



Fort Myers Beach Town Council

**Town Hall Council Chambers
2731 Oak Street
Fort Myers Beach, FL 33931**

Agenda

Monday, June 3, 2024

9:00 AM

ORDER OF BUSINESS

- I. CALL TO ORDER**
- II. INVOCATION**
- III. PLEDGE OF ALLEGIANCE**
- IV. APPROVAL OF FINAL AGENDA**
- V. PUBLIC COMMENT**
- VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS**
- VII. PRESENTATIONS**
 - A. Ron Book, Town Lobbyist Update
 - B. Michael Allen, President - ReVitale Development
- VIII. ADVISORY COMMITTEES ITEMS / REPORTS / APPOINTMENTS**
 - A. Public Safety Committee update
 - B. Local Planning Agency Appointment
 - C. Audit Committee Appointment
 - D. Bay Oaks Recreational Campus Advisory Board Appointment
- IX. APPROVAL OF MINUTES**
 - A. Town Council - May 20, 2024
- X. CONSENT AGENDA**
 - A. Resolutions 24-101 through 24-109; Extending State of Local Emergency Hurricane Ian
A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING AND EXTENDING THE PROCLAMATION THAT A STATE OF LOCAL EMERGENCY EXISTS BECAUSE OF THE CATASTROPHIC IMPACTS CAUSED BY HURRICANE IAN; PROVIDING FOR CONFLICTS; PROVIDING FOR SCRIVENER ERRORS, PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN

EFFECTIVE DATE.

- B. Resolutions 24-110 through 24-118; Extending State of Local Emergency Hurricane Idalia

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, EXTENDING THE DECLARATION OF STATE OF LOCAL EMERGENCY DUE TO HURRICANE IDALIA; PROVIDING THE TOWN WITH POWERS, INCLUDING, BUT NOT LIMITED TO THOSE PURSUANT TO FLORIDA STATUTES, CHAPTER 252, AND TOWN CODE CHAPTER 2, ARTICLE VI; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE AND A TERMINATION DATE.

- C. Resolution 24-119; Authorizing Extension of Angie Brewer Contract and STA #5

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, APPROVING A SECOND AMENDMENT TO AN AGREEMENT BETWEEN THE TOWN OF FORT MYERS BEACH AND ANGIE BREWER & ASSOCIATES, LC TO EXTEND THE TERM OF THE CONSULTANT AGREEMENT FOR FUNDING MANAGEMENT SERVICES FOR SRF AND OR OTHER GRANTS AND LOANS AVAILABLE TO THE TOWN, TO JUNE 9, 2025, BY THE EXERCISE OF THE SECOND OF TWO ONE-YEAR RENEWAL OPTIONS; APPROVING SUPPLEMENTAL TASK AUTHORIZATION NO. 5 FOR THE UNINTERRUPTED CONTINUATION OF THESE SERVICES; AUTHORIZING THE MAYOR TO SIGN THE AMENDMENT AND SUPPLEMENTAL TASK AUTHORIZATION AND THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

- D. Resolution 24-122; CDBG-DR Public Facilities Application Blight Resolution

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA DESIGNATING SPECIFIED AREAS IN THE TOWN AS BLIGHTED FOR THE PURPOSES OF APPLYING FOR A GRANT FROM THE LEE COUNTY CDBG-DR PUBLIC FACILITIES PROGRAM FOR FUNDS IN THE AMOUNT OF \$10,673,000.00 FOR THE CONSTRUCTION, RECONSTRUCTION, REHABILITATION AND/OR INSTALLATION OF PUBLIC FACILITIES AND FOR RELATED PURPOSES.

- E. Resolution 24-121; CDBG-DR Critical Infrastructure Application Blight Resolution

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA DESIGNATING SPECIFIED AREAS IN THE TOWN AS BLIGHTED FOR THE PURPOSES OF APPLYING FOR A GRANT FROM THE LEE COUNTY CDBG-DR CRITICAL INFRASTRUCTURE AND PUBLIC FACILITIES PROGRAM FOR FUNDS IN THE AMOUNT OF \$5,000,000.00 FOR THE NORTH ISLAND WATER TOWER AND FACILITY PROJECT AND FOR RELATED PURPOSES.

- F. Resolution 24-124; Accepting FDACS Contract #31125 Awarding the Town \$37,500.00 To Procure and Plant 75 Native Trees and Palms
A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA ACCEPTING FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES CONTRACT #31125 AWARDED THE TOWN OF FORT MYERS BEACH \$37,500.00 TO PROCURE AND PLANT 75 NATIVE TREES AND PALMS IN THE COASTAL AREA; AUTHORIZING THE TOWN MANAGER TO EXECUTE CONTRACT #31125; AND PROVIDING FOR AN EFFECTIVE DATE.
- G. Resolution 24-199; Ratifying Emergency Crescent Street Outfall Repairs and Budget Adjustment
A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, RATIFYING ACTION BY THE TOWN REGARDING EMERGENCY CRESCENT STREET OUTFALL REPAIRS BY ANDREW SITEWORK IN THE AMOUNT OF \$104,928.94; AND PROVIDING AN EFFECTIVE DATE.
- H. Resolution 24-125; RFQ-20-22-AD; Axis Infrastructure STA 13 - Impact Fee Study
A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING SUPPLEMENTAL TASK AUTHORIZATION #13 OF CONTRACT RFQ-20-22-AD BETWEEN THE TOWN AND AXIS INFRASTRUCTURE FOR AN IMPACT FEE STUDY, FOR A COST OF \$85,065.00; AND PROVIDING FOR AN EFFECTIVE DATE.
- I. Resolution 24-123; Comprehensive Vulnerability Assessment
A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING SUPPLEMENTAL TASK AGREEMENT #1 OF CONTRACT RFQ-22-25-AD BETWEEN THE TOWN OF FORT MYERS BEACH AND KIMLEY-HORN AND ASSOCIATES, INC. FOR A COMPREHENSIVE VULNERABILITY ASSESSMENT AND ADAPTATION PLAN FOR A COST OF \$141,000; AUTHORIZING THE TOWN MANAGER TO EXECUTE SUPPLEMENTAL TASK ORDER #1 OF CONTRACT #RFQ-22-25-AD; AND PROVIDING FOR AN EFFECTIVE DATE.

XI. ITEMS REMOVED FROM CONSENT AGENDA

XII. PUBLIC HEARINGS

- A. Ordinance 24-13; Unsafe Structures
Second reading and public hearing on proposed Ordinance 24-13 entitled: ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING DIVISION 3 "UNSAFE BUILDING ABATEMENT CODE" OF ARTICLE I "PROPERTY MAINTENANCE CODES" OF CHAPTER 6 "MAINTENANCE CODES, BUILDING CODES AND COASTAL REGULATIONS" OF THE CODE OF ORDINANCES OF FORT MYERS BEACH, FLORIDA, TO CLARIFY EXISTING PROVISIONS RELATED TO NOTICE AND EXCEPTIONS; TO AUTHORIZE

NOTIFICATION BY CONSTRUCTIVE SERVICE; TO INCLUDE ATTORNEY'S FEES AND COSTS AND NOTICE EXPENSES TO THE DEMOLITION LIEN AGAINST THE PROPERTY ON WHICH THE UNSAFE BUILDING WAS LOCATED, AND TO AUTHORIZE USE OF THE UNIFORM METHOD OF COLLECTION FOR COLLECTION OF LIENS; PROVIDING FOR CODIFICATION, SEVERABILITY, SCRIVENER ERRORS, CONFLICTS OF LAW, AND AN EFFECTIVE DATE.

- B. Ordinance 24-14; DCI 20230197; 841 Estero Blvd
2nd Reading and Final Public Hearing on proposed Ordinance 24-14 entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING THE COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING FOR THE PROPERTY LOCATED AT 841 ESTERO BLVD. GENERALLY IDENTIFIED AS STRAP NUMBERS 24-46-23-W3-0050B.0010 FORT MYERS BEACH; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.
- C. Ordinance 24-15; DCI20230246, 125, 131-151 School Street and 2661-2681 Estero Boulevard
1st Reading and Public Hearing of an Ordinance Entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING THE COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING FOR THE PROPERTY LOCATED AT 125, 131-151 SCHOOL ST AND 2661-2681 ESTERO BLVD. GENERALLY IDENTIFIED AS STRAP NUMBERS 19-46-24-W3-0020C.0230; 19-46-24-W3-0020C.0270; 19-46-24-W3-0020C.0290 FORT MYERS BEACH TO ALLOW A MIXED USE DEVELOPMENT INCLUDING LODGING, LIVE/WORK UNITS, RETAIL, AND RESTAURANT USES; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE. Open the first public hearing and schedule for second reading and final adoption on June 17, 2024 at 9:00 AM
- D. Ordinance 24-16; DCI20240049 Amendment: 2301/2307, 2311 Estero Blvd and 111, 121 Mango St.
1st Reading and Public Hearing of an Ordinance Entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING AND RESTATING ORDINANCE NO. 22-06 TO AMEND THE SCHEDULE OF USES FOR THE COMMERCIAL PLANNED DEVELOPMENT ZONING FOR THE PROPERTY LOCATED AT 2301, 2307 & 2311 ESTERO BLVD. AND 111 & 121 MANGO ST., GENERALLY IDENTIFIED AS STRAP NUMBERS 219-46-24-W3-0110D.0010, 19-46-24-W3-0120E.0010, 19-46-24-W3-0120E.0020, AND 19-46-24-W3-0120E.0030 FORT MYERS BEACH; AMENDING THE MASTER CONCEPT PLAN FOR THE RESTAURANT USE(S); PROVIDING FOR REVISIONS TO

CONDITIONS OF APPROVAL AND DEVIATIONS, AND OTHER CLARIFICATION AS NECESSARY; PROVIDING FOR REPEAL, CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. Open the first public hearing and schedule for second reading and final adoption on June 17, 2024 at 9:00 AM

XIII. ADMINISTRATIVE AGENDA

A. Resolution 24-120; FY24/25 Tentative Millage Rate

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, ADOPTING THE TENTATIVE OPERATING AD VALOREM MILLAGE RATE OF .#### MILLS FOR FISCAL YEAR 2024-2025 OF THE TOWN OF FORT MYERS BEACH; ESTABLISHING THE DATE, TIME AND PLACE FOR HEARINGS TO ADOPT THE FINAL OPERATING AD VALOREM MILLAGE RATE AND BUDGET FOR THE FISCAL YEAR 2024-2025; AND PROVIDING AN EFFECTIVE DATE.

XIV. FINAL PUBLIC COMMENT

XV. TOWN MANAGER'S ITEMS

XVI. TOWN ATTORNEY'S ITEMS

XVII. COUNCILMEMBERS ITEMS AND REPORTS

XVIII. 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.

1. **Request:**

Meeting Date: June 3, 2024

Appoint a member to the FY2023-2024 Local Planning Agency (LPA) to fill a vacancy on the board.

Why the action is necessary:

Fills a vacancy on the Local Planning Agency

What the action accomplishes:

Fills a vacancy on the board

2. **Agenda:**

ADVISORY COMMITTEES ITEMS
/ REPORTS / APPOINTMENTS

3. **Requirement/Purpose:**

Other

4. **Submitter of Information:**

Amy Baker, Town Clerk

5. **Background:**

The resignation of Patrick Vanasse from the LPA on April 30, 2024 has created a vacancy on the board. Staff advertised the open position and has received two applications, one from island resident James Dunlap and one from **San Carlos Island resident** Christi Thornton.

Per Sec. 34-113. - Composition, appointment and compensation of members of the Code of Ordinances:

(a) The local planning agency shall consist of up to seven members appointed by the town council. No members of the local planning agency shall be salaried officials of the town. Membership on the local planning agency shall not affect a person's eligibility for membership on any other advisory committee for the Town of Fort Myers Beach during his/her term of office. One spouse per household will be eligible for membership on the local planning agency during any given term of office. No current member of town council shall be eligible to serve on the local planning agency. Except for inclusion of members required under Florida law, **all members must be residents of, or owners of real property located within, the territorial limits of the Town of Fort Myers Beach at the time of application for membership on the local planning agency and during the period of service on the local planning agency.** All applicants must apply on or before October 1 of the appointment year. Each application must include a short biography and short explanation as to why the applicant wishes to serve on the local planning agency.

(b) The members of the local planning agency shall serve without compensation but may be reimbursed for expenses as are necessary to conduct the work of the agency from funds appropriated by the town council.

(c) In addition to the up to seven voting members, the local planning agency shall also include as a nonvoting member a representative of the Lee County School District, as designated by the Lee County School Board, to attend and participate in those meetings at which the local planning agency considers comprehensive plan amendments and rezonings that would, if approved, increase residential density on the property that is the subject of the application (see F.S. 163.3174(1), 2002).

Attachments:

1. Dunlap, James
2. Thornton, Christi

Financial Impact:

6. Alternative Action

Do not appoint the vacancy and re-advertise.

7. Management Recommendations:

8. Recommended Approval:

Amy Baker, Town Clerk
nancy stuparich, Town Attorney
Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Created/Initiated - 5/13/2024
Approved - 5/14/2024
Approved - 5/14/2024
Final Approval - 5/14/2024



Town of Fort Myers Beach
Advisory Boards and Committees Application

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

Please type or print clearly. Do not leave blanks.

Today's Date:

Name:
Last First Middle initial

Telephone Number:

Email Address:

Home Address:

Mailing Address

(if different from home address):

Are you currently serving on any of the Town's committees? Yes ☐ No ☒

If yes, which committee(s)?

If yes, when is your term expiration?

I am applying for appointment to: (Check one)

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

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

Do you have unpaid fines or liens due the Town? Yes ☐ No ☒

Are you a registered voter within the Town's jurisdiction? Yes ☐ No ☒

Are you a resident within the Town's jurisdiction?

Yes ☐ No ☒

Are you an owner of real property within the Town's jurisdiction?

Yes ☒ No ☐

Are you currently serving on a board, authority, committee or commission for another governmental agency?

Yes ☐ No ☒

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

Why are you seeking appointment to this board or committee?

See attached document for details.

Community Involvement:

See attached resume for details.

Interests / Activities:

Boating, Golfing, Scuba Diving

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

Do you qualify for Special Exemptions per § 119.071(4)(d)3., F.S.

Yes ☐ No ☒

If yes, fill out [Public Records Exemption Request](#) form and submit with the application.

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

Signed



Date

4/29/2024

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

Office Use Only:

Appointed: Yes _____ No _____

DATE: _____

WHY ARE YOU SEEKING APPOINTMENT TO THIS BOARD OR COMMITTEE?

RESPONSE FOR LPA COMMITTEE INTEREST:

This is a moment in the history of our island that may never come again. A time where we are required to balance all we have known and loved about Fort Myers Beach with the responsibility every individual has to step up, in their own way, and help shape what those that follow will be impacted by for decades. My personal belief is "It won't be the same, but we can still make it ours."

I believe I have a unique set of skills, background and experiences that would be additive to the current makeup of the LPA Committee Members. My 38yrs in banking, along with the numerous community organizations I have chaired and helped develop long range strategic plans for, has given me invaluable insights on how interdependent all these pieces and parts are to a thriving culture and economy. We are at that exact moment on Fort Myers Beach!

As the LPA reacts to requests for future development, there will be tradeoffs on both sides. The decisions will be nuanced, but the benefits and alignment with what Fort Myers Beach values the most, should never be undermined. I have many years of experience in handling situations and conversations of these types that had significant consequences. I want to offer and contribute that experience to our island.

James E Dunlap

NOTICE OF INTENT TO BE A CANDIDATE FOR FORT MYERS BEACH LOCAL PLANNING AGENCY

NAME: JAMES E. DUNLAP

PHONE: 616-481-3217

EMAIL: JDMD0516@GMAIL.COM

ACTIVE PARTICIPATION IN VOLUNTARY ORGANIZATIONS:

- 1999-2001 Chair, Orlando Convention and Visitors Bureau
- 2000-2001 Chair, Orlando Regional Chamber of Commerce
- 2003-2004 Co-chair, American Cancer Society Cattle Baron's Ball
- 2003-2009 Co-chair, Devos Children's Hospital/Make-A-Wish Foundation
- 2002-2004 Chair, Junior Achievement Business Hall of Fame
- 2006-2008 Treasurer and Chair, YMCA of Greater Grand Rapids
- 2004-2007 Chair, Heart of West Michigan United Way Campaign
- 2009-2010 Treasurer and Board Chair, The Right Place, Inc. (Economic Development)
- 2012-2016 Chair, West Michigan Policy Forum
- 2013-2014 Chair, Grand Rapids, MI Economic Club
- 2018-2024 Board Member, Shadow Wood Community Association, Estero, FL
- 2021-2024 Board President, Shadow Wood Community Association

PROFESSIONAL EXPERIENCE /ACCOMPLISHMENTS:

- 1979-2017 Retired Executive with Huntington National Bank, thirty-eight years
 - (\$189B in assets, 16th largest bank in US).
- 1993-2008 Regional President in various geographies within the Midwest and Florida
- 2009-2017 Senior Executive Vice President, Director Regional and Commercial Banking, Wealth Management, Capital Markets and Treasury Management as direct report to Chairman of the Board

ELECTED OFFICE EXPERIENCE

- 1993-1996 Village of Waterville, Ohio Council and Vice Mayor

SPECIAL RECOGNITION

- 1999,2000,2001 Recognized as one of Central Florida's seven most outstanding community leaders
- 2001 Banker of the Year, Central Florida
- 2007 Community Leader of the Year, Grand Rapids, Michigan
- 2010 West Michigan Business Person of the Year, West Michigan Economic Club

FULL TIME FLORIDA RESIDENT



RECEIVED

By Amy Baker at 2:54 pm, May 13, 2024

Town of Fort Myers Beach
Advisory Boards and Committees Application

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

Please type or print clearly. Do not leave blanks.

Today's Date: 05/13/24

Name: Thornton

Last

Christi

First

S

Middle initial

Telephone Number: (239) 826-3699

Email Address: islandseekersllc@gmail.com

Home Address: 17745 San Carlos Blvd. Fort Myers Beach, FL 33931

Mailing Address

(if different from home address):

Are you currently serving on any of the Town's committees? Yes ☐ No ☒

If yes, which committee(s)?

If yes, when is your term expiration?

I am applying for appointment to: (Check one)

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

Have you been convicted of a felony, an offense involving moral turpitude while in office?

Yes ☐ No ☒

Do you have unpaid fines or liens due the Town?

Yes ☐ No ☒

Are you a registered voter within the Town's jurisdiction?

Yes ☒ No ☐

Are you a resident within the Town's jurisdiction?

Yes ☒ No ☐

Are you an owner of real property within the Town's jurisdiction?

Yes ☒ No ☐

Are you currently serving on a board, authority, committee or commission for another governmental agency?

Yes ☐ No ☒

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

Why are you seeking appointment to this board or committee?

SEE RESUME

Community Involvement:

I attend town council meetings and related activities. I am very interested in the planning and development of FMB.

Interests / Activities:

Boating, fishing, shelling, shabby-chic'ing old furniture, and creating new things out of old things.

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

Do you qualify for Special Exemptions per § 119.071(4)(d)3., F.S.

Yes ☐ No ☒

If yes, fill out [Public Records Exemption Request](#) form and submit with the application.

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

Signed

Date

05/13/24

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

Office Use Only:

Appointed: Yes _____ No _____

DATE: _____

Christi Thornton

17745 San Carlos Blvd. Fort Myers Beach, FL 33931 Phone: 239-826-3699 (cell) E-Mail:islandseekersllc@gmail.com

Objective

My objective is to branch out into a new and challenging direction in my career. I am extraordinarily creative and the ultimate optimist, driven to improve anything and everything that can be improved upon. I enjoy and excel in leadership, project management, and new initiatives. I am detail oriented and results driven. I am known for my aptitude in strategy and planning, operations, logistics, and innovation. I thrive on a good challenge. My Master's degree is in Health Care but I have been a small business owner with my husband for the last 30 years. I am currently embarking on a new career path with my own female owned/operated micro-transportation business on Fort Myers Beach, Trippin with Island Seekers, LLC. I am certain that I will be an asset to the Local Planning Agency Team as I have already conducted my own focus groups within the community of FMB and have assessed and designed my own routes throughout the town of FMB for for Trippin Rides. I recently completed the Innovation Incubator through Lee Health. I have a lot of great ideas and real solutions.

Experience

Owner/Operator – TRIPPIN WITH ISLAND SEEKERS, LLC

March 2024 –Current

Supervisor, Respiratory Care – HPMC – Lee Health, Fort Myers, FL

2021 – Current

Respiratory Care Practitioner – Kaiser Permanente – Richmond, CA

2017 – 2021

- Adult Critical Care Specialist (ACCS)
- Pulmonary Rehabilitation.
- Nitric oxide super-user and trainer.

Respiratory Care Practitioner – Washington Hospital - Fremont, CA

2017 – 2021

- Adult Critical Care Specialist (ACCS)
- Pulmonary Rehab and COPD Readmission Reduction

Small Business Adviser

2016 – Current

- Island Seekers, LLC – Co-owner – vacation rental property management.
- Thor Doors and Construction Inc. – Co-owner, Vice President.

Supervisor - Respiratory Care Practitioner – John Muir Health

2010 – 2016

- Supervised a team of Respiratory Care Practitioners.
- Staff educator
- Subject Matter Expert (SME) for the new EPIC build.
- Change management liaison for the move to the new building.

- Toxin decontamination and pandemic preparedness super-user and trainer.

Night Shift RCP – John Muir Health

2002 – 2010

Education, Licenses, and Certifications.

Boise State University

2018 – 2020

MSRC Graduate - 3.8 GPA

Senior Thesis: COPD Readmission Reduction: RT Case Management

Boise State University

2014 – 2016

Bachelor of Science Respiratory Care – 3.6 GPA

Respiratory Therapy Licenses: California and Florida

Current

Ongoing Certifications:

Adult Critical Care Specialist (ACCS), Adult and Pediatric Advanced Life Support (ACLS & PALS), and Basic Life Support (BLS).

Computer Literacy:

Current

Specialize in digitally-produced educational materials, Webex, PowerPoint, Excel, Word, QuickBooks, Wave Accounting, Adobe, and Blue Host.

- Quality and performance improvement models including all graphs, charts, and reports.
- Web-based property management.

Ohlone College

1994 – 1996

Associate of Sciences – Respiratory Care. 3.58 GPA.

Diablo Valley College

1990 – 1994

Associate of Arts - 3.27 GPA.

1. **Request:**

Meeting Date: June 3, 2024

Appoint a new member to fill a vacancy on the Audit Committee

Why the action is necessary:

Fills a vacancy on the board

What the action accomplishes:

2. **Agenda:**

ADVISORY COMMITTEES ITEMS
/ REPORTS / APPOINTMENTS

3. **Requirement/Purpose:**

4. **Submitter of Information:**

Amy Baker, Town Clerk

5. **Background:**

There is currently one vacancy on the seven member board. Island resident David Sandberg has requested appointment to the Audit Committee.

Attachments:

1. Sandberg , David

Financial Impact:

6. **Alternative Action**

Do not appoint and advertise for new members

7. **Management Recommendations:**

8. **Recommended Approval:**

Amy Baker, Town Clerk
nancy stuparich, Town Attorney
Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Created/Initiated - 5/23/2024
Approved - 5/29/2024
Approved - 5/29/2024
Final Approval - 5/29/2024



RECEIVED

By Amy Baker at 9:05 am, May 23, 2024

Town of Fort Myers Beach
Advisory Boards and Committees Application

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

Please type or print clearly. Do not leave blanks.

Today's Date:

Name:
Last First Middle initial

Telephone Number:

Email Address:

Home Address:

Mailing Address

(if different from home address):

Are you currently serving on any of the Town's committees? Yes ☐ No ☒

If yes, which committee(s)?

If yes, when is your term expiration?

I am applying for appointment to: (Check one)

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

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

Do you have unpaid fines or liens due the Town? Yes ☐ No ☒

Are you a registered voter within the Town's jurisdiction? Yes ☒ No ☐

Are you a resident within the Town's jurisdiction?

Yes ☒ No ☐

Are you an owner of real property within the Town's jurisdiction?

Yes ☒ No ☐

Are you currently serving on a board, authority, committee or commission for another governmental agency?

Yes ☐ No ☒

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

Why are you seeking appointment to this board or committee?

My professional background as a CPA, includes 5 yrs in public accounting working in the audit practice and then moving in the private sector as a CFO with the last 15 years leading the finance function of a multi billion dollar annual revenue multi national market research company. I have recently retired and see this as an opportunity for me to use my skills to support our community as it rebuilds post hurricane Ian.

Community Involvement:

My wife and I have owned property on the island since 2012. I served as our Condo Association treasurer throughout our ownership. In 2020 we decided to become residents of Ft Myers Beach, selling our condo and purchasing our house on Bayview Blvd. Post Ian, I have helped out neighbors as they rebuild, participated in beach and park clean ups and volunteered with Lee County Special Olympics.

Interests / Activities:

I enjoy fishing, golfing, boating and spending time on our beautiful beaches. We enjoy having friends and family join us to share our wonderful island home and community. My wife and I also like to travel and explore different areas of the US and around the world. We are avid Chicago Cubs fans and have a goal of seeing them play in each MLB ballpark.

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

Do you qualify for Special Exemptions per § 119.071(4)(d)3., F.S.

Yes ☐ No ☒

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

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

Signed



Date

03/22/2024

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

Office Use Only:

Appointed: Yes _____ No _____

DATE: _____

1. **Request:**

Meeting Date: June 3, 2024

Appoint new member to fill the one vacancy on the Bay Oaks Recreational Campus Advisory Board

Why the action is necessary:

Fills a vacancy on the board

What the action accomplishes:

2. **Agenda:**

ADVISORY COMMITTEES ITEMS
/ REPORTS / APPOINTMENTS

3. **Requirement/Purpose:**

Ordinance

4. **Submitter of Information:**

Amy Baker, Town Clerk

5. **Background:**

There is currently one vacancy on the seven member board. Island residents Christopher Doyle and Ed Schoonover have requested appointment to BORCAB

Attachments:

1. Doyle, Christopher
2. Schoonover, Ed

Financial Impact:

6. **Alternative Action**

Do not appoint and advertise for new members

7. **Management Recommendations:**

8. **Recommended Approval:**

Amy Baker, Town Clerk
nancy stuparich, Town Attorney
Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Created/Initiated - 5/13/2024
Approved - 5/14/2024
Approved - 5/14/2024
Final Approval - 5/14/2024

To the Town of FMB,

Attached is my 04/12/24 application for the BORCAB. My love for our community began in April 2011 upon my first visit to these baby powder shores. I moved my family here that June and we rented a house on Palmetto St.

I've also lived in a condo on Bay Beach Lane and rented an apartment on Mango St, only leaving in early 2014 to be with my minor children in North Florida. I returned to become a resident once again last May, after Hurricane Ian. But my heart was always on FMB.

Upon my return, I started up the online news site, FMB Islander, to resume my writing career and revive the spirit of the Island Sandpaper. I also resumed my music career, joining local cover band SimplyFi, regulars at the Lighthouse Tilki and Bayside Park.

I am encouraged by all of the progress I see since Ian. My goal since Sept. 2022 was to get back here to be part of the renaissance and all efforts to restore our unique, island vibe.

Sincerely,

A handwritten signature in black ink, appearing to read "CM Doyle". The signature is fluid and cursive, with the first name "CM" being more distinct than the last name "Doyle".

Christopher M Doyle
5441 Oak Ridge Ave.
239-203-6763



Town of Fort Myers Beach
Advisory Boards and Committees Application

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

Please type or print clearly. Do not leave blanks.

Today's Date:

Name:
Last First Middle initial

Telephone Number:

Email Address:

Home Address:

Mailing Address

(if different from home address):

Are you currently serving on any of the Town's committees? Yes ☐ No ☒

If yes, which committee(s)?

If yes, when is your term expiration?

I am applying for appointment to: (Check one)

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

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

Do you have unpaid fines or liens due the Town? Yes ☐ No ☒

Are you a registered voter within the Town's jurisdiction? Yes ☒ No ☐

Are you a resident within the Town’s jurisdiction? Yes ☒ No ☐
Are you an owner of real property within the Town’s jurisdiction? Yes ☐ No ☒
Are you currently serving on a board, authority, committee or commission for another governmental agency? Yes ☐ No ☒

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

Why are you seeking appointment to this board or committee?

I have been a resident and renter for 5 years and I love this island. I have raised children here, sending them to our beach school, participated in the soccer league. I have worked and supported the local economy as a performing musician and journalist.

Community Involvement:

I have served on the PTO at school, volunteered and supported several local nonprofits, been a library member and a journalist covering and supporting local events, first with the Island Sandpaper and currently the FMB Islander. I am a well-known member of this community.

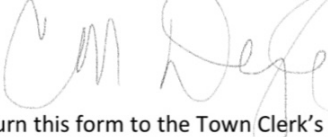
Interests / Activities:

Family is priority number one! Beyond that, I am an explorer and an adventurer. I love any and all outdoor activities on land and sea. I love to support island establishments that host and support our local music community. I ride my bike, journal daily, walk our shoreline and take in as many sunsets as possible.

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

Do you qualify for Special Exemptions per § 119.071(4)(d)3., F.S. Yes ☐ No ☒
If yes, fill out [Public Records Exemption Request](#) form and submit with the application.

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

Signed  Date

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

Office Use Only:

Appointed: Yes _____ No _____

DATE: _____

**RECEIVED**

By Amy Baker at 11:37 am, May 06, 2024

Town of Fort Myers Beach
Advisory Boards and Committees Application

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

Please type or print clearly. Do not leave blanks.

Today's Date: 05/06/24

Name: Schoonover Edward J
Last First Middle initial

Telephone Number: 2188203389

Email Address: Ed.schoonover@jandjholmes.com

Home Address: 8180 Lagoon Road

Mailing Address

(if different from home address):

Are you currently serving on any of the Town's committees? Yes ☒ No ☐

If yes, which committee(s)? AAC

If yes, when is your term expiration? September 30, 2025

I am applying for appointment to: (Check one)

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

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

Do you have unpaid fines or liens due the Town? Yes ☐ No ☒

Are you a registered voter within the Town's jurisdiction? Yes ☒ No ☐

Are you a resident within the Town's jurisdiction?

Yes ☒ No ☐

Are you an owner of real property within the Town's jurisdiction?

Yes ☒ No ☐

Are you currently serving on a board, authority, committee or commission for another governmental agency?

Yes ☐ No ☐

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

Why are you seeking appointment to this board or committee?

My 30+ years of experience in the parks and recreation field will bring great value to the BORCAB.

Community Involvement:

AAC

Interests / Activities:

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

Do you qualify for Special Exemptions per § 119.071(4)(d)3., F.S.

Yes ☐ No ☒

If yes, fill out [Public Records Exemption Request](#) form and submit with the application.

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

Signed



Date

05/06/24

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

Office Use Only:

Appointed: Yes _____ No _____

DATE: _____



Fort Myers Beach Town Council

Town Hall Council Chambers
2731 Oak Street
Fort Myers Beach, FL 33931

Minutes

Monday, May 20, 2024

9:00 AM

ORDER OF BUSINESS

DRAFT

I. CALL TO ORDER

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

Excused: Council Member Woodson.

II. INVOCATION

Town Clerk Baker.

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF FINAL AGENDA

Council Member King moved to approve the final agenda with item A. pulled for discussion, seconded by Council Member Safford.

The motion carried unanimously with Council Member Woodson excused.

V. PUBLIC COMMENT

Attorney Steven Ramunni represented White Sands Properties regarding the previous motion to forgive or mitigate funds. He stated that a zoning verification letter dated November 2020 indicated that the property was in compliance, so the fines should have stopped then. He calculated that the amount came to about \$420,000.00. He requested a reconsideration and that the town manager investigate the discrepancy.

Cindy Johnson, resident and Turtle Time volunteer, noted there were 14 nests with a few false crawls. She distributed a 2014 technical report for responding to questions about turtles. She indicated it was on Turtle Time's website and suggested linking it to the town's website.

VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS

Council Member Safford applauded the owners of The Whale and stated that the LPA made the right decision.

Vice Mayor Atterholt echoed the above and thanked Beach Talk Radio and others for the day before Mother's Day run. He noted that about \$6,500.00 was raised for the Woman's Club. He mentioned the energy and activity downtown at the Farmer's Market.

Council Member King congratulated Dawn & Mike Miller on The Whale groundbreaking. He stated it was a fantastic event and noted people's smiles. Mayor Allers agreed with all comments.

Curtis Ludwig from Jacksonville, FL was hired as the new Harbormaster. He introduced himself and reviewed his experience in the maritime industry and the Coast Guard.

VII. ADVISORY COMMITTEES ITEMS / REPORTS / APPOINTMENTS

No items.

VIII. APPROVAL OF MINUTES

A. Draft Strategic Planning Session minutes - April 30, 2024

Council Member King moved to approve the minutes, seconded by Council Member Safford.

The motion carried unanimously with Council Member Woodson excused.

B. Draft Town Council minutes - May 6, 2024

Council Member King moved to approve the minutes, seconded by Council Member Safford.

The motion carried unanimously with Council Member Woodson excused.

C. Draft Management & Planning Session minutes - May 8, 2024

Council Member King moved to approve the minutes, seconded by Council Member Safford.

The motion carried unanimously with Council Member Woodson excused.

IX. CONSENT AGENDA

Council Member Safford moved to approve the consent agenda with Item A. pulled, seconded by Council Member King.

The motion carried unanimously with Council Member Woodson excused.

B. Rescheduling of Ordinance 24-13; Unsafe Structures

Due to advertising timelines, the second reading and final public hearing for Ordinance 24-13 entitled: ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING DIVISION 3 "UNSAFE BUILDING ABATEMENT CODE" OF ARTICLE I "PROPERTY MAINTENANCE CODES" OF CHAPTER 6 "MAINTENANCE CODES, BUILDING CODES AND COASTAL REGULATIONS" OF THE CODE OF ORDINANCES OF FORT MYERS BEACH, FLORIDA, TO CLARIFY EXISTING PROVISIONS RELATED TO NOTICE AND EXCEPTIONS; TO

AUTHORIZE NOTIFICATION BY CONSTRUCTIVE SERVICE; TO INCLUDE ATTORNEY'S FEES AND COSTS AND NOTICE EXPENSES TO THE DEMOLITION LIEN AGAINST THE PROPERTY ON WHICH THE UNSAFE BUILDING WAS LOCATED, AND TO AUTHORIZE USE OF THE UNIFORM METHOD OF COLLECTION FOR COLLECTION OF LIENS; PROVIDING FOR CODIFICATION, SEVERABILITY, SCRIVENER ERRORS, CONFLICTS OF LAW, AND AN EFFECTIVE DATE. will need to be rescheduled to a date certain of Monday, June 3, 2024 at 9:00 AM.

Council Member Safford moved to approve rescheduling the ordinance, seconded by Council Member King.

The motion carried unanimously with Council Member Woodson excused.

X. ITEMS REMOVED FROM CONSENT AGENDA

A. Resolution 24-95; Florida Division of Historical Resources Grant

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA AUTHORIZING THE TOWN MANAGER OR DESIGNEE TO APPLY FOR, EXECUTE UPON AWARD, AND ADMINISTER A GRANT FROM THE FLORIDA DIVISION OF HISTORICAL RESOURCES FOR FUNDS IN THE AMOUNT \$180,000 FOR REPLACEMENT OF COMPONENTS LOST DURING HURRICANE IAN; AUTHORIZING THE TOWN MANAGER OR DESIGNEE TO EXECUTE RELATED DOCUMENTS; AND PROVIDING AN EFFECTIVE DATE.

Culture, Parks & Recreation Director Jeff Hauge explained that the matching grant would help to rebuild the underground exhibit at the Mound House. He described the exhibit before Ian flooded it.

Council Member King moved to approve the resolution, seconded by Council Member Safford.

The motion carried unanimously with Council Member Woodson excused.

XI. PUBLIC HEARINGS

Town Attorney explained the quasi-judicial procedures. Town Clerk Baker confirmed that all agenda items were properly noticed and she swore in those providing testimony.

A. Ordinance 24-14; DCI20230197, 841 Estero Blvd

2nd Reading and Final Public Hearing on proposed Ordinance 24-14 entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING THE COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING FOR THE PROPERTY LOCATED AT 841 ESTERO BLVD. GENERALLY IDENTIFIED AS STRAP NUMBERS 24-46-23-W3-0050B.0010 FORT MYERS BEACH; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the ordinance. No ex parte communications were disclosed. The applicant confirmed receipt of the agenda and background materials.

Community Development Planner Sarah Propst reviewed the background of the request as stated in the blue sheet.

Ken Gallander from The Neighborhood Company represented 7-11 Inc. They agreed with the staff report, including conditions, and stated the LPA (Local Planning Agency) unanimously recommended approval. He presented an abbreviated presentation beginning with the master concept design, elevations, dumpster deviation and renderings. He indicated it would take approximately 10 to 12 months to go through the development order process and obtain DEP (Department of Environmental Protection) permits. It will take approximately six to nine months for construction.

No public comment.

Council Member King moved to approve the ordinance as presented and schedule a final reading and adoption on June 3, 2024, at 9:00 a.m., seconded by Council Member Safford.

The motion carried unanimously by roll call vote with Council Member Woodson excused.

B. Resolution 24-96; VAR20240084 6140 Court St

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING VARIANCE VAR20240084, REQUESTING A VARIANCE FROM LDC 34-1174(b). TO ALLOW A PICKLEBALL COURT, CLOSER TO STREET THAN THE PRINCIPAL BUILDING IN THE RS ZONING DISTRICT, FOR THE PROPERTY LOCATED AT 6140 COURT STREET; PROVIDING FOR CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. All members disclosed receiving two emails against the proposed project. The applicant confirmed receipt of the agenda and background materials.

Community Development Senior Planner Jason Smalley reviewed the background of the request as stated in the blue sheet. He noted the LPA unanimously recommended approval. Planner Propst described where the two email authors lived in relation to the applicant. Senior Planner Smalley indicated that a landscaping plan was included in the application and would help buffer sounds.

Kara Stewart represented the applicants and reviewed the enhanced landscape plan. She commented that the applicant agreed to comply with the noise ordinance. Ms. Stewart stated that the use of a pickleball court on the property was allowed by right. Vice Mayor Atterholt questioned whether the hours of use could be restricted. Ms. Stewart repeated that the applicant would comply with the noise ordinance.

Cary Kledzik, applicant, stated that he would not play before 7:00 a.m. He did not think the people complaining lived close enough to be affected, but he said they would do whatever they had to do to build the court legally. Laura Kledzik, applicant, indicated that the immediate neighbors supported the project. She added that they agreed to play between 8:00 a.m. to 9:00 p.m. Council Member Safford thought restricting hours was ridiculous and Council Member King agreed, especially with the enhanced landscape plan. Council Member Safford suggested sunrise to sunset.
No public comment.

Council Member King moved to approve the resolution with conditions of approval from the LPA, seconded by Council Member Safford.
The motion carried unanimously by roll call vote with Council Member Woodson excused.

C. Resolution 24-97; SEZ20240069, 830 Estero Blvd

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING / APPROVING WITH CONDITIONS / DENYING SPECIAL EXCEPTION SEZ20240069 TO ALLOW FOR THE REPLACEMENT/REPAIR OF A SUN DECK, POOL PATIO, RETAINING WALL, AND FENCE IN THE ENVIRONMENTALLY CRITICAL (EC) ZONING DISTRICT, FOR THE PROPERTY LOCATED AT 830 ESTERO BOULEVARD; PROVIDING FOR SCRIVENER'S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. No ex parte communications were disclosed.

Senior Planner Smalley reviewed the background of the request as stated in the blue sheet. He noted that the original foot showers and regular showers were located landward of the CCCL (Coastal Construction Control Line) and were not included in the application.

Matthew Bert, General Manager of the Edison House, stated that they wanted to repair what was there before Ian. He noted the pool shell was intact, but it had to be re-piped.

No public comment.

Council Member King moved to approve the resolution, seconded by Council Member Safford.

The motion carried unanimously by roll call vote with Council Member Woodson excused.

- D. Resolution 24-98; VAR20240088, 614 Estero Blvd

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING VAR20240088, A REQUEST FOR TWO VARIANCES FROM LDC TABLE 34-3 TO DECREASE REQUIRED STREET SETBACK BY 17 FEET 6 INCHES FROM THE REQUIRED 25 FEET, AND TO REDUCE THE REAR SETBACK BY 12 FEET 1 INCH FROM THE REQUIRED 20 FEET, IN THE RM ZONING DISTRICT, FOR THE PROPERTY LOCATED AT 614 ESTERO BLVD; AND PROVIDING FOR AN EFFECTIVE DATE

Mayor Allers read the title of the resolution. He noted they had not received any letters of objection.

Vice Mayor Atterholt moved that the written information in the agenda be entered into the official record and moved to approve the resolution, seconded by Mayor Allers.

The motion carried unanimously by roll call vote with Council Member Woodson excused.

XII. ADMINISTRATIVE AGENDA

- A. Bid Protest Hearing, ITB-24-03-EN Estero Island Beach Nourishment and Hurricane Recovery Project

Resolve the Bid Protest for the Estero Island Beach Nourishment and Hurricane Recovery Project ITB-24-03-EN received from Callan Marine, Ltd

Mayor Allers announced that this was the time for the bid protest hearing. John Sullivan, President of Callan Marine from Galveston, Texas, distributed a presentation. He stated they were the number two bidder and his company had nothing but respect for Ahtna. He described his equipment and noted that Ahtna was not qualified to safely do the project because they were inland dredgers. His slides included the Coast Guard Approved Offshore Vessel Dredge General MacArthur versus the Dredge Katie John of Ahtna Marine.

He displayed a slide explaining why utilizing an inland dredge to work offshore is not responsible, nor is it consistent with industry best practices. Vice Mayor Atterholt questioned whether there were state and federal regulators who determined whether a job was safe for the appropriate equipment or if it was his professional opinion. Mr. Sullivan replied that it was professional best practices, but Ahtna was not violating codes or breaking rules. He displayed Bid Results & Equipment Comparisons between four companies, Ahtna's Past Performance (from Bid Documents), Calculated Production Rates and Duration for Ahtna to Complete Estero Island Beach Renourishment, Dredging and Beach Placement Timeline for Ahtna and a letter from Kyle D. Johnson, former CEO of Great Lakes Dredge & Dock. Mr. Sullivan disagreed with Michael Poff from Coastal Engineering regarding his support for Ahtna. He explained why his company and equipment were more qualified for the project and stated that the town needed to request more money to do the project right.

He also felt Ahtna's budget was wrong, especially based on the other bids. He suggested pausing for two weeks to determine whether more funds were available to the town and he offered to help make phone calls. Mr. Sullivan addressed why he felt Ahtna's bid was not responsive.

Town Attorney Vose pointed out that since the town's consultant said that Ahtna could do the work and do it within the timeframe involved, she did not know how she would be able to defend the town against Ahtna's lawsuit.

Since it was a contractual issue, the town's exposure would be significant. Wes Gammons, Vice President of Ahtna Marine Construction, explained how they would do the project with appropriate sized equipment and described past jobs successfully completed.

Michael Poff from Coastal Engineering stated that they did their due diligence and based on their independent assessment, he felt that Ahtna had the equipment to complete the project within the timeline.

Mr. Poff reviewed his education and experience in coastal engineering to qualify as an expert.

Vice Atterholt moved to approve Michael Poff as an expert witness, seconded by Mayor Allers.

The motion carried unanimously.

Mr. Poff listed the entities he contacted regarding Ahtna's past performance on multiple projects. He noted that Ahtna has worked in the area for the past 11 years and was familiar with the island. He indicated that Ahtna was ready to begin in June.

Town Attorney Vose stated the town was bound by the bid documents and by what the experts said. She recommended denying the protest.

Vice Mayor Atterholt moved to deny the bid protest, seconded by Council Member King.

The motion carried unanimously by roll call vote with Council Member Woodson excused.

B. Resolution 24-99; ITB-24-03-EN Beach Nourishment Ahtna

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS, FLORIDA, APPROVING AN AGREEMENT BETWEEN THE TOWN OF FORT MYERS BEACH AND AHTNA MARINE AND CONSTRUCTION, LLC TO COMPLETE THE ESTERO ISLAND BEACH NOURISHMENT AND HURRICANE RECOVERY PROJECT; AUTHORIZING THE TOWN MANAGER TO EXECUTE AN AGREEMENT AND EXPEND BUDGETED FUNDS ON BEHALF OF THE TOWN; PROVIDING FOR SCRIVENER'S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution.

Public comment:

John Sullivan from Callan Marine claimed that since Ahtna's bid was not responsive, the town was not bound by the bid documents. He stated his company would not sue the town, but he felt they were making a mistake.

Public comment closed.

Vice Mayor Atterholt moved to approve the resolution, seconded by Council Member King.

The motion carried unanimously by roll call vote with Council Member Woodson excused.

XIII. FINAL PUBLIC COMMENT

No public comment.

XIV. TOWN MANAGER'S ITEMS

Town Manager Hyatt stated that he continued to respond to FEMA (Federal Emergency Management Agency) regarding the NFIP (National Flood Insurance Program) and would meet with them this week. The preliminary budget will be presented at the next council meeting in June. He added that Director Jeff Hauge would be running the town in his absence.

XV. TOWN ATTORNEY'S ITEMS

No items.

XVI. COUNCILMEMBERS ITEMS AND REPORTS

Council Member Safford noted that the beach bar and surrounding lots would have difficulty building back because the FAR (Floor Area Ratio) was only 1.0 and he felt they should address the issue. Planner Propst described the range of FAR (Floor Area Ratio) in different zoning districts. She noted they could increase the FAR; however, people managed to build on those lots before the hurricane.

Council Member Safford suggested adding the topic to the next M&P. Mayor Allers agreed.

Vice Mayor Atterholt suggested adding a public conversation to an M&P regarding hurricane passes and plans for reentry. He noted that the ad hoc committee to preserve the beach school met last week and that the school was making good progress despite funding challenges. He described starting a VPK (Voluntary Prekindergarten Education) program to be operated by a private vendor. He indicated they would be allowed to use town facilities at a discounted rate. Town Manager Hyatt offered to explore options.

Council Member King noted residents were concerned about the beach accesses being roped off on the south end. Environmental Projects Manager Chadd Chustz commented that he heard complaints from condos regarding the FWC (Fish & Wildlife Conservation Commission) buffer zones for the nesting birds. He stated that he would follow up with FWC and the condo owners. Council Member King also heard a concern regarding waiving parking to help restaurants off-season. He proposed a few hours of free parking for lunch and dinner downtown during the summer. Council Member Safford supported the idea except for holidays. Vice Mayor Atterholt noted not many people used those parking spots after 5:00 now, so it may offset the minimal fiscal impact. Operations & Compliance Director Frankie Kropacek stated that he was on board and it would be great for the town. He described ways the town could facilitate making the change.

Vice Mayor Atterholt suggested offering blocks of free parking until October 1. Mayor Allers felt it would be a logistical nightmare, but Director Kropacek did not think it would be that difficult or impact the revenue that much. Director Kropacek will gather data and meet with the Finance Director regarding the revenue stream. Mayor Allers was concerned about changing FAR calculations and giving away intensity and density by right. Community Development Planner Jason Green will look into potential ramifications. Planner Propst did not think they risked overbuilding with the limitations in place. She added that the LDC (Land Development Code) required that FAR be calculated below base level. She discussed the multiplier concerning the Myerside project.

XVII. ADJOURNMENT

Council Member King moved to adjourn, seconded by Council Member Safford. The motion carried unanimously.

The meeting was adjourned at 11:35 a.m.

1. **Request:**

Meeting Date: June 3, 2024

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

Why the action is necessary:

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

What the action accomplishes:

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

2. **Agenda:**

CONSENT AGENDA

3. **Requirement/Purpose:**

Resolution

4. **Submitter of Information:**

Amy Baker, Town Clerk

5. **Background:**

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

Attachments:

1. 24-101, Extending Declaration of Local Emergency Ian 6.4.24-6.10.24
2. 24-102, Extending Declaration of Local Emergency Ian 6.11.24-6.17.24
3. 24-103, Extending Declaration of Local Emergency Ian 6.18.24-6.24.24
4. 24-104, Extending Declaration of Local Emergency Ian 6.25.24-7.1.24
5. 24-105, Extending Declaration of Local Emergency Ian 7.2.24-7.8.24
6. 24-106, Extending Declaration of Local Emergency Ian 7.9.24-7.15.24
7. 24-107, Extending Declaration of Local Emergency Ian 7.16.24-7.22.24
8. 24-108, Extending Declaration of Local Emergency Ian 7.23.24-7.29.24
9. 24-109, Extending Declaration of Local Emergency Ian 7.30.24-8.5.24

Financial Impact:

6. **Alternative Action**

Not adopt resolutions and the end the Local State of Emergency for Fort Myers Beach

7. **Management Recommendations:**

Approve

8. **Recommended Approval:**

Amy Baker, Town Clerk

Created/Initiated - 5/21/2024

nancy stuparich, Town Attorney
Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Approved - 5/29/2024
Approved - 5/30/2024
Final Approval - 5/30/2024

RESOLUTION 24-101

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

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

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

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

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

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

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

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

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

Section 2. Hurricane Ian has caused a catastrophic disaster in the Town, damaging, or destroying over ninety percent (90%) of the Town's public utilities, public buildings, public communication systems, public streets and roads, public drainage systems, commercial and residential buildings, and areas and continues to pose a serious threat to the health, lives, property, and safety of the business owners and residents of the Town. Accordingly, the state of local emergency is hereby extended for seven (7) additional days *nun pro tunc* from 9:00 AM on the 4th day of June 2024.

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

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

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

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

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

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

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

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

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

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, Council Member
Scott Safford, Council Member
Karen Woodson, Council Member

ADOPTED this 6th day of June 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:**

Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this _____ day of June 2024.

RESOLUTION 24-102

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

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

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

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

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

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

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

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

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

Section 2. Hurricane Ian has caused a catastrophic disaster in the Town, damaging, or destroying over ninety percent (90%) of the Town's public utilities, public buildings, public communication systems, public streets and roads, public drainage systems, commercial and residential buildings, and areas and continues to pose a serious threat to the health, lives, property, and safety of the business owners and residents of the Town. Accordingly, the state of local emergency is hereby extended for seven (7) additional days *nun pro tunc* from 9:00 AM on the 11th day of June 2024.

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

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

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

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

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

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

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

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

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

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, Council Member
Scott Safford, Council Member
Karen Woodson, Council Member

ADOPTED this 6th day of June 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:**

Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this _____ day of June 2024.

RESOLUTION 24-103

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

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

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

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

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

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

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

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

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

Section 2. Hurricane Ian has caused a catastrophic disaster in the Town, damaging, or destroying over ninety percent (90%) of the Town's public utilities, public buildings, public communication systems, public streets and roads, public drainage systems, commercial and residential buildings, and areas and continues to pose a serious threat to the health, lives, property, and safety of the business owners and residents of the Town. Accordingly, the state of local emergency is hereby extended for seven (7) additional days *nun pro tunc* from 9:00 AM on the 18th day of June 2024.

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

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

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

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

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

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

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

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

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

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, Council Member
Scott Safford, Council Member
Karen Woodson, Council Member

ADOPTED this 6th day of June 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:**

Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this _____ day of June 2024.

RESOLUTION 24-104

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

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

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

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

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

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

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

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

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

Section 2. Hurricane Ian has caused a catastrophic disaster in the Town, damaging, or destroying over ninety percent (90%) of the Town's public utilities, public buildings, public communication systems, public streets and roads, public drainage systems, commercial and residential buildings, and areas and continues to pose a serious threat to the health, lives, property, and safety of the business owners and residents of the Town. Accordingly, the state of local emergency is hereby extended for seven (7) additional days *nun pro tunc* from 9:00 AM on the 25th day of June 2024.

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

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

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

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

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

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

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

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

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

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, Council Member
Scott Safford, Council Member
Karen Woodson, Council Member

ADOPTED this 6th day of June 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:**

Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this _____ day of June 2024.

RESOLUTION 24-105

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

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

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

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

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

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

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

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

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

Section 2. Hurricane Ian has caused a catastrophic disaster in the Town, damaging, or destroying over ninety percent (90%) of the Town's public utilities, public buildings, public communication systems, public streets and roads, public drainage systems, commercial and residential buildings, and areas and continues to pose a serious threat to the health, lives, property, and safety of the business owners and residents of the Town. Accordingly, the state of local emergency is hereby extended for seven (7) additional days *nun pro tunc* from 9:00 AM on the 2nd day of July 2024.

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

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

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

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

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

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

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

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

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

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, Council Member
Scott Safford, Council Member
Karen Woodson, Council Member

ADOPTED this 6th day of June 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:**

Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this _____ day of June 2024.

RESOLUTION 24-106

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

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

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

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

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

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

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

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

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

Section 2. Hurricane Ian has caused a catastrophic disaster in the Town, damaging, or destroying over ninety percent (90%) of the Town's public utilities, public buildings, public communication systems, public streets and roads, public drainage systems, commercial and residential buildings, and areas and continues to pose a serious threat to the health, lives, property, and safety of the business owners and residents of the Town. Accordingly, the state of local emergency is hereby extended for seven (7) additional days *nun pro tunc* from 9:00 AM on the 9th day of July 2024.

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

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

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

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

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

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

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

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

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

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, Council Member
Scott Safford, Council Member
Karen Woodson, Council Member

ADOPTED this 6th day of June 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:**

Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this _____ day of June 2024.

RESOLUTION 24-107

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

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

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

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

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

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

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

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

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

Section 2. Hurricane Ian has caused a catastrophic disaster in the Town, damaging, or destroying over ninety percent (90%) of the Town's public utilities, public buildings, public communication systems, public streets and roads, public drainage systems, commercial and residential buildings, and areas and continues to pose a serious threat to the health, lives, property, and safety of the business owners and residents of the Town. Accordingly, the state of local emergency is hereby extended for seven (7) additional days *nun pro tunc* from 9:00 AM on the 16th day of July 2024.

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

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

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

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

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

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

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

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

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

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, Council Member
Scott Safford, Council Member
Karen Woodson, Council Member

ADOPTED this 6th day of June 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:**

Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this _____ day of June 2024.

RESOLUTION 24-108

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

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

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

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

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

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

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

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

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

Section 2. Hurricane Ian has caused a catastrophic disaster in the Town, damaging, or destroying over ninety percent (90%) of the Town's public utilities, public buildings, public communication systems, public streets and roads, public drainage systems, commercial and residential buildings, and areas and continues to pose a serious threat to the health, lives, property, and safety of the business owners and residents of the Town. Accordingly, the state of local emergency is hereby extended for seven (7) additional days *nun pro tunc* from 9:00 AM on the 23rd day of July 2024.

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

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

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

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

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

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

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

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

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

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, Council Member
Scott Safford, Council Member
Karen Woodson, Council Member

ADOPTED this 6th day of June 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:**

Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this _____ day of June 2024.

RESOLUTION 24-109

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

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

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

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

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

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

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

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

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

Section 2. Hurricane Ian has caused a catastrophic disaster in the Town, damaging, or destroying over ninety percent (90%) of the Town's public utilities, public buildings, public communication systems, public streets and roads, public drainage systems, commercial and residential buildings, and areas and continues to pose a serious threat to the health, lives, property, and safety of the business owners and residents of the Town. Accordingly, the state of local emergency is hereby extended for seven (7) additional days *nun pro tunc* from 9:00 AM on the 30th day of July 2024.

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

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

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

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

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

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

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

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

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

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, Council Member
Scott Safford, Council Member
Karen Woodson, Council Member

ADOPTED this 6th day of June 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:**

Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this _____ day of June 2024.

1. **Request:**

Meeting Date: June 3, 2024

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, EXTENDING THE DECLARATION OF STATE OF LOCAL EMERGENCY DUE TO HURRICANE IDALIA; PROVIDING THE TOWN WITH POWERS, INCLUDING, BUT NOT LIMITED TO THOSE PURSUANT TO FLORIDA STATUTES, CHAPTER 252, AND TOWN CODE CHAPTER 2, ARTICLE VI; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE AND A TERMINATION DATE.

Why the action is necessary:

Keeps the Local State of Emergency in effect for Hurricane Idalia

What the action accomplishes:

2. **Agenda:**

CONSENT AGENDA

3. **Requirement/Purpose:**

Resolution

4. **Submitter of Information:**

Amy Baker, Town Clerk

5. **Background:**

Approving and ratifying this Resolution will maintain in place the Town Declaration of State of Local Emergency originally adopted via Resolution 23-99.

Attachments:

1. 24-110, Extension of Local Emergency - Idalia 6.4.24-6.10.24
2. 24-111, Extension of Local Emergency - Idalia 6.11.24-6.17.24
3. 24-112, Extension of Local Emergency - Idalia 6.18.24-6.24.24
4. 24-113, Extension of Local Emergency - Idalia 6.25.24-7.1.24
5. 24-114, Extension of Local Emergency - Idalia 7.2.24-7.8.24
6. 24-115, Extension of Local Emergency - Idalia 7.9.24-7.15.24
7. 24-116, Extension of Local Emergency - Idalia 7.16.24-7.22.24
8. 24-117, Extension of Local Emergency - Idalia 7.23.24-7.29.24
9. 24-118, Extension of Local Emergency - Idalia 7.30.24-8.5.24

Financial Impact:

6. **Alternative Action**

Do not approve and end the Local State of Emergency for Hurricane Idalia

7. **Management Recommendations:**

Approve

8. **Recommended Approval:**

Amy Baker, Town Clerk
nancy stuparich, Town Attorney
Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Created/Initiated - 5/21/2024
Approved - 5/29/2024
Approved - 5/30/2024
Final Approval - 5/30/2024

RESOLUTION NUMBER 24-110

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, EXTENDING THE DECLARATION OF STATE OF LOCAL EMERGENCY DUE TO HURRICANE IDALIA; PROVIDING THE TOWN WITH POWERS, INCLUDING, BUT NOT LIMITED TO THOSE PURSUANT TO FLORIDA STATUTES, CHAPTER 252, AND TOWN CODE CHAPTER 2, ARTICLE VI; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE AND A TERMINATION DATE

WHEREAS, Section 252.38(3), Florida Statutes, authorizes the Town of Fort Myers Beach to declare a state of local emergency and to waive the procedures and formalities otherwise required of political subdivisions by law; and

WHEREAS, Chapter 12 of the Town Code of the Town of Fort Myers Beach authorizes certain powers in the event of a local state of emergency; and

WHEREAS, a state of local emergency proclamation is allowed for seven (7) days with appropriate extensions pursuant to law; and

WHEREAS, the effects of Hurricane Idalia impacted Fort Myers Beach and the current declaration of emergency that was adopted relating to that storm on August 29, 2023, must be extended.

THEREFORE, under the powers vested in it pursuant to Chapter 252, Florida Statutes, and under Chapter 12 of the Town Code of the Town of Fort Myers Beach, the **Town Council does hereby extend the proclamation of a state of local emergency in the Town of Fort Myers Beach, Florida, as identified above beginning at the end of the previously adopted state of local emergency to 7 days thereafter.**

SECTION 1. State of Local Emergency. The following emergency powers and other provisions shall be in force during this state of local emergency:

1. The Town Manager, or designee, is authorized to take all actions necessary and appropriate to protect human life and property, including the promulgation of rules and orders as may be necessary subject to the limitations of Section 252.33, Florida Statutes. This resolution further authorizes the Town Manager, or designee, to utilize all lawful authority granted to the Town of Fort Myers Beach by Federal, State, County, or Town Emergency Management Laws, Rules, Regulations, Orders and, including, but not limited to, Section 252.46 and Section 252.38(3)(a)(1) through Section 252.38(3)(a)(5), Florida Statutes, inclusive.
2. All existing laws, ordinances, and rules inconsistent with the provisions of Sections 252.31 to Section 252.905, Florida Statutes, inclusive, or inconsistent with any rule or order

specifically promulgated under this resolution shall be suspended during this period of time and to the extent that such conflict exists.

3. The Town Manager may suspend, toll or extend the time requirements, notice requirements and deadlines for final action on applications for permits, licenses, rates and other approvals under the Town of Fort Myers Beach Code of Ordinances, to the extent necessary to accommodate the emergency.
4. Pursuant to Section 252.38(3)(a)(5), Florida Statutes, the Town hereby exercises its authority and waives the procedures and formalities otherwise required of a political subdivision by law, pertaining to:
 - Performance of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community;
 - Entering into contracts;
 - Incurring obligations;
 - Employment of permanent and temporary workers;
 - Utilization of volunteer workers;
 - Rental of equipment;
 - Acquisition and distribution, with or without compensation, of supplies, materials, and facilities; and
 - Appropriation and expenditure of public funds
5. The Town Manager shall follow FEMA guidelines in procuring services, materials, labor and equipment necessary to respond to the emergency, including recovery efforts. The Town Manager shall abide by the “Uniform Administrative Requirements, Cost Principles, and Audit Requirements” for federal awards, codified at 2 C.F.R. §§200.317 through 200.326.
6. Pursuant to Section 12-23, of the Code of the Town of Fort Myers Beach, in addition to any other powers conferred by law, the town manager or designees shall have the power and authority to order and promulgate all or any of the following emergency measures to be effective during the period of such emergency in whole or in part, with such limitation and conditions as the town manager or designees may deem appropriate to protect the town's health, safety and welfare, and/or waive the procedures and formalities otherwise required of the town by law pertaining to these measures:
 - (a) To appropriate and expend funds; make contracts; incur obligations; obtain and distribute equipment, materials, and supplies for emergency management purposes; provide for the health and safety of persons and property, including emergency assistance to victims of any emergency; and direct and coordinate the implementation of emergency management plans and programs in accordance with the requirements of state and federal law.
 - (b) To appoint, employ, remove, or provide (with or without compensation) rescue teams, coordinators, other emergency management workers and other permanent or temporary workers.

- (c) To establish, as necessary, primary and secondary emergency operating centers to provide continuity of government and direction and control of emergency operations.
 - (d) To assign and make available for duty the offices and agencies of the town, including the employees, property, or equipment thereof relating to health, medical and related services, transportation, construction, and similar items or services for emergency operation purposes, for deployment within or outside the limits of the town.
 - (e) To request state assistance or invoke emergency-related mutual-aid assistance pursuant to existing contracts and/or state or local law.
 - (f) To waive any procedures and formalities otherwise required of the town by law pertaining to performance of public work and/or the taking of whatever prudent action is necessary to ensure the health, safety, and welfare of the people of the town.
 - (g) To suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives and/or combustibles.
 - (h) To utilize all available resources of the town government as reasonably necessary to cope with the emergency occasioned by the disaster.
 - (i) To make provisions for availability and use of temporary emergency housing and emergency warehousing of materials.
 - (j) Preceding or during the emergency, to call on the National Guard or the Army, Coast Guard or other law enforcement division or other agency as necessary to assist in the mitigation of the emergency or to help maintain law and order, rescue and traffic control.
7. Pursuant to Sec. 12-24, "Prohibitions during state of emergency", of the Code of the Town of Fort Myers Beach, whenever a state of local emergency has been declared, and until such state of local emergency is terminated, the following prohibitions shall apply throughout the town, unless and until the same shall be waived or modified by a quorum of the town council at a general, special or emergency meeting:
- (a) It shall be unlawful and an offense against the town for any person to use the fresh water supplied by the county or local water company for any purpose other than cooking, drinking or bathing.
 - (b) It shall be unlawful for any person to be out and about on the public rights-of-way or other public areas of the town between the dusk and dawn, except for law enforcement officers, members of the town fire control district, emergency medical personnel, town councilmembers, other persons authorized by the town manager, and regular employees of local businesses while traveling to and from their jobs for their regular hours, providing such employees have in their possession personal identification and identification of the business by which they are employed.
8. Any person who refuses to comply with or violates any provision of this declaration of local emergency shall be guilty of a municipal violation. Each day of such violation shall constitute a separate offense. Nothing herein contained shall prevent the town from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any refusal to comply with, or violation of, this article or the emergency measures which may be made effective pursuant to this article. Such other lawful action shall include but shall not be limited to,

an equitable action for injunctive relief or an action at law for damages. In addition, any person violating any rule or order issued pursuant to this Resolution or any person who willfully fails or refuses to comply with the order or orders of any duly authorized law enforcement officer or personnel charged with the responsibility for the enforcement of such orders shall, upon conviction therefor, be punished as provided by Section 252.50, Florida Statutes, and by such other laws as may be applicable to the offense.

SECTION 2. Conflicts. Any and all Resolutions or parts of Resolutions in conflict herewith are hereby repealed.

SECTION 3. Severability. If any provision or portion of this Resolution or the application is held invalid, the invalidity shall not affect other provisions, portions or applications of the Resolution, which can be given effect without the invalid provision, portion or application, and to this end the provisions, portions, or applications of this Resolution are declared severable.

SECTION 4. Effective Date and Termination Date. This Resolution shall take effect immediately upon the termination of the previously adopted state of local emergency and shall terminate automatically seven (7) days from that date unless terminated earlier or extended by a document of equal dignity herewith.

SECTION 5. Direction to Implement. The Town Manager is directed to implement this Resolution.

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, Council Member
Scott Safford, Council Member
Karen Woodson, Council Member

ADOPTED this 6th day of June 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:**

Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this _____ day of June 2024.

RESOLUTION NUMBER 24-111

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, EXTENDING THE DECLARATION OF STATE OF LOCAL EMERGENCY DUE TO HURRICANE IDALIA; PROVIDING THE TOWN WITH POWERS, INCLUDING, BUT NOT LIMITED TO THOSE PURSUANT TO FLORIDA STATUTES, CHAPTER 252, AND TOWN CODE CHAPTER 2, ARTICLE VI; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE AND A TERMINATION DATE

WHEREAS, Section 252.38(3), Florida Statutes, authorizes the Town of Fort Myers Beach to declare a state of local emergency and to waive the procedures and formalities otherwise required of political subdivisions by law; and

WHEREAS, Chapter 12 of the Town Code of the Town of Fort Myers Beach authorizes certain powers in the event of a local state of emergency; and

WHEREAS, a state of local emergency proclamation is allowed for seven (7) days with appropriate extensions pursuant to law; and

WHEREAS, the effects of Hurricane Idalia impacted Fort Myers Beach and the current declaration of emergency that was adopted relating to that storm on August 29, 2023, must be extended.

THEREFORE, under the powers vested in it pursuant to Chapter 252, Florida Statutes, and under Chapter 12 of the Town Code of the Town of Fort Myers Beach, the **Town Council does hereby extend the proclamation of a state of local emergency in the Town of Fort Myers Beach, Florida, as identified above beginning at the end of the previously adopted state of local emergency to 7 days thereafter.**

SECTION 1. State of Local Emergency. The following emergency powers and other provisions shall be in force during this state of local emergency:

1. The Town Manager, or designee, is authorized to take all actions necessary and appropriate to protect human life and property, including the promulgation of rules and orders as may be necessary subject to the limitations of Section 252.33, Florida Statutes. This resolution further authorizes the Town Manager, or designee, to utilize all lawful authority granted to the Town of Fort Myers Beach by Federal, State, County, or Town Emergency Management Laws, Rules, Regulations, Orders and, including, but not limited to, Section 252.46 and Section 252.38(3)(a)(1) through Section 252.38(3)(a)(5), Florida Statutes, inclusive.
2. All existing laws, ordinances, and rules inconsistent with the provisions of Sections 252.31 to Section 252.905, Florida Statutes, inclusive, or inconsistent with any rule or order

specifically promulgated under this resolution shall be suspended during this period of time and to the extent that such conflict exists.

3. The Town Manager may suspend, toll or extend the time requirements, notice requirements and deadlines for final action on applications for permits, licenses, rates and other approvals under the Town of Fort Myers Beach Code of Ordinances, to the extent necessary to accommodate the emergency.
4. Pursuant to Section 252.38(3)(a)(5), Florida Statutes, the Town hereby exercises its authority and waives the procedures and formalities otherwise required of a political subdivision by law, pertaining to:
 - Performance of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community;
 - Entering into contracts;
 - Incurring obligations;
 - Employment of permanent and temporary workers;
 - Utilization of volunteer workers;
 - Rental of equipment;
 - Acquisition and distribution, with or without compensation, of supplies, materials, and facilities; and
 - Appropriation and expenditure of public funds
5. The Town Manager shall follow FEMA guidelines in procuring services, materials, labor and equipment necessary to respond to the emergency, including recovery efforts. The Town Manager shall abide by the “Uniform Administrative Requirements, Cost Principles, and Audit Requirements” for federal awards, codified at 2 C.F.R. §§200.317 through 200.326.
6. Pursuant to Section 12-23, of the Code of the Town of Fort Myers Beach, in addition to any other powers conferred by law, the town manager or designees shall have the power and authority to order and promulgate all or any of the following emergency measures to be effective during the period of such emergency in whole or in part, with such limitation and conditions as the town manager or designees may deem appropriate to protect the town's health, safety and welfare, and/or waive the procedures and formalities otherwise required of the town by law pertaining to these measures:
 - (a) To appropriate and expend funds; make contracts; incur obligations; obtain and distribute equipment, materials, and supplies for emergency management purposes; provide for the health and safety of persons and property, including emergency assistance to victims of any emergency; and direct and coordinate the implementation of emergency management plans and programs in accordance with the requirements of state and federal law.
 - (b) To appoint, employ, remove, or provide (with or without compensation) rescue teams, coordinators, other emergency management workers and other permanent or temporary workers.

- (c) To establish, as necessary, primary and secondary emergency operating centers to provide continuity of government and direction and control of emergency operations.
 - (d) To assign and make available for duty the offices and agencies of the town, including the employees, property, or equipment thereof relating to health, medical and related services, transportation, construction, and similar items or services for emergency operation purposes, for deployment within or outside the limits of the town.
 - (e) To request state assistance or invoke emergency-related mutual-aid assistance pursuant to existing contracts and/or state or local law.
 - (f) To waive any procedures and formalities otherwise required of the town by law pertaining to performance of public work and/or the taking of whatever prudent action is necessary to ensure the health, safety, and welfare of the people of the town.
 - (g) To suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives and/or combustibles.
 - (h) To utilize all available resources of the town government as reasonably necessary to cope with the emergency occasioned by the disaster.
 - (i) To make provisions for availability and use of temporary emergency housing and emergency warehousing of materials.
 - (j) Preceding or during the emergency, to call on the National Guard or the Army, Coast Guard or other law enforcement division or other agency as necessary to assist in the mitigation of the emergency or to help maintain law and order, rescue and traffic control.
7. Pursuant to Sec. 12-24, "Prohibitions during state of emergency", of the Code of the Town of Fort Myers Beach, whenever a state of local emergency has been declared, and until such state of local emergency is terminated, the following prohibitions shall apply throughout the town, unless and until the same shall be waived or modified by a quorum of the town council at a general, special or emergency meeting:
- (a) It shall be unlawful and an offense against the town for any person to use the fresh water supplied by the county or local water company for any purpose other than cooking, drinking or bathing.
 - (b) It shall be unlawful for any person to be out and about on the public rights-of-way or other public areas of the town between the dusk and dawn, except for law enforcement officers, members of the town fire control district, emergency medical personnel, town councilmembers, other persons authorized by the town manager, and regular employees of local businesses while traveling to and from their jobs for their regular hours, providing such employees have in their possession personal identification and identification of the business by which they are employed.
8. Any person who refuses to comply with or violates any provision of this declaration of local emergency shall be guilty of a municipal violation. Each day of such violation shall constitute a separate offense. Nothing herein contained shall prevent the town from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any refusal to comply with, or violation of, this article or the emergency measures which may be made effective pursuant to this article. Such other lawful action shall include but shall not be limited to,

an equitable action for injunctive relief or an action at law for damages. In addition, any person violating any rule or order issued pursuant to this Resolution or any person who willfully fails or refuses to comply with the order or orders of any duly authorized law enforcement officer or personnel charged with the responsibility for the enforcement of such orders shall, upon conviction therefor, be punished as provided by Section 252.50, Florida Statutes, and by such other laws as may be applicable to the offense.

SECTION 2. Conflicts. Any and all Resolutions or parts of Resolutions in conflict herewith are hereby repealed.

SECTION 3. Severability. If any provision or portion of this Resolution or the application is held invalid, the invalidity shall not affect other provisions, portions or applications of the Resolution, which can be given effect without the invalid provision, portion or application, and to this end the provisions, portions, or applications of this Resolution are declared severable.

SECTION 4. Effective Date and Termination Date. This Resolution shall take effect immediately upon the termination of the previously adopted state of local emergency and shall terminate automatically seven (7) days from that date unless terminated earlier or extended by a document of equal dignity herewith.

SECTION 5. Direction to Implement. The Town Manager is directed to implement this Resolution.

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, Council Member
Scott Safford, Council Member
Karen Woodson, Council Member

ADOPTED this 6th day of June 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:**

Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this _____ day of June 2024.

RESOLUTION NUMBER 24-112

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, EXTENDING THE DECLARATION OF STATE OF LOCAL EMERGENCY DUE TO HURRICANE IDALIA; PROVIDING THE TOWN WITH POWERS, INCLUDING, BUT NOT LIMITED TO THOSE PURSUANT TO FLORIDA STATUTES, CHAPTER 252, AND TOWN CODE CHAPTER 2, ARTICLE VI; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE AND A TERMINATION DATE

WHEREAS, Section 252.38(3), Florida Statutes, authorizes the Town of Fort Myers Beach to declare a state of local emergency and to waive the procedures and formalities otherwise required of political subdivisions by law; and

WHEREAS, Chapter 12 of the Town Code of the Town of Fort Myers Beach authorizes certain powers in the event of a local state of emergency; and

WHEREAS, a state of local emergency proclamation is allowed for seven (7) days with appropriate extensions pursuant to law; and

WHEREAS, the effects of Hurricane Idalia impacted Fort Myers Beach and the current declaration of emergency that was adopted relating to that storm on August 29, 2023, must be extended.

THEREFORE, under the powers vested in it pursuant to Chapter 252, Florida Statutes, and under Chapter 12 of the Town Code of the Town of Fort Myers Beach, the **Town Council does hereby extend the proclamation of a state of local emergency in the Town of Fort Myers Beach, Florida, as identified above beginning at the end of the previously adopted state of local emergency to 7 days thereafter.**

SECTION 1. State of Local Emergency. The following emergency powers and other provisions shall be in force during this state of local emergency:

1. The Town Manager, or designee, is authorized to take all actions necessary and appropriate to protect human life and property, including the promulgation of rules and orders as may be necessary subject to the limitations of Section 252.33, Florida Statutes. This resolution further authorizes the Town Manager, or designee, to utilize all lawful authority granted to the Town of Fort Myers Beach by Federal, State, County, or Town Emergency Management Laws, Rules, Regulations, Orders and, including, but not limited to, Section 252.46 and Section 252.38(3)(a)(1) through Section 252.38(3)(a)(5), Florida Statutes, inclusive.
2. All existing laws, ordinances, and rules inconsistent with the provisions of Sections 252.31 to Section 252.905, Florida Statutes, inclusive, or inconsistent with any rule or order

specifically promulgated under this resolution shall be suspended during this period of time and to the extent that such conflict exists.

3. The Town Manager may suspend, toll or extend the time requirements, notice requirements and deadlines for final action on applications for permits, licenses, rates and other approvals under the Town of Fort Myers Beach Code of Ordinances, to the extent necessary to accommodate the emergency.
4. Pursuant to Section 252.38(3)(a)(5), Florida Statutes, the Town hereby exercises its authority and waives the procedures and formalities otherwise required of a political subdivision by law, pertaining to:
 - Performance of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community;
 - Entering into contracts;
 - Incurring obligations;
 - Employment of permanent and temporary workers;
 - Utilization of volunteer workers;
 - Rental of equipment;
 - Acquisition and distribution, with or without compensation, of supplies, materials, and facilities; and
 - Appropriation and expenditure of public funds
5. The Town Manager shall follow FEMA guidelines in procuring services, materials, labor and equipment necessary to respond to the emergency, including recovery efforts. The Town Manager shall abide by the “Uniform Administrative Requirements, Cost Principles, and Audit Requirements” for federal awards, codified at 2 C.F.R. §§200.317 through 200.326.
6. Pursuant to Section 12-23, of the Code of the Town of Fort Myers Beach, in addition to any other powers conferred by law, the town manager or designees shall have the power and authority to order and promulgate all or any of the following emergency measures to be effective during the period of such emergency in whole or in part, with such limitation and conditions as the town manager or designees may deem appropriate to protect the town's health, safety and welfare, and/or waive the procedures and formalities otherwise required of the town by law pertaining to these measures:
 - (a) To appropriate and expend funds; make contracts; incur obligations; obtain and distribute equipment, materials, and supplies for emergency management purposes; provide for the health and safety of persons and property, including emergency assistance to victims of any emergency; and direct and coordinate the implementation of emergency management plans and programs in accordance with the requirements of state and federal law.
 - (b) To appoint, employ, remove, or provide (with or without compensation) rescue teams, coordinators, other emergency management workers and other permanent or temporary workers.

- (c) To establish, as necessary, primary and secondary emergency operating centers to provide continuity of government and direction and control of emergency operations.
 - (d) To assign and make available for duty the offices and agencies of the town, including the employees, property, or equipment thereof relating to health, medical and related services, transportation, construction, and similar items or services for emergency operation purposes, for deployment within or outside the limits of the town.
 - (e) To request state assistance or invoke emergency-related mutual-aid assistance pursuant to existing contracts and/or state or local law.
 - (f) To waive any procedures and formalities otherwise required of the town by law pertaining to performance of public work and/or the taking of whatever prudent action is necessary to ensure the health, safety, and welfare of the people of the town.
 - (g) To suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives and/or combustibles.
 - (h) To utilize all available resources of the town government as reasonably necessary to cope with the emergency occasioned by the disaster.
 - (i) To make provisions for availability and use of temporary emergency housing and emergency warehousing of materials.
 - (j) Preceding or during the emergency, to call on the National Guard or the Army, Coast Guard or other law enforcement division or other agency as necessary to assist in the mitigation of the emergency or to help maintain law and order, rescue and traffic control.
7. Pursuant to Sec. 12-24, "Prohibitions during state of emergency", of the Code of the Town of Fort Myers Beach, whenever a state of local emergency has been declared, and until such state of local emergency is terminated, the following prohibitions shall apply throughout the town, unless and until the same shall be waived or modified by a quorum of the town council at a general, special or emergency meeting:
- (a) It shall be unlawful and an offense against the town for any person to use the fresh water supplied by the county or local water company for any purpose other than cooking, drinking or bathing.
 - (b) It shall be unlawful for any person to be out and about on the public rights-of-way or other public areas of the town between the dusk and dawn, except for law enforcement officers, members of the town fire control district, emergency medical personnel, town councilmembers, other persons authorized by the town manager, and regular employees of local businesses while traveling to and from their jobs for their regular hours, providing such employees have in their possession personal identification and identification of the business by which they are employed.
8. Any person who refuses to comply with or violates any provision of this declaration of local emergency shall be guilty of a municipal violation. Each day of such violation shall constitute a separate offense. Nothing herein contained shall prevent the town from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any refusal to comply with, or violation of, this article or the emergency measures which may be made effective pursuant to this article. Such other lawful action shall include but shall not be limited to,

an equitable action for injunctive relief or an action at law for damages. In addition, any person violating any rule or order issued pursuant to this Resolution or any person who willfully fails or refuses to comply with the order or orders of any duly authorized law enforcement officer or personnel charged with the responsibility for the enforcement of such orders shall, upon conviction therefor, be punished as provided by Section 252.50, Florida Statutes, and by such other laws as may be applicable to the offense.

SECTION 2. Conflicts. Any and all Resolutions or parts of Resolutions in conflict herewith are hereby repealed.

SECTION 3. Severability. If any provision or portion of this Resolution or the application is held invalid, the invalidity shall not affect other provisions, portions or applications of the Resolution, which can be given effect without the invalid provision, portion or application, and to this end the provisions, portions, or applications of this Resolution are declared severable.

SECTION 4. Effective Date and Termination Date. This Resolution shall take effect immediately upon the termination of the previously adopted state of local emergency and shall terminate automatically seven (7) days from that date unless terminated earlier or extended by a document of equal dignity herewith.

SECTION 5. Direction to Implement. The Town Manager is directed to implement this Resolution.

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, Council Member
Scott Safford, Council Member
Karen Woodson, Council Member

ADOPTED this 6th day of June 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:**

Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this _____ day of June 2024.

RESOLUTION NUMBER 24-113

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, EXTENDING THE DECLARATION OF STATE OF LOCAL EMERGENCY DUE TO HURRICANE IDALIA; PROVIDING THE TOWN WITH POWERS, INCLUDING, BUT NOT LIMITED TO THOSE PURSUANT TO FLORIDA STATUTES, CHAPTER 252, AND TOWN CODE CHAPTER 2, ARTICLE VI; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE AND A TERMINATION DATE

WHEREAS, Section 252.38(3), Florida Statutes, authorizes the Town of Fort Myers Beach to declare a state of local emergency and to waive the procedures and formalities otherwise required of political subdivisions by law; and

WHEREAS, Chapter 12 of the Town Code of the Town of Fort Myers Beach authorizes certain powers in the event of a local state of emergency; and

WHEREAS, a state of local emergency proclamation is allowed for seven (7) days with appropriate extensions pursuant to law; and

WHEREAS, the effects of Hurricane Idalia impacted Fort Myers Beach and the current declaration of emergency that was adopted relating to that storm on August 29, 2023, must be extended.

THEREFORE, under the powers vested in it pursuant to Chapter 252, Florida Statutes, and under Chapter 12 of the Town Code of the Town of Fort Myers Beach, the **Town Council does hereby extend the proclamation of a state of local emergency in the Town of Fort Myers Beach, Florida, as identified above beginning at the end of the previously adopted state of local emergency to 7 days thereafter.**

SECTION 1. State of Local Emergency. The following emergency powers and other provisions shall be in force during this state of local emergency:

1. The Town Manager, or designee, is authorized to take all actions necessary and appropriate to protect human life and property, including the promulgation of rules and orders as may be necessary subject to the limitations of Section 252.33, Florida Statutes. This resolution further authorizes the Town Manager, or designee, to utilize all lawful authority granted to the Town of Fort Myers Beach by Federal, State, County, or Town Emergency Management Laws, Rules, Regulations, Orders and, including, but not limited to, Section 252.46 and Section 252.38(3)(a)(1) through Section 252.38(3)(a)(5), Florida Statutes, inclusive.
2. All existing laws, ordinances, and rules inconsistent with the provisions of Sections 252.31 to Section 252.905, Florida Statutes, inclusive, or inconsistent with any rule or order

specifically promulgated under this resolution shall be suspended during this period of time and to the extent that such conflict exists.

3. The Town Manager may suspend, toll or extend the time requirements, notice requirements and deadlines for final action on applications for permits, licenses, rates and other approvals under the Town of Fort Myers Beach Code of Ordinances, to the extent necessary to accommodate the emergency.
4. Pursuant to Section 252.38(3)(a)(5), Florida Statutes, the Town hereby exercises its authority and waives the procedures and formalities otherwise required of a political subdivision by law, pertaining to:
 - Performance of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community;
 - Entering into contracts;
 - Incurring obligations;
 - Employment of permanent and temporary workers;
 - Utilization of volunteer workers;
 - Rental of equipment;
 - Acquisition and distribution, with or without compensation, of supplies, materials, and facilities; and
 - Appropriation and expenditure of public funds
5. The Town Manager shall follow FEMA guidelines in procuring services, materials, labor and equipment necessary to respond to the emergency, including recovery efforts. The Town Manager shall abide by the “Uniform Administrative Requirements, Cost Principles, and Audit Requirements” for federal awards, codified at 2 C.F.R. §§200.317 through 200.326.
6. Pursuant to Section 12-23, of the Code of the Town of Fort Myers Beach, in addition to any other powers conferred by law, the town manager or designees shall have the power and authority to order and promulgate all or any of the following emergency measures to be effective during the period of such emergency in whole or in part, with such limitation and conditions as the town manager or designees may deem appropriate to protect the town's health, safety and welfare, and/or waive the procedures and formalities otherwise required of the town by law pertaining to these measures:
 - (a) To appropriate and expend funds; make contracts; incur obligations; obtain and distribute equipment, materials, and supplies for emergency management purposes; provide for the health and safety of persons and property, including emergency assistance to victims of any emergency; and direct and coordinate the implementation of emergency management plans and programs in accordance with the requirements of state and federal law.
 - (b) To appoint, employ, remove, or provide (with or without compensation) rescue teams, coordinators, other emergency management workers and other permanent or temporary workers.

- (c) To establish, as necessary, primary and secondary emergency operating centers to provide continuity of government and direction and control of emergency operations.
 - (d) To assign and make available for duty the offices and agencies of the town, including the employees, property, or equipment thereof relating to health, medical and related services, transportation, construction, and similar items or services for emergency operation purposes, for deployment within or outside the limits of the town.
 - (e) To request state assistance or invoke emergency-related mutual-aid assistance pursuant to existing contracts and/or state or local law.
 - (f) To waive any procedures and formalities otherwise required of the town by law pertaining to performance of public work and/or the taking of whatever prudent action is necessary to ensure the health, safety, and welfare of the people of the town.
 - (g) To suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives and/or combustibles.
 - (h) To utilize all available resources of the town government as reasonably necessary to cope with the emergency occasioned by the disaster.
 - (i) To make provisions for availability and use of temporary emergency housing and emergency warehousing of materials.
 - (j) Preceding or during the emergency, to call on the National Guard or the Army, Coast Guard or other law enforcement division or other agency as necessary to assist in the mitigation of the emergency or to help maintain law and order, rescue and traffic control.
7. Pursuant to Sec. 12-24, "Prohibitions during state of emergency", of the Code of the Town of Fort Myers Beach, whenever a state of local emergency has been declared, and until such state of local emergency is terminated, the following prohibitions shall apply throughout the town, unless and until the same shall be waived or modified by a quorum of the town council at a general, special or emergency meeting:
- (a) It shall be unlawful and an offense against the town for any person to use the fresh water supplied by the county or local water company for any purpose other than cooking, drinking or bathing.
 - (b) It shall be unlawful for any person to be out and about on the public rights-of-way or other public areas of the town between the dusk and dawn, except for law enforcement officers, members of the town fire control district, emergency medical personnel, town councilmembers, other persons authorized by the town manager, and regular employees of local businesses while traveling to and from their jobs for their regular hours, providing such employees have in their possession personal identification and identification of the business by which they are employed.
8. Any person who refuses to comply with or violates any provision of this declaration of local emergency shall be guilty of a municipal violation. Each day of such violation shall constitute a separate offense. Nothing herein contained shall prevent the town from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any refusal to comply with, or violation of, this article or the emergency measures which may be made effective pursuant to this article. Such other lawful action shall include but shall not be limited to,

an equitable action for injunctive relief or an action at law for damages. In addition, any person violating any rule or order issued pursuant to this Resolution or any person who willfully fails or refuses to comply with the order or orders of any duly authorized law enforcement officer or personnel charged with the responsibility for the enforcement of such orders shall, upon conviction therefor, be punished as provided by Section 252.50, Florida Statutes, and by such other laws as may be applicable to the offense.

SECTION 2. Conflicts. Any and all Resolutions or parts of Resolutions in conflict herewith are hereby repealed.

SECTION 3. Severability. If any provision or portion of this Resolution or the application is held invalid, the invalidity shall not affect other provisions, portions or applications of the Resolution, which can be given effect without the invalid provision, portion or application, and to this end the provisions, portions, or applications of this Resolution are declared severable.

SECTION 4. Effective Date and Termination Date. This Resolution shall take effect immediately upon the termination of the previously adopted state of local emergency and shall terminate automatically seven (7) days from that date unless terminated earlier or extended by a document of equal dignity herewith.

SECTION 5. Direction to Implement. The Town Manager is directed to implement this Resolution.

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, Council Member
Scott Safford, Council Member
Karen Woodson, Council Member

ADOPTED this 6th day of June 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:**

Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this _____ day of June 2024.

RESOLUTION NUMBER 24-114

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, EXTENDING THE DECLARATION OF STATE OF LOCAL EMERGENCY DUE TO HURRICANE IDALIA; PROVIDING THE TOWN WITH POWERS, INCLUDING, BUT NOT LIMITED TO THOSE PURSUANT TO FLORIDA STATUTES, CHAPTER 252, AND TOWN CODE CHAPTER 2, ARTICLE VI; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE AND A TERMINATION DATE

WHEREAS, Section 252.38(3), Florida Statutes, authorizes the Town of Fort Myers Beach to declare a state of local emergency and to waive the procedures and formalities otherwise required of political subdivisions by law; and

WHEREAS, Chapter 12 of the Town Code of the Town of Fort Myers Beach authorizes certain powers in the event of a local state of emergency; and

WHEREAS, a state of local emergency proclamation is allowed for seven (7) days with appropriate extensions pursuant to law; and

WHEREAS, the effects of Hurricane Idalia impacted Fort Myers Beach and the current declaration of emergency that was adopted relating to that storm on August 29, 2023, must be extended.

THEREFORE, under the powers vested in it pursuant to Chapter 252, Florida Statutes, and under Chapter 12 of the Town Code of the Town of Fort Myers Beach, the **Town Council does hereby extend the proclamation of a state of local emergency in the Town of Fort Myers Beach, Florida, as identified above beginning at the end of the previously adopted state of local emergency to 7 days thereafter.**

SECTION 1. State of Local Emergency. The following emergency powers and other provisions shall be in force during this state of local emergency:

1. The Town Manager, or designee, is authorized to take all actions necessary and appropriate to protect human life and property, including the promulgation of rules and orders as may be necessary subject to the limitations of Section 252.33, Florida Statutes. This resolution further authorizes the Town Manager, or designee, to utilize all lawful authority granted to the Town of Fort Myers Beach by Federal, State, County, or Town Emergency Management Laws, Rules, Regulations, Orders and, including, but not limited to, Section 252.46 and Section 252.38(3)(a)(1) through Section 252.38(3)(a)(5), Florida Statutes, inclusive.
2. All existing laws, ordinances, and rules inconsistent with the provisions of Sections 252.31 to Section 252.905, Florida Statutes, inclusive, or inconsistent with any rule or order

specifically promulgated under this resolution shall be suspended during this period of time and to the extent that such conflict exists.

3. The Town Manager may suspend, toll or extend the time requirements, notice requirements and deadlines for final action on applications for permits, licenses, rates and other approvals under the Town of Fort Myers Beach Code of Ordinances, to the extent necessary to accommodate the emergency.
4. Pursuant to Section 252.38(3)(a)(5), Florida Statutes, the Town hereby exercises its authority and waives the procedures and formalities otherwise required of a political subdivision by law, pertaining to:
 - Performance of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community;
 - Entering into contracts;
 - Incurring obligations;
 - Employment of permanent and temporary workers;
 - Utilization of volunteer workers;
 - Rental of equipment;
 - Acquisition and distribution, with or without compensation, of supplies, materials, and facilities; and
 - Appropriation and expenditure of public funds
5. The Town Manager shall follow FEMA guidelines in procuring services, materials, labor and equipment necessary to respond to the emergency, including recovery efforts. The Town Manager shall abide by the “Uniform Administrative Requirements, Cost Principles, and Audit Requirements” for federal awards, codified at 2 C.F.R. §§200.317 through 200.326.
6. Pursuant to Section 12-23, of the Code of the Town of Fort Myers Beach, in addition to any other powers conferred by law, the town manager or designees shall have the power and authority to order and promulgate all or any of the following emergency measures to be effective during the period of such emergency in whole or in part, with such limitation and conditions as the town manager or designees may deem appropriate to protect the town's health, safety and welfare, and/or waive the procedures and formalities otherwise required of the town by law pertaining to these measures:
 - (a) To appropriate and expend funds; make contracts; incur obligations; obtain and distribute equipment, materials, and supplies for emergency management purposes; provide for the health and safety of persons and property, including emergency assistance to victims of any emergency; and direct and coordinate the implementation of emergency management plans and programs in accordance with the requirements of state and federal law.
 - (b) To appoint, employ, remove, or provide (with or without compensation) rescue teams, coordinators, other emergency management workers and other permanent or temporary workers.

- (c) To establish, as necessary, primary and secondary emergency operating centers to provide continuity of government and direction and control of emergency operations.
 - (d) To assign and make available for duty the offices and agencies of the town, including the employees, property, or equipment thereof relating to health, medical and related services, transportation, construction, and similar items or services for emergency operation purposes, for deployment within or outside the limits of the town.
 - (e) To request state assistance or invoke emergency-related mutual-aid assistance pursuant to existing contracts and/or state or local law.
 - (f) To waive any procedures and formalities otherwise required of the town by law pertaining to performance of public work and/or the taking of whatever prudent action is necessary to ensure the health, safety, and welfare of the people of the town.
 - (g) To suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives and/or combustibles.
 - (h) To utilize all available resources of the town government as reasonably necessary to cope with the emergency occasioned by the disaster.
 - (i) To make provisions for availability and use of temporary emergency housing and emergency warehousing of materials.
 - (j) Preceding or during the emergency, to call on the National Guard or the Army, Coast Guard or other law enforcement division or other agency as necessary to assist in the mitigation of the emergency or to help maintain law and order, rescue and traffic control.
7. Pursuant to Sec. 12-24, "Prohibitions during state of emergency", of the Code of the Town of Fort Myers Beach, whenever a state of local emergency has been declared, and until such state of local emergency is terminated, the following prohibitions shall apply throughout the town, unless and until the same shall be waived or modified by a quorum of the town council at a general, special or emergency meeting:
- (a) It shall be unlawful and an offense against the town for any person to use the fresh water supplied by the county or local water company for any purpose other than cooking, drinking or bathing.
 - (b) It shall be unlawful for any person to be out and about on the public rights-of-way or other public areas of the town between the dusk and dawn, except for law enforcement officers, members of the town fire control district, emergency medical personnel, town councilmembers, other persons authorized by the town manager, and regular employees of local businesses while traveling to and from their jobs for their regular hours, providing such employees have in their possession personal identification and identification of the business by which they are employed.
8. Any person who refuses to comply with or violates any provision of this declaration of local emergency shall be guilty of a municipal violation. Each day of such violation shall constitute a separate offense. Nothing herein contained shall prevent the town from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any refusal to comply with, or violation of, this article or the emergency measures which may be made effective pursuant to this article. Such other lawful action shall include but shall not be limited to,

an equitable action for injunctive relief or an action at law for damages. In addition, any person violating any rule or order issued pursuant to this Resolution or any person who willfully fails or refuses to comply with the order or orders of any duly authorized law enforcement officer or personnel charged with the responsibility for the enforcement of such orders shall, upon conviction therefor, be punished as provided by Section 252.50, Florida Statutes, and by such other laws as may be applicable to the offense.

SECTION 2. Conflicts. Any and all Resolutions or parts of Resolutions in conflict herewith are hereby repealed.

SECTION 3. Severability. If any provision or portion of this Resolution or the application is held invalid, the invalidity shall not affect other provisions, portions or applications of the Resolution, which can be given effect without the invalid provision, portion or application, and to this end the provisions, portions, or applications of this Resolution are declared severable.

SECTION 4. Effective Date and Termination Date. This Resolution shall take effect immediately upon the termination of the previously adopted state of local emergency and shall terminate automatically seven (7) days from that date unless terminated earlier or extended by a document of equal dignity herewith.

SECTION 5. Direction to Implement. The Town Manager is directed to implement this Resolution.

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, Council Member
Scott Safford, Council Member
Karen Woodson, Council Member

ADOPTED this 6th day of June 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:**

Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this _____ day of June 2024.

RESOLUTION NUMBER 24-115

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, EXTENDING THE DECLARATION OF STATE OF LOCAL EMERGENCY DUE TO HURRICANE IDALIA; PROVIDING THE TOWN WITH POWERS, INCLUDING, BUT NOT LIMITED TO THOSE PURSUANT TO FLORIDA STATUTES, CHAPTER 252, AND TOWN CODE CHAPTER 2, ARTICLE VI; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE AND A TERMINATION DATE

WHEREAS, Section 252.38(3), Florida Statutes, authorizes the Town of Fort Myers Beach to declare a state of local emergency and to waive the procedures and formalities otherwise required of political subdivisions by law; and

WHEREAS, Chapter 12 of the Town Code of the Town of Fort Myers Beach authorizes certain powers in the event of a local state of emergency; and

WHEREAS, a state of local emergency proclamation is allowed for seven (7) days with appropriate extensions pursuant to law; and

WHEREAS, the effects of Hurricane Idalia impacted Fort Myers Beach and the current declaration of emergency that was adopted relating to that storm on August 29, 2023, must be extended.

THEREFORE, under the powers vested in it pursuant to Chapter 252, Florida Statutes, and under Chapter 12 of the Town Code of the Town of Fort Myers Beach, the **Town Council does hereby extend the proclamation of a state of local emergency in the Town of Fort Myers Beach, Florida, as identified above beginning at the end of the previously adopted state of local emergency to 7 days thereafter.**

SECTION 1. State of Local Emergency. The following emergency powers and other provisions shall be in force during this state of local emergency:

1. The Town Manager, or designee, is authorized to take all actions necessary and appropriate to protect human life and property, including the promulgation of rules and orders as may be necessary subject to the limitations of Section 252.33, Florida Statutes. This resolution further authorizes the Town Manager, or designee, to utilize all lawful authority granted to the Town of Fort Myers Beach by Federal, State, County, or Town Emergency Management Laws, Rules, Regulations, Orders and, including, but not limited to, Section 252.46 and Section 252.38(3)(a)(1) through Section 252.38(3)(a)(5), Florida Statutes, inclusive.
2. All existing laws, ordinances, and rules inconsistent with the provisions of Sections 252.31 to Section 252.905, Florida Statutes, inclusive, or inconsistent with any rule or order

specifically promulgated under this resolution shall be suspended during this period of time and to the extent that such conflict exists.

3. The Town Manager may suspend, toll or extend the time requirements, notice requirements and deadlines for final action on applications for permits, licenses, rates and other approvals under the Town of Fort Myers Beach Code of Ordinances, to the extent necessary to accommodate the emergency.
4. Pursuant to Section 252.38(3)(a)(5), Florida Statutes, the Town hereby exercises its authority and waives the procedures and formalities otherwise required of a political subdivision by law, pertaining to:
 - Performance of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community;
 - Entering into contracts;
 - Incurring obligations;
 - Employment of permanent and temporary workers;
 - Utilization of volunteer workers;
 - Rental of equipment;
 - Acquisition and distribution, with or without compensation, of supplies, materials, and facilities; and
 - Appropriation and expenditure of public funds
5. The Town Manager shall follow FEMA guidelines in procuring services, materials, labor and equipment necessary to respond to the emergency, including recovery efforts. The Town Manager shall abide by the “Uniform Administrative Requirements, Cost Principles, and Audit Requirements” for federal awards, codified at 2 C.F.R. §§200.317 through 200.326.
6. Pursuant to Section 12-23, of the Code of the Town of Fort Myers Beach, in addition to any other powers conferred by law, the town manager or designees shall have the power and authority to order and promulgate all or any of the following emergency measures to be effective during the period of such emergency in whole or in part, with such limitation and conditions as the town manager or designees may deem appropriate to protect the town's health, safety and welfare, and/or waive the procedures and formalities otherwise required of the town by law pertaining to these measures:
 - (a) To appropriate and expend funds; make contracts; incur obligations; obtain and distribute equipment, materials, and supplies for emergency management purposes; provide for the health and safety of persons and property, including emergency assistance to victims of any emergency; and direct and coordinate the implementation of emergency management plans and programs in accordance with the requirements of state and federal law.
 - (b) To appoint, employ, remove, or provide (with or without compensation) rescue teams, coordinators, other emergency management workers and other permanent or temporary workers.

- (c) To establish, as necessary, primary and secondary emergency operating centers to provide continuity of government and direction and control of emergency operations.
 - (d) To assign and make available for duty the offices and agencies of the town, including the employees, property, or equipment thereof relating to health, medical and related services, transportation, construction, and similar items or services for emergency operation purposes, for deployment within or outside the limits of the town.
 - (e) To request state assistance or invoke emergency-related mutual-aid assistance pursuant to existing contracts and/or state or local law.
 - (f) To waive any procedures and formalities otherwise required of the town by law pertaining to performance of public work and/or the taking of whatever prudent action is necessary to ensure the health, safety, and welfare of the people of the town.
 - (g) To suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives and/or combustibles.
 - (h) To utilize all available resources of the town government as reasonably necessary to cope with the emergency occasioned by the disaster.
 - (i) To make provisions for availability and use of temporary emergency housing and emergency warehousing of materials.
 - (j) Preceding or during the emergency, to call on the National Guard or the Army, Coast Guard or other law enforcement division or other agency as necessary to assist in the mitigation of the emergency or to help maintain law and order, rescue and traffic control.
7. Pursuant to Sec. 12-24, "Prohibitions during state of emergency", of the Code of the Town of Fort Myers Beach, whenever a state of local emergency has been declared, and until such state of local emergency is terminated, the following prohibitions shall apply throughout the town, unless and until the same shall be waived or modified by a quorum of the town council at a general, special or emergency meeting:
- (a) It shall be unlawful and an offense against the town for any person to use the fresh water supplied by the county or local water company for any purpose other than cooking, drinking or bathing.
 - (b) It shall be unlawful for any person to be out and about on the public rights-of-way or other public areas of the town between the dusk and dawn, except for law enforcement officers, members of the town fire control district, emergency medical personnel, town councilmembers, other persons authorized by the town manager, and regular employees of local businesses while traveling to and from their jobs for their regular hours, providing such employees have in their possession personal identification and identification of the business by which they are employed.
8. Any person who refuses to comply with or violates any provision of this declaration of local emergency shall be guilty of a municipal violation. Each day of such violation shall constitute a separate offense. Nothing herein contained shall prevent the town from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any refusal to comply with, or violation of, this article or the emergency measures which may be made effective pursuant to this article. Such other lawful action shall include but shall not be limited to,

an equitable action for injunctive relief or an action at law for damages. In addition, any person violating any rule or order issued pursuant to this Resolution or any person who willfully fails or refuses to comply with the order or orders of any duly authorized law enforcement officer or personnel charged with the responsibility for the enforcement of such orders shall, upon conviction therefor, be punished as provided by Section 252.50, Florida Statutes, and by such other laws as may be applicable to the offense.

SECTION 2. Conflicts. Any and all Resolutions or parts of Resolutions in conflict herewith are hereby repealed.

SECTION 3. Severability. If any provision or portion of this Resolution or the application is held invalid, the invalidity shall not affect other provisions, portions or applications of the Resolution, which can be given effect without the invalid provision, portion or application, and to this end the provisions, portions, or applications of this Resolution are declared severable.

SECTION 4. Effective Date and Termination Date. This Resolution shall take effect immediately upon the termination of the previously adopted state of local emergency and shall terminate automatically seven (7) days from that date unless terminated earlier or extended by a document of equal dignity herewith.

SECTION 5. Direction to Implement. The Town Manager is directed to implement this Resolution.

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, Council Member
Scott Safford, Council Member
Karen Woodson, Council Member

ADOPTED this 6th day of June 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:**

Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this _____ day of June 2024.

RESOLUTION NUMBER 24-116

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, EXTENDING THE DECLARATION OF STATE OF LOCAL EMERGENCY DUE TO HURRICANE IDALIA; PROVIDING THE TOWN WITH POWERS, INCLUDING, BUT NOT LIMITED TO THOSE PURSUANT TO FLORIDA STATUTES, CHAPTER 252, AND TOWN CODE CHAPTER 2, ARTICLE VI; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE AND A TERMINATION DATE

WHEREAS, Section 252.38(3), Florida Statutes, authorizes the Town of Fort Myers Beach to declare a state of local emergency and to waive the procedures and formalities otherwise required of political subdivisions by law; and

WHEREAS, Chapter 12 of the Town Code of the Town of Fort Myers Beach authorizes certain powers in the event of a local state of emergency; and

WHEREAS, a state of local emergency proclamation is allowed for seven (7) days with appropriate extensions pursuant to law; and

WHEREAS, the effects of Hurricane Idalia impacted Fort Myers Beach and the current declaration of emergency that was adopted relating to that storm on August 29, 2023, must be extended.

THEREFORE, under the powers vested in it pursuant to Chapter 252, Florida Statutes, and under Chapter 12 of the Town Code of the Town of Fort Myers Beach, the **Town Council does hereby extend the proclamation of a state of local emergency in the Town of Fort Myers Beach, Florida, as identified above beginning at the end of the previously adopted state of local emergency to 7 days thereafter.**

SECTION 1. State of Local Emergency. The following emergency powers and other provisions shall be in force during this state of local emergency:

1. The Town Manager, or designee, is authorized to take all actions necessary and appropriate to protect human life and property, including the promulgation of rules and orders as may be necessary subject to the limitations of Section 252.33, Florida Statutes. This resolution further authorizes the Town Manager, or designee, to utilize all lawful authority granted to the Town of Fort Myers Beach by Federal, State, County, or Town Emergency Management Laws, Rules, Regulations, Orders and, including, but not limited to, Section 252.46 and Section 252.38(3)(a)(1) through Section 252.38(3)(a)(5), Florida Statutes, inclusive.
2. All existing laws, ordinances, and rules inconsistent with the provisions of Sections 252.31 to Section 252.905, Florida Statutes, inclusive, or inconsistent with any rule or order

specifically promulgated under this resolution shall be suspended during this period of time and to the extent that such conflict exists.

3. The Town Manager may suspend, toll or extend the time requirements, notice requirements and deadlines for final action on applications for permits, licenses, rates and other approvals under the Town of Fort Myers Beach Code of Ordinances, to the extent necessary to accommodate the emergency.
4. Pursuant to Section 252.38(3)(a)(5), Florida Statutes, the Town hereby exercises its authority and waives the procedures and formalities otherwise required of a political subdivision by law, pertaining to:
 - Performance of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community;
 - Entering into contracts;
 - Incurring obligations;
 - Employment of permanent and temporary workers;
 - Utilization of volunteer workers;
 - Rental of equipment;
 - Acquisition and distribution, with or without compensation, of supplies, materials, and facilities; and
 - Appropriation and expenditure of public funds
5. The Town Manager shall follow FEMA guidelines in procuring services, materials, labor and equipment necessary to respond to the emergency, including recovery efforts. The Town Manager shall abide by the “Uniform Administrative Requirements, Cost Principles, and Audit Requirements” for federal awards, codified at 2 C.F.R. §§200.317 through 200.326.
6. Pursuant to Section 12-23, of the Code of the Town of Fort Myers Beach, in addition to any other powers conferred by law, the town manager or designees shall have the power and authority to order and promulgate all or any of the following emergency measures to be effective during the period of such emergency in whole or in part, with such limitation and conditions as the town manager or designees may deem appropriate to protect the town's health, safety and welfare, and/or waive the procedures and formalities otherwise required of the town by law pertaining to these measures:
 - (a) To appropriate and expend funds; make contracts; incur obligations; obtain and distribute equipment, materials, and supplies for emergency management purposes; provide for the health and safety of persons and property, including emergency assistance to victims of any emergency; and direct and coordinate the implementation of emergency management plans and programs in accordance with the requirements of state and federal law.
 - (b) To appoint, employ, remove, or provide (with or without compensation) rescue teams, coordinators, other emergency management workers and other permanent or temporary workers.

- (c) To establish, as necessary, primary and secondary emergency operating centers to provide continuity of government and direction and control of emergency operations.
 - (d) To assign and make available for duty the offices and agencies of the town, including the employees, property, or equipment thereof relating to health, medical and related services, transportation, construction, and similar items or services for emergency operation purposes, for deployment within or outside the limits of the town.
 - (e) To request state assistance or invoke emergency-related mutual-aid assistance pursuant to existing contracts and/or state or local law.
 - (f) To waive any procedures and formalities otherwise required of the town by law pertaining to performance of public work and/or the taking of whatever prudent action is necessary to ensure the health, safety, and welfare of the people of the town.
 - (g) To suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives and/or combustibles.
 - (h) To utilize all available resources of the town government as reasonably necessary to cope with the emergency occasioned by the disaster.
 - (i) To make provisions for availability and use of temporary emergency housing and emergency warehousing of materials.
 - (j) Preceding or during the emergency, to call on the National Guard or the Army, Coast Guard or other law enforcement division or other agency as necessary to assist in the mitigation of the emergency or to help maintain law and order, rescue and traffic control.
7. Pursuant to Sec. 12-24, "Prohibitions during state of emergency", of the Code of the Town of Fort Myers Beach, whenever a state of local emergency has been declared, and until such state of local emergency is terminated, the following prohibitions shall apply throughout the town, unless and until the same shall be waived or modified by a quorum of the town council at a general, special or emergency meeting:
- (a) It shall be unlawful and an offense against the town for any person to use the fresh water supplied by the county or local water company for any purpose other than cooking, drinking or bathing.
 - (b) It shall be unlawful for any person to be out and about on the public rights-of-way or other public areas of the town between the dusk and dawn, except for law enforcement officers, members of the town fire control district, emergency medical personnel, town councilmembers, other persons authorized by the town manager, and regular employees of local businesses while traveling to and from their jobs for their regular hours, providing such employees have in their possession personal identification and identification of the business by which they are employed.
8. Any person who refuses to comply with or violates any provision of this declaration of local emergency shall be guilty of a municipal violation. Each day of such violation shall constitute a separate offense. Nothing herein contained shall prevent the town from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any refusal to comply with, or violation of, this article or the emergency measures which may be made effective pursuant to this article. Such other lawful action shall include but shall not be limited to,

an equitable action for injunctive relief or an action at law for damages. In addition, any person violating any rule or order issued pursuant to this Resolution or any person who willfully fails or refuses to comply with the order or orders of any duly authorized law enforcement officer or personnel charged with the responsibility for the enforcement of such orders shall, upon conviction therefor, be punished as provided by Section 252.50, Florida Statutes, and by such other laws as may be applicable to the offense.

SECTION 2. Conflicts. Any and all Resolutions or parts of Resolutions in conflict herewith are hereby repealed.

SECTION 3. Severability. If any provision or portion of this Resolution or the application is held invalid, the invalidity shall not affect other provisions, portions or applications of the Resolution, which can be given effect without the invalid provision, portion or application, and to this end the provisions, portions, or applications of this Resolution are declared severable.

SECTION 4. Effective Date and Termination Date. This Resolution shall take effect immediately upon the termination of the previously adopted state of local emergency and shall terminate automatically seven (7) days from that date unless terminated earlier or extended by a document of equal dignity herewith.

SECTION 5. Direction to Implement. The Town Manager is directed to implement this Resolution.

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, Council Member
Scott Safford, Council Member
Karen Woodson, Council Member

ADOPTED this 6th day of June 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:**

Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this _____ day of June 2024.

RESOLUTION NUMBER 24-117

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, EXTENDING THE DECLARATION OF STATE OF LOCAL EMERGENCY DUE TO HURRICANE IDALIA; PROVIDING THE TOWN WITH POWERS, INCLUDING, BUT NOT LIMITED TO THOSE PURSUANT TO FLORIDA STATUTES, CHAPTER 252, AND TOWN CODE CHAPTER 2, ARTICLE VI; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE AND A TERMINATION DATE

WHEREAS, Section 252.38(3), Florida Statutes, authorizes the Town of Fort Myers Beach to declare a state of local emergency and to waive the procedures and formalities otherwise required of political subdivisions by law; and

WHEREAS, Chapter 12 of the Town Code of the Town of Fort Myers Beach authorizes certain powers in the event of a local state of emergency; and

WHEREAS, a state of local emergency proclamation is allowed for seven (7) days with appropriate extensions pursuant to law; and

WHEREAS, the effects of Hurricane Idalia impacted Fort Myers Beach and the current declaration of emergency that was adopted relating to that storm on August 29, 2023, must be extended.

THEREFORE, under the powers vested in it pursuant to Chapter 252, Florida Statutes, and under Chapter 12 of the Town Code of the Town of Fort Myers Beach, the **Town Council does hereby extend the proclamation of a state of local emergency in the Town of Fort Myers Beach, Florida, as identified above beginning at the end of the previously adopted state of local emergency to 7 days thereafter.**

SECTION 1. State of Local Emergency. The following emergency powers and other provisions shall be in force during this state of local emergency:

1. The Town Manager, or designee, is authorized to take all actions necessary and appropriate to protect human life and property, including the promulgation of rules and orders as may be necessary subject to the limitations of Section 252.33, Florida Statutes. This resolution further authorizes the Town Manager, or designee, to utilize all lawful authority granted to the Town of Fort Myers Beach by Federal, State, County, or Town Emergency Management Laws, Rules, Regulations, Orders and, including, but not limited to, Section 252.46 and Section 252.38(3)(a)(1) through Section 252.38(3)(a)(5), Florida Statutes, inclusive.
2. All existing laws, ordinances, and rules inconsistent with the provisions of Sections 252.31 to Section 252.905, Florida Statutes, inclusive, or inconsistent with any rule or order

specifically promulgated under this resolution shall be suspended during this period of time and to the extent that such conflict exists.

3. The Town Manager may suspend, toll or extend the time requirements, notice requirements and deadlines for final action on applications for permits, licenses, rates and other approvals under the Town of Fort Myers Beach Code of Ordinances, to the extent necessary to accommodate the emergency.
4. Pursuant to Section 252.38(3)(a)(5), Florida Statutes, the Town hereby exercises its authority and waives the procedures and formalities otherwise required of a political subdivision by law, pertaining to:
 - Performance of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community;
 - Entering into contracts;
 - Incurring obligations;
 - Employment of permanent and temporary workers;
 - Utilization of volunteer workers;
 - Rental of equipment;
 - Acquisition and distribution, with or without compensation, of supplies, materials, and facilities; and
 - Appropriation and expenditure of public funds
5. The Town Manager shall follow FEMA guidelines in procuring services, materials, labor and equipment necessary to respond to the emergency, including recovery efforts. The Town Manager shall abide by the “Uniform Administrative Requirements, Cost Principles, and Audit Requirements” for federal awards, codified at 2 C.F.R. §§200.317 through 200.326.
6. Pursuant to Section 12-23, of the Code of the Town of Fort Myers Beach, in addition to any other powers conferred by law, the town manager or designees shall have the power and authority to order and promulgate all or any of the following emergency measures to be effective during the period of such emergency in whole or in part, with such limitation and conditions as the town manager or designees may deem appropriate to protect the town's health, safety and welfare, and/or waive the procedures and formalities otherwise required of the town by law pertaining to these measures:
 - (a) To appropriate and expend funds; make contracts; incur obligations; obtain and distribute equipment, materials, and supplies for emergency management purposes; provide for the health and safety of persons and property, including emergency assistance to victims of any emergency; and direct and coordinate the implementation of emergency management plans and programs in accordance with the requirements of state and federal law.
 - (b) To appoint, employ, remove, or provide (with or without compensation) rescue teams, coordinators, other emergency management workers and other permanent or temporary workers.

- (c) To establish, as necessary, primary and secondary emergency operating centers to provide continuity of government and direction and control of emergency operations.
 - (d) To assign and make available for duty the offices and agencies of the town, including the employees, property, or equipment thereof relating to health, medical and related services, transportation, construction, and similar items or services for emergency operation purposes, for deployment within or outside the limits of the town.
 - (e) To request state assistance or invoke emergency-related mutual-aid assistance pursuant to existing contracts and/or state or local law.
 - (f) To waive any procedures and formalities otherwise required of the town by law pertaining to performance of public work and/or the taking of whatever prudent action is necessary to ensure the health, safety, and welfare of the people of the town.
 - (g) To suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives and/or combustibles.
 - (h) To utilize all available resources of the town government as reasonably necessary to cope with the emergency occasioned by the disaster.
 - (i) To make provisions for availability and use of temporary emergency housing and emergency warehousing of materials.
 - (j) Preceding or during the emergency, to call on the National Guard or the Army, Coast Guard or other law enforcement division or other agency as necessary to assist in the mitigation of the emergency or to help maintain law and order, rescue and traffic control.
7. Pursuant to Sec. 12-24, "Prohibitions during state of emergency", of the Code of the Town of Fort Myers Beach, whenever a state of local emergency has been declared, and until such state of local emergency is terminated, the following prohibitions shall apply throughout the town, unless and until the same shall be waived or modified by a quorum of the town council at a general, special or emergency meeting:
- (a) It shall be unlawful and an offense against the town for any person to use the fresh water supplied by the county or local water company for any purpose other than cooking, drinking or bathing.
 - (b) It shall be unlawful for any person to be out and about on the public rights-of-way or other public areas of the town between the dusk and dawn, except for law enforcement officers, members of the town fire control district, emergency medical personnel, town councilmembers, other persons authorized by the town manager, and regular employees of local businesses while traveling to and from their jobs for their regular hours, providing such employees have in their possession personal identification and identification of the business by which they are employed.
8. Any person who refuses to comply with or violates any provision of this declaration of local emergency shall be guilty of a municipal violation. Each day of such violation shall constitute a separate offense. Nothing herein contained shall prevent the town from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any refusal to comply with, or violation of, this article or the emergency measures which may be made effective pursuant to this article. Such other lawful action shall include but shall not be limited to,

an equitable action for injunctive relief or an action at law for damages. In addition, any person violating any rule or order issued pursuant to this Resolution or any person who willfully fails or refuses to comply with the order or orders of any duly authorized law enforcement officer or personnel charged with the responsibility for the enforcement of such orders shall, upon conviction therefor, be punished as provided by Section 252.50, Florida Statutes, and by such other laws as may be applicable to the offense.

SECTION 2. Conflicts. Any and all Resolutions or parts of Resolutions in conflict herewith are hereby repealed.

SECTION 3. Severability. If any provision or portion of this Resolution or the application is held invalid, the invalidity shall not affect other provisions, portions or applications of the Resolution, which can be given effect without the invalid provision, portion or application, and to this end the provisions, portions, or applications of this Resolution are declared severable.

SECTION 4. Effective Date and Termination Date. This Resolution shall take effect immediately upon the termination of the previously adopted state of local emergency and shall terminate automatically seven (7) days from that date unless terminated earlier or extended by a document of equal dignity herewith.

SECTION 5. Direction to Implement. The Town Manager is directed to implement this Resolution.

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, Council Member
Scott Safford, Council Member
Karen Woodson, Council Member

ADOPTED this 6th day of June 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:**

Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this _____ day of June 2024.

RESOLUTION NUMBER 24-118

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, EXTENDING THE DECLARATION OF STATE OF LOCAL EMERGENCY DUE TO HURRICANE IDALIA; PROVIDING THE TOWN WITH POWERS, INCLUDING, BUT NOT LIMITED TO THOSE PURSUANT TO FLORIDA STATUTES, CHAPTER 252, AND TOWN CODE CHAPTER 2, ARTICLE VI; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE AND A TERMINATION DATE

WHEREAS, Section 252.38(3), Florida Statutes, authorizes the Town of Fort Myers Beach to declare a state of local emergency and to waive the procedures and formalities otherwise required of political subdivisions by law; and

WHEREAS, Chapter 12 of the Town Code of the Town of Fort Myers Beach authorizes certain powers in the event of a local state of emergency; and

WHEREAS, a state of local emergency proclamation is allowed for seven (7) days with appropriate extensions pursuant to law; and

WHEREAS, the effects of Hurricane Idalia impacted Fort Myers Beach and the current declaration of emergency that was adopted relating to that storm on August 29, 2023, must be extended.

THEREFORE, under the powers vested in it pursuant to Chapter 252, Florida Statutes, and under Chapter 12 of the Town Code of the Town of Fort Myers Beach, the **Town Council does hereby extend the proclamation of a state of local emergency in the Town of Fort Myers Beach, Florida, as identified above beginning at the end of the previously adopted state of local emergency to 7 days thereafter.**

SECTION 1. State of Local Emergency. The following emergency powers and other provisions shall be in force during this state of local emergency:

1. The Town Manager, or designee, is authorized to take all actions necessary and appropriate to protect human life and property, including the promulgation of rules and orders as may be necessary subject to the limitations of Section 252.33, Florida Statutes. This resolution further authorizes the Town Manager, or designee, to utilize all lawful authority granted to the Town of Fort Myers Beach by Federal, State, County, or Town Emergency Management Laws, Rules, Regulations, Orders and, including, but not limited to, Section 252.46 and Section 252.38(3)(a)(1) through Section 252.38(3)(a)(5), Florida Statutes, inclusive.
2. All existing laws, ordinances, and rules inconsistent with the provisions of Sections 252.31 to Section 252.905, Florida Statutes, inclusive, or inconsistent with any rule or order

specifically promulgated under this resolution shall be suspended during this period of time and to the extent that such conflict exists.

3. The Town Manager may suspend, toll or extend the time requirements, notice requirements and deadlines for final action on applications for permits, licenses, rates and other approvals under the Town of Fort Myers Beach Code of Ordinances, to the extent necessary to accommodate the emergency.
4. Pursuant to Section 252.38(3)(a)(5), Florida Statutes, the Town hereby exercises its authority and waives the procedures and formalities otherwise required of a political subdivision by law, pertaining to:
 - Performance of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community;
 - Entering into contracts;
 - Incurring obligations;
 - Employment of permanent and temporary workers;
 - Utilization of volunteer workers;
 - Rental of equipment;
 - Acquisition and distribution, with or without compensation, of supplies, materials, and facilities; and
 - Appropriation and expenditure of public funds
5. The Town Manager shall follow FEMA guidelines in procuring services, materials, labor and equipment necessary to respond to the emergency, including recovery efforts. The Town Manager shall abide by the “Uniform Administrative Requirements, Cost Principles, and Audit Requirements” for federal awards, codified at 2 C.F.R. §§200.317 through 200.326.
6. Pursuant to Section 12-23, of the Code of the Town of Fort Myers Beach, in addition to any other powers conferred by law, the town manager or designees shall have the power and authority to order and promulgate all or any of the following emergency measures to be effective during the period of such emergency in whole or in part, with such limitation and conditions as the town manager or designees may deem appropriate to protect the town's health, safety and welfare, and/or waive the procedures and formalities otherwise required of the town by law pertaining to these measures:
 - (a) To appropriate and expend funds; make contracts; incur obligations; obtain and distribute equipment, materials, and supplies for emergency management purposes; provide for the health and safety of persons and property, including emergency assistance to victims of any emergency; and direct and coordinate the implementation of emergency management plans and programs in accordance with the requirements of state and federal law.
 - (b) To appoint, employ, remove, or provide (with or without compensation) rescue teams, coordinators, other emergency management workers and other permanent or temporary workers.

- (c) To establish, as necessary, primary and secondary emergency operating centers to provide continuity of government and direction and control of emergency operations.
 - (d) To assign and make available for duty the offices and agencies of the town, including the employees, property, or equipment thereof relating to health, medical and related services, transportation, construction, and similar items or services for emergency operation purposes, for deployment within or outside the limits of the town.
 - (e) To request state assistance or invoke emergency-related mutual-aid assistance pursuant to existing contracts and/or state or local law.
 - (f) To waive any procedures and formalities otherwise required of the town by law pertaining to performance of public work and/or the taking of whatever prudent action is necessary to ensure the health, safety, and welfare of the people of the town.
 - (g) To suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives and/or combustibles.
 - (h) To utilize all available resources of the town government as reasonably necessary to cope with the emergency occasioned by the disaster.
 - (i) To make provisions for availability and use of temporary emergency housing and emergency warehousing of materials.
 - (j) Preceding or during the emergency, to call on the National Guard or the Army, Coast Guard or other law enforcement division or other agency as necessary to assist in the mitigation of the emergency or to help maintain law and order, rescue and traffic control.
7. Pursuant to Sec. 12-24, "Prohibitions during state of emergency", of the Code of the Town of Fort Myers Beach, whenever a state of local emergency has been declared, and until such state of local emergency is terminated, the following prohibitions shall apply throughout the town, unless and until the same shall be waived or modified by a quorum of the town council at a general, special or emergency meeting:
- (a) It shall be unlawful and an offense against the town for any person to use the fresh water supplied by the county or local water company for any purpose other than cooking, drinking or bathing.
 - (b) It shall be unlawful for any person to be out and about on the public rights-of-way or other public areas of the town between the dusk and dawn, except for law enforcement officers, members of the town fire control district, emergency medical personnel, town councilmembers, other persons authorized by the town manager, and regular employees of local businesses while traveling to and from their jobs for their regular hours, providing such employees have in their possession personal identification and identification of the business by which they are employed.
8. Any person who refuses to comply with or violates any provision of this declaration of local emergency shall be guilty of a municipal violation. Each day of such violation shall constitute a separate offense. Nothing herein contained shall prevent the town from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any refusal to comply with, or violation of, this article or the emergency measures which may be made effective pursuant to this article. Such other lawful action shall include but shall not be limited to,

an equitable action for injunctive relief or an action at law for damages. In addition, any person violating any rule or order issued pursuant to this Resolution or any person who willfully fails or refuses to comply with the order or orders of any duly authorized law enforcement officer or personnel charged with the responsibility for the enforcement of such orders shall, upon conviction therefor, be punished as provided by Section 252.50, Florida Statutes, and by such other laws as may be applicable to the offense.

SECTION 2. Conflicts. Any and all Resolutions or parts of Resolutions in conflict herewith are hereby repealed.

SECTION 3. Severability. If any provision or portion of this Resolution or the application is held invalid, the invalidity shall not affect other provisions, portions or applications of the Resolution, which can be given effect without the invalid provision, portion or application, and to this end the provisions, portions, or applications of this Resolution are declared severable.

SECTION 4. Effective Date and Termination Date. This Resolution shall take effect immediately upon the termination of the previously adopted state of local emergency and shall terminate automatically seven (7) days from that date unless terminated earlier or extended by a document of equal dignity herewith.

SECTION 5. Direction to Implement. The Town Manager is directed to implement this Resolution.

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, Council Member
Scott Safford, Council Member
Karen Woodson, Council Member

ADOPTED this 6th day of June 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:**

Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this _____ day of June 2024.

1. **Request:**

Meeting Date: June 3, 2024

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, APPROVING A SECOND AMENDMENT TO AN AGREEMENT BETWEEN THE TOWN OF FORT MYERS BEACH AND ANGIE BREWER & ASSOCIATES, LC TO EXTEND THE TERM OF THE CONSULTANT AGREEMENT FOR FUNDING MANAGEMENT SERVICES FOR SRF AND OR OTHER GRANTS AND LOANS AVAILABLE TO THE TOWN, TO JUNE 9, 2025, BY THE EXERCISE OF THE SECOND OF TWO ONE-YEAR RENEWAL OPTIONS; APPROVING SUPPLEMENTAL TASK AUTHORIZATION NO. 5 FOR THE UNINTERRUPTED CONTINUATION OF THESE SERVICES; AUTHORIZING THE MAYOR TO SIGN THE AMENDMENT AND SUPPLEMENTAL TASK AUTHORIZATION AND THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Why the action is necessary:

The Town needs the expertise and assistance of Angie Brewer to administer the State Revolving Fund (SRF) loans and other grants related to the stormwater and water infrastructure projects, especially the Tier 1 project. Their familiarity with the Town projects, and expertise in funding management enables the Town to submit reimbursement requests in a timely manner and to comply with all regulatory requirements.

What the action accomplishes:

Authorizing the one-year extension formally authorizes Angie Brewer and Associates, LC. to continue providing funding management services until June 9, 2025.

2. **Agenda:**

CONSENT AGENDA

3. **Requirement/Purpose:**

Resolution

4. **Submitter of Information:**

Joe Onzick, Finance Director

5. **Background:**

Angie Brewer & Associates, LC have been providing professional funding management services for the Town for many years. Specifically, they have been managing the State Revolving Fund (SRF) loans for our stormwater and water infrastructure projects, as well as other grants funding those projects. The town approved the latest contract with Angie Brewer in February of 2021 based on piggybacking off the contract that Collier Contract awarded to Angie Brewer and Associates. That contract was a 3-year contract awarded June 9, 2020 that expired on June 8, 2023. Based on Collier County's authorization of the first one-year extension of the contract, on February 5, 2024, the Town also retroactively authorized the first one-year extension of the contract which is about to expire on June 9, 2024. Collier County recently authorized the second one-year extension, and we are recommending that the Town also authorize this second one-year extension that will expire on June 9, 2025. In conjunction with this one-year extension, we are also requesting approval of a new Supplemental Task Agreement (STA #5) for Angie Brewer & Associates, LC which authorizes a not-to-exceed amount of \$245,996 for their services to be provided during contract year expiring June 9, 2025.

Attachments:

1. Collier County Contract Extension thru 6-8-25
2. STA 5 Angie Brewer for Council Approval
3. Consultant Agreement 2021

4. First Amendment to Consultant Agreement Angie Brewer and Assoc. Inc. Edited - MB
Signed - signed
5. 24-119, Angie Brewer Amendment and STA 5 ns edits
6. Second Amendment to Consultant Agreement Angie Brewer and Assoc Inc

Financial Impact:

The cost of service provided by Angie Brewer is outlined in the attached contract. It is a function of the volume of work and funding. The amount of the Supplemental Task Authorization is \$245,996.00, which is based on their estimated services to be provided for the Tier 1 project.

6. Alternative Action

The alternative would be for the Town to issue its own Request for Proposals, which would only replicate what Collier County has already done, and delay provision of the necessary services to ensure compliance with and timely reimbursement by the SRF program.

7. Management Recommendations:

Staff recommends approval of the second one-year extension of the professional services agreement with Angie Brewer and Associates, LC and STA #5, since it piggybacks on an agreement competitively procured and awarded by Collier County, and because staff is pleased with the outstanding service provided by Angie Brewer and Associates.

8. Recommended Approval:

Joe Onzick, Finance Director
Joe Onzick, Finance Director
nancy stuparich, Town Attorney
Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Created/Initiated - 5/23/2024
Approved - 5/23/2024
Approved - 5/29/2024
Approved - 5/29/2024
Final Approval - 5/29/2024



February 14, 2024

Mark Brewer
 Angie Brewer & Associates, L.C.
 9080 58th Drive East, Suite 200
 Bradenton, FL 34202
 Via Email: president@angiebrewer.com

RE: Contract Renewal for # 20-7690 "Loan and/or Grant Acquisition & Compliance Services"

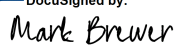
Dear Mr/s. Brewer,

Collier County would like to renew the above contract under the same terms and conditions for an additional **one (1)** year period in accordance with the renewal clause in the contract.

If you are agreeable, please indicate your intentions by providing the information requested below and executing the acceptance section:

	I am agreeable to renewing the above-referenced contract under the same terms, conditions, and pricing as the existing contract.
_____	I am not agreeable to the renewal of this contract.

By executing the section below, this contract will be effective from **6/9/2024** until **6/8/2025**.

Acceptance of Contract Renewal	
Company Name	Angie Brewer & Associates, LC
Company Signature	DocuSigned by: 
Print Name	700055FB301140C... Mark Brewer
Signature Date	2/14/2024





Page 2 of 2

RE: Contract Renewal for # 20-7690 "Loan and/or Grant Acquisition & Compliance Services"

Updated Contact Information (Only if addressee information on the first page is incorrect)	
Contact Name	_____
Telephone Number	_____
FAX Number	_____
Email Address	_____

Collier County will be transitioning to a new eProcurement solution (OpenGov) for publishing solicitations and receiving vendor responses. [Register your account early](#) to begin receiving email notifications for Collier County's bidding opportunities. We expect to go-live March 12, 2024. Registration early and it is 100% free for vendors! For more information about how to register, please see our [help file here](#).

Please return this letter to the Procurement Services Division with your response no later than **2/21/2024**. You may email your response to email Renewals@colliercountyfl.gov. If you have any questions, you may contact me at 239-252-8407.

Respectfully,

DocuSigned by:

 3ECCC8279B554F5...
 Sandra Srnka
 Division Director – Procurement Services Division

C: Tara Castillo, PUD: Financial & Ops Support



**TOWN OF FORT MYERS BEACH SERVICE AGREEMENT
SUPPLEMENTAL TASK AUTHORIZATION**

X Supplemental Task Authorization

NO.: STA #5

CONTRACT/PROJECT NAME: 240-000-0116 Grant and Loan Services

CONSULTANT: Angie Brewer & Associates, LC

PROJECT NO.: _____

SOLICIT NO.: _____

CONTRACT NO.: _____

REQUESTED BY: Joe Onzick

DATE OF REQUEST: 05/23/2024

PURCHASE ORDER NUMBER: _____

Upon the completion and execution of this Supplemental Task Authorization by both parties, the Consultant/Provider is authorized to and shall proceed with the following:

EXHIBIT "A" SCOPE OF PROFESSIONAL SERVICE: DATED: 05/23/2024

EXHIBIT "B" COMPENSATION & METHOD OF PAYMENT: DATED: 05/23/2024

EXHIBIT "C" TIME AND SCHEDULE OF PERFORMANCE: DATED: 05/23/2024

EXHIBIT "D" CONSULTANT'S/PROVIDER'S ASSOCIATED
SUB-CONSULTANT(S)/SUB-CONTRACTORS: DATED: N/A

It is understood and agreed that the acceptance of this modification by the
CONSULTANT/PROVIDER constitutes an accord and satisfaction.

RECOMMENDED:

By: _____ By: _____
Department Director Date Contracts Manager Date

ACCEPTED: Angie Brewer & Associates, LC

By: _____
Consultant/Provider Date

TOWN APPROVAL:

By: _____ By: _____
Town Manager Date Town Attorney Date

Date to Proceed: _____

Cost of STA: \$245,996.00

Completion Due Date: June 8, 2025

EXHIBIT A

SCOPE OF PROFESSIONAL SERVICES

240-000-0116 Grant and Loan Services

Overview

STA NO. 5: 240-000-0116 Grant and Loan Services

The following services will be provided by Angie Brewer & Associates, LC:

1: Program Coordination

Program Coordination – The Consultant shall coordinate with Town, FDEP, Consulting Engineers, Project Representatives and others as necessary to ensure that all requirements are met. This includes ongoing contact with all personnel related to the project. The Consultant will coordinate and be involved in site visits by funding agency representatives, ie. FDEP, EPA, OIG or DOL. The Consultant shall act as the Liaison between FDEP and the Town to identify and resolve issues regarding the SRF Loan Program. Also, all status and other reporting will be accomplished for successful management and completion of the project. This includes General Funding Services, SRF Loans, Federal and State Grants for specific projects for the Town's eligible activities. This currently includes Stormwater, Drinking Water and Wastewater improvement projects including Tier 1 and any other projects deemed by the Town to be in their best interests.

2: Funding Reconciliation

Funding Reconciliation – The Consultant shall review and compare the project information with the funding documents to ensure that all SRF requirements are met and consistency between all aspects of the project is achieved.

3: Processing

Pay Estimate(s) – The Consultant shall provide professional services to review and verify eligible costs per contractor pay estimate.

Engineering Invoice(s) – The Consultant shall provide professional services to review and verify eligible costs related to engineering.

FDEP Reimbursement Request(s) – The Consultant shall compile required documents and prepare Reimbursement Requests for submittal to FDEP. The Reimbursement Request shall include all properly authorized expenditures for which documentation is available on the date of preparation. The Consultant shall submit the Reimbursement Request to the Engineer for Certification and then to the Town for signature. The Consultant shall be responsible to ensure appropriate parties receive copies of the Reimbursement Request upon receiving the originally signed copy at its office.

Change Order(s) – The Consultant shall review and process Construction Contract Change Orders/Field Changes. This will result in a request for

eligibility determination to be submitted to FDEP. Upon receipt of eligibility determination, all appropriate project information will be modified to allow for the eventual reimbursement of costs if applicable.

4: Program Management

Program Management Meeting(s) – The Consultant shall prepare for and attend Program Management Meetings. Meeting minutes shall be prepared and disseminated to appropriate parties upon completion. These meetings are held for the purpose of discussing FDEP program requirements, reimbursement requests, eligibility requests' status, construction progress, contract changes/issues, payment procedures/status, monitoring issues, additional funding needs and other information regarding the project.

MBE/WBE Monitoring – The Consultant shall provide a form to be completed by the contractor and submitted with each pay estimate. The information submitted by the contractor shall be used to prepare the Minority/Women's Business Enterprises (MBE/WBE) Utilization Report. This report shall be submitted to the Town and FDEP on a monthly basis during construction.

Agency Monitoring Visit(s) – The Consultant shall prepare for and attend agency monitoring visits. The Consultant shall provide responses to any agency questions.

5: Davis-Bacon Compliance

Contractor Compliance Preparation – The Consultant shall review the contractor and subcontractors current Davis Bacon practices and policies to determine compliance with the funding program and funding agreement requirements. The Consultant shall suggest changes required to ensure compliance with the program requirements.

Provide Required Signage – The Consultant shall provide digital or physical copies of required signage with directions for posting the signs. The contractor is responsible for the production and display of the signs.

Compliance Monitoring – The Consultant shall provide monthly monitoring of Federal Labor Standards requirements, including labor interviews and verification of information reported by the contractors and subcontractors during construction.

Certified Payroll(s) – The Consultant shall provide professional services to review and verify certified payrolls as submitted by the contractors and subcontractors. The Consultant shall prepare detailed exception reports as required.

Coordination – The Consultant shall monitor all applicable federal and state regulations. The Consultant shall assist the contractors with conformance of additional wage rates as required for the program.

6: American Iron and Steel (AIS) Compliance

Contractor Compliance Preparation – The Consultant shall review the contractor and subcontractors current materials acquisition processes to determine compliance with the funding program and funding agreement requirements. The Consultant shall suggest methods to ensure compliance with the program requirements.

American Iron and Steel Compliance – The Consultant shall provide

monthly monitoring of the project for compliance with the American Iron and Steel requirements. The Consultant shall complete the required documentation for compliance.

4: Closeout and Audit Assistance

Project Closeout – Consultant shall prepare closeout information required for FDEP regarding the project. The Final Request for Reimbursement is included in this task. This includes the Final Construction Inspection, Preliminary Administrative Closeout, and Final Administrative Closeout conducted by FDEP representatives. The necessary closeout documents shall be prepared regarding final eligibility for construction, engineering, administration, design and other project costs and submitted to FDEP to allow closeout of the loan. This effort will result in the preparation, review and approval of the Final Loan Amendment.

Annual Audit Assistance – The Consultant shall provide necessary data to the Town to allow inclusion of the loan in the required Single Audit Report prepared as part of the Annual Audit. This also includes corresponding with FDEP regarding eligibility requests and assistance during the annual audit.

Project Specific Audit – The Consultant will also provide closeout and other information to the Town's Independent Auditors in order to allow for the required Project Audit within 12 months of execution of the Final Loan Amendment.

Hourly Breakdown:

Labor Category	Principal	Sr. Funding Manager	Senior Project Manager II	Sr. Funding Coordinator	Sr. Funding Specialist	Funding Specialist	Admin/ Clerk II	Admin/ Clerk I
Rate	\$185.00	\$155.00	\$135.00	\$110.00	\$100.00	\$88.00	\$63.00	\$54.00
Hours	192.00	372.00	156.00	228.00	276.00	350.00	468.00	348.00

Total Cost (of Job): *\$245,996.00*

EXHIBIT BDate: 05/23/2024

COMPENSATION AND METHOD OF PAYMENT FOR
240-000-0116 Grant and Loan Services

Section 1. BASIC SERVICES/TASK(S)

The TOWN shall compensate the CONSULTANT for providing and performing the Task(s) set forth and enumerated in EXHIBIT "A", entitled "SCOPE OF PROFESSIONAL SERVICES", as follows:

NOTE: A Lump Sum (L.S.) or Not-to-Exceed (N.T.E.) amount of compensation to be paid the CONSULTANT should be established and set forth below for each task or sub-task described and authorized in Exhibit "A". In accordance with Agreement Article 5.02(2) "Method of Payment", tasks to be paid on a Work-in-Progress payment basis should be identified (WIPP).

Task Number	Task Title	Amount of Compensation	Indicate Basis of Compensation LS or NTE	If Applicable Indicate (W.I.P.P.)
#1	Grant and Loan Services	\$245,996.00	NTE	WIPP
TOTAL (Unless list is continued on next page)		\$245,996.00	NTE	

Section 2. ADDITIONAL SERVICES

The TOWN shall compensate the CONSULTANT for such ADDITIONAL SERVICES as are requested and authorized in writing for such amounts or on such a basis as may be mutually agreed to in writing by both parties to this Agreement. The basis and/or amount of compensation to be paid the CONSULTANT for ADDITIONAL SERVICES requested and authorized in writing by the TOWN shall be as set forth in Article 4 of this Agreement.

Should it be mutually agreed to base compensation for ADDITIONAL SERVICES on an hourly rate charge basis for each involved professional and technical employee's wage rate classification, the applicable hourly rates to be charged are as set forth and contained in ATTACHMENT NO. 1 hereto dated May 23, 2024, entitled "CONSULTANT'S PERSONNEL HOURLY RATE SCHEDULE".

Section 3. REIMBURSABLE EXPENSES AND COSTS

When the CONSULTANT'S compensation and method of payment is based on an hourly rate for professional and/or technical personnel, the CONSULTANT shall, in addition to such hourly rates as are set forth in Attachment No. 1 hereto, be entitled to reimbursement of out-of-pocket, non-personnel expenses and costs as set forth in ATTACHMENT NO. 2 hereto May 23, 2024 entitled "NON-PERSONNEL REIMBURSABLE EXPENSES AND COSTS".

ATTACHMENT NO. 1 TO EXHIBIT B

Date: 05/23/2024

CONSULTANT'S PERSONNEL HOURLY RATE SCHEDULE FOR
240-000-0116 Grant and Loan Services

Consultant or Sub-consultant Name: Angie Brewer & Associates, LC
(A separate Attachment No. 1 should be included for each Sub-Consultant)

(1) Project Position or Classification (Function to be Performed)	(2) Current Direct* Payroll Average Hourly Rate	(3) Multiplier**	(4) Hourly Rate To Be Charged (Column 2x3)
Hourly Rates are fully burdened to include all costs per Collier County Contract			

*NOTE: Direct Payroll hourly rate means the actual gross hourly wage paid.

**NOTE: Indicate applicable multiplier for indirect personnel costs, general administrative & overhead costs, and profit.

***NOTE: A separate personnel hourly rate schedule should also be attached for each Sub-Consultant listed in Exhibit "D".

ATTACHMENT NO. 2 TO EXHIBIT B

Date: 05/23/2024

**NON-PERSONNEL REIMBURSABLE EXPENSES AND COSTS FOR
240-000-0116 Grant and Loan Services**

CONSULTANT OR SUB-CONSULTANT NAME: Angie Brewer & Associates, LC
(A separate Attachment No. 2 should be included for each Sub-Consultant)

[illegible]

NOTE: N.T.E. indicates Not-To-Exceed

EXHIBIT C

Date: 05/23/2024

TIME AND SCHEDULE OF PERFORMANCE FOR

240-000-0116 Grant and Loan Services

This EXHIBIT "C" establishes times of completion for the various phases and tasks required to provide and perform the services and work set forth in EXHIBIT "A" of this Agreement. The times and schedule of performance set forth hereinafter is established pursuant to this Agreement.

Phase and/or Task Reference As Enumerated in EXHIBIT "A"	NAME OR TITLE Of Phase and/Task	Number Of Calendar Days For Completion Of Each Phase And/or Task	Cumulative Number Of Calendar Days For Completion From Date of Notice to Proceed
#1	Grant and Loan Services	365 days	365 days

EXHIBIT D

Date: 05/23/2024

CONSULTANT'S ASSOCIATED SUB-CONSULTANT(S) AND SUBCONTRACTOR(S) FOR
240-000-0116 Grant and Loan Services

CONSULTANT has identified the following Sub-Consultant(s) and/or Subcontractor(s) which may be engaged to assist the CONSULTANT in providing and performing services and work on this Project:

(If none, enter the word "none" in the space below.)

Service and/or Work to be Provided or Performed	Name and Address of Individual or Firm				Sub-Consultant Services are Exempted from Prime Consultant's Insurance Coverage	
					Yes	No
	NONE					

CONSULTANT AGREEMENT

AGREEMENT, made and entered into on ~~February 16, 2021~~ February 16, 2021, by and between Angie Brewer & Associates, LC, hereinafter referred to as the "Consultant" and the Town of Fort Myers Beach, hereinafter referred to as the "Client".

Whereas, the Client desires to obtain the services of the Consultant for Funding Management Services to include Planning, Application, Administration, Compliance and Program Management Services for the SRF Program or other grant and/or loan funding sources; and

Whereas, the Consultant desires to provide services to the Client, to assist with the successful Funding Management Services to include Planning, Application, Administration, Compliance and Program Management Services for the SRF Program or other grant and/or loan funding sources; and

Whereas, on the 9th day of June, 2020, the Consultant was awarded a contract with Collier County, Florida, pursuant to Request for Proposal Solicitation 20-7690 – Loan and/or Grant Acquisition and Compliance Services (the "Collier County Agreement"); and

Whereas, the Collier County Agreement provides for an initial term commencing June 9, 2020 and continuing until June 9, 2023 with two (2) optional one (1) year renewals; and

Whereas, the Town of Fort Myers Beach has determined that utilizing the procurement process conducted by Collier County and the execution of this contract is beneficial to the citizens of the Town of Fort Myers Beach;

NOW, THEREFORE, in consideration of the premises aforesaid and the covenants and agreements hereinafter set forth, the parties hereto mutually covenant and agree as follows:

1. **Commencement.** The Consultant shall commence the Work immediately upon receipt of a Purchase Order, Notice to Proceed or signed Task Authorization from the Client.
2. **Scope.** The Consultant agrees to provide all necessary and proper Funding Management Services to include Planning, Application, Administration, Compliance and Program Management Services for the SRF Program or other grant and/or loan funding sources as outlined in the written proposals to be submitted by the Consultant to the Client.
3. **Payment.** The Consultant will provide services as required by the project on a "Lump Sum" or a Task Completion basis. The Client shall make payment to the Consultant within 30 days of receipt of an invoice for services performed. No costs will be incurred by the Consultant above the limit authorized without prior approval from the Client.
4. **Notices.** All notices from the Client to the Consultant shall be mailed to the following address:

Angie Brewer & Associates, LC
9080 58th Drive East, Suite 200
Bradenton, Florida 34202

All notices from the Consultant to the Client shall be mailed to the address given to the Consultant for:

TOWN OF FORT MYERS BEACH

2525 ESTERO BOULEVARD

FORT MYERS BEACH, FL 33931

Either party may provide notice to the other of any change in contact or mailing address as set forth above.

5. **No Partnership.** Nothing herein contained shall create or be construed as creating a partnership between the Client and the Consultant.
6. **Default and Termination.** Upon the failure of either party to perform pursuant to the terms of this Agreement, either party may terminate this agreement upon thirty (30) days written notice. The Consultant shall be compensated for all services provided and costs incurred related to this Agreement through the date of termination. The defaulting party may cure, during the notice period, and this agreement shall remain in full force and effect.
7. **Agreement.** This Agreement is the entire Agreement of the parties and consists of the attached component parts, all of which are as fully a part of the Agreement as if herein set out verbatim.
8. **Changes.** Within the general scope of this Agreement the Client may, at any time, by written notice to Consultant, issue additional instructions, require additional services or direct the omission of services covered by this Agreement. In such event, there will be made an equitable adjustment in price and/or time of performance.
9. **Compliance.** The Consultant shall comply with all local, state and federal laws relative to the performance of these services.
10. **Insurance.** The Consultant will provide proof of all applicable and available insurance required by the Client.
11. **Performance.** The Client is to provide cooperation and information to the Consultant, as reasonably required, to assist the Consultant in the performance of its obligations pursuant to this Agreement. Consultant shall be the sole liaison between all parties and funding agencies involved with the work authorized under this Agreement. The Client shall provide the Consultant all requested information, instructions and requests for any actions on a timely basis to allow the appropriate performance of Consultant's work.
12. **Indemnity and Liability.** The Client hereby indemnifies and holds Consultant, its directors, officers, agents and employees harmless against any and all claims, actions, or demands against Consultant, its directors, officers, agents and employees and against any and

all damages, liabilities or expenses, including counsel fees, for injury to or death of any person and for loss of or damage to any all property arising out of the negligent acts, errors, or omissions of the Client under this Agreement. The Consultant hereby indemnifies and holds Client, its directors, officers, agents and employees harmless against any and all claims, actions, or demands against Client, its directors, officers, agents and employees and against any and all damages, liabilities or expenses, including counsel fees, for injury to or death of any person and for loss of or damage to any all property arising out of the negligent acts, errors, or omissions of the Consultant under this Agreement.

13. **Standards.** All services hereunder shall be performed by employees, agents, or subcontractors of Consultant who are experienced and skilled in their profession and in accordance with the standards of workmanship in their professions. Consultant's findings, recommendations, and professional advice shall be based on practices and procedures customary in its profession. Proprietary information utilized in the performance of the work by the Consultant shall remain the sole property of the Consultant.
14. **Venue.** In the event of any litigation arising from this Agreement, shall be held in the Circuit Court of the Twelfth (12TH) Judicial Circuit of Florida, in and for Manatee County.
15. **Statutory Labor Rate Changes.** The Parties agree that a change in the State or Federal Minimum Wage Rate will result in a commensurate increase to Hourly Labor Rates, Lump Sum, Task Completion or other compensation under this Agreement.

IN WITNESS WHEREOF, the Client and the Consultant, have each, respectively, by an authorized person or agent, hereunder set their hands and seals on the date and year first written above.

Town of Fort Myers Beach *st*

Angie Brewer & Associates, LC

By: *Roger T. Hernstadt*

By: *Mark A. Brewer*

ROGER T. HERNSTADT - TOWN MANAGER
Name and Title

Mark A. Brewer, President
Name and Title

ATTEST:

ATTEST:

Witness: *Amy Baker*

Witness: *Yolanda Brijnen*

FIRST AMENDMENT TO AGREEMENT #20-7690

FOR

LOAN AND/OR GRANT ACQUISITION AND COMPLIANCE SERVICES

THIS AMENDMENT is made and entered into on this 24th day of July, 2020, by and between **Angie Brewer & Associates, L.C.**, a Florida limited liability company (the "Vendor") and **Collier County**, a political subdivision of the State of Florida, (the "County"):

WHEREAS, on June 9, 2020 (Agenda Item 16.C.4), the County entered into an Agreement with Vendor to provide loan and/or grant acquisition and compliance services; and

WHEREAS, the Agreement contained a Scrivener's Error on the Exhibit "B" Fee Schedule wherein the percentage shown in line a. on the chart had transposed numbers; and

WHEREAS, the parties desire to amend the Agreement to correct the referenced Scrivener's Error.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained, it is agreed by the parties as follows:

1. The percentage amount shown in line a. below should equal the fractional amount shown of \$68.00/1,000.
2. The correction is reflected on the chart below.

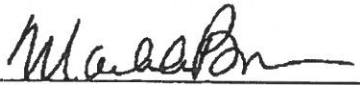
For all services related to the acquisition or compliance of loans and/or grants:	Estimated % of Cost per \$1,000
a. Under \$2 million	a. \$68.00/1,000 or 6.08 6.80%
b. Between \$2 million and \$5 million	b. \$43.00/1,000 or 4.30%
c. Over \$5 million but less than \$15 million	c. \$31.00/1,000 or 3.10%
d. Between \$15 million and \$25 million	d. \$24.00/1,000 or 2.40%
e. Over \$25 million	e. \$18.00/1,000 or 1.80%

Remainder of Page Left Intentionally Blank
Signature Page to Follow

IN WITNESS WHEREOF, the parties hereto, have each, respectively, by an authorized person or agent, have executed this Amendment on the date and year first written above.

VENDOR
ANGIE BREWER & ASSOCIATES, L.C.

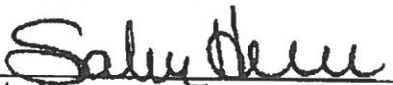
BOARD OF COUNTY COMMISSIONERS
COLLIER COUNTY, FLORIDA

By: 
Signature

Mark A. Brewer, President

↑Type/print signature and title↑

7/24/20
Date

By: 
Sandra Herrera,
Director of Procurement Services Division

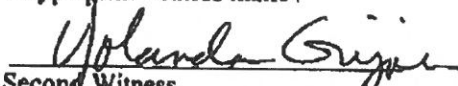
Date

7/24/20

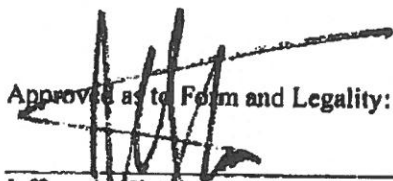
Vendor's Witnesses:


First Witness

Ken Wahlers
↑Type/print witness name↑


Second Witness

Yolanda Grijalva
↑Type/print witness name↑

Approved as to Form and Legality:

Jeffrey A. Klatzkow, County Attorney

**FIRST AMENDMENT TO CONSULTANT AGREEMENT
ANGIE BREWER & ASSOCIATES, LC**

THIS FIRST AMENDMENT is made and entered into this 5th day of February, 2024, by and between the TOWN OF FORT MYERS BEACH, a Florida municipality, hereinafter referred to as the “Town”, and Angie Brewer & Associates, LC, hereinafter referred to as “Contractor”, to that certain Consultant Agreement, dated February 16, 2021 (“Agreement”) for consulting services concerning that certain Agreement, approved by the Town Council of the Town of Fort Myers Beach on February 5, 2024.

WITNESSETH:

WHEREAS, the services provided by Contractor to date have been beneficial to the Town and as a result the parties desire to extend the term of the initial contract by the exercise of the first of two optional 1-year renewal contract periods retroactive to June 9, 2023; and

WHEREAS, the parties further desire to include and/or modify existing terms and conditions in the initial Agreement as provided herein; and

WHEREAS, Section 119.0701, Fla. Stat., requires that certain public agency contracts must include certain statutorily required provisions concerning a Contractor’s compliance with Florida’s Public Records Act; and

WHEREAS, Section 768.28, Fla. Stat., sets forth certain mandatory limitations on indemnification and liability for Florida public agencies; and

WHEREAS, Florida law requires that public agency contracts be subject to non-appropriation and thereby contingent upon appropriation during the public agency’s statutorily mandated annual budget approval process; and

WHEREAS, Section 448.095, Fla. Stat., imposes certain obligations on public agencies with regard to the use of the E-Verify system by their contractors and subcontractors; and

WHEREAS, Section 286.101, Florida Statutes contains a list of “foreign countries of concern” including, the People’s Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People’s Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian Arab Republic, including any agency of or any other entity under significant control of such “foreign country of concern” and any entity that does business with a state agency or political subdivision must disclose certain of their dealings with those “foreign countries of concern” to the Florida Department of Financial Services; and

WHEREAS, Sections 287.133 and 287.135, Florida Statutes contain restrictions on local governments contracting with companies that are considered “Scrutinized Companies” or who appear on convicted vendor lists; and

WHEREAS, additional terms consistent with Sections 282.3185(5) and (6) related to data management and Section 287.05701 related to social government and corporate activism are also added by virtue of this Addendum

NOW, THEREFORE, in consideration of the covenants set forth herein, the parties agree to this addendum as follows:

1. Amendment. This Addendum hereby amends and supplements the terms of the Agreement. In the event of a conflict between the terms of the Agreement and terms of the Addendum, the terms of the Addendum shall prevail.

2. Public Records Compliance. Contractor agrees that, to the extent that it may "act on behalf" of the Town within the meaning of Section 119.0701(1)(a), Florida Statutes in providing its services under this Agreement, it shall:

- (a) Keep and maintain public records required by the public agency to perform the service.
- (b) Upon request from the public agency’s custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.
- (c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the records to the public agency.
- (d) Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the contractor or keep and maintain public records required by the public agency to perform the service. If the contractor transfers all public records to the public agency upon completion of the contract, the contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the contractor keeps and maintains public records upon completion of the contract, the contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the Town’s custodian of public records, in a format that is compatible with the information technology systems of the Town.
- (e) Pursuant to Section 119.0701(2)(a), Fla. Stat., **IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR’S DUTY TO PROVIDE PUBLIC RECORDS**

**RELATING TO THIS AGREEMENT, CONTACT THE
CUSTODIAN OF PUBLIC RECORDS AT:**

**TOWN HALL
2525 ESTERO BLVD.
FORT MYERS BEACH, FL. 33931
(239)765-0202
AMY@FMBGOV.COM**

3. Public Records Compliance Indemnification. Contractor agrees to indemnify and hold the Town harmless against any and all claims, damage awards, and causes of action arising from the contractor's failure to comply with the public records disclosure requirements of Section 119.07(1), Florida Statutes, or by contractor's failure to maintain public records that are exempt or confidential and exempt from the public records disclosure requirements, including, but not limited to, any third party claims or awards for attorneys' fees and costs arising therefrom. Contractor authorizes the public agency to seek declaratory, injunctive, or other appropriate relief against Contractor in Lee County Circuit Court on an expedited basis to enforce the requirements of this section.

4. Compliance/Consistency with Section 768.28, Fla. Stat. Any indemnification or agreement to defend or hold harmless by Town specified in the Agreement shall not be construed as a waiver of Town's sovereign immunity, and shall be limited to such indemnification and liability limits consistent with the requirements of Section 768.28, Fla. Stat. and subject to the procedural requirements set forth therein. Any other purported indemnification by Town in the Agreement in derogation hereof shall be void and of no force or effect.

5. Non-appropriation. Town's performance and obligation to pay under this Agreement is contingent upon an appropriation during the Town's annual budget approval process. If funds are not appropriated for a fiscal year, then the Contractor shall be notified as soon as is practical by memorandum from the Town Manager or designee that funds have not been appropriated for continuation of the Agreement, and the Agreement shall expire at the end of the fiscal year for which funding has been appropriated. The termination of the Agreement at fiscal year end shall be without penalty or expense to the Town subject to the Town paying all invoices for services rendered during the period the Agreement was funded by appropriations.

6. E-Verify Compliance. By entering into this Agreement, the Contractor is obligated to comply with the provisions of Section 448.095, Florida Statutes "Employment Eligibility," as amended from time to time. This includes but is not limited to register with and use the E-Verify System to verify the work authorization status of all newly hired employees, and requiring all subcontractors to provide an affidavit to Contractor attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. Contractor agrees to maintain a copy of such affidavit for the duration of this Agreement. Failure to comply with this paragraph will result in the termination of this Agreement as provided in Section 448.095, Florida Statutes, as amended and Contractor will not be awarded a public contract for at least one (1) year after the date on which the Agreement was terminated. Contractor will also be liable for any additional costs to the Town as a result of the termination of this Agreement in accordance with this

paragraph. Contractor affirmatively states, under penalty of perjury, that in accordance with Section 448.095, Florida Statutes, Contractor is registered with and uses the E-Verify system to verify the work authorization status of all newly hired employees, that in accordance with such statute, Contractor requires from each of its subcontractors an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien, and that Contractor is otherwise in compliance with Sections 448.09 and 448.095, Florida Statutes.

7. Compliance/Consistency with Scrutinized Companies Provisions of Florida Statutes. Section 287.135(2)(a), Florida Statutes, prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services of any amount if, at the time of contracting or renewal, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to section 215.4725, Florida Statutes, or is engaged in a boycott of Israel. Section 287.135(2)(b), Florida Statutes, further prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services over one million dollars (\$1,000,000) if, at the time of contracting or renewal, the company is on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, both created pursuant to section 215.473, Florida Statutes, or the company is engaged in business operations in Cuba or Syria. Contractor hereby certifies that Contractor is not listed on any of the following: (i) the Scrutinized Companies that Boycott Israel List, (ii) Scrutinized Companies with Activities in Sudan List, or (iii) the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List. Contractor further hereby certifies that Contractor is not engaged in a boycott of Israel or engaged in business operations in Cuba or Syria. Contractor understands that pursuant to section 287.135, Florida Statutes, the submission of a false certification may subject Contractor to civil penalties, attorney's fees, and/or costs. Contractor further understands that any contract with Town for goods or services of any amount may be terminated at the option of Town if Contractor (i) is found to have submitted a false certification, (ii) has been placed on the Scrutinized Companies that Boycott Israel List, or (iii) is engaged in a boycott of Israel. And, in addition to the foregoing, if the amount of the contract is one million dollars (\$1,000,000) or more, the contract may be terminated at the option of Town if the company is found to have submitted a false certification, has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or has been engaged in business operations in Cuba or Syria.

Moreover, Contractor shall comply with the disclosure requirements set forth in section 286.101 (3) (a), F.S., which requires "Any entity that applies to a state agency or political subdivision for a grant or proposes having a contract value of \$100,000 or more shall disclose to the state agency or political subdivision any current or prior interest of, any contract with, or any grant or gift received from a "foreign country of concern" if such interest, contract, grant or gift received from a "foreign country of concern" if such interest, contract, grant or gift has a value of \$50,000 or more and such interest existed at any time or such contract, grant or gift was received or in force at any time during the previous five (5) years. Such disclosure shall contain the name and mailing address of the disclosing entity, the amount of the gift or the value of the interest disclosed, the applicable "foreign country of concern" and, if applicable the date of termination of the contract or interest, the date of receipt of the grant or gift and the name of the agent or controlled entity that is the source or interest holder. Within one (1) year before applying for any grant or proposing any contract, such entity must provide a copy of such disclosure to the Department of

Financial Services”. Pursuant to section 268.101(7), F.S.: “In addition to any fine assessed under [section 286.101(7)(a), F.S.], a final order determining a third or subsequent violation by an entity other than a state agency or political subdivision shall automatically disqualify the entity from eligibility for any grant or contract funded by a state agency or any political subdivision until such ineligibility is lifted by the Administration Commission for good cause.”

8. Venue and Jurisdiction. Notwithstanding any of other provision to the contrary, this Agreement and the parties’ actions under this Agreement shall be governed by and construed under the laws of the state of Florida, without reference to conflict of law principles. As a material condition of this Agreement, each Party hereby irrevocably and unconditionally: i) consents to submit and does submit to the jurisdiction of the Circuit Court in and for Lee County, Florida for any actions, suits or proceedings arising out of or relating to this Agreement; and ii) agrees to waive the right to file any action, suit or proceeding in, or remove any action, suit or proceeding to, any Federal Court.

9. Attorneys’ Fees and Costs. Notwithstanding any of other provision to the contrary, if litigation ensues regarding this Agreement, each party hereto shall bear its own attorneys’ fee and costs.

10. Public Entities Crime or Convicted Vendor List. Contractor agrees and assumes a continuous duty to disclose to the Town if the Contractor or any of its affiliates as defined by Section 287.133(1)(a), Florida Statutes are placed on the Convicted Vendor List or the Antitrust Violator Vendor List maintained by the Florida Department of Management Services.

11. Data Management; Notice of Breach. Contractor shall cooperate with the Town and provide timely incident reporting, response activities/fact gathering, public and agency notification, severity level assessment, after-action reports etc, which the Town must report in accordance with Sections 282.3185(5) & (6), Florida Statutes in the event of a data breach.

12. Environmental and Social Government and Corporate Activism. The Town has not given preference or requested documentation from the Contractor based on Contractor’s social, political or ideological interest. Contractor agrees to similarly not request documentation or give preference to any subcontractor based on the subcontractor’s social, political or ideological interests.

13. Taxes. The Town shall not be liable for any taxes and assessments imposed by a federal, state or local governmental agency, to the extent that the Town is exempt from same by Florida law, including but not limited to any sales or use tax.

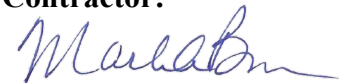
14. Additional Terms. Notwithstanding any of other provision to the contrary, the parties agree as follows:

- A. **Duration of Agreement.** This amendment shall document the exercise of the first of two optional year renewals of the Agreement, retroactive to June 9, 2023, thereby extending the term of the Agreement to June 9, 2024. The parties may agree to exercise the second of two optional year renewals upon expiration of this first

optional year renewal on June 9, 2024. The exercise of a second optional year renewal shall be documented by a Second Amendment to the Agreement.

IN WITNESS WHEREOF, the parties hereto have executed and delivered this instrument on the days and year indicated below and the signatories below to bind the parties set forth herein.

Contractor:



Print Name: Mark A. Brewer

Company: Angie Brewer & Associates, LC

ATTEST:


Amy Baker (Feb 20, 2024 12:47 EST)

Amy Baker, Town Clerk

Town of Fort Myers Beach


Dan Allers (Feb 18, 2024 15:31 EST)

Dan Allers, Mayor

APPROVED AS TO FORM & SUFFICIENCY


Nancy Stuparich (Feb 18, 2024 15:27 EST)

Vose Law Firm, Town Attorney

First Amendment to Consultant Agreement Angie Brewer and Assoc. Inc. Edited - MB Signed

Final Audit Report

2024-02-20

Created:	2024-02-16
By:	Jason Freeman (jasonf@fmbgov.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAN9UvvcN5GwQFWat_la7QjZ8a__2DM-_X

"First Amendment to Consultant Agreement Angie Brewer and Assoc. Inc. Edited - MB Signed" History

-  Document created by Jason Freeman (jasonf@fmbgov.com)
2024-02-16 - 6:27:17 PM GMT
-  Document emailed to Dan Allers (allersd@fmbgov.com) for signature
2024-02-16 - 6:27:22 PM GMT
-  Document emailed to Amy Baker (AMY@FMBGOV.COM) for signature
2024-02-16 - 6:27:22 PM GMT
-  Document emailed to Nancy Stuparich (nstuparich@voselaw.com) for signature
2024-02-16 - 6:27:23 PM GMT
-  Email viewed by Amy Baker (AMY@FMBGOV.COM)
2024-02-16 - 6:30:10 PM GMT
-  Email viewed by Nancy Stuparich (nstuparich@voselaw.com)
2024-02-16 - 8:27:12 PM GMT
-  Document e-signed by Nancy Stuparich (nstuparich@voselaw.com)
Signature Date: 2024-02-16 - 8:27:35 PM GMT - Time Source: server
-  Email viewed by Dan Allers (allersd@fmbgov.com)
2024-02-18 - 8:30:55 PM GMT
-  Document e-signed by Dan Allers (allersd@fmbgov.com)
Signature Date: 2024-02-18 - 8:31:06 PM GMT - Time Source: server



Document e-signed by Amy Baker (AMY@FMBGOV.COM)

E-signature obtained using URL retrieved through the Adobe Acrobat Sign API

Signature Date: 2024-02-20 - 5:47:19 PM GMT - Time Source: server



Agreement completed.

2024-02-20 - 5:47:19 PM GMT



Adobe Acrobat Sign

RESOLUTION NO. 24-119

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, APPROVING A SECOND AMENDMENT TO AN AGREEMENT BETWEEN THE TOWN OF FORT MYERS BEACH AND ANGIE BREWER & ASSOCIATES, LC TO EXTEND THE TERM OF THE CONSULTANT AGREEMENT FOR FUNDING MANAGEMENT SERVICES FOR SRF AND OR OTHER GRANTS OR LOANS AVAILABLE TO THE TOWN, TO JUNE 9, 2025 BY THE EXERCISE OF THE SECOND OF TWO ONE-YEAR RENEWAL OPTIONS; APPROVING SUPPLEMENTAL TASK AUTHORIZATION NO. 5 FOR THE UNINTERRUPTED CONTINUATION OF THESE SERVICES; AUTHORIZING THE MAYOR TO SIGN THE AMENDMENT AND SUPPLEMENTAL TASK AUTHORIZATION AND THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; PROVIDING FOR 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 ("Town") empowers the Town to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, the Town Code of Ordinances allows for "piggybacking" agreements and contracts that have been competitively procured by other local governments; and

WHEREAS, pursuant to this procedure, the Town "piggybacked" on an existing agreement between Collier County and Angie Brewer & Associates, LC. ("Consultant"), whereby Consultant will provide the Town with professional consulting services to assist with SFR and/or other grant or loan funding resources available to the Town; and

WHEREAS, the Town Council approved the Agreement on February 16, 2021 for services until June 9, 2023; and

WHEREAS, on February 5, 2024 the Town retroactively approved a First Amendment to the Agreement, which extended the term of the Agreement to June 9, 2024; and

WHEREAS, the Town desires to further amend the Agreement for a second one-year renewal, which will extend the term of the Agreement to June 9, 2025; and

WHEREAS, extension of the term by exercise of the renewal option and approval of a Second Amendment will allow for further approval of a Supplemental Task Authorization No. 5 for continuation of contracted services in the amount of \$245,996; and

WHEREAS, approval of a Second Amendment to the Agreement and the Supplemental Task Authorization No. 5 is in the best interest of the residents of Fort Myers Beach as it will provide for the uninterrupted delivery of service.

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

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

Section 2. That the Second Amendment to the Agreement between the Town and Consultant for the provision of consulting services as attached and incorporated herein as Exhibit "A" and Supplemental Task Authorization No. 5, attached as Exhibit "B" are approved.

Section 3. That the Mayor is authorized to execute the Second Amendment and Supplemental Task Authorization No. 5 and the Town Manager is authorized to expend budgeted funds on behalf of the Town as needed.

Section 4. That if any section, sentence, clause or phrase herein is held to be invalid by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Resolution.

Section 5. That this Resolution shall become effective immediately upon its adoption.

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

Dan Allers, Mayor	_____
Jim Atterholt, Vice Mayor	_____
John R. King, Council Member	_____
Scott Safford, Council Member	_____
Karen Woodson, Council Member	_____

ADOPTED this 3rd day of June 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:**

Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this ____ day of _____, 2024.

**SECOND AMENDMENT TO CONSULTANT AGREEMENT
ANGIE BREWER & ASSOCIATES, INC.**

THIS SECOND AMENDMENT is made and entered into this 3rd day of June, 2024, by and between the TOWN OF FORT MYERS BEACH, a Florida municipality, hereinafter referred to as the “Town”, and Angie Brewer & Associates, LLC, hereinafter referred to as “Contractor”, to that certain Consultant Agreement, dated February 16, 2021 (“Agreement”) for consulting services concerning that certain Agreement, approved by the Town Council of the Town of Fort Myers Beach on June 3, 2024.

WITNESSETH:

WHEREAS, the services provided by Contractor to date have been beneficial to the Town, and as a result, the parties desire to extend the term of the initial contract and its first amendment by the exercise of the second of two optional 1-year renewal contract periods; and

WHEREAS, the parties further desire to include and/or modify existing terms and conditions in the initial Agreement as provided herein; and

WHEREAS, Section 119.0701, Fla. Stat., requires that certain public agency contracts must include certain statutorily required provisions concerning a Contractor’s compliance with Florida’s Public Records Act; and

WHEREAS, Section 768.28, Fla. Stat., sets forth certain mandatory limitations on indemnification and liability for Florida public agencies; and

WHEREAS, Florida law requires that public agency contracts be subject to non-appropriation and thereby contingent upon appropriation during the public agency’s statutorily mandated annual budget approval process; and

WHEREAS, Section 448.095, Fla. Stat., imposes certain obligations on public agencies with regard to the use of the E-Verify system by their contractors and subcontractors; and

WHEREAS, Section 286.101, Florida Statutes contains a list of “foreign countries of concern” including, the People’s Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People’s Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian Arab Republic, including any agency of or any other entity under significant control of such “foreign country of concern” and any entity that does business with a state agency or political subdivision must disclose certain of their dealings with those “foreign countries of concern” to the Florida Department of Financial Services; and

WHEREAS, Sections 287.133 and 287.135, Florida Statutes contain restrictions on local governments contracting with companies that are considered “Scrutinized Companies” or who appear on convicted vendor lists; and

WHEREAS, additional terms consistent with Sections 282.3185(5) and (6) related to data management and Section 287.05701 related to social government and corporate activism are also added by virtue of this Addendum

NOW, THEREFORE, in consideration of the covenants set forth herein, the parties agree to this addendum as follows:

1. Amendment. This Addendum hereby amends and supplements the terms of the Agreement. In the event of a conflict between the terms of the Agreement and terms of the Addendum, the terms of the Addendum shall prevail.

