO THE SOUTH LINE OF GOVERNMENT LOT 1 TO THE WATERS OF THE GULF OF MEXICO A DISTANCE OF 150 FEET, MORE OR LESS, TO THE POINT OF INTERSECTION WITH A LINE WHICH RUNS FROM AND DEFLECTING TO THE RIGHT AT AN ANGLE OFF OF THE WESTERLY LINE OF ESTERO BOULEVARD OF 94°02'30" AND PASSES THROUGH A POINT ON THE WEST LINE OF ESTERO BOULEVARD WHICH IS 100 FEET SOUTHEASTERLY FROM THE POINT OF BEGINNING AND RUNS FROM SAID ESTERO BOULEVARD TO THE WATERS OF THE GULF OF MEXICO, AND THENCE NORTHEASTERLY ALONG THE LAST ABOVE MENTIONED LINE TO THE SAID POINT ON THE WEST LINE OF ESTERO BOULEVARD, WHICH IS 100 FEET SOUTHEASTERLY FROM THE POINT OF BEGINNING; THENCE RUN NORTHWESTERLY ALONG THE WEST LINE OF ESTERO BOULEVARD A DISTANCE OF 80 FEET TO THE POINT OF BEGINNING; TOGETHER WITH THE RIGHT TO RUN A DRAINAGE LINE FROM AND TO USE AND OBTAIN WATER FROM THE EXISTING WELL ADJACENT TO THE ABOVE DESCRIBED LANDS.

LEGEND

(S) = SURVEY DATA
(D) = DESCRIPTION DATA
(C) = CALCULATED DATA
(TYP.) = TYPICAL
OHU = OVERHEAD UTILITY LINE
Ⓢ = SANITARY SEWER MANHOLE
= CONCRETE POWER POLE
= FIRE HYDRANT
= CABLE RISER
= TELEPHONE RISER
= WATER VALVE
= GATE VALVE

N

20 0 10 20 40
SCALE: 1" = 20'

EROSION CONTROL LINE

FORMER COASTAL CONSTRUCTION SETBACK LINE (PLAT BOOK 31, PAGES 1 THROUGH 21) RECORDED MARCH 1978

COASTAL CONSTRUCTION CONTROL LINE (PLAT BOOK 48, PAGES 15 THROUGH 34) RECORDED MAY 30, 1991

POINT OF BEGINNING

SOUTHWESTERLY
S75°21'04"W 129.02'(S)

NORTHWESTERLY 80.00'(D)
& N18°41'26"W 80.00'(S)

ESTERO BOULEVARD
80' RIGHT OF WAY

BENCHMARK
SET PK NAIL AND DISC
STAMPED CEC LB 2464
ELEVATION = 5.57 NAVD

WESTERLY 150'±
S89°11'42"W 396.97'(S)
202.64'

N05°01'33"W 95.89'

N01°47'00"W 82.31'

NORTHEASTERLY(D)
N75°21'04"E 554.46'(S)
206.13'

213.17'

135.16'

EXISTING TWO-STORY STORY STRUCTURE (O.R. BOOK 2972, PAGE 3125) 6950 ESTERO BOULEVARD

ISLAND REEF CLUB, A CONDOMINIUM (O.R. BOOK 838, PAGE 867)

7000 ESTERO BOULEVARD
EXISTING MULTI STORY STRUCTURE
FINISHED FLOOR ELEVATION = 8.63 NAVD

EXISTING MULTI STORY STRUCTURE

7-11 STORE
(O.R. BOOK 1641, PAGE 32)
7120 ESTERO BOULEVARD

MANGROVES

FOUND 5/8" IRON PIN AND CAP STAMPED LB 5237

BRICK PAVER

RETAINING WALL IS ON PROPERTY LINE

BRICK PAVER PARKING

ASPHALT PARKING

PORTE COCHERE

BALCONY LINE

CONCRETE SIDEWALK

MONUMENT SIGN

SEASONAL HIGH WATER LINE LOCATED 03/23/23

MEAN HIGH WATER LINE LOCATED ELEVAT ION 0.07' 03/23/23

LAGOON

CONCRETE SEAWALL

EXISTING POOL

BOCCE COURT

FOUND 5/8" IRON PIN AND CAP STAMPED LB 3870 1.9' SOUTH OF PROPERTY LINE

POTENTIAL 2' WIDE GAP IN THE LEGAL DESCRIPTIONS AS WRITTEN

FOUND 5/8" IRON PIN AND CAP STAMPED LB 7936 PSM 5761 2.1' SOUTH OF PROPERTY LINE

COASTAL ENGINEERING CONSULTANTS, INC.
FLORIDA BUSINESS AUTHORIZATION NO. LB 2464

Digitally signed by Richard J Ewing
DN: c=US, o=Florida, dnQualifier=A01410C0000184C4118C3100004E891, cn=Richard J Ewing
Date: 2023.04.07 13:31:46 -04'00'

RICHARD J. EWING, VP
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA CERTIFICATE NO. 5295
NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER
DATE OF FIELD SURVEY: 03/23/23
DATE OF SIGNATURE:

THIS DOCUMENT, AND THE CONCEPTS AND DESIGNS CONTAINED HEREIN, AS AN INSTRUMENT OF SERVICE, IS INTENDED ONLY FOR THE SPECIFIC PURPOSE AND CLIENT FOR WHICH IT WAS PREPARED. REUSE OF AND IMPROPER RELIANCE ON THIS DOCUMENT WITHOUT WRITTEN AUTHORIZATION AND ADAPTATION BY COASTAL ENGINEERING CONSULTANTS, INC. (CECI) ORITS SUBSIDIARIES, SHALL BE WITHOUT LIABILITY TO CECI OR ITS SUBSIDIARIES.

NO.	DATE	BY	REVISION DESCRIPTION
23.059			

DATE: 04/06/23 SCALE: 1" = 20'
DRAWN: MMW F.B. LC698
CHECKED: RJE PG. 41
SEC. 3 TWP. 47S RNG. 24E
ACAD NO. 23.059
REF. NO. 23.059

CLIENT: ISLAND REEF CLUB CONDOMINIUM

TITLE: BOUNDARY SURVEY
OF A TRACT OR PARCEL OF LAND IN GOVERNMENT LOTS 1 AND 2, SECTION 3, TOWNSHIP 47 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA

COASTAL AND MARINE ENGINEERING
ENVIRONMENTAL AND GEOLOGICAL SERVICES
LAND AND MARINE SURVEY AND MAPPING

PHONE: (239)643-2324
FAX: (239)643-1143
www.coastalengineering.com
E-Mail: info@cecifl.com

COASTAL ENGINEERING CONSULTANTS INC.
Serving Florida Since 1977
28421 BONITA CROSSINGS BOULEVARD
BONITA SPRINGS, FLORIDA 34135

SHEET 1 OF 1
FILE NO.: 23.059

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: November 14, 2023
CASE: SEZ20230189
ADDRESS: 7002 Estero Blvd
APPLICANT: Island Reef Association
REQUEST: The applicant is requesting a Special Exception for the replacement of a pool, deck, fence, stairs, foot rinse stations, and walkway fully or partially in the EC 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.

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

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

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

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

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

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

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

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

Town of Fort Myers Beach
Agenda Item Summary Yellow Sheet Number:**2024-1314**

1. **Requested Motion:** **Meeting Date: November 14, 2023**

RESOLUTION NUMBER 23-152
A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING VARIANCE VAR20230187 TO ALLOW A GARAGE CLOSER TO THE ESTERO BOULEVARD STREET RIGHT-OF-WAY LINE THAN THE PRINCIPAL BUILDING AND TO ALLOW A GARAGE CLOSER TO THE SIDE PROPERTY LINE THAN THE MINIMUM SIDE SETBACK ON WATERFRONT LOTS FOR THE PROPERTY LOCATED AT 3580 ESTERO BLVD; 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:
The LPA hears and makes recommendations to the Town Council for variance cases.

What the action accomplishes:
Approval of the variance will allow the remaining garage to stay in the same location and a house may be built further from the road than the garage.

2. **Agenda:**
PUBLIC HEARINGS

3. **Requirement/Purpose:**
Resolution

---

5. **Background:**
Prior to Hurricane Ian, the property contained a single-family home with an attached garage. The house was destroyed by hurricane Ian and the remaining garage is structurally sound. The garage is located 25.1 feet from the Estero Boulevard right of way property line. The garage is also only 7.8 feet from the side property line. The current side setback requirement on a lot of this size, is 10 feet. The applicant wishes to keep the garage in its current location and construct a house that is further from Estero Boulevard than the garage.

Attachments:
1. Res 23-152 3580 Estero Blvd
2. Staff Report 3580 Estero Blvd
3. Exhibit A Complete application
4. LPA postcard 3580 ESTERO BLVD- 500 NOTICE

Financial Impact:
unknown

6. **Alternative Action**
Approve/ Approve with conditions

7. **Staff Recommendations:**
Recommend denial of the variance request to allow the garage closer to the right of way than the principal structure. Recommend approval to allow the garage 1.2 feet closer to the side property line.

8. **Recommended Approval:**

Frankie Kropacek, Operations & Compliance Director

Date: November 09, 2023

Gretchen R.H. Vose, Town Attorney

Date: November 09, 2023

Amy Baker, Town Clerk

Date: November 09, 2023

RESOLUTION NUMBER 23-152

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING VARIANCE VAR20230187 TO ALLOW A GARAGE CLOSER TO THE ESTERO BOULEVARD STREET RIGHT-OF-WAY LINE THAN THE PRINCIPAL BUILDING AND TO ALLOW A GARAGE CLOSER TO THE SIDE PROPERTY LINE THAN THE MINIMUM SIDE SETBACK ON WATERFRONT LOTS FOR THE PROPERTY LOCATED AT 3580 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 William David and Randa Majaj Veach Trust, are requesting a 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; and

WHEREAS, owners are requesting a variance from LDC 34-1174(d)(1)(d) which requires accessory structures on waterfront lots to meet the same side setback as the principal building, to allow a setback 1.2 feet less than the 10 feet required by Table 34-3; and

WHEREAS, the STRAP number for the subject property is 29-46-24-W1-0010.0010; and

WHEREAS, the Property is located in the "Mixed Residential" category of the Future Land Use Map of the Comprehensive Plan and the "Residential Conservation" 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 November 14, 2023, and at said hearing the LPA gave full and complete consideration to the request of Applicant, recommendations of staff, the documents in the file, and the testimony of all interested persons, as required by Section 34-87 of the LDC. The LPA voted to recommend approval/ approval with conditions/ denial of the variance; and

WHEREAS, on December 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 RC zoning district. The Town Council APPROVES/ APPROVES WITH CONDITIONS/ DENIES the variance from LDC 34-1174(d)(1)d. to allow an accessory structure (garage) 1.2 feet closer to the side property line than the principal structure setback of 10 feet.

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 December 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 December 2023.

Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

TYPE OF CASE:	**Variance**
CASE NUMBER:	**VAR20230187**
CASE NAME:	**3580 Estero Blvd; requesting variance from LDC 34-1174(b) which prohibits location of accessory structures, including garages, closer to street right-of-way line than the principal building in RC zoning district. And variance from LDC 34-1174(d)(1)d. which requires accessory structures to meet the same side setback as the primary structure on waterfront lots.**
LPA HEARING DATE:	**November 14, 2023**
STAFF RECOMMENDATION:	**DENIAL**
PREPARED/ SUBMITTED BY:	**Sarah Propst, AICP, PMP / Jason Green AICP, CFM**

I. APPLICATION SUMMARY

Owner/Agent:	William David and Randa Majaj Veach Trust (Owner)/ Kara Stewart (Agent)
Request:	Variance 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. To allow a home further from the right of way than the garage. Variance from LDC 34-1174(d)(1)d. which requires accessory structures to meet the same side setback as the primary structure on waterfront lots. This is a variance of 1.2 feet from the 10-foot side yard setback found in Table 34-3.
Subject property:	See attached site plan
Physical Address:	3580 Estero Blvd

STRAP #: 29-46-24-W1-0010.0010

FLU: Mixed Residential

Zoning: Residential Conservation (RC)

Adjacent zoning and land uses:

North: Residential Conservation (RC)
Mixed Residential

South: Environmentally Critical (EC)
Recreation

East: Residential Conservation (RC)
Mixed Residential

West: Connecticut St. Beach Access

II. BACKGROUND AND ANALYSIS

Background:
William and Randa Veach, the owners of 3580 Estero Blvd, are requesting two variances from the Town's Land Development Code (LDC): 1) Section 34-1174(b) which prohibits location of accessory structures, including garages, closer to street right-of-way line than the principal building in RS zoning district. 2) Section 34-1174(d)(1)d. which requires that accessory structures on waterfront lots meet the same side setback as the primary structure.

Prior to Hurricane Ian, the property contained a single-family home with an attached garage. The house was destroyed by hurricane Ian and the remaining garage is structurally sound. The garage is located 25.1 feet from the Estero Boulevard right of way property line. The garage is also only 7.8 feet from the side property line. The current side setback requirement on a lot of this size, is 10 feet. The applicant wishes to keep the garage in its current location and construct a house that is further from Estero Boulevard than the garage.

Analysis:
The subject property is a corner lot 110 feet wide at the front and 66 feet wide at the rear, it is 150 feet deep, it is a conforming lot. Prior to Hurricane Ian, the property contained a single-family residence with an attached garage. The house was destroyed by Ian, the garage survived and has been deemed structurally sound. The

garage is 25 feet from the Estero right of way and the applicant would like to build a new home, detached from the garage, further back on the property than the garage.

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 20-foot side street setback from Connecticut St. Between the existing garage and the required side street setback, there would be approximately 40 feet of width to construct a new home.

The applicant is also asking for a variance for the existing garage side yard setback of 7.8 feet. At the time of construction the required side yard setback was 7.5 feet. Per today's code and 34-1174(d)(1)d. the garage would be required to be 10 feet from the side yard property line, on this waterfront lot.

Neighborhood Compatibility:
The subject property is part of an existing 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). Additionally, recently the LPA recommended approval for 5137 Estero Blvd to build a home further from the right of way than the garage that survived hurricane Ian.

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

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

   Regarding 34-1174(b): 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 street setbacks from Connecticut St. is 20 feet, this would leave approximately 40 feet of buildable width for a home, although staff notes that the lot line does angle inward. The need for this variance is the result of a design choice.

   Regarding 1174(d)(1)d.: There are exceptional conditions. The garage is existing and has survived the storm. It was built in compliance with the previous side setbacks and it would be difficult to move.

b. *That the conditions justifying the variance **are** the result of actions of the applicant taken after the adoption of the regulation in question.*

Regarding 34-1174(b): The conditions justifying the variance are the result of the actions of the Applicant. The large parcel has approximately 40 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.

Regarding 1174(d)(1)d.: The conditions justifying the variance are not the result of the applicant's actions. The garage was built to comply with previous codes and the code has changed.

c. *That the variance granted **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.*

Regarding 34-1174(b): 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.

Regarding 1174(d)(1)d.: The variance of 1.2 feet from the side yard setback is the minimum variance needed to relieve the applicant of a burden.

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

The granting of both variances will not be injurious to the neighborhood or otherwise detrimental to the public welfare. The garage has been in the current location and placing the new single family residence further from the right of way will not be detrimental.

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

The conditions or circumstances on this specific property for which variances are 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 the RC zoning district* and found that the variance request does not meet the requirements set-forth in sec. 34-87.

Staff has reviewed the request for a variance of 1.2 feet from *LDC 34-1174(d)(1)d. which requires accessory structures to meet the same side setback as the primary structure*

on waterfront lots. Per Table 34-3 the required setback is 10 feet. Staff found that the variance request does meet the requirements set forth in Sec. 34-87

Therefore, staff recommends **DENIAL** of the request to allow the existing garage closer to the street right of way line than the proposed single-family residence and **APPROVAL** of the request to allow the garage to be closer to the side property line than the code required 10 feet.

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 - Postcards to Adjacent Property Owners

Exhibit A

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: 3580 Estero Blvd

STRAP Number: 29-46-24-W1-00100.0010

Applicant: William Veach Phone: 307-286-4687

Contact Name: William Veach Phone: _____

Email: billyveach@gmail.com Fax: _____

Current Zoning District: RC

Future Land Use Map (FLUM) Category: Mixed Residential

FLUM Density Range: 6 du/acre Platted Overlay: ☐ YES ☑ NO

ACTION REQUESTED	SUPPLEMENTAL FORM REQUIRED
☐ Special Exception	PH-A
☑ Variance	PH-B
☐ Conventional Rezoning	PH-C
☐ Planned Development ☐ Commercial ☐ Residential	PH-D
☐ Master Concept Plan Extension	PH-E
☐ Appeal of Administrative Action	PH-F
☐ Vacation of Platted Right-of-way and Easement	PH-G
☐ Other – cite LDC Section: _____	attach on separate sheet

PART I – General Information

A. Applicant*: William Veach Phone: 307-286-4687

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

Applicant Mailing Address: 3580 Estero Blvd, FMB

Email: billyveach@gmail.com Fax: _____

Contact Name: Bill Veach Phone: 307-286-4687

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

B. Relationship of Applicant to subject property:

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

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

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

Name: 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) & (d)
☐ Conventional Rezoning from _____ to _____
☐ Planned Development
☐ Rezoning from _____ to ☐ Commercial PD ☐ Residential PD
☐ Amendment. List the project number: _____
☐ Extension/reinstatement of Master Concept Plan. List project number: _____

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

☐ Appeal of Administrative Action

☐ Vacation ☐ Right-of-Way ☐ Easement

☐ Other. Please Explain: _____

_____

_____

PART III – Waivers

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

Code Section: _____ Description: _____

_____

Code Section: _____ Description: _____

_____

Code Section: _____ Description: _____

_____

PART IV – Property Ownership (Single Owner)

☐ Single Owner (individual or husband and wife)

Name: William David Veach & Randa Majaj Veacl Phone: 307-286-4687

Mailing Address: 3580 Estero Blvd, FMB, Fl

Email: billyveach@gmail.com Fax: _____

AFFIDAVIT
APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

I, William David Veach 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.

_____ Wiliam David Veach
Signature Printed Name

STATE OF _____ COUNTY OF _____

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

(SEAL) _____
Notary Public Signature

PART V
Property Ownership (Multiple Owners)

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

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

DISCLOSURE OF OWNERSHIP INTEREST

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

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

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

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

Name, Address and Office	Percentage of Stock

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

Name and Address	Percentage of Interest

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

Name and Address	Percentage of Ownership

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

Name, Address and Office	Percentage of Stock

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

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.

_____
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: 29-46-24-W1-00100.0010

Property Address: 3580 Estero Blvd

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

☐ No. Attach a legible copy of the legal description as Exhibit 6-1.

☑ Yes. Property identified in subdivision: Cases Subdivision

Book: 1 Page: 59 Unit: _____ Block: _____ Lot(s): 1

B. Boundary Survey:

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

C. Property Dimensions:

Width (please provide an average width if irregular in shape) 88 feet

Depth (please provide an average width if irregular in shape) 153 (average) feet

Frontage on street: 110 feet. Frontage on waterbody: 66 feet

Total land area: 13504 ☐ acres ☑ square feet

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

Turn 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):

☐ Low Density
☑ Mixed Residential
☐ Boulevard
☐ Pedestrian Commercial
☐ Marina
☐ Recreation
☐ Wetlands
☐ Platted Overlay

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

EXPLANATORY NOTES

Please do not print, copy and submit these instructions

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

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

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

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

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

Explanatory Notes – Part I

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

Explanatory Notes – Part II

Indicate the requested action.

Explanatory Notes – Part III

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

Explanatory Notes – Part IV

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

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

Explanatory Notes – Part V

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

Explanatory Notes – Part VI

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

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

line. Exhibit 6-2

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

Explanatory Notes – Part IV & V

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

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

COMMUNITY DEVELOPMENT DEPARTMENT
APPLICATION for PUBLIC HEARING

I have authorized the staff of the Town of Fort Myers Beach Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made thru this application; and that
The property will not be transferred, conveyed, sold or subdivided unencumbered by the conditions and restrictions imposed by the approved action.

Signature

Wiliam David Veach
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 12th day of Sept, 2023 by William D. Veach ☑ who is personally known to me OR ☐ who has produced

as identification.

Notary Public State of Florida
Kara Lyn Stewart
My Commission HH 356813
Expires 2/1/2027

Notary Public Signature

PART V
Property Ownership (Multiple Owners)

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

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

DISCLOSURE OF OWNERSHIP INTEREST

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

Name and Address	Percentage Ownership

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

SUPPLEMENT PH-B (2) 34-1174(d)(1)(d)
SIDE YARD VARIANCE REQUEST

34-1174 (d)(1)(d)

SPECIFIC REGULATION:

Side Yard Setbacks:
For waterfront lots, the same distance as is required from any side property line for principal buildings in that zoning district (see § 34-638 of this chapter). RC zoning district for lots greater than 75' in width must meet 10' side yard setback.
Therefore requesting a reduction of 2'2.4" sideyard.

WHY THE VARIANCE IS NEEDED:

Definitions of lot width: For lots lawfully created prior to January 28, 1983, width of a lot shall be considered to be the average distance between straight lines connecting front and rear lot lines at each side of the lot, measured as straight lines between the foremost points of the side lot lines in front (where they intersect with the street line) and the rearmost points of the side lot lines in the rear.

On this property the width of the lot at the street is approximately 110' and in the rear the width of the lot is approximately 66', thus giving us an average 88' front lot line. This 88' front lot line requires a 10' side setback.

The structure is currently located 7'9.6" from the side property line. The LDC has recently been adjusted under ORD 23-02 (signed 2/23/23). Ord 23-02 requires principle structure setbacks on waterfront properties in the RC zoning districts to be 10'.
Side yard setbacks on waterfront properties must conform to the principle structure setbacks. Therefore a variance of 2'2.4" (at the narrowest point) on the side yard is required.

POSSIBLE EFFECT THE VARIANCE WOULD HAVE ON SURROUNDING PROPERTIES:

The request for the side yard variance will not have any negative effect on the surrounding properties, the structure exists and up until February 2/23/2023 was in compliance.

HARDSHIP:

To ask the owner to remove the remaining accessory structure would cause an unnecessary burden. The uniqueness of this request is simply the LDC has changed since the time the structure was constructed. The structure was originally attached to

the principle structure and has been removed by the hurricane. The structure remains in the same location originally permitted (however, will not be attached) and as the owner reconstructs their home they would like this structure to remain. This structure requires a location setback since it will now be between the street right of way and the new principle structure.

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: 3580 Estero Blvd Detached structure
Authorized Applicant: William David Veach
LeePA STRAP Number: 29-46-24-W1-00100.0010

Current Property Status: Accessory structure remains house under permitting			
Current Zoning: RC			
Future Land Use Map (FLUM) Category: Mixed Residential			
Comp Plan Density: 6 du/acre	**Platted Overlay?**	☐ **Yes**	✔ **No**

Variance is requested from:

LDC Section Number	**Title of Section or Subsection**
34-1174 (b)	Location and setbacks generally
34-1174 (d)(1)(d)	Setbacks side and rear

Complete the narrative statements below for EACH variance requested.

Case # _____ Date Received: _____

PART I

Narrative Statements

Request for variance from 34-1174 (b) **(LDC Section number)**

Explain the specific regulation contained in this section from which relief is sought:
Setback from streets. No accessory use, building or structure shall be located
closer to a street right-of-way line or street easment than the principle structure.

Reasons for request

Explain why the variance is needed:
34-1174 (b)
The structure in question survived Hurricane Ian as an accessory structure;
and when repaired will comply with flood vents and water resistant materials below
flood(The structure was Finaled in 2020 as a 2 car garage with storage space
above) The existing structure is 25' from street right of way. The owner is looking
to replace a single family further back from Estero Blvd. The property
is a corner lot facing Estero and Connecticut St., thus requiring an additional
20' side/street yard depth of setback along Connecticut St. The lot also narrows
from the front to the rear by approx 20'. Additionally due to the property fronting
Estero Blvd., the owner is looking to increase the buffer between themselves
and the road, thus the replacement home will be located behind the remaining
accessory structure

Explain the possible effect the variance, if granted, would have on surrounding properties:
There will be no effect on the surrounding properties. The existing location of the
accessory structure places it 25' from the street (which is the required setback)
and 7.9' to the side yard. When constructed the side yard setback was required
to be 7.5'. Subsequently there has been a change in side yard setback
requirements, Ord 23-02 which now requires this property to have a 10'
side yard setback.
When developing the single family the property will be required to provide a
new drainage plan which would alleviate any drainage issue. The location of the
remaining structure does not interfere with the visibility triangle.

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

The accessory structure in question remains today and is able to be repaired,
this structure was just finaled in 2020, it would create an unnecessary
burden on the owner to demolish it and start over.
The location of the remaining accessory structure places it within the property
street setback ,the desire is to locate the replacement principle structure further
back from Estero Blvd, thus creating a larger buffer, thus attempting to reduce
noise, trash, while increasing privacy and security.

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

Case # _____ Date Received: _____

PART 2
Submittal Requirements

All applications for a variance must be submitted electronically through our Iworq portal - iworq (talktomycity.com)

Required Items

- Public Hearing Request Form
- Supplemental form PH-B
- Site Plan (to scale) including the current use of all existing structures on the site, and those on adjacent properties within 100 feet of the perimeter; and a clear illustration of the proposed variance
- Fee in the amount of $1800.00 (residential)/Additional Variance $500.00
- Variance (non-residential) $2800.00/ Additional Variance $700.00

Guide to filing PH-B Additional Required Information for a Variance Application

Cover page

Case Number will be inserted by Community Development staff.
Project Name must be the same as the name used on the Request for Public Hearing form.
Applicant must be the same as on the Request for Public Hearing form.
STRAP numbers must be the same as on the Request for Public Hearing form.
Current status of property must be the same as on the Request for Public Hearing form.
"Variance is requested from…" Provide the section number and title of each section of the Fort Myers Beach Land Development Code from which a variance is being sought.

Narrative statements

If the application is for multiple variances, complete all of the narrative statements for each variance that is requested.

Site plan

The site plan must show all existing structures on the site; all existing structures within 100 feet of the perimeter boundary of the site; and a clear illustration of the proposed variance.

LDC Section 34-87

The guidelines for decision-making regarding a request for a variance are as follows:

1. Whether there are exceptional or extraordinary conditions or circumstances that are inherent to the property in question, or whether the request is for a *de minimis* variance under circumstances or conditions where rigid compliance is not necessary to protect public policy;
2. Whether the exceptional or extraordinary conditions justifying the variance are or are not the result of actions of the applicant taken after the adoption of the regulation in question;
3. Whether the requested variance is the minimum variance to relieve the applicant of an unreasonable burden caused by the application of the regulation in question;
4. Whether granting the variance would be injurious to the neighborhood or otherwise detrimental to the public welfare;
5. Whether the conditions or circumstances of the specific piece of property or the intended use of the property for which the variance is sought are of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.

DECISION MAKING CRITERIA LDC 34-87
34-1174 Location- Accessory in front of Principle Structure

1. Exceptional and extraordinary circumstances:

The development of the site is being done almost in reverse fashion. We have an accessory structure existing and are placing a replacement principle structure.

The desire to set the replacement structure further back from Estero than the remaining accessory structure will allow for an increased buffer (between principle structure and Estero Blvd) to assist with reduction in noise, street debris and provides for additional privacy/security while residing on Estero Blvd. The property length is such that the proposed location of the principle structure can be positioned further to the rear of the property (than the remaining accessory structure) which will lessen the burden of traffic, noise, and trash from Estero Blvd.

The remaining accessory structure is the result of Hurricane Ian removing the principle structure from the property. The location of the existing accessory structure which remains today is 25' from the front property line.

The property is a corner pie shaped lot (wider in front than rear) and thus has increased restrictions for the placement of a new principle structure.

Placing the new principle structure adjacent to the existing accessory structure would require the removal of the remaining landscaping and circular driveway. The circular driveway allows ease of ingress and egress from Estero Blvd.

The structure which remains today has been inspected by a structural engineer and has been determined to be able to remain.

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

Hurricane Ian removed the principle structure. The owners have lived in this home since 2010, they are long time homesteaded residents of Fort Myers Beach. The decision to construct a new home on the lot allows the owner to remain on Fort Myers Beach.

Constructing the replacement principle structure in the location proposed will provide an offsetting of structures and may allow for additional view through to the Gulf. By placing the new principle structure where proposed we not only maintain the remaining landscaping and paver driveway but we will allow the owner an increased buffer between their home and Estero Blvd. The increased buffer offers the owner a reduction in street noise, and provides for additional privacy and security while residing along Estero Blvd.

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 replacement principle structure will eliminate the unreasonable burden of demolishing the structure.

The owner looked at placing the replacement home elsewhere on the property and with the constraints of the corner lot, entering/exiting Estero Blvd., the location of the remaining landscaping and driveway, taking into consideration the intent of Ord 22-01, it was

determined that the proposed location behind the remaining accessory structure would be the most appropriate location.

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 was in compliance with all setbacks at time of construction and has been in existence since 2020. The drainage will be required to comply with the LDC requirements and there is no visibility triangle issue with entering exiting Estero Blvd.

Allowing the principle structure to be located behind the accessory structure will enhance the overall street appearance by setting the replacement structure further back from Estero Blvd.

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

These conditions are unique and individual to this property since the structure was only constructed in 2020 and remains after Hurricane Ia and does not represent any prevailing issue on FMB

DECISION MAKING CRITERIA LDC 34-87
34-1174 (d)(1)(d) Side yard setback

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 accessory structure which remains today is 25' from the front property line and complies with principle structure setbacks. The sideyard setback is no longer in compliance as Ord 23-02 effective Feb 2023 changed the requirement for a side yard from 7.5' to 10'.

The structure which remains today has been inspected by a structural engineer and has been determined to be able to remain.

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

Ordinance 23-02 effective February 2023 changed setbacks making this existing accessory structure no longer in compliance.

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

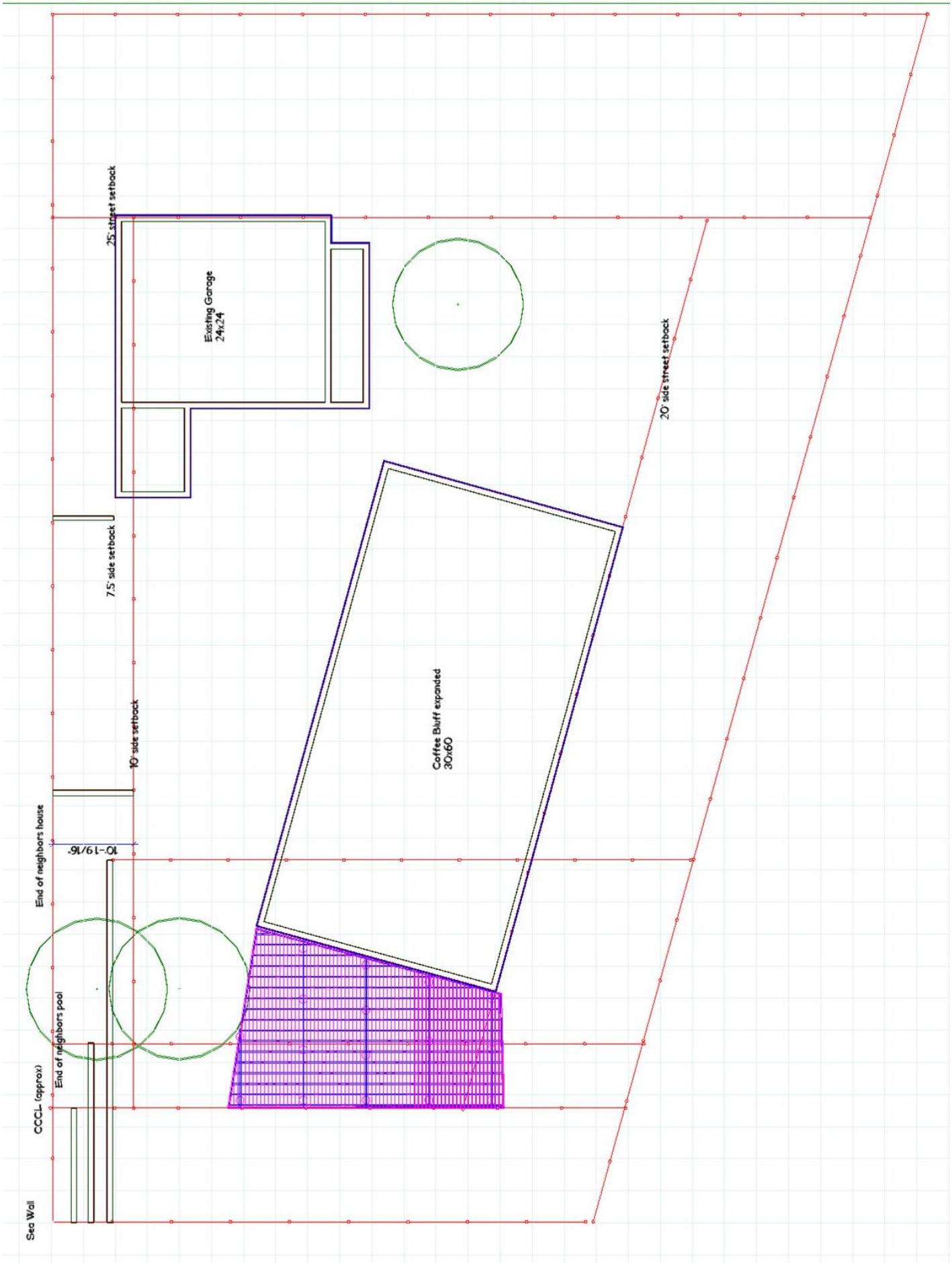
Allowing the accessory structure to remain in the current location eliminates the unreasonable burden of demolishing the structure. Demolishing the structure is the only alternative.

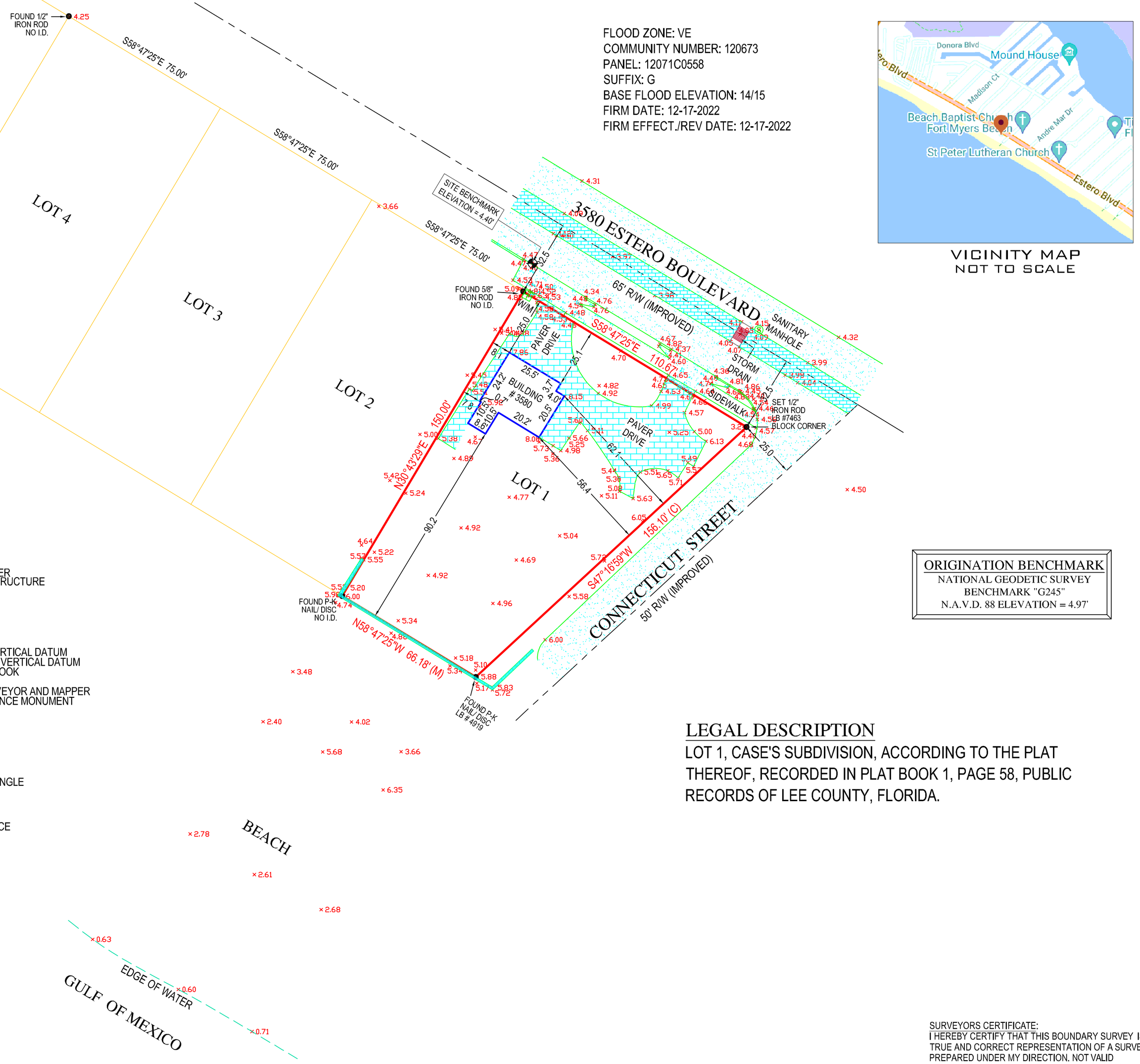
4. Granting this variance will not be injurious to the neighboring properties.

The issuance of this variance will not be injurious to the neighboring properties. The location of this accessory structure was in compliance with all setbacks at time of construction and has been in existence since 2020. Furthermore during construction of the replacement principle structure the site drainage will need to comply with the LDC, and there is no visibility triangle issue with entering exiting Estero Blvd.

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

These conditions are unique and individual to this property since the structure was only constructed in 2020 and remains after Hurricane Ian therefore does not represent any prevailing issue on FMB


25' street setback
Existing Garage
24x24
20' side street setback
7.5' side setback
10' side setback
Coffee Bluff expanded
30x60
End of neighbors house
10'-19/16"
End of neighbors pool
CCCL (approx)
Sea Wall



FLOOD ZONE: VE
COMMUNITY NUMBER: 120673
PANEL: 12071C0558
SUFFIX: G
BASE FLOOD ELEVATION: 14/15
FIRM DATE: 12-17-2022
FIRM EFFECT./REV DATE: 12-17-2022

VICINITY MAP
NOT TO SCALE

SCALE: 1"=30'

LEGEND

A/C	AIR CONDITIONER
B.F.P.	BACKFLOW PREVENTER
C.B.S.	CONCRETE BLOCK STRUCTURE
EL.	ELEVATION
F.F.	FINISHED FLOOR
I.D.	IDENTIFICATION
L	LENGTH
L.B.	LICENSED BUSINESS
M	MEASURED
N.A.V.D.	NORTH AMERICAN VERTICAL DATUM
N.G.V.D.	NATIONAL GEODETIC VERTICAL DATUM
O.R.B.	OFFICIAL RECORDS BOOK
P	PLAT
PSM	PROFESSIONAL SURVEYOR AND MAPPER
P.R.M.	PERMANENT REFERENCE MONUMENT
PG.	PAGE
P.B.	PLAT BOOK
PK	PARKER KYLON NAIL
R	RADIUS
℄	CENTERLINE
&	AND
#	NUMBER
Δ	DELTA OR CENTRAL ANGLE
	CONCRETE
	CHAIN LINK FENCE
	WOOD FENCE
	MISCELLANEOUS FENCE

ORIGINATION BENCHMARK
NATIONAL GEODETIC SURVEY
BENCHMARK "G245"
N.A.V.D. 88 ELEVATION = 4.97'

LEGAL DESCRIPTION

LOT 1, CASE'S SUBDIVISION, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 1, PAGE 58, PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

NOTES:
1. LEGAL DESCRIPTION PROVIDE BY CLIENT
2. NO SEARCH OF THE PUBLIC RECORD FOR THE PURPOSE OF ABSTRACTING TITLE WAS PERFORMED BY THIS OFFICE
3. NO SUBSURFACE IMPROVEMENTS WERE LOCATED AS PART OF THIS SURVEY
4. ALL ANGLES OR BEARINGS AND DISTANCES SHOWN HEREON ARE BOTH RECORD AND MEASURED UNLESS OTHERWISE NOTED
5. SOME FEATURES MAY NOT BE AT SCALE IN ORDER TO SHOW DETAIL.
6. THE BEARINGS SHOWN HEREON ARE BASED UPON THE NORTH LINE, HAVING A BEARING OF S 58°47'25"E.

DATE OF FIELD WORK: 05-25-2023
DATE OF MAP: 06-12-2023

SURVEYORS CERTIFICATE:
I HEREBY CERTIFY THAT THIS BOUNDARY SURVEY IS A TRUE AND CORRECT REPRESENTATION OF A SURVEY PREPARED UNDER MY DIRECTION. NOT VALID WITHOUT A RAISED EMBOSSED SEAL AND SIGNATURE.

(SIGNED)
KENNETH J. OSBORNE
PROFESSIONAL SURVEYOR AND MAPPER #6415

BOUNDARY SURVEY & TOPOGRAPHY OF
3580 ESTERO BOULEVARD
FORT MYERS BEACH, FL 33931
PREPARED FOR:
IDYLL CONSTRUCTION, INC.

Project	Sheet
C-588845	1 OF 1
Date	
05/25/2023	
Scale	
1"=30'	

6250 N. MILITARY TRAIL
SUITE 102
WEST PALM BEACH, FL
33407
PHONE: 561.640.4800
FAX: 561.640.0576
LB #7463
COMPASS SURVEYING
WWW.COMPASSSURVEYING.NET

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: November 14, 2023 LPA and December 6, 2023, Town Council
CASE: VAR20230187
ADDRESS: 3580 Estero Blvd
APPLICANT: William Veach/ Kara Stewart
REQUEST: The applicant is requesting a variance from LDC 34-1174(b) which prohibits location of accessory structures, including garages, closer to street right-of-way line than the principal building in RC zoning district. And variance from LDC 34-1174(d)(1)(d) which requires accessory structures to meet the primary structure setback on waterfront lots.

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

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

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

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

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Town of Fort Myers Beach
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TOWN CONTACT: SARAH PROPST SARAH.PROPST@FMBGOV.COM

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

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

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

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

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

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

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

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

Town of Fort Myers Beach
Agenda Item Summary Yellow Sheet Number:**2024-1321**

1. **Requested Motion:** **Meeting Date: November 14, 2023**

RESOLUTION 23-154 A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING VARIANCE VAR20230205 TO DECREASE THE NUMBER OF REQUIRED PARKING SPACES BY 37 SPACES, AND TO ALLOW FOR A THREE-STORY BUILDING WITH ENCLOSED SPACE ON THE GROUND FLOOR, AND TO ALLOW FOR A BUILDING HEIGHT OF 36 FEET ABOVE FLOOD ELEVATION, FOR THE PROPERTY AT 1249 ESTERO BLVD; PROVIDING FOR SCRIVENER'S ERRORS, SEVERABILITY, PROVIDING FOR AN EFFECTIVE DATE.

Why the action is necessary:
The LPA makes recommendations to the Town Council for variance requests

What the action accomplishes:
The LPA recommendation will be forwarded to the Town Council.

2. **Agenda:**
PUBLIC HEARINGS

3. **Requirement/Purpose:**
Resolution

---

5. **Background:**
Fowler Construction & Development, applicant on behalf of the owner for 1249 Estero Boulevard, is requesting three variances from the Town's Land Development Code (LDC). The requested variances are proposed as part of the buildback of The Whale Restaurant. The lot is a conforming, but oddly shaped lot, approximately .4 acres in size. Prior to Ian, the parcel contained a 2-story restaurant bar and a parking lot which provided 26 parking spaces, although not all of the spaces conformed to the Town's code. The applicant is requesting a variance to building height and number of stories in Sec. 34-675(b)(2), proposing to develop a 3-story building with enclosed space on the ground floor and 36 feet tall above flood elevation. The applicant is requesting a variance to Sec. 34-2020(d)(2)h.2. decrease the number of parking spaces by 37.

Attachments:
1. Resolution 23-154
2. Variance Staff Report LPA
3. Exhibit A - Site Plan
4. Exhibit B - Application Packet
5. Ehxibit C - Notice Postcards

Financial Impact:
unknown

6. **Alternative Action**
Approve variance requests

7. **Staff Recommendations:**
Recommend denial of variance from Sec. 34-2020(d)(2)h.2. to decrease the number of parking spaces from 54 to 17. Recommend approval of variance from Sec. 34-675(b)(2) to allow a three-story structure with enclosure on the ground level. Recommend denial of variance from Sec. 34-675(b)(2) to allow a building 6 feet taller than the 30 foot building height.

8. **Recommended Approval:**

_____ Date: November 02, 2023

Frankie Kropacek, Operations & Compliance Director

_____ Date: November 02, 2023

Gretchen R.H. Vose, Town Attorney

_____ Date: November 02, 2023

Amy Baker, Town Clerk

RESOLUTION NUMBER 23-154

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING VARIANCE VAR20230205 TO DECREASE THE NUMBER OF REQUIRED PARKING SPACES BY 37 SPACES, AND TO ALLOW FOR A THREE-STORY BUILDING WITH ENCLOSED SPACE ON THE GROUND FLOOR, AND TO ALLOW FOR A BUILDING HEIGHT OF 36 FEET ABOVE FLOOD ELEVATION, FOR THE PROPERTY AT 1249 ESTERO BLVD; PROVIDING FOR SCRIVENER'S ERRORS, SEVERABILITY, PROVIDING FOR AN EFFECTIVE DATE.

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

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

WHEREAS, applicant Fowler Construction & Development, on behalf of owner 1249 Estero Adventures LLC, is requesting a variance from LDC Section 34-2020(d)(2)h.2. to decrease the number of parking spaces by 37 for a restaurant with cocktail bar area from 54 spaces to 17 spaces, a variance per 34-675(b)(2) to allow a three-story building with enclosed space on the ground level and to allow a 36 foot tall building where 30 feet is the maximum allowed height; and

WHEREAS, the STRAP number for the subject property is 19-46-24-W4-0060H.0300; and

WHEREAS, the Property is located in the "Pedestrian Commercial" category of the Future Land Use Map of the Comprehensive Plan and the "Downtown" 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 November 14, 2023, and at said hearing the LPA gave full and complete consideration to the request of Applicant, recommendations of staff, the documents in the file, and the testimony of all interested persons, as required by Section 34-87 of the LDC. The LPA voted #-# to recommend approval of the variance; and

WHEREAS, on December 4, 2023 the Town Council held a duly noticed public hearing to fully consider the request of the Applicant, the recommendations of Town staff and the LPA, the documents in the record, and testimony of all interested persons as required by 34-87 of the LDC; and

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

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

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

Section 2. The Town Council determines the Applicant did/ did not meet its burden of proof that the requested Variance do/ do not meet the requirements of the Town Comprehensive Plan and LDC, and approving/ approving with conditions/ denying the Variance is in the best interest of the Town to approve/ approve with conditions/ deny. Therefore, based upon the recommendations, testimony, and evidence presented by the Applicant, Town staff, and interested parties and public, the Town Council APPROVES/APPROVES WITH CONDITIONS/DENIES the variance from LDC Section 34-2020(d)(2)h.2, and a variance from Section 34-675(b)(2).

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

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

B. The conditions justifying approval of the variance are/ are not the result of actions of the Applicant taken after the adoption of the regulation in question.

C. The variance is/ is not the minimum variance that will relieve the Applicant of an unreasonable burden caused by the application of the regulation to the Property.

D. The granting of the variance will/ will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

E. The conditions or circumstances on the Property are/ are not of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.

Section 4. If the Town Council approves the requested amendment, 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 _____ and seconded by _____, and upon being put to a vote, the result was as follows:

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

ADOPTED this 4th day of December, 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 December 2023.

Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

TYPE OF CASE: **Variance**

CASE NUMBER: **VAR20230205**

CASE NAME: **1249 Estero Blvd; requesting a variance from LDC Section 34-2020(d)(2)h.2 for parking spaces and two variances from LDC Section 34-675(b)(2) which allows a structure in that area of the Downtown zoning district to be 30 feet tall (over flood elevation) and only allows a building to be three stories when the first floor is completely unenclosed.**

LPA HEARING DATE: **November 14, 2023**

STAFF RECOMMENDATION:
a) DENY variance reduce the number of required parking spaces by 37 spaces;
b) APPROVE variance to allow two stories above flood with enclosed space on the ground floor;
c) DENY variance to allow structure height six feet over the code allowed 30 feet above base flood elevation.

PREPARED/ SUBMITTED BY: **Sarah Propst AICP, PMP**

I. APPLICATION SUMMARY

Applicant/Owner: Fowler Construction & Development (Applicant)/ 1249 Estero Adventures LLC (Owner)

Request: A variance from LDC Section 34-2020(d)(2)h.2 to decrease the number of required parking spaces for restaurants with cocktail bar areas from 54 to 17. For a reduction of 37 spaces. The Applicant is also requesting relief from LDC Section 34-675(b)(2) which allows a structure in that part of the Downtown zoning district to be only 30 feet tall (over flood elevation) and only allows three stories when the first floor is completely

unenclosed. A portion of the first floor will be enclosed and dry floodproofed.

Subject property: See attached site plan

Physical Address: 1249 Estero Boulevard

STRAP #: 19-46-24-W4-0060H.0300

FLU: Pedestrian Commercial

Zoning: Downtown

Adjacent zoning and land uses:

North: PEDESTRIAL COMMERCIAL & MIXED RESIDENTIAL
Downtown & Residential Conservation (RC)

SOUTH: PEDESTRIAN COMMERCIAL
Downtown

East: PEDESTRIAN COMMERCIAL
Downtown

West: PEDESTRIAN COMMERCIAL
Downtown

II. BACKGROUND AND ANALYSIS

Background:

Fowler Construction & Development, applicant on behalf of the owner for 1249 Estero Boulevard, is requesting three variances from the Town's Land Development Code (LDC). The requested variances are proposed as part of the buildback of The Whale Restaurant. The lot is a conforming, but oddly shaped lot, approximately .4 acres in size. Prior to Ian, the parcel contained a 2-story restaurant bar and a parking lot which provided 26 parking spaces, although not all of the spaces conformed to the Town's code.

The applicant is proposing to develop a three-story structure, in approximately the same location. Staff is unable to determine the square footage of the previous structure, as the Lee Property Appraiser website doesn't show the previous building information.

Analysis:

The applicant has requested the following three variances:

1. A variance from LDC Section 34-2020(d)(2)h.2. to provide 37 fewer parking spaces than required by code. The land development code requires 8 parking spaces

per thousand square feet of the entire restaurant, plus 5 spaces per 1000 square feet of bar space within the restaurant (bar space ends up with a total of 13 spaces per 1,000 square feet). These numbers are added together and reduced by 1/3 because it is in the Downtown zoning district. The applicant is also proposing a bike rack which decreases the parking space requirement by 1.
Bldg Square footage = 9896 Parking Required for restaurant = 53
Bar Square footage = 596 Parking Required for bar = 2
Total Parking Required = 53 + 2 -1 = 54
This comes to a total of 54 required parking spaces. The Whale's proposed parking lot can provide a total of 17 spaces, as shown on the attached site plan.

2. Two variance from LDC Section 34-675(b)(2), which states: *For properties that front on the following streets, a maximum of 30 feet above base flood elevation and no taller than two stories, except that an elevated building without enclosed space on the first story may be three stories tall (but still limited to 30 feet above base flood elevation).* The streets listed, include the north side of Estero Boulevard east of Crescent Street.
   a. The building proposed is 3-stories tall and the kitchen area of the ground floor is enclosed and dry floodproofed. The front portion of the deck is open at ground level.
   b. The proposed building is greater than 30 feet tall, when measured from the flood elevation, plus one, to the midpoint between the eave and the ridge of the roof. The current design is approximately 34 feet tall. The variance request is to allow a 36-foot-tall structure.

Neighborhood Compatibility:
The Downtown district allows a reduction in parking to encourage the "park once" concept. This reduces the required parking for all properties in the downtown zoning district by 33%. The variance request is to decrease the parking requirements by an additional 2/3. Compared to surrounding businesses, this will be a large reduction to the parking provided.

The majority of surrounding businesses and homes that will be reconstructed, will be three stories tall (two stories over flood elevation). The Downtown zoning district allows the buildings on the south side of Estero Boulevard to be three stories (two stories over flood) and 40 feet tall, with no requirement to keep the ground floor open. The RC zoning district, in the neighborhood to the north of the proposed site, allows homes to be three stories (two stories over flood) and 30 feet tall.

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

*a. That there are/**are not** exceptional or extraordinary conditions or circumstances that are inherent to the property in question, or that the request*

*is/**is not** for a de minimis variance under circumstances or conditions where rigid compliance is not essential to protect public policy.*

There are no exceptional or extraordinary conditions that are inherent to the property. The property is a an oddly shaped corner lot, with three street frontages- however the Downtown zoning district allows buildings to be built close to the right of way, so no additional setbacks are required on the street frontages. The request for a variance from Sec. 34-2020 **is not de minimis.** The request for a variance from Sec. 34-675(b)(2) for additional height **is not de minimis**. The request for a variance from Sec. 34-674(b)(2) for three stories with some portion of the ground floor enclosed **is de minimis** to construct a building similar to what is allowed in most surrounding parcels.

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 Applicant is opting to build a three-story restaurant, is enclosing a portion of the first floor and it will be taller than allowed by right. More square footage is being created and fewer parking spaces are possible on the site.

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

The variance from 34-675(b)(2), to allow three stories **is the minimum variance** to relieve the applicant of a code that does not apply to the structures in the Downtown zoning district across the street from this site or from the residential uses to the rear of it.

The variance from 34-675(b)(2), to allow additional height is a design choice and **is not the minimum**.

The variance from 34-2020, to decrease the number of parking spaces would be less if the applicant were proposing a smaller restaurant. The request **is not the minimum**.

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 but will impact the consistent setback distance from Estero Blvd.

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 the subject variances are sought **are not** general in nature and do not warrant a code change.

III. RECOMMENDATION

Town's Staff has reviewed the request for variances from LDC Section 34-2020(d)(2)h.2 to decrease the number of required parking spaces for restaurants with cocktail bar areas from 54 to 17. For a reduction of 37 spaces. The Applicant is also requesting relief from LDC Section 34-675(b)(2) which allows a structure in that part of the Downtown zoning district to be only 30 feet tall (over flood elevation) and only allows three stories when the first floor is completely unenclosed. A portion of the first floor will be enclosed and dry floodproofed. The Town's staff finds:

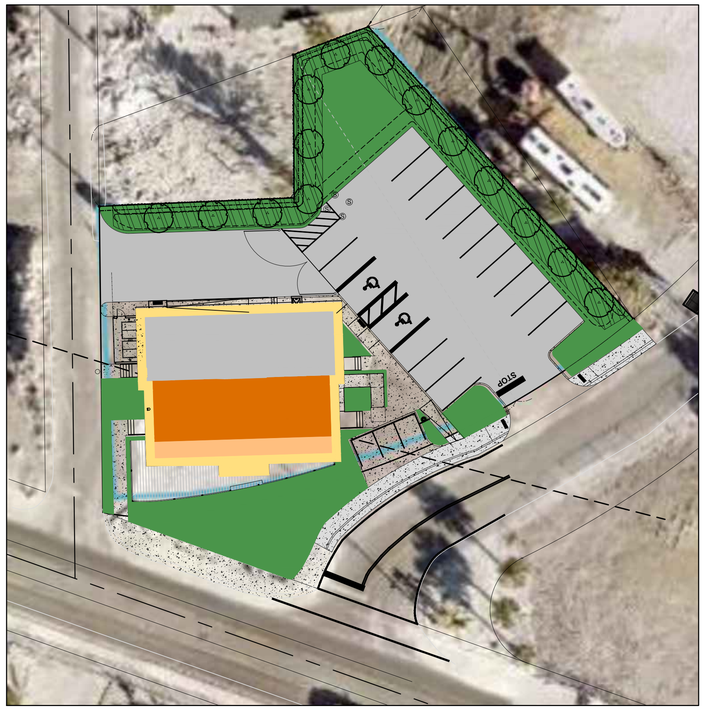
1. That the variance requested from Sec. 34-2020(d)(2)h.2. to provide 17 parking spaces, when the code requires 54 parking spaces, does not meet the requirements set forth in LDC Sec. 34-87.
2. That the variance requested from Sec. 34-675(b)(2) to allow a total of three stories (two stories over flood elevation) and allow a portion of the ground floor to be enclosed, does meet the requirements set forth in LDC Sec. 34-87.
3. That the variance requested from Sec. 34-675(b)(2) to allow a building height of 36 feet over flood elevation, when the code allows 30 feet over flood elevation, does not meet the code requirements set forth in LDC Sec. 34-87.

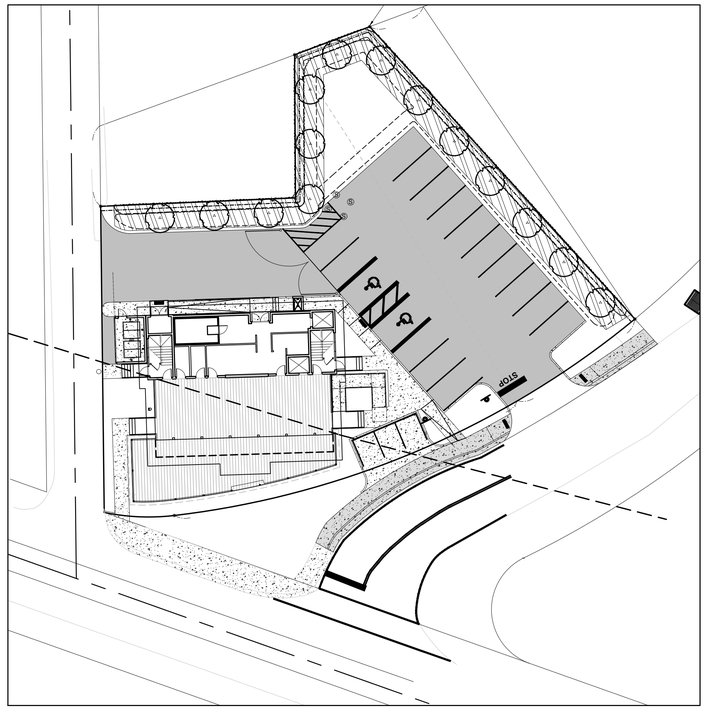
Therefore, staff recommends the following for the requests contained in the variance application of VAR20230060: a) DENIAL of the variance to decrease the number of parking spaces from 54 to 17; b) APPROVAL of the variance to allow a total of three stories with a portion of the ground floor enclosed; d) DENIAL of the variance to allow a total height of 36 feet from one foot above flood elevation to the mean height of the roof between eave and peak.

Attachments

Exhibit A – Application
Exhibit B – Post Cards

PERMIT SET
FOR
THE WHALE BAR & RESTAURANT
1249 ESTERO BLVD.
FORT MYERS BEACH, FLORIDA





OWNER

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

ARCHITECT

MSA MOORE & SPENCE ARCHITECTS, P.A.
12613 NEW BRITTANY BLVD.
FORT MYERS, FLORIDA 33907
(239) 278-3520

CIVIL ENGINEER

SPEATH ENGINEERING FL, LLC
1111 BRICKELL AVE 10TH FLOOR.
MIAMI, FL 33131
(305) 834-4213
CONTACT: MATTHEW S. SPEATH, PE
MSPEATH@SPEATHENGINEERING.COM

CONSTRUCTION MANAGER

FOWLER CONSTRUCTION AND DEVELOPMENT
10491 SIX MILE CYPRESS PARKWAY, SUITE 280
FORT MYERS, FL 33966
CONTACT: ROB FOWLER JR.
(239) 275-7000
ROBJR@FOWLERCOMPANY.COM

CIVIL SHEET KEY

CS-01 - COVER SHEET
CS-02 - EXISTING CONDITIONS
CS-03 - SITE PLAN
CS-04 - DETAILS
CS-05 - UTILITY PLAN
CS-06 - SWPPP

3 WORKING DAYS
FOR THE LOCATION OF UNDERGROUND FACILITIES
BEFORE YOU DIG
CALL SUNSHINE STATE
ONE CALL OF FLORIDA
1-800-432-477
FOR THE LOCATION OF UNDERGROUND FACILITIES

THE LOCATIONS OF EXISTING UNDERGROUND UTILITIES ARE SHOWN IN AN APPROXIMATE WAY ONLY AND HAVE NOT BEEN INDEPENDENTLY VERIFIED BY THE OWNER OR ITS REPRESENTATIVE. THE CONTRACTOR SHALL DETERMINE THE EXACT LOCATION OF ALL EXISTING UTILITIES BEFORE COMMENCING WORK, AND AGREES TO BE FULLY RESPONSIBLE FOR ANY AND ALL DAMAGES WHICH MIGHT BE OCCASIONED BY THE CONTRACTOR'S FAILURE TO EXACTLY LOCATE AND PRESERVE ANY AND ALL UNDERGROUND UTILITIES.

PREPARED BY:
SPEATH ENGINEERING
1111 BRICKELL AVE. MIAMI, FL 33131

VERTICAL DATUM
ELEVATIONS SHOWN HEREIN ARE BASED ON THE (NGVD) 29 AND SAID ELEVATIONS ARE BASED ON BENCHMARKS RESEARCHED BY THE SURVEYOR

REVISIONS	DATE	BY
0. INITIAL SUB	05/16/23	TG
1. CITY CMNTS	10/17/23	TG

SPEATH ENGINEERING
SPEATH ENGINEERING FL, LLC - 1111 BRICKELL AVE. 10TH FL.
MIAMI, FL 33131 - PHONE: 305-834-4213

COVER SHEET
FOR
THE WHALE BAR & RESTAURANT
1249 ESTERO BLVD. FORT MYERS BEACH
LEE COUNTY, FLORIDA

MATTHEW S. SPEATH LICENSE No. 67675 STATE OF FLORIDA PROFESSIONAL ENGINEER
10/17/2023

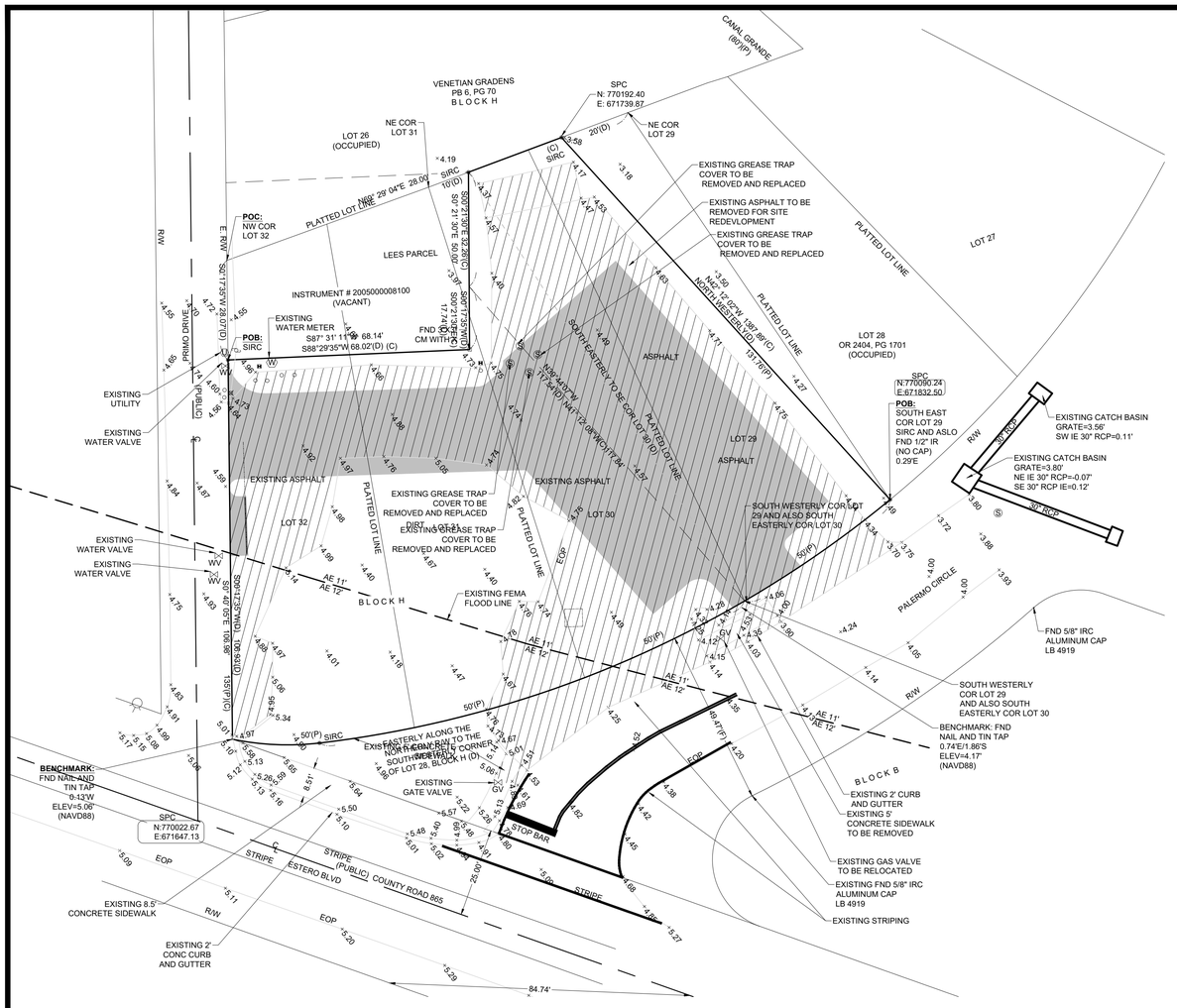
THIS ITEM HAS BEEN DIGITALLY SIGNED AND SEALED BY MATTHEW S. SPEATH, P.E. ON THE DATE ADJACENT TO THE SEAL. PRINTED COPIES OF THIS DOCUMENT ARE NOT CONSIDERED SIGNED AND SEALED AND THE SIGNATURE MUST BE VERIFIED ON ANY ELECTRONIC COPIES

MATTHEW S. SPEATH P.E.
LIC. #67675
FBPE # 31292

c=US, o=Speath Engineering FL LLC, dnQualifier=A01410C00000181A0FCE75A00026A6E, cn=Matthew Speath
2023.10.17 18:43:57 -04'00'

DRAWN	TCC
CHECK	MSS
DATE	10/17/23
SCALE	N.T.S.
PROJ. NO.	F22-58

SHEET:
C1
1 OF 7





EXISTING AERIAL PHOTOGRAPH

SCALE: 1"=300'

FOLIO #: 10228167

STRAP #: 19-46-24-W4-0060H.0300

PROJECT LOCATION

DEMOLITION NOTES

1. ALL ITEMS TO BE PROTECTED SHALL BE PROTECTED THROUGH ALL THE PHASES OF CONSTRUCTION UNTIL FINAL ACCEPTANCE BY MIAMI-DADE COUNTY IS RECEIVED.
2. IN THE EVENT THE CONTRACTOR DISCOVERS ANY HAZARDOUS MATERIAL,THE REMOVAL OF WHICH IS NOT ADDRESSED IN PROJECT PLANS AND SPECIFICATIONS, THE CONTRACTOR SHALL IMMEDIATELY CEASE ALL WORK AND NOTIFY THE OWNER AND ENGINEER OF THE DISCOVERY OF SUCH MATERIALS.
3. PRIOR TO STARTING ANY DEMOLITION, CONTRACTOR IS RESPONSIBLE FOR/TO:

A. OBTAINING ALL REQUIRED PERMITS AND MAINTAINING THE SAME ON SITE FOR REVIEW BY THE ENGINEER AND OTHER PUBLIC AGENCIES HAVING JURISDICTION. NOTIFYING, AT A MINIMUM, THE MUNICIPAL ENGINEER, DESIGN ENGINEER, AND LOCAL DEPARTMENT OF PUBLIC WORKS, 72 HOURS PRIOR TO START OF WORK.
C. INSTALLING THE REQUIRED SOL EROSION AND SEDIMENT CONTROL MEASURES PRIOR TO SITE DISTURBANCE.
D. IN ACCORDANCE WITH STATE LAW, THE CONTRACTOR SHALL BE REQUIRED TO CALL SUNSHINE 8I FOR UTILITY MARK OUT IN ADVANCE OF ANY EXCAVATION.
E. LOCATING AND PROTECTING ALL UTILITIES AND SERVICES INCLUDING BUT NOT LIMITED TO GAS, WATER AND ELECTRIC, SANITARY AND STORM SEWER, TELEPHONE, CABLE, FIBER OPTIC CABLE, ETC. WITHIN AND ADJACENT TO THE LIMITS OF PROJECT ACTIVITIES. THE CONTRACTOR SHALL USE AND COMPLY WITH THE REQUIREMENTS OF THE APPLICABLE UTILITY NOTIFICATION SYSTEM TO LOCATE ALL THE UNDERGROUND UTILITIES.
F. PROTECTING AND MAINTAINING IN OPERATION ALL ACTIVE UTILITIES AND SYSTEMS THAT ARE NOT BEING REMOVED DURING ALL DEMOLITION ACTIVITIES.
G. ARRANGING FOR AND COORDINATING WITH THE APPLICABLE UTILITY SERVICE PROVIDER(S) FOR THE TEMPORARY OR PERMANENT TERMINATION OF SERVICE REQUIRED BY THE PROJECT PLANS AND SPECIFICATIONS. THE CONTRACTOR SHALL PROVIDE THE UTILITY ENGINEER AND OWNER WRITTEN NOTIFICATION THAT THE EXISTING UTILITIES AND SERVICES HAVE BEEN TERMINATED AND ABANDONED IN ACCORDANCE WITH JURISDICTIONAL AND UTILITY COMPANY REQUIREMENTS.
H. COORDINATION WITH UTILITY COMPANIES REGARDING WORKING "OFF-PEAK" HOURS OR ON WEEKENDS AS MAY BE REQUIRED TO MINIMIZE THE IMPACT ON THE AFFECTED PARTIES.

4. CONTRACTORS SHALL COORDINATE WITH AII UTILITY COMPANIES CONCERNING THE ABANDONMENT, RELOCATION AND/OR DEMOLITION OF UTILITIES PRIOR TO CONSTRUCTION. NO WORK IS TO BE PERFORMED ON LIVE LINES UNLESS APPROVED IN WRITING BY THE UTILITY IN ALL CASES. A REPRESENTATIVE FROM THE UTILITY SHALL BE PRESENT FOR INITIAL ABANDONMENT AND/OR LIVE CUTS. CONTRACTOR SHALL USE EXTREME CAUTION WHEN WORKING NEAR UTILITIES AND SHALL PROTECT THEM AT ALL TIMES.
5. RELOCATION SHALL INCLUDE ALL LABOR, EQUIPMENT, MATERIALS, HAULING, PERMITTING, FEES, AND COORDINATION WITH PUBLIC AND/OR PRIVATE UTILITY REQUIRED TO REMOVE, RELOCATE, AND INSTALL NEW ITEMS AS INDICATED ON THE PLANS.
6. THE CONTRACTOR IS FULLY AND COMPLETELY RESPONSIBLE FOR LOCATION, VERIFICATION, PROTECTION, STORAGE, MAINTENANCE, DEMOLITION, REMOVAL, RELOCATION OR ALTERATION OF ALL EXISTING SITE UTILITIES, SITE IMPROVEMENTS, STRUCTURES, OR CONSTRUCTION ELEMENTS AS REQUIRED TO COMPLETE THE WORK THAT ARE SHOWN ON THE PLANS AND OR THAT ARE OBSERVABLE IN THE FIELD, WHETHER CONSPICUOUSLY VISIBLE OR NOT. THE CONTRACTOR SHALL VISIT THE SITE AND BECOME THOROUGHLY FAMILIAR WITH ALL EXISTING IMPROVEMENTS, UTILITIES, AND SITE CONDITIONS PRIOR TO BIDDING AND CONSTRUCTION.
7. THE CONTRACTOR SHALL USE EXTREME CAUTION WHEN WORKING NEAR ANY EXISTING UNDERGROUND OR OVERHEAD UTILITIES.
8. CONTRACTOR SHALL COMPLY WITH ALL LOCAL STATE, AND FEDERAL REQUIREMENTS WITH ALL DEMOLITION ACTIVITIES. IF ADDITIONAL REQUIREMENTS ARE REQUIRED FOR HAZARDOUS WASTE REMOVAL INCLUDING BUT NOT LIMITED TO ASBESTOS, SEPTIC FIELDS, LEAD, PCB, TCP, OR OTHER WASTE OR CONTAINMENT, IT IS THE CONTRACTORS RESPONSIBILITY TO COMPLY WITH MANDATES PRIOR TO COMMENCEMENT OF CONSTRUCTION.
9. CONTRACTOR IS RESPONSIBLE FOR PROCUREMENT OF AII NECESSARY PERMITS.
10. DEMOLITION SHALL INCLUDE ALL LABOR, EQUIPMENT, MATERIALS, HAULING, PERMITTING, FEES, AND COORDINATION WITH PUBLIC AND/OR PRIVATE UTILITY REQUIRED TO REMOVE AND PROPERLY DISPOSE OF ANY ITEM NECESSARY TO PERFORM THE REQUIRED DEMOLITION AS INDICATED ON THE PLANS.
11. ABANDONMENT SHALL INCLUDE ALL LABOR, EQUIPMENT, MATERIALS, PERMITTING, FEES, AND COORDINATION WITH PUBLIC AND/OR PRIVATE UTILITY REQUIRED TO ADEQUATELY ABANDON ITEMS AS INDICATED ON THE PLANS.
12. THE CONTRACTOR SHALL COORDINATE ALL THE TREES AND LANDSCAPE REMOVAL WITH LANDSCAPE PLANS; ANY DISCREPANCY BETWEEN THIS DEMOLITION PLAN AND THE LANDSCAPE PLANS SHALL BE BROUGHT TO THE ATTENTION OF THE OWNER IMMEDIATELY.
13. THIS DEMOLITION PLAN IS FOR GRAPHICAL REFERENCE ONLY. ITEMS NOT DEPICTED ON THESE PLANS MAY BE REQUIRED TO BE PROTECTED, REMOVED, OR RELOCATED. THE CONTRACTOR IS RESPONSIBLE FOR FIELD VERIFYING THE LOCATIONS OF AII EXISTING STRUCTURES, UTILITIES, AND APPURTENANCES WITHIN THE LIMITS OF CONSTRUCTION. DEMOLITION INCLUDES BUT IS NOT LIMITED TO THE ITEMS SHOWN ON THIS PLAN.
14. SAWCUT DIMENSIONS SHOWN ARE APPROXIMATE. CONTRACTOR SHALL FIELD STAKE AND CONSULT ENGINEER TO VERIFY PRIOR TO CONSTRUCTION.
15. THE DEMOLITION PLAN IS INTENDED TO PROVIDE GENERAL INFORMATION REGARDING ITEMS TO BE DEMOLISHED AND/OR REMOVED. THE CONTRACTOR SHALL ALSO REVIEW THE OTHER SITE PLAN DRAWINGS AND INCLUDE IN DEMOLITION ACTIVITIES ALL INCIDENT AI WORK NECESSARY FOR THE CONSTRUCTION OF THE NEW SITE IMPROVEMENTS.
16. ALL DEMOLITION ACTIVITIES ARE TO SE PERFORMED IN ACCORDANCE WITH THE REQUIREMENTS OF THESE PLANS AND SPECIFICATIONS AND ALL APPLICABLE FEDERAL, STATE AND LOCAL REGULATIONS, ANY QUESTIONS CONCERNING THE ACCURACY OR INTENT OF THESE PLANS OR SPECIFICATIONS, CONCERNS REGARDING THE APPLICABLE SAFETY STANDARD, OR THE SAFETY OF THE CONTRACTOR OR THIRD PARTIES IN PERFORMING THE WORK OF THIS PROJECT SHALL BE RAISED WITH ENGINEER.IN WRITING AND RESPONDED TO BY ENGINEER, IN WRITING, PRIOR TO THE INITIATION OF ANY SITE ACTIVITY.
17. THE CONTRACTOR SHALL PROVIDE ALL "MEANS AND METHODS" NECESSARY TO PREVENT MOVEMENT, SETTLEMENT, OR COLLAPSE OF EXISTING STRUCTURES, AND ANY OTHER IMPROVEMENTS THAT ARE REMAINING ON OR OFF SITE. THE CONTRACTOR IS RESPONSIBLE FOR ALL REPAIRS OF DAMAGE TO ALL ITEMS THAT ARE TO REMAIN. ALL REPAIRS SHALL USE NEW MATERIAL, THE REPAIRS SHALL RESTORE THE ITEM TO THE PRE-DEMOLITION CONDITION. SUCH REPAIRS SHALL BE PERFORMED AT THE CONTRACTOR'S SOLE EXPENSE.
18. THE CONTRACTOR SHALL NOT PERFORM ANY EARTH MOVEMENT ACTIVITIES, DEMOLITION OR REMOVAL OF FOUNDATION WALLS, FOOTINGS, OR OTHER MATERIALS WITHIN THE LIMITS OF DISTURBANCE UNLESS IT IS IN STRICT ACCORDANCE WITH THE PROJECT PLANS AND SPECIFICATIONS, AND/OR UNDER THE WRITTEN DIRECTION OF THE OWNER'S STRUCTURAL OR GEOTECHNICAL ENGINEER.
19. CONTRACTOR SHALL BACKFILL ALL EXCAVATION RESULTING FROM, OR INCIDENTAL TO, DEMOLITION ACTIVITIES. BACKFILL SHALL BE ACCOMPLISHED WITH APPROVED BACKFILL MATERIALS. AND SHALL BE SUFFICIENTLY COMPACTED TO SUPPORT NEW IMPROVEMENTS AND IN COMPLIANCE WITH THE RECOMMENDATIONS IN THE GEOTECHNICAL REPORT. BACKFILLING SHALL OCCUR IMMEDIATELY AFTER DEMOLITION ACTIVITIES, AND SHALL BE DONE SO AS TO PREVENT WATER ENTERING THE EXCAVATION. FINISHED SURFACES SHALL BE GRADED TO PROMOTE POSITIVE DRAINAGE.
20. EXPLOSIVES SHALL NOT BE USED WITHOUT PRIOR WRITTEN CONSENT OF BOTH THE OWNER AND ALL APPLICABLE GOVERNMENT AUTHORITIES. ALL THE REQUIRED PERMITS AND EXPLOSIVE CONTROL MEASURES THAT ARE REQUIRED BY THE FEDERAL, STATE AND LOCAL GOVERNMENTS SHALL BE IN PLACE PRIOR TO STARTING AN EXPLOSIVE PROGRAM. THE CONTRACTOR IS ALSO RESPONSIBLE FOR ALL INSPECTION AND SEISMIC VIBRATION TESTING THAT IS REQUIRED TO MONITOR THE EFFECTS ON ALL LOCAL STRUCTURES.
21. CONTRACTOR SHALL PROVIDE TRAFFIC CONTROL AND GENERALLY ACCEPTED SAFE PRACTICES IN CONFORMANCE WITH THE CURRENT FHWA "MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES" (MUTCD), AS WELL AS FEDERAL, STATE AND LOCAL REGULATIONS WHEN DEMOLITION RELATED ACTIVITIES IMPACT ROADWAYS OR ROADWAY RIGHT-OF-WAY.
22. CONTRACTOR SHALL CONDUCT DEMOLITION ACTIVITIES IN SUCH A MANNER TO ENSURE MINIMUM INTERFERENCE WITH ROADS, STREETS, SIDEWALKS, WALKWAYS, AND OTHER ADJACENT FACILITIES. STREET CLOSURE PERMITS MUST BE RECEIVED FROM THE APPROPRIATE GOVERNMENTAL AUTHORITY PRIOR TO THE COMMENCEMENT OF ANY ROAD OPENING OR DEMOLITION ACTIVITIES IN OR ADJACENT TO THE RIGHT-OF-WAY.
23. DEMOLITION ACTIVITIES AND EQUIPMENT SHALL NOT USE AREAS OUTSIDE THE DEFINED PROJECT LIMIT LINE, WITHOUT WRITTEN PERMISSION OF THE OWNER AND ALL GOVERNMENTAL AGENCIES HAVING JURISDICTION.
24. THE CONTRACTOR SHALL USE DUST CONTROL MEASURES TO LIMIT AIRBORNE DUST AND DIRT RISING AND SCATTERING IN THE AIR IN ACCORDANCE WITH FEDERAL,STATE, AND/OR LOCAL STANDARDS. AFTER THE DEMOLITION IS COMPLETE, ADJACENT STRUCTURES AND IMPROVEMENTS SHALL BE CLEANED OF ALL DUST AND DEBRIS CAUSED BY THE DEMOLITION OPERATIONS. THE CONTRACTOR IS RESPONSIBLE FOR RETURNING ALL ADJACENT AREAS TO THEIR "PRE-DEMOLITION" CONDITION.
25. CONTRACTOR IS RESPONSIBLE TO SAFEGUARD SITE AS NECESSARY TO PERFORM THE DEMOLITION IN SUCH A MANNER AS TO PREVENT THE ENTRY OF UNAUTHORIZED PERSONS AT ANY TIME.
26. CONTRACTOR IS RESPONSIBLE FOR SITE JOB SAFETY, WHICH SHALL INCLUDE BUT NOT LIMITED TO THE INSTALLATION AND MAINTENANCE OF BARRIERS, FENCING AND OTHER APPROPRIATE SAFETY ITEMS NECESSARY TO PROTECT THE PUBLIC FROM AREAS OF CONSTRUCTION AND CONSTRUCTION ACTIVITY.
27. DEBRIS SHALL NOT BE BURIED ON THE SUBJECT SITE. ALL DEMOLITION WASTES AND DEBRIS (SOLID WASTE) SHALL BE DISPOSED OF IN ACCORDANCE WITH ALL MUNICIPAL, COUNTY, STATE, AND FEDERAL LAWS AND APPLICABLE CODES. THE CONTRACTOR SHALL MAINTAIN RECORDS TO DEMONSTRATE PROPER DISPOSAL ACTIVITIES, TO BE PROVIDED TO THE OWNER UPON REQUEST.
28. CONTRACTOR SHALL NOT IMPACT ANY WETLANDS THROUGH CONSTRUCTION ACTIVITIES OR ANY OTHER MEANS OF DISTURBANCE .
29. THE FIRM OR ENGINEER OF RECORD IS NOT RESPONSIBLE FOR JOB SITE SAFETY OR SUPERVISION. CONTRACTOR IS TO PROCEED WITH THE DEMOLITION IN A SYSTEMATIC AND SAFE MANNER, FOLLOWING ALL THE OSHA REQUIREMENTS TO ENSURE PUBLIC AND CONTRACTOR SAFETY.
30. THIS DEMOLITION PLAN IS INTENDED TO IDENTIFY THOSE EXISTING ITEMS/CONDITIONS WHICH ARE TO BE REMOVED. IT IS NOT INTENDED TO PROVIDE DIRECTION AS TO THE MEANS AND METHODS TO BE USED TO ACCOMPLISH THAT WORK. ALL MEANS AND METHODS UTILIZED ARE TO BE IN STRICT ACCORDANCE WITH ALL STATE, FEDERAL, LOCAL, AND JURISDICTIONAL REQUIREMENTS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR COMPLYING WITH ALL OSHA AND OTHER SAFETY PRECAUTIONS NECESSARY TO PROVIDE A SAFE WORK SITE

SUBSURFACE UTILITIES

THE UNDERGROUND UTILITIES SHOWN HEREON HAVE BEEN LOCATED FROM FIELD SURVEY INFORMATION AND EXISTING DRAWINGS, THE SURVEYOR MAKES NO GUARANTEES THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE OF ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDON. THE SURVEYOR FURTHER DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN HEREON ARE IN THE EXACT LOCATION INDICATED ALTHOUGH HE DOES CERTIFY THAT THEY ARE LOCATED AS ACCURATELY AS POSSIBLE FROM THE INFORMATION AVAILABLE.

ENVIRONMENTAL NOTES

THE PLANS PREPARED DO NOT DEPICT ENVIRONMENTAL CONDITIONS OR A CERTIFICATION/WARRANTY REGARDING THE PRESENCE OR ABSENCE OF ENVIRONMENTALLY IMPACTED SITE CONDITIONS.

GRAPHIC SCALE

10 0 5 10 20 40

(IN FEET)

1" = 20 FEET

REVISIONS	DATE	BY
0. INITIAL SUB	05/16/23	TG
1. CITY CMNTS	10/17/23	TG

SPEATH ENGINEERING
SPEATH ENGINEERING FL, LLC - 111 BRICKELL AVE, 10TH FL.
MIAMI, FL 3313 - PHONE: 305-834-4233

EXISTING CONDITIONS
FOR
THE WHALE BAR & RESTAURANT
1249 ESTERO BLVD. FORT MYERS BEACH
LEE COUNTY, FLORIDA

MATTHEW S. SPEATH LICENSE No. 67675 STATE OF FLORIDA PROFESSIONAL ENGINEER

10/17/2023

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MATTHEW S. SPEATH P.E.
LIC. #67675
FBPE # 31292

DRAWN	TCG
CHECK	MSS
DATE	10/17/23
SCALE	1"=20'
PROJ. NO.	F22-58

SHEET:
C2
2 OF 7

SITE DATA:

ZONING:	DOWNTOWN, ZONING DISTRICT
COMMUNITY:	CITY OF FORT MYERS BEACH PLANNING COMMUNITY
PROPOSED USE:	RESTAURANT / BAR OUTDOOR DINING
ZONE:	AE EL. 11.0' / 12.0' (NAVD)

SITE INFORMATION :

SITE INFORMATION BASED ON THE SURVEY PREPARED BY:
STEPHEN F. SHAWLESS II, P.S.M. HALEY WARD, ENGINEERING, ENVIORNMENTAL, SURVERYING
13041 McGREGOR BOULEVARD FORT MYERS, FLORIDA 33919
ENTITLED: "SURVEY PLAT OF PARCEL OF LAND LYING IN SECTION 19, TOWNSHIP 46 SOUTH, RANGE 24 EAST, FORT MYERS BEACH, LEE COUNTY, FLORIDA", DATED 12/07/2022

FOLIO #: 10228167

STRAP#: 19-46-24-W4-0060H.0300

LEGAL DESCRIPTION:

INSTR.# 2022000200796 A PARCEL BEING IN LOTS 30,31 AND 32, BLOCK "H", VENETIAN GARDENS SUBDIVISION, AS RECORDED IN PLAT BOOK 6, PAGE 70, LEE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:
FROM THE NORTHWEST CORNER OF SAID LOT 32, RUN SOUTH 0 DEGREES 17'35" WEST, ALONG THE EASTERLY RIGHT-OF-WAY OF PRIMO DRIVE, 28.07 FEET TO THE POINT OF BEGINNING OF LANDS HEREIN DESCRIBED, FROM SAID POINT OF BEGINNING CONTINUE SOUTH 0 DEGREES 17'35" WEST, ALONG SAID EASTERLY RIGHT OF WAY OF PRIMO DRIVE 106.93 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY OF PALERMIO CIRCLE; THENCE ALONG SAID NORTHERLY RIGH-OF-WAY OF PALERMO CIRCLE IN AN EASTERLY DIRECTION TO THE SOUTHWESTERLY CORNER OF LOT 29, BLOCK H, SAID VENETIAN GARDENS SUBDIVISION, THENCE NORTH 39 DEGREES 44'07" WEST, 117.54 FEET TO A POINT ON THE LINE WHICH IS PARALLEL TO PRIMO DRIVE;THENCE SOUTH 0 DEGREES 17'35" WEST, 17.74 FEET; THENCE SOUTH 88 DEGREES 29'35" WEST, 68.02 FEET TO THE POINT OF BEGINNING. AND PART OF LOTS 29, 30 AND 31, BLOCK H, VENETIAN GARDENS SUBDIVISION, ACCORDING TO THE MAP OR PLAT THEREOF ON FILE AND RECORDED IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT IN PLAT BOOK 6, PAGE 70, MORE FULLY DESCRIBED AS FOLLOWS:
BEGINNING AT THE SOUTHEAST CORNER OF LOT 29, THENCE NORTHWESTERLY TO A POINT 20 FEET FROM THE NORTHEAST CORNER OF LOT 29 AN ON NORTH LINE OF SAID LOT; THENCE SOUTHWESTERLY ON SAID LINE 50 FEET TO A POINT WHICH IS 10 FEET WEST OF THE NORTHEAST CORNER OF LOT 31; THENCE SOUTHEASTERLY TO SOUTHEAST CORNER OF LOT 30, THENCE NORTHEASTERLY AND ALONG SAID LOT LINE TO POINT OF BEGINNING.
LESS AND EXCEPT THE PARCEL OF LAND DESCRIBED IN THAT CERTAIN DEED RECORDED IN OFFICIAL RECORD BOOK 4831, PAGE 1147, PUBLIC RECORDS OF LEE COUNTY FLORIDA.

SCOPE OF WORK:

REDEVELOPMENT OF FORMER RESTAURANT SITE, INCLUDING:
- PROPOSED RESTAURANT AND BAR STRUCTURE
- PAVED DRIVEWAY CONNECTION TO EXISTING ROAD WAY
- ALL RELATED SITE IMPROVEMENTS

DRAINAGE CALCULATIONS:

TOTAL BASIN AREA = .403 AC
TOTAL IMPERVIOUS AREA = .309 AC
TOTAL PERVIOUS AREAS = 0.094 AC
TOTAL DETENTION AREA = 0.062 AC

DETENTION REQUIRED (GREATER OF):
1. FIRST INCH OF RUNOFF FROM THE DEVELOPMENT PROJECT:
   = 1 IN * TOTAL BASIN AREA * (1FT/12IN)
   = 1 IN * .403 AC * (1FT/12IN)
   = 0.0336 AC-FT REQUIRED DETENTION STORAGE

2. COMPUTE 2.5 IN TIMES THE PERCENTAGE OF IMPERVIOUSNESS.
   % IMPERVIOUS = .309 AC / .403 AC * 100% = 76.7%
   = 2.5 IN * 0.767
   = 1.91 IN TO BE TREATED
   COMPUTE THE REQUIRED VOLUME FOR WATER QUALITY DETENTION
   = TO BE TREATED * TOTAL AC * (1/12)
   = 1.91 IN TO BE TREATED * .403 AC * (1/12) = .064
   =0.064 AC-FT REQUIRED DETENTION STORAGE

DRY DETENTION PROVIDED = 0.075 AC-FT

FEMA FLOOD ZONE	ZONE AE
BASE FLOOD ELEVATION	11.0' / 12.0' (NAVD)
CROWN OF ROAD ELEVATION	3.88' - 5.09'
CROWN OF ROAD ELEVATION +1.5'	6.59'
FIRM MAP NUMBER	12071C0267G EFF. 11/17/2022
COASTAL A-ZONE CONSTRUCT TO V-ZONE STANDARDS	

FAR CALCULATION:

TOTAL GROSS FLOOR AREA: 10,063 SF
TOTAL LOT AREA: 18,740 SF
FAR = 0.537

SITE NOTES:

1. ALL CONSTRUCTION MATERIALS AND SPECIFICATIONS SHALL CONFORM WITH ALL CURRENT STANDARDS OF LEE COUNTY.
2. THE PROPOSED ENGINEERED FILL MATERIALS ARE TO BE PLACED IN LIFTS NOT EXCEEDING 8" LOOSE MEASURED THICKNESS IN UNCONFINED LIFTS OR 6" IN CONFINED AREAS, EACH LIFT IS TO BE COMPACTED AS FOLLOWS:
   A) SLAB ON GRADE: MINIMUM OF 95% MAXIMUM DENSITY BY ASTM D557
   B) FOOTING BEARING: MINIMUM OF 98% MAXIMUM DENSITY BY ASTM D557
2. ADEQUATE DRAINAGE SHALL BE PROVIDED, AND SURFACE RUN-OFF WATER SHALL BE DIVERTED TO A STORM CONVEYANCE OR OTHER APPROVED POINT OF COLLECTION IN ACCORDANCE WITH FLORIDA BUILDING CODE, LEE COUNTY, AND SOUTH FLORIDA WATER MANAGEMENT CODE ORDINANCES. ALL SITE DRAINAGE IS DESIGNED AND SHALL BE CONSTRUCTED IN SUCH A MANNER THAT RUN-OFF RATES, VOLUME AND POLLUTANT LOADS NOT EXCEEDING PREDEVELOPMENT CONDITIONS AND PREVENTING FLOODING OF ADJACENT PROPERTIES AND PUBLIC RIGHT-OF WAY.
3. ALL DISTURBED AREAS WITHIN LANDSCAPE/ SIDEWALK/ CURB AND GUTTER/ ROAD PAVEMENT SHALL BE RESTORED TO ITS ORIGINAL OR BETTER CONDITIONS.
4. ALL CONCRETE UTILIZED FOR SITE-RELATED FLATWORK CONSTRUCTION SHALL HAVE A MINIMUM COMPRESSIVE STRENGTH OF 3,000 PSI COMPRESSIVE STRENGTH AT 28 DAYS.
5. IF SURFACE CONSTRUCTION OCCURS WITHIN THE DRIP LINES OF EXISTING TREES, PROTECT TREES DURING CONSTRUCTION PER FDOT STANDARD PLANS INDEX 110-100. DO NOT PARK VEHICLES OR STAGE CONSTRUCTION WITHIN THE DRIP LINES OF EXISTING TREES WHERE CONSTRUCTION AFFECTS TREE ROOTS OR CANOPY.
6. NO ADVERSE IMPACTS TO SURFACE WATER OR GROUNDWATER ARE ANTICIPATED WITH THE PROPOSED USE OF THE SUBJECT PROPERTY.
7. WHERE PAVEMENT WILL BE INSTALLED IN THE TOWN R/W, THE PAVEMENT SHALL BE INSTALLED AS FDOT SP-12.5. LIME ROCK SHOULD NOT BE USED IN THE R/W IF THE BOTTOM OF THE BASE IS NOT 18" ABOVE THE SEASONAL HIGH GROUND WATER ELEVATION.

