



Fort Myers Beach Local Planning Agency

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

Agenda

Tuesday, December 19, 2023

9:00 AM

ORDER OF BUSINESS

I. CALL TO ORDER

II. INVOCATION

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF MINUTES

A. Local Planning Agency - November 14, 2023

V. PUBLIC COMMENT

VI. PUBLIC HEARINGS

A. TPI FMB Ordinance Amendment DCI 202300227

APPROVE/ APPROVE WITH CONDITIONS/ DENY AN APPLICATION FOR 1170 ESTERO BLVD (INCL. ALL ASSOCIATED MARGARITAVILLE CPD PROPERTIES)(DCI-20230227), REQUESTING AN AMENDMENT OF ORD. 18-04 TO CONDITIONS OF APPROVAL' #6; #12 (F) AND (G); AND #18 (A) AND (B).

B. VAR20230212 6642 Estero Blvd

RESOLUTION NUMBER 24-184: A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING VARIANCE VAR20230212 TO ALLOW AN ELEVATED EMERGENCY GENERATOR CLOSER TO THE ESTERO BOULEVARD STREET RIGHT-OF-WAY LINE THAN THE PRINCIPAL BUILDING FOR THE PROPERTY LOCATED AT 6642 ESTERO BLVD; PROVIDING FOR CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

- C. VAR20230162, 21391 WIDGEON TERRACE
RESOLUTION NUMBER 24-185: A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING VARIANCE VAR20230162, TWO VARIANCES FROM LDC TABLE 34-3 TO DECREASE REQUIRED SIDE YARD SETBACK BY 2.18 FEET FROM THE REQUIRED 10 FEET AND TO DECREASE REQUIRED WATERBODY SETBACK BY 14.39 FEET FROM THE REQUIRED 25 FEET, IN THE RC ZONING DISTRICT, FOR THE PROPERTY LOCATED AT 21391 WIDGEON TERRACE; PROVIDING FOR CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE
- D. VAR20230264 for 5350 Estero Blvd
RESOLUTION NUMBER 23-186: A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING VARIANCE VAR20230264 TO DECREASE THE REQUIRED 15-FOOT SIDE YARD SETBACKS BY 8.5 FEET TO ALLOW 6.5-FOOT SIDE SETBACKS, FOR THE COMMERCIAL RESORT ZONED PROPERTY AT 5350 ESTERO BLVD; PROVIDING FOR SCRIVENER'S ERRORS, SEVERABILITY, PROVIDING FOR AN EFFECTIVE DATE.

VII. ADMINISTRATIVE AGENDA

VIII. LPA MEMBERS ITEMS/REPORTS

IX. LPA ATTORNEY ITEMS/REPORTS

X. COMMUNITY DEVELOPMENT ITEMS/REPORTS

A. Development Agreements

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.



Fort Myers Beach Local Planning Agency

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

Minutes

Tuesday, November 14,
2023

9:00 AM

ORDER OF BUSINESS

DRAFT

I. CALL TO ORDER

Members present: Chair Cereceda, LPA Member Boan, LPA Member Eckmann (left early), LPA Member Safford, LPA Member Sudduth (via phone), LPA Member Plummer and LPA Member Vanasse.

II. INVOCATION

Chair Cereceda.

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF MINUTES

- A. Approval of October 10, 2023 draft minutes
LPA Member Plummer moved to approve the minutes; seconded by LPA Member Boan.
The motion carried unanimously.

V. PUBLIC COMMENT

Jim Ink, resident, commented on development agreements and encouraged the staff to create a process for future projects.
Danielle Rambur, a realtor with John R. Wood Properties, felt that the Comprehensive Plan was hindering revitalization due to the lack of flexibility. She suggested implementing build-back deviations for small businesses and noted that some developers were struggling to move forward.
Barry Frank, resident and coordinator for volunteers in the information airstream (Roxie) in Times Square, shared conversations with visitors. He stated that visitors were increasing and leaving their trash on the beach. He suggested that they give small businesses a little space to move forward.
James Farrell, a Roxie volunteer, commented that the town needed to do

something to get small businesses back on their feet. Costs to rebuild and restrictions were affecting businesses and he urged the LPA and Town Council to adopt a system to fast-track the process. He supported Margaritaville but did not want to see projects that size all over the town. He noted that most visitors only spent a day on the beach because there was nothing for them to do. He stated that small businesses needed help to rebuild.

Jackie Lyszak, Sea-Gypsy Inn owner, noted that the cottage that used to be on their property was the first free public library in Lee County. She wanted to honor the memory by building something but could not afford to rebuild under the code. She stated that the town had to put a process in place for small businesses. She commented that a development agreement could help and they needed to get out of the box. Small businesses were not able to spend a lot of money to hear a no for rebuilding.

LPA Member Vanasse moved to allow LPA Member Sudduth to participate electronically; seconded by LPA Member Eckmann.
The motion carried unanimously.

VI. PUBLIC HEARINGS

LPA Member Vanasse moved to move items D and E to the end of the agenda; second by LPA Member Boan.
Motion carried unanimously.

- 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 SE220230189 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.

Town Clerk Baker verified that the hearings were properly advertised. LPA Member Vanasse will file conflict of interest paperwork regarding item C, but he was allowed to comment after the vote. Town Clerk Baker swore in those providing testimony. Chair Cereceda read the title of the resolution. Ex parte communications: none disclosed, except Chair Cereceda, who received emails, spoke to the applicants and was familiar with the property.

Brett Moore, President of Humiston & Moore Engineers, reviewed his experience and education to qualify as an expert.

LPA Member Vanasse moved to accept Mr. Moore as an expert; seconded by LPA Member Eckmann.

The motion carried unanimously.

The applicants confirmed receipt of the agenda and materials.

Community Development Planner Sarah Propst reviewed the background of the resolution as stated on the yellow sheet in the packet.

Paul Yearwood, HOA President of the Island Reef Condominium, described the complex as a small community of 43 owners. They wanted to return the property to its pre-lan state. The building survived lan, but the pool courtyard needed repairs. They proposed moving the pool equipment outside the EC zone, but moving the pool would be a significant financial hardship for the owners. Neighboring properties expressed support for the repairs.

Mr. Yearwood commented on the frequency of storm surges in the staff report, but the emergency berm and beach restoration project counterbalanced the concern regarding storm protection and coastal resiliency. He indicated that the special exception request was consistent with state regulations. Chair Cereceda asked Mr. Yearwood for his opinions regarding the findings and conclusions of the staff report. LPA Member Eckmann questioned the definition of the word minor and Mr. Yearwood responded that only the shell of the pool would be replaced.

No public comment.

LPA Member Vanasse felt lan was a clear example of changing conditions and circumstances. Structures that existed before the 1978 CCCL (Coastal Construction Control Line) are considered non-conforming since the CCCL shifted, which was a change in condition. Planner Propst explained how she viewed changing conditions.

LPA Member Vanasse moved to approve with the determination that it met the approval criteria for the special exception and the conditions required by staff would be included; seconded by LPA Member Sudduth.

Chair Cereceda verified that letters of support were received.

The motion carried unanimously by roll call vote.

- 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.

Chair Cereceda read the title of the resolution. Ex parte communications:

none.

Planner Propst reviewed the background of the request as stated on the yellow sheet.

Kara Stewart represented the applicants. She was determined to be an expert in the case and confirmed receipt of the backup material.

The request was to allow maintenance of the existing circular driveway pavers, additional landscape and a future buffer between Estero Blvd. and the residence.

LPA Member Eckmann stated that the garage was recently built to hurricane standards and looked like a house. He supported the request. LPA Member Plummer agreed it did not make sense to remove the garage and supported the resolution.

No public comment.

LPA Member Vanasse moved to approve with findings that the request met the criteria and condition; seconded by LPA Member Plummer.

The motion carried unanimously by roll call vote.

- 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.

Ex parte communications: LPA Member Safford - many conversations with the applicants and reviewed renderings; Chair Cereceda - several conversations with various people and a text. LPA Member Vanasse recused himself due to a conflict. No disclosures from other members. Rob Fowler from Fowler Construction reviewed his experience to qualify as an expert.

LPA Member Eckmann moved to accept Mr. Fowler as an expert on development and construction; seconded by LPA Member Plummer. The motion carried unanimously.

Planner Propst reviewed the background of the request as stated on the yellow sheet. She indicated that before Ian, the business had approximately 26 parking spaces, but only about 22 were compliant.

Mr. Fowler described the project and indicated the plan would bring many items into compliance. He explained that they raised the peak of the roof to help shield the A/C unit and he acknowledged it exceeded 30 feet, but they were not asking for additional square footage or more uses. He added that the roof

would be 13 feet lower than the neighbor two properties away. Mr. Fowler stated that everything about the project was in compliance except for the parking issue. They proposed 17 conforming parking spaces with one bike rack. He indicated they could not provide the number of parking spaces required by code.

Mike Miller, applicant, stated his lot was the only free parking lot on the north end and he distributed a handout listing the number of non-exclusive parking spots within a 500-foot radius of the Whale.

LPA Member Plummer moved to accept the non-exclusive parking spots handout into the record; seconded by LPA Member Safford.

The motion carried unanimously.

Mr. Miller reviewed the list and stated that there were 319 parking spots within a 500-foot radius of the Whale, excluding Margaritaville.

Mr. Fowler noted that the property was in a coastal A zone, so they were not required to have break-away walls. LPA Member Eckmann was not concerned about the parking because they were in the downtown district and he did not have an issue with the height. Mr. Fowler distributed an elevation map. Mr. Miller added that there were three parking spaces for golf carts.

Mr. Fowler indicated they were asking for six feet in height and he described the elevation map. The highest point was the peak of the tiki deck, with palm fronds hiding the A/C equipment. He noted the metal roof was conforming and they could operate within the roof line of the metal roof, but the tiki hut would not be as high and would not hide the equipment. They would have to put screening around the equipment, but they did not think a fence would look nice. LPA Member Boan questioned where his employees would park and Mr. Miller replied they would park in their lot or be reimbursed for parking in a paid lot. LPA Member Boan asked whether they would negotiate exclusive parking with other parking lots. Mr. Fowler did not think they could arrange alternative parking until they knew the project would proceed. LPA Member Boan felt they should have negotiated parking before submitting the application.

LPA Member Eckmann brought up parking in the lot on Pine Ridge Road and riding the trolley to the beach. Mr. Fowler commented that some of his other clients had used that option.

Chair Cereceda reviewed the findings and conclusions with Mr. Fowler for the height variance. He noted the questions were answered in the application, but Chair Cereceda asked him to reply for the record.

Public comment:

James Farrell pointed out that many patrons in the downtown area were walking to the location because they parked at hotels. He noted that there were businesses downtown that did not have parking.

Jackie Liszak, President and CEO of the Fort Myers Beach Chamber of Commerce, commented that they needed to help small businesses and people were walking to the establishment. She noted the business would

contribute to the community and urged that they find a path from no to yes for small business owners.

Danielle Wix, an employee at the Whale, stated the Whale always provided parking options for their employees.

Amy Loughery, resident, stated that before Ian there used to be an attendant that made sure only patrons parked in the lot and it was rarely full. She supported the additional height to conceal the equipment.

Bob Caborini agreed it was essential to move from no to yes. He mentioned the cultural and emotional impact of having businesses return and felt it was crucial to work together to pave a path for a new future.

Graham Belger, owner of The Goodz, stated they needed to help businesses. He supported the Whale and felt the height request made sense. He commented that there was plenty of parking off the island and they needed to move forward.

Public comment closed.

Town Clerk Baker swore in those providing testimony and submitted several emails into the record. She read an email from a neighbor concerning the height variance because they were worried that it would block the sun from the backyard pool and hinder her Gulf view. Mr. Fowler responded that the property was behind the Whale and would not be affected by the height.

Chair Cereceda moved to approve the height variance request, finding that it was compatible with the findings and conclusions necessary for the zoning variance request and was specifically for the tiki roof; seconded by LPA Member Sudduth.

LPA Member Eckmann stated that the tiki roof would not hide the equipment from the back roof and would not vote for the motion.

The motion carried 5-2 by roll call vote, with LPA Member Eckmann dissenting and LPA Member Vanasse recused.

Chair Cereceda commented that she was angry because she was a small business owner, too, with no ability to rebuild. The LPA had rules they had to abide by and Mr. Fowler and Mr. Miller had to find the way forward for their project. It was not up to the LPA to get to a yes; it was up to the applicants to follow the rules. She wished a Development Agreement was included in their application packet because everyone wanted the Whale to build back and be successful. LPA Vanasse believed it was their responsibility to evaluate the code and comp plan and make recommendations if they could streamline the process. Chair Cereceda agreed but felt the comments inferred that the LPA was standing in the way of progress. She said they were trying to help everyone as much as possible.

Planner Propst revealed that the stories were not voted on.

LPA Member Safford moved to approve the variance request for three stories based on the exceptional circumstances inherent to the property and the findings and conclusions that it met the criteria; seconded by LPA Member

Boan.

The motion carried unanimously by roll call vote.

Mr. Fowler commented that arranging off-island parking with Lee County was not feasible before the project was approved. He noted they could bring back something to the Council, but it would not mean much because there was non-exclusive parking all over the island. LPA Member Plummer disagreed and noted they could exclude employees from parking in their lot. Chair Cereceda questioned whether they could return with a parking plan that would satisfy the code provision. Mr. Fowler replied affirmatively. LPA Member Boan thought that requiring 54 parking places was excessive, but 17 seemed adequate. He listed options for parking. Mr. Fowler stated they could get 26 cars on the lot, but the spaces would not be compliant. LPA Member Safford brought up converting half of the parking into golf cart spaces for 30 spaces. He added that they needed to come up with a solution because the LPA would see many more applications with the same issues. The public benefit was that the business was investing in the community and putting money back. He acknowledged that parking was an inherent problem, but the LPA could not solve it today. He felt there were exceptional circumstances based on the lot size.

LPA Member Sudduth agreed with LPA Member Safford and felt the parking issue could prevent some projects from moving in. Planner Propst suggested adding a condition that approval was contingent on the identification of a plan to manage the parking deficiency prior to the issuance of a certificate of occupancy (CO) to be approved by the Town Council. Mr. Fowler posed the scenario that they spent millions on the building only to be told that they could not open due to a parking deficit. LPA Member Plummer did not think it was fair to have them move forward without the parking problem being resolved.

She felt they should have to present a plan to manage their parking before the Town Council and not before the CO was issued.

LPA Member Safford moved to approve the parking variance based on exceptional circumstances with the condition of timing before the Town Council meeting that is contingent on the identification of a plan to manage the parking deficiency moving forward; seconded by LPA Member Plummer. The motion carried 6-1 with LPA Member Vanasse recused.

LPA Member Vanasse commented that there will be other projects like this that cannot provide sufficient parking and could not before Ian. In his opinion, the code prevented change and further development or redevelopment. He agreed with LPA Member Safford that the code was broken and needed to be fixed. He did not think it was fair to ask one business owner to come up with a solution that was a town-wide issue. He stated that honoring the code was going through the proper process when requesting a variance. He addressed the word "or" in findings and conclusions and noted they did not have to find compliance with every one of

them.

LPA Member Plummer suggested looking at accommodating scooters, e-bikes, bikes and golf carts. LPA Member Safford commented that requiring more parking spaces encouraged more traffic.

D. Post Disaster Buildback code amendment discussion

Post Disaster Buildback

Planner Propst reviewed the policy and amended language as stated on the yellow sheet. She indicated that the policy would be an administrative determination on a case-by-case basis. LPA Member Vanasse did not think the policy went far enough but would support it. LPA Member Plummer felt there should be some percentage of modification to adjust without adding to the room sizes. Planner Propst noted that ADA requirements only applied to hotels and motels and were not included in the language, but she could add it to e. 2 and the residential section. She indicated that she had time to add language before it went to the Town Council. LPA Member Vanasse would like to look into allowing larger units.

Public comment:

Albert Dambrose, architect, supported the amended language. He suggested letting the homeowner decide how to use the extra square footage instead of restricting the bedroom size. He described private bathrooms inside bedrooms, so no one had to use a hallway. He would like to see the policy incorporated soon. He also asked that the language be clarified and used the roof line as an example.

John McClain, resident, described his plans to elevate his existing home and reconfigure the interior within the existing footprint. Planner Propst stated that the policy did not apply to single-family homes.

Madeline Boyd, resident and co-owner of the Beach Bar, stated she noticed more people using Uber and did not think they should get bogged down about parking.

Public comment closed.

LPA Member Vanasse moved to recommend approval for the staff amendments to the post-disaster build-back with changes proposed to allow more square footage with no limitation on how it is used for bathrooms or bedrooms and the roof line was inclusive of overhangs; seconded by Chair Cereceda.

The motion carried unanimously.

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

Flood Plain Manager Kristin Schumacher described the amended language to update the requirements as noted on the yellow sheet. She added that the items for the Florida Building Code were cleaned up to avoid contradictions. LPA Member Vanasse questioned whether the changes were state-mandated or town preferences. Manager Schumacher replied that they were

amending mandated changes. LPA Member Vanasse questioned the sections that were crossed out. Manager Schumacher responded that the building official made the changes because they were covered in the building code. She commented that Section 6235 regarding owner/builder was being amended and a discussion might be needed. Kara Stewart stated that the Town Council approved Ordinance 23-15 regarding the owner/builder exemption, which was struck out in this version. She was not clear on grandfathering concerning the local licensing level regulations and recommended it be researched before it went to the Town Council. She brought up looking at the 20% addition to the property appraiser figure.

Public comment:

Albert Dambrose commented on clarifying the 20%. He suggested that the town not restrict what kind of door a homeowner could install and let the Florida Building Code control details.

Public comment closed.

Chair Cereceda moved to table this until the December 19, 2023 meeting; seconded by LPA Member Vanasse.

The motion carried unanimously.

- 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.

Ex parte communications: Chair Cereceda spoke to the applicant about his house flooding but not about the variance request—no disclosures from other members.

LPA Member Boan moved to accept Keith Blackwell, a design professional, as an expert; seconded by LPA Member Safford.

The motion carried unanimously.

Planning and Development Senior Planner Jason Smalley reviewed the background of the request as stated on the yellow sheet. He noted the applicant was available on the phone. Senior Planner Smalley corrected an error and indicated the additional square footage was approximately 100 square feet of roofed area. There is a single-family elevated structure on the property with a deck extending into the front setbacks allowed by code. The applicant wanted to lift the existing house one level and redevelop the sandwich layer as far as the code allowed. The top level would be about six feet thinner than the bottom level. A new deck would be created on the first living level, which is the reason for the variance request.

Senior Planner Smalley indicated that staff confirmed that a second unit existed on the lot before the hurricane. LPA Member Plummer questioned whether the square footage of the lot qualified for a duplex today. Senior

Planner Smalley replied negatively. Planner Propst clarified that the intent was to discuss the post-disaster build-back change before this request. She apologized for missing the item when the agenda changed. She indicated that a condition had to be included that the post-disaster build-back language would have to be adopted before the variance could be approved.

Mr. Blackwell commented that his companies were very familiar with lifting structures. He explained that the house was integral to the front deck framing because the front wall was built onto the deck framing and the current structure's roof line included the deck. He noted they were trying to save the structure and confirmed that the applicant could rebuild under the 50% rule. The applicant elected to make the structure FEMA-compliant since his previously elevated structure flooded several times.

Applicant Chris Mosteiro, resident and business owner stated that his house had flooded 11 times over five months in 2017 due to afternoon rains because it was in a low area of the neighborhood. He noted that his front deck was an open-air porch. LPA Member Plummer questioned how the applicant would manage the water runoff with all the concrete coverage. Mr. Blackwell responded that shell would be used underneath the structure, not concrete.

No public comment.

LPA Member Vanasse moved to approve the variance as it met the criteria and was contingent upon the adoption of changes to the post-disaster build-back provisions and subject to the conditions proposed by staff; seconded by LPA Member Boan.

The motion carried unanimously by roll call vote.

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.

Jerry Kaufman is the owner of Kaufman Design Group, which is an interior design architectural firm. Bob Achrey of AD Consulting is a senior architect. LPA Member Plummer moved to accept both men as experts; seconded by LPA Member Safford.

The motion carried unanimously.

Mr. Kaufman received a copy of the agenda item. Ex parte communications: none.

Senior Planner Smalley reviewed the background of the request as stated on the yellow sheet. He added that the lot was very unique and the code

setbacks made redevelopment nearly impossible. Two units were there before Ian destroyed one of the structures. The staff immediately determined that two variances were needed to rebuild the structure. Senior Planner Smalley addressed the parking requirements.

Mr. Kaufman stated the remaining structure could not be rebuilt under the 50% rule. Two parking spaces would be under each structure. The proposed structure was not in the exact same footprint, but it was close.

Mr. Achrey indicated they were building to the site, which was almost what they had before.

Senior Planner Smalley requested that the approval be contingent upon approval of the pre-disaster build-back change.

Mr. Kaufman described the parking capacity under each unit with small enclosures to hide equipment. Senior Planner Smalley stated that the VE zone floodplain requirements would determine the number of square feet. No public comment.

Chair Cereceda moved to approve the request, including the potential for enclosed ground-floor space consistent with the VE flood plain rules and that it is consistent with the variance criteria and is subject to the post-disaster build-back code amendments including all the conditions; seconded by LPA Member Boan.

The motion carried unanimously by roll call vote.

VII. ADMINISTRATIVE AGENDA

Not addressed.

VIII. LPA MEMBERS ITEMS/REPORTS

LPA Member Vanasse discussed development agreements and proposed three options. He described the details of a small hotel development agreement, a site plan with deviations development agreement and a preliminary CPD developer agreement. LPA Member Boan suggested that the staff and town attorney review the proposals before they move forward. LPA Member Plummer suggested a quick joint meeting with the Town Council. Chair Cereceda suggested having a work session to discuss the proposals and other issues.

LPA Member Plummer questioned whether residential permits were only good for six months. LPA Member Vanasse replied that the permit was active as long as there was progress. LPA Member Plumber questioned who had the right of way on a pedestrian crosswalk at a green light. There was not a walk sign for pedestrians and they did not know what to do. She questioned when the crosswalks would be lit and whether the amber lights were as bright as they would get. Planner Propst will follow up with the town manager.

Chair Cereceda indicated that they needed to comprehensively look at the goals and visions of the downtown. She suggested that the town could be more proactive in helping people clean up their properties.

IX. LPA ATTORNEY ITEMS/REPORTS

No items.

X. COMMUNITY DEVELOPMENT ITEMS/REPORTS

No items.

XI. ITEMS FOR NEXT MONTHS AGENDA

Possibly the Comprehensive Plan.

XII. ADJOURNMENT

The recording stopped before the motion.

The meeting was adjourned at 2:07 p.m.

DRAFT

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME VANASSE PATRICK		NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE LPA	
MAILING ADDRESS 5711 Lander St.		THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:	
CITY FMB	COUNTY LEE	☒ CITY ☐ COUNTY ☐ OTHER LOCAL AGENCY	
DATE ON WHICH VOTE OCCURRED 11/14/2023		NAME OF POLITICAL SUBDIVISION: Town of Fort Myers Beach	
		MY POSITION IS: ☐ ELECTIVE ☒ APPOINTIVE	

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which would inure to his or her special private gain or loss. Each elected or appointed local officer also **MUST ABSTAIN** from knowingly voting on a measure which would inure to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent, subsidiary, or sibling organization of a principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies (CRAs) under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you are not prohibited by Section 112.3143 from otherwise participating in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on page 2)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, PATRICK VANASSE, hereby disclose that on Nov. 14, 20 23:

(a) A measure came or will come before my agency which (check one or more)

☐ inured to my special private gain or loss;

☐ inured to the special gain or loss of my business associate, _____;

☐ inured to the special gain or loss of my relative, _____;

☒ inured to the special gain or loss of Michael + Dawn Miller, by whom I am retained; or

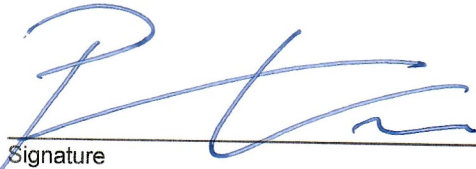
☐ inured to the special gain or loss of _____, which is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

Agenda item C, VAR202305

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

12/14/2023
replacement of form handed in on
11/14/2023
Date Filed


Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.

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

Yellow Sheet Number: **2024-1377**

1. Requested Motion:

Meeting Date: December 19, 2023

APPROVE/ APPROVE WITH CONDITIONS/ DENY AN APPLICATION FOR 1170 ESTERO BLVD (INCL. ALL ASSOCIATED MARGARITAVILLE CPD PROPERTIES)(DCI-20230227), REQUESTING AN AMENDMENT OF ORD. 18-04 TO CONDITIONS OF APPROVAL' #6; #12 (F) AND (G); AND #18 (A) AND (B).

Why the action is necessary:

The ordinance must be amended to change conditions of approval.

What the action accomplishes:

Amending the conditions will allow the applicant to utilize areas on the beach parcel later into the evening

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

Ordinance

5. Background:

The applicant is requesting an amendment of Ord. 18-04 'Conditions of Approval' #6, 12(f) & (g) and 18(a) & (b), extending hours of operation an additional 2 hours for the Beach Club and its ancillary uses from 7am to 11pm, and limiting amplified music past 10pm while clarifying that the Town's noise ordinance would apply to the new hours; allowing for other outdoor areas covered by the Consumption on Premises (COP) approval to be utilized for private events when the aquatic venue is closed; change 12(g) references to "beach club" to "aquatic venue;" and correct page references to the COP areas in the Master Concept Plan (MCP).

Attachments:

1. Staff Report
2. Amended Applicant Narrative
3. Revised Application (Narrative Removed)

Financial Impact:

unknown

6. Alternative Action

REQUEST REVISION OF PROPOSED LANGUAGE CHANGE

7. Staff Recommendations:

Determine whether change to conditions is appropriate.

8. Recommended Approval:

Date: December 12, 2023

Frankie Kropacek, Operations & Compliance Director

Date: December 12, 2023

Nancy Stuparich, Town Attorney



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

STAFF REPORT

TYPE OF CASE: CPD AMENDMENT

CASE NUMBER: DCI20230227

CASE NAME: 1170 Estero Blvd (incl. all associated TPI FMB CPD properties); requesting an amendment of Ord. 18-04 'Conditions of Approval' #6; #12 (f) and (g); and #18 (a) and (b).

LPA HEARING DATE: December 19th, 2023, at 9 AM

STAFF RECOMMENDATION: N/A

**PREPARED/
SUBMITTED BY:** Jason Smalley- Senior Planner

I. APPLICATION SUMMARY

Applicant/Owner: TPI-FMB LLC

Request: The applicant is requesting an amendment of Ord. 18-04 'Conditions of Approval' #6, 12(f) & (g) and 18(a) & (b), extending hours of operation an additional 2 hours for the Beach Club and its ancillary uses from 7am to 11pm, and limiting amplified music past 10pm while clarifying that the Town's noise ordinance would apply to the new hours; allowing for other outdoor areas covered by the Consumption on Premises (COP) approval to be utilized for private events when the aquatic venue is closed; change 12(g) references to "beach club" to "aquatic venue;" and correct page references to the COP areas in the Master Concept Plan (MCP).

Subject property: See attached Master Concept Plan

Physical Address: 1170, 1180/ 1192, 1204/ 1206 Estero Blvd; 251 Crescent St; 1150 Fifth St.; and Unaddressed parcels

STRAP #: 24-46-23-W3-00205.0070 (MCP parcel #3);
24-46-23-W3-00006.0000 (MCP parcel #1);
24-46-23-W3-00206.0060 (MCP parcel #1);
24-46-23-W3-00009.0000 (MCP parcels # 2 and #5);
19-46-24-W4-U0496.2608 (MCP parcel #2) and
19-46-24-W4-U0498.2607 (MCP parcels #2 and #6)

FLU: Boulevard

Zoning: Commercial Planned Development (CPD)

Adjacent zoning and land uses:

North: COMMERCIAL PLANNED DEVELOPMENT (CPD)
Hotel

South: DOWNTOWN
Crescent Beach Park

East: DOWNTOWN
Residential/ Hotel

West: DOWNTOWN
Commercial/ Times Square

II. BACKGROUND AND ANALYSIS

Background:

Original CPD Approval: May 21st, 2018 (Ord. 18-04)

- 27 Conditions of Approval included

Amendment to CPD (Ord. 23-09): August 7th, 2023

- Amendment to Condition of Approval #14, removing language which forbade the development of parcels 1, 2, 3 and 5, allowing for future Councils to consider construction in those areas in conformity with the Comprehensive Plan and LDC.

Analysis:

Condition of Approval #6 and #18(a): Minor correction of page references in the Master Concept Plan detailing the approved COP areas. Staff has confirmed that the referenced Master Concept Plan (dated May 21st, 2018; Morris-Depew Assoc., Inc.) pages were incorrectly cited in multiple places within prior ordinances.

Condition of Approval #12 (f) & (g):

- **12(f):** While retaining the daily limits on non-resort guests at the aquatic venue on parcel 2, the applicant is requesting the ability to utilize the COP areas defined in the MCP, for private events after the aquatic venue closes.

The applicant is proposing to limit amplified music to no later than 10pm on parcel 2, except that amplified music may be played from 7am to 12am-midnight in the unenclosed hotel restaurant and bar.

The applicant is proposing that limits on noise should be addressed through the Town's noise ordinance (sec. 14-23, Table-1)

- **12(g):** This change seems to clarify that the aquatic venue is subject to the limits of 325 non-guest users, rather than the "Beach Club." It's unclear to staff if this change impacts other limitations on parcel 2, or whether the terms "Beach Club" and "Aquatic Venue" have been used interchangeably.

Condition of Approval #18(b): The proposed changes would extend the sale of alcoholic beverages within the approved COP areas to 11pm to match their proposed amendment to Condition of Approval #12(f). The removal of language regarding amplified music is also addressed by #12(f).

III. EXHIBITS

- A. Complete application
 - a. Applicant-proposed ordinance language
- B. Approved Master Concept Plan pages X-505-COP.01 & X-506-COP.02

Exhibit 6-5
TPI-FMB CPD AMENDMENT

NARRATIVE

INTRODUCTION

Margaritaville CPD Ord.# 23-09, Condition #7, limits non-resort guest use of the aquatic venue on Parcel 2 to a maximum 325 non-resort guests:

7. The property owner is responsible for accounting and enforcement of ***the per day limitation of 325 non-resort guests at the aquatic venue*** or lesser number based upon Fire Department occupancy limitations; and, if requested, for providing records to the Town on demand for verification. Failure to provide records or limit non-hotel guests and/or hotel guests to the approved maximum limits per day shall constitute a \$500 per day per incident civil violation.

During hours when the aquatic venue on Parcel 2 is closed, the other beautiful outdoor areas of the beach club would otherwise be vacant. TPI FMB proposes to use those other beach club outdoor areas for private events (including food and beverage services within the permitted COP areas on the MCP for Parcel 2) and to moderately increase the hours of operation from 9:00 PM to 11:00 PM. Condition #7 remains unchanged, but this requires amending Ord.#23-09, Conditions #12.f. and 12.g. and 18.a. and 18.b. (and Condition #6 as noted at the end of this Narrative)[See additions **bold underlined**; deletions **cross-hatched**]:

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

...

- f. *The beach club and its ancillary uses may operate only from 7 am to 11 pm. **The aquatic venue is limited by Condition 7 to 325 non-resort guests. When the aquatic venue is closed, the other outdoor patios and related areas of the Parcel 2 beach club (limited to locations shown on the MCP as COP areas) may be used for private events. No amplified music is permitted past 10 PM except as provided in Condition 18.d. Since this venue is open air, with regard to music or noise the Town's Noise Ordinance (Code of Ordinances §14-23; Table-1) will be enforced.**~~one hour after sunset, but never later than 9 pm. That is the Beach Club's hours of operation. unless otherwise temporarily altered in the Town's special event use regulations in Section 34-1264 of the LDC.~~*

- g. *To implement the applicant's commitment to limit access to the aquatic venue beach club to 325 people per day who are not staying at the hotel, the resort will be required to submit monthly reports to the Town within 10 days after the end of each month showing the number of non-guest admissions for each day; and shall provide such information on demand and allow Town officials immediate access to this information for the current day at a designated location in the resort.*

....

18. *Service of alcoholic beverages for on-premises consumption is approved at the locations shown on Sheets X-505-COP.01 and X-506-COP.02 of the Master Concept Plan, subject to these limitations:*

a. *Service to outdoor seating is permitted on the second story outdoor terrace on Parcel 1, in the public restaurant on Parcel 2, and in the beach club on Parcel 2 provided service remains in substantial compliance with the COP diagrams on **Sheets X-505-COP.01 and X-506-COP.02** ~~Sheets X-506-COP.01 and X-507-COP.02~~. Beverages purchased in approved indoor or outdoor service areas on Parcels 1 or 2 shall not be carried across the pedestrian bridge. The designated service areas shall be identified separately from areas where consumption is permitted, but not part of a service and/or seating area.*

b. *Alcoholic beverages ~~and amplified music~~ in the beach club are limited to 7:00 a.m. to **11:00 p.m.** ~~one hour after sunset, but not later than 9:00 p.m.~~ Expansion of COP onto the sandy beach seaward of the seawall is prohibited.*

[The remainder of Condition 18 is unchanged]

EXPLANATION: **Conditions 12.f. and 12.g. and 18.a. and 18.b.**

TPI recently requested changes to the Margaritaville CPD due to Hurricane Ian changed circumstances with the devastation to the community and impacts on the local economy. Those changes were approved in Ord. #23-09. Recently TPI noticed an inconsistency in the reference to the MCP plan pagination in Condition #6 which needs to be addressed. At the same time, there is ambiguity about the private event use of outdoor beach club areas after the aquatic venue is closed which operational issues should also be clarified.

As TPI is getting closer to opening and operating Margaritaville they are addressing some of the specific operational conditions related to the beach club, restaurants, and ancillary uses. Once it is completed, the beach club will represent a magnificently landscaped area, perfectly suited for evening receptions for various Southwest Florida civic, corporate, community, and other similar groups seeking a venue for various social gatherings. On those days, the beach club and its food and beverage services could be made available between the hours of 5 PM (after which the pool and aquatic venue would be closed) to 11 PM with the further limitation that no amplified music would be available past 10 PM. Since this venue is open air, regarding music or noise the Town's Noise Ordinance (Town of Fort Myers Beach Code of Ordinances §14-23; Table-1) will be enforced.

Presently Condition 12.f. requires the closure of the beach club after 9 PM unless special events are requested consistent with LDC 34–1264. As a practical matter limiting the use of this beautiful venue only until 9 PM serves no practical purpose. The beach club resource is in the Commercial District of the Town of Fort Myers Beach within an area that will already be actively used after 9 PM. Allowing it to be open until 11 PM will be consistent with the other restaurant and bar activities that occur in this commercial part of the town and will complement the other evening activities in this area.

A restaurant is already located there and will be active during the same hours. The COP areas have already been identified in the Master Concept Plan and will remain consistent. Allowing the flexibility for the additional two hours of operation will more efficiently use the beautiful resources of the beach club as a complement to other Times Square pedestrian-oriented activities. There will be no additional impact to the area since the parking for the beach club and ancillary uses is already provided for in the CPD.

Minor clarification amendments to Conditions #12 and 18 would allow for this [deletions-crosshatched; additions **bold underlined**]:

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

...

f. *The beach club and its ancillary uses may operate only from 7am to **11 pm. The aquatic venue is limited by Condition 7 to 325 non-resort guests. When the aquatic venue is closed the other outdoor patios and related areas of the Parcel 2 beach club (limited to locations shown on the MCP as COP areas) may be used for private events. No amplified music is permitted past 10 PM except as provided in Condition 18. d. Since this venue is open air, with regard to music or noise the Town's Noise Ordinance (Code of Ordinances §14-23; Table-1) will be enforced.**~~one hour after sunset, but never later than 9 pm. That~~*

~~is the Beach Club's hours of operation, unless otherwise temporarily altered in the Town's special event use regulations in Section 34-1264 of the LDC.]~~

- g. *To implement the applicant's commitment to limit access to the **aquatic venue beach club** to 325 people per day who are not staying at the hotel, the resort will be required to submit monthly reports to the Town within 10 days after the end of each month showing the number of non-guest admissions for each day; and shall provide such information on demand and allow Town officials immediate access to this information for the current day at a designated location in the resort.*

■ ■ ■

18. Service of alcoholic beverages for on-premises consumption is approved at the locations shown on Sheets X-505-COP.01 and X-506-COP.02 of the Master Concept Plan, subject to these limitations:

- a. Service to outdoor seating is permitted on the second story outdoor terrace on Parcel 1, in the public restaurant on Parcel 2, and in the beach club on Parcel 2 provided service remains in substantial compliance with the COP diagrams on **Sheets X-505-COP.01 and X-506-COP.02** ~~Sheets X-506-COP.01 and X-507-COP.02~~. Beverages purchased in approved indoor or outdoor service areas on Parcels 1 or 2 shall not be carried across the pedestrian bridge. The designated service areas shall be identified separately from areas where consumption is permitted, but not part of a service and/or seating area.
- b. ~~Alcoholic beverages and amplified music~~ in the beach club are limited to 7:00 a.m. to **11:00 p.m.** ~~one hour after sunset, but not later than 9:00 p.m.~~ Expansion of COP onto the sandy beach seaward of the seawall is prohibited.

[The remainder of Condition 18 is unchanged]

////////////////////////////////////

[Clean Version – Clarified Conditions 12 and 18]

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

...

- f. The beach club and its ancillary uses may operate only from 7am to 11 pm. The aquatic venue is limited by Condition 7 to 325 non-resort

guests. When the aquatic venue is closed the other outdoor patios and related areas of the Parcel 2 beach club (limited to locations shown on the MCP as COP areas) may be used for private events. No amplified music is permitted past 10 PM. Since this venue is open air, with regard to music or noise the Town's Noise Ordinance (Code of Ordinances §14-23; Table-1) will be enforced.

- g. To implement the applicant's commitment to limit access to the aquatic venue to 325 people per day who are not staying at the hotel, the resort will be required to submit monthly reports to the Town within 10 days after the end of each month showing the number of non-guest admissions for each day; and shall provide such information on demand and allow Town officials immediate access to this information for the current day at a designated location in the resort.

...

18. Service of alcoholic beverages for on-premises consumption is approved at the locations shown on Sheets X-505-COP.01 and X-506-COP.02 of the Master Concept Plan, subject to these limitations:

- a. Service to outdoor seating is permitted on the second story outdoor terrace on Parcel 1, in the public restaurant on Parcel 2, and in the beach club on Parcel 2 provided service remains in substantial compliance with the COP diagrams on Sheets X-505-COP.01 and X-506-COP.02. Beverages purchased in approved indoor or outdoor service areas on Parcels 1 or 2 shall not be carried across the pedestrian bridge. The designated service areas shall be identified separately from areas where consumption is permitted, but not part of a service and/or seating area.
- b. Alcoholic beverages in the beach club are limited to 7:00 a.m. to 11:00 p.m. Expansion of COP onto the sandy beach seaward of the seawall is prohibited.

EXPLANATION: Condition #6

As noted previously above, while reviewing the recent amendments to the Margaritaville CPD ordinance TPI also recognized that in Condition 6 the references to the MCP pages related to Consumption On Premises (COP) were inaccurate and ought to be changed so that the correct references in the Use for Parcel 1 are also correctly

referenced for the COP Use on Parcel 2 (which, in Ord.#23-09, do not accurately reflect the correct MCP pages). Those proposed changes are shown in the condition below:

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

6. The approved schedule of uses for this CPD is limited to the following:

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

LDC JUSTIFICATION

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

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

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

(Emphasis supplied). When considering rezonings LDC Section 34-85(b) calls for the Town Council to consider (among others):

- (1) Whether there exists an error or ambiguity which must be corrected.
- (2) Whether there exist changed or changing conditions which make approval of the request appropriate.

[Particularly Condition 6, discussed last below, makes references to the MCP pages related to Consumption On Premises (COP) that are inaccurate and ought to be changed so that the correct COP references shown in the Use for Parcel 1 are also correctly referenced for the COP Use on Parcel 2. Additionally, there is ambiguity in Condition 12(f) & (g) about whether the outdoor areas and related services of the beach club can be used for private events when the aquatic venue is closed.]

...

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

[The performance and locational standards were demonstrated to be met when the CPD was originally approved. The request proposed is simply to more efficiently use the approved facilities by moderately expanding the hours of operation to better use the approved beach club facilities.]

...

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

[TPI submits that the proposal to allow the beach club facilities to remain open for another two hours is consistent with and complementary to the evening activities expected throughout the pedestrian-oriented Times Square beachside restaurant and recreational area.]

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

[As previously noted, the activities have already been shown not to place undue burdens on the transportation and other services and facilities, and the proposed change to the hours of operation will simply allow the use of an existing activity site in this pedestrian-oriented area.]

- (13) For planned development rezonings, see § 34-216 for additional considerations.

LDC §34-216(a):

- (2) The recommendation made to the town council must be supported by the guidelines set forth in § 34-85 of this chapter. In addition, the findings must address whether the following criteria can be satisfied:
- a. The proposed use or mix of uses is appropriate at the subject location;
 - b. Sufficient safeguards to the public interest are provided by the recommended special conditions to the concept plan or by other applicable regulations;
 - c. All recommended special conditions are reasonably related to the impacts on the public's interest created by or expected from the proposed development;
 - d. The proposed use meets all specific requirements of the comprehensive plan that are relevant to the requested planned development, such as the following:
 1. Policies 4-B-4 and 4-C-3 on commercial uses in the "mixed residential" category.

POLICY 4-B-6 "PEDESTRIAN COMMERCIAL: a primarily commercial district applied to the intense activity centers of Times Square (including Old San Carlos and nearby portions of Estero Boulevard)

Commercial activities must contribute to the pedestrian-oriented public realm as described in this comprehensive plan and must meet the design concepts of this plan and the Land Development Code. ... [Emphasis supplied]

POLICY 4-C-3 COMMERCIAL LOCATIONS: When evaluating proposals for new or expanded commercial uses in categories where they are permitted, the following principles shall apply:

...

- ii. Where new or expanded commercial uses are encouraged, as in the "Pedestrian Commercial" category, the Land Development Code shall specify its permitted form and extent and provide a streamlined approval process. Landowners may also use the planned development rezoning process to seek approval of other forms of commercial development in that category.

[The Margaritaville Resort property is located largely in the Pedestrian Commercial FLU Category. Policies 4-B-6 and 4-C-3 call for the property to contribute to the pedestrian oriented public realm in this activity center in close proximity to Times Square. These new beachfront recreational and entertainment facilities are uniquely situated to provide those kinds of pedestrian-oriented services in a complementary fashion to the other pedestrian oriented activities and services located in the Times Square area. Allowing the hours of operation to more closely match the activity level of the Times Square area just makes good sense and efficient use of the existing facilities.]

2. Policies 4-B-5 and 4-C-3 on commercial rezonings in the "boulevard" category. ***[N/A for this amendment]***
3. Policy 4-C-4 on building heights taller than the standard height limit. ***[N/A for this amendment]***
4. Policy 4-C-8 on density transfers. ***[N/A for this amendment]***
5. Policy 4-E-1 on pre-disaster buildback. ***[N/A for this amendment]***

6. Policy 7-J-2 on traffic impact analyses and potential design improvements that could offset traffic impacts.
[N/A for this amendment]

CONCLUSION

In conclusion, TPI submits that these minor changes will correct an existing error or ambiguity and will remain consistent with the Town's LDC and Comprehensive Plan as well as being consistent with the overall theme and concept approved in the Margaritaville CPD. TPI respectfully urges the Town to approve the changes proposed.



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.

1170, 1180/1192 Estero Blvd., portions of Estero Blvd., right-of-way and access undetermined,
Site Address: more or less (See attached location map).