2. Public Records Compliance. Contractor agrees that, to the extent that it may "act on behalf" of the Town within the meaning of Section 119.0701(1)(a), Florida Statutes in providing its services under this Agreement, it shall:

- (a) Keep and maintain public records required by the public agency to perform the service.
- (b) Upon request from the public agency’s custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.
- (c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the records to the public agency.
- (d) Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the contractor or keep and maintain public records required by the public agency to perform the service. If the contractor transfers all public records to the public agency upon completion of the contract, the contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the contractor keeps and maintains public records upon completion of the contract, the contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the Town’s custodian of public records, in a format that is compatible with the information technology systems of the Town.
- (e) Pursuant to Section 119.0701(2)(a), Fla. Stat., **IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR’S DUTY TO PROVIDE PUBLIC RECORDS**

**RELATING TO THIS AGREEMENT, CONTACT THE
CUSTODIAN OF PUBLIC RECORDS AT:**

**TOWN HALL
2731 OAK STREET
FORT MYERS BEACH, FL. 33931
(239)765-0202
AMY@FMBGOV.COM**

3. Public Records Compliance Indemnification. Contractor agrees to indemnify and hold the Town harmless against any and all claims, damage awards, and causes of action arising from the contractor's failure to comply with the public records disclosure requirements of Section 119.07(1), Florida Statutes, or by contractor's failure to maintain public records that are exempt or confidential and exempt from the public records disclosure requirements, including, but not limited to, any third party claims or awards for attorneys' fees and costs arising therefrom. Contractor authorizes the public agency to seek declaratory, injunctive, or other appropriate relief against Contractor in Lee County Circuit Court on an expedited basis to enforce the requirements of this section.

4. Compliance/Consistency with Section 768.28, Fla. Stat. Any indemnification or agreement to defend or hold harmless by Town specified in the Agreement shall not be construed as a waiver of Town's sovereign immunity, and shall be limited to such indemnification and liability limits consistent with the requirements of Section 768.28, Fla. Stat. and subject to the procedural requirements set forth therein. Any other purported indemnification by Town in the Agreement in derogation hereof shall be void and of no force or effect.

5. Non-appropriation. Town's performance and obligation to pay under this Agreement is contingent upon an appropriation during the Town's annual budget approval process. If funds are not appropriated for a fiscal year, then the Contractor shall be notified as soon as is practical by memorandum from the Town Manager or designee that funds have not been appropriated for continuation of the Agreement, and the Agreement shall expire at the end of the fiscal year for which funding has been appropriated. The termination of the Agreement at fiscal year end shall be without penalty or expense to the Town subject to the Town paying all invoices for services rendered during the period the Agreement was funded by appropriations.

6. E-Verify Compliance. By entering into this Agreement, the Contractor is obligated to comply with the provisions of Section 448.095, Florida Statutes "Employment Eligibility," as amended from time to time. This includes but is not limited to register with and use the E-Verify System to verify the work authorization status of all newly hired employees, and requiring all subcontractors to provide an affidavit to Contractor attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. Contractor agrees to maintain a copy of such affidavit for the duration of this Agreement. Failure to comply with this paragraph will result in the termination of this Agreement as provided in Section 448.095, Florida Statutes, as amended and Contractor will not be awarded a public contract for at least one (1) year after the date on which the Agreement was terminated. Contractor will also be liable for any additional costs to the Town as a result of the termination of this Agreement in accordance with this

paragraph. Contractor affirmatively states, under penalty of perjury, that in accordance with Section 448.095, Florida Statutes, Contractor is registered with and uses the E-Verify system to verify the work authorization status of all newly hired employees, that in accordance with such statute, Contractor requires from each of its subcontractors an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien, and that Contractor is otherwise in compliance with Sections 448.09 and 448.095, Florida Statutes.

7. Compliance/Consistency with Scrutinized Companies Provisions of Florida Statutes. Section 287.135(2)(a), Florida Statutes, prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services of any amount if, at the time of contracting or renewal, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to section 215.4725, Florida Statutes, or is engaged in a boycott of Israel. Section 287.135(2)(b), Florida Statutes, further prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services over one million dollars (\$1,000,000) if, at the time of contracting or renewal, the company is on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, both created pursuant to section 215.473, Florida Statutes, or the company is engaged in business operations in Cuba or Syria. Contractor hereby certifies that Contractor is not listed on any of the following: (i) the Scrutinized Companies that Boycott Israel List, (ii) Scrutinized Companies with Activities in Sudan List, or (iii) the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List. Contractor further hereby certifies that Contractor is not engaged in a boycott of Israel or engaged in business operations in Cuba or Syria. Contractor understands that pursuant to section 287.135, Florida Statutes, the submission of a false certification may subject Contractor to civil penalties, attorney's fees, and/or costs. Contractor further understands that any contract with Town for goods or services of any amount may be terminated at the option of Town if Contractor (i) is found to have submitted a false certification, (ii) has been placed on the Scrutinized Companies that Boycott Israel List, or (iii) is engaged in a boycott of Israel. And, in addition to the foregoing, if the amount of the contract is one million dollars (\$1,000,000) or more, the contract may be terminated at the option of Town if the company is found to have submitted a false certification, has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or has been engaged in business operations in Cuba or Syria.

Moreover, Contractor shall comply with the disclosure requirements set forth in section 286.101 (3) (a), F.S., which requires "Any entity that applies to a state agency or political subdivision for a grant or proposes having a contract value of \$100,000 or more shall disclose to the state agency or political subdivision any current or prior interest of, any contract with, or any grant or gift received from a "foreign country of concern" if such interest, contract, grant or gift received from a "foreign country of concern" if such interest, contract, grant or gift has a value of \$50,000 or more and such interest existed at any time or such contract, grant or gift was received or in force at any time during the previous five (5) years. Such disclosure shall contain the name and mailing address of the disclosing entity, the amount of the gift or the value of the interest disclosed, the applicable "foreign country of concern" and, if applicable the date of termination of the contract or interest, the date of receipt of the grant or gift and the name of the agent or controlled entity that is the source or interest holder. Within one (1) year before applying for any grant or proposing any contract, such entity must provide a copy of such disclosure to the Department of

Financial Services”. Pursuant to section 268.101(7), F.S.: “In addition to any fine assessed under [section 286.101(7)(a), F.S.], a final order determining a third or subsequent violation by an entity other than a state agency or political subdivision shall automatically disqualify the entity from eligibility for any grant or contract funded by a state agency or any political subdivision until such ineligibility is lifted by the Administration Commission for good cause.”

8. Venue and Jurisdiction. Notwithstanding any of other provision to the contrary, this Agreement and the parties’ actions under this Agreement shall be governed by and construed under the laws of the state of Florida, without reference to conflict of law principles. As a material condition of this Agreement, each Party hereby irrevocably and unconditionally: i) consents to submit and does submit to the jurisdiction of the Circuit Court in and for Lee County, Florida for any actions, suits or proceedings arising out of or relating to this Agreement; and ii) agrees to waive the right to file any action, suit or proceeding in, or remove any action, suit or proceeding to, any Federal Court.

9. Attorneys’ Fees and Costs. Notwithstanding any of other provision to the contrary, if litigation ensues regarding this Agreement, each party hereto shall bear its own attorneys’ fee and costs.

10. Public Entities Crime or Convicted Vendor List. Contractor agrees and assumes a continuous duty to disclose to the Town if the Contractor or any of its affiliates as defined by Section 287.133(1)(a), Florida Statutes are placed on the Convicted Vendor List or the Antitrust Violator Vendor List maintained by the Florida Department of Management Services.

11. Data Management; Notice of Breach. Contractor shall cooperate with the Town and provide timely incident reporting, response activities/fact gathering, public and agency notification, severity level assessment, after-action reports etc, which the Town must report in accordance with Sections 282.3185(5) & (6), Florida Statutes in the event of a data breach.

12. Environmental and Social Government and Corporate Activism. The Town has not given preference or requested documentation from the Contractor based on Contractor’s social, political or ideological interest. Contractor agrees to similarly not request documentation or give preference to any subcontractor based on the subcontractor’s social, political or ideological interests.

13. Taxes. The Town shall not be liable for any taxes and assessments imposed by a federal, state or local governmental agency, to the extent that the Town is exempt from same by Florida law, including but not limited to any sales or use tax.

14. Additional Terms. Notwithstanding any of other provision to the contrary, the parties agree as follows:

- A. **Duration of Agreement.** This amendment shall document the exercise of the second of two optional year renewals of the Agreement, beginning June 9, 2024, thereby extending the term of the Agreement to June 9, 2025.

IN WITNESS WHEREOF, the parties hereto have executed and delivered this instrument on the days and year indicated below and the signatories below to bind the parties set forth herein.

Contractor:

Print Name: Angie Brewer

Company: Angie Brewer & Associates, LLC

ATTEST:

Town of Fort Myers Beach

Amy Baker, Town Clerk

Dan Allers, Mayor

APPROVED AS TO FORM & SUFFICIENCY

Vose Law Firm, Town Attorney

1. **Request:**

Meeting Date: June 3, 2024

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA DESIGNATING SPECIFIED AREAS IN THE TOWN AS BLIGHTED FOR THE PURPOSES OF APPLYING FOR A GRANT FROM THE LEE COUNTY CDBG-DR PUBLIC FACILITIES PROGRAM FOR FUNDS IN THE AMOUNT OF \$10,673,000.00 FOR THE CONSTRUCTION, RECONSTRUCTION, REHABILITATION AND/OR INSTALLATION OF PUBLIC FACILITIES AND FOR RELATED PURPOSES.

Why the action is necessary:

What the action accomplishes:

2. **Agenda:**

CONSENT AGENDA

3. **Requirement/Purpose:**

Resolution

4. **Submitter of Information:**

Frankie Kropacek, Operations & Compliance Director

5. **Background:**

The Town has applied for grant funding from the Program in the amount of \$10,673,000.00 to provide the Town with funds for the construction, reconstruction, rehabilitation, and/or installation of public facilities in the Town.

As part of the application for the Grant, the Town must submit a resolution designating the Project Area as blighted and finding that public improvements in the Project Area are in a general state of deterioration and that there is a physical deterioration of buildings and improvements in the Project Area.

Attachments:

1. 24-122, CDBG-DR Public Facilities Blight Resolution ns edit

Financial Impact:

6. **Alternative Action**

7. **Management Recommendations:**

8. **Recommended Approval:**

Jason Freeman, Legislative Liaison / Deputy Town Clerk
Frankie Kropacek, Operations & Compliance Director
nancy stuparich, Town Attorney
Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Created/Initiated - 5/28/2024
Approved - 5/28/2024
Approved - 5/29/2024
Approved - 5/29/2024
Final Approval - 5/29/2024

RESOLUTION NUMBER 24-122

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA DESIGNATING SPECIFIED AREAS IN THE TOWN AS BLIGHTED FOR THE PURPOSES OF APPLYING FOR A GRANT FROM THE LEE COUNTY CDBG-DR PUBLIC FACILITIES PROGRAM FOR FUNDS IN THE AMOUNT OF \$10,673,000.00 FOR THE CONSTRUCTION, RECONSTRUCTION, REHABILITATION AND/OR INSTALLATION OF PUBLIC FACILITIES AND FOR RELATED PURPOSES; PROVING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Fort Myers Beach, Florida (the “Town”) has an opportunity to apply for grant funding from the Lee County CDBG-DR Critical Infrastructure and Public Facilities Program (the “Program”); and

WHEREAS, the Town desires to apply for grant funding from the Program in the amount of \$10,673,000.00 (the “Grant”) to provide the Town with funds for the construction, reconstruction, rehabilitation, and/or installation of public facilities in the Town (the “Project”) in the area set forth on Exhibit A (the “Project Area”); and

WHEREAS, as part of the application for the Grant, the Town must submit a resolution designating the Project Area as blighted and finding that public improvements in the Project Area are in a general state of deterioration and that there is a physical deterioration of buildings and improvements in the Project Area; and

WHEREAS, the Town Council finds and determines that it is in the best interest of the Town, its residents and the public to designate the Project Area as required by the Program guidelines; and

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 and incorporated herein by this reference.

Section 2. The Town Council hereby finds and determines that the Project Area is an area in which there are a substantial number of deteriorated or deteriorating structures and this condition is leading to economic distress.

Section 3. The Town Council hereby finds and determines that in the Project Area there is a predominance of defective or inadequate street layout, parking facilities, roadways, bridges, or public transportation facilities.

Section 4. The Town Council hereby finds and determines that the Project Area contains unsanitary or unsafe conditions.

Section 5. The Town Council hereby finds and determines that within the Project Area

there is a deterioration of site or other improvements.

Section 6. The Project Area is hereby designated as blighted for the purposes of applying for the Grant.

Section 7. This Resolution shall take effect immediately upon its adoption.

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

Dan Allers, Mayor: _____
Jim Atterholt, Vice Mayor: _____
John R. King, Councilmember: _____
Scott Safford: _____
Karen Woodsen, Councilmember: _____

ADOPTED this _____ day of _____, 2024 by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH

Dan Allers, Mayor

ATTEST:

Amy Baker, Town Clerk

APPROVED AS TO FORM:

Becky Vose, Town Attorney

EXHIBIT A
PROJECT AREA TO FOLLOW

DRAFT

1. **Request:**

Meeting Date: June 3, 2024

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA DESIGNATING SPECIFIED AREAS IN THE TOWN AS BLIGHTED FOR THE PURPOSES OF APPLYING FOR A GRANT FROM THE LEE COUNTY CDBG-DR CRITICAL INFRASTRUCTURE AND PUBLIC FACILITIES PROGRAM FOR FUNDS IN THE AMOUNT OF \$5,000,000.00 FOR THE NORTH ISLAND WATER TOWER AND FACILITY PROJECT AND FOR RELATED PURPOSES.

Why the action is necessary:

What the action accomplishes:

2. **Agenda:**

CONSENT AGENDA

3. **Requirement/Purpose:**

Resolution

4. **Submitter of Information:**

Frankie Kropacek, Operations & Compliance Director

5. **Background:**

The Town has applied for grant funding from the CDBG-DR Program in the amount of \$5,000,000.00 to provide the Town with funds to replace and repair the North Island Water Tower and Facility.

As part of the application for the Grant, the Town must submit a resolution designating the Project Area as blighted and finding that public improvements in the Project Area are in a general state of deterioration and that there is a physical deterioration of buildings and improvements in the Project Area.

Attachments:

1. 24-121, CDBG-DR Critical Infrastructure Blight Resolution ns edits 3 pm

Financial Impact:

6. **Alternative Action**

7. **Management Recommendations:**

8. **Recommended Approval:**

Jason Freeman, Legislative Liaison / Deputy Town Clerk
Frankie Kropacek, Operations & Compliance Director
nancy stuparich, Town Attorney
Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Created/Initiated - 5/28/2024
Approved - 5/28/2024
Approved - 5/29/2024
Approved - 5/29/2024
Final Approval - 5/29/2024

RESOLUTION NUMBER 24-121

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA DESIGNATING SPECIFIED AREAS IN THE TOWN AS BLIGHTED FOR THE PURPOSES OF APPLYING FOR A GRANT FROM THE LEE COUNTY CDBG-DR CRITICAL INFRASTRUCTURE AND PUBLIC FACILITIES PROGRAM FOR FUNDS IN THE AMOUNT OF \$5,000,000.00 FOR THE NORTH ISLAND WATER TOWER AND FACILITY PROJECT AND FOR RELATED PURPOSES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Fort Myers Beach, Florida (the “Town”) has an opportunity to apply for grant funding from the Lee County CDBG-DR Critical Infrastructure and Public Facilities Program (the “Program”); and

WHEREAS, the Town desires to apply for grant funding from the Program in the amount of \$5,000,000.00 (the “Grant”) to provide the Town with funds to replace and repair the North Island Water Tower and Facility (the “Project”) in the area set forth on Exhibit A (the “Project Area”); and

WHEREAS, as part of the application for the Grant, the Town must submit a resolution designating the Project Area as blighted and finding that public improvements in the Project Area are in a general state of deterioration and that there is a physical deterioration of buildings and improvements in the Project Area; and

WHEREAS, the Town Council finds that as a result of Hurricane Ian, the North Island Water Tower and Facility as shown on Exhibit A is in a blighted and deteriorated condition; and

WHEREAS, it is in the best interest of the Town, its residents and the public to find the Project Area satisfies the Program guidelines.

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 and incorporated herein by this reference.

Section 2. The Town Council hereby finds and determines that the Project Area is an area in which there are a substantial number of deteriorated or deteriorating structures and this condition is leading to economic distress.

Section 3. The Town Council hereby finds and determines that in the Project Area there is a predominance of defective or inadequate street layout, parking facilities, roadways, bridges, or public transportation facilities.

Section 4. The Town Council hereby finds and determines that the Project Area contains unsanitary or unsafe conditions.

Section 5. The Town Council hereby finds and determines that within the Project Area there is a deterioration of site or other improvements.

Section 6. The Project Area is hereby designated as blighted for the purposes of applying for the Grant.

Section 7. This Resolution shall take effect immediately upon its adoption.

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

Dan Allers, Mayor: _____
Jim Atterholt, Vice Mayor: _____
John R. King, Councilmember: _____
Scott Safford: _____
Karen Woodsen, Councilmember: _____

ADOPTED this _____ day of _____, 2024 by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH

Dan Allers, Mayor

ATTEST:

Amy Baker, Town Clerk

APPROVED AS TO FORM:

Becky Vose, Town Attorney

EXHIBIT A
PROJECT AREA TO FOLLOW

DRAFT

1. **Request:**

Meeting Date: June 3, 2024

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA ACCEPTING FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES CONTRACT #31125 AWARDED THE TOWN OF FORT MYERS BEACH \$37,500.00 TO PROCURE AND PLANT 75 NATIVE TREES AND PALMS IN THE COASTAL AREA; AUTHORIZING THE TOWN MANAGER TO EXECUTE CONTRACT #31125; AND PROVIDING FOR AN EFFECTIVE DATE.

Why the action is necessary:

The Town suffered a catastrophic loss of tree canopy from Hurricane Ian. In order to speed recovery of the tree canopy, the Town must plant mature trees.

What the action accomplishes:

This action accepts the FDACS grant award of \$37,500.00 to plant and procure 75 native trees and palms.

The grant award may be used to procure and plant native trees and palms in the coastal area, including approximately 54 royal palms along North Estero Blvd, and 21 seagrape trees and sabal palms at beach accesses including Waistina Way parking lot. The funds may NOT be used to plant coconut palms along Old San Carlos Blvd, due to FDACS restrictions on funding non-native trees and palms.

2. **Agenda:**

CONSENT AGENDA

3. **Requirement/Purpose:**

4. **Submitter of Information:**

5. **Background:**

Hurricane Ian devastated the Town of Fort Myers Beach resulting in a catastrophic loss of tree canopy in the Town.

The Town Council has determined that trees promote the health and general welfare of the citizens of the Town, specifically:

- (1) Trees transpire considerable amounts of water each day and assist in purifying the air;
- (2) Trees precipitate dust and other particulate airborne pollutants from the air;
- (3) Trees, through their root systems, stabilize soil and play an important and effective part in soil conservation, erosion control, and flood control;
- (4) Trees are an invaluable amenity, providing shade and cooling the air and land, and reducing noise levels and glare;
- (5) The protection of trees is not only desirable, but essential to the health, safety, and welfare of all the citizens, present and future, of the town;
- (6) Some trees are more beneficial than others as necessary contributions to the town's environment, and it is not necessary to protect each and every tree in order to attain the publicly beneficial results of tree protection; and
- (7) Invasive exotic trees crowd out native trees and other vegetation and do not warrant protection under this article.

The Florida Department of Agriculture and Consumer Services (FDACS) awarded the Town \$37,500 from the Urban and Community Forestry Plantings, Preservation, and Invasives Control Grant Program on January 25, 2024, and provided the grant contract for execution on May 15, 2024.

Attachments:

1. 24-124, Urban Forestry Grant ns edits
2. FDACS GRANT CONTRACT #31125
3. FDACS Grant Award Letter to the Town
4. Plan View of Tree Survey Date - NORTH ESTERO OSC
5. Tree Survey Data - N Estero OSC Waistina Way
6. Waistina Way Pre Hurricane Ian Photos 220614-15
7. Waistina Way and OSC Post Hurricane Ian Photos
8. Waistina Way Planting Plan

Financial Impact:

No cost share match is required by the grant award, however the Town may need to supplement funds to procure and plant native trees and palms depending on the tree height desired by the Town.

6. Alternative Action

Do not accept the accept the FDACS award, and do not authorize the Town Manager to execute Contract #31125.

7. Management Recommendations:

Accept the FDACS award, and authorize the Town Manager to execute Contract #31125.

8. Recommended Approval:

Chadd Chustz, Environmental Projects Manager
Frankie Kropacek, Operations & Compliance Director
nancy stuparich, Town Attorney
Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Created/Initiated - 5/27/2024
Approved - 5/28/2024
Approved - 5/29/2024
Approved - 5/30/2024
Final Approval - 5/30/2024

RESOLUTION NUMBER 24-124

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA ACCEPTING AND APPROVING THE FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES CONTRACT #31125 AWARDING THE TOWN OF FORT MYERS BEACH \$37,500.00 TO PROCURE AND PLANT 75 NATIVE TREES AND PALMS IN THE COASTAL AREA; AUTHORIZING THE TOWN MANAGER TO EXECUTE CONTRACT #31125; 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, Hurricane Ian devastated the Town of Fort Myers Beach resulting in a catastrophic loss of tree canopy within the Town; and

WHEREAS, the Town of Fort Myers Beach determines that trees promote the health and general welfare of the Town, its residents and the public; and

WHEREAS, the Florida Department of Agriculture and Consumer Services Contract #31125 awards the Town of Fort Myers Beach \$37,500.00 to procure and plant 75 native trees and palms in the coastal area and closely monitor and maintain the trees during a 60 day “grow in” period for their successful establishment; and

WHEREAS, the Town Council has determined it is in the best interest of the Town of Fort Myers Beach to accept and approve the Florida Department of Agriculture and Consumer Services Contract #31125.

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 hereby accepts the Florida Department of Agriculture and Consumer Services Contract #31125 awarding the Town of Fort Myers Beach \$37,500.00. A copy of the Contract # 31125 is attached hereto as Attachment “A”.

Section 3. The Town Council hereby authorizes the Town Manager to execute Florida Department of Agriculture and Consumer Services Contract #31125.

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

Dan Allers, Mayor	_____
Jim Atterholt, Vice Mayor	_____
John R. King, Council Member	_____
Scott Safford, Council Member	_____
Karen Woodson, Council Member	_____

ADOPTED this ____ day of _____, 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:**

Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this ____ day of _____, 2024.



WILTON SIMPSON
COMMISSIONER

Florida Department of Agriculture and Consumer Services
Division of Administration

**FEDERAL FINANCIAL ASSISTANCE
SUBRECIPIENT AGREEMENT**

This Federal Financial Assistance Subrecipient Agreement ("AGREEMENT") made and entered into this _____ day of _____, 20____ by and between the FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, ("RECIPIENT"), and Town of Fort Myers Beach ("SUBRECIPIENT"). The SUBRECIPIENT'S application package for federal financial assistance, dated November 16, 2023 ("APPLICATION") is incorporated by reference. The SUBRECIPIENT shall perform the Scope of Work contained in the SUBRECIPIENT'S APPLICATION.

The Department of Management Services' designated United Nations Standard Products and Services Code (UNSPSC) is:70151500

A. SUBAWARD AMOUNT

1. The total award amount for satisfactorily completing the Scope of Work is \$37,500.00. In no event shall the RECIPIENT be liable for payment of any amount, which exceeds the total award amount.

B. EFFECTIVE DATE/TERM

1. The effective date of this AGREEMENT shall commence upon execution and, unless sooner terminated or canceled, shall end on the 31st day of March of 2025 ("Term").
2. No-cost extensions require the prior written approval of the RECIPIENT and must be submitted not less than sixty (60) days prior to the end of the Term. Extension requests, which exceed the federal agency award period, will not be granted.

C. UNIVERSAL IDENTIFIER AND SYSTEM OF AWARD MANAGEMENT

1. The SUBRECIPIENT shall comply with 2 CFR, Part 25, "Financial Assistance Use of Universal Identifier and System of Award Management" (SAM). The SUBRECIPIENT must register and maintain a registration in SAM until submittal of the final financial report. A unique entity identifier is a 12-character alphanumeric ID assigned to an entity by SAM.gov.
2. Compliance with 2 CFR, Part 25 is not required for individuals.

D. FINANCIAL AND PROGRAM MANAGEMENT

1. Statutory and National Policy Requirements

- a. All expenditures of federal financial assistance under the AGREEMENT shall be in compliance with all applicable laws, rules and regulations applicable to expenditures of federal funds.
- b. The SUBRECIPIENT shall implement applicable National Policy Requirements.

2. Deliverables

- a. The SUBRECIPIENT must provide quantifiable, measurable and verifiable units of Deliverables (Deliverables) which must be received and accepted in writing by the RECIPIENT before payment. Deliverables must be directly related to the Scope of Work; specify minimum levels of service to be performed; and contain criteria for evaluating the successful completion of each Deliverable. The Deliverables are set forth in the Scope of Work contained in the SUBRECIPIENT APPLICATION.

3. Financial Management

- a. The SUBRECIPIENT shall maintain an accounting system and a set of accounting records, which allow for the identification of revenues and expenditures related to this AGREEMENT.
- b. The SUBRECIPIENT shall comply with 2 CFR, Part 200 and adhere to the accounting principles and procedures required therein, use adequate internal controls and maintain necessary source documentation for all costs incurred.

4. Reimbursement Requests

- a. The allowability of costs shall be in accordance with the federal financial assistance cost principles applicable to the SUBRECIPIENT and terms of this AGREEMENT.
- b. The SUBRECIPIENT shall submit the payment request packet to the RECIPIENT's grant manager not more often than monthly, but not less often than quarterly. To be eligible for reimbursement, costs shall be allowable, necessary and reasonable, and must be submitted by budget category consistent with the budget plan submitted with the SUBRECIPIENT APPLICATION.

- c. All reimbursement requests must be submitted using the RECIPIENT's standard payment request packet and provide supporting documentation for each cost. An authorized SUBRECIPIENT representative shall sign the certifications on the payment request packet submitted.
- d. The payment request packet is downloadable from <https://forms.fdacs.gov/02019.pdf>.
- e. A SUBRECIPIENT whose federal financial assistance grant provides an online reimbursement system for reporting reimbursement details shall use the online reimbursement system instead of the payment request packet.
- f. Bills for any authorized travel expenses shall be submitted and paid in accordance with the rates specified in Section 112.061, Florida Statutes, governing payments by the State for travel expenses. Any travel expenses must be specified in the Budget Plan and Scope of Work.
- g. \$37,500.00 for one year based on invoices submitted for expenses incurred during the quarterly periods ending March 31, June 30, September 30 and December 31 of each year. Invoices must be received within 30 calendar days of the conclusion of each quarter. Bills will be in the form of an invoice by major categories and will include local funding information detailing staff salaries, benefits, indirect costs (at 10% of Total Direct Costs) and other approved expenses, if accrued.

5. Payment of Reimbursement Requests

- a. Payment for allowable, necessary and reasonable costs shall be made within thirty (30) days after acceptance by the RECIPIENT. Payment request packets returned to the SUBRECIPIENT due to omissions or preparation errors will result in a payment delay.
- b. Payment requests for a percentage of work completed on each task deliverable are allowed.
- c. Payment is contingent upon the availability of funding from the federal agency and SUBRECIPIENT'S compliance with the terms and conditions of this AGREEMENT.
- d. The final payment under this AGREEMENT shall be made upon completion of the Scope of Work including all deliverables and the receipt and approval of all reports required hereunder.

- (1) Reimbursement Request Form with required backup documentation.
- (2) Final Report - brief paragraph on letterhead summarizing what was accomplished with the grant funding.
- (3) Copy of a news release that will be submitted to a local publication crediting the U.S. Forest Service for providing funding.
- (4) Copy of Congressional thank you letter - Thank you letter addressed to your federal congressional representatives for the grant funding. Include a brief description of what you were able to accomplish with the funding.
- (5) Certification of Acceptance executed by a Florida Forest Service official.

e. Disallowance or adjustments due to audit findings may require the SUBRECIPIENT to return funds to the RECIPIENT. The SUBRECIPIENT is solely responsible for reimbursing the RECIPIENT for amounts incorrectly paid to the SUBRECIPIENT.

6. Program Income

- a. "Program income includes but is not limited to income from fees for services performed, the use or rental of real or personal property acquired under federal awards, the sale of commodities or items fabricated under a federal award, license fees and royalties on patents and copyrights, and principal and interest on loans made with federal award funds". 2 CFR, 200.80
- b. The SUBRECIPIENT must report to the RECIPIENT any program income received or anticipated from the activities performed under this AGREEMENT.

7. Revision of Budget Plan

- a. The Budget Plan contained in the SUBRECIPIENT APPLICATION lists costs and budget categories to fund the SUBRECIPIENT'S performance of the Scope of Work, including the completion of Deliverables.
- b. SUBRECIPIENT is required to report any transfers from one approved budget category to another approved budget category. If the cumulative budget transfers meet or exceed ten percent (10%), prior approval, evidenced by contract amendment, is required.
- c. Prior approval, evidenced by contract amendment, is required for:

- (1) any transfers from an approved budget category to an unapproved budget category. An unapproved budget category is defined as having no funds allocated in the original Budget Plan.
- (2) any equipment purchases not noted in the original Budget Plan and/or Scope of Work.
- (3) any subawarding or contracting out of any work not noted in the original Budget Plan and/or Scope of Work.

8. Revision of Scope of Work

- a. The SUBRECIPIENT shall report any changes to the Scope of Work including but not limited to changes in the objectives, changes in key personnel, reduction of work effort by key personnel and delays in completion of the work.

9. Acknowledgements

- a. The SUBRECIPIENT shall have an acknowledgement of the USDA Forest Service support placed on any publication written or published or audiovisual produced with grant support and, if feasible, on any publication reporting the results of, or describing, a grant-supported activity, or audiovisuals produced with grant support. This requirement does not apply to audiovisuals produced as research instruments or for documenting experimentations or findings and not intended for presentation or distribution to the public.
- b. Publication means a published book, periodical, pamphlet, brochure, flier, or similar item.
- c. Audiovisual means a product containing visual imagery or sound or both.
- d. The SUBRECIPIENT acknowledgement must contain a disclaimer that says: "Any opinions, findings, conclusions, or recommendations expressed in this publication or audiovisual are those of the author(s) and do not necessarily reflect the view of the USDA Forest Service".
- e. Language shall read:

The work upon which this (insert publication or audiovisual or both) is based was funded, in whole or in part through a subrecipient grant awarded by the USDA Forest Service through the Florida Department of Agriculture and Consumer Services. The contents do not necessarily reflect the views or policies of the USDA

**Forest Service nor does mention of trade names,
commercial productions, services or organization imply
endorsement by the U.S. Government.**

E. PROPERTY STANDARDS

1. Equipment and Real Property

- a. Equipment must be used in the project for which the federal funds are derived.
- b. The federal agency has a vested interest in equipment and/or real property which, when purchased, exceeds \$5,000 in value. If a title is issued for the equipment and/or real property, the federal agency must be listed on the title.
- c. The SUBRECIPIENT must maintain property records, which include, but are not limited to, the description, serial number or other identification number, acquisition date, cost, location, percentage of federal participation in the cost of the property, use and condition of the property. When the property is disposed of, the property records must be updated with the date of disposal and sale price of the property.
- d. A physical inventory is required at least once every two years.
- e. If the equipment and/or real property are to be sold or used as a trade-in, approval of the RECIPIENT is required.
- f. At the end of the award period, the SUBRECIPIENT is required to request from the RECIPIENT disposal instructions and is required to notify the RECIPIENT of the fair market value of the equipment and/or real property.

2. Insurance Coverage

- a. The SUBRECIPIENT will carry sufficient insurance coverage to protect all assets required under the AGREEMENT from loss due to theft, fraud and/or undue physical damage. SUBRECIPIENT shall carry insurance on its own assets in commercially reasonable amounts and all statutorily required insurance, including without limitation Workers' Compensation insurance.

3. Intellectual Property

- a. Anything by whatsoever designation it may be known, that is produced by, or developed in connection with this AGREEMENT shall become the exclusive property of the RECIPIENT and

may be copyrighted, patented or otherwise restricted as provided by Florida or federal law. Neither the SUBRECIPIENT nor any individual employed under this AGREEMENT shall have any proprietary interest in such property.

- b. With respect to each Deliverable that constitutes a work of authorship within the subject matter and scope of U.S. Copyright Law, 17 U.S.C. Sections 102-105, such work shall be a "work for hire" as defined in 17 U.S.C. Section 101 and all copyrights subsisting in such work for hire shall be owned exclusively by the RECIPIENT.
- c. In the event it is determined as a matter of law that any such work is not a "work for hire," SUBRECIPIENT shall immediately assign to the RECIPIENT all copyrights subsisting therein for the consideration set forth in the AGREEMENT and with no additional compensation.
- d. The foregoing shall not apply to any preexisting software, or other work of authorship used by SUBRECIPIENT to create a Deliverable but which exists as work independent of the Deliverable, unless the preexisting software or work was developed by SUBRECIPIENT pursuant to a previous AGREEMENT with the RECIPIENT or by a purchase by the RECIPIENT under a state term contract.

F. MATCHING OR COST SHARE (IF APPLICABLE)

- 1. The matching or cost share portion must be tracked using a unique identifier in the SUBRECIPIENT accounting system.
- 2. If the matching or cost share portion is not met, the RECIPIENT may disallow costs paid with federal funds in proportion to the reduction in the matching or cost share amount.
- 3. The matching or cost share portion must be incurred in direct proportion to the amount of federal funds used.
- 4. The matching or cost share portion must be reported based upon the Budget Plan submitted with the APPLICATION.
- 5. Records for in-kind contributions, which are based upon volunteer hours, must have timesheets or a sign in/sign out log and must explicitly state the method for valuation of the hours. The value must be reasonable.
- 6. Records for in-kind contributions, which are based upon goods or services provided, must have an invoice, if available, or

must explicitly state the method for the valuation. The value must be reasonable.

7. In-kind contributions must be provided by a third party during the period for which they are being claimed.
8. The matching or cost share portion must not be counted towards other cost sharing requirements. Neither costs nor values of third party in-kind contributions may count if they have been used towards other cost sharing requirements.

G. GENERAL PROCUREMENT STANDARDS

1. The SUBRECIPIENT will follow the same policies and procedures it uses for procurements from other funding sources.
2. The SUBRECIPIENT must have documented procurement procedures.
3. The SUBRECIPIENT must have written policies on standards of conduct covering conflicts of interest. No employee, officer, or agency may participate in the selection, award or administration of a contract supported by federal funds if he or she has a real or apparent conflict of interest.

H. PERFORMANCE MONITORING AND REPORTING

1. The SUBRECIPIENT shall submit detailed quarterly reports using the format and content shown on the RECIPIENT's performance progress report. The performance progress report is downloadable from <http://forms.freshfromflorida.com/02018.pdf>.
2. In the event the AGREEMENT is terminated, the SUBRECIPIENT shall furnish a report detailing progress made under this AGREEMENT through the date of termination within twenty (20) days of termination.
3. The SUBRECIPIENT shall cooperate in all on-site reviews from the RECIPIENT, its authorized representatives or federal government personnel.
4. The review personnel will be given full and complete access during normal business hours to all information related to the performance of this AGREEMENT to ensure compliance with project activities and statutes, regulations and rules.
5. The RECIPIENT will give 48 hours of notice of any on site review.
6. The SUBRECIPIENT shall make available all personnel involved in the performance of work on this AGREEMENT.

7. Failure to correct substandard performance within thirty (30) days after written notice from the RECIPIENT shall result in suspension and/or termination of the AGREEMENT.

I. RECORD RETENTION AND ACCESS

1. Retention Requirements for Records

- a. Upon reasonable notice, the RECIPIENT shall have access to the SUBRECIPIENT'S records during normal business hours.
- b. The SUBRECIPIENT shall maintain all records pertinent to the activities to be funded under this AGREEMENT for a period of five (5) years after final payment is received and for such additional period as may be required until all claims, litigation and appeals pertaining or related to the AGREEMENT have been completely resolved.

2. Public Access to Records

- a. The SUBRECIPIENT shall comply with all applicable requirements of Chapter 119, Florida Statutes.

IF THE SUBRECIPIENT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE SUBRECIPIENTS'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS:

**OFFICE OF GENERAL COUNSEL
407 SOUTH CALHOUN STREET, SUITE 520
TALLAHASSEE, FL 32399
PHONE: (850) 245-1000
EMAIL: PRCUSTODIAN@FDACS.GOV**

J. REMEDIES FOR NONCOMPLIANCE

1. Prior to the exercise of any remedy provided for herein, the RECIPIENT shall provide thirty (30) calendar days written notice of default and shall provide the SUBRECIPIENT the opportunity to cure such failure or default within said thirty (30) day period. Upon the failure or inability to cure, the RECIPIENT shall have all rights and remedies provided at law or in equity, including without limitation the following:

- a. Temporarily withhold cash payments pending correction of the deficiency by the SUBRECIPIENT.
- b. Disallow all or part of the cost of the services not in compliance.
- c. Wholly or partly suspend or terminate this AGREEMENT.

2. Termination

- a. The RECIPIENT may suspend or terminate this AGREEMENT if the SUBRECIPIENT:
 - (1) Fails to comply with any applicable rules, regulations or provisions referred to herein, or any other applicable state or federal statutes, rules, regulations, executive orders, federal guidelines, policies or directives;
 - (2) Fails, to timely fulfill its obligations under the AGREEMENT;
 - (3) Improperly or illegally uses funds provided under this AGREEMENT; or
 - (4) Submits reports that are incorrect in any material respect.
- b. This AGREEMENT may be terminated for convenience by either party upon giving not less than thirty (30) days advance written notice to the other party. SUBRECIPIENT shall be paid for all work satisfactorily performed prior to the date of termination provided SUBRECIPIENT has otherwise complied with the terms of this AGREEMENT, including the submission of all reports.

K. CLOSE OUT

1. Notwithstanding the termination of this AGREEMENT, the SUBRECIPIENT'S obligations to the RECIPIENT shall survive until all close out requirements are completed. Close out activities shall include but are not limited to: completing and submitting final reports, properly disposing of property, accounting for unspent cash advances and program income and transferring custodianship of records to RECIPIENT or its designee.
2. Post-close Out Adjustments
 - a. Any funds paid in excess of the amount to which the SUBRECIPIENT is entitled under the AGREEMENT must be

refunded to the RECIPIENT within thirty (30) days after demand therefore by RECIPIENT.

L. AUDIT REQUIREMENTS

1. Audit Provisions

- a. If the SUBRECIPIENT is a state or local government or a nonprofit organization, the audit provisions as defined in 2 CFR, Part 200 Subpart F are applicable.
- b. If the SUBRECIPIENT is a commercial organization (For-Profit), the organization will provide the RECIPIENT with its annual audited financial statement or the annual tax return provided to the Internal Revenue Service.
- c. Audit provisions are not required for a SUBRECIPIENT who is an individual.
- d. In the event that the SUBRECIPIENT expends \$750,000 or more in federal awards in its fiscal year, the SUBRECIPIENT must have a single or program-specific audit conducted in accordance with the 2 CFR, Part 200 Subpart F.
- e. If the SUBRECIPIENT expends less than \$750,000 in federal awards in its fiscal year, an audit conducted in accordance with the provisions of 2 CFR, Part 200 Subpart F is not required. Records must be available for audit or review if necessary.
- f. If the SUBRECIPIENT expends less than \$750,000 in federal awards in its fiscal year and elects to have an audit conducted, the cost of the audit must be paid from non-federal resources.

2. Basis for Determining Federal Awards Expended

- a. In determining the federal awards expended in its fiscal year, the SUBRECIPIENT shall consider all sources of federal awards, including federal resources received from the RECIPIENT.
- b. The determination of amounts of federal awards expended should be in accordance with the guidelines established by 2 CFR, Part 200 Subpart F.

3. Relation to Other Audit Requirements

- a. If the SUBRECIPIENT has an audit conducted in relationship to any other federal regulation or statute, the RECIPIENT may determine upon review if the audit reports meet the

needs of the RECIPIENT. If so, an additional audit will not be required.

- b. An audit of the SUBRECIPIENT conducted by the Auditor General in accordance with provisions of 2 CFR, Part 200 Subpart F will meet these requirements.
- c. These provisions do not limit the authority of the federal agency, Inspector General, General Accounting Office (GAO) or RECIPIENT to conduct or arrange for the conduct of audits or evaluations of federal financial assistance awards.

4. Frequency of Audits

- a. Audits shall be performed annually to meet this requirement.

5. Sanctions

- a. If the SUBRECIPIENT is unwilling or has a continued inability to have an audit conducted, the provisions for noncompliance will be enforced.

6. Subrecipient Responsibilities

- a. The SUBRECIPIENT shall arrange for the audit to be conducted in a timely manner and submitted as required in 2 CFR, 200.512.
- b. The SUBRECIPIENT shall prepare the financial statements in accordance with 2 CFR, 200.510.
- c. The SUBRECIPIENT shall promptly follow up and take corrective action on audit findings.
- d. The SUBRECIPIENT will provide the auditor with access to records, personnel, documentation and other information as needed by the auditor.

7. Audit Findings Follow-up

- a. At the completion of the audit, the SUBRECIPIENT must prepare, in a document separate from the auditor's findings a corrective action plan to address each audit finding included in the current year auditor's reports.
- b. The corrective action plan must provide the name(s) of the contact person(s) responsible for corrective action, the corrective action planned and the anticipated completion date.

- c. If the SUBRECIPIENT does not agree with the audit findings or believes corrective action is not required, then the corrective action plan must include an explanation and specific reasons.
- d. Any deficiencies noted in audit reports must be fully cleared by the SUBRECIPIENT within thirty (30) days after receipt by the SUBRECIPIENT.
- e. Failure of the SUBRECIPIENT to comply with the above requirement will constitute a violation of this AGREEMENT and may result in the withholding of future payments.

8. Report Submission

- a. The audit must be completed and the data collection form and reporting package must be submitted within the earlier of thirty (30) calendar days after receipt of the auditor's report(s) or nine months after the end of the audit period. If the due date falls on a Saturday, Sunday, or Federal holiday, the reporting package is due the next business day.
- b. The SUBRECIPIENT must submit required data elements described in Appendix X to 2 CFR, Part 200 - Data Collection Form (SF-SAC), which states whether the audit was completed in accordance with this part and provide information about the SUBRECIPIENT, its federal programs and the results of the audit.
- c. A senior representative of the SUBRECIPIENT must sign a statement to be included as part of the data collection that the SUBRECIPIENT has complied with the audit requirements, the data was prepared in accordance with 2 CFR, 200.512, the reporting package does not include protected personally identifiable information, the information is accurate and complete and the reporting package and form will be publicly available on the web.
- d. The SUBRECIPIENT shall also submit to the RECIPIENT's Grant Manager one copy of the audit report, reporting package, any management letter issued by the auditor and data collection form described in Appendix X to 2 CFR, Part 200.
- e. The SUBRECIPIENT is required to use the internet submission form on the Federal Audit Clearinghouse (FAC) website. The FAC website is located at <https://facweb-census.gov>.
- f. The SUBRECIPIENT shall ensure that audit working papers are made available to the RECIPIENT, or its designee, Chief Financial Officer or Auditor General upon request for a

period of five (5) years from the date the audit report is issued, unless extended in writing by the RECIPIENT.

M. GENERAL CONDITIONS

1. Nothing contained in this AGREEMENT is intended to, or will be construed in any manner, as creating or establishing the relationship of principal and agent or employer and employee between the parties. The SUBRECIPIENT will at all times remain an independent contractor with respect to the services to be performed under this AGREEMENT.
2. The RECIPIENT shall have the right of unilateral cancellation for refusal by the SUBRECIPIENT to allow public access to all documents, papers, letters or other material made or received by the SUBRECIPIENT in conjunction with this AGREEMENT, unless the records are confidential or exempt from s. 24(a) of Article I of the State Constitution and s. 119.07(1), Florida Statutes.
3. The SUBRECIPIENT acknowledges and agrees that:
 - i. Pursuant to Section 287.133(2)(a), Florida Statutes, a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list.
 - ii. Pursuant to Section 287.134(2)(a), Florida Statutes, an entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to

provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.

iii. Pursuant to Section 287.137(2)(a), Florida Statutes, a person or an affiliate who has been placed on the antitrust violator vendor list following a conviction or being held civilly liable for an antitrust violation may not submit a bid, proposal, or reply for any new contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply for a new contract with a public entity for the construction or repair of a public building or public work; may not submit a bid, proposal, or reply on new leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a new contract with a public entity; and may not transact new business with a public entity.

4. The SUBRECIPIENT shall not discriminate on the basis of race, sex, religion, color, national origin, age or disability and shall comply with all applicable state and federal laws and regulations related thereto, including without limitation, the Americans with Disabilities Act (42 USC 12101 et. Seq.); Section 504 of the Rehabilitation Act of 1973 (29 USC 795); and the Age Discrimination Act of 1975 (42 USC 6101-6107).

5. The SUBRECIPIENT acknowledges and agrees that the employment of unauthorized aliens by any person or entity is considered a violation of 8 U.S.C. § 1324a. If the SUBRECIPIENT knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of this AGREEMENT. SUBRECIPIENT avers that it is registered in the E-Verify system and further agrees to comply with the provisions of Section 448.095(2), Florida Statutes during the term of the

contract, including receiving and maintaining required affidavits from subcontractors.

6. This AGREEMENT is contingent upon the availability of funding from the federal agency. This AGREEMENT may be terminated by RECIPIENT if funding from the federal agency is reduced or terminated.
7. The SUBRECIPIENT represents and warrants that neither it, nor its principals, is presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal department or agency; and, that the SUBRECIPIENT shall not knowingly enter into any lower tier contract, or other covered transaction, with a person who is similarly debarred or suspended from participating in this covered transaction. Any lower tier contract provider who receives funds as a result of this AGREEMENT shall be verified by SUBRECIPIENT through the General Services Administration (GSA) Federal Excluded Parties List: <https://sam.gov/SAM/>.
8. The SUBRECIPIENT shall comply with the Federal Acquisition Regulation 52.204-25, prohibition on contracting for certain telecommunications and video surveillance services or equipment pursuant to the National Defense Authorization Act. Failure to comply or if the SUBRECIPIENT knowingly provides funds to any entity prohibited from receiving a contract or award pursuant to the Federal Acquisition Regulation 52.204-25 shall be cause for unilateral cancellation of this AGREEMENT.
9. The SUBRECIPIENT acknowledges it has completed the certification regarding lobbying.
10. If prior written authorization for subcontracting is granted by the DEPARTMENT, any work or services subcontracted by the SUBRECIPIENT shall be specifically by written contract or agreement, and such subcontracts shall be subject to each provision of this AGREEMENT and applicable Federal, State or County guidelines and regulations. Prior to execution by the SUBRECIPIENT of any subcontract hereunder, the SUBRECIPIENT must submit such subcontracts to the RECIPIENT for its review and approval.
11. The SUBRECIPIENT will, to the extent permitted by law, hold harmless, defend and indemnify the RECIPIENT from any and all claims, actions, suits, charges and judgments whatsoever that arise out of the

SUBRECIPIENT's performance or nonperformance of the services or subject matter called for in this AGREEMENT. Nothing herein contained shall be construed or operate as a waiver of sovereign immunity to the extent sovereign immunity may otherwise apply.

12. The SUBRECIPIENT will comply with section 20.055, Florida Statutes.
13. This AGREEMENT may not be modified except by a written instrument executed by a duly authorized representative of each party hereto.
14. In the event that two or more documents combine to form this AGREEMENT, and in the event that there is any contradictory or conflicting clause or requirement in these documents, the provisions of the document(s) prepared by the RECIPIENT shall be controlling.
15. This AGREEMENT shall be controlled by Florida law, without regard to any conflict of law provisions thereof.
16. In the event that any clause or requirement of this AGREEMENT is contradictory to, or conflicts with the requirements of Florida law, such clause or requirement shall be without force and effect and the requirements of the applicable Florida law shall substitute for that clause or requirement and be binding on all parties hereto.
17. SUBSUBRECIPIENT agrees that all services to be performed hereunder shall be performed solely by the SUBRECIPIENT and may not be subcontracted for or assigned without the prior written consent of DEPARTMENT, which may be withheld by DEPARTMENT for any reason or granted subject to SUBRECIPIENT's compliance with one or more of the following: (i) SUBRECIPIENT purchasing, at its sole expense, a payment bond in a form and amount that DEPARTMENT determines to be adequate to protect suppliers of labor and material; (ii) DEPARTMENT withholding, as retainage, 25% or the highest percent permitted by law, whichever is less, of all payments made to the SUBRECIPIENT until SUBRECIPIENT submits evidence satisfactory to DEPARTMENT that all subcontracts and outstanding indebtedness in connection with the services hereunder have been paid for by the SUBRECIPIENT; and (iii) SUBRECIPIENT disclosing information satisfactory to DEPARTMENT regarding each subcontractor to perform services hereunder, including a description of the subcontractor's organization, ability

to provide applicable services, cost to perform applicable services, previous work experience, and relationship to the SUBRECIPIENT.

18. The termination of this AGREEMENT (whether by expiry, completion, the exercise of a termination right hereunder, or otherwise) will not relieve either party of any obligation, nor impair the exercise of rights, accrued hereunder prior to such termination. Without limiting the foregoing, the terms of Sections M(17) hereof and Articles D (entitled "FINANCIAL AND PROGRAM MANAGEMENT"), I (entitled "RECORD RETENTION AND ACCESS"), K (entitled "CLOSE OUT"), and L (entitled "AUDIT REQUIREMENTS") hereof will survive the termination of this AGREEMENT.

Special Conditions: See attachment A

This AGREEMENT constitutes the entire AGREEMENT between the RECIPIENT and the SUBRECIPIENT for the use of the funds received under this AGREEMENT.

The Grant Manager for the RECIPIENT is Todd Little and is located at 3125 Conner Blvd., Tallahassee, FL 32399.

The Grant Manager for the SUBRECIPIENT is Chadd Chustz and is located at 2525 Estero Boulevard, Fort Myers Beach, FL 33931.

Federal resources awarded to the SUBRECIPIENT pursuant to this agreement are from USDA Forest Service, federal financial assistance funding opportunity under FAIN # 23-DG-11083112-430 and Catalog of Federal Domestic Assistance 10.664, Cooperative Forestry Assistance.

Signed by parties to this AGREEMENT:

FLORIDA DEPARTMENT OF AGRICULTURE SUBRECIPIENT
AND CONSUMER SERVICES

Joey B. Hicks

Signature

Director of Administration
Title

5/15/2024

Date

Signature

Environmental Project Manager
Title

Date

Florida Department of Agriculture and Consumer Services
Division of Administration

SCOPE OF WORK
2 CFR 200

1. Federal Financial Assistance Funding Opportunity Number: 23-DG-11083112-430		2. Subrecipient FEIN: 65-0632342			
3. Subrecipient Legal Name: Town of Fort Myers Beach					
Please note section XII Public Records in the Notice of Federal Financial Assistance Funding Opportunity before including any proprietary or confidential information.					
Performance Measures					
Deliverable #	Tasks	Task Description	Indicator	Costs per Unit	Outcome Measures
1	Tree/Palm Planting	The town's vendor will furnish and install trees/palms.	Planted trees and palms.	500	Successful installation of 75 trees.
2	60 Day Grow-in period	The town will ensure a 60 day grow in period.	Plants grown in.	0	Certification of Acceptance.
Describe in detail the activity or work to be conducted.					
The proposed activity involves the selection and procurement of native trees and palms, which will be strategically planted in the designated coastal area between Margaritaville and Times Square along Estero Blvd and Old San Carlos Blvd in Fort Myers Beach. The town has already contacted potential vendors to gather estimated costs for trees, installation, delivery, and planting materials. The town estimates that the average cost for each tree will be approximately \$500. All work will be contracted out to a selected vendor to conduct the tree delivery and installations within the designated project area. Trees to be included in this project include mahogany, gumbo limbo, saw palmetto, sabal palm, royal palm, and seagrape. After installation, the town will take charge of the 60 day "grow-in" period to closely monitor and maintain the trees leading to their successful establishment.					

Florida Department of Agriculture and Consumer Services
Division of Administration

BUDGET PLAN

2 CFR 200

Federal Financial Assistance Funding Opportunity Number: 23-DG-11083112-430			Subrecipient FEIN: 65-0632342	
Subrecipient Legal Name: Town of Fort Myers Beach				
Category/Description	Cost per Unit	Number of Units	Grant Amount	Match Amount
Personnel -				
Fringe Benefits -				
Travel (not authorized)				
Equipment (not authorized)				
Supplies -				
Contractual (if authorized) -				
Trees -	500	75	37,500	0
Other Expenses -				
Total Direct Charges				
Indirect Charges -				
Total Amount	500	75	37500	



WILTON SIMPSON
COMMISSIONER

Florida Department of Agriculture and Consumer Services
Division of Administration

**CERTIFICATION REGARDING LOBBYING;
DEBARMENT, SUSPENSION AND OTHER
RESPONSIBILITY MATTERS
FOR EXPENDITURE OF FEDERAL FUNDS**

LOBBYING

As required by 2 CFR 200, for persons entering into a contract, grant or cooperative agreement over **\$100,000** involving the expenditure of Federal funds, the undersigned certifies for itself and its principals that:

- (a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;
- (b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress, in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and
- (c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

CHADD

Environmental Project Manager

PRINTED NAME/TITLE OF REPRESENTATIVE

CONTRACT / PURCHASE ORDER NUMBER

SIGNATURE OF REPRESENTATIVE / DATE

DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS

As required by 2 CFR 200, for persons entering into a contract, grant or cooperative agreement over **\$25,000** involving the expenditure of Federal funds, the undersigned certifies for itself and its principals that:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- (b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are not presently indicted for or otherwise criminally or civilly charged by a Government entity (Federal, State, or local) with commission of any offenses enumerated in paragraph (b) of this certification; and
- (d) Have not within a three-year period preceding this application had one or more public transaction (Federal, State, or local) terminated for cause or default; and

Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

CHADD

Environmental Project Manager

PRINTED NAME/TITLE OF REPRESENTATIVE

CONTRACT / PURCHASE ORDER NUMBER

SIGNATURE OF REPRESENTATIVE / DATE



FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES COMMISSIONER WILTON SIMPSON

January 25, 2024

Mr. Chadd Chustz
Town of Fort Myers Beach
2525 Estero Boulevard
Fort Myers Beach, FL 33931

Dear Mr. Chustz:

Congratulations! It gives me great pleasure to inform you that the Florida Forest Service (FFS), a division of the Florida Department of Agriculture and Consumer Services (FDACS), has selected your proposal for a \$37,500 grant award from the 2023 Urban and Community Forestry – Plantings, Preservation, and Invasives Control Grant Program.

You will soon receive an email with a DocuSign version of the Federal Financial Assistance Subrecipient Agreement (Agreement). Upon receipt, please have the authorized individual **sign and return the agreement within 30 days** to the Florida Department of Agriculture and Consumer Services (FDACS). Please take note of the two forms attached to this agreement. These forms should be completed and returned with the signed contract.

Please **do not** spend any funds that may be claimed as grant reimbursement or match until both parties have executed the Agreement.

If you have any questions or concerns, please contact FFS Urban Forestry Coordinator Todd Little at (850) 681-5874 or Todd.Little@FDACS.gov.

Sincerely,

Richard Dolan, State Forester/Director
Florida Forest Service

RD/tl

N. ESTERO & OLD SAN CARLOS BLVD

November 2023 Survey of Trees on N. Estero Blvd and Old San Carlos Blvd.

Legend

DEAD TREE

LIVE TREE

NO TREE

TREE STUMP

ID	Latitude	Longitude	Status	Location	Species
1	26.45168697	-81.95305101	NO TREE	Waistina Way	Seagrape Tree
2	26.45164196	-81.95292704	NO TREE	Waistina Way	Seagrape Tree
3	26.45179803	-81.95299904	NO TREE	Waistina Way	Seagrape Tree
4	26.45198604	-81.95280802	NO TREE	Waistina Way	Seagrape Tree
5	26.45152101	-81.95311303	NO TREE	Waistina Way	Seagrape Tree
6	26.45149101	-81.95297901	NO TREE	Waistina Way	Seagrape Tree
7	26.45375404	-81.95591896	TREE STUMP	OSC	Coconut Palm
8	26.45381103	-81.95587596	TREE STUMP	OSC	Coconut Palm
9	26.45388303	-81.95583698	LIVE TREE	OSC	Coconut Palm
10	26.45395202	-81.95580496	TREE STUMP	OSC	Coconut Palm
11	26.454021	-81.95576197	TREE STUMP	OSC	Coconut Palm
12	26.454236	-81.95564697	LIVE TREE	OSC	Coconut Palm
13	26.45432702	-81.95560204	TREE STUMP	OSC	Coconut Palm
14	26.45439802	-81.95556097	NO TREE	OSC	Coconut Palm
15	26.45447999	-81.95551897	LIVE TREE	OSC	Coconut Palm
16	26.45471896	-81.95539098	LIVE TREE	OSC	Coconut Palm
17	26.45489104	-81.95529199	DEAD TREE	OSC	Coconut Palm
18	26.45497402	-81.95528696	NO TREE	OSC	Coconut Palm
19	26.45503596	-81.95525	LIVE TREE	OSC	Coconut Palm
20	26.45517703	-81.95515403	LIVE TREE	OSC	Coconut Palm
21	26.45539597	-81.95499997	NO TREE	OSC	Coconut Palm
22	26.45546604	-81.95496501	LIVE TREE	OSC	Coconut Palm
23	26.45554801	-81.95492201	LIVE TREE	OSC	Coconut Palm
24	26.45568204	-81.95487499	LIVE TREE	OSC	Coconut Palm
25	26.45589704	-81.95475798	LIVE TREE	OSC	Coconut Palm
26	26.45597298	-81.95471004	LIVE TREE	OSC	Coconut Palm
27	26.45605101	-81.95467902	NO TREE	OSC	Coconut Palm
28	26.45612796	-81.95464399	LIVE TREE	OSC	Coconut Palm
29	26.45620499	-81.95460602	LIVE TREE	OSC	Coconut Palm
30	26.45623097	-81.95465798	LIVE TREE	OSC	Coconut Palm
31	26.45616199	-81.95467802	DEAD TREE	OSC	Coconut Palm
32	26.456078	-81.95469403	LIVE TREE	OSC	Coconut Palm
33	26.45598597	-81.95469897	LIVE TREE	OSC	Coconut Palm
34	26.45589	-81.95468598	LIVE TREE	OSC	Coconut Palm
35	26.45569	-81.95490399	LIVE TREE	OSC	Coconut Palm
36	26.45562102	-81.95495403	LIVE TREE	OSC	Coconut Palm
37	26.45556302	-81.955006	NO TREE	OSC	Coconut Palm
38	26.45550904	-81.95506803	LIVE TREE	OSC	Coconut Palm
39	26.45544601	-81.95511002	LIVE TREE	OSC	Coconut Palm
40	26.455215	-81.95523399	LIVE TREE	OSC	Coconut Palm
41	26.455143	-81.95527699	LIVE TREE	OSC	Coconut Palm
42	26.45506999	-81.95531798	LIVE TREE	OSC	Coconut Palm
43	26.45498802	-81.95535502	LIVE TREE	OSC	Coconut Palm
44	26.45491602	-81.95540104	LIVE TREE	OSC	Coconut Palm
45	26.45484997	-81.95543499	LIVE TREE	OSC	Coconut Palm
46	26.454726	-81.95552601	NO TREE	OSC	Coconut Palm

47	26.45467697	-81.95555803	NO TREE	OSC	Coconut Palm
48	26.45419702	-81.95581301	TREE STUMP	OSC	Coconut Palm
49	26.45413902	-81.95584998	LIVE TREE	OSC	Coconut Palm
50	26.45405503	-81.95589004	LIVE TREE	OSC	Coconut Palm
51	26.45398797	-81.95592298	LIVE TREE	OSC	Coconut Palm
52	26.45392301	-81.95596699	DEAD TREE	OSC	Coconut Palm
53	26.45388404	-81.95602801	LIVE TREE	OSC	Coconut Palm
54	26.45382796	-81.95604502	LIVE TREE	OSC	Coconut Palm
55	26.45404799	-81.95658004	TREE STUMP	N ESTERO	Royal Palm
56	26.45446298	-81.95718102	TREE STUMP	N ESTERO	Royal Palm
57	26.45468401	-81.95754798	LIVE TREE	N ESTERO	Royal Palm
58	26.45484402	-81.95781302	LIVE TREE	N ESTERO	Royal Palm
59	26.45486799	-81.95785501	LIVE TREE	N ESTERO	Royal Palm
60	26.45497997	-81.95803899	NO TREE	N ESTERO	Royal Palm
61	26.45506396	-81.95816598	NO TREE	N ESTERO	Royal Palm
62	26.45501702	-81.95808903	TREE STUMP	N ESTERO	Royal Palm
63	26.45517703	-81.95833596	NO TREE	N ESTERO	Royal Palm
64	26.45520796	-81.95839497	DEAD TREE	N ESTERO	Royal Palm
65	26.45522598	-81.95846303	LIVE TREE	N ESTERO	Royal Palm
66	26.45532497	-81.95859698	LIVE TREE	N ESTERO	Royal Palm
67	26.45532296	-81.95859597	LIVE TREE	N ESTERO	Royal Palm
68	26.45534702	-81.958616	LIVE TREE	N ESTERO	Royal Palm
69	26.45537904	-81.95866797	LIVE TREE	N ESTERO	Royal Palm
70	26.45552002	-81.95891398	DEAD TREE	N ESTERO	Royal Palm
71	26.45562404	-81.95906896	DEAD TREE	N ESTERO	Royal Palm
72	26.45565203	-81.95911003	LIVE TREE	N ESTERO	Royal Palm
73	26.45567198	-81.95916099	LIVE TREE	N ESTERO	Royal Palm
74	26.45575999	-81.95930902	TREE STUMP	N ESTERO	Royal Palm
75	26.45591296	-81.959535	LIVE TREE	N ESTERO	Royal Palm
76	26.45660397	-81.96027897	TREE STUMP	N ESTERO	Royal Palm
77	26.45660397	-81.96028098	TREE STUMP	N ESTERO	Royal Palm
78	26.45660598	-81.96028199	TREE STUMP	N ESTERO	Royal Palm
79	26.45660598	-81.96028199	TREE STUMP	N ESTERO	Royal Palm
80	26.45660598	-81.96027797	TREE STUMP	N ESTERO	Royal Palm
81	26.45660799	-81.96027797	TREE STUMP	N ESTERO	Royal Palm
82	26.45660799	-81.96027797	TREE STUMP	N ESTERO	Royal Palm
83	26.45723898	-81.96061299	TREE STUMP	N ESTERO	Royal Palm
84	26.45723898	-81.96061299	TREE STUMP	N ESTERO	Royal Palm
85	26.45723898	-81.96061299	TREE STUMP	N ESTERO	Royal Palm
86	26.45723898	-81.96061299	TREE STUMP	N ESTERO	Royal Palm
87	26.45723898	-81.96061299	TREE STUMP	N ESTERO	Royal Palm
88	26.457243	-81.96059296	TREE STUMP	N ESTERO	Royal Palm
89	26.457243	-81.96059296	TREE STUMP	N ESTERO	Royal Palm
90	26.457243	-81.96059296	TREE STUMP	N ESTERO	Royal Palm
91	26.457243	-81.96059296	TREE STUMP	N ESTERO	Royal Palm
92	26.457243	-81.96059296	TREE STUMP	N ESTERO	Royal Palm
93	26.457243	-81.96059296	TREE STUMP	N ESTERO	Royal Palm

94	26.457243	-81.96059296	TREE STUMP	N ESTERO	Royal Palm
95	26.457243	-81.96059296	TREE STUMP	N ESTERO	Royal Palm
96	26.457243	-81.96059296	TREE STUMP	N ESTERO	Royal Palm
97	26.457243	-81.96059296	TREE STUMP	N ESTERO	Royal Palm
98	26.457243	-81.96059296	TREE STUMP	N ESTERO	Royal Palm
99	26.457243	-81.96059296	LIVE TREE	N ESTERO	Royal Palm
100	26.457243	-81.96059296	LIVE TREE	N ESTERO	Royal Palm
101	26.457243	-81.96059296	LIVE TREE	N ESTERO	Royal Palm
102	26.46096398	-81.96492397	LIVE TREE	N ESTERO	Royal Palm
103	26.46092903	-81.96490997	LIVE TREE	N ESTERO	Royal Palm
104	26.46066299	-81.96463203	LIVE TREE	N ESTERO	Royal Palm
105	26.460637	-81.96459901	LIVE TREE	N ESTERO	Royal Palm
106	26.46050901	-81.96442802	TREE STUMP	N ESTERO	Royal Palm
107	26.46047004	-81.96438803	LIVE TREE	N ESTERO	Royal Palm
108	26.46043098	-81.96435501	TREE STUMP	N ESTERO	Royal Palm
109	26.46039703	-81.96432098	LIVE TREE	N ESTERO	Royal Palm
110	26.46035696	-81.964281	LIVE TREE	N ESTERO	Royal Palm
111	26.46020098	-81.96409601	LIVE TREE	N ESTERO	Royal Palm
112	26.46015898	-81.96404999	DEAD TREE	N ESTERO	Royal Palm
113	26.46008397	-81.96398302	TREE STUMP	N ESTERO	Royal Palm
114	26.460046	-81.963951	LIVE TREE	N ESTERO	Royal Palm
115	26.46001004	-81.96391898	DEAD TREE	N ESTERO	Royal Palm
116	26.459817	-81.96374003	DEAD TREE	N ESTERO	Royal Palm
117	26.459659	-81.96362101	LIVE TREE	N ESTERO	Royal Palm
118	26.45966403	-81.963591	DEAD TREE	N ESTERO	Royal Palm
119	26.45906196	-81.96299303	LIVE TREE	N ESTERO	Royal Palm
120	26.45903296	-81.96296998	LIVE TREE	N ESTERO	Royal Palm
121	26.45882098	-81.96273797	LIVE TREE	N ESTERO	Royal Palm
122	26.45858997	-81.96251602	LIVE TREE	N ESTERO	Royal Palm
123	26.45855804	-81.96248601	LIVE TREE	N ESTERO	Royal Palm
124	26.45787701	-81.96178403	LIVE TREE	N ESTERO	Royal Palm
125	26.45784901	-81.96176098	TREE STUMP	N ESTERO	Royal Palm
126	26.45781398	-81.96172502	TREE STUMP	N ESTERO	Royal Palm
127	26.457775	-81.96168998	DEAD TREE	N ESTERO	Royal Palm
128	26.45774298	-81.96166199	LIVE TREE	N ESTERO	Royal Palm
129	26.45771197	-81.96163198	LIVE TREE	N ESTERO	Royal Palm
130	26.45752204	-81.96144104	DEAD TREE	N ESTERO	Royal Palm
131	26.45727804	-81.96120299	LIVE TREE	N ESTERO	Royal Palm
132	26.45687697	-81.960802	TREE STUMP	N ESTERO	Royal Palm
133	26.45682902	-81.96076697	TREE STUMP	N ESTERO	Royal Palm
134	26.45679197	-81.96072699	LIVE TREE	N ESTERO	Royal Palm
135	26.45654504	-81.96060997	LIVE TREE	N ESTERO	Royal Palm
136	26.456537	-81.96059103	TREE STUMP	N ESTERO	Royal Palm
137	26.455948	-81.95992299	TREE STUMP	N ESTERO	Royal Palm
138	26.45590399	-81.95987698	TREE STUMP	N ESTERO	Royal Palm
139	26.45580802	-81.95972904	TREE STUMP	N ESTERO	Royal Palm
140	26.45563401	-81.95942997	DEAD TREE	N ESTERO	Royal Palm

141	26.45551097	-81.95922998	LIVE TREE	N ESTERO	Royal Palm
142	26.455488	-81.95918203	LIVE TREE	N ESTERO	Royal Palm
143	26.45538096	-81.95896897	DEAD TREE	N ESTERO	Royal Palm
144	26.45538096	-81.95896897	LIVE TREE	N ESTERO	Royal Palm
145	26.45538096	-81.95896897	LIVE TREE	N ESTERO	Royal Palm
146	26.45538096	-81.95896897	TREE STUMP	N ESTERO	Royal Palm
147	26.45538096	-81.95896897	LIVE TREE	N ESTERO	Royal Palm
148	26.45538096	-81.95896897	LIVE TREE	N ESTERO	Royal Palm
149	26.45538096	-81.95896897	LIVE TREE	N ESTERO	Royal Palm
150	26.45538096	-81.95896897	LIVE TREE	N ESTERO	Royal Palm
151	26.45538096	-81.95896897	TREE STUMP	N ESTERO	Royal Palm
152	26.45538096	-81.95896897	LIVE TREE	N ESTERO	Royal Palm
153	26.45538096	-81.95896897	LIVE TREE	N ESTERO	Royal Palm
154	26.45538096	-81.95896897	LIVE TREE	N ESTERO	Royal Palm
155	26.45538096	-81.95896897	LIVE TREE	N ESTERO	Royal Palm
156	26.45538096	-81.95896897	LIVE TREE	N ESTERO	Royal Palm

	DEAD TREE	LIVE TREE	NO TREE	TREE STUMP
N ESTERO				
Royal Palm	11	48	3	40
OSC				
Coconut Palm	3	32	7	6
Waistina Way				
Seagrape Tree			6	
TOTALS	14	80	16	46

PLANT ROYAL PALM
PLANT ROYAL PALM
PLANT ROYAL PALM
PLANT ROYAL PALM
PLANT ROYAL PALM
EXISTING TREE TO REMAIN
EXISTING TREE TO REMAIN
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PLANT ROYAL PALM
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EXISTING TREE TO REMAIN
EXISTING TREE TO REMAIN

TOTALS
102
48
6
156



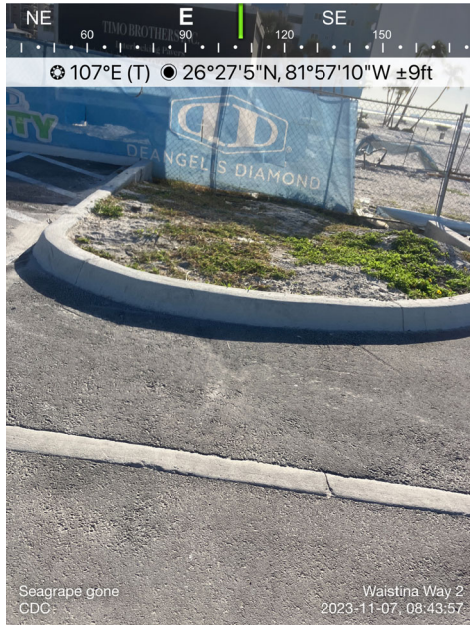
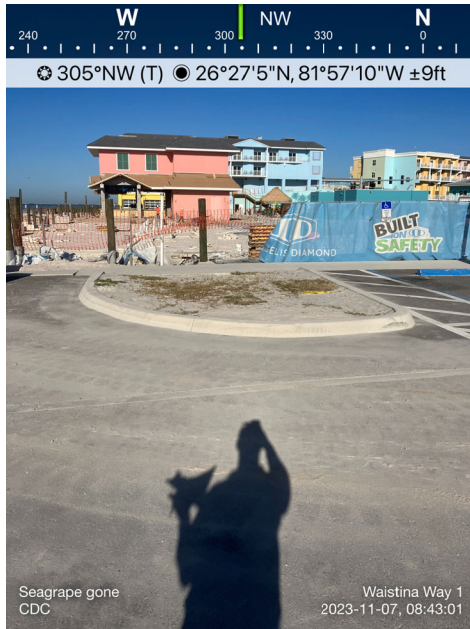
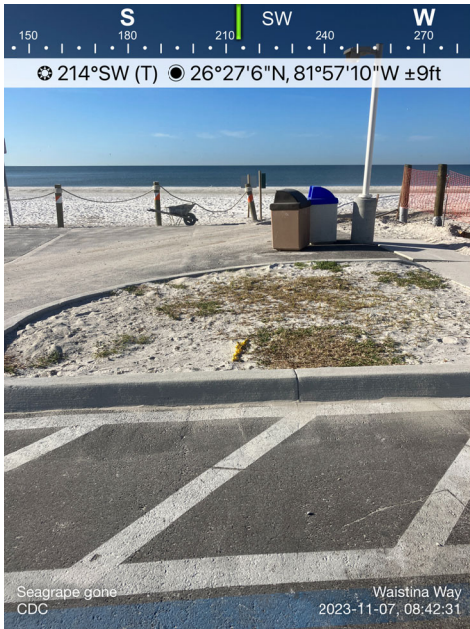


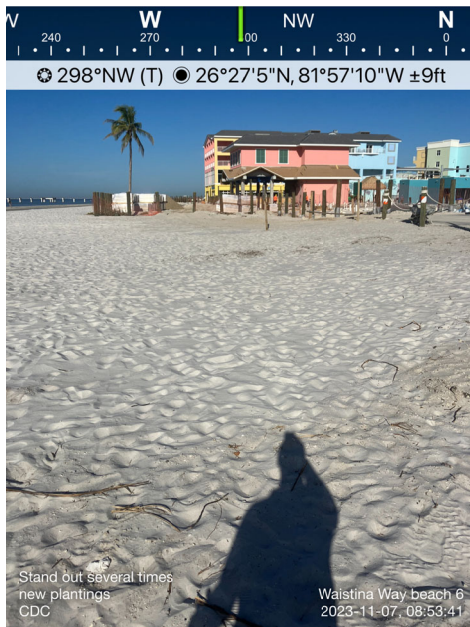




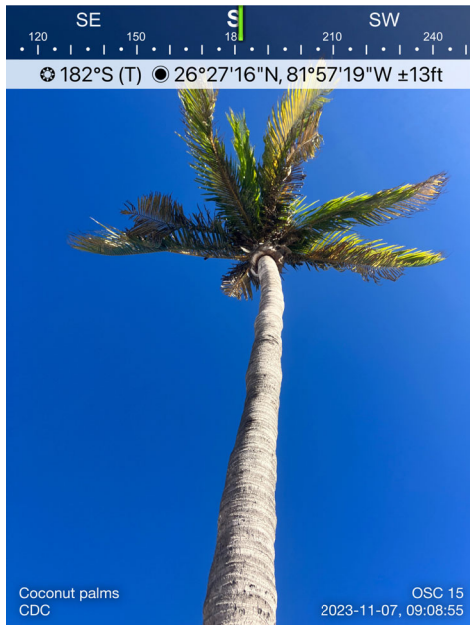




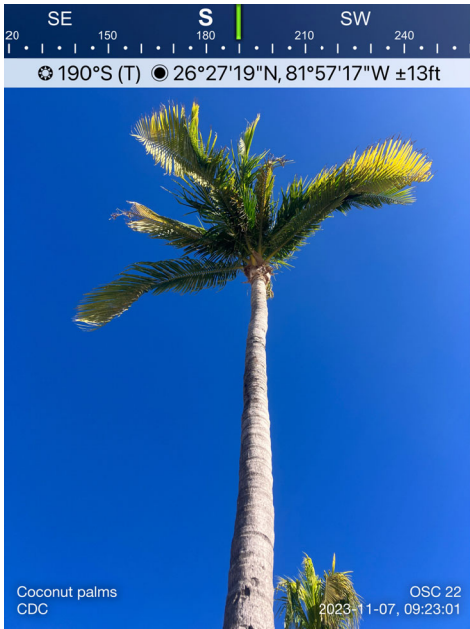


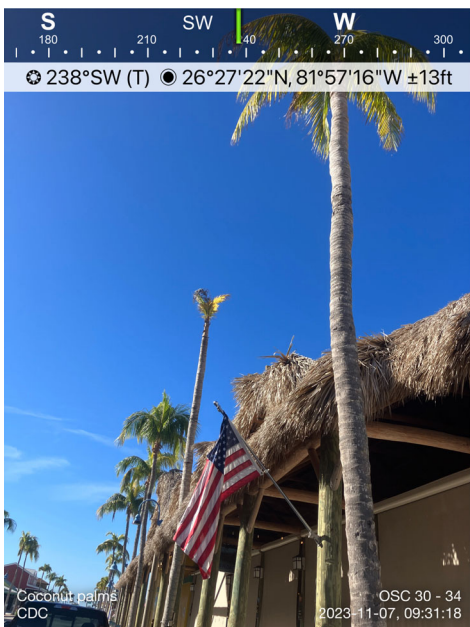




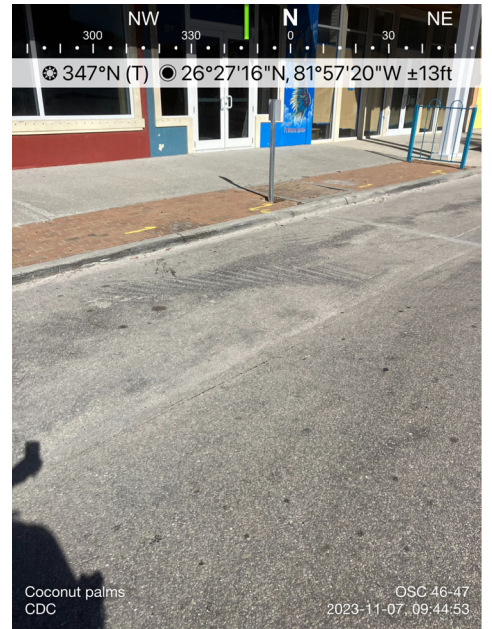




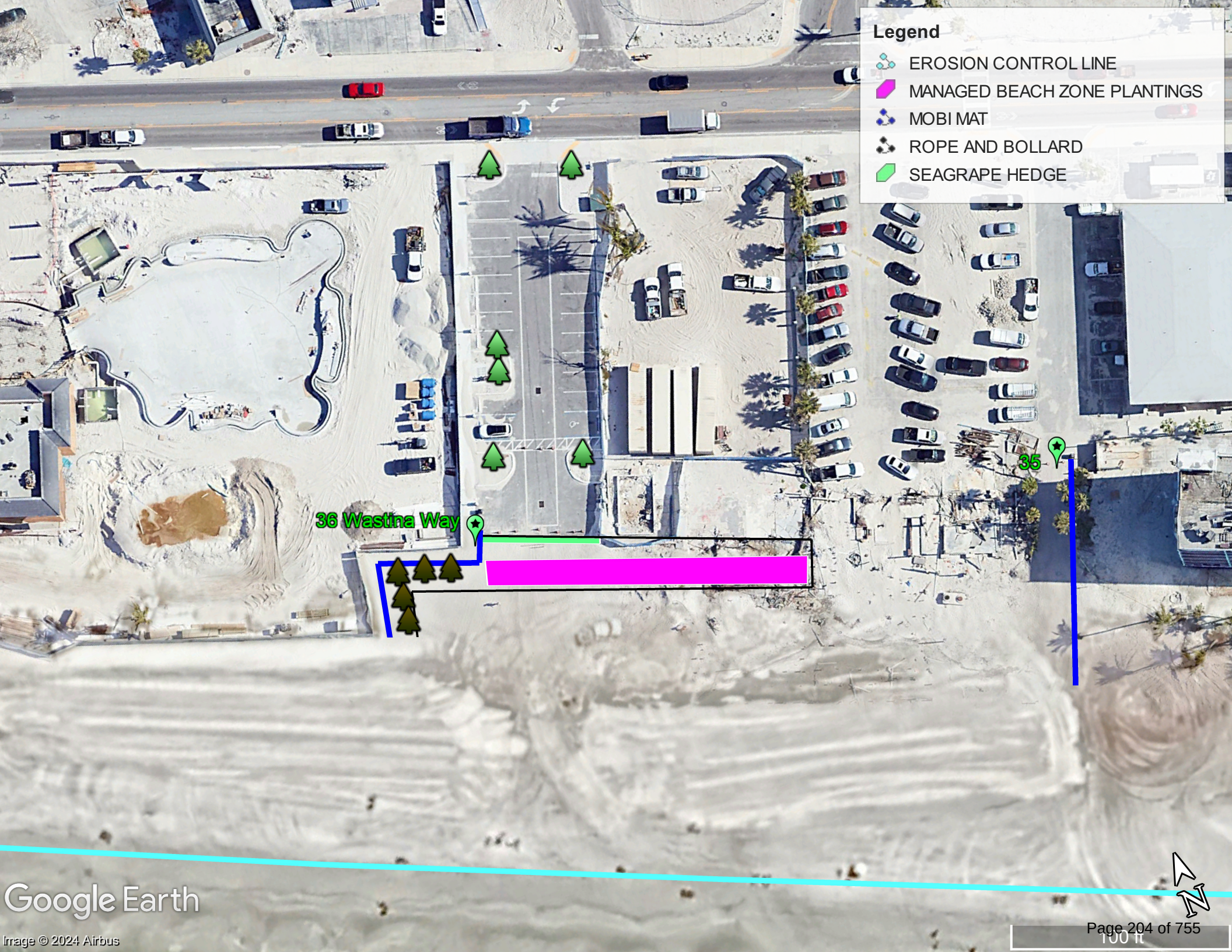












Legend

- EROSION CONTROL LINE
- MANAGED BEACH ZONE PLANTINGS
- MOBI MAT
- ROPE AND BOLLARD
- SEAGRAPE HEDGE

36 Wastina Way

35

1. **Request:**

Meeting Date: June 3, 2024

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, RATIFYING ACTION BY THE TOWN REGARDING EMERGENCY CRESCENT STREET OUTFALL REPAIRS BY ANDREW SITEWORK IN THE AMOUNT OF \$104,928.94; AND PROVIDING AN EFFECTIVE DATE.

Why the action is necessary:

The expenditure of \$104,928.94 requires Town Council approval since it is over and above the authorized contract with Andrew Sitework for Tier 1 Stormwater improvements.

What the action accomplishes:

The action ratifies the emergency action by the Town Manager to authorize Emergency Crescent Street outfall repairs to be performed by Andrew Sitework, and to authorize payment for their services provided.

2. **Agenda:**

CONSENT AGENDA

3. **Requirement/Purpose:**

Resolution

4. **Submitter of Information:**

Mark Ashton, Public
Works/Utilities Director, Frankie
Kropacek, Operations &
Compliance Director

5. **Background:**

The Crescent Street outfall repairs involved four duckbill check valves and one in-line backflow prevention valve that were damaged as a result of Hurricane Ian. The repairs were urgently needed to mitigate flooding on Crescent Street caused by high tide and storm surge. Andrew Sitework was authorized to perform the emergency repairs in conjunction with the Tier 1 Stormwater improvements, with the intention of processing a change order. However, it was later learned that since the contract was tied to the SRF loan agreement, the contract could not easily be changed. Hence, the need to process this as an emergency purchase rather than a change order.

Attachments:

1. 24-100, Ratifying Emergency Crescent Street Outfall Repairs ns edits
2. Emergency Purchase Authorization for Andrew Sitework

Financial Impact:

This expenditure of \$104,928.94 may be reimbursed by FEMA. If not, it will need to be funded by ARPA.

6. **Alternative Action**

Choose not to ratify the emergency outfall repairs.

7. **Management Recommendations:**

Approve this resolution.

8. **Recommended Approval:**

Amy Baker, Town Clerk
Amy Baker, Town Clerk
nancy stuparich, Town Attorney
Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Created/Initiated - 5/23/2024
Approved - 5/24/2024
Approved - 5/29/2024
Approved - 5/30/2024
Final Approval - 5/30/2024

RESOLUTION NUMBER 24-100

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING AND RATIFYING THE EMERGENCY PURCHASE BY THE TOWN MANAGER OF SERVICES FROM ANDREW SITEWORK IN THE AMOUNT OF \$104,928.94 FOR THE COMPLETION OF EMERGENCY REPAIRS TO CRESCENT STREET OUTFALLS; AND PROVIDING AN EFFECTIVE DATE.

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

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

WHEREAS, the stormwater system of the Town of Fort Myers Beach sustained damage from Hurricane Ian, which resulted in significant flooding on Crescent Street as a result of high tides and storm surge; and

WHEREAS, Section 2-480(d)(1) of the Fort Myers Beach Code of Ordinances authorizes the Town Manager to make emergency purchases of services when there exists a threat to the health, welfare or safety of the public, provided that such emergency purchases are made with such competition as is practicable under the circumstances; and

WHEREAS, the Town Manager was advised by the Utilities Director of the threat to the health, welfare and safety of the Town's residents in writing due to the continued flooding and condition of the outfalls on Crescent Street; and

WHEREAS, Town Manager thereafter certified the need for an emergency purchase of the needed services and authorized repairs to Crescent Street on an emergency basis to be performed by Andrew Sitework as part of its Tier 1 stormwater improvements, which were to be completed as work under a previously competitively bid contract; and

WHEREAS, Section 2-480(d)(2) requires the Town Manager to submit any emergency purchase in excess of \$25,000.00 to the town attorney for review and to the Town Council for approval and ratification, as soon as practicable after the purchase.

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

Section 1. The above recitals are true and correct and are hereby incorporated by reference as though fully set forth herein and are hereby adopted as the legislative and administrative findings of the Town Council.

Section 2. This Resolution approves and ratifies the emergency purchase authorized by the Town Manager in the amount of \$104,928.94 for the Crescent Street outfall repairs performed by Andrew Sitework.

Section 3. This resolution shall take effect immediately upon its adoption by the Town Council of the Town of Fort Myers Beach.

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 roll call vote, the result was as follows:

Dan Allers, Mayor	_____
Jim Atterholt, Vice Mayor	_____
John R. King, Council Member	_____
Scott Safford, Council Member	_____
Karen Woodson, Council Member	_____

ADOPTED this 3rd day of June, 2024 by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH

Dan Allers, Mayor

ATTEST:

Amy Baker, Town Clerk

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

Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this 3rd day June, 2024.

REQUEST/JUSTIFICATION FOR EMERGENCY PURCHASE
(ATTACH ADDITIONAL PAGES IF NECESSARY)

REQUESTER NAME: Mark Ashton DATE: May 16, 2024
DEPT/INSTITUTION: Utilities PHONE: 239-765-0202
AGENCY/OFFICE: _____ REQUISITION #: _____

NATURE, CAUSE OF THE EMERGENCY. Explain what the emergency is and/or what caused the emergency situation to exist.

The Crescent Street outfall repairs involved four duckbill check valves and one in-line backflow prevention valve that were damaged as a result of Hurricane Ian. The repairs were urgently needed to mitigate flooding on Crescent Street caused by high tide and storm surge. Andrew Sitework was available to perform the repairs as part of the Tier 1 Stormwater improvements. However, it was not a part of the scope of their contract, and it was determined that we were unable to process a change order to their contract since the contract was tied to the SRF loan agreement. Hence the need to process this as an emergency purchase rather than a change order.

FINANCIAL/OPERATIONAL DAMAGE TO THE TOWN. Explain the financial or operational damage that will occur if this purchase is not made immediately.

Flooding that would otherwise have been prevented by these repairs would continue to occur on Crescent Street.

REASON NEED WAS NOT ANTICIPATED. State the reason(s) why the need for the purchase was not, or could not be anticipated, so the items could have been procured through normal procedures.

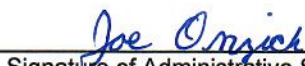
The Town was originally under the impression that the duckbill repairs could be covered under a change order to the Andrew Sitework contract. But it was not learned until recently that the SRF Loan agreement prohibited such a change. The only option at this point is to process this as an emergency purchase.



Signature of Head of Dept.

5-16-24

Date



Signature of Administrative Services/Finance Director

5-16-24

Date



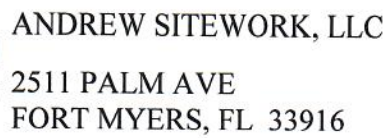
Signature of Town Manager

5/23/24

Date

Any emergency purchase in excess of \$75,000 must be approved by the Town Council as soon as practicable after the purchase.

Agenda Date _____ Attach Copy for Audit _____



Date	Invoice #
3/12/2024	2023-16 #1

P.O. No.	Terms	Project
2023-16 #1		2023-16 - FMB Outfall Val...

Page 210 of 755

1. **Request:**

Meeting Date: June 3, 2024

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING SUPPLEMENTAL TASK AUTHORIZATION #13 OF CONTRACT RFQ-20-22-AD BETWEEN THE TOWN AND AXIS INFRASTRUCTURE FOR AN IMPACT FEE STUDY, FOR A COST OF \$85,065.00; AN PROVIDING FOR AN EFFECTIVE DATE.

Why the action is necessary:

Town Council directed staff to present the proposal on the Council's future consent agenda.

What the action accomplishes:

Approve the agreement with the Axis Infrastructure team to move forward with the Impact Fee Study

2. **Agenda:**

CONSENT AGENDA

3. **Requirement/Purpose:**

State Law requires updates and this study will assist the Town with implementing those updates.

4. **Submitter of Information:**

Frankie Kropacek, Operations & Compliance Director

5. **Background:**

It is clear from the Florida Impact Fee Act, along with general legal principles, that impact fees are not a general revenue raising mechanism. Rather, they are a means to fund the construction of growth-related capital improvements necessary to accommodate new development. Typically, impact fees are passed along to home buyers, renters, and businesses. Therefore, impact fees should be fiscally neutral, striving to balance burdens and benefits.

The Impact Fee Study will utilize the key requirements from Florida Statutes (FS) that will be used as the framework for the impact fee update. An impact fee study must "show your work" with the burden of proof placed on local jurisdictions. This update will address the dual rational nexus test and ensure impact fees are proportional.

Attachments:

1. EXHIBIT A - STA 13 Impact Fee Study
2. FMB Impact Fee Study Proposal Axis Infrastructure
3. 24-125, STA 13 Impact Fee Study Axis Infrastructure ns edits

Financial Impact:

6. **Alternative Action**

7. **Management Recommendations:**

Approve

8. **Recommended Approval:**

Amy Baker, Town Clerk
nancy stuparich, Town Attorney

Created/Initiated - 5/30/2024
Approved - 5/30/2024

Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Approved - 5/30/2024
Final Approval - 5/30/2024

**TOWN OF FORT MYERS BEACH SERVICE AGREEMENT
SUPPLEMENTAL TASK AUTHORIZATION**

X Supplemental Task Authorization

NO.: #13

CONTRACT/PROJECT NAME: Impact Fee Study

CONSULTANT: AXIS INFRASTRUCTURE

PROJECT NO.: _____

SOLICIT NO.: RFQ-20-22-AD

CONTRACT NO.: _____

REQUESTED BY: Frankie Kropacek, Op/Compliance Director DATE OF REQUEST: 05/08/2024

PURCHASE ORDER NUMBER: _____

Upon the completion and execution of this Supplemental Task Authorization by both parties, the Consultant/Provider is authorized to and shall proceed with the following:

EXHIBIT "A" SCOPE OF PROFESSIONAL SERVICE: DATED: 06/03/2024

EXHIBIT "B" COMPENSATION & METHOD OF PAYMENT: DATED: 06/03/2024

EXHIBIT "C" TIME AND SCHEDULE OF PERFORMANCE: DATED: 06/03/2024

EXHIBIT "D" CONSULTANT'S/PROVIDER'S ASSOCIATED
SUB-CONSULTANT(S)/SUB-CONTRACTORS: DATED: 06/03/2024

It is understood and agreed that the acceptance of this modification by the
CONSULTANT/PROVIDER constitutes an accord and satisfaction.

RECOMMENDED:

By: _____
Department Director Date

By: _____
Contracts Manager Date

By: _____
Finance Department Date

ACCEPTED: AXIS INFRASTRUCTURE

By: _____
Consultant/Provider Date

TOWN APPROVAL:

By: _____
Town Manager Date

By: _____
Town Attorney Date

Date to Proceed: _____

NTE of STA: \$85,065.00

Completion Due Date: _____

EXHIBIT A
SCOPE OF PROFESSIONAL SERVICES
Impact Fee Study

Overview

STA NO. 13: Impact Fee Study

The following services will be provided by AXIS INFRASTRUCTURE:

CONSULTANT will complete the following tasks and provide work products via email with attached electronic files (PDFs for public distribution along with Word, Excel, and PowerPoint files for staff).

1. ***Collect Data and Initiate Study*** – The consultant will conduct a group kick-off meeting and then individual interviews. The initial group meeting, including Town administration, finance, planning/building, and infrastructure staff, will establish lines of communication, discuss study goals and political context, review/refine the proposed work schedule, and request additional information related to the project. The consultant will also schedule follow-up interviews with staff to obtain and review detailed supporting documentation for the impact fee study.
2. ***Document Current Demographics and Project Future Development*** – To facilitate consensus building, it is necessary to obtain past and current data on population, housing units, jobs, and square feet of nonresidential floor area in the Town of Fort Myers Beach. The consultant will provide growth projections of development from published sources, such as the Bureau of Economic & Business Research. The consultant will present demographic data and projections to staff, then refine/update the materials prior to public distribution. If desired, the consultant will conduct a remote internet meeting with stakeholders to build consensus on demographic assumptions and the projected increase in development over the next five to ten years.
3. ***Update Infrastructure Standards and Identify Capital Improvements Needed to Accommodate Growth*** - An essential part of the nexus analysis is documenting the need for additional facilities and the growth share of planned capital improvements eligible for impact fee funding. The consultant will review adopted plans, fixed asset inventories, and other studies to establish the relationship between development and capital needs. The consultant will present draft standards and the projected need for growth-related improvements to staff, then stakeholders (if desired), during remote internet meetings.

4. ***Project Revenues and Evaluate Credits*** – Impact fee studies require consideration of two types of “credits”. The first is a revenue credit due to possible double payment situations. This could occur when a property owner will make future tax contributions toward capital facilities funded by impact fees. The consultant will adjust costs as needed to reflect other funding sources such as grants, local taxes, and debt service to avoid potential double payment for the growth share of facilities. The second is a site-specific credit for a required dedication of land and/or improvements provided by a developer, which is also funded by impact fees. Both types of credits will be considered and addressed in the impact fee study and recommended implementation procedures. The consultant will present draft revenue projections and credits to staff during a remote internet meeting.
5. ***Calculate and Present Preliminary Impact Fee Materials*** – The consultant will present to staff a preliminary set of tables documenting impact fee calculations, including a draft impact fee schedule. Based on staff input, the presentation will be revised then discussed with stakeholders (if desired) via a remote internet meeting.
6. ***Prepare and Refine Draft Report*** – The consultant will prepare a draft impact fee report for review by staff. The report will document assumptions and methods, with a series of tables for each component and a narrative to explain the impact fee calculations. This will be a succinct work product providing a paper trail to document all inputs and formulas. We will conduct a remote internet meeting with staff to obtain input, then modify the draft report prior to meeting with stakeholders (if desired).
7. ***Conduct Work Session with Town Council*** – Presentation slides and the draft impact fee study will be distributed to elected officials prior to a work session. The scope includes an in-person presentation of draft findings and recommendations. The consultant will collaborate with elected officials and staff to build consensus on maximum supportable impact fees. The work session will be open to the public, with the recommendation that written comments and suggested changes should be submitted after the work session.
8. ***Prepare Final Report and Presentation*** – Based on Town Council input and public comments, the consultant will prepare a final impact fee report and presentation. Materials will be reviewed by staff during a remote internet meeting, revised if needed, then distributed to elected officials and made available to the public, consistent with standard procedures in The Town of Fort Myers Beach.
9. ***Participate in Public Hearing*** – The consultant will participate in a public hearing for Town Council action on proposed impact fees, including phase-in options as specified in the Florida Impact Fee Act.
10. ***Assist with Ordinance Changes and Implementation Procedures*** – The consultant will review an updated impact fee ordinance prepared by the Town’s attorney and staff. Also, the consultant will assist staff with administrative procedures and “best practices” regarding implementation issues.

Project Schedule and Deliverables

The consultant will complete the impact fee study within a four-to-twelve-month timeframe, according to milestones to be negotiated with staff. Deliverables include electronic PDF files for public distribution and the following files for use by staff:

- 1) Excel file with all impact fee calculations
- 2) PowerPoint slides
 - Demographics and projected development
 - Preliminary impact fee tables
 - Draft fee calculations for Town Council work session
 - Proposed final fees for action by Town Council
- 3) Word documents
 - Draft impact fee report for work session
 - Final impact report for action by Town Council

Tasks for the Town of Fort Myers Beach Impact Fee Study	Meetings	Total Fees & Expenses
1. Collect Data and Initiate Study	On site and Staff Interviews	\$8,975
2. Document Current Demographics and Project Future Development	Virtual Staff and Stakeholders	\$7,520
3. Update Infrastructure Standards and Identify Capital Improvements Needed to Accommodate Growth	Virtual Staff and Stakeholders	\$13,890
4. Project Revenues and Evaluate Credits	Virtual Staff	\$3,905
5. Calculate and Present Preliminary Impact Fee Materials	Virtual Staff and Stakeholders	\$10,445
6. Prepare and Refine Draft Report	Virtual Staff	\$9,895
7. Conduct Work Session with Town Council and Administration	On-site Public Meeting	\$6,060
8. Prepare Final Report and Presentation	Virtual Staff	\$5,475
9. Participation in Public Hearings	On-site Public Meeting	\$5,900
10. Assist with Ordinance Changes and Implementation Procedures	Virtual Staff	\$5,500
	Total Professional Fees	\$77,565
	Total Travel, Materials and Expenses(Est.)	\$7,500
	Total Fees and Expenses	\$85,065

EXHIBIT BDate: 06/03/2024COMPENSATION AND METHOD OF PAYMENT FORImpact Fee StudySection 1. BASIC SERVICES/TASK(S)

The TOWN shall compensate the CONSULTANT for providing and performing the Task(s) set forth and enumerated in EXHIBIT "A", entitled "SCOPE OF PROFESSIONAL SERVICES", as follows:

NOTE: A Lump Sum (L.S.) or Not-to-Exceed (N.T.E.) amount of compensation to be paid the CONSULTANT should be established and set forth below for each task or sub-task described and authorized in Exhibit "A". In accordance with Agreement Article 5.02(2) "Method of Payment", tasks to be paid on a Work-in-Progress payment basis should be identified (WIPP).

Task Number	Task Title	Amount of Compensation	Indicate Basis of Compensation LS or NTE	If Applicable Indicate (W.I.P.P.)
#1	Impact Fee Study	\$85,065.00	N.T.E.	WIPP
TOTAL (Unless list is continued on next page)		\$85,065.00	N.T.E.	

Section 2. ADDITIONAL SERVICES

The TOWN shall compensate the CONSULTANT for such ADDITIONAL SERVICES as are requested and authorized in writing for such amounts or on such a basis as may be mutually agreed to in writing by both parties to this Agreement. The basis and/or amount of compensation to be paid the CONSULTANT for ADDITIONAL SERVICES requested and authorized in writing by the TOWN shall be as set forth in Article 4 of this Agreement.

Should it be mutually agreed to base compensation for ADDITIONAL SERVICES on an hourly rate charge basis for each involved professional and technical employee's wage rate classification, the applicable hourly rates to be charged are as set forth and contained in ATTACHMENT NO. 1 hereto dated 10/01/2020, entitled "CONSULTANT'S PERSONNEL HOURLY RATE SCHEDULE".

Section 3. REIMBURSABLE EXPENSES AND COSTS

When the CONSULTANT'S compensation and method of payment is based on an hourly rate for professional and/or technical personnel, the CONSULTANT shall, in addition to such hourly rates as are set forth in Attachment No. 1 hereto, be entitled to reimbursement of out-of-pocket, non-personnel expenses and costs as set forth in ATTACHMENT NO. 2 hereto 10/01/2020 entitled "NON-PERSONNEL REIMBURSABLE EXPENSES AND COSTS".

ATTACHMENT NO. 1 TO EXHIBIT B

Date: 06/03/2024

CONSULTANT'S PERSONNEL HOURLY RATE SCHEDULE FOR Impact Fee Study

Consultant or Sub-consultant Name: AXIS INFRASTRUCTURE
(A separate Attachment No. 1 should be included for each Sub-Consultant)

(1) Project Position or Classification (Function to be Performed)	(2) Current Direct* Payroll Average Hourly Rate	(3) Multiplier**	(4) Hourly Rate To Be Charged (Column 2x3)
Standard Rate Schedule As Included with Proposal			

*NOTE: Direct Payroll hourly rate means the actual gross hourly wage paid.

**NOTE: Indicate applicable multiplier for indirect personnel costs, general administrative & overhead costs, and profit.

***NOTE: A separate personnel hourly rate schedule should also be attached for each Sub-Consultant listed in Exhibit "D".

ATTACHMENT NO. 2 TO EXHIBIT B

Date: 06/03/2024

NON-PERSONNEL REIMBURSABLE EXPENSES AND COSTS FOR Impact Fee Study

CONSULTANT OR SUB-CONSULTANT NAME: AXIS INFRASTRUCTURE
(A separate Attachment No. 2 should be included for each Sub-Consultant)

[illegible]

NOTE: N.T.E. indicates Not-To-Exceed

EXHIBIT C

Date: 06/03/2024

TIME AND SCHEDULE OF PERFORMANCE FOR

IMPACT FEE STUDY

This EXHIBIT "C" establishes times of completion for the various phases and tasks required to provide and perform the services and work set forth in EXHIBIT "A" of this Agreement. The times and schedule of performance set forth hereinafter is established pursuant to this Agreement.

Phase and/or Task Reference As Enumerated in EXHIBIT "A"	NAME OR TITLE Of Phase and/Task	Number Of Calendar Days For Completion Of Each Phase And/or Task	Cumulative Number Of Calendar Days For Completion From Date of Notice to Proceed
#1	Impact Fee Study	365 days	365 days

EXHIBIT DDate: 06/03/2024

CONSULTANT'S ASSOCIATED SUB-CONSULTANT(S) AND SUBCONTRACTOR(S) FOR
IMPACT FEE STUDY

CONSULTANT has identified the following Sub-Consultant(s) and/or Subcontractor(s) which may be engaged to assist the CONSULTANT in providing and performing services and work on this Project:

(If none, enter the word "none" in the space below.)

Service and/or Work to be Provided or Performed	Name and Address of Individual or Firm				Sub-Consultant Services are Exempted from Prime Consultant's Insurance Coverage	
					Yes	No
	DP Guthrie, LLC					
	Planning Analytics, LLC					



April 15, 2024

Andy Hyatt
Town Manager, Town of Fort Myers Beach
2525 Estero Boulevard
Fort Myers Beach, FL 33931

Introduction

It is clear from the Florida Impact Fee Act, along with general legal principles, that impact fees are not a general revenue raising mechanism. Rather, they are a means to fund the construction of growth-related capital improvements necessary to accommodate new development. Typically, impact fees are passed along to homebuyers, renters, and businesses. Therefore, impact fees should be fiscally neutral, striving to balance burdens and benefits.

The following paragraphs summarize key requirements from Florida Statutes (FS) that will be used as the framework for the impact fee update. An impact fee study must “show your work” with the burden of proof placed on local jurisdictions. This update will address the dual rational nexus test and ensure impact fees are proportional.

Preponderance of the Evidence

FS 163.31801(9) states, “In any action challenging an impact fee ... the government has the burden of proving by a preponderance of the evidence that the imposition or amount of the fee or credit meets the requirements of state legal precedent and this section. The court may not use a deferential standard for the benefit of the government.”

Need for Additional Capital Facilities

FS 163.31801(4)(f) states, “Ensure that the impact fee is proportional and reasonably connected to, or has a rational nexus with, the need for additional capital facilities and the increased impact generated by the new residential or commercial construction.”

Benefits Accruing to New Construction

FS 163.31801(4)(g) states, “Ensure that the impact fee is proportional and reasonably connected to, or has a rational nexus with, the expenditures of the funds collected and the benefits accruing to the new residential or nonresidential construction.”

Recent and Localized Data

FS 163.31801(4)(a) states, “Ensure that the calculation of the impact fee is based on the most recent and localized data.” Jurisdictions with an impact fee study more than five years old can be easily challenged based on this requirement. The Town of Fort Myers Beach is particularly vulnerable because Hurricane Ian disrupted business as usual. The consultant will collaborate with staff and elected officials to ensure best practices are tailored to fit the unique circumstances in the community.

Annual Accounting and Fund Balance

FS 163.31801.(4)(b) states, “Provide for accounting and reporting of impact fee collections and expenditures and account for the revenues and expenditures of such impact fee in a separate accounting fund.”

Scope of Work

The Axis Infrastructure Team, supported by subconsultants DP Guthrie, LLC and Planning Analytics, LLC will serve as the Town’s consultant to complete this project and provide an impact fee study for the Town of Fort Myers Beach, including infrastructure types to be evaluated during an initial on-site visit. Also, the team will collaborate with staff to create a strategy for public participation, including the option of stakeholder meetings.

As shown in the cost proposal, we propose up to ten remote internet meetings and three on-site visits during the study process. The scope of work includes two public presentations to elected officials (one work session and one public meeting for action to implement the impact fees). We will work with staff to identify completion dates for work products and public participation milestones, including adequate lead time for distribution of materials prior to meetings.

Tasks

The consultant will complete the following tasks and provide work products via email with attached electronic files (PDFs for public distribution along with Word, Excel, and PowerPoint files for staff).

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8. Prepare Final Report and Presentation – Based on Town Council input and public comments, the consultant will prepare a final impact fee report and presentation. Materials will be reviewed by staff during a remote internet meeting, revised if needed, then distributed to elected officials and made available to the public, consistent with standard procedures in The Town of Fort Myers Beach.

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 - Final impact report for action by Town Council

Tasks for the Town of Fort Myers Beach Impact Fee Study	Meetings	Total Fees & Expenses
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9. Participation in Public Hearings	On-site Public Meeting	\$5,900
10. Assist with Ordinance Changes and Implementation Procedures	Virtual Staff	\$5,500
	Total Professional Fees	\$77,565
	Total Travel, Materials and Expenses(Est.)	\$7,500
	Total Fees and Expenses	\$85,065

RESOLUTION NUMBER 24-125

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING SUPPLEMENTAL TASK AUTHORIZATION #13 OF CONTRACT RFQ-20-22-AD BETWEEN THE TOWN AND AXIS INFRASTRUCTURE FOR COMPLETION OF AN IMPACT FEE STUDY AT A COST OF \$85,065.00; AND PROVIDING FOR AN EFFECTIVE DATE.

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

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

WHEREAS, the Town of Fort Myers Beach recognizes the importance of adequate and efficient infrastructure and services for a well-functioning community; and

WHEREAS, the Town of Fort Myers Beach has a responsibility to residents and businesses to provide and maintain an acceptable level of service; and

WHEREAS, the Town of Fort Myers Beach must ensure that additional development and visitors to the island are accommodated for and do not negatively impact the ability of the Town to provide services and infrastructure; and

WHEREAS, the Town Council has determined it is in the best interest of the Town to approve the requested Supplemental Task Order #13 of Contract # RFQ-20-22-AD.

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 hereby approves Supplemental Task Order #13 of Contract # RFQ-20-22-AD between the Town and Axis Infrastructure for \$85,065.00. A copy of the Supplemental Task Order #13 of Contract # RFQ-20-22-AD is attached hereto as Attachment "A".

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

Dan Allers, Mayor
Jim Atterholt, Vice Mayor
John R. King, Council Member
Scott Safford, Council Member
Karen Woodson, Council Member

ADOPTED this ____ day of June 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:**

Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this ____ day of June 2024.

1. **Request:**

Meeting Date: June 3, 2024

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING SUPPLEMENTAL TASK AGREEMENT #1 OF CONTRACT RFQ-22-25-AD BETWEEN THE TOWN OF FORT MYERS BEACH AND KIMLEY-HORN AND ASSOCIATES, INC. FOR A COMPREHENSIVE VULNERABILITY ASSESSMENT AND ADAPTATION PLAN FOR A COST OF \$141,000; AUTHORIZING THE TOWN MANAGER TO EXECUTE SUPPLEMENTAL TASK ORDER #1 OF CONTRACT #RFQ-22-25-AD; AND PROVIDING FOR AN EFFECTIVE DATE.

Why the action is necessary:

A Vulnerability Assessment helps a community determine which structural and social assets are likely to be impacted by future coastal flooding and sea level rise.

What the action accomplishes:

Town of Fort Myers Beach agrees to complete the Town of Fort Myers Beach Comprehensive Vulnerability Assessment Project, to include a comprehensive Vulnerability Assessment (VA) pursuant to Section 380.093, Florida Statutes, amend the comprehensive plan to comply with the Peril of Flood statute, and develop an Adaptation Plan in accordance with Florida Department of Environmental Protection Agreement 23PLN117A1.

The Vulnerability Assessment component is broken down into the following sub-components: Exposure Analysis, Sensitivity Analysis, and Focus Area identification and mapping.

An Exposure Analysis identifies baseline risk and allows a community to understand risk in terms of spatial extent and level of exposure.

A Sensitivity Analysis provides an inventory of community assets, such as populations, structures, and economic functions, and quantifies and measures the impacts of sea level rise on those assets.

Once the Exposure and Sensitivity Analyses have been conducted, a community may translate these findings into map-designated areas that constitute the boundaries of the Focus Areas.

Assigning the Focus Areas is an opportunity to conduct public outreach and seek community participation in the Vulnerability Assessment. The Vulnerability Analysis public outreach, including sharing the results of the Exposure and Sensitivity Analyses, is an excellent forum to inform the public and stakeholders about the future risk of sea level rise and potential increased flooding. This will provide the basis for identifying mitigation strategies to address the vulnerability.

The adaptation plan identifies and assesses the impacts that are likely to affect the focus areas, develops goals and actions to best minimize these impacts, and establishes a process to implement those actions. The ultimate goal is for the Town of Fort Myers Beach to be organized to take action, have the tools to take action, and take action to plan for and adapt to the impacts of sea level rise climate change.

2. **Agenda:**

CONSENT AGENDA

3. **Requirement/Purpose:**

Resolution

4. **Submitter of Information:**

Chadd Chustz, Environmental
Projects Manager

5. **Background:**

On May 12, 2021, Governor Ron DeSantis signed Senate Bill 1954 into law. This comprehensive legislation ensures a coordinated approach to Florida's coastal and inland resilience.

The program enhances the State's efforts to protect our inland waterways, coastlines and shores, which serve as invaluable natural defenses against sea level rise. The legislation will yield the largest investment in Florida's history to prepare communities for the impacts of sea level rise, intensified storms and flooding.

The Resilient Florida Program includes a selection of grants that are available to counties, municipalities, special districts with specific responsibilities and regional resilience entities. To effectively address the impacts of flooding and sea level rise that the state faces, eligible applicants may receive funding assistance to analyze and plan for vulnerabilities, as well as implement projects for adaptation and mitigation.

Attachments:

1. 24-123, Kimley Horn STA 1 Vulnerability Analysis ns edits
2. 20240426_STA 1_Comprehensive Vulnerability Assessment and Adaptation Plan_signed
3. 23PLN117 A1 - TOWN OF FT. MYERS BEACH VULNERABILITY ASSESSMENT - EXECUTED
4. 20240202_Fort Myers Beach VA TO
5. 380.093 FS

Financial Impact:

The Florida Department of Environmental Protection grants the Town of Fort Myers Beach \$150,000.00 in Agreement 23PLN117A1 to complete a Comprehensive Vulnerability Assessment and Adaptation Plan accordance with the scope of work set forth in the Agreement.

6. **Alternative Action**

7. **Management Recommendations:**

Approve Supplemental Task Order #1 of Contract # RFQ-24-XX-EN.

8. **Recommended Approval:**

Chadd Chustz, Environmental Projects Manager
Frankie Kropacek, Operations & Compliance Director
nancy stuparich, Town Attorney
Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Created/Initiated - 5/26/2024
Approved - 5/28/2024
Approved - 5/29/2024
Approved - 5/29/2024
Final Approval - 5/29/2024

RESOLUTION NUMBER 24-123

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING SUPPLEMENTAL TASK AGREEMENT #1 OF CONTRACT RFQ-22-25-AD BETWEEN THE TOWN OF FORT MYERS BEACH AND KIMLEY-HORN AND ASSOCIATES, INC. FOR A COMPREHENSIVE VULNERABILITY ASSESSMENT AND ADAPTATION PLAN FOR A COST OF \$141,000; AUTHORIZING THE TOWN MANAGER TO EXECUTE SUPPLEMENTAL TASK ORDER #1 OF CONTRACT #RFQ-22-25-AD; 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, in Chapter 380, Florida Statutes, the Florida Legislature recognizes that the State is particularly vulnerable to adverse impacts from flooding resulting from increases in frequency and duration of rainfall events, storm surge from more frequent and severe weather systems, and sea level rise. Such adverse impacts pose economic, social, environmental, and public health and safety challenges to the state. To most effectively address these challenges, funding should be allocated in a manner that prioritizes addressing the most significant risks; and

WHEREAS, in Chapter 380, Florida Statutes, the Florida Legislature further recognizes that the adverse impacts of flooding and sea level rise affect coastal and inland communities all across the State; and

WHEREAS, a coordinated approach is necessary to maximize the benefit of efforts to address such impacts and to improve the state's resilience to flooding and sea level rise; and

WHEREAS, the Florida Department of Environmental Protection grants the Town of Fort Myers Beach \$150,000.00 in Agreement 23PLN117A1 to complete a Comprehensive Vulnerability Assessment and Adaptation Plan accordance with the scope of work set forth in the Agreement; and

WHEREAS, the Town of Fort Myers Beach agrees to complete the Town of Fort Myers Beach Comprehensive Vulnerability Assessment Project, to include a comprehensive Vulnerability Assessment (VA) pursuant to Section 380.093, Florida Statutes, to amend its Comprehensive Plan to comply with the "Peril of Flood" statute, and to develop an Adaptation Plan in accordance with Florida Department of Environmental Protection Agreement 23PLN117A1; and

WHEREAS, the scope of Supplemental Task Order #1 of Contract # RFQ-22-25-AD satisfies the deliverables set forth in Agreement 23PLN117A1; and

WHEREAS, the Town Council has determined it is in the best interest of the Town of Fort Myers Beach to approve the requested Supplemental Task Order #1 of Contract # RFQ-22-25-AD.

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 hereby approves Supplemental Task Order #1 of Contract # RFQ-22-25-AD between the Town of Fort Myers Beach and Kimley-Horn and Associates, Inc., for \$141,000. A copy of the Supplemental Task Order #1 of Contract # RFQ-22-25-AD is attached hereto as Attachment "A".

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

Dan Allers, Mayor	_____
Jim Atterholt, Vice Mayor	_____
John R. King, Council Member	_____
Scott Safford, Council Member	_____
Karen Woodson, Council Member	_____

ADOPTED this 6th day of June 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:**

Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this ____ day of _____,
2024.

X Supplemental Task Authorization NO.: STA # 1

CONTRACT/PROJECT NAME: Comprehensive Vulnerability Assessment and Adaptation Plan

CONSULTANT: Kimley-Horn and Associates, Inc. PROJECT NO.: _____

SOLICIT NO.: RFQ 22-25-AD CONTRACT NO.: RFQ 22-25-AD

REQUESTED BY: Chadd Chustz, Environmental PM DATE OF REQUEST: 04/26/2024

PURCHASE ORDER NUMBER: _____

EXHIBIT "A"	SCOPE OF PROFESSIONAL SERVICE:	DATED: <u>04/26/2024</u>
EXHIBIT "B"	COMPENSATION & METHOD OF PAYMENT:	DATED: <u>04/26/2024</u>
EXHIBIT "C"	TIME AND SCHEDULE OF PERFORMANCE:	DATED: <u>04/26/2024</u>
EXHIBIT "D"	CONSULTANT'S/PROVIDER'S ASSOCIATED SUB-CONSULTANT(S)/SUB-CONTRACTORS:	DATED: <u>04/26/2024</u>

By: _____ Date _____ By: _____ Date _____

By: _____ Date _____

Finance Department

By: [Signature] 4/26/2024
Consultant/Provider Date

EXHIBIT A

SCOPE OF PROFESSIONAL SERVICES
Comprehensive Vulnerability Assessment and Adaptation Plan – April 2024

Overview

STA NO. 1: Comprehensive Vulnerability Assessment and Adaptation Plan – April 2024

The following services will be provided by Kimley-Horn and Associates, Inc. (“Kimley-Horn”):

TASK 1 – PROJECT MANAGEMENT & ACQUIRE BACKGROUND DATA

Kimley-Horn will develop an overall project management plan and address initial actions prior to conducting a kickoff meeting. A kickoff meeting will be held with the Town to introduce team members, discuss scope of work, project schedule, and establish lines of communication and flow of information. Kimley-Horn will prepare a sign-in sheet, draft project schedule, and a project management plan presentation.

Project management activities under this task includes meetings, project communication, quality control and assurance of submittal documents. This task includes up to six (6) virtual project status meetings to discuss ongoing work product and project deliverables. Kimley-Horn will also prepare quarterly updates in accordance with FDEP grant requirements.

Kimley-Horn review information obtained by the Town for accuracy and use in the Vulnerability Assessment. Critical asset data will be compiled into an FDEP compliant GIS database. Kimley-Horn will identify data gaps, where missing data or low-quality information may limit the VA’s extent or reduce the accuracy of the results.

Kimley-Horn will conduct a data gap analysis to identify any additional data needed to perform the assessment and outline actions taken to rectify potential data gaps. Kimley-Horn will rectify gaps of data identified by statute 380.093 F.S by making a data request of Town, County, or regional sources if necessary. This task does not include field survey of missing data.

Deliverables:

- **A technical report to outline the data compiled by the Town.**
- **A summary report to include recommendations to address the identified data gaps and actions taken to rectify them, if applicable.**
- **GIS files with appropriate metadata of the data compiled, to include locations of critical assets owned or maintained by the Grantee as well as regionally significant assets that are classified and as defined in paragraphs 380.093(2)(a) 1-4, F.S.**

TASK 2 – EXPOSURE ANALYSIS

Kimley-Horn will perform an exposure analysis to identify the depth of water caused by each sea level rise, storm surge, and/or flood scenario. The water surface depths (i.e. flood scenarios) will include the following data: sea level rise projections, current and future storm surge flooding, and rainfall-induced flooding. The scenarios and standards used for the exposure analysis shall be pursuant to s.380.093,

F.S. GIS files and associated metadata will adhere to the Resilient Florida Program's GIS Data Standards, and raw data sources shall be defined within the associated metadata.

Fifteen (15) scenarios in total will be analyzed for critical asset vulnerability to flooding. Additional scenarios can be analyzed as an additional service. The following scenarios are to be analyzed:

1. Present Day 100-year rainfall
2. Present Day 500-year rainfall
3. Present Day Storm Surge
4. Sea Level Rise 2040 Intermediate-low projection
5. Sea Level Rise 2040 Intermediate-high projection
6. Sea Level Rise 2070 Intermediate-low projection
7. Sea Level Rise 2070 Intermediate-high projection
8. Sea Level Rise 2040 Intermediate-low projection with 100-year rainfall
9. Sea Level Rise 2040 Intermediate-high projection with 100-year rainfall
10. Sea Level Rise 2070 Intermediate-low projection with 100-year rainfall
11. Sea Level Rise 2070 Intermediate-high projection with 100-year rainfall
12. Sea Level Rise 2040 Intermediate-low projection with Storm Surge
13. Sea Level Rise 2040 Intermediate-high projection with Storm Surge
14. Sea Level Rise 2070 Intermediate-low projection with Storm Surge
15. Sea Level Rise 2070 Intermediate-high projection with Storm Surge

Flood inundation maps will be developed for each scenario. The inundation maps will be overlaid with the critical asset layers developed in **Task 1** to identify critical infrastructure that is exposed to flooding.

Deliverables:

- **A draft Vulnerability Assessment report that provides details on the modeling process, type of models utilized, and resulting tables and maps illustrating flood depths for each flood scenario.**
- **GIS files with results of the exposure analysis for each flood scenario as well as the appropriate metadata that identifies the methods used to create the flood layers.**

TASK 3 – SENSITIVITY ANALYSIS

Following the Exposure Analysis task, Kimley-Horn will prepare a sensitivity assessment of the critical assets within the Town relative to the impacts of flooding and sea level rise identified in **Task 2**. A paired asset-threat matrix will be prepared based on the inundation modeling scenarios. The analysis will include an evaluation of the impact of flood severity on each asset class and at each flood scenario and assign a risk level based on percentages of land area inundated and number of critical assets affected.

Deliverables:

- **A revised draft Vulnerability Assessment report that provides details on the findings of the exposure analysis, the sensitivity analysis, and includes visual presentation of the data via maps and tables.**

- An initial list of critical and regionally significant assets that are impacted by flooding. The list of critical and regionally significant assets will be ranked by Kimley-Horn and prioritized by the Town.

TASK 4 – FINAL VULNERABILITY ASSESSMENT REPORT, MAPS AND TABLES

Kimley-Horn will prepare a final Vulnerability Assessment (VA) report pursuant to the requirements in s. 380.093, F.S. The final VA report will include the results from the data collection, exposure and sensitivity analyses, as well as a summary of the identified risks and assigned focus areas. The final deliverable will contain a list of critical and regionally significant assets that are impacted by flooding and sea-level rise, specifying for each asset the flooding scenario(s) showing flooding impacts. GIS files and associated meta data will adhere to the Resilient Florida Program's GIS data standards, and raw data sources shall be defined within the associated metadata.

Deliverables:

- **Final Vulnerability Assessment Report that provides details on the results and conclusions, including illustrations via maps and tables, based on the statutory-required scenarios and standards in s. 380.093, F.S.**
- **A final list of critical and regionally significant assets that are impacted by flooding. The list of critical and regionally significant assets will be ranked and identify which flood scenario(s) impacts each asset.**
- **All electronic mapping data used to illustrate flooding and sea level rise impacts identified in the VA, to include the geospatial data in an electronic file format and GIS metadata.**
- **A signed Vulnerability Assessment Compliance Checklist Certification.**

TASK 5 – PERIL OF FLOOD COMPLIANCE

Kimley-Horn, with assistance from Town planning staff, will draft the comprehensive plan coastal management element language in strike-through and underlined format that satisfies the Peril of Flood requirements in paragraph 163.3178(2)(f), F.S. Submittal to the Department of Commerce for preliminary review and response to comment(s) are anticipated to be completed by the Town's Grant Manager and not included as part of this task.

Deliverables:

- **A draft comprehensive plan that includes the following:**
 - **Examples of strategies, principles, and related engineering solutions that reduce flood risk in coastal areas when resulting from high-tide events, storm surge, flash floods, stormwater runoff, and the related impacts of sea-level rise;**
 - **Use of best practices development and redevelopment principles, strategies, and engineering solutions that will result in the removal of coastal real property from flood zone designations established by the Federal Emergency Management Agency;**
 - **Site development techniques and best practices that may reduce losses due to flooding and claims made under flood insurance policies issued in this state;**
 - **A requirement that development or redevelopment within the coastal areas be consistent with, or more stringent than, the flood-resistant construction requirements in the Florida Building Code and applicable flood plain management regulations set forth in 44 C.F.R. Part 60;**

- A requirement that any construction activities seaward of the coastal construction control lines established pursuant to Section 161.053, Florida Statutes, be consistent with Chapter 161, Florida Statutes; and
- Encouragement of local governments to participate in the National Flood Insurance Program Community Rating System administered by the Federal Emergency Management Agency to achieve flood insurance premium discounts for their residents.

TASK 6 – ADAPTATION PLAN

Kimley-Horn will identify focus areas following the guidelines in Chapter 2 of the Florida Adaptation Planning Guidebook. Based on the exposure and sensitivity analyses, Kimley-Horn will assign focus areas to locations or assets that are particularly vulnerable and require the development of adaptation strategies. GIS files and associated metadata will adhere to the Resilient Florida Program's GIS Data Standards and raw data sources shall be defined within the associated metadata.

Kimley-Horn will prepare an Adaptation Plan (AP) that is consistent with the Florida Adaptation Planning Guidebook and includes the following:

- Assessment of adaptive capacities
- Prioritization of adaptation needs
- Identification of adaptation strategies.

The AP will also include a list of prioritized projects for each asset class as defined in subsection 380.093(2), F.S., for consideration and implementation.

Deliverables:

- A report summarizing the areas identified as focus areas, with justification for choosing each area.
- Tables listing each focus area with any critical assets that are contained inside the focus area.
- Maps illustrating the location of each focus area compared to the location of all critical assets within the geographic extent of the study.
- GIS files and associated metadata illustrating geographic boundaries of the identified focus areas.
- Final Adaptation Plan report.
- Final Vulnerability Assessment Report that provides details on the results and conclusions, including illustrations via maps and tables, based on the statutory-required scenarios and standards in s. 380.093, F.S.

Hourly Breakdown:

N/A

Total Cost (of Job): *\$141,000.00*

EXHIBIT BDate: 04/26/2024COMPENSATION AND METHOD OF PAYMENT FORComprehensive Vulnerability Assessment and Adaptation Plan – April 2024Section 1. BASIC SERVICES/TASK(S)

The TOWN shall compensate the CONSULTANT for providing and performing the Task(s) set forth and enumerated in EXHIBIT "A", entitled "SCOPE OF PROFESSIONAL SERVICES", as follows:

NOTE: A Lump Sum (L.S.) or Not-to-Exceed (N.T.E.) amount of compensation to be paid the CONSULTANT should be established and set forth below for each task or sub-task described and authorized in Exhibit "A". In accordance with Agreement Article 5.02(2) "Method of Payment", tasks to be paid on a Work-in-Progress payment basis should be identified (WIPP).

Task Number	Task Title	Amount of Compensation	Indicate Basis of Compensation LS or NTE	If Applicable Indicate (W.I.P.P.)
1	Acquire Background Data and Project Management	\$6,000.00	LS	
2	Exposure Analysis	\$15,000.00	LS	
3	Sensitivity Analysis	\$20,000.00	LS	
4	Final Vulnerability Assessment Report, Maps and Tables	\$20,000.00	LS	
5	Peril of Flood Compliance	\$5,000.00	LS	
6	Adaptation Plan	\$75,000.00	LS	
TOTAL		\$141,000.00	LS	

Section 2. ADDITIONAL SERVICES

The TOWN shall compensate the CONSULTANT for such ADDITIONAL SERVICES as are requested and authorized in writing for such amounts or on such a basis as may be mutually agreed to in writing by both parties to this Agreement. The basis and/or amount of compensation to be paid the CONSULTANT for ADDITIONAL SERVICES requested and authorized in writing by the TOWN shall be as set forth in Article 4 of this Agreement.

Should it be mutually agreed to base compensation for ADDITIONAL SERVICES on an hourly rate charge basis for each involved professional and technical employee's wage rate classification, the applicable hourly rates to be charged are as set forth and contained in ATTACHMENT NO. 1 hereto dated 04/26/2024, entitled "CONSULTANT'S PERSONNEL HOURLY RATE SCHEDULE".

Section 3. REIMBURSABLE EXPENSES AND COSTS

When the CONSULTANT'S compensation and method of payment is based on an hourly rate for professional and/or technical personnel, the CONSULTANT shall, in addition to such hourly rates as are set forth in Attachment No. 1 hereto, be entitled to reimbursement of out-of-pocket, non-personnel expenses and costs as set forth in ATTACHMENT NO. 2 hereto 04/26/2024, entitled "NON-PERSONNEL REIMBURSABLE EXPENSES AND COSTS".

ATTACHMENT NO. 1 TO EXHIBIT B
Ongoing Miscellaneous Professional Services
RFQ-22-25-AD

Date: April 17, 2023

CONSULTANT'S PERSONNEL HOURLY RATE SCHEDULE

Consultant Name: **Kimley- Horn and Associates, Inc.**

(1) Project Position or Classification (Function to be Performed)	(2) Current Direct* Payroll Average Hourly Rate	(3) Multiplier**	(4) Hourly Rate To Be Charged (Column 2x3)
Senior Professional II	\$110.36	3.3	\$364.19
Senior Professional I	\$ 90.28	3.3	\$297.91
Professional II	\$ 77.06	3.3	\$254.30
Professional I	\$ 57.40	3.3	\$189.41
Analyst II	\$ 42.30	3.3	\$139.59
Analyst I	\$ 34.97	3.3	\$115.41
Senior Technical Support Staff	\$ 65.16	3.3	\$215.03
Technical Support Staff	\$ 44.72	3.3	\$147.58
Support Staff	\$ 30.09	3.3	\$ 99.30

*NOTE: Direct Payroll hourly rate means the actual gross hourly wage paid. This rate is an average.

**NOTE: Indicate applicable multiplier for indirect personnel costs, general administrative & overhead costs, and profit.

EXHIBIT C

Date: 04/26/2024

TIME AND SCHEDULE OF PERFORMANCE FOR

Comprehensive Vulnerability Assessment and Adaptation Plan – April 2024

This EXHIBIT “C” establishes times of completion for the various phases and tasks required to provide and perform the services and work set forth in EXHIBIT "A" of this Agreement. The times and schedule of performance set forth hereinafter is established pursuant to this Agreement.

Phase and/or Task Reference As Enumerated in EXHIBIT “A”	NAME OR TITLE Of Phase and/Task	Number Of Calendar Days For Completion Of Each Phase And/or Task	Cumulative Number Of Calendar Days For Completion From Date of Notice to Proceed
1	Acquire Background Data and Project Management	60 days	60 days
2	Exposure Analysis	60 days	120 days
3	Sensitivity Analysis	60 days	180 days
4	Final Vulnerability Assessment Report, Maps and Tables	60 days	240 days
5	Peril of Flood Compliance	30 days	270 days
6	Adaptation Plan	85 days	365 days

EXHIBIT D

Date: 04/26/2024

CONSULTANT'S ASSOCIATED SUB-CONSULTANT(S) AND SUBCONTRACTOR(S) FOR
Comprehensive Vulnerability Assessment and Adaptation Plan – April 2024

CONSULTANT has identified the following Sub-Consultant(s) and/or Subcontractor(s) which may be engaged to assist the CONSULTANT in providing and performing services and work on this Project:

(If none, enter the word "none" in the space below.)

Service and/or Work to be Provided or Performed	Name and Address of Individual or Firm				Sub-Consultant Services are Exempted from Prime Consultant's Insurance Coverage	
					Yes	No
	NONE					

**AMENDMENT NO. 1
TO AGREEMENT NO. 23PLN117
BETWEEN
FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
AND
TOWN OF FORT MYERS BEACH**

This Amendment to Agreement No. 23PLN117 (Agreement) is made by and between the Department of Environmental Protection (Department), an agency of the State of Florida, and Town of Fort Myers Beach (Grantee), on the date last signed below.

WHEREAS, the Department entered into the Agreement with the Grantee for Town of Fort Myers Beach Comprehensive Vulnerability Assessment (Project), effective October 25, 2023; and,

WHEREAS, \$75,000.00 in additional funding for this Project is provided under Line Item 1820 of the 2023-2024 General Appropriations Act; and the total funding for this Agreement is now \$150,000.00; and,

WHEREAS, the reimbursement period for the additional funding provided under Line Item 1820 of the 2023-2024 General Appropriations Act begins on July 1, 2023; and,

WHEREAS, the Department has requested an update to the Performance Measures and Payment Request Schedule in Attachment 3, Grant Work Plan; and,

WHEREAS, the parties have agreed to update the scope of work to the Agreement as set forth herein; and,

WHEREAS, the Department has requested an update to Attachment 1, Attachment 3, and Attachment 5, following updates from the Office of the General Counsel and Resilient Florida Program; and,

NOW THEREFORE, the Department and Grantee hereby agree as follows:

1. Section 5. of the Standard Grant Agreement is hereby revised to the following:

Total Amount of Funding:	Funding Source?	Award #s or Line Item Appropriations:	Amount per Source(s):
	☒ State ☐ Federal	GAA Line Item #1776, FY 22-23	\$75,000.00
	☒ State ☐ Federal	GAA Line Item #1820, FY 23-24	\$75,000.00
	☐ Grantee Match		
Total Amount of Funding + Grantee Match, if any:			\$150,000.00

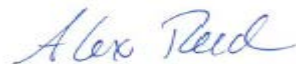
2. Attachment 1, Standard Terms and Conditions, is hereby deleted in its entirety and replaced with Attachment 1-A, Revised Standard Terms and Conditions, attached hereto and made a part of the Agreement. All references in the Agreement to Attachment 1 shall hereinafter refer to Attachment 1-A, Revised Standard Terms and Conditions.
3. Attachment 3, Grant Work Plan, is hereby deleted in its entirety and replaced with Attachment 3-A, Revised Grant Work Plan, as attached to this Amendment and hereby incorporated into the Agreement. All references in the Agreement to Attachment 3 shall hereinafter refer to Attachment 3-A, Revised Grant Work Plan.
4. Attachment 5, Special Audit Requirements, is hereby deleted in its entirety and replaced with Attachment 5-A, Revised Special Audit Requirements, attached hereto and made a part of the Agreement. All references in the Agreement to Attachment 5, shall hereinafter refer to Attachment 5-A, Revised Special Audit Requirements.
5. All other terms and conditions of the Agreement remain in effect. If and to the extent that any inconsistency may appear between the Agreement and this Amendment, the provisions of this Amendment shall control.

The parties agree to the terms and conditions of this Amendment and have duly authorized their respective representatives to sign it on the dates indicated below.

TOWN OF FORT MYERS BEACH

FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION

By: 
Authorized Representative or Designee

By: 
Secretary or Designee

Chadd Chustz, Environmental Project Manager
Print Name and Title

Alex Reed, Director
Print Name and Title

Date: 26 January 2024

Date: 2/1/2024

List of attachments/exhibits included as part of this Amendment:

Specify Type	Letter/ Number	Description
Attachment	1-A	Revised Standard Terms and Conditions (13 pages)
Attachment	3-A	Revised Grant Work Plan (5 pages)
Attachment	5-A	Revised Special Audit Requirements (7 pages)

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
REVISED STANDARD TERMS AND CONDITIONS
APPLICABLE TO GRANT AGREEMENTS**

ATTACHMENT 1-A

1. Entire Agreement.

This Grant Agreement, including any Attachments and Exhibits referred to herein and/or attached hereto (Agreement), constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements, whether written or oral, with respect to such subject matter. Any terms and conditions included on Grantee's forms or invoices shall be null and void.

2. Grant Administration.

- a. Order of Precedence. If there are conflicting provisions among the documents that make up the Agreement, the order of precedence for interpretation of the Agreement is as follows:
 - i. Standard Grant Agreement
 - ii. Attachments other than Attachment 1, in numerical order as designated in the Standard Grant Agreement
 - iii. Attachment 1, Standard Terms and Conditions
 - iv. The Exhibits in the order designated in the Standard Grant Agreement
- b. All approvals, written or verbal, and other written communication among the parties, including all notices, shall be obtained by or sent to the parties' Grant Managers. All written communication shall be by electronic mail, U.S. Mail, a courier delivery service, or delivered in person. Notices shall be considered delivered when reflected by an electronic mail read receipt, a courier service delivery receipt, other mail service delivery receipt, or when receipt is acknowledged by recipient. If the notice is delivered in multiple ways, the notice will be considered delivered at the earliest delivery time.
- c. If a different Grant Manager is designated by either party after execution of this Agreement, notice of the name and contact information of the new Grant Manager will be submitted in writing to the other party and maintained in the respective parties' records. A change of Grant Manager does not require a formal amendment or change order to the Agreement.
- d. This Agreement may be amended, through a formal amendment or a change order, only by a written agreement between both parties. A formal amendment to this Agreement is required for changes which cause any of the following:
 - (1) an increase or decrease in the Agreement funding amount;
 - (2) a change in Grantee's match requirements;
 - (3) a change in the expiration date of the Agreement; and/or
 - (4) changes to the cumulative amount of funding transfers between approved budget categories, as defined in Attachment 3, Grant Work Plan, that exceeds or is expected to exceed twenty percent (20%) of the total budget as last approved by Department.A change order to this Agreement may be used when:
 - (1) task timelines within the current authorized Agreement period change;
 - (2) the cumulative transfer of funds between approved budget categories, as defined in Attachment 3, Grant Work Plan, are less than twenty percent (20%) of the total budget as last approved by Department;
 - (3) changing the current funding source as stated in the Standard Grant Agreement; and/or
 - (4) fund transfers between budget categories for the purposes of meeting match requirements.This Agreement may be amended to provide for additional services if additional funding is made available by the Legislature.
- e. All days in this Agreement are calendar days unless otherwise specified.

3. Agreement Duration.

The term of the Agreement shall begin and end on the dates indicated in the Standard Grant Agreement, unless extended or terminated earlier in accordance with the applicable terms and conditions. The Grantee shall be eligible for reimbursement for work performed on or after the date of execution through the expiration date of this Agreement, unless otherwise specified in Attachment 2, Special Terms and Conditions. However, work performed prior to the execution of this Agreement may be reimbursable or used for match purposes if permitted by the Special Terms and Conditions.

4. Deliverables.

The Grantee agrees to render the services or other units of deliverables as set forth in Attachment 3, Grant Work Plan. The services or other units of deliverables shall be delivered in accordance with the schedule and at the pricing outlined in the Grant Work Plan. Deliverables may be comprised of activities that must be completed prior to Department making payment on that deliverable. The Grantee agrees to perform in accordance with the terms and conditions set forth in this Agreement and all attachments and exhibits incorporated by the Standard Grant Agreement.

5. Performance Measures.

The Grantee warrants that: (1) the services will be performed by qualified personnel; (2) the services will be of the kind and quality described in the Grant Work Plan; (3) the services will be performed in a professional and workmanlike manner in accordance with industry standards and practices; (4) the services shall not and do not knowingly infringe upon the intellectual property rights, or any other proprietary rights, of any third party; and (5) its employees, subcontractors, and/or subgrantees shall comply with any security and safety requirements and processes, if provided by Department, for work done at the Project Location(s). The Department reserves the right to investigate or inspect at any time to determine whether the services or qualifications offered by Grantee meet the Agreement requirements. Notwithstanding any provisions herein to the contrary, written acceptance of a particular deliverable does not foreclose Department's remedies in the event deficiencies in the deliverable cannot be readily measured at the time of delivery.

6. Acceptance of Deliverables.

- a. Acceptance Process. All deliverables must be received and accepted in writing by Department's Grant Manager before payment. The Grantee shall work diligently to correct all deficiencies in the deliverable that remain outstanding, within a reasonable time at Grantee's expense. If Department's Grant Manager does not accept the deliverables within 30 days of receipt, they will be deemed rejected.
- b. Rejection of Deliverables. The Department reserves the right to reject deliverables, as outlined in the Grant Work Plan, as incomplete, inadequate, or unacceptable due, in whole or in part, to Grantee's lack of satisfactory performance under the terms of this Agreement. The Grantee's efforts to correct the rejected deliverables will be at Grantee's sole expense. Failure to fulfill the applicable technical requirements or complete all tasks or activities in accordance with the Grant Work Plan will result in rejection of the deliverable and the associated invoice. Payment for the rejected deliverable will not be issued unless the rejected deliverable is made acceptable to Department in accordance with the Agreement requirements. The Department, at its option, may allow additional time within which Grantee may remedy the objections noted by Department. The Grantee's failure to make adequate or acceptable deliverables after a reasonable opportunity to do so shall constitute an event of default.

7. Financial Consequences for Nonperformance.

- a. Withholding Payment. In addition to the specific consequences explained in the Grant Work Plan and/or Special Terms and Conditions, the State of Florida (State) reserves the right to withhold payment when the Grantee has failed to perform/comply with provisions of this Agreement. None of the financial consequences for nonperformance in this Agreement as more fully described in the Grant Work Plan shall be considered penalties.
- b. Invoice reduction
If Grantee does not meet a deadline for any deliverable, the Department will reduce the invoice by 1% for each day the deadline is missed, unless an extension is approved in writing by the Department.
- c. Corrective Action Plan. If Grantee fails to correct all the deficiencies in a rejected deliverable within the specified timeframe, Department may, in its sole discretion, request that a proposed Corrective Action Plan (CAP) be submitted by Grantee to Department. The Department requests that Grantee specify the outstanding deficiencies in the CAP. All CAPs must be able to be implemented and performed in no more than sixty (60) calendar days.
 - i. The Grantee shall submit a CAP within ten (10) days of the date of the written request from Department. The CAP shall be sent to the Department's Grant Manager for review and approval. Within ten (10) days of receipt of a CAP, Department shall notify Grantee in writing whether the CAP proposed has been accepted. If the CAP is not accepted, Grantee shall have ten (10) days from receipt of Department letter rejecting the proposal to submit a revised proposed CAP. Failure to obtain Department approval of a CAP as specified above may result in Department's termination of this Agreement for cause as authorized in this Agreement.
 - ii. Upon Department's notice of acceptance of a proposed CAP, Grantee shall have ten (10) days to commence implementation of the accepted plan. Acceptance of the proposed CAP by Department does not relieve Grantee of any of its obligations under the Agreement. In the event the CAP fails to correct or eliminate performance deficiencies by Grantee, Department shall retain the right to

require additional or further remedial steps, or to terminate this Agreement for failure to perform. No actions approved by Department or steps taken by Grantee shall preclude Department from subsequently asserting any deficiencies in performance. The Grantee shall continue to implement the CAP until all deficiencies are corrected. Reports on the progress of the CAP will be made to Department as requested by Department's Grant Manager.

- iii. Failure to respond to a Department request for a CAP or failure to correct a deficiency in the performance of the Agreement as specified by Department may result in termination of the Agreement.

8. Payment.

- a. **Payment Process.** Subject to the terms and conditions established by the Agreement, the pricing per deliverable established by the Grant Work Plan, and the billing procedures established by Department, Department agrees to pay Grantee for services rendered in accordance with section 215.422, Florida Statutes (F.S.).
- b. **Taxes.** The Department is exempted from payment of State sales, use taxes and Federal excise taxes. The Grantee, however, shall not be exempted from paying any taxes that it is subject to, including State sales and use taxes, or for payment by Grantee to suppliers for taxes on materials used to fulfill its contractual obligations with Department. The Grantee shall not use Department's exemption number in securing such materials. The Grantee shall be responsible and liable for the payment of all its FICA/Social Security and other taxes resulting from this Agreement.
- c. **Maximum Amount of Agreement.** The maximum amount of compensation under this Agreement, without an amendment, is described in the Standard Grant Agreement. Any additional funds necessary for the completion of this Project are the responsibility of Grantee.
- d. **Reimbursement for Costs.** The Grantee shall be paid on a cost reimbursement basis for all eligible Project costs upon the completion, submittal, and approval of each deliverable identified in the Grant Work Plan. Reimbursement shall be requested on Exhibit C, Payment Request Summary Form. To be eligible for reimbursement, costs must be in compliance with laws, rules, and regulations applicable to expenditures of State funds, including, but not limited to, the Reference Guide for State Expenditures, which can be accessed at the following web address: <https://www.myfloridacfo.com/docs-sf/accounting-and-auditing-libraries/state-agencies/reference-guide-for-state-expenditures.pdf>.
- e. **Rural Communities and Rural Areas of Opportunity.** If Grantee is a county or municipality that qualifies as a "rural community" or "rural area of opportunity" (RAO) as defined in subsection 288.0656(2), F.S., such Grantee may request from the Department that all invoice payments (i.e., cost reimbursement) under this Agreement be directed to the relevant county or municipality or to the RAO itself. The Department will agree to Grantee's request if:
 - i. Grantee demonstrates that it is a county or municipality that qualifies as a "rural community" or "rural area of opportunity" under subsection 288.0656(2), F.S.;
 - ii. Grantee demonstrates current financial hardship using one (1) or more of the "economic distress" factors defined in subsection 288.0656(2)(c), F.S.;
 - iii. Grantee's performance has been verified by the Department, which has determined that Grantee is eligible for cost reimbursement and that Grantee's performance has been completed in accordance with this Agreement's terms and conditions; and
 - iv. Applicable federal and state law(s), rule(s) and regulation(s) allow for such payments.This subsection may not be construed to alter or limit any other applicable provisions of federal or state law, rule, or regulation. A current list of Florida's designated RAOs can be accessed at the following web address: <https://floridajobs.org/community-planning-and-development/rural-community-programs/rural-areas-of-opportunity>.
- f. **Invoice Detail.** All charges for services rendered or for reimbursement of expenses authorized by Department pursuant to the Grant Work Plan shall be submitted to Department in sufficient detail for a proper pre-audit and post-audit to be performed. The Grantee shall only invoice Department for deliverables that are completed in accordance with the Grant Work Plan.
- g. **State Funds Documentation.** Pursuant to section 216.1366, F.S., if Contractor meets the definition of a non-profit organization under section 215.97(2)(m), F.S., Contractor must provide the Department with documentation that indicates the amount of state funds:
 - i. Allocated to be used during the full term of the contract or agreement for remuneration to any member of the board of directors or an officer of Contractor.
 - ii. Allocated under each payment by the public agency to be used for remuneration of any member of the board of directors or an officer of the Contractor.

Attachment 1-A

3 of 13

The documentation must indicate the amounts and recipients of the remuneration. Such information must be posted on the State's contract tracking system and maintained pursuant to section 215.985, F.S., and must be posted on the Contractor's website, if Contractor maintains a website.

- h. Interim Payments. Interim payments may be made by Department, at its discretion, if the completion of deliverables to date have first been accepted in writing by Department's Grant Manager.
- i. Final Payment Request. A final payment request should be submitted to Department no later than sixty (60) days following the expiration date of the Agreement to ensure the availability of funds for payment. However, all work performed pursuant to the Grant Work Plan must be performed on or before the expiration date of the Agreement.
- j. Annual Appropriation Contingency. The State's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature. This Agreement is not a commitment of future appropriations. Authorization for continuation and completion of work and any associated payments may be rescinded, with proper notice, at the discretion of Department if the Legislature reduces or eliminates appropriations.
- k. Interest Rates. All interest rates charged under the Agreement shall be calculated on the prevailing rate used by the State Board of Administration. To obtain the applicable interest rate, please refer to: <https://www.myfloridacfo.com/division/aa/local-governments/judgement-interest-rates>.
- l. Refund of Payments to the Department. Any balance of unobligated funds that have been advanced or paid must be refunded to Department. Any funds paid in excess of the amount to which Grantee or subgrantee is entitled under the terms of the Agreement must be refunded to Department. If this Agreement is funded with federal funds and the Department is required to refund the federal government, the Grantee shall refund the Department its share of those funds.

9. Documentation Required for Cost Reimbursement Grant Agreements and Match.

If Cost Reimbursement or Match is authorized in Attachment 2, Special Terms and Conditions, the following conditions apply. Supporting documentation must be provided to substantiate cost reimbursement or match requirements for the following budget categories:

- a. Salary/Wages. Grantee shall list personnel involved, position classification, direct salary rates, and hours spent on the Project in accordance with Attachment 3, Grant Work Plan in their documentation for reimbursement or match requirements.
- b. Overhead/Indirect/General and Administrative Costs. If Grantee is being reimbursed for or claiming match for multipliers, all multipliers used (i.e., fringe benefits, overhead, indirect, and/or general and administrative rates) shall be supported by audit. If Department determines that multipliers charged by Grantee exceeded the rates supported by audit, Grantee shall be required to reimburse such funds to Department within thirty (30) days of written notification. Interest shall be charged on the excessive rate.
- c. Contractual Costs (Subcontractors). Match or reimbursement requests for payments to subcontractors must be substantiated by copies of invoices with backup documentation identical to that required from Grantee. Subcontracts which involve payments for direct salaries shall clearly identify the personnel involved, salary rate per hour, and hours spent on the Project. All eligible multipliers used (i.e., fringe benefits, overhead, indirect, and/or general and administrative rates) shall be supported by audit. If Department determines that multipliers charged by any subcontractor exceeded the rates supported by audit, Grantee shall be required to reimburse such funds to Department within thirty (30) days of written notification. Interest shall be charged on the excessive rate. Nonconsumable and/or nonexpendable personal property or equipment costing \$5,000 or more purchased for the Project under a subcontract is subject to the requirements set forth in chapters 273 and/or 274, F.S., and Chapter 69I-72, Florida Administrative Code (F.A.C.) and/or Chapter 69I-73, F.A.C., as applicable. The Grantee shall be responsible for maintaining appropriate property records for any subcontracts that include the purchase of equipment as part of the delivery of services. The Grantee shall comply with this requirement and ensure its subcontracts issued under this Agreement, if any, impose this requirement, in writing, on its subcontractors.
 - i. For fixed-price (vendor) subcontracts, the following provisions shall apply: The Grantee may award, on a competitive basis, fixed-price subcontracts to consultants/contractors in performing the work described in Attachment 3, Grant Work Plan. Invoices submitted to Department for fixed-price subcontracted activities shall be supported with a copy of the subcontractor's invoice and a copy of the tabulation form for the competitive procurement process (e.g., Invitation to Bid, Request for Proposals, or other similar competitive procurement document) resulting in the fixed-price subcontract. The Grantee may request approval from Department to award a fixed-price subcontract resulting from procurement methods other than those identified above. In this instance, Grantee shall request the advance written approval from Department's Grant Manager of the fixed price

Attachment 1-A

4 of 13

- negotiated by Grantee. The letter of request shall be supported by a detailed budget and Scope of Services to be performed by the subcontractor. Upon receipt of Department Grant Manager's approval of the fixed-price amount, Grantee may proceed in finalizing the fixed-price subcontract.
- ii. If the procurement is subject to the Consultant's Competitive Negotiation Act under section 287.055, F.S. or the Brooks Act, Grantee must provide documentation clearly evidencing it has complied with the statutory or federal requirements.
 - d. Travel. All requests for match or reimbursement of travel expenses shall be in accordance with section 112.061, F.S.
 - e. Direct Purchase Equipment. For the purposes of this Agreement, Equipment is defined as capital outlay costing \$5,000 or more. Match or reimbursement for Grantee's direct purchase of equipment is subject to specific approval of Department, and does not include any equipment purchased under the delivery of services to be completed by a subcontractor. Include copies of invoices or receipts to document purchases, and a properly completed Exhibit B, Property Reporting Form.
 - f. Rental/Lease of Equipment. Match or reimbursement requests for rental/lease of equipment must include copies of invoices or receipts to document charges.
 - g. Miscellaneous/Other Expenses. If miscellaneous or other expenses, such as materials, supplies, non-excluded phone expenses, reproduction, or mailing, are reimbursable or available for match or reimbursement under the terms of this Agreement, the documentation supporting these expenses must be itemized and include copies of receipts or invoices. Additionally, independent of Grantee's contract obligations to its subcontractor, Department shall not reimburse any of the following types of charges: cell phone usage; attorney's fees or court costs; civil or administrative penalties; or handling fees, such as set percent overages associated with purchasing supplies or equipment.
 - h. Land Acquisition. Reimbursement for the costs associated with acquiring interest and/or rights to real property (including access rights through ingress/egress easements, leases, license agreements, or other site access agreements; and/or obtaining record title ownership of real property through purchase) must be supported by the following, as applicable: Copies of Property Appraisals, Environmental Site Assessments, Surveys and Legal Descriptions, Boundary Maps, Acreage Certification, Title Search Reports, Title Insurance, Closing Statements/Documents, Deeds, Leases, Easements, License Agreements, or other legal instrument documenting acquired property interest and/or rights. If land acquisition costs are used to meet match requirements, Grantee agrees that those funds shall not be used as match for any other Agreement supported by State or Federal funds.

10. Status Reports.

The Grantee shall submit status reports quarterly, unless otherwise specified in the Attachments, on Exhibit A, Progress Report Form, to Department's Grant Manager describing the work performed during the reporting period, problems encountered, problem resolutions, scheduled updates, and proposed work for the next reporting period. Quarterly status reports are due no later than twenty (20) days following the completion of the quarterly reporting period. For the purposes of this reporting requirement, the quarterly reporting periods end on March 31, June 30, September 30 and December 31. The Department will review the required reports submitted by Grantee within thirty (30) days.

11. Retainage.

The following provisions apply if Department withholds retainage under this Agreement:

- a. The Department reserves the right to establish the amount and application of retainage on the work performed under this Agreement up to the maximum percentage described in Attachment 2, Special Terms and Conditions. Retainage may be withheld from each payment to Grantee pending satisfactory completion of work and approval of all deliverables.
- b. If Grantee fails to perform the requested work or fails to perform the work in a satisfactory manner, Grantee shall forfeit its right to payment of the retainage associated with the work. Failure to perform includes, but is not limited to, failure to submit the required deliverables or failure to provide adequate documentation that the work was actually performed. The Department shall provide written notification to Grantee of the failure to perform that shall result in retainage forfeiture. If the Grantee does not correct the failure to perform within the timeframe stated in Department's notice, the retainage will be forfeited to Department.
- c. No retainage shall be released or paid for incomplete work while this Agreement is suspended.
- d. Except as otherwise provided above, Grantee shall be paid the retainage associated with the work, provided Grantee has completed the work and submits an invoice for retainage held in accordance with the invoicing procedures under this Agreement.

12. Insurance.

- a. Insurance Requirements for Sub-Grantees and/or Subcontractors. The Grantee shall require its sub-grantees and/or subcontractors, if any, to maintain insurance coverage of such types and with such terms and limits as described in this Agreement. The Grantee shall require all its sub-grantees and/or subcontractors, if any, to make compliance with the insurance requirements of this Agreement a condition of all contracts that are related to this Agreement. Sub-grantees and/or subcontractors must provide proof of insurance upon request.
- b. Deductibles. The Department shall be exempt from, and in no way liable for, any sums of money representing a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of the Grantee providing such insurance.
- c. Proof of Insurance. Upon execution of this Agreement, Grantee shall provide Department documentation demonstrating the existence and amount for each type of applicable insurance coverage **prior to** performance of any work under this Agreement. Upon receipt of written request from Department, Grantee shall furnish Department with proof of applicable insurance coverage by standard form certificates of insurance, a self-insured authorization, or other certification of self-insurance.
- d. Duty to Maintain Coverage. In the event that any applicable coverage is cancelled by the insurer for any reason, or if Grantee cannot get adequate coverage, Grantee shall immediately notify Department of such cancellation and shall obtain adequate replacement coverage conforming to the requirements herein and provide proof of such replacement coverage within ten (10) days after the cancellation of coverage.
- e. Insurance Trust. If the Grantee's insurance is provided through an insurance trust, the Grantee shall instead add the Department of Environmental Protection, its employees, and officers as an additional covered party everywhere the Agreement requires them to be added as an additional insured.

13. Termination.

- a. Termination for Convenience. When it is in the State's best interest, Department may, at its sole discretion, terminate the Agreement in whole or in part by giving 30 days' written notice to Grantee. The Department shall notify Grantee of the termination for convenience with instructions as to the effective date of termination or the specific stage of work at which the Agreement is to be terminated. The Grantee must submit all invoices for work to be paid under this Agreement within thirty (30) days of the effective date of termination. The Department shall not pay any invoices received after thirty (30) days of the effective date of termination.
- b. Termination for Cause. The Department may terminate this Agreement if any of the events of default described in the Events of Default provisions below occur or in the event that Grantee fails to fulfill any of its other obligations under this Agreement. If, after termination, it is determined that Grantee was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of Department. The rights and remedies of Department in this clause are in addition to any other rights and remedies provided by law or under this Agreement.
- c. Grantee Obligations upon Notice of Termination. After receipt of a notice of termination or partial termination unless as otherwise directed by Department, Grantee shall not furnish any service or deliverable on the date, and to the extent specified, in the notice. However, Grantee shall continue work on any portion of the Agreement not terminated. If the Agreement is terminated before performance is completed, Grantee shall be paid only for that work satisfactorily performed for which costs can be substantiated. The Grantee shall not be entitled to recover any cancellation charges or lost profits.
- d. Continuation of Prepaid Services. If Department has paid for any services prior to the expiration, cancellation, or termination of the Agreement, Grantee shall continue to provide Department with those services for which it has already been paid or, at Department's discretion, Grantee shall provide a refund for services that have been paid for but not rendered.
- e. Transition of Services Upon Termination, Expiration, or Cancellation of the Agreement. If services provided under the Agreement are being transitioned to another provider(s), Grantee shall assist in the smooth transition of Agreement services to the subsequent provider(s). This requirement is at a minimum an affirmative obligation to cooperate with the new provider(s), however additional requirements may be outlined in the Grant Work Plan. The Grantee shall not perform any services after Agreement expiration or termination, except as necessary to complete the transition or continued portion of the Agreement, if any.

14. Notice of Default.

If Grantee defaults in the performance of any covenant or obligation contained in the Agreement, including, any of the events of default, Department shall provide notice to Grantee and an opportunity to cure that is reasonable under the circumstances. This notice shall state the nature of the failure to perform and provide a time certain for correcting the failure. The notice will also provide that, should the Grantee fail to perform within the time provided, Grantee will be found in default, and Department may terminate the Agreement effective as of the date of receipt of the default notice.

15. Events of Default.

Provided such failure is not the fault of Department or outside the reasonable control of Grantee, the following non-exclusive list of events, acts, or omissions, shall constitute events of default:

- a. The commitment of any material breach of this Agreement by Grantee, including failure to timely deliver a material deliverable, failure to perform the minimal level of services required for a deliverable, discontinuance of the performance of the work, failure to resume work that has been discontinued within a reasonable time after notice to do so, or abandonment of the Agreement;
- b. The commitment of any material misrepresentation or omission in any materials, or discovery by the Department of such, made by the Grantee in this Agreement or in its application for funding;
- c. Failure to submit any of the reports required by this Agreement or having submitted any report with incorrect, incomplete, or insufficient information;
- d. Failure to honor any term of the Agreement;
- e. Failure to abide by any statutory, regulatory, or licensing requirement, including an entry of an order revoking the certificate of authority granted to the Grantee by a state or other licensing authority;
- f. Failure to pay any and all entities, individuals, and furnishing labor or materials, or failure to make payment to any other entities as required by this Agreement;
- g. Employment of an unauthorized alien in the performance of the work, in violation of Section 274 (A) of the Immigration and Nationality Act;
- h. Failure to maintain the insurance required by this Agreement;
- i. One or more of the following circumstances, uncorrected for more than thirty (30) days unless, within the specified 30-day period, Grantee (including its receiver or trustee in bankruptcy) provides to Department adequate assurances, reasonably acceptable to Department, of its continuing ability and willingness to fulfill its obligations under the Agreement:
 - i. Entry of an order for relief under Title 11 of the United States Code;
 - ii. The making by Grantee of a general assignment for the benefit of creditors;
 - iii. The appointment of a general receiver or trustee in bankruptcy of Grantee's business or property; and/or
 - iv. An action by Grantee under any state insolvency or similar law for the purpose of its bankruptcy, reorganization, or liquidation.

16. Suspension of Work.

The Department may, in its sole discretion, suspend any or all activities under the Agreement, at any time, when it is in the best interest of the State to do so. The Department shall provide Grantee written notice outlining the particulars of suspension. Examples of reasons for suspension include, but are not limited to, budgetary constraints, declaration of emergency, or other such circumstances. After receiving a suspension notice, Grantee shall comply with the notice. Within 90 days, or any longer period agreed to by the parties, Department shall either: (1) issue a notice authorizing resumption of work, at which time activity shall resume; or (2) terminate the Agreement. If the Agreement is terminated after 30 days of suspension, the notice of suspension shall be deemed to satisfy the thirty (30) days' notice required for a notice of termination for convenience. Suspension of work shall not entitle Grantee to any additional compensation.

17. Force Majeure.

The Grantee shall not be responsible for delay resulting from its failure to perform if neither the fault nor the negligence of Grantee or its employees or agents contributed to the delay and the delay is due directly to acts of God, wars, acts of public enemies, strikes, fires, floods, or other similar cause wholly beyond Grantee's control, or for any of the foregoing that affect subcontractors or suppliers if no alternate source of supply is available to Grantee. In case of any delay Grantee believes is excusable, Grantee shall notify Department in writing of the delay or potential delay and describe the cause of the delay either (1) within ten days after the cause that creates or will create the delay first arose, if Grantee could reasonably foresee that a delay could occur as a result; or (2) if delay is not reasonably foreseeable, within five days after the date Grantee first had reason to believe that a delay could result. **THE FOREGOING SHALL CONSTITUTE THE GRANTEE'S SOLE REMEDY OR EXCUSE WITH RESPECT TO DELAY.** Providing notice in strict accordance with this paragraph is a condition precedent to such remedy. No claim for damages, other than for an extension of time, shall be asserted against Department. The Grantee shall not be entitled to an increase in the Agreement price or payment of any kind from Department for direct, indirect, consequential, impact or other costs, expenses or damages, including but not limited to costs of acceleration or inefficiency, arising because of delay, disruption, interference, or hindrance from any cause whatsoever. If performance is suspended or delayed, in whole or in part, due to any of the causes described in this paragraph, after the causes have ceased to exist Grantee shall perform at no increased cost, unless Department determines, in its sole

discretion, that the delay will significantly impair the value of the Agreement to Department, in which case Department may: (1) accept allocated performance or deliveries from Grantee, provided that Grantee grants preferential treatment to Department with respect to products subjected to allocation; (2) contract with other sources (without recourse to and by Grantee for the related costs and expenses) to replace all or part of the products or services that are the subject of the delay, which purchases may be deducted from the Agreement quantity; or (3) terminate Agreement in whole or in part.

18. Indemnification.

- a. The Grantee shall be fully liable for the actions of its agents, employees, partners, or subcontractors and shall fully indemnify, defend, and hold harmless Department and its officers, agents, and employees, from suits, actions, damages, and costs of every name and description arising from or relating to:
 - i. personal injury and damage to real or personal tangible property alleged to be caused in whole or in part by Grantee, its agents, employees, partners, or subcontractors; provided, however, that Grantee shall not indemnify for that portion of any loss or damages proximately caused by the negligent act or omission of Department;
 - ii. the Grantee's breach of this Agreement or the negligent acts or omissions of Grantee.
- b. The Grantee's obligations under the preceding paragraph with respect to any legal action are contingent upon Department giving Grantee: (1) written notice of any action or threatened action; (2) the opportunity to take over and settle or defend any such action at Grantee's sole expense; and (3) assistance in defending the action at Grantee's sole expense. The Grantee shall not be liable for any cost, expense, or compromise incurred or made by Department in any legal action without Grantee's prior written consent, which shall not be unreasonably withheld.
- c. Notwithstanding sections a. and b. above, the following is the sole indemnification provision that applies to Grantees that are governmental entities: Each party hereto agrees that it shall be solely responsible for the negligent or wrongful acts of its employees and agents. However, nothing contained herein shall constitute a waiver by either party of its sovereign immunity or the provisions of section 768.28, F.S. Further, nothing herein shall be construed as consent by a state agency or subdivision of the State to be sued by third parties in any matter arising out of any contract or this Agreement.
- d. No provision in this Agreement shall require Department to hold harmless or indemnify Grantee, insure or assume liability for Grantee's negligence, waive Department's sovereign immunity under the laws of Florida, or otherwise impose liability on Department for which it would not otherwise be responsible. Any provision, implication or suggestion to the contrary is null and void.

19. Limitation of Liability.

The Department's liability for any claim arising from this Agreement is limited to compensatory damages in an amount no greater than the sum of the unpaid balance of compensation due for goods or services rendered pursuant to and in compliance with the terms of the Agreement. Such liability is further limited to a cap of \$100,000.

20. Remedies.

Nothing in this Agreement shall be construed to make Grantee liable for force majeure events. Nothing in this Agreement, including financial consequences for nonperformance, shall limit Department's right to pursue its remedies for other types of damages under the Agreement, at law or in equity. The Department may, in addition to other remedies available to it, at law or in equity and upon notice to Grantee, retain such monies from amounts due Grantee as may be necessary to satisfy any claim for damages, penalties, costs and the like asserted by or against it.

21. Waiver.

The delay or failure by Department to exercise or enforce any of its rights under this Agreement shall not constitute or be deemed a waiver of Department's right thereafter to enforce those rights, nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right.

22. Statutory Notices Relating to Unauthorized Employment and Subcontracts.

- a. The Department shall consider the employment by any Grantee of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationality Act. If Grantee/subcontractor knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of this Agreement. The Grantee shall be responsible for including this provision in all subcontracts with private organizations issued as a result of this Agreement.
- b. Pursuant to sections 287.133, 287.134, and 287.137 F.S., the following restrictions apply to persons placed on the convicted vendor list, discriminatory vendor list, or the antitrust violator vendor list:
 - i. Public Entity Crime. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may

not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a Grantee, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in section 287.017, F.S., for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list.

- ii. Discriminatory Vendors. An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.
- iii. Antitrust Violator Vendors. A person or an affiliate who has been placed on the antitrust violator vendor list following a conviction or being held civilly liable for an antitrust violation may not submit a bid, proposal, or reply on any contract to provide any good or services to a public entity; may not submit a bid, proposal, or reply on any contract with a public entity for the construction or repair of a public building or public work; may not submit a bid, proposal, or reply on leases of real property to a public entity; may not be awarded or perform work as a Grantee, supplier, subcontractor, or consultant under a contract with a public entity; and may not transact new business with a public entity.
- iv. Notification. The Grantee shall notify Department if it or any of its suppliers, subcontractors, or consultants have been placed on the convicted vendor list, the discriminatory vendor list, or antitrust violator vendor list during the life of the Agreement. The Florida Department of Management Services is responsible for maintaining the discriminatory vendor list and the antitrust violator vendor list and posts the list on its website. Questions regarding the discriminatory vendor list or antitrust violator vendor list may be directed to the Florida Department of Management Services, Office of Supplier Diversity, at (850) 487-0915.

23. Compliance with Federal, State and Local Laws.

- a. The Grantee and all its agents shall comply with all federal, state and local regulations, including, but not limited to, nondiscrimination, wages, social security, workers' compensation, licenses, and registration requirements. The Grantee shall include this provision in all subcontracts issued as a result of this Agreement.
- b. No person, on the grounds of race, creed, color, religion, national origin, age, gender, or disability, shall be excluded from participation in; be denied the proceeds or benefits of; or be otherwise subjected to discrimination in performance of this Agreement.
- c. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.
- d. Any dispute concerning performance of the Agreement shall be processed as described herein. Jurisdiction for any damages arising under the terms of the Agreement will be in the courts of the State, and venue will be in the Second Judicial Circuit, in and for Leon County. Except as otherwise provided by law, the parties agree to be responsible for their own attorney fees incurred in connection with disputes arising under the terms of this Agreement.

24. Build America, Buy America Act (BABA) - Infrastructure Projects with Federal Funding.

This provision does not apply to Agreements that are wholly funded by Coronavirus State and Local Fiscal Recovery Funds under the American Rescue Plan Act. Also, this provision does not apply where there is a valid waiver in place. However, the provision may apply to funds expended before the waiver or after expiration of the waiver.

If applicable, Recipients or Subrecipients of an award of Federal financial assistance from a program for infrastructure are required to comply with the Build America, Buy America Act (BABA), including the following provisions:

- a. All iron and steel used in the project are produced in the United States--this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;
- b. All manufactured products used in the project are produced in the United States--this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and

- c. All construction materials are manufactured in the United States-this means that all manufacturing processes for the construction material occurred in the United States.

The Buy America preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project but are not an integral part of the structure or permanently affixed to the infrastructure project.

25. Investing in America

Grantees of an award for construction projects in whole or in part by the Bipartisan Infrastructure Law or the Inflation Reduction Act, including the following provision:

- a. Signage Requirements

- a. Investing in America Emblem: The recipient will ensure that a sign is placed at construction sites supported in whole or in part by this award displaying the official Investing in America emblem and must identify the project as a “project funded by President Biden’s Bipartisan Infrastructure Law” or “project funded by President Biden’s Inflation Reduction Act” as applicable. The sign must be placed at construction sites in an easily visible location that can be directly linked to the work taking place and must be maintained in good condition throughout the construction period.

- The recipient will ensure compliance with the guidelines and design specifications provided by EPA for using the official Investing in America emblem available at:

- <https://www.epa.gov/invest/investing-america-signage>.

- b. Procuring Signs: Consistent with section 6002 of RCRA, 42 U.S.C. 6962, and 2 CFR 200.323, recipients are encouraged to use recycled or recovered materials when procuring signs. Signage costs are considered an allowable cost under this assistance agreement provided that the costs associated with signage are reasonable. Additionally, to increase public awareness of projects serving communities where English is not the predominant language, recipients are encouraged to translate the language on signs (excluding the official Investing in America emblem or EPA logo or seal) into the appropriate non-English language(s). The costs of such translation are allowable, provided the costs are reasonable.

26. Scrutinized Companies.

- a. Grantee certifies that it is not on the Scrutinized Companies that Boycott Israel List or engaged in a boycott of Israel. Pursuant to section 287.135, F.S., the Department may immediately terminate this Agreement at its sole option if the Grantee is found to have submitted a false certification; or if the Grantee is placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Agreement.
- b. If this Agreement is for more than one million dollars, the Grantee certifies that it is also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in section 287.135, F.S. Pursuant to section 287.135, F.S., the Department may immediately terminate this Agreement at its sole option if the Grantee is found to have submitted a false certification; or if the Grantee is placed on the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of the Agreement.
- c. As provided in subsection 287.135(8), F.S., if federal law ceases to authorize these contracting prohibitions, then they shall become inoperative.

27. Lobbying and Integrity.

The Grantee agrees that no funds received by it under this Agreement will be expended for the purpose of lobbying the Legislature or a State agency pursuant to section 216.347, F.S., except that pursuant to the requirements of section 287.058(6), F.S., during the term of any executed agreement between Grantee and the State, Grantee may lobby the executive or legislative branch concerning the scope of services, performance, term, or compensation regarding that agreement. The Grantee shall comply with sections 11.062 and 216.347, F.S.

28. Record Keeping.

The Grantee shall maintain books, records and documents directly pertinent to performance under this Agreement in accordance with United States generally accepted accounting principles (US GAAP) consistently applied. The Department, the State, or their authorized representatives shall have access to such records for audit purposes during

the term of this Agreement and for five (5) years following the completion date or termination of the Agreement. In the event that any work is subcontracted, Grantee shall similarly require each subcontractor to maintain and allow access to such records for audit purposes. Upon request of Department's Inspector General, or other authorized State official, Grantee shall provide any type of information the Inspector General deems relevant to Grantee's integrity or responsibility. Such information may include, but shall not be limited to, Grantee's business or financial records, documents, or files of any type or form that refer to or relate to Agreement. The Grantee shall retain such records for the longer of: (1) three years after the expiration of the Agreement; or (2) the period required by the General Records Schedules maintained by the Florida Department of State (available at: <http://dos.myflorida.com/library-archives/records-management/general-records-schedules/>).