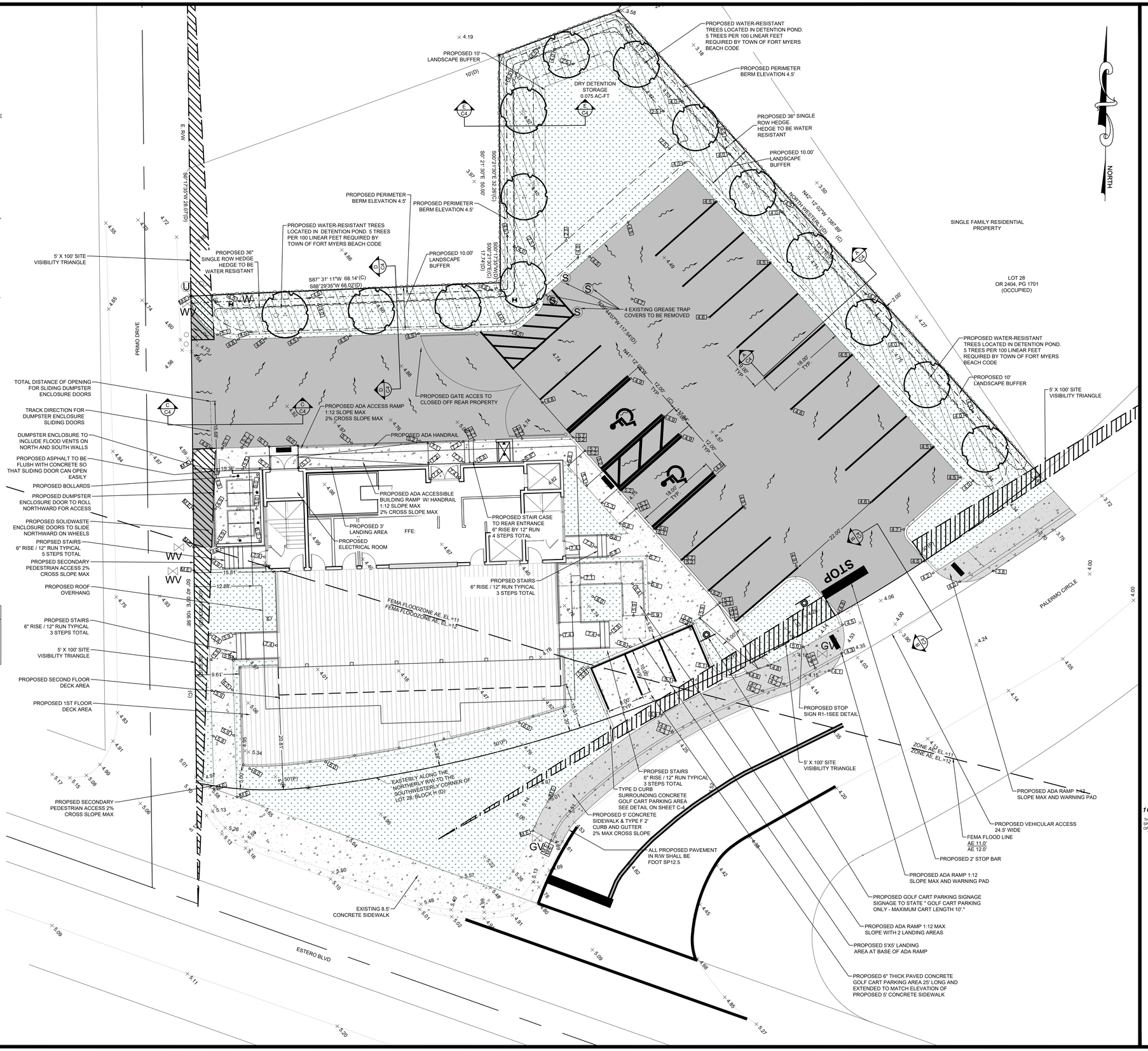
LEGEND

6.65	EXISTING GRADE
6.0	PROPOSED GRADE
~~	FLOW ARROW

GRAPHIC SCALE

10 0 5 10 20 40

(IN FEET)
1" = 10 FEET



REVISIONS	DATE	BY
0. INITIAL SUB	05/16/23	TG
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SPEATH ENGINEERING
SPEATH ENGINEERING FL, LLC – 111 BRICKELL AVE, 10TH FL. MIAMI, FL 33131 – PHONE: 305-834-4213

SITE PLAN
FOR
THE WHALE BAR & RESTAURANT
1249 ESTERO BLVD. FORT MYERS BEACH
LEE COUNTY, FLORIDA



10/17/2023

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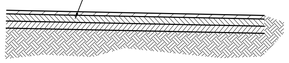
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SHEET:
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3 OF 7

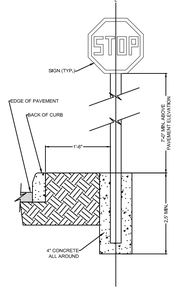
CONSTRUCT ALL NEW ASPHALT SURFACE OUTSIDE OF THE R.O.W. AS FOLLOWS:

1. 2" TYPE S-III ASPHALT CONCRETE
2. 8" OF BASE MATERIAL - LBR 100 COMPACTED TO 98% AASHTO T-180
3. 8" COMPACTED SUB-BASE - LBR 40 COMPACTED TO 98% AASHTO T-180

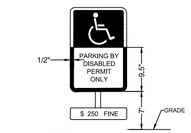


ASPHALT SECTION

NTS



TYPICAL SIGN MOUNTING DETAIL



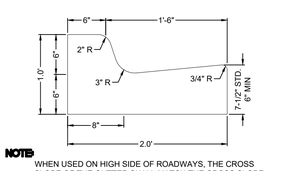
NOTES:

ALL LETTERS ARE 1" SERIES "C".

TOP PORTION OF SIGN SHALL HAVE A REFLECTORIZED BLUE BACKGROUND WITH WHITE REFLECTORIZED LEGEND & BORDER. BOTTOM PORTION OF SIGN SHALL HAVE A WHITE REFLECTORIZED LEGEND & BORDER WITH BLACK OR BLUE LEGEND & BORDER.

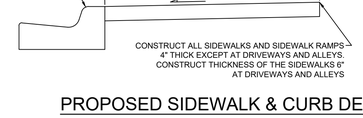
TYPICAL HANDICAP SIGN

N.T.S.

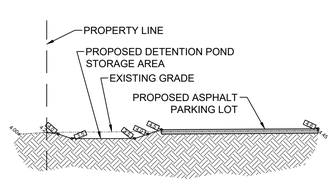


NOTE: WHEN USED ON HIGH SIDE OF ROADWAYS, THE CROSS SLOPE OF THE GUTTER SHALL MATCH THE CROSS SLOPE OF THE ADJACENT PAVEMENT AND THE THICKNESS OF THE LIP SHALL BE 6", UNLESS OTHERWISE SHOWN ON PLANS.

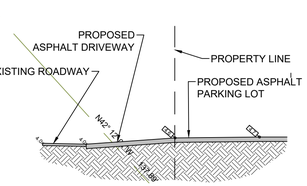
TYPE "F" CURB DETAIL



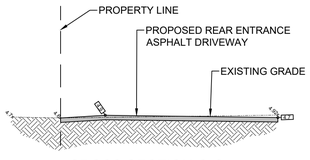
PROPOSED SIDEWALK & CURB DETAIL



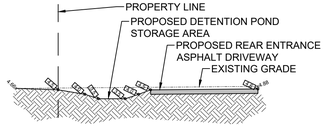
CROSS SECTION A-A



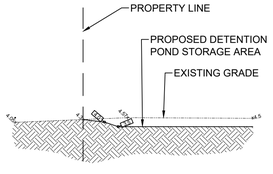
CROSS SECTION B-B



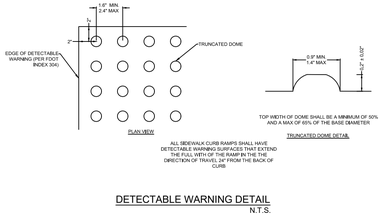
CROSS SECTION C-C



CROSS SECTION D-D



CROSS SECTION E-E



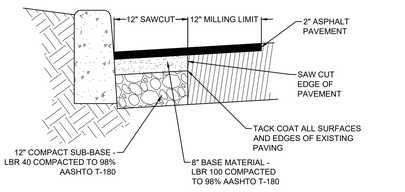
TOP WIDTH OF DOME SHALL BE A MINIMUM OF 50% AND A MAX OF 65% OF THE BASE DIAMETER

TRUNCATED DOME DETAIL

ALL SIDEWALK CURB RAMPS SHALL HAVE DETECTABLE WARNING SURFACES THAT EXTEND THE FULL WIDTH OF THE RAMP IN THE THE DIRECTION OF TRAVEL 24" FROM THE BACK OF CURB

DETECTABLE WARNING DETAIL

N.T.S.



SAWCUT AND PAVEMENT RESTORATION DETAIL

TOWN OF FT. MYERS BEACH STANDARD DETAIL NO. 10.39a

ALUMINUM PEDISTRIAN GUARD RAIL

NOTES

PIPE RAILING & POSTS:
Pipe railing, posts, flow and Bar shall be in accordance with ASTM B221 or ASTM B429, Alloy 6061-T6. End Post and Posts and corner bends with maximum R of 2(0) bending may be done 6063-T5 Alloy. Posts shall be set plumb and in true alignment and shall be anchored securely in the foundation. Corners and changes in tangential longitudinal alignment, may be made continuous with bends of suitable radius, or provided with elbow fittings, or with posts set at angles as may be required. For changes in tangential longitudinal alignment greater than 90° posts shall be positioned at a maximum distance of 2'-0" each side of the corner and shall not be located at the corner apex. Where changes in direction or alignments the top and bottom rails and handrails shall be drop bent to match the alignment below.

RAILING MEMBER DIMENSIONS TABLE			
MEMBER	DESIGNATION	OUTSIDE DIMENSION	WALL THICKNESS
Posts	2" NPS (Sch. 40)	2.375"	0.154"
Posts	2" NPS (Sch. 40)	2.375"	0.154"
Rail Joint/Splice Sleeves	1½" NPS (Sch. 40)	1.900"	0.145"
Handrail Joint/Splice Sleeves	1" NPS (Sch. 40)	1.315"	0.133"
Handrails	1½" NPS (Sch. 40)	1.900"	0.145"
Handrail Support Bar	1" Ø Round Bar	1.000"	N/A

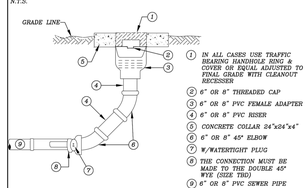
BASE PLATES:
Base Plates shall be aluminum in accordance with ASTM B209, Alloy 6061-T6.
SETS PLATES:
Base plates shall be aluminum in accordance with ASTM B209, Alloy 6061 or 6063. Shim plates shall be used for foundation height adjustments greater than ¾" and localized irregularities greater than ¼" Fold trim shim plates when necessary to match the contours of the foundation. Beveled shim plates shall be used for slopes greater than 1:20 (5%). Shim plates shall be set and bedded together with adhesive bedding material and installed to a maximum total thickness of 2". Where longer anchor bolts are provided for the exposed thread length.
ANCHORS:
The aluminum railing shall be set from posts unless otherwise noted in the Contract Documents. All nuts, bolts, washers and other fasteners shall be stainless steel in accordance with Section 965.2 of the Specifications.
ANCHOR BOLTS:
Anchor bolts shall be in accordance with ASTM F3554 Grade 36. Headless anchor bolts For Adhesive Anchors shall be threaded full length. Cutting of reinforcing steel is permitted for drilled hole installation. All anchor bolts shall have single self-locking hex nuts. Tack welding of the nut to the anchor bolt may be used to prevent loosening. Anchor bolts shall be hot dip galvanized in accordance with ASTM F2329. Washers shall be in accordance with ASTM F436 and Plate Washers For long slotted holes only, shall be in accordance with ASTM A36 or ASTM A709 Grade 36. After the nuts have been snug tightened, the threads at the footing shall be burred to prevent the nuts from backing off. Galvanized and cut ends shall be painted with a galvanizing compound in accordance with the Specifications.
MISCELLANEOUS METAL:
Resilient and neoprene pads shall be in accordance with Specification Section 932, except that testing of the finished pads shall not be required. Neoprene pads shall be durometer hardness 60 or 70.
JOINTS:
All fixed joints are to be welded all around and ground smooth. Expansion joints shall be spaced at 40'-0" maximum. Where the railing is attached to a concrete wall, the expansion joint shall be set by the Engineer to facilitate chipping and bedding, but shall meet the continuous across a minimum of two posts. Where the railing is attached to a metal bridge, joints shall be set to meet the railing continuous for subsequent field assembling.
FIELD WELDING:
All welding shall be in accordance with the American Welding Society Structural Welding Code (Aluminum) ANSI/AWS D1.2 (current edition). Filler metal shall be alloy 5356(5183, 5183)5 or 5183(5A). Nondestructive testing of welds is not required.
SHOP DRAWINGS:
Details addressing product specific geometry (top & grade) bearing seat and expansion joint requirements shall be submitted to the Engineer for review prior to the commencement of fabrication of the railing. This drawings shall be in accordance with the Specifications.
PAINTING:
Clearcoat shall be paid for under the clearcoat unit price for Pier Guide-rail (Aluminum, LF (Item No. 536-1-2-1). Clearcoat shall be applied to all aluminum railing surfaces within 24 hours after fabrication of the top rail, and includes rails, posts, rail splice assembly, base plates, anchor bolts, nuts, washers, resilient or neoprene pads and all incidental materials and labor required to complete installation of the guiderail.

FOR MORE INFORMATION REFER TO FDOT INDEX #70 (SHEETS 1-5).

DATE: 08/06/14 NOT TO SCALE

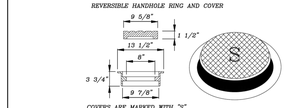
STANDARD DETAIL NO. 6.40
LEE COUNTY UTILITIES
6" OR 8" SEWER CLEAN-OUT DETAIL

N.T.S.



1. IN ALL CASES USE TRAFFIC BEARING HANDHOLE RING & COVER OR EQUAL ADJUSTED TO FINAL GRADE WITH CLEANOUT RECESSED
2. 6" OR 8" THREADED CAP
3. 6" OR 8" PVC FEMALE ADAPTER
4. 6" OR 8" PVC RISER
5. CONCRETE COLLAR 24"x24"x4"
6. 6" OR 8" 45° ELBOW
7. W/WATERTIGHT PLUG
8. THE CONNECTION MUST BE MADE TO THE DOUBLE 45° WYE (SIZE THD)
9. 6" OR 8" PVC SEWER PIPE

REVERSIBLE HANDHOLE RING AND COVER



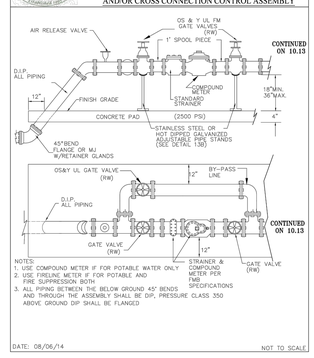
COVERS ARE MARKED WITH "S"

COVER TYPE	LOAD RATING	COVER WEIGHT	TOTAL WEIGHT
FE	HEAVY DUTY	20	45

REV: 08/28/2019

TOWN OF FT. MYERS BEACH STANDARD DETAIL NO. 10.12

2 1/2" OR LARGER COMPOUND METER AND/OR CROSS CONNECTION CONTROL ASSEMBLY

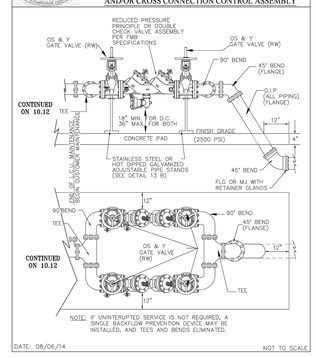


NOTES:
1. USE COMPOUND METER IF FOR POTABLE WATER ONLY
2. USE FIRELINE METER IF FOR POTABLE AND FIRE SUPPRESSION BOTH
3. ALL PIPING BETWEEN THE BELOW GROUND 45° BENDS AND THROUGH THE ASSEMBLY SHALL BE DIP, PRESSURE CLASS 350 ABOVE GROUND DIP SHALL BE FLANGED

DATE: 08/06/14 NOT TO SCALE

TOWN OF FT. MYERS BEACH STANDARD DETAIL NO. 10.13

2 1/2" OR LARGER COMPOUND METER AND/OR CROSS CONNECTION CONTROL ASSEMBLY

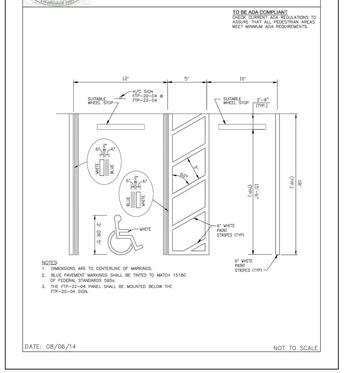


NOTE: IF UNINTERRUPTED SERVICE IS NOT REQUIRED, A SINGLE BACKFLOW PREVENTION DEVICE MAY BE INSTALLED, AND TEES AND BENDS ELIMINATED.

DATE: 08/06/14 NOT TO SCALE

TOWN OF FT. MYERS BEACH STANDARD DETAIL NO. 10.51

A.D.A. ACCESSIBLE / STANDARD PARKING DETAIL



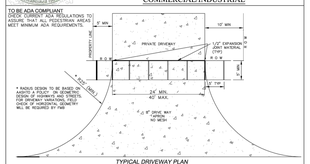
NOTES:
1. DIMENSIONS ARE TO CENTERLINE OF MARKINGS.
2. BLUE PAVEMENT MARKINGS SHALL BE TINTED TO MATCH 15180 OF FEDERAL STANDARD 595c.
3. THE FTP-20-04 PANEL SHALL BE MOUNTED BELOW THE FTP-20-04 SIGN.

DATE: 08/06/14 NOT TO SCALE

TOWN OF FT. MYERS BEACH STANDARD DETAIL NO. 10.42

DRIVEWAY & SIDEWALK COMMERCIAL/INDUSTRIAL

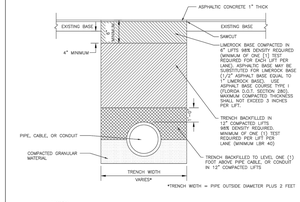
TO BE ADA COMPLIANT
CHECK CURRENT ADA REGULATIONS TO ASSURE THAT ALL PEDESTRIAN AREAS MEET MINIMUM ADA REQUIREMENTS.



DATE: 08/06/14 NOT TO SCALE

TOWN OF FT. MYERS BEACH STANDARD DETAIL NO. 10.4a

ROAD AND TRENCH RESTORATION FOR LOCAL ROADS



NOTES:
1. ALL MODIFIED PROCTOR AND DENSITY TESTS SHALL BE TAKEN BY A CERTIFIED LABORATORY.
2. ALL TESTS SHALL BE COMPLETED AND SHALL MEET MINIMUM DENSITY REQUIREMENTS PRIOR TO ADDITIONAL BACKFILLING.
3. RIGHT-OF-WAY PERMIT STIPULATIONS OVERRIDE THIS DETAIL WHERE TRENCH IS LOCATED WITHIN A COUNTY RIGHT-OF-WAY.

DATE: 08/06/14 NOT TO SCALE

STANDARD DETAIL NO. 6.12
LEE COUNTY UTILITIES
RESTRAINED LENGTH SCHEDULE

N.T.S.

DUCTILE IRON PIPE

PIPE SIZE (Inches)	MINIMUM RESTRAINED PIPE LENGTH (FEET) HORIZONTAL BENDS 90°	45°	22-1/2°	11-1/4°	DEAD END	HORIZONTAL TEE
4	17	7	4	2	29	6
6	23	10	5	2	40	17
8	29	12	6	3	53	29
10	35	14	7	4	63	38
12	41	17	8	4	74	49
16	51	21	11	5	94	66
24	69	29	14	7	131	105
30	81	34	17	8	156	129

PVC PIPE

PIPE SIZE (Inches)	MINIMUM RESTRAINED PIPE LENGTH (FEET) HORIZONTAL BENDS 90°	45°	22-1/2°	11-1/4°	DEAD END	HORIZONTAL TEE
4	20	8	4	2	45	8
6	29	12	6	3	63	25
8	36	15	8	4	83	43
10	44	18	9	5	99	58
12	51	21	11	5	116	74
16	63	26	13	7	149	103
24	87	36	18	9	208	156
30	102	42	21	10	248	194

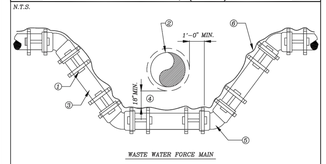
A COMPLETE JOINT RESTRAINING SCHEDULE FOR ALL ENCOUNTERED VERTICAL & HORIZONTAL BENDS, VERTICAL OFFSETS, TEES, AND DEAD ENDS SHALL BE THE RESPONSIBILITY OF THE DESIGN ENGINEER.

LENGTH FIGURES BASED ON FOLLOWING:
Pressure = 150 psi, FS = 1.5, trench type = 3, 30" cover on Bare pipe, Soil type = GP & SP

REV: 12/10/2015

STANDARD DETAIL NO. 6.11
LEE COUNTY UTILITIES
WASTE WATER FORCE MAIN VERTICAL OFFSET WITH FITTINGS, (P.V.C.)

N.T.S.

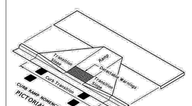


1. LCU APPROVED JOINT RESTRAINT FOR P.V.C., M.J. PIPE AND FITTINGS PLACED IN ACCORDANCE WITH JOINT RESTRAINT SCHEDULE. (SEE DETAIL 6.12)
2. CONFLICT PIPE
3. LCU APPROVED C-900 PVC DR 14
4. 18" MIN. UNLESS OTHERWISE APPROVED BY LCU
5. 45° MECHANICAL JOINT FITTING, TYPICAL
6. 12 GAUGE DOUBLE INSULATED COPPER WIRE (SEE LCU STANDARD DETAIL)

REV: 12/10/2015

STANDARD DETAIL NO. 10.40

DETECTABLE WARNING AND SIDEWALK CURB RAMPS



GENERAL NOTES

1. Sidewalk curb ramps shall be constructed at locations that will provide continuous unobstructed access for pedestrians with disabilities between the sidewalk and the street at all intersections and to accessible pedestrian routes on adjacent sites. Curbed facilities with sidewalks and those without sidewalks are to have curb ramps constructed for all intersections and turnouts with curbed returns. To accommodate curb ramps, partial curb returns are to extend to the limits prescribed in Index No. 515. Ramps constructed at locations without sidewalks are to have a landing constructed at the top of each ramp, see LANDINGS FOR CURB RAMPS WITHOUT SIDEWALKS.
2. When altering existing pedestrian facilities, where existing restricted conditions preclude the accomodation of a ramp slope of 1:10, a ramp slope between 1:12 and 1:10 is permitted for a rise of 6" maximum. Where compliance with the requirements for cross slope cannot be fully met, the minimum feasible cross slope shall be provided. Ramp slopes are not required to exceed 15' in length.
3. If sidewalk curb ramps are located where pedestrians must walk across the ramp, then provide transition slopes to the ramp; otherwise a sidewalk curb may be required.
4. All sidewalks, ramps, and landings with a cross slope of 0.02 shown in this Index are 0.03 maximum. All ramp slopes shown in this Index as 1:12 are 1:12 maximum. Landings shall have slopes less than or equal to 0.02 in any direction.
5. Grade breaks at the top and bottom of ramps shall be parallel to each other and perpendicular to the direction of the ramp slope.
6. Where a sidewalk curb ramp is constructed within existing curb, curb and gutter and/or sidewalk, the ramp shall be set to the elevation of the existing curb, curb and gutter or sidewalk, and shall transition to the ended that no remaining section of curb or curb and gutter is less than 2' long. Existing sidewalks shall be removed to the nearest joint beyond the transition slope or to the extent that no remaining section of sidewalk is less than 5' long. For CONCRETE SIDEWALK details refer to Index 310.
7. Sidewalk curb ramp alpha-identifications are for reference purposes (plans, permits, etc.). Alpha-identifications CR1 and CR-2 were intentionally omitted.
8. Detectable warnings shall extend the full width of the ramp and to a depth of 2'. Detectable warnings shall be constructed in accordance with Specification Section 521. For the layout of detectable warnings, refer to the TYPICAL PLACEMENT OF DETECTABLE WARNINGS details. Detectable warnings shall not be provided in transition slopes.
9. When detectable warnings are placed on a slope greater than 5% shown shall be aligned with the centerline of the ramp; otherwise domes are not required to be aligned.
10. Detectable warnings shall be required on sidewalks at:
a. Intersecting roads,
b. Flared sides of ramps greater than or equal to 6' in width,
c. Railroad Crossings,
d. Signalized driveways.
11. Detectable Warnings - Acceptable Criteria
a. Dome size shall be uniform within each uniform.
b. 80% of individual truncated domes shall be in accordance with the Americans with Disabilities Act Standards for Transportation Facilities, Section 705.
c. There shall be no more than 4 non-compliant domes in any one square foot.
d. Non-compliant domes shall not be adjacent to other non-compliant domes.
e. Surface shall not deviate more than 0.05 from a true plane.
12. Detectable warnings shall be installed no greater than 9 from the back of curb or edge of pavement.
13. Detectable warnings shall not be installed over grade breaks.

LEGEND

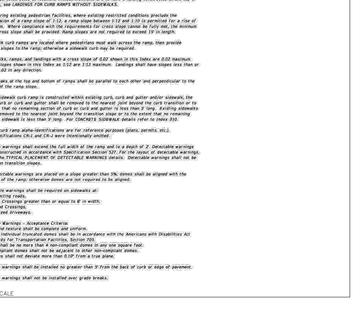
Detectable Warnings

FOR MORE INFORMATION REFER TO FDOT INDEX 304 (SHEETS 1-7).

DATE: 08/06/14 NOT TO SCALE

STANDARD DETAIL NO. 6.16
LEE COUNTY UTILITIES
WATER SERVICE INSTALLATION 5/8" THROUGH 1"

N.T.S.

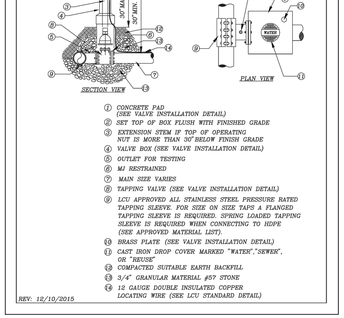


NOTES:
1. TUBING UNDER ROADWAY SHALL BE ENCASED IN 4" P.V.C. PIPE SCHEDULE 40 MINIMUM AND EXTEND 4 FEET BEYOND THE EDGES OF PAVEMENT OR BACK OF CURB.

REV: 12/10/2015

STANDARD DETAIL NO. 6.1
LEE COUNTY UTILITIES
TAPPING SLEEVE AND VALVE

N.T.S.



1. CONCRETE PAD (SEE VALVE INSTALLATION DETAIL)
2. SET TOP OF BOX FLUSH WITH FINISHED GRADE
3. EXTENSION STEM IF TOP OF OPERATING NUT IS MORE THAN 30" BELOW FINISH GRADE
4. VALVE BOX (SEE VALVE INSTALLATION DETAIL)
5. OUTLET FOR TESTING
6. MJ RESTRAINED
7. MAIN SIZE VARIES
8. TAPPING VALVE (SEE VALVE INSTALLATION DETAIL)
9. LCU APPROVED ALL STAINLESS STEEL PRESSURE RATED TAPPING SLEEVE. FOR SIZE ON SIZE TAPS A FLANGED TAPPING SLEEVE IS REQUIRED. SPRING LOADED TAPPING SLEEVE IS REQUIRED WHEN CONNECTING TO HDPE (SEE APPROVED MATERIAL LIST).
10. BRASS PLATE (SEE VALVE INSTALLATION DETAIL)
11. CAST IRON DROP COVER MARKED "WATER", "SEWER", OR "REUSE"
12. COMPACTED SUITABLE EARTH BACKFILL
13. 3/4" GRANULAR MATERIAL #57 STONE
14. 12 GAUGE DOUBLE INSULATED COPPER LOCATING WIRE (SEE LCU STANDARD DETAIL)

REV: 12/10/2015

REVISIONS	DATE	BY
0. INITIAL SUB	05/16/23	TG
1. CITY CMNTS	10/17/23	TG

SPEATH ENGINEERING
SPEATH ENGINEERING FL, LLC - 111 BRICKELL AVE, 16TH FL
MIAMI, FL 33131 - PHONE: 305-834-4213

DETAILS FOR
THE WHALE BAR & RESTAURANT
1249 ESTERO BLVD. FORT MYERS BEACH
LEE COUNTY, FLORIDA

MATTHEW S. SPEATH LICENSE No. 67675 STATE OF FLORIDA PROFESSIONAL ENGINEER

10/17/2023

THIS ITEM HAS BEEN DIGITALLY SIGNED AND SEALED BY MATTHEW S. SPEATH, P.E. ON THE DATE ADJACENT TO THE SEAL. PRINTED COPIES OF THIS DOCUMENT ARE NOT CONSIDERED SIGNED AND SEALED AND THE SIGNATURE MUST BE VERIFIED ON ANY ELECTRONIC COPIES.

MATTHEW S. SPEATH P.E.
LIC. #67675

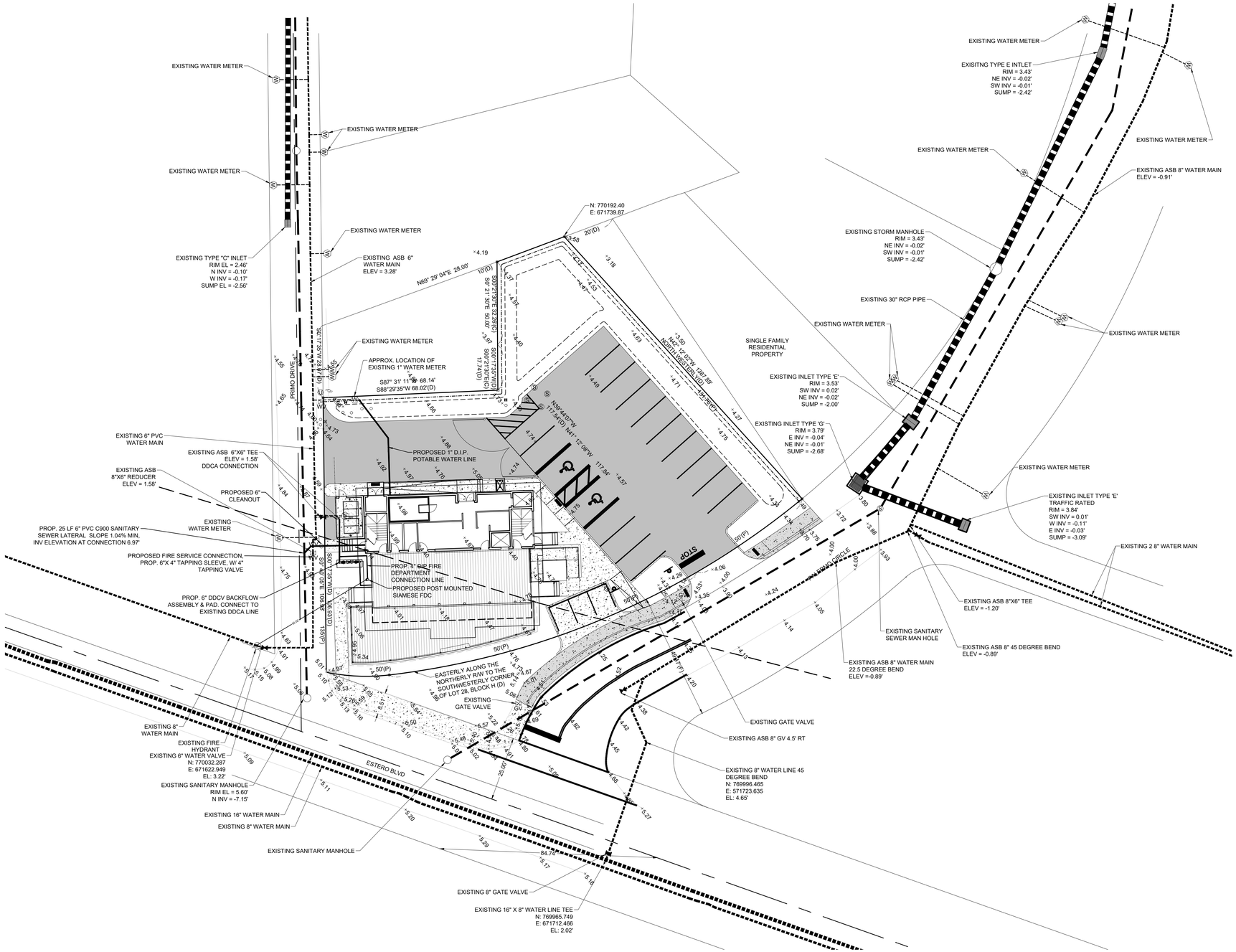
FBPE # 31292

DRAWN	TCC
CHECK	MSS
DATE	10/17/23
SCALE	N.T.S.
PROJ. NO.	F22-58

SHEET:

C4

4 OF 7



UTILITY SCOPE OF WORK:

1. 1" POTABLE WATER SERVICE LINE CONNECTION TO EXISTING WATER METER EXTENDING OFF OF PRIMO DRIVE
2. 6" FIRE LINE WITH DDCA CONNECTED TO EXISTING 6" STUB THAT EXTENDS OFF OF PRIMO DRIVE.
3. PROPOSED 6" SANITARY SEWER LATERAL CONNECTED TO EXISTING 8" SEWER MAIN LOCATED IN PRIMO DRIVE.

UTILITY NOTES:

1. SEE SHEET CS-05 FOR UTILITY DETAILS.
2. SEE MEP PLANS FOR CONTINUATION OF UTILITIES INTO BUILDING.
3. CONTRACTOR SHALL FIELD VERIFY ALL EXISTING UTILITIES AND THEIR LOCATIONS AND ELEVATIONS PRIOR TO STARTING CONSTRUCTION AND ALERT ENGINEER TO ANY DISCREPANCIES, CONCERNS, OR CONFLICTS IMMEDIATELY.
4. THE CONTRACTOR SHALL CONTACT PUBLIC UTILITIES INSPECTIONS AT LEAST 72 HOURS PRIOR TO ANY CONSTRUCTION ACTIVITY.
   ALL WORK TO BE DONE IN STRICT ACCORDANCE WITH LOCAL GOVERNING CODES.
5. ALL NON-METALLIC PIPE WILL BE INSTALLED WITH 2 PAIR, 10 GAUGE, COPPER TRACE WIRE.
6. THE WET TAP SHALL BE CONSTRUCTED UNDER THE CITY'S SUPERVISION.
7. THE CONTRACTOR SHALL COORDINATE WITH THE CITY'S INSPECTOR AND UTILITY DEPARTMENT FOR ITEMS TO BE CONSTRUCTED AND/OR INSPECTED BY UTILITIES / PUBLIC WORKS.
8. ALL UTILITIES SHALL MAINTAIN AT LEAST 3 FEET OF COVER. DEFLECT WATER AND FORCE MAIN AS NECESSARY TO ACHIEVE MINIMUM REQUIREMENTS.
9. CONTRACTOR SHALL PROTECT ALL ITEMS OUTSIDE LIMITS OF CONSTRUCTION UNLESS OTHERWISE NOTED IN THE CONSTRUCTIONS PLANS OR SPECIFICATIONS.
10. WATER SUPPLY SHALL COMPLY NFPA- I, CHAPTER 18.3
11. DEWATERING, IF NECESSARY: SHALL COMPLY WITH ALL CITY AND STATE REQUIREMENTS. IF A PERMIT IS REQUIRED, IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO COORDINATE. CONTRACTOR SHALL COORDINATE MAINTENANCE OF TRAFFIC (MOT) PLAN WITH CITY OF MIAMI PRIOR TO CONSTRUCTION WITHIN THE RIGHT-OF-WAY.

GRAPHIC SCALE

10 0 5 10 20 40

(IN FEET)
1" = 20 FEET

REVISIONS	DATE	BY
0. INITIAL SUB	05/16/23	TG
1. CITY CMNTS	10/17/23	TG

SPEATH ENGINEERING
SPEATH ENGINEERING FL, LLC - 111 BRICKELL AVE, 10TH FL.
MIAMI, FL 3313 - PHONE: 305-834-4213

UTILITY PLAN
FOR
THE WHALE BAR & RESTAURANT
1249 ESTERO BLVD. FORT MYERS BEACH
LEE COUNTY, FLORIDA

MATTHEW S. SPEATH
LICENSE
No. 67675
STATE OF FLORIDA
PROFESSIONAL ENGINEER

10/17/2023

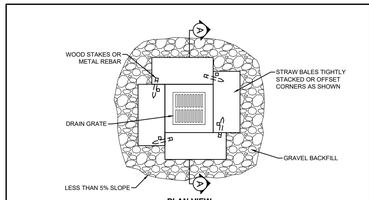
THIS ITEM HAS BEEN DIGITALLY SIGNED AND SEALED BY MATTHEW S SPEATH, P.E. ON THE DATE ADJACENT TO THE SEAL. PRINTED COPIES OF THIS DOCUMENT ARE NOT CONSIDERED SIGNED AND SEALED AND THE SIGNATURE MUST BE VERIFIED ON ANY ELECTRONIC COPIES

MATTHEW S. SPEATH P.E.
LIC. #67675

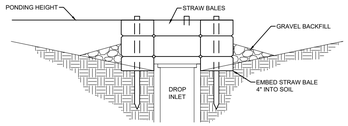
FBPE # 31292

DRAWN	TCG
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DATE	10/17/23
SCALE	1" =20'
PROJ. NO.	F22-58

SHEET:
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5 OF 7

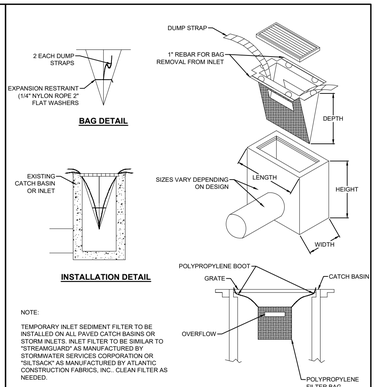


PLAN VIEW



SECTION A-A

NOTE:
1. DROP INLET SEDIMENT BARRIERS ARE TO BE USED FOR SMALL, NEARLY LEVEL DRAINAGE AREAS. (LESS THAN 5%)
2. EMBED THE BALES 4" INTO THE SOIL AND OFFSET CORNERS OR PLACE BALES WITH ENDS TIGHTLY ABUTTING. GRAVEL BACKFILL WILL PREVENT EROSION OR FLOW AROUND THE BALES.
3. THE TOP OF THE STRUCTURE (PONDING HEIGHT) MUST BE WELL BELOW THE GROUND ELEVATION DOWNSLOPE TO PREVENT RUNOFF FROM BYPASSING THE INLET. EXCAVATION OF A BASIN ADJACENT TO THE DROP INLET OR A TEMPORARY DIKE ON THE DOWNSLOPE OF THE STRUCTURE MAY BE NECESSARY.



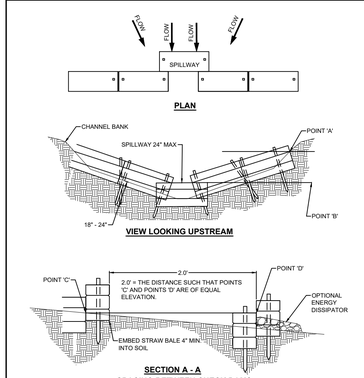
BAG DETAIL

INSTALLATION DETAIL

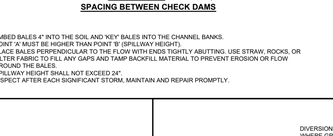
NOTE:

TEMPORARY INLET SEDIMENT FILTER TO BE INSTALLED ON ALL PAVED CATCH BASINS OR STORM INLETS. INLET FILTER TO BE SIMILAR TO "STREAMGUARD" AS MANUFACTURED BY STORMWATER SERVICES CORPORATION OR "SILTSACK" AS MANUFACTURED BY ATLANTIC CONSTRUCTION FABRICS, INC.. CLEAN FILTER AS NEEDED.

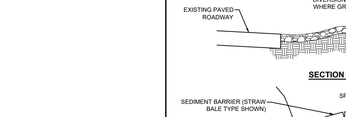
NOTE:
1. CONTRACTOR SHALL OBTAIN PERMISSION OF THE ENFORCING ROAD AGENCY BEFORE THIS TYPE OF CONTROL IS CONSTRUCTED IN THE ROAD RIGHT-OF-WAY.
2. CONTRACTOR SHALL KEEP CURBS & GUTTER INLET FILTERS (AFTER PAVING) IN PLACE UNTIL ALL AREAS CONTRIBUTING TO THEM ARE STABILIZED WITH VEGETATION.
3. CONTRACTOR SHALL PERFORM WEEKLY INSPECTION AND MAINTENANCE TO ENSURE THAT THE CURB & GUTTER INLET FILTER (AFTER PAVING) OPERATES EFFICIENTLY.



PLAN

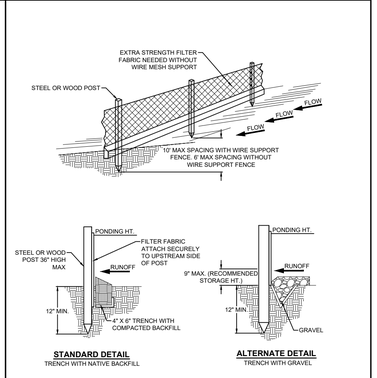


VIEW LOOKING UPSTREAM



SECTION A - A
SPACING BETWEEN CHECK DAMS

NOTE:
1. EMBED BALES 4" INTO THE SOIL AND "KEY" BALES INTO THE CHANNEL BANKS.
2. POINT 'A' MUST BE HIGHER THAN POINT 'B' (SPILLWAY HEIGHT).
3. PLACE BALES PERPENDICULAR TO THE FLOW WITH ENDS TIGHTLY ABUTTING. USE STRAW, ROCKS, OR FILTER FABRIC TO FILL ANY GAPS AND TAMP BACKFILL MATERIAL TO PREVENT EROSION OR FLOW AROUND THE BALES.
4. SPILLWAY HEIGHT SHALL NOT EXCEED 24".
5. INSPECT AFTER EACH SIGNIFICANT STORM, MAINTAIN AND REPAIR PROMPTLY.



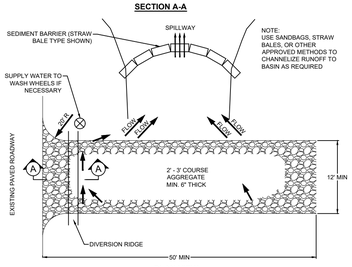
STANDARD DETAIL
TRENCH WITH NATIVE BACKFILL

ALTERNATE DETAIL
TRENCH WITH GRAVEL

NOTE:
1. INSPECT AND REPAIR FENCE AFTER EACH STORM EVENT AND REMOVE SEDIMENT WHEN NECESSARY.
2. REMOVED SEDIMENT SHALL BE DEPOSITED TO AN AREA THAT WILL NOT CONTRIBUTE SEDIMENT OFF-SITE AND CAN BE PERMANENTLY STABILIZED.
3. SILT FENCE SHALL BE PLACED ON SLOPE CONTOURS TO MAXIMIZE PONDING EFFICIENCY.

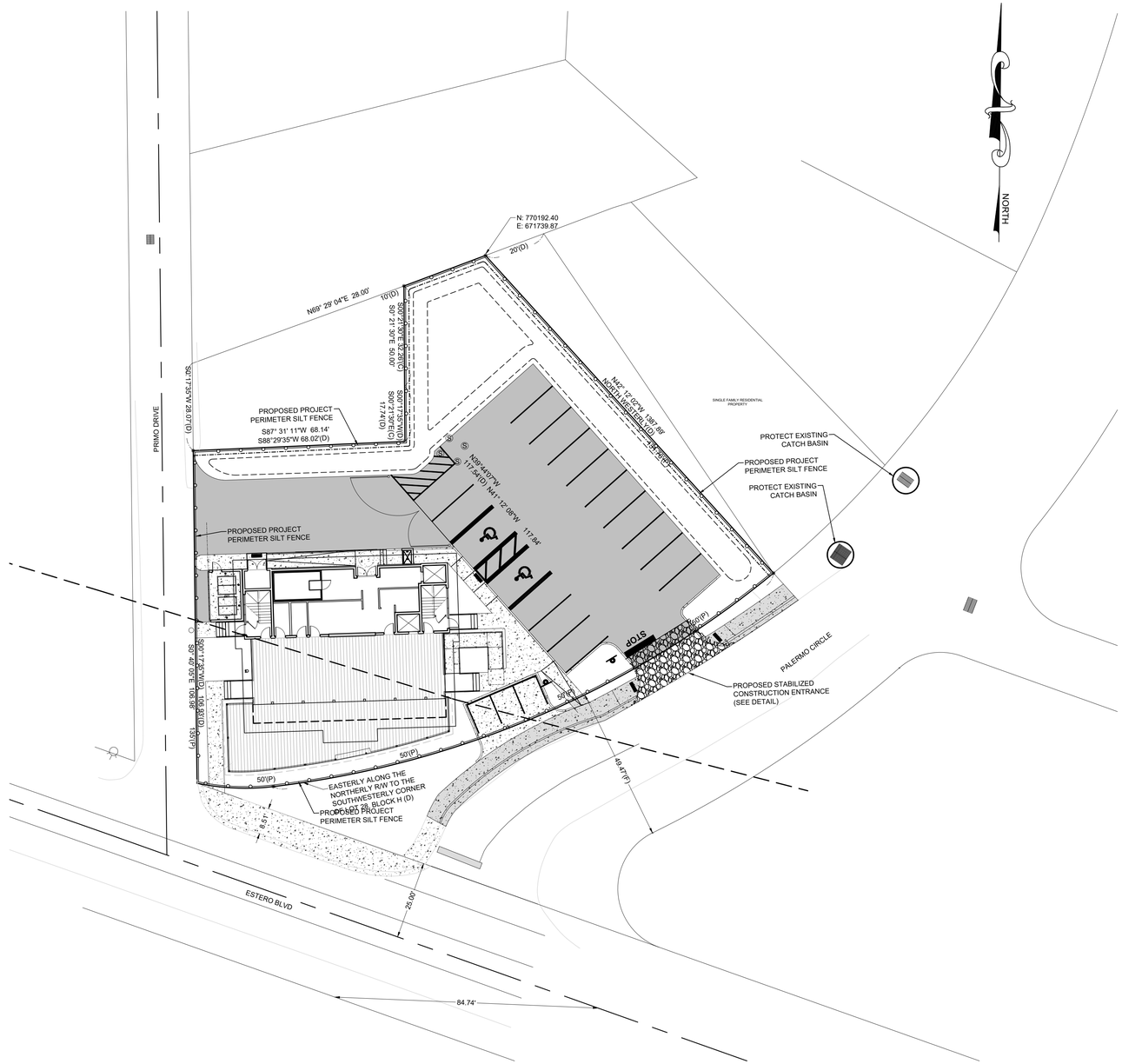


SECTION A-A



PLAN VIEW

NOTE:
1. THE ENTRANCE SHALL BE MAINTAINED IN A CONDITION THAT WILL PREVENT TRACKING OR FLOWING OF SEDIMENT ONTO PUBLIC RIGHTS-OF-WAY. THIS MAY REQUIRE TOP DRESSING, REPAIR, AND/OR CLEANOUT OF ANY MEASURES USED TO TRAP SEDIMENT.
2. WHEN NECESSARY, WHEELS SHALL BE CLEANED PRIOR TO ENTRANCE ONTO PUBLIC RIGHT-OF-WAY.
3. WHEN WASHING IS REQUIRED, IT SHALL BE DONE ON AN AREA STABILIZED WITH CRUSHED STONE THAT DRAINS INTO AN APPROVED SEDIMENT TRAP OR SEDIMENT BASIN.



LEGEND

PROPOSED FLOW LINE OF SWALE
SILT FENCE / STAKED HAY BALES
SOD
ROCK
FILTER FABRIC

GRAPHIC SCALE

10 0 5 10 20 40

(IN FEET)
1" = 20 FEET

EROSION AND SEDIMENT CONTROL NOTES:

1. CONTRACTOR SHALL TAKE APPROPRIATE MEASURES TO MINIMIZE RUN-OFF FROM THE PROJECT DURING CONSTRUCTION TO ADJACENT PROPERTIES AND STREET RIGHT-OF-WAYS BY INSTALLING A SILT FENCE
2. EXISTING CATCH BASINS IN STREET RIGHT-OF-WAYS WITHIN 50 FEET OF PROJECT LIMITS SHALL BE PROTECTED WITH BALED HAY BARRIERS. EXISTING CATCH BASINS NOTED SHALL BE CLEANED AFTER CONSTRUCTION OF PROJECT.
3. CONTRACTOR SHALL MAINTAIN ADJACENT STREETS AND SWALES IN A CLEAN AND DEBRIS-FREE CONDITION.

POLLUTION PREVENTION NOTES:

1. ALL PERVIOUS AREAS NOT SODDED SHALL BE SEEDED AND MULCHED AFTER CONSTRUCTION
2. NO CLEARING, FILLING, OR STAGING TO OCCUR OUTSIDE THE DESIGNATED LIMIT OF DEVELOPMENT AREA.