STRAP Number: Parcels 2 & 5: 19-46-24-W4-0140B.0070, 19-46-24-W4-U0491.2610, 19-46-24-W4-U0494.2609, 19-46-24-W4-U0496.2608, 19-46-24-W4-U0498.2606, 24-46-23-W3-00009.0000

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

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

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

Current Zoning District: Commercial Planned Development (CPD)

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

FLUM Density Range: See Ordinance #23-09 Platted Overlay: ☐ YES ☒ NO

ACTION REQUESTED

- ☐ Special Exception
- ☐ Variance
- ☐ Conventional Rezoning
- ☒ Planned Development ☒ Commercial ☐ Residential
- ☐ Master Concept Plan Extension
- ☐ Appeal of Administrative Action
- ☐ Vacation of Platted Right-of-way and Easement
- ☐ Other – cite LDC Section: _____

SUPPLEMENTAL FORM REQUIRED

- PH-A
- PH-B
- PH-C
- PH-D
- PH-E
- PH-F
- PH-G
- attach on separate sheet

PART I – General Information

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

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

Applicant Mailing Address: Post Office Drawer 1507, Fort Myers, FL 33902-1507

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

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

B. Relationship of Applicant to subject property:

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

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

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

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

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

Name: N/A Phone: _____
Address: _____
Email: _____ Fax: _____

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

PART II – Nature of Request

Requested Action (each request requires a separate application)

- ☐ Special Exception
- ☐ Variance from LDC Section _____ - _____
- ☐ Conventional Rezoning from _____ to _____
- ☐ Planned Development
- ☐ Rezoning from _____ to ☐ Commercial PD ☐ Residential PD
- ☒ Amendment. List the project number: DCI17-001
- ☐ Extension/reinstatement of Master Concept Plan. List project number: type text here



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

☐ Appeal of Administrative Action

☐ Vacation

☐ Right-of-Way

☐ Easement

☐ Other. Please Explain: _____

PART III – Waivers

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

Code Section: _____ Description: _____

Code Section: _____ Description: _____

Code Section: _____ Description: _____

PART IV – Property Ownership (Single Owner)

☐ Single Owner (individual or husband and wife)

Name: _____ Phone: _____

Mailing Address: _____

Email: _____ Fax: _____

AFFIDAVIT

APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

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

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

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

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

Signature

Printed Name

STATE OF _____ COUNTY OF _____

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

Notary Public Signature

PART V Property Ownership (Multiple Owners)

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

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

DISCLOSURE OF OWNERSHIP INTEREST

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

Name and Address

Percentage Ownership



COMMUNITY DEVELOPMENT DEPARTMENT

APPLICATION for PUBLIC HEARING

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

Name, Address and Office

Percentage of Stock

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

80.9%

TPI-FMB, LLC, a Florida limited liability corporation
Owned by: TPI-FMB Investment, LLC, a Florida limited liability corporation
Thomas R. Torgerson, Manager, 103 15th Ave. NW #200, Willmar, MN 56201
Thomas R. Torgerson, 100% owner of TPI-FMB Investment, LLC

19.1%

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

Name and Address

Percentage of Interest

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

Name and Address

Percentage of Ownership

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

Name, Address and Office

Percentage of Stock



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

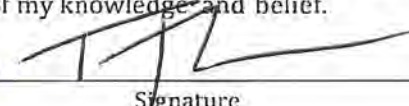
Date of Contract: _____

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

Name	Address
_____	_____
_____	_____
_____	_____

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

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

✓ 

Signature

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

Printed Name

AFFIDAVIT

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

I, Thomas R. Torgerson (name), as Manager (title)
of TPI-FMB, LLC, a Florida limited liability corporation (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

TPI-FMB, LLC, a Florida limited liability corporation

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

Signature

Thomas R. Torgerson

Typed or Printed Name

Manager

Title

10-27-23

Date

STATE OF Minnesota COUNTY OF Kandiyohi

The foregoing instrument was certified and subscribed before me by means of ☒ physical presence OR ☐ online notarization, this 27th day of October, 2023, by

Thomas R. Torgerson, ☒ who is personally known to me OR ☐ who has produced



Kathleen A. Ciampi
Notary Public Signature

PART VI- Property Information

A. Legal Description:

STRAP: 19-46-24-W4-0140B.0070, 19-46-24-W4-U0491.2610, 19-46-24-W4-U0494.2609,
19-46-24-W4-U0496.2608, 19-46-24-W4-0498.2606, 24-46-23-W3-00009.0000

Property Address: 1170, 1180/1192 Estero Blvd., portions of Estero Blvd., right-of-way and
access undetermined, more or less (See attached location map)

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

☐ Yes. Property identified in subdivision: _____

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

B. Boundary Survey:

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

C. Property Dimensions:

Width (please provide an average width if irregular in shape) _____ +/- 395.00 feet

Depth (please provide an average width if irregular in shape) _____ +/- 301.09 avg feet

Frontage on street: _____ +/- 395.00 feet. Frontage on waterbody: _____ 0.00 feet

Total land area: _____ +/- 1.80 ☒ acres ☐ square feet

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

West on San Carls Blvd. across the Sky Bridge. Continue on San Carlos Blvd. until
it curves to the left, transitioning into Estero Blvd. Parcels 2 & 5 are on the right-hand
of Estero Blvd. just beyond the pedestrian overpass for the Margaritaville resort
currently under construction.

☒ Attach Area Location Map as Exhibit 6-3

E. Property Restrictions (check applicable):

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

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

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

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

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

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

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

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

☐ Low Density

☐ Mixed Residential

☐ Boulevard

☒ Pedestrian Commercial

☐ Marina

☐ Recreation

☐ Wetlands

☐ Platted Overlay

DESCRIPTION - PARCEL NO. 2

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

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

CONTAINING 1.47 ACRES, MORE OR LESS.

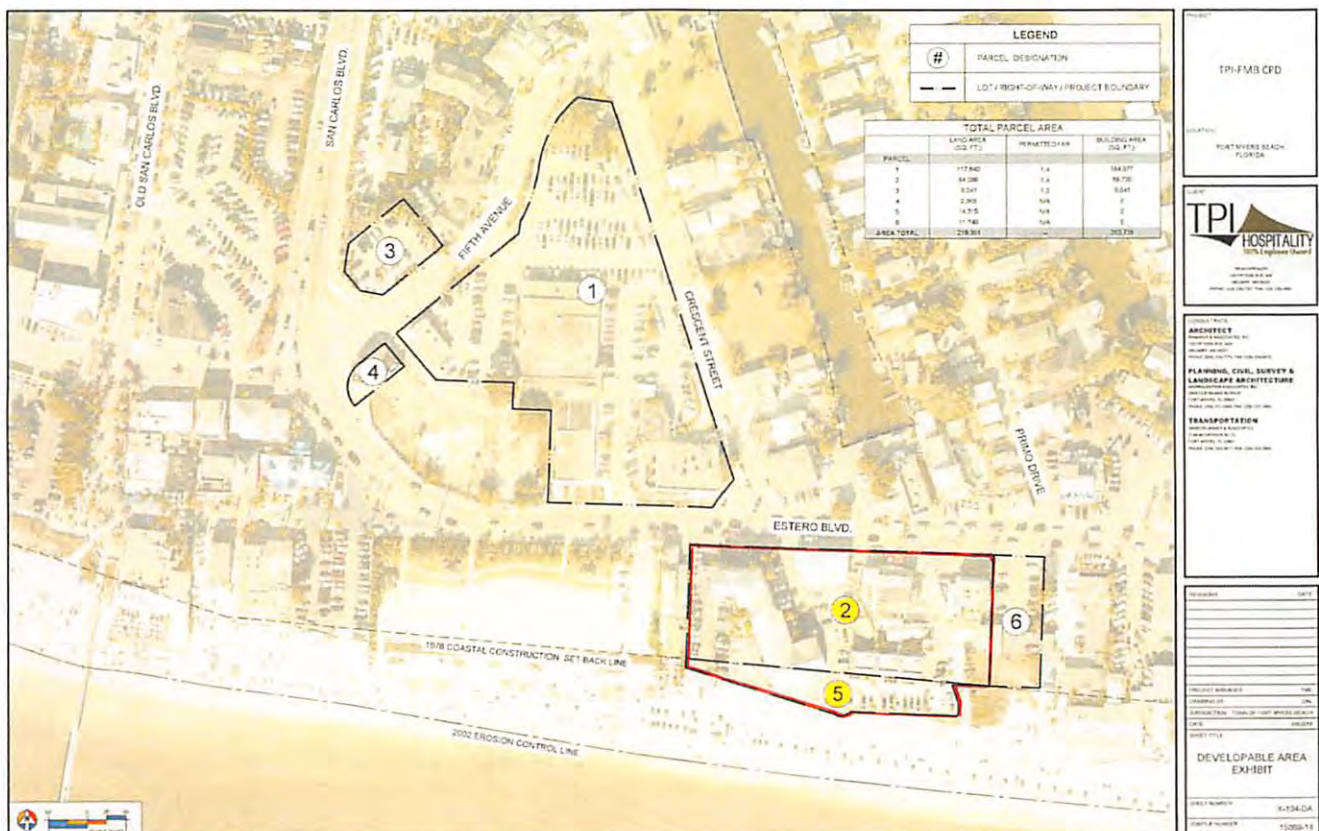
DESCRIPTION - PARCEL NO. 5

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

COMMENCING AT THE SOUTHWESTERLY CORNER OF BLOCK "E", CRESCENT PARK ADDITION, AS RECORDED IN PLAT BOOK 4, PAGE 46, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, SAID CORNER LYING AT THE INTERSECTION OF THE SECTION LINE COMMON TO SAID SECTIONS 19 AND 24 AND THE NORTHERLY RIGHT-OF-WAY LINE OF ESTERO BOULEVARD AS SHOWN ON THE SAID PLAT OF "BUSINESS CENTER"; THENCE S.0°41'08"E. ALONG THE SAID SECTION LINE, A DISTANCE OF 53.15 FEET TO AN INTERSECTION WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID ESTERO BOULEVARD ; THENCE S.70°35'51"E. A DISTANCE OF 337.05 FEET TO THE NORTHEAST CORNER OF LOT 3, BLOCK "A" OF SAID "CRESCENT PARK"; THENCE S.19°24'09"W.

ALONG THE EASTERLY LINES OF SAID LOT 3 AND LOT 7, OF SAID BLOCK "A", A DISTANCE OF 175.23 FEET TO THE SOUTHEASTERLY CORNER OF SAID LOT 7; THENCE N.70°35'51"W. ALONG THE SOUTH LINE OF SAID LOT 7 AND LOT 6 A DISTANCE OF 67.00 FEET TO THE POINT-OF-BEGINNING OF THIS DESCRIPTION; THENCE CONTINUING N.70°35'51"W. ALONG THE SOUTH LINE OF SAID LOT 6 AND ITS NORTHWESTERLY EXTENSION ACROSS THE RIGHT-OF-WAY OF SAID CANAL STREET FOR A DISTANCE OF 48.26 FEET TO THE NORTHEAST CORNER OF LOT 9, BLOCK "B" OF SAID "CRESCENT PARK"; THENCE SOUTHERLY ALONG THE EASTERLY LINE OF SAID LOT 9 FOR THE NEXT TWO COURSES; S.0°47'09"E. A DISTANCE OF 26.69 FEET; THENCE S.19°35'15"W. A DISTANCE OF 15.41 FEET TO AN INTERSECTION WITH THE SOUTHEASTERLY EXTENSION OF THE SEAWARD FACE OF AN EXISTING CONCRETE RETAINING WALL; THENCE ALONG THE SAID SEAWARD FACE AND ITS NORTHWESTERLY EXTENSION FOR THE NEXT EIGHT (8) COURSES; N.69°51'54"W. A DISTANCE OF 1.52 FEET; THENCE N.88°24'04"W. FOR A DISTANCE OF 1.34 FEET; THENCE N.71°18'46"W. A DISTANCE OF 7.35 FEET; THENCE N.54°54'52"W, A DISTANCE OF 1.35 FEET; THENCE N.70°40'41"W. A DISTANCE OF 47.63 FEET; THENCE N.69°59'37"W. A DISTANCE OF 76.43 FEET; THENCE S.84°21'17"W. A DISTANCE OF 15.65 FEET; THENCE N.54°51'19"W. A DISTANCE OF 211.87 FEET; THENCE N.19°24'24"E., LEAVING SAID SEAWARD FACE OF THE CONCRETE SEAWALL, A DISTANCE OF 12.72 FEET TO AN INTERSECTION WITH THE COASTAL CONSTRUCTION SET-BACK LINE AS DESCRIBED IN PLAT BOOK 31, PAGE 1 THROUGH 21, INCLUSIVE, PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE S.67°11'13"E. ALONG SAID COASTAL CONSTRUCTION CONTROL LINE, A DISTANCE OF 393.39 FEET; THENCE LEAVING SAID SET-BACK LINE S.19°24'09"W. FOR A DISTANCE OF 0.34 FEET TO THE SAID POINT-OF-BEGINNING OF THIS DESCRIPTION.

CONTAINING 0.33 ACRES, MORE OR LESS.



**DESCRIPTION
PARCEL NO. 1**

PARCEL OF LAND LYING IN SECTION 14, TOWNSHIP 16 SOUTH, RANGE 23 EAST, TOWN OF FORT MYERS BEACH, ESTERO ISLAND, LEE COUNTY, FLORIDA, SAID PARCEL ENCOMPASSING UNPLATTED PARCELS, PORTIONS OF "BUSINESS CENTER" INCLUDING PART OF CENTER STREET, ESTERO BOULEVARD, AS SHOWN ON MAP OF SAID "BUSINESS CENTER" RECORDED IN PLAT BOOK 4, PAGE 126, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWESTERLY CORNER OF BLOCK "C" CRESCENT PARK ADDITION, AS RECORDED IN PLAT BOOK 4, PAGE 126, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, SAID CORNER LYING AT THE INTERSECTION OF THE SECTION LINE COMMON TO SAID SECTIONS 19 AND 24 AND THE NORTHERLY RIGHT-OF-WAY LINE OF ESTERO BOULEVARD AS SHOWN ON THE SAID PLAT OF "BUSINESS CENTER" THENCE N 70° 35' 11" E, ALONG SAID NORTHERLY RIGHT-OF-WAY OF ESTERO BOULEVARD, A DISTANCE OF 77.77 FEET TO THE POINT-OF-BEGINNING OF THIS DESCRIPTION OF PARCEL NO. 1, THENCE CONTINUE N 70° 35' 11" E, ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 21.16 FEET, THENCE S 87° 35' 11" E, A DISTANCE OF 122.18 FEET, THENCE S 70° 33' 27" W, A DISTANCE OF 30.10 FEET, THENCE N 10° 23' 35" E, A DISTANCE OF 33.15 FEET TO THE MOST SOUTHERLY CORNER OF LOT 7, BLOCK 8, OF SAID "BUSINESS CENTER" THENCE N 70° 35' 11" E, ALONG THE RIGHT-OF-WAY LINE OF LOT 8 AND 10, A DISTANCE OF 163.65 FEET TO THE SOUTHWESTERLY CORNER OF SAID LOT 11, THENCE S 20° 12' 15" W, ALONG THE SOUTHWESTERLY LINE OF SAID LOT 8, BEING ALSO THE NORTHEASTERLY LINE OF LOT 11, A DISTANCE OF 40.34 FEET TO AN INTERSECTION WITH THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF 18TH AVENUE, AS SHOWN ON SAID PLAT OF "BUSINESS CENTER" THENCE N 47° 39' 11" E, ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 204.31 FEET, THENCE N 20° 12' 15" E, CONTINUING ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 16.41 FEET TO THE MOST SOUTHERLY CORNER OF TRACT 1, AS DESCRIBED IN SAID OFFICIAL RECORDS BOOK 1184, PAGE 128, OF SAID LEE COUNTY PUBLIC RECORDS, THENCE ALONG THE EASTERLY BOUNDARY OF SAID RIGHT-OF-WAY TAKING FOR THE NEXT TWO COURSE NORTH-EASTERLY ALONG AN ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 209.85 FEET, A CENTRAL ANGLE OF 70° 14' 27" W, AND WHOLE CHORD BEARING N 31° 34' 35" E, FOR A DISTANCE OF 74.85 FEET, HAVING AN ARC LENGTH OF 79.05 FEET TO A POINT-OF-REVERSE CURVATURE OF A CURVE TO THE RIGHT, THENCE ALONG AN ARC OF SAID CURVE, HAVING A RADIUS OF 151.50 FEET, A CENTRAL ANGLE OF 41° 10' 22" W, AND WHOLE CHORD BEARING N 47° 02' 12" E, FOR A DISTANCE OF 103.74 FEET, HAVING AN ARC LENGTH OF 104.77 FEET TO AN INTERSECTION WITH THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF FOURTH STREET, AS SHOWN ON SAID PLAT OF "BUSINESS CENTER" THENCE S 41° 52' 42" E, ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 45.48 FEET TO AN INTERSECTION WITH THE WESTERLY LINE OF SAID RIGHT-OF-WAY TAKING TRACT 1, AS DESCRIBED IN OFFICIAL RECORDS BOOK 1215, PAGE 116, OF THE SAID LEE COUNTY PUBLIC RECORDS, THENCE SOUTHERLY ALONG THE SAID WESTERLY BOUNDARY OF TRACT 1, FOR THE NEXT 1/4 (1) COURSE, S 10° 14' 11" E, A DISTANCE OF 44.80 FEET, THENCE S 70° 35' 11" E, A DISTANCE OF 114.77 FEET, THENCE S 87° 35' 11" E, A DISTANCE OF 161.20 FEET, THENCE S 47° 43' 11" E, A DISTANCE OF 133.75 FEET, THENCE S 44° 07' 10" W, A DISTANCE OF 42.18 FEET TO THE SAID POINT-OF-BEGINNING OF THIS DESCRIPTION, CONTAINING 2.71 ACRES, MORE OR LESS.

**DESCRIPTION
PARCEL NO. 2**

PARCEL OF LAND LYING IN PARTIALLY IN SECTION 19, TOWNSHIP 16 SOUTH, RANGE 24 EAST, AND PARTIALLY IN SECTION 24, TOWNSHIP 16 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA, SAID PARCEL ENCOMPASSING UNPLATTED LANDS, PORTIONS OF "CRESCENT PARK" INCLUDING A PORTION OF CANAL STREET AND THE 12 FOOT WIDE STRIP OF LAND SHOWN ALONG THE WEST SIDE OF LOTS 2, 3, 8 AND 7, BLOCK 8, ON SAID PLAT OF "CRESCENT PARK" AS RECORDED IN PLAT BOOK 4, PAGE 38, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWESTERLY CORNER OF BLOCK "C" CRESCENT PARK ADDITION, AS RECORDED IN PLAT BOOK 4, PAGE 38, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, SAID CORNER LYING AT THE INTERSECTION OF THE SECTION LINE COMMON TO SAID SECTIONS 19 AND 24 AND THE NORTHERLY RIGHT-OF-WAY LINE OF ESTERO BOULEVARD AS SHOWN ON THE SAID PLAT OF "BUSINESS CENTER" THENCE S 87° 35' 11" E, ALONG THE SAID SECTION LINE, A DISTANCE OF 33.15 FEET TO AN INTERSECTION WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID ESTERO BOULEVARD AND THE POINT-OF-BEGINNING OF THIS DESCRIPTION, THENCE S 70° 35' 11" E, A DISTANCE OF 372.05 FEET TO A POINT ON THE NORTH LINE OF LOT 1, BLOCK "A" OF SAID "CRESCENT PARK" THENCE S 10° 23' 35" E, A DISTANCE OF 114.81 FEET TO A POINT ALONG THE SECTION LINE OF SAID SECTION LINE AS DESCRIBED IN PLAT BOOK 21, PAGE 1, THROUGHOUT 21, INCLUDING PUBLIC RECORDS OF LEE COUNTY, FLORIDA, THENCE N 71° 13' 17" W, ALONG SAID SECTION LINE, A DISTANCE OF 38.13 FEET, THENCE N 18° 24' 10" E, FOR A DISTANCE OF 151.30 FEET TO AN INTERSECTION WITH THE SAID SOUTHERLY RIGHT-OF-WAY LINE OF ESTERO BOULEVARD, THENCE S 70° 35' 11" E, ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 122.18 FEET TO THE SAID POINT-OF-BEGINNING OF THIS DESCRIPTION, CONTAINING 1.87 ACRES, MORE OR LESS.

**DESCRIPTION
PARCEL NO. 3**

LOTS 7, 8 AND 9, BLOCK 8, BUSINESS CENTER SUBDIVISION, AS RECORDED IN PLAT BOOK 8, PAGE 9, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, SAID LOT 7 BEING ALSO SAID RIGHT-OF-WAY TAKEN BY FLORIDA DEPARTMENT OF TRANSPORTATION FOR B.R. 805, RECORDED IN OFFICIAL RECORDS BOOK 1184, PAGE 128, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, SAID PARCEL 3 BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 8, BLOCK 8, THENCE S 87° 35' 11" W, ALONG THE SOUTH LINE OF SAID LOT 7, 8 AND 9, BLOCK 8, A DISTANCE OF 101.30 FEET TO THE SOUTHEAST CORNER OF SAID RIGHT-OF-WAY ACQUISITION PARCEL, RECORDED IN OFFICIAL RECORDS BOOK 1184, PAGE 126, THENCE N 47° 39' 11" E, ALONG THE BOUNDARY OF SAID ACQUISITION PARCEL, A DISTANCE OF 28.41 FEET TO AN INTERSECTION WITH THE WESTERLY LINE OF SAID LOT 7, BLOCK 8, THENCE S 12° 12' 15" W, ALONG THE SAID WESTERLY LINE OF LOT 7, A DISTANCE OF 23.19 FEET TO THE MOST SOUTHERLY CORNER OF THE MOST NORTHERLY PORTION OF SAID RIGHT-OF-WAY ACQUISITION PARCEL, RECORDED IN OFFICIAL RECORDS BOOK 1184, PAGE 126, THENCE N 20° 12' 15" E, ALONG THE BOUNDARY OF SAID ACQUISITION PARCEL, A DISTANCE OF 37.67 FEET TO AN INTERSECTION WITH THE NORTHERLY LINE OF SAID LOT 7, BLOCK 8, THENCE N 47° 39' 11" E, ALONG THE NORTH LINE OF SAID LOT 7, 8 AND 9, A DISTANCE OF 82.33 FEET TO THE NORTHEAST CORNER OF SAID LOT 1, THENCE S 22° 15' 11" E, ALONG THE EASTERLY LINE OF SAID LOT 1, A DISTANCE OF 45.32 FEET TO THE SAID POINT-OF-BEGINNING OF THIS DESCRIPTION, CONTAINING 0.21 ACRES, MORE OR LESS.

**DESCRIPTION
PARCEL NO. 4**

LOTS 5, BLOCK 8, BUSINESS CENTER SUBDIVISION, AS RECORDED IN PLAT BOOK 8, PAGE 9, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, LESS SAID RIGHT-OF-WAY TAKEN BY FLORIDA DEPARTMENT OF TRANSPORTATION, RECORDED IN OFFICIAL RECORDS BOOK 1154, PAGE 1150 AND BOOK 1104, PAGE 128, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, CONTAINING 0.07 ACRES, MORE OR LESS.

**DESCRIPTION
PARCEL NO. 5**

PARCEL OF LAND LYING IN PARTIALLY IN SECTION 19, TOWNSHIP 16 SOUTH, RANGE 24 EAST, AND PARTIALLY IN SECTION 24, TOWNSHIP 16 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA, SAID PARCEL ENCOMPASSING UNPLATTED LANDS, PORTIONS OF "CRESCENT PARK" INCLUDING A PORTION OF CANAL STREET AND THE 12 FOOT WIDE STRIP OF LAND SHOWN ALONG THE WEST SIDE OF LOTS 2, 3, 8 AND 7, BLOCK 8, ON SAID PLAT OF "CRESCENT PARK" AS RECORDED IN PLAT BOOK 4, PAGE 38, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWESTERLY CORNER OF BLOCK "C" CRESCENT PARK ADDITION, AS RECORDED IN PLAT BOOK 4, PAGE 38, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, SAID CORNER LYING AT THE INTERSECTION OF THE SECTION LINE COMMON TO SAID SECTIONS 19 AND 24 AND THE NORTHERLY RIGHT-OF-WAY LINE OF ESTERO BOULEVARD AS SHOWN ON THE SAID PLAT OF "BUSINESS CENTER" THENCE S 87° 35' 11" E, ALONG THE SAID SECTION LINE, A DISTANCE OF 33.15 FEET TO AN INTERSECTION WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID ESTERO BOULEVARD, THENCE S 70° 35' 11" E, A DISTANCE OF 107.10 FEET TO THE NORTHEAST CORNER OF LOT 1, BLOCK "A" OF SAID "CRESCENT PARK" THENCE N 10° 23' 35" E, ALONG THE EASTERLY LINE OF SAID LOT 3 AND LOT 7, OF SAID BLOCK "A", A DISTANCE OF 171.23 FEET TO THE SOUTHEAST CORNER OF SAID LOT 7, THENCE N 70° 35' 11" E, ALONG THE SOUTH LINE OF SAID LOT 1 AND LOT 8, A DISTANCE OF 87.07 FEET TO THE POINT-OF-BEGINNING OF THIS DESCRIPTION, THENCE CONTINUING N 70° 35' 11" E, ALONG THE SOUTH LINE OF SAID LOT 8 AND ITS NORTHWESTERLY EXTENSION, ACROSS THE RIGHT-OF-WAY OF SAID CANAL STREET, FOR A DISTANCE OF 40.36 FEET TO THE NORTHEAST CORNER OF LOT 1, BLOCK "B" OF SAID "CRESCENT PARK" THENCE SOUTHERLY ALONG THE EASTERLY LINE OF SAID LOT 8 FOR THE NEXT TWO COURSES, S 47° 39' 11" E, A DISTANCE OF 204.88 FEET, THENCE S 10° 23' 35" E, A DISTANCE OF 16.41 FEET TO AN INTERSECTION WITH THE SOUTHEASTERN EXTENSION OF THE SEAWARD FACE OF AN EXISTING CONCRETE RETAINING WALL, THENCE ALONG THE SAID SEAWARD FACE AND ITS NORTHWESTERNLY EXTENSION FOR THE NEXT EIGHT (8) COURSES, N 47° 39' 11" E, A DISTANCE OF 1.52 FEET, THENCE N 20° 12' 15" E, FOR A DISTANCE OF 1.54 FEET, THENCE N 71° 13' 17" W, A DISTANCE OF 1.55 FEET, THENCE N 43° 54' 32" W, A DISTANCE OF 13.11 FEET, THENCE N 70° 35' 11" E, A DISTANCE OF 41.63 FEET, THENCE N 40° 35' 11" E, A DISTANCE OF 74.43 FEET, THENCE S 44° 07' 10" W, A DISTANCE OF 15.85 FEET, THENCE N 10° 18' 11" W, A DISTANCE OF 211.47 FEET, THENCE N 10° 18' 11" W, LEAVING SAID SEAWARD FACE OF THE CONCRETE SEAWALL, A DISTANCE OF 127.72 FEET TO AN INTERSECTION WITH THE COASTAL CONSTRUCTION SETBACK LINE AS DESCRIBED IN PLAT BOOK 21, PAGE 1, THROUGHOUT 21, INCLUDING PUBLIC RECORDS OF LEE COUNTY, FLORIDA, THENCE S 67° 11' 11" E, ALONG SAID COASTAL CONSTRUCTION CONTROL LINE, A DISTANCE OF 393.78 FEET, THENCE LEAVING SAID SETBACK LINE, S 18° 14' 11" W, FOR A DISTANCE OF 6.34 FEET TO THE SAID POINT-OF-BEGINNING OF THIS DESCRIPTION, CONTAINING 3.33 ACRES, MORE OR LESS.

**DESCRIPTION
PARCEL NO. 6**

PARCEL OF LAND LYING IN SECTION 19, TOWNSHIP 16 SOUTH, RANGE 24 EAST, SAID PARCEL ENCOMPASSING ALL OF LOTS 3 AND 7 AND PORTIONS OF LOTS 4, 5 AND 1, BLOCK "A" OF "CRESCENT PARK" AS RECORDED IN PLAT BOOK 4, PAGE 38, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWESTERLY CORNER OF BLOCK "C" CRESCENT PARK ADDITION, AS RECORDED IN PLAT BOOK 4, PAGE 38, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, SAID CORNER LYING AT THE INTERSECTION OF THE SECTION LINE COMMON TO SAID SECTIONS 19 AND 24 AND THE NORTHERLY RIGHT-OF-WAY LINE OF ESTERO BOULEVARD AS SHOWN ON THE SAID PLAT OF "BUSINESS CENTER" THENCE S 87° 35' 11" E, ALONG THE SAID SECTION LINE, A DISTANCE OF 33.15 FEET TO AN INTERSECTION WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID ESTERO BOULEVARD, THENCE ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 170.10 FEET TO A POINT ON THE NORTH LINE OF LOT 1, BLOCK "A" OF SAID "CRESCENT PARK" AND THE POINT-OF-BEGINNING OF THIS DESCRIPTION, THENCE CONTINUING S 70° 35' 11" E, FOR A DISTANCE OF 47.10 FEET TO THE NORTHEAST CORNER OF SAID LOT 3, THENCE S 10° 23' 35" E, A DISTANCE OF 175.23 FEET TO SOUTHEAST CORNER OF SAID LOT 7, THENCE N 70° 35' 11" E, ALONG THE SOUTH LINE OF LOT 1, SAID LOT 1, FOR A DISTANCE OF 87.07 FEET, THENCE N 10° 18' 11" W, FOR A DISTANCE OF 175.23 FEET TO AN INTERSECTION WITH THE SAID SOUTHERLY RIGHT-OF-WAY LINE OF ESTERO BOULEVARD AND THE SAID POINT-OF-BEGINNING OF THIS DESCRIPTION, CONTAINING 3.27 ACRES, MORE OR LESS.

SURVEYORS NOTES:

THE DESCRIPTIONS SHOWN HEREON ARE NEW.

SURVEYS BASED ON DESCRIPTIONS PROVIDED BY THE CLIENT AND THE RECORDED PLAT OF "BUSINESS CENTER" AS RECORDED IN PLAT BOOK 8, PAGE 9, AND "CRESCENT PARK" SUBDIVISION, AS RECORDED IN PLAT BOOK 4, PAGE 38, ALL OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

THIS SURVEY HAS BEEN PREPARED WITHOUT BENEFIT OF A CURRENT TITLE SEARCH, ALL EASEMENTS AND RIGHT-OF-WAY TAKINGS, AND OTHER ENCUMBRANCES, KNOWN HEREON ARE BASED ON PREVIOUS SURVEYS AND TITLE DOCUMENTS.

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

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

ORIENTATION BASED ON THE EASTERLY LINE OF SECTION 24, T. 16 S., R. 24 E., AS BEARING N 00° 41' 08" W.

COORDINATES SHOWN HEREON ARE BASED ON FLORIDA DTD, 08/01/2006, NAD 83 90.

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

ACCORDING TO FIRM MAP NO. 120710004P, EFFECTIVE DATE OF AUGUST 28, 2009, THESE PARCELS OF LAND ARE LOCATED IN FLOOD ZONE VE, WITH BASE FLOOD ELEVATIONS THAT VARY FROM ELE. 11 TO ELE. 17, NAVD83. SEE DRAWING FOR BASE FLOOD BOUNDARIES.

CERTIFICATE OF AUTHORIZATION LICENSE BUSINESS NO. 6681

DATE OF LAST FIELD WORK: 10-11-2011 IN FIELD BOOK 97, PAGE 35.

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

PREPARED BY:

MARK A. HATFIELD P.E.M.
FLORIDA CERT. NO. 4155

DATE

PROJECT:

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

LOCATION:

FORT MYERS BEACH
FLORIDA

CLIENT:

TPI
HOSPITALITY
100% Employee Owned

101 HIGHLAND, 2/F
145 E. 19TH AVE. 404
MELBOURNE, FL 32901
PHONE (321) 254-7557 FAX (321) 254-6969

CONSULTANTS:

ARCHITECT
PARKER & ASSOCIATES, INC.
101 PETERMAN WAY
PALM BEACH, FL 33480
PHONE (561) 837-3843 FAX (561) 337-0886

**PLANNING, CIVIL, SURVEY &
LANDSCAPE ARCHITECTURE**
2861 CENTER POINTE DRIVE, UNIT 100
FORT MYERS, FL 33904
PHONE (239) 332-2811 FAX (239) 332-0886

TRANSPORTATION

DAVID FLEMMER & ASSOCIATES
2144 McDONALD BLVD.
FORT MYERS, FL 33904
PHONE (239) 332-2811 FAX (239) 332-0886

tabbles[®]

EXHIBIT

10-2

REVISION:

PROJECT:	BAH1
DRAWING BY:	
APPROVED BY:	TOWN OF FORT MYERS BEACH
DATE:	04-30-2018
SHEET TITLE:	

BOUNDARY SURVEY	
SHEET NUMBER	X-102-BNDY-00
JOB FILE NUMBER	15069-14



Case # _____ Date Received: _____

Town of Fort Myers Beach COMMUNITY DEVELOPMENT DEPARTMENT

Supplement PH-D

Additional Required Information for a Planned Development Application

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

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

Project Name: TPI-FMB CPD Amendment
Authorized Applicant: Steven C. Hartsell, Esquire
STRAP Number(s): 19-46-24-W4-01408.0070, 19-46-24-W4-U0491.2610, 19-46-24-W4-U0494.2609, 19-46-24-W4-U0496.2608, 19-46-24-W4-U0498.2606, 24-46-23-W3-00009.0000.

Current Property Status: Under construction
Current Zoning: Commercial Planned Development (CPD)
Future Land Use Map (FLUM) Category: Pedestrian Commercial FLU
Platted Overlay? ☐ yes, ☒ no FLUM Density Range: See Ord. #23-09

Requested Action:

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



Case # _____ Date Received: _____

PART I
Narrative Statements

A. Comprehensive Plan Amendments (check one)

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

B. Phasing of Construction

☐	The development is to be constructed in a single phase.
☐	The development is to be constructed in phases as follows: (describe proposed phasing below)
No change proposed; See Ordinance #23-09	



Case # _____ Date Received: _____

C. Comprehensive Plan Compliance.

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

No change proposed; See Ordinance #23-09

D. Design Standards Compliance

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

No change proposed; See Ordinance #23-09



Case # _____ Date Received: _____

E. Decision-making Compliance

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

SEE ATTACHED NARRATIVE

F. Schedule of deviations and written justification

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

No change proposed; See Ordinance #23-09



Case # _____ Date Received: _____

G. Administrative amendments to approved Master Concept Plan

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

Not Applicable

PART 2

Submittal Requirements

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

Required Items

Public Hearing Request Form

Supplement Form PH-D

Master Concept Plan.....No change proposed; see Ordinance #23-09

Traffic Impact Statement.....No change proposed; see Ordinance #23-09

Architectural Elevations.....No change proposed; see Ordinance #23-09

Schedule of Uses.....No change proposed; see Ordinance #23-09

Fee in the amount of \$8000.00 up to 1 acre +1000.00 per additional acre

\$2000.00 PD Amendment minor (< acre total property area)

\$4000.00 PD Reinstatement or \$6500.00 PD Amendment

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

MARGARITAVILLE CPD

ORDINANCE #23-09

ORDINANCE 23-09

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING TOWN OF FORT MYERS BEACH ORDINANCE NO. 18-04, AND AMENDING THE CONDITIONS FOR THE COMMERCIAL PLANNED DEVELOPMENT ZONING FOR THE PROPERTY LOCATED AT 1170, 1180/1192, 1204/1206 ESTERO BLVD., 251 CRESCENT ST., 1150 FIFTH ST. AND UNADDRESSED PARCELS, PARCELS GENERALLY IDENTIFIED AS STRAP NUMBERS 24-46-23-W3-00205.0070 (MCP PARCEL #3), 24-46-23-W3-00006.0000 (MCP PARCEL #1), 24-46-23-W3-00206.0060 (MCP PARCEL #1), 24-46-23-W3-00009.0000 (MCP PARCELS #2 AND #5), 19-46-24-W4-U0494.2609 (MCP PARCEL #2), 24-46-23-W3-00205.0070, 19-46-24-W4-U0491.2610 (MCP PARCEL #2), 19-46-24-W4-0140B.0070 (MCP PARCELS #2 AND #5), 19-46-24-W4-U0496.2608 (MCP PARCEL #2), AND 19-46-24-W4-U0498.2607 (MCP PARCELS #2 AND #6) FORT MYERS BEACH; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

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

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

WHEREAS, TPI-FMB LLC and Steve Hartsell with Pavese Law Firm, applicants and agents for the property owners, generally located at 1170, 1180/1192, 1204/1206 Estero Boulevard, 251 Crescent St, 1150 Fifth St. and other unaddressed parcels, parcels generally identified as STRAP numbers 24-46-23-W3-00205.0070 (MCP parcel #3), 24-46-23-W3-00006.0000 (MCP parcel #1), 24-46-23-W3-00206.0060 (MCP parcel #1), 24-46-23-W3-00009.0000 (MCP parcels #2 AND #5), 19-46-24-W4-U0494.2609 (MCP parcel #2), 24-46-23-W3-00205.0070, 19-46-24-W4-U0491.2610 (MCP parcel #2), 19-46-24-W4-0140B.0070 (MCP parcels #2 AND #5), 19-46-24-W4-U0496.2608 (MCP parcel #2), AND 19-46-24-W4-U0498.2607 (MCP parcels #2 AND #6) in the Town of Fort Myers Beach, filed applications to amend Ordinance 18-04 and amend conditions of approval of the commercial planned development zoning; and

WHEREAS, Ordinance 18-04 rezoned the property from the Commercial Planned Development (CPD), Downtown, and Environmentally Critical (EC) zoning districts to CPD with Master Concept Plan (MCP) in order to develop a hotel resort and associated facilities, on 5.1 +/- acres more or less property, located at 1170, 1180/1192, 1204/1206 Estero Boulevard in the Town of Fort Myers Beach; and

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

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

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on May 09, 2023; and

WHEREAS, at the May 09, 2023 public hearing the LPA gave full and complete consideration of the request, recommendations by staff, the documents in the record, and the testimony of all interested persons, as required by Town Land Development Code (LDC) s. 34-85; and

WHEREAS, at the May 09, 2023 public hearing the LPA recommended approval by a 5-0 vote; and

WHEREAS, on June 20, 2023 the Town Council held a first reading of the proposed Ordinance and gave full and complete consideration to the request of the Applicant, the recommendation of the LPA, the recommendation of staff, the documents in the record, and the testimony of all interested persons, as required by Fort Myers Beach Land Development Code (LDC) Section 34-85; and

WHEREAS, the Town Council voted to have a second reading of the proposed Ordinance and a public hearing on this matter was legally advertised and held before the Town Council on August 7 2023; at which time the Town Council gave full and complete consideration to the request of the Applicant, the recommendation of the LPA, the recommendation of staff, the documents in the record, and the testimony of all interested persons, as required by Fort Myers Beach Land Development Code (LDC) Section 34- 85; and

WHEREAS, the applicant has resolved and is current on any outstanding fees associated with notice, advertisement, and consulting services required by the Town; and

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

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

WHEREAS, Exhibit B is the approved Master Concept Plan, updated per the adopted original Ordinance 18-04; and

WHEREAS, the Town Council finds that this request to amend existing ordinance 18-04 for a CPD, is a unique and individual application which does not set precedent for future development or rezoning applications.

Deviation #1

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

Deviation #2

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

Deviation #3

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

Deviation #4

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

Findings for the rezoning:

WHEREAS, the Town Council considered all relevant factors and made the following formal findings before making its final decision on the requested amendment to Commercial Planned Development (see LDC 34-85 and 34-216) ordinance 18-04:

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

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

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

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

- including building height, traffic flow, and intensity of use.
3. The proposed development, as modified by these deviations, clearly exceeds all standards of the Fort Myers Beach Comprehensive Plan.
 4. The proposed development, with the modified deviations being approved, does not exceed any maximum intensities contained in the Fort Myers Beach Comprehensive Plan.
 5. Granting these deviations will enhance the achievement of the objectives of the proposed development.
 6. The general intent of the LDC to protect the public health, safety, and welfare will be preserved and promoted with these deviations.
 7. These deviations operate to the benefit, or at least not to the detriment, of the public interest.
 8. These deviations are consistent with the Fort Myers Beach Comprehensive Plan.

WHEREAS, the Town Council finds that this application to amend Ordinance 18-04 and amend conditions of approval of the commercial planned development zoning, **consistent** with the Town of Fort Myers Beach Comprehensive Plan and LDC and voted to **approve** the Application.

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

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

Section 2. The Town Council determines the Applicant did meet its burden of proof that the request to amend Town of Fort Myers Beach's Ordinance no. 18-04 and amend the conditions of approval for the commercial planned development zoning, **does** meet the requirements of the Town Comprehensive Plan and LDC. Therefore, based upon the recommendations, testimony, and evidence presented by the Applicant, Town staff, and interested parties, the Town Council **APPROVE** the requested application.

Section 3. Town Ordinance 18-04 is amended by this Ordinance and the schedule of uses and conditions of approval for the Property's CPD set forth in Exhibit A, attached hereto and incorporated herein by this reference is approved.

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

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

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

THE FOREGOING ORDINANCE was adopted by the Town Council upon a motion by Council Member King and seconded by Vice Mayor Atterholt, and upon being put to a vote, the result was as follows:

DULY PASSED AND ADOPTED on this 7th day of August 2023.

Dan Allers, Mayor	Recused
Jim Atterholt, Vice Mayor	Aye
John R. King	Aye
Bill Veach	Nay
Karen Woodson	Aye

FORT MYERS BEACH TOWN COUNCIL

Dan Allers

Dan Allers, Mayor

ATTEST:

Amy Baker

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. "Becky" Vose

Gretchen R. H. Vose, Town Attorney

This Ordinance was filed in the Office of the Town Clerk on this 19th day of September 2023.

Exhibit A CONDITIONS OF APPROVAL

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

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

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

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

5 The approved property development regulations for this CPD are presented in the attached Exhibit A, which will be substituted during the permitting process for the property development regulations that the LDC provides for the DOWNTOWN zoning district.

6 The approved schedule of uses for this CPD is limited to the following:

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

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

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

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

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

- a. The pedestrian bridge must be constructed simultaneously with the buildings it connects.
 - b. The elevated terrace on the second story of the main resort building on Parcel 1 must include a public ADA compliant access for public use.
 - c. Visible publicly accessible stairwells and elevators on both sides of Estero Boulevard must connect the sidewalks to each end of the pedestrian bridge. The stairwell on Parcel 2 must provide access to publicly accessible restrooms in the restaurant building, with clear signage indicating the public's access and rights to use these restrooms and pedestrian bridge, if approved, without a fee or charge.
 - d. In order to guarantee the general public's permanent right to use the bridge and the adjoining stairways, elevators, and restrooms, the landowner must execute an instrument that guarantees this access in a form suitable to the Town Attorney.
 - e. Before constructing the bridge over Estero Boulevard, the landowner must obtain review and approval from Lee County and must enter into a formal agreement with Lee County regarding design, maintenance, liability, operations, future changes, and other relevant details. The bridge design must allow and not interfere with nor prevent all elements necessary for a traffic signal and grade level pedestrian crosswalk at the Estero Boulevard-Crescent Street intersection. If necessary, FDOT review and approval must be obtained.
 - f. All FDOT and Lee County approvals must be received by the applicant prior to approval by the Town. The Town's approval shall be limited to aesthetic and non-structural design.
- 11** Sheet X-109-MCP.00 of the Master Concept Plan identifies certain important features on Parcels 2 and 6 (the beach-side parcels) that will require separate critical actions by the Town and by the landowner at a later date. This sheet is being included in the Master Concept Plan with these understandings:
- a. As shown on Sheet X-105, the landowner intends to request the vacation of a narrow right-of way at the end of Crescent Street, plus the first 185 feet of Canal Street south of Estero Boulevard which is part of Town-maintained Beach Access #36. Understanding that the Town's Comprehensive Plan strictly limits vacations of rights-of-way in order to preserve future access to the water, the landowner has agreed to provide a net increase in public access by donating Parcel 6 to the Town and constructing on it a new public street replacing Canal Street. The new public street will also be providing beach access and public parking spaces on 67 feet wide new rectangular

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

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

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

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

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

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

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

Street.

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

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

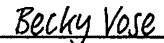
Town. No other approvals are inferred from approval of the CPD. The landowner or developer shall be responsible for submittal of any requests for additional staging or construction management approvals from the Town Council.