29. Audits.

- a. Inspector General. The Grantee understands its duty, pursuant to section 20.055(5), F.S., to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing. The Grantee will comply with this duty and ensure that its sub-grantees and/or subcontractors issued under this Agreement, if any, impose this requirement, in writing, on its sub-grantees and/or subcontractors, respectively.
- b. Physical Access and Inspection. Department personnel shall be given access to and may observe and inspect work being performed under this Agreement, with reasonable notice and during normal business hours, including by any of the following methods:
 - i. Grantee shall provide access to any location or facility on which Grantee is performing work, or storing or staging equipment, materials or documents;
 - ii. Grantee shall permit inspection of any facility, equipment, practices, or operations required in performance of any work pursuant to this Agreement; and,
 - iii. Grantee shall allow and facilitate sampling and monitoring of any substances, soils, materials or parameters at any location reasonable or necessary to assure compliance with any work or legal requirements pursuant to this Agreement.
- c. Special Audit Requirements. The Grantee shall comply with the applicable provisions contained in Attachment 5, Special Audit Requirements. Each amendment that authorizes a funding increase or decrease shall include an updated copy of Exhibit 1, to Attachment 5. If Department fails to provide an updated copy of Exhibit 1 to include in each amendment that authorizes a funding increase or decrease, Grantee shall request one from the Department's Grants Manager. The Grantee shall consider the type of financial assistance (federal and/or state) identified in Attachment 5, Exhibit 1 and determine whether the terms of Federal and/or Florida Single Audit Act Requirements may further apply to lower tier transactions that may be a result of this Agreement. For federal financial assistance, Grantee shall utilize the guidance provided under 2 CFR §200.331 for determining whether the relationship represents that of a subrecipient or vendor. For State financial assistance, Grantee shall utilize the form entitled "Checklist for Nonstate Organizations Recipient/Subrecipient vs Vendor Determination" (form number DFS-A2-NS) that can be found under the "Links/Forms" section appearing at the following website: <https://apps.fldfs.com/fsaa>.
- d. Proof of Transactions. In addition to documentation provided to support cost reimbursement as described herein, Department may periodically request additional proof of a transaction to evaluate the appropriateness of costs to the Agreement pursuant to State guidelines (including cost allocation guidelines) and federal, if applicable. Allowable costs and uniform administrative requirements for federal programs can be found under 2 CFR 200. The Department may also request a cost allocation plan in support of its multipliers (overhead, indirect, general administrative costs, and fringe benefits). The Grantee must provide the additional proof within thirty (30) days of such request.
- e. No Commingling of Funds. The accounting systems for all Grantees must ensure that these funds are not commingled with funds from other agencies. Funds from each agency must be accounted for separately. Grantees are prohibited from commingling funds on either a program-by-program or a project-by-project basis. Funds specifically budgeted and/or received for one project may not be used to support another project. Where a Grantee's, or subrecipient's, accounting system cannot comply with this requirement, Grantee, or subrecipient, shall establish a system to provide adequate fund accountability for each project it has been awarded.
 - i. If Department finds that these funds have been commingled, Department shall have the right to demand a refund, either in whole or in part, of the funds provided to Grantee under this Agreement for non-compliance with the material terms of this Agreement. The Grantee, upon such written notification from Department shall refund, and shall forthwith pay to Department, the amount of money demanded by Department. Interest on any refund shall be calculated based on the prevailing rate used by the State Board of Administration. Interest shall be calculated from the date(s) the

original payment(s) are received from Department by Grantee to the date repayment is made by Grantee to Department.

- ii. In the event that the Grantee recovers costs, incurred under this Agreement and reimbursed by Department, from another source(s), Grantee shall reimburse Department for all recovered funds originally provided under this Agreement and interest shall be charged for those recovered costs as calculated on from the date(s) the payment(s) are recovered by Grantee to the date repayment is made to Department.
- iii. Notwithstanding the requirements of this section, the above restrictions on commingling funds do not apply to agreements where payments are made purely on a cost reimbursement basis.

30. Conflict of Interest.

The Grantee covenants that it presently has no interest and shall not acquire any interest which would conflict in any manner or degree with the performance of services required.

31. Independent Contractor.

The Grantee is an independent contractor and is not an employee or agent of Department.

32. Subcontracting.

- a. Unless otherwise specified in the Special Terms and Conditions, all services contracted for are to be performed solely by Grantee.
- b. The Department may, for cause, require the replacement of any Grantee employee, subcontractor, or agent. For cause, includes, but is not limited to, technical or training qualifications, quality of work, change in security status, or non-compliance with an applicable Department policy or other requirement.
- c. The Department may, for cause, deny access to Department's secure information or any facility by any Grantee employee, subcontractor, or agent.
- d. The Department's actions under paragraphs b. or c. shall not relieve Grantee of its obligation to perform all work in compliance with the Agreement. The Grantee shall be responsible for the payment of all monies due under any subcontract. The Department shall not be liable to any subcontractor for any expenses or liabilities incurred under any subcontract and Grantee shall be solely liable to the subcontractor for all expenses and liabilities incurred under any subcontract.
- e. The Department will not deny Grantee's employees, subcontractors, or agents access to meetings within the Department's facilities, unless the basis of Department's denial is safety or security considerations.
- f. The Department supports diversity in its procurement program and requests that all subcontracting opportunities afforded by this Agreement embrace diversity enthusiastically. The award of subcontracts should reflect the full diversity of the citizens of the State. A list of minority-owned firms that could be offered subcontracting opportunities may be obtained by contacting the Office of Supplier Diversity at (850) 487-0915.
- g. The Grantee shall not be liable for any excess costs for a failure to perform, if the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is completely beyond the control of both Grantee and the subcontractor(s), and without the fault or negligence of either, unless the subcontracted products or services were obtainable from other sources in sufficient time for Grantee to meet the required delivery schedule.

33. Guarantee of Parent Company.

If Grantee is a subsidiary of another corporation or other business entity, Grantee asserts that its parent company will guarantee all of the obligations of Grantee for purposes of fulfilling the obligations of Agreement. In the event Grantee is sold during the period the Agreement is in effect, Grantee agrees that it will be a requirement of sale that the new parent company guarantee all of the obligations of Grantee.

34. Survival.

The respective obligations of the parties, which by their nature would continue beyond the termination or expiration of this Agreement, including without limitation, the obligations regarding confidentiality, proprietary interests, and public records, shall survive termination, cancellation, or expiration of this Agreement.

35. Third Parties.

The Department shall not be deemed to assume any liability for the acts, failures to act or negligence of Grantee, its agents, servants, and employees, nor shall Grantee disclaim its own negligence to Department or any third party. This Agreement does not and is not intended to confer any rights or remedies upon any person other than the parties. If Department consents to a subcontract, Grantee will specifically disclose that this Agreement does not create any third-party rights. Further, no third parties shall rely upon any of the rights and obligations created under this Agreement.

36. Severability.

If a court of competent jurisdiction deems any term or condition herein void or unenforceable, the other provisions are severable to that void provision, and shall remain in full force and effect.

37. Grantee's Employees, Subcontractors and Agents.

All Grantee employees, subcontractors, or agents performing work under the Agreement shall be properly trained technicians who meet or exceed any specified training qualifications. Upon request, Grantee shall furnish a copy of technical certification or other proof of qualification. All employees, subcontractors, or agents performing work under Agreement must comply with all security and administrative requirements of Department and shall comply with all controlling laws and regulations relevant to the services they are providing under the Agreement.

38. Assignment.

The Grantee shall not sell, assign, or transfer any of its rights, duties, or obligations under the Agreement, or under any purchase order issued pursuant to the Agreement, without the prior written consent of Department. In the event of any assignment, Grantee remains secondarily liable for performance of the Agreement, unless Department expressly waives such secondary liability. The Department may assign the Agreement with prior written notice to Grantee of its intent to do so.

39. Compensation Report.

If this Agreement is a sole-source, public-private agreement or if the Grantee, through this agreement with the State, annually receive 50% or more of their budget from the State or from a combination of State and Federal funds, the Grantee shall provide an annual report, including the most recent IRS Form 990, detailing the total compensation for the entities' executive leadership teams. Total compensation shall include salary, bonuses, cashed-in leave, cash equivalents, severance pay, retirement benefits, deferred compensation, real-property gifts, and any other payout. The Grantee must also inform the Department of any changes in total executive compensation between the annual reports. All compensation reports must indicate what percent of compensation comes directly from the State or Federal allocations to the Grantee.

40. Execution in Counterparts and Authority to Sign.

This Agreement, any amendments, and/or change orders related to the Agreement, may be executed in counterparts, each of which shall be an original and all of which shall constitute the same instrument. In accordance with the Electronic Signature Act of 1996, electronic signatures, including facsimile transmissions, may be used and shall have the same force and effect as a written signature. Each person signing this Agreement warrants that he or she is duly authorized to do so and to bind the respective party to the Agreement.

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
REVISED GRANT WORK PLAN
AGREEMENT NO. 23PLN117**

ATTACHMENT 3-A

PROJECT TITLE: Town of Fort Myers Beach Comprehensive Vulnerability Assessment

PROJECT LOCATION: The Project is located in Fort Myers Beach within Lee County, Florida.

PROJECT DESCRIPTION:

The Town of Fort Myers Beach (Grantee) will complete the Town of Fort Myers Beach Comprehensive Vulnerability Assessment Project (Project) to include a comprehensive Vulnerability Assessment (VA) pursuant to Section 380.093, Florida Statutes (F.S.). The Project will also amend the comprehensive plan to comply with the Peril of Flood statute and develop an Adaptation Plan (AP).

TASKS AND DELIVERABLES:

Task 1: Acquire Background Data

Description: The Grantee will research and compile the data needed to perform the VA based on the requirements as defined in Section 380.093, F.S. Three main categories of data are required to perform a VA: 1) critical and regionally significant asset inventory, 2) topographic data, and 3) flood scenario-related data. GIS metadata should incorporate a layer for each of the four asset classes as defined in paragraphs 380.093(2)(a)1-4, F.S. GIS files and associated metadata must adhere to the Resilient Florida Program's GIS Data Standards (Exhibit I), and raw data sources shall be defined within the associated metadata. Sea level rise projection data shall include the 2017 National Oceanic and Atmospheric Administration (NOAA) intermediate-high and intermediate-low projections for 2040 and 2070, at a minimum. Other projections can be used at the Grantees discretion. Storm surge data used must be equal to or exceed the 100-year return period (1% annual chance) flood event. In the process of researching background data, the Grantee shall identify data gaps, where missing data or low-quality information may limit the VA's extent or reduce the accuracy of the results. The Grantee shall rectify any gaps of necessary data.

Deliverables: The Grantee will provide the following:

- **1.1:** A technical report to outline the data compiled and findings of the gap analysis;
- **1.2:** A summary report to include recommendations to address the identified data gaps and actions taken to rectify them, if applicable; and
- **1.3:** GIS files with appropriate metadata of the data compiled, to include locations of critical assets owned or maintained by the Grantee as well as regionally significant assets that are classified and as defined in paragraphs 380.093(2)(a) 1-4, F.S.

Task 2: Exposure Analysis

Description: The Grantee will perform an exposure analysis to identify the depth of water caused by each sea level rise, storm surge, and/or flood scenario. The water surface depths (i.e. flood scenarios) used to evaluate assets shall include the following data: tidal flooding, current and future storm surge flooding, rainfall-induced flooding, and compound flooding, all as applicable, as well as the scenarios and standards used for the exposure analysis shall be pursuant to s. 380.093, F.S. GIS files and associated metadata must

adhere to the Resilient Florida Program's GIS Data Standards (Exhibit I), and raw data sources shall be defined within the associated metadata.

Deliverables: The Grantee will provide the following:

- **2.1:** A draft Vulnerability Assessment report that provides details on the modeling process, type of models utilized, and resulting tables and maps illustrating flood depths for each flood scenario; and
- **2.2:** GIS files with results of the exposure analysis for each flood scenario as well as the appropriate metadata that identifies the methods used to create the flood layers.

Task 3: Sensitivity Analysis

Description: The Grantee will perform the sensitivity analysis to measure the impact of flooding on assets and to apply the data from the exposure analysis to the inventory of critical assets created in the Acquire Background Data Task. The sensitivity analysis should include an evaluation of the impact of flood severity on each asset class and at each flood scenario and assign a risk level based on percentages of land area inundated and number of critical assets affected.

Deliverables: The Grantee will provide the following:

- **3.1:** An updated draft Vulnerability Assessment report that provides details on the findings of the exposure analysis and the sensitivity analysis, and includes visual presentation of the data via maps and tables, based on the statutorily-required scenarios and standards; and
- **3.2:** An initial list of critical and regionally significant assets that are impacted by flooding. The list of critical and regionally significant assets must be prioritized by area or immediate need and must identify which flood scenario(s) impacts each asset.

Task 4: Final Vulnerability Assessment Report, Maps, and Tables

Description: The Grantee will finalize the VA report pursuant to the requirements in s. 380.093, F.S. The final VA must include all results from the exposure and sensitivity analyses, as well as a summary of identified risks. It should contain a list of critical and regionally significant assets that are impacted by flooding and sea-level rise, specifying for each asset the flood scenario(s) impacting the asset. GIS files and associated metadata must adhere to the Resilient Florida Program's GIS Data Standards (Exhibit I), and raw data sources shall be defined within the associated metadata.

Deliverables: The Grantee will provide the following:

- **4.1:** Final VA Report that provides details on the results and conclusions, including illustrations via maps and tables, based on the statutorily-required scenarios and standards in s. 380.093, F.S.;
- **4.2:** A final list of critical and regionally significant assets that are impacted by flooding. The list of critical and regionally significant assets must be prioritized by area or immediate need and must identify which flood scenario(s) impacts each asset.;
- **4.3:** All electronic mapping data used to illustrate flooding and sea level rise impacts identified in the VA, to include the geospatial data in an electronic file format and GIS metadata; and
- **4.4:** a signed VA Compliance Checklist Certification.

Task 5: Peril of Flood Compliance

Description: The Project will update the Grantee's comprehensive plan coastal management element language to comply with the Peril of Flood requirements in paragraph 163.3178(2)(f), F.S. Based on the

analysis performed, draft comprehensive plan amendments must address the requirements of paragraph 163.3178(2)(f), F.S., Peril of Flood, if the county or municipality is subject to such requirements. The municipality will draft the comprehensive plan coastal management element language in strike-through and underlined format that satisfies the Peril of Flood requirements in paragraph 163.3178(2)(f), F.S. The Department's Grant Manager will provide the deliverable to the Department of Commerce for preliminary review. The Department of Commerce will have ten (10) working days to review and provide any comment(s) to the Department's Grant Manager, if so desired, but is not required. The intent of any Department of Commerce review at this stage is to provide preliminary feedback only and does not constitute the state agency review required under paragraph 163.3178(2)(f), F.S.

Deliverables: Draft comprehensive plan coastal management element language in strike-through and underlined format that satisfies the Peril of Flood requirements in paragraph 163.3178(2)(f), F.S. The draft comprehensive plan will include the following:

1. Examples of strategies, principles, and related engineering solutions that reduce flood risk in coastal areas when resulting from high-tide events, storm surge, flash floods, stormwater runoff, and the related impacts of sea-level rise;
2. Use of best practices development and redevelopment principles, strategies, and engineering solutions that will result in the removal of coastal real property from flood zone designations established by the Federal Emergency Management Agency;
3. Site development techniques and best practices that may reduce losses due to flooding and claims made under flood insurance policies issued in this state;
4. A requirement that development or redevelopment within the coastal areas be consistent with, or more stringent than, the flood-resistant construction requirements in the Florida Building Code and applicable flood plain management regulations set forth in 44 C.F.R. Part 60; and
5. A requirement that any construction activities seaward of the coastal construction control lines established pursuant to Section 161.053, F.S., be consistent with Chapter 161, F.S.
6. Encouragement of local governments to participate in the National Flood Insurance Program Community Rating System administered by the Federal Emergency Management Agency to achieve flood insurance premium discounts for their residents.

Task 6 Adaptation Plan

Description: The Grantee will complete an AP that is consistent with the Florida Adaptation Planning Guidebook and includes the following: assessment of adaptive capacities, prioritization of adaptation needs, and identification of adaptation strategies. The Grantee may also include optional subtasks such as identifying adaptation action areas, stakeholder engagement, and integrating the proposed AP into existing APs. The AP will also include a list of prioritized projects for each asset class as defined in subsection 380.093(2), F.S., for consideration and implementation.

Deliverables: The Grantee will provide the final AP or Report.

PERFORMANCE MEASURES: The Grantee will submit all deliverables for each task to the Department's Grant Manager on or before the Task Due Date listed in the Project Timeline. The Department's Grant Manager will review the deliverable(s) to verify that they meet the specifications in the Grant Work Plan and the task description, to include any work being performed by any subcontractor(s), and will provide written acceptance or denial of the deliverable(s) to the Grantee within thirty (30) calendar days. Tasks may include multiple deliverables to be completed. The Department will accept partial and full deliverables. Incomplete deliverables will not be accepted. A "partial deliverable" is defined as a deliverable consisting of one (1) or more (but not all) subcomponents listed in the deliverable list for a single task, where such subcomponent(s) are delivered to the Department at one hundred percent (100%) completion. A "full deliverable" is defined as a deliverable comprising all subcomponents listed in the

deliverable list for a single task, all delivered to the Department at one hundred percent (100%) completion. An “incomplete deliverable” is defined as a deliverable for which one hundred percent (100%) completion has not been achieved for any of the subcomponents listed in the deliverable list for a single task. A task is considered one hundred percent (100%) complete upon the Department’s receipt and approval of all deliverable(s) listed within the task and the Department’s approval provided by the Deliverable Acceptance Letter.

The Department’s Grant Manager will provide the deliverable to the Department of Commerce for preliminary review to ensure compliance with paragraph 163.3178(2)(f), F.S. The Department of Commerce will have ten (10) working days to review and provide its comment(s) to the Department’s Grant Manager. This review is to provide preliminary feedback only and does not constitute the state agency review required under Section 163.3184, F.S.

CONSEQUENCES FOR NON-PERFORMANCE: For each task deliverable not received by the Department at one hundred percent (100%) completion and by the specified due date listed in the Agreement’s most recent Project Timeline, the Department will reduce the relevant Task Funding Amount(s) paid to Grantee in proportion to the percentage of the deliverable(s) not fully completed and/or submitted to the Department in a timely manner.

PAYMENT REQUEST SCHEDULE: Following the Grantee’s full or partial completion of a task’s deliverable(s) and acceptance by the Department’s Grant Manager, the Grantee may submit a payment request for cost reimbursement using the Exhibit C, Payment Request Summary Form. All payment requests must be accompanied by the Deliverable Acceptance Letter; the Exhibit A, Progress Report Form, detailing all progress made in the invoice period; and supporting fiscal documentation including match, if applicable. Interim payments will not be accepted. Upon the Department’s receipt of the aforementioned documents and supporting fiscal documentation, the Department’s Grant Manager will have ten (10) working days to review and approve or deny the payment request.

PROJECT TIMELINE AND BUDGET DETAIL: The tasks must be completed by, and all deliverables received by, the corresponding task due date listed in the table below. Cost-reimbursable grant funding must not exceed the budget amounts indicated below. Requests for any change(s) must be submitted prior to the current task due date listed in the Project Timeline. Requests are to be sent via email to the Department’s Grant Manager, with the details of the request and the reason for the request made clear.

Task No.	Task Title	Budget Category	DEP Amount	Match Amount	Total Amount	Task Start Date	Task Due Date
1	Acquire Background Data	Contractual Services	\$15,000	\$0	\$15,000	7/1/2022	3/31/2025
2	Exposure Analysis	Contractual Services	\$15,000	\$0	\$15,000	7/1/2022	3/31/2025
3	Sensitivity Analysis	Contractual Services	\$20,000	\$0	\$20,000	7/1/2022	3/31/2025
4	Final Vulnerability Assessment Report, Maps, and Tables	Contractual Services	\$20,000	\$0	\$20,000	7/1/2022	3/31/2025
5	Peril of Flood Compliance	Contractual Services	\$5,000	\$0	\$5,000	7/1/2022	3/31/2025
6	Adaptation Plan	Contractual Services	\$75,000	\$0	\$75,000	7/1/2023	3/31/2025
Total:			\$150,000	\$0	\$150,000		

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
Revised Special Audit Requirements
(State and Federal Financial Assistance)

Attachment 5-A

The administration of resources awarded by the Department of Environmental Protection (*which may be referred to as the "Department", "DEP", "FDEP" or "Grantor", or other name in the agreement*) to the recipient (*which may be referred to as the "Recipient", "Grantee" or other name in the agreement*) may be subject to audits and/or monitoring by the Department of Environmental Protection, as described in this attachment.

MONITORING

In addition to reviews of audits conducted in accordance with 2 CFR Part 200, Subpart F-Audit Requirements, and Section 215.97, F.S., as revised (see "AUDITS" below), monitoring procedures may include, but not be limited to, on-site visits by DEP Department staff, limited scope audits as defined by 2 CFR 200.425, or other procedures. By entering into this Agreement, the recipient agrees to comply and cooperate with any monitoring procedures/processes deemed appropriate by the Department of Environmental Protection. In the event the Department of Environmental Protection determines that a limited scope audit of the recipient is appropriate, the recipient agrees to comply with any additional instructions provided by the Department to the recipient regarding such audit. The recipient further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Chief Financial Officer (CFO) or Auditor General.

AUDITS

PART I: FEDERALLY FUNDED

This part is applicable if the recipient is a State or local government or a non-profit organization as defined in 2 CFR §200.330

1. A recipient that expends \$750,000 or more in Federal awards in its fiscal year, must have a single or program-specific audit conducted in accordance with the provisions of 2 CFR Part 200, Subpart F. EXHIBIT 1 to this Attachment indicates Federal funds awarded through the Department of Environmental Protection by this Agreement. In determining the federal awards expended in its fiscal year, the recipient shall consider all sources of federal awards, including federal resources received from the Department of Environmental Protection. The determination of amounts of federal awards expended should be in accordance with the guidelines established in 2 CFR 200.502-503. An audit of the recipient conducted by the Auditor General in accordance with the provisions of 2 CFR Part 200.514 will meet the requirements of this part.
2. For the audit requirements addressed in Part I, paragraph 1, the recipient shall fulfill the requirements relative to auditee responsibilities as provided in 2 CFR 200.508-512.
3. A recipient that expends less than \$750,000 in federal awards in its fiscal year is not required to have an audit conducted in accordance with the provisions of 2 CFR Part 200, Subpart F-Audit Requirements. If the recipient expends less than \$750,000 in federal awards in its fiscal year and elects to have an audit conducted in accordance with the provisions of 2 CFR 200, Subpart F-Audit Requirements, the cost of the audit must be paid from non-federal resources (i.e., the cost of such an audit must be paid from recipient resources obtained from other federal entities).
4. The recipient may access information regarding the Catalog of Federal Domestic Assistance (CFDA) via the internet at <https://sam.gov/content/assistance-listings>.

PART II: STATE FUNDED

This part is applicable if the recipient is a nonstate entity as defined by Section 215.97(2), Florida Statutes.

1. In the event that the recipient expends a total amount of state financial assistance equal to or in excess of \$750,000 in any fiscal year of such recipient (for fiscal years ending June 30, 2017, and thereafter), the recipient must have a State single or project-specific audit for such fiscal year in accordance with Section 215.97, F.S.; Rule Chapter 69I-5, F.A.C., State Financial Assistance; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. EXHIBIT 1 to this form lists the state financial assistance awarded through the Department of Environmental Protection by this agreement. In determining the state financial assistance expended in its fiscal year, the recipient shall consider all sources of state financial assistance, including state financial assistance received from the Department of Environmental Protection, other state agencies, and other nonstate entities. State financial assistance does not include federal direct or pass-through awards and resources received by a nonstate entity for Federal program matching requirements.
2. In connection with the audit requirements addressed in Part II, paragraph 1; the recipient shall ensure that the audit complies with the requirements of Section 215.97(8), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2), Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.
3. If the recipient expends less than \$750,000 in state financial assistance in its fiscal year (for fiscal year ending June 30, 2017, and thereafter), an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, is not required. In the event that the recipient expends less than \$750,000 in state financial assistance in its fiscal year, and elects to have an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from the non-state entity's resources (i.e., the cost of such an audit must be paid from the recipient's resources obtained from other than State entities).
4. For information regarding the Florida Catalog of State Financial Assistance (CSFA), a recipient should access the Florida Single Audit Act website located at <https://apps.fldfs.com/fsaa> for assistance. In addition to the above websites, the following websites may be accessed for information: Legislature's Website at <http://www.leg.state.fl.us/Welcome/index.cfm>, State of Florida's website at <http://www.myflorida.com/>, Department of Financial Services' Website at <http://www.fldfs.com/> and the Auditor General's Website at <http://www.myflorida.com/audgen/>.

PART III: OTHER AUDIT REQUIREMENTS

(NOTE: This part would be used to specify any additional audit requirements imposed by the State awarding entity that are solely a matter of that State awarding entity's policy (i.e., the audit is not required by Federal or State laws and is not in conflict with other Federal or State audit requirements). Pursuant to Section 215.97(8), Florida Statutes, State agencies may conduct or arrange for audits of State financial assistance that are in addition to audits conducted in accordance with Section 215.97, Florida Statutes. In such an event, the State awarding agency must arrange for funding the full cost of such additional audits.)

PART IV: REPORT SUBMISSION

1. Copies of reporting packages for audits conducted in accordance with 2 CFR Part 200, Subpart F-Audit Requirements, and required by PART I of this form shall be submitted, when required by 2 CFR 200.512, by or on behalf of the recipient directly to the Federal Audit Clearinghouse (FAC) as provided in 2 CFR 200.36 and 200.512
 - A. The Federal Audit Clearinghouse designated in 2 CFR §200.501(a) (the number of copies required by 2 CFR §200.501(a) should be submitted to the Federal Audit Clearinghouse), at the following address:

By Mail:

Federal Audit Clearinghouse
Bureau of the Census
1201 East 10th Street
Jeffersonville, IN 47132

Submissions of the Single Audit reporting package for fiscal periods ending on or after January 1, 2008, must be submitted using the Federal Clearinghouse's Internet Data Entry System which can be found at <http://harvester.census.gov/facweb/>

2. Copies of financial reporting packages required by PART II of this Attachment shall be submitted by or on behalf of the recipient directly to each of the following:

- A. The Department of Environmental Protection at one of the following addresses:

By Mail:

Audit Director

Florida Department of Environmental Protection
Office of Inspector General, MS 40
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Electronically:

FDEPSingleAudit@dep.state.fl.us

- B. The Auditor General's Office at the following address:

Auditor General
Local Government Audits/342
Claude Pepper Building, Room 401
111 West Madison Street
Tallahassee, Florida 32399-1450

The Auditor General's website (<http://flauditor.gov/>) provides instructions for filing an electronic copy of a financial reporting package.

3. Copies of reports or management letters required by PART III of this Attachment shall be submitted by or on behalf of the recipient directly to the Department of Environmental Protection at one of the following addresses:

By Mail:

Audit Director

Florida Department of Environmental Protection
Office of Inspector General, MS 40
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Electronically:

FDEPSingleAudit@dep.state.fl.us

4. Any reports, management letters, or other information required to be submitted to the Department of Environmental Protection pursuant to this Agreement shall be submitted timely in accordance with 2 CFR 200.512, section 215.97, F.S., and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.

Attachment 5-A

3 of 7

5. Recipients, when submitting financial reporting packages to the Department of Environmental Protection for audits done in accordance with 2 CFR 200, Subpart F-Audit Requirements, or Chapters 10.550 (local governmental entities) and 10.650 (non and for-profit organizations), Rules of the Auditor General, should indicate the date and the reporting package was delivered to the recipient correspondence accompanying the reporting package.

PART V: RECORD RETENTION

The recipient shall retain sufficient records demonstrating its compliance with the terms of the award and this Agreement for a period of **five (5)** years from the date the audit report is issued, and shall allow the Department of Environmental Protection, or its designee, Chief Financial Officer, or Auditor General access to such records upon request. The recipient shall ensure that audit working papers are made available to the Department of Environmental Protection, or its designee, Chief Financial Officer, or Auditor General upon request for a period of **three (3)** years from the date the audit report is issued, unless extended in writing by the Department of Environmental Protection.

EXHIBIT – 1

FUNDS AWARDED TO THE RECIPIENT PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:

Note: If the resources awarded to the recipient represent more than one federal program, provide the same information shown below for each federal program and show total federal resources awarded

Federal Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following:					
Federal Program A	Federal Agency	CFDA Number	CFDA Title	Funding Amount	State Appropriation Category
				\$	
Federal Program B	Federal Agency	CFDA Number	CFDA Title	Funding Amount	State Appropriation Category
				\$	

Note: Of the resources awarded to the recipient represent more than one federal program, list applicable compliance requirements for each federal program in the same manner as shown below:

Federal Program A	First Compliance requirement: i.e.: (what services of purposes resources must be used for)	
	Second Compliance requirement: i.e.: (eligibility requirement for recipients of the resources)	
	Etc.	
	Etc.	
Federal Program B	First Compliance requirement: i.e.: (what services of purposes resources must be used for)	
	Second Compliance requirement: i.e.: (eligibility requirement for recipients of the resources)	
	Etc.	
	Etc.	

Note: If the resources awarded to the recipient for matching represent more than one federal program, provide the same information shown below for each federal program and show total state resources awarded for matching.

State Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following Matching Resources for Federal Programs:					
Federal Program A	Federal Agency	CFDA	CFDA Title	Funding Amount	State Appropriation Category
Federal Program B	Federal Agency	CFDA	CFDA Title	Funding Amount	State Appropriation Category

Note: If the resources awarded to the recipient represent more than one state project, provide the same information shown below for each state project and show total state financial assistance awarded that is subject to section 215.97, F.S.

State Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following Resources Subject to Section 215.97, F.S.:						
State Program A	State Awarding Agency	State Fiscal Year ¹	CSFA Number	CSFA Title or Funding Source Description	Funding Amount	State Appropriation Category
Original Award	Florida Department of Environmental Protection	22.23	37.098	Resilient Florida Programs	\$75,000.00	140078
Amendment 1	Florida Department of Environmental Protection	23.24	37.098	Resilient Florida Programs	\$75,000.00	140078
State Program B	State Awarding Agency	State Fiscal Year ²	CSFA Number	CSFA Title or Funding Source Description	Funding Amount	State Appropriation Category

Total Award	\$150,000.00	
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Note: List applicable compliance requirement in the same manner as illustrated above for federal resources. For matching resources provided by the Department for DEP for federal programs, the requirements might be similar to the requirements for the applicable federal programs. Also, to the extent that different requirements pertain to different amount for the non-federal resources, there may be more than one grouping (i.e. 1, 2, 3, etc.) listed under this category.

For each program identified above, the recipient shall comply with the program requirements described in the Catalog of Federal Domestic Assistance (CFDA) [<https://sam.gov/content/assistance-listings>] and/or the Florida Catalog of State Financial Assistance (CSFA) [<https://apps.fldfs.com/fsaa/searchCatalog.aspx>], and State Projects Compliance Supplement (Part Four: State Projects Compliance Supplement [https://apps.fldfs.com/fsaa/state_project_compliance.aspx]). The

¹ Subject to change by Change Order.

² Subject to change by Change Order.

services/purposes for which the funds are to be used are included in the Agreement's Grant Work Plan. Any match required by the Recipient is clearly indicated in the Agreement.



February 2, 2024

Mr. Chadd Chustz
Environmental Project Manager
Town of Fort Myers Beach
2525 Estero Boulevard
Fort Myers Beach, FL 33931

**RE: *Comprehensive Vulnerability Assessment and Adaptation Plan
Town of Fort Myers Beach, FL***

Dear Mr. Chustz:

Kimley-Horn and Associates, Inc., (hereinafter referred to as “Consultant”, “We” or “Kimley-Horn”), in connection with the Town of Fort Myers Beach “Ongoing Miscellaneous Professional Services RFQ 22-25-AD” is pleased to submit this proposal to the Town of Fort Myers Beach, (hereinafter referred to as “Client” or “Town”), to provide professional services associated with a comprehensive Vulnerability Assessment (VA) and Adaptation Plan (AP) pursuant to Section 380.093, Florida Statutes (F.S.).

Project Understanding

Pursuant to Section 380.093 of the Florida Statutes, the Town of Fort Myers Beach (“Town” or “Client”) is seeking a consultant to prepare a comprehensive Town-wide flood vulnerability and sea level rise assessment. It is Kimley-Horn’s understanding that the Town has received a Resilient Florida Program Planning Grant Award through the Florida Department of Environmental Protection. The Town has requested Kimley-Horn to submit a work order proposal for assistance in the preparation of the comprehensive Vulnerability Assessment.

Scope of Services

Kimley-Horn will provide the services specifically set forth below.

TASK 1 – PROJECT MANAGEMENT & ACQUIRE BACKGROUND DATA

Kimley-Horn will develop an overall project management plan and address initial actions prior to conducting a kickoff meeting. A kickoff meeting will be held with the Town to introduce team members, discuss scope of work, project schedule, and establish lines of communication and flow of information. Kimley-Horn will prepare a sign-in sheet, draft project schedule, and a project management plan presentation.

Project management activities under this task includes meetings, project communication, quality control and assurance of submittal documents. This task includes up to six (6) virtual project status meetings to discuss ongoing work product and project deliverables.

Kimley-Horn will research and compile the data needed to perform the Vulnerability Assessment (VA), based on the requirements as defined in Section 380.093, Florida Statutes (F.S.). Kimley-Horn will solicit information from the Town and review said information for accuracy and use in the vulnerability assessment. Kimley-Horn will gather additional information to perform the vulnerability assessment and identify Critical assets as classified in s. 380.093(2) 1-4, F.S. Critical asset data will be compiled into an FDEP compliant GIS database. Kimley-Horn will conduct a data gap analysis to identify any additional data needed to perform the assessment and outline actions taken to rectify potential data gaps.

Kimley-Horn will collect the following data:

- The Lee County 5-ft Digital Elevation Model (DEM)
- NOAA 2017 SLR Projections (2040 and 2070, Intermediate-Low and Intermediate High)
- Tidal datums from NOAA Tides and Currents
- Storm surge data equal to or exceed the 100-year return period (1% annual chance) flood event
- 100-year return period (1% annual chance) and 500-year return period (0.2% annual chance) 24-hour rainfall projections
- Latest FEMA FIRM panels and Flood Insurance Studies

The Town is to provide the following data as available:

- Latest GIS file of the Town's boundary
- Town owned and/or maintained GIS Critical Asset Inventory, as defined in s. 380.093, F.S.
- Construction and As-Built Documents to support critical facilities listed in the statute (s. 380.093(2) 1-4, F.S)
- Flood Elevation Certificates
- Previous vulnerability studies, comprehensive plans, or stormwater master plans

In the process of researching background data, Kimley-Horn will identify data gaps, where missing data or low-quality information may limit the VA's extent or reduce the accuracy of the results. Kimley-Horn will rectify gaps of data identified by statute 380.093 F.S by making additional data requests of regional and County sources. This task does not include field survey of missing data.

Deliverables:

- **A technical report to outline the data compiled and findings of the gap analysis.**
- **A summary report to include recommendations to address the identified data gaps and actions taken to rectify them, if applicable.**
- **GIS files with appropriate metadata of the data compiled, to include locations of critical assets owned or maintained by the Grantee as well as regionally significant assets that are classified and as defined in paragraphs 380.093(2)(a) 1-4, F.S.**

TASK 2 – EXPOSURE ANALYSIS

Kimley-Horn will perform an exposure analysis to identify the depth of water caused by each sea level rise, storm surge, and/or flood scenario. The water surface depths (i.e. flood scenarios) will include the following data: sea level rise projections, current and future storm surge flooding, and rainfall-induced flooding. The scenarios and standards used for the exposure analysis shall be pursuant to s.380.093,

F.S. GIS files and associated metadata will adhere to the Resilient Florida Program's GIS Data Standards, and raw data sources shall be defined within the associated metadata.

Fifteen (15) scenarios in total will be analyzed for critical asset vulnerability to flooding. Additional scenarios can be analyzed as an additional service. The following scenarios are to be analyzed:

- Present Day 100-year rainfall
- Present Day 500-year rainfall
- Present Day Storm Surge
- Sea Level Rise 2040 Intermediate-low projection
- Sea Level Rise 2040 Intermediate-high projection
- Sea Level Rise 2070 Intermediate-low projection
- Sea Level Rise 2070 Intermediate-high projection
- Sea Level Rise 2040 Intermediate-low projection with 100-year rainfall
- Sea Level Rise 2040 Intermediate-high projection with 100-year rainfall
- Sea Level Rise 2070 Intermediate-low projection with 100-year rainfall
- Sea Level Rise 2070 Intermediate-high projection with 100-year rainfall
- Sea Level Rise 2040 Intermediate-low projection with Storm Surge
- Sea Level Rise 2040 Intermediate-high projection with Storm Surge
- Sea Level Rise 2070 Intermediate-low projection with Storm Surge
- Sea Level Rise 2070 Intermediate-high projection with Storm Surge

Flood inundation maps will be developed for each scenario. The inundation maps will be overlaid with the critical asset layers developed in **Task 1** to identify critical infrastructure that is exposed to flooding.

Deliverables:

- A draft **Vulnerability Assessment** report that provides details on the modeling process, type of models utilized, and resulting tables and maps illustrating flood depths for each flood scenario.
- GIS files with results of the exposure analysis for each flood scenario as well as the appropriate metadata that identifies the methods used to create the flood layers.

TASK 3 – SENSITIVITY ANALYSIS

Following the Exposure Analysis task, Kimley-Horn will prepare a sensitivity assessment of the critical assets within the Town relative to the impacts of flooding and sea level rise identified in **Task 2**. A paired asset-threat matrix will be prepared based on the inundation modeling scenarios. The analysis will include an evaluation of the impact of flood severity on each asset class and at each flood scenario and assign a risk level based on percentages of land area inundated and number of critical assets affected.

Deliverables:

- A revised draft **Vulnerability Assessment** report that provides details on the findings of the exposure analysis, the sensitivity analysis, and includes visual presentation of the data via maps and tables.

- An initial list of critical and regionally significant assets that are impacted by flooding. The list of critical and regionally significant assets will be ranked by Kimley-Horn and prioritized by the Town.

TASK 4 – FINAL VULNERABILITY ASSESSMENT REPORT, MAPS AND TABLES

Kimley-Horn will prepare a final Vulnerability Assessment (VA) report pursuant to the requirements in s. 380.093, F.S. The final VA report will include the results from the data collection, exposure and sensitivity analyses, as well as a summary of the identified risks and assigned focus areas. The final deliverable will contain a list of critical and regionally significant assets that are impacted by flooding and sea-level rise, specifying for each asset the flooding scenario(s) showing flooding impacts. GIS files and associated meta data will adhere to the Resilient Florida Program's GIS data standards, and raw data sources shall be defined within the associated metadata.

Deliverables:

- **Final Vulnerability Assessment Report that provides details on the results and conclusions, including illustrations via maps and tables, based on the statutory-required scenarios and standards in s. 380.093, F.S.**
- **A final list of critical and regionally significant assets that are impacted by flooding. The list of critical and regionally significant assets will be ranked and identify which flood scenario(s) impacts each asset.**
- **All electronic mapping data used to illustrate flooding and sea level rise impacts identified in the VA, to include the geospatial data in an electronic file format and GIS metadata.**
- **A signed Vulnerability Assessment Compliance Checklist Certification.**

TASK 5 – PERIL OF FLOOD COMPLIANCE

Kimley-Horn, with assistance from Town planning staff, will draft the comprehensive plan coastal management element language in strike-through and underlined format that satisfies the Peril of Flood requirements in paragraph 163.3178(2)(f), F.S. Submittal to the Department of Commerce for preliminary review and response to comment(s) are anticipated to be completed by the Town's Grant Manager and not included as part of this task.

Deliverables:

- **A draft comprehensive plan that includes the following:**
 - **Examples of strategies, principles, and related engineering solutions that reduce flood risk in coastal areas when resulting from high-tide events, storm surge, flash floods, stormwater runoff, and the related impacts of sea-level rise;**
 - **Use of best practices development and redevelopment principles, strategies, and engineering solutions that will result in the removal of coastal real property from flood zone designations established by the Federal Emergency Management Agency;**
 - **Site development techniques and best practices that may reduce losses due to flooding and claims made under flood insurance policies issued in this state;**

- A requirement that development or redevelopment within the coastal areas be consistent with, or more stringent than, the flood-resistant construction requirements in the Florida Building Code and applicable flood plain management regulations set forth in 44 C.F.R. Part 60;
- A requirement that any construction activities seaward of the coastal construction control lines established pursuant to Section 161.053, Florida Statutes, be consistent with Chapter 161, Florida Statutes; and
- Encouragement of local governments to participate in the National Flood Insurance Program Community Rating System administered by the Federal Emergency Management Agency to achieve flood insurance premium discounts for their residents.

TASK 6 – ADAPTATION PLAN

Kimley-Horn will identify focus areas following the guidelines in Chapter 2 of the Florida Adaptation Planning Guidebook. Based on the exposure and sensitivity analyses, Kimley-Horn will assign focus areas to locations or assets that are particularly vulnerable and require the development of adaptation strategies. GIS files and associated metadata will adhere to the Resilient Florida Program's GIS Data Standards and raw data sources shall be defined within the associated metadata.

Kimley-Horn will prepare an adaptation plan (AP) that is consistent with the Florida Adaptation Planning Guidebook and includes the following:

- assessment of adaptive capacities
- prioritization of adaptation needs
- identification of adaptation strategies.

The AP will also include a list of prioritized projects for each asset class as defined in subsection 380.093(2), F.S., for consideration and implementation.

Deliverables:

- A report summarizing the areas identified as focus areas, with justification for choosing each area.
- Tables listing each focus area with any critical assets that are contained inside the focus area.
- Maps illustrating the location of each focus area compared to the location of all critical assets within the geographic extent of the study.
- GIS files and associated metadata illustrating geographic boundaries of the identified focus areas.
- Final Adaptation Plan report.
- Final Vulnerability Assessment Report that provides details on the results and conclusions, including illustrations via maps and tables, based on the statutory-required scenarios and standards in s. 380.093, F.S.

Assumptions applying to all tasks:

- The Town is responsible for making key staff available during the delivery of this project.
- Deliverables will be issued as a draft for review by the Town. We have estimated an approximate 14-day time frame for the comments. After receiving the comments from the Town, the Consultant will reconcile the comments/edits into a final version. The Consultant will address one round of Town comments.
- The generation of flood inundation extents will be based on the source DEM, no topographic analysis for voids will be conducted. ERPs or projects that have been completed since the publication of the DEM will not be considered.
- The generation of flood inundation extents will be level-pools. No sloped surfaces, transition zones or smoothing of floodplains will be performed.
- The data schema will be compliant with 380.093(3)(c) F.S.

It is anticipated that the Scope of Services will be completed in accordance with the above schedule after Notice to Proceed ("NTP") is received unless there are delays outside of Kimley-Horn's control, such as delays associated with Client and/or regulatory reviews, Client requested changes, etc. This Agreement is made in anticipation of conditions permitting continuous and orderly progress through completion of the services and that Client review times will not exceed seven (7) calendar days. Times for performance may be extended as necessary for delays or suspensions due to circumstances that the Consultant does not control.

Compensation and Schedule

The maximum fee, without prior authorization, for the Scope of Services shall be as shown below. The fees for this project will be lump sum based on deliverables submitted to the Town.

<i>Task</i>	<i>Task Description</i>	<i>Deliverable Schedule</i>	<i>Fee</i>
1	Acquire Background Data and Project Management	2 months from NTP	\$15,000
2	Exposure Analysis	4 months from NTP	\$15,000
3	Sensitivity Analysis	6 months from NTP	\$20,000
4	Final Vulnerability Assessment Report, Maps and Tables	8 months from NTP	\$20,000
5	Peril of Flood Compliance	11 months from NTP	\$5,000
6	Adaptation Plan	12 months from NTP	\$75,000
TOTAL:			\$150,000

Additional Services

Any services not specifically listed in the above Scope of Work are not included in the contracted fees. Should the Client desire additional services, Kimley-Horn will prepare a fee, scope and schedule for the work at the time the services are requested.

Provided by the Town

The Town will provide any information requested by Kimley-Horn in a timely manner to avoid delay of the Project. In addition, the Town will ensure that Client representatives are available for all meetings in order to avoid delay to the Project.

Project Manager

Consultant's Project Manager for this Work Order assignment will be:

Name: Matt Brosman
Title: Project Manager
Email: matt.brosman@kimley-horn.com
Phone: 954-535-5109

Closure

The terms and conditions of Town of Fort Myers Beach "Ongoing Miscellaneous Professional Services RFQ 22-25-AD" contract shall govern this scope of services.

We appreciate this opportunity to submit this proposal. Please contact Stefano Viola at 954-535-5133 if you have any questions.

Very truly yours,



By: Stefano F. Viola P.E.
Vice President



Matt Brosman, P.E., CFM
Project Manager

The 2021 Florida Statutes

[Title XXVIII](#)

[Chapter 380](#)

[View Entire Chapter](#)

NATURAL RESOURCES; CONSERVATION, RECLAMATION, AND USE

LAND AND WATER MANAGEMENT

380.093 Resilient Florida Grant Program; comprehensive statewide flood vulnerability and sea level rise data set and assessment; Statewide Flooding and Sea Level Rise Resilience Plan; regional resilience entities.—

(1) **LEGISLATIVE INTENT.—**

(a) The Legislature recognizes that the state is particularly vulnerable to adverse impacts from flooding resulting from increases in frequency and duration of rainfall events, storm surge from more frequent and severe weather systems, and sea level rise. Such adverse impacts pose economic, social, environmental, and public health and safety challenges to the state. To most effectively address these challenges, funding should be allocated in a manner that prioritizes addressing the most significant risks.

(b) The Legislature further recognizes that the adverse impacts of flooding and sea level rise affect coastal and inland communities all across the state. Consequently, a coordinated approach is necessary to maximize the benefit of efforts to address such impacts and to improve the state's resilience to flooding and sea level rise.

(c) The Legislature further recognizes that to effectively and efficiently address and prepare for the adverse impacts of flooding and sea level rise in the state, it is necessary to conduct a comprehensive statewide assessment of the specific risks posed to the state by flooding and sea level rise and develop a statewide coordinated approach to addressing such risks.

(2) **DEFINITIONS.—**As used in this section, the term:

(a) "Critical asset" includes:

1. Transportation assets and evacuation routes, including airports, bridges, bus terminals, ports, major roadways, marinas, rail facilities, and railroad bridges.

2. Critical infrastructure, including wastewater treatment facilities and lift stations, stormwater treatment facilities and pump stations, drinking water facilities, water utility conveyance systems, electric production and supply facilities, solid and hazardous waste facilities, military installations, communications facilities, and disaster debris management sites.

3. Critical community and emergency facilities, including schools, colleges, universities, community centers, correctional facilities, disaster recovery centers, emergency medical service facilities, emergency operation centers, fire stations, health care facilities, hospitals, law enforcement facilities, local government facilities, logistical staging areas, affordable public housing, risk shelter inventory, and state government facilities.

4. Natural, cultural, and historical resources, including conservation lands, parks, shorelines, surface waters, wetlands, and historical and cultural assets.

(b) "Department" means the Department of Environmental Protection.

(3) **RESILIENT FLORIDA GRANT PROGRAM.—**

(a) The Resilient Florida Grant Program is established within the department.

(b) Subject to appropriation, the department may provide grants to a county or municipality to fund the costs of community resilience planning and necessary data collection for such planning, including comprehensive plan amendments and necessary corresponding analyses that address the requirements of s. [163.3178\(2\)\(f\)](#); vulnerability assessments that identify or address risks of flooding and sea level rise; the development of projects, plans, and policies that allow communities to prepare for threats from flooding and sea level rise; and projects to adapt critical assets to the effects of flooding and sea level rise.

(c) A vulnerability assessment conducted pursuant to paragraph (b) must encompass the entire county or municipality; include all critical assets owned or maintained by the grant applicant; and use the most recent publicly available Digital Elevation Model and generally accepted analysis and modeling techniques. An assessment may encompass a smaller geographic area or include only a portion of the critical assets owned or maintained by the grant applicant with appropriate rationale and upon approval by the department. Locally collected elevation data may also be included as part of the assessment as long as it is submitted to the department pursuant to this paragraph.

1. The assessment must include an analysis of the vulnerability of and risks to critical assets, including regionally significant assets, owned or managed by the county or municipality.

2. Upon completion of a vulnerability assessment, the county or municipality shall submit to the department the following:

a. A report detailing the findings of the assessment.

b. All electronic mapping data used to illustrate flooding and sea level rise impacts identified in the assessment. When submitting such data, the county or municipality shall include:

(I) Geospatial data in an electronic file format suitable for input to the department's mapping tool.

(II) Geographic information system data that has been projected into the appropriate Florida State Plane Coordinate System and that is suitable for the department's mapping tool. The county or municipality must also submit metadata using standards prescribed by the department.

c. A list of critical assets, including regionally significant assets, that are impacted by flooding and sea level rise.

(d) A vulnerability assessment conducted pursuant to paragraph (b) must include all of the following, if applicable:

1. Peril of flood comprehensive plan amendments that address the requirements of s. 163.3178(2)(f), if the county or municipality is subject to such requirements and has not complied with such requirements as determined by the Department of Economic Opportunity.

2. The depth of:

a. Tidal flooding, including future high tide flooding, which must use thresholds published and provided by the department. To the extent practicable, the analysis should also geographically display the number of tidal flood days expected for each scenario and planning horizon.

b. Current and future storm surge flooding using publicly available National Oceanic and Atmospheric Administration or Federal Emergency Management Agency storm surge data. The initial storm surge event used must equal or exceed the current 100-year flood event. Higher frequency storm events may be analyzed to understand the exposure of a critical asset.

c. To the extent practicable, rainfall-induced flooding using spatiotemporal analysis or existing hydrologic and hydraulic modeling results. Future boundary conditions should be modified to consider sea level rise and high tide conditions.

d. To the extent practicable, compound flooding or the combination of tidal, storm surge, and rainfall-induced flooding.

3. The following scenarios and standards:

a. All analyses in the North American Vertical Datum of 1988.

b. At least two local sea level rise scenarios, which must include the 2017 National Oceanic and Atmospheric Administration intermediate-low and intermediate-high sea level rise projections.

c. At least two planning horizons that include planning horizons for the years 2040 and 2070.

d. Local sea level data that has been interpolated between the two closest National Oceanic and Atmospheric Administration tide gauges. Local sea level data may be taken from one such gauge if the gauge has a higher mean sea level. Data taken from an alternate tide gauge may be used with appropriate rationale and department approval, as long as it is publicly available or submitted to the department pursuant to paragraph (b).

(4) COMPREHENSIVE STATEWIDE FLOOD VULNERABILITY AND SEA LEVEL RISE DATA SET AND ASSESSMENT.—

(a) By July 1, 2022, the department shall complete the development of a comprehensive statewide flood vulnerability and sea level rise data set sufficient to conduct a comprehensive statewide flood vulnerability and sea level rise assessment. In developing the data set, the department shall compile, analyze, and incorporate, as appropriate, information related to vulnerability assessments submitted to the department pursuant to subsection (3) or any previously completed assessments that meet the requirements of subsection (3).

1. The Chief Science Officer shall, in coordination with necessary experts and resources, develop statewide sea level rise projections that incorporate temporal and spatial variability, to the extent practicable, for inclusion in the data set. This subparagraph does not supersede regionally adopted projections.

2. The data set must include information necessary to determine the risks to inland and coastal communities, including, but not limited to, elevation, tidal levels, and precipitation.

(b) By July 1, 2023, the department shall complete a comprehensive statewide flood vulnerability and sea level rise assessment that identifies inland and coastal infrastructure, geographic areas, and communities in the state that are vulnerable to flooding and sea level rise and the associated risks.

1. The department shall use the comprehensive statewide flood vulnerability and sea level rise data set to conduct the assessment.

2. The assessment must incorporate local and regional analyses of vulnerabilities and risks, including, as appropriate, local mitigation strategies and postdisaster redevelopment plans.

3. The assessment must include an inventory of critical assets, including regionally significant assets, that are essential for critical government and business functions, national security, public health and safety, the economy, flood and storm protection, water quality management, and wildlife habitat management, and must identify and analyze the vulnerability of and risks to such critical assets. When identifying critical assets for inclusion in the assessment, the department shall also take into consideration the critical assets identified by local governments and submitted to the department pursuant to subsection (3).

(c) The department shall update the comprehensive statewide flood vulnerability and sea level rise data set and assessment every 5 years. The department may update the data set and assessment more frequently if it determines that updates are necessary to maintain the validity of the data set and assessment.

(5) STATEWIDE FLOODING AND SEA LEVEL RISE RESILIENCE PLAN.—

(a) By December 1, 2021, and each December 1 thereafter, the department shall develop a Statewide Flooding and Sea Level Rise Resilience Plan on a 3-year planning horizon and submit it to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The plan must consist of ranked projects that address risks of flooding and sea level rise to coastal and inland communities in the state.

(b) The plan submitted by December 1, 2021, before the comprehensive statewide flood vulnerability and sea level rise assessment is completed, will be a preliminary plan that addresses risks of flooding and sea level rise identified in available local government vulnerability assessments. The plan submitted by December 1, 2022, will be an update to the preliminary plan. The plan submitted by December 1, 2023, and each plan submitted by December 1 thereafter, shall address risks of flooding and sea level rise identified in the comprehensive statewide flood vulnerability and sea level rise assessment.

(c) Each plan submitted by the department pursuant to this subsection must include the following information for each recommended project:

1. A description of the project.

2. The location of the project.

3. An estimate of how long the project will take to complete.

4. An estimate of the cost of the project.

5. The cost-share percentage available for the project.

6. A summary of the priority score assigned to the project.
7. The project sponsor.

(d)1. By September 1, 2021, and each September 1 thereafter, counties and municipalities may submit to the department a list of proposed projects that address risks of flooding or sea level rise identified in vulnerability assessments that meet the requirements of subsection (3). A regional resilience entity may also submit such proposed projects to the department on behalf of one or more member counties or municipalities.

2. By September 1, 2021, and each September 1 thereafter, each water management district and flood control district may submit to the department a list of any proposed projects that mitigate the risks of flooding or sea level rise on water supplies or water resources of the state and a corresponding evaluation of each project.

3. Each project submitted to the department by a county, municipality, regional resilience entity, water management district, or flood control district for consideration by the department for inclusion in the plan must include:

- a. A description of the project.
 - b. The location of the project.
 - c. An estimate of how long the project will take to complete.
 - d. An estimate of the cost of the project.
 - e. The cost-share percentage available for the project.
 - f. The project sponsor.
- (e) Each project included in the plan must have a minimum 50 percent cost share unless the project assists or is within a financially disadvantaged small community. For purposes of this section, the term “financially disadvantaged small community” means:
1. A municipality that has a population of 10,000 or fewer, according to the most recent April 1 population estimates posted on the Office of Economic and Demographic Research’s website, and a per capita annual income that is less than the state’s per capita annual income as shown in the most recent release from the Bureau of the Census of the United States Department of Commerce that includes both measurements; or
 2. A county that has a population of 50,000 or fewer, according to the most recent April 1 population estimates posted on the Office of Economic and Demographic Research’s website, and a per capita annual income that is less than the state’s per capita annual income as shown in the most recent release from the Bureau of the Census of the United States Department of Commerce that includes both measurements.
- (f) To be eligible for inclusion in the plan, a project must have been submitted by a county, municipality, regional resilience entity, water management district, or flood control district pursuant to paragraph (d) or must have been identified in the comprehensive statewide flood vulnerability and sea level rise assessment, as applicable.
- (g) Expenses ineligible for inclusion in the plan include, but are not limited to, expenses associated with:
1. Aesthetic vegetation.
 2. Recreational structures such as piers, docks, and boardwalks.
 3. Water quality components of stormwater and wastewater management systems, except for expenses to mitigate water quality impacts caused by the project or expenses related to water quality which are necessary to obtain a permit for the project.
 4. Maintenance and repair of over-walks.
 5. Park activities and facilities, except expenses to control flooding or erosion.
 6. Navigation construction, operation, and maintenance activities.
 7. Projects that provide only recreational benefits.
- (h) The department shall implement a scoring system for assessing each project eligible for inclusion in the plan pursuant to this subsection.

The scoring system must include the following tiers and associated criteria:

1. Tier 1 must account for 40 percent of the total score and consist of all of the following criteria:
 - a. The degree to which the project addresses the risks posed by flooding and sea level rise identified in the local government vulnerability assessments or the comprehensive statewide flood vulnerability and sea level rise assessment, as applicable.
 - b. The degree to which the project addresses risks to regionally significant assets.
 - c. The degree to which the project reduces risks to areas with an overall higher percentage of vulnerable critical assets.
 - d. The degree to which the project contributes to existing flooding mitigation projects that reduce upland damage costs by incorporating new or enhanced structures or restoration and revegetation projects.
2. Tier 2 must account for 30 percent of the total score and consist of all of the following criteria:
 - a. The degree to which flooding and erosion currently affect the condition of the project area.
 - b. The overall readiness of the project to proceed in a timely manner, considering the project’s readiness for the construction phase of development, the status of required permits, the status of any needed easement acquisition, and the availability of local funding sources.
 - c. The environmental habitat enhancement or inclusion of nature-based options for resilience, with priority given to state or federal critical habitat areas for threatened or endangered species.
 - d. The cost-effectiveness of the project.
3. Tier 3 must account for 20 percent of the total score and consist of all of the following criteria:
 - a. The availability of local, state, and federal matching funds, considering the status of the funding award, and federal authorization, if applicable.
 - b. Previous state commitment and involvement in the project, considering previously funded phases, the total amount of previous state funding, and previous partial appropriations for the proposed project.
 - c. The exceedance of the flood-resistant construction requirements of the Florida Building Code and applicable flood plain management regulations.
4. Tier 4 must account for 10 percent of the total score and consist of all of the following criteria:

- a. The proposed innovative technologies designed to reduce project costs and provide regional collaboration.
 - b. The extent to which the project assists financially disadvantaged communities.
 - (i) The total amount of funding proposed for each year of the plan may not exceed \$100 million. Upon review and subject to appropriation, the Legislature shall approve funding for the projects as specified in the plan. Multiyear projects that receive funding for the first year of the project must be included in subsequent plans and funded until the project is complete, provided that the project sponsor has complied with all contractual obligations and funds are available.
 - (j) The department shall initiate rulemaking by August 1, 2021, to implement this section.
 - (6) REGIONAL RESILIENCE ENTITIES.—Subject to specific legislative appropriation, the department may provide funding for the following purposes to regional entities that are established by general purpose local governments and whose responsibilities include planning for the resilience needs of communities and coordinating intergovernmental solutions to mitigate adverse impacts of flooding and sea level rise:
 - (a) Providing technical assistance to counties and municipalities.
 - (b) Coordinating multijurisdictional vulnerability assessments.
 - (c) Developing project proposals to be submitted for inclusion in the Statewide Flooding and Sea Level Rise Resilience Plan.
- History.—s. 1, ch. 2021-28.

1. **Request:**

Meeting Date: June 3, 2024

Second reading and public hearing on proposed Ordinance 24-13 entitled: ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING DIVISION 3 "UNSAFE BUILDING ABATEMENT CODE" OF ARTICLE I "PROPERTY MAINTENANCE CODES" OF CHAPTER 6 "MAINTENANCE CODES, BUILDING CODES AND COASTAL REGULATIONS" OF THE CODE OF ORDINANCES OF FORT MYERS BEACH, FLORIDA, TO CLARIFY EXISTING PROVISIONS RELATED TO NOTICE AND EXCEPTIONS; TO AUTHORIZE NOTIFICATION BY CONSTRUCTIVE SERVICE; TO INCLUDE ATTORNEY'S FEES AND COSTS AND NOTICE EXPENSES TO THE DEMOLITION LIEN AGAINST THE PROPERTY ON WHICH THE UNSAFE BUILDING WAS LOCATED, AND TO AUTHORIZE USE OF THE UNIFORM METHOD OF COLLECTION FOR COLLECTION OF LIENS; PROVIDING FOR CODIFICATION, SEVERABILITY, SCRIVENER ERRORS, CONFLICTS OF LAW, AND AN EFFECTIVE DATE.

Why the action is necessary:

The passage of the proposed ordinance is necessary to clarify the process of demolition of unsafe properties.

What the action accomplishes:

The proposed ordinance clarifies the steps required to qualify the properties as "unsafe" and fit for demolition, the method of serving notice of the proposed demolition on the property owners of such unsafe properties, and the appeal process, and entitles the town to collect any unpaid demolition costs through the Uniform Method of Collection.

2. **Agenda:**

PUBLIC HEARINGS

3. **Requirement/Purpose:**

Ordinance

4. **Submitter of Information:**

Frankie Kropacek, Operations & Compliance Director

5. **Background:**

Fort Myers Beach (the "Town") residences and businesses suffered significant losses as a result of Hurricane Ian in September 2022, rendering certain properties in the Town unsafe and necessitating a full demolition of those unsafe properties. The Town incorporates the 1985 Standard Unsafe Building Abatement Code into the FMB Unsafe Building Abatement Code and provides procedures for the building official to follow if a structure is determined to be unsafe and requires demolition. The passage of the proposed ordinance will clarify the steps to be taken by the building official in determining whether a property is unsafe and subject to demolition and will ensure adequate notice is provided to the owners of unsafe properties before any further steps are taken, pursuant to the due process requirements. Additionally, the passage of the proposed ordinance will allow the Town to collect any unpaid demolition costs that might be incurred by the town through the Uniform Method of Collection in the future.

Upon completion of the statutory requirements, the Uniform Method of Collection allows a local government to recover money owed to the local government on the tax bill rather than through a foreclosure procedure.

A first reading of the proposed ordinance was completed on May 6, 2024. No changes to the draft ordinance were made between first and second reading.

Attachments:

1. 24-13, Unsafe Building Code Amendment Second Reading May 28, 2024

2. 24-13, Business Impact Estimate - 24-13, revised 4.30.24

Financial Impact:

Unknown

6. **Alternative Action**

7. **Management Recommendations:**

8. **Recommended Approval:**

nancy stuparich, Town Attorney
nancy stuparich, Town Attorney
Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Created/Initiated - 5/23/2024
Approved - 5/29/2024
Approved - 5/29/2024
Final Approval - 5/29/2024

ORDINANCE NO. 24-13

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING DIVISION 3 “UNSAFE BUILDING ABATEMENT CODE” OF ARTICLE I “PROPERTY MAINTENANCE CODES” OF CHAPTER 6 “MAINTENANCE CODES, BUILDING CODES AND COASTAL REGULATIONS” OF THE CODE OF ORDINANCES OF FORT MYERS BEACH, FLORIDA, TO CLARIFY EXISTING PROVISIONS RELATED TO NOTICE AND EXCEPTIONS; TO AUTHORIZE NOTIFICATION BY CONSTRUCTIVE SERVICE; TO INCLUDE ATTORNEY’S FEES AND COSTS AND NOTICE EXPENSES TO THE DEMOLITION LIEN AGAINST THE PROPERTY ON WHICH THE UNSAFE BUILDING WAS LOCATED, AND TO AUTHORIZE USE OF THE UNIFORM METHOD OF COLLECTION FOR COLLECTION OF LIENS; PROVIDING FOR CODIFICATION, SEVERABILITY, SCRIVENER ERRORS, CONFLICTS OF LAW, AND AN EFFECTIVE DATE.

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

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

WHEREAS, on September 28, 2022, residences and businesses in the Town of Fort Myers Beach were destroyed by Hurricane Ian, resulting in the loss of lives, the displacement of lives and catastrophic financial losses; and

WHEREAS, although the Town, residents and businesses have engaged in recovery efforts to repair and rebuild structures in existence prior to Hurricane Ian, the Building Official has identified structures that have sustained significant damage and remain in an unsafe condition; and

WHEREAS, the Town’s “Unsafe Building Abatement Code” incorporates the 1985 Standard Unsafe Building Abatement Code to provide a procedure for the Building Official to follow if a structure is determined to be unsafe and requires demolition, with exceptions; and

WHEREAS, the Town desires to clarify existing language and include additional notice provisions in the existing “Unsafe Building Abatement Code” in the event a structure is determined to be unsafe and requires demolition; and

WHEREAS, because the Town desires to avoid burdening other property owners in the Town with the costs associated with the demolition of unsafe properties, the Town deems it appropriate to assess reasonable attorney’s fees and costs associated with the enforcement of the Unsafe Building Abatement Code and place a lien to cover such attorney’s fees and costs against

the property on which the unsafe building was located, in addition to the costs of all demolition and notice expenses related to such action by the Town; and

WHEREAS, to avoid unnecessary collection costs, the Town desires to also include and specifically authorize the use of the Uniform Method of Collection for collection of any unpaid demolition costs and related attorney's fees and costs and notice expenses related to such action by the Town; and

WHEREAS, on the 6th day of May, 2024, the Town Council held a first reading of the Ordinance and gave full and complete consideration to the request of the proposed ordinance to amend the Unsafe Building Abatement Code, the recommendation of staff, the documents in the record, and the testimony of all interested persons; and

WHEREAS, a Business Impact Estimate was prepared and posted on the City's website as required by Section 166.041(4), Florida Statutes; and

WHEREAS, an advertisement of the public hearing for adoption of the Ordinance was published 10 days prior to the second reading of the proposed Ordinance as required by Section 166.041, Florida Statutes; and

WHEREAS, on the 3rd day of June, 2024, the Town Council held a second reading of the Ordinance; and

WHEREAS, the Town Council determined that adoption of the Ordinance as provided herein is in the best interest of the health, safety and welfare of the public.

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

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

Section 2. That Division 3 "Unsafe Building Abatement Code" of Article I "Property Maintenance Codes" of Chapter 6 "Maintenance Codes, Building Codes and Coastal Regulations" of the Code of Ordinances of Fort Myers Beach, Florida, is hereby amended to read as follows:

DIVISION 3. - UNSAFE BUILDING ABATEMENT CODE

Sec. 6-36. - Adoption; amendments.

~~The following chapters and sections of the 1985 Standard Unsafe Building Abatement Code, as published by Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama 35213-1206, are~~ is hereby adopted by reference and made part of this article, with the exceptions and revisions set forth as follows: in Section 6-37.

Sec. 6-37. – Exceptions and revisions.

a) Section 105 of Chapter I, Administration: ~~is hereby amended as follows:~~

Section 105, relating to the board of adjustment and appeals, is deleted, and replaced by the procedures set forth for the delegation of authority to Lee County's Construction Board of Adjustment and Appeals found in division 2 of article II of this chapter. Any reference to the board of adjustment and appeal as may be in other Chapters shall be amended as provided herein by reference.

Chapter II, Definitions.

b) Sections 302.1.1(4) and 302.1.2-302.1.4 in Chapter III, Inspection and Notice of Noncompliance: ~~are hereby amended as follows:~~

302.1.1(4) A statement advising that any person having any legal interest in the property may appeal the notice by the Building Official to the Lee County Board of Adjustment and Appeals; and that such appeal shall be in writing ~~in the form specified in 401~~ and shall be filed with the Building Official within 30 days from the date of the notice in accordance with Division 2 of Article II of Chapter 6 of the Fort Myers Beach Code of Ordinances and that failure to appeal in the time specified will constitute a waiver of all rights to an administrative hearing.

302.1.2 The notice and all attachments thereto shall be served upon the property owner of record as identified on the records of the Lee County Property Appraiser and posted on the property ~~in a conspicuous location. A copy of the notice and all attachments thereto shall also be served on any person determined from official public records to have a legal interest in the property.~~ Failure of the building official to serve any person or entity ~~herein required to be served~~ other than the owner of record shall not invalidate any proceedings hereunder nor shall it relieve any other person or entity served from any obligation imposed on that person or entity ~~him~~.

302.1.3 The notice shall be served either personally by hand delivery by Town staff or a process server or by certified mail, postage prepaid, return receipt requested, to ~~each person at the address as it appears on the official public records. If addresses are not available on any person required to be served the notice, the notice~~ the owner of record at the address shown for the owner on the Lee County Property Appraiser's website. Notice shall also be addressed to such person shall be mailed to the address of the building or structure involved in the proceedings. The failure of any person or entity to receive notice, either actual or constructive, other than the owner of record, shall not invalidate any proceedings under this section. Service by certified or registered mail as herein described shall be effective on the date the notice was received as indicated on the return receipt.

302.1.4 Proof of service of the notice shall be by written affidavit ~~declaration~~ indicating the date, time and manner in which service was made, ~~and signed by the person served~~

~~on by the return receipt.~~ In the event service is not perfected by certified mailing or hand delivery, the property owner shall be subject to constructive service using the methods as provided in Chapter 49, Florida Statutes.

~~Chapter IV, Appeals.~~

~~Chapter V, Rules of Procedure for Hearing Appeals.~~

c) Chapter VI, Implementation: is hereby amended as follows:

601.2.2 Subsequent to posting the building, the building official may cause the building to be repaired to the extent required to render it safe or if the notice required demolition, to cause the building or structure to be demolished and all debris removed from the premise. The cost of repair or demolition, and all reasonable attorney's fees and costs, and costs of notices related thereto, and all collection costs and expenses and the administrative fee as provided hereinafter, shall constitute a lien on the property and shall be collected in a manner provided by law.

d) Chapter VII, Recovery of Cost of Repair or Demolition: is hereby amended as follows:

~~Exception:~~ If the building official proceeds to demolish the building or structure as set forth herein, the town council shall, by proper resolution, assess the entire cost of such demolition and removal, and all reasonable attorney's fees and costs, and costs of notices related thereto, and all collection costs and expenses plus an administrative fee in an amount as adopted by the town council by resolution, against the real property upon which such cost and fee was incurred, which assessment, when made, shall constitute a lien upon the property superior to all others except taxes. The lien shall be filed in the public land records of the county. The resolution of assessment and lien must indicate the nature of the assessment and lien, the lien amount, and an accurate description of the property affected. The lien becomes effective on the date of filing such notice of lien and shall bear interest from such date at the rate of ten percent per annum until paid. If the resulting lien remains unpaid ~~is not satisfied within two years after the date it is filed,~~ ~~then~~ the town may:

- (1) File suit to foreclose on the lien property as provided by law in suits to foreclose mortgages; or
- (2) Follow any other lawful process or procedure available for enforcement or collection of the lien, including but not limited to the Uniform Method of Collection in accordance with any general law of the state relating to the enforcement or collection of municipal liens.

Secs. 6-378—6-40. - Reserved.

Section 3. That the town council intends that the provisions of this ordinance be made a part of the Fort Myers Beach, Florida, Code of Ordinances, and that sections herein may be

renumbered or re-lettered and the words or phrases herein may be changed to accomplish codification; regardless, typographical errors that do not affect intent may be corrected with notice to and authorization of the town manager without further process.

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

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

Section 6. This Ordinance shall become effective upon adoption by the town council.

The foregoing Ordinance was adopted by the town council upon a motion by _____ and seconded by _____, and upon being put on a roll call vote, the results were as follows:

Dan Allers, Mayor	_____
Jim Atterholt, Vice Mayor	_____
John R. King, Council Member	_____
Karen Woodson, Council Member	_____
Scott Stafford, Council Member	_____

ADOPTED this 3rd day of June, 2024 by the town council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH

Dan Allers, Mayor

ATTEST:

Amy Baker, Town Clerk

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

Vose Law Firm, Town Attorney

This Ordinance was filed in the Office of the Town Clerk on this ____ day of _____, 2024.



Business Impact Estimate

This form should be included in the agenda packet for the item under which the proposed ordinance is to be considered and must be posted on the Fort Myers Beach website by the time notice of the proposed ordinance is published.

Proposed ordinance's title/reference:

Ordinance 24-13 AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING DIVISION 3 "UNSAFE BUILDING ABATEMENT CODE" OF ARTICLE I "PROPERTY MAINTENANCE CODES" OF CHAPTER 6 "MAINTENANCE CODES, BUILDING CODES AND COASTAL REGULATIONS" OF THE CODE OF ORDINANCES OF FORT MYERS BEACH, FLORIDA, TO CLARIFY EXISTING PROVISIONS RELATED TO NOTICE AND EXCEPTIONS; TO AUTHORIZE NOTIFICATION BY CONSTRUCTIVE SERVICE; TO INCLUDE ATTORNEY'S FEES AND COSTS AND NOTICE EXPENSES TO THE DEMOLITION LIEN AGAINST THE PROPERTY ON WHICH THE UNSAFE BUILDING WAS LOCATED, AND TO AUTHORIZE USE OF THE UNIFORM METHOD OF COLLECTION FOR COLLECTION OF LIENS; PROVIDING FOR CODIFICATION, SEVERABILITY, SCRIVENER ERRORS, CONFLICTS OF LAW, AND AN EFFECTIVE DATE.

This Business Impact Estimate is provided in accordance with section 166.041(4), Florida Statutes. If one or more boxes are checked below, this means the Fort Myers Beach is of the view that a business impact estimate is not required by state law¹ for the proposed ordinance, but the Fort Myers Beach is, nevertheless, providing this Business Impact Estimate as a courtesy and to avoid any procedural issues that could impact the enactment of the proposed ordinance. This Business Impact Estimate may be revised following its initial posting.

- ☐ The proposed ordinance is required for compliance with Federal or State law or regulation;
- ☐ The proposed ordinance relates to the issuance or refinancing of debt;
- ☐ The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;
- ☐ The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant or other financial assistance accepted by the municipal government;
- ☐ The proposed ordinance is an emergency ordinance;
- ☐ The ordinance relates to procurement; or
- ☒ The proposed ordinance is enacted to implement the following:

¹ See Section 166.041(4)(c), Florida Statutes.

- a. Part II of Chapter 163, Florida Statutes, relating to growth policy, county and municipal planning, and land development regulation, including zoning, development orders, development agreements and development permits;
- b. Sections 190.005 and 190.046, Florida Statutes, regarding community development districts;
- c. Section 553.73, Florida Statutes, relating to the Florida Building Code; or
- d. Section 633.202, Florida Statutes, relating to the Florida Fire Prevention Code.

In accordance with the provisions of controlling law, even notwithstanding the fact that an exemption noted above may apply, the Fort Myers Beach hereby publishes the following information:

1. Summary of the proposed ordinance (must include a statement of the public purpose, such as serving the public health, safety, morals and welfare):

The proposed ordinance amends the existing Division 3 of Article I of Chapter 6 of Code of Ordinances of Fort Myers Beach, Florida. The proposed ordinance serves the public health, safety, morals, and welfare as it clarifies the process of demolition of unsafe properties, following the destruction caused by Hurricane Ian in September 2022. The amendment will allow Fort Myers Beach to determine which properties qualify as “unsafe” properties, fit for demolition, and will clarify the notification and service requirements to the property owners before the demolition takes place. The proposed ordinance would further allow Fort Myers Beach to collect any unpaid demolition costs incurred through the Uniform Method of Collection.

2. An estimate of the direct economic impact of the proposed ordinance on private, for-profit businesses in the Fort Myers Beach, including the following, if any:

- (a) An estimate of direct compliance costs that businesses may reasonably incur;
- (b) Any new charge or fee imposed by the proposed ordinance or for which businesses will be financially responsible; and
- (c) An estimate of the Fort Myers Beach regulatory costs, including estimated revenues from any new charges or fees to cover such costs.

Unknown.

3. Good faith estimate of the number of businesses likely to be impacted by the proposed ordinance:

Unknown.

4. Additional information the governing body deems useful (if any):

[You may wish to include in this section the methodology or data used to prepare the Business Impact Estimate. For example: Fort Myers Beach staff solicited comments from businesses in the Fort Myers Beach as to the potential impact of the proposed ordinance by contacting the chamber of commerce, social media posting, direct mail or direct email, posting on Fort Myers Beach website, public workshop, etc. You may also wish to include efforts made to reduce the potential fiscal impact on businesses. You may also wish to state here that the proposed ordinance is a generally applicable ordinance that applies to all persons similarly situated (individuals as well as businesses) and, therefore, the proposed ordinance does not affect only businesses].

Not applicable.

1. **Request:**

Meeting Date: June 3, 2024

2nd Reading and Final Public Hearing on proposed Ordinance 24-14 entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING THE COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING FOR THE PROPERTY LOCATED AT 841 ESTERO BLVD. GENERALLY IDENTIFIED AS STRAP NUMBERS 24-46-23-W3-0050B.0010 FORT MYERS BEACH; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Why the action is necessary:

The convenience store use is an allowed use in the Downtown zoning district, however, this request contains several deviations from the code therefore a CPD is being requested. The Town Council approves or denies CPD requests.

What the action accomplishes:

Approval of the CPD allows the redevelopment of the site, with a convenience store.

2. **Agenda:**

PUBLIC HEARINGS

3. **Requirement/Purpose:**

Ordinance

4. **Submitter of Information:**

Sarah Propst, Community
Development, Planning
Manager

5. **Background:**

The applicant for 841 Estero Blvd, is requesting a rezoning from Downtown zoning to Commercial Planned Development for the redevelopment of a 3,500 square foot convenience store. The proposed development will have an entrance on Estero Blvd, an entrance on Lagoon Street, and a dumpster enclosure accessed directly from Lagoon Street. The site previously contained a 7-Eleven convenience store approximately 1,950 square feet in size. The LPA voted 5 to 0 with 1 member recused, and one member absent, to recommend approval with conditions to the Town Council. A first reading was held on May 20, 2024 and no changes to the proposed Ordinance were recommended.

Attachments:

1. 24-14, DCI20230197 - 841 Estero 7-Eleven ns
2. TC staff report
3. Exhibit A MCP
4. Exhibit B Schedule of Uses and List of Deviations
5. Exhibit C LPA and TC Postcards
6. Exhibit D Application
7. business-impact-estimate-24-14

Financial Impact:

unknown

6. **Alternative Action**

Recommend denial

7. **Management Recommendations:**

Approve with conditions

8. **Recommended Approval:**

Sarah Propst, Community Development, Planning Manager
Frankie Kropacek, Operations & Compliance Director
nancy stuparich, Town Attorney
Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Created/Initiated - 5/22/2024
Approved - 5/23/2024
Approved - 5/29/2024
Approved - 5/29/2024
Final Approval - 5/29/2024

ORDINANCE 24-14

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING A REQUEST TO REZONE THE PROPERTY LOCATED AT 841 ESTERO BLVD. GENERALLY IDENTIFIED AS STRAP NUMBERS 24-46-23-W3-0050B.0010 FORT MYERS BEACH, FROM DOWNTOWN TO COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING FOR A CONVENIENCE STORE; 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, Southland Corporation and The Neighborhood Company, owner and agents for the property owner, located at 841 Estero Blvd., parcels generally identified as STRAP numbers 24-46-23-W3-0050B.0010 in the Town of Fort Myers Beach, filed applications to rezone the property from the Downtown Zoning District to CPD with Master Concept Plan (MCP) with certain deviations to the Land Development Code (LDC) in order to develop a convenience store ; and

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

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on April 30, 2024; and

WHEREAS, at the April 30, 2024 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) sec. 34-85; and

WHEREAS, at the April 30, 2024 public hearing the LPA found that the request was consistent with the comprehensive plan and in compliance with the requirements of the LDC and voted to recommend approval with conditions of the rezoning by a 5-0 vote, with 1 member abstaining and 1 member absent; and

WHEREAS, on May 20, 2024 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 advertised in The News-Press 10 days prior to the Town Council on June 3, 2024; 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, a Business Impact Estimate has been prepared and published on the Town's website when the adoption hearing advertisement was published; and

WHEREAS, Exhibit A provides the approved Master Concept Plan (MCP), which future development should be substantially in compliance with; and

WHEREAS, Exhibit B is the schedule of uses, conditions of approval, and approved deviations for this CPD, to be used during the permitting process; and

WHEREAS, the Town Council finds that this request to rezone the property from the Downtown Zoning District to CPD with MCP with the deviations to the Land Development Code (LDC) in order to develop a convenience store described below, is unique and does not establish a precedent for future deviation requests:

Deviation #1

Deviation from LDC Section 34-706(d) which requires that when properties are fronting on Estero Boulevard, existing driveway and parking spaces shall be relocated from Estero Boulevard to secondary streets, and new driveways shall connect only to secondary streets, except where these requirements would prohibit all reasonable access to a property. The deviation would allow driveways to remain connecting to Estero Boulevard and Lagoon Street.

Deviation #2

Deviation from the driveway separation requirements of LDC Section 10-285 along Estero Boulevard and Lagoon Street. The deviation would allow driveway separations along Estero Boulevard to be a minimum of approximately 80 feet and a minimum of approximately 60 feet along Lagoon Street.

Deviation #3

Deviation from parking lot location requirements of LDC Section 34-706(a) to allow a parking lot to be located primarily fronting Estero Blvd.

Deviation #4

Relief from LDC Section 34-2020(d)(2)i.1. which requires a minimum of four spaces per 1,000 square feet of total floor area or 14 parking spaces for the proposed maximum 3,500 square feet of convenience store total floor area. The deviation would allow for a reduction in the minimum required parking spaces to 8 parking spaces.

Deviation #5

Relief from LDC Section 34-1744(b)(4)d, which requires that for sites where the location and configuration of existing structures and vehicle use areas prevent the placement of refuse containers outside the front yard, fences and/or walls erected for the sole purpose of providing reasonable screening of refuse containers located in a front yard may exceed 48 inches in height, but must not exceed six feet in height. The deviation would allow the refuse container screening (enclosure) to be a maximum of seven (7) feet, six (6) inches in height.

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

- a. Each item enhances the achievement of the objectives of the planned development; and
- b. The general intent of this chapter to protect the public health, safety and welfare will be preserved and promoted; and
- c. Each deviation operates to the benefit, or at least not to the detriment, of the public interest; and
- d. Each deviation is consistent with the Fort Myers Beach Comprehensive Plan.

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

- a. Minor ambiguities were resolved through the deviation process.
- b. The previous development on the subject property was destroyed by Ian and adoption of the rezoning with deviations ameliorates longstanding design issues on the site due to the lot's odd shape and orientation.
- 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.

WHEREAS, the Town Council finds that this application to approve Ordinance 24-02 which is, consistent with the Town of Fort Myers Beach Comprehensive Plan and LDC; and

WHEREAS, with conditions and deviations contained herein, the Town Council finds this rezoning request to be in the best interest of the public's health, safety, and welfare.

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/did not** meet its burden of proof, that the request to approve Town of Fort Myers Beach's Ordinance No. 24-05 and the conditions of approval for the commercial planned development zoning, **does/ does not** 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 **DENY/ APPROVE/ APPROVE WITH CONDITIONS** the requested application. **[IF DENIED, THE REASONS FOR DENIAL SHOULD BE STATED]**

Section 3. Town Ordinance 24-14 is adopted and approved as provided in the schedule of uses and conditions of approval for the Property's CPD as set forth in Exhibit B as shown on the Master Concept Plan, both of which are attached hereto and incorporated herein by this reference.

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

DULY PASSED AND ADOPTED on this ____ day of June 2024.

Dan Allers, Mayor	_____
Jim Atterholt, Vice Mayor	_____
John R. King, Council Member	_____
Scott Safford, Council Member	_____
Karen Woodson, Council Member	_____

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:**

Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this ____ day of June 2024.

Attachments:

A – Master Concept Plan (MCP)

B – Schedule of Uses, Conditions of Approval and Deviation



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT STAFF REPORT

TYPE OF CASE: Commercial Planned Development

CASE NUMBER: DCI Rezoning, 20230197

CASE NAME: 841 Estero Blvd, rezone the property from Downtown Zoning to Commercial Planned Development for the redevelopment of a convenience store.

**2nd TOWN COUNCIL
HEARING DATE:** June 3, 2024, at 9 AM

**1st TOWN COUNCIL
HEARING DATE:** May 20, 2024, at 9 AM

**LPA
HEARING DATE:** April 30, 2024, at 9 AM

**STAFF
RECOMMENDATION:** Approve with conditions

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

I. APPLICATION SUMMARY

Applicant/Owner: The Neighborhood Company/ Southland Corporation

Request: The applicant is requesting to rezone the property from Downtown Zoning to Commercial Planned Development for the redevelopment of a convenience store.

Subject property: See attached site plan

Physical Address: 841 Estero Blvd

STRAP #: 24-46-23-W3-0050B.0010

FLU: Pedestrian Commercial

Zoning: Downtown

Adjacent zoning and land uses:

North:	Residential Conservation/ Single Family
South:	Community Facility /Lynn Hall Memorial Park
East:	Downtown zoning / Commercial
West:	Downtown zoning/ single-family

II. BACKGROUND AND ANALYSIS

Background:

The Neighborhood Company, applicant for 841 Estero Blvd, is requesting a rezoning from Downtown zoning to Commercial Planned Development for the redevelopment of a 3,500 square foot retail/ convenience store with no fuel pumps and a FAR of 0.35 F. The proposed development will have an entrance on Estero Blvd and one point of egress from Lagoon St with a separate access to a dumpster enclosure at the east of the property. The site previously contained a 7-Eleven convenience store with no fueling locations.

The Downtown zoning district permits convenience store use by right as a small-scale retail store. However, the Applicant would need to request several variances for the proposed plan and therefore the applicant is requesting to rezone the property to CPD. Five deviations are requested from the land development code requirements.

Analysis:

A convenience store has been located at 841 Estero Blvd for many years. The previous convenience store was approximately 1,950 square feet in size and appears to have provided ten compliant parking spaces for the use, with no fueling location. The curb cuts did not comply with the Town's Road design requirements and very little landscaping was provided. The previous building did not meet current flood requirements.

The property has the Future Land Use designation of Pedestrian Commercial which allows a maximum of 2.5 FAR. The proposed convenience store is 3,500 square feet with 0.35 FAR and will provide eight parking spaces with no fuel pumps. The code requires four parking spaces per 1,000 square feet of retail, which would require 14 parking spaces. The applicant is proposing bike racks, which decreases the number of required spaces by one. With the reduction of one parking space, the Applicant is requesting a deviation for reduction in parking spaces by five spaces. The proposed site will provide landscaping and compliant curb cut widths. The proposed building will meet all building regulations and will be designed to be FEMA compliant with dry floodproofing.

Four deviations from the Land Development Code are requested. Those are listed

below and include the applicant's justification as well as a staff comment.

Requested Deviations:

- 1) Relief from LDC Section 34-706(d) which requires that when properties are fronting on Estero Boulevard, existing driveway and parking spaces shall be relocated from Estero Boulevard to secondary streets, and new driveways shall connect only to secondary streets, except where these requirements would prohibit all reasonable access to a property. The deviation would allow driveways connecting to Estero Boulevard and Lagoon Street.**

Applicant Justification: In order to redevelop the property with the desired commercial convenience store use, the site design must take into consideration that a portion of the property is located within the VE flood zone (El 13) along with being designed to meet the intent of the design standards of the town. The prior site configuration provided for existing access points (driveways) both onto Estero Boulevard (Primary Street) and Lagoon Street (Secondary Street), it is necessary to continue to allow access points from Estero Boulevard and Lagoon Street so that vehicular flow can be maintained without requiring vehicles to back out onto any street right-of-way. Convenience stores rely heavily on customer vehicular traffic and truck deliveries, which require appropriately designed and safe traffic movement. The design has been improved to enhance functionality and safety by reducing the need for vehicles having to back directly onto Estero Boulevard, thus providing reasonable access to the property and while improving the functionality of the site. The granting of this deviation does not negatively impact the health, safety, and welfare of the community.

Staff Comment: With the proposed layout and the small size of the site an entrance on both roads will allow for fewer conflicts with entering and exiting traffic. The proposed deviation, therefore, seems appropriate in this instance due to the corner location and the small size of the parcel.

- 2) Relief from the driveway separation requirements of LDC Section 10-285 along Estero Boulevard and Lagoon Street. The deviation would allow driveway separations along Estero Boulevard to be a minimum of approximately 80 feet and a minimum of approximately 60 feet along Lagoon Street.**

Applicant Justification: The proposed accessways onto Estero Boulevard and Palermo Circle existed prior to Hurricane Ian and the destruction of the existing convenience store use. Relocation of the existing accessways to meet the distance separation from all surrounding street intersections or other accessways is impossible. Due to the unique configuration of the subject property and the need to manage vehicular traffic and create pedestrian connectivity to the site, the proposed site layout as detailed on the Master Concept Plan requires both accessways from Estero Boulevard and Lagoon Street Circle to remain. The two accessways were non-conforming in terms of their location and overall width. Both

accessways, pursuant to requested Deviation #1, will be reduced in width. This will improve safe traffic circulation to and from the adjacent roadways. As detailed on the MCP, the proposed configuration decreases the width of the accessways, allows for direct pedestrian access from the Estero Boulevard sidewalk system and will increase the distance separation on Lagoon Street from all surrounding street intersections and accessways, thus working toward achieving general consistency of the intent of LDC Section 10-285 to provide as much connection separation while keeping the proposed redevelopment feasible. The granting of this deviation does not negatively impact the health, safety and welfare of the community.

Staff Comment: The subject property is a corner lot. LDC Section 10-285 requires a driveway separation of 250 feet for major streets like Estero Blvd and 125 feet for local streets like Lagoon Street. The site is approximately 100 feet wide and 113 feet deep, therefore, making it impossible to comply with the requirement of LDC Section 10-285. The proposed deviation seems appropriate in this instance as the Applicant is proposing to use the existing accessways and willing to reduce the width of the curb cuts to achieve accessways with higher compliance to the Town's code.

3) Relief from parking lot location requirements of LDC Section 34-706(a) to allow a parking lot to be located primarily fronting Estero Blvd.

Applicant Justification: Due to the devastation caused by Hurricane Ian and the need to redevelop the property to bring back the desired commercial convenience store use to the Town, reconfiguration of the site is necessary. The site is located within the Downtown zoning district, on the corner of Estero Blvd. and Lagoon Street and adjacent to property owned by others. LDC Sec. 34-953 states that request for a rezoning to Commercial Planned Development (CPD) zoning district requires that the building placement, size, design, and all other property development regulations, such as parking, shall be the same as for the CB zoning district, which means that off-street parking lots shall be placed in side or rear yards. The redeveloped site design must consider that a portion of the property is located within the Zone VE (El 13) while meeting the intent of the off-street parking and building placement design location standards desired by the town. The proposed configuration positions the off-street parking relatively in the same location as it was prior to Hurricane Ian but with an improved layout. With these site constraints, context of convenience store use, and redevelopment opportunities based on impacts of Hurricane Ian, the ability to locate the parking lot out of the front and side yard of the building is not feasible.

As evidenced through the previously existing site layout, the reconfiguration of the parking layout, and the addition of bicycle parking as indicated on the proposed MCP, the granting of this deviation to allow the off street parking lot to be located on the Estero Boulevard side of the property addresses the unique site configuration limitations, and does not negatively impact the health, safety and welfare of the community.

Staff Comment: As mentioned earlier, the subject property is a corner lot and the Applicant plans to use the existing accessways for the convenience store,

which would only be possible if the parking is in the front along Estero Blvd. Being in Downtown zoning district, several neighboring properties have parking facing Estero and Town's staff does not anticipate any adverse impacts with approval of this deviation.

- 4) Relief from LDC Section 34-2020(d)(2)i.1. which requires a minimum of four spaces per 1,000 square feet of total floor area or 14 parking spaces for the proposed maximum 3,500 square feet of convenience store total floor area. The deviation would allow for a reduction in the minimum required parking spaces to 8 parking spaces.**

Applicant Justification: Parking requirements for a convenience store are a minimum of four spaces per 1,000 square feet, which equates to a total of 14 vehicle parking spaces required for the proposed maximum 3,500 square foot convenience store. The site is located within an area of the town (Downtown zoning district) considered a "park-once" district and allows for a reduction of required vehicle parking by a multiplier of 67%. Through this multiplier, the required number of vehicle parking spaces would be reduced by 5 spaces for a total of 9 spaces.

However, LDC Sec. 34-953 states that requests for a rezoning to a Commercial Planned Development (CPD) zoning district requires building placement, size, design, and all other property development regulations, such as parking, shall be the same as for the CB zoning district. Following this requirement means the proposed convenience store is required to revert to providing a minimum of 14 vehicle parking spaces. This is counterproductive to the desired "park-once" intent the town is seeking for this area. Reverting to the CB requirements results in the applicant's inability to apply the parking reduction multiplier and burdens the site with excessive off-street parking in this more urbanized area of the town.

The applicant desires to meet the intent of being within the Downtown "park-once" district by seeking a reduction in the number of off-street vehicle spaces from 14 to 8. Due to the configuration and constraints of the subject property, the need to manage vehicular traffic and pedestrian connectivity to the site, and the need to support the proposed convenience store use results in the need to maintain a minimum of 8 parking spaces as shown on the MCP. The applicant also sees the benefit of and wants to promote the use of alternative modes of transportation to their development. The applicant is accomplishing this by designating an area for at least 1 bicycle rack able to hold 4 bicycles. As stated in LDC Sec. 34-2020(c), commercial buildings may eliminate one required vehicle parking space by providing and maintaining a bicycle rack able to hold four bicycles. Thus, providing the bicycle rack further supports and allows for the overall required parking to be 8 vehicle spaces.

The requested deviation to allow for the reduction to a minimum of 8 vehicle parking spaces for a convenience store is consistent with the intent to reduce off-street parking impacts as allowed within the Downtown zoning district, provides areas for additional bicycle parking, addresses the unique site configuration

limitations, and does not negatively impact the health, safety and welfare of the community.

Staff Comment: Town's LDC requires 14 parking spaces for the proposed 3,500 square feet convenience store. The applicant is proposing at least one, four-space bike racks, which reduces the number of required spaces by one. With this reduction, the Applicant is requesting a deviation of five parking spaces to allow 8 parking spaces including one ADA parking for the store.

The proposed use has existed in this location with ten parking spaces previously and the Town's staff anticipates no adverse impacts with approval of the requested deviation due to its compatibility with neighboring properties in the Downtown zoning district.

- 5) Relief from LDC Section 34-1744(b)(4)d, which requires that for sites where the location and configuration of existing structures and vehicle use areas prevent the placement of refuse containers outside the front yard, fences and/or walls erected for the sole purpose of providing reasonable screening of refuse containers located in a front yard may exceed 48 inches in height, but must not exceed six feet in height. The deviation would allow the refuse container screening (enclosure) to be a maximum of seven (7) feet , six (6) inches in height.**

Applicant Justification: This deviation request is a result of the Town Council's previous request to allow the height of the proposed dumpster enclosure to be increased beyond six feet in height, to allow for a maximum of 7 foot, 6 inch tall enclosure. The deviation will help alleviate the concern of refuse and recyclable materials and containers being visible from adjacent properties.

Staff Comment: This deviation does not cause any nuisance or harm and was a request of the Town Council previously and seems applicable in this instance.

Neighborhood Compatibility:

The previously existing residential and commercial properties in the area were destroyed by Hurricane Ian. This convenience store use has been in existence in this area for many years and is not likely to have an adverse impact on the neighborhood.

Findings and Conclusions:

LDC Sec. 34-85(b) and (c) and 34-216(2) sets forth the required considerations and findings for the approval of a rezoning.

(b) Considerations. In reaching its decision, the town council shall consider the following, whenever applicable:

(1) Whether there exists an error or ambiguity which must be corrected.

Staff response: No errors or ambiguities exist.

(2) Whether there exist changed or changing conditions which make approval of the

request appropriate.

Staff response: The previous structure was destroyed by Hurricane Ian and redevelopment of the site makes the requests appropriate.

(3) The impact of a proposed change on the intent of this chapter.

Staff response: No impact on the intent of this chapter will occur.

(4) The testimony of any applicant.

(5) The recommendation of staff and of the local planning agency.

(6) The testimony of the public.

(7) Whether the request is consistent with the goals, objectives, policies, and intent, and with the densities, intensities, and general uses as set forth in the Fort Myers Beach Comprehensive Plan.

Staff response: The proposed development is in compliance with the intensity of the district. The use is permitted use by right in Downtown zoning. The proposed site development will be more compliant with the site development requirements than the previous development. Additionally, the new structure will be designed to current building and flood requirements which is supported by the comprehensive plan.

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

Staff response: The proposed development will meet performance standards set forth in 34-2031. There are no special location standards for convenience stores.

(9) Whether urban services are, or will be, available and adequate to serve a proposed land use change.

Staff response: The urban services exist in this location.

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

Staff response: The request will have no impact on environmentally critical areas and natural resources.

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

Staff response: The proposed use has been in existence in this location for many years. It is not anticipated to have any detrimental impact on existing or planned uses.

(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.

Staff response: This use in this location will not place an additional burden on the transportation network or other facilities and services.

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

(c) Findings. Before granting any rezoning, the town council shall find that the requested zoning district complies with:

(1) The Fort Myers Beach Comprehensive Plan.

Staff response: The proposed use and requested deviations for the CPD comply with the Comprehensive Plan.

(2) This chapter.

Staff response: The proposed use complies with this chapter except in regard to the deviations.

(3) Any other applicable town ordinances or codes.

Staff response: The proposed request complies with the town ordinances and codes, except in regard to the deviations.

(4) For planned development rezonings, see [§ 34-216](#) of this chapter for additional findings.

a. The proposed use or mix of uses is appropriate at the subject location;

Staff response: A convenience store is permitted use by right in Downtown zoning district. The proposed use has existed in this location without creating a nuisance.

b. Sufficient safeguards to the public interest are provided by the recommended special conditions to the concept plan or by other applicable regulations;

Staff response: Sufficient safeguards are provided for the public interest.

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

Staff response: All conditions are related to the impacts on the public interest.

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.

Staff response: Not applicable.

2. Policies 4-B-5 and 4-C-3 on commercial rezonings in the "boulevard" category.

Staff response: Not applicable.

3. Policy 4-C-4 on building heights taller than the standard height limit.

Staff response: The proposed structure will be a single-story building.

4. Policy 4-C-8 on density transfers.

Staff response: Not applicable.

5. Policy 4-E-1 on pre-disaster build back.

Staff response: Not applicable.

6. Policy 7-J-2 on traffic impact analyses and potential design improvements that could offset traffic impacts.

Staff response: The proposed development has a similar use to the previous development and as reflected in the traffic study, no adverse impact on traffic is anticipated.

Findings for Deviation Requests:

Per Sec. 34-216(4) all deviations must be approved, approved with modification, or rejected based upon a finding that:

a. Each item enhances the achievement of the objectives of the planned development; and

Staff response: The requested deviations allow the development of the site and are primarily due to the site being a corner lot.

b. The general intent of this chapter to protect the public health, safety and welfare will be preserved and promoted; and

Staff response: The proposed deviations preserve public health.

c. Each deviation operates to the benefit, or at least not to the detriment, of the public interest; and

Staff response: The deviations are not a detriment to the public interest.

d. Each deviation is consistent with the Fort Myers Beach Comprehensive Plan.

Staff response: The deviations are consistent with the comprehensive plan.

III. RECOMMENDATION

Staff finds that the CPD with deviations meets the criteria set forth in Sec. 34-85(b) and (c) and 34-216(2) of the LDC and recommends approval of DCI20230197 with the attached conditions.

At the LPA hearing on April 30th the request was unanimously recommended for approval with one member abstaining and one member absent. They requested that the deviation for the increased dumpster height also be included.

At the May 20th Town Council hearing Member King moved to schedule the case for a second hearing at the June 3rd Town Council. Council Member Safford seconded the motion and the Council voted 4-0 in favor, with one member excused.

IV. CONDITIONS OF APPROVAL

1. A local development order is required prior to any development of the site, in accordance with this planned development approval.
2. All state and local permits, including but not limited to right of way and stormwater permits, must be applied for and received prior to site development.
3. All signage and landscaping must meet the Vehicle Visibility at Intersection requirements found in Sec. 34-3131

Staff Report Exhibits:

A – Master Concept Plan

B – Schedule of Uses and List of Deviations

C – Postcards to Adjacent Properties

D – Application

OPEN SPACE		
	MINIMUM REQUIRED	PROVIDED
PERCENTAGE	0%	17.00%
AREA	0 AC	0.039 AC

1. THE BUILDING SHALL BE A MAXIMUM OF 3,500 +/- SQUARE FEET.
2. PROJECT WILL BE DEVELOPED IN ONE PHASE.
3. WATER MANAGEMENT REQUIREMENTS FOR REDEVELOPMENT PROJECTS CAN VARY SIGNIFICANTLY. THE WATER MANAGEMENT PLAN WILL BE DESIGNED AT THE TIME OF D.O.
4. THE EXACT BUILDING AND SITE IMPROVEMENT CONFIGURATIONS ARE PRELIMINARY IN NATURE AND SUBJECT TO CHANGE. THE FINAL DESIGN AND IMPROVEMENT DETAILS SHALL BE DEFINED AS PART OF THE DEVELOPMENT ORDER (DO) PROCESS.
5. ALL OTHER DEVELOPMENT STANDARDS SHALL BE SET FORTH IN LDC CHAPTER 34 OR OTHER APPLICABLE PROVISIONS OF THE LDC.
6. NO ENVIRONMENTALLY SENSITIVE LAND OR WATER EXISTS ON SITE AS SITE WAS IMPACTED BY PREVIOUS DEVELOPMENT. NO PROTECTED SPECIES SURVEY IS REQUIRED AS PROPERTY IS LESS THAN ONE (1) ACRE PER LDC SEC. 10-473.
7. ACCORDING TO THE FLOOD INSURANCE RATE MAP NO. 12071C0554G, EFFECTIVE DATE: NOVEMBER 17, 2022, THE PROPERTY IS LOCATED IN FLOOD ZONES "AE-12" AND "VE-13"

1. RETAIL STORE, SMALL TO INCLUDE: CONVENIENCE STORES, NO FUEL PUMPS
(OPEN 24 HOURS / 7 DAYS)

1. SEEKS RELIEF FROM LDC SECTION 34-706(f) WHICH REQUIRES THAT WHEN PROPERTIES ARE FRONTING ON ESTERO BOULEVARD, EXISTING DRIVEWAY AND PARKING SPACES SHALL BE RELOCATED FROM ESTERO BOULEVARD TO SECONDARY STREETS, AND NEW DRIVEWAYS SHALL CONNECT ONLY TO SECONDARY STREETS, EXCEPT WHERE THESE REQUIREMENTS WOULD PROHIBIT ALL REASONABLE ACCESS TO A PROPERTY. THE DEVIATION WOULD ALLOW DRIVEWAYS TO REMAIN CONNECTING TO ESTERO BOULEVARD AND LAGOON STREET.
2. SEEKS RELIEF FROM THE DRIVEWAY SEPARATION REQUIREMENTS OF LDC SECTION 10-285 ALONG ESTERO BOULEVARD AND LAGOON STREET. THE DEVIATION WOULD ALLOW DRIVEWAY SEPARATIONS ALONG ESTERO BOULEVARD TO BE A MINIMUM OF APPROXIMATELY 80 FEET AND A MINIMUM OF APPROXIMATELY 60 FEET ALONG LAGOON STREET.
3. SEEKS RELIEF FROM PARKING LOT LOCATION REQUIREMENTS OF LDC SECTION 34-706(a) THE DEVIATION WOULD ALLOW A PARKING LOT TO BE LOCATED PRIMARILY FRONTING ESTERO BLVD.
4. SEEKS RELIEF FROM LDC SECTION 34-2020(D)(2) 1, WHICH REQUIRES A MINIMUM OF FOUR SPACES PER 1,000 SQUARE FEET OF TOTAL FLOOR AREA OR 14 PARKING SPACES FOR THE PROPOSED MAXIMUM 3,500 SQUARE FEET OF CONVENIENCE STORE TOTAL FLOOR AREA. THE DEVIATION WOULD ALLOW FOR A REDUCTION IN THE MINIMUM REQUIRED PARKING SPACES TO 7 PARKING SPACES.

DATUM NOTE:

ALL ELEVATIONS REFERENCE NAVD88 VERTICAL DATUM.
APPROXIMATE CONVERSION FOR PROJECT AREA: NAVD88 + 1.18' = NGVD29
ANY DATUM CONVERSIONS SHOULD BE CONFIRMED BY A LICENSED
SURVEYOR PRIOR TO USE.

Exhibit B Schedule of Uses, Conditions, and List of Deviations

Schedule of Use

Retail store, small to include:

Convenience stores, no fuel pumps (open 24 hours/7 days)

Conditions

- 1) A local development order is required prior to any development of the site, in accordance with this planned development approval.
- 2) All state and local permits, including but not limited to right of way and stormwater permits, must be applied for and received prior to site development.
- 3) All signage and landscaping must meet the Vehicle Visibility at Intersection requirements found in Sec. 34-3131

List of Deviations

- 1) Relief from LDC Section 34-706(d) which requires that when properties are fronting on Estero Boulevard, existing driveway and parking spaces shall be relocated from Estero Boulevard to secondary streets, and new driveways shall connect only to secondary streets, except where these requirements would prohibit all reasonable access to a property. The deviation would allow driveways connecting to Estero Boulevard and Lagoon Street.
- 2) Relief from the driveway separation requirements of LDC Section 10-285 along Estero Boulevard and Lagoon Street. The deviation would allow driveway separations along Estero Boulevard to be a minimum of approximately 80 feet and a minimum of approximately 60 feet along Lagoon Street.
- 3) Relief from parking lot location requirements of LDC Section 34-706(a) to allow a parking lot to be located primarily fronting Estero Blvd.
- 4) Relief from LDC Section 34-2020(d)(2)i.1. which requires a minimum of four spaces per 1,000 square feet of total floor area or 14 parking spaces for the proposed maximum 3,500 square feet of convenience store total floor area. The deviation would allow for a reduction in the minimum required parking spaces to 8 parking spaces.



Town of Fort Myers Beach
Community Development Services - Planning Division
2731 Oak St,
Fort Myers Beach, FL 33931

NOTICE TO PROPERTY OWNERS WITHIN 500 FEET

Notice is hereby given that the Local Planning Agency/ Town Council of the Town of Fort Myers Beach will be conducting a public hearing at the Town Hall Council Chambers located at 2731 Oak St, Fort Myers Beach, Florida, 33931.

TIME: 9 AM

DATE: LPA April 30, 2024, and Town Council May 20, 2024

CASE: DCI20230197

ADDRESS: 841 Estero Blvd

APPLICANT: The Neighborhood Company

REQUEST: A request to rezone 841 Estero Blvd from Downtown to Commercial Planned Development (CPD) to allow the redevelopment of a convenience store.

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/ Town Council** will review the application materials and hear testimony to make a **recommendation/decision**. Complete records or transcripts of the proceedings are not provided by the Town.

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



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Fort Myers Beach, FL 33931

NOTICE TO PROPERTY OWNERS WITHIN 500 FEET

Notice is hereby given that the Local Planning Agency/ Town Council of the Town of Fort Myers Beach will be conducting a public hearing at the Town Hall Council Chambers located at 2731 Oak St, Fort Myers Beach, Florida, 33931.

TIME: 9 AM

DATE: LPA April 30, 2024, and Town Council May 20, 2024

CASE: DCI20230197

ADDRESS: 841 Estero Blvd

APPLICANT: The Neighborhood Company

REQUEST: A request to rezone 841 Estero Blvd from Downtown to Commercial Planned Development (CPD) to allow the redevelopment of a convenience store.

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/ Town Council** will review the application materials and hear testimony to make a **recommendation/decision**. Complete records or transcripts of the proceedings are not provided by the Town.

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



Town of Fort Myers Beach
Community Development Services - Planning Division
2731 Oak St,
Fort Myers Beach, FL 33931

NOTICE TO PROPERTY OWNERS WITHIN 500 FEET

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

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

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

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

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

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

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

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



September 20, 2023

Town of Fort Myers Beach
Community Development Department
2525 Estero Blvd.
Ft Myers Beach, FL 33931

**Subject: 841 Estero Blvd. Commercial Planned Development (CPD) – Submittal #1
Rezone from Downtown to Commercial Planned Development**

Intake Team:

The Neighborhood Company is pleased to submit on behalf of our client, J.R. Evans Engineering, P.A. an Application for a Planned Development associated with the subject property located at 841 Estero Blvd., Ft Myers Beach, FL 33931. The proposed request is to seek the following:

- Rezoning of the subject property to allow flexibility to redevelop the subject property and rebuild a convenience store.

Please find attached the following items consistent with application submittal checklist:

1. Application Filing Fee;
2. Application for Public Hearing:
 - Disclosure of Interest Affidavit & Authorization Form;
 - Letter of Authorization;
 - Exhibit 6-1 – STRAP # and Legal Description (Platted Lots)
 - Exhibit 6-2 – Boundary Survey;
 - Exhibit 6-3 – Area Location Map;
 - Exhibit 6-6 – List of Surrounding Property Owners within 500’;
 - Exhibit 6-7– Map Surrounding Property Owners within 500’; and
 - Mailing Labels Surrounding Property Owners within 500’;
3. Planned Development Zoning - Supplement PH-D:
 - a) Narrative:
 - Background & Request
 - Proposed Use/Development
 - Location, Site Design, & Compatibility
 - Supplement PH-D Section A: Comprehensive Plan Amendments
 - Supplement PH-D Section B: Phasing of Construction
 - Supplement PH-D Section C: Comp Plan Compliance
 - Supplement PH-D Section D: Design Standards Compliance
 - Supplement PH-D Section E: Decision-making Compliance
 - Conclusion



- b) Schedule of Deviations and Justifications;
- c) Master Concept Plan;
- d) Architectural Elevations & Renderings; and
- e) Schedule of Uses.

We look forward to your review and are available to answer questions related to this application.

Sincerely,

The Neighborhood Company

Kenrick Gallander, AICP
Vice President, Partner

Attachments: Application Submittal Requirements (listed above)

cc: 7-Eleven Inc.
Creighton Construction & Management
Elizabeth Fountain
Daniel Mumford
File: #230031.01.03



**841 Estero Blvd. (7-Eleven) Commercial Planned Development (CPD)
Planned Development Rezone**

Filing Fee

Town Fee Schedule 2022:

- PD Rezone = \$8,000

TOTAL: \$8,000



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: 841 Estero Blvd., Ft Myers Beach, FL 33931

STRAP Number: 24-46-23-W3-0050B.0010

Applicant: The Neighborhood Company Phone: 850-803-5621

Contact Name: Kenrick S. Gallander, AICP Phone: _____

Email: kg@theneighborhood.company Fax: _____

Current Zoning District: Downtown

Future Land Use Map (FLUM) Category: Pedestrian Commercial

FLUM Density Range: 6 du/ac 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*: The Neighborhood Company Phone: 850-803-5621

**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: 5618 Whispering Willow Way, Fort Myers, FL 33908

Email: kg@theneighborhood.company Fax: _____

Contact Name: Kenrick Gallander Phone: 850-803-5621



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: Kenrick Gallander, AICP Phone: 850-803-5621
Address: 5618 Whispering Willow Way, Ft Myers, FL 33908
Email: kg@theneighborhood.company Fax: _____

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

Name: Elizabeth Fountain, P.E. Phone: 239-405-9148
Address: 9961 Interstate Commerce Dr. #230, Fort Myers, FL 33913
Email: Elizabeth@jrevansengineering.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 _____ - _____
- ☐ Conventional Rezoning from _____ to _____
- ☒ Planned Development
- ☒ Rezoning from Downtown 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

7-Eleven Inc

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

Grant Distel

Signature

Grant Distel

Typed or Printed Name

SR. Director Development

Title

9/11/2023

Date

STATE OF FL COUNTY OF LEE

The foregoing instrument was certified and subscribed before me by means of ☒ physical presence OR ☐ online notarization, this 11th day of September, 2023, by GRANT DISTEL, ☒ who is personally known to me OR ☐ who has produced _____ as identification.



Kelli J Frost

Notary Public Signature

PART VI- Property Information

A. Legal Description:

STRAP: 24-46-23-W3-0050B.0010

Property Address: 841 Estero Blvd., Ft Myers Beach, FL 33931

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

☒ Yes. Property identified in subdivision: Island Shores

Book: 9 Page: 25 Unit: 2 Block: B Lot(s): 1-4

B. Boundary Survey:

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

C. Property Dimensions:

Width (please provide an average width if irregular in shape) 100.07 per Survey feet

Depth (please provide an average width if irregular in shape) 99.75 per Survey feet

Frontage on street: 100' Estero Blvd. & 99.57' Lagoon St. feet. Frontage on waterbody: N/A feet

Total land area: 0.23+/- AC or 10,000 SF+/- per Survey ☒ acres ☒ square feet

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

The site is south of the Matanzas Pass Bridge turn right onto Fifth Street,
continue onto Estero Blvd. and the location is on the north west corner of
Estero Blvd. and Lagoon St.

☒ 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



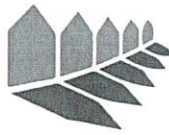
COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

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.



THE NEIGHBORHOOD
COMPANY

I Grant Distel, as authorized member of 7-Eleven, Inc. owner of property located at 841 Estero Blvd., Fort Myers Beach, FL, identified by STRAP Number 24-46-23-W3-0050B.0010, hereby authorizes The Neighborhood Company regarding the above-referenced property to serve as agent for the Town of Ft Myers Beach Planned Development Rezone Application.

7-Eleven, Inc.

By: Grant Distel

Print Name: Grant Distel

Title: SR. Director of Development

STATE OF FLORIDA
CITY OF LEE

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 23 day of SEPT, 2023 by GRANT DISTEL, as SR. DIRECTOR OF DEVELOPMENT of 7-ELEVEN INC, on behalf of the company(s), who ☒ is personally known to me OR ☐ has produced a(n) driver's license as identification.

(NOTARY STAMP)



Kelli J Frost
Notary Public, State of FLORIDA
Print Name: Kelli J Frost
My Commission Expires: 2-26-24



The State of Texas

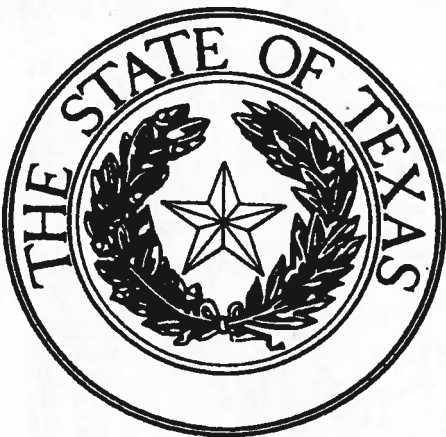
SECRETARY OF STATE

IT IS HEREBY CERTIFIED that the attached is/are true and correct copies of the following described document(s) on file in this office:

7-ELEVEN, INC.
FORMERLY: THE SOUTHLAND CORPORATION
CHARTER #179090-00

ARTICLES OF AMENDMENT

FILE DATE: APRIL 29, 1999
EFFECTIVE DATE: APRIL 30, 1999



IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused to be impressed hereon the Seal of State at my office in the City of Austin, on April 30, 1999.

Elton Bomer
Secretary of State

PH

**ARTICLES OF AMENDMENT
TO THE
SECOND RESTATED ARTICLES OF INCORPORATION OF
THE SOUTHLAND CORPORATION

In the Office of the
Secretary of State of Texas

APR 29 1999

Corporations Section

Pursuant to the provisions of the Texas Business Corporation Act, THE SOUTHLAND CORPORATION, a corporation organized under the laws of the State of Texas, hereby amends its Second Restated Articles of Incorporation (the "Articles of Incorporation") and for that purpose, submits the following statement:

ARTICLE ONE

The name of the corporation is The Southland Corporation.

ARTICLE TWO

Article One of the Articles of Incorporation is hereby amended and the full text of Article One, as amended, is as follows:

"The name of the Corporation is "7-Eleven, Inc."

ARTICLE THREE

The amendment to the Articles of Incorporation was adopted by a vote of the shareholders of the corporation on April 28, 1999.

ARTICLE FOUR

The number of shares of the corporation outstanding at the time of such adoption was 409,961,233; and the number of shares entitled to vote thereon was 409,941,168.

The designation and number of shares of each class or series entitled to vote thereon as a class or series were as follows:

Class or Series	Number of Shares Outstanding and Entitled to Vote
None	

ARTICLE FIVE

The number of shares voted for such amendment was 349,690,410 and the number of shares voted against such amendment was 159,879.

The number of shares of each class or series entitled to vote as a class or series voted for or against such amendment as follows:

Class or Series	Number of Shares Voted <u>For</u> <u>Against</u>
None	

ARTICLE SIX

The effective date of this amendment shall be April 30, 1999.

Dated the 28th day of April, 1999.
(to be effective April 30, 1999)

THE SOUTHLAND CORPORATION

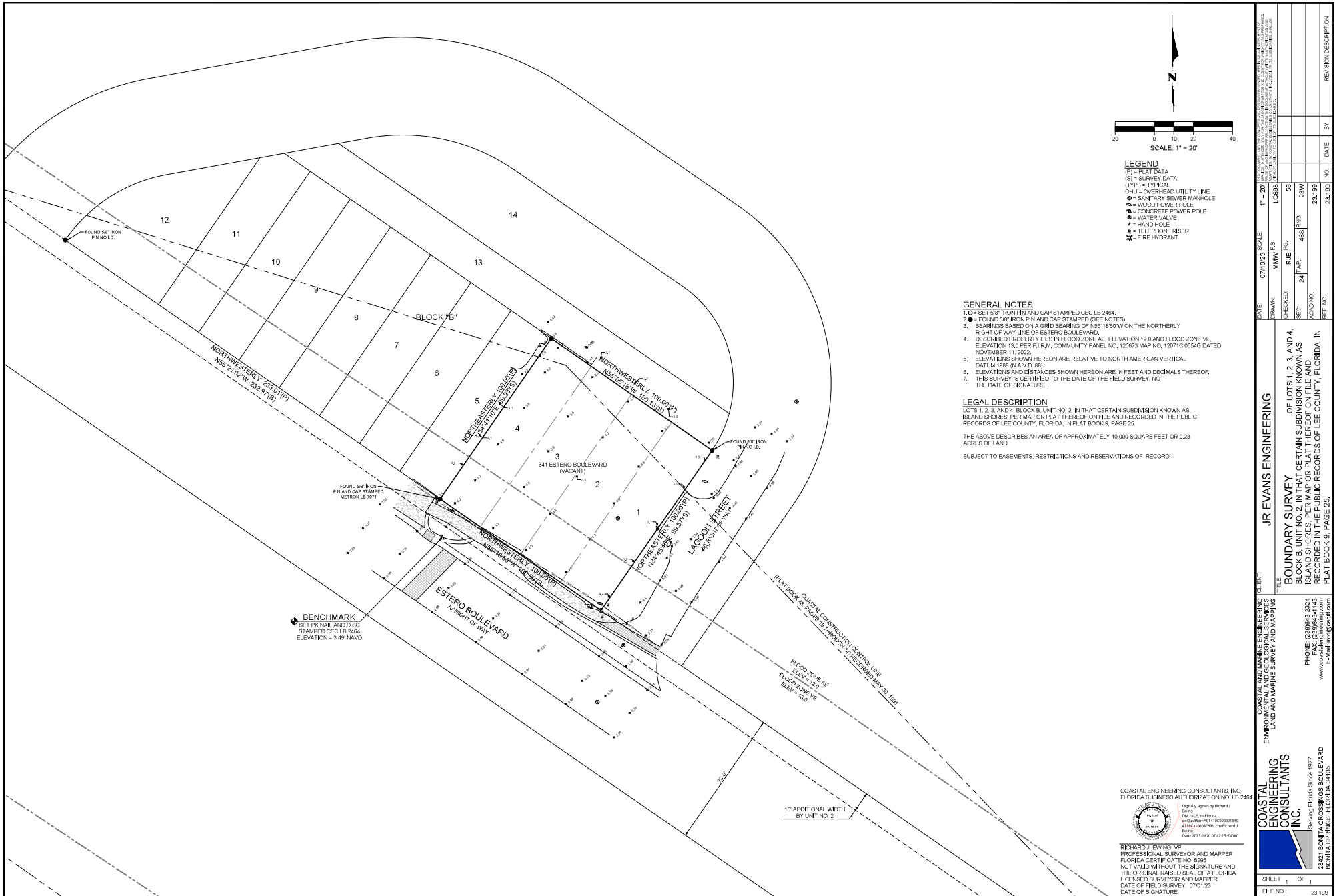
By: Bryan F. Smith, Jr.
Name and Title: Bryan F. Smith, Jr. - Senior Vice President



**841 ESTERO BLVD COMMERCIAL PLANNED DEVELOPMENT (CPD)
Planned Development Rezone**

EXHIBIT 6-1: STRAP # & LEGAL DESCRIPTION

- STRAP #: 24-46-23-W3-0050B.0010
- Description: (Instr. No. 131475)
 - Lots 1, 2, 3, and 4, Block B, Unit No. 2, in that certain subdivision known as Island Shores, per map or plat thereof on file and recorded in the public records of Lee County, Florida, in Plat Book 9, Page 25.



GENERAL NOTES

1. 0 = SET 5/8" IRON PIN AND CAP STAMPED CEC LB 2464.

2. 8 = FOUND 5/8" IRON PIN AND CAP STAMPED (SEE NOTES).

3. BEARINGS BASED ON A GRID BEARING OF N55°18'50"W ON THE NORTHERLY RIGHT OF WAY LINE OF ESTERO BOULEVARD.

4. DESCRIBED PROPERTY LIES IN FLOOD ZONE AE, ELEVATION 12.0 AND FLOOD ZONE VE, ELEVATION 13.0 PER F.L.R.M. COMMUNITY PANEL NO. 120673 MAP NO. 12071C 0554G DATED NOVEMBER 11, 2022.

5. ELEVATIONS SHOWN HEREON ARE RELATIVE TO NORTH AMERICAN VERTICAL DATUM 1988 (N.A.V.D. 88).

6. ELEVATIONS AND DISTANCES SHOWN HEREON ARE IN FEET AND DECIMALS THEREOF.

7. THIS SURVEY IS CERTIFIED TO THE DATE OF THE FIELD SURVEY, NOT THE DATE OF SIGNATURE.

LEGAL DESCRIPTION

LOTS 1, 2, 3, AND 4, BLOCK B, UNIT NO. 2, IN THAT CERTAIN SUBDIVISION KNOWN AS ISLAND SHORES, PER MAP OR PLAT THEREOF ON FILE AND RECORDED IN THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA IN PLAT BOOK 9, PAGE 25.

THE ABOVE DESCRIBES AN AREA OF APPROXIMATELY 10,000 SQUARE FEET OR 0.23 ACRES OF LAND.

SUBJECT TO EASEMENTS, RESTRICTIONS AND RESERVATIONS OF RECORD.

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

Digitally signed by Richard J. Ewing
DN: cn=JL, o=Florida
c=US, email=rlj@ceci.com, ou=Richard J. Ewing
Date: 2023.09.26 07:42:25 -0400

RICHARD J. EWING, VP
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA CERTIFICATE NO. 6298
NOT VALID WITHOUT THE SIGNATURE AND
THE ORIGINAL RAISED SEAL OF A FLORIDA
LICENSED SURVEYOR AND MAPPER
DATE OF FIELD SURVEY: 07/01/23
DATE OF SIGNATURE:

DATE	07/13/23	SCALE	1" = 20'	DRAWN	MMW/B	CHECKED	LCB88	DATE	07/13/23	SCALE	1" = 20'	DRAWN	MMW/B	CHECKED	LCB88
REV.	24	REV.	24	REV.	24	REV.	24	REV.	24	REV.	24	REV.	24	REV.	24
NO.	23,199	NO.	23,199	NO.	23,199	NO.	23,199	NO.	23,199	NO.	23,199	NO.	23,199	NO.	23,199
BY		BY		BY		BY		BY		BY		BY		BY	
DESCRIPTION		DESCRIPTION		DESCRIPTION		DESCRIPTION		DESCRIPTION		DESCRIPTION		DESCRIPTION		DESCRIPTION	



FORT MYERS
BEACH

GULF OF
MEXICO

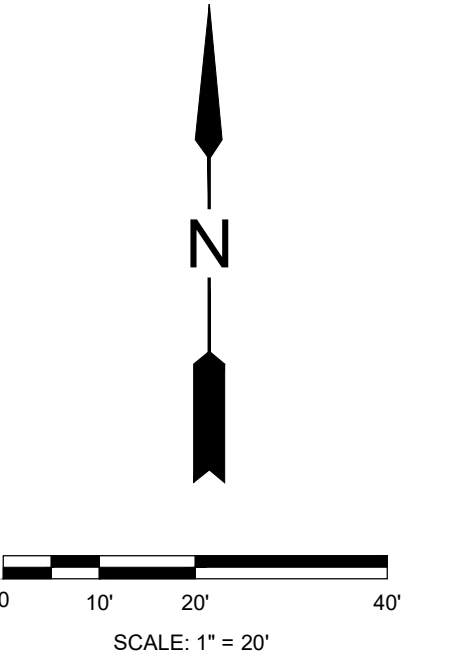
PROJECT LOCATION (N.T.S)



LAGOON STREET

ESTERO BOULEVARD

PROJECT LOCATION





THE NEIGHBORHOOD COMPANY

841 ESTERO BLVD COMMERCIAL PLANNED DEVELOPMENT (CPD) Planned Development Rezone

500' Property Owner List

Buffer: 500 List Size: 76

FolioId	OwnerName	OwnerName2	MailAddress	MailAddress2	MailCity	MailState	MailZip	MailCountry
10127392	SOUTHLAND CORPORATION	CORPORATE TAX DEPT	2711 N HASKELL AVE		DALLAS	TX	75204	
10127266	LEE COUNTY		PO BOX 398		FORT MYERS	FL	33902	
10127267	RICHARD JOHN W TR		237 OLD SAN CARLOS BLVD		FORT MYERS BEACH	FL	33931	
10127317	CASEY KATHLEEN M +		32917 PEACH TREE LN		LEWES	DE	19958	
10127322	TOMAILO FRANKLIN L &		934 THIRD ST		FORT MYERS BEACH	FL	33931	
10127323	932 THIRD STREET LLC		932 THIRD ST		FORT MYERS BEACH	FL	33931	
10127325	DUDDY BRIAN PATRICK TR		14 STETSON PL		DUXBURY	MA	2332	
10127326	VANSOLKEMA TIMOTHY		7360 ROYAL RIDGE DR SE		CALEDONIA	MI	49316	
10127327	VANSOLKEMA TIMOTHY		7360 ROYAL RIDGE DR SE		CALEDONIA	MI	49316	
10127328	KOSTER RODNEY A & THERESA A		880 THIRD ST		FORT MYERS BEACH	FL	33931	
10127329	KOSTER RODNEY A & THERESE A		880 THIRD ST		FORT MYERS BEACH	FL	33931	
10127330	TAMIA SA		949 STRATFORD DR		ENCINITAS	CA	92024	
10127331	WOODSON MARK T + KAREN K		820 THIRD ST		FORT MYERS BEACH	FL	33931	
10127332	KADO KELLY +		2560 ESTERO BLVD #6A		FORT MYERS BEACH	FL	33931	
10127333	SCHMELING ROBERT W +		1621 SE 84TH CT		VANCOUVER	WA	98664	
10127334	SWING THOMAS J TR		2560 TURF PARADISE DR		STOW	OH	44224	
10127335	SCHROEDER KURT & GERALDINE		405 HARBOR CT		FORT MYERS BEACH	FL	33931	
10127341	KOSTER RODNEY A & THERESE A		880 THIRD ST		FORT MYERS BEACH	FL	33931	
10127347	GRIFFIS LLC		9051 E CHICAGO RD		JEROME	MI	49249	
10127349	FIRST CENTRAL INVESTMENT CORP	LAWRENCE A YAX	830 ESTERO BLVD		FORT MYERS BEACH	FL	33931	
10127350	DULLARD ROBERT TR		PO BOX 2695		FORT MYERS BEACH	FL	33931	
10127352	ETCHISON CAROLYN +		200 GREEN RD		ALPHARETTA	GA	30004	
10127353	CAMMICK PETER & VIVIAN		1270 PLAYMOOR DR		PALM HARBOR	FL	34683	
10127354	MAGNUM FMB 2 LLC		725 MATANZAS CT		FORT MYERS BEACH	FL	33931	
10588379	RICHARD JOHN W TR		237 OLD SAN CARLOS BLVD		FORT MYERS BEACH	FL	33931	
10127371	BAHAN SUZANNE E +		169 OLD SAN CARLOS BLVD		FORT MYERS BEACH	FL	33931	
10127372	MAY SUZANNE E		PO BOX 61176		FORT MYERS	FL	33906	
10127373	JENKINS CARROLL ANNE		3063 NORFOLK CR 23 RR6		TILLSONBURG	ON	N4G 4G9 CANADA	
10127374	151 OLD SAN CARLOS LLC		17840 SAN CARLOS BLVD		FORT MYERS BEACH	FL	33931	
10127375	BENSON BRADFORD J II TR		938 DEEP LAGOON LN		FORT MYERS	FL	33919	
10127376	HOLIDAY COURT MOTEL LLC		PO BOX 1118		LABELLE	FL	33975	
10127378	HOLBROOK LESLIE E		3658 COUNTY RD 31		GALION	OH	44833	
10127379	PURTELL JAMES F TR		60 STONEY BEACH RD		OSHKOSH	WI	54902	
10127380	BOYD TODD & JULIE		1206 HAIGHT LN		SARNIA	ON	N7S 2M5 CANADA	
10127381	DULLARD ROBERT TR +		PO BOX 2695		FT MYERS BCH	FL	33932	
10127382	BLOCD AHL LEASING LLC		3538 TIMBER RIDGE TRL		CEDAR RAPIDS	IA	52411	
10127383	ISLAND GEM LLC		8044 ESTERO BLVD		FORT MYERS BEACH	FL	33931	
10127384	J&J SNA PROPERTIES LLC		470 OAKRIDGE AVE		NORTH ATTLEBORO	MA	2760	

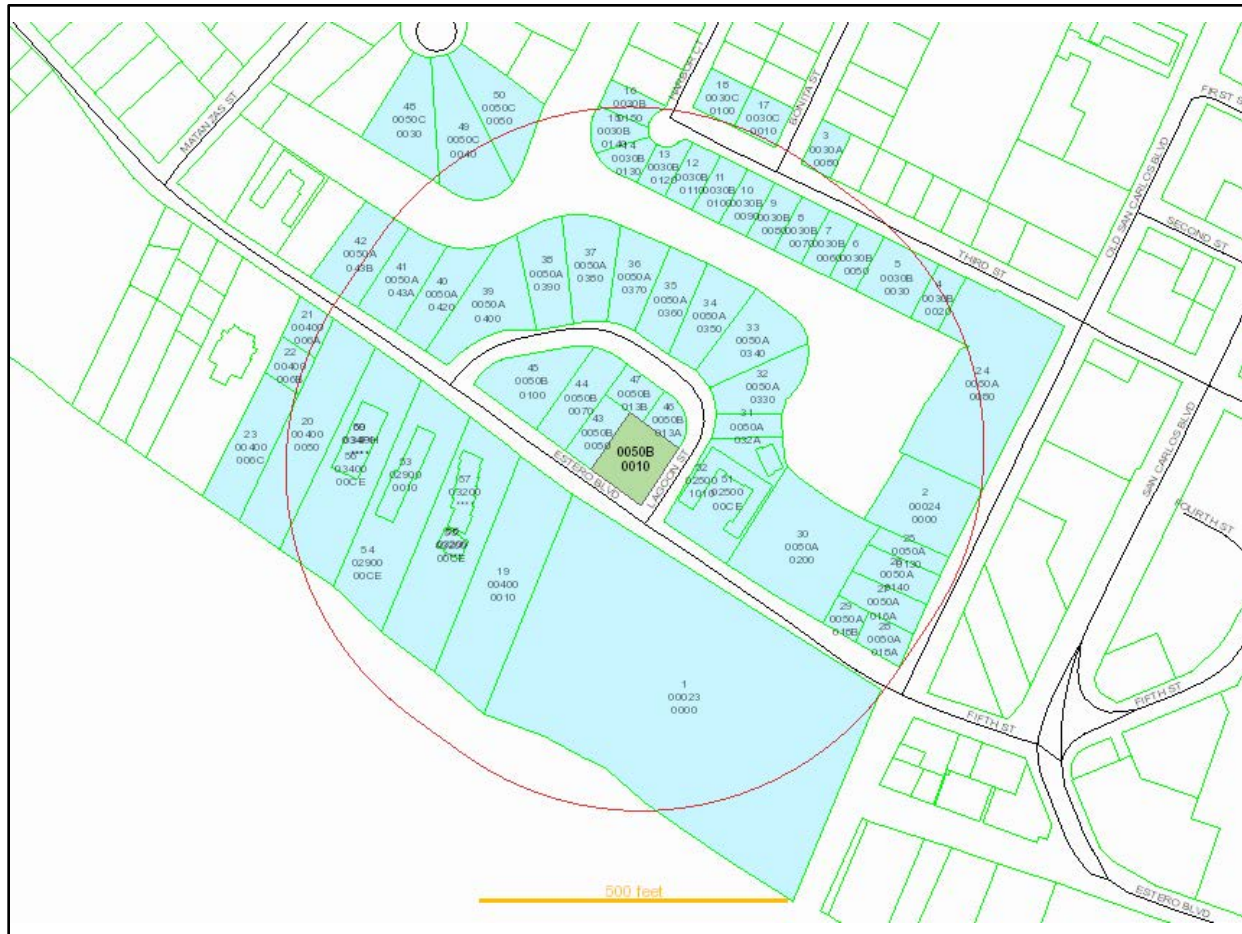


10127385 PAINE FREDERICK L & NANCY K		819 LAGOON ST	FORT MYERS BEACH	FL	33931
10127386 TOWN OF FORT MYERS BEACH	FINANCE DEPT	2525 ESTERO BLVD	FORT MYERS BEACH	FL	33931
10127387 EDGEWATER INN LLC		1440 BRICKELL BAY DR	MIAMI	FL	33131
10127388 PAYNE DONNA L		501 WILLIN WAY	MOUNT STERLING	KY	40353
10127389 SAVINO STEPHEN JR & LORI		58 HIGH VALLEY DR	CANTON	CT	6019
10127394 COURTNEY S MARK & DEBORAH S TR		83 CRANBERRY RD	GROVE CITY	PA	16127
10127395 PAINE FRED		823 LAGOON ST	FORT MYERS BEACH	FL	33931
10127396 PAINE FREDERICK L &		12 BELKNAP SHORES	SUPERIOR	WI	54880
10127397 ARTRIP BARBARA K TR		3225 E RIVERSIDE DR UNIT 57E	FORT MYERS	FL	33916
10127398 SCHWARTZ DEREK & KRISTEN		3329 ROSA AVE	NEW SMYRNA BEACH	FL	32168
10127402 BEBO PROPERTIES I LLC		1065 TONKAWA RD	ORONO	MN	55356
10127403 VANFOSSEN TERRI D		724 MATANZAS CT	FORT MYERS BEACH	FL	33931
10127404 CROW FMB FAMILY TRUST		2705 ODAWA TRL	MUSKEGON	MI	49444
10462842 SAND CASTLE BEACH CLUB CONDO		905 ESTERO BLVD	FORT MYERS BEACH	FL	33931
10127438 SAND CASTLE BEACH CLUB CONDO A		905 ESTERO BLVD	FORT MYERS BEACH	FL	33931
10127447 ROYAL BEACH CLUB CONDO ASSN		PO BOX 3427	NORTH FORT MYERS	FL	33918
10462843 ROYAL BEACH CLUB CONDO		800 ESTERO BLVD	FORT MYERS BEACH	FL	33931
10462844 ROYAL BEACH CLUB CONDO PH II		800 ESTERO BLVD	FORT MYERS BEACH	FL	33931
10462845 BEL-AIR BEACH CLUB CONDO		780 ESTERO BLVD	FORT MYERS BEACH	FL	33931
10127449 BEARCAT MOUNTAIN PROPERTIES LL		1510 INDIAN HILL LANE	BALLWIN	MO	63021
10127450 BELL MORGAN & JOSH +		11510 MAGNOLIA DR	FORT WAYNE	IN	46814
10127451 MANGAS JOHN M & ANN J +		8847 N STONE MILL RD	SYLVANIA	OH	43560
10127452 ROLLER JONATHAN L & LAURA J +		6711 MACINTOSH LANE	NORTH TONAWANDA	NY	14120
10127453 CALLA LILY REAL ESTATE LLC		4192 MORRIS PARK DR	MCFARLAND	WI	53558
10127454 CHURCHILL ROBYN A TR		15071 TEAKWOOD DR	MONROE	MI	48161
10127455 DIAMOND BAY MANAGEMENT GROUP L		3028 SPOOKY NOOK DR	MANHEIM	PA	17545
10127456 ARMIJO DANIEL G & JANET		17831 HASS RD	MOKENA	IL	60448
10127457 WALSH JANET M TR		2536 KENNELLY DR	WILLOUGHBY	OH	44094
10127458 DREAM MAKERS OCEAN ESTATES LLC		2998 HEARTHSTONE DR	ELLCOTT CITY	MD	21042
10127459 ROEGNER DONALD L & MARLYS A TR		4220 COVENTRY DR	KOKOMO	IN	46902
10127461 BEL-AIR BEACH CLUB ASSOC	RAL RESORT PROPERTY MGMT	17810 SAN CARLOS BLVD	FORT MYERS BEACH	FL	33931
10127462 SAWYER WILLIAM R & SONYA L		PO BOX 69	MILTON	VT	5468
10127463 WILLE BRIAN +		19752 REGAN RD	NEW LENOX	IL	60451
10127464 CANNY COLLEEN M TR		4536 GRAND AVE	WESTERN SPRINGS	IL	60558
10127465 DEALEY LARRY & JUDY		PO BOX 259	CONVOY	OH	45832
10127466 WATTS SHEILA A TR		17274 SAN CARLOS BLVD	FORT MYERS BEACH	FL	33931
10127467 RUPERT DONALD F JR &		329 BONNIEMERE RD	SHELBYVILLE	KY	40065
10127468 RYFINSKI WENDY K TR		780 ESTERO BLVD #PH4	FORT MYERS BEACH	FL	33931



THE NEIGHBORHOOD COMPANY

7-ELEVEN COMMERCIAL PLANNED DEVELOPMENT (CPD) 841 ESTERO BLVD. 500' SURROUNDING PROPERTY OWNERS MAP



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: 841 Estero Blvd Commercial Planned Development Rezone (7-Eleven)
Authorized Applicant: Kenrick S. Gallander, The Neighborhood Company
STRAP Number(s): 19-46-24-W4-0060B.0160

Current Property Status: Vacant
Current Zoning: Downtown
Future Land Use Map (FLUM) Category: Pedestrian Commercial
Platted Overlay? ☐ yes, ☒ no FLUM Density Range:

Requested Action:

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

PART I Narrative Statements

A. Comprehensive Plan Amendments (check one)

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

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)



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

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.

3/30/2021

E. Decision-making Compliance

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

[illegible]

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.

[illegible]



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.

[illegible]

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

Public Hearing Request Form
Supplement Form PH-D
Master Concept Plan
Traffic Impact Statement
Architectural Elevations
Schedule of Uses
Fee in the amount of \$8000.00 up to 1 acre +1000.00 per additional acre
\$2000.00 PD Amendment minor (< acre total property area)
\$4000.00 PD Reinstatement or \$6500.00 PD Amendment

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



841 ESTERO BLVD COMMERCIAL PLANNED DEVELOPMENT (CPD) Planned Development Rezone Application

NARRATIVE

BACKGROUND & REQUEST

The subject property is located at 841 Estero Blvd., Fort Myers Beach, FL 33931, and consists of a single parcel (STRAP#: 24-46-23-W3-0050B.0010) totaling 10,000± sq. ft. (0.23± acres) (See Figure 1). The property has a Future Land Use (FLU) Map Designation of Pedestrian Commercial and is within the Downtown Zoning District.

The Neighborhood Company, the Applicant and Authorized Representative/Agent, on behalf of the owner 7-Eleven Inc, is submitting this Planned Development Rezone Application to request the following:

- Rezone from Downtown to Commercial Planned Development (CPD)

The subject property prior to Hurricane Ian was developed with a convenience store (7-Eleven) (See Figure 2). As a result of the hurricane, the property, existing structure and surrounding properties received significant damage (See Figure 3). Assessments of the property required the structure and site infrastructure to be demolished and the site cleared (See Figure 4)



Figure 1. Location Map

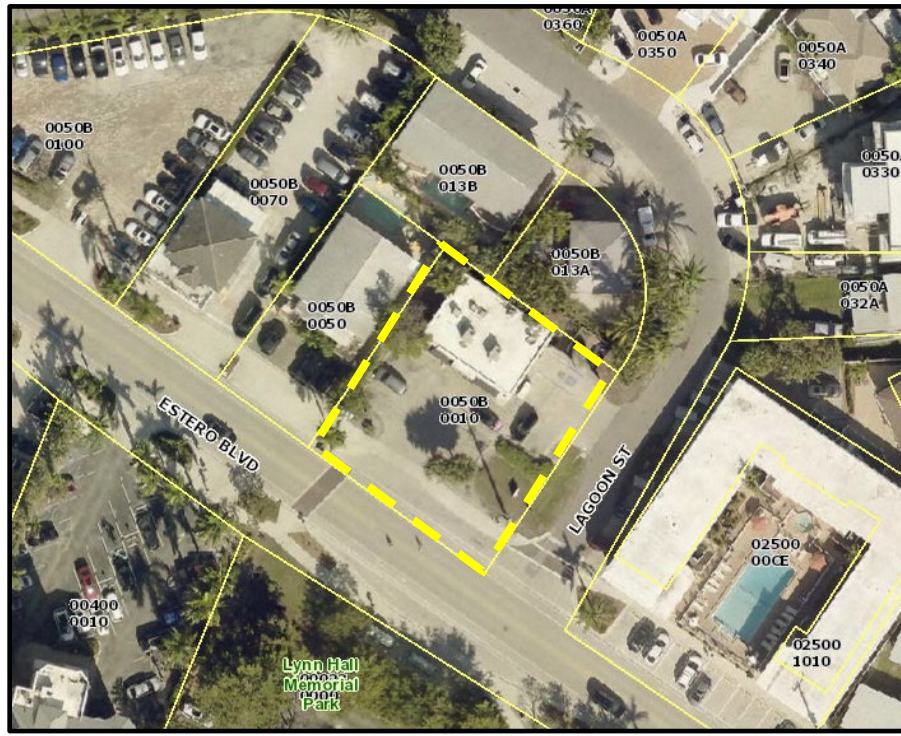


Figure 2. Pre Hurricane Ian

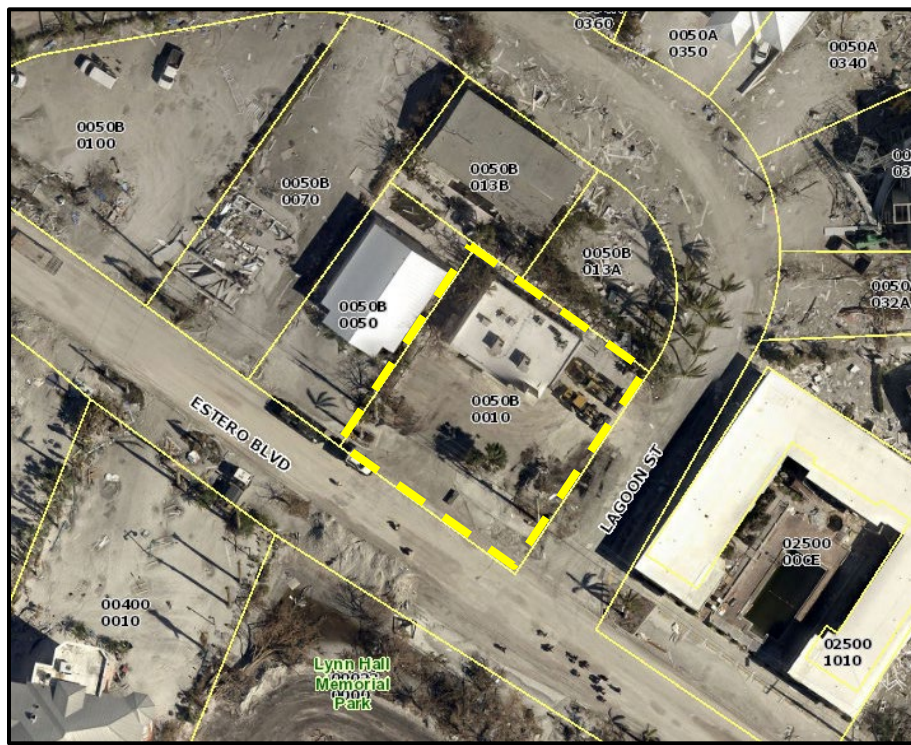


Figure 3. Post Hurricane Ian



Figure 4. Existing Conditions

PROPOSED USE/DEVELOPMENT

The 7-Eleven, which existed on the property for decades, was a very popular commercial business and provided convenience benefits to local residents and visitors. Based on the historic demand and continued need for convenience stores on Fort Myers Beach (FMB), the owner wants to redevelop the property with the same use. The plan for a new convenience store (7-Eleven) improves upon what existed prior to Hurricane Ian and reduces or eliminates non-conformities that existed on the property.

Convenience stores have been and continue to be a staple and necessary commercial business in all communities throughout the United States. Fort Myers Beach, Florida is no exception. As Fort Myers Beach continues to rebuild and regain its pre-Hurricane Ian resident and visitor populations, convenience related businesses will once again be needed and expected on this part of the island.

The proposed redevelopment of the property will consist of the following:

- A maximum 3,500+/- sq. ft. convenience store to be open 24 hours and seven days a week.
- Maintain two (2) access points. One from Estero Boulevard and the other from Lagoon Street.
- Dumpster and enclosure with direct access from Lagoon Street.



The Comprehensive Plan's Pedestrian Commercial FLU designation indicates that the maximum Floor Area Ratio (FAR) specified under the Land Development Code (LDC) may be as high as 2.5. With the subject property currently located within the Downtown zoning district, LDC Sec. 34-675(c)(3) allows an FAR up to 1.4.

A FAR of 1.4 would allow approximately 14,947.8 square feet of building. The CPD is proposing a total building area of approximately 3,500 square feet that is well below the potential maximum allowed.

LOCATION, SITE DESIGN & COMPATIBILITY

The property is situated within the "Core Area" of Fort Myers Beach at the northwest corner of Estero Blvd. and Lagoon St., located across from Lynn Hall Memorial Park and approximately 500 feet northwest of "Times Square" on Estero Blvd. This area of the island provides visitors with opportunities for beach access, parking, shopping, dining, and lodging. This mixed-use "Core Area" is an ideal location for a convenience store. It is where the prior 7-Eleven served the needs of residents and visitors for decades and represents an area of continued activity with the opening of Margaritaville, and the planned redevelopment of the Times Square area.

The subject property is limited in size and presents numerous design challenges that would require multiple variances if developed under conventional zoning regulations. As such, the Commercial Planned Development provides for regulatory flexibility that allows for redevelopment opportunities. The proposed Master Concept Plan (MCP) reconfigures the prior 7-Eleven site to make it more functional, attractive, resilient, and safer. It also reduces or eliminates non-conformities and makes it generally consistent with the intent of the Downtown redevelopment district.

First, the building is situated at the southwestern corner of the property. This allows for a safer and more functional parking lot design while creating parking and improved traffic circulation to support the redevelopment of the prior convenient store use. Access will be limited to two access points - one along Estero Blvd and the one along Lagoon Street. This will allow for a logical circulation pattern and will provide safer ingress and egress movements. Pedestrians will be able to enter the establishment by sidewalk from Estero Blvd. without crossing through the parking lot as was previously designed. Additionally, this configuration allows for a slightly larger convenience store that will be newer, more resilient, and better meet the needs of the community.

Second, the revised configuration will provide a primary façade along Lagoon St., that will cater to the motorist and improve vehicular access and a secondary facade closer to Estero, which will provide improved, quick and easy access to the pedestrian, cyclist and beachgoers at Lynn Hall Memorial Park. The placement of the building closer to Estero Blvd is consistent with the Downtown District build to lines and helps activate the street, create visual interest and encourages bicycle and pedestrian activity.

Third, the site configuration provides improved setbacks, and more space on the property for bike racks, pedestrian connectivity, accessibility to the existing bus/trolley stop, enhanced landscaping and an enclosed dumpster pad. These improvements will create a more usable, inviting, visually attractive development and will ensure locational compatibility.



The zoning and existing land uses surrounding the property are as follows:

- Northeast: RC/Vacant
- Northwest: RC/Multiple family
- Southwest: CPD & CF/Estero Blvd. Right-of-way, Hotel and Public Park
- Southeast: Downtown/Lagoon St. Right-of-way and Hotel

For decades, the properties surrounding this site were developed with multi-family residential, hotel, and public park and will remain a mixture of uses as the island redevelops. Currently, the surrounding properties are in various stages of vacancy, under renovation, or being redeveloped due to the impacts of the hurricane.

As outlined within the Development Standards Table on the MCP, the proposed build to line and setbacks are as follows:

- Build-to line:
 - Primary Street (Estero Blvd.): 0-5 FT
- Minimum Setbacks – Primary and Accessory Structures:
 - Secondary Street (Lagoon Street): 20 FT
 - Side/Rear: 0 - 5 FT

The development standards, inclusive of the build-to line and setbacks, ensure compatibility with adjacent uses and are appropriate for property located in very close proximity to the town's most intense commercial/tourism area, Times Square, and at the intersection of two roadways.

Development order approval will include code compliant landscaping throughout the property. Buffers are not required for all sides of the site as the property is located within the Downtown zoning district and adjacent to public rights-of-way on two sides. However, it is the intent of the developer to enhance landscaping on the property for a more aesthetically pleasing site. As shown on the MCP, type "C" buffers are proposed along portions of the northwest and northeast property boundaries and a min. 6 foot wall or fence along the remaining northeastern boundary. Landscaping is planned throughout the property and will be detailed as part of the development order approval specifically within the areas along Estero Blvd., Lagoon Street, and between a portion of the subject property and the multi-family structures to the northeast and northwest. Building edge plantings will also be provided along a portion of the building facing the northwest side of the building and landscaping within the right-of-way as permitted by the town. The dumpster enclosure, located on the northeast side of the property will be screened as required by LDC.

As stated in LDC Sec. 34-677(b) there are no minimum open space requirements in the Downtown zoning district. However, the developer intends to provide landscape areas within the site and as indicated on the enclosed MCP proposes to provide 10% open space for the redeveloped site.

The previously established convenience store use has a proven history of being compatible and complementary with the surrounding roadways, multi-family residences, lodging, nearby restaurants, and retail uses. The proposed development standards, enhanced buffering, and min. open space requirements outlined within the proposed CPD will continue to ensure the new convenience store is compatible.



**THE FOLLOWING ADDRESSES APPLICABLE SECTIONS PROVIDED FOR IN THE
PLANNED DEVELOPMENT APPLICATION – SUPPLEMENT PH-D FORM:**

A. COMPREHENSIVE PLAN AMENDMENTS

The following Comprehensive Plan Amendments are pending and could affect the future use of this property:

- Mixed Use Districts Designation – Time Square Mixed-Use District

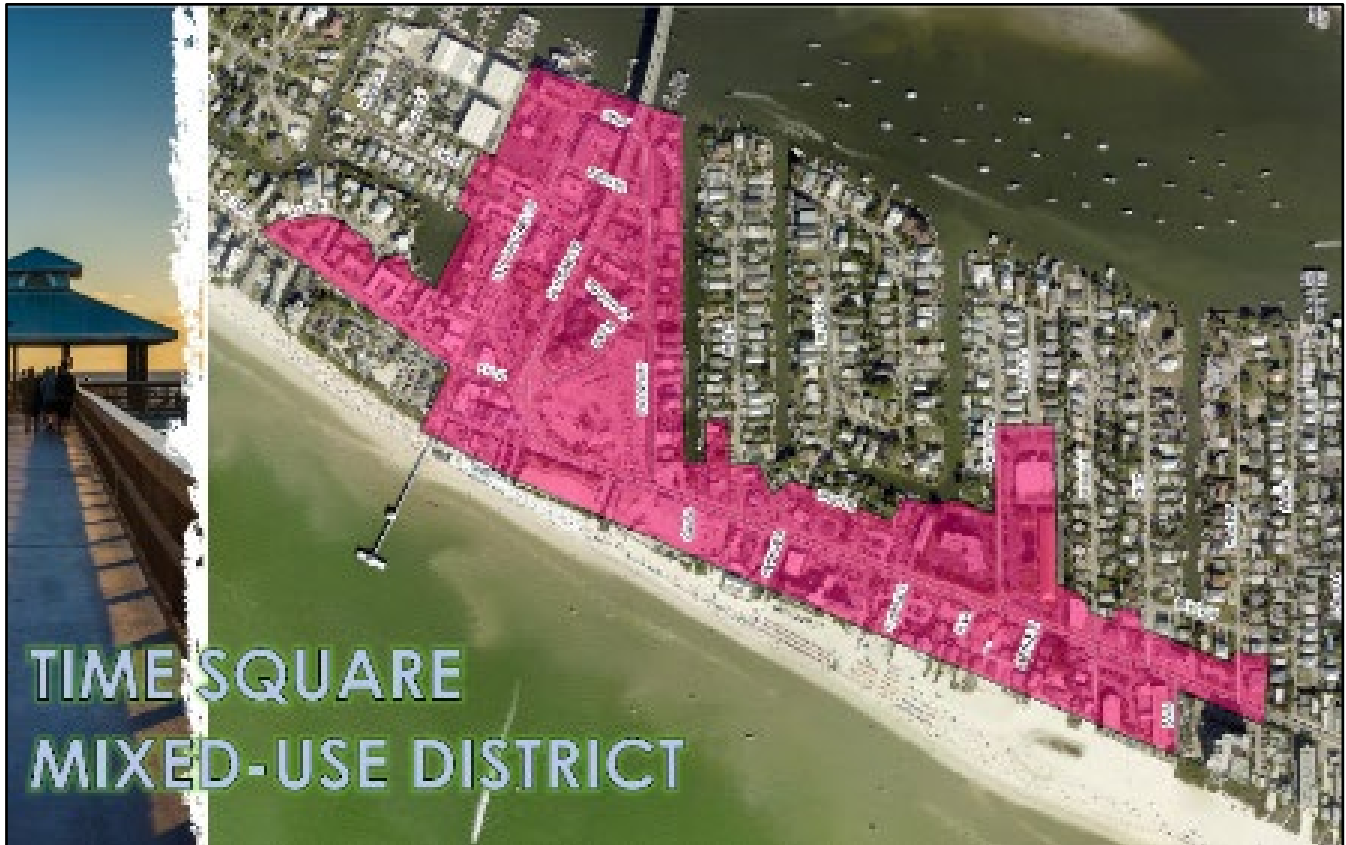


Figure 5. Proposed “Time Square Mixed-Use District” Boundary

The applicant is aware that the town is currently in the early stages of amending its Comprehensive Plan Future Land Use Map (FLUM) as presented by the town’s consultant. The town is considering a Future Land Use change for the subject property that would remove the property from the Pedestrian Commercial FLUM designation and place the property within a newly created “Time Square Mixed-Use District”. The applicant intends to comply and be consistent with the existing and potential Future Land Use designation for this area. While it is uncertain if and when the Time Square Mixed-Use District will be approved, it is our understanding that it intends to promote a mix of uses, greater commercial intensity and enhanced bicycle and pedestrian activity, which are all consistent with the proposed CPD.



B. PHASING OF CONSTRUCTION

The development is to be constructed in a single phase.



C. COMPREHENSIVE PLAN COMPLIANCE

COMMUNITY DESIGN ELEMENT:

OBJECTIVE 1-A ESTERO BOULEVARD — Improve the functioning and appearance of Estero Boulevard as the premier public space and primary circulation route of Fort Myers Beach.

POLICY 1-A-1 Changes along Estero Boulevard should improve on the characteristics that make it a boulevard in character and not just in name: safe and interesting to walk along, impressive landscaping, and scaled to people rather than high-speed traffic.

The redevelopment plan proposes enhancements to the frontage along Estero Blvd. and throughout the site. These enhancements will include improved access management, increased open space and green areas, defined sidewalks for pedestrian connectivity to Estero Blvd and nearby transit, and improved landscaping. Due to the limited size of the site, it was determined that the proposed building location and orientation resulted in a more functional site with improved managed traffic flow to allow all vehicles to leave the parking lot in a forward motion and allowed for foot traffic to access the site without having to walk through the parking lot and drive aisles.

This plan proposes a reduction in the width of the driveway opening along Estero Blvd. to create a defined and controlled entrance into the development. Moreover, the new configuration will provide more open space and green areas on the northeast and northwest portions of the property. Additional enhancements to the site include landscaping, enhanced buffering, and potential mural artwork along Estero Blvd. These enhancements create a development with improved accessibility and safety for pedestrians, while improving the appearance for residents and visitors on the primary circulation route of Fort Myers Beach, thus supporting the “Estero Blvd” vision as described in Objective 1-A and Policy 1-A-1 of the Fort Myers Beach Comprehensive Plan.

FUTURE LAND USE ELEMENT:

GOAL 4: To keep Fort Myers Beach a healthy and vibrant “small town,” while capitalizing on the vitality and amenities available in a beach–resort environment and minimizing the damage that a hurricane could inflict.

OBJECTIVE 4-A SMALL-TOWN CHARACTER — Maintain the small-town character of Fort Myers Beach and the pedestrian-oriented “public realm” that allows people to move around without their cars even in the midst of peak-season congestion.

The proposed project will rebuild a previously established commercial business which for decades provided easy and practical access to convenience goods for both residents and visitors. The proposed project will provide a more pedestrian friendly environment, through the reconfiguration of parking, the reduced width of the driveway opening from Estero Blvd., orientation of the building, appropriate setbacks/building location, and potential mural artwork on the southwest wall. Through the implementation of these elements, the development will enhance the public realm of Fort Myers Beach and add to its unique small-town character.

Finally, in an effort to minimize the damage that a future hurricane could inflict, the new building will be built to the current Florida Building Code, FEMA standards, and meet all applicable state and federal regulations.



Policy 4-A-2 The Town of Fort Myers Beach values its vibrant economy and walkable commercial areas. Through this plan, the town will ensure that new commercial activities, when allowed, will contribute to the pedestrian-oriented public realm.

Located along Estero Blvd., approximately 500 feet west of Times Square, the proposed project will re-establish a long-standing convenience-based business that has provided goods to both residents and visitors for decades. The previous building was destroyed by Hurricane Ian but was an integral component to the heavily traveled Estero Blvd. and walkable area of the town.

The proposed site configuration will provide a primary façade along Lagoon St. catering to the motorist and improve vehicular access. A secondary facade closer to Estero Blvd. will provide pedestrians and cyclists with direct access to the site via a sidewalk rather than having to walk through the parking lot as the site was previously designed. The placement of the building closer to Estero Blvd is consistent with the Downtown District build to lines and helps activate the street, create visual interest and encourages bicycle and pedestrian activity. Other site elements provide for appropriately applied setbacks, enhanced buffers/landscaping, more space on the property for bike racks, accessway/driveway width reductions, sidewalks, and an enclosed dumpster pad. These improvements will create a more inviting, safer, visually attractive development ensuring locational compatibility and improved pedestrian-oriented areas consistent with Policy 4-A-2.

POLICY 4-B-6: Pedestrian Commercial: a primarily commercial district applied to the intense activity centers of Times Square (including Old San Carlos and nearby portions of Estero Boulevard) and the area around the Villa Santini Plaza. 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.

The project site is located within the Pedestrian Commercial FLUM, and as stated in Policy 4-B-6, commercial activities must contribute to the pedestrian-oriented public realm. The site plan proposes to provide enhancements to the public realm through the improved vehicular patterns on the site, clearly defined pedestrian sidewalks and the proposed mural located on the building to add to the pedestrian experience as people move along Estero Blvd. These proposed enhancements will contribute to the pedestrian-oriented public realm of Fort Myers Beach and are consistent with Policy 4-B-6.

POLICY 4-C-2: The maximum intensity of allowable commercial development in any category may be controlled by height regulations (see Policy 4-C-4) or by other provisions of this plan and the Land Development Code. Standards in the Land Development Code will encourage more intense commercial uses only in the “Pedestrian Commercial” category. The Land Development Code shall specify maximum commercial intensities using floor-area-ratios (the total floor area of the building divided by the area of the site in the category allowing commercial uses). The Land Development Code may allow floor-area-ratios in the “Pedestrian Commercial” category as high as 2.5, and in other categories as high as 1.5.

The Comprehensive Plan’s Pedestrian Commercial FLU designation indicates that the maximum Floor Area Ratio (FAR) specified under the Land Development Code (LDC) may be as high as 2.5. With the subject property currently located within the Downtown zoning district, LDC Sec. 34-675(c)(3) allows an FAR up to 1.4.



A FAR of 1.4 would allow approximately 14,947.8 square feet of building. The CPD is proposing a total building area of approximately 3,500 square feet which equals an FAR of approximately 0.33, which is well below the potential maximum allowed and thus is consistent with Policy 4-C-2.

POLICY 4-C-3. 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 Fort Myers Beach Land Development Code states that the intent of the Commercial Planned Development (CPD) zoning district is to allow a landowner the ability to submit a specific proposal for a land development that is primarily nonresidential and complies with the Fort Myers Beach Comprehensive Plan but does not meet all of the specific requirements of a conventional or redevelopment district. Due to the limited size of the subject property and the destruction caused by Hurricane Ian, this application requests a rezoning to CPD so the property can be redeveloped and to remove nonconformities which existed on the site prior to Hurricane Ian.

A proposed convenience retail store use is being requested within this CPD. This use classification is permitted by right within the Downtown zoning district as well as the Pedestrian Commercial category of the Fort Myers Beach Comprehensive Plan. The CPD rezone request is thereby in compliance with Policy 4-C-3.

OBJECTIVE 4-D POST-DISASTER REDEVELOPMENT — Provide for the organized and healthy reconstruction of Fort Myers Beach after a major storm by showcasing successful local examples of floodproofing, by requiring redevelopment activities to meet stricter standards. For flood- and wind-resistance, and by improving the current post-disaster build back policy.

The new commercial building will be more resilient and will comply with the latest and more stringent Florida Building Code. Additionally, state and federal flood regulations will be followed, improving the resiliency of the island's structures.

COASTAL MANAGEMENT ELEMENT:

GOAL 5: To keep the public aware of the potential effects of hurricanes and tropical storms and to plan a more sustainable redevelopment pattern that protects coastal resources, minimizes threats to life and property, and limits public expenditures in areas subject to destruction by storms.

POLICY 5-A-1 The town shall maintain and enforce building codes at least as stringent as required by Florida law to limit the potential damage of structures from hurricanes and tropical storms. These codes shall include wind-resistance commensurate with the risk of a coastal environment and building elevation requirements that conform with federal laws and Flood Insurance Rate Maps.

The proposed redevelopment of the site will be in compliance with all applicable federal, state and local regulations to develop a resilient commercial property to serve the residents and visitors of Fort Myers Beach.



TRANSPORTATION ELEMENT

GOAL 7: To improve peak-season mobility without reducing the permeability of Estero Boulevard to foot traffic or damaging the small-town character of Fort Myers Beach. The town seeks to reduce speeding, improve evacuation capabilities, and improve mobility through balanced transportation improvements such as a continuous system of sidewalks and bikeways, a network of trolleys and water taxis linked to off-island systems, and parking options matched to road capacity.

POLICY 7-D-3 ALTERNATE TRAVEL MODES

The town shall support alternatives to car travel to free up road capacity for trips that do require a car. Public funding sources shall include county/state gasoline taxes and road impact fees. The town shall modify its road impact fee ordinance by 1999 to allow these fees to be spent (within legal limits) on capital improvements that relieve road congestion, such as better sidewalks, trolley improvements, and off-island parking areas.

To better serve the public, the proposed site design includes a clearly marked parking lot with a reduced entrance width from Estero Blvd., appropriate parking lot lighting, and an unobstructed sidewalk with nearby street crossings. To encourage use of alternate travel modes under Policy 7-D-3 the development will provide bike racks for bicycle parking and will maintain a pedestrian pathway to the existing transit stop located on the property.

UTILITIES ELEMENT

GOAL 8: To improve the existing systems that provide safe drinking water, irrigation water, sewer service, and solid waste disposal in order to reduce environmental impacts on land and water while keeping costs as economical as possible.

POLICY 8-A-1 Mandatory customer connections to water and sewer utilities shall continue to be the policy of the Town of Fort Myers Beach.

The proposed development will connect to central water and sewer utilities as mandated by the Town of Fort Myers Beach.



D. DESIGN STANDARDS COMPLIANCE

The proposed 7-Eleven convenience store will be consistent with the overall purpose and intent of the commercial design standards provided under LDC Section 34-991. The following outlines compliance with the specified design standards within LDC Sections 34-994 through 34-997:

As depicted in the architectural elevations and renderings provided (See the required Architectural Elevations included in the submittal documents), the proposed exterior walls will be a combination of stucco and fiber cement panels/boards, which are identified as an appropriate finish material under LDC Section 34-994. The structure will be dry-floodproofed with all fastenings and design to be “visually unobtrusive” and compliant with being located within FIRM Zone: AE 12. The principal façade will be designed to be compliant with the requirements for transparent windows, glazing, and shape.

The proposed building will generally comply with the intent and applicable portions of LDC Section 34-995 related to “Principal Façade Walls” standards. 7-Eleven is proposing to design and install a mural on the principal side wall façade facing Estero Blvd (primary street) to not have blank walls and to enhance visual interest toward the public realm.

LDC Section 34-996 specifically allows for a variety of roof types. The proposed 7-Eleven is designed with a flat roof and parapet, which is permitted under subsection (b). Above the front entrance facing Lagoon Street, an architectural “entry tower” with a hip roof is proposed. The “entry tower” roof and awnings consist of standing seam metal material, which is permitted under subsection (c).

Due to the proposed use, corner lot configuration and small lot size, the proposed design cannot support plazas and courtyards. The project does generally provide for portions of the building to be located close to and oriented toward the existing public sidewalk along Estero Boulevard. The project also provides for internal pedestrian passages or connections along the primary façade facing Lagoon Street to the existing sidewalk along Estero Boulevard, thus meeting the intent of LDC Section 34-997(d).



E. DECISION-MAKING COMPLIANCE

(1) Whether there exists an error or ambiguity which must be corrected.

There are no known errors or ambiguity that must be corrected in relation to the requested rezoning from Downtown to CPD. If any exist, they will be discussed and resolved during staff review and public hearings before the Local Planning Agency (LPA) and Town Council. Through the proposed CPD rezone request, reductions in prior existing non-conformities are being corrected specific to accessway widths and development standards.

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

The Town of Fort Myers Beach has been devastated by Hurricane Ian. The proposed rezoning will allow the rebuilding of the pre-storm 7-Eleven convenience store. The proposed CPD will assist in the Town's redevelopment by bringing back a well-established local business and providing a convenience store that will serve local residents and visitors.

(3) The impact of a proposed change on the intent of this chapter.

The proposed rezoning change to CPD is consistent with the purpose and intent of the zoning chapter of the Land Development Code (LDC). The CPD will encourage and promote the redevelopment of a destroyed convenience store business that is needed in the community, reduce or eliminate prior non-conformities, and provide for a more resilient and improved development within the Pedestrian Commercial FLU designation. Through the rezoning process allowed under this chapter and subsequent development order review and approvals, the new 7-Eleven will not negatively impact the community's health, safety, and general welfare.

(4) The testimony of any applicant.

The professional experts retained to support the petition will provide future testimony during the appropriate public hearings.

(5) The recommendation of staff and of the local planning agency.

The petition will be reviewed by staff, expert testimony will be provided during the public hearing process before the Local Planning Agency and a recommendation will be made to the Town Council.

(6) The testimony of the public.

The public will be provided with the opportunity to testify before the LPA and Town Council. Such testimony will be evaluated as applicable and appropriate to the request for the LPA's recommendation and Town Council's decision.



(7) Whether the request is consistent with the goals, objectives, policies, and intent, and with the densities, intensities, and general uses as set forth in the Fort Myers Beach Comprehensive Plan.

Please see Section C above, which explains how the petition is consistent with the town's comprehensive plan.

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

The rezoning request and the proposed redevelopment of a convenience retail store are ideal for the location. The site was previously developed with a convenience store supporting the residents' and visitors' needs. The subject property is located within an urban and commercialized area of the town with limited or no impact to any existing long-term residential uses.

(9) Whether urban services are, or will be, available and adequate to serve a proposed land use change.

All urban services were in place for the previous 7-Eleven and remain in place to adequately serve the subject site.

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

The subject property was previously developed and has been subsequently cleared of all existing natural vegetation due to the catastrophic impacts of Hurricane Ian. No environmentally critical areas and natural resources exist on the site.

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

The request will be compatible with existing or planned uses and not cause damage, hazard, nuisance, or other detriment to person or property as the proposed use existed prior to the catastrophic events of Hurricane Ian. There are no known documented code enforcement cases indicating the prior convenience retail use was deemed a nuisance, hazard, or caused detrimental effects to the community. The adjacent surrounding uses consist of public rights-of-way (Estero Boulevard and Lagoon Street), multi-family and vacant properties. Just beyond the roadways, are vacant or redeveloped commercially zoned lands and public parks with beach access, which are compatible with the proposed commercial use. All proposed setbacks, buffers, and open space areas are consistent with the standards provided for within the Land Development Code or are suitably proposed and complementary to the highly urbanized development pattern, and unique characteristics of the subject property.



(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.

Given that this CPD simply replaces the previously existing 7-Eleven, there will be no net changes on public facilities and the proposed request does not create any burden upon existing transportation or other services and facilities. The CPD does improve site design to facilitate and enhance bicycle and pedestrian access.

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

This request to rezone the subject property from Downtown to Commercial Planned Development (CPD) will be presented at public hearing before the local planning agency and the town council consistent with LDC Section 34-216(a)(1). As demonstrated throughout this narrative, the proposed CPD meets the following criteria under LDC Section 34-216(2):

- a. The proposed convenience retail use, as provided for within the Schedule of Uses is appropriate for the subject location due to the fact that a 7-Eleven previously existed on the property for decades without issue.
- b. Sufficient safeguards are in place to protect the public interest through the proposed CPD and supporting MCP. The design, location and proposed use and development standards are generally consistent with the mixture of uses and pedestrian nature of the area and will meet the needs of the town's residents and visitors. As depicted on the MCP, access and circulation will be safer and more functional, the pedestrian experience will be improved, and the site will be rebuilt with a new store, more open space than normally required, and improved landscaping/buffering.
- c. If recommended special conditions are presented and are deemed reasonable and feasible, the applicant will be willing to accept them to further ensure sufficient safeguards are established.
- d. The proposed rezoning request meets specific requirements of the comprehensive plan that are relevant to the requested planned development, such as the following:
 1. Policy 4-C-3: See Section "C" within the above narrative.
 2. Policies 4-B-6 and 4-C-3: See Section "C" within the above narrative.
 3. Policy 4-C-4: Proposed height of 30 feet is not taller than the standard height limit allowed under the Land Development Code.
 4. Policy 4-C-8: Density transfers. Not applicable.
 5. Policy 4-E-1: The existing development was consistent with and well below the max. allowed intensity (FAR 1.4) prior to the natural disaster (Hurricane Ian). The proposed max FAR is 0.35, which is also well below the allowed FAR of 1.4.
 6. Policy 7-J-2: The proposed rezone request is not a major rezoning as the request applies to a property that is less than one-quarter of an acre in area. Additionally, the proposed future redevelopment of an existing convenience retail store will not require roadway capacity improvements as a result of the additional traffic and will not adversely impact the surrounding network.



CONCLUSION:

As detailed in the above narrative, supporting application documents, and the proposed MCP, the application shows consistency and compliance with both the Fort Myers Beach Comprehensive Plan and Land Development Code. Addressing the context of the subject property through the regulatory flexibility of the CPD process, reduction or elimination of prior non-conformities, and compliance with today's Florida Building Codes and FEMA standards, the developer will provide a project that is more resilient and functional to the public. This rezoning effort will help bring back a much-needed convenience store on the island, helping to improve living conditions and supporting the public's overall health, safety and welfare.



**841 ESTERO BLVD COMMERCIAL PLANNED DEVELOPMENT (CPD)
Planned Development Rezone**

SECTION F: SCHEDULE OF DEVIATIONS AND JUSTIFICATIONS

DEVIATION #1 seeks relief from LDC Section 34-706(d) which requires that when properties are fronting on Estero Boulevard, existing driveway and parking spaces shall be relocated from Estero Boulevard to secondary streets, and new driveways shall connect only to secondary streets, except where these requirements would prohibit all reasonable access to a property. The deviation would allow driveways to remain connecting to Estero Boulevard and Lagoon Street.

Justification: In order to redevelop the property with the desired commercial convenience store use, the site design must take into consideration that a portion of the property is located within the VE flood zone (EI 13) along with being designed to meet the intent of the design standards of the town. The prior site configuration provided for existing access points (driveways) both onto Estero Boulevard (Primary Street) and Lagoon Street (Secondary Street), it is necessary to continue to allow access points from Estero Boulevard and Lagoon Street so that vehicular flow can be maintained without requiring vehicles to back out onto any street right-of-way. Convenience stores rely heavily on customer vehicular traffic and truck deliveries, which require appropriately designed and safe traffic movement. The design has been improved to enhance functionality and safety by reducing the need for vehicles having to back directly onto Estero Boulevard, thus providing reasonable access to the property and while improving the functionality of the site. The granting of this deviation does not negatively impact the health, safety and welfare of the community.