REVISIONS	DATE	BY
0. INITIAL SUB	05/16/23	TG
1. CITY CMNTS	10/17/23	TG

SPEATH ENGINEERING
SPEATH ENGINEERING FL, LLC - 111 BRICKELL AVE, 10TH FL.
MIAMI, FL 33131 - PHONE: 305-834-4213

SWPPP
FOR
THE WHALE BAR & RESTAURANT
1249 ESTERO BLVD. FORT MYERS BEACH
LEE COUNTY, FLORIDA

MATTHEW S. SPEATH LICENSE No. 67675 STATE OF FLORIDA PROFESSIONAL ENGINEER

10/17/2023

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MATTHEW S. SPEATH P.E.
LIC. #67675

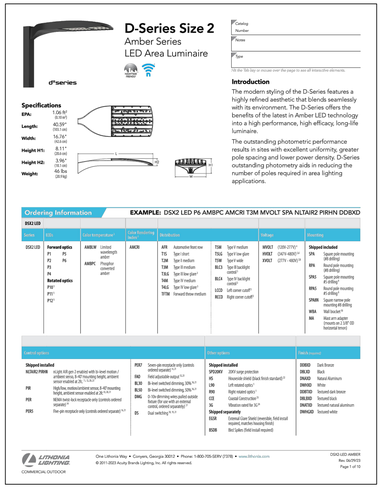
FBPE # 31292

DRAWN	TCG
CHECK	MSS
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SCALE	1" =20'
PROJ. NO.	F22-58

SHEET:
C6
6 OF 7

PUBLIC PARKING AREA DATA			
PROVIDED	PROVIDED	ALLOWABLE BY CODE	CODE COMPLIANT
INTIAL ACTUAL (FC)	0.8 (MIN), 3.5 (MAX)	0.8 (MIN)	YES
INTIAL UNIFORMITY AVERAGE	2.26:1	4:1	YES

NOTE: CALCULATIONS ARE REFLECTIVE OF PUBLIC PARKING AREA DELINEATED ON PLAN ONLY.



D-Series Size 2
Amber Series
LED Area Luminaire

Catalog Number
Notes
Type

d*series

Specifications

EPA: 1.06 ft² (0.10 m²)
Length: 40.59" (103.1 cm)
Width: 16.76" (42.6 cm)
Height (H1): 8.11" (20.6 cm)
Height (H2): 3.94" (10.1 cm)
Weight: 46 lbs (20.9 kg)

Introduction

The modern styling of the D-Series features a highly refined aesthetic that blends seamlessly with its environment. The D-Series offers the benefits of the latest in Amber LED technology into a high performance, high efficacy, long-life luminaire.

The outstanding photometric performance results in sites with excellent uniformity, greater pole spacing and lower power density. D-Series outstanding photometry aids in reducing the number of poles required in area lighting applications.

Ordering Information EXAMPLE: DSX2 LED P6 AMBPC AMCRI T3M MVOLT SPA NLTAIR2 PIRHN DDBXD

DSX2 LED

Series	EOS	Color temperature	Color Consistency	Distribution	Voltage	Mounting
DSX2 LED	Forward optics: P1 P5 P2 P6 P3 Rotated optics: P7* P10* P11* P12*	AMBLW Limited wavelength amber AMBPC Phosphor converted amber	AMCRI	AFR Automotive front row; T1S Type I short; T2M Type II medium; T3M Type III medium; T4VS Type IV Visor glare*; T4W Type IV medium; T4FA Type IV Low glare*; T5FW Forward throw medium; T5W Type V medium; T5VS Type V Low glare; T5VW Type V wide; BLC3 Type III backlight control*; BLC4 Type IV backlight control*; LCCO Left corner cutoff*; RCCO Right corner cutoff*	MVOLT (120V-277V)*; HVOLT (347V-480V)*; XVOLT (277V - 480V)*	Shipped included: SPA Square pole mounting (#8 drilling); RPA Round pole mounting (#8 drilling); SPA35 Square pole mounting (#7 drilling)*; RPA35 Round pole mounting (#7 drilling)*; SPA90 Square narrow pole mounting (#8 drilling); WBA Wall bracket*; WA Wall arm adapter (mounts on 3 3/8" OD horizontal tenon)

Control options	Other options	Finish (required)
Shipped installed: NLTAIR2 PIRHN (nLight AIR 2 generation 2 sensor for pole/wall mounting at 8'-15' mounting height, ambient sensor enabled at 3fc, 1-10V)*; PIR (High/low, motion/ambient sensor, 8'-40' mounting height, ambient sensor enabled at 3fc)*; PER (NEMA twist-lock receptacle only (controls ordered separately))*; PIRBT (Bluetooth enabled sensor, 8'-40' mounting height, ambient sensor enabled at 3fc)*; PERBT (NEMA twist-lock receptacle only (controls ordered separately) and Bluetooth)*; PIR1FC3V (One fan-mounted occupancy sensor for 8'-15' mounting height, ambient sensor enabled at 1fc, 3V)*; PIR1FC3V-DALI (One fan-mounted occupancy sensor for 8'-15' mounting height, ambient sensor enabled at 1fc, DALI)*; PIRH1FC3V (One fan-mounted occupancy sensor for 15'-40' mounting height, ambient sensor enabled at 1fc, 3V)*; PIRH1FC3V-DALI (One fan-mounted occupancy sensor for 15'-40' mounting height, ambient sensor enabled at 1fc, DALI)*; PIRHN (High/low, motion/ambient sensor, 8'-40' mounting height, ambient sensor enabled at 3fc, nLight)*; PIR1FC3V-SF (One fan-mounted occupancy sensor for 8'-15' mounting height, ambient sensor enabled at 1fc, 3V, Sensor Farm)*; PIRH1FC3V-SF (One fan-mounted occupancy sensor for 15'-40' mounting height, ambient sensor enabled at 1fc, 3V, Sensor Farm)*; PIRHN-SF (High/low, motion/ambient sensor, 8'-40' mounting height, ambient sensor enabled at 3fc, nLight, Sensor Farm)*; PIRBT-SF (Bluetooth enabled sensor, 8'-40' mounting height, ambient sensor enabled at 3fc, Sensor Farm)*; PIRHN-DALI (High/low, motion/ambient sensor, 8'-40' mounting height, ambient sensor enabled at 3fc, nLight, DALI)*; PIRBT-DALI (Bluetooth enabled sensor, 8'-40' mounting height, ambient sensor enabled at 3fc, DALI)*; PIRBT-0-10V (Bluetooth enabled sensor, 8'-40' mounting height, ambient sensor enabled at 3fc, 0-10V)*; PIRBT-SF-0-10V (Bluetooth enabled sensor, 8'-40' mounting height, ambient sensor enabled at 3fc, 0-10V, Sensor Farm)*; PIRBT-SF-DALI (Bluetooth enabled sensor, 8'-40' mounting height, ambient sensor enabled at 3fc, DALI, Sensor Farm

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: 1249 Estero Blvd Ft Myers Beach, FL 33931

STRAP Number: 19-46-24-W4-0060H.0300

Applicant: Fowler Construction & Development Phone: 239-275-7000

Contact Name: Robert Fowler Phone: 239-275-7000

Email: robjr@fowlercompany.com Fax: _____

Current Zoning District: Downtown

Future Land Use Map (FLUM) Category: Pedestrian Commercial

FLUM Density Range: _____ Platted Overlay: ☐ YES ☐ NO

ACTION REQUESTED	SUPPLEMENTAL FORM REQUIRED
☐ Special Exception	PH-A
☑ Variance	PH-B
☐ Conventional Rezoning	PH-C
☐ Planned Development ☐ Commercial ☐ Residential	PH-D
☐ Master Concept Plan Extension	PH-E
☐ Appeal of Administrative Action	PH-F
☐ Vacation of Platted Right-of-way and Easement	PH-G
☐ Other – cite LDC Section: _____	attach on separate sheet

PART I – General Information

A. Applicant*: Fowler Construction & Development Phone: 239-275-7000

**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: 10491 6 Mile Cypress Pkwy Ste. 280 Ft Myers, FL 33966

Email: robjr@fowlercompany.com Fax: _____

Contact Name: Robert Fowler Phone: 239-275-7000

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

B. Relationship of Applicant to subject property:

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

**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: Erin Pomerantzeff Phone: 239-275-7000
Address: 10491 6 Mile Cypress Pkwy Ste. 280 Ft Myers, FL 33966
Email: erin@fowlercompany.com Fax: _____

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

Name: Cheryl Lemke Phone: 239-275-7000
Address: 10491 6 Mile Cypress Pkwy Ste. 280 Ft Myers, FL 33966
Email: cheryl@fowlercompany.com Fax: _____

Name: Matt Woods Phone: 239-603-3133
Address: 10491 6 Mile Cypress Pkwy Ste. 280 Ft Myers, FL 33966
Email: matt@fowlercompany.com Fax: _____

PART II – Nature of Request

Requested Action (each request requires a separate application)

☐ Special Exception
☑ Variance from LDC Section 34 - 2020(d)(2)h.2
☐ Conventional Rezoning from _____ to _____
☐ Planned Development
☐ Rezoning from _____ to ☐ Commercial PD ☐ Residential PD
☐ Amendment. List the project number: _____
☐ Extension/reinstatement of Master Concept Plan. List project number: _____

☐ Appeal of Administrative Action

☐ Vacation ☐ Right-of-Way ☐ Easement

☑ Other. Please Explain: Parking Variance

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: 1249 ESTERO ADVENTURES LLC Phone: 614-361-1982

Mailing Address: 290 BAHIA VIA FORT MYERS BEACH FL 33931

Email: mike@ideal-investments.com Fax: n/a

AFFIDAVIT
APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

I, Robert Fowler 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.

_____ Robert Fowler - Pres
Signature Printed Name

STATE OF _____ COUNTY OF _____

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

(SEAL) _____
Notary Public Signature

PART V
Property Ownership (Multiple Owners)

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

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

DISCLOSURE OF OWNERSHIP INTEREST

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

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

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

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

Name, Address and Office	Percentage of Stock

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
Michael Miller- 290 Bahia Via Ft Myers, Beach FL 33931	100%

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

Name, Address and Office	Percentage of Stock

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

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, Robert Fowler (name), as President (title) of Fowler Construction & Development (company), swear or affirm under oath, that I am the owner or the authorized representative of the owner(s) of the property and that:

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

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

1249 Estero Adventures LLC
Name of Entity (corporation, partnership, LLP, LLC, etc)

Signature _____ Title _____

Michael Miller
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: 19-46-24-W4-0060H.0300

Property Address: 1249 Estero Blvd Ft Myers, Beach FL 33931

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

☐ No. Attach a legible copy of the legal description as Exhibit 6-1.

☑ Yes. Property identified in subdivision: Venetian Gardens

Book: 6 Page: 70 Unit: _____ Block: H Lot(s): 30,31,32

B. Boundary Survey:

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

C. Property Dimensions:

Width (please provide an average width if irregular in shape) irregular 150 feet

Depth (please provide an average width if irregular in shape) irregular 150 feet

Frontage on street: <68' (Estero Blvd) feet. Frontage on waterbody: 0 feet

Total land area: 16580+/- ☐ acres ☑ square feet

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

From Sky Bridge take a left onto Estero Blvd turn left on Palermo Circle

☑ Attach Area Location Map as Exhibit 6-3

E. Property Restrictions (check applicable):

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

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

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

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

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

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

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

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

☐ Low Density
☐ Mixed Residential
☐ Boulevard
☑ Pedestrian Commercial
☐ Marina
☐ Recreation
☐ Wetlands
☐ Platted Overlay

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

EXPLANATORY NOTES

Please do not print, copy and submit these instructions

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

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

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

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

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

Explanatory Notes – Part I

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

Explanatory Notes – Part II

Indicate the requested action.

Explanatory Notes – Part III

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

Explanatory Notes – Part IV

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

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Phone: 239-765-0202 zoningpermits@fmbgov.com Fax: 239-765-0909

Explanatory Notes – Part V

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

Explanatory Notes – Part VI

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

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Phone: 239-765-0202 zoningpermits@fmbgov.com Fax: 239-765-0909

line. Exhibit 6-2

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

Explanatory Notes – Part IV & V

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

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

Case # _____ Date Received: _____

Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Supplement PH-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: The Whale Restaurant
Authorized Applicant: Robert Fowler - Fowler Construction
LeePA STRAP Number: 19-46-24-W4-0060H.0300

Current Property Status: open in tents as a Special Exception		
Current Zoning: Downtown District		
Future Land Use Map (FLUM) Category: Pedestrian Commercial		
Comp Plan Density:	**Platted Overlay?** ☐ **Yes**	☐ **No**

Variance is requested from:

LDC Section Number	**Title of Section or Subsection**
Sec. 34-676. - Circulation and parking.	

Complete the narrative statements below for EACH variance requested.

Case # _____ Date Received: _____

PART I

Narrative Statements

Request for variance from Sec. 34-676. **(LDC Section number)**

Explain the specific regulation contained in this section from which relief is sought:
Required: 6,767sf / 1000 * 8 = 80.504 * .67 reduction = 36.271 spaces (37 spaces) - 1 bike rack = 36 spaces

Reasons for request

Explain why the variance is needed:
The Whale Restaurant operated for decades on this site prior to Hurricane Ian which completely destroyed the
building. The owners wish to reopen the iconic beach restaurant, but obviously in a new building on the site.
Current FMB Code required parking = 36 spaces. Request to reduce to 18. (max possible)

Explain the possible effect the variance, if granted, would have on surrounding properties:
The requested parking Variance will improve conditions for the surrounding properties
by allowing the reconstruction of the property to current standards and code.
The new project includes compliant setbacks, buffers, vehicular and pedestrian access, and storm water management.
These are all drastic improvements over the pre-Ian conditions as none of these met current code.
The property use was and is complaint with Zoning and Future Land Use so there is no negative impact to surrounding properties.
The new project will be storm resistant (to current code) and therefore not a hazard to nearby properties.
Improved parking and site access will reduce traffic conflicts on Primo and Palermo (cars backing into streets etc).

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

The site shape is highly irregular making "normal" and code compliant parking
very challenging to layout. (see attached docs)
The proposed site design maximizes code conforming parking spaces while
meeting other site development requirements.
The proposed plan increases code complaint parking.
Prior to Hurricane Ian there were 18 total parking spaces - possibly 9 would be
currently code compliant.
The project is consistent with Zoning and FLU and with nearby development.

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.
Consideration 1: Meets the (5) required findings in Section (c)
Finding #1:
There ARE exceptional or extraordinary conditions that are inherent to the property in question.
- As noted previously, the site configuration is highly irregular. It was also impacted by past street realignment.
Finding #2:
The conditions justifying the variance ARE NOT the result of actions of the applicant taken after the adoption of the regulation in question.
Finding #3:
The variance granted IS the minimum variance that will relieve the applicant of an unreasonable
burden caused by the application of the regulation in question to his property;
Finding #4:
The granting of the variance WILL NOT be injurious to the neighborhood or otherwise detrimental to the public welfare.
Finding #5:
The conditions or circumstances on the specific piece of property for which the variance is sought ARE NOT of so general or
recurrent a nature as to make it more reasonable and practical to amend the regulation in question.
Consideration 2: Staff and LPA Recommendations
The application has been extensively reviewed with Town Staff. See Staff Report
LPA Review is pending at the time of this application.
Consideration 3: Testimony from the Applicant - see attached
Consideration 4: Testimony from the Public - see attached

Case # _____ Date Received: _____

PART 2
Submittal Requirements

All applications for a variance must be submitted electronically through our Iworq portal - iworq (talktomycity.com)

Required Items

- Public Hearing Request Form
- Supplemental form PH-B
- Site Plan (to scale) including the current use of all existing structures on the site, and those on adjacent properties within 100 feet of the perimeter; and a clear illustration of the proposed variance
- Fee in the amount of $1800.00 (residential)/Additional Variance $500.00
- Variance (non-residential) $2800.00/ Additional Variance $700.00

Guide to filing PH-B Additional Required Information for a Variance Application

Cover page

Case Number will be inserted by Community Development staff.
Project Name must be the same as the name used on the Request for Public Hearing form.
Applicant must be the same as on the Request for Public Hearing form.
STRAP numbers must be the same as on the Request for Public Hearing form.
Current status of property must be the same as on the Request for Public Hearing form.
"Variance is requested from…" Provide the section number and title of each section of the Fort Myers Beach Land Development Code from which a variance is being sought.

Narrative statements

If the application is for multiple variances, complete all of the narrative statements for each variance that is requested.

Site plan

The site plan must show all existing structures on the site; all existing structures within 100 feet of the perimeter boundary of the site; and a clear illustration of the proposed variance.

LDC Section 34-87

The guidelines for decision-making regarding a request for a variance are as follows:

1. Whether there are exceptional or extraordinary conditions or circumstances that are inherent to the property in question, or whether the request is for a *de minimis* variance under circumstances or conditions where rigid compliance is not necessary to protect public policy;
2. Whether the exceptional or extraordinary conditions justifying the variance are or are not the result of actions of the applicant taken after the adoption of the regulation in question;
3. Whether the requested variance is the minimum variance to relieve the applicant of an unreasonable burden caused by the application of the regulation in question;
4. Whether granting the variance would be injurious to the neighborhood or otherwise detrimental to the public welfare;
5. Whether the conditions or circumstances of the specific piece of property or the intended use of the property for which the variance is sought are of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.

Sec. 34-2020. - Required parking spaces.

(a) *New developments.* New residential and nonresidential uses must provide off-street parking spaces in single-purpose parking lots in accordance with the standards specified in this section, as modified by certain reductions as provided in the Downtown and Santini zoning districts (see division 5 of article III of this chapter).

(b) *Bicycle parking.* Commercial, multiple-family, and mixed-use buildings may eliminate one required parking space by providing and maintaining a bicycle rack able to hold four bicycles.

(c) --

(d) *Minimum parking standards.*

(2) *Commercial uses.*

h. *Restaurants.* With the exceptions noted below, the minimum parking requirements for restaurants is eight spaces per 1,000 square feet of total floor area plus any outdoor seating area.

1. *Accessory restaurant.* When a restaurant is located within the same building as the principal use, and is clearly provided primarily for the employees and customers of the principal use, no additional parking spaces are required.

2. *Bars and cocktail lounges.* If the restaurant contains a cocktail lounge or bar, the minimum requirement is eight spaces per 1,000 square feet of total floor area plus five additional spaces per 1,000 square feet of floor area used for the bar or cocktail lounge. If outdoor seating is provided, parking must also be provided for the area used for outdoor seating at these same rates.

Sec. 34-676. - Circulation and parking.

(a) *Off-street parking reductions.* The Downtown district is planned as a "park-once" district, with preference given to pedestrian movement within the district. On-street parking will be provided by the town along Old San Carlos Boulevard and other public parking is available under the Sky Bridge. For these reasons, substantial reductions are allowed to the normal off-street parking requirements found in § 34-2020 of this chapter. The follow percentages shall be multiplied by the number of off-street parking spaces normally required by § 34-2020 of this chapter to determine the adjusted off-street parking requirements along various streets in the Downtown district:

(4) All other streets in the Downtown district, and all land on Crescent Street regardless of zoning district, multiply by 67 percent.

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: The Whale Restaurant
Authorized Applicant: Robert Fowler - Fowler Construction
LeePA STRAP Number: 19-46-24-W4-0060H.0300

Current Property Status: open in tents as a Special Exception			
Current Zoning: Downtown District			
Future Land Use Map (FLUM) Category: Pedestrian Commercial			
Comp Plan Density:	**Platted Overlay?**	☐ **Yes**	☑ **No**

Variance is requested from:

LDC Section Number	**Title of Section or Subsection**
Sec. 34-2020(d)(2)h.2.	Required Parking Spaces

Complete the narrative statements below for EACH variance requested.

Case # _____ Date Received: _____

PART I

Narrative Statements

Request for variance from Sec. 34-2020. **(LDC Section number)**

Explain the specific regulation contained in this section from which relief is sought:
Required: 9,300sf / 1000 * 8 = 74.4 * .67 reduction = 49.85 spaces (50 spaces) - 1 bike rack = 49 spaces
Add for bars: 596sf / 1000 * 5 = 2.98 *.67 reduction = 1.99 spaces (2 spaces) + 49 spaces = 51 spaces

Reasons for request

Explain why the variance is needed:
The Whale Restaurant operated for decades on this site prior to Hurricane Ian which completely destroyed the
building. The owners wish to reopen the iconic beach restaurant, but obviously in a new building on the site.
Current FMB Code required parking = 51 spaces. Request to reduce to 18. (max possible)

Explain the possible effect the variance, if granted, would have on surrounding properties:
The requested parking Variance will improve conditions for the surrounding properties
by allowing the reconstruction of the property to current standards and code.
The new project includes compliant setbacks, buffers, vehicular and pedestrian access, and storm water management.
These are all drastic improvements over the pre-Ian conditions as none of these met current code.
The property use was and is complaint with Zoning and Future Land Use so there is no negative impact to surrounding properties.
The new project will be storm resistant (to current code) and therefore not a hazard to nearby properties.
Improved parking and site access will reduce traffic conflicts on Primo and Palermo (cars backing into streets etc).

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

The site shape is highly irregular making "normal" and code compliant parking
very challenging to layout. (see attached docs)
The proposed site design maximizes code conforming parking spaces while
meeting other site development requirements.
The proposed plan increases code complaint parking.
Prior to Hurricane Ian there were 18 total parking spaces - possibly 9 would be
currently code compliant.
The project is consistent with Zoning and FLU and with nearby development.

Explain how the property qualifies for a variance. Direct this explanation to the guidelines for decision-making in LDC Section 34-87.
Consideration 1: Meets the (5) required findings in Section (c)
Finding #1:
There ARE exceptional or extraordinary conditions that are inherent to the property in question.
- As noted previously, the site configuration is highly irregular. It was also impacted by past street realignment.
Finding #2:
The conditions justifying the variance ARE NOT the result of actions of the applicant taken after the adoption of the regulation in question.
Finding #3:
The variance granted IS the minimum variance that will relieve the applicant of an unreasonable
burden caused by the application of the regulation in question to his property;
Finding #4:
The granting of the variance WILL NOT be injurious to the neighborhood or otherwise detrimental to the public welfare.
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The conditions or circumstances on the specific piece of property for which the variance is sought ARE NOT of so general or
recurrent a nature as to make it more reasonable and practical to amend the regulation in question.
Consideration 2: Staff and LPA Recommendations
The application has been extensively reviewed with Town Staff. See Staff Report
LPA Review is pending at the time of this application.
Consideration 3: Testimony from the Applicant - see attached
Consideration 4: Testimony from the Public - see attached

PART 2
Submittal Requirements

All applications for a variance must be submitted electronically through our Iworq portal - iworq (talktomycity.com)

Required Items

- Public Hearing Request Form
- Supplemental form PH-B
- Site Plan (to scale) including the current use of all existing structures on the site, and those on adjacent properties within 100 feet of the perimeter; and a clear illustration of the proposed variance
- Fee in the amount of $1800.00 (residential)/Additional Variance $500.00
- Variance (non-residential) $2800.00/ Additional Variance $700.00

Guide to filing PH-B Additional Required Information for a Variance Application

Cover page

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"Variance is requested from…" Provide the section number and title of each section of the Fort Myers Beach Land Development Code from which a variance is being sought.

Narrative statements

If the application is for multiple variances, complete all of the narrative statements for each variance that is requested.

Site plan

The site plan must show all existing structures on the site; all existing structures within 100 feet of the perimeter boundary of the site; and a clear illustration of the proposed variance.

LDC Section 34-87

The guidelines for decision-making regarding a request for a variance are as follows:

1. Whether there are exceptional or extraordinary conditions or circumstances that are inherent to the property in question, or whether the request is for a *de minimis* variance under circumstances or conditions where rigid compliance is not necessary to protect public policy;
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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: The Whale Restaurant
Authorized Applicant: Robert Fowler - Fowler Construction
LeePA STRAP Number: 19-46-24-W4-0060H.0300

Current Property Status: open in tents as a Special Exception			
Current Zoning: Downtown District			
Future Land Use Map (FLUM) Category: Pedestrian Commercial			
Comp Plan Density:	**Platted Overlay?**	☐ **Yes**	☑ **No**

Variance is requested from:

LDC Section Number	**Title of Section or Subsection**
Sec. 34-2020(d)(2)h.2.	Required Parking Spaces

Complete the narrative statements below for EACH variance requested.

Case # _____ Date Received: _____

PART I

Narrative Statements

Request for variance from Sec. 34-2020. **(LDC Section number)**

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Required: 9,300sf / 1000 * 8 = 74.4 * .67 reduction = 49.85 spaces (50 spaces) - 1 bike rack = 49 spaces
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Explain why the variance is needed:
The Whale Restaurant operated for decades on this site prior to Hurricane Ian which completely destroyed the
building. The owners wish to reopen the iconic beach restaurant, but obviously in a new building on the site.
Current FMB Code required parking = 51 spaces. Request to reduce to 18. (max possible)

Case # _____ Date Received: _____

Explain the possible effect the variance, if granted, would have on surrounding properties:
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by allowing the reconstruction of the property to current standards and code.
The new project includes compliant setbacks, buffers, vehicular and pedestrian access, and storm water management.
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PART 2
Submittal Requirements

All applications for a variance must be submitted electronically through our Iworq portal - iworq (talktomycity.com)

Required Items

- Public Hearing Request Form
- Supplemental form PH-B
- Site Plan (to scale) including the current use of all existing structures on the site, and those on adjacent properties within 100 feet of the perimeter; and a clear illustration of the proposed variance
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Guide to filing PH-B Additional Required Information for a Variance Application

Cover page

Case Number will be inserted by Community Development staff.
Project Name must be the same as the name used on the Request for Public Hearing form.
Applicant must be the same as on the Request for Public Hearing form.
STRAP numbers must be the same as on the Request for Public Hearing form.
Current status of property must be the same as on the Request for Public Hearing form.
"Variance is requested from…" Provide the section number and title of each section of the Fort Myers Beach Land Development Code from which a variance is being sought.

Narrative statements

If the application is for multiple variances, complete all of the narrative statements for each variance that is requested.

Site plan

The site plan must show all existing structures on the site; all existing structures within 100 feet of the perimeter boundary of the site; and a clear illustration of the proposed variance.

LDC Section 34-87

The guidelines for decision-making regarding a request for a variance are as follows:

1. Whether there are exceptional or extraordinary conditions or circumstances that are inherent to the property in question, or whether the request is for a *de minimis* variance under circumstances or conditions where rigid compliance is not necessary to protect public policy;
2. Whether the exceptional or extraordinary conditions justifying the variance are or are not the result of actions of the applicant taken after the adoption of the regulation in question;
3. Whether the requested variance is the minimum variance to relieve the applicant of an unreasonable burden caused by the application of the regulation in question;
4. Whether granting the variance would be injurious to the neighborhood or otherwise detrimental to the public welfare;
5. Whether the conditions or circumstances of the specific piece of property or the intended use of the property for which the variance is sought are of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.

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: The Whale Restaurant
Authorized Applicant: Robert Fowler - Fowler Construction
LeePA STRAP Number: 19-46-24-W4-0060H.0300

Current Property Status: open in tents as a Special Exception			
Current Zoning: Downtown District			
Future Land Use Map (FLUM) Category: Pedestrian Commercial			
Comp Plan Density:	**Platted Overlay?**	☐ **Yes**	☐ **No**

Variance is requested from:

LDC Section Number	**Title of Section or Subsection**
Sec. 34-675. - Building size (b)Building height (2)For properties that front on ...	
d.North side of Estero Boulevard west of Old San Carlos Boulevard	
and east of Crescent Street;	

Complete the narrative statements below for EACH variance requested.

Case # _____ Date Received: _____

PART I
Narrative Statements

Request for variance from Sec. 34-675. **(LDC Section number)**

Explain the specific regulation contained in this section from which relief is sought:
For properties that front on the following streets,... a maximum of 30 feet above base flood elevation
and no taller than two stories, except that an elevated building without enclosed space
on the first story may be three stories tall (but still limited to 30 feet above base flood elevation):
Application seeks relief to allow (2) stories over enclosed space and within the allowed
30' above BFE while including FEMA compliant "enclosed" space below and
while meeting the intent and language of the Zoning and Future Land Use plans.

Reasons for request

Explain why the variance is needed:
The physical limitations of the unusually shaped site and the need to meet current land development codes
including pedestrian and vehicular access require the plan rebuild (2) stories above BFE with supporting
space below to achieve enough space to replace the previous restaurant use.
The nature, intent, and language of the Pedestrian Commercial Future Land Use and Downtown Zoning Sec. 34-671
promotes public use spaces on the street-level. "The purpose of the Downtown district is to create the desired
quality and character for the center of pedestrian-oriented commercial activities within the town."
The proposed plan provides the street-level, pedestrian-oriented activities desired by the Town Code while
complying with FEMA requirements and supporting the overall restaurant operations.

Explain the possible effect the variance, if granted, would have on surrounding properties:
The requested Variance will improve conditions for the surrounding properties
by allowing the reconstruction of the property to current standards and code.
The new project includes compliant setbacks, buffers, vehicular and pedestrian access, and storm water management.
These are all drastic improvements over the pre-Ian conditions as none of these met current code.
The property use was and is complaint with Zoning and Future Land Use so there is no negative impact to surrounding properties.
The new project will be storm resistant (to current code) and therefore not a hazard to nearby properties.
Improved parking and site access will reduce traffic conflicts on Primo and Palermo (cars backing into streets etc).

Explain the hardship (what is unique about the property) that justifies relief from the regulation:
Without this Variance, the Property Owner will not be able to reestablish the
successful, pre-Hurricane Ian, properly Zoned business as is the stated desire
of Town leadership.
The wording of the LDC Section is not clear as to the purpose of the restriction
on number of stories versus overall height.
This proposal meets land development code Height restrictions.
The site shape is highly irregular making "normal" and code compliant
development impossible. (see attached docs)
The proposed plans meet all codes to the greatest extent possible.

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.
Consideration 1: Meets the (5) required findings in Section (c)
Finding #1:
There ARE exceptional or extraordinary conditions that are inherent to the property in question.
- As noted previously, the site configuration is highly irregular. It was also impacted by past street realignment.
Finding #2:
The conditions justifying the variance ARE NOT the result of actions of the applicant taken after the adoption of the regulation in question.
Finding #3:
The variance granted IS the minimum variance that will relieve the applicant of an unreasonable
burden caused by the application of the regulation in question to his property;
Finding #4:
The granting of the variance WILL NOT be injurious to the neighborhood or otherwise detrimental to the public welfare.
Finding #5:
The conditions or circumstances on the specific piece of property for which the variance is sought ARE NOT of so general
or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.
Consideration 2: Staff and LPA Recommendations
The application has been extensively reviewed with Town Staff. See Staff Report
LPA Review is pending at the time of this application.
Consideration 3: Testimony from the Applicant - see attached
Consideration 4: Testimony from the Public - see attached

Case # _____ Date Received: _____

PART 2
Submittal Requirements

All applications for a variance must be submitted electronically through our Iworq portal - iworq (talktomycity.com)

Required Items

- Public Hearing Request Form
- Supplemental form PH-B
- Site Plan (to scale) including the current use of all existing structures on the site, and those on adjacent properties within 100 feet of the perimeter; and a clear illustration of the proposed variance
- Fee in the amount of $1800.00 (residential)/Additional Variance $500.00
- Variance (non-residential) $2800.00/ Additional Variance $700.00

Guide to filing PH-B Additional Required Information for a Variance Application

Cover page

Case Number will be inserted by Community Development staff.
Project Name must be the same as the name used on the Request for Public Hearing form.
Applicant must be the same as on the Request for Public Hearing form.
STRAP numbers must be the same as on the Request for Public Hearing form.
Current status of property must be the same as on the Request for Public Hearing form.
"Variance is requested from…" Provide the section number and title of each section of the Fort Myers Beach Land Development Code from which a variance is being sought.

Narrative statements

If the application is for multiple variances, complete all of the narrative statements for each variance that is requested.

Site plan

The site plan must show all existing structures on the site; all existing structures within 100 feet of the perimeter boundary of the site; and a clear illustration of the proposed variance.

LDC Section 34-87

The guidelines for decision-making regarding a request for a variance are as follows:

1. Whether there are exceptional or extraordinary conditions or circumstances that are inherent to the property in question, or whether the request is for a *de minimis* variance under circumstances or conditions where rigid compliance is not necessary to protect public policy;
2. Whether the exceptional or extraordinary conditions justifying the variance are or are not the result of actions of the applicant taken after the adoption of the regulation in question;
3. Whether the requested variance is the minimum variance to relieve the applicant of an unreasonable burden caused by the application of the regulation in question;
4. Whether granting the variance would be injurious to the neighborhood or otherwise detrimental to the public welfare;
5. Whether the conditions or circumstances of the specific piece of property or the intended use of the property for which the variance is sought are of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.

☐ Appeal of Administrative Action

☐ Vacation ☐ Right-of-Way ☐ Easement

☑ Other. Please Explain: "Height" Variance - the request is NOT to add vertical height above the code restriction. The request is to allow (2) stories over an "enclosed" space within the overall height limit.

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: 1249 ESTERO ADVENTURES LLC Phone: 614-361-1982

Mailing Address: 290 BAHIA VIA FORT MYERS BEACH FL 33931

Email: mike@ideal-investments.com Fax: n/a

AFFIDAVIT
APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

I, Robert Fowler 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

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: 1249 Estero Blvd Ft Myers Beach, FL 33931

STRAP Number: 19-46-24-W4-0060H.0300

Applicant: Fowler Construction & Development Phone: 239-275-7000

Contact Name: Robert Fowler Phone: 239-275-7000

Email: robjr@fowlercompany.com Fax: _____

Current Zoning District: Downtown

Future Land Use Map (FLUM) Category: Pedestrian Commercial

FLUM Density Range: _____ Platted Overlay: ☐ YES ☐ NO

ACTION REQUESTED	SUPPLEMENTAL FORM REQUIRED
☐ Special Exception	PH-A
☑ Variance	PH-B
☐ Conventional Rezoning	PH-C
☐ Planned Development ☐ Commercial ☐ Residential	PH-D
☐ Master Concept Plan Extension	PH-E
☐ Appeal of Administrative Action	PH-F
☐ Vacation of Platted Right-of-way and Easement	PH-G
☐ Other – cite LDC Section: _____	attach on separate sheet

PART I – General Information

A. Applicant*: Fowler Construction & Development Phone: 239-275-7000

**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: 10491 6 Mile Cypress Pkwy Ste. 280 Ft Myers, FL 33966

Email: robjr@fowlercompany.com Fax: _____

Contact Name: Robert Fowler Phone: 239-275-7000

B. Relationship of Applicant to subject property:

- ☐ Owner*
- ☐ Land Trust*
- ☐ Partnership*
- ☐ Corporation*
- ☐ Association*
- ☐ Condominium*
- ☐ Subdivision*
- ☐ Timeshare Condo*
- ☐ Contract Purchaser*
- ■ Authorized Representative*
- ■ Other* (please indicate) Construction Manager

**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: Erin Pomerantzeff Phone: 239-275-7000

Address: 10491 6 Mile Cypress Pkwy Ste. 280 Ft Myers, FL 33966

Email: erin@fowlercompany.com Fax: _____

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

Name: Cheryl Lemke Phone: 239-275-7000

Address: 10491 6 Mile Cypress Pkwy Ste. 280 Ft Myers, FL 33966

Email: cheryl@fowlercompany.com Fax: _____

Name: Matt Woods Phone: 239-603-3133

Address: 10491 6 Mile Cypress Pkwy Ste. 280 Ft Myers, FL 33966

Email: matt@fowlercompany.com Fax: _____

PART II – Nature of Request

Requested Action (each request requires a separate application)

- ☐ Special Exception
- ☑ Variance from LDC Section 34 - 675(b)(2)
- ☐ 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

I have authorized the staff of the Town of Fort Myers Beach Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made thru this application; and that
The property will not be transferred, conveyed, sold or subdivided unencumbered by the conditions and restrictions imposed by the approved action.

Signature

Robert Fowler - Pres
Printed Name

STATE OF FL **COUNTY OF** LEE

The foregoing instrument was certified and subscribed before me by means of X physical presence OR ____ online notarization, this 5th day of October, 2023, by Robert Fowler, [X] who is personally known to me OR [ ] who has produced

_____ as identification.

Cheryl Lemke
Notary Public Signature

Notary Public State of Florida
Cheryl Lemke
My Commission HH 107473
Expires 05/23/2025

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

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
Michael Miller- 290 Bahia Via Ft Myers, Beach FL 33931	100%

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

Name, Address and Office	Percentage of Stock

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

COMMUNITY DEVELOPMENT DEPARTMENT
APPLICATION for PUBLIC HEARING

Date of Contract: _____

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

Name	Address
_____	_____
_____	_____
_____	_____
_____	_____

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

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

_____ _____

Signature Printed Name

AFFIDAVIT

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

I, Robert Fowler (name), as President (title) of Fowler Construction & Development (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

1249 Estero Adventures LLC
Name of Entity (corporation, partnership, LLP, LLC, etc)

Signature

OWNER
Title

Michael Miller
Typed or Printed Name

10/5/23
Date

STATE OF FL **COUNTY OF** LEE

The foregoing instrument was certified and subscribed before me by means of X physical presence OR ☐ online notarization, this 5th day of October, 2023, by Michael Miller ☒ who is personally known to me OR ☐ who has produced _____ as identification.

Cheryl Lemke
Notary Public Signature

Notary Public State of Florida
Cheryl Lemke
My Commission HH 107473
Expires 05/23/2025
Seal

PART VI– Property Information

A. Legal Description:

STRAP: 19-46-24-W4-0060H.0300

Property Address: 1249 Estero Blvd Ft Myers, Beach FL 33931

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

☐ No. Attach a legible copy of the legal description as Exhibit 6-1.

☑ Yes. Property identified in subdivision: Venetian Gardens

Book: 6 Page: 70 Unit: _____ Block: H Lot(s): 30,31,32

B. Boundary Survey:

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

C. Property Dimensions:

Width (please provide an average width if irregular in shape) irregular 150 feet

Depth (please provide an average width if irregular in shape) irregular 150 feet

Frontage on street: <68' (Estero Blvd) feet. Frontage on waterbody: 0 feet

Total land area: 16580+/- ☐ acres ☑ square feet

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

From Sky Bridge take a left onto Estero Blvd turn left on Palermo Circle

☑ Attach Area Location Map as Exhibit 6-3

E. Property Restrictions (check applicable):

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

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

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

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

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

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

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

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

☐ Low Density
☐ Mixed Residential
☐ Boulevard
☑ Pedestrian Commercial
☐ Marina
☐ Recreation
☐ Wetlands
☐ Platted Overlay

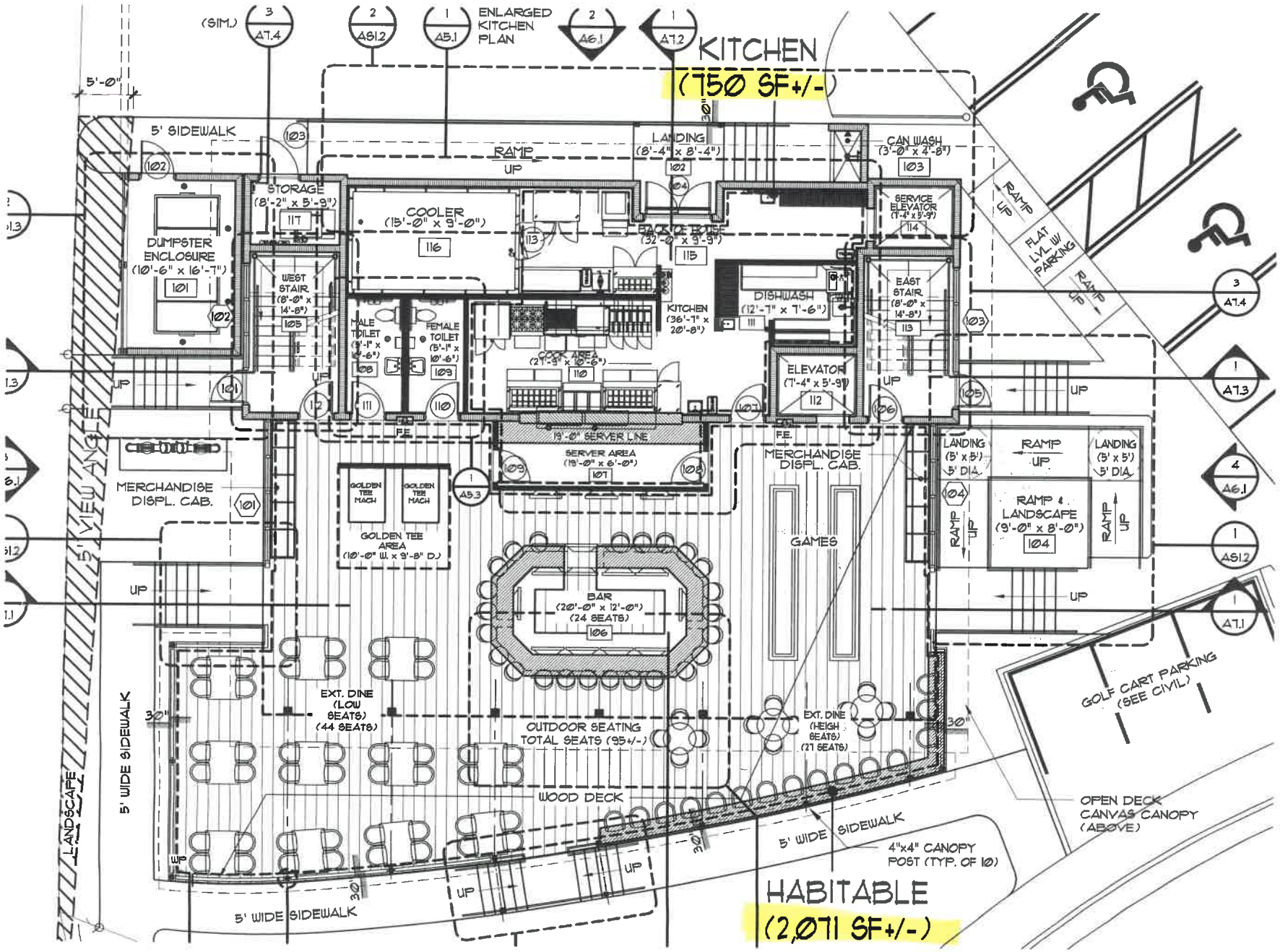
Town of Fort Myers Beach 2525 Estero Blvd Fort Myers Beach, Florida 33931
Phone: 239-765-0202 zoningpermits@fmbgov.com Fax: 239-765-0909

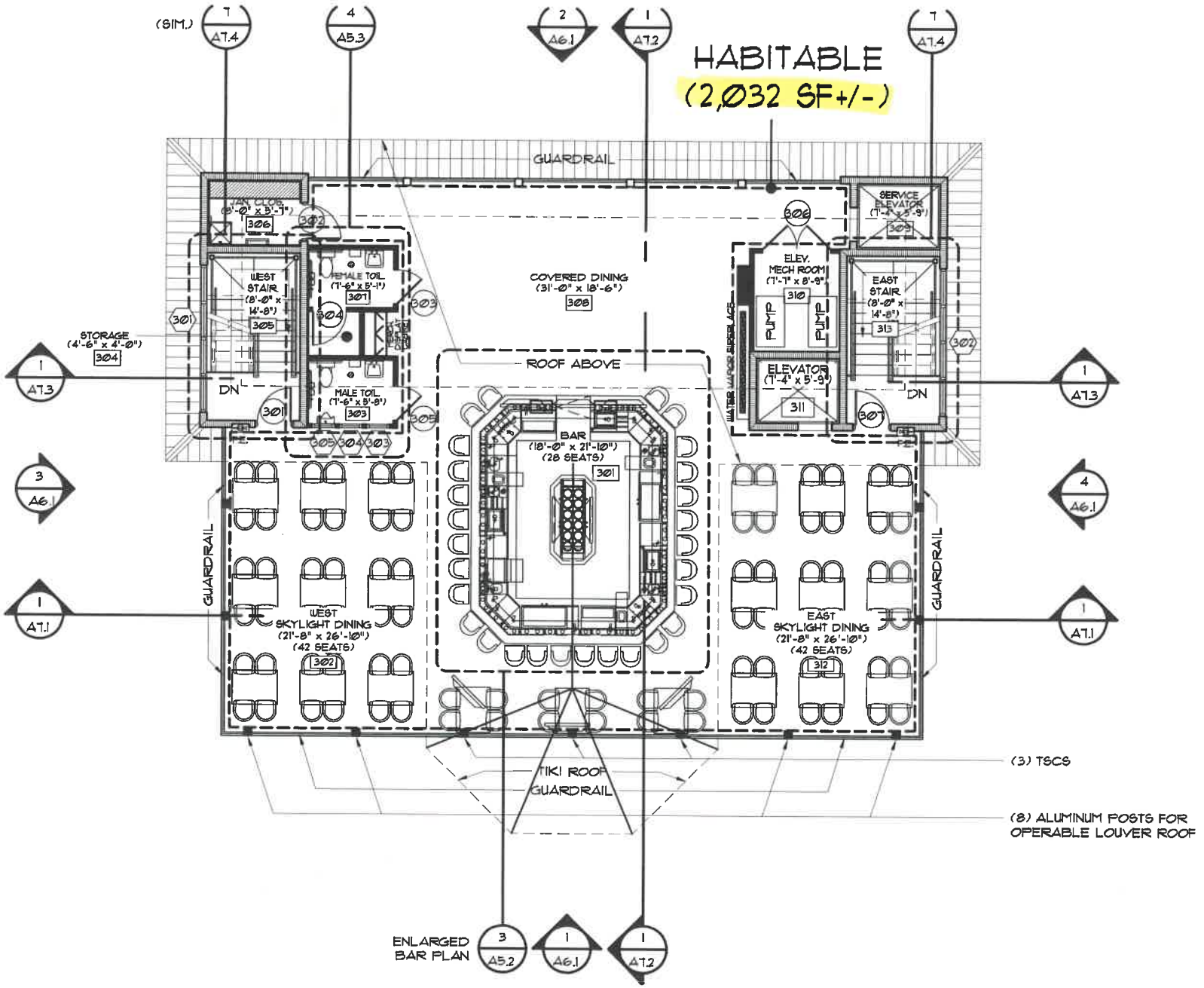
WHALE RESTAURANT:

EXHIBIT 6-7

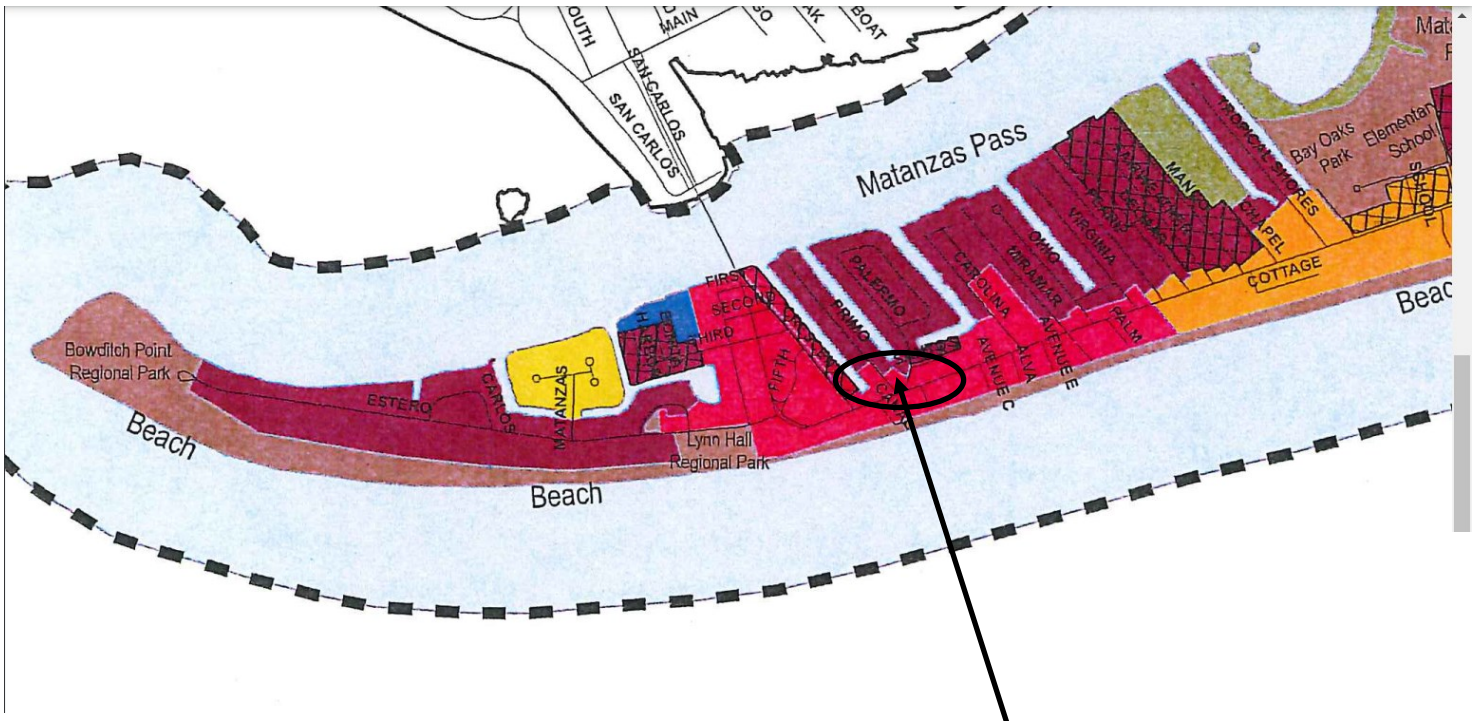
MAP OF SURROUNDING PROPERTY OWNERS




KITCHEN
(750 SF+/-)
ENLARGED KITCHEN PLAN
(SIM.)
5' SIDEWALK
RAMP UP
LANDING (8'-4" x 8'-4")
CAN WASH (3'-0" x 4'-8") 103
STORAGE (8'-2" x 5'-9") 117
COOLER (15'-0" x 9'-0") 116
BACK OF HOUSE (32'-0" x 9'-9") 115
SERVICE ELEVATOR (7'-4" x 5'-9") 114
DUMPSTER ENCLOSURE (10'-6" x 16'-7") 101
WEST STAIR (6'-0" x 14'-8") 105
MALE TOILET (5'-1" x 6'-6") 108
FEMALE TOILET (5'-1" x 10'-6") 109
KITCHEN (36'-7" x 20'-8")
DISHWASH (12'-7" x 7'-6") 111
COOK AREA (21'-3" x 10'-6") 110
ELEVATOR (7'-4" x 5'-9") 112
EAST STAIR (8'-0" x 14'-8") 113
FLAT LVL W/ PARKING
RAMP UP
F.E.
19'-0" SERVER LINE
SERVER AREA (19'-0" x 6'-0") 107
MERCHANDISE DISPL. CAB.
GOLDEN TEE MACH
GOLDEN TEE AREA (10'-0" W. x 9'-8" D.)
BAR (20'-0" x 12'-0") (24 SEATS) 106
GAMES
LANDING (5' x 5') 5' DIA.
RAMP & LANDSCAPE (9'-0" x 8'-0") 104
EXT. DINE (LOW SEATS) (44 SEATS)
OUTDOOR SEATING TOTAL SEATS (95+/-)
EXT. DINE (HEIGH SEATS) (27 SEATS)
WOOD DECK
5' WIDE SIDEWALK
5' VIEW ANGLE
LANDSCAPE
GOLF CART PARKING (SEE CIVIL)
OPEN DECK CANVAS CANOPY (ABOVE)
4"x4" CANOPY POST (TYP. OF 10)
HABITABLE
(2,071 SF+/-)