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

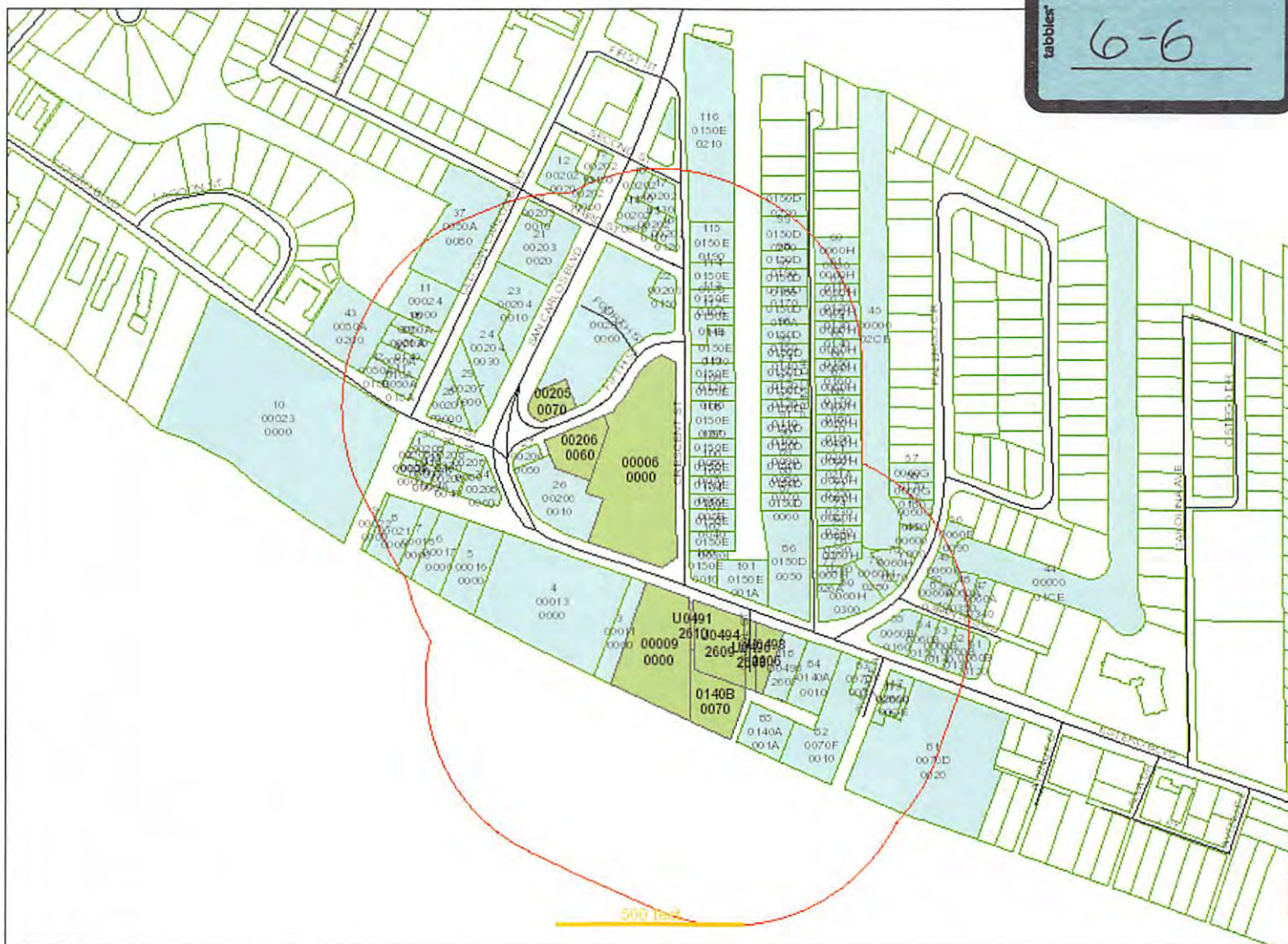
Findings Regarding the Conditions

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

Signature: 
Dan Allers (Sep 19, 2023 10:16 EDT)
Email: allersd@fmbgov.com

Signature: 
Becky Vose (Sep 19, 2023 10:46 EDT)
Email: bvose@voselaw.com

Signature: 
AMY BAKER (Sep 19, 2023 10:47 EDT)
Email: AMY@FMBGOV.COM



Date of Report: October 09, 2023

Buffer Distance: 500 feet

Parcels Affected: 131

Subject Parcels: 19-46-24-W4-0140B.0070, 19-46-24-W4-U0491.2610, 19-46-24-W4-U0494.2609, 19-46-24-W4-U0496.2608, 19-46-24-W4-U0498.2606, 24-46-23-W3-00006.0000, 24-46-23-W3-00009.0000, 24-46-23-W3-00205.0070, 24-46-23-W3-00206.0060

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

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

OWNER NAME AND ADDRESS	STRAP AND LOCATION	LEGAL DESCRIPTION	MAP INDEX
1005 ESTERO LLC 1005 ESTERO BLVD FORT MYERS BEACH FL 33931	24-46-23-W3-00007.0000 1005 ESTERO BLVD FORT MYERS BEACH FL 33931	FRM SW COR BLK E CRESCENT PK ADD ON E LI SEC 24 46 23 RUN NWLY AT INC	1
KALYMNIOUS PARTNERSHIP LLP 1001 ESTERO BLVD FORT MYERS BEACH FL 33931	24-46-23-W3-00008.0000 1001 ESTERO BLVD FORT MYERS BEACH FL 33931	FRM SW COR BLK E CRESCENT PK ADD ON E LI SEC 24 RUN NW 69 DEG 54 MIN WITH SEC	2
CLOWNFISH RESTAURANT HOLDINGS 11201 COORPORATE CIRCLE N SAINT PETERSBURG FL 33716	24-46-23-W3-00011.0000 1154 ESTERO BLVD FORT MYERS BEACH FL 33931	BEG SW COR BLK E CRESCENT PARK ADD ON E LI SEC 24 S ALG E LI SEC 53.24 FT TO S	3
LEE COUNTY PO BOX 398 FORT MYERS FL 33902	24-46-23-W3-00013.0000 1100 ESTERO BLVD FORT MYERS BEACH FL 33931	PARL IN SE 1/4 SEC 24 TWN 46 R 23 S OF ESTERO BLVD AS DESC IN INST #'S 201000023675 + 201000023676	4

PRESAUD PROPERTIES FL 361 SEMINOLE WAY FORT MYERS BEACH FL 33931	24-46-23-W3-00016.0000 1046 ESTERO BLVD FORT MYERS BEACH FL 33931	FROM SW COR BLK E CRESCENT PK ADD ON E LI SEC 24 RUN S ALG SD LI TO S LI CO RD	5
PERSAUD PROPERTIES FL INVESTME 361 SEMINOLE WAY FORT MYERS BEACH FL 33931	24-46-23-W3-00017.0000 1028 ESTERO BLVD FORT MYERS BEACH FL 33931	FROM SW COR BLK E CRES PK ADD ON E LI SEC 24 RUN S ALG SD LI TO S LI CO RD TH	6
BENCIN ENTERPRISES INC BEACH ACCOUNTING 17274 SAN CARLOS BLVD #202 FORT MYERS BEACH FL 33931	24-46-23-W3-00018.0000 1010 ESTERO BLVD FORT MYERS BEACH FL 33931	A PAR AS DESC IN OR 1234 PG 1371	7
WHITAKER WILLIAM D & 15820 SAN ANTONIO CT FORT MYERS FL 33908	24-46-23-W3-00021.0000 1000 ESTERO BLVD FORT MYERS BEACH FL 33931	PARL IN SE1/4 SEC 24 S OF ESTERO BLVD+E OFSAN CARLOS DR DESC OR 1547 PG 1077	8
LEE COUNTY PO BOX 398 FORT MYERS FL 33902	24-46-23-W3-00022.0000 10 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	BEG NW COR BLK 8 BUSINESS CTR SUBD RUN NWLY ALG EXTENED N LINE PIER ONLY	9
LEE COUNTY PO BOX 398 FORT MYERS FL 33902	24-46-23-W3-00023.0000 950 ESTERO BLVD FORT MYERS BEACH FL 33931	BEG NW COR BLK 8 BUSINESS CTR SUB RUN NWLY ALG EXTEN NLI PIER ON 22.0000	10
RICHARD JOHN W TR 237 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	24-46-23-W3-00024.0000 201 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	FROM NWLY COR BLK 8 BUSINESS CENTER SUBD RUN NWLY ALG PROLONGATION OF	11
HOUSEBOAT LLC 237 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	24-46-23-W3-00202.0020 430 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	BUSINESS CENTER BLK 2 PB 9 PG 9 LOTS 2 THRU 5	12
MERSCHMAN I LLC 1421 E LAKE SHORE DR SPRINGFIELD IL 62712	24-46-23-W3-00202.0060 1011 THIRD ST #1-4 FORT MYERS BEACH FL 33931	BUSINESS CENTER BLK.2 PB 9 PG 9 LOT 6	13
HOUSEBOAT LLC 237 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	24-46-23-W3-00202.0090 1037/1039 THIRD ST FORT MYERS BEACH FL 33931	BUSINESS CENTER BLK 2 PB 9 PG 9 LOTS 9 + 10	14
ALN BEACHVIEW LLC 615 CAPE CORAL PKWY W # 104 CAPE CORAL FL 33914	24-46-23-W3-00202.0110 1041 THIRD ST FORT MYERS BEACH FL 33931	BUSINESS CENTER BLK 2 PB 9 PG 9 LOT 11	15
ALN BEACHVIEW LLC 151 MATANZAS ST UPSTAIRS FORT MYERS BEACH FL 33931	24-46-23-W3-00202.0120 1051 THIRD ST FORT MYERS BEACH FL 33931	BUSINESS CENTER BLK.2 PB 9 PG 9 LOT 12 LESS OR2325/0292	16
FMB MATANZAS LLC 5880 STALEY RD FORT MYERS FL 33905	24-46-23-W3-00202.0130 CORNER LOT FORT MYERS BEACH FL 33931	BUSINESS CENTER BLK.2 PB 9 PG 9 LOTS 13 + 14 LESS R/W OR 2311/2803	17
FMB MATANZAS LLC 5880 STALEY RD FORT MYERS FL 33905	24-46-23-W3-00202.0150 1042/1044 SECOND ST FORT MYERS BEACH FL 33931	BUSINESS CENTER BLK.2 PB 9 PG 9 LOT 15 LESS R/W OR 2311/2803	18
PIERHOUSE-FT MYERS BEACH LTD 1000 ESTERO BLVD FORT MYERS BEACH FL 33931	24-46-23-W3-00202.0180 1030 SECOND ST FORT MYERS BEACH FL 33931	BUSINESS CENTER BLK.2 PB 9 PG 9 LOT 18	19
FREELAND FL HOLDINGS LLC PO BOX 656 ANTIOCH TN 37011	24-46-23-W3-00203.0010 340 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	BUSINESS CENTER BLK.3 PB 9 PG 9 LOT 1	20
RICHARD JOHN W TR 237 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	24-46-23-W3-00203.0020 318/320 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	BUSINESS CENTER BLK 3 PB 9 PG 9 LOTS 2 THRU 6 + LTS 22 +23 + POR OF VAC ST	21
LIGHTHOUSE ISLAND RESORT INC 1051 5TH ST FORT MYERS BEACH FL 33931	24-46-23-W3-00203.0150 1060 THIRD ST FORT MYERS BEACH FL 33931	BUSINESS CENTER BLK.3 PB 9 PG 9 LOT 15 LES R/W OR2353/3036	22

STINGRAYS RAW BAR INC 250 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	24-46-23-W3-00204.0010 250 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	BUSINESS CTR LTS 1 + 2 BLK 4 LOTS 1 THRU 5 BLK 5 W OF ST RD 865 R/W + POR OF VAC ST	23
DIANNE HOLLAND TRUST + 570 KULAIWI DR WAILUKU HI 96793	24-46-23-W3-00204.0030 200 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	BUSINESS CENTER BLK 4 PB 9 PG 9 LTS 3 THRU 7 PT 8 + 9 + PT VAC ALLY	24
LIGHTHOUSE ISLAND RESORT INC 1051 FIFTH ST FORT MYERS BEACH FL 33931	24-46-23-W3-00205.0060 1051 FIFTH ST FORT MYERS BEACH FL 33931	PORTION OF BUSINESS CENTER BLK 3 & 5 PB 9 PG 9 AND A PORTION OF VACATED FOURTH ST AND PORTION OF VACATED 5TH AVE IN SEC 24 TWP 46 RNG 23	25
LEE COUNTY PO BOX 398 FORT MYERS FL 33902	24-46-23-W3-00206.0010 1113 ESTERO BLVD FORT MYERS BEACH FL 33931	BUSINESS CENTER BLK 6 PB9 PG9 LTS 1-4 LESS R/W + DESC OR 1904/4451	26
LEE COUNTY PO BOX 398 FORT MYERS FL 33902	24-46-23-W3-00206.0050 1054 FIFTH ST FORT MYERS BEACH FL 33931	BUSINESS CENTER BLK 6 PB 9 PG 9 LOT 5 R/W OR 1154 PG 1510	27
150 OLD SAN CARLOS BLVD LLC 4100 N 28TH TER HOLLYWOOD FL 33020	24-46-23-W3-00207.0000 150 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	BUSINESS CENTER BLK 7 PB 9 PG 9 ALL BLK 7	28
TOWN OF FORT MYERS BEACH FINANCE DEPT 2525 ESTERO BLVD FORT MYERS BEACH FL 33931	24-46-23-W3-00207.1000 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	BUSINESS CENTER R/W OF CENTER STREET LYING BETWEEN BLK 7 BLK 7 PB 9 PG 9	29
CHAVEZ CARLOS L TR 991 AQUA LN FORT MYERS FL 33919	24-46-23-W3-00208.0010 80 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	BUSINESS CENTER BLK.8 PB 9 PG 9 LOTS 1 + 2 LESS THE W 44	30
CHAVEZ CARLOS L TR 991 AQUA LN FORT MYERS FL 33919	24-46-23-W3-00208.002A 50 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	BUSINESS CENTER BLK 8 PB 9 PG 9 LOT PT 2	31
BENSON BRADFORD J TR 927 PRESCOTT ST FORT MYERS BEACH FL 33931	24-46-23-W3-00208.0040 1021 ESTERO BLVD FORT MYERS BEACH FL 33931	BUSINESS CENTER BLK.8 PB 9 PG 9 PT LOT 4 + ALL LOT 5	32
TOWN OF FORT MYERS BEACH FINANCE DEPT 2525 ESTERO BLVD FORT MYERS BEACH FL 33931	24-46-23-W3-00208.004A EASEMENT FORT MYERS BEACH FL 33931	PT LOT 4 AREA 2 SE 1/4 BUSINESS CENTER PB 9 PG 9 IN OR 297 P 427	33
KLC SURF LLC CHRISTOPHER PRIMEAU 4625 W EUCLID AVE TAMPA FL 33629	24-46-23-W3-00208.0060 1035 ESTERO BLVD FORT MYERS BEACH FL 33931	BUSINESS CENTER BLK.8 PB 9 PG 9 LT 7 + LOT 6 LESS WLY 6 FT LESS ROW OR3539 PG3351	34
BC III MASTERPIECE LLC 151 MATANZAS ST FORT MYERS BEACH FL 33931	24-46-23-W3-00208.0080 1028 FIFTH ST FORT MYERS BEACH FL 33931	BUSINESS CENTER BLK 8 PB 9 PG 9 LOTS 8 + 9	35
RFN CORP 2401 ESTERO BLVD FORT MYERS BEACH FL 33931	24-46-23-W3-00208.0100 1018 FIFTH ST FORT MYERS BEACH FL 33931	BUSINESS CENTER BLK 8 PB 9 PG 9 LOT 10	36
RICHARD JOHN W TR 237 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	24-46-23-W3-0050A.0080 237 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	ISLAND SHORES UNIT 2 BLK A PB 9 PG 25 LOTS 1 THRU 12 + VAC LAGOON R/W OR2858/1391 + OR2660/2863 +2736/3702 + BLK B PB 9 PG 40 LOT 1	37
BAHAN SUZANNE E + 169 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	24-46-23-W3-0050A.0130 185 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	ISLAND SHORES UNIT 2 BLK A PB 9 PG 25 LOT 13 + PT LOT 14	38

MAY SUZANNE E PO BOX 61176 FORT MYERS FL 33906	24-46-23-W3-0050A.0140 163 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	ISLAND SHORES UNIT 2 BLK A PB 9 PG 25 PT LOT 14 + LOT 15	39
JENKINS CARROLL ANNE 3063 NORFOLK CR 23 RR6 TILLSONBURG ON N4G 4G9 CANADA	24-46-23-W3-0050A.016A 159/161 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	ISLAND SHORES UNIT 2 BLK.A PB 9 PG 25 LOTS 16 + PT OF LT 17	40
151 OLD SAN CARLOS LLC 17840 SAN CARLOS BLVD FORT MYERS BEACH FL 33931	24-46-23-W3-0050A.018A 151 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	ISLAND SHORES UNIT 2 BLK.A PB 9 PG 25 LOTS PT 18 + 19	41
BENSON BRADFORD J II TR 938 DEEP LAGOON LN FORT MYERS FL 33919	24-46-23-W3-0050A.018B 959/963 ESTERO BLVD FORT MYERS BEACH FL 33931	ISLAND SHORES UNIT 2 BLK A PT LOTS 17 18 + 19	42
HOLIDAY COURT MOTEL LLC PO BOX 1118 LABELLE FL 33975	24-46-23-W3-0050A.0200 925 ESTERO BLVD FORT MYERS BEACH FL 33931	ISLAND SHORES UNIT 2 BLK A PB 9 PG 25 LOTS 20 THRU 26	43
VENETIAN GARDENS CANAL PALERMO CIR FORT MYERS BEACH FL 33931	19-46-24-W4-00000.01CE SUBMERGED FORT MYERS BEACH FL 33931	VENETIAN GARDENS PB 6 PG 70 RIO DEL LIDO CANAL	44
VENETIAN GARDENS CANAL PALERMO CIR FORT MYERS BEACH FL 33931	19-46-24-W4-00000.02CE SUBMERGED FORT MYERS BEACH FL 33931	VENETIAN GARDENS PB 6 PG 70 CANAL GRANDE CANAL	45
VAN BURGESS ROBERT PO BOX 2717 FORT MYERS BEACH FL 33932	19-46-24-W4-00600.Y000 125/127 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK Y PB 6 PG 70 ALL BLK Y EXC NLY 11 FT	46
WILCOX LANCE 1339 SANTOS RD FORT MYERS BEACH FL 33931	19-46-24-W4-0060A.0340 1339 SANTOS RD FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK.A PB 6 PG 70 LOT 34	47
PARILLA DAVID R TR 1335 SANTOS RD FORT MYERS BEACH FL 33931	19-46-24-W4-0060A.0350 1335 SANTOS RD FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK A PB 6 PG 70 LOT 35	48
CONNER CHARLES R & GAIL D 53 POMPANO ST FORT MYERS BEACH FL 33931	19-46-24-W4-0060A.0360 126 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK A PB 6 PG 70 LOT 36 + S 1/2 OF BLK X LESS THE N 20 FT	49
PARILLA DAVID R TR 1335 SANTOS RD FORT MYERS BEACH FL 33931	19-46-24-W4-0060A.0370 1321 SANTOS RD FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK.A PB 6 PG 70 LOT 37	50
KLC SURF LLC CHRISTOPHER PRIMEAU 4625 W EUCLID AVE TAMPA FL 33629	19-46-24-W4-0060B.0120 1365/1375 ESTERO BLVD FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK B PB 6 PG 70 LOT 12	51
LANI KAI LP ROBERT G CONIDARIS 1400 ESTERO BLVD FORT MYERS BEACH FL 33931	19-46-24-W4-0060B.0130 1345 ESTERO BLVD FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK B PB 6 PG 70 LOT 13	52
LANI KAI LP ROBERT G CONIDARIS 1400 ESTERO BLVD FORT MYERS BEACH FL 33931	19-46-24-W4-0060B.0140 1331 ESTERO BLVD FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK B PB 6 PG 70 LOT 14	53
LANI KAI LP ROBERT G CONIDARIS 1400 ESTERO BLVD FORT MYERS BEACH FL 33931	19-46-24-W4-0060B.0150 1325 ESTERO BLVD FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK B PB 6 PG 70 LOTS 15	54
7-ELEVEN INC CORP INCOME TAX DEPT 3200 HYACKBERRY RD IRVING TX 75063	19-46-24-W4-0060B.0160 1301 ESTERO BLVD FORT MYERS BEACH FL 33931	VENETAIN GARDENS BLK B PB 6 PG 70 LOTS 16 + 17	55

STRICK RICHARD A & 5804 PARK RIDGE CT FORT COLLINS CO 80528	19-46-24-W4-0060E.0090 130 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS PB 6/70 BLK E S 1/2 OF LOT 9 + ALL OF BLK X LESS S 20 FT	56
DAY BILLY WAYNE 3708 SHANNON RUN TRL LOUISVILLE KY 40299	19-46-24-W4-0060G.0170 155 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK G PB 6 PG 70 LOT 17	57
LUMP THOMAS F & ANN C 145 PALERMO CIR FORT MYERS BEACH FL 33931	19-46-24-W4-0060G.0180 145 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK.G PB 6 PG 70 LOT 18	58
SLOMSKI STEVEN A & PO BOX 2428 PMB 25382 PENSACOLA FL 32513	19-46-24-W4-0060G.0190 139 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK G PB 6 PG 70 LOT 19 NLY 11 FT BLK Y	59
ZINKOSKY CHARLES H & 7475 LOCKLIN WEST BLOOMFIELD MI 48324	19-46-24-W4-0060H.0090 230 PRIMO DR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK H PB 6 PG 70 LOT 10 + S 1/2 LOT 9	60
MANNINO PATRICIA R 220 PRIMO DR FORT MYERS BEACH FL 33931	19-46-24-W4-0060H.0110 220 PRIMO DR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK.H PB 6 PG 70 LOT 11	61
JGT LLC 5617 HARBOUR CIR CAPE CORAL FL 33914	19-46-24-W4-0060H.0120 218 PRIMO DR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK H PB 6 PG 70 LOT 12	62
ANDERSON DEAN C & 904 7TH AVE NW JAMESTOWN ND 58401	19-46-24-W4-0060H.0130 214 PRIMO DR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK H PB 6 PG 70 LOT 13	63
HALE ALOHA LLC GEMA G HERNANDEZ PO BOX 395 PANACEA FL 32346	19-46-24-W4-0060H.0140 212 PRIMO DR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK H PB 6 PG 70 LOT 14	64
JACKSON SHARLENE V + 22 LOCH ERNE RD MCDUGALL ON P2A 2W7 CANADA	19-46-24-W4-0060H.0150 200 PRIMO DR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK H PB 6 PG 70 LOT 15	65
MORRIS CHARLES D 194 PRIMO DR FORT MYERS BEACH FL 33931	19-46-24-W4-0060H.0160 194 PRIMO DR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK H PB 6 PG 70 LOT 16	66
TEKULVE LAYNE JOSEPH PARAMOUNT LAWN AND LANDSCAPE 8900 GLENDALE MILFORD RD # A1 LOVELAND OH 45140	19-46-24-W4-0060H.0170 190 PRIMO DR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK H PB 6 PG 70 LOT 17	67
RILEY CHRISTOPHER M & 180 PRIMO DR FORT MYERS BEACH FL 33931	19-46-24-W4-0060H.0180 180 PRIMO DR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK H PB 6 PG 70 LOT 18	68
RILEY SUSAN K TR 180 PRIMO DR FORT MYERS BEACH FL 33931	19-46-24-W4-0060H.0190 170 PRIMO DR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK.H PB 6 PG 70 LOTS 19	69
BAILEY JAMES P & LANA C 162 PRIMO DR FORT MYERS BEACH FL 33931	19-46-24-W4-0060H.0200 162 PRIMO DR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK H PB 6 PG 70 LT 20	70
SANDY BEACH L L C PO BOX 5 BELMOND IA 50421	19-46-24-W4-0060H.021A 150 PRIMO DR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK H PB 6 PG 70 LOT 21	71
NEUMANN SHEILA 146 PRIMO DR FORT MYERS BEACH FL 33931	19-46-24-W4-0060H.0220 146 PRIMO DR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK H PB 6 PG 70 LOT 22	72
140 PRIMO LLC SHEILA NEUMANN 146 PRIMO DR FORT MYERS BEACH FL 33931	19-46-24-W4-0060H.0230 140 PRIMO DR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK H PB 6 PG 70 LOT 23	73

SEABIRD RESIDENTIAL LLC 1709 SW 47TH TER CAPE CORAL FL 33914	19-46-24-W4-0060H.0240 136 PRIMO DR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK H PB 6 PG 70 LOT 24	74
HIGHLEY JAY E & MARY B 124 PRIMO DR FORT MYERS BEACH FL 33931	19-46-24-W4-0060H.0250 124 PRIMO DR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK H PB 6 PG 70 LOT 25	75
HIGHLEY MARY BETH TR 6620 ESTERO BLVD #1006 FORT MYERS BEACH FL 33931	19-46-24-W4-0060H.0260 122 PRIMO DR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK H PB 6 PG 70 PT LOT 26	76
KWSH RE LLC 2601 MULBERRY AVE MUSCATINE IA 52761	19-46-24-W4-0060H.026A 120 PRIMO DR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK H PB 6 PG 70 PT LOTS 26 31 32	77
ARLINGTON GREEN HOMES LLC 44 ALGONQUIN CT MARCO ISLAND FL 34145	19-46-24-W4-0060H.0270 121 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK.H PB 6 PG 70 LOT 27	78
KALIDINDI RAMA USHA + 44354 APACHE CIR ASHBURN VA 20147	19-46-24-W4-0060H.0280 117 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK H PB 6 PG 70 LOT 28 + PT LOTS 26 + 29	79
1249 ESTERO ADVENTURES LLC 290 BAHIA VIA FORT MYERS BEACH FL 33931	19-46-24-W4-0060H.0300 1249 ESTERO BLVD FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK H PB 6 PG 70 LOTS 30 31+32 + PT LT 29 OR2414/2433	80
LANI KAI LP ROBERT G CONIDARIS 1400 ESTERO BLVD FORT MYERS BEACH FL 33931	19-46-24-W4-0070D.0020 1400 ESTERO BLVD FORT MYERS BEACH FL 33931	CRESCENT BEACH PB 4 PG 45 BLKS D + E + VAC R/W DESC OR 1293 PG 1208	81
RIGHT CHOICE INVESTMENTS LLC 4448 KELLY DR STERLING HEIGHTS MI 48314	19-46-24-W4-0070F.0010 1250 ESTERO BLVD FORT MYERS BEACH FL 33931	CRESCENT PARK LTS 1 + 2 + ESTRY 2.5 FT LT 3 + CRESCENT BEACH LTS 1-5 BLK F LESS ESTRLY 45FT OF NRTHLY 2.7 LT 3	82
OUR BEACH SAND LLC 12483 SUMMERWOOD DR FORT MYERS FL 33908	19-46-24-W4-0070F.001A 1270 ESTERO BLVD FORT MYERS BEACH FL 33931	CRESCENT BEACH BLK F PB 4 PG 45 PT LOTS 1 2 & 3 DESC IN OR 1319 PG 1459	83
GANIM PROPERTIES LLC 4666 MAIN ST BRIDGEPORT CT 06606	19-46-24-W4-0140A.0010 1240 ESTERO BLVD FORT MYERS BEACH FL 33931	CRESCENT PARK PB 4 PG 39 BLK A LOTS 1 + 2 + 8 + 9	84
GANIM PROPERTIES LLC 4666 MAIN ST BRIDGEPORT CT 06606	19-46-24-W4-0140A.001A 200 CANAL ST FORT MYERS BEACH FL	CRESCENT PARK PB 4 PG 39 BLK C LOT 3 LESS E 2.5 FT	85
TPI-FMB SUITES LLC 1207 ESTERO BLVD FORT MYERS BEACH FL 33931	19-46-24-W4-0150D.0050 1207 ESTERO BLVD FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK D PB 4 PG 46 LOTS 1 THRU 5	86
JAMES A + JEAN B BISCHOFF TRUS JEFF MAAAS 20468 ARDORE LN ESTERO FL 33928	19-46-24-W4-0150D.0060 141 PRIMO DR FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK D PB 4 PG 46 LT 6 + VAC R/W + LAND ADJ CANAL	87
GRIFFIS LLC 9051 E CHICAGO RD JEROME MI 49249	19-46-24-W4-0150D.0070 143 PRIMO DR FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK D PB 4 PG 46 LT 7 + VAC R/W + LAND ADJ CANAL	88
PATTON THOMAS D & 153 PRIMO DR FORT MYERS BEACH FL 33931	19-46-24-W4-0150D.0080 153 PRIMO DR FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK D PB 4 PG 46 LT 8 + VAC R/W + LAND ADJ CANAL	89
ALMEIDA ROBERT M + 163 PRIMO DR FORT MYERS BEACH FL 33931	19-46-24-W4-0150D.0090 163 PRIMO DR FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK D PB 4 PG 46 LT 9 + VAC R/W + LAND ADJ CANAL	90
BRIODY SUSAN S 167 PRIMO DR FORT MYERS BEACH FL 33931	19-46-24-W4-0150D.0100 167 PRIMO DR FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK D PB 4 PG 46 LT 10 + VAC R/W + LAND ADJ CANAL	91

TOWNLEY ARTHUR JAMES III PO BOX 2452 FORT MYERS BEACH FL 33932	19-46-24-W4-0150D.0110 171 PRIMO DR FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK D PB 4 PG 46 LT 11 + VAC R/W + LAND ADJ CANAL	92
TOWNLEY ARTHUR J III PO BOX 2452 FORT MYERS BEACH FL 33932	19-46-24-W4-0150D.0120 191 PRIMO DR FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK D PB 4 PG 46 LOTS 12 + VAC R/W + LAND ADJ CANAL	93
REDENIUS RICHARD R + 5218 WILLIAMS DR FORT MYERS BEACH FL 33931	19-46-24-W4-0150D.0130 201 PRIMO DR FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK D PB 4 PG 46 LT 13 + VAC R/W + LAND ADJ CANAL	94
SWENSEN RICHARD D & 207 PRIMO DR FORT MYERS BEACH FL 33931	19-46-24-W4-0150D.0140 207 PRIMO DR FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK D PB 4 PG 46 LT 14 + VAC R/W + LAND ADJ CANAL	95
ORONOCO ENTERPRISES LLC 10426 NW 28TH AVE ORONOCO MN 55960	19-46-24-W4-0150D.0150 215 PRIMO DR FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK D PB 4 PG 46 LT 15 + VAC R/W + LAND ADJ CANAL	96
JM3 PROPERTIES LLC 14225 TULANE STE BROOKFIELD WI 53005	19-46-24-W4-0150D.0180 225 PRIMO DR FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK D PB 4 PG 46 LT 18 + VAC R/W + LAND ADJ CANAL	97
FMB 239 PRIMO LLC PO BOX 2936 FORT MYERS BEACH FL 33932	19-46-24-W4-0150D.0190 239 PRIMO DR FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK D PB 4 PG 46 LT 19 + VAC R/W + LAND ADJ CANAL	98
REDENIUS RICHARD R & 5218 WILLIAMS DR FORT MYERS BEACH FL 33931	19-46-24-W4-0150D.0200 241/243 PRIMO DR FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK D PB 4/46 LT20+ LT 21 LES N10+VAC ST+LAND ADJ	99
RICHARD JOHN W TR 237 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	19-46-24-W4-0150E.0010 1161/1165 ESTERO BLVD FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK E PB 4 PG 46 PT LTS 1 + 2 OR0545/43LESR/W 2353/3036	100
DEEP DISH DOUGH LLC 328 BUCKLIN ST LA SALLE IL 61301	19-46-24-W4-0150E.001A 1167 ESTERO BLVD FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK E PB 4 PG 46 BEG ON NLY SI CO RD 80 FT	101
MILLER CONRAD RE LLC PO BOX 80490 FORT WAYNE IN 46898	19-46-24-W4-0150E.0030 108/116 CRESCENT ST FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK E PB 4 PG 46 LT 3	102
INVESTMENTS OF FMB LLC MARK DEIFT 560 NW 118 AVE PLANTATION FL 33325	19-46-24-W4-0150E.0040 118/122 CRESCENT ST FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK E PB 4 PG 46 LT 4 + S10 FT LOT 5 LES R/W2353/3036	103
RICHARD JOHN W TR 237 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	19-46-24-W4-0150E.005B 140 CRESCENT ST FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK E PB 4 PG 46 N 40 FT OF LOT 5 + 32.67 FT ADJ + VAC + ADJ CANAL LESS R/W OR2353/3036	104
RICHARD JOHN W TR 237 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	19-46-24-W4-0150E.0060 150 CRESCENT ST FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK E PB 4 PG 46 LOT 6 + 32.67 FT ADJ + VAC + ADJ CANAL LESS R/W OR2353/3036	105
RICHARD JOHN W + 152 CRESCENT ST FORT MYERS BEACH FL 33931	19-46-24-W4-0150E.0070 152 CRESCENT ST FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK E PB 4 PG 46 LOT 7 + VAC R/W + LAND ADJ LESR/WOR2353/3036	106
RICHARD JOHN W TR 237 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	19-46-24-W4-0150E.0080 170 CRESCENT ST FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK E PB 4 PG 46 LOT 8 + VAC R/W + LAND ADJ LESR/WOR2353/3036	107
RICHARD JOHN W TR 237 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	19-46-24-W4-0150E.0090 202 CRESCENT ST FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK E PB 4 PG 46 LOTS 9 10 + VAC + LAND ADJ LESR/W2353/3036	108

250 FMB LLC 4517 BRYWOOD DR NAPLES FL 34119	19-46-24-W4-0150E.0110 250 CRESCENT ST FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK E PB 4/46 LT 11 + VAC R/W + LAND ADJ CANAL LESS R/W	109
TORGERSON ASHLEE MICHELLE PO BOX 5088 FORT MYERS BEACH FL 33932	19-46-24-W4-0150E.0120 270 CRESCENT ST FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK E PB 4/46 LT 12 VAC R/W + LAND ADJ CANAL LESS R/W DESC IN OR 2319/4512	110
GRANT JOSEPH H & DORIS M 320 CRESCENT ST FORT MYERS BEACH FL 33931	19-46-24-W4-0150E.0130 300 CRESCENT ST FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK E PB 4 PG 46 LOT13+E40 FT LT 14+VAC LES R/W OR2366/2077	111
GRANT JOE H 320 CRESCENT ST FORT MYERS BEACH FL 33931	19-46-24-W4-0150E.014B 320 CRESCENT ST FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK E PB 4 PG 46 W 60 FT LT 14 + LT 15 + VAC R/W + ADJ LESS R/W DESC IN OR 2363/1290	112
LIGHTHOUSE ISLAND RESORT INC 1051 5TH ST FORT MYERS BEACH FL 33931	19-46-24-W4-0150E.016A 332 CRESCENT ST FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK E PB 4 PG 46 LOT16+VAC R/W +LAND ADJ CANAL	113
REICH EUGENE E TR 6115 POND VIEW DR EXCELSIOR MN 55331	19-46-24-W4-0150E.0170 340 CRESCENT ST FORT MYERS BEACH FL 33931	CRESCENT PK ADD BLK E PB 4/46 LT 17 + S 20 FT OF LT 18 + VAC R/W LESS ROAD OR 2328/3484	114
CHIPPEWA LAND LLC 11577 HIBNER HARTLAND MI 48353	19-46-24-W4-0150E.0190 402/406 CRESCENT ST FORT MYERS BEACH FL 33931	CRESCENT PARK ADD BLK E PB 4 PG 46 N 30 FT LOTS 18 + 19 + S 30 FT LOT 20 LESS R/W 2353/3036 LESS R/W OR 2370/0201	115
FMB MATANZAS LLC 5880 STALEY RD FORT MYERS FL 33905	19-46-24-W4-0150E.0210 414/416 CRESCENT ST FORT MYERS BEACH FL 33931	CRESCENT PARK ADDN BLK E PB4/46 PT LTS 20THRU25LT 26 LES R/W OR 2353 PG 3036 + OR 3189 PG 3751	116
CRESCENT SHORE CONDO ASSOC PO BOX 2990 FORT MYERS BEACH FL 33932	19-46-24-W4-02600.00CE CRESCENT SHORE C/E FORT MYERS BEACH FL 33931	A CONDO LOCATED IN SEC 19 TWP 46 RGE 24 AS DESC IN OR 1464 PG 445 COMMON ELEMENTS	117
TOWN OF FORT MYERS BEACH 103 15TH AVE NW STE 200 WILLMAR MN 56201	19-46-24-W4-U0498.2607 ESTERO BLVD FORT MYERS BEACH FL 33931	PARCEL D AS DESC IN INST 2020000071854 INCLUDES LOTS 3 + 7 AS REC IN PLAT BK 4 PG 39 AND DESC IN INST 2023000234096	118
1300 ESTERO BLVD LLC 32 BAYVIEW BLVD FORT MYERS BEACH FL 33931	19-46-24-W4-02600.1010 1300 ESTERO BLVD #101 FORT MYERS BEACH FL 33931	CRESCENT SHORE CONDO OR 1464 PG 445 UNITS 101 102 + 103	119
BEYER TAMMY E TR 9656 HALYARDS CT # 24 FORT MYERS FL 33919	19-46-24-W4-02600.1040 1300 ESTERO BLVD #104 FORT MYERS BEACH FL 33931	CRESCENT SHORE CONDO OR 1464 PG 445 UNIT 104	119
ANDRESEN EDWIN TR 7960 PRESERVATION DR INDIANAPOLIS IN 46278	19-46-24-W4-02600.1050 1300 ESTERO BLVD #105 FORT MYERS BEACH FL 33931	CRESCENT SHORE CONDO OR 1464 PG 445 UNIT 105	119
BOCCELLA SALVATORE 4 POINT VIEW CT SICKLERVILLE NJ 08081	19-46-24-W4-02600.1060 1300 ESTERO BLVD #106 FORT MYERS BEACH FL 33931	CRESCENT SHORE CONDO OR 1464 PG 445 UNIT 106	119
JOHNSON NANCY ANN L/E 9 NANCY LN FORT MYERS BEACH FL 33931	19-46-24-W4-02600.2010 1300 ESTERO BLVD #201 FORT MYERS BEACH FL 33931	CRESCENT SHORE CONDO OR 1464 PG 445 UNIT 201	119
HECK LLC 15561 CATALPA COVE DR FORT MYERS FL 33908	19-46-24-W4-02600.2020 1300 ESTERO BLVD #202 FORT MYERS BEACH FL 33931	CRESCENT SHORE CONDO OR 1464 PG 445 UNIT 202	119

CONANT DONNA TR 8122 S FOREST HILL CIR FRANKLIN WI 53132	19-46-24-W4-02600.2030 1300 ESTERO BLVD #203 FORT MYERS BEACH FL 33931	CRESCENT SHORE CONDO OR 1464 PG 445 UNIT 203	119
DENNIS R + CYNTHIA L LOKEN TRU 106 ICHABOD LN MANKATO MN 56001	19-46-24-W4-02600.2040 1300 ESTERO BLVD #204 FORT MYERS BEACH FL 33931	CRESCENT SHORE CONDO OR 1464 PG 445 UNIT 204	119
LANDOLFI STEVEN J 22 VETO ST PROVIDENCE RI 02908	19-46-24-W4-02600.2050 1300 ESTERO BLVD #205 FORT MYERS BEACH FL 33931	CRESCENT SHORE CONDO OR 1464 PG 445 UNIT 205	119
NIEMEIER RYAN & SUMMER 106 S WALNUT ST LA CRESCENT MN 55947	19-46-24-W4-02600.2060 1300 ESTERO BLVD #206 FORT MYERS BEACH FL 33931	CRESCENT SHORE CONDO OR 1464 PG 445 UNIT 206	119