DEVIATION #2 seeks relief from the driveway separation requirements of LDC Section 10-285 along Estero Boulevard and Lagoon Street. The deviation would allow driveway separations along Estero Boulevard to be a minimum of approximately 80 feet and a minimum of approximately 60 feet along Lagoon Street.

Justification: The proposed accessways onto Estero Boulevard and Palermo Circle existed prior to Hurricane Ian and the destruction of the existing convenience store use. Relocation of the existing accessways to meet the distance separation from all surrounding street intersections or other accessways is impossible. Due to the unique configuration of the subject property and the need to manage vehicular traffic and create pedestrian connectivity to the site, the proposed site layout as detailed on the Master Concept Plan requires both accessways from Estero Boulevard and Lagoon Street Circle to remain. The two accessways were non-conforming in terms of their location and overall width. Both accessways, pursuant to requested Deviation #1, will be reduced in width. This will improve safe traffic circulation to and from the adjacent roadways. As detailed on the MCP, the proposed configuration decreases the width of the accessways, allows for direct pedestrian access from the Estero Boulevard sidewalk system and will increase the distance separation on Lagoon Street from all surrounding street intersections and accessways, thus working toward achieving general consistency of the intent of LDC Section 10-285 to provide as much connection separation while keeping the proposed redevelopment feasible. The granting of this deviation does not negatively impact the health, safety and welfare of the community.



Deviation #3 seeks relief from parking lot location requirements of LDC Section 34-706(a) The deviation would allow a parking lot to be located primarily fronting Estero Blvd.

Justification: Due to the devastation caused by Hurricane Ian and the need to redevelop the property to bring back the desired commercial convenience store use to the Town, reconfiguration of the site is necessary. The site is located within the Downtown zoning district, on the corner of Estero Blvd. and Lagoon Street and adjacent to property owned by others. LDC Sec. 34-953 states that request for a rezoning to Commercial Planned Development (CPD) zoning district requires that the building placement, size, design, and all other property development regulations, such as parking, shall be the same as for the CB zoning district, which means that off-street parking lots shall be placed in side or rear yards. The redeveloped site design must consider that a portion of the property is located within the Zone VE (EI 13) while meeting the intent of the off-street parking and building placement design location standards desired by the town. The proposed configuration positions the off-street parking relatively in the same location as it was prior to Hurricane Ian but with an improved layout. With these site constraints, context of convenience store use, and redevelopment opportunities based on impacts of Hurricane Ian, the ability to locate the parking lot out of the front and side yard of the building is not feasible.

As evidenced through the previously existing site layout, the reconfiguration of the parking layout, and the addition of bicycle parking as indicated on the proposed MCP, the granting of this deviation to allow the off-street parking lot to be located on the Estero Boulevard side of the property addresses the unique site configuration limitations, and does not negatively impact the health, safety and welfare of the community.

Deviation #4 seeks relief from LDC Section 34-2020(d)(2)i.1. which requires a minimum of four spaces per 1,000 square feet of total floor area or 14 parking spaces per 3,500 square feet of total floor area or 14 parking spaces for the proposed maximum 3,500 square feet of convenience store total floor area. The deviation would allow for a reduction in the minimum required parking spaces to 8 parking spaces.

Parking requirements for a convenience store are a minimum of four spaces per 1,000 square feet, which equates to a total of 14 vehicle parking spaces required for the proposed maximum 3,500 square foot convenience store. The site is located within an area of the town (Downtown zoning district) considered a “park-once” district and allows for a reduction of required vehicle parking by a multiplier of 67%. Through this multiplier, the required number of vehicle parking spaces would be reduced by 5 spaces for a total of 9 spaces.

However, LDC Sec. 34-953 states that requests for a rezoning to a Commercial Planned Development (CPD) zoning district requires building placement, size, design, and all other property development regulations, such as parking, shall be the same as for the CB zoning district. Following this requirement means the proposed convenience store is required to revert to providing a minimum of 14 vehicle parking spaces. This is counterproductive to the desired “park-once” intent the town is seeking for this area. Reverting to the CB requirements results in the applicant’s inability to apply the parking reduction multiplier and burdens the site with excessive off-street parking in this more urbanized area of the town.

The applicant desires to meet the intent of being within the Downtown “park-once” district by seeking a reduction in the number of off-street vehicle spaces from 14 to 8. Due to the configuration and constraints



of the subject property, the need to manage vehicular traffic and pedestrian connectivity to the site, and the need to support the proposed convenience store use results in the need to maintain a minimum of 8 parking spaces as shown on the MCP. The applicant also sees the benefit of and wants to promote the use of alternative modes of transportation to their development. The applicant is accomplishing this by designating an area for at least 1 bicycle rack able to hold 4 bicycles. As stated in LDC Sec. 34-2020(c), commercial buildings may eliminate one required vehicle parking space by providing and maintaining a bicycle rack able to hold four bicycles. Thus, providing the bicycle rack further supports and allows for the overall required parking to be 8 vehicle spaces.

The requested deviation to allow for the reduction to a minimum of 8 vehicle parking spaces for a convenience store is consistent with the intent to reduce off-street parking impacts as allowed within the Downtown zoning district, provides areas for additional bicycle parking, addresses the unique site configuration limitations, and does not negatively impact the health, safety and welfare of the community.

TRAFFIC IMPACT STATEMENT

FOR

7-ELEVEN @ 841 ESTERO BLVD

(PROJECT NO. F2308.17)

PREPARED BY:
TR Transportation Consultants, Inc.
2726 Oak Ridge Court, Suite 5034
Fort Myers, Florida 33901
239-278-3090

August 31, 2023

CONTENTS

- I. INTRODUCTION
- II. EXISTING CONDITIONS
- III. PROPOSED REDEVELOPMENT
- IV. TRIP GENERATION
- V. TRIP DISTRIBUTION
- VI. FUTURE TRAFFIC CONDITIONS
- VII. PROJECTED LEVEL OF SERVICE
- VIII. TURN LANE ANALYSIS
- IX. CONCLUSION

I. INTRODUCTION

TR Transportation Consultants, Inc. has prepared a traffic impact statement to fulfill requirements set forth by the Town of Fort Myers Beach for projects seeking approval for Development Order. The site is located at 841 Estero Boulevard in the Town of Fort Myers Beach, Florida. The site location is illustrated on **Figure 1**.

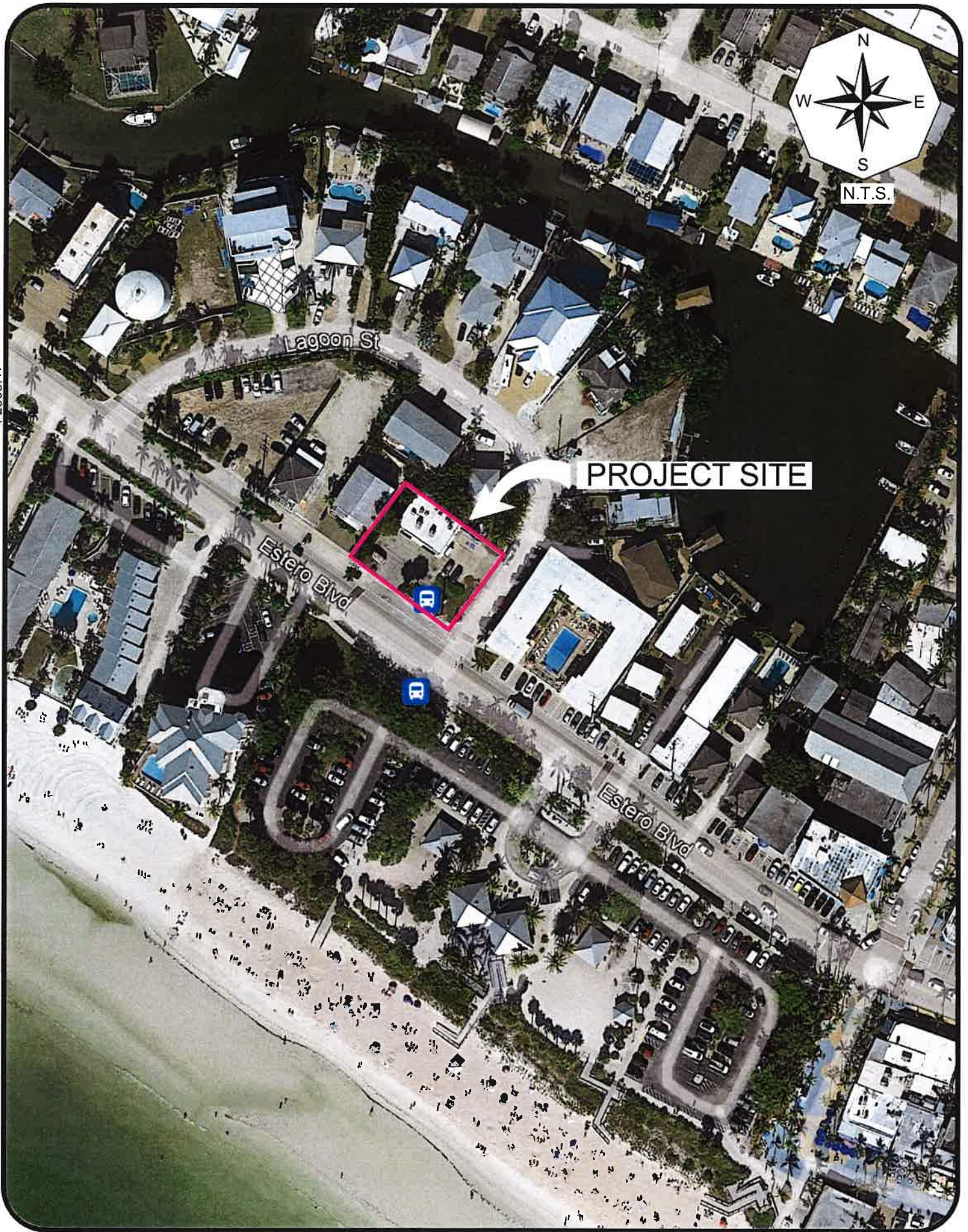
The site was previously occupied by an 1,800 square foot 7-Eleven convenience store which has been destroyed by hurricane Ian in late September of 2022. Upon approval of this local Development Order application, the subject site will be redeveloped with an approximate 3,109 square foot 7-Eleven convenience store. Access to the overall site will continue to be provided to Estero Boulevard and Lagoon Street via a single connection at each location.

This report examines the impact of the redevelopment on the surrounding roadways. Trip generation and assignments to the site access driveways will be completed and analysis conducted to determine the impacts of the development on the surrounding streets.

II. EXISTING CONDITIONS

The subject site has been cleared but was previously occupied by an 1,800 square foot 7-Eleven convenience store. The overall site is bordered by Estero Boulevard to the south, Lagoon Street to the east, and residential uses to the north and west.

Estero Boulevard is an east/west two-lane Collector that borders the subject site to the south. Estero Boulevard has a posted speed limit of 25 mph and is under the jurisdiction of the Town of Fort Myers Beach west of San Carlos Boulevard.



III. PROPOSED REDEVELOPMENT

The site was previously occupied by an 1,800 square foot 7-Eleven convenience store which has been destroyed by hurricane Ian in late September of 2022. Upon approval of this local Development Order application, the subject site will be redeveloped with an approximate 3,109 square foot 7-Eleven convenience store. **Table 1** summarizes the land uses utilized for the purposes of this analysis.

Table 1
Land Uses
7-Eleven @ 841 Estero Blvd

Land Use	Approved	Proposed
Convenience Store	1,800 Sq. Ft.	3,109 Sq. Ft.

Access to the overall site will continue to be provided to Estero Boulevard and Lagoon Street via a single connection at each location.

IV. TRIP GENERATION

The trip generation for the approved and proposed redevelopment was determined by referencing the Institute of Transportation Engineer's (ITE) report, titled ***Trip Generation Manual***, 11th Edition. Land Use Code 851 (Convenience Store) was utilized for the trip generation purposes. The equations utilized from this land use are contained in the Appendix of this report for reference.

Table 2 outlines the anticipated weekday A.M. and P.M. peak hour and daily trip generation of the previous development on site. **Table 3** outlines the anticipated weekday A.M. and P.M. peak hour and daily trip generation of the redevelopment as currently proposed. The sites surveyed in the ITE report that formulate the trip generation for this use were based on sites typically located along major thoroughfares in larger metropolitan areas, and not in a beach community such as this site. This location has historically attracted a majority of the trips from the beach via foot traffic and the

adjacent neighborhood. Estero Boulevard has a low peak hour traffic volume compared to other major thoroughfares where these convenience stores are typically located. This site is not anticipated to generate the peak hour trip generation as estimated by the ITE data. However, to be conservative, a reduction in trips due to pedestrian traffic was not included in this analysis.

Table 2
Trip Generation – Approved
7-Eleven @ 841 Estero Blvd

Land Use	Weekday A.M. Peak Hour			Weekday P.M. Peak Hour			Daily (2-way)
	In	Out	Total	In	Out	Total	
Convenience Store (1,800 Sq. Ft.)	56	57	113	45	43	88	1,373

Table 3
Trip Generation – Proposed
7-Eleven @ 841 Estero Blvd

Land Use	Weekday A.M. Peak Hour			Weekday P.M. Peak Hour			Daily (2-way)
	In	Out	Total	In	Out	Total	
Convenience Store (3,109 Sq. Ft.)	97	97	194	78	75	153	2,370

Table 4 illustrates the trip change when comparing the trip generation of the previous use on the subject site to the trip generation of the proposed use (Table 2 vs Table 3). The trip change shown in Table 4 was utilized in the Level of Service Analysis conducted as part of this report.

Table 4
Trip Generation Comparison– Approved vs Proposed
Table 2 vs Table 3

Land Use	Weekday A.M. Peak Hour			Weekday P.M. Peak Hour			Daily (2-way)
	In	Out	Total	In	Out	Total	
Proposed	97	97	194	78	75	153	2,370
Approved	-56	-57	-113	-45	-43	-88	-1,373
Trip Change	+41	+40	+81	+33	+32	+65	+997

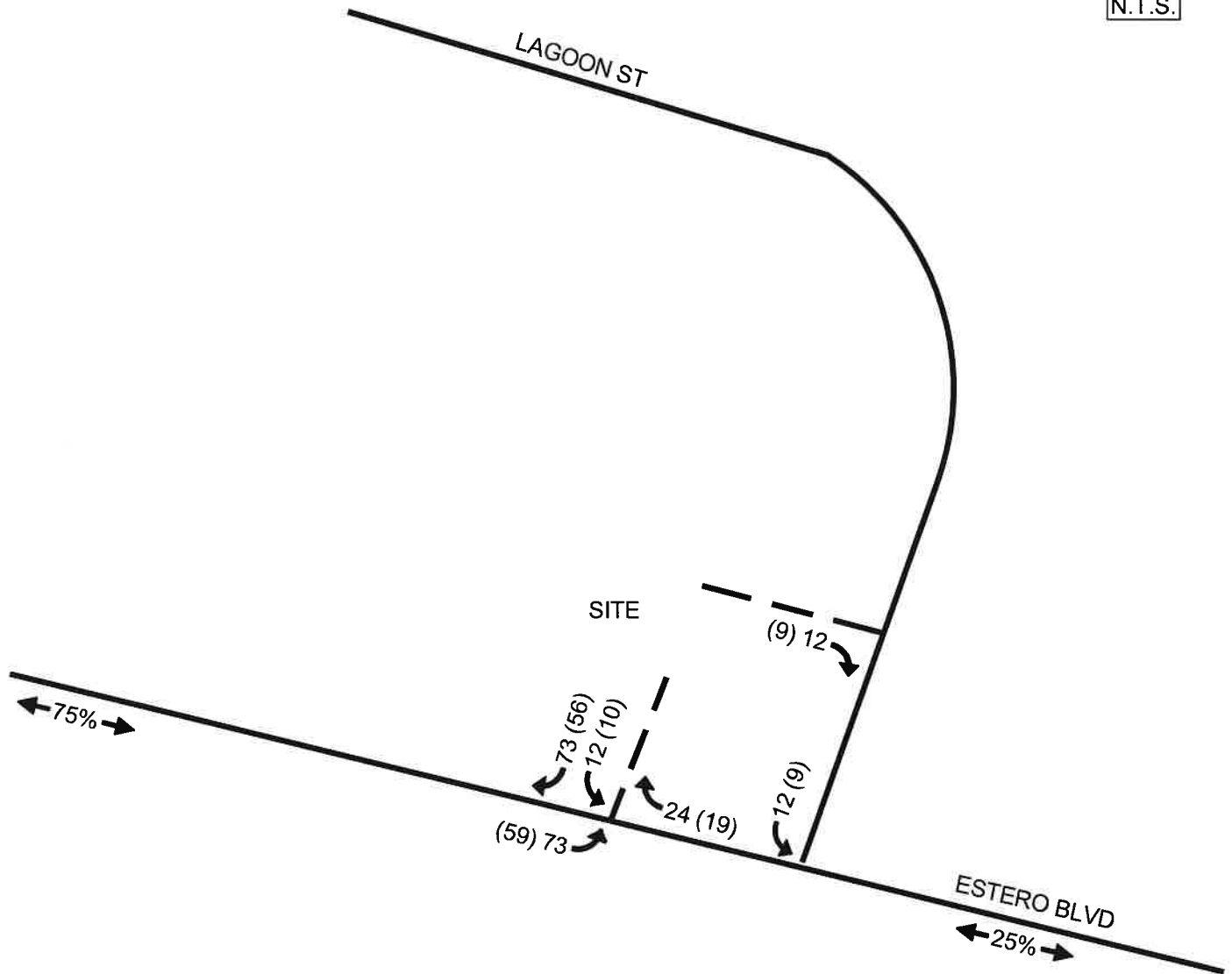
V. TRIP DISTRIBUTION

The trips the proposed redevelopment is anticipated to generate, as shown in Table 3, were then assigned to the surrounding roadway network. The trips were assigned based upon the routes drivers are anticipated to utilize to approach the subject site. **Figure 2** illustrates the anticipated trip distribution. Also shown in Figure 2, is the site traffic assignment of the proposed development to the proposed site access drives.

Table 1A, contained in the Appendix, was created to illustrate the adopted Level of Service volumes on the adjacent segment of Estero Boulevard. This table indicates which roadway links will experience a significant impact as a result of the additional trips (Table 4) from the proposed development order application. Significant impact is defined as any roadway projected to experience greater than 10% of the Peak Hour – Peak Direction Level of Service “C” volumes. The Level of Service Threshold volumes for all roadway links analyzed were obtained from the *Lee County Generalized Peak Hour Directional Volumes Table* provided by the Lee County Department of Transportation. Based on the information contained within Table 1A, none of the roadway links analyzed are anticipated to experience a significant impact as a result of the redeveloped 7-Eleven.

VI. FUTURE TRAFFIC CONDITIONS

A horizon year analysis of 2025 was selected as the analysis year to evaluate the future impacts this project will have on the surrounding roadway network. Based on this horizon year, a growth rate was applied to the existing traffic conditions for all roadway links in the study area. Due to lack of historical traffic data on the adjacent segment of Estero Boulevard, a typical annual growth rate of 2% compounded annually was assumed. Based on the project distribution illustrated on Figure 2, the link data was analyzed for the year 2025 without the development and year 2025 with the development.



LEGEND

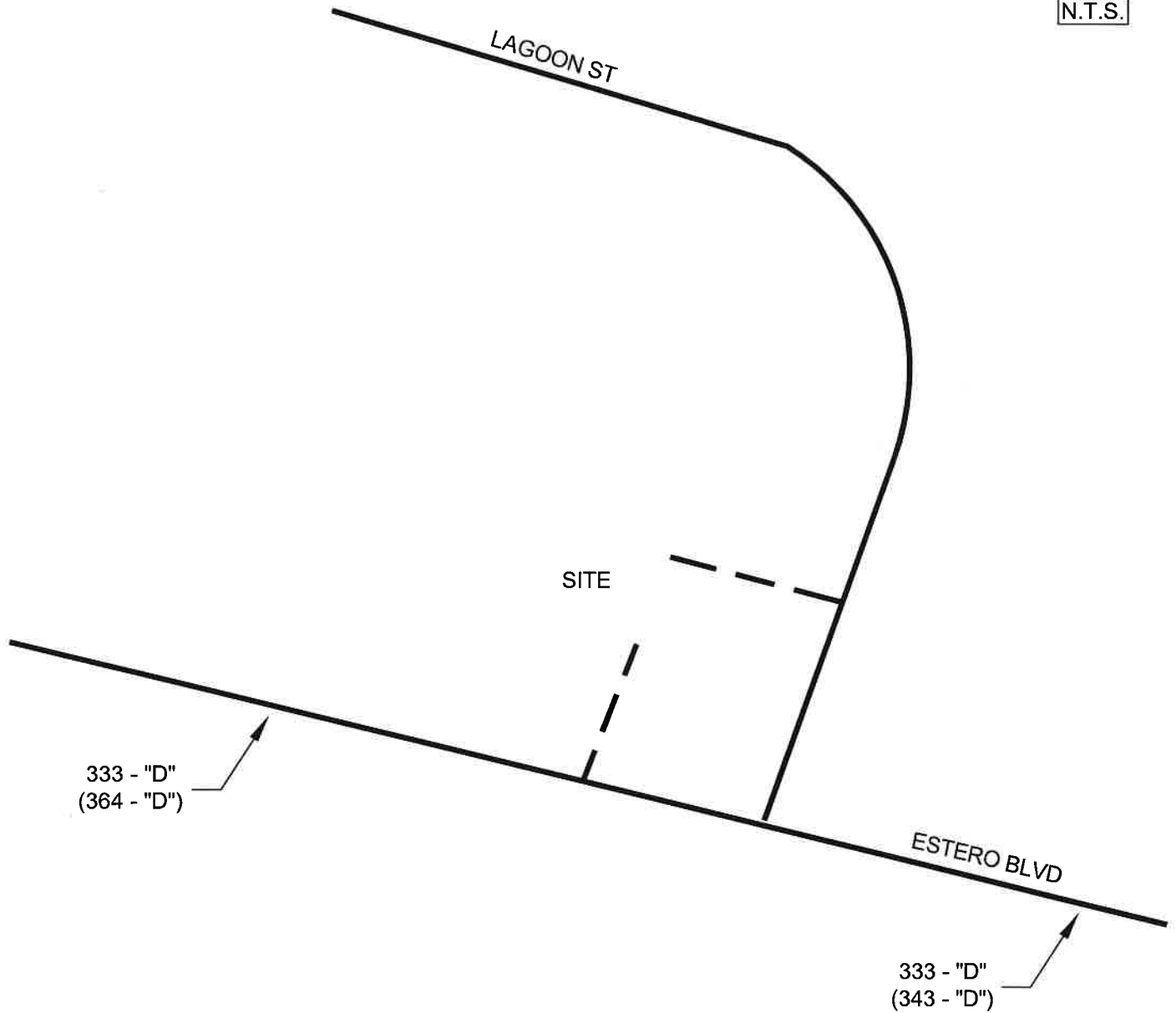
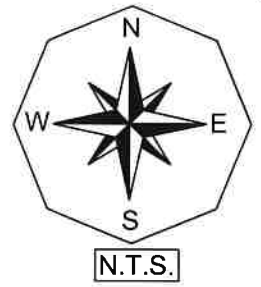
- ◀ 000 WEEKDAY AM PEAK HOUR TRAFFIC
- ◀ (000) WEEKDAY PM PEAK HOUR TRAFFIC
- ◀ 20% ▶ PERCENT TRIP DISTRIBUTION

Table 2A in the Appendix of the report indicates the methodology utilized to obtain the year 2025 build-out traffic volumes as well as the growth rate utilized for each roadway segment. The base year traffic volumes for Estero Boulevard were obtained from the peak season peak hour traffic counts conducted at Old San Carlos Boulevard and Fifth Street/Estero Boulevard intersection by FDOT as part of the SR 865 Traffic Report. It should be noted that the base traffic volumes utilized in this analysis were collected prior to Hurricane Ian. It will be a number of years before this level of traffic volume is attained again due to the loss of residential and hotel units on the island due to hurricane.

Figure 3 indicates the year 2025 peak hour – peak direction traffic volumes and Level of Service for the various roadway links within the study area. Noted on Figure 3 is the peak hour – peak direction volume and Level of Service of each link should no development occur on the subject site and the peak hour – peak direction volume and Level of Service for the weekday P.M. peak hour with the proposed redevelopment traffic added to the roadways. This figure is derived from Table 2A contained in the Appendix.

VII. PROJECTED LEVEL OF SERVICE

Adverse impacts are defined as a degradation of the Level of Service beyond the adopted Level of Service Thresholds for those links as indicated in Table 1A. In comparing the links' functional classification and calculated 2025 traffic volumes to the Service Volume Tables, it was determined that Estero Boulevard adjacent to the site is projected to operate at an acceptable Level of Service "D" in 2025 both with and without the proposed redevelopment traffic added to this roadway. Therefore, roadway capacity improvements will not be warranted as a result of the additional traffic to be generated by the proposed 7-Eleven redevelopment on the subject site.



LEGEND

XXX - "C" 2025 PEAK SEASON, PEAK HOUR,
PEAK DIRECTION BACKGROUND
TRAFFIC AND LEVEL OF SERVICE
DESIGNATION

(XXX -"C") 2025 PEAK SEASON, PEAK HOUR,
PEAK DIRECTION BACKGROUND
PLUS PROJECT TRAFFIC PEAK
HOUR PROJECT TRIPS AND LEVEL
OF SERVICE DESIGNATION

It should also be noted that FDOT has been recently released the construction project to begin improvements to San Carlos Boulevard from Buttonwood Drive to Estero Boulevard that will create two travel lanes southbound over Matanzas Pass Bridge as well as redesigning the intersection of San Carlos Boulevard and Estero Boulevard with a new signal. Based on discussion with FDOT, the construction for this improvement is anticipated to begin in April of 2024 and be completed by the end of year 2025.

VIII. TURN LANE ANALYSIS

A turn lane analysis was completed at the proposed site access drive on Estero Boulevard based upon the Lee County Turn Lane Policy (Lee County Administrative Code 11-4). The Lee County Administrative Code 11-4 is attached to the Appendix of this report for reference. Based upon the results of the turn lane analysis, no turn lanes will be warranted at this intersection as a result of the proposed 7-Eleven redevelopment of the subject site. A summary of the turn lane criteria is outlined below.

Right Turn Lane On Collector Street – Estero Boulevard

Posted speed limit of the collector street is equal to or greater than thirty-five (35) mph – Criteria Met – No, the posted speed limit is 25 mph.

Number of right turning movements from the collector street is equal to or greater than forty-five (45) during either the A.M. or P.M. peak hour of the collector street when the collector street AADT is less than 6,000 vpd, or equal to or greater than thirty (30) vph during either the A.M. or P.M. peak hour of the collector street or peak hour of the development when the collector street AADT is equal to or greater than 6,000 vpd– Criteria Met – No. See Figure 2.

Available Sight Distance for a right turning vehicle to be seen by through traffic traveling the same direction is less than the value shown in Table A-1 for the design speed of the collector street – Criteria Met – No.

Collector Street has been designated as a controlled access facility by the BOCC– Criteria Met – No.

Traffic Control of the intersecting street or access point connection is a signal or is anticipated to meet MUTCD traffic signal warrants by the build-out year– Criteria Met – No.

It is determined by the Lee County Department of Transportation that a turn lane is required for the health, safety, and welfare of the road users – Criteria Met – No.

At least two or more criteria need to be met to warrant a right turn lane. Since two or more criteria are not met, a separate westbound right turn lane is **NOT** warranted at proposed site access drive on Estero Boulevard.

Left Turn Lane On Collector Street – Estero Boulevard

Posted speed limit of the collector street is equal to or greater than thirty-five (35) mph – Criteria Met – No, the posted speed limit is 25 mph.

On a two-lane, two-way collector streets. Two-way peak season, peak hour through and right turn volume for either the peak hour of the roadway or the peak hour of development is greater than 500 and the left turn volume is greater than or equal to 20 vehicle for that same hour; or,

When the left turn volume for any hour is greater than 30, regardless of through and right turn volume– Criteria Met – Yes.

Available Sight Distance for left turning vehicles to observe approaching or for approaching moving in either direction to observe the left turning vehicle is less than the value shown in Table A-1 for the design speed limit, or posted speed plus 5 miles per hour if design speed is not available, of the collector street– Criteria Met – No.

Traffic Control of the intersecting street or access point connection is a traffic signal or is anticipated to meet MUTCD traffic signal warrants in the next five years– Criteria Met – No.

The collector streets is intersecting an arterial street or collector street – Criteria Met – No.

Five or more crashes reported at the intersection in a 12-month period during the past three years that could have been mitigated by a left turn lane – Criteria Met – N/A.

It is determined by the Lee County Department of Transportation that a turn lane is required for the health, safety, and welfare of the road users – Criteria Met – No.

At least two or more criteria need to be met to warrant a left turn lane. Since two or more criteria are not met, a separate eastbound left turn lane is **NOT** warranted at proposed site access drive on Estero Boulevard.

VII. CONCLUSION

The proposed Development Order application is for the redevelopment of the existing 7-Eleven convenience store located at 841 Estero Boulevard in the Town of Fort Myers Beach of Lee County, Florida. The results of the Level of Service Analysis conducted as part of this report indicate that Estero Boulevard adjacent to the site is projected to operate at an acceptable Level of Service “D” in 2025 both with and without the proposed redevelopment traffic added to this roadway. Therefore, roadway capacity improvements will not be warranted as a result of the additional traffic to be generated by the proposed 7-Eleven redevelopment on the subject site.

It should also be noted that FDOT has been recently released the construction project to begin improvements to San Carlos Boulevard from Buttonwood Drive to Estero Boulevard that will create two travel lanes southbound over Matanzas Pass Bridge and redesigning the intersection of San Carlos Boulevard and Estero Boulevard with a new signal. Based on discussion with FDOT, the construction for this improvement is anticipated to begin in April of 2024 and be completed by the end of year 2025.

No turn lanes will be warranted at the proposed site access drives on Estero Boulevard and Lagoon Street pursuant to the criteria that is outlined in the Lee County Turn Lane Policy (Administrative Code 11-4).

APPENDIX

TABLES 1A & 2A

TABLE 1A
PROJECT TRAFFIC VS. 10% LOS C LINK VOLUMES
7-ELEVEN @ 841 ESTERO BLVD

AM PEAK HOUR PROJECT TRAFFIC =		81	VPH	IN=	41	OUT=	40			
PM PEAK HOUR PROJECT TRAFFIC =		65	VPH	IN=	33	OUT=	32			
<u>ROADWAY</u>	<u>SEGMENT</u>	<u>ROADWAY CLASS</u>	<u>LOS A VOLUME</u>	<u>LOS B VOLUME</u>	<u>LOS C VOLUME</u>	<u>LOS D VOLUME</u>	<u>LOS E VOLUME</u>	<u>% PROJECT TRAFFIC</u>	<u>PROJECT TRIPS</u>	<u>PROJ/ LOS C</u>
Estero Blvd	W. of Site	2LN	0	0	310	660	740	75%	31	9.9%
	E. of Site	2LN	0	0	310	660	740	25%	10	3.3%

* Level of Service Thresholdswere taken from the Lee County Generalized Peak Hour Directional Service Volumes table, dated April 2016.

TABLE 2A
LEE COUNTY TRAFFIC COUNTS AND CALCULATIONS
7-ELEVEN @ 841 ESTERO BLVD

AM PEAK HOUR PROJECT TRAFFIC = 81 VPH		IN=	41	OUT=	40
PM PEAK HOUR PROJECT TRAFFIC = 65 VPH		IN=	33	OUT=	32
		2015	2025	2025	2025
		PK HR	PK HR	BCKGRND	BCKGRND
		ANNUAL	PK SEASON	PK SEASON	PK SEASON
		RATE	PEAK DIR. ¹	PEAK DIR.	PEAK DIR.
ROADWAY	W. of Site	2.00%	273	333	75%
	E. of Site	2.00%	273	333	25%
				AM PROJ	PM PROJ
				TRAFFIC	TRAFFIC
				364	358
				343	341

¹ 2015 Peak Hour volumes were obtained from the traffic count conducted at Old San Carlos Blvd and 5th Street intersection.

100TH HIGHEST HOUR LEVEL OF SERVICE

	2025	2025	2025
BCKGRND	BCKGRND	BCKGRND	BCKGRND
TRAFFIC	+ NEW AM	+ NEW PM	
LOS	PROJ LOS	PROJ LOS	PROJ LOS
Estero Blvd	D	D	D
W. of Site	D	D	D
E. of Site	D	D	D

**TRAFFIC DATA FROM
FDOT'S SR 865 TRAFFIC REPORT**

Project Traffic Report

Florida Department of Transportation

District One

SR 865 (San Carlos Boulevard)

From South of Estero Boulevard to CR 869 (Summerlin Road)

Lee County, Florida

Financial Project ID: 433726-1-22-01

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by the FDOT pursuant to 23 U.S.C. §327 and a Memorandum of Understanding (MOU) dated December 14, 2016 and executed by the Federal Highway Administration and FDOT.

December 2018

Project Traffic Report Certification

For

SR 865 (San Carlos Boulevard)

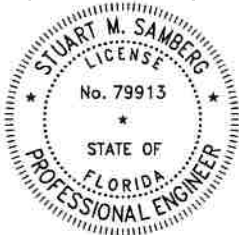
From South of Estero Boulevard to CR 869 (Summerlin Road)

Lee County, Florida

Financial Project ID: 433726-1-22-01

I, **Stuart M. Samberg (FL PE No. 79913)**, certify that the Project Traffic Report for **SR 865 (San Carlos Boulevard) from South of Estero Boulevard to CR 869 (Summerlin Road)** in Lee County, Florida has been prepared in accordance with **FDOT Project Traffic Forecasting Procedure Topic Number 525-030-120h (April 17, 2012)** and supplemental guidance as provided within the **FDOT Project Traffic Forecasting Handbook (2014 edition)**. All information as provided within this Project Traffic Report has been prepared using current information (available at the time of document preparation), transportation planning and traffic engineering practices and procedures.

The following duly authorized engineering business performed the engineering work represented by this report:



Rummel, Klepper & Kahl, LLP

402 S. Kentucky Avenue, Suite 400

Lakeland, Florida 33801

Telephone: (863) 682-4081

Florida Certificate of Authorization: 26879

Name: **Stuart M. Samberg, P.E.**

Signature: _____

Stuart M Samberg Date: 2018.12.14
13:09:14-05'00'

P.E. Number: 79913

Date: _____

December 14, 2018

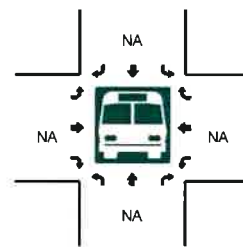
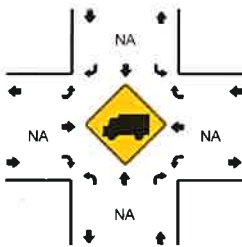
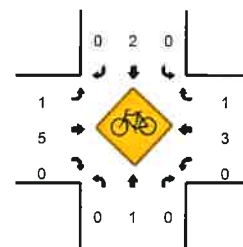
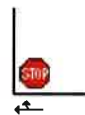
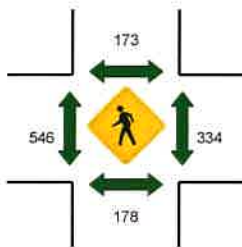
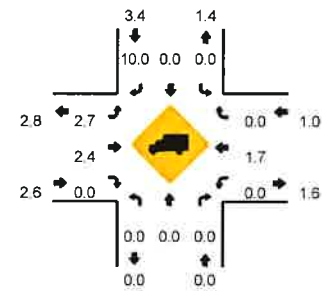
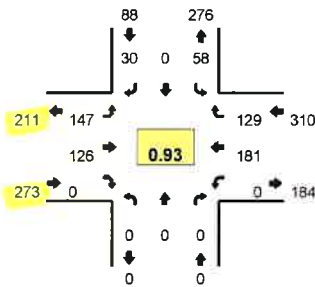
Type of peak hour being reported: Intersection Peak

Method for determining peak hour: Total Entering Volume

LOCATION: Old San Carlos Blvd -- Fifth St
CITY/STATE: Fort Myers Beach, FL

QC JOB #: 13203528
DATE: Thu, Feb 26 2015

Peak-Hour: 3:30 PM -- 4:30 PM
Peak 15-Min: 4:15 PM -- 4:30 PM



15-Min Count Period Beginning At	Old San Carlos Blvd (Northbound)				Old San Carlos Blvd (Southbound)				Fifth St (Eastbound)				Fifth St (Westbound)				Total	Hourly Totals
	Left	Thru	Right	U	Left	Thru	Right	U	Left	Thru	Right	U	Left	Thru	Right	U		
3:00 PM	0	0	0	0	12	0	10	0	37	25	0	0	0	58	27	0	169	
3:15 PM	0	0	0	0	11	0	6	0	42	25	0	0	0	61	30	0	175	
3:30 PM	0	0	0	0	10	0	7	0	32	27	0	0	0	50	30	0	156	
3:45 PM	0	0	0	0	11	0	7	0	32	32	0	0	0	46	35	0	163	663
4:00 PM	0	0	0	0	24	0	10	0	36	30	0	0	0	47	25	0	172	666
4:15 PM	0	0	0	0	13	0	6	0	47	37	0	0	0	38	39	0	180	671
4:30 PM	0	0	0	0	9	0	5	0	31	18	0	0	0	44	26	0	133	648
4:45 PM	0	0	0	0	15	0	3	0	34	27	0	0	0	42	32	0	153	638
Peak 15-Min Flowrates	Northbound				Southbound				Eastbound				Westbound				Total	
	Left	Thru	Right	U	Left	Thru	Right	U	Left	Thru	Right	U	Left	Thru	Right	U		
All Vehicles	0	0	0	0	52	0	24	0	188	148	0	0	0	152	156	0	720	
Heavy Trucks	0	0	0	0	0	0	4	0	4	4	0	0	0	0	0	0	12	
Pedestrians	232				168				448				368				1216	
Bicycles	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	1	
Railroad																		
Stopped Buses																		

Comments: Needs back of queue studies for all approaches

Report generated on 5/25/2015 5:29 PM

SOURCE: Quality Counts, LLC (<http://www.qualitycounts.net>) 1-877-580-2212

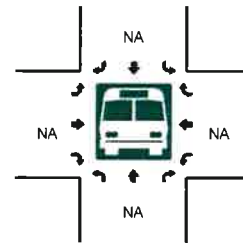
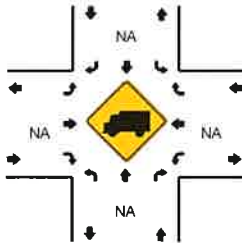
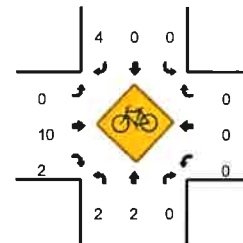
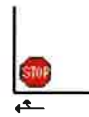
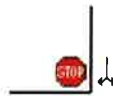
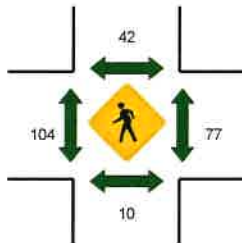
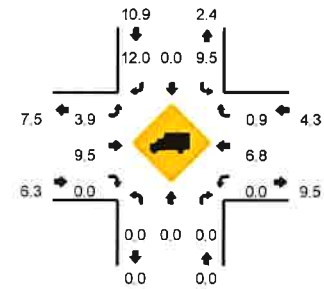
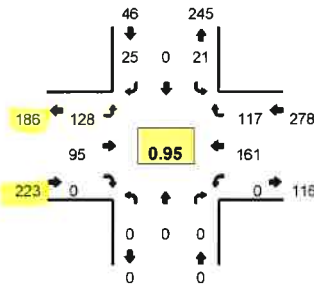
Type of peak hour being reported: Intersection Peak

Method for determining peak hour: Total Entering Volume

LOCATION: Old San Carlos Blvd -- Fifth St
CITY/STATE: Fort Myers Beach, FL

QC JOB #: 13203527
DATE: Thu, Feb 26 2015

Peak-Hour: 8:45 AM -- 9:45 AM
Peak 15-Min: 8:45 AM -- 9:00 AM



15-Min Count Period Beginning At	Old San Carlos Blvd (Northbound)				Old San Carlos Blvd (Southbound)				Fifth St (Eastbound)				Fifth St (Westbound)				Total	Hourly Totals
	Left	Thru	Right	U	Left	Thru	Right	U	Left	Thru	Right	U	Left	Thru	Right	U		
8:00 AM	0	0	0	0	4	0	4	0	14	19	0	0	0	28	14	0	83	
8:15 AM	0	0	0	0	2	0	3	0	20	10	0	0	0	50	27	0	112	
8:30 AM	0	0	0	0	7	0	7	0	18	15	0	0	0	38	23	0	108	
8:45 AM	0	0	0	0	4	0	3	0	22	28	0	0	0	54	33	0	144	447
9:00 AM	0	0	0	0	7	0	14	0	38	19	0	0	0	29	27	0	134	498
9:15 AM	0	0	0	0	2	0	3	0	36	28	0	0	0	36	28	0	133	519
9:30 AM	0	0	0	0	8	0	5	0	32	20	0	0	0	42	29	0	136	547
9:45 AM	0	0	0	0	7	0	3	0	29	25	0	0	0	31	29	0	124	527
Peak 15-Min Flowrates	Northbound				Southbound				Eastbound				Westbound				Total	
	Left	Thru	Right	U	Left	Thru	Right	U	Left	Thru	Right	U	Left	Thru	Right	U		
All Vehicles	0	0	0	0	16	0	12	0	88	112	0	0	0	216	132	0	576	
Heavy Trucks	0	0	0	0	0	0	4	0	4	12	0	0	0	8	0	0	28	
Pedestrians	0	20	0	0	0	72	0	0	0	112	0	0	0	64	0	0	268	
Bicycles	0	0	0	0	0	0	1	0	0	4	0	0	0	0	0	0	5	
Railroad																		
Stopped Buses																		

Comments: Needs back of queue studies for all approaches

**LEE COUNTY PEAK HOUR
GENERALIZED LEVEL OF SERVICE
TABLE**

Lee County
Generalized Peak Hour Directional Service Volumes
Urbanized Areas

April 2016

c:\input5

Uninterrupted Flow Highway						
Level of Service						
Lane	Divided	A	B	C	D	E
1	Undivided	130	420	850	1,210	1,640
2	Divided	1,060	1,810	2,560	3,240	3,590
3	Divided	1,600	2,720	3,840	4,860	5,380
Arterials						
Class I (40 mph or higher posted speed limit)						
Level of Service						
Lane	Divided	A	B	C	D	E
1	Undivided	*	140	800	860	860
2	Divided	*	250	1,840	1,960	1,960
3	Divided	*	400	2,840	2,940	2,940
4	Divided	*	540	3,830	3,940	3,940
Class II (35 mph or slower posted speed limit)						
Level of Service						
Lane	Divided	A	B	C	D	E
1	Undivided	*	*	330	710	780
2	Divided	*	*	710	1,590	1,660
3	Divided	*	*	1,150	2,450	2,500
4	Divided	*	*	1,580	3,310	3,340
Controlled Access Facilities						
Level of Service						
Lane	Divided	A	B	C	D	E
1	Undivided	*	160	880	940	940
2	Divided	*	270	1,970	2,100	2,100
3	Divided	*	430	3,050	3,180	3,180
Collectors						
Level of Service						
Lane	Divided	A	B	C	D	E
1	Undivided	*	*	310	660	740
1	Divided	*	*	330	700	780
2	Undivided	*	*	730	1,440	1,520
2	Divided	*	*	770	1,510	1,600
Note: the service volumes for I-75 (freeway), bicycle mode, pedestrian mode, and bus mode should be from FDOT's most current version of LOS Handbook.						

LEE COUNTY TURN LANE POLICY
ADMINISTRATIVE CODE 11-4

**Administrative Code
Board of County Commissioners**

CATEGORY: Transportation and Traffic Management

CODE NUMBER: AC-11-4

TITLE:
TURN LANE POLICY

ADOPTED: 10/19/88

AMENDED: 10/16/91 3/24/98, 08/17/21

ORIGINATING DEPARTMENT:
TRANSPORTATION

PURPOSE/SCOPE:

GENERAL

I. SCOPE

Deceleration, left turn, and right turn lanes are desirable for the safe execution of speed change maneuvers and for storage and protection of left and right turning vehicles. These additional lanes for exit or entrance maneuvers shall be provided in accordance with County Design Standards herein. The pavement width and cross slopes of such lanes shall meet minimum requirements; however, special designs may be allowed when deemed necessary by the Director of the Department of Transportation for County maintained facilities and the Manager of the Department of Community Development's Development Services Division for privately-maintained facilities. Shoulders and recovery areas should be provided in accordance with the same requirements for other travel lanes; wherever possible.

It should be realized that deceleration, left turn, and right turn lanes constitute an integral part of the geometric design of streets and highways and shall be included in the design for all new and replacement construction projects. Deceleration, left turn, and right turn lanes may need to be installed at an existing intersection or access point to improve the existing or outdated design, if and when a traffic analysis shows that the travel time or safety is being degraded by the proposed project traffic, or the turning movements at the intersection are being created by the proposed project's traffic. This Policy addresses the warrants and design features for both cases.

II. POLICY AND PROCEDURE

Deceleration, left turn, and right turn lanes shall be provided at all intersections and/or access points on county-maintained and privately-maintained facilities as required by this policy. Deceleration, left turn, and right turn lane requirements shall not apply to a single family residence, a duplex residence, or two (2) family residence. When an existing development increases trip generation by expanding facilities or by change in use, a one-time deviation may be granted whereby only the increased trip generation is considered in determining if the warrants for requiring deceleration, left and right turn lanes are satisfied providing such deviation does not create a new or increased existing hazard which is detrimental to the health, safety and welfare of the traveling public.

This policy shall not be used to deny access to county maintained facilities for property which otherwise has the right of access; and for which it is not possible to provide deceleration, left and right turn lanes without acquiring additional Right-of-way (ROW) beyond the limits of the subject property. Nothing in this policy shall be construed to place an obligation upon the County to permit left turn lanes into or out of any development via either any existing or proposed street or access point driveway from any street or highway facility where the Director of the Department of Transportation or the Manager of the Division of Development Services (hereinafter referred to as the "Directors") has determined it is not in the best interests of the health, safety and general welfare of the traveling public to allow such left turning movement.

III. DEFINITIONS

1. Deceleration Lane(s)

The primary function of a deceleration lane is to provide a safe travel path and sufficient distance for exiting vehicles to decelerate from the operating speed on the through lanes of a roadway prior to exiting from the facility.

2. Turn Lane(s)

a. Left Turn

The primary function of a left turn lane is to provide a protected area separated from the flow of through traffic in the same direction where left turning vehicles can slow to a stop and wait until a suitable gap occurs or is provided in the opposing flow of traffic to allow the turning maneuver to be safely completed. A secondary function is to eliminate the delay and congestion that would affect the through traffic movement in the same direction while the left turning vehicles slowed down and waited for a safe and adequate gap in the opposing flow of traffic to complete the turning maneuver.

b. Right Turn

The primary purpose of a right turn storage lane is to provide a protected area separated from the flow of through traffic in the same direction where right turning vehicles can slow to turning speed or stop and wait until the turning maneuver can be safely completed. A secondary purpose is to eliminate the delay and congestion that would occur for through traffic moving in the same direction while turning vehicles slowed down and completed the right turn movement.

3. Design Speed

The design speed is the speed noted on the roadway construction plans, or if plans are not available, it is the posted speed limit plus five miles per hour.

4. Two-way peak season volume

Two-way peak season peak hour volumes to be derived from the AADT estimates in the most recent Lee County Traffic Count Report or if County counts are not available, from developer's counts adjusted using the peak season and peak hour factors from an appropriate nearby permanent count station or combination of count stations. The volumes should also be adjusted to the appropriate horizon year per the TIS requirements.

5. FDOT Design Manual (FDM)

The latest version of the Florida Department of Transportation Design Manual.

IV. WARRANTS

The need for deceleration and turn lanes are generally determined by the following factors:

1. Street classification of any particular street or road as identified in the adopted County Administrative Code entitled "County Road Functional Classification Map and List".
2. Posted Roadway Speed
3. Number of Turning Movements during the Peak Hour of both the development and the adjacent roadway
4. Opposing and same direction peak hour through volumes.
5. Intersection and/or Stopping Sight Distance
6. Access Control

7. Crash history

Turn lane warrant reviews shall be required by developers at all project site access points, all intersections interior to planned developments open to public traffic, and all access points at the boundaries of planned developments at time of project plan review. Warrant reviews at all intersections interior to planned developments and all access points at the boundaries of planned developments must include all cumulative approved development traffic associated with the planned development.

LEFT TURN DECELERATION AND LEFT TURN LANES

A deceleration and left turn lane will be required when any two (2) or more of the following warrants are satisfied:

A. Arterial Street

1. Posted speed limit of the arterial street is equal to or greater than thirty-five (35) mph.
2. Estimated traffic volume:
 - a. Two-way peak season, peak hour through and right turn volume on the facility for either the peak hour of the roadway or the peak hour of the development is equal to or greater than 1000 vehicles and the left turn volume is greater than or equal to 10 vehicles; or
 - b. Two-way peak season, peak hour through and right turn volume on the facility for either the peak hour of the roadway or the peak hour of the development is between 500 and 1000 vehicles and the left turn volume is greater than or equal to 15 vehicles; or
 - c. When the left turn volume for any hour is greater than 20 trips regardless of through and right turn volumes on the facility.
3. Available Sight Distance for left turning vehicles to observe approaching traffic or for approaching traffic moving in either direction to observe the left turning vehicle is less than the value shown in Table A-1 for the design speed, or posted speed limit plus 5 miles per hour if the design speed is not available, of the arterial street.
4. The arterial street has been designated as a controlled access facility by the BOCC.
5. The arterial street intersection is an arterial street or collector street.
6. Traffic Control of the intersecting street or access point connection is by a traffic signal or is anticipated to meet MUTCD traffic signal warrants in the next five years.
7. Five or more crashes reported at the intersection in a 12-month period during the past three years that could have been mitigated by a left turn lane.
8. It is determined by the Lee County Department of Transportation that a turn lane is required for the health, safety, and welfare of the road users.

Table A-1				
Stopping Sight Distance for Approach to Stops				
Design Speed (mph)	< or = 30	40	50	> or = 60
Required sight distance (ft)	200	310	430	570

B. Collector Street

1. Posted speed limit of the collector street is equal to or greater than thirty-five (35) mph.
2. Number of Left Turning Movements
 - a. On multi-lane collector facilities the number of left turning vehicles from the collector roadway is equal to or greater than twenty (20) during either the A.M. or P.M. peak hour of the collector street or the peak hour of the development.
 - b. On two-lane two way collector streets:

- i. Two-way peak season, peak hour through and right turn volume for either the peak hour of the roadway or the peak hour of the development is equal to or greater than 500 vehicles and the left turn volume is equal to or greater than 20 vehicles for that same hour; or
 - ii. When the left turn volume for any hour is greater than 30 vehicles regardless of through and right turn volume.
- 3. Available Sight Distance for left turning vehicles to observe approaching traffic or for approaching traffic moving in either direction to observe the left turning vehicle is less than the value shown in Table A-I for the design speed, or posted speed limit plus 5 miles per hour if the design speed is not available, of the collector street.
- 4. Traffic Control of the intersecting street or access point connection is a traffic signal or is anticipated to meet MUTCD traffic signal warrants in the next five years.
- 5. The collector street is intersecting an arterial or collector street.
- 6. Five or more crashes reported at the intersection in a 12-month period during the past three years that could have been mitigated by a left turn lane.
- 7. It is determined by the Lee County Department of Transportation that a turn lane is required for the health, safety, and welfare of the road users.

C. Local Streets

- 1. Posted speed limit on the local street is equal to or greater than thirty (30) mph and the peak hour left turning movement is sixty (60) or more.
- 2. Number of Left Turning Movements
 - a. On multi-lane facilities the number of left turning vehicles exceeds one hundred (100) during the peak hour of the local street.
 - b. On two-lane, two way facilities the number of left turning vehicles from the local street exceeds sixty (60) during the peak hour of the local street and the opposing through plus right turn traffic volume exceeds five hundred (500) vehicles during either the A.M. or P.M. peak hour of the local street.
- 3. Available Sight Distance for left turning approaching traffic or for approaching traffic moving in either direction to observe the left turning vehicle is less than the value shown in Table A-I for the posted speed limit of the local street.
- 4. Traffic Control of the intersecting street or access point connection is a traffic signal or is anticipated to meet MUTCD traffic signal warrants in the next five years.
- 5. It is determined by the Lee County Department of Transportation that a turn lane is required for health, safety, and welfare of the road users.

D. Intersecting Streets

Separate left turn lanes are required on an intersecting street or access point connection when any two (2) or more of the following warrants are satisfied:

- 1. Intersecting Street/Connection to Arterial Streets
 - a. Posted speed limit of the intersecting street or access point connection is equal to or greater than thirty-five (35) mph.
 - b. When the Number of left turning vehicles from the intersecting street or access point connection is equal to or greater than thirty (30) vehicles during either A.M. or P.M. peak hour of the arterial street.
 - c. The arterial street which is being entered has been designated as a controlled access facility by the BOCC.

- d. Traffic Control of the intersecting street or access point connection is a traffic signal or is anticipated to meet MUTCD traffic signal warrants by the build-out year.
 - e. It is determined by the Lee County Department of Transportation or the Department of Community Development that a turn lane is required for the health, safety, and welfare of the road users.
2. Intersecting Street/Connection to Collector Street
- a. Posted speed limit of the intersecting street or access point connection is equal to or greater than thirty five (35) mph.
 - b. Number of left turning vehicles from the intersecting street or access point connection is equal to or greater than sixty (60) vehicles during either the A.M. or P.M. peak hour of the collector street.
 - c. Traffic Control of the intersecting street or access point connection is a traffic signal or is anticipated to meet MUTCD traffic signal warrants by the build-out year.
 - d. It is determined by the Lee County Department of Transportation or Department of Community Development that a turn lane is required for the health, safety, and welfare of the road users.
3. Intersecting Street/Connection to Local Street
- a. Posted speed limit of the intersecting street or access point connection is equal to or greater than thirty (30) mph.
 - b. Number of left turning vehicles from the intersecting street or access point connection is equal to or greater than ninety (90) vehicles during either the A.M. or P.M. peak period of the local street.
 - c. Traffic Control of the intersecting street or access point connection is a traffic signal.
 - d. It is determined by the Lee County Department of Transportation or Department of Community Development that a turn lane is required for the health, safety, and welfare of the road users.

DECELERATION AND RIGHT TURN LANES

A deceleration and right turn lane will be required when any two (2) or more of the following warrants are satisfied:

A. Arterial Street

- 1. Posted speed limit of the arterial street is equal to or greater than thirty-five (35) mph.
- 2. Number of right turning movements from the arterial street is equal to or greater than thirty (30) during either the A.M. or P.M. peak hour of the arterial street or the peak hour of the development when the arterial street AADT is less than 6,000 vpd or equal to or greater than twenty (20) vph during either the A.M. or P.M. peak hour of the arterial street or peak hour of the development when the arterial street AADT is equal to or greater than 6,000 vpd.
- 3. Available Sight Distance of a right turning vehicle to be seen by through traffic traveling in the same direction is less than the value shown in Table A-I for the design speed of the arterial street.
- 4. Arterial Street has been designated as a controlled access facility by the BOCC.
- 5. Traffic Control of the intersecting street or access point connection is a traffic signal or is anticipated to meet MUTCD traffic signal warrants by the build-out year.
- 6. It is determined by the Lee County Department of Transportation or Department of Community Development that a turn lane is required for the health, safety, and welfare of the road users.

B. Collector Street

- 1. Posted speed limit of the collector street is equal to or greater than thirty-five (35) mph.

2. Number of right turning movements from the collector street is equal to or greater than forty-five (45) during either the A.M. or P.M. peak hour of the collector street when the collector street AADT is less than 6,000 vpd or equal to or greater than thirty (30) vph during either the A.M. or P.M. peak hour of the collector street or peak hour of the development when the collector street AADT is equal to or greater than 6,000 vpd.
 3. Available Sight Distance for a right turning vehicle to be seen by through traffic traveling in the same direction is less than the value shown in Table A-I for the design speed of the collector street.
 4. Traffic Control of the intersecting street or access point connection is a traffic signal or is anticipated to meet MUTCD traffic signal warrants by the build-out year.
 5. It is determined by the Lee County Department of Transportation or Department of Community Development that a turn lane is required for the health, safety, and welfare of the road users.
- C. Local Street
1. Posted speed limit of the local street is equal to or greater than thirty (30) mph.
 2. Number of right turning movements from the local street is equal to or greater than sixty (60) during either the A.M. or P.M. peak hour of the local street.
 3. Available Sight Distance for a right turning vehicle to be seen by through traffic traveling in the same direction is less than the value shown in Table A-I for the design speed of the local street.
 4. Traffic Control of the intersecting street or access point connection is a traffic signal.
 5. It is determined by the Lee County Department of Transportation or Department of Community Development that a turn lane is required for the health, safety, and welfare of the road users.
- D. Separate Right Turn Lanes are required on an intersecting street or access point connection when any two (2) or more of the following warrants are satisfied.
1. Intersecting Street/Connection to Arterial Street
 - a. Posted Speed Limit of the intersecting street or access point connection is equal to or greater than forty five (45) mph.
 - b. Number of right turning vehicles from the intersecting street or access point connection is equal to or greater than sixty (60) during either the A.M. or P.M. peak hour of the arterial street.
 - c. Arterial street which is being entered has been designated as a controlled access facility by the BOCC.
 - d. Traffic control of the intersecting street or access point connection is by a traffic signal.
 - e. It is determined by the Lee County Department of Transportation or Department of Community Development that a turn lane is required for the health, safety, and welfare of the road users.
 2. Intersecting Street/Connection to Collector Street
 - a. Posted speed limit of the intersecting street or access point connection is equal to or greater than thirty five (35) mph.
 - b. Number of right turning movements from the intersecting street or access point connection is equal to or greater than ninety (90) during either the A.M. or P.M. peak hour of the collector street.
 - c. Traffic control of the intersecting street or access point connection is by a traffic signal.
 - d. It is determined by the Lee County Department of Transportation or Department of Community Development that a turn lane is required for the health, safety, and welfare of the road users.

3. Intersecting Street/Connection to Local Street

- a. Posted speed limit of the intersecting street or access point connection is equal to or greater than thirty (30) mph.
- b. Number of right turning movements from the intersecting street or access point connection is equal to or greater than one hundred and twenty (120) during either the A.M. or P.M. peak hour of the local street.
- c. Traffic control of the intersecting street or access point connection is a traffic signal.

V. DESIGN

- I. Deceleration lanes consist of two distinct sections. The transition section is the distance needed for vehicles to achieve transfer from the through lane to the turn lane. The deceleration section is the distance needed to slow to a stop.

FDOT has tabulated standards for these distances, but those apply to typical rural highways. Under county urbanized conditions drivers begin deceleration immediately upon entry into the transition section and arrive at the deceleration section at lower speeds than the posted speed. Under urbanized conditions AASHTO recommends a deceleration rate of 10 ft. per sec. per sec. The table below represents a set of calculated County standards which differ from the FDOT standards except for those roads with a posted speed of 45 mph or above. County standards shall be used on County roads, except controlled access roadways which will utilize the FDOT standards. FDOT will specify requirements on State Highways. FDOT standards are found in the Florida Design Manual.

<u>Design Speed (mph)</u>	<u>Transition Distance (ft)</u>	<u>Deceleration Distance (ft)</u>	<u>Total Distance (ft)</u>
30	75	50	125
35	80	75	155
40	85	100	185
45	See FDM Section 212	See FDM Section 212	See FDM Section 212
50		See FDM Section 212	
55		See FDM Section 212	

The initial 50 feet (100 feet for a dual turn lane) of the transition length shall consist of pavement taper and the remaining length shall be the full width of the deceleration lane (see Figures FB-1 and FB-2).

II. DESIGN OF LEFT AND RIGHT TURN LANES

Where left and right turn lanes are required, storage lanes shall be used in conjunction with deceleration lanes and their lengths shall be added to the required transition and deceleration length.

A. For calculating the storage requirements for unsignalized intersections:

- a. For left turn lanes use the number of vehicles that will arrive in two minutes during the design peak hour:

$$N = \frac{V}{30} * L$$

Where:

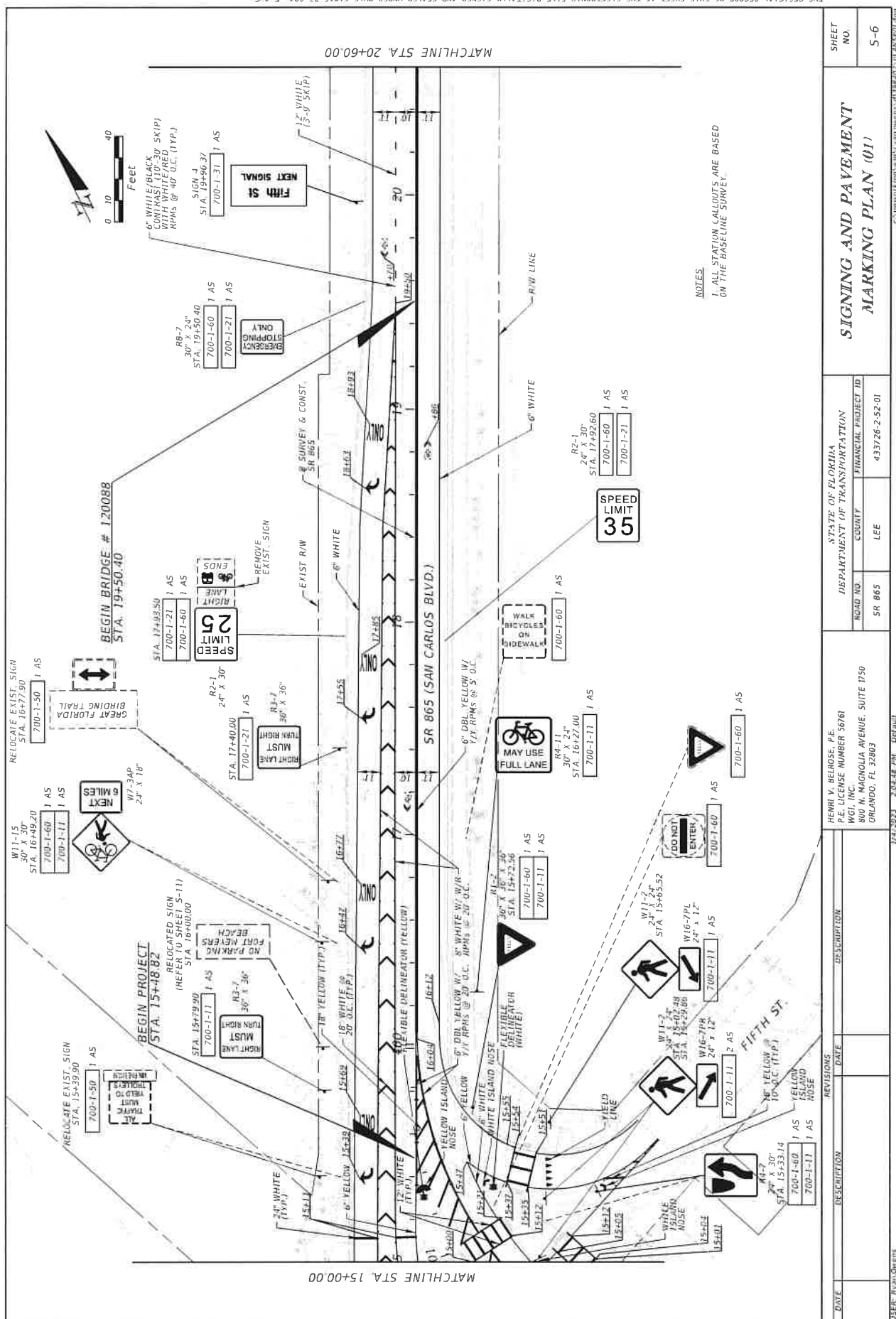
N= length of storage required (round to the next full vehicle length)

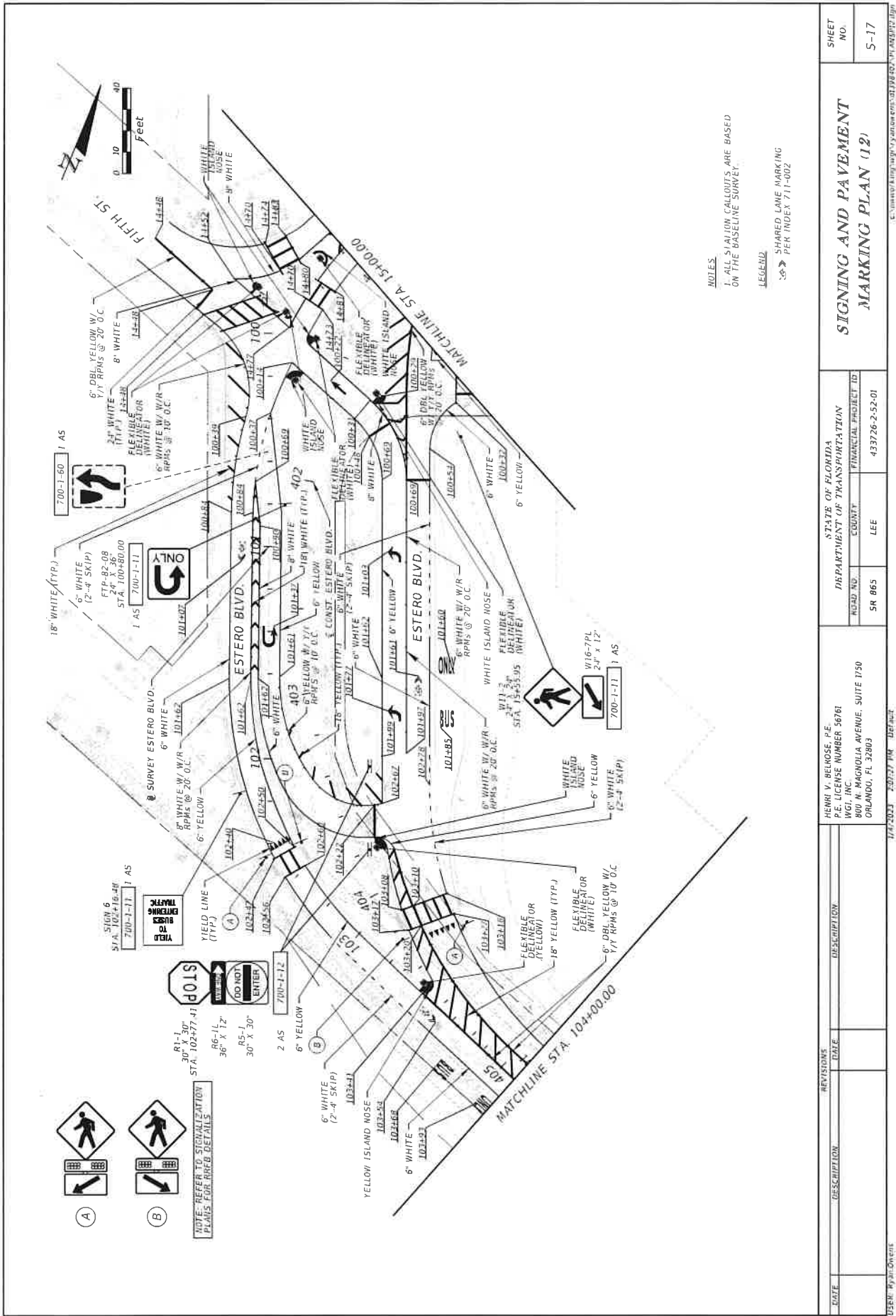
V = Number of turning vehicles during the peak hour of generator in the design year

L = length of vehicle, including headway (use 25 feet as a minimum). A longer average vehicle length may be required if the vehicle mix includes a large number of trucks or buses.

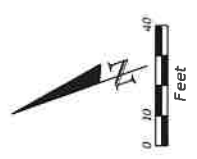
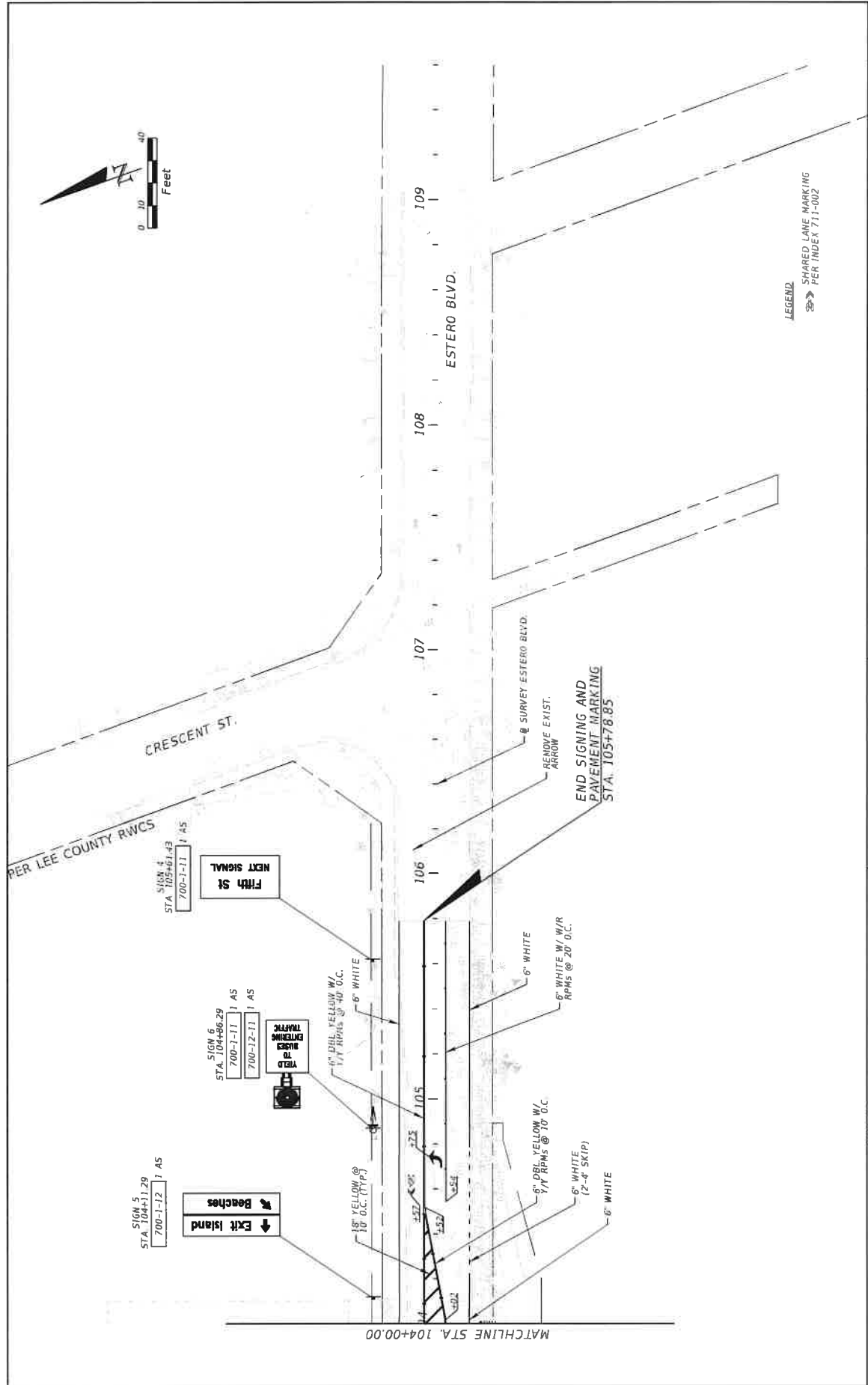
- b. For right turn lane storage length, use the number of vehicles that will arrive in one minute during the design peak hour:

**FDOT PLANS FOR ESTERO BLVD @
SAN CARLOS BLVD**





DATE		REVISIONS		DESCRIPTION		STATE OF FLORIDA		DEPARTMENT OF TRANSPORTATION		SIGNING AND PAVEMENT MARKING PLAN (12)		SHEET NO.	
						HENRI V. BELHOSE, P.E.		ROAD NO.		SR 865		S-17	
						P.E. LICENSE NUMBER 56761		COUNTY		LEE			
						WGI, INC.		FINANCIAL PROJECT ID		433726-2-52-01			
						800 N. MAGNOLIA AVENUE, SUITE 1750							
						ORLANDO, FL 32803							
						1/14/2023		2:57:27 PM		DRAFT			



LEGEND
 SHARED LANE MARKING
 PER INDEX 711-002

DATE		DESCRIPTION	REVISIONS		DESCRIPTION	HENRI V. BELINSE, P.E. P.E. LICENSE NUMBER 56761 WGI, INC. 800 N. MAGNOLIA AVENUE, SUITE 1750 ORLANDO, FL 32803				STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION				SIGNING AND PAVEMENT MARKING PLAN (13)		SHEET NO.
			DATE			ROAD NO.	COUNTY	FINANCIAL PROJECT ID								
						SR 865	LEE	433726-2-52-01						5-18		

TRIP GENERATION EQUATIONS

Convenience Store (851)

Vehicle Trip Ends vs: 1000 Sq. Ft. GFA
On a: Weekday

Setting/Location: General Urban/Suburban

Number of Studies: 8

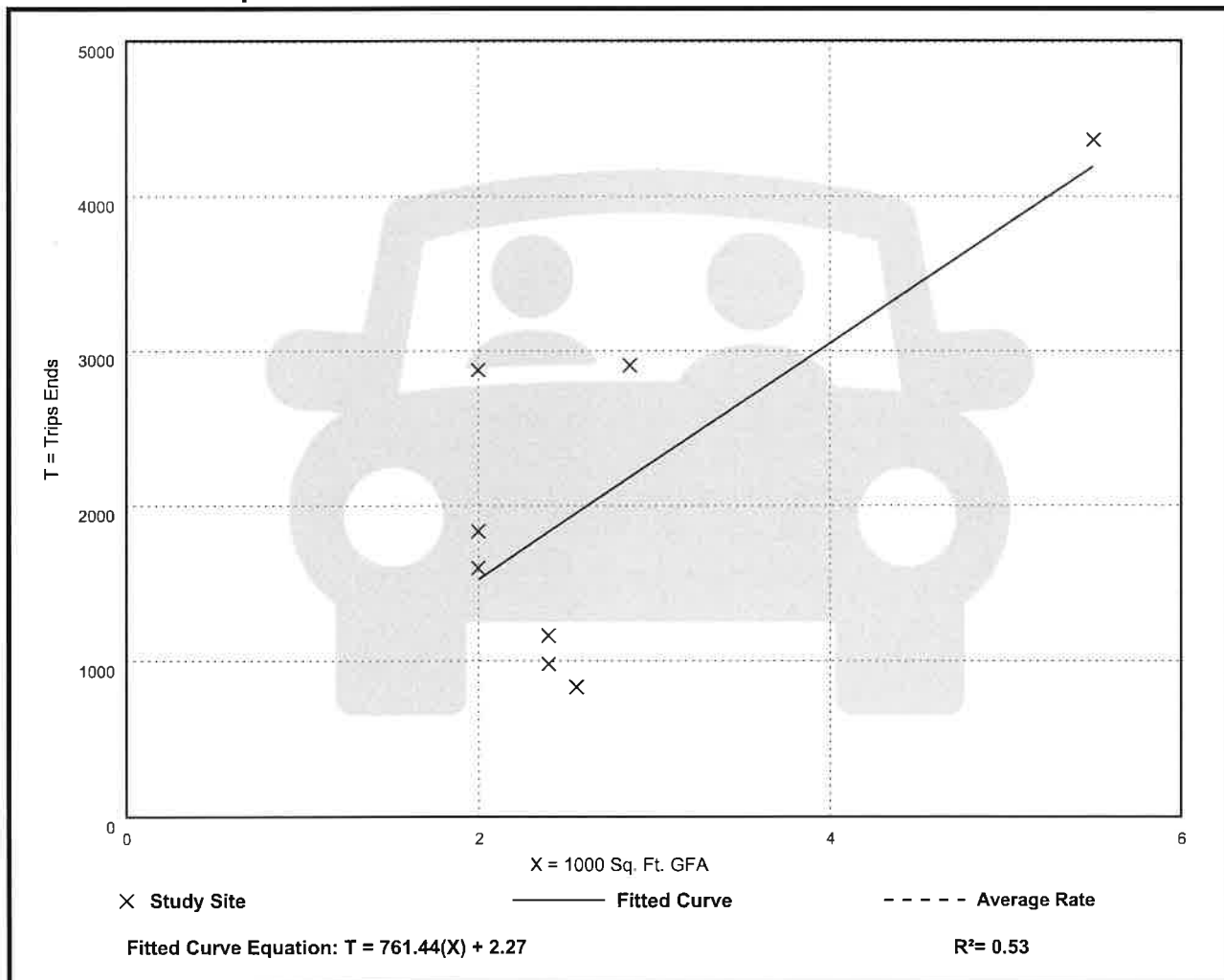
Avg. 1000 Sq. Ft. GFA: 3

Directional Distribution: 50% entering, 50% exiting

Vehicle Trip Generation per 1000 Sq. Ft. GFA

Average Rate	Range of Rates	Standard Deviation
762.28	325.78 - 1438.00	333.89

Data Plot and Equation



Convenience Store (851)

Vehicle Trip Ends vs: 1000 Sq. Ft. GFA

On a: Weekday,

Peak Hour of Adjacent Street Traffic,

One Hour Between 7 and 9 a.m.

Setting/Location: General Urban/Suburban

Number of Studies: 39

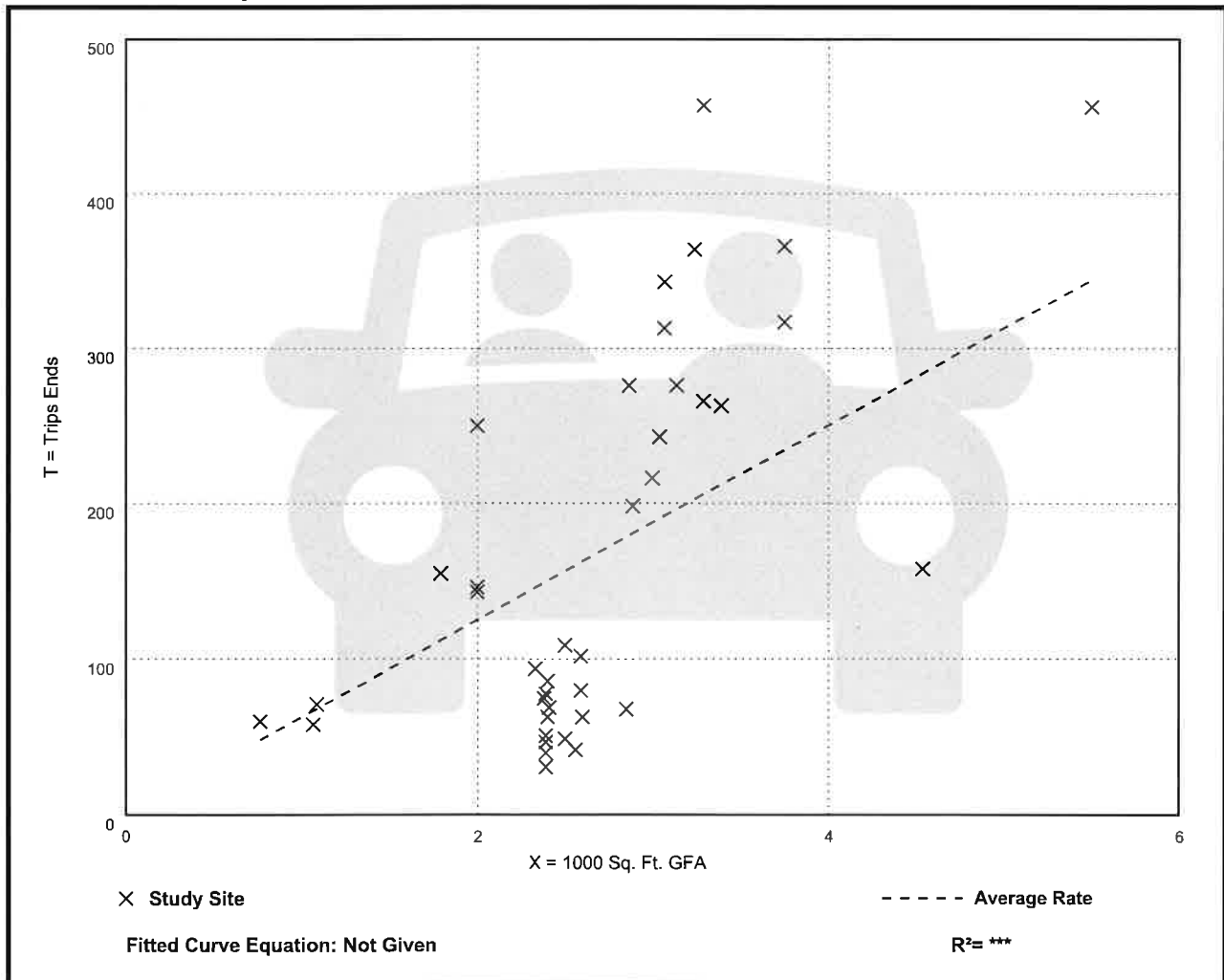
Avg. 1000 Sq. Ft. GFA: 3

Directional Distribution: 50% entering, 50% exiting

Vehicle Trip Generation per 1000 Sq. Ft. GFA

Average Rate	Range of Rates	Standard Deviation
62.54	12.97 - 138.91	35.04

Data Plot and Equation



Convenience Store (851)

Vehicle Trip Ends vs: 1000 Sq. Ft. GFA

On a: Weekday,

Peak Hour of Adjacent Street Traffic,

One Hour Between 4 and 6 p.m.

Setting/Location: General Urban/Suburban

Number of Studies: 39

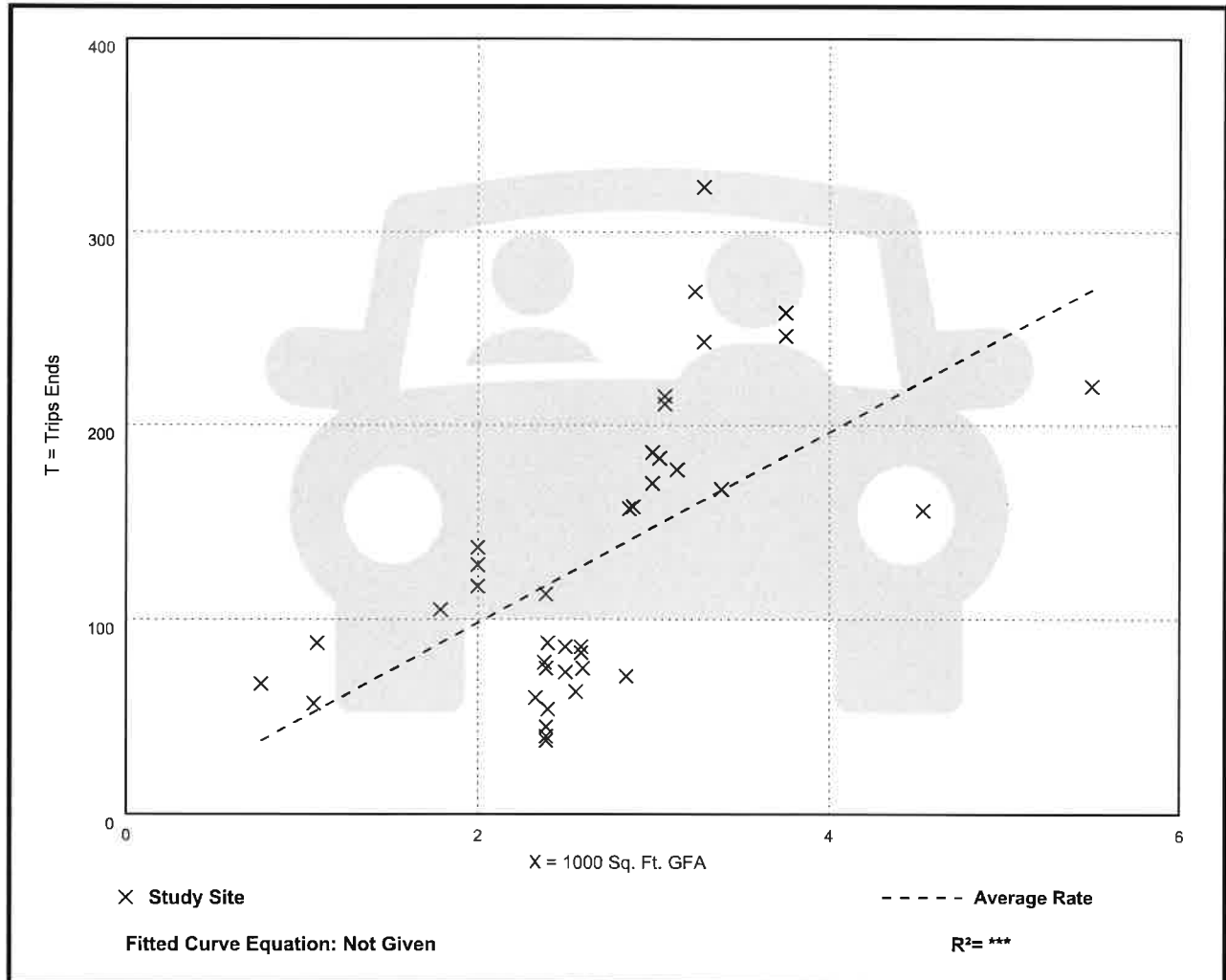
Avg. 1000 Sq. Ft. GFA: 3

Directional Distribution: 51% entering, 49% exiting

Vehicle Trip Generation per 1000 Sq. Ft. GFA

Average Rate	Range of Rates	Standard Deviation
49.11	15.90 - 98.18	20.84

Data Plot and Equation





**NOT FOR
CONSTRUCTION**



08/14/2023

JOB#:	23048
DATE:	08/14/2023
SHEET:	

R0.02

[illegible]

PROTO:7043 CST 2022-02

7-ELEVEN #1055525
841 ESTERO BLVD.
FORT MYERS BEACH, FL. 33931

CREIGHTON COMMERCIAL DEVELOPMENT
900 SW PINE ISLAND ROAD, SUITE 202 CAPE CORAL, FL. 33991

REVIEW BOARD DUMPSTER ENCLOSURE



Drawings and Specifications as instruments of service are and shall remain the property of the Architect. They are not to be used on other projects or extensions to this project except by agreement in writing and with appropriate compensation to the Architect.

Contractor is responsible for confirming and correlating dimensions at job site; the Architect will not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the project.

The seal and signature apply only to the document to which they are affixed and we expressly disclaim any responsibility for all other plans, specifications, estimates, reports or other documents or instruments relating to or intended to be used for any part or parts of the project.



1 3D VIEW - FRONT (SOUTHEAST)
R001 N.T.S.

[illegible]

7-ELEVEN #1055525
841 ESTERO BLVD.
FORT MYERS BEACH, FL 33931

CREIGHTON COMMERCIAL DEVELOPMENT
9000 SW PINE ISLAND ROAD, SUITE 202 CAPE CORAL, FL 33991

3D RENDERINGS

CREIGHTON
COMMERCIAL DEVELOPMENT

BOTI
ARCHITECTURE
504 W. COLLEGE ST.
SPRINGFIELD, MO 65806
TEL: 877.297.2684

Drawings and Specifications as Instruments of service are and shall remain the property of Architect. They are not to be used on other projects or extensions to this project except by agreement in writing and with appropriate compensation to the Architect.

Contractor is responsible for confirming and correlating dimensions at job site; the Architect will not be responsible for construction means, methods, techniques, sequences or procedures or for safety precautions and programs in connection with the project.

The seal and signature apply only to the documents to which they are affixed and we expressly disavow responsibility for all other plans, specifications, addendums, reports or other documents or instruments relating to or intended to be used on any part or parts of the project.

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100



NOT FOR CONSTRUCTION

08/31/2023

JOB#: 230
DATE: 08/31/20
SHEET: **B001**

Root



1 3D VIEW - FRONT (EAST)
R002 N.T.S.

REV.	DATE	DESCRIPTION

7-ELEVEN #1055525 841 ESTERO BLVD. FORT MYERS BEACH, FL 33931
CREIGHTON COMMERCIAL DEVELOPMENT 900 SW PINE ISLAND ROAD, SUITE 202 CAPE CORAL, FL 33991
3D RENDERINGS

CREIGHTON
COMMERCIAL DEVELOPMENT

BOTI
ARCHITECTURE
504 W. COLLEGE ST.
SPRINGFIELD, MO 65806
www.boti-studio.com

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NOT FOR CONSTRUCTION
08/31/2023
JOB#: 23048
DATE: 08/31/2023
SHEET: R002



1 3D VIEW - SIDE (SOUTHWEST)
R003 1" = 1'-0"

REV.	DATE	DESCRIPTION

PROTO-7543 CST-2022-02

7-ELEVEN #1055525 841 ESTERO BLVD. FORT MYERS BEACH, FL 33931	CREIGHTON COMMERCIAL DEVELOPMENT 900 SW PINE ISLAND ROAD, SUITE 202 CAPE CORAL, FL 33991
3D RENDERINGS	

CREIGHTON
COMMERCIAL DEVELOPMENT

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NOT FOR CONSTRUCTION

08/31/2023

JOB#	23048
DATE	08/31/2023
SHEET	R003



THE NEIGHBORHOOD COMPANY

841 ESTERO BLVD COMMERCIAL PLANNED DEVELOPMENT (CPD) Planned Development Rezone

SCHEDULE OF USES

RETAIL STORE, SMALL TO INCLUDE:

CONVENIENCE STORES, NO FUEL PUMPS (OPEN 24 HRS/7 DAYS)



Business Impact Estimate

This form should be included in the agenda packet for the item under which the proposed ordinance is to be considered and must be posted on the [City's/Town's/Village's] website by the time notice of the proposed ordinance is published.

Proposed ordinance's title/reference:

Ordinance 24-14 AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING A REQUEST TO REZONE THE PROPERTY LOCATED AT 841 ESTERO BLVD. GENERALLY IDENTIFIED AS STRAP NUMBERS 24-46-23-W3-0050B.0010 FORT MYERS BEACH, FROM DOWNTOWN TO COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING FOR A CONVENIENCE STORE; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

This Business Impact Estimate is provided in accordance with section 166.041(4), Florida Statutes. If one or more boxes are checked below, this means the [City/Town/Village] is of the view that a business impact estimate is not required by state law¹ for the proposed ordinance, but the [City/Town/Village] is, nevertheless, providing this Business Impact Estimate as a courtesy and to avoid any procedural issues that could impact the enactment of the proposed ordinance. This Business Impact Estimate may be revised following its initial posting.

- ☐ The proposed ordinance is required for compliance with Federal or State law or regulation;
- ☐ The proposed ordinance relates to the issuance or refinancing of debt;
- ☐ The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;
- ☐ The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant or other financial assistance accepted by the municipal government;
- ☐ The proposed ordinance is an emergency ordinance;
- ☐ The ordinance relates to procurement; or
- ☒ The proposed ordinance is enacted to implement the following:
 - a. Part II of Chapter 163, Florida Statutes, relating to growth policy, county and municipal planning, and land development regulation, including zoning, development orders, development agreements and development permits;
 - b. Sections 190.005 and 190.046, Florida Statutes, regarding community development districts;
 - c. Section 553.73, Florida Statutes, relating to the Florida Building Code; or
 - d. Section 633.202, Florida Statutes, relating to the Florida Fire Prevention Code.

¹ See Section 166.041(4)(c), Florida Statutes.

In accordance with the provisions of controlling law, even notwithstanding the fact that an exemption noted above may apply, the [City/Town/Village] hereby publishes the following information:

1. Summary of the proposed ordinance (must include a statement of the public purpose, such as serving the public health, safety, morals and welfare):

The proposed ordinance is requested by a private property owner to allow a commercial planned development rezoning.

2. An estimate of the direct economic impact of the proposed ordinance on private, for-profit businesses in the [City/Town/Village], including the following, if any:

- (a) An estimate of direct compliance costs that businesses may reasonably incur;
- (b) Any new charge or fee imposed by the proposed ordinance or for which businesses will be financially responsible; and
- (c) An estimate of the [City's/Town's/Village's] regulatory costs, including estimated revenues from any new charges or fees to cover such costs.

There are unlikely to be direct compliance costs associated with Ordinance 24-14.

Ordinance 24-14 does not impose any new charge or fee on businesses.

There are no new charges or fees that will be imposed on businesses by the ordinance.

The Town will not likely incur additional costs.

3. Good faith estimate of the number of businesses likely to be impacted by the proposed ordinance:

This affects only the property applying for the rezoning.

4. Additional information the governing body deems useful (if any):

1. **Request:**

Meeting Date: June 3, 2024

1st Reading and Public Hearing of an Ordinance Entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING THE COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING FOR THE PROPERTY LOCATED AT 125, 131-151 SCHOOL ST AND 2661-2681 ESTERO BLVD. GENERALLY IDENTIFIED AS STRAP NUMBERS 19-46-24-W3-0020C.0230; 19-46-24-W3-0020C.0270; 19-46-24-W3-0020C.0290 FORT MYERS BEACH TO ALLOW A MIXED USE DEVELOPMENT INCLUDING LODGING, LIVE/WORK UNITS, RETAIL, AND RESTAURANT USES; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE. Open the first public hearing and schedule for second reading and final adoption on June 17, 2024 at 9:00 AM

Why the action is necessary:

The Town Council hears and decides rezoning requests.

What the action accomplishes:

Approval of this CPD would allow the development of a 45-room hotel with retail, office, and restaurant space.

2. **Agenda:**

PUBLIC HEARINGS

3. **Requirement/Purpose:**

ordinance

4. **Submitter of Information:**

Sarah Propst, Community
Development, Planning
Manager

5. **Background:**

The applicant for the property located at 125, 131-151 School St and 2661-2681 Estero Blvd, is requesting a rezoning from Commercial Planned Development zoning adopted in Ordinance 21-02 to Commercial Planned Development to allow a mixed-use development with 45 lodging units, 4 live-work units and 9,000 square feet of commercial area. The proposed development will have a two-way access on School Street and one right-only point of egress on Oak Street.

Attachments:

1. Ordinance 24-15 May 28, 2024
2. TC staff report
3. Exhibit A Master Concept Plan
4. Exhibit B Landscape Betterment Plan
5. Exhibit C Complete Application
6. Exhibit D LPA AND TC ORD postcard
7. business-impact-estimate Myerside

Financial Impact:

unknown

6. **Alternative Action**

deny

7. **Management Recommendations:**

Recommend approval with conditions

8. **Recommended Approval:**

Kendra Rosa, Zoning Coordinator
Frankie Kropacek, Operations & Compliance Director
nancy stuparich, Town Attorney
Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Created/Initiated - 5/17/2024
Approved - 5/17/2024
Approved - 5/29/2024
Approved - 5/29/2024
Final Approval - 5/29/2024

ORDINANCE 24-15

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING THE COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING FOR THE PROPERTY LOCATED AT 125, 131-151 SCHOOL ST AND 2661-2681 ESTERO BLVD. GENERALLY IDENTIFIED AS STRAP NUMBERS 19-46-24-W3-0020C.0230; 19-46-24-W3-0020C.0270; 19-46-24-W3-0020C.0290 FORT MYERS BEACH TO ALLOW A MIXED USE DEVELOPMENT INCLUDING LODGING, LIVE/WORK UNITS, RETAIL, AND RESTAURANT USES; 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, Cottages at Myerside, LLC, the owner, and The Neighborhood Company, the agent, for the property, located at 125, 131-151 School St and 2661-2681 Estero Blvd., parcels generally identified as STRAP numbers 19-46-24-W3-0020C.0230; 19-46-24-W3-0020C.0270; 19-46-24-W3-0020C.0290 in the Town of Fort Myers Beach, filed applications to rezone the property from the CPD with Master Concept Plan (MCP) adopted in Ordinance 21-02 to CPD with Master Concept Plan (MCP) with certain deviations to the Land Development Code (LDC) in order to develop a convenience store ; and

WHEREAS, the subject property is a combination of three parcels located in the Boulevard Future Land Use Category of the Comprehensive Plan of the Town of Fort Myers Beach; and

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on May 14, 2024; and

WHEREAS, at the May 14, 2024 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) sec. 34-85; and

WHEREAS, at the May 14, 2024 public hearing the LPA found that the request is consistent/ inconsistent with the comprehensive plan and the requirements of the LDC and voted to recommend approval with conditions by a 6-0 vote with; and

WHEREAS, on June 3, 2024 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 noticed in an appropriate publication 10 days prior to the Town Council on July 17, 2024; 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, a Business Impact Estimate has been prepared and published on the Town's website; and

WHEREAS, with the following terms, conditions, and requirements which the LPA 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 (MCP), which future development should be substantially in compliance with; and

WHEREAS, the Town Council finds that this request to rezone the property from the CPD with MCP adopted in Ordinance 21-02 to CPD with MCP with certain deviations to the Land Development Code (LDC) in order to develop a mixed-use development with 45 lodging units, 4 live-work units and 9,000 square feet of commercial area, is a unique and individual application which does not set precedent for future development or rezoning applications.

Deviation #1

Deviation from LDC Sec. 10-285, Table 10-1 – Connection Separation, which requires minimum separation between street and accessways, in order to allow driveway separations as depicted on the Master Concept Plan (MCP).

Deviation #2

Deviation from LDC Sec. 10-416 – Landscaping standards to allow the use of an alternative landscape betterment plan pursuant to LDC Section 10-419. This section states applications are entitled to demonstrate that the intent of the landscaping standards can be more effectively accomplished through an alternate landscape betterment plan. The use of an alternate landscape betterment plan addresses all landscaping requirements pertaining to the redevelopment of the site; such as, but not limited to landscape islands, building perimeters, buffers, walls, parking and

vehicular use areas.

Deviation #3

Deviation from LDC Sec. 34-1804(A) and Sec. 34-2020, which regulates parking for hotels/motels non-residential, residential, and combined use developments, to allow a 30% reduction in required parking and a minimum of three (3) individual uses within a master planned mixed use development.

Deviation #4

Deviation from LDC Division 4, Table 34-3 for the CR zoning district which limits height to 30 feet zoned height and three (3) stories to allow a maximum zoned height of 37 feet and a maximum of four (4) stories.

Deviation #5

Deviation from LDC Division 4, Table 34-3 for the CR zoning district which requires street setbacks of 10 feet to instead allow for build-to lines of 5 to 10 feet along Estero Boulevard and School Street.

Deviation #6

Deviation from LDC Sec. 34-1803(a)(1), which allows the conversion of dwelling units to hotel/motel guest units per established equivalency factors, in order to exceed said factors as allowed per LDC Sec. 34-1803(a)(2). This would allow a maximum intensity of 45 guest units rather than the 20 allowed per the existing table.

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 rezone to a Commercial Planned Development (see LDC 34-85 and 34-216):

- a. Minor ambiguities were resolved through the deviation process.
- b. The previous development on the subject property was destroyed by Ian and adoption of the rezoning with deviations ameliorates longstanding design issues on the site due to the lot's odd shape and orientation.
- 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.

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

- a. Each item enhances the achievement of the objectives of the planned development; and
- b. The general intent of this chapter to protect the public health, safety and welfare will be preserved and promoted; and
- c. Each deviation operates to the benefit, or at least not to the detriment, of the public interest; and
- d. Each deviation is consistent with the Fort Myers Beach Comprehensive Plan.

WHEREAS, the Town Council finds that this application to approve Ordinance 24-XX which is, **consistent/ not consistent** with the Town of Fort Myers Beach Comprehensive Plan and LDC and voted to **deny/ approve/ approve with conditions** the Application.

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

Section 1. That 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. That the Town Council determines the Applicant **did/did not** meet its burden of proof, that the request to approve Town of Fort Myers Beach's Ordinance 24-15 and the conditions of approval for the commercial planned development zoning, **does/ does not** 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 **DENY/ APPROVE/ APPROVE WITH CONDITIONS** the requested application.

Section 3. That Ordinance 24-15 is adopted consistent with the schedule of uses and conditions of approval for the Property's CPD set forth in Exhibit A and the Master Concept Plan in Exhibit B, attached hereto and incorporated herein by this reference is approved.

Section 4. That 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. That 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. That 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. That 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 _____ and seconded by Council Member _____, and upon being put to a vote, the result was as follows:

DULY PASSED AND ADOPTED on this ____ day of July 2024.

Dan Allers, Mayor	_____
Jim Atterholt, Vice Mayor	_____
John R. King, Council Member	_____
Scott Safford, Council Member	_____
Karen Woodson, Council Member	_____

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:**

Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this ____ day of July 2024.

Attachments:

A – Conditions of Approval and Schedule of Uses

B – Master Concept Plan (MCP)

Exhibit A: CONDITIONS OF APPROVAL & SCHEDULE OF USE

Conditions of Approval

Staff finds that the CPD with deviations meets the criteria set forth in Sec. 34-85(b) and (c) and 34-216(2) of the LDC and recommends approval of DCI20230246 with the attached conditions:

1. Any tenant with consumption on premises would be required to acquire a separate COP license.
2. The live-work units shall only be occupied by the owner or employees of the commercial establishments at Myerside. At no time shall the live work units be used as an extension to the lodging units or as a part of the boutique hotel. Any other tenants will have to demonstrate employment on the island.
3. The restaurant area shall be limited to 2,250 sq ft of the total 9,000 sq ft of commercial square footage.
4. A local development order is required prior to any development of the site, in accordance with this planned development approval.
5. All state and local permits, including but not limited to right of way and stormwater permits, must be applied for and received prior to site development.
6. All signage and landscaping must meet the Vehicle Visibility at Intersection requirements found in Sec. 34-3131.
7. The property owner commits to encouraging visitors and staff to arrive without an automobile. If the proposed development's parking needs exceed the on-site parking provided, the applicant shall provide valet parking and/or coordinate with adjacent property owners, and/or consider other parking options to provide adequate parking.
8. The final development must be generally consistent with the Master Concept Plan, renderings, and landscape betterment plan attached to this ordinance.

SCHEDULE OF USE

Lodging

Principal:

- Hotel/Motel (Inclusive of Hotel Condominiums)
- Guest Units

Accessory:

- Hotel/Motel Accessory Uses
- Personal Services
- Recreational Facilities

Residential

- Work/Live Units

Commercial

- Offices, General or Medical
- Personal Services
- Restaurant with Bar Area
- Retail Store, Small & Large
- Subordinate Commercial Uses



Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT STAFF
REPORT

TYPE OF CASE: Commercial Planned Development

CASE NUMBER: DCI Rezoning, 20230246

CASE NAME: 125, 131-151 School St and 2661-2681 Estero Blvd; rezone from Commercial Planned Development (CPD) Zoning to CPD to allow a mixed-use development with lodging, residential, and commercial uses.

1st TOWN COUNCIL HEARING DATE: June 11, 2024 at 9 AM

LPA HEARING DATE: May 14, 2024 at 9 AM

STAFF RECOMMENDATION: Approve with conditions

**PREPARED/
SUBMITTED BY:** Sarah Propst, AICP, PMP

I. APPLICATION SUMMARY

Applicant/Owner: The Neighborhood Company/ Cottages At Myerside, LLC

Request: Rezone from CPD to CPD for a mixed-use development with 45 lodging units, 4 live-work units and 9,000 square feet of commercial area.

Subject property: See attached site plan.

Physical Address: 125, 131-151 School St and 2661-2681 Estero Blvd

STRAP #: 19-46-24-W3-0020C.0230; 19-46-24-W3-0020C.0270;
19-46-24-W3-0020C.0290

FLU: Boulevard

Zoning: Commercial Planned Development (Ord 21-02)

Adjacent zoning and land uses:

North:	Institutional/ Elementary school with baseball field
South:	Commercial Office, Mixed Residential /Offices, multi-family residential
East:	Institutional / Library
West:	Institutional & Residential Conservation/ single-family and Town's Parking Lot

II. BACKGROUND AND ANALYSIS

Background:

The Neighborhood Company, applicant for Cottages at Myerside, LLC, is requesting a rezoning for the property at 125, 131-151 School St and 2661-2681 Estero Blvd. The request is to rezone from Commercial Planned Development (CPD) zoning adopted as defined by Ordinance 21-02 to CPD to construct a mixed-use development with 45 lodging units, 4 live-work units and 9,000 square feet of commercial area. The proposed development will have a two-way access on School Street and one right-only point of egress on Oak Street.

In May 2021, the Town Council adopted ordinance 21-02 to approve rezoning of the subject property from Residential Conservation zoning district to a Commercial Planned Development with a Master Concept Plan for hotel, retail and restaurant uses. Prior to the 2021 CPD, the property supported seven cottages. These seven cottages were used as 12 short-term rentals. The intent of the CPD was to preserve the existing seven historic cottages by redeveloping them along with construction of another seven units and retail uses into a boutique resort. However, the original seven cottages were destroyed during Hurricane Ian. The Applicant is now proposing a mixed-use development of higher intensity and density and has applied for rezoning to a new CPD. Six deviations are requested from the land development code requirements.

Analysis:

The subject property consists of three parcels (19-46-24-W3-0020C.0230; 19-46-24-W3-0020C.0270; 19-46-24-W3-0020C.0230) totaling 1.03+/- acres, north of Estero Boulevard, west of School Street, and south of Oak Street. The Applicant is requesting a rezoning to a CPD for a mixed-use development of higher intensity and density than what existed on the parcel prior to hurricane Ian.

The property has the Future Land Use designation of Boulevard which allows a maximum of 1.5 Floor Area Ratio (FAR). As per LDC Section 34-953, Building placement, size, design, and all other property development regulations in a CPD zoning district shall be the same as for the CR zoning district for CPDs that are primarily lodging. The CR zoning district

permits a maximum FAR of 1.2 or 53,840 square foot building area for the subject property. The Applicant is proposing a FAR of 1.19 (53,463 square feet) which is compliant with Town' regulations and distributed as follows:

First floor:

- commercial area and utilities = 12,533 SF
- Under building parking area = 5,752 SF

2nd Floor:

Lodging space, circulation space and utilities = 17,636 SF

3rd Floor:

Floor area (excluding open pool deck) = 11,183 SF

4th Floor:

Floor area (excluding penthouse balconies) = 6,359 SF

TOTAL: 53,463 SF

Boulevard Future Land Use designation further allows a density of six dwelling units per acre or six dwelling units on the 1.03-acre subject property. The Applicant is proposing four live/work dwelling units. Therefore, if the remaining two dwelling units are used for rooms that are less than 450 square feet in area, the multiplier of 2.5 is applicable to them, subsequently, permitting 5 ($2 \times 2.5=5$) lodging units by right. If the size of the units exceeds 450 sq ft in area but are less than 750 square feet in area, a multiplier of 2 is applicable; permitting four lodging units by right.

Using the minimum Use determination (MUD) justification, the subject property included 12 lots in the original plat, theoretically permitting up to 12 dwelling units by right. Since the application includes four live/work dwelling units, the multiplier of 2.5 is applicable to the remaining eight dwelling units permitting 20 ($8 \times 2.5=20$) lodging units of less than 450 square feet by right. If the area of the proposed lodging units are between 450 sq ft but is less than 750 square feet, a multiplier of 2 is applicable. This would permit 16 lodging units by right. The request for 45 lodging units exceeds the permitted lodging units by 29 or 25 lodging units.

Six deviations from the Land Development Code are requested. Those are listed below and include the applicant's justification as well as a staff comment.

Requested Deviations:

- 1) A deviation from LDC Sec. 10-285, Table 10-1 – Connection Separation, which requires minimum separation between street and accessways, in order to allow driveway separations as depicted on the Master Concept Plan (MCP). The MCP shows a 76 foot separation from Oak Street where the code requires 125 feet of separation.**

Applicant Justification: LDC Section 10-285, Table 10-1 states that when a street or accessway is constructed or improved, it must be spaced a minimum distance from all other streets or accessways. Estero Boulevard is classified as a major street, requiring streets and accessways to be spaced 250 feet from centerline to centerline. School Street and Oak Street are classified as local streets, requiring streets and

accessways to be spaced 125 feet from centerline to centerline.

The proposed site configuration has removed several nonconforming access points from the site along Estero Boulevard and School Street. This application proposes to use existing access point locations, one on School Street and one on Oak Street. School Street will provide full ingress/egress into the site and Oak Street will be a right-out only egress point.

The separation between the egress point on Oak Street and the nearest accessway to the west measures approximately 95 feet. This distance is approximately 30 feet short of the required separation of 125 feet needed per the LDC. The point of ingress/egress for the redevelopment is proposed on School Street. This access point has a separation distance from Oak Street of approximately 60 feet, an approximate separation of 55 feet from the Beach United Methodist Church access into their overflow parking area, and 148 feet from the Fort Myers Beach Public Library access onto School Street. The School Street ingress/egress point is approximately 65 feet short of the required 125 feet from the Oak Street intersection.

The proposed improvements address operational and safety issues on the property and Estero Boulevard, enhance functionality through the decreased width of the accessway and the relocation of on-site parking to a more desirable and appropriate onsite location behind the primary structure. Providing for these improvements and site layout achieves general consistency with the intent of LDC Section 10-285 to provide as much connection separation as possible while protecting the health, safety and welfare of island residents and visitors.

Staff Comment: The proposed layout pushes the entrances away from Estero Boulevard. From a traffic perspective it is more ideal for the entrances to be closer to the secondary streets than to Estero Boulevard where a backup could be dangerous.

- 2) A deviation from LDC Sec. 10-416 – Landscaping standards to allow the use of an alternative landscape betterment plan pursuant to LDC Section 10-419. This section states applications are entitled to demonstrate that the intent of the landscaping standards can be more effectively accomplished through an alternate landscape betterment plan. The use of an alternate landscape betterment plan addresses all landscaping requirements pertaining to the redevelopment of the site; such as, but not limited to landscape islands, building perimeters, buffers, walls, parking and vehicular use areas.**

Applicant Justification: *The deviation from LDC Sec. 10-416 is requested to allow the use of an alternate landscape betterment plan for all landscaping and buffering associated with the redevelopment of the subject property. Please see the plans prepared by James McCord, L.A. with RWA Engineering signed and sealed on 04-17-2024.*

The limited size of the property and the need to redevelop the site due to damages received from Hurricane Ian has created unique circumstances that limit the ability to meet the strict landscaping standards as outlined in the LDC such as proposing underbuilding parking and limited surface area parking located behind the primary structure. The proposed surface parking is not visible by the majority of the public but will still be heavily landscaped within appropriately located landscape islands of adequate size to sustain the required trees and approved grass/ground cover landscape materials. In addition, the alternative landscape betterment plan includes enhanced buffer plantings in place of the required wall for a Type "C" buffer along a portion of the western boundary. The enhanced plantings within the buffer area (See planting plan and rendering elevation – page 3 of 9) will create a more natural, lush and complementary buffer rather than a "walled, locked in" setting adjacent to the neighboring property.

The intent of the alternative landscape betterment plan approved under the Development Order will provide additional landscaped areas along the perimeter of the project to help offset any potential landscape island size reduction. The alternative landscape betterment plan as allowed per LDC Sec. 10-419, demonstrates the proposed landscaping effectively meets and exceeds the minimums intended under LDC Sec. 10-416 and will not cause or result in any negative impacts to the community's health, safety, and welfare.

Staff Comment: The proposed landscape betterment plan appears to complement the proposed development and allow for a design that is more cohesive in the neighborhood. Application of the required landscaping buffers would have included a wall, which would not be appropriate in this location.

- 3) A deviation from LDC Sec. 34-1804(A) and Sec. 34-2020, which regulates parking for hotels/motels non-residential, residential, and combined use developments, to allow a 30% reduction in required parking and a minimum of three (3) individual uses within a master planned mixed use development. This request is a reduction from 89 required spaces (89.9 spaces minus 1 for a bike rack) to 60 provided spaces.**

Applicant Justification: The requested deviation from LDC Sec. 34-1804(A) and Sec. 34-2020 is to allow a 30% reduction in the required parking by promoting and providing alternatives such as bicycle parking, valet parking and off-site parking through potential shared parking agreements with adjacent property owners. Under the intent of regulations provided in the town's LDC, the proposed mixed-use development would require approximately 84 parking spaces, which includes a reduction of 4 vehicle spaces by providing 16 bicycle spaces throughout the development. This parking requirement utilizes the intent of LDC Sec. 34-2020(d)(4)(b)(1) which allows for two (2) spaces per 1,000 square feet for combined uses (5 or more; not inclusive of a hotel and restaurants are limited to 25 percent of the gross floor area) of a "multiple-occupancy complex" or in this instance a master planned mixed use development. This deviation is also specifically requesting a

reduction from the 5 or more “individual business establishments” as part of the multiple-occupancy complex” under LDC Sec. 34-2020(d)(4)(b)(1) to 3 or more commercial establishments that are integrated within a master planned mixed use development.

Other areas of the town allow for substantial parking reductions between 50 and 67 percent. In an effort to benefit from this desire to “park once” and promote alternative parking options and modes of transportation around the island, The Myerside is proposing a 30% parking reduction for this area of town, thus, providing approximately 60 on-site parking spaces along with the commitment to integrate at least 16 bicycle parking spaces throughout the development. The developer will also ensure connectivity through integrated pedestrian infrastructure to the surrounding rights-of-way and sidewalks to the existing trolley stop within 100 feet of the property; will evaluate valet parking and/or shared parking agreement solutions at time of final development order if the proposed parking is deemed insufficient. The developer also commits to work with the town and other local hotel proprietors to contribute their fair share to comprehensive transportation/parking solutions as may be developed in the future.

The proposed parking plan, utilizing a 30% required parking reduction, commitment of providing 3 or more commercial uses within the master planned mixed use development, and access to alternative modes of transportation will further reduce over-parked developments, help alleviate traffic congestion on the island, and in turn reduce any significant associated negative impacts to the health, safety and welfare of the island’s residents and visitors.

Staff Comment: Staff disagrees with the number of required spaces. The provision of additional bicycle parking spaces is encouraged but this code section has only allowed the reduction of a single parking space historically. In order to treat this request the same as other requests, the number of required parking spaces is 89. The applicant is proposing a reduction of 29 spaces for a total of 60 parking spaces provided on site. If all rooms are full and each room occupant arrived via a car, this would leave 15 spaces for the other uses on site.

Staff would recommend adoption of a program that encourages guests to arrive without a car, in order to ensure visitors of the property are not utilizing the Bay Oaks Park or Pool parking spaces.

- 4) A deviation from LDC Division 4, Table 34-3 for the CR zoning district which limits height to 30 feet zoned height and three (3) stories to allow a maximum zoned height of 37 feet and a maximum of four (4) stories.**

Applicant Justification: *The Town’s comprehensive plan allows for additional height through Policy 4-C-4 for parcels of land that are contiguous (or directly across a street) from taller buildings. The Myerside site is directly across the street from the Fort Myers Beach Library which has an overall height of 59’± and has an adjacent*

residential building to the north with an overall height of approximately 35'. Across Estero Boulevard, The Estero Beach Club Condominium and The Caper Beach Club are 5 and 12 stories respectively. The proposed project is requesting four (4) stories with a zoned height of 37' (measured from 11' Base Flood Elevation + 3' of freeboard to the mid-point of the roof) and an actual height of 50' measured from grade to rooftop.

The Myerside has been carefully designed to be compatible with adjacent uses and provides for a building that fits within its context. It does this by adjusting height and massing according to existing buildings that are next to the site. Where it abuts a three-story vacation rental to the north, the building is only two-stories with a roof deck shielded from the adjacent property. The building utilizes a "wedding cake" (stepped back) design where height gradually increases from two stories to four stories at the center of the building and toward School Street where the 59' library is located. The wedding cake design is also utilized to soften the building's edges. At the corner of Estero Boulevard and School Street, each story is stepped back a little further to reduce massing from the street. Additionally, the fourth floor is limited to a small portion of the building, it is stepped back furthest from the street and includes balconies which improves aesthetics.

Allowing for additional height relief through the planned development process will result in the ability to design an attractive building, commercial on the ground floor, and a stepped-back fourth story located at the center of the building and toward the library. The portion of the building, which contains only two stories, is appropriately designed and located adjacent to the existing residential structure along the northern boundary. This architectural design establishes a gradual height transition from the taller Fort Myers Beach Library to the shorter residential property to the west and is compatible with the surrounding taller buildings. Based on the above justification, the granting of this deviation will not be injurious to the neighborhood or negatively impact the overall health, safety, and welfare of the island or its residents.

Staff Comment: The requested deviation seems appropriate given the adjacent properties. The applicant is proposing a building that transitions lower near the residential property and higher toward the taller library. This design appears to be in line with the comprehensive plan language that allows buildings near taller buildings to ask for additional height and to provide transitions.

- 5) A deviation from LDC Division 4, Table 34-3 for the CR zoning district which requires street setbacks of 10 feet to instead allow for build-to lines of 5 to 10 feet along Estero Boulevard and School Street.**

Applicant Justification: The proposed Myerside development is meant to be consistent with the Town's vision to enhance the public realm and promote a building form that engages the public along Estero Boulevard and other streets such as School Street. An effective design element to achieve this is the use of build-to

lines rather than front setbacks.

Under the CR zoning district, build-to lines are not required to be utilized for development/redevelopment in this area of town. The Myerside property is located within the area identified in the town's Comprehensive Plan as the "Heart of the Island" and within the Boulevard future land use category. Both of these identified areas focus on the public realm and walkability through the following policies or vision statements:

- *Estero Boulevard needs to be an interesting place to walk along; scaled for people to feel comfortable walking along.*
- *Bring buildings closer to sidewalks.*
- *Parking should be placed at the rear of buildings.*
- *Adopting design guidelines that encourage architecture and urbanism along Estero Boulevard which contributes to the human scale.*
- *Maintaining the town's current "human scale."*
- *Fort Myers Beach is best enjoyed from outside a car; new buildings should be designed to encourage use or admiration by people on foot or bicycle, rather than separating them with gates, walls, deep setbacks, or unnecessary building heights.*
- *Contribute to the public realm*

By allowing The Myerside to deviate from the required front setbacks and replacing that requirement with build-to lines of 5 to 10 feet along Estero Boulevard and School Street helps implement the Comprehensive Plan's vision for the Heart of the Island and the Boulevard future land use category. The Myerside concept, as shown below in the submitted renderings, is committed to enhancing the public realm and contributing to the desired aesthetic described in the town's Comprehensive Plan.

The proposed deviation to allow for build-to lines along Estero Boulevard and School Street.

Staff Comment: The proposed design is appropriate for a lesser setback. The decreased setbacks create a walkable, pedestrian scale space.

- 6) A deviation from LDC Sec. 34-1803(a)(1), which allows the conversion of dwelling units to hotel/motel guest units per established equivalency factors, in order to exceed said factors as allowed per LDC Sec. 34-1803(a)(2). This would allow a maximum intensity of 45 guest units rather than the 20 allowed per the existing table.**

Applicant Justification: The Myerside property consists of 1.03+ acres and is located within the Boulevard Future Land Use Category, which allows 6 dwelling units per acre with the equivalency factors for hotel units of various sizes. The equivalency factors per LDC Sec. 34-1803(a)(1) for guest units within the Boulevard FLU are 2.5 for units less than 450 square feet, 2.0 for units between 450 square feet and 750

square feet, and 1.5 for units between 750 square feet and 1,000 square feet.

The subject property was previously approved through CPD Zoning Ordinance 21-02 for a 14-unit hotel/resort with restaurant, and retail uses, including consumption of alcohol on premises. However, it should be noted that under the Minimum Use Determination provisions of the LDC, the subject property is entitled to 12 single family units in accordance with the historic plat for this neighborhood, which delineates 12 individual lots on this property.

When starting with a base of 12 dwelling units it is necessary to reduce that base number by 4 units to 8 dwelling units due to the 4 work/live dwelling units proposed as part of the mixed-use development. Applying 8 dwelling units to the equivalency ratio of 2 or 2.5 to the remaining 8, the allowed lodging units would range from 16 – 20. A maximum of 20 units could be achieved by right per current LDC provisions.

The proposed additional 25 hotel rooms/transient lodging units are requested pursuant to LDC Sec. 34-1803(a)(2), which allows for additional units under “exceptional circumstances” and when providing public benefits. The exceptional circumstances include the devastation sustained due to Hurricane Ian, the construction requirements mandated through the Florida Building Code and FEMA, the increased cost of construction, high interest rates and the shortages of materials and labor. Additionally, through the planned development process, the applicant is proposing the following public benefits that contribute to the project’s consistency with LDC Sec. 34-1803(a)(2):

- Elimination of numerous non-conformities*
- Rebuilding resilient and hardened site improvements and structure*
- Increasing existing buffers and setbacks where abutting residential and civic uses*
- Enhancing the public realm and creating a pedestrian-friendly environment*
- Encouraging bicycle and pedestrian activity*
- Providing neighborhood commercial goods and services that will benefit visitors and local residents alike*
- Commitment to try to establish a centralized health and wellness center that would support local practitioners and business owners and would provide a convenient one-stop location for local residents*
- Providing complimentary uses to the Civic Center as envisioned for this part of the island*
- Providing outstanding coastal architecture*
- Contributing to the redevelopment of the island and strengthening the Town’s tax base.*

These exceptional circumstances and public benefits support the additional hotel rooms/transient lodging units requested.

Myerside is asking for a total of 45 lodging units as an integrated and significant component of the mixed-use redevelopment encouraged by the Town. This is a 25

unit increase from what could be achieved by-right as described above but is much less than the Margaritaville approval that allowed a 300% increase from the underlying zoning district's "by right" density. The requested deviation and justification outlined above will ensure a public benefit, results from exceptional circumstances and will not adversely impact the public's health, safety, and welfare.

Staff Comment: The request would increase the density multiplier from 2 or 2.5 up to 5.6. However, staff notes that the proposed development meets the FAR allowed in this district, by right. While the current comprehensive plan utilizes the multiplier, the new comprehensive plan that has been transmitted to the state for approval applies only FAR to commercial uses. Per the not yet fully adopted comprehensive plan, this request would be appropriate.

Neighborhood Compatibility:

These parcels are not directly adjacent to any residential units. The closest residential property is located on the other side of the Town owned vacant parcel with an entry to the pool parking lot. This proposed development will be adjacent to the public pool and surrounded by Bay Oaks Park, the library and the elementary school. None of the proposed uses appear to create conflict with the adjacent uses.

Findings and Conclusions:

LDC Sec. 34-85(b) and (c) and 34-216(2) sets forth the required considerations and findings for the approval of a rezoning.

(b) Considerations. In reaching its decision, the town council shall consider the following, whenever applicable:

(1) Whether there exists an error or ambiguity which must be corrected.

Staff response: No errors or ambiguities exist.

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

Staff response: The previous structure was destroyed by Hurricane Ian and redevelopment of the site makes the requests appropriate.

(3) The impact of a proposed change on the intent of this chapter.

Staff response: No impact on the intent of this chapter will occur.

(4) The testimony of any applicant.

(5) The recommendation of staff and of the local planning agency.

(6) The testimony of the public.

(7) Whether the request is consistent with the goals, objectives, policies, and intent, and with the densities, intensities, and general uses as set forth in the Fort Myers Beach Comprehensive Plan.

Staff response: The proposed development is in compliance with the intensity of the district. If we were to apply density to the use, it would exceed the density without the deviation that is requested. The new structure will be designed to current building and flood requirements which is supported by the comprehensive plan.

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

Staff response: The proposed development will meet performance standards set forth in 34-2031. There are no special location standards for mixed use developments.

(9) Whether urban services are, or will be, available and adequate to serve a proposed land use change.

Staff response: The urban services exist in this location.

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

Staff response: The request will have no impact on environmentally critical areas and natural resources.

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

Staff response: The property has provided short-term rentals for a number of years, without incident. The proposed addition of office, restaurant, and retail uses is unlikely to have a negative impact on the adjacent uses.

(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.

Staff response: This use in this location will not place an additional burden on the transportation network or other facilities and services.

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

(c) Findings. Before granting any rezoning, the town council shall find that the requested zoning district complies with:

(1) The Fort Myers Beach Comprehensive Plan.

Staff response: The proposed uses and requested deviations for the CPD comply with the Comprehensive Plan.

(2) This chapter.

Staff response: The proposed uses comply with this chapter except in regard to the deviations.

(3) Any other applicable town ordinances or codes.

Staff response: The proposed request complies with the town ordinances and codes, except in regard to the deviations.

(4) For planned development rezonings, see [§ 34-216](#) of this chapter for additional findings.

a. The proposed use or mix of uses is appropriate at the subject location;

Staff response: The proposed mix of uses is appropriate in this location, it is in the Boulevard Future land use and will be located in the Civic Center Mixed-Use District.

b. Sufficient safeguards to the public interest are provided by the recommended special conditions to the concept plan or by other applicable regulations;

Staff response: Sufficient safeguards are provided for the public interest.

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

Staff response: All conditions are related to the impacts on the public interest.

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.

Staff response: Not applicable.

2. Policies 4-B-5 and 4-C-3 on commercial rezonings in the "boulevard" category.

Staff response: The proposal is in compliance with these policies.

3. Policy 4-C-4 on building heights taller than the standard height limit.

Staff response: The request for additional height is proposed as part of the planned development rezoning process. The requested height appears to be appropriate for the location, providing a lower transition on the side of the building adjacent to a residence.

4. Policy 4-C-8 on density transfers.

Staff response: Not applicable.

5. Policy 4-E-1 on pre-disaster build back.

Staff response: Not applicable.

6. Policy 7-J-2 on traffic impact analyses and potential design improvements that could offset traffic impacts.

Staff response: The proposed development has a similar use to the previous development and as reflected in the traffic study, no adverse impact on traffic is anticipated.

Findings for Deviation Requests:

Per Sec. 34-216(4) all deviations must be approved, approved with modification, or rejected based upon a finding that:

a. Each item enhances the achievement of the objectives of the planned development; and

Staff response: The requested deviations allow the development of the site.

b. The general intent of this chapter to protect the public health, safety and welfare will be preserved and promoted; and

Staff response: The proposed deviations preserve public health.

c. Each deviation operates to the benefit, or at least not to the detriment, of the public interest; and

Staff response: The deviations are not a detriment to the public interest, additional parking may need to be provided at a later date depending on impacts to surrounding uses.

d. Each deviation is consistent with the Fort Myers Beach Comprehensive Plan.

Staff response: The deviations are consistent with the comprehensive plan.

III. RECOMMENDATION

Staff finds that the CPD with deviations meets the criteria set forth in Sec. 34-85(b) and (c) and 34-216(2) of the LDC and recommends approval of DCI20230246 with the attached conditions.

James Boan mad a motion finding the request is consistent with the comp plan and land development code and recommended approval of the ordinance with conditions as discussed in the hearing. The motion was seconded by Don Sudduth. The LPA voted 6-0 in favor of the request. The additions recommended by the LPA are underlined in the conditions below.

IV. CONDITIONS OF APPROVAL

1. Any tenant with consumption on premises will be required to acquire a separate COP license.
2. The live-work units shall only be occupied by the owner or employees of the commercial establishments at Myerside. At no time shall the live-work units be used as an extension to the lodging units or as a part of the boutique hotel. Any other tenants will have to demonstrate employment on the island.
3. The restaurant area shall be limited to 2,250 sq ft of the total 9,000 sq ft of commercial square footage.
4. A local development order is required prior to any development of the site, in accordance with this planned development approval and consistent with the approved MCP.
5. All state and local permits, including but not limited to right of way and stormwater permits, must be applied for and received prior to site development.
6. All signage and landscaping must meet the Vehicle Visibility at Intersection requirements found in Sec. 34-3131

7. The property owner commits to encouraging visitors and staff to arrive without an automobile. If the proposed development's parking needs exceed the on-site parking provided, the applicant shall provide valet parking and/or coordinate with adjacent property owners, and/or consider other parking options to provide adequate parking.
8. The final development must be generally consistent with the Master Concept Plan, renderings, and landscape betterment plan attached to this ordinance.

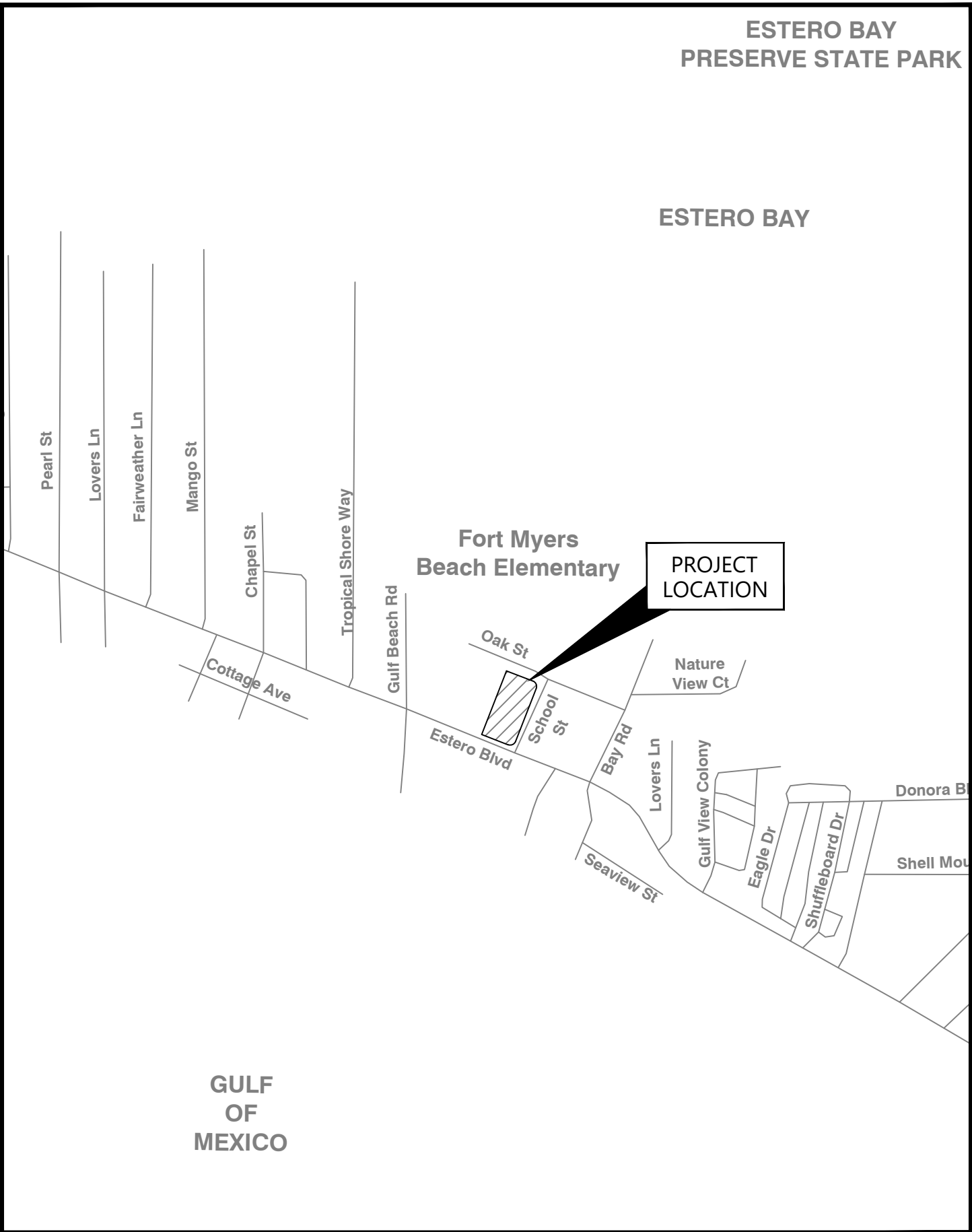
Staff Report Exhibits:

- A – Master Concept Plan
- B – Landscape Betterment Plan
- C – Complete Application
- D – Postcards to Adjacent Properties

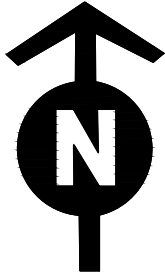
MASTER CONCEPT PLAN FOR

THE MYERSIDE CPD

SECTION 19, TOWNSHIP 46S, RANGE 24E,
FORT MYERS, FLORIDA



VICINITY MAP
N.T.S.



SITE LOCATION MAP
N.T.S.

PREPARED BY:



5618 WHISPERING WILLOW WAY
FORT MYERS, FL 33908

PREPARED FOR:

COTTAGES AT MYERSIDE, LLC
& MYERSIDE, LLC

145 SCHOOL ST
FORT MYERS BEACH, FL 33931

CONTENTS		
SHEET NUMBER	SHEET DESCRIPTION	
1	COVER SHEET	
2	MASTER CONCEPT PLAN	
3	NOTES	
DATE:	PROJECT No.:	SHEET No.:
October, 2023	220050.01.01	1 OF 3

GENERAL NOTES:

1. THIS MASTER CONCEPT PLAN (MCP) IS CONCEPTUAL IN NATURE. THE OVERALL CONFIGURATION, SIZE AND LOCATION OF THE STRUCTURE(S) AND OTHER IMPROVEMENTS MAY VARY. FINAL DESIGN AND IMPROVEMENT DETAILS WILL BE PROVIDED AS PART OF THE DEVELOPMENT ORDER (D.O.) PROCESS.
2. WATER MANAGEMENT REQUIREMENTS FOR REDEVELOPMENT PROJECTS CAN VARY SIGNIFICANTLY. THE WATER MANAGEMENT PLAN WILL BE DESIGNED AT THE TIME OF D.O.
3. TOTAL CPD/DEVELOPMENT AREA: 1.03 +/- ACRES
4. FUTURE LAND USE MAP CATEGORY: BOULEVARD
5. THE PROJECT WILL BE DEVELOPED IN ONE PHASE.
6. NO ENVIRONMENTALLY SENSITIVE LAND OR WATER EXISTS ON SITE AS THIS SITE WAS IMPACTED BY PREVIOUS DEVELOPMENT AND HURRICANE IAN. NO PROTECTED SPECIES SURVEY IS REQUIRED PER APPROVED WAIVER.
7. ALL OTHER DEVELOPMENT STANDARDS SHALL BE SET FORTH IN LDC CHAPTER 24 OR OTHER APPLICABLE PROVISIONS OF THE LDC.
8. IN COMPLIANCE WITH LDC SECTION 34-1803(A)(2), THE MAXIMUM OF 45 ROOMS/LODGING UNITS AND FOUR (4) WORK/LIVE UNITS ARE ALLOWED DUE TO EXCEPTIONAL CIRCUMSTANCES AND PUBLIC BENEFIT PROVIDED BY THIS CPD.

SCHEDULE OF USES:

LODGING:

PRINCIPLE:

- HOTEL/MOTEL (INCLUSIVE OF HOTEL CONDOMINIUMS)
- GUEST UNITS

ACCESSORY:

- HOTEL/MOTEL ACCESSORY USES
- PERSONAL SERVICES
- RECREATIONAL FACILITIES

RESIDENTIAL:

- WORK/LIVE UNITS

COMMERCIAL:

- OFFICES. GENERAL, OR MEDICAL
- PERSONAL SERVICES
- RESTAURANT WITH BAR AREA
- RETAIL STORE, SMALL, & LARGE
- SUBORDINATE COMMERCIAL USES

MAXIMUM INTENSITY:

- MAXIMUM OF 45 HOTEL ROOMS/TRANSIENT LODGING UNITS
- MAXIMUM OF 4 WORK/LIVE UNITS
- MAXIMUM OF 9,000 SF OF COMMERCIAL SPACE
- MAXIMUM FLOOR AREA RATIO (F.A.R.): 1.2 OR 53,840 SF

PARKING:

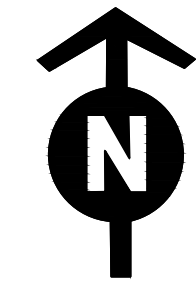
- REQUIRED: 90 SPACES WITH A 4 SPACE REDUCTION BY PROVIDING 16 BICYCLE SPACES = 86 SPACES
- PROVIDED: MIN. 60 SPACES (INCLUDING 3 ADA SPACES) WITH 30% PARKING REDUCTION

DEVIATIONS:

1. A DEVIATION FROM LDC SEC. 10-285, TABLE 10-1 - CONNECTION SEPARATION, WHICH REQUIRES MINIMUM SEPARATION BETWEEN STREET AND ACCESSWAYS, IN ORDER TO ALLOW DRIVEWAY SEPARATIONS AS DEPICTED ON THE MASTER CONCEPT PLAN (MCP).
2. A DEVIATION FROM LDC SEC. 10-416(C)(2) - LANDSCAPING OF PARKING AND VEHICULAR USE AREAS, WHICH HAS SPECIFIC TREE AND LANDSCAPE ISLAND DIMENSIONAL REQUIREMENTS TO ALLOW AN ALTERNATE LANDSCAPE BETTERMENT PLAN AS ALLOWED PER LDC SEC. 10-419.
3. A DEVIATION FROM LDC SEC. 34-1804(a) AND SEC. 34-2020, WHICH REGULATES PARKING FOR HOTELS/MOTELS, NON-RESIDENTIAL, RESIDENTIAL, AND COMBINED USE DEVELOPMENTS, TO ALLOW A 30% REDUCTION IN REQUIRED PARKING AND A MINIMUM OF 3 (THREE) INDIVIDUAL USES WITHIN A MASTER PLANNED MIXED USE DEVELOPMENT.
4. A DEVIATION FROM LDC DIVISION 4, TABLE 34-3 FOR THE CR ZONING DISTRICT WHICH LIMITS HEIGHT TO 30 FEET ZONED HEIGHT AND THREE (3) STORIES TO ALLOW A MAXIMUM ZONED HEIGHT OF 36 FEET AND A MAXIMUM OF FOUR (4) STORIES.
5. A DEVIATION FROM LDC DIVISION 4, TABLE 34-3 FOR THE CR ZONING DISTRICT WHICH REQUIRES STREET SETBACKS OF 10 FEET TO INSTEAD ALLOW FOR BUILD-TO LINES OF 5 TO 10 FEET ALONG ESTERO BOULEVARD AND SCHOOL STREET.
6. A DEVIATION FROM LDC SEC. 34-1803(A)(1), WHICH ALLOWS THE CONVERSION OF DWELLING UNITS TO HOTEL/MOTEL GUEST UNITS PER ESTABLISHED EQUIVALENCY FACTORS, IN ORDER TO EXCEED SAID FACTORS AS ALLOWED PER LDC SEC. 34-1803(A)(2). THIS WOULD ALLOW A MAXIMUM INTENSITY OF 45 GUEST UNITS RATHER THAN THE 20 ALLOWED PER THE EXISTING TABLE.

DEVELOPMENT STANDARDS:

Minimum Lot Size	
Lot Area	1.03 ± acre
Lot Width	145 feet
Lot Depth	300 feet
Build to Line (Estero Blvd. and School St.)	5 - 10 feet
Minimum Setbacks Principal Building	
Front Street (Estero Blvd.)	N/A
Side Street (School St.)	N/A
Side Yard	15 feet
Rear Yard (Oak St.)	20 feet
Minimum Setbacks Accessory Building	
Side Street (School St.)	10 feet
Side Yard	7.5 feet for dumpster enclosure, 15 feet for all other buildings/structures
Rear Yard (Oak St.)	10 feet
Maximum Zoned Height	37 feet (measured from base flood elevation + 3' of freeboard to mid-point of roof)
Maximum Actual Height	50 feet (measured from grade to peak of roof)
Maximum Stories	4 Stories
Maximum Floor Area Ratio	1.2

[illegible]

THE NEIGHBORHOOD

5618 WHISPERING WILLOW WAY | FORT MYERS, FL 33908
WWW.THENEIGHBORHOOD.COM/PANY

PROJECT NO.: 220050.01.01		CLIENT: COTTAGES AT MYERSIDE, LLC & MYERSIDE, LLC	
DATE: 10/23	DRAWING: F.L.	PROJECT: THE MYERSIDE COMMERCIAL PLANNED DEVELOPMENT (CPD)	
DESIGN: K.G.			
TITLE: NOTES			
SHEET NUMBER: 3 OF 3			

PREPARED FOR/OWNED BY:
MYERSIDE, LLC ----
145 SCHOOL ST.
FORT MYERS BEACH, FL 33931
(239) 529-8785



ORDINANCE 21-02

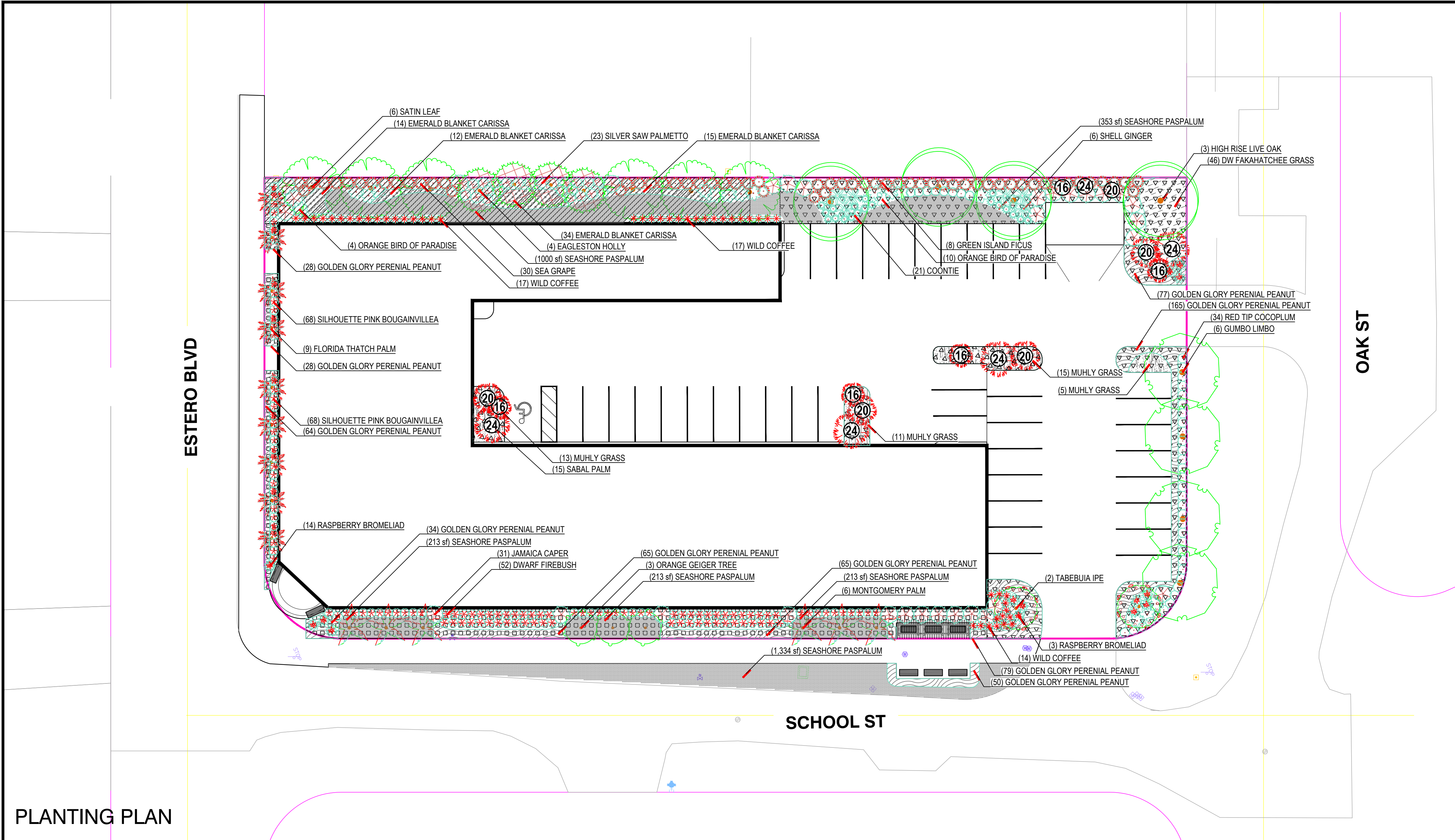
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STRAP: 19-46-24-W3-0020C-0270
STRAP: 19-46-24-W3-0020C-0230

Sheet Number	Sheet Title
01	COVER SHEET
02	MASTER PLANTING PLAN
03	PERMIT CALCULATIONS & IRRIGATION PLAN
04	PERMIT LANDSCAPE NOTES
05	PERMIT LANDSCAPE NOTES
06	LANDSCAPE CONSTRUCTION NOTES
07	LANDSCAPE CONSTRUCTION DETAILS
08	LANDSCAPE CONSTRUCTION DETAILS

No.:	DATE:	DESCRIPTION:	APPROVED:

 RWA ENGINEERING	6610 Willow Park Drive Suite 200 Naples, FL 34109	LANDSCAPE ARCHITECTS SEAL I signed by James M. McCord Date: 2024.04.17 08:19:30 -04'00'
	12800 University Drive Suite 175 Fort Myers, FL 33907	
	19503 S West Villages Pkwy Unit A5 Venice, FL 34293	
	Office: (239) 597-0575 Fax: (239) 597-0578 www.consult-rwa.com	
	Florida Certificates of Authorization EB 7663 LB 6952	PRINTED COPIES OF THIS DOCUMENT ARE NOT CONSIDERED SIGNED AND SEALED AND THE SIGNATURE MUST BE VERIFIED ON ANY ELECTRONIC COPIES. JAMES M. MCCORD, STATE OF FLORIDA LICENSE NO. 6666882 RA, INC. STATE OF FLORIDA BUSINESS CERTIFICATE NO. EB-00077663

DATE:	MARCH 2004	PROJECT No.:	200022 00 01	SHEET No.:	01 OF 08
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PLANTING PLAN

PLANT MATERIAL SCHEDULE

SYMBOL	QTY	BOTANICAL / COMMON NAME	MIN. SIZE	CALIPER	HEIGHT X SPREAD	NATIVE	SPACING
TREES							
	4	BURSERA SIMARUBA GUMBO LIMBO	45 GAL.	2" CAL	10' X 4'	YES	
	6	CHRYSOPHYLLUM OLIVIFORME SATIN LEAF	45 GAL.	2" CAL	10' X 4'	YES	
	3	CORDIA SEBESTENA ORANGE GEIGER TREE	30 GAL.	1" CAL	6' X 2'	YES	
	4	ILEX X ATTENUATA 'EAGLESTON' EAGLESTON HOLLY	30 GAL.	1" CAL	6' X 2'	YES	
	4	QUERCUS VIRGINIANA 'HIGH RISE' HIGH RISE LIVE OAK	45 GAL.	2" CAL	10' X 4'	YES	
	2	TABEUBIA IMPETIGINOSA TABEUBIA IPE	30 GAL.	1" CAL	6' X 2'	YES	
	4	SABAL PALMETTO SABAL PALM	FG		10' CT MIN. 16'-18' OA	YES	
	4	SABAL PALMETTO SABAL PALM	FG		10' CT MIN. 20'-22' OA	YES	
	4	SABAL PALMETTO SABAL PALM	FG		10' CT MIN. 24'-26' OA	YES	
	9	THRINAX RADIATA FLORIDA THATCH PALM	FG		14' OA	YES	
	6	VEITCHIA MONTGOMERYANA MONTGOMERY PALM	FG		16-18' OA	NO	
SHRUBS							
	14	AECHEMEA BLANCHETIANA 'RASPBERRY' RASPBERRY BROMELIAD	3 GAL.		18"	YES	
	68	BOUGAINVILLEA 'SILHOUETTE PINK' SILHOUETTE PINK BOUGAINVILLEA	3 GAL.		18"	YES	
	31	CAPPARIS CYNOPHALLOPHORA JAMAICA CAPER	15 GAL.		60"	YES	
	34	CHRYSOBALANUS ICACO 'RED TIP' RED TIP COCOPLUM	7 GAL.		24"	YES	
	61	COCOLOBA UVIFERA SEA GRAPE	7 GAL.		36"	YES	
	8	FICUS MICROCARPA 'GREEN ISLAND' GREEN ISLAND FICUS	3 GAL.		12"	NO	
	52	HAMELIA PATENS 'COMPACTA' DWARF FIREBUSH	7 GAL.		24"	NO	
	48	PSYCHOTRIA NERVOSA WILD COFFEE	3 GAL.		18"	YES	
	23	SERENGETIA REPENS SILVER SAW PALMETTO	7 GAL.		24"	YES	
	17	STRELITZIA REGINAE ORANGE BIRD OF PARADISE	15 GAL.		48"	NO	
	21	ZAMIA PUMILA COONTIE	3 GAL.		12"	YES	
	6	ALPINIA ZERUMBET SHELL GINGER	15 GAL.		48"	NO	
	44	MUHLENBERGIA CAPILLARIS MUHLY GRASS	3 GAL.		18"	YES	48" OC
	46	TRIPSACUM FLORIDANUM DWARF FAKAHATCHEE	1 GAL.		12"	YES	36" OC
	757	ARACHIS GLABRATA 'GOLDEN GLORY' GOLDEN GLORY PERENIAL PEANUT	4" POT		3"	NO	18" OC
	75	CARISSA MACROCARPA EMERALD BLANKET CARISSA	3 GAL.		12"	NO	24" OC
TURF							
	3,337	PASPALUM VAGINATUM SEASHORE PASPALUM	SOD				



FRONT ELEVATION

0' 5' 10' 20'

SCALE: 1"=10'

Select Certified

IRRIGATION ASSOCIATION

Experienced professionals. Efficient solutions.

OID, CIC, CLIA

DATE: MARCH 2004

SIC: 19 TWP: 46 S RGE: 24 E

DESIGNED: JMM

DRAWN: JMM

CLIENT: MYERSIDE, LLC

TITLE: MASTER PLANTING PLAN

NOTES:

- ALL SIZES ARE MINIMUMS. HEIGHT, SPREAD, CALIPER TAKE PRECEDENCE OVER CONTAINER SIZE.
- QUANTITIES ARE PROVIDED FOR CONVENIENCE ONLY. CONTRACTOR TO VERIFY PRIOR TO BIDDING.
- CONTRACTOR REQUIRED TO NOTIFY RWA, INC OF ANY / ALL CONFLICTS WITH PLANS & SITE CONDITIONS PRIOR TO INSTALLATION.
- ALL CHANGES REQUIRE PRIOR APPROVAL FROM RWA, INC. ANY DEVIATIONS TO THE PLANS WITHOUT APPROVAL SHALL BE AT THE CONTRACTOR'S EXPENSE TO RECTIFY.
- CONTRACTOR TO PROVIDE ACCURATE AS-BUILTS FOR APPROVED MODIFICATIONS TO THESE PLANS.

PROJECT: MYERSIDE

PROJECT NO.: 200022 00 01

FILE NAME: 200022 00 01 LA PERMIT

SHEET NUMBER: 02 OF 08

Digitally signed by James M. McCord

Date: 2024.04.17 08:20:07 -04'00'

THIS IS HAS BEEN ELECTRONICALLY SIGNED & SEAL BY JAMES M. MCCORD USING A DIGITAL SIGNATURE AND DATE. PRINTED COPIES OF THIS DOCUMENT ARE NOT CONSIDERED SIGNED & SEALED AND THE SIGNATURE MUST BE VERIFIED ON ANY ELECTRONIC COPIES.

JAMES M. MCCORD

FLORIDA LICENSE NO. 6666882

REV #

REVISION

DRAWN

CHECKED

DATE

RWA

ENGINEERING

12800 University Drive, Suite 175

Fort Myers, Florida 33907

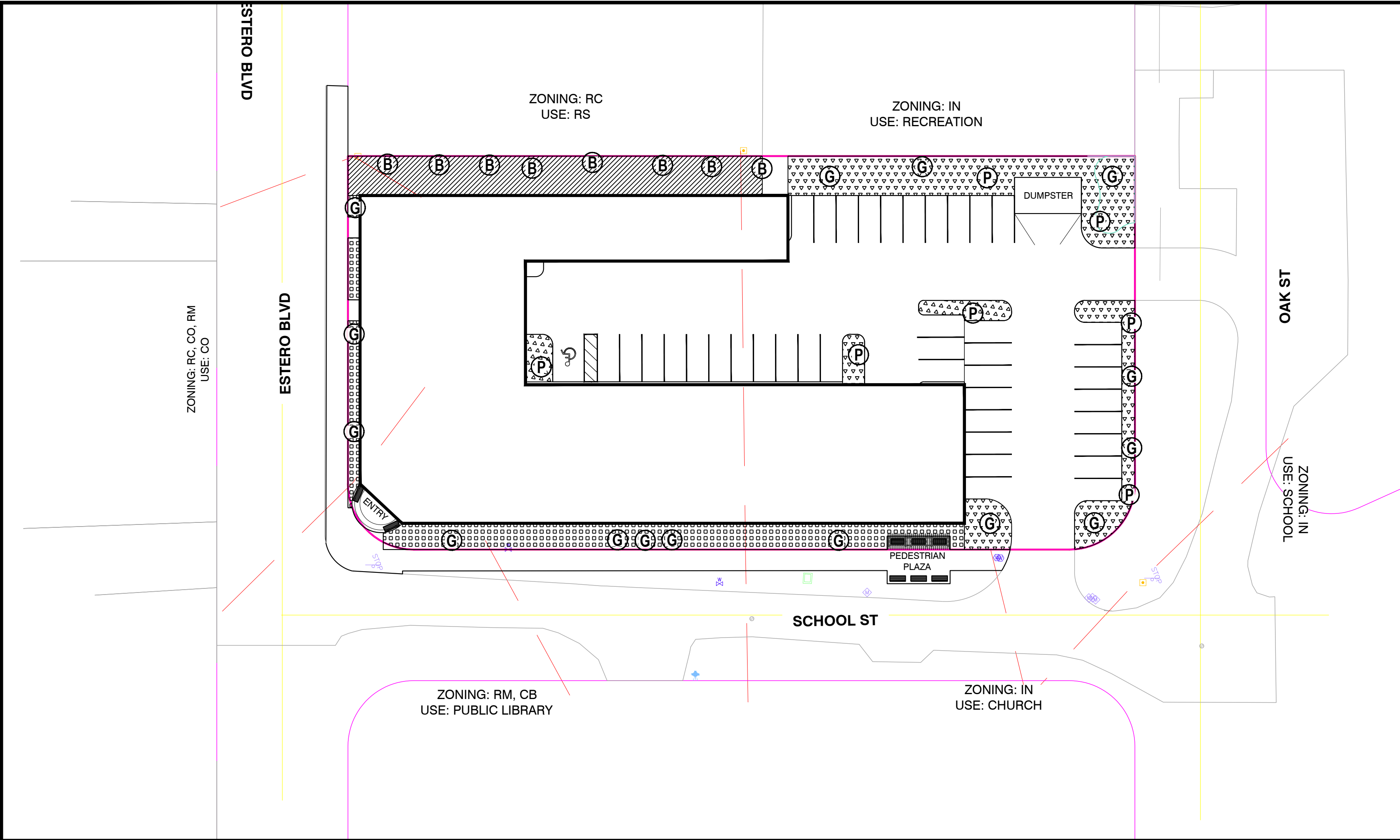
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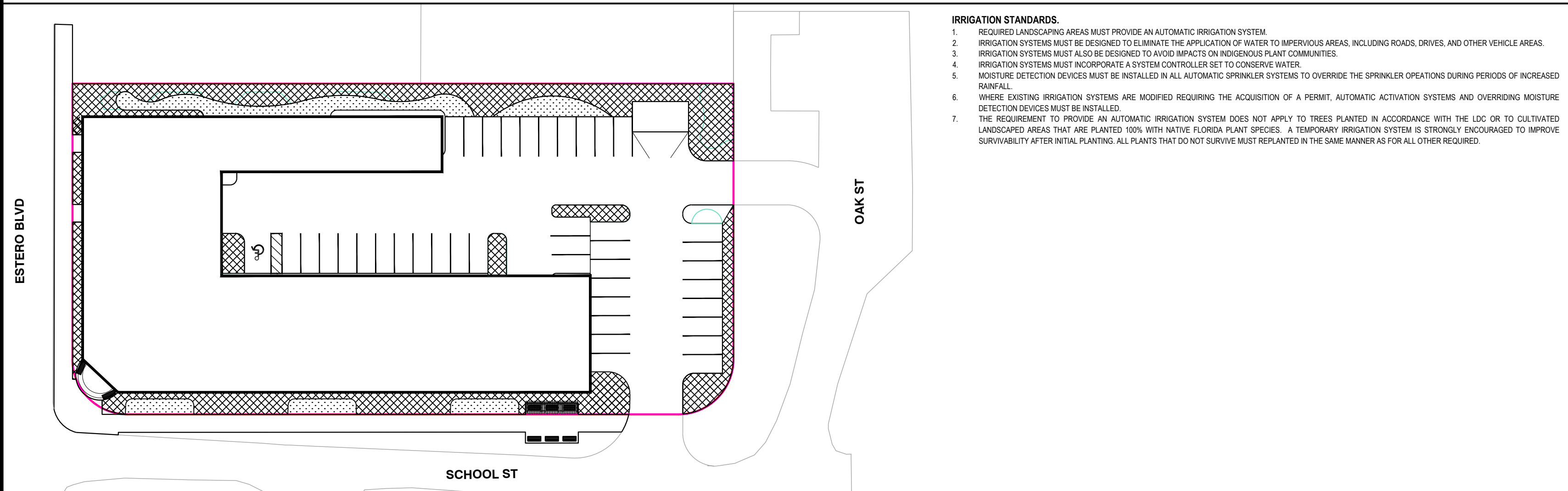
Florida Certificates of Authorization

EB 7663 LB6952

APRIL 17, 2024 7:50 AM K:\2020\200022\0002\Myerside Landscape Zoning Services\02 Conceptual Landscape & Hardscape Design\200022 00 01 LA PERMIT.dwg



CODE CALCULATIONS EXHIBIT		CODE REQUIREMENTS LEGEND					
CODE REQUIRED TREE	SYMBOL	CODE REQUIRED TREE	SYMBOL	CODE REQUIRED TREE	HATCH	CODE REQUIRED PLANTING AREA	HATCH
BUFFER TREE	B	GENERAL TREE	G	BUFFER AREA	[Hatch]	OPEN SPACE AREA	[Hatch]
ENHANCEMENT TREE	E	INTERNAL / PARKING / VUE TREE	P	BUILDING PERIMETER AREA	[Hatch]	INTERNAL / PARKING / VUE AREA	[Hatch]



CONCEPTUAL IRRIGATION PLAN		IRRIGATION LEGEND	
[Scale: 1"=40']		SYMBOL	DESCRIPTION
		[Hatch]	TURF AREA TO BE IRRIGATED WITH SPRAY HEADS
		[Hatch]	BED AREAS TO BE IRRIGATED WITH DRIP SYSTEM

RWA ENGINEERING		12800 University Drive, Suite 175 Fort Myers, Florida 33907 (239) 597-0575 FAX: (239) 597-0578 www.consult-rwa.com Florida Certificates of Authorization EB 7663 LB6952	DATE: MARCH 2004 SEC. TWP. RGE. 19 46 S 24 E DESIGNED: JMM DRAWN: JMM	HORIZ. SCALE (FULL): ##'##'##'##' HORIZ. SCALE (HALF): 1" = ##'##'##'##'##'##' VERT. SCALE (FULL): N/A VERT. SCALE (HALF): N/A	CLIENT: MYERSIDE, LLC TITLE: PERMIT CALCULATIONS & IRRIGATION PLAN
REV #	REVISION	DRAWN	CHECKED	DATE	

10-415 OPEN SPACE REQUIREMENTS					
PROJECT INFORMATION		RETAINMENT		PRE DEVELOPMENT AREA	
		REQUIRED	PROVIDED	AC	SQ FT
INDIGENOUS - WETLANDS		100%	N/A	0.0 AC	0 SF
INDIGENOUS - COASTAL SCRUB		100%	N/A	0.0 AC	0 SF
INDIGENOUS - UPLANDS		50%	N/A	0.0 AC	0 SF
BEACHES		100%	N/A	0.0 AC	0 SF
ARCHAEOLOGICAL / HISTORICAL SITES		100%	N/A	0.0 AC	0 SF
PROTECTED TREES (PRESERVED IN PLACE)		100%	100%	N/A	0 SF
PARKING LANDSCAPE AREA		100%	100%	N/A	4132 SF
BUFFERS		100%	100%	N/A	2369 SF
TOTAL OPEN SPACE PROVIDED				0.15 AC	6501 SF

10-416-D BUFFER REQUIREMENTS									
PROJECT INFORMATION							USE		
PROPOSED DEVELOPMENT USE									
NORTH PROPERTY LINE		TYPE	REQ. WIDTH	LIN. FT.	TREES PER 100'	SHRUBS PER 100'	WALL REQ.	REQUIRED / PROVIDED	
EXIST. ADJACENT USE / ZONING								TREES	SHRUBS
INSTITUTIONAL		N/A	N/A	150 LF	0 TREES	0 SHRUBS	NA	0 TREES	0 SHRUBS
LESS INGRESS / EGRESS				-24 LF					
TOTAL NORTH BUFFER PLANTINGS PROVIDED							0 TREES		0 SHRUBS
EAST PROPERTY LINE		TYPE	REQ. WIDTH	LIN. FT.	TREES PER 100'	SHRUBS PER 100'	WALL REQ.	REQUIRED / PROVIDED	
EXIST. ADJACENT USE / ZONING								TREES	SHRUBS
INSTITUTIONAL		N/A	N/A	150 LF	0 TREES	0 SHRUBS	NA	0 TREES	0 SHRUBS
LESS INGRESS / EGRESS				-28 LF					
MULTI-FAMILY / COMMERCIAL BLVD		N/A		150 LF	0 TREES	0 SHRUBS	NA	0 TREES	0 SHRUBS
LESS INGRESS / EGRESS				-0 LF					
TOTAL EAST BUFFER PLANTINGS PROVIDED							0 TREES		0 SHRUBS
SOUTH PROPERTY LINE		TYPE	REQ. WIDTH	LIN. FT.	TREES PER 100'	SHRUBS PER 100'	WALL REQ.	REQUIRED / PROVIDED	
EXIST. ADJACENT USE / ZONING								TREES	SHRUBS
COMMERCIAL / LODGING		N/A	N/A	150 LF	0 TREES	0 SHRUBS	NA	0 TREES	0 SHRUBS
LESS INGRESS / EGRESS				-0 LF					
TOTAL SOUTH BUFFER PLANTINGS PROVIDED							9 TREES		0 SHRUBS
WEST PROPERTY LINE		TYPE	REQ. WIDTH	LIN. FT.	TREES PER 100'	SHRUBS PER 100'	WALL REQ.	REQUIRED / PROVIDED	
EXIST. ADJACENT USE / ZONING								TREES	SHRUBS
RESIDENTIAL CONSERVATION		C	15' WIDE	158 LF	5 TREES	18 SHRUBS	NA	9 TREES	29 SHRUBS
LESS INGRESS / EGRESS				-0 LF					
INSTITUTIONAL		N/A	N/A	142 LF	0 TREES	0 SHRUBS	NA	0 TREES	0 SHRUBS
LESS INGRESS / EGRESS				-24 LF					
TOTAL WEST BUFFER PLANTINGS PROVIDED							8 TREES		29 SHRUBS

10-416-B BUILDING PERIMETER PLANTING REQUIREMENTS					
PROJECT INFORMATION		LIN FT WALLS ADJ	# OF PARKING SP	REQ	PLANTING AREA REQUIREMENTS
					50% LIN FT 50% AREA SQ FT %
BUILDING PERIMETER PLANTING AREA PROVIDED		374 LF	36 SPACES		187 LF 935 SF 50%
					3125 SF
PLANT MATERIAL		LIN FT WALLS ADJ	# OF PARKING SP	REQ	PLANTING AREA REQUIREMENTS
					REQUIRED PROVIDED %
TURFGRASS AREA PROPOSED					213 SF
MAX. TURFGRASS AREA ALLOWABLE				10%	312 SF 7%
GROUND COVER AREAS PROPOSED					605 SF 19%
SHRUB AREAS PROPOSED					2307 SF 74%
TOTAL BUILDING PERIMETER PLANTING AREA PROVIDED					3125 SF 100%
BUILDING PERIMETER PLANTING REQUIREMENTS		SPACING	PLANT AREA	PLANT MATERIALS & TURF	
				MIN. REQUIRED	PROVIDED
TURFGRASS		NA	213 SF	NA	213 SF
GROUND COVER		2' OC	605 SF	152 PLANTS	152 PLANTS
SHRUBS		3' OC	1968 SF	27 SHRUBS	120 SHRUBS
		4' OC	64 SF	4 SHRUBS	4 SHRUBS
		5' OC	275 SF	11 SHRUBS	11 SHRUBS

10-416-C VEHICULAR USE AREA PLANTING REQUIREMENTS			
REQUIRED INTERNAL PLANTING AREA		AREA / EACH	MIN. REQUIRED PROVIDED AREA
GROSS PAVED VEHICULAR USE AREA		15542 SF	
INTERNAL PLANTING AREA REQUIRED		10%	1554 SF
TOTAL INTERNAL PLANTING AREA PROVIDED			4132 SF 27%
INTERNAL PARKING AREAS TREE REQUIREMENTS		AREA / EACH	TREE REQUIREMENTS
			MIN. REQUIRED PROVIDED
REQUIRED INTERNAL PARKING TREES		1 TREE PER 250 SF	7 TREES
TOTAL INTERNAL PLANTING TREES PROVIDED			7 TREES
INTERNAL PARKING AREAS LANDSCAPE MATERIALS REQUIREMENTS		SPACING	%
			PROVIDED AREA
TURFGRASS		NA	4.3% 665 SF
GROUND COVER		1.5' OC	2.4% 165 PLANTS 371 SF
SHRUBS		3' OC	12.7% 220 PLANTS 1980 SF
		4' OC	3.8% 37 PLANTS 592 SF
		5' OC	3.7% 23 SHRUBS 575 SF

ALTERNATE BETTERMENT PLAN NARRATIVE

- PLAN EXCEEDS CODE REQUIREMENTS:
- TREES:
 - 75% REQUIRED TREES TO BE NATIVE & 87% REQUIRED TREES PROVIDED ARE NATIVE.
 - 50% OF REQUIRED TREES (8 TREES) MUST BE 2" CAL & 9 PROVIDED (60%).
 - 50% OF REQUIRED TREES (7 TREES) CAN BE 1" CAL & 6 PROVIDED (40%).
 - SABAL PALM CLUSTERS HAVE A 4' OA HEIGHT VARIATION.
 - SHRUBS:
 - 280 SHRUBS REQUIRED FOR SITE & 384 PROVIDED.
 - 50% REQUIRED SHRUBS TO BE NATIVE (140 SHRUBS) & 70% REQUIRED SHRUBS PROVIDED ARE NATIVE (195).
 - PLANTING AREAS:

- 1554 SF PARKING PLANTING AREA REQUIRED & 4132 SF PROVIDED.
- 935 SF BUILDING PERIMETER PLANTING AREA REQUIRED & 3125 SF PROVIDED.
- HARDSCAPE FEATURES:
 - SPECIALTY PAVER ENTRY TREATMENT.
 - PEDESTRIAN PLAZA WITH SEATING.

10-416-A GENERAL TREE REQUIREMENTS					
PROJECT INFORMATION		USE / TYPE / REQUIREMENT		AREA	
				AC	SQ FT
NET DEVELOPMENT AREA				1.03 AC	44732 SF
PROPOSED DEVELOPMENT TYPE		COM - COMMERCIAL			
GENERAL TREE REQUIREMENTS		TREE PER SQ FT		REQUIRED TREES	
REQUIRED GENERAL TREES		1 PER 3000 SF		15	
GENERAL TREE TYPE		TREE CREDITS		PROVIDED	
				QUANTITY	TREES PROVIDED
INDIGENOUS 4"+ CAL TREE PRESERVED		@ 5:1 CREDIT		0 TREES	0 TREES
INDIGENOUS 8" CT PALM PRESERVED		@ 3:1 CREDIT		0 TREES	0 TREES
INDIGENOUS RELOCATED 8" CT SABAL PALM		@ 2:1 CREDIT		0 TREES	0 TREES
TOTAL PRESERVED / RELOCATED TREE CREDITS					0 TREES
1" & 6" INSTALLED GENERAL TREES		@ 1:1 RATIO		6 TREES	
50% MAX ALLOWABLE		@ 7 TREES			6 TREES
2" & 10" INSTALLED GENERAL TREES		@ 1:1 RATIO		9 TREES	
50% MIN REQUIRED		@ 8 TREES			9 TREES
4" CAL & 16" OA INSTALLED GENERAL TREES		@ 2:1 CREDIT		0 TREES	
6" CAL & 20" OA INSTALLED GENERAL TREES		@ 3:1 CREDIT		0 TREES	
8" CAL & 24" OA INSTALLED GENERAL TREES		@ 4:1 CREDIT		0 TREES	
50% MAX CREDIT		@ 7 TREES			0 TREES
TOTAL INSTALLED GENERAL TREES					15 TREES
TOTAL TREES PROVIDED BY REPLACEMENT					0 TREES
TOTAL GENERAL TREES PROVIDED					15 TREES
TOTAL EXCESS GENERAL TREES					0 TREES
PROTECTED TREE REPLACEMENT		TREE CREDITS		QUANTITY	
		SIZE @ DBH	TREE CREDIT	REMOVE/ADD	TOT CAL CREDITS
4" CAL PROTECTED TREES		4 CAL	5:1 CREDIT	-0 TREES	0 CAL
5" CAL PROTECTED TREES		5 CAL	5:1 CREDIT	-0 TREES	0 CAL
6" CAL PROTECTED TREES		6 CAL	5:1 CREDIT	-0 TREES	0 CAL
7" CAL PROTECTED TREES		7 CAL	5:1 CREDIT	-0 TREES	0 CAL
8" CAL PROTECTED TREES		8 CAL	5:1 CREDIT	-0 TREES	0 CAL
9" CAL PROTECTED TREES		9 CAL	5:1 CREDIT	-0 TREES	0 CAL
10" CAL PROTECTED TREES		10 CAL	5:1 CREDIT	-0 TREES	0 CAL
12" CAL PROTECTED TREES		12 CAL	5:1 CREDIT	-0 TREES	0 CAL
14" CAL PROTECTED TREES		14 CAL	5:1 CREDIT	-0 TREES	0 CAL
16" CAL PROTECTED TREES		16 CAL	5:1 CREDIT	-0 TREES	0 CAL
18" CAL PROTECTED TREES		18 CAL	5:1 CREDIT	-0 TREES	0 CAL
20" CAL PROTECTED TREES		20 CAL	5:1 CREDIT	-0 TREES	0 CAL
22" CAL PROTECTED TREES		22 CAL	5:1 CREDIT	-0 TREES	0 CAL
24" CAL PROTECTED TREES		24 CAL	5:1 CREDIT	-0 TREES	0 CAL
26" CAL PROTECTED TREES		26 CAL	5:1 CREDIT	-0 TREES	0 CAL
28" CAL PROTECTED TREES		28 CAL	5:1 CREDIT	-0 TREES	0 CAL
30" CAL PROTECTED TREES		30 CAL	5:1 CREDIT	-0 TREES	0 CAL
32" CAL PROTECTED TREES		32 CAL	5:1 CREDIT	-0 TREES	0 CAL
34" CAL PROTECTED TREES		34 CAL	5:1 CREDIT	-0 TREES	0 CAL
36" CAL PROTECTED TREES		36 CAL	5:1 CREDIT	-0 TREES	0 CAL
CAL OF PROTECTED TREES REQUIRED TO BE REPLACED @ 1:1 RATIO					0 CAL
2" REPLACEMENT TREES		2 CAL	1:1 CREDIT	+0 TREES	0 CAL
4" REPLACEMENT TREES		4 CAL	2:1 CREDIT	+0 TREES	0 TREES
6" REPLACEMENT TREES		6 CAL	3:1 CREDIT	+0 TREES	0 CAL
8" REPLACEMENT TREES		8 CAL	4:1 CREDIT	+0 TREES	0 TREES
CAL OF PROTECTED TREES REPLACEMENTS PROVIDED @ 1:1 RATIO					0 CAL
TOTAL EXCESS REPLACEMENT TREES					0 CAL
PROTECTED PALM (SABAL)		8 CT	3:1 CREDIT	-0 PALMS	0 PALMS
PROTECTED PALM (SILVER)		8 CT	3:1 CREDIT	-0 PALMS	0 PALMS
PROTECTED PALM (COCONUT)		8 CT	3:1 CREDIT	-0 PALMS	0 PALMS
PROTECTED PALM (ROYAL)		8 CT	3:1 CREDIT	-0 PALMS	0 PALMS
TOTAL EXCESS PALMS TO BE REPLACED					0 PALMS
10' CT REPLACEMENT PALM (SABAL)		10 CT	3:1 CREDIT	+0 PALMS	0 PALMS @ 0 TREES
10' CT REPLACEMENT PALM (SILVER)		10 CT	4:1 CREDIT	+0 PALMS	0 PALMS @ 0 TREES
10' CT REPLACEMENT PALM (COCONUT)		10 CT	1:1 CREDIT	+0 PALMS	0 PALMS @ 0 TREES
10' CT REPLACEMENT PALM (ROYAL)		10 CT	1:1 CREDIT	+0 PALMS	0 PALMS @ 0 TREES
CAL OF PROTECTED TREES REPLACEMENTS PROVIDED @ 1:1 RATIO					0 PALMS
TOTAL EXCESS REPLACEMENT PALMS					0 PALMS
TOTAL TREES PROVIDED BY REPLACEMENT					0 TREES

10-420-B PLANT MATERIALS STANDARDS REQUIREMENTS					
PLANT MATERIAL TYPE	TOTAL REQUIRED	NATIVE REQUIREMENTS			
		%	REQUIRED	PROVIDED	% PROVIDED
CODE TREES					
30 TREES					
NATIVE REQUIRED		75%	23 TREES		
NATIVE PROVIDED				26 TREES	87%
SHRUBS					
280 SHRUBS					
NATIVE REQUIRED		50%	140 SHRUBS		
NATIVE PROVIDED				195 SHRUBS	70%

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SURFACE WATER MANAGEMENT

- ## LANDSCAPING STANDARDS.