HABITABLE
(2,032 SF+/-)
GUARDRAIL
JAN CLOS. (5'-0" x 5'-7") 306
WEST STAIR (8'-0" x 14'-8") 305
FEMALE TOIL. (7'-6" x 5'-1") 301
MALE TOIL. (7'-6" x 5'-8") 303
STORAGE (4'-6" x 4'-0") 304
COVERED DINING (31'-0" x 18'-6") 308
ROOF ABOVE
BAR (18'-0" x 21'-10") (28 SEATS) 301
SERVICE ELEVATOR (7'-4" x 5'-9") 309
ELEV. MECH ROOM (7'-7" x 8'-9") 310
PUMP
PUMP
ELEVATOR (7'-4" x 5'-9") 311
EAST STAIR (8'-0" x 14'-8") 313
WATER MAKER SUPPLY ACC.
DN
WEST SKYLIGHT DINING (21'-8" x 26'-10") (42 SEATS) 302
EAST SKYLIGHT DINING (21'-8" x 26'-10") (42 SEATS) 312
TIKI ROOF GUARDRAIL
(3) TSCS
(8) ALUMINUM POSTS FOR OPERABLE LOUVER ROOF
ENLARGED BAR PLAN
(SIM.)
7 A7.4
4 A5.3
2 A6.1
1 A7.2
1 A7.3
3 A6.1
1 A7.1
3 A5.2

Fort Myers Beach Future Land Use Map

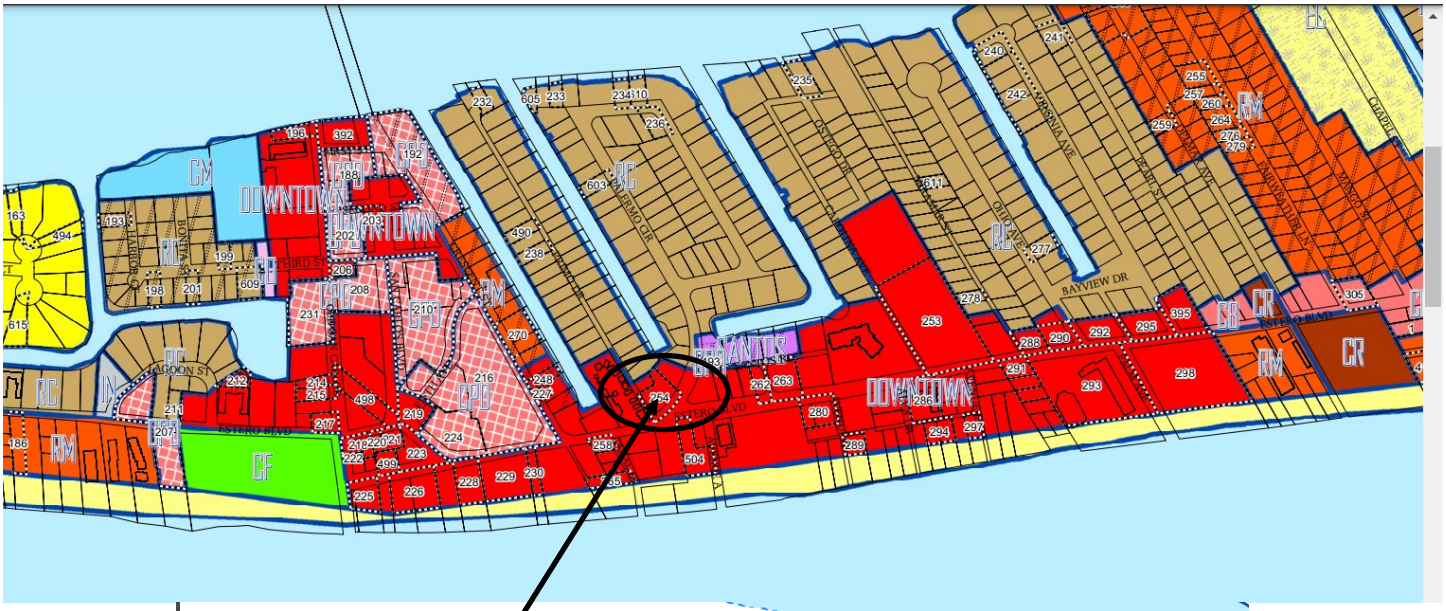


Town of Fort Myers Beach

Legend

CityLimits	Mixed Residential
Platted Overlay	Pedestrian Commercial
Boulevard	Recreation
Low Density	Tidal Water
Marina	Wetlands

Fort Myers Beach Zoning Map



LEGEND

- BB
- CB
- CF
- CM
- CO
- CPD
- CR
- DOWNTOWN
- EC
- IN
- RC
- RM
- RPD
- RS
- SANTINI
- SANTOS
- VILLAGE
- Individual approvals (see notes in FMB Resolution 04-16)
- Lots and parcels
- Wetlands (from comprehensive plan)
- Platted Overlay (from comprehensive plan)
- Town boundary

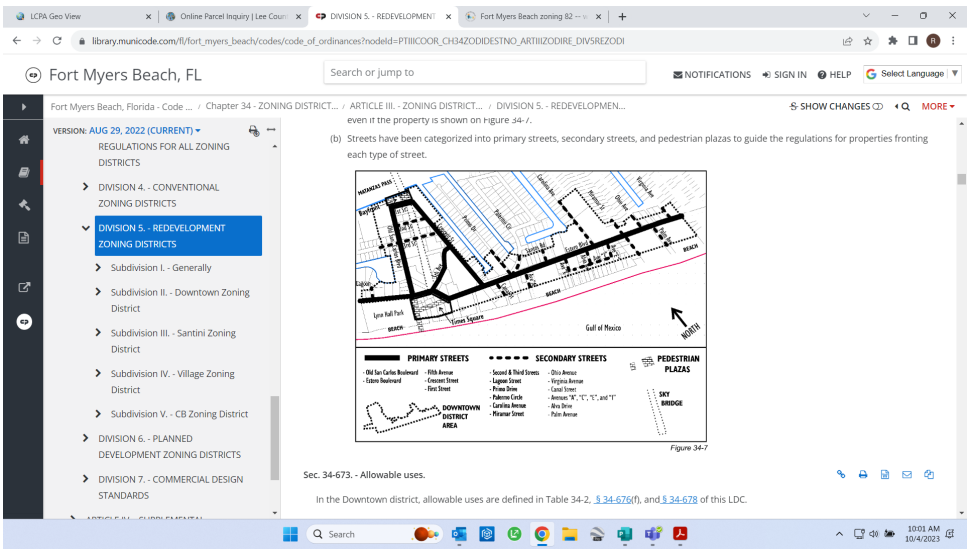
OFFICIAL ZONING MAP
Town of Fort Myers Beach

This zoning map represents the official zoning map plus all rezonings, special exceptions, variances, and administrative amendments approved as of April 1, 2004

Key numbers refer to individual zoning resolutions; see Fort Myers Beach Resolution No. 04-16 for details

N W E S

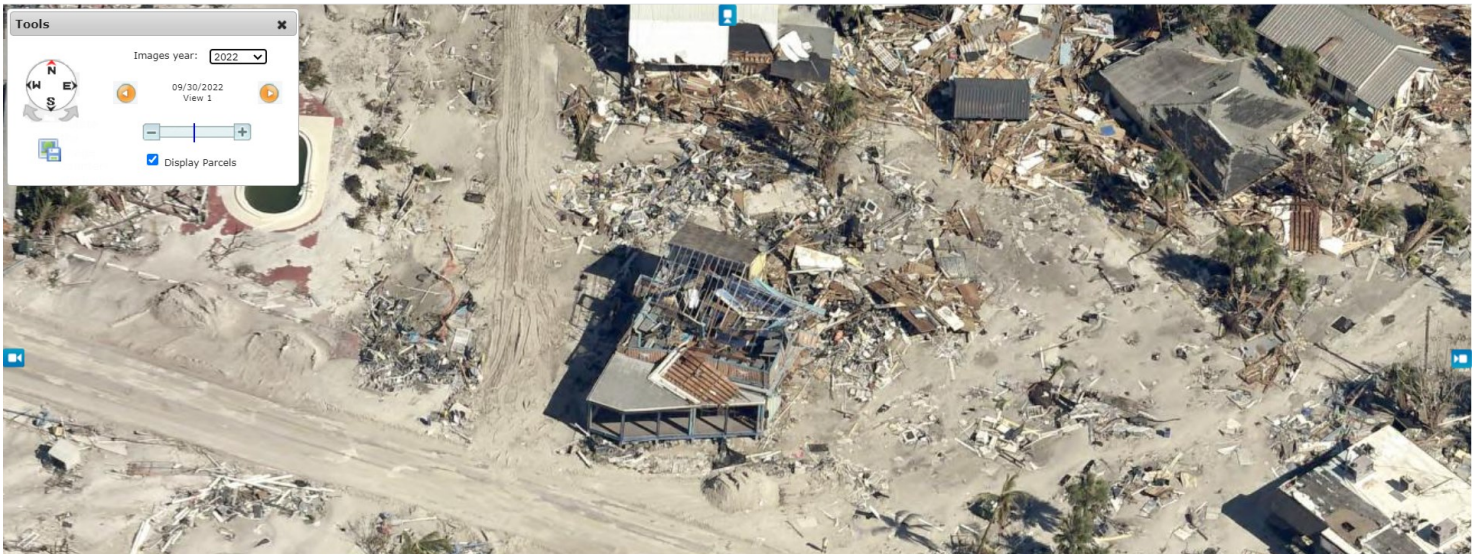
400 200 0 400 800 1,200 1,600 2,000 2,400 2,800 3,200 3,600 Feet



2021



2022—9



2023

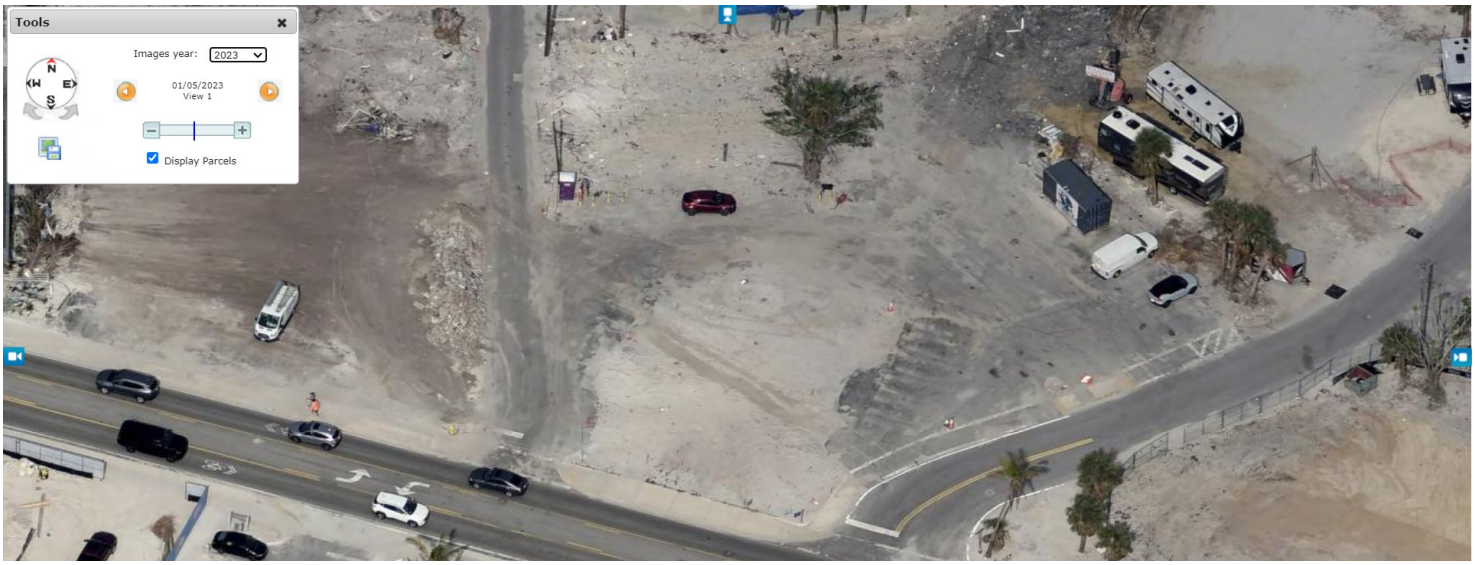


Exhibit 6-6

Lani Kai LP- 1330 Estero Blvd

Lani Kai LP- 1331 Estero Blvd

Lani Kai LP- 1345 Estero Blvd

KLC Surf LLC- 1365/1375 Estero Blvd

KLC Surf LLC- 1397 Estero Blvd

7-Eleven Inc.- 1301 Estero Blvd

Lani Kai LP- 1325 Estero Blvd

Right Choice Investments LLC- 1250 Estero Blvd

Our Beach Sand LLC- 1270 Estero Blvd

TPI- FMB LLC- 1180/1192 Estero Blvd

TPI-FMB Suites LLC- 1207 Estero Blvd

Ganim Properties LLC- 1240 Estero Blvd

Deep Dish Dough, LLC- 1167 Estero Blvd

Richard John W TR- 1161/1165 Estero Blvd

KWSH RE LLC- 120 Primo Dr

Kalidindi Rama USHA- 117 Palermo Circle

Lani Kai- 1401 Santos Rd

LKLB of Florida Inc- 1479 Estero Blvd

Parilla David R TR- 1321 Santos Rd

Charles R Connor & Gail D- 126 Palermo Circ

Richard Strick- 130 Palermo Circ

Raphael Gnirck- 581 Palermo Circ.

Relaax LLC- 588/590 Circ.

201 Palermo LLC- 205 Palermo Circ.

201 Palermo LLC- 201 Palermo Circ.

Billy Wayne Day- 155 Palermo Circ.

Thomas & Ann Lump- 145 Palermo Circ.

Steven Slomski- 139 Palermo Circ.

Robert Van Burgess- 125/127 Palermo Circ.

Arlington Green Homes LLC- 121 Palermo Circ.

Mary Beth Highley- 122 Primo Dr

Jay and Mary Highley- 124 Primo Dr

Seabird Residential LLC- 136 Primo Dr

140 Primo LLC- 140 Primo Dr

Sheila Neumann- 146 Primo Dr

Sandy Beach LLC- 150 Primo Dr

James and Lana Bailey- 162 Primo Dr

Riley Susan K TR- 170 Primo Dr

James and Jean Bischoff Trust- 141 Primo Dr

Griffis LLC- 143 Primo Dr

Thomas Patton- 153 Primo Dr

Robert Almeida- 163 Primo Dr

Susan Briody- 167 Primo Dr

Arthur James Townley- 171 Primo Dr

Arthur Townley- 191 Primo Dr

Richard John W TR- 1161/1165 Estero Blvd

Miller Conrad RE LLC- 108/116 Crescent St

Investments of FMB LLC- 118/112 Crescent St

Richard John W TR- 140 Crescent St

Richard John W TR- 150 Crescent St

Richard John W TR- 152 Crescent St

Clownfish Restaurant Holdings- 1154 Estero Blvd

TPI-FMB LLC- 1170 Estero Blvd

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: November 14, 2023 LPA and December 6, 2023, Town Council
CASE: VAR20230187
ADDRESS: 3580 Estero Blvd
APPLICANT: William Veach/ Kara Stewart
REQUEST: The applicant is requesting a variance from LDC 34-1174(b) which prohibits location of accessory structures, including garages, closer to street right-of-way line than the principal building in RC zoning district. And variance from LDC 34-1174(d)(1)(d) which requires accessory structures to meet the primary structure setback on waterfront lots.

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

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

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

Town of Fort Myers Beach
Community Development Services - Planning Division
2525 Estero Blvd,
Fort Myers Beach, FL 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: November 14, 2023 LPA and December 6, 2023, Town Council
CASE: VAR20230187
ADDRESS: 3580 Estero Blvd
APPLICANT: William Veach/ Kara Stewart
REQUEST: The applicant is requesting a variance from LDC 34-1174(b) which prohibits location of accessory structures, including garages, closer to street right-of-way line than the principal building in RC zoning district. And variance from LDC 34-1174(d)(1)(d) which requires accessory structures to meet the primary structure setback on waterfront lots.

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

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

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

Town of Fort Myers Beach
Community Development Services - Planning Division
2525 Estero Blvd,
Fort Myers Beach, FL 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: November 14, 2023 LPA and December 6, 2023, Town Council
CASE: VAR20230187
ADDRESS: 3580 Estero Blvd
APPLICANT: William Veach/ Kara Stewart
REQUEST: The applicant is requesting a variance from LDC 34-1174(b) which prohibits location of accessory structures, including garages, closer to street right-of-way line than the principal building in RC zoning district. And variance from LDC 34-1174(d)(1)(d) which requires accessory structures to meet the primary structure setback on waterfront lots.

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

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

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

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

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

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

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

Town of Fort Myers Beach
Agenda Item Summary Yellow Sheet Number: **2024-1320**

Meeting Date: November 14, 2023

1. **Requested Motion:**
Post Disaster Buildback

Why the action is necessary:
Providing direction to staff will assist in moving ordinance changes forward to Town Council.

What the action accomplishes:
The LPA will provide feedback on language.

2. **Agenda:**
PUBLIC HEARINGS

3. **Requirement/Purpose:**
Ordinance

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5. **Background:**
Staff has been asked to provide some options to amend to the Post-Disaster Buildback policy. This policy is found in Section 34-3238 of the LDC and allows a property owner to redevelop a structure that exceeds current allowable density. The language allows the existing legal number of units to be rebuilt but the existing square footage may not increase, and the property must be brought into compliance with building and flood requirements if the damage exceeds 50% of the value of the property. Currently the code states: "For the purposes of this subsection, interior square footage excludes hallways, stair towers, elevators, open balconies, underbuilding parking and similar common or non-air-conditioned space." This limitation decreases the amount of usable square footage for a rebuild of structures.

Attachments:
1. Post Disaster Buildback memo
2. Exhibit A - Proposed Language
3. Exhibit B - Existing PDB

Financial Impact:
unknown

6. **Alternative Action**
Provide feedback on language

7. **Staff Recommendations:**
Provide feedback on language and make recommendation to Town Council.

8. **Recommended Approval:**

_____ Date: November 09, 2023
Frankie Kropacek, Operations & Compliance Director

_____ Date: November 09, 2023
Gretchen R.H. Vose, Town Attorney

_____ Date: November 09, 2023
Amy Baker, Town Clerk

Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT

To: **The Local Planning Agency (LPA)**
From: **Sarah Propst, Community Development**
Date: **November 14, 2023**
Re: **Post Disaster Buildback Policy Discussion**

BACKGROUND

Staff has been asked to provide some options to amend to the Post-Disaster Buildback policy. This policy is found in Section 34-3238 of the LDC and allows a property owner to redevelop a structure that exceeds current allowable density. The language allows the existing legal number of units to be rebuilt but the existing square footage may not increase, and the property must be brought into compliance with building and flood requirements if the damage exceeds 50% of the value of the property. Currently the code states: "For the purposes of this subsection, interior square footage excludes hallways, stair towers, elevators, open balconies, underbuilding parking and similar common or non-air-conditioned space." This limitation decreases the amount of usable square footage for a rebuild of structures.

There is also a pre-disaster buildback policy that has been used to redevelop properties that exceed density, to bring them in compliance with flood and building code, in advance of storm damage. This code also disallows increasing the square footage.

The Pre and Post-Disaster Buildback policies are also contained within the comprehensive plan as Policy 4-D-1. The attached proposed language does not run counter to the language in Policy 4-D-1.

TOWN COUNCIL DISCUSSION

At the October 5th, Town Council Management and Planning Meeting, post disaster buildback was discussed. The Town Council encouraged staff to provide language that allows the square footage of the footprint, including space that was unenclosed, such as garage, lanai or storage areas. The change would essentially allow the same size building as previously existed, raised above the base flood elevation and would not limit the usable space to only previous interior space. The proposed change would allow the same number of units, the same number of bedrooms and the same number of bathrooms, except that bathrooms could be increased to

match the number of bedrooms.

LANGUAGE FOR DISCUSSION

The language provided to you today allows all of the space within the previous roofline to be used toward unit space. This includes parking, storage, hallways and outdoor lanais that were covered by the roof. For residential structures, the number of rooms and units may not be increased but the square footage may be increased by using the additional space. For the purposed of hotels/motels the additional square footage may be used to create additional units but may not be used to increase over 49 rooms, if the hotel previously had fewer than 49 rooms.

This language encourages creative redesign to utilize space without increasing the size of the building a great deal. Some properties will get less of an increase in square footage, if, for instance there was no space below flood that was used for nonhabitable space. Does this go far enough to provide additional square footage to post disaster buildback structures?

The language change also allows for the director to reduce open space, parking, landscaping and buffer requirements if a structure being rebuilt through post disaster buildback is unable to meet those requirements and requests a reduction.

EXHIBITS

Exhibit A – Proposed Post Disaster Buildback Language
Exhibit B – Existing Post Disaster Buildback Language

Exhibit A – Proposed Post Disaster Buildback Language

Sec. 34-3238. - Post-disaster buildback.

Owners of buildings or groups of buildings that exceed the density, intensity, or height limits for new buildings and that are damaged or destroyed by a ~~natural~~ disaster, including fire, tropical storms, floods, and hurricanes, shall be permitted to replace those buildings at up to their pre-disaster ~~existing~~ lawful density, intensity, and/or height in accordance with Policy 4-D-1 of the Fort Myers Beach Comprehensive Plan.

(1) *Less than 50 percent damage.* If the cost to repair the damaged building is less than 50 percent of the building's value and the repair is thus not a "substantial improvement" as that term is defined in § 6-405 of this LDC, then the following rules shall apply:

a. The repairs may be made without bringing the building into full compliance with the requirements of this code for building size, dimension, location on the lot, number of dwelling units or guest units, building type, or compliance with floodplain regulations.

b. The repairs may not physically enlarge the building either laterally or vertically, with the following potential exception:

1. During the repair process, owners may wish to elevate lawfully existing dwelling units or guest units that do not comply with the floodplain regulations in ch. 6 of this code.

2. To encourage this elevation, the director may administratively modify setbacks, open space, buffer, or height requirements to the minimum extent that would accommodate rebuilding the units in conformance with ch. 6 of this LDC up to their existing interior square footage, as computed in accordance with subsections (2)d.1. or e.1 of this section.

3. However, if the combined cost to repair the damage and elevate the units exceeds 50 percent of the building's value, then all provisions of subsection (2) of this section will apply.

c. All repairs must comply with all current building, life safety, and accessibility codes.

(2) *More than 50 percent damage.* If the cost to repair or rebuild the damaged building is more than 50 percent of the building's value and is thus a "substantial improvement" as that term is defined in § 6-405 of this LDC, then the following rules shall apply:

a. The building must meet the floodplain regulations for new buildings, as provided in article IV of ch. 6 of this LDC.

b. The building must meet the coastal construction requirements that apply to new structures and portions thereof, as provided in article III of ch. 6 of this LDC and in state regulations. Due to these requirements, habitable major structures and most minor structures that are damaged by more than 50 percent must be rebuilt landward of the 1978 coastal construction control line.

c. The building must comply with all current building, life safety, and accessibility codes.

d. *Residential buildings.* A rebuilt residential building may exceed the density limits for new buildings on vacant land, but cannot exceed the legally documented number of dwelling units in the building immediately before the natural disaster.

1. ~~All dwelling units legally existing prior to the natural disaster may be rebuilt, provided the total interior square footage of the rebuilt dwelling units does not exceed the interior square footage of the previous dwelling units. For purposes of this subsection, interior square footage excludes hallways, stair towers, elevators, open balconies, underbuilding parking, and similar common or non-air conditioned.~~

1. The total above base flood elevation square footage of the reconstructed building may not exceed the square footage of the total under roof square footage of the previous structure. The square footage under roof means the measured under the roofline area

multiplied by the number of stories that existed prior to the disaster, including areas below flood elevation.

2. At the owner's option, this same square footage can be used for fewer but larger dwelling units.

3. Also at the owner's option, the number of dwelling units and the square footage of the new building may be determined by this code's current regulations for new buildings on the same site instead of using either the pre-disaster or post-disaster buildback regulations.

4. The number of bedrooms may not exceed the legally documented number of bedrooms in the dwelling unit immediately before the natural disaster. The number of bathrooms may only be increased to equal the number of bedrooms in the structure.

5. Once additional square footage is added to the structure for post-disaster buildback, no additional below flood elevation square footage may be added for future disaster rebuilds.

e. *Hotels/motels.* A rebuilt hotel/motel may exceed the ~~intensity~~equivalency factor multiplier limits for new hotel/motel buildings ~~on vacant land~~, but cannot exceed the documented ~~number of lawful guest units~~ square footage within the building footprint immediately before the natural disaster.

~~1. All guest units lawfully existing prior to the natural disaster may be rebuilt, provided the total interior square footage of the rebuilt guest units does not exceed the interior square footage of the previous guest units. However, interior square footage in the new building may be increased by 30 square feet for each bathroom to reflect current code requirements for larger bathrooms, and any lawfully existing guest units that are smaller than the minimum sizes required by this code may be enlarged to meet the minimum size requirements. For purposes of this subsection, interior square footage excludes hallways, stair towers, elevators, open balconies, underbuilding parking, and similar common or non-air conditioned space.~~

~~2. At the owner's option, this same square footage can be used for fewer but larger guest units.~~

~~3. Also at the owner's option, the number of guest units and the square footage of the new building may be determined by this code's current regulations for new hotel/motel buildings on the same site instead of using either the pre-disaster or post-disaster buildback regulations.~~

1. The total above base flood elevation square footage of the reconstructed building may not exceed the square footage of the total under roof square footage of the previous structure. The square footage under roof means the measured under roofline area, multiplied by the number of stories that existed prior to the disaster, including areas below base flood elevation.

2. If the additional square footage gained does not provide adequate space to meet building or ADA codes, additional space may be allocated for that purpose.

3. The owner may choose to reduce the number of rooms or increase the number of rooms but may not create more guest unit space than defined in Sec.34-3238(2) e.1.

4. This section may not be used to increase the number of guest units in a hotel that previously had 49 rooms or less to more than 49 rooms.

f. *All buildings.* The new building must comply with all other zoning and development regulations except where compliance with such regulations would preclude reconstruction otherwise intended by Policy 4-D-1 of the comprehensive plan. Specifically:

Commented [SP1]: Thinking about this #1 instead of the #1 above. Seems cleaner but please provide any input.

Commented [SP2]: Proposing these 4 in place of the above 6. Do you think these work? I think this is cleaner than trying to make the old language make sense with the new direction.

1. If the lowest floor of the rebuilt building must be elevated higher than the damaged or destroyed building to comply with current floodplain or coastal regulations, then the total height of the rebuilt building can be increased by the same amount.
2. If a rebuilt building must be set back further from any property lines due to current requirements of this code, then the volume of the building so reduced can be rebuilt elsewhere on the site, including one or more extra stories on the building if in the opinion of the director there is no other suitable location to replace the volume.
3. If current open space, parking, landscaping or buffer regulations cannot be met, those requirements may be ~~waived~~ reduced through a written determination ~~administratively~~ by the director.

Sec. 34-3238. - Post-disaster buildback.

Owners of buildings or groups of buildings that exceed the density, intensity, or height limits for new buildings and that are damaged or destroyed by a natural disaster, including fire, tropical storms, and hurricanes, shall be permitted to replace those buildings at up to their existing lawful density, intensity, and/or height in accordance with Policy 4-D-1 of the Fort Myers Beach Comprehensive Plan.

(1) *Less than 50 percent damage.* If the cost to repair the damaged building is less than 50 percent of the building's value and the repair is thus not a "substantial improvement" as that term is defined in § 6-405 of this LDC, then the following rules shall apply:

a. The repairs may be made without bringing the building into full compliance with the requirements of this code for building size, dimension, location on the lot, number of dwelling units or guest units, building type, or compliance with floodplain regulations.

b. The repairs may not physically enlarge the building either laterally or vertically, with the following potential exception:

1. During the repair process, owners may wish to elevate lawfully existing dwelling units or guest units that do not comply with the floodplain regulations in ch. 6 of this code.

2. To encourage this elevation, the director may administratively modify setbacks, open space, buffer, or height requirements to the minimum extent that would accommodate rebuilding the units in conformance with ch. 6 of this LDC up to their existing interior square footage, as computed in accordance with subsections (2)d.1. or e.1 of this section.

3. However, if the combined cost to repair the damage and elevate the units exceeds 50 percent of the building's value, then all provisions of subsection (2) of this section will apply.

c. All repairs must comply with all current building, life safety, and accessibility codes.

(2) *More than 50 percent damage.* If the cost to repair or rebuild the damaged building is more than 50 percent of the building's value and is thus a "substantial improvement" as that term is defined in § 6-405 of this LDC, then the following rules shall apply:

a. The building must meet the floodplain regulations for new buildings, as provided in article IV of ch. 6 of this LDC.

b. The building must meet the coastal construction requirements that apply to new structures and portions thereof, as provided in article III of ch. 6 of this LDC and in state regulations. Due to these requirements, habitable major structures and most minor structures that are damaged by more than 50 percent must be rebuilt landward of the 1978 coastal construction control line.

c. The building must comply with all current building, life safety, and accessibility codes.

d. *Residential buildings.* A rebuilt residential building may exceed the density limits for new buildings on vacant land, but cannot exceed the legally documented number of dwelling units in the building immediately before the natural disaster.

1. All dwelling units legally existing prior to the natural disaster may be rebuilt, provided the total interior square footage of the rebuilt dwelling units does not exceed the interior square footage of the previous dwelling units. For purposes of this subsection, interior square footage excludes hallways, stair towers, elevators, open balconies, underbuilding parking, and similar common or non-air conditioned space.

2. At the owner's option, this same square footage can be used for fewer but larger dwelling units.

3. Also at the owner's option, the number of dwelling units and the square footage of the new building may be determined by this code's current regulations for new buildings on

the same site instead of using either the pre-disaster or post-disaster buildback regulations.

e. *Hotels/motels.* A rebuilt hotel/motel may exceed the intensity limits for new hotel/motel buildings on vacant land, but cannot exceed the documented number of lawful guest units in the building immediately before the natural disaster.

1. All guest units lawfully existing prior to the natural disaster may be rebuilt, provided the total interior square footage of the rebuilt guest units does not exceed the interior square footage of the previous guest units. However, interior square footage in the new building may be increased by 30 square feet for each bathroom to reflect current code requirements for larger bathrooms, and any lawfully existing guest units that are smaller than the minimum sizes required by this code may be enlarged to meet the minimum size requirements. For purposes of this subsection, interior square footage excludes hallways, stair towers, elevators, open balconies, underbuilding parking, and similar common or non-air conditioned space.

2. At the owner's option, this same square footage can be used for fewer but larger guest units.

3. Also at the owner's option, the number of guest units and the square footage of the new building may be determined by this code's current regulations for new hotel/motel buildings on the same site instead of using either the pre-disaster or post-disaster buildback regulations.

f. *All buildings.* The new building must comply with all other zoning and development regulations except where compliance with such regulations would preclude reconstruction otherwise intended by Policy 4-D-1 of the comprehensive plan. Specifically:

1. If the lowest floor of the rebuilt building must be elevated higher than the damaged or destroyed building to comply with current floodplain or coastal regulations, then the total height of the rebuilt building can be increased by the same amount.

2. If a rebuilt building must be set back further from any property lines due to current requirements of this code, then the volume of the building so reduced can be rebuilt elsewhere on the site, including one or more extra stories on the building if in the opinion of the director there is no other suitable location to replace the volume.

3. If current open space or buffer regulations cannot be met, those requirements may be waived administratively by the director.

Town of Fort Myers Beach
Agenda Item Summary Yellow Sheet Number: **2024-1322**

1. **Requested Motion:** **Meeting Date: November 14, 2023**

Approve/Approve with Conditions/Deny- Update and amend flood code requirements to meet NFIP standards

Why the action is necessary:
Comply with NFIP and CRS requirements

What the action accomplishes:
Restore "Substantial Damage" to definition in FBC
Restore "Substantial Improvement" to definition in FBC
Clarify limits on enclosures
Remove local FBCR amendment for accessory structure to rely on FEMA-approved revisions that are in the 8th Edition
Update FIS to current effective date
Remove riverine not applicable to FMB (floodway, watercourse)
Modify "Market Value" per FEMA/FDEM direction
Modify Manufactured home elevation requirements to satisfy CRS Class 8

2. **Agenda:**
PUBLIC HEARINGS

3. **Requirement/Purpose:**
Ordinance is a requirement from NFIP

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5. **Background:**
Restore "Substantial Damage" to definition in FBC
Restore "Substantial Improvement" to definition in FBC
Clarify limits on enclosures
Remove local FBCR amendment for accessory structure to rely on FEMA-approved revisions that are in the 8th Edition
Update FIS to current effective date
Remove riverine not applicable to FMB (floodway, watercourse)
Modify "Market Value" per FEMA/FDEM direction
Modify Manufactured home elevation requirements to satisfy CRS Class 8

Attachments:
1. mh_remove-36-inch-option_final-11-6-20
2. 23-17, Update and Amend Flood Code

Financial Impact:

6. **Alternative Action**

7. **Staff Recommendations:**

8. **Recommended Approval:**

_____ Date: November 09, 2023
Frankie Kropacek, Operations & Compliance Director

Date: November 09, 2023

Gretchen R.H. Vose, Town Attorney

Date: November 09, 2023

Amy Baker, Town Clerk

Manufactured Homes – floodplain management ordinance changes to remove 36-inch elevation provision for installation in "existing manufactured home parks and subdivisions"

Objective: Modify local floodplain management regulations to require all manufactured homes to be elevated to the same height as one- and two-family dwellings (BFE plus freeboard).

Description: The National Flood Insurance Program regulations (44 CFR Section 60.3) allow manufactured homes that are installed in "existing manufactured home parks or subdivisions" to be elevated on "reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade," even if that means the lowest floors are below the base flood elevation. However, this option is not available when a manufactured home is substantially damaged by flooding. This provision is known as the "36-inch option."

***DEFINITION:* Existing manufactured home park or subdivision**. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before {date the community's first floodplain management ordinance was adopted}.

It is common to refer to these existing parks and subdivisions as "pre-FIRM," but that can be misleading when FIRMs are revised.

The NFIP Community Rating System (CRS) establishes prerequisites for participation in the program and prerequisites to achieve certain classification levels. In 2020 FEMA announced new prerequisites for CRS communities to attain or retain a Class 8 or better. See the 2017 *CRS Coordinator's Manual* addendum that will be released on January 1, 2021 to learn more about prerequisites: https://crsresources.org/manual/. CRS communities that do not satisfy the Class 8 prerequisites can expect to be retrograded to a Class 9.

One Class 8 prerequisite is to adopt and enforce a requirement of at least one foot of freeboard for all residential buildings. Starting with the 5th Edition Florida Building Code (FBC), all buildings within the scope of the FBC are required to be elevated or protected to at least BFE plus 1 foot, including one- and two-family dwellings. Nearly 60 Florida communities have adopted local technical amendments to the FBC to require even more additional height above BFE.

How the FBC, Residential addresses MFH: The FBC, Residential, Section R322.1.9 Manufactured homes, explicitly states that the applicable provisions of the local floodplain management ordinance apply, in addition to the requirements of the state agency with jurisdiction over the installation of manufactured homes (Florida Department of Highway Safety and Motor Vehicles).

To fully meet the Class 8 prerequisite for at least one foot of freeboard, CRS communities must eliminate the 36-inch option. **Use these instructions to prepare draft amendments to ordinances to eliminate the 36-inch option.** See separate instructions to prohibit manufactured homes in flood hazard areas or anywhere in the community.

Some communities considering eliminating the 36-inch option may need to consider the impacts. On the one hand, it is reasonable that owners and occupants of manufactured homes in existing parks and subdivisions have their property protected to the same degree as other homeowners. On the other hand, requiring full elevation of replacement units in existing manufactured home parks and subdivisions may add additional cost depending on how high the BFE is above grade.

Pre-engineered foundations for some flood conditions and some wind speeds are available in FEMA P-85, *Protecting Manufactured Homes from Floods and Other Hazards* https://www.fema.gov/media-library-data/20130726-1502-20490-8377/fema_p85.pdf.

Eliminating the 36-inch option only affects areas where the depth of water for the base flood is deeper than 3 feet (BFE minus grade elevation). One option for evaluating the impact is described below the two versions of the model ordinance, starting on page 10.

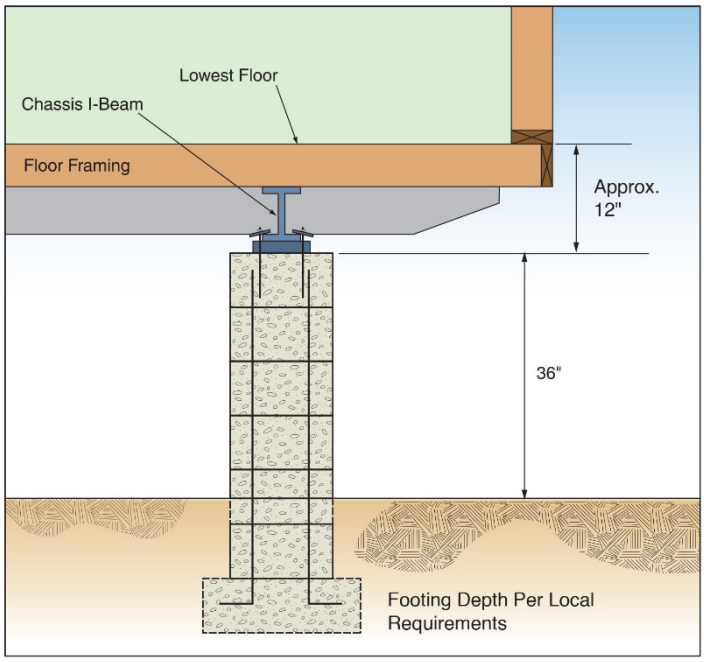
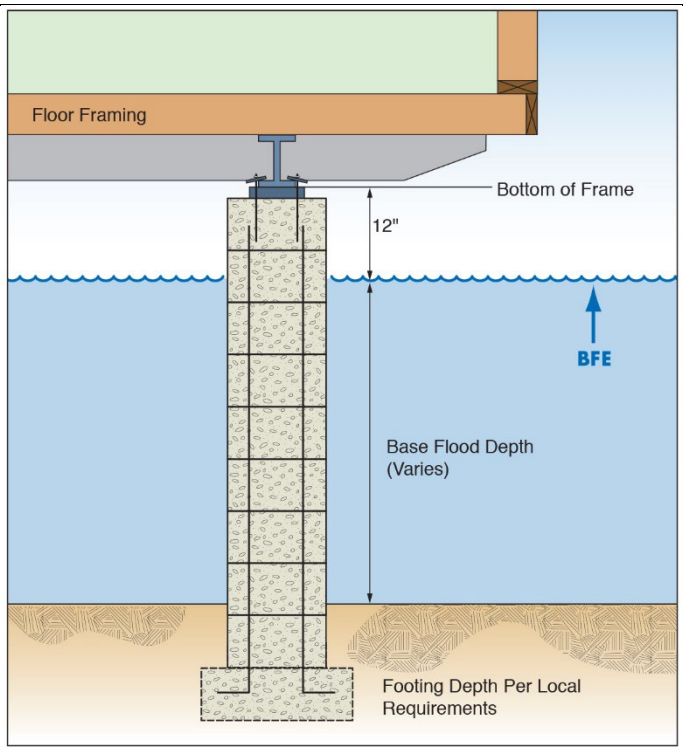
EVALUATING THE IMPACT OF ELIMINATING THE "36-INCH OPTION"

The State Floodplain Management Office understands a number of communities have taken different approaches to evaluate the impact of eliminating the 36-inch option for replacement homes in existing manufactured home parks and subdivisions. See the table below, which refers to figures on the next page. One way to evaluate the impact is to:

1. Identify existing manufactured home parks and subdivisions (as that term is defined, meaning established before the community joined the NFIP).

2. Determine if those existing manufactured home parks and subdivisions have pads or lots in the SFHA.
3. Determine how many pads or lots are in the SFHA.
4. Estimate how many of the pads or lots in the SFHA are affected by base flood depths that are less than, equal to, and greater than 3 feet.

Illustrating Existing Requirement Compared to Full Elevation		
	Figure A illustrates the existing minimum NFIP requirement (foundation elements at least 36 inches above grade).	**Figure B illustrates full elevation requirement based on bottom of the frame.**
If the base flood depth* is less than 3 feet:	Then the bottom of the frame is always 3 feet above grade (and lowest floor ~ 4 feet above grade)	Then the bottom of the frame is always flood depth plus 1 foot (could be lower than 4 feet above grade).
If the base flood depth* is equal to 3 feet:	Then the bottom of the frame is approximately 3 feet above grade (i.e., 1 foot freeboard).	Then the bottom of the frame is always flood depth plus 1 foot
If the base flood depth* is greater than 3 feet:	Then the bottom of the frame is approximately 4 feet above grade and lowest floor is below the BFE where flood depth is greater than 4 feet.	Then the bottom of the frame is always flood depth plus 1 foot.
*Base flood depth = BFE minus ground. In unnumbered Zone A, it is the depth determined in accordance with the community's floodplain management regulations.		

Figure A	Figure B
Minimum NFIP requirement allowed ONLY for replacement units in “existing manufactured home parks and subdivisions” (defined term), except if replacing a unit that was substantially damaged by flooding. **Allows replacements units to have the lowest floor below the BFE.**	Elevation in compliance with the FBC, Residential (minimum BFE + 1 ft). Some communities modify the FBC, R to require additional freeboard. **Eliminating the 36-inch option affects ONLY replacements units in “existing manufactured home parks and subdivisions” where the base flood depth is greater than 3 feet.**
	

ORDINANCE NO. 23-0017

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING DIVISON 3 OF ARTICLE II OF CHAPTER 6 OF THE LAND DEVELOPMENT CODE OF THE TOWN OF FORT MYERS BEACH ENTITLED "BUILDING CODES" AND AMENDING DIVISIONS 2 ENTITLED "APPLICABILITY, 5 ENTITLED "SITE PLAN AND CONSTRUCTION DOCUMENTS", 9 ENTITLED "DEFINITIONS" AND 10 ENTITILED "FLOOD-RESISTENT DEVELOPMENT" IN ARTICLE IV OF CHAPTER 6 OF THE LAND DEVELOPMENT CODE OF THE TOWN OF FORT MYERS BEACH ENTITLED "FLOODPLAIN REGULATIONS" TO PROVIDE FOR CONTINUED IMPLEMENTATION OF THE NATIONAL FLOOD INSURANCE PROGRAM IN THE TOWN, WHICH WOULD ALLOW THE TOWN TO MAINTAIN ITS CLASS 5 COMMUNITY RATING SYSTEM DESIGNATION AND UPDATE CURRENT CODES; ; PROVIDING FOR CODIFICATION, SEVERABILITY, SCRIVENER ERRORS, CONFLICTS OF LAW AND AN EFFECTIVE DATE.

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

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

WHEREAS, the Town of Fort Myers Beach participates in the National Flood Insurance Program ("NFIP") and participates in the NFIP's Community Rating System ("CRS"), a voluntary incentive program that recognizes and encourages community floodplain management activities that exceed the minimum program requirements; and,

WHEREAS, the Town of Fort Myers Beach achieved a CRS rating of Class 5, making citizens who purchase NFIP flood insurance policies eligible for premium discounts; and

WHEREAS, in 2020, the NFIP Community Rating System established certain minimum prerequisites for communities to qualify for or maintain class ratings of Class 8 or lower ; and

WHEREAS, to satisfy the prerequisite and for the Town of Fort Myers Beach to maintain the current CRS rating, all manufactured homes installed or replaced in special flood hazard areas must be elevated at or above at least the base flood elevation plus 1 foot, which necessitates modification of the existing requirements; and

WHEREAS, Sections 553.73(4) and (5), Florida Statutes authorizes a local government to make amendments to its building codes as needed, and specifically as may be needed to further implement the National Flood Insurance Program; and

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on the ___ day of _____, 2023, at which time 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 made a finding of consistency with the Ft. Myers Beach Comprehensive Plan and Land Development Code and thereafter voted _____, to recommend approval of the requested ordinance amending Article IV of Chapter 6 of the Land Development Code to the Town Council; and

WHEREAS, on the ___ day of _____, 2023, the Town Council held a first reading of the proposed Ordinance and gave full and complete consideration to the request of the proposed ordinance to amend Article IV of Chapter 6 of the Land Development Code, the recommendation of the LPA, the recommendation of staff, the documents in the record, and the testimony of all interested persons; and

WHEREAS, a Business Impact Estimate Statement was prepared and posted on the City's website on the ___ day of _____, 2023, as required by Section 166.041(4), Florida Statutes; and

WHEREAS, an advertisement of the public hearing for adoption of the proposed ordinance was published in the _____ on the ___ day of _____, 10 days prior to the second reading of the proposed Ordinance as required by Section 166.041, Florida Statutes; and

WHEREAS, on the ___ day of _____, 2023, the Town Council held a second reading of the proposed Ordinance; and

WHEREAS, the Town Council determined by a vote of ___ to ___ that adoption of the Ordinance to amend the floodplain management regulations to better protect owners and occupants of manufactured homes and to continue participating in the Community Rating System at the current class rating, is in the best interest of the public.

NOW THEREFORE IT IS HEREBY ORDAINED BY THE TOWN OF FORT MYERS BEACH, FLORIDA:[1]

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

Section 2. Article II of Chapter 6 of the Land Development Code of the Town of Fort Myers Beach entitled "Building Codes" is hereby amended as shown in Exhibit A.

Section 3. Article IV of Chapter 6 of the Land Development Code of the Town of Fort Myers Beach entitled "Floodplain Regulations" is hereby amended as shown in Exhibit B.