1005 ESTERO LLC
1005 ESTERO BLVD
FORT MYERS BEACH FL 33931

KALYMNOUS PARTNERSHIP LLP
1001 ESTERO BLVD
FORT MYERS BEACH FL 33931

CLOWNFISH RESTAURANT HOLDINGS
11201 COORPORATE CIRCLE N
SAINT PETERSBURG FL 33716

LEE COUNTY
PO BOX 398
FORT MYERS FL 33902

PRESAUD PROPERTIES FL
361 SEMINOLE WAY
FORT MYERS BEACH FL 33931

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

BENCIN ENTERPRISES INC
BEACH ACCOUNTING
17274 SAN CARLOS BLVD #202
FORT MYERS BEACH FL 33931

WHITAKER WILLIAM D &
15820 SAN ANTONIO CT
FORT MYERS FL 33908

LEE COUNTY
PO BOX 398
FORT MYERS FL 33902

LEE COUNTY
PO BOX 398
FORT MYERS FL 33902

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

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

MERSCHMAN I LLC
1421 E LAKE SHORE DR
SPRINGFIELD IL 62712

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

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

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

FMB MATANZAS LLC
5880 STALEY RD
FORT MYERS FL 33905

FMB MATANZAS LLC
5880 STALEY RD
FORT MYERS FL 33905

PIERHOUSE-FT MYERS BEACH LTD
1000 ESTERO BLVD
FORT MYERS BEACH FL 33931

FREELAND FL HOLDINGS LLC
PO BOX 656
ANTIOCH TN 37011

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

LIGHTHOUSE ISLAND RESORT INC
1051 5TH ST
FORT MYERS BEACH FL 33931

STINGRAYS RAW BAR INC
250 OLD SAN CARLOS BLVD
FORT MYERS BEACH FL 33931

DIANNE HOLLAND TRUST +
570 KULAIWI DR
WAILUKU HI 96793

LIGHTHOUSE ISLAND RESORT INC
1051 FIFTH ST
FORT MYERS BEACH FL 33931

LEE COUNTY
PO BOX 398
FORT MYERS FL 33902

LEE COUNTY
PO BOX 398
FORT MYERS FL 33902

150 OLD SAN CARLOS BLVD LLC
4100 N 28TH TER
HOLLYWOOD FL 33020

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

CHAVEZ CARLOS L TR
991 AQUA LN
FORT MYERS FL 33919

CHAVEZ CARLOS L TR
991 AQUA LN
FORT MYERS FL 33919

BENSON BRADFORD J TR
927 PRESCOTT ST
FORT MYERS BEACH FL 33931

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

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

BC III MASTERPIECE LLC
151 MATANZAS ST
FORT MYERS BEACH FL 33931

RFN CORP
2401 ESTERO BLVD
FORT MYERS BEACH FL 33931

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

BAHAN SUZANNE E +
169 OLD SAN CARLOS BLVD
FORT MYERS BEACH FL 33931

MAY SUZANNE E
PO BOX 61176
FORT MYERS FL 33906

JENKINS CARROLL ANNE
3063 NORFOLK CR 23 RR6
TILLSONBURG ON N4G 4G9
CANADA

151 OLD SAN CARLOS LLC
17840 SAN CARLOS BLVD
FORT MYERS BEACH FL 33931

BENSON BRADFORD J II TR
938 DEEP LAGOON LN
FORT MYERS FL 33919

HOLIDAY COURT MOTEL LLC
PO BOX 1118
LABELLE FL 33975

VENETIAN GARDENS CANAL
PALERMO CIR
FORT MYERS BEACH FL 33931

VENETIAN GARDENS CANAL
PALERMO CIR
FORT MYERS BEACH FL 33931

VAN BURGESS ROBERT
PO BOX 2717
FORT MYERS BEACH FL 33932

WILCOX LANCE
1339 SANTOS RD
FORT MYERS BEACH FL 33931

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

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

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

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

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

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

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

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

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

DAY BILLY WAYNE
3708 SHANNON RUN TRL
LOUISVILLE KY 40299

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

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

ZINKOSKY CHARLES H &
7475 LOCKLIN
WEST BLOOMFIELD MI 48324

MANNINO PATRICIA R
220 PRIMO DR
FORT MYERS BEACH FL 33931

JGT LLC
5617 HARBOUR CIR
CAPE CORAL FL 33914

ANDERSON DEAN C &
904 7TH AVE NW
JAMESTOWN ND 58401

HALE ALOHA LLC
GEMA G HERNANDEZ
PO BOX 395
PANACEA FL 32346

JACKSON SHARLENE V +
22 LOCH ERNE RD
MCDUGALL ON P2A 2W7
CANADA

MORRIS CHARLES D
194 PRIMO DR
FORT MYERS BEACH FL 33931

TEKULVE LAYNE JOSEPH
PARAMOUNT LAWN AND LANDSCAPE
8900 GLENDALE MILFORD RD # A1
LOVELAND OH 45140

RILEY CHRISTOPHER M &
180 PRIMO DR
FORT MYERS BEACH FL 33931

RILEY SUSAN K TR
180 PRIMO DR
FORT MYERS BEACH FL 33931

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

SANDY BEACH L L C
PO BOX 5
BELMOND IA 50421

NEUMANN SHEILA
146 PRIMO DR
FORT MYERS BEACH FL 33931

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

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

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

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

KWSH RE LLC
2601 MULBERRY AVE
MUSCATINE IA 52761

ARLINGTON GREEN HOMES LLC
44 ALGONQUIN CT
MARCO ISLAND FL 34145

KALIDINDI RAMA USHA +
44354 APACHE CIR
ASHBURN VA 20147

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

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

RIGHT CHOICE INVESTMENTS LLC
4448 KELLY DR
STERLING HEIGHTS MI 48314

OUR BEACH SAND LLC
12483 SUMMERWOOD DR
FORT MYERS FL 33908

GANIM PROPERTIES LLC
4666 MAIN ST
BRIDGEPORT CT 06606

GANIM PROPERTIES LLC
4666 MAIN ST
BRIDGEPORT CT 06606

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

JAMES A + JEAN B BISCHOFF TRUS
JEFF MAAAS
20468 ARDORE LN
ESTERO FL 33928

GRIFFIS LLC
9051 E CHICAGO RD
JEROME MI 49249

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

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

BRIODY SUSAN S
167 PRIMO DR
FORT MYERS BEACH FL 33931

TOWNLEY ARTHUR JAMES III
PO BOX 2452
FORT MYERS BEACH FL 33932

TOWNLEY ARTHUR J III
PO BOX 2452
FORT MYERS BEACH FL 33932

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

SWENSEN RICHARD D &
207 PRIMO DR
FORT MYERS BEACH FL 33931

ORONOCO ENTERPRISES LLC
10426 NW 28TH AVE
ORONOCO MN 55960

JM3 PROPERTIES LLC
14225 TULANE STE
BROOKFIELD WI 53005

FMB 239 PRIMO LLC
PO BOX 2936
FORT MYERS BEACH FL 33932

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

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

DEEP DISH DOUGH LLC
328 BUCKLIN ST
LA SALLE IL 61301

MILLER CONRAD RE LLC
PO BOX 80490
FORT WAYNE IN 46898

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

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

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

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

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

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

250 FMB LLC
4517 BRYWOOD DR
NAPLES FL 34119

TORGERSON ASHLEE MICHELLE
PO BOX 5088
FORT MYERS BEACH FL 33932

GRANT JOSEPH H & DORIS M
320 CRESCENT ST
FORT MYERS BEACH FL 33931

GRANT JOE H
320 CRESCENT ST
FORT MYERS BEACH FL 33931

LIGHTHOUSE ISLAND RESORT INC
1051 5TH ST
FORT MYERS BEACH FL 33931

REICH EUGENE E TR
6115 POND VIEW DR
EXCELSIOR MN 55331

CHIPPEWA LAND LLC
11577 HIBNER
HARTLAND MI 48353

FMB MATANZAS LLC
5880 STALEY RD
FORT MYERS FL 33905

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

TOWN OF FORT MYERS BEACH
103 15TH AVE NW STE 200
WILLMAR MN 56201

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

BEYER TAMMY E TR
9656 HALYARDS CT # 24
FORT MYERS FL 33919

ANDRESEN EDWIN TR
7960 PRESERVATION DR
INDIANAPOLIS IN 46278

BOCCELLA SALVATORE
4 POINT VIEW CT
SICKLERVILLE NJ 08081

JOHNSON NANCY ANN L/E
9 NANCY LN
FORT MYERS BEACH FL 33931

HECK LLC
15561 CATALPA COVE DR
FORT MYERS FL 33908

CONANT DONNA TR
8122 S FOREST HILL CIR
FRANKLIN WI 53132

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

LANDOLFI STEVEN J
22 VETO ST
PROVIDENCE RI 02908

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

1005 ESTERO LLC
1005 ESTERO BLVD
FORT MYERS BEACH FL 33931

KALYMNOUS PARTNERSHIP LLP
1001 ESTERO BLVD
FORT MYERS BEACH FL 33931

CLOWNFISH RESTAURANT HOLDINGS
11201 COORPORATE CIRCLE N
SAINT PETERSBURG FL 33716

LEE COUNTY
PO BOX 398
FORT MYERS FL 33902

PRESAUD PROPERTIES FL
361 SEMINOLE WAY
FORT MYERS BEACH FL 33931

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

BENCIN ENTERPRISES INC
BEACH ACCOUNTING
17274 SAN CARLOS BLVD #202
FORT MYERS BEACH FL 33931

WHITAKER WILLIAM D &
15820 SAN ANTONIO CT
FORT MYERS FL 33908

LEE COUNTY
PO BOX 398
FORT MYERS FL 33902

LEE COUNTY
PO BOX 398
FORT MYERS FL 33902

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

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

MERSCHMAN I LLC
1421 E LAKE SHORE DR
SPRINGFIELD IL 62712

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

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

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

FMB MATANZAS LLC
5880 STALEY RD
FORT MYERS FL 33905

FMB MATANZAS LLC
5880 STALEY RD
FORT MYERS FL 33905

PIERHOUSE-FT MYERS BEACH LTD
1000 ESTERO BLVD
FORT MYERS BEACH FL 33931

FREELAND FL HOLDINGS LLC
PO BOX 656
ANTIOCH TN 37011

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

LIGHTHOUSE ISLAND RESORT INC
1051 5TH ST
FORT MYERS BEACH FL 33931

STINGRAYS RAW BAR INC
250 OLD SAN CARLOS BLVD
FORT MYERS BEACH FL 33931

DIANNE HOLLAND TRUST +
570 KULAIWI DR
WAILUKU HI 96793

LIGHTHOUSE ISLAND RESORT INC
1051 FIFTH ST
FORT MYERS BEACH FL 33931

LEE COUNTY
PO BOX 398
FORT MYERS FL 33902

LEE COUNTY
PO BOX 398
FORT MYERS FL 33902

150 OLD SAN CARLOS BLVD LLC
4100 N 28TH TER
HOLLYWOOD FL 33020

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

CHAVEZ CARLOS L TR
991 AQUA LN
FORT MYERS FL 33919

CHAVEZ CARLOS L TR
991 AQUA LN
FORT MYERS FL 33919

BENSON BRADFORD J TR
927 PRESCOTT ST
FORT MYERS BEACH FL 33931

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

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

BC III MASTERPIECE LLC
151 MATANZAS ST
FORT MYERS BEACH FL 33931

RFN CORP
2401 ESTERO BLVD
FORT MYERS BEACH FL 33931

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

BAHAN SUZANNE E +
169 OLD SAN CARLOS BLVD
FORT MYERS BEACH FL 33931

MAY SUZANNE E
PO BOX 61176
FORT MYERS FL 33906

JENKINS CARROLL ANNE
3063 NORFOLK CR 23 RR6
TILLSONBURG ON N4G 4G9
CANADA

151 OLD SAN CARLOS LLC
17840 SAN CARLOS BLVD
FORT MYERS BEACH FL 33931

BENSON BRADFORD J II TR
938 DEEP LAGOON LN
FORT MYERS FL 33919

HOLIDAY COURT MOTEL LLC
PO BOX 1118
LABELLE FL 33975

VENETIAN GARDENS CANAL
PALERMO CIR
FORT MYERS BEACH FL 33931

VENETIAN GARDENS CANAL
PALERMO CIR
FORT MYERS BEACH FL 33931

VAN BURGESS ROBERT
PO BOX 2717
FORT MYERS BEACH FL 33932

WILCOX LANCE
1339 SANTOS RD
FORT MYERS BEACH FL 33931

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

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

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

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

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

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

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

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

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

DAY BILLY WAYNE
3708 SHANNON RUN TRL
LOUISVILLE KY 40299

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

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

ZINKOSKY CHARLES H &
7475 LOCKLIN
WEST BLOOMFIELD MI 48324

MANNINO PATRICIA R
220 PRIMO DR
FORT MYERS BEACH FL 33931

JGT LLC
5617 HARBOUR CIR
CAPE CORAL FL 33914

ANDERSON DEAN C &
904 7TH AVE NW
JAMESTOWN ND 58401

HALE ALOHA LLC
GEMA G HERNANDEZ
PO BOX 395
PANACEA FL 32346

JACKSON SHARLENE V +
22 LOCH ERNE RD
MCDOUGALL ON P2A 2W7
CANADA

MORRIS CHARLES D
194 PRIMO DR
FORT MYERS BEACH FL 33931

TEKULVE LAYNE JOSEPH
PARAMOUNT LAWN AND LANDSCAPE
8900 GLENDALE MILFORD RD # A1
LOVELAND OH 45140

RILEY CHRISTOPHER M &
180 PRIMO DR
FORT MYERS BEACH FL 33931

RILEY SUSAN K TR
180 PRIMO DR
FORT MYERS BEACH FL 33931

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

SANDY BEACH L L C
PO BOX 5
BELMOND IA 50421

NEUMANN SHEILA
146 PRIMO DR
FORT MYERS BEACH FL 33931

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

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

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

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

KWSH RE LLC
2601 MULBERRY AVE
MUSCATINE IA 52761

ARLINGTON GREEN HOMES LLC
44 ALGONQUIN CT
MARCO ISLAND FL 34145

KALIDINDI RAMA USHA +
44354 APACHE CIR
ASHBURN VA 20147

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

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

RIGHT CHOICE INVESTMENTS LLC
4448 KELLY DR
STERLING HEIGHTS MI 48314

OUR BEACH SAND LLC
12483 SUMMERWOOD DR
FORT MYERS FL 33908

GANIM PROPERTIES LLC
4666 MAIN ST
BRIDGEPORT CT 06606

GANIM PROPERTIES LLC
4666 MAIN ST
BRIDGEPORT CT 06606

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

JAMES A + JEAN B BISCHOFF TRUS
JEFF MAAAS
20468 ARDORE LN
ESTERO FL 33928

GRIFFIS LLC
9051 E CHICAGO RD
JEROME MI 49249

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

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

BRIODY SUSAN S
167 PRIMO DR
FORT MYERS BEACH FL 33931

TOWNLEY ARTHUR JAMES III
PO BOX 2452
FORT MYERS BEACH FL 33932

TOWNLEY ARTHUR J III
PO BOX 2452
FORT MYERS BEACH FL 33932

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

SWENSEN RICHARD D &
207 PRIMO DR
FORT MYERS BEACH FL 33931

ORONOCO ENTERPRISES LLC
10426 NW 28TH AVE
ORONOCO MN 55960

JM3 PROPERTIES LLC
14225 TULANE STE
BROOKFIELD WI 53005

FMB 239 PRIMO LLC
PO BOX 2936
FORT MYERS BEACH FL 33932

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

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

DEEP DISH DOUGH LLC
328 BUCKLIN ST
LA SALLE IL 61301

MILLER CONRAD RE LLC
PO BOX 80490
FORT WAYNE IN 46898

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

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

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

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

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

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

250 FMB LLC
4517 BRYWOOD DR
NAPLES FL 34119

TORGERSON ASHLEE MICHELLE
PO BOX 5088
FORT MYERS BEACH FL 33932

GRANT JOSEPH H & DORIS M
320 CRESCENT ST
FORT MYERS BEACH FL 33931

GRANT JOE H
320 CRESCENT ST
FORT MYERS BEACH FL 33931

LIGHTHOUSE ISLAND RESORT INC
1051 5TH ST
FORT MYERS BEACH FL 33931

REICH EUGENE E TR
6115 POND VIEW DR
EXCELSIOR MN 55331

CHIPPEWA LAND LLC
11577 HIBNER
HARTLAND MI 48353

FMB MATANZAS LLC
5880 STALEY RD
FORT MYERS FL 33905

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

TOWN OF FORT MYERS BEACH
103 15TH AVE NW STE 200
WILLMAR MN 56201

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

BEYER TAMMY E TR
9656 HALYARDS CT # 24
FORT MYERS FL 33919

ANDRESEN EDWIN TR
7960 PRESERVATION DR
INDIANAPOLIS IN 46278

BOCCELLA SALVATORE
4 POINT VIEW CT
SICKLERVILLE NJ 08081

JOHNSON NANCY ANN L/E
9 NANCY LN
FORT MYERS BEACH FL 33931

HECK LLC
15561 CATALPA COVE DR
FORT MYERS FL 33908

CONANT DONNA TR
8122 S FOREST HILL CIR
FRANKLIN WI 53132

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

LANDOLFI STEVEN J
22 VETO ST
PROVIDENCE RI 02908

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

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

Yellow Sheet Number: **2024-1363**

1. Requested Motion:

Meeting Date: December 19, 2023

RESOLUTION NUMBER 24-184: A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING VARIANCE VAR20230212 TO ALLOW AN ELEVATED EMERGENCY GENERATOR CLOSER TO THE ESTERO BOULEVARD STREET RIGHT-OF-WAY LINE THAN THE PRINCIPAL BUILDING FOR THE PROPERTY LOCATED AT 6642 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 recommends action to the Town Council for variance requests.

What the action accomplishes:

The recommendation will be forwarded to Town Council.

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

Resolution

5. Background:

Curt Brenner, the applicant for Pointe Estero Condominium Association, Inc. located at 6642 Estero Boulevard, is requesting a variance from the Town's Land Development Code (LDC):

Section 34-1174(b) which prohibits location of an accessory structure, closer to street right-of-way line than the principal building in RM zoning district.

Attachments:

1. Res 24-184- 6642 Estero Blvd
2. Staff report
3. Exhibit A: Revised _SitePlan
4. Exhibit B: Landscape Plans
5. Exhibit C: Survey
6. Exhibit D: Complete application packet

Financial Impact:

unknown

6. Alternative Action

Recommend approval with conditions, recommend denial

7. Staff Recommendations:

Recommend approval with conditions

8. Recommended Approval:

Date: December 08, 2023

Frankie Kropacek, Operations & Compliance Director

Date: December 08, 2023

Nancy Stuparich, Town Attorney

RESOLUTION NUMBER 24-184

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING VARIANCE VAR20230212 TO ALLOW AN ELEVATED EMERGENCY GENERATOR CLOSER TO THE ESTERO BOULEVARD STREET RIGHT-OF-WAY LINE THAN THE PRINCIPAL BUILDING FOR THE PROPERTY LOCATED AT 6642 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, Curt Brenner, Applicant for owner Pointe Estero Condominium Association, Inc., is requesting a variance from LDC 3434-1174(b) which prohibits location of accessory structures, including emergency generators, closer to the street right-of-way line than the principal building; and

WHEREAS, the STRAP number for the subject property is 34-46-24-W4-02500.00CE; and

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

WHEREAS, a public hearing on this matter was legally noticed and held before the Local Planning Agency (LPA) on December 12, 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 January 8, 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 emergency generators, closer to the street right-of-way line than the principal building in RM zoning district.

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

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

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

- A. The applicant shall provide screening or decorative features, of some kind, to limit the visual impact of the structure from Estero Blvd and from the neighboring property.
- B. 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 January 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 January 2023.



Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

TYPE OF CASE: Variance

CASE NUMBER: VAR20230212

CASE NAME: 6642 Estero Boulevard; requesting a variance from LDC 34-1174(b) which prohibits location of accessory uses, including elevated emergency generators, closer to street right-of-way line than the principal building in RM zoning district.

LPA

HEARING DATE: December 19, 2023

STAFF

RECOMMENDATION: APPROVAL

**PREPARED/
SUBMITTED BY:** Sarah Propst / Jason Green AICP

I. APPLICATION SUMMARY

Applicant/Owner: Curt Brenner, (Applicant)/ Pointe Estero Condominium Association, Inc. (Owner)

Request: Relief from LDC 34-1174(b) which prohibits location of accessory structures, including emergency generators on stands, closer to street right-of-way line than the principal building in RM zoning district.

The lot is a triangular property on the west/beach side of Estero Blvd. The property currently includes a multi-family structure, and the Applicant is requesting a variance from LDC 34-1174(b) to allow construction of an elevated emergency generator in the front yard along Estero Blvd.

Subject property: See attached site plan

Physical Address: 6642 Estero Boulevard

STRAP #: 34-46-24-W4-02500.00CE
FLU: Mixed Residential
Zoning: Residential Multi-family (RM)

Adjacent zoning and land uses:

North: MIXED RESIDENTIAL
Commercial Resort (CR)
South: MIXED RESIDENTIAL
Residential Multi-family (RM)
East: MIXED RESIDENTIAL
Residential Multi-family (RM)
West: RECREATIONAL AND GULF OF MEXICO
Environmental Conservation (EC) and Gulf of Mexico

II. BACKGROUND AND ANALYSIS

Background:

Curt Brenner, the applicant for Pointe Estero Condominium Association, Inc. located at 6642 Estero Boulevard, is requesting a variance from the Town's Land Development Code (LDC) Section 34-1174(b) which prohibits location of an accessory structure, closer to street right-of-way line than the principal building in RM zoning district.

The RM zoning district requires a street setback of 25 feet. The existing multi-family building is situated at a street setback of approximately 250 feet. The Applicant is proposing an elevated generator in the front yard at a street setback of 59 feet and a 24-foot side setback.

Analysis:

The lot is a 502 feet deep triangular property with nearly 300 feet width along Estero narrowing to 30 feet width in the rear yard. The property currently supports a multi-family residential building. The Applicant wants to add an elevated emergency generator to the front yard along Estero Blvd and is requesting a variance from LDC 34-1174(b).

LDC 34-1174 (b) states that accessory structures, on a single or multi-family lot, shall not be located closer to a street right-of-way line or street easement than the principal building. Part (6) of 34-1174 does allow: *Swimming pools, tennis courts, shuffleboard courts, and other similar recreation facilities that are accessory to a multiple-family*

development, or a hotel/motel, provided that they are part of a planned development or a site plan approved in accordance with ch. 10 of this LDC and provided they comply with the minimum setbacks for streets; However this proposed structure is not recreational.

Before Ian, all mechanical equipment including the generator, electric room, domestic pump and fire alarm were located below the building. Post Ian, all have been elevated/relocated within the building except the generator. The Applicant has the choice to construct the elevated generator in the side or rear yard of the property, which will be consistent with the requirements of Town's LDC.

Staff notes that the proposed location of the generator is landward of the 1991 CCCL. Construction seaward of the '91 CCCL would make the permit subject to an FDEP permit and would require that the structure be built to the FDEP height of 21.3 feet. Landward of the '91 CCCL the FEMA flood zone (VE12) controls the height and would require the structure to be built at 13 feet of elevation. By moving the structure landward of the '91 CCCL, the structure can be built 8 feet lower than if it were seaward of the '91 CCCL.

The Applicant is proposing the elevated generator at a street setback of 59 feet and a side setback of 24 feet. The Applicant can construct the elevated generator closer to street right-of-way line than the principal building in RM zoning district only upon approval of this variance.

Neighborhood Compatibility:

Most properties along Estero comply with LDC 34-1174. In the past years, LPA has approved several variances to the code to allow accessory structures in the front yard, mostly for properties with no substantial rear yard or the principal structure next to coastal construction control line.

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 exceptional conditions inherent to the property. The '91 CCCL runs just seaward of the parking lot. While there is adequate space for the generator structure to be built on other parts of the property, the structure would be required to be 8 feet taller if constructed seaward of the '91 CCCL.

- 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 location of the CCCL and the required FDEP flood elevation make construction of the structure landward of the '91 CCCL 8 feet lower if constructed in the parking lot. While there is room further back on the property, moving the generator landward of the CCCL will make the structure safer, further from the water and potential storm surge, and will allow it to be built 8 feet lower.

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

The '91 CCCL runs along the rear of the parking lot and that is the location where the generator is proposed. The Applicant has the option to construct the proposed elevated generator to the rear or side yard of the building, however it will be subject the FDEP elevations if it is constructed further away from the right of way.

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

The granting of this variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

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

The 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 34-1174(b) which prohibits location of accessory uses including elevated generators closer to street right-of-way line than the principal building in RM zoning district and found that the variance request does meet the requirements set-forth in sec. 34-87.

Therefore, staff recommends **APPROVAL** of VAR20230212, to permit construction of an elevated generator in the front yard of the multi-family residence along Estero Blvd.

IV. CONDITIONS

If approval of the request is granted, the following conditions should be considered for incorporation into the resolution of approval.

1. The applicant shall provide screening or decorative features, of some kind, to limit the visual impact of the structure from Estero Blvd and from the neighboring property.
2. 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.

V. EXHIBITS

Exhibit A: Site Plan

Exhibit B: Landscape Plan

Exhibit C: Survey

Exhibit D: Complete Application Packet

Exhibit E: Postcards to Adjacent Property Owners

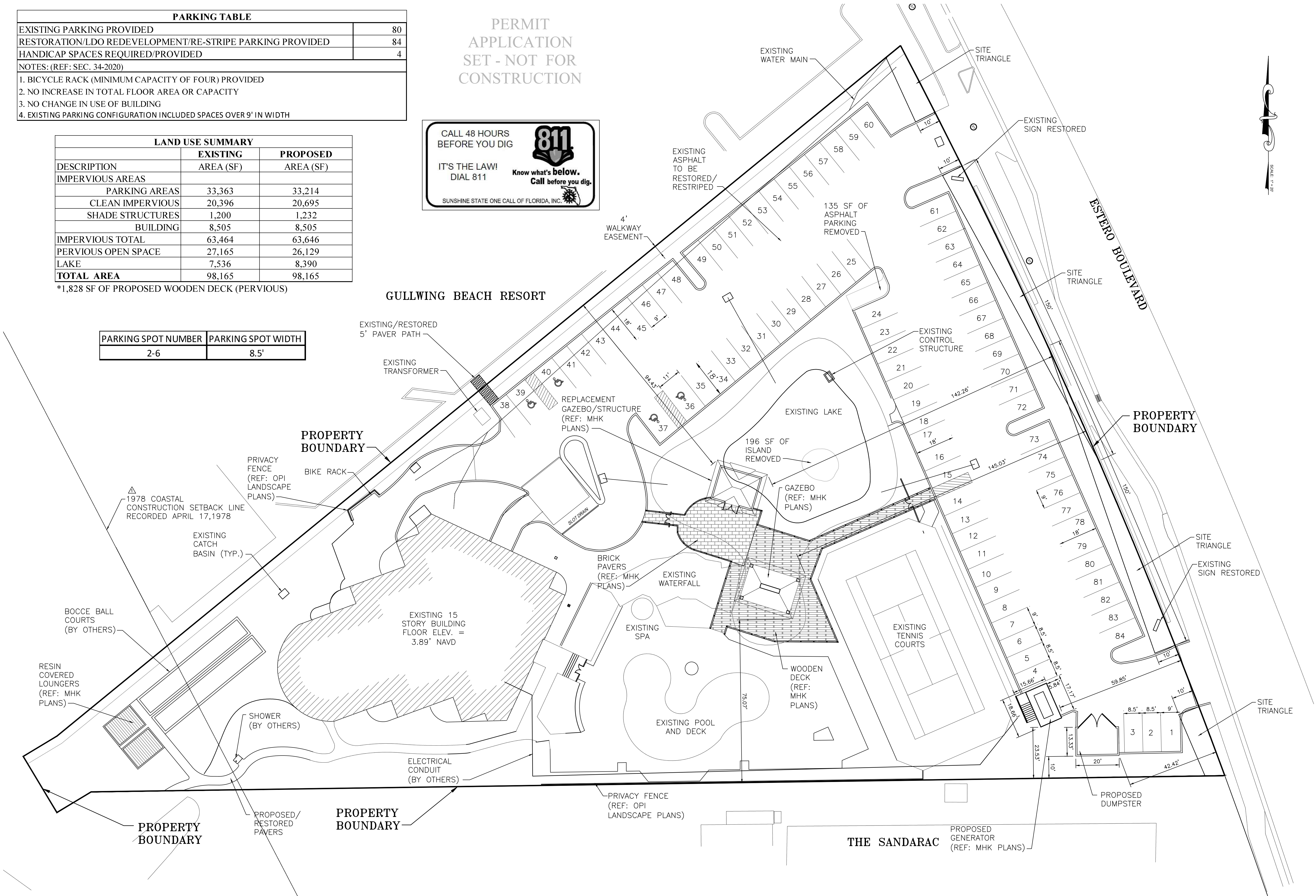
PARKING TABLE	
EXISTING PARKING PROVIDED	80
RESTORATION/LDO REDEVELOPMENT/RE-STRIPE PARKING PROVIDED	84
HANDICAP SPACES REQUIRED/PROVIDED	4
NOTES: (REF: SEC. 34-2020)	
1. BICYCLE RACK (MINIMUM CAPACITY OF FOUR) PROVIDED	
2. NO INCREASE IN TOTAL FLOOR AREA OR CAPACITY	
3. NO CHANGE IN USE OF BUILDING	
4. EXISTING PARKING CONFIGURATION INCLUDED SPACES OVER 9' IN WIDTH	

LAND USE SUMMARY		
DESCRIPTION	EXISTING AREA (SF)	PROPOSED AREA (SF)
IMPERVIOUS AREAS		
PARKING AREAS	33,363	33,214
CLEAN IMPERVIOUS	20,396	20,695
SHADE STRUCTURES	1,200	1,232
BUILDING	8,505	8,505
IMPERVIOUS TOTAL	63,464	63,646
PERVIOUS OPEN SPACE	27,165	26,129
LAKE	7,536	8,390
TOTAL AREA	98,165	98,165

*1,828 SF OF PROPOSED WOODEN DECK (PERVIOUS)

PARKING SPOT NUMBER	PARKING SPOT WIDTH
2-6	8.5'

PERMIT
APPLICATION
SET - NOT FOR
CONSTRUCTION



CLIENT NAME:
POINTE ESTERO CONDOMINIUM
ASSOCIATION, INC.

PROJECT NAME:
POINTE ESTERO LIMITED REVIEW
DEVELOPMENT ORDER

DRAWING TITLE:
SITE PLAN
6640 ESTERO BOULEVARD

DESIGNED BY: M.W.D.

DRAWN BY: P.W.B.

CHECKED BY: M.W.D.

REVIEWED BY: M.W.D.

HORIZ. SCALE (24X36): 1" = 20'

HORIZ. SCALE (11X17): 1" = 40'

DATE:
10/24/2023

REVISION:
1. REVISION TO INCLUDE THE 1978 COOL LINE

ROBAU & ASSOCIATES

ENGINEER'S SEAL STAMPS

SHEET 3
OF 3

PLANT LIST

PLANT SCHEDULE												
TREES	CODE	QTY	BOTANICAL NAME	COMMON NAME	SIZE	CALIPER	NATIVE	USDA ZONE	CONTAINER	REMARKS		
	CE	15	Conocarpus erectus	Buttonwood	14' HT x 6' SPR	3.5"	Y		45 Gallon	FLORIDA FANCY, SINGLE STRAIGHT TRUNK, FULL.		
	CS	15	Conocarpus erectus f. sericeus	Silver Buttonwood	12' HT. X 5' SPR.	1.75"	Y		25 GALLON	FLORIDA FANCY, STANDARD, FULL.		
	J1	8	Jatropha integririma 'Compacta'	Compact Spicy Jatropha	4'-6" Wood		N		25 GALLON	FLORIDA FANCY, MUTI-TRUNK, FULL.		
PALM TREES	CODE	QTY	BOTANICAL NAME	COMMON NAME	SIZE	CALIPER	NATIVE	USDA ZONE	CONTAINER	REMARKS		
	AA3	6	Archontophoenix alexandrae	Alexandra Palm	14' CT		N		FIELD GROWN	FLORIDA FANCY, TRIPLE, FULL.		
	AA	8	Archontophoenix alexandrae	Alexandra Palm	16' CT		N		FIELD GROWN	FLORIDA FANCY, SINGLE STRAIGHT TRUNK, FULL.		
	CG10	23	Cocos nucifera 'Green Malaysian'	Coconut Palm	10' GW.		N		FIELD GROWN	JAMAICAN CERTIFIED, CURVES, FULL.		
	CN6	8	Cocos nucifera 'Green Malaysian'	Coconut Palm	6' GW.		N		FIELD GROWN	JAMAICAN CERTIFIED, CURVES, FULL.		
	RR	10	Roystonea regia	Royal Palm	16' GW.		Y		FIELD GROWN	FLORIDA FANCY, SINGLE STRAIGHT TRUNK, FULL, MATCHING PALMS.		
	SP12	14	Sabal palmetto	Cabbage Palmetto	12' CT		Y		FIELD GROWN	FLORIDA FANCY, CIGAR CUT, SMOOTH TRUNKS, FULL.		
	SP16	25	Sabal palmetto	Cabbage Palmetto	16' CT		Y		FIELD GROWN	FLORIDA FANCY, CIGAR CUT, SMOOTH TRUNKS, FULL.		
SHRUB AREAS	CODE	QTY	BOTANICAL NAME	COMMON NAME	SIZE	NATIVE	USDA ZONE	CONTAINER		SPACING	REMARKS	
	ALP	68	Alpinia purpurata	Red Ginger	30" HT. X 30" SPR.	No		7 GALLON		30" o.c.	FLORIDA FANCY, FULL.	
	CAF	145	Canna flaccida	Yellow Canna	15" HT. X 15" SPR.	No		3 GALLON		24" o.c.	FULL.	
	CAM	128	Carissa macrocarpa 'Emerald Blanket'	Emerald Blanket Natal Plum	18" HT. X 24" SPR.	No		3 GALLON		24" o.c.	FULL.	
	CLG	18	Clusia guttifera	Small Leaf Clusia	72" HT. X 36" SPR.	No		15 GALLON		60" o.c.	FLORIDA FANCY, FULL.	
	CGN	318	Clusia guttifera nana	Dwarf Clusia	15" HT. X 15" SPR.	No		3 GALLON		24" o.c.	FULL.	
	COU	415	Coccoloba uvifera	Sea Grape	48" HT. X 36" SPR.	Yes		15 GALLON		36" o.c.	FLORIDA FANCY, FULL.	
	COE	92	Conocarpus erectus	Green Buttonwood	36" HT. X 36" SPR.	Yes		7 GALLON		36" o.c.	FLORIDA FANCY, FULL.	
	COS	48	Conocarpus erectus f. sericeus	Silver Buttonwood	18" HT. X 24" SPR.	Yes		3 GALLON		24" o.c.	FULL.	
	HAP	198	Hamelia patens	Firebush	48" HT. X 36" SPR.	Yes		7 GALLON		42" o.c.	FLORIDA FANCY, FULL.	
	HYL	121	Hymenocallis latifolia	Spider Lily	24" HT. X 24" SPR.	Yes		3 GALLON		30" o.c.	FULL.	
	ICN	70	Ixora coccinea 'Nora Grant'	Nora Grant Pink Ixora	24" HT. X 24" SPR.	No		3 GALLON		30" o.c.	FULL.	
	IXT	149	Ixora taiwanensis 'Red Dwarf'	Red Dwarf Ixora	18" HT. X 18" SPR.	No		3 GALLON		24" o.c.	FULL.	
	MUP	98	Muhlenbergia x 'Pink Muhly'	Pink Flamingo Muhly	24" HT. X 24" SPR.	Yes		3 GALLON		30" o.c.	FULL.	
	PHX	126	Philodendron xanadu	Xanadu Philodendron	24" HT. X 24" SPR.	No		3 GALLON		24" o.c.	FULL.	
	POM	49	Podocarpus macrophyllus 'Maki'	Maki Yew Podocarpus	60" HT. X 30" SPR.	No		15 GALLON		36" o.c.	FLORIDA FANCY, FULL.	
	SPB	417	Spartina bakeri	Sand Cordgrass	18" HT. X 18" SPR.	Yes		3 GALLON		24" o.c.	FULL.	
	UNP	106	Uniola paniculata	Sea Oats	18" HT. X 18" SPR.			3 GALLON		24" o.c.	FULL.	
GROUND COVERS	CODE	QTY	BOTANICAL NAME	COMMON NAME	SIZE	SPACING	NATIVE	GROW ZONE	CONTAINER	SPACING	REMARKS	
	IM	373	Impatiens walleriana 'Accent Lavender Blue'	Accent Lavender Blue Impatiens	1 GALLON		18" O.C.	N		1 GALLON	18" o.c.	SEASONAL COLOR, WINTER - IMPATIENS OR SIMILAR, SUMMER - GERANIUMS OR SIMILAR
	STS	8,891 sf	Stenotaphrum secundatum 'Floratum'	Floratum St. Augustine Grass	ROLL		Y					WEED FREE, TIGHT JOINTS, ALTERNATE JOINTS.
	TRM	89	Trachelospermum asiaticum 'Minima'	Minima Asiatic Jasmine	6" HT. X 6" SPR.	18" O.C.	N		1 GALLON	18" o.c.	FULL.	
2,400 CY		BROWN COCO MULCH		ORGANIC MULCH, 3" THICK								



**SUNSTREAM
HOTEL &
RESORTS**

6640 ESTERO BLVD.
FORT MYERS BEACH, FL.
33931


OUTSIDE PRODUCTIONS
INTERNATIONAL
THE ART & SCIENCE OF OUTDOOR LIVING

5644 TAVILLA CIRCLE SUITE 207
NAPLES, FLORIDA 34110
239-380-1334
www.opidesign.net

**REVIEW SET -
NOT FOR
CONSTRUCTION**

W. PATRICK TREFZ, ASLA
LANDSCAPE ARCHITECT #1481

This plan and design are the property of Outside Productions, Inc. Plans shall not be copied or reproduced with out permission of Outside Productions, Inc.

CONSULTANTS:

ARCHITECT
COMPANY NAME
ADDRESS
CITY, STATE ZIP

ENGINEER
ROBAID & ASSOCIATES
2770 Horseshoe Drive S, Suite 7
Naples, Florida, Florida 34104

SURVEYOR
COMPANY NAME
ADDRESS
CITY, STATE ZIP

[illegible]

DATE: 09-28-23	DESIGNED BY: OPI
DATE: 09-28-23	DRAWN BY: OPI



NORTH

JOB NUMBER: 024-23
SHEET TITLE: LANDSCAPE SCHEDULE
SHEET NUMBER: LP102

NOTICE: ALL DRAWING DISCREPANCIES MUST BE BROUGHT TO THE ATTENTION OF THE LANDSCAPE ARCHITECT, AND LA APPROVED SHOP DRAWINGS MUST BE OBTAINED PRIOR TO ORDERING MATERIALS OR BEGINNING CONSTRUCTION.



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: 6642 Estero Blvd
STRAP Number: 34-46-24-W4-02500.00CE
Applicant: Pointe Estero Condominium Association, Inc Phone: _____
Contact Name: Curt Brenner Phone: 239-765-4111
Email: curt.brenner@sunstream.com Fax: _____
Current Zoning District: RM
Future Land Use Map (FLUM) Category: Mixed Residential
FLUM Density Range: 6du/acre Platted Overlay: ☐ YES ☒ NO

ACTION REQUESTED

- ☐ Special Exception
☒ Variance
☐ Conventional Rezoning
☐ Planned Development ☐ Commercial ☐ Residential
☐ Master Concept Plan Extension
☐ Appeal of Administrative Action
☐ Vacation of Platted Right-of-way and Easement
☐ Other – cite LDC Section: _____

SUPPLEMENTAL FORM REQUIRED

PH-A
PH-B
PH-C
PH-D
PH-E
PH-F
PH-G
attach on separate sheet

PART I – General Information

A. Applicant*: Curt Brenner Phone: 239-765-4111
**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: 6640 Estero Blvd
Email: curt.brenner@sunstream.com Fax: _____
Contact Name: Curt Brenner Phone: 239-765-4111



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

B. Relationship of Applicant to subject property:

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

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

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

Name: Curt Brenner Phone: 239-765-4111
Address: 6620 Estero Blvd
Email: curt.brenner@sunstream.com Fax: _____

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

Name: Kara Stewart Phone: 239-770-4198
Address: 6640 Estero Blvd
Email: stewart.karalyn@gmail.com Fax: _____

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

PART II – Nature of Request

Requested Action (each request requires a separate application)

- ☐ Special Exception
- ☒ Variance from LDC Section 34 - 1174 (b)
- ☐ Conventional Rezoning from _____ to _____
- ☐ Planned Development
- ☐ Rezoning from _____ to ☐ Commercial PD ☐ Residential PD
- ☐ Amendment. List the project number: _____
- ☐ Extension/reinstatement of Master Concept Plan. List project number: _____



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

☐ Appeal of Administrative Action

☐ Vacation

☐ Right-of-Way

☐ Easement

☐ Other. Please Explain: _____

PART III - Waivers

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

Code Section: _____ Description: _____

Code Section: _____ Description: _____

Code Section: _____ Description: _____

PART IV - Property Ownership (Single Owner)

☐ Single Owner (individual or husband and wife)

Name: _____ Phone: _____

Mailing Address: _____

Email: _____ Fax: _____

AFFIDAVIT

APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

I, Donald Fluegel 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.

Donald J. Fluegel Signature Donald Fluegel Printed Name
President
Pt. Estero Condominium Ass'n.

STATE OF Minnesota COUNTY OF Dakota

The foregoing instrument was certified and subscribed before me by means of his physical presence OR TH online notarization, this 12 day of October, 20 23, by Donald, ☒ who is personally known to me OR ☐ who has produced Donald

J. Fluegel as identification.

(SEAL)

Stephanie K. Rogness
Notary Public Signature

PART V

Property Ownership (Multiple Owners)



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

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

DISCLOSURE OF OWNERSHIP INTEREST

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

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

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

Name, Address and Office

Percentage of Stock

_____	_____
_____	_____
_____	_____
_____	_____

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

Name and Address

Percentage of Interest

_____	_____
_____	_____
_____	_____
_____	_____

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

Name and Address

Percentage of Ownership

_____	_____
_____	_____
_____	_____
_____	_____

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

Name, Address and Office

Percentage of Stock

_____	_____
_____	_____
_____	_____
_____	_____



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

Date of Contract: _____

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

Name	Address
_____	_____
_____	_____
_____	_____
_____	_____

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

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

_____	_____
Signature	Printed Name

AFFIDAVIT

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

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

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



**COMMUNITY DEVELOPMENT DEPARTMENT
APPLICATION for PUBLIC HEARING**

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

Signature

Title

Typed or Printed Name

Date

STATE OF _____ COUNTY OF _____

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

Seal

Notary Public Signature

PART VI- Property Information

A. Legal Description:

STRAP: 34-46-24-W4-02500.00CE

Property Address: 6642 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: _____

Book: ^{1775/1854} _____ Page: ^{4765/0395} _____ Unit: _____ Block: _____ Lot(s): _____

B. Boundary Survey:

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

C. Property Dimensions:

Width (please provide an average width if irregular in shape) 195 feet
Depth (please provide an average width if irregular in shape) 532 feet
Frontage on street: 363 feet. Frontage on waterbody: 30 feet
Total land area: 98595 ☐ acres ☒ square feet

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

Head south on Estero Blvd, property located on right side

☐ Attach Area Location Map as Exhibit 6-3

E. Property Restrictions (check applicable):

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

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

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

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

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

EXPLANATORY NOTES

Please do not print, copy and submit these instructions

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

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

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

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

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

Explanatory Notes – Part I

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

Explanatory Notes – Part II

Indicate the requested action.

Explanatory Notes – Part III

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

Explanatory Notes – Part IV

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

Explanatory Notes – Part V

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

Explanatory Notes – Part VI

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

- line. Exhibit 6-2
- C. Provide the property dimensions or the approximate dimensions if the property is not a regular quadrilateral.
 - D. Describe how to get to the property starting from either the Sky Bridge or the Big Carlos Pass Bridge (specify which). Exhibit 6-3
 - E. If there are any deed restrictions or covenants that might affect the requested action, provide the information. Exhibit 6-4
 - F. A narrative statement detailing how the restrictions/covenants may or may not affect the request is attached as Exhibit 6-5
 - G. Attach a list of the surrounding property owners within 500 feet of the perimeter of the area of the request. Also include two sets of mailing labels providing the names and addresses of the owners on this list, and a map showing the parcel boundaries within the 500-foot radius Exhibit 6-6. This information can be acquired for a small fee by requesting a "variance report" from the Map Sales Office at the Lee County Property Appraiser's Office. Contact information for the Property Appraiser can be found at <http://www.leepa.org>.
 - H. Indicate the Future Land Use Map category or categories of the property as shown on the Fort Myers Beach Comprehensive Plan's Future Land Use Map, and whether the property is located in the "platted overlay" on the map.
 - I. Indicate the current zoning of the property. In most cases the current zoning is shown on the official zoning map of the Town of Fort Myers Beach, as adopted by ordinance. If zoning actions affecting the subject property have been taken since March 2004, call Town Hall to verify the current zoning.

Explanatory Notes – Part IV & V

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



Case # _____

Date Received: _____

Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Supplement PH-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: Pointe Estero Generator
Authorized Applicant: Curt Brenner
LeePA STRAP Number: 34-46-24-W4-02500.00CE

Current Property Status: Unoccupied	
Current Zoning: RM	
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

Complete the narrative statements below for EACH variance requested.

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:
Setbacks from streets, no accessory, use, building or structure shall be located closer to a street right of way line or street easement than the principle structure.
Applicant is proposing an elevated emergency generator be located forward of the principle structure but setback from front property line approx 59' and from the side yard approx 24'.

Reasons for request

Explain why the variance is needed:
The land development code does not allow accessory structures be located forward of the principle structure. The property owners are looking to re locate and elevate the emergency generator structure approx 59' from ROW.
The existing condominium is pre-firm and since Hurricane Ian the owners are trying to elevate all their essential service equipment above flood and as far from the Gulf of Mexico as possible. The generator, electric room, domestic pump and fire alarm were previously located below the building. All have been elevated/relocated within the building except the generator.
The generator is used to maintain service to the essential services of the building during a power outage; fire pump, elevator, fire alarm, etc. The desire to relocate to a location with the least impact on the residents and neighbors has been taken into consideration.

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

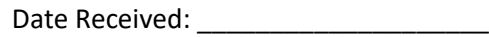
Positioning the generator at it's proposed location should not have any effect on surrounding properties as it is approx 59' from Estero Blvd and 24' to the side yard.

The code requires a 20' setback for this zoning district. Placing the generator in the proposed location places the generator adjacent to a parking lot and not habitable space.

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

When the property was developed the building was located towards the Gulf leaving the majority of land between the building and street right away for amenities and parking.

Locating the elevated generator either on the side of the building or behind it would greatly impact surrounding properties and the owners within the Condo. The owners are looking to relocate the generator in a manner it does not have any impact on neighbors while providing for a more stable environment (further away from the Gulf waters and elevated). The property pie shape, and the configuration of existing structures and amenities, along with the location of 1991 and 1978 CCCL line on the property makes this location most suitable. The principle structure is approx 250' from the ROW, allowing us the space between the ROW and principle structure which to install this elevated generator.



Please see addendum 34-87

PART 2

Submittal Requirements

All applications for a variance must be submitted electronically through our Iworq portal - [iworq \(talktomycity.com\)](http://iworq.talktomycity.com)

Required Items

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

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

Cover page

Case Number will be inserted by Community Development staff.

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

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

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

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

"Variance is requested from..." Provide the section number and title of each section of the Fort Myers Beach Land Development Code from which a variance is being sought.

Narrative statements

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

Site plan

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

LDC Section 34-87

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

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

September 6, 2023

Sent via email only to: Brian Schomacker, General Manager, brians@sunstream.com;
Curt Brenner, Operations Director, curt.brenner@sunstream.com; and Monica Flowers, Executive Director,
monicaf@sunstream.com

Pointe Estero Condominium Association, Inc.
Board of Directors
C/o SunStream Hotels and Resorts
6640 Estero Blvd.
Fort Myers Beach, FL 33931

Re: Pointe Estero Condominium Association, Inc.
Application for Public Hearing | LDC Section 34-201(a)(1)b.3 | Exhibit 5-4
Our File No.: 62218.001

To whom it may concern:

This office represents Pointe Estero Condominium Association, Inc. ("Pointe Estero") in the above referenced matter concerning Pointe Estero's Application for Public Hearing. Please allow this correspondence to serve as a letter of opinion pursuant to Section 34-201(a)(1)b.3 of the Lee County Land Development Code ("LDC") and as Exhibit 5-4 to Pointe Estero's Application for Public Hearing.

As part of the Application for Public Hearing, LDC Section 34-201(a)(1)b.3 requires a letter of opinion from a licensed Florida attorney and states in full as follows:

So as to protect the legal rights of nonparticipating unit owners, the application must be accompanied by a letter of opinion from a licensed Florida attorney, who must attest that he has examined the declaration of condominium, the bylaws of the condominium association, and all other relevant legal documents or timeshare documents, as applicable, and concluded that the act of applying or petitioning to the County violates none of the provisions therein, or any federal or state law regulating condominiums or timeshare plans, 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 County would violate no such rights.

I am aware of no applicable federal law regulating condominiums which affects Pointe Estero's Application for Public Hearing. With respect to applicable state law regulating condominiums, Section 718.113(2)(a), Florida Statutes, found in the Condominium Act, provides in relevant part as follows (emphasis added):

Except as otherwise provided in this section, there shall be no material alteration or substantial additions to the common elements or to real property which is association property, except in a manner provided in the declaration as originally recorded or as amended under the procedures provided therein.

The Amended and Restated Declaration of Condominium of Pointe Estero Condominium ("Declaration"), recorded in Official Records Book 4590, Pages 0211, *et seq.*, in the Official Records of Lee County, Florida, regulates material alterations and substantial additions to the common elements by both the unit owners and the association. More specifically, Section 9.6 of the Declaration governs alterations and additions by the association and provides that any

work which is reasonably necessary to protect the common elements and which also constitutes a material alteration need not be submitted to the unit owners for approval. Section 9.6 of the Declaration provides in full as follows (emphasis added):

The protection, maintenance, repair, insurance and replacement of the common elements and association property is the responsibility of the Association and the cost is a common expense. Beyond this function, the Association shall make no material alteration of, nor substantial additions to, the common elements or real property owned by the Association costing more than \$20,000 in the aggregate in any calendar year without prior approval of at least a majority of the voting interests. Alterations or additions costing less than this amount may be made with Board approval. If work reasonably necessary to protect, maintain, repair, replace or insure the common elements or association property also constitutes a material alteration or substantial addition to the common elements, no prior unit owner approval is required.

Assuming the proposed alteration is a “material alteration” of the common elements, Pointe Estero’s Application for Public Hearing concerns an alteration that would cost more than \$20,000, typically requiring membership approval. However, the proposal contained in the Application serves to protect and maintain a common element generator that is being replaced after Hurricane Ian and elevated to protect from future floods. The Declaration does not require prior unit owner approval to alter the common elements when such an alteration is *reasonably necessary* for the protection of the same. That said, in the process of procuring consent of the membership to the Application, the Association has also sought the approval of the membership to the material alteration pursuant to Section 9.6 of the Declaration, thus complying with any conceivable conditions precedent.

Having examined the governing documents of Pointe Estero and the Condominium Act, as well as the content of the authorization forms distributed to the unit owners, please allow this letter to serve as my attestation that the act of applying or petitioning to the County violates none of the provisions therein, nor the rights of any nonparticipating unit owners. As derived from such documents and applicable laws, the approval of the requested act by the County would violate no such rights.

Very truly yours,

Vanessa Fernandez

Vanessa Fernandez, Esq.