- OF WATER EXCEPT THOSE PORTIONS OF A SHORELINE HAVING A WALL; EXISTING VEGETATION WITHIN THE BUFFER AREA MUST BE RETAINED; AND THE REMOVAL OR CONTROL OF EXOTIC PEST PLANTS MUST NOT INVOLVE THE USE OF HEAVY MECHANICAL EQUIPMENT.
34. FOR DEVELOPMENT ABUTTING WETLANDS: THERE MUST BE A 75' SEPARATION BETWEEN WETLANDS AND ALL BUILDINGS OR OTHER IMPERVIOUS SURFACES.
35. REQUIRED BUFFERS MAY BE USED FOR PASSIVE RECREATION SUCH AS PEDESTRIAN OR BIKE PATHS, PROVIDED THAT: NO REQUIRED TREES OR SHRUBS ARE ELIMINATED; NOT MORE THAN 20% OF THE WIDTH OF THE BUFFER IS IMPERVIOUS SURFACE; THE TOTAL WIDTH OF THE BUFFER AREA IS MAINTAINED; AND ALL OTHER LDC REQUIREMENTS ARE MET.

1. REQUIRED LANDSCAPING AREAS MUST PROVIDE AN AUTOMATIC IRRIGATION SYSTEM.
2. IRRIGATION SYSTEMS MUST BE DESIGNED TO ELIMINATE THE APPLICATION OF WATER TO IMPERVIOUS AREAS, INCLUDING ROADS, DRIVES, AND OTHER VEHICLE AREAS.
3. IRRIGATION SYSTEMS MUST ALSO BE DESIGNED TO AVOID IMPACTS ON INDIGENOUS PLANT COMMUNITIES.
4. IRRIGATION SYSTEMS MUST INCORPORATE A SYSTEM CONTROLLER SET TO CONSERVE WATER.
5. MOISTURE DETECTION DEVICES MUST BE INSTALLED IN ALL AUTOMATIC SPRINKLER SYSTEMS TO OVERRIDE THE SPRINKLER OPERATIONS DURING PERIODS OF INCREASED RAINFALL.
6. WHERE EXISTING IRRIGATION SYSTEMS ARE MODIFIED REQUIRING THE ACQUISITION OF A PERMIT, AUTOMATIC ACTIVATION SYSTEMS AND OVERRIDING MOISTURE DETECTION DEVICES MUST BE INSTALLED.
7. THE REQUIREMENT TO PROVIDE AN AUTOMATIC IRRIGATION SYSTEM DOES NOT APPLY TO TREES PLANTED IN ACCORDANCE WITH THE LDC OR TO CULTIVATED LANDSCAPED AREAS THAT ARE PLANTED 100% WITH NATIVE FLORIDA PLANT SPECIES. A TEMPORARY IRRIGATION SYSTEM IS STRONGLY ENCOURAGED TO IMPROVE SURVIVABILITY AFTER INITIAL PLANTING. ALL PLANTS THAT DO NOT SURVIVE MUST BE REPLANTED IN THE SAME MANNER AS FOR ALL OTHER REQUIRED.

1. APPLICATIONS PURSUANT TO THIS DIVISION ARE ENTITLED TO DEMONSTRATE THAT THE INTENT OF THIS DIVISION CAN BE MORE EFFECTIVELY ACCOMPLISHED THROUGH AN ALTERNATE LANDSCAPE BETTERMENT PLAN.

1. PLANT MATERIALS USED TO MEET THE REQUIREMENTS OF THIS DIVISION MUST MEET THE STANDARDS FOR FLORIDA NO. 1 OR BETTER PER FDACS.

2. ROOT BALL SIZES ON ALL TRANSPLANTED PLANT MATERIALS MUST ALSO MEET STATE STANDARDS.

3. AT LEAST 75% OF THE TREES AND 50% OF THE SHRUBS USED TO FULFILL THESE REQUIREMENTS MUST BE NATIVE FLORIDA SPECIES.

4. FOR REQUIRED TREES, AT LEAST 50% OF THE TREES AT INSTALLATION MUST BE A MIN OF 10' OA, 2" CAL, AND HAVE A 4' SPREAD. THE REMAINING REQUIRED TREES AT INSTALLATION MUST BE A MIN OF 6' OA, 1" CAL, AND HAVE A 3' SPREAD.

5. PALMS MUST HAVE A MIN OF 1' OF CLEAR TRUNK AT PLANTING.

6. COCONUT PALMS MUST BE VARIETIES THAT ARE RESISTANT TO LETHAL YELLOWING.

7. TREES HAVING AN AVG MATURE CROWN LESS THAN 20' MAY BE SUBSTITUTED BY GROUPING THEM TO CREATE THE EQUIVALENT OF 20' CROWN.

8. TREES ADJACENT TO WALKWAYS, BIKE PATHS, AND RIGHTS-OF-WAY MUST BE MAINTAINED WITH 8' OF CT.

9. LARGER TREES MAY BE SUBSTITUTED TO REDUCE THE MIN NUMBER OF GENERAL TREES. TREE CREDITS REQUIRE NO LESS THAN 16' OA AND 4" CAL AT INSTALLATION.

10. MAX GENERAL TREES CREDITS CANNOT EXCEED 50%.

11. SHRUBS MUST BE A MIN OF 24" OA (48" OA FOR TYPE F BUFFERS), 3 GAL CONTAINER SIZE, AND BE SPACED 18'-36" OC.

12. BUFFER SHRUBS MUST BE MAINTAINED A MIN OF 36" OA INCHES (60" OA FOR TYPE F BUFFERS) WITHIN 1 YEAR AFTER INSTALLATION IN PERPETUITY, EXCEPT FOR VISIBILITY AT INTERSECTIONS AND WHERE PEDESTRIAN ACCESS IS PROVIDED.

13. REQUIRED HEDGES MUST BE PLANTED IN DOUBLE STAGGERED ROWS AND MAINTAINED SO AS TO FORM A CONTINUOUS, UNBROKEN, SOLID VISUAL SCREEN WITHIN ONE YEAR AFTER TIME OF PLANTING.

14. A 2" MIN LAYER, AFTER WATERING-IN, OF APPROVED MULCH MUST BE PLACED AND MAINTAINED AROUND ALL NEWLY INSTALLED TREES, SHRUBS AND GROUND COVER PLANTINGS. EACH TREE MUST HAVE A RING OF MULCH NO LESS THAN 24" BEYOND ITS TRUNK IN ALL DIRECTIONS. THE USE OF CYPRESS MULCH IS PROHIBITED.

15. HIGHLY INVASIVE EXOTIC PLANTS MUST BE REMOVED FROM THE DEVELOPMENT AREA AND BE MAINTAINED FREE FROM INVASIVE EXOTIC PLANTS IN PERPETUITY. INVASIVE EXOTIC PLANTS TO BE REMOVED INCLUDE: MELALEUCA, BRAZILIAN PEPPER, AUSTRALIAN PINE, EARLEAF ACACIA, DOWNY ROSEMYRTLE, TROPICAL SODA APPLE, WEDELIA, BEACH NAUPAKA, AND CHINABERRY.

16. THE FOLLOWING SPECIES OF EXOTIC PLANTS ARE CONSIDERED INVASIVE AND MAY NOT BE USED TO FULFILL ANY REQUIREMENTS OF THIS DIVISION: MELALEUCA, BRAZILIAN PEPPER, AUSTRALIAN PINE, EARLEAF ACACIA, DOWNY ROSEMYRTLE, TROPICAL SODA APPLE, WOMAN'S TONGUE, BISHOP WOOD, CARROTWOOD, ROSEWOOD, MURRAY RED GUM, BENJAMIN FIG, CUBAN LAUREL, CHINESE TALLOW, JAVA PLUM, ROSE APPLE, CORK TREE, WEDELIA, BEACH NAUPAKA, AND CHINABERRY.

17. EXCEPT FOR PROHIBITED SPECIES, EVERY CONSIDERATION MUST BE GIVEN TO RETAINING AS MUCH OF THE EXISTING PLANT MATERIAL AS POSSIBLE.

18. EACH EXISTING NATIVE TREE PRESERVED IN PLACE WHICH HAS A 4" CAL @ DBH WILL RECEIVE A 5:1 TREE CREDIT AGAINST THE TREE PLANTING REQUIREMENTS.

19. NATIVE PALMS PRESERVED IN PLACE WHICH ARE 8' CT WILL RECEIVE A 3:1 TREE CREDIT. EXISTING SABLE PALMS, IDENTIFIED ON THE DEVELOPMENT ORDER PLANS AND RELOCATED ON-SITE, WILL BE GIVEN A 2:1 CREDIT.

20. CREDITS FOR EXISTING TREES MAY NOT BE USED TO REDUCE THE REQUIRED PARKING CANOPY TREES.

21. EXISTING NATIVE TREES IN BUFFERS MAY BE USED FOR CREDIT APPLIED TO THE PERIMETER BUFFER PROVIDED THEY OCCUR WITHIN THE SAME SEGMENT (100' OR LESS) OF A REQUIRED BUFFER.

22. CREDITS WILL APPLY ONLY WHEN THE TREES ARE LABELED AS PROTECTED-CREDIT TREES. IF THE PROTECTED-CREDIT TREES DIE WITHIN 3 YEARS FROM THE DEVELOPMENT ORDER CERTIFICATE OF COMPLIANCE, THEY MUST BE REPLACED BY THE NUMBER OF CREDIT TREES TAKEN.

23. CREDITS WILL APPLY WHERE THE PRESERVED TREE IS IN A BARRICADED AREA AT LEAST 2/3 THE RADIUS OF THE DRIP LINE WITH A MIN RADIUS OF 2 1/2'.

24. FOR NATIVE PINE TREES, THE BARRICADED AREA MAY BE NO LESS THAN THE FULL DRIP LINE UNLESS OTHER MEASURES SUCH AS TIE-WALLS OR SPECIAL SLOPE TREATMENT ARE CONSTRUCTED FOR ADDITIONAL PROTECTION.

25. PRIOR TO THE LAND CLEARING STAGE OF DEVELOPMENT, TREE PROTECTIVE BARRIERS MUST BE INSTALLED PER THE DETAIL INCLUDED IN THESE DRAWINGS. FOR ALL OTHER PROTECTED VEGETATION, A BARRICADE MUST BE ERRECTED AROUND THE PERIMETER OF THE VEGETATION.

26. NO ONE MAY NOT CAUSE OR PERMIT THE MOVEMENT OF EQUIPMENT OR THE STORAGE OF EQUIPMENT, MATERIAL, DEBRIS, OR FILL TO BE PLACED WITHIN THE REQUIRED PROTECTIVE BARRIER.

27. THE PROTECTED TREES AND ASSOCIATED UNDERSTORY PLANT COMMUNITIES MUST REMAIN ALIVE AND HEALTHY AT THE END OF THE CONSTRUCTION IN ORDER FOR THIS CREDIT TO APPLY.

1. PLANT MATERIALS MUST BE INSTALLED IN SOIL CONDITIONS THAT ARE CONDUCTIVE TO THEIR PROPER GROWTH. LIMEROCK LOCATED WITHIN PLANTING AREAS MUST BE REMOVED AND REPLACED WITH NATIVE OR GROWING QUALITY SOIL BEFORE PLANTING.
2. PLANTS' GROWTH HABITS MUST BE CONSIDERED IN ADVANCE OF CONFLICTS THAT MIGHT BE CREATED (E.G., VIEWS, SIGNAGE, OVERHEAD POWER LINES, LIGHTING, CIRCULATION, SIDEWALKS, BUILDINGS, ETC.).
3. TREES MAY NOT BE PLACED WHERE THEY INTERFERE WITH SITE DRAINAGE, SUBSURFACE UTILITIES, OR OVERHEAD UTILITY LINES, OR WHERE THEY WILL REQUIRE FREQUENT PRUNING IN ORDER TO AVOID INTERFERENCE WITH OVERHEAD POWER LINES.
4. ALL LANDSCAPE MATERIALS MUST BE INSTALLED IN A RECOGNIZED HORTICULTURALLY CORRECT MANNER.
5. ALL LANDSCAPED AREAS MUST BE MULCHED UNLESS VEGETATIVE COVER IS ALREADY ESTABLISHED.
6. TREES AND SHRUBS USED IN BUFFERS MUST BE PLANTED IN A MIN WIDTH AREA EQUAL TO 1/2 THE REQUIRED BUFFER (NO LESS THAN 5' WIDTH).
7. ALL LANDSCAPED AREAS MUST BE PROVIDED PROTECTION FROM ENCROACHMENT BY ANY TYPE OF VEHICLE.
8. ALL REQUIRED PLANTS USED IN BUFFERS AND LANDSCAPING MUST BE INSTALLED USING FLORIDA FRIENDLY PRINCIPLES.
9. UTILITY OR DRAINAGE EASEMENTS MAY OVERLAP REQUIRED BUFFERS, NO BUFFER TREES OR SHRUBS MAY BE LOCATED IN ANY UTILITY, DRAINAGE, OR STREET EASEMENT OR RIGHT-OF-WAY.
10. TO AVOID CONFLICTS WITH OVERHEAD UTILITY LINES, ONLY TREES REACHING LESS THAN 20' OA AT MATURITY MAY BE USED DIRECTLY ADJACENT TO AN OVERHEAD LINE.
11. VARIANCES AND DEVIATIONS FROM THE REQUIREMENTS OF THE PLANT INSTALLATION AND MAINTENANCE STANDARDS ARE PROHIBITED, EXCEPT WHEN INCLUDED IN AN APPROVED ALTERNATE LANDSCAPE BETTERMENT PLAN.
12. MIN SAFE SIGHT DISTANCES MUST BE MAINTAINED IN ACCORDANCE WITH THE LDC VISIBILITY REQUIREMENTS.
13. THE OWNER IS RESPONSIBLE FOR MAINTAINING THE REQUIRED LANDSCAPING IN A HEALTHY, VIGOROUS CONDITION AT ALL TIMES. TREE AND PALM STAKING MUST BE REMOVED WITHIN 1 YEAR AFTER INSTALLATION.
14. ALL LANDSCAPING MUST BE KEPT FREE OF INVASIVE EXOTIC SPECIES, REFUSE, DEBRIS, DISEASE, PESTS, AND WEEDS. ONGOING
15. VEGETATION REQUIRED BY THIS CODE MAY ONLY BE PRUNED TO PROMOTE HEALTHY, UNIFORM, NATURAL GROWTH OF THE VEGETATION (EXCEPT WHERE NECESSARY TO PROMOTE PUBLIC HEALTH, SAFETY OR WELFARE). PRUNING MUST BE IN ACCORDANCE ANSI A300 AND THE ISA BEST MANAGEMENT PRACTICES.
16. TREES MUST NOT BE SEVERELY PRUNED TO PERMANENTLY MAINTAIN GROWTH AT A REDUCED HEIGHT OR SPREAD.
17. PRUNING MUST NOT INTERFERE WITH THE DESIGN INTENT OF THE ORIGINAL INSTALLATION.

- ## LANDSCAPE CERTIFICATE OF COMPLIANCE.

1. THE LANDSCAPE ARCHITECT MUST INSPECT AND CERTIFY THAT ALL LANDSCAPING AND THE IRRIGATION SYSTEM ARE IN SUBSTANTIAL COMPLIANCE WITH THE APPROVED LANDSCAPE AND IRRIGATION PERMIT PLANS.
2. AN "AS-BUILT" LANDSCAPE PLAN MUST BE SUBMITTED TO HIGHLIGHT ANY CHANGES TO THE APPROVED PERMIT AND INCLUDED WITH THE CERTIFICATION.
3. ANY CHANGES TO AN "ALTERNATIVE LANDSCAPE BETTERMENT PLAN" MUST BE APPROVED BY MINOR CHANGE TO THE DEVELOPMENT ORDER.
4. THE GENERAL CERTIFICATE OF COMPLIANCE PROCEDURE OUTLINED IN THE LDC.
5. RESTORATION STANDARDS FOR INDIGENOUS PLANT COMMUNITIES.
6. A RESTORATION PLAN BASED ON THE MIN LDC STANDARDS WILL BE REQUIRED IF INDIGENOUS PLANT COMMUNITIES HAVE BEEN REMOVED WITHOUT PERMIT OR APPROVAL.
7. RESTORATION PLANTINGS FOR VEGETATION OTHER THAN TREES MUST BE NURSERY GROWN, CONTAINERIZED, AND PLANTED AT NO LESS THAN 36" OC.
8. THE NUMBER OF REPLACEMENT PLANTINGS WILL BE COMPUTED BY THE SQ FT OF THE AREA DESTROYED.
9. ALL OTHER RESTORATION CRITERIA AS SET FORTH IN THE LDC PERTAINING TO TREE PROTECTION WILL APPLY.
10. RESTORATION PLANTINGS FOR NATIVE TREES MUST BE IN COMPLIANCE WITH THE LDC STANDARDS.

1. BEACH IS THE AREA OF SAND ALONG THE GULF OF MEXICO THAT EXTENDS LANDWARD FROM THE MEAN LOW-WATER LINE TO THE PLACE WHERE THERE IS A MARKED CHANGE IN MATERIAL OR PHYSIOGRAPHIC FORM, OR TO THE LINE OF PERMANENT VEGETATION, USUALLY THE EFFECTIVE LIMIT OF STORM WAVES.

2. BEACH WIDTH MEANS THE PERPENDICULAR DISTANCE MEASURED FROM THE EDGE OF WET SAND TO THE PLACE WHERE THERE IS A MARKED CHANGE IN MATERIAL OR PHYSIOGRAPHIC FORM FROM BEACH SAND TO DUNE VEGETATION, SEAWALL, TURF GRASS, ETC.

3. DUNE SANDS ARE SANDS, ROCKS, OR EMERGENT ZONE OF LOOSE SEDIMENT, USUALLY SAND-SIZED SEDIMENT, LYING UPLAND OF THE BEACH AND DEPOSITED BY ANY NATURAL OR ARTIFICIAL MECHANISM, WHICH MAY BE BARE OR COVERED WITH VEGETATION, AND IS SUBJECT TO FLUCTUATIONS IN CONFIGURATION AND LOCATION. IT ENCOMPASSES THOSE ECOLOGICAL ZONES THAT, WHEN LEFT UNDISTURBED, WILL SUPPORT DUNE VEGETATION, AS TO AREAS RESTORED OR RENOURISHED PURSUANT TO A PERMIT ISSUED BY THE TOWN OR STATE, IT ENCOMPASSES THE AREA SPECIFIED IN THE PERMIT AS A DUNE OR ANY AREA SPECIFIED AS SUITABLE FOR ESTABLISHMENT.

1. DUNE VEGETATION MEANS PIONEER SPECIES OF NATIVE VEGETATION WHICH, IF LEFT UNDISTURBED BY MANMADE FORCES, WILL BEGIN TO GROW ON A DUNE INCLUDING SPECIES SUCH AS BITTER PANICUM, COASTAL PANIC GRASS, CROWFOOT GRASS, SALTMEADOW CORDGRASS, SANDBUR, SEACOAST BLUESTEM, SEA OTS, SEASHORE DROPSIED, SEASHORE PASPALUM, SEASHORE SALTGRASS, STIFFLEAF EUSTACHYS, BEACH BENE, BLANKET FLOWER, DUNE SUNFLOWER, FIDDLE-LEAF MORNINGGLORY, PARTRIDGE PEA, RAILROAD VINE, SEA PURSLANE, BEACH CREEPER, NICKER BEACH, COIN VINE, INKBERGY, LANTANA, SAW PALMETTO, SEASHORE ELDER, BAYCEDAR, GREEN BUTTWOOD, CABBAGE PALM, COCOPLUM, SEAGRAPE, AND SOUTHERN WAX MYRTLE.

2. EDGE OF WET SAND MEANS THE POINT WHERE THE VISIBLE DARKENING OR STAINING OF THE BEACH SAND FROM WAVE ACTION IS NO LONGER DETECTABLE.

3. HAND RAKING MEANS THE USE OF A STANDARD GARDEN RAKE, PITCHFORK, POTATO FORK, OR ANY OTHER HANDHELD TOOL USED FOR THE PURPOSE OF REMOVING OR ALTERING THE "WRACK LINE."

4. MECHANICAL BEACH RAKING MEANS A METHOD OF MAINTAINING THE BEACH BY PULLING A PRONGED RAKE OR A PIECE OF CHAIN LINK FENCE THAT MEETS THE REQUIREMENTS OF THE LDC § 14-6(C). THE RAKE OR CHAIN LINK FENCE MAY BE PULLED BEHIND A TRACTOR, GOLF CAR, ATV, OR OTHER VEHICLE, AS APPROVED BY THE TOWN, WHICH MEETS THE MAXIMUM GROUND-TO-TIRE PRESSURE FOUND IN THE LDC.

5. SEAWARD LINE OF VEGETATION MEANS THE LOCATION CLOSEST TO THE MEAN HIGH-WATER LINE CONTAINING, OR SUITABLE FOR, DUNE VEGETATION. IF THERE IS NO SUCH VEGETATION UPON A PARCEL, OR PORTION OF A PARCEL, IT WILL ENCOMPASS A LINE ALONGSHORE PROJECTED FROM THE CLOSEST AREAS ON EACH SIDE WHERE SUCH VEGETATION DOES EXIST.

6. WET SAND MEANS THE AREA ON THE BEACH WHERE THE SAND IS SATURATED BY SEA WATER FROM WAVE ACTION. THIS AREA IS IDENTIFIED BY A VISIBLE DARKENING OR STAINING OF THE BEACH SAND FROM THE WATER DRIVEN ONSHORE BY WAVE ACTION.

7. WRACK LINE MEANS A WELL-DEFINED ZONE OF THE NATURAL ORGANIC MARINE MATERIAL CAST ON THE SHORE BY THE LAST HIGH TIDE, INCLUDING SEAWEED AND OTHER VEGETATIVE AND ANIMAL DEBRIS, BUT EXCLUDING MANMADE MATERIAL. ANY AREAS OF ORGANIC MARINE MATERIAL LEFT ON THE UPPER BEACH DUE TO ABNORMALLY HIGH SPRING TIDES, STORM TIDES, OR OTHER EXTREME CONDITIONS OR EVENTS, AS DETERMINED BY THE TOWN, ARE NOT INCLUDED IN THE DEFINITION OF "WRACK LINE."

8. IT IS UNLAWFUL AND PROHIBITED FOR ANY PERSON TO DO, CONDUCT, OR PERMIT ANY OF THE FOLLOWING ON A BEACH, UPON A DUNE, OR IN THE WATER ADJACENT TO A BEACH: PLANT VEGETATION OTHER THAN DUNE VEGETATION; DESTROY OR HARM A DUNE OR REMOVE DUNE VEGETATION; DUMP OR DISCARD OR LEAVE LITTER OR GARBAGE, TRASH OR REFUSE, VEGETATIVE CLIPPINGS, OR DEBRIS; DESTROY OR GROSSLY INTERFERE WITH THE NATURAL WRACK LINE AS BY GROOMING OR NON-SELECTIVE RAKING; EXCAVATE, MINE, AND REMOVE, OR HAUL SAND OR SOIL FROM THE BEACH OR DUNE EXCEPT IN EMERGENCY SITUATIONS AS DECLARED BY THE TOWN COUNCIL; DEPOSIT / INSTALL ROCKS, CONCRETE, OR OTHER SHORELINE STABILIZATION MATERIALS WITHOUT A PERMIT FROM DEP AND THE TOWN; DEPOSIT/ADD SAND TO THE BEACH AND DUNE SYSTEM WITHOUT A PERMIT FROM DEP.

9. ALL FILL MATERIAL SHALL BE SAND THAT IS SIMILAR TO THE EXISTING BEACH SAND IN BOTH COLORATION AND GRAIN SIZE AND BE FREE OF DEBRIS, ROCKS, CLAY, OR OTHER FOREIGN MATTER.

1. THE USE OF BOXBLADES ON THE BEACH OR DUNE IS PROHIBITED.
2. IN AN EMERGENCY AND/OR STORM EVENT RESULTING IN A BUILD-UP OF SAND AGAINST SEAWALLS, THE USE OF A BOXBLADE MAY BE ALLOWED WITH THE APPROVAL OF DEP, WHERE REQUIRED, AND UPON FILING THAT APPROVAL WITH THE TOWN MANAGER AND MEETING ANY OTHER REQUIREMENTS SET BY THE TOWN.
3. UNDER NORMAL CIRCUMSTANCES, THE RAKING OF THE WRACK LINE IS PROHIBITED.
4. NO MECHANICAL OR HAND RAKING MAY TAKE PLACE SEAWARD OF THE WRACK LINE OR WITHIN 10' LANDWARD OF THE WRACK LINE; PROVIDED THAT HAND RAKING OF THE WRACK LINE MAY BE PERFORMED ANYTIME TO AMELIORATE HAZARDOUS CONDITIONS SUCH AS REMOVAL OF SAND CASTLES OR FILLING IN OF MANMADE HOLES ON THE BEACH.
5. THE TOWN MAY APPROVE THE RAKING OF THE WRACK LINE CONDITIONED UPON PRIOR APPROVAL BY THE DEP IF IT IS DETERMINED THAT EXCESSIVE ACCUMULATION OF NATURAL OR OTHER DEBRIS CAUSED BY EXTREME EVENTS, INCLUDING, BUT NOT LIMITED TO, RED TIDE, RED ALGAE BLOOM, OR STORM-CARRIED DEBRIS, ARE PRESENT. SHOULD SUCH EXCESSIVE ACCUMULATION BE DETERMINED, THE TOWN MAY APPROVE RAKING CONSISTENT WITH THE AUTHORIZATION GIVEN BY DEP. ANY SUCH RAKING WHICH WILL RESULT IN THE UN-REIMBURSED EXPENDITURE OF TOWN FUNDS IN EXCESS OF CURRENTLY BUDGETED FUNDS SHALL FIRST BE APPROVED BY THE TOWN COUNCIL.
6. IF RAKING OCCURS DURING SEA TURTLE SEASON (MAY 1 THROUGH OCTOBER 31), THE RAKING MUST BE IN COMPLIANCE WITH THE LDC.

8. A RESTORATION PLAN SHALL BE ORDERED USING THE STANDARDS IN THIS SECTION. SUCH A RESTORATION PLAN SHALL SET FORTH REPLACEMENT OF THE SAME SPECIES OR ANY SPECIES APPROVED BY CONSENT OF THE BEFORE-MENTIONED PARTIES, OR, IF APPROPRIATE, IN ACCORDANCE WITH THE DIRECTION OF THE COURT OR SPECIAL MAGISTRATE.
9. RESTORATION PLANTINGS FOR VEGETATION OTHER THAN TREES MUST BE NURSERY GROWN, CONTAINERIZED, AND PLANTED AT A MIN DENSITY OF NO LESS THAN 1 1/2 OC.
10. THE NUMBER OF REPLACEMENT PLANTINGS WILL BE COMPUTED BY THE SQ FT OF THE AREA DESTROYED.
11. THE REPLACEMENT STOCK SHALL BE A 2" LINER.
12. HIGHER DENSITY PLANTINGS MAY BE REQUIRED AT THE TOWNS DISCRETION. IF THE DENSITY OR SPECIES OF THE VEGETATION CANNOT BE DETERMINED WHERE THE VIOLATION OCCURRED, THEN AN ASSUMPTION SHALL BE MADE THAT THE DENSITY AND THE SPECIES WERE THE SAME AS ON SIMILAR PROPERTIES.
13. DUNE VEGETATION ALTERATION VIOLATIONS DUE TO RAKING, EXCAVATION, AND/OR CLEARING SHALL BE RESTORED TO NATURAL GROUND ELEVATION AND SOIL CONDITIONS PRIOR TO COMMENCEMENT OF REPLANTING.
14. REPLACEMENT PLANTINGS SHALL GUARANTEE A 80 PERCENT MIN SURVIVABILITY RATE FOR A PERIOD OF NO LESS THAN 5 YEARS
15. ONLY TEMPORARY ABOVE GROUND IRRIGATION MAY BE INSTALLED AND MUST BE REMOVED NO LATER THAN 1 YEAR FROM THE INSTALLATION DATE.

ACTIVITIES THAT DESTROY WETLANDS OR IMPAIR THE FUNCTIONING OF WETLANDS ARE PROHIBITED.

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STATUTORY NOTES cont.:

PROTECTED TREE REMOVAL.

1.

THE REMOVAL OF A PROTECTED TREE ON PUBLIC ROW BY OFFICIAL GOVERNMENTAL DUTIES.
2.

THE REMOVAL OF A PROTECTED TREE THAT IS DEAD OR WHICH HAS BEEN DESTROYED OR DAMAGED BY NATURAL CAUSES BEYOND SAVING OR WHICH IS A HAZARD AS THE RESULT OF AN ACT OF GOD AND CONSTITUTES AN IMMEDIATE PERIL TO LIFE AND PROPERTY.
3.

THE REMOVAL OF A PROTECTED TREE BY UTILITIES WHERE SUCH REMOVAL IS CONDUCTED SO AS TO AVOID ANY UNNECESSARY DAMAGE OR REMOVAL OF TREES.
4.

THE REMOVAL OF A PROTECTED TREE BY THIS ARTICLE BY A STATE-LICENSED LAND SURVEYOR IN THE PERFORMANCE OF HIS DUTIES.
5.

THE REMOVAL OF UP TO THREE PROTECTED TREES DURING ANY 1 YEAR PERIOD ON A LOT THAT IS BEING USED LAWFULLY AS A SINGLE-FAMILY RESIDENCE OR MOBILE HOME.
6.

ABOVE EXEMPTIONS SHALL NOT APPLY TO ANY TREE CITED IN THE FLORIDA CHAMPION TREE.

INDIGENOUS VEGETATION.

1.

INDIGENOUS VEGETATION SHALL NOT BE CLEARED; IN AREAS THAT SERVE AS LISTED SPECIES OCCUPIED HABITAT; AND / OR WITHIN 25' OF THE MEAN HIGH-WATER LINE OF ANY NATURAL WATERWAY, INDIGENOUS VEGETATION MAY BE CLEARED SELECTIVELY TO ALLOW THE PLACEMENT OF DOCKS, PIPES, PUMPS AND OTHER SIMILAR STRUCTURES PURSUANT TO THIS CODE.

PROTECTED TREES.

1.

ANY TREE DELINEATED IN THE LDC SHALL BE A PROTECTED TREE.
2.

ALL OTHER SPECIES OF TREES NOT NAMED IN THE LDC MAY BE REMOVED WITHOUT A PERMIT IN SUCH A MANNER SO AS NOT TO DISTURB OR DESTROY SURROUNDING PROTECTED TREES OR INDIGENOUS VEGETATION.

PROTECTED TREE LIST.

1.

ACER RUBRUM, RHUS COPALLINA, ANNONA GLABRA, ILEX CASSINE, COCCOTHRINAX ARGENTATA, COCOS NUCIFERA, ROYSTONEA ELATA, SABAL PALMETTO, AVICENNIA GERMINANS, CARPINUS CAROLINIANA, CORDIA SEBESTENA, BURSERA SIMARUBA, CAPPARIS CYNOPHALLOPHORA, BUCIDA BUCERAS, CONOCARPUS ERECTA, LAGUNCULARIA RACEMOSA, CORNUS FOEMINA, CUPRESSACEAE, JUNIPERUS SILICICOLA, EBENACEAE, DIOSPYROS VIRGINIANA, FABACEAE, ACACIA FARNESIANA, LYSILOMA BAHAMENSIS, PISCIDIA PISCIPULA, PITHECELLOBIUM UNGUIS-CATI, QUERCUS CHAPMANI, QUERCUS INCANA, QUERCUS LAEVIS, QUERCUS LAURIFOLIA, QUERCUS MYRTIFOLIA, QUERCUS NIGRA, QUERCUS VIRGINIANA, QUERCUS VIRGINIANA GEMINATA, LIQUIDAMBAR STYRACIFLUA, CARYA AQUATICA, CARYA GLABRA, PERSEA BORBONIA, PERSEA PALUSTRIS, MAGNOLIA GRANDIFLORA, MAGNOLIA VIRGINIANA, SWIETENIA MAHOGONI, MORACEAE, FICUS AUREA, FICUS CITRIFOLIA, MORUS RUBRA, EUGENIA AXILLARIS, EUGENIA CONFUSA, EUGENIA RHOMBEA, EUGENIA MYRTOIDES, MYRCIANTHES FRAGANS, NYSSA SYLVATICA, XIMENIA AMERICANA, OLEACEAE, FORESTIERA SEGREGATA, FRAXINUS CAROLINIANA, PINUS ELLIOTTII VAR. DENSA, PINUS PALUSTRIS, PLATANUS OCCIDENTALIS, COCCOLOBA DIVERSIFOLIA, COCCOLOBA UVIFERA, RHIZOPHORA MANGLE, PRUNUS CAROLINIANA, ZANTHOXYLUM CLAVAHERCULIS, SALIX CAROLINIANA, BUMELIA CELASTRINA, BUMELIA TENAX, CHRYSOPHYLLUM OLIVIFORME, MASTICHODENDRON FOETIDISSIMUM, SIMAROUBA GLAUCA, TAXODIUM ASCENDENS, TAXODIUM DISTICHUM, GORDONIA LASIANTHUS, JACQUINIA KEYENSIS, CELTIS LAEVIGATA, AND ULMUS AMERICANA.

UNLAWFUL INJURY OF TREES.

1.

IT SHALL BE A VIOLATION TO REMOVE, INJURE, DISFIGURE, OR DESTROY A PROTECTED TREE IN PREPARATION FOR, IN CONNECTION WITH, OR IN ANTICIPATION OF DEVELOPMENT OF LAND, EXCEPT IN ACCORDANCE WITH THE LDC ANY PROTECTED TREE MAY BE LAWFULLY REMOVED ONLY AFTER A PERMIT THEREFOR HAS BEEN.
2.

WHERE A PROTECTED TREE IS TO BE REMOVED, THE TOWN MAY RELOCATE THE TREE AT THE TOWN'S EXPENSE WITHIN 30 WORKING DAYS.
3.

FOR CLEARING PRIOR TO BUILDING PERMIT ISSUANCE, A SEPARATE TREE REMOVAL PERMIT APPLICATION MUST BE SUBMITTED.
4.

NO PERMIT IS REQUIRED FOR THE REMOVAL OF UP TO 3 PROTECTED TREES DURING ANY 1YEAR PERIOD ON A SINGLE-FAMILY RESIDENCE OR MOBILE HOME LOT. PRIOR TO CLEARING, ALL PROTECTED TREES TO BE REMOVED SHALL BE CLEARLY MARKED.
5.

WHERE A TREE REMOVAL PERMIT HAS NOT BEEN ISSUED, PROTECTIVE BARRIERSSHALL BE INSTALLED ACCORDING TO THE FOLLOWING: A MIN 6' RADIUS OF ALL SPECIES OF MANGROVES AND PROTECTED SABAL PALMS; MIN OF THE FULL DRIPLINE OF ALL PROTECTED NATIVE PINES; AND 2/3 OF THE DRIPLINE OF ALL OTHER PROTECTED SPECIES.
6.

NO PERSON SHALL ATTACH ANY SIGN, NOTICE OR OTHER OBJECT TO ANY PROTECTED TREE OR FASTEN ANY WIRES, CABLES, NAILS, OR SCREWS TO ANY PROTECTED TREE IN ANY MANNER THAT COULD PROVE HARMFUL TO THE PROTECTED TREE, EXCEPT AS NECESSARY IN CONJUNCTION WITH ACTIVITIES IN THE PUBLIC INTEREST.
7.

DURING THE CONSTRUCTION STAGE OF DEVELOPMENT, NO CLEANING OF EQUIPMENT OR MATERIAL WITHIN THE OUTSIDE PERIMETER OF THE CROWN (DRIPLINE) OR ON THE NEARBY GROUND OF ANY PROTECTED TREE OR GROUP OF TREES WHICH IS TO BE PRESERVED.
8.

NO STORAGE OF BUILDING MATERIAL AND/OR EQUIPMENT, OR DISPOSAL OF WASTE MATERIAL SUCH AS PAINTS, OIL, SOLVENTS, ASPHALT, CONCRETE, MORTAR, OR ANY OTHER MATERIAL HARMFUL TO THE LIFE OF THE TREE WITHIN ITS DRIPLINE.
9.

NO PERSON SHALL PERMIT ANY UNNECESSARY FIRE OR BURNING WITHIN 30' OF THE DRIPLINE OF A PROTECTED TREE.
10.

ANY LANDSCAPING ACTIVITIES WITHIN THE PROTECTIVE BARRIER AREA SHALL BE ACCOMPLISHED WITH HAND LABOR.
11.

ALL PROTECTED TREES DESIGNATED TO BE PRESERVED THAT WERE DESTROYED DURING CONSTRUCTION SHALL BE REPLACED BY TREES OF THE SAME SPOIES AND EQUIVALENT CAL @ DBH.
12.

THE TOWN MAY CONDUCT PERIODIC INSPECTIONS OF THE SITE DURING LAND CLEARANCE AND CONSTRUCTION.
13.

IF DEVELOPMENT ACTIVITIES SEVERELY STRESS SLASH PINES OR ANY OTHER PROTECTED TREE SUCH THAT THEY ARE MADE SUSCEPTIBLE TO INSECT ATTACK, PREVENTATIVE SPRAYING OF THESE TREES MAY BE REQUIRED.

RESTORATION STANDARDS.

1.

A RESTORATION PLAN SHALL INCLUDE A PLANTING PLAN FOR ALL PROTECTED TREES.
2.

REPLACEMENT STOCK SHALL BE COMPUTED ON 3:1 BASIS ACCORDING TO THE TOTAL NUMBER OF UNLAWFULLY REMOVED TREES.
3.

REPLACEMENT TREES SHALL BE NURSERY GROWN, CONTAINERIZED, AND NO LESS THAN 6' OA.
4.

UNDERSTORY VEGETATION SHALL BE RESTORED TO THE AREA FROM WHICH PROTECTED TREES WERE UNLAWFULLY REMOVED OR MUTILATED.
5.

GROUNDCOVER AND GRASSES PLANT SELECTION SHALL BE BASED ON FLUCCS CODES.
6.

UP TO 7 SPECIES SHALL BE UTILIZED WITH RELATIVE PROPORTIONS OF FLUCCS CHARACTERISTIC. THE EXACT NUMBER AND TYPE OF SPECIES REQUIRED SHALL ALSO BE BASED UPON THE EXISTING INDIGENOUS VEGETATION ON ADJACENT PROPERTY. REPLACEMENT STOCK SHALL BE NO LESS THAN 1 GAL, NURSERY-GROWN CONTAINERIZED STOCK PLANTED AT NO LESS THAN 3' OC IN THE AREA FROM WHICH PROTECTED TREES WERE UNLAWFULLY REMOVED / DAMAGED.
7.

THIS AREA SHALL BE DEFINED BY THE DRIPLINE OF THE TREES. THE NUMBER OF SHRUBS SHALL NOT EXCEED, BUT MAY BE LESS THAN, 25 SHRUBS PER TREE UNLAWFULLY REMOVED OR DAMAGED.
8.

THE UNDERSTORY OF THE RESTORED SITE SHALL BE PROTECTED FOR A PERIOD OF NO LESS THAN 10 YEARS, UNLESS ITS REMOVAL IS A PROVISION OF AN APPROVED DO AFTER THE RESTORATION OF THE SITE.
9.

IF THE UNLAWFUL REMOVAL OF TREES HAS CAUSED ANY CHANGE IN HYDROLOGY, THEN THE HYDROLOGY SHALL BE RESTORED TO PRE-VIOLATION CONDNITION.
10.

REPLACEMENT STOCK SHALL BE FLORIDA NO. 1 OR BETTER GRADE WITH 80% SURVIVABILITY FOR A PERIOD OF NO LESS THAN 5 YEARS.
11.

A MAINTENANCE PROVISION OF NO LESS THAN 5 YEARS MUST BE PROVIDED IN THE RESTORATION PLAN TO CONTROL INVASION OF EXOTIC VEGETATION.
12.

REPLACEMENT STOCK SHALL NOT BE LOCATED ON ANY PROPERTY LINE, OR IN ANY UTILITY EASEMENT THAT PROHIBITS SUCH PLANTINGS.
13.

THE RESTORATION PLAN SHALL INDICATE THE LOCATION OF THE REPLACEMENT STOCK CONSISTENT.
14.

IF IDENTIFICATION OF THE SPECIES OF PROTECTED TREES THAT WERE UNLAWFULLY REMOVED IS IMPOSSIBLE, THEN A PRESUMPTION IS OF A SIMILAR SPECIES AND MIX AS THOSE FOUND ON ADJACENT PROPERTIES.
15.

NO ONE SHALL DELIBERATELY CUT DOWN, DAMAGE, DESTROY, REMOVE, RELOCATE, DEFOLIATE THROUGH THE USE OF CHEMICALS OR OTHER METHODS WITHOUT FIRST OBTAINING A PERMIT. ITEMS REQUIRED FOR A TREE REMOVAL PERMIT SHALL INCLUDE: A SITE PLAN WITH THE SHAPE AND DIMENSIONS OF THE LOT OR PARCEL WITH THE EXISTING AND PROPOSED STRUCTURES AND IMPROVEMENTS; A TREE LOCATION MAP FOR THE REMOVAL OF 3 PROTECTED TREES OR LESS; ANY PROPOSED GRADE CHANGES THAT MIGHT ADVERSELY AFFECT OR ENDANGER ANY PROTECTED TREES WITH SPECIFICATIONS REFLECTING HOW THE TREES CAN BE SAFELY MAINTAINED; AND A TREE REPLACEMENT PLAN.
16.

APPROVAL MAY BE GRANTED FOR A PERMIT FOR THE REMOVAL OF ANY PROTECTED TREE IF: TREES WHICH POSE A SAFETY HAZARD TO PEDESTRIAN OR VEHICULAR TRAFFIC OR THREATEN TO CAUSE DISRUPTION TO PUBLIC UTILITY SERVICES; TREES WHICH POSE A SAFETY HAZARD TO EXISTING BUILDINGS OR STRUCTURES; TREES WHICH, IF NOT REMOVED, WOULD PRECLUDE VEHICULAR ACCESS TO A LOT OR PARCEL; DISEASED TREES WHICH ARE A HAZARD TO PEOPLE, BUILDINGS OR OTHER IMPROVEMENTS ON A LOT OR PARCEL OR TO OTHER TREES; TREES SO WEAKENED BY AGE, STORM, FIRE, OR OTHER INJURY AS TO JEOPARDIZE THE LIFE AND LIMB OF PERSONS OR CAUSE A HAZARD TO PROPERTY; AND TREES THAT WOULD NOT ALLOW A LANDOWNER NO BENEFICIAL USE OF A LOT OR PARCEL OR WOULD PLACE AN INORDINATE BURDEN ON THE LANDOWNER.

MANGROVE ENFORCEMENT.

1.

THE RESTORATION PLAN SHALL INCLUDE THE FOLLOWING MIN PLANTING STANDARDS: 3:1 REPLACEMENT RATIO; IF THE NUMBER OF ALTERED MANGROVES CANNOT BE DETERMINED, THEN THE REQUIRED NUMBER OF REPLACEMENT STOCK SHALL BE COMPUTED ACCORDING TO THE TOTAL AREA WHEREIN ALL MANGROVES WERE

1.

UNLAWFULLY ALTERED; THE REPLACEMENT STOCK SHALL BE CONTAINER GROWN MANGROVES NO LESS THAN 1 YEAR OLD AND 24' OA; REPLACEMENT MANGROVES SHALL BE PLANTED AT A MIN DENSITY OF 36' OC.; AND IF THE DENSITY OF MANGROVES CANNOT BE DETERMINED WHERE THE VIOLATION OCCURRED, THEN AN ASSUMPTION SHALL BE MADE THAT THE DENSITY WAS THE SAME AS ON ADJACENT PROPERTIES.
2.

MANGROVE ALTERATION VIOLATIONS DUE TO FILLING, EXCAVATION, DRAINAGE, AND/OR CLEARING SHALL BE RESTORED TO NATURAL GROUND ELEVATION AND SOIL CONDITIONS PRIOR TO COMMENCEMENT OF REPLANTING.
3.

REPLACEMENT STOCK SHALL NOT BE LOCATED ON ANY PROPERTY LINE, OR IN ANY UTILITY EASEMENT THAT PROHIBITS SUCH PLANTINGS.
4.

IN THE EVENT THAT THE SPECIES OF MANGROVE CANNOT BE IDENTIFIED ON PROPERTY WHEREIN MANGROVES WERE ALTERED IN VIOLATION OF THIS ARTICLE, THEN A PRESUMPTION SHALL BE MADE THAT THE MANGROVES ILLEGALLY ALTERED WERE OF A SIMILAR SPECIES AND DISTRIBUTION AS THOSE FOUND ON ADJACENT PROPERTIES.
5.

REPLACEMENT PLANTINGS SHALL HAVE A MIN OF 80% SURVIVAL AT THE END OF 5 YEARS, HOWEVER, SUCCESS WILL BE EVALUATED ON AN ANNUAL BASIS.
6.

THE RESTORATION PLAN SHALL INCLUDE A MAINTENANCE PROVISION OF NO LESS THAN 5 YEARS FOR THE CONTROL OF INVASIVE EXOTIC VEGETATION.
7.

NO ONE SHALL ALTER ANY MANGROVE TREE LOCATED IN THE INCORPORATED AREA, WITHOUT FIRST OBTAINING A PERMIT, WHERE APPLICABLE, FROM THE STATE DEPARTMENT OF ENVIRONMENTAL WHENEVER THE REQUIREMENTS OR PROVISIONS OF THIS ARTICLE ARE IN CONFLICT WITH THE REQUIREMENTS OR PROVISIONS OF ANY OTHER LAWFULLY ADOPTED ORDINANCE, THE MOST RESTRICTIVE REQUIREMENTS SHALL APPLY.

SIGNS.

1.

A LANDSCAPE PLAN FOR SIGN INSTALLATIONS IS REQUIRED.

SURFACE WATER MANAGEMENT SYSTEMS.

1.

SHORELINES MUST BE SINUOUS.
2.

THE PLS SHORELINE LENGTH MUST EQUAL 25% OF THE TOTAL LIN FT OF THE LAKE'S CONTROL ELEVATION.
3.

THE PLS SHOULD BE CONCENTRATED AT ONE LOCATION OF THE LAKE AND MUST BE LOCATED AWAY FROM RESIDENTIAL LOTS. THE PLS MAY BE LOCATED ADJACENT TO CONTROL STRUCTURES BUTMAY NOT IMPEDE FLOW.
4.

THE REQUIRED PLS MAY BE DIVIDED AND PLACED IN MULTIPLE LOCATIONS AS LONG AS NO PLS AREA IS SMALLER THAN 1,000 SQ FT.
5.

THE PLS MUST HAVE SLOPES FROM 6:1 TO 4:1 AND EXTEND A MIN OF A 20' WATERWARD OF CONTROL ELEVATION AT A MAX DEPTH OF 2' BELOW THE CONTROL ELEVATION. A DETAILED CROSS SECTION MUST BE PROVIDED IN THE PERMIT PLANS.
6.

THE PLS AREAS MUST BE PLANTED WITH A MIN 4' NATIVE HERBACEOUS PLANT SPECIES SELECTED SURVIVAL BASED UPON THE EXPECTED WATER LEVEL FLUCTUATIONS AND MAX DEPTHS. THE LITTORALS MIN SIZE IS A 2' LINER.
7.

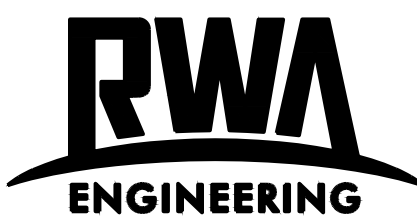
THE REQUIRED NUMBER OF LITTORALS EQUAL A 2' OC SPACING FOR THE ENTIRE AREA OF THE PLS. THE TOTAL NUMBER OF PLANTS FOR THE PLS IS CALCULATED BY MULTIPLYING THE TOTAL LIN FT OF CONTROL BY 25%, THEN MULTIPLIED BY THE 20' SHELF AND THEN DIVIDED BY 4 TO OBTAIN THE 2' OC REQUIREMENT.
8.

NATIVE WETLAND TREES MAY BE SUBSTITUTED FOR UP TO 25% OF THE TOTAL NUMBER OF HERBACEOUS PLANTS REQUIRED AT 1 TREE (MIN 10' OA; 2" CAL, WITH A 4' SPREAD) PER 100 HERBACEOUS PLANTS.
9.

TREES AND HERBACEOUS PLANTS MUST BE MAINTAINED IN PERPETUITY.
10.

HARDENED SHORELINE STRUCTURES (BULKHEADS, GEO-TEXTILE TUBES, RIPRAP) MAY COMPRISE UP TO 20% OF AN INDIVIDUAL LAKE SHORELINE AND CANNOT USED ADJACENT TO SINGLE-FAMILY RESIDENTIAL USES. A 5' COMPENSATORY LITTORAL SHELF PLANTED WITH HERBACEOUS WETLAND PLANTS EQUAL TO THE LIN FT OF THE SHORELINE STRUCTURE MUST BE PROVIDED WITHIN THE SAME LAKE. THE REQUIRED LITTORALS FOR THIS SHELF EQUAL MULTIPLYING THE 5' LITTORAL SHELF WIDTH TIMES THE LENGTH DIVIDED BY 4 TO OBTAIN THE 2' OC REQUIREMENT.

REV #	REVISION		DRAWN	CHECKED	DATE



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DATE: MARCH 2004	HORIZ. SCALE (FULL): ####
SCH: 19 TWP: 46 S RGE: 24 E	HORIZ. SCALE (HALF): 1" = ####
DESIGNED: JMM	VERT. SCALE (FULL): N/A
DRAWN: JMM	VERT. SCALE (HALF): N/A

CLIENT: MYERSIDE, LLC	TITLE: PERMIT LANDSCAPE NOTES
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PROJECT: MYERSIDE	PROJECT NO.: 200022 00 01	FILE NAME: 200022 00 01 LA PERMIT	SHEET NUMBER: 05 OF 08
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Date: 2024.04.17 08:21:04 -04'00'

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GENERAL.

- ## PLANT MATERIALS.

- ## PLANTING BED SOIL AND PIT PLANTING BACKFILL MATERIALS

- BACKFILL MATERIALS FOR CONTAINER GROWN PLANT MATERIALS SHALL BE AMENDED TO A RATIO OF ONE HALF (1/2) NATIVE SOIL & ONE HALF (1/2) APPROVED ORGANIC.
6. AMEND PLANTING BEDS WITH 3" MINIMUM OF APPROVED ORGANICS AND OCOTILLO TO A DEPTH OF 6".
7. GRADE PLANTING BEDS AS TO ASSURE PROPER DRAINAGE AWAY FROM PLANT MATERIALS AND STRUCTURES.
8. INCORPORATE A COMPLETE SLOW RELEASE FERTILIZER BY TILLING.
9. INSTALL OTHER REQUIRED SOIL AMENDMENTS PER MANUFACTURER'S OR INDEPENDENT LAB'S RECOMMENDATIONS TO ACHIEVE OPTIMAL PH LEVELS (5.5-6.5) WITHIN THREE (3) MONTHS OF PLANTING.
10. THE RESULTS OF PRE AND POST SOIL MODIFICATION TESTING SHALL BE SUBMITTED TO RWA, INC'S FOR APPROVAL PRIOR TO PLANTING.
11. SELECT AND MIX TESTING SAMPLES' LOCATIONS BASED ON LIKE PLANTING CONDITIONS AND AREA PROXIMITY.
12. ALL GRADING AND BED PREPARATION SHALL BE SUBJECT TO MORRIS-DEPEW ASSOCIATES, INC FINAL APPROVAL.
13. ANY REJECTED GRADING AND BED PREPARATION SHALL BE REMEDIATED AT THE CONTRACTORS EXPENSE.
14. PLANTING BED SOIL AND PIT PLANTING BACKFILL MATERIALS :
15. PLANTING BED SOIL AND PIT PLANTING BACKFILL MATERIALS SHALL BE FREE FROM HEAVY CLAY, STONES, LIMESTONE, LUMPS, PLANTS, ROOTS OR OTHER FOREIGN MATERIALS AND NOXIOUS VEGETATION.
16. PLANTING BED SOIL AND PIT PLANTING BACKFILL MATERIALS SHALL NOT CONTAIN TOXIC SUBSTANCES WHICH MAY BE HARMFUL TO PLANT GROWTH.
17. PIT PLANTING BACKFILL MATERIALS SHALL BE A FERTILE, FRIABLE, NATIVE SOIL, ORGANIC AMENDMENTS (IF REQUIRED) WITHOUT MIXTURE OF SUBSOIL MATERIALS.
18. PIT PLANTING BACKFILL MATERIALS FOR FIELD GROWN PLANT MATERIALS SHALL BE NATIVE SOIL FROM THE EXCAVATION OF THE PLANTING PIT
19. PIT PLANTING BACKFILL MATERIALS FOR CONTAINER GROWN PLANT MATERIALS SHALL BE AMENDED TO A RATIO OF ONE HALF (1/2) NATIVE SOIL & ONE HALF (1/2) APPROVED ORGANIC.
20. AMEND PLANTING BEDS WITH 3" MINIMUM OF APPROVED ORGANICS AND ROTO TILL TO A DEPTH OF 6".
21. GRADE PLANTING BEDS AS TO ASSURE PROPER DRAINAGE AWAY FROM PLANT MATERIALS AND STRUCTURES.
22. INCORPORATE A COMPLETE SLOW RELEASE FERTILIZER BY TILLING.
23. INSTALL OTHER REQUIRED SOIL AMENDMENTS PER MANUFACTURER'S OR INDEPENDENT LAB'S RECOMMENDATIONS TO ACHIEVE OPTIMAL PH LEVELS (5.5-6.5) WITHIN THREE (3) MONTHS OF PLANTING.
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29. ANY REJECTED GRADING AND BED PREPARATION SHALL BE REMEDIATED AT THE CONTRACTORS EXPENSE.

COMMERCIAL FERTILIZER.

1. FERTILIZERS SHALL BE UNIFORM IN COMPOSITION, DRY, AND FREE FLOWING AND DELIVERED TO THE SITE IN ORIGINAL UNOPENED BAGS BEARING ALL THE MANUFACTURER'S LABELS.
2. ALL FERTILIZER IS TO BE SLOW RELEASE AND COMPLETE WITH NECESSARY MICRONESIANS.
3. AFTER INSTALLATION, FERTILIZER SHALL BE CLEANED FROM ALL HARDCAPES SURFACES AND WATERED IN THOROUGHLY PER MANUFACTURER'S SPECIFICATIONS.
4. TREES AND SHRUBS MIXTURE SHALL CONSIST OF A SLOW RELEASE THE FORMULATION OF THREE (3) PARTS NITROGEN TO ONE (1) PART PHOSPHOROUS TO TWO (2) PARTS POTASSIUM (3-2-1 RATIO) AT A RATE OF FOUR TO SIX (4-6) POUNDS PER ONE HUNDRED (100) SQUARE FEET.
5. ALL TREES AND SHRUBS SHALL BE FERTILIZED BY MONTHLY DURING THE GROWING SEASON AT A RATE OF FOUR TO SIX (4-6) POUNDS PER ONE HUNDRED (100) SQUARE FEET OF BEDS / TREE CANOPY (THREE (3) FEET FORM BASE TO DRILLING) OR PER MANUFACTURER'S RECOMMENDATION.
6. SOD FERTILIZER SHALL BE TURF SPECIFIC FOR ESTABLISHING NEW LAWNS AND APPLIED PER MANUFACTURER'S RECOMMENDATION.
7. UPON ESTABLISHMENT, THE TURF SHALL BE FERTILIZED AT A RATE OF ONE (1) POUND OF ACTUAL NITROGEN PER THOUSAND (1000) SQUARE FEET OR PER MANUFACTURER'S RECOMMENDATION.
8. BAHIA TURF SHALL RECEIVE FERTILIZATION AT A HALF (1/2) RATE OF POUND OF ACTUAL NITROGEN PER THOUSAND (1000) SQUARE FEET OR PER MANUFACTURER'S RECOMMENDATIONS.
9. APPLY ONE HALF (1/2) POUND OF A PALM SPECIFIC ONE (1) PART NITROGEN TO ONE (1) PART POTASSIUM WITH THREE TENTHS (0.3) PARTS MAGNESIUM FERTILIZER FOR ALL ESTABLISHED PALMS PER TWO (2) OF HEIGHT OR PER MANUFACTURER'S RECOMMENDATION.

MULCH.

1. MULCH MATERIAL SHALL BE FORESTRY RESOURCES VITA MULCH, OR AS SPECIFIED ON THE DRAWINGS, OR APPROVED SUBSTITUTE PRIOR TO PROCUREMENT BY RWA, INC IN WRITING.
2. MULCH MATERIAL SHALL BE UNIFORM, FREE FROM WEED SEEDS, AND CLEAN OF DEBRIS.
3. MULCH MATERIAL SHALL BE APPLIED UNIFORMLY TO A MINIMUM 3" SETTLED DEPTH AFTER WATERING IN.
4. A 12" X 24" MULCH SHALL BE MAINTAINED ALONG THE ENTIRE EDGE OF THE PLANTING BED.
5. MULCH SHALL NOT BE PLACED WITHIN 3" FROM SHRUB CROWNS AND 6" FROM TREE AND PALM TRUNKS.
6. SNAPSHOT OR APPROVED EQUAL IN WRITING BY MORRIS-DEWEY ASSOCIATES, INC PRIOR TO PROCUREMENT SHALL BE APPLIED PER MANUFACTURER'S RECOMMENDATIONS PRIOR TO INSTALLATION OF MULCH.
7. NO MULCH SHALL BE APPLIED TO ANY PLANTINGS LOCATED WITHIN A STORMWATER MANAGEMENT AREA.

SOD

1. ALL SOD SHALL BE FLORATAM ST. AUGUSTINE UNLESS OTHERWISE STATED IN THESE PLANS.
2. ALL SOD SHALL MEET FLORIDA STATE PLANT BOARD SPECIFICATIONS, ABSOLUTELY TRUE TO VARIETY TYPE.
3. ALL SOD SHALL BE HEALTHY, WEED-FREE, INSECT-FREE AND DISEASE FREE.
4. ALL SOD JOINTS SHALL BE STAGGERED IN A RUNNING BOND PATTERN, AND INSTALLED TIGHT TO MINIMIZE AIR GAPS.
5. THE GRADE SHALL BE SMOOTH, FREE OF DEBRIS, POSITIVELY DRAINED, AND MOIST PRIOR TO SOD INSTALLATION.
6. ALL SOD JOINTS SHALL BE STAGGERED IN A "RUNNING BOND" PATTERN.
7. GAPS BETWEEN THE JOINTS SHALL NOT BE ACCEPTED.
8. ALL CUT PIECES OF SOD LESS THAN ONE HALF (1/2) A PIECE SHALL BE INSTALLED BETWEEN TWO (2) FULL PIECES TO INCREASE SURVIVABILITY.
9. THE SOD SHALL BE ROLLED IN TWO (2) DIRECTIONS PERPENDICULAR FROM ONE ANOTHER AFTER INSTALLATION AND WATER APPLICATION TO ENSURE PROPER GROUND CONTACT.
10. IN AREAS WHERE A ROLLER CANNOT BE USED, HAND TAMPING SHALL BE REQUIRED.
11. SOD SHALL BE INSTALLED AND WATERED WITHIN 24 HOURS AFTER HARVESTING.
12. ANY SOD LEFT ON A PALLET LONGER THAN TWENTY FOUR HOURS SHALL BE REJECTED AT THE CONTRACTOR'S EXPENSE.
13. ALL SOD SHALL BE SUBJECT TO RWA, INC FINAL APPROVAL.
14. ANY REJECTED SOD SHALL BE REPLACED AT THE CONTRACTORS EXPENSE.

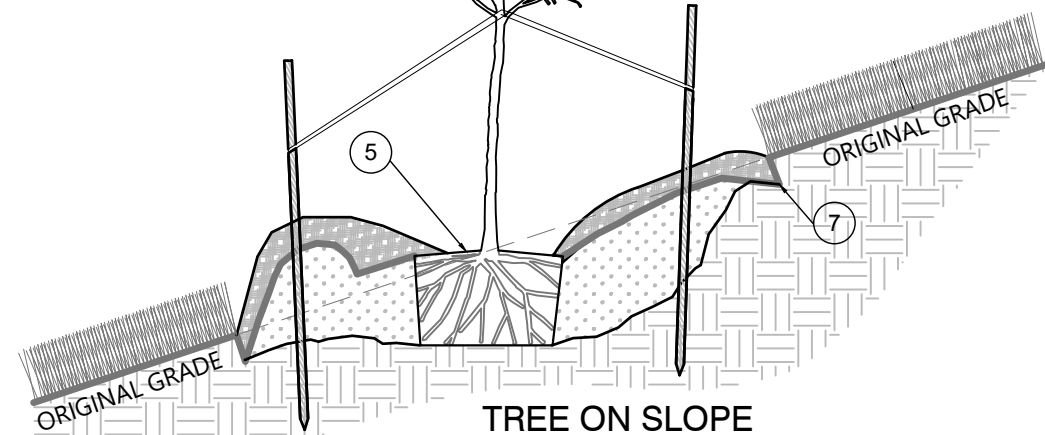
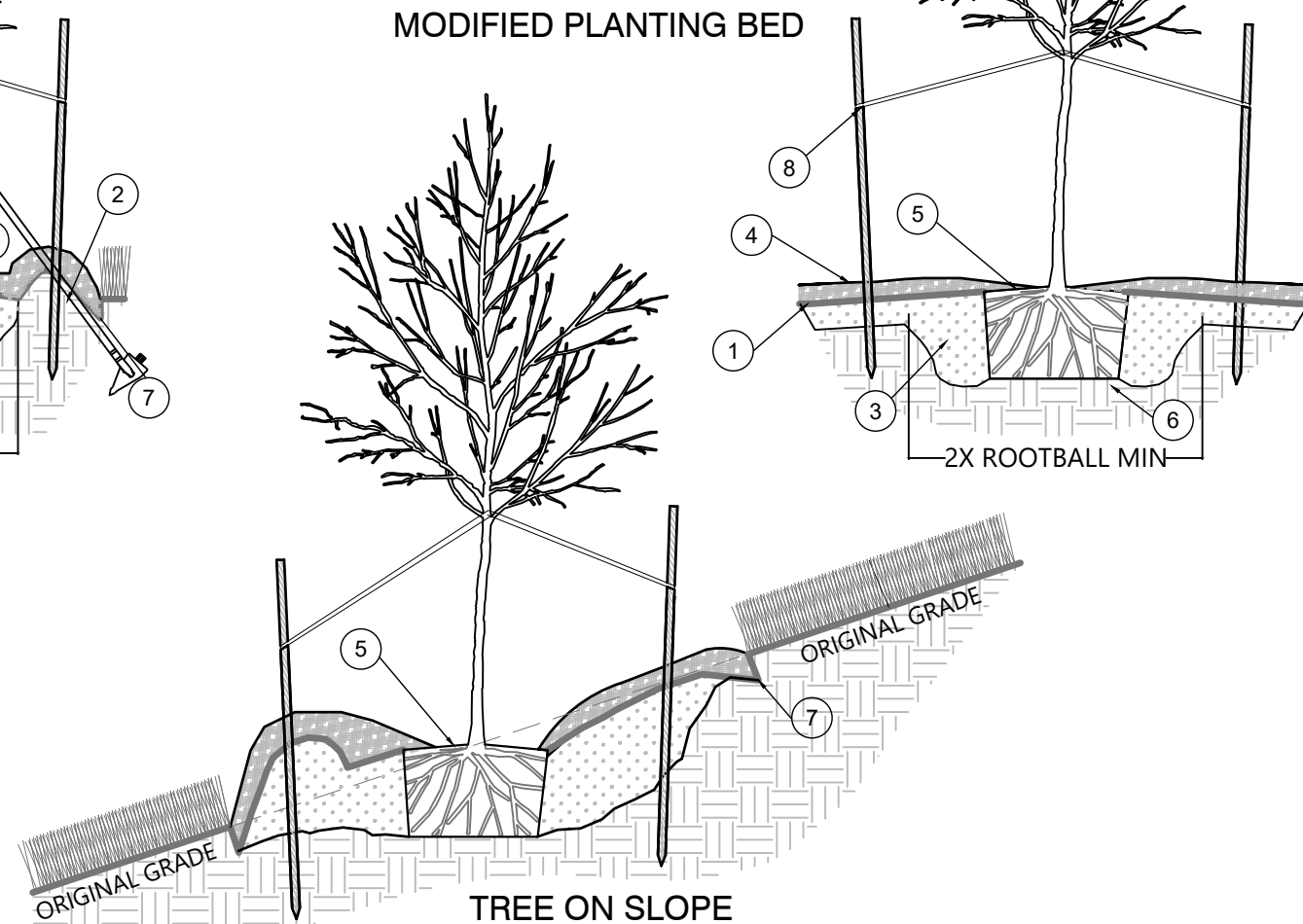
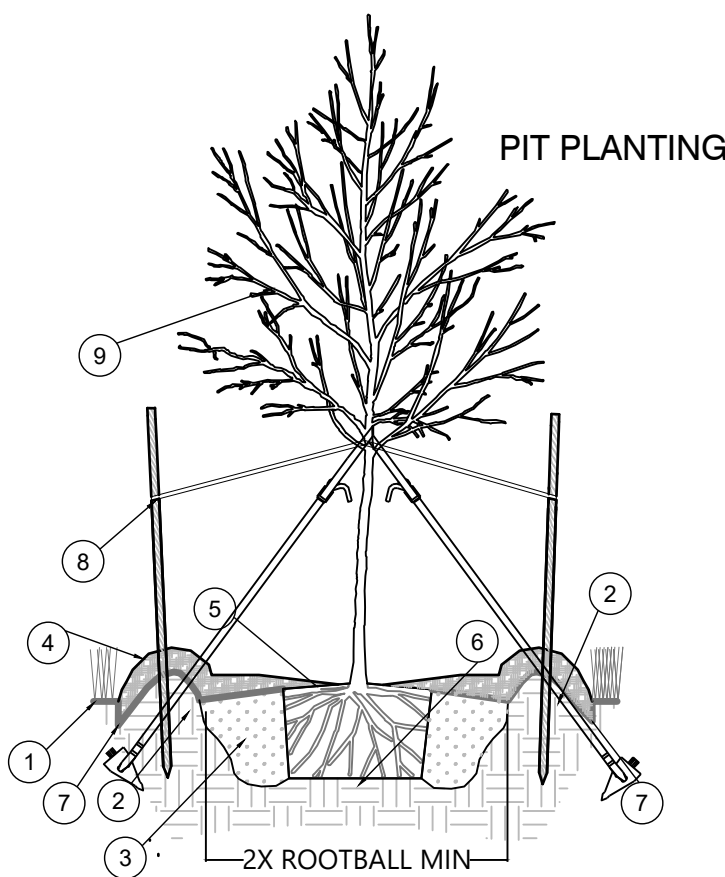
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FLORIDA LICENSE NO. 6666882

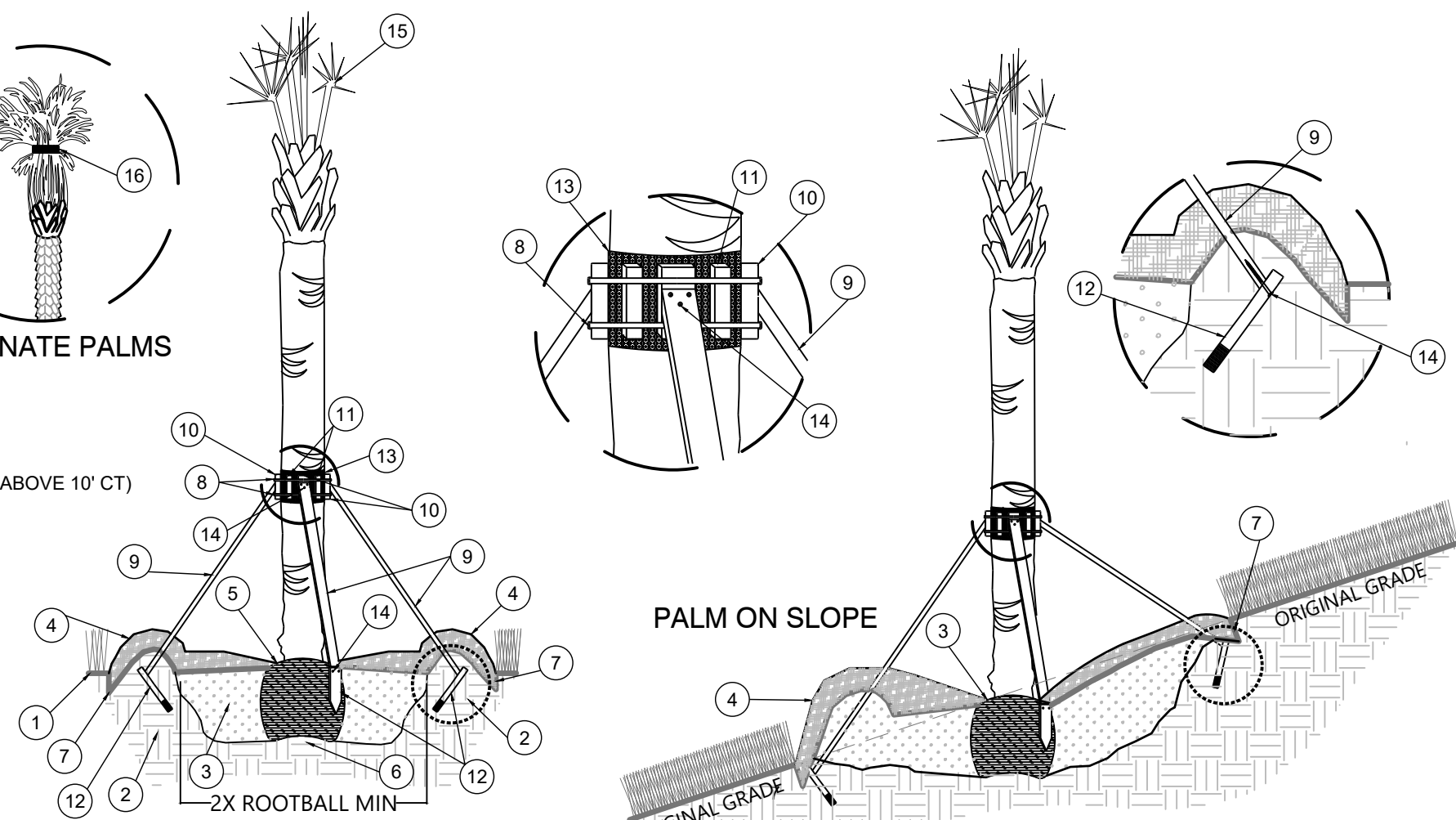
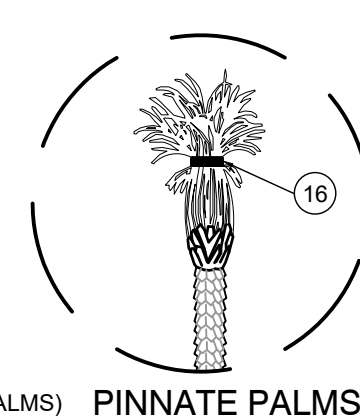
1. FINISH GRADE
2. 4" X 6" COMPACTED SOIL BASIN RING
3. MODIFIED SOIL BACKFILL (ONLY FOR CONTAINER GROWN TREES)
4. 3" MIN MULCH LAYER
5. ROOT BALL (MODIFY ACCORDINGLY)
6. UNDISTURBED / RE-COMPACTED SOIL BASE
7. BED EDGE TRENCH
8. TREE STAKES (SEE STAKING DETAIL)
9. TREE CROWN (SEE CROWN DETAILS)

NOTES:
SEE DRAWINGS FOR SPECIFIED SIZES, SPECIES AND GRADES.
ALL PLANT MATERIALS SHALL BE IN ACCORDANCE WITH THE AMERICAN STANDARDS FOR NURSERY STOCK (ANSI Z60.1-2004) AND FLORIDA GRADES AND STANDARDS FOR NURSERY STOCK.
TRUNK CALIPER MEASUREMENTS SHALL MEET FLORIDA GRADES AND STANDARDS FOR NURSERY STOCK.
PLANTING HOLE TO BE A MIN. OF 2X THE WIDTH OF ROOT BALL FOR AT LEAST THE FIRST 12" OF DEPTH AND DO NOT DIG THE HOLE DEEPER THAN ROOT BALL DEPTH OR FILL AND COMPACT TO 90% RELATIVE COMPACTION. THE PLANTING HOLE SUB-GRADE AND SIDES SHOULD BE SCARIFIED WHEN 15%+ CLAY SOILS EXIST. THE TOP-MOST ROOTS SHOULD BE VISIBLE AT THE SURFACE OF THE ROOT BALL.
THE TREE TRUNK SHALL NOT BE USED FOR LIFTING / LEVERAGE. LIFT AND SET THE TREE BY ROOT BALL ONLY. REMOVE BURLAP, WIRE AND STRAPS FROM THE UPPER 1/3 OF THE ROOT BALL AFTER THE TREE IS SET IN PLACE. REMOVE ANY TRUNK WRAP REMAINING, CLOSE STAKING, GROW BAG, TAGS, AND TAGGING TAPE AT TIME OF PLANTING.
NO MULCH TO BE PLACED WITHIN 3" OF TRUNK WITH NO MORE THAN 1" OF MULCH PLACED UPON ROOT BALL BACKFILL WITH CLEAN, MODIFIED, WELL-TILLED / BROKEN UP NATIVE SOIL AND ADD APPROPRIATE SOIL AMENDMENT BASED ON SOIL TESTING. DO NOT ADD BACKFILL AMENDMENTS FOR PIT PLANTED B&B TREES. COMPACT BACKFILL TO MINIMIZE AIR POCKETS WITH EVERY 6" LIFTS OF FILL. DO NOT OVER COMPACT SOIL & SETTLE BACK FILL WITH WATERING IN. WATER TREE AFTER FULLY BACKFILLED.
ROOT BALL IS TO REST ON SOIL BASE AND TO BE INSTALLED 1"-2" ABOVE GRADE TO ALLOW FOR SETTLING. FOR WET SOILS, INSTALL ROOT BALL HIGHER AND GRADE TO IT AS REQUIRED FOR PROPER OXYGEN INTAKE OF THE TREE. INSTALL GRAVEL WELLS THROUGH CONFINING LAYERS IF HOLE FAILS PERCUSSION TESTS.
CREATE A 6" BASIN RING AROUND ENTIRE OUTER EDGE OF TREE PIT, LOCATING THE INSIDE EDGE ALONG THE EXCAVATION AND COMPACT BASIN RING TO MULCHING ON ALL SIDES TO RETAIN WATER.
FOR SLOPED PLANTINGS, ORIGINAL SLOPE SHOULD PASS THROUGH THE POINT WHERE THE TRUNK BASE MEETS SUBSTRATE/SOIL.
PRUNING SHALL BE LIMITED TO DEAD, DISEASED, OR BROKEN LIMBS ONLY AND SHALL BE IN ACCORDANCE WITH ANSI A300 SPECIFICATIONS.
CORRECT TREE CROWN AND ROOT BALL AS REQUIRED FOR PROPER CANOPY GROWTH AND ROOT DEVELOPMENT.
STAKE / GUY TREE ACCORDING TO APPROPRIATE DETAIL.



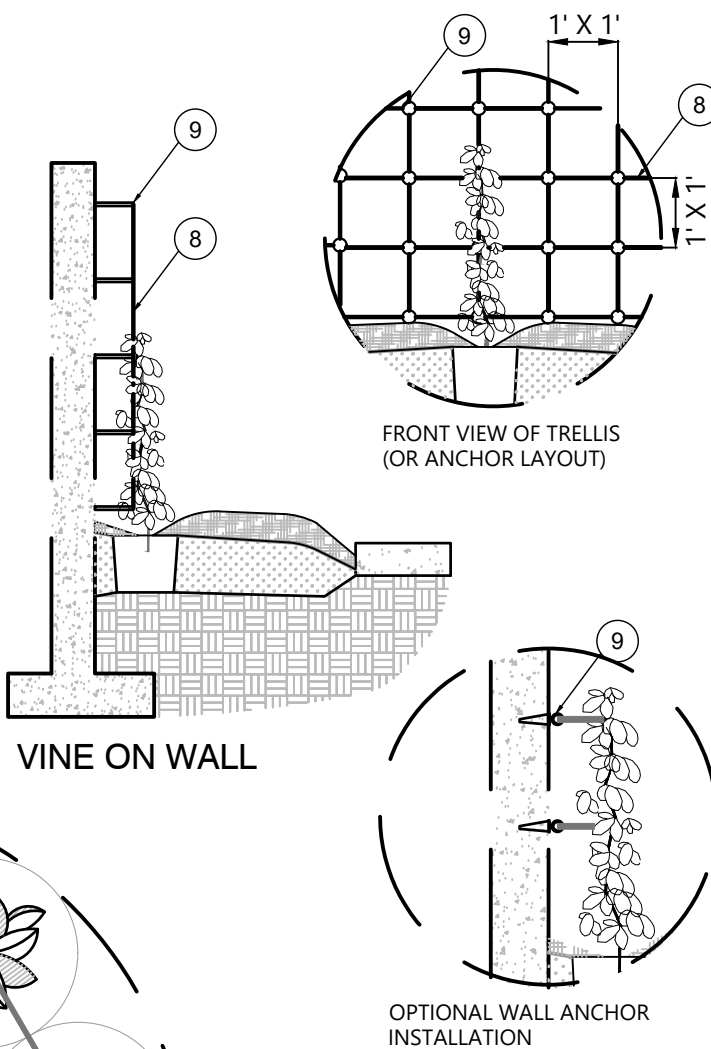
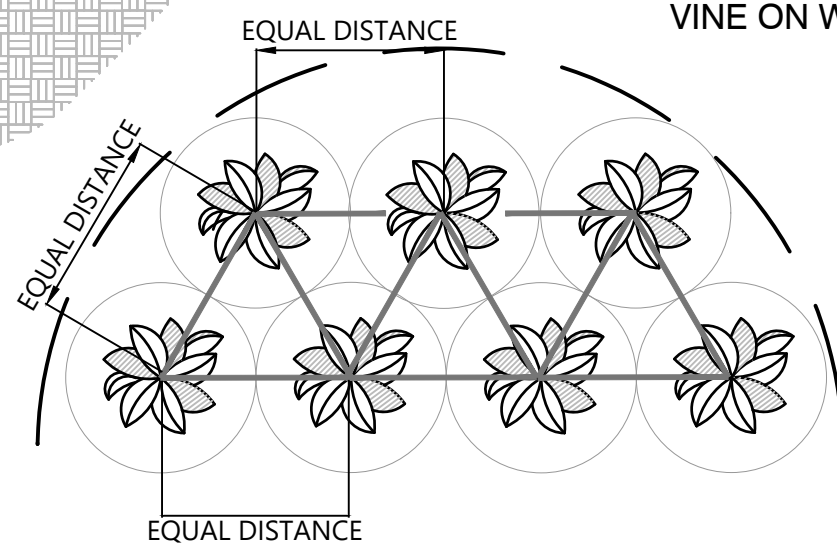
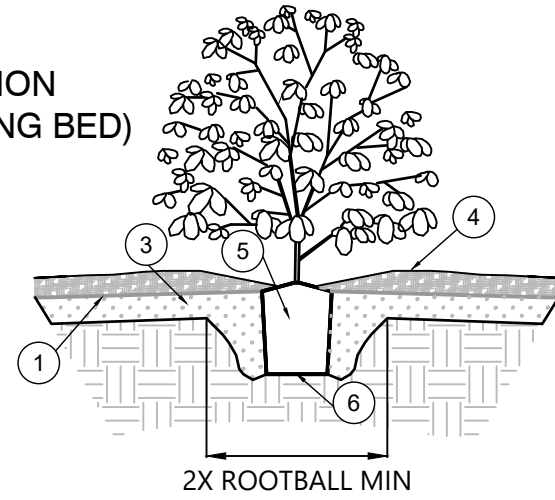
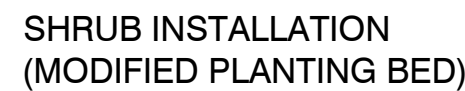
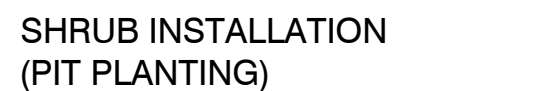
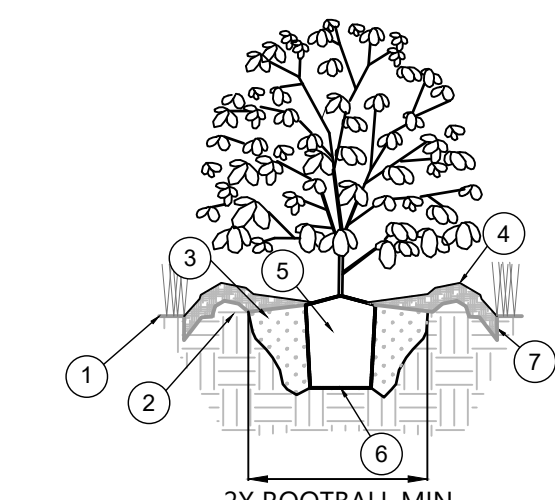
1. FINISH GRADE
2. UNDISTURBED OR 90% TO 95% COMPACTED SOIL
3. MODIFIED SOIL BACKFILL (ONLY FOR CONTAINER GROWN PALMS)
4. 3" MIN MULCH LAYER
5. ROOT BALL (MODIFY ACCORDINGLY)
6. RE-COMPACTED SOIL BASE
7. BED EDGE TRENCH
8. STAINLESS STEEL MOUNTING STRAPS WITH ADJUSTABLE BRACKETS
9. 2" X 4" BRACE (3 MIN @ 120 DEG FOR UP TO 10' CT & 4 MIN @ 90 DEG FOR ABOVE 10' CT)
10. 2" X 4" BATTEN (1 PER BRACE ATTACHED WITH SCREWS)
11. 1" X 2" BATTEN (# AS NECESSARY)
12. 2" X 4" STAKE (1 PER BRACE ATTACHED WITH SCREWS)
13. NATURAL BURLAP (3 LAYERS MIN BETWEEN BATTENS AND TRUNK)
14. EXTERIOR DECK SCREWS (OR STAINLESS STEEL SHANK NAIL)
15. HURRICANE CUT
16. NATURAL JUTE ROPE TO TIE FRONDS

NOTES:
SEE DRAWINGS FOR SPECIFIED SIZES, SPECIES AND GRADES.
BRACE PALM ACCORDING TO APPROPRIATE STAKING / GUYING DETAIL.
BRACE LOCATIONS SHALL NOT INTERFERE WITH PEDESTRIAN WAYS.
BRACES TO BE REMOVED WITHIN 1 YEAR OF INSTALLATION.
NO BURNT PALMS WILL BE ACCEPTED.
DO NOT SCREW (OR TOE NAIL) BATTENS INTO THE TRUNK OF THE PALM.
ANY TRUNK DAMAGE CAUSED BY NAILS OR SCREWS WILL GIVE CAUSE TO REJECTION OF THE PALM.
PRUNING SHALL BE LIMITED TO DEAD, DISEASED, OR BROKEN LIMBS ONLY AND SHALL BE IN ACCORDANCE WITH ANSI A300 SPECIFICATIONS.
NO FEATHER DUSTER PRUNING. FRONDS SHOULD MAKE A HALF CIRCLE AT A MIN.
HURRICANE CUT ALL SABAL PALMS.
PALM STAKES TO BE PLACED BELOW GRADE TO NECESSARY DEPTH DETERMINED BY SOIL STRUCTURE TO PROVIDE PROPER STABILIZATION.
PLACE BATTENS AND INSTALL ENOUGH BATTENS AS REQUIRED FOR BAND NOT TO COME INTO DIRECT CONTACT WITH TRUNK.
THE TOP-MOST ROOTS SHOULD BE VISIBLE AT THE SURFACE OF THE ROOT BALL.



1 TREE INSTALLATION

URBAN TREE FOUNDATION © 2014



1. FINISH GRADE
2. 3" X 6" COMPACTED SOIL BASIN RING
3. MODIFIED SOIL BACKFILL (ONLY FOR CONTAINER GROWN)
4. 3" MIN MULCH LAYER
5. ROOT BALL (MODIFY ACCORDINGLY)
6. RE-COMPACTED SOIL BASE
7. BED EDGE TRENCH
8. STAINLESS STEEL WIRE TRELLIS (OR APPROVED OTHER)
9. STAINLESS STEEL ANCHOR AND EYE HOOK MOUNTING METHOD (OR APPROVED OTHER)

NOTES:
SEE DRAWINGS FOR SPECIFIED SIZES, SPECIES AND GRADES.
ALL PLANT MATERIALS SHALL BE IN ACCORDANCE WITH THE AMERICAN STANDARDS FOR NURSERY STOCK (ANSI Z60.1-2004).
PLANTING HOLE TO BE A MIN. OF 2X THE WIDTH OF ROOT BALL FOR AT LEAST THE FIRST 12" OF DEPTH AND DO NOT DIG THE HOLE DEEPER THAN ROOT BALL DEPTH. ROOT BALL IS TO REST ON SOIL BASE THAT IS TO BE COMPACTED TO 90% RELATIVE COMPACTION.
THE PLANTING HOLE THE SUB-GRADE AND SIDES SHOULD BE SCARIFIED WHEN PLANTING IN 15% OR MORE CLAY SOILS.
LIFT AND SET THE SHRUB BY ROOT BALL / CONTAINER ONLY. DO NOT LIFT VIA TRUNK.
IF B&B, PLACE SHRUB IN PLANTING HOLE. REMOVE BURLAP, WIRE AND STRAPS FROM AT LEAST THE UPPER 1/3 OF THE ROOT BALL.
FOR CONTAINER STOCK, AMEND ROOT BALL AS REQUIRED FOR PROPER GROWTH AND ROOT DEVELOPMENT AND MIX WITH EXISTING SOIL THAT HAS BEEN WELL-TILLED OR BROKEN UP. DO NOT ADD AMENDMENTS TO THE BACKFILL SOIL FOR B&B SHRUBS. USE CLEAN BACKFILL AND APPROPRIATE SOIL AMENDMENT BASED ON SOIL TESTING.
PRUNING SHALL BE LIMITED TO DEAD, DISEASED, OR BROKEN LIMBS ONLY AND SHALL BE IN ACCORDANCE WITH ANSI A300 SPECIFICATIONS.
REMOVE ANY NURSERY TAGS, AND TAGGING TAPE AT TIME OF PLANTING. NO WRAPS SHALL BE PLACED ON TRUNK.
LIGHTLY COMPACT TO MINIMIZE AIR POCKETS EVERY 6" LIFTS OF FILL, DO NOT OVER COMPACT SOIL & SETTLE BACK FILL WITH WATERING IN.
ROOT BALL TO BE INSTALLED 1"-2" ABOVE GRADE TO ALLOW FOR SETTLING. FOR WET SOILS, INSTALL ROOT BALL HIGHER AND GRADE TO IT AS REQUIRED FOR PROPER OXYGEN INTAKE OF THE SHRUB.
FOR SLOPED PLANTINGS, ORIGINAL SLOPE SHOULD PASS THROUGH THE POINT WHERE THE TRUNK BASE MEETS SUBSTRATE/SOIL.
LOCATE INSIDE OF BASIN RING TO OUTER EDGE OF TREE PIT AND COMPACT IT ON ALL SIDES TO RETAIN WATER.
NO MULCH TO BE INSTALLED WITHIN 3" OF TRUNK.
NO MORE THAN 1" OF MULCH TO BE INSTALLED UPON ROOT BALL OF SHRUB.

2 SHRUB & VINE INSTALLATION

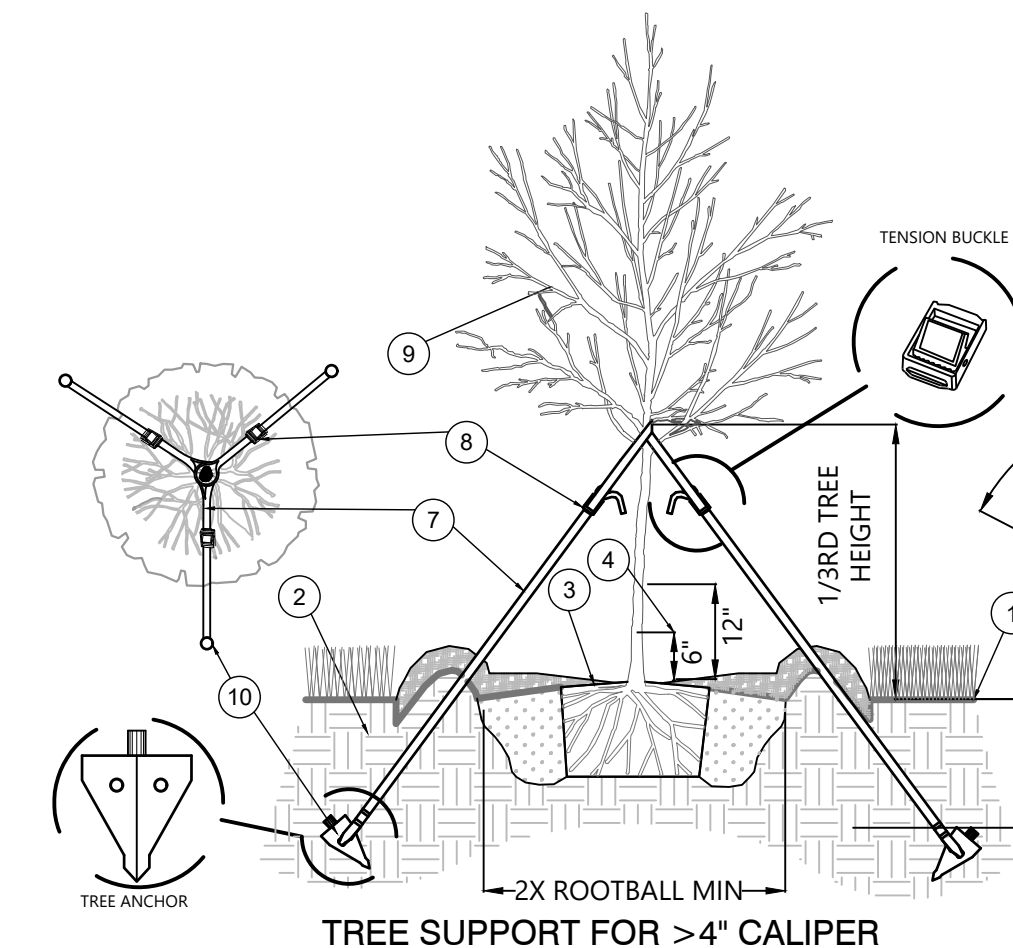
URBAN TREE FOUNDATION © 2014

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4 TREE STAKING / GUYING

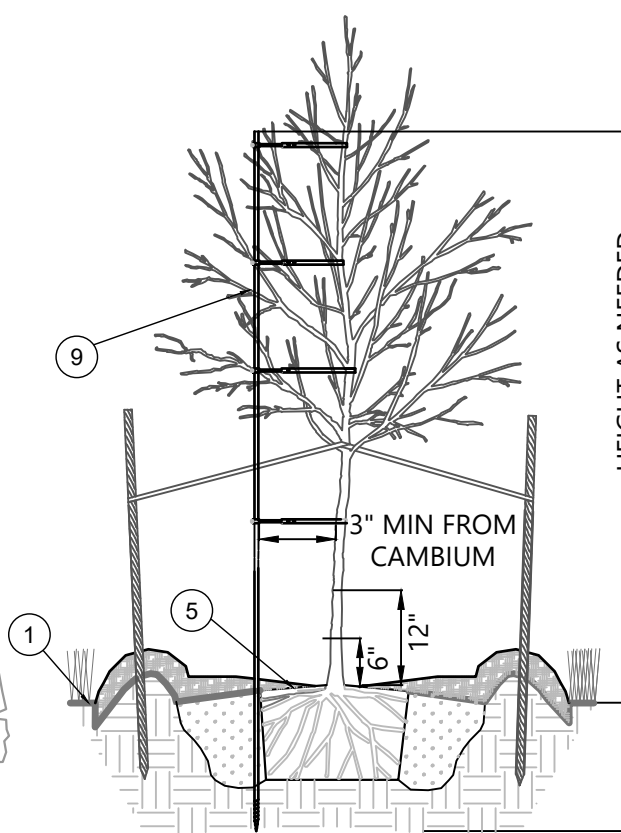
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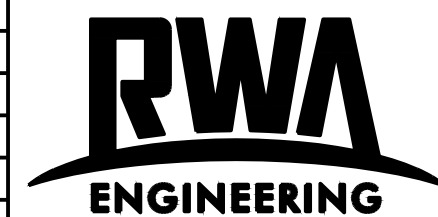


1. FINISH GRADE
2. UNDISTURBED OR 90% TO 95% COMPACTED SOIL
3. ROOT BALL
4. TRUNK CALIPER (MEASURED AT 6" UP TO 4" CAL & AT 12" FOR >4" CAL TREES) (DBH ONLY APPLIES TO EXISTING TREES PER STATE OF FLORIDA)
5. STAINLESS STEEL FASTENER (LAG SCREW WITH WASHER)
6. 3" WOODEN LODGE POST OR HEAVY DUTY METAL T-POST
7. 3/4" MILITARY GRADE EXTERIOR WEBBING STRAP
8. TENSION BUCKLE
9. TREE ANCHOR
10. TREE ANCHOR
11. 1" METAL POLE FOR CENTRAL LEADER CONNECTION
12. NON-ABRASIVE RUBBER NURSERY STRAP

NOTES:
SEE DRAWINGS FOR SPECIFIED SIZES, SPECIES AND GRADES.
STAKE TREE ACCORDING TO APPROPRIATE STAKING / GUYING DETAIL. STAKE LOCATIONS SHALL NOT INTERFERE WITH PERMANENT BRANCHES. STAKES TO BE REMOVED WITHIN 1 YEAR OF INSTALLATION.
REMOVE ANY CLOSE STAKING FROM NURSERY. IF CENTRAL LEADER NEEDS CORRECTION, IT IS ACCEPTABLE TO MOVE STAKE OR RE-STAKE WITH A METAL POLE TO THE CENTRAL LEADER AND TRUNK WITH A MIN GAP OF 3" FROM CAMBIUM TO ALLOW FOR PROPER CELL FORMATION.
1" DIAM SINGLE METAL STAKE WITH METAL ARM BAR SECURED TO STAKE AND RUBBER STRAP AROUND TRUNK. HEIGHT OF ARM BAR SHALL VARY PER TREE. CONTRACTOR TO ADJUST AS NEEDED TO HOLD TREE ERECT. USE NON - ABRASIVE RUBBER TIES.
PRUNING SHALL BE LIMITED TO DEAD, DISEASED, OR BROKEN LIMBS ONLY AND SHALL BE IN ACCORDANCE WITH ANSI A300 SPECIFICATIONS.
AMEND TREE CROWN AND ROOT BALL AS REQUIRED FOR PROPER CANOPY GROWTH AND ROOT DEVELOPMENT.
TREE ANCHOR DRIVEN BELOW GRADE TO NECESSARY DEPTH DETERMINED BY SOIL STRUCTURE. (1.5' - 2.5' FEET AS NECESSARY)
INSTALL A TENSION BUCKLE ON EACH STRAP. LOOP LOOSE END OF WEBBING AROUND LEADING BRANCH OF TREE. TIE 1/2 KNOT ONTO BACKSIDE OF BUCKLE. PULL BUCKLE TOWARDS TREE ANCHOR TO TENSION LINE.
START STAKING OR GUYING BY PLACING FIST STAKE / ANCHOR ON THE SIDE OF THE PREVAILING WIND PREVAILING WIND.
INSTALL CORRECTIVE STAKE A MIN OF 3" AWAY FROM THE CAMBIUM. STAKES AND ANCHORS TO BE INSTALLED IN UNDISTURBED SOIL.
WOOD STAKES, METAL T-POSTS, AND TREE ANCHORS ARE TO BE DRIVEN INTO UNDISTURBED SOIL A MINIMUM OF 1.5' TO 2.5'. PLACE STAKES IN TREE BASIN. METAL T-POSTS TO BE PAINTED FLAT BLACK. SPACE STAKES / ANCHORS (3 MIN) EQUALLY AROUND THE TREE AT 120 DEGREES OC.
ATTACH 3/4" WEBBING TO CONNECT THE TREE TO STAKES AND ANCHORS. ATTACH WEBBING AT 1/3 THE TREE HEIGHT. USE A STAINLESS STEEL FASTENER TO SECURE WEBBING TO WOOD STAKES. MULTI-TRUNK TREES WILL HAVE ONE WEBBING BAND PER TRUNK IF 3 OR MORE APPROPRIATELY SIZED TRUNKS EXIST.
FOR UP TO 4" CALIPER TREES (3) POLYPROPYLENE GUYLINES 3/4" X 12'=800 LB TEST, OLIVE DRAB, UV RESISTANT (3) NICKEL PLATED SPRING CAM-LOCK TENSION CLIPS FOR UP TO 7" CALIPER TREES (4) POLYPROPYLENE/POLYESTER GUYLINES 1" X 12'=1,000 LB TEST, OLIVE DRAB, UV RESISTANT (4) 1-1/4" NICKEL PLATED, NON-RUSTING SPRING CAM-LOCK TENSION CLIPS (1,500 LB BREAK STRENGTH) (4) ALUMINUM TREE ANCHORS FOR ANY SOIL TYPE



REV #	REVISION	DRAWN	CHECKED	DATE



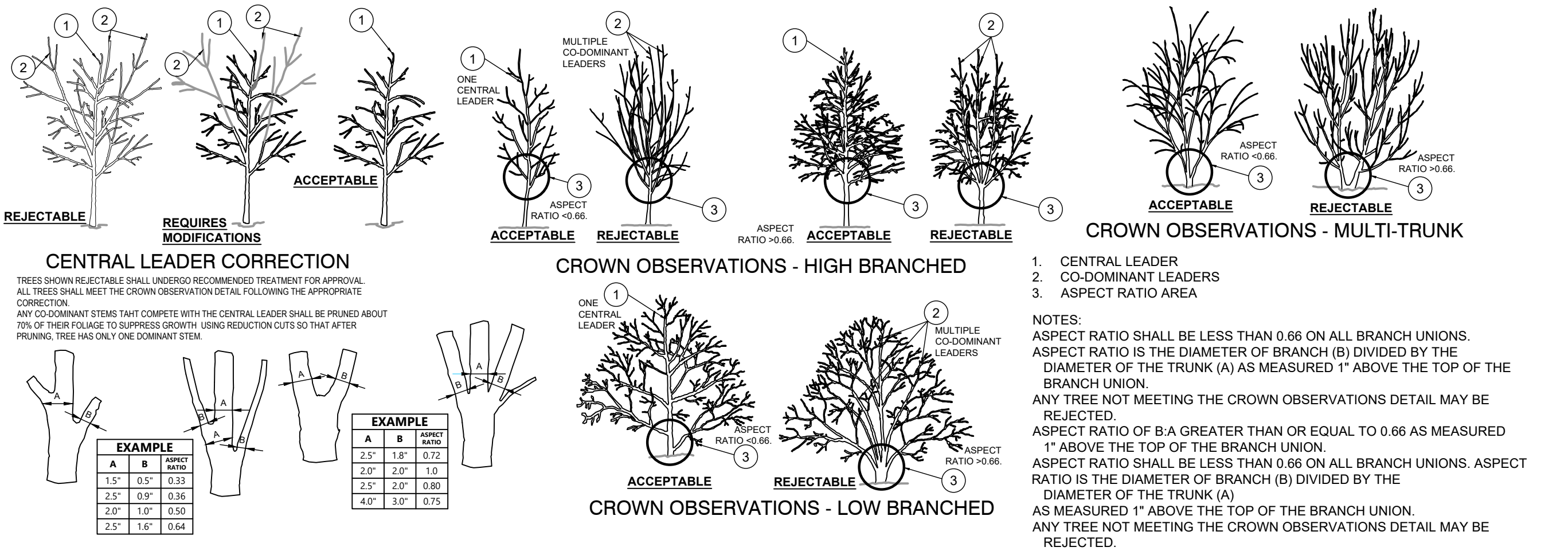
12800 University Drive, Suite 175
Fort Myers, Florida 33907
(239) 597-0575 FAX: (239) 597-0578
www.consult-rwa.com
Florida Certificates of Authorization
EB 7663 LB6952

DATE:	MARCH 2004	HORIZ. SCALE (FULL):	###/###/###	CLIENT:	MYERSIDE, LLC
SEC.	TWP. RGE.	HORIZ. SCALE (HALF):	1" = ###/###/###	TITLE:	LANDSCAPE CONSTRUCTION DETAILS
DESIGNED:	JMM	VERT. SCALE (FULL):	N/A	PROJECT NO.:	200022 00 01
DRAWN:	JMM	VERT. SCALE (HALF):	N/A	FILE NAME:	200022 00 01 LA PERMIT

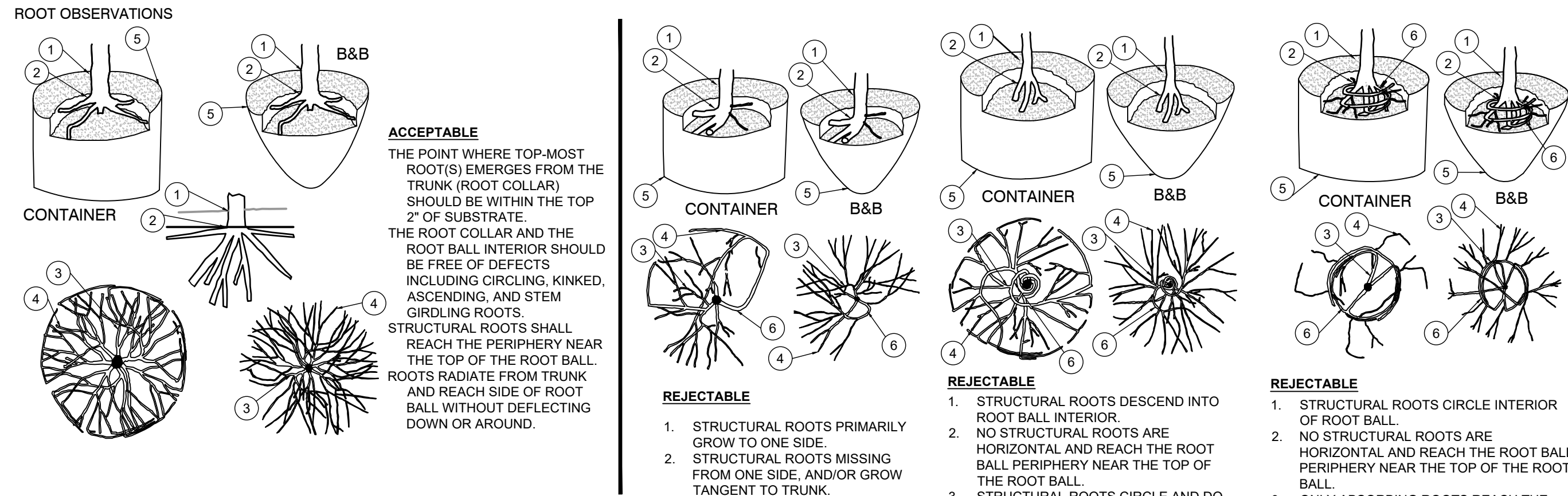
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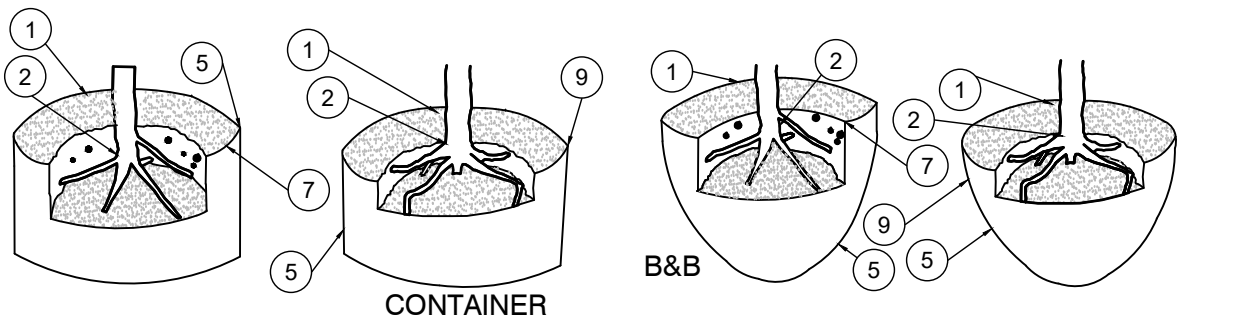
Digitally signed by James M. McCord
Date: 2024.04.17 08:21:47 -04'00'
THIS IS HAS BEEN ELECTRONICALLY SIGNED & SEAL BY JAMES M. MCCORD USING A DIGITAL SIGNATURE AND DATE. PRINTED COPIES OF THIS DOCUMENT ARE NOT CONSIDERED SIGNED & SEALED AND THE SIGNATURE MUST BE VERIFIED ON ANY ELECTRONIC COPIES.
JAMES M. MCCORD
FLORIDA LICENSE NO. 6666882



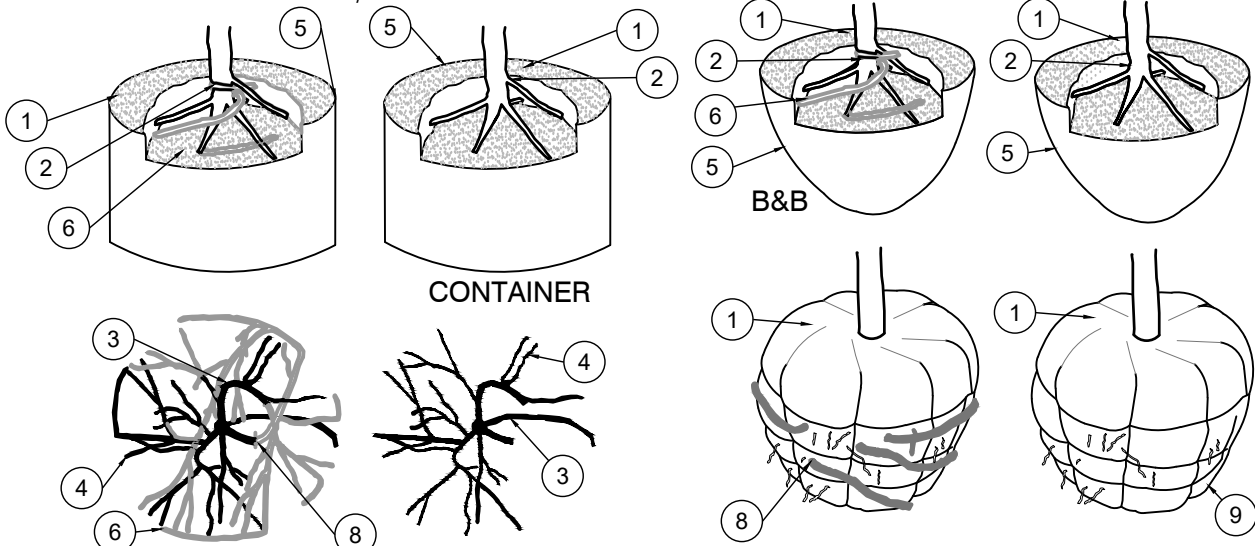
1 TREE CANOPY OBSERVATIONS / CORRECTION DURING INSTALLATION



STEP 1: REMOVAL OF SOIL & ROOTS OVER ROOT COLLAR

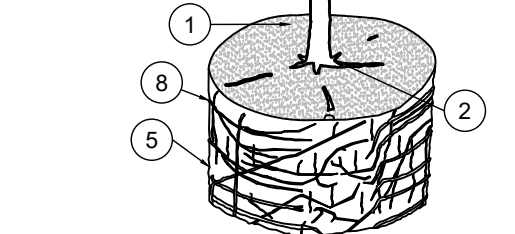


STEP 2: ROOT CORRECTION / REMOVE DEFECTS



ROOT BALL SHAVING CONTAINER DETAIL

BEFORE SHAVING



2 ROOT OBSERVATIONS / CORRECTIONS

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THE MYERSIDE
COMMERCIAL PLANNED DEVELOPMENT (CPD) Rezone
NARRATIVE OF REQUEST

BACKGROUND & REQUEST

The subject property is located at 125, 131 – 151 School Street and 2661 – 2681 Estero Boulevard, Fort Myers Beach, FL 33931. The property consists of 3 parcels (19-46-24-W3-0020C.0230; 19-46-24-W3-0020C.0270; 19-46-24-W3-0020C.0230) totaling 1.03+/- acres, situated north of Estero Boulevard., west of School Street, and south of Oak Street (See Figure 1). The property has a Future Land Use (FLU) designation of Boulevard, is within the platted overlay and has a zoning designation of Commercial Planned Development (CPD). The owners of the property are Beverley Milligan and Roland Weinmann who are the officers of Cottages at Myside LLC & Myside LLC (Applicant).



Figure 1. Location Map



The Neighborhood Company, on behalf of the Applicant, Cottages at Myerside LLC & Myerside LLC, is submitting a Commercial Planned Development Rezone petition to request the following:

- Rezone the subject property from Commercial Planned Development (CPD) to Commercial Planned Development (CPD) to allow the redevelopment of the prior Myerside Resort and Cottages with a 45-unit boutique hotel, four (4) work/live dwelling units and 9,000 square feet of commercial space, providing for a master planned mixed use project.

Historically, the Myerside property was an assemblage of 7 cottages of varying size and condition. These cottages housed multiple rental units. Prior to the Applicant buying the property in 2015, this site had fallen in disrepair and was often subject to code and police enforcement action. Immediately upon purchase, the property owners began cleaning up the site, making improvements and obtaining appropriate approvals to ensure compliance with town regulations. Mostly notably, they obtained approval for a bed and breakfast on the back part of the property and operated the cottages nearer to Estero Boulevard as vacation rentals. At that time, the subject property was home to 12 units which consisted of rooms, suites and full apartments within the 7 historic cottages. The site also contained amenities including a pool, tiki hut, volleyball court and fire pit.

The Applicant was in the process of further improving and enhancing the property when Ian struck. On May 3rd, 2021, the property owners received approval of Ordinance #21-02 (Permit #20200009) by the Fort Myers Beach Town Council which rezoned the property from Residential Conservation (RC) to Commercial Planned Development (CPD) and approved a master concept plan that protected the existing cottages and approved hotel, retail, and restaurant uses, including consumption of alcohol on premises. The intent of this CPD was to create a small boutique resort which ensured the preservation of the historic cottages while legitimizing existing non-conformities. This approval allowed the owners to proceed with confidence and further invest in improving and enhancing the cottages and the site. Following the CPD approval, the owners embarked on the engineering design process and obtained a Development Order a few months prior to Hurricane Ian. Unfortunately, Myerside was devastated by the impacts of the storm, which left only one structure standing. As a result, the owners were forced to re-imagine their cottage resort, redesign the site and once again go through the time-consuming and costly review and approval process.

With a strong desire to build back better and stronger and to provide the island with a mix of complementary land uses that can benefit locals and visitors alike, the Applicant is proposing a new development concept called The Myerside. This project will be mixed-use in nature, neotraditional in design, consistent with the Town's vision for this area, and compatible with surrounding uses. It will offer quality coastal architecture and will be built at a human scale and financially feasible. The proposed project eliminates non-conformities, provides resilient and hardened structures, and incorporates numerous design elements that will ensure a high-quality, mixed-use project and enhancements to the public realm.



PROPOSED USE/DEVELOPMENT

Based on the historical, regulatory, and existing land use context, the property owners are pursuing a redevelopment plan which will provide a true vertically integrated mixed-use project consisting of a boutique hotel (transient lodging), work/live units, and commercial uses. The goal of the commercial component is to develop a health and wellness center where residents and visitors can have a one-stop location for all their health and wellness needs - potential tenants could include a dentist, physiotherapist, emergency clinic, massage therapist, physical fitness center, yoga studio, health food store, café, etc. The intent would be to attract practitioners who were already established on the island and new professionals who would see synergies and benefits to being in one central location, near recreational and civic uses. Given that the project will be a new build, the commercial component could be designed to suit tenants' needs and common areas (e.g. reception/waiting room area) could potentially be shared to create efficiencies and cost savings for the tenants. The resulting commercial uses will reduce the need for travel on and off island for basic essential services, reduce vehicle miles traveled, provide easy access and convenience to the residents and help retain the island's skilled workforce on Fort Myers Beach. Moreover, the intent is to provide four (4) work/live units which would be reserved for owners or employees of the various businesses within The Myerside. These units would require long-term leases and proof of employment. These work/live units are seen as benefits that can help secure quality, long-term commercial tenants, enhance the retention of employees, and reduce trips on the road. Lastly the lodging units offer a unique boutique hotel experience where guests can experience responsive service while being a little removed from the livelier downtown.

The proposed post hurricane redevelopment of the property will consist of the following:

- A 45-unit boutique hotel
- Four (4) work/live dwelling units
- Commercial space

The total Floor Area Ratio (FAR) requested for the subject site is 1.2, which is consistent with the CR zoning district limit. The FAR calculation includes the commercial space on the ground floor, the lodging and work/live units above, and ground level under-building parking.



Redevelopment, Resiliency and Economic Feasibility

The Myerside Resort and Cottages was destroyed by Hurricane Ian and so was the property owners' dream of preserving historic cottages and enhancing their unique and eclectic little resort. The CPD, Master Concept Plan and detailed Development Order plans approved prior to the storm are no longer feasible.

Ordinance 21-02 allowed the redevelopment of the property with a 14-unit hotel, a restaurant, accessory retail and consumption of alcohol on premises. This was to include the relocation of Building #2, the addition of Building #8, the addition of a retail store and a restaurant within existing buildings (See attached previously approved MCP) However, like many businesses on the island, Myerside must now rebuild from the ground up.

Prior to Ian, the hotel inventory on Fort Myers Beach was approximately 2,156 rooms. This number was below the peak inventory which existed prior to Hurricane Charley in 2004. The Lee County Visitor and Convention Bureau estimates that there has been an 81% decline in available rooms since Ian, with only 408 rooms currently available for occupancy. As an island whose economy is based on tourism, this significant reduction in hotel room supply represents a catastrophic impact on the local economy. Tourism affects all facets of the economy - it creates jobs and small business opportunities for local residents; it supports local bars, restaurants and entertainment venues; it contributes to the Town and County's tax base; and it provides the critical mass needed for certain businesses such as grocery stores and pharmacies to be viable and for services such as dentists, sports therapists, healthcare clinics and gyms to thrive. As such, it is vital that we rebuild the hotel stock and that we promote a strong tourism economy. Redevelopment and reconstruction of hotels and resorts will bring visitors back to the island, which in turn will help reopen restaurants, bars, and retail stores. In combination, all these key commercial uses will provide a strong economic engine for the Town.

The Myerside represents one hotel among many, that when redeveloped, will help strengthen the island's economy, community, and quality of life. However, like many residents and business owners, the Applicant must now overcome significant hurdles. To rebuild, they will have to meet the latest Florida Building Code and FEMA requirements; they will have to deal with escalating construction and insurance costs; and they will be saddled with inflated interest rates. Moreover, the ground level commercial space will need to be "dry flood-proofed" because the property is located within a Coastal A zone. As a result, the cottage resort concept had to be re-imagined. To make the project financially feasible, additional rooms/lodging units are proposed and a commercial component is added to create an additional revenue stream. From a planning standpoint, this mix of uses in this location creates a project that is compatible with surrounding properties, encourages walkability by providing goods and services that will meet the needs of residents and visitors and is complementary to the recreational, civic and commercial uses in the area.



The owners of The Myerside are island residents who are committed to this community. They want to rebuild a unique mixed-use project that will assist in the redevelopment of this island but will also provide public benefits and meet the needs of local residents. The narrative below demonstrates how The Myerside is the right project at the right place.

LOCATION, SITE DESIGN & COMPATIBILITY

Location

The Myerside property is located within the Civic Complex area of Fort Myers Beach at the northwest corner of Estero Boulevard and School Street with the property extending to Oak Street and the Bay Oaks Park. The site is approximately three quarters of a mile east/southeast of “Times Square”. In the Comprehensive Plan, School Street is described as the primary entry into the “Heart of the Island,” and envisioned to contain a mix of commercial and residential uses to serve both island residents and visitors. The Comprehensive plan further describes this area as containing many of the community’s key public facilities such as the historic elementary school, the public library, Town Hall, and Bay Oaks Recreation Center. This area of the island acts as a transitional zone between the more intense commercial, resort, and entertainment uses downtown and the primarily residential area of the island, known as the Quiet Center. The Civic Complex area of Fort Myers Beach is slightly less than one mile from Times Square, which can easily be accessed by pedestrians and cyclists. A public beach access is located at the end of Pompano Street which is approximately 150’ to the south of the property.

Surrounding Uses and Site Design

The future land use category, zoning and existing land uses surrounding the property are as follows:

	FUTURE LAND USE	ZONING DISTRICT	EXISTING LAND USES
NORTH	Recreation	Institutional	Bay Oaks Recreation Campus/Ball Park
SOUTH	Boulevard	Residential Multifamily, Commercial Office, Residential Conservation	Mixed Commercial & Lodging
EAST	Boulevard	Residential Multifamily, Commercial Boulevard, Institutional	Ft. Myers Beach Public Library & Beach United Methodist Church
WEST	Boulevard	Residential Conservation, Institutional	Mixed Commercial & Lodging

The proposed development will provide numerous enhancements to ensure locational compatibility. The building will be located close to the street in order to “activate the public realm”, encourage pedestrian activity and provide visual interest. Along Estero Boulevard and School Street, public sidewalks will be integrated into the overall pedestrian design, which will include a covered arcade along the storefronts to



protect patrons from the elements. The interface between the roadway and the building will include outdoor seating, shade trees, hardscape/landscape, decorative pavers, and benches. The location of the building, the additional sidewalk along School Street, the proposed landscaping and hardscaping will all create an aesthetically pleasing pedestrian environment consistent with the Boulevard designation as outlined in the Comprehensive Plan.



Figure 2. Rendering of Estero Boulevard & School Street Corner

By utilizing neotraditional design techniques and placemaking strategies, The Myerside intends to create a welcoming environment meant to engage the pedestrian and cyclist and create visual interest for motorists driving by. The pedestrian entrance at the corner of Estero Boulevard and School Street will provide an inviting entry and focal point. A 5' enhanced buffer is proposed along Estero Boulevard, which will provide landscape and hardscape that will separate the pedestrians from the roadway and soften the edges of the proposed project.



Figure 3. Rendering of View from Estero Boulevard

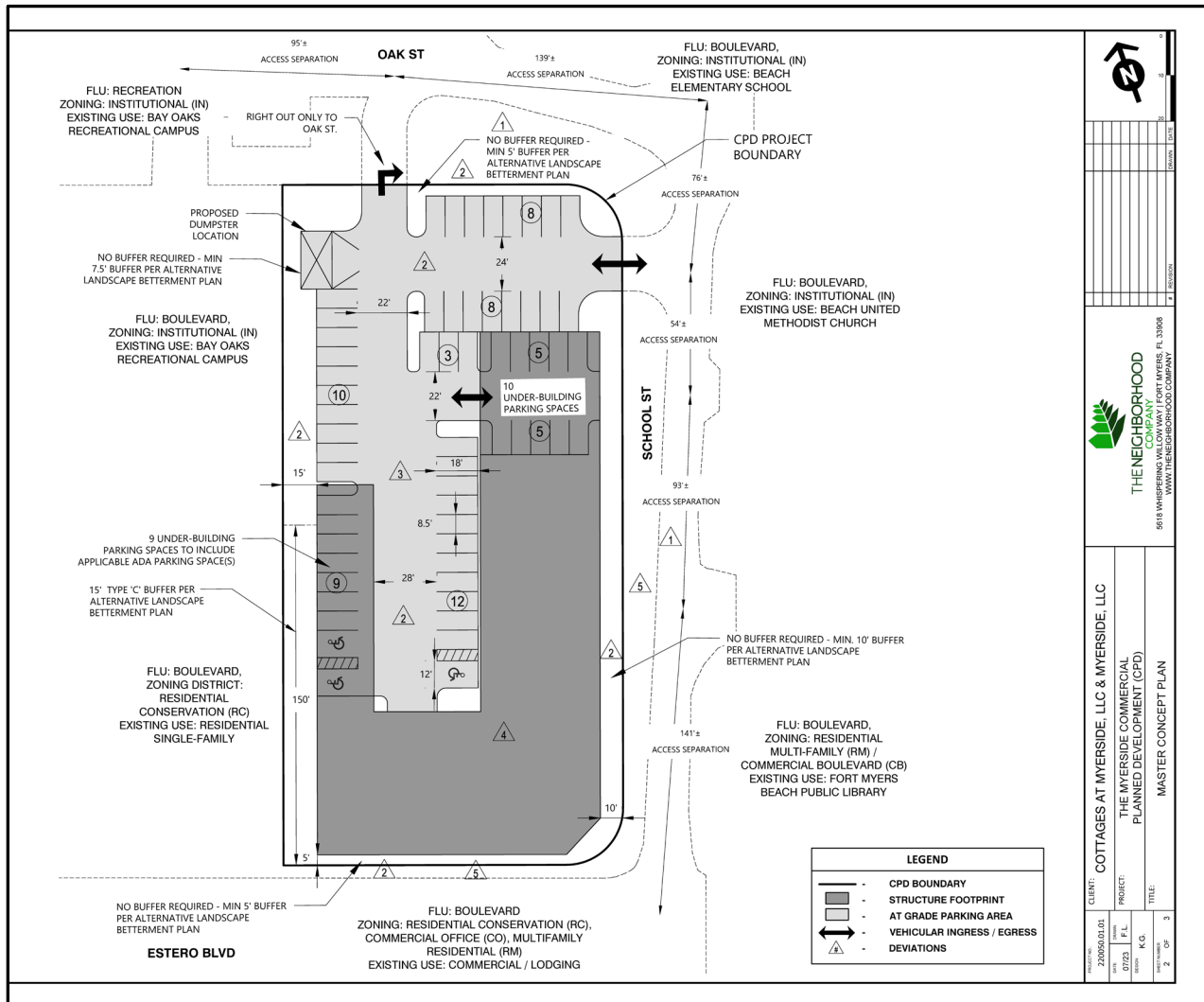
The School Street façade will provide a 10' buffer with a proposed sidewalk that the Applicant has already paid for pursuant to the previous CPD. Along School Street, the Applicant would like to work closely with the Town to develop an enhancement plan that will allow them to make improvements along their property line but also within the public right-of way in order to deliver an attractive and unified design all the way to Oak Street. The redeveloped site will provide easy access for pedestrians and cyclists, encouraging safe and leisurely alternative modes of travel. As depicted in the rendering below, the intent is to provide an attractive streetscape that will be safe and inviting.



Figure 4. Rendering of View from School Street



A mix of covered and open parking will be provided on site. Covered parking will be located on the ground floor beneath a portion of the building along School Street and below the work/live units, with additional open parking spaces within the courtyard located to the center of the development. Access to the site will be via an ingress/egress point off of School Street and a right-out only access point onto Oak Street (See Figure 5). The proposed access point will reduce curb cuts and potential conflict points along Estero Boulevard and will allow The Myerside to provide an uninterrupted pedestrian-friendly façade along that roadway.





Height

The Town's comprehensive plan allows for additional height through Policy 4-C-4 for parcels that are contiguous (or directly across a street) from taller buildings. The Myerside site is directly across from the Fort Myers Beach Library, which has an overall height of 59'± and is adjacent to a residential building to the north with an overall height of approximately 35'. Across Estero Boulevard, The Estero Beach Club Condominium and The Caper Beach Club are 5 and 12 stories respectively. The proposed project is requesting four (4) stories with a zoned height of 37' (measured from 11' Base Flood Elevation + 3' of freeboard to the mid-point of the roof) and an actual height of 50' measured from grade to rooftop. (See Figure 6)



Figure 6: Building Height

The Myerside has been carefully designed to be compatible with adjacent uses and provide for a building that fits within its context. It does this by adjusting height and massing according to existing buildings that directly abut the site. Where it abuts a three-story vacation rental to the north, the building is only two-stories with a roof deck shielded from the adjacent property. The building utilizes a “wedding cake” (stepped back) design where height gradually increases from two to four stories at the center of the building and toward School Street where the 59' library is located. The wedding cake design is also utilized to soften the building's edges. At the corner of Estero Boulevard and School Street, each story is stepped back a little further to reduce massing from the street. Additionally, the fourth floor is limited to a small portion of the building, it is stepped back furthest from the street and includes balconies which improves aesthetics.

Allowing for additional height relief through the planned development process will result in the ability to design an attractive building, commercial on the ground floor, and a stepped-back fourth story located at the center of the building and toward the library. The portion of the building, which contains only two stories, is appropriately designed and located adjacent to the existing residential structure along the northern boundary. This architectural design establishes a gradual height transition from the taller Fort Myers Beach Library to the shorter residential property to the west and is compatible with the surrounding taller buildings.



Setbacks & Buffers

The development proposes a build to line of 5'– 10' along Estero Boulevard and School Street, a rear yard (Oak Street) setback of 20' and a side yard setback from the western boundary of 15'. These build to lines and setbacks allow for a design which promotes a pedestrian oriented building and for parking to be placed at the rear and center of the property and away from the pedestrian realm. The greatest setbacks are provided along Oak Street and along the western boundary where the project is adjacent to a vacation rental and a parking lot for Bay Oaks.

The project meets or exceeds all buffering requirements. While the LDC does not require any buffers along rights-of-way, vegetated buffers will be provided along Estero Boulevard (Min. 5' wide buffer), School (Min. 10' wide buffer) and Oak Streets (Min. 5' wide buffer) to "soften the edges", improve the pedestrian realm, and enhance aesthetics. On the western side, where the project is adjacent to a vacation rental, a 15' vegetated buffer will be provided, and where it is adjacent to public parking for Bay Oaks, a vegetated buffer of 10' will be provided. The proposed buffers will create screening and separation from adjacent properties and will create an inviting, more aesthetically pleasing public realm for pedestrians along Estero Boulevard, School and Oak Streets.

Density/Intensity

The Myerside property consists of 1.03± acres and is located within the Boulevard Future Land Use Category, which allows 6 dwelling units per acre, with equivalency factors for hotel units of various sizes. The equivalency factors for guest units within the Boulevard FLU are 2.5 for units less than 450 square feet, 2.0 for units between 450 square feet and 750 square feet, and 1.5 for units between 750 square feet and 1,000 square feet. The Boulevard Future Land Use category also allows up to a Floor Area Ratio (FAR) of 1.5 per Policy 4-C-2 with further regulation through the Zoning District.

In addition to the lodging units, The Myerside redevelopment proposal is requesting four (4) work/live units, which is consistent with previous council discussions related to employee housing and implementing strategies to reduce vehicular trips on the island. These work/live units would be reserved for the businesses within The Myerside and could be beneficial in retaining commercial tenants or employees of those businesses. The work/live units represent a complementary use and a creative way of addressing housing affordability, reducing vehicular trips and securing a stable and competent workforce on the island.



Through the Minimum Use Determination provisions of the LDC, the subject property is entitled to 12 single family units in accordance with the historic plat for this neighborhood, which delineates 12 individual lots on this property. The property was previously approved through CPD Zoning Ordinance 21-02 for a 14-unit hotel/resort with restaurant, and retail uses. This analysis is based on the Minimum Use Determination and starts with the base of 12 single-family dwelling units, removes the proposed 4 work/live dwelling units and applies an equivalency ratio of 2 or 2.5 to the remaining 8 units. This results in 16 – 20 allowed lodging units ranging depending on the equivalency ratio applied.

As discussed in the Comprehensive Plan Compliance section below, additional intensity is requested pursuant to LDC Sec. 34-1803, which allows for additional guest units under “exceptional circumstances” and when providing public benefit. The exceptional circumstances include the devastation sustained due to Hurricane Ian, the construction requirements mandated through the Florida Building Code and FEMA, the increased cost of construction, high interest rates and the shortages of materials and labor. These evident exceptional circumstances support the additional intensity requested.

As part of this petition, The Myerside is asking for a total of 45 lodging units, which represents a 25 unit increase from what could be achieved by right. This is a 125% increase from what current zoning allows but is much less than the Margaritaville approval, which allowed a 300% increase from the underlying zoning district’s “by right” density.

The benefits provided by The Myerside include:

- Elimination of numerous non-conformities
- Rebuilding resilient and hardened site improvements and structure
- Increasing existing buffers and setbacks where abutting residential and civic uses
- Enhancing the public realm and creating a pedestrian-friendly environment
- Encouraging bicycle and pedestrian activity
- Providing neighborhood commercial goods and services that will benefit visitors and local residents alike
- Commitment to try to establish a centralized health and wellness center that would support local practitioners and business owners and would provide a convenient one-stop location for local residents
- Providing complimentary uses to the Civic Center as envisioned for this part of the island
- Providing outstanding coastal architecture



- Contributing to the redevelopment of the island and strengthening the Town's tax base
- Providing historically proven onsite management of family-oriented hotel with onsite amenities
- Enhancing the public realm of Estero Boulevard, in support of the Comprehensive Plan's goals, objectives, and policies
- Providing onsite work/live units for employees of the hotel or associated commercial development

In addition to density and lodging equivalents, the intensity of development is also measured by a project's Floor Area Ratio (FAR). For this property, the Comprehensive Plan allows a maximum FAR of 1.5 or 67,300 square feet, but further limits the FAR to a maximum of 1.2 within the CR zoning. The proposed FAR of 1.2 or a maximum of 53,840 square feet is inclusive of the commercial area, lodging units and work/live units, and ground level under-building parking.

Transportation and Parking

A traffic impact statement (TIS) has been performed by Planning Analytics, LLC and is included in this application. The proposed redevelopment of the site includes removal of the existing access points along Estero Boulevard, School Street, and Oak Street. The proposed access points as depicted on the MCP (See Figure 5) include a single ingress/egress from School Street and a right-out only access point along Oak Street. The proposed ingress/egress configuration will reduce curb cuts and potential conflict points along Estero Boulevard and will be a logical and safer circulation pattern on and off the property. Based upon the information contained in the TIS, this development is not projected to create adverse transportation impacts on the island's roadway system. Current trip levels are much lower than historical levels and it is estimated that it could take many years for the island to experience peak-season trip levels that existed prior to Hurricane Ian. It is acknowledged that the Applicant will need to work with the Town of Fort Myers Beach staff to evaluate traffic conditions and potential future right of way needs during the development order review process.

Parking standards for hotels within the Town of Fort Myers Beach are based on LDC Section 34-1804 which states, "the minimum requirement for off-street parking is 1.2 parking spaces for guest units up to 450 square feet and 1.5 spaces for each larger guest unit." Parking requirements for commercial uses are outlined in LDC Sec. 34-2020(d)(4)(b)1 as well as through application of Deviation #3. Based upon preliminary hotel unit size assumptions and square footage of the other proposed uses within the mixed use development, the total number of spaces required for this redevelopment according to LDC standards is 90 parking spaces (See Parking Calculations table below).



Myerside CPD - Mixed Use Project Parking Calculations			
Hotel			
Unit Size	# of Units	Spaces per unit	Parking Spaces
Less than 450 SF	25	1.2	30.0
Greater than 450 SF	20	1.5	30.0
		SubTotal	60.0
Multiple-Occupancy Complex			
Commercial Uses	Square Footage	Spaces per SF	
Retail/Restaurant/Office/Services	9,000	2 per 1,000* or 1 per 500	18
Restaurant Bar Area	300	8 per 1,000 or 1 per 125	2.4
Restaurant Outdoor Seating Area	690	8 per 1,000 or 1 per 125	5.5
		SubTotal	25.9
Residential			
Work/Live Units	# of Units	Spaces per Unit	
Studio or efficiency	4	1	4.0
		SubTotal	4.0
	TOTAL REQUIRED number of parking spaces		89.9 (90)
	TOTAL REQUIRED with 4 vehicle parking space reduction by providing 16 bicycle spaces		86
	TOTAL PROVIDED		60*

*Per LDC Sec. 34-2020(d)(4)(b)(1) and Deviation #3. Restaurant gross floor area limited to 2,250 SF or 25% of 9,000 SF of a multiple occupancy complex's gross floor area.

This CPD proposes 60 on-site parking spaces (See Figure 5 - MCP). Although this number does not meet the strict requirements of the LDC, the Applicant is requesting a deviation (Deviation #3) to reduce the number of required parking spaces by approximately 30%. To put this in context, this reduction is significantly less than standard reductions for the Downtown redevelopment districts and the 67% parking reduction approved for Margaritaville. The reduction is also attributable to recognizing the redevelopment is a mixed use project applying the intent of LDC Sec. 34-2020(d)(4)(b)(1) by having a minimum of three (3) uses (See Deviation #3) within a multiple-occupancy complex (mixed use) sharing a common parking area. Additionally, the Applicant proposes to offset the onsite vehicle parking requirements through assessing mitigation measures such as providing bicycle parking racks (4 bicycle parking spaces equal one vehicle parking space as shown in the table above), valet parking and/or off-site parking through shared parking agreements with adjacent property owners such as Bay Oaks or the Beach United Methodist Church. The site is also located within 100' of a trolley stop, thus encouraging the use of alternative modes



of travel. The Applicant also commits to work with the Town and other local hotel proprietors and agrees to contribute their fair share to comprehensive transportation/parking solutions as may be developed in the future.

Compatibility

As presented above and further discussed in the Rezoning Approval Criteria below, the Applicant and design team assembled an exciting redevelopment concept and thoughtful design which is compatible with surrounding uses, complementary to the Civic Center vision, and provides benefits to residents and visitors alike. Great thought was given to the proposed uses, overall design and architecture of the project. There was careful consideration given to the location and the intent to develop a one-stop health and wellness center near recreational and civic uses already frequented by many local residents. Access to the site was carefully evaluated to reduce conflicts along Estero Boulevard and create a circular ingress and egress pattern. The height and scale of the building were defined based on adjacent uses and with the desire to reduce massing and create a human scale. The architectural design is fresh and contemporary but unmistakably coastal and consistent with the “cottagy, beachy and eclectic” character described in the comprehensive plan and voiced by island residents. The Myerside was carefully designed to engage the public and create a pedestrian-friendly environment through the covered arcade, outdoor seating, new sidewalk along School Street and vegetated buffers. Through various design components, the whole becomes greater than the sum of its parts. The Myerside will provide an attractive, mixed-use project that will be an asset to the Town and will serve the needs of local residents and visitors alike.



REZONING APPROVAL CRITERIA

The proposed rezoning request from CPD to CPD must be found consistent with the established rezoning criteria provided in LDC Section 34-85 and Section 34-216 as well as post-disaster build back criteria in accordance with Policy 4-D-1 of the Fort Myers Beach Comprehensive Plan and LDE Section 34-3238. The following narrative demonstrates compliance with the Town of Fort Myers Beach Comprehensive Plan and Land Development Code.

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**THE FOLLOWING ADDRESSES APPLICABLE SECTIONS PROVIDED FOR IN THE
PLANNED DEVELOPMENT APPLICATION – SUPPLEMENT PH-D FORM:**

A. COMPREHENSIVE PLAN AMENDMENTS

The following Comprehensive Plan Amendments are pending and could affect the future use of this property:

Mixed Use Districts Designation – Civic Center and Coconut Village RV Park



The applicant is aware that the town is currently in the beginning stages of amending their Future Land Use Map (FLUM) categories. As of the date of this submittal, the town is considering a Future Land Use Change for the subject property that would remove the property from the Boulevard FLUM designation and place the property within the “Civic Center and Coconut Village RV Park” FLUM designation. The applicant intends to comply with and be consistent with any land use change that may be approved during the process of this application. However, at this time, the applicant does not have the leisure to wait for such proposed changes to be finalized by the town. In the meantime, the applicant intends to be consistent with the existing Boulevard FLUM designation, while also taking into consideration the current drafted language for the proposed Civic Center and Coconut Village RV Park land use designation and working with staff to ensure compatibility of the proposed project.



B. PHASING OF CONSTRUCTION

The development is to be constructed in a single phase.

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C. COMPREHENSIVE PLAN COMPLIANCE

COMMUNITY DESIGN ELEMENT:

OBJECTIVE 1-A ESTERO BOULEVARD — Improve the functioning and appearance of Estero Boulevard as the premier public space and primary circulation route of Fort Myers Beach.

POLICY 1-A-1 Changes along Estero Boulevard should improve on the characteristics that make it a boulevard in character and not just in name: safe and interesting to walk along, impressive landscaping, and scaled to people rather than high-speed traffic.

The proposed mixed-use project has been designed to provide enhancements that are attractive and add functionality along Estero Boulevard. The first floor of the building will contain commercial uses with the on-site vehicle parking located behind the primary building to help promote a pedestrian friendly and engage the public realm. The building proposes to have an inviting covered arcade style walkway along Estero Boulevard and School Street with lush landscaping and hardscaping to complement and enhance the streetscape and the pedestrian realm. The exceptional architectural design as depicted in the images below is of an appropriate pedestrian scale and with the enhanced landscaping results in a boulevard with added character, is safe and interesting to walk, bike, as well as drive all supporting the vision embodied through the Town of Fort Myers Comprehensive Plan's Community Design Element.





The proposed building is designed to promote a pedestrian scale by utilizing the build-to development feature encouraged in the town. Additionally, the building is designed to provide a “wedding cake” approach or step-back element as the building increased in height. This element eliminates a sense of a building that may be overwhelming to the pedestrian and softens the building edges. The use of enhanced landscaping and green areas between the building and right-of-way will also be provided creating an improved view along this heavily travelled corridor. Additionally, the proposed project is designed with a coastal old Florida/cracker style architecture theme to add to the aesthetics of this main frontage and further providing a desirable and attractive experience to those coming to or just passing by The Myerside.

The project will be constructed with an overall height of 50’ (ground to roof top) which provide a transition from the library building to the east which measures an overall height of approximately 59’ and the residential building to the west which has an overall height of approximately 35’. The proposed height is compatible with the surrounding buildings and supports the desire for Estero Boulevard. to be a pedestrian-friendly boulevard in character.

Based on the elements described, The Myerside redevelopment will contribute to enhancing Estero Boulevard to be one of the premiere public spaces in the town, thus demonstrating consistency with the Community Design Element, Objective 1-A, Policy 1-A-1.



FUTURE LAND USE ELEMENT

GOAL 4: To keep Fort Myers Beach a healthy and vibrant “small town,” while capitalizing on the vitality and amenities available in a beach–resort environment and minimizing the damage that a hurricane could inflict.

OBJECTIVE 4-A SMALL-TOWN CHARACTER — Maintain the small-town character of Fort Myers Beach and the pedestrian-oriented “public realm” that allows people to move around without their cars even in the midst of peak-season congestion.

The devastation caused by Hurricane Ian has emphasized the need for more resilient structures on Fort Myers Beach. The Myerside, though portions of the existing structures were left standing, sustained significant damage and destruction and intends to redevelop to a more sustainable mixed-use development. As expressed in Object 4-A, the desire is for the small-town character of Fort Myers Beach to be maintained while continuing the pedestrian-oriented “public realm” that encourages people to move around without their cars even in the midst of peak-season congestion. In planning the redevelopment of the property, the owners have considered what is needed in this area of the island for both visitors and residents to achieve this goal.

With the construction of a new building that meets Florida Building Code and FEMA standards, the site will be more resilient and able to withstand impacts from future hurricanes. Through the reconfiguration of the various access points and on-site parking locations, improved pedestrian elements, enhanced landscape and hardscape along Estero Boulevard and School Street, and developing a true mixed use development, The Myerside will contribute to Fort Myers Beach’s goal of being a healthy and vibrant “small town,” while capitalizing on the vitality and amenities available in this beach resort environment.

POLICY 4-A-1: Maintaining the town’s current “human scale” is a fundamental redevelopment principle. Fort Myers Beach is best enjoyed from outside a car; new buildings should be designed to encourage use or admiration by people on foot or bicycle, rather than separating them with gates, walls, deep setbacks, or unnecessary building heights.

The overall site, building placement, height and massing were carefully designed to create a mixed use development that’s approachable and at a human scale. While today’s construction requirements mandate stronger and taller structures especially in coastal flood zones, additional landscape and hardscape proposed along Estero Boulevard and School Street soften the development’s massing and contribute to creating a human scale in the town and along Estero Boulevard. The subject property is an ideal location



for guests to use as their home base as they explore all the island has to offer through walking, bicycling, and the accessible trolley service.

POLICY 4-A-9: Many amenities available to local residents are the result of the local tourist economy and would diminish if hotels and motels were displaced. Landowners may redevelop hotels and motels for other uses, but special incentives of this plan such as post-disaster and pre-disaster build back (Objectives 4-D and 4-E) only apply if the current use is maintained.

The proposed redevelopment shall support the Fort Myers Beach goals of keeping a healthy and vibrant “small town” atmosphere. This development is designed to not only benefit hotel guests, but to also provide uses that can be enjoyed by, and to benefit, the general public/local residents. The proposed redevelopment focuses on providing commercial opportunities to support the health and wellness sector of the local economy. It will also be a benefit through the reestablishment of transient lodging displaced from the impacts of Hurricane Ian help support the local tourist economy. Enhancing pedestrian mobility and connectivity along Estero Boulevard, beautification of the public realm through enhanced landscaping and hardscaping, and fair share contributions to mobility solutions such as a potential future water ferry and airport shuttle service, public parking for bicycles, bicycles for guests, along with the rebuilding of structures to be compliant with today’s Florida Building Code further contributes to the amenities the local residents and visitors expect. Through these proposed amenities, contributions, and architectural style, the development complies with Policy 4-A-1 and 4-A-9.

POLICY 4-B-5: BOULEVARD A mixed-use district along portions of Estero Boulevard, including less intense commercial areas, historic cottages, and mixed housing types. This category is not intended to allow commercial uses on all properties; its mixed-use nature is intended to remain permanent. To obtain approval for a new or expanded commercial activities, proposals must be sensitive to nearby residential uses, complement any adjoining commercial uses, contributed to the public realm as described in this comprehensive plan, and meet the design concepts of this plan and the Land Development Code. These qualities and overall consistency with this comprehensive plan shall be evaluated by the town through the planned development rezoning process.

The Myerside redevelopment proposes a mixed-use development containing hotel lodging units, work/live units and commercial retail/services to complement the surrounding community and uses. The design to incorporate appropriate height, build-to elements, on-site parking to the rear of the property, enhanced landscaping are in place to complement adjacent property as well as being compatible to the residential property to the west, the civic uses to the north and east and transient lodging/commercial uses to the



south. The Myerside will ultimately comply with all applicable design standards as required under the Land Development Code at the time of Development Order approval.

OBJECTIVE 4-C APPLYING THE FUTURE LAND USE MAP – The Future Land Use Map shall be interpreted in accordance with the following policies.

Policy 4-C-2: The maximum intensity of allowable commercial development in any category may be controlled by height regulations or other provisions of this plan and the LDC. Standards in the Land Development Code will encourage more intense commercial uses only in the “Pedestrian Commercial” category. The Land Development Code shall specify maximum commercial intensities using floor-area-ratios (the total floor area of the building divided by the area of the site in the category allowing commercial uses). The Land Development Code may allow floor-area-ratios in the “Pedestrian Commercial” category as high as 2.5, and in other categories as high as 1.5.

Under the provisions of Policy 4-C-2, “other” categories can achieve a Floor Area Ratio (FAR) of 1.5. The current maximum FAR allowed under the Commercial Resort (CR) zoning district is 1.2. A maximum FAR of 1.2 is proposed utilizing the Commercial Planned Development process to rezone the subject property from CR to CPD, which is consistent with Policy 4-C-2.

The proposed redevelopment is located within the Boulevard Future Land Use category. As stated above, the LDC shall specify maximum commercial intensities using floor area ratios (FAR). The redevelopment proposes to be 9,000 square feet of commercial uses with 45 units of hotel/motel and 4 work/live housing units for a total of approximately 53,463 SF. See the following FAR analysis breakdown:

FAR Analysis:

An FAR of 1.2 allows for a maximum of **53,840.2 SF** on 1.03 acres (44,866.8 SF).

Ground floor:

- Interior space area only = **12,533 SF**
- Under building parking area = **5,752 SF**

2nd Floor: Interior space area = **17,636 SF**

3rd Floor: Interior space area only (no pool deck) = **11,183 SF**

4th Floor: Interior space area only (excluding penthouse balconies) = **6,359 SF**

TOTAL: 53,463 SF, which is below the max. of 53,840.2 SF

The proposed FAR is 1.2 which equates to a maximum of 53,840.2 SF, is slightly above the estimated square footage of the proposed redevelopment. Thus, the proposed FAR is consistent with the Boulevard Future Land Use category and Policy 4-C-2.



POLICY 4-C-3. iv. In the “Boulevard” category, where mixed-use development including some commercial uses may be permissible, landowners may seek commercial rezoning only through the planned development process. Proposals must be sensitive to nearby residential uses, complement any adjoining commercial uses, contribute to the public realm as described in this comprehensive plan, and meet the design concepts of this plan and the Land Development Code.

The proposed redevelopment has been designed in a manner that is compatible with the nearby residential property and will provide an alternative 15' Type “C” buffer adjacent property to the west. The proposed commercial uses will be complementary in nature as the project is intended to be focused on health and wellness and other community commercial uses supporting island residents and visitors. The project proposes additional landscaping and a reduction in entrances onto the property from Estero Boulevard and School Street. The features described above and uses proposed demonstrate consistency with Policy 4-C-3.iv.

POLICY 4-C-3. v. The following principles shall be considered by the town when evaluating requests for new commercial uses:

- a. Shopping and services for residents and overnight guests are strongly preferred over shopping and services that will attract additional day visitors during peak-season congestion.**
- b. Shopping and services that contribute to the pedestrian character of the town are strongly preferred over buildings designed primarily for vehicular access.**

The proposed Myerside redevelopment is requesting 9,000 square feet of commercial uses, which will be targeted toward health and wellness uses and/or other commercial uses to complement the surrounding civic and community uses while providing services to residents and island guests, thus supporting Policy 4-C-3.v.

POLICY 4-C-4 BUILDING HEIGHTS: The Land Development Code shall limit the height of new buildings under most conditions to two stories above flood elevation (exceptions may include the buildback situations (see Policies 4-D-1 and 4-E-1), and different heights may be applied to officially designated redevelopment areas such as Times Square, Red Coconut/Gulf View Colony, and Villa Santini Plaza). In those few cases where individual parcels of land are so surrounded by tall buildings on lots that are contiguous (or directly across a street) that this two-story height limit would be unreasonable, landowners may seek relief through the planned development rezoning process, which requires a public hearing and notification of adjacent property owners. The town will approve, modify, or deny such requests after evaluating the level of unfairness that would result



from the specific circumstances and the degree the specific proposal conforms with all aspects of this comprehensive plan, including its land-use and design policies, pedestrian orientation, and natural resource criteria. Particular attention would be paid to any permanent view corridors to Gulf or Bay waters that could be provided in exchange for allowing a building to be taller than two stories. In each case, the town shall balance the public benefits of the height limit against other public benefits that would result from the specific proposal.

The Myerside site is directly across the street from the Fort Myers Beach Library which has an overall height of 59'± and has an adjacent residential building to the north with an overall height of approximately 35'. Across Estero Boulevard, The Estero Beach Club Condominium and The Caper Beach Club are 5 and 12 stories respectively. The proposed project is requesting four (4) stories with a zoned height of 37' (measured from 11' Base Flood Elevation + 3' of freeboard to the mid-point of the roof) and an actual height of 50' measured from grade to rooftop. (See Figure 6 on page 9)

The Myerside has been carefully designed to be compatible with adjacent uses and provides for a building that fits within its context. It does this by adjusting height and massing according to existing buildings that directly abut the site. Where it abuts a three-story vacation rental to the north, the building is only two-stories with a roof deck shielded from the adjacent property. The building utilizes a “wedding cake” (stepped back) design where height gradually increases from two stories to four stories at the center of the building and toward School Street where the 59' library is located. The wedding cake design is also utilized to soften the building's edges. At the corner of Estero and School, each story is stepped back a little further to reduce massing from the street. Additionally, the fourth floor is limited to a small portion of the building, it is stepped back furthest from the street and includes balconies which improves aesthetics.

Allowing for additional height relief through the planned development process will result in the ability to design an attractive, pedestrian friendly ground floor with the stepped-back fourth-story portion of the building adjacent to Estero Boulevard and School Street. The portion of the building, which contains only two stories, is appropriately designed and oriented to the adjacent taller residential structure along the northern property boundary and remaining section along Estero Boulevard. This architectural design establishes a gradual transition from the height of the Fort Myers Beach Library to the residential property to the west and is compatible with the surrounding tall buildings.

OBJECTIVE 4-D POST-DISASTER REDEVELOPMENT — Provide for the organized and healthy reconstruction of Fort Myers Beach after a major storm by showcasing successful local examples of floodproofing, by requiring redevelopment activities to meet stricter standards. for flood- and wind-resistance, and by improving the current post-disaster build back policy.



The new buildings associated with the proposed project will be more resilient, complying with the latest and more stringent state requirements – labeled as Florida Building Code compliant structures, and also eliminating the current non-conforming buildings and setbacks. Additionally, flood proofing will be provided, improving the resiliency of the island's structures supporting the Objective 4-D.

COASTAL MANAGEMENT ELEMENT

GOAL 5: To keep the public aware of the potential effects of hurricanes and tropical storms and to plan a more sustainable redevelopment pattern that protects coastal resources, minimizes threats to life and property, and limits public expenditures in areas subject to destruction by storms.

POLICY 5-A-1 The town shall maintain and enforce building codes at least as stringent as required by Florida law to limit the potential damage of structures from hurricanes and tropical storms. These codes shall include wind-resistance commensurate with the risk of a coastal environment and building elevation requirements that conform with federal laws and Flood Insurance Rate Maps.

The Coastal Management Element addresses special coastal management concerns which are specific to the Town of Fort Myers Beach and its need to protect resources, human life and property which are vulnerable to events such as hurricanes and flooding. The proposed development will be constructed in compliance with up-to-date Florida Building Codes and FEMA standards thus complying with GOAL 5 and Policy 5-A-1.

TRANSPORTATION ELEMENT

GOAL 7: To improve peak-season mobility without reducing the permeability of Estero Boulevard to foot traffic or damaging the small-town character of Fort Myers Beach. The town seeks to reduce speeding, improve evacuation capabilities, and improve mobility through balanced transportation improvements such as a continuous system of sidewalks and bikeways, a network of trolleys and water taxis linked to off-island systems, and parking options matched to road capacity.

POLICY 7-A-2 PARKING: Even though existing parking lots are not used to capacity; parking is not abundant at Fort Myers Beach. The welcome rebirth of commercial activity near Times Square will increase the demand for parking. The Town of Fort Myers Beach will address parking shortages through the methods outlined in this plan.

The minimum required parking for the proposed development will be provided onsite. Supplemental parking and parking adjustments will be provided through alternative parking opportunities and methods such as



the use of bicycle parking racks (4 bicycle parking spaces equal one vehicle parking space), valet parking, and off-site parking through potential shared parking agreements with adjacent property owners. Estimated parking space calculations are based on the uses proposed as outlined in the Land Development Code. The site, as designed, provides 60 parking spaces in conjunction with a requested deviation.

POLICY 7-D-3 ALTERNATE TRAVEL MODES: The town shall support alternatives to car travel to free up road capacity for trips that do require a car. Public funding sources shall include county/state gasoline taxes and road impact fees. The town shall modify its road impact fee ordinance by 1999 to allow these fees to be spent (within legal limits) on capital improvements that relieve road congestion, such as better sidewalks, trolley improvements, and off-island parking areas.

The Town of Fort Myers Beach has completed extensive improvements to Estero Boulevard and through the Comprehensive Plan encourages a variety of travel modes to address traffic congestion caused by the influx of visitors drawn to the town every year. The developer has incorporated additional bike racks for public use and will be providing bicycles as an amenity for its guests as a way to encourage a less car centric experience for those on the island. The proposed development will also provide enhanced landscaping and sidewalks both adjacent to and within the development to encourage pedestrian mobility both on and off property.

The developers are willing to participate in and make appropriate contributions to programs which the town may set up to alleviate mobility challenges on the island during peak traffic times. Alternatives which have been discussed to date such as, but not limited to, shuttle service from local airports with central drop-off points for guests, a water taxi, a hidden-path system through Fort Myers Beach for bicycles and pedestrians and a trolley system for visitors with both on and off island locations are all options which may benefit the Town, its visitors and residents.

OBJECTIVE 7-I LEVEL-OF-SERVICE STANDARD: Maintain minimum acceptable levels of service for the transportation system.

POLICY 7-J-2 TRAFFIC IMPACT ANALYSES: A thorough traffic impact analysis is currently required only for major rezonings and very large development orders. The town shall amend its Land Development Code during 2010 to:

- i. decrease the thresholds for requiring traffic impact analyses;
- ii. require them to study the cumulative impacts of potential development; and



- iii. **use the results in assessing whether impacts are acceptable, and whether an improved design could offset some of the impacts.**

A Traffic Impact Statement (TIS) has been performed by Planning Analytics, LLC and concludes that the redevelopment of this 45-unit hotel, 4 work/live units and 9,000 square feet of commercial uses will not place an undue burden on the island roadway network. The trip generation rates for the proposed uses were estimated based upon the Institute of Transportation Engineers (ITE), Trip Generation – 11th Edition.

UTILITIES ELEMENT:

GOAL 8: To improve the existing systems that provide safe drinking water, irrigation water, sewer service, and solid waste disposal in order to reduce environmental impacts on land and water while keeping costs as economical as possible.

POLICY 8-A-1 Mandatory customer connections to water and sewer utilities shall continue to be the policy of the Town of Fort Myers Beach.

Complying with GOAL 8 and Policy 8-A-1, the proposed development will connect to central water and sewer utilities.



D. DESIGN STANDARDS COMPLIANCE

(1) Encouraging traditional building forms that reinforce the pedestrian orientation and desired visual quality of the Town of Fort Myers Beach

As described above, The Myerside offers a neo-traditional mixed-use form with commercial uses at ground level and lodging uses above. The building is set close to the roadway to activate the public realm and encourage pedestrian activity. Fenestration is prevalent at ground level to create an attractive and inviting environment. The pedestrian environment is further enhanced by improved sidewalk, a covered arcade, outdoor seating, shade trees and attractive landscaping. The proposed architecture is quintessentially coastal and incorporates Old Florida design elements for an attractive and beachy feel.

(2) Encouraging buildings of compatible type and scale to have creative ornamentation using varied architectural styles.

The proposed project can be characterized as contemporary coastal and includes Old Florida/cracker style architectural elements. As described in the Height section above, close attention was given to developing a design in which height and scale are compatible with surrounding uses the importance and utilizing a wedding cake approach to maintain a human scale.

(3) Enhancing the town's business districts as attractive destinations for recreation, entertainment and shopping.

The proposed project will provide for a mixture of uses that enhance the island's aesthetics, commerce, entertainment and recreation attributes. As described above the commercial component is intended to provide essential services to visitors and residents alike. The close proximity to Bay Oaks will encourage recreation activities and promote walkability. The intent planned restaurant will provide entertainment and dining opportunities.

(4) Maintaining and enhancing the town's sense of place and its property values.

A sense of place is cultivated by design choices, complementary uses, architecture, incorporating island character and history, and having locally owned and operated businesses. The Myerside intends to incorporate all those elements and wants to be a place where people feel welcomed and where visitors want to return every year.



(5) Implementing the design concepts in the Fort Myers Beach Comprehensive Plan.

As described throughout this narrative, The Myerside strives to incorporate design concepts articulated in the Comprehensive Plan. The intent is to comply with the vision articulated for the Civic Center and the Heart of the Island, to improve the public realm, to provide attractive architecture and to encourage bicycle and pedestrian activity.



E. DECISION MAKING COMPLIANCE

The following considerations from LDC Sec. 34-85 shall be considered by town council whenever applicable:

(1) Whether there exists an error or ambiguity which must be corrected.

There are no known errors or ambiguity that must be corrected in relation to the requested rezoning from CPD to CPD. If any exist, they will be discussed and resolved during staff review and public hearings before the Local Planning Agency (LPA) and Town Council. Utilizing the proposed CPD rezone request, reductions or elimination of any existing non-conformities will be corrected as applicable.

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

The existing sight was significantly damaged due to Hurricane Ian which rendered the previous redevelopment approval impossible to complete. Due to the damage to buildings which were to be redeveloped through the previously approved CPD, the property owners have had to reevaluate their former plan and create a project that will be more resilient and provide more appropriate uses for the island and its residents.

(3) The impact of a proposed change on the intent of this chapter.

The proposed change will not have any impact on the intent of this chapter (LDC). The CPD rezone will allow the redevelopment of the devastated Myerside Cottages and Resort to continue to be an economic tourist and resident benefit.

(4) The testimony of any applicant.

The professional experts retained by the applicant to support this petition will provide testimony at both the Local Planning Agency (LPA) hearing and the Town Council hearing.

(5) The recommendation of staff and of the local planning agency.

The Town staff will review the petition and provide a written report to be presented to the local planning agency at their appropriate public hearing. The petition along with the staff's report and the LPA recommendation will then be presented to the Town Council at the designated public hearing.

(6) The testimony of the public.

The public will be provided with the opportunity to present testimony to the LPA and Town Council.



(7) Whether the request is consistent with the goals, objectives, policies, and intent and with the densities, intensities, and general uses as set forth in the Fort Myers Beach Comprehensive Plan.

As evidenced through this narrative, the request is consistent with the goals, objectives, policies, and intent, and with the densities, intensities, and general uses as set for the in the Fort Myers Beach Comprehensive Plan.

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

The proposed use is an ideal location for the requested use. Its proximity to the beach, civic and community uses, orientation along Estero Boulevard will serve the visitors and residents of the island who wish to stay and seek commercial services in this area. Its vision for a health park/community office component will also better serve not only the residents but also visitors alike.

(9) Whether urban services are, or will be, available and adequate to serve the

The urban services were in place and utilized by the existing Myerside development and will remain in place to adequately serve the subject site. It is critical to note that adequate services were in place for well over 2,000 hotel/motel units prior to both Hurricanes Charley and Ian, but now approximately only 400 hotel/motel units are online. This is a decline of almost 81%. 2020 Census data also shows that the overall permanent population in Fort Myers Beach has declined roughly 11% since the 1990 Census. The Town's population estimates associated with transient lodging also show a decline over the last 30 years and the percentage of the in-season population attributed transient lodging has declined from 24% to 18%.

- 1990 Peak Season Population Estimate – Lodging: 3,620 or 24% of the overall population.
- 2020 Peak Season Population Estimate – Lodging: 3,133 or 18% of the total population.

Based on the data outlined above, existing urban services are and will be available to support not only the proposed Myerside redevelopment but many other proposed projects that will assist in the rebuilding of Fort Myers Beach.

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

The proposed redevelopment is located on a previously developed site which does not contain any environmentally critical areas or natural resources.



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

The request is compatible with existing or known planned commercial, residential and civic uses adjacent to the subject redevelopment and will not cause damage, hazard, nuisance or other detriment to persons or property of Fort Myers Beach. The property was previously approved through CPD Zoning Ordinance 21-02 for a 14-unit hotel/resort with restaurant, and retail uses, and the proposed redevelopment will maintain compatibility.

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

The proposed request does not create any burden upon existing transportation or other services and facilities. The roads will have adequate capacity to serve the project as indicated within the TIS provided as part of this application. Adequate transportation services, utilities and recreational facilities were in place for well over 2,000 hotel/motel units prior to both Hurricanes Charley and Ian. With now just over 400 hotel/motel units available for occupancy, there will continue to be available transportation capacity and level of service to not only support the proposed Myerside redevelopment, but many more future transient lodging units and other non-residential developments needed in the Town. Additionally, the Town is actively working to promote alternative modes of transportation and provide mobility solutions to mitigate peak seasonal traffic.

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

This request to rezone the subject property from Commercial Planned Development (CPD) to Commercial Planned Development (CPD) will be presented at public hearings before the LPA and the Town Council consistent with LDC Sec. 34-216(a)(1). As demonstrated throughout this narrative the proposed CPD meets the following findings criteria under LDC Sec. 34-216(2):

- a. The proposed uses are appropriate to the location as they are compatible with surrounding uses and lodging was in existence for years prior to Hurricane Ian.
- b. Sufficient safeguards are in place or will be provided through applicable special conditions within the rezoning approval document, to protect the public interest.
- c. Special conditions will be provided through the rezoning approval document as determined to be necessary.
- d. The proposed uses meet all specific requirements of the comprehensive plan that are relevant to the requested planned development, such as the following:

1. Policies 4-B-5 and 4-C-3 on commercial rezonings in the "boulevard" category. See Section "C" within the above narrative.



2. Policy 4-C-4 on building heights taller than the standard height limit. See Section “C” within the above narrative.
3. Policy 4-C-8 on density transfers. Not Applicable.
4. Policy 4-E-1 on pre-disaster build back. See Section “C” within the above narrative.
5. Policy 7-J-2 on traffic impact analyses and potential design improvements that could offset traffic impacts. See Section “C” within the above narrative.

CONCLUSION

As detailed in the above narrative, supporting application documents, and the proposed MCP, the application demonstrates consistency and compliance with both the Fort Myers Beach Comprehensive Plan and Land Development Code. Utilizing the CPD process, and compliance with today’s Florida Building Codes and FEMA standards, The Myerside will provide an economic catalyst through an attractive, mixed-use project that will be an asset to the Town and will serve the needs of local citizens and island visitors alike.



THE NEIGHBORHOOD COMPANY

THE MYERSIDE COMMERCIAL PLANNED DEVELOPMENT (CPD) REZONING

SCHEDULE OF USES

Lodging

Principal:

Hotel/Motel (Inclusive of Hotel Condominiums)
Guest Units

Accessory:

Hotel/Motel Accessory Uses
Personal Services
Recreational Facilities

Residential

Work/Live Units

Commercial

Offices, General or Medical
Personal Services
Restaurant with Bar Area
Retail Store, Small & Large
Subordinate Commercial Uses



THE MYERSIDE
COMMERCIAL PLANNED DEVELOPMENT (CPD) REZONING
SCHEDULE OF DEVIATIONS AND JUSTIFICATIONS

- 1. A deviation from LDC Sec. 10-285, Table 10-1 – Connection Separation, which requires minimum separation between street and accessways, in order to allow driveway separations as depicted on the Master Concept Plan (MCP).**

Justification: LDC Section 10-285, Table 10-1 states that when a street or accessway is constructed or improved, it must be spaced a minimum distance from all other streets or accessways. Estero Boulevard is classified as a major street, requiring streets and accessways to be spaced 250 feet from centerline to centerline. School Street and Oak Street are classified as local streets, requiring streets and accessways to be spaced 125 feet from centerline to centerline.

The proposed site configuration has removed several nonconforming access points from the site along Estero Boulevard and School Street. This application proposes to use existing access point locations, one on School Street and one on Oak Street. School Street will provide full ingress/egress into the site and Oak Street will be a right-out only egress point.

The separation between the egress point on Oak Street and the nearest accessway to the west measures approximately 95 feet. This distance is approximately 30 feet short of the required separation of 125 feet needed per the LDC. The point of ingress/egress for the redevelopment is proposed on School Street. This access point has a separation distance from Oak Street of approximately 60 feet, an approximate separation of 55 feet from the Beach United Methodist Church access into their overflow parking area, and 148 feet from the Fort Myers Beach Public Library access onto School Street. The School Street ingress/egress point is approximately 65 feet short of the required 125 feet from the Oak Street intersection.

The proposed improvements address operational and safety issues on the property and Estero Boulevard, enhance functionality through the decreased width of the accessway and the relocation of on-site parking to a more desirable and appropriate onsite location behind the primary structure. This proposed layout now provides for the dumpster location to be internal to the site with access for service trucks on internal drive aisles, reduces curb cuts and potential conflict points along Estero Boulevard, School Street and Oak Street. Providing for these improvements and site layout achieves general



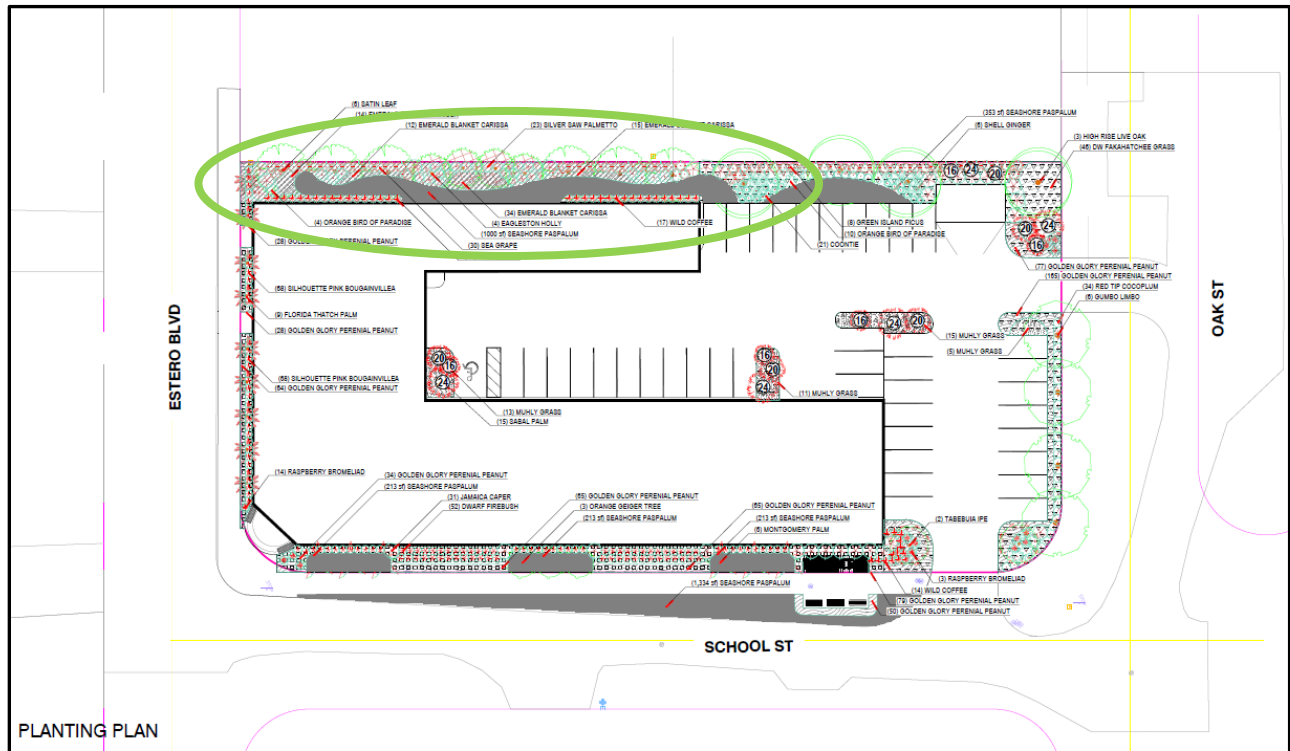
consistency with the intent of LDC Section 10-285 to provide as much connection separation as possible while protecting the health, safety and welfare of island residents and visitors.

2. **A deviation from LDC Sec. 10-416 - Landscaping standards to allow the use of an alternative landscape betterment plan pursuant to LDC Section 10-419. This section states applications are entitled to demonstrate that the intent of the landscaping standards can be more effectively accomplished through an alternate landscape betterment plan. The use of an alternate landscape betterment plan addresses all landscaping requirements pertaining to the redevelopment of the site; such as, but not limited to landscape islands, building perimeters, buffers, walls, parking and vehicular use areas.**

Justification: The deviation from LDC Sec. 10-416 is requested to allow the use of an alternate landscape betterment plan for all landscaping and buffering associated with the redevelopment of the subject property. Please see the plans prepared by James McCord, L.A. with RWA Engineering signed and sealed on 04-17-2024.

The limited size of the property and the need to redevelop the site due to damages received from Hurricane Ian has created unique circumstances that limit the ability to meet the strict landscaping standards as outlined in the LDC such as proposing underbuilding parking and limited surface area parking located behind the primary structure. The proposed surface parking is not visible by the majority of the public but will still be heavily landscaped within appropriately located landscape islands of adequate size to sustain the required trees and approved grass/ground cover landscape materials. In addition, the alternative landscape betterment plan includes enhanced buffer plantings in place of the required wall for a Type "C" buffer along a portion of the western boundary. The enhanced plantings within the buffer area (See planting plan and rendering elevation – page 3 of 9) will create a more natural, lush and complementary buffer rather than a "walled, locked in" setting adjacent to the neighboring property.