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

Section 4. The Town Council intends that the provisions of this ordinance be made a part of the Fort Myers Beach Land Development Code, and that sections herein may be renumbered or re-lettered and the words or phrases herein may be changed to accomplish codification; regardless, typographical errors that do not affect intent may be corrected with notice to and authorization of the Town Manager without further process.

Section 5. Whenever the requirements or provisions of this Ordinance conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive shall apply.

Section 6. 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 7. This Ordinance shall become effective upon adoption by the Town Council. The City Clerk shall provide a copy of the Ordinance amending the Building Code to the Florida Building Commission within 30 days of adoption.

The forgoing Ordinance was adopted by the Town Council upon a motion by _____ and seconded by _____, and upon being put on a roll call vote, the results was as follows:

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

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

TOWN OF FORT MYERS BEACH

_____
Dan Allers, Mayor

ATTEST:

_____
Amy Baker, Town Clerk

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

_____
Becky Vose, Town Attorney

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

EXHIBIT A

ARTICLE II. - BUILDING CODES

****

DIVISION 3. - BUILDING CODE

Sec. 6-111. - Adoption; amendments.

The Florida Building Code is hereby adopted by reference and made a part of this article including all revisions and amendments approved in accordance with state law, with ~~the exceptions~~ additions set forth as follows:

Chapter 1, Administration.

Sections 10~~4~~3.1 through 10~~4~~3.6 relating to powers and duties of the building official are added as follows:

10~~4~~3.1 General. The building official is hereby authorized and directed to enforce the provisions of this code and building codes adopted by the state of Florida. The building official has the authority to render interpretations of this code and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies, and procedures must be in compliance with the intent and purpose of this code, and may not have the effect of waiving requirements specifically provided for in this code.

10~~4~~.6~~3.2~~ Right of entry.

10~~4~~.6~~3.2~~.1 Whenever necessary to make an inspection to enforce any of the provisions of this code, or whenever the building official has reasonable cause to believe that there exists in any building or upon any premises any condition or code violation which makes such building, structure, premises, electrical, gas, mechanical, or plumbing systems unsafe, dangerous, or hazardous, the building official may enter such building, structure, or premises at all reasonable times to inspect the same or to perform any duty imposed upon the building official by this code. If such building or premises are occupied, he must first present proper credentials and request entry. If such building, structure, or premises are unoccupied, he must first make a reasonable effort to locate the owner or other persons having charge or control of such and request entry. If entry is refused, the building official has recourse to every remedy provided by law to secure entry.

10~~4~~.6~~3.2~~.2 When the building official has obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care, or control of any building, structure, or premises may fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the building official for the purpose of inspection and examination pursuant to this code.

10~~4~~3.3 Stop work orders. Upon notice from the building official, work on any building, structure, electrical, gas, mechanical, or plumbing system that is being done contrary to the provisions of this code, or in a dangerous or unsafe manner, must immediately cease. Such notice must be in writing and posted on the permit board, stating the reasons for the order. Work may only resume after lifting of the stop work order by the building official. *10~~5~~.6~~3.4~~*

~~Revocation of permits~~ *Denial or revocation.* The building official is authorized to suspend or revoke a permit issued under the provisions of this code wherever the permit is issued in error or on the basis of incorrect, inaccurate, or incomplete information, or in violation of any ordinance or regulation or any provision of any code of the Town of Fort Myers Beach.

10~~5.6.13.4.1~~ Misrepresentation of application. The building official may revoke a permit or approval issued under the provisions of this code if there has been any false statement or misrepresentation as to a material fact in the application or plans on which the permit or approval was based.

10~~5.6.23.4.2~~ Violation of code provisions. The building official may revoke a permit upon determination by the building official that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the building, structure, electrical, gas, mechanical, or plumbing systems for which the permit was issued is in violation of, or not in conformity with, the provisions of this code.

11~~603.5~~ Unsafe Structures and Equipment. ~~Unsafe buildings or systems.~~ All buildings, structures, electrical, gas, mechanical, or plumbing systems which are unsafe, unsanitary, or do not provide adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use, constitute a hazard to safety or health, are considered unsafe buildings or service systems. All such unsafe buildings, structures or service systems are hereby declared illegal and must be abated by repair and rehabilitation or by demolition in accordance with the provisions of the Unsafe Building Abatement Code (see article I of this chapter).

103.6 Requirements not covered by code. Any requirements necessary for the strength, stability, or proper operation of an existing or proposed building, structure, electrical, gas, mechanical, or plumbing system, or for the public safety, health, and general welfare, not specifically covered by this or the other technical codes, will be determined by the building official.

~~*Section 104.1.4* is amended to read as follows:~~

~~*104.1.4. Minor repairs.*~~

~~Ordinary minor repairs, routine maintenance, or incidental work of a nonstructural nature may be made without a permit, provided that such repair shall not violate any of the provisions of the technical codes. For purposes of this section, "ordinary minor repairs" include the replacement of damaged or worn materials by similar new materials and any other repairs defined as such by the building official. Ordinary minor repairs under this section may not involve the cutting of any structural beam or supporting member or include any alterations that would increase habitable floor area, change the use of any portion of the building, remove or change any required means of egress or exit access, or affect the structural integrity or fire rating of the building.~~

Section 105.4.1~~104.1.6.1,~~ relating to conditions of the permit, is amended to add the following:

105.4.1~~104.1.6.1~~ A permit issued shall be construed to be a license to proceed with the work but shall not be construed as authority to violate, cancel, alter or set aside any of the provisions of this code, nor shall such issuance of a permit prevent the building official from thereafter requiring a correction of errors in plans or in construction or of violations of this

code. Although a permit issued to an owner is transferable to another owner, actual notice of the transfer of permit shall be given to the building official prior to the transfer. Building permits shall be issued following the approval of site and construction plans. Building permits on multifamily projects shall be issued on each individual building or structure. Multitenant occupancies, including but not limited to shopping malls, may be permitted on an individual building or structure (shell); however, individual permits shall be used separately for tenant spaces.

105.4.1.1~~*104.1.6.2*~~ The first inspection required by the permit must be successfully completed within a six-month period of issuance or the permit shall be deemed invalid. All subsequent inspections shall be made within a six-month period of the most recent inspection until completion of work or the permit shall become invalid. For purposes of this section, the foundation inspection will be considered the first inspection.

105.4.1.3~~*104.1.6.3*~~ The entire foundation must be completed within the first six months from the issuance of the permit. Partial inspections due to complexity of the foundation may be made with building inspector's approval, and job site plans shall be initialed by the inspector only on that portion of the plans that is inspected, and these inspections are for compliance to plans and specifications and are in no way to be construed as the first inspection. Subsequent inspections may be made until the entire foundation is completed. At that time, the foundation will be signed off as the first inspection. One or more extensions of the building permit for good cause may be granted by the building official on a project for a period not exceeding 90 days each. The request shall be made by written notice to the building official at least 30 days prior to expiration of the building permit. The building official may require compliance with any revised building code, mechanical code, plumbing code, electrical code, gas code, swimming pool code or fire code requirements in effect at the time of granting any extension to the building permit. Any extension request denied may be appealed to the town council by the applicant on a form provided by the building official. The council shall grant or deny the extension upon a finding of good cause or lack thereof. If granted, the extension or extensions shall not exceed a period of 90 days each.

Section 106.1.4 relating to new or changed land uses is added as follows:

106.1.4 New or changed land use. A certificate of occupancy will only be granted for a new or changed use of land if that use is allowable under ch. 34 of this code.

~~*107.6.1 Building permits issued on the basis of an affidavit.* Pursuant to the requirements of federal regulation for participation in the National Flood Insurance Program (44 C.F.R. Sections 59 and 60), the authority granted to the Building Official to issue permits, to rely on inspections, and to accept plans and construction documents on the basis of affidavits and plans submitted pursuant to 105.14 and Section 107.6, shall not extend to the flood load and flood resistance construction requirements of the Florida Building Code.~~

~~*117 VARIANCES IN FLOOD HAZARD AREAS*~~

~~*117.1 Flood hazard areas.* Pursuant to F.S. § 553.73(5), the variance procedures adopted in the local floodplain management ordinance shall apply to requests submitted to the Building Official for variances to the provisions of Section 1612.4 of the Florida Building Code, Building or, as applicable, the provisions of R322 of the Florida Building Code, Residential. This section shall not apply to Section 3109 of the Florida Building Code, Building.~~

~~*Florida Building Code, Building, Section 1612.2.*~~

~~*SUBSTANTIAL DAMAGE.* Damage of any origin sustained by a building or structure whereby the cost of restoring the building or structure to its before-damaged condition would equal or exceed 50 percent of the market value of the building or structure before the damage occurred. The term also includes flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the costs of repairs at the time of each such flood event, on average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.~~

~~*SUBSTANTIAL IMPROVEMENT.* Any repair, reconstruction, rehabilitation, addition or improvement of a building or structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either:~~

1. Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions.

2. Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

Florida Building Code, Existing Building, Chapter 2.

SUBSTANTIAL IMPROVEMENT. Any repair, reconstruction, rehabilitation, addition or improvement of a building or structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions.

2. Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

Florida Building Code, Residential, Section R322, is amended to add the following:.

R322.1.12 *R322.1.11 Enclosed areas below the required elevation.*
Enclosed areas, including crawl spaces, that are below the required elevation shall:

1. Be permitted to enclose up to 100 percent of the area below an elevated building and shall not extend beyond the perimeter of the building.

12. The Have the interior portion of any enclosed area shall:

   a. Be p Partitioned only to separate parking areas from building access or storage areas;

   b. Include only the The minimum number of interior doors necessary for access to the stairway or elevator to the elevated buildings from areas used for parking or storage;

   c. Not be Not temperature-controlled.

23. Have access to enclosed areas intended for building access or storage by no more than one standard 36-inch exterior door, or one windowless 72-inch double exterior door, on each of the four main sides of the building in any exterior wall.

34. Have construction documents include an agreement, signed by the owner, acknowledging the limitations on allowable uses of the enclosed areas and the conditions of the building permit, using a form provided by the Floodplain Administrator. This agreement shall be recorded in the official record books in the office of the clerk of the circuit court to provide additional notice of these limitations to future purchasers.

R322.1.12 Accessory structures. Accessory structures used for parking and storage shall be permitted below the base flood if designed and constructed in compliance with Section R322 and the total cost of an accessory structure does not exceed 10% of the market value of the building or $17,500 per dwelling unit, whichever is greater. The dollar amount specified may be increased each year beginning in 2014 by the percentage increase of the Consumer Price Index - All Urban Consumers (CUP-U), All Items, U.S. City Average maintained by the federal Bureau of Labor Statistics.

Chapter 33, Site Work, Demolition and Construction.

Section *3304.1.5~~3311.5~~* is added, to read as follows:

3304.1.5~~3311.5~~ Trash containers.

It shall be unlawful to bury construction debris on the construction site or on any other public or private property not specifically approved for such use. A suitable trash container and adequate collection service shall be provided for each construction site. For purposes of this requirement, a suitable container is any structure, device, receptacle, designated location or combination thereof which holds construction debris on the construction site in a central location long enough for it to be removed from the site by means of whatever collection service the contractor chooses to use or may be required to use pursuant to other applicable laws before such debris is: (1) washed or blown off-site, (2) contaminates subsurface elements, (3) becomes volatile or malodorous, (4) makes an attractive nuisance, or (5) otherwise becomes a threat to the public health, safety and welfare.

~~**Chapter 34, Existing Buildings.**~~

~~*Section 3401.1,* relating to scope, is modified to read as follows:~~

~~*3401.1 Scope.* Provisions of this chapter and of division 4 of this article shall govern the application of this code to existing buildings. In interpreting this code, the building official may be guided by the Nationally Applicable Recommended Rehabilitation Provisions, published in 1997 by the U.S. Department of Housing and Urban Development.~~

~~*Exception:* Buildings and structures located within the High Velocity Hurricane Zone shall comply with the provisions of sections 3401.5, 3401.8, and 3401.2.2.1.~~

~~*Section 3401.2.2.1,* relating to change of occupancy, is deleted, and replaced with a new section 3401.2.2.1, to read as follows:~~

~~*3401.2.2.1* If the occupancy classification or any occupancy subclassifications of any existing building or structure is changed to a more hazardous occupancy, the building, electrical, gas, mechanical, and plumbing systems shall be made to conform to the intent of the technical codes as required by the building official.~~

~~*Section 3401.5,* relating to special historic buildings, is deleted, and replaced with a new section 3401.5, to read as follows:~~

~~*3401.5 Special historic buildings.*~~

~~*3401.5.1* The provisions of the technical codes relating to the construction, alteration, repair, enlargement, restoration, relocation or moving of buildings or structures shall not be mandatory for an existing building or structure identified and classified by the federal, state, county, or town government as a historic structure, or as a contributing structure in a historic district, when such building or structure is judged by the building official to be safe and in the public interest of health, safety, and welfare regarding any proposed construction, alteration, repair, enlargement, restoration, relocation or moving.~~

~~*3401.5.2* If it is proposed that a historic building that is undergoing repair, renovation, alternation, reconstruction, or change of occupancy not comply literally with certain technical standards of this code, the building official may require the building to be investigated and evaluated by a registered design professional. Such evaluation shall identify each required~~

~~feature of the building not in technical compliance and shall demonstrate how the intent of these provisions is to be complied with in providing an equivalent level of safety.~~

(Ord. No. 13-06, § 3, 9-3-2013; Ord. No. 17-09, § 2, 6-19-2017)

Sec. 6-112. - Wind-borne debris region and basic wind speed map.

The entire incorporated area of the Town of Fort Myers Beach lies within the wind-borne debris region and the 160 mph ~~basic~~ ultimate design wind speed zone as established by section 1609~~1606.1.6~~ and figure 1609.3~~1606~~ of the Florida Building Code.

Sec. 6-113. - Compliance with outdoor lighting standards.

All building permits must comply with the outdoor lighting standards in §§ 34-1831—34-1860 of this code.

Sec. 6-114. - Compliance with NPDES erosion control standards.

Stormwater runoff from construction sites must be managed in compliance with §§ 10-606—10-607 of this land development code.

Secs. 6-115—6-120. - Reserved.

DIVISION 4. – RESERVED ~~EXISTING BUILDINGS CODE~~

~~Sec. 6-121. - Purpose.~~

~~The purpose of this code is to encourage the continued use or reuse of existing buildings. This code is designed to supplement the other codes adopted in this article. In interpreting this code, the building official may be guided by the Nationally Applicable Recommended Rehabilitation Provisions, published in 1997 by the U.S. Department of Housing and Urban Development.~~

~~Sec. 6-122. - Adoption; amendments.~~

~~The following chapters and sections of the 1997 Standard Existing Buildings Code, as published by the Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama, 35213-1206, are hereby adopted by reference and made a part of this article, with the exceptions set forth as follows:~~

~~Chapter 1, Administration.~~

~~*Section 101.7.1,* relating to a change of occupancy, is deleted, and replaced with a new section 101.7.1 to read as follows:~~

~~If the occupancy classification or any occupancy subclassifications of any existing building is changed to a more hazardous occupancy, the building shall be made to conform to the intent of the Florida Building Code for new construction as required by the building official.~~

~~*Section 105,* relating to the board of adjustment and appeals, is deleted, and replaced by the procedures set forth for the delegation of authority to Lee County's construction board of adjustment and appeals found in division 2 of this chapter and article.~~

~~Chapter 2, Definitions and Abbreviations.~~

Chapter 3, Historic Structures, is hereby amended to read as follows:

The provisions of this code relating to the construction, alteration, repair, enlargement, restoration, relocation or moving of buildings or structures shall not be mandatory for an existing building or structure identified and classified by the federal, state, county, or town government as a historic structure, or as a contributing structure in a historic district, when such building or structure is judged by the building official to be safe and in the public interest of health, safety, and welfare regarding any proposed construction, alteration, repair, enlargement, restoration, relocation or moving.

If it is proposed that a historic building that is undergoing repair, renovation, alternation, reconstruction, or change of occupancy not comply literally with certain technical standards, the building official may require the building to be investigated and evaluated by a registered design professional. Such evaluation shall identify each required feature of the building not in technical compliance and shall demonstrate how the intent of these provisions is to be complied with in providing an equivalent level of safety.

Chapter 4, Means of Egress.

Chapter 5, Fire Protection.

Chapter 6, Light, Ventilation and Sanitation.

Chapter 7, Building Services.

Chapter 8, Maintenance.

Appendix A, Rehabilitation Guidelines.

Secs. 6-123—6-230. - Reserved.

DIVISION 5. - CONTRACTOR LICENSING

Sec. 6-231. - Contractor licenses required.

Lee County authorizes the issuance of contractor licenses, as authorized by F.S. ch. 489 and Lee County Ordinance No. 96-20, granting the privilege of engaging in the contracting business within the jurisdiction of Lee County. The Town of Fort Myers Beach desires to restrict those engaging in the contracting business to those holding the same categories of licensure as required by Lee County:

(1) State-certified contractors holding an active state certificate of competency;

(2) State-registered contractors holding an active state registration and Lee County certificate of competency. A Lee County certificate of competency alone is not sufficient if state statute requires that the contractor also hold a state certificate or registration;

(3) Locally licensed contractors holding an active Lee County certificate of competency; or

(4) Restricted specialty contractors holding an active Lee County restricted certificate of competency.

Sec. 6-232. - Contractors required to be state-certified.

In accordance with F.S. ch. 489, the following types of contractors must hold a valid state certification in order to contract in the Town of Fort Myers Beach:

(1) General contractor;

(2) Building contractor;

(3) Residential contractor;

(4) Class A air conditioning contractor;

(5) Class B air conditioning contractor;

(6) Commercial pool/spa contractor;

(7) Residential pool/spa contractor;

(8) Swimming pool servicing contractor;

(9) Sheet metal contractor;

(10) Mechanical contractor;

(11) Plumbing contractor;

(12) Residential solar water heating contractor;

(13) Underground utilities and excavation contractor;

(14) Asbestos abatement contractor;

(15) Roofing contractor;

(16) Pollutant storage system contractor.

Sec. 6-233. - Contractor categories licensed by Lee County.

(a) The Town of Fort Myers Beach accepts Lee County certificates of competency in the following specialty categories:

(1) Alarm system contractor I;

(2) Alarm system contractor II;

(3) Aluminum specialty structures contractor;

(4) Aluminum (without concrete) contractor;

(5) Aluminum (nonstructural) contractor;

(6) Asphalt sealing and coating contractor;

(7) Awning contractor;

(8) Cabinet and millwork contractor;

(9) Carpentry contractor;

(10) Concrete coatings contractor;

(11) Concrete forming and placing contractor;

(12) Concrete placing and finishing (flatwork) contractor;

(13) Court (outdoor) contractor;

(14) Demolition contractor;

(15) Dredging contractor;

(16) Drywall contractor;

(17) Excavation contractor;

(18) Fence erection contractor;

(19) Finish carpentry contractor;

(20) Garage door contractor;

(21) Glass and glazing contractor;

(22) Gunite contractor;

(23) Gutter and downspout contractor;

(24) Insulation (building) contractor;

(25) Insulation (all types) contractor;

(26) Irrigation sprinkler contractor;

(27) Journeyman air conditioning;

(28) Journeyman electrician;

(29) Journeyman mechanical;

(30) Journeyman plumber;

(31) Marciting contractor;

(32) Marine contractor;

(33) Masonry contractor;

(34) Master electrical contractor;

(35) Painting contractor;

(36) Paver block contractor;

(37) Paving contractor;

(38) Pile driving contractor;

(39) Plastering/stucco contractor;

(40) Reinforcing steel contractor;

(41) River rock contractor;

(42) Sandblasting contractor;

(43) Sign contractor - limited;

(44) Sign contractor - restricted;

(45) Structural steel erection contractor;

(46) Terrazo contractor;

(47) Tile and marble contractor.

(b) The Town of Fort Myers Beach also accepts certain older Lee County certificates of competency that the county has determined to be vested with respect to the scope of work allowed under the certificate category. These certificates may be in the following categories:

(1) Air conditioning contractor - Class A;

(2) Air conditioning contractor - Class B;

(3) Air conditioning contractor - Class C;

(4) Alteration and repair (nonstructural) contractor;

(5) Building contractor;

(6) Cement, concrete and masonry contractor;

(7) Cement finishing contractor;

(8) Demolition contractor;

(9) Dredging and landfilling contractor;

(10) Exposed aggregate contractor;

(11) Flooring contractor;

(12) General contractor;

(13) Glazing and window installation contractor;

(14) Mechanical contractor;

(15) Mobile home alteration and repair (including aluminum work) contractor;

(16) Paint and roof painting contractor;

(17) Paving and sealing contractor;

(18) Plastering, lathing, stucco, and drywall contractor;

(19) Plumbing contractor;

(20) Pool contractor - Class A;

(21) Pool contractor - Class C;

(22) Remodeling contractor;

(23) Residential contractor;

(24) Roofing contractor;

(25) Roof painting contractor;

(26) Roof spraying contractor;

(27) Seawall and dock contractor;

(28) Sign contractor - electrical;

(29) Sign contractor - non-electrical;

(30) Solar water heating contractor;

(31) Tile contractor;

(32) Tile, terrazo, river rock, and marble contractor;

(33) Waterproofing contractor;

(34) Underground utility contractor.

Sec. 6-234. - Delegation of authority to the Lee County Construction Licensing Board.

(a) The Town of Fort Myers Beach hereby delegates to Lee County and the Lee County Construction Licensing Board the authority to make decisions regarding:

(1) The categories of certificates of competency that Lee County may require or issue;

(2) The requirements for obtaining and retaining Lee County certificates of competency;

(3) The issuance, revocation, and cancellation of Lee County certificates of competency;

(4) Disciplinary actions concerning activities within the town by holders of a Lee County certificate of competency or by state-certified or registered contractors; and

(5) Any other matter within the authority of the Lee County Construction Licensing Board.

(b) The policies, procedures and safeguards applicable to the Lee County Construction Licensing Board according to Lee County Ordinance No. 96-20, are hereby adopted by the Town of Fort Myers Beach for all actions of the board regarding violations alleged to have occurred within the town.

(c) The town attorney will provide legal advice to the Lee County Construction Licensing Board when warranted.

Sec. 6-235. - Owner-builder exemption.

(a) Owners of property may act as their own contractor and provide direct on-site supervision themselves of all work not performed by licensed contractors when building or improving:

(1) One-family or two-family residences on the owner's property for the occupancy or use of the owners and not offered for sale or lease; and

(2) Commercial buildings on the owner's property at a cost not to exceed $25,000.00 for the occupancy or use of the owners and not offered for sale or lease.

(b) If, within one year of completion, an owner-builder sells, leases, or offers for sale or lease any building constructed or improved under an owner-builder exemption, the town can presume the construction or improvement was undertaken for the purposes of sale or lease.

(c) This section does not exempt any person the owner-builder employs, or has a contract with, to act in the capacity of a contractor. The owner cannot delegate the owner's responsibility to directly supervise all work to any other person unless that person is duly licensed in accordance with this ordinance and the work performed is within the scope of that contractor's license.

(d) To qualify for exemption under this section, an owner must personally appear and sign the building permit application. The owner must also execute a disclosure statement prepared by the building official acknowledging compliance with all applicable regulations.

Sec. 6-236. - Other exemptions.

The licensing provisions of this article do not apply to:

(1) Any employee of a duly licensed contractor who is acting within the scope of the employer's license or with the employer's knowledge and permission. However, if the employer is not licensed to perform the type of services the employee is contracting to perform, then the employee is not exempt if the employee:

a. Holds himself or his employer out to be licensed or qualified by a licensee to perform services outside the scope of the employer's license;

b. Leads the consumer to believe that the employee has an ownership or management interest in the company; or

c. Performs any of the acts which constitute contracting for services outside the scope of the employer's license.

The intent of this subsection is to place equal responsibility on the unlicenced business and its employees for the protection of the consumers in contracting transactions.

(2) An authorized employee of the United States, the state, the county, the town, or any political subdivision of the state, if the employee does not hold himself out for hire or otherwise engage in contracting except in accordance with his employment.

(3) Contractors and employees working on bridges, roads, streets, highways, or railroads, including services incidental thereto, that are under the responsible charge of a professional engineer, duly licensed general contractor, the county, or the state.

(4) A registered professional engineer or architect acting within the scope of his practice or any person exempted by the law regulating engineers and architects, including a person doing design work as specified in F.S. § 481.229(1)(b). However, an engineer or architect cannot act as a contractor unless properly licensed in accordance with this article.

(5) An architect or landscape architect licensed under F.S. ch. 481 or a professional engineer licensed under F.S. ch. 471 who offers or renders design-build services. However, a state-certified general contractor must perform the construction services under the design-build contract.

Sec. 6-237. - Penalties.

Penalties for violations of this article shall be as authorized by Lee County through its Ordinance No. 96-20, as may be amended from time to time.

Secs. 6-238—6-330. - Reserved.

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EXHIBIT B

ARTICLE IV. - FLOODPLAIN REGULATIONS

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DIVISION 2. - APPLICABILITY

Sec. 6-411. - General.

Where there is a conflict between a general requirement and a specific requirement, the specific requirement will be applicable.

(Ord. No. 13-06, § 2, 9-3-2013; Ord. No. 16-02, § 2, 8-8-2016)

Sec. 6-412. - Areas to which this article applies.

This article shall apply to all flood hazard areas within the Town of Fort Myers Beach, as established in section 6-413.

(Ord. No. 13-06, § 2, 9-3-2013; Ord. No. 16-02, § 2, 8-8-2016)

Sec. 6-413. - Basis for establishing flood hazard areas.

The Flood Insurance Study for Lee County Florida and Incorporated Areas, dated November 17, 2022 ~~August 28, 2008~~, and all subsequent amendments and revisions, and the accompanying Flood Insurance Rate Maps (FIRM), and all subsequent amendments and revisions to such maps, are adopted by reference as a part of this article and serve as the minimum basis for establishing flood hazard areas. Studies and maps that establish flood hazard areas are on file at the Fort Myers Beach Town Hall~~, 2525 Estero Boulevard, Fort Myers Beach, Florida~~.

(Ord. No. 13-06, § 2, 9-3-2013; Ord. No. 16-02, § 2, 8-8-2016)

Sec. 6-414. - Submission of additional data to establish flood hazard areas.

To establish flood hazard areas and base flood elevations, pursuant to division 5 of this article, the floodplain administrator may require submission of additional data. Where field surveyed topography prepared by a Florida licensed professional surveyor or digital topography accepted by the town indicates that ground elevations:

(1) Are below the closest applicable base flood elevation, even in areas not delineated as a special flood hazard area on a FIRM, the area will be considered as flood hazard area and subject to the requirements of this article and, as applicable, the requirements of the Florida Building Code.

(2) Are above the closest applicable base flood elevation, the area will be regulated as special flood hazard area unless the applicant obtains a letter of map change that removes the area from the special flood hazard area.

(Ord. No. 13-06, § 2, 9-3-2013; Ord. No. 16-02, § 2, 8-8-2016)

Sec. 6-415. - Other laws.

The provisions of this article will not be deemed to nullify any provisions of local, state or federal law.

(Ord. No. 13-06, § 2, 9-3-2013; Ord. No. 16-02, § 2, 8-8-2016)

Sec. 6-416. - Abrogation and greater restrictions.

This article supersedes any ordinance in effect for management of development in flood hazard areas. However, it is not intended to repeal or abrogate any existing ordinances, including but not limited to, land development regulations, zoning ordinances, stormwater management regulations, or the Florida Building Code. In the event of a conflict between this article and any other ordinance, the more restrictive will govern. This article will not impair any deed restriction, covenant or easement, but any land that is subject to such interests will also be governed by this article.

(Ord. No. 13-06, § 2, 9-3-2013; Ord. No. 16-02, § 2, 8-8-2016)

Sec. 6-417. - Interpretation.

In the interpretation and application of this article, all provisions will be:

(1) Considered as minimum requirements;

(2) Liberally construed in favor of the governing body; and

(3) Deemed neither to limit nor repeal any other powers granted under state statutes.

(Ord. No. 13-06, § 2, 9-3-2013; Ord. No. 16-02, § 2, 8-8-2016)

Secs. 6-418—6-420. - Reserved.

DIVISION 3. - DUTIES AND POWERS OF THE FLOODPLAIN ADMINISTRATOR

Sec. 6-421. - Designation.

The town manager is designated as the floodplain administrator. The floodplain administrator may delegate performance of certain duties to other employees.

(Ord. No. 16-02, § 2, 8-8-2016)

Sec. 6-422. - General.

The floodplain administrator is authorized and directed to administer and enforce the provisions of this article. The floodplain administrator will have the authority to render interpretations of this article consistent with the intent and purpose of this article and may establish policies and procedures in order to clarify the application of its provisions. Such interpretations, policies, and procedures will not have the effect of waiving requirements specifically provided in this article without the granting of a variance pursuant to division 7 of this article.

(Ord. No. 16-02, § 2, 8-8-2016)

Sec. 6-423. - Applications and permits.

The floodplain administrator, in coordination with other pertinent offices of the town, will:

(1) Review applications and plans to determine whether proposed new development will be located in flood hazard areas;

(2) Review applications for modification of any existing development in flood hazard areas for compliance with the requirements of this article;

(3) Interpret flood hazard area boundaries where such interpretation is necessary to determine the exact location of boundaries; a person contesting the determination will have the opportunity to appeal the interpretation;

(4) Provide available flood elevation and flood hazard information;

(5) Determine whether additional flood hazard data will be obtained from other sources or will be developed by an applicant;

(6) Review applications to determine whether proposed development will be reasonably safe from flooding;

(7) Issue floodplain development permits or approvals for development other than buildings and structures that are subject to the Florida Building Code, including buildings, structures and facilities exempt from the Florida Building Code, when compliance with this article is demonstrated, or disapprove the same in the event of noncompliance; and

(8) Coordinate with and provide comments to the building official to assure that applications, plan reviews, and inspections for buildings and structures in flood hazard areas comply with the applicable provisions of this article.

(Ord. No. 16-02, § 2, 8-8-2016)

Sec. 6-424. - Substantial improvement and substantial damage determinations.

For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the floodplain administrator, in coordination with the building official, will:

(1) Estimate the market value or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure will be the market value before the damage occurred and before any repairs are made; any appraisal used for the purposes of substantial improvement/substantial damage determinations must be current within one year of work commencing;

(2) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;

(3) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; ~~and for proposed work to repair damage~~

~~caused by flooding, the determination requires evaluation of previous permits issued to repair flood-related damage as specified in the definition of "substantial damage;"~~ and

(4) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood-resistant construction requirements of the Florida Building Code and this article is required.

(Ord. No. 16-02, § 2, 8-8-2016; Ord. No. 17-09, § 2, 6-19-2017)

Sec. 6-425. - Modifications of the strict application of the requirements of the Florida Building Code.

The floodplain administrator will review requests submitted to the building official that seek approval to modify the strict application of the flood load and flood-resistant construction requirements of the Florida Building Code to determine whether such requests require the granting of a variance pursuant to division 7 of this article.

(Ord. No. 16-02, § 2, 8-8-2016)

Sec. 6-426. - Notices and orders.

The floodplain administrator will coordinate with appropriate local agencies for the issuance of all necessary notices or orders to ensure compliance with this article.

(Ord. No. 16-02, § 2, 8-8-2016)

Sec. 6-427. - Inspections.

The floodplain administrator will make the required inspections as specified in division 6 of this article for development that is not subject to the Florida Building Code, including buildings, structures and facilities exempt from the Florida Building Code. The floodplain administrator will inspect flood hazard areas to determine if development is undertaken without issuance of a permit.

(Ord. No. 16-02, § 2, 8-8-2016)

Sec. 6-428. - Other duties of the floodplain administrator.

The floodplain administrator will have other duties, including but not limited to:

(1) Establish, in coordination with the building official, procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to section 6-424 of this article;

(2) Reserved. ~~Require that applicants proposing alteration of a watercourse notify adjacent communities and the Florida Division of Emergency Management, State Floodplain Management Office, and submit copies of such notifications to the Federal Emergency Management Agency (FEMA);~~

(3) Require applicants who submit hydrologic and hydraulic engineering analyses to support permit applications to submit to FEMA the data and information necessary to maintain the Flood Insurance Rate Maps if the analyses propose to change base flood

elevations, flood hazard area boundaries~~, or floodway designations~~; such submissions will be made within six months of such data becoming available;

(4) Review required design certifications and documentation of elevations specified by this article and the Florida Building Code to determine that such certifications and documentations are complete;

(5) Notify the Federal Emergency Management Agency when the corporate boundaries of the Town of Fort Myers Beach are modified; and

(6) Advise applicants for new buildings and structures, including substantial improvements, that are located in any unit of the Coastal Barrier Resources System established by the Coastal Barrier Resources Act (Pub. L. 97-348) and the Coastal Barrier Improvement Act of 1990 (Pub. L. 101-591) that federal flood insurance is not available on such construction; areas subject to this limitation are identified on Flood Insurance Rate Maps as "Coastal Barrier Resource System Areas" and "Otherwise Protected Areas."

(Ord. No. 16-02, § 2, 8-8-2016)

Sec. 6-429. - Floodplain management records.

Regardless of any limitation on the period required for retention of public records, the floodplain administrator will maintain and permanently keep and make available for public inspection all records that are necessary for the administration of this article and the flood-resistant construction requirements of the Florida Building Code, including Flood Insurance Rate Maps; letters of map change; records of issuance of permits and denial of permits; determinations of whether proposed work constitutes substantial improvement or repair of substantial damage; required design certifications and documentation of elevations specified by the Florida Building Code and this article; ~~notifications to adjacent communities, FEMA, and the state related to alterations of watercourses; assurances that the flood-carrying capacity of altered watercourses will be maintained;~~ documentation related to appeals and variances, including justification for issuance or denial; and, records of enforcement actions taken pursuant to this article and the flood-resistant construction requirements of the Florida Building Code. These records are available for public inspection at the Town of Fort Myers Beach Town Hall.

(Ord. No. 16-02, § 2, 8-8-2016)

Secs 6-430—6-440. - Reserved.

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DIVISION 5. - SITE PLANS AND CONSTRUCTION DOCUMENTS

Sec. 6-451. - Information for development in flood hazard areas.

The site plan or construction documents for any development subject to the requirements of this article must be drawn to scale and must include, as applicable to the proposed development:

(1) Delineation of flood hazard areas, ~~floodway boundaries~~ and flood zones, base flood elevations, and ground elevations, if necessary for review of the proposed development.

(2) Location of the proposed activity and proposed structures, and locations of existing buildings and structures; in coastal high hazard areas and Coastal A Zones, new buildings must be located landward of the reach of mean high tide or the 1978 Coastal Construction Control Line, whichever is further inland.

(3) Location, extent, amount, and proposed final grades of any filling, grading or excavation.

(4) Where the placement of fill is proposed, the amount, type, and source of fill material; compaction specifications; a description of the intended purpose of the fill areas; and evidence that the proposed fill areas are the minimum necessary to achieve the intended purpose.

(5) Delineation of the coastal construction control line or notation that the site is seaward of the coastal construction control line, if applicable.

(6) Extent of any proposed alteration of sand dunes or mangrove stands, provided such alteration is approved by the Florida Department of Environmental Protection.

~~(7) Existing and proposed alignment of any proposed alteration of a watercourse.~~

The floodplain administrator is authorized to waive the submission of site plans, construction documents, and other data required by this article but that are not required to be prepared by a registered design professional if it is found that the nature of the proposed development is such that the review of such submissions is not necessary to ascertain compliance with this article.

(Ord. No. 13-06, § 2, 9-3-2013; Ord. No. 16-02, § 2, 8-8-2016)

Sec. 6-452. - Additional analyses and certifications.

As applicable to the location and nature of the proposed development activity, and in addition to the requirements of this section, the applicant must have the following analyses signed and sealed by a Florida licensed engineer for submission with the site plan and construction documents:

(1) An operation and maintenance plan when dry floodproofing is proposed, to include:

a. Identification of party responsible for maintenance and installation of the flood barriers that will protect wall and door openings and where the flood barriers will be stored when not in use.

b. Realistic estimate of the manpower, time and equipment required for installation.

c. Binding requirement for present and future owners to conduct a test installation before May 31 of each year of all flood barriers, with ten days' advance written notice provided to the floodplain administrator to witness this test.

d. Binding requirement that upon completion of each annual test, a written report will be submitted by the owners to the floodplain administrator within 30 days to document the results of the test and set forth any corrective measures that may be necessary, including proposed revisions to the operation and maintenance plan as to responsibility for maintenance, installation, and storage of flood barriers.

(2) For activities that propose to alter sand dunes or mangrove stands in coastal high hazard areas (Zone V) <u>and Coastal A Zones</u>, an engineering analysis that demonstrates the proposed alteration will not increase the potential for flood damage.

(Ord. No. 13-06, § 2, 9-3-2013; Ord. No. 16-02, § 2, 8-8-2016)

Sec. 6-453. - Submission of additional data.

When additional hydrologic, hydraulic or other engineering data, studies, and additional analyses are submitted to support an application, the applicant has the right to seek a letter of map change from FEMA to change the base flood elevations, ~~change floodway boundaries,~~ or change boundaries of flood hazard areas shown on FIRMs, and to submit such data to FEMA for such purposes. The analyses must be prepared by a Florida licensed engineer in a format required by FEMA. Submittal requirements and processing fees will be the responsibility of the applicant.

(Ord. No. 13-06, § 2, 9-3-2013; Ord. No. 16-02, § 2, 8-8-2016)

Secs. 6-454—6-460. - Reserved.

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DIVISION 9. - DEFINITIONS

Sec. 6-491. - Scope.

Unless otherwise expressly stated, the following words and terms will, for the purposes of this article, have the meanings shown in this division.

(Ord. No. 13-06, § 2, 9-3-2013; Ord. No. 16-02, § 2, 8-8-2016)

Sec. 6-492. - Terms defined in the Florida Building Code.

Where terms are not defined in this division and are defined in the Florida Building Code, such terms have the meanings ascribed to them in that code.

(Ord. No. 13-06, § 2, 9-3-2013; Ord. No. 16-02, § 2, 8-8-2016)

Sec. 6-493. - Terms not defined.

Where terms are not defined in this division or the Florida Building Code, such terms have ordinarily accepted meanings such as the context implies.

(Ord. No. 13-06, § 2, 9-3-2013; Ord. No. 16-02, § 2, 8-8-2016)

Sec. 6-494. - Definitions.

~~*Alteration of a watercourse.* A dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification that may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.~~

Appeal. A request for a review of the floodplain administrator's interpretation of any provision of this article.

ASCE 24. A standard titled Flood-Resistant Design and Construction that is referenced by the Florida Building Code. ASCE 24 is developed and published by the American Society of Civil Engineers, Reston, VA.

Base flood. A flood having a one-percent chance of being equaled or exceeded in any given year. [Also defined in FBC, B, Section 202.] The base flood is commonly referred to as the "100-year flood" or the "one-percent-annual chance flood."

Base flood elevation. The elevation of the base flood, including wave height, relative to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or other datum specified on the Flood Insurance Rate Map (FIRM). [Also defined in FBC, B, Section 202.]

Basement. The portion of a building having its floor subgrade (below ground level) on all sides. [Also defined in FBC, B, Section 202; see "Basement (for flood loads)".]

Coastal A Zone. Flood hazard areas that have been delineated as subject to wave heights between 1 ½ feet (457 mm) and 3 feet (914 mm). Such areas are seaward of the Limit of Moderate Wave Action shown on the Flood Insurance Rate Map.

Coastal construction control line. The line established by the State of Florida pursuant to F.S. § 161.053, and recorded in the official records of the community, which defines that portion of the beach-dune system subject to severe fluctuations based on a 100-year storm surge, storm waves or other predictable weather conditions.

Coastal high hazard area. A special flood hazard area extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. Coastal high hazard areas are also referred to as "high hazard areas subject to high velocity wave action" or "V Zones" and are designated on Flood Insurance Rate Maps (FIRM) as Zone V1-V30, VE, or V.

Design flood. The flood associated with the greater of the following two areas: [Also defined in FBC, B, Section 202.]

(1) Area with a floodplain subject to a one-percent or greater chance of flooding in any year; or

(2) Area designated as a flood hazard area on the community's flood hazard map, or otherwise legally designated.

Design flood elevation. The elevation of the "design flood," including wave height, relative to the datum specified on the community's legally designated flood hazard map. [Also defined in FBC, B, Section 202.]

Development. Any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, tanks, temporary structures, temporary or permanent storage of equipment or materials, mining, dredging, filling, grading, paving, excavations, drilling operations or any other land disturbing activities.

~~*Encroachment.* The placement of fill, excavation, buildings, permanent structures or other development into a flood hazard area which may impede or alter the flow capacity of riverine flood hazard areas.~~

Existing building and *existing structure.* Any buildings and structures for which the "start of construction" commenced before August 31, 1984. [Also defined in FBC, B, Section 202.]

~~*Existing manufactured home park or subdivision.* A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before August 31, 1984.~~

~~*Expansion to an existing manufactured home park or subdivision.* The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).~~

Federal Emergency Management Agency (FEMA). The federal agency that, in addition to carrying out other functions, administers the National Flood Insurance Program.

Flood or *flooding.* A general and temporary condition of partial or complete inundation of normally dry land from: [Also defined in FBC, B, Section 202.]

(1) The overflow of inland or tidal waters.

(2) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood damage-resistant materials. Any construction material capable of withstanding direct and prolonged contact with floodwaters without sustaining any damage that requires more than cosmetic repair. [Also defined in FBC, B, Section 202.]

Flood hazard area. The greater of the following two areas: [Also defined in FBC, B, Section 202.]

(1) The area within a floodplain subject to a one-percent or greater chance of flooding in any year.

(2) The area designated as a flood hazard area on the community's flood hazard map, or otherwise legally designated.

Flood Insurance Rate Map (FIRM). The official map of Fort Myers Beach on which the Federal Emergency Management Agency has delineated both special flood hazard areas and the risk premium zones applicable to the community. [Also defined in FBC, B, Section 202.]

Flood Insurance Study (FIS). The official report provided by the Federal Emergency Management Agency that contains the Flood Insurance Rate Map, the water surface elevations of the base flood, and supporting technical data. [Also defined in FBC, B, Section 202.]

Floodplain administrator. The office or position designated and charged with the administration and enforcement of this article (may be referred to as the floodplain manager).

Floodplain development permit or approval. An official document or certificate issued by the town, or other evidence of approval or concurrence, which authorizes performance of specific development activities that are located in flood hazard areas and determined to be compliant with this article.

Florida Building Code (FBC). The family of codes adopted by the Florida Building Commission, including: Florida Building Code, Building; Florida Building Code, Residential; Florida Building Code, Existing Building; Florida Building Code, Mechanical; Florida Building Code, Plumbing; Florida Building Code, Fuel Gas.

Functionally dependent use. A use that cannot perform its intended purpose unless it is located or carried out in close proximity to water, including only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities; the term does not include long-term storage or related manufacturing facilities.

Highest adjacent grade. The highest natural elevation of the ground surface prior to construction next to the proposed walls or foundation of a structure.

Historic structure. Any structure that is determined eligible for the exception to the flood hazard area requirements of the Florida Building Code, Existing Building, chapter 12 Historic Buildings.

Letter of map change (LOMC). An official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of map change include:

(1) Letter of map amendment (LOMA): An amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.

(2) Letter of map revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.

(3) Letter of map revision based on fill (LOMR-F): A determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.

(4) Conditional letter of map revision (CLOMR): A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a letter of map revision may be issued by FEMA to revise the effective FIRM.

Light-duty truck. As defined in 40 C.F.R. 86.082-2, any motor vehicle rated at 8,500 pounds gross vehicular weight rating or less that has a vehicular curb weight of 6,000 pounds or less and a basic vehicle frontal area of 45 square feet or less, which is:

(1) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle; or

(2) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or

(3) Available with special features enabling off-street or off-highway operation and use.

Limit of Moderate Wave Action. Line shown on FIRMs to indicate the inland limit of the 1 ½-foot (457 mm) breaking wave height during the base flood.

Lowest floor. The lowest floor of the lowest enclosed area of a building or structure, including basement, but excluding any unfinished or flood-resistant enclosure, other than a basement, usable solely for vehicle parking, building access or limited storage, provided that such enclosure is not built so as to render the structure in violation of the non-elevation requirements of the Florida Building Code or ASCE 24. [Also defined in FBC, B, Section 202.]

Mangrove stand. An assemblage of mangrove trees, which are mostly low trees noted for copious development of interlacing adventitious roots above the ground, which contains one or more of the following species: black mangrove (*Avicennia germinans*), red mangrove (*Rhizophora mangle*), white mangrove (*Languncularis racemosa*), and buttonwood (*Conocarpus erecta*).

Manufactured home. A structure, transportable in one or more sections, which is eight feet or more in width and greater than 400 square feet, and which is built on a permanent, integral chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle" or "park trailer." [Also defined in 15C-1.0101, F.A.C.]

Manufactured home park or subdivision. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Market value. ~~The price at which a property will change hands between a willing buyer and a willing seller, neither party being under compulsion to buy or sell and both having reasonable knowledge of relevant facts. As used in this article, the term refers to the market~~ The value of buildings and structures, excluding the land and other improvements on the parcel. Market value ~~may be established by a qualified independent appraiser,~~ is the actual cash value (in-kind

replacement cost depreciated for age, wear and tear, neglect, and quality of construction) determined by a qualified independent appraiser, or tax assessment value adjusted by a factor provided by the County Tax Assessor ~~upward by 20 percent~~.

~~Any proposed value submitted via a private appraisal that exceeds the property appraiser's valuation by more than 35 percent may be subject to peer review by a qualified local appraiser or submittal of a new independent appraisal, with the full cost of the review or new appraisal paid by the applicant.~~

New construction. For the purposes of administration of this article and the flood-resistant construction requirements of the Florida Building Code, structures for which the "start of construction" commenced on or after August 31, 1984 and includes any subsequent improvements to such structures.

~~*New manufactured home park or subdivision.* A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after August 31, 1984.~~

Park trailer. A transportable unit that has a body width not exceeding 14 feet and which is built on a single chassis and is designed to provide seasonal or temporary living quarters when connected to utilities necessary for operation of installed fixtures and appliances. [Defined in F.S. § 320.01.]

Recreational vehicle. A vehicle, including a park trailer, which is: [See F.S. § 320.01.]

(1) Built on a single chassis;

(2) Four hundred square feet or less when measured at the largest horizontal projection;

(3) Designed to be self-propelled or permanently towable by a light-duty truck; and

(4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Sand dunes. Naturally occurring accumulations of sand in ridges or mounds landward of the beach.

Special flood hazard area. An area in the floodplain subject to a one- percent or greater chance of flooding in any given year. Special flood hazard areas are shown on FIRMs as Zone A, AO, A1-A30, AE, A99, AH, V1-V30, VE or V. [Also defined in FBC, B Section 202.]

Start of construction. The date of issuance of permits for new construction and substantial improvements, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement is within 180 days of the date of the issuance. The actual start of construction means either the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns.

Permanent construction does not include land preparation (such as clearing, grading or filling), the installation of streets or walkways, excavation for a basement, footings, piers, or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main buildings. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building. [Also defined in FBC, B Section 202.]

Substantial damage. Damage of any origin sustained by a building or structure whereby the cost of restoring the building or structure to its before-damaged condition would equal or exceed 50 percent of the market value of the building or structure before the damage occurred. ~~The term also includes flood-related damage sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.~~ [Also defined in FBC, B Section 202.]

Substantial improvement. Any repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure, the cost of which equals or exceeds 50 percent of the market value of the building or structure before the improvement or repair is started. If the structure has incurred "substantial damage," any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either: [Also defined in FBC, B, Section 202.]

(1) Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions.

(2) Any alteration of a historic structure provided the alteration will not preclude the structure's continued designation as a historic structure.

Variance. A grant of relief from the requirements of this article, or the flood-resistant construction requirements of the Florida Building Code, which permits construction in a manner that would not otherwise be permitted by this ordinance or the Florida Building Code.

Watercourse. A river, creek, stream, channel or other topographic feature in, on, through, or over which water flows at least periodically.