VF/slo

This instrument prepared by:
Christopher J. Shields, Esq.
PAVESE LAW FIRM
1833 Hendry Street
Fort Myers, Florida 33901
(239) 334-2195

CERTIFICATE OF AMENDMENT TO THE
AMENDED AND RESTATED DECLARATION OF CONDOMINIUM OF
POINTE ESTERO CONDOMINIUM

The Undersigned, being duly elected and acting President and Secretary of **POINTE ESTERO CONDOMINIUM ASSOCIATION, INC.**, a Florida corporation not-for-profit, do hereby certify that the amendment set forth below was approved, as evidenced by a written statement or ballot manifesting the intention that such amendment be adopted. The amendment was approved and adopted by the votes indicated for the purposes of amending the Amended and Restated Declaration of Condominium of Pointe Estero Condominium recorded in Official Records Book 4590, Page 211, *et seq.*, in the Public Records of Lee County, Florida, as may have been subsequently amended. The original Declaration of Condominium of Pointe Estero Condominium was recorded in Official Records Book 1775, Page 4765, *et seq.*, in the Public Records of Lee County, Florida.

The following amendment was approved by the affirmative vote of not less than two-thirds (2/3rds) of the voting interests present, in person or by proxy, voting at a duly noticed Membership Meeting of the Association:

Resolved: That the Amended and Restated Declaration of Condominium of Pointe Estero Condominium be, and hereby is, amended, and that the amendments to the aforementioned document are adopted in the form attached hereto as Exhibit "A" and made a part hereof; and

Further Resolved: That the Officers and Directors are hereby instructed and authorized to cause the aforementioned document to be filed in the public record, together with a Certificate of Amendment.

Dated this ^{7th} 30 day of April, 2021

WITNESSES (2):

POINTE ESTERO CONDOMINIUM ASSOCIATION, INC.

Sign: William P. Kelly
Print: WILLIAM P. KELLY

Sign: Stephanie K. Rogness
Print: STEPHANIE K. ROGNESS

Sign: Donald J. Fluegel
Print: Donald J. Fluegel
Title: President

WITNESSES (2):

Sign: Will P. Kelly
 Print: William P. Kelly

Sign: Stephanie K. Rogness
 Print: STEPHANIE K. ROGNESS

ATTEST:

Sign: Gene Riches
 Print: Gene Riches
 Title: Secretary

STATE OF ~~FLORIDA~~ MINNESOTA
 COUNTY OF ~~LEE~~ DAKOTA

The foregoing instrument was acknowledged before me by means of (check one) ☒ physical presence or ☐ online notarization this 30th day of April, 2021, by Donald J. Fluegel, as President of POINTE ESTERO CONDOMINIUM ASSOCIATION, INC., a Florida corporation, on behalf of the corporation, who (check one) ☒ is personally known to me, or ☐ produced the following identification:

(Notary Seal/Stamp)



Notary Public - State of Florida

Sign: Ruth E. Lehmann
 Print: Ruth E. Lehmann
 My Commission Expires: 1/31/2025

STATE OF ~~FLORIDA~~ MINNESOTA
 COUNTY OF ~~LEE~~ DAKOTA

The foregoing instrument was acknowledged before me by means of (check one) ☒ physical presence or ☐ online notarization this 30th day of April, 2021, by Gene Riches, as Secretary of POINTE ESTERO CONDOMINIUM ASSOCIATION, INC., a Florida corporation, on behalf of the corporation, who (check one) ☒ is personally known to me, or ☐ produced the following identification:

(Notary Seal/Stamp)



Notary Public - State of Florida

Sign: Ruth E. Lehmann
 Print: Ruth E. Lehmann
 My Commission Expires: 1/31/2025

Exhibit "A"

AMENDMENT TO THE
AMENDED AND RESTATED DECLARATION OF CONDOMINIUM OF
POINTE ESTERO CONDOMINIUM

The Amended and Restated Declaration of Condominium of Pointe Estero Condominium recorded in Official Records Book 4590, Page 211, *et seq.*, in the Public Records of Lee County, Florida, and as may have been subsequently amended, shall be amended as follows (otherwise, all provisions shall remain the same):

Note: Language to be added is underlined and language to be deleted is ~~struck through~~.

* * * * *

ARTICLE 6 – LIMITED COMMON ELEMENTS

Article 6, Section 6.1, subsection (B) shall be amended as follows; all other Sections and subsections shall remain unchanged.

6.1 **Description of Limited Common Elements.** Certain common elements have been or may be designated as limited common elements, reserved for the use of a particular unit or units, to the exclusion of the other units. The limited common elements and the units to which their use has been assigned are as described in this Declaration and as further identified on the original survey and plot plan.

(A) **Parking Spaces.** There may be designated on the attached survey and plot plan certain parking spaces as limited common elements. Parking spaces may have been initially assigned to the exclusive use of specific units by the Developer. Each unit shall always have the exclusive use of one assigned space, if parking spaces were assigned. The cost of maintenance of all parking spaces shall be a common expense. The Developer reserved the right to provide covered parking spaces for purchasers who are willing to pay for covered spaces. The expense of maintaining and repairing covered parking spaces is a common expense.

(B) **Air Conditioning and Heating Equipment.** All equipment, fixtures and installations located outside of a unit which furnish air conditioning or heating exclusively to that unit shall be limited common elements, and shall be maintained, repaired and replaced ~~solely at the expense of the owner of the unit~~ by the Association as a common expense in the sole discretion of the Board of Directors.

(C) **Porches and Balconies.** Any porch or balcony attached to and serving exclusively each unit shall be a limited common element. The unit owner shall be responsible for day-to-day cleaning and care, but all painting and maintenance shall be the responsibility of the Association and shall be a common expense. No porch or balcony may be carpeted, covered or enclosed in any way without the approval of the Association. The maintenance, repair or replacement and insurance on such approved carpeting shall be the responsibility of the unit owner.

(D) **Storage Lockers.** The storage areas shown on the survey and plot plan are limited common elements. The storage areas shall be divided into "locker spaces". Each locker was assigned for the exclusive use of a certain unit. Every unit will have access to a storage locker. The cost of maintenance of all storage lockers shall be assessed as a common expense to all units. The initial

assignment of storage lockers was the exclusive right of the developer, subject to re-assignment by the Board of Directors.

(E) Others. Any portion of the common elements connected to or exclusively serving a single unit, which is specifically required in this Declaration to be maintained, repaired or replaced by or at the expense of the unit owner, shall be deemed a limited common element appurtenant to that unit, whether specifically described above or not. This paragraph includes but is not limited to windows, screens and doors, including all hardware and framing therefor.

ARTICLE 9 – MAINTENANCE; LIMITATIONS UPON ALTERATIONS AND IMPROVEMENTS

Article 9, Sections 9.1, subsection (I) and 9.2, subsection (G) shall be amended as follows; all other Sections and subsections shall remain unchanged.

9. MAINTENANCE; LIMITATIONS UPON ALTERATIONS AND IMPROVEMENTS. Responsibility for the protection, maintenance, repair and replacement of the condominium property, and restrictions on its alteration and improvement shall be as follows:

9.1 Association Maintenance. The Association is responsible for the protection, maintenance, repair and replacement of all common elements and association property (other than the limited common elements that are required elsewhere herein to be maintained by the unit owner). The cost is a common expense. The Association's responsibilities include, without limitation:

- (A) Electrical wiring up to the circuit breaker panel in each unit.
- (B) Water lines, up to the individual unit cut-off valve. Notwithstanding however, if and when the water serving a unit is separately metered, then the Association's responsibility shall end at the meter.
- (C) Cable television lines up to the exterior wall outlet.
- (D) Sewer lines, up to the point where they enter the individual unit.
- (E) All exterior building walls, including painting, waterproofing, and caulking.
- (F) The exterior surfaces of the main entrance door to each unit.
- (G) Dryer and bath fan vents up to the point where they enter the unit.
- (H) Notwithstanding any language to the contrary set forth in this section 9.1 or 9.2, the Association, by and through its Board, is authorized and empowered to replace all windows, window glass, sliding glass doors and any related hardware and fixtures if the Board in its sole discretion determines that the replacement of these components is necessary, prudent, or require by law or ordinance. Any expenses related to this function shall be considered a common expense.
- (I) All equipment, fixtures and installations which furnish air conditioning or heating to the common elements or common areas, and any air conditioning and heating equipment located

outside of a unit, including the air conditioning compressors, coolant lines, thermostats, ducts, condensation drain lines and related installations.

The Association's responsibility does not include interior wall switches or receptacles, plumbing fixtures, or other electrical, plumbing or mechanical installations located within a unit and serving only that unit. All incidental damage caused to a unit or limited common elements by work performed or ordered to be performed by the Association shall be promptly repaired by and at the expense of the Association, which shall restore the property as nearly as practical to its condition before the damage, and the cost shall be a common expense unless the need for the work was caused by the unit owner. Regardless of the foregoing, the Association shall not be responsible for incidental damage to any alteration or addition to the common elements made by a unit owner or his predecessor in title.

9.2 Unit Owner Maintenance. Each unit owner is responsible, at his own expense, for all maintenance, repairs, and replacements of his own unit and of certain limited common elements. The owner's responsibilities include, without limitation:

- (A) All screens, windows, window glass, and related hardware and frames.
- (B) The interior surface of the entrance door to the unit and its interior surface.
- (C) All other doors within or affording access to the unit.
- (D) The electrical, mechanical and plumbing fixtures, switches, valves, drains and outlets (including connections) located partially or entirely within the unit and serving only the unit.
- (E) The circuit breaker panel and all electrical wiring going into the unit from the panel.
- (F) Appliances, built-in cabinets, water heaters, smoke alarms and vent fans.
- (G) All air conditioning and heating equipment located inside of the unit, including the air conditioning compressors, coolant lines, thermostats, ducts, condensation drain lines and related installations located within the unit and serving the unit exclusively.
- (H) Carpeting and other floor coverings.
- (I) Door and window hardware and locks.
- (J) Shower pans.
- (K) The main water supply shut-off valve for the unit.
- (L) Other facilities or fixtures which are located or contained entirely or partially within the unit and serve only the unit.
- (M) All interior partition walls which do not form part of the boundary of the unit.

F:\WPDATA\CJS\FORMS\CONDO\Amendment\Pointe Estero Proposed Amendment 10.23.20 (AC Maintenance).doc

This instrument prepared by:
Christopher J. Shields, Esq.
PAVESE LAW FIRM
1833 Hendry Street
Fort Myers, Florida 33901
(239) 334-2195

CERTIFICATE OF AMENDMENT TO THE
AMENDED AND RESTATED DECLARATION OF CONDOMINIUM OF
POINTE ESTERO CONDOMINIUM

The Undersigned, being duly elected and acting President and Secretary of **POINTE ESTERO CONDOMINIUM ASSOCIATION, INC.**, a Florida corporation not-for-profit, do hereby certify that the amendment set forth below was approved, as evidenced by a written statement or ballot manifesting the intention that such amendment be adopted. The amendment was approved and adopted by the votes indicated for the purposes of amending the Amended and Restated Declaration of Condominium of Pointe Estero Condominium recorded in Official Records Book 4590, Page 211, *et seq.*, in the Public Records of Lee County, Florida, as may have been subsequently amended. The original Declaration of Condominium of Pointe Estero Condominium was recorded in Official Records Book 1775, Page 4765, *et seq.*, in the Public Records of Lee County, Florida.

The following amendment was approved by the affirmative vote of not less than two-thirds (2/3rds) of the voting interests present, in person or by proxy, voting at a duly noticed Membership Meeting of the Association:

Resolved: That the Amended and Restated Declaration of Condominium of Pointe Estero Condominium be, and hereby is, amended, and that the amendments to the aforementioned document are adopted in the form attached hereto as Exhibit "A" and made a part hereof; and

Further Resolved: That the Officers and Directors are hereby instructed and authorized to cause the aforementioned document to be filed in the public record, together with a Certificate of Amendment.

Dated this ^{7th} 30 day of April, 2021

WITNESSES (2):

POINTE ESTERO CONDOMINIUM ASSOCIATION, INC.

Sign: William P. Kelly
Print: WILLIAM P. KELLY

Sign: Stephanie K. Rogness
Print: STEPHANIE K. ROGNESS

Sign: Donald J. Fluegel
Print: Donald J. Fluegel
Title: President

WITNESSES (2):

Sign: Will P. Kelly
 Print: William P. Kelly

Sign: Stephanie K. Rogness
 Print: STEPHANIE K. ROGNESS

ATTEST:

Sign: Gene Riches
 Print: Gene Riches
 Title: Secretary

STATE OF ~~FLORIDA~~ MINNESOTA
 COUNTY OF ~~LEE~~ DAKOTA

The foregoing instrument was acknowledged before me by means of (check one) ☒ physical presence or ☐ online notarization this 30th day of April, 2021, by Donald J. Fluegel, as President of POINTE ESTERO CONDOMINIUM ASSOCIATION, INC., a Florida corporation, on behalf of the corporation, who (check one) ☒ is personally known to me, or ☐ produced the following identification:

(Notary Seal/Stamp)



Notary Public - State of Florida

Sign: Ruth E. Lehmann
 Print: Ruth E. Lehmann
 My Commission Expires: 1/31/2025

STATE OF ~~FLORIDA~~ MINNESOTA
 COUNTY OF ~~LEE~~ DAKOTA

The foregoing instrument was acknowledged before me by means of (check one) ☒ physical presence or ☐ online notarization this 30th day of April, 2021, by Gene Riches, as Secretary of POINTE ESTERO CONDOMINIUM ASSOCIATION, INC., a Florida corporation, on behalf of the corporation, who (check one) ☒ is personally known to me, or ☐ produced the following identification:

(Notary Seal/Stamp)



Notary Public - State of Florida

Sign: Ruth E. Lehmann
 Print: Ruth E. Lehmann
 My Commission Expires: 1/31/2025

Exhibit "A"

**AMENDMENT TO THE
AMENDED AND RESTATED DECLARATION OF CONDOMINIUM OF
POINTE ESTERO CONDOMINIUM**

The Amended and Restated Declaration of Condominium of Pointe Estero Condominium recorded in Official Records Book 4590, Page 211, *et seq.*, in the Public Records of Lee County, Florida, and as may have been subsequently amended, shall be amended as follows (otherwise, all provisions shall remain the same):

Note: Language to be added is underlined and language to be deleted is ~~struck through~~.

* * * * *

ARTICLE 6 – LIMITED COMMON ELEMENTS

Article 6, Section 6.1, subsection (B) shall be amended as follows; all other Sections and subsections shall remain unchanged.

6.1 **Description of Limited Common Elements.** Certain common elements have been or may be designated as limited common elements, reserved for the use of a particular unit or units, to the exclusion of the other units. The limited common elements and the units to which their use has been assigned are as described in this Declaration and as further identified on the original survey and plot plan.

(A) **Parking Spaces.** There may be designated on the attached survey and plot plan certain parking spaces as limited common elements. Parking spaces may have been initially assigned to the exclusive use of specific units by the Developer. Each unit shall always have the exclusive use of one assigned space, if parking spaces were assigned. The cost of maintenance of all parking spaces shall be a common expense. The Developer reserved the right to provide covered parking spaces for purchasers who are willing to pay for covered spaces. The expense of maintaining and repairing covered parking spaces is a common expense.

(B) **Air Conditioning and Heating Equipment.** All equipment, fixtures and installations located outside of a unit which furnish air conditioning or heating exclusively to that unit shall be limited common elements, and shall be maintained, repaired and replaced ~~solely at the expense of the owner of the unit~~ by the Association as a common expense in the sole discretion of the Board of Directors.

(C) **Porches and Balconies.** Any porch or balcony attached to and serving exclusively each unit shall be a limited common element. The unit owner shall be responsible for day-to-day cleaning and care, but all painting and maintenance shall be the responsibility of the Association and shall be a common expense. No porch or balcony may be carpeted, covered or enclosed in any way without the approval of the Association. The maintenance, repair or replacement and insurance on such approved carpeting shall be the responsibility of the unit owner.

(D) **Storage Lockers.** The storage areas shown on the survey and plot plan are limited common elements. The storage areas shall be divided into "locker spaces". Each locker was assigned for the exclusive use of a certain unit. Every unit will have access to a storage locker. The cost of maintenance of all storage lockers shall be assessed as a common expense to all units. The initial

assignment of storage lockers was the exclusive right of the developer, subject to re-assignment by the Board of Directors.

(E) **Others.** Any portion of the common elements connected to or exclusively serving a single unit, which is specifically required in this Declaration to be maintained, repaired or replaced by or at the expense of the unit owner, shall be deemed a limited common element appurtenant to that unit, whether specifically described above or not. This paragraph includes but is not limited to windows, screens and doors, including all hardware and framing therefor.

ARTICLE 9 – MAINTENANCE; LIMITATIONS UPON ALTERATIONS AND IMPROVEMENTS

Article 9, Sections 9.1, subsection (I) and 9.2, subsection (G) shall be amended as follows; all other Sections and subsections shall remain unchanged.

9. MAINTENANCE; LIMITATIONS UPON ALTERATIONS AND IMPROVEMENTS. Responsibility for the protection, maintenance, repair and replacement of the condominium property, and restrictions on its alteration and improvement shall be as follows:

9.1 **Association Maintenance.** The Association is responsible for the protection, maintenance, repair and replacement of all common elements and association property (other than the limited common elements that are required elsewhere herein to be maintained by the unit owner). The cost is a common expense. The Association's responsibilities include, without limitation:

- (A) Electrical wiring up to the circuit breaker panel in each unit.
- (B) Water lines, up to the individual unit cut-off valve. Notwithstanding however, if and when the water serving a unit is separately metered, then the Association's responsibility shall end at the meter.
- (C) Cable television lines up to the exterior wall outlet.
- (D) Sewer lines, up to the point where they enter the individual unit.
- (E) All exterior building walls, including painting, waterproofing, and caulking.
- (F) The exterior surfaces of the main entrance door to each unit.
- (G) Dryer and bath fan vents up to the point where they enter the unit.
- (H) Notwithstanding any language to the contrary set forth in this section 9.1 or 9.2, the Association, by and through its Board, is authorized and empowered to replace all windows, window glass, sliding glass doors and any related hardware and fixtures if the Board in its sole discretion determines that the replacement of these components is necessary, prudent, or require by law or ordinance. Any expenses related to this function shall be considered a common expense.
- (I) All equipment, fixtures and installations which furnish air conditioning or heating to the common elements or common areas, and any air conditioning and heating equipment located

outside of a unit, including the air conditioning compressors, coolant lines, thermostats, ducts, condensation drain lines and related installations.

The Association's responsibility does not include interior wall switches or receptacles, plumbing fixtures, or other electrical, plumbing or mechanical installations located within a unit and serving only that unit. All incidental damage caused to a unit or limited common elements by work performed or ordered to be performed by the Association shall be promptly repaired by and at the expense of the Association, which shall restore the property as nearly as practical to its condition before the damage, and the cost shall be a common expense unless the need for the work was caused by the unit owner. Regardless of the foregoing, the Association shall not be responsible for incidental damage to any alteration or addition to the common elements made by a unit owner or his predecessor in title.

9.2 Unit Owner Maintenance. Each unit owner is responsible, at his own expense, for all maintenance, repairs, and replacements of his own unit and of certain limited common elements. The owner's responsibilities include, without limitation:

- (A) All screens, windows, window glass, and related hardware and frames.
- (B) The interior surface of the entrance door to the unit and its interior surface.
- (C) All other doors within or affording access to the unit.
- (D) The electrical, mechanical and plumbing fixtures, switches, valves, drains and outlets (including connections) located partially or entirely within the unit and serving only the unit.
- (E) The circuit breaker panel and all electrical wiring going into the unit from the panel.
- (F) Appliances, built-in cabinets, water heaters, smoke alarms and vent fans.
- (G) All air conditioning and heating equipment located inside of the unit, including the air conditioning compressors, coolant lines, thermostats, ducts, condensation drain lines and related installations located within the unit and serving the unit exclusively.
- (H) Carpeting and other floor coverings.
- (I) Door and window hardware and locks.
- (J) Shower pans.
- (K) The main water supply shut-off valve for the unit.
- (L) Other facilities or fixtures which are located or contained entirely or partially within the unit and serve only the unit.
- (M) All interior partition walls which do not form part of the boundary of the unit.

F:\WPDATA\CJS\FORMS\CONDO\Amendment\Pointe Estero Proposed Amendment 10.23.20 (AC Maintenance).doc

ADDENDUM LDC 34-87

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

1. *That there are exceptional or extraordinary conditions or circumstances that are inherent to the property in question*

The current configuration of the existing building's location and recreation area makes it difficult to place the elevated generator stand elsewhere on the property. The location chosen will place the structure landward of the 1991 CCCL. The rear of the property is impacted by the 1978 CCCL, hence making it less desirable to locate it in this area. The area behind the principle structure is seaward of the 1991 CCCL with a VE14 elevation which would require DEP approval and further elevation (typically 3+ feet from BFE) placing it approximately 17' DFE, while placing the generator in our preferred location places it in a VE12 elevation and landward of the 1991 CCCL. Placing the generator at an approximate 17' height would place directly within the view of the residences, further hampering the view of the Gulf of Mexico. Additionally, the property is pie shaped and narrows in the rear behind the existing building, thus not allowing for further separation from the existing building and residences. Maintaining side yard setbacks of 20' and locating the generator parallel to the principle structure with the irregular pie shaped lot would place the generator adjacent to the neighboring properties dwelling units and or outdoor area, as well as within the recreational area of this property. The existing building is pre-firm and the previous generator was located beneath the building below flood. As a part of the renovation from Hurricane Ian, every effort is being made to elevate all essential equipment above flood. In an effort to relocate the generator to enable it to continue to function as needed (for life safety) during a power outage, it is being relocated to comply with flood requirements and as far from the Gulf of Mexico as possible.

2. *That the conditions justifying the variance are not the result of actions of the applicant taken after the adoption of the regulation in question;*

The applicant was not involved with the original layout of the property and the placement of the building in the rear of the property. The applicant further has no ability to adjust the FEMA/ DEP elevation requirements and or feels it is a good decision to place an emergency generator directly behind the 1978 CCCL.

3. *That the variance granted is the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the regulation in question to his property;*

The irregular pie shaped lot along with the location of the existing building located between the 1991 CCCL and 1978 CCCL makes it difficult to locate this generator elsewhere. Placing the generator between the principle structure and the right of way is the only reasonable location for the generator and therefore is the minimum variance required. The further away from the Gulf of Mexico we feel will assist in the long term maintenance and survival of the generator. During power outages, this unit will power all of the life safety items within the building including the fire alarm, fire pump, elevators, emergency lighting, and any other critical life safety components.

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

Granting of the variance will not be injurious to the neighborhood as the location selected was in an effort to reduce any impact it may have on neighboring properties.

This location is adjacent to the neighbors parking lot as opposed to being placed adjacent to their living or recreation areas.

While taking into account any impact the structure may have on neighboring properties it was determined the proposed location would have the least impact. The generator and platform

will be located approximately 59' from Estero Blvd and 24' from the neighboring property.

Quite contrary to being injurious, we are anticipating this location will enable the generator to continue to function as needed during power outages, assisting in the continued use of the elevator, fire alarms, fire pump, elevators, emergency lighting etc.

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

These conditions are not so general or recurrent to amend the regulations. Most property development locates the structures in an effort to maintain the use of the rear property. This development was uniquely developed with the amenities between the condo building and the street right of way.

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

Yellow Sheet Number: **2024-1379**

1. Requested Motion:

Meeting Date: December 19, 2023

RESOLUTION NUMBER 24-185: A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING VARIANCE VAR20230162, TWO VARIANCES FROM LDC TABLE 34-3 TO DECREASE REQUIRED SIDE YARD SETBACK BY 2.18 FEET FROM THE REQUIRED 10 FEET AND TO DECREASE REQUIRED WATERBODY SETBACK BY 14.39 FEET FROM THE REQUIRED 25 FEET, IN THE RC ZONING DISTRICT, FOR THE PROPERTY LOCATED AT 21391 WIDGEON TERRACE; 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 recommends action to the Town Council for variance requests.

What the action accomplishes:

The recommendation will be forwarded to Town Council.

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

Resolution

5. Background:

Todd Plaisted, the applicant and owner for the property located at 21391 Widgeon Terrace, is requesting two variances from the Town's Land Development Code (LDC) Table 34-3, which requires accessory structures including swimming pools associated with a single-family home in RC zoning district to provide a minimum 10-foot side setback for lots 100 feet wide or greater and 25-foot setback from a waterbody. The variance will allow the applicant to construct a pool in the side yard.

Attachments:

1. Res 24-185- 21391 Widgeon terrace
2. 21391 widgeon terrace staff report
3. Application package

Financial Impact:

Unknown

6. Alternative Action

RECOMMEND APPROVAL, RECOMMEND APPROVAL WITH CONDITIONS

7. Staff Recommendations:

Recommend Denial

8. Recommended Approval:

Date: December 12, 2023

Frankie Kropacek, Operations & Compliance Director

Date: December 12, 2023

Nancy Stuparich, Town Attorney

RESOLUTION NUMBER 24-185

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING VARIANCE VAR20230162, TWO VARIANCES FROM LDC TABLE 34-3 TO DECREASE THE REQUIRED SIDE YARD SETBACK BY 2.18 FEET FROM THE REQUIRED 10 FEET AND TO DECREASE THE REQUIRED WATERBODY SETBACK BY 14.39 FEET FROM THE REQUIRED 25 FEET, IN THE RC ZONING DISTRICT, FOR THE PROPERTY LOCATED AT 21391 WIDGEON TERRACE; 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, Todd Plaisted, owner of the property situated at 21391 Widgeon Terrace, is requesting two variances from LDC Table 34-3 which requires accessory structures including swimming pools associated with a single-family home waterfront lot in the RC zoning district to provide a minimum 10-foot side setback for lots 100 feet wide or greater and a 25-foot setback from a the mean high water; and

WHEREAS, the STRAP number for the subject property is 34-46-24-W1-022M0.0010; 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 December 19, 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 January 8, 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 these two variances from LDC Table 34-3 requires accessory structures including swimming pools associated with a single-family home waterfront lot in the RC zoning district to provide a minimum 10-foot side setback for lots 100 feet wide or greater and 25 foot setback from a waterbody.

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.

B. A separate variance would be required if any pool enclosure is to be installed in future.

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 January 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 January 2023.



Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

TYPE OF CASE: Variance

CASE NUMBER: VAR20230162

CASE NAME: 21391 Widgeon Terrace; requesting a variance from LDC Table 34-3 which requires accessory structures including swimming pools associated with a single-family home waterfront lot in the RC zoning district to provide a minimum 10 foot side setback for lots 100 feet wide or greater and a 25 foot setback from a waterbody.

LPA

HEARING DATE: December 19, 2023

STAFF

RECOMMENDATION: DENIAL

**PREPARED/
SUBMITTED BY:** Sarah Propst / Jason Green AICP

I. APPLICATION SUMMARY

Applicant/Owner: Todd Plaisted

Request: Variance from LDC Table 34-3 which requires accessory structures including swimming pools associated with a single-family home waterfront lot in RC zoning district to provide a minimum 10-foot side setback for lots 100 feet wide or greater and a 25-foot setback from a waterbody.

The property is 108 feet wide by 58 feet deep lot along Widgeon terrace. The Applicant is requesting a variance of 2.18 feet for a side yard setback of 7.82 feet and a variance of 10.61 feet from the waterbody for a setback of 14.39 feet, to build a swimming pool in the west side yard of an existing single-family home.

Subject property: See attached site plan

Physical Address: 21391 Widgeon Terrace

STRAP #: 34-46-24-W1-022M0.0010

FLU: Mixed Residential

Zoning: Residential Conservation (RC)

Adjacent zoning and land uses:

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

II. BACKGROUND AND ANALYSIS

Background:

Todd Plaisted, the applicant and owner for the property located at 21391 Widgeon Terrace, is requesting two variances from the Town's Land Development Code (LDC) Table 34-3, which requires accessory structures including swimming pools associated with a single-family home in RC zoning district to provide a minimum 10-foot side setback for lots 100 feet wide or greater and 25-foot setback from a waterbody. The applicant is requesting a variance of 2.18 feet for a side yard setback of 7.82 feet and a variance of 10.61 feet from the waterbody for a setback of 14.39 feet, to build an attached swimming pool in the west side yard of an existing single-family home.

Analysis:

The property is 108 feet wide by 58 feet deep lot, zoned Residential Conservation (RC). The purpose of the RC zoning district is to provide stable neighborhoods where single-family/two-family homes are the predominant land use.

The subject property currently supports a single-family residence and is a waterbody lot situated along Widgeon Terrace. As per LDC table 34-3, accessory structure including swimming pools attached to a single-family home in RC zoning district must provide a minimum 10 feet side setback for lots 100 feet wide or greater and 25 feet setback from a waterbody. The existing single-family home does not meet the waterbody setback

requirement of the Town's LDC. The Applicant is requesting two variances for the construction of a pool in the west side yard. The requests include 2.18 feet for a side yard setback of 7.82 feet and a variance of 10.61 feet from the waterbody for a setback of 14.39 feet.

Neighborhood Compatibility:

The subject property is part of the Widgeon Terrace residential neighborhood. The existing house is similar in style and nature to the neighboring residences. Most of the properties in this neighborhood include a pool in the rear yard with waterbody setbacks less than required by the Town's LDC. The existing residence also does not comply with the LDC's required waterbody setback of 25 feet from the mean high-water line. Due to the closeness of the house to the mean high water, the proposed pool will only fit in the west side yard, the size of the pool proposed, will only fit in this location with approval of these variances.

Findings and Conclusions:

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

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

There are no exceptional or extraordinary conditions inherent to the property. The subject property is a 108 feet wide and 58 feet deep conforming lot. The Applicant has the choice to construct a smaller swimming pool, or a pool extended till the front façade of the property, which will be consistent with the requirements of Town's LDC. The Applicant wants to build a pool with higher square footage, which is only possible in the west side yard upon approval of these variances.

- 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 homeowner could feasibly reduce the size of the proposed swimming pool to meet the more restrictive side/ waterbody setbacks in effect as of this application.

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

The circumstances leading to this variance are a result of a design choice and are subjective in nature.

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

The granting of this variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

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

The 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 an accessory structure like a swimming pool attached to a single-family home in RC zoning district to provide a minimum 10 feet side setback for lots 100 feet wide or greater and 25 feet setback from a waterbody and found that the variance request does not meet the requirements set-forth in sec. 34-87.

Therefore, staff recommends **DENIAL** of VAR20230162, a request for a variance of 2.18 feet for a side yard setback of 7.82 feet and a variance of 10.61 feet from a waterbody for a setback of 14.39 feet, to build an attached swimming pool in the west side yard of an existing single-family home.

IV. CONDITIONS FOR APPROVAL

If the Town's LPA recommends approval for the variance, town's staff recommends the following conditions of approval.

- 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.
- 2) A separate variance would be required if any pool enclosures are to be installed in future.

V. EXHIBITS

Exhibit A: Complete Application Packet

Exhibit B: Postcards to Adjacent Property Owners



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

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

Site Address: 21391 Widgeon Terrace, Fort Myers Beach, FL 33931

STRAP Number: 34-46-24-W1-022MO.0010

Applicant: Todd Plaisted

Phone: N/A

Contact Name: Attorney Robert Burandt

Phone: (239) 542-4733

Email: Robert@capecoralattorney.com

Fax: (239) 542-9203

Current Zoning District: RC

Future Land Use Map (FLUM) Category: Mixed Residential

FLUM Density Range: 6-Units

Platted Overlay: ☐ YES ☐ NO

ACTION REQUESTED

☐ Special Exception

☐ Variance

☐ Conventional Rezoning

☐ Planned Development ☐ Commercial ☐ Residential

☐ Master Concept Plan Extension

☐ Appeal of Administrative Action

☐ Vacation of Platted Right-of-way and Easement

☐ Other – cite LDC Section: _____

SUPPLEMENTAL FORM REQUIRED

PH-A

PH-B

PH-C

PH-D

PH-E

PH-F

PH-G

attach on separate sheet

PART I – General Information

A. Applicant*: Todd Plaisted

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: c/o Robert Burandt, Esquire, 1714 Cape Coral Pkwy. E., Cape Coral, FL 33904

Email: Robert@capecoralattorney.com

Fax: (239) 542-9203

Contact Name: Robert Burandt

Phone: (239) 542-4733



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

B. Relationship of Applicant to subject property:

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

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

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

Name: Steeven Knight Phone: (239) 641-2628
Address: 1714 Cape Coral Pkwy. E., Cape Coral, FL 33904
Email: islandspsf@gmail.com Fax: _____

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

Name: Attorney Robert Burandt Phone: (239) 542-4733
Address: 1714 Cape Coral Pkwy. E., Cape Coral, FL 33904
Email: robert@capecoralattorney.com Fax: (239) 542-9203

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 - Side setback, etc.
- ☐ Conventional Rezoning from _____ to _____
- ☐ Planned Development
- ☐ Rezoning from _____ to ☐ Commercial PD ☐ Residential PD
- ☐ Amendment. List the project number: _____
- ☐ Extension/reinstatement of Master Concept Plan. List project number: _____



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

☐ Appeal of Administrative Action

☐ Vacation

☐ Right-of-Way

☐ Easement

☒ Other. Please Explain: 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: N/A Description: _____

Code Section: _____ Description: _____

Code Section: _____ Description: _____

PART IV – Property Ownership (Single Owner)

☒ Single Owner (individual or husband and wife)

Name: Todd Plaisted Phone: _____

Mailing Address: 1714 Cape Coral Pkwy. E., Cape Coral, FL 33904

Email: Robert@capecoralattorney.com Fax: (239) 542-9203

AFFIDAVIT

APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

I, Todd Plaisted 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.

Todd Plaisted
Signature

Todd Plaisted

Printed Name

STATE OF FL COUNTY OF LEE

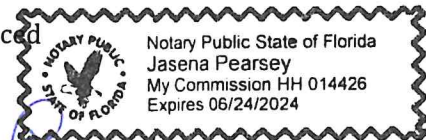
The foregoing instrument was certified and subscribed before me by means of ☒ physical

presence OR ☐ online notarization, this 15th day of MAY, 2022, by

Todd Plaisted ☒ who is personally known to me OR ☐ who has produced

MN D/L as identification.

(SEAL)



Jasena Pearsey
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
Todd Plaisted

Percentage Ownership
100%



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

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

Name, Address and Office

Percentage of Stock

_____	_____
_____	_____
_____	_____
_____	_____

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

Name and Address

Percentage of Interest

_____	_____
_____	_____
_____	_____
_____	_____

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

Name and Address

Percentage of Ownership

_____	_____
_____	_____
_____	_____
_____	_____

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

Name, Address and Office

Percentage of Stock

_____	_____
_____	_____
_____	_____
_____	_____



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

Date of Contract: _____

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

Name	Address
_____	_____
_____	_____
_____	_____
_____	_____

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

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

_____	_____
Signature	Printed Name

AFFIDAVIT

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

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

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

N/A

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: 34-46-24-W1-022MO.0010

Property Address: 21391 Widgeon Ter., 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: _____

Book: 1357 Page: 1089 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.

4/30/2021

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

Page 7 of 11



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

C. Property Dimensions:

Width (please provide an average width if irregular in shape) 102.12 ft +/- feet
Depth (please provide an average width if irregular in shape) 99.81 ft +/- feet
Frontage on street: 102.12 ft +/- feet. Frontage on waterbody: 100.76 ft +/- feet
Total land area: 9570.55 sq ft (0.22 acres) ☒ acres ☒ square feet

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

Big Carlos Pass Bridge

County Rd 865, Fort Myers Beach, FL 33931 Head west on Estero Blvd 2. Turn right onto Mound Rd 3. Turn left onto Noddy Tern Dr

4. Continue onto Widgeon Terrace Partial restricted usage road Destination will be on the right 2.4 mi

Head west on Estero Blvd 2. Turn right onto Mound Rd 3. Turn left onto Noddy Tern Dr 4. Continue onto Widgeon Terrace

Partial restricted usage road Destination will be on the right 2.4 mi

☒ Attach Area Location Map as Exhibit 6-3

E. Property Restrictions (check applicable):

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

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

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

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

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

EXPLANATORY NOTES

Please do not print, copy and submit these instructions

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

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

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

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

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

Explanatory Notes – Part I

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

Explanatory Notes – Part II

Indicate the requested action.

Explanatory Notes – Part III

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

Explanatory Notes – Part IV

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

Explanatory Notes – Part V

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

Explanatory Notes – Part VI

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

line. Exhibit 6-2

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

Explanatory Notes – Part IV & V

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



Case # _____

Date Received: _____

Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Supplement PH-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: Plaisted Pool
Authorized Applicant: Todd Plaisted
LeePA STRAP Number: 34-46-24-W1-022MO.0010

Current Property Status: Single Family Residence	
Current Zoning: Residential (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

34-1174 34-638	Rear and side setbacks

Complete the narrative statements below for EACH variance requested.



Case # _____

Date Received: _____

PART I
Narrative Statements

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

Explain the specific regulation contained in this section from which relief is sought:

The applicant requests a variance to construct his pool within 16 1/2 feet from the rear property line. The current code is 34-638 which is 25 feet. The neighbor residing at 21401 Widgeon Terrace, Fort Myers Beach, FL pool is constructed within 25 feet. See the picture marked as Exhibit "1" (Neighbor's Pool)

The applicant also requests a variance from the current 25 foot setback pursuant to Table 34-3 to be within 7 1/2 feet of the side property line. Please note that this setback was modified from 7 1/2 feet to 25 feet in February of 2022.

Attached is the Lee County Property Appraiser's Print Out for the applicant's house marked as Exhibit "2". Exhibit "3" is a survey showing where the pool is to be located .

A photograph of the residence and property line is marked as Exhibit "4". Photographs of the planned area for the pool is marked as Exhibit "5" and "6". A picture of the applicants house from the back bay is Exhibit "7", and a survey of the applicant's property is Exhibit "8".

Reasons for request

Explain why the variance is needed:

The property has only one possible location for a pool as demonstrated on the survey is marked as Exhibit "3".



Case # _____

Date Received: _____

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

The granting of this variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare. The adjacent property on the pool side will be 7 1/2, the former setback amount. The nearest structure pool side is the elevated house with a substantial hedge on the property line, with the garbage being next to the purported pool. See Exhibit "5", Picture 1 and 2. Picture #5 shows the applicant's house and the potentially affected neighbor.

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

Without these two (2) variances, the applicant will not be able to fully enjoy his home. There is just not any place else for their pool.



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.

The applicant's request is de minimis in nature and will only allow for the development of a private pool that will be accessory to the single-family dwelling unit, or the principal structure.

The variance request is not the result of action taken by the current property owner, who acquired the property in 2021.

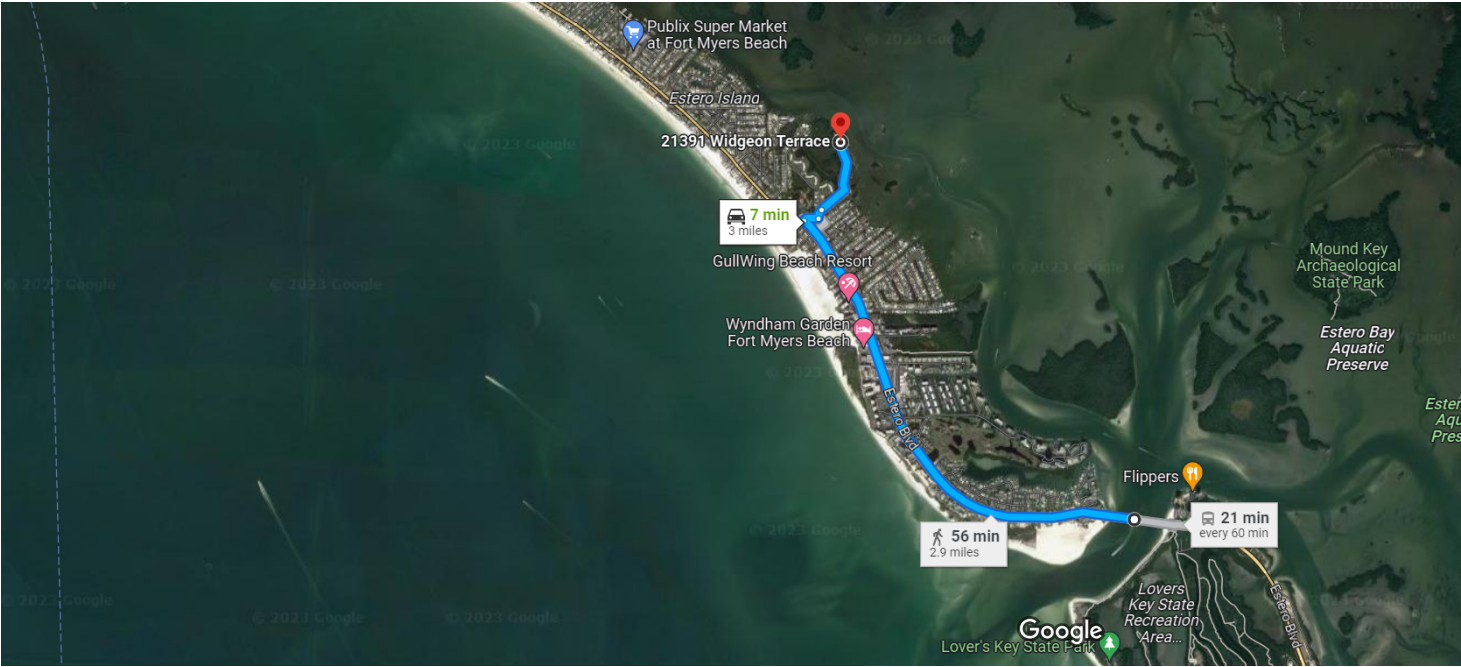
The requested variance is the minimum to relieve the applicant of the code requirement. The variance is from the requirement that restricts accessory uses such as a pool from being located closer to Estero Bay and his daughter to the south.

The space between the principal structure and the bay is the only available location for the construction of a pool on this Property.

Exhibit 6-3 Pg 8 - D

Big Carlos Pass Bridge to 21391 Widgeon Terrace, Fort Myers Beach, FL 33931

Drive 3.0 miles, 7 min

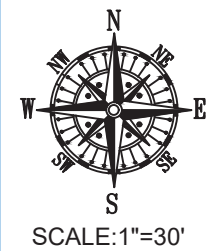


Imagery ©2023 Airbus, Landsat / Copernicus, Maxar Technologies, U.S. Geological Survey, Map data ©2023 Google 2000 ft

	via Estero Blvd Fastest route now due to traffic conditions This route has restricted usage or private roads.	7 min 3.0 miles
	via Estero Blvd	56 min 2.9 miles
	11:57 AM—12:18 PM 410	21 min

Explore nearby 21391 Widgeon Terrace

- Restaurants
- Hotels
- Gas stations
- Parking Lots
- More



TYPE OF SURVEY:

- ☐ BOUNDARY
☐ ALTA/NSPS
☒ CONSTRUCTION
☒ TOPOGRAPHIC
☐ CONDOMINIUM
☐ SPECIAL PURPOSE

PRINTING INSTRUCTIONS

WHEN PRINTING THIS PDF IN ADOBE, SELECT "ACTUAL SIZE" TO ENSURE CORRECT SCALING. DO NOT USE "FIT".

ABBREVIATION LEGEND

(SOME ITEMS IN LEGEND MAY NOT APPEAR ON DRAWING):

A OR AL = ARC LENGTH
C/O = CLEANOUT
CA = CENTRAL ANGLE
CATV = CABLE TV RISER
CF = CALCULATED FROM FIELD
CH = CHORD DISTANCE
CONC. = CONCRETE
CR = CALCULATED FROM RECORD
DE = DRAINAGE EASEMENT
EL OR ELEV = ELEVATION
EM = ELECTRIC METER
F.F.E. = FINISHED FLOOR ELEV.
FIR = FOUND IRON ROD
FN = FOUND NAIL
FND = FOUND
G.F.F. = GARAGE FINISHED FLOOR
L = LEGAL DESCRIPTION
M = MEASURED
OHC = OVERHEAD CABLE
P = PLAT
PC = POINT OF CURVE
PCC = POINT OF COMPOUND CURVE
PH = POOL HEATER
PI = POINT OF INTERSECTION
POB = POINT OF BEGINNING
POC = POINT OF COMMENCEMENT
PP = POOL PUMP
PRC = POINT OF REVERSE CURVE
PT = POINT OF TANGENCY
QTR = QUARTER
R = RADIUS
RNG = RANGE
SEC = SECTION
TR = TELEPHONE RISER
TWP = TOWNSHIP
UE = UTILITY EASEMENT
UP = UTILITY POLE
WM = WATER METER
WV = WATER VALVE

SYMBOLS - NOT-TO-SCALE

(SOME ITEMS IN LEGEND MAY NOT APPEAR ON DRAWING):

- = UTILITY POLE
 = LIGHT POLE
 = CATCH BASIN
 = FIRE HYDRANT
 = MANHOLE
 = WATER VALVE
 = WATER METER
 = HANDICAP PARKING SPACE
 = SEC. QTR. CORNER
 = SECTION CORNER
 = WELL
 = CENTER LINE
 = PARTY WALL
 = AIR CONDITIONER
 = SEPTIC LID
 = ELEV. SHOT

CERTIFIED TO
TODD R PLAISTED

CERTIFICATION

I HEREBY CERTIFY THAT THIS SURVEY MEETS THE STANDARDS OF PRACTICE AS OUTLINED IN CHAPTER 5J-17.051 & 5J-17.052 OF THE FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES, AND THAT THE ELECTRONIC SIGNATURE AND SEAL HEREON MEETS PROCEDURES AS SET FORTH IN CHAPTER 5J-17.062. PURSUANT TO SECTION 472.025, FLORIDA STATUTES.