The intent of the alternative landscape betterment plan approved under the Development Order will provide additional landscaped areas along the perimeter of the project to help offset any potential landscape island size reduction. The alternative landscape betterment plan as allowed per LDC Sec. 10-419, demonstrates the proposed landscaping effectively meets and exceeds the minimums intended under LDC Sec. 10-416 and will not cause or result in any negative impacts to the community's health, safety, and welfare.



3. A deviation from LDC Sec. 34-1804(a) and Sec. 34-2020, which regulates parking for hotel/motels, non-residential, residential, and combined use developments, to allow a 30% reduction in required parking and a minimum of three (3) individual uses within a master planned mixed use development.

Justification: The requested deviation from LDC Sec. 34-1804(A) and Sec. 34-2020 is to primarily allow for a 30% reduction in the required parking for a mixed use development by promoting and providing alternatives such as bicycle parking, valet parking and off-site parking through potential shared parking agreements with adjacent property owners. Under the intent of regulations provided in the town's LDC, the proposed mixed-use development would require approximately 84 parking spaces, which includes a reduction of 4 vehicle spaces by providing 16 bicycle spaces throughout the



development. This parking requirement utilizes the intent of LDC Sec. 34-2020(d)(4)(b)(1) which allows for two (2) spaces per 1,000 square feet for combined uses (5 or more; not inclusive of a hotel and restaurants are limited to 25 percent of the gross floor area) of a “multiple-occupancy complex” or in this instance a master planned mixed use development. This deviation is also specifically requesting a reduction from the 5 or more “individual business establishments” as part of the multiple-occupancy complex” under LDC Sec. 34-2020(d)(4)(b)(1) to 3 or more commercial establishments that are integrated within a master planned mixed use development.

Other areas of the town allow for substantial parking reductions between 50 and 67 percent. In an effort to benefit from this desire to “park once” and promote alternative parking options and modes of transportation around the island, The Myerside is proposing a 30% parking reduction for this area of town, thus, providing approximately 60 on-site parking spaces along with the commitment to integrate at least 16 bicycle parking spaces throughout the development. The developer will also ensure connectivity through integrated pedestrian infrastructure to the surrounding rights-of-way and sidewalks to the existing trolley stop within 100 feet of the property; will evaluate valet parking and/or shared parking agreement solutions at time of final development order if the proposed parking is deemed insufficient. The developer also commits to work with the town and other local hotel proprietors to contribute their fair share to comprehensive transportation/parking solutions as may be developed in the future.

The proposed parking plan, utilizing a 30% required parking reduction, commitment of providing 3 or more commercial uses within the master planned mixed use development, and access to alternative modes of transportation will further reduce over-parked developments, help alleviate traffic congestion on the island, and in turn reduce any significant associated negative impacts to the health, safety and welfare of the island's residents and visitors.

- 4. A deviation from LDC Division 4, Table 34-3 for the CR zoning district which limits height to 30 feet zoned height and three (3) stories to allow a maximum zoned height of 37 feet and a maximum of four (4) stories.**

Justification: The Town's comprehensive plan allows for additional height through Policy 4-C-4 for parcels of land that are contiguous (or directly across a street) from taller buildings. The Myerside site is directly across the street from the Fort Myers Beach Library which has an overall height of 59'± and has an adjacent residential building to the north with an overall height of approximately 35'. Across Estero Boulevard, The Estero Beach Club Condominium and The Caper Beach Club are 5 and 12 stories respectively. The proposed project is requesting four (4) stories with a zoned height of 37' (measured from 11' Base Flood Elevation + 3' of freeboard to the mid-point of the roof) and an actual height of 50' measured from grade to rooftop.



The Myerside has been carefully designed to be compatible with adjacent uses and provides for a building that fits within its context. It does this by adjusting height and massing according to existing buildings that are next to the site. Where it abuts a three-story vacation rental to the north, the building is only two-stories with a roof deck shielded from the adjacent property. The building utilizes a “wedding cake” (stepped back) design where height gradually increases from two stories to four stories at the center of the building and toward School Street where the 59’ library is located. The wedding cake design is also utilized to soften the building’s edges. At the corner of Estero Boulevard and School Street, each story is stepped back a little further to reduce massing from the street. Additionally, the fourth floor is limited to a small portion of the building, it is stepped back furthest from the street and includes balconies which improves aesthetics.

Allowing for additional height relief through the planned development process will result in the ability to design an attractive building, commercial on the ground floor, and a stepped-back fourth story located at the center of the building and toward the library. The portion of the building, which contains only two stories, is appropriately designed and located adjacent to the existing residential structure along the northern boundary. This architectural design establishes a gradual height transition from the taller Fort Myers Beach Library to the shorter residential property to the west and is compatible with the surrounding taller buildings. Based on the above justification, the granting of this deviation will not be injurious to the neighborhood or negatively impact the overall health, safety, and welfare of the island or its residents.



5. A deviation from LDC Division 4, Table 34-3 for the CR zoning district which requires street setbacks of 10 feet to instead allow for build-to lines of 5 to 10 feet along Estero Boulevard and School Street.

Justification: The proposed Myerside development is meant to be consistent with the Town's vision to enhance the public realm and promote a building form that engages the public along Estero Boulevard and other streets such as School Street. An effective design element to achieve this is the use of build-to lines rather than front setbacks.

Under the CR zoning district, build-to lines are not required to be utilized for development/redevelopment in this area of town. The Myerside property is located within the area identified in the town's Comprehensive Plan as the "Heart of the Island" and within the Boulevard future land use category. Both of these identified areas focus on the public realm and walkability through the following policies or vision statements:

- Estero Boulevard needs to be an interesting place to walk along; scaled for people to feel comfortable walking along.
- Bring buildings closer to sidewalks.
- Parking should be placed at the rear of buildings.
- Adopting design guidelines that encourage architecture and urbanism along Estero Boulevard which contributes to the human scale.
- Maintaining the town's current "human scale."
- Fort Myers Beach is best enjoyed from outside a car; new buildings should be designed to encourage use or admiration by people on foot or bicycle, rather than separating them with gates, walls, deep setbacks, or unnecessary building heights.
- Contribute to the public realm.

By allowing The Myerside to deviate from the required front setbacks and replacing that requirement with build-to lines of 5 to 10 feet along Estero Boulevard and School Street helps implement the Comprehensive Plan's vision for the Heart of the Island and the Boulevard future land use category. The Myerside concept, as shown below in the submitted renderings, is committed to enhancing the public realm and contributing to the desired aesthetic described in the town's Comprehensive Plan.



Estero Boulevard



School Street



The proposed deviation to allow for build-to lines along Estero Boulevard and School Street will be a benefit to the public and will not negatively impact the public's health, safety and welfare.

6. **A deviation from LDC Sec. 34-1803(a)(1), which allows the conversion of dwelling units to hotel/motel guest units per established equivalency factors, in order to exceed said factors as allowed per LDC Sec. 34-1803(a)(2). This would allow a maximum intensity of 45 guest units rather than the 20 allowed per the existing table.**

Justification: The Myerside property consists of 1.03+ acres and is located within the Boulevard Future Land Use Category, which allows 6 dwelling units per acre with the equivalency factors for hotel units of various sizes. The equivalency factors per LDC Sec. 34-1803(a)(1) for guest units within the Boulevard FLU are 2.5 for units less than 450 square feet, 2.0 for units between 450 square feet and 750 square feet, and 1.5 for units between 750 square feet and 1,000 square feet.

The subject property was previously approved through CPD Zoning Ordinance 21-02 for a 14-unit hotel/resort with restaurant, and retail uses, including consumption of alcohol on premises. However, it should be noted that under the Minimum Use Determination provisions of the LDC, the subject property is entitled to 12 single family dwelling units in accordance with the historic plat for this neighborhood, which delineates 12 individual lots on this property.

When starting with a base of 12 dwelling units it is necessary to reduce that base number by 4 units to 8 dwelling units due to the 4 work/live dwelling units proposed as part of the mixed use development. Applying 8 dwelling units to the equivalency ratio of 2 or 2.5 to the remaining 8, the allowed lodging units would range from 16 – 20. A maximum of 20 units could be achieved by right per current LDC provisions.

The proposed additional 25 hotel rooms/transient lodging units are requested pursuant to LDC Sec. 34-1803(a)(2), which allows for additional units under “exceptional circumstances” and when providing public benefits. The exceptional circumstances include the devastation sustained due to Hurricane Ian, the construction requirements mandated through the Florida Building Code and FEMA, the increased cost of construction, high interest rates and the shortages of materials and labor. Additionally, through the planned development process, the applicant is proposing the following public benefits that contribute to the project's consistency with LDC Sec. 34-1803(a)(2):



- Elimination of numerous non-conformities
- Rebuilding resilient and hardened site improvements and structure
- Increasing existing buffers and setbacks where abutting residential and civic uses to ensure cohesive redevelopment
- Enhancing the public realm and creating a pedestrian-friendly environment
- Encouraging bicycle and pedestrian activity
- Providing neighborhood commercial goods and services that will benefit visitors and local residents alike
- Commitment to try to establish a centralized health and wellness center that would support local practitioners and business owners and would provide a convenient one-stop location for local residents
- Providing complimentary uses to the Civic Center as envisioned for this part of the island
- Providing outstanding coastal architecture
- Contributing to the redevelopment of the island and strengthening the Town's tax base
- Providing historically proven onsite management of family-oriented hotel with onsite amenities
- Enhancing the public realm of Estero Boulevard, in support of the Comprehensive Plan's goals, objectives, and policies
- Providing onsite work/live units for employees of the hotel or associated commercial development

These exceptional circumstances and public benefits support the additional hotel rooms/transient lodging units requested.

The Myerside is asking for a total of 45 boutique hotel units as an integrated and significant component of the mixed use redevelopment encouraged by the Town. This is a 25 unit increase from what could be achieved by-right as described above but is much less than the Margaritaville approval that allowed a 300% increase from the underlying zoning district's "by right" density. The requested deviation and justification outlined above will ensure a public benefit, results from exceptional circumstances and will not adversely impact the public's health, safety, and welfare.



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: 125, 131-151 School St. and 2661-2681 Estero Blvd., Ft Myers Beach, FL 33931

STRAP Number: 19-46-24-W3-0020C.0230; 19-46-24-W3-0020C.0270; 19-46-24-W3-0020C.0290

Applicant: Cottages at Myerside LLC & Myerside LLC Phone: 239-314-8009

Contact Name: Roland Weinmann Phone: _____

Email: roland@myerside.com Fax: _____

Current Zoning District: CPD

Future Land Use Map (FLUM) Category: Boulevard

FLUM Density Range: 14 Units Max Per PD 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*: Cottages at Myerside LLC & Myerside LLC Phone: 239-314-8009

**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: 145 School St. Fort Myers Beach, FL 33931

Email: roland@myerside.com Fax: _____

Contact Name: Roland Weinmann Phone: 239-314-8009



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: Kenrick Gallander, AICP Phone: 850-803-5621
Address: 5618 Whispering Willow Way, Ft Myers, FL 33908
Email: kg@theneighborhood.company Fax: _____

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

Name: See attached list 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 CPD to ☒ Commercial PD ☐ Residential PD
- ☐ Amendment. List the project number: DCI20200009
- ☐ 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: LDC Sec. 10-473 Description: Waiver from
Listed Species Survey requirement due to previously developed property.

Code Section: _____ Description: _____

Code Section: _____ Description: _____

PART IV – Property Ownership (Single Owner)

- ☐ Single Owner (individual or husband and wife)
- Name: Cottages at Myerside LLC & Myerside LLC Phone: 239-314-8009
- Mailing Address: 145 School St. Fort Myers Beach, FL 33931
- Email: Roland@myerside.com 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

Myerside LLC

Cottages at Myerside LLC

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: 10/10/2023

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

Name Beverly Mulligan Address 133 Andre Mar Drive, FMB, FL 33931

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]
Signature

Roland Weismann
Printed Name

STRAP # 19-46-24-W3-0020C.0230 & 19-46-24-W3-0020C.0270

AFFIDAVIT

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

I, Roland Weismann (name), as Owner (title)
of Cottages at Myreside 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

Date of Contract: 10/10/2023

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

Name Beverley Milligan Address 133 Andre Mar Drive, MMB, FL 33931

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]
Signature

Roland Weinmann
Printed Name

STRAP # 19-46-24-W3-0020C.0290

AFFIDAVIT

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

I, Roland Weinmann (name), as Owner (title)
of Myerside 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.

4/30/2021

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

Page 6 of 11



COMMUNITY DEVELOPMENT DEPARTMENT
APPLICATION for PUBLIC HEARING

Cottages at Myerside LLC

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

[Signature]

Signature

Owner

Title

Roland Weinmann

Typed or Printed Name

10/10/2023

Date

STATE OF FL COUNTY OF Lee

The foregoing instrument was certified and subscribed before me by means of ☒ physical presence OR ☐ online notarization, this 12 day of October, 2023, by Roland Weinmann ☒ who is personally known to me OR ☐ who has produced _____ as identification.



[Signature]
Notary Public Signature

PART VI- Property Information

A. Legal Description:

STRAP: 19-46-24-W3-0020C.0230; 19-46-24-W3-0020C.0270; 19-46-24-W3-0020C.0290

Property Address: 131-151, 125 School St and 2661-2681 Estero Blvd., Ft Myers Beach, FL 33931

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

☐ Yes. Property identified in subdivision: _____

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

Myerside LLC

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

[Signature]

Signature

Roland Weinmann

Typed or Printed Name

Owner

Title

10/10/2023

Date

STATE OF FL COUNTY OF Lee

The foregoing instrument was certified and subscribed before me by means of Y physical presence OR ☐ online notarization, this 10 day of Oct, 2023, by Roland Weinmann ☒ who is personally known to me OR ☐ who has produced _____ as identification.

[Signature]
Notary Public Signature



PART VI - Property Information

A. Legal Description:

STRAP: 19-46-24-W3-0020C.0230; 19-46-24-W3-0020C.0270; 19-46-24-W3-0020C.0290

Property Address: 131-151, 125 School St and 2661-2681 Estero Blvd., Ft Myers Beach, FL 33931

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

☐ Yes. Property identified in subdivision: _____

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) 300+/- feet

Depth (please provide an average width if irregular in shape) 150+/- feet

Frontage on street: 300+/- feet. Frontage on waterbody: N/A feet

Total land area: 1.03+/- ☒ acres ☐ square feet

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

Northwest of the intersection of School St and Estero Blvd.

☒ Attach Area Location Map as Exhibit 6-3

E. Property Restrictions (check applicable):

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

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

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

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

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

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

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

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

☐ Low Density

☐ 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.



**THE MYERSIDE
COMMERCIAL PLANNED DEVELOPMENT (CPD) REZONING**

ADDITIONAL AGENTS LIST

Attorney

Noel Davies
Davies Duke, PLLC
1415 Panther Lane, Suite 442
Naples, FL 34109
239-216-2792
Noel.davies@daivesduke.com

Surveyor

RWA Engineering
12800 University Drive, Suite 175
Fort Myers, FL 33907
239-597-0575
MAW@consult-rwa.com

Landscaping

RWA Engineering
James M. McCord, RLA, LEED AP®
12800 University Drive, Suite 175
Fort Myers, FL 33907
239-597-0575
Jmccord@consult-rwa.com

Traffic Consultant

Planning Analytics, LLC
Jason Utley, AICP, PTP
1439 SE Airport Rd.
Arcadia, FL 34266
941-258-5061
Richardjasonutley@hotmail.com



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Application for Waiver of Submittal Requirements

Submit a request for waiver of submittal requirements prior to submitting an application for public hearing or administrative action. Requesting a waiver of submittal requirements simultaneously with an application may delay your application. The request and the director's response will become part of the application file.

Waiver is requested for items required for:

Public Hearing

- ☐ General Requirements
- ☐ DRI
- ☒ Planned Development
- ☐ Conventional Rezoning
- ☐ Special Exception
- ☐ Variance
- ☐ Appeal
- ☐ Other

Administrative Action

- ☐ General Requirements
- ☐ Planned Dev. Amendment
- ☐ Commercial Antenna
- ☐ Consumption on Premises
- ☐ Forced Relocation of a Business
- ☐ Interpretation of LDC
- ☐ Minimum Use Determination
- ☐ Setback Variance
- ☐ Other

Name of Project: Myerside Resort CPD
Applicant: Cottages at Myerside LLC & Myerside LLC
Strap Number: 19-46-24-W3-0020C.0230; 19-46-24-W3-0020C.0270; 19-46-24-W3-0020C.0290
Street Address: 25, 131-151 School St. and 2661-2681 Estero Blvd., Ft Myers Beach, FL 33931
Phone Number: 850-803-5621
Email: kg@theneighborhood.company



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Application for Waiver of Submittal Requirements

Specific requirements from which waiver is sought

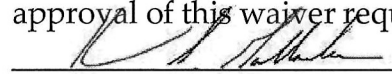
Section Number	Requirement
LDC Sec. 10-473	Listed Species Survey

Scope of project and reasons for request

Explain the nature of the project and give reasons why you think specific requirements are inapplicable or otherwise should be waived.

See attached Waiver Narrative.

I hereby state that the information provided above is accurate to the best of my knowledge. I recognize that if my project changes from what is described above approval of this waiver request may no longer be valid.


Signature

October 10, 2023

Date

Director's Decision ☒ Approved ☐ Denied

Comments:

10/14/2023 Listed Spp Survey
by Staff. No listed spp.
observed.


Signature

17 OCT 2023
Date

Revised 1/6/2017

Town of Fort Myers Beach
2525 Estero Blvd., Fort Myers Beach, Florida 33931
Phone: 239-765-0202 Permits@FortMyersBeachFL.gov Fax: 239-765-0909

Page 2 of 2

SUBMIT



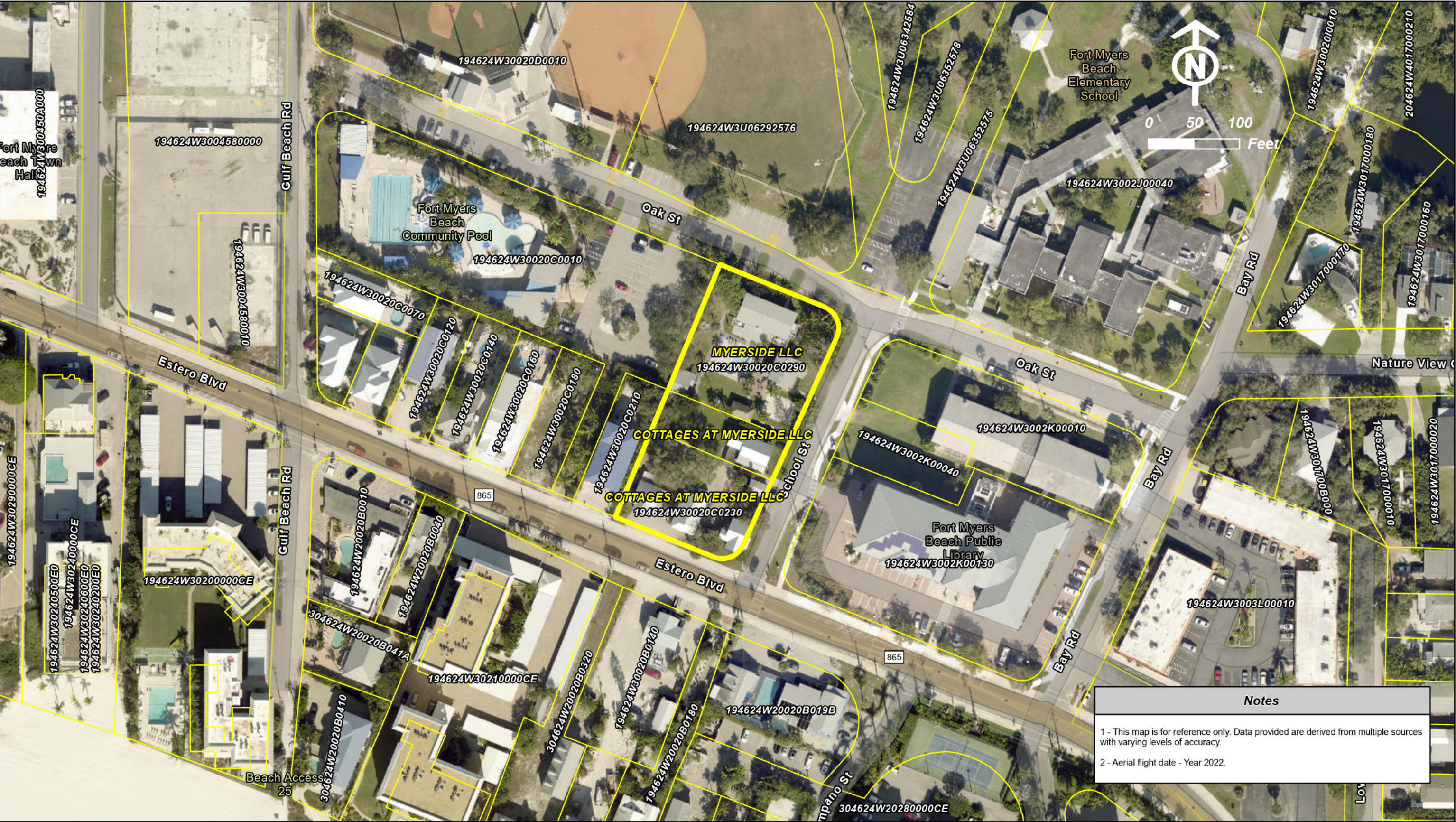
THE NEIGHBORHOOD COMPANY

Myerside Resort Commercial Planned Development (PD) A Commercial Planned Development

Waiver Justification Narrative

The property located at 125, 131-151 School St. and 2661-2681 Estero Blvd., Ft Myers Beach, FL 33931 is the subject property for an application to be submitted for a rezoning request from Commercial Planned Development (CPD) to Commercial Planned Development (CPD). This rezone request is necessary to allow the redevelopment of the Myerside site due to the destruction which was caused by Hurricane Ian in September 2022.

The Neighborhood Company, on behalf of our clients, Cottages at Myerside, LLC and Myerside, LLC, is submitting this Waiver Request from LDC Sec. 10-473 which requires a Listed Species Survey to be completed and submitted with the rezone request application. This request is made due to the property being previously developed, no native vegetation exists on the property, and the redevelopment will be within the limits of the previously developed site. Therefore, there are no listed species to impact on this site.



Notes

1 - This map is for reference only. Data provided are derived from multiple sources with varying levels of accuracy.

2 - Aerial flight date - Year 2022.



Myerside

Exhibit 5-1 Property Owners Map

FILE NO:	220037.01.01
DRAWN BY:	F.L.
DESIGN BY:	P.V.
DATE:	FEBRUARY 2023



THE NEIGHBORHOOD
COMPANY

I Roland Weinmann, as authorized member of Myerside LLC owner of property located at 131 – 151 School St., Fort Myers Beach, FL, identified by STRAP Number 19-46-24-W3-0020C.0290, hereby authorizes The Neighborhood Company regarding the above-referenced property to serve as agent for the Town of Ft Myers Beach Planned Development Rezone Application.

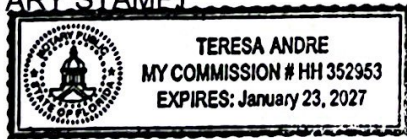
Myerside LLC

By: [Signature]
Print Name: Roland Weinmann
Title: Owner

STATE OF Florida
CITY OF Fort Myers Beach

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this 10th day of October, 2023 by Roland Weinmann, as owner of Myerside, LLC, on behalf of the company(s), who ☐ is personally known to me OR ☐ has produced a(n) driver's license as identification.

(NOTARY STAMP)



[Signature]
Notary Public, State of Florida
Print Name: Teresa Andre
My Commission Expires: 1/23/27



THE NEIGHBORHOOD
COMPANY

I Roland Weimann, as authorized member of Cottages at Myerside LLC owner of property located at 2661-2681 Estero Blvd. & 125 School St., Fort Myers Beach, FL, identified by STRAP Number 19-46-24-W3-0020C.0230 & 19-46-24-W3-0020C.0270, hereby authorizes The Neighborhood Company regarding the above-referenced property to serve as agent for the Town of Ft Myers Beach Planned Development Rezone Application.

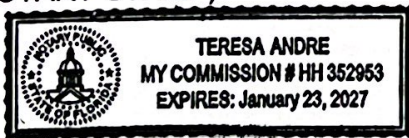
Cottages at Myerside LLC

By: [Signature]
Print Name: Roland Weimann
Title: Owner

STATE OF Florida
CITY OF Fort Myers Beach

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 10th day of October, 2023 by Roland Weimann, as Owner of Cottages at Myerside, LLC, on behalf of the company(s), who ☐ is personally known to me OR ☐ has produced a(n) driver's license as identification.

(NOTARY STAMP)



[Signature]
Notary Public, State of Florida
Print Name: Teresa Andre
My Commission Expires: 1/23/27



**MYERSIDE COMMERCIAL PLANNED DEVELOPMENT (CPD)
Planned Development Rezone**

EXHIBIT 6-1: LEGAL DESCRIPTION

**LEGAL DESCRIPTION:
(AS TAKEN FROM ATTORNEY AFFIDAVIT)**

PARCEL 1:

LOTS 29, 30, 31, 32, 33, AND 34, BLOCK C, WINKLER'S SUBDIVISION, ACCORDING TO THE MAP OR PLAT THEREOF, AS RECORDED IN PLAT BOOK 8, PAGE 45, PUBLIC RECORDS OF LEE COUNTY, FLORIDA. PARCEL IDENTIFICATION NUMBER: 19-46-24-W3-0020C.0290;
AND

PARCEL 2:

LOTS 27 AND 28, BLOCK C, WINKLER'S SUBDIVISION, ACCORDING TO THE MAP OR PLAT THEREOF, AS RECORDED IN PLAT BOOK 8, PAGE 45, PUBLIC RECORDS OF LEE COUNTY, FLORIDA. PARCEL IDENTIFICATION NUMBER: 19-46-24-W3-0020C.0270;
AND

PARCEL 3:

LOTS 23, 24, 25 AND 26, BLOCK C, WINKLER'S SUBDIVISION, ACCORDING TO THE MAP OR PLAT THEREOF, AS RECORDED IN PLAT BOOK 8, PAGE 45, PUBLIC RECORDS OF LEE COUNTY, FLORIDA. PARCEL IDENTIFICATION NUMBER: 19-46-24-W3-0020C.0230;

**LEGAL DESCRIPTION:
(AS SURVEYED)**

A TRACT OR PARCEL OF LAND SITUATED IN SECTION 30, TOWNSHIP 46 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A FOUND CONCRETE MONUMENT MARKING THE NORTHEAST CORNER OF LOT 28, BLOCK C, WINKLER SUBDIVISION, PLAT BOOK 8, PAGE 45, AS RECORDED IN THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA;

THENCE ALONG THE EAST LINE OF SAID BLOCK C ALSO BEING THE WESTERLY RIGHT-OF-WAY OF SCHOOL STREET (50 FEET WIDE) S.21°18'00" W FOR 125.00 FEET TO A POINT ON A CURVE TO THE RIGHT;

THENCE SOUTHWESTERLY 39.27 FEET ALONG THE ARC OF A TANGENTIAL CURVE TO THE RIGHT HAVING A RADIUS OF 25.00 FEET THROUGH A CENTRAL ANGLE OF 90°00'00" AND BEING SUBTENDED BY A CHORD WHICH BEARS S.66°18'00"W. FOR 35.36 FEET;



THENCE ALONG THE NORTHERLY RIGHT-OF-WAY OF ESTERO BOULEVARD (A.K.A. C.R. 865) N.68°42'00"W., FOR 125.00 FEET TO A POINT AT THE SOUTHEAST CORNER OF SAID RIGHT-OF-WAY AND LOT 22, BLOCK C OF SAID WINKLER SUBDIVISION;

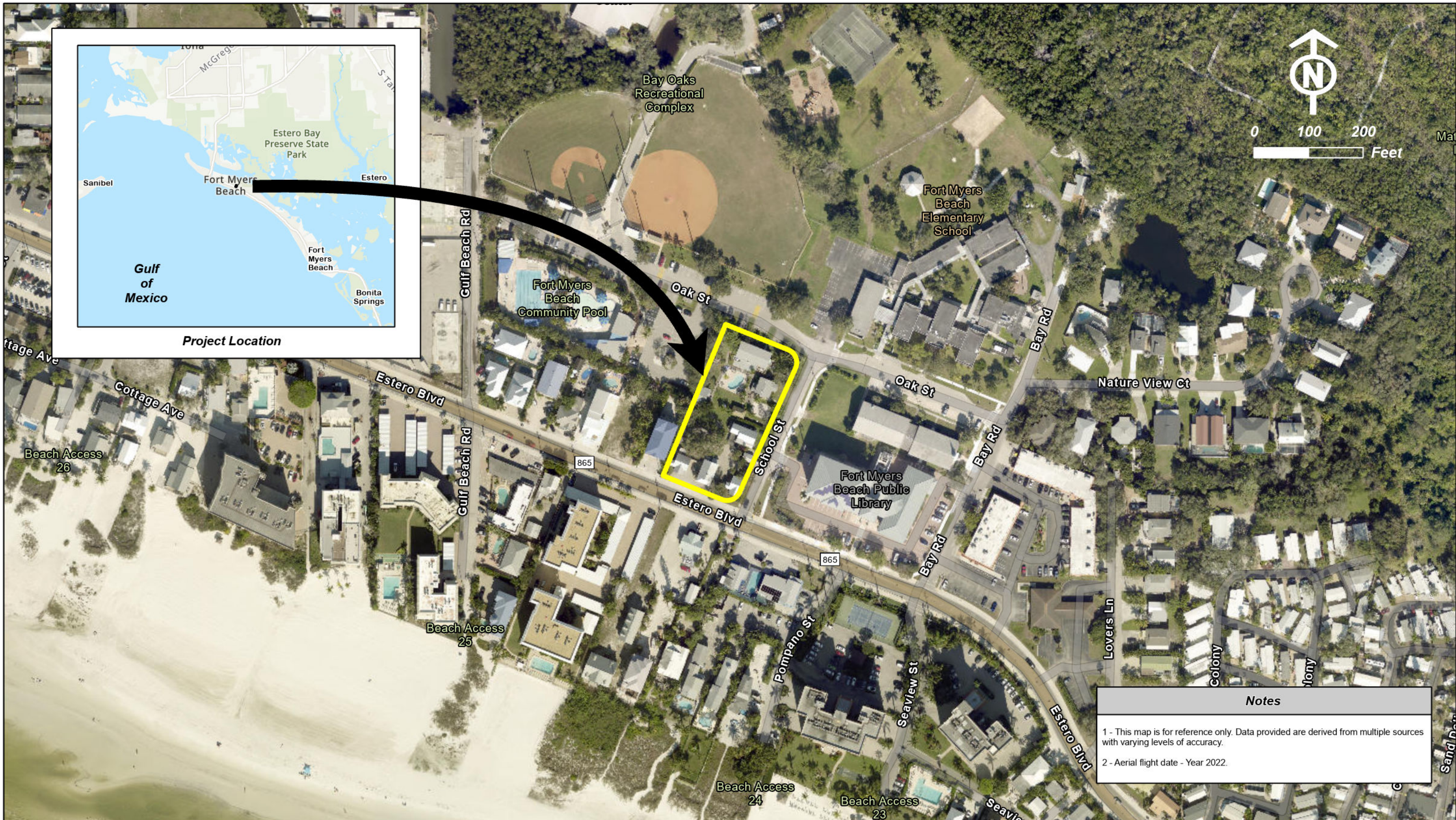
THENCE N.21°18'00"E. ALONG A LINE PARALLEL WITH AND 250.00 WEST OF THE EAST RIGHT-OF-WAY LINE OF SCHOOL STREET (50 FEET WIDE),, FOR 300.00 FEET TO A POINT AT THE NORTHWEST CORNER OF LOT 34, BLOCK C, OF SAID WINKLER SUBDIVISION;

THENCE ALONG THE NORTH LINE OF SAID LOT 34 S.68°42'00"E. FOR 125.00 FEET TO A POINT OF CURVATURE;

THENCE SOUTHEASTERLY 39.27 FEET ALONG THE ARC OF A TANGENTIAL CURVE TO THE RIGHT HAVING A RADIUS OF 25.00 FEET THROUGH A CENTRAL ANGLE OF 90°00'00" AND BEING SUBTENDED BY A CHORD WHICH BEARS S.23°42'00"E. FOR 35.36 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF SAID SCHOOL STREET (50 FEET WIDE);

THENCE ALONG SAID WEST RIGHT-OF-WAY OF SCHOOL STREET (50 FEET WIDE) S.21°18'00"W., FOR 250.00 FEET TO THE POINT OF BEGINNING OF THE PARCEL DESCRIBED HEREIN;

CONTAINING 44,732 SQUARE FEET OR 1.03 ACRES, MORE OR LESS.



Notes	
1 - This map is for reference only. Data provided are derived from multiple sources with varying levels of accuracy.	
2 - Aerial flight date - Year 2022.	



Myerside
Exhibit 6-3 Area Location Map

FILE NO:	220037.01.01
DRAWN BY:	F.L.
DESIGN BY:	P.V.
DATE:	FEBRUARY 2023

Buffer: 500 List Size: 206

Folioid	OwnerName	OwnerName2	MailAddress	MailAddress2	MailCity	MailState	MailZip	MailCountry
10227543	COTTAGES AT MYERSIDE LLC	FINANCE DEPT	145 SCHOOL ST		FORT MYERS BEACH	FL	33931	
10227544	COTTAGES AT MYERSIDE LLC		145 SCHOOL ST		FORT MYERS BEACH	FL	33931	
10227545	MYERSIDE LLC		145 SCHOOL ST		FORT MYERS BEACH	FL	33931	
10227526	SK FMB GROUP LLC		17761 SAN CARLOS BLVD		FORT MYERS BEACH	FL	33931	
10227527	PRARAZ BUILDERS LLC		4110 CENTER POINTE DR #210		FORT MYERS	FL	33916	
10227528	MLINARIC MARJAN &		330 JEFFERSON CT		FORT MYERS BEACH	FL	33931	
10227529	ALLSTAR PROPERTIES LLC		15373 LAUGHING GULL LN		BONITA SPRINGS	FL	34135	
10227532	CORCELLI DONALD N & MARY E		290 IBIS ST		FORT MYERS BEACH	FL	33931	
10227534	TOWN OF FORT MYERS BEACH		2525 ESTERO BLVD		FORT MYERS BEACH	FL	33931	
10227536	GULF BEACH LLC		100 GULF BEACH RD		FORT MYERS BEACH	FL	33931	
10570126	DJ AREND FARMS INC	JARET BISHOP	15759 RD 138		PAULDING	OH	45879	
10570127	REEF OF FMB LLC		2411 US RT 22 SW		WASHINGTON COURT HOUSE	OH	43160	
10227537	NECULA MONICA C		7335 HERITAGE PALMS ESTATES DR		FORT MYERS	FL	33966	
10227538	KELLER GARY J & LOLA		2621 ESTERO BLVD		FORT MYERS BEACH	FL	33931	
10227539	2633 ESTERO LLC		3269 BRIGHTON PLACE DR		LEXINGTON	KY	40509	
10227540	TOWN OF FORT MYERS BEACH		2525 ESTERO BLVD		FORT MYERS BEACH	FL	33931	
10227542	FOLLIARD PATRICK M & AMY		430 S RIVER RD		NAPERVILLE	IL	60540	
10227552	TOWN OF FORT MYERS BEACH		2525 ESTERO BLVD		FORT MYERS BEACH	FL	33931	
10600372	TOWN OF FORT MYERS BEACH		2525 ESTERO BLVD		FORT MYERS BEACH	FL	33931	
10610451	LEE COUNTY DISTRICT SCHOOL BOA		2855 COLONIAL BLVD		FORT MYERS	FL	33966	
10227557	BOARD OF TRUSTEES OF UNITED ME	ALLIANT PROPERTY MANAGEMENT	450 MARTIN LUTHER KING JR AVE		LAKELAND	FL	33815	
10227558	BOARD OF TRUSTEES OF UNITED ME		450 MARTIN LUTHER KING JR AVE		LAKELAND	FL	33815	
10227560	FORT MYERS BEACH PUBLIC LIBRAR		2755 ESTERO BLVD		FORT MYERS BEACH	FL	33931	
10227562	ESTERO ISLAND LLC		40385 STONELEIGH ST		NORTHVILLE	MI	48167	
10227609	FORT MYERS BEACH FIRE CONTROL		100 VOORHIS ST		FORT MYERS BEACH	FL	33931	
10227610	FORT MYERS BEACH FIRE CONTROL		100 VOORHIS ST		FORT MYERS BEACH	FL	33931	
10227761	RODRIGUEZ WILFREDO		8880 NW 2ND ST		CORAL SPRINGS	FL	33071	
10227764	COVELESKI RONALD R &		210 NATURE VIEW CT		FORT MYERS BEACH	FL	33931	
10462578	ESTERO BEACH CLUB CONDO ASSN		15751 SAN CAROLOS BLVD #8		FORT MYERS	FL	33908	
10462580	ESTERO BEACH CLUB EAST CONDO		13831 VECTOR AVE		FORT MYERS	FL	33907	
10610452	TOWN OF FORT MYERS BEACH		2525 ESTERO PKWY		FORT MYERS BEACH	FL	33931	
10610453	TOWN OF FORT MYERS BEACH		2525 ESTERO PKWY		FORT MYERS BEACH	FL	33931	
10610433	LEE COUNTY DISTRICT SCHOOL BOA		2855 COLONIAL BLVD		FORT MYERS	FL	33966	
10610454	LEE COUNTY DISTRICT SCHOOL BOA		2855 COLONIAL BLVD		FORT MYERS	FL	33966	
10230037	LOV LLC		5432 BROADMOOR ST		ALEXANDRIA	VA	22315	
10230038	CONNER CHARLES R & GAIL D		53 POMPARNO ST		FORT MYERS BEACH	FL	33931	
10230039	CAPTAIN'S QUARTERS FMB LLC		7 IRONWOOD CT		LAKE ZURICH	IL	60047	
10230040	BERNHARD MATTHEW C &		1678 STATE ROUTE 60		ASHLAND	OH	44805	
10230041	MAXWELL EMILY JANE		APT 6	1250 MYERLEE COUNTRY CLUB BLVD	FORT MYERS	FL	33919	
10230042	LUMPKINS NANCIE LEE TR		16730 PINEY POINT RD		PINEY POINT	MD	20674	
10230043	FOREMAN BRADFORD G		50 GULF BEACH RD		FORT MYERS BEACH	FL	33931	
10230044	HIMMELSTEIN ASSOCIATES LLC		PO BOX 218		SOMERS POINT	NJ	8244	
10230080	CAPER BEACH CLUB CONDO ASSN		2810 ESTERO BLVD		FORT MYERS BEACH	FL	33931	
10227767	DIAMOND PROPERTY ALLIANCE LLC		1900 E GOLF RD STE 1275		SCHAUMBURG	IL	60173	
10227768	BROWELL BRIAN R & DEBRA I		900 ROSA LN		LAFAYETTE	IN	47905	
10227769	COFFMAN JOYCE A		55 HIAWATHA LN		GALESBURG	IL	61401	
10227770	STUCK STEVEN L & LORRAINE M		362 MISTY PINE TR		PRUDENVILLE	MI	48651	
10227771	VOLPE KENT R +	919 WARWICK LN	LIBERTYVILLE		IL	60048		
10227772	OLSEN SUSAN L	406 SPRING CREEK CT	ALBANY		IL	61230		
10227773	RAMEY STEVEN L & NANCY K	1634 DORRELL CT	GREENWOOD		IN	46143		
10227774	KDMJ ASSOCIATES INC	23884 SANCTUARY LAKES CT	BONITA SPRINGS		FL	34134		
10227775	LAIRD W E & DORIS M	1125 MERCER DR	TALLAHASSEE		FL	32312		
10227776	KREUTZ DAVID TR	2580 ESTERO BLVD # 31	FORT MYERS BEACH		FL	33931		
10227777	INCAUDO DANIEL +	98 PELICAN GLIDE LN	INLET BEACH	FL	32461			
10227778	JOHNSTON DEAN + DEBI	PO BOX 20010	149 WESTMOUNT DR N	ORILLIA	ON	L3V 7X9	CANADA	
10227779	GREGORY W GARNETT TRUST +	244 N WOODRIDGE DR		PITTSBORO	IN	46167		
10227780	T&R MULDOWNEY FAMILY LLC +	5667 N CL MYERS DR		BYRON	IL	61010		
10227781	RAMEY STEVEN L & NANCY K	1634 DORRELL CT		GREENWOOD	IN	46143		
10227782	LTE 6020 LLC	2024 OAKRIDGE ST		SAINT PAUL	MN	55119		
10227783	HV DESIGNS LLC	2592 INDIAN WELLS TRL		XENIA	OH	45385		
10227784	MANNING DEBORAH A TR	2580 ESTERO BLVD #44		FORT MYERS BEACH	FL	33931		
10227785	ZECHINATI JAMES &	924 WESTCHESTER WAY		RICHMOND	KY	40475		
10227786	SCHRADER CHARLES H TR	2580 ESTERO BLVD #51		FORT MYERS BEACH	FL	33931		
10227787	CAPPARIS PROPERTIES LLC	1500 COLONIAL BLVD #200		FORT MYERS	FL	33907		
10227788	KOOP ROBERT N & SHARON L	1137 ELMWOOD LN		ELK GROVE VILLAGE	IL	60007		
10227789	AREND DAVID L & JOANNA L	15759 ROAD 138		PAULDING	OH	45879		
10227790	HIGHLAND MANOR APARTMENTS LLC	818 LAUREN DR		VILLA HILLS	KY	41017		
10227791	GULFWAY 101 LLC	23884 SANCTUARY LAKES CT		BONITA SPRINGS	FL	34134		
10227792	GULFWAY 102 LLC	23884 SANCTUARY LAKES CT		BONITA SPRINGS	FL	34134		
10227793	WOLFE CHARLES G & PAMELA M	401 MONOCACY DR		BATH	PA	18014		
10227794	GARNETT RODNEY S & ALTHEA N	7377 N COUNTY ROAD 550 E		PITTSBORO	IN	46167		
10227795	ESTERO BEACH CLUB CONDO ASSN	2580 ESTERO BLVD OFC		FORT MYERS BEACH	FL	33931		
10227796	YEAGER JOHN A & M ELAINE	4923 STONEHAVEN DR		COLUMBUS	OH	43220		
10227797	ESTERO FMB RENTAL LLC	2580 ESTERO BLVD #44	FORT MYERS BEACH	FL	33931			
10227798	SEASHORE PROPERTIES LLC	AARON DL + MICHELLE A WRIGHT	515 PRESCOTT PL	WEST FARGO	ND	58078		
10227799	FLORIDA WRIGHT ENTERPRISES LLC		10100 CYPRESS COVE DR UNIT 354	FORT MYERS	FL	33908		
10227800	ALEXANDER MICHAEL B TR		9667 WINDGATE DR	BLOOMINGTON	IL	61705		
10227801	NORRIS MARK A & SUSAN K		3155 E STRATER RD	KENDALLVILLE	IN	46755		
10227802	CHESNUT STEVEN WAYNE &		6701 IDLEWILD ST	FORT MYERS	FL	33966		
10227803	MEYER LAURELEE M		2580 ESTERO BLVD #303	FORT MYERS BEACH	FL	33931		
10227804	TUBBS THOMAS A TR		2580 ESTERO BLVD #304	FORT MYERS BEACH	FL	33931		
10227805	ROMBERG TINA RUIZ &		2580 ESTERO BLVD #305	FORT MYERS BEACH	FL	33931		
10227806	HEUCK DAVID & MICHELLE		14690 FAIR HAVEN RD	FORT MYERS	FL	33908		
10227807	DELBERT G CLARK TRUST +		29785 KESTRAL LANE ST	SAINT JOSEPH	MN	56374		
10227808	EBC 403 LLC	1922 MADISON ST	MADISON	WI	53711			
10227809	CONKLIN KERRY P TR	12956 ROCKY POINTE ROAD	MC CORDSVILLE	IN	46055			
10227810	ALLEN RICHARD JOHN	532 E POLK RD	ITHACA	MI	48847			
10227811	MORRISON STEVEN L &	9207 175TH ST W	ILLINOIS CITY	IL	61259			
10227812	COMBS JILL A GRAVEL &	14 OAKRIDGE CIR	WARE	MA	1082			
10227813	EBC 503 LLC	1922 MADISON ST	MADISON	WI	53711			
10227814	MELLEMA GARY & LARI ANN	11 HAYES CT	TROPHY CLUB	TX	76262			
10227815	WRIGHT AARON DAVID LEE &	515 PRESCOTT PL	WEST FARGO	ND	58078			
10227817	PITTENGER PHILIP J +	5081 OUTERVIEW DR	SPRINGFIELD	OH	45502			
10227818	SCHWAB STEPHEN & HOLLY	111 WATEREDGE LN	FREDERICKSBURG	VA	22406			
10227819	TURNER KENNETH A & SANDRA S	2709B DAY ISLAND BLVD W	UNIVERSITY PLACE	WA	98466			
10227820	BUBNIAK WILLIAM A	24 MEADOW LARK DR	COHOES	NY	12047			
10227821	MENA FRANK & LAURA +	4400 SW 133RD AVE	MIAMI	FL	33175			
10227822	JOHNSON MICHAEL A	71 SUNSET LN	SPRINGVILLE	NY	14141			
10227823	PRAULT VINCENT W &	10 THOMAS DR	NORMAL	IL	61761			
10227824	KONOPKA MARK A &	840 S MEDINA LINE RD	WADSWORTH	OH	44281			
10227825	2650 ESTERO 25 LLC	573 W17240 LAKE DR	MUSKEGO	WI	53150			
10227826	HART KATHLEEN & ROBERT	705 BEACH CREEK	WILDWOOD	NJ	8260			
10227827	FLAHERTY MARTIN & DONNA	8953 S 87TH AVE	HICKORY HILLS	IL	60457			

10227828	VERRUSO CARMELO L TR	2650 ESTERO BLVD #33	FORT MYERS BEACH	FL	33931
10227829	MORRIS DAVID A	4 BLUEBERRY PL	CHESHIRE	CT	6410
10227830	MURPHY JOHN THOMAS & BIRDIE	49 CHADWIN DR	LINDSAY	ON	K9V 0E8 CANADA
10227831	FOSTER EDWINA G &	28 OCEAN AVE	PATCHOGUE	NY	11772
10227832	BARBIERI MARIQUITA	7226 CLAYTON RD	SAINT LOUIS	MO	63117
10227833	LAUCHNER JOEL K & WANDREA R	2650 ESTERO BLVD #43	FORT MYERS BEACH	FL	33931
10227834	HOLLOWAY MICHELLE & JAMES	600 SE BRENTWOOD DR	WAUKEE	IA	50263
10227835	EBCE 45 LLC	S73W17240 LAKE DR	MUSKEGO	WI	53150
10227836	TODD JOSEPH K & SUSAN D	2650 ESTERO BLVD APT 51	FORT MYERS BEACH	FL	33931
10227837	SUN SAND & SURF PROPERTIES LLC	601 E OGDEN AVE #510	MILWAUKEE	WI	53202
10227838	STEPANIUK MARY C	2650 ESTERO BLVD #53	FORT MYERS BEACH	FL	33931
10227839	MORAN PATRIC J & BEVERLY A	620 NORTH PARK BLVD	GLEN ELLYN	IL	60137
10227840	WHITE JOHNIE C II &	376 ATWOOD DR	LEXINGTON	KY	40515
10227841	TURNER KENNETH A & SANDRA S	2709B DAY ISLAND BLVD W	UNIVERSITY PLACE	WA	98466
10227842	SUSAN WEIDENKOPF WATTS TRUST +	16774 PANTHER PAW CT	FORT MYERS	FL	33908
10227843	UNKNOWN HEIRS OF	10939 YOUNG RD	ANSONIA	OH	45303
10227844	BDR SUNSHINE LLC	1150 BRIDLEWOOD LN	LEXINGTON	KY	40515
10227845	CARLIN GRANT A +	830 EASTLAWN	WIDSOR	ON	N8S 3H7 CANADA
10227846	GRANDGEORGE ROBERT E &	PO BOX 459	SOMONAUK	IL	60552
10227847	ARNESON MARGARET M &	PO BOX 210	SHERIDAN	IL	60551
10227848	HONKALA DEBRA S TR	PO BOX 361	SOMONAUK	IL	60552
10227849	WEAVER FREDERICK I & JILL S	2650 ESTERO BLVD UNIT 205	FORT MYERS BEACH	FL	33931
10227850	MADER JEANNE R TR	20 THORNTON RD	LONDONDERRY	NH	3053
10227851	TROJAN DARWIN M & JODI P	9 ALGONQUIN TRL	BARRIE	ON	L4M 5M2 CANADA
10227852	BEVIS WILLIAM J & CRYSTAL L L/	9231 SYCAMORE SPRINGS CT	DAYTON	OH	45458
10227853	HUNTER HARRY + JOANNE	2650 ESTERO BLVD #305	FORT MYERS BEACH	FL	33931
10227854	HUNTER HARRY + JOANNE	2650 ESTERO BLVD #305	FORT MYERS BEACH	FL	33931
10227855	TOLEY PELOTON LLC	2650 ESTERO BLVD # 306	FORT MYERS BEACH	FL	33931
10227856	PALMS TO POWDER LLC	226988 BOULDER RIDGE	WAUSAU	WI	54401
10227857	STANDISH MARTHA	22 BROOKSIDE RD	WALLINGFORD	PA	19086
10227858	PRICE JEREMY TR	450 1ST STREET SOUTHWEST	CEDAR RAPIDS	IA	52404
10227859	ROTH VERRA ANNE	6731 NW 28TH AV	FT LAUDERDALE	FL	33309
10227860	KITCHEN JANICE K L/E	2650 ESTERO BLVD #406	FORT MYERS BEACH	FL	33931
10227861	FAUSTINI ROSE MARIE TR	2650 ESTERO BLVD #502	FORT MYERS BEACH	FL	33931
10227862	RDW LIMITED PARTNERSHIP	813 WESTCHESTER DR	LEXINGTON	KY	40502
10227863	DIETRICH DONALD B TR	9099 RIVERSIDE DR E STE 1318 E	WINDSOR	ON	N8S 4P9 CANADA
10227864	JOHNSON MICHAEL A	71 SUNSET LN	SPRINGVILLE	NY	14141
10227865	DVORAK DAVID M & JANETTE	2650 ESTERO BLVD #506	FORT MYERS BEACH	FL	33931
10230081	DUGAN MARILOU A TR	5725 LAKE BRIAR DR	MILLSTADT	IL	62260
10230082	BOYE CHARLES & LOURDES	4366 SW 130TH AVE	DAVIE	FL	33330
10230083	MILLIES FRED L + JOANN J TR	W 240 S 10050 CASTLE RD	BIG BEND	WI	53103
10230084	KUPSTYS ALBERT P & ELLEN N	6900 ESTERO BLVD APT205	FORT MYERS BEACH	FL	33931
10230085	DAVID A WARD TRUST +	1221 N SHORE DR	CLEAR LAKE	IA	50428
10230089	GULF VIEW LLC	4114 COCHRANE PKWY	AMES	IA	50014
10230090	LANG VIVIAN J G TR	206 SUNSET DR	HALLANDALE BEACH	FL	33009
10230091	PETER WILLIAM C TR	2532 ESTERO BLVD #205	FORT MYERS BEACH	FL	33931
10230092	DINGLE LINDA A	1235 YALE PL # 204	MINNEAPOLIS	MN	55403
10230093	GOETZ ROBERT JOHN &	2800 ESTERO BLVD #305	FORT MYERS BEACH	FL	33931
10230094	FELLIN JAMES S & MICHELLE A	114 SHERBORNE DR	MCMURRAY	PA	15317
10230099	SPLITTORFF LYNN A TR	1217 BUCKINGHAM CT	RAYMORE	MO	64083
10230100	LUCKE THOMAS J TR	PO BOX 75	WISCONSIN DELLS	WI	53965
10230101	CHRISTIE EDWARD C +	30 HIGH ST	ALLENDALE	NJ	7401
10230102	BELTRAMI DEBRA L TR	1028 E TALBOT ST	ARLINGTON HEIGHTS	IL	60004
10230103	MAYER THOMAS R & MUSA J	250 W 82ND ST APT 42	NEW YORK	NY	10024
10230104	HEFFERON DANIEL J	9095 COTTONWOOD CANYON PLACE	LENEXA	KS	66219
10230109	MATTEI BARBARA M	521 CANYON CIR	WISCONSIN DELLS	WI	53965
10230110	GAMAUF DONALD F & JEAN E TR	2800 ESTERO BLVD #502	FORT MYERS BEACH	FL	33931
10230111	COOPER DANAH HARPER TR	6718 DANIEL CT	FORT MYERS	FL	33908
10230112	HOFFMAN JEAN E TR	1304B W DAVISON ST	ROANOKE	IL	61561
10230113	LUCKE THOMAS J TR	801 MEADOW LAWN	WISCONSIN DELLS	WI	53965
10230114	BALTES DORIS J TR	2021 NUTT RD	DAYTON	OH	45458
10230119	BRECKENFELDER DAVID &	640 RANDY LANE	FORT MYERS BEACH	FL	33931
10230120	KALLIES CAPER LLC	2640 MALAITA CT	CAPE CORAL	FL	33991
10230121	MILLIES DANIEL R	597 W23685 PAR AVE	BIG BEND	WI	53103
10230122	BRUNNER KENT A & KIMBERLY S TR	494 CARRIAGE LN	HUDSON	WI	54016
10230123	BRUNNER KIMBERLY S TR	494 CARRIAGE LN	HUDSON	WI	54016
10230124	ANDOLINI PROPERTIES LTD	4800 MUNSON NW	CANTON	OH	44718
10230129	2800 ESTERO 701 LLC	8428 MARKET AVE	N CANTON	OH	44721
10230130	2800 ESTERO 702 LLC	8428 MARKET AVE N	N CANTON	OH	44721
10230131	KLEINE JANET M TR	933 ST JAMES PARK AVE	MONROE	MI	48161
10230132	KLEINJAN FAMILY LP	333 33RD AVE S	SAINT CLOUD	MN	56301
10230133	SAND JAMES W & JEAN T TR	32276 NARNIA LN	AVON	MN	56310
10230134	HARDIN JANICE P TR	834 FREEMAN LAKE RD	ELIZABETHTOWN	KY	42701
10230139	BENSON MARK M TR	735 N WATER ST STE 205	MILWAUKEE	WI	53202
10230140	WOOD KELLY R &	2800 ESTERO BLVD #802	FORT MYERS BEACH	FL	33931
10230141	DOERR BRUCE TR	924 MAES RD	MURPHYSBORO	IL	62966
10230142	GALMARINI MARIA JULIA TR	104 HISPANIOLA LN	BONITA SPRINGS	FL	34134
10230143	HEWITT INVESTMENTS LLC	8638 HART DR	WIND LAKE	WI	53185
10230144	COX KINNEY CHERYL	5214 PALOMAR LN	DALLAS	TX	75229
10230149	MATTEI RENTAL LLC	346 CHURCH ST	WISCONSIN DELLS	WI	53965
10230150	LAUE JEANNE TR	2800 ESTERO BLVD #902	FORT MYERS BEACH	FL	33931
10230151	KELLEY BEACHFRONT RESORT LLC	3248 TAVOLARA LN	NAPLES	FL	34114
10230152	SMITH RONNIE A & NANCY	740 GRAYSON LN	JACKSON	TN	38305
10230153	VITALE PIETRO TR	2800 ESTERO BLVD #905	FORT MYERS BEACH	FL	33931
10230154	VITALE GIOVANNI TR	20400 HALL ROAD	CLINTON TOWNSHIP	MI	48038
10230159	GERMANTOWN MUTUAL INSURANCE CO	PO BOX 1020	GERMANTOWN	WI	53022
10230160	MOSS BRENDA JOYCE	328 GLENBROOK DR	MIDLAND	ON	L4R 5G4 CANADA
10230161	LASH RONALD D & JANICE M	2800 ESTERO BLVD #1003	FORT MYERS BEACH	FL	33931
10230162	RICHARD L KIEFER JR TRUST +	11751 N 400 EAST RD	GRIDLEY	IL	61744
10230163	SAND LEO M TR	2800 ESTERO BLVD #1005	FORT MYERS BEACH	FL	33931
10230164	HEWITT INVESTMENTS LLC	8638 HART DR	WIND LAKE	WI	53185
10230169	DUFF J SCOTT & DIANE L	9085 OCONNERS POINT DR	BELLE CENTER	OH	43310
10230170	BAGNOLA BRIDGET F TR	7004 SALERNO ST NW	CANTON	OH	44718
10230171	STEVEN JOHN SHEBA TRUST +	192 GILWOOD PARK DR	PENETANGUISHENE	ON	L9M 1Z6 CANADA
10230172	HAGEN LYMAN B +	2330 LANE RD	COLUMBUS	OH	43220
10230173	RIEMEN BRETT & LESLIE	2763 TOWER RD	MCFARLAND	WI	53558
10230174	BRANDEWIE BRIAN & JODELL L	19029 BRIGADOON PL	CORNELIUS	NC	28031
10230175	MATTEI MONTE +	346 CHURCH ST	WISCONSIN DELLS	WI	53965
10230176	SAND LEO M TR	2800 ESTERO BLVD #1005	FORT MYERS BEACH	FL	33931
10230177	DONNELLY RICHARD A	304 RON AIRE DR	PIQUA	OH	45356
10230178	MAZA MICHAEL & LISA	2175 LAKE SHORE LANDING	ALPHARETTA	GA	30005
10230179	JOHNSTON S LLC	9430 TALL PINES WAY	PIQUA	OH	45356
10230180	ATANASOFF KRIST D +	156 SUNSET SHORE RD	IRON RIVER	MI	49935

SK FMB GROUP LLC
17761 SAN CARLOS BLVD
FORT MYERS BEACH FL 33931

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

MLINARIC MARJAN &
330 JEFFERSON CT
FORT MYERS BEACH FL 33931

ALLSTAR PROPERTIES LLC
15373 LAUGHING GULL LN
BONITA SPRINGS FL 34135

CORCELLI DONALD N & MARY E
290 IBIS ST
FORT MYERS BEACH FL 33931

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

GULF BEACH LLC
100 GULF BEACH RD
FORT MYERS BEACH FL 33931

DJ AREND FARMS INC
15759 RD 138
PAULDING OH 45879

REEF OF FMB LLC
JARET BISHOP
2411 US RT 22 SW
WASHINGTON COURT HOUSE OH 43160

NECULA MONICA C
7335 HERITAGE PALMS ESTATES DR
FORT MYERS FL 33966

KELLER GARY J & LOLA
2621 ESTERO BLVD
FORT MYERS BEACH FL 33931

2633 ESTERO LLC
3269 BRIGHTON PLACE DR
LEXINGTON KY 40509

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

FOLLIARD PATRICK M & AMY
430 S RIVER RD
NAPERVILLE IL 60540

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

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

LEE COUNTY DISTRICT SCHOOL BOA
2855 COLONIAL BLVD
FORT MYERS FL 33966

BOARD OF TRUSTEES OF UNITED ME
450 MARTIN LUTHER KING JR AVE
LAKELAND FL 33815

BOARD OF TRUSTEES OF UNITED ME
450 MARTIN LUTHER KING JR AVE
LAKELAND FL 33815

FORT MYERS BEACH PUBLIC LIBRAR
2755 ESTERO BLVD
FORT MYERS BEACH FL 33931

ESTERO ISLAND LLC
40385 STONELEIGH ST
NORTHVILLE MI 48167

FORT MYERS BEACH FIRE CONTROL
100 VOORHIS ST
FORT MYERS BEACH FL 33931

FORT MYERS BEACH FIRE CONTROL
100 VOORHIS ST
FORT MYERS BEACH FL 33931

RODRIGUEZ WILFREDO
8880 NW 2ND ST
CORAL SPRINGS FL 33071

COVELESKI RONALD R &
210 NATURE VIEW CT
FORT MYERS BEACH FL 33931

ESTERO BEACH CLUB CONDO ASSN
15751 SAN CAROLOS BLVD #8
FORT MYERS FL 33908

ESTERO BEACH CLUB EAST CONDO
ALLIANT PROPERTY MANAGEMENT
13831 VECTOR AVE
FORT MYERS FL 33907

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

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

LEE COUNTY DISTRICT SCHOOL BOA
2855 COLONIAL BLVD
FORT MYERS FL 33966

LEE COUNTY DISTRICT SCHOOL BOA
2855 COLONIAL BLVD
FORT MYERS FL 33966

LOV LLC
5432 BROADMOOR ST
ALEXANDRIA VA 22315

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

CAPTAIN'S QUARTERS FMB LLC
7 IRONWOOD CT
LAKE ZURICH IL 60047

BERNHARD MATTHEW C &
1678 STATE ROUTE 60
ASHLAND OH 44805

MAXWELL EMILY JANE
APT 6
1250 MYERLEE COUNTRY CLUB BLVD
FORT MYERS FL 33919

LUMPKINS NANCIE LEE TR
16730 PINEY POINT RD
PINEY POINT MD 20674

FOREMAN BRADFORD G
50 GULF BEACH RD
FORT MYERS BEACH FL 33931

HIMMELSTEIN ASSOCIATES LLC
PO BOX 218
SOMERS POINT NJ 08244

CAPER BEACH CLUB CONDO ASSN
2810 ESTERO BLVD
FORT MYERS BEACH FL 33931

DIAMOND PROPERTY ALLIANCE LLC
1900 E GOLF RD STE 1275
SCHAUMBURG IL 60173

BROWELL BRIAN R & DEBRA I
900 ROSA LN
LAFAYETTE IN 47905

COFFMAN JOYCE A
55 HIAWATHA LN
GALESBURG IL 61401

STUCK STEVEN L & LORRAINE M
362 MISTY PINE TR
PRUDENVILLE MI 48651

VOLPE KENT R +
919 WARWICK LN
LIBERTYVILLE IL 60048

OLSEN SUSAN L
406 SPRING CREEK CT
ALBANY IL 61230

RAMEY STEVEN L & NANCY K
1634 DORRELL CT
GREENWOOD IN 46143

KDMJ ASSOCIATES INC
23884 SANCTUARY LAKES CT
BONITA SPRINGS FL 34134

LAIRD W E & DORIS M
1125 MERCER DR
TALLAHASSEE FL 32312

KREUTZ DAVID TR
2580 ESTERO BLVD # 31
FORT MYERS BEACH FL 33931

INCAUDO DANIEL +
98 PELICAN GLIDE LN
INLET BEACH FL 32461

JOHNSTON DEAN + DEBI
PO BOX 20010
149 WESTMOUNT DR N
ORILLIA ON L3V 7X9
CANADA

GREGORY W GARNETT TRUST +
244 N WOODRIDGE DR
PITTSBORO IN 46167

T&R MULDOWNNEY FAMILY LLC +
CJ KENTNER
5667 N CL MYERS DR
BYRON IL 61010

RAMEY STEVEN L & NANCY K
1634 DORRELL CT
GREENWOOD IN 46143

LTE 6020 LLC
2024 OAKRIDGE ST
SAINT PAUL MN 55119

HV DESIGNS LLC
2592 INDIAN WELLS TRL
XENIA OH 45385

MANNING DEBORAH A TR
2580 ESTERO BLVD #44
FORT MYERS BEACH FL 33931

ZECHINATI JAMES &
924 WESTCHESTER WAY
RICHMOND KY 40475

SCHRADER CHARLES H TR
2580 ESTERO BLVD #51
FORT MYERS BEACH FL 33931

CAPPARIS PROPERTIES LLC
1500 COLONIAL BLVD #200
FORT MYERS FL 33907

KOOP ROBERT N & SHARON L
1137 ELMWOOD LN
ELK GROVE VILLAGE IL 60007

AREND DAVID L & JOANNA L
15759 ROAD 138
PAULDING OH 45879

HIGHLAND MANOR APARTMENTS LLC
818 LAUREN DR
VILLA HILLS KY 41017

GULFWAY 101 LLC
23884 SANCTUARY LAKES CT
BONITA SPRINGS FL 34134

GULFWAY 102 LLC
23884 SANCTUARY LAKES CT
BONITA SPRINGS FL 34134

WOLFE CHARLES G & PAMELA M
401 MONOCACY DR
BATH PA 18014

GARNETT RODNEY S & ALTHEA N
7377 N COUNTY ROAD 550 E
PITTSBORO IN 46167

ESTERO BEACH CLUB CONDO ASSN
2580 ESTERO BLVD OFC
FORT MYERS BEACH FL 33931

YEAGER JOHN A & MELAINE
4923 STONEHAVEN DR
COLUMBUS OH 43220

ESTERO FMB RENTAL LLC
2580 ESTERO BLVD #44
FORT MYERS BEACH FL 33931

SEASHORE PROPERTIES LLC
AARON DL + MICHELLE A WRIGHT
515 PRESCOTT PL
WEST FARGO ND 58078

FLORIDA WRIGHT ENTERPRISES LLC
10100 CYPRESS COVE DR UNIT 354
FORT MYERS FL 33908

ALEXANDER MICHAEL B TR
9667 WINDGATE DR
BLOOMINGTON IL 61705

NORRIS MARK A & SUSAN K
3155 E STRATER RD
KENDALLVILLE IN 46755

CHESNUT STEVEN WAYNE &
6701 IDLEWILD ST
FORT MYERS FL 33966

MEYER LAURELEE M
2580 ESTERO BLVD #303
FORT MYERS BEACH FL 33931

TUBBS THOMAS A TR
2580 ESTERO BLVD #304
FORT MYERS BEACH FL 33931

ROMBERG TINA RUIZ &
2580 ESTERO BLVD #305
FORT MYERS BEACH FL 33931

HEUCK DAVID & MICHELLE
14690 FAIR HAVEN RD
FORT MYERS FL 33908

DELBERT G CLARK TRUST +
29785 KESTRAL LANE ST
SAINT JOSEPH MN 56374

EBC 403 LLC
1922 MADISON ST
MADISON WI 53711

CONKLIN KERRY P TR
12956 ROCKY POINTE ROAD
MC CORDSVILLE IN 46055

ALLEN RICHARD JOHN
532 E POLK RD
ITHACA MI 48847

MORRISON STEVEN L &
9207 175TH ST W
ILLINOIS CITY IL 61259

COMBS JILL A GRAVEL &
14 OAKRIDGE CIR
WARE MA 01082

EBC 503 LLC
1922 MADISON ST
MADISON WI 53711

MELLEMA GARY & LARI ANN
11 HAYES CT
TROPHY CLUB TX 76262

WRIGHT AARON DAVID LEE &
515 PRESCOTT PL
WEST FARGO ND 58078

PITTENGER PHILIP J +
5081 OUTERVIEW DR
SPRINGFIELD OH 45502

SCHWAB STEPHEN & HOLLY
111 WATEREDGE LN
FREDERICKSBURG VA 22406

TURNER KENNETH A & SANDRA S
2709B DAY ISLAND BLVD W
UNIVERSITY PLACE WA 98466

BUBNIAK WILLIAM A
24 MEADOW LARK DR
COHOES NY 12047

MENA FRANK & LAURA +
4400 SW 133RD AVE
MIAMI FL 33175

JOHNSON MICHAEL A
71 SUNSET LN
SPRINGVILLE NY 14141

PRAULT VINCENT W &
10 THOMAS DR
NORMAL IL 61761

KONOPKA MARK A &
840 S MEDINA LINE RD
WADSWORTH OH 44281

2650 ESTERO 25 LLC
S73 W17240 LAKE DR
MUSKEGO WI 53150

HART KATHLEEN & ROBERT
705 BEACH CREEK
WILDWOOD NJ 08260

FLAHERTY MARTIN & DONNA
8953 S 87TH AVE
HICKORY HILLS IL 60457

VERRUSO CARMELO L TR
2650 ESTERO BLVD #33
FORT MYERS BEACH FL 33931

MORRIS DAVID A
4 BLUEBERRY PL
CHESHIRE CT 06410

MURPHY JOHN THOMAS & BIRDIE
49 CHADWIN DR
LINDSAY ON K9V 0E8
CANADA

FOSTER EDWINA G &
28 OCEAN AVE
PATCHOGUE NY 11772

BARBIERI MARIQUITA
7226 CLAYTON RD
SAINT LOUIS MO 63117

LAUCHNER JOEL K & WANDREA R
2650 ESTERO BLVD #43
FORT MYERS BEACH FL 33931

HOLLOWAY MICHELLE & JAMES
600 SE BRENTWOOD DR
WAUKEE IA 50263

EBCE 45 LLC
S73W17240 LAKE DR
MUSKEGO WI 53150

TODD JOSEPH K & SUSAN D
2650 ESTERO BLVD APT 51
FORT MYERS BEACH FL 33931

SUN SAND & SURF PROPERTIES LLC
601 E OGDEN AVE #510
MILWAUKEE WI 53202

STEPANIUK MARY C
2650 ESTERO BLVD #53
FORT MYERS BEACH FL 33931

MORAN PATRIC J & BEVERLY A
620 NORTH PARK BLVD
GLEN ELLYN IL 60137

WHITE JOHNIE C II &
376 ATWOOD DR
LEXINGTON KY 40515

TURNER KENNETH A & SANDRA S
2709B DAY ISLAND BLVD W
UNIVERSITY PLACE WA 98466

SUSAN WEIDENKOPF WATTS TRUST +
16774 PANTHER PAW CT
FORT MYERS FL 33908

UNKNOWN HEIRS OF
10939 YOUNG RD
ANSONIA OH 45303

BDR SUNSHINE LLC
1150 BRIDLEWOOD LN
LEXINGTON KY 40515

CARLIN GRANT A +
830 EASTLAWN
WIDSOR ON N8S 3H7
CANADA

GRANDGEORGE ROBERT E &
PO BOX 459
SOMONAUKE IL 60552

ARNESON MARGARET M &
PO BOX 210
SHERIDAN IL 60551

HONKALA DEBRA S TR
PO BOX 361
SOMONAUK IL 60552

WEAVER FREDERICK L & JILL S
2650 ESTERO BLVD UNIT 205
FORT MYERS BEACH FL 33931

MADER JEANNE R TR
SUSAN M MACLENNAN
20 THORNTON RD
LONDONDERRY NH 03053

TROJAN DARWIN M & JODI P
9 ALGONQUIN TRL
BARRIE ON L4M 5M2
CANADA

BEVIS WILLIAM J & CRYSTAL L L/
9231 SYCAMORE SPRINGS CT
DAYTON OH 45458

HUNTER HARRY + JOANNE
2650 ESTERO BLVD #305
FORT MYERS BEACH FL 33931

HUNTER HARRY + JOANNE
2650 ESTERO BLVD #305
FORT MYERS BEACH FL 33931

TOLLEY PELOTON LLC
2650 ESTERO BLVD # 306
FORT MYERS BEACH FL 33931

PALMS TO POWDER LLC
226988 BOULDER RIDGE
WAUSAU WI 54401

STANDISH MARTHA
22 BROOKSIDE RD
WALLINGFORD PA 19086

PRICE JEREMY TR
450 1ST STREET SOUTHWEST # 503
CEDAR RAPIDS IA 52404

ROTH VERRA ANNE
6731 NW 28TH AV
FT LAUDERDALE FL 33309

KITCHEN JANICE K L/E
2650 ESTERO BLVD #406
FORT MYERS BEACH FL 33931

FAUSTINI ROSE MARIE TR
2650 ESTERO BLVD #502
FORT MYERS BEACH FL 33931

RDW LIMITED PARTNERSHIP
813 WESTCHESTER DR
LEXINGTON KY 40502

DIETRICH DONALD B TR
9099 RIVERSIDE DR E STE 1318 E
WINDSOR ON N8S 4P9
CANADA

JOHNSON MICHAEL A
71 SUNSET LN
SPRINGVILLE NY 14141

DVORAK DAVID M & JANETTE
2650 ESTERO BLVD #506
FORT MYERS BEACH FL 33931

DUGAN MARILOU A TR
5725 LAKE BRIAR DR
MILLSTADT IL 62260

BOYE CHARLES & LOURDES
4366 SW 130TH AVE
DAVIE FL 33330

MILLIES FRED L + JOANN J TR
W 240 S 10050 CASTLE RD
BIG BEND WI 53103

KUPSTYS ALBERT P & ELLEN N
6900 ESTERO BLVD APT205
FORT MYERS BEACH FL 33931

DAVID A WARD TRUST +
1221 N SHORE DR
CLEAR LAKE IA 50428

GULF VIEW LLC
4114 COCHRANE PKWY
AMES IA 50014

LANG VIVIAN J G TR
206 SUNSET DR
HALLANDALE BEACH FL 33009

PETER WILLIAM C TR
2532 ESTERO BLVD #205
FORT MYERS BEACH FL 33931

DINGLE LINDA A
1235 YALE PL # 204
MINNEAPOLIS MN 55403

GOETZ ROBERT JOHN &
2800 ESTERO BLVD #305
FORT MYERS BEACH FL 33931

FELLIN JAMES S & MICHELLE A
114 SHERBORNE DR
MCMURRAY PA 15317

SPLITTORFF LYNN A TR
1217 BUCKINGHAM CT
RAYMORE MO 64083

LUCKE THOMAS J TR
PO BOX 75
WISCONSIN DELLS WI 53965

CHRISTIE EDWARD C +
30 HIGH ST
ALLENDALE NJ 07401

BELTRAMI DEBRA L TR
1028 E TALBOT ST
ARLINGTON HEIGHTS IL 60004

MAYER THOMAS R & MUSA J
250 W 82ND ST APT 42
NEW YORK NY 10024

HEFFERON DANIEL J
9095 COTTONWOOD CANYON PLACE
LENEXA KS 66219

MATTEI BARBARA M
521 CANYON CIR
WISCONSIN DELLS WI 53965

GAMAUF DONALD F & JEAN E TR
2800 ESTERO BLVD #502
FORT MYERS BEACH FL 33931

COOPER DANAH HARPER TR
6718 DANIEL CT
FORT MYERS FL 33908

HOFFMAN JEAN E TR
1304B W DAVISON ST
ROANOKE IL 61561

LUCKE THOMAS J TR
801 MEADOW LAWN
WISCONSIN DELLS WI 53965

BALTES DORIS J TR
2021 NUTT RD
DAYTON OH 45458

BRECKENFELDER DAVID &
640 RANDY LANE
FORT MYERS BEACH FL 33931

KALLIES CAPER LLC
KATHLEEN GRAHAM
2640 MALAITA CT
CAPE CORAL FL 33991

MILLIES DANIEL R
S97 W23685 PAR AVE
BIG BEND WI 53103

BRUNNER KENT A & KIMBERLY S TR
494 CARRIAGE LN
HUDSON WI 54016

BRUNNER KIMBERLY S TR
494 CARRIAGE LN
HUDSON WI 54016

ANDOLINI PROPERTIES LTD
DEAN A BAGNOLA
4800 MUNSON NW
CANTON OH 44718

2800 ESTERO 701 LLC
8428 MARKET AVE
N CANTON OH 44721

2800 ESTERO 702 LLC
8428 MARKET AVE N
N CANTON OH 44721

KLEINE JANET M TR
933 ST JAMES PARK AVE
MONROE MI 48161

KLEINJAN FAMILY LP
333 33RD AVE S
SAINT CLOUD MN 56301

SAND JAMES W & JEAN T TR
32276 NARNIA LN
AVON MN 56310

HARDIN JANICE P TR
834 FREEMAN LAKE RD
ELIZABETHTOWN KY 42701

BENSON MARK M TR
735 N WATER ST STE 205
MILWAUKEE WI 53202

WOOD KELLY R &
2800 ESTERO BLVD #802
FORT MYERS BEACH FL 33931

DOERR BRUCE TR
924 MAES RD
MURPHYSBORO IL 62966

GALMARINI MARIA JULIA TR
104 HISPANIOLA LN
BONITA SPRINGS FL 34134

HEWITT INVESTMENTS LLC
NICOLE R HEWITT
8638 HART DR
WIND LAKE WI 53185

COX KINNEY CHERYL
5214 PALOMAR LN
DALLAS TX 75229

MATTEI RENTAL LLC
346 CHURCH ST
WISCONSIN DELLS WI 53965

LAUE JEANNE TR
2800 ESTERO BLVD #902
FORT MYERS BEACH FL 33931

KELLEY BEACHFRONT RESORT LLC
3248 TAVOLARA LN
NAPLES FL 34114

SMITH RONNIE A & NANCY
740 GRAYSON LN
JACKSON TN 38305

VITALE PIETRO TR
2800 ESTERO BLVD #905
FORT MYERS BEACH FL 33931

VITALE GIOVANNI TR
20400 HALL ROAD
CLINTON TOWNSHIP MI 48038

GERMANTOWN MUTUAL INSURANCE CO
PO BOX 1020
GERMANTOWN WI 53022

MOSS BRENDA JOYCE
328 GLENBROOK DR
MIDLAND ON L4R 5G4
CANADA

LASH RONALD D & JANICE M
2800 ESTERO BLVD #1003
FORT MYERS BEACH FL 33931

RICHARD L KIEFER JR TRUST +
11751 N 400 EAST RD
GRIDLEY IL 61744

SAND LEO M TR
2800 ESTERO BLVD #1005
FORT MYERS BEACH FL 33931

HEWITT INVESTMENTS LLC
8638 HART DR
WIND LAKE WI 53185

DUFF J SCOTT & DIANE L
9085 OCONNERS POINT DR
BELLE CENTER OH 43310

BAGNOLA BRIDGET F TR
7004 SALERNO ST NW
CANTON OH 44718

STEVEN JOHN SHEBA TRUST +
192 GILWOOD PARK DR
PENETANGUISHENE ON L9M 1Z6
CANADA

HAGEN LYMAN B +
2330 LANE RD
COLUMBUS OH 43220

RIEMEN BRETT & LESLIE
2763 TOWER RD
MCFARLAND WI 53558

BRANDEWIE BRIAN & JODELL L
19029 BRIGADOON PL
CORNELIUS NC 28031

MATTEI MONTE +
346 CHURCH ST
WISCONSIN DELLS WI 53965

SAND LEO M TR
2800 ESTERO BLVD #1005
FORT MYERS BEACH FL 33931

DONNELLY RICHARD A
304 RON AIRE DR
PIQUA OH 45356

MAZA MICHAEL & LISA
2175 LAKE SHORE LANDING
ALPHARETTA GA 30005

JOHNSTON 5 LLC
9430 TALL PINES WAY
PIQUA OH 45356

ATANASOFF KRIST D +
156 SUNSET SHORE RD
IRON RIVER MI 49935

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: Myerside PD Amendment
Authorized Applicant: Cottages at Myerside LLC & Myerside LLC
STRAP Number(s): 19-46-24-W3-0020C.0230; 19-46-24-W3-0020C.0270;
19-46-24-W3-0020C.0290.

Current Property Status: Damaged/Vacant
Current Zoning: PD
Future Land Use Map (FLUM) Category: Boulevard
Platted Overlay? ☒ yes, ☐ no FLUM Density Range: 10 du/acre

Requested Action:

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

PART I Narrative Statements

A. Comprehensive Plan Amendments (check one)

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

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)

C. Comprehensive Plan Compliance.

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

Please see attached.

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.

Please see attached.

E. Decision-making Compliance

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

Please see attached.

F. Schedule of deviations and written justification

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

N/A



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.

[illegible]

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

Public Hearing Request Form
Supplement Form PH-D
Master Concept Plan
Traffic Impact Statement
Architectural Elevations
Schedule of Uses
Fee in the amount of \$8000.00 up to 1 acre +1000.00 per additional acre
\$2000.00 PD Amendment minor (< acre total property area)
\$4000.00 PD Reinstatement or \$6500.00 PD Amendment

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

Myerside Final Site Plan

TRAFFIC IMPACT STATEMENT

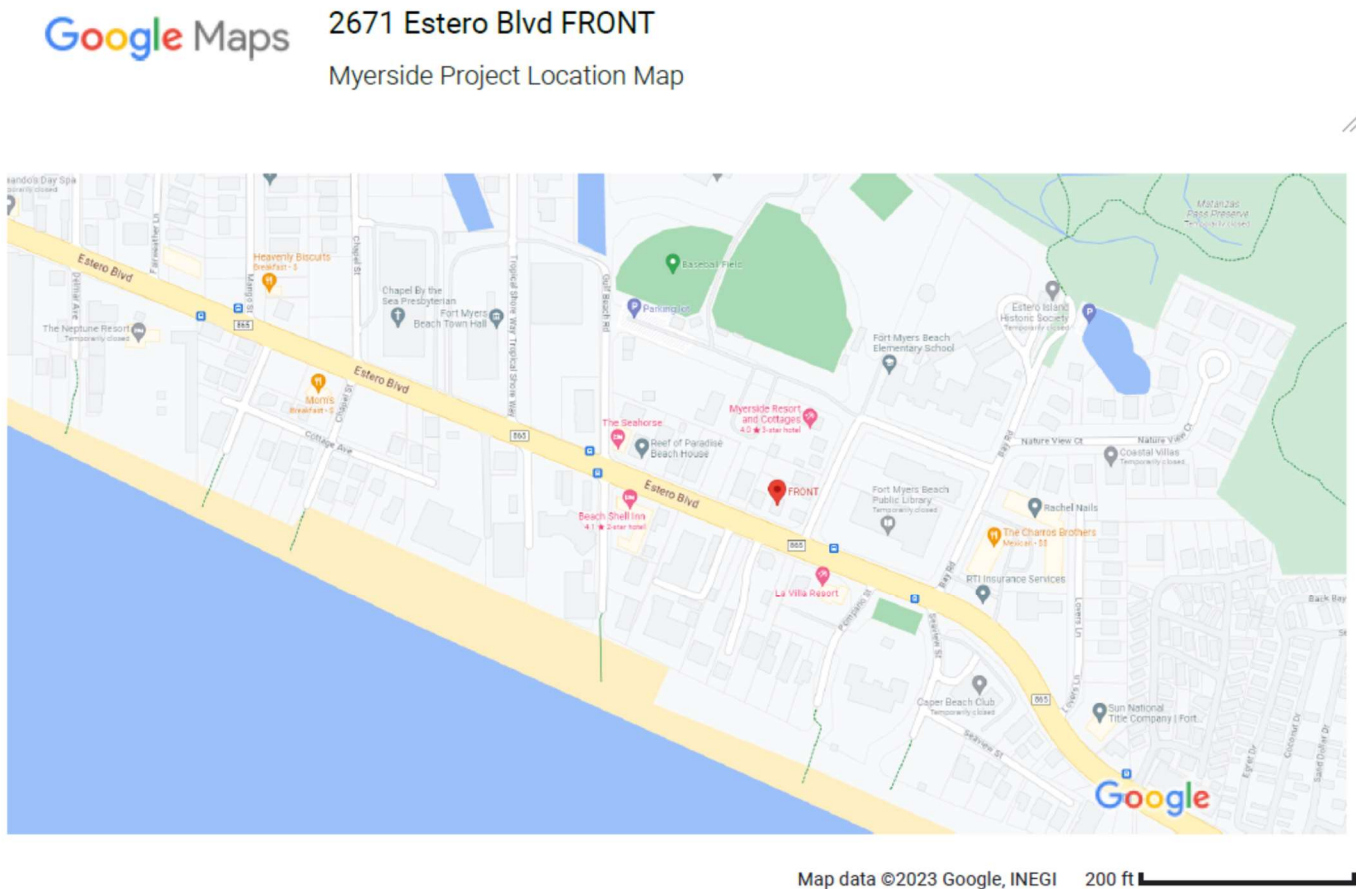
Submitted November 10, 2023

Narrative

The Applicant is proposing 42 lodging units, 4 staff housing units and 10,000 square feet of retail uses on the following parcel ID numbers: 19-46-24-W3-0020C.0230, 19-46-24-W3-0020C.0270 and 19-46-24-W3-0020C.0290. Based upon a review of the Lee County Property Appraiser's website, parcel ID number 19-46-24-W3-0020C.0230 consists of 15,000 square feet of land (0.344 +/- acres), parcel ID number 19-46-24-W3-0020C.0270 consists of 7,500 square feet of land (0.17 +/- acres) and parcel ID number 19-46-24-W3-0020C.0290 consists of 21,778 square feet of land (0.5 +/- acres). These three parcels are located in the northwest quadrant of Estero Boulevard and School Street in the Town of Fort Myers Beach, Florida. A general location map is provided in Figure 1.

Historically, these three parcels have had a collective total of 14 guest units constructed on them (per the property owner). These structures were severely damaged by Hurricane Ian on September 28, 2022. For the purposes of this report, the 14 guest units will be considered the baseline condition from a trip generation standpoint.

Figure 1.



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The trip generation rates for the proposed uses were estimated based upon the Institute of Transportation Engineers (ITE), Trip Generation – 11th Edition. No internal capture, pass-by capture or diverted trips will be considered as a part of this analysis. The analysis will evaluate the incremental increase of trips from the proposed change in intensity from the baseline conditions for a link analysis. For the driveway and intersection analysis, all estimated project trips (gross trips) will be evaluated.

For this analysis, the following three land use codes were selected in order to evaluate the potential trip generation associated with the proposed development of this parcel: Multifamily (LUC 220), Hotel (310) and Strip Retail < 40 KSF (LUC 822). The trip generation was evaluated for potential traffic impacts on the first-impacted thoroughfare link and subsequent downstream links having a project impact of 5% or greater (if any).

Trip Generation

The tables below provide the estimated potential trip generation associated with the proposed land uses based upon ITE Trip Generation 11th Edition.

Table 1 - Daily Trip Generation Estimates

ITE Land-Use Category	ITE Land Use (Code)	Independent Variable	Average Rate	Fitted Curve Equation	Size	Total Trips	In	Out	Pass-By Capture Rate	Pass-By Trips			Net-New Trips		
										2-Way	In	Out	2-Way	In	Out
Existing Land Use															
Hotel	310	Rooms	7.99	T = 10.84(X) - 423.51	14	112	56	56	0%	0	0	0	112	56	56
Total Existing Trips						112	56	56				112	56	56	
Proposed Land Use															
Hotel	310	Rooms	7.99	T = 10.84(X) - 423.51	45	64	32	32	0%	0	0	0	64	32	32
Multifamily Housing (Low-Rise)	220	Dwelling Units	6.74	T = 6.41(X) + 75.31	4	101	50	50	0%	0	0	0	101	50	50
Strip Retail Plaza (<40k)	822	1,000 Square Feet	54.45	T = 42.20(X) + 229.68	8.5	588	294	294	0%	0	0	0	588	294	294
Total Proposed Trips															
Change in Trips from Baseline						754	377	377				754	377	377	
						642	321	321				642	321	321	

Table 2 - AM Peak Hour Trip Generation Estimates

ITE Land-Use Category	ITE Land Use (Code)	Independent Variable	Average Rate	Fitted Curve Equation	Size	Total Trips	In	Out	Pass-By Capture Rate	Pass-By Trips			Net-New Trips		
										2-Way	In	Out	2-Way	In	Out
Existing Land Use															
Hotel	310	Rooms	0.46	T = 0.50(X) - 7.45	14	6	4	3	0%	0	0	0	6	4	3
Total Existing Trips						6	4	3				6	4	3	
Proposed Land Use															
Hotel	310	Rooms	0.46	T = 0.50(X) - 7.45	45	21	12	9	0%	0	0	0	21	12	9
Multifamily Housing (Low-Rise)	220	Dwelling Units	0.46	T = 0.50(X) - 7.45	4	2	0	1	0%	0	0	0	2	0	1
Strip Retail Plaza (<40k)	822	1,000 Square Feet	2.36	Ln(T) = 66 Ln(X) + 1.84	8.5	20	12	8	0%	0	0	0	20	12	8
Total Proposed Trips						43	24	19				43	24	19	
Change in Trips from Baseline						36	20	16				36	20	16	

* Due to the small magnitude of the proposed number of multifamily dwelling units, the fitted curve was not an appropriate choice to calculate the trip generation and thus the average rate was used.

Table 3 - PM Peak Hour Trip Generation Estimates

ITE Land-Use Category	ITE Land Use (Code)	Independent Variable	Average Rate	Fitted Curve Equation	Size	Total Trips	In	Out	Pass-By Capture Rate	Pass-By Trips			Net-New Trips		
										2-Way	In	Out	2-Way	In	Out
Existing Land Use															
Hotel	310	Rooms	0.59	T = .74(X) - 27.89	14	8	4	4	0%	0	0	0	8	4	4
Total Existing Trips						8	4	4				8	4	4	
Proposed Land Use															
Hotel	310	Rooms	0.59	T = .74(X) - 27.89	45	27	14	13	0%	0	0	0	27	14	13
Multifamily Housing (Low-Rise)	220	Dwelling Units	0.59	T = .74(X) - 27.89	4	2	1	1	0%	0	0	0	2	1	1
Strip Retail Plaza (<40k)	822	1,000 Square Feet	6.59	Ln(T) = 0.71 Ln(X) + 2.72	8.5	56	28	28	0%	0	0	0	56	28	28
Total Proposed Trips						85	43	42	0	0	0	0	85	43	42
Change in Trips from Baseline						77	39	38				77	39	38	

* Due to the small magnitude of the proposed number of multifamily dwelling units, the fitted curve was not an appropriate choice to calculate the trip generation and thus the average rate was used.

Analysis Period

Based upon the trip generation rates in the tables provided in the section above, this project will generate more trips in the PM Peak-Hour than in the AM Peak-Hour. Thus, the analysis period selected for the potential use is the PM Peak-Hour.

Internal Capture/Pass-by Capture/Diverted Trips

No consideration will be given to Pass-by Capture, Internal Capture or Diverted Trips as a part of the analysis for this project. The internal capture estimates are provided in the Appendix of this report. However, the following analysis will take a more conservative approach and not include internal capture as a consideration.

Trip Distribution/Assignment

All project trips were assigned as presented in Table 4 below.

Table 4 - Project Traffic Distribution/Assignment (PM Peak-Hour)

Roadway	Segment	Lanes (Type)	Adopted LOS	Project Trip Distribution	Project Trips
First-Impacted Thoroughfare					
Estero Blvd	San Carlos Blvd to Avenida Pescadora	2(U)	D	100%	77

Study Area / Area of Impact

The significant impact area includes first-impacted thoroughfares and thoroughfares carrying project traffic equal to or greater than five percent of the pm peak hour service volume ("capacity") at adopted level of service (LOS). Estero Boulevard is the first-impacted thoroughfare facility, and it is the only segment estimated to be significantly impacted by the proposed development. Table 5 on the next page indicates the impacted roadway links, and the project traffic impacts on the impacted links and the capacity of those facilities based upon the 2020 FDOT QLOS Handbook.

Table 5 - Determination of Significance Five (5) Percent (PM Peak-Hour)

Roadway	Segment	Lanes (Type)	Adopted LOS	Peak-Hour Service Volume Capacity	Project Trip Distribution	Project Trips	Project Traffic % of Service Vol Capacity	Significance Threshold	Significant Impact
First-Impacted Thoroughfare									
Estero Blvd	San Carlos Blvd to Avenida Pescadora	2(U)	D	1,330	100%	77	5.8%	$\geq 5\%$	yes

As shown in Table 5 above, the development's traffic is estimated to exceed the five (5) percent significance threshold on the first-impacted thoroughfare roadway segment.

The study area will include the following roadway segment:

<u>Study Segments</u>	<u>Project Impact</u>
• Estero Blvd from San Carlos Blvd to Avenida Pescadora	5.8%

Level of Service Analysis

Existing Conditions

Table 6 below contains the roadway data used to evaluate the existing roadway level of service. Existing traffic was based upon the Florida Department of Transportation (FDOT) 2022 Annual Average Daily Traffic (AADT) Report. The FDOT traffic report indicates that the AADT volume on the segment of Estero Boulevard from San Carlos Boulevard to Avenida Pescadora is 12,500 trips. Those trips were multiplied by a K-Factor of 9% to determine the existing peak-hour traffic ($12,500 \times 0.09 = 1,125$).

Table 6 - Existing Roadway Segment Level of Service Analysis (PM Peak-Hour)

Roadway	Segment	Lanes (Type)	Adopted LOS	Peak-Hour Service Volume Capacity	Peak-Hour Ex. Vol	Existing V/C Ratio	Exceeds LOS (Y/N)
First-Impacted Thoroughfare							
Estero Blvd	San Carlos Blvd to Avenida Pescadora	2(U)	D	1,330	1,125	0.85	N

Future Background Traffic Conditions (Existing + Reserved Trips)

Table 7 below contains the roadway data used to evaluate the future background traffic conditions without project traffic roadway level of service. An annual growth rate of 1% was assumed as the growth rate provided by the FDOT Trend Analysis Tool was a negative growth rate. The project is assumed to have a two-year buildout period.

Table 7 - Future Background Roadway Segment Level of Service Analysis (PM Peak-Hour)

Roadway	Segment	Lanes (Type)	Adopted LOS	Peak-Hour Service Volume Capacity	Peak-Hour Ex. Vol	Annual Growth Rate	Future Peak-Hour Existing + Growth Over 2 Years	Future V/C Ratio	Exceeds LOS (Y/N)
First-Impacted Thoroughfare									
Estero Blvd	San Carlos Blvd to Avenida Pescadora	2(U)	D	1,330	1,125	1%	1,148	0.86	N

Future Total Traffic Conditions with Project Traffic

Table 8 below contains the roadway data used to evaluate the future total traffic conditions with project traffic roadway level of service.

Table 8 - Future Total Traffic Roadway Segment Level of Service Analysis (PM Peak-Hour)

Roadway	Segment	Lanes (Type)	Adopted LOS	Peak-Hour Service Volume Capacity	Future Peak- Hour Existing + Growth Over 2 Years	Project Traffic	Future Total Traffic	Future V/C Ratio	Exceeds LOS (Y/N)
First-Impacted Thoroughfare									
Estero Blvd	San Carlos Blvd to Avenida Pescadora	2(U)	D	1,330	1,148	77	1,224	0.92	N

As illustrated by Table 8 above, the proposed project does not create a failing condition for the link analyzed in the study area.

Access

As mentioned previously in this report, it is important to recognize the proposed project is a redevelopment project. The previous use had one access point off of Estero Boulevard located between 80 to 142 feet west of School Street (measures are approximate). That access on Estero Boulevard will be closed. The previous use also had three access points off of School Street and one access off of Oak Street.

The proposed redevelopment project is proposing access via two driveways (see Concept Plan in the Appendix). One driveway will access School Street, the other driveway will provide access to the west of the parcel. A driveway to Bay Oaks Recreational Complex has been created on Estero Boulevard approximately 210 feet west of the intersection of Estero Boulevard and School Street. The Applicant is still working out the details of the proposed driveway connection to the west of the property. This access will be a full movement access. The access on School Street is proposed to be a right-out access only. Both Estero Boulevard and School Street have a posted speed limit of 25 mph. The access to the west of the parcel is to Town of Fort Myers Beach lands and not a thoroughfare road so the speed limit is also assumed to be 25 mph. The Applicant will work with the Town of Fort Myers Beach regarding final access locations and future ROW needs if any.

The proposed reconfiguration of access points will eliminate two accesses on School Street. As the proposed access off School Street is a right-out connection, a worst-case scenario will be considered where all entering movements will occur at the new driveway located on the western property boundary. Total gross trips will be considered and not just the new trips above the previous trips considered as the baseline traffic.

Table 9 - Access Movements PM Peak-Hour

	Northbound			Eastbound			Southbound			Westbound		
Driveway/Intersection	L	T	R	L	T	R	L	T	R	L	T	R
Driveways												
Western Driveway	0	0	43	0	0	0	0	0	0	18	0	0
School Street Driveway	0	0	0	0	0	24	0	0	0	0	0	0
Intersections												
Estero Blvd and Bay Oaks Access	0	0	0	22	0	0	9	0	9	0	0	21
Estero Blvd and School Street	0	0	0	0	0	0	12	0	12	0	0	0

Special Consideration

The Fort Myers Beach Elementary School is located to the northeast of the intersection of School Street and Oak Street. Based upon a conversation with Dr. Adam Malloy with the Lee County School District, the estimated student population for the 2023-2024 school year is 43 students. The arrival time for students is 7:55 AM and the dismissal time is 2:10 PM. Based upon the dismissal time (see Bell Schedule documentation in the Appendix). The school traffic will not have any impact during the PM Peak-Hour.

Regarding school traffic circulation, parents arrive at the Fort Myers Beach Elementary School by traveling north on Bay Road and turning left onto Oak Street. Once on Oak Street, the parent pulls off Oak Street on the north side and drops students off at the pick-up/drop-off lane. After dropping their student(s) off, the parent travels west on Oak Street to School Street and turns left onto School Street. As the proposed project access on School Street is a right-in/right-out only access, no AM Peak-Hour northbound left-turn queuing analysis is required for entering movements to the parcel from School Street.

Right-Turn Lane Analysis

Based upon the access movements assumed in Table 9 above and NCHRP 457: Evaluating Intersection Improvements: An Engineering Study Guide published by the Transportation Research Board in 2001, the project does not require a right-turn lane. The graphics provided in the Appendix of this report show that a right-turn lane is not warranted for the proposed project. The following two intersections/accesses were analyzed for right-turn lane warrants 1) project driveway to the west 2) intersection of Estero Boulevard and new access point to Bay Oaks Recreational Complex

Left-Turn Lane Analysis

As an existing two-way left-turn lane exists on Estero Boulevard, no left-turn lane warrant analysis was conducted for the proposed project. The two-way left-turn lane is continuous and has adequate space for left-turn movements.

Multi-Modal Transportation

Bicycle lanes do not exist immediately adjacent to the site. However, there are sharrows painted on both the eastbound and westbound lanes of Estero Boulevard. A sidewalk does exist on the southern side of the property immediately adjacent to the site. The developer, per prior PD Approval, was conditioned to provide funds to the Town of Fort Myers Beach in order to provide a standard sidewalk along School Street. Those funds have been paid to the Town. The nearest bus stop appears to be located approximately 500 feet west of the project site along Estero Boulevard. A bus stop also exists east of the site in front of the library.

Conclusion

This development is not projected to create adverse transportation impacts on the impacted thoroughfare roadway analyzed in this Traffic Impact Statement. It is acknowledged that the Applicant will need to work with the Town of Fort Myers Beach staff on future ROW needs and proposed access points during the review process.

Figure 2. Site Location Parcel Boundary

Myerside Property Location



Support Documentation

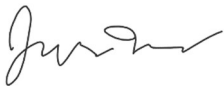
The following is a list of support documentation that has been included as a part of the Traffic Impact Statement submittal.

1. Lee County Property Record Card for Parcel ID No. 19-46-24-W3-0020C.0230
2. Lee County Property Record Card for Parcel ID No. 19-46-24-W3-0020C.0270
3. Lee County Property Record Card for Parcel ID No. 19-46-24-W3-0020C.0290
4. ITE Daily Trip Generation for LUC 310 – Previous Use
5. ITE AM Trip Generation for LUC 310 – Previous Use
6. ITE PM Trip Generation for LUC 310 – Previous Use
7. ITE Daily Trip Generation for LUC 220 – Proposed Use
8. ITE AM Trip Generation for LUC 220 – Proposed Use
9. ITE PM Trip Generation for LUC 220 – Proposed Use
10. ITE Daily Trip Generation for LUC 310 – Proposed Use
11. ITE AM Peak-Hour Trip Generation for LUC 310 – Proposed Use
12. ITE PM Peak-Hour Trip Generation for LUC 310 – Proposed Use
13. ITE Daily Trip Generation for LUC 822 – Proposed Use
14. ITE AM Peak-Hour Trip Generation for LUC 822 – Proposed Use
15. ITE PM Peak-Hour Trip Generation for LUC 822 – Proposed Use
16. FDOT AADT for Estero Boulevard Site 6044
17. Table 4 FDOT QLOS Handbook
18. FDOT Historical Traffic Data for Estero Blvd
19. FDOT Trend Analysis Tool Graph
20. Concept Plan
21. Bell Schedule – Fort Myers Beach Elementary School
22. NCHRP Report 457 Right-Turn Lane Analysis using access movements proposed in Table 9 – western project driveway
23. NCHRP Report 457 Right-Turn Lane Analysis using access movements proposed in Table 9 – Estero Boulevard and new driveway connection to Bay Oaks Recreational Complex
24. Lee County Area Transit Bus System Map

Signature Sheet and Disclaimer

This Traffic Impact Statement (TIS) was completed by Planning Analytics, LLC. The trip generation estimates utilized in this TIS are based upon Trip Generation published by the Institute of Transportation Engineers. The analysis conducted in this TIS is based upon the Florida Department of Transportation's QLOS Handbook which utilizes generalized service volumes and the 2022 Annual Average Daily Traffic Report. Any intersection and/or site related design features must be accepted and approved by The Town of Fort Myers Beach staff prior to construction.

Respectfully submitted by,



Jason Utley, AICP
Project Manager
Planning Analytics, LLC
planning.analytics@yahoo.com
941.258.5061

LEE COUNTY PROPERTY APPRAISER GENERATED ON 7/13/2023 2:28 PM		BUILDING CHARACTERISTICS				BUILDING SUBAREA DETAIL							FOLIO ID: 10227543 STRAP: 19-46-24-W3-0020C.0230								
Current Working Values		ELEMENT	CODE	TYPE / DESCRIPTION / VALUE			AREA TYPE	YEAR BUILT	GROSS AREA	PCT BASE	ADJ AREA	CAP	COST	CARD 1 of 3							
SITE ADDRESS 2661-2681 ESTERO BLVD OWNER'S NAME COTTAGES AT MYERSIDE LLC OWNER'S ADDRESS 145 SCHOOL ST FORT MYERS BEACH FL 33931		STORIES	1.0				APARTMENT	1938	480	100	480		25,027	STRUCT INDEX	BASE RATE	EFF BASE RATE	EFF AREA	RCN	REMAINING WORTH	COST VALUE	
		BEDROOMS	2				BASE	1938	768	100	768		40,044	0.78	151.92	118.50	1,470	174,195	44%	76,646	
		BATHROOMS	2.0				FINISHED ENCLOSED PORCH	1938	192	70	134		6,987	IMP TYPE 114 - Family Conversion MODEL 1 - SINGLE FAMILY RESIDENTIAL							
		EXTERIOR WALL	7	ASBESTOS/ASPHALT SHINGLE			FINISHED LOWER UTILITY	1938	192	30	58		3,024								
		EXTERIOR WALL	0	NONE			LOWER CARPORT / OPEN PORCH	1938	96	5	5		261								
		ROOF STRUCTURE	17	HIP AND GABLE			STOOP	1938	250	10	25		1,304								
		ROOF COVER	12	MODULAR METAL\SHINGLE																	
		INTERIOR WALL	5	DRYWALL																	
		INTERIOR WALL	0	NONE																	
		INTERIOR FLOOR	9	PINE/LAMINATE/LUXURY VINYL																	
		INTERIOR FLOOR	0	NONE																	
		HEATING FUEL	4	ELECTRIC																	
		HEATING TYPE	3	FORCED AIR-NOT DUCTED																	
		AC TYPE	2	WINDOW UNIT																	
		QUALITY	3.0000	AVERAGE																	
		CEILING HEIGHT	CLGHT	CEILING HEIGHT 8-10'																	
		TOTALS								1,978		1,470		76,646							
		LINE	CODE	DESCRIPTION	LENGTH	WIDTH	UNITS	UNIT PRICE	PCT COND	L/B	YEAR	AMN DEPR	DEPR ADJ	CAP FLAG	COST						
E X T R A F E A T U R E S	1	FPLC A	FIREPLACE - TYPE A	0.00	0.00	1.00		3,200.00	1.00	B	1938	2.00	0.60	-	1,920						
																TOTAL OF EXTRA FEATURE VALUES 1,920					
L A N D	LINE	CODE	DESCRIPTION	ZONING	FRONT	DEPTH	DF	CF	TYPE	UNIT PRICE	UNITS	UT	TOTAL ADJ	CAP	EVAL NOTES						
	1	800	MF<10	TFC2	0	0	1.00	1.00	0	25.00	15,000.00	SF	1.00	-	PB						
																TOTAL OF LAND LINE VALUES 375,000					

FLOOR 1

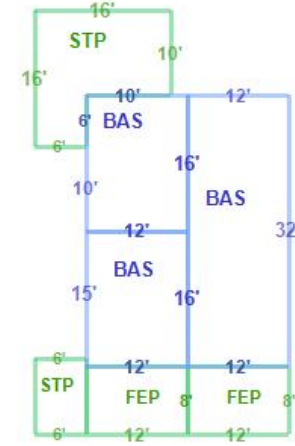
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1874/21	10/8/1986	06	06	I	800	BUILDING EXTRA FEATURES	1,920	5,065
LAND EXTRA FEATURES							*	*
LAND VALUE							375,000	375,000
COST APPROACH VALUE							491,231	534,942
INCOME APPROACH VALUE							*	*
SALES APPROACH VALUE							491,231	658,355
MARKET VALUE							491,231	658,355

LEE COUNTY PROPERTY APPRAISER GENERATED ON 7/13/2023 2:28 PM		BUILDING CHARACTERISTICS			BUILDING SUBAREA DETAIL						FOLIO ID: 10227543 STRAP: 19-46-24-W3-0020C.0230												
Current Working Values		ELEMENT	CODE	TYPE / DESCRIPTION / VALUE	AREA TYPE	YEAR BUILT	GROSS AREA	PCT BASE	ADJ AREA	CAP	COST	STRUCT INDEX	BASE RATE	EFF BASE RATE	EFF AREA	RCN	REMAINING WORTH	COST VALUE					
SITE ADDRESS 2661-2681 ESTERO BLVD OWNER'S NAME COTTAGES AT MYERSIDE LLC OWNER'S ADDRESS 145 SCHOOL ST FORT MYERS BEACH FL 33931		CONDITION	COND	CONDITION AVERAGE																			
		ELEVATION	ELEV	ELEVATION 7-9'																			
		FOUNDATION	FNDTN	FOUNDATION PILINGS - WOOD																			
		FLOOR PLAN	FLRPLN	FLOOR PLAN TRADITIONAL																			
		DRIVEWAY	DRIVE	DRIVEWAY NONE/GRAVEL																			
		LANDSCAPING	LANDSC	LANDSCAPING TYPICAL OF NBHD																			
		TOPOGRAPHY	TOPOG	TOPOGRAPHY STREET GRADE																			
		EXTRA KITCHENS	XKI	1.00																			
		LIVING UNITS	LVGU	2.00																			
		UNITS IN BUILDING	UNITS	2.00																			
PROPERTY DESCRIPTION WINKLERS SUBD BLK C PB 8 PG 45 LOTS 23 THRU 26 INC																							
DOR CODE 08 - MULTI-FAMILY LESS THAN 10 NBHD CODE 07-105.0 CRESCENT ST TO LOVERS LANE																							
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L A N D	LINE	CODE	DESCRIPTION	ZONING	FRONT	DEPTH	DF	CF	TYPE	UNIT PRICE	UNITS	UT	TOTAL ADJ	CAP	EVAL NOTES	BOOK/PAGE OR INSTRUMENT	DATE	TYPE INST	OVR CODE	V SALE PRICE	VALUE SUMMARY	Current Values	2022

FLOOR 0



FLOOR 1



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LEE COUNTY PROPERTY APPRAISER GENERATED ON 7/13/2023 2:28 PM		BUILDING CHARACTERISTICS			BUILDING SUBAREA DETAIL							FOLIO ID: 10227543 STRAP: 19-46-24-W3-0020C.0230											
Current Working Values		ELEMENT	CODE	TYPE / DESCRIPTION / VALUE	AREA TYPE	YEAR BUILT	GROSS AREA	PCT BASE	ADJ AREA	CAP	COST	STRUCT INDEX	BASE RATE	EFF BASE RATE	EFF AREA	RCN	REMAINING WORTH	COST VALUE					
SITE ADDRESS 2661-2681 ESTERO BLVD OWNER'S NAME COTTAGES AT MYERSIDE LLC OWNER'S ADDRESS 145 SCHOOL ST FORT MYERS BEACH FL 33931		CONDITION	COND	CONDITION AVERAGE																			
		ELEVATION	ELEV	ELEVATION 1-2'																			
		FOUNDATION	FNDTN	FOUNDATION PILINGS - WOOD																			
		FLOOR PLAN	FLRPLN	FLOOR PLAN TRADITIONAL																			
		DRIVEWAY	DRIVE	DRIVEWAY NONE/GRAVEL																			
		LANDSCAPING	LANDSC	LANDSCAPING TYPICAL OF NBHD																			
		TOPOGRAPHY	TOPOG	TOPOGRAPHY STREET GRADE																			
		LIVING UNITS	LVGU	1.00																			
		UNITS IN BUILDING	UNITS	1.00																			
PROPERTY DESCRIPTION WINKLERS SUBD BLK C PB 8 PG 45 LOTS 23 THRU 26 INC																							
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L A N D	LINE	CODE	DESCRIPTION	ZONING	FRONT	DEPTH	DF	CF	TYPE	UNIT PRICE	UNITS	UT	TOTAL ADJ	CAP	EVAL NOTES	BOOK/PAGE OR INSTRUMENT	DATE	TYPE INST	OVR CODE	V SALE PRICE	VALUE SUMMARY	Current Values	2022

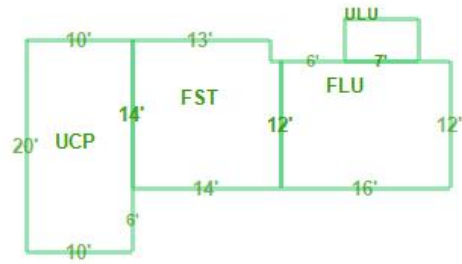
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SITE ADDRESS 2661-2681 ESTERO BLVD OWNER'S NAME COTTAGES AT MYERSIDE LLC OWNER'S ADDRESS 145 SCHOOL ST FORT MYERS BEACH FL 33931 PROPERTY DESCRIPTION WINKLERS SUBD BLK C PB 8 PG 45 LOTS 23 THRU 26 INC DOR CODE 08 - MULTI-FAMILY LESS THAN 10 NBHD CODE 07-105.0 CRESCENT ST TO LOVERS LANE												STORIES		1.0		BASE						1940		668		100		668		23,848		STRUCT INDEX		0.75		BASE RATE		117.53		EFF BASE RATE		88.15		EFF AREA		698		RCN		61,529		REMAINING WORTH		41%		COST VALUE		24,919																																																									
												BEDROOMS		2		FINISHED SCREEN PORCH						1940		99		30		30		1,071		IMP TYPE		97 - Cottage/Bungalow										MODEL		1 - SINGLE FAMILY RESIDENTIAL																																																																					
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HEATING TYPE		3		FORCED AIR-NOT DUCTED																																																																																																															
AC TYPE		2		WINDOW UNIT																																																																																																															
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L A N D	LINE	CODE	DESCRIPTION	ZONING	FRONT	DEPTH	DF	CF	TYPE	UNIT PRICE	UNITS	UT	TOTAL ADJ	CAP	EVAL NOTES																																																																																																				
	1	800	MF<10	TFC2	0	0	1.00	1.00	0	25.00	15,000.00	SF	1.00	-	PB																																																																																																				
															TOTAL OF LAND LINE VALUES															375,000																																																																																					
																BOOK/PAGE OR INSTRUMENT										DATE										TYPE INST										OVR CODE										V SALE I										PRICE										VALUE SUMMARY										Current Values										2022																			

LEE COUNTY PROPERTY APPRAISER GENERATED ON 7/13/2023 2:28 PM		BUILDING CHARACTERISTICS		BUILDING SUBAREA DETAIL				FOLIO ID: 10227543 STRAP: 19-46-24-W3-0020C.0230																																																																		
Current Working Values		ELEMENT	CODE	TYPE / DESCRIPTION / VALUE		AREA TYPE		YEAR BUILT	GROSS AREA	PCT BASE	ADJ AREA	CAP	COST	CARD 3 of 3 (Continued)																																																												
SITE ADDRESS 2661-2681 ESTERO BLVD OWNER'S NAME COTTAGES AT MYERSIDE LLC OWNER'S ADDRESS 145 SCHOOL ST FORT MYERS BEACH FL 33931		CONDITION	COND	CONDITION AVERAGE										STRUCT INDEX	BASE RATE	EFF BASE RATE	EFF AREA	RCN	REMAINING WORTH	COST VALUE																																																						
PROPERTY DESCRIPTION WINKLERS SUBD BLK C PB 8 PG 45 LOTS 23 THRU 26 INC		ELEVATION	ELEV	ELEVATION 1-2'																																																																						
		FOUNDATION	FNDTN	FOUNDATION PILINGS - WOOD																																																																						
		FLOOR PLAN	FLRPLN	FLOOR PLAN TRADITIONAL																																																																						
		DRIVEWAY	DRIVE	DRIVEWAY NONE/GRAVEL																																																																						
		LANDSCAPING	LANDSC	LANDSCAPING TYPICAL OF NBHD																																																																						
		TOPOGRAPHY	TOPOG	TOPOGRAPHY STREET GRADE																																																																						
		LIVING UNITS	LVGU	1.00																																																																						
		UNITS IN BUILDING	UNITS	1.00																																																																						
DOR CODE 08 - MULTI-FAMILY LESS THAN 10 NBHD CODE 07-105.0 CRESCENT ST TO LOVERS LANE																																																																										
<table><tr><th>LINE</th><th>CODE</th><th>DESCRIPTION</th><th>LENGTH</th><th>WIDTH</th><th>UNITS</th><th>UNIT PRICE</th><th>PCT COND</th><th>L/B</th><th>YEAR</th><th>AMN DEPR</th><th>DEPR ADJ</th><th>CAP FLAG</th><th>COST</th></tr><tr><td colspan="14">EXTRA FEATURES</td></tr></table>																					LINE	CODE	DESCRIPTION	LENGTH	WIDTH	UNITS	UNIT PRICE	PCT COND	L/B	YEAR	AMN DEPR	DEPR ADJ	CAP FLAG	COST	EXTRA FEATURES														<table><tr><th>BOOK/PAGE OR INSTRUMENT</th><th>DATE</th><th>TYPE</th><th>OVR INST</th><th>V CODE</th><th>SALE I PRICE</th></tr><tr><td colspan="6">VALUE SUMMARY</td></tr><tr><td colspan="6">Current Values</td></tr><tr><td colspan="6">2022</td></tr></table>		BOOK/PAGE OR INSTRUMENT	DATE	TYPE	OVR INST	V CODE	SALE I PRICE	VALUE SUMMARY						Current Values						2022					
LINE	CODE	DESCRIPTION	LENGTH	WIDTH	UNITS	UNIT PRICE	PCT COND	L/B	YEAR	AMN DEPR	DEPR ADJ	CAP FLAG	COST																																																													
EXTRA FEATURES																																																																										
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2022																																																																										
<table><tr><th>LINE</th><th>CODE</th><th>DESCRIPTION</th><th>ZONING</th><th>FRONT</th><th>DEPTH</th><th>DF</th><th>CF</th><th>TYPE</th><th>UNIT PRICE</th><th>UNITS</th><th>UT</th><th>TOTAL ADJ</th><th>CAP</th><th>EVAL NOTES</th></tr><tr><td colspan="15">LAND</td></tr></table>																					LINE	CODE	DESCRIPTION	ZONING	FRONT	DEPTH	DF	CF	TYPE	UNIT PRICE	UNITS	UT	TOTAL ADJ	CAP	EVAL NOTES	LAND																																						
LINE	CODE	DESCRIPTION	ZONING	FRONT	DEPTH	DF	CF	TYPE	UNIT PRICE	UNITS	UT	TOTAL ADJ	CAP	EVAL NOTES																																																												
LAND																																																																										

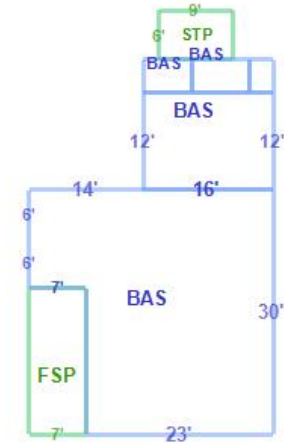
LEE COUNTY PROPERTY APPRAISER GENERATED ON 7/13/2023 2:23 PM		BUILDING CHARACTERISTICS				BUILDING SUBAREA DETAIL							FOLIO ID: 10227544 STRAP: 19-46-24-W3-0020C.0270							
Current Working Values		ELEMENT	CODE	TYPE / DESCRIPTION / VALUE			AREA TYPE	YEAR	GROSS BUILT	PCT AREA	ADJ BASE	CAP	COST	CARD 1 of 1						
SITE ADDRESS 125 SCHOOL ST OWNER'S NAME COTTAGES AT MYERSIDE LLC OWNER'S ADDRESS 145 SCHOOL ST FORT MYERS BEACH FL 33931		STORIES		1.0			BASE	1959	1,030	100	1,030		53,747	STRUCT INDEX 0.74	BASE RATE 117.53	EFF BASE RATE 86.97	EFF AREA 1,245	RCN 108,278	REMAINING WORTH 60%	COST VALUE 64,967
PROPERTY DESCRIPTION WINKLERS SUBD. BLK C PB 8 PG 45 LOTS 27 + 28		BEDROOMS		2			FINISHED LOWER UTILITY	1959	192	30	58		3,027	IMP TYPE 97 - Cottage/Bungalow MODEL 1 - SINGLE FAMILY RESIDENTIAL						
DOR CODE 01 - SINGLE FAMILY RESIDENTIAL NBHD CODE 07-105.0 CRESCENT ST TO LOVERS LANE		BATHROOMS		1.5			FINISHED SCREEN PORCH	1959	126	30	38		1,983							
		EXTERIOR WALL	7	ASBESTOS/ASPHALT SHINGLE			FINISHED UTILITY	1959	194	40	78		4,070							
		EXTERIOR WALL	0	NONE			STOOP	2019	54	10	5		261							
		ROOF STRUCTURE	16	GABLE			UNFINISHED CARPORT	1959	200	15	30		1,565							
		ROOF COVER	12	MODULAR METAL\SHINGLE			UNFINISHED LOWER UTILITY	1959	28	20	6		313							
		INTERIOR WALL	5	DRYWALL																
		INTERIOR WALL	0	NONE																
		INTERIOR FLOOR	14	CARPET																
		INTERIOR FLOOR	0	NONE																
		HEATING FUEL	4	ELECTRIC																
		HEATING TYPE	3	FORCED AIR-NOT DUCTED																
		AC TYPE	2	WINDOW UNIT																
		QUALITY	4.0000	ABOVE AVERAGE																
		CEILING HEIGHT	CLGHT	CEILING HEIGHT 8-10'																
		TOTALS											1,824	1,245	64,967					
EXTRA FEATURES	LINE	CODE	DESCRIPTION	LENGTH	WIDTH	UNITS	UNIT PRICE	PCT COND	L/B	YEAR	AMN DEPR	DEPR ADJ	CAP FLAG	COST						
	1	GAR F	GARAGE - FRAME	16.00	12.00	192.00	25.18	1.00	B	1959	2.00	0.60	-	2,901						
															TOTAL OF EXTRA FEATURE VALUES 2,901					
	LINE	CODE	DESCRIPTION	ZONING	FRONT	DEPTH	DF	CF	TYPE	UNIT PRICE	UNITS	UT	TOTAL ADJ	CAP	EVAL NOTES					
	1	100	SFR	TFC2	0	0	1.00	1.00	0	35.00	7,500.00	SF	1.00	-	PB					
	2	9999	AVM LND		0	0	1.00	1.00	8	362,255.00	1.00	UT	1.00	-	AVM					
															TOTAL OF LAND LINE VALUES 624,755					

LEE COUNTY PROPERTY APPRAISER GENERATED ON 7/13/2023 2:23 PM		BUILDING CHARACTERISTICS			BUILDING SUBAREA DETAIL						FOLIO ID: 10227544 STRAP: 19-46-24-W3-0020C.0270												
Current Working Values		ELEMENT	CODE	TYPE / DESCRIPTION / VALUE	AREA TYPE	YEAR BUILT	GROSS AREA	PCT BASE	ADJ AREA	CAP	COST	STRUCT INDEX	BASE RATE	EFF BASE RATE	EFF AREA	RCN	REMAINING WORTH	COST VALUE					
SITE ADDRESS 125 SCHOOL ST OWNER'S NAME COTTAGES AT MYERSIDE LLC OWNER'S ADDRESS 145 SCHOOL ST FORT MYERS BEACH FL 33931		CONDITION	COND	CONDITION GOOD																			
		ELEVATION	ELEV	ELEVATION 3-6'																			
		FOUNDATION	FNDTN	FOUNDATION PILINGS - WOOD																			
		FLOOR PLAN	FLRPLN	FLOOR PLAN TRADITIONAL																			
		DRIVEWAY	DRIVE	DRIVEWAY CONC/ASPH																			
		LANDSCAPING	LANDSC	LANDSCAPING TYPICAL OF NBHD																			
		TOPOGRAPHY	TOPOG	TOPOGRAPHY STREET GRADE																			
		LIVING UNITS	LVGU	1.00																			
		UNITS IN BUILDING	UNITS	1.00																			
PROPERTY DESCRIPTION WINKLERS SUBD. BLK C PB 8 PG 45 LOTS 27 + 28																							
DOR CODE 01 - SINGLE FAMILY RESIDENTIAL NBHD CODE 07-105.0 CRESCENT ST TO LOVERS LANE																							
E X T R A F E A T U R E S	LINE	CODE	DESCRIPTION	LENGTH	WIDTH	UNITS	UNIT PRICE	PCT COND	L/B	YEAR	AMN DEPR	DEPR ADJ	CAP FLAG	COST									
L A N D	LINE	CODE	DESCRIPTION	ZONING	FRONT	DEPTH	DF	CF	TYPE	UNIT PRICE	UNITS	UT	TOTAL ADJ	CAP	EVAL NOTES	BOOK/PAGE OR INSTRUMENT	DATE	TYPE INST	OVR CODE	V SALE PRICE	VALUE SUMMARY	Current Values	2022

FLOOR 0



FLOOR 1

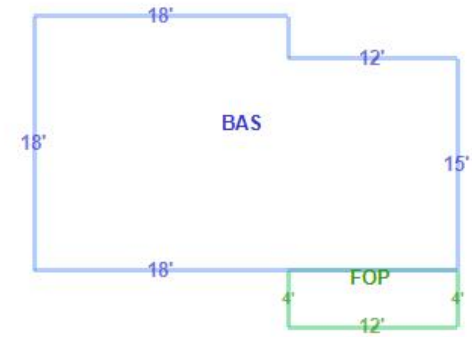


LEE COUNTY PROPERTY APPRAISER GENERATED ON 7/13/2023 2:31 PM		BUILDING CHARACTERISTICS			BUILDING SUBAREA DETAIL						FOLIO ID: 10227545 STRAP: 19-46-24-W3-0020C.0290												
Current Working Values		ELEMENT	CODE	TYPE / DESCRIPTION / VALUE	AREA TYPE	YEAR BUILT	GROSS AREA	PCT BASE	ADJ AREA	CAP	COST	CARD 1 of 2 (Continued)											
SITE ADDRESS 131-151 SCHOOL ST OWNER'S NAME MYERSIDE LLC OWNER'S ADDRESS 145 SCHOOL ST FORT MYERS BEACH FL 33931		CONDITION	COND	CONDITION AVERAGE								STRUCT INDEX	BASE RATE	EFF BASE RATE	EFF AREA	RCN	REMAINING WORTH	COST VALUE					
PROPERTY DESCRIPTION WINKLERS SUBD. BLK C PB 8 PG 45 LOTS 29 THRU 34		ELEVATION	ELEV	ELEVATION 7-9'																			
DOR CODE 08 - MULTI-FAMILY LESS THAN 10 NBHD CODE 53-201.0 FM BCH / BONITA BCH		FOUNDATION	FNDTN	FOUNDATION BREAKAWAY WALLS																			
		FLOOR PLAN	FLRPLN	FLOOR PLAN TRADITIONAL																			
		DRIVEWAY	DRIVE	DRIVEWAY NONE/GRAVEL																			
		LANDSCAPING	LANDSC	LANDSCAPING TYPICAL OF NBHD																			
		TOPOGRAPHY	TOPOG	TOPOGRAPHY STREET GRADE																			
		EXTRA BIDET	XBD	0.00																			
		EXTRA KITCHENS	XKI	3.00																			
		LIVING UNITS	LVGU	4.00																			
		UNITS IN BUILDING	UNITS	4.00																			
E X T R A F E A T U R E S	LINE	CODE	DESCRIPTION	LENGTH	WIDTH	UNITS	UNIT PRICE	PCT COND	L/B	YEAR	AMN DEPR	DEPR ADJ	CAP FLAG	COST									
L A N D	LINE	CODE	DESCRIPTION	ZONING	FRONT	DEPTH	DF	CF	TYPE	UNIT PRICE	UNITS	UT	TOTAL ADJ	CAP	EVAL NOTES	BOOK/PAGE OR INSTRUMENT	DATE	TYPE INST	OVR CODE	V SALE PRICE	VALUE SUMMARY	Current Values	2022

FLOOR 0

**Floor Plan not found for
Folio=10227545,
BuildingNo=1, FloorNo=0,
Year=2022**

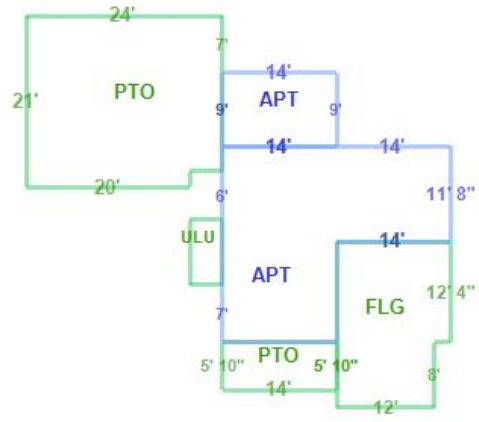
FLOOR 1



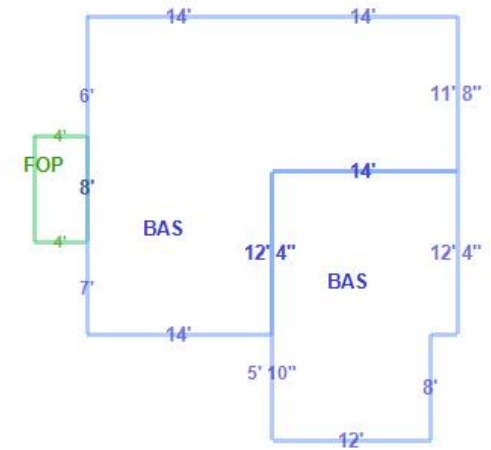
LEE COUNTY PROPERTY APPRAISER GENERATED ON 7/13/2023 2:31 PM		BUILDING CHARACTERISTICS										BUILDING SUBAREA DETAIL										FOLIO ID: 10227545 STRAP: 19-46-24-W3-0020C.0290									
Current Working Values		ELEMENT	CODE	TYPE / DESCRIPTION / VALUE						AREA TYPE	YEAR BUILT	GROSS AREA	PCT BASE	ADJ AREA	CAP	COST	CARD 2 of 2														
SITE ADDRESS 131-151 SCHOOL ST OWNER'S NAME MYERSIDE LLC OWNER'S ADDRESS 145 SCHOOL ST FORT MYERS BEACH FL 33931		STORIES		1.0						APARTMENT	1957	625	100	625		23,004	STRUCT INDEX 0.73	BASE RATE 155.14	EFF BASE RATE 113.25	EFF AREA 1,515	RCN 171,574	REMAINING WORTH 33%	COST VALUE 55,761								
		BEDROOMS		4						BASE	1957	768	100	768		28,267															
		BATHROOMS		2.0						FINISHED LOWER GARAGE	1957	269	30	81		2,981															
		EXTERIOR WALL	7	ASBESTOS/ASPHALT SHINGLE						FINISHED OPEN PORCH	1957	32	20	6		221															
		EXTERIOR WALL	0	NONE						PATIO	1957	578	5	29		1,067															
		ROOF STRUCTURE	16	GABLE						UNFINISHED LOWER UTILITY	1957	32	20	6		221															
		ROOF COVER	3	ASPHALT OR COMPOSITION																											
		INTERIOR WALL	5	DRYWALL																											
		INTERIOR WALL	0	NONE																											
		INTERIOR FLOOR	9	PINE/LAMINATE/LUXURY VINYL																											
		INTERIOR FLOOR	14	CARPET																											
		HEATING FUEL	4	ELECTRIC																											
		HEATING TYPE	4	FORCED AIR-DUCTED																											
AC TYPE	3	CENTRAL																													
QUALITY	3.0000	AVERAGE																													
CEILING HEIGHT	CLGHT	CEILING HEIGHT UNDER 8'																													
		TOTALS														2,304	1,515	55,761													
EXTRA FEATURES	LINE	CODE	DESCRIPTION						LENGTH	WIDTH	UNITS	UNIT PRICE	PCT COND	L/B	YEAR	AMN DEPR	DEPR ADJ	CAP FLAG	COST												
	1	XAC	XTRA/ADDITIONAL A/C UNITS						0.00	0.00	1.00	0.00	1.00	B	1957	0.00	1.00	-	0												
	TOTAL OF EXTRA FEATURE VALUES																			0											
LAND	LINE	CODE	DESCRIPTION						ZONING	FRONT	DEPTH	DF	CF	TYPE	UNIT PRICE	UNITS	UT	TOTAL ADJ	CAP	EVAL NOTES											
	1	800	MF<10						RC	0	0	1.00	1.00	0	40.00	21,778.00	SF	1.00	-	JF											
	TOTAL OF LAND LINE VALUES																			871,120											
																					BOOK/PAGE OR INSTRUMENT		DATE	TYPE INST	OVR CODE	V SALE I	PRICE	VALUE SUMMARY		Current Values	2022

LEE COUNTY PROPERTY APPRAISER GENERATED ON 7/13/2023 2:31 PM		BUILDING CHARACTERISTICS			BUILDING SUBAREA DETAIL						FOLIO ID: 10227545 STRAP: 19-46-24-W3-0020C.0290												
Current Working Values		ELEMENT	CODE	TYPE / DESCRIPTION / VALUE	AREA TYPE	YEAR BUILT	GROSS AREA	PCT BASE	ADJ AREA	CAP	COST	STRUCT INDEX	BASE RATE	EFF BASE RATE	EFF AREA	RCN	REMAINING WORTH	COST VALUE					
SITE ADDRESS 131-151 SCHOOL ST OWNER'S NAME MYERSIDE LLC OWNER'S ADDRESS 145 SCHOOL ST FORT MYERS BEACH FL 33931		CONDITION	COND	CONDITION AVERAGE																			
		ELEVATION	ELEV	ELEVATION 7-9'																			
		FOUNDATION	FNDTN	FOUNDATION BREAKAWAY WALLS																			
		FLOOR PLAN	FLRPLN	FLOOR PLAN TRADITIONAL																			
		DRIVEWAY	DRIVE	DRIVEWAY NONE/GRAVEL																			
		LANDSCAPING	LANDSC	LANDSCAPING TYPICAL OF NBHD																			
		TOPOGRAPHY	TOPOG	TOPOGRAPHY STREET GRADE																			
		EXTRA BIDET	XBD	0.00																			
		EXTRA KITCHENS	XKI	1.00																			
		LIVING UNITS	LVGU	2.00																			
		UNITS IN BUILDING	UNITS	2.00																			
PROPERTY DESCRIPTION WINKLERS SUBD. BLK C PB 8 PG 45 LOTS 29 THRU 34																							
DOR CODE 08 - MULTI-FAMILY LESS THAN 10 NBHD CODE 53-201.0 FM BCH / BONITA BCH																							
E X T R A F E A T U R E S	LINE	CODE	DESCRIPTION	LENGTH	WIDTH	UNITS	UNIT PRICE	PCT COND	L/B	YEAR	AMN DEPR	DEPR ADJ	CAP FLAG	COST									
L A N D	LINE	CODE	DESCRIPTION	ZONING	FRONT	DEPTH	DF	CF	TYPE	UNIT PRICE	UNITS	UT	TOTAL ADJ	CAP	EVAL NOTES	BOOK/PAGE OR INSTRUMENT	DATE	TYPE INST	OVR CODE	V SALE PRICE	VALUE SUMMARY	Current Values	2022

FLOOR 0



FLOOR 1



Hotel (310)

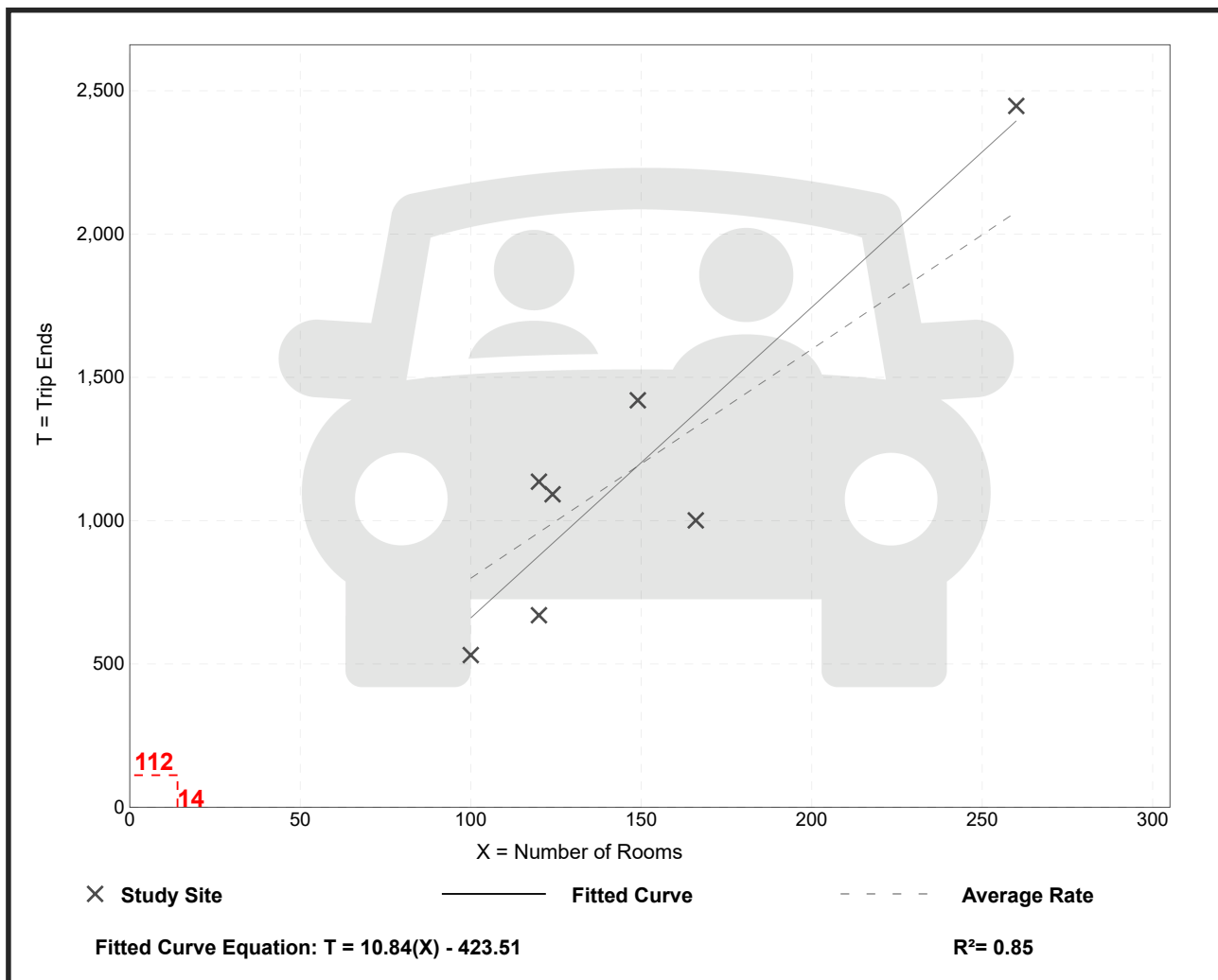
Vehicle Trip Ends vs: Rooms
On a: Weekday

Setting/Location: General Urban/Suburban
Number of Studies: 7
Avg. Num. of Rooms: 148
Directional Distribution: 50% entering, 50% exiting

Vehicle Trip Generation per Room

Average Rate	Range of Rates	Standard Deviation
7.99	5.31 - 9.53	1.92

Data Plot and Equation



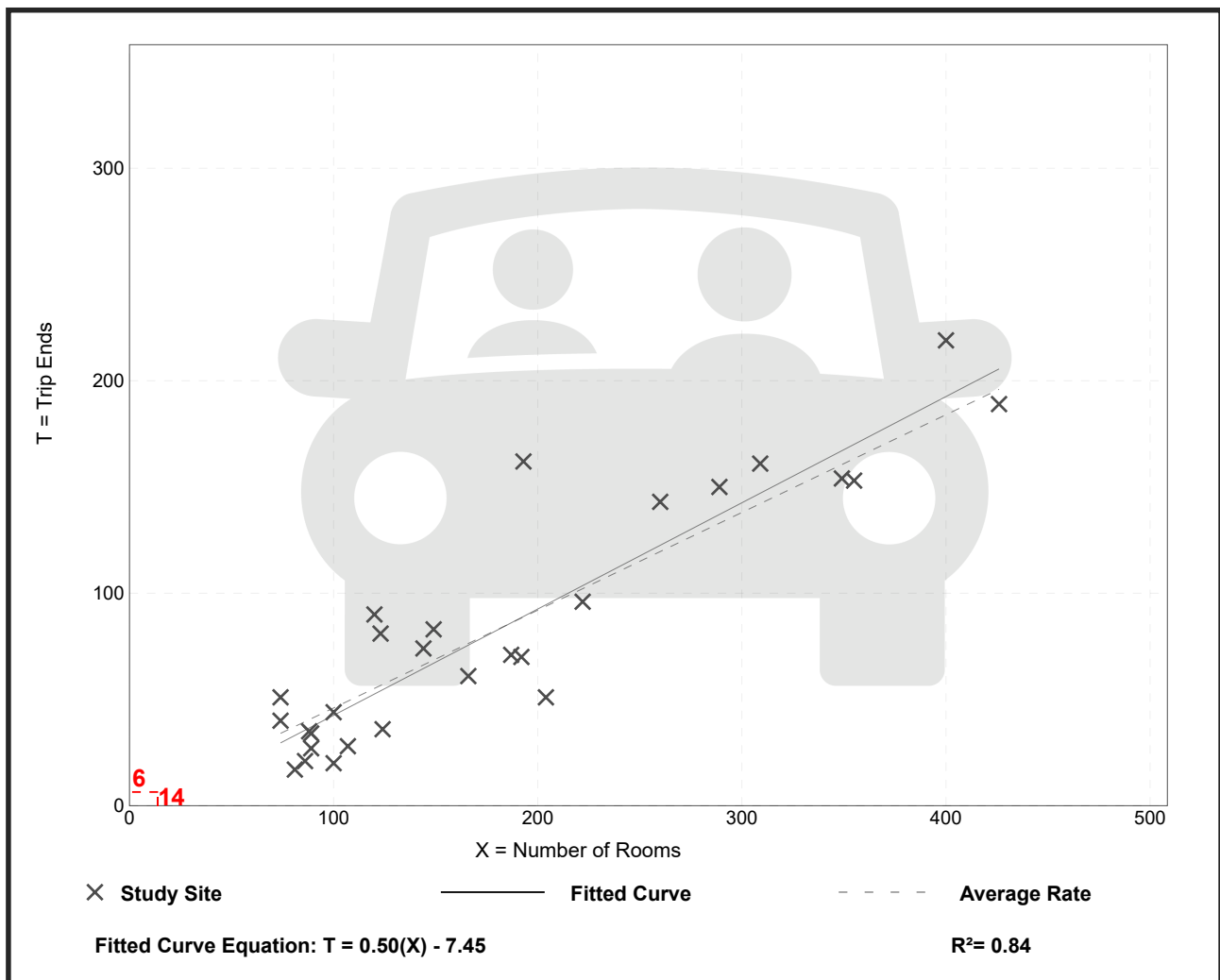
Hotel (310)

Vehicle Trip Ends vs: Rooms
On a: Weekday,
 Peak Hour of Adjacent Street Traffic,
 One Hour Between 7 and 9 a.m.
Setting/Location: General Urban/Suburban
 Number of Studies: 28
 Avg. Num. of Rooms: 182
 Directional Distribution: 56% entering, 44% exiting

Vehicle Trip Generation per Room

Average Rate	Range of Rates	Standard Deviation
0.46	0.20 - 0.84	0.14

Data Plot and Equation



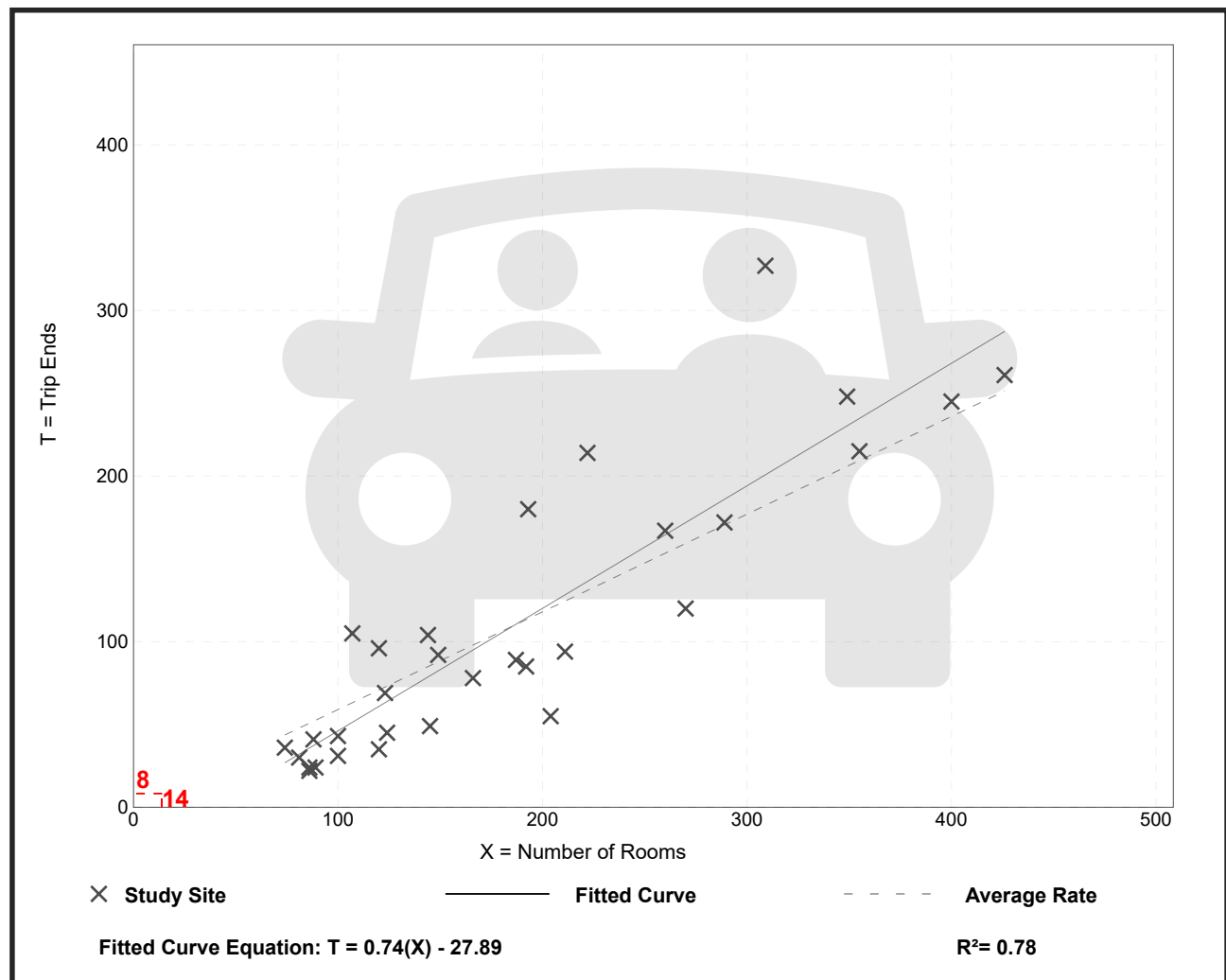
Hotel (310)

Vehicle Trip Ends vs: Rooms
On a: Weekday,
Peak Hour of Adjacent Street Traffic,
One Hour Between 4 and 6 p.m.
Setting/Location: General Urban/Suburban
 Number of Studies: 31
 Avg. Num. of Rooms: 186
 Directional Distribution: 51% entering, 49% exiting

Vehicle Trip Generation per Room

Average Rate	Range of Rates	Standard Deviation
0.59	0.26 - 1.06	0.22

Data Plot and Equation



Hotel (310)

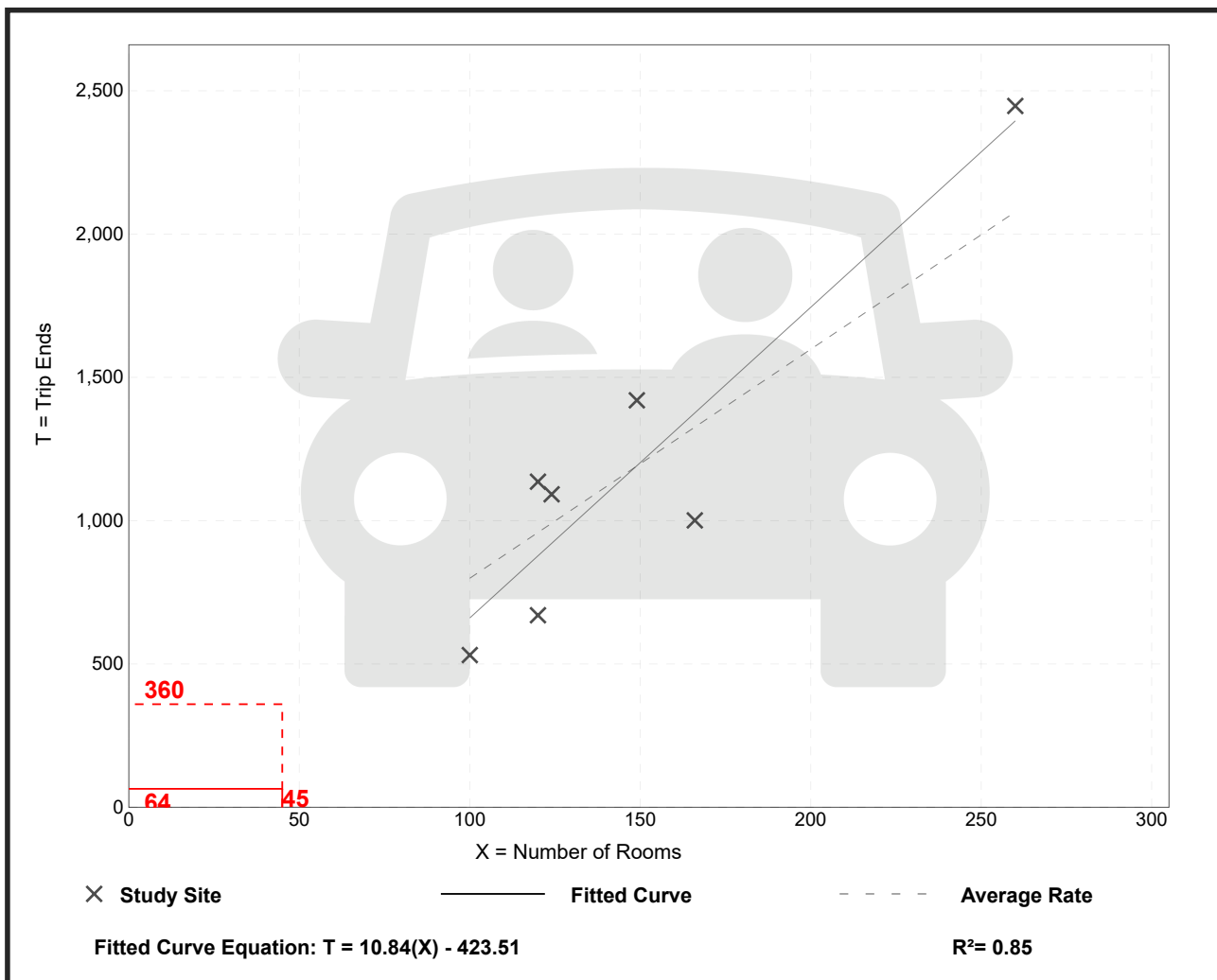
Vehicle Trip Ends vs: Rooms
On a: Weekday

Setting/Location: General Urban/Suburban
Number of Studies: 7
Avg. Num. of Rooms: 148
Directional Distribution: 50% entering, 50% exiting

Vehicle Trip Generation per Room

Average Rate	Range of Rates	Standard Deviation
7.99	5.31 - 9.53	1.92

Data Plot and Equation



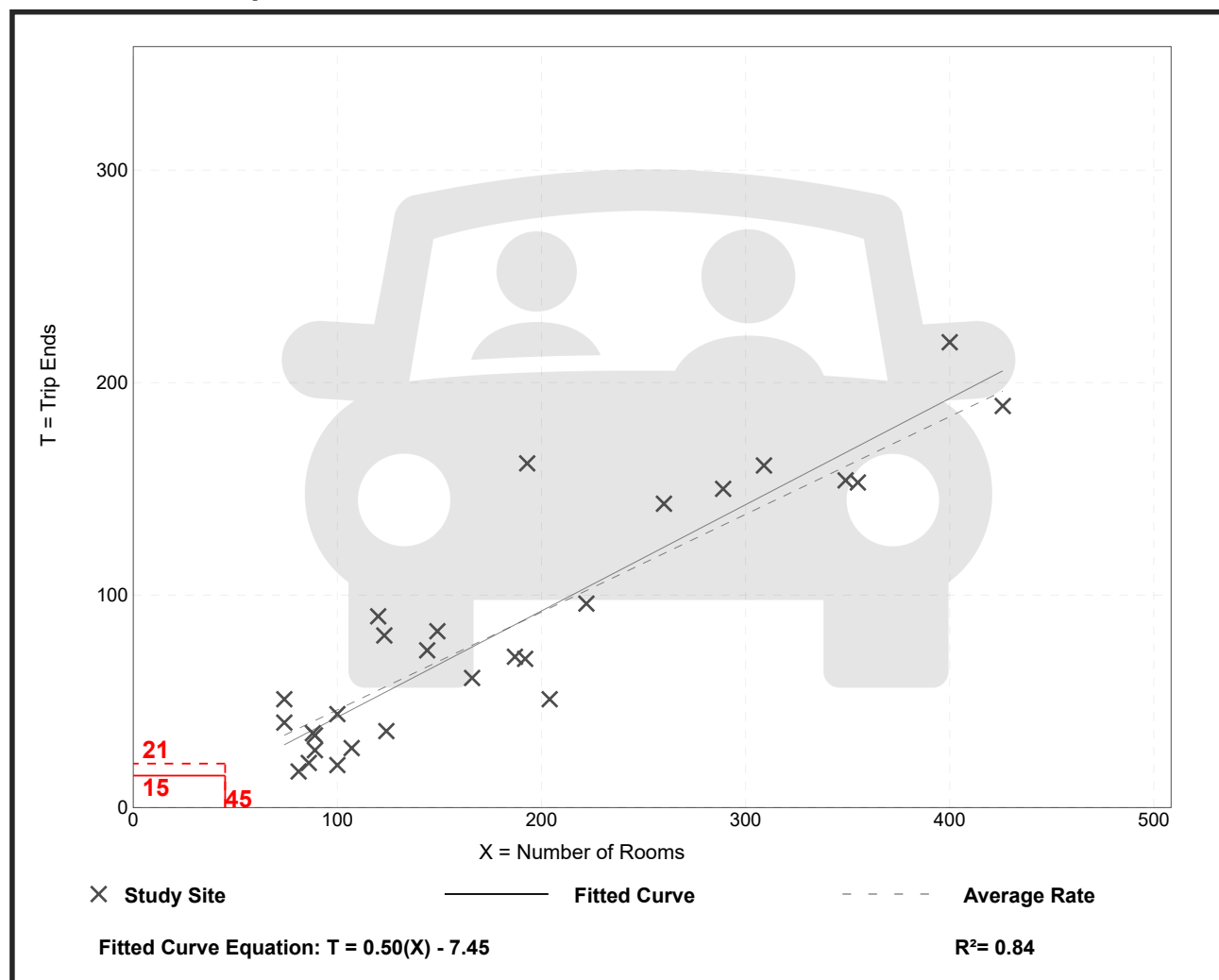
Hotel (310)

Vehicle Trip Ends vs: Rooms
On a: Weekday,
 Peak Hour of Adjacent Street Traffic,
 One Hour Between 7 and 9 a.m.
Setting/Location: General Urban/Suburban
 Number of Studies: 28
 Avg. Num. of Rooms: 182
 Directional Distribution: 56% entering, 44% exiting

Vehicle Trip Generation per Room

Average Rate	Range of Rates	Standard Deviation
0.46	0.20 - 0.84	0.14

Data Plot and Equation



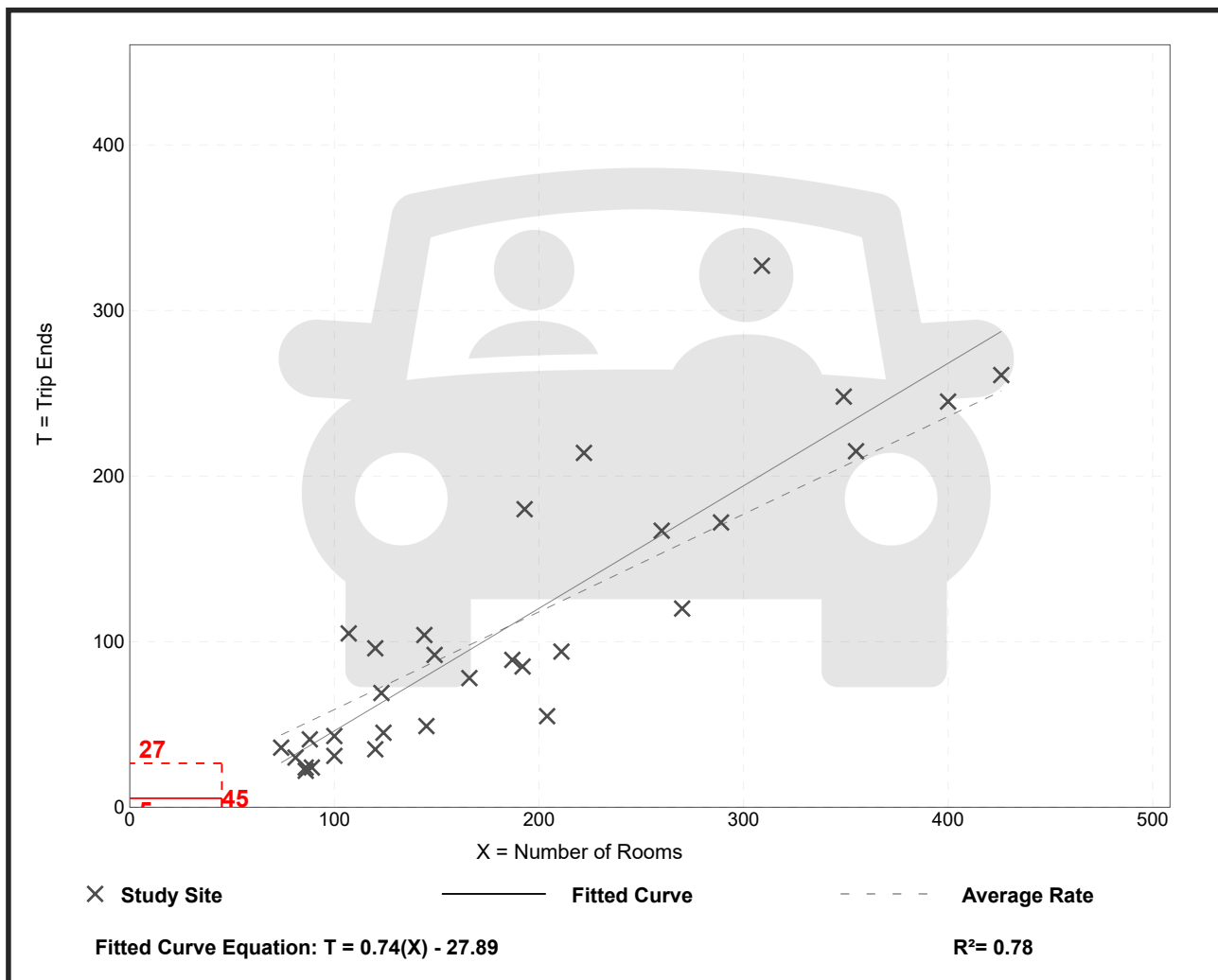
Hotel (310)

Vehicle Trip Ends vs: Rooms
On a: Weekday,
Peak Hour of Adjacent Street Traffic,
One Hour Between 4 and 6 p.m.
Setting/Location: General Urban/Suburban
 Number of Studies: 31
 Avg. Num. of Rooms: 186
 Directional Distribution: 51% entering, 49% exiting

Vehicle Trip Generation per Room

Average Rate	Range of Rates	Standard Deviation
0.59	0.26 - 1.06	0.22

Data Plot and Equation



Multifamily Housing (Low-Rise) Not Close to Rail Transit (220)

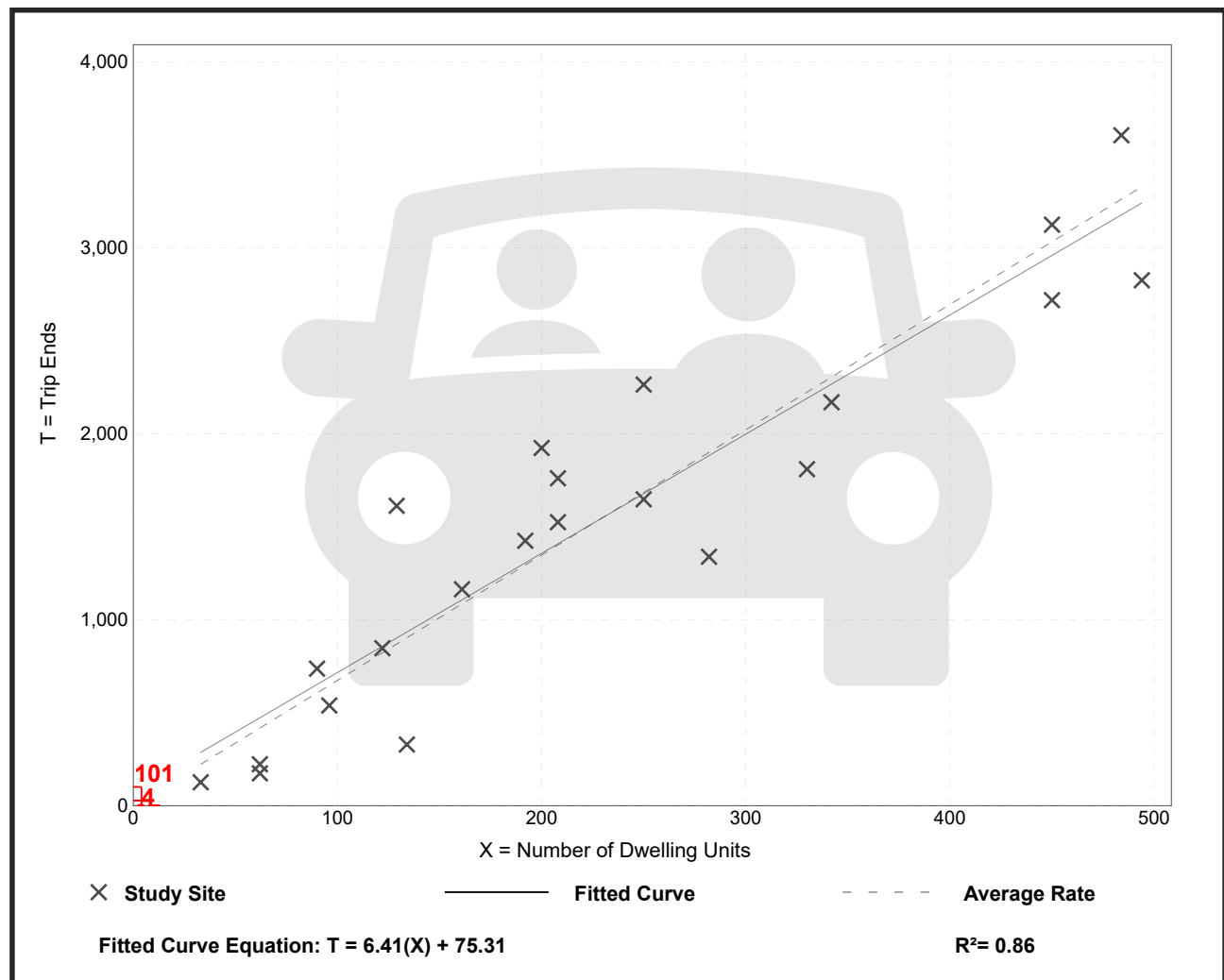
Vehicle Trip Ends vs: Dwelling Units
On a: Weekday

Setting/Location: General Urban/Suburban
Number of Studies: 22
Avg. Num. of Dwelling Units: 229
Directional Distribution: 50% entering, 50% exiting

Vehicle Trip Generation per Dwelling Unit

Average Rate	Range of Rates	Standard Deviation
6.74	2.46 - 12.50	1.79

Data Plot and Equation



Multifamily Housing (Low-Rise) Not Close to Rail Transit (220)

Vehicle Trip Ends vs: Dwelling Units
On a: Weekday,
Peak Hour of Adjacent Street Traffic,
One Hour Between 7 and 9 a.m.

Setting/Location: General Urban/Suburban

Number of Studies: 49

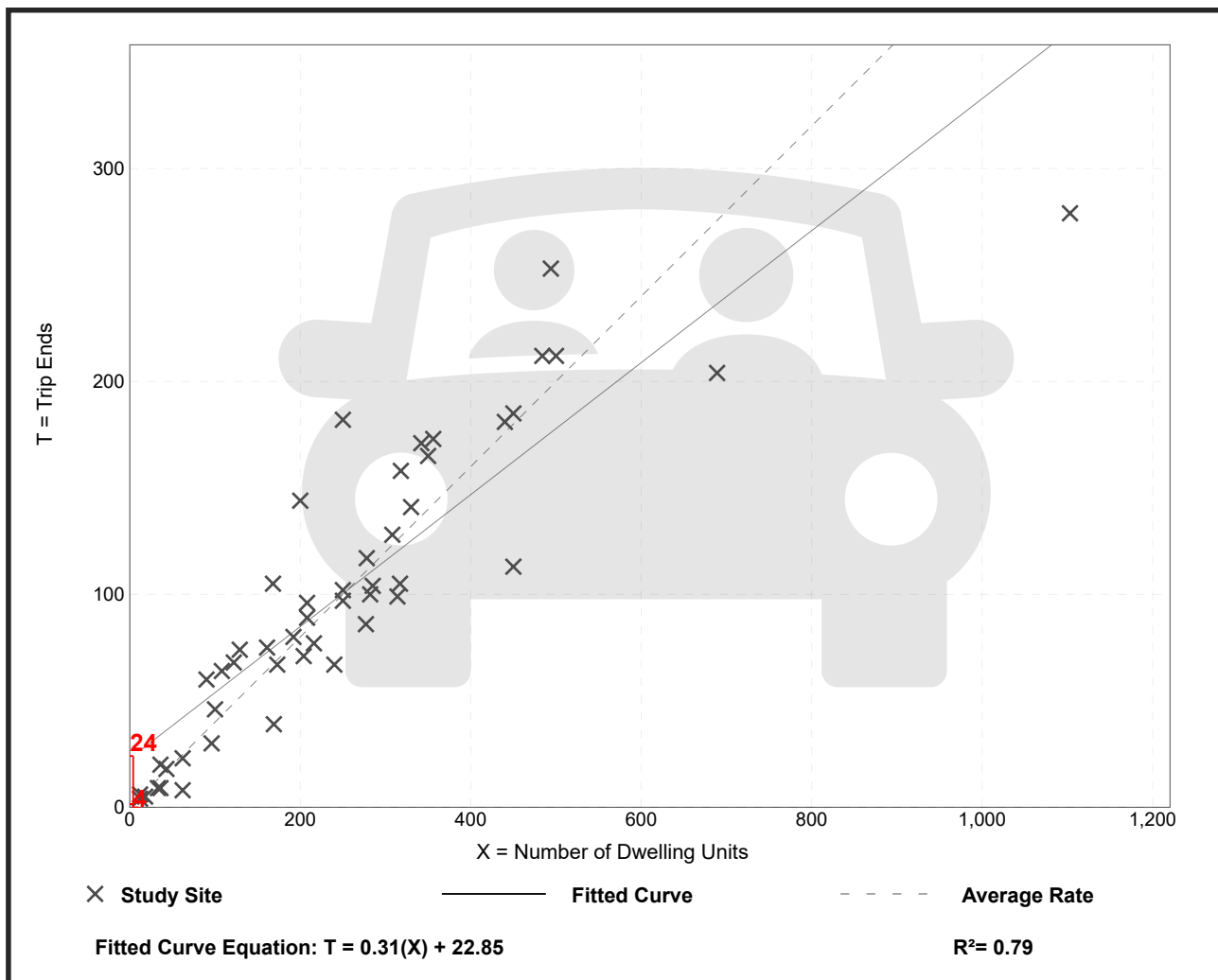
Avg. Num. of Dwelling Units: 249

Directional Distribution: 24% entering, 76% exiting

Vehicle Trip Generation per Dwelling Unit

Average Rate	Range of Rates	Standard Deviation
0.40	0.13 - 0.73	0.12

Data Plot and Equation



Multifamily Housing (Low-Rise) Not Close to Rail Transit (220)

Vehicle Trip Ends vs: Dwelling Units
On a: Weekday,
Peak Hour of Adjacent Street Traffic,
One Hour Between 4 and 6 p.m.