(Ord. No. 13-06, § 2, 9-3-2013; Ord. No. 16-02, § 2, 8-8-2016; Ord. No. 17-09, § 2, 6-19-2017)

Secs. 6-495—6-500. - Reserved.

DIVISION 10. - FLOOD-RESISTANT DEVELOPMENT

Subdivision I. - Buildings and Structures

Sec. 6-501. - Design and construction of buildings, structures and facilities exempt from the Florida Building Code.

Pursuant to section 6-443, buildings, structures and facilities that are exempt from the Florida Building Code, including substantial improvement or repair of substantial damage of such buildings, structures and facilities, must be designed and constructed in accordance with the flood load and flood-resistant construction requirements of ASCE 24. Structures exempt from the Florida Building Code that are not walled and roofed buildings must comply with the requirements of division 10, subdivision VII.

(Ord. No. 16-02, § 2, 8-8-2016)

Sec. 6-502. - Buildings and structures seaward of the coastal construction control line.

If extending, in whole or in part, seaward of the coastal construction control line and also located, in whole or in part, in a flood hazard area:

(1) Buildings and structures must be designed and constructed to comply with the more restrictive applicable requirements of the Florida Building Code, Building, Section 3109 and Section 1612 or Florida Building Code, Residential, Section R322.

(2) Minor structures and non-habitable major structures as defined in F.S. § 161.54, must be designed and constructed to comply with the intent and applicable provisions of this article and ASCE 24.

(Ord. No. 16-02, § 2, 8-8-2016)

Subdivision II. - Subdivisions

Sec. 6-503. - Minimum requirements.

Subdivision proposals, including proposals for manufactured home parks and subdivisions, will be reviewed to determine that:

(1) Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;

(2) All public utilities and facilities such as sewer, gas, electric, communications, and water systems are located and constructed to minimize or eliminate flood damage; and

(3) Adequate drainage is provided to reduce exposure to flood hazards.

(Ord. No. 16-02, § 2, 8-8-2016)

Sec. 6-504. - Subdivision plats.

Where any portion of proposed subdivisions, including manufactured home parks and subdivisions, lies within a flood hazard area, the following will be required:

(1) Delineation of flood hazard areas~~, floodway boundaries~~ and flood zones, and design flood elevations, as appropriate, must be shown on preliminary plats; and

(2) Compliance with the site improvement and utilities requirements of division 10, subdivision III.

(Ord. No. 16-02, § 2, 8-8-2016)

Subdivision III. - Site Improvements, Utilities and Limitations

Sec. 6-505. - Minimum requirements.

All proposed new development will be reviewed to determine that:

(1) Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;

(2) All public utilities and facilities such as sewer, gas, electric, communications, and water systems are located and constructed to minimize or eliminate flood damage; and

(3) Adequate drainage is provided to reduce exposure to flood hazards.

(Ord. No. 16-02, § 2, 8-8-2016)

Sec. 6-506. - Sanitary sewage facilities.

All new and replacement sanitary sewage facilities, private sewage treatment plants (including all pumping stations and collector systems), and on-site waste disposal systems must be designed in accordance with the standards for on-site sewage treatment and disposal systems in Chapter 64E-6, F.A.C. and ASCE 24, Chapter 7 to minimize or eliminate infiltration of floodwaters into the facilities and discharge from the facilities into floodwaters, and impairment of the facilities and systems.

(Ord. No. 16-02, § 2, 8-8-2016)

Sec. 6-507. - Water supply facilities.

All new and replacement water supply facilities must be designed in accordance with the water well construction standards in Chapter 62-532.500, F.A.C. and ASCE 24, Chapter 7 to minimize or eliminate infiltration of floodwaters into the systems.

(Ord. No. 16-02, § 2, 8-8-2016)

Sec. 6-508. - Limitations on placement of fill.

Subject to the limitations of this article, fill must be designed to be stable under conditions of flooding including rapid rise and rapid drawdown of floodwaters, prolonged inundation, and protection against flood-related erosion and scour. In addition to these requirements, if intended to support buildings and structures (Zone A only), fill must comply with the requirements of the Florida Building Code.

(Ord. No. 16-02, § 2, 8-8-2016)

Sec. 6-509. - Limitations on sites in coastal high hazard areas (Zone V) and Coastal A Zones.

In coastal high hazard areas and Coastal A Zones, alteration of sand dunes and mangrove stands will be permitted only if such alteration is approved by the Florida Department of Environmental Protection and only if the engineering analysis required by subsection 6-452(1) demonstrates that the proposed alteration will not increase the potential for flood damage. Construction or restoration of dunes under or around elevated buildings and structures must comply with subsection 6-529(3).

(Ord. No. 16-02, § 2, 8-8-2016)

Subdivision IV. - Manufactured Homes

Sec. 6-510. - General.

All manufactured homes installed in flood hazard areas must be installed by an installer that is licensed pursuant to F.S. § 320.8249, and must comply with the requirements of Chapter 15C-1, F.A.C. and the requirements of this article. If located seaward of the coastal construction control line, all manufactured homes must comply with the more restrictive of the applicable requirements.

(Ord. No. 16-02, § 2, 8-8-2016)

Sec. 6-511. - Limitations on installations in coastal high hazard areas (Zone V) and Coastal A Zones.

New installations of manufactured homes shall not be permitted in coastal high hazard areas (Zone V) and Coastal A Zones.

(Ord. No. 16-02, § 2, 8-8-2016)

Sec. 6-512. - Foundations.

All new manufactured homes and replacement manufactured homes installed in flood hazard areas must be installed on permanent, reinforced foundations that:

(1) In flood hazard areas (Zone A) other than coastal high hazard areas and Coastal A Zones, are designed in accordance with the foundation requirements of the Florida Building Code, Residential, Section R322.2 and this article. ~~Foundations for manufactured homes subject to section 6-516 are permitted to be reinforced piers or other foundation elements of at least equivalent strength.~~

(2) In coastal high hazard areas (Zone V) and Coastal A Zones, are designed in accordance with the foundation requirements of the Florida Building Code, Residential, Section R322.3 and this article.

(Ord. No. 16-02, § 2, 8-8-2016)

Sec. 6-513. - Anchoring.

All new manufactured homes and replacement manufactured homes must be installed using methods and practices that minimize flood damage and must be securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Methods of anchoring include, but are not limited to, use of over-the-top or frame ties to ground anchors. This anchoring requirement is in addition to applicable state and local anchoring requirements for wind resistance.

(Ord. No. 16-02, § 2, 8-8-2016)

Sec. 6-514. - Elevation.

All manufactured homes that are placed, replaced, or substantially improved in flood hazard areas shall be elevated such that the bottom of the frame is at or above the base flood elevation plus one foot. ~~Manufactured homes that are placed, replaced or substantially improved must comply with sections 6-515 or 6-516, as applicable.~~

(Ord. No. 16-02, § 2, 8-8-2016)

~~Sec. 6-515. - General elevation requirement.~~

~~Unless subject to the requirements of section 6-516, all manufactured homes that are placed, replaced or substantially improved on sites located: (a) outside of a manufactured home park or subdivision; or (b) in an existing manufactured home park or subdivision upon which a~~

~~manufactured home has incurred "substantial damage" as the result of a flood, must be elevated such that the bottom of the frame is at or above the elevation required, as applicable to the flood hazard area, in the Florida Building Code, Residential, Section R322.2 (Zone A) or Section R322.3 (Zone V).~~

(Ord. No. 16-02, § 2, 8-8-2016)

~~Sec. 6-516. - Elevation requirement for certain existing manufactured home parks and subdivisions.~~

~~Manufactured homes that are not subject to section 6-515, including manufactured homes that are placed, replaced or substantially improved on sites located in an existing manufactured home park or subdivision, unless on a site where substantial damage as result of flooding has occurred, must be elevated such that either the:~~

~~(1) Bottom of the frame of the manufactured home is at or above the elevation required, as applicable to the flood hazard area, in the Florida Building Code, Residential, Section R322.2 (Zone A) or Section R322.3 (Zone V); or~~

~~(2) Bottom of the frame is supported by reinforced piers or other foundation elements of at least equivalent strength that are not less than 36 inches in height above grade.~~

(Ord. No. 16-02, § 2, 8-8-2016)

Sec. 6-515. ~~Sec. 6-517~~. - Enclosures.

Enclosed areas below elevated manufactured homes must comply with the requirements of the Florida Building Code, Residential, Sections R322.2 or R322.3 for such enclosed areas, as applicable to the flood hazard area.

(Ord. No. 16-02, § 2, 8-8-2016)

Sec. 6-516. ~~Sec. 6-518~~. - Utility equipment.

Utility equipment that serves manufactured homes, including electric, heating, ventilation, plumbing and air conditioning equipment and other service facilities, must comply with the requirements of the Florida Building Code, Residential, Section R322, as applicable to the flood hazard area.

(Ord. No. 16-02, § 2, 8-8-2016)

Secs. 6-517—6-518. - Reserved.

Subdivision V. - Recreational Vehicles and Park Trailers

Sec. 6-519. - Temporary placement.

Recreational vehicles and park trailers placed temporarily in flood hazard areas must:

(1) Be on the site for fewer than 180 consecutive days; or

(2) Be fully licensed and ready for highway use, which means the recreational vehicle or park model is on wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanent attachments such as additions, rooms, stairs, decks and porches.

(Ord. No. 16-02, § 2, 8-8-2016)

Sec. 6-520. - Permanent placement.

Recreational vehicles and park trailers that do not meet the limitations in section 6-519 for temporary placement must meet the requirements of division 10, subdivision IV for manufactured homes.

(Ord. No. 16-02, § 2, 8-8-2016)

Subdivision VI. - Tanks

Sec. 6-521. - Underground tanks.

Underground tanks in flood hazard areas must be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty.

(Ord. No. 16-02, § 2, 8-8-2016)

Sec. 6-522. - Above-ground tanks, not elevated.

Above-ground tanks that do not meet the elevation requirements of section 6-523 must:

(1) Be permitted in flood hazard areas (Zone A) other than coastal high hazard areas and Coastal A Zones, provided the tanks are anchored or otherwise designed and constructed to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty and the effects of flood-borne debris.

(2) Not be permitted in coastal high hazard areas (Zone V) and Coastal A Zones.

(Ord. No. 16-02, § 2, 8-8-2016)

Sec. 6-523. - Above-ground tanks, elevated.

Above-ground tanks in flood hazard areas must be attached to and elevated to or above the design flood elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures must meet the foundation requirements of the applicable flood hazard area.

(Ord. No. 16-02, § 2, 8-8-2016)

Sec. 6-524. - Tank inlets and vents.

Tank inlets, fill openings, outlets and vents must be:

(1) At or above the design flood elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and

(2) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

(Ord. No. 16-02, § 2, 8-8-2016)

Subdivision VII. - Other Development

Sec. 6-525. - General requirements for other development.

All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in this article or the Florida Building Code, must:

(1) Be located and constructed to minimize flood damage;

(2) Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;

(3) Be constructed of flood damage-resistant materials; and

(4) Have mechanical, plumbing and electrical systems above the design flood elevation or meet the requirements of ASCE 24, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.

(Ord. No. 16-02, § 2, 8-8-2016)

Sec. 6-526. - Concrete slabs used as parking pads, enclosure floors, landings, decks, walkways, patios and similar nonstructural uses in coastal high hazard areas (Zone V) and Coastal A Zones.

In coastal high hazard areas and Coastal A Zones, concrete slabs used as parking pads, enclosure floors, landings, decks, walkways, patios and similar nonstructural uses are permitted beneath or adjacent to buildings and structures provided the concrete slabs are designed and constructed to be:

(1) Structurally independent of the foundation system of the building or structure;

(2) Frangible and not reinforced, so as to minimize debris during flooding that is capable of causing significant damage to any structure; and

(3) Have a maximum slab thickness of not more than four inches without turned-down edges, have isolation joints at pilings and columns, and have control or construction joints in both directions spaced no more than four feet apart.

(Ord. No. 16-02, § 2, 8-8-2016; Ord. No. 17-09, § 2, 6-19-2017)

Sec. 6-527. - Decks and patios in coastal high hazard areas (Zone V) and Coastal A Zones.

In addition to the requirements of the Florida Building Code, in coastal high hazard areas and Coastal A Zones decks and patios must be located, designed and constructed in compliance with the following:

(1) A deck that is structurally attached to a building or structure must have the bottom of the lowest horizontal structural member at or above the design flood elevation and any supporting members that extend below the design flood elevation must comply with the foundation requirements that apply to the building or structure, which must be designed to accommodate any increased loads resulting from the attached deck.

(2) A deck or patio that is located below the design flood elevation must be structurally independent from buildings or structures and their foundation systems, and must be designed and constructed either to remain intact and in place during design flood conditions or to break apart into small pieces to minimize debris during flooding that is capable of causing structural damage to the building or structure or to adjacent buildings and structures.

(3) A deck or patio that has a vertical thickness of more than 12 inches or that is constructed with more than the minimum amount of fill necessary for site drainage must not be approved unless an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to the building or structure or to adjacent buildings and structures.

(4) A deck or patio that has a vertical thickness of 12 inches or less and that is at natural grade or on nonstructural fill material that is similar to and compatible with local soils and is the minimum amount necessary for site drainage may be approved without requiring analysis of the impact on diversion of floodwaters or wave runup and wave reflection.

(Ord. No. 16-02, § 2, 8-8-2016)

Sec. 6-528. - Other development in coastal high hazard areas (Zone V) and Coastal A Zones.

In coastal high hazard areas and Coastal A Zones, development activities other than buildings and structures may be permitted only if also authorized by the appropriate federal, state or local authority; if located outside the footprint of, and not structurally attached to, buildings and structures; and, if analyses prepared by qualified registered design professionals demonstrates no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent buildings and structures. Such other development activities include but are not limited to:

(1) Bulkheads, seawalls, retaining walls, revetments, and similar erosion control structures;

(2) Solid fences and privacy walls and fences prone to trapping debris, unless designed and constructed to fail under flood conditions less than the design flood or otherwise function to avoid obstruction of floodwaters; and

(3) On-site sewage treatment and disposal systems defined in 64E-6.002, F.A.C., as filled systems or mound systems.

(Ord. No. 16-02, § 2, 8-8-2016)

Sec. 6-529. - Nonstructural fill in coastal high hazard areas (Zone V) and Coastal A Zones.

In coastal high hazard areas and Coastal A Zones:

(1) Minor grading and the placement of minor quantities of nonstructural fill may be permitted for landscaping and for drainage purposes under and around buildings.

(2) Nonstructural fill with finished slopes that are steeper than one unit vertical to five units horizontal may be permitted only if an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent buildings and structures.

(3) Where authorized by the Florida Department of Environmental Protection or applicable local approval, sand dune construction and restoration of sand dunes under or around elevated buildings are permitted without additional engineering analysis or certification of the diversion of floodwater or wave runup and wave reflection, if the scale and location of the dune work is consistent with local beach-dune morphology and the vertical clearance is maintained between the top of the sand dune and the lowest horizontal structural member of the building.

(Ord. No. 16-02, § 2, 8-8-2016)

Secs. 6-530—6-600. - Reserved.

Town of Fort Myers Beach
Agenda Item Summary Yellow Sheet Number:**2024-1323**

1. **Requested Motion:** **Meeting Date: November 14, 2023**

APPROVE/ APPROVE WITH CONDITIONS/ DENY FOR 923 THIRD STREET; A VARIANCE FROM LDC SECTION 34-638 TABLE 34-3 DIMENSIONAL REGULATIONS IN CONVENTIONAL ZONING DISTRICTS FOR THE SIDE AND REAR SETBACKS IN THE RS ZONING DISTRICT; AND ALLOW 2% OF ADDITIONAL BUILDING COVERAGE OVER THE MAXIMUM ALLOWED.

Why the action is necessary:
The LPA makes recommendations to the Town Council for variance requests. This request will allow the applicant a third story porch that extends into the front setback and to increase the square footage of the footprint of the duplex.

What the action accomplishes:
The LPA recommendation will be forwarded to the Town Council.

2. **Agenda:**
PUBLIC HEARINGS

3. **Requirement/Purpose:**
Resolution

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5. **Background:**
The applicant for 923 Third St., is requesting two variances from the Town's Land Development Code (LDC) Table 34-3 which requires a single-family home in the RC zoning district to provide a minimum street setback of 25 feet from the front property line. The applicant is requesting a variance of 9.5-feet from the street setback for a front setback of 15.5-feet. The applicant is also requesting a variance of 2-percent –a difference of approximately 80-square feet.

Attachments:
1. LPA Staff Report
2. Revised Site Plan v3 - Mosteiro
3. Revised Elevations v3 - Mosteiro
4. 2007 Administrative Variance for Rear Deck/ Stairs
5. Mosteiro Exhibit 6-2 Boundary Survey
6. Building Coverage Calculation v3 - Mosteiro
7. Revised Home Rendering - Mosteiro
8. Revised PH-B Attachment
9. Revised Supplement PH-B

Financial Impact:
unknown

6. **Alternative Action**
Approve

7. **Staff Recommendations:**
Recommend denial of request for variances to the front setback and for building coverage.

8. **Recommended Approval:**

Date: November 08, 2023

Frankie Kropacek, Operations & Compliance Director

Date: November 08, 2023

Gretchen R.H. Vose, Town Attorney

Date: November 09, 2023

Amy Baker, Town Clerk

Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

TYPE OF CASE:	**Variance**
CASE NUMBER:	**VAR20230142**
CASE NAME:	**923 Third Street; requesting two variances from LDC Section 34-638 Table 34-3 Dimensional Regulations in Conventional Zoning Districts for the street setbacks in the RC zoning district; and allow for additional building coverage.**
COUNCIL HEARING DATE:	**November 14, 2023, at 9 AM**
STAFF RECOMMENDATION:	**DENIAL**
PREPARED/ SUBMITTED BY:	**Jason Smalley- Senior Planner**

I. APPLICATION SUMMARY

Applicant/Owner:	Christopher Mosteiro – Owner/ Applicant
Request:	The applicant is requesting a front setback variance of 9.5 feet for a third-floor deck; the minimum front setback is 25-feet. The applicant is also requesting a variance to allow 2-percent additional building coverage when the existing maximum building coverage is 40-percent of the lot area.
Subject property:	See attached site plan
Physical Address:	923 Third Street
STRAP #:	29-46-23-W3-0030A.0050
FLU:	Mixed Residential
Zoning:	Residential Conservation (RC)

Adjacent zoning and land uses:

North:	COMMERCIAL MARINA (CM) Marina
South:	RESIDENTIAL CONSERVATION (RC) Single-Family Residential
East:	RESIDENTIAL CONSERVATION (RC) Single-Family Residential
West:	RESIDENTIAL CONSERVATION (RC) Single-Family Residential

II. BACKGROUND AND ANALYSIS

Background:

Christopher Mosteiro, the applicant for 923 Third St., is requesting two variances from the Town's Land Development Code (LDC) Table 34-3 which requires a single-family home in the RC zoning district to provide a minimum street setback of 25 feet from the front property line. The applicant is requesting a variance of 9.5-feet from the street setback and will provide a front setback of 15.5-feet to the proposed new deck on the new second floor unit. The applicant is also requesting a variance of 2-percent –a difference of approximately 80-square feet—to develop additional roofed area.

Prior to Hurricane Ian the primary structure was non-conforming due to rear setbacks and the lot's dimensions were conforming for minimum lot area within the residential conservation zoning district. An Administrative Variance was approved in 2007 to construct a deck and stairs 5-feet from the rear property line (ADD2007-0009; 12/7/2007)

Analysis:

The purpose of the RC zoning district is to recognize certain older neighborhoods that had been zoned for duplex, multifamily, or mobile home purposes prior to incorporation of the town. Some lots in this district are large enough to accommodate a second dwelling unit. The subject property is an interior lot that is rectangular and is adjacent to a marina and within a single-family neighborhood. The lot has a depth of approximately 80-feet and a width of approximately 50-feet, requiring a street setback of 25-feet, side setbacks of 7.5-feet, and rear setbacks of 20-feet. The property has an existing single-family home, which was moderately damaged by Hurricane Ian.

The applicant is requesting to develop a second living level –three total floors—above the existing living level, the ground-floor will be made entirely into storage and parking to serve the home. The structure will provide minimum 7.5-foot side setbacks as they expand the first living level and the front setbacks of the home and the first

living level deck. Both living levels (second & third stories) are proposed with non-compliant rear setbacks to match the existing non-conforming house setbacks. Staff determined that the applicant should apply for an Administrative Variance to develop a new living level (second story) utilizing the existing non-compliant rear setback of approximately 12-feet from the property line. The applicant understands staff will pursue an Administrative Variance if the applicant's variances are approved. The applicant has also been advised that approval of the proposed living level expansion beyond the area that existed pre-storm, is dependent on approval of the Post-Disaster Buildback ordinance currently being heard before LPA, the applicant understands and wished to continue while the proposed ordinance amendment is being discussed.

Neighborhood Compatibility:
The lot sits within an RC zoned neighborhood, although the lots on the corner of Old San Carlos and Third street are zoned Downtown. The neighborhood sits adjacent to Moss Marina and less than 400-feet from Old San Carlos Blvd. The requested street-setback variance for the second living level deck would not extend further than the existing first living level deck. The requested increase of the building coverage by 2-percent, may make the redeveloped structure appear more intense than lots of relatively similar sizes in the area. The requested increase of approximately 80-square feet of roofed area is a relatively small ask, but staff is conscientious of the code language meant to limit the bulk within neighborhoods.

The proposed development exceeds building coverage and further expansion will be limited without removing roofed area or developing unroofed structures.

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

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

   The existing structure footprint was developed years prior to the current owner purchasing it, the existing non-compliances were not done by the current owner and the request to expand the first living level footprint isn't due to changing codes, but decisions by the homeowner to fully build-out the site.

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

   The subject property survived the storm, with the second floor living area largely intact and the owner has chosen to expand the building to the minimum setbacks and develop an additional deck within the front setbacks.

The variances all stem from decisions made by the homeowner to redevelop their structure.

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

The variance request largely stems from the development of a third floor deck to match the second floor deck, this is a design choice and is the main reason that the applicant requires a variance.

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

The marina adjacent to the property would be the most affected by the 1-foot proposed reduction of the stairs and deck, this will not materially affect the use of the marina property and does not appear to be out of place with the other, existing homes in the neighborhood.

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.

III. RECOMMENDATION

Staff has reviewed the request for a variance *from LDC Table 34-3 which requires that a lot in the RC zoning district have minimum 25-foot street setback and maximum building coverage of 40-percent of the lot area* and found that the variances requested do not meet the requirements set forth in sec. 34-87.

Therefore, staff recommends **DENIAL** of VAR20230142, a request for variances of 9.5-feet from the street setback and allow for an additional 2-percent of maximum building coverage.

IV. CONDITIONS FOR APPROVAL

If the Town's LPA recommends approval for the variance, town's staff recommends the following conditions of approval.

1) Should the home be demolished and the site redeveloped, the approved variances will become null and void and the new structure will be expected to be build to meet the codes at the time of review.

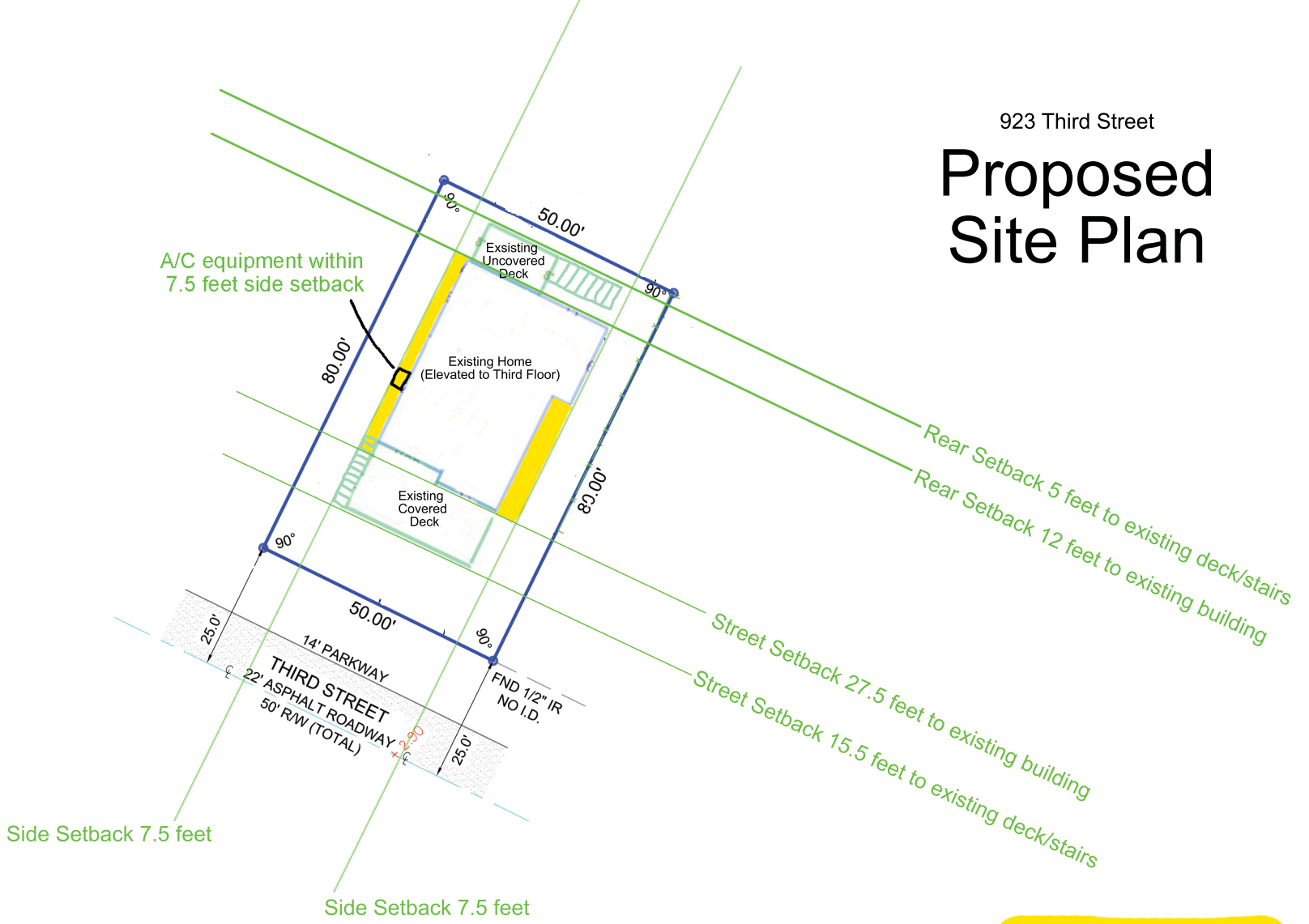
2) All other LDC requirements shall be met.

V. EXHIBITS

A. Complete application
B. Site Plans
C. Administrative Variance (ADD2007-0009; 12/7/2007)

923 Third Street

Proposed Site Plan



Second Floor rebuild & widened to Side Setbacks

923 Third Street Proposed Elevations

40 feet NAVD------>

28 feet NAVD------>

19 feet NAVD------>

11 feet BFE ------>

4 feet NAVD------>



ADMINISTRATIVE APPROVAL
FORT MYERS BEACH, FLORIDA
FMBADD2007-0009

WHEREAS Gwen Horn, owner of the real property located at 923 Third Street in Fort Myers Beach, Florida, requested an administrative setback variance for property legally described as

Lot 5, Block A, Matanzas View Subdivision, as recorded in Plat Book 9, Page 40 of the Public Records of Lee County, Florida

and

WHEREAS the subject property is within the Mixed Residential Future Land Use Map (FLUM) Category according to the Town of Fort Myers Beach Comprehensive Plan; and

WHEREAS the subject property is zoned Residential Conservation (RC); and

WHEREAS the subject property is developed with one elevated two-family building, nonconforming with regard to the density allowed by the Fort Myers Beach Comprehensive Plan, constructed in 1955 according to the records of the Lee County Property Appraiser; and

WHEREAS the existing building is located 12.25 feet from the rear property line according to the Sketch of Survey by Miguel Garay, LS 6592, dated 6/22/2007 (copy attached hereto as Exhibit "A"); and

WHEREAS the entrance to one of the two units in the existing building is located at the rear of the elevated building; and

WHEREAS a deck and stairs providing access to the rear unit was located 2.32 feet from the rear property line according to the survey dated 6/22/2007; and

WHEREAS the deck and stairs are visible in photographs dated 6/21/2007 and attached to the elevation certificate prepared by Miguel Garay, dated 6/22/2007; and

WHEREAS the deck and stairs are visible in aerial photographs taken in 2007, 2005, 2002, 1998, and 1988; and

WHEREAS inspection of the subject property on July 18, 2007 by a code enforcement officer disclosed the existence of a violation of Fort Myers Beach Land Development Code (LDC) Section 6-111 adopting the Florida Building Code, section 105.1 requiring permits for constructing, enlarging, altering, repairing, or demolishing a building or structure; and

WHEREAS the form of the violation disclosed by the code enforcement officer's inspection was the construction of a new raised deck at the rear of the residence without permits; and

WHEREAS LDC Section 34-1173(b)(1) requires that any accessory building or structure which is structurally a part of the principal building must comply in all respects with the regulations for a principal building; and

WHEREAS LDC Section 34-638 and Table 34-3 require a rear setback of 20 feet in the RC (Residential Conservation) zoning district; and

WHEREAS Fort Myers Beach Land Development Code (LDC) Section 34-268(a)(1) authorizes the Director to modify the setbacks provided in LDC Sections 34-638, 34-1174 through 34-1176, and 34-1744 to permit remodeling of or addition to an existing structure that is nonconforming so long as, *inter alia,* the remodeling or addition will not result in further diminution of the nonconforming setback; and

WHEREAS LDC Section 34-268(a)(3) authorizes the Director to modify street, rear, side, or waterbody setbacks to allow replacement of stairs or decking that provides access to an existing dwelling unit; and

WHEREAS any redevelopment of the subject property must comply with all setbacks applicable at the time of permitting for the redevelopment; and

WHEREAS the Director hereby makes the following findings of fact with regard to the setback variance:

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

NOW, THEREFORE, IT IS HEREBY DETERMINED that the rear setback required on the subject property in the RC zoning district by LDC Table 34-3 is modified from 20 feet to permit a minimum rear setback of 5 feet, to allow the replacement deck and stairs for access to the existing dwelling unit as shown on site plan attached hereto as EXHIBIT B.

SUBJECT TO the following condition:

1. The variance is limited to the stair and deck replacement. Any movement or replacement of the principal structure must conform to the requirements of the

LDC in effect at that time. Substantial improvements, including substantial damage, to the existing structure must comply with all requirements of the LDC.

DULY ADOPTED this 7th day of December 2007.

By: _____

Gerald Murphy, Director
Department of Community Development
Town of Fort Myers Beach

SKETCH OF SURVEY

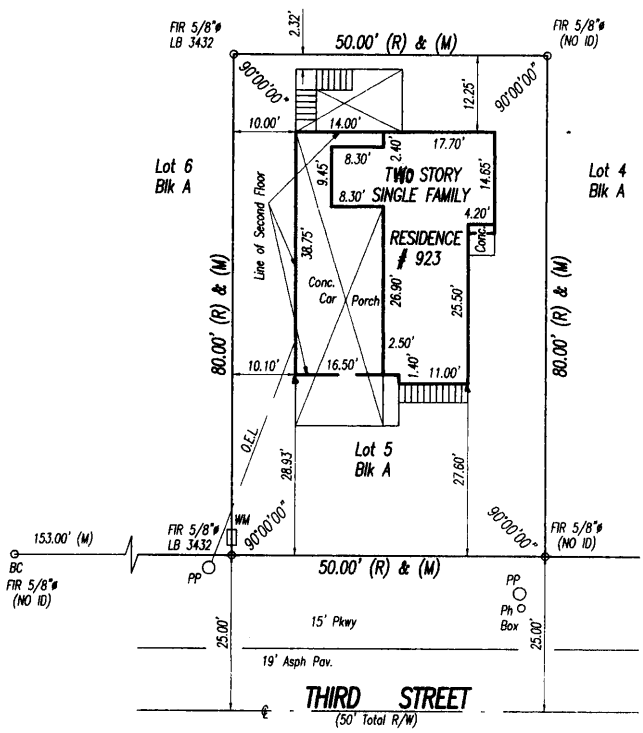
SCALE 1":20'

NORTH

EXHIBIT (A)

Town of Fort Myers Beach

F M B ADD 2007 0 0 0 9



PROPERTY ADDRESS:

923 THIRD STREET, FORT MYERS BEACH, FLORIDA, 33931

LEGAL DESCRIPTION:

LOT(S) 5, BLOCK A, MATANZAS VIEW SUBDIVISION, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 9, PAGE(S) 40, INCLUSIVE, IN THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

EGAL NOTES:

THIS SURVEY DOES NOT REFLECT OR DETERMINE WNERSHIP. -EXAMINATION OF THE ABSTRACT OF TITLE WILL HAVE TO BE ADE TO DETERMINATE RECORDER INSTRUMENT, IF ANY, AFFECTING THIS ROPERTY IS SUBJECT TO DEDICATIONS. LIMITATIONS. RESERVATIONS. AND/OR ESEMENTS OF RECORDS. -LEGAL DESCRIPTION WAS PROVIDED BY CLIENT R ATTEESTING TITLE COMPANY. -THE LIABILITY OF THIS SRVEY IS LIMITED O THE COST OF THE SURVEY. -UNDERGROUND ENCROACHMENTS, IF ANY RE NOT SHOWN. -THIS FIRM HAS NOT ATTEMPTED TO LOCATE FOOTING OUNDATIONS AND/OR UNDERGROUND IMPROVEMENTS OF ANY NATURE. F SHWN, BEARINGS ARE REFERED TO AN ASSUMED MERIDIAN. -IF SHOWN .EVATIONS ARE REFERED TO N.G.V.D. OF 1929. THIS SURVEY -FOR DESING R CONSTRUCTION PURPOUSE A TOPOGRAPHIC SURVEY IS REQUERED. VPLICABLE ZONNING AND BUILDING SET BACKS MUST BE CHECK BEFORE DESING R CONSTRUCTION BEGINGS ON THIS PROPERTY.

ORDER No:	FIEL WORK:	REVISIONS:
NB-1378	06/22/2007	

FLOOD INFORMATION:

(BASED ON THE FLOOD INSURANCE RATE MAP OF THE FEDERAL EMERGENT MANAGEMENT AGENCY.) ELEVATION ARE REFERED TO N.G.V.D. OF 1929.

F.I.R.M. DATE:	FLOOD ZONE:	BASE ELEVATION:
09/20/1996	A12	12'
COMMUNITY	**PANEL NUMBER**	**SUFFIX:**
125124	0429	D

CERTIFIED TO:

NATIONAL CITY MORTGAGE
WEST BAY TITLE
CHICAGO TITLE INSURANCE COMPANY
GWENDOLYN HORN

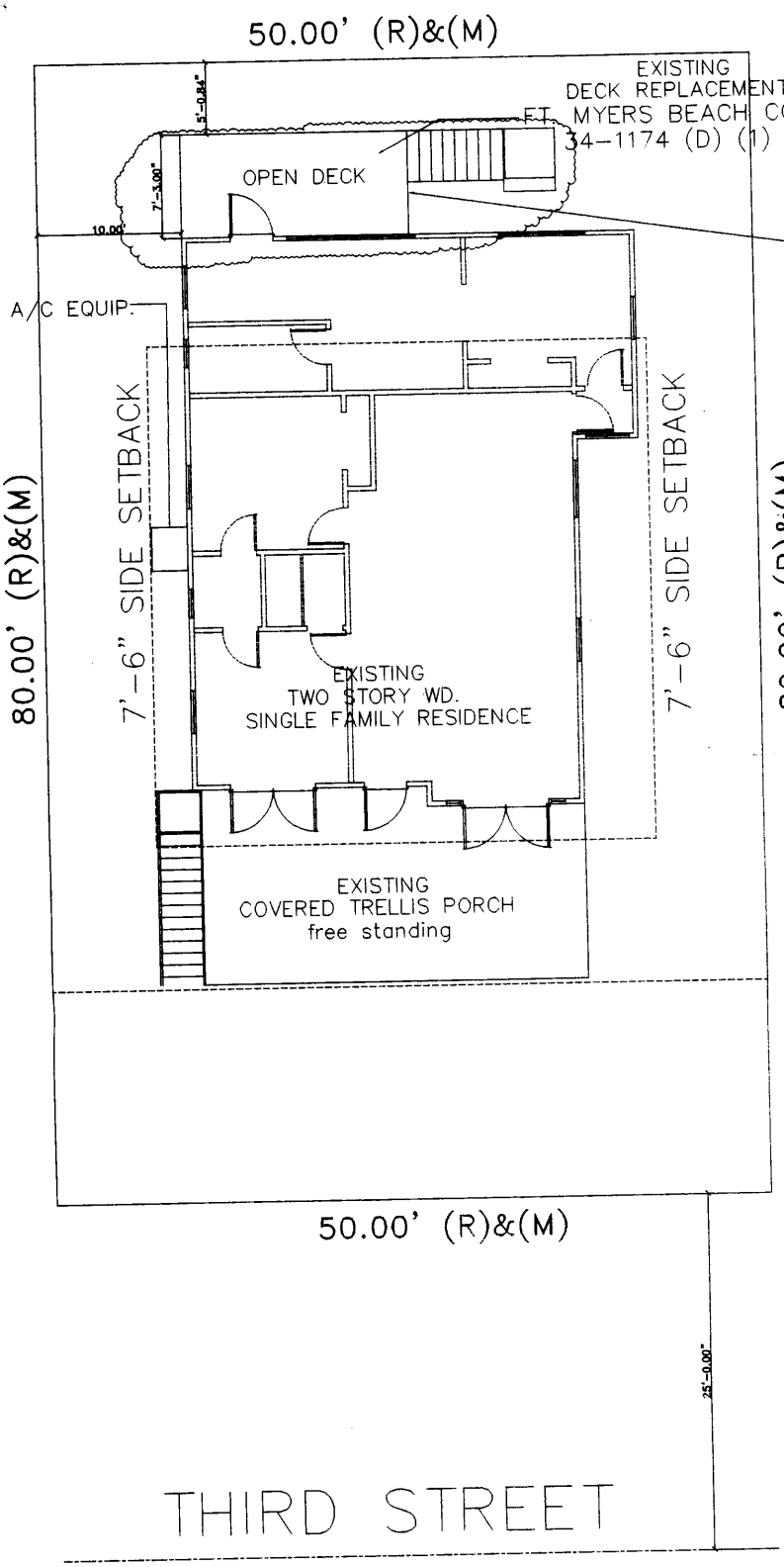
I HEREBY CERTIFY: THAT THIS SURVEY OF THE PROPERTY DESCRIBED HEREON WAS MADE UNDER MY DIRECTION AND THAT THE SAME MEEST THE MINIMUM TECHNICAL STANDAR AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS IN CHAPTER 61G17-6 FLORIDA ADMINISTRATIVE CODE. PURSUANT TO SECTION 472.027 FLORIDA STATUTES.

MIGUEL GARAY
P.S.M. LS 6592, STATE OF FLORIDA
NEW BEARINGS, INC.
2710 Del Prado Blvd. # 2 PMB-208 Cape Coral FL 33904
Phone: 239-458-2340 Fax: 239-458-0138

NOT VALID UNLESS EMBOSSED WITH SURVEYORS SEAL

LEGEND:

A	=ARC	℄	=CENTER LINE	FIR	=FOUND IRON REBAR	N.G.V.D.	=NATIONAL GEODETIC VERTICAL DATUM	PC	=PAGE	R	=RADIUS	T	=TANGENTIL
A/C	=AIR CONDITIONER A/C	C.L.F.	=CHAIN LINK FENCE —— X ——	FPL	=FLORIDA POWER & LIGHT	N.T.S.	=NOT TO SCALE	P.I.	=POINT OF INTERSECTION	RAD	= RADIAL	T.W.P.	=TOWNSHIP
ASPH	=ASPHALT	CL	=CLEAR	LB	=LICENSED BUSINESS	O.S.	=OFFSET	PKWY	=PARKWAY	RES	=RESIDENCE	U.E.	=UTILITY EASEMENT
BBQ	=BARBEQUE	CONC.	=CONCRETE	L.F.ELV.	=LOWEST FLOOR ELEVATION	O.H.E.	=OVERHEAD ELECTRIC LINE	P.L.	=PROPERTY LINE	R.L.S.	=REGISTERED LAN SURVEYORS	UTIL	=UTILITY
BM	=BENCH MARK	ø	=DIMETER	L.M.E.	=LAKE MAINTENANCE EASEMENT	P	=PLAT	P.L.	=PLANTER	RNG	=RANGE	W.F.	=WOOD FENCE —— // —— // ——
BLDG.	=BUILDING	DH	=DRILL HOLE	LS	=LAND SURVEYOR	PB	=PLAT BOOK	P.L.S.	=PROFESSIONAL LAND SURVEYORS	R/R	=RAILROAD	W.M.	=WATER METER ▯
CB	=CATCH BASIN	D.M.E.	=DRAINAGE & MAINTENANCE EASEMENT	M.E.	=MAINTENANCE EASEMENT	P.C.	=POINT OF CURVATURE	P.O.B.	=POINT OF BEGINNING	R/W	=RIGHT OF WAY	Δ	=CENTRAL ANGLE
CBS	= CONCRETE BLOCK STRUCTURE			(M)	=MEASURED	P.C.C.	=POINT OF COMPOUND CURVATURE	P.O.C.	=POINT OF COMMENCEMENT	R.S.M.	=REGISTER SURVEYOR MAPER	ELV	=ELEVATION
CH	=CHORD DISTANCE	ENC.	=ENCROACHMENT	M.L.	=MONUMENT LINE	P.P.C.	=POINT OF REVERSE CURVATURED	PP	=POWER POLE	SWK	=SIDEWALK		
CHATTA	=CHATTAHOOCHEE	F.H.	=FIRE HYDRANT	MON	=MONUMENT	P.R.C.	=POINT OF REVERSE CURVATURE	P.R.M.	=POINT OF REFERNCE MONUMENT	SEC	=SECTION		
		FIP	=FOUND IRON PIPE	N.A.	=NOT APPLICABLE	P.C.P.	= PERMANET CONTROL POINT	P.T.	=POINT OF TAGENCY	S.I.P.	=SET IRON PIPE		
				N.D.	=NAIL & DISC					S.I.R.	=SET IRON REBAR		



note:

independent free standing porch not part of principle building.

EXHIBIT (B)

Town of Fort Myers Beach

F M B ADD 2007 0 0 9

EXISTING REAR DECK RE

GENERAL LEGEND:

A/C	= AIR CONDITIONER
AF	= ALUMINUM FENCE
BCR	= BROWARD COUNTY RECORDS
BM	= BENCHMARK
CB	= CATCH BASIN
C.M.E.	= CANAL MAINTENANCE EASEMENT
C/L	= CENTERLINE
CLF	= CHAIN LINK FENCE
CBS	= CONCRETE BLOCK STRUCTURE
CHATT	= CHATTAHOOCHEE
CONC	= CONCRETE
CO	= CLEAN OUT
D	= DELTA (CENTRAL ANGLE)
D.E.	= DRAINAGE EASEMENT
E	= EAST
EB	= ELECTRIC BOX
ELE	= ELEVATION
X 0.00'	= ELEVATION
EOP	= EDGE OF PAVEMENT
EOW	= EDGE OF WATER
FF	= FINISHED FLOOR
FDH	= FOUND DRILLHOLE
FH	= FIRE HYDRANT
FN	= FOUND NAIL
FND	= FOUND
IP	= IRON PIPE
IR	= IRON ROD
INV	= INVERT
L	= ARC LENGTH
LP	= LIGHT POLE
L.M.E.	= LAKE MAINTENANCE EASEMENT
N	= NORTH
N/A	= NO BASE FLOOD (FOR FLOOD ZONE X)
N&D	= NAIL & DISC
NO ID	= NO IDENTIFICATION
MF	= METAL FENCE
MH	= MAN HOLE
OH	= OVERHEAD CABLES
OR	= OFFICIAL RECORD BOOK
O/S	= OFFSET
PB	= PLAT BOOK
PBCR	= PALM BEACH COUNTY RECORDS
P.C.	= POINT OF CURVATURE
PG	= PAGE
PL	= PLANTER
P.O.B.	= POINT OF BEGINNING
P.O.C.	= POINT OF COMMENCEMENT
PP	= POOL PUMP
P&M	= PLAT AND MEASURED
PVCF	= POLYVINYL CHLORIDE FENCE
R	= RADIUS
R/W	= RIGHT OF WAY
S	= SOUTH
S/W	= SIDEWALK
SIR	= SET ¾" IRON ROD #6677
SND	= SET NAIL & DISC
TYP	= TYPICAL
U.E.	= UTILITY EASEMENT
W	= WEST
WF	= WOOD FENCE
WM	= WATER METER
WV	= WATER VALVE

OVERHEAD CABLES (OH)

POLYVINYL CHLORIDE FENCE (PVCF)

CHAIN LINK FENCE (CLF)

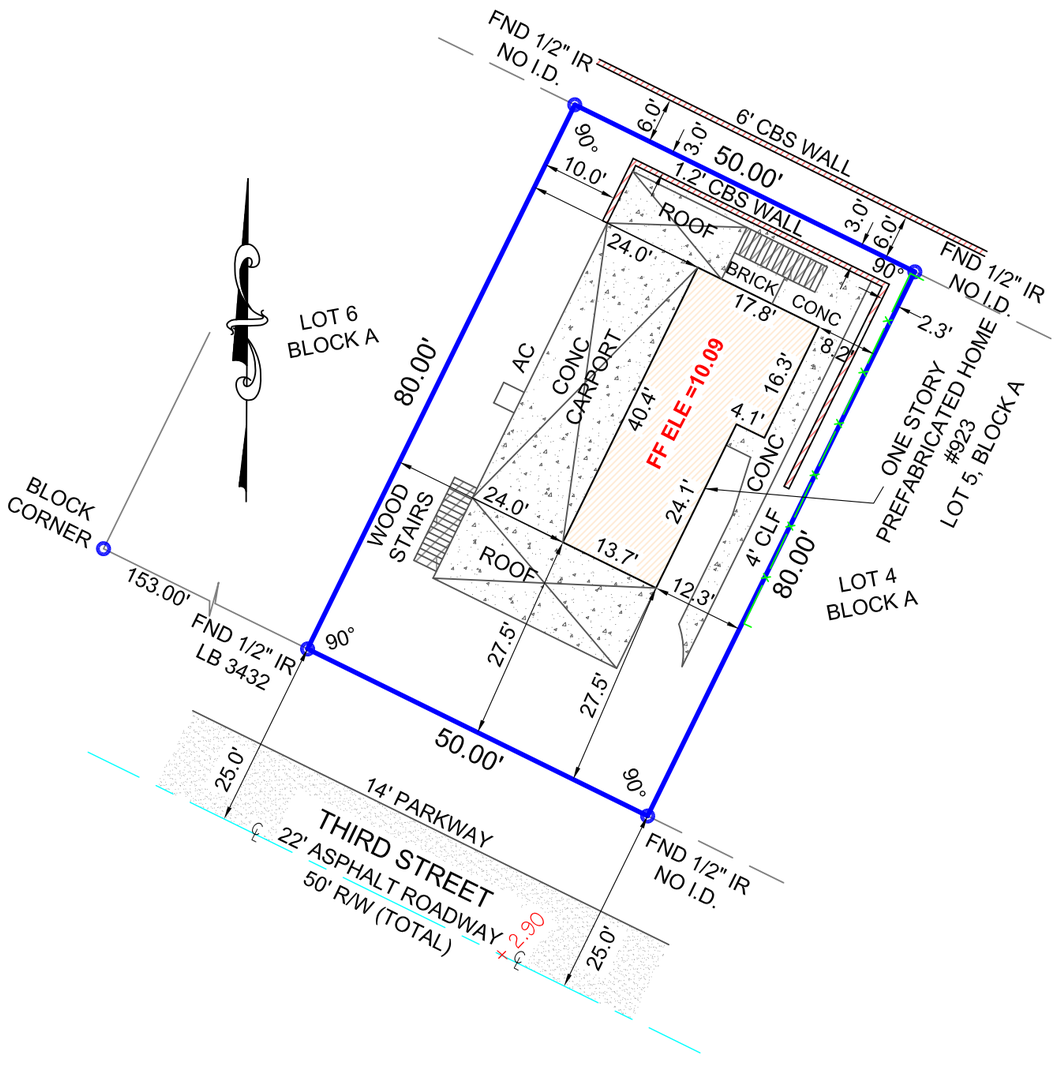
WOOD FENCE (WF)

METAL FENCE (MF)

° DEGREE SYMBOL

WATER METER LIGHT POLE

AT&T BOX UTILITY POLE



LEGAL DESCRIPTION:

LOT 5, BLOCK A, OF "MATANZAS VIEW", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 9, PAGE 40, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

CERTIFICATIONS:

CHRISTOPHER C. MOSTEIRO

SURVEYORS NOTES:

(1.) ANGLES IF SHOWN ARE REFERENCED TO THE RECORD PLAT AND ARE AS MEASURED.
(2.) LEGAL DESCRIPTION PROVIDED BY CLIENT UNLESS OTHERWISE NOTED.
(3.) NO UNDERGROUND IMPROVEMENTS LOCATED EXCEPT AS SHOWN.
(4.) THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE COMMITMENT THEREFOR THE ONLY SURVEY MATTERS SHOWN ARE PER THE RECORD PLAT. THERE MAY BE ADDITIONAL MATTERS OF RECORD, NOT SHOWN WHICH CAN BE FOUND IN THE PUBLIC RECORDS OF THE CORRESPONDING COUNTY OF RECORD.
(5.) THERE MAY BE EXISTING RECORDED EASEMENTS CONTAINED IN THE PUBLIC RECORDS NOT DEPICTED HEREON THAT ONLY A THOROUGH TITLE SEARCH WOULD UNCOVER.
(6.) SURVEY PURPOSE FOR ADDITION.
(7.) ELEVATIONS (IF SHOWN) ARE REFERENCED TO THE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88) UNLESS OTHERWISE NOTED. **BENCHMARK REFERENCE: LEE COUNTY BENCHMARK #: L 801, ELEVATION = 4.04' (NGVD 1929)**

BOUNDARY SURVEY

PROPERTY ADDRESS:

923 THIRD STREET,
FORT MYERS, FL 33931

FLOOD ZONE: AE	**DATE OF SURVEY:**		**SCALE: 1" = 20'**
BASE FLOOD: 11	FIELD LOCATION OF IMPROVEMENTS	01/14/2023	**CADD: LJ**
COMMUNITY #: 120673			**CHECKED BY: EWD**
PANEL & SUFFIX: 0554 G			**INVOICE #: 23- 58164**
DATE OF FIRM: 11/17/2022			**SHEET # 1 OF 1**

THIS SURVEYS MEETS THE STANDARDS OF PRACTICE AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 5J-17, FLORIDA ADMINISTRATIVE CODE.