SIGNATURE _____ DATE: 8-24-2023

PABLO ALVAREZ - PROFESSIONAL SURVEYOR AND MAPPER FLORIDA REGISTRATION NO. 7274 (NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OR THE ELECTRONIC SEAL OF THE FLORIDA LICENSED SURVEYOR AND MAPPER SHOWN ABOVE)

BEARING REFERENCE:
CENTER LINE OF 93rd AVENUE AS N 88°46'09" W
AS REFERENCED IN SUBJECT PROPERTY LEGAL DESCRIPTION.
ALL BEARINGS SHOWN HEREON REFERENCED THERETO.

Job Number : 179798-SW Field: K.A.
Drawn By : E.I. Date of Field Work : 07/28/2023

PURPOSE OF SURVEY: PROPERTY IMPROVEMENTS-OTHER

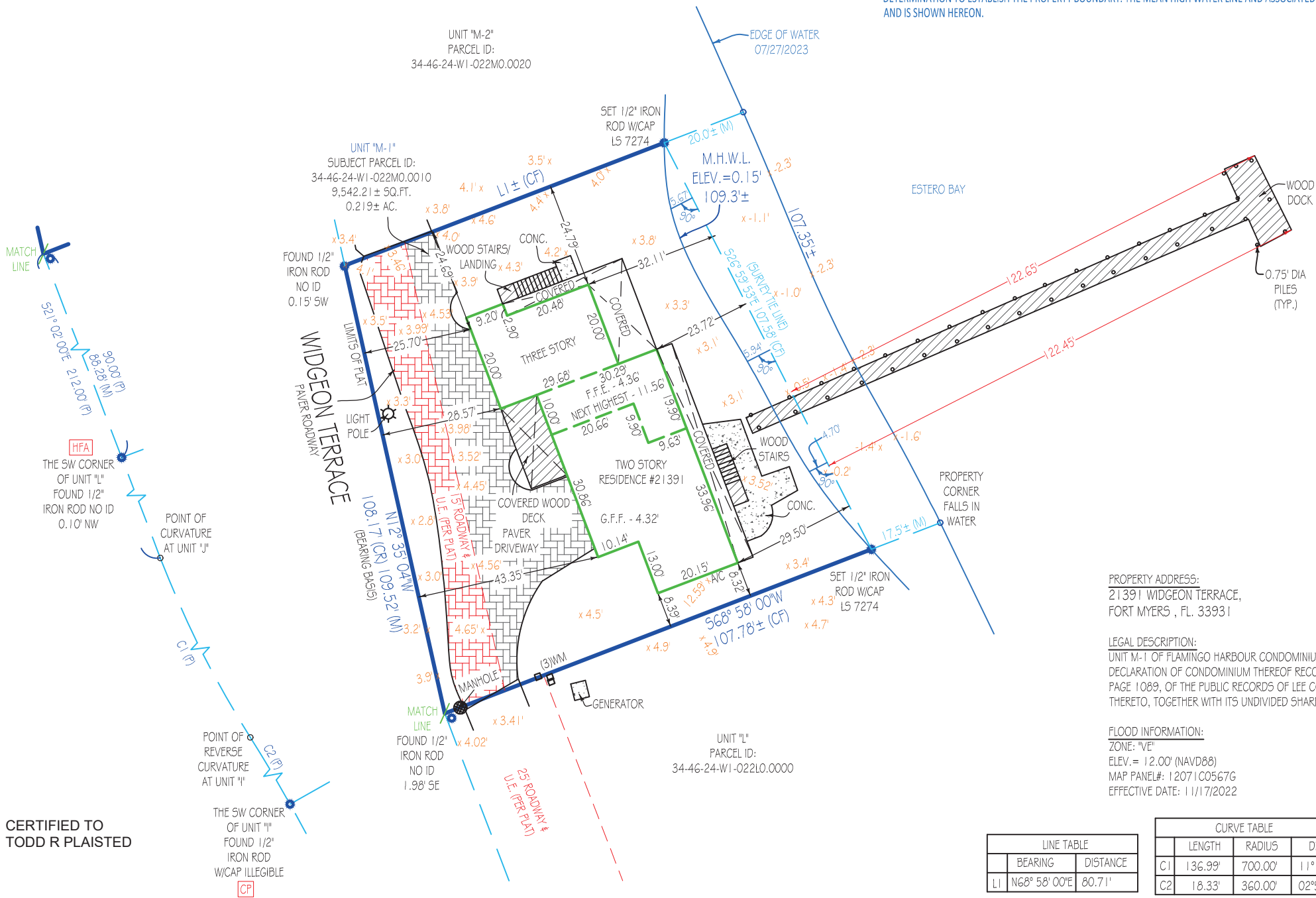
REVISIONS

UPDATE - E.I. - 08/23/2023

Platted Easements & Notable Conditions (unplatted easements also listed if provided): IF APPLICABLE, RECIPIENTS OF THIS SURVEY SHOULD REVIEW THE POSITION OF ANY FENCE LINES SHOWN AND THEIR RELATIONSHIP TO THE BOUNDARY LINE.

- 15' ROADWAY AND UTILITY EASEMENT ALONG WESTERLY BOUNDARY LINE OF SUBJECT LOT.
- PAVER DRIVEWAY EXTENDS THROUGH THE WESTERLY EASEMENT.
- PAVER DRIVEWAY CROSSES THE BOUNDARY LINE ON NORTHERLY AND SOUTHERLY SIDES OF LOT AS SHOWN.
- WOOD DOCK CROSSES THE BOUNDARY LINE ON EASTERLY SIDE OF LOT AS SHOWN.

4. RECORD DATA INDICATES OWNERSHIP TO THE EDGE OF WATER. ESTERO BAY IS TIDALLY INFLUENCED AND REQUIRES A MEAN HIGH WATER DETERMINATION TO ESTABLISH THE PROPERTY BOUNDARY. THE MEAN HIGH WATER LINE AND ASSOCIATED MEANDER LINE HAS BEEN ESTABLISHED AND IS SHOWN HEREON.



PROPERTY ADDRESS:
21391 WIDGEON TERRACE,
FORT MYERS , FL. 33931

LEGAL DESCRIPTION:
UNIT M-1 OF FLAMINGO HARBOUR CONDOMINIUM, A CONDOMINIUM ACCORDING TO THE DECLARATION OF CONDOMINIUM THEREOF RECORDED IN OFFICIAL RECORDS BOOK 1357, PAGE 1089, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, AND ALL AMENDMENTS THERETO, TOGETHER WITH ITS UNDIVIDED SHARE IN THE COMMON ELEMENTS.

FLOOD INFORMATION:
ZONE: "VE"
ELEV. = 12.00' (NAVD88)
MAP PANEL#: 12071C0567G
EFFECTIVE DATE: 11/17/2022

LINE TABLE	
BEARING	DISTANCE
L1 N68°58'00"E	80.71'

CURVE TABLE			CHORD LENGTH	CHORD BEARING
	LENGTH	RADIUS		
C1	136.99'	700.00'	111°24'7"	136.77'
C2	18.33'	360.00'	02°55'03"	18.33'

LINETYPES:

BOUNDARY ——— BUILDING ———
EASEMENT - - - - - CHAIN LINK FENCE - x - x -
WOOD FENCE — // — PLASTIC FENCE — o —
OVERHEAD CABLE — | — | —

Elevations, if shown:

Benchmark: DN3725
Benchmark Elev.: 3.27'
Benchmark Datum: NAVD 88
Elevations on Drawing are in:
N.G.V.D.29 ☒ N.A.V.D.88

"CP" = CONTROLLING POINT (POINT OF ROTATION) "HFA" = HELD FOR ALIGNMENT - ALL OTHER MONUMENTATION AND IMPROVEMENTS RELATIVE THERETO

This survey has been issued by the following Landtec Surveying office:

700 W. Hillsboro Blvd. Suite 4-100
Deerfield Beach, FL 33441
Office: (561) 367-3587 Fax: (561) 465-3145
www.LandtecSurvey.com



LICENSED BUSINESS No. 8507

Aerial Photograph

May not show latest improvements. Not-to-scale.



GENERAL NOTES:

1. THIS SURVEY IS BASED UPON RECORD INFORMATION PROVIDED BY CLIENT. NO SPECIFIC SEARCH OF THE PUBLIC RECORD HAS BEEN MADE BY THIS OFFICE UNLESS OTHERWISE NOTED.
2. AS INDICATED ABOVE, UNDER "PURPOSE OF SURVEY", IF THIS SURVEY HAS BEEN PREPARED FOR A PURCHASE OR REFINANCE, ITS SCOPE IS LIMITED TO THE DETERMINATION OF TITLE DEFICIENCIES, AND IS NOT INTENDED FOR USE IN DESIGN OR CONSTRUCTION PURPOSES. LANDTEC SURVEYING ASSUMES NO RESPONSIBILITIES FOR ERRORS RESULTING FROM FAILURE TO ADHERE TO THIS CLAUSE.
3. ANY FENCES SHOWN HEREON ARE ILLUSTRATIVE OF THEIR GENERAL POSITION ONLY. FENCE TIES SHOWN ARE TO GENERAL CENTERLINE OF FENCE. THIS OFFICE WILL NOT BE RESPONSIBLE FOR DAMAGES RESULTING FROM THE REMOVAL OF, OR CHANGES MADE TO, ANY FENCES UNLESS WE HAVE PROVIDED A SURVEY SPECIFICALLY LOCATING SAID FENCES FOR SUCH PURPOSES. DETERMINATION OF FENCE POSITIONS SHOULD BE BASED SOLELY ON THEIR PHYSICAL RELATIONSHIP TO THE MONUMENTED BOUNDARY LINES.
4. GRAPHIC REPRESENTATIONS MAY HAVE BEEN EXAGGERATED TO MORE CLEARLY ILLUSTRATE MEASURED RELATIONSHIPS - DIMENSIONS SHALL HAVE PRECEDENCE OVER SCALED POSITIONS.
5. UNDERGROUND IMPROVEMENTS HAVE NOT BEEN LOCATED EXCEPT AS SPECIFICALLY SHOWN.
6. ELEVATIONS ARE BASED UPON NATIONAL GEODETIC VERTICAL DATUM (N.G.V.D. 1929) OR NORTH AMERICAN VERTICAL DATUM (N.A.V.D. 1988) AS SHOWN ABOVE.
7. ALL BOUNDARY AND CONTROL DIMENSIONS SHOWN ARE FIELD MEASURED AND CORRESPOND TO RECORD INFORMATION UNLESS SPECIFICALLY NOTED OTHERWISE.
8. ANY CORNERS SHOWN AS "SET" HAVE EITHER BEEN SET ON THE DATE OF FIELD WORK, OR WILL BE SET WITHIN 2 BUSINESS WEEKS OF SAID DATE AND ARE IDENTIFIED WITH A CAP MARKED LS (LICENSED SURVEYOR) #7274.

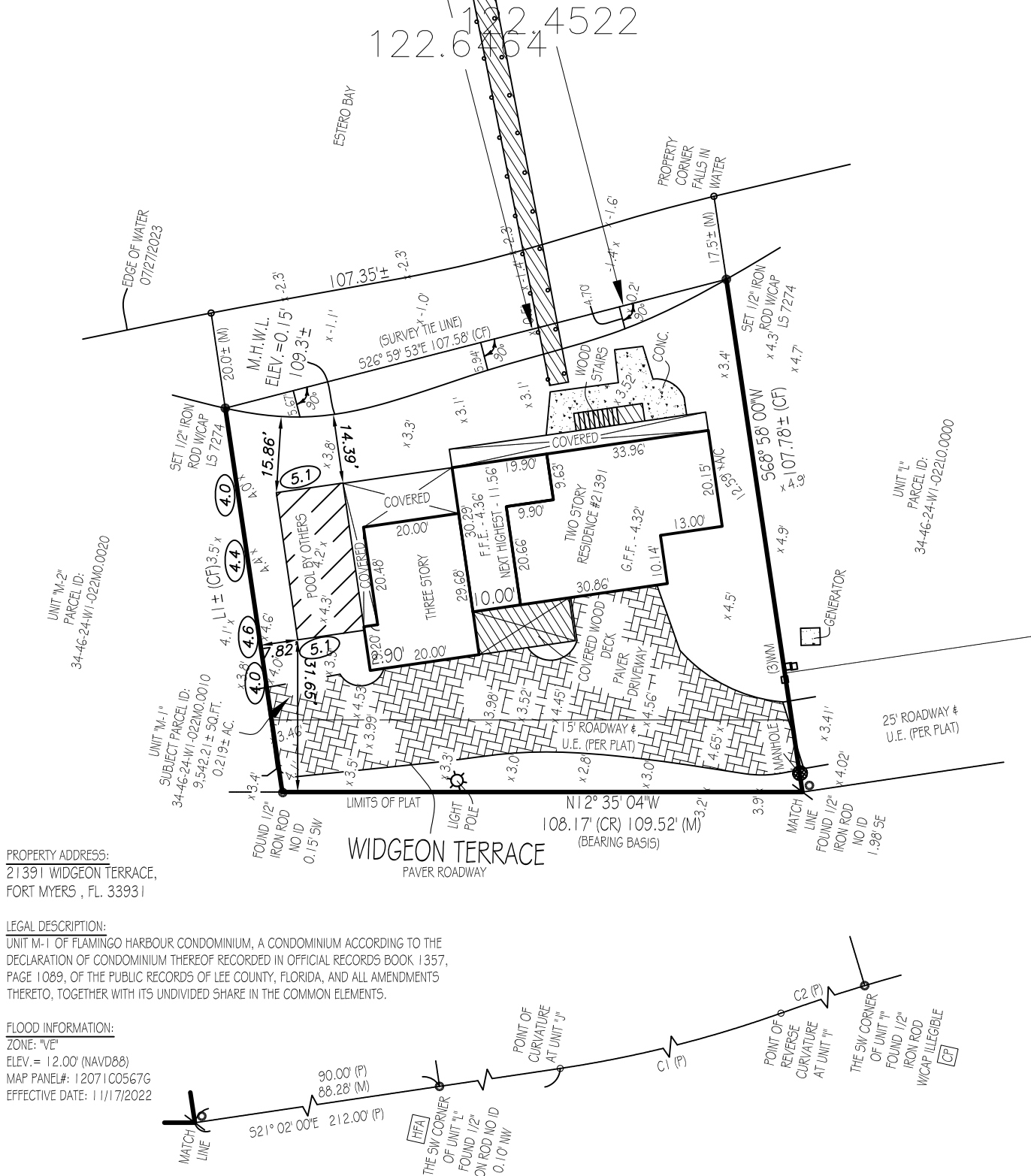
Nov 07, 2023 - 4:26pm E:\Wal Tech\WAL TECH\Jobs\2023\David Ward\21391 Widgeon ter - PLAISTED\21391 WIDGEON TER SITE.dwg



LINE TABLE		
	BEARING	DISTANCE
L1	N68°58'00"E	80.71'

CURVE TABLE				CHORD LENGTH	CHORD BEARING
	LENGTH	RADIUS	DELTA		
C1	136.99'	700.00'	11°12'47"	136.77'	S26°38'23"E
C2	18.33'	360.00'	02°55'03"	18.33'	S30°47'15"E

4. RECORD DATA INDICATES OWNERSHIP TO THE EDGE OF WATER. ESTERO BAY IS TIDALLY INFLUENCED AND REQUIRES A MEAN HIGH WATER DETERMINATION TO ESTABLISH THE PROPERTY BOUNDARY. THE MEAN HIGH WATER LINE AND ASSOCIATED MEANDER LINE HAS BEEN ESTABLISHED AND IS SHOWN HEREON.



PROPERTY ADDRESS:
21391 WIDGEON TERRACE,
FORT MYERS, FL. 33931

LEGAL DESCRIPTION:
UNIT M-1 OF FLAMINGO HARBOUR CONDOMINIUM, A CONDOMINIUM ACCORDING TO THE DECLARATION OF CONDOMINIUM THEREOF RECORDED IN OFFICIAL RECORDS BOOK 1357, PAGE 1089, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, AND ALL AMENDMENTS THERETO, TOGETHER WITH ITS UNDIVIDED SHARE IN THE COMMON ELEMENTS.

FLOOD INFORMATION:
ZONE: "VE"
ELEV. = 12.00' (NAVD88)
MAP PANEL#: 12071 C0567G
EFFECTIVE DATE: 11/17/2022

THE SURVEY WAS PERFORMED BY: LANDTEC SURVEYING

50.2 DENOTES EXISTING ELEVATION
50.2 DENOTES PROPOSED ELEVATION

~ DENOTES DRAINAGE FLOW
— OHL — DENOTES OVERHEAD LINES
● PP DENOTES POWER POLE
- W - W - W - DENOTES WATER LINES

THIS SKETCH IS CERTIFIED ONLY AS TO FIELD CONDITIONS ON:

11/7/23

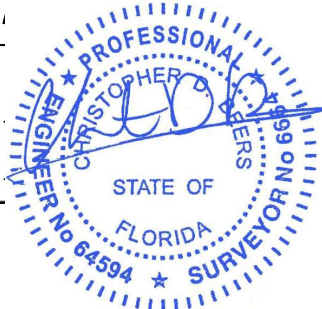
WTE JOB #

SCALE: 1"=30'

WAL TECH, LLC.
WATER, AIR, LAND

524 W Virginia Ave Punta Gorda FL 33950
PH:(941) 628-0635 EMAIL:bgaraimondo@comcast.net

CHRISTOPHER BEERS, PE
FLORIDA REG. NO. 64594
DATE



Big Gator Pools and Spas

1749 NE 10th Ter, Unit 6, Cape Coral, FL 33909

RE: Variance request for : 234477 / 21391 Widgeon ter. / New elevated pool

PERMIT # 234477

In response to the last Zoning review letter we received – I have attached a NEW Survey showing the mean high water line and a new Site plan showing the proposed pool location with setbacks for review.

Please see the attached Rejection Letter and the corrected Variance Request with New Survey and New Site Plan as requested.

The corrected pages are Pg 17 Survey and Pg 18 Site Plan

Thank you.

David A Ward

Priority Permitting Services

941-628-8850

dward@git-fl.com



Date: 08/31/2023

Contractor: Big Gator Pools and Spas

RE: 234477 / 21391 Widgeon ter. / New elevated pool

Cc: Property Owner

The drawings submitted for the referenced project have been reviewed following the 7th Edition (2020) Florida Building Codes, Florida Statutes (F.S), and the Town of Fort Myers Beach Land Development Code. For the reasons listed below, we cannot approve your application at this time.

Please provide the Rejection Letter and a Cover Letter showing where each corrected item can be found.

3rd Zoning Review Review

Kendra Rosa / Kendra@fmbgov.com

Once variance has been approved through Town Council, resubmit the resolution as a resubmittal. The zoning review for the pool cannot be completed at this time.

PLEASE NOTE:

- **Mailed in or paper plans will not be accepted.**
- Submit all corrections together at one time with an appropriate response/ cover letter showing where each corrected item can be found to resubmittal@fmbgov.com.
- Please note that no other reviews will be done until the **Zoning Review** is approved.
- Resubmittals will not be processed unless all review comments are addressed.

Please refer to the **Permit Portal** to access a copy of this rejection letter.

Sincerely,

Town of Fort Myers Beach Building Services and Community Development Departments.



- TYPE OF SURVEY:**
- ☐ BOUNDARY
 - ☐ ALTA/NSPS
 - ☒ CONSTRUCTION
 - ☒ TOPOGRAPHIC
 - ☐ CONDOMINIUM
 - ☐ SPECIAL PURPOSE

PRINTING INSTRUCTIONS

WHEN PRINTING THIS PDF IN ADOBE, SELECT "ACTUAL SIZE" TO ENSURE CORRECT SCALING. **DO NOT USE "FIT".**

ABBREVIATION LEGEND
(SOME ITEMS IN LEGEND MAY NOT APPEAR ON DRAWING):

- | | |
|--------------------------------|-------------------------------|
| A OR AL = ARC LENGTH | P = PLAT |
| C/O = CLEANOUT | PC = POINT OF CURVE |
| CA = CENTRAL ANGLE | PCC = POINT OF COMPOUND CURVE |
| CATV = CABLE TV RISER | PH = POOL HEATER |
| CF = CALCULATED FROM FIELD | PI = POINT OF INTERSECTION |
| CH = CHORD DISTANCE | POB = POINT OF BEGINNING |
| CONC. = CONCRETE | POC = POINT OF COMMENCEMENT |
| CR = CALCULATED FROM RECORD | PP = POOL PUMP |
| DE = DRAINAGE EASEMENT | PRC = POINT OF REVERSE CURVE |
| EL OR ELEV = ELEVATION | PT = POINT OF TANGENCY |
| EM = ELECTRIC METER | QTR = QUARTER |
| F.F.E. = FINISHED FLOOR ELEV. | R = RADIUS |
| FIR = FOUND IRON ROD | RNG = RANGE |
| FN = FOUND NAIL | SEC = SECTION |
| FND = FOUND | TR = TELEPHONE RISER |
| G.F.F. = GARAGE FINISHED FLOOR | TWP = TOWNSHIP |
| L = LEGAL DESCRIPTION | UE = UTILITY EASEMENT |
| M = MEASURED | UP = UTILITY POLE |
| OHC = OVERHEAD CABLE | WM = WATER METER |
| | WV = WATER VALVE |

SYMBOLS - NOT-TO-SCALE
(SOME ITEMS IN LEGEND MAY NOT APPEAR ON DRAWING):

- | | |
|--------------------------|-------------------|
| = UTILITY POLE | = WELL |
| = LIGHT POLE | = CENTER LINE |
| = CATCH BASIN | = PARTY WALL |
| = FIRE HYDRANT | = AIR CONDITIONER |
| = MANHOLE | = SEPTIC LID |
| = WATER VALVE | = ELEV. SHOT |
| = WATER METER | |
| = HANDICAP PARKING SPACE | |
| = SEC. QTR. CORNER | |
| = SECTION CORNER | |

CERTIFICATION

I HEREBY CERTIFY THAT THIS SURVEY MEETS THE STANDARDS OF PRACTICE AS OUTLINED IN CHAPTER 5J-17.051 & 5J-17.052 OF THE FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES, AND THAT THE ELECTRONIC SIGNATURE AND SEAL HEREON MEETS PROCEDURES AS SET FORTH IN CHAPTER 5J-17.062. PURSUANT TO SECTION 472.025, FLORIDA STATUTES.

SIGNATURE _____ DATE: 8-24-2023

PABLO ALVAREZ - PROFESSIONAL SURVEYOR AND MAPPER FLORIDA REGISTRATION NO. 7274 (NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OR THE ELECTRONIC SEAL OF THE FLORIDA LICENSED SURVEYOR AND MAPPER SHOWN ABOVE)

BEARING REFERENCE:
CENTER LINE OF 93rd AVENUE AS N 88°46'09" W
AS REFERENCED IN SUBJECT PROPERTY LEGAL DESCRIPTION.
ALL BEARINGS SHOWN HEREON REFERENCED THERETO.

Job Number : 179798-SW	Field: K.A.
Drawn By : E.I.	Date of Field Work : 07/28/2023

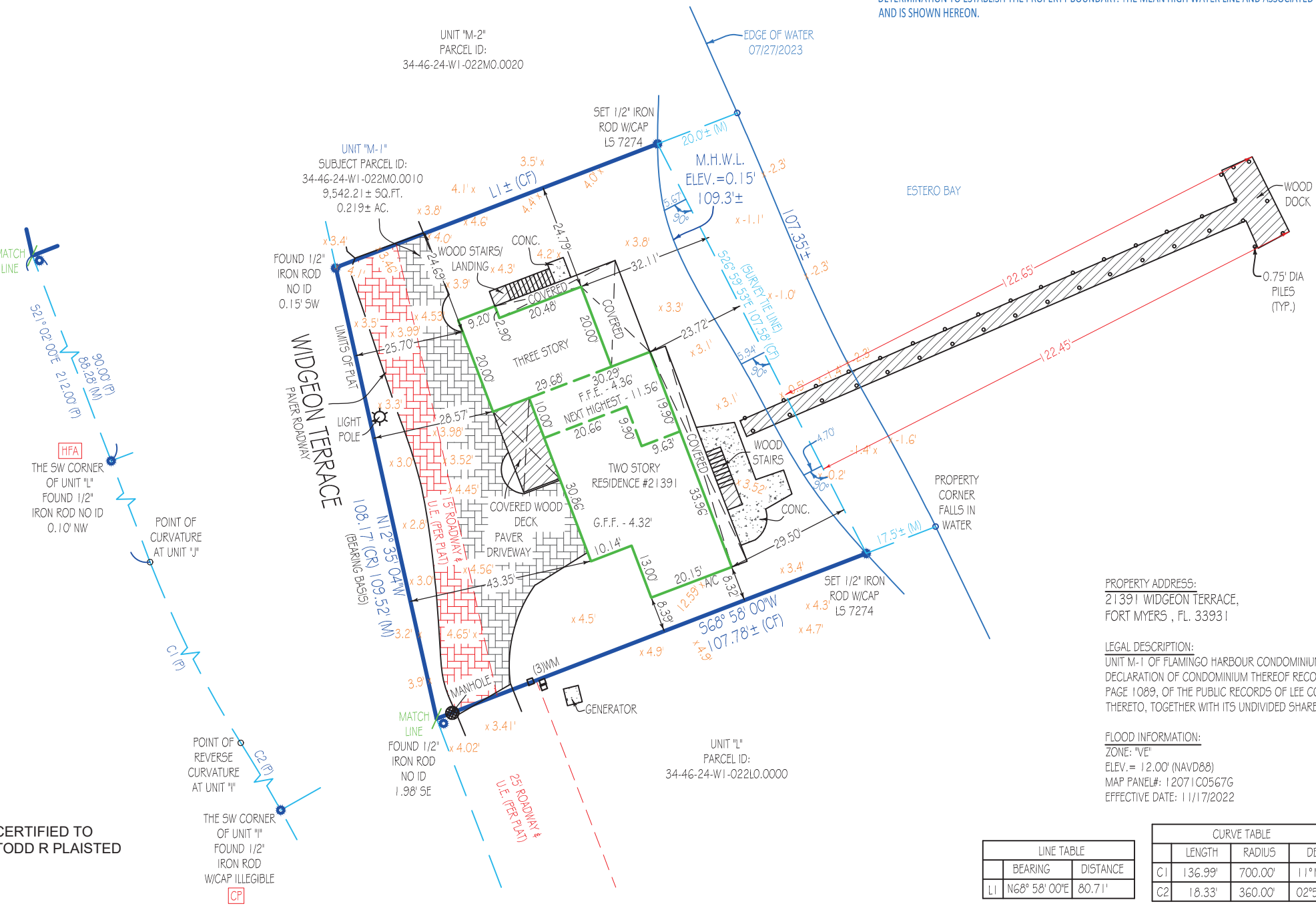
PURPOSE OF SURVEY: PROPERTY IMPROVEMENTS-OTHER

REVISIONS	
UPDATE - E.I. - 08/23/2023	

Platted Easements & Notable Conditions (unplatted easements also listed if provided): IF APPLICABLE, RECIPIENTS OF THIS SURVEY SHOULD REVIEW THE POSITION OF ANY FENCE LINES SHOWN AND THEIR RELATIONSHIP TO THE BOUNDARY LINE.

- 15' ROADWAY AND UTILITY EASEMENT ALONG WESTERLY BOUNDARY LINE OF SUBJECT LOT.
- PAVER DRIVEWAY EXTENDS THROUGH THE WESTERLY EASEMENT.
- PAVER DRIVEWAY CROSSES THE BOUNDARY LINE ON NORTHERLY AND SOUTHERLY SIDES OF LOT AS SHOWN.
- WOOD DOCK CROSSES THE BOUNDARY LINE ON EASTERLY SIDE OF LOT AS SHOWN.

4. RECORD DATA INDICATES OWNERSHIP TO THE EDGE OF WATER. ESTERO BAY IS TIDALLY INFLUENCED AND REQUIRES A MEAN HIGH WATER DETERMINATION TO ESTABLISH THE PROPERTY BOUNDARY. THE MEAN HIGH WATER LINE AND ASSOCIATED MEANDER LINE HAS BEEN ESTABLISHED AND IS SHOWN HEREON.



PROPERTY ADDRESS:
21391 WIDGEON TERRACE,
FORT MYERS , FL. 33931

LEGAL DESCRIPTION:
UNIT M-1 OF FLAMINGO HARBOUR CONDOMINIUM, A CONDOMINIUM ACCORDING TO THE DECLARATION OF CONDOMINIUM THEREOF RECORDED IN OFFICIAL RECORDS BOOK 1357, PAGE 1089, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, AND ALL AMENDMENTS THERETO, TOGETHER WITH ITS UNDIVIDED SHARE IN THE COMMON ELEMENTS.

FLOOD INFORMATION:
ZONE: "VE"
ELEV. = 12.00' (NAVD88)
MAP PANEL#: 12071C0567G
EFFECTIVE DATE: 11/17/2022

LINE TABLE			CURVE TABLE				CHORD LENGTH		CHORD BEARING	
	BEARING	DISTANCE		LENGTH	RADIUS	DELTA	LENGTH		BEARING	
L1	N68° 58' 00"E	80.71'		C1	136.99'	700.00'	111°12'47"	136.77'	526°38'23"E	
				C2	18.33'	360.00'	02°55'03"	18.33'	530°47'15"E	

LINETYPES:			
BOUNDARY	—	BUILDING	—
EASEMENT	- - -	CHAIN LINK FENCE	- x - x -
WOOD FENCE	- // - //	PLASTIC FENCE	- o -
OVERHEAD CABLE	- - -		

Elevations, if shown:
Benchmark: DN3725
Benchmark Elev.: 3.27'
Benchmark Datum: NAVD 88
Elevations on Drawing are in:
N.G.V.D.29 ☒ N.A.V.D.88

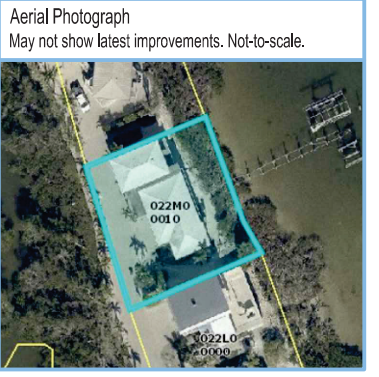
"CP" = CONTROLLING POINT (POINT OF ROTATION) "HFA" = HELD FOR ALIGNMENT - ALL OTHER MONUMENTATION AND IMPROVEMENTS RELATIVE THERETO

This survey has been issued by the following Landtec Surveying office:

700 W. Hillsboro Blvd. Suite 4-100
Deerfield Beach, FL 33441
Office: (561) 367-3587 Fax: (561) 465-3145
www.LandtecSurvey.com

LANDTEC
SURVEYING
and Lien

LICENSED BUSINESS No. 8507



GENERAL NOTES:

1. THIS SURVEY IS BASED UPON RECORD INFORMATION PROVIDED BY CLIENT. NO SPECIFIC SEARCH OF THE PUBLIC RECORD HAS BEEN MADE BY THIS OFFICE UNLESS OTHERWISE NOTED.
2. AS INDICATED ABOVE, UNDER "PURPOSE OF SURVEY", IF THIS SURVEY HAS BEEN PREPARED FOR A PURCHASE OR REFINANCE, ITS SCOPE IS LIMITED TO THE DETERMINATION OF TITLE DEFICIENCIES, AND IS NOT INTENDED FOR USE IN DESIGN OR CONSTRUCTION PURPOSES. LANDTEC SURVEYING ASSUMES NO RESPONSIBILITIES FOR ERRORS RESULTING FROM FAILURE TO ADHERE TO THIS CLAUSE.
3. ANY FENCES SHOWN HEREON ARE ILLUSTRATIVE OF THEIR GENERAL POSITION ONLY. FENCE TIES SHOWN ARE TO GENERAL CENTERLINE OF FENCE. THIS OFFICE WILL NOT BE RESPONSIBLE FOR DAMAGES RESULTING FROM THE REMOVAL OF, OR CHANGES MADE TO, ANY FENCES UNLESS WE HAVE PROVIDED A SURVEY SPECIFICALLY LOCATING SAID FENCES FOR SUCH PURPOSES. DETERMINATION OF FENCE POSITIONS SHOULD BE BASED SOLELY ON THEIR PHYSICAL RELATIONSHIP TO THE MONUMENTED BOUNDARY LINES.
4. GRAPHIC REPRESENTATIONS MAY HAVE BEEN EXAGGERATED TO MORE CLEARLY ILLUSTRATE MEASURED RELATIONSHIPS - DIMENSIONS SHALL HAVE PRECEDENCE OVER SCALED POSITIONS.
5. UNDERGROUND IMPROVEMENTS HAVE NOT BEEN LOCATED EXCEPT AS SPECIFICALLY SHOWN.
6. ELEVATIONS ARE BASED UPON NATIONAL GEODETIC VERTICAL DATUM (N.G.V.D. 1929) OR NORTH AMERICAN VERTICAL DATUM (N.A.V.D. 1988) AS SHOWN ABOVE.
7. ALL BOUNDARY AND CONTROL DIMENSIONS SHOWN ARE FIELD MEASURED AND CORRESPOND TO RECORD INFORMATION UNLESS SPECIFICALLY NOTED OTHERWISE.
8. ANY CORNERS SHOWN AS "SET" HAVE EITHER BEEN SET ON THE DATE OF FIELD WORK, OR WILL BE SET WITHIN 2 BUSINESS WEEKS OF SAID DATE AND ARE IDENTIFIED WITH A CAP MARKED LS (LICENSED SURVEYOR) #7274.

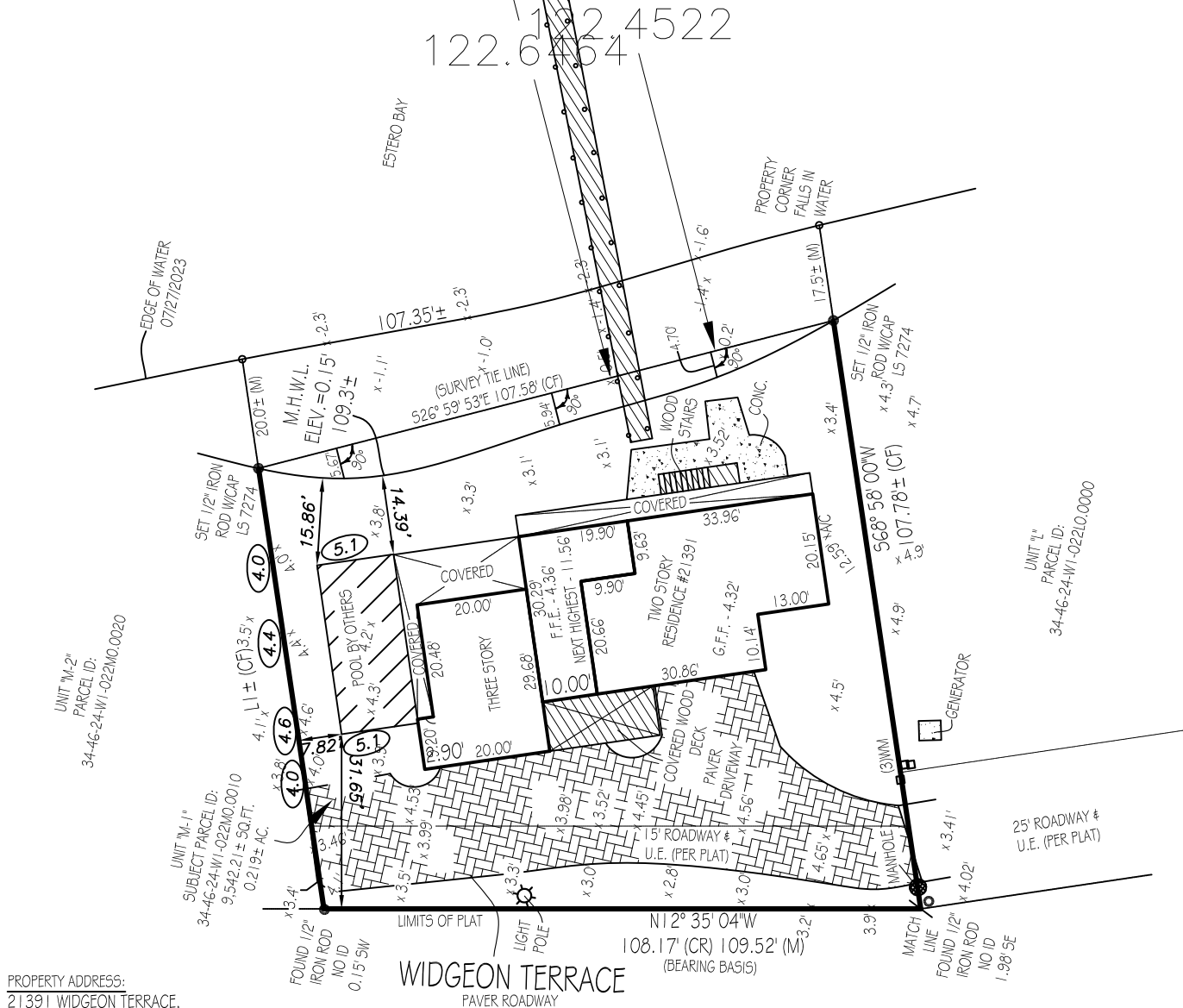
Nov 07, 2023 - 4:28pm E:\Wai Tech\WAL TECH\Jobs\2023\David Ward\21391 Widgeon ter - PLAISTED\21391 WIDGEON TER SITE.dwg



LINE TABLE		
	BEARING	DISTANCE
L1	N68°58'00"E	80.71'

CURVE TABLE				CHORD LENGTH	CHORD BEARING
	LENGTH	RADIUS	DELTA		
C1	136.99'	700.00'	11°12'47"	136.77'	S26°38'23"E
C2	18.33'	360.00'	02°55'03"	18.33'	S30°47'15"E

4. RECORD DATA INDICATES OWNERSHIP TO THE EDGE OF WATER. ESTERO BAY IS TIDALLY INFLUENCED AND REQUIRES A MEAN HIGH WATER DETERMINATION TO ESTABLISH THE PROPERTY BOUNDARY. THE MEAN HIGH WATER LINE AND ASSOCIATED MEANDER LINE HAS BEEN ESTABLISHED AND IS SHOWN HEREON.



PROPERTY ADDRESS:
21391 WIDGEON TERRACE,
FORT MYERS, FL. 33931

LEGAL DESCRIPTION:
UNIT M-1 OF FLAMINGO HARBOUR CONDOMINIUM, A CONDOMINIUM ACCORDING TO THE DECLARATION OF CONDOMINIUM THEREOF RECORDED IN OFFICIAL RECORDS BOOK 1357, PAGE 1089, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, AND ALL AMENDMENTS THERETO, TOGETHER WITH ITS UNDIVIDED SHARE IN THE COMMON ELEMENTS.

FLOOD INFORMATION:
ZONE: "VE"
ELEV. = 12.00' (NAVD88)
MAP PANEL#: 12071 C0567G
EFFECTIVE DATE: 11/17/2022

THE SURVEY WAS PERFORMED BY: LANDTEC SURVEYING

50.2 DENOTES EXISTING ELEVATION
50.2 DENOTES PROPOSED ELEVATION

~ DENOTES DRAINAGE FLOW
— OHL — DENOTES OVERHEAD LINES
● PP DENOTES POWER POLE
- W - W - W - DENOTES WATER LINES

THIS SKETCH IS CERTIFIED ONLY AS TO FIELD CONDITIONS ON:

11/7/23

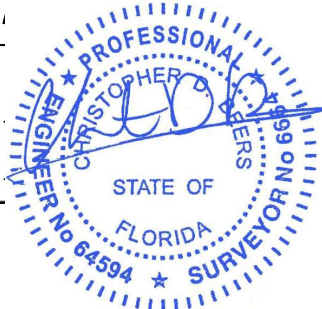
WTE JOB #

SCALE: 1"=30'

WAL TECH, LLC.
WATER, AIR, LAND

524 W Virginia Ave Punta Gorda FL 33950
PH:(941) 628-0635 EMAIL: bgaraimondo@comcast.net

CHRISTOPHER BEERS, PE
FLORIDA REG. NO. 64594
DATE





Attorney Robert Burandt
1714 Cape Coral Pkwy. E
Cape Coral, FL 33904

September 18, 2023

RE: 21391 Widgeon Terr, Fort Myers Beach
Strap # 34-46-24-W1022M.00010
VAR Application 20230162 – Variance request from 34-638 Rear and side

Dear Todd Plaisted,

The Community Development Department has reviewed the submission package for the above-referenced Variance application. At this time, the application is found insufficient and requires additional information.

1. Site plan.-

- a. Please include a site plan showing the proposed location of the pool.
- b. Include the rear setback from the pool shell to the mean high-water line.
- c. Include the side setback from the pool shell to side property line.

Per Sec. 34-638(d)(3)b.1. If the body of water is subject to tidal changes, the setback will be measured from the mean high-water line.

2. 67% Impervious Coverage concerns.

The site appears to be fairly built out and lot area for cover and impervious surface is generally considered the square footage of the property minus wetlands, canals and other waterbodies or lands designated recreation.



Please respond to each sufficiency review comment. If you do not provide the requested supplements or corrections within 60 calendar days of this letter, the Code requires that this application be considered withdrawn. If additional time is needed, the applicant may ask for additional time. Please feel free to contact me if you have any questions.

Sincerely,
Kendra Rosa
Zoning Coordinator
Town of Fort Myers Beach
Community Development Department



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: 21391 Widgeon Terrace, Fort Myers Beach, FL 33931

STRAP Number: 34-46-24-W1-022MO.0010

Applicant: Todd Plaisted

Phone: N/A

Contact Name: Attorney Robert Burandt

Phone: (239) 542-4733

Email: Robert@capecoralattorney.com

Fax: (239) 542-9203

Current Zoning District: RC

Future Land Use Map (FLUM) Category: Mixed Residential

FLUM Density Range: 6-Units

Platted Overlay: ☐ YES ☐ NO

ACTION REQUESTED

☐ Special Exception

☐ Variance

☐ Conventional Rezoning

☐ Planned Development ☐ Commercial ☐ Residential

☐ Master Concept Plan Extension

☐ Appeal of Administrative Action

☐ Vacation of Platted Right-of-way and Easement

☐ Other – cite LDC Section: _____

SUPPLEMENTAL FORM REQUIRED

PH-A

PH-B

PH-C

PH-D

PH-E

PH-F

PH-G

attach on separate sheet

PART I – General Information

A. Applicant*: Todd Plaisted

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: c/o Robert Burandt, Esquire, 1714 Cape Coral Pkwy. E., Cape Coral, FL 33904

Email: Robert@capecoralattorney.com

Fax: (239) 542-9203

Contact Name: Robert Burandt

Phone: (239) 542-4733



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

B. Relationship of Applicant to subject property:

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

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

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

Name: Steeven Knight Phone: (239) 641-2628
Address: 1714 Cape Coral Pkwy. E., Cape Coral, FL 33904
Email: islandspsfl@gmail.com Fax: _____

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

Name: Attorney Robert Burandt Phone: (239) 542-4733
Address: 1714 Cape Coral Pkwy. E., Cape Coral, FL 33904
Email: robert@capecoralattorney.com Fax: (239) 542-9203

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 - Side setback, etc.
- ☐ Conventional Rezoning from _____ to _____
- ☐ Planned Development
- ☐ Rezoning from _____ to ☐ Commercial PD ☐ Residential PD
- ☐ Amendment. List the project number: _____
- ☐ Extension/reinstatement of Master Concept Plan. List project number: _____



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

☐ Appeal of Administrative Action

☐ Vacation

☐ Right-of-Way

☐ Easement

☒ Other. Please Explain: 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: N/A Description: _____

Code Section: _____ Description: _____

Code Section: _____ Description: _____

PART IV – Property Ownership (Single Owner)

☒ Single Owner (individual or husband and wife)

Name: Todd Plaisted Phone: _____

Mailing Address: 1714 Cape Coral Pkwy. E., Cape Coral, FL 33904

Email: Robert@capecoralattorney.com Fax: (239) 542-9203

AFFIDAVIT

APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

I, Todd Plaisted 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.

Todd Plaisted
Signature

Todd Plaisted
Printed Name

STATE OF FL COUNTY OF LEE

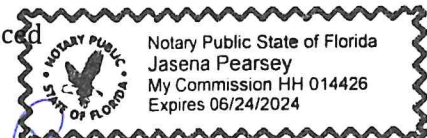
The foregoing instrument was certified and subscribed before me by means of ☒ physical

presence OR ☐ online notarization, this 15th day of MAY, 2022, by

Todd Plaisted ☒ who is personally known to me OR ☐ who has produced

MN D/L as identification.