Setting/Location: General Urban/Suburban

Number of Studies: 59

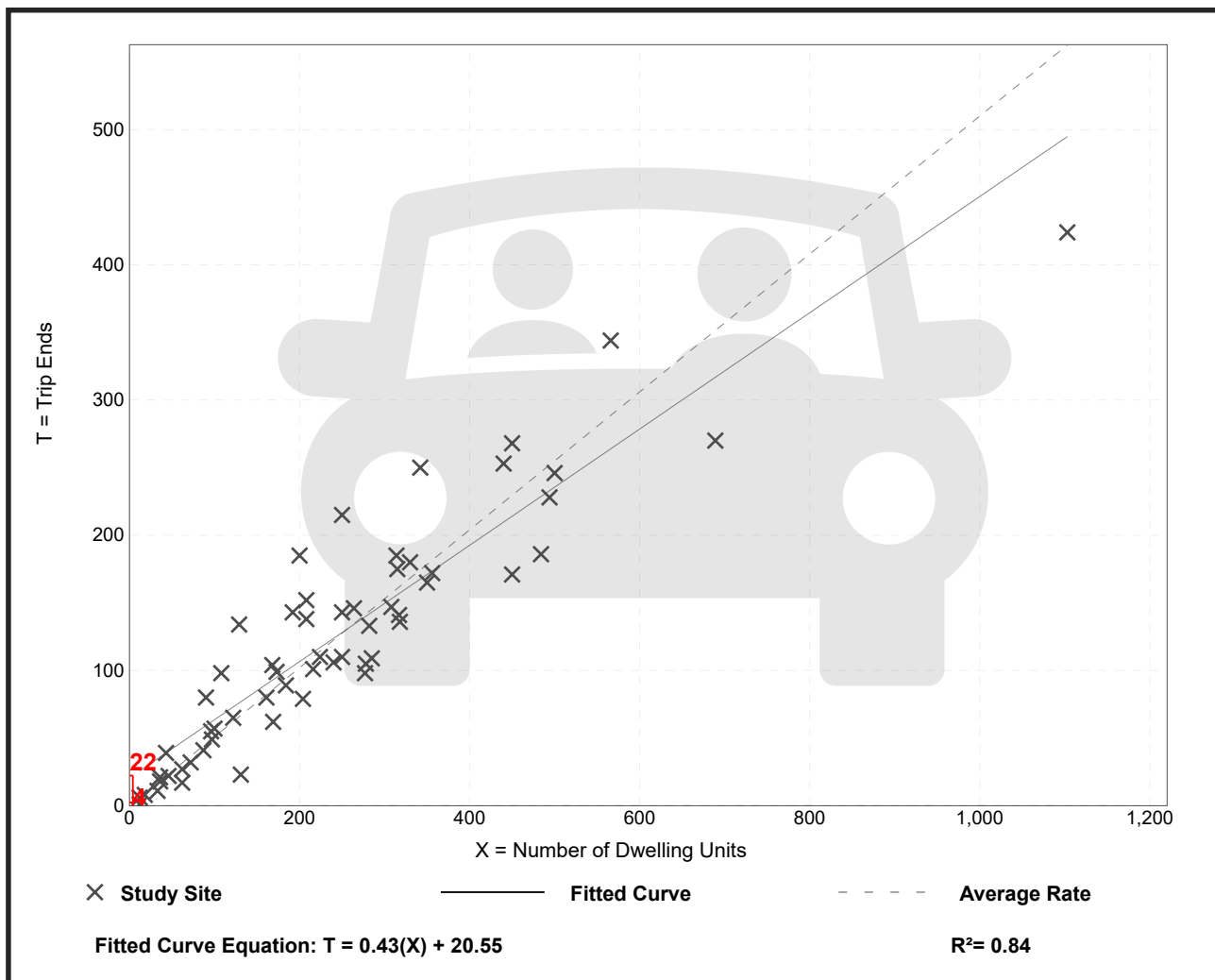
Avg. Num. of Dwelling Units: 241

Directional Distribution: 63% entering, 37% exiting

Vehicle Trip Generation per Dwelling Unit

Average Rate	Range of Rates	Standard Deviation
0.51	0.08 - 1.04	0.15

Data Plot and Equation



Strip Retail Plaza (<40k) (822)

Vehicle Trip Ends vs: 1000 Sq. Ft. GLA
On a: Weekday

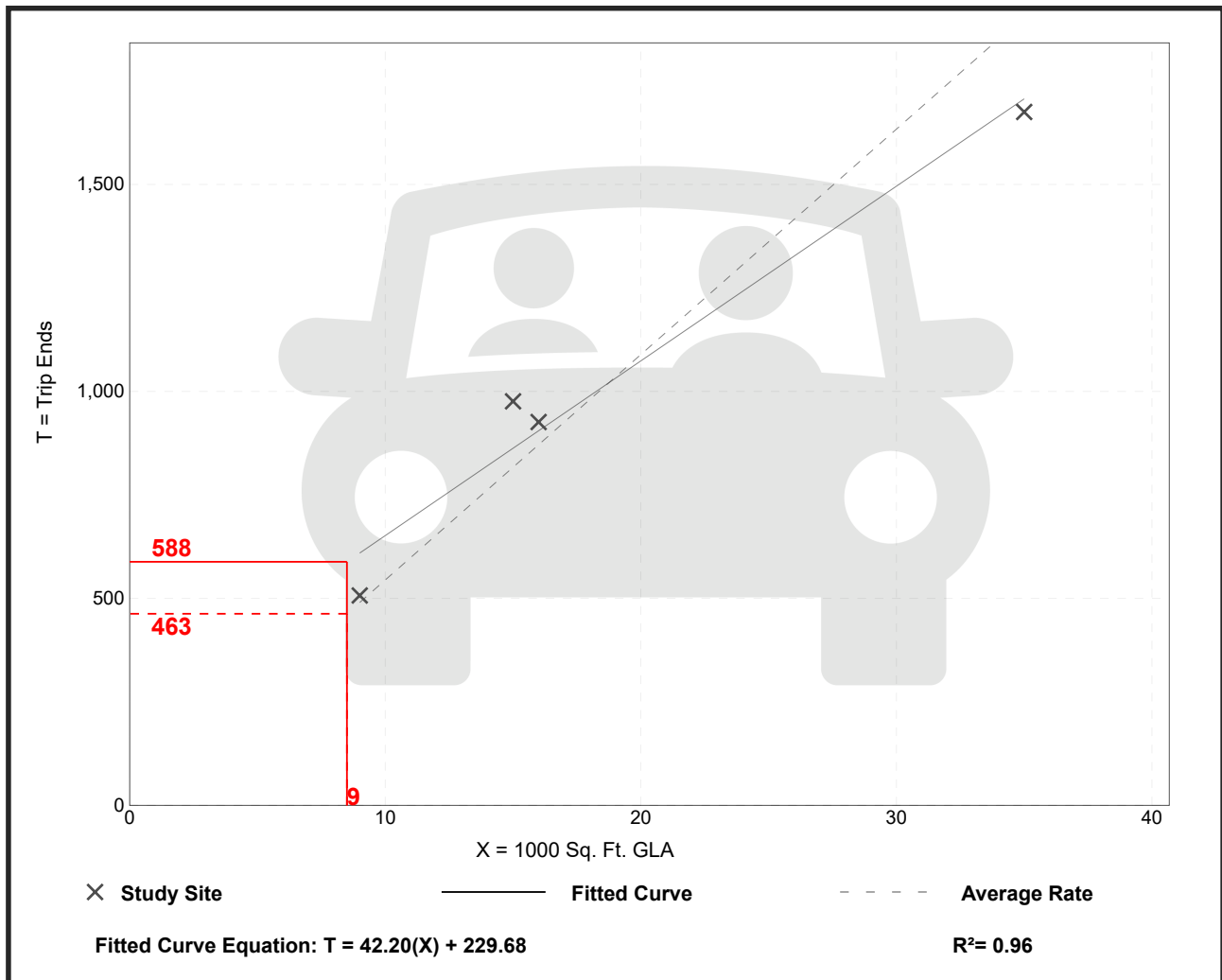
Setting/Location: General Urban/Suburban
Number of Studies: 4
Avg. 1000 Sq. Ft. GLA: 19
Directional Distribution: 50% entering, 50% exiting

Vehicle Trip Generation per 1000 Sq. Ft. GLA

Average Rate	Range of Rates	Standard Deviation
54.45	47.86 - 65.07	7.81

Data Plot and Equation

Caution – Small Sample Size



Strip Retail Plaza (<40k)

(822)

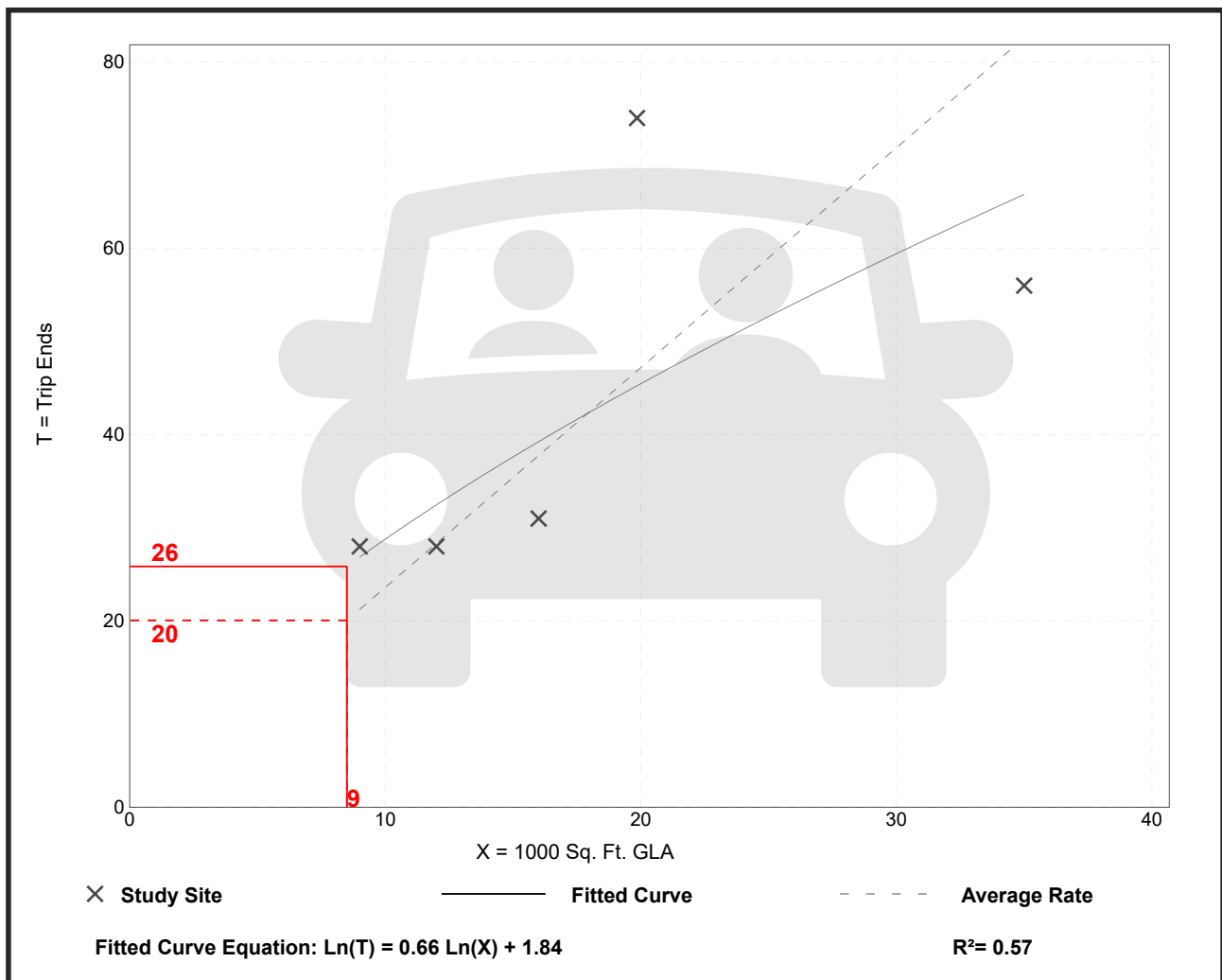
Vehicle Trip Ends vs: 1000 Sq. Ft. GLA
 On a: Weekday,
 Peak Hour of Adjacent Street Traffic,
 One Hour Between 7 and 9 a.m.
 Setting/Location: General Urban/Suburban
 Number of Studies: 5
 Avg. 1000 Sq. Ft. GLA: 18
 Directional Distribution: 60% entering, 40% exiting

Vehicle Trip Generation per 1000 Sq. Ft. GLA

Average Rate	Range of Rates	Standard Deviation
2.36	1.60 - 3.73	0.94

Data Plot and Equation

Caution – Small Sample Size



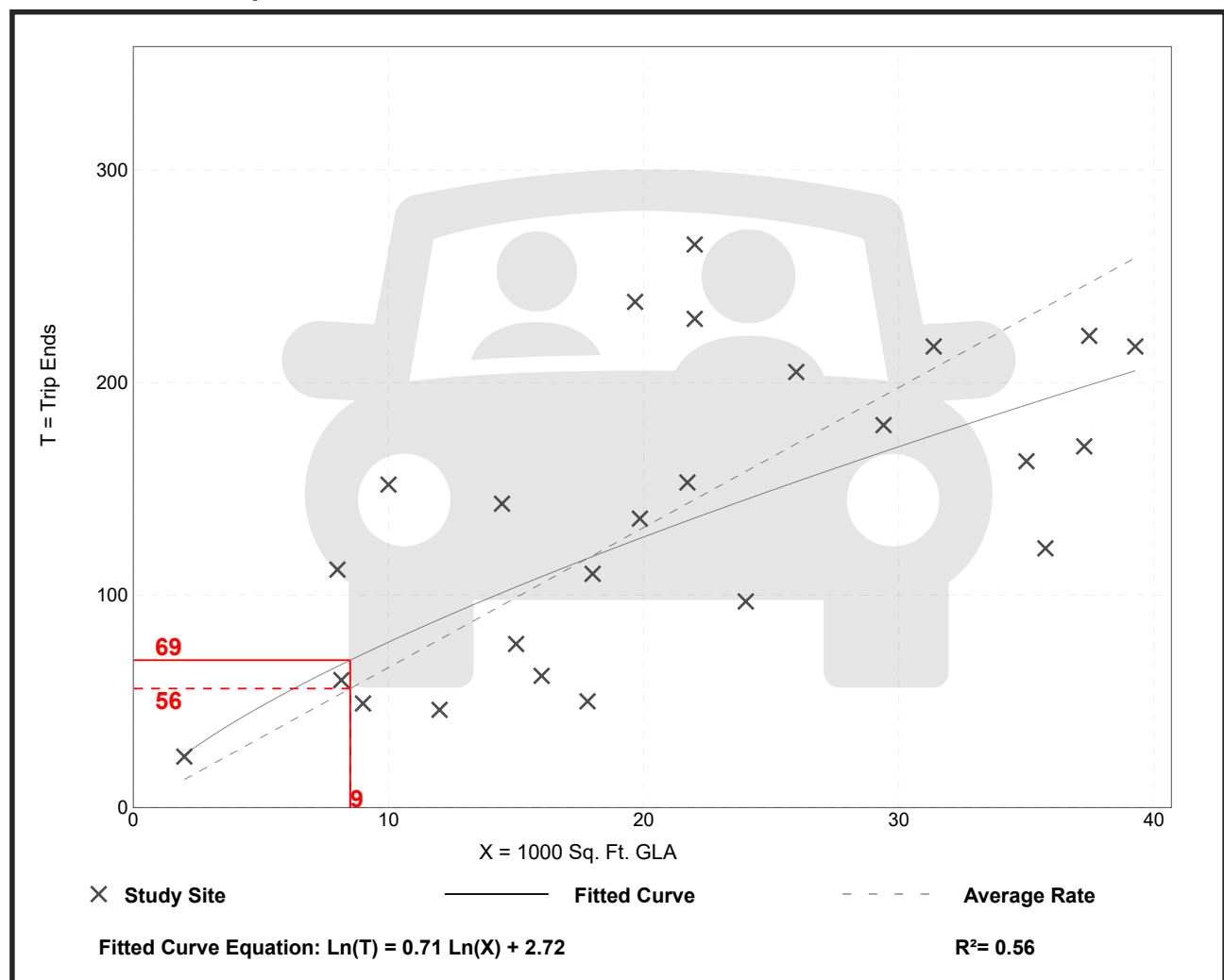
Strip Retail Plaza (<40k) (822)

Vehicle Trip Ends vs: 1000 Sq. Ft. GLA
 On a: Weekday,
 Peak Hour of Adjacent Street Traffic,
 One Hour Between 4 and 6 p.m.
 Setting/Location: General Urban/Suburban
 Number of Studies: 25
 Avg. 1000 Sq. Ft. GLA: 21
 Directional Distribution: 50% entering, 50% exiting

Vehicle Trip Generation per 1000 Sq. Ft. GLA

Average Rate	Range of Rates	Standard Deviation
6.59	2.81 - 15.20	2.94

Data Plot and Equation



FLORIDA DEPARTMENT OF TRANSPORTATION
2022 ANNUAL AVERAGE DAILY TRAFFIC REPORT - REPORT TYPE: ALL

COUNTY: 12 LEE

SITE =====	SITE TYPE =====	DESCRIPTION =====	DIRECTION 1 =====	DIRECTION 2 =====	AADT TWO-WAY =====	"K" FCTR =====	"D" FCTR =====	"T" FCTR =====
6028	T	FOWLER ST, S OF HANSON ST, PTMS 2028, LCPR 28	0E	0E	24500 X	9.0	54.0F	7.3F
6029	T	CR 867/MCGREGOR BLVD, N OF MANUELS DR, PTMS 2029	0E	0E	12500 X	9.0	54.0F	4.1F
6030	T	DANIELS PKWY, 100? FT E OF PONDEROSA WY, PTMS 20	0E	0E	49000 X	9.0	54.0F	9.6D
6031	T	DANIELS PKWY, 150' W OF EAGLE RIDGE DR, PTMS 203	0E	0E	59500 X	9.0	54.0F	9.8F
6033		CHAMBERLIN PKWY, 250' S OF DANIELS PKWY, PTMS 20	S 0E	N 0E	1000 E	9.0	53.7F	6.4D
6034	T	PONDELLA RD, E OF BETMAR BLVD, PTMS 2034, LCPR 3	0E	0E	22500 X	9.0	54.0F	9.8F
6035	T	SUMMERLIN RD, 500' S OF PARK MEADOWS RD, PTMS 20	0E	0E	33000 X	9.0	54.0F	5.4F
6036	T	SUMMERLIN RD, 1000' E OF JOHN MORRIS RD PTMS	0E	0E	25500 X	9.0	53.9F	5.4F
6037	T	SR 867/MCGREGOR BLVD, 500' S OF PINE RIDGE RD, P	0E	0E	27500 X	9.0	53.9F	3.0X
6038	T	MCGREGOR BLVD/CR 867, N OF KELLY RD PTMS 20	0E	0E	16500 X	9.0	53.9F	8.3D
6039	T	GLADIOLUS DR, W OF BASS RD, PTMS 2039, LCPR 39	0E	0E	24000 X	9.0	53.9F	4.1F
6040	T	DEL PRADO BLVD, AT FOUR MILE COVE BLVD, PTMS 204	0E	0E	44500 X	9.0	54.0F	9.8F
6041	T	SR 739/US 41B, 500' N OF EDISON BRIDGE, PTMS 19,	0E	0E	45500 F	9.0	52.7F	8.2P
6042	T	BONITA BEACH RD/CR 865, W OF I-75, PTMS 2042, LC	0E	0E	39000 X	9.0	53.9F	4.1F
6043	T	COLLEGE PKWY, 600' E OF WINKLER RD, PTMS 2043, L	0E	0E	37000 X	9.0	53.9F	5.4F
6044	T	ESTERO BLVD, 100' N OF DONORA BLVD, PTMS 2044, L	0E	0E	12500 X	9.0	53.9F	8.3D

SITE TYPE : BLANK= PORTABLE; T= TELEMETERED

"K" FACTOR : DEPARTMENT ADOPTED STANDARD K FACTOR BEGINING WITH COUNT YEAR 2011

AADT FLAGS : C= COMPUTED; E= MANUAL EST; F= FIRST YEAR EST; S= SECOND YEAR EST; T= THIRD YEAR EST; R= FOURTH YEAR EST;
V= FIFTH YEAR EST; 6= SIXTH YEAR EST; X= UNKNOWN

"D/T" FLAGS : A= ACTUAL; F= FACTOR CATG; D= DIST FUNCL; P= PRIOR YEAR; S= STATEWIDE DEFAULT; W= ONE-WAY ROAD; X= CROSS REF

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PAGE -28-

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TABLE 4

Generalized **Peak Hour Two-Way** Volumes for Florida's
Urbanized Areas¹

January 2020

INTERRUPTED FLOW FACILITIES						UNINTERRUPTED FLOW FACILITIES					
STATE SIGNALIZED ARTERIALS						FREEWAYS					
Class I (40 mph or higher posted speed limit)						Core Urbanized					
Lanes	Median	B	C	D	E	Lanes	B	C	D	E	
2	Undivided	*	1,510	1,600	**	4	4,050	5,640	6,800	7,420	
4	Divided	*	3,420	3,580	**	6	5,960	8,310	10,220	11,150	
6	Divided	*	5,250	5,390	**	8	7,840	10,960	13,620	14,850	
8	Divided	*	7,090	7,210	**	10	9,800	13,510	17,040	18,580	
						12	11,600	16,350	20,930	23,200	
Class II (35 mph or slower posted speed limit)						Urbanized					
Lanes	Median	B	C	D	E	Lanes	B	C	D	E	
2	Undivided	*	660	1,330	1,410	4	4,130	5,640	7,070	7,690	
4	Divided	*	1,310	2,920	3,040	6	6,200	8,450	10,510	11,530	
6	Divided	*	2,090	4,500	4,590	8	8,270	11,270	13,960	15,380	
8	Divided	*	2,880	6,060	6,130	10	10,350	14,110	17,310	19,220	
Non-State Signalized Roadway Adjustments						Freeway Adjustments					
(Alter corresponding state volumes by the indicated percent.)						Auxiliary Lanes					
Non-State Signalized Roadways - 10%						Present in Both Directions + 1,800					
Median & Turn Lane Adjustments						Ramp Metering + 5%					
Lanes	Median	Exclusive Left Lanes	Exclusive Right Lanes	Adjustment Factors		UNINTERRUPTED FLOW HIGHWAYS					
2	Divided	Yes	No	+5%		Lanes	Median	B	C	D	E
2	Undivided	No	No	-20%		2	Undivided	1,050	1,620	2,180	2,930
Multi	Undivided	Yes	No	-5%		4	Divided	3,270	4,730	5,960	6,780
Multi	Undivided	No	No	-25%		6	Divided	4,910	7,090	8,950	10,180
—	—	—	Yes	+ 5%		Uninterrupted Flow Highway Adjustments					
One-Way Facility Adjustment						Lanes	Median	Exclusive left lanes	Adjustment factors		
Multiply the corresponding two-directional volumes in this table by 0.6						2	Divided	Yes	+5%		
						Multi	Undivided	Yes	-5%		
						Multi	Undivided	No	-25%		
BICYCLE MODE²						¹ Values shown are presented as peak hour directional volumes for levels of service and are for the automobile/truck modes unless specifically stated. This table does not constitute a standard and should be used only for general planning applications. The computer models from which this table is derived should be used for more specific planning applications. The table and deriving computer models should not be used for corridor or intersection design, where more refined techniques exist. Calculations are based on planning applications of the HCM and the Transit Capacity and Quality of Service Manual.					
(Multiply vehicle volumes shown below by number of directional roadway lanes to determine two-way maximum service volumes.)						² Level of service for the bicycle and pedestrian modes in this table is based on number of vehicles, not number of bicyclists or pedestrians using the facility.					
Paved Shoulder/Bicycle						³ Buses per hour shown are only for the peak hour in the single direction of the higher traffic flow.					
Lane Coverage	B	C	D	E		* Cannot be achieved using table input value defaults.					
0-49%	*	260	680	1,770		** Not applicable for that level of service letter grade. For the automobile mode, volumes greater than level of service D become F because intersection capacities have been reached. For the bicycle mode, the level of service letter grade (including F) is not achievable because there is no maximum vehicle volume threshold using table input value defaults.					
50-84%	190	600	1,770	>1,770		Source:					
85-100%	830	1,700	>1,770	**		Florida Department of Transportation					
PEDESTRIAN MODE²						Systems Implementation Office					
(Multiply vehicle volumes shown below by number of directional roadway lanes to determine two-way maximum service volumes.)						https://www.fdot.gov/planning/systems/					
Sidewalk Coverage	B	C	D	E							
0-49%	*	*	250	850							
50-84%	*	150	780	1,420							
85-100%	340	960	1,560	>1,770							
BUS MODE (Scheduled Fixed Route)³											
(Buses in peak hour in peak direction)											
Sidewalk Coverage	B	C	D	E							
0-84%	> 5	≥ 4	≥ 3	≥ 2							
85-100%	> 4	≥ 3	≥ 2	≥ 1							

FLORIDA DEPARTMENT OF TRANSPORTATION
TRANSPORTATION STATISTICS OFFICE
2022 HISTORICAL AADT REPORT

COUNTY: 12 - LEE

SITE: 6044 - ESTERO BLVD, 100' N OF DONORA BLVD, PTMS 2044, LCPR 44

YEAR	AADT	DIRECTION 1		DIRECTION 2		*K FACTOR	D FACTOR	T FACTOR
----	-----	-----		-----		-----	-----	-----
2022	12500 X		0		0	9.00	53.90	8.30
2021	12500 X		0		0	9.00	53.50	4.10
2020	12500 X		0		0	9.00	53.40	5.70
2019	13000 T		0		0	9.00	53.80	3.10
2018	12500 S		0		0	9.00	53.30	2.60
2017	12400 F		0		0	9.00	52.90	3.60
2016	12476 C	N	6191	S	6285	9.00	52.90	2.80
2015	12751 C	N	6358	S	6393	9.00	52.90	2.80
2014	13531 C	N	6744	S	6787	9.00	52.90	5.20
2013	13496 C	N	6702	S	6794	9.00	52.70	6.50
2012	13657 C	N	6707	S	6950	9.00	53.20	3.00
2011	13753 C	N	6771	S	6982	9.00	52.90	3.50
2010	13554 C	N	6682	S	6872	9.77	53.36	2.80
2009	14113 C	N	7088	S	7025	9.55	52.60	3.10
2008	14205 C	N	7155	S	7050	9.56	52.72	3.60

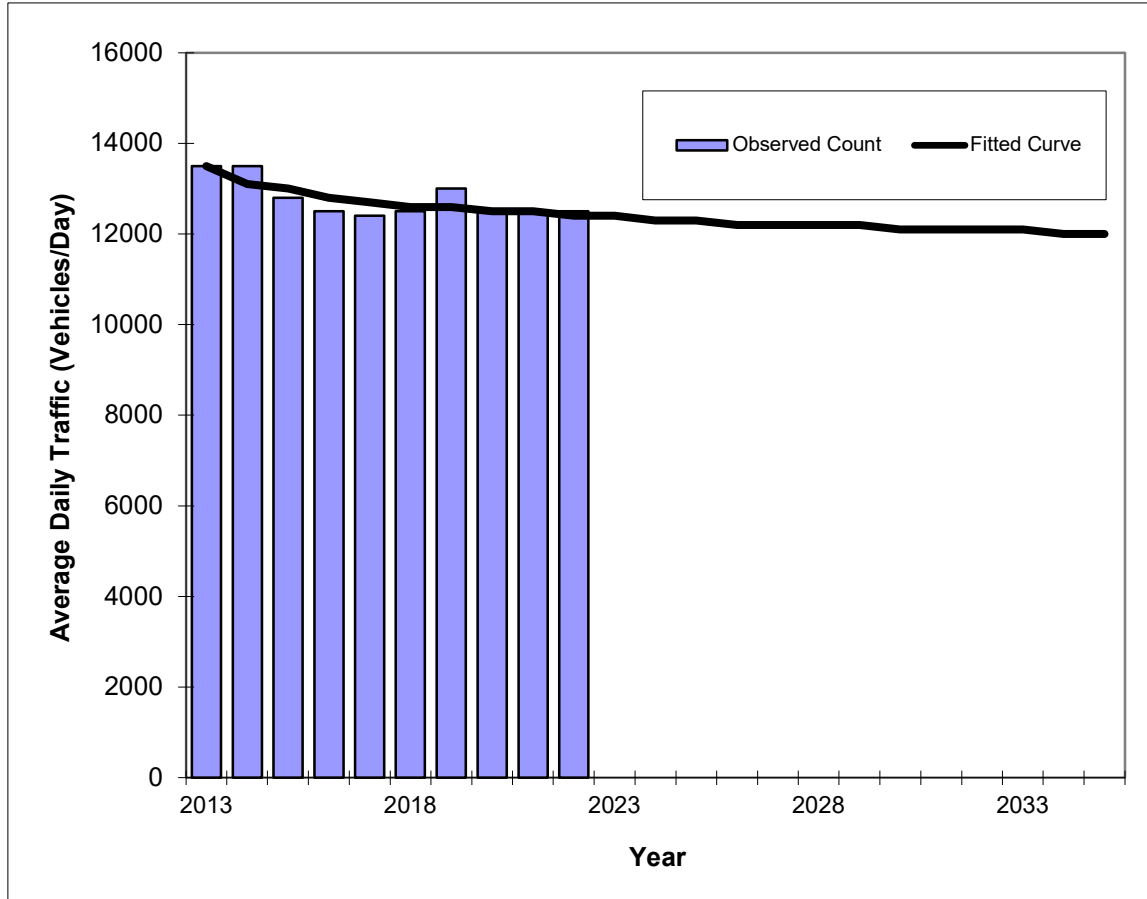
AADT FLAGS: C = COMPUTED; E = MANUAL ESTIMATE; F = FIRST YEAR ESTIMATE
 S = SECOND YEAR ESTIMATE; T = THIRD YEAR ESTIMATE; R = FOURTH YEAR ESTIMATE
 V = FIFTH YEAR ESTIMATE; 6 = SIXTH YEAR ESTIMATE; X = UNKNOWN
 *K FACTOR: STARTING WITH YEAR 2011 IS STANDARDK, PRIOR YEARS ARE K30 VALUES

Traffic Trends - V03.a

ESTERO BLVD. --

FIN#	1234
Location	1

County:	Lee (12)
Station #:	6044
Highway:	ESTERO BLVD.



Year	Traffic (ADT/AADT)	
	Count*	Trend**
2013	13500	13500
2014	13500	13100
2015	12800	13000
2016	12500	12800
2017	12400	12700
2018	12500	12600
2019	13000	12600
2020	12500	12500
2021	12500	12500
2022	12500	12400
2023 Opening Year Trend		
2023	N/A	12400
2024 Mid-Year Trend		
2024	N/A	12300
2025 Design Year Trend		
2025	N/A	12300
TRANPLAN Forecasts/Trends		

Trend R-squared:	64.21%
Compounded Annual Historic Growth Rate:	-0.94%
Compounded Growth Rate (2022 to Design Year):	-0.27%
Printed:	26-Jul-23
Decaying Exponential Growth Option	

*Axle-Adjusted

[Administration and Faculty](#)

[Attendance Policy](#)

[Bell Schedule](#)

[Dress Code/Uniform](#)

[Dismissal Procedures](#)

[Menus \(Breakfast/Lunch\)](#)

[School Calendar](#)

[Safety and Security](#)

[Supply List](#)

[School Equity Coordinator](#)

[School Report Card \(SPARS\)](#)

[Kids Care](#)

[Media Center](#)

[Fort Myers Beach Elementary School](#) / [Our School](#) / Bell Schedule

Bell Schedule



Full Day Schedule

7:55AM - 2:10PM

Early Dismissal

7:55AM - 12:10PM

Fort Myers Beach Elementary School

2751 Oak Street, Fort Myers Beach, FL 33931
Phone (239) 463-6356 | Fax (239) 463-3592

Website by SchoolMessenger Presence. © 2023 Intrado Corporation. All rights reserved. Non-Discrimination Policy Website Accessibility

Figure 2 - 6. Guideline for determining the need for a major-road right-turn bay at a two-way stop-controlled intersection.

INPUT

Roadway geometry:	2-lane roadway
Variable	Value
Major-road speed, mph:	25
Major-road volume (one direction), veh/h:	570
Right-turn volume, veh/h:	43

OUTPUT

Variable	Value
Limiting right-turn volume, veh/h:	755
Guidance for determining the need for a major-road right-turn bay for a 2-lane roadway:	
Do NOT add right-turn bay.	

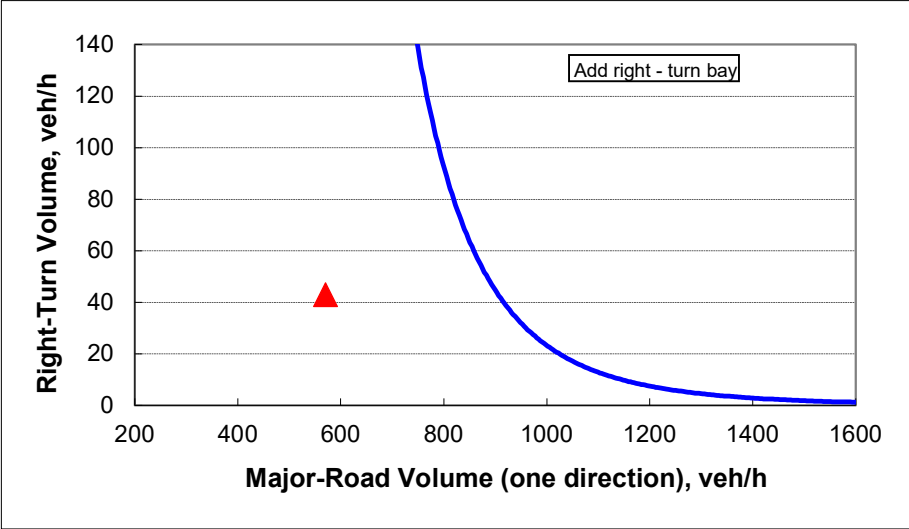


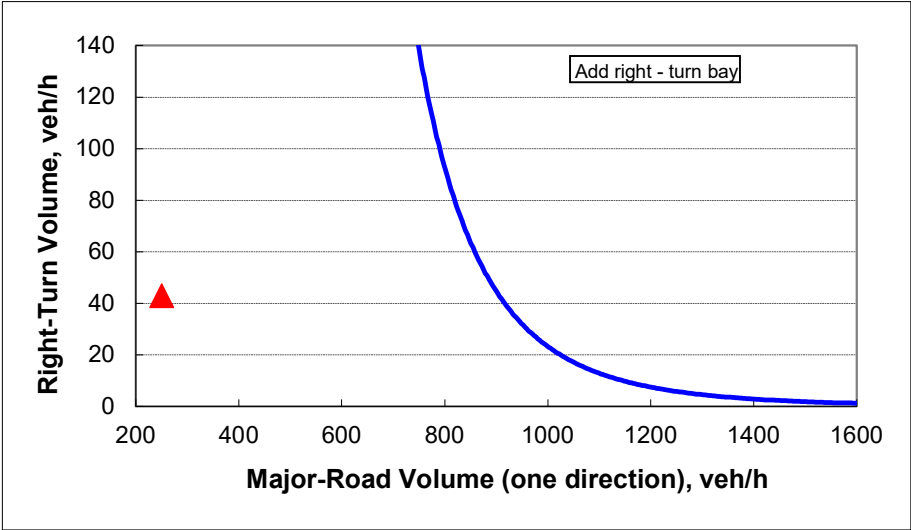
Figure 2 - 6. Guideline for determining the need for a major-road right-turn bay at a two-way stop-controlled intersection.

INPUT

Roadway geometry:	2-lane roadway
Variable	Value
Major-road speed, mph:	25
Major-road volume (one direction), veh/h:	250
Right-turn volume, veh/h:	43

OUTPUT

Variable	Value
Limiting right-turn volume, veh/h:	123963
Guidance for determining the need for a major-road right-turn bay for a 2-lane roadway:	
Do NOT add right-turn bay.	



How to Ride

¿Como Usarlo? / Fason pou vwayaj

- LeeTran’s bus routes are numbered and shown on the map in different colors.
- Locate on the map your starting point, your destination and the bus route(s) closest to them.
- Choose the appropriate bus schedule, showing departure times from major landmarks.
- Decide when you want to arrive at your destination, then work backward to determine when you need to catch the bus.
- Locate a LeeTran bus stop sign on the same side of the road as the direction in which you want to travel. Stand near the sign, so the driver knows that you want to catch the bus.

- Arrive at your bus stop at least five minutes before your departure time.

- Have your fare or pass ready, and enter the bus at the front door.

- If you have difficulty stepping on or off the bus, ask the driver to make the bus “kneel” to curb level. All LeeTran buses and trolleys have wheelchair ramps or lifts, and tie-downs. The driver will assist you.

- If you are entitled to a reduced fare, please have your ID ready.

- Onboard, signal for the bus to stop either by pulling the cord or pressing the strip along the windows at least one block before your desired stop.

- Leave the bus by the rear door and do not cross in front of the bus after disembarking.

- Use LeeTran’s easy online TripPlanner to map your trip at www.rideleetran.com

- Las rutas de LeeTran están numeradas y se muestran en el mapa con diferentes colores.

- Localice en el mapa su punto de partida y su destino final y la ruta o rutas más cercanas a los lugares que usted vaya a ir.

- Elija el horario apropiado que enseñe las horas de salida para los lugares claves que le sirvan para orientarse y poder llegar a donde usted desee ir.

- Decida a que hora quiera llegar a su destino, luego revise el horario del autobús y deter mine cuando lo debe tomar.

- Localice una parada del autobús en el mismo lado de la calle, en la dirección en la que usted quiera ir.

- Llegue a la parada por lo menos cinco minutos antes de la hora de la salida.

- Tenga el dinero del pasaje listo y entre al autobús por la puerta de enfrente.

- Si usted tiene dificultad al entrar o salir del autobús, dígame al chofer que baje el autobús al nivel de la banqueta.

- Todos los autobuses y trolebuses de LeeTran tienen rampas para las sillas de ruedas o elevadores y amares para las sillas. El chofer lo/la asistirá.

- Si usted tiene un descuento o reducción en su pasaje, por favor tenga su identificación lista.

- Señale para que el chofer pare el autobús ya sea jalando el cordón o haciendo presión en la franja junto a la ventanilla por lo menos una cuadra antes de su parada.

- Por favor después de salir del autobús no camine enfrente del mismo.

- Wout otobis LeeTran yo nimewote epi yo parèt sou kat jeyografik la nan diferan koulè.

- Lokalize sou kat jeyografik la pwen depa w, destinasyon w ak wout otobis(yo) ki pi pre yo.

- Chwazi orè otobis ki apwopriye a, ki monte lè y ap deplase sot nan gwo pwen repè yo.

- Deside lè w vle rive nan destinasyon w, epi apati de lè sa mache arekilon pou detèmine lè w ta dwe pran otobis la.

- Lokalize yon pano arè otobis LeeTran sou menm bò lari ak direksyon ou vle vwayaje a. Kanpe bò pano a, konsa chofè a konnen ou ou vle monte otobis la.

- Rive nan arè otobis la omwen senk minit anvan lè pou otobis la deplase.

- Mete lajan w oswa pas ou a prè, epi rantrè nan otobis la nan pòt devan an.

- Si w gen difikilte pou monte oswa desann otobis la, mande chofè a pou l fè otobis la “bese (kneel)” nan nivo twotwa a. Tout otobis LeeTran yo ak trolley yo genyen ramp oswa elevatè pou chèz woutan, ak atachman. Chofè a pral ede w.

- Si w gen dwa pou yon tarif redwi, tanpri pare pou montre pyès idantifikasyon w.

- Pandan w nan otobis la, siyale pou otobis la kanpe swa lè w rale kòd la swa lè w peze bann ki bò fenèt yo omwen yon blòk anvan kote w ta renmen kanpe a.

- Desann otobis la nan pòt dèyè a epi pinga w travèse lari a devan otobis la aprè w fin desann li.

- Itilize planifikatè vwayaj (TripPlanner) LeeTran nan ki fasil sou entènèt la pou planifye vwayaj ou a nan www.rideleetran.com

Transit Fares

Tarifas de Pasaje
Tarif tranzit



Adult Fare	\$1.50
Discount Fare	\$0.75
Children 42” and Under	FREE

Discount Fares

Identificaciones de Transporte / Tarif rabè

LeeTran fare discount ID cards enable people 65 years of age or more, with disabilities, and full-time students to ride at a reduced fare. Photo ID TropiCards are made at the Rosa Parks Transportation Center, 2250 Widman Way, Fort Myers. Seniors must show proof of age; people with disabilities must show medical certification; and students must show proof of school enrollment.

Las tarjetas de identificación con descuento de tarifa de LeeTran permiten que las personas de 65 años o más, con discapacidades y estudiantes de tiempo completo viajen a una tarifa reducida. Las tarjetas TropiCards de identificación con foto se hacen en el Centro de Transporte de Rosa Parks, 2250 Widman Way, Fort Myers. Las personas mayores deben mostrar prueba de edad; las personas con discapacidades deben mostrar una certificación médica y los estudiantes deben mostrar un comprobante de inscripción escolar.

Kat idantifikasyon pou tarif rabè LeeTran nan pèmèt moun ki gen 65 an oswa plis, ki gen andikap, ak etidyan apilantan yo pou yo vwayaje avèk tarif ki redwi. Yo fè idantifikasyon foto TropiCards yo nan Rosa Parks Transportation Center, 2250 Widman Way, Fort Myers. Moun ajè yo dwe montre prèv laj yo; moun ki gen andikap yo dwe montre sètifikasyon medikal; epi elèv yo dwe montre prèv yo enskri nan lekòl.

Bus Passes

Pases de Autobús
Pas pou otobis yo

	Regular Adult	Senior/ Disabled Discount	Student Discount
31-Day Passes	\$40	\$23	\$25
7-Day Passes	\$15	\$11	\$12
12-Trip Passes	\$13.50	\$6.50	\$6.75
All Day Pass	\$4		
3-Day Trolley Pass	\$4		

LeeTran riders can save money by purchasing passes good for multiple trips. They can be purchased on our secure website, rideleetran.com, or at the following locations:

LeeTran puede ahorrarle dinero al comprar los pases para múltiples viajes. Los Boletos se pueden comprar en el internet visitando rideleetran.com y los siguientes locales:

Pasaje LeeTran yo ka ekonomize lajan lè yo achte pas ki bon pou plizyè vwayaj. Ou ka achte yo sou sitwèb nou an ki sekiirite, rideleetran.com. oswa nan lokal ki pral site aprè yo:

Fort Myers

Rosa Parks Transportation Center
Customer Service Counter and TVM
2250 Widman Way

LeeTran Headquarters
Customer Service Counter
3401 Metro Parkway

Florida SouthWestern State College Bookstore
8099 College Parkway

Lakes Regional Library
15290 Bass Road

Riverdale Branch Library
2421 Buckingham Road

Edison Mall Transfer Station
TVM only
4125 Cleveland Ave

Beach Park & Ride
Seasonal Customer Service Counter and TVM
11101 Summerlin Square Drive

Cape Coral

Cape Coral-Lee County Public Library
921 SW 39th Terrace

Cape Coral Tranfer Center
TVM only
820 SE 47th Terrace

North Fort Myers

North Fort Myers Public Library
2001 N. Tamiami Trail

Lehigh Acres

East County Regional Library
881 Gunnerly Road



All Publix Stores in Lee County
Compre su pase en cualquier Publix
Creole translation to come

Help Everyone Enjoy the Ride

Ayude a Que Todo el Mundo Disfrute el Viaje
Ede tout moun pwofite vwayaj la



- Eating, drinking, smoking (including e-cigarettes), and profanity are prohibited.

- Electronic devices that could disturb others, such as radios, video games, or MP3 players must be used with headphones.

- Please reserve the front seats for elderly or disabled riders.

- Please do not block the aisles with packages, bags or strollers.

- No weapons, alcohol or illegal substances are permitted on the bus.

- Passengers must remain behind the yellow line while the bus is in motion.

- Shirts and shoes are required.

- Comer, beber, fumar y decir palabras obscenas está prohibido.

- Aparatos electrónicos que puedan molestar a otros, como radios, juegos de video, o MP3 deben de ser usados con audífonos.

- Por favor deje los asientos de enfrente libres para los pasajeros de mayor edad y aquellos que están incapacitados.

- Por favor no bloquee el pasillo del autobús con paquetes, bolsas o con carritos de los niños.

- No están permitidas las bebidas alcohólicas, sustancias ilegales, ni armas en el autobús.

- Los pasajeros deben de permanecer detrás de la línea amarilla mientras el autobús este en movimiento.

Paratransit Service

El Servicio Paratransit
Transpò adapte pou
moun ki andikape



LeeTran’s paratransit service called Passport is available for those whose disabilities make it difficult for them to use a regular bus. Passport operates in the same service area, during the same hours, and on the same days as regular route bus service. A certification process is required; to obtain an application or additional information, call the Passport office at 239-533-0300, Monday through Friday between 8 a.m. and 5 p.m.

El servicio paratransit llamado Pasaporte está disponible para aquellos que sus incapacidades hacen imposible para que ellos puedan usar un autobús regular. El servicio Pasaporte opera en la misma zona, durante las mismas horas, y los mismos días que los autobuses regulares. Un proceso de certificación es requerido; para obtener una solicitud o más información, llame a la oficina del Pasaporte al 239-533-0300 de lunes a viernes entre las 8:00 de la mañana a las 5:00 de la tarde.



Sévis transpò adapte pou moun ki andikape LeeTran nan ki rele Passport disponib pou moun kote andikap yo rann li difisil pou yo itilize yon otobis nòmal. Passport opere nan menm zòn sévis la, pandan menm lè yo, epi nan menm jou ak sévis otobis wout nòmal yo. Gen yon pwosesis sètifikasyon ki obligatwa; pou jwenn yon aplikasyon oswa enfòmasyon siplemantè, rele ofis Passport la nan 239-533-0300. De lendi a vandredi ant 8 è a.m. ak 5 è p.m.



Limited Use Passes are available in single or multi-trip/day options. They can be purchased at LeeTran Headquarters, Rosa Parks Transportation Center or any LeeTran Ticket Vending Machine.

Limited Use Passes están disponibles en opciones de uno o varios viajes/día. Se pueden comprar en las oficinas centrales de LeeTran, en el centro de transporte de Rosa Parks o en cualquier máquina expendedora de boletos de LeeTran.

Limited Use Passes disponib nan opsyon vwayaj sen oswa plizyè vwayaj nan yon jounen. Ou ka achte yo nan biwo jeneral LeeTran, Rosa Parks Transportation Center oswa nan nenpòt lòt distribitè otomatik tikè LeeTran.

Cash is still accepted on all buses. Remember, the fare box does not provide change so make sure you have the exact fare amount.

Todavía se acepta efectivo en todos los autobuses. Recuerde, el cuadro de tarifa no proporciona cambio, así que asegúrese de tener el monto exacto de la tarifa.

Yo toujou aksepte lajan kach nan tout otobis yo. Sonje bwat kote w depoze lajan an apa bay monnen kidonk asire w ou gen montan egzat pou vwayaj la.



Holiday Service

Los Servicios en los Días Feriados
Sèvis nan jou ferye



There is no LeeTran service on the following holidays:

- New Year’s Day
- Memorial Day
- 4th of July
- Labor Day
- Thanksgiving
- Christmas Day

No hay servicio para los autobuses de LeeTran en los siguientes Días Feriados:

- Año Nuevo
- Día Conmemorativo
- El 4 de julio
- El Día del Trabajo
- El Día del Accón de Gracias
- Navidad

Pa gen sèvis LeeTran nan jou ferye ki pral site la yo:

- Joudlan
- Jou Souvni
- 4 Jiyè
- Jou Travay
- Aksyondegras
- Nwèl

Lost and Found

Objetos Perdidos y Encontrados
Objè pèdi

Personal items left on the buses are collected at the end of the day and held for 90 days per state statute. Parishables (food items) are thrown out the same day. If you have lost an item on the bus, please call 239-533-8726 to determine if it can be recovered. LeeTran is not responsible for lost or stolen items.

Los objetos que fueron olvidados en los autobuses son recogidos al finalizar el día y serán guardados por 90 días. Si usted ha olvidado un objeto en el autobús, por favor llame al 239-533-8726 para determinar si se puede recuperar. LeeTran no es responsable por los objetos olvidados o robados.

Yo kolekte atik pèsonèl moun kite nan otobis yo nan fen jounen an epi yo kenbe yo pandan 90 jou selon lwa eta a. Yo jete atik perisab (manje) menm jou a. Si w te pèdi yon bagay nan otobis la, tanpri rele 239-533-8726 pou detèmine si w ka rejwenn li. LeeTran pa responsab pou bagay ou ki pèdi oswa bagay ou yo volè.

Title VI Compliance

Título VI Cumplimiento
Konfòmite ak Tit VI

LeeTran complies with Title VI of the Civil Rights Act of 1964 which prohibits discrimination on the basis of race, color or national origin. If you feel you have been discriminated against, you may file a complaint by calling LeeTran at 239-533-8726 or Lee County’s Office of Equal Employment Opportunity at 239-533-2245.

LeeTran cumple con el Título VI del Acta de Derechos Civiles de 1964 que prohíbe la discriminación por causa de su raza, color o nación de origen en cualquier programa o actividad que recibe dinero federal. Para reportar violaciones llame a LeeTran al 239-533-8726 o las oficinas del Condado de Lee al 239-533-2245.

LeeTran konfòme lak Tit VI nan lwa sou Dwa Sivil ane 1964 la (Civil Rights Act of 1964) ki entèdi diskriminasyon sou baz ras, koulè oswa orijin nasyonal. Si w santi w te viktim diskriminasyon, ou ka pote yon plent lè w rele LeeTran nan 239-533-8726 oswa Ofis Opòtinite Travay Egal konte Lee (Lee County’s Office of Equal Employment Opportunity) nan 239-533-2245.



System Map

Diagrama del Sistema • Kat Sistèm

FORT MYERS • FLORIDA



3401 Metro Parkway
Fort Myers, FL 33901

(239) LEE-TRAN (533-8726)
rideleetran@leegov.com
rideleetran.com

LeeTran Customer Service
Call (239) 533-8726 ext. 1

Customer Service Hours
Mon- Fri: 8am to 5pm
Saturday & Sunday: Closed

Suggested Apps

- Planning your trip
- Managing your fare amount
- Tracking buses in real-time

transit LeeFare

Welcome Aboard

Bienvenido a bordo
Byenvini abò

LeeTran has served Lee county residents and visitors since 1977. It currently operates 26 bus routes with over 1,700 bus stops covering more than 400 miles of roadway.

LeeTran offers a safe and reliable way of getting to work, school, shopping or recreation.

LeeTran ha servido a los residentes y visitantes del condado de Lee desde 1977. Actualmente opera 26 rutas con más de 1,700 paradas de autobús cubriendo más de 400 millas.

LeeTran ofrece una forma de ir al trabajo, a la escuela, compras o recreación segura y confiable.

LeeTran ap desèvi rezidan ak vizitè konte Lee depi 1977. Pou lemoman li opere 26 wout otobis avèk plis pase 1 700 arè otobis ki kouvri plis pase 400 mil sipèfisi wout.

LeeTran ofri yon fason ki san danje epi ki faby pou al travay, al lekòl, al fè acha oswa al nan amizman.





LeeTran



Routes - Rutas - Wout yo

- 5 Edison Mall/Forum
- 10 Edison Mall/Dunbar
- 15 Rosa Parks/Tice
- 20 Dunbar/Rosa Parks
- 30 Bell Tower/Camelot Isles
- 40 Cape Transfer Ctr./Coralwood Mall
- 50 Airport/Beach Park & Ride
- 60 San Carlos Park/Gulf Coast Town Ctr.
- 70 Rosa Parks/Cape Transfer Ctr.
- 80 Edison Mall/Bell Tower
- 100 Rosa Parks/Riverdale
- 110 Edison Mall/Lehigh Acres
- 120 Edison Mall/Cape Transfer Ctr.
- 130 Edison Mall/Beach Park & Ride
- 140 Merchants Crossing/Bell Tower
- 240 Coconut Point Mall/Bell Tower
- 410 Bowditch Park/Lovers Key
- 490 Beach Park & Ride/Times Square
- 515 Lehigh Acres Circulator
- 590 Merchants Crossing/Suncoast
- 595 Merchants Crossing/Pondella Rd.
- 600 Coconut Point/Immokalee Rd

Downtown Fort Myers



Map Symbols - Símbolos del Mapa

- Bus Route
Línea de Autobús
- Select Trips Only
Viajes Seleccionados
- Route Direction
Dirección de Línea
- CAT
Collier Area Transit Route
Línea de Tránsito del Área Collier
- Seasonal Tram & Trolley Routes
Rutas de Tram y Trolley Estacional
- Transfer Locations
Lugares de transferencia
- Interline Locations
Interlínea de transferencia
- Publix - Buy Passes Here
Publix - Comprar pases aquí
- Clinic/Hospital
Hospital
- Park & Ride
Parqueo público
- College/University
Universidad
- Shopping Center
Centro comercial
- Library
Biblioteca
- Place of Interest
Lugar de interés

Points of Interest
Lugares de Interés

- A Lee County Public Works
- B Lee County Justice Center
- C Lee County Administration
- D Ft. Myers City Hall
- E US Courthouse
- F Caloosa Sound Convention Center

Beach Tram - FREE SEASONAL SERVICE
NOVEMBER THROUGH APRIL

Downtown River District Trolley
SEASONAL SERVICE - NOVEMBER THROUGH APRIL

- Oasis/McGregor
- Rosa Parks/North Fort Myers





MYERSIDE

CAFE

SOUVENIRS



MYERSIDE

CAFE















BISTRO











THE NEIGHBORHOOD COMPANY

THE MYERSIDE COMMERCIAL PLANNED DEVELOPMENT (CPD) REZONING

SCHEDULE OF USES

Lodging

Principal:

- Hotel/Motel (Inclusive of Hotel Condominiums)
- Guest Units

Accessory:

- On premise consumption of alcoholic beverages
- Hotel/Motel Accessory Uses
- Personal Services
- Recreational Facilities

Residential

- Work/Live Units

Retail

- Offices, General or Medical
- Personal Services
- Restaurant with on premise consumption of alcoholic beverages
- Retail Store, Small & Large
- Subordinate Commercial Uses



THE MYERSIDE
COMMERCIAL PLANNED DEVELOPMENT (CPD) REZONING
PROPERTY DEVELOPMENT STANDARDS

Minimum Lot Size

Lot Area	1.03 ± acre
Lot Width	145 feet
Lot Depth	300 feet

Build to Line (Estero Blvd.)	5 - 10 feet
-------------------------------------	-------------

Minimum Setbacks Primary Structure

Secondary Street (School St.)	10 feet
Rear Yard (Oak St.)	50 feet
Side Yard	15 Feet

Minimum Setbacks Accessory Structures

Secondary Street (School St.)	10 feet
Rear Yard (Oak St.)	0 feet for dumpster enclosure, 10 feet for all other structures
Side Yard	15 Feet

Maximum Zoned Height	37 feet (measured from base flood elevation + 3' of freeboard to mid-point of roof)
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Maximum Actual Height	50 feet (measured from grade to peak of roof)
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Maximum Stories	4 Stories
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Maximum Floor Area Ratio	1.0
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SOUTH WEST DISTRICT
THE FLORIDA ANNUAL CONFERENCE
The United Methodist Church
THE REV. DR. DEBORAH L. ALLEN, DISTRICT SUPERINTENDENT
SANDY J. VOIGT, SR. ADMINISTRATIVE ASSISTANT

October 30, 2023

Council, LPA and Staff of the:
Town of Fort Myers Beach
2525 Estero Blvd,
Fort Myers Beach, Florida, 33931

Re: Myerside LLC CPD MIXED USE APPLICATION

To Whom It May Concern:

Beach United Methodist Church is an immediate neighbor of the Myerside property owned by Beverley Milligan and Roland Weinmann. Through various ministers at the church, we have worked with them, our neighbors, for over 12 years, supporting them in the clean-up and renovation of their property and the resulting gentrification of our neighborhood. We also supported them in their recent and successful 2021 Application to expand their resort to include additional units, a restaurant and a store. We did this because they have been good neighbors, have contributed to the neighborhood and the community.

As a community, we have all suffered great losses, but were not surprised and pleased to hear from Ms. Milligan about the resilient, reasonable and attractive Myerside rebuild. She reviewed with us the concept drawings, which we understand includes 42 units, 4-6 of which will be used for staff and the balance, hotel. We were excited to hear about the hope to attract health and wellness professionals and other quality retail back to the island populating the proposed retail space, as well as a full-service restaurant, that will be open both to the public and provide room service, offer poolside service and occupy space on the main floor.

Beach United Methodist Church and Myerside are uniquely situated in a community hub, where it makes sense to provide to this island, Bay Oaks, the Library and the community, what Myerside hopes to build and offer. We note that previously every unit at Myerside enjoyed a Bay Oaks membership. We know that Bev and Roland are invested in the FMB Community and we have already witnessed how they brought back to life a property that was ground zero for the drug trade on the island. They did it once and we fully believe they will take the lead in being one of the first boutique businesses to build back and build better

It is for the above reasons that our South West United Methodist district office fully supports Myerside in its application and urge council to approve the application in its entirety.

Sincerely,

Rev. Dr. Deborah L Allen
District Superintendent

To: Town of Ft. Myers Beach
Town Council, and
Planning Commission

August 30, 2023

Re: Myerside Proposal Plans

To Whom It May Concern;

We own the property immediately adjacent to 2661-2681 Estero Blvd.

We have met with Myerside and have been shown sketches of the redevelopment plans as of August 30, 2023. This project would serve the town and the community well.

Bev and Roland, as well as the Myerside staff have been great neighbors.

We strongly encourage all parties involved to support this project.

Thank you in advance for considering this letter.

Sincerely,

Marty and Amy Folliard

Owners of 2651 Estero Blvd.



MEMO

To: File

From: Laura Tefft

Date: August 31, 2023

Subject: Summary of Public Outreach Meeting from 08/31/2023

A public outreach meeting was held on August 31, 2023, with an open invitation to Fort Myers Beach Chamber of Commerce and Board of Realtors.

The meeting was held at the Diamondhead Resort on Fort Myers Beach and started at 5 pm. A presentation was made by the Myerside Team Members with an opportunity for questions at the end of the presentation.

A copy of the presentation and summary list of the questions are enclosed for review.



MEMO

To: The Myerside Commercial Planned Development
From: Laura Tefft
Date: August 31, 2023
Subject: Summary of Questions from the Chamber of Commerce/Realtor Meeting

Please find below a summary of the questions which were posed by audience members during the Fort Myers Beach Chamber of Commerce/Realtor meeting which took place on August 31, 2023. I have provided a few of the replies in *italics*.

1. Is there a lobby? *Yes, it will be on the commercial level.*
2. How many workforce units? *We anticipate 4 workforce units in addition to the hotel units.*
3. Is there a trolley stop at the library? *Yes, there is one in front of the Library on Estero Blvd.*
4. What will the setback be off Estero? *There will be a build-to-line, and it is anticipated to be between 10-15' from EOP to covered area.*
5. Historically people lived in the trees? Will they be replanting them? *We will have a planting plan as we go through the approval processes for construction.*
6. Is the requested density within the LDC guidelines? *It was explained that through the planned development process the Town allows developers to request height and density. There is a density multiplier within the LDC.*
7. What is the FAR? *Floor Area Ratio was explained.*
8. A concern was raised about sewer & water capacity. *A capacity analysis will be done through the Development Order review process.*

Misc. Comments –

- Loved design.
- Build it.
- Compliments to the team & hearing what people are saying they want.
- Height seems to be the biggest concern.
- Heart of the Island Committee Member spoke that she was glad to see they were working toward carrying out the Comp Plan Vision.

THE MYERSIDE

Fort Myers Beach, Florida

Community Information Presentation

August 31, 2023

INTRODUCTIONS

THE MYERSIDE

- Owners: Beverly Milligan and Roland Weinmann
- Fort Myers Beach, FL
- Owners since 2012

THE NEIGHBORHOOD COMPANY

- Fort Myers, FL / Land Use Planning & Design

JAY KAMB GROUP

- Fort Lauderdale, FL / Architectural Design & Renderings



BACKGROUND & MOVING FORWARD

MYERSIDE RESORT & COTTAGES – PRE IAN

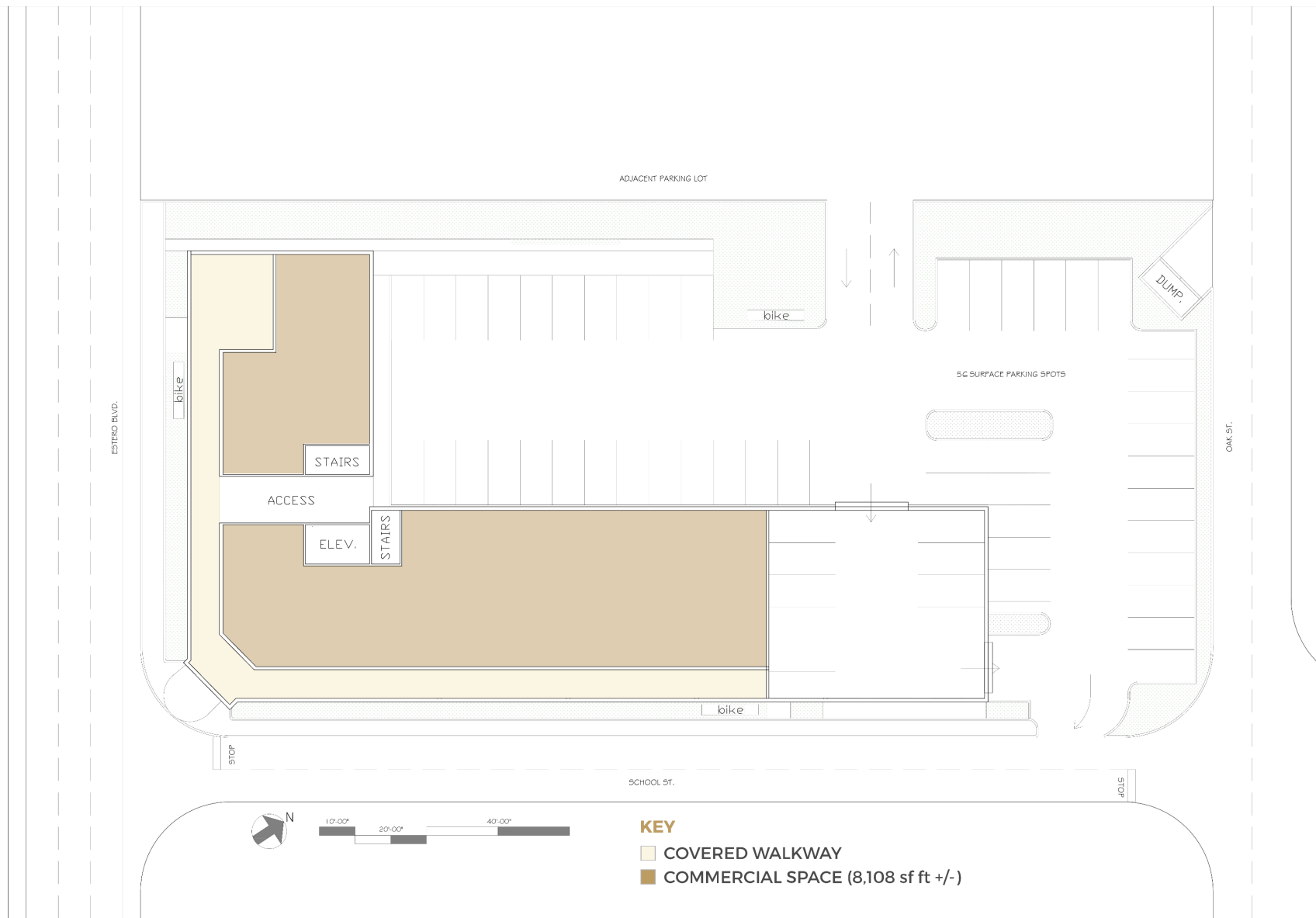
- Originally developed 1950's and 1960's
- 1 Acre – Consists of 12 platted lots of the Winkler's Subdivision
- 12 Residential Units, Office, Amenities and Accessory Uses
- 2021 - Town approved rezoning to expand to 14 Lodging Units, Amenities, Restaurant, and Retail
- Excited that development was almost underway
- Devastating impacts of Ian forced to go with a new vision of Myside

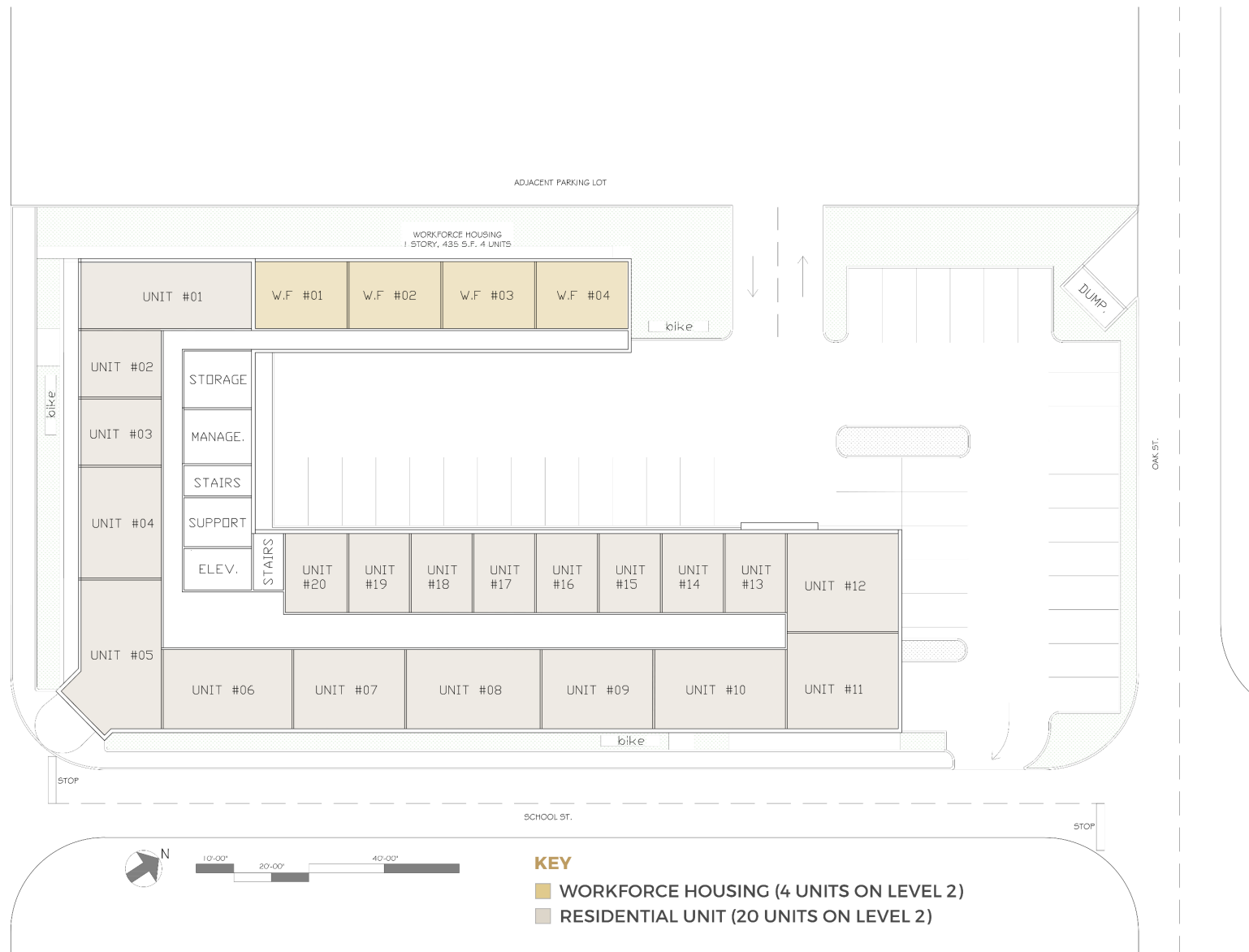
BACKGROUND & MOVING FORWARD

THE MYERSIDE - REDEVELOPMENT

- Challenges & Opportunities:
 - Ownership, Respect Community Input, Insurance, Market/Financial Feasibility, FEMA Compliance, and Town Post-disaster Requirements
- By-right to develop 30 lodging units
- Rezoning - Request an additional 12 lodging units, 4 live/work units and commercial uses
- Mixed Use: Limited Commercial and 42 Unit Boutique Hotel
 - Health & Wellness - Complement the surrounding civic and community uses
- Consistency with Comp Plan & Land Development Code:
 - Allows Request to Rezone to Commercial Planned Development
 - “Heart of the Island” Vision: Infill, mix of uses in area with small scale retail

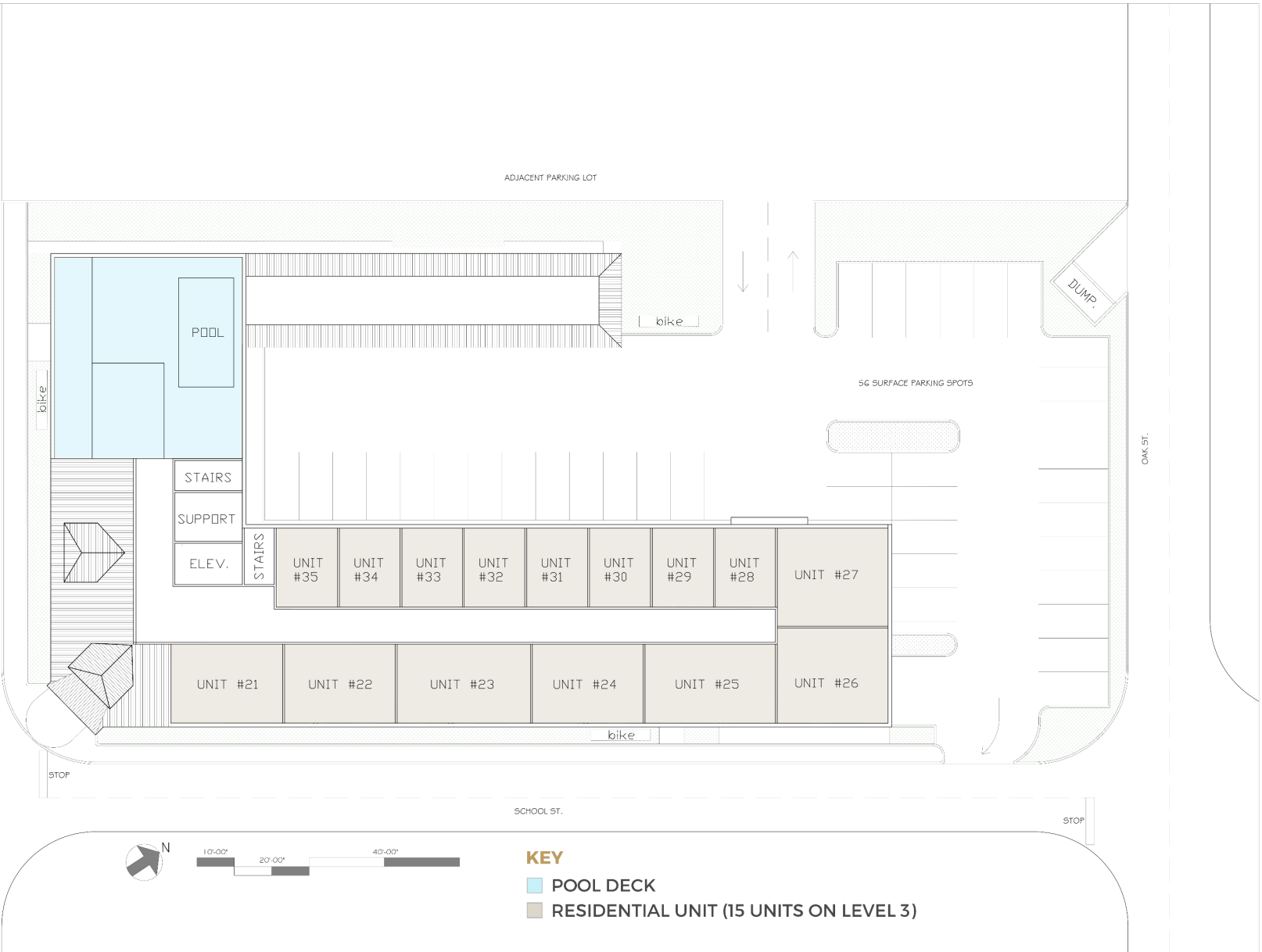


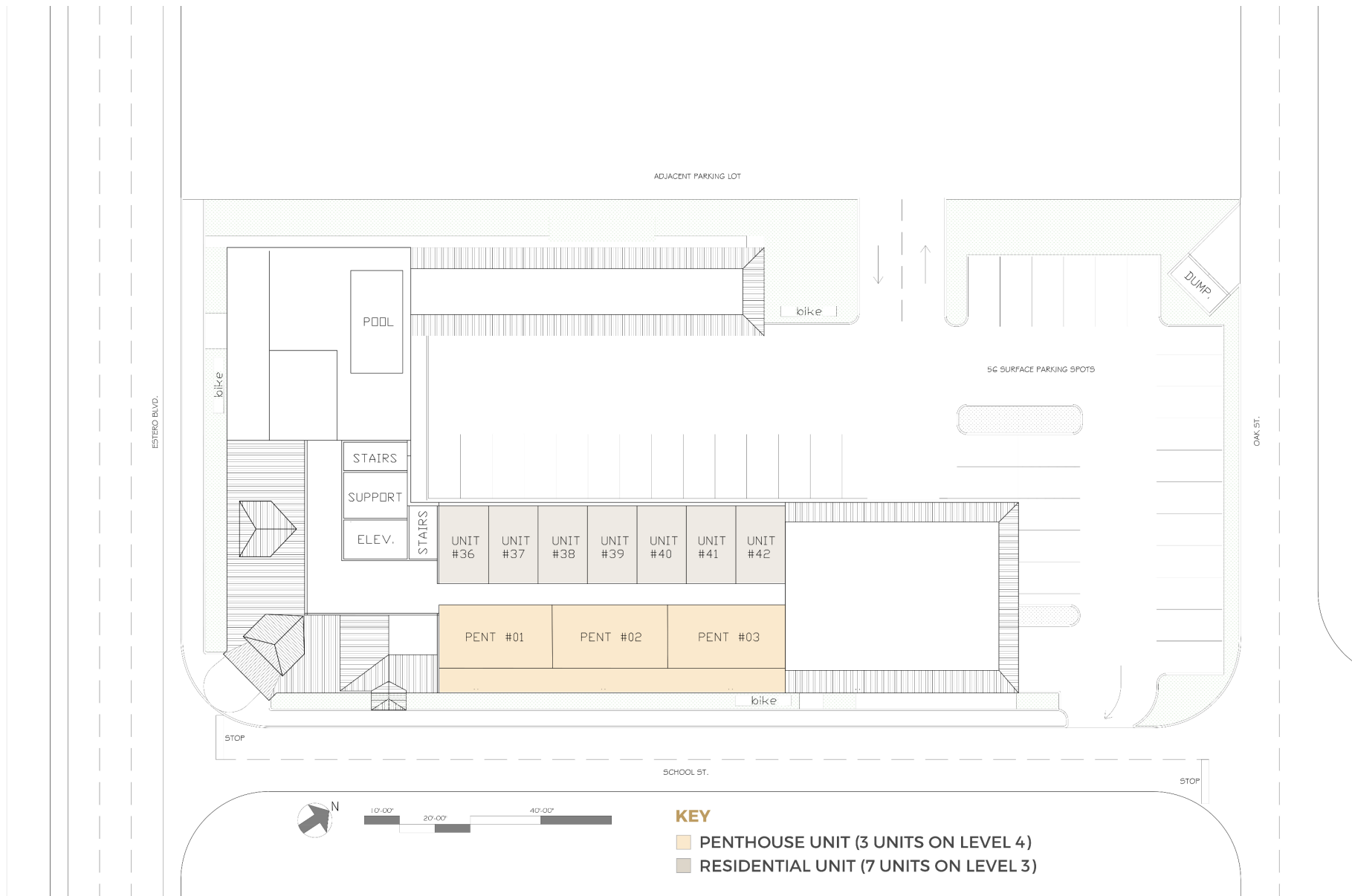




KEY

- WORKFORCE HOUSING (4 UNITS ON LEVEL 2)
- RESIDENTIAL UNIT (20 UNITS ON LEVEL 2)







- **OVERALL HEIGHT 45' (GROUND TO ROOF TOP)**
 - 1-3 STORIES OVER COMMERCIAL
 - ONSITE VEHICLE PARKING – 56 SPACES
 - BICYCLE / GOLF CART / VALET & SHARED PARKING OPTIONS
- 42 LODGING UNITS – 4 LIVE/WORK UNITS
- 8,500 +/- SF OF COMMERCIAL SPACE















PLAT OF

WINKLER SUBDIVISION.

A Subdivision beginning at the northeast corner of section 30 T₂₄ S R₂₄ E, thence west along the line between sections 19 and 30 - 3397 feet, thence south 25° 05' west 5847 feet to the Gulf of Mexico, the point of beginning of land herein described, thence north 25° 05' east 5847 feet to the north line of said section 30, thence west on said section line 9515 feet thence north 25° 07' west 963.32 feet, thence north 64° 43' west 1409 feet mori to the west line of lot 1 section 19 T₂₄ S R₂₄ E, thence south along the west line of said lot 1 1600 feet mori to the Gulf of Mexico, thence south-easterly with the meanders of the Gulf of Mexico to the point of beginning, together with riparian rights.

J. A. DAVISON AND SON
CIVIL ENGINEERS. FORT MYERS,
FLORIDA
Feb. 1930

CERTIFICATE OF OWNERSHIP

This is to certify that the undersigned are the owners of the land herein described and have caused said land to be subdivided into Lots, Blocks and Streets as shown, and said streets are hereby dedicated to the public forever.

Signed, Sealed and delivered
in the presence of us:

STATE OF FLORIDA } S.S.
COUNTY OF LEE }

I DO HEREBY CERTIFY that on this
11 day of February A.D. 1930 personally
appeared before me, an Officer duly author-
ized to administer and take acknowledgements, W.B.
Winkler and Lillian L. Winkler his wife, both well
known to me, as the persons making the foregoing
dedication, and they severally acknowledged
the execution thereof to be their free act and
deed for the uses and purposes therein mentioned,
and the said Lillian L. Winkler the wife of
said W.B. Winkler upon an examination taken
separately and apart from her said husband did
acknowledge that she executed the foregoing dedica-
tion freely, voluntarily and without any constraint,
apprehension, fear or compulsion of or from her
said husband.

Witness my hand and official Seal the date last
aforesaid.

My commission expires 12th Jan'y 1931

CERTIFICATE OF SURVEY

We the undersigned certify that the plat as shown is a correct representation of the land platted, and that permanent reference monuments have been placed as shown

J. A. DAVISON AND SON
BY Harry H. Davison

This plat accepted this 5TH day of MARCH
1930 in open meeting of the Board of County
Commissioners of Lee County, Florida.

Approved { [Signature] Chairman
[Signature] Clerk

#69226



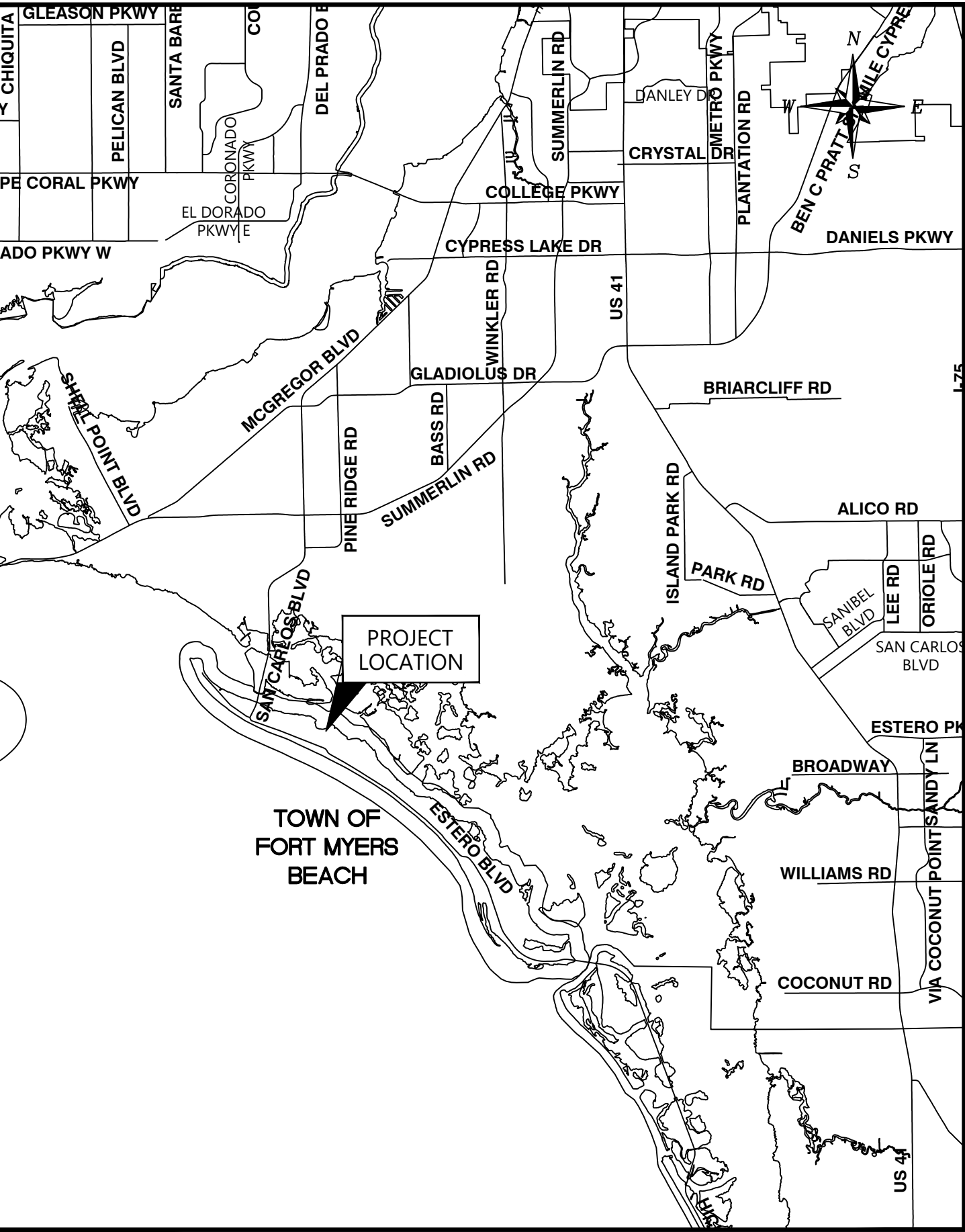
THE MYERSIDE
COMMERCIAL PLANNED DEVELOPMENT (CPD) REZONING
LANDSCAPE BETTERMENT PLAN

TO BE PROVIDED UNDER SEPARATE COVER

MASTER CONCEPT PLAN FOR

MYERSIDE RESORT AND COTTAGE COMMERCIAL PLANNED DEVELOPMENT

TOWN OF FORT MYERS BEACH, SECTION 19, TOWNSHIP 46S, RANGE 24E,
LEE COUNTY, FLORIDA



VICINITY MAP
N.T.S.



SITE LOCATION MAP
N.T.S.

RWA

ENGINEERING

6610 Willow Park Drive
Suite 200
Naples, FL 34109

4983 Royal Gulf Circle
Fort Myers, FL 33966

19503 S West Villages Pkwy
Unit A5
Venice, FL 34293

Office: (239) 597-0575
Fax: (239) 597-0578
www.consult-rwa.com

Florida Certificates of Authorization
EB 7663 LB 6952

PREPARED FOR/OWNED BY:
MYERSIDE, LLC.
145 SCHOOL ST.
FORT MYERS BEACH, FL 33931

CONTENTS		
SHEET NUMBER	SHEET DESCRIPTION	
1	COVER SHEET	
2	MASTER CONCEPT PLAN-EXISTING CONDITIONS	
3	MASTER CONCEPT PLAN - PHASE 1	
4	MASTER CONCEPT PLAN - PHASE 2	
DATE:	JUNE 12, 2020	PROJECT No.: 200022.00.00
		SHEET No.: 1 OF 4

SCHEDULE OF USES

RESIDENTIAL:
DWELLING UNITS, SINGLE OR 2-UNIT OR MULTI-FAMILY

RESIDENTIAL ACCESSORY USES:
ACCESSORY APARTMENT, RESIDENTIAL ACCESSORY USE

LODGING:
BED AND BREAKFAST, HOTEL/MOTEL, GUEST UNITS,
RENTAL OF ANY PERMITTED UNIT PER PERIODS OF ONE
DAY OR LONGER,
RESORT

LODGING ACCESSORY UNITS:
ON-PREMISES CONSUMPTION OF ALCOHOLIC
BEVERAGES, RESORT ACCESSORY USE, PERSONAL
SERVICES, RECREATIONAL FACILITIES, CARETAKER UNIT

RETAIL:
SUBORDINATE COMMERCIAL USES, RETAIL STORE,
SMALL RESTAURANT

SITE DEVELOPMENT REGULATIONS

PRINCIPAL STRUCTURES
MINIMUM STREET SETBACK: 2.6 FEET FOR EXISTING BUILDING #3; 10 FEET FOR ALL OTHER EXISTING STRUCTURES AND
NEW OR RELOCATED STRUCTURES
MINIMUM SIDE SETBACK: 4.3 FEET FOR EXISTING STRUCTURES; 7 FEET FOR NEW OR RELOCATED STRUCTURES
MAXIMUM HEIGHT: 30 FEET PER LDC SECTION 34-631, MAXIMUM 3 STORIES
MINIMUM LOT SIZE: 20,000 SQUARE FEET
MINIMUM LOT WIDTH: 100 FEET
MINIMUM LOT DEPTH: 100 FEET
MINIMUM BUILDING SEPARATION: 15 FEET
MAXIMUM FLOOR AREA RATIO: 1.2

ACCESSORY STRUCTURES
MINIMUM SIDE SETBACK: SAME AS PRINCIPAL STRUCTURES, EXCEPT FOR THE ACCESSORY STRUCTURE TO BUILDING 7, WHICH
WILL HAVE A MINIMUM SETBACK OF 3 FEET; AND THE ACCESSORY GARAGE FOR BUILDING 4, WHICH
WILL HAVE A ± 5.9' MINIMUM SETBACK.

ALL OTHER DEVELOPMENT STANDARDS SHALL BE AS SET FORTH IN LDC CHAPTER 34 OR OTHER APPLICABLE PROVISIONS IN THE LDC.

GENERAL NOTES

- 1) THIS PROJECT WILL BE DEVELOPED IN 2 PHASES.
- 2) THIS MASTER CONCEPT PLAN IS FOR PLANNING PURPOSES ONLY. THE OVERALL CONFIGURATION, SIZE AND LOCATION OF THE
STRUCTURES AND OTHER IMPROVEMENTS MAY VARY SLIGHTLY. FINAL DESIGN AND IMPROVEMENT DETAILS SHALL BE PROVIDED AS
PART OF THE DEVELOPMENT ORDER (DO) PROCESS.
- 3) THIS PLANNED DEVELOPMENT IS A REDEVELOPMENT PROJECT, WHICH INCLUDES EXISTING SITE IMPROVEMENTS AND STRUCTURES AS
WELL AS PLANNED IMPROVEMENTS. THE INTENT OF THIS MCP IS TO REALISTICALLY DEPICT THOSE CONDITIONS AND REGULATE
ALLOWED USES; HOWEVER, IT SHOULD NOT RESTRICT THE ABILITY TO MAKE OTHER SITE IMPROVEMENTS IF THOSE ARE CONSISTENT
WITH THE GENERAL CONCEPT DEPICTED ON THE MCP AND IN COMPLIANCE WITH APPLICABLE LDC PROVISIONS.
- 4)PER LDC SECTION 34-2015(4) STACKING OF PARKING SPACES IS ALLOWED WHEN ASSOCIATED WITH A DRIVEWAY, CARPORT OR
UNDER-BUILDING PARKING.
- 5)PER LDC SECTION 34-2017, THE PARKING ASSOCIATED WITH THIS PROJECT IS CONSIDERED “LOW TURNOVER” AND THEREFORE
ALLOWS ALTERNATIVE UNPAVED SURFACES AS OUTLINED IN THE LDC.
- 6)PER LDC SECTION 34-1987(A), NO OFF-STREET LOADING AREA IS REQUIRED FOR THIS PROJECT.

BUILDING DETAILS

- ① ONE STORY, ONE UNIT, +/-700 SF
② TWO STORIES, TWO UNITS, +/- 950 SF
③ ONE STORY, ONE UNIT, +/- 700 SF
④ PARTIAL TWO STORY, ONE UNIT, +/- 900 SF
⑤ TWO STORIES , TWO UNITS, +/- 1,393 SF
AND RESORT OFFICE, 269 SF
⑥ TWO STORIES, FOUR UNITS, +/- 3,122 SF
⑦ ONE STORY, ONE UNIT, +/- 504 SF

PARKING

REQUIRED SPACES: 32
PROVIDED SPACES: 34 (PHASE 1)
36 (PHASE 2)

X - EXISTING PARKING SPACES



										10										20										40									
																														</									

DENSITY

12 GUEST UNITS / 6.5 EQUIVALENCY UNITS

BUILDING DETAILS

- 1 ONE STORY, RESTAURANT, +/-700 SF
- 2 TWO STORIES, TWO UNITS, +/- 950 SF
- 3 ONE STORY, RETAIL, +/- 700 SF
- 4 PARTIAL TWO STORY, ONE UNIT, +/- 900 SF
- 5 TWO STORIES , TWO UNITS, +/- 1,393 SF AND RESORT OFFICE, 269 SF
- 6 TWO STORIES, FOUR UNITS, +/- 3,122 SF
- 7 ONE STORY, ONE UNIT, +/- 504 SF

PHASING

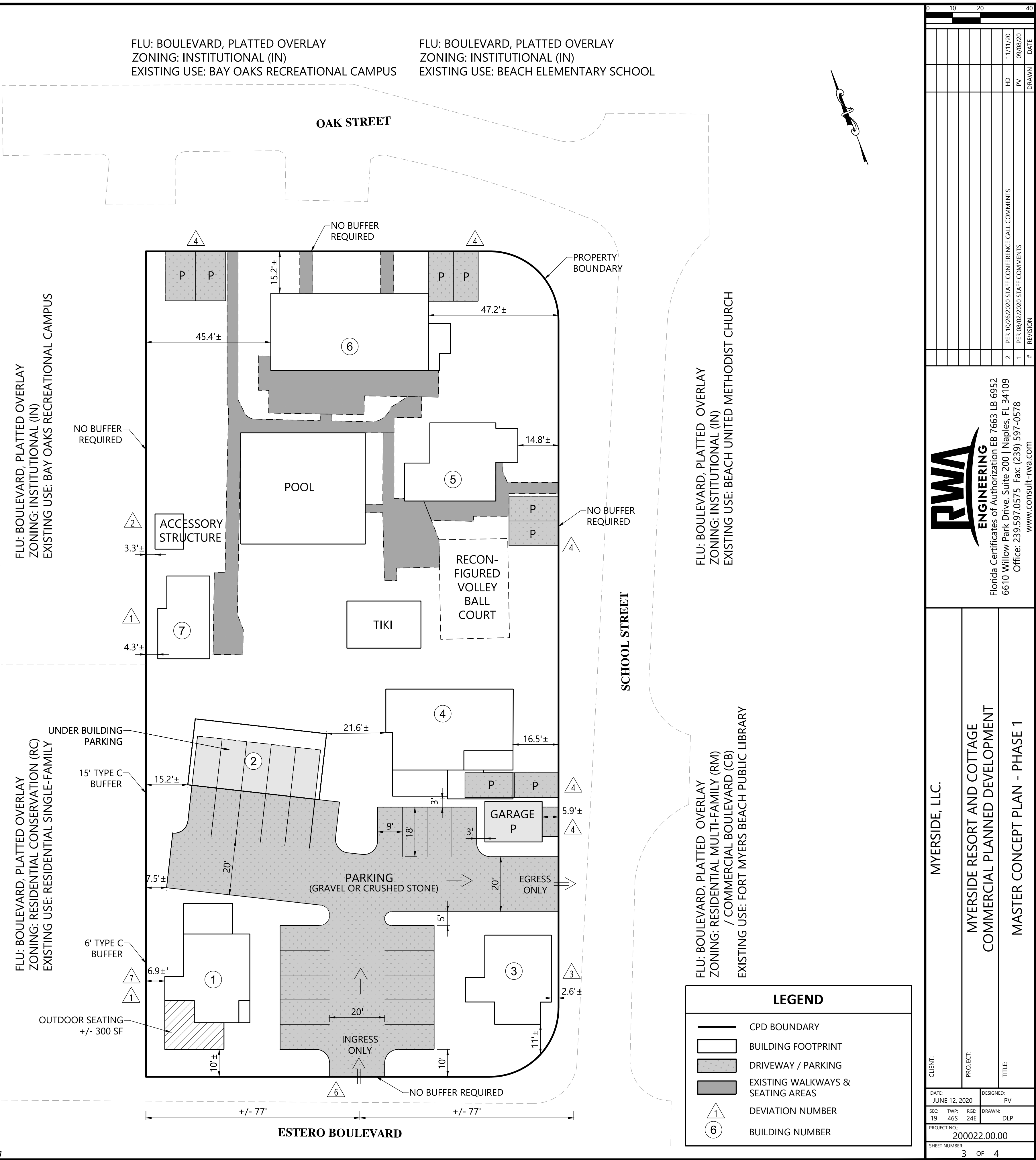
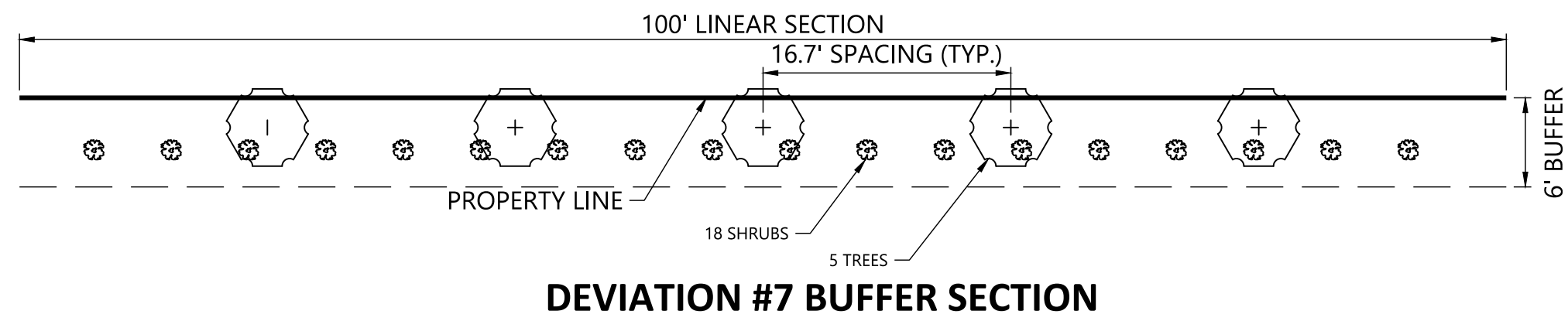
- PHASE 1
- SUBPHASE A: MOVE BUILDING 2
 - SUBPHASE B: BUILD CENTRALIZED PARKING AREA (GRAVEL + WHEEL STOPS WITH CONTROLLED POINTS OF INGRESS/EGRESS
 - SUBPHASE C: CONVERT BUILDING 3 TO RETAIL USE
 - SUBPHASE D: CONVERT BUILDING 1 TO A RESTAURANT AND ADD OUTDOOR SEATING

NOTES

- ALL STRUCTURES IDENTIFIED ON THIS SHEET (PHASE 1) ARE EXISTING STRUCTURES. ALL STRUCTURES TO REMAIN IN EXISTING LOCATIONS EXCEPT BUILDING 2, WHICH WILL BE RELOCATED FROM ITS CURRENT LOCATION (SEE SHEET 1) TO THE LOCATION IDENTIFIED ON THIS SHEET.
- INDIVIDUAL PARKING SPACES AND PARKING AREAS WILL MEET LDC DIVISION 26 REQUIREMENTS EXCEPT FOR SPACES SUBJECT TO DEVIATION 4 AS IDENTIFIED ON THE MCP.
- ALL PRINCIPAL STRUCTURES MEET OR EXCEED THE 15' MINIMUM SEPARATION REQUIREMENT.
- WATER MANAGEMENT REQUIREMENTS FOR REDEVELOPMENT PROJECTS CAN VARY SIGNIFICANTLY. THE WATER MANAGEMENT PLAN WILL BE DESIGNED AT TIME OF D.O.
- THIS CPD WILL PROVIDE OPEN SPACE IN ACCORDANCE WITH LDC SECTION 10-415 AND AS MODIFIED BY DIVISION #7.
- EXISTING STRUCTURES ARE DEEMED NON-CONFORMING BUILDINGS IN ACCORDANCE WITH LDC -SECTION 34-3202, POTENTIAL FUTURE IMPROVEMENTS TO THOSE BUILDINGS WILL COMPLY WITH DIVISION 2 OF THE LDC.

SCHEDULE OF DEVIATIONS

- DEVIATION #1:** A DEVIATION FROM LDC TABLE 34-3 DIMENSIONAL REGULATIONS IN CONVENTIONAL ZONING DISTRICT THAT REQUIRES 15' SIDE SETBACKS FOR THE CR ZONING DISTRICT (PER LDC SEC 34-953 BUILDING PLACEMENT, SIZE, DESIGN, AND ALL OTHER PROPERTY DEVELOPMENT REGULATIONS IN A CPD ZONING DISTRICT SHALL BE THE SAME AS FOR THE CR ZONING DISTRICT FOR CPDS THAT ARE PRIMARILY LODGING...) TO ALLOW A ±6.9' FOR BUILDING 1, ±4.3' FOR BUILDING 7 AND ±7' FOR BUILDING 8.
- DEVIATION #2:** A DEVIATION FROM LDC SECTION 34-1174(2)(A) THAT REQUIRES ACCESSORY STRUCTURE SETBACKS TO BE THE SAME AS PRINCIPAL STRUCTURES OR 15' TO ALLOW A 3' SIDE SETBACK FOR THE ACCESSORY STRUCTURE ASSOCIATED WITH BUILDING 7, AND +/- 5.9' FOR THE ACCESSORY GARAGE ASSOCIATED WITH BUILDING 4.
- DEVIATION #3:** A DEVIATION FROM LDC TABLE 34-3 DIMENSIONAL REGULATIONS IN CONVENTIONAL ZONING DISTRICT THAT REQUIRES 10' STREET SETBACKS FOR THE CR ZONING DISTRICT (PER LDC SEC 34-953 BUILDING PLACEMENT, SIZE, DESIGN, AND ALL OTHER PROPERTY DEVELOPMENT REGULATIONS IN A CPD ZONING DISTRICT SHALL BE THE SAME AS FOR THE CR ZONING DISTRICT FOR CPDS THAT ARE PRIMARILY LODGING...) TO ALLOW A ±2.6' SETBACK FOR BUILDING 3.
- DEVIATION #4:** A DEVIATION FROM LDC SECTION 34-2015 (5), WHICH REQUIRES THAT “ALL PARKING LOTS MUST BE PROVIDED WITH SUFFICIENT MANEUVERING ROOM SO AS TO ALLOW AN EXITING VEHICLE TO LEAVE THE PARKING LOT IN A FORWARD MOTION...”, TO ALLOW EXITING VEHICLES TO LEAVE PARKING SPACES BY BACKING ONTO SCHOOL OR OAK STREETS.
- DEVIATION #5:** A DEVIATION FROM THE DRIVEWAY SEPARATION REQUIREMENTS OF LDC SECTION 10-296 ALONG ESTERO BOULEVARD TO ALLOW A DRIVEWAY ACCESS TO THE SUBJECT PROPERTY THAT IS ±77' FROM THE CLOSES ACCESS POINT TO THE NORTH AND ±77 TO SCHOOL STREET.
- DEVIATION #6:** A DEVIATION FROM LDC SECTION 10-416(D) TABLE 10-18 WHICH REQUIRES A 15' TYPE C BUFFER WHEN A COMMERCIAL USE ABUTS A RESIDENTIAL USE, TO ALLOW A 6' TYPE C BUFFER AS INDICATED ON THE MASTER CONCEPT PLAN.
- DEVIATION #7:** A DEVIATION FROM LDC SECTION 34-202(b)(5), WHICH REQUIRED ARCHITECTURAL ELEVATIONS OR A THREE-DIMENSIONAL RENDERING, TO INSTEAD ALLOW PICTURES OF THE EXISTING STRUCTURES.



14 GUEST UNITS / 7.3 EQUIVALENCY UNITS

- ① ONE STORY, RESTAURANT, +/-700 SF
- ② TWO STORIES, TWO UNITS, +/- 950 SF
- ③ ONE STORY, RETAIL, +/- 700 SF
- ④ PARTIAL TWO STORY, ONE UNIT, +/- 900 SF
- ⑤ TWO STORIES , TWO UNITS, +/- 1,393 SF AND RESORT OFFICE, 269 SF
- ⑥ TWO STORIES, FOUR UNITS, +/- 3,122 SF
- ⑦ ONE STORY, ONE UNIT, +/- 504 SF
- ⑧ TWO STORIES, FOUR UNITS,+/- 1,600 SF

PHASE 2

- ADD BUILDING 8. MAY BE NEW CONSTRUCTION OR EXISTING ISLAND COTTAGE MOVED TO THE SITE.

- ALL STRUCTURES EXCEPT BUILDING 8 ARE EXISTING BUILDINGS.
- INDIVIDUAL PARKING SPACES AND PARKING AREAS WILL MEET LDC DIVISION 26 REQUIREMENTS EXCEPT FOR SPACES SUBJECT TO DEVIATION 4 AS IDENTIFIED ON THE MAP.
- ALL PRINCIPAL STRUCTURES MEET OR EXCEED 15' MINIMUM SEPARATION REQUIREMENT.
- WATER MANAGEMENT REQUIREMENTS FOR REDEVELOPMENT PROJECTS CAN VARY SIGNIFICANTLY. THE WATER MANAGEMENT PLAN WILL BE DESIGN AT TIME OF D.O.
- EXISTING STRUCTURES ARE DEEMED NON-CONFORMING BUILDINGS IN ACCORDANCE WITH LDC -SECTION 34-3202, POTENTIAL FUTURE IMPROVEMENTS TO THOSE BUILDINGS WILL COMPLY WITH DIVISION 2 OF THE LDC.

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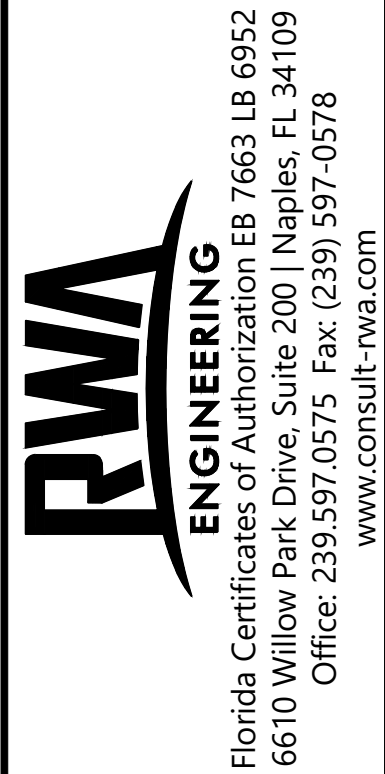
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Town of Fort Myers Beach
Community Development Services - Planning Division
2731 Oak St,
Fort Myers Beach, FL 33931

NOTICE TO PROPERTY OWNERS WITHIN 500 FEET

Notice is hereby given that the Local Planning Agency/ Town Council of the Town of Fort Myers Beach will be conducting a public hearing at the Town Hall Council Chambers located at 2731 Oak St, Fort Myers Beach, Florida, 33931.

TIME: 9 AM

DATE: LPA May 14, 2024, 1st Town Council June 3, 2024 and 2nd Town Council June 17, 2024

CASE: DCI20230246

ADDRESS: 2661-2681 Estero Blvd, and 125, 131-151 School St "Cottages at Myerside"

APPLICANT: Kenrick Gallander AICP

REQUEST: Applicant is requesting a Commercial Planned Development rezoning to allow mixed-use project including retail, restaurant, professional services, office, and transient lodging.

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/ Town Council** will review the application materials and hear testimony to make a **recommendation/decision**. Complete records or transcripts of the proceedings are not provided by the Town.

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



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

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

Town of Fort Myers Beach
2731 Oak St,
Fort Myers Beach, FL 33931

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

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Business Impact Estimate

This form should be included in the agenda packet for the item under which the proposed ordinance is to be considered and must be posted on the [City's/Town's/Village's] website by the time notice of the proposed ordinance is published.

Proposed ordinance's title/reference:

Ordinance 24-15 AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING THE COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING FOR THE PROPERTY LOCATED AT 125, 131-151 SCHOOL ST AND 2661-2681 ESTERO BLVD. GENERALLY IDENTIFIED AS STRAP NUMBERS 19-46-24-W3-0020C.0230; 19-46-24-W3-0020C.0270; 19-46-24-W3-0020C.0290 FORT MYERS BEACH TO ALLOW A MIXED USE DEVELOPMENT INCLUDING LODGING, LIVE/WORK UNITS, RETAIL, AND RESTAURANT USES; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

This Business Impact Estimate is provided in accordance with section 166.041(4), Florida Statutes. If one or more boxes are checked below, this means the [City/Town/Village] is of the view that a business impact estimate is not required by state law¹ for the proposed ordinance, but the [City/Town/Village] is, nevertheless, providing this Business Impact Estimate as a courtesy and to avoid any procedural issues that could impact the enactment of the proposed ordinance. This Business Impact Estimate may be revised following its initial posting.

- ☐ The proposed ordinance is required for compliance with Federal or State law or regulation;
- ☐ The proposed ordinance relates to the issuance or refinancing of debt;
- ☐ The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;
- ☐ The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant or other financial assistance accepted by the municipal government;
- ☐ The proposed ordinance is an emergency ordinance;
- ☐ The ordinance relates to procurement; or
- ☒ The proposed ordinance is enacted to implement the following:
 - a. Part II of Chapter 163, Florida Statutes, relating to growth policy, county and municipal planning, and land development regulation, including zoning, development orders, development agreements and development permits;

¹ See Section 166.041(4)(c), Florida Statutes.

- b. Sections 190.005 and 190.046, Florida Statutes, regarding community development districts;
- c. Section 553.73, Florida Statutes, relating to the Florida Building Code; or
- d. Section 633.202, Florida Statutes, relating to the Florida Fire Prevention Code.

In accordance with the provisions of controlling law, even notwithstanding the fact that an exemption noted above may apply, the [City/Town/Village] hereby publishes the following information:

1. Summary of the proposed ordinance (must include a statement of the public purpose, such as serving the public health, safety, morals and welfare):

The proposed ordinance is to allow a commercial planned development proposed by the owner of the property.

2. An estimate of the direct economic impact of the proposed ordinance on private, for-profit businesses in the [City/Town/Village], including the following, if any:

- (a) An estimate of direct compliance costs that businesses may reasonably incur;
- (b) Any new charge or fee imposed by the proposed ordinance or for which businesses will be financially responsible; and
- (c) An estimate of the [City's/Town's/Village's] regulatory costs, including estimated revenues from any new charges or fees to cover such costs.

There are unlikely to be direct compliance costs associated with the ordinance.

The ordinance does not impose any new charge or fee on businesses.

There are no new charges or fees that will be imposed on businesses by the ordinance.

The Town will not likely incur additional costs.

3. Good faith estimate of the number of businesses likely to be impacted by the proposed ordinance:

One property owner will be impacted by this proposed ordinance.

4. Additional information the governing body deems useful (if any):

[You may wish to include in this section the methodology or data used to prepare the Business Impact Estimate. For example: [City/Town/Village] staff solicited comments from businesses in the [City/Town/Village] as to the potential impact of the proposed ordinance by contacting the chamber of commerce, social media posting, direct mail or direct email, posting on [City/Town/Village] website, public workshop, etc. You may also wish to include efforts made to reduce the potential fiscal impact on businesses. You may also wish to state here that the proposed ordinance is a generally applicable ordinance that applies to all persons similarly situated (individuals as well as businesses) and, therefore, the proposed ordinance does not affect only businesses].

1. **Request:**

Meeting Date: June 3, 2024

1st Reading and Public Hearing of an Ordinance Entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING AND RESTATING ORDINANCE NO. 22-06 TO AMEND THE SCHEDULE OF USES FOR THE COMMERCIAL PLANNED DEVELOPMENT ZONING FOR THE PROPERTY LOCATED AT 2301, 2307 & 2311 ESTERO BLVD. AND 111 & 121 MANGO ST., GENERALLY IDENTIFIED AS STRAP NUMBERS 219-46-24-W3-0110D.0010, 19-46-24-W3-0120E.0010, 19-46-24-W3-0120E.0020, AND 19-46-24-W3-0120E.0030 FORT MYERS BEACH; AMENDING THE MASTER CONCEPT PLAN FOR THE RESTAURANT USE(S); PROVIDING FOR REVISIONS TO CONDITIONS OF APPROVAL AND DEVIATIONS, AND OTHER CLARIFICATION AS NECESSARY; PROVIDING FOR REPEAL, CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. Open the first public hearing and schedule for second reading and final adoption on June 17, 2024 at 9:00 AM

Why the action is necessary:

The Town Council approves or denies CPD amendments.

What the action accomplishes:

The amendment to the existing CPD will allow additional uses, different conditions and additional deviations to the site.

2. **Agenda:**

PUBLIC HEARINGS

3. **Requirement/Purpose:**

Ordinance

4. **Submitter of Information:**

Jason Smalley, Senior Planner

5. **Background:**

The Neighborhood Company on behalf of the owners, 1249 Estero Adventures LLC, are proposing an amendment to the existing CPD resolution to allow the construction of an expanded outdoor seating area with an attached tiki structure. The applicant proposes amendments to Ord. 22-06 amendments to the schedule of uses, the deviations, and conditions.

Attachments:

1. 24-16, CPD20240049 Sandy Bottoms Ordinance ns (1)
2. TC Staff Report
3. Exhibit A Application
4. Exhibit B Uses and Conditions
5. Exhibit C Master Concept Plan
6. Exhibit D 22-06, Amending Tuckaway Cafe CPD to Allow On-site Brewing of Beer
7. LPA AND TC postcard 2301-2307 ESTERO BLVD

Financial Impact:

unknown

6. **Alternative Action**

Deny

7. **Management Recommendations:**

Schedule a second hearing for the CPD amendment.

8. **Recommended Approval:**

Kendra Rosa, Zoning Coordinator
Frankie Kropacek, Operations & Compliance Director
nancy stuparich, Town Attorney
Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Created/Initiated - 5/22/2024
Approved - 5/23/2024
Approved - 5/29/2024
Approved - 5/29/2024
Final Approval - 5/29/2024

ORDINANCE 24-16

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING AND RESTATING ORDINANCE NO. 22-06 TO AMEND THE SCHEDULE OF USES FOR THE COMMERCIAL PLANNED DEVELOPMENT ZONING FOR THE PROPERTY LOCATED AT 2301, 2307 & 2311 ESTERO BLVD. AND 111 & 121 MANGO ST., GENERALLY IDENTIFIED AS STRAP NUMBERS 219-46-24-W3-0110D.0010, 19-46-24-W3-0120E.0010, 19-46-24-W3-0120E.0020, AND 19-46-24-W3-0120E.0030 FORT MYERS BEACH; AMENDING THE MASTER CONCEPT PLAN FOR THE RESTAURANT USE(S); PROVIDING FOR REVISIONS TO CONDITIONS OF APPROVAL AND DEVIATIONS, AND OTHER CLARIFICATION AS NECESSARY; PROVIDING FOR REPEAL, 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, 1249 Estero Adventures, LLC ("Applicant") is the owner of the property generally located at 2301, 2307 & 2311 Estero Blvd., and 111 and 121 Mango St. and identified by STRP numbers 19-46-24-W3-0110D.0010, 19-46-24-W3-0120E.0010, 19-46-24-W3-0120E.0020 and 19-46-24-W3-0120E.0030 - comprising .66 - acre of land ("Property"); and

WHEREAS, the Applicant filed an application to amend the Property's Commercial Planned Development ("CPD") to allow additional uses, amended deviations, and amended conditions; and

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

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

WHEREAS, Exhibit B is the approved Master Concept Plan ("MPC"), updated per the adopted Ordinance 24-16; and

WHEREAS, the Town Council finds that the request to amend and restate Ordinance 22-06 is a unique project, which does not set precedent for future development or rezoning applications; and

WHEREAS, as amended and restated, the proposed ordinance, inclusive of its Exhibits are in the best interest of the public health, safety, and welfare and consistent with and in compliance with the requirements of the Town of Fort Myers Beach Comprehensive Plan (“CP”) and the Land Development Code (“LDC”); and

WHEREAS, a public hearing was held before the Local Planning Agency (“LPA”) on May 14, 2024, at which the LPA gave full and complete consideration of the request, recommendations by staff, the documents in the record, and the testimony of all interested persons, and the LPA voted by roll call 6 to 0 to recommend **approval with conditions** of the amended and restated CPD to the Town Council; and

WHEREAS, on June 6, 2024, the Town Council held a first reading of the proposed Ordinance and gave full and complete consideration to the request of the Applicant, the recommendation of the LPA, the recommendation of staff, the documents in the record, and the testimony of all interested persons, as required by Section 34-85 of the LDC; and

WHEREAS, the Town Council scheduled a second reading of the proposed Ordinance and a held an advertised public hearing before the Town Council on June 17, 2024, at which time the Town Council gave full and complete consideration to the request of the Applicant, the recommendation of the LPA, the recommendation of staff, including the consideration and findings in the staff report, the documents in the record, and the testimony of all interested persons, as required by Section 34-85 of the LDC; and

WHEREAS, at the advertised public hearing, the Town Council determined the proposed ordinance to amend and restate Ordinance 22-06 is/ is not **consistent** with the CP and LDC and by roll call voted ___ to ___ to **approve/ approve with conditions/ deny** the Application.

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

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

Section 2. The Town Council has determined that the Applicant **did/ did not** meet its burden of proof that the requested zoning amendment meets the requirements of the CP and LDC. Therefore, based upon the recommendations, testimony, and evidence presented by the Applicant, Town staff, and interested parties, the Town Council **APPROVES/ APPROVES WITH CONDITIONS/ DENIES** the requested amendment to the CPD zoning of the Property, which will allow on-site brewing and consumption of malt liquor.

Section 3. Ordinance 22-06 is repealed in its entirety replaced by this Ordinance inclusive of its attached Exhibits, which are incorporated herein by reference.

Section 4. Whenever the requirements or provisions of this Ordinance conflict with the requirements of the LDC or other lawfully existing Town Code provision, or statute as of the date of adoption of this Ordinance, the most restrictive provision 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 _____ and seconded by _____, and upon being put to a roll vote, the result was as follows:

Dan Allers, Mayor	_____
Jim Atterholt, Vice-Mayor	_____
John R. King, Council Member	_____
Scott Safford, Council Member	_____
Karen Woodson, Council Member	_____

DULY PASSED AND ADOPTED on this _____ day of June, 2024.

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 Ordinance was filed in the Office of the Town Clerk on this ____ day of June, 2024.

Exhibits

Exhibit "A" Schedule of Uses, Conditions of Approval and
Deviations

Exhibit "B" Master Concept Plan

EXHIBIT A

Summary: The proposed project was formerly known as Tuckaway Café, and is now known as Sandy Bottoms. The proposed project will provide required parking on-site for the existing restaurant uses, stormwater management improvements, and landscape buffers. The proposed project is subject to the following items:

Schedule of Allowable Uses:

- Residential – Open
- Lodging - Limited
- Office – Limited
 - Offices, General or Medical
 - Personal Services
- Retail – Limited
 - Restaurant (limited to 2) with outdoor seating as indicated on the MCP
 - On-Premises consumption of alcoholic beverages served only in conjunction with restaurant(s) and including approximately 2,750 square feet of outdoor seating area as indicated on the MCP
 - On-Site Brewing of Beer for Consumption on Premises.
 - 4COP and GMBP Florida Department of Alcoholic Beverages and Tobacco permits
 - Transient Merchant/Mobile Vendor - Food Truck/Trailer Only
- Civic - Open
- Entertainment – Indoor and Outdoor, limited to music both live and recorded.
- Typical Accessory Uses Incidental and Subordinate to the Principal Uses.

Conditions of Approval:

1. If the principal building on the subject property (2301 parcel) is removed or replaced for any reason, deviations 3 and 4 will become null and void. Any new buildings replaced on the Property must comply with required setbacks and any other regulations in effect at the time of permitting.
2. Any changes or fracturing of ownership of the four parcels within the subject property will require, at a minimum, an administrative amendment to the Master Concept Plan to reflect the change in ownership, which will include recorded unified control documentation.

3. The parking lot must be stabilized in accordance with the provisions in Section 34- 2017(b) of the LDC.
4. Any expansion of the existing restaurant or any use of the second restaurant bay in accordance with this planned development approval shall require approval by the LPA and Town Council. Approval of an expansion shall address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the LDC may be required in the event of an expansion by the LPA or Town Council, including but not limited to payment of additional impact fees.
5. Bicycle racks shall be provided for a minimum of 8 bicycles.
6. The hours of operation will be 7am to 12 midnight seven days a week for both the restaurant and outdoor seating area.
7. Amplified music or entertainment is permitted outdoors until 10 pm within the designated areas on the master concept plan and will not be oriented toward residential uses.
8. All brewing activities shall be contained within the building.
9. No outdoor storage shall be allowed including the use of portable storage units, cargo containers and tractor trailers except: a) spent grain may be placed outdoors for a period not to exceed 24 hours; b) spent grain must be stored in fully enclosed containers that are screened from adjacent properties and Estero Blvd.
10. The project must comply with guidelines set forth by the Florida Department of Alcoholic Beverages and Tobacco for the "CMBP" permit and any applicable state laws.
11. Only vertical support posts for the outdoor seating structure will be permitted within the designated "RESTRICTED USE AREA" as shown on the MCP.
12. No outdoor seating or entertainment area will be permitted within the designated "RESTRICTED USE AREA" as shown on the MCP.

Approved Deviations:

Approval of this rezoning does not exempt the Property from the provisions of Chapter 6, Article IV "Floodplain Regulations" of the LDC or any other provisions of the LDC, with the exception of the following 9 deviations:

Deviation #1

Deviation from the requirements of LDC Section 10-416(d)(2) and LDC Table 10-8, which requires a type c/f buffer where proposed commercial and parking uses abut single family residential uses, to allow the following as indicated on the MCP:

- A. An existing 8-foot-high opaque fence adjacent to the existing building.
- B. A minimum 5-foot buffer adjacent to the dumpster enclosure area providing 10 trees and 30 shrubs per 100 linear feet with an 8-foot-high opaque fence.
- C. A minimum 12-foot buffer adjacent to the northern parking lot Spaces providing 10 trees and 30 shrubs per 100 linear feet with a 4- to 8-foot-high opaque fence.

Deviation #2

Deviation from the requirements of LDC Section 10-416(d)(2) and LDC Table 10-8, which requires a 15 foot type D buffer between parking areas and right-of-way, to allow for a 5 foot type D buffer between parking areas and right-of-way

Deviation #3

Deviation from the requirement of LDC Section 34-704(A), which requires buildings to be constructed between five (5) to ten (10) feet from Estero Boulevard, to allow a build-to distance between three (3) to ten (10) feet from Estero Boulevard.

Deviation #4

Deviation from the requirements of LDC Section 34-707(b)(1)a, which requires a minimum 10 foot street setback to allow for a minimum 2.3 foot street setback from Fairweather Lane to the existing building and a minimum 5 foot street setback from Fairweather Lane for the proposed outdoor seating area structure.

Deviation #5

Deviation from the requirement of LDC Section 34-704(b)(1)b, which requires a minimum 20-foot rear setback, to allow for a two-foot rear setback to accommodate the existing building.

Deviation #6

Deviation from LDC Section 34-2020(d)(2)h, which requires 8 parking spaces per 1,000 square feet of total floor area, including any outdoor seating area and a reduction of 2 spaces for 8 bicycle spaces (for a total of 52 required parking spaces) to allow for a 35% reduction from the LDC requirement for a total of 34 provided spaces.

Deviation #7

Deviation from LDC Section 34-2017, which requires high turnover parking lots to have a paved surface, to allow for a crushed shell or limerock surface.

Deviation #8

Deviation from LDC Section 34-285 and Table 10-1 which requires 125 feet of connection separation along local roads, to allow for 96-feet of connection separation along Mango Street.

Deviation #9

Deviation from the requirements of LDC Section 34-662(b)(4)(a) and Figure 34-5 requiring that visibility triangles must be maintained on both sides of intersecting streets and exiting driveway as shown in figures 34-4 and 34-5 or to provide equivalent visibility, to allow for a reduction in the depth of the sight visibility triangle along the other Street or existing driveway from 10 feet to 3 feet.

EXHIBIT B

[TO BE INCLUDED]



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

TYPE OF CASE: CPD AMENDMENT

CASE NUMBER: DCI20240049

CASE NAME: 2301/2307 Estero Blvd (and associated properties incl. 2311 Estero Blvd & 111 and 121 Mango St) to allow development of a new restaurant with outdoor seating and a structurally connected shade structure

**TOWN COUNCIL
HEARING DATE:** June 3rd, 2024, at 9 AM

**LPA
HEARING DATE:** May 14th, 2024, at 9 AM

**STAFF
RECOMMENDATION:** APPROVAL

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

I. APPLICATION SUMMARY

Applicant/Owner: 1249 Estero Adventures LLC

Request: An amendment of Ord. 22-06

Subject property: See attached Master Concept Plan

Physical Address: 2301/ 2307, 2311 Estero Blvd & 111 and 121 Mango St.

STRAP #: 19-46-24-W3-0110D.0010, 19-46-24-W3-0120E.0010, 19-46-24-W3-0120E.0020, and 19-46-24-W3-0120E.0030

FLU: Boulevard

Zoning: Commercial Planned Development (CPD)

Adjacent zoning and land uses:

North:	Commercial Boulevard (CB) Vacant
South:	Commercial Boulevard (CB) Damaged Retail Building
East:	Residential Multi-Family (RM) Single-Family Home
West:	Commercial Boulevard (CB) Vacant Commercial

II. BACKGROUND AND ANALYSIS

Background:

The Neighborhood Company on behalf of the owners, 1249 Estero Adventures LLC, are proposing an amendment to the existing CPD resolution to allow the construction of an expanded outdoor seating area with an attached tiki structure. The applicant proposes amendments to Ord. 22-06 amendments to the schedule of uses, the deviations, and conditions

The proposed changes include: extending outdoor hours of operation –including outdoor music-- an additional hour from 7am to 11pm, and limiting amplified music past 11pm while clarifying that the Town’s noise ordinance would apply to the new hours. The applicant is proposing a bundle of relatively minor changes to previously approved deviations dealing with fence placement and height, build-to line and setback reductions on Estero and Fairweather. Also proposed is a reductions to minimum parking requirements and reduction of the 10-foot site-triangle setback along Estero to provide only 3-feet of clear viewing area.

The previously approved ordinances for this site are listed below. Resolution 22-06 is attached for reference.

Original CPD Approval (Res. 12-07): May 7th, 2012

- 8 Conditions of Approval
- 11 Deviations

Repeal and Replacement of CPD (Ord. 22-06): May 5th, 2022

- 11 Conditions of Approval included
- 11 Deviations

Analysis:

Schedule of Uses

- Residential – Open
- Lodging - Limited
- Office – Limited
 - o Offices, General or Medical
 - o Personal Services
- Retail – Limited
 - o Restaurant (limited to 2) with outdoor seating as indicated on the MCP
 - o On-Premises consumption of alcoholic beverages served only in conjunction with restaurant(s) and including approximately 2,750 square feet of outdoor seating area as indicated on the MCP
 - o On-Site Brewing of Beer for Consumption on Premises.
 - o 4COP and GMBP Florida Department of Alcoholic Beverages and Tobacco permits
 - o Transient Merchant/Mobile Vendor - Food Truck/Trailer Only
- Civic - Open
- Entertainment – Indoor and Outdoor, limited to music both live and recorded.
- Typical Accessory Uses Incidental and Subordinate to the Principal Uses.

Deviation #1:

Existing: Deviation from the requirements of LDC Section 10-416(d)(2) and LDC Table 10-8, which requires a Type C/F buffer where proposed commercial uses abut single family residential uses, to allow for an eight (8) foot high solid stockade fence and 14-15 foot Type C buffers without a wall, as indicated on the MCP and landscape plan.

Proposed: Deviation from the requirements of LDC section 10-416(d)(2) and LDC table 10-8, which requires a type c/f buffer where proposed commercial and parking uses abut single family residential uses, to allow the following as indicated on the MCP:

- A. An existing 8-foot-high opaque fence adjacent to the existing building.
- B. A minimum 5-foot buffer adjacent to the dumpster enclosure area providing 10 trees and 30 shrubs per 100 linear feet with an 8-foot-high opaque fence.
- C. A minimum 12-foot buffer adjacent to the northern parking lot Spaces providing 10 trees and 30 shrubs per 100 linear feet with a 4- to 8-foot-high opaque fence.

Applicant Justification: A. This deviation was previously approved due to the existing building's 2ft. setback from the property line.

B. This deviation exceeds the Type “C” buffer previously approved by including the proposed plantings with a wall. The only difference is the 5 ft. width instead of the previously approved 14 ft. The overall intent of the Type “C” buffer will be exceeded within the 5 ft. width. This 5 ft. width accommodates the new dumpster enclosure location.

C. This deviation exceeds the Type “C” buffer previously approved by including the proposed plantings with a wall. The only difference is the 12 ft. width instead of the previously approved 15 ft. The previous approval permitted a Type “C” buffer without a wall. The fencing has already been installed and the existing plantings will be augmented to meet the requirements, if needed. The 4-foot segment of the fence accommodates the visibility triangle required at connections to a public road. The only change from the previous approval is the width going from 15 ft. to 12 ft. The 3 ft. difference allowed the parking area to accommodate the two-way circulation.

Staff: Applicant already has a previously approved 8-foot high fence adjacent to the neighbors behind them on Fairview and Mango, they have also proposed the reduction of buffer widths from 14-feet in width to 5-feet to accommodate a full-size dumpster enclosure and to allow for driveway widths to accommodate two-way traffic in the parking lot.

Deviation #2 to remain:

Deviation from the requirements of LDC section 10-416(d)(2) and LDC table 10-8, which requires a 15 foot type D buffer between parking areas and right-of-way, to allow for a 5 foot type D buffer between parking areas and right-of-way

Deviation #3:

Existing: Deviation from the requirement of LDC Section 34-704(a), which requires buildings to be constructed between five (5) to ten (10) feet from Estero Boulevard, to allow a front setback of 46 feet to accommodate the existing building.

Proposed: Deviation from the requirement of LDC section 34-704(A), which requires buildings to be constructed between five (5) to ten (10) feet from Estero Boulevard, to allow a build-to distance between three (3) to ten (10) feet from Estero Boulevard.

Applicant Justification: This deviation was previously approved to accommodate the existing building which is 46 ft. from Estero Boulevard. With the proposed tiki structure, which will be structurally integrated with the existing primary structure, the revised deviation is proposed to allow a 3 ft. build-to distance. This deviation will allow a greater presence along Estero Boulevard and add to the ambience of the public realm.

Staff: The current CPD language provided a deviation to maximum built-to line distances from the Estero property line, the applicant’s plan includes the development of a new tiki shade covering which is proposed to be approximately 3-feet from the Estero

property line, this change would allow the structure to be closer than the previously approved 5-feet to the property line.

Deviation #4:

Existing: Deviation from the requirements of LDC Section 34-707(b)(1)a, which requires a minimum 10 foot street setback to allow for a 2.39 foot street setback from Fairweather Lane to accommodate the existing building.

Proposed: Deviation from the requirements of LDC section 34-707(b)(1)a, which requires a minimum 10 foot street setback to allow for a minimum 2.3 foot street setback from Fairweather Lane to the existing building and a minimum 5 foot street setback from Fairweather Lane for the proposed outdoor seating area structure.

Applicant Justification: This deviation was previously approved to accommodate the existing building which is 2.39 ft. from Fairweather Lane. With the proposed tiki structure, which will be structurally integrated with the existing primary structure, the revised deviation is proposed to also allow a 5 ft. setback from Fairweather Lane for this portion of the structure. There will be a 5 ft. landscape buffer along Fairweather Lane and a 3 ft. landscape buffer along Estero Boulevard in front of the tiki structure. This deviation will allow a greater presence along Estero Boulevard and add to the ambience of the public realm and pedestrian experience.

Staff: The existing CPD language allows for the building to be 2.39-feet from Fairweather, the new proposed language would retain the allowance for the existing footprint of the building but add language allowing for the placement of the tiki and seating area to be 5-feet setback from Fairweather.

Deviation #5 to remain:

Deviation from the requirement of LDC Section 34-704(b)(1)b, which requires a minimum 20-foot rear setback, to allow for a two-foot rear setback to accommodate the existing building.

Deviation(s) #6, 7 & 11 to be removed:

Existing #6: Deviation from the requirement of LDC Section 34-995(a)(3), which prohibits a principal facade facing a primary street from having blank walls greater than 10 feet in length, to allow for one (1) section of the principal facade to be 16 feet in length.

Existing #8: Deviation from the requirements of LDC Section 34-995(d), which requires corner buildings to be located no more than 20 feet from the intersection of right-of-way lines, to allow the existing corner building to be located a distance of 48.5 feet from the intersection of Estero Boulevard and Fairweather Lane.

Existing #11: Deviation from LDC Section I 0-289(d) which requires an 8-foot wide sidewalk along the property's Estero Boulevard frontage, to allow for a 5-foot wide sidewalk.

Staff: This existing CPD language would be removed since the newly proposed CPD and Master Concept Plan calls for a tiki structure to be closer to the property lines/ right-of-way, making these limitations moot if the CPD amendment is approved.

Deviation #8 (to be renumbered 6):

Existing: Deviation from LDC Section 34-2020(d)(2)h, which requires 8 parking spaces per 1,000 square feet of total floor area, including any outdoor seating area (for a total of 47 required parking spaces) to allow for a 30% reduction from the LDC requirement for a total of 34 provided spaces.

Proposed: Deviation from LDC section 34-2020(d)(2)h, which requires 8 parking spaces per 1,000 square feet of total floor area, including any outdoor seating area and a reduction of 2 spaces for 8 Bicycle spaces (for a total of 52 required parking spaces) to allow for a 35% reduction from the LDC requirement for a total of 34 provided spaces.

Applicant Justification: This deviation was previously approved to for a 30% reduction. The project has refined the parking area to provide two-way access for improved vehicle access management and maneuverability on-site, 4 8bicycle racks (16 spaces) overall racks, a direct connection to the 8 ft. sidewalk along Estero Boulevard and the transit stop. These elements meet the Comprehensive Plan goals to accommodate more pedestrian traffic and alternative modes of transportation rather than vehicular traffic. Approving an additional reduction will not significantly impact diminish the pedestrian, bicycling and transit improvements accommodations to enhance other modes of transportation and will minimize the need for any further impervious areas within the project. In addition, the restaurant has previously demonstrated that it is mainly a pedestrian and bicycle-oriented destination and as a result the need for onsite parking would actually be less than the LDC

Staff: This language is a request to reduce the number of parking spaces required by the restaurant use from 52 to 34, the reduction is being justified by the placement of 4 bike racks (16 total bike spaces) directly adjacent to the Estero sidewalk. The application of this code has never allowed the reduction of more than a single parking space in exchange for a bike rack, staff feels that this requested number is incorrect but feels that a reduction in parking could be appropriate with the correction to the number of spaces required by the code.

Deviation #9 to remain (will be renumbered to 7):

Existing: Deviation from LDC Section 34-2017, which requires high turnover parking lots to have a paved surface, to allow for a crushed shell or limerock surface.

Deviation #10 to remain (will be renumbered to 8):

Deviation from LDC Section 34-285 and Table 10-1 which requires 125 feet of connection separation along local roads, to allow for 96-feet of connection separation along Mango Street.

New Deviation #11 (will be renumbered to 9):

Deviation from the requirements of LDC section 34-662(b)(4)(a) and figure 34-5 requiring that visibility triangles must be maintained on both sides of intersecting streets and exiting driveway as shown in figures 34-4 and 34-5 or to provide equivalent visibility, to allow for a reduction in the depth of the sight visibility triangle along the other Street or existing driveway from 10 feet to 3 feet.

Applicant Justification: This deviation request would allow the depth of the sight visibility triangle at the intersection of Fairweather Lane and Estero Boulevard to be 3 feet rather than 10 feet, while maintaining the length to remain at 150 feet as shown in the amended Figure 34-5. Prior to Hurricane Ian, the Tuckaway Café had outdoor seating with umbrellas and landscaping located along Estero Boulevard (See Figure 1). The patrons, seating/tables/umbrellas and landscaping were partially located within the code-required visibility triangle (See Figure 2). While those features were not structures and therefore allowed within the visibility triangle, they still represented potential visual obstructions. However, as discussed further below, those features did not create unsafe conditions nor is there evidence of any elevated traffic conflicts at this intersection.

The applicant is proposing that the 10-foot required site-triangle area at the corner of Estero and Fairweather be reduced to 3-feet to allow for the placement of a tiki structure with outdoor service beneath it, this reduction would put at least one of the tiki poles into the required safety triangle and may constitute a hazard, the applicant has asserted that their design at that intersection should be considered to provide “equivalent visibility” for motorists as provided-for in LDC sec. 34-662(b)(4)(a).

Remainder of applicant justification found in Schedule of Deviations in application packet attached.

Staff: While the applicant has changed their plans to mitigate some of the risk, there still exists the possibility that drivers entering or existing Fairweather and Estero may have their view obscured by the proposed tiki structure.

Neighborhood Compatibility:

The previously existing residential and commercial properties in the area were destroyed by Hurricane Ian. The restaurant use has been in existence in this area for many years. However, the additional outdoor space with increased hours may have additional impacts on adjacent residential properties.

Findings and Conclusions:

LDC Sec. 34-85(b) and (c) and 34-216(2) sets forth the required considerations and

findings for the approval of a rezoning.

(b) Considerations. In reaching its decision, the town council shall consider the following, whenever applicable:

(1) Whether there exists an error or ambiguity which must be corrected.

Staff response: No errors or ambiguities exist.

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

Staff response: The previous structure was damaged by Hurricane Ian and redevelopment of the site makes the requests appropriate.

(3) The impact of a proposed change on the intent of this chapter.

Staff response: No impact on the intent of this chapter will occur.

(4) The testimony of any applicant.

(5) The recommendation of staff and of the local planning agency.

(6) The testimony of the public.

(7) Whether the request is consistent with the goals, objectives, policies, and intent, and with the densities, intensities, and general uses as set forth in the Fort Myers Beach Comprehensive Plan.

Staff response: The proposed development is in compliance with the intensity of the district. The use is permitted use in the existing CPD zoning.

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

Staff response: The proposed development will meet performance standards set forth in 34-2031.

(9) Whether urban services are, or will be, available and adequate to serve a proposed land use change.

Staff response: The urban services exist in this location.

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

Staff response: The request will have no impact on environmentally critical areas and natural resources.

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

Staff response: The proposed use has been in existence in this location for many years. It

is not anticipated to have any detrimental impact on existing or planned uses.

(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.

Staff response: This use in this location will not place an additional burden on the transportation network or other facilities and services.

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

(c) Findings. Before granting any rezoning, the town council shall find that the requested zoning district complies with:

(1) The Fort Myers Beach Comprehensive Plan.

Staff response: The proposed use and requested deviations for the CPD comply with the Comprehensive Plan.

(2) This chapter.

Staff response: The proposed use complies with this chapter except in regard to the deviations.

(3) Any other applicable town ordinances or codes.

Staff response: The proposed request complies with the town ordinances and codes, except in regard to the deviations.

(4) For planned development rezonings, see [§ 34-216](#) of this chapter for additional findings.

a. The proposed use or mix of uses is appropriate at the subject location;

Staff response: A restaurant is permitted use by right in existing CPD zoning district. The proposed use has existed in this location without creating a nuisance.

b. Sufficient safeguards to the public interest are provided by the recommended special conditions to the concept plan or by other applicable regulations;

Staff response: Sufficient safeguards are provided for the public interest.

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

Staff response: All conditions are related to the impacts on the public interest.

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.

Staff response: Not applicable.

2. Policies 4-B-5 and 4-C-3 on commercial rezonings in the "boulevard" category.

Staff response: Not applicable.

3. Policy 4-C-4 on building heights taller than the standard height limit.

Staff response: The proposed structure will be a single-story building.

4. Policy 4-C-8 on density transfers.

Staff response: Not applicable.

5. Policy 4-E-1 on pre-disaster build back.

Staff response: Not applicable.

6. Policy 7-J-2 on traffic impact analyses and potential design improvements that could offset traffic impacts.

Staff response: The proposed development has a similar use to the previous development and no adverse impact on traffic is anticipated.

Findings for Deviation Requests:

Per Sec. 34-216(4) all deviations must be approved, approved with modification, or rejected based upon a finding that:

a. Each item enhances the achievement of the objectives of the planned development; and

Staff response: The requested deviations are predominantly existing. The new deviations will allow reduced parking and will allow the tiki structure closer to the right of way

b. The general intent of this chapter to protect the public health, safety and welfare will be preserved and promoted; and

Staff response: The deviation #11, to reduce the visibility triangle does not promote safety.

c. Each deviation operates to the benefit, or at least not to the detriment, of the public interest; and

Staff response: The only deviation that may be a detriment to the public interest is deviation #11 to reduce the sight visibility triangle.

d. Each deviation is consistent with the Fort Myers Beach Comprehensive Plan.

Staff response: The deviations are consistent with the comprehensive plan.

I. RECOMMENDATION

Staff finds that the CPD with all deviations other than Deviation #11 meets the criteria set forth in Sec. 34-85(b) and (c) and 34-216(2) of the LDC and recommends approval of DCI20230197 without the inclusion of Deviation #11, with the attached conditions.

At the May 14th LPA hearing the Don Sudduth made a motion that the recommended approval with conditions, finding the CPD amendment is in compliance with the Comprehensive Plan and the LDC. Jane Plummer seconded the motion. The LPA voted 5-1 in favor of the recommendation.

IV. CONDITIONS

The below conditions were provided by the applicant with two adjustments: 1) The applicant had proposed outdoor entertainment until midnight, staff has amended the condition to reflect the time that outdoor music was permitted at this location previously. 2) Condition 5 is being removed, the applicant was provided an administrative waiver for a Traffic Impact Study (TIS) on this amendment, the previous language referred to designated seating areas which are not consistent with the proposed uses, and reference to a previous determination by the Town Council which isn't consistent with the determinations made by the current Community Development Director.

3) Conditions 12 & 13 were items that the applicant agreed to in their request to allow deviation to the sight visibility triangle. Conditions 12 & 13 are only necessary if the deviation to the sight visibility triangle is granted.

1. If the principal building on the subject property (2301 parcel) is removed or replaced for any reason, deviations 3 and 4 5, ~~6, and 7~~ will become null and void. Any new buildings replaced on the subject property must comply with required setbacks and any other regulations in effect at the time of permitting.
2. Any changes or fracturing of ownership of the four parcels within the subject property will require, at a minimum, an administrative amendment to the Master Concept Plan to reflect the change in ownership, which will include recorded unified control documentation.
3. The parking lot must be stabilized in accordance with the provisions in Section 34-2017(b) of the LDC.
4. A local development order is required prior to any expansion of the existing restaurant or any use of the second restaurant bay in accordance with this planned development approval. Approval of this request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the LDC may be required to obtain a local development order, including payment of additional impact fees.
5. ~~A Traffic Impact Study (TIS) is not warranted, and the Town Council hereby overrules the Director's decision to require a TIS. The Applicant has provided mitigation for traffic impacts by providing the following: additional on-site parking~~

- ~~for tenants and customers, landscape buffers, bicycle racks, extension of the sidewalk along Estero Boulevard in front of the property, elimination of the back out parking in front of the existing building, a reduction in the outdoor dining area to 1,000 square feet, and provision of storm water management improvements. The current restaurant use has demonstrated that it is mainly a pedestrian and bicycle-oriented destination and, as a result, the traffic impacts may actually be less than would be expected from a traffic impact study.~~
6. Bicycle racks shall be provided for a minimum of 8 bicycles.
 7. ~~The hours of operation for business use are 6am to 12 midnight. The hours of operation for indoor restaurant uses are 7am to 12 midnight with outdoor seating area limited to between the hours of 7am and 10 pm, seven days a week. The hours of operation will be 7am to 12 midnight seven days a week for both the restaurant and outdoor seating area.~~
 8. ~~No amplified music or entertainment is permitted outdoors. Amplified music or entertainment is permitted outdoors until 10 pm within the designated areas on the master concept plan and will not be oriented toward residential uses.~~
 9. All brewing activities shall be contained within the building.
 10. No outdoor storage shall be allowed including the use of portable storage units, cargo containers and tractor trailers except as follows: spent grain may be placed outdoors for a period not to exceed 24 hours. Spent grain must be stored in fully enclosed containers that are screened from adjacent properties and Estero Blvd.
 11. Must comply with guidelines set forth by the Florida Department of Alcoholic Beverages and Tobacco for the CMBP permit.
 12. Only vertical support posts for the outdoor seating structure will be permitted within the designated "RESTRICTED USE AREA" as shown on the MCP.
 13. No outdoor seating or entertainment area will be permitted within the designated "RESTRICTED USE AREA" as shown on the MCP.

V. EXHIBITS

- A. Complete application
- B. Applicant-proposed CPD Conditions & Uses
- C. Proposed Master Concept Plan



February 7, 2024

Town of Fort Myers Beach
Community Development
Department 2525 Estero Blvd.
Ft Myers Beach, FL 33931

**Subject: Sandy Bottoms Restaurant
2301/2307 & 2311 Estero Boulevard, and 111 & 121 Mango St.
Commercial Planned Development (CPD) Amendment – Submittal #1**

Intake Team:

The Neighborhood Company is pleased to submit on behalf of our client, 1249 ESTERO ADVENTURES LLC, a Planned Development Rezone (Amendment) Application associated with the subject property located at 2301/2307 & 2311 Estero Boulevard, and 111 & 121 Mango St., Ft Myers Beach, FL 33931. The proposed request is to seek the following:

- Planned Development Rezone Application to request an amendment to the existing CPD Ordinance 22-06. to allow flexibility in the re-establishment of a restaurant in the existing 4,000 sq. ft. building and to expand the outdoor seating area.

Please find attached the following items to this cover letter consistent with application submittal checklist:

1. Application Filing Fee;
2. Application for Public Hearing:
 - Disclosure of Interest Affidavit & Authorization Form;
 - Letter of Authorization;
 - Approved TIS Waiver
 - Exhibit 6-1 – STRAP # and Legal Description (Platted Lots)
 - Exhibit 6-2 – Boundary Survey;
 - Exhibit 6-3 – Area Location Map;
 - Exhibit 6-6 – List of Surrounding Property Owners within 500';
 - Exhibit 6-7– Map Surrounding Property Owners within 500'; and
 - Mailing Labels Surrounding Property Owners within 500'.
3. Planned Development Zoning - Supplement PH-D:
 - Narrative and Applicable Supplements
 - Master Concept Plan
 - Architectural Elevations
 - Section F: Schedule of Deviations and Justifications;
 - Schedule of Uses; and
 - Ordinance 22-06 Tuckaway Cafe



We look forward to your review and are available to answer questions related to this application.

Sincerely,

The Neighborhood Company

Kenrick Gallander, AICP
Vice President, Partner

Attachments: Application Submittal Requirements (listed above)

cc: Mike and Dawn Miller, 1249 Estero Adventures LLC



**SANDY BOTTOMS RESTAURANT
COMMERCIAL PLANNED DEVELOPMENT AMENDMENT
Planned Development Rezone Application**

FILING FEE

Town Fee Schedule 2023:

- PD Rezone = \$6,500

TOTAL: \$6,500



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: 2301, 2307, & 2311 Estero Blvd. and 111 & 112 Mango St.

STRAP Number: 19-46-24-W3-0120E.0020, 19-46-24-W3-0120E.0010, 19-46-24-W3-0120E.0020, & 19-46-24-W3-0120E.0030

Applicant: 1249 ESTERO ADVENTURES LLC Phone: _____

Contact Name: Kenrick Gallander, AICP Phone: 850-803-5621

Email: kg@theneighborhood.company Fax: _____

Current Zoning District: CPD

Future Land Use Map (FLUM) Category: Boulevard

FLUM Density Range: 6 du/ac 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*: Kenrick Gallander, AICP Phone: 850-803-5621

**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: 5618 Whispering Willow Way, Fort Myers, FL 33908

Email: kg@theneighborhood.company Fax: _____

Contact Name: Kenrick Gallander, AICP Phone: 850-803-5621



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: Kenrick Gallander, AICP Phone: 850-803-5621
Address: 5618 Whispering Willow Way, Fort Myers, FL 33908
Email: kg@theneighborhood.company Fax: _____

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

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

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

PART II – Nature of Request

Requested Action (each request requires a separate application)

- ☐ Special Exception
- ☐ Variance from LDC Section _____ - _____
- ☐ Conventional Rezoning from _____ to _____
- ☐ Planned Development
- ☐ Rezoning from _____ to ☐ Commercial PD ☐ Residential PD
- ☒ Amendment. List the project number: 20210115
- ☐ Extension/reinstatement of Master Concept Plan. List project number: _____



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

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

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

Signature

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

1249 Estero Adventures LLC

100%

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

Name and Address

Percentage of Interest

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

Name and Address

Percentage of Ownership

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

Name, Address and Office

Percentage of Stock



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, Michael R. Miller (name), as Manager (title)
of 1249 ESTERO ADVENTURES 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

1249 Estero Adventures, LLC

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

Signature

Michael R. Miller

Typed or Printed Name

Manager

Title

02-02-23

Date

STATE OF Florida COUNTY OF Lee

The foregoing instrument was certified and subscribed before me by means of ☒ physical presence OR ☐ online notarization, this 2nd day of February 2024, by Michael Miller ☒ who is personally known to me OR ☐ who has produced _____ as identification.



Lori Maroney
Notary Public Signature

PART VI- Property Information

A. Legal Description:

STRAP: 19-46-24-W3-0120E.0020, 19-46-24-W3-0120E.0010, 19-46-24-W3-0120E.0020, & 19-46-24-W3-0120E.0030

Property Address: 2301, 2307, & 2311 Estero Blvd. and 111 & 112 Mango St.

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: see below

2301& 2311 Estero Blvd. PB 6, Pg 68 Lots 1 & 2, Block D, Beach Estates
111 & 121 Mango St., PB 4, Pg 17, Lots 1, 2 & 3, Block E, Sea Grape Subdivision

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) 218 +/- feet

Depth (please provide an average width if irregular in shape) 146 +/- feet

Frontage on street: 218 +/- feet. Frontage on waterbody: N/A feet

Total land area: +/- 0.66 ☒ acres ☐ square feet

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

South on San Carlos Blvd. from Matanzas Pass Bridge approximately 0.3 miles

San Carlos Blvd. turns slightly left and becomes Estero Blvd. continue approximately
0.7 miles and the subject property will be on the left.

☒ 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



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.



THE NEIGHBORHOOD COMPANY

I Michael R. Miller, as authorized member of 1249 ESTERO ADVENTURES LLC owner of property located at 2301, 2307, & 2311 Estero Blvd. and 111 & 112 Mango St., Fort Myers Beach, FL, identified by STRAP Numbers 19-46-24-W3-0120E.0020, 19-46-24-W3-0120E.0010, 19-46-24-W3-0120E.0020, & 19-46-24-W3-0120E.0030, hereby authorizes The Neighborhood Company regarding the above-referenced property to serve as agent for the Town of Ft Myers Beach Planned Development Rezone Application.

1249 ESTERO ADVENTURES LLC

By: [Signature]
Print Name: Michael R. Miller
Title: Manager

STATE OF Florida
CITY OF Fort Myers Beach

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 1st day of February, 2024 by Michael R. Miller, as Manager of 1249 ESTERO ADVENTURES LLC, on behalf of the company(s), who ☐ is personally known to me OR ☐ has produced a(n) driver's license as identification.

(NOTARY STAMP)



[Signature]
Notary Public, State of Indiana
Print Name: Lor. Maroney
My Commission Expires: 10-14-2028



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Application for Waiver of Submittal Requirements

Submit a request for waiver of submittal requirements prior to submitting an application for public hearing or administrative action. Requesting a waiver of submittal requirements simultaneously with an application may delay your application. The request and the director's response will become part of the application file.

Waiver is requested for items required for:

Public Hearing

- ☐ General Requirements
- ☐ DRI
- ☒ Planned Development
- ☐ Conventional Rezoning
- ☐ Special Exception
- ☐ Variance
- ☐ Appeal
- ☒ Other

Administrative Action

- ☐ General Requirements
- ☐ Planned Dev. Amendment
- ☐ Commercial Antenna
- ☐ Consumption on Premises
- ☐ Forced Relocation of a Business
- ☐ Interpretation of LDC
- ☐ Minimum Use Determination
- ☐ Setback Variance
- ☐ Other

Name of Project: Sandy Bottoms CPD Planned Development Amendment
Applicant: 1249 Estero Adventures LLC
Strap Number: 19-46-24-W3-0120E.0020, 19-46-24-W3-0120E.0010, 19-46-24-W3-0120E.0020, & 19-46-24-W3-0120E.0030
Street Address: 2301, 2307, & 2311 Estero Blvd. and 111 & 112 Mango St.
Phone Number: 850-803-5621
Email: kg@theneighborhood.company



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Application for Waiver of Submittal Requirements

Specific requirements from which waiver is sought

Section Number	Requirement
LDC Sec. 10-286	Traffic Impact Statement (TIS)

Scope of project and reasons for request

Explain the nature of the project and give reasons why you think specific requirements are inapplicable or otherwise should be waived.

See attached Waiver Narrative.

I hereby state that the information provided above is accurate to the best of my knowledge. I recognize that if my project changes from what is described above approval of this waiver request may no longer be valid.

[Signature] January 31, 2024

Signature

Date

Director's Decision ☒ Approved ☐ Denied

Comments:

Charlie Kopack 2-2-24
Signature Date

Revised 1/6/2017

Town of Fort Myers Beach
2525 Estero Blvd., Fort Myers Beach, Florida 33931
Phone: 239-765-0202 Permits@FortMyersBeachFL.gov Fax: 239-765-0909

Page 2 of 2

SUBMIT



**Sandy Bottoms CPD
Planned Development Amendment
WAIVER JUSTIFICATION NARRATIVE**

On May 2, 2022, the Fort Myers Beach Town Council duly passed and adopted Ordinance No. 22-06. This ordinance repealed and replaced Town Resolution 12-07 and approved the schedule of uses, conditions, and Master Concept Plan (MCP) for the subject property consisting of properties at 2301, 2307 & 2311 Estero Blvd. and 111 & 121 Mando St. in Fort Myer Beach Florida.

The proposed planned development amendment request to be submitted is to primarily allow for the expansion of the existing outdoor seating area by a maximum of 1000 SF and to seek amendments to existing conditions. The Neighborhood Company, on behalf of our client, 1249 Estero Adventures LLC, is submitting a Waiver Request for the following submittal requirement to the Planned Development Amendment application requirements:

- LDC 10-286 – Traffic Impact Statement (TIS)

The waiver is requested due to the fact the proposed amendment does not result in a “significant change” from the original development proposal and the associated transportation analysis conducted. It is our professional opinion the increase in outdoor seating area would be a de-minimis level of impact to the roadway level-of-service on an already Lee County identified “constrained facility” and thus, would not have an adverse impact on an already over capacity roadway. The proposed petition will be encouraging and seeking to enhance alternative modes of transportation (pedestrian connectivity and bicycle use) as part of the development plan, in-turn helping to further alleviate vehicular impacts to the surrounding constrained roadway network.



**SANDY BOTTOMS RESTAURANT
COMMERCIAL PLANNED DEVELOPMENT AMENDMENT
Planned Development Rezone Application**

EXHIBIT 6-1: STRAP # & LEGAL DESCRIPTION

- STRAP #s: 19-46-24-W3-0110.D0010, 19-46-24-W3-0120E.0010, 19-46-24-W3-0120E.0020, 19-46-24-W3-0120E.0030
- Description:

Lots 1 & 2, Block D, in that certain subdivision known as Beach Estates recorded in the public records of Lee County, Florida, in Plat Book 6, Page 68.

and

Lots 1, 2, & 3, Block E, in that certain subdivision known as Sea Grape, recorded in the public records of Lee County, Florida in Plat Book 4, Page 17.

[illegible]

ORIGINAL

Hurricane Bay
19-46-24

Estero Pass
24-46-23

Montanzas Pass
30-46-24

Fort Myers Beach
20-46-24

APPROXIMATE
SITE LOCATION

Gulf of Mexico

SITE MAP
(NOT TO SCALE)

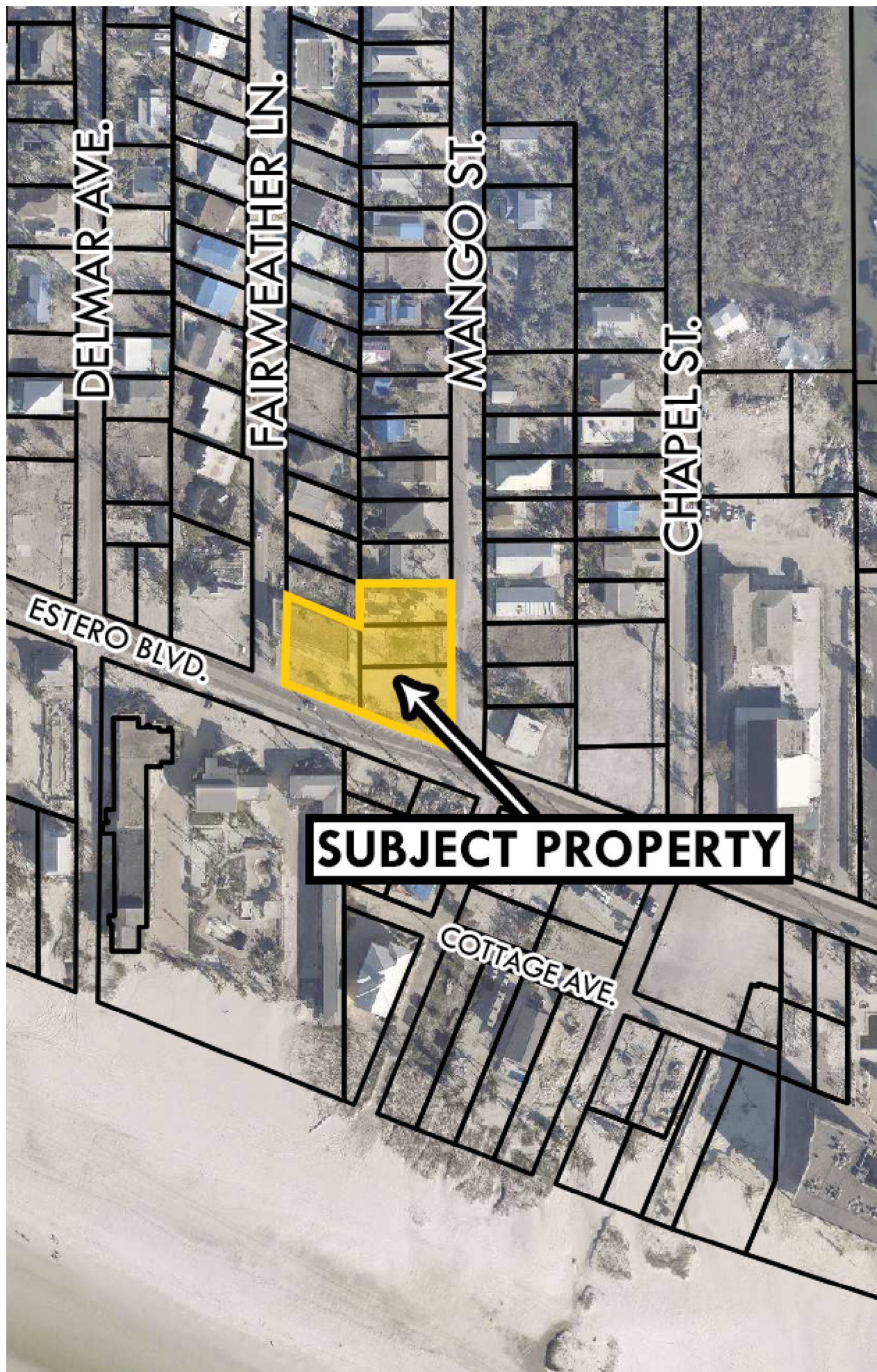
Town of Fort Myers Beach
MAY 31 2012
Received Community Devel.