ERNEST W DUNCAN PSM.,STATE OF FLORIDA
PROFESSIONAL SURVEYOR AND MAPPER LS 5182
NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

ALL COUNTY SURVEYORS
PROFESSIONAL
SURVEYORS AND MAPPERS
LICENSE NO. 6677
(954) 777-4747
5400 SOUTH UNIVERSITY DRIVE
DAVIE, FLORIDA 33328 SUITE 216

Building Coverage/ Square Footage Analysis

Owner: Christopher Mosteiro
Site Address: 923 Third Street

Lot Dimensions: 80x50
Total Lot Area: 4,000 SqFt

Existing Home

Pre-Ian Second Floor – Unit 1:
40’ x 29’ = 1,084 SqFt
Front Covered Deck: 11.5’ x 27’ = 310.5 SqFt

Pre-Ian First Floor – Unit 2:
40’ x 16’ = 633 SqFt

Pre-Ian Building Coverage (Front Deck Excluded):
1,084 Total sq.ft. / 4,000 sq.ft. Total Lot Area = .271

Pre-Ian Building Coverage Calculation (Front Deck Included):
1,408 Total sq.ft. / 4,000 sq.ft. Total Lot Area = .352

Proposed Renovations

Third Floor – Unit 1 (Pre-Ian Second Floor being Elevated):
40’ x 29’ = 1,084 SqFt
Front Deck being Elevated: 11.5’ x 27’ = 310.5 SqFt

New Second Floor Addition – Unit 2
40’ x 35’ = 1,400 SqFt

New Building Coverage Calculation (Front Deck Excluded):
1,400 Total sq.ft. / 4,000 sq.ft. Total Lot Area = .35

New Building Coverage Calculation (Front Deck Included):
1,710.5 Total sq.ft. / 4,000 sq.ft. Total Lot Area = .427

Concept Front View




Concept Front View


Concept Rear View


Concept Rear View

Christopher Mosteiro
VAR20230142
923 Third Street
Supplement PH-B Attachment

Explain the specific regulation contained in this section from which relief is sought:

Request for variance from (34-683)
LDC Table 34-3 requires a home in the RC zoning district to provide a minimum rear setback of 20 feet from the rear property line and a minimum street setback of 25 feet from the front property line.

I am requesting a variance of 16 feet from the rear setback for a rear setback of 4 feet to existing deck/stairs and 12 feet to existing building.

I am requesting a variance of 10 feet from the street setback for a front setback of 15 feet to existing deck/ stairs and 27.5 feet to existing building. The existing second story deck will be elevated to the third story which cannot utilize the additional 10 feet of street setback protrusion currently allowed.

Request for variance from (34-3238)
LDC section 34-3238 requires a residential building that previously legally exceeded density of new buildings to be built back post-disaster provided the total interior square footage of the rebuilt dwelling units does not exceed the interior square footage of the previous dwelling units.

I am requesting a variance to allow an increase of square footage in one out of two dwelling units in my home.

Explain why the variance is needed:

The variance from 34-683 is needed to reduce the setbacks to permit me to keep, restore, and elevate my home as a result of hurricane Ian. My home was determined to be “Substantially Damaged” (over 50%) and required to be brought up to current codes. A previous rear setback variance was approved in 2007 for replacement of rear stairs and deck. Where the home and decks/stairs currently sit does not meet setback requirements. The existing front second story deck will be elevated to the third story cannot utilize the additional 10 feet of street setback protrusion currently allowed.

The variance from 34-3238 is needed because previously only 50% of the ground level of the home was enclosed as a dwelling unit. The other 50% of the home was an open-air car port which was typically found across our island. With the requirement to elevate my home, it would not be possible to reconstruct an elevated second floor with the same square footage (50% of the footprint above). There are issues with engineering supporting the wider load above as well as design aesthetics making rebuilding the same square footage not possible.

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

If granted, there would be a very minimal effect on the surrounding properties. The front and rear footprint the existing home has now will not be changed, the home is already encroaching on the rear setback as originally built. The front footprint and deck is remaining the same, only to be elevated. My home has always been known to have two dwelling units by the surrounding neighbors. Duplexes are not uncommon for this neighborhood and there are 6+ commercial rental units across the street at Manatee Bay Inn. Secondly, the redevelopment of Moss Marina is directly behind my home and we are expecting much larger building intensities in our neighborhood. With their proposal of multiple hotels and hundreds of rooms, we will be seeing much larger buildings and density in this area and need to keep up with the new development surrounding us. No view corridors will be obstructed as the marina behind my home exceeds the height and width of my structure.

Additionally, a decreased Rear setback is not unusual for this neighborhood. The north side neighboring property (Lot 6 Block A), 917 Third Street, has a variance to 10' for rear setback approved by Lee County on the Town's Historic Zoning Map #199 (95-03-265.05V, 5/25/95). Three adjacent properties have home structures that are also too close to the rear property line similarly to my home.

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

The relief is justified as it would pose an undue hardship to me because I will have to tear down my home if the variance is not approved. My home was built in 1955 and is one of a few original cottages that survived Hurricane Ian. I must elevate the structure above BFE due to the 50% rule and rebuild the lost ground level space. The structure can't be moved forward/away from the rear set back, because it would then not meet the current street set back requirements. The home previously only being enclosed half on the first floor which does not work in an elevated scenario.

My home is a more of a unique case having repetitive flooding into my home. This has been documented many times by Town Staff and previous councils. As Hurricane Idalia passed our coast, my home stood in over 2.5 feet of water. This further clarifies the need to elevate and not rebuild the lost dwelling unit on grade.

Therefore, the requested variances would make it possible to elevate and keep my home.

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

The presence and preservation of my existing home presents an extraordinary condition as it is still standing after Hurricane Ian and does not meet the new required setbacks in the LDC. The home was built in 1955 and now does not meet the LDC after new regulations were adopted. It would be an extreme hardship to tear down a structurally sound home and rebuild new.

The proposed setback variances are the minimum needed to keep my home and is in line with other structures in the neighborhood. The front and rear footprint of the structure will not be changed from where the current home sits at. A previous rear setback variance was approved in 2007 for the replacement of the rear deck on this property. The structure is compliant with other setbacks and the increase square footage is allowed under 40% building property coverage required by the code in this section of the LDC.

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: Mosteiro Residence - 923 Third Street
Authorized Applicant: Christopher Mosteiro
LeePA STRAP Number: 24-46-23-W3-0030A.0050

Current Property Status: Substantial Damage Determination			
Current Zoning: RC			
Future Land Use Map (FLUM) Category: Mixed Residential			
Comp Plan Density:	**Platted Overlay?**	☑ **Yes**	☐ **No**

Variance is requested from:

LDC Section Number	**Title of Section or Subsection**
34-638	Minimum Setbacks - Front & Rear
Sec. 34-3238.	- Post-disaster buildback.

Complete the narrative statements below for EACH variance requested.

Case # _____ Date Received: _____

PART I
Narrative Statements

Request for variance from _____(LDC Section number)

Explain the specific regulation contained in this section from which relief is sought:
See Attached

Reasons for request

Explain why the variance is needed:
See Attached

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

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

See Attached

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

Town of Fort Myers Beach
Agenda Item Summary Yellow Sheet Number: **2024-1326**

1. **Requested Motion:** **Meeting Date: November 14, 2023**

RESOLUTION NUMBER 23-155
A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING VARIANCE VAR20230198 49/51 POMPANO ST; REQUESTING A VARIANCE FROM LDC SECTION 34-638 TABLE 34-3 DIMENSIONAL REGULATIONS IN CONVENTIONAL ZONING DISTRICTS FOR THE STREET AND REAR SETBACKS IN THE RM ZONING DISTRICT; 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:
The LPA recommends action to the Town Council on Variance requests. Due to the unique shape of this lot, development of a generally standard home size would be extremely difficult. Variances to the front and rear are necessary to provide enough space to develop a usable structure that otherwise meets all relevant codes.

What the action accomplishes:
Recommendation will be forwarded to the Town Council. If approved, the setback reductions will allow the applicant to build a home wide enough to accommodate a two-family residence as existed prior to the storm.

2. **Agenda:**
PUBLIC HEARINGS

3. **Requirement/Purpose:**
RESOLUTION

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5. **Background:**
The applicant for 49/51 Pompano Street, is requesting a variance from the Town's Land Development Code (LDC) Table 34-3 which requires a single-family/two-family home in the RM zoning district to provide a minimum street setback of 25 feet from the front property line and a minimum 20 feet from the rear property line. The applicant is requesting a variance of 17 feet, 6 inches for a front setback of 7 feet, 6 inches and a variance of 15 feet for a rear setback of 5 feet to build a new two-family home.

Attachments:
1. 49-51PompanoSt_StaffReport
2. 17039371-Public Hearing Application - 49-51 Pompano Street
3. 17039374-Variance Supplement PH-B (Table 34-2 - Dimensional Regulations in Conventional Zoning Districts (Street)
4. 17418381-A-02.1
5. 17418387-A-02.2 (1)
6. 17419144-Variance Supplement PH-B (Table 34-2 - Dimensional Regulations in Conventional Zoning Districts (Rear)

Financial Impact:
unknown

6. **Alternative Action**
Deny

7. **Staff Recommendations:**
Recommend approval of VAR20230198 with conditions

8. **Recommended Approval:**

_____ Date: November 09, 2023
Frankie Kropacek, Operations & Compliance Director

_____ Date: November 09, 2023
Gretchen R.H. Vose, Town Attorney

_____ Date: November 09, 2023
Amy Baker, Town Clerk

Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

TYPE OF CASE:	**Variance**
CASE NUMBER:	**VAR20230198**
CASE NAME:	**49/51 Pompano St; requesting a variance from LDC Section 34-638 Table 34-3 Dimensional Regulations in Conventional Zoning Districts for the street and rear setbacks in the RM zoning district.**
TOWN COUNCIL HEARING DATE:	**November 14th, 2023, at 9 AM**
STAFF RECOMMENDATION:	**APPROVAL**
PREPARED/ SUBMITTED BY:	**Jason Smalley- Senior Planner**

I. APPLICATION SUMMARY

Applicant/Owner:	Carmela Kennelly/LOV LLC
Request:	The applicant is requesting a variance of 17 feet, 6 inches from the street setback for a front setback of 7 feet, 6 inches and the applicant is also requesting a variance of 15 feet from the rear setback for a rear setback of 5 feet to build a new two-family residence.
Subject property:	See attached site plan
Physical Address:	49/51 Pompano Street
STRAP #:	30-46-24-W2-0020B.0230
FLU:	Boulevard
Zoning:	Residential Multifamily (RM)

Adjacent zoning and land uses:

North:	COMMERCIAL RESORT (CR) Motel
South:	ENVIRONMENTALLY CRITICAL (EC) Gulf of Mexico
East:	RESIDENTIAL MULTIFAMILY (RM) Multi-Family Residence/Condominium
West:	RESIDENTIAL MULTIFAMILY (RM) Single-Family Residence/Two-Family

II. BACKGROUND AND ANALYSIS

Background:
Carmela Kennelly, the applicant for 49/51 Pompano Street, is requesting a variance from the Town's Land Development Code (LDC) Table 34-3 which requires a single-family/two-family home in the RM zoning district to provide a minimum street setback of 25 feet from the front property line and a minimum 20 feet from the rear property line. The applicant is requesting a variance of 17 feet, 6 inches for a front setback of 7 feet, 6 inches and a variance of 15 feet for a rear setback of 5 feet to build a new two-family home.

Analysis:
The purpose of the RM zoning district is to provide stable neighborhoods where single-family, two-family, and multifamily homes are the predominant land use. The subject property is on the Gulf of Mexico. The lot has a depth that varies from 31 to 85 feet, with a lot width of approximately 191 feet. The property previously had a two-family home, which was partially destroyed by Hurricane Ian.

The applicant is requesting a variance of 17 feet, 6 inches for a front setback of 7 feet, 6 inches where the property line curves in on Pompano Street and a variance of 15 feet for a rear setback of 5 feet to build a new two-family home.

Neighborhood Compatibility:
This scenario is unique in nature. There are no other properties similar in lot design in the neighborhood, which supported single family, two-family and multifamily residences consistent with the Town's LDC prior to Hurricane Ian.

During the DO process the Applicant may need to redesign the driveway to meet the Town's standards. The reduced front yard will likely result in guest parking extending to the public ROW. Staff has provided a potential condition for keeping first floor open for all personal and guest parking to discourage parking within the Town's right of way if the variance request is granted.

Additionally, staff is recommending a condition to ensure that the roof eave extends no closer than 40 inches to the rear property line, where the 5 foot setback is proposed.

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

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

   The subject property is located at the end of Pompano Street. The lot is extremely wide and shallow, the lot depth varies from 31 to 85 feet. The Applicant is proposing a house that does not meet the LDC setbacks, but due to unique design of the lot, the buildable area under existing codes does not allow for a reasonable layout for a residence. The request is a de minimis variance.

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 not the result of the actions of the Applicant. The applicant is opting to build a residence that is reasonable for the lot design.

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

   Due to the subdivision and the history of the lot. The property owner would not be able to reasonably design a residence without seeking variance(s).

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

   The Applicant is proposing to reduce the street setback, which might result in guest parking extending to the public ROW. Therefore, if approved, Town's staff recommends a condition to keep the first floor open for all personal and guest parking. It does not appear that the request will be injurious to neighbors, as long as the driveway concerns are addressed.

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.

III. RECOMMENDATION

Staff has reviewed the request for a variance of 17.5 feet from the required 25-foot street setback and a variance of 15 feet from the required 20-foot rear setback found in *LDC Table 34-3 for the RM zoning district* and found that the variance request does meet the requirements set forth in sec. 34-87, and the proposed residence is de minimus due to the layout of the lot.

Therefore, staff recommends **APPROVAL** of VAR20230198, a request for variance of 17.5 feet from the street setback and 15 feet from the rear setback.

IV. CONDITIONS FOR APPROVAL

If the Town's LPA recommends approval for the variance, town's staff recommends the following conditions of approval.

1) The first floor shall not be enclosed. It should be made available as a private car park for the residents and their guests. All vehicles must be placed on the site and not on the Town's Right of Way (ROW).

2) Any design/redesign of the driveway will require a separate review and must also adhere to The Town of Fort Myers Beach Residential Swale Driveway specifications.

3) The eaves may extend no closer than 40 inches to the property line.

4) The proposed structure must adhere to FDEP and local flood requirements.

5) Approval of this variance request 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.

V. EXHIBITS

A. Complete application
B. Proposed Site Plan
C. Site plan (Pre-Ian)

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: 49/51 Pompano St, Fort Myers Beach, FL 34931

STRAP Number: 30-46-24-W2-0020B.0230

Applicant: LOV, LLC Phone: _____

Contact Name: Carmela Kennelly Phone: 520-250-0992

Email: carmelina.desiree@gmail.com Fax: _____

Current Zoning District: RM - Residential Multi-family

Future Land Use Map (FLUM) Category: Boulevard

FLUM Density Range: 6 DU/acre x 0.27 = 1.62 DU Platted Overlay: ☑ YES ☐ NO

ACTION REQUESTED	SUPPLEMENTAL FORM REQUIRED
☐ Special Exception	PH-A
☑ Variance	PH-B
☐ Conventional Rezoning	PH-C
☐ Planned Development ☐ Commercial ☐ Residential	PH-D
☐ Master Concept Plan Extension	PH-E
☐ Appeal of Administrative Action	PH-F
☐ Vacation of Platted Right-of-way and Easement	PH-G
☐ Other – cite LDC Section: _____	attach on separate sheet

PART I – General Information

A. Applicant*: LOV, LLC Phone: _____

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

Applicant Mailing Address: 5432 Broadmoor St, Alexandria VA 22315

Email: carmelina.desiree@gmail.com Fax: _____

Contact Name: Carmela Kennelly Phone: 520-250-0992

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

B. Relationship of Applicant to subject property:

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

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

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

Name: _____ Phone: _____

Address: _____

Email: _____ Fax: _____

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

Name: _____ Phone: _____

Address: _____

Email: _____ Fax: _____

Name: _____ Phone: _____

Address: _____

Email: _____ Fax: _____

PART II – Nature of Request

Requested Action (each request requires a separate application)

☐ Special Exception

☑ Variance from LDC Section _____ - _____

☐ Conventional Rezoning from _____ to _____

☐ Planned Development

☐ Rezoning from _____ to ☐ Commercial PD ☐ Residential PD

☐ Amendment. List the project number: _____

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

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

☐ Appeal of Administrative Action

☐ Vacation ☐ Right-of-Way ☐ Easement

☐ Other. Please Explain: _____

_____

_____

PART III – Waivers

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

Code Section: _____ Description: _____

_____

Code Section: _____ Description: _____

_____

Code Section: _____ Description: _____

_____

PART IV – Property Ownership (Single Owner)

☑ Single Owner (individual or husband and wife)

Name: Carmela Kennelly Phone: 520-250-0992

Mailing Address: 5432 Broadmoor St, Alexandria VA 22315

Email: carmelina.desiree@gmail.com Fax: _____

AFFIDAVIT
APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

I, Carmela Kennelly 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.

Carmela D. Kennelly
Signature

Carmela D. Kennelly
Printed Name

STATE OF Virginia **COUNTY OF** Stafford

The foregoing instrument was certified and subscribed before me by means of ✓ physical presence OR ____ online notarization, this 25th day of September, 2023, by Carmela D. Kennelly ☐ who is personally known to me OR ☐ who has produced _____ as identification.

Stacia Embrey
Notary Public Signature

(SEAL)

PART V
Property Ownership (Multiple Owners)

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

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

DISCLOSURE OF OWNERSHIP INTEREST

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

Name and Address	Percentage Ownership

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

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

Name, Address and Office	Percentage of Stock
Carmela Kennelly	100

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

Name and Address	Percentage of Interest

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

Name and Address	Percentage of Ownership

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

Name, Address and Office	Percentage of Stock

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

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.

_____
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: 30-46-24-W2-0020B.0230

Property Address: 49/51 Pompano St, Fort Myers Beach, FL 34931

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: Winklers

Book: 8 Page: 45 Unit: _____ Block: B Lot(s): 23

B. Boundary Survey:

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

C. Property Dimensions:

Width (please provide an average width if irregular in shape) 38'-9" feet

Depth (please provide an average width if irregular in shape) 191' feet

Frontage on street: 163'-2" feet. Frontage on waterbody: 37'-8 feet

Total land area: 8,332 ☐ acres ☑ square feet

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

Gulf-side property, about 5,800 feet South of the San Carlos Bridge

☑ Attach Area Location Map as Exhibit 6-3

E. Property Restrictions (check applicable):

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

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

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

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

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

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

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

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

☐ Low Density
☐ Mixed Residential
☑ Boulevard
☐ Pedestrian Commercial
☐ Marina
☐ Recreation
☐ Wetlands
☐ Platted Overlay

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

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: 49/51 Pompano St, Fort Myers Beach, FL 34931
Authorized Applicant: Carmela Kennelly
LeePA STRAP Number: 30-46-24-W2-0020B.0230

Current Property Status: Storm Damaged		
Current Zoning: RM - Residential Multi-family		
Future Land Use Map (FLUM) Category: Boulevard		
Comp Plan Density: 6 DU/acre x 0.27 = **Platted Overlay?**	☑ **Yes**	☐ **No**

Variance is requested from:

LDC Section Number	**Title of Section or Subsection**
Table 34-3—	Dimensional Regulations in Conventional Zoning Districts

Complete the narrative statements below for EACH variance requested.

Case # _____ Date Received: _____

PART I

Narrative Statements

Request for variance from Table 34-3 **(LDC Section number)**

Explain the specific regulation contained in this section from which relief is sought:
Looking for relief in the street setback of 25' to 7'-6"

Reasons for request

Explain why the variance is needed:
Average width of the lot is roughly 38'-9". 25' from the street is
detrimental to replacing the previous two single-family
homes that were taken by Hurricane Ian

Explain the possible effect the variance, if granted, would have on surrounding properties:
This is a street setback. I do not foresee a direct effect to surrounding properties.
The existing homes, (before Ian), look to be in the same/similar location on the lot
as our proposed buildings

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

Due to the long and narrow nature of the property, and current setbacks,
the options for redevelopment on this property are extremely limited without
relief, as current setbacks for this lot will not allow for two single-family buildings
as were previously on the property prior to the hurricane, and allowed per current
density calculations for this lot.

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.
1. The current setbacks are extraordinary conditions that are inherent to the property.
2. These extraordinary conditions are not the result of actions taken by the applicant,
in order for the applicant to rebuild we will need relief fro current setbacks.
3.In our opinion, this is the minimum relief we need from the street setback.
4. Granting the variance would not be injurious to the neighborhood, or otherwise
detrimental to the public welfare.
5.The intended us of the property for which the variance is sought will be to rebuild
two single-family buildings extremely similar in nature to size and location as the
previous buildings that were taken bu Hurricane Ian.

PART 2
Submittal Requirements

All applications for a variance must be submitted electronically through our Iworq portal - iworq (talktomycity.com)

Required Items

- Public Hearing Request Form
- Supplemental form PH-B
- Site Plan (to scale) including the current use of all existing structures on the site, and those on adjacent properties within 100 feet of the perimeter; and a clear illustration of the proposed variance
- Fee in the amount of $1800.00 (residential)/Additional Variance $500.00
- Variance (non-residential) $2800.00/ Additional Variance $700.00

Guide to filing PH-B Additional Required Information for a Variance Application

Cover page

Case Number will be inserted by Community Development staff.
Project Name must be the same as the name used on the Request for Public Hearing form.
Applicant must be the same as on the Request for Public Hearing form.
STRAP numbers must be the same as on the Request for Public Hearing form.
Current status of property must be the same as on the Request for Public Hearing form.
"Variance is requested from…" Provide the section number and title of each section of the Fort Myers Beach Land Development Code from which a variance is being sought.

Narrative statements

If the application is for multiple variances, complete all of the narrative statements for each variance that is requested.

Site plan

The site plan must show all existing structures on the site; all existing structures within 100 feet of the perimeter boundary of the site; and a clear illustration of the proposed variance.

LDC Section 34-87

The guidelines for decision-making regarding a request for a variance are as follows:

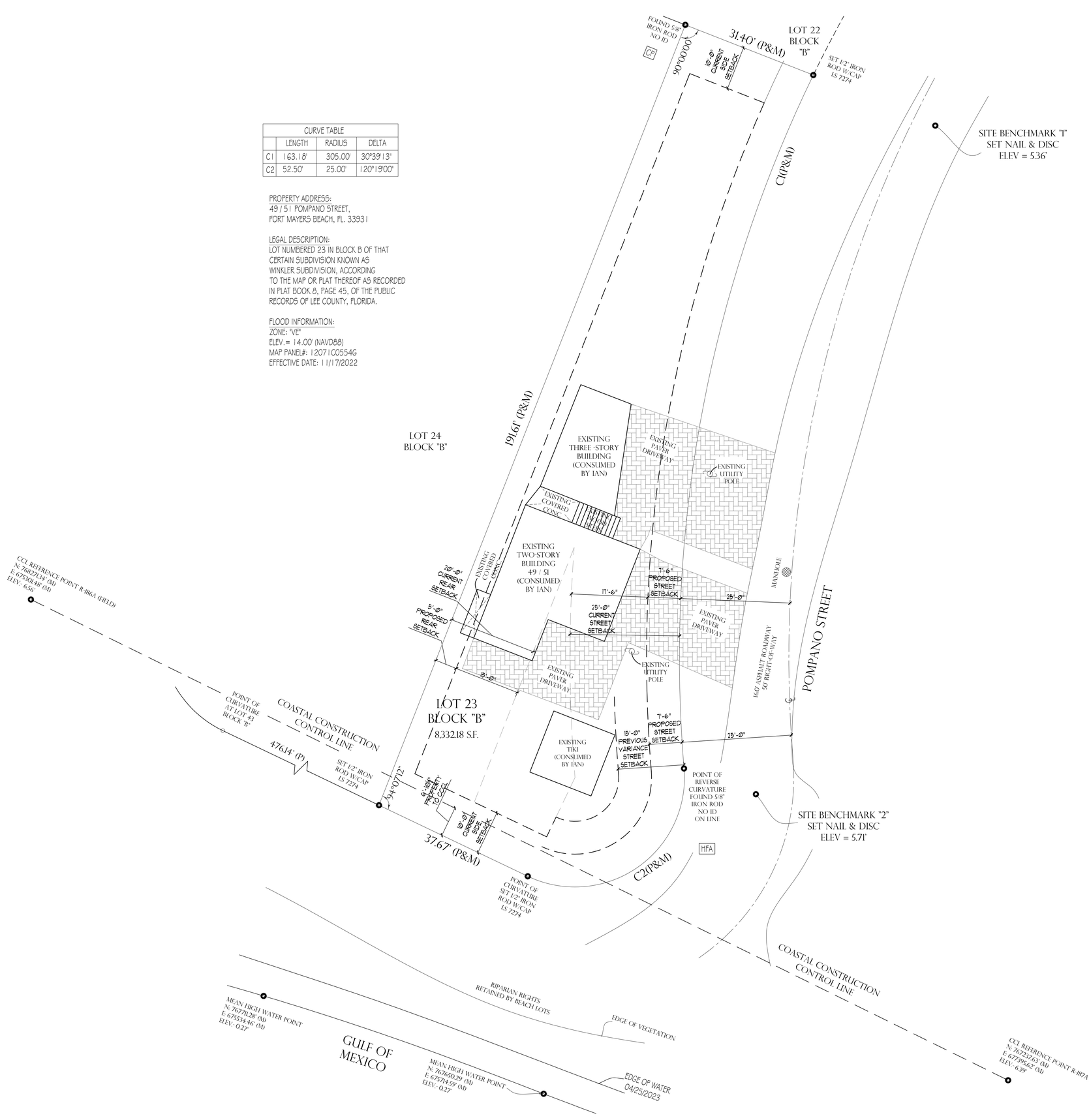
1. Whether there are exceptional or extraordinary conditions or circumstances that are inherent to the property in question, or whether the request is for a *de minimis* variance under circumstances or conditions where rigid compliance is not necessary to protect public policy;
2. Whether the exceptional or extraordinary conditions justifying the variance are or are not the result of actions of the applicant taken after the adoption of the regulation in question;
3. Whether the requested variance is the minimum variance to relieve the applicant of an unreasonable burden caused by the application of the regulation in question;
4. Whether granting the variance would be injurious to the neighborhood or otherwise detrimental to the public welfare;
5. Whether the conditions or circumstances of the specific piece of property or the intended use of the property for which the variance is sought are of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.

CURVE TABLE			
	LENGTH	RADIUS	DELTA
C1	163.18'	305.00'	30°39'13"
C2	52.50'	25.00'	120°19'00"

PROPERTY ADDRESS:
49 / 51 POMPANO STREET,
FORT MAYERS BEACH, FL. 33931

LEGAL DESCRIPTION:
LOT NUMBERED 23 IN BLOCK B OF THAT CERTAIN SUBDIVISION KNOWN AS WINKLER SUBDIVISION, ACCORDING TO THE MAP OR PLAT THEREOF AS RECORDED IN PLAT BOOK 8, PAGE 45, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

FLOOD INFORMATION:
ZONE: "VE"
ELEV.= 14.00' (NAVD88)
MAP PANEL#: 12071C0554G
EFFECTIVE DATE: 11/17/2022



EXISTING SITE PLAN
SCALE: 3/32" = 1'-0"

REVISIONS	DATE

ALL IDEAS, DESIGNS, ARRANGEMENTS, AND PLANS INDICATED OR REPRESENTED BY THIS DRAWING ARE OWNED BY, AND THE PROPERTY OF THIS OFFICE, AND WERE CREATED, EVOLVED AND DEVELOPED FOR USE ON AND IN CONNECTION WITH THE SPECIFIED PROJECT. NONE OF SUCH IDEAS, DESIGNS, ARRANGEMENTS OR PLANS SHALL BE USED BY, OR DISCLOSED TO, ANY PERSON, FIRM OR CORPORATION FOR ANY PURPOSE WHATSOEVER WITHOUT THE PRIOR WRITTEN PERMISSION OF COFFMAN DESIGN GROUP, LLC. UNTIL THE COMMENCEMENT ON THESE DRAWINGS, COFFMAN DESIGN GROUP, LLC. SHALL NOT BE RESPONSIBLE FOR ANY UNAUTHORIZED USE OF THESE DRAWINGS. COFFMAN DESIGN GROUP, LLC. SHALL NOT BE RESPONSIBLE FOR CHANGES TO THE PLANS OR DRAWINGS MADE BY OTHERS WITHOUT THE PRIOR WRITTEN CONSENT OF COFFMAN DESIGN GROUP, LLC. ALL COMMON LAW COPYRIGHTS AND OTHER PROPERTY RIGHTS ARE RESERVED. ANY UNAUTHORIZED USE OF THESE DRAWINGS, SHOP DRAWINGS, PRODUCTION DRAWINGS OR OTHER DOCUMENTS PREPARED BY COFFMAN DESIGN GROUP, LLC. FOR ANY PURPOSE WHATSOEVER MAY CAUSE DAMAGE TO COFFMAN DESIGN GROUP, LLC. AND THE UNAUTHORIZED USER. ANY UNAUTHORIZED USE OF THESE DRAWINGS, SHOP DRAWINGS, PRODUCTION DRAWINGS OR OTHER DOCUMENTS PREPARED BY COFFMAN DESIGN GROUP, LLC. FOR ANY PURPOSE WHATSOEVER WITHOUT THE PRIOR WRITTEN CONSENT OF COFFMAN DESIGN GROUP, LLC. SHALL BE AT THE USER'S SOLE RISK AND WITHOUT LIABILITY TO COFFMAN DESIGN GROUP, LLC. AND THE USER SHALL INDEMNIFY AND HOLD HARMLESS COFFMAN DESIGN GROUP, LLC. FROM AND AGAINST ALL DAMAGES, SUITS, ACTIONS OR OTHER PROCEEDINGS WITH RESPECT THERETO. ANY UNAUTHORIZED USE OF THESE DRAWINGS, SHOP DRAWINGS, PRODUCTION DRAWINGS OR OTHER DOCUMENTS PREPARED BY COFFMAN DESIGN GROUP, LLC. FOR ANY PURPOSE WHATSOEVER WITHOUT THE PRIOR WRITTEN CONSENT OF COFFMAN DESIGN GROUP, LLC. SHALL BE AT THE USER'S SOLE RISK AND WITHOUT LIABILITY TO COFFMAN DESIGN GROUP, LLC. AND THE USER SHALL INDEMNIFY AND HOLD HARMLESS COFFMAN DESIGN GROUP, LLC. FROM AND AGAINST ALL DAMAGES, SUITS, ACTIONS OR OTHER PROCEEDINGS WITH RESPECT THERETO. ANY UNAUTHORIZED USE OF THESE DRAWINGS, SHOP DRAWINGS, PRODUCTION DRAWINGS OR OTHER DOCUMENTS PREPARED BY COFFMAN DESIGN GROUP, LLC. FOR ANY PURPOSE WHATSOEVER WITHOUT THE PRIOR WRITTEN CONSENT OF COFFMAN DESIGN GROUP, LLC. SHALL BE AT THE USER'S SOLE RISK AND WITHOUT LIABILITY TO COFFMAN DESIGN GROUP, LLC. AND THE USER SHALL INDEMNIFY AND HOLD HARMLESS COFFMAN DESIGN GROUP, LLC. FROM AND AGAINST ALL DAMAGES, SUITS, ACTIONS OR OTHER PROCEEDINGS WITH RESPECT THERETO. ANY UNAUTHORIZED USE OF THESE DRAWINGS, SHOP DRAWINGS, PRODUCTION DRAWINGS OR OTHER DOCUMENTS PREPARED BY COFFMAN DESIGN GROUP, LLC. FOR ANY PURPOSE WHATSOEVER WITHOUT THE PRIOR WRITTEN CONSENT OF COFFMAN DESIGN GROUP, LLC. SHALL BE AT THE USER'S SOLE RISK AND WITHOUT LIABILITY TO COFFMAN DESIGN GROUP, LLC. AND THE USER SHALL INDEMNIFY AND HOLD HARMLESS COFFMAN DESIGN GROUP, LLC. FROM AND AGAINST ALL DAMAGES, SUITS, ACTIONS OR OTHER PROCEEDINGS WITH RESPECT THERETO. ANY UNAUTHORIZED USE OF THESE DRAWINGS, SHOP DRAWINGS, PRODUCTION DRAWINGS OR OTHER DOCUMENTS PREPARED BY COFFMAN DESIGN GROUP, LLC. FOR ANY PURPOSE WHATSOEVER WITHOUT THE PRIOR WRITTEN CONSENT OF COFFMAN DESIGN GROUP, LLC. SHALL BE AT THE USER'S SOLE RISK AND WITHOUT LIABILITY TO COFFMAN DESIGN GROUP, LLC. AND THE USER SHALL INDEMNIFY AND HOLD HARMLESS COFFMAN DESIGN GROUP, LLC. FROM AND AGAINST ALL DAMAGES, SUITS, ACTIONS OR OTHER PROCEEDINGS WITH RESPECT THERETO. ANY UNAUTHORIZED USE OF THESE DRAWINGS, SHOP DRAWINGS, PRODUCTION DRAWINGS OR OTHER DOCUMENTS PREPARED BY COFFMAN DESIGN GROUP, LLC. FOR ANY PURPOSE WHATSOEVER WITHOUT THE PRIOR WRITTEN CONSENT OF COFFMAN DESIGN GROUP, LLC. SHALL BE AT THE USER'S SOLE RISK AND WITHOUT LIABILITY TO COFFMAN DESIGN GROUP, LLC. AND THE USER SHALL INDEMNIFY AND HOLD HARMLESS COFFMAN DESIGN GROUP, LLC. FROM AND AGAINST ALL DAMAGES, SUITS, ACTIONS OR OTHER PROCEEDINGS WITH RESPECT THERETO.

COFFMAN DESIGN GROUP, LLC

809 WALKERBILT RD.
SUITE #5 · UNIT #503
NAPLES, FL 34110

PH: 239.316.7294

LIC. # ID6067

A NEW RESIDENCE FOR:
KENNELLY RESIDENCE
49/51 POMPANO STREET
FORT MYERS BEACH FLORIDA

A.D.
ACREE DESIGN
consulting llc

architecture
planning
interior design

725 North A1A
Suite A108
Jupiter, FL 33477
(561)-517-2169 o
(314)-330-5115 c

SEAL :

A.O.R. - ROBERT ALLEN ACREE
LIC. NO. - FLORIDA - AR92436

PRELIMINARY SET

SCALE:	AS NOTED
JOB NO.	#2023.02-03N
DATE:	09.22.23 JC
SHEETS:	2 of -

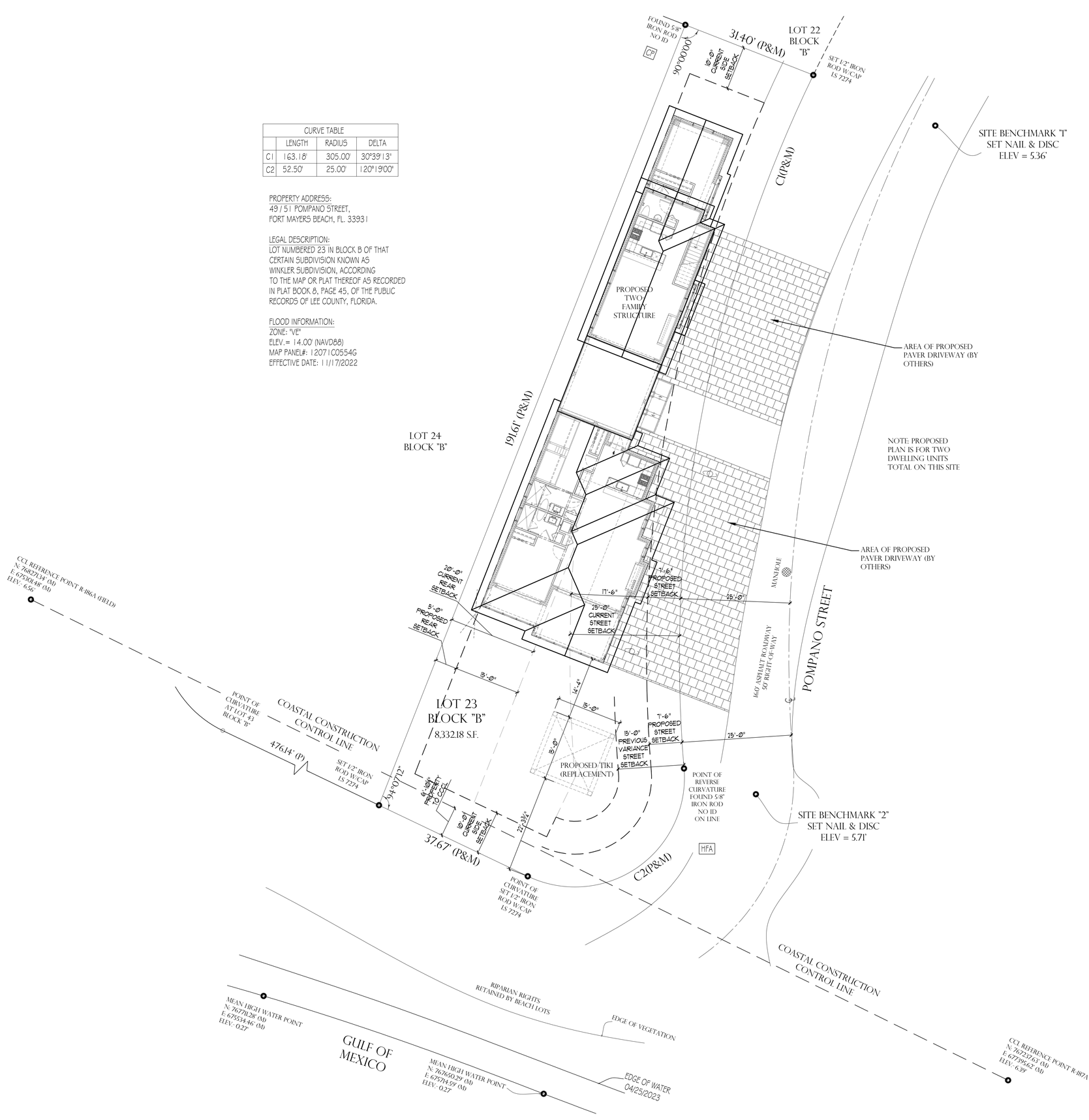
A2.1

CURVE TABLE			
	LENGTH	RADIUS	DELTA
C1	163.18'	305.00'	30°39'13"
C2	52.50'	25.00'	120°19'00"

PROPERTY ADDRESS:
49/51 POMPANO STREET,
FORT MAYERS BEACH, FL. 33931

LEGAL DESCRIPTION:
LOT NUMBERED 23 IN BLOCK B OF THAT CERTAIN SUBDIVISION KNOWN AS WINKLER SUBDIVISION, ACCORDING TO THE MAP OR PLAT THEREOF AS RECORDED IN PLAT BOOK 8, PAGE 45, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

FLOOD INFORMATION:
ZONE: "VE"
ELEV.= 14.00' (NAVD88)
MAP PANEL#: 12071C0554G
EFFECTIVE DATE: 11/17/2022



PROPOSED SITE PLAN

SCALE: 3/32" = 1'-0"

REVISIONS	DATE

ALL IDEAS, DESIGNS, ARRANGEMENTS, AND PLANS INDICATED OR REPRESENTED BY THIS DRAWING ARE OWNED BY, AND THE PROPERTY OF THIS OFFICE, AND WERE CREATED, EVOLVED AND DEVELOPED FOR USE ON AND IN CONNECTION WITH THE SPECIFIED PROJECT. NONE OF SUCH IDEAS, DESIGNS, ARRANGEMENTS OR PLANS SHALL BE USED BY, OR DISCLOSED TO, ANY PERSON, FIRM OR CORPORATION FOR ANY PURPOSE WHATSOEVER, EXCEPT BY WRITTEN AGREEMENT WITH PERMISSION OF COFFMAN DESIGN GROUP, LLC. WITH THE EXPRESS PURPOSE AS THESE DRAWINGS PERTAIN TO THE SPECIFIED PROJECT. ALL COMMON LAW COPYRIGHTS AND OTHER PROPERTY RIGHTS ARE RESERVED BY COFFMAN DESIGN GROUP, LLC. WITH THE EXPRESS PURPOSE AS THESE DRAWINGS PERTAIN TO THE SPECIFIED PROJECT. ALL CONDITIONS AND CONDITIONS SHOWN BY THESE DRAWINGS, EITHER EXPRESSED OR IMPLIED, ARE SUBJECT TO FIELD VERIFICATION PRIOR TO AND DURING CONSTRUCTION PROCEEDING WITH FABRICATION ON ITEMS AS NOTED.

COFFMAN DESIGN GROUP, LLC

809 WALKERBILT RD.
SUITE #5 · UNIT #503
NAPLES, FL 34110

PH: 239.316.7294

LIC. # ID6067

A NEW RESIDENCE FOR:
KENNELLY RESIDENCE
49/51 POMPANO STREET
FORT MYERS BEACH FLORIDA

A.D.

ACREE DESIGN
consulting llc

architecture
planning
interior design

725 North A1A
Suite A108
Jupiter, FL 33477
(561)-517-2169 o
(314)-330-5115 c

SEAL :

A.O.R. : ROBERT ALLEN ACREE
LIC. NO. : FLORIDA AR92436

PRELIMINARY SET

SCALE:	AS NOTED
JOB NO.	#2023.02-03N
DATE:	09.22.23 JC
SHEETS:	2 of -

A2.2

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: 49/51 Pompano St, Fort Myers Beach, FL 34931
Authorized Applicant: Carmela Kennelly
LeePA STRAP Number: 30-46-24-W2-0020B.0230

Current Property Status: Storm Damaged		
Current Zoning: RM - Residential Multi-family		
Future Land Use Map (FLUM) Category: Boulevard		
Comp Plan Density: 6 DU/acre x 0.27 = **Platted Overlay?**	☑ **Yes**	☐ **No**

Variance is requested from:

LDC Section Number	**Title of Section or Subsection**
Table 34-3—	Dimensional Regulations in Conventional Zoning Districts

Complete the narrative statements below for EACH variance requested.

Case # _____ Date Received: _____

PART I

Narrative Statements

Request for variance from Table 34-3 **(LDC Section number)**

Explain the specific regulation contained in this section from which relief is sought:
Looking for relief in the rear setback of 20' to 5'

Reasons for request

Explain why the variance is needed:
Average width of the lot is roughly 38'-9". 20' from the side yard (in combination with
the current 25' street setback) is detrimental to replacing the previous
two single-family homes that were taken by Hurricane Ian

Explain the possible effect the variance, if granted, would have on surrounding properties:
This is a side setback. The proposed buildings will be closer to the residence
directly to the North of this property. However, according to the old survey
the existing homes (before Ian), look to be in the same/similar
location on the lot as our proposed buildings

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

Due to the long and narrow nature of the property, and current setbacks,
the options for redevelopment on this property are extremely limited without
relief, as current setbacks for this lot will not allow for two single-family buildings
as were previously on the property prior to the hurricane, and allowed per current
density calculations for this lot.

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.
1. The current setbacks are extraordinary conditions that are inherent to the property.
2. These extraordinary conditions are not the result of actions taken by the applicant,
in order for the applicant to rebuild we will need relief from current setbacks.
3.In our opinion, this is the minimum relief we need from the street setback.
4. Granting the variance would not be injurious to the neighborhood, or otherwise
detrimental to the public welfare.
5.The intended us of the property for which the variance is sought will be to rebuild
two single-family buildings extremely similar in nature to size and location as the
previous buildings that were taken bu Hurricane Ian.

PART 2
Submittal Requirements

All applications for a variance must be submitted electronically through our Iworq portal - iworq (talktomycity.com)

Required Items

- Public Hearing Request Form
- Supplemental form PH-B
- Site Plan (to scale) including the current use of all existing structures on the site, and those on adjacent properties within 100 feet of the perimeter; and a clear illustration of the proposed variance
- Fee in the amount of $1800.00 (residential)/Additional Variance $500.00
- Variance (non-residential) $2800.00/ Additional Variance $700.00

Guide to filing PH-B Additional Required Information for a Variance Application

Cover page

Case Number will be inserted by Community Development staff.
Project Name must be the same as the name used on the Request for Public Hearing form.
Applicant must be the same as on the Request for Public Hearing form.
STRAP numbers must be the same as on the Request for Public Hearing form.
Current status of property must be the same as on the Request for Public Hearing form.
"Variance is requested from…" Provide the section number and title of each section of the Fort Myers Beach Land Development Code from which a variance is being sought.

Narrative statements

If the application is for multiple variances, complete all of the narrative statements for each variance that is requested.

Site plan

The site plan must show all existing structures on the site; all existing structures within 100 feet of the perimeter boundary of the site; and a clear illustration of the proposed variance.

LDC Section 34-87

The guidelines for decision-making regarding a request for a variance are as follows:

1. Whether there are exceptional or extraordinary conditions or circumstances that are inherent to the property in question, or whether the request is for a *de minimis* variance under circumstances or conditions where rigid compliance is not necessary to protect public policy;
2. Whether the exceptional or extraordinary conditions justifying the variance are or are not the result of actions of the applicant taken after the adoption of the regulation in question;
3. Whether the requested variance is the minimum variance to relieve the applicant of an unreasonable burden caused by the application of the regulation in question;
4. Whether granting the variance would be injurious to the neighborhood or otherwise detrimental to the public welfare;
5. Whether the conditions or circumstances of the specific piece of property or the intended use of the property for which the variance is sought are of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.