(SEAL)



Jasena Pearsey
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
Todd Plaisted

Percentage Ownership
100%



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

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

Name, Address and Office

Percentage of Stock

_____	_____
_____	_____
_____	_____
_____	_____

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

Name and Address

Percentage of Interest

_____	_____
_____	_____
_____	_____
_____	_____

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

Name and Address

Percentage of Ownership

_____	_____
_____	_____
_____	_____
_____	_____

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

Name, Address and Office

Percentage of Stock

_____	_____
_____	_____
_____	_____
_____	_____



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

Date of Contract: _____

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

Name	Address
_____	_____
_____	_____
_____	_____
_____	_____

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

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

_____	_____
Signature	Printed Name

AFFIDAVIT

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

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

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

N/A

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: 34-46-24-W1-022MO.0010

Property Address: 21391 Widgeon Ter., 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: _____

Book: 1357 Page: 1089 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.

4/30/2021

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

Page 7 of 11



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

C. Property Dimensions:

Width (please provide an average width if irregular in shape) 102.12 ft +/- feet
Depth (please provide an average width if irregular in shape) 99.81 ft +/- feet
Frontage on street: 102.12 ft +/- feet. Frontage on waterbody: 100.76 ft +/- feet
Total land area: 9570.55 sq ft (0.22 acres) ☒ acres ☒ square feet

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

Big Carlos Pass Bridge
County Rd 865, Fort Myers Beach, FL 33931 Head west on Estero Blvd 2. Turn right onto Mound Rd 3. Turn left onto Noddy Tern Dr

4. Continue onto Widgeon Terrace Partial restricted usage road Destination will be on the right 2.4 mi

Head west on Estero Blvd 2. Turn right onto Mound Rd 3. Turn left onto Noddy Tern Dr 4. Continue onto Widgeon Terrace
Partial restricted usage road Destination will be on the right 2.4 mi

☒ Attach Area Location Map as Exhibit 6-3

E. Property Restrictions (check applicable):

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

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

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

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

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

EXPLANATORY NOTES

Please do not print, copy and submit these instructions

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

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

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

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

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

Explanatory Notes – Part I

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

Explanatory Notes – Part II

Indicate the requested action.

Explanatory Notes – Part III

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

Explanatory Notes – Part IV

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

Explanatory Notes – Part V

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

Explanatory Notes – Part VI

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

line. Exhibit 6-2

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

Explanatory Notes – Part IV & V

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



Case # _____

Date Received: _____

Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Supplement PH-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: Plaisted Pool
Authorized Applicant: Todd Plaisted
LeePA STRAP Number: 34-46-24-W1-022MO.0010

Current Property Status: Single Family Residence	
Current Zoning: Residential (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

34-1174 34-638	Rear and side setbacks

Complete the narrative statements below for EACH variance requested.



Case # _____

Date Received: _____

PART I
Narrative Statements

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

Explain the specific regulation contained in this section from which relief is sought:

The applicant requests a variance to construct his pool within 16 1/2 feet from the rear property line. The current code is 34-638 which is 25 feet. The neighbor residing at 21401 Widgeon Terrace, Fort Myers Beach, FL pool is constructed within 25 feet. See the picture marked as Exhibit "1" (Neighbor's Pool)

The applicant also requests a variance from the current 25 foot setback pursuant to Table 34-3 to be within 7 1/2 feet of the side property line. Please note that this setback was modified from 7 1/2 feet to 25 feet in February of 2022.

Attached is the Lee County Property Appraiser's Print Out for the applicant's house marked as Exhibit "2". Exhibit "3" is a survey showing where the pool is to be located .

A photograph of the residence and property line is marked as Exhibit "4". Photographs of the planned area for the pool is marked as Exhibit "5" and "6". A picture of the applicants house from the back bay is Exhibit "7", and a survey of the applicant's property is Exhibit "8".

Reasons for request

Explain why the variance is needed:

The property has only one possible location for a pool as demonstrated on the survey is marked as Exhibit "3".

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

The granting of this variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare. The adjacent property on the pool side will be 7 1/2, the former setback amount. The nearest structure pool side is the elevated house with a substantial hedge on the property line, with the garbage being next to the purported pool. See Exhibit "5", Picture 1 and 2. Picture #5 shows the applicant's house and the potentially affected neighbor.

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

Without these two (2) variances, the applicant will not be able to fully enjoy his home. There is just not any place else for their pool.



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.

The applicant's request is de minimis in nature and will only allow for the development of a private pool that will be accessory to the single-family dwelling unit, or the principal structure.

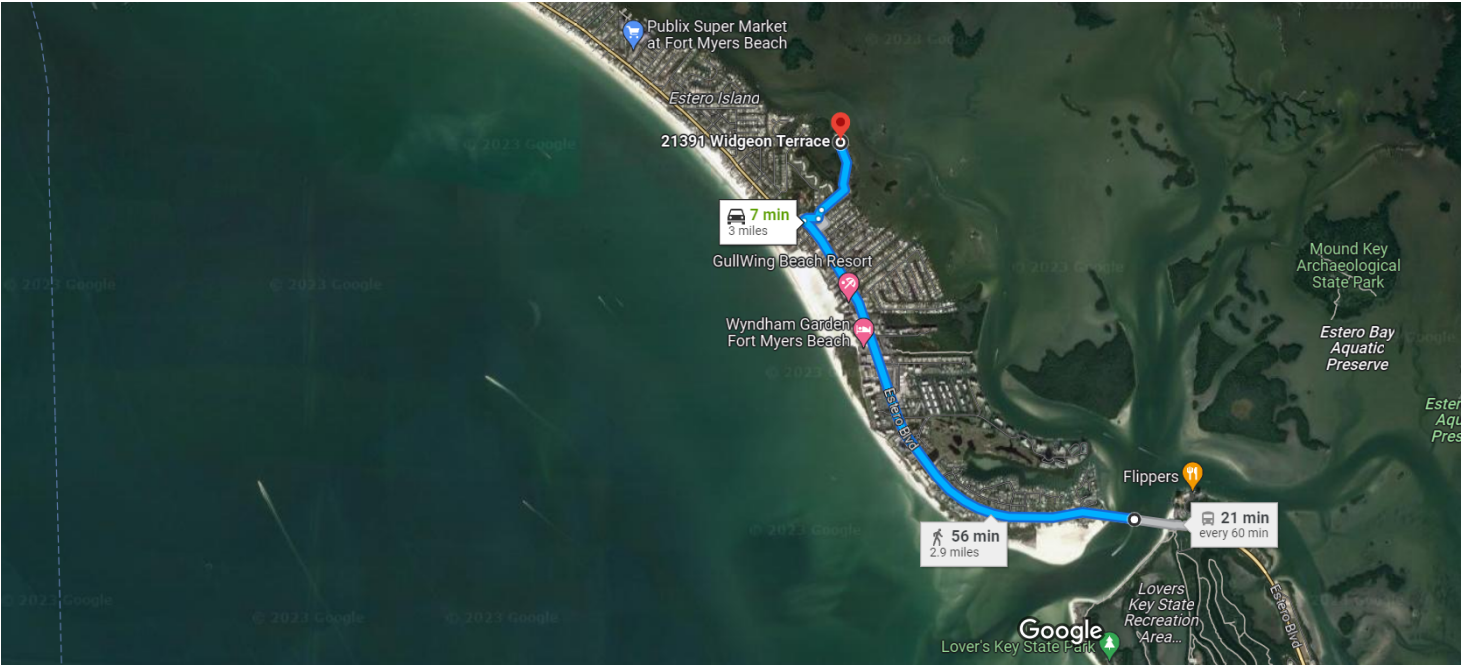
The variance request is not the result of action taken by the current property owner, who acquired the property in 2021.

The requested variance is the minimum to relieve the applicant of the code requirement. The variance is from the requirement that restricts accessory uses such as a pool from being located closer to Estero Bay and his daughter to the south.

The space between the principal structure and the bay is the only available location for the construction of a pool on this Property.

Big Carlos Pass Bridge to 21391 Widgeon Terrace, Fort Myers Beach, FL 33931

Drive 3.0 miles, 7 min

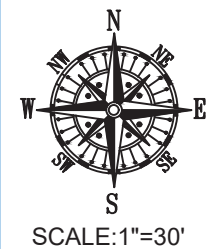


Imagery ©2023 Airbus, Landsat / Copernicus, Maxar Technologies, U.S. Geological Survey, Map data ©2023 Google 2000 ft

	via Estero Blvd	7 min
	Fastest route now due to traffic conditions	3.0 miles
	This route has restricted usage or private roads.	
	via Estero Blvd	56 min
		2.9 miles
	11:57 AM—12:18 PM	21 min
	410	

Explore nearby 21391 Widgeon Terrace

- Restaurants
- Hotels
- Gas stations
- Parking Lots
- More



TYPE OF SURVEY:

- ☐ BOUNDARY
☐ ALTA/NSPS
☒ CONSTRUCTION
☒ TOPOGRAPHIC
☐ CONDOMINIUM
☐ SPECIAL PURPOSE

PRINTING INSTRUCTIONS

WHEN PRINTING THIS PDF IN ADOBE, SELECT "ACTUAL SIZE" TO ENSURE CORRECT SCALING. **DO NOT USE "FIT".**

ABBREVIATION LEGEND

(SOME ITEMS IN LEGEND MAY NOT APPEAR ON DRAWING):

A OR AL = ARC LENGTH	P = PLAT
C/O = CLEANOUT	PC = POINT OF CURVE
CA = CENTRAL ANGLE	PCC = POINT OF COMPOUND CURVE
CATV = CABLE TV RISER	PH = POOL HEATER
CF = CALCULATED FROM FIELD	PI = POINT OF INTERSECTION
CH = CHORD DISTANCE	POB = POINT OF BEGINNING
CONC. = CONCRETE	POC = POINT OF COMMENCEMENT
CR = CALCULATED FROM RECORD	PP = POOL PUMP
DE = DRAINAGE EASEMENT	PRC = POINT OF REVERSE CURVE
EL OR ELEV = ELEVATION	PT = POINT OF TANGENCY
EM = ELECTRIC METER	QTR = QUARTER
F.F.E. = FINISHED FLOOR ELEV.	R = RADIUS
FIR = FOUND IRON ROD	RNG = RANGE
FN = FOUND NAIL	SEC = SECTION
FND = FOUND	TR = TELEPHONE RISER
G.F.F. = GARAGE FINISHED FLOOR	TWP = TOWNSHIP
L = LEGAL DESCRIPTION	UE = UTILITY EASEMENT
M = MEASURED	UP = UTILITY POLE
OHC = OVERHEAD CABLE	WM = WATER METER
	WV = WATER VALVE

SYMBOLS - NOT-TO-SCALE

(SOME ITEMS IN LEGEND MAY NOT APPEAR ON DRAWING):

= UTILITY POLE	= WELL
= LIGHT POLE	= CENTER LINE
= CATCH BASIN	= PARTY WALL
= FIRE HYDRANT	= AIR CONDITIONER
= MANHOLE	= SEPTIC LID
= WATER VALVE	= ELEV. SHOT
= WATER METER	
= HANDICAP PARKING SPACE	
= SEC. QTR. CORNER	
= SECTION CORNER	

CERTIFIED TO
TODD R PLAISTED

CERTIFICATION

I HEREBY CERTIFY THAT THIS SURVEY MEETS THE STANDARDS OF PRACTICE AS OUTLINED IN CHAPTER 5J-17.051 & 5J-17.052 OF THE FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES, AND THAT THE ELECTRONIC SIGNATURE AND SEAL HEREON MEETS PROCEDURES AS SET FORTH IN CHAPTER 5J-17.062. PURSUANT TO SECTION 472.025, FLORIDA STATUTES.

SIGNATURE _____ DATE: 8-24-2023

PABLO ALVAREZ - PROFESSIONAL SURVEYOR AND MAPPER FLORIDA REGISTRATION NO. 7274 (NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OR THE ELECTRONIC SEAL OF THE FLORIDA LICENSED SURVEYOR AND MAPPER SHOWN ABOVE)

BEARING REFERENCE:
CENTER LINE OF 93rd AVENUE AS N 88°46'09" W
AS REFERENCED IN SUBJECT PROPERTY LEGAL DESCRIPTION.
ALL BEARINGS SHOWN HEREON REFERENCED THERETO.

Job Number : 179798-SW	Field: K.A.
Drawn By : E.I.	Date of Field Work : 07/28/2023

PURPOSE OF SURVEY: PROPERTY IMPROVEMENTS-OTHER

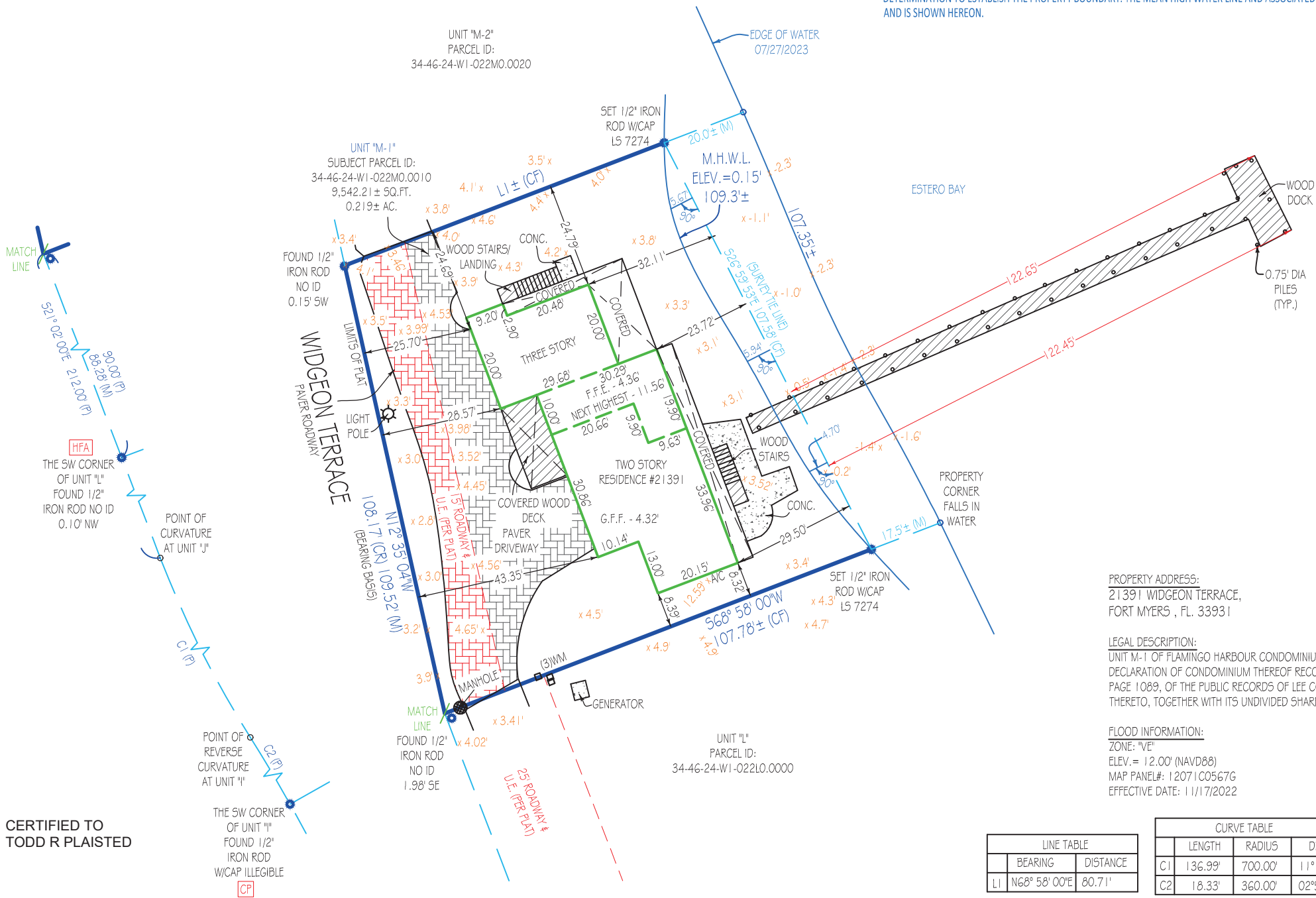
REVISIONS

UPDATE - E.I. - 08/23/2023

Platted Easements & Notable Conditions (unplatted easements also listed if provided): IF APPLICABLE, RECIPIENTS OF THIS SURVEY SHOULD REVIEW THE POSITION OF ANY FENCE LINES SHOWN AND THEIR RELATIONSHIP TO THE BOUNDARY LINE.

- 15' ROADWAY AND UTILITY EASEMENT ALONG WESTERLY BOUNDARY LINE OF SUBJECT LOT.
- PAVER DRIVEWAY EXTENDS THROUGH THE WESTERLY EASEMENT.
- PAVER DRIVEWAY CROSSES THE BOUNDARY LINE ON NORTHERLY AND SOUTHERLY SIDES OF LOT AS SHOWN.
- WOOD DOCK CROSSES THE BOUNDARY LINE ON EASTERLY SIDE OF LOT AS SHOWN.

4. RECORD DATA INDICATES OWNERSHIP TO THE EDGE OF WATER. ESTERO BAY IS TIDALLY INFLUENCED AND REQUIRES A MEAN HIGH WATER DETERMINATION TO ESTABLISH THE PROPERTY BOUNDARY. THE MEAN HIGH WATER LINE AND ASSOCIATED MEANDER LINE HAS BEEN ESTABLISHED AND IS SHOWN HEREON.



PROPERTY ADDRESS:
21391 WIDGEON TERRACE,
FORT MYERS, FL. 33931

LEGAL DESCRIPTION:
UNIT M-1 OF FLAMINGO HARBOUR CONDOMINIUM, A CONDOMINIUM ACCORDING TO THE DECLARATION OF CONDOMINIUM THEREOF RECORDED IN OFFICIAL RECORDS BOOK 1357, PAGE 1089, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, AND ALL AMENDMENTS THERETO, TOGETHER WITH ITS UNDIVIDED SHARE IN THE COMMON ELEMENTS.

FLOOD INFORMATION:
ZONE: "VE"
ELEV. = 12.00' (NAVD88)
MAP PANEL#: 12071C0567G
EFFECTIVE DATE: 11/17/2022

LINE TABLE	
BEARING	DISTANCE
L1 N68°58'00"E	80.71'

CURVE TABLE			CHORD LENGTH	CHORD BEARING
	LENGTH	RADIUS		
C1	136.99'	700.00'	111°24'7"	136.77'
C2	18.33'	360.00'	02°55'03"	18.33'

LINETYPES:

BOUNDARY		BUILDING	
EASEMENT		CHAIN LINK FENCE	
WOOD FENCE		PLASTIC FENCE	
OVERHEAD CABLE			

Elevations, if shown:

Benchmark: DN3725
Benchmark Elev.: 3.27'
Benchmark Datum: NAVD 88
Elevations on Drawing are in:
N.G.V.D.29 ☒ N.A.V.D.88

"CP" = CONTROLLING POINT (POINT OF ROTATION) "HFA" = HELD FOR ALIGNMENT - ALL OTHER MONUMENTATION AND IMPROVEMENTS RELATIVE THERETO

This survey has been issued by the following Landtec Surveying office:

700 W. Hillsboro Blvd. Suite 4-100
Deerfield Beach, FL 33441
Office: (561) 367-3587 Fax: (561) 465-3145
www.LandtecSurvey.com



LICENSED BUSINESS No. 8507

Aerial Photograph

May not show latest improvements. Not-to-scale.



GENERAL NOTES:

1. THIS SURVEY IS BASED UPON RECORD INFORMATION PROVIDED BY CLIENT. NO SPECIFIC SEARCH OF THE PUBLIC RECORD HAS BEEN MADE BY THIS OFFICE UNLESS OTHERWISE NOTED.
2. AS INDICATED ABOVE, UNDER "PURPOSE OF SURVEY", IF THIS SURVEY HAS BEEN PREPARED FOR A PURCHASE OR REFINANCE, ITS SCOPE IS LIMITED TO THE DETERMINATION OF TITLE DEFICIENCIES, AND IS NOT INTENDED FOR USE IN DESIGN OR CONSTRUCTION PURPOSES. LANDTEC SURVEYING ASSUMES NO RESPONSIBILITIES FOR ERRORS RESULTING FROM FAILURE TO ADHERE TO THIS CLAUSE.
3. ANY FENCES SHOWN HEREON ARE ILLUSTRATIVE OF THEIR GENERAL POSITION ONLY. FENCE TIES SHOWN ARE TO GENERAL CENTERLINE OF FENCE. THIS OFFICE WILL NOT BE RESPONSIBLE FOR DAMAGES RESULTING FROM THE REMOVAL OF, OR CHANGES MADE TO, ANY FENCES UNLESS WE HAVE PROVIDED A SURVEY SPECIFICALLY LOCATING SAID FENCES FOR SUCH PURPOSES. DETERMINATION OF FENCE POSITIONS SHOULD BE BASED SOLELY ON THEIR PHYSICAL RELATIONSHIP TO THE MONUMENTED BOUNDARY LINES.
4. GRAPHIC REPRESENTATIONS MAY HAVE BEEN EXAGGERATED TO MORE CLEARLY ILLUSTRATE MEASURED RELATIONSHIPS - DIMENSIONS SHALL HAVE PRECEDENCE OVER SCALED POSITIONS.
5. UNDERGROUND IMPROVEMENTS HAVE NOT BEEN LOCATED EXCEPT AS SPECIFICALLY SHOWN.
6. ELEVATIONS ARE BASED UPON NATIONAL GEODETIC VERTICAL DATUM (N.G.V.D. 1929) OR NORTH AMERICAN VERTICAL DATUM (N.A.V.D. 1988) AS SHOWN ABOVE.
7. ALL BOUNDARY AND CONTROL DIMENSIONS SHOWN ARE FIELD MEASURED AND CORRESPOND TO RECORD INFORMATION UNLESS SPECIFICALLY NOTED OTHERWISE.
8. ANY CORNERS SHOWN AS "SET" HAVE EITHER BEEN SET ON THE DATE OF FIELD WORK, OR WILL BE SET WITHIN 2 BUSINESS WEEKS OF SAID DATE AND ARE IDENTIFIED WITH A CAP MARKED LS (LICENSED SURVEYOR) #7274.

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

Yellow Sheet Number: **2024-1385**

1. Requested Motion:

Meeting Date: December 19, 2023

RESOLUTION NUMBER 23-186: A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING VARIANCE VAR20230264 TO DECREASE THE REQUIRED 15-FOOT SIDE YARD SETBACKS BY 8.5 FEET TO ALLOW 6.5-FOOT SIDE SETBACKS, FOR THE COMMERCIAL RESORT ZONED PROPERTY AT 5350 ESTERO BLVD; PROVIDING FOR SCRIVENER'S ERRORS, SEVERABILITY, PROVIDING FOR AN EFFECTIVE DATE.

Why the action is necessary:

Variances are reviewed by the LPA and recommendations are forwarded to the Town Council.

What the action accomplishes:

Approval of the variance will allow a home to be built on the property with 6.5 foot side setbacks.

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

Resolution

5. Background:

The applicant is requesting a variance from the Town's Land Development Code (LDC) Table 34-3 which requires that a development in the CR zoning district provide 15-foot side setbacks. The applicant is requesting a 6.5-foot side setback, to match with the surrounding RM zoned properties. This would be a reduction of 8.5 feet from the required setback. The subject property is 45 feet wide by 125 feet deep. It is surrounded by RM zoned properties developed with single family homes. The property was previously developed with a single-family home, up until sometime in 2005. The lot has been vacant since that time.

Attachments:

1. Resolution 23-186
2. Staff Report
3. Exhibit A Application
4. Exhibit B LPA postcard

Financial Impact:

unknown

6. Alternative Action

Deny request

7. Staff Recommendations:

Recommend approval of VAR20230264

8. Recommended Approval:

Date: December 13, 2023

Frankie Kropacek, Operations & Compliance Director

Date: December 13, 2023

Nancy Stuparich, Town Attorney

RESOLUTION NUMBER 23-186

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING VARIANCE VAR20230264 TO DECREASE THE REQUIRED 15-FOOT SIDE YARD SETBACKS BY 8.5 FEET TO ALLOW 6.5-FOOT SIDE SETBACKS, FOR THE COMMERCIAL RESORT ZONED PROPERTY AT 5350 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 Drew Whiting, on behalf of owner Maple Grove 89th Property LLC, is requesting a variance from Table 34-3 to decrease the side setbacks by 8.5 feet to allow for a 6.5 foot side setback; and

WHEREAS, the STRAP number for the subject property is 33-46-24-W1-00206.0090; and

WHEREAS, the Property is located in the "Mixed Residential" category of the Future Land Use Map of the Comprehensive Plan and the "Commercial Resort" 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 December 19, 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 _____ of the variance; and

WHEREAS, on January 8, 2024 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 Table 34-3, a variance per Section 34-268(a)(5), and a variance from Section 34-638(d)(1)g.

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.

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 8th day of January, 2024 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 January 2024.



Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

TYPE OF CASE: Variance

CASE NUMBER: VAR20230264

CASE NAME: 5350 Estero Blvd; requesting a variance of 8.5 feet from the LDC Table 34-3 which requires a 15 foot setback in the CR zoning district.

LPA

HEARING DATE: December 19, 2023 at 9 AM

STAFF

RECOMMENDATION: APPROVE

**PREPARED/
SUBMITTED BY:** Sarah Propst, AICP, PMP

I. APPLICATION SUMMARY

Applicant/Owner: Drew Whiting/Maple Grove 89th Property LLC

Request: Variance from LDC Table 34-3 which requires a 15-foot side setback in CR zoning district.

Subject property: See attached site plan

Physical Address: 5350 Estero Blvd

STRAP #: 33-46-24-W1-00206.0090

FLU: Mixed Residential

Zoning: Commercial Resort (CR)

Adjacent zoning and land uses:

North: RESIDENTIAL CONSERVATION (RC)
Single-Family Residences

South:	RESIDENTIAL MULTI-FAMILY (RM) Single-Family Residences
East:	RESIDENTIAL MULTI-FAMILY (RM) Single-Family Residences
West:	RESIDENTIAL MULTI-FAMILY (RM) Single-Family Residences

II. BACKGROUND AND ANALYSIS

Background:

Drew Whiting on behalf of the owner, Maple Grove 89th Property LLC, is requesting a variance from the Town's Land Development Code (LDC) Table 34-3 which requires that a development in the CR zoning district provide 15-foot side setbacks. The applicant is requesting a 6.5-foot side setback, to match with the surrounding RM zoned properties. This would be a reduction of 8.5 feet from the required setback.

Analysis:

The purpose of the CR zoning district is to designate suitable locations for motels, resorts, and related services. The subject property is 45 feet wide by 125 feet deep. It is surrounded by RM zoned properties developed with single family homes. The property was previously developed with a single-family home, up until sometime in 2005. The lot has been vacant since that time.

As per LDC table 34-3, a structure in the CR zoning district shall provide side setbacks equal to 15 feet. However development of a home with two 15-foot setbacks, on a 45 foot wide lot, would only be 15-feet wide.

Neighborhood Compatibility:

The surrounding properties are mostly vacant, however the remaining homes in the vicinity appear to provide similar side setbacks as the setbacks proposed by the applicant. The land development code requires 6.5 foot side setbacks in the RM zoning district for single family residences on lots less than 50 feet wide. The applicant is also proposing to meet the front setback of 25 feet, to match the surrounding lots zoned RM.

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 property is only 45 feet wide and the CR zoning district setback will result in only 15 feet of buildable width. The applicant is proposing the setback that the surrounding properties, zoned RM, are required to meet.

- 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 property is zoned CR, while the surrounding, similarly sized, properties are zoned RM. The application of CR zoning district regulations on this size lot results in a lot that it difficult to develop.

- 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 applicant is proposing the same setback as adjacent properties are required to meet.

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

The granting of this variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

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

This lot is an anomaly in size for the CR zoning district.

III. RECOMMENDATION

Staff has reviewed the request for a variance from LDC Table 34-3 which requires that a structure in the CR zoning district provide side setbacks of 15 feet and found that the variance request does meet the requirements set-forth in sec. 34-87. This lot is too small to apply the code required side setbacks and also provide a buildable area.

Therefore, staff recommends **APPROVAL** of VAR20230264, a request for variance of 8.5 feet from the required side setbacks to accommodate a new home.

Attachments

Exhibit A – Application

Exhibit B – Postcards to adjacent property owners



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

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

Site Address: 5350 Estero Blvd, Fort Myers Beach, Florida, 33931

STRAP Number: 33-46-24-W1-00206.0090

Applicant: Maple Grove 89th Property LLC

Phone: _____

Contact Name: Drew Whiting

Phone: 224.723.9198

Email: dwhiting@homebound.com

Fax: _____

Current Zoning District: CR - Commercial Resort

Future Land Use Map (FLUM) Category: Mixed Residential

FLUM Density Range: Mixed

Platted Overlay: ☐ YES ☐ NO

ACTION REQUESTED

☐ Special Exception

☒ Variance

☐ Conventional Rezoning

☐ Planned Development ☐ Commercial ☐ Residential

☐ Master Concept Plan Extension

☐ Appeal of Administrative Action

☐ Vacation of Platted Right-of-way and Easement

☐ Other – cite LDC Section: _____

SUPPLEMENTAL FORM REQUIRED

PH-A

PH-B

PH-C

PH-D

PH-E

PH-F

PH-G

attach on separate sheet

PART I – General Information

A. Applicant*: Maple Grove 89th Property 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: 5350 Estero Blvd, Fort Myers Beach, Florida, 33931

Email: mark@mtlcompanies.com

Fax: _____

Contact Name: Drew Whiting, Homebound

Phone: 224.723.9198



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

B. Relationship of Applicant to subject property:

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

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

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

Name: Drew Whiting Phone: 224.723.9198
Address: 422 Harbor Ct | Fort Myers Beach, FL 33931
Email: dwhiting@homebound.com Fax: _____

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

Name: Samir Malviya Phone: 248.894.9610
Address: 422 Harbor Ct | Fort Myers Beach, FL 33931
Email: smalviya@homebound.com Fax: _____

Name: Tyler Knafelc Phone: 719.213.4409
Address: 422 Harbor Ct | Fort Myers Beach, FL 33931
Email: tknafelc@homebound.com Fax: _____

PART II – Nature of Request

Requested Action (each request requires a separate application)

- ☐ Special Exception
- ☒ Variance from LDC Section 34 - 638
- ☐ Conventional Rezoning from _____ to _____
- ☐ Planned Development
- ☐ Rezoning from _____ to ☐ Commercial PD ☐ Residential PD
- ☐ Amendment. List the project number: _____
- ☐ Extension/reinstatement of Master Concept Plan. List project number: _____



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

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

PART III – Waivers

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

Code Section: _____ Description: _____

Code Section: _____ Description: _____

Code Section: _____ Description: _____

PART IV – Property Ownership (Single Owner)

☐ Single Owner (individual or husband and wife)

Name: _____ Phone: _____

Mailing Address: _____

Email: _____ Fax: _____

AFFIDAVIT APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

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

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

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

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

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

Signature

Printed Name

STATE OF _____ COUNTY OF _____

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

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

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

_____ as identification.

(SEAL)

Notary Public Signature

PART V

Property Ownership (Multiple Owners)

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

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

DISCLOSURE OF OWNERSHIP INTEREST

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

Name and Address

Percentage Ownership



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

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

Name, Address and Office

Percentage of Stock

_____	_____
_____	_____
_____	_____
_____	_____

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

Name and Address

Percentage of Interest

_____	_____
_____	_____
_____	_____
_____	_____

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

Name and Address

Percentage of Ownership

_____	_____
_____	_____
_____	_____
_____	_____

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

Name, Address and Office

Percentage of Stock

_____	_____
_____	_____
_____	_____
_____	_____



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

Date of Contract: _____

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

Name	Address
_____	_____
_____	_____
_____	_____
_____	_____

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

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

_____ Signature	_____ Printed Name
--------------------	-----------------------

AFFIDAVIT

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

I, Drew Whiting (name), as Architectural Associate (title)
of Homebound Florida, LLC (company), swear or affirm under oath, that I am the owner or the authorized representative of the owner(s) of the property and that:

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



COMMUNITY DEVELOPMENT DEPARTMENT
APPLICATION for PUBLIC HEARING

Homebound Florida, LLC

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

Signature

Drew Whiting

Typed or Printed Name

Architecture Associate

Title

11/22/2023

Date

STATE OF _____ COUNTY OF _____

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

Seal

Notary Public Signature

PART VI- Property Information

A. Legal Description:

STRAP: 33-46-24-W1-00206.0090

Property Address: 5350 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: Gulf Heights

Book: 6 Page: 39 Unit: _____ Block: 6 Lot(s): 9

B. Boundary Survey:

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

C. Property Dimensions:

Width (please provide an average width if irregular in shape) 45 feet
Depth (please provide an average width if irregular in shape) 125 feet
Frontage on street: 45 feet. Frontage on waterbody: N/A feet
Total land area: 5,625 ☐ acres ☒ square feet

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

☒ Attach Area Location Map as Exhibit 6-3

E. Property Restrictions (check applicable):

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

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

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

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

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

EXPLANATORY NOTES

Please do not print, copy and submit these instructions

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

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

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

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

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

Explanatory Notes – Part I

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

Explanatory Notes – Part II

Indicate the requested action.

Explanatory Notes – Part III

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

Explanatory Notes – Part IV

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

Explanatory Notes – Part V

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

Explanatory Notes – Part VI

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

line. Exhibit 6-2

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

Explanatory Notes – Part IV & V

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



Case # _____

Date Received: _____

Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Supplement PH-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: 5350 Estero Blvd
Authorized Applicant: Drew Whiting
LeePA STRAP Number: 33-46-24-W1-00206.0090

Current Property Status:	
Current Zoning: CR - Commercial Resort	
Future Land Use Map (FLUM) Category: Mixed Residential	
Comp Plan Density: Mixed	Platted Overlay? ☐ Yes ☒ No

Variance is requested from:

LDC Section Number

Title of Section or Subsection

34-638 Minimum Setbacks

Complete the narrative statements below for EACH variance requested.

PART I
Narrative Statements

Request for variance from **34-638** (LDC Section number)

Explain the specific regulation contained in this section from which relief is sought:
Seeking a reduction to the side setback requirement of 15' down to 6.5'; as the subject property
is surrounded and adjacent to RM Residential Multifamily zoning, we would like to apply
Table 34-3 Note (6) exception for side setbacks for single-family homes in RM zoning districts
to side setbacks of 6.5 feet for lots less than 50'

Reasons for request

Explain why the variance is needed:
The subject property is in an CR Commercial Resort zoning district but is surrounded by RM
Residential Multifamily Districts on all sides. The subject property was previously approved for
a Minimum Use Determination for allowing the lot to be built on; however, under the existing zoning,
the side setbacks place a constraint on the lot which make it unbuildable. The lot's dimensions of
45' wide by 125' deep allow a very narrow buildable footprint of 15' wide by 95' deep
(15' side setbacks, 10' front setback, and 20' rear setback). The adjacent RM districts allow
6.5 side setbacks (exception note 6), 25' front setbacks, and 20' rear setbacks. By reducing the
side setbacks to 6.5' for single-family residence, the site's buildable footprint would be substantially
improved at 32'.

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

The variance would align the subject property to the same side setback requirements (for single-family and two-family residences) as surrounding properties at 6.5' - creating a more consistent streetscape. For one, this makes the subject property buildable which helps relieve this street of the empty lot on the subject property, and secondly, it creates a similar size and density to the surrounding properties.

The subject property is proposing a 25' front setback (with encroachment for front porch stairs) that also aligns with the 25' front setback at the surrounding properties so as not to build closer than those houses allow. While the CR zoning district technically allows a 10' front setback, we prefer the 25' setback for both remaining consistent with the rest of the street, and creating additional off-street parking on the subject property.

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

The subject property is zoned to CR which is intended for much larger lots (as has been recognized by the approved Minimum Use Determination for this lot) CR zoning requires a minimum lot area of 20,000 sf and the subject property is 5625 sf. With a substantially smaller size, the larger side setbacks CR zoning requires place a hardship on the 45' lot width by only allowing a 15' wide buildable footprint. In addition, the lot is surrounded by RM zoning district which allows a reduction of side setbacks to 6.5' (for lots less than 50' wide) for single-family and two-family residences. The same logic for that exception applies well to the subject property.



This property qualifies for a variance in that a Minimum Use Determination has already been approved for the lot, and it requires a variance to make the a house buildable. The conditions provided justifying the variance are no result of the applicant. The requested variance is the minimum that will relieve the applicant of the burden created by the reduced lot width; the reduction of the side setbacks by 8.5' will allow a 32' wide floor plan which aligns with what is being proposed. The granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare; This is a unique condition as most lots zoned CR Commercial Resort are not of this small a size and not necessarily isolated in being surrounded by different zonings; however, Note 6 of Table 34-3 could also apply to single-family and two-family residences in CR zoning districts (in addition to RM).

PART 2

Submittal Requirements

All applications for a variance must be submitted electronically through our Iworq portal - [iworq \(talktomycity.com\)](http://iworq.talktomycity.com)

Required Items

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

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

Cover page

Case Number will be inserted by Community Development staff.

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

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

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

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

"Variance is requested from..." Provide the section number and title of each section of the Fort Myers Beach Land Development Code from which a variance is being sought.

Narrative statements

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

Site plan

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

LDC Section 34-87

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

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

Strap # 33-46-24-W1-00206.0090

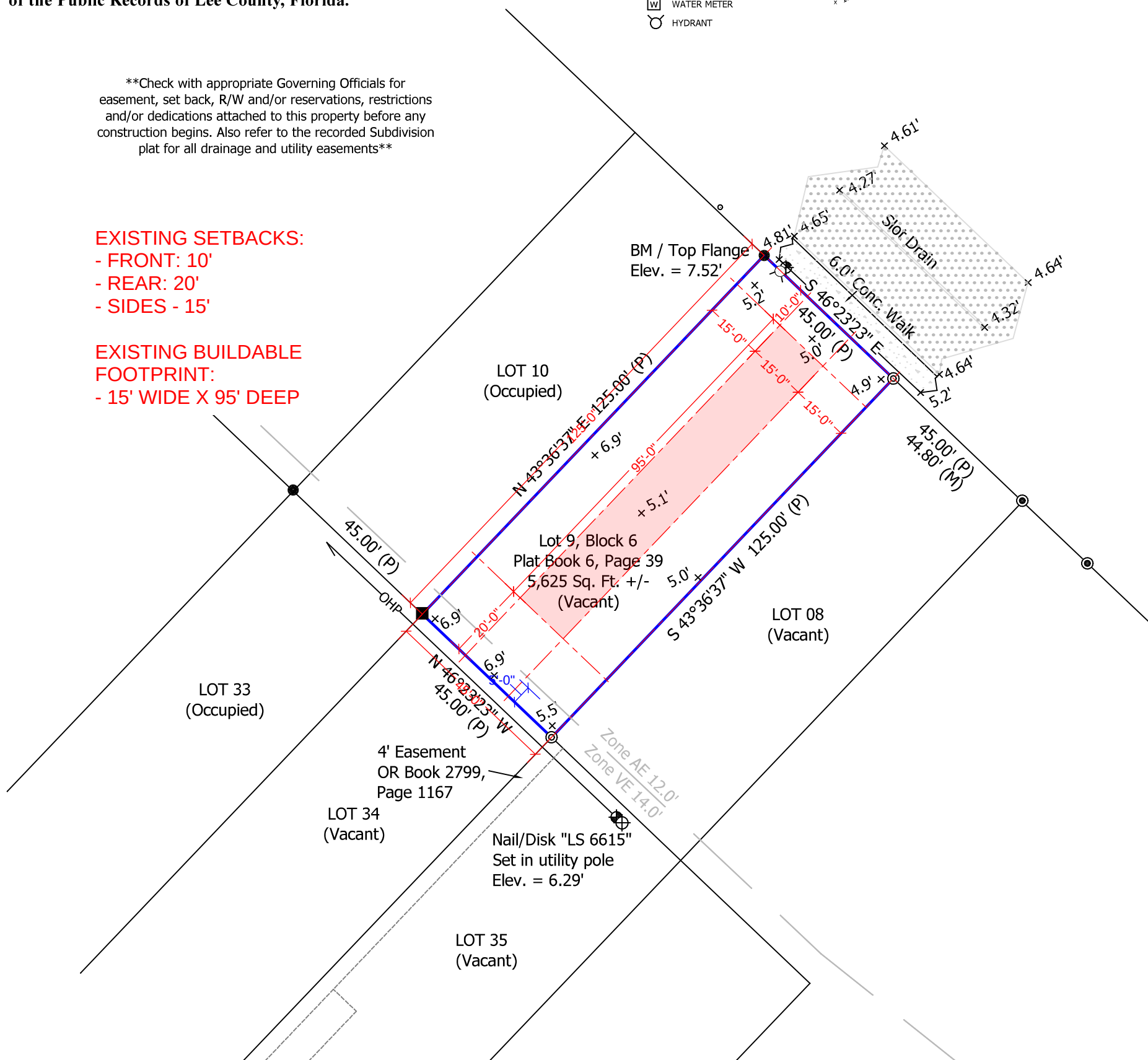
Lot 9, Block 6, Gulf Heights, according to the map or plat thereof, as recorded in Plat Book 6, Page 39, of the Public Records of Lee County, Florida.

Together with a non-exclusive easement for the benefit of the above described parcel as created by and set forth in that certain corrective and amended grant of ingress/egress easement by and between William G. Crane and Katheryn L. Crane and Robert A. Blazina and Blazina Investment Corporation recorded in official Records Book 2799, Page 1167, of the Public Records of Lee County, Florida.

****Check with appropriate Governing Officials for easement, set back, R/W and/or reservations, restrictions and/or dedications attached to this property before any construction begins. Also refer to the recorded Subdivision plat for all drainage and utility easements****

- FRONT: 10'
- REAR: 20'
- SIDES - 15'

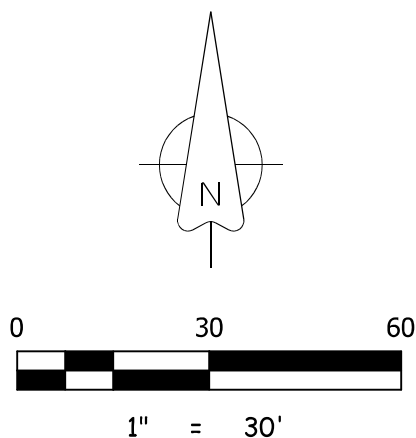
- 15' WIDE X 95' DEEP



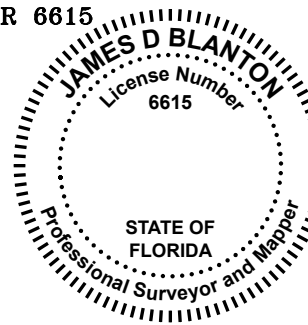
CERTIFIED TO:
Homebound Technologies Inc.

SURVEY NOTES:

1. MEASUREMENTS SHOWN ARE IN FEET AND DECIMALS THEREOF.
2. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.
3. UNDERGROUND STRUCTURES AND UTILITIES, IF ANY, ARE NOT INCLUDED.
4. THIS PROPERTY IS LOCATED IN A FLOOD HAZARD AREA ON THE NATIONAL FLOOD INSURANCE PROGRAM'S FLOOD INSURANCE RATE MAPS.
NATIONAL FLOOD INSURANCE INFORMATION:
COMMUNITY NUMBER: 120673
PANEL NUMBER: 12071 C 0566
SUFFIX: G
EFFECTIVE DATE: 11/17/2022
FIRM ZONE: AE / VE
BASE FLOOD ELEVATION: 12.0' / 14.0'
5. BEARINGS ARE BASED ON THE SOUTHERLY RIGHT OF WAY OF ESTERO BOULEVARD AS MONUMENTED IN THE FIELD, BEING S 46°23'23" E.
6. DATE OF LAST FIELD WORK: JUNE 1ST, 2023.
7. THIS BOUNDARY SURVEY WAS COMPLETED WITHOUT BENEFIT OF AN UP TO DATE TITLE COMMITMENT.
8. ADDITIONS TO OR DELETIONS FROM SURVEY OR REPORTS BY OTHER THAN THE SIGNING SURVEYOR AND MAPPER ARE PROHIBITED BY LAW WITHOUT THE EXPRESS WRITTEN CONSENT OF THE SIGNING SURVEYOR AND MAPPER. *COPYRIGHT 2023, JAMES D. BLANTON, PSM, ALL RIGHTS RESERVED.* DO NOT COPY WITHOUT THE WRITTEN CONSENT OF JAMES D. BLANTON, PSM.
9. THIS SURVEY WAS PREPARED ONLY FOR THE CLIENTS AS NAMED HEREON AND NO THIRD OR OTHER PARTY CERTIFICATION IS EXPRESSED OR IMPLIED.



James D. Blanton
PROFESSIONAL SURVEYOR & MAPPER 6615
202 W 7th Street, Suite 113
London, Ky. 40741
Office (606) 260 - 8169



I hereby certify that this Boundary Survey of the hereon described property has been made under my direction, and to the best of my knowledge and belief, it is a true and accurate representation of a survey that meets the minimum technical standards set forth by the Florida Board of Professional Surveyors & Mappers in Chapter 5J-17 of the Florida Administrative Code, Pursuant to Section 472.027 Florida Statutes.

BENCHMARK DESCRIPTION	FDOT FPRN / NAVD 88 Datum	Drawn By: TRL	Project ID:(FMB) Gulf Heights Lot 9, Block 6 SECTION 33, TOWNSHIP 46S, RANGE 24E	FLORIDA PROFESSIONAL SURVEYOR & MAPPER NO. 6615 NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED OR DIGITAL SEAL OF THE FLORIDA LICENSED SURVEYOR AND MAPPER
		Checked By: JDB		

5350 ESTERO BOULEVARD,
FORT MYERS BEACH, FLORIDA 33931

Strap # 33-46-24-W1-00206.0090

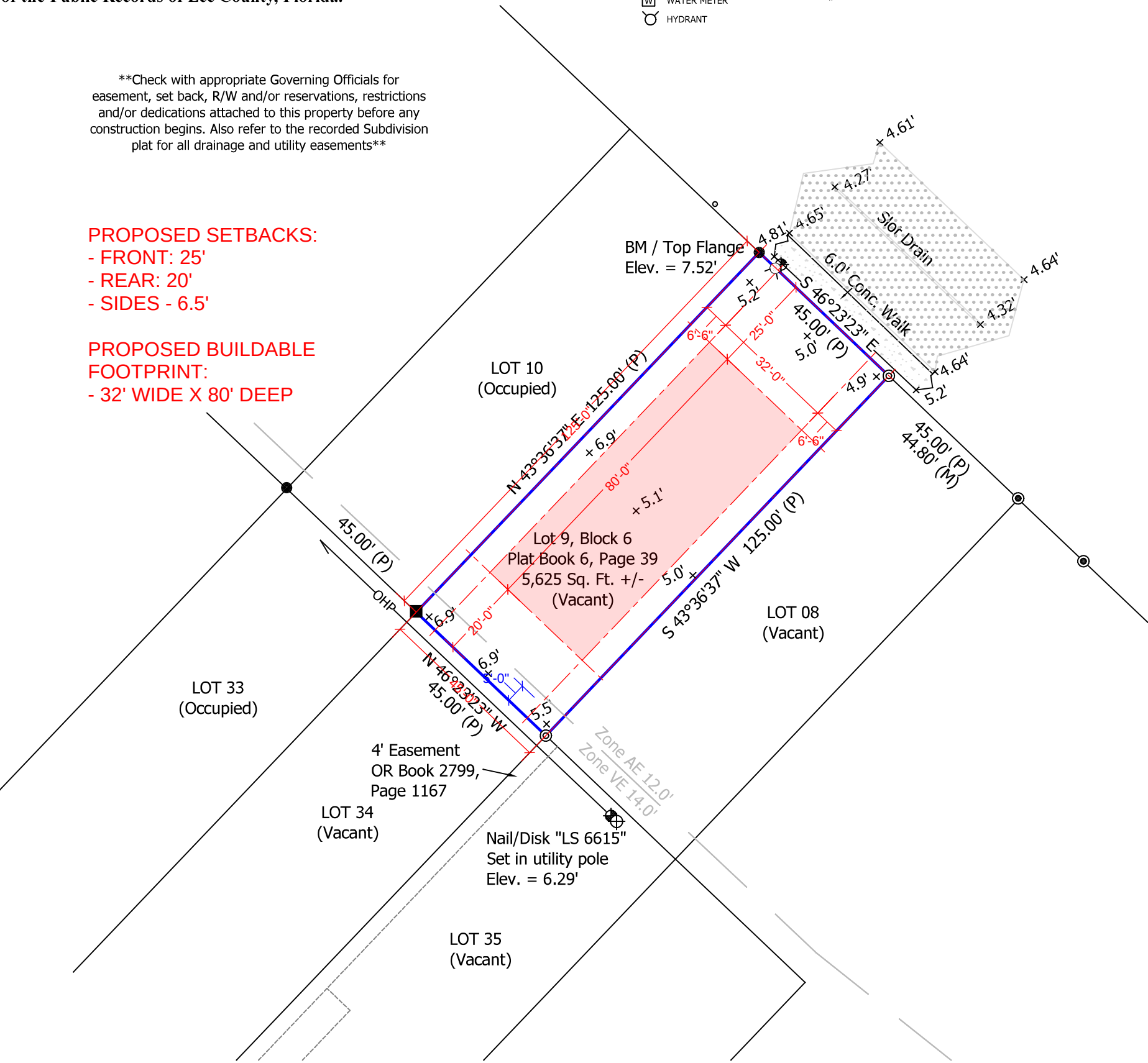
Instrument Number: 2022000136310
Lot 9, Block 6, Gulf Heights, according to the map or plat thereof, as recorded in Plat Book 6, Page 39, of the Public Records of Lee County, Florida.

Together with a non-exclusive easement for the benefit of the above described parcel as created by and set forth in that certain corrective and amended grant of ingress/egress easement by and between William G. Crane and Katheryn L. Crane and Robert A. Blazina and Blazina Investment Corporation recorded in official Records Book 2799, Page 1167, of the Public Records of Lee County, Florida.

Check with appropriate Governing Officials for easement, set back, R/W and/or reservations, restrictions and/or dedications attached to this property before any construction begins. Also refer to the recorded Subdivision plat for all drainage and utility easements

PROPOSED SETBACKS:
- FRONT: 25'
- REAR: 20'
- SIDES - 6.5'

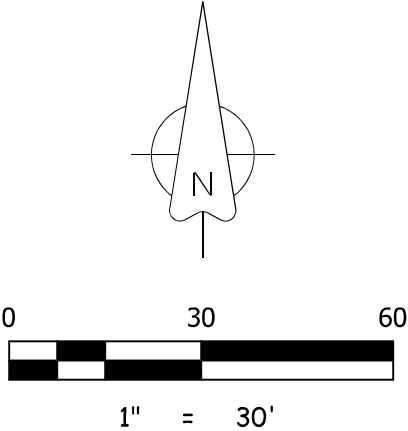
PROPOSED BUILDABLE FOOTPRINT:
- 32' WIDE X 80' DEEP



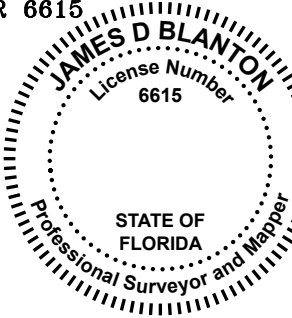
CERTIFIED TO:
Homebound Technologies Inc.

SURVEY NOTES:

- MEASUREMENTS SHOWN ARE IN FEET AND DECIMALS THEREOF.
- SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.
- UNDERGROUND STRUCTURES AND UTILITIES, IF ANY, ARE NOT INCLUDED.
- THIS PROPERTY IS LOCATED IN A FLOOD HAZARD AREA ON THE NATIONAL FLOOD INSURANCE PROGRAM'S FLOOD INSURANCE RATE MAPS.
NATIONAL FLOOD INSURANCE INFORMATION:
COMMUNITY NUMBER: 120673
PANEL NUMBER: 12071 C 0566
SUFFIX: G
EFFECTIVE DATE: 11/17/2022
FIRM ZONE: AE / VE
BASE FLOOD ELEVATION: 12.0' / 14.0'
- BEARINGS ARE BASED ON THE SOUTHERLY RIGHT OF WAY OF ESTERO BOULEVARD AS MONUMENTED IN THE FIELD, BEING S 46°23'23" E.
- DATE OF LAST FIELD WORK: JUNE 1ST, 2023.
- THIS BOUNDARY SURVEY WAS COMPLETED WITHOUT BENEFIT OF AN UP TO DATE TITLE COMMITMENT.
- ADDITIONS TO OR DELETIONS FROM SURVEY OR REPORTS BY OTHER THAN THE SIGNING SURVEYOR AND MAPPER ARE PROHIBITED BY LAW WITHOUT THE EXPRESS WRITTEN CONSENT OF THE SIGNING SURVEYOR AND MAPPER. *COPYRIGHT 2023, JAMES D. BLANTON, PSM, ALL RIGHTS RESERVED.* DO NOT COPY WITHOUT THE WRITTEN CONSENT OF JAMES D. BLANTON, PSM.
- THIS SURVEY WAS PREPARED ONLY FOR THE CLIENTS AS NAMED HEREON AND NO THIRD OR OTHER PARTY CERTIFICATION IS EXPRESSED OR IMPLIED.



James D. Blanton
PROFESSIONAL SURVEYOR & MAPPER 6615
202 W 7th Street, Suite 113
London, Ky. 40741
Office (606) 260 - 8169



I hereby certify that this Boundary Survey of the hereon described property has been made under my direction, and to the best of my knowledge and belief, it is a true and accurate representation of a survey that meets the minimum technical standards set forth by the Florida Board of Professional Surveyors & Mappers in Chapter 5J-17 of the Florida Administrative Code, Pursuant to Section 472.027 Florida Statutes.

BENCHMARK DESCRIPTION	FDOT FPRN / NAVD 88 Datum	Drawn By: TRL	Project ID:(FMB) Gulf Heights Lot 9, Block 6 SECTION 33, TOWNSHIP 46S, RANGE 24E	FLORIDA PROFESSIONAL SURVEYOR & MAPPER NO. 6615 NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED OR DIGITAL SEAL OF THE FLORIDA LICENSED SURVEYOR AND MAPPER
		Checked By: JDB		

LEGEND:			
	CONCRETE		ROOFED AREA
	EXISTING ELEVATION		SITE BOUNDARY
	DRAINAGE DIRECTION ARROW		FENCE
	POWER POLE		OVERHEAD LINE
	WATER VALVE		BUILDING LINE
	TELEPHONE RISER		EASEMENTS
	WATER METER		EDGE OF ROAD

SITE INFORMATION:	
PROPERTY ADDRESS:	
5350 ESTERO BLVD FORT MYERS BEACH, FL, 33931	
FLOOD ZONE INFORMATION:	
FIRM COMMUNITY NUMBER: 120673 PANEL: 0566 MAP NUMBER: 12071C0566G EFFECTIVE DATE: 11/17/2022 FLOOD ZONE: VE BFE: 14.00' NAVD MINIMUM ELEVATION OF BOTTOM OF LOWEST SUPPORTING HORIZONTAL STRUCTURE MEMBER OF LOWEST FLOOR = 15.00' NAVD 1988	
PARCEL LEGAL DESCRIPTION	
LOT 9, BLOCK 6, GULF HEIGHTS, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 6, PAGE 39 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.	
SETBACK PER LDC TABLE 34-3 CONVENTIONAL DEVELOPMENT DISTRICT	
FRONT 25 FT SIDE 6.5 FT REAR 20 FT	

CONTRACTOR TO BE RESPONSIBLE FOR ANY DAMAGE TO ROADWAYS
DONE BY THE PROPOSED DEVELOPMENT. IN AREAS WITH NEVER
PAVEMENT MAY REQUIRE INCLUDING MILL & REPLACE FULL LANE
WIDTH TO MEET F.D.O.T. STANDARDS. CONTRACTOR TO SOD ALL
DISTURBED AREAS DONE BY CONSTRUCTION.

LAND USE CALCULATIONS		
TOTAL PROPERTY AREA	5,625 SF	0.13 AC
BUILDING AREA	1,470 SF	26%
MISC IMPERVIOUS AREA	0 SF	0%
ON-SITE DRIVEWAY AREA	400 SF	7%
OFF-SITE DRIVEWAY AREA	32 SF	
STAIRS AREA	154 SF	3%
TOTAL ON-SITE IMPERVIOUS AREA	2,024 SF	36%
TOTAL ON-SITE PERVIOUS AREA	3,601 SF	64%

DRAINAGE CALCULATIONS	
VOLUME REQUIRED (1" OVER SITE)	469 CF
5.50' NAVD TOE	0 SF
6.00' NAVD TOB	1876 SF
DEPTH (h)	0.50'
VOLUME PROVIDED	469 CF

$$V = \frac{A_{TOB} + A_{TOE}}{2} * h$$

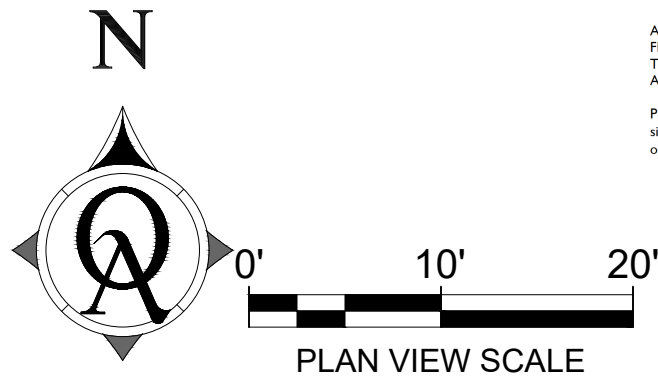
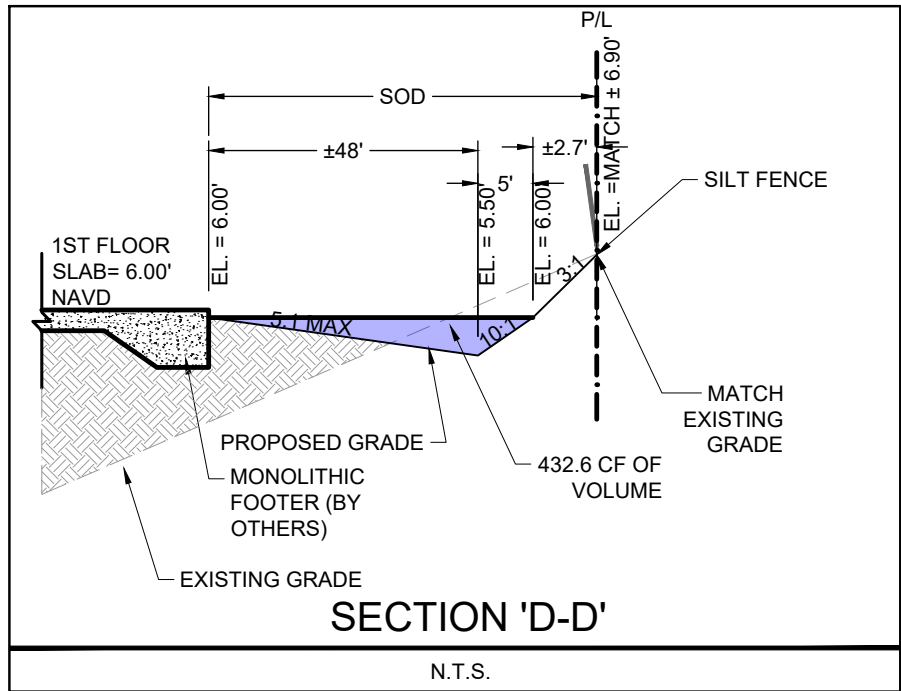
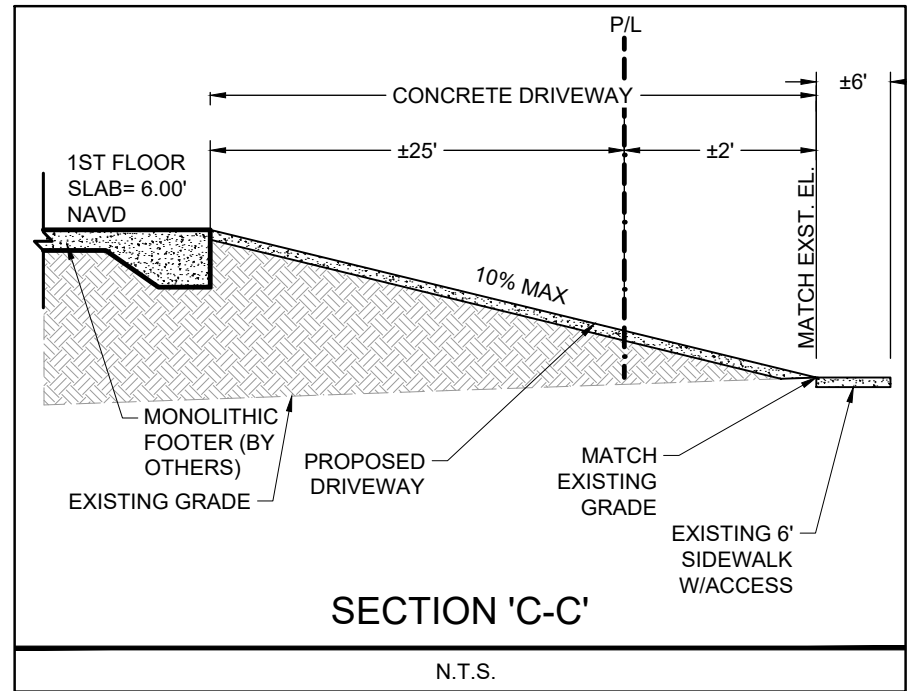
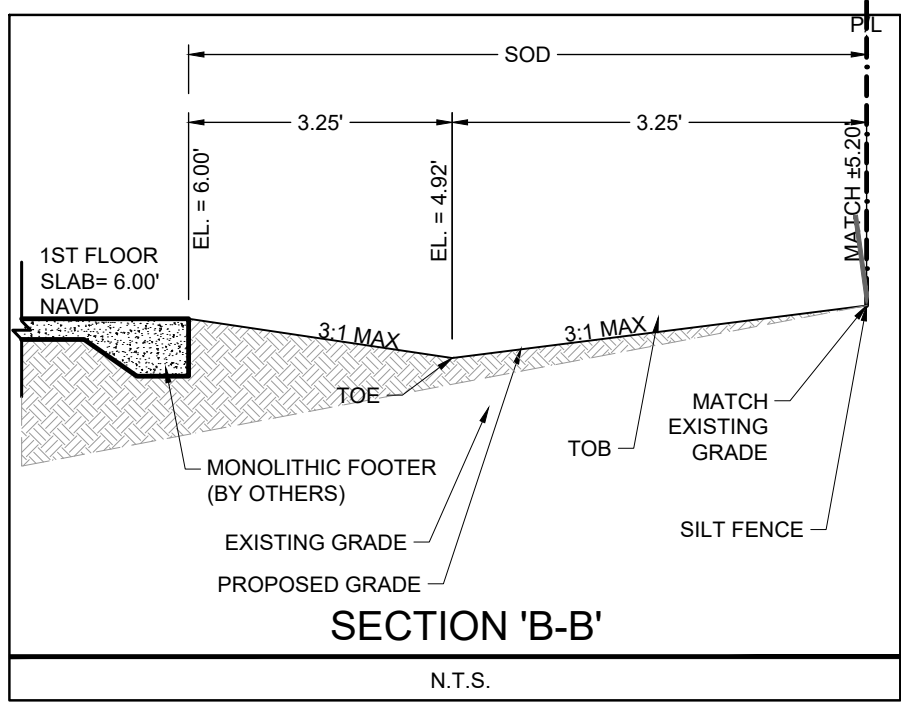
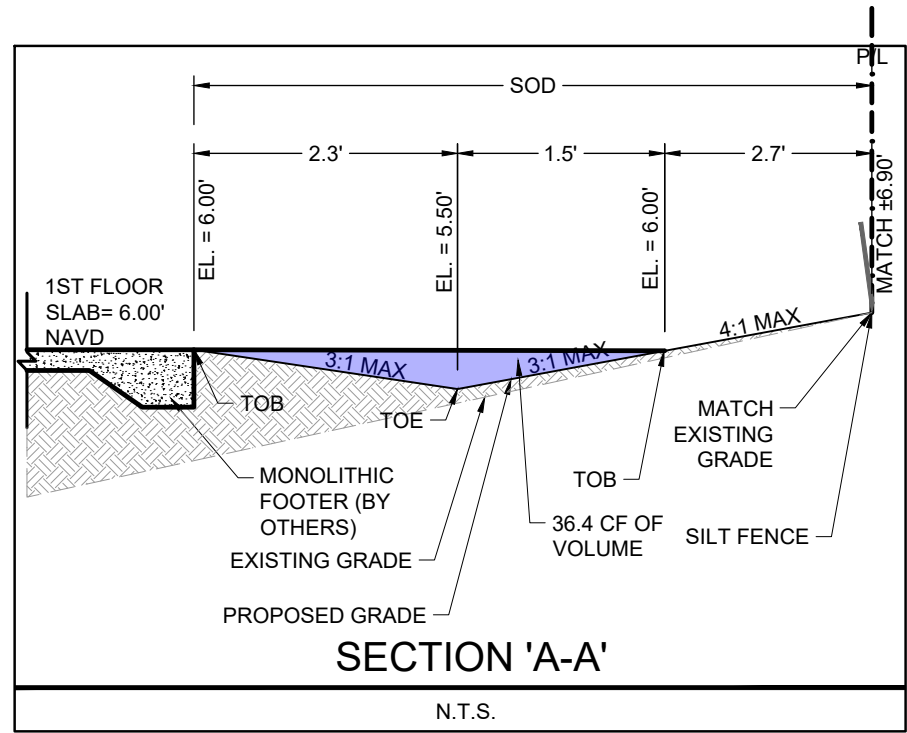
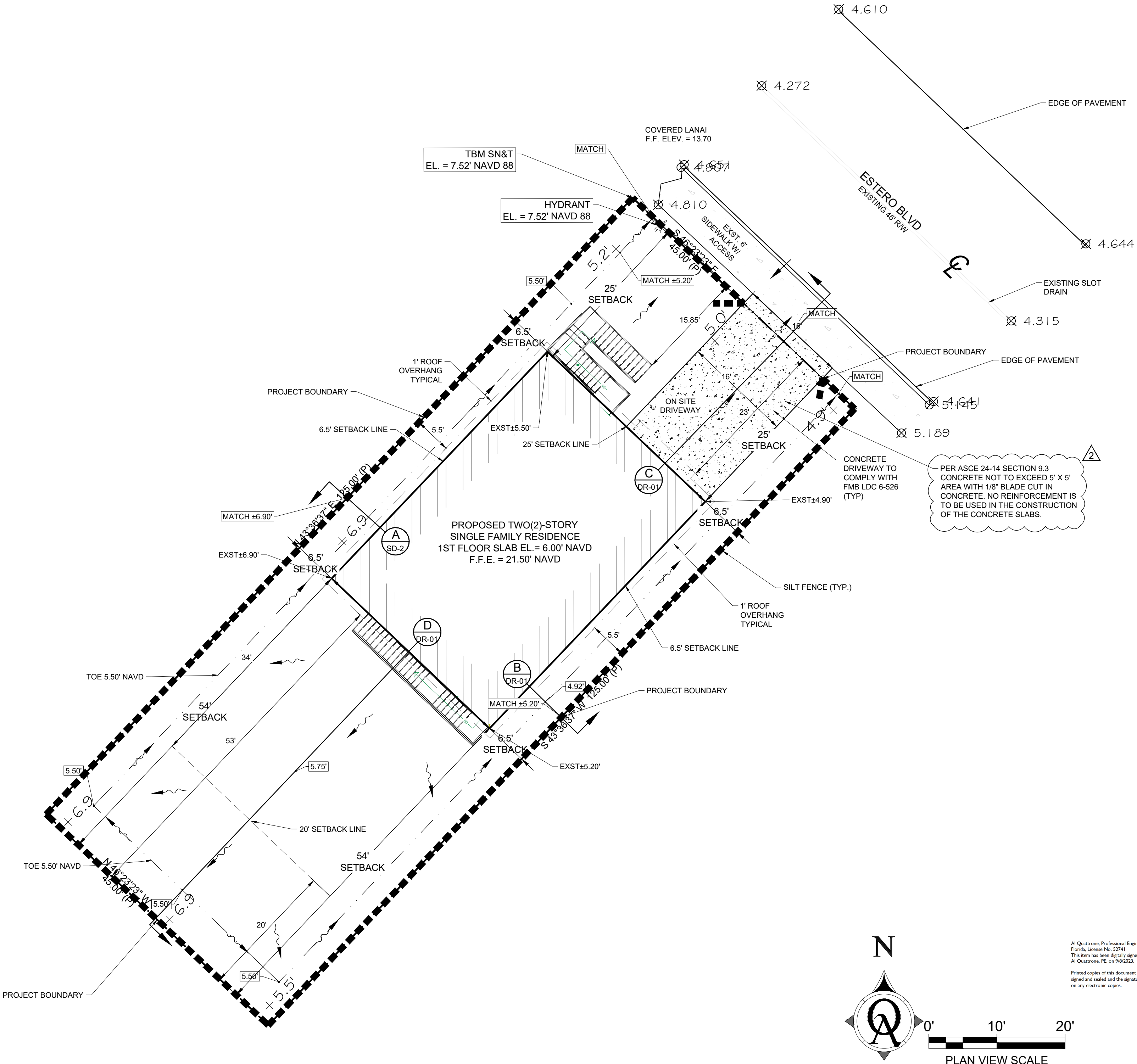
GEOTECHNICAL NOTES
1. FOLLOWING SITE STRIPPING AND PRIOR TO THE PLACEMENT OF
ANY FILL, AREAS OF SURFICIAL SAND (NOT EXPOSED LIMESTONE)
SHOULD BE COMPACTED ("PROOF ROLLED") AND TESTED. UES
RECOMMENDS USING A STEEL DRUM VIBRATORY ROLLER WITH
SUFFICIENT STATIC WEIGHT AND VIBRATORY IMPACT ENERGY TO
ACHIEVE THE REQUIRED COMPACTION. DENSITY TESTS SHOULD BE
PERFORMED ON THE PROOF ROLLED SURFACE AT A FREQUENCY OF
NOT LESS THAN ONE TEST PER 2,500 SQUARE FEET, OR A MINIMUM
OF FOUR (4) TESTS, WHICHEVER IS GREATER. AREAS OF EXPOSED
INTACT LIMESTONE SHALL BE VISUALLY CONFIRMED BY THE
PROJECT GEOTECHNICAL ENGINEER PRIOR TO FILL PLACEMENT, IN
LIEU OF PROOF ROLLING.

GEOTECHNICAL NOTES
2. FILL MATERIAL MAY THEN BE PLACED IN THE BUILDING PAD AS
REQUIRED. THE FILL MATERIAL SHOULD BE INORGANIC (CLASSIFIED
AS SP, SW, GP, GW, SP-SM, SW-SM, GW-GM, GP-GM) CONTAINING NOT
MORE THAN 5 PERCENT (BY WEIGHT) ORGANIC MATERIALS. FILL
MATERIALS WITH SILT-SIZE SOIL FINES IN EXCESS OF 12% SHOULD
NOT BE USED. FILL SHOULD BE PLACED IN LIFTS WITH A MAXIMUM
LIFT THICKNESS NOT EXCEEDING 12 INCHES. EACH LIFT SHOULD BE
COMPACTED AND TESTED PRIOR TO THE PLACEMENT OF THE NEXT
LIFT. DENSITY TESTS SHOULD BE PERFORMED WITHIN THE FILL AT A
FREQUENCY OF NOT LESS THAN ONE TEST PER 2,500 SQUARE FEET
PER LIFT IN THE BUILDING AREAS, OR A MINIMUM OF FOUR (4) TESTS
PER LIFT, WHICHEVER IS GREATER.

AVG. EXISTING GRADE=±5.50' NAVD
AVG. PROPOSED GRADE=±5.75' NAVD
AVG DEPTH OF FILL=±0.25'
VOLUME OF COMPACTED FILL NEEDED=±52 CY
VOLUME OF LOOSE FILL NEEDED=±68 CY (ASSUMING SWELL FACTOR
OF 1.3)

NOTE:
PER ASCE 24-14 SECTION 9.3 CONCRETE NOT TO EXCEED 5' X 5' AREA
WITH 1/8" BLADE CUT IN CONCRETE. NO REINFORCEMENT IS TO BE
USED IN THE CONSTRUCTION OF THE CONCRETE SLABS.

VERTICAL DATUM: NAVD
THIS DRAWING AND ALL ELEVATIONS SHOWN ARE BASED ON THE NATIONAL AMERICAN VERTICAL DATUM (NAVD 88) *ADD 1.2' TO CONVERT TO NGVD 29*



At Quattrone, Professional Engineer, State of
Florida, License No. 52741
This form has been digitally signed and sealed by
At Quattrone, P.E. on 9/8/2023.

Printed copies of this document are not considered
signed and sealed and the signature must be verified
on any electronic copies.

HOMEBOUND
DRAINAGE SITE PLAN

5350 ESTERO BLVD
FORT MYERS BEACH, FL, 33931

Quattrone & Associates, Inc.
Engineers, Planners, & Development Consultants
4301 Veronica Shoemaker Blvd - Fort Myers, Florida 33916 - 239-936-5222
Certificate of Authorization Number: 9465

ALFRED QUATTRONE, P.E.
FL REG #52741
VALID ONLY WITH EMBOSSED SEAL

SAVED BY: Josh
SAVED ON: 9/8/23

SHEET
DR-01
01 OF 01



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: December 19, 2023
CASE: VAR20230264
ADDRESS: 5350 Estero Blvd
APPLICANT: Maple Grove 89th Property LLC/ Drew Whiting
REQUEST: The applicant is requesting a variance of 8.5 feet from the LDC Table 34-3 which requires a 15 foot setback in the CR 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,
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: December 19, 2023
CASE: VAR20230264
ADDRESS: 5350 Estero Blvd
APPLICANT: Maple Grove 89th Property LLC/ Drew Whiting
REQUEST: The applicant is requesting a variance of 8.5 feet from the LDC Table 34-3 which requires a 15 foot setback in the CR 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,
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: December 19, 2023
CASE: VAR20230264
ADDRESS: 5350 Estero Blvd
APPLICANT: Maple Grove 89th Property LLC/ Drew Whiting
REQUEST: The applicant is requesting a variance of 8.5 feet from the LDC Table 34-3 which requires a 15 foot setback in the CR 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,
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: December 19, 2023
CASE: VAR20230264
ADDRESS: 5350 Estero Blvd
APPLICANT: Maple Grove 89th Property LLC/ Drew Whiting
REQUEST: The applicant is requesting a variance of 8.5 feet from the LDC Table 34-3 which requires a 15 foot setback in the CR 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
2525 Estero Blvd,
Fort Myers Beach, FL 33931

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

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

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

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

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

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

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

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

Yellow Sheet Number: **2024-1386**

1. Requested Motion:

Meeting Date: December 19, 2023

Development Agreement Options Discussion

Why the action is necessary:

This discussion item will assist staff and the attorney in developing code language, if desired.

What the action accomplishes:

This discussion item will assist staff and the attorney in developing code language, if desired.

2. Agenda:

COMMUNITY DEVELOPMENT
ITEMS/REPORTS

3. Requirement/Purpose:

ordinance, if desired.

5. Background:

Staff and the attorneys have been asked to discuss some options for development agreements. The language before you today was recommended by an LPA member. Draft procedures prepared by the Town attorney has been attached as well.

Attachments:

1. Proposed Development Agreements
2. Development Agreement Procedures - 11-22-23 Attorney

Financial Impact:

unknown

6. Alternative Action

Provide input on provided language.

7. Staff Recommendations:

Provide input.

8. Recommended Approval:

Date:

Frankie Kropacek, Operations & Compliance Director

Date:

Nancy Stuparich, Town Attorney

Date:

Amy Baker, Town Clerk

Development Agreements

Pursuant to the Town Attorney's suggestion to amend the our existing Development Agreement process to *"facilitate approvals of developments in the best interest of the Town by the ability to consolidate all related process, which may allow deviations from the strict development under the rules of the code"* This article shall be an alternative method for review for request for quasi-judicial rezoning, variances, special exceptions, and/or any other deviations from the strict regulations under this code..."

I propose that the LPA recommend adoption of an amended Development Agreement process to help small business owners on Fort Myers Beach, and speed up redevelopment of our devastated island.

I propose the following approach:

- Adoption of interim Development Agreement processes that would automatically sunset within one year of adoption unless extended by Council.
- The creation of at least 3 Development Agreement options to address known development approval needs.
 1. The **Small Hotel Development Agreement option** that could grant additional "density/lodging units", height and reduced setbacks without the need for a CPD.
 - Would only apply to small hotels that were in operation pre-lan
 - Would only apply to owner-operated hotels
 - Would only allow up to 20-30 rooms
 - Would require the Applicant to provide a sketch/site plan defining proposed setbacks
 - Would require that maximum stories, no greater than 3 stories above BFE, be identified, as well as maximum height
 - Would require access points to be identified and parking addressed
 - Would require a commitment to adopt a coastal architectural style
 - Would require review by LPA and Council
 - Would require that the Applicant file Development Order and Building Permit applications within 18 months.
 2. The **Site Plan with Deviations Development Agreement Option** that would simplify and streamline the variance process for small business owners:
 - Would require the Applicant to provide a site plan identifying proposed deviations
 - Would allow deviations to development standards including setbacks, heights and other dimensional standards but would not apply to density or FAR
 - Would require review by LPA and Council
 - Would require that the Applicant file Development Order and Building Permit applications within 18months.
 3. The **Preliminary/Conceptual CPD Development Agreement** that would provide an expedited review process for larger developments to obtain a conceptual Yay or Nay for proposed project in a reasonable amount of time. This would help expedite

redevelopment on the island and remove risk and uncertainty for sellers, developers and residents.

- This process would not negate the need for a CPD and full review by staff, LPA and Council
- Would require the Applicant to provide detailed parameters of their proposed project, design and public benefits
- Would require the Applicant to hold one Neighborhood Information Meeting prior to going before the LPA and Council for the Preliminary/Conceptual CPD Development Agreement
- Preliminary/Conceptual Approval would approve the development in concept but the Applicant would be required to work out development details and demonstrate compliance with all established parameters and commitments through the CPD process
- This option could possibly yield a conceptual Yay or Nay within 3-4 months versus the typical 10-12 months for a CPD – as mentioned above, CPD approval would still be needed

PROCEDURES FOR DEVELOPMENT AGREEMENTS WITH DEVIATIONS

1. Development Agreement with Deviations Application Procedures.

The following information/exhibits shall be required with the application for a Development Agreement with Deviations (hereinafter "Development Agreement"):

1.1. Legal description and address of the parcel of land which will be the subject of the Development Agreement (hereinafter "Land").

1.2. The name, address and telephone number of the applicant and any attorney or agent who is or will be representing the applicant.

1.3. A title opinion from a Florida attorney (which opinion is in a form acceptable to and in favor of the town), which shall identify and provide the names, addresses and telephone numbers of all legal and equitable owners having interest in the Land, as well as all mortgage or lien holders, holders of easement interests, and other encumbrances, upon the Land. As of the date of recordation of any Development Agreement, the applicant shall be required by the town to update the foregoing information in this subparagraph to the date of recording of the Development Agreement.

1.4. An application signed by, or on behalf of, the owner and any lien holder(s) as to the Land subject to the Development Agreement, and if not signed by the owner a notarized consent signed by the owner authorizing the person to sign the application.

1.5. Payment of any required application fee as set by resolution of the town council.

1.6. A survey of the Land showing the approximate location of all environmentally sensitive lands, or lands subject to the jurisdiction of the U.S. Army Corps of Engineers, Florida Department of Environmental Regulation, the Southwest Florida Water Management District or Lee County, Florida.

1.7. A statement and finding demonstrating that the proposed Development Agreement will be consistent with the comprehensive plan of the town.

1.8. The desired duration of the Development Agreement shall not be less than the expected completion of the development on the Land.

1.9. Development uses and regulations currently legally permitted on the Land, including densities, intensities, heights of structures, and setbacks; and, if different, any of the same that are currently on the Land, or that were on the Land

at any time in the last 24 months.

1.10. Development uses and regulations, including densities, intensities, heights of structures, and setbacks being requested on the Land.

1.11. A description of the public facilities which will provide services to support the development, the approximate date that new public facilities, if needed, will be constructed, and a schedule to assure that the public facilities and services will be available concurrent with the impacts of development.

1.12. A description of any current or proposed reservation or dedication of land for public purposes.

1.13. Any deed restrictions existing or being imposed upon the Land, and a description of any current or proposed reservation or dedication of land for public purposes.

1.14. The application must explicitly identify each instance of conflict with existing ordinances and expressly provide for the Development Agreement to control, or else all of the provisions of such conflicting ordinances shall control to the extent that the Development Agreement fails to expressly provide otherwise. Any ambiguity with respect to whether a Development Agreement or an ordinance is to control shall be interpreted to favor the ordinance. A statement listing all contemplated zoning districts or land use modifications or requests for more flexibility that will be required if the proposed Development Agreement were to be approved.

1.15. A sketch of site plan showing where buildings (with heights), structures, parking, and other features/amenities of the proposed development shall be located. If the Land is located on the water, any view corridors or public access location(s), if any, will be located.

1.16. Any further information that the town may require because of the particular nature or location of the Land.

1.17. A concise and complete recital of the proposed contents of the Development Agreement using the Form of Development Agreement with Deviations attached as Ex. "A".

2. Development Agreement Minimum Content Requirements.

The following information shall be required within a Development Agreement.

2.1. A legal description of the land subject to the agreement and the identification of all persons having legal or equitable ownership therein.

2.2. The duration of the development agreement, which duration shall not be less than the anticipated time period needed to fully build out the development.

2.3. The development uses to be permitted on the land, and setting forth densities, intensities, building height(s), and setbacks.

2.4. A description of the public facilities and services, including on-site improvements that will serve the proposed project, including designation of the entity or agency that shall be providing such facilities. Additionally, if new facilities are needed to serve the project, the date by which such facilities will be constructed and a schedule to assure that public facilities and services shall be available concurrent with the impact of the development project.

2.5. A description of any reservation or dedication of land for public purposes. The Development Agreement shall provide specifically how the land dedication obligation for the project, if any, is to be met. In the event that land or any interest herein is to be conveyed to the town or other entity in discharge of the foregoing, the Development Agreement shall provide that such conveyance or dedication will be by warranty deed or easement, or other instrument in form and substance acceptable to the town attorney, together with evidence of title in form acceptable to the town attorney prepared by an attorney who is a member of the Florida Bar, or a title company licensed in Florida, all depicting who is the owner in fee simple of the land subject to the conveyance or dedication, and the holders of any other interest or liens affecting said land.

2.6. A description of all local permits approved or needed to be approved for the development of the Land, specifically to include at least the following:

Any required submission to the Southwest Florida Regional Planning Council and any required permission of the State of Florida, Department of Environmental Regulation, the U.S. Corps of Army Engineers, the Southwest Florida Water Management District, the U.S. Environmental Protection Agency or any other required governmental permission. The Development Agreement shall specifically provide that said development permission will be obtained at the sole cost of the owner of the Land, and that any approvals previously given, including the Development Agreement, shall not in any manner obligate the town or any other governmental agency to grant other permit approvals. Under these conditions, action in reliance on the Development Agreement or expenditures in pursuance of its terms or any rights accruing to the project owner thereunder shall not vest any development rights in the owner of the Land or the project to a continuation of the Development Agreement.

2.7. A specific finding in the Development Agreement that the proposed project permitted or proposed is consistent with the town's Comprehensive Plan or that, if amendments, modifications, variances or exceptions ("deviations") are necessary for the zoning district or land use plan designations on the subject

Land, such Development Agreement specifically lists such deviations in detail.

2.8. Statement in the Development Agreement showing how sidewalk and pedestrian travel is being addressed in a conceptual plan showing the proposed layout of streets, lots, green areas, conservation areas, bike ways, parks, public facilities and such other amenities.

2.9. A statement in the Development Agreement showing how environmentally sensitive land will be preserved and managed.

2.10. A statement in the Development Agreement showing how threatened or endangered species are being protected.

2.11. A statement in the Development Agreement explicitly identifying each instance of conflict with existing ordinances and expressly provide for the Development Agreement to control, or else all of the provisions of such conflicting ordinances shall control to the extent that the Development Agreement fails to expressly provide otherwise. Any ambiguity with respect to whether a Development Agreement or an ordinance is to control shall be interpreted to favor the ordinance. A statement indicating that failure of the Development Agreement to address a particular permit condition, term or restriction shall not relieve the owner or developer of the necessity of complying with the laws governing said permitting requirements, conditions, terms or restriction.

2.12. A provision that any matter or thing required to be performed under existing ordinances of the town shall not be otherwise amended, modified or waived, unless such modification, amendment or waiver is expressly provided for in the Development Agreement with specific reference to the Code provision so waived, modified or amended ("deviations").

2.13. A statement whereby if the applicant, upon approval of the Development Agreement, fails to comply with the terms of the agreement, the town may bring an action in a court of law with competent jurisdiction to protect its rights and interests. All associated reasonable costs and attorney's fees shall be reimbursed to the town if an action at law is necessary regardless of whether the Town is the prevailing party

2.14 Post-Development Agreement requirements. An acknowledgement that prior to the issuance of any building permits being issued for the development that:

2.14.1 All existing and proposed utilities and the manner in which existing utilities will be extended to the site and/or expanded for the use of the development including water, sewer, gas, electricity, cable television, and other utilities shall have been approved by the Town;

2.14.2 The proposed drainage plan for the proposed project shall have

been approved by the Town;

2.14.3 The proposed grading plan and elevation requirements of the town, including, but not limited to those related to the National Flood Insurance Program as applicable to the town shall have been approved by the town;

2.14.3. The traffic impact and parking plans as applicable to the town shall have been approved by the town; and

2.14.4 All other town requirements are met that are necessary for the initial building permits to build the project on the Land.

2.15. An acknowledgement that the town shall not have any liability whatsoever for any expenses or other damages that may be incurred as a result of denial of the Development Agreement or for denial of building permits due to the failure to meet the town's requirements as to any Post-Development Agreement requirements.

2.16. A description of any special benefit to the Town as a result of the development such as, the promotion of economic development, affordable housing, hurricane recovery, and/or elimination of blight.

2.17. A finding that the proposed Development Agreement is reasonable and not arbitrary and in the best interest of the town.

3. Development Agreement with Deviations Review Procedures.

The following regulations shall be followed during the review of a Development Agreement with Deviations.

3.1. Staff negotiation. The town manager or the town manager's designee (typically the town planner) shall review the proposed project and shall meet and hold preliminary nonbinding negotiations with the applicant regarding the appropriate terms and conditions on which said Land should be developed. At such time as a tentative agreement is reached as to the recommended terms and conditions of the development agreement, or the town manager or town manager's designee deems that no further negotiations would be useful because of the unlikely possibility of reaching a concurrence on the terms and conditions of a Development Agreement, the proposal shall be reduced to a nonbinding and unexecuted writing. Such tentative agreement, whether oral or written, shall not give rise to any development rights or equitably or legally vest any development rights in the owner of the Land or other substantially affected person.

3.2. Reduction of proposal to writing

3.2.1. In the event that the town manager or the town manager's

designee and the applicant have negotiated the terms of a mutually acceptable, nonbinding and tentative Development Agreement, the terms of that Development Agreement shall be reduced to writing in a contractual form for review and for further discussion, consideration and approval or disapproval as provided herein.

3.2.2. In the event that the town manager or town manager's designee and the applicant have been unable to negotiate a mutually satisfactory Development Agreement, within thirty (30) days of said determination by the town manager or the town manager's designee, the applicant may prepare a proposed Development Agreement consistent with all requirements hereof for review by the town's Local Planning Agency ("LPA").

3.3. Public hearings

3.3.1. At such time as the Development Agreement has been reduced to written nonbinding contractual form, or the applicant has prepared a Development Agreement as set forth above in subsection 3.2, the town manager or town manager's designee shall transmit such Development Agreement to the LPA with a written recommendation regarding adoption.

3.3.2. A public hearing shall be held by the LPA concerning said application, and a recommendation shall be made by the LPA as to the Development Agreement to the town council. Thereafter a public hearing shall be held by the town council as to the Development Agreement.

3.3.3. Notice of each of the public hearings shall be noticed on the town's website, and said notice shall be mailed to all property owners within a five hundred (500) foot radius of the boundary of the Land prior to the first public hearing. Said advertisement and notice of each of the two public hearings may be combined in one notice, but must include:

3.3.3.1. Location of the Land subject to the Development Agreement.

3.3.3.2. Proposed development's project land use, building intensities, estimated population and building heights.

3.3.3.3. Location where a copy of the proposed Development Agreement may be reviewed.

3.3.3.4. Date, time and place of the public hearing(s),

3.3.3.5. At the public hearings and in compliance with any and all procedures established by law for the conduct of said hearings, the

LPA and the Town Council shall accept any public comment on the terms of the Development Agreement. Following the town council public hearing, the town clerk shall immediately dispatch, postage prepaid by regular, first class, U.S. mail and in writing, a copy of the determination of the town council to the applicant, or anyone who has requested a copy of the determination of the town council to the applicant, or anyone who has requested a copy of the determination advising them of the town council's decision. The determination shall state that the decision of the town council is final agency action.

4. Development Agreement Execution Procedures and Recording.

Development Agreements shall be executed as established below:

4.1. All Development Agreements shall be executed on behalf of the applicant by all persons having legal or equitable title in the Land subject to the Development Agreement, including the fee simple owner and any mortgagees or other lien holders or owners of other equitable interests in the Land, unless the town attorney approves the execution of the development agreement without the necessity of such joinder or subordination in that the substantial interests of the town will not be adversely affected thereby.

4.2 Development Agreements shall not be executed on behalf of the town and shall not be recorded unless and until all Post-Development Agreement requirements have been met as set forth in Sec. 2-14 above. The applicant shall bear the expense of recording the Development Agreement, which shall be recorded by the town clerk.

5. Amendment to Development Agreement.

5.1 An amendment to a Development Agreement shall not occur unless and until there have been hearings thereon before the LPA and before the town council. Noticing of the LPA and town council hearings shall be in the same manner as for the original hearings for Development Agreements.