Gulf of Mexico

Legal Descriptions per Title Commitment Schedule A:

- = MONUMENT AS NOTED
- = CONCRETE MONUMENT
- △ = NAIL AND DISK
- W/M = WATER METER
- WV = WATER VALVE
- 👁 = FIRE HYDRANT
- 🚰 = CATCH BASIN
- = CONCRETE POWER POLE
- 🔌 = WOOD POWER POLE
- ⌋ = GUY ANCHOR
- ☀ = LAMP
- ① = STORM SEWER MANHOLE
- ⑤ = SANITARY SEWER MANHOLE
- 🔧 = SEWER CLEAN OUT
- 7 = TELEPHONE PEDESTAL
- TV = CABLE TELEVISION PEDESTAL
- 🔌 = 240 VOLT ELECTRIC SERVICE
- ⦿ = BENCHMARK

EXHIBIT 6-3 LOCATION MAP



EXHIBT 6-6 PROPERTY OWNER LIST

Date: 12/19/2023 12:00:00 AM List Size: 166

STRAP	OwnerName	OwnerName2	MailAddress	MailAddress2	MailCity	MailState	MailZip	MailCountry
19-46-24-W3-0110D.0010	1249 ESTERO ADVENTURES LLC		290 BAHIA VIA		FORT MYERS BEACH	FL	33931	
19-46-24-W3-0120E.0010	1249 ESTERO ADVENTURES LLC		290 BAHIA VIA		FORT MYERS BEACH	FL	33931	
19-46-24-W3-0120E.0020	1249 ESTERO ADVENTURES LLC		290 BAHIA VIA		FORT MYERS BEACH	FL	33931	
19-46-24-W3-0120E.0030	1249 ESTERO ADVENTURES LLC		290 BAHIA VIA		FORT MYERS BEACH	FL	33931	
19-46-24-W3-00450.0000	TOWN OF FORT MYERS BEACH		2525 ESTERO BLVD		FORT MYERS BEACH	FL	33931	
19-46-24-W3-00450.A000	TOWN OF FORT MYERS BEACH	FINANCE DEPT	2525 ESTERO BLVD		FORT MYERS BEACH	FL	33931	
19-46-24-W3-0100B.0010	2201 ESTERO LLC		8360 SW 112TH ST		MIAMI	FL	33156	
19-46-24-W3-0100B.0020	2201 ESTERO LLC		8360 SW 112 ST		MIAMI	FL	33156	
19-46-24-W3-0100B.0030	2201 ESTERO LLC		8360 SW 112 ST		MIAMI	FL	33156	
19-46-24-W3-0100B.0050	BROWN LENNDA JOE TR		16210 LARSEN AVE		GOWEN	MI	49326	
19-46-24-W3-0100B.0090	JMP&W LLC		7906 ARIEL WAY		MCLEAN	VA	22102	
19-46-24-W3-0100B.0110	KOSTER RODNEY & THERESE		880 3RD ST		FORT MYERS BEACH	FL	33931	
19-46-24-W3-0100B.0130	MATTHEWS JOHN MORRIS		221 S ADAMS ST		WEST CHESTER	PA	19382	
19-46-24-W3-0100B.0150	FERRARO KIM A +		800 BENJAMIN FRANKLIN DR #208		SARASOTA	FL	34236	
19-46-24-W3-0100B.0170	TOLLETTE JEFFREY R &		1959 135TH AVE NW		ANDOVER	MN	55304	
19-46-24-W3-0100B.0190	MGNM PROPERTIES LLC		1009 N TOWN & RIVER DR		FORT MYERS	FL	33919	
19-46-24-W3-0110A.0010	CHG NEPTUNE ACQUISITIONS LLC	MARK A DAMANTE	150 E BROAD ST	STE 800	COLUMBUS	OH	43215	
19-46-24-W3-0110C.0010	B + B CASH GROCERY STORES INC		PO BOX 1808 #78		TAMPA	FL	33601	
19-46-24-W3-0110C.0040	BC MASTERPIECE LLC		12601 LAS OLAS LANE # 123		FORT MYERS	FL	33919	
19-46-24-W3-0110C.0060	BIRKART HANS +		12601 LAS OLAS LN #123		FORT MYERS	FL	33919	
19-46-24-W3-0110C.0070	DEWESE BRUCE R +		14685 WESTON RD		WESTON	OH	43569	
19-46-24-W3-0110C.0090	WHITE SWAN INVESTMENTS LLC		148 BAYLOR AVE		HILLSDALE	NJ	07642	
19-46-24-W3-0110C.0100	COULTER BEAU & TRACY R		760 STONEGATE PASS		COLGATE	WI	53017	
19-46-24-W3-0110C.0110	BLUE RHINO LLC		751 RESERVE CT		SOUTH ELGIN	IL	60177	
19-46-24-W3-0110C.0120	BURNS PROPERTY MANAGEMENT LLC		213 FAIRWEATHER LN		FORT MYERS BEACH	FL	33931	
19-46-24-W3-0110D.0030	DYE GARY A & LOIS +		553 W31115 OLD VILLAGE RD		MUKWONAGO	WI	53149	
19-46-24-W3-0110D.0040	DEWEY KEITH CARTER & AMANDA		118 FAIRWEATHER LN		FORT MYERS BEACH	FL	33931	
19-46-24-W3-0110D.0050	MAIER SIMEON E II		1999 92ND ST		CALEDONIA	MI	49316	
19-46-24-W3-0110D.0060	WOAD LLC		1999 92ND ST		CALEDONIA	MI	49316	
19-46-24-W3-0110D.0070	WD RETREAT LTD		330 LOUISIANA AVE		PERRYSBURG	OH	43551	
19-46-24-W3-0110D.0080	WD RETREAT LTD		330 LOUISIANA AVE		PERRYSBURG	OH	43551	
19-46-24-W3-0110D.0090	KATTA DAN II LLC	TIMOTHY HALEY	6526 S KANNER HWY	STE 308	STUART	FL	34997	
19-46-24-W3-0110D.0100	CHITTENDEN DALE R & JOANN TR		15925 138TH AVE		SPRING LAKE	MI	49456	
19-46-24-W3-0110D.0110	LOGAN GARY D II +		2914 BARBERRY DR		HOBART	IN	46342	
19-46-24-W3-0110D.0120	ROUSSEAU DONNA L		22 PINEHURST DR		WAREHAM	MA	02571	
19-46-24-W3-0110D.0130	NAM THOMAS		21530 INDIAN BAYOU DR		FORT MYERS BEACH	FL	33931	
19-46-24-W3-0110D.0140	DORBAD PATRICK J &		495 ECHO CIRCLE		MARCO ISLAND	FL	34145	
19-46-24-W3-0120A.001A	WOLFPACK PROPERTIES LLC		567 SIMBURY ST		COLUMBUS	OH	43228	
19-46-24-W3-0120A.001B	WOLFPACK PROPERTIES LLC		567 SIMBURY ST		COLUMBUS	OH	43228	
19-46-24-W3-0120A.0020	NANKO RAYMOND S		919 WEST JACKSON ST		MUNCIE	IN	47305	
19-46-24-W3-0120A.0040	YANKE RONALD		328 BUCKLIN ST		LA SALLE	IL	61301	
19-46-24-W3-0120A.0050	YANKE RONALD		328 BUCKLIN ST		LA SALLE	IL	61301	
19-46-24-W3-0120A.0070	THOMAS E SWANBECK PA		2450 ESTERO BLVD		FORT MYERS BEACH	FL	33931	
19-46-24-W3-0120A.0090	YANKE RONALD		328 BUCKLIN ST		LA SALLE	IL	61301	
19-46-24-W3-0120A.0100	EMPIRE HOLDING CORP TR		PO BOX 19492		INDIANAPOLIS	IN	46219	
19-46-24-W3-0120A.013A	EMPIRE HOLDING CORP TR	RAINBOW REALTY GROUP INC	6104 E 21ST ST		INDIANAPOLIS	IN	46219	
19-46-24-W3-0120A.0150	FRENCH EDWIN T III		PO BOX 22538		INDIANAPOLIS	IN	46222	
19-46-24-W3-0120A.016A	COASTAL COTTAGES LLC		6850 W SOUTH LAKE GAGE DR		ANGOLA	IN	46703	
19-46-24-W3-0120A.016B	COASTAL COTTAGES LLC		6850 W SOUTH LAKE GAGE DR		ANGOLA	IN	46703	
19-46-24-W3-0120A.0170	TEZAK HELEN C TR		50 CHAPEL ST #4		FORT MYERS BEACH	FL	33931	
19-46-24-W3-0120A.017A	GOLDBERG GENNIE M TR		11793 ROYAL TEE CT		CAPE CORAL	FL	33991	
19-46-24-W3-0120A.0180	FMB COTTAGE LLC		2440 COTTAGE AVE		FORT MYERS BEACH	FL	33931	
19-46-24-W3-0120A.0190	BONFIGLI ANDREW & SUSAN		2434 COTTAGE AVE		FORT MYERS BEACH	FL	33931	
19-46-24-W3-0120A.0200	PAISLEY LLC		414 MARKET ST		IOWA CITY	IA	52245	
19-46-24-W3-0120A.0210	MCLAUGHLIN SAMUEL R &		4700 EDEN PARK DR		ZANESVILLE	OH	43701	
19-46-24-W3-0120A.0220	SCHLICHT EDITION		61 MANGO ST		FORT MYERS BEACH	FL	33931	
19-46-24-W3-0120B.0010	CHAPEL BY THE SEA		PO BOX 2997		FORT MYERS BEACH	FL	33932	
19-46-24-W3-0120B.0090	TOWN OF FORT MYERS BEACH		2525 ESTERO BLVD		FORT MYERS BEACH	FL	33931	
19-46-24-W3-0120B.0100	ZENG GORDON & ZHU DONGHE		3312 AUGUSTA LN		ONALASKA	WI	54650	
19-46-24-W3-0120B.0110	ZENG GORDON & ZHU DONGHE		3312 AUGUSTA LN		ONALASKA	WI	54650	
19-46-24-W3-0120B.0120	JAMIESON JAMES J		13299 OAK HILL LOOP		FORT MYERS	FL	33912	
19-46-24-W3-0120C.0010	ROTH ALLAN T & RHONDA K		12232 JAY CIR NW		COON RAPIDS	MN	55448	
19-46-24-W3-0120C.0030	MORRIS TIMOTHY E & JOAN E		2092 NORBORN DR		LEXINGTON	KY	40502	
19-46-24-W3-0120C.0050	REILLY MICHAEL J &		222 MANGO ST		FORT MYERS BEACH	FL	33931	
19-46-24-W3-0120C.0060	JAMIESON JAMES J		13299 OAK HILL LOOP		FORT MYERS	FL	33912	
19-46-24-W3-0120C.0460	DUMERS JEANEEN		203 CHAPEL ST		FORT MYERS BEACH	FL	33931	
19-46-24-W3-0120D.0010	GERSTENHABER RAM TR	BEACH CONNECTION	2401 ESTERO BLVD		FORT MYERS BEACH	FL	33931	
19-46-24-W3-0120D.0020	CZULEWICZ MARYLU TR		4281 ORANGE RIVER LOOP RD		FORT MYERS	FL	33905	
19-46-24-W3-0120D.0030	BOREK TINA D		1605 PENNSAUKEN ST		CINNAMINSON	NJ	08077	
19-46-24-W3-0120D.0040	MANGO STREET LLC		126 MANGO ST		FORT MYERS BEACH	FL	33931	
19-46-24-W3-0120D.0060	PAOLERCIO WILLIAM		2367 JIM HENRY RD		DANDRIDGE	TN	37725	
19-46-24-W3-0120D.0070	MERIDIAN ENTERPRISES II LLC		2248 OLD STATE RD		BEAUFORT	MO	63013	
19-46-24-W3-0120D.0080	BURNS PROPERTY MANAGEMENT LLC		536 SONOMA DR		BOLINGBROOK	IL	60490	
19-46-24-W3-0120D.0090	ROTH ALLAN T & RHONDA K		12232 JAY CIR NW		COON RAPIDS	MN	55448	
19-46-24-W3-0120D.0100	STALTER RICHARD		169 CHAPEL ST		FORT MYERS BEACH	FL	33931	
19-46-24-W3-0120D.0110	YANKE RONALD		328 BUCKLIN ST		LA SALLE	IL	61301	
19-46-24-W3-0120D.0120	MEEHAN PATRICIA LYNN		293 ELM ST W		SUDBURY	ON	P3C 1V6	CANADA
19-46-24-W3-0120D.0130	BIG MARLIN PROPERTIES LLC		4704 VINCENNES BLVD		CAPE CORAL	FL	33904	
19-46-24-W3-0120D.0140	PPAFFINGER HEDWIG TR	JAMES SCHULTZ	1030 SPINDLE HILL RD		WOLCOTT	CT	06716	
19-46-24-W3-0120D.0150	RYAN JAMES		139 CHAPEL ST		FORT MYERS BEACH	FL	33931	
19-46-24-W3-0120D.0190	CHAPEL BY THE SEA		PO BOX 2997		FORT MYERS BEACH	FL	33932	
19-46-24-W3-0120E.0040	BESSEY JAMES D		2 BARTLETT RD		NANTUCKET	MA	02554	
19-46-24-W3-0120E.0050	TOMMAR INC		9616 ROUND LAKE BLVD		WHITE LAKE	MI	48386	
19-46-24-W3-0120E.0060	SOTO JESUS +		PO BOX 366265		BONITA SPRINGS	FL	34136	
19-46-24-W3-0120E.0070	WICKETT LLOYD A &		5647 SHADDELEE LN W		FORT MYERS	FL	33919	
19-46-24-W3-0120E.0080	WICKETT LLOYD A &		5647 SHADDELEE LN W		FORT MYERS	FL	33919	
19-46-24-W3-0120E.0090	ROTH ALLAN		12232 JAY CIRCLE		COON RAPIDS	MN	55448	
19-46-24-W3-0120E.0100	ROTH ALLAN T		12232 JAY CIRCLE		COON RAPIDS	MN	55448	
19-46-24-W3-0120E.0110	ROTH ALLAN & RHONDA		12232 JAY CIRCLE		COON RAPIDS	MN	55448	

19-46-24-W3-0120E.0120	ROTH ALLAN T	12232 JAY CIR NW	COON RAPIDS	MN	55448
19-46-24-W3-0120E.0130	ANGIULO MICHAEL J & JAYME R	215 MANGO ST	FORT MYERS BEACH	FL	33931
19-46-24-W3-0120E.0140	174 FROST STREET LLC	103 WEEKS RD	EAST WILLISTON	NY	11596
19-46-24-W3-01301.0000	EMPIRE HOLDING CORP TR	PO BOX 19492	INDIANAPOLIS	IN	46219
19-46-24-W3-01302.0000	EMPIRE HOLDING CORP TR	PO BOX 19492	INDIANAPOLIS	IN	46219
19-46-24-W3-01303.0000	L OLOUGHLIN LLC	30111 BATES RD	PERRYSBURG	OH	43551
19-46-24-W3-04200.00CE	SEA BREEZE ESTATES CONDO ASSN	325 W LOCUST LN	KENNETT SQUARE	PA	19348
19-46-24-W3-04201.0010	71 MANGO LLC	15440 CATALPA COVE LANE	FORT MYERS	FL	33908
19-46-24-W3-04202.0020	71 MANGO LLC	15440 CATALPA COVE LN	FORT MYERS	FL	33908
19-46-24-W3-04300.00CE	NEPTUNE INN CONDO ASSN INC	PO BOX 508	RICHMOND	IL	60071
19-46-24-W4-00421.0000	PALMA FRED JR & RHONDA +	139 S PARK BLVD	GLEN ELLYN	IL	60137
19-46-24-W4-00422.0000	MAUGANS ALICE B	12890 SPENCER STREET	FORT MYERS	FL	33908
19-46-24-W4-00423.003A	MORIONDO LARRY E TR	15482 LAWRENCE 2130	MOUNT VERNON	MO	65712
19-46-24-W4-00423.004A	LANGLEY COLIN M TR	130 PEARL ST	FORT MYERS BEACH	FL	33931
19-46-24-W4-00423.005A	LANGLEY COLIN M & DIONE C TR	130 PEARL ST	FORT MYERS BEACH	FL	33931
19-46-24-W4-00423.006A	HORKAN CHAD M TR	1189 FOUR WINDS WAY	HARTLAND	WI	53029
19-46-24-W4-00423.007A	PAREDERO CLEMENTE & MARY L	140 PEARL ST	FORT MYERS BEACH	FL	33931
19-46-24-W4-00435.0000	NEAF JAMES C	125 PEARL ST	FORT MYERS BEACH	FL	33931
19-46-24-W4-00435.0010	2085 ESTERO LLC	2001 ESTERO BLVD	FORT MYERS BEACH	FL	33931
19-46-24-W4-00442.00A0	BUICE NANCY HURD TR	15174 PORTSIDE DR	FORT MYERS	FL	33908
19-46-24-W4-00444.0000	PEARL STREET PROPERTY HOLDINGS	PO BOX 2611	FORT MYERS BEACH	FL	33931
19-46-24-W4-00445.0000	JENKINS WAYNE +	829 NORWEST RD STE 421	KINGSTON	ON	KTP 2N3 CANADA
19-46-24-W4-0100G.0010	SURFUS JOHN D	PO BOX 2415	FORT MYERS BEACH	FL	33932
19-46-24-W4-0100G.0050	ALFARO-MALDONADO LINDA	121 DELMAR AVE	FORT MYERS BEACH	FL	33931
19-46-24-W4-0100G.0070	127 DELMAR LLC	7449 CEDAR RIDGE DR	PORTLAND	MI	48875
19-46-24-W4-0100G.0090	FRIEDRICH CHARLES DAVID +	114 FAIRBANKS ST	SANTA CRUZ	CA	95060
19-46-24-W4-0100G.0110	DELMAR BROTHERS LLC	135 DELMAR AVE	FORT MYERS BEACH	FL	33931
19-46-24-W4-0100G.0150	MARTIN RICHARD E &	11034 E KRAMER RD	BOWLING GREEN	OH	43402
19-46-24-W4-0100H.0010	BAISCH GAYLE LYNN +	1443 CLARET CT	FORT MYERS	FL	33919
19-46-24-W4-0100H.0020	CBD LLC	414 E MARKET ST	IOWA CITY	IA	52245
19-46-24-W4-02700.00CE	SURF SONG CONDO ASSOC INC	2088 ESTERO BLVD UNIT 2H	FORT MYERS BEACH	FL	33931
19-46-24-W4-03100.00CE	POLYNESIAN VACATION VILLAS	2096 ESTERO BLVD	FORT MYERS BEACH	FL	33931
19-46-24-W3-0430N.0001	CHG NEPTUNE ACQUISITIONS LLC	150 E BROAD ST	COLUMBUS	OH	43215
19-46-24-W4-02700.A000	BENNETT ROBERT W	5889 WATSON RD	EAU CLAIRE	MI	49111
19-46-24-W4-02702.00A0	R DOUGLAS HOVENDEN TRUST +	2088 ESTERO BLVD #2A	FORT MYERS BEACH	FL	33931
19-46-24-W4-02702.00B0	JOHNSON ROGER A TR	2088 ESTERO BLVD APT 2B	FORT MYERS BEACH	FL	33931
19-46-24-W4-02702.00C0	KAUFMAN CHRISTINE V TR	26442 BRICK LN	BONITA SPRINGS	FL	34134
19-46-24-W4-02702.00D0	HILL DOUGLAS E & KAYLA K	43 ONONDAGA ST	SKANEATELES	NY	13152
19-46-24-W4-02702.00E0	HAMILTON ROGER A & JANE M	2088 ESTERO BLVD #2E	FORT MYERS BEACH	FL	33931
19-46-24-W4-02702.00F0	OLIVER KENT D & JO-ANN A	18900 NALLE RD	NORTH FORT MYERS	FL	33917
19-46-24-W4-02702.00G0	MENDENHALL MURRAY J III &	10407 WOODLAND RIDGE WEST	FORT WAYNE	IN	46804
19-46-24-W4-02703.00A0	RAUSHEL JAN R TR	103 SOUTH DR	AITKIN	MN	56431
19-46-24-W4-02703.00B0	WALCHLI JAMES	2088 ESTERO BLVD #3B	FORT MYERS BEACH	FL	33931
19-46-24-W4-02703.00C0	FERGUS CHARLOTTE TR	2088 ESTERO BLVD #3C	FORT MYERS BEACH	FL	33931
19-46-24-W4-02703.00D0	JACKSON JOHN K TR	1400 N 100 E	HARTFORD CITY	IN	47348
19-46-24-W4-02703.00E0	MIZEL WILLIAM C & THERESA L	2088 ESTERO BLVD UNIT 4B	FORT MYERS BEACH	FL	33931
19-46-24-W4-02703.00F0	DUNDEE NICHOLAS J & LINDA M	2088 ESTERO BLVD #3F	FORT MYERS BEACH	FL	33931
19-46-24-W4-02703.00G0	SURF SONG CARNEY LLC	2809 GREAT NORTHERN LOOP #100	MISSOULA	MT	59808
19-46-24-W4-02704.00A0	HAPKIEWICZ ANNIS M TR	2088 ESTERO BLVD # 4A	FORT MYERS BEACH	FL	33931
19-46-24-W4-02704.00B0	MIZEL WILLIAM C & THERESA L	2088 ESTERO BLVD 4B	FORT MYERS BEACH	FL	33931
19-46-24-W4-02704.00C0	COURRIER DAWN LARAE	16005 25TH AVE N	PLYMOUTH	MN	55447
19-46-24-W4-02704.00D0	RAVENSCROFT JEAN A TR	69525 CHRISTIANN CREEK DR	EDWARDSBURG	MI	49112
19-46-24-W4-02704.00E0	KEITH THOMAS E & EILEEN M	5853 HACKER DR	WEST BEND	WI	53095
19-46-24-W4-02704.00F0	THREE SISTERS MANAGEMENT	3340 WELLINGTON BLVD	CRAWFORDSVILLE	IN	47933
19-46-24-W4-02704.00G0	MAZER BERNARD A & DIANNE M TR	W22157455 CAROL DRIVE	MUSKEGO	WI	53150
19-46-24-W4-02705.00A0	WILLIAMS MARY J TR	11131 WOODS BAY LN	INDIANAPOLIS	IN	46236
19-46-24-W4-02705.00B0	FRANTZ M RYAN & ERIKA E	5480 LARISSA PL	CARMEL	IN	46033
19-46-24-W4-02705.00C0	FRIEDMAN JEFFREY &	2013 WILDERNESS TR	SPRINGFIELD	IL	62711
19-46-24-W4-02705.00D0	DECONCINI CHRISTOPHER M TR	45281 RED PINE LOOP	PERHAM	MN	56573
19-46-24-W4-02705.00E0	SCHOLTZ STEPHEN A	124 KINGSWAY CRESCENT	TORONTO	ON	M8X 252 CANADA
19-46-24-W4-02705.00F0	NELSON ROBERT A TR	1302 STANFIELD ST	SOUTH BEND	IN	46617
19-46-24-W4-02705.00G0	STENSRUDE LARRY C TR	2088 ESTERO BLVD UNIT 5G	FORT MYERS BEACH	FL	33931
19-46-24-W4-03100.0010	LYONS KRISTIN E	2096 ESTERO BLVD #1	FORT MYERS BEACH	FL	33931
19-46-24-W4-03100.0020	RAGAN JOHN	5600 REVERE RUN	CANFIELD	OH	44406
19-46-24-W4-03100.0030	JONES FRANK TR	2010 46TH AVE #2	GREELEY	CO	80634
19-46-24-W4-03100.0040	SAVERY TIMOTHY LYDEN &	406 SW 30TH AVE	CAPE CORAL	FL	33991
19-46-24-W4-03100.0050	MOGLIA SANDRA	17 DIVISION ST W APT 2	GREENWICH	CT	06830
19-46-24-W4-03100.0060	DUNFEE ALLEN MARK & SUSAN M	402 SW 30TH AVE	CAPE CORAL	FL	33991
19-46-24-W4-03100.0070	PARILLA DAVID R TR	1335 SANTOS RD	FORT MYERS BEACH	FL	33931
19-46-24-W4-03100.0080	MALOTT PATRICK T	7840 MELBOURNE RD	SAGINAW	MI	48604
19-46-24-W4-03100.0090	BERMEL STEVEN	900 PARK AVE	MUSCATINE	IA	52761
19-46-24-W4-03100.0100	LEINDECKER ROBERT JOHN	6961 WILLOW HWY	GRAND LEDGE	MI	48837
19-46-24-W4-03100.0110	STRONG DANIEL	3610 BAYNARD DR	PUNTA GORDA	FL	33950
19-46-24-W4-03100.0120	GABRIEL RUSTIE L +	6961 WILLOW HWY	GRAND LEDGE	MI	48837
19-46-24-W4-03100.0130	LOFFRENO CHRISTIAN P	17916 GREY HERON CT	FORT MYERS BEACH	FL	33931
19-46-24-W4-03100.0140	LOFFRENO CHRISTIAN P	17916 GREY HERON CT	FORT MYERS BEACH	FL	33931
19-46-24-W4-03100.0150	LOFFRENO CHRISTIAN P	17916 GREY HERON CT	FORT MYERS BEACH	FL	33931

EXHIBIT 6-7 PROPERTY OWNER MAP



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

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

2201 ESTERO LLC
8360 SW 112TH ST
MIAMI FL 33156

2201 ESTERO LLC
8360 SW 112 ST
MIAMI FL 33156

2201 ESTERO LLC
8360 SW 112 ST
MIAMI FL 33156

BROWN LENNDA JOE TR
16210 LARSEN AVE
GOWEN MI 49326

JMP&W LLC
7906 ARIEL WAY
MCLEAN VA 22102

KOSTER RODNEY & THERESE
880 3RD ST
FORT MYERS BEACH FL 33931

MATTHEWS JOHN MORRIS
221 S ADAMS ST
WEST CHESTER PA 19382

FERRARO KIM A +
800 BENJAMIN FRANKLIN DR #208
SARASOTA FL 34236

TOLLETTE JEFFREY R &
1959 135TH AVE NW
ANDOVER MN 55304

MGNM PROPERTIES LLC
1009 N TOWN & RIVER DR
FORT MYERS FL 33919

CHG NEPTUNE ACQUISITIONS LLC
MARK A DAMANTE
150 E BROAD ST STE 800
COLUMBUS OH 43215

B + B CASH GROCERY STORES INC
PO BOX 1808 #78
TAMPA FL 33601

BC MASTERPIECE LLC
12601 LAS OLAS LANE # 123
FORT MYERS FL 33919

BIRKART HANS +
12601 LAS OLAS LN #123
FORT MYERS FL 33919

DEWESE BRUCE R +
14685 WESTON RD
WESTON OH 43569

WHITE SWAN INVESTMENTS LLC
148 BAYLOR AVE
HILLSDALE NJ 07642

COULTER BEAU & TRACY R
760 STONEGATE PASS
COLGATE WI 53017

BLUE RHINO LLC
751 RESERVE CT
SOUTH ELGIN IL 60177

BURNS PROPERTY MANAGEMENT LLC
213 FAIRWEATHER LN
FORT MYERS BEACH FL 33931

DYE GARY A & LOIS +
S53 W31115 OLD VILLAGE RD
MUKWONAGO WI 53149

DEWEY KEITH CARTER & AMANDA
118 FAIRWEATHER LN
FORT MYERS BEACH FL 33931

MAIER SIMEON E II
1999 92ND ST
CALEDONIA MI 49316

WOAD LLC
1999 92ND ST
CALEDONIA MI 49316

WD RETREAT LTD
330 LOUISIANA AVE
PERRYSBURG OH 43551

WD RETREAT LTD
330 LOUISIANA AVE
PERRYSBURG OH 43551

KATTA DAN II LLC
TIMOTHY HALEY
6526 S KANNER HWY STE 308
STUART FL 34997

CHITTENDEN DALE R & JOANN TR
15925 138TH AVE
SPRING LAKE MI 49456

LOGAN GARY D II +
2914 BARBERRY DR
HOBART IN 46342

ROUSSEAU DONNA L
22 PINEHURST DR
WAREHAM MA 02571

NAM THOMAS
21530 INDIAN BAYOU DR
FORT MYERS BEACH FL 33931

DORBAD PATRICK J &
495 ECHO CIRCLE
MARCO ISLAND FL 34145

WOLFPACK PROPERTIES LLC
567 SIMBURY ST
COLUMBUS OH 43228

WOLFPACK PROPERTIES LLC
567 SIMBURY ST
COLUMBUS OH 43228

NANKO RAYMOND S
919 WEST JACKSON ST
MUNCIE IN 47305

YANKE RONALD
328 BUCKLIN ST
LA SALLE IL 61301

YANKE RONALD
328 BUCKLIN ST
LA SALLE IL 61301

THOMAS E SWANBECK PA
2450 ESTERO BLVD
FORT MYERS BEACH FL 33931

YANKE RONALD
328 BUCKLIN ST
LA SALLE IL 61301

EMPIRE HOLDING CORP TR
PO BOX 19492
INDIANAPOLIS IN 46219

EMPIRE HOLDING CORP TR
RAINBOW REALTY GROUP INC
6104 E 21ST ST
INDIANAPOLIS IN 46219

FRENCH EDWIN T III
PO BOX 22538
INDIANAPOLIS IN 46222

COASTAL COTTAGES LLC
6850 W SOUTH LAKE GAGE DR
ANGOLA IN 46703

COASTAL COTTAGES LLC
6850 W SOUTH LAKE GAGE DR
ANGOLA IN 46703

TEZAK HELEN C TR
50 CHAPEL ST #4
FORT MYERS BEACH FL 33931

GOLDBERG GENNIE M TR
11793 ROYAL TEE CT
CAPE CORAL FL 33991

FMB COTTAGE LLC
2440 COTTAGE AVE
FORT MYERS BEACH FL 33931

BONFIGLI ANDREW & SUSAN
2434 COTTAGE AVE
FORT MYERS BEACH FL 33931

PAISLEY LLC
414 MARKET ST
IOWA CITY IA 52245

MCLAUGHLIN SAMUEL R &
4700 EDEN PARK DR
ZANESVILLE OH 43701

SCHLICHTE EDITH
61 MANGO ST
FORT MYERS BEACH FL 33931

CHAPEL BY THE SEA
PO BOX 2997
FORT MYERS BEACH FL 33932

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

ZENG GORDON & ZHU DONGHE
3312 AUGUSTA LN
ONALASKA WI 54650

ZENG GORDON & ZHU DONGHE
3312 AUGUSTA LN
ONALASKA WI 54650

JAMIESON JAMES J
13299 OAK HILL LOOP
FORT MYERS FL 33912

ROTH ALLAN T & RHONDA K
12232 JAY CIR NW
COON RAPIDS MN 55448

MORRIS TIMOTHY E & JOAN E
2092 NORBORN DR
LEXINGTON KY 40502

REILLY MICHAEL J &
222 MANGO ST
FORT MYERS BEACH FL 33931

JAMIESON JAMES J
13299 OAK HILL LOOP
FORT MYERS FL 33912

DUMERS JEANEEN
203 CHAPEL ST
FORT MYERS BEACH FL 33931

GERSTENHABER RAM TR
BEACH CONNECTION
2401 ESTERO BLVD
FORT MYERS BEACH FL 33931

CZULEWICZ MARYLU TR
4281 ORANGE RIVER LOOP RD
FORT MYERS FL 33905

BOREK TINA D
1605 PENNSAUKEN ST
CINNAMINSON NJ 08077

MANGO STREET LLC
126 MANGO ST
FORT MYERS BEACH FL 33931

PAOLERCIO WILLIAM
2367 JIM HENRY RD
DANDRIDGE TN 37725

MERIDIAN ENTERPRISES II LLC
2248 OLD STATE RD
BEAUFORT MO 63013

BURNS PROPERTY MANAGEMENT LLC
536 SONOMA DR
BOLINGBROOK IL 60490

ROTH ALLAN T & RHONDA K
12232 JAY CIR NW
COON RAPIDS MN 55448

STALTER RICHARD
169 CHAPEL ST
FORT MYERS BEACH FL 33931

YANKE RONALD
328 BUCKLIN ST
LA SALLE IL 61301

MEEHAN PATRICIA LYNN
293 ELM ST W
SUDBURY ON P3C 1V6
CANADA

BIG MARLIN PROPERTIES LLC
4704 VINCENNES BLVD
CAPE CORAL FL 33904

PFÄFFINGER HEDWIG TR
JAMES SCHULTZ
1030 SPINDLE HILL RD
WOLCOTT CT 06716

RYAN JAMES
139 CHAPEL ST
FORT MYERS BEACH FL 33931

CHAPEL BY THE SEA
PO BOX 2997
FORT MYERS BEACH FL 33932

BESSEY JAMES D
2 BARTLETT RD
NANTUCKET MA 02554

TOMMAR INC
9616 ROUND LAKE BLVD
WHITE LAKE MI 48386

SOTO JESUS +
PO BOX 366265
BONITA SPRINGS FL 34136

WICKETT LLOYD A &
5647 SHADDELEE LN W
FORT MYERS FL 33919

WICKETT LLOYD A &
5647 SHADDELEE LN W
FORT MYERS FL 33919

ROTH ALLAN
12232 JAY CIRCLE
COON RAPIDS MN 55448

ROTH ALLAN T
12232 JAY CIRCLE
COON RAPIDS MN 55448

ROTH ALLAN & RHONDA
12232 JAY CIRCLE
COON RAPIDS MN 55448

ROTH ALLAN T
12232 JAY CIR NW
COON RAPIDS MN 55448

ANGIULO MICHAEL J & JAYME R
215 MANGO ST
FORT MYERS BEACH FL 33931

174 FROST STREET LLC
103 WEEKS RD
EAST WILLISTON NY 11596

EMPIRE HOLDING CORP TR
PO BOX 19492
INDIANAPOLIS IN 46219

EMPIRE HOLDING CORP TR
PO BOX 19492
INDIANAPOLIS IN 46219

L OLOUGHLIN LLC
30111 BATES RD
PERRYSBURG OH 43551

SEA BREEZE ESTATES CONDO ASSN
325 W LOCUST LN
KENNETT SQUARE PA 19348

71 MANGO LLC
15440 CATALPA COVE LANE
FORT MYERS FL 33908

71 MANGO LLC
15440 CATALPA COVE LN
FORT MYERS FL 33908

NEPTUNE INN CONDO ASSN INC
BLUE VISTA CAPITAL LLC
PO BOX 508
RICHMOND IL 60071

PALMA FRED JR & RHONDA +
139 S PARK BLVD
GLEN ELLYN IL 60137

MAUGANS ALICE B
12890 SPENCER STREET
FORT MYERS FL 33908

MORIONDO LARRY E TR
15482 LAWRENCE 2130
MOUNT VERNON MO 65712

LANGLEY COLIN M TR
130 PEARL ST
FORT MYERS BEACH FL 33931

LANGLEY COLIN M & DIONE C TR
130 PEARL ST
FORT MYERS BEACH FL 33931

HORKAN CHAD M TR
1189 FOUR WINDS WAY
HARTLAND WI 53029

PAREDERO CLEMENTE & MARY L
140 PEARL ST
FORT MYERS BEACH FL 33931

NEAF JAMES C
125 PEARL ST
FORT MYERS BEACH FL 33931

2085 ESTERO LLC
2001 ESTERO BLVD
FORT MYERS BEACH FL 33931

BUICE NANCY HURD TR
15174 PORTSIDE DR
FORT MYERS FL 33908

PEARL STREET PROPERTY HOLDINGS
PO BOX 2611
FORT MYERS BEACH FL 33931

JENKINS WAYNE +
829 NORWEST RD STE 421
KINGSTON ON K7P 2N3
CANADA

SURFUS JOHN D
PO BOX 2415
FORT MYERS BEACH FL 33932

ALFARO-MALDONADO LINDA
121 DELMAR AVE
FORT MYERS BEACH FL 33931

127 DELMAR LLC
7449 CEDAR RIDGE DR
PORTLAND MI 48875

FRIEDRICH CHARLES DAVID +
114 FAIRBANKS ST
SANTA CRUZ CA 95060

DELMAR BROTHERS LLC
135 DELMAR AVE
FORT MYERS BEACH FL 33931

MARTIN RICHARD E &
11034 E KRAMER RD
BOWLING GREEN OH 43402

BAISCH GAYLE LYNN +
1443 CLARET CT
FORT MYERS FL 33919

CBD LLC
414 E MARKET ST
IOWA CITY IA 52245

SURF SONG CONDO ASSOC INC
2088 ESTERO BLVD UNIT 2H
FORT MYERS BEACH FL 33931

POLYNESIAN VACATION VILLAS
2096 ESTERO BLVD
FORT MYERS BEACH FL 33931

CHG NEPTUNE ACQUISITIONS LLC
MARK A DAMANTE
150 E BROAD ST STE 800
COLUMBUS OH 43215

BENNETT ROBERT W
5889 WATSON RD
EAU CLAIRE MI 49111

R DOUGLAS HOVENDEN TRUST +
2088 ESTERO BLVD #2A
FORT MYERS BEACH FL 33931

JOHNSON ROGER A TR
2088 ESTERO BLVD APT 2B
FORT MYERS BEACH FL 33931

KAUFMAN CHRISTINE V TR
26442 BRICK LN
BONITA SPRINGS FL 34134

HILL DOUGLAS E & KAYLA K
43 ONONDAGA ST
SKANEATELES NY 13152

HAMILTON ROGER A & JANE M
2088 ESTERO BLVD #2E
FORT MYERS BEACH FL 33931

OLIVER KENT D & JO-ANN A
18900 NALLE RD
NORTH FORT MYERS FL 33917

MENDENHALL MURRAY J III &
10407 WOODLAND RIDGE WEST
FORT WAYNE IN 46804

RAUSHEL JAN R TR
103 SOUTH DR
AITKIN MN 56431

WALCHLI JAMES
2088 ESTERO BLVD #3B
FORT MYERS BEACH FL 33931

FERGUS CHARLOTTE TR
2088 ESTERO BLVD #3C
FORT MYERS BEACH FL 33931

JACKSON JOHN K TR
1400 N 100 E
HARTFORD CITY IN 47348

MIZEL WILLIAM C & THERESA L
2088 ESTERO BLVD UNIT 4B
FORT MYERS BEACH FL 33931

DUNDEE NICHOLAS J & LINDA M
2088 ESTERO BLVD #3F
FORT MYERS BEACH FL 33931

SURF SONG CARNEY LLC
2809 GREAT NORTHERN LOOP #100
MISSOULA MT 59808

HAPKIEWICZ ANNIS M TR
2088 ESTERO BLVD # 4A
FORT MYERS BEACH FL 33931

MIZEL WILLIAM C & THERESA L
2088 ESTERO BLVD 4B
FORT MYERS BEACH FL 33931

COURRIER DAWN LARAE
16005 25TH AVE N
PLYMOUTH MN 55447

RAVENSROFT JEAN A TR
69525 CHRISTIANN CREEK DR
EDWARDSBURG MI 49112

KEITH THOMAS E & EILEEN M
5853 HACKER DR
WEST BEND WI 53095

THREE SISTERS MANAGEMENT
3340 WELLINGTON BLVD
CRAWFORDSVILLE IN 47933

MAZER BERNARD A & DIANNE M TR
W221S7455 CAROL DRIVE
MUSKEGO WI 53150

WILLIAMS MARY J TR
11131 WOODS BAY LN
INDIANAPOLIS IN 46236

FRANTZ M RYAN & ERIKA E
5480 LARISSA PL
CARMEL IN 46033

FRIEDMAN JEFFREY &
2013 WILDERNESS TR
SPRINGFIELD IL 62711

DECONCINI CHRISTOPHER M TR
45281 RED PINE LOOP
PERHAM MN 56573

SCHOLTZ STEPHEN A
124 KINGSWAY CRESCENT
TORONTO ON M8X 2S2
CANADA

NELSON ROBERT A TR
1302 STANFIELD ST
SOUTH BEND IN 46617

STENSRUDE LARRY C TR
2088 ESTERO BLVD UNIT 5G
FORT MYERS BEACH FL 33931

LYONS KRISTIN E
2096 ESTERO BLVD #1
FORT MYERS BEACH FL 33931

RAGAN JOHN
5600 REVERE RUN
CANFIELD OH 44406

JONES FRANK TR
2010 46TH AVE #2
GREELEY CO 80634

SAVERY TIMOTHY LYDEN &
406 SW 30TH AVE
CAPE CORAL FL 33991

MOGLIA SANDRA
17 DIVISION ST W APT 2
GREENWICH CT 06830

DUNFEE ALLEN MARK & SUSAN M
402 SW 30TH AVE
CAPE CORAL FL 33991

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

MALOTT PATRICK T
7840 MELBOURNE RD
SAGINAW MI 48604

BERMEL STEVEN
900 PARK AVE
MUSCATINE IA 52761

LEINDECKER ROBERT JOHN
6961 WILLOW HWY
GRAND LEDGE MI 48837

STRONG DANIEL
3610 BAYNARD DR
PUNTA GORDA FL 33950

GABRIEL RUSTIE L +
6961 WILLOW HWY
GRAND LEDGE MI 48837

LOFFRENO CHRISTIAN P
17916 GREY HERON CT
FORT MYERS BEACH FL 33931

LOFFRENO CHRISTIAN P
17916 GREY HERON CT
FORT MYERS BEACH FL 33931

LOFFRENO CHRISTIAN P
17916 GREY HERON CT
FORT MYERS BEACH FL 33931

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: Sandy Bottoms CPD Amendment
Authorized Applicant: 1249 Estero Adventures LLC
STRAP Number(s): 19-46-24-W3-0120E.0020, 19-46-24-W3-0120E.0010, 19-46-24-W3-0120E.0020, & 19-46-24-W3-0120E.0030

Current Property Status:
Current Zoning: CPD
Future Land Use Map (FLUM) Category: Boulevard
Platted Overlay? ☐ yes, ☒ no FLUM Density Range: 6 du/ac

Requested Action:

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

PART I Narrative Statements

A. Comprehensive Plan Amendments (check one)

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

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)
SEE ENCLOSED NARRATIVE	



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

[illegible]

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.

[illegible]



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

[illegible]

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

[illegible]



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.

[illegible]

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

Public Hearing Request Form
Supplement Form PH-D
Master Concept Plan
Traffic Impact Statement
Architectural Elevations
Schedule of Uses
Fee in the amount of \$8000.00 up to 1 acre +1000.00 per additional acre
\$2000.00 PD Amendment minor (< acre total property area)
\$4000.00 PD Reinstatement or \$6500.00 PD Amendment

3/30/2021

Guide to Filing Supplement PH-D for Planned Developments

Amendments Applications for amendments to an approved Master Concept Plan or its attendant documentation will require as much information as is needed to describe the changes requested, to specify the incremental change in impacts expected from the amendment, and to detail the changes in surrounding land uses that have occurred since the original application. Some amendments can be approved administratively as provided in LDC Section 34-219, but all other amendments must proceed through the public hearing process.

Through a pre-application meeting with Community Development staff, prospective applicants can determine whether proposed amendments will require a public hearing, and can request waivers from any submittal requirements that are not necessary to specify the changes requested.

All other planned developments All other applications must complete and submit the Request for Public Hearing and Supplement PH-D, along with all required documents. Refer also to the instructions for the Request for Public Hearing form.

Case Number will be inserted by Community Development staff.

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

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

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

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

Requested Action: Indicate whether the request is a DRI (Development of Regional Impact) that requires rezoning, a Planned Development, or an amendment to a Planned Development.

Part 1 Narrative Statements:

Comprehensive Plan Amendments

If Comprehensive Plan Amendments are pending that might affect the future use of the property, explain the amendments' possible effects.

Construction Phasing

If the project is to be constructed in multiple phases, describe the ordering and timing of the proposed phasing. In the absence of a phasing plan, phasing of development would be governed by the limitations of LDC Section 34-220.

Comprehensive Plan Compliance

Explain how the proposed development complies with the Fort Myers Beach Comprehensive Plan. Address the Future Land Use Map category or categories applicable to the subject property and any other relevant policies.

Design Standards Compliance

For properties and/or projects as described in LDC Section 34-992, explain how the proposed development will comply with the standards in LDC Sections 34-991 through 34-997.

Decision-making compliance

Explain how the proposed development will comply with the standards for decision-making in LDC Section 34-85.

Schedule of deviations and written justification

Identify the deviations from the requirements of the Land Development Code that are requested for the proposed development and justify them in relation to the guidance in LDC Section 34-932(b).

Administrative amendments

If the request is for an amendment to a planned development, indicate which of the requested changes could not be approved administratively as allowed by LDC Section 34-219.

Part 2 Submittal Requirements

Public Hearing Application Form. Applications for rezoning, including Planned Developments and Planned Development amendments for which public hearing is required, consist of the Public Hearing form and the supplemental form PH-D. Both parts of the application form must be completed and submitted.

Master Concept Plan. The master concept plan consists of maps, graphic illustrations, and written statements concerning the development. Space has

been provided on this form for many of the required narrative statements, though they can be attached on separate sheets. A master concept plan must include the following required information:

- a. The general size, configuration, and location of each development phase, and a description of the phasing of construction, unless the development is to be constructed in a single phase.
- b. The maximum height of any proposed buildings or structures, using the Land Development Code's method of measuring building height (see LDC Section 34-631).
- c. Proposed principal and accessory uses, identified using the terminology employed in the Land Development Code. Employ the groupings of uses in Tables 34-1 and 34-2 of the Land Development Code, or specify individual uses if necessary.
- d. The density and intensity of the proposed uses, in terms of dwelling units by type, or through conversion factors for hotel/motel units. Provide gross square footages for types of commercial uses, and maximum Floor-Area Ratio.
- e. The minimum width and composition of proposed buffers along the perimeter of the property. References to the types of buffers required by LDC chapter 10 are acceptable.
- f. The location of any environmentally sensitive land and water, based on standard environmental data capable of verification by Town staff. Developments larger than one acre in size may require a protected species survey under LDC Section 10-473.
- g. The exact location of all points of vehicular ingress and egress from existing easements or rights-of-way into the development, with distances from other existing or planned rights-of-way or access points.
- h. Access and facilities for public transit, if applicable.
- i. The general location of stormwater management areas.
- j. The specific locations of requested deviations, including sample detail drawings illustrating their effects if applicable.
- k. The exact location of existing rights-of-way and easements, whether or not those easements are recorded.
- l. Proposed dedications, if any, including beach access, boat ramps, park or recreation areas, open space, or other easements.

Traffic Impact Statement. A traffic impact statement in the same format and to the same degree of detail required for development orders (LDC Section 10-286).

TIS WAIVER GRANTED

Architectural Elevations. Architectural elevations or three-dimensional renderings that show at minimum all building façades adjoining public streets. These drawings will serve for the sketch requirement of LDC Section 34-202(b)(5) as well. If aspects of the proposed design will not comply with the commercial design standards of LDC Sections 34-991 through 34-997 (if required), the applicant may request deviations from those standards.

Schedule of uses. A list of all proposed principal and accessory uses. Identify these uses by reference to the groups of uses in Tables 34-1 and 34-2 of the Land Development Code unless greater specificity is necessary. For amendments to planned developments that were approved under different regulations, the enumeration of uses in the schedule of uses supplied for the amendment must be specific enough to explain what uses were previously approved without future reference to prior regulations or approvals.



**SANDY BOTTOMS RESTAURANT
COMMERCIAL PLANNED DEVELOPMENT AMENDMENT
Planned Development Rezone Application**

NARRATIVE

BACKGROUND & REQUEST

The Applicant, 1249 Estero Adventures LLC as represented by The Neighborhood Company, is submitting this Planned Development Rezone Application to request an amendment to the existing CPD Ordinance 22-06. The property has a Future Land Use (FLUM) Map Designation of *Boulevard* and is within the *Commercial Boulevard* Zoning District.

The subject property is located at 2301/2307 & 2311 Estero Boulevard, 111 & 121 Mango St. and is comprised of four parcels, that total +/- 0.65 acres (See Figure 1). The STRAP #s include: 194624W30110D0010, 194624W30120E0010, 194624W30120E0020, 194624W30120E0030. The subject property is located approximately 3/4+/- mile from the Matanza Pass Bridge (See Figure 2).

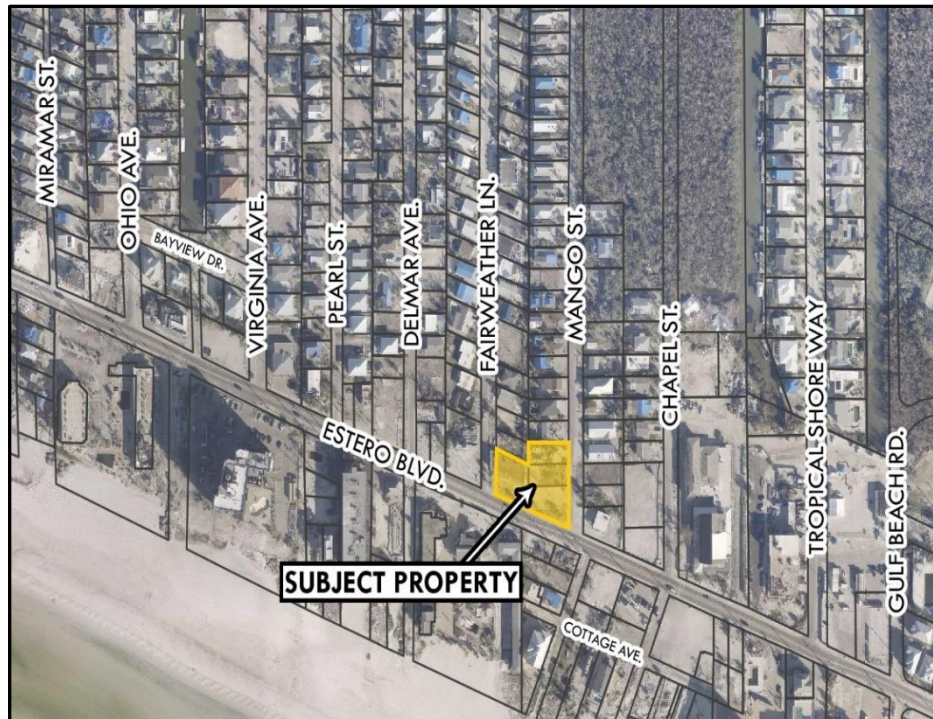


Figure 1. Location Map

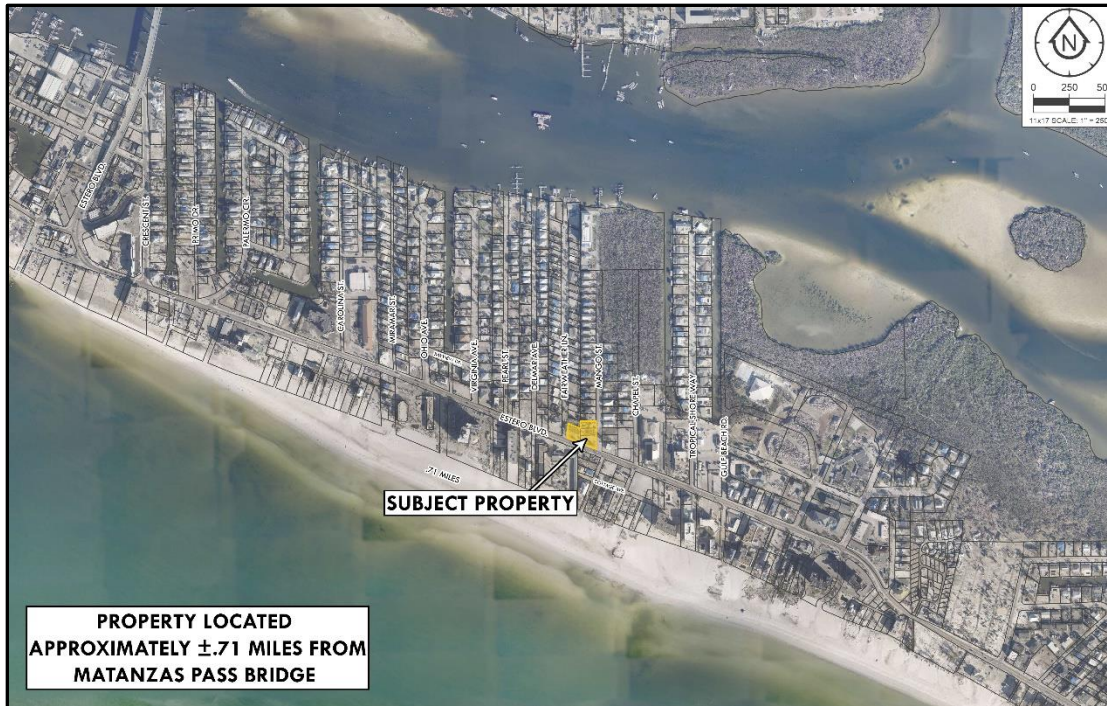


Figure 2. Vicinity Map

PROPOSED USE/REDEVELOPMENT

The applicant is proposing an amendment to the existing CPD pursuant to Resolution 22-06. Prior to Hurricane Ian, the subject properties included a commercial building that housed a restaurant, fka Big John's Board Walk Eatery and the recent Tuckaway Café, an ice cream shop, outdoor seating area and parking for those uses. Subsequent to Hurricane Ian, the building still stands but with considerable damage. The property was sold to 1249 Estero Adventures LLC in 2023. The new owner proposes to redevelop the property and renovate the existing restaurant and expand the outdoor seating area previously approved.

The expansion of the outdoor seating area will include a Tiki structure and the addition of outdoor entertainment. The applicant is also requesting to replace the current 2COP to a 4COP to allow the serving of liquor along with the previously permitted beer and wine. The applicant is aware of the State requirements to obtain a 4COP but first needs the approval of the activity from the Town Council. The previously approved "Manufacturer of Malt Beverages in Vendor Premises" (CMBP) License for production and consumption on premises of malt beverages will remain.

The prior approval included eleven (11) conditions and eleven (11) deviations. This proposal includes eight (8) deviations as some of the prior deviations are no longer relevant. Some of the prior approved deviations will continue, and some of the deviations reflect the minor site design changes. The following includes the existing and proposed uses and development standards as depicted on the MCP. The referenced deviation requests and justifications are provided in the attached schedule.



Schedule of Uses:

- Residential – Open
- Lodging - Limited
- Office – Limited
 - Offices, General or Medical
 - Personal Services
- Retail – Limited
 - Restaurant (limited to 2) with outdoor seating as indicated on the MCP.
 - On-Premises consumption of alcoholic beverages served only in conjunction with restaurant(s) and including approximately 2,750 square feet of outdoor seating area as indicated on the MCP.
 - On-Site Brewing of Beer for Consumption on Premises.
 - 4COP and GMBP Florida Department of Alcoholic Beverages and Tobacco permits.
- Civic-Open
- Entertainment – Indoor and Outdoor, limited to music both live and recorded.
- Typical Accessory Uses Incidental and Subordinate to the Principal Uses.

Development Standards:

Minimum Lot Size:

- Lot Area: 0.65 +/- Acres
- Lot Width: 220 +/- Feet
- Lot Depth: 110 +/- Feet

Build-To Line:

- Estero Blvd.: 3 – 10 Feet (Deviation #3)

Minimum Setbacks (Primary Structures):

- Streets (Other Than Estero): 10 Feet (Deviation #4)
- Rear: 2 Feet (Deviation #5)
- Side: 5 Feet

Minimum Setbacks (Accessory Structures):

- Streets (Other Than Estero): 10 Feet (Deviation #4)
- Rear: 2 Feet (Deviation #5)
- Side: 5 Feet

Maximum Zoned Height: 30 Feet Above Base Flood Elevation

Maximum Zoned Stories: 2 Above Base Flood Elevation

Maximum Intensity:

Maximum floor area of 4,000 square feet of enclosed commercial space.

Maximum 2,750 square feet of outdoor seating area.



LOCATION, SITE DESIGN & COMPATIBILITY

Location

The subject properties are located approximately three quarters of a mile from Times Square and are located at the north end of the Civic Complex area of Fort Myers Beach. The properties front on the northeast side of Estero Boulevard between Fairweather Lane and Mango Street. The project is surrounded by vacant and damaged commercial properties as well as various resorts and residential properties. The customer base for this project will pull from the surrounding area as well as passerby pedestrian and vehicular traffic. Based on the smaller size of this project compared to those in the Times Square area, it will provide a neighborhood scale restaurant and entertainment option primarily for the more immediate area.

Site Design

The location of the existing building and the unusual shape of the property has presented design challenges that resulted in the prior approval of eleven (11) deviations. This amendment includes deviations previously approved with some additional requests. It is important to note that as a Commercial Planned Development there is the ability to provide regulatory flexibility that allows for creative design to address site constraints. The proposed Master Concept Plan (MCP) depicts improvements to the functional and attractive layout that further fulfills the goals of the Comprehensive Plan. These include improvements to the parking layout, a more attractive façade along Estero Boulevard created by the proposed Tiki structure, and pedestrian and public realm improvements.

The existing building is located approximately 2.3ft from Fairweather Lane and is approximately 46ft. from Estero Boulevard. The Tiki structure will be 5+/- ft. from the west property line (Fairweather Lane) and 3+/- ft. from the south property line (Estero Boulevard).

The proposed hours of operation will be 7am to 12 midnight seven days a week for both the restaurant and outdoor seating area. Outdoor entertainment will be permitted until 11pm and located as depicted on the MCP to minimize any sound spillage to the north.

A dumpster enclosure will be relocated along the western fence line and buffer. This location was determined based on its accessibility for the waste management trucks. The parking area will include a stormwater dry detention island.

Outdoor Seating

The proposed expanded outdoor seating and Tiki structure will create a more inviting space that adds character to the pedestrian experience along Estero Boulevard. In addition, the Tiki structure will provide protection from the elements while keeping the open-air atmosphere. Along with the Tiki structure a landscape buffer along Estero Boulevard will add to the ambience of the public realm. The proposed outdoor entertainment will be located within the Tiki footprint and as clearly defined on the MCP where the music can be performed. The Tiki structure will be located approximately three (3) feet from the front property line corresponding with Deviation #3 to allow a 3ft. to 10ft. build-to line.



Vehicular and Pedestrian access

The site design provides a direct connection to a transit stop, on property bicycle racks and a walkway connection from the existing sidewalk to the restaurant. These elements further encourage bicycle and pedestrian activity and minimize the need to accommodate vehicular traffic.

Vehicular access will be provided from two points of access on Mango Street, which were previously approved (see Deviation #8). The parking lot is reconfigured to allow both directions of traffic on the drive aisles instead of the one-way on the north drive aisle. This will allow for a logical circulation pattern and will provide safer ingress and egress movements from Mango Street.

Buffers and Screening

The proposed buffers along the north and northeast property lines target the existing and vacant residential properties. Due to the existing building located approximately two (2) feet from the rear property line, two deviations were previously approved to allow a 2ft setback instead of the required 20ft setback and a deviation to allow an 8ft. 100% opaque fence in place of a C/F buffer. Both of these are memorialized on the MCP and in Deviations #1 and #5.

The proposed buffer along the northeastern property line adjacent to a vacant residential property will include the following: a minimum 12-foot-wide buffer adjacent to the northern parking lot spaces providing 10 trees and 30 shrubs per 100 linear feet with a 4- to 8-foot-high opaque fence. The fencing has already been installed and the existing plantings will be augmented to meet the requirements, if needed. The 4-foot segment of the fence accommodates the visibility triangle required at connections to a public road. The only change from the previous approval is the width going from 15ft. to 12ft. The 3ft. difference allowed the parking area to accommodate the two-way circulation. This buffer exceeds the previously approved Type “C” Buffer with the proposed plantings and wall.

The proposed buffer at the northwestern property line running perpendicular to the commercial building will include a minimum 5 ft. wide buffer with 10 trees and 30 shrubs per 100 linear feet along with the existing 8-foot opaque fence. The proposed dumpster enclosure will be placed adjacent to this buffer as depicted on the MCP.

The perimeter of the parking area will have a 5ft. Type “D” buffer adjacent to Mango Street and Estero Boulevard rights of way. This deviation was previously approved (see Deviation #2).

In order to add to the public realm ambience and compatibility the applicant is proposing to include landscaping at the southwest corner along Fairweather Lane and Estero Boulevard as shown on the MCP. Although buffers are not required along rights of way, the 5ft. area along Fairweather Lane will have a Type “B” buffer planting which includes trees and a hedgerow and the 3ft. area in front of the Tiki structure will have a 3ft. hedgerow.



Surrounding Uses

The future land use category, zoning and existing land uses surrounding the property are as follows:

	FUTURE LAND USE	ZONING DISTRICT	EXISTING LAND USES
NORTH	Mixed Residential/Platted Overlay	Residential Multi-Family, Residential Conservation	Single-Family Residences and vacant parcels.
SOUTH	Boulevard	Commercial Planned Development, Commercial Boulevard, Commercial Resort	Estero Blvd., Neptune Resort and vacant parcels
EAST	Boulevard	Commercial Boulevard & Residential Multi-Family	Mango Street, Vacant/Commercial
WEST	Boulevard	Commercial Boulevard	Fairweather Lane, Residential & Vacant Commercial

Compatibility

Based on the surrounding uses, compatibility with the residential uses existing and permitted immediately north of the property was considered with the site design and layout. The development standards, buffers and screening, further ensure compatibility with adjacent uses and are appropriate for property located in the Commercial Boulevard District. This property has operated as a restaurant for many years including Big John's Board Walk Eatery and the recent Tuckaway Café. The previously established restaurants have a proven history of being compatible at this location with the surrounding uses over the years. The addition of the Tiki structure and outdoor entertainment will be located on the Estero Boulevard side of the existing building. The location and restricting the outdoor entertainment to no later than 11pm, an hour before closing, will limit any perceived impacts to the surrounding area. In addition, the applicant will provide landscape buffers at the corner of Fairweather and Estero Boulevard to further mollify any perceived impacts and to add to the pedestrian experience along Estero Boulevard. Based on the above, this amendment will readily meet the definition of compatibility per the LDC.

Compatible means, in describing the relation between two land uses, buildings or structures, or zoning districts, the state wherein those two things exhibit either a positive relationship based on fit, similarity or reciprocity of characteristics, or a neutral relationship based on a relative lack of conflict (actual or potential) or on a failure to communicate negative or harmful influences one to another.



**THE FOLLOWING ADDRESSES APPLICABLE SECTIONS PROVIDED FOR IN THE
PLANNED DEVELOPMENT APPLICATION – SUPPLEMENT PHD FORM:**

A. COMPREHENSIVE PLAN AMENDMENTS

The following Comprehensive Plan Amendments are pending and could affect the future use of this property:

Mixed Use Districts Designation - Civic Center and Coconut Village RV Park Mixed-Use District



Figure 3. Proposed FLUM category

The applicant is aware that the Town of Fort Myers Beach has initiated an update to the Comprehensive Plan Future Land Use Element (FLUE) and Future Land Use Map (FLUM). This initiative was presented before the LPA on January 18, 2023 (Yellow Sheet #2023-895) and the Town Council on March 20, 2023. As of the date of this submittal, these updates are still in process. Should the proposed updates be approved, the subject property would be reclassified to the "Civic Center and Coconut Village RV Park Mixed-Use District" FLUM category (See Figure 3). Currently, the Applicant desires to move forward with this petition and intends to be consistent with the existing Boulevard FLUM designation, while also taking into consideration the current drafted language for the proposed Civic Center & Coconut Village RV Park Mixed-Use District category. Items included in the updated FLUE, which have been considered within this petition, include multi-modal improvements along with contributions to the public realm.



B. PHASING OF CONSTRUCTION

The development is to be constructed in a single phase.

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C. COMPREHENSIVE PLAN COMPLIANCE

COMMUNITY DESIGN ELEMENT:

OBJECTIVE 1-A ESTERO BOULEVARD — Improve the functioning and appearance of Estero Boulevard as the premier public space and primary circulation route of Fort Myers Beach.

POLICY 1-A-1 Changes along Estero Boulevard should improve on the characteristics that make it a boulevard in character and not just in name: safe and interesting to walk along, impressive landscaping, and scaled to people rather than high-speed traffic.

The proposed redevelopment proposes enhancements to the frontage along Estero Boulevard and throughout the site. These enhancements will include improved vehicular circulation within the parking area, a more attractive façade along Estero Boulevard created by the proposed Tiki structure. The direct connection to the transit stop, on site bicycle racks and sidewalks along Estero Boulevard fulfill the intent of Objective 1-A and Policy 1-A-1.

These enhancements create a development with improved accessibility and safety for pedestrians, while improving the appearance for residents and visitors on the primary circulation route of Fort Myers Beach, thus supporting the “Estero Blvd” vision as described in Objective 1-A and Policy 1-A-1 of the Fort Myers Beach Comprehensive Plan.

FUTURE LAND USE ELEMENT:

GOAL 4: To keep Fort Myers Beach a healthy and vibrant “small town,” while capitalizing on the vitality and amenities available in a beach–resort environment and minimizing the damage that a hurricane could inflict.

OBJECTIVE 4-A SMALL-TOWN CHARACTER — Maintain the small-town character of Fort Myers Beach and the pedestrian-oriented “public realm” that allows people to move around without their cars even in the midst of peak-season congestion.

The proposed project will reestablish a restaurant business that has been in business for several years. The proposed redevelopment of the neighborhood scale restaurant that has pedestrian friendly elements including the direct connection to the transit stop, on site bicycle racks and sidewalks along Estero Boulevard. Through the implementation of these elements, the development will enhance the public realm of Fort Myers Beach and add to its unique small-town character.

Finally, in an effort to minimize the damage that a future hurricane could inflict, the renovations of the existing building and Tiki structure will be built to meet current applicable codes.



Policy 4-A-2 The Town of Fort Myers Beach values its vibrant economy and walkable commercial areas. Through this plan, the town will ensure that new commercial activities, when allowed, will contribute to the pedestrian-oriented public realm.

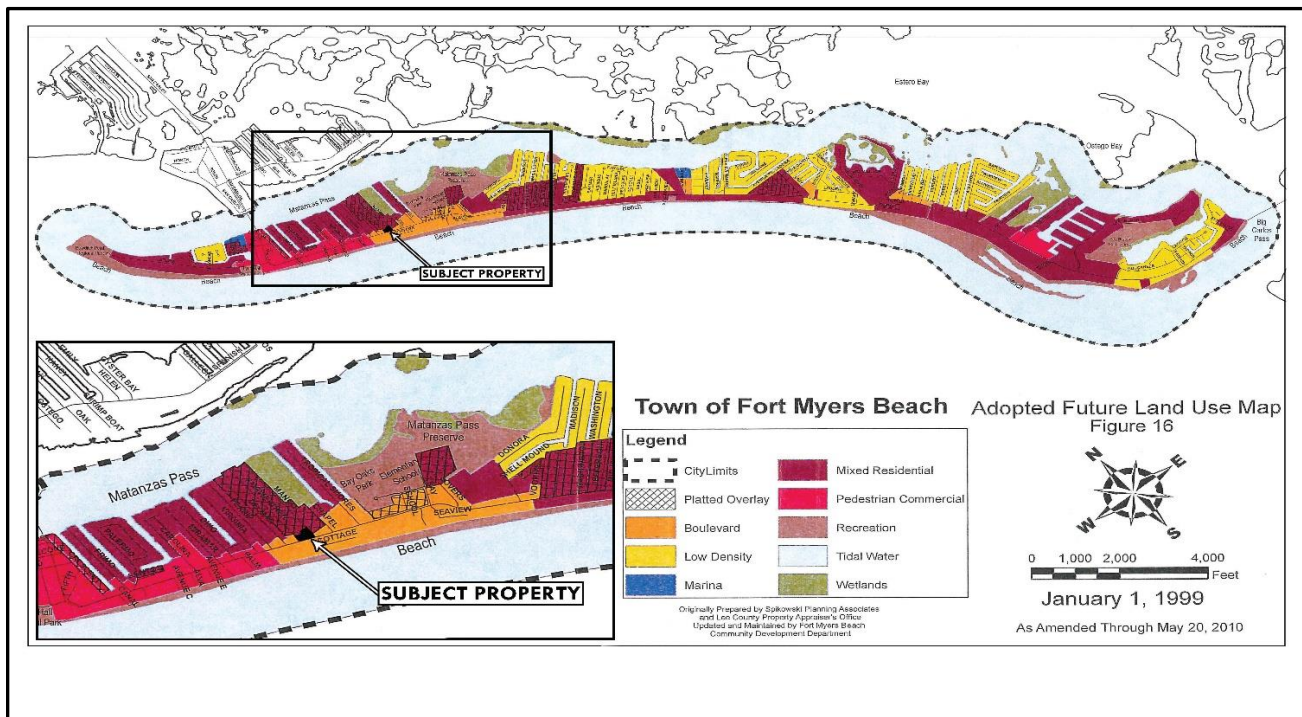
Located along Estero Boulevard, and in close proximity to civic uses, resorts, and residential uses, the proposed project will re-establish a long-standing restaurant that has provided a neighborhood scale gathering location for decades.

The proposed site configuration will provide the elements to contribute to the pedestrian oriented public realm including on property bike racks, a connection to the bus/trolley stop, pedestrian connection to the restaurant directly from Estero Boulevard. The addition of the Tiki structure and landscaping will create a more inviting, safer, visually attractive development ensuring locational compatibility and improved pedestrian oriented elements consistent with Policy 4-A-2.

POLICY 4-B-5 “BOULEVARD”: a mixed-use district along portions of Estero Boulevard, including less intense commercial areas, historic cottages, and mixed housing types. This category is not intended to allow commercial uses on all properties; its mixed-use nature is intended to remain permanently. For new residential development, the maximum density is six dwelling units per acre (except where the Future Land Use Map’s “platted overlay” indicates a maximum density of 10 units per acre for legally existing dwelling units). To obtain approval for new or expanded commercial activities, proposals must be sensitive to nearby residential uses, complement any adjoining commercial uses, contribute to the public realm as described in this comprehensive plan, and meet the design concepts of this plan and the Land Development Code. These qualities and overall consistency with this comprehensive plan shall be evaluated by the town through the planned development rezoning process. Non-residential uses (including motels and churches) now comprise 46.9% of the land in this category, and this percentage shall not exceed 70%.

The project site is located within the Boulevard FLUC, and as stated in Policy 4-B-5, commercial activities must be sensitive to nearby residential uses, complement any adjoining commercial uses, and contribute to the pedestrian-oriented public realm. The site plan proposes to provide enhancements to the public realm through the improved vehicular patterns on the site, clearly defined pedestrian connections to the transit stop and bicycle racks connect to the existing sidewalk along Estero Boulevard. These proposed enhancements will contribute to the pedestrian-oriented public realm of Fort Myers Beach and are consistent with Policy 4-B-5.

The maximum Floor Area Ratio (FAR) specified under the Commercial Boulevard District described in the Land Development Code (LDC) may be as high as 1.0. The existing 4,000 sq. ft. building is well within the allowed 28,314 sq. ft.



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:

iv. In the “Boulevard” category, where mixed-use development including some commercial uses may be permissible, landowners may seek commercial rezoning only through the planned development process. Proposals must be sensitive to nearby residential uses, complement any adjoining commercial uses, contribute to the public realm as described in this comprehensive plan, and meet the design concepts of this plan and the Land Development Code.

The CPD amendment is consistent with this policy as it is following the planned development application process to accomplish the needed flexibility in the design and layout of the project. The various buffers and layout of the project that directs the more intense activity toward Estero Boulevard are taking into consideration the residential properties to the north and west of the property. As previously stated, contribution to the public realm is fulfilled through the various elements of the project.

OBJECTIVE 4-D POST-DISASTER REDEVELOPMENT — Provide for the organized and healthy reconstruction of Fort Myers Beach after a major storm by showcasing successful local examples of floodproofing, by requiring redevelopment activities to meet stricter standards. For flood- and wind-resistance, and by improving the current post-disaster build back policy.

The proposed redevelopment of the site and renovations of the existing building will be in compliance with all applicable federal, state and local regulations to develop a more resilient commercial property to serve the residents and visitors of Fort Myers Beach.



COASTAL MANAGEMENT ELEMENT:

GOAL 5: To keep the public aware of the potential effects of hurricanes and tropical storms and to plan a more sustainable redevelopment pattern that protects coastal resources, minimizes threats to life and property, and limits public expenditures in areas subject to destruction by storms.

POLICY 5-A-1 The town shall maintain and enforce building codes at least as stringent as required by Florida law to limit the potential damage of structures from hurricanes and tropical storms. These codes shall include wind-resistance commensurate with the risk of a coastal environment and building elevation requirements that conform with federal laws and Flood Insurance Rate Maps.

As stated per Objective 4-D, the proposed redevelopment of the site and renovations of the existing building will be in compliance with all applicable federal, state and local regulations to develop a more resilient commercial property to serve the residents and visitors of Fort Myers Beach.

TRANSPORTATION ELEMENT

GOAL 7: To improve peak-season mobility without reducing the permeability of Estero Boulevard to foot traffic or damaging the small-town character of Fort Myers Beach. The town seeks to reduce speeding, improve evacuation capabilities, and improve mobility through balanced transportation improvements such as a continuous system of sidewalks and bikeways, a network of trolleys and water taxis linked to off- island systems, and parking options matched to road capacity.

POLICY 7-D-3 ALTERNATE TRAVEL MODES

The town shall support alternatives to car travel to free up road capacity for trips that do require a car. Public funding sources shall include county/state gasoline taxes and road impact fees. The town shall modify its road impact fee ordinance by 1999 to allow these fees to be spent (within legal limits) on capital improvements that relieve road congestion, such as better sidewalks, trolley improvements, and off-island parking areas.

To better serve the public, the proposed site design includes improvements to the parking layout and circulation. The project encourages the use of alternate travel modes under Policy 7-D-3 by providing bike racks for bicycle parking and will maintain a pedestrian connection to the existing transit top located on the property.

UTILITIES ELEMENT

GOAL 8: To improve the existing systems that provide safe drinking water, irrigation water, sewer service, and solid waste disposal in order to reduce environmental impacts on land and water while keeping costs as economical as possible.

POLICY 8-A-1 Mandatory customer connections to water and sewer utilities shall continue to be the policy of the Town of Fort Myers Beach.

The proposed development will connect to central water and sewer utilities as mandated by the Town of Fort Myers Beach.



D. DESIGN STANDARDS COMPLIANCE

Pursuant to Sec. 34-707- Commercial design standards, the Commercial Boulevard district states that the commercial design standards shall apply to newly built and substantial improvements to buildings. In this case the existing building is not expanding and would not be required to adhere to design standards. However, by the addition of a Tiki structure and the public realm elements such as the transit stop, bicycle racks, direct connections to and from the existing sidewalk, this project would be consistent with the intent of the Commercial design standards pursuant to sec.34-991 through 34-1010.

(intentionally left blank)



E. DECISION-MAKING COMPLIANCE

(1) Whether there exists an error or ambiguity which must be corrected.

There are no known errors or ambiguity that must be corrected in relation to the requested CPD amendment. If any exist, they will be discussed and resolved during staff review and public hearings before the Local Planning Agency (LPA) and Town Council. Through the proposed CPD rezone request, the previously approved deviations will still apply along with additional deviations to assist in the improvements to the public realm and pedestrian circulation.

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

The Town of Fort Myers Beach has been devastated by Hurricane Ian. The proposed CPD amendment will allow the re-establishment of a neighborhood restaurant that has been at this location for decades.

(3) The impact of a proposed change on the intent of this chapter.

The proposed CPD amendment is consistent with the purpose and intent of the zoning chapter of the Land Development Code (LDC) and specifically for Planned Developments which encourages flexibility in the development and design standards.

(4) The testimony of any applicant.

The professional experts retained to support the petition will provide future testimony during the appropriate public hearings.

(5) The recommendation of staff and of the local planning agency.

The petition will be reviewed by staff, expert testimony will be provided during the public hearing process before the Local Planning Agency and a recommendation will be made to the Town Council.

(6) The testimony of the public.

The public will be provided with the opportunity to testify before the LPA and Town Council. Such testimony will be evaluated as applicable and appropriate to the request for the LPA's recommendation and Town Council's decision.

(7) Whether the request is consistent with the goals, objectives, policies, and intent, and with the densities, intensities, and general uses as set forth in the Fort Myers Beach Comprehensive Plan.

Please see Section C above, which explains how the petition is consistent with the town's comprehensive plan.



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

It is important to note that as a Commercial Planned Development there is the ability to provide regulatory flexibility that allows for creative design to address site constraints. The proposed Master Concept Plan (MCP) depicts improvements to the functional and attractive layout that further fulfills the goals of the Comprehensive Plan. These include improvements to the parking layout, a more attractive façade along Estero Boulevard created by the proposed Tiki structure, and pedestrian and public realm improvements.

(9) Whether urban services are, or will be, available and adequate to serve a proposed land use change.

All urban services are in place to adequately serve the subject site.

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

The subject property was previously developed and has been subsequently cleared of all existing natural vegetation. No environmentally critical areas and natural resources exist on the site.

(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.

Based on the layout and design elements of the development, the request will be compatible with existing or planned uses and not cause damage, hazard, nuisance, or other detriment to person or property as the proposed use existed prior to the catastrophic events of Hurricane Ian.

(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.

Given that this CPD amendment reestablishes a restaurant that has been located here for decades, there will be no net changes on public facilities and the proposed request does not create any burden upon existing transportation or other services and facilities. A waiver to LDC Section 10-286, Traffic Impact Statement (TIS), was granted by the Town. The CPD does improve the site design to facilitate and enhance bicycle and pedestrian access.

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

This request to amend an existing CPD on the subject property will be presented at a public hearing before the local planning agency and the town council consistent with LDC Section 34-216(a)(1). As demonstrated throughout this narrative, the proposed CPD meets the following criteria under LDC Section 34-216(2):

- a. The proposed restaurant use, as provided for within the Schedule of Uses, is appropriate for the subject location due to the fact that a restaurant previously existed on the property for decades without issue.



- b. Sufficient safeguards are in place to protect the public interest through the proposed CPD and supporting MCP. The design, location and proposed use and development standards are generally consistent with the mixture of uses and pedestrian nature of the area and will meet the needs of the town's residents and visitors. As depicted on the MCP, access and circulation will be safer and more functional, the pedestrian experience will be improved.
- c. If recommended special conditions are presented and are deemed reasonable and feasible, the applicant will be willing to accept them to further ensure sufficient safeguards are established.
- d. The proposed rezoning request meets specific requirements of the comprehensive plan that are relevant to the requested planned development, such as the following:
 - 1. Policy 4-C-3: See Section "C" and the above narrative.
 - 2. Policies 4-B-5 and 4-C-3: See Section "C" above and the narrative.
 - 3. Policy 4-C-4: Proposed height of 30 feet is not taller than the standard height limit allowed under the Land Development Code.
 - 4. Policy 4-C-8: Density transfers. Not applicable.
 - 5. Policy 4-E-1: The existing development was consistent with and well below the allowed intensity (FAR 1.0) prior to the natural disaster (Hurricane Ian). The existing 4,000sq.ft. building will not be expanded and will continue to meet the limits of the FAR.
 - 6. Policy 7-D-3 Alternate Travel Modes: See Section "C" and the narrative.

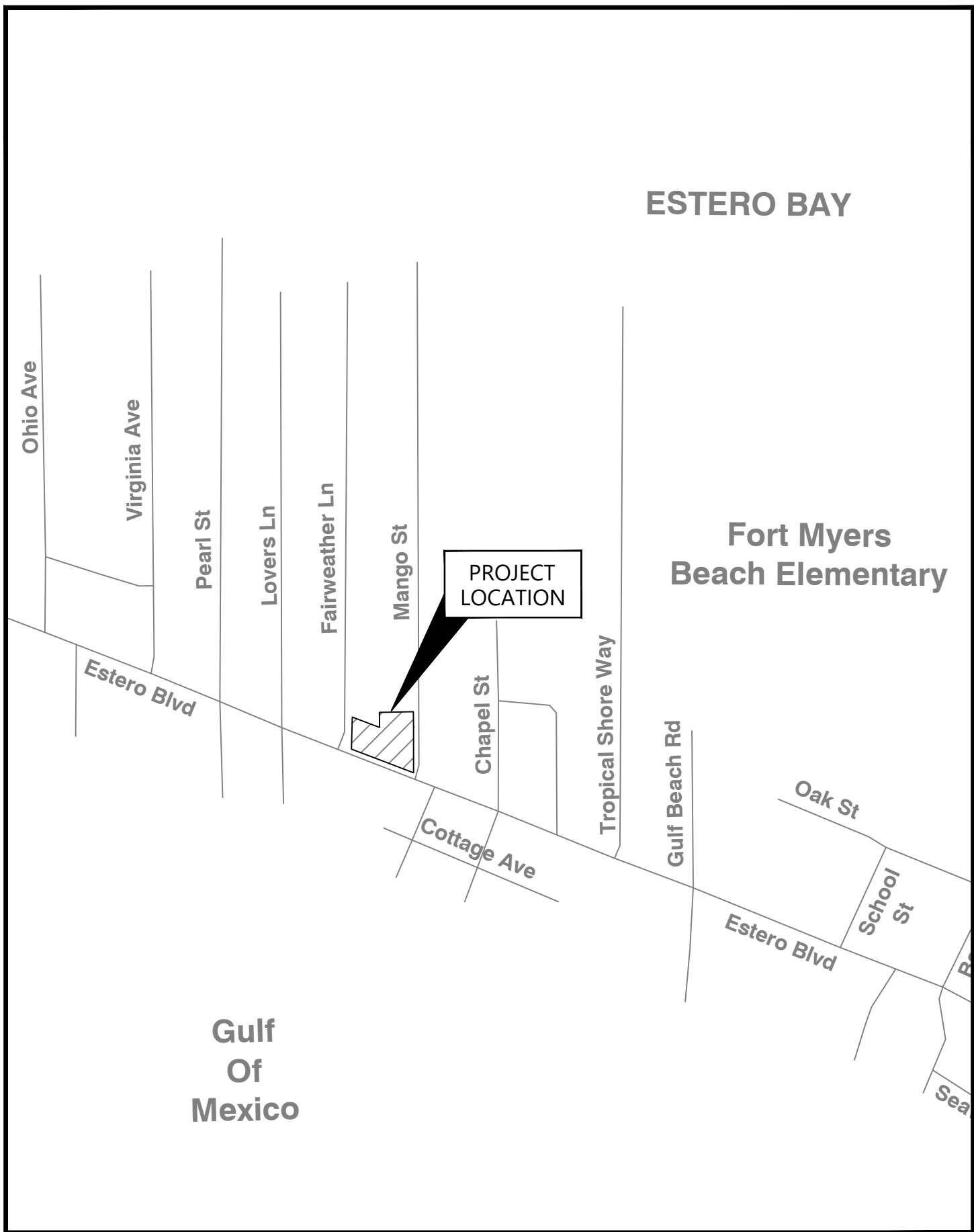
CONCLUSION:

As detailed in the above narrative, supporting application documents, and the proposed MCP, the application demonstrates consistency and compliance with both the Fort Myers Beach Comprehensive Plan and Land Development Code. The project proposes to utilize the regulatory flexibility of the CPD process, to reestablish a much-revered neighborhood restaurant.

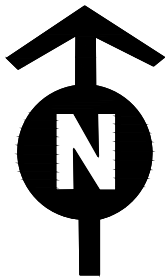
MASTER CONCEPT PLAN FOR

SANDY BOTTOMS CPD

SECTION 19, TOWNSHIP 46S, RANGE 24E,
FORT MYERS, FLORIDA



VICINITY MAP
N.T.S.



SITE LOCATION MAP
N.T.S.

PREPARED BY:



5618 WHISPERING WILLOW WAY
FORT MYERS, FL 33908

PREPARED FOR:

1249 ESTERO ADVENTURES LLC

290 BAHIA VIA
FORT MYERS BEACH, FL 33931

CONTENTS		
SHEET NUMBER	SHEET DESCRIPTION	
1	COVER SHEET	
2	MASTER CONCEPT PLAN	
3	NOTES	
DATE:	PROJECT No.:	SHEET No.:
December, 2023	220050.01.01	1 OF 3

GENERAL NOTES:

1. THIS MASTER CONCEPT PLAN (MCP) IS CONCEPTUAL IN NATURE. THE OVERALL CONFIGURATION, SIZE AND LOCATION OF THE STRUCTURE(S) AND OTHER IMPROVEMENTS MAY VARY. FINAL DESIGN AND IMPROVEMENT DETAILS WILL BE PROVIDED AS PART OF THE DEVELOPMENT ORDER (D.O.) PROCESS.
2. WATER MANAGEMENT REQUIREMENTS FOR REDEVELOPMENT PROJECTS CAN VARY SIGNIFICANTLY. THE WATER MANAGEMENT PLAN WILL BE DESIGNED AT THE TIME OF D.O.
3. TOTAL CPD/DEVELOPMENT AREA: 0.66 +/- ACRES
4. FUTURE LAND USE MAP CATEGORY: BOULEVARD
5. EXISTING ZONING: COMMERCIAL PLANNED DEVELOPMENT
6. THE PROJECT WILL BE DEVELOPED IN ONE PHASE.
7. NO ENVIRONMENTALLY SENSITIVE LAND OR WATER EXISTS ON SITE AS THIS SITE WAS IMPACTED BY PREVIOUS DEVELOPMENT AND HURRICANE IAN. NO PROTECTED SPECIES SURVEY IS REQUIRED PER APPROVED WAIVER.
8. ALL OTHER DEVELOPMENT STANDARDS SHALL BE SET FORTH IN LDC CHAPTER 24 OR OTHER APPLICABLE PROVISIONS OF THE LDC.

SCHEDULE OF USES:

- RESIDENTIAL - OPEN
- LODGING - LIMITED
 - o OFFICES - LIMITED
 - o OFFICES, GENERAL OR MEDICAL
- PERSONAL SERVICES
- RETAIL - LIMITED
 - o RESTAURANT (LIMITED TO 2) WITH OUTDOOR SEATING AS INDICATED ON THE MCP.
 - o ON-PREMISES CONSUMPTION OF ALCOHOLIC BEVERAGES SERVED ONLY IN CONJUNCTION WITH RESTAURANT(S) AND INCLUDING APPROXIMATELY 2,750 SQUARE FEET OF OUTDOOR SEATING AREA AS INDICATED ON THE MCP.
 - o ON-SITE BREWING OF BEER FOR CONSUMPTION ON PREMISES.
 - o 4COP AND GMBP FLORIDA DEPARTMENT OF ALCOHOLIC BEVERAGES AND TOBACCO PERMITS.
- CIVIC - OPEN
- ENTERTAINMENT - INDOOR AND OUTDOOR, LIMITED TO MUSIC BOTH LIVE AND RECORDED.
- TYPICAL ACCESSORY USES INCIDENTAL AND SUBORDINATE TO THE PRINCIPLE USES.

MAXIMUM INTENSITY:

- MAXIMUM FLOOR AREA RATIO (F.A.R.)/GROSS FLOOR AREA ALLOWED: 1.0 OR 43,124.4 SF
- MAXIMUM GROSS FLOOR AREA PROVIDED: 4,000 SF OF ENCLOSED COMMERCIAL SPACE

PARKING:

- REQUIRED:
 - o RESTAURANT (INDOOR AND OUTDOOR SEATING AREA) 8 SPACES PER 1,000 SF (1 SPACE PER 125 SF)
- o $6,750 \text{ SF } (4,000 \text{ SF INDOOR AREA} + 2,750 \text{ SF}) / 125 = 54 - 2 \text{ SPACE REDUCTION FOR 8 BICYCLE SPACES} = 52$
- PROVIDED:
 - o 34 (INCLUDING 2 ADA SPACES) PER DEVIATION #6

DEVIATIONS:

1. DEVIATION FROM THE REQUIREMENTS OF LDC SECTION 10-416(D)(2) AND LDC TABLE 10-8, WHICH REQUIRES A TYPE C/F BUFFER WHERE PROPOSED COMMERCIAL AND PARKING USES ADJACENT TO SINGLE FAMILY RESIDENTIAL USES, TO ALLOW THE FOLLOWING AS INDICATED ON THE MCP:
 - AN EXISTING 8 FOOT HIGH OPAQUE FENCE ADJACENT TO THE EXISTING BUILDING.
 - A MINIMUM 5 FOOT BUFFER ADJACENT TO THE DUMPSTER ENCLOSURE AREA PROVIDING 10 TREES AND 30 SHRUBS PER 100 LINEAR FEET WITH AN EXISTING 8 FOOT HIGH OPAQUE FENCE.
 - A MINIMUM 12 FOOT BUFFER ADJACENT TO THE NORTHERN PARKING LOT SPACES PROVIDING 10 TREES AND 30 SHRUBS PER 100 LINEAR FEET WITH AN 4 TO 8 FOOT HIGH OPAQUE FENCE.
2. DEVIATION FROM THE REQUIREMENTS OF LDC SECTION 10-416(D)(2) AND LDC TABLE 10-8, WHICH REQUIRES A 15 FOOT TYPE D BUFFER BETWEEN PARKING AREAS AND RIGHT-OF-WAY, TO ALLOW FOR A 5 FOOT TYPE D BUFFER BETWEEN PARKING AREAS AND RIGHT-OF-WAY. (PRIOR APPROVED)
3. DEVIATION FROM THE REQUIREMENT OF LDC SECTION 34-704(A), WHICH REQUIRES BUILDINGS TO BE CONSTRUCTED BETWEEN FIVE (5) TO TEN (10) FEET FROM ESTERO BOULEVARD, TO ALLOW A BUILD-TO DISTANCE BETWEEN THREE (3) TO TEN (10) FEET FROM ESTERO BOULEVARD.
4. DEVIATION FROM THE REQUIREMENTS OF LDC SECTION 34-707(B)(1)A, WHICH REQUIRES A MINIMUM 10 FOOT STREET SETBACK TO ALLOW FOR A MINIMUM 2.39 FOOT STREET SETBACK FROM FAIRWEATHER LANE TO THE EXISTING BUILDING AND A MINIMUM 5 FOOT STREET SETBACK FROM FAIRWEATHER LANE FOR THE PROPOSED OUTDOOR SEATING AREA STRUCTURE.
5. DEVIATION FROM THE REQUIREMENT OF LDC SECTION 34-704(B)(1)B, WHICH REQUIRES A MINIMUM 20 FOOT REAR SETBACK, TO ALLOW FOR A TWO-FOOT REAR SETBACK TO ACCOMMODATE THE EXISTING BUILDING. (PRIOR APPROVED)
6. DEVIATION FROM LDC SECTION 34-2020(D)(2)H, WHICH REQUIRES 8 PARKING SPACES PER 1,000 SQUARE FEET OF TOTAL FLOOR AREA, INCLUDING ANY OUTDOOR SEATING AREA AND A REDUCTION OF 2 SPACES FOR 8 BICYCLE SPACES (FOR A TOTAL OF 52 REQUIRED PARKING SPACES) TO ALLOW FOR A 35% REDUCTION FROM THE LDC REQUIREMENT FOR A TOTAL OF 34 PROVIDED SPACES.
7. DEVIATION FROM LDC SECTION 34-201 7, WHICH REQUIRES HIGH TURNOVER PARKING LOTS TO HAVE A PAVED SURFACE, TO ALLOW FOR A CRUSHED SHELL OR LIMEROCK SURFACE. (PRIOR APPROVED)
8. DEVIATION FROM LDC SECTION 34-285 AND TABLE 10-1, WHICH REQUIRES 125 OF CONNECTION SEPARATION ALONG LOCAL ROADS, TO ALLOW FOR 96+/- FEET OF CONNECTION SEPARATION ALONG MANGO STREET. (PRIOR APPROVED)

DEVELOPMENT STANDARDS:

MINIMUM LOT SIZE:

- LOT AREA: 0.65 +/- ACRES
- LOT WIDTH: 220 +/- FEET
- LOT DEPTH: 110 +/- FEET

BUILD-TO LINE:

- ESTERO BLVD.: 3 - 10 FEET (DEVIATION #3)

MINIMUM SETBACKS (PRIMARY STRUCTURES):

- STREETS (OTHER THAN ESTERO): 10 FEET (DEVIATION #4)
- REAR: 2 FEET (DEVIATION #5)
- SIDE: 5 FEET

MINIMUM SETBACKS (ACCESSORY STRUCTURES):

- STREETS (OTHER THAN ESTERO): 10 FEET (DEVIATION #4)
- REAR: 2 FEET (DEVIATION #5)
- SIDE: 5 FEET

MAXIMUM ZONED HEIGHT: 30 FEET ABOVE BASE FLOOD ELEVATION

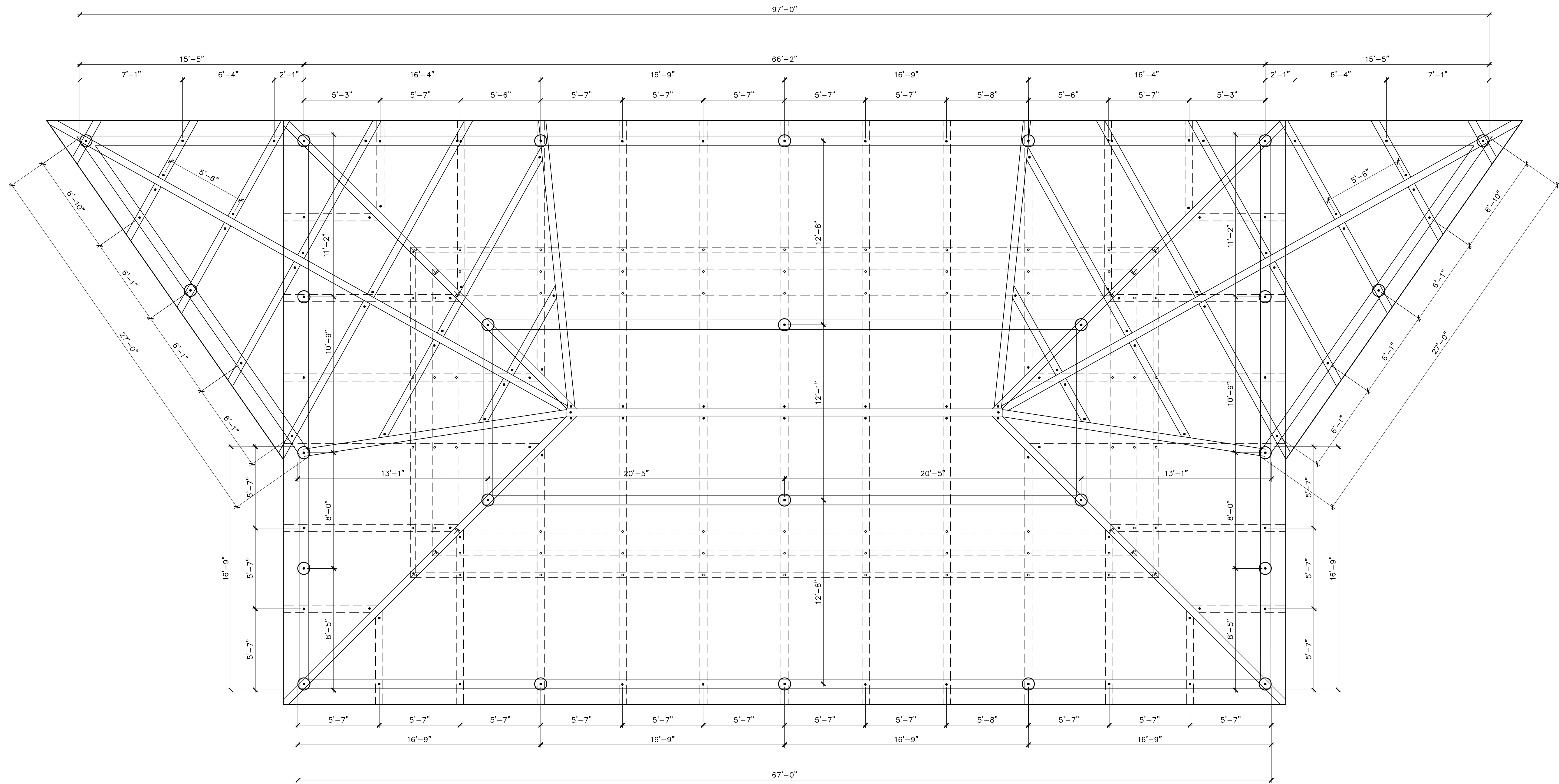
MAXIMUM ZONED STORIES: 2 ABOVE BASE FLOOD ELEVATION

[illegible]

5618 WHISPERING WILLOW WAY | FORT MYERS, FL 33908
WWW.THENEIGHBORHOOD.COMPANY

CLIENT:	1249 ESTERO ADVENTURES LLC
PROJECT:	SANDY BOTTOMS PLANNED DEVELOPMENT (CPD)
TITLE:	NOTES

PROJECT NO.: 220050.01.01	
DATE: 11/23	DRAWN: F.L.
DESIGN: K.G.	
SHEET NUMBER: 3 OF 3	



PLAN

I HEREBY CERTIFY:
THAT THE CONSTRUCTION PLANS SHOWN HEREON ARE IN COMPLIANCE WITH
CHAPTER 16, SECTION 1609 OF THE 2020, 7th EDITION, FLORIDA BUILDING CODE FOR
170 M.P.H. ULTIMATE DESIGN WIND SPEED (RISK CATEGORY II) ALONG WITH
THE ENTIRE 2020 FLORIDA BUILDING CODE, COMMERCIAL.

PROJECT: BIG KAHUNA – MILLER 2307 Estero Blvd Fort Myers Beach, FL 33931		 ENGINEER OF RECORD: 4-D ENGINEERING LLC 1074 S FLORIDA AVE SUITE 201 LAKELAND, FL 33803 PHONE: (386) 937-1949 FL CERTIFICATE OF AUTHORIZATION # 31557 CAREY L. WILKINSON, P.E. – FL # 80472	CONTRACTOR:		REVISIONS #	DISCRIPTION	DATE
DATE: 10-3-2023							
DRAWN BY: KJS							
SCALE: AS NOTED							
SHEET 1							

1. PILE TIP TO BE MINIMUM OF 4'-0" BELOW GRADE. PILE TO BACKFILLED AND COMPACTED IN 12" LIFTS

3. 4-D ENGINEERING SHALL NOT BE RESPONSIBLE FOR THE SITE SOILS ABILITY TO SUPPORT THE BUILDING LOADS.

4. ALL FASTENERS TO BE FASTENMASTER TIMBERLOCK
HEAVY DUTY SCREWS WITH MINIMUM 2" EMBED

6. CONSTRUCTION CLASSIFICATION: TYPE VB

8. WIND EXPOSURE: D

10. TREAT THATCH W/ FIRE PROOF RETARDANT

- PALM FRONDS 6D NAILED INTO PURLINS, 2 PER FROND —
(NAILED AT TOP AND BOTTOM) FRONDS TO BE FLEXIBLE
TO RELEASE AIR PRESSURE, DESIGNED AS OPEN STRUCTURE
(TYPICAL)

3"-4" Ø SOLID CYPRESS PERLIN —
SPACED @ 18" (TYP)
ALL PERLINS NOT SHOWN

6" FASTENMASTER ———
TIMBERLOK SCREW (TYP)

STRUCTURE BEYOND

5"-6" Ø SOLID —

8"-10" Ø MARINE GRADE
CYPRESS POST, SLEEVED (TYP)

6"-8" Ø SOLID
CYPRESS BEAM
(TYP)

5"-6" Ø SOLID CYPRESS
BRACE (TYP)

~ (3) 15" FASTENMASTER
TIMBERLOK SCREW (TYP)

11-02			

— STRUCTURE BEYOND

5"-6" Ø SOLID CYPRESS
COLLAR TIE (TYR)

5"-6" Ø SOLID CYPRESS
RAFTERS (TYP)

BEAMS HAVE LINCOLN LOG CUT (TYP)

10" FASTENMASTER —
TIMBERLOK SCREW (TYP)

8"-10" Ø MARINE GRADE CYPRESS POST, SLEEVED (TYP)

12" OVERHANG

— STRUCTURE BEYOND

I HEREBY CERTIFY:
THAT THE CONSTRUCTION PLANS SHOWN HEREON ARE IN COMPLIANCE WITH
CHAPTER 16, SECTION 1609 OF THE 2020, 7th EDITION, FLORIDA BUILDING CODE FOR
170 M.P.H. ULTIMATE DESIGN WIND SPEED (RISK CATEGORY II) ALONG WITH
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DATE: 10-3-2023						
DRAWN BY: KJS						
SCALE: AS NOTED						
SHEET 3						



**SANDY BOTTOMS RESTAURANT
COMMERCIAL PLANNED DEVELOPMENT AMENDMENT
Planned Development Rezone Application**

SECTION F: SCHEDULE OF DEVIATIONS AND JUSTIFICATIONS

1. DEVIATION FROM THE REQUIREMENTS OF LDC SECTION 10-416(D)(2) AND LDC TABLE 10-8, WHICH REQUIRES A TYPE C/F BUFFER WHERE PROPOSED COMMERCIAL AND PARKING USES ABUT SINGLE FAMILY RESIDENTIAL USES, TO ALLOW THE FOLLOWING AS INDICATED ON THE MCP:

- a. AN EXISTING 8-FOOT-HIGH OPAQUE FENCE ADJACENT TO THE EXISTING BUILDING.**

Justification: This deviation was previously approved due to the existing building's 2ft. setback from the property line.

- b. A MINIMUM 5 FOOT BUFFER ADJACENT TO THE DUMPSTER ENCLOSURE AREA PROVIDING 10 TREES AND 30 SHRUBS PER 100 LINEAR FEET WITH AN 8-FOOT-HIGH OPAQUE FENCE.**

Justification: This deviation exceeds the Type "C" buffer previously approved by including the proposed plantings with a wall. The only difference is the 5 ft. width instead of the previously approved 14 ft. The overall intent of the Type "C" buffer will be exceeded within the 5 ft. width. This 5 ft. width accommodates the new dumpster enclosure location.

- c. A MINIMUM 12 FOOT BUFFER ADJACENT TO THE NORTHERN PARKING LOT SPACES PROVIDING 10 TREES AND 30 SHRUBS PER 100 LINEAR FEET WITH AN 4- TO 8-FOOT-HIGH OPAQUE FENCE.**

Justification: This deviation exceeds the Type "C" buffer previously approved by including the proposed plantings with a wall. The only difference is the 12 ft. width instead of the previously approved 15 ft. The previous approval permitted a Type "C" buffer without a wall. The fencing has already been installed and the existing plantings will be augmented to meet the requirements, if needed. The 4-foot segment of the fence accommodates the visibility triangle required at connections to a public road. The only change from the previous approval is the width going from 15 ft. to 12 ft. The 3 ft. difference allowed the parking area to accommodate the two-way circulation.



2. **DEVIATION FROM THE REQUIREMENTS OF LDC SECTION 10-416(D)(2) AND LDC TABLE 10-8, WHICH REQUIRES A 15 FOOT TYPE D BUFFER BETWEEN PARKING AREAS AND RIGHT-OF-WAY, TO ALLOW FOR A 5 FOOT TYPE D BUFFER BETWEEN PARKING AREAS AND RIGHT-OF-WAY. (PRIOR APPROVED)**

3. **DEVIATION FROM THE REQUIREMENT OF LDC SECTION 34-704(A), WHICH REQUIRES BUILDINGS TO BE CONSTRUCTED BETWEEN FIVE (5) TO TEN (10) FEET FROM ESTERO BOULEVARD, TO ALLOW A BUILD-TO DISTANCE BETWEEN THREE (3) TO TEN (10) FEET FROM ESTERO BOULEVARD.**

Justification: This deviation was previously approved to accommodate the existing building which is 46 ft. from Estero Boulevard. With the proposed placement of the Tiki structure in front of the building a revised deviation is proposed to allow a 3 ft. build-to distance. This deviation will allow a greater presence along Estero Boulevard and add to the ambience of the public realm.

4. **DEVIATION FROM THE REQUIREMENTS OF LDC SECTION 34-707(B)(1)A, WHICH REQUIRES A MINIMUM 10 FOOT STREET SETBACK TO ALLOW FOR A MINIMUM 2.3 FOOT STREET SETBACK FROM FAIRWEATHER LANE TO THE EXISTING BUILDING AND A MINIMUM 5 FOOT STREET SETBACK FROM FAIRWEATHER LANE FOR THE PROPOSED OUTDOOR SEATING AREA STRUCTURE.**

Justification: This deviation was previously approved to accommodate the existing building which is 2.39 ft. from Fairweather Lane. With the proposed placement of the Tiki structure in front of the building a revised deviation is proposed to allow a 5 ft. setback from Fairweather Lane. There will be a 5ft. landscape buffer along Fairweather Lane and a 3ft. landscape buffer along Estero Boulevard in front of the Tiki structure. This deviation will allow a greater presence along Estero Boulevard and add to the ambience of the public realm and pedestrian experience.

5. **DEVIATION FROM THE REQUIREMENT OF LDC SECTION 34-704(B)(1)B, WHICH REQUIRES A MINIMUM 20 FOOT REAR SETBACK, TO ALLOW FOR A TWO-FOOT REAR SETBACK TO ACCOMMODATE THE EXISTING BUILDING. (PRIOR APPROVED)**

6. **DEVIATION FROM LDC SECTION 34-2020(D)(2)H, WHICH REQUIRES 8 PARKING SPACES PER 1,000 SQUARE FEET OF TOTAL FLOOR AREA, INCLUDING ANY OUTDOOR SEATING AREA AND A REDUCTION OF 2 SPACES FOR 8 BICYCLE SPACES (FOR A TOTAL OF 52 REQUIRED PARKING SPACES) TO ALLOW FOR A 35% REDUCTION FROM THE LDC REQUIREMENT FOR A TOTAL OF 34 PROVIDED SPACES.**



Justification: This deviation was previously approved to for a 30% reduction. The project has refined the parking area to provide two-way access for improved vehicle access management and maneuverability on-site, 8 bicycle racks, a direct connection to the 8 ft. sidewalk along Estero Boulevard and the transit stop. These elements meet the Comprehensive Plan goals to accommodate more pedestrian traffic and alternative modes of transportation rather than vehicular traffic. Approving an additional reduction will not significantly impact the pedestrian, bicycling and transit accommodations to enhance other modes of transportation and will minimize the need for any further impervious areas within the project. In addition, the restaurant has previously demonstrated that it is mainly a pedestrian and bicycle-oriented destination and as a result the need for onsite parking would actually be less than the LDC standard.

- 7. DEVIATION FROM LDC SECTION 34-201 7, WHICH REQUIRES HIGH TURNOVER PARKING LOTS TO HAVE A PAVED SURFACE, TO ALLOW FOR A CRUSHED SHELL OR LIMEROCK SURFACE. (PRIOR APPROVED)**

- 8. DEVIATION FROM LDC SECTION 34-285 AND TABLE 10-1, WHICH REQUIRES 125 OF CONNECTON SEPARATION ALONG LOCAL ROADS, TO ALLOW FOR 96+/- FEET OF CONNECTION SEPARATION ALONG MANGO STREET. (PRIOR APPROVED)**



**SANDY BOTTOMS RESTAURANT
COMMERCIAL PLANNED DEVELOPMENT AMENDMENT
Planned Development Rezone Application**

SCHEDULE OF USES

The following uses were previously approved pursuant to CPD Ordinance 22-06 and LDC Table 4-2 with the exception of the added uses in **bold**. These include increasing the outdoor seating area from 1,000 sq.ft. to 2,750 sq.ft., a 4COP in place of the 2COP and amplified music/entertainment outdoors.

- Residential – Open
- Lodging - Limited
- Office – Limited
 - Offices, General or Medical
 - Personal Services
- Retail – Limited
 - Restaurant (limited to 2) with outdoor seating as indicated on the MCP
 - On-Premises consumption of alcoholic beverages served only in conjunction with restaurant(s) and including approximately **2,750 square feet of outdoor seating area** as indicated on the MCP
 - On-Site Brewing of Beer for Consumption on Premises.
 - **4COP** and GMBP Florida Department of Alcoholic Beverages and Tobacco permits
- Civic-Open
- **Entertainment – Indoor and Outdoor, limited to music both live and recorded.**
- **Typical Accessory Uses Incidental and Subordinate to the Principal Uses.**

ORDINANCE 22-06

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA REPLACING TOWN OF FORT MYERS BEACH RESOLUTION NO. 12-07, AND AMENDING THE SCHEDULE OF USES FOR THE COMMERCIAL PLANNED DEVELOPMENT ZONING FOR THE PROPERTY LOCATED AT 2301, 2307 & 2311 ESTERO BLVD. AND 111 & 121 MANGO ST., FORT MYERS BEACH; AMENDING THE MASTER CONCEPT PLAN FOR THE RESTAURANT USE(S); PROVIDING FOR REVISIONS TO CONDITIONS OF APPROVAL, AND OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

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

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

WHEREAS, Tre and Amy, Inc. ("Applicant"), the owner of the property generally located at 2301, 2307 & 2311 Estero Blvd., and 111 and 121 Mango St. and identified by STRP numbers 19-46-24-W3-0110D.0010, 19-46-24-W3-0120E.0010, 19-46-24-W3-0120E.0020 and 19-46-24-W3-0120E.0030 - comprising .66 +/- acre of land ("Property"), filed an application to amend the Property's Commercial Planned Development ("CPD") to allow on-site brewing and consumption of beer; and

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

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on March 22, 2022, at which the LPA gave full and complete consideration of the request, recommendations by staff, the documents in the record, and the testimony of all interested persons, and the LPA voted 6-0 to recommend approval of the CPD amendment with conditions, and

WHEREAS, on April 18, 2022 the Town Council held a first reading of the proposed Ordinance and gave full and complete consideration to the request of the Applicant, the recommendation of the LPA, the recommendation of staff, the documents in the record, and the testimony of all interested persons, as required by Section 34-85 of the Fort Myers Beach Land Development Code ("LDC"); and

WHEREAS, the Town Council set a second reading of the proposed Ordinance and a public hearing on this matter to be legally advertised and held before the Town Council on April 18, 2022; at which time the Town Council gave full and complete consideration to the request of the Applicant,

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

WHEREAS, the Town Council finds the proposed CPD amendment with conditions of approval are **consistent** with the Town of Fort Myers Beach Comprehensive Plan and LDC and voted to **approve** the Application.

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

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

Section 2. The Town Council determines the Applicant **did** meet its burden of proof that the requested zoning amendment **does** meet the requirements of the Town Comprehensive Plan and LDC and approving the request to allow the use of on-site brewing and consumption of malt liquor with conditions **is** in the best interest of the Town. Therefore, based upon the recommendations, testimony, and evidence presented by the Applicant, Town staff, and interested parties, the Town Council **APPROVES** the requested amendment to the CPD zoning of the Property.

Section 3. Town Resolution 12-07 is repealed and replaced by this Ordinance and the schedule of uses and conditions of approval for the Property's CPD set forth in Exhibit "A," attached hereto and incorporated herein by this reference is approved.

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

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

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

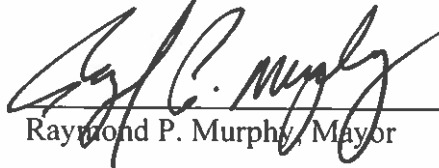
Section 10. This Ordinance will take effect immediately upon adoption by the Town Council.

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

DULY PASSED AND ADOPTED on this 2nd day of May 2022.

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

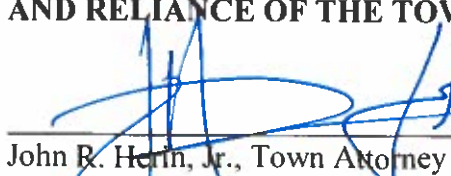
TOWN OF FORT MYERS BEACH


Raymond P. Murphy, Mayor

ATTEST:


Amy Baker, Town Clerk

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


John R. Herin, Jr., Town Attorney

This Ordinance was filed in the Office of the Town Clerk on this 5 day of May 2022.

Exhibits

Exhibit "A" Schedule of Uses and Conditions of Approval
Exhibit "B" Master Concept Plan

EXHIBIT "A"

The Town Council APPROVES the applicant's request for an amendment to the existing CPD, formerly known as Big John's Board Walk Eatery, now known as CJT Properties LLC, to provide required parking on-site for the existing restaurant uses, stormwater management improvements, and landscape buffers, with such approval subject to the Schedule of Allowable Uses, 8 11 conditions and 11 deviations set forth with specificity below.

Schedule of Allowable Uses:

Residential – Open

Lodging – Limited

Office – Limited

- Offices, general or medical

- Personal services

Retail – Limited

- Restaurant (limited to two (2) with a total maximum area of 4000 square feet of indoor space with additional outdoor seating as indicated on the MCP)

- On-premises consumption of alcoholic beverages (limited to beer and wine served only in conjunction with meals) including approximately 1000 square feet of outdoor seating in conjunction with the proposed deck.

- On-site brewing of beer for consumption on premises.

Civic – Open

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

1. If the principal building on the subject property (2301 parcel) is removed or replaced for any reason, deviations 3, 4, 5, 6, and 7 will become null and void. Any new buildings replaced on the subject property must comply with required setbacks and any other regulations in effect at the time of permitting.
2. Any changes or fracturing of ownership of the four parcels within the subject property will require, at a minimum, an administrative amendment to the Master Concept Plan to reflect the change in ownership, which will include recorded unified control documentation.
3. The parking lot must be stabilized in accordance with the provisions in Section 34-2017 (b) of the LDC.
4. A local development order is required prior to any expansion of the existing restaurant or any use of the second restaurant bay in accordance with this planned development approval. Approval of this request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the LDC may be required to obtain a local development order, including payment of additional impact fees.

5. A Traffic Impact Study (TIS) is not warranted, and the Town Council hereby overrules the Director's decision to require a TIS. The Applicant has provided mitigation for traffic impacts by providing the following: additional on-site parking for tenants and customers, landscape buffers, bicycle racks, extension of the sidewalk along Estero Boulevard in front of the property, elimination of the back out parking in front of the existing building, a reduction in the outdoor dining area to 1,000 square feet, and provision of storm water management improvements. The current restaurant use has demonstrated that it is mainly a pedestrian and bicycle-oriented destination and, as a result, the traffic impacts may actually be less than would be expected from a traffic impact study.
6. Bicycle racks shall be provided for a minimum of 8 bicycles.
7. The hours of operation for business use are 6am to 12 midnight. The hours of operation for indoor restaurant uses are 7am to 12 midnight with outdoor seating area limited to between the hours of 7am and 10 pm, seven days a week.
8. ~~No outdoor entertainment is permitted.~~
8. No amplified music or entertainment is permitted outdoors.
9. All brewing activities shall be contained within the building.
10. No outdoor storage shall be allowed including the use of portable storage units, cargo containers and tractor trailers except as follows: spent grain may be placed outdoors for a period not to exceed 24 hours. Spent grain must be stored in fully enclosed containers that are screened from adjacent properties and Estero Blvd.
11. Must comply with guidelines set forth by the Florida Department of Alcoholic Beverages and Tobacco for the CMBP permit.

The following limits apply to the Property and its development

Council grants the following deviations:

Deviation #1

Deviation from the requirements of LDC Section 10-416(d)(2) and LDC Table 10-8, which requires a Type C/F buffer where proposed commercial uses abut single family residential uses, to allow for an eight (8) foot high solid stockade fence and 14-15 foot Type C buffers without a wall, as indicated on the MCP and landscape plan is APPROVED.

Deviation #2

Deviation from the requirements of LDC Section 10-416(d)(2) and LDC Table 10-8, which requires a 15 foot Type D buffer between parking areas and right-of-way, to allow for a 5 foot Type D buffer between parking areas and right-of-way is APPROVED.

Deviation #3

Deviation from the requirement of LDC Section 34-704(a), which requires buildings to be constructed between five (5) to ten (10) feet from Estero Boulevard, to allow a front setback of 46 feet to accommodate the existing building is APPROVED.

Deviation #4

Deviation from the requirements of LDC Section 34-707(b)(1)a, which requires a minimum 10 foot street setback to allow for a 2.39 foot street setback from Fairweather Lane to

accommodate the existing building is APPROVED.

Deviation #5

Deviation from the requirement of LDC Section 34-704(b)(1)b, which requires a minimum 20 foot rear setback, to allow for a two-foot rear setback to accommodate the existing building is APPROVED.

Deviation #6

Deviation from the requirement of LDC Section 34-995(a)(3), which prohibits a principal facade facing a primary street from having blank walls greater than 10 feet in length, to allow for one (1) section of the principal facade to be 16 feet in length is APPROVED.

Deviation #7

Deviation from the requirements of LDC Section 34-995(d), which requires corner buildings to be located no more than 20 feet from the intersection of right-of-way lines, to allow the existing corner building to be located a distance of 48.5 feet from the intersection of Estero Boulevard and Fairweather Lane is APPROVED.

Deviation #8

Deviation from LDC Section 34-2020(d)(2)h, which requires 8 parking spaces per 1,000 square feet of total floor area, including any outdoor seating area (for a total of 47 required parking spaces) to allow for a 30% reduction from the LDC requirement for a total of 34 provided spaces is APPROVED.

Deviation #9

Deviation from LDC Section 34-2017, which requires high turnover parking lots to have a paved surface, to allow for a crushed shell or limerock surface is APPROVED.

Deviation #10

Deviation from LDC Section 34-285 and Table 10-1, which requires 125 feet of connection separation along local roads, to allow for 96± feet of connection separation along Mango Street is APPROVED.

Deviation #11

Deviation from LDC Section 10-289(d) which requires an 8 foot wide sidewalk along the property's Estero Boulevard frontage, to allow for a 5 foot wide sidewalk is APPROVED.

Nothing in this rezoning, including any of the attached conditions, constitute a variance or deviation from the provisions of Chapter 6, Article IV "Floodplain Regulations" of the LDC. Approval of this rezoning does not exempt the subject property from any provisions of the LDC with the exception of any approved deviation contained herein.



**SANDY BOTTOMS RESTAURANT
COMMERCIAL PLANNED DEVELOPMENT AMENDMENT
Planned Development Rezone Application**

NARRATIVE

BACKGROUND & REQUEST

The Applicant, 1249 Estero Adventures LLC as represented by The Neighborhood Company, is submitting this Planned Development Rezone Application to request an amendment to the existing CPD Ordinance 22-06. The property has a Future Land Use (FLUM) Map Designation of *Boulevard* and is within the *Commercial Boulevard* Zoning District.

The subject property is located at 2301/2307 & 2311 Estero Boulevard, 111 & 121 Mango St. and is comprised of four parcels, that total +/- 0.65 acres (See Figure 1). The STRAP #s include: 194624W30110D0010, 194624W30120E0010, 194624W30120E0020, 194624W30120E0030. The subject property is located approximately 3/4+/- mile from the Matanzas Pass Bridge (See Figure 2).

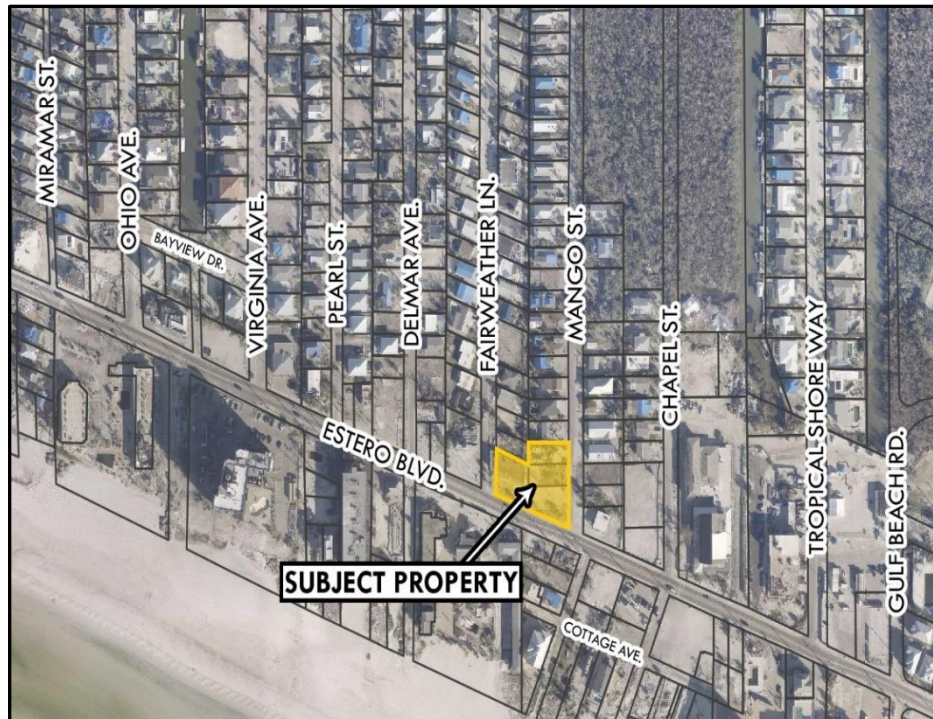


Figure 1. Location Map

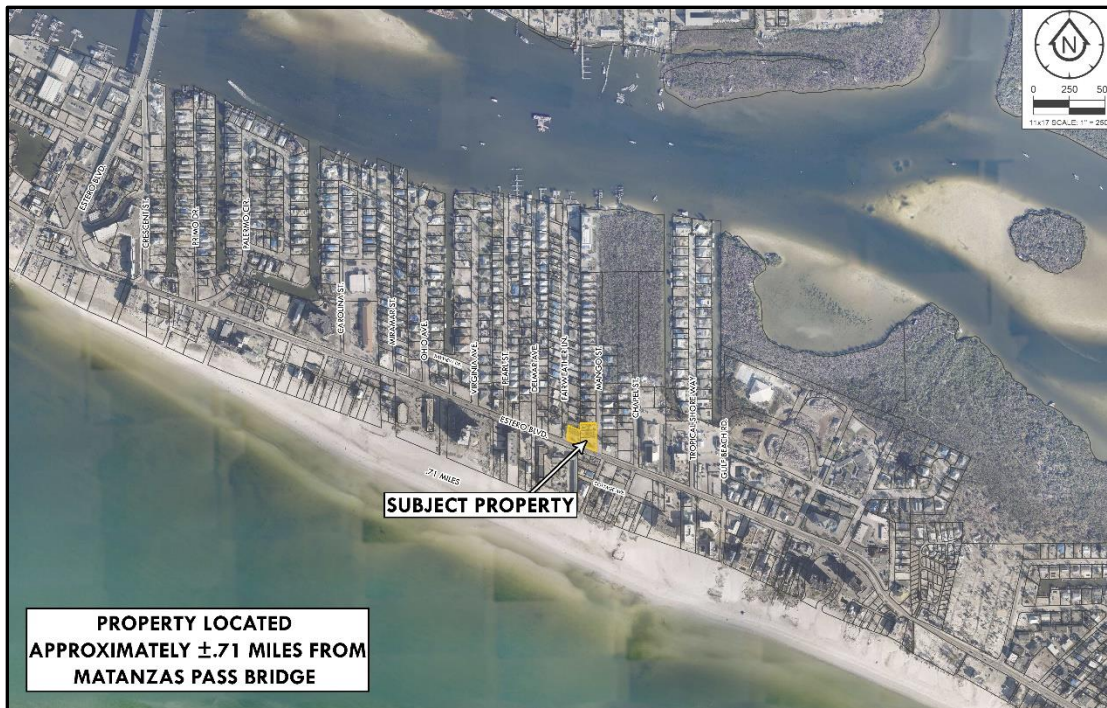


Figure 2. Vicinity Map

PROPOSED USE/REDEVELOPMENT

The applicant is proposing an amendment to the existing CPD pursuant to Resolution 22-06. Prior to Hurricane Ian, the subject properties included a commercial building that housed a restaurant, fka Big John's Board Walk Eatery and the recent Tuckaway Café, an ice cream shop, outdoor seating area and parking for those uses. Subsequent to Hurricane Ian, the building still stands but with considerable damage. The property was sold to 1249 Estero Adventures LLC in 2023. The new owner proposes to redevelop the property and renovate the existing restaurant and expand the outdoor seating area previously approved.

The expansion of the outdoor seating area will include a Tiki structure and the addition of outdoor entertainment. The applicant is also requesting to replace the current 2COP to a 4COP to allow the serving of liquor along with the previously permitted beer and wine. The applicant is aware of the State requirements to obtain a 4COP but first needs the approval of the activity from the Town Council. The previously approved "Manufacturer of Malt Beverages in Vendor Premises" (CMBP) License for production and consumption on premises of malt beverages will remain.

The prior approval included eleven (11) conditions and eleven (11) deviations. This proposal includes nine (9) deviations as some of the prior deviations are no longer relevant. Some of the prior approved deviations will continue, and some of the deviations reflect the minor site design changes. The following includes the existing and proposed uses and development standards as depicted on the MCP. The referenced deviation requests and justifications are provided in the attached schedule.

**Maximum Intensity:**

Maximum floor area of 4,000 square feet of enclosed commercial space.

Maximum 2,750 square feet of outdoor seating area.

LOCATION, SITE DESIGN & COMPATIBILITY**Location**

The subject properties are located approximately three quarters of a mile from Times Square and are located at the north end of the Civic Complex area of Fort Myers Beach. The properties front on the northeast side of Estero Boulevard between Fairweather Lane and Mango Street. The project is surrounded by vacant and damaged commercial properties as well as various resorts and residential properties. The customer base for this project will pull from the surrounding area as well as passerby pedestrian and vehicular traffic. Based on the smaller size of this project compared to those in the Times Square area, it will provide a neighborhood scale restaurant and entertainment option primarily for the more immediate area.

Site Design

The location of the existing building and the unusual shape of the property has presented design challenges that resulted in the prior approval of eleven (11) deviations. This amendment includes deviations previously approved with some additional requests. It is important to note that as a Commercial Planned Development there is the ability to provide regulatory flexibility that allows for creative design to address site constraints. The proposed Master Concept Plan (MCP) depicts improvements to the functional and attractive layout that further fulfills the goals of the Comprehensive Plan. These include improvements to the parking layout, a more attractive façade along Estero Boulevard created by the proposed Tiki structure, and pedestrian and public realm improvements.

The existing building is located approximately 2.3ft from Fairweather Lane and is approximately 46ft. from Estero Boulevard. The Tiki structure will be 5+/- ft. from the west property line (Fairweather Lane) and 3+/- ft. from the south property line (Estero Boulevard).

The proposed hours of operation will be 7am to 12 midnight seven days a week for both the restaurant and outdoor seating area. Outdoor entertainment will be permitted until 11pm and located as depicted on the MCP to minimize any sound spillage to the north.

A dumpster enclosure will be relocated along the western fence line and buffer. This location was determined based on its accessibility for the waste management trucks. The parking area will include a stormwater dry detention island.

Outdoor Seating

The proposed expanded outdoor seating and Tiki structure will create a more inviting space that adds character to the pedestrian experience along Estero Boulevard. In addition, the Tiki structure will provide protection from the elements while keeping the open-air atmosphere. Along with the Tiki structure a landscape buffer along Estero Boulevard will add to the ambience of the public realm. The proposed outdoor entertainment will be located within the Tiki footprint and as clearly defined on the MCP where the music can be performed. The Tiki structure will be located approximately three (3) feet from the front property line corresponding with Deviation #3 to allow a 3ft. to 10ft. build-to line.



Vehicular and Pedestrian access

The site design provides a direct connection to a transit stop, on property bicycle racks and a walkway connection from the existing sidewalk to the restaurant. These elements further encourage bicycle and pedestrian activity and minimize the need to accommodate vehicular traffic.

Vehicular access will be provided from two points of access on Mango Street, which were previously approved (see Deviation #8). The parking lot is reconfigured to allow both directions of traffic on the drive aisles instead of the one-way on the north drive aisle. This will allow for a logical circulation pattern and will provide safer ingress and egress movements from Mango Street.

Buffers and Screening

The proposed buffers along the north and northeast property lines target the existing and vacant residential properties. Due to the existing building located approximately two (2) feet from the rear property line, two deviations were previously approved to allow a 2ft setback instead of the required 20ft setback and a deviation to allow an 8ft. 100% opaque fence in place of a C/F buffer. Both of these are memorialized on the MCP and in Deviations #1a and #5.

The proposed buffer along the northeastern property line adjacent to a vacant residential property will include the following: a minimum 12-foot-wide buffer adjacent to the northern parking lot spaces providing 10 trees and 30 shrubs per 100 linear feet with a 4- to 8-foot-high opaque fence. The fencing has already been installed and the existing plantings will be augmented to meet the requirements, if needed. The 4-foot segment of the fence accommodates the visibility triangle required at connections to a public road. The only change from the previous approval is the width going from 15ft. to 12ft. The 3ft. difference allowed the parking area to accommodate the two-way circulation. This buffer exceeds the previously approved Type "C" Buffer with the proposed plantings and wall.

The proposed buffer at the northwestern property line running perpendicular to the commercial building will include a minimum 5 ft. wide buffer with 10 trees and 30 shrubs per 100 linear feet along with the existing 8-foot opaque fence. The proposed dumpster enclosure will be placed adjacent to this buffer as depicted on the MCP.

The perimeter of the parking area will have a 5 ft. Type "D" buffer adjacent to Mango Street and Estero Boulevard rights of way. This deviation was previously approved (see Deviation #2).

In order to add to the public realm ambience and compatibility the applicant is proposing to include landscaping at the southwest corner along Fairweather Lane and Estero Boulevard as shown on the MCP. Although buffers are not required along rights of way, the 5ft. area along Fairweather Lane will have a Type "B" buffer planting which includes trees and a hedgerow and the 3ft. area in front of the Tiki structure will have a 2ft. hedgerow.



Surrounding Uses

The future land use category, zoning and existing land uses surrounding the property are as follows:

	FUTURE LAND USE	ZONING DISTRICT	EXISTING LAND USES
NORTH	Mixed Residential/Platted Overlay	Residential Multi-Family, Residential Conservation	Single-Family Residences and vacant parcels.
SOUTH	Boulevard	Commercial Planned Development, Commercial Boulevard, Commercial Resort	Estero Blvd., Neptune Resort and vacant parcels
EAST	Boulevard	Commercial Boulevard & Residential Multi-Family	Mango Street, Vacant/Commercial
WEST	Boulevard	Commercial Boulevard	Fairweather Lane, Residential & Vacant Commercial

Compatibility

Based on the surrounding uses, compatibility with the residential uses existing and permitted immediately north of the property was considered with the site design and layout. The development standards, buffers and screening, further ensure compatibility with adjacent uses and are appropriate for property located in the Commercial Boulevard District. This property has operated as a restaurant for many years including Big John's Board Walk Eatery and the recent Tuckaway Café. The previously established restaurants have a proven history of being compatible at this location with the surrounding uses over the years. The addition of the Tiki structure and outdoor entertainment will be located on the Estero Boulevard side of the existing building. The location and restricting the outdoor entertainment to no later than 11pm, an hour before closing, will limit any perceived impacts to the surrounding area. In addition, the applicant will provide landscape buffers at the corner of Fairweather and Estero Boulevard to further mollify any perceived impacts and to add to the pedestrian experience along Estero Boulevard. Based on the above, this amendment will readily meet the definition of compatibility per the LDC.

Compatible means, in describing the relation between two land uses, buildings or structures, or zoning districts, the state wherein those two things exhibit either a positive relationship based on fit, similarity or reciprocity of characteristics, or a neutral relationship based on a relative lack of conflict (actual or potential) or on a failure to communicate negative or harmful influences one to another.



**THE FOLLOWING ADDRESSES APPLICABLE SECTIONS PROVIDED FOR IN THE
PLANNED DEVELOPMENT APPLICATION – SUPPLEMENT PHD FORM:**

A. COMPREHENSIVE PLAN AMENDMENTS

The following Comprehensive Plan Amendments are pending and could affect the future use of this property:

Mixed Use Districts Designation - Civic Center and Coconut Village RV Park Mixed-Use District



Figure 3. Proposed FLUM category

The applicant is aware that the Town of Fort Myers Beach has initiated an update to the Comprehensive Plan Future Land Use Element (FLUE) and Future Land Use Map (FLUM). This initiative was presented before the LPA on January 18, 2023 (Yellow Sheet #2023-895) and the Town Council on March 20, 2023. As of the date of this submittal, these updates are still in process. Should the proposed updates be approved, the subject property would be reclassified to the "Civic Center and Coconut Village RV Park Mixed-Use District" FLUM category (See Figure 3). Currently, the Applicant desires to move forward with this petition and intends to be consistent with the existing Boulevard FLUM designation, while also taking into consideration the current drafted language for the proposed Civic Center & Coconut Village RV Park Mixed-Use District category. Items included in the updated FLUE, which have been considered within this petition, include multi-modal improvements along with contributions to the public realm.



B. PHASING OF CONSTRUCTION

The development is to be constructed in a single phase.

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C. COMPREHENSIVE PLAN COMPLIANCE

COMMUNITY DESIGN ELEMENT:

OBJECTIVE 1-A ESTERO BOULEVARD — Improve the functioning and appearance of Estero Boulevard as the premier public space and primary circulation route of Fort Myers Beach.

POLICY 1-A-1 Changes along Estero Boulevard should improve on the characteristics that make it a boulevard in character and not just in name: safe and interesting to walk along, impressive landscaping, and scaled to people rather than high-speed traffic.

The proposed redevelopment proposes enhancements to the frontage along Estero Boulevard and throughout the site. These enhancements will include improved vehicular circulation within the parking area, a more attractive façade along Estero Boulevard created by the proposed Tiki structure. The direct connection to the transit stop, on site bicycle racks and sidewalks along Estero Boulevard fulfill the intent of Objective 1-A and Policy 1-A-1.

These enhancements create a development with improved accessibility and safety for pedestrians, while improving the appearance for residents and visitors on the primary circulation route of Fort Myers Beach, thus supporting the “Estero Blvd” vision as described in Objective 1-A and Policy 1-A-1 of the Fort Myers Beach Comprehensive Plan.

FUTURE LAND USE ELEMENT:

GOAL 4: To keep Fort Myers Beach a healthy and vibrant “small town,” while capitalizing on the vitality and amenities available in a beach–resort environment and minimizing the damage that a hurricane could inflict.

OBJECTIVE 4-A SMALL-TOWN CHARACTER — Maintain the small-town character of Fort Myers Beach and the pedestrian-oriented “public realm” that allows people to move around without their cars even in the midst of peak-season congestion.

The proposed project will reestablish a restaurant business that has been in business for several years. The proposed redevelopment of the neighborhood scale restaurant that has pedestrian friendly elements including the direct connection to the transit stop, on site bicycle racks and sidewalks along Estero Boulevard. Through the implementation of these elements, the development will enhance the public realm of Fort Myers Beach and add to its unique small-town character.

Finally, in an effort to minimize the damage that a future hurricane could inflict, the renovations of the existing building and Tiki structure will be built to meet current applicable codes.



Policy 4-A-2 The Town of Fort Myers Beach values its vibrant economy and walkable commercial areas. Through this plan, the town will ensure that new commercial activities, when allowed, will contribute to the pedestrian-oriented public realm.

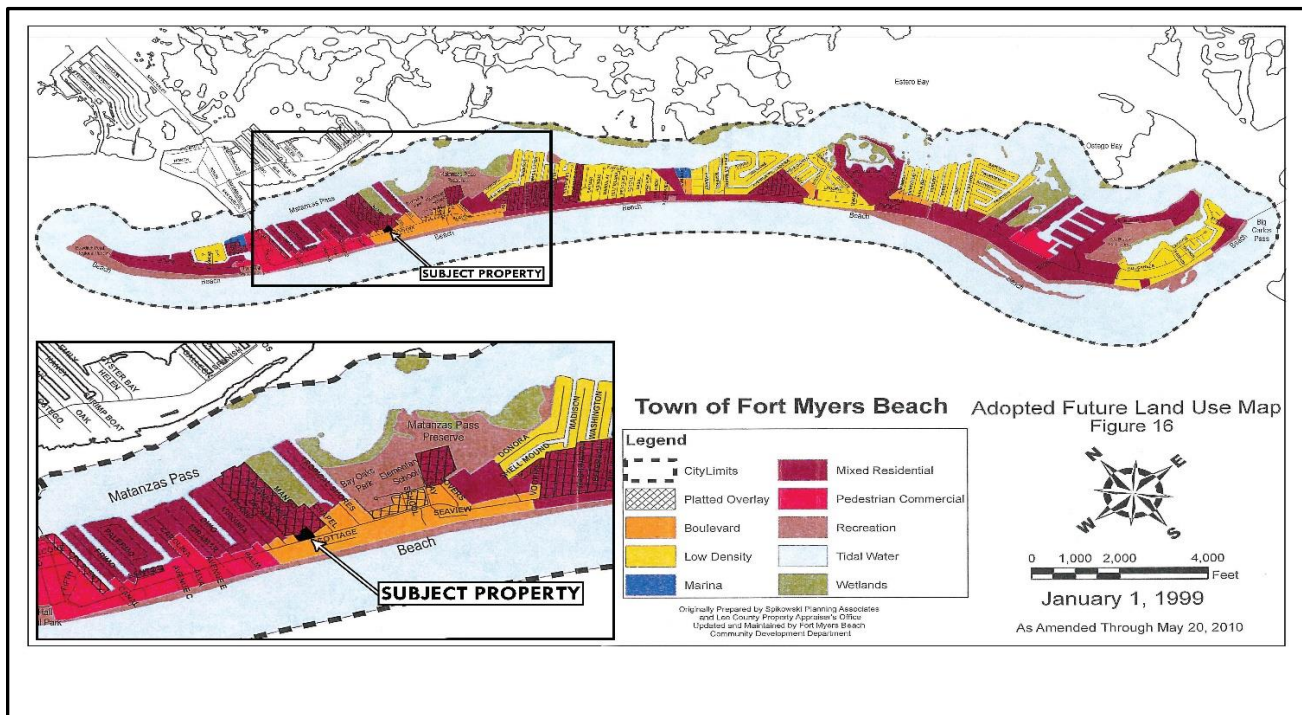
Located along Estero Boulevard, and in close proximity to civic uses, resorts, and residential uses, the proposed project will re-establish a long-standing restaurant that has provided a neighborhood scale gathering location for decades.

The proposed site configuration will provide the elements to contribute to the pedestrian oriented public realm including on property bike racks, a connection to the bus/trolley stop, pedestrian connection to the restaurant directly from Estero Boulevard. The addition of the Tiki structure and landscaping will create a more inviting, safer, visually attractive development ensuring locational compatibility and improved pedestrian oriented elements consistent with Policy 4-A-2.

POLICY 4-B-5 “BOULEVARD”: a mixed-use district along portions of Estero Boulevard, including less intense commercial areas, historic cottages, and mixed housing types. This category is not intended to allow commercial uses on all properties; its mixed-use nature is intended to remain permanently. For new residential development, the maximum density is six dwelling units per acre (except where the Future Land Use Map’s “platted overlay” indicates a maximum density of 10 units per acre for legally existing dwelling units). To obtain approval for new or expanded commercial activities, proposals must be sensitive to nearby residential uses, complement any adjoining commercial uses, contribute to the public realm as described in this comprehensive plan, and meet the design concepts of this plan and the Land Development Code. These qualities and overall consistency with this comprehensive plan shall be evaluated by the town through the planned development rezoning process. Non-residential uses (including motels and churches) now comprise 46.9% of the land in this category, and this percentage shall not exceed 70%.

The project site is located within the Boulevard FLUC, and as stated in Policy 4-B-5, commercial activities must be sensitive to nearby residential uses, complement any adjoining commercial uses, and contribute to the pedestrian-oriented public realm. The site plan proposes to provide enhancements to the public realm through the improved vehicular patterns on the site, clearly defined pedestrian connections to the transit stop and bicycle racks connect to the existing sidewalk along Estero Boulevard. These proposed enhancements will contribute to the pedestrian-oriented public realm of Fort Myers Beach and are consistent with Policy 4-B-5.

The maximum Floor Area Ratio (FAR) specified under the Commercial Boulevard District described in the Land Development Code (LDC) may be as high as 1.0. The existing 4,000 sq. ft. building is well within the allowed 28,314 sq. ft.



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:

iv. In the “Boulevard” category, where mixed-use development including some commercial uses may be permissible, landowners may seek commercial rezoning only through the planned development process. Proposals must be sensitive to nearby residential uses, complement any adjoining commercial uses, contribute to the public realm as described in this comprehensive plan, and meet the design concepts of this plan and the Land Development Code.

The CPD amendment is consistent with this policy as it is following the planned development application process to accomplish the needed flexibility in the design and layout of the project. The various buffers and layout of the project that directs the more intense activity toward Estero Boulevard are taking into consideration the residential properties to the north and west of the property. As previously stated, contribution to the public realm is fulfilled through the various design elements of the project.

OBJECTIVE 4-D POST-DISASTER REDEVELOPMENT — Provide for the organized and healthy reconstruction of Fort Myers Beach after a major storm by showcasing successful local examples of floodproofing, by requiring redevelopment activities to meet stricter standards. For flood- and wind-resistance, and by improving the current post-disaster build back policy.

The proposed redevelopment of the site and renovations of the existing building will be in compliance with all applicable federal, state and local regulations to develop a more resilient commercial property to serve the residents and visitors of Fort Myers Beach.



COASTAL MANAGEMENT ELEMENT:

GOAL 5: To keep the public aware of the potential effects of hurricanes and tropical storms and to plan a more sustainable redevelopment pattern that protects coastal resources, minimizes threats to life and property, and limits public expenditures in areas subject to destruction by storms.

POLICY 5-A-1 The town shall maintain and enforce building codes at least as stringent as required by Florida law to limit the potential damage of structures from hurricanes and tropical storms. These codes shall include wind-resistance commensurate with the risk of a coastal environment and building elevation requirements that conform with federal laws and Flood Insurance Rate Maps.

As stated per Objective 4-D, the proposed redevelopment of the site and renovations of the existing building will be in compliance with all applicable federal, state and local regulations to develop a more resilient commercial property to serve the residents and visitors of Fort Myers Beach.

TRANSPORTATION ELEMENT

GOAL 7: To improve peak-season mobility without reducing the permeability of Estero Boulevard to foot traffic or damaging the small-town character of Fort Myers Beach. The town seeks to reduce speeding, improve evacuation capabilities, and improve mobility through balanced transportation improvements such as a continuous system of sidewalks and bikeways, a network of trolleys and water taxis linked to off- island systems, and parking options matched to road capacity.

POLICY 7-D-3 ALTERNATE TRAVEL MODES

The town shall support alternatives to car travel to free up road capacity for trips that do require a car. Public funding sources shall include county/state gasoline taxes and road impact fees. The town shall modify its road impact fee ordinance by 1999 to allow these fees to be spent (within legal limits) on capital improvements that relieve road congestion, such as better sidewalks, trolley improvements, and off-island parking areas.

To better serve the public, the proposed site design includes improvements to the parking layout and circulation. The project encourages the use of alternate travel modes under Policy 7-D-3 by providing bike racks for bicycle parking and will maintain a pedestrian connection to the existing transit top located on the property.

UTILITIES ELEMENT

GOAL 8: To improve the existing systems that provide safe drinking water, irrigation water, sewer service, and solid waste disposal in order to reduce environmental impacts on land and water while keeping costs as economical as possible.

POLICY 8-A-1 Mandatory customer connections to water and sewer utilities shall continue to be the policy of the Town of Fort Myers Beach.

The proposed development will connect to central water and sewer utilities as mandated by the Town of Fort Myers Beach.



D. DESIGN STANDARDS COMPLIANCE

Pursuant to Sec. 34-707- Commercial design standards, the Commercial Boulevard district states that the commercial design standards shall apply to newly built and substantial improvements to buildings. In this case the existing building is not expanding and would not be required to adhere to design standards. However, by the addition of a Tiki structure and the public realm elements such as the transit stop, bicycle racks, direct connections to and from the existing sidewalk, this project would be consistent with the intent of the Commercial design standards pursuant to sec.34-991 through 34-1010.

(intentionally left blank)



E. DECISION-MAKING COMPLIANCE

(1) Whether there exists an error or ambiguity which must be corrected.

There are no known errors or ambiguity that must be corrected in relation to the requested CPD amendment. If any exist, they will be discussed and resolved during staff review and public hearings before the Local Planning Agency (LPA) and Town Council. Through the proposed CPD rezone request, the previously approved deviations will still apply along with additional deviations to assist in the improvements to the public realm and pedestrian circulation.

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

The Town of Fort Myers Beach has been devastated by Hurricane Ian. The proposed CPD amendment will allow the re-establishment of a neighborhood restaurant that has been at this location for decades.

(3) The impact of a proposed change on the intent of this chapter.

The proposed CPD amendment is consistent with the purpose and intent of the zoning chapter of the Land Development Code (LDC) and specifically for Planned Developments which encourages flexibility in the development and design standards.

(4) The testimony of any applicant.

The professional experts retained to support the petition will provide future testimony during the appropriate public hearings.

(5) The recommendation of staff and of the local planning agency.

The petition will be reviewed by staff, expert testimony will be provided during the public hearing process before the Local Planning Agency and a recommendation will be made to the Town Council.

(6) The testimony of the public.

The public will be provided with the opportunity to testify before the LPA and Town Council. Such testimony will be evaluated as applicable and appropriate to the request for the LPA's recommendation and Town Council's decision.

(7) Whether the request is consistent with the goals, objectives, policies, and intent, and with the densities, intensities, and general uses as set forth in the Fort Myers Beach Comprehensive Plan.

Please see Section C above, which explains how the petition is consistent with the town's comprehensive plan.



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

It is important to note that as a Commercial Planned Development there is the ability to provide regulatory flexibility that allows for creative design to address site constraints. The proposed Master Concept Plan (MCP) depicts improvements to the functional and attractive layout that further fulfills the goals of the Comprehensive Plan. These include improvements to the parking layout, a more attractive façade along Estero Boulevard created by the proposed Tiki structure, and pedestrian and public realm improvements.

(9) Whether urban services are, or will be, available and adequate to serve a proposed land use change.

All urban services are in place to adequately serve the subject site.

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

The subject property was previously developed and has been subsequently cleared of all existing natural vegetation. No environmentally critical areas and natural resources exist on the site.

(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.

Based on the layout and design elements of the development, the request will be compatible with existing or planned uses and not cause damage, hazard, nuisance, or other detriment to person or property as the proposed use existed prior to the catastrophic events of Hurricane Ian.

(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.

Given that this CPD amendment reestablishes a restaurant that has been located here for decades, there will be no net changes on public facilities and the proposed request does not create any burden upon existing transportation or other services and facilities. A waiver to LDC Section 10-286, Traffic Impact Statement (TIS), was granted by the Town. The CPD does improve the site design to facilitate and enhance bicycle and pedestrian access.

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

This request to amend an existing CPD on the subject property will be presented at a public hearing before the local planning agency and the town council consistent with LDC Section 34-216(a)(1). As demonstrated throughout this narrative, the proposed CPD meets the following criteria under LDC Section 34-216(2):

- a. The proposed restaurant use, as provided for within the Schedule of Uses, is appropriate for the subject location due to the fact that a restaurant previously existed on the property for decades without issue.



- b. Sufficient safeguards are in place to protect the public interest through the proposed CPD and supporting MCP. The design, location and proposed use and development standards are generally consistent with the mixture of uses and pedestrian nature of the area and will meet the needs of the town's residents and visitors. As depicted on the MCP, access and circulation will be safer and more functional, the pedestrian experience will be improved.
- c. If recommended special conditions are presented and are deemed reasonable and feasible, the applicant will be willing to accept them to further ensure sufficient safeguards are established.
- d. The proposed rezoning request meets specific requirements of the comprehensive plan that are relevant to the requested planned development, such as the following:
 - 1. Policy 4-C-3: See Section "C" and the above narrative.
 - 2. Policies 4-B-5 and 4-C-3: See Section "C" above and the narrative.
 - 3. Policy 4-C-4: Proposed height of 30 feet is not taller than the standard height limit allowed under the Land Development Code.
 - 4. Policy 4-C-8: Density transfers. Not applicable.
 - 5. Policy 4-E-1: The existing development was consistent with and well below the allowed intensity (FAR 1.0) prior to the natural disaster (Hurricane Ian). The existing 4,000sq.ft. building will not be expanded and will continue to meet the limits of the FAR.
 - 6. Policy 7-D-3 Alternate Travel Modes: See Section "C" and the narrative.

CONCLUSION:

As detailed in the above narrative, supporting application documents, and the proposed MCP, the application demonstrates consistency and compliance with both the Fort Myers Beach Comprehensive Plan and Land Development Code. The project proposes to utilize the regulatory flexibility of the CPD process, to reestablish a much-revered neighborhood restaurant.



**SANDY BOTTOMS RESTAURANT
COMMERCIAL PLANNED DEVELOPMENT AMENDMENT
Planned Development Rezone Application**

SCHEDULE OF USES

The following uses were previously approved pursuant to CPD Ordinance 22-06 and LDC Table 4-2 with the exception of the added uses and amended language in **bold**. These include increasing the outdoor seating area from 1,000 sq. ft. to 2,750 sq. ft., a 4COP in place of the 2COP, amplified music/entertainment outdoors, and transient merchant/mobile vendor – food truck/trailer.

- Residential – Open
- Lodging - Limited
- Office – Limited
 - Offices, General or Medical
 - Personal Services
- Retail – Limited
 - **Restaurant (limited to 2) with outdoor seating as indicated on the MCP**
 - **On-Premises consumption of alcoholic beverages served only in conjunction with restaurant(s) and including approximately 2,750 square feet of outdoor seating area as indicated on the MCP**
 - On-Site Brewing of Beer for Consumption on Premises.
 - **4COP and GMBP Florida Department of Alcoholic Beverages and Tobacco permits**
 - **Transient Merchant/Mobile Vendor - Food Truck/Trailer Only**
- Civic - Open
- **Entertainment – Indoor and Outdoor, limited to music both live and recorded.**
- **Typical Accessory Uses Incidental and Subordinate to the Principal Uses.**



**SANDY BOTTOMS RESTAURANT
COMMERCIAL PLANNED DEVELOPMENT AMENDMENT
Planned Development Rezone Application**

PROPOSED CONDITIONS

The following conditions were previously approved pursuant to CPD Ordinance 22-06 and are proposed to be amended (highlighted, strikethrough and underlined) due to specific deviations being deleted as they would no longer be applicable based on this amendment and based on the desired operations of the new restaurant and outdoor seating area.

1. If the principal building on the subject property (2301 parcel) is removed or replaced for any reason, deviations 3, 4, and 5, 6, and 7 will become null and void. Any new buildings replaced on the subject property must comply with required setbacks and any other regulations in effect at the time of permitting.
2. Any changes or fracturing of ownership of the four parcels within the subject property will require, at a minimum, an administrative amendment to the Master Concept Plan to reflect the change in ownership, which will include recorded unified control documentation.
3. The parking lot must be stabilized in accordance with the provisions in Section 34- 2017(b) of the LDC.
4. A local development order is required prior to any expansion of the existing restaurant or any use of the second restaurant bay in accordance with this planned development approval. Approval of this request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the LDC may be required to obtain a local development order, including payment of additional impact fees.
5. A Traffic Impact Study (TIS) is not warranted, and the Town Council hereby overrules the Director's decision to require a TIS. The Applicant has provided mitigation for traffic impacts by providing the following: additional on-site parking for tenants and customers, landscape buffers, bicycle racks, extension of the sidewalk along Estero Boulevard in front of the property, elimination of the back out parking in front of the existing building, a reduction in the outdoor dining area to 1,000 square feet, and provision of storm water management improvements. The current restaurant use has demonstrated that it is mainly a pedestrian and bicycle-oriented destination and, as a result, the traffic impacts may actually be less than would be expected from a traffic impact study.
6. Bicycle racks shall be provided for a minimum of 8 bicycles.
7. The hours of operation for business use are 6am to 12 midnight. The hours of operation for indoor restaurant uses are 7am to 12 midnight with outdoor seating area limited to between the hours of 7am and 10 pm, seven days a week. The hours of operation will be 7am to 12 midnight seven days a week for both the restaurant and outdoor seating area.

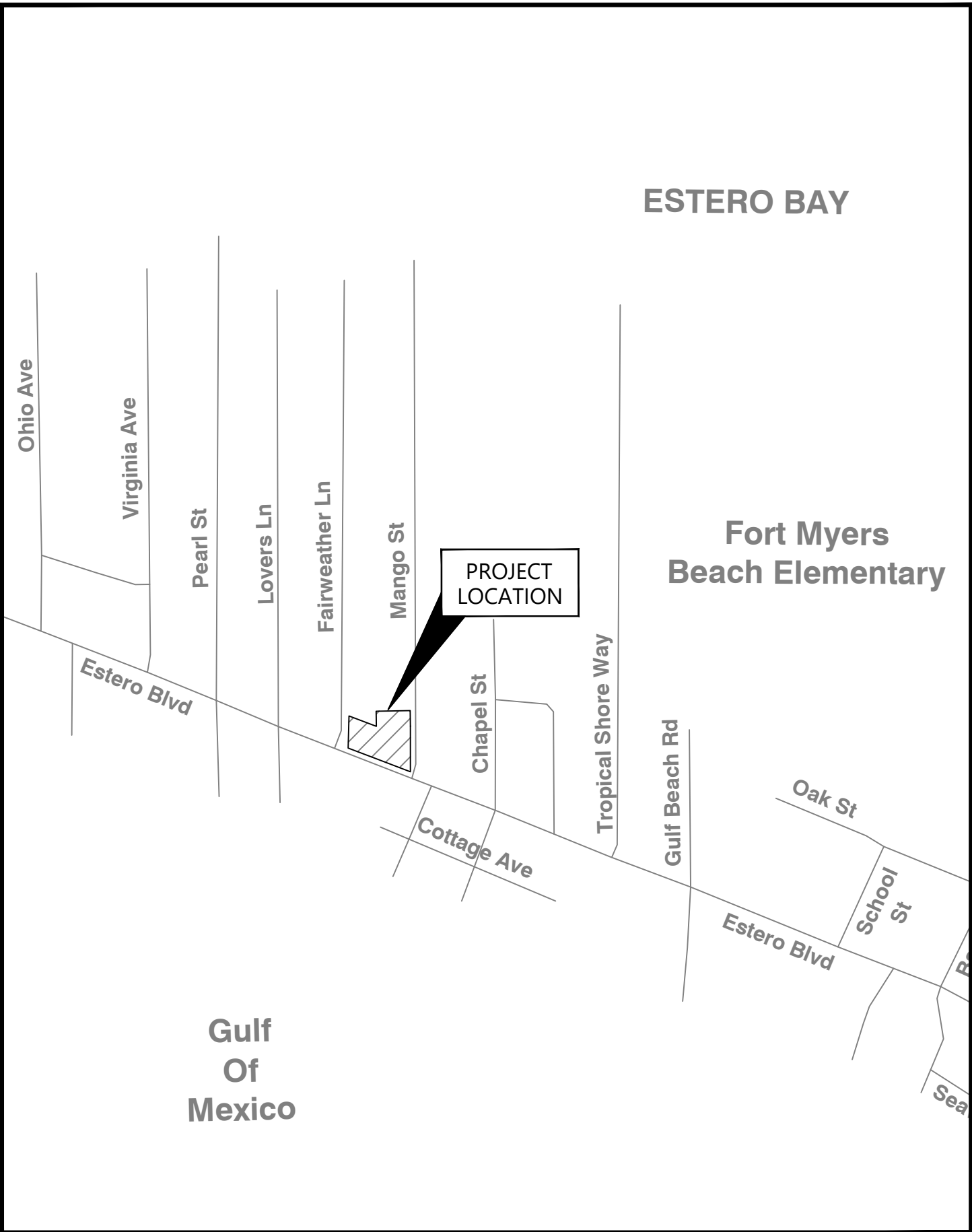


8. ~~No amplified music or entertainment is permitted outdoors.~~ Amplified music or entertainment is permitted outdoors until 11pm within the designated areas on the master concept plan and will not be oriented toward residential uses.
9. All brewing activities shall be contained within the building.
10. No outdoor storage shall be allowed including the use of portable storage units, cargo containers and tractor trailers except as follows: spent grain may be placed outdoors for a period not to exceed 24 hours. Spent grain must be stored in fully enclosed containers that are screened from adjacent properties and Estero Blvd.
11. Must comply with guidelines set forth by the Florida Department of Alcoholic Beverages and Tobacco for the CMBP permit.

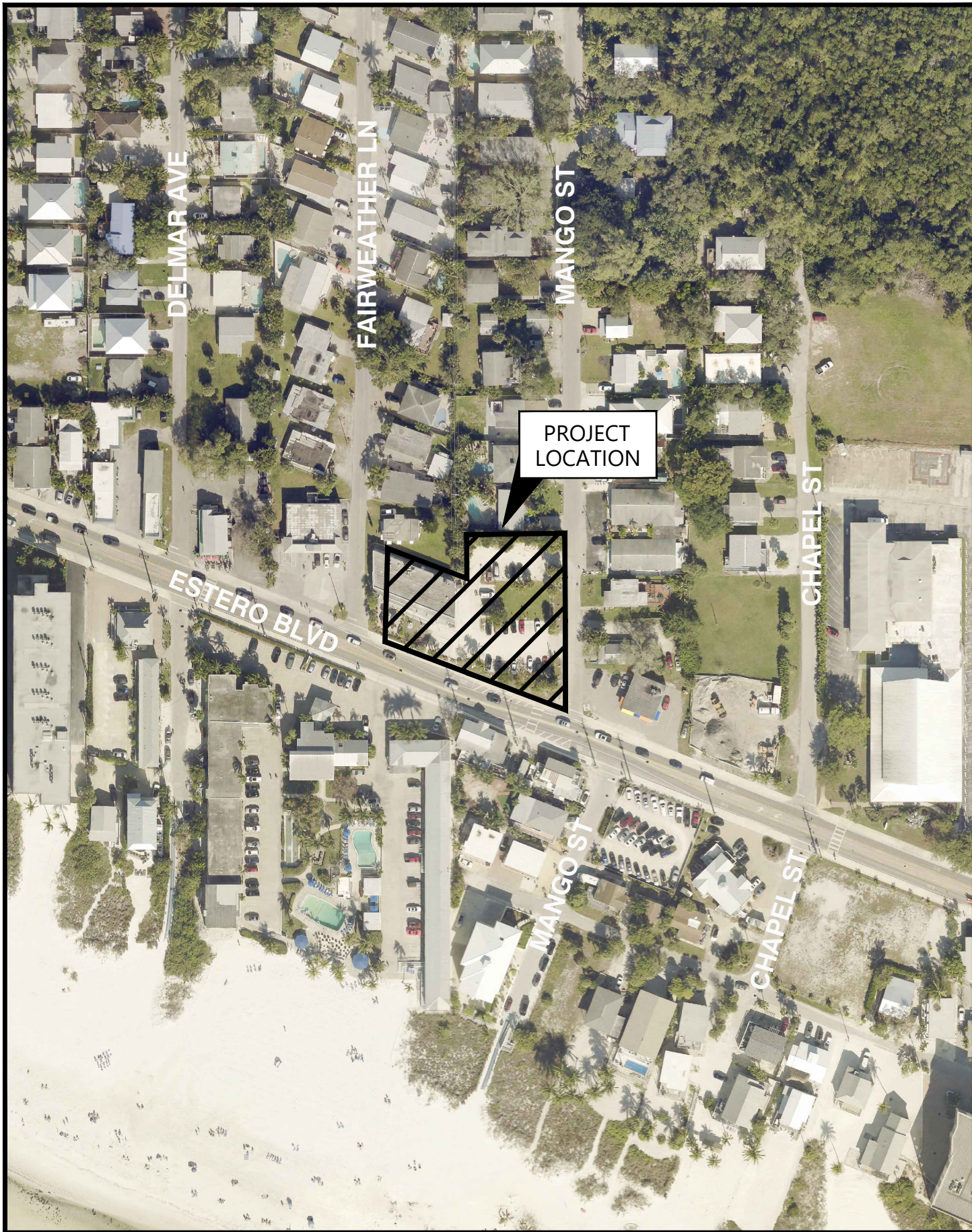
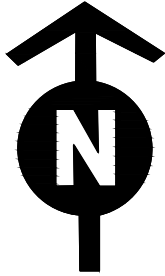
MASTER CONCEPT PLAN FOR

SANDY BOTTOMS CPD

SECTION 19, TOWNSHIP 46S, RANGE 24E,
FORT MYERS, FLORIDA



VICINITY MAP
N.T.S.



SITE LOCATION MAP
N.T.S.

PREPARED BY:



5618 WHISPERING WILLOW WAY
FORT MYERS, FL 33908

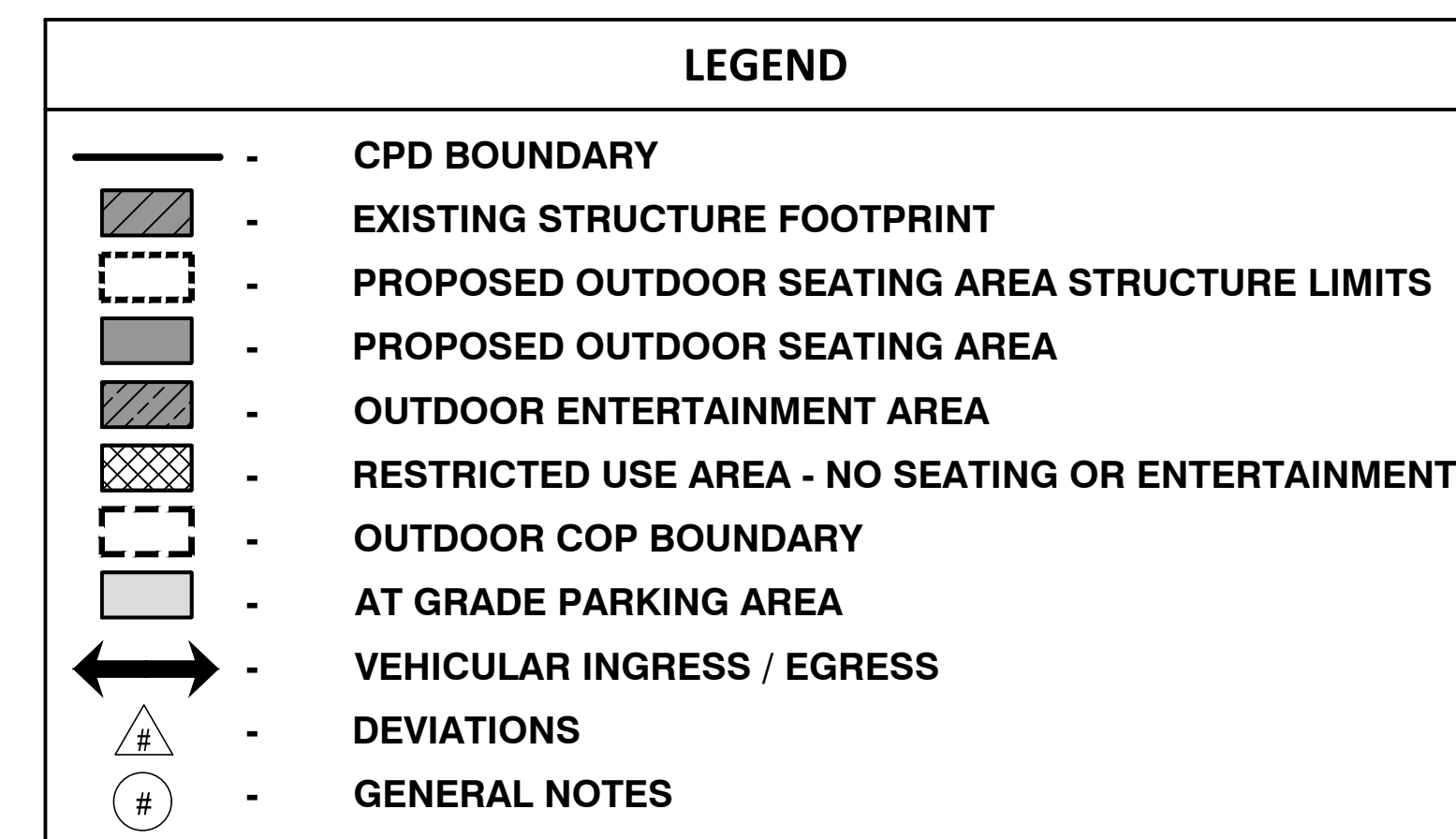
PREPARED FOR:

1249 ESTERO ADVENTURES LLC

290 BAHIA VIA
FORT MYERS BEACH, FL 33931

CONTENTS

SHEET NUMBER	SHEET DESCRIPTION	
1	COVER SHEET	
2	MASTER CONCEPT PLAN	
3	NOTES	
DATE:	December, 2023	PROJECT No.: 220050.01.01
		SHEET No.: 1 OF 3



PROJECT NO.:		CLIENT:
DATE:	220050.01.01	1249 ESTERO ADVENTURES LLC
DRAWN:	F.L.	SANDY BOTTOMS PLANNED DEVELOPMENT (CPD)
DESIGN:	K.G.	TITLE:
SHEET NUMBER:	2 OF 3	MASTER CONCEPT PLAN

GENERAL NOTES:

1. THIS MASTER CONCEPT PLAN (MCP) IS CONCEPTUAL IN NATURE. THE OVERALL CONFIGURATION, SIZE AND LOCATION OF THE STRUCTURE(S) AND OTHER IMPROVEMENTS MAY VARY. FINAL DESIGN AND IMPROVEMENT DETAILS WILL BE PROVIDED AS PART OF THE DEVELOPMENT ORDER (D.O.) PROCESS.
2. WATER MANAGEMENT REQUIREMENTS FOR REDEVELOPMENT PROJECTS CAN VARY SIGNIFICANTLY. THE WATER MANAGEMENT PLAN WILL BE DESIGNED AT THE TIME OF D.O.
3. TOTAL CPD/DEVELOPMENT AREA: 0.66 +/- ACRES
4. FUTURE LAND USE MAP CATEGORY: BOULEVARD
5. EXISTING ZONING: COMMERCIAL PLANNED DEVELOPMENT
6. THE PROJECT WILL BE DEVELOPED IN ONE PHASE.
7. NO ENVIRONMENTALLY SENSITIVE LAND OR WATER EXISTS ON SITE AS THIS SITE WAS IMPACTED BY PREVIOUS DEVELOPMENT AND HURRICANE IAN. NO PROTECTED SPECIES SURVEY IS REQUIRED PER APPROVED WAIVER.
8. ALL OTHER DEVELOPMENT STANDARDS SHALL BE SET FORTH IN LDC CHAPTER 24 OR OTHER APPLICABLE PROVISIONS OF THE LDC.
9. OUTDOOR SEATING AREA STRUCTURE WILL BE STRUCTURALLY INTEGRATED/ATTACHED TO THE EXISTING PRIMARY STRUCTURE.

SCHEDULE OF USES:

- RESIDENTIAL - OPEN
- LODGING - LIMITED
 - o OFFICES - LIMITED
 - o OFFICES, GENERAL OR MEDICAL
- PERSONAL SERVICES
- RETAIL - LIMITED
 - o RESTAURANT (LIMITED TO 2) WITH OUTDOOR SEATING AS INDICATED ON THE MCP.
 - o ON-PREMISES CONSUMPTION OF ALCOHOLIC BEVERAGES SERVED ONLY IN CONJUNCTION WITH RESTAURANT(S) AND INCLUDING APPROXIMATELY 2,750 SQUARE FEET OF OUTDOOR SEATING AREA AS INDICATED ON THE MCP.
 - o ON-SITE BREWING OF BEER FOR CONSUMPTION ON PREMISES.
 - o 4COP AND GMBP FLORIDA DEPARTMENT OF ALCOHOLIC BEVERAGES AND TOBACCO PERMITS.
 - o TRANSIENT MERCHANT/MOBILE VENDOR - FOOD TRUCK/TRAILER ONLY.
- CIVIC - OPEN
- ENTERTAINMENT - INDOOR AND OUTDOOR, LIMITED TO MUSIC BOTH LIVE AND RECORDED.
- TYPICAL ACCESSORY USES INCIDENTAL AND SUBORDINATE TO THE PRINCIPLE USES.

DEVELOPMENT STANDARDS:

MINIMUM LOT SIZE:

- LOT AREA: 0.65 +/- ACRES
- LOT WIDTH: 220 +/- FEET
- LOT DEPTH: 110 +/- FEET

BUILD-TO LINE:

- ESTERO BLVD.: 3 - 10 FEET (DEVIATION #3)

MINIMUM SETBACKS (PRIMARY STRUCTURES):

- STREETS (OTHER THAN ESTERO): 10 FEET (DEVIATION #4)
- REAR: 2 FEET (DEVIATION #5)
- SIDE: 5 FEET

MINIMUM SETBACKS (ACCESSORY STRUCTURES):

- STREETS (OTHER THAN ESTERO): 10 FEET (DEVIATION #4)
- REAR: 2 FEET (DEVIATION #5)
- SIDE: 5 FEET

MAXIMUM ZONED HEIGHT: 30 FEET ABOVE BASE FLOOD ELEVATION

MAXIMUM ZONED STORIES: 2 ABOVE BASE FLOOD ELEVATION

DEVIATIONS:

1. DEVIATION FROM THE REQUIREMENTS OF LDC SECTION 10-416(D)(2) AND LDC TABLE 10-8, WHICH REQUIRES A TYPE C/F BUFFER WHERE PROPOSED COMMERCIAL AND PARKING USES ADJUT SINGLE FAMILY RESIDENTIAL USES, TO ALLOW THE FOLLOWING AS INDICATED ON THE MCP:
 - a. AN EXISTING 8 FOOT HIGH OPAQUE FENCE ADJACENT TO THE EXISTING BUILDING.
 - b. A MINIMUM 5 FOOT BUFFER ADJACENT TO THE DUMPSTER ENCLOSURE AREA PROVIDING 10 TREES AND 30 SHRUBS PER 100 LINEAR FEET WITH AN EXISTING 8 FOOT HIGH OPAQUE FENCE.
 - c. A MINIMUM 12 FOOT BUFFER ADJACENT TO THE NORTHERN PARKING LOT SPACES PROVIDING 10 TREES AND 30 SHRUBS PER 100 LINEAR FEET WITH AN 4 TO 8 FOOT HIGH OPAQUE FENCE.
2. DEVIATION FROM THE REQUIREMENTS OF LDC SECTION 10-416(D)(2) AND LDC TABLE 10-8, WHICH REQUIRES A 15 FOOT TYPE D BUFFER BETWEEN PARKING AREAS AND RIGHT-OF-WAY, TO ALLOW FOR A 5 FOOT TYPE D BUFFER BETWEEN PARKING AREAS AND RIGHT-OF-WAY. (PRIOR APPROVED)
3. DEVIATION FROM THE REQUIREMENT OF LDC SECTION 34-704(A), WHICH REQUIRES BUILDINGS TO BE CONSTRUCTED BETWEEN FIVE (5) TO TEN (10) FEET FROM ESTERO BOULEVARD, TO ALLOW A BUILD-TO DISTANCE BETWEEN THREE (3) TO TEN (10) FEET FROM ESTERO BOULEVARD.
4. DEVIATION FROM THE REQUIREMENTS OF LDC SECTION 34-707(B)(1)A, WHICH REQUIRES A MINIMUM 10 FOOT STREET SETBACK TO ALLOW FOR A MINIMUM 2.39 FOOT STREET SETBACK FROM FAIRWEATHER LANE TO THE EXISTING BUILDING AND A MINIMUM 5 FOOT STREET SETBACK FROM FAIRWEATHER LANE FOR THE PROPOSED OUTDOOR SEATING AREA STRUCTURE.
5. DEVIATION FROM THE REQUIREMENT OF LDC SECTION 34-704(B)(1)B, WHICH REQUIRES A MINIMUM 20 FOOT REAR SETBACK, TO ALLOW FOR A TWO-FOOT REAR SETBACK TO ACCOMMODATE THE EXISTING BUILDING. (PRIOR APPROVED)
6. DEVIATION FROM LDC SECTION 34-2020(D)(2)H, WHICH REQUIRES 8 PARKING SPACES PER 1,000 SQUARE FEET OF TOTAL FLOOR AREA, INCLUDING ANY OUTDOOR SEATING AREA AND A REDUCTION OF 2 SPACES FOR 8 BICYCLE SPACES (FOR A TOTAL OF 52 REQUIRED PARKING SPACES) TO ALLOW FOR A 35% REDUCTION FROM THE LDC REQUIREMENT FOR A TOTAL OF 34 PROVIDED SPACES.
7. DEVIATION FROM LDC SECTION 34-201 7, WHICH REQUIRES HIGH TURNOVER PARKING LOTS TO HAVE A PAVED SURFACE, TO ALLOW FOR A CRUSHED SHELL OR LIMEROCK SURFACE. (PRIOR APPROVED)
8. DEVIATION FROM LDC SECTION 34-285 AND TABLE 10-1, WHICH REQUIRES 125 OF CONNECTION SEPARATION ALONG LOCAL ROADS, TO ALLOW FOR 96+/- FEET OF CONNECTION SEPARATION ALONG MANGO STREET. (PRIOR APPROVED)
9. DEVIATION FROM THE REQUIREMENTS OF LDC SECTION 34-662(b)(4)(a) AND FIGURE 34-5 REQUIRING THAT VISIBILITY TRIANGLES MUST BE MAINTAINED ON BOTH SIDES OF INTERSECTING STREETS AND EXITING DRIVEWAY AS SHOWN IN FIGURES 34-4 AND 34-5 OR TO PROVIDE EQUIVALENT VISIBILITY, TO ALLOW FOR A REDUCTION IN THE DEPTH OF THE SIGHT VISIBILITY TRIANGLE ALONG THE OTHER STREET OR EXISTING DRIVEWAY FROM 10 FEET TO 3 FEET.

MAXIMUM INTENSITY:

- MAXIMUM FLOOR AREA RATIO (F.A.R.)/GROSS FLOOR AREA ALLOWED: 1.0 OR 43,124.4 SF
- MAXIMUM GROSS FLOOR AREA PROVIDED: 4,000 SF OF ENCLOSED COMMERCIAL SPACE

PARKING:

- REQUIRED:
 - o RESTAURANT (INDOOR AND OUTDOOR SEATING AREA) 8 SPACES PER 1,000 SF (1 SPACE PER 125 SF)
 - o $6,750 \text{ SF (4,000 SF INDOOR AREA + 2,750 SF)} / 125 = 54 - 2 \text{ SPACE REDUCTION FOR 8 BICYCLE SPACES} = 52$
- PROVIDED:
 - o 34 (INCLUDING 2 ADA SPACES) PER DEVIATION #6

[illegible]

5618 WHISPERING WILLOW WAY | FORT MYERS, FL 33908
WWW.THENEIGHBORHOOD.COM/PANY

PROJECT NO.: 220050.01.01		CLIENT: 1249 ESTERO ADVENTURES LLC	
DATE: 11/23	DRAWN: F.L.	PROJECT: SANDY BOTTOMS PLANNED DEVELOPMENT (CPD)	
DESIGN: K.G.		TITLE: NOTES	
SHEET NUMBER: 3 OF 3			

ORDINANCE 22-06

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA REPLACING TOWN OF FORT MYERS BEACH RESOLUTION NO. 12-07, AND AMENDING THE SCHEDULE OF USES FOR THE COMMERCIAL PLANNED DEVELOPMENT ZONING FOR THE PROPERTY LOCATED AT 2301, 2307 & 2311 ESTERO BLVD. AND 111 & 121 MANGO ST., FORT MYERS BEACH; AMENDING THE MASTER CONCEPT PLAN FOR THE RESTAURANT USE(S); PROVIDING FOR REVISIONS TO CONDITIONS OF APPROVAL, AND OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

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

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

WHEREAS, Tre and Amy, Inc. ("Applicant"), the owner of the property generally located at 2301, 2307 & 2311 Estero Blvd., and 111 and 121 Mango St. and identified by STRP numbers 19-46-24-W3-0110D.0010, 19-46-24-W3-0120E.0010, 19-46-24-W3-0120E.0020 and 19-46-24-W3-0120E.0030 - comprising .66 +/- acre of land ("Property"), filed an application to amend the Property's Commercial Planned Development ("CPD") to allow on-site brewing and consumption of beer; and

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

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on March 22, 2022, at which the LPA gave full and complete consideration of the request, recommendations by staff, the documents in the record, and the testimony of all interested persons, and the LPA voted 6-0 to recommend approval of the CPD amendment with conditions, and

WHEREAS, on April 18, 2022 the Town Council held a first reading of the proposed Ordinance and gave full and complete consideration to the request of the Applicant, the recommendation of the LPA, the recommendation of staff, the documents in the record, and the testimony of all interested persons, as required by Section 34-85 of the Fort Myers Beach Land Development Code ("LDC"); and

WHEREAS, the Town Council set a second reading of the proposed Ordinance and a public hearing on this matter to be legally advertised and held before the Town Council on April 18, 2022; at which time the Town Council gave full and complete consideration to the request of the Applicant,

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

WHEREAS, the Town Council finds the proposed CPD amendment with conditions of approval are **consistent** with the Town of Fort Myers Beach Comprehensive Plan and LDC and voted to **approve** the Application.

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

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

Section 2. The Town Council determines the Applicant **did** meet its burden of proof that the requested zoning amendment **does** meet the requirements of the Town Comprehensive Plan and LDC and approving the request to allow the use of on-site brewing and consumption of malt liquor with conditions **is** in the best interest of the Town. Therefore, based upon the recommendations, testimony, and evidence presented by the Applicant, Town staff, and interested parties, the Town Council **APPROVES** the requested amendment to the CPD zoning of the Property.

Section 3. Town Resolution 12-07 is repealed and replaced by this Ordinance and the schedule of uses and conditions of approval for the Property's CPD set forth in Exhibit "A," attached hereto and incorporated herein by this reference is approved.

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

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

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

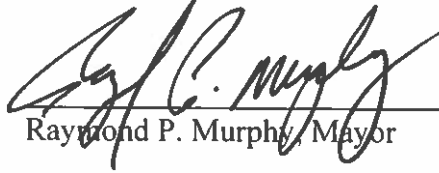
Section 10. This Ordinance will take effect immediately upon adoption by the Town Council.

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

DULY PASSED AND ADOPTED on this 2nd day of May 2022.

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

TOWN OF FORT MYERS BEACH



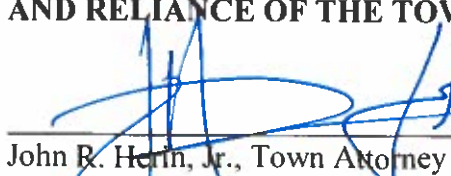
Raymond P. Murphy, Mayor

ATTEST:



Amy Baker, Town Clerk

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



John R. Herin, Jr., Town Attorney

This Ordinance was filed in the Office of the Town Clerk on this 5 day of May 2022.

Exhibits

Exhibit "A" Schedule of Uses and Conditions of Approval

Exhibit "B" Master Concept Plan

EXHIBIT "A"

The Town Council APPROVES the applicant's request for an amendment to the existing CPD, formerly known as Big John's Board Walk Eatery, now known as CJT Properties LLC, to provide required parking on-site for the existing restaurant uses, stormwater management improvements, and landscape buffers, with such approval subject to the Schedule of Allowable Uses, 8 11 conditions and 11 deviations set forth with specificity below.

Schedule of Allowable Uses:

Residential – Open

Lodging – Limited

Office – Limited

- Offices, general or medical

- Personal services

Retail – Limited

- Restaurant (limited to two (2) with a total maximum area of 4000 square feet of indoor space with additional outdoor seating as indicated on the MCP)

- On-premises consumption of alcoholic beverages (limited to beer and wine served only in conjunction with meals) including approximately 1000 square feet of outdoor seating in conjunction with the proposed deck.

- On-site brewing of beer for consumption on premises.

Civic – Open

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

1. If the principal building on the subject property (2301 parcel) is removed or replaced for any reason, deviations 3, 4, 5, 6, and 7 will become null and void. Any new buildings replaced on the subject property must comply with required setbacks and any other regulations in effect at the time of permitting.
2. Any changes or fracturing of ownership of the four parcels within the subject property will require, at a minimum, an administrative amendment to the Master Concept Plan to reflect the change in ownership, which will include recorded unified control documentation.
3. The parking lot must be stabilized in accordance with the provisions in Section 34-2017 (b) of the LDC.
4. A local development order is required prior to any expansion of the existing restaurant or any use of the second restaurant bay in accordance with this planned development approval. Approval of this request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the LDC may be required to obtain a local development order, including payment of additional impact fees.

5. A Traffic Impact Study (TIS) is not warranted, and the Town Council hereby overrules the Director's decision to require a TIS. The Applicant has provided mitigation for traffic impacts by providing the following: additional on-site parking for tenants and customers, landscape buffers, bicycle racks, extension of the sidewalk along Estero Boulevard in front of the property, elimination of the back out parking in front of the existing building, a reduction in the outdoor dining area to 1,000 square feet, and provision of storm water management improvements. The current restaurant use has demonstrated that it is mainly a pedestrian and bicycle-oriented destination and, as a result, the traffic impacts may actually be less than would be expected from a traffic impact study.
6. Bicycle racks shall be provided for a minimum of 8 bicycles.
7. The hours of operation for business use are 6am to 12 midnight. The hours of operation for indoor restaurant uses are 7am to 12 midnight with outdoor seating area limited to between the hours of 7am and 10 pm, seven days a week.
8. ~~No outdoor entertainment is permitted.~~
8. No amplified music or entertainment is permitted outdoors.
9. All brewing activities shall be contained within the building.
10. No outdoor storage shall be allowed including the use of portable storage units, cargo containers and tractor trailers except as follows: spent grain may be placed outdoors for a period not to exceed 24 hours. Spent grain must be stored in fully enclosed containers that are screened from adjacent properties and Estero Blvd.
11. Must comply with guidelines set forth by the Florida Department of Alcoholic Beverages and Tobacco for the CMBP permit.

The following limits apply to the Property and its development

Council grants the following deviations:

Deviation #1

Deviation from the requirements of LDC Section 10-416(d)(2) and LDC Table 10-8, which requires a Type C/F buffer where proposed commercial uses abut single family residential uses, to allow for an eight (8) foot high solid stockade fence and 14-15 foot Type C buffers without a wall, as indicated on the MCP and landscape plan is APPROVED.

Deviation #2

Deviation from the requirements of LDC Section 10-416(d)(2) and LDC Table 10-8, which requires a 15 foot Type D buffer between parking areas and right-of-way, to allow for a 5 foot Type D buffer between parking areas and right-of-way is APPROVED.

Deviation #3

Deviation from the requirement of LDC Section 34-704(a), which requires buildings to be constructed between five (5) to ten (10) feet from Estero Boulevard, to allow a front setback of 46 feet to accommodate the existing building is APPROVED.

Deviation #4

Deviation from the requirements of LDC Section 34-707(b)(1)a, which requires a minimum 10 foot street setback to allow for a 2.39 foot street setback from Fairweather Lane to

accommodate the existing building is APPROVED.

Deviation #5

Deviation from the requirement of LDC Section 34-704(b)(1)b, which requires a minimum 20 foot rear setback, to allow for a two-foot rear setback to accommodate the existing building is APPROVED.

Deviation #6

Deviation from the requirement of LDC Section 34-995(a)(3), which prohibits a principal facade facing a primary street from having blank walls greater than 10 feet in length, to allow for one (1) section of the principal facade to be 16 feet in length is APPROVED.

Deviation #7

Deviation from the requirements of LDC Section 34-995(d), which requires corner buildings to be located no more than 20 feet from the intersection of right-of-way lines, to allow the existing corner building to be located a distance of 48.5 feet from the intersection of Estero Boulevard and Fairweather Lane is APPROVED.

Deviation #8

Deviation from LDC Section 34-2020(d)(2)h, which requires 8 parking spaces per 1,000 square feet of total floor area, including any outdoor seating area (for a total of 47 required parking spaces) to allow for a 30% reduction from the LDC requirement for a total of 34 provided spaces is APPROVED.

Deviation #9

Deviation from LDC Section 34-2017, which requires high turnover parking lots to have a paved surface, to allow for a crushed shell or limerock surface is APPROVED.

Deviation #10

Deviation from LDC Section 34-285 and Table 10-1, which requires 125 feet of connection separation along local roads, to allow for 96± feet of connection separation along Mango Street is APPROVED.

Deviation #11

Deviation from LDC Section 10-289(d) which requires an 8 foot wide sidewalk along the property's Estero Boulevard frontage, to allow for a 5 foot wide sidewalk is APPROVED.

Nothing in this rezoning, including any of the attached conditions, constitute a variance or deviation from the provisions of Chapter 6, Article IV "Floodplain Regulations" of the LDC. Approval of this rezoning does not exempt the subject property from any provisions of the LDC with the exception of any approved deviation contained herein.



Town of Fort Myers Beach
Community Development Services - Planning Division
2731 Oak St,
Fort Myers Beach, FL 33931

NOTICE TO PROPERTY OWNERS WITHIN 500 FEET

Notice is hereby given that the Local Planning Agency/ Town Council of the Town of Fort Myers Beach will be conducting a public hearing at the Town Hall Council Chambers located at 2731 Oak St, Fort Myers Beach, Florida, 33931.

TIME: 9 AM

DATE: LPA May 14, 2024, 1st Town Council June 3, 2024 and 2nd Town Council June 17, 2024

CASE: DCI20240049

ADDRESS: 2301/2307 Estero Blvd (incl. all associated "Sandy Bottoms" CPD properties)

APPLICANT: Kenrick Gallander AICP

REQUEST: Applicant is requesting an amendment of Ord. 22-06 to allow development of a new restaurant with outdoor seating and a structurally-connected shade structure.

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/ Town Council** will review the application materials and hear testimony to make a **recommendation/decision**. Complete records or transcripts of the proceedings are not provided by the Town.

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



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Fort Myers Beach, FL 33931

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

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

Town of Fort Myers Beach
2731 Oak St,
Fort Myers Beach, FL 33931

Town of Fort Myers Beach
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Fort Myers Beach, FL 33931

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

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

1. **Request:**

Meeting Date: June 3, 2024

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, ADOPTING THE TENTATIVE OPERATING AD VALOREM MILLAGE RATE OF .#### MILLS FOR FISCAL YEAR 2024-2025 OF THE TOWN OF FORT MYERS BEACH; ESTABLISHING THE DATE, TIME AND PLACE FOR HEARINGS TO ADOPT THE FINAL OPERATING AD VALOREM MILLAGE RATE AND BUDGET FOR THE FISCAL YEAR 2024-2025; AND PROVIDING AN EFFECTIVE DATE.

Why the action is necessary:

Pursuant to state law, a Tentative Millage Rate must be adopted by the Town Council prior to August 1st and submitted to the County Property Appraiser prior to August 4th. Once the tentative millage rate has been set it cannot be increased, only reduced.

What the action accomplishes:

Sets the Tentative Millage Rate in compliance with state law.

2. **Agenda:**

ADMINISTRATIVE AGENDA

3. **Requirement/Purpose:**

Resolution

4. **Submitter of Information:**

Andy Hyatt, Town Manager

5. **Background:**

A Tentative Millage Rate must be adopted by the Town Council prior to August 1st and submitted to the County Property Appraiser prior to August 4th. Once the tentative millage rate has been set it cannot be increased, only reduced. Currently the Town staff is developing the General Fund Operating Budget. By June 1, 2024 the county will have released the Estimated Property Values for Lee County. The county will release the Final Property Values for FY24 on or before July 1. In FY25, staff does not estimate any additional revenue to be available for new initiatives. To the contrary, due to the ongoing effects of Hurricane Ian, there will continue to be a substantial shortfall in operating revenues. The Town has been awarded an \$11,900,000 Bridge Loan to offset those shortfalls. It is staff's opinion that the Bridge Loan should continue to fund any decrease in revenue compared to normal year (FY22) revenue, and any remaining budget gap should be funded with other funding sources, including the consideration of a millage rate increase.

Budget reports will be distributed electronically or hard copy and discussed with the Council prior to the Budget Hearings that will occur in September.

The first budget hearings will be scheduled for Monday, September 9, 2024 at 5:01 pm, and the second budget hearing will be held on Monday, September 23, 2024 at 5:01 pm.

Attachments:

1. 24-120, FY25 Tentative Millage Rate ns edit

Financial Impact:

Financial impact is unknown at the time of submitting this resolution. Once we have the estimated property values for Lee County (expected to be received on June 1st), and once we have the preliminary General Fund budget, we will be able to calculate the estimated property tax revenue and compare it to the preliminary budget in order to determine the size of the gap between estimated General Fund revenues and expenditures, if any. The estimated property values and preliminary budget information will most likely not be available in advance of the

meeting. It is understood, therefore, that there will not be sufficient time to consider the information in order to make a decision at the meeting. It is expected that the decision will be tabled until the June 17th meeting in order to have sufficient time to consider the information provided.

6. **Alternative Action**

Propose alternative millage rates and/or budget hearing dates.

7. **Management Recommendations:**

Staff recommends Town Council consider setting the Tentative Millage Rate high enough to cover the gap between estimated revenues and expenditures. Given that the information on which to base the decision will not be available in advance of the meeting, it is expected that the decision will be tabled until the June 17th Town Council meeting. The intent of having this on the June 3rd agenda is simply to begin the discussion, with the understanding that the Town Council will most likely need time to consider the information and to reach a decision.

8. **Recommended Approval:**

Joe Onzick, Finance Director
Joe Onzick, Finance Director
nancy stuparich, Town Attorney
Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Created/Initiated - 5/30/2024
Approved - 5/30/2024
Approved - 5/30/2024
Approved - 5/30/2024
Final Approval - 5/30/2024

RESOLUTION NUMBER 24-120

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, ADOPTING THE TENTATIVE OPERATING AD VALOREM MILLAGE RATE OF .#### MILLS FOR FISCAL YEAR 2024-2025 OF THE TOWN OF FORT MYERS BEACH; ESTABLISHING THE DATE, TIME AND PLACE FOR HEARINGS TO ADOPT THE FINAL OPERATING AD VALOREM MILLAGE RATE AND BUDGET FOR THE FISCAL YEAR 2024-2025; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, 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, Section 200.065, *Florida Statutes*, establishes the method for determining and levying an ad valorem millage rate and adopting a budget for all taxing authorities in the State of Florida; and

WHEREAS, the Town of Fort Myers Beach, by and through its Town Council, hereby determines it is in the best interest of the Town and orderly governmental process to hold public hearings as required by Section 200.065, *Florida Statutes*; and

WHEREAS, it is in the best interest of the health, safety and welfare of the residents and visitors of Fort Myers Beach that the Town Council set the tentative operating millage rate as set forth herein and take the other actions set forth herein; and

WHEREAS, the gross taxable value for operating purposes not exempt from taxation within the Town of Fort Myers Beach, Lee County, Florida has been preliminary certified by the Lee County Property Appraiser to the Town of Fort Myers Beach estimated as \$#,###,### as documented on Attachment "A".

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

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

Section 2. The tentative ad valorem operating millage rate for Fiscal Year 2024-2025, is hereby adopted at .#### mills, which equals \$## per \$100,000 dollars of property value.

Section 3. Public meetings and hearings will be held in compliance with Florida Property Tax Truth In Millage (TRIM) Process at the Town Council Chambers located at 2731 Bay Oak Street, Fort Myers Beach, FL, to consider and adopt the final millage rate and to consider and adopt the Town budget for Fiscal Year 2024-2025 as set forth in Section 200.0654, et seq., *Florida Statutes*. The first hearing will be held on **Monday, September 9, 2024 at 5:01 pm**, and the second hearing will be held on **Monday, September 23, 2024 at 5:01 pm**.

Section 4. This resolution shall take effect immediately upon its adoption by the Town Council of the Town of Fort Myers Beach.

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

Dan Allers, Mayor	_____
Jim Atterholt, Vice Mayor	_____
Scott Safford, Council Member	_____
Karen Woodson, Council Member	_____
John King, Council Member	_____

ADOPTED this ____ day of June 2024 by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH

Dan Allers, Mayor

ATTEST:

Amy Baker, Town Clerk

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

Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this ____ day of June 2